

ANNEX A

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **14 October 2009**

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Presiding Judge
Judge Anita Ušacka, Judge
Judge Sylvia Steiner, Judge

SITUATION IN DARFUR, THE SUDAN

Public Redacted Version of Provision of Information Pursuant to Article 58 filed on 2 December 2008

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

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. On 20 November 2008 the Office of the Prosecutor (“the Prosecution” or “OTP”) filed an Application pursuant to Article 58 of the Rome Statute (“the Application”) requesting Pre-Trial Chamber I (“PTC I”) to issue warrants of arrest or alternatively summonses to appear for **BAHR IDRIS ABU GARDA**(“**ABU GARDA**”), [TEXT REDACTED]¹.
2. In paragraph 10 of the Application, the Prosecution noted that since there was public notice of the Application, all rebel commanders had the opportunity to express their willingness to surrender.
3. Since the public filing of the summary of the Application on 20 November 2008, rebel commanders, their armed groups and other relevant rebel movements have made public statements regarding their willingness to cooperate with the Court.² The Prosecution is of the view that these statements, if confirmed, could be relevant in the assessment by PTC I of the Prosecution’s request in its Application.
4. The Prosecution now submits below, for the Chamber’s information, information gathered from the media on the response of the rebel commanders, their armed groups and other relevant rebel movements.
5. On 21 November 2008 the Sudan Tribune (an online newspaper), published on its website the following: “*I will go, no problem. We cannot refuse. I know I was not involved*” said Bahar Idriss Abu Garda who now heads an umbrella group of insurgents known as the United Resistance Front.”³ The Prosecution recalls that **ABU GARDA**, the first suspect named in the Application, is the Chairman of JEM-CL and the United Resistance Front (URF).⁴

¹ ICC-02/05-163-Conf-Exp 20 -11-2008

² The sources of these statements are annexed to this filing as Annex 1 to 8.

³ Public Source, DAR-OTP-0161-0095; Public Source, DAR-OTP-0161-0121

⁴ See para 18 of the Application.

6. The Prosecution also recalls that [TEXT REDACTED].⁵ The Prosecution observes that the statement by **ABU GARDA** was made in the name of JEM-CL and URF and thus his statement that “*We cannot refuse*” also applied to [TEXT REDACTED].
7. On Friday 21 November 2008, Miraya 101 FM (a radio station with coverage in the Sudan) reported on its website that the rebel group SLA-Unity confirmed through a spokesman during a radio interview that the SLA Unity is ready to collaborate with the ICC and will hand over any member if requested by the Court. On the same date, the radio station published the following on its website: “Abu Bakr Kadu, commander in the SLM-Unity faction said: “*We are ready to go anywhere for the completion of justice.*”⁶ The Prosecution recalls that [TEXT REDACTED].⁷
8. In addition, in an AFP online article dated 20 November 2008, Abu Bakr Kadu is quoted as saying “*We are ready to go to any place if he wants us. Really. Why would he want us? For justice. We are here, in the field, for justice.*”⁸
9. Suleiman Jamous, a leading member of SLA-Unity, also stated that his group is innocent and if named would go to court to prove its innocence.⁹
10. In addition to statements made by the armed groups of the three rebel commanders who are the suspects in this case, other relevant rebel movements have made statements indicating their willingness to cooperate with the Court.
11. On 21 November 2008, Abdel-Wahid Al-Nur, the leader of Sudan Liberation Movement (SLM) told Sudan Tribune by phone from Paris. “*We are unconditionally committed to cooperating with the ICC from junior members to*

⁵ See para 21 of the Application

⁶ Public Source, DAR-OTP-0161-0117 (Translation) DAR-OTP-0161-0115 (Arabic)

⁷ See Para 22 of the Application

⁸ Public Source, DAR-OTP-0161-0112; Public Source, DAR-OTP- 0161-0107

⁹ Public Source, DAR-OTP-0161-0091; Public Source DAR-OTP-0161-0119

*the most senior in the movement including my humble self. The cases investigated by the court are legal ones and not political. They should not be mixed”.*¹⁰ In another interview, Al-Nur is quoted as saying “We fully support the work of the Ocampo and the ICC and stand ready to provide them with any assistance needed”.¹¹

12. A Spokesman of JEM Tahir el-Faki, told AFP by telephone that “We will cooperate with Ocampo to achieve justice for the people, even if some of our commanders have been implicated.”¹²

13. The Prosecution is unable at this stage to assess whether or not the three rebel commanders will fulfill their promise to appear as shown in the above statements. The Prosecution will continue to monitor the situation and will submit to the Chamber any further relevant information it may gather in this regard.



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Luis Moreno-Ocampo

Prosecutor

Dated this 14th day of October 2009

The Hague, The Netherlands

¹⁰ Public Source, DAR-OTP-0161-0095

¹¹ Public Source, DAR-OTP-0161-0109

¹² Public Source, DAR-OTP-0161-0112; Public Source, DAR-OTP- 0161-0107