

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 30 May 2011

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

**Order requesting submissions on procedures to facilitate the fair and
expeditious conduct of the proceedings following the Joint Submission of 16
May 2011**

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

The Office of the Prosecutor

Mr Luis Moreno-Ocampo
Ms Fatou Bensouda

Counsel for the Defence

Mr Karim A.A. Khan QC

Legal Representatives of Victims

Mr Brahim Koné
Ms Hélène Cissé
Mr Akin Akinbote
Mr Frank Adaka
Sir Geoffrey Nice QC & Mr Rodney
Dixon

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
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

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

1. Following the instructions of Trial Chamber IV (“Chamber”) to provide an update on the status of the discussions on a possible agreement as to evidence¹ by 16 May 2011, the defence of Messrs Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus (“defence”) and the Office of the Prosecutor (“prosecution”), in a joint filing (“Joint Submission”), addressed the contested issues in the trial of the accused persons and submitted pursuant to Rule 69 of the Rules of Procedure and Evidence (“Rules”) an agreement as to evidence (“Agreement”).²
2. The parties submit that their Agreement and the limited remaining issues that are fully contested will “narrow to a very significant extent the issues in dispute between the parties”, and it will facilitate the fair and expeditious conduct of the proceedings as required by Article 64(2) of the Rome Statute (“Statute”).³ They propose to provide the Chamber with any necessary further clarification on the issues raised in their Joint Submission “at a future status conference or through written submissions”.⁴
3. Subject to consideration by the Chamber, and after taking into account the interests of the victims in accordance with Rule 69 of the Rules, the Agreement may significantly affect the procedures to be adopted to facilitate the fair and expeditious conduct of the proceedings, including the disclosure process and the presentation of evidence.

¹ Transcript of hearing on 19 April 2011, ICC-02/05-03/09-T-10-ENG CT WT, page 17, lines 6 – 10.

² 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; 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-Conf-AnxA.

³ ICC-02/05-03/09-148, paragraph 4.

⁴ ICC-02/05-03/09-148, paragraph 10.

4. Therefore, the prosecution is instructed to file by 16.00 on 13 June 2011 a revised list of the evidence intended to be relied on at trial, in light of the Agreement. The prosecution is requested to indicate for each item, including expert material:
- a. its identification number;
 - b. its disclosure status;
 - c. its level of confidentiality;
 - d. whether the material is disclosed in redacted form and whether additional redactions are sought to be applied;
 - e. whether redactions are sought to be lifted;
 - f. the translation status of material required to be translated in a language which the accused fully understands and speaks pursuant to Rule 76 and the reference number of the translation;
5. The prosecution is also instructed to file an update as regards the ongoing consultations concerning the ten Article 54(3)(e) documents by 16.00 on 13 June 2011.⁵
6. Following the filing of the Joint Submission, the prosecution is further instructed to file a revised list of the witnesses it intends to call to testify at trial by 16.00 on 13 June 2011.
7. Without prejudice to the Chamber's future determination as to the status of the agreed facts, and pursuant to Article 64(3)(a) of the Statute, the Chamber instructs

⁵ Prosecution's Consolidated Filing, Pursuant to the Chamber's Oral Decisions dated 19 April 2011 on (i) evidence to be relied on at trial, (ii) an update on article 54(3)(e) lifting procedures and (iii) an update on issues concerning witness protection, 9 May 2011, ICC-02/05-03/09-142, paragraph 9; Prosecution's Response to the Trial Chamber's Request for Written Submissions on Issues to be Addressed During the Status Conference on 19 April 2011, 14 April 2011, ICC-02/05-03/09-131, paragraph 18.

the parties, preferably jointly, to file submissions on the procedures which could be adopted for the presentation of evidence on the contested issues to facilitate the fair and expeditious conduct of the proceedings by 16.00 on 27 June 2011.

8. Pursuant to Article 68(3) of the Statute, the legal representatives of victims may file observations on the procedures as set out in paragraph 7 above, upon leave being granted by the Chamber.


Done in both English and French, the English version being authoritative.



Judge Joyce Aluoch



Judge Fatoumata Dembele Diarra



Judge Fernández de Gurmendi

Dated this 30 May 2011

At The Hague, The Netherlands