

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-02/11

Date: 19 August 2011

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Presiding Judge
Judge Hans-Peter Kaul
Judge Cuno Tarfusser

SITUATION IN THE REPUBLIC OF KENYA

***IN THE CASE OF THE PROSECUTOR V. FRANCIS KIRIMI MUTHAURA,
UHURU MUIGAI KENYATTA AND MOHAMMED HUSSEIN ALI***

Public

With Public Annex A and Confidential Annexes B and C1 to C5

**Prosecution's Document Containing the Charges, List of Evidence and
Comprehensive In-Depth Analysis Chart of Evidence Included in the List of Evidence
Submitted Pursuant to Article 61(3) and Rule 121(3)**

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

Counsel for the Defence

Counsel for Francis Kirimi Muthaura:

Karim Khan and Kennedy Ogetto

Counsel for Uhuru Muigai Kenyatta:

Steven Kay QC and Gillian Higgins

Counsel for Mohammed Hussein Ali:

Gregory Kehoe, Evans Monari, Gershom

Otachi and John Philpott

Legal Representatives of Victims

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

Silvana Arbia, Registrar

Didier Preira, Deputy-Registrar

Victims and Witnesses Unit

Defence Support Section

Detention Section

**Victims Participation and Reparations
Section**

Other

1. The Prosecution hereby submits its Document Containing the Charges, List of Evidence and comprehensive In-Depth Analysis Chart of evidence included in the List of Evidence, pursuant to Article 61(3) of the Rome Statute and Rule 121(3) of the Rules of Procedure and Evidence (the “Rules”).
2. On 12 July 2011, the Single Judge issued a Corrigendum to the “Decision on the Defences’ Requests for a Compliance Order in regard to Decision ‘ICC-01/09-02/11-48’” (the “Decision”), in which the Single Judge ordered the Prosecution to submit, by no later than Friday, 19 August 2011, a comprehensive in-depth analysis chart of the evidence included in the list of the evidence upon which the Prosecution intends to rely for the purposes of the confirmation of charges hearing, wherein each piece of evidence is linked to each constituent element of the crimes charged, and, wherein each piece of evidence concerning the alleged criminal responsibility is presented with respect to each suspect separately.¹
3. Annex A contains the Document Containing the Charges, while Confidential Annex B contains the List of Evidence. In compliance with the Decision, the Prosecution hereby submits a comprehensive In-Depth Analysis Chart, appended hereto as Confidential Annexes C-1 to C-5. The Prosecution requests that Confidential Annexes B and C be received by the Single Judge as “Confidential” as they contain information of a sensitive nature not currently available to the public and/or which were obtained from confidential sources.
4. The Prosecution notes that the List of Evidence is comprehensive, containing all items which were disclosed as incriminatory or for use by the Prosecutor as evidence for the purposes of the confirmation hearing pursuant to Rule 77 of the Rules. It currently shows each item’s Evidence Registration Number (“ERN”), and does not

¹ ICC-01/09-02/11-167-Corr, p. 9.

include the EVD numbers. This is because the Prosecution has not received a list of EVD numbers assigned to disclosed documents. As soon as practicable after the Prosecution receives a complete list of EVD numbers, the Prosecution will submit an amended List of Evidence containing both the ERN and EVD numbers.



Luis Moreno-Ocampo,
Prosecutor

Dated this 19th day of August 2011

At The Hague, The Netherlands