

ANNEX B



Original: **English**

No.: **ICC-02/05**
Date: **14 October 2009**

PRE-TRIAL CHAMBER I

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

SITUATION IN DARFUR, THE SUDAN

**Public Redacted Version of
Prosecution's Provision of Further Information Pursuant to the "Decision
Requesting Additional Information and Supporting Materials", and Urgent
Request for Expedited Consideration of Prosecution's Application
under Article 58 filed on 27 March 2009**

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**

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Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Procedural Background

1. On 20 November 2008, the Office of the Prosecutor ("the Prosecution" or "the Office") filed an Application under Article 58 of the Rome Statute, requesting that Pre-Trial Chamber I ("PTC") issue warrants of arrest or, alternatively, summonses to appear for the three individuals named therein ("the Application").¹
2. On 9 December 2008, the PTC issued its "Decision Requesting Additional Information and Supporting Materials" ("the 9 December Decision")², requesting the Prosecution to submit additional information and supporting materials in relation to those aspects of the Application referred to in a confidential *ex parte* Annex thereto.
3. On 16 January 2009 and on 26 January 2009, the Prosecution submitted information on the issues identified in the 9 December Decision.³
4. On 3 February 2009, the Chamber convened a hearing to discuss issues contained in a confidential *ex parte* Agenda annexed to its decision to convene the hearing.
5. On 23 February 2009, the Prosecution filed its "Submission of information on the Prosecution's Application Pursuant to Article 58 and request for summonses to appear".⁴
6. On 25 February 2009, the Prosecution filed a Request for Expedited Decision on the Prosecution's Application Pursuant to Article 58".⁵
7. On 2 March 2009, the PTC rendered its decision on the Prosecution's Request for Expedited Decision on the Prosecution's Application, denying the request of the Prosecution on the ground that the decision on the prosecution's request in relation to Al Bashir had to be completed by the 4th of March and that the issues to be decided are complex and require detailed analysis.⁶
8. On 6 March 2009, the Prosecution filed the "Prosecution's Provision of Further Information Pursuant to the Decision Requesting Additional Information and Supporting

¹ ICC-02/05-163-Conf-Exp.

² ICC-02/05-166.

³ ICC-02/05-173.

⁴ ICC-02/05-194-Conf-Exp.

⁵ ICC-02/05-195-Conf-Exp.

⁶ ICC-02/05-199.

Materials, and Urgent Request for Expedited Decision on the Prosecution's Application Pursuant to Article 58”⁷

9. On 10 March 2009, the PTC rendered its decision on the Prosecution's Request for Expedited Decision on the Prosecution's Application, denying the request of the Prosecution on the ground that the basis of its earlier decision of 2 March 2009 has not changed substantially.

Provision of Additional Information

10. Pursuant to the 9 December Decision, the Prosecution hereby provides further additional information on some of the issues identified in the confidential annex to the 9 December Decision. This additional information is contained in Confidential *ex parte* Annex 1 and 2 of this filing and specifically addresses points raised by the Chamber.

Urgent Request for Expedited Consideration

11. In its filing of 25 February 2009, the Prosecution informed the PTC that [TEXT REDACTED]

12. [TEXT REDACTED].

13. The Prosecution notes that the PTC has been reconstituted on 19 March 2009.

14. The Prosecution is of the view that given the current real prospects of ensuring the appearance of **ABU GARDIA** before the Court, which may be lost should the URF delegation and its President move to the territory of a non-State Party, the Prosecution respectfully requests that the PTC expedites its consideration of the Application.

15. As requested in the 23 February 2009 and 25 February 2009 filings, the Prosecution also requests that should the PTC decide to grant the Prosecution's Application under Article

⁷ ICC-02/05-203.

58(1) and decide to issue summonses to appear rather than warrants of arrest, only the name of **ABU GARDIA** should be made public at the present time, as he is safely out of Darfur.



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Luis Moreno-Ocampo
Prosecutor

Dated this 14th day of October 2009
The Hague, The Netherlands