

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 Wednesday, 14 May 2008

6 The hearing starts at 2.06 p.m.

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

9 SINGLE JUDGE STEINER: Good afternoon. I would like the security
10 officers, please, to bring in the detainees. Thank you.

11 Please, the Court Officer could call the case.

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

15 SINGLE JUDGE STEINER: Thank you. Let me first welcome
16 Mr. Germain Katanga and Mr. Mathieu Ngudjolo Chui who are present at this
17 hearing, and once again inform Mr. Germain Katanga that liaison
18 interpretation into Lingala, it's being provided, and also available for
19 Mr. Mathieu Ngudjolo Chui.

20 So as provided for in the -- sorry. Before anything, I would
21 like to welcome to this hearing, first of all, Ms. Carine Bapita
22 Buyangandu, Mr. Joseph Keta, and Mr. Jean Louis Gilissen who appear for
23 the first time in this case before the Single Judge as legal
24 representatives of the victims admitted as victims as case. As
25 highlighted in yesterday's decision, victims have undoubtedly an

1 important role to fulfil in the criminal proceedings held before this
2 court, so welcome the legal representatives of the victims.

3 I also would like to welcome the Prosecution team, the Defence
4 team for Mr. Germain Katanga, the Defence team for Mr. Mathieu Ngudjolo
5 Chui, and the representatives of the Registry.

6 So first I would like the Prosecution, then the Defence for
7 Germain Katanga and Mathieu Ngudjolo Chui, then the legal representatives
8 of victims, the Office of Public Counsel for Victims, which is also
9 present at this hearing, and the representatives of the Registry to
10 introduce their teams. So first Prosecution, please.

11 MR. MacDONALD: Good afternoon, your Honour. The Office of the
12 Prosecutor will be represented this afternoon by Ms. Florence
13 Darques-Lane, Mr. Ian Bulmer, Mr. Ibrahim Yillah, and Ms. Anneliek
14 Hendriks, and myself Eric MacDonald. Thank you.

15 MR. HOOPER: Mr. Katanga is represented this afternoon by myself
16 David Hooper, Caroline Buisman, and Sophie Menegon.

17 MR. KILENDA (interpretation): Thank you, your Honour. To my
18 right we have Ms. Maryse Alie, who is a colleague of mine from the Bar of
19 Brussels, who is a legal assistant in our team; to my left we have
20 Aurelie Roche, who is the case manager of the team; and I am Jean-Pierre
21 Kilenda, Defence counsel to Mr. Mathieu Ngudjolo.

22 MS. BAPITA (interpretation): Thank you, your Honour. I am
23 Ms. Bapita, representative of victim A/0327/07, A/0329/07, A/330/07,
24 A/0331/07. I am assisted by Ms. Paolina Massidda of the OPCV.

25 MR. KETA (interpretation): Thank you for giving me the floor. I

1 am Mr. Joseph Keta, and I am representing victim A/0333/07 with my
2 colleague, Jean Louis Gilissen, of the Brussels Bar.

3 We are assisted by Ms. Paolina Massidda from the Office of Public
4 Counsel for Victims.

5 SINGLE JUDGE STEINER: I would just like to ask the Office for
6 Public Counsel for Victims is represented only by Madam Massidda or
7 someone else?

8 MS. MASSIDDA: Good afternoon, your Honour. The Office of Public
9 Counsel for Victims is represented by myself, Paolina Massidda, this
10 afternoon and by Mr. Orchlon Narantsetseg, associate legal officer.
11 Thank you.

12 SINGLE JUDGE STEINER: Thank you. Representatives of the
13 Registry, please.

14 MR. DUBUISSON (interpretation): Thank you, your Honour. On the
15 bench for the Registry with me we have Bibiana Becerra-Suarez, who is the
16 legal coordinator in my office and myself, Marc Dubuisson, director of
17 the Division of Court Services representing the registrar.

18 SINGLE JUDGE STEINER: Thank you very much.

19 As set out in a decision establishing a calendar according to the
20 date, the new date of the Confirmation Hearing, 27th June 2008, the
21 agenda of this Status Conference will focus firstly on the intention of
22 the parties to rely on live witnesses at the Confirmation Hearing.

23 Secondly, the status of the compliance by the Prosecution with
24 its disclosure obligations for the purpose of the Confirmation Hearing.

25 Thirdly, potential problems, if any, in relation to French

1 interpretation to Mr. Mathieu Ngudjolo Chui.

2 And fourthly, other issues including matters relating to the
3 following upon decision of the evidentiary scope of the Confirmation
4 Hearing and on the role of those granted the procedural status of
5 victims.

6 But before starting with these items of the agenda, I would like,
7 as always, as a preliminary matter, to address some logistical issues
8 concerning both Defence teams.

9 Is this way of proceedings agreeable to the parties? Then let's
10 start with the preliminary question matters, and the first is in relation
11 to what has been discussed in the -- was discussed in the last Status
12 Conference, the problems faced the by Mr. Katanga, maybe by Mr. Mathieu
13 Ngudjolo Chui in relation to family visits.

14 During the last hearing the Defence for Germain Katanga raised
15 some problems that -- faced by family members to come to The Hague to
16 visit him, and at that time the representative of Registry informed that
17 the problems were due to a shortage of passport papers for something. So
18 I would like first to hear from the Defence of Germain Katanga and then
19 from the Registry whether these problems were solved and how is the
20 situation now with Mr. Katanga's visits.

21 Mr. Hooper.

22 MR. HOOPER: Well, very briefly, I'm not aware of any particular
23 progress that's been made, but it may be the Registry, of course, will
24 have some information.

25 SINGLE JUDGE STEINER: Mr. Dubuisson.

1 MR. DUBUISSON (interpretation): Thank you, Your Honour. I think
2 that we need to be cautious on this topic from today when we take the
3 floor. As you know, the States Parties who finance us have raised the
4 issue of the funding of family visits. The position of the Registry has
5 always been very clear to date. We have supported the funding of family
6 visits to our current detainees. In certainty when these people are
7 indigent.

8 The Assembly of States Parties will be resolving this issue in
9 November/December of this year. In the interim we shall be working to
10 facilitate such visits quite independently of the financial arrangements
11 to fund those visits. We are looking at other ways of financing that
12 travel off-budget.

13 Another issue is the issue of passports and visas, the visas
14 which have to be approved for the passports. We are still working to
15 accelerate the issuance of passports to the members of the family
16 identified by Mr. Katanga and Mr. Ngudjolo Chui.

17 SINGLE JUDGE STEINER: So any further clarification is needed by
18 Mr. Hooper on this issue?

19 MR. HOOPER: No. There's no matters that I can't take up with
20 Mr. Dubuisson and his department in due course. Thank you.

21 SINGLE JUDGE STEINER: Mr. Kilenda, have you identified any
22 problems also related to passports and visas for visits for Mr. Ngudjolo
23 Chui?

24 MR. KILENDA (interpretation): Thank you, your Honour. The last
25 news which we have had from our client is that he has filled out the

1 necessary forms for a family visit. We have not yet heard that those
2 family members have received passports. I have listened carefully to the
3 Registrar who says that there continues to be difficulty on that front.

4 If I might make a suggestion, it would be that the Registrar make
5 contact with the Congolese authorities responsible for the issuance of
6 passports so that a document which could -- could be issued in lieu of a
7 passport to resolve the issue.

8 We hope that we can count on the Registry to take all steps
9 necessary to ensure that our client can receive a family visit.

10 SINGLE JUDGE STEINER: Thank you very much. I'm sure that the
11 Registry took note of the suggestion made by Maitre Kilenda.

12 So the second preliminary issue, as it was in the last Status
13 Conference, was the issue related to computer access and software
14 training for Mr. Germain Katanga, Mr. Mathieu Ngudjolo Chui. The
15 remaining problems were the gradual and simultaneous training for
16 Mr. Ngudjolo Chui in basic computer software and more complex software as
17 the Ringtail and also in relation to effective operational connection
18 with the detention centre which enables the Defence of Mr. Ngudjolo Chui
19 to direct communicate with him in the detention centre.

20 So I would like to know if these questions have been already and
21 properly addressed by the Registry and whether the Defences for
22 Mr. Germain Katanga and Mr. Mathieu Ngudjolo Chui have any further issues
23 that they would like to raise today before the Single Judge concerning
24 access and software training for both Mr. Katanga and Ngudjolo Chui and
25 Defence teams.

1 So first, Mr. Hooper, you have the floor.

2 MR. HOOPER: Sorry for that delay in reaction. The -- there's a
3 slight difficulty inasmuch as the complexities of -- of the system of
4 being explained in English of which he has a very limited -- well, no
5 English really. So it might assist -- it would assist him if there was
6 either a Lingala or French interpreter to assist him during the time when
7 the very competent, because I know him, teacher of these subjects is
8 endeavouring to explain things. I think any of us who are approaching
9 computers rather later on rather than earlier in our lives, well, I
10 should think would sympathise in the idea of being taught in a language
11 that you don't understand.

12 So I hope that's something. It seems to be a real problem that
13 could be addressed. But as I say, I wasn't aware of the problem until a
14 moment ago, at least not of that particular nature, and so I haven't been
15 able to think it through really to be honest or to discuss it with other
16 parties, but at the heart of it I would have thought an interpreter is at
17 the heart of it, it seems to me.

18 SINGLE JUDGE STEINER: Before giving the floor to Maitre Kilenda,
19 I would like to listen from the Registry this matter raised -- on this
20 matter raised by Mr. Hooper, the training of computer in -- in English
21 instead of French.

22 MR. DUBUISSON (interpretation): Thank you, Your Honour. In
23 fact, we're talking about three specific types of training. First of
24 all, basic training in how to use a computer. Then there is a more
25 sophisticated training programme on how to use Ringtail, and also

1 training in typewriting, in typing. These are the three training
2 programmes offered -- on offer.

3 The training on how to utilise the computer is one of various
4 services which is provided to us by the Dutch in -- in the scope of the
5 agreement we have with the Dutch regarding the provision of cells (as
6 interpreted).

7 Now, the training in Ringtail, that is provided in French. It is
8 true that the basic training in how to use the computer is given by a
9 Dutch teacher who is largely using the English language. I can indeed
10 understand that that is a problem for Mr. Katanga and Mr. Ngudjolo.

11 Now, this was never reported to me as such. I shall ensure that
12 the other go training programmes that are provided will be provided
13 either in French or with the assistance of a French interpreter, of
14 course.

15 SINGLE JUDGE STEINER: And I suppose that this can be done as
16 soon as possible?

17 MR. DUBUISSON (interpretation): Absolutely. I shall issue an
18 instruction this afternoon.

19 SINGLE JUDGE STEINER: Mr. Kilenda, this -- in relation to this
20 issue you have anything else to -- to add?

21 MR. KILENDA (interpretation): Thank you, your Honour. As
22 regards our client, I would say that we -- we don't have much to complain
23 about. First of all, we have seen that he has been provided with an
24 interpreter who speaks French well. He has been able to make headway on
25 his Ringtail training.

1 As regards how to use a computer, that is being dealt with
2 correctly.

3 As regards training in typewriting, he's already doing quite well
4 in fact. This morning, for instance, he provided us with a typewritten
5 text which he had produced himself.

6 We'd like to inform you that the connection between the server
7 supporting the link between our office and our client is working. The
8 connection is working. All of the training is progressing well. He's
9 able to access his files and read the content, so I think we that we have
10 the advantage that we have a client who has learnt rapidly what has been
11 taught to him.

12 SINGLE JUDGE STEINER: Thank you very much.

13 So the third preliminary point is the appointment of investigator
14 interns for the Defence team, and the point related to possible trips to
15 or travel to DRC by representatives of the Defence team.

16 During the last Status Conference the Single Judge took note of
17 the issue raised by Mr. Kilenda concerning the appointment of an intern
18 for the Defence team of Mr. Mathieu Ngudjolo Chui. I would like to know
19 if this question has been properly addressed by the Registry and whether
20 the Defence of Germain Katanga and Mathieu Ngudjolo Chui have any further
21 issues that they would like to raise today before the Single Judge
22 concerning appointment of investigators or interns or any other issue
23 related to the completion of the Defence teams.

24 So Mr. Hooper first, please.

25 MR. HOOPER: Yes. I have no issue to raise. Thank you.

1 SINGLE JUDGE STEINER: In relation to the possible travel to DRC,
2 you keep your position that you are not planning to -- to go to DRC
3 before the Confirmation Hearing as you stated in last Status Conference.

4 MR. HOOPER: No, we've been. We've been.

5 SINGLE JUDGE STEINER: Oh, you've been.

6 MR. HOOPER: I haven't been, but I talk of the team as a
7 collective.

8 SINGLE JUDGE STEINER: Maitre Kilenda.

9 MR. KILENDA (interpretation): Thank you, your Honour. After the
10 last hearing, or Status Conference, I wrote to the Registry and formally
11 requested the appointment of a resource person. I admit that I did not
12 check to find out whether this person had the necessary qualifications in
13 criminal cases, and in a letter last week the Registry informed me --
14 told me that it could not endorse my choice because the person I had
15 appointed did not have experience in criminal matters, which is something
16 that my team and I quite understand.

17 So we have discussed the matter with our client this morning to
18 find out whether we could have another resource person appointed. We are
19 going on with this, and we are expecting this afternoon the CV of this
20 person whom we contacted yesterday. At the appropriate time, we shall
21 inform the Court.

22 With regard to an intern, you will remember that the last time we
23 had problems in this regard. We were promised by the Registry, if I
24 remember correctly, an intern for the end of June. In any case, well
25 after the Confirmation Hearing. In the meantime, our case manager did

1 all in her power, did a great deal to contact somebody who can work in
2 our team as a pro bono legal assistant. The only problem, however, is
3 that with regard to this -- the appointment of this person is that we
4 might come up against administrative bottlenecks on the part of the
5 Registry because we were informed that this person must go through the
6 formalities provided for with regard to application to the internship
7 programme. This means that this person must file an application form, a
8 written declaration giving her reasons, a letter of recommendation from
9 people who know her, who know her university studies, copies of
10 university certificates and transcripts and a short essay of two pages.

11 This person is in agreement, that is the person would like to
12 start in a few days on the 1st of June. However, what would be of use to
13 us in light of the fact that we have many filings to deal with is that we
14 would like to receive this person's help. However, we feel that his or
15 her appointment will be delayed. We are not trying to avoid the
16 administrative procedures, but we are requesting your intervention,
17 because we have observed that in the past if you emphasise this, a
18 solution was found.

19 This morning our case manager took measures to ensure that this
20 person sent us his or her documents, and we hope that your personal
21 intervention will enable the Registry to deal with this file as quickly
22 as possible so that this person can start working on the 1st of June,
23 2008, as a pro bono legal assistant.

24 SINGLE JUDGE STEINER: Monsieur Dubuisson, I would like to listen
25 to you. What kind of requirement would be -- let's say could be

1 dismissed in this case in order to expedite the proceeding of calling
2 this intern, if it is in the position of intern, of course.

3 MR. DUBUISSON (interpretation): I would like to be clear on
4 this. The recruitment of interns to the institution follows the same
5 procedure in all cases. The Office of the Prosecutor which is a party to
6 the proceedings and the Office of Public Counsel for Victims have an
7 obligation, and it is an obligation of the court to respect a number
8 of -- a minimum of obligations in recruiting an intern. So to try to get
9 around such obligations does not seem to me to be the right approach.
10 However, I do note that this is an urgent matter, and perhaps we might
11 see how we can speed up the processing of a file if the file is complete.

12 With all due respect, your Honour, I think all we have to do here
13 is follow the procedure. If the file is not complete we cannot make any
14 progress. So I shall ask Mr. Kilenda to ensure that the file is made as
15 complete as quickly as possible, and we shall do our best independently
16 of any request on your part. I think we can treat it as a request coming
17 straight from Mr. Kilenda. I do not see otherwise -- why we should do
18 otherwise. I know and we know the time frame for this trial, and we know
19 what our obligations are.

20 SINGLE JUDGE STEINER: How long it takes after the approval of
21 the application for an intern to be -- to start work in the court?
22 Because at least the ones that are assigned to Judges take more than 30
23 days to come.

24 MR. DUBUISSON (interpretation): Yes, of course. It is not a
25 question of time. It could be longer. For example, if you consider some

1 organs of the court, you have interns every six months. So there is no
2 urgency in dealing with an intern's file because all interns start on the
3 same date regardless of organ or function.

4 So if we can ensure -- if we do this properly we can avoid
5 problems so that interns replace each other successively and this is what
6 happens in various offices, and we could try to make the situation
7 easier. I do agree with you that for some people it takes 30 weeks, for
8 others it could two weeks and for others three months depending on the
9 needs and depending on the dates on which these interns are to supposed
10 to take up their duties.

11 SINGLE JUDGE STEINER: (Previous translation continues) ...
12 clarification, and I'm sure that you are aware of the urgency of at least
13 the steps to have this intern for the Defence team here in the court as
14 soon as possible. I fully agree with the Registry that the legal steps
15 or the steps provided for in the Regulation are to be taken is since the
16 intern will have access even to confidential documents so needs to be
17 considered as part of the Defence team that is with all obligations that
18 are imposed on a Defence team before this court, but I'm sure that the
19 Registry will make utmost efforts in order to have this intern in the
20 Defence team Monsieur Ngudjolo Chui as soon as possible.

21 Monsieur Kilenda, in relation to any possible trip to the DRC
22 before the Confirmation Hearing, is the Defence now in a position to
23 inform the Chamber about its intention?

24 MR. KILENDA (interpretation): Thank you, Your Honour. As I said
25 during the previous Status Conferences, so far we not in a position to

1 make a trip to the Democratic Republic of the Congo before the
2 Confirmation Hearing. This is because of something we informed you of on
3 several occasions. It is because our team has just been established. So
4 we're not going to go back to what we have told you with regard to our
5 difficulties. Now that the team is fully operational, we are trying to
6 examine the case file and the documents that are disclosed to us by the
7 Prosecution. Accordingly, we do not plan any trips to the Democratic
8 Republic of the Congo before the hearing of the 27th of June. Certainly
9 after the Confirmation Hearing, but for the time being we are not
10 considering that option.

11 SINGLE JUDGE STEINER: Thank you very much. In relation to the
12 preliminary issues the Single Judge does not have any other issues to be
13 raised, but at the end of course the parties and participants to this
14 hearing will have opportunity to raise any other issue.

15 I would like now to go to the agenda of this Confirmation
16 Hearing, and the first item is the one related to the intention of any of
17 the parties to bring live witnesses for the Confirmation Hearing. So I
18 would like first to listen from the Prosecution and then from both
19 Defence teams if they have already decided -- whether they have already
20 decided on this issue.

21 Mr. MacDonald.

22 MR. MacDONALD: The Prosecution does not intend to present any
23 witnesses for the purpose of the Confirmation Hearing, your Honour.

24 SINGLE JUDGE STEINER: Mr. Hooper.

25 MR. HOOPER: I think I can say in terms of the confirmation no

1 live witnesses proposed to be called, but there's and matter that I'd
2 like to raise with you a little later as an ex parte matter. You will
3 recall our ex parte application in this case, and it's something that --
4 that concerns that and something that also we'd be assisted by some
5 discussion between us to clarify the position.

6 I'm sorry to be rather Delphic about it, but may as it were lead
7 to a live witness being present in court, but we don't see that live
8 witness at the moment as forming part of the confirmation process.

9 SINGLE JUDGE STEINER: Depending on how long it takes for
10 finishing the agenda, maybe we can meet in an ex parte hearing after this
11 Status Conference.

12 MR. HOOPER: Yes.

13 SINGLE JUDGE STEINER: Otherwise the Single Judge will schedule
14 in consultation with Defence team another date for this ex parte hearing.

15 MR. HOOPER: Yes. I think it would be helpful to you if it was
16 as soon as possible. I won't take up time now. We think it will only
17 take 10 minutes to explain and put you in the picture and hopefully we
18 can reach that this afternoon.

19 SINGLE JUDGE STEINER: Yeah. Just -- just to make Defence team
20 aware that in order to transform a public hearing in a closed hearing, it
21 takes at least half an hour for the technical arrangements of the
22 courtroom. That's why I said that depends on the time we finish the
23 Status Conference. Then I will see with -- with the Court Officer
24 whether it's possible to -- to take this long break in order to adjust
25 all the equipment to a -- to a closed session, even in relation to

1 transcripts, LiveNote, et cetera, et cetera. There are many technical
2 arrangements to be made.

3 Monsieur Kilenda, have you already decided or have you intention
4 to bring any live witnesses for the Confirmation Hearing.

5 MR. KILENDA (interpretation): Thank you, your Honour. We have
6 no intention to bring a live witness to that hearing.

7 SINGLE JUDGE STEINER: Thank you very much. So going to the next
8 topic which is disclosure obligations. I -- first and foremost I would
9 like to be informed from the Prosecution of the status of compliance with
10 its disclosure obligations for the purpose of the Confirmation Hearing,
11 and more specifically its obligations following the decision to establish
12 a calendar according to the new date of the Confirmation Hearing.

13 I assume that both Defences have already gotten access to all
14 evidence included in the Prosecution charging document and list of
15 evidence in an electronic format and with the data required by the
16 e-Court Protocol.

17 Is that correct, Mr. MacDonald?

18 MR. MacDONALD: It is, your Honour.

19 SINGLE JUDGE STEINER: In relation to this topic, I would like to
20 remind the legal representatives of victims that they will also have
21 access soon to such evidence subject to any restriction that may be
22 imposed as a result of those requests in accordance with the 20th May
23 decision -- 20th May deadline established by yesterday's decision.

24 Turning back to the Prosecution, I would like to have an update
25 on disclosure of Article 67(2) and Rule 77 materials. So I would like

1 for the Prosecution to give an overview on how the process of disclosure
2 has taken place since the issuance of the decision establishing a new
3 calendar, and in particular if the 6 May 2008 deadline has been complied
4 with about the summaries of all relevant witnesses' statements, if they
5 have been already disclosed to both Defences; how much progress has been
6 made in relation to disclosure of documents on which the Prosecution does
7 not intend to rely at the Confirmation Hearing but contain Article 67(2)
8 or Rule 77 materials; and then we go more specifically to the fourth
9 report made by the Prosecution -- filed by the Prosecution on the consent
10 of providers of information under Article 54(3)(e), that for my
11 disappointment I could see that since the last Status Conference it seems
12 that there has been no progress at all in terms disclosure of such
13 materials after obtaining the consent of the providers.

14 So I would like to -- I would turn to the Prosecution to give an
15 overview on disclosure issues, and then more specifically we go to
16 54(3)(e) materials.

17 Mr. MacDonald.

18 MR. MacDONALD: Just before answering, if we can just go back to
19 the question of disclosure of incriminating material via the e-Court
20 Protocol. I can indicate to you, your Honour, at this stage that
21 electronic copies with the metadata attached according to the e-court
22 protocol was disclosed to both counsels, but the information hasn't been
23 transferred into the Registry's e-court. Why? Because there are some
24 problems with the e-court, Registry's e-court. Once documents -- that
25 these issues have to be addressed, and these -- before we can transfer

1 all the material into the Registry's e-court so then it can become
2 available to the legal representatives, your Honour. There are technical
3 issues like once a document is added it cannot be withdrawn or --
4 immediately. Lists cannot be drawn of what documents are in the
5 Registry's e-court and other issues that I was informed about. So prior
6 to doing that, the Prosecution would like to have a chance to meet with
7 representatives of the Registry to iron out these issues before this
8 transfer, before the documents are transferred.

9 It brings the question of let's say we amended our list, subtract
10 documents, well then these documents apparently remain in the system as
11 it is which should not be the case. It should only be the information
12 that the Prosecution will be relying upon for the Confirmation Hearing
13 that is in that system.

14 Now, that being said --

15 SINGLE JUDGE STEINER: Sorry to interrupt you. These problems
16 have already been addressed to the registry or to the IT or --

17 MR. MacDONALD: Yeah. These problems, the Registry is aware of
18 them already. These problems have been discussed in the past in the
19 Lubanga case. Also, all our knowledge-base unit of the OTP is in touch
20 with the representatives of the Registry dealing with these matters. But
21 I haven't met personally with them or -- I mean, the Prosecution
22 Division, should I say.

23 SINGLE JUDGE STEINER: Just to listen from Mr. Dubuisson on this
24 matter. Is there anything ongoing in order to solve these technical
25 problems? Representatives of victims, they can only have access to the

1 case file through e-court.

2 MR. DUBUISSON (interpretation): I think we have to be clear with
3 regard to what the exact request in this case is, because I know that
4 there has been contact between the Registry and the Office of the
5 Prosecutor, in particular with regard to clarifying the issue of
6 documents that might need to be withdrawn because they were not in the
7 appropriate place. I do not know whether this is what is being referred
8 to here.

9 So if a document is in the system, we cannot on our initiative
10 remove the document. So perhaps we should continue the discussion to see
11 how we can settle the matter in compliance with all the applicable rules
12 and procedures.

13 SINGLE JUDGE STEINER: Yeah. Maybe I should have some more
14 clarification from the Prosecution, because in principle it's agreed that
15 once a document is filed in the case file cannot be simply withdrawn
16 or -- I didn't -- maybe I didn't understand exactly what the problem is.

17 MR. MacDONALD: Your Honour, in the case file maybe there -- the
18 document containing charges that we filed and the list of evidence can be
19 amended later on, can be amended by withdrawing documents, but we're not
20 relying on these documents any more. So theoretically we are indicating
21 that this document should not be in the case file any more because it's
22 not relied upon by the Prosecution to confirm the charges. So that's the
23 type of information I'm referring to.

24 Apparently there are also other issues in terms of the level of
25 confidentiality and the groups created and things like that which also

1 have to be addressed. These groups have not been created yet. Now
2 there's the decision of yesterday, of course, on victims' participation
3 and, you know, ex parte groups, confidential groups, public groups, and
4 so on. So those are also things that need to be created before the
5 documents are transferred, because once a document is transferred you
6 need to transfer it with the level of confidentiality and to which group
7 these people can view the documents, who can have access within all
8 the -- according to the level of confidentiality. So that's another
9 issue. And these groups have to be created, and they haven't been
10 created yet.

11 SINGLE JUDGE STEINER: I'm sure the Prosecution is aware of the
12 President of the Chamber in terms of -- in the Lubanga case in terms of
13 once a document is tendered into evidence it's the evidence of the court,
14 not more -- do not belong any more to the parties, and that's the reason
15 why some statements in the Lubanga case that were not part any more of
16 the charging document, a list of evidence stayed available to the parties
17 in the case file. But I'm sure the Prosecution will address these
18 difficulties, taking into account the precedence of the Chamber in
19 relation to evidence already tendered into the case file.

20 In relation to the 6 May deadline concerning summaries of
21 witnesses's statements containing potentially exculpatory materials.

22 MR. MacDONALD: Yes, your Honour. We have disclosed 24 summaries
23 for 24 -- for 22 witnesses, your Honour. So as of the 6th of May in
24 total -- not on the 6th of May but up until the 6th of May at the moment
25 24 summaries of 22 witnesses, and those were the summaries that the

1 Prosecution was to disclose to the Defence.

2 SINGLE JUDGE STEINER: In relation to documents and materials
3 under Rule 77?

4 MR. MacDONALD: Since the issuance of the new calendar some
5 documents were disclosed, your Honour, mainly the additional summaries,
6 and of course the Prosecution is again continuing its review and
7 cross-reference of the documents in its database to be disclosed under
8 Rule 67(2) or Rule 77.

9 I can tell you, your Honour, that in relation to Rule 77
10 materials there are a few proces-verbaux d'audition that we have in our
11 position -- possession, sorry, that would need redactions. It's
12 redactions to the identity of the alleged victim making this statement.
13 It's in reference more precisely to the attack on Tchomia of May 2003.
14 You may have -- you may remember because it's on our list of evidence, I
15 think the Chamber has already granted redactions to such proces-verbaux,
16 two of them if I'm not mistaken, in the number of documents that we've
17 requested the redactions, and those were treated either on your -- I
18 think it's in the fifth decision on redaction. But what I'm talking
19 about here are documents we'd like to disclose under Rule 77. We don't
20 intend to rely on those documents for the Confirmation Hearing but we'd
21 like to disclose them to the Defence.

22 Now, these redactions relate to the -- any information that could
23 lead to the identification of these people -- of these persons, sorry,
24 giving the statements.

25 So again I understand that yesterday there were two decision on

1 redactions and some -- these redactions have to be approved by the Single
2 Judge or the Chamber, so I am flagging this issue and either we can
3 submit. We have approximately, if I'm not mistaken, around five of these
4 proces-verbaux and also annexes to the statement of one witness who
5 provided pictures and there may be -- it may be necessary to redact or
6 block the face of one or two persons that work for the Red Cross, for
7 instance, and helped the victims during this said attack or in its
8 aftermath. So that's what's remaining.

9 We also have one report that we would like to disclose under Rule
10 77 that was part of the file of the Auditeur Militaire that is in our
11 possession and the name of one NGO still operating in Bunia who provided,
12 it seems, information in the course of their work, we would like to
13 redact the name of that NGO for the same reasons as submitted in our
14 prior decisions, your Honour.

15 So those are the documents I can think of. In total I don't have
16 the exact figure, but it's approximately around 10 proces-verbaux
17 documents with pictures and this report -- but that report has around at
18 least 35 pages, but it's -- like I said it's only the name one NGO, this
19 NGO coming up in the document.

20 Now, your Honour with your permission in terms of exact figures
21 of number of documents disclosed so far which include statements,
22 transcripts, interview notes, documents, reports and so on, we have 525
23 documents for a total of 5.800 pages approximately.

24 Now, the combination of Rule 77 and potentially exonerating
25 documents as close to 300; to be exact it's 297. And 247 documents as

1 incriminating. And we will be disclosing additional documents under Rule
2 77 and 67(2), your Honour, in the near future ones also those redactions
3 are addressed.

4 SINGLE JUDGE STEINER: Thank you. And now you mentioned the --
5 that Prosecution is reviewing these documents that contain potentially
6 exculpatory information, and regarding the Prosecution report filed on
7 29th April 2008, in which the Prosecution exposes the criteria the
8 Prosecution is using in order to identify possible potentially
9 exculpatory information, and I would like to know from both Defences if
10 they have any comment, because I don't know if the Defence teams, and
11 because the Prosecution says that it reiterates its invitation to the
12 Defence teams to communicate their input to better define and refine
13 these criteria or categories for review or -- of material for disclosure
14 or inspection under Article 67(2) and Rule 77.

15 In this filing, the Prosecution reiterates its invitation to the
16 Defence teams to provide the Prosecution with criterias other than the
17 ones exposed in its filing 458 of 29 April 2008.

18 I'd like to listen from the Defence if they have already
19 communicated with the Prosecution in relation to any further possible
20 criteria, or if they are satisfied with the six criterias selected by the
21 Prosecution for his search of potentially exculpatory information.

22 Mr. Hooper.

23 MR. HOOPER: Yes. At the moment it seems to be working. We have
24 no difficulties arising from it at present, and there's no particular
25 specific area, as it were, that we'd invite the Prosecution to focus on

1 in respect of specific disclosure, as it were. Thank you.

2 SINGLE JUDGE STEINER: Maitre Kilenda.

3 MR. KILENDA (interpretation): Thank you, your Honour. We are
4 not yet in a position to provide you with additional criteria on top of
5 those provided for by the Prosecution. We have not been able to
6 investigate the criteria in great detail.

7 Needless to say, if and when we do have comments to make on the
8 topic, we will not hesitate to do so at an upcoming Status Conference.

9 MR. MacDONALD: With the Court's permission, if your permit me
10 just one second in relation to that I'd like to consult my colleague.

11 SINGLE JUDGE STEINER: Please.

12 (Prosecution counsel confer)

13 SINGLE JUDGE STEINER: Please, Mr. MacDonald.

14 MR. MacDONALD: No. What we'll recommend, your Honour, is we're
15 inviting the Defence, and we'll try to schedule a meeting with both
16 Defence teams in an attempt to define the time period of the search for
17 potentially exonerating document in light of the fact that we're dealing
18 one attack on one given day. So in this way I think this could have a
19 great impact, your Honour, on the review of documents.

20 SINGLE JUDGE STEINER: I very much appreciate Prosecution efforts
21 in order to expedite this -- also this proceeding of identifying and
22 disclosing to Defence these documents that contain potentially
23 exculpatory information.

24 The same cannot be said in relation to documents covered by
25 Article 54(3)(e). According to the fourth Prosecution's report on the

1 status of these documents report, which is document 473 filed on the 9th
2 of May, 2008, at least in relation to the lift of confidentiality I can
3 see that no progress has been made since the last Status Conference. We
4 remain with the same 140 documents that have been identified as
5 containing potentially exculpatory information or elements.

6 In the -- in its third report, document 438 filed on 24th April,
7 2008, the Prosecution in its -- the paragraph 2 of this filing says that
8 from these documents identified, and they are the same, very same 140,
9 the OTP has sent or is about to send requests for the lifting of
10 confidentiality restrictions.

11 So in this point that has sent or is about to send requests for
12 the lifting of confidentiality, I would like to have an update from the
13 Prosecution.

14 MR. MacDONALD: Your Honour, what I can provide is the following:
15 We have been maybe too generous in our criteria as to identify what may
16 be potentially exonerating information. That's one thing.

17 The other thing is that as we've indicated in our last report,
18 the fourth one, we've identified documents that are different on their
19 face but the content identified as maybe potentially exonerating is the
20 same, so these are regarded as duplicates. That's why the number went
21 down. And like we've indicated in the past, your Honour, our hands are
22 tied with the providers of these documents. Of course, one of such big
23 providers is the United Nations, and there's a procedure in place, and we
24 are submitting the request. They're sent. They're evaluated, and it
25 takes time. Much longer maybe than one would expect and one would like,

1 but it is taking time.

2 So this is why at the same time, your Honour, we're again
3 re-evaluating these documents. We'll be sitting down with the Defence
4 trying to have a comprehensive approach to what is important to them, to
5 make sure that we're not asking lifting of documents just to request
6 lifting of documents which then again is cumbersome in terms of sending
7 the requests, having the party analyse these requests and then having to
8 do what they have to do before it is sent back to us.

9 There has not been any additional documents lifted. In total
10 right now at the moment what we have are seven documents. That's --
11 that's, unfortunately, the state of affairs.

12 So in response also, your Honour, to your request of the 21st,
13 your request according to the calendar, the 21st of May, the requests
14 have been sent. We're now waiting for an answer. But what we're doing
15 also at the same time is verifying information that has been requested
16 for lifting and hasn't been disclosed, the information or the same
17 information disclosed already in another form, and we will be able to
18 maybe make a report on this.

19 But one thing I can assure you is that the Prosecution, we file
20 our -- we filed our criteria, and one of them which maybe should not be
21 on the list at all is, you know, peace agreements, and depending on when
22 these peace agreements or discussions took place, and all of them took
23 place -- the first one starting in March, really, 2003, but mostly at the
24 end of 2003. So are these really potentially exonerating documents. I
25 think we've been too generous. The Prosecution has been too generous.

1 And because of that now, of course when providing numbers and indicating
2 that these things, it's going at a slow pace and so on, but in the end we
3 don't think really these documents should be on that list, and this is
4 why we're reviewing again our list, and the numbers may be coming down
5 dramatically because of the time period and the type of documents that
6 we've been requesting lifting.

7 So this is why I think the best approach is to sit down with the
8 Defence counsels and to -- to work something out, because again these
9 documents, and the Prosecution is not relying on any UN documents apart
10 from three. I mean, these documents were not even used during
11 investigation. They were already on file. And of course always used for
12 lead purposes in the case of Germain Katanga and Mathieu Ngudjolo. So
13 this is the state of affairs in relation to 54(3) documents, your Honour.
14 So I can tell you right now up front, we cannot expect that by the 21st
15 the lifting will have been granted, or a decision granting or not
16 lifting, will be obtained prior to the 21st or on that day.

17 SINGLE JUDGE STEINER: The Prosecution can make it sure, at
18 least, that the requests were made because as I mentioned in the third
19 report, requests were about to be sent for the lifting. So I hope that
20 they have been sent.

21 MR. MacDONALD: Yes, they have been sent, your Honour, and
22 definitely they are being sent, and it is being done for sure.

23 SINGLE JUDGE STEINER: So before we go further in the agenda, I
24 would like just to recall both Defences that as soon as the Prosecution
25 disclose any kind of documents with redactions, the Defence have -- has

1 15 days to request, if necessary, the lifting of the redactions. And if
2 they consider this document necessary for the preparation of the
3 Confirmation Hearing. And also to remind the Defences that they have
4 until 2nd of June, 2008, to file any redaction -- requests for redactions
5 in documents the Defence intends to rely at the Confirmation Hearing.

6 I would like for the Defence of Mr. Katanga and Mr. Ngudjolo Chui
7 to ask if you have any comment or raise any issue in relation to this
8 disclosure process and with the reports made by the Prosecution or any
9 other issues related specifically to disclosure process.

10 First Mr. Hooper, please.

11 MR. HOOPER: No, I haven't, except perhaps on a side issue and
12 that is when statements were originally disclosed to us they came in .pdf
13 or .tif format, but they also came with plain text version which enabled
14 us to cut and paste and use it, and it would be helpful in preparing in
15 these matters if when we're served documents we could be provide with the
16 redacted document, which clearly the Prosecution have themselves have
17 worked on, in plain text. It would certainly assist us. And I know in
18 the past Mr. MacDonald has been good enough provide us with -- with some
19 of these matters. And it would help certainly help my learned friend as
20 well, I'm sure, Mr. Kilenda.

21 SINGLE JUDGE STEINER: How generous is the Prosecution in
22 relation to this request?

23 MR. MacDONALD: Listen, the only thing I can say is we'll look
24 into the matter, but I know that because redactions are made within
25 Ringtail and then the system generates a .pdf format that cannot be then

1 modified. I don't know if we can do a plain text at the same time. I
2 know it -- I think it's the first DVD of disclosure, for some reason we
3 had provided some material in a different format to accommodate, I think,
4 at that stage, but according to the way it's being disclosed in Ringtail
5 in the e-court coming with the metadata, I don't think it is possible to
6 have a plain text at the same time, but I'll verify, and if it's possible
7 and it's not cumbersome we will try to accommodate the possibility for
8 that, because the purpose of a .pdf is -- it's an image of a document and
9 it cannot then -- but you can cut and paste from a .pdf document, if
10 that's the purpose.

11 MR. HOOPER: Well, some of us have some difficulties with that
12 because you'll be working often between two systems, and I've heard that
13 there's a way of converting .pdf into Word but I haven't discovered it
14 yet and I was just hopeful that the Prosecution would revert to their
15 earlier generosity, but if there's difficulties I understand them and
16 Mr. MacDonald and I can raise this perhaps later, discuss it later.

17 SINGLE JUDGE STEINER: Maybe I could suggest to the Registry that
18 in -- maybe in contact with the Defence teams and Office of Public
19 Counsel for the Defence to see if there is a possibility of providing
20 Defence teams with what is called a plain copy. I must confess that I'm
21 not specialist on this, but maybe the Registry could at least check on
22 the possibility, a technical possibility of this tool for the Defence.

23 MR. DUBUISSON (interpretation): Your Honour, I think that
24 Mr. Hooper has given us an answer. The Prosecutor provides documents in
25 .pdf format. There are systems which allow .pdf to be converted into

1 text, but the text needs to be reworked afterwards, post-edited. So
2 there is a system for conversion but the output is not a perfect 100 per
3 cent rendering in Word which would make it possible for copying and
4 pasting and searches, of course.

5 It would be up to the originator of the document, the Prosecutor
6 in the instant case, to perhaps offer some sort of solution. The
7 Registry can look into the technical conversion programmes, of course,
8 which can offer a reasonable result.

9 SINGLE JUDGE STEINER: Something to add, Mr. Hooper?

10 MR. HOOPER: Thank you.

11 SINGLE JUDGE STEINER: Mr. Kilenda.

12 MR. KILENDA (interpretation): Thank you, Your Honour. On the
13 topic of redactions, our team feels that they should make written
14 submissions within a reasonable period of time.

15 Turning to the various questions which you have just raised and
16 on which the Prosecution has adopted a position, we are very mindful of
17 the schedule which you have set. In due course we propose to make our
18 observations. At this point in time we have no further comments to make.

19 SINGLE JUDGE STEINER: Thank you very much.

20 Now the issue of interpretation. In the decision on the Defence
21 request concerning time limits issued by the Single Judge on the 27th
22 February 2008, the Single Judge decided that the Registrar should make
23 permanently available to Mr. Ngudjolo Chui, and free of any cost, a
24 French interpreter to assist him for the purpose of the Confirmation
25 Hearing with documents of the case which are only available in English.

1 The filing of 7th May, 2008, Mr. Kilenda made a reference to
2 certain problems with the services given by the French interpreter. For
3 instance -- and indicated that the Defence strongly opposes that
4 interpreter meets only Mr. Ngudjolo Chui without his counsel being
5 present and gives him a translation orally of the documents. The
6 interpreter made available to Mr. Ngudjolo Chui is in fact ineffective as
7 well as impracticable in the modalities provided for in the said decision
8 are unsatisfactory.

9 I would like the Defence for Mr. Ngudjolo Chui to -- first to
10 update the Chamber, the Single Judge, on the status of the services of
11 the French interpretation provided to Mr. Ngudjolo Chui if the problems
12 pointed out in its filing still remain, and then I would like to listen
13 from the Registry if the Registry has any observations on this point.

14 Maitre Kilenda.

15 MR. KILENDA (interpretation): Thank you, Your Honour. It is
16 right that on the 27th of February you took a decision granting an
17 interpreter to our client. Since then our client has continued to
18 receive decisions written in English. English is not the language which
19 he chose for the purpose of these proceedings.

20 We have the impression that to date his right to use a working
21 language of his choice has not been fully respected. According to your
22 decision of the 27th of February, 2008, certain measures should have been
23 implemented. The following -- our team has been informed of the
24 following: "Please note that when Mr. Ngudjolo wishes to have a document
25 notified to him, he may request -- make a request to the personnel of the

1 detention centre who will transmit his request to the interpretation
2 services of the court. Those services will then agree upon a time at
3 which the interpreter can visit the detention centre to meet with
4 Mr. Ngudjolo and to provide the interpretation service required.

5 "Please also note that notice of 24 hours is required in advance
6 to arrange for the transport of the interpreter."

7 Our team feels that this means of implementing your decision of
8 the 27th of February, 2008, is not in the interest of the Defence, number
9 one. All documents need to be notified automatically to him. Also, we
10 do not see why the interpreter would meet our client alone. We are
11 responsible for managing the case, and it is the task of a lawyer to
12 provide the technical interpretation of the documents provided to him.
13 The basic texts of the court clearly indicate that this is not a task
14 which falls to an interpreter.

15 It is for these reasons that we filed our application of the 7th
16 of May, 2008, the application to which you referred earlier.

17 Has progress been made? We think not. We continue to receive
18 filings in English. Yesterday at 5.00, 6.00 in the evening we received a
19 filing of 62 pages in English. I must admit this is becoming rather
20 onerous for our team. I must admit that this is becoming rather onerous
21 for our team. I am the permanent counsel of my client, and I was
22 included in the list of counsel of the court on the basis of my knowledge
23 of the French language. When I make my application, I stated that I had
24 a fair knowledge of English.

25 The fact that translations of decisions are being provided to us

1 rather belatedly further weighs down the burden of work of our team. My
2 legal assistant and my case manager are already submerged with work. If
3 they have to translate documents that are 62 pages long or 58 pages long,
4 as we had recently, this could certainly trammel our work as counsel of
5 my client. This is why we made our application dated 7th of May, 2008.

6 We would like to see the Chamber set a practice that would take
7 the form of all decisions in both English and French. We wish to receive
8 all documents automatically in our working language which would allow us
9 to better advise our client and to make the necessary follow-up and steps
10 of an administrative and judicial nature.

11 Whence our application of the 7th of May, 2008, which is before
12 you, your Honour, and to which we hope to have an appropriate response.
13 So in conclusion we have seen no progress on this front. Our client has
14 informed us that two weeks ago he began to take English lessons, but I
15 don't think that he will have had sufficient time in this short period to
16 master the English language to a level required for these proceedings.

17 I as counsel have as my working language French, would therefore
18 would require that the translations required under the Statute, the Rules
19 of Procedure and Evidence, and the jurisprudence of other International
20 Tribunals and courts be adhered to.

21 SINGLE JUDGE STEINER: Thank you very much. I suppose the
22 Prosecution would take its time to file it's observation on the issue or
23 would the Prosecution be prepared to make oral observations on the
24 request made by the Defence?

25 MR. MacDONALD: The Prosecution would prefer to make specific

1 observation in writing with -- and addressing any specific questions the
2 Single Judge may have, because the way it is now formulated it's quite a
3 wide request, and I don't know if there may be more specific questions
4 that the Single Judge would prefer the Prosecution to answer. So we're
5 willing to do that.

6 Of course we took note of the submission of Mr. Kilenda two weeks
7 ago or a week ago, but we had not -- we actually were waiting this
8 hearing to see what would be the Single Judge's position on this matter,
9 but, yeah, we can make submissions if requested by your Honour.

10 SINGLE JUDGE STEINER: Has the Registry anything else to add to
11 this issue before Single Judge is able to issue its decision?

12 MR. DUBUISSON (interpretation): Thank you, your Honour. We are
13 speaking here of a decision to deploy an interpreter to translate
14 documents for Mr. Mathieu Ngudjolo Chui. What I am hearing today is that
15 there is a question not for interpretation but translation of all
16 documents, not just for Mr. Mathieu Ngudjolo Chui but also for the
17 Defence team, his counsel.

18 So initially we're speaking of a practical issue regarding a
19 person in detention, and now we are speaking about translation of all
20 documents for the Defence team. So from a very specific issue which was
21 addressed we have moved to a very general issue for which there's a great
22 deal of jurisprudence at the ad hoc tribunals in both directions.

23 The Regulations of the Court, Regulation 40, 40(3), says that all
24 orders and decisions must be translated. Of course we will always
25 respond to any specific order given by a Chamber or a Judge.

1 As regards the modalities of implementation, you are aware of the
2 manpower of the Registry and the number of interpreters who are available
3 to us. It is important of course that we have notice so that an
4 interpreter based in this building can travel to the detention centre to
5 do the necessary work.

6 Yes, indeed speaking of interpreters, I really should slow down.

7 It's important that the interpreter be able to prepare and study
8 the documents which are to be interpreted once the importance of these
9 modalities for the implementation of such a service.

10 Translation of all documents. Well, today we translate all
11 decisions and all orders. Again, a certain amount of time must be
12 allowed for translation. We have a certain number of translators. The
13 capacity for translation is easy to calculate. We have approximately ten
14 translators at the court, and their capacity is to translate five pages
15 each per day. So it's easy to calculate of what can be done.

16 Of course we can address specific requests which are made and
17 provide specific solutions in a certain framework. However, it is not up
18 to the Registry to take any decisions of a more general nature. These
19 fall to the Chamber.

20 So as regards my services, we can review the situation and review
21 the modalities for implementation of the decision previously taken by the
22 Single Judge.

23 As regards other issues which have been raised, for instance that
24 a deadline for responding to a document will begin to run from the date
25 at which the translation is notified to the counsel, that is an issue

1 which can only be addressed by the Chamber based on their upcoming
2 decision.

3 SINGLE JUDGE STEINER: As a matter of fact, I have some few other
4 issues, but we should now suspend this hearing. I would like -- I would
5 like to ask our interpreters if they would be able to stay for maybe ten
6 more minutes. Then we have a break, half an hour break, and some back in
7 closed session.

8 THE INTERPRETER: Yes, your Honour. Yes, your Honour.

9 SINGLE JUDGE STEINER: Thank you very much. As always, we can
10 always count on our interpreters.

11 So the last issue of the -- this day agenda, this issue on
12 protection of witnesses 132, 238, and 287, and of course this is a
13 confidential issue that cannot be discussed in a public hearing, but
14 since the decision issued by this Chamber dated on 18 April 2008 and
15 since then the Chamber has not received any information, update, or
16 report from Victims and Witnesses Unit or the Registrar on the protective
17 measures afforded to these witnesses, I would like to ask the Registry to
18 file by Monday, 19th May, 2008, at 4.00 a complete report of VWU on the
19 protective measures afforded to these three witnesses.

20 Another point is that the Single Judge issued yesterday a
21 decision on the set of procedural rights attached to the procedural
22 status of victims at the pre-trial stage of this case. It's decision
23 number 474. In this decision the Single Judge defined the role of those
24 granted the procedural status of victims in the present case are to play
25 in the remaining proceedings leading to the Confirmation Hearing as well

1 as at the Confirmation Hearing.

2 The Single Judge considers that if the participants, especially
3 the parties and the legal representatives of victims have any questions
4 as to the system put in place by the Single Judge, that this could be the
5 moment to raise some issues for -- of course for further decision or
6 future decision. But anyway, I would like to recall that the decision
7 itself gave the Prosecution and both Defence teams and the Registry to
8 next Tuesday, 20th of May, to request any limitation that they deem
9 necessary to the set of procedural rights granted to victims in
10 yesterday's decision.

11 So just if something other than these possible limitations the
12 parties would like to raise in this Status Conference, I would like to
13 give the floor first to Prosecution, then to both Defence teams, and then
14 finally to Legal Representatives of Victims, and I would ask all parties
15 and participants to be very brief since the interpreters are giving us an
16 extra 10, 15 minutes time for this part of the Status Conference.

17 Mr. MacDonald.

18 MR. HOOPER: Could I just interpose to say that the transcript
19 has lost the significant word in the English version of the sentence.
20 I'd like to recall that the decision itself gave the Prosecution,
21 Defence, Registry, until next Tuesday, 20th of May to request any, and
22 then there's a blank.

23 SINGLE JUDGE STEINER: If Prosecution or Defence wants to suggest
24 or to request any limitations to the set of procedural rights granted to
25 victims with the reasons for requesting such limitations. This is the

1 deadline.

2 MR. MacDONALD: At this stage, your Honour, we don't have any
3 questions. We're still taking notice of the decision as received
4 yesterday and analysing its impact. We will be reviewing the disclosed
5 documents to verify as requested for the 20th if there are some that,
6 depending on the type of redactions or not, can or should be made
7 accessible.

8 We'll go one by one and review all of these documents, but at
9 this stage whatever's been disclosed to the Defence most probably we'll
10 be able to disclose to the victim participants.

11 SINGLE JUDGE STEINER: Mr. Hooper.

12 MR. HOOPER: Yes. I've managed to read it. It was a jolly good
13 read, but I haven't yet come to any serious conclusion about whether
14 there's any matters there that we'd need to raise at the present. Thank
15 you.

16 SINGLE JUDGE STEINER: Thank you very much. Mr. -- Maitre
17 Kilenda.

18 MR. KILENDA (interpretation): Thank you, Your Honour. We
19 received the decision yesterday. We are doing our best to analyse it.
20 Rest assured that we shall respect the time limits you have set, and if
21 we have any requests or motions to file, we shall do so within the time.

22 SINGLE JUDGE STEINER: Thank you very much. Any observations of
23 the Registry on this issue?

24 MR. DUBUISSON (interpretation): No thank you, your Honour.

25 SINGLE JUDGE STEINER: Thank you very much. So now I would like

1 to turn to Madam Carine Bapita to give for the first time the floor for
2 the Legal Representative of Victims. You have the floor.

3 MS. BAPITA (interpretation): Thank you, your Honour. For the
4 time being at this stage in the proceedings we have no questions to put.
5 We were pleasantly surprised yesterday evening to learn of the contents
6 of this decision rendered by the Judge. We are perusing the decision,
7 and we shall wait for the date of the 20th of May to provide a reaction
8 to -- or obtain the reaction of the parties so that we may put any
9 questions or concerns that we may have. For the time being we shall wait
10 for the parties to respond on the 20th of May. Thank you.

11 SINGLE JUDGE STEINER: (Previous translation continues) ...

12 MR. KETA (interpretation): Thank you, Your Honour. I fall in
13 line with what my colleague Carine has said. So we shall wait for the
14 time -- or the date of the 20th of May to see whether we are going to
15 make any further observations. Thank you.

16 SINGLE JUDGE STEINER: Thank you. Madam Massidda would like to
17 add something?

18 MS. MASSIDDA: No thank you, your Honour.

19 SINGLE JUDGE STEINER: So I would like to ask whether the
20 Prosecution or any of the Defence teams have any other issue to be dealt
21 with in this public part of the hearing?

22 MR. MacDONALD: There is maybe one issue, your Honour, very
23 briefly. I understand at the moment, and this is something that we can
24 revisit on the 2nd of June, I think it's the 2nd of --

25 SINGLE JUDGE STEINER: 3rd of June.

1 MR. MacDONALD: 3rd of June. The date right now is for the 27th,
2 but there is no terms of calendar in terms of after - let's say we start
3 on the 27th - the following days, what would be the calendar so that the
4 parties can obviously plan ahead as you might understand. But I can just
5 maybe briefly state that the Prosecution is reviewing in light of your
6 decision on witness protection and the comments made on the evidentiary
7 burden of the Prosecution at the confirmation to limit its presentation
8 to the utmost relevant documents, even though those documents may be of
9 247 at the moment.

10 The Prosecution in its presentation would rely on the core
11 evidence necessary for confirmation. And -- anyway, it's something that
12 we can revisit on the 3rd of June, but I think it's definitely something
13 we should also discuss is the presentation itself, because the
14 Prosecution is of the view at the moment that we can maybe depart and
15 adopt a different approach which was the presentation of the case as in
16 Lubanga and not maybe go into as many details, but maybe make a -- more
17 of a general presentation considering that all the documents are already
18 in the e-court and will be accessible to all the parties and participants
19 including the court beforehand, and obviously after. So that being said
20 it's something we can revisit on the 2nd, but definitely in preparation
21 for this -- sorry, 3rd of June, to have an idea of the calendar and how
22 many days will be necessary for this confirmation and so on.

23 Another issue also is of -- maybe of a -- that we have in mind
24 are the deadlines for the 23rd and 24th of June as indicated, your
25 Honour. These are the minimal delays according to the Statute for

1 important issues such as admissibility and so on, so we were wondering if
2 it may be possible to have these issues at least identified, maybe not
3 the submissions themselves but identified before that so that at least
4 the parties have some time to prepare themselves in relation to this,
5 because receiving, for instance, an admissibility challenge on the 23rd
6 of June and we have to debate that issue the 27th that leaves four days.
7 It's a pretty, I would say, short delay, your Honour.

8 So this is why I there -- it's something that we can discuss on
9 the 2nd, but the Prosecution was thinking that maybe at least a week
10 prior to that, at least the issues can be identified, and then a calendar
11 for the actual submissions maybe in respect of the 23rd and 24th of June,
12 but at least that the issues are identified beforehand.

13 SINGLE JUDGE STEINER: Thank you for the Prosecution. Just to
14 inform that it's the intention of the Chamber to held a Status Conference
15 in the presence of the Presiding Judge who will be in charge of
16 establishing the calendar for the Confirmation Hearing itself, not only
17 dates but time allocated to each of the parties and participants and that
18 will be probably part of the 3rd June Status Conference.

19 Any other issues to be raised, the Defences would like to raise?

20 MR. HOOPER: I have nothing to add. Thank you.

21 MR. KILENDA (interpretation): Nothing to add.

22 SINGLE JUDGE STEINER: I would like to thank very much for the
23 representatives of the Prosecution, both Defence teams. I would like to
24 again welcome Mr. Germain Katanga and Mr. Mathieu Ngudjolo Chui to the
25 audience, thank you to the representatives of the Registry who gave an

1 important contribution to some issues discussed during this hearing.

2 I would like to welcome once again the Legal Representatives of
3 Victims for the Status Conference since now and as stated in yesterday's
4 decision the Legal Representatives start participating effectively of
5 the -- all proceedings of this case leading to and during the
6 Confirmation Hearing. So very welcome.

7 I will adjourn now this Status Conference, and I would ask the
8 Court Officer during the half an hour break to turn this to a closed
9 session to be held ex parte with legal -- the Defence team of Mr. Germain
10 Katanga.

11 So this Status Conference is adjourned, and in 30 minutes the
12 Single Judge will have an expert hearing in closed session with the
13 Defence of Mr. Monsieur Germain Katanga. Thank you very much.

14 COURT USHER: All rise.

15 The hearing ends at 3.44 p.m.

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