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No.: ICC-01/04-01/10

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PRE-TRIAL CHAMBER I

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

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
THE PROSECUTOR
v. CALLIXTE MBARUSHIMANA**

Public Document

**Defence response to the order requesting views and proposals on the
schedule for the confirmation hearing**

Source: Defence for Mr. Callixte Mbarushimana

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
 Ms. Fatou Bensouda, Deputy Prosecutor
 Mr. Anton Steynberg, Senior Trial Lawyer

Counsel for the Defence

Mr. Nicholas Kaufman
 Ms. Yael Vias Gvirsman

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

Ms. Silvana Arbia

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section Other**

The Defence for Mr. Callixte Mbarushimana hereby files its response to Pre-Trial Chamber I's *Order requesting the parties to submit views and proposals on confirmation hearing*:¹

1. As previously indicated, the Defence intends to argue that certain aspects of the document containing the charges should be struck out for lack of specificity.² The Single Judge decided that these submissions should be presented at the confirmation hearing.³ Pursuant, therefore, to Rule 122(3) of the Rules of Procedure and Evidence, the Defence will raise the issue of specificity and other submissions pertaining to the form of the document containing the charges prior to the confirmation hearing.

2. The Defence will not present *viva voce* evidence⁴ but will rely on the written witness statements and the expert report that it has filed in its list of evidence.

3. The Defence estimates that it will require two days in order to present its arguments on the merits.



Nicholas Kaufman

Counsel for Callixte Mbarushimana

The Hague, the Netherlands

Thursday, August 04, 2011

¹ ICC-01/04-01/10-326.

² ICC-01/04-01/10-305.

³ ICC-01/04-01/10-306 at page 6.

⁴ The Defence formerly sought urgent clarification, by e-mail, of the days on which the Pre-Trial Chamber would be able to hear the testimony of Dr. Phil J. Clark citing the witness's tight travel schedule. The Pre-Trial Chamber, however, decided that it would defer its decision on the matter to a later date.