



**Agreed Minutes of the meeting between Prosecutor Moreno-Ocampo  
and the delegation of the Kenyan Government**  
The Hague, 3 July 2009

On 3 July 2009 a delegation of the Kenyan Government composed of Minister of Justice and Constitutional Affairs, Hon. Mutula Kilonzo, the Minister of Lands, Hon. James Orengo, the Attorney General, Hon. Amos Wako, the Assistant Minister of Justice, Hon. William Cheptumo, the Permanent Secretary in the Ministry of Justice and Constitutional Affairs, Amb. Amina Mohamed, Prime Minister's Adviser, Coalition Affairs Mr. Miguna Miguna and the Kenyan Ambassador to the Netherlands, H.E. Ruthie Rono and came to The Hague to discuss the situation of Kenya with the ICC Prosecutor, Luis Moreno Ocampo.

The Prosecutor confirmed to the Kenyan delegation that his office is conducting a preliminary examination of the situation in Kenya as publicly announced on 5 February 2008. The Prosecutor reiterated that crimes allegedly committed in Kenya after the 2007 elections may fall within the jurisdiction of the ICC and warrant investigations and prosecutions.

In accordance with the Rome Statute to which Kenya is a State Party, the Kenyan authorities are primarily responsible for conducting such investigations and prosecutions. The Waki Commission has recommended the setting up of a special tribunal. The ICC is a Court of last resort.

The Prosecutor and the representatives of the Kenyan Government agreed that should the Kenyan authorities carry out genuine judicial proceedings against those most responsible, the Office of the Prosecutor will have no ground to intervene, and that impunity was not an option.

In this context, the Kenyan delegation proffered and agreed to provide the Prosecutor, by the end of September with the following:

a) a report on the current status of investigations and prosecutions arising out of post-election violence and any other information requested by the Prosecution of the ICC to perform its preliminary examinations.

b) information on measures put in place to ensure the safety of victims and witnesses pending the initiation and completion of suitable judicial proceedings.

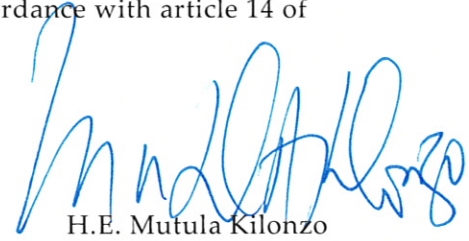
c) information on modalities for conducting national investigations and prosecutions of those responsible for the 2007 violence through a special tribunal or other judicial mechanism adopted by the Kenyan Parliament with clear benchmarks over the next 12 months; in the alternative, if there is no parliamentary agreement, and in accordance with the Kenyan commitment to end of impunity of the most responsible of the most serious crimes, the Government of Kenya will refer the situation to the Prosecutor in accordance with article 14 of the Rome Statute.

Signed by

Prosecutor Moreno-Ocampo



H.E. James Orengo



H.E. Mutula Kilonzo



H.E. Amos Wako