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

Date: 2 May 2013

**TRIAL CHAMBER IV**

**Before:** Judge Joyce Aluoch, Presiding Judge  
Judge Silvia Fernández de Gurmendi  
Judge Chile Eboe-Osuji

**SITUATION IN DARFUR, THE SUDAN**

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

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| <p><b>Public Document<br/>With Confidential Annex "A"<br/>Prosecution's Updated List of Evidence and List of Witnesses</b></p> |
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**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**

Fatou Bensouda, Prosecutor  
James Stewart, Deputy Prosecutor  
Ade Omofade, Trial Lawyer

**Counsel for the Defence**

Karim A.A. Khan, QC  
Nicholas Koumjian

**Legal Representatives of the Victims**

Ms. Hélène Cissé  
Mr. Jens Dieckmann

**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**

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**Registrar**

Mr. Herman von Hebel

**Counsel Support Section**

**Deputy Registrar**

Mr. Didier Daniel Pereira

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Background

1. On 16 May 2011, the Defence of Messrs Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus ("Defence") and the Office of the Prosecutor ("Prosecution") identified the issues to be contested at trial<sup>1</sup> and submitted in a confidential annex the agreed facts between the Defence and the Prosecution ("Agreement"), pursuant to Rule 69 of the Rules of Procedure and Evidence<sup>2</sup> ("Rules").
2. On 30 May 2011, Trial Chamber IV ordered the Prosecution, in the light of the Agreement, to file a revised List of Evidence<sup>3</sup> and a revised list of witnesses.<sup>4</sup> The Prosecution duly filed its revised List of Evidence in light of the Agreement on 13 June 2011,<sup>5</sup> and a revised list of witnesses on 5 August 2011.<sup>6</sup>
3. On 6 March 2013, the Chamber issued the "Decision concerning the trial commencement date, the date for final prosecution disclosure, and summonses to appear for trial and further hearings".<sup>7</sup> By this decision, the Chamber ordered the Prosecution to disclose its trial evidence pursuant to Rule 76, together with its final list of witnesses and evidence, no later than 16.00 on 2 May 2013.<sup>8</sup>

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<sup>1</sup> Joint Submission by the Office of the Prosecutor and the Defence Regarding the Contested Issues at the Trial of the Accused Persons, 16 May 2011, ICC-02/05-03/09-148.

<sup>2</sup> Agreement as to evidence pursuant to Rule 69 of the Rules of Procedure and Evidence between the Defence of Messrs Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus And the Office of the Prosecutor, ICC-02/05-03/09-148-AnxA-Red.

<sup>3</sup> Order requesting submissions on procedures to facilitate the fair and expeditious conduct of the Proceedings following the Joint Submission of 16 May 2011, ICC-02/05-03/09-155, paragraph 4.

<sup>4</sup> *Ibid* at para. 6.

<sup>5</sup> ICC-02/05-03/09-162.

<sup>6</sup> ICC-02/05-03/09-189-AnxA.

<sup>7</sup> ICC-02/05-03/09-455.

<sup>8</sup> ICC-02/05-03/09-455, para 25 (iii).

## II. Prosecution's Updated List of Evidence and List of Witnesses

4. Pursuant to the Chamber's instructions, the Prosecution hereby attaches, as Confidential Annex A to this filing, an updated list of evidence identifying the items of evidence that the Prosecution proposes to rely upon at the trial.<sup>9</sup>
5. The annexed list contains the requisite document ERN numbers, document title/description and level of confidentiality of the items of evidence the Prosecution intends to rely upon at trial. All of the items on the list have already been disclosed to the Defence.
6. The Prosecution's list of witnesses remains the same as the list filed on 5 August 2011.<sup>10</sup>




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**Fatou Bensouda**  
**Prosecutor**

Dated this 2<sup>nd</sup> day of May 2013

At The Hague, The Netherlands

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<sup>9</sup> The Prosecution requests receipt of the annex as "Confidential", as it relates to *inter partes* disclosure and list items of evidence that are currently classified as confidential.

<sup>10</sup> ICC-02/05-03/09-189-AnxA.