

1 International Criminal Court - Pre-Trial Chamber III
2 Situation Central African Republic, Case ICC-01/05-01/08
3 Status Conference - Closed Session
4 Pursuant to Decision ICC-01/05-01/08-528, this transcript including
5 redactions is re-classified as public redacted.

6 Wednesday, 22 October 2008 - The hearing starts at 10.03 a.m.

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

9 JUDGE DIARRA (interpretation): Please could you bring
10 Mr. Jean-Pierre Bemba in.

11 Can the interpreters hear me? Yes, it's working. Thank you. We
12 ask Mr. Jean-Pierre Bemba to come in.

13 (Mr. Bemba enters courtroom)

14 JUDGE DIARRA (interpretation): Hello. So we are going to ask
15 the Office of the Prosecutor to introduce their team, please.

16 MS. KNEUER: Thank you, Madam President, your Honours. The team
17 of the OTP is today represented by Ibrahim Yillah, Trial Attorney;
18 Cynthia Tai, Trial Attorney; Frederique Besse, Case Manager; and myself,
19 Petra Kneuer, Senior Trial Lawyer. Thank you.

20 JUDGE DIARRA (interpretation): Thank you.

21 Could the Defence please introduce their team.

22 MR. VAN DER SPOEL: Good morning, Madam President, your Honours.
23 Firstly --

24 JUDGE DIARRA (interpretation): I can't hear the translation.

25 What is happening? Can the booth please speak? Could the booth please

1 talk. It's working now. I'm sorry. Could you please continue.

2 MR. VAN DER SPOEL: Thank you, your Honours. Firstly, I would
3 like to say that Mr. Nkwebe asks to be excused for not appearing due to
4 other obligations in Africa. I would like to present associate counsel
5 Maitre Aime Kilolo; Virginia Lindsay, Case Manager -- sorry, Legal
6 Assistant; and Jean-Jacques Kabongo, Case Manager. I, myself, am Tjarda
7 Van der Spoel, temporary associate counsel. Thank you.

8 JUDGE DIARRA (interpretation): Thank you.

9 Registry, please, could you introduce your team.

10 MR. DUBUISSON (interpretation): Thank you, President. In the
11 Registry team I have Janet Keddie, responsible for information services,
12 responsible for the administration of the electronic court; and
13 Carline Ameeralli, who is responsible for the section of court management;
14 and myself, Marc Dubuisson, to represent the Registrar.

15 JUDGE DIARRA (interpretation): Thank you very much. And welcome
16 to this status conference.

17 I would first like to greet Mr. Jean-Pierre Bemba. Is everything
18 okay since we met last time?

19 MR. BEMBA (interpretation): Yes, everything is well. We have to
20 try and keep our spirits high.

21 JUDGE DIARRA (interpretation): Thank you. Please be seated.

22 As you know, on 17 October 2008, the Chamber decided to postpone
23 the Confirmation of Charges Hearing. It gave the reasons for its
24 decision. We took the inconsistencies highlighted by the Chamber into
25 account and we wanted to ensure that the Defence has adequate time and

1 facilities to prepare, as provided under Article 67 of the Rome Statute.

2 To check that we all have the same understanding of the situation
3 the Chamber and parties are currently in, we would like to recall
4 paragraphs 19 to 24 of the decision on the postponement of the
5 Confirmation Hearing, as well as the following problems:

6 First, part of the evidence which the Prosecutor intends to rely
7 at the Confirmation Hearing has not yet -- cannot yet be accessed by the
8 Defence, including 12 witness statements.

9 Two, the time-line set by the Chamber on 31 July 2008 on evidence
10 disclosure has not been complied with entirely by the Prosecution, as the
11 Prosecutor filed an application for redactions on 31 July 2008, which is
12 after the deadline set by the Chamber in its decision of 31 July 2008.

13 So the Prosecutor, on two occasions, put himself in a position in
14 which it was physically impossible for him to disclose statements of
15 several additional witnesses in redacted form on time to the Defence, and
16 the Prosecutor included some of the additional witnesses in both lists of
17 evidence respectively with the detailed description of the charges and
18 the amended detail description of charges without giving their name and
19 without even waiting for the Chamber's decision on the Prosecutor's
20 applications for redactions of 30 September and 17 October 2008.

21 Moreover, the Chamber wishes to recall that this status
22 conference was convened following the Defence's request at the last
23 status conference to convene a hearing to deal with ongoing issues. When
24 the Defence requested this status conference, it had requested for it to
25 be ex parte, without the other parties being present; however, due to the

1 importance of the subject matter, we deemed it important to have everyone
2 here, so we only partially acceded to your application, your request, and
3 we ask for your understanding in this.

4 The Chamber has a detailed agenda. It intends to review the
5 evidence disclosure procedure, look into the time and facilities needed
6 for the preparation of the defence, the parties' observations or
7 proposals concerning a new date and the organisation of a Confirmation
8 Hearing, and in particular, the time needed by the parties for their
9 statements and miscellaneous issues the parties wish to raise in view of
10 the upcoming conference hearing.

11 So before we go into the various items one by one, I would like
12 to underline that if one of the participant's responses to our questions
13 leads to a comment by another participant, please make it known to the
14 Judges and we will deal with it immediately. Basically, you will be
15 entitled to ask your questions when the Judges of the Chamber believe
16 they are relevant.

17 So I would like to start with the evidence disclosure procedure.
18 But to begin with, and for future reference as regards evidence
19 disclosure, the Chamber would like any reference to evidence exchanged
20 between the parties to be referred to by the EVD number given by the
21 Registry for each piece of evidence and not by referring to the CAR
22 number given by the Prosecutor.

23 Now, after those introductory remarks and preliminary remarks, we
24 would like to turn to the Office of the Prosecutor for answers to some of
25 our concerns.

1 Now, first question to the Office of the Prosecutor: We would
2 like to insist on the disclosure of a particular piece of evidence. The
3 Chamber noted that annex D3 of document 114, an annex of 11 pages which
4 corresponds to an annex of Witness 0029's statement is not in the
5 Registry's Ringtail software, which is accessible to the Chamber. Only
6 Exhibit 8 was transmitted to the Defence, that is, one out of 11 pages
7 only. Is that correct? Is there a specific reason for only disclosing
8 one page of that annex D3 which comprises 11 pages? You have the floor,
9 please, Prosecution.

10 MS. KNEUER: Madam President, your Honours, Mr. Yillah will
11 present today the OTP submissions related to disclosure.

12 MR. YILLAH: Madam President, your Honours, regarding the
13 specific annex for which you have raised the question, the Prosecution
14 recalls making full disclosure through the Registry regarding annex D3
15 that you have pointed out. The issue that you may have raised may have
16 occurred because of technical reasons which could properly be explained
17 by the technical people, because we have received all complaints that we
18 have received from the Defence regarding disclosures which we have made
19 for which they do not have access because of the viewer system in
20 Ringtail or other technical reasons have been resolved. And all concerns
21 that have been expressed as well after disclosure by the Registry
22 technicians who are dealing -- who are uploading these disclosed
23 materials in the Ringtail system have also been resolved. That -- that
24 as far as the Prosecution is aware, all matters, all complaints regarding
25 technicalities regarding -- in respect of disclosed materials have been

1 resolved. Thank you, your Honour.

2 JUDGE DIARRA (interpretation): Thank you. This leads me to
3 another concern.

4 (The Pre-Trial Chamber confers)

5 JUDGE DIARRA (interpretation): This Bench is not satisfied with
6 your answer concerning the specific annex. I would like to hand the
7 floor to Judge Kaul to give you clarifications on what he is thinking.

8 JUDGE KAUL: Well, the Prosecutor has essentially said that all
9 technical problems regarding the disclosure of evidence have been solved.
10 The Prosecutor, to the understanding of this Judge, has not - has not -
11 answered the specific question regarding the annex D3 and the missing
12 pages, and if the Prosecutor would be kind to answer this question more
13 precisely, this would be appreciated. If there is no possibility to
14 answer this question now, the Prosecutor may say so and we then will take
15 this into account.

16 MR. YILLAH: Madam President, your Honours, the Prosecution again
17 reiterates its position that we have fully disclosed, in accordance with
18 the decisions that the Chamber has issued. Now, what happens in
19 practical terms is that when we disclose, the Registry would come back to
20 us with a question saying, We cannot upload document annex D2, and then
21 our KBU, our knowledge-base people would liaise with the Registry and set
22 up a viewer system or whatever technicality is required to allow such a
23 system to be uploaded. It is the first time that the Prosecution has had
24 a complaint in respect of annex D3. We have not had this complaint
25 before. But quite honestly, your Honour, this is a very honest answer

1 that the Prosecution can give you, that we have disclosed. If there are
2 technical questions, normally the Defence or the Registry would get back
3 to us, saying, We cannot view this document, we cannot upload this
4 document, and then we'll send our technical people there to resolve it.
5 That's how it works. But this is a very honest position that the
6 Prosecution can give.

7 JUDGE DIARRA (interpretation): Could the Defence give us more
8 details on the situation?

9 MR. VAN DER SPOEL: Yes, Madam President, the Defence sure can.
10 Every day is a challenge at the ICC, especially seeing all the technical
11 problems we are having as Defence counsel. We are very lucky to have a
12 very experienced case manager, Jean-Jacques, but even he has lots of
13 problems opening CD-ROMs and we have to communicate then again with the
14 Prosecutor.

15 At the moment we are in the process of exploring all the
16 disclosure material, so I do not have a specific remark on the Bench's
17 questions. Perhaps my case manager has -- does have one, but at the
18 moment I'm not aware of that problem. We are aware of many other
19 problems we are trying to solve, and perhaps this is a problem we will
20 encounter, too. Those are my remarks/observations. Thank you.

21 MR. KABONGO (interpretation): Thank you very much for the floor.

22 Concerning the issue of the disclosure of this annex in the
23 system, in the Defence we're currently looking into the problem of having
24 full access to the system. And as regards the series of problems we've
25 encountered, we have made or only made considerable progress on the 20th

1 of October. It's only on that date that all systems were fully working.
2 We're currently trying to check this document, which was uploaded by the
3 Registry technicians, to see whether we have access to it and to check
4 whether or not some elements are not accessible yet.

5 JUDGE DIARRA (interpretation): Thank you very much.

6 Could the Registry allow us to move on and get over the problems
7 raised by the Prosecution?

8 MR. DUBUISSON (interpretation): Well, on such a specific issue,
9 the access to a specific document annex D3, and considering the fact that
10 there are ten pages lacking, well, at present we can't confirm or assert
11 that contact took place. All we can say here is that indeed this was
12 highlighted. When there's a problem, parties get in touch with us and we
13 try to solve the problem. The broader issue we're facing just now is the
14 short time-line we have had to solve the problem, and this is due to the
15 fact that disclosure of this material only took place on the 1st and 3rd
16 of October, following your decisions, but we stated that we need a whole
17 day to put 250 documents into the system. We received approximately
18 2,000 documents but would need approximately eight working days; however,
19 we decided to work at the weekend to facilitate the judicial process. So
20 normally, on the 3rd, all documents were in the Registry's Ringtail
21 system.

22 But we should also now look into whether or not the Defence could
23 have access to the Registry's Ringtail and whether all parties had or --
24 and persons had accounts. Now, I can give you the detail of all the
25 information I received, if you so wish.

1 As regards the accounts for each member of the Defence team,
2 well, accounts were opened on the 30th of July for Mr. Kilolo and
3 Mr. Van der Spoel; and on the 7th of October, Mr. Nkwebe; and on the 8th
4 of October, to Jean-Jacques Mangenda; and 14 October, Madam Lindsay.
5 Now, that's in regard to accounts that were opened, and we're basing
6 ourselves here on the information given by the Defence unit which
7 supports the Defence team, to know whether or not these people are part
8 of the Defence team, because we first have to know whether or not the
9 people are members of the Defence team, we need the confirmation from the
10 Registry on this, and then according to the information received, we open
11 the necessary accounts.

12 The first access to the Registry's Ringtail was given on the 7th
13 of October to Mr. Van der Spoel and to Mr. Kilolo on 10 October. No
14 access has yet been given to Mr. Nkwebe, and for Madam Lindsay, it's the
15 20th of October.

16 Now, to give you more details and how much time it took for --
17 for giving access to the system, well, I don't think it's necessary to go
18 into this, but I just want to highlight that between the 16 and 20
19 October we didn't have much time to ensure that all the documents were
20 there and, if necessary, solve the problems. So this is the situation
21 we're in just now. We needed time. And what we had put out on the table
22 is we needed eight working days. We didn't know how many documents we
23 would receive. The Prosecutor knew how many documents they were going to
24 give us. They could have anticipated on this, but the Prosecutor
25 fulfills their obligations according to their own interpretation.

1 However, we went as fast as we could. We couldn't anticipate the
2 fact we would receive so many documents. And we received the documents,
3 we put them on Ringtail, and then we transferred them to the Defence's
4 Ringtail, which is the part of the system which enables the Defence to
5 carry out its work and analysis, if necessary. So we transferred
6 information from the Registry's Ringtail to the Defence's Ringtail and
7 that happened on the 7th of October. But, by courtesy, the Prosecutor
8 gave the information already to the Defence so that they could put it on
9 the system. So that's the situation we are in.

10 Now, you decided not to grant an appeal on the disclosure
11 procedure, so you took a decision on appeals and the Prosecution,
12 therefore, knew where it stood as regards the deadline of the 4th of
13 October. As regards the support we can provide, we will provide support
14 when it is requested. If it is not requested correctly and in due time,
15 we cannot think for the other parties to think about what won't work
16 among the elements that they receive.

17 JUDGE DIARRA (interpretation): Thank you very much.

18 MR. KILOLO (interpretation): Thank you very much. I'm glad this
19 Prosecutor was asked by the Defence because it's a question of principle
20 about the burden of proof which falls upon the OTP. And the corollary of
21 this is that it has to transmit all the evidence that are part of
22 disclosure to the Defence and has to ensure that the material given by
23 the Prosecutor to the Defence is accessible, that the Defence has access
24 to it. This is an issue we'll probably have to come back to during this
25 hearing, but we are rather surprised that the Prosecutor does not ensure

1 that the Defence has access to the evidence which it is under obligation
2 to disclose to the Defence.

3 JUDGE DIARRA (interpretation): Thank you very much.

4 So now I would like to turn to the Office of the Prosecutor to
5 ask you to take the measures needed to ensure that the exhibits in D3,
6 annex D3 of document 114, with references *CAR-OTP-0010-0095 to CAR-OTP-
7 0010-0102, CAR-OTP-0010-104 and CAR-OTP-0010-105, are disclosed properly.

8 The Registry is available to help you, and as the Defence team was unable
9 to tell us whether or not the documents concerned arrived on time,
10 please make sure yourselves that they were disclosed; and if this was not
11 done, please do so now.

12 As regards the analysis, the decision of 31 July 2008 on the
13 disclosure system required the Prosecutor to carry out an analysis of
14 both exculpatory and incriminating evidence. As regards exculpatory
15 evidence, Article 67 of the Statute, the Chamber notes that the
16 Prosecutor provided, through annex A of document 156 and annex A of
17 document 174, the analysis of the first 30 documents and two audio-visual
18 items. However, there is no analysis for the rest of the evidence,
19 especially the incriminating evidence and that disclosed pursuant to
20 Rule 77.

21 So I'd now like to move to the disclosure of incriminating
22 evidence, Article 61(3)(B) and 61(6) of the Statute. With documents 130,
23 139, 171, the Prosecutor provided the Defence incriminating evidence. To
24 date, only partial analysis of this incriminating evidence was carried
25 out by the Prosecutor. Moreover, annex A of document 130 provides an

1 analysis of incriminating evidence but was not disclosed to the Defence
2 as it is ex parte, Prosecution only. Can you confirm this?

3 MR. YILLAH: The Prosecution has -- the Prosecution would like to
4 state for the record that it has fully discharged its analysis, in-depth
5 analysis obligations, and the last set of analyses were filed yesterday
6 by the Prosecution regarding the last set of -- the last set of documents
7 that were disclosed as incriminating evidence.

8 Regarding -- coming back to the question specifically, the first
9 analysis that was done was in respect of ten witnesses and then
10 subsequent to that a status conference was convened in which the Chamber
11 clearly directed that it expected analysis, in-depth analysis, for all
12 items disclosed as incriminating evidence.

13 Now, the reason why -- the specific reason why the first set of
14 analysis, in-depth analysis charts was filed under seal, ex parte, was
15 clearly -- is clearly explained, because it contains analysis for
16 witnesses for whom the Chamber had granted protection. With respect to
17 all other disclosure of incriminating materials, the Prosecution submits
18 that it has, by close of business yesterday, concluded its in-depth
19 analysis for all other incriminating items disclosed to the Defence so
20 far.

21 Based on your -- on the Chamber's suggestion, the Prosecution may
22 proceed to submit or re-submit a redacted version of the first set of
23 in-depth analysis charts that was done because it contains information on
24 witnesses for whom the Chamber has granted protection, if the Chamber so
25 directs. Thanks.

1 JUDGE DIARRA (interpretation): Now, are you aware that out of
2 seven witnesses, seven witnesses out of the ten, you should have sent
3 analysis to the Defence in a redacted version. Are you aware of that?
4 Of the ten witnesses, are you aware that you should have disclosed to the
5 Defence the analysis for the seven witnesses, a redacted version, of
6 course.

7 MR. YILLAH: The decision on the evidence disclosure system
8 directs, in particular paragraphs 64 to 75, it requires the Prosecution
9 to provide one chart, one comprehensive chart, a summary chart, analysing
10 each item disclosed as incriminating evidence. As we pointed out at the
11 status conference -- at the last status conference, before the Chamber
12 gave a clear direction as to the fact that it expects analysis on all
13 items disclosed as incriminating evidence, we were of the opinion, we
14 submitted to the Chamber what our interpretation of "truly relevant
15 evidence" was, and the Chamber clarified this issue and directed us to --
16 to do an in-depth analysis for all items disclosed as incriminating
17 evidence.

18 Now, these ten materials were submitted before that status
19 conference, and because it was one comprehensive chart and there were
20 about four witnesses there, or three, for whom -- three witnesses for
21 whom the Chamber had granted protection, the Prosecution decided to file
22 it under seal, ex parte. And in the cover filing accompanying those
23 analysis charts, the Prosecution gave its justification as to why those
24 charts were filed under seal, ex parte, because they contain information
25 on witnesses for which -- for whom the Chamber has granted protection.

1 But we're still -- based on the Chamber's direction, the Prosecution can
2 submit a redacted version of those analysis charts soonest, possibly by
3 close of business today.

4 JUDGE DIARRA (interpretation): Judge Trendafilova has one
5 clarification to make to the OTP. Judge, you have the floor.

6 JUDGE TRENDAFILOVA: Thank you, Madam Presiding Judge.

7 I would like to make a very short clarification to the
8 Prosecutor. If the Prosecutor's Office would like to rely on any kind of
9 evidence, especially incriminatory, regardless of whether it is in a
10 redacted form or not, an analysis should be made and it should be
11 disclosed to the Defence, if you would like to rely. Because it is up to
12 you to choose your best incriminatory evidence. But as long as you have
13 taken a decision to rely on some pieces of incriminatory evidence, the
14 general approach should be followed - analysis linked to every contextual
15 element and disclosed in a redacted form, of course, to the Defence in
16 order for the Defence to be able to properly prepare for the Confirmation
17 Hearing. That was the clarification, thank you.

18 MR. YILLAH: The Office of the Prosecutor would like to,
19 following the direction and concerns that have been expressed by the
20 Chamber, to provide the first -- in respect of the first set of analyses
21 that was conducted for ten witnesses which have not been disclosed to the
22 Defence to disclose -- the Office of the Prosecutor would undertake to
23 disclose them in redacted form. But we'd also like to emphasise for the
24 record that in respect of all other items of incriminating evidence that
25 have been disclosed to date, we have complied in-depth analysis charts

1 for all those other items of incriminating evidence. The only
2 outstanding issue now is we have submitted for the Chamber's
3 consideration our in-depth analysis of those ten. But following your
4 directions and concerns, we will transmit a redacted version of those
5 in-depth analysis charts in respect of those ten witnesses who were
6 captured by the first set of analysis. Thank you.

7 JUDGE DIARRA (interpretation): I have one small question as
8 well. We have not understood the use of the last three witnesses who
9 have not been analysed, because you are supposed to have waited for a
10 decision of the Chamber on the redactions you requested for these three
11 witnesses. We are still talking about document 130. I am astonished to
12 find that these three witnesses are featured in a document, whereas the
13 Chamber has not yet made any determination on how they should be treated
14 or handled.

15 MS. TAI: Madam President, your Honours, if I can address that
16 particular point. The reason that the Office of the Prosecutor submitted
17 it in the fashion that it did was to comply with the 15-day deadline set
18 forth in Rule 121(5) requiring us to provide notice to the Defence as
19 well as your Honours of any amended charging document as well as a
20 corresponding list of evidence. If we would have waited, we would have
21 been in a situation where we would not have been able to provide due
22 notice to the Defence and to your Honours.

23 JUDGE DIARRA (interpretation): The three witnesses I am
24 referring to, let me say, the analysis was disclosed on the 30th of
25 September. That is more than 30 days before the time limit. In

1 practice, it's best to request for a postponement of proceedings while
2 respecting all the basic texts of the Court and the decisions of the
3 Chamber, rather than trying to stick to the deadline and by so doing
4 infringe many provisions.

5 MS. TAI: Your Honours, I believe that we're miscommunicating.
6 The witnesses that I was speaking about were the new witnesses that were
7 not known to the Prosecutor on the date that Madam President mentioned,
8 so I think that we are speaking about different people.

9 JUDGE DIARRA (interpretation): I'm talking about annex A of
10 document 130. Unfortunately, I cannot give the names of witnesses. We
11 are talking about the last three witnesses.

12 (Prosecution counsel confer)

13 JUDGE DIARRA (interpretation): I would like to tell the Office
14 of the Prosecutor that I am sure I am not confused with the documents.

15 MS. TAI: Madam President, I wasn't inferring that your Honour
16 was confused, I was referring more that we weren't speaking about the
17 same witness. My apologies.

18 However, with respect to the item your Honour is speaking about,
19 it's my -- the OTP's understanding that all that information was
20 disclosed, and if Mr. Yillah can further elaborate on that point.

21 MR. YILLAH: Your Honour, the Prosecution's attention has been
22 drawn to document number 130, and in particular annex A, as your Honour
23 has mentioned that. The analysis that was done was, as we explained at
24 the last status conference, the Prosecution's interpretation of "truly
25 relevant evidence" is because we did not provide any -- we did not find

1 any guidance. If I may go back, if I may reiterate what the Prosecution
2 submitted at the last status conference, we took only ten of what we
3 considered a sample of our truly relevant evidence and conducted an
4 analysis for them. Again, this analysis was only done under seal, ex
5 parte Prosecution and Chamber only. And then, after that, a status
6 conference was convened in which the Chamber gave a proper direction.

7 Yes, indeed, one of the -- there's reference to one individual,
8 name withheld for protection reasons, for whom an analysis was done. But
9 basically, the reason why such an individual was chosen as a sample for
10 the truly relevant evidence was because the Prosecution is not going
11 to -- it's not an identity of an individual that's going to be withheld
12 at the appropriate time, when disclosure is made.

13 But that is the position. I mean, when we are submitting a
14 confidential redacted version to the Defence, as your Honours have
15 pointed out today, of this annex A, there will be appropriate redactions
16 to be applied to these individuals. That's the Prosecution's submission.

17 But, again, the Prosecution would like, for the record, to
18 reiterate that with respect to communication to the Chamber, it has
19 fulfilled its obligation to provide in-depth analysis for all items of
20 evidence that have been disclosed to the Defence, with respect to the
21 Chamber. But with respect to the Defence, there is still an
22 outstanding -- I mean, annex A of document 130, the in-depth analysis,
23 you're right, your Honours, it has not yet been provided to the Defence.
24 But following your direction to this status conference, the Prosecution
25 undertakes to submit a redacted version of annex A, of course, deleting

1 references to the concerns that you have expressed, to the Defence by
2 close of business today.

3 JUDGE DIARRA (interpretation): Well, you have just anticipated
4 an oral decision that we're going to make. We count on you to disclose
5 to the Defence annex A of document 130 with the relevant redactions and
6 analysis.

7 We now come to the disclosure of evidence that is subject to
8 inspection, Rule 77 of the rules. Evidence disclosed under Rule 77, does
9 such evidence include objects, other than documents, books, photographs,
10 that might not have been communicated yet to the Defence?

11 MR. YILLAH: Yes, your Honour. Consistent with the previous
12 practice and consistent with Decision number 55 on the evidence
13 disclosure system, the Prosecution has proceeded to disclosing Rule 77
14 materials to the Defence in the form of normal disclosure. But, of
15 course, some of these items contain photographs of objects, you know,
16 that belong to the suspect. They are all contained in this Rule 77
17 disclosure package.

18 Now, the normal procedure, the normal disclosure procedure, is
19 for the Defence to view these materials that have been disclosed to them
20 and make a request to the Prosecution that in respect of these
21 photographs, these objects that have been photographed that you have
22 disclosed to us, we would like to conduct a physical inspection of them,
23 and then the Prosecution and the Defence can arrange with the Registry a
24 date convenient to all parties for a physical inspection to be carried
25 out. But in respect of all items which are objects, photographs of

1 objects, which are in possession of the Prosecution, the Prosecution has
2 disclosed them to the Defence.

3 Now, once the Defence conducts their analysis or have viewed
4 these photographs or objects and makes a request for a physical
5 inspection, the Prosecution is prepared at any time to grant them access
6 to inspect any object in our possession, your Honour.

7 JUDGE DIARRA (interpretation): So you are sure that you
8 disclosed to the Defence all objects, that is, under Rule 77?

9 MR. YILLAH: Your Honours, as the Prosecution has reiterated in
10 its submission a while ago, what the Prosecution has done is to -- we
11 have categorised, as indicated in Rule -- as stated by Rule 77, the
12 Prosecution has divided the documents and photographs of objects that it
13 has disclosed to the Defence under four categories.

14 One, it has disclosed NGO reports and other media reports which
15 are intended for use by the Prosecutor. Secondly, it has disclosed NGO
16 reports, statements, court documents, which are material to the
17 preparation of the defence. Thirdly, it has disclosed financial
18 documents which belong to the accused -- which belong to the suspect.
19 And finally, it has disclosed, in general terms, materials belonging to
20 the suspect. And in this category of materials belonging to the suspect,
21 photographs of objects, photographs of materials belonging to the suspect
22 have been disclosed under Rule 77.

23 Now, once the Defence receives these materials and makes a
24 request to the Prosecutor that, We would like, we would wish to make a
25 physical inspection of the suspect's objects in your possession, they

1 propose a date and time, the Prosecution would appoint -- you know, on an
2 appointed date and time, the Prosecution would give a special room where
3 this physical inspection can be conducted. But right now, the
4 Prosecution has disclosed photographs of all these objects to the
5 Defence. That is the Prosecution's submission.

6 JUDGE DIARRA (interpretation): And have you done an analysis of
7 all this evidence, of all these exhibits? Did you make an analysis on
8 all of that, on all of the objects disclosed?

9 MR. YILLAH: The Prosecution submitted at that last status
10 conference that because of the volume of documents disclosed under
11 Rule 77, the Prosecution is guided by the records of the last status
12 conference. The Prosecution submitted that the easier way to proceed,
13 having regard to the exigency of time, would be to group the items which
14 are disclosed under Rule 77 into four categories.

15 Again, at the risk of sounding repetitious. One, documents which
16 are intended for use by the Prosecutor. We have done a group analysis of
17 them and have given samples of what they contain - NGO reports, news
18 statements, and the like. Second, we have grouped documents intended for
19 use by the Prosecutor, and we have done analysis of those as well and
20 given samples of those NGO reports and newspaper items which are
21 favourable to the Prosecution's case. Thirdly, we have grouped financial
22 documents, which are the vast majority of what we disclosed. These are
23 documents that were taken from the premises and official businesses of
24 the suspect and which belong to him but which are financial documents.
25 And finally, we have other materials belonging to the suspect, as

1 stipulated under Rule 77. Now, in this category, the Prosecution has
2 given an example in the filing that they consist of objects, maps,
3 photographs, of items that belong to the suspect.

4 Now, the Prosecution has discharged its disclosure obligations
5 under Rule 77. It is also the Defence who knows better than the
6 Prosecution what belongs to them. Now, they have the materials in their
7 Defence. Now once the Defence, who knows better what belongs to them,
8 makes a request to the Prosecution regarding the photographs of all the
9 objects in our possession which we have disclosed, to have a physical
10 inspection of them at a particular date and time, the Prosecution -- the
11 Prosecution would appoint -- the Prosecution would be ready to oblige.
12 But so far, photographs of physical objects, the Prosecution
13 re-emphasises, photographs of physical objects which were obtained or
14 which belong to the suspect have been disclosed to the Defence. All of
15 them have been disclosed to the Defence.

16 Now the Defence has more knowledge than the Prosecution of what
17 belongs to the suspect. Once the Defence makes a request to the
18 Prosecution to have a physical inspection of these photographs that have
19 been disclosed, the Prosecution would be obliged at any time and moment.
20 That's the normal procedure that has been followed, your Honour.

21 JUDGE DIARRA (interpretation): Judge Trendafilova has a question
22 for the Office of the Prosecutor.

23 JUDGE TRENDAFILOVA: Actually, I have a comment to make. I think
24 that the representative of the Prosecution's office has explained a
25 practice that does not follow the provision of Rule 77 and the decision

1 on disclosure of the 31st of July.

2 Rule 77 obliges the Prosecutor to "permit the Defence to inspect
3 any books, documents, photographs, and other tangible objects ..." and so
4 on. In the operative part of our decision, in order 3 and 4, I shall
5 read them to you. Order 3 of the Chamber orders the Prosecutor "to
6 permit the Defence to inspect at a location agreed upon by them all
7 evidence under Rule 77 of the rules as soon as possible and no later than
8 the 3rd of October." And the next paragraph clarifies that only after
9 inspection, only after that, "the Prosecutor should submit to the
10 Registry electronic copies, electronic photographs in the case of
11 tangible objects, of such evidence subject to inspection in order to be
12 registered as evidence in the record of the case and to submit the
13 original form of the respected pieces of evidence to be stored in the
14 Registry's vault."

15 What you have explained to us gives the impression that you acted
16 vice versa. You submitted photographs, and what you have decided, to
17 reflect the actual books, tangible objects and so on, to the Defence. On
18 the basis of this review that the Defence made, you expect the Defence to
19 make an application to request the Prosecution's office to allow the
20 actual inspection of the objects themselves. And what the rule says and
21 what the decision of Pre-Trial Chamber III clarifies, first and foremost,
22 following the provisions of Rule 77, you should have allowed the Defence
23 to inspect these tangible objects and only after that you're supposed to
24 submit electronic copies and so on and the original evidence itself to
25 the Registry in order to be stored in the Registry's vault.

1 Pre-Trial Chamber III would like to have some clarification
2 because I listened very carefully to you, as my colleagues, and I think
3 the way you have conducted the disclosure is contrary to the law and
4 contrary to what we have ordered in our decision, and maybe you were
5 referring to some other experience that you had but not with regard to
6 the PTC III case that we are now dealing with. Thank you.

7 MR. YILLAH: Thank you, your Honour.

8 Your Honour, the Prosecution refers your Honour back to your
9 decision and in particular the orders that you have cited, order 3
10 contained in page 24 of your decision. Now, your Honour, the operative
11 word there is "permit." The Prosecution submits that the operative word
12 is "permit." "Orders the Prosecutor to permit the Defence to inspect."
13 Now, the Prosecution submits that the word for construction there is the
14 verb "permit." Now, what the Prosecution has done is file pre-inspection
15 reports. That's what we have filed with the Chamber, pre-inspection
16 reports, because the operative word there is "permit."

17 Now, in carrying out its disclosure obligations under Rule 77,
18 the Prosecution has disclosed items and objects belonging to the suspect
19 in the normal disclosure procedure. But each of these items, once
20 uploaded into the system, the Defence has access to them. Now, when we
21 make Rule 77 disclosure, we do a cover letter - this is the inter partes
22 process - the Prosecution does a cover letter to the Defence in which the
23 Prosecution states that these items are disclosed for inspection pursuant
24 to Rule 77, and the Defence has the opportunity, based on the cover
25 letter, to request -- and that's when the Prosecution permits, because

1 they have all the objects in their possession, the Defence, we have
2 disclosed to them. We tell them in a cover letter accompanying the
3 disclosure materials that these are items for inspection under Rule 77.
4 You have the opportunity to inspect these materials.

5 Now, once the -- the practice is once the -- once the Defence
6 requests that they want physical inspection, the Prosecution then permits
7 them to do that. I mean, at any time and moment, once it is up to the
8 Defence, they have all the photographs and materials in their possession.
9 They know these materials and photographs -- they know these materials
10 better than the Prosecution for the simple reason that they belong to the
11 suspect. Now they have an opportunity -- in our cover letter we always
12 make it explicitly clear that these are materials for inspection under
13 Rule 77. They are photographs, they are objects, and we give a
14 description of all of them in the list of disclosed materials. Once they
15 have uploaded it into the system and they inquire physical inspection,
16 then the Prosecution is obliged because that's the -- it's an obligation
17 under Rule 77 to grant them physical inspection.

18 The Prosecution would like to reiterate again for the record,
19 that it's not a question of past practice by other Chambers, which
20 clearly is significantly different from the disclosure decision of the
21 Chamber, but we are nevertheless bound by this -- by the decision of the
22 Chamber which we have to follow. That -- it is the law. At least it's
23 the law governing this procedure before this Court. But we have, the
24 Prosecution submits again for the record, that we do a letter informing
25 the Defence that these are materials for inspection under Rule 77, and

1 whenever we disclose to them, what we file is a pre-inspection report.

2 Now, once they conduct physical inspection, we will file a
3 post-inspection report as required by order 4 of your order. That's the
4 procedure that the Prosecution has been following to date.

5 JUDGE DIARRA (interpretation): Thank you very much. We take
6 note of the explanations you have just given us, and now we turn to the
7 Defence. We'd like to hear them on this, on Rule 77 and the items given
8 to you and the action in relation to this.

9 MR. VAN DER SPOEL: Thank you, Madam President.

10 I think I started answering one of your questions that every day
11 is a challenge at the ICC. We're struggling with this system. As you
12 know, the Prosecution should have disclosed on an ongoing way. One day
13 you get something, you look into it and you say, Okay, I see a
14 photograph. I do not know if it's a photograph that was in the
15 possession of Mr. Bemba. We would like to inspect that. But that's not
16 the way it went. We got a lot of disclosure. Half of the disclosure we
17 couldn't open, couldn't get into the system. We're struggling now to
18 explore everything. When the moment is there, of course, we will go to
19 the Prosecutor and ask the Prosecutor to inspect certain objects, but
20 we're not there at the moment, and that's the problem we're having at the
21 moment with this system.

22 Life could be made more easier, I think, if the Prosecutor would
23 disclose also in hard copies, that we could investigate it much more
24 quicker than through the electronic system. Because with other parts --
25 I see you nodding. It would be easier for the Defence. It would make it

1 easier for us also to inspect the items we want to inspect much quicker,
2 because another problem is a Defence team also has the defendant, of
3 course, and communicating with the defendant in the Detention Unit is
4 very, very difficult, especially in the electronic way. So if we have
5 doubt about a certain object, let's say a map or a photo, that allegedly
6 was in the possession of Mr. Bemba, we have to check that. We have to go
7 with that object to the Detention Unit. The electronic way isn't working
8 at the moment for the Defence. So what we do is, we make -- we print it
9 out, when our printer is working, by the way; today it isn't working. So
10 that's the way we do it, and that would be easier for us if the
11 Prosecutor, perhaps by way of courtesy, would also disclose in hard copy.
12 I hope this is an answer to your question, Madam President.

13 MR. KILOLO (interpretation): If I may, President.

14 JUDGE DIARRA (interpretation): I would like to, if I may, recall
15 that they should just be responses to specific questions. Please don't
16 use any occasion you have to talk about general principles and don't
17 hijack this for your general pleadings. We just want responses to
18 specific questions, and if your response is to a specific question, we
19 grant you the floor. But if you want to go into principles, please do so
20 at another time.

21 MR. KILOLO (interpretation): I just wanted to go into a specific
22 issue, the issue of documents in the Prosecutor's possession. For
23 instance, they have Mr. Bemba's -- one of his laptops and videos. But to
24 give us photographs of a laptop isn't really disclosure. What we're
25 interested in is the content of the hard drives which contain specific

1 information we really need for our defence. That's what I wanted to
2 underline.

3 JUDGE DIARRA (interpretation): We take note of that. Thank you.

4 Annexes B3 and B4 of document 156 purport to provide an analysis
5 of the documents belonging to Mr. Jean-Pierre Bemba and which fall under
6 the third category of evidence in Rule 77. However, the Prosecutor
7 mentions a global number of documents without carrying out a detailed
8 analysis of each document; for instance, 478 documents for annex B3 and
9 1,370 documents for annex B4. The Prosecutor must provide the Defence
10 with a detailed analysis and must provide the Defence with EVD numbers
11 given by the Registry for each document in the annexes instead of giving
12 the CAR number the Prosecutor gave the documents. The same applies to
13 annexes A1, A2, A3 of document 173. Do you agree with the above, with
14 what I have just mentioned, OTP?

15 MS. TAI: In a direct answer to your question, I would like to
16 clarify one thing to your Honours regarding disclosure of hard copy form
17 as well as disclosure of Rule 77 material, and that is to point out that
18 on October 3rd, I met with Ms. Lindsay personally, on the Defence team,
19 in the afternoon, provided her with all the Rule 77 materials. She
20 pointed out to me that she was having technical difficulties opening
21 them, displayed them to me, and I spent the rest of the afternoon
22 facilitating getting her the correct programme, if you can call it that,
23 so that she could view those materials. At the end of the day, at 5.48,
24 she e-mailed me to say that thank you, all of the things had been
25 resolved. So not only have we complied with giving her those specific --

1 giving them those specific items, but we have facilitated with the
2 provision of the technical hardware or software for those materials. And
3 it was our understanding that those problems had been resolved.

4 With respect to your Honour's specific question, I would ask my
5 colleague to respond.

6 JUDGE DIARRA (interpretation): Well, as you just referred to the
7 Defence's statements, I would like the Defence to take the floor to
8 respond to this and then move on to the question.

9 Yes, the floor is yours.

10 MS. LINDSAY: The e-mail that has been referred to specifically
11 states that we have managed to achieve access to all disclosure except
12 for the Rule 77 and that we were not attempting to verify that. And I
13 can produce the e-mail to show it, but we did not -- we have never tried
14 to verify all of the Rule 77 materials because we don't have any -- it's
15 so difficult from the CDs and we don't have -- only one of us has access
16 to Citrix and we can't print from the CDs and -- unless we go to an
17 outside copy shop at this point. But we made a very clear representation
18 that we were not verifying receipt of the Rule 77 materials.

19 JUDGE DIARRA (interpretation): We take note of that. Thank you.
20 The OTP has the floor now to answer my question.

21 MR. YILLAH: Your Honour, to answer your question specifically,
22 the Prosecution would refer to the last status conference in which it
23 reiterated that in order to proceed expeditiously it would group Rule 77
24 materials into four categories and make analysis based on those.

25 Now, your Honour, it's -- in practical terms, it's quite clear:

1 A photograph of a laptop is the laptop appearing on the computer. Now,
2 as I find it -- I find it contradicting between the submissions of
3 Defence counsel, as counsel, Mr. Van der Spoel has just submitted, once
4 they begin to look at the Rule 77 materials which have been disclosed to
5 them, they will make the request to the Prosecution. They will ask that
6 they want to inspect these materials and the Prosecution will definitely
7 make that available under -- pursuant to Rule 77, as Mr. Van der Spoel
8 has suggested.

9 Now, coming to your question, your Honour, we submitted at the
10 last status conference that because of the exigency of time and because
11 of the time limits imposed by the decision and the rules, the Prosecution
12 would proceed to do the Rule 77 in-depth analysis in groups. That's
13 what -- to the best of the Prosecution's recollection, that was our
14 submission to the Chamber. And we have, since the status conference,
15 conducted group analysis of Rule 77 materials. But, your Honour, in
16 practical terms, in the disclosure CD which is handed over to the
17 Defence, a laptop or a desktop which appears is a laptop and a desktop,
18 and there is also the metadata which is retained.

19 I mean, if we look at the annex of your Decision 55 on the
20 disclosure system, there is a metadata for each item which the Defence
21 has access to once they are uploaded into the system by the Registry.
22 They are indicated there as belonging to, this is a personal laptop
23 belonging to the suspect. It's all indicated in the metadata. And once
24 they follow the metadata and make the request, it is their right under
25 Rule 77. It's not in dispute. Once they make the request that they want

1 to inspect these materials which belong to the suspect, then definitely,
2 your Honour, the Prosecution has no choice but to comply because it's
3 their right under Rule 77. And once such inspection, physical inspection
4 is done, the Prosecution will file an inspection report. But there is a
5 metadata based on the annex attached to your Decision 55 which is
6 retained in respect of each item, and the Defence has access to that.

7 JUDGE DIARRA (interpretation): Thank you very much for your
8 explanation. I think that in your case we will finish there. But I
9 would like to conclude with a decision.

10 The Chamber orders the Prosecutor to provide or disclose to the
11 Defence an analysis chart of all the evidence, incriminating and
12 exonerating, which must be in one document and disclosed, at the latest,
13 30 days before the Confirmation Hearing. So you will understand, in view
14 of the decision, that complying with this will lead us to the 23 of
15 November, 2008, which gives us all an idea of the new date of the
16 Confirmation Hearing. Even if this is already in the transcript, I
17 repeat that the order -- the Chamber orders the Prosecution to disclose
18 an analysis chart of the evidence, incriminating and exonerating, which
19 must be in one document, consolidated in one document, and disclosed 30
20 days at the latest before the date of the Confirmation Hearing. Thank
21 you very much.

22 I'll finish there, and now I would like to turn to the Defence
23 and to the Registry. I would like to ask the Defence, and I have already
24 done so when I asked my questions to the Prosecutor, I would like to ask
25 the Defence whether they had contacts with the OTP for the inspection of

1 items under Rule 77 of the regulations.

2 MR. VAN DER SPOEL: Madam President, we did not have any
3 communication with the Prosecutor. As I just tried to submit, we are in
4 the process of exploring all of the disclosure, and after exploring that,
5 we perhaps will - we do not know at the moment - ask the Prosecutor to
6 inspect certain objects. Thank you.

7 JUDGE DIARRA (interpretation): How is the use of the analysis
8 charts given by the Prosecutor unfolding? Is it useful?

9 MR. KILOLO (interpretation): It's not going very well. As I was
10 explaining earlier on, when you're given an analysis chart, you're given
11 a number of documents, and when, among the documents, there's a laptop,
12 that's not really an analysis. What we would like is for them to tell
13 us, We have documents in the hard drive of a laptop which contain the
14 following information. That's what we would like to know. But if they
15 tell us they have a laptop or a video without telling us what the content
16 is and analysing it, it puts us in a difficult position.

17 JUDGE DIARRA (interpretation): Thank you very much.

18 During the last status hearing we had asked you whether you were
19 going to call witnesses to appear at the Confirmation Hearing and you
20 stated that you were unable to answer at that stage, but that at the next
21 conference hearing you would be able to tell us where you stand. Can
22 you, at present, tell us whether or not you want to call witnesses for
23 the Confirmation Hearing?

24 MR. KILOLO (interpretation): We're facing the same problem
25 again, President. We were unable to answer the question because we

1 didn't have the full -- all the documents weren't fully disclosed and
2 we're still in the same situation because it depends on the analysis we
3 will make of the documents provided by the OTP and which will lead us to
4 decide whether or not to introduce witnesses or not. But as to date, we
5 still do not have access to all the OTP's documents. We are still unable
6 to give you an answer on this question.

7 (The Pre-Trial Chamber confers)

8 JUDGE DIARRA (interpretation): Prosecution, I'm sorry, I thought
9 I had finished with you but I have to hear your response to what was just
10 said in this room.

11 MR. YILLAH: Madam President, your Honours, as the Prosecution
12 has pointed out, all items on its list of evidence, with the exception of
13 statements which are before you for treatment, for proposed redactions,
14 have been disclosed to the Defence. With the exception of those
15 statements which are before you for current treatment, all other items
16 that the Prosecution intends to rely on for the purpose of the
17 Confirmation Hearing have been disclosed to the Defence.

18 In addition to that, the Prosecution has to date disclosed all
19 items of exonerating evidence, which are 32 in number, to the Defence,
20 and all analysis has been done. Again, we will follow your directions,
21 as the Chamber has ordered today, regarding the analysis.

22 But in respect of the pieces of evidence, except for the
23 statements and annexes before you for treatment, all other items on which
24 we intend to rely has been disclosed to the Defence. That is the
25 Prosecution's submission on that point.

1 And, your Honour, again, the Prosecution has listened carefully
2 to the position of the Defence regarding witnesses, but the Prosecution
3 would like to draw the attention of the Chamber to Rule 121(6) under the
4 obligation, the time-limit obligation, that is imposed on the Defence, if
5 it seeks to introduce new evidence, to also disclose to us, the
6 Prosecution, because we would have to carry out our investigations as
7 well. That would be the Prosecution's submission.

8 JUDGE DIARRA (interpretation): Judge Hans-Peter Kaul would like
9 to add something to this.

10 JUDGE KAUL: Thank you, Madam President.

11 Counsel, on behalf of the Chamber, I would like to ask once again
12 the question which is of key interest to the Chamber and that is the
13 question whether, in the first place, you know already or you intend to
14 present witnesses for the Defence. What I have heard is, well, a
15 complaint to be not in a position to answer this question. Is the answer
16 that you are giving today, We don't know? You have the floor.

17 MR. VAN DER SPOEL: Thank you, your Honour. I could answer your
18 question as following: With the knowledge we have now of the disclosure
19 we have access to and we have analysed, we do not intend to hear
20 witnesses. But, however, it is an ongoing process. We're exploring all
21 the disclosure material, and I cannot exclude at this moment that in the
22 future we will perhaps want to hear a witness. I hope this is an
23 adequate answer to your question. Of course, we know our obligations in
24 the rules about witnesses and things like that and, of course, we will
25 obey them.

1 JUDGE DIARRA (interpretation): We would like to round up this
2 first part by recalling that in matters of disclosure of evidence by the
3 Defence, the Defence must comply with the 31 July decision and provide a
4 detailed analysis of each piece of evidence to the Office of the
5 Prosecutor. Do you agree?

6 MR. VAN DER SPOEL: I agree, your Honour.

7 JUDGE DIARRA (interpretation): We have five minutes left so
8 let's go on a little and look together at the time and facilities the
9 Defence needs for its preparation.

10 So the second part of the agenda concerns items for the Registry,
11 as the Chamber would like clarification on the differences between the
12 Registry's report and the Defence's response. As you know, at the last
13 status conference we asked the Registry to provide us with a report on
14 the object of the status conference. The Registry gave us a report and
15 the Defence responded to it. And we would like to hear both of you, as
16 you are both present here today.

17 Now, as regards access to e-court and Ringtail, who currently has
18 access to these within the Defence team?

19 MR. KABONGO (interpretation): Thank you very much, President.

20 As regards access, we all were given partial access on the 20th,
21 and yesterday, IT technicians came and set up a joint printer between
22 ourselves and Mr. Katanga's team, which somewhat upset the computer
23 system, and at present I am the only one who can access the e-court
24 system. We called IT immediately and we were told to contact the Defence
25 support section, which we did this morning. But we have to wait now

1 because they told us that they have to open a ticket. But we, Defence
2 team members, can't open the ticket so the Defence has to do that, and at
3 present I'm the only one who has access to it. The Defence support
4 section has to open a ticket for the technicians to come and solve the
5 problem.

6 JUDGE DIARRA (interpretation): Thank you very much.

7 I would like to know when Mr. Jean-Pierre Bemba for the first
8 time was given access to the Defence's Ringtail system for the evidence
9 disclosed by the Prosecutor?

10 MR. KABONGO (interpretation): As regards Mr. Jean-Pierre Bemba's
11 access to the Defence's Ringtail, we would like to mention that we
12 have -- we only gave -- were given log-ins and passwords on the 20th of
13 October. We need training --

14 JUDGE DIARRA (interpretation): Sorry for interrupting you. When
15 you say "we," who do you mean?

16 MR. KABONGO (interpretation): Well, I was using the royal "we."
17 Actually, it's me. I was only given access to Ringtail on the 20th of
18 October because I am responsible for uploading all of the evidence. I
19 had to wait for training and then we were -- I was only able to upload
20 the evidence on the 21st of October. And now the court's administrators
21 told me they would be giving Mr. Bemba another training to show him how
22 to directly access the system. But up until now he has not been given
23 this training. So at present, in practical terms, he does not have
24 access, no.

25 JUDGE DIARRA (interpretation): Does the Registry have any

1 clarifications, anything to add concerning the problems that were raised
2 by the Defence team?

3 MR. DUBUISSON (interpretation): Thank you, President.

4 I'm trying to, as you are, trying to understand who has access
5 and who has an account. You can have an account and say you don't have
6 access; apparently, that's possible.

7 Now, to be clear, the first access to the Defence Ringtail was
8 given to Mr. Van der Spoel on the 7th of October; 13th of October and 10
9 October for Mr. Nkwebe. Jean-Jacques, 13; and Mr. Nkwebe, 14. Those are
10 the dates.

11 As regards Mr. Bemba, all of the evidence was available in the
12 Ringtail system on the 20th of October. As regards access to Mr. Bemba's
13 laptop, Mr. Jean-Jacques Mangenda had access to it on the 15th, and the
14 training apparently took place on the 20th of October.

15 There's another issue, and actually I'm quite surprised we're
16 discussing printer problems at the end of the hearing, but they are
17 problems that we're all faced with at the court. When you have a printer
18 problem and after a printer is installed, you can face problems for a
19 while. But a ticket was opened on this at 9.26 this morning. We have
20 tried to do something about it, but we have not been able to access their
21 office yet. That's the answer I had from my team a few minutes ago. So
22 that's where we stand at present. But I believe that everything can work
23 and today already, that everything should be accessible.

24 JUDGE DIARRA (interpretation): Thank you very much.

25 I would like to know whether the distance access to the court's

1 e-system, especially through the e-court and Ringtail system, works and
2 whether it works for all counsel. I'm asking the Defence whether or not
3 you can access the distance system for evidence through the Ringtail
4 software. Your case manager, of course, will assist you because he is
5 well-versed in the area.

6 MR. KABONGO (interpretation): Thank you, President. Of course,
7 the Registry gave us a CD for access using the Citrix system. My
8 colleague, Mr. Van der Spoel, has tried to use it. Effectively it's
9 working. But then we were provided with only one CD and all the counsel
10 are not in the same place. Some are in Kinshasa; others are in Brussels.
11 So we raised this problem with the e-court administrators, asking them to
12 provide us with other CDs, and this is going to make it possible for all
13 members of the Defence team to have access to the system. For now I
14 would like to say we have partial access because it's not all members of
15 our team that has access. It's only one counsel out of three members of
16 the team that have access.

17 JUDGE DIARRA (interpretation): What about the common drive,
18 drive Z? Do members of the Defence team have access to this common
19 drive, or drive Z?

20 MR. KABONGO (interpretation): Yes, President. It became
21 operational since the day before yesterday.

22 JUDGE DIARRA (interpretation): Can the Defence team use a flash
23 drive or burn CDs in order to exchange data?

24 MR. KABONGO (interpretation): Yes, Madam President.

25 JUDGE DIARRA (interpretation): One last question before we go

1 for a break. The issue of passwords and user accounts for the computer,
2 that is, to link the Detention Centre with the Court, has that problem
3 been resolved?

4 MR. KABONGO (interpretation): Yes, Madam President. That is
5 what we tried to say yesterday. We only had access on the 20th of
6 October and we're still trying to download all the relevant data.

7 JUDGE DIARRA (interpretation): Thank you. The session is
8 adjourned and we are going to resume at five minutes past 12.00.

9 COURT USHER: All rise.

10 The hearing adjourned at 11.34 a.m.

11 The hearing resumed at 12.06 p.m.

12 COURT USHER: All rise.

13 JUDGE DIARRA (interpretation): Please can you bring in
14 Mr. Jean-Pierre Bemba.

15 (Mr. Bemba enters courtroom)

16 JUDGE DIARRA (interpretation): Thank you.

17 Now we'll continue talking on training. We are pleased to note
18 that Mr. Mangenda, who is a case manager, has an understanding of
19 Ringtail for quite some time now. Now, have all the members of the
20 Defence team including the pro bono counsel, Mr. Nkwebe Liriss, now
21 received training and know how to use the e-court system and especially
22 Ringtail?

23 MR. KABONGO (interpretation): Thank you, Madam President.
24 Hitherto there has not been any training organised. We only had Ringtail
25 training and we do not have any documents on evidence related thereto.

1 As we mentioned before the break, the system became fully operational
2 only recently, and the lawyers wish to receive appropriate training which
3 is focused essentially on evidence, because the two systems are
4 different. When you have training with Ringtail, training -- compared to
5 training with evidence, you'll find that there's a lot of differences --
6 there are a lot of differences, and so the members of the Defence team
7 would like to have training with evidence that is downloaded from the
8 Ringtail system directly.

9 JUDGE DIARRA (interpretation): Mr. Mangenda, I don't understand
10 what you mean. What is the difference between training and "formation,"
11 as they say in French?

12 MR. KABONGO (interpretation): In fact, the two words mean the
13 same thing. It's just that I used the English term and the French term.
14 In fact, I'm talking about the same thing, "formation" and training
15 actually relate to the same thing.

16 JUDGE DIARRA (interpretation): You said that you had training
17 but you did not receive what you referred to in French as "formation."
18 What do you mean?

19 MR. KABONGO (interpretation): Let me clarify. I would like to
20 say that the members of the Defence team received some basic training
21 which was not effective. It was not effective because the evidence had
22 not yet been uploaded in the system, the Ringtail system. So there is a
23 difference. And so they would like to get appropriate training which is
24 based on a system which already contains the uploaded evidence. That's
25 what I was saying.

1 JUDGE DIARRA (interpretation): Since when did Mr. Jean-Pierre
2 Bemba receiving appropriate training on Ringtail?

3 MR. KABONGO (interpretation): Thank you, Madam President. The
4 same applies to Mr. Bemba. He was given training, basic training, on
5 Ringtail, a Ringtail which did not have any evidence uploaded. We were
6 able to download all the data from the 20th to the 21st of October, and
7 so the technicians from the Registry have promised that they are going to
8 set a programme for him under which he will be provided with training on
9 Ringtail that includes the evidence uploaded.

10 JUDGE DIARRA (interpretation): Is Mr. Jean-Pierre Bemba able to
11 consult data and communicate with his lawyers on such data from the
12 Detention Centre?

13 MR. KABONGO (interpretation): Madam President, we are still
14 waiting for such training to be provided to him.

15 JUDGE DIARRA (interpretation): Now I turn to the Registry.
16 We would like to know from you: The computers set aside for the
17 training of counsel, did these computers break down the month of July
18 2008; and if so, has the problem been solved?

19 MR. DUBUISSON (interpretation): As far as I know, they did not
20 break down.

21 JUDGE DIARRA (interpretation): And so you did not have to repair
22 the computers?

23 MR. DUBUISSON (interpretation): We did not have to make any
24 repairs.

25 JUDGE DIARRA (interpretation): Mr. Jean-Pierre Bemba's computer

1 in the Detention Centre, is it functioning?

2 MR. DUBUISSON (interpretation): Yes, the computer is functioning
3 and the software in the computer has been operating since the 20th, and
4 by saying this I confirm what was said by Jean-Jacques.

5 JUDGE DIARRA (interpretation): The uploading and downloading of
6 information through Ringtail is instantaneous, hence the evidence
7 disclosed by the Prosecutor can easily be accessed through Ringtail, that
8 is, the Registry Ringtail. However, it looks like a problem occurred in
9 the transfer of data from the Registry Ringtail to the Defence Ringtail.
10 Is it correct to state that the Defence Ringtail, that the Defence team
11 had access to the Defence Ringtail only on the 8th of October because of
12 IT problems related to the downloading of data from the Registry Ringtail
13 to Defence Ringtail?

14 MR. DUBUISSON (interpretation): That's correct.

15 JUDGE DIARRA (interpretation): How much time does your IT
16 service need to transfer data?

17 MR. DUBUISSON (interpretation): It depends on the quantity of
18 data. Usually it takes a few hours. Hitherto we tried to upload the
19 information on the day we receive it.

20 I would like to make a comment on training. We are talking about
21 training on the use of evidence. I don't think it's correct to provide
22 training with the equipment which belongs to the Defence. The Registry
23 is a neutral organ. We can provide logistical training, but we use
24 equipment which is training equipment. We do not use evidence to provide
25 training. Now, if the Defence wishes us to help them to learn how to use

1 the software, then they have to understand that we can only go so far,
2 because we do not want to be accused of doing analysis for the Defence
3 team. We are only service providers and the service we provide it
4 training. We can also provide assistance, but our assistance is limited
5 in time, and we would not like to have our assistance interpreted by the
6 Prosecution or the representatives of victims as assistance or
7 collaboration with the Defence team.

8 JUDGE DIARRA (interpretation): Do you have any comments to make
9 on what has been said by the Defence with regard to the difficulties they
10 encounter?

11 MR. DUBUISSON (interpretation): As I said at the beginning,
12 there are certain difficulties in this case. The members of the Defence
13 team here present in the courtroom, most of them were appointed only
14 recently, and so much as we would have liked to, we cannot provide access
15 to the system and provide training to these people when they are not --
16 when they were not yet officially members of the team. So this was not
17 possible, because they have been recently appointed. So maybe this is a
18 problem that we have to address at the level of the Registry to ensure
19 that there is rapid transmission of information within the Court.

20 If that is the case, I would like to apologise on behalf of the
21 Registry, but we know that if we have the names of the members of the
22 team and we have a well-defined time frame, then we are able to organise
23 training accordingly, and so if that were to be the case, we will be able
24 to provide more relevant service. From today, we are ready to provide
25 assistance.

1 JUDGE DIARRA (interpretation): Judge Kaul has the floor.

2 JUDGE KAUL: My question will be directed to the representative
3 of the Registrar.

4 We have heard, and at least this is my understanding, that in the
5 first place, the training which was given to the members of the Defence
6 team was, if I may say so and the Defence team may comment on this if
7 they wish, was some kind of theoretical exercise because the system
8 Ringtail was existing as such, but without having elements of evidence
9 uploaded in the system, it was quite difficult to see how it would work.
10 Now we have a request from the Defence that there should be, so to speak,
11 a demonstration how it would work in practice.

12 My question is the following: You have told us, and we
13 appreciate, I appreciate, that of course the Registry has to be neutral,
14 has to be objective, and cannot be like, for example, the Office of the
15 Public Counsel for the Defence, support -- seen as a supporter of the
16 Defence. We have all understood this. My question is now the following:
17 Is it possible by way of -- by way of, well, let's say, exemplary
18 demonstration, to be agreed upon at a given moment to show in practice
19 how the system works with the elements uploaded without affecting the
20 neutrality and the objectivity of the Registry who remains neutral and
21 must not be seen, must not be seen as some kind of de facto supporter of
22 the Defence. Are you able to answer this question?

23 MR. DUBUISSON (interpretation): Yes, your Honour, I can give you
24 an explanation.

25 Training was organised on the 30th of June for one and a half

1 hours on the system, about 35 or 40 minutes with material which we used
2 as a model for demonstration. We're talking about training that was
3 given to two lawyers on the 30th of July, lawyers who had just joined the
4 team. And from the 30th of July to this date, they have not been able to
5 work with the system again, so I fully understand what has been said and
6 what they are saying. And I think that it's high time for us to organise
7 another training with the information which is currently available in
8 order to enable the Defence to understand how to make use of the Ringtail
9 system. And I believe that when this is done and when this is well
10 explained to the lawyers, and especially with the arrival of the case
11 manager, it's going to go a long way to facilitate their work.

12 We are going to put at their disposal, for the Defence, the
13 necessary resources available today and tomorrow, 100 per cent, in terms
14 of training and in terms of any other form of assistance that may be
15 necessary.

16 JUDGE DIARRA (interpretation): Thank you. We are aware of all
17 the efforts that you are making to provide assistance to the various
18 parties, but to avoid the recurrence of technical and IT problems, that
19 such problems should not have an impact on the preparation of the
20 Defence, the Chamber is urging you to appoint a focal point within the IT
21 service who will be responsible for addressing the specific issues raised
22 by the Defence. The Chamber orders that the name of that person
23 appointed as focal point by the Registry should be disclosed to the
24 Chamber by the 23rd of October, 2008, that is, by tomorrow at the latest.

25 Defence?

1 MR. KILOLO (interpretation): Thank you, Madam President.

2 I would like to clarify one misunderstanding with respect to the
3 training that was provided to us on the 30th of July. I would like to
4 confirm that we never received any training ever since we took up this
5 case at the ICC. On the 30th of July, we met a technician who came to
6 visit us in our office and who realized with us that our computers were
7 not yet operating or functioning. We had a nice discussion with him.
8 That lasted for about five minutes.

9 JUDGE DIARRA (interpretation): How many of you were there?

10 MR. KILOLO (interpretation): There was Mr. Van der Spoel and
11 myself, the two of us. And it lasted for about five minutes, this
12 discussion, and he gave us an overview, a general overview, of how things
13 are supposed to be done. And he promised us, he told us that since he
14 was not able to provide us with adequate training that day, considering
15 that our computers were not functioning, he said that he was going to
16 ensure that proper training is organised for us in the days ahead. And
17 that is why I cannot understand that Mr. Dubuisson thinks that we
18 received training of about an hour and a half, or 40 minutes. I would
19 like to state here that that was not the case.

20 JUDGE DIARRA (interpretation): We have taken note.

21 We now come to the problem of a new date for the Confirmation of
22 Charges Hearing and organisation of that hearing. That is the third
23 point on our agenda.

24 The Chamber would like to get your position on that, and after
25 this status conference, the Chamber is going to issue a decision setting

1 a new date and a new time frame for the disclosure of evidence. We would
2 like to state that in our decision on the postponement of the
3 Confirmation Hearing taken pursuant to Rule 121(7) of the regulations,
4 the Chamber duly take into account the difficulties encountered by the
5 Defence hitherto for its preparation. An objective evaluation of the
6 situation prevailed over the position of the Defence and even that of the
7 Office of the Prosecutor who absolutely wished for the maintenance of the
8 initial date of the 4th of November, 2008.

9 I will now turn to the Defence to ask you: Under the
10 circumstances, can you give us your position on a possible date that will
11 take into account the time and the facilities that you need for your
12 preparation, bearing in mind that such a date cannot be set before the
13 23rd of November, as we explained earlier. You have the floor.

14 MR. KILOLO (interpretation): Thank you, Madam President.

15 As you know, the Defence spared no effort to ensure that we hold
16 the Confirmation Hearing on the 4th of November, and if there is a
17 postponement today, it is because of the procedural errors caused by the
18 Office of the Prosecutor, and so it is up to them to tell us the date on
19 which they think they will be ready for the Confirmation Hearing to be
20 held appropriately.

21 JUDGE DIARRA (interpretation): I did not expect us to hold a
22 dialogue on this, but it's clear that you were not ready as well. All of
23 what you said with regard to training, the fact that you don't have
24 access to the system, and all of that shows that you were not ready for
25 the date of the 4th of November as well.

1 MR. KILOLO (interpretation): Madam President, it's an issue that
2 I thought I should react to.

3 JUDGE DIARRA (interpretation): You said that you spared no
4 effort to ensure that you were ready for the 4th of November. I
5 appreciate that willingness on your part, but I think that, in fact,
6 concretely you were not ready for the Confirmation Hearing to start on
7 the 4th of November, taking into consideration what you have told us
8 since the last status conference and what you told us this morning.
9 Whatever the case, I think that I will still put your question to the
10 Office of the Prosecutor.

11 MR. KILOLO (interpretation): While agreeing with what you said,
12 it's true we're not ready from the functional standpoint because of the
13 technical and IT problems we encountered. But with regard to
14 preparation, preparation on the basis of the material disclosed to us, I
15 would like to say we're ready to -- we're ready for the Confirmation
16 Hearing on the 4th of November, but we feel that if there has been a
17 postponement, it is because of the Office of the Prosecutor which had
18 certain procedural errors 15 days to the commencement of the Confirmation
19 Hearing and that is why we believe that it is up to the OTP to make a
20 concrete proposal with regard to the date for a new Confirmation Hearing.

21 JUDGE DIARRA (interpretation): Judge Kaul has the floor.

22 JUDGE KAUL: Counsel, I did listen with great attention to what
23 you were responding to the Presiding Judge. Nevertheless, it has been
24 impossible for me to identify any concrete element of response. This
25 leaves the Chamber in a situation in which the Chamber has no indication

1 on the question which time would seem appropriate. In essence, and I
2 repeat what I have understood, is that you have clearly stated that the
3 Office of the Prosecutor is responsible for the necessity to postpone the
4 date of the Confirmation of Charges, but you have, in my view, carefully
5 avoided to give any concrete response to the question which was asked by
6 the Presiding Judge.

7 Can I ask you now the question in a different manner: Will the
8 Defence be ready at any date that the Chamber would fix after the 23rd of
9 November?

10 JUDGE DIARRA (interpretation): Just in addition to the question
11 asked by Judge Kaul, Judge Trendafilova would like to ask another
12 question. Please wait for the question before you respond.

13 JUDGE TRENDAFILOVA: Thank you, Presiding Judge. I would like to
14 address the Defence team with an additional question to the question that
15 was posed to you by my colleague Judge Kaul. When we received your
16 application with complaints of how the Prosecutor has approached the
17 disclosure, you have identified a lot of omissions, mistakes, and the
18 logical conclusion out of the facts that you have highlighted was that
19 you cannot consider the team prepared for a proper defence of Mr. Bemba.
20 Of course, without having the burden of proof, still you're supposed to
21 render the best of your knowledge and experience on the basis, of course,
22 of knowledge of the evidence that the Prosecutor is going to use during
23 the Confirmation Hearing. That is why I considered your application to
24 have a conclusion saying that still you insist on the date of the 4th of
25 November to be inconsistent with the contents of the application to the

1 Chamber, and now you still have problems addressing not only the
2 Prosecution's obligations to disclosure but how the Registry itself has
3 assisted the Defence team in properly preparing for the Confirmation
4 Hearing. And you have to bear in mind with all the participants of these
5 proceedings that the Chamber has the responsibility and the duty in the
6 interests of justice to properly assess the disclosure and, within the
7 lines of our concerns and following your complaints of the Prosecution's
8 approach to disclosure, I support the Presiding Judge and Judge Kaul,
9 insisting that we have a professional and precise answer.

10 Are you ready, when are you ready, and as a follow-up of the
11 answer to these questions, to give us your suggestion about the proper
12 date for the Confirmation Hearing. Thank you.

13 MR. VAN DER SPOEL: Thank you, your Honours. I would like a
14 short adjournment to discuss this matter with my colleague and with my
15 client, please. Ten minutes, I ask you. Thank you.

16 JUDGE DIARRA (interpretation): Will you leave the room or are
17 you asking us to adjourn? Will you stay in the room or adjourn, do you
18 want us to adjourn?

19 MR. VAN DER SPOEL: I want you to adjourn, please, just for ten
20 minutes. It's easier to talk in a room back there than in a full
21 courtroom.

22 JUDGE DIARRA (interpretation): We authorise your request. We
23 will suspend for ten minutes.

24 COURT USHER: All rise.
25 The hearing adjourns at 12.34 p.m.

1 The hearing resumes at 12.46 p.m.

2 COURT USHER: All rise.

3 JUDGE DIARRA (interpretation): We are in session. Please be
4 seated.

5 Please bring Mr. Jean-Pierre Bemba back in the room.

6 (Mr. Bemba enters courtroom)

7 JUDGE DIARRA (interpretation): We hope that you have had time to
8 consult one another and we are listening concerning your projection for a
9 new date on the Confirmation Hearing.

10 MR. KILOLO (interpretation): Thank you very much, President.

11 On behalf of the Defence, I would ask you to bear with us as
12 regards the answer we will give to your question.

13 On the 4th of July we had an Initial Appearance hearing and you
14 fixed a date on that occasion, the 4th of November, and you asked the
15 Office of the Prosecutor whether they had any observations. They
16 believed that they would have no problem whatsoever complying with the
17 date. Now they have put themselves in a tricky situation by requesting
18 redactions at the last minute and not respecting the deadlines for a
19 disclosure, and therefore, we all are faced with a postponement.

20 You asked us when we might be ready. I would just like to comply
21 with the oral decision you took earlier on consisting in giving 30 days
22 in advance of the Confirmation Hearing to the Defence for us to be able
23 to analyse each piece of evidence in detail.

24 We will therefore not be in a position to have a hearing before
25 the 23rd of November, which brings me to the following: If you believe

1 the deadline should start to run from today, we will be available at the
2 first possible date. I would like to remain professional here, but when
3 you look at other teams, there's normally only one counsel and we are
4 three already here and with Madam Lindsay, four. So there are four of us
5 and we should be able to deal with the matters expeditiously. We want to
6 avoid delays, but we also want to avoid a prolongation of Mr. Bemba, who
7 is in detention and subjected to unimaginable moral torture.

8 JUDGE DIARRA (interpretation): Thank you very much. We
9 understand your concerns.

10 We would now like to turn to the Prosecutor. Could you please
11 give us your projection for a date for a Confirmation Hearing, taking
12 into account everything we have said during the status hearing and in our
13 questions. We would like to hear what your proposal is. And as soon as
14 we have proposals from both sides, in the coming days we will take a
15 decision setting a date, and we are hoping we will not make any mistake
16 this time in assessing the time required. Thank you.

17 MS. KNEUER: Madam President, your Honours, the Prosecution very
18 carefully reads the decisions from the Chambers as well as very carefully
19 is listening to the instructions and advice provided to the OTP during
20 Status Conferences. We understand that it is a core concern of the
21 Chamber's to conduct proper proceedings as well as expeditious
22 proceedings. This is the same interest for the OTP. We did our utmost
23 to support this obligation under the law.

24 The Prosecution submitted the charging document prior to a
25 deadline set by the law - two days prior to the 30 days' deadline. We

1 also submitted an admitted DCC prior to a deadline set by the law - three
2 days prior to it, to be exact. Furthermore, the Office of the Prosecutor
3 discharged his obligations to disclose in time. And furthermore, we not
4 only disclosed the bulk of the evidence as it was ruled by other Chambers
5 of this court, we also obliged the ruling of this Chamber to disclose the
6 full set of evidence related to, of course, incrim. as an annex to the
7 DCC as the list of evidence to the potential exculpatory material, but
8 also with respect to Rule 77. The only outstanding issue are requests to
9 the Chambers for redactions.

10 That said, I have to object to the Defence's observation that the
11 Prosecution is delaying the proceedings and is responsible for the
12 postponement of the Confirmation Hearing. The Prosecution emphasised on
13 July 4th that the Prosecution will be ready to conduct the Confirmation
14 Hearing on November 4th, and today the submission of the Prosecution is
15 that we will be ready any day the Chamber will set. Thank you.

16 JUDGE DIARRA (interpretation): Thank you.

17 I would therefore like to remind both parties that, as stated in
18 the decision of 31 July 2008, the Chamber recalls that during the
19 Confirmation Hearing, we will proceed as follows: The discussions will
20 be -- will take place per theme, dealing with each charge and the mode of
21 criminal liability given by the Prosecutor. In each case, for each crime
22 the Prosecution will give the contextual and specific elements and then
23 the floor will be given to the Defence to respond to the Prosecution's
24 arguments, and we will follow the same procedure on the debate on
25 criminal liability.

1 And now we would ask the Prosecutor more specifically: In order
2 to prepare the Confirmation Hearing, how much time will you need to
3 produce your evidence and arguments?

4 MS. TAI: Thank you, Madam President.

5 The Prosecution submits that it would take approximately one hour
6 for the opening statement and it would take a half hour for the closing
7 statement. With respect to the charges and all of the evidence, it would
8 request four and a half hours in total. So approximately six hours for
9 the Prosecution's case.

10 JUDGE DIARRA (interpretation): Okay.

11 Now I would like to ask the Defence you will need to present your
12 evidence and arguments.

13 MR. VAN DER SPOEL: Thank you, Madam President.

14 I think for an opening statement, the Defence would not need more
15 time than about 30 minutes. For closing arguments, for summing up, that
16 would be, I think, about an hour, taking into consideration, of course,
17 after that we will put it in writing. And for the arguments -- the
18 responses to the arguments of the Prosecutor, I think we would need about
19 as much time as the Prosecutor needs to present the arguments. But of
20 course I don't know the contents of the arguments at the moment, but
21 that's just in general what I'm thinking. Thank you.

22 JUDGE DIARRA (interpretation): Thank you. This brings me to the
23 miscellaneous questions, the last item on the agenda. Among the
24 miscellaneous issues there is one point in particular that we would like
25 to deal with that was raised by the OTP - (Expunged)

1 (Expunged)

2 (Expunged)

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9 I would like to ask the Prosecutor whether you have more
10 information on this.

11 MS. KNEUER: Thank you, Madam President.

12 Your Honours, at this time the Prosecution does not have any
13 further information to that incident.

14 JUDGE DIARRA (interpretation): Can the Defence team give its
15 position on the request for investigation submitted by the Prosecutor?

16 MR. VAN DER SPOEL: Madam President, I myself saw the decision --
17 the request yesterday afternoon. I have discussed it with my colleague,
18 Maitre Kilolo. We think it's an outrageous allegation to this Defence
19 team. We want to respond in a very proper, solid and sensible way, so we
20 want to put our response in writing.

21 (Expunged)

22 (Expunged)

23 (Expunged)

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25 (Expunged)

1 (Expunged)

2 (Expunged)

3 Has the Prosecutor any questions related to this last point or
4 any observation on other matters?

5 MS. KNEUER: No, your Honour.

6 JUDGE DIARRA (interpretation): Does the Defence team have any
7 points to raise on any other matters?

8 MR. KILOLO (interpretation): Yes, Madam President.

9 (Expunged)

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1 (Expunged)

2 MR. KILOLO (interpretation): Just one last comment.

3 I would like to thank you for your kindness and for your wisdom
4 in the answer that you gave to the first question.

5 I would like to talk about Mr. Bemba's concerns. When he was
6 arrested in his residence, there was a laptop computer that contained a
7 file, a file entitled "CPI." That file is of major importance to the
8 Defence team because Mr. Bemba had already started preparing, preparing
9 himself for any possible arrest by the authorities; that is, from the
10 time when the Prosecutor announced in May the opening of an investigation
11 into the events in the Democratic Republic of -- in the Central African
12 Republic and from the time that he was cited as one of the suspects in
13 the events. So that laptop is one of the materials that has to be
14 disclosed under Rule 61 or 71, but we would like to get access to the
15 content of that file, the file named "CPI," so that we will be able to
16 make use of that file and enable Mr. Bemba to help us in preparing his
17 defence.

18 JUDGE DIARRA (interpretation): We take note of your request.

19 I would like to tell Mr. Jean-Pierre Bemba, please, each time we
20 meet you and the Bench asks you how you are doing, it's not a routine
21 question. We are also seeking to know how your presumption of innocence
22 is being managed. (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Status Conference (Closed Session)

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1 JUDGE DIARRA (interpretation): Thank you. We have taken note of
2 this.

3 If the Office of the Prosecutor has nothing else to add.

4 MS. KNEUER: No, your Honour.

5 JUDGE DIARRA (interpretation): Well, in that case, I would like
6 to thank all parties for their collaboration which has made it possible
7 for us to get all the information we needed during this status
8 conference, information we need for the conduct of these proceedings in
9 the interests of all. The rights of the suspect shall be respected and
10 the rights of the victims shall equally be respected.

11 I thank you, and we are adjourned.

12 COURT USHER: All rise.

13 The hearing adjourned at 1.15 p.m.

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CORRECTION REPORT

1 The Pre-Trial Chamber III has made the following modification in the
2 transcript:

3 *p 11 lines 6 and 7 "... with references 0010 -- CAR 0010 to 0015 and CAR
OTP 0010 to 00105 and 0010-015...." is replaced by "...with references CAR-OTP-
0010-0095 to CAR-OTP-0010-0102, CAR-OTP-0010-104 and CAR-OTP-0010-105...."