

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
3 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and
4 Judge Kuniko Ozaki
5 Situation: Central African Republic - ICC-01/05-01/08
6 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo
7 Status Conference
8 Thursday, 21 October 2010
9 (The hearing starts at 2.38 p.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 STEINER: Good afternoon. May I
14 please ask the court officer to call the case.

15 THE COURT OFFICER: Yes, your Honour. Situation in
16 the Central African Republic in the case The Prosecutor v.
17 Jean-Pierre Bemba Gombo, ICC-01/05-01/08.

18 PRESIDING JUDGE STEINER: Thank you very much. I
19 would like to ask first the Prosecution, then Legal
20 Representatives of Victims and finally Defence and
21 Registrar to introduce themselves and their teams.

22 MR SCALIOTTI: Madam President, your Honours, good
23 afternoon. The Prosecution is represented today by Mr
24 Ibrahim Yillah, trial lawyer; Hesham Mourad, associate
25 trial lawyer; Bärbel Carl, associate trial lawyer; Thomas

1 Biswoli, associate trial lawyer; Frédérique Besse, case
2 manager; and myself Massimo Scaliotti, trial lawyer.
3 Thank you.

4 MS MASSIDDA: (Interpretation) Good afternoon.

5 PRESIDING JUDGE STEINER: Just to -- sorry, Ms
6 Massidda. Just to check whether the transcript is working
7 again. Please, you can proceed.

8 MS MASSIDDA: (Interpretation) The victims this
9 afternoon shall be represented by: Madam Victoria Yazji;
10 Madam Caroline Walter, associate legal officer; and myself
11 I am Paolina Massidda, main counsel.

12 PRESIDING JUDGE STEINER: Representatives of
13 Registry, please.

14 MS DAHURON-JACOBY: (Interpretation) Good afternoon,
15 Madam President, your Honours. This afternoon we have:
16 Madam Vera Wang, legal officer with the Registry; and
17 myself, Charlotte Dahuron, in charge of the legal
18 administration section.

19 PRESIDING JUDGE STEINER: Thank you.
20 (Interpretation) The Defence team.

21 MR LIRISS: (Interpretation) Madam President, I
22 would like to express the apologies of Mr Jean-Pierre
23 Bemba Gombo once again who is not able to participate. I
24 think he's put on some weight and he has a very painful
25 backache and, therefore, apologises for not being able to

1 appear this afternoon.

2 Here we have: Mr Kilolo, associate counsel of
3 our team; Mr Jean-Jacques Kabongo Mangenda, who's the case
4 manager; and myself Mr Nkwebe Liriss, principal counsel.

5 PRESIDING JUDGE STEINER: (Interpretation) Thank
6 you very much. (Speaks English) We're still having
7 problems with the English transcript. I was informed by
8 the court officer that the Prosecutor would be willing to
9 continue even if we don't have the English real-time
10 transcript; is that correct?

11 MR SCALIOTTI: Yes, Madam President, that is
12 correct.

13 PRESIDING JUDGE STEINER: Legal Representatives of
14 Victims, as well?

15 MS MASSIDDA: Yes, your Honour, indeed.

16 PRESIDING JUDGE STEINER: I think that for the
17 Defence team the fact that we have the French real-time
18 transcript means that we can proceed?

19 MR LIRISS: (Interpretation) Yes, indeed, Madam
20 President.

21 PRESIDING JUDGE STEINER: And I suppose the same
22 for the Registrar?

23 MS DAHURON-JACOBY: (Interpretation) Yes, yes, Madam
24 President.

25 PRESIDING JUDGE STEINER: So then we are going to

1 proceed, although we're still facing some problems with
2 the English real-time transcript.

3 We have the agenda for today's status conference
4 and we are going to start with the issuing of some oral
5 decisions on issues that are pending before the Chamber.
6 The agenda was sent to the parties and participants before
7 this status conference, so I'm sure that all the parties
8 and participants are aware of today's agenda.

9 So we will start with the first item of the
10 agenda, which refers to the date of the commencement of
11 the trial for Mr Jean-Pierre Bemba Gombo. In view of the
12 Appeals Chamber having now rendered its decision on the
13 admissibility of the case, and having established a
14 schedule for the timely management of the pending victims'
15 applications for participation in the proceedings, the
16 Chamber is now able to fix a date for the commencement of
17 the trial of Mr Jean-Pierre Bemba Gombo, and therefore the
18 Chamber decides that the trial will commence on Monday,
19 22 November at 2.30, whereupon the Chamber will hear the
20 opening statements from parties and participants.

21 Just for information of the parties and
22 participants, the schedule - the proposed schedule - for
23 the commencement of the trial will be as follows: The
24 Chamber will sit five days, Monday to Friday, during the
25 week of 22 November, from 2.30 to 7 in the afternoon.

1 During the week of 29 November, the Chamber will also sit
2 five days. The Chamber will also sit on 6, 7 and 8
3 December. 8 December is still to be confirmed. In total,
4 the Chamber will thus sit 12 or 13 days before the winter
5 recess.

6 The Chamber requests the Registry to communicate
7 the exact sitting hours to the parties and participants as
8 soon as possible, according to the provisional schedule
9 already agreed upon by the Presidents of the three Trial
10 Chambers.

11 The second point of our agenda is related to the
12 length of the opening statements and use of visual aid.
13 On 2 June 2010, the Trial Chamber issued an order for the
14 filing of submissions in preparation for the commencement
15 of the trial in which it requested the parties and
16 participants to set out, among other things, the proposed
17 estimated length of their opening statements.

18 The Prosecutor, Defence and legal representatives
19 all filed their observations on 10 June 2010. The
20 Prosecutor requested 90 minutes to present its opening
21 statement (Filing 793, paragraph 9) and further requested
22 the use of so-called flash presentations as a form of
23 visual aid incorporating animations, maps, video and audio
24 features. (Paragraphs 22 to 24 of Filing 793).

25 The Defence informed the Chamber that its opening

1 statement would not go over one hour (Filing 792,
2 paragraph 3), while the legal representatives so far
3 accepted to represent victims in the case requested one
4 hour to be shared between the two of them (Filing 791,
5 paragraph 3).

6 The Chamber finds that the submissions of the
7 parties and participants with regard to the length of
8 their opening statements are well-founded in that the use
9 of visual aid during the opening statement of the
10 Prosecution is justified.

11 Therefore, pursuant to Article 64(3) of the
12 Statute, Rule 134(1) of the Rules of Procedure and
13 Evidence and Regulation 54(a) of the Regulations of the
14 Court, the Chamber decides that the Prosecution and the
15 Defence shall dispose of a maximum of 90 minutes each for
16 the presentation of their opening statements, while the
17 legal representatives shall dispose of one hour to be
18 shared between them subject to the Chamber's decision on
19 common legal representation.

20 The Chamber further decides that the use of
21 visual aid by the Prosecution shall be permitted during
22 its opening statement. These presentations will be
23 assigned an HNE - hearing non-evidence - number by the
24 court officer before the commencement of the trial.

25 Following the conclusion of opening statements,

1 the Chamber will start to hear evidence from the
2 Prosecution. It goes without saying the order of the
3 opening statements will be first Prosecution, then legal
4 representatives and finally Defence.

5 The third point of today's agenda is related to
6 the order of witnesses. As a preliminary issue, the
7 Chamber wishes to inform the Defence and the legal
8 representatives that an ex parte status conference,
9 Prosecution and VWU only, was held this morning at the
10 request of the Prosecution to hear submissions on an
11 urgent basis on the security situation of a witness and
12 possible impact on the order of witnesses.

13 Following the order made by the Chamber at the
14 status conference on 24 September 2010, the Prosecution
15 filed submissions on the order of presentation of its
16 witnesses at trial (Filing 918) on 1 October 2010. The
17 actual list and order of witnesses is to be found in
18 Filing 891 of 21 September 2010.

19 The Chamber is mindful of the relatively short
20 period of time available in which to call witnesses to
21 give evidence after opening statements and before the
22 winter judicial recess. In addition, there will be two
23 other trials running simultaneously with the trial of
24 Mr Bemba and only two courtrooms in which these trials can
25 be conducted, which may further shorten the sitting time

1 available to the Chamber.

2 Pursuant to Regulation 43 of the Regulations of
3 the Court, and to ensure the effective use of time, the
4 Chamber wishes to hear first one of the so-called
5 "overview" witnesses noted on the Prosecution's list, even
6 if this overview witness is related to the group of crimes
7 as pointed out by the Prosecution.

8 The Chamber envisages the witness -- this witness
9 to give some evidence on the general situation background
10 and context of events or of the crimes which witnesses'
11 testimonies will follow. Following this witness, the
12 Chamber would like to hear evidence from the expert on
13 gender crime and post-traumatic stress disorder.

14 The Chamber also allows the witness, whose
15 situation was the subject of the ex parte submissions this
16 morning, to be moved to testify at a later stage after
17 consultation with the VWU. The Prosecution therefore is
18 ordered to inform the Chamber, Defence and participants of
19 its position by way of a formal filing by 26 October 2010,
20 including the estimated length of its questioning of the
21 relevant witnesses, in order for the Chamber to evaluate
22 the number of witnesses that can be heard before the
23 winter recess of the Court.

24 Regarding the Prosecution proposed order for the
25 remaining witnesses, the Chamber had previously encouraged

1 the Prosecution to reduce the length of the presentation
2 of its evidence by inter alia grouping certain witnesses
3 by topic to ensure best use of time. The Chamber is
4 hopeful that the proposed order will result in the
5 envisaged efficiency. For the time being the Chamber does
6 not intend to propose any further changes to the suggested
7 order, but it may request that the Prosecution revises the
8 order dependent upon how the trial progresses.

9 The fourth point of our agenda: The issue
10 related to agreed facts. Agreed facts are related to
11 efficiency of the trial proceedings. The Chamber first
12 instructed the parties and participants to liaise with
13 each other with a view to reaching potential agreements on
14 non-contentious issues in a status conference on
15 7 October 2009, transcript 14, page 23, lines 12 to 20.

16 On 4 November 2009 the Prosecution informed the
17 Chamber that, although the Defence expressed its
18 willingness to explore the possibility of reaching an
19 agreement on non-contentious issues, the Defence
20 considered it would only be able to engage in this
21 exercise after the Prosecution had disclosed the
22 evidentiary materials; the deadline for which was
23 30 November 2009 (Filing 591).

24 On 20 January 2010 the Prosecution informed that,
25 despite having disclosed its trial evidence and submitted

1 suggested agreed facts to the Defence in early December
2 2009, no response was received from the Defence (Filing
3 671).

4 On 2 June 2010, the Chamber issued an order for
5 the filing of submissions in preparation for the
6 commencement of the trial (Filing 785) in which the
7 parties were again instructed to file their submissions on
8 any agreement of facts pursuant to Rule 69 of the Rules of
9 Procedure and Evidence.

10 The Defence responded on 10 June 2010, informing
11 the Chamber that agreements of facts were not possible as
12 the Prosecution had only disclosed its last incriminatory
13 evidence on 20 May 2010 and it had been agreed that such
14 negotiations could only take place after final disclosure
15 was complete (Filing 792).

16 The Prosecution indicated in its response filed
17 on the same day (Filing 793) that no agreement had been
18 possible as no response had been received from the Defence
19 as regards agreement of facts.

20 Finally, on 6 September 2010 the Chamber again
21 ordered that a list similar to that already circulated by
22 the Prosecution on 4 December 2009, containing agreed
23 facts, the partially agreed facts and the matters of
24 disagreement, should be submitted for the Chamber's
25 consideration by 4 October 2010 (Filing 872).

1 On 4 October the Prosecution informed that
2 agreement had only been possible on a few facts (Filing
3 922), and the Defence has today filed its *Précisions de la*
4 *Défense sur la réalité des faits par elle agréés en*
5 *rapport avec la* Prosecution's submission on agreed facts
6 (Filing 964), the essence of which seems to be that the
7 Defence does not agree with the way that the Prosecution
8 has reflected the agreed facts in its Filing 922, annex A.

9 In almost every case, there are unquestionably
10 some facts that are simply not disputed and can therefore
11 be agreed upon. Having been notified on 4 November 2009
12 that the parties agreed in principle to negotiate
13 potential agreements on non-contentious issues, it is
14 disappointing to note that almost one year later so few
15 agreements have been reached. This frustrates the purpose
16 of a speedy trial within a reasonable time and
17 unnecessarily labours the presentation of evidence in a
18 case. It also detracts from the areas that are truly in
19 dispute.

20 The rights of the accused to examine or have
21 examined the witnesses against him, pursuant to Article
22 67(1)(e) of the Rome Statute, must be balanced against the
23 Chamber's duty to ensure that a trial is fair and
24 expeditious pursuant to Article 64(2) of the Statute.

25 It is in both the parties' interests and in the

1 interests of trial efficiency for a sensible approach to
2 be taken with respect to agreement of facts, and the
3 Chamber would strongly urge further consideration of this
4 matter. In this regard it is appropriate to point out
5 that, although the Chamber has not yet considered whether
6 it is maybe appropriate to limit the time that either
7 party has to question witnesses, if the Chamber considers
8 that questioning is irrelevant, or becoming repetitive,
9 then the party concerned will be asked to move on to a
10 different topic.

11 In view of the Defence's most recent filing,
12 today's filing and the proposals contained in the annex
13 thereto, the Chamber orders the parties to file a new
14 consolidated version of the agreed facts by
15 29 October 2010.

16 The fifth point of the agenda for today's status
17 conference relates to the procedure for the submissions of
18 applications for the admission of documents from the Bar
19 table.

20 At the status conference on 24 September 2010,
21 the Prosecution indicated that it proposed to follow a
22 different approach on the filing of applications for the
23 admission of documents from the Bar table from that
24 outlined in its Filing 793 of 10 June 2010.

25 Upon instruction from the Chamber, the

1 Prosecution filed on 30 September 2010 the Prosecution's
2 proposal on time-frames for submissions of Bar table
3 motions requesting the Chamber to allow it to file an
4 application for admission of documents from the Bar table
5 at a later stage during the trial when the relevance of
6 the evidence -- when the relevance of the evidence might
7 be more apparent.

8 The Prosecution proposed to offer to the Chamber
9 documents from the Bar table at the appropriate times
10 during the trial and to file a motion for admission of
11 residual documents at the end of its case. The
12 Prosecution further requested the Chamber to adopt the
13 approach taken by Trial Chamber II in regards the
14 procedure on the filing of Bar table motions.

15 On 6 October 2010, the Defence filed its response
16 which opposed the Prosecution's request. It submitted
17 that, in accordance with the rights of the accused, the
18 Defence must be informed of all evidence which is to be
19 used by the Prosecution and that it is therefore
20 appropriate to give latitude to the Prosecution in the
21 tendering of the evidence.

22 The Legal Representatives of Victims filed their
23 observations on 7 October 2010 in support of the
24 Prosecution motion. However, the legal representatives
25 argued that the procedure on the Bar table motions is not

1 an inter partes procedure and that Legal Representatives
2 of Victims should be allowed access to the material
3 adduced by the parties and allowed to challenge its
4 admissibility.

5 Pursuant to Article 64(2) and (3)(a) and Article
6 69(3) of the Statute, the Chamber is amenable to the
7 procedure proposed by the Prosecution with regard to the
8 submission of documents from the Bar table and endorses
9 the process adopted by Trial Chamber II in this regard.
10 The Chamber does not agree with the Defence's assertion
11 that the rights of the accused may be prejudiced by such
12 an arrangement.

13 Considering that all documents concerned have
14 already been disclosed to the Defence, it cannot be said
15 that the Defence is not informed of all evidence which is
16 to be used against the accused during trial. However, the
17 Chamber expects the Prosecution to exert rigour in the
18 choosing of the documents which will be the subject of the
19 application and to filter and eliminate documents which,
20 at a later stage of the proceedings, will appear to be of
21 little or no assistance to the Chamber's determination of
22 the truth.

23 For the reasons set above, the Chamber grants the
24 Prosecution proposal on time-frames for submission of Bar
25 table motions.

1 The sixth item of today's agenda is the issue
2 related to in situ trial. Trial Chamber III invited
3 submissions on the conduct of part of the trial in situ
4 during the first status conference in the case on
5 7 October 2009 (transcript T14, page 26). The Prosecution
6 filed its submissions on 12 October 2009 (document 555).
7 The Legal Representatives of the Victims responded on
8 3 November 2009 (document 584). At the request of the
9 Chamber, the Defence transmitted their views by way of
10 email on 7 December 2009.

11 The Chamber hereby informs the parties and
12 participants that it is not considering the issue at this
13 stage.

14 Now, we have added to today's agenda some few
15 other issues upon the Prosecution's request, so
16 Prosecution has the floor to elaborate on those issues.

17 MR SCALIOTTI: Madam President, your Honours,
18 thank you very much first of all on the part of the
19 Prosecution for giving us this opportunity to add some
20 topics to the agenda, despite the agenda that the Chamber
21 itself had already issued.

22 Now, in light of the oral decision that was just
23 issued by the Chamber, I will be extremely short on the
24 first topic which was the order of witnesses.

25 At this point in time, the Prosecution is

1 extremely available to any suggestions for re-ordering
2 also the remaining witnesses. The only point and the only
3 concern and proposal that the Prosecution is submitting
4 today concerns what we can say is the fourth group of
5 witnesses according to the order presented so far by the
6 Prosecution, and I am referring to witnesses who will
7 testify about the military command structure, and the
8 Prosecution's suggestion is that these witnesses should be
9 heard towards the end of the Prosecution's case.

10 Clearly these witnesses will testify not about
11 the criminal acts, but they will provide evidence about
12 the accused's mode of liability and we think it will be
13 appropriate to hear this type of evidence once the
14 context - meaning, the conduct of the physical
15 perpetrators of the criminal acts - will be already
16 established by previous evidence.

17 We would also like to take this opportunity to
18 add that we think the military expert should be heard at
19 the end of -- after this type of evidence will be
20 presented. First of all, the Prosecution notes that
21 pursuant to Rule 140, paragraph 3, the expert witness can
22 be present when other witnesses give -- provide evidence.
23 This way the military expert will be given an opportunity
24 to listen to factual evidence and also to elaborate, to
25 explain specific technical military issues that most

1 likely will arise during the testimony of other witnesses,
2 and this concludes the Prosecution's suggestions with
3 regard to the order of witnesses.

4 If I can turn now to the second suggested topic
5 by the Prosecution, this would be just a very, very short
6 update on the situation of one expert witness, and I'm
7 referring to Dr Adeyinka Akinsulure-Smith. She's the
8 expert on gender crimes and post-traumatic stress
9 disorder.

10 The report submitted by the -- provided by the
11 expert was already disclosed to the Defence on 4 October
12 with the French translation. I just would like to add
13 that this expert went on mission to the field - to the
14 Central African Republic - at the end of September/early
15 October. She met three victims, which are not Prosecution
16 witnesses, just to conduct a psychological evaluation.

17 So our submission is that, should the Chamber
18 wish to have this supplemental report, the Prosecution is
19 available to provide this report that we think would be
20 helpful for the Chamber as a sort of complement of the
21 previous report already disclosed. We also think that, in
22 light of the trial date and the current order of
23 witnesses, this expert should be in a position to provide
24 a supplement sufficiently in time not to prejudice the
25 rights of the Defence so that the Defence would be given

1 at least 30 days before testimony is given by this expert.

2 Turning now to the third item in our agenda --

3 PRESIDING JUDGE STEINER: If you allow me
4 interrupting you, if this expert is called in accordance
5 with the Chamber's decision to be one of the first of the
6 trial means that the supplementary report should be
7 disclosed to the Defence and filed immediately, in order
8 to comply with the 30 days before the testimony to be
9 given in Court.

10 MR SCALIOTTI: Thank you, Madam President. Yes,
11 we'll take into account your suggestion and we'll try to
12 act accordingly. Thank you.

13 PRESIDING JUDGE STEINER: Judge Aluoch.

14 JUDGE ALUOCH: Just before you leave agenda item
15 2, which says "length of opening statements and the use of
16 visual aids," I'm looking at your Filing 793, at
17 paragraph 11, where you say:

18 "The Prosecution does not currently intend to
19 present evidence by means of audio or video link
20 technology. If it develops that audio or video link
21 evidence, if it's the most feasible cause for one or more
22 witnesses, the Prosecution will make appropriate
23 application to the Court."

24 I just want to know that will you be doing this
25 as the trial progresses, this paragraph 11? Pardon?

1 (Trial Chamber confers)

2 JUDGE ALUOCH: Yes, if I could have your answer
3 on that paragraph 11, seventh line?

4 MR SCALIOTTI: If you allow me, your Honour, I
5 would request my colleague, Mr Yillah, to give you an
6 answer on this topic. Thank you.

7 MR YILLAH: Madam President, your Honours. Your
8 Honour, at this stage the Prosecution has not -- does not
9 intend to request video link testimony, but the
10 Prosecution would wish to highlight for the Chamber that
11 it supported an earlier request by the legal
12 representatives in respect of a particular witness to be
13 interviewed by video link. We supported that request.

14 PRESIDING JUDGE STEINER: You can proceed,
15 please.

16 MR SCALIOTTI: Thank you, Madam President. The
17 third topic in our agenda is the Sango interpretation. At
18 the status conference on 29 September 2010, the
19 Prosecution informed the Chamber that 14 witnesses will
20 testify in Sango. The Registry pointed to a number of
21 problems related to the Sango interpretation and, in light
22 of those problems underlined by the Registry, we came with
23 a proposal concerning a test run concerning the Sango
24 relay interpretation.

25 Today we simply would like to reiterate this

1 request, which we think is reasonable for a number of
2 reasons. First of all, we think it would be helpful to
3 assess what the impact of the Sango relay in translation
4 would have on the time allocation to every single witness
5 and, secondly, we also know from experience that sometimes
6 victims, especially victims of sexual violence, when they
7 have to address the Court with regard to the incidents
8 that they suffered, they tend to use some euphemistic
9 language because of cultural barrier, they tend to avoid
10 any biological terms and these sometimes makes very
11 difficult the understanding of the testimony and so also,
12 in light of this, we think it should be appropriate to
13 experience how the Sango translation may have an impact
14 also on this type of issue.

15 Finally, we think that also the different levels
16 of Sango, those spoken by Central African Republic
17 citizens and witnesses that will appear in front of the
18 Court might be of a different level compared to the Sango
19 spoken by the interpreters, so we think that it would be
20 appropriate to identify these challenges and possibly
21 solution to these challenges.

22 Having said that, Madam President, I would turn
23 the floor to my colleague, Mr Yillah, who will address the
24 Chamber on the next two topics in the agenda. Thank you.

25 PRESIDING JUDGE STEINER: Thank you very much.

1 But I would ask your permission before we go ahead, I
2 would like to listen from the representatives of the
3 Registry on this specific topic on translation.

4 MS DAHURON-JACOBY: (Interpretation) Madam
5 President, the Registry has recruited and trained Sango
6 interpreters who are in the booth as we speak and who are
7 conducting the simultaneous interpretation of proceedings.

8 Now, as far as the impact upon time is concerned,
9 the time of testimony, it is in fact simultaneous
10 interpretation. Of course we do need to take into account
11 that there is the Sango/French, French/English relay.
12 We're only talking about this, however. We're not talking
13 about consecutive interpretation here.

14 Now, with regard to the various levels or
15 registers of the language, the Sango language, once again
16 the Registry in its training programme, basing itself on
17 the statements of witnesses and other documents associated
18 with the case, should be in a position to be able to meet
19 any requirements in the matter. Now you might, if you so
20 wish, connect to Channel 6 for those who want to listen to
21 the Sango interpretation.

22 Now, with regard to conducting a more in-depth
23 test, were the Prosecution to want to do this, or the
24 Defence, or the legal representatives, the Registry is
25 willing to organise such a test and then the court officer

1 could liaise with the parties and the Chamber if they were
2 also interested in conducting this exercise.

3 Now, with regards to a test for Sango site
4 translation, in the context of the familiarisation
5 process, that is to say the reading of the statements
6 before testimony in the courtroom, the Registry is willing
7 to invite those who wish to attend a test sequence in
8 order for them to ascertain how it all unfolds. I hope
9 I've answered your questions.

10 PRESIDING JUDGE STEINER: Thank you very much.
11 Any comment on the proposals made by the Registry?

12 MR SCALIOTTI: Well, in the Prosecution's view,
13 Madam President, the representation of the Registry it's
14 quite satisfactory for us, so no comment - no further
15 comment - on our side. Thank you.

16 PRESIDING JUDGE STEINER: And bearing in mind
17 that the invitation of participation of this evaluation
18 sessions or familiarisation, including with the Sango
19 translation, the Defence, it's open also for the Defence
20 team. You can proceed, please.

21 MR YILLAH: Madam President, your Honours, the
22 Prosecution's attention is drawn to Filing 920 by the
23 Registry on our request for the installation of CaseMap,
24 and we want to reiterate -- the Prosecution wants to use
25 this opportunity to reiterate its request and to point out

1 that, contrary to what the Registry submitted, the
2 Regulations, in particular Regulation 26(1) and 26(2) of
3 the Regulations of the Court, they do not limit
4 installation within the courtroom to only presenting
5 electronic items that would facilitate presentation of
6 evidence.

7 What the regulation states is in fact that it is
8 a system that supports the Court's daily judicial and
9 operational management and its proceedings, and in the
10 Prosecution's view installing CaseMap would assist the
11 Chamber and the parties and participants in the case
12 management of -- in the management of the case.

13 For example, your Honour, during the course of
14 proceedings questions may arise relating to facts. Your
15 Honours may have instant questions that require instant
16 response, and such a tool would assist the Prosecution to
17 provide response that the Chamber would require and
18 facilitate expeditiousness of the proceedings.

19 So, your Honour, without much ado the Prosecution
20 reiterates its request that it be permitted that CaseMap
21 be installed in the courtroom before opening statement.

22 Your Honour, the second point relates to a filing
23 which the Prosecution submitted today relating to EVD
24 numbering. Your Honours may recall that the disclosure
25 decision, or the disclosure system in force in this case,

1 that is decision number 55, provides a system whereby
2 every item disclosed in the case is allocated an EVD
3 number since the pre-trial level.

4 So, your Honour, the -- we recognise that you
5 have already ordered the filing of a new eCourt protocol
6 into this case and have ordered the parties not to make
7 any further submissions, but this particular submission,
8 your Honour, relates to the conduct of proceedings because
9 as the record stands now every disclosed item has an EVD
10 number, so at trial it would be difficult for the parties
11 and participants to safely distinguish materials tendered
12 as exhibits on the basis of their EVD numbers assigned
13 alone.

14 So we request your Honours to -- in the filing we
15 have drawn your Honours' attention to the procedure that
16 was adopted by Trial Chambers I and II, in which EVD
17 numbers were only assigned to materials tendered into
18 evidence as exhibits, and MFI - marked for
19 identification - numbers were identified -- were assigned
20 to other materials not tendered into evidence as exhibits.

21 If your Honours think that the new eCourt that
22 you have ordered to be filed into the record of the case
23 would resolve this problem then I leave it entirely in
24 your Honours' hands, but it appears to us that that
25 particular aspect of the problem has not been resolved by

1 the filing of the new eCourt.

2 That should be the Prosecution's submission on
3 EVD numbers. Except if your Honours have any further
4 questions on that subject that would be our request, that
5 you adopt the procedure followed by Trial Chamber I and II
6 on the identification and numbering of evidence tendered
7 in -- as exhibits at trial.

8 Thank you very much, your Honour.

9 PRESIDING JUDGE STEINER: Thank you. I ask the
10 representative of the Registry whether there are any
11 comments on this topic?

12 MS DAHURON-JACOBY: (Interpretation) Madam
13 President, first and foremost, with your leave, with
14 regard to CaseMap the Registry intends in the days to come
15 to file a new report including the feasibility study that
16 was promised in the previous report.

17 Now, in respect of the EVD numbering issue to
18 evidence, I believe that we need to distinguish between
19 the eCourt protocol, which is in fact -- and we need to
20 really establish how the parties prepare their evidence.
21 The protocol does not deal with the manner in which
22 evidence is presented, as such, and the manner in which
23 numbers are assigned to these documents during the
24 hearing. So even if we were to adopt a new eCourt
25 protocol, the question at hand is whether evidence

1 submitted during the hearing will be assigned an EVD or
2 MFI number immediately, well, it won't be solved at all.
3 These are two distinct matters. This is what the Registry
4 wanted to say in regard to this issue.

5 PRESIDING JUDGE STEINER: Thank you. So before I
6 give the floor to the Defence, just whether the
7 Prosecution would have some further comments on what has
8 been said by Registry in this respect?

9 MR YILLAH: Your Honour, the Prosecution
10 prefaced its submission by saying that this is not an --
11 we recognise that this is not an eCourt issue, but this is
12 a problem in this case and the Registry itself has alluded
13 to this problem during the second status conference in
14 this case in 2009 and pursuant to decision number 55, all
15 disclosed materials, whether they are tendered as exhibits
16 or not, were assigned EVD numbers. That is the status
17 that we are at the moment.

18 So now that your Honours have ordered that a new
19 eCourt be filed into this case, the problem is still not
20 resolved. All materials in the case records have EVD
21 numbers, so how are we to distinguish -- in light of this
22 situation, how are we to safely distinguish materials
23 which would be tendered into evidence as exhibits from
24 those which are not on the basis of EVD numbers alone?

25 So this is the problem before your Honours, and I

1 believe that the Registry, if it recalls - if the
2 Registrar's representative recalls - that they also
3 alluded to this problem, that's a problem that requires
4 resolution before we start trial. Thank you, your Honour.

5 (Pause in proceedings)

6 PRESIDING JUDGE STEINER: Sorry for the
7 interruption, but I've been informed that maybe this issue
8 raised by the Prosecution is overcome - this difficulty -
9 since the Chamber has communicated via email with the
10 Registry very recently in relation to the assignment of
11 EVD numbers to the materials, or to the evidence.

12 So maybe we could ask our Registry to
13 retransmit - to forward, that is saying - that instruction
14 of the Chamber to the Prosecution to see whether that
15 instruction solves the concerns raised by the Prosecution.
16 Otherwise, the Chamber will of course turn to the issue
17 with all its attention to be whether the issue can be
18 better solved.

19 Maître Massidda.

20 MS MASSIDDA: Thank you, your Honour. Simply to
21 inform the Chamber that we share the same concern with the
22 Office of the Prosecution in relation to the EVD
23 numbering, so if the email sent to the Registry could also
24 be transmitted to the legal representative and the Defence
25 so that we can have the correct information before we make

1 any further submission. Thank you very much.

2 PRESIDING JUDGE STEINER: The Chamber accepts the
3 comment made by the legal representatives and asks the
4 Registry to forward that instruction to all parties and
5 participants. This does not preclude, of course, further
6 discussion on the issue if need be.

7 (Pause in proceedings)

8 Much.

9 PRESIDING JUDGE STEINER: Apparently, we are
10 talking about a message sent to the Registry on
11 26 April 2010, "Subject: EVD numbering Bemba." It was
12 still discussed by the -- it was discussed by Trial
13 Chamber III in its previous composition and retransmitted
14 to the current Chamber on 12 October 2010, just for
15 clarification.

16 MS DAHURON-JACOBY: (Interpretation) Thank you very
17 much, Madam President. The Registry will be sending the
18 information and transferring it to all parties.

19 PRESIDING JUDGE STEINER: Thank you very much.

20 In relation to the CaseMap, since there has been
21 a request by the Prosecution and information observations
22 that have come from the Registry, maybe it would be for
23 assistance -- of assistance to the Chamber if the
24 Prosecutor makes a filing on this topic with its comments
25 on the -- in response to the Registry filing. So maybe

1 this is of assistance to the Chamber to decide on this
2 very, very specific topic.

3 MR YILLAH: Madam President, do we have a
4 timeline on that, or --

5 PRESIDING JUDGE STEINER: A reasonable one.

6 MR YILLAH: Thank you.

7 PRESIDING JUDGE STEINER: Is there any other issue
8 that the Prosecution would like to take the initiative to
9 raise? Otherwise, I will give the floor to the Defence.

10 MR SCALIOTTI: No, Madam President, thank you.
11 Nothing more from the Prosecution side.

12 PRESIDING JUDGE STEINER: First legal
13 representatives, I'm sorry.

14 MS MASSIDDA: Thank you, Madam President. Only
15 one issue. It relates to the new deadline fixed by the
16 Chamber in relation to agreed facts.

17 The Chamber has requested the parties to provide
18 a new consolidated version by 29 October. We would like
19 to respectfully -- to request the Chamber to be authorised
20 to file any observation on behalf of victims, if any, by
21 2 November if this is agreeable with the Chamber. Thank
22 you.

23 PRESIDING JUDGE STEINER: Thank you for your
24 intervention. The Chamber will decide upon this request
25 as soon as the Chamber receives -- receives the filing -

1 the common filing - from the Prosecution and the Defence.

2 MS MASSIDDA: Thank you very much, your Honour.

3 PRESIDING JUDGE STEINER: But the Chamber will
4 consider your request for sure.

5 Maître Liriss, now I turn to the Defence asking
6 whether the Defence has any issue to be raised during this
7 status conference?

8 MR LIRISS: (Interpretation) Madam President, I
9 would like to begin by points 1 and 2 of the Prosecution's
10 proposal and I would request that there be a written
11 filing so that we be able to examine it carefully, if
12 that's agreeable to you.

13 For once the Defence agrees with the Prosecutor
14 as regards item 4; in other words, the filing will most
15 likely be supported by the Defence.

16 You handed down a ruling as regards the date of
17 the beginning of the trial. We shall be submitting a
18 written filing very rapidly as regards that decision,
19 because we believe and in fact we are certain that some
20 aspects have not been considered, in particular what was
21 said by the Registrar regarding revising your ruling
22 regarding the budget to be allocated to the Defence and
23 the fact that 27 -- or rather 17 December only will we
24 have the final disclosures from the Prosecutor, and it
25 will only be 26 November that we will have in fact

1 completed the work on the 375 remaining victims. That is
2 just four days before the beginning of the trial.

3 We will, as I just said a moment ago, file a
4 written submission in the next few days and I am certain
5 that, given your wisdom, you will make the appropriate
6 decision. Thank you, your Honour.

7 PRESIDING JUDGE STEINER: Maître Liriss, thank
8 you for your intervention, but it's for the Chamber to
9 clarify that the date of 22 November has not been a
10 proposal. It's a decision of the Chamber.

11 MR LIRISS: (Interpretation) Yes, I misspoke in
12 saying "proposal." Indeed, it was a ruling. It was a
13 decision. But we do, I believe, have the right to provide
14 additional information to the Chamber which could then
15 rethink its decision, or maybe not. That is indeed what I
16 intended to say, your Honour.

17 PRESIDING JUDGE STEINER: Just on behalf of the
18 Chamber, I thought that it was important this such
19 clarification in order to help the Defence on the nature
20 of the request to be submitted to the Chamber.

21 Any further comments from any of the parties?
22 Prosecution?

23 MR SCALIOTTI: Madam President, just a short
24 reply to what the Defence stated with regard to topics 1
25 and 2 of the Prosecution today.

1 So if my understanding is correct, the Defence is
2 requesting for a filing on the two topics that -- on the
3 first two topics that were mentioned by the Prosecution,
4 and in this regard the Prosecution would like to submit
5 that, as far as the order of witnesses is concerned, we
6 didn't add anything new which is not in our previous
7 Filing 918. We simply reiterated that -- part of the
8 proposals which were included in that filing.

9 And with regard to the second item, if
10 I understand correctly the second item that the Defence
11 referred to is the update on expert witnesses and, as I
12 guess, in particular the supplementary report from one of
13 the experts. And even in this regard, in light of the
14 statement of the Chamber that that report should be
15 immediately filed in order to comply with the Defence's
16 right, I can't see really any need for a filing so the
17 Prosecution objects to both requests from Defence. Thank
18 you.

19 PRESIDING JUDGE STEINER: In relation to the
20 first topic, I think that since the Chamber in its first
21 -- second decision, or sorry the third decision made some
22 points in terms of the order of the witnesses. I think an
23 updated order should be filed with the Chamber. There has
24 been, as a matter of fact, some changes according to the
25 Prosecution's request in relation to one of the witnesses

1 and the Chamber's decision on the nature of the first --
2 at least of the first witnesses to appear before the
3 Court, so I think that should be filed.

4 In relation to the second topic, maybe the
5 Defence could clarify what is -- what is the filing the
6 Defence expects from the Prosecution in relation to
7 interpretation issues.

8 MR LIRISS: (Interpretation) Madam President,
9 the Prosecutor in his second proposal indicates a deadline
10 of 17 December 2010, but in fact that refers to the expert
11 that has withdrawn.

12 According to the ruling 08928, a deadline of 17
13 December was given, 2010, at 4 o'clock, in order to
14 replace that witness who had withdrawn and what I'm asking
15 here is that the expert on sexual abuse would like to
16 complete a report that has already been sent on, has
17 already been disclosed, so this is in fact an additional
18 disclosure that has nothing to do with the disclosure,
19 with the December 17 deadline. That's why I would like to
20 ask that this request be made in writing, that there be a
21 filing so that we know exactly what is involved, and that
22 if there's new disclosure I'd like to remind you that the
23 last disclosure was to be 3 November 2009.

24 So I would like to know what is meant by this new
25 disclosure. What is the expert going to be saying over

1 and beyond what has already been disclosed? There needs
2 to be a written filing so that we can respond.

3 PRESIDING JUDGE STEINER: Prosecution, please.

4 MR SCALIOTTI: Madam President, the expert that
5 we are referring to is in fact the one not on sexual
6 violence but more specifically on post-traumatic stress
7 disorder. As the Prosecution pointed out the expert, on
8 his own will, expressed the intention to meet some of the
9 witnesses - I apologise - some of the victims which are
10 not Prosecution witnesses, and she actually met three
11 victims in order to perform a psychological evaluation.

12 As I stated before, the Prosecution's view is
13 that this initiative of the expert may be of some
14 assistance for the Court to complement the report that was
15 already submitted and with regard to the Defence's
16 concerns we pointed out that, as a matter of fact, as long
17 as 30 days are -- the deadline of 30 days before the
18 actual testimony takes place before the Court the rights
19 of the Defence would not be prejudiced. At the same time
20 we also think on the merits of the report that this might
21 be of assistance for the Court.

22 PRESIDING JUDGE STEINER: But it's not in itself
23 new evidence?

24 MR SCALIOTTI: No, Madam President, it's not new
25 evidence; it's simply a sort of follow-up of

1 complementarity aspect of the report that was already
2 submitted and disclosed with the French translation.

3 PRESIDING JUDGE STEINER: And in case the Chamber
4 wishes to receive this complementary information that is
5 not evidence, is the Prosecution in a position to provide
6 Defence 30 days before the testimony with the French
7 version of this complementary or supplementary
8 information?

9 MR SCALIOTTI: Madam President, the Prosecution
10 will certainly do its best to make sure that the report
11 will be provided in a timely manner and before 30 days
12 within the testimony of the expert before the Court.

13 PRESIDING JUDGE STEINER: Maître Liriss.

14 MR LIRISS: (Interpretation) Madam President.
15 I believe that only the Prosecution can distinguish
16 between a supplementary element to a report that has
17 already been disclosed and new evidence, and that's why we
18 are saying that if it's not an important element, then
19 there's no need to submit it.

20 In that case why doesn't the Prosecution explain
21 why, in their understanding, why is it necessary that the
22 supplementary information over and beyond the report that
23 has already been disclosed? We'd like to hear their
24 opinion. I'm not asking you to refuse that they disclose
25 it; I'm asking them -- I'm asking you simply to allow us

1 to be informed of the reasons why this additional
2 information needs to be disclosed, since apparently it's
3 not new information. That's all.

4 PRESIDING JUDGE STEINER: I think there is no
5 disagreement apparently because, as far as I understand,
6 the Prosecution is ensuring the Defence, in case the
7 Chamber wishes to receive this supplementary evidence, of
8 course the Defence will be provided with the supplementary
9 evidence. I think there is no doubt in relation to that.

10 What needs to be clear is that this - sorry, and
11 I will correct for the purpose of the transcript - it is
12 not supplementary evidence; it's supplementary
13 information. It's not evidence for the purpose of the
14 case, as far as I understood.

15 MR SCALIOTTI: Yes, Madam President, and I also
16 would like to emphasise, as you rightly pointed out, that
17 our submission was that we wanted to inform the Chamber
18 about this option, and we said that should the Chamber
19 wish to have this supplementary report we are available to
20 disclose it.

21 PRESIDING JUDGE STEINER: That satisfies the
22 Defence?

23 MR LIRISS: (Interpretation) Not at all.
24 Absolutely not. Here we have the Prosecution disclosing
25 an expert report and one month later they now think that

1 there is additional information that they now want to
2 disclose and they're requesting permission from the
3 Chamber to do so. Fine. They're going to disclose it.
4 But what we're asking is for them to tell us why it was
5 necessary to have this additional report. All we want is
6 an explanatory filing; brief. It can be brief. And on
7 the basis of such a brief filing the Defence will be able
8 to decide, and the Chamber will be able to determine,
9 whether or not this additional element, which is not
10 additional evidence but which is something that's added to
11 a report that has already been disclosed, that is, decide
12 whether or not this really needs to be disclosed. We're
13 saying that such a decision should be made on the basis of
14 the appropriate reasons.

15 Once we've been given evidence, once evidence is
16 disclosed, we don't agree that it should be completed on
17 the basis of supplementary information solely. That's
18 basically the reasoning, your Honour.

19 JUDGE ALUOCH: If I understand the Prosecution,
20 you keep saying that this is for the benefit of the
21 Chamber, is it?

22 MR SCALIOTTI: Yes, your Honour. This complement
23 of the report would be -- would consist of psychological
24 evaluation, more psychological evaluation of three victims
25 that were recently met by the expert and, in the

1 Prosecution's view, this might help the understanding of
2 the issues that are at stake within the expertise of this
3 expert. But again I reiterate that, essentially, we put
4 the matter in the Chamber's hands. So if the Chamber
5 didn't consider as helpful to have this further assistance
6 the Prosecution is available to submit this supplemental
7 report.

8 MR LIRISS: (Interpretation) Your Honour, I beg
9 your pardon. I think there's a misunderstanding. We're
10 not against the disclosure. Of course the Prosecution has
11 an obligation to disclose. All we're asking is that this
12 filing which has been made or, rather, that this oral
13 request be done in the form of a written filing and
14 therefore we can then examine the relevance of this
15 request. That's all we're asking.

16 PRESIDING JUDGE STEINER: I think it's -- at the
17 end it will be for the Chamber to decide on the relevance
18 and pertinence of this supplementary information. I
19 cannot see exactly what is the point in which the Defence
20 is concerned on the kind of prejudice that this element
21 could bring to the Defence but, in any case, the Chamber
22 will deliberate and will communicate to the parties soon,
23 maybe soon after this status conference, or at the latest
24 tomorrow, in relation to whether the Chamber is interested
25 in receiving complementary information that is not related

1 to the evidence of the case, just for its knowledge or for
2 its assistance in this moment, or maybe after the
3 testimony of the expert. So the Chamber will decide upon
4 this issue but we will take into consideration the Defence
5 concerns for sure.

6 So I again ask, first the Prosecution, whether
7 there's any other issue to be discussed during this status
8 conference?

9 MR SCALIOTTI: No, thank you, Madam President.

10 PRESIDING JUDGE STEINER: Legal representative of
11 victims?

12 MS MASSIDDA: No further issues, your Honour.
13 Thank you.

14 PRESIDING JUDGE STEINER: Representatives of the
15 Registry?

16 MS DAHURON-JACOBY: (Interpretation) No, Madam
17 President.

18 PRESIDING JUDGE STEINER: Defence?

19 MR LIRISS: (Interpretation) No, Madam
20 President.

21 PRESIDING JUDGE STEINER: So once again then,
22 it's up to the Chamber to thank very much the parties and
23 participants for the discussions held during this status
24 conference. A few pending issues still open will be
25 decided upon by the Chamber as soon as possible.

1 So I thank for the Prosecution team, the legal
2 representatives of victims, representatives of the
3 Registrar and the counsel for the Defence and its team,
4 wishing that Mr Bemba feels better soon from his illness.
5 I thank very much for the interpreters that have followed
6 this status conference and this hearing is adjourned.
7 Thank you.

8 (The hearing ends at 3.57 p.m.)