

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/05-01/08**
Date: **04 November 2009**

TRIAL CHAMBER III

Before:

**Judge Adrian Fulford, Presiding Judge
Judge Elisabeth Odio-Benito
Judge Joyce Aluoch**

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
V. JEAN-PIERRE BEMBA GOMBO**

Public

The Prosecution's Notification to the Chamber concerning Negotiations on Agreed Facts

Source:

The 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

Counsel for the Defence of Jean-Pierre Bemba

Mr Nkwebe Liriss

Mr Aimé Kilolo-Musamba

Legal Representatives of Victims

Ms Marie Edith Douzima-Lawson

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

Ms Paolina Massidda

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 Other Section

1. On 7 October 2009, the Trial Chamber III (“Chamber”) ordered the Office of the Prosecutor (“Prosecution”) to provide the status of the Parties and Participants’ discussions regarding potential agreements on non-contentious issues no later than 4 November 2009.¹

2. On 3 November 2009, representatives of the Prosecution; Mr. Liriss, Mr. Kilolo-Musamba and Mr. Mangenda on behalf of the Defence; and Ms. Massidda on behalf of the Office of Public Counsel for Victims (“OPCV”) met. The Defence expressed its willingness to explore the possibility of reaching an agreement on non-contentious issues, though it stated that it will be able to engage in this exercise only after the Prosecution discloses the evidentiary materials, which is due to occur by 30 November 2009. Ms. Massidda expressed OPCV’s availability and interest in providing views, once agreements are reached by the Parties, if victims’ personal interests are involved. Ms Massida also clarified that OPCV and the legal representative of victims will take one joint position for all victims.

3. It was agreed that negotiations on stipulations of non-contentious issues will take place only between the Parties. The Parties also agreed to a methodology for considering proposals on agreed facts. Pursuant to the agreement, the Prosecution will periodically submit charts to the Defence setting out proposals for stipulations regarding facts alleged in the charges, following the model of a sample chart shown to the Defence and OPCV. The chart will contain the proposed stipulations; the source of pertinent incriminatory evidence; the source of pertinent evidence that is exculpatory or material to the preparation of the defence; and the disclosure status. The Defence may also submit proposed stipulated fact to the Prosecution.

4. The Parties will communicate in writing via e-mails. The Parties will meet when necessary to deal with difficult issues requiring discussion.

5. The Chamber will be informed on an ongoing basis, when agreement is reached on non-contentious issues. The Parties will also inform the OPCV and the legal representatives of victims when appropriate.

¹ ICC-01/05-01/08-T-14-ENG, page 23, lines 12-20.

6. The Prosecution will submit to the Defence its first proposed stipulations by 27 November 2009.

A handwritten signature in blue ink, appearing to read 'Luis Moreno-Ocampo', is positioned above a horizontal line.

Luis Moreno-Ocampo, Prosecutor

Dated this 4th day of November 2009
At The Hague, The Netherlands