

1 International Criminal Court

2 Trial Chamber I - Courtroom 2

3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio

4 Benito and Judge René Blattmann

5 Situation in the Democratic Republic of the Congo -

6 ICC-01/04-01/06

7 In the case of The Prosecutor v. Thomas Lubanga Dyilo

8 Thursday, 10 June 2010

9 (The hearing starts at 9.32 a.m.)

10 (Open session)

11 THE COURT USHER: All rise. The International

12 Criminal Court is now in session. Please be seated.

13 PRESIDING JUDGE FULFORD: Good morning. Thank you all

14 very much for your attendance at this status conference.

15 Mr Sachdeva, I'm going to address the Bar through you,

16 if I can, given that you appear to be in the driving seat, as it

17 were, for the Prosecution.

18 We would like to start, please, with the issue of the

19 possible order of witnesses to be called so that we can hear the

20 outstanding evidence on the Defence abuse of process

21 application.

22 I'm conscious that we're in public session, so for the

23 time being I will use either witness numbers or descriptions of

24 people's job, rather than giving their names, in case there are

25 any security implications.

26 Case No.: ICC-01/04-01/06

1 The first witness, who it seems we may be able to call
2 next week, is the field operations liaison coordinator. As far
3 as you are aware, is it still possible for us to hear that
4 individual's evidence starting on Monday afternoon of next week?

5 MR SACHDEVA: Thank you, Mr President. That is indeed
6 our understanding.

7 PRESIDING JUDGE FULFORD: Good. Well, let us then --
8 subject to anything said in a moment by the Defence, but let's
9 then pencil that in, if that hasn't already happened.

10 Now, your estimate for Prosecution examination is
11 three hours. Does that still hold good, Mr Sachdeva, or has
12 that changed?

13 MR SACHDEVA: Mr President, it may be expanded
14 slightly. Possibly four/four-and-a-half hours, the Prosecution
15 examination.

16 PRESIDING JUDGE FULFORD: Right. So that -- let us
17 work then on the basis of Monday afternoon and a significant
18 part of Tuesday morning.

19 Now, Mr Desalliers, this is in a sense an unknown
20 quantity, because the statement taking process I think is now in
21 train and you haven't as yet seen or heard what the witness will
22 say. But, doing the best you can, do you at the moment have any
23 sense as to the likely length of Defence questioning of that
24 individual? Ah, Mr Biju-Duval.

25 MR BIJU-DUVAL: (Interpretation) Yes, Mr President.

1 With regard to the examination of this coordinator, the liaison
2 coordinator for field operations that is, we have two concerns
3 which Maître Mabilille has already explained to the Chamber last
4 week.

5 First and foremost we would like to be able to examine
6 this witness on a number of subjects and, in particular of
7 course, with respect to the three intermediaries. However, we
8 still do not know the identity of the third intermediary, and
9 useful information with respect to this intermediary, that is to
10 say 143, is still missing.

11 So, in view of the fact that everybody - and we also
12 included - would like to go fast, or expedite proceedings, we
13 would like to be able to put a number of questions with regard
14 to 143 and it would seem that we will not be able to do this in
15 the immediate future.

16 Now, our second concern is that we understood that the
17 Office of the Prosecutor would be transmitting to us a statement
18 so that we would be able to be informed of the substance, or
19 subject matter, of the statement of this intermediary; this
20 field operations liaison coordinator. We have received
21 curriculum vitae information, but that is all.

22 Now, those are the two concerns that we wanted to
23 raise; the first being the most important of the two. So we
24 cannot say exactly how long our examination will be, of course,
25 but we deem that today we are not in a position to be able to

1 conduct it at all.

2 PRESIDING JUDGE FULFORD: Well, I'm going to press you
3 on it slightly, Mr Biju-Duval. Let's say for the -- let us for
4 the moment park intermediary 143. On the other issues,
5 approximately how long do you think your examination will take?

6 MR BIJU-DUVAL: (Interpretation) Our assessment would
7 be between four and five hours of duration.

8 PRESIDING JUDGE FULFORD: Thank you very much. Now,
9 Mr Biju-Duval, addressing the two difficulties that you've just
10 highlighted, the first is that the Chamber has been working
11 extremely hard to try to create the necessary circumstances for
12 the disclosure to you of the identity of 143.

13 Unfortunately, because security measures need to be
14 taken, at the worse estimate they will not have been implemented
15 until about 4 July. On the better estimate, some time around 22
16 or 23 June.

17 Either way, if the pre-condition of hearing the field
18 operations liaison coordinator is that that identity has to be
19 disclosed to you in advance, that would mean that we would lose
20 the entirety of next week and in all probability the week
21 following, and if the worst estimate is correct we would lose
22 three weeks.

23 I think in those circumstances some kind of workable
24 compromise is going to have to be arrived at so that you can
25 deal with most of the matters that you will wish to raise

1 starting on Monday, with the understanding that, if
2 post-disclosure of 143's identity there then remain some
3 discrete outstanding issues which simply must be dealt with
4 before you move to submissions, we will then have to find a way
5 in which those questions can be put later.

6 Now, given the possible risk of losing two or three
7 weeks, which is the alternative, is that acceptable to you as a
8 compromise in imperfect circumstances?

9 MR BIJU-DUVAL: (Interpretation) Yes, indeed,
10 Mr President. The Trial Chamber will indeed understand that, to
11 the extent that we are in the dark here, we cannot assess the
12 stakes involved with this issue. We find ourselves in a
13 situation where we can only defer to the Chamber with regard to
14 this matter, because we cannot really assess what is at stake
15 here because we are totally in the dark. It is important for us
16 to be able to examine 143 if the need arises but, with regard to
17 the schedule, we really can't say anything further, so we defer
18 to the Chamber on the matter in view of the darkness that
19 surrounds the issue.

20 But I would like to raise one important concern with
21 regard to this witness that, despite a number of requests made
22 to the Office of the Prosecutor, we do not know with whom, or
23 with which witnesses, this coordinator of the Office of the
24 Prosecutor has been in contact; that is to say, which witnesses
25 he dealt with.

1 Now, of course, this is extremely important for us.
2 This would enable us to examine him on these issues. So we
3 would like to make a request, or an application, in this regard,
4 that we receive information from the Office of the Prosecutor
5 with regard to the identity of the OTP witnesses that he dealt
6 with out in the field because we are -- we do not know this
7 information.

8 I've been told that I'm not crystal clear on the
9 matter. I apologise.

10 PRESIDING JUDGE FULFORD: Mr Sachdeva? Oh sorry,
11 Mr Biju-Duval, I don't think you'd finished. Is there anything
12 else you wanted to say?

13 MR BIJU-DUVAL: (Interpretation) I thought I might
14 not have been clear enough when I was speaking about the
15 coordinator. I just wanted to make that clear. I was talking
16 about the first witness that we are calling here; that is, the
17 coordinator from the Office of the Prosecutor.

18 PRESIDING JUDGE FULFORD: Yes, at one point you
19 referred to 143 and I understood the error, Mr Biju-Duval.
20 Absolutely.

21 Yes, Mr Sachdeva, first of all, those that the
22 coordinator has dealt with, you've provided us with what seems
23 to be a very helpful schedule. Maybe there are some remarks by
24 the Defence on it, but certainly at first blush it seems to be
25 extremely helpful. Can the same exercise be done for the field

1 liaison coordinator?

2 MR SACHDEVA: Mr President, for those details I
3 understand that the information has already been disclosed to
4 the Defence, not in schedule form, but also with the evidence of
5 some of the witnesses that have testified. In our submission,
6 it has been made pretty clear as to which witnesses this witness
7 who is coming next week has been in contact with, but Ms Samson
8 can provide the details.

9 The other point, if I may, Mr President, is in respect
10 of the scope of the witness's testimony. In all our filings and
11 in all our communications with the Chamber and with the Defence,
12 it has been made clear that this witness is coming to talk about
13 321 - intermediary 321 - and the witnesses that 321 has
14 facilitated contact with, and we will seek to limit the scope of
15 that witness's testimony. In other words, we would ask the
16 Defence not to ask questions on 143, on 316. We are providing
17 witnesses that will deal with those intermediaries and Ms Samson
18 will provide further details. It was an agenda item, as I
19 understand it, but Ms Samson can provide further details on that
20 submission.

21 PRESIDING JUDGE FULFORD: That's a very helpful
22 indication of the Prosecution's position. I'll turn to
23 Ms Samson in a moment, but I think on the first point in terms
24 of disclosure, even if this has already in effect taken place
25 during the course of other revelations during the trial, it may

1 be helpful for somebody just to put together in one place those
2 individuals that the field operations liaison coordinator has
3 spoken to. But perhaps Ms Samson ought to deal with this rather
4 than yourself, Mr Sachdeva.

5 MR SACHDEVA: Yes, Mr President.

6 PRESIDING JUDGE FULFORD: Thank you very much.

7 Yes, Ms Samson.

8 MS SAMSON: Thank you, Mr President. In his daily
9 functions and duties, the staff member at issue, the field
10 coordinator, deals routinely with all manner of witness issues
11 involving investigations in the field. So a list of individuals
12 with whom he's had contact will be extensive and, in our
13 submission, unnecessary and irrelevant to the issues to which he
14 is coming to testify to.

15 The individual has been selected specifically by the
16 Prosecution as somebody who can address one aspect of the abuse
17 of process application. Two other representatives have been
18 selected to address two other aspects. The aspects that are
19 being covered relate to two and now three intermediaries and the
20 witnesses with whom they put us in contact. Witness -- two
21 other representatives will deal with 143 and his group of
22 witnesses, another person will deal with 316 and his group of
23 witnesses and this particular staff member is coming to address
24 his interactions in relation to 321 and his group of witnesses.

25 Information relevant to this person's contacts with

1 those witnesses were provided in an investigator's note form
2 this week, some routine contacts that he has had with those
3 former child soldier witnesses, and as Mr Sachdeva has
4 mentioned, during cross-examination by the Defence other details
5 were elicited about contacts that he had with other former child
6 soldiers.

7 PRESIDING JUDGE FULFORD: Ms Samson, this at the
8 moment is quite difficult for us because we haven't seen any
9 statement from this individual and, in a way, all we know about
10 him is what has been set out in your helpful schedule in
11 relation to who can be called and when. So in terms of the
12 Chamber being able to determine, for instance, whether it's
13 irrelevant for the Defence to know exactly with whom he has had
14 contact is not easy for us to determine at this point in time.

15 Now, the Prosecution is aware that the Defence has an
16 interest, certainly in related areas, as to the links between
17 individuals so as to see whether those links have an impact or
18 have relevant -- an impact on, or relevance to, the suggestion
19 that there has been some kind of corruption in relation to the
20 evidence that's been given by some of the Prosecution's prime
21 witnesses.

22 Now, you are in a position to determine whether or not
23 there are similar links which apply with this individual which,
24 given the legitimate concerns that the Defence has raised and
25 I've just described, means that this material ought to be

1 disclosed to the accused.

2 So, for the time being, this is going to be left for
3 the Prosecution to discharge properly its Rule 77 obligations.
4 It may be that, once we know more about this individual, we will
5 be in a position to determine whether or not you have
6 satisfactorily fulfilled your disclosure obligations, but I
7 think as of 10-to-10 today it's going to be impossible for us to
8 make a judgment on that at the moment simply because we know
9 nothing about the person who will be called. So this is your
10 obligation, Ms Samson.

11 The next issue is the scope of the individual's
12 evidence. Now, you will know, not least from this trial, that
13 witnesses can be called on one issue, but are then questioned
14 about another issue which may not work entirely to the interests
15 of the party that originally called the witness. However, the
16 evidence may nonetheless be relevant and admissible in the
17 course of these proceedings.

18 Now, it may be that the Prosecution wishes for the
19 field operations liaison coordinator to focus on a particular
20 area, but that of itself is not going to be determinative of
21 whether or not the Defence are entitled to ask the witness about
22 other relevant matters which are within this individual's
23 knowledge.

24 Now, at the moment we don't know whether this
25 individual can go beyond -- can go legitimately beyond 321. If

1 he can go legitimately beyond 321, for instance he can give
2 evidence about 316 or 143, then in those circumstances would you
3 be seeking to say that the Defence should be denied from asking
4 questions about those other two individuals?

5 MS SAMSON: Yes, your Honour, that's correct. Given
6 that the two other representatives are coming because their
7 substantive knowledge on the intermediaries is greater and more
8 appropriate to the issues that the Chamber has to decide than
9 information that the field coordinator has in relation to
10 intermediaries he may or may not have had contact with in the
11 scope of his regular duties but not in the scope of a particular
12 investigative step. And the links between the intermediaries,
13 how they were handled, how they were managed - 143 and 316 I'm
14 speaking of - and the witnesses with whom they put the OTP into
15 contact, is dealt with most appropriately by the two individuals
16 who handled them and supervised them on a daily basis. The
17 field coordinator did not supervise 316 or 143. He had direct
18 contact in an investigative capacity with 321.

19 So, in our submission, there are limits to his ability
20 to go beyond and deal with other intermediaries for whom we are
21 calling more appropriate individuals.

22 And, furthermore, there are precedents in other
23 Chambers, both in the Katanga case and in the Abu Garda case,
24 for OTP representatives testifying and there being strict limits
25 imposed on the scope of their testimony, obviously relevant to

1 the issues that were being litigated in those two cases, but the
2 Chambers were very clear that no exercise -- no questions
3 requiring exercise of discretion or judgment on the part of the
4 witness was -- were proper questions and that questions going
5 beyond strict confines as defined by the Chamber would be
6 inappropriate.

7 In those cases, it was not only in part because
8 fishing expeditions into general investigative issues were not
9 considered to be relevant or appropriate, but also because the
10 individuals who are coming, and in those cases who appeared,
11 were instructed on very specific issues and were best placed to
12 deal with issues for which they had been given advance notice
13 that they were to testify about.

14 It was never intended to be the case, nor would we
15 submit should it be here, where a witness who, for instance, the
16 other two representatives who are coming who are no longer
17 employed by the Court are asked questions that go far beyond the
18 scope of what they have prepared to testify to.

19 And, in relation to the field coordinator, he is
20 currently in The Hague. He has been advised that he will be
21 asked questions generally about his interactions with
22 intermediary 321. Should it be expanded he will need sufficient
23 time to prepare because, not having had any opportunity to speak
24 to him on the issue, he certainly is not aware that he might be
25 asked questions related to any incidental daily contact he may

1 have had with a multitude of other witnesses with whom he may
2 have dealt with in his regular duties, or third parties who
3 facilitate investigative steps on the part of the Prosecution.
4 At this point it would be unfair to him, in our submission, and
5 it would not do service to the Chamber to have him speculate and
6 try to recall events for which he is unprepared at present to
7 address.

8 (The Trial Chamber confers)

9 THE INTERPRETER: Message from the English booth. If
10 the OTP representatives could be instructed to slow down.

11 PRESIDING JUDGE FULFORD: Ms Samson, I think we need
12 to go back to basics on this and, again, the Chamber is in an
13 odd position because, as I mentioned only a few moments ago, we
14 actually know almost nothing about this particular individual.
15 But first principles are that a party who is either calling a
16 witness of their own accord or who've been asked by the Bench to
17 call a witness, of course, can ask that witness to address
18 certain specific issues that they believe he's best able to deal
19 with.

20 Thereafter, those who have an interest in this witness
21 and, in this case, most particularly, the accused, is entitled
22 to ask the witness about matters which are relevant, and which
23 are admissible, and on which the witness will be able to
24 contribute in some meaningful way to the trial process that's
25 currently unfolding.

1 Whether or not this individual can provide any kind of
2 meaningful assistance in relation, for instance, to 316, will
3 depend on what he says about 316. If he says, "I only met 316
4 once in a transit lounge at an airport for five minutes," well,
5 it may be we will indicate to Mr Biju-Duval that's not a
6 profitable line of inquiry to follow. If, on the other hand, he
7 were to say, "I have had many dealings with 316, and I can give
8 a lot of information or relevant information about it," the
9 likelihood is we're going to say that this properly can be
10 explored by Mr Biju-Duval, because something said by this
11 individual about 316 may not coincide with the evidence that is
12 to be given by the individual that you have identified as being
13 the right person to address issues concerning 316.

14 Now, if he says, having been asked about 316, he needs
15 some time to reflect on the issue so that he can sort out his
16 thoughts and memories and remind himself as to when those
17 meetings took place and the extent of them, I'm sure the Chamber
18 will not put the witness under undue pressure and will allow him
19 such reasonable time as he requests.

20 So I think this is going to have to be a very much
21 wait and see issue. You, please, should continue with the
22 process of taking a statement from him, if that's not yet
23 complete. As I recall it, we've ordered that the Defence should
24 be present during the course of that interview. That, I hope,
25 will ensure that by Monday morning the Defence will know what on

1 the central issue he can give evidence about. I hope they will
2 by then have had time to prepare for questioning, and the
3 Defence can then seek to probe other areas, properly, and of
4 course we will exercise judicial control to make sure that
5 irrelevant matters are not dealt with or matters which are not
6 properly within his knowledge.

7 Now, that's what we propose. I'm afraid it, in part,
8 constitutes a rejection of your main stance, but is there
9 anything else you'd wish to say on the matter before we pass on
10 to other issues?

11 MS SAMSON: Only two issues; one issue in relation to
12 the scope of possible questioning. Accepting, of course, the
13 Chamber's pronouncements on the unknown scope, to a certain
14 extent, as yet, of what the witness is capable of addressing,
15 one of the requests by the Defence was for this list of all
16 witnesses pre-trial, trial witnesses - to be honest, the
17 Prosecution isn't entirely certain of the scope - of witnesses
18 with whom the field operations coordinator was in contact. And
19 that issue perhaps we will require or ask for some guidance from
20 the Chamber on, given that again, in the Prosecution's
21 submission, the core purpose for the Prosecution representatives
22 is to address the intermediaries or witnesses who are relevant
23 to the abuse of process application. At its widest we would
24 submit that that would include the three intermediaries we've
25 been discussing and the former child soldiers, as well as two

1 adult witnesses who came and spoke regarding intermediary 316.

2 I cannot immediately see the need for any further
3 disclosure of contacts that this person had with other witnesses
4 that, at least at first instance, do not appear to be affected
5 by the abuse of process application. But I believe that needs
6 clarity. I don't think that the Prosecution and the Defence
7 agree on that. So the Chamber may have to or may be asked to
8 intervene.

9 PRESIDING JUDGE FULFORD: Ms Samson, I hope what was
10 clear from our decision on intermediaries was that we sought -
11 whether we were successful or not may be reviewed by the Appeals
12 Chamber in due course - but we sought to take a fact-based
13 decision in relation to who should be called and what evidence
14 should be disclosed.

15 And applying that approach to this issue, it is now
16 clear, I think, from the evidence that's been called on the
17 abuse application, who are the relevant individuals for these
18 purposes. They are the alleged former child soldiers called by
19 the Prosecution; they are the witnesses called by the Defence in
20 relation to the abuse application; the adults that you've
21 referred to; the intermediaries that we've identified in the
22 decision on intermediaries, et cetera. And subject to anything
23 that Mr Biju-Duval wishes to say in addition to his original
24 submissions, certainly at this stage, in terms of disclosure to
25 the Defence, it's links that involved those people that the

1 Prosecution should be focusing on, rather than others in
2 relation to whom there is no real evidence before the Chamber.

3 MS SAMSON: That's very clear. Thank you very much,
4 Mr President.

5 The second remark I had wanted to make was simply to
6 clarify that as yet there was no order of the Chamber
7 instructing that the statement taking process be done with the
8 Defence and Prosecution present. Nonetheless, the Prosecution
9 had indicated, in a telephone discussion with Maître Mabilille,
10 that the Defence are welcome to be present, given the short
11 timeline that we have to deal with. I know that that wasn't
12 discussed fully at the time. The statement taking process is
13 intended to commence today, because the witness arrived
14 yesterday, once -- at an appropriate time, once the hearing has
15 concluded, and we can have discussion with our colleagues from
16 the Defence on that shortly thereafter.

17 PRESIDING JUDGE FULFORD: I think that approach would
18 certainly be consistent with other decisions that we've taken on
19 similar issues, wouldn't it, Ms Samson? I'm rather astonished
20 that that hasn't been the subject of an order from us at some
21 stage in this process, but I think it would fit naturally into
22 the orders that we've already made. And if I may say so, thank
23 you, therefore, for taking a decision that is consistent with
24 the other orders that we've made. That's very helpful.

25 MS SAMSON: Can I ask for the Court's indulgence for a

1 moment?

2 PRESIDING JUDGE FULFORD: You certainly can.

3 (Counsel confer)

4 MS SAMSON: Thank you very much, Mr President.

5 The last remark that the Prosecution wishes to make is
6 simply to alert the Chamber to the fact that it is intended --
7 the Prosecution intends to file, hopefully today, a submission
8 in respect to the scope of the testimony of the OTP
9 representatives in line with the comments that I have made,
10 although we understand now that the issue has been addressed, to
11 a certain extent, by the Chamber, but just so that the Chamber
12 is aware that this filing is coming with similar submissions.

13 PRESIDING JUDGE FULFORD: That would be very helpful,
14 Ms Samson. I mean, at the moment what I've sought to do on
15 behalf of the Bench is to provide some guidance, given that we
16 have got to rapidly make decisions which will enable this
17 process to move forwards. But, of course, the Chamber will
18 revisit the issue, particularly if, in light of further
19 submissions that you put in writing, we feel that there needs to
20 be reconsideration.

21 MS SAMSON: Thank you very much.

22 PRESIDING JUDGE FULFORD: Now, Mr Biju-Duval, we're
23 attempting to make practical decisions which will enable this
24 process to move forwards and, to a real extent, to apply a
25 wait-and-see approach because, as is often the case, what is

1 appropriate and what is necessary is only revealed once the
2 witness begins to give evidence and states what he or she is
3 actually able to give evidence about.

4 Now, against that background, would you wish us to
5 vary any of the preliminary indications that we've given so far
6 in relation to this individual?

7 MR BIJU-DUVAL: (Interpretation) Your Honour, just
8 one detail. Perhaps I would like -- well, to be perfectly
9 clear, I think we need clarification on the issues for which
10 this witness, the OTP representative, will be testifying on.
11 Now, he will be testifying in light of the Defence application
12 for abuse of process, against that backdrop. There will be
13 two -- at least two essential questions when we make this
14 application.

15 The first issue will be the corruption of testimony,
16 by whom and how. The second vital issue will be the
17 responsibility of the OTP for this process of corruption.
18 Responsibility; what do I mean by that? Well, to what level --
19 at what level did the OTP knowingly take part in the process?
20 That's the first part.

21 Second aspect - and this may be the most important
22 one - what is the responsibility of the OTP against this -- for
23 this possibility of hindering or providing a remedy to this
24 process of corruption? And the Defence hopes to be able to
25 explore these two issues while hearing from the representatives

1 of the OTP who will be coming to give testimony.

2 In other words, the Defence wishes to explore, first
3 of all, the issue of intermediaries, particularly that issue,
4 and then, secondly, the issue of the attitude, the initiatives
5 or the lack of initiatives taken by the OTP in relation to the
6 witnesses in question; that is to say, generally speaking, the
7 responsibility of the OTP in relation to its own investigations,
8 the way that they were conducted and their responsibility for
9 the situation that we see today.

10 I want it to be very clear that the Defence wishes to
11 explore these two issues, and I have the impression that there
12 is some divergence on this point with the OTP, but I wanted to
13 clarify that particular aspect of the Defence's intentions.

14 (The Trial Chamber confers)

15 PRESIDING JUDGE FULFORD: Ms Samson, I think that's
16 probably a very clear exposition by Mr Biju-Duval as to where
17 the Defence would like to go in their questioning, I suspect not
18 only of this individual but some of the others who will be
19 called on the list that you've set out.

20 You can either respond now or as a part of the written
21 submissions that I understand are going to be filed either today
22 or tomorrow; is that right?

23 MS SAMSON: Hopefully today, your Honour.

24 PRESIDING JUDGE FULFORD: Fine. A preliminary
25 observation from us, and may I make it clear this is not a

1 definitive answer - and a definitive answer will, at the very
2 least, await your filing - is that the two issues that
3 Mr Biju-Duval has identified are, as it seems to us at the
4 moment, highly relevant to the issue of abuse of process because
5 one of the considerations on abuse is whether, if something went
6 wrong, that is the responsibility of an independent actor,
7 somebody not concerned with the body responsible for the
8 Prosecution; or whether what went wrong, if something did, was
9 actually the responsibility of those prosecuting; and the
10 Defence would say still worse, if it took place with knowledge.
11 So responsibility and involvement in the error, if there was
12 one, is something that the Defence is arguably entitled to
13 explore.

14 Now, then, if that's right, it comes down to, in all
15 probability, whether or not this individual, and those that will
16 follow, are in a position to give evidence that will help the
17 Chamber on that -- on those points.

18 That's our preliminary position. Now, you can respond
19 now, if you wish - I don't want to close the door - or you can
20 leave it to your written submissions. It's a matter for you.

21 MS SAMSON: Thank you, Mr President. In the main, the
22 submission will be made in the written filing in relation to
23 this issue. The only observation that I wish to make now is
24 simply that it's really a question of degree. The witnesses who
25 are coming are coming to discuss and give testimony on their

1 knowledge of the matters relevant to the abuse of process
2 application. As it has been communicated, but perhaps today
3 clarified, general questions related to investigative methods of
4 the Prosecution in its investigations are still outside the
5 bounds of what we would submit are appropriate lines of
6 questioning for these witnesses.

7 Questions of the nature that the Defence is raising
8 that relate to these intermediaries or these particular
9 witnesses and the steps that were or were not taken may very
10 well be relevant, but to then open it up into a general
11 challenge of OTP's investigative methods on any and all manner
12 of its investigations strikes us, at first blush, as being
13 overstretching what these witnesses are coming to testify about.
14 As I say, however, these matters will be addressed hopefully
15 more succinctly in the written filing.

16 PRESIDING JUDGE FULFORD: It's all going to be a
17 matter of degree, Ms Samson, isn't it? Some investigative
18 matters, the approach taken by the OTP will probably be
19 completely irrelevant to this issue. On the other hand, if one
20 is dealing with the possibility of the corruption of witnesses,
21 then some of the -- or elements of the strategic approach taken
22 by the Office of the Prosecutor in relation to gathering
23 evidence, how witnesses were handled and the role of the
24 intermediaries, may be relevant both to the issue of the overall
25 responsibility of the Prosecutor and to the issue of whether or

1 not individuals within the Prosecution team had knowledge of
2 what the Defence alleges was going on.

3 So it's I think impossible to say, until the avenue
4 has been opened up by questioning, whether or not we're straying
5 too wide from the path or whether the area is one that is
6 relevant to the two issues that Mr Biju-Duval has now so clearly
7 defined. But you may wish to reflect on that and come back on
8 paper.

9 MS SAMSON: Yes, thank you very much, Mr President.

10 PRESIDING JUDGE FULFORD: Thank you very much. That's
11 very helpful.

12 Next, then, we need to think about the following
13 witness, which is potentially Witness 38. Mr Sachdeva, would
14 you be content for Witness 38 to give evidence via video link if
15 his testimony is not accepted in statement form?

16 MR SACHDEVA: Yes, Mr President.

17 PRESIDING JUDGE FULFORD: Because I think this is a
18 witness we've already heard from, who is simply going to be
19 asked questions by the Prosecution as to whether or not
20 something untoward happened with one of the intermediaries.

21 MR SACHDEVA: Yes, that's right.

22 PRESIDING JUDGE FULFORD: Arguably, very short.

23 MR SACHDEVA: Indeed, I believe that we indicated less
24 than an hour perhaps for the total examination.

25 PRESIDING JUDGE FULFORD: Yes, I think an hour was on

1 your schedule. Thank you.

2 Mr Biju-Duval, given that this is a witness we've
3 already seen, that we've heard tested under questioning, who is
4 to be called simply in relation to one issue concerning one of
5 the intermediaries, if it's more convenient, it may not be, but
6 if it's more convenient to have his evidence heard by way of the
7 video link, would you object to that?

8 MR BIJU-DUVAL: (Interpretation) Regarding Witness
9 38, now, the position of the Defence has to do with the very
10 principle of this hearing. We are of the view that Witness 38,
11 who can give testimony only regarding his own dealings with
12 intermediary 316, can provide no relevant indication of -- about
13 the dealings or the behaviour of intermediary 316 with other OTP
14 witnesses.

15 So with regard to Witness 38, we are of the opinion
16 that he does not meet the requirements to be a rebuttal witness
17 before the Chamber; and then, and this is in a secondary way, if
18 he were to give testimony by way of rebuttal, no objection in
19 principle to his being heard by video link. I would like to
20 have a few moments to think about that, because the other
21 solution that we might want to consider would be the admission
22 in evidence of the written statement provided to the OTP. But
23 on that particular issue, we would like to hold off. If we
24 could have a few more moments to mull that over.

25 PRESIDING JUDGE FULFORD: Why don't you take a moment

1 now to discuss the matter with Mr Desalliers and Ms Buteau.

2 (Counsel confer)

3 MR BIJU-DUVAL: (Interpretation) Yes, your Honour.

4 If, if Witness 38 were to be called as a rebuttal witness, we do
5 not object on a -- in terms of substance, or no objection to
6 that being done by way of video link. But, once again, now,
7 when the OTP has officially forwarded to the Chamber and to the
8 parties their observations justifying the need for further
9 examination of Witness 38, at that point the Defence will
10 express its position in principle; namely, that
11 re-examination -- further examination is not necessary, but,
12 secondarily, if he were to be heard, a video link would not be a
13 particular obstacle for us.

14 PRESIDING JUDGE FULFORD: Thank you very much,
15 Mr Biju-Duval. We will await any further submissions from
16 either of the parties on this issue, but our preliminary view is
17 that given part of the Defence approach on abuse of process is
18 that particular intermediaries may have corrupted Prosecution
19 witnesses, it is relevant for the Prosecution to recall one of
20 their witnesses within this category to give evidence about any
21 attempts by a particular intermediary relevant to this issue
22 who -- to corrupt him or to persuade him to give false evidence.

23 So accordingly, Mr Sachdeva, we will proceed on the
24 basis for the moment, unless there are further Defence
25 submissions that we need to consider, at which point we will

1 reconsider that preliminary view, we need to work on the basis
2 that Witness 38 can be called.

3 It may be that discussions between you will result in
4 this, subject to the Chamber's approval, being dealt with by way
5 of a written statement. If it is felt necessary for there to be
6 evidence on this issue, can we please ask you to liaise
7 immediately with the Registry to see whether a video link can be
8 established so that, doing the best I can, following the field
9 operations liaison coordinator Witness 38 can commence his
10 evidence via the video link on either Thursday or Friday of next
11 week, because this -- the first witness may have concluded his
12 evidence by some time on Thursday of next week.

13 Now, we understand that usually the Registry likes to
14 have a fortnight to set these things up. Given the urgency of
15 this situation, we're asking urgent enquiries to see whether
16 this can be done quicker.

17 MR SACHDEVA: Mr President, we will certainly do so.
18 My understanding from my learned friend's last submissions is
19 that, if Witness 38 is to be called, they would prefer testimony
20 by video link and not the admission of the statement, but we
21 will continue to have discussions with the Defence on that.

22 PRESIDING JUDGE FULFORD: I think that's likely to be
23 the result, Mr Sachdeva, but given there's been a hint of a
24 possibility of dealing with this issue by way of statement,
25 let's just make sure that that's fully explored.

1 Next witness, please, is 496. I anticipate that there
2 is currently -- now, I may be wrong on this. I was going to say
3 there is currently no visa or passport, but do you have any
4 up-to-date information on that, Mr Sachdeva?

5 MR SACHDEVA: Mr President, as was submitted in the
6 last hearing, 496's statements have been disclosed to the
7 Defence. My understanding is that in their application to have
8 statements admitted from the Bar table these two statements were
9 part of that package and, therefore, if the Defence have no
10 objection to the statements being tendered from the Bar table,
11 we certainly feel that is the best course of action and,
12 therefore, that would obviate the need for the witness to
13 testify here, or indeed by way of video link.

14 PRESIDING JUDGE FULFORD: Thank you very much.

15 Any view on Witness 496's statements, Mr Biju-Duval?

16 MR BIJU-DUVAL: (Interpretation) Yes, your Honour.
17 In the application for the tendering of evidence by way of Bar
18 table, the Defence asked for disclosure of the statements from
19 Witness 496 and the admission of statements from his spouse,
20 497.

21 Today, the Defence confirms that we are in absolute
22 agreement that the statements from 497 be placed on the Court
23 record -- 496, rather than calling the witness to give
24 testimony.

25 Naturally, the statements from 497 - the spouse of 496

1 - should also be admitted. She will be coming to give further
2 information and, on that point, I did believe that there was
3 some -- a position from the OTP.

4 PRESIDING JUDGE FULFORD: Now, let's take these in
5 turn then.

6 Mr Sachdeva, maybe I've completely misunderstood, but
7 it seems to be agreed that 496 can be introduced by way of
8 statement form, subject to us approving that course. Now, what
9 about the spouse? Does the Prosecution have a position in
10 relation to the statements from the spouse being introduced as
11 well?

12 MR SACHDEVA: Mr President, this witness had not been
13 on the initial list. I would imagine that there would be no
14 objection but, with your leave, could I revert to the Chamber
15 today?

16 PRESIDING JUDGE FULFORD: By 4 p.m.?

17 MR SACHDEVA: Certainly.

18 PRESIDING JUDGE FULFORD: Thank you very much. We
19 will work then, on a preliminary basis, that Witness 496 will be
20 dealt with by way of statements. The Chamber will, however,
21 wish to re-read with care the statements of that witness to make
22 sure that we approve that course of action.

23 The next witness, Mr Sachdeva, for consideration is
24 321. He arrives on the 20th, I think, of June. The proposal is
25 that he commences evidence on Wednesday, 23rd. The request that

1 we are going to make to the Victims and Witnesses Unit is that
2 they attempt to have him ready to commence evidence on the
3 morning of 22 June.

4 He will in the recent past have been asked to consider
5 certainly the matters the Prosecution will be wishing to ask him
6 about and, therefore, the process of familiarisation should not
7 take particularly long, in our view.

8 So we are going to pencil in -- subject to any
9 objections now, we are going to pencil in 9.30 on Tuesday, 22nd,
10 for his evidence. Do you have any observations on that,
11 Mr Sachdeva?

12 MR SACHDEVA: Only, Mr President, that we had
13 pencilled this witness in for 23 June and, of course, in our
14 submission --

15 PRESIDING JUDGE FULFORD: I am moving him forward a
16 day to the 22nd.

17 MR SACHDEVA: We understand. In our submission, to
18 supplement the submissions made last time, we understand that
19 the witness has given statements relatively recently. However,
20 we would like that the familiarisation is -- he is being given
21 sufficient time to properly familiarise himself with the three
22 statements that he has given to the Prosecution.

23 PRESIDING JUDGE FULFORD: Well, all we are saying at
24 the moment is can mature consideration please be given to the
25 possibility that, given he will recently have provided the

1 relevant statements, for a familiarisation process which
2 effectively simply takes Monday, 21 June.

3 Now, if in due course it is believed on sensible
4 grounds that that is being unfair to the witness then of course
5 revert to us, but we wish to explore whether the familiarisation
6 process can be somewhat shortened.

7 Now, Mr Sachdeva, I would imagine that 321, as with
8 316, is likely to take two or three days in giving evidence.
9 Would you agree?

10 MR SACHDEVA: We would, Mr President.

11 PRESIDING JUDGE FULFORD: That then, I think -- the
12 Chamber is not going to be able to sit on Wednesday, 23 June.
13 That will then really occupy us for that week.

14 MR SACHDEVA: Mr President, just to make the point
15 that we would be seeking protective measures for both 321 and
16 316.

17 PRESIDING JUDGE FULFORD: Understood. If that
18 occupies the week of 21 June, or as much of it as we can, we
19 then have 316 for the week of the 28th. And -- well, in one
20 sense I'm pleased to see, in another sense I regret to see, that
21 that week is going to be interrupted because the Thursday is I
22 think an ICC holiday, 1 July, and I imagine there are going to
23 be pressing requests for us not to sit on the Friday as a
24 result. Yes, maintenance is no doubt going to be suggested.

25 His evidence then finishing some time around 5/6 July,

1 would you agree?

2 MR SACHDEVA: Mr President, it does appear so. We
3 just note that at this stage we are still in the process of
4 taking a statement - a further statement - from 316 and, of
5 course, I understand he has engaged counsel and we hope that
6 that process can be completed by that time.

7 PRESIDING JUDGE FULFORD: Well, can I suggest then,
8 Mr Sachdeva -- and thank you for warning us that counsel has
9 been instructed. Can you therefore, please, explore the
10 possibility that we have for Monday, 28 June also ready and
11 standing by -- and I'm not going to name them, but the other two
12 OTP representatives whose names were I think identified by the
13 Chamber.

14 MR SACHDEVA: I was just going to make that point,
15 Mr President. One of them we believe could be ready for
16 testimony on 30 June. Of course, this is subject to the
17 necessary authorisations that are required --

18 PRESIDING JUDGE FULFORD: Right.

19 MR SACHDEVA: -- for the two representatives to
20 testify, but we hope that 30 June could be a slot for that first
21 witness.

22 PRESIDING JUDGE FULFORD: I'd be grateful,
23 Mr Sachdeva, if you could find out whether at least one of the
24 three witnesses - those two and 551 - could be available as of
25 Monday, 28 June, because otherwise we are likely, or there's a

1 risk, that we will lose two or three days. So can we explore
2 ensuring that somebody is free to give evidence as of 9.30 on
3 Monday, the 28th?

4 MR SACHDEVA: Yes, we will, Mr President.

5 PRESIDING JUDGE FULFORD: Right, thank you very much.

6 Now, Mr Sachdeva, I think the result of all of that is
7 that, with a fair wind, in fact there shouldn't be many, if any,
8 gaps in this process of completing the evidence on the Defence
9 abuse application.

10 MR SACHDEVA: Yes, that's right, Mr President.

11 PRESIDING JUDGE FULFORD: Good. Thank you very much,
12 indeed then.

13 Now, before we move on quickly to other matters,
14 Mr Biju-Duval, that's a pencilled-in diary. Anything else you
15 want to say on it? Oh, before you do, Mr Sachdeva does. Yes,
16 Mr Sachdeva?

17 MR SACHDEVA: I am sorry, Mr President. Just in
18 respect of Witness 555, this is the witness who has at the
19 moment some security concerns, and we have been in discussion
20 with the witness over the last week and we are closely liaising
21 with the Victims and Witnesses Unit and we hope to resolve those
22 concerns by next week. At the moment, subject to resolution of
23 those concerns, he has been scheduled for 7 July.

24 PRESIDING JUDGE FULFORD: You are absolutely right,
25 Mr Sachdeva. I'd merged 555 and 551 in my mind. You are

1 absolutely right. We need to work him in as well. Yes, so long
2 as the others are available to give evidence - or at least some
3 of the others are available to give evidence - from 28 June, I'm
4 sure that will be acceptable.

5 MR SACHDEVA: Thank you, Mr President.

6 PRESIDING JUDGE FULFORD: Thank you very much.

7 Mr Biju-Duval.

8 MR BIJU-DUVAL: (Interpretation) Mr President, I
9 would like to raise three matters still with regard to the
10 concern that the Defence has in respect of the disclosures
11 relevant to intermediary 143. Now, this concern exists for each
12 and every one of the witnesses who will be called to testify. I
13 shall not return to that issue.

14 Secondly, the Defence needs to have as soon as
15 possible the statements - the preparatory statements - in
16 respect of these witnesses, those responsible for investigations
17 or other witnesses, and to date we have not received any at all.
18 Now, of course, this is an urgent matter. We need to receive
19 them rapidly.

20 Thirdly, the rebuttal witnesses 555 and 551, which we
21 have just discussed, I do not know whether this is the right
22 time for the Defence to expose its position in this regard. We
23 are still awaiting information from the OTP.

24 PRESIDING JUDGE FULFORD: Mr Biju-Duval, thank you for
25 putting down a marker. I think it would be premature to raise

1 solid admissibility objections at this moment. You need to see
2 the statement of the witness, I think, before you make
3 submissions as to whether or not the content of that
4 individual's evidence is going to be admissible or not, given
5 the issues that have been raised on the admissibility
6 application. All we are doing at the moment is setting a
7 timetable for potential evidence; we are not finally determining
8 whether the Prosecution will be entitled to call each and every
9 one of these witnesses. If you are happy with that approach, we
10 will deal with that at an appropriate later stage.

11 I think I need to get an answer from Mr Biju-Duval,
12 Mr Sachdeva, first.

13 MR BIJU-DUVAL: (Interpretation) Mr President, I just
14 wanted to make an obvious observation. Of course, as soon as we
15 have further information with regard to these statements and
16 these testimonies, the Defence will be able to lead further
17 investigations but, for the time being, we have no further
18 observations to make with regard to the scheduling.

19 PRESIDING JUDGE FULFORD: Mr Sachdeva.

20 MR SACHDEVA: Mr President, I apologise, I may come
21 back later once I verify one aspect but, in the previous
22 submissions I made last week, my understanding was that the
23 draft notes of the 6 May statement of 551 have been disclosed to
24 the Defence and, in our submission, if that is indeed the case,
25 then, pursuant to the application made orally last week, the

1 Defence should be in a position to make submissions as to
2 whether they would -- they object to this witness being called
3 as a witness for the abuse of process and intermediary issue.

4 PRESIDING JUDGE FULFORD: So, Mr Sachdeva, the
5 position then is that everything, as far as the Prosecution are
6 concerned will be said by that witness, has now been disclosed?

7 MR SACHDEVA: Primarily yes, Mr President, but as I
8 said, I will revert.

9 PRESIDING JUDGE FULFORD: Right. I think we are going
10 to give everybody time to think about this. Can you review it,
11 Mr Sachdeva, and inform the legal adviser to the division by
12 4 p.m. tomorrow, please, as to whether or not you anticipate any
13 further material in relation to this witness.

14 If there is none, there is no additional evidence to
15 come, Mr Biju-Duval, you're free next week, if you have
16 admissibility objections, to raise them orally with the Chamber.
17 Given that it's important that you have an answer to these
18 matters sooner rather than later, we will deal with these
19 matters orally next week if there are outstanding issues. Is
20 that acceptable?

21 MR BIJU-DUVAL: (Interpretation) Yes, indeed,
22 Mr President.

23 PRESIDING JUDGE FULFORD: You were on your feet again,
24 Mr Sachdeva.

25 MR SACHDEVA: Mr President, I just wanted to agree

1 with your Honour.

2 PRESIDING JUDGE FULFORD: Thank you very much,
3 Mr Sachdeva. That is very kind of you.

4 Now, returning to the Defence proposed schedule for
5 today, we have dealt, to the extent that we are able, with the
6 information on the identity of intermediary 143. The employment
7 contract of Monday's witness has been the subject of a written
8 decision by the Chamber. Which brings us to Albert,
9 Mr Biju-Duval, a subject that has engaged us in the past.

10 Yes, Mr Desalliers.

11 MR DESALLIERS: (Interpretation) Mr President, I
12 believe that the response to this question has been given by
13 email by my learned colleague. I believe that that answers this
14 question. I think that this might be removed from the agenda
15 for today.

16 PRESIDING JUDGE FULFORD: That comes as a source of
17 great relief to us, Mr Desalliers, that we're not having to
18 return to a slightly uncertain area. Good.

19 Now, we then need to look at, I think, the schedule
20 that has been provided by the Prosecution to the Defence on
21 contacts between witnesses and intermediaries. This is the
22 Annex B to filing 2466. Is there anything on this,
23 Mr Desalliers?

24 MR DESALLIERS: (Interpretation) Yes, indeed. We'd
25 just like to talk about this table specifically because we

1 received a first version thereof on Monday, and yesterday we
2 received an updated or amended version. And, upon reading the
3 table, it would seem to us, unless we have misunderstood the
4 order issued by the order, that it only partially meets the
5 requirements thereof.

6 The understanding that we had of the obligations upon
7 the Prosecution further to the order of 12 May was that this
8 table should include all the contacts, the known contacts,
9 between the intermediaries and the witnesses, and between the
10 witnesses and the witnesses, and between the intermediaries
11 themselves. These were all the contacts that should have been
12 included. That was our understanding of the situation.

13 However, we did not conduct a full analysis of this
14 table, but we did note a few illustrations of the fact that our
15 understanding of the order had not been completely reflected or
16 respected in this table.

17 I would just like to give you a few examples of this.
18 For example, with regard to the information given in respect of
19 Witness 38 in the table, the table only mentions one contact
20 between Witness 38 and intermediary 316, at a non-specified
21 location in January 2006.

22 Now, this seems somewhat strange to us that the
23 location was not provided because the Office of the Prosecutor
24 had entered into contact with this person, but we looked at the
25 statement taken by the OTP for Witness 38 during a further

1 interview in September 2009, when they put specific questions to
2 them with regard to that person's links with intermediary 316.

3 Now, during this discussion or interview - this
4 document bears the number DRC-OTP-D02-0119 - Witness 38 talks
5 about at least ten contacts entered into with intermediary 316,
6 of which two implicated encounters or meetings with the Office
7 of the Prosecutor.

8 We also received a receipt from the Office of the
9 Prosecutor that led us to understand that there had been a
10 contact in March 2006 between intermediary 316 and Witness 38.
11 However, the table only makes mention of one contact - that was
12 in January 2006 with the intermediary 316.

13 Now, a further illustration that we noted was with
14 regard to Witness 15, that is OTP Witness 15, in the table
15 provided the only contact established between Witness 315 and
16 intermediary 316 allegedly occurred in October 2006, if I am not
17 mistaken, at a non-specified location, whereas, once again, this
18 was for contact, or for purposes of entering into contact with
19 the Office of the Prosecutor.

20 Now, Witness -- the witness who appeared before the
21 Chamber explained that he had had further contact with
22 intermediary 316. He said that he himself had acted as an
23 intermediary for the Office of the Prosecutor. He said that,
24 amongst the witnesses that he presented, he was the one who
25 presented Witness 17. However, the table makes no mention of

1 the fact that Witness 15 acted as an intermediary. The table
2 indicates that Witness 17 was not presented by an intermediary
3 to the Office of the Prosecutor. So -- and what is more, we
4 also noted that there was a screening interview for Witness 17
5 in the exhibits provided --

6 PRESIDING JUDGE FULFORD: Sorry to interrupt you now,
7 Mr Desalliers. Have you provided those examples of where you
8 think the table may be deficient to the Prosecution in advance
9 of today's hearing?

10 MR DESALLIERS: (Interpretation) Mr President, we
11 limited ourselves to telling the Office of the Prosecutor that
12 we were completely unsatisfied with the table. However, we did
13 not provide them with any specific examples. I am providing the
14 Trial Chamber with examples as we speak. However, we have not
15 conducted an exhaustive overview of the issues of concern in the
16 table.

17 However, this table, in our opinion, does not fulfil
18 the requirements of the order issued by the Chamber, and we
19 humbly submit that this table is of no use to us and we wanted
20 to raise this concern with the Chamber.

21 MR SACHDEVA: Mr President, thank you. We would
22 reject those submissions by my learned friend. Firstly, our
23 understanding of the order of the Chamber was to disclose
24 information that has been hitherto in our sole possession.
25 Clearly, the information the Defence has raised has been in

1 their possession and therefore, in our submission, there would
2 be no need for disclosure.

3 Having said that, this disclosure involved a
4 painstaking view of the databases that we currently hold in the
5 office, and it is sometimes the case that information that has
6 been elicited from witnesses in evidence is not necessarily
7 recorded in our contemporaneous database at the time and,
8 therefore, there is likely to be divergence on some occasions
9 between the information we have and the information that has
10 come out from a witness.

11 Now, of course, if the Defence were to provide us with
12 further information, we can -- would revert and review our
13 records but, in our submission, this table conforms to the order
14 the Chamber has set in its entirety.

15 PRESIDING JUDGE FULFORD: Mr Sachdeva, I think our
16 order was very clear in its terms, and I think Mr Desalliers has
17 accurately reflected it, that it is contacts between the various
18 individuals.

19 That order applies to the information that's within
20 the Prosecution's possession, regardless of whether or not the
21 Defence may coincidentally have some of that in any event. This
22 is supposed to be a comprehensive schedule reflecting the
23 material in your possession.

24 There appears, on the basis of what Mr Desalliers is
25 saying this morning, there appears to be the possibility that

1 the schedule is not as comprehensive in certain respects as
2 perhaps it ought to be. We are not even going to begin to
3 attempt to resolve that now.

4 Can the two of you, please, before the close of play
5 on Friday, sit down together; can Mr Desalliers give you the
6 entirety of the examples that he's embarked upon this morning;
7 and can the Prosecution then reflect on whether there are
8 further steps that can be taken to make this a more adequate
9 schedule if, as Mr Desalliers suggests, it's deficient? And
10 then revert to us, please, on Monday if a satisfactory result
11 doesn't emerge from those discussions.

12 Is that agreeable, Mr Sachdeva?

13 MR SACHDEVA: Certainly, Mr President.

14 PRESIDING JUDGE FULFORD: Thank you very much, indeed.
15 All right, Mr Desalliers.

16 We have indicated that with transcript 287 of 18 May
17 there should be inserted by the interpreters the literal
18 translation of the words "the biological mother of the half
19 brother." If there are to be any objections to that, the
20 procedure, I think, which we've laid down, needs to be followed.

21 Now, I think that addresses, one way or another, all
22 of the items that were on the Defence list for today's hearing.
23 I see Mr Desalliers nod. Is there anything else, Mr Desalliers,
24 you would wish to raise, or Mr Biju-Duval?

25 MR DESALLIERS: (Interpretation) Indeed,

1 Mr President, this does cover the issues that we wanted to raise
2 before the Trial Chamber.

3 Now, with regards to the transcript that you've just
4 mentioned, Witness 287, that is, we'd like to review this matter
5 in order to have a very clear and decisive position in this
6 regard, and we shall inform the Trial Chamber as soon as we
7 possibly can.

8 PRESIDING JUDGE FULFORD: All right. Thank you,
9 Mr Desalliers. We will then not take a final decision on that.
10 So, slightly amending what I just said, this is to be left in
11 abeyance until there are further submissions on the matter
12 during next week.

13 Can you indicate, one way or the other, please,
14 Mr Desalliers, whether or not you are in agreement with the
15 literal interpretation so that whatever steps need to be taken
16 can be taken following a positive indication from you?

17 MR DESALLIERS: (Interpretation) Indeed,
18 Mr President.

19 PRESIDING JUDGE FULFORD: Thank you very much.
20 Mr Sachdeva, Ms Samson, anything else?

21 MR SACHDEVA: Nothing further, Mr President.

22 PRESIDING JUDGE FULFORD: I'm extremely conscious that
23 the legal representatives of victims have been ignored wholesale
24 this morning. Anything?

25 MS MASSIDDA: Good morning, your Honour.

1 PRESIDING JUDGE FULFORD: Good morning, Ms Massidda.

2 MS MASSIDDA: No, we have only just an indication for
3 the Chamber for the coming witnesses, at least for what concern
4 OPCV. We intend to file, for the information of the Chamber, a
5 request for questioning one witness, which is the second
6 representative of the OTP. In our estimation, it will take us
7 not more than one hour for the questioning. Thank you.

8 PRESIDING JUDGE FULFORD: Thank you very much, indeed.

9 Well, we're very grateful to you all for your
10 assistance this morning. We meet again at 2.30 on Monday. I am
11 not sure which court, but it's in the afternoon on Monday.
12 Thank you very much.

13 (The hearing ends at 10.59 a.m.)