



Original: **English**

No.: **ICC-02/05-02/09**

Date: **22 September 2009**

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN DARFUR, THE SUDAN

IN THE CASE OF THE PROSECUTOR

V.

BAHAR IDRIS ABU GARDA

PUBLIC DOCUMENT

Public Note on Prosecution Filing ICC-02/05-02/09-94-Conf-Exp

with Confidential Annex A

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Counsel for the Defence

Karim A.A. Khan

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

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Other
Section**

1. The Office of the Prosecutor ("Prosecution") files this public note regarding *ex parte* Prosecution filing ICC-02/05-02/09-94-Conf-Exp, filed on 10 September 2009 ("10 September filing").
2. In the 10 September filing, the Prosecution informed the Single Judge (a) that the information provider has not yet lifted the restrictions imposed on the eight¹ documents obtained under Article 54(3)(e) which include materials relevant for the preparation of the defence and that (b) the information provider is making arrangements to lift the restrictions by providing summaries containing the relevant information.
3. In the same filing, the Prosecution submitted to the Chamber excerpts from other materials in its possession which are analogous to the information contained in the documents in respect of which the restrictions have not yet been lifted. These materials were submitted as alternatives to the information contained in the Article 54(3)(e) documents.
4. The Prosecution attaches as Confidential Annex A to the present filing, a list containing the Reference Numbers of the documents that can be disclosed and that are submitted as alternative evidence to the Article 54(3)(e) material.
5. The Prosecution notes that the documents listed in Confidential Annex A have already been disclosed to the Defence.

¹ Of these eight documents, six are material for the preparation of the defence and two are of an incriminatory nature.

6. The Prosecution requests that Confidential Annex A be received as “Confidential” since it relates to *inter parte* disclosure.



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Luis Moreno-Ocampo

Prosecutor

Dated this 22nd day of September 2009

The Hague, Netherlands