

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11-01/11
Date: 1 December 2011

PRE-TRIAL CHAMBER I

**Before: Judge Sanji Mmasenono Monageng, Presiding Judge
Judge Sylvia Steiner
Judge Cuno Tarfusser**

**SITUATION IN LIBYA
IN THE CASE OF
THE PROSECUTOR *v.*
SAIF AL-ISLAM GADDAFI *and* ABDULLAH AL-SENUSSI**

URGENT

Confidential document, *ex parte* Prosecution and Registry only

**Decision Regarding the "Report of the Registrar on the execution of the request for
arrest and surrender"**

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Pre-Trial Chamber I of the International Criminal Court (“Chamber” and “Court” respectively), hereby renders the following decision:

NOTING Resolution 1970, adopted by the United Nations Security Council (“UNSC”) on 26 February 2011,¹ whereby the UNSC referred the situation in Libya since 15 February 2011 to the Prosecutor of the Court² and decided that the Libyan authorities shall cooperate fully with and provide any necessary assistance to the Court;³

NOTING the “Decision on the ‘Prosecutor's Application Pursuant to Article 58 as to Muammar Mohammed Abu Minyar GADDAFI, Saif Al-Islam GADDAFI and Abdullah AL-SENUSSI’”, issued by the Chamber on 27 June 2011,⁴ and the warrants of arrest corresponding to that decision;⁵

NOTING the “Request to the Libyan Arab Jamahiriya for the arrest and surrender of Muammar Mohammed Abu Minyar GADDAFI, Saif Al-Islam GADDAFI and Abdullah AL-SENUSSI”, filed by the Registry on 4 July 2011 (“Surrender Request”);⁶

NOTING the letter the Chamber received, allegedly from the National Transitional Council, confirming that Saif Al-Islam Gaddafi was arrested in Libya;⁷

NOTING the “Report of the Registrar on the execution of the request for arrest and surrender”, filed confidentially on 25 November 2011 (“Registrar Report”),⁸ wherein the Registrar indicates that she is planning to go to Tripoli to discuss the implementation of the Surrender Request with respect to Saif Al-Islam Gaddafi;⁹

NOTING the “Prosecution Response to the ‘Report of the Registrar on the execution of the

¹ S/RES/1970 (2011).

² *Ibid.*, para. 4.

³ *Ibid.*, para. 5.

⁴ ICC-01/11-01/11-1.

⁵ ICC-01/11-01/11-2, ICC-01/11-01/11-3 and ICC-01/11-01/11-4.

⁶ ICC-01/11-01/11-5.

⁷ ICC-01/11-01/11-34-Conf-Exp-Anx, p. 2.

⁸ ICC-01/11-01/11-30-Conf-Exp.

⁹ *Ibid.*, para. 2.

request for arrest and surrender", filed confidentially on 28 November 2011,¹⁰ wherein the Prosecution opposes the visit contemplated in the Registrar Report on grounds that the Libyan authorities are not in a position to execute the surrender of Saif Al-Islam Gaddafi at this time;¹¹

CONSIDERING that the situation in Libya regarding the custody and possible surrender of Saif Al-Islam Gaddafi is fluid and uncertain at this time;

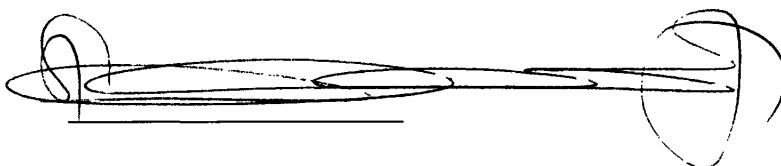
CONSIDERING that the Chamber intends to request for further information from the Libyan authorities before it takes any action in relation to the issues surrounding the potential surrender of Saif Al-Islam Gaddafi to the Court;

CONSIDERING that the Chamber should rule on the issue of Libya's cooperation before any Registrar attempt to implement the Surrender Request;

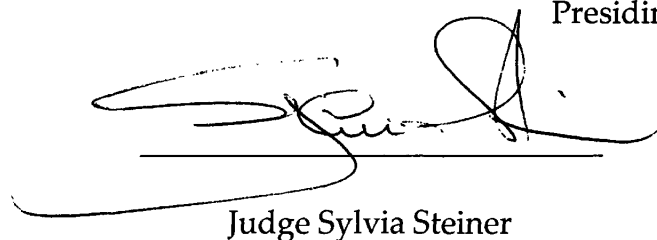
FOR THESE REASONS

DECIDES that the implementation of the request for surrender be postponed until further notice from the Chamber.

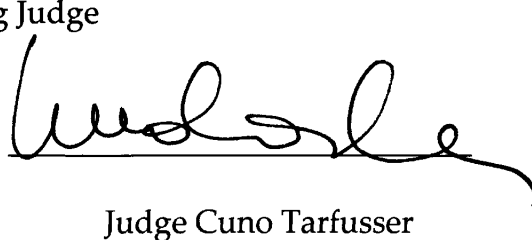
Done in both English and French, the English version being authoritative.



Judge Sanji Mmasenono Monageng
Presiding Judge



Judge Sylvia Steiner



Judge Cuno Tarfusser

Dated this Thursday, 1 December 2011

At The Hague, The Netherlands

¹⁰ ICC-01/11-01/11-32-Conf-Exp.

¹¹ *Ibid.*, paras 1, 7.