



Original: English

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

Date: 5 September 2011

PRE-TRIAL CHAMBER II

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

SITUATION IN THE REPUBLIC OF KENYA

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

Public Document

With Confidential Annexes A and B

Defence Submission of its List of Evidence and In-depth Analysis Chart

Source: Defence for Ambassador Francis Kirimi Muthaura

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

Counsel for the Defence

Counsel for Francis Kirimi Muthaura:

Karim A.A. Khan QC, Essa. M. Faal,
Kennedy Ogeto and Shyamala Alagendra

Counsel for Uhuru Muigai Kenyatta:

Steven Kay QC and Gillian Higgins

Counsel for Mohammed Hussein Ali:

Evans Monari, Gregory Kehoe, John
Philpot and Gershom O. Bw'omanwa

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, Registrar

Deputy Registrar

Mr. Didier Daniel Preira, Deputy
Registrar

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations

Other

1. In compliance with Rule 121(6) of the Rules of Procedure and Evidence (“Rules”) and the order of the Single Judge contained in the “Decision Setting the Regime for Evidence Disclosure and Other Related Matters (“Disclosure Decision”),”¹ the Defence for Ambassador Muthaura hereby submits its List of Evidence (“LoE”) and in-depth analysis chart as *Confidential* Annexes A and B appended to this submission.

Request for Confidentiality

2. The Defence requests that Annexes A and B appended to this submission be received by the Chamber as *Confidential*, Prosecution and Defence Only. The Defence requests this level of classification at this stage because the Annexes contain information relating to witnesses.

Respectfully submitted,



Mr. Karim A. A. Khan QC

Lead Counsel for Ambassador Francis K. Muthaura

Dated this 5th day of September 2011

At Nairobi, Kenya

¹ ICC-01/09-02/11-48, para. 23. In the Decision, the Single Judge in referring to the in-depth analysis chart stated that, “the same request to follow the exact approach was addressed to the Defence if it “intend[ed] to present evidence under article 61(6) of the Statute and in accordance with rules 78, 79 and 121(6) of the Rules or rely on evidence disclosed by the Prosecutor.”