

ANNEX 1

PUBLIC REDACTED VERSION



No.: ICC-01/12-01/15

SITUATION IN THE REPUBLIC OF MALI
IN THE CASE OF
THE PROSECUTOR v. AHMAD AL FAQI AL MAHDI

Agreement regarding admission of guilt

Introduction

1. This document constitutes the Agreement Regarding Admission of Guilt (hereinafter “Agreement”) between Ahmad AL FAQI AL MAHDI, through his counsel, Mohamed Aouini and Jean-Louis Gillisen, and the Office of the Prosecutor of the International Criminal Court (“Prosecutor”). This Agreement sets forth in its entirety the understanding of the parties as to the nature of the Agreement and as to the nature and consequences of Mr. AL MAHDI’s admission of guilt. It is further intended to assist the Pre-Trial Chamber and Trial Chamber in ensuring that such admission of guilt is knowingly and voluntarily made and supported by the facts of the case as required by article 65 of the Rome Statute.
2. The terms of the Agreement are as follows:

Agreement Regarding Confirmation of the Charge
and Admission of Guilt

3. Ahmad AL FAQI AL MAHDI agrees to confirmation by the Pre-Trial Chamber of the charge contained in the *Chef d’Accusation retenu par l’Accusation contre Ahmad AL FAQI AL MAHDI*, Document No. ICC-01/12-01/15-62 (“*Chef d’Accusation*”)¹, including all modes of liability alleged therein.

¹ The Arabic translation of the *Chef d’Accusation* is Document No. ICC-01/12-01/15-63-AnxA.

4. Ahmad AL FAQI AL MAHDI further agrees to make an admission of guilt before the Trial Chamber pursuant to articles 64(8)(a) and 65 of the Rome Statute, accepting his individual criminal responsibility for the charge set forth in the *Chef d'Accusation*, including all modes of liability alleged therein.

Factual Basis

5. The principal factual basis for confirmation of the charge contained in the *Chef d'Accusation* and for Ahmad AL FAQI AL MAHDI's admission of guilt is set forth in the Agreed Factual Basis attached hereto as annex A.
6. The Prosecutor and the Defence in consultation with Ahmad AL FAQI AL MAHDI have jointly prepared the Agreed Factual Basis. Ahmad AL FAQI AL MAHDI has reviewed it in a language he fully understands with his counsel, and he affirms that the facts contained therein are true and correct to the best of his knowledge. He further agrees that those facts support a finding of guilt on the charge contained in the *Chef d'Accusation*.
7. Ahmad AL FAQI AL MAHDI agrees to confirmation of the *Chef d'Accusation* and to make an admission of guilt because he acknowledges his guilt and accepts full responsibility for his criminal actions described in the Agreed Factual Basis.
8. Ahmad AL FAQI AL MAHDI understands and agrees that the facts contained in the Agreed Factual Basis may be supplemented with additional evidence pursuant to article 65(1)(c) or 65(4)(a) or as otherwise authorised or directed by the Pre-Trial Chamber or the Trial Chamber.

Nature of the Offense

9. Ahmad AL FAQI AL MAHDI understands that if a trial were held, the Prosecutor would be required to prove the following elements of the charged crime² beyond reasonable doubt:
 - a. Ahmad AL FAQI AL MAHDI directed an attack;
 - b. The object of the attack was one or more buildings dedicated to religion or historic monuments which were not military objectives, in particular those buildings specified at paragraph 23 of the *Chef d'Accusation*;
 - c. Ahmad AL FAQI AL MAHDI intended such buildings to be the object of the attack;

² See Elements of Crimes, article 8(2)(e)(iv), War crime of attacking protected objects.

- d. The conduct took place in the context of and was associated with an armed conflict not of an international character; and
- e. Ahmad AL FAQI AL MAHDI was aware of factual circumstances that established the existence of an armed conflict.

Penalty and Sentencing

- 10. Ahmad AL FAQI AL MAHDI understands that, pursuant to article 77 of the Statute, the penalties that may be imposed by the Trial Chamber following a conviction in this case include:
 - a. A term of imprisonment for a specified number of years, which may not exceed a maximum of thirty years;
 - b. A fine as provided in rule 146 of the Rules of Procedure and Evidence; and
 - c. A forfeiture of proceeds, property, and assets derived directly or indirectly from the crime of conviction.
- 11. Ahmad AL FAQI AL MAHDI understands that the parties' recommendations regarding sentencing are not binding on the Trial Chamber and that the Trial Chamber is free to sentence him as it sees fit.
- 12. Ahmad AL FAQI AL MAHDI understands that, in determining the sentence, the Trial Chamber will take into consideration the gravity of the crime and the individual circumstances of the convicted person, in addition to mitigating circumstances (including, for example, cooperation with the Court) and aggravating circumstances (including, for example, commission of the crime for a motive involving discrimination on the grounds of religion or belief), as provided in article 78 of the Statute and rule 145 of the Rules of Procedure and Evidence.
- 13. Ahmad AL FAQI AL MAHDI agrees that he will not appeal his conviction, and further agrees that he will not appeal any sentence imposed by the Trial Chamber within the range set forth at paragraph 19(a) below.
- 14. This Agreement does not in any way limit the parties' ability to offer admissible evidence or make submissions to the Trial Chamber regarding the factors referred to in paragraph 12 above or the determination of an appropriate sentence, so long as such evidence and submissions are not inconsistent with this Agreement and the Agreed Factual Basis.



15. This Agreement is contingent upon Ahmad AL FAQI AL MAHDI's voluntary decision to accept responsibility for his actions [REDACTED]

16. [REDACTED]

17. [REDACTED]

18. [REDACTED]

Agreements by the Office of the Prosecutor

19. In exchange for Ahmad AL FAQI AL MAHDI's admission of guilt, [REDACTED]
[REDACTED] the Prosecutor agrees to the following:

a. The Prosecutor will recommend to the Trial Chamber a sentence within the range of nine to eleven (9-11) years of imprisonment,, and recommend that Ahmad AL FAQI AL MAHDI be given credit for the time he has served in the custody of the Court;

b. The Prosecutor will not appeal any sentence imposed by the Trial Chamber within the range set forth at paragraph 19(a) above;

c. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] and

- d. If Ahmad AL FAQI AL MAHDI [REDACTED] [REDACTED] during any period of imprisonment imposed by the Trial Chamber, and so long as the factors and criteria identified in article 110 of the Statute and rule 223 of the Rules of Procedure and Evidence are consistent with a reduction in sentence, the Prosecutor will support any request by him for release after he has served two thirds of his sentence.

20. Ahmad AL FAQI AL MAHDI understands and agrees that the Prosecutor's agreements set forth herein shall be rendered null and void if Ahmad AL FAQI AL MAHDI [REDACTED] [REDACTED]. The determination of whether a breach of this Agreement has occurred will be made by the Prosecutor in good faith and in her sole discretion.

Consequences of the Admission of Guilt
for the Exercise of Certain Rights

21. By making an admission of guilt, Ahmad AL FAQI AL MAHDI understands that he gives up, in whole or in part, the opportunity to exercise the following rights:
- a. The right to plead not guilty and to require the Prosecutor to independently prove the charge against him beyond reasonable doubt at a full trial;
 - b. The right not to confess guilt and to remain silent, without such silence being a consideration in the determination of guilt or innocence;
 - c. The right to raise defences and grounds for excluding criminal responsibility, and to present admissible evidence at a full trial (without prejudice to his right to make submissions and present admissible evidence under article 65 or with regard to sentencing);
 - d. The right to examine, or to have examined, the witnesses against him at a full trial and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him (without prejudice to his right to examine any witness that may be called to testify, and his right to call witnesses and to have them examined on his behalf, at any proceedings under article 65 or with regard to sentencing); and

- e. The right to appeal a conviction, confirmation of the charge against him, or any pre-trial ruling regarding admissibility or jurisdiction, or to appeal a sentence within the range set forth at paragraph 19(a) above (without prejudice to his right to appeal pre-trial or trial rulings regarding sentencing procedure and any sentence imposed in excess of the range set forth at paragraph 19(a) above).
22. It is understood that Ahmad AL FAQI AL MAHDI retains all other rights, including in particular the following:
- a. The right to be represented by counsel at all stages of the proceedings, and to communicate freely with such counsel in confidence;
 - b. The right to make an unsworn oral or written statement at the confirmation hearing, at any proceeding under article 65 of the Statute, and/or for purposes of sentencing;
 - c. The right to present admissible evidence, to examine witnesses, and to obtain the presence of witnesses on his behalf under the same conditions as witnesses against him, at any proceeding related to sentencing; and
 - d. The right to appeal any sentence imposed in excess of the range set forth at paragraph 19(a) above.

Voluntariness of the Admission of Guilt

23. Ahmad AL FAQI AL MAHDI acknowledges that he has entered into this Agreement freely and voluntarily after sufficient consultation with his counsel, that no threats were made to induce him to make an admission of guilt, and that the only promises made to him are those set forth in this Agreement.

Agreement Not Binding on the Court
or on Other Jurisdictions

24. Ahmad AL FAQI AL MAHDI and the Prosecutor understand that no term of this Agreement is binding on the Court, as provided in article 65(5) of the Statute.
25. The parties further understand that the Trial Chamber may reject Ahmad AL FAQI AL MAHDI's admission of guilt and order that the trial continue under article 65(3) or article 65(4)(b) of the Statute, or require the Prosecutor to present additional evidence under article 65(4)(a) of the Statute. If the Trial Chamber orders the trial to continue under article 65(3) or article 65(4)(b), it will consider the admission of guilt as not having been made and may remit the case to another Trial Chamber.

26. Ahmad AL FAQI AL MAHDI understands that this Agreement does not bind other Organs of the Court or any other national or international authorities or organisations.

Other Agreements

27. Except as expressly set forth herein, there are no additional promises, understandings, or agreements between the Prosecutor and Ahmad AL FAQI AL MAHDI or his counsel, Mohamed Aouini and Jean-Louis Gillisen.

Declaration of Ahmad AL FAQI AL MAHDI

28. I, Ahmad AL FAQI AL MAHDI, have read this Agreement and Annex A thereto in a language which I fully understand, and I have carefully reviewed every part of it with my counsel, Mohamed Aouini and Jean-Louis Gillisen. My counsel have advised me regarding the nature of the charge against me, my rights and possible defences, and the consequences of entering this Agreement and of making an admission of guilt. No other promises have been made to me, other than those contained in this Agreement. Furthermore, no one has threatened me or forced me in any way to enter into this Agreement. I have entered into this Agreement freely and voluntarily, and I am of sound mind. I understand the terms of this Agreement, and I voluntarily agree to each of the terms.

_____ [signed] _____
Ahmad AL FAQI AL MAHDI

_18/02/2016_____
Date

Declaration of Counsel

29. We, Mohamed Aouini and Jean-Louis Gillisen, are counsel for Ahmad AL FAQI AL MAHDI. Each of us has carefully reviewed every part of this Agreement with our client. Further, we have fully advised our client of his rights and possible defences, of the maximum possible sentence and the consequences of entering into this Agreement and of making an admission of guilt. To our knowledge, our client is of sound mind and his decision to enter into this Agreement is an informed and voluntary one.

_____ [signed] _____
Mohamed Aouini
Counsel for Ahmad AL FAQI AL MAHDI

_18/02/2016_____
Date

_____ [signed] _____
Jean-Louis Gillisen
Co-counsel for Ahmad AL FAQI AL MAHDI

_18/02/2016_____
Date

Signatures

ANNEX A

**JOINT PROSECUTION AND DEFENCE DOCUMENT PRESENTING
THE FACTUAL BASIS SUPPORTING THE ADMISSION OF GUILT
OF MR AHMAD AL FAQI AL MAHD**

**Cour
Pénale
Internationale**



**International
Criminal
Court**

No.: ICC-01/12-01/15

SITUATION IN THE REPUBLIC OF MALI

**IN THE CASE OF
*THE PROSECUTOR v. AHMAD AL FAQI AL MAHDI***

**Joint Prosecution and Defence document
presenting the factual basis supporting the admission of guilt
of Mr Ahmad Al Faqi Al Mahdi**

Introduction

The purpose of this document is to set forth the detailed factual basis for the admission of guilt of Mr **Ahmad Al Faqi Al Mahdi** (“Mr Al Mahdi”) in case No. ICC-01/12-01/15).

Mr **Ahmad Al Faqi Al Mahdi** and the Office of the Prosecutor agree on the fact that, if a trial were to be held, the facts below would be proven beyond reasonable doubt. Mr **Ahmad Al Faqi Al Mahdi** admits that these facts have been established and that they form the basis for his admission of guilt.

The capture and occupation of Timbuktu

1. Starting in January 2012, an armed conflict that was not of an international character broke out in Mali and led to the capture of the northern part of the country by various armed groups.
2. In February 2012, owing to the danger and confusion inherent in developing events, **Mr Al Mahdi** decided to leave Mali to seek refuge with his entire family in Algeria.
3. In late March 2012, the remaining units of the Malian armed forces left Timbuktu and a series of armed groups entered the city, creating a situation of great chaos.
4. In early April 2012, the armed groups Ansar Dine and Al-Qaida in the Islamic Maghreb (AQIM) drove out the members of the *Mouvement National de Libération de l'Azawad* [National Movement for the Liberation of Azawad] (MNLA) and took control of the city.
5. In the days that followed the capture, Iyad Ag Ghaly (head of Ansar Dine) and members of AQIM called the scholars and clerics of Timbuktu to a meeting at Hôtel Bouctou that lasted about three hours. Iyad Ag Ghaly was accompanied by Abu Zeid (head of AQIM's Tarek Ibn Zeyad Battalion (*katiba Tarek Ibn Zeyad*) and Chouaib (Abu Zeid's assistant). Iyad Ag Ghaly and Abu Zeid both made speeches but they did not mention AQIM. They mentioned only Ansar Dine, which they presented as the group that controlled the city. They asked the people of Timbuktu to cooperate with them in applying sharia and offered their protection.
6. **Mr Al Mahdi**, who had returned to Mali with his family in late March/early April 2012 with the intention of providing support for the independence movement, went to the meeting with Muhammad Ibn Al-Husayn, alias "Houka Houka", the future Islamic judge of

Timbuktu. Mr Al Mahdi later learned that his name was in fact on a list of religious scholars that Iyad Ag Ghaly had in his possession when Ansar Dine and AQIM arrived in Timbuktu.

7. A day or two after the meeting, **Mr Al Mahdi** received a personal invitation from Abu Zeid. Abu Zeid explained to **Mr Al Mahdi** that he had been appointed as Governor of Timbuktu by Iyad Ag Ghaly and that Iyad Ag Ghaly had asked him to appoint local scholars to positions within the city's future organisational structure. Abu Zeid then asked **Mr Al Mahdi** to evaluate the Muslim scholars who lived in the region and could, depending on their level of knowledge, be placed in charge of the religious institutions to be set up. **Mr Al Mahdi** carried out the evaluation straightaway. Abu Zeid also spoke with **Mr Al Mahdi** about the creation of the Islamic institutions to be set up to organise life in Timbuktu, which included an Islamic court and a *Hisbah* [body set up to uphold public morals and prevent vice].
8. A day or two later, Abu Zeid asked **Mr Al Mahdi** to head the *Hisbah*. From that point on, **Mr Al Mahdi** was one of the local members who joined the armed group Ansar Dine and supported its action in Timbuktu, and he effectively set up the *Hisbah*.
9. In general terms, Iyad Ag Ghaly was involved in making important decisions but he was not always present in Timbuktu. In fact, the city was governed by Abu Zeid, Yahia Abu Al Hammam (head of AQIM's Al-Furqan Battalion (*katiba Al-Furqan*)³) and Abdallah Al Chinguetti (AQIM's spiritual leader and a member of the Al-Furqan Battalion).⁴ They formed the emirate (or "[TRANSLATION] presidency") that governed the city and they controlled the other institutions that were set up. All of these institutions began functioning in April/May 2012. They were:

³ A few months later, Yahia Abu Al Hammam was appointed AQIM emir in the Sahel.

⁴ Abdallah Al Chinguetti succeeded Hammam when Hammam became AQIM emir in the Sahel.

- the Islamic court, presided over to all intents and purposes by Judge Houka Houka, and comprising Aboubacar Ibn Abdullah (“Radwan”), Abdallah Al Chinguetti and Koutaïba Al Noaman;
 - the *Hisbah*;
 - the Islamic police, initially led by the individual known as Adama and subsequently by Hassan Abdalaziz Al Ansari; and
 - the media commission, which included, among others, the individual known as Youssouf, along with Abu Dardar, Radwan and Sanda Ould Boumama, the spokesman of Ansar Dine.
10. During the 10 months or so that followed, i.e. until January 2013, the members of Ansar Dine and AQIM used these bodies to impose their religious and political will on the city and people of Timbuktu.

Mr Al Mahdi's role in Timbuktu during the occupation

11. **Mr Al Mahdi** ran the *Hisbah* from the time it was formed in April 2012 until September 2012. He drafted a document on the *Hisbah's* role and objectives that was later circulated to the other structures that were set up. He selected and recruited its members at the armed groups' training camps. The *Hisbah* had various members, including Mohamed Ismail (the accountant), Mohamed Hama, Al Hussein, Al Hadir, Abu Baccar and the individuals known as Alelo and Zakariya (the driver). Mr Al Mahdi taught them the applicable rules.
12. The *Hisbah* was, in general, in charge of overseeing the morality of the people of Timbuktu. This included such varied tasks as preventing and repressing anything the occupiers perceived to be a visible vice, raising residents' awareness about Islamic virtue and the rules that must be followed to attain it,

and organising acts of charity and distributing items to people in need or the sick.

13. In connection with his duties as head of the *Hisbah*, **Mr Al Mahdi** used means such as radio broadcasts and Friday sermons. He also gave sermons to prison detainees and the people undergoing training at the training camps. He reported on his activities directly to Abu Zeid.
14. In addition to his role as head of the *Hisbah*, **Mr Al Mahdi** was called on to give his opinion and he was very active in the other structures set up by AQIM and Ansar Dine in Timbuktu and in some of their activities. In fact, he was recognised as one of the religious specialists active in the groups occupying Timbuktu and, in that capacity, he was involved in their activities.
15. Accordingly, **Mr Al Mahdi** had direct relationships with numerous members of the armed groups and, especially, with the heads of Ansar Dine and AQIM, including Yahia Abu Al Hammam, Abdallah Al Chinguetti, Abu Zeid and, to a certain extent, Iyad Ag Ghaly.
16. Owing to his position as head of the *Hisbah*, **Mr Al Mahdi** dealt directly with Abu Zeid, with whom he had a certain level of friendship and a genuine relationship of trust.
17. Specifically, **Mr Al Mahdi** was the only local resident to attend a meeting with Abu Zeid, Abdallah Al Chinguetti, Nabil Makhloufi (AQIM emir in the Sahel until his death in September 2012) and the individual known as Chouaib, at which the arrival of the Red Cross in Timbuktu was discussed. He also attended private meetings. Even more importantly, he took part in public events alongside the leaders of the armed groups. At a meeting between Abu Zeid and the Crisis Committee set up by the residents of Timbuktu, **Mr Al Mahdi** was seated not far from Abu Zeid. Furthermore, about one month after Timbuktu was captured, **Mr Al Mahdi** attended a meeting with Iyad Ag Ghaly

to welcome a group that had joined Ansar Dine; Yahia Abu Al Hammam, Abdallah Al Chinguetti and Abu Zeid were in attendance. He also had a face-to-face meeting with Iyad Ag Ghaly around November 2012. **Mr Al Mahdi**, moreover, had ties to Mohamed Moussa (who he designated to succeed him as the head of the *Hisbah*), a relationship with Judge Houka Houka and contacts with Sanda Ould Boumama.

18. In addition, **Mr Al Mahdi** was involved in the work of the Islamic court of Timbuktu. He was not one of the court's judges, but he helped them regularly by performing research and by providing assistance with certain cases to Judge Houka Houka (who, on an exceptional basis, entrusted him with specific tasks such as investigations).
19. **Mr Al Mahdi**, moreover, played an active role in enforcing several decisions of the Islamic court, explaining the sentence in his capacity as head of the *Hisbah*.
20. On ten or so occasions, **Mr Al Mahdi** was also responsible for carrying out missions outside Timbuktu. For example, he was given the task of evaluating the situation at a camp in Niafunké that had seceded from the MNLA to join Ansar Dine. In fact, many groups affiliated with the MNLA pledged allegiance to Ansar Dine during this period. Each time a group joined the MNLA, Abu Zeid needed someone who had the necessary religious expertise to instruct the new recruits as regards Ansar Dine's objectives. **Mr Al Mahdi** performed that task on several occasions and then reported to Abu Zeid.
21. In September 2012, **Mr Al Mahdi** handed control of the *Hisbah* to Mohamed Moussa. He then took part in a mission between Timbuktu and Gao with Abu Zeid and Nabil Makhloufi. The purpose of the mission was to reconcile the MUJAO with Abu Zeid's Tarek Ibn Ziyad Battalion. Iyad Ag Ghaly also took part in the mission. On their return trip, **Mr Al Mahdi** and Nabil Makhloufi had a car accident in which Nabil Makhloufi died and **Mr**

Al Mahdi suffered a broken leg. Abu Zeid then had **Mr Al Mahdi** travel in his own car.

22. By early November 2012, **Mr Al Mahdi** had recovered from his injury. He was not, however, re-assigned to any specific function; he helped everyone. He was involved in many activities: he would go to the Islamic court to help Houka Houka, and Abu Zeid regularly assigned him tasks to be performed outside Timbuktu.
23. Towards the end of 2012, Iyad Ag Ghaly, Yahia Abu Al Hammam and Abu Zeid took part in 10 days' training in the region of Ario to prepare and launch an attack on Konna, Diabali and Bamako. During the training, all of the northern tribes renewed their allegiance to Iyad Ag Ghaly. At Iyad Ag Ghaly's request, **Mr Al Mahdi** oversaw the organisational aspects of the training.
24. Most importantly, in June and July 2012, **Mr Al Mahdi**, as head of the *Hisbah*, was put in charge of enforcing the decision to destroy the mausoleums that had been built over the tombs of the saints of Timbuktu. **Mr Al Mahdi** oversaw and led the attack on these buildings. On that occasion, he drafted a sermon on the destruction of the mausoleums and he led and personally took part in the attack on the buildings listed in paragraph 31 below: he oversaw the execution of the operations; he collected, purchased and distributed the necessary tools; he determined the order in which the attack on the building was to take place (from the north to the south); he used his own men and supervised other group members made available to him; he sometimes physically took part in the destruction of some of the monuments attacked; and he was also put in charge of justifying the acts of destruction to journalists by advancing religious explanations.
25. In this connection, in particular, **Mr Al Mahdi** gave interviews to journalists.

The function and importance of the mausoleums in Timbuktu

26. In Timbuktu, Islam is the common denominator that brings together the city's residents, who are of diverse origins. Timbuktu's mausoleums of saints and mosques are an integral part of the religious lives of the city's residents. The saints play an important role in their daily lives. The residents pay frequent visits to the mausoleums, which are places of worship and, for some, places of pilgrimage. Timbuktu's mausoleums and mosques create a shared identity and constitute a common heritage.
27. These mosques and mausoleums are important for the people of Mali and the international community because they transcend history and embody Timbuktu's glorious past. At the national level, Timbuktu's mausoleums and mosques have an important religious, cultural and social significance. At the international level, Timbuktu is associated with the history of Africa and, by extension, world history: the city's mausoleums and mosques stand as symbols of its intellectual and spiritual past and testify to its role as a centre for the spread of Islam in Africa.

The context of the attack on historic monuments and buildings dedicated to religion in Timbuktu in June and July 2012

28. Various historic monuments and buildings dedicated to religion were attacked in Timbuktu in 2012, first in April/May 2012, then in June/July 2012 and later in October and December 2012.
29. **Mr Al Mahdi** was involved in the attack that took place in June and July 2012.
30. More specifically, this attack on historic buildings and monuments dedicated to religion took place between 30 June 2012, approximately, and 11 July 2012, approximately. It concerned 10 buildings, which were essentially razed to the ground. The majority of the buildings were among the most well-known sites

in Timbuktu. [map of historic monuments and buildings dedicated to religion in Timbuktu]

31. The buildings include: (1) the Sidi Mahmoud Ben Omar Mohamed Aquit Mausoleum located in the Sidi Mahmoud Cemetery; (2) the Sheikh Mohamed Mahmoud Al Arawani Mausoleum located in the Sidi Mahmoud Cemetery; (3) the Sheikh Sidi Mokhtar Ben Sidi Mouhammad Al Kounti Mausoleum located in the Al Mokhtar Cemetery; (4) the Alpha Moya Mausoleum located in the Alpha Moya Cemetery; (5) the Sheikh Sidi Ahmed Ben Amar Arragadi Mausoleum located in the Cemetery of the Three Saints; (6) the Sheikh Mouhamad El Mikki Mausoleum located in the Cemetery of the Three Saints; (7) the Sheikh Abdoul Kassim Attouaty Mausoleum located in the Cemetery of the Three Saints; (8) the Ahmed Fulane Mausoleum and (9) the Bahaber Babadié Mausoleum, both adjoining the Djingareyber Mosque; and (10) the Sidi Yahia Mosque. [Original Text includes a Map]
32. These buildings' unique cultural value and their sanctity for the residents of Timbuktu was attributable, in particular, to their age, their status as emblems of the city's history, their strong ties to the history of Islam in Africa, and the Muslim saints for whom the mausoleums served as tombs. The religious aspect of the buildings was a result of either their very nature or the religious practices for which they were used by the people of Timbuktu.
33. The people of Timbuktu identified with these buildings, which were a source of pride for them. Some of the buildings were expressly protected at the national level. With the exception of the Sheikh Mohamed Mahmoud Al Arawani Mausoleum, all of the buildings were sites protected by UNESCO.

Consultations within the armed groups regarding the destruction of the mausoleums

34. When Abu Zeid and his associates were informed of the people's practices at the mausoleums, they began by asking **Mr Al Mahdi** to go to the tombs on

Fridays. The goal was to raise awareness among the people and stop them engaging in these practices, and to prohibit them from doing so, if necessary.

35. For about one month, the occupying groups controlled the cemeteries; **Mr Al Mahdi** noted down how the people of Timbuktu behaved at the mausoleum sites. He used the radio to explain to people what they could and could not do at the mausoleums. He also approached Timbuktu's imams and religious experts.
36. Then, about one month before the acts of destruction took place, Abdallah Al Chinguetti prepared a two-page document entitled "[TRANSLATION] '*Fath Al-Shukur*' on the Duty to Level Structures over Tombs to the Ground", backing the principle that the mausoleums had to be destroyed. He argued that the mausoleums were completely prohibited.
37. In this context, Abu Zeid consulted **Mr Al Mahdi** regarding the issue of the destruction of the mausoleums. **Mr Al Mahdi** voiced his opinion, which was that all of the legal experts agree that any structure above a tomb is prohibited, despite the fact that no source clearly addressed the issue of the destruction of the mausoleums. **Mr Al Mahdi** did not have any objection to "[TRANSLATION] removing something that is not permitted" but he recommended that the mausoleums not be destroyed because such acts of destruction might offend people and would not be beneficial for the occupying groups.

The decision to destroy the mausoleums

38. The decision to destroy the mausoleums was made around late June 2012. Iyad Ag Ghaly took the decision to destroy them, in consultation with Abu Zeid, Abdallah Al Chinguetti and Yahia Abu Al Hammam. Iyad Ag Ghaly gave Abu Zeid the order to proceed with the destruction of the mausoleums, and Abu Zeid passed on the order to **Mr Al Mahdi**.

39. Accordingly, late in the afternoon of the day before the attack was launched, Abu Zeid invited **Mr Al Mahdi** to his office. Abu Zeid told him: “[TRANSLATION] Abu Turab, the subject that we have discussed in relation to the destruction of the mausoleums [...] for Abu El Fadel [Iyad Ag Ghaly] the decision has been made. He has decided to destroy them”.
40. **Mr Al Mahdi** was responsible for carrying out the acts of destruction: this operation effectively fell within the *Hisbah*'s remit with regard to preventing visible vices. As head of the *Hisbah*, **Mr Al Mahdi** was personally responsible for the attack. He agreed to lead it and was aware that the purpose of the plan was to attack and destroy the sites. Abu Zeid told **Mr Al Mahdi** that Abdallah Al Chinguetti would come and speak to him.
41. Later the same day, just as Abu Zeid had said would happen, Abdallah Al Chinguetti called **Mr Al Mahdi**. Al Chinguetti told **Mr Al Mahdi** that he would come and see him but he did not. Al Chinguetti called **Mr Al Mahdi** back to tell him that he would go and see him at the headquarters of the radio station.
42. **Mr Al Mahdi** went to the radio station and found a group of students there. Then Abdallah Al Chinguetti arrived and declared that the time had come to destroy the buildings.

Mr Al Mahdi's role in the attack

43. As head of the *Hisbah*, **Mr Al Mahdi** was officially in charge of the attack. In general terms, the attack was placed under his supervision: **Mr Al Mahdi** and the *Hisbah* were responsible for providing the tools and equipment as well as the money and men needed to carry out the attack; **Mr Al Mahdi** was also responsible for covering the costs of the attack out of the budget of the *Hisbah*.

44. **Mr Al Mahdi** prepared a sermon specifically about the destruction of the mausoleums, and it was read at Friday prayer, on the eve of the attack.
45. **Mr Al Mahdi** determined the order in which the attack and acts of destruction would take place, working from north to south, guided by his own observations of the cemeteries.
46. **Mr Al Mahdi** obtained tools from one of Abu Zeid's mechanics. He also acquired equipment during the operations, as required. In addition, he supplied the attackers with food and drink.
47. **Mr Al Mahdi** also decided the means to be employed, such as whether or not to use a bulldozer for certain acts of destruction.
48. With regard to human resources, Al Mahdi had eight members of the *Hisbah* available to him. He also enjoyed substantial support from people who had just arrived at the armed groups' training camps and were willing to take part in the acts of destruction. Older members of the armed groups were also present. **Mr Al Mahdi's** role was to supervise them.
49. **Mr Al Mahdi**, who was present at each of the sites that were attacked, supervised the attackers and gave instructions on how they should proceed and conduct themselves depending on the type of site. He provided guidance to attackers in the form of instructions.
50. **Mr Al Mahdi** also physically participated in the attack and the acts of destruction. Once the tools had been distributed and he had made sure that everything was ready, he was able to participate directly in the operations either by destroying the building himself or by removing bricks by hand. In this connection, **Mr Al Mahdi** physically participated in the acts of destruction of half the buildings attacked, namely, the Alpha Moya Mausoleum and the Sheikh Sidi Ahmed Ben Amar Arragadi Mausoleum, the door of the Sidi Yahia

Mosque, and the Ahmed Fulane Mausoleum and the Bahaber Babadié Mausoleum. In addition, **Mr Al Mahdi** physically took part in the destruction of at least one of the two mausoleums in the first cemetery, the Sidi Mahmoud Cemetery, using tools and removing bricks.

51. **Mr Al Mahdi** was also assigned by Abdallah Al Chinguetti to communicate with journalists in his capacity as head of the *Hisbah*. The aim was to justify the attack and to explain the acts of destruction to the journalists. Accordingly, **Mr Al Mahdi** gave various interviews.
52. **Mr Al Mahdi** knew, owing to his participation in the preparations for the attack, his systematic presence at the sites of the attack and the publicity surrounding it, that the other co-perpetrators had embraced the common plan to attack the targeted monuments and that they were actively involved in its implementation. He knew that, along with them, he had joint control over the attack.

The course of the attack (June/July 2012)

53. The attack of June/July 2012 was carried out in two stages. The first consisted of destroying mausoleums located in several of Timbuktu's cemeteries. The second consisted of the attack on the Sidi Yahia and Djingareyber Mosques.
54. During the first stage, involving the cemeteries, **Mr Al Mahdi** chose to start in the north and move southward. Four cemeteries were affected. The operations took place over two consecutive days. On the first day, the attackers went to the first three cemeteries (Sidi Mahmoud, Sidi Al Mokhtar and Alpha Moya) and destroyed the mausoleums there. On the second day, they attacked the mausoleums in the fourth cemetery (Three Saints).

55. During the second stage, new objectives were added. Abdallah Al Chinguetti advocated the attack and the destruction of the two mausoleums adjoining the Djingareyber Mosque and of the door of the Sidi Yahia Mosque, which, according to local belief, had to remain shut or the world would end. **Mr Al Mahdi** was involved as the head of the *Hisbah*. The door of the Sidi Yahia Mosque was attacked and destroyed first. A few days later, the two mausoleums at the Djingareyber Mosque were attacked. These acts of destruction stemmed from the initial decision to attack mausoleums.
56. Apart from **Mr Al Mahdi**, Iyad Ag Ghaly, Abu Zeid, Yahia Abu Al Hammam and Abdallah Al Chinguetti, other members of the common plan included:
- Abu Dardar, who was in charge of the two local radio stations during the occupation and was a member of the bureau in charge of the media;
 - Radwan, a member of AQIM and of the Islamic court as well as the bureau in charge of the media;
 - Abu El Baraa, a well-known preacher with AQIM;
 - Sheikh Qutaiba, a prominent cleric, member of AQIM;
 - Sanda Ould Boumama, spokesman for Ansar Dine and close associate of Abu Zeid and Yahia Abu Al Hammam;
 - Abu Talha, a member of AQIM who was in charge of security and succeeded Abdallah Al Chinguetti as the leader of the Al-Furqan Battalion;
 - Abu Sayaf, the third-ranking person in the Tarek Ibn Zeyad Battalion;
 - Adama, the first chief of the Islamic police; now deceased;
 - Abu Baccar, a member of the *Hisbah*;
 - Mohamed Hama, a member of the *Hisbah*;
 - Zacariya, a member of the *Hisbah*;

- Youssouf, a member of the bureau in charge of the media;
- The individual known as Nasser, a member of the Al-Furqan Battalion;
- The individual known as Hamza, a member of the Al-Furqan Battalion;
- Abu Moneem, a member of the Al-Furqan Battalion;
- Abu Khalil, a combatant;
- Abu Thar, a combatant; and
- The individual known as Al Arabiya.

57. Throughout the acts of destruction, **Mr Al Mahdi** made various statements to justify and legitimise the attack. Similar explicit remarks made by some of the attackers, such as Abu El Baraa and Sanda Ould Boumama, confirm that they collectively embraced the attack and the demolition of the sites.

The attack on two mausoleums in the Sidi Mahmoud Cemetery

58. **Mr Al Mahdi** and the other attackers began the operations in the Sidi Mahamoud Cemetery, located north of the old town, in the Abarajou district. Two mausoleums were located there. The attack took place on 30 June 2012, shortly after Timbuktu was included on the List of World Heritage in Danger.

59. **Mr Al Mahdi** and the other attackers arrived on site at around eight o'clock. He distributed the tools and gave recommendations. Then he physically participated in the attack and the destruction operations. The acts of destruction lasted for approximately two hours.

60. Abdallah Al Chinguetti, who also took part in the acts of destruction, asked **Mr Al Mahdi** to respond to journalists insofar as the attack and the related operations were carried out under the purview of the *Hisbah*. **Mr Al Mahdi**

stated in particular: “we are the governors of this land, and we’re righting all the wrongs we notice”. He added: “we are doing this as part of our campaign to right the wrongs we notice [...] Demolishing the domes and structures erected on graves was commanded [...] This is why we raze graves to the ground”.

The attack on the Sidi Mahmoud Ben Omar Mohamed Aquit Mausoleum

61. The Sidi Mahmoud Ben Omar Mohamed Aquit Mausoleum is the larger of the two mausoleums located in the Sidi Mahmoud Cemetery. It is a historic site and a place of worship. It is classified as a national cultural heritage site under Malian law and is listed as a UNESCO World Heritage site.
62. Apart from **Mr Al Mahdi**, the other attackers identified at the scene were Abdallah Al Chinguetti, Radwan, Abu Talha, Abu El Baraa, Abu Baccar and the individuals known as Abu Thar, Abu Sayaf and Yazid, as well as the individuals known as Nasser, Hamza and Abu Moneem, all three from the Al-Furqan Battalion. Other unidentified attackers were also present at the scene. In total, there were around 60 individuals.
63. At the cemetery entrance, armed men ensured the security of those who were actively engaged in destroying the mausoleum, which was razed to the ground.

The attack on the Sheikh Mohamed Mahmoud Al Arawani Mausoleum

64. The Sheikh Mohamed Mahmoud Al Arawani Mausoleum is situated a few metres away from the Sidi Mahmoud Mausoleum. It is the second mausoleum in the Sidi Mahmoud Cemetery.
65. This mausoleum was attacked by **Mr Al Mahdi** and his co-perpetrators on the same day and at the same time as the attack on the Sidi Mahmoud Mausoleum. It was destroyed.

*The attack on the Sheikh Sidi El Mokhtar Ben Sidi Mouhammad Al Kounti
Mausoleum*

66. The Sheikh Sidi El Mokhtar Ben Sidi Mouhammad Al Kounti Mausoleum is located in the Al Mokhtar Cemetery, in the east of the old town, in the district of Koyratao.
67. It is a historic monument and place of worship, and is on the World Heritage List. It used to be visited by numerous pilgrims, including those from neighbouring countries. The people of Timbuktu used to go there primarily to reflect and pray if they were faced with a dilemma or an important decision.
68. The mausoleum was destroyed on the same day as the Sidi Mahmoud and Al Arawani Mausoleums, i.e. on 30 June 2012, starting at around 10 o'clock.
69. **Mr Al Mahdi**, Abu Baccar and other attackers were involved in the destruction. **Mr Al Mahdi** supervised the destruction and gave instructions to the attackers. He went to the market to fetch things that were needed. He provided the tools along with food and drink.
70. As during the destruction of the Sidi Mahmoud Cemetery, a security cordon was in place to prevent local people from entering the cemetery.
71. At the site, **Mr Al Mahdi** told journalists who were present that “[TRANSLATION] if a tomb is higher than the others, it must be levelled [...] we are going to rid the landscape of anything that is out of place”.
72. The attackers used tools such as hammers and poles. The operations finished around midday. The mausoleum was razed to the ground.

The attack on the Sheikh Alpha Moya Mausoleum

73. Sheikh Alpha Moya Mausoleum is situated in the Alpha Moya Cemetery in the east of the old town. It is a historic building and a place of worship. Locals used to go to the mausoleum to make offerings, and Tabaski and Ramadan prayer were held there. It is classified as a national cultural heritage site under Malian law and is on the UNESCO World Heritage List.
74. The attack on the Sheikh Alpha Moya Mausoleum took place on the same day as the attacks on the Sidi Mahmoud, Al Arawani and Al Mokhtar Mausoleums, i.e. on 30 June 2012. The operations were conducted during the course of the afternoon.
75. Various attackers were present at the site of the attack, including **Mr Al Mahdi**, Abu Dardar with his vehicle, Youssef, Boumama, Radwan, Abu El Baraa, and the individuals known as Abdoul Khalil and Zacariya, from the *Hisbah*.
76. Abu Zeid, Yahia Abu Al Hammam and Sanda Ould Boumama also visited the site.
77. **Mr Al Mahdi** gave instructions and directly participated in the destruction.
78. As previously, there was a security cordon with more than 30 heavily armed combatants. The attack ended at sunset. The mausoleum was destroyed.

The attack on three mausoleums at the Three Saints Cemetery

79. The Sheikh Mouhamad El Mikki, Sheikh Abdoul Kassim Attouaty and Sheikh Sidi Ahmed Ben Amar Arragadi Mausoleums are all located at the Three Saints Cemetery, in the west of the old town.
80. The attack on these three mausoleums took place on 1 July 2012, the day after the attack on the Sheikh Sidi El Mokhtar Ben Sidi Mouhammad Al Kabir

Al Kounti Mausoleum. The three mausoleums in question were of very old construction. They were each destroyed in turn.

81. The same combatants as at Alpha Moya, including Abu El Baraa and Bakar, were present during the operation at the Three Saints Cemetery. **Mr Al Mahdi** supervised the operations.

The attack on the Sheikh Sidi Ahmed Ben Amar Arragadi Mausoleum

82. The Sheikh Sidi Ahmed Ben Amar Arragadi Mausoleum used to be a historic and religious site. Many worshippers used to pray at his tomb. Pilgrims of Kunta origin from Morocco, Algeria, Niger, Libya, Mali and Tunisia also made the journey. It is on the World Heritage List.
83. **Mr Al Mahdi** and Abu Baccar, together with other attackers, were involved in the attack on this mausoleum. **Mr Al Mahdi** physically participated in the destruction. He also spoke with residents of Timbuktu through the cemetery railings.
84. The mausoleum was completely destroyed.

The attack on the Sheikh Mouhamad El Mikki Mausoleum

85. The Sheikh Mouhamad El Mikki Mausoleum is a historic and religious site. Worshippers would go to the mausoleum for spiritual retreats. It is on the World Heritage List.
86. **Mr Al Mahdi** and Abu Baccar, together with other attackers, were involved in the attack on this mausoleum, which was completely destroyed.

The attack on the Sheikh Abdoul Kassim Attouaty Mausoleum

87. The Sheikh Abdoul Kassim Attouaty Mausoleum is situated a few metres away from the Sheikh Mouhamad El Mikki Mausoleum. Built in the sixteenth century, it is a historic and religious site and is classed as world heritage.
88. The mausoleum was attacked on the same day as the Arragadi and El Mikki Mausoleums. This destruction marked the end of the first stage of the campaign of destruction supervised by **Mr Al Mahdi**.

The attack on the Sidi Yahia Mosque

89. The Sidi Yahia Mosque dates from the fifteenth century. This mosque is a historic monument and a building dedicated to religion. It is inscribed on the World Heritage List and located in an area protected under the law of Mali. It had a door on one side that had been condemned long ago. This door was part of the mosque and, as such, it was protected as world heritage. Legend had it that the door had not been opened for 500 years and that opening it would lead to the Last Judgement. **Mr Al Mahdi** was obviously aware that this was an ancient door that had a connection with Timbuktu's past and that it had not been opened for a century.
90. The door was destroyed on or around 2 July 2012, after the acts of destruction in the Three Saints Cemetery.
91. Abdallah Al Chinguetti told **Mr Al Mahdi** that the door had to be opened. Abdallah Al Chinguetti came to see **Mr Al Mahdi** at his home and collected pickaxes that **Mr Al Mahdi** had bought with *Hisbah* funds. Abdallah Al Chinguetti then drove away, and **Mr Al Mahdi** followed him in a vehicle belonging to the *Hisbah*. Radwan and Sheikh Qutaiba, among others, were already at the site. They were waiting for **Mr Al Mahdi**, as the operations

aimed to remove a visible sin, which was under the remit of the *Hisbah*. Furthermore, **Mr Al Mahdi** was responsible for covering the costs incurred.

92. It was morning. A meeting was held between the representatives of the Sidi Yahia Mosque and **Mr Al Mahdi**, Radwan, Abdallah Al Chinguetti, Abu Baccar and Abu El Baraa. During the meeting, **Mr Al Mahdi** told the imam that they had heard of a door to the mosque which was kept closed out of superstition and that they had come to open it. **Mr Al Mahdi** added that their leaders, Sanda Ould Boumama, Abu Zeid and Iyad Ag Ghaly, had ordered the door to be opened. **Mr Al Mahdi** denied the request not to destroy the door. **Mr Al Mahdi** asked one of his co-perpetrators to fetch a tool. The door was then attacked and destroyed.
93. **Mr Al Mahdi**, Radwan, Abdallah Al Chinguetti, Abu Baccar, Abu Al Baraa, Qutaiba and Youssouf all participated in or provided on-site support for the attack and the destruction of the door.
94. **Mr Al Mahdi**, Abu El Baraa and Radwan, working together, tore down the door with their hands.
95. **Mr Al Mahdi** also explained the destruction to journalists while it was taking place, with the use of a tool, behind him:

“[TRANSLATION] What you see here is one of the ways of eradicating superstition, heresy and all things or subterfuge which can lead to idolatry. We heard about a door in the ancient mosque of Sidi Yahya. If it is opened, the Day of Resurrection will begin. Following an investigation, we discovered that it was a condemned door in the courtyard of an old mosque. The door was condemned and bricked up. Over time, a myth took hold, claiming that the Day of Resurrection would begin if the door were opened. We fear that these myths will invade the beliefs of people and the ignorant who, because of their ignorance and their distance from religion, will think that this is the truth. So we decided to open it”.

The attack on two mausoleums at the Djingareyber Mosque

96. Two mausoleums – the Bahaber Babadié and Ahmed Fulane Mausoleums – adjoin the western wall of the Djingareyber Mosque (or Grand Mosque), which is located at the heart of Timbuktu and is the city’s religious centre. The mausoleums are historic sites and are used for religious purposes. Many people used to visit them on Mondays and Fridays as well as during major religious festivals. They are located in an area of national heritage protected under Malian law and are also classified as world heritage as an integral component of the Djingareyber Mosque, which is on the World Heritage List.
97. These mausoleums were completely razed to the ground on or around 10 or 11 July 2012.
98. When Abdallah Al Chinguetti asked **Mr Al Mahdi** to destroy the mausoleums adjoining the Djingareyber Mosque, **Mr Al Mahdi** agreed and asked for reinforcements to support members of the *Hisbah*. He then oversaw the attack and the operations.
99. Abu Jelil, Radwan, Adama, **Mr Al Mahdi**, Abu Baccar, Mohamed Hama and Abu Thar took part in this.
100. **Mr Al Mahdi** also physically took part in the acts of destruction and then decided to use a bulldozer as Abu Sayaf had previously suggested.
101. In addition, **Mr Al Mahdi** interacted with journalists at the scene. During the operations, **Mr Al Mahdi** stated in an interview:

“I don’t know the truth about those saints. We just know that fools [...] come and take sand from those places to get blessed [...]. That’s why we consider this campaign as an effort that’s exerted in collaboration with the imams [...] We only paid attention to the buildings constructed above the graves in the cemetery, and the tombs that are annexed to the mosques from the outside”. He continues: “As for demolishing these buildings, [...] we think that we’ve already introduced this matter gradually, as we’ve spent four months explaining to the people what’s right and what’s wrong, and now’s the time for implementation”.

102. The operations took roughly three hours. Towards the end of the acts of destruction, while the attackers were clearing the rubble, Abu Zeid, Yahia Abu Al Hammam and Abdallah Al Chinguetti came to provide and demonstrate their support. Sanda Ould Boumama accompanied them. On the previous day, **Mr Al Mahdi** had spoken on the telephone with Abdallah Al Chinguetti about the destruction, and the latter had invited Abu Zeid and Yahia Abu Al Hammam.

103. The two mausoleums were completely razed to the ground.

Conclusion

104. In the span of about 10 days, 10 of the most important and best-known sites in Timbuktu, all located within the same geographic area, were attacked by **Mr Al Mahdi** and the other members of the common plan, who were all driven by the same objective, who all acted with the same intention, and who all offered the same pretexts and justifications.

105. These sites were historic monuments and buildings dedicated to religion, not military targets. The buildings were treasured by the city's residents, they were used for religious practices, they constituted an important aspect of the historic heritage of Timbuktu and they embodied the identity of this city known as "The City of 333 Saints".

106. **Mr Al Mahdi** was consulted at the decision-making stage and was fully involved in the execution stage. **Mr Al Mahdi** acted knowingly. He knew that the buildings targeted were dedicated to religion, that they were historic in nature and that they were cherished by the city's residents.

Done in both French and Arabic, the French version being authoritative.

[signed and dated 18/02/2016]

Mr Ahmad Al Faqi Al Mahdi [name written in Arabic script]

Mr Mohamed Aouini [name written in Roman and Arabic script]

Mr Gilles Dutertre [name written in Roman script]

Ms Fatou Bensouda [signature only]

Mr Jean-Louis Gillisen [name written in Roman script]