

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Presiding Judge Adrian Fulford,
4 Judge Elizabeth Odio 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 Monday, June 28, 2010
9 (The hearing starts at 2.34 p.m.)
10 (Open session)

11 THE COURT USHER: All rise. The International Criminal
12 Court is now in session. Please be seated.

13 PRESIDING JUDGE FULFORD: Good afternoon. I'm sorry we've
14 kept you waiting, but one of the lifts decided not to open its doors.

15 We'd like first, please, to deal with the issue of witness
16 scheduling over the next few days. On my recollection, the plan had
17 been that at 9.30 tomorrow we were intending to commence the evidence
18 of 321. Now, as I understand it, a difficulty has arisen in that it
19 is suggested that the familiarisation process is not complete. Who
20 can field this issue, please?

21 MS KAPRIELIAN: Your Honour, if I may.

22 PRESIDING JUDGE FULFORD: Please.

23 MS KAPRIELIAN: Maral Kaprielian from the Victims and
24 Witness Unit.

25 Witness 321 already started reading his statement, as was

1 authorised in the field. Unfortunately, his -- what's transpired is
2 that his pace in reading is rather slow, and he's had another additional
3 100 pages to read than was originally indicated, so the witness basically
4 has not finished reading and, in view of all of that, we see that he
5 may need today as well as tomorrow.

6 If I may also indicate that the witness had his courtroom
7 familiarisation this morning, together with his courtesy meeting, so
8 part of today was also consumed with that, but we foresee the witness
9 will be ready by tomorrow afternoon --

10 PRESIDING JUDGE FULFORD: Tomorrow afternoon?

11 MS KAPRIELIAN: -- to testify on the day after, being -- sorry.

12 PRESIDING JUDGE FULFORD: You mean ready to start on not
13 tomorrow, but Wednesday?

14 MS KAPRIELIAN: Yes.

15 PRESIDING JUDGE FULFORD: Well, can I ask what exactly it
16 is he's reading? I understand that he was interviewed towards the
17 end of last year on the subject of, generally speaking, the issues
18 that have arisen on this abuse of process application; namely, whether
19 things had happened with some Prosecution witnesses that shouldn't
20 have happened. Now, is it simply the full extent of those interviews
21 towards the end of last year that he's reading, or are there other
22 materials which have been put before him as part of this familiarisation
23 process?

24 MS KAPRIELIAN: To be frank, your Honours, I wouldn't be
25 able to go into the details of what exactly the witness is reading.

1 What we have been handed by the Office of the Prosecutor is a rather
2 large folder of 25 tabs of documents and I'm not privy to the details
3 of these documents. I apologise for that.

4 PRESIDING JUDGE FULFORD: Thank you very much. Mr Sachdeva,
5 you'll be aware of the kind of material that I've been used to sitting
6 in another jurisdiction; namely, in most instances, a statement of
7 a few pages that a witness reads fairly rapidly to refresh his or her
8 memory before walking in through the door of the Court, a procedure
9 which one would anticipate will take no more than half-an-hour. Now,
10 what are these 25 tabs?

11 MR SACHDEVA: Mr President, indeed, as with other witnesses
12 that we have called, in many occasions the interviews have been conducted
13 over a period of days and there has not been a statement that has been
14 signed; rather, transcripts have been produced. And this witness is
15 reviewing the three interviews he gave with the Prosecution over the
16 last three or four months, and those interviews have been transcribed
17 and, unfortunately, they do contain binders' worth of documents that
18 the witness has to review.

19 The Prosecution -- we note, of course, the fact that we need
20 to get proceedings underway as quickly as possible and, of course,
21 the Prosecution is ready to examine the witness. However, it is our
22 understanding that the witness does, indeed, want to properly
23 familiarise himself, as was the case with other witnesses that have
24 been called.

25 PRESIDING JUDGE FULFORD: I mean, to a large extent,

1 Mr Sachdeva, we are in your hands, save for one observation, which
2 is that I think with 321 and 316 the procedure in relation to
3 self-incrimination effectively has come into being, as it were. Now,
4 in order to put this witness into a position where he has a thorough
5 and appropriate opportunity to refresh his memory as to what he said
6 towards the end of last year, is it really necessary for him to read
7 all 25 tabs of the binders that have been provided?

8 MR SACHDEVA: Mr President, our submission is indeed, yes.
9 Of course, he has recently been interviewed and therefore one would
10 hope that his memory is better for that interview, but we think that
11 in order to be able to answer questions properly and truthfully in
12 court, he does need to familiarise himself properly with those three
13 statements. And I understand it's just another day, perhaps, of
14 reviewing and, in our submission, the one-day delay is -- taken in
15 balance with the right of the witness to review those materials, it's
16 not too disproportionate.

17 PRESIDING JUDGE FULFORD: Thank you, Mr Sachdeva.
18 Mr Biju-Duval.

19 MR BIJU-DUVAL: (Interpretation) Yes, your Honour. Very
20 briefly on this matter, with regard to these previous statements that
21 the witness is currently reviewing, the Chamber must understand that
22 nearly half the statements were done early in June of this year, June
23 2010; in other words, very recently. There are the statements from
24 October 2009 which go back a while. There are the statements from
25 June 2010 that are very recent and, for these June 2010 statements,

1 we think it is unnecessary for the witness to refresh his memory in
2 their regard. That was the observation that the Defence wished to
3 make at this moment.

4 And I would like to take the opportunity to state that the
5 witness has had just as much time to review these statements as -- well,
6 this morning he refused to meet with the Defence for the familiarisation
7 process. We thought that the Chamber might find that piece of
8 information of use.

9 PRESIDING JUDGE FULFORD: Thank you, Mr Biju-Duval.
10 Mr Sachdeva, I hadn't appreciated that some of these materials relate
11 to interviews that were conducted this month. What proportion of the
12 25 tabs are effectively near contemporaneous interviews?

13 MR SACHDEVA: I can't say off the top of my head, Mr President,
14 in terms of the tabs, but it's one interview conducted in June; my
15 learned friend is correct. And I would point out that of course as
16 per the procedure the Prosecution informed the Defence exactly which
17 materials will be in the familiarisation package and, as I understand
18 it, the Defence did not object at that time because it was a previous
19 statement of the witness. But, yes, it's one statement in June that
20 is being used for familiarisation.

21 PRESIDING JUDGE FULFORD: Well, if that's right, that means
22 this is a relatively small part of the overall bundle of interviews;
23 is that right?

24 MR SACHDEVA: It's probably a third, Mr President.

25 PRESIDING JUDGE FULFORD: Oh, that may be quite a lot. Just

1 a moment.

2 (Trial Chamber confers)

3 PRESIDING JUDGE FULFORD: Mr Sachdeva, we are not hugely
4 impressed with the idea that the witness at this stage needs to refresh
5 his memory as regards an interview which took place only a few days
6 or a couple of weeks ago. It seems to us that the whole process of
7 witness familiarisation isn't really meant to address a situation of
8 that kind where there's been a very, very recent process of interviewing
9 or providing a statement.

10 But that said, given that the issue of self-incrimination
11 arises with this witness, we are extremely reluctantly prepared to
12 agree to him in these circumstances being able to look at the body
13 of interviews as a whole, out of fairness to him, rather than for any
14 other reason. So we will commence his evidence not tomorrow, but at
15 9.30 on Wednesday.

16 MR SACHDEVA: Thank you, Mr President.

17 PRESIDING JUDGE FULFORD: Thank you very much. I think that
18 deals with the issue which we asked the Registry to attend for, unless
19 there's something else which the three of you have in mind which I've
20 overlooked? No. Don't think so? Ms Dahuron?

21 MS DAHURON-JACOBY: (Interpretation) Your Honour, simply,
22 if that were to mean other testimony would have to be delayed as well,
23 as well as the video conference, the Registry would like to inform
24 you that the video conference could be held on 12 rather than 9 July.
25 Or 9 July, as well.

1 PRESIDING JUDGE FULFORD: I think given it's really
2 impossible to tell how long these witnesses are going to take, the
3 better course is to have the video arrangement set up as early as possible,
4 and we will intervene Witness 38 regardless of what's taking place.
5 If we try to fix Witness 38 for the end of Witness 321, we're inevitably
6 going to get it wrong, and so it is in our view better to set it up
7 and we'll intervene whatever other evidence we are hearing. So as
8 quickly as possible, please. Thank you very much. Good. Thank you
9 for your attendance. Please feel free to slip out of court. Thank
10 you.

11 Just a moment, Mr Sachdeva.

12 (Trial Chamber confers)

13 PRESIDING JUDGE FULFORD: Now, Mr Sachdeva, were you on your
14 feet out of politeness or because there was something else that you
15 wished to raise?

16 MR SACHDEVA: Mr President, I thought your Honour was
17 addressing me, but --

18 PRESIDING JUDGE FULFORD: No. You're quite right, I was
19 about to do so. Witness 38, and using his statement effectively as
20 evidence-in-chief, is there anything else you want to say on that
21 subject?

22 MR SACHDEVA: Mr President, at this stage -- well, perhaps
23 one point. Of course, the Prosecution understands that the previous
24 rulings of the Chamber have been in respect of evidence that one can
25 say is peripheral and not critical to the Prosecution case or, in fact,

1 to the case. However, in our submission, as cases progress at the
2 ICC perhaps there will come a time where witness statements that do
3 contain evidence of a critical nature can be tendered as long as the
4 witness is present in court.

5 Of course, the Defence will have the right to cross-examine
6 and, of course, the Chamber can ask questions of the witness. This
7 is how, in our submission, evidence procedure has been progressing
8 in other ad hoc tribunals. I am not suggesting, of course, that we
9 follow that course to the letter, but it is certainly a possibility
10 that one needs to think about in future cases.

11 PRESIDING JUDGE FULFORD: Very clear. Thank you very much.

12 Mr Sachdeva, you may well be right theoretically and
13 generally put but we, having looked at the witness statement dated
14 17 and 18 September of last year, are of the view that it addresses
15 a fundamental part of the Defence application; namely, the role of
16 a particular intermediary. It's not a long statement and it will not,
17 in our view, greatly add to the length of time this witness will spend
18 in the witness box if he addresses the issues reflected in his witness
19 statement as part of his evidence-in-chief at the commencement of his
20 testimony.

21 Therefore, without in any way prejudicing the position for
22 the future, on this occasion for this particular witness we think it's
23 in the interest of justice for him to give his evidence in the normal
24 way. Thank you very much.

25 MR SACHDEVA: Thank you, Mr President.

1 PRESIDING JUDGE FULFORD: Now, turning to Witness 555, it
2 may be most helpful if the Prosecution could, first of all, explain
3 precisely why the witness is to be called so that the Defence can then
4 respond having heard the full justification.

5 MR SACHDEVA: Thank you, Mr President. Firstly, I would
6 note that in the Prosecution's filing 2473, paragraph 21, 36 and 37,
7 in our submission, deals with some of the issues the Defence are concerned
8 about. Generally, 555 -- Mr President, with your leave, perhaps we
9 could move into private session.

10 PRESIDING JUDGE FULFORD: There are things that you will
11 need to refer to which should not be said in public session; is that
12 right, Mr Sachdeva?

13 MR SACHDEVA: Indeed, yes, Mr President.

14 PRESIDING JUDGE FULFORD: Private session then, please.

15 (Public session at 2.55 p.m.)

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23 (Open session at 3.02 p.m.)

24 THE COURT OFFICER: We are in open session, Mr President.

25 MR BIJU-DUVAL: (Interpretation) Your Honour, it has

1 emerged from the explanations given by the Prosecutor that the only
2 two paragraphs that should be of interest to the Chamber, the two
3 paragraphs of the statement of Witness 555 to which the Chamber has
4 to pay attention in order to appreciate the relevance of that testimony,
5 are paragraphs 55 and 56.

6 This means that we are talking about the two paragraphs in
7 that statement in which Witness 555 states that a certain personality
8 allegedly asked him whether he knew any people who could accept to
9 come and give testimony in favour of the accused, and Witness 555 added
10 that he understood that this proposal was being made to him.

11 The Chamber will observe that in these two paragraphs which
12 refers to potential witnesses for the Defence, in these two paragraphs
13 therefore Witness 555 does not at any moment, does not at any moment,
14 allege that he had been requested to come and give false testimony.
15 At no moment in his statement did Witness 555 allege that pressure
16 was brought to bear on him, or on other individuals, so that they would
17 come before the Chamber and give false testimony. That would have
18 been the only question that would have been of relevance.

19 I have concluded, your Honour.

20 PRESIDING JUDGE FULFORD: I think, Mr Biju-Duval, and I look
21 over to Mr Sachdeva as I say this, I think you have also got to look
22 at paragraphs 36, 37 and 38 which is where the witness talks about
23 two individuals coming to his house. I mean, we rehearsed this a little
24 bit earlier, which the Prosecution say provides clear indication that
25 pressure was being brought to bear on those who may give evidence against

1 the accused. Now that evidence is relied on as well. Now, what do
2 you say to those paragraphs, Mr Biju-Duval?

3 MR BIJU-DUVAL: (Interpretation) Yes, your Honour, it is
4 in these paragraphs, paragraph 36 and subsequent paragraphs, that
5 Witness 555 alleges that pressure was brought to bear on him and other
6 individuals to prevent Prosecution witnesses to come and give testimony.
7 However, we do not find that point relevant.

8 The only question here is whether Defence witnesses were
9 pressured into coming here to give testimony. That is the only question
10 which, to our mind, appears relevant because we are talking about
11 rebuttal witnesses; witnesses who have to rebut the allegations of
12 Defence witnesses.

13 Now, saying that pressure was brought to bear on potential
14 witnesses of the Prosecution in order to prevent them to come and give
15 testimony does not appear to be relevant to us within the framework
16 of the abuse of process application.

17 Your Honour, those are the observations the Defence would
18 like to make in order to state that the statement of this witness cannot
19 in any way help the Chamber to appreciate the relevance of the abuse
20 of process application which the Defence hopes to put in very soon.

21 PRESIDING JUDGE FULFORD: Thank you. Anything else,
22 Mr Sachdeva?

23 MR SACHDEVA: Mr President, nothing further.

24 PRESIDING JUDGE FULFORD: We'll reflect on this and deliver
25 a very short ruling at the beginning of the hearing on Wednesday.

1 Is there anything else for this afternoon?

2 MR BIJU-DUVAL: (Interpretation) Your Honour, we are at
3 the disposal of the Chamber. If the Chamber wishes for us to make
4 observations on the interview of the individual referred to as Cordo,
5 I don't know if this is the appropriate moment for us to go into that,
6 or would the Chamber prefer that we postpone our observations on that
7 point?

8 PRESIDING JUDGE FULFORD: What do you say, Mr Sachdeva,
9 about us spending time now pondering the position of Mr Cordo?

10 MR SACHDEVA: Mr President, in our submission, the quicker
11 this can be resolved the better, but I understand that it may be that
12 this is not an appropriate time to do this.

13 PRESIDING JUDGE FULFORD: Well, if you are both ready to
14 say whatever it is that needs to be said about Cordo, please proceed.
15 Do you want to go first, Mr Biju-Duval? Good, all right.

16 MR BIJU-DUVAL: (Interpretation) Thank you, your Honour.
17 I wish to respond to the observations made by the Prosecutor regarding
18 the appearance of the individual who goes by the name of Cordo.

19 First point: the Prosecutor states that the Chamber has
20 to order the Defence to have that individual appear before the Court;
21 I will not develop that point. It is obvious that that request is
22 in obvious contradiction with your decision of 2 June 2010, which turns
23 down the application of the Prosecutor relating to the disclosure of
24 the identity of that individual. I think this is an indirect way of
25 coming back on that point and so I do not think this application is

1 relevant or founded.

2 Second point, and this is more important, the Chamber has
3 to use its prerogatives under Article 69(3) to order the appearance
4 of that individual. I wish to make three observations on that point.

5 The first observation is that the application of the
6 Prosecutor filed before the Chamber is an application which is
7 impossible to address, to my mind; impossible because you cannot request
8 the Chamber to call a witness whose identity is still unknown and whose
9 potential testimony is also unknown.

10 It is, of course, the responsibility of the OTP to carry
11 out its investigations and identify the witness and interview that
12 witness and if the witness refuses to appear then they can ask the
13 Chamber to order the witness or that individual to appear.

14 On that point the Chamber knows that the Prosecutor has all
15 the information necessary; information which they can use to go to
16 that individual and carry out their investigations. I think one of
17 the witnesses who appeared here stated that this individual lived a
18 few metres away from his home and today the Prosecutor does not give
19 any justification, so the Prosecutor is not doing anything to carry
20 out this investigation which they deem important, so I think that is
21 a request which is difficult to satisfy today.

22 Second observation: this is an application which is founded
23 on an error of fact; an error of fact because Cordo has never served
24 as an intermediary of the Defence. We can state this because Defence
25 counsel is in a position to say who is a member of their team, just

1 as the OTP is in a position to say who is their intermediary. Cordo
2 is not an intermediary of the Defence team, so that is an error of
3 fact.

4 And there is also a situation of false parallelism here which
5 the Prosecution wishes to bring before the Chamber. As far as I know,
6 the OTP does not have the intention of requesting a stay of proceedings
7 because a Prosecution or Defence intermediary misbehaved. I think
8 there is some sort of an aberration here. The testimony of Cordo will
9 not be of any usefulness, and that is my last observation.

10 The issue here is knowing whether or not Defence witnesses
11 have lied. That is one of the questions raised by the OTP. I have
12 my doubts. I wonder whether the testimony of Cordo will help the Chamber
13 on that point. The Prosecution witness who made that allegation is
14 Witness 297. The Prosecution case today, I believe, is founded on
15 the testimony of Witness 297. That witness was examined,
16 cross-examined and - before the Chamber - and his statements are
17 available to the Bench, and the Bench can use those statements to see
18 or to determine where the truth lies, on whose side the truth lies.

19 I would like to rest my case here, your Honour, but I would
20 like to conclude by saying that, as the Chamber knows, we did not hesitate.
21 The Defence did not hesitate to request for the appearance before this
22 Chamber of Prosecution witnesses, of members of the OTP who could support
23 the Prosecution case. We are not opposed to the appearance of any
24 relevant witness before this Chamber, regardless of what they say.
25 In the instant case, that is, the case of Cordo, this is not possible

1 for a final reason.

2 The final reason is that the accused has a right to be tried
3 within the shortest time possible. Today I would say a lot of time
4 has been wasted and we cannot accept that new delays should be requested
5 by the Prosecution in order to organise the appearance of a certain
6 individual; a situation which I think is improbable.

7 That is the end, your Honour, thank you.

8 PRESIDING JUDGE FULFORD: Thank you, Mr Biju-Duval.
9 Mr Sachdeva?

10 MR SACHDEVA: Mr President, I don't want to enter into
11 closing argument style discussion here at this point. Of course, as
12 with the decision of your Honours on 12 May 2010, the fact is there
13 is evidence on the record that suggests that Cordo deliberately asked
14 a witness, 297, to lie, and 297 has given that evidence. He also gave
15 evidence that Defence Witnesses 3 and 4 were also asked to lie by Cordo.
16 And so, in our submission, it is entirely relevant that, if Cordo can
17 be identified, he should be interviewed and testify in front of the
18 Chamber. After all, these are -- this is the crux of the issue the
19 Chamber has to resolve.

20 Now, at the time we filed our application for disclosure
21 of the identity with the Defence, 297 -- at the time of filing 297
22 hadn't been heard. 297 gave evidence and, in the Prosecution's
23 submission, the need for Cordo to come before the Court and for him
24 to be identified was, in our submission, ever more urgent.

25 Now, 297 has given evidence that Cordo is related to Lubanga.

1 If that is the case, then surely the Defence must know who this person
2 is and surely, in our submission, must the Chamber be interested in
3 determining the identity of this person.

4 We also filed, in our submission 2473, that if the Defence
5 are not ordered to call this witness, the Chamber themselves seeks
6 to call this witness under 69(3), and we apply the standards that have
7 been applied in the 12 May decision 2010. Cordo may not have been
8 an intermediary, as the Defence suggests, but he certainly, in our
9 submission, worked for the Defence resource person. He was used to
10 facilitate contact between potential witnesses and eventually with
11 the Defence resource person and their lawyers. And so, it would seem
12 to us that if the standard is to be applied to the Prosecution, it
13 similarly should be applied to the Defence.

14 Those would be the submissions, and I also refer your Honours
15 to our filing 2473.

16 PRESIDING JUDGE FULFORD: Absolutely, yes. We assume that
17 you are simply, as it were, reminding us of the submissions you've
18 already made in writing, Mr Sachdeva.

19 Two short points. Firstly, we take it, therefore, that the
20 Prosecution's submission today is that you don't know who Cordo is.

21 MR SACHDEVA: At this stage we do not. We are, of course,
22 conducting our own investigations, as the Chamber has suggested, and
23 as we intend to do in parallel with our application, but at this stage,
24 no.

25 PRESIDING JUDGE FULFORD: Second point, unconnected. 555,

1 given the issues that you've canvassed today, should, if we're with
2 you, be a very short witness, shouldn't he?

3 MR SACHDEVA: Yes, most probably no longer than
4 one-hour-and-a-half.

5 PRESIDING JUDGE FULFORD: That's what I thought. Thank you
6 very much.

7 MR SACHDEVA: But just to reiterate, Mr President, that,
8 unfortunately, 555 cannot come before the summer recess.

9 PRESIDING JUDGE FULFORD: There is a possibility -- again,
10 this is all predicated on the basis that we're with you and, of course,
11 we haven't made up our minds on that, but there is a possibility of
12 a video link, though, isn't there, for 555?

13 MR SACHDEVA: There is. Even with that possibility,
14 Mr President, our understanding is that 555, due to professional
15 commitments, cannot testify before the end of the recess.

16 PRESIDING JUDGE FULFORD: Not even by video link? I can
17 well understand him not being able to come here, but this applies to
18 video link as well, does it?

19 MR SACHDEVA: That is our understanding, yes, Mr President.

20 PRESIDING JUDGE FULFORD: Do you think that's the final
21 position, Mr Sachdeva?

22 MR SACHDEVA: I believe it is, but we can always liaise with
23 the VWU again, but that's, indeed, the position that we understand
24 it to be.

25 PRESIDING JUDGE FULFORD: Thank you. Now, any other

1 subjects for the Defence, Maître Mabilille?

2 MS MABILILLE: (Interpretation) Just two points, your Honour.

3 The first point: We have a little concern with respect to the schedule.

4 I wish to give the Chamber some information.

5 We have tried to reflect on the duration of the
6 cross-examination with respect to 321 and 316. I am saying this with
7 a lot of reservation because, as you know, this is a very complicated
8 exercise. However, we anticipate two cross-examinations which are
9 going to be relatively very long, especially with respect to 321. Since
10 we are going to go on recess around 16 July, we have certain concerns
11 with respect to the fact that we may not be able to complete the
12 cross-examination of 321, and that means we will resume
13 cross-examination after the judicial recess, and we find this a bit
14 uncomfortable. I wish to bring this point before the Chamber, and
15 we feel that the cross-examination is going to take a good number of
16 days. I am talking about Witness 321 and 316. I think the Bench
17 understood that I am talking about the two intermediaries. I'm talking
18 about time for cross-examination of the two intermediaries.

19 PRESIDING JUDGE FULFORD: Maître Mabilille, we readily
20 understand that at this stage it's very difficult for you to give an
21 accurate assessment as to how long those examinations will take because,
22 in large measure, it may well depend on the answers that you get to
23 the questions as the examination goes along. Either lines of inquiry
24 will become closed down, or they will become opened up, or a mixture
25 of the two. So that is why earlier I said that I thought it was foolish

1 to try to make any definite arrangements on the basis of a precise
2 time when 321 will have completed his evidence.

3 Now, Maître Mabilille, unless you're suggesting that we should
4 all unbook the summer holiday arrangements that have been made on the
5 basis of a fixed judicial recess with, no doubt, the Defence paying
6 the cost of each of our rebooked holidays, I'm not sure exactly what
7 it is that you are proposing.

8 MS MABILLE: (Interpretation) No, your Honour, the Defence
9 team will not be pleased with having your recess period cancelled.
10 I am just anticipating on the fact that, with respect to the time frame,
11 we have two intermediaries who are going to appear, two intermediaries
12 whom, as we all know, there are a certain number of areas on which
13 we have to put questions. As a result, the cross-examination is going
14 to be relatively long. Of course, I understand that the duration will
15 depend on the answers given by the witness.

16 I simply wish to bring the attention -- draw the attention
17 of the Chamber to the fact that we would not like to have a
18 cross-examination interrupted by the judicial recess, because we will
19 have to call back the intermediaries at the -- when we resume, and
20 we do not think that's going to be comfortable. That is our concern,
21 your Honour.

22 PRESIDING JUDGE FULFORD: Well, Maître Mabilille, we
23 are -- at the moment we've been asked to adjourn 321 until the 30th,
24 which is a Wednesday. There are, following this week, two full weeks
25 before the judicial recess, and I'm afraid we're not prepared to

1 countenance any suggestion that 321 should be adjourned until after
2 the judicial recess. I'm afraid 321 is going to have to commence his
3 evidence on Wednesday, and we will just wait and see where we've got
4 to around about the end of the week of 15/16 July. I'm afraid it's
5 not going to be helpful to try to make firm arrangements in advance,
6 Maître Mabilille. We're going to have to wait to see how this goes.

7 Now, there was another point I think you wished to raise?

8 MS MABILLE: (Interpretation) That's right, your Honour.
9 Caroline Buteau is very attentive to what I say and she just
10 suggested -- well, I talked about two intermediaries - I talked about
11 321 and 316 - and the concerns I raised related to the second intermediary.
12 I probably was not very clear in the last thing I said.

13 PRESIDING JUDGE FULFORD: Maître Mabilille, once again, the
14 same -- exactly the same observation applies. We'll wait to see where
15 we are in a week and a half or two weeks' time, and then make a judgment
16 as to what's appropriate at that stage. If we're just before the
17 judicial recess, then there may be powerful arguments in not starting
18 a witness, only almost immediately afterwards to adjourn him for two
19 or three weeks.

20 Anything else?

21 MS MABILLE: (Interpretation) Yes. The second point to
22 which I would like to draw your attention is that on Friday the Defence
23 put in a filing, number 2503, relating to a disclosure request for
24 investigators' notes for Witness 321 and 316 and, when possible, 143.
25 The OTP was opposed to our disclosure request, and I wish to inform

1 the Chamber that we would like this problem to be addressed as quickly
2 as possible because the first of the intermediaries is going to come
3 and give testimony on Wednesday.

4 PRESIDING JUDGE FULFORD: Now, we have your written
5 submissions on this?

6 MS MABILLE: (Interpretation) Yes, indeed, your Honour.
7 That's why I gave the reference. The reference is 2503.

8 PRESIDING JUDGE FULFORD: Do we have your response,
9 Mr Sachdeva?

10 MR SACHDEVA: Mr President, to a filing that was filed on
11 Friday, not yet. We would like to file it tomorrow. That's our
12 intention, Mr President, yes.

13 PRESIDING JUDGE FULFORD: That's quite speedy, Mr Sachdeva.
14 Thank you. 4 p.m. tomorrow?

15 MR SACHDEVA: We will endeavour for that, Mr President.

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

17 (Trial Chamber confers)

18 PRESIDING JUDGE FULFORD: To try to use time efficiently,
19 we will deliver a number of oral decisions on some of these more recent
20 applications at 2.30 tomorrow afternoon. Again, as usual, skeleton
21 crews only need appear to represent the interests of those concerned
22 in this case.

23 Anything else? Yes, Mr Sachdeva.

24 MR SACHDEVA: Mr President, thank you. With your leave,
25 we just wanted to inform the Chamber about developments regarding

1 Witness 582. Witness 582 was scheduled to appear on 29 June. However,
2 because of the passport problem, his slot has been usurped by 321's,
3 and therefore, unfortunately, Mr Witness 582 has professional
4 commitments from 5 to 10 July, and thereafter he has other commitments.
5 And in sum, Mr President, the witness cannot appear until after the
6 recess.

7 PRESIDING JUDGE FULFORD: Right. Can you make sure that
8 that information is provided to the VWU. I am sure you've done so
9 already. Firm dates as to when that witness is available should be
10 provided, please, and we will review the witness order bearing that
11 in mind tomorrow afternoon.

12 MR SACHDEVA: Yes, Mr President.

13 PRESIDING JUDGE FULFORD: Thank you very much. Thank you
14 all very much. We will meet again at 2.30 tomorrow afternoon.

15 THE COURT USHER: All rise.

16 (The hearing ends at 3.30 p.m.)