

1 International Criminal Court

2 Pre-Trial Chamber I

3 Situation Democratic Republic of the Congo - ICC-01/04-01/07

4 Status Conference - Open Session

5 Tuesday, 22 April 2008

6 The hearing starts at 2.37 p.m.

7 COURT USHER: All rise. The International Criminal Court is now
8 in session.

9 SINGLE JUDGE STEINER: Good afternoon. Please first I'd like the
10 Court Officers to bring in the detainees.

11 Now I would like, please, the Court Officer to call the case.

12 COURT OFFICER (interpretation): Situation in the Democratic
13 Republic of the Congo, the case of the Prosecutor versus Germain Katanga
14 and Mathieu Ngudjolo Chui, ICC-01/04-01/07.

15 JUDGE STEINER: Thank you very much. I would like to welcome
16 Mr. Germain Katanga and Mr. Mathieu Ngudjolo Chui, as well as the
17 Prosecution and Defence teams and the representatives of the Registry. I
18 would like first the Prosecution, then Defence of Mr. Katanga and
19 Mr. Ngudjolo Chui, and then the Registry, the representatives of the
20 Registry to introduce themselves.

21 MR. MacDONALD (interpretation): Good afternoon, your Honour.
22 The Office of the Prosecutor will be represented this afternoon by
23 Ms. Florence Darques-Lane, Mr. Ian Bulmer, Ms. Dianne Luping,
24 Ms. Krisztina Varga, and me, Eric MacDonald. Thank you.

25 MR. HOOPER: And for the Defence of Germain Katanga myself, David

1 Hooper, Professor Goran Sluiter, Caroline Buisman, and Sophie Menegon.

2 MR. KILENDA (interpretation): Ms. Maryse Alie, of the Brussels
3 Bar; Aurelie Roche assistant, case manager; and me, Mr. Jean-Pierre
4 Kilenda, a lawyer with the Brussels Bar.

5 MR. PERALTA LOSILLA: (Previous translation continues)... in this
6 hearing by Mr. Anders Backman, Chief Custody Officer; Ms. Bibiana
7 Becerra-Suarez, Legal Coordinator of Division of Court Services; and
8 myself, Esteban Peralta Losilla, Chief of Defence Support Section.

9 SINGLE JUDGE STEINER: Thank you very much. As provided for in
10 the decision on the Defence request for leave to appeal the decision
11 concerning languages, Mr. Germain Katanga will be provided at this
12 hearing in accordance with Regulation 61(1)(d) of the Regulation with a
13 liaison interpretation into Lingala. I have also been informed that
14 liaison interpretation into Lingala is available to Mr. Mathieu Ngudjolo
15 Chui.

16 First of all I would like to say that this Status Conference will
17 focus on the process of disclosure and inspection on one hand, and on the
18 process of the communication of evidence on which the parties intend to
19 rely on the Confirmation Hearing on the other hand.

20 Before focusing our attention on the disclosure process and as
21 proceeded in the last Status Conference, I would like to address some
22 preliminary matters related to logistical issues concerning both Defence
23 teams, and besides at the end of the hearing again both Defence teams and
24 the Prosecution will be given the opportunity to call the attention of
25 the Single Judge on any other issue.

1 So I would like to start with the preliminary matters, and first
2 in the hearing held today Mr. Hooper raised an issue relating to problems
3 in securing visas or obtaining passports for Mr. Katanga family members
4 to come to The Hague to visit him. I would like Mr. Hooper, because this
5 is the proper moment for doing that, to please elaborate on such problems
6 mentioned at the hearing this morning that you have identified, and I
7 would like you also to specify whether you intend to make any request
8 before Single Judge regarding this matter. So I would like you to
9 elaborate on the problems with Mr. Katanga's family members coming to
10 visit him. You have the floor.

11 MR. HOOPER: I think the principal problem at the moment appears
12 to be the obtaining of visas, but Madam Single Judge, you I think will
13 probably recall that I think it was back in last year that application
14 was made for the family visit. You recall my words this morning in the
15 context of potential further -- further delay in respect of this case.
16 They're two separate matters. I must make that quite clear. They're two
17 separate and distinct matters, but it certainly strikes me that the real
18 frustration that is inevitably felt with -- with delay of that kind
19 perhaps cannot be alleviated so much as perhaps slightly mitigated by
20 that kind of facility.

21 I'm not entirely clear at the present time what's causing the
22 delay, but I think it's not so much here, I'm not suggesting it's here,
23 it's I think where they're coming from. But I just think it's important
24 that we don't lose sight of the need for that family visit to take place
25 and as soon as possible.

1 SINGLE JUDGE STEINER: So as far as I understood you have not yet
2 identified exactly where the problem is.

3 MR. HOOPER: I mean we're not entirely sure where the snag is at
4 the moment. We understand that we're waiting or they are waiting for
5 passports to be issued. So that's where the problem is at the moment.

6 SINGLE JUDGE STEINER: Thank you very much.

7 Do you intend to make any request before the Single Judge
8 concerning this matter or only once you have identified precisely where
9 the problem lies?

10 MR. HOOPER: I just repeat what I think I said, the way I
11 expressed it this morning, as I recall, and that is it's the kind of
12 situation, first of all, that we wouldn't want to lose sight of, and
13 secondly words of encouragement from the Judge can help us all keep it in
14 mind.

15 SINGLE JUDGE STEINER: Mr. Kilenda, may I ask you if you have
16 already identified some kind of problems in this respect?

17 MR. KILENDA (interpretation): Your Honour, for the time being we
18 have no problem as yet, but we know that we shall encounter the same
19 obstacles given the fact that at this point in Congo there are no
20 passports to be had. Most Congolese who wish to obtain them have a lot
21 of trouble doing so. However, we also hope that in the coming days the
22 passports will be printed and that our client's family will have the
23 necessary papers to allow the visit to take place.

24 All I know for the time being is that our team went to visit our
25 client a few days ago in the detention centre and there we established

1 the necessary contact so that the authorities of the detention centre can
2 make it easy for him to receive a visit from his family.

3 As you are aware for someone in detention a deprivation of
4 liberty cannot be limited to incarceration. The visit from family
5 members is important for the conduct of the trial and for his
6 psychological balance. If we have any problems in this regard, I am sure
7 that my colleagues and I will file a written application, but to be
8 honest, for the time being we have none.

9 SINGLE JUDGE STEINER: Thank you very much. And just to ensure
10 both Defence counsels that of course Single Judge sees with concerns that
11 both family members are facing problems in relation to the issuance of
12 their passports. I'm not so sure at which point the Court will be able
13 to -- to interfere in such matters, but anyway, I would like to listen
14 from the representatives of the Registry if they want to make any
15 observations in relation to the problems raised by Mr. Hooper.

16 MS. BECERRA-SUAREZ: Thank you, Your Honour. I'm more than happy
17 to provide clarification to the hiccups faced by the Registry in the
18 issuance of these passports. Before I do so, I would like to express
19 that we are very mindful of the need for detained persons to receive
20 family visits. However I would also like to say that we do not have a
21 statutory obligation to provide for these family visits.

22 Having said this, I would like to say that the Registry is doing
23 everything that we can to expedite the family visit for Mr. Katanga in
24 this case. However, it is important to consider that in doing so we
25 depend on the assistance of both State authorities and of the detained

1 person in providing the correct information so that we can continue this
2 process.

3 In this specific case both counsel have directly identified the
4 problem, namely that there's a shortage of paper to print the passports
5 in the DRC. What we're doing at the moment is that we have a person from
6 our field office liaising directly with the DRC authorities to see how
7 soon we can get the passports issued for the family. And if the Single
8 Judge would like to have more information on this, I would be more than
9 happy to provide that. Thank you.

10 SINGLE JUDGE STEINER: Thank you very much for this precise
11 information, and I do -- would like to be updated on progress made in
12 relation to this issue. Thank you very much.

13 So our second preliminary matter deals with computer access,
14 software training for both Germain Katanga and Mathieu Ngudjolo Chui, and
15 I remember that in the previous Status Conference the following issues
16 have been raised: First, the installation of computers with the Ringtail
17 programme in the detention centre in order for Germain Katanga and
18 Mathieu Ngudjolo Chui to have unrestricted access to evidence and
19 materials disclosed between the parties for the purpose of the
20 Confirmation Hearing.

21 Second, the connection of such computers to the Office of Public
22 Counsel for Defence in order to avoid using CDs or pen drives.

23 Third, the gradual training for Germain Katanga and Mathieu
24 Ngudjolo Chui in most basic software and most complex software such as
25 the Ringtail software.

1 Finally, the availability of printers for Germain Katanga and
2 Mathieu Ngudjolo Chui in the detention unit.

3 And since we are talking about computer access, I would like to
4 inform both the Defence teams and of course the Prosecution that in
5 accordance with the decision issued in relation to the request made by
6 Mr. Kilenda for the OPCD to have realtime access to the transcripts of
7 this hearing, it's taking place now. So this hearing -- in this hearing
8 the OPCD is already having access to the realtime transcript.

9 So I would like to know in relation to the four topics if these
10 issues have been properly addressed by the Registry and whether the
11 Defences of Germain Katanga and Mathieu Ngudjolo Chui have any further
12 issues they would like to raise today before the Single Judge concerning
13 specifically access and software training for both Germain Katanga and
14 Mathieu Ngudjolo Chui.

15 So please, Mr. Hooper, you have the floor.

16 MR. HOOPER: We have nothing to raise. Thank you.

17 SINGLE JUDGE STEINER: Mr. Kilenda?

18 MR. KILENDA (interpretation): Thank you, Your Honour. On the
19 10th of this month Ms. Maryse Alie and I received our Ringtail training.
20 We also received our computers. Right now there is a link that has been
21 established, although it is not effective. That is, there is a computer
22 in our office that should enable us to communicate directly with our
23 client at the detention centre, but it is not actually operational, and
24 to my knowledge as I speak to you, my client has not received Ringtail
25 training. I do not know whether he already has a printer at his

1 disposal, but with your leave I shall put the question to him.

2 I am told he does, but he has not yet received Ringtail training.
3 His computer training is only basic, so I took it that from his detention
4 centre he cannot yet have access to all the documents.

5 SINGLE JUDGE STEINER: I'd like to ask for the representative of
6 the Registry to update the Chamber on the -- such issues and to make any
7 observation on what has been said by Mr. Ngudjolo Chui's counsel.

8 MR. PERALTA LOSILLA: Yes, your Honour. The submissions of the
9 teams are basically correct. I can add that Mr. Ngudjolo has received a
10 brief -- according to the report submitted by the IT section, has
11 received a brief demonstration on how the system can be accessed, but of
12 course further training on Ringtail needs also to have some more advanced
13 computer skills, and as I understand he's receiving some -- some
14 computer -- basic computer skills training, and as soon as he reaches the
15 sufficient level he will be receiving further training on Ringtail.

16 SINGLE JUDGE STEINER: One question. How could this process be
17 expedited in order for Mr. Ngudjolo to have access to Ringtail as soon as
18 possible?

19 MR. PERALTA LOSILLA: Yes. As I understand, he will be receiving
20 parallel training next week, and that should already address this issue.
21 I will in any case the IT section will be informed of the priority, which
22 is -- or which it already is aware of and we will insist on the -- on the
23 priority of this -- on this issue.

24 I am informed at this moment that on Monday from 10.00 to 12.00
25 they are receiving the Ringtail training.

1 SINGLE JUDGE STEINER: Thank you very much.

2 I also would like to -- Mr. Kilenda?

3 MR. KILENDA (interpretation): With your leave, your Honour. You
4 have just heard the Registry representative in regard to the training
5 received by our client so far. You will agree with the Defence team that
6 this training is not sufficient. It should be carried further, because
7 if he doesn't have further computer training, it will be difficult for
8 him to operate and master Ringtail.

9 As you can see, all of this contributes to the delay in building
10 the Defence's strategy, especially with regard to the Confirmation
11 Hearing. I do not know what measures your Chamber can take at this point
12 to ensure that everything is in place to enable our client to have one
13 further training in computers and even further training in Ringtail.
14 That is the second point.

15 SINGLE JUDGE STEINER: Any comment, additional comment, from the
16 Registry?

17 MS. BECERRA-SUAREZ: Thank you, your Honour. Just to add a few
18 details to this. The Ringtail computer for Mr. Ngudjolo was actually in
19 place on 11th of April. What has happened with the training so far, he
20 has received five training classes, and of course we do wish to expedite
21 this process as well, but we have to keep in mind that there are other
22 regime components that have to be respected. So, for instance, if
23 Mr. Ngudjolo needs to be in court for a hearing or have counsel visits,
24 then this training would be pushed backwards a little bit. So the
25 solution that we have is to keep providing him with the basic computer

1 training, and at the same time to provide the Ringtail training and
2 hopefully that would work so he can catch up quickly on this.

3 Thank you.

4 SINGLE JUDGE STEINER: So I think some arrangements on this issue
5 could be made between the representative of the Registry and Mr. Kilenda
6 in order to facilitate these training sessions for Mr. Ngudjolo.

7 MR. KILENDA (interpretation): Thank you, your Honour. I think
8 that so far the Defence team has done nothing to impede the training of
9 Mr. Ngudjolo. Each time we have travelled from Brussels to The Hague it
10 was in particular to take part in this first Status Conference that you
11 organised a while ago, and if I remember correctly, during that Status
12 Conference you emphasised that Ms. Maryse and I should receiving our
13 training on that week. Unfortunately we had to return to Brussels
14 because we had other commitments. We weren't expecting that. But we did
15 return very quickly and received our training on the 10th.

16 I do not believe that we did anything that prevented our client
17 from being trained. I would therefore like everything to be put in place
18 effectively so that this training can be provided in order to ensure that
19 he has an optimal defence.

20 As you are well aware, our job has not been very easy up to this
21 point. Furthermore, our client is not a computer expert. He's never
22 handled a computer, and it is the first time he's learning to use this
23 instrument, and I think he should be afforded time so he can have access
24 to all the facilities provided to in the Statute of the court so he can
25 defend himself appropriately before the court.

1 SINGLE JUDGE STEINER: Of course the Single Judge always takes
2 into account the -- the issues raised by both Defence teams in relation
3 to the difficulties may be faced in preparing for the confirmation of
4 charges hearing, but I also would emphasise of the representative of the
5 Registry the urgency of establishing an agenda in agreement with the
6 Defence team in order to maximise and optimise the training on Ringtail
7 of both suspects, Mr. Katanga and Mr. Ngudjolo Chui more specifically.

8 We have -- still have another issue related -- another
9 preliminary issue before we go to the disclosure process. It's in
10 relation to the Defence travels to the field in order to prepare for the
11 Confirmation Hearing. I would like to know whether the Defences for
12 Mr. Katanga and Mr. Ngudjolo Chui are thinking or have already decided to
13 undertake any further mission to the field before the initiation of the
14 Confirmation Hearing, taking into account what had been said in the last
15 Status Conference that all arrangements for such kind of travel takes
16 some time from the Registry. So I'd like to listen from Mr. Hooper and
17 then Mr. Kilenda on this issue.

18 MR. HOOPER: As you're aware, Ms. Buisman has in fact had the
19 opportunity of going to DRC and returned to us safely. In terms of going
20 before confirmation, I think it depends very much on when the
21 Confirmation Hearing is going to be. At present, with its present date,
22 there's no pre-confirmation visits that we envisage will take place.

23 SINGLE JUDGE STEINER: Mr. Kilenda.

24 MR. KILENDA (interpretation): Thank you, your Honour. I think
25 that our Defence team as that of my learned colleague Mr. Hooper, has a

1 duty of probity and fatefulness with regards to your Chamber here. What
2 we can't do is to put forward a fact which might indicate a lack of
3 respect for your Chamber.

4 I would like to go back to what I've already said during the
5 Status Conference the last time, that up to now we still haven't
6 envisaged this possibility of going to the field to see what is happening
7 with regards to our client's case. We already don't have the time to
8 prepare the procedural documents that we have to, and filings. So we
9 have a request to ask for the postponement. That's significantly
10 developed. I don't want to go back into the aspects which have already
11 been addressed in a written filing, but we certainly don't rule out a
12 possible trip to the Democratic Republic of the Congo, but currently
13 we're not able to say if this trip should be undertaken and which
14 deadline. We can't say that we're going to do this before the -- before
15 the Confirmation Hearing. We're hardly able to get through the
16 voluminous documents that have been made available to us.

17 So if we're going to carry out this trip and if we decide to take
18 the decision to do that, then we don't know when we would do it.
19 However we certainly wouldn't rule out a trip, but for the moment we are
20 unable to say to you when we will do it and for what reason we would do
21 it as well. We think that this is a duty of probity and faithfulness
22 with regards to your Chamber and we would like to stress that.

23 SINGLE JUDGE STEINER: Thank you very much.

24 So I would like to note that the Confirmation Hearing is
25 currently scheduled for starting on the 21st of May, 2008, which means

1 that both Defences would have till the 6th of May to file its list of
2 evidence according to Rule 121(6) of the Rules. I note also that the
3 parties have until tomorrow to file if they so wish their observations on
4 the request of Defence Mr. Ngudjolo Chui in terms of a postponement of
5 the Confirmation Hearing. Of course, the decision on this matter will be
6 taken subsequently; however, even if the Confirmation Hearing were to be
7 postponed, the Single Judge would like to emphasise that if the Defence
8 would like to have further missions to the field before the Confirmation
9 Hearing, they must be undertaken as soon as possible, particularly in
10 light of the fact that the Prosecution has already filed its charging
11 document and list of evidence and has disclosed to the Defence the
12 evidence on which it intends to rely for the purpose of the Confirmation
13 Hearing in support of the charges. Therefore, the Defence has already
14 received all the information the Defence needs in order to start
15 preparing for the Confirmation Hearing.

16 I also would like to remind the Registry on the issue raised also
17 this morning by Mr. Kilenda in relation to hiring an intern as soon as
18 practicable, even if a new list of possible candidates is given for the
19 Defence since the ones that have been chose be by Mr. Kilenda would not
20 be available before June.

21 You have the floor.

22 MR. PERALTA LOSILLA: Yes, your Honour. I have received the
23 engagement from the Human Resources Section that they will be able to
24 provide a new list of applicants by the end of this afternoon to
25 Mr. Kilenda.

1 SINGLE JUDGE STEINER: Thank you very much.

2 So now we go into the disclosure issues which is the main purpose
3 of this Status Conference.

4 In compliance with the 21st April deadline the Prosecution filed
5 yesterday the charging document and list of evidence in relation to both
6 Germain Katanga and Mathieu Ngudjolo Chui.

7 In addition, according to the 21 April 2008 deadline, the
8 Prosecution must have already disclosed to the Defence, either through
9 Rule 76 or Rule 77, all evidence on which it intends to rely at the
10 Confirmation Hearing with the redactions authorised by the Single Judge
11 in her six decisions on redactions.

12 Furthermore, according to the same 21st April deadline, the
13 Prosecution must already -- must have already filed such evidence in the
14 record of the case following the instructions given on the 14th December
15 2007, and 1st April 2008 hearings, and in particular providing the
16 relevant fields of the Draft Protocol on the Presentation of Evidence as
17 applied for the purpose of the Confirmation Hearing in the case
18 Prosecution versus Thomas Lubanga Dyilo.

19 So I would like to get from the Prosecution a confirmation and an
20 overview about his clients with the above-mentioned deadlines and that
21 both the Defence have already had access to the evidence on which the
22 Prosecution intends to rely at the Confirmation Hearing in an electronic
23 format and with the details by the Draft Protocol. So first I would like
24 to have this summary of the Prosecution on his compliance with --
25 compliance with the deadlines imposed on the Prosecution.

1 Mr. MacDonald.

2 MR. MacDONALD: Thank you, Your Honour. The documents that we
3 intend to rely on for the purpose of the Confirmation Hearing have been
4 disclosed. The list itself obviously also has been disclosed. The
5 e-court protocol has been followed but with this caveat: Because the
6 document containing charges was only ready and finalised to be filed
7 Monday, yesterday, the protocol, the way it was inputted as mentioned on
8 the 15th of April was referring to the arrest warrant. Now, the
9 Prosecution will re-input the information of these documents referring to
10 each and single paragraph of the document containing charges. But what I
11 want -- I'm drawing the attention of the Chamber is that when you
12 currently take the list of evidence, you have the allegation, and then
13 you have the document and the page to which this allegation refers in
14 this document. So in a certain way the same -- currently the information
15 that is in the e-court protocol and that we will be inputting in the next
16 few days is already available. It's just that it's not in the e-court
17 itself.

18 SINGLE JUDGE STEINER: In relation to the evidence that the
19 Prosecution must disclose to the Defence, although he does not intend to
20 rely on at the Confirmation Hearing in accordance with the decision
21 issued by the Chamber on evidentiary scope of the confirmation hearing,
22 preventative relocation and disclosure under Article 67(2) and Rule 77 of
23 the Rules, decision 428, the statements interview notes and interview
24 transcripts of potential witnesses on which the Prosecution has decided
25 not to rely at the Confirmation Hearing and in which the Prosecution has

1 identified information potentially exculpatory or otherwise material for
2 the Defence preparation of the Confirmation Hearing and documents on
3 which the Prosecution has decided also not to rely at the Confirmation
4 Hearing in which the Prosecution identified information that could be of
5 potentially a exculpatory nature.

6 I would like to know from the Prosecution how many summaries have
7 been transmitted to the Defence according to the 21st April, 2008,
8 deadline, and if the case when the Prosecution intends to transmit the
9 remaining statements and documents considering that at least in principle
10 the 6th of May, 2008, is the ultimate deadline for that. And I would
11 like also to know if -- has the Prosecution encountered any problem in
12 implementing this -- such a decision.

13 MR. MacDONALD: Thank you, Your Honour. We have followed the
14 terms of decision 428. We are not relying on the statement of Witness
15 271, so no summary was prepared -- or should I say filed.

16 Now, what we have disclosed yesterday is again is all the
17 material as requested, but more precisely in terms of for the summaries
18 we have disclosed 12 summaries, and there are 11 additional summaries to
19 come.

20 Now, at the 15th of April hearing, the Prosecution mentioned a
21 number of 34 to 35 summaries that we may be filing. This, after a
22 careful review of the information of a potentially exonerating nature or
23 Rule 77, the Prosecution brought this number of summaries down to 23
24 regarding 22 witnesses.

25 Now, we are working and -- at finalising these 11 summaries.

1 Some of them are almost completed. It's just a question of verifying the
2 language. And we intend to file as soon as possible, and if we can do
3 that before the 6th of May -- we may, you know, submit five or six before
4 that and the remaining ones on that date, but we can and will follow the
5 calendar as indicated in the decision.

6 Now, there are three documents, and I'm drawing your attention to
7 these three documents, that are particular in the sense that one is an
8 interview transcript. If I'm not mistaken there's approximately eight
9 transcripts or so, a statement of 104 pages, and also an interview note
10 or an investigator note for a witness who has already been disclosed and
11 is on the list, but the investigator note we simply wanted to disclose to
12 the Defence for under Rule 77. I'm referring to the witness that
13 provided a diary to the Prosecution.

14 Now, this -- these three witnesses, we can disclose their
15 identity. The diary person, the identity is known to the Defence, and
16 the other two witnesses, the Prosecution can disclose the identity of
17 these witnesses, so -- because they don't need protection or they're
18 already under protection in the Lubanga case.

19 Now, in the -- in all of these there are some redactions, and the
20 Prosecution would like to disclose them as quickly as possible, but then
21 again if we are to follow closely the instructions of decision 428, we
22 should be doing summaries of these and disclose them.

23 Now, we submit respectfully that doing a summary of a statement
24 of 104 pages is quite a task, and like I said, the redactions are of a
25 limited nature. It's basically names of personnel of NGOs. So the same

1 type of people in the fourth decision on redactions. Or innocent third
2 parties. And again there are not that many, because this witness,
3 without naming him, this witness was mainly interviewed for the UPC case
4 or -- against Thomas Lubanga, and minimal questions were asked about the
5 FNI and the FRPI that are of relevance and we would like to disclose.

6 Now, the witnesses with interview transcripts, the only
7 information that we want to redact are the names of two OTP staff
8 members. The interpreter that works here in The Hague but that sometimes
9 goes to the field, and also the name of the video operator, audio and
10 video during this video-audiotaped interview who is also based here in
11 The Hague. So these are redactions under 81(2) and as permitted until
12 there is a decision by the Appeals Chamber on the question.

13 Now, the last document the diary -- the witness that provided the
14 diary, these are again are minimal redactions to -- it's a three-pager,
15 and it's on the first page you have a few redactions as to the identity
16 of family members, their mobile phone numbers, and also information that
17 is more of relevance under Rule 81(1), meaning internal work product that
18 is in -- or impressions of the OTP in that document. So this is
19 information that we would seek to be redacted.

20 So my question is we can submit it to the -- to your Honour.
21 It's not a problem. And contrary to the amount of document that you had
22 to review to authorise redactions, these can be done pretty quickly if we
23 submit them to your Honour.

24 The other option is to follow the terms of your decision in
25 relations to documents is that we apply the redactions ourselves as if

1 these were documents, even though they're not, provide them to the
2 Defence, and they would have 15 days, I understand, that you're
3 essentially giving them to respond to and come before your Honour if
4 there are any problems with the redactions that are sought.

5 Now, what happens is again, like I'm saying, the information that
6 is being redacted I don't think personally is of -- again would advance
7 the case of the Defence. It's only for protective reasons that we're
8 doing it. I mean, the important thing is to disclose the information,
9 and that's what we're trying to do for witnesses where their identity can
10 be disclosed.

11 SINGLE JUDGE STEINER: So in relation to the interview transcript
12 that you mentioned, eight transcripts, the identity of the person can be
13 disclosed because the person is already under protection, and the
14 disclosure is based on -- is part of the Prosecution evidence or
15 incriminating evidence, or the disclosure is motivated by the existence
16 of potentially exculpatory information, just to make it clear.

17 MR. MacDONALD: Yes. This witness is not under protection but
18 his identity can be disclosed, and the information is mainly of -- under
19 Rule 77. It could be material to the Defence. We're not relying on this
20 witness.

21 So I'm -- it's between eight and ten transcripts, your Honour,
22 depending of what exact information is part of the transcript or not.

23 SINGLE JUDGE STEINER: So in relation to these transcripts is
24 Rule 77, and the only redaction that the Prosecution is requesting is for
25 Prosecution staff members, initials of Prosecution staff members.

1 MR. MacDONALD: This is correct. This is correct.

2 SINGLE JUDGE STEINER: Which is the one that the Single Judge is
3 not granting but authorising the Prosecution provisionally to -- to
4 maintain redactions to the decision to be issued by the judgement of the
5 Appeals Chamber on such issue.

6 The second, the statement of 104 pages is also Rule 77, and the
7 witness is under protection or just can -- identity can be disclosed?

8 MR. MacDONALD: Now, this witness is under protection. He -- the
9 statement we want to disclose under Rule 77 and/or may contain
10 potentially exonerating information. So under that category, your
11 Honour, yes. And the redactions to that statement are, of course, OTP
12 staff members that participated in taking this statement. Oh, no. Sorry.
13 Sorry. I'm mistaken because this person is not working for the Office of
14 the Prosecutor any more so there's no need.

15 The information is mainly either MONUC staff, local NGO staff,
16 international NGO staff members, and what we consider innocent third
17 parties, your Honour.

18 SINGLE JUDGE STEINER: So -- and then if the disclosure is to be
19 made through Rule 77 relates to evidence that the Prosecution does not
20 intend to rely at the Confirmation Hearing.

21 MR. MacDONALD: That is correct.

22 SINGLE JUDGE STEINER: And finally the investigator note in
23 relation to the person that wrote the diary that has -- the diary has
24 been already disclosed to the Defence, I suppose.

25 MR. MacDONALD: Yes, this is correct and it's just to describe

1 the circumstances and disclose to the Defence the circumstances under
2 which the Prosecution came into possession of this diary, your Honour.

3 SINGLE JUDGE STEINER: And this investigator notes the only
4 information to be redacted is family member's identity, number of mobile
5 phone, and Rule 81(1) information, just to make it sure.

6 MR. MacDONALD: Yes. And from memory maybe a staff member's
7 name, but yes.

8 SINGLE JUDGE STEINER: So in relation to -- so first I would like
9 to give the floor to Mr. Hooper and Mr. Kilenda if they have any
10 observations on this -- these issues.

11 MR. HOOPER: No. I think we made our position clear on the last
12 occasion and we stand by that.

13 MR. KILENDA (interpretation): Your Honour, we don't have any
14 comments to make for the moment.

15 SINGLE JUDGE STEINER: Thank you. So let's go one by one. In
16 relation to the interview transcripts, the eight transcripts, the
17 Prosecution has to disclose to the Defence, according to Rule 77, which
18 means evidence on which Prosecution does not intend to rely at the
19 Confirmation Hearing and in which the Prosecution intends to redact the
20 initials or names of Prosecution staff members.

21 The Single Judge is in a position to authorise the Prosecution to
22 disclose such interview transcripts with the redactions proposed.
23 According to previous decisions of the Single Judge on the matter, such
24 redactions will be lifted in case the Appeals Chamber decides not to
25 allow such kind or -- such kind of redactions. But while pending the

1 decision of the Appeals Chamber on this matter, the Prosecution is
2 therefore allowed to disclose immediately through Rule 77 to the Defence
3 with the proposed redactions.

4 In relation to a statement and investigator notes in which some
5 more redactions, at least in nature, are being requested, the Single
6 Judge will issue a decision as soon after this hearing on this matter.

7 I still have one question for the Prosecution in relation to --
8 to comply with the -- with the filing of the charging document and list
9 of evidence in the e-court format.

10 The Prosecution said that in a few days it would be able to do
11 so. How many few days?

12 MR. MacDONALD: That's -- that's what I was verifying with
13 colleagues, your Honour. To be on the safe side, I would request a week.
14 And I'm doing that on the basis that as you know to -- the Prosecution
15 has been really stretched in the last weeks to follow and meet the
16 calendar, so we would appreciate at this stage to have maybe until next
17 week sometime that we leave to your discretion, your Honour, to do this.
18 Since we're Tuesday, maybe Tuesday next week or Wednesday.

19 Again, the important thing is that the Defence have the material.
20 The list of evidence also refers to these documents and the exact page on
21 which the allegation maybe is corroborated or not. So -- or referred to
22 in the document. So at the moment the Defence has the information to
23 really proceed and move forward.

24 I understand the e-court is more of a tool once we'll be in the
25 courtroom and referring to documents so that we can have the documents

1 shown on screen and so on, and currently there's also of course the
2 request for postponement. So within this background I would ask the
3 leniency of the Chamber and to -- for this delay.

4 SINGLE JUDGE STEINER: Would the Prosecution be in a position
5 to -- to comply with the e-court protocol by Monday, by next Monday?

6 MR. MacDONALD: Yes, your Honour. I mean, we'll -- we'll do our
7 utmost best.

8 SINGLE JUDGE STEINER: The Single Judge is giving Prosecution one
9 week starting from yesterday, the deadline for the filing of the
10 document. So next Monday the Prosecution will comply with the format of
11 the filing of the charging document and list of evidence.

12 So before the Chamber decides on the request for postponement of
13 the Confirmation Hearing, we have to deal with the deadlines already
14 imposed by the Single Judge in its calendar, which means that the Defence
15 in principle will have until 15 days before the Confirmation Hearing,
16 which means 6th of May, to include in the Defence list of evidence the
17 summaries disclosed by the Prosecution yesterday in which the Defence
18 intends to rely at the Confirmation Hearing. Moreover and in relation to
19 those summaries that are to be disclosed between the 21st of April and
20 6th of May, the Defence will have until seven days before the starting of
21 the Confirmation Hearing, which means until 14th May 2008 to decide
22 whether to rely on them at the hearing.

23 In order to -- to have it in the records of this Status
24 Conference, I would like to ask the Prosecution how many documents, if
25 the Prosecution has this information at hand, how many documents have

1 already been disclosed to the Defence pursuant to the 21st April 2008
2 and -- deadline, and how many documents the Prosecution anticipates will
3 be disclosed between the 21st April and 6th of May.

4 MR. HOOPER: While that's done, will you excuse me just for a few
5 moments?

6 SINGLE JUDGE STEINER: Yes. Let's wait for the -- for Mr. Hooper
7 to come back.

8 MR. MacDONALD: Yes, your Honour. Or do you want to -- do you
9 prefer to suspend or --

10 SINGLE JUDGE STEINER: We need anyway to have a break in order to
11 allow our interpreters to -- to take some rest, so maybe we could
12 anticipate any --

13 MR. SLUITER: He will be right back.

14 SINGLE JUDGE STEINER: So we can continue for a few more minutes,
15 but let's wait for Mr. Hooper to come back.

16 So I'm going to suspend this Status Conference for half an hour.
17 So we'll be back at 10 past 4.00 for the continuation of this.

18 So I'll just give the floor to the Prosecution just to complete
19 his -- its information on this last issue raised by the Single Judge and
20 then we will have to suspend anyway. So the Prosecution please.

21 MR. MacDONALD: To date, your Honour, we have disclosed what
22 we -- the numbers that we have is 501 documents. Now, again one
23 transcript equals one document. So an interview may have eight, ten,
24 transcripts. So just to give you an idea or the breakdown.

25 On our list of evidence there's 240 documents that we consider

1 incriminating in nature, so according to the e-court protocol. The
2 balance -- so the difference between 501 and 240, those documents have
3 been disclosed under Rule 77 and/or may contain potentially exonerating
4 information or were outright potentially exonerating document under that
5 category.

6 Those are the latest figures, including the disclosure of the
7 21st of April.

8 Now, how many more documents of an incriminating nature that we
9 may add to the list of evidence, if there are any. It will not be more
10 than a few documents but less than ten. And simple documents. They're
11 not 160-page reports or things like that. And it's, more to the point,
12 documents that we're able to track or find.

13 Our obligation under potentially exonerating and Rule 77 nature
14 is ongoing, your Honour. We're still reviewing documents, but it's a
15 constant review taking into account the information that has been
16 disclosed at the moment to the Defence and the information they have on
17 hand to prepare their defence. So this is why when we provide numbers
18 these numbers fluctuate between reports or between hearings, but we do
19 not expect that -- it shouldn't be a volume of additionally hundred to
20 200 documents, but I cannot give you a precise number. Will it be 20,
21 50, 75, a hundred? Coming towards the 21st of -- of May, I can't provide
22 you that information, but the bulk of the information of the evidence,
23 either under Rule 77, potentially exonerating, incriminating, that we're
24 relying on, has been disclosed. The important information for the
25 Defence to prepare its case for the Confirmation Hearing has been

1 disclosed.

2 SINGLE JUDGE STEINER: Is the Prosecution in a position to inform
3 how many documents identified as falling within Article 67(2), or Rule 77
4 are still covered by Article 54, 72, or 93 of the Statute?

5 MR. MacDONALD: Again we're reviewing these documents in the same
6 way that we're reviewing statements that may contain Rule 77 or
7 potentially exonerating information so the numbers fluctuate, but what is
8 important for the Prosecution, your Honour, is to provide and request
9 lifting of documents that may be under 54(3)(e) that -- that provide this
10 added value that has not been disclosed so far by other evidence.

11 For instance, if we take UN reports or the statement of, without
12 naming the witness, but I refer to Witness number 14 in the Arrest
13 Warrant Application, now, this individual provided a wealth of
14 information. So if the same information is of a general nature in
15 54(3)(e) material, well, we're putting them aside for now. For instance,
16 the existence of a conflict in Ituri where the Ugandans were present or
17 the Rwandese were present and so on, that information is sometimes in
18 such a general nature that it doesn't provide specifics. So lifting
19 requests are not necessarily asked for those documents, only what again
20 now becomes a term of art, the core documents we're requesting lifting
21 when they contain the potentially exonerating information. Because if
22 the information has already been disclosed, well, we're still requesting
23 lifting. If it's coming in the meantime, yes. If not, well, we have to
24 wait.

25 So so far we've identified 158 documents, your Honour, that we're

1 again reviewing, because there's a first review that is done at one point
2 in time in a case, then there's a second review as the case is
3 progressing, and now we're even at third and fourth review to -- to
4 evaluate this against what has been disclosed so far.

5 So again there are four documents that have been disclosed that
6 were previously under 54(3)(e) that lifting has been granted. There are
7 documents for which there was a refusal from the providers. So we go
8 back to them and see if it's possible to lift the information. So we're
9 still in the process. As lifting is granted, we provide the documents,
10 your Honour.

11 SINGLE JUDGE STEINER: If I well understood, in principle there
12 would be 148 documents covered by 54(3)(e), and --

13 MR. MacDONALD: 158, your Honour.

14 SINGLE JUDGE STEINER: 58.

15 MR. MacDONALD: Yes. From the latest, again, review --

16 SINGLE JUDGE STEINER: 158.

17 MR. MacDONALD: Yes, but with the caveat that it -- we're on a
18 continuous basis reviewing these documents.

19 SINGLE JUDGE STEINER: And the requests for lifting were made in
20 relation to all these documents or how many requests were made?

21 MR. MacDONALD: The requests were made for 115 or 116 of these
22 documents, and there are 42 additional documents that lifting is being
23 requested as we speak, your Honour. It's the -- we send a list in bulk.
24 Mainly we're talking about MONUC documents that we're sending to New
25 York.

1 So we're not -- because this is -- again the procedure is quite
2 cumbersome, we do not make one request of one document and send it to New
3 York. They prefer to have it in bulk. So we wait until we have a
4 sufficient number that is wordy and send it to New York. New York makes
5 an analysis of our request. Then it goes to the legal office. From
6 there it goes to the -- the peacekeeping section. From there it goes
7 back to Kinshasa, Kinshasa to the field in Bunia, and then it goes back
8 to New York. So it's, as you know, it's a long process. But what I can
9 say is that no matter how the -- in our first review when we identified a
10 potentially exonerating document -- even so 116 lifting has been
11 requested, 42 are to be sent shortly.

12 I just want to reassure, though, the Chamber and my colleagues --
13 I mean, potentially exonerating information, and it goes back to if the
14 Defence wants to provide us, kindly provide us, with any information as
15 to what they would consider potentially exonerating. We're willing to
16 receive the information and then look into our database, mainly Ringtail,
17 and do the analysis. But from our initial review, from our initial
18 review of these documents, there is no smoking-gun document. I'll use
19 that term, but I mean -- what sometimes is referred to as the innocent at
20 stake concept, there are -- I mean that would exonerate to the point
21 where we shouldn't be here in front of the Chamber. We have not so far
22 found such document. And if we were to find such documents, of course we
23 would be putting pressure on the UN to make sure that particularly those
24 are lifted as a priority.

25 SINGLE JUDGE STEINER: Thank you very much. So I will suspend

1 this Status Conference for half an hour in order to give our interpreters
2 the opportunity to -- to have the rest they deserve, and we'll be back at
3 quarter past 4.00.

4 The hearing is suspended.

5 COURT OFFICER: All rise.

6 Recess taken at is 3.47 p.m.

7 On resuming at 4.24 p.m.

8 COURT USHER: All rise. Please be seated.

9 SINGLE JUDGE STEINER: So we are resuming this hearing, and
10 before moving with the agenda, I would like to make some -- the following
11 remarks: First the fact that the Prosecution has not made available to
12 both defences in an electronic form --

13 MR. HOOPER: Sorry to interrupt. We've forgotten the prisoners.

14 SINGLE JUDGE STEINER: Sorry, Mr. Hooper. You're a hundred per
15 cent right.

16 Please, Mr. Court Officer, bring the suspects in.

17 Thank you, Mr. Hooper, very much.

18 So the Single Judge has some remarks in the second part -- for
19 the second part of this Status Conference. First, the fact that the
20 Prosecution has not made available to both Defences in an electronic form
21 following the e-court protocol the evidence on which the Prosecution
22 intends to rely at the Confirmation Hearing by 21st April, 2008, deadline
23 shall be a factor that the Chamber will have to take into consideration
24 in deciding on the Defence request to postpone the Confirmation Hearing.

25 Second, in relation to the statements and interview notes

1 mentioned by the Prosecution in the first part of this hearing and due to
2 the exceptional circumstances surrounding them, the Single Judge has
3 decided that the Prosecution shall proceed in the same manner provided
4 for in the 18th April 2008 decision for documents on which the
5 Prosecution does not intend to rely at the Confirmation Hearing.
6 Therefore, the Prosecution shall immediately disclose to both Defences
7 with the redactions that it considers necessary and shall file a
8 disclosure note. Moreover, the Defences for Germain Katanga and Mathieu
9 Ngudjolo Chui shall have 15 days upon receipt of the statement and
10 interview notes to request to the Single Judge the lifting of those
11 redactions made by the Prosecution that the Defence considers necessary
12 for the purpose of their preparation for the Confirmation Hearing.

13 Third, the Single Judge is seriously concerned with the fact that
14 after more than five months after the transfer of Germain Katanga to the
15 seat of the court the Prosecution has only been able to obtain the
16 consent of providers in relation to four documents out of the 158
17 documents identified until now, and that for 42 documents requests have
18 not even been made. So hence first the Single Judge highlights that the
19 Prosecution must make its utmost effort to correct this situation within
20 the coming days, but I also would like for the Prosecution in this
21 hearing to explain in detail -- or that is saying to explain in detail in
22 writing this new practice of only requesting the lifting of Article
23 54(3)(e) confidentiality obligations in relation to -- only to some
24 documents identified as containing information which is potentially
25 exculpatory or otherwise material for the preparation for the Defence.

1 I must confess that the short explanation given by the
2 Prosecution in the first part of the hearing was not clarifying enough in
3 order for the Single Judge to understand if this is a new practice, a new
4 approach, a change of -- on the practice established in -- in the
5 previous case before this Chamber and as decided by the Single Judge in
6 previous decisions. So I would like to ask the Prosecution to provide
7 the Single Judge with more explanation in relation to this requesting the
8 lifting just for a few documents that maybe the Prosecutor considers more
9 important than others or which -- which are the criteria identified by
10 the Prosecution in order to choose some documents and not others in order
11 to request the lifting of confidentiality obligations.

12 So these are the few remarks the Single Judge would have to make.

13 So I would like to ask first the Prosecution, and then I'll give
14 the floor to both Defence teams, if they have any other issues to be
15 raised in this hearing or any other comments to be made for the record of
16 this hearing. The Prosecution first.

17 MR. MacDONALD: Your Honour, just to get back to the 54(3)(e),
18 we're not changing our practice. Any information that we've identified
19 as potentially exonerating we're asking the lifting. Now, of the wealth
20 of 54(3)(e) documents we have identified 158, but that's done by initial
21 review. So we go large, and then we review these documents a second or
22 third time. This indicates why our documents' numbering may vary. And
23 of course we're disclosing and requesting lifting of anything that is
24 potentially exonerating, but again when you first start with a case back
25 in July, and you're looking into the database for these potentially

1 exonerating documents, then you look at what information that you think
2 may be, may be potentially exonerating, and then you review it again and
3 you realise no, this is not potentially exonerating. So the criteria is
4 always the same but it's how one may interpret these documents, the
5 reading of these documents.

6 So we have set a criterias, yes, but again the Defence has never
7 provided any guidance on what they think may be helpful for their
8 Defence.

9 Now, also I want to indicate that we did not on the e-court --
10 what is important and as indicated, your Honour, back on the 15th of
11 April, the list of evidence it is sourced to the information that is in
12 the Arrest Warrant Application and the different pages where these
13 documents may be more relevant to. I understand that the e-court request
14 to each and single paragraph of the -- of the DCC, but what these
15 documents are right now in the list of evidence are referenced to each
16 and single paragraph of the document containing charges. So it may be
17 not in e-court format but right now and plus this -- just before the
18 hearing to both counsels on the request of Mr. Katanga's counsel, we were
19 able also to again resubmit the list of the 250 to -- sorry, 238 at the
20 moment documents on the list of evidence in chronological ERN number and
21 to what these documents are. So I understand that yes there's a request
22 for postponement asked by Mr. Ngudjolo, but if that's the case well then
23 we'll do the e-court and we'll finish it for tomorrow.

24 And if I'm not mistaken, your Honour, just to confirm, that's on
25 the 15th of April if I'm not mistaken the e-court referring you to the

1 arrest warrant of both Mr. Ngudjolo and Katanga. That's what we were
2 instructed to do at that time considering that the DC -- the document
3 containing charges is not available. I understand it's available since
4 the 21st, your Honour, but -- yes.

5 SINGLE JUDGE STEINER: Thank you for your clarification. I am
6 just turning back to the transcripts and maybe there has been a
7 misunderstanding, but at one point it's 25.22, the Prosecution informs
8 that they are reviewing the documents covered by 54(3)(e), and what is
9 important for the Prosecution is to provide and request lifting of
10 documents that may be under 54(3)(e) that provide added value that has
11 not been disclosed so far by other evidence.

12 So -- and then later in 26.6, so if the same information is of a
13 general nature in 54(3)(e) material, well, we are putting them aside for
14 now. So this maybe led the Single Judge to misunderstood and give the
15 impression that the Prosecution was selecting materials to which the
16 Prosecution was requesting the lifting of the confidentiality
17 obligations.

18 MR. MacDONALD: What we're doing, your Honour, is priority --
19 prioritising the lifting request so that they can be sent as quickly as
20 possible to those documents that are, let's say, information that is not
21 available maybe at the moment to the Defence. So of course we're asking
22 lifting of all the documents that are 54(3)(e) for sure that we identify
23 as such, I mean potentially exonerating, but we're prioritising those
24 that may have this added value, because again it's the lifting procedure
25 that takes a very long time and so on. So we're trying to provide this

1 information first-hand. But to be quite honest, again we're not finding
2 these very specific, potentially exonerating, documents or information
3 that is not already somehow disclosed to the Defence and that is the
4 important thing, but when we come across those documents and I use the
5 expression "added value," well, then we prioritise those.

6 SINGLE JUDGE STEINER: Thank you very much.

7 I would ask Mr. Hooper if the Defence for Germain Katanga has any
8 other issue to be raised or any comment to be made in relation to the
9 issues discussed during this hearing. You have the floor.

10 MR. HOOPER: Yes, thank you very much. There's just one matter
11 which we would think clarification about and that's in respect of Defence
12 material which is to be listed prior to the Confirmation Hearing, and our
13 query is this: Does this relate to Defence material that goes, as it
14 were, to the actual process of confirmation itself, the evidentiary --
15 evidential side of confirmation, or does it also include, for example,
16 were we to raise an argument about irregularity procedure, whether it
17 would relate also to material relating to that.

18 I'll give you an example -- well, I won't give you an example
19 because we had an ex parte hearing on it, so I'll maintain the nature of
20 that hearing. But I mean if we had documents that dealt with
21 irregularities in procedure, would you be requiring us to -- to file
22 those in the same way as if, for example, we were proposing to call a
23 particular witness and reveal that information?

24 It seems to us they're distinctly separate, but -- and at some
25 time, of course, we would be providing the Court with any material, but

1 it wouldn't necessarily, we think, fall into that category of the kind of
2 material that we envisage you're talking about, but if that would be
3 clarified we would be assisted.

4 SINGLE JUDGE STEINER: In principle, the Defence has deadlines to
5 file its list of evidence, 15 days before the Confirmation Hearing, or 7
6 days before the Confirmation Hearing if in relation to the amended list
7 of evidence by the Prosecution, which means the evidence in which the
8 Defence intends to rely at the Confirmation Hearing.

9 If the Defence intends to raise a procedural issue for which
10 maybe the Defence will be interested in bringing witnesses, I think the
11 procedural moment is the same as the moment the Defence has for the
12 filing of its list of evidence, because although a preliminary matter,
13 the raising of such issues are part of the Confirmation Hearing.

14 MR. HOOPER: Very well. Thank you for that.

15 SINGLE JUDGE STEINER: Could you please use your microphone.

16 MR. HOOPER: Yes. I don't think there's any other matters.
17 There's a slight peripheral issue that I might raise later, but it hasn't
18 involved any discussion so far.

19 SINGLE JUDGE STEINER (interpretation): Mr. Kilenda.

20 MR. KILENDA (interpretation): Thank you, your Honour. The
21 Defence of Mr. Ngudjolo has taken note of the comments that you have made
22 to the Prosecutor when you took this Status Conference, and there are no
23 comments to be made at the moment. We just hope that everything -- that
24 the request which was filed with you will be taken into account, which
25 was filed to you with regards to postponement of the Confirmation

1 Hearing.

2 Thank you.

3 SINGLE JUDGE STEINER: Thank you very much.

4 Does the Registry have any issue or any observation to be made
5 before we conclude this hearing?

6 MR. PERALTA LOSILLA: No, your Honour, only maybe if you want as
7 an update I -- during the break I checked with the section -- with the
8 human resources section, and they are doing their utmost best to find
9 people who are available at the shortest notice to come as interns for
10 the Ngudjolo team.

11 SINGLE JUDGE STEINER: Thank you very much.

12 Therefore, if there are no other issues to be discussed during
13 this Status Conference, I would like to thank very much the Prosecution
14 team --

15 MR. HOOPER: I'm sorry.

16 SINGLE JUDGE STEINER: Yes, Mr. Hooper.

17 MR. HOOPER: Sorry to butt in. Just a couple of matters.

18 The first one relates to the application, Mr. Kilenda's
19 application in respect of the movement of the Confirmation Hearing date,
20 and it will be no surprise to you to know that it's a matter of keen
21 interest to us, and we would be very grateful, because of our
22 commitments, to -- to have the earliest indication of what the decision
23 of the Chamber may be in respect of that.

24 The other matter I was going to raise somewhat tentatively, and
25 it may be something that can be discussed between us all over the next

1 weeks, I suggest, perhaps, and that is whether it's possible to get some
2 degree of liaison between the Chamber and counsel in terms of the
3 scheduling of hearings and meetings, and whether we could get appropriate
4 notice, if I can put it like that.

5 I mean, at the moment we've got -- seem to be in a situation
6 where we've got a rolling two-week Status Conference hearing. It seems
7 to be Tuesday afternoons at 2.00, and I think probably most of us are
8 mentally making a note of that, and I hope we can be confirmed if that's
9 the position, but you may recall last week it was moved at short notice.
10 I, in fact, came to The Hague and had to go back again in respect to
11 that, and these kind of difficulties do, of course, arise.

12 They are -- they seem -- in the main they're probably avoidable,
13 but it would also assist if we had an agenda. Now, again in terms of our
14 rolling two-week Status Conferences, we're getting a pretty good idea of
15 what the agenda is, and that assists us in terms of the personnel who can
16 attend Status Conferences. Sometimes perhaps more significant matters
17 are to be raised, and predictably so, and where these can be flagged up
18 it's of great assistance to us, and it also enables us to prepare our way
19 properly.

20 And I've spoken and had the opportunity of speaking to other
21 members of the bar here today on both sides, and I think we're all
22 uniformly of the view that this would assist us assist you, and I don't
23 know if there are some ways of communication between us that we can open
24 and establish and pursue over the next week or so. Perhaps it's
25 something we can mutually discuss through e-mails, through your

1 representatives, and of course we're more than willing to assist. But I
2 don't, as I say, wish to provoke you to a particular viewpoint this
3 afternoon. It seems to us something that could be usefully discussed
4 between many parties.

5 Thank you.

6 SINGLE JUDGE STEINER: Thank you very much, Mr. Hooper, and I
7 fully agree with the points you've raised.

8 The Chamber -- or the Single Judge has many times to take into
9 account the fact that we have only one courtroom and we have trial
10 proceedings ongoing, so sometimes we establish a date for a Status
11 Conference or a hearing, and also at short notice we are informed that
12 the courtroom has been requested by Trial Chamber. So we are trying to
13 adjust to the needs of the court, and even in relation to interpreters
14 and -- but anyway, it's a -- the Single Judge will, as far as possible,
15 try to accommodate the Chamber's agenda with the Defence counsels' and
16 the Prosecution's agenda in order not to have short-notice hearings as
17 far as possible, but sometimes a change, a postponement, or even
18 anticipation of a hearing is necessary in order to accommodate the
19 agendas of the other Chambers of the court since our second courtroom is
20 being used by the Sierra Leone Tribunal.

21 Also in relation to provide Prosecution and both Defence teams
22 with a previous agenda, the Single Judge takes note of your request, and
23 also, as far as possible, it will be -- it will be like you suggest for
24 the next hearings we'll have, or Status Conferences.

25 So if -- now there is no -- there are no other issues to be

1 discussed, I again would like to thank the Prosecution team, both Defence
2 teams for their cooperation in this hearing. I would like again to
3 welcome the presence of Mr. Germain Katanga and Mr. Mathieu Ngudjolo
4 Chui. I would like to thank very much again for our interpreters, the
5 court officers, and this hearing is adjourned.

6 COURT USHER: All rise.

7 The hearing ends at 4.48 p.m.

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