

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 1 October 2009

PRE-TRIAL CHAMBER I

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

SITUATION IN DARFUR, SUDAN

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

Public filing with CONFIDENTIAL (Office of the Prosecutor only) annexure

Submission of Confidential List of Evidence for filing in the record of the Case

Source: Defence

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

The Office of the Prosecutor

Mr Essa Faal

Counsel for the Defence

Mr Karim A.A. Khan

Mr Andrew J. Burrow

Legal Representatives of the Victims

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

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 15 July 2009, Pre-trial Chamber I (PTC I) rendered its "Second Decision on issues relating to Disclosure" ("Second Disclosure Decision") in which it, *inter alia*, ordered the Defence to file its List of Evidence by 24 September 2009.
2. On 11 September 2009, Single Judge Tarfusser rendered his "Decision on the Prosecutor's requests for extension of time-limit" ("Extension Decision"). In that Decision the Single Judge "postpone[d] until Thursday 1 October 2009 the time limits for the Defence originally set at 24 September 2009 pursuant to the Second decision on issues relating to disclosure".
3. In accordance with the Extension Decision, the Defence hereby files, as a confidential annexure, its List of Evidence and Witnesses it intends calling at confirmation.
4. The Defence intends to:
 - a. call one *viva voce* witness to give evidence, in public session, at confirmation. The name of the witness appears in the Confidential Annexure attached hereto;
 - b. rely on the written statements of four witnesses¹ at confirmation. The names of these witnesses appear in the Confidential Annexure attached hereto; and
 - c. rely on additional documentary evidence at confirmation. This evidence is detailed in the Confidential Annexure attached hereto.
5. In accordance with the Second Disclosure Decision and Rule 121 (2)(c) of the Rules of Procedure and Evidence, the Defence will file all the evidence upon which it may rely at the confirmation hearing, into the record of the case. Indeed, the Defence has already commenced this process.
6. Furthermore, and pursuant to the Second Disclosure Decision, the Defence hereby notifies the Prosecution that it may inspect, at a location and time and

¹ The Pre-Trial Chamber will note that the name of a fifth witness appears in the Confidential Annexure to this filing. This is the name of the legal assistant who interviewed two of the witnesses. He has provided a statement solely for the purpose of explaining why one of the statements is not yet signed.

in the manner agreed by the parties, any books, documents, photographs and other tangible objects in the possession or control of the Defence which are intended for use by the Defence as evidence for the purposes of the confirmation hearing.

Respectfully submitted,



Karim A. A. Khan
Counsel for the Defence

Dated this 1st day of October 2009

At The Hague, THE NETHERLANDS