

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-02/09
Date: 7 December 2009

PRE-TRIAL CHAMBER I

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

SITUATION IN DARFUR, THE SUDAN

**IN THE CASE OF
*THE PROSECUTOR v. BAHAR IDRIS ABU GARDA***

Public Document

**Submission of Defence's: 1. Final Written Observations and 2. Aide-mémoire on
peacekeeping, with Confidential Annexures**

Source: Defence

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

The Office of the Prosecutor

Mr Luis Moreno Ocampo

Mr Essa Faal

Counsel for the Defence

Mr Karim A. A. Khan

Mr Andrew J. Burrow

Legal Representatives of the Victims

Mr Brahim Koné

Ms Hélène Cissé

Mr Akin Akinbote

Colonel Frank Adaka

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(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

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 30 October 2009, in the final Confirmation session, the Pre-Trial Chamber decided that the Defence shall submit its final written observations by 30 November, 2009.¹
2. On 20 November 2009, the Pre-Trial Chamber extended the Defence's deadline for its final written observations to 7 December 2009.²
3. In accordance with this decision the Defence hereby submits its final observations, attached hereto as Confidential Annexure A.
4. In line with its previously expressed intentions³, the Defence also hereby seeks the leave of the Pre-Trial Chamber to submit as Confidential Annexure B the aide-mémoire to its argument on peacekeeping presented on 28 October 2009. The Defence respectfully requests that its aide-mémoire be read as part of its oral ~~submissions on peacekeeping in the same manner as the four aide-mémoires,~~ totalling one-hundred nineteen (119) pages, submitted by the Prosecution.
5. The Defence has no objection to making both confidential annexures available to the Legal Representatives of the Victims.

Respectfully Submitted,



Mr. Karim A. A. Khan

Defence Counsel for Bahar Idriss Abu Garda

Dated this 7th Day of December 2009

At The Hague, The Netherlands

¹ ICC-02/05-02/09-T-21-CONF-ENG, p. 83 , lines 1-2

² Decision on the Defence's request for an extension of time, ICC-02/05-02/09-232

³ Defence counsel alluded to this intention during the presentation of the Defence's evidence on peacekeeping: "I am not going to go into detail because, in due course, I will set out, with the Court's leave, relevant aspects of the law and these extracts in closing, written submissions, if that is necessary, but I think, for the sake of the presentation in any event, the submissions should be freestanding." (ICC-02/05-02/09-T-19-ENG at pg. 7, lines 8-11). The Defence reiterated this intention in its "Response to 'Prosecution's Request Pursuant to Regulation 37(2) of the Regulations of the Court For an Extension of the Page Limit for its Final Written Observations' ", ICC-02/05-02/09-227, para. 5, fn. 7.