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No.: ICC-02/05-03/09
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TRIAL CHAMBER IV

Before: Judge Joyce Aluoch, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Silvia Fernández de Gurmendi

SITUATION IN DARFUR, SUDAN

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

PUBLIC DOCUMENT

**Public Redacted Version of "Prosecution's Further Update on Article 54(3)(e)
Documents", filed on 11 August 2011**

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**

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I. Introduction

The Office of the Prosecutor ("Prosecution") hereby updates the Trial Chamber IV ("Trial Chamber") on the status of ongoing consultations with one of its information providers - [REDACTED] ("the First Provider") - concerning eight documents that the First Provider gave to the Prosecution on 19 July 2007, subject to Article 54(3)(e) restrictions. Recently, the First Provider confirmed its refusal to permit disclosure. The Prosecution accordingly reiterates the request contained in its Filing of 8 July 2011 that analogous evidence previously disclosed to the Defence be considered sufficient to satisfy its disclosure obligation.

II. Prosecution Submissions

1. On 8 July 2011, the Prosecution made a filing¹ ("the 8 July 2011 Filing") in which it provided the Trial Chamber with an update on its efforts to secure lifting of restrictions on 10 documents obtained pursuant to Article 54(3)(e), including eight documents obtained from the First Provider.

2. The Prosecution also provided the Chamber with certain analogous evidence (which it has already disclosed to the Defence), and requested that in light of the responses of the providers thus far, it be authorised to disclose this analogous evidence in lieu of the 10 documents obtained pursuant to pursuant to Article 54(3)(e) of the Statute.

3. In the course of ongoing consultations with the providers, [REDACTED], the Prosecution received a written response from the First Provider which is attached to this filing as Confidential *Ex Parte - Prosecution only* Annex "A".

4. In this response, the First Provider reiterated that [REDACTED] *is still not in a position to consent to the disclosure*" of the eight documents obtained from this provider. [REDACTED]²

¹ ICC-02/05-03/09-176-Conf-Exp.

² [REDACTED]

III. Request for receipt of filing as Confidential *Ex Parte*

5. The Prosecution submits that the classification of the present filing and its annex as “Confidential – *Ex Parte* – Prosecution Only” is necessary as they relate to confidential information obtained pursuant to Article 54(3)(e), [REDACTED].³ The Prosecution is prepared, however, to file a Public Redacted Version or Public Note of the filing should the Trial Chamber determine it to be appropriate in the circumstances.

IV. Relief Sought

6. In light of this more recent response from the First Provider, the Prosecution reiterates that it be authorised to rely on the analogous evidence submitted with the 8 July 2011 Filing (and previously disclosed to the Defence), in lieu of the documents subject to Article 54(3)(e) restrictions.



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Luis Moreno-Ocampo

Prosecutor

Dated this 20th day of September 2011

At The Hague, The Netherlands

³ [REDACTED]