

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-03/09

Date: 18 June 2010

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF *THE PROSECUTOR V. ABDALLAH BANDA ABAKAER
NOURAIN AND SALEH MOHAMMED JERBO JAMUS***

Public

Decision Scheduling a Hearing on Issues relating to Disclosure

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, Prosecutor

Mr Essa Faal, Senior Trial Lawyer

Counsel for the Defence

Mr 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
Section**

Other

I, Judge Cuno Tarfusser, acting as Single Judge of Pre-Trial Chamber I in the case of *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*;

1. **NOTING** the hearing of first appearance of Mr Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus, held on 17 June 2010 before Pre-Trial Chamber I;

2. **NOTING** that, at the aforementioned hearing, the Chamber scheduled the commencement of the hearing on the confirmation of the charges for Monday 22 November 2010 and designated Judge Cuno Tarfusser as Single Judge responsible for any and all issues arising in connection with disclosure between the parties;

3. **NOTING** articles 54 (1)(a) and (3)(e), 61(3), 67(2), 68(1) of the Statute of the Court and rules 76 to 83 and 121 of the Rules of Procedure and Evidence ("the Rules") and, in particular, rule 121(2)(b) of the Rules, whereby status conferences shall be held in order to ensure that disclosure takes place under satisfactory conditions;

4. **CONSIDERING** that, with a view to ensuring that disclosure takes place in a manner which is as transparent, efficient and expeditious as feasible, it is necessary to promptly schedule a hearing in order to discuss all matters which might be relevant in connection with the disclosure between the parties in view of the confirmation hearing, in particular as regards its scope, timing and modalities;

5. **CONSIDERING** in particular that it is necessary that information be provided by the Prosecutor on the following:

- a. an estimate of the overall amount of documents he intends to use as evidence at the confirmation hearing;
- b. the number of witnesses, if any, that he intends to call to testify at the confirmation hearing and the number of witness statements he intends to use at the confirmation hearing pursuant to rule 76 of the Rules;
- c. an indication as to whether he intends to request that certain documents be disclosed to the Defence in redacted form and, in the affirmative, an estimate of the amount of such documents;
- d. an indication as to whether he intends to request that protective measures be put in place in order to protect witnesses, victims or other persons at risk, prior to disclosure of the names of witnesses or of certain documents or otherwise, including any relevant information on the steps he is taking and/or he intends to take in this respect which might be available at this stage;
- e. an indication as to whether he intends to rely on documents or information obtained on the condition of confidentiality under article 54(3)(e) of the Statute.

6. **CONSIDERING** that, as regards the inspection to be conducted by the parties pursuant to rules 77 and 78 of the Rules, it is appropriate that both the Prosecutor and the Defence submit any views they might have at this stage as regards its envisaged scope and timing;

7. **CONSIDERING** that, with a view to enhancing the overall effectiveness of the disclosure process, it is appropriate that the Prosecutor, the Defence and the Registrar submit their views as to the system of disclosure as established and implemented in the recent practice of the Chamber, including its technical modalities;

8. **CONSIDERING** that, in addition to the above, all parties and participants are invited to submit any information, observation or concern which they deem relevant for the purposes of the overall effectiveness of the disclosure process;

9. **CONSIDERING** that, in light of the paramount principle of the publicity of the proceedings, the hearing shall be held in public session, without prejudice to the right of the parties and participants to request, or to the power of the Chamber to decide, that the hearing be converted into private session whenever the submission and/or discussion of confidential matters is at stake;

FOR THESE REASONS

DECIDE

to convene a hearing to be held in public session attended by the Prosecutor, the Defence and the Registrar on Wednesday 23 June 2010, at 15.00 hours;

DECIDE

that, at the said hearing, all matters which might be relevant in connection with the disclosure between the Prosecutor and the Defence for the purposes of the confirmation hearing shall be discussed;

ORDER

the Prosecutor to provide, at the said hearing, information as to the issues listed in paragraph 5 of this decision;

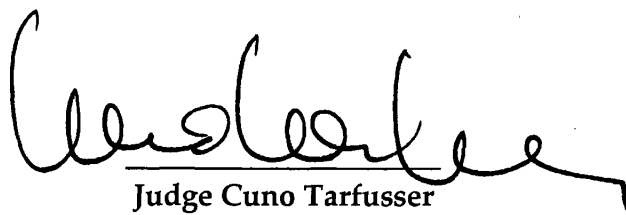
INVITE

the Prosecutor, the Defence and the Registrar to submit, at the said hearing, their views as to the system of disclosure as established and implemented in the recent practice of the Chamber, including its technical modalities.

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

Dated this Friday, 18 June 2010

At The Hague, The Netherlands



Judge Cuno Tarfusser
Single Judge