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

Date: **25 February 2013**

TRIAL CHAMBER V

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Christine Van den Wyngaert
Judge Chile Eboe-Osuji

SITUATION IN THE REPUBLIC OF KENYA

***IN THE CASE OF THE PROSECUTOR V. WILLIAM SAMOEI RUTO AND
JOSHUA ARAP SANG***

Public

**With Confidential Annexes A and B, and
Confidential, *ex parte*, Annexes C and D Prosecution and VWU only**

Prosecution's provision of updated Pre-Trial Brief

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

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Submissions

1. Pursuant to an *inter partes* request from the Defence for Mr. Sang, and the undertaking made by the Prosecution at the status conference held on 14 February 2013, the Prosecution hereby files an updated Pre-Trial Brief.
2. This updated Pre-Trial Brief has been modified to take into account the Prosecution's withdrawal of a number of witnesses from its List of Witnesses, namely: P-0111, P-450 and P-471. The Prosecution notes that although witnesses P-144 and P-481 were also recently withdrawn, their statements were not cited in the Pre-Trial Brief. The updated Pre-Trial Brief also reflects some format editing, which is also captured in track changes. These changes do not go to the substance of the document, and are merely stylistic.
3. The Prosecution is providing four annexes to this filing: (i) Confidential Annex A contains the Pre-Trial Brief with information redacted which may lead to the identification of those witnesses for whom delayed is still in effect¹ – this version is provided in track-changes to enable the Defence to easily identify which modifications have been made; (ii) Confidential Annex B contains the same as Annex A, except that it is a clean version not in track-changes; (iii) Confidential *ex parte* Annex C contains an unredacted track-changes version of the Pre-Trial Brief; and (iv) Confidential *ex parte* Annex D contains an unredacted clean version of the Pre-Trial Brief.
4. As stated in the 'Prosecution's provision of materials pursuant to Decision ICC-01/09-01/11-440'², it is reiterated that the citations provided are for ease of reference, and are merely indicative of the testimony the Prosecution

¹ The Prosecution notes that since the initial version of the Pre-Trial Brief was provided to the Defence on 9 January 2013, the identities of a number of further witnesses have since been disclosed to the Defence. As such, the corresponding redactions relating to these witnesses have also been lifted.

² ICC-01/09-01/11-540, para. 13

anticipates from its witnesses at trial. Further, the Pre-Trial Brief is intended as a summary of the Prosecution's trial evidence; it is not necessarily exhaustive, and the evidence may differ from the summary presented.

5. Finally, given that the evidence cited is indicative and not exhaustive, the Prosecution has again not necessarily cited to all of the evidence contained in its List of Evidence.³ Therefore, where appropriate the Prosecution has replaced certain citations of withdrawn witnesses with an alternative source of evidence.



Fatou Bensouda,
Prosecutor

Dated this 25th day of February, 2013
At The Hague, The Netherlands

³ *Ibid.*