

1 International Criminal Court
2 Trial Chamber VII - Courtroom 1
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba,
5 Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and
6 Narcisse Arido - ICC-01/05-01/13
7 Presiding Judge Chile Eboe-Osuji, Judge Olga Herrera-Carbuccia and
8 Judge Bertram Schmitt
9 Status Conference
10 Friday, 24 April 2015
11 (The status conference starts in open session at 9.33 a.m.)
12 THE COURT USHER: All rise.
13 The International Criminal Court is now in session.
14 Please be seated.
15 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
16 Court officer, please announce the case for the record.
17 THE COURT OFFICER: Thank you, Mr President.
18 The situation in the Central African Republic, in the case of The Prosecutor versus
19 Jean-Pierre Bemba Gombo, Aimé Kilolo-Musamba, Jean-Jacques Mangenda Kabongo,
20 Fidèle Babala Wandu and Narcisse Arido, ICC-01/05-01/13.
21 We are in open session.
22 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
23 Appearances?
24 MR VANDERPUYE: Good morning, Mr President. Good morning,
25 everyone. For the Prosecution, Kweku Vanderpuye, I'm accompanied today by trial

1 lawyers Olivia Struyven, Florence Darques Lane, and our case manager is

2 Sylvie Vidinha. Good morning.

3 PRESIDING JUDGE EBOE-OSUJI: Who is on that side? The Registry. Okay, let's

4 take appearances from counsel. We will take appearances on this side.

5 Counsel, please.

6 MS TAYLOR: Good morning, Mr President, your Honours. My name is

7 Melinda Taylor. I am appearing today on behalf of Mr Jean-Pierre Bemba and I am

8 appearing today with Ms Cécile Lecolle and Ms Natacha Lebaindre. Thank you.

9 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

10 MR DJUNGA: (Interpretation) Thank you, Mr President. I am

11 Maître Paul Djunga, representing Mr Kilolo. I am assisted by

12 Ms Khady Rosalie Mbengue.

13 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

14 MR GOSNELL: Good morning, Mr President. Good morning, your Honours. My

15 name is Christopher Gosnell. I appear on behalf of Jean-Jacques Mangenda Kabongo.

16 I am accompanied today by Ms Havneet Sethi, casing manager.

17 PRESIDING JUDGE EBOE-OSUJI: Thank you very much, Mr Gosnell.

18 MR KILENDA: (Interpretation) Mr President, good morning, your Honours. My

19 name is Jean-Pierre Kilenda Kakengi Basila from the Brussels and Kabila Bar. I am

20 accompanied by Ms Manolescu, case manager, and Mr Bokolombe, who a legal

21 assistant, and I am defending Mr Babala.

22 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

23 MR TAKU: Good morning, your Honours. My name is Charles Taku. I represent

24 Mr Narcisse Arido and I am here today with my colleague and friend

25 Philippe Larochelle and Mr Narcisse Arido is here today, your Honour.

1 PRESIDING JUDGE EBOE-OSUJI: Thank you very much, Mr Taku.

2 Now, Mr Taku has indicated that his client is in court. So the record is complete on
3 the matter, which other of the accused persons are in court today? Only Mr Arido?

4 MR DJUNGA: (Interpretation) Mr President, Mr Kilolo is also present in the
5 courtroom.

6 PRESIDING JUDGE EBOE-OSUJI: Thank you. So we have only two accused
7 persons in court today. I note that for the record so that the record is complete on
8 the matter.

9 Thank you very much.

10 And now the Registry?

11 MR MIJUSKOVIC: Good morning, Mr President. Good morning, your Honours.

12 The Registry today is represented by Ms Fatiah Balfas from the Victims and Witnesses
13 Section. She is the assistant legal officer; Ms Jasmine Toumaj, the assistant
14 legal -- the associate, sorry, legal officer of the immediate Office of the Director of
15 Court Services; and myself Uros Mijuskovic, legal officer with the Court Management
16 Section. Thank you very much.

17 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

18 And welcome everyone to the first status conference in this case. The purpose of the
19 status conference is primarily to set a date for trial, but in that connection to receive
20 submissions of the parties and their lawyers in relation to some but not all of the
21 difficulties that must be resolved along the way to trial and also to receive
22 submissions of the parties and their lawyers in relation to workable solutions to the
23 identified difficulties.

24 Ahead of the status conference the Chamber had indicated some provisional topics
25 for the agenda and we called for submission in those regards and proposals for any

1 other topic. However, given the volume of both the submissions received and the
2 number of further topics suggested or mentioned by counsel the Chamber has
3 decided to pare down the issue, for discussion today in light of the limited time we
4 have for this status conference, but the Chamber will in due course issue decisions as
5 appropriate in relation to the issues which will not be discussed in today's session.

6 But first some announcements and directions. We will give you our vision of the
7 case and here it comes.

8 This case involved allegations in the nature of obstruction of justice. That's what the
9 charges against the accused persons come to. The case is certainly serious, but the
10 factual matter of the charges does not engage a judicial inquiry into widespread or
11 systemic attack against a civilian population, nor of acts committed with intent to
12 destroy a group in whole or in part.

13 Therefore, in light of the compass of the -- the proper compass of the charges in the
14 case the Chamber will strongly discourage multiplication of procedural issues in the
15 case.

16 The Chamber would also in that connection similarly discourage seizing the Chamber
17 directly of an issue when all reasonable efforts have not been made to resolve the
18 particular matter at the level of counsel. We encourage lawyers to try and solve
19 problems across the aisle before coming to the courtroom and only come to the
20 Chamber as a matter of last resort. We strongly discourage immediate seizing of the
21 Chamber with any issue.

22 The Chamber notes in that connection that the Kilolo Defence has made a certain
23 application of filing number 904. At paragraphs 45 and -- 44 and 45 certain requests
24 were made, but there is no indication that efforts have been made to resolve the
25 matter in light of the need of the Kilolo Defence of those indicated materials from the

1 Prosecution and the Registry. The Chamber will not deal with that matter until the
2 Chamber is satisfied that good-faith efforts have been made in vain to resolve the
3 matter with the OTP and the Registry.

4 The Chamber would also strongly discourage improper litigation in the case. The
5 Chamber will not hesitate at all to employ its power under the Rome Statute to
6 impose sanctions, particularly costs sanctions, where for instance the Chamber finds
7 any particular litigation to have been frivolous, vexatious, abusive or seriously
8 improper in any other way.

9 We also strongly discourage litigation of this case through the media. There is a
10 proper process of tabling concerns and submissions needing to be resolved through
11 the proper channels of litigation in the case either by way of written submissions or
12 oral submissions or both, as the case may be, but we would strongly discourage
13 running to the media and litigating the case there.

14 Now we move to the agenda items.

15 Item: Protocols.

16 The Chamber notes a series of submissions by the parties on several proposed
17 protocols for the trial, in particular the Prosecution proposed protocols on witness
18 familiarisation, witness preparation, handling of confidential information, contacts
19 with witnesses, conduct of the proceedings and redaction regime.

20 The Defence counsel have provided joint responses to all of those
21 protocols -- proposals. We will not discuss those protocols in today's session. The
22 Chamber will issue its decisions in due course in regards to them.

23 Item: Admissions and agreements as to facts.

24 With a view to limiting the litigation in the case, parties are encouraged to review
25 essential facts of the types indicated in Rule 69 upon which agreements could be

1 reached or admissions made pursuant to that Rule; that is Rule 69. It is understood
2 that the OTP has submitted or canvassed with the Defence the possibility of
3 agreements in relation to 64 factual propositions it seems, but the inclination of the
4 Defence to admit is not clear to the Chamber.

5 The direction is not that the Defence must admit or agree to factual propositions, but
6 the Chamber would encourage the parties to explore that possibility seriously.

7 In that regard, the Chamber directs the Prosecutor to submit to the Defence counsel
8 by 30 April 2015 specific requests to admit facts and the Defence counsel are directed
9 to respond to the OTP request by 30 June 2015.

10 Item: Elements of crime and modes of liability in relation to Article 70 of the Rome
11 Statute.

12 Parties have made several submissions relating to the elements of Article 70 offences
13 and the applicable modes of responsibility.

14 The Chamber will -- or, rather, the Chamber does direct the parties to make full
15 submissions in writing on the matter.

16 Since it appears that the matter resonates the most in the Defence submissions,
17 Defence counsel are to file their written submissions by 31 May 2015 and the
18 Prosecution will respond according to the usual time limit.

19 Item: Surveillance.

20 The Bemba and the Kilolo Defence teams have raised questions for the Prosecution to
21 answer as to whether the accused and their counsel are now under electronic
22 surveillance by the Prosecution, or at the instance of the Prosecution. The Chamber
23 directs the OTP to respond in writing by 1 May 2015.

24 Item: Legality of the role of independent counsel.

25 The Babala Defence raises questions as to the legality of the role of the independent

1 counsel in relation to the review of seized material.

2 The Chamber rules as follows: The Trial Chamber dismisses the request in light of
3 the Chamber's decision of 9 April 2015, filing number 819 confidential, concerning the
4 role, propriety and procedure of the independent counsel, the Chamber will not
5 reopen litigation concerning the legality or propriety of the role of the independent
6 counsel. The parties are to be guided accordingly.

7 Item: Video-link testimony.

8 The Arido Defence urges the Chamber to make an advance ruling prohibiting
9 testimony by video link.

10 Ruling: The Chamber summarily dismisses the request. The Chamber will not
11 make any general determination in this regard, but will rather determine on a
12 case-by-case basis whether it will hear witnesses by video link.

13 Similarly, the Chamber will not now issue any general deadline to the parties within
14 which to litigate the question of propriety of video-link testimony in this case, but the
15 parties will be allowed to respond to any such request, if and when made.

16 That concludes the announcements part of the proceedings. Now we come to the
17 debates part of it, but some ground rules first.

18 There is no need to repeat arguments or observations already made in writing. Our
19 time is limited as you know. The submissions may be given -- those submitting may
20 give an overview if they need to do so of what they said in writing, the general points,
21 and elaborate on the main critical points in light of any insights that might have been
22 gained from the written responses received thus far.

23 It is also not efficient to repeat a point already made by another party on the Defence
24 side, or even across the aisle, with whom the party agrees. It is only sufficient to
25 simply indicate the agreement and move on to your other point.

1 As a logistical matter, please avoid crowding or overlapping on the microphone. As
2 you know, the interpreters and court reporters are in sealed compartments and they
3 can only hear us and do their work properly through the microphone, and when two
4 people overlap that makes it difficult for them to register what is being said.

5 As some of you already know, there is that convention of the five seconds rule to wait
6 for five seconds between the last speaker before commencing to speak. That helps to
7 solve that problem.

8 All parties are to make their submissions always with an eye to the purpose of today's
9 status conference. As noted earlier, the point is to set a trial date and to receive
10 submissions as to difficulties that need to be resolved and submissions as to helpful
11 solutions to resolve those difficulties.

12 Item: Disclosure: Timing, volume and modalities.

13 OTP, it appears that from your filing as of 20 March 2015 the state of disclosures is as
14 follows: You have disclosed about 3,422 items to the Defence; 45 of those would
15 come under Article 67(2) as potentially exculpatory material, which we colloquially
16 call PEXO materials; and about 1,368 of those come under the general regime of
17 Rule 77.

18 Is that the case?

19 MR VANDERPUYE: Thank you, Mr President. It is approximately the case. I can
20 provide the Chamber with updated figures. We have, for example, disclosed an
21 overall total of 4,112 items. 2,552 of those items are what we consider material we
22 would rely on, under Rule 77 we refer to that as incrim evidence. And then we have
23 1,586 items that we have labelled as Rule 77, in other words, material that evidence or
24 items that may be material to the preparation of the Defence, and indeed 45 items of
25 PEXO remain the case.

1 But I am prepared to provide the Chamber with a sort of overview of where we are in
2 the disclosure process, how long we expect it will be until it's completed and other
3 matters, but I will take my cue from you, Mr President.

4 PRESIDING JUDGE EBOE-OSUJI: Yes, that will be helpful to give that overview of
5 updates and of course the next question for you would be how much material
6 currently in the possession of the OTP remains to be disclosed. Are you in a position
7 to say now?

8 MR VANDERPUYE: I am in a position to say to an extent. In terms of the material
9 that we actually have, we have disclosed the vast majority of it. If I were to put an
10 approximation on it I would say we're somewhere in the area of 90 per cent, 95 per
11 cent of the material that forms the core of the -- of the case collection.

12 So we expect that we will be able to vet that material fully, make determinations on
13 disclosure within the next couple of weeks to be honest. I think we'll be able to
14 complete disclosure within two months and that will be it for the material that we
15 have.

16 As you know, there are materials that have been recently received by the Registry that
17 are the result of the seizure executed at the time of Mr Kilo's arrest back in
18 23 November I think it was 2013 and the Prosecution has been waiting to receive
19 those materials since. They have arrived and now they are in the possession, as I
20 understand it, of the Registry.

21 So the time length or the estimated time for disclosure will also depend on that
22 because whatever the fruits of that particular material is may affect assessments that
23 have already been made as to the relevance or nature of the evidence that we have
24 disclosed and may revisit -- we may have to revisit that, make other determinations
25 and then redisclose or disclose materials that were otherwise apparently irrelevant at

1 the time that those determinations were made.

2 So that will affect the timeline, but generally we're talking about somewhere in the
3 area of two months.

4 PRESIDING JUDGE EBOE-OSUJI: Two months you indicate takes into account the
5 further material you say you are expecting to receive or no?

6 MR VANDERPUYE: No, Mr President, it doesn't. It takes into account just the
7 material that we have presently in the case collection.

8 PRESIDING JUDGE EBOE-OSUJI: All right, I wanted to be sure. So you say
9 currently you have disclosed 90 to 95 per cent of what you have?

10 MR VANDERPUYE: If I were to put a percentage figure on it that's what it would
11 be, yes.

12 PRESIDING JUDGE EBOE-OSUJI: And it is only about ten to five per cent
13 remaining that you will need to -- given the estimate of the two months in relation to,
14 is that it?

15 MR VANDERPUYE: Correct.

16 PRESIDING JUDGE EBOE-OSUJI: Okay. The material which you are expecting to
17 receive or which you say have come in with the Registry, would those be, in a sense,
18 the totality of all the materials you contemplate for use in this case, if possible, or if
19 need be?

20 MR VANDERPUYE: It's difficult to say because depending on what's in the material
21 it may affect what evidence we already have and what evidence we may need to have.
22 So it may entail further action. We don't know because my understanding, although
23 the Registry hasn't provided us with an inventory of what is contained in, what is
24 described in a Registry filing, I can't remember, as a box with an envelope.
25 Our understanding from earlier in the case is that there were certain electronic

1 materials that were seized which included a -- I think it was a desktop computer, or
2 the hard drive from a desktop computer, maybe a laptop computer as well, and other
3 things such as a Blackberry, PDAs, USB keys, things of that nature.

4 So it is very difficult for us to say what is the volume of the material, what it might
5 contain, although we suspect it will contain highly-relevant evidence in the case. So
6 it is very difficult for me to commit to say that that is going to be the end all because it
7 may link to other evidence which we already have which either makes it more
8 probative, or less probative, or requires further enquiry.

9 So it is a determination I would prefer to make at the time that we actually have
10 access to the material, if we gain access to the material, and have an opportunity to
11 evaluate it and review it.

12 PRESIDING JUDGE EBOE-OSUJI: We may come to that. I am sure we will later,
13 but what I am trying to understand now is, so the picture is clear in my own mind at
14 least, whether we are possibly envisaging a scenario and to what extent that is the
15 case that assuming you receive this further material from the Registry, which you say
16 have come in, and then afterwards you say, no, that is not enough, we also have to
17 look outside for further material beyond what the Registry has, beyond what you
18 have, so that becomes an issue that ties up the case. Is that possible or something to
19 worry about?

20 MR VANDERPUYE: We certainly don't want to tie up the case at all. That one I
21 want to make very clear to everyone, to the Chamber. It is not our intention to do so.
22 All we want to do is to have an opportunity to examine material that was seized on
23 the order of the Single Judge on the basis that it may contain relevant evidence in the
24 case and review it and determine how that affects our evidence if at all. So it's not
25 our intention to tie up the case.

1 Our intention is if the evidence yields information that requires follow up under
2 Rule -- Article 54, then it's our intention to pursue that. It may be very well that it
3 requires follow up that is to the benefit of the Defence that is exculpatory to the
4 accused and certainly we don't want to abdicate our responsibility in that regard for
5 the sake of expediting the case, although we have in mind to expedite the case.
6 So our intention is if the information is pertinent to the case or significant to the case
7 to conduct limited follow up to the extent that it's necessary.
8 So it's -- I know what -- I know what you want to know, but it's very hard for me to
9 say, "Sure, once we receive this material it's over." I would like to be able to say that
10 and it is my intention to do that, but I just don't have enough information at all about
11 what is in that seized material that may affect it and so I don't want to make a
12 representation to the Chamber which I'll have to turn around and say, "I shouldn't
13 have said that because in fact it contains X, Y and Z material which we believe is
14 essential to follow up prior to commencing trial in the case."
15 PRESIDING JUDGE EBOE-OSUJI: Do you have any idea when you will receive the
16 further material? I -- I take it you must be liaising with the Registry in that regard?
17 MR VANDERPUYE: As I understand it, the Registry has engaged the Chamber in
18 terms of coming up with a manner in which this material can be unsealed because the
19 presumption is that it contains potentially privileged information and, therefore, it
20 needs the Chamber's authorisation, guidance, in order to determine an unsealing
21 procedure. And so we don't know what that -- what the result of that is. We don't
22 even know I think when the material might be unsealed so that we even have an idea
23 of what inventory is, right. We don't actually know what's in the box with the
24 envelope. And that is essential I think to help us make a determination as to what it
25 is we might expect to find.

1 But as I mentioned, at the time that the material was seized we did have some
2 information that it did involve a fair amount of electronic information and we assume
3 that that information or those items are actually in the box.

4 PRESIDING JUDGE EBOE-OSUJI:

5 (Trial Chamber confers)

6 PRESIDING JUDGE EBOE-OSUJI: We will -- you can -- do you have anything to
7 add before I call on submissions from the Defence?

8 MR VANDERPUYE: In this particular respect, or --

9 PRESIDING JUDGE EBOE-OSUJI: Yes, in this particular respect.

10 MR VANDERPUYE: No, I don't.

11 PRESIDING JUDGE EBOE-OSUJI: All right, thank you.

12 MR VANDERPUYE: Thank you, Mr President.

13 PRESIDING JUDGE EBOE-OSUJI: Any observations from the Defence side? You
14 don't have to make them, but if you want to. Yes.

15 MS TAYLOR: Thank you, Mr President, your Honours. We are not going to go
16 into the minutia of our written submissions but we did want to canvass a few aspects
17 on the disclosure regime which resonate particularly with the personal circumstances
18 of Mr Bemba particularly in light of today's submissions.

19 PRESIDING JUDGE EBOE-OSUJI: Can you speak specifically to the matter I just
20 engaged with with Mr Vanderpuye?

21 MS TAYLOR: Yes, Mr President, your Honours. We did want to raise a few issues
22 concerning the timing of the case in light of the evidence that might arise from the
23 national authorities, and we also wanted to raise some issues concerning the
24 disclosure of exculpatory items. Is this an appropriate time to raise these
25 submissions or should we raise them at later point?

1 PRESIDING JUDGE EBOE-OSUJI: Later on. But if you have any specific
2 observations from Mr Vanderpuye's submissions about what remains to come in and
3 what that means nor the case you can speak to it immediately. If not, we can come
4 later on -- later to the item you are speaking about.

5 MS TAYLOR: As I said we did have some general observations on the issue of the
6 materials that might come from the national authorities, but I can raise those later
7 because they are of a more general nature.

8 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. Okay.

9 Any other observations? No, okay.

10 MR KILENDA: (Interpretation) If you don't mind, your Honour, very briefly, you
11 reminded us initially when you first spoke that this case, even though it doesn't come
12 under Article 5 of the Statute, is all the same a serious matter.

13 Now, with regard to my client, there is some professional training that would be
14 involved if cases -- or capacity, rather, if the charges were to be -- I wish to point out
15 to the Chamber that when the Prosecution asked for a warrant of arrest we noticed in
16 the ruling from the Single Judge that the evidence was abundant. This is what he
17 apparently said and he made the same point on 27 November 2013 saying that the
18 Prosecution was ready for trial.

19 I wish to draw that fact to your attention because we do not want the trial to drag on.
20 The charges are very serious and have had a serious emotional impact on my client.
21 I'm sure you are aware of that, your Honour.

22 Thank you.

23 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. We noted your
24 observations.

25 Any more? Yes, please until we --

1 MR DJUNGA: (No interpretation)

2 PRESIDING JUDGE EBOE-OSUJI: Mr Djunga, Mr Djunga. Thank you. Please, as
3 you -- we are all meeting for the first time. When you speak, if you could, at least for
4 the first few interventions, announce your names again. Of course I know
5 Mr Gosnell and Mr Taku from previous professional engagements, but if you can also
6 mention your names. Thank you.

7 Mr Djunga.

8 MR DJUNGA: (Interpretation) Thank you, your Honour. Indeed I am Mr Djunga
9 representing Mr Kilolo.

10 Your Honour, in response to remarks made by the Prosecution, now just to reiterate
11 this -- these investigations by the OTP began back in 2012 and it seems to me that the
12 investigations are still underway and material still is to be disclosed. We are quite
13 fearful. We believe that the trial may take quite a long time and we believe that the
14 Prosecution should've disclosed all evidence including evidence from the seizure of
15 materials. And these materials must be disclosed immediately.

16 We also require an amended DCC. We have also noticed that the Prosecution's
17 investigations were carried out in a number of countries including African countries
18 and European ones. I believe that the Chamber will have a good idea of what is at
19 hand and, once the documents are disclosed, the Defence -- I'm sure the Chamber
20 realises that the Defence will need time to analyse all this material and, in turn, we
21 will have to conduct our own investigations. We do believe that we will all have to
22 have sufficient time in light of the volume of documents disclosed and all the
23 investigations already carried out.

24 That's all I wanted to say at this point. Thank you.

25 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

1 (Trial Chamber confers)

2 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

3 Prosecutor, we have noted your indication that the material you -- you've indicated
4 you are anticipating or waiting for from the Registry is now subject of a certain
5 process pending before the Chamber as to the modalities of unsealing the -- the
6 material. That is noted, but beyond that there is a point raised by the Defence which
7 you will need to briefly, in one minute, react to, and the point is that at the time of the
8 arrest warrant the OTP had indicated that it had abundant evidence. That's how it
9 was characterised in the submissions coming from the Defence. And their argument
10 is that the case should not be delayed on the basis of any further material that are not
11 now with you. Can you react to that, one minute?

12 MR VANDERPUYE: Yes, Mr President, I can. First, the characterisation of the
13 evidence that we had at the time that the arrest warrant was issued is in the
14 application for the arrest warrant, which satisfied the threshold for its issuance.
15 Secondly, with respect to the material that we expect to receive, this is material that
16 was seized at the direction of a Judge of this Court, and it was seized at the direction
17 of a Judge of this Court because that Judge was convinced that the material that he
18 ordered be seized from the accused, his surroundings, his home, was likely to contain
19 evidence that was relevant, probative and if not material to this case having assessed
20 the evidence that was provided by the Prosecution.

21 In other words, the Judge assessed the basis of the application, determined that it met
22 the requisite threshold, and in addition to that ordered the seizure of this material
23 because he believed it contained relevant and probative evidence; otherwise there
24 would be no grounds for the issuance of such an order.

25 Our position is that yes, there is ample evidence in this case that supports the

1 Prosecution's position. However, there is material in the possession now of the
2 Court, which it wasn't at the time of the confirmation proceedings, which was
3 specifically ordered seized by the Single Judge in this case for the purposes of being
4 analysed in relation to these proceedings. And our position is that that order and the
5 purpose for which it was issued should be at least seen through particularly that
6 the -- particularly in the circumstances that the Court actually possesses the items at
7 this point.

8 One other thing I should mention is that there is in addition to this seized material
9 other material which the Prosecution voluntarily turned over to the Court in order to
10 make a determination as to the appropriate modality to proceed with it because we
11 believed that there was a potential that it contained privileged information.

12 This concerns two CDs that were provided by State authorities which contained the
13 email accounts of Mr Kilolo, Mr Babala, Mr Mangenda and Mr Arido. We provided
14 that information or provided the CDs rather to the Court under seal as we received it
15 for the purposes of the Court administering the appropriate vetting of that material so
16 as to avoid any contamination or any breach of a privilege that may inure to those,
17 may inhere to those particular materials.

18 In April of 2014 -- it is April 2015, we haven't seen the results of this particular
19 exercise, we don't know what's in it. So in response to my colleague's enquiry about
20 the length of the trial, we are doing our best, we are doing our level best to move this
21 case forward, but there are factors at play in the course of these proceedings that we
22 simply do not control. But I think at the same time the information that is out there
23 is relevant to the case. It may be relevant as I mentioned on the basis of an Article 54
24 determination as to the truth concerning the events at issue and we feel --

25 PRESIDING JUDGE EBOE-OSUJI: By "information out there," you mean outside of

1 the OTP?

2 MR VANDERPUYE: Outside of the OTP's control.

3 PRESIDING JUDGE EBOE-OSUJI: But within the Registry?

4 MR VANDERPUYE: Precisely, precisely, precisely. And we feel that at this point,
5 now that it is within the control of the Court, that it seems to make sense that the
6 Court should not ignore the material in favour of expediting proceedings. So that's
7 fundamentally what our position is.

8 I should add also in order to perhaps expedite the Defence's ability to review this
9 material, it has been our position in the past and it has -- and the Single Judge has
10 ordered in the past that the materials following the vetting process that involves the
11 Registry should be disseminated to the parties by the Registry, which will cut down
12 the amount of time that it would take for the Prosecution to otherwise follow
13 disclosure protocols and so on.

14 PRESIDING JUDGE EBOE-OSUJI: All right. Your point essentially is that you will
15 not tie up this case on the basis of disclosure. That's your point. But you want to
16 see the material that is already sealed into the Court's possession, the Registry at this
17 stage. Your review of such material would instruct you as to other possibilities in
18 the case. Those possibilities need not be to hold up the case. You nod. Those
19 possibilities may well lead to the benefit of the Defence. We don't want to elaborate
20 what those benefits may be. Is that the case?

21 MR VANDERPUYE: That is the case, Mr President. Thank you.

22 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. We'll leave it there.
23 We move on now. Still on disclosure item, redaction. The Prosecution has
24 indicated that 40 items require redaction before disclosure. Is that the case?

25 MR VANDERPUYE: If you will allow my, I can update you as to that well,

1 Mr President.

2 PRESIDING JUDGE EBOE-OSUJI: Please proceed.

3 MR VANDERPUYE: We have about 93, 95 or so of these documents that require
4 redaction, and that's based upon the review of the 750 items that we indicated in our
5 filing back on 20 March that was -- that we were in the process of reviewing. And so
6 the number of 40 I think it was has grown, but we're moving along on those as well.
7 We have nearly completed the review of those 750 documents, which we'd expect we
8 should have done I think by the end of next week. We intend to actually make a
9 disclosure next week as well. And so the items have grown.

10 As we indicated in our filing as well, we are anticipating or awaiting the Chamber's
11 decision on whether to adopt a redaction protocol prior to the disclosure of those
12 items. If the Chamber determines that these items should be disclosed, simply
13 indicating as was done in the past the basis of the particular redactions, we are
14 prepared to do that. But we understand that the Chamber wanted submissions on
15 the redaction protocol. We provided our submissions on that and so we are
16 awaiting guidance from the Chamber as to how to go about it prior to disclosure.
17 But the number is, I think it is 93, but it is something like that.

18 PRESIDING JUDGE EBOE-OSUJI: The question for you would be would those 93
19 items be the only and total number of items requiring disclosure of any kind? Sorry,
20 a redaction -- requiring redaction of any manner? You know what I mean, standard
21 redaction versus non-standard redaction. If there are other materials that may
22 require redaction standard type, that may then engage whether or not we need that
23 redaction protocol or not. What's the situation?

24 MR VANDERPUYE: Thank you, Mr President.

25 Indeed, that makes a lot of sense. We have assessed those materials for the most part

1 will contain standard redactions. These are redactions of the type that are indicated
2 in the protocol.

3 I can't tell you precisely what the number balance is, but I can tell you that most of
4 them are of the nature that would be conducive to the application of the protocol.

5 The others will contain non-standard redactions, which of course the Defence
6 will -- can contest, not contest, however they want to do it.

7 PRESIDING JUDGE EBOE-OSUJI: So most of the 93 items would be -- would need
8 standard type redactions, is that what you're saying?

9 MR VANDERPUYE: That is correct, Mr President. I have to say I am reticent to
10 refer to specifically 93, because as I say it's an approximation, but it's in that area.

11 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

12 Any reaction from the Defence counsel? Yes, Mr Djunga.

13 MR DJUNGA: (Interpretation) Mr Djunga, your Honour. I'll try to respond very
14 quickly to these concerns.

15 Now, the Prosecution, knowing about the lifting of professional secrecy, and
16 particularly when it comes to the Kilolo team, it is difficult for Mr Kilolo as part of
17 these proceedings to defend himself freely and completely without obtaining this
18 lifting of privilege. That is obvious.

19 I would like to remind everyone of one point. Mr Kilolo was the lead counsel of
20 Mr Bemba in the main trial. Thus lifting the solicitor-client privilege, which would
21 allow him to defend himself, could and I think this could be harmful given that the
22 main case is still under litigation.

23 The Court must be well aware of this problem, particularly when it comes to
24 Mr Kilolo. Yes, at one particular time he will have to be released of his obligation to
25 respect client/solicitor privilege so that he can defend himself fully. But the main

1 trial is still before another Chamber, and it is possible that the client may have to
2 provide some information that could later -- could be used by the Prosecution in the
3 main case. So it will be up to the Chamber to make a determination regarding the
4 lifting of client/solicitor privilege and the impact that such a decision would have on
5 the main case.

6 Thank you.

7 PRESIDING JUDGE EBOE-OSUJI: Isn't that a different discussion? Now we are
8 talking about completing the Prosecutor's disclosure, and the Prosecutor is saying
9 that there are some documents that it requires -- or the Prosecution rather is saying
10 that there are some documents that it requires to redact before disclosing. That's the
11 subject.

12 All right, we'll move on.

13 Yes, Ms Taylor.

14 MS TAYLOR: It is Ms Taylor on behalf of the Bemba Defence. I just have a very
15 quick observation on this issue of standard redactions, and that is it is my
16 understanding that this type of practice came into the cases at the ICC to deal with
17 cases where there was a voluminous amount of material, and that doesn't apply to
18 this case as the Prosecutor has said. There's only a limited number of documents
19 there would require redactions.

20 Also, the Appeals Chamber has been very clear that redactions need a case-by-case
21 assessment, and that case-by-case assessment must take into account the
22 particularities. This is an Article 70 case, not an Article 5 case. So some of the
23 principles that underlay the standard redactions in another case simply do not apply
24 this case.

25 Thank you.

1 PRESIDING JUDGE EBOE-OSUJI: Your point being that the --

2 MS TAYLOR: This is in fact --

3 PRESIDING JUDGE EBOE-OSUJI: -- approximate number of 93 -- Mr Vanderpuye
4 doesn't want to be tied down to the number.

5 MS TAYLOR: Militates --

6 PRESIDING JUDGE EBOE-OSUJI: -- can be redacted as it were without awaiting a
7 protocol?

8 MS TAYLOR: My point was that the small number of documents militates against
9 using standard redactions, that is a general category which automatically implies that
10 something should be redacted. The difference is in favour of a case-by-case
11 assessment of each document.

12 Thank you.

13 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

14 Any more submissions in that connection? None. Thank you.

15 Mr Vanderpuye?

16 MR VANDERPUYE: Sorry, just briefly, Mr President. With respect to the point put
17 forward by Ms Taylor, the purpose of the standardised redaction is actually to
18 promote the efficiency of the disclosure process. So, for example, if a strategic
19 location appears in a document 50 times, it is much more expedient to have a
20 standardised protocol in place which obviates the need to indicate the precise reasons
21 for the specific redaction 50 times, rather than to simply indicate it one time with an
22 appropriate code, because it will facilitate the processing of this material, facilitate the
23 Chamber's assessment of the material even on a case-by-case basis. So that's what
24 the purpose of it is and that's what the impetus is behind it.

25 So while I agree that the number of redactions in this case certainly doesn't rise to the

1 level of perhaps an Article 5 case, it still can benefit from the adoption of a protocol
2 which obviates the need for the Prosecution to go through and essentially copy and
3 paste the explanations for redactions that appear multiple times in a given document.
4 That's essentially what we're talking about here.

5 PRESIDING JUDGE EBOE-OSUJI: And she would argue that in the absence of a
6 protocol you can provide that code yourself in the redaction that is made, but then the
7 problem becomes if later on there's a need to have more redactions to other
8 documents, that may complicate the matter, isn't it?

9 MR VANDERPUYE: It is indeed, Mr President. And also it's our position that
10 fundamentally as this case moved from the Pre-Trial Chamber to this Chamber that
11 we defer to this Chamber's decisions as to how it wants the material handled in
12 this -- in these proceedings.

13 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

14 We are still on disclosure.

15 Now, general matter item. In the joint observations of the Defence on modalities of
16 disclosure, Defence filing number 894, the Defence made some submissions at the end
17 of which they made a series of 13 requests such as an order to the effect that only
18 items contained in the Prosecution's list of evidence be transmitted to the Chamber at
19 the time of the filing of such lists and not all disclosure which is let's say the case now.
20 They also request for instance that all items currently on eCourt which are not
21 included in the party's list of evidence at the confirmation of charges stage should be
22 removed from eCourt.

23 They also request that the Prosecution indicate precisely when a document disclosed
24 as incriminating also falls under the scope of Article 67(2) or Rule 77 and so on. So
25 there are about 13 requests made.

1 Are you in a position to speak to that now, Mr Vanderpuye, or would you prefer to
2 make your submissions in writing on the matter?

3 But before I come to you, one second.

4 Perhaps the Defence counsel I should ask the question first. Do you want to briefly
5 speak to it to the main points of that or await a more comprehensive resolution of the
6 matter pending the Prosecution's indication as to whether or not it wants to speak to
7 it now or in writing? One of you would have anchored the joint document. Who
8 was it? The person perhaps can speak to it.

9 MS TAYLOR: Mr President, the joint document was very much a joint effort from
10 all Defence teams and for that reason it's very difficult for us to extemporize and give
11 individual submissions on what was a very delicate and lengthy and intensive
12 process.

13 PRESIDING JUDGE EBOE-OSUJI: I was going to say that since it was a joint
14 document the person who anchored the preparation, the putting it together in the
15 final analysis, may go first, but if it is more efficient for us to deal with that on paper,
16 we can leave it at that. You don't need to speak to it now.

17 Mr Gosnell was rising.

18 MR GOSNELL: You have addressed precisely the point I was going to make,
19 Mr President.

20 PRESIDING JUDGE EBOE-OSUJI: All right. Thank you.

21 Mr Vanderpuye, let's do this: You will respond in writing to those 13 requests.

22 MR VANDERPUYE: Mr President, we will.

23 PRESIDING JUDGE EBOE-OSUJI: Thank you.

24 Timeline, 5 May, the 5th of May.

25 Next item: Languages to be used in the proceedings.

1 Requests have been made to have a larger portion of the proceedings, process
2 documents and evidential documents, to be translated into French. The requests are
3 understandable and the Chamber is alive to the language needs of this case in the
4 direction of the French language.

5 The ICC system, the Chamber must observe, is already set up to accommodate that
6 concern to a large extent. The existing system is not perfect. We must acknowledge.
7 Just like life is not perfect, but yielding to the dictates of good faith the Chamber is
8 confident that we can all work together, we can work the existing system in a way
9 that reasonably satisfies the language needs of the case.

10 The Chamber remains open to good faith and reasonable suggestions that may offer
11 further and better solutions.

12 In light of those observations, the Chamber must now indicate as follows: The
13 Chamber will work -- will continue to work in English. The Chamber will not
14 require any document filed or made in English to be made available simultaneously
15 in French or vice-versa. The operative concept there is in the word "simultaneously."
16 The Chamber recalls that the transcripts of hearings are already done in both English
17 and French simultaneously. That arrangement will continue of course.

18 The Chamber also recalls that pursuant to Regulation 40(3) of the Regulations of the
19 Court, all English rulings of the Chamber will be translated into French as a matter of
20 course.

21 And as a matter of general direction Defence teams are to consult with the Registry or
22 the OTP, as the case may be, as to the timing of Defence translation requirements.

23 The Chamber is to be seized of complaints concerning translation of discrete materials
24 in whole or in part if following those consultations counsel still require translation to
25 ensure the rights of the accused because the arrangements made were not satisfactory

1 in that regard.

2 Beyond the foregoing, the Defence teams are also to consult with the Registrar for
3 purposes of exploring other reasonable arrangements with a view to lasting or ad hoc
4 solutions for language needs.

5 While we are on the matter of language needs, there is a matter or complaint
6 seized -- that the Defence have seized of the Chamber having to do with a request to
7 review the Registrar's decision on legal aid. As it is understood, the decision of the
8 Registrar may not have provided for two counsel working full time. Is that the case?
9 I see nodding of the heads.

10 So currently it appears that there's only one lead counsel and no co-counsel
11 systematically assigned to work on a full-time basis.

12 Mr Gosnell?

13 MR GOSNELL: Thank you, Mr President. Just to be fair to the submissions that
14 have been made by the Registry, they suggest that the amount they have provided
15 does not preclude funding a co-counsel, but that does depend on providing amounts
16 that are lower than the minimum payment that is prescribed under the legal aid
17 policy for individual members of the team.

18 My understanding is that that's a novel proposition and that in fact one of the unique
19 aspects of legal aid here at the ICC is that those amounts remunerated to each
20 member are prescribed within a specific range.

21 The Registrar now as far as I understand it novelly is suggesting that we can go
22 outside of that range and offer much lower amounts including to a co-counsel and
23 that is what the -- that is what the Registry is suggesting is a means by which a
24 co- -- that there would be sufficient funding for the co-counsel.

25 So I'm merely indicating that to you, Mr President, so that in fairness to the Registry

1 their view is that in fact there could be such funding provided that the total amounts
2 for each member of the team are reduced below the minimum currently prescribed by
3 the legal aid policy.

4 (Trial Chamber confers)

5 PRESIDING JUDGE EBOE-OSUJI: We are trying to explore solutions to language
6 problems to the extent it is possible to solve that problem in the realms of the
7 composition of the legal -- of the team, and if, for instance, the arrangements were
8 such that lead counsel and co-counsel are provided for at the normal rate subject to
9 the caveat that at least one of the two must be fully bilingual, is that something that
10 might help, Mr Gosnell?

11 MR GOSNELL: Mr President, this is not an issue that primarily affects the
12 Mangenda Defence in terms of language. I think that other teams may wish to
13 address that particular solution to that particular problem. As your Honours know,
14 your Honours will know our position in respect of the overall issue. We think there
15 are other very important reasons requiring the presence of a co-counsel for the
16 parties.

17 PRESIDING JUDGE EBOE-OSUJI: Beyond those other reasons.

18 MR GOSNELL: Mr President, I have to say speaking for myself I would agree
19 entirely with the drift of your remarks, but I do believe that other teams may
20 wish -- that are more affected may wish to comment on that.

21 PRESIDING JUDGE EBOE-OSUJI: Why don't we go according to the line-up on the
22 style of cause.

23 Mr Bemba is number 1 in the line of cause. Mrs Taylor?

24 MS TAYLOR: Mr President, this issue does not affect our team. Thank you.

25 PRESIDING JUDGE EBOE-OSUJI: Mr Djunga?

1 MR DJUNGA: (Interpretation) Mr President, regarding the presence of a
2 co-counsel, let me talk to our case as a case in point.
3 A few days ago I was on mission and I was given notice of this hearing. That
4 required me to stop my mission to be able to be present at today's hearing.
5 Otherwise, Mr Kilolo would not have had counsel available for this hearing and that
6 is why it is important for us to have a co-counsel on our team.
7 Thank you.

8 PRESIDING JUDGE EBOE-OSUJI: The point is this. If the -- there is a requirement
9 that a co-counsel must be fully bilingual, do you see it helping at least to ameliorate to
10 some extent the pressure on language?

11 MR KILENDA: (Interpretation) Mr President, for Mr Babala, I do recall that when
12 I started in the Babala or rather Ngudjolo case here in 2008, I filed a motion as a
13 matter of principle indicating that my working language was French and I required
14 through that motion that all proceedings be translated into English and at the time the
15 Pre-Trial Chamber I issued a decision requiring that each counsel should constitute
16 his team in such a way as to reflect some linguistic representation.
17 I have done so since 2008, and I have ensured in putting together my team that there
18 is always someone on the team who understands English. Either it could be the case
19 manager, or a legal assistant.

20 That is why I believe today that each team, or rather my team, should have a
21 co-counsel not only to address this linguistic issue because the work that we have to
22 do here is difficult work. And, you see, I recently had to go to the field myself to
23 conduct some investigations and it's the co-counsel who was able to cover the
24 hearings here in The Hague in my absence.

25 That is why I think that it is necessary to have a co-counsel not only for linguistic

1 purposes, but also for efficiency in our defence.

2 PRESIDING JUDGE EBOE-OSUJI: Mr Kilenda, the point -- you may have answered
3 it by implication in the last remark you made, but the point is it is one thing to say
4 you compose a team to ensure that the two languages of English and French are
5 represented, but then you have team member A who speaks only French and team
6 member B who speaks only English. We may still have a problem.

7 But what we are talking about is imposing a requirement that at the counsel level one
8 of -- at least one of two counsel, if that's the case, must be able to speak competently
9 English and French. They must be fully bilingual.

10 The point being if need on some -- it may not resolve all the language issues, but one
11 could see how on some matters that can help because it may well be something that
12 one of the lawyers can easily explain to the client in the language that the client
13 understands and we move on. That's the point.

14 Do you see the sense in that?

15 MR KILENDA: (Interpretation) Thank you, Mr President. That is a wise solution
16 and I defer to the wisdom of the Court.

17 PRESIDING JUDGE EBOE-OSUJI: Thank you.

18 And Mr Taku?

19 MR TAKU: May it please the Court, it so happens that myself and my colleague are
20 perfectly bilingual.

21 Additionally, if you look at the particular case concerning Mr Arido, it all happens in
22 the territory of Cameroon which is a bilingual country as well.

23 And also about the language needs, some local languages will need a lot of
24 investigation in the field.

25 Additionally, we are just appointed and obviously we needed a lot of resources to be

1 able to study the background material to understand, and to come to the level in
2 which our colleagues in this case are presently will need a lot of investigations back in
3 the field. He was never here any time apart from when he was arrested and
4 detained. He was all alone in the territory of Cameroon and therefore we need to
5 conduct investigations there and --

6 PRESIDING JUDGE EBOE-OSUJI: All right.

7 MR TAKU: Yes.

8 PRESIDING JUDGE EBOE-OSUJI: Mr Taku, I have got your submission. The point
9 you make is that, as it now is, you are fully bilingual. That's --

10 MR TAKU: Exactly, your Honour.

11 PRESIDING JUDGE EBOE-OSUJI: Yes, all right.

12 Mr Gosnell, when you say that that particular issue doesn't necessarily affect you, you
13 mean you are also fully bilingual?

14 MR GOSNELL: I am, Mr President, but I'm very grateful you called on me again
15 because I would wish to revise what I said earlier.

16 And in part it has to do with the incertitudes about the identity and the languages
17 spoken by the witnesses to be called by the Prosecution, as well as the witnesses that
18 we may ultimately wish to call.

19 And I must say, Mr President, there's a very good chance that having a French
20 co-counsel would be extremely helpful for investigations and forensically and that
21 could have, coming back to your point, a direct impact on translation needs.

22 But, yes, I am reasonably bilingual. When I cross-examine a witness, or conduct an
23 investigation in French, I would wish to have that done by a French-speaking
24 co-counsel, Mr President.

25 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

1 Ms Taylor?

2 MS TAYLOR: Thank you, Mr President.

3 I can't profess to be completely bilingual and I would welcome the addition of a
4 co-counsel if it was funded by the Registry.

5 Unfortunately the Bemba team has not received any funds from the Registry at this
6 point, so we are not in a position to comment on this particular issue because as I
7 understand it it concerns the legal aid scheme.

8 PRESIDING JUDGE EBOE-OSUJI: What I'm trying to understand is are you fully
9 bilingual?

10 MS TAYLOR: No, Mr President, I cannot profess to be fully bilingual.

11 PRESIDING JUDGE EBOE-OSUJI: And you are the only counsel on your team at the
12 counsel level?

13 MS TAYLOR: Yes, I am the only counsel. My assistants are fully bilingual.

14 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

15 MS TAYLOR: Thank you.

16 PRESIDING JUDGE EBOE-OSUJI: Registrar, we will invite you if you are in a
17 position to make any observations at this stage.

18 Are you?

19 MR MIJUSKOVIC: Thank you, your Honour.

20 At this stage we are not in the position to make observations on this question.

21 However, if the Chamber so wishes, we could invite someone to submit on this after
22 the break.

23 PRESIDING JUDGE EBOE-OSUJI: All right. We will see if that's necessary.

24 Mr Vanderpuye, any observations on this matter at this stage?

25 MR VANDERPUYE: Yes. The observation is that it's -- the language issue also

1 bears on the application made by the Defence concerning the nature of the disclosure
2 as well, and I was wondering whether or not the Chamber would prefer that we
3 address that -- you've already indicated that we should address that in writing, so
4 that's what we intend to do, but I just wanted to make sure that we are not necessarily
5 talking about that at this point and what we are talking about is limited to
6 fundamentally the language to be used during the proceedings and affecting the
7 investigations as opposed to the disclosure requirements that the Defence seem to
8 have an issue with in terms of translations and that sort of thing?

9 PRESIDING JUDGE EBOE-OSUJI: Well, we already made the -- gave the direction
10 that the Defence counsel are to explore with both the Registrar and the Prosecutor the
11 possibilities of resolving language issues they have. So that's already captured in
12 that.

13 What we're trying to deal with now is the -- yes, the matter of English and French for
14 purposes of the proceedings and generally speaking. If you have no observation in
15 that regard, that's fine. We only note that we understand that the OTP has a
16 language section as well.

17 MR VANDERPUYE: We do indeed, Mr President, but since you've asked the
18 question, our position is with respect to the material that we disclose we take a
19 limited view on what is required to be translated for the purposes of the Defence, that
20 is into the language that the accused speaks and understands, as distinguished from
21 our duty to translate materials under Regulation 39 which are put before the Chamber
22 or on which we intend to rely.

23 That's an important distinction I think in terms of our views of what is required
24 to -- what the language translation requirements are for the OTP and the purpose for
25 which we will engage our Language Services Unit.

1 But at your instance we will discuss that with the Defence to see what is feasible,
2 what is appropriate in the circumstances and if we have disagreements we will come
3 back to the Chamber.

4 PRESIDING JUDGE EBOE-OSUJI: Very well.

5 Moving on, we have five minutes to the morning break time.

6 Item: Evidence: Witnesses and documentary.

7 The OTP indicates that it intends to call approximately 11 witnesses, including three
8 expert witnesses.

9 The Prosecution does not at the moment envisage referring any witness to the ICCP.

10 The Prosecution also announced that it will seek the admission of certain evidence
11 ahead of the commencement of trial through what is colloquially known as Bar table;
12 meaning that, rather than have a witness on the stand and the document tendered
13 through the witness, the OTP will submit the evidence directly to the Chamber and
14 do so before the commencement of the trial.

15 Is that the case, Mr Vanderpuye?

16 MR VANDERPUYE: It is, Mr President. I can perhaps update the Chamber a little
17 bit.

18 It is our intention to call three experts. One of these individuals is not really an
19 expert. It's an individual who sheds light on certain documentary evidence,
20 financial records involving certain money transactions. It's an individual from one
21 of the institutions that is involved that can explain how the transactions are -- occur,
22 what kind of information is taken, how the process is managed and so on and so
23 forth.

24 The other individuals we believe are experts, certainly in their respective fields. One
25 is a communications expert that we intend to call, or have considered calling, on the

1 basis of -- in relation to, rather, the call data records and the wiretap evidence in the
2 case, intercepted communications. The other is a linguist who we are exploring the
3 possibility of calling.

4 We have vetted both. One individual I believe is already admitted to the Registry's
5 list of experts. The other one we haven't made a final determination on.

6 So with respect to the expert evidence, that remains fundamentally the same.

7 With respect to the other witnesses - the fact witnesses - it is roughly I would say,
8 because I don't like to be pinned down on numbers at this stage -- but I would say
9 we're talking about 11 witness. 11/12 witnesses, something in that nature.

10 As with respect to the Prosecution's position on referring individuals to the ICCP
11 programme, our position is that we don't intend to make such a referral at this time.

12 We have contacted the VWU in respect of protection advice for one witness in
13 particular. We don't know what the advice will be. We will obviously vet the
14 advice and determine what is appropriate, together with the VWU or at their instance,
15 and that may involve something like that, but it's certainly not contemplated at this
16 point and we would seek to try to find a more or a less intrusive rather arrangement.
17 So that's where we are in terms of our -- in terms of our witnesses and the protection
18 issues.

19 PRESIDING JUDGE EBOE-OSUJI: Expert witnesses, you have indicated the nature
20 of the expertise engaged or you contemplate. I don't know if this is too much to ask,
21 but have you explored the possibility of joint retainer of the experts; joint in the sense
22 of Defence counsel, all or some of them, agreeing to a joint appointment of the expert
23 witnesses?

24 MR VANDERPUYE: No, it's not too much to ask. It's an entirely appropriate
25 question.

1 We do intend to engage the Defence to determine whether or not they will join us in
2 retaining or engaging an expert. We haven't yet done that, and in part that is
3 predicated on the position that the Defence has taken with respect to other matters
4 such as the proposed agreement on certain facts.

5 But, in any event, we're happy to work with them, we're open to it and we will
6 discuss that with them at the first instance.

7 PRESIDING JUDGE EBOE-OSUJI: The three experts come within the total number
8 of 11 or 12, you say approximately that number? That's the case?

9 MR VANDERPUYE: That is the case, Mr President.

10 PRESIDING JUDGE EBOE-OSUJI: And how long do you think your case will last
11 with that number of witnesses?

12 MR VANDERPUYE: We have done a very, very preliminary sort of analysis of what
13 we anticipate our case will -- how long our case will take. It's very difficult to tell. I
14 would say that I don't expect that any given fact witness should be on the stand for
15 the Prosecution for more than a day, a day meaning 9 to 5. It depends on how the
16 Chamber decides to sit. If it's half a day it will be longer. But I don't anticipate that
17 any given fact witness should take much longer than that.

18 Now, as you can imagine, some of these witnesses may be adverse to the position of
19 the Prosecution, they may be hostile witnesses, they may require other protective
20 measures from the Chamber, and I don't mean protective measures in the sense of
21 face distortion and so on, but perhaps Rule 74 counsel, and that may slow things
22 down a little bit. But other than that, that's what I -- that's what I would anticipate.
23 Maybe it's a bit unrealistic because we have to speak slowly, there's translation issues,
24 but I would say anywhere from a day to -- a day and maybe two per witness.

25 PRESIDING JUDGE EBOE-OSUJI: In-chief?

1 MR VANDERPUYE: Those are fact witnesses. In-chief.

2 PRESIDING JUDGE EBOE-OSUJI: In-chief --

3 MR VANDERPUYE: It's very long --

4 PRESIDING JUDGE EBOE-OSUJI: -- not including --

5 MR VANDERPUYE: -- actually, a full day, particularly given the scope of the case.

6 So I think it's a reasonable estimate, but we will have to see if it turns out to be

7 accurate.

8 But at most I would say two maybe a day-and-a-half on direct and for the experts it

9 should be somewhere in the same neighbourhood. It might be a little longer with

10 respect to the expert we might engage concerning the communications matters

11 because those involve a substantial number of documents and certain procedural

12 issues, particularly with regard to the wiretap process, that may take longer to vet,

13 but that's how I would estimate it. I can't give you whether it's going to be a month

14 or two months, but I can say that about a day/a day-and-a-half per witness, fact

15 witness, so let's say nine, and then probably a day or a day-and-a-half for each expert.

16 If we round that up to two, then we can work out approximately how long it will be.

17 PRESIDING JUDGE EBOE-OSUJI: In terms of estimate then we can roughly

18 estimate that the case roughly, just not tying anyone to any numbers now, roughly

19 estimate about two months for the trial?

20 MR VANDERPUYE: I'm not sure what the Defence will call as Defence -- as a

21 Defence witness, yes. In terms of the --

22 PRESIDING JUDGE EBOE-OSUJI: The case for the Prosecution. The case for the

23 Prosecution.

24 MR VANDERPUYE: Correct. I would say that's -- that's within a reasonable

25 assessment.

1 PRESIDING JUDGE EBOE-OSUJI: Isn't that too much?

2 MR VANDERPUYE: In terms of the number of witnesses?

3 PRESIDING JUDGE EBOE-OSUJI: No, no, no, for the nature of the charges?

4 MR VANDERPUYE: No, I don't think so, Mr President. That I have to say I don't
5 think it's too much for the nature of the charges.

6 The number of incidents that have been confirmed by the Pre-Trial Chamber are 14.

7 The number of charges that arise from those are somewhere I think in the
8 neighbourhood of 42 and that's quite a substantial number of counts that have
9 essentially -- for which the factual foundation has already been essentially vetted and
10 confirmed by the Pre-Trial Chamber. So I don't think it's too long in terms of the
11 Prosecution case, but I do think -- I do think that it's a -- I think it will be shorter than
12 that, but I can't say for sure that it will be because of logistic issues, things of that
13 nature.

14 I can tell you, for example, I plan to examine a witness for three hours and because of
15 logistic considerations it's taken a full day to do. So I can't say definitively this is
16 what it will be, but I can say reasonably if things go the way they should go, then
17 we're talking about a day or a day-and-a-half per fact witness at the most and I don't
18 think that's unreasonable in a five accused case involving 42 counts and 14 confirmed
19 incidents.

20 PRESIDING JUDGE EBOE-OSUJI: We will suspend discussions on the matter now
21 and take our morning break. We will be back in -- we will come back in 30 minutes.
22 The Court will rise.

23 THE COURT USHER: All rise.

24 (Recess taken at 11.02 p.m.)

25 (Upon resuming in open session at 11.34 a.m.)

1 THE COURT USHER: All rise.

2 Please be seated.

3 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

4 Mr Vanderpuye, we still need to finish off our discussions on the evidence, witnesses
5 and documentary material.

6 Now, you indicated that you will be seeking the admission of certain documents from
7 your side without the assistance of witnesses, the Bar table motion. When do you
8 intend to file it?

9 MR VANDERPUYE: Thank you, Mr President. We're working on that now and
10 I think we're quite substantially along. I would anticipate that we can file it
11 probably within the next couple of weeks, so -- and I would also elaborate on that a
12 little bit if I may.

13 We indicated on our filing, sorry, that we intended to file a Bar table motion
14 containing certain classes of documents, in particular call data records, financial
15 records from the money transfer of companies involved, intercepted communications,
16 these are the wiretaps that I referred to before, that entails the underlying audio files
17 as well as translations and transcriptions as well that we will be tendering from the
18 Bar.

19 So I think those are probably pretty straightforward items, that it will comprise the
20 first such Bar table motion.

21 In addition to that, there are records that were provided to the -- to the Office of the
22 Prosecutor by the Registry and also to all the parties in this case and those concern the
23 detention centre records, and these concern audio materials as well as detention
24 centre call logs and -- and similar material that was provided to the parties via TRIM
25 in order to expedite the process or released access to everyone. That will be, we

1 anticipate, the subject of a second Bar table motion. That one we have not yet begun
2 drafting, but we expect to begin that probably around the time that we file the first
3 one.

4 So -- and I'm not sure exactly how long I can tell you it will take to draft the second
5 Bar table motion, but I would say that the first one we should have drafted,
6 completed and hopefully filed within the next couple of weeks. The other one we
7 will begin in the next couple of weeks and hopefully we'll get that done within -- by
8 the -- within a month, let's say, because there are quite a substantial number of
9 materials that we plan to tender from the Bar with respect to the detention centre
10 evidence.

11 I hope that clarifies our position with respect to the intended in limine Bar table
12 motions. There may be others as the evidence may dictate, but at least these are the
13 principle ones that we would like to file in advance of the trial.

14 PRESIDING JUDGE EBOE-OSUJI: Are there anything in there that could form the
15 subject of admissions?

16 MR VANDERPUYE: Thank you, Mr President. I'm glad that you asked. As you
17 noted, we had made a preliminary attempt to engage the Defence in some Rule 69
18 agreements as to the evidence in the case to which they declined to take positions for
19 various reasons. We have in mind to approach the Defence or reapproach the
20 Defence with those -- those proposals and --

21 PRESIDING JUDGE EBOE-OSUJI: Let me rephrase my question. Maybe I
22 confused you with it.

23 MR VANDERPUYE: No, no, we will --

24 PRESIDING JUDGE EBOE-OSUJI: I did not mean the substantive contents of the
25 document --

1 MR VANDERPUYE: Sure.

2 PRESIDING JUDGE EBOE-OSUJI: -- but the admissions of documents of Bar table
3 motions primarily -- I mean, they need not dispose of substantive propositions
4 engaged in the document --

5 MR VANDERPUYE: Correct.

6 PRESIDING JUDGE EBOE-OSUJI: -- but may well just be a matter of authenticity of
7 the documents so that the Chamber can receive them in and then make what may be
8 made of them, parties may argue as to the significance of the content. I'm now
9 talking about admissions as to the authenticity of the document.

10 MR VANDERPUYE: Exactly.

11 PRESIDING JUDGE EBOE-OSUJI: Yes.

12 MR VANDERPUYE: That's exactly what I understood and what I was about to say
13 was that the attempts that we're making to reach an agreement under Rule 69 with
14 the Defence will encompass in a separate -- in a separate document or separate
15 attempt to reach an agreement as to facts will -- will deal with authenticity or the
16 authentication of those types of documents.

17 Hopefully, if we can reach an agreement, that will obviate the need to deal with
18 certain issues in a Bar table motion in limine. If we can't, then obviously it will be
19 the subject of an application by the Prosecution.

20 PRESIDING JUDGE EBOE-OSUJI: Beyond the possibility, if that is the case, of
21 admissibility questions arising from the Bar table motion issue, do you anticipate
22 other admissibility issues in this case at this stage? If you don't, that's fine.

23 MR VANDERPUYE: I don't anticipate any -- no, I don't anticipate any real
24 admissibility problems, Mr President.

25 PRESIDING JUDGE EBOE-OSUJI: Thank you.

1 I will now take the question to the Defence side. Any observations?

2 MS TAYLOR: Thank you, Mr President, your Honours. I would like to make some
3 brief observations on the issue of experts and also the Bar table motion.

4 On the issue of expert witnesses we're somewhat concerned to hear the Prosecution
5 use the language that they're exploring calling two expert witnesses.

6 Mr Bemba is in detention and we do urge a greater degree of expedition on this part,
7 in particular we don't see any reason why the Prosecution wouldn't be in a position to,
8 at the minimum, disclose the identities of the experts to us and their credentials, and
9 we hope that their reports would fall within the two-month disclosure cut-off period
10 that they referred to earlier today because obviously the expert reports can have a
11 significant impact upon Defence investigations and we would also need sufficient
12 time to potentially instruct a counter-expert or potentially enter into a joint expertise
13 with the Prosecution.

14 So in sum we do urge a greater degree of expedition on that point.

15 This issue of expert reports, it's also tied to the issue of the Bar table motion and we
16 respectfully submit that it would put the cart before the horse to require the Defence
17 to respond to a Bar table motion at this point in time when we don't have an updated
18 DCC, where we don't have expert reports and we don't have full disclosure.

19 So we think it might be premature to engage in issues of admissibility of evidence at
20 this stage of the proceedings when we're not fully informed of the Prosecution case
21 and the relationship between individual items of evidence and the Prosecution case as
22 a whole.

23 Thank you, Mr President, your Honours.

24 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

25 Any more observations?

1 MR KILENDA: (Interpretation) Thank you, your Honour. With regard to the
2 expert witnesses, I fully subscribe to what Ms Melinda has said and I would like to
3 add, as the Chamber said, that my team will cooperate with the OTP to see how we
4 can accept a joint expert without waiving our own right to seek our own expert
5 witnesses. So I think this should be settled immediately so that we should know
6 which experts are to be called as well as whether we need to call our own expert
7 witnesses or not.

8 Now, regarding Bar table motions, in the settled law of the Court I believe there are
9 elements that could guide us to enable our side and the OTP to agree quickly or not
10 quickly on these issues.

11 As far as the Babala Defence is concerned, I cannot tell you whether -- or, how many
12 witnesses or number of documents that we will present at this stage. This will
13 depend on how the trial evolves. Thank you, your Honour.

14 PRESIDING JUDGE EBOE-OSUJI: Thank you.

15 Mr Gosnell?

16 MR GOSNELL: Thank you, Mr President. Just on the issue of the Bar table motion,
17 which is proposed to be submitted in limine prior to hearing any testimonial evidence,
18 your Honours may be aware that the dominant practice, I would say undeviating
19 practice, now at the ICTY is that Bar table motions be brought after testimonial
20 evidence. The principle being that such documents ought in principle, if possible, to
21 be tendered through witnesses. The Bar table motion thus being a residual
22 mechanism.

23 And this does relate also, Mr President, to the issue of our ability to make admissions
24 on admissibility because I would suggest that such a large volume of documents,
25 particularly in the absence of the elements mentioned by Mr Bemba, makes it very

1 difficult to assess relevance in many cases. So that's an additional reason I would
2 suggest for requiring the Prosecution to defer any Bar table motion until at least after
3 the presentation of their evidence.

4 MR TAKU: May it please, your Honours, I associate myself with the submissions
5 that my colleague has just made. Ordinarily I would vehemently oppose any
6 attempt to present evidence through the Bar table motion before evidence is taken
7 from witnesses because there may well be issues of authenticity and context at
8 some -- somebody must be in the position to attest to the authenticity and the context
9 of the particular document before the tender.

10 And within the context of this particular case and the nature of the allegations made
11 against my client, I think it is very, very important that somebody testifies and attest
12 to the authenticity.

13 Alternatively, they could defer to the end of the case so the Court already has enough
14 evidence on record on the basis on which the Court could assess the relevance and the
15 authenticity of these particular documents.

16 On the question of the expert witnesses, I'm interested in that because the Prosecutor
17 has disclosed a list, I think, a number of documents, at least two, that I would have
18 expected that even now the Prosecutor ought to have submitted it to an expert prior
19 to disclosing it at all in order to ascertain the time and the -- the certain aspects in
20 those documents.

21 From the disclosure so far I haven't seen that done. I will discuss with the
22 Prosecutor again. And I strongly suggest that those two documents be submitted
23 to -- to an expert, if they can do that, but if they can't we will -- we will call our own
24 expert.

25 And secondly -- thirdly, your Honour, we are very, very interested looking at

1 the -- having studied some of the statements taken from witnesses, and that will need
2 an expert, at least, on a number of issues that were raised by those witnesses which
3 we think are very, very relevant and very relevant for the Court to know exactly how
4 to categorise and characterise certain persons what they asserted to be or what they
5 asserted not to be. And we will need expert evidence on that. That will expedite
6 the proceedings and will help the Court to make a determination one way or the other
7 in favour of my client.

8 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

9 Reply, Mr Vanderpuye?

10 MR VANDERPUYE: Thank you, Mr President. Just briefly, in response to
11 Ms Taylor's submissions, the first thing is I would note is that Mr Bemba is not
12 actually in on this case. There was a release order signed by the Single Judge
13 releasing him on this case, so the matters that she raised with respect to the
14 expeditious conduct of these proceedings have no impact on his detention, which is
15 secured as a matter of -- as a result of his being on trial in the main case.

16 PRESIDING JUDGE EBOE-OSUJI: But there's still something about expediting a
17 trial that has its own merit that stands --

18 MR VANDERPUYE: Absolutely.

19 PRESIDING JUDGE EBOE-OSUJI: It doesn't depend on whether or not someone is
20 in detention.

21 MR VANDERPUYE: Absolutely.

22 PRESIDING JUDGE EBOE-OSUJI: For many reasons.

23 MR VANDERPUYE: This is precisely the reason why we decided that the best way
24 to move this case forward would be to present a Bar table motion in limine because at
25 least at this point we will know what the position is on the -- of the Defence with

1 respect to the admissibility of these documents. If there is an issue, then there is an
2 issue. If there's not, there won't be and we can move forward.

3 Secondly, in respect of Mr Gosnell's position that it is contrary to the practice of the ad
4 hoc tribunals perhaps to admit evidence in limine from the Bar table --

5 PRESIDING JUDGE EBOE-OSUJI: He did not say the ad hoc tribunals, he said the
6 ICTY.

7 MR VANDERPUYE: Okay.

8 PRESIDING JUDGE EBOE-OSUJI: He was specific.

9 MR VANDERPUYE: Okay. He may be right with respect to the ICTY, but he's not
10 right with respect of this Court. It's not the practice of this Court uniformly to admit
11 documents from the Bar table only at the close of the evidence or only at the -- once
12 evidence has actually been called, testimonial evidence is introduced into the record.
13 It's simply not the case. And there is no rule that precludes the Chamber's
14 determination of these issues in limine, which is the reason why we have also decided
15 to bring this issue.

16 Secondly, as to both of their concerns, and I believe also Mr Taku's concerns
17 concerning the relevance of this material, that's a necessary part of a Bar table motion.
18 So if they want to know what is it relevant to, or why it's relevant, that is necessarily
19 articulated in a Bar table motion as a precondition to the admission of any evidence
20 whatsoever from the Bar. That will be in there and the Defence will have the
21 opportunity to respond to it.

22 So I don't see that the arguments they've raised with respect to precluding the
23 Prosecution from raising these issues or presenting this evidence from the Bar table
24 motion in limine either has any merit in terms of -- in terms of slowing the process
25 down. To the contrary, it speeds the process up. And secondly, it has no merit

1 with respect to the Defence's information concerning the relevance of the materials
2 sought to be admitted because, as I've mentioned, it is a precondition of admissibility
3 and will have to be addressed in the Bar table motion as it has been or will be.

4 PRESIDING JUDGE EBOE-OSUJI: All right. One second.

5 Ms Taylor did raise the matter of the assistance that the Defence may gain or should
6 gain from having the report of the expert, therefore, the need for the OTP to expedite
7 its processes for appointing an expert and providing an expert's report.

8 Do you see a concern, especially from the perspective, for instance, of, all right, an
9 expert witness is a witness and, as witnesses, statements of witnesses are disclosed to
10 the opposing side, to the Defence as it were, to enable them to conduct their
11 investigation of the case. Does that logic not also apply to the report of an expert?

12 MR VANDERPUYE: It applies absolutely. And in respect of that particular
13 position I should note that when I said that we could disclose what we have within
14 the next couple of months, I was referring to what we have. What we don't have is
15 an expert report because we have not engaged an expert pending consultations with
16 the Defence or the possibility of jointly instructing an expert.

17 So there hasn't been an expert that's actually been retained. We have identified an
18 expert, we have vetted an expert, but we have not instructed an expert in this case;
19 therefore, there is no expert report, there is no expert statement to be disclosed within
20 the two-month period.

21 If we can agree with the Defence as to the instruction of any particular expert, then
22 we're happy to move forward on that, but we haven't moved forward on that given
23 the possibility and indeed, as I understand it the preference of Chambers, that the
24 parties agree to the instruction of an expert jointly so as to facilitate the expeditious
25 conduct of the proceedings.

1 Had we instructed an expert --

2 PRESIDING JUDGE EBOE-OSUJI: It wasn't a preference, it was a suggestion that
3 would be helpful to the case to be explored.

4 MR VANDERPUYE: Yes, yes. No, I understand that and we agree that it would be
5 and we are -- we intend to explore it which is why we don't have that material yet.

6 That's the whole impetus behind not instructing the expert up until we receive
7 guidance from the Chamber as to how the Chamber wants to proceed in the case.

8 And I think that's appropriate from our point of view.

9 PRESIDING JUDGE EBOE-OSUJI: Can you explain that last bit: Until you receive
10 guidance from the Chamber --

11 MR VANDERPUYE: Yes.

12 PRESIDING JUDGE EBOE-OSUJI: -- as to how the Chamber wishes to proceed?

13 MR VANDERPUYE: I can explain it.

14 My explanation for that is simply that my understanding is that Chambers in this
15 Court have expressed a preference in order to expedite the proceedings that the
16 parties jointly instruct, where possible, an expert, so that we don't have competing
17 experts on issues that go back and forth and drag out the proceedings.

18 We have decided, in our judgment, it's probably better to seek the joint instruction of
19 an expert than to engage one and to have competing experts for the very purpose of
20 making sure the proceedings are conducted efficiently and expeditiously. Therefore,
21 we have not instructed an expert.

22 We will discuss with the Defence what their position is with respect to the experts
23 that we have identified and that we have vetted, and if they have agree to call this
24 expert on whatever issues may be relevant to the Defence in addition to those that
25 may be relevant to the Prosecution, then we can jointly instruct the expert and

1 proceed accordingly and efficiently.

2 On the other hand, if we cannot reach an agreement, then we're prepared to go
3 forward and instruct the expert as we see fit in order to present the Prosecution's case.

4 PRESIDING JUDGE EBOE-OSUJI: All right.

5 (Trial Chamber confers)

6 MR KILENDA: (Interpretation) Your Honour. Thank you. Very briefly.

7 I have heard the Prosecutor talk about jointly-instructed experts or competing experts.

8 The Prosecutor usually deals only with incriminating investigation and usually in the

9 Pre-Trial Chamber they usually stick to their own theory, so the idea of a

10 jointly-instructed expert seems to me to be quite difficult and I cannot imagine the

11 Prosecutor agreeing or sharing with our theory, at least our case, at least that of

12 Mr Babala.

13 So I believe it should be noted that in this case Mr Babala's Defence will prefer to have

14 competing experts, that means calling our own experts if need be because that idea of

15 joint experts I believe would not be feasible. That is what I wanted to point out.

16 Thank you.

17 (Trial Chamber confers)

18 MR LAROCHELLE: Monsieur le Président.

19 PRESIDING JUDGE EBOE-OSUJI: Yes.

20 MR LAROCHELLE: (Interpretation) I'm Philippe Larochelle of Mr Arido's Defence
21 team. If you allow, I will quickly revisit the issue of the Bar table motions. We

22 have heard that there are different practices, some tribunals accept such motions

23 before the trial and some after the witnesses have been heard --

24 PRESIDING JUDGE EBOE-OSUJI: Mr Larochelle, just one minute to make the point.

25 One minute. Go on.

1 No, no, you make the point in one minute.

2 MR LAROCHELLE: (Interpretation) Thirty seconds.

3 Very briefly we can consider the possibility before the trial we have a motion
4 indicating the intention of the Prosecution to file a Bar table motion, and the Chamber
5 can defer its decision, and the Defence teams can make its responses and then a
6 decision will be taken at the end of the testimonies of the witnesses. I believe that is
7 a proposal that would reconcile both views of this issue of Bar table motions.

8 PRESIDING JUDGE EBOE-OSUJI: Are there really issues to reconcile? First of all,
9 it was Mr Gosnell that raised a counter-trend, but do I understand him to be making a
10 suggestion to the Prosecution or, Mr Gosnell, is your -- was your intervention as
11 strong as an objection that requires a ruling from the Chamber?

12 MR GOSNELL: Not at this stage, Mr President.

13 PRESIDING JUDGE EBOE-OSUJI: So at this stage you leave it to the Prosecutor?

14 MR GOSNELL: Indeed, Mr President. I think that's the most deliberate way of
15 dealing with it.

16 PRESIDING JUDGE EBOE-OSUJI: Good. Thank you.

17 So we will leave it to the Prosecutor, Mr Vanderpuye, to make his Bar table motion as
18 he intends to do before the commencement of the hearings in the case.

19 And also we will, in light of the indication from one Defence counsel about the
20 difficulty they will have with the idea of a jointly-instructed expert witness, we note
21 only from one counsel, but nevertheless we will have to put a deadline within which
22 you must conclude your dialogue with the Defence with the view to exploring the
23 possibility and then file your -- or, instruct your own expert report if you still -- expert
24 witness if you need to do so and file the report promptly thereafter.

25 We give you until mid-May, May the 15th, to conclude that discussion with the

1 Defence. So we don't want this matter to linger.

2 MR VANDERPUYE: Thank you very much, Mr President. I will do my best to
3 engage the Defence. I would point out on an issue relevant to this topic,
4 Mr Kilenda's representation, that the Prosecution is only interested in one side of the
5 case is not an appropriate one. And I would also point out that in Mr Babala's
6 confirmation submissions he concedes, for example, certain money transfers that were
7 made by him or at his -- or, for him, which concerns matters that the Prosecution
8 intends to tender through the Bar table motion.

9 So I would anticipate that Mr Kilenda would be available and amenable to
10 consultation and agreement with respect to those kinds of materials so that we can
11 expedite these proceedings.

12 PRESIDING JUDGE EBOE-OSUJI: Yes, you've heard our indicated deadline.

13 Mr Larochelle, the ruling of the -- or, the direction of the Chamber on the matter, of
14 course, dispenses with your suggestion. One sees very limited purpose in receiving
15 submissions and those two Bar table ahead of the trial and then waiting until the end
16 to make the ruling on it. The purpose may well have been spent in the meantime.

17 So Mr Vanderpuye can make his motion on the matter as he intended.

18 Moving forward now to next item: Presence of the accused during trial.

19 Submissions were made in relation to presence of the accused during the trial.

20 For their part, in particular, the Defence teams submitted that the Trial Chamber
21 needs to summons the accused persons to appear. Beyond that, the Trial Chamber
22 will now receive submissions and observations from the perspectives of the parties
23 and the Registrar on the question of the presence of the accused at trial.

24 We would like to hear submissions as to what any issues may be in that regard and
25 the suggested solutions to those issues. Particularly to be clarified or to be kept in

1 mind but not limiting the observations of counsel would be the need to clarify the
2 following questions: What modalities are required as a matter of law or logistics or
3 otherwise in order for all five accused to be present at trial?

4 We will take submissions in that regard, and if there is a need to go into private
5 session because of the sensitivity of perhaps logistical discussions with the Registrar,
6 if need be, we will do that, but for now we will hear briefly the views of counsel on
7 the matter.

8 Which Defence counsel would want to go first?

9 Yes, Mr Djunga?

10 MR DJUNGA: (Interpretation) Thank you, your Honour. We know that when it
11 comes to Mr Kilolo I believe that his problem will not really crop up because he did
12 agree to be present during the trial at all hearings, as is the case today, so it would be
13 a way for him to take part in the demonstration of the truth.

14 Of course there will be some logistical problems, individual problems for Mr Kilolo,
15 and already we are consulting the Registry to try to deal with these difficulties,
16 particularly his stay here in The Hague.

17 PRESIDING JUDGE EBOE-OSUJI: Thank you.

18 Mr Taku?

19 MR TAKU: May it please, your Honours. Mr Arido demonstrated his willingness
20 to be present at all stages of his trial. He has very particular problems, which the
21 Registry is aware, and we're satisfied the Registry took measures to facilitate his
22 coming here to attend the status conference and we hope and wish that the Registry
23 continue to cooperate as they did graciously to get him here. Taking into
24 consideration those peculiar difficulties which I need not say here but which the
25 Registry is aware and they are taking care of that.

1 PRESIDING JUDGE EBOE-OSUJI: So what we understand is that there are some
2 logistical difficulties, but the steps the Registrar has taken so far is satisfactory to you
3 to solving those problems?

4 MR TAKU: Yes, your Honour.

5 PRESIDING JUDGE EBOE-OSUJI: Thank you.

6 Yes, Mr Kilenda?

7 MR KILENDA: (Interpretation) Thank you, your Honour. Mr Babala does wish
8 to provide the Chamber with all elements it needs to come to the demonstration of the
9 truth. He will never oppose any order you may issue if you require him to be in
10 attendance at trial. I can assure you that we can continue to represent him and we
11 discuss the appropriateness of attendance as we go along.

12 If he had to appear personally, we are quite sure that the Registry would do
13 everything it could to have him come here and the Registry would take all the usual
14 arrangements to facilitate his attendance as the Registry does for all parties and
15 participants here at the seat of the Court.

16 So Mr Babala can continue to be represented and if his personal attendance is
17 required, we will make the necessary representations before the Chamber, we will be
18 in touch with the Registry regarding the practical arrangements and usually the
19 Registry is in a position to comply with such requests. Thank you, your Honour.

20 PRESIDING JUDGE EBOE-OSUJI: Thank you.

21 Mr Gosnell?

22 MR GOSNELL: Mr President, with your leave, and out of an abundance of caution,
23 it may be necessary to move into private session.

24 PRESIDING JUDGE EBOE-OSUJI: Private session.

25 (Private session at 12.10 p.m.)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Open session at 12.12 p.m.)

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

20 (Trial Chamber confers)

21 JUDGE SCHMITT: Concerning the Defence submissions that the Trial Chamber
22 must issue a summons to appear for all the accused, I would like to make some
23 remarks.

24 I would like to remind the parties and especially the Defence that the principle is,
25 according to Article 63(1), that the accused are obliged to be present at trial, meaning

1 that it's not their free choice and therefore it seems at first sight not compelling to
2 issue summons to appear forehandedly, to put it this way.

3 Regarding the attendance of the accused, it had also to be reminded that concerning
4 all accused -- not all accused but -- concerning all accused we have still warrants of
5 arrest and most of the accused are on conditional release.

6 I would like to inquire the opinion of the parties insofar, do you think that this
7 circumstance has to be considered in the context of the presence of the accused at trial,
8 or does the Defence and the OTP want to address this issue?

9 PRESIDING JUDGE EBOE-OSUJI: Yes, Mr Prosecutor?

10 MR VANDERPUYE: Thank you, Mr President and your Honour. It is our position
11 that prior to the actual trial proceedings it is firmly within the discretion of the
12 Chamber to determine whether or not an accused should be present, bearing in mind
13 the materiality of the particular stage of the -- of the process.

14 It is an accused's right obviously to be present and it is an accused's right particularly
15 to be present during material phases of the trial process. This may not be one, but
16 we will leave that to you to make that determination.

17 But with respect to the proceedings of trial itself I think Article 63 is quite clear and
18 unequivocal that the accused's presence is required as a matter of default. It is not a
19 choice. They simply have to be here.

20 I don't hear from the Defence's submissions up until now that a suggestion that the
21 accused seek to avoid appearing for trial. I'm not clear on that yet and maybe they
22 will elucidate us on that issue, but to the extent that they may be seeking to avoid the
23 appearance at trial, I do note indeed that appearing at trial was a specific condition of
24 their release, all of them, and so it would appear that having been released on that
25 specific condition, that is to commit to returning for trial, or at any other time that the

1 Chamber may require their appearance, that would be in contradiction to the terms of
2 the release if they were to take that position now, but as far as I can tell they haven't
3 yet, and so I don't think that there is any point on revisiting that issue. It seems not
4 yet ripe, as it were.

5 If there is an application that is made to avoid trial, then it seems that it would be, but
6 at this point I don't hear that, so I don't think it has come yet to fruition. If it does,
7 our position is that they must be here pursuant to Article 63 in the absence of any
8 conditions or exceptional circumstances as may be articulated under Rule 134 ter.

9 Thank you, Mr President, your Honours.

10 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

11 Defence counsel for Mr Arido, Mr Babala, Mr Mangenda and Mr Kilolo, any
12 observations, answers to Judge Schmitt's questions?

13 MR TAKU: May it please, your Honours.

14 PRESIDING JUDGE EBOE-OSUJI: Yes, Mr Taku.

15 MR TAKU: Yes, your Honour. Mr Arido is very anxious to clear his name as soon
16 as possible. Clearing his name will be material to a number of things that
17 happened -- happens to him and his family. He wants to face his accusers as soon as
18 possible and to clear his name and, therefore, he did demonstrate to the Registrar in
19 writing that he will be here and we should take the opportunity to say he very much
20 wants to be here.

21 We made the -- the Registrar is aware of the difficulties that he has --

22 PRESIDING JUDGE EBOE-OSUJI: Yes, you've --

23 MR TAKU: Yes, the Registrar is taking care of that.

24 PRESIDING JUDGE EBOE-OSUJI: One second. Of course you have already hinted
25 that there are some logistical difficulties that are being sorted out --

1 MR TAKU: Yes, your Honour.

2 PRESIDING JUDGE EBOE-OSUJI: -- but the issues -- the question of law raised is
3 the awareness that it is an obligation on all accused persons to be present at trial and
4 not a matter of their willingness or even the matter of their right alone. Yes, it is
5 their right but also an obligation to be present at trial.

6 MR TAKU: Yes.

7 PRESIDING JUDGE EBOE-OSUJI: That is the understanding, unless there is any -- I
8 see nodding of heads, but we will leave it at that for now.

9 MR TAKU: Yes, your Honour, Mr Arido is aware of that obligation that -- and he
10 will be here at trial. If there is any particular difficulty that will make him -- either
11 illness or something that will make him not to be here, we will promptly inform
12 your Honours and the Prosecutor and the other parties in this case, and the Registrar
13 in particular, your Honour.

14 PRESIDING JUDGE EBOE-OSUJI: All right. Thank you.

15 Any further submissions or we leave it at that? I see no further submissions from
16 Defence counsel.

17 Coming, Mr Registrar, back to you. Any observations on this matter of logistics,
18 particularly it will be your own remit, that you wish to address at this point, that you
19 see? If you don't think it's necessary to discuss anything at this stage, we will again
20 move on and leave it at that.

21 MR MIJUSKOVIC: Thank you, your Honour. There is really no need to -- for any
22 further submissions. If, however, you wish to have any clarifications on the
23 logistical problems, we are always ready to make a filing on this issue.

24 PRESIDING JUDGE EBOE-OSUJI: All right.

25 MR MIJUSKOVIC: Thank you.

1 PRESIDING JUDGE EBOE-OSUJI: Thank you.

2 We will move on.

3 Next item: Filing of auxiliary documents, additional or auxiliary documents,
4 pertaining to the charges.

5 Following the terminology of the Appeals Chamber in the Lubanga judgment on the
6 merits, the phrase "auxiliary documents" are documents that are intended to provide
7 or have the effect of providing further, better, or greater clarification, or information
8 about the charges as confirmed by the Pre-Trial Chamber, provided of course that in
9 the process of the creation of such auxiliary documents there is no variation as to the
10 charges.

11 Examples of such documents, the primary one would be an updated Document
12 Containing the Charges, and to some extent, to a large extent as well, pre-trial briefs.
13 Defence teams have made observations about such documents. We've heard in fact
14 some -- in the course of submissions today call for an updated DCC.

15 The Prosecution has not opposed this request. Is that the case?

16 MR VANDERPUYE: It is the case, Mr President. There may be some issues with
17 respect to the form that the Chamber prefers that the DCC or the updated DCC is in,
18 which I can elaborate on a little bit, if you would prefer, at a later time or now, but
19 there is no objection to the provision of an amended DCC for sure.

20 PRESIDING JUDGE EBOE-OSUJI: The Defence counsel indicated, I believe in some
21 of the submissions, references were made to the idea of an elements-based chart.

22 What is that? Who submitted, who called for it?

23 MS TAYLOR: Mr President, your Honours, I believe that was contained within the
24 joint submissions of the Defence on disclosure and the idea in particular was to
25 facilitate the ability of the Defence to be ready for this trial because it's not enough for

1 the Prosecution to be trial ready, we also have to be trial ready, and our ability to be
2 trial ready will very much depend on our ability to process and review disclosure in
3 an efficient and expeditious manner.

4 To that end, it was the joint position of the Defence that an element-based chart
5 would very much facilitate that process. In particular, given the fact that we've been
6 given quite lengthy documents is imperative there is some means for us to assess the
7 relevance of these documents to the charges and in particular what part or component
8 of the document the Prosecution is relying upon.

9 And given that today we are hearing of the Prosecution's intent to submit a Bar table
10 motion, it is even more important that we are put on notice as soon as possible as to
11 how this material has been given to us will be relevant firstly to the charges but most
12 importantly to a Bar table motion.

13 And we understand that in other cases the Prosecution has complained that it could
14 be resourced and time-consuming, but as the Prosecutor today has said that in a Bar
15 table motion they obviously have to explain the relevance of documents in any case,
16 so when disclosing incriminating materials to the Defence they should already be
17 aware of how that material relates to their charges. So it shouldn't create any
18 additional onus because it is something the Prosecution would have to do prior to
19 disclosing it to the Defence.

20 So in sum, it's the position of the Defence that the elements-based chart would greatly
21 assist and expedite this case. Thank you, Mr President, your Honours.

22 MR KILENDA: (Interpretation) Thank you, Mr President. To add to what
23 Ms Melinda has said, what has just been mentioned relates to transparency and
24 readability, so to speak.

25 The Prosecutor says some 4,000 documents have already been disclosed and it is

1 therefore normal for the Chamber and the Defence to know what these documents
2 relate to, what charges they are relating to that enables us to have transparency and
3 an ability to make the necessary linkages. Thank you, Mr President.

4 MR TAKU: Your Honours, I rise to support what my colleague said and to add that
5 the co-accused -- there are specific allegations against each or certain co-accused in
6 this case. My client, for example, would like to know exactly the link, the relevance
7 of a particular piece of evidence against him. They are in different locations, at
8 different time frames and different types of allegation. Even though the charges may
9 be same, but the allegations are different, so we would like to -- to clearly, in terms of
10 this large volume of documents, to know which actually relate to him and which
11 relate to somebody else.

12 PRESIDING JUDGE EBOE-OSUJI: Thank you.

13 Any more submissions?

14 Mr Gosnell?

15 MR GOSNELL: Very briefly, Mr President. This is somewhat novel jurisprudence
16 of recent date concerning auxiliary documents, but at the heart of it seems to be the
17 notion of material facts which appears to have been referred to in the Kenyatta case.
18 And we certainly support the notion there must be some clear notice provided of not
19 only crimes, not only charges, generally structured, but also the material facts
20 underpinning each and every charge brought against each of the accused. And we
21 need to be able, as defendants, to know what is the scope of that case and what is the
22 scope of the material facts that are being alleged. By whatever means, by whatever
23 modality, that is the principle that, in our view, must be adhered to. Thank you,
24 Mr President.

25 PRESIDING JUDGE EBOE-OSUJI: By whatever means, by whatever modality, does

1 it mean it need not be in the form of what has been termed an elements-based chart?

2 MR GOSNELL: My understanding is that the purpose behind the elements-based
3 chart is primarily to clarify the relevance of individual pieces of proto evidence, for
4 lack of a better word, information being disclosed by the Prosecution.

5 The notion of material facts, as I understand it, is somewhat different. A material
6 fact is what is the allegation, factual, that the Prosecution is bringing that is the basis
7 for a particular charge.

8 So my understanding is that those -- that would be a different concept and it would
9 not be communicated by way of an elements-based chart, Mr President.

10 PRESIDING JUDGE EBOE-OSUJI: Mr Prosecutor?

11 MR VANDERPUYE: Thank you, Mr President. First in answer to your initial
12 question, what is an element-based chart, it is exactly what it sounds like in a way. It
13 is a chart that connects evidence to the charges in the case or to material facts in the
14 case.

15 It has been used in other cases, not in an Article 70 case for sure. Article 5 cases, as
16 Ms Taylor has pointed out previously. There is a distinction. And has been used
17 without great effect, to be honest. It hasn't been particularly successful or helpful in
18 moving the proceedings forward.

19 Your question about does the information need to be conveyed to the Defence in that
20 particular form in order to discharge the Prosecution's obligations, if not the Court's
21 obligation, to inform the Defence of the charges is a good one. The answer to that
22 question is no. It does not need to be in that particular form. That particular form
23 isn't prescribed by the Rules, the Statute or the Regulations.

24 What the Rules and the Statute and Regulations provide for is a list of evidence, for
25 sure, and a DCC, under Article 61 and also -- I believe also Regulation 52.

1 That is the sufficient basis or mechanism by which to inform the Defence adequately
2 or sufficiently of the charges that they face and the conduct which underlies it as well
3 as the modes of liability.

4 I would point out also in this case, contrary to the assertions made by my colleagues
5 about not being informed about the nature of the charges, that the confirmation
6 decision was largely based, aside from a modification or recharacterisation of the
7 modes of liability alleged by the Prosecution, substantially, if not entirely, based on
8 the factual assertions made by the Prosecution to establish the charges as well as the
9 evidentiary basis for them.

10 So the Defence have benefitted, one, from the filing of a footnoted DCC, which
11 extended to something I think around 80 pages; two, confirmation submissions
12 because this confirmation process somewhat unusually was conducted entirely in
13 writing. So they benefitted from the Prosecution's confirmation submissions in
14 which every factual allegation supporting the conduct alleged in violation of
15 Article 70, whatever provision it is, (1)(a), (b) or (c), was footnoted and the substance
16 of the information therefore -- the notice as to what factual basis for that information
17 or the allegation was provided to the Defence. I think our first submission was
18 somewhere around 100 pages, maybe a little bit less, and then there was a second
19 submission in reply to the Defence responses, which by the way totalled to probably
20 more than 1,100 substantive pages.

21 So I don't think there is much of an issue about whether the Defence is already fully
22 informed as to what is the factual basis, what is the nature of the information and
23 evidence that supports the allegations made by the Prosecution initially in the DCC
24 and secondarily as specifically found by the Pre-Trial Chamber in the confirmation
25 decision which itself refers to the specific evidence concerning each of the factual

1 allegations therein made.

2 I don't dispute that an updated DCC is appropriate in the circumstances, but I don't
3 know --

4 PRESIDING JUDGE EBOE-OSUJI: How so?

5 MR VANDERPUYE: Thank you. I think it's appropriate in the circumstances
6 because the -- because the Pre-Trial Chamber in the confirmation decision found
7 modes of liability for the accused in this case which is different from the modes of
8 liability that are alleged in the -- in the original DCC, and therefore I think it's
9 appropriate that the amended DCC account for that difference as well as account for
10 any factual assertions made in the original DCC which the Chamber specifically
11 rejected.

12 And I have to tell you there are hardly any, if any, that the Chamber specifically
13 rejected on the -- in making their findings concerning the salient fact and
14 circumstances underlying the charges in the case. But I think it's appropriate that an
15 amended DCC should reflect that.

16 One of the reasons why we haven't filed one as yet is to -- is to learn from the
17 Chamber how the Chamber would prefer that we -- we fulfil that obligation if the
18 Chamber determines that it is appropriate because it varies from Chamber to
19 Chamber. Some Chambers have asked -- or requested or required, rather, sorry, that
20 the amended DCC be footnoted to the evidence in particular, others have required
21 that it be footnoted to the confirmation decision in particular.

22 So there is a variance, at least among Trial Chambers in the Court, as to how this
23 should be done. And that's where we are right now at this point.

24 Deferring of course to the Chamber's consideration as to whether an amended DCC is
25 even necessary in this circumstance given the proceeding -- given the proceedings up

1 until this point.

2 (Trial Chamber confers)

3 PRESIDING JUDGE EBOE-OSUJI: So the point then being that you say even
4 assuming that the updated DCC may be, as you say, appropriate that doesn't -- you
5 say it's nothing about the elements-based chart. Is that your position?

6 MR VANDERPUYE: Bear with me. I'm sorry, Mr President.

7 My colleague has reminded me that the request for the elements-based chart is part of
8 the response, the written response, I think you had asked for us to make by 5 May, in
9 respect of the Defence submissions.

10 But I would -- I would say this that the provision of an amended DCC is -- or, a DCC
11 that reflects the charges on which the accused will proceed to trial is clearly enshrined
12 in the Statute. An elements-based chart isn't necessarily, isn't at all in fact, but could
13 be implicitly if the Chamber decides that it's appropriate in the circumstances.

14 Nevertheless, our position is that an elements-based chart has absolutely no value to
15 the information that's provided to the Defence in this case because of the nature of the
16 proceedings, because of the circumscribed conduct that's very -- very discreet under
17 Article 70(1)(a), (b) and (c) as you pointed out at the initiation of this -- at the initiation
18 of this status conference. It's not an Article 5 case. The issues don't require
19 substantive or lengthy or complex background issues. They are very insular, they
20 are very direct. The DCC reflects it, the submissions of the Prosecution during the
21 confirmation process reflect it, the submissions of the Defence reflect a clear
22 understanding of the charges that were alleged and the decision of the -- the
23 confirmation decision of the Pre-Trial Chamber, which is substantively and
24 substantially assumes, that is incorporates, the evidence provided in the DCC,
25 footnoted in the DCC, to a large extent, means that the Defence is quite well apprised

1 of the nature of the charges as they stand now together with the modes of liability.

2 PRESIDING JUDGE EBOE-OSUJI: Do you intend to file a pre-trial brief?

3 MR VANDERPUYE: We -- we will file a pre-trial brief if the Chamber requires us to
4 file one. As I said, the nature of the -- the purpose of the pre-trial brief we see as the
5 same as the -- as the amended DCC, which is primarily to inform the Defence of the
6 nature and the charges and the underlying evidence, which I would submit already
7 they have very sufficient knowledge of.

8 We're not opposed to filing a pre-trial brief if the Chamber requires it, but I would ask
9 the Chamber to take at least into account the nature of the proceedings, the length of
10 the proceedings, the information the Defence have been provided with in the form of
11 a footnoted DCC, footnoted confirmation submissions and a footnoted confirmation
12 decision in determining whether or not that's necessary and appropriate in the
13 circumstances.

14 But we don't object to it, we don't have a -- we have no problem with doing it if the
15 Chamber requires it.

16 PRESIDING JUDGE EBOE-OSUJI: All right. Back to Defence counsel. The
17 question now has been posed, or at least has come up, as to whether it is appropriate,
18 useful or necessary to file an updated DCC.

19 Ms Taylor?

20 MS TAYLOR: Thank you, Mr President. We certainly think that it is both
21 necessary and appropriate to file an updated DCC given that there were slight
22 modifications in the charges based on the confirmation decision. I would like to
23 attach the caveat though that an updated DCC does not satisfy our need for further
24 detail nor does it satisfy or replace an elements-based chart because an updated DCC
25 will still leave a gap as concerns any evidence that might be disclosed after the

1 updated DCC has been filed, and it would appear from today that there might be a
2 significant degree of evidence that might be disclosed at a later point in the year. So
3 there is a need for some type of analysis for that type of evidence.

4 From the part of the Bemba Defence teams we're not wedded to a particular format,
5 so we would be more than happy to meet with the Prosecution to discuss a format
6 that is useful to both parties and one that might be -- ensure a more efficient review of
7 the disclosure, but the updated DCC, whilst useful and necessary, does not satisfy the
8 need for something else.

9 And I would just similarly with the pre-trial brief --

10 PRESIDING JUDGE EBOE-OSUJI: Would that something else be a pre-trial brief?

11 MS TAYLOR: I was just moving on to that. A pre-trial brief again would be very
12 useful but again would depend on when it's filed. For example, if it's filed towards
13 the end of this year, that means for this entire year we will still be disclosed batches of
14 disclosure with significant documents which are very lengthy, and this is a very
15 document-intensive case, and we won't have that framework within which to analyse
16 the evidence and that will impede our investigations. It will impede our ability to
17 take instructions.

18 So my concern is that there should be no gaps in our preparation and that we can
19 prepare in a way consistently throughout the case in an efficient manner. But again
20 we're more than welcome to meet with the Prosecution and to develop a system for
21 them to give us more metadata, to give us some kind of information when they
22 disclose this information that puts us in a position to effectively prepare.

23 I would just like to add one small caveat and that is that it is our position that all
24 material facts have to be included or encompassed in the Document Containing the
25 Charges and not auxiliary documents. That's one caveat to that. Thank you

1 Mr President, your Honours.

2 PRESIDING JUDGE EBOE-OSUJI: Thank you.

3 Mr Taku, briefly.

4 MR TAKU: May it please the Court, I will like to respond briefly to the Prosecutor.

5 In the case of Mr Arido, a number of factual allegations were rejected by the
6 confirmation -- in the confirmation judgment and allegations that were confirmed
7 were so initially linked to the others that were rejected in the sense that we will have
8 an updated DCC, we will be in the position to know exactly whether the Prosecutor is
9 still bringing in allegations that have been rejected or is confining himself to the
10 charges that were confirmed. And I say this in the nature of the disclosures that
11 have been done by the Prosecutor.

12 For sure looking at these disclosures it is difficult now to know whether the disclosure
13 intends to pursue this -- this disclosure in respect of the charges that were confirmed
14 or the material allegations that were rejected and the mode of liabilities that were
15 clearly rejected in the confirmation judgment.

16 So we need to know -- to have a copy of the -- of the updated DCC and of course the
17 pre-trial brief so that we know exactly the nature of the allegation which is being
18 made.

19 There have been an attempt in the form of the disclosures and some of the
20 submissions made by the Prosecution -- the Prosecutor to clearly try to link Mr Arido
21 to others or allegations made against others to analyse them in a manner that it tries
22 to incriminate Mr Arido or to use Mr Arido's declarations to link others.

23 Whether this is joint trial we should also know in the course of disclosure allegations
24 made they have been tried as individuals separately and therefore want to see
25 that -- those -- the lines drawn very, very clearly so that we know exactly what we are

1 defending and what we are not defending.

2 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

3 Mr Gosnell?

4 MR GOSNELL: Mr President, we adopt and support the submissions of Ms Taylor

5 and Mr Taku entirely and we would add that volume does not necessarily imply

6 precision nor does it imply comprehensiveness and those are the two elements that

7 are essential to have adequate notice of the substance of the case against our clients.

8 And fairness requires -- I said earlier one way or the other we support the notion it

9 should be in the Document Containing the Charges, all the material facts that are the

10 basis of the Prosecution case.

11 And as much as the Prosecution says this is a case of narrow scope, the Defence

12 already knows entirely what the case is. Let's not forget, Mr President, we're dealing

13 with a disclosure of more than 4,000 documents and more than -- more than 40

14 charges. So this is actually not a case of such narrow scope such that the material

15 facts are obviously known to the Defence. Thank you, Mr President.

16 PRESIDING JUDGE EBOE-OSUJI: So you are then speaking to the need for a

17 UDCC.

18 MR GOSNELL: Certainly, Mr President, and one that mandatorily requires all

19 material facts set out therein.

20 PRESIDING JUDGE EBOE-OSUJI: Mr Djunga, you want to speak? Go ahead,

21 please.

22 MR DJUNGA: (Interpretation) Thank you, Mr President. We need the updated

23 DCC with all relevant details because, Mr President, at this stage of the trial we are

24 looking at issues of evidentiary thresholds beyond a reasonable doubt, that is why we

25 believe that the first DCC was a mix of all types of materials that were non-specific as

1 to who they related to and that is why it is very important, Mr President, that we
2 insist on the elements-based chart.

3 It is a practice that is in place before this Court and I believe that in the Bemba case
4 previously the Prosecutor had been asked to provide such an analytical chart that
5 would be extremely useful for the Defence.

6 There are some disclosures that include press clippings and telephone conversations
7 and all types of evidence which have been disclosed, but I think it is extremely
8 important, and I agree with Mr Taku, that we need to be specific, we need to be clear
9 as to which allegations relate to which charges and to which accused persons. That
10 clarity has to apply for Mr Kilolo as well in relation to all the documents that have
11 been disclosed.

12 It would be expeditious for us to proceed in this manner contrary to what the
13 Prosecution holds. If we proceed in this manner, we are able to clearly identify what
14 the exact charges are.

15 My learned colleague, Kilenda, is also right when he says that we need to be clear and
16 all the material has to be readable. I believe that the first DCC was a potpourri and
17 right now if we were to proceed by an elements-based chart we will be able to link the
18 charges specifically to the accused persons and therefore be in a position to organise
19 our defence properly.

20 PRESIDING JUDGE EBOE-OSUJI: Mr Djunga, you spoke to two things at once.

21 The question for this round of discussion was on the need for an updated DCC, but
22 during your submissions you also spoke about the elements-based chart.

23 It was difficult for me to understand whether you were saying that the
24 elements-based chart enjoys the same status as the updated DCC. Can you speak
25 specifically to whether there is a need for an updated DCC? We understand why

1 you say the elements-based chart, but the Prosecutor is saying that it is not provided
2 for in the Statute.

3 But just speak to the need for why do you think that it is necessary to have an
4 updated DCC.

5 MR DJUNGA: (Interpretation) Mr President, my position is not that the two
6 documents have the two -- or, have the same value. Yes, the DCC is required, but
7 I think that the analytical table or the elements-based chart is something that has
8 already been used in the Bemba case whereby the Prosecutor was required to provide
9 one. That is the clarity I sought to make, Mr President.

10 PRESIDING JUDGE EBOE-OSUJI: All right. Let's put element-based chart to the
11 one -- to the side for now and focus your discussion on why you feel that an updated
12 DCC is necessary.

13 MR DJUNGA: (Interpretation) Mr President, the reason is quite simple. We have
14 a decision partially confirming the charges today, meaning that some of the charges
15 were set aside. It is, therefore, only proper for a document to be produced, an
16 amended document which contains the charges that have been effectively confirmed
17 pursuant to the confirmation decision wherein only some of the charges were
18 confirmed. I think this is absolutely indispensable and will enable us to focus on the
19 confirmation decision which leaves out some charges.

20 PRESIDING JUDGE EBOE-OSUJI: Mr Kilenda, you're rising.

21 MR KILENDA: (Interpretation) Thank you, Mr President. I no longer need to
22 address the Bench and I am done. Thank you.

23 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

24 (Trial Chamber confers)

25 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

1 We move on now. Next item on the agenda will be the date finally. We arrive at
2 the subject of the date for commencement of the trial.

3 The Chamber notes that none of the parties in their written submissions considered
4 themselves able at this time to commit to a trial date in this case.

5 The Chamber also notes the submissions of the Prosecutor, both in writing and also
6 orally this morning, that there are some outstanding information which the OTP is
7 expecting to review before the commencement of the trial and which review may or
8 may not lead to further prosecutorial action bearing on the case.

9 But it must be emphasised by the Chamber that this trial will need to begin and to
10 proceed expeditiously. The Chamber must state right away that if need be it will
11 impose a deadline within which the Prosecutor must collect and analyse any further
12 evidentiary material it says that it is expecting. We're not making that ruling at this
13 stage. We are forewarning that if need be the Chamber will do that.

14 With those observations, we would like to hear from the Prosecutor and the parties
15 whether anything has changed in light of what we've heard this morning about their
16 indication of a date or suggestion for date for trial.

17 Mr Prosecutor.

18 MR VANDERPUYE: Thank you, Mr President. From our perspective not much
19 has changed at all. What would be helpful for us, I think, is to have some clarity as
20 to when that material might become available to the Prosecution if it is otherwise -- if
21 the Chamber makes the determination that it should be made available to the
22 Prosecution.

23 Primarily what we're talking about is potentially privileged materials and, therefore,
24 the Chamber has engaged as I understand it with the Registry in structuring a
25 procedure by which that material can be vetted, but we have no clarity as to where

1 that process is now, how long that process might take, and so it's not possible for us
2 I think at this point to provide the Chamber with any meaningful potential date for
3 trial. We had hoped to do that, and I would remind the Chamber we had hoped to
4 do that a long time ago, at the confirmation proceedings, when we fully expected
5 back on December 4th, 2013 that we would have this very material within a couple of
6 weeks. And here we are at the end of April 2015 and we still don't know what's in
7 the box.

8 So fundamentally I think we have to have some clarity with respect to that material as
9 well as material as I referred to earlier that is also within the possession of the
10 Registry or subject to a process of review before we can provide the Chamber with
11 anything meaningful. And I apologise for not being able to come forward and
12 provide the Chamber with a concrete date, but I just don't think it would either be
13 responsible or helpful to do that at this stage.

14 PRESIDING JUDGE EBOE-OSUJI: All right.

15 Quickly, Defence, any observations? I believe you can do that in one minute or less
16 each.

17 MS TAYLOR: Thank you, Mr President, your Honours. We welcome your -- your
18 forewarning that there might be a cut-off imposed at some point, and we strongly
19 support that given that in March last year the Prosecution informed the Pre-Trial
20 Chamber that if it was given four months, it would be trial ready. Well, it is now
21 more than 13 months later. And at that time the Single Judge ruled that the
22 Prosecution had already had ample opportunity to raise issues concerning technical
23 matters and so forth.

24 So we strongly urge the Prosecution to be more proactive in terms of liaising with the
25 Registry and identifying any technical issues and also as concerns their interaction

1 with national authorities and bringing those to the attention of the Chamber in a
2 speedy manner.

3 And one point we think may promote greater expedition is, and it's something that
4 may be better raised by written submissions, is the issue of materials that belong to
5 information owners and whether that can be provided immediately to the
6 information owner without pending the wait, awaiting the results of the review.

7 Thank you, Mr President, and your Honours.

8 PRESIDING JUDGE EBOE-OSUJI: I take it those are your closing submissions. But
9 in the meantime do you see a date for trial?

10 MS TAYLOR: No, Mr President, your Honours. We can only suggest that we hope
11 it will be as soon as possible.

12 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

13 Yes, Mr Kilenda, do you see a date for trial?

14 MR KILENDA: (Interpretation) Thank you, Mr President. I believe that at the
15 appropriate time your Chamber will impose a date, an appropriate date for
16 commencement of trial. I am convinced that your Chamber in so doing will be
17 mindful of the fact that the Prosecution should have made all materials available for
18 Defence in order for it to prepare its case and that you would also ensure that Defence
19 will have all the necessary facilities to enable it to defend the interest of its clients.
20 Thank you.

21 PRESIDING JUDGE EBOE-OSUJI: Thank you.

22 Mr Taku.

23 MR TAKU: May it please the Court, myself and my colleague, who are in a difficult
24 situation, we came into the case barely a week ago and, therefore, we would definitely
25 require adequate resources and time in order to familiarise ourselves with the case

1 from propriety to this moment. And secondly, I read through some of the allegation
2 that the Prosecution made and some of the disclosures, and if we were to go to trial,
3 we will need to investigate, conduct investigation on some of the issues to be able
4 to -- to help us to cross-examine the witnesses. I do not want to second-guess
5 anything, because some of the locations and the things they say, coming from
6 Cameroon, I know the locations. Whether they exist or not, these are things which I
7 can't say now, but I really need to go back, I've been out a while, to find out some of
8 those things in order to be able to test the credibility of the witnesses.

9 So we hope that both the Court and the Prosecutor will take into consideration these
10 difficulties and of course the Registry about the adequate resources to enable us and
11 my colleague, we are new to the case, to read this huge volume of documents that the
12 Prosecutor tendered.

13 PRESIDING JUDGE EBOE-OSUJI: As you mean --

14 MR TAKU: In no case, in no case do we intend to delay the trial unduly than
15 required. We only just say that these are special -- special circumstances I want the
16 Court to know. We don't have any date --

17 PRESIDING JUDGE EBOE-OSUJI: Special -- special circumstances, Mr Taku, you
18 say and anchored in the fact that you and Mr Larochelle, you say, are new to the
19 case --

20 MR TAKU: Yes, sir.

21 PRESIDING JUDGE EBOE-OSUJI: -- how much time do you think you will need to
22 be prepared for trial?

23 MR TAKU: Just one minute, your Honours. Let me talk to Mr Larochelle.

24 I shall say, your Honours, we cannot actually venture at this point in time to speculate
25 on anything, because the disclosure is still ongoing. We received a number of

1 reports and, as I say, we still need to read a lot, lot, lot, lot more that came during the
2 pre-trial, so it is difficult in one week in the case for us to actually venture to suggest a
3 time.

4 PRESIDING JUDGE EBOE-OSUJI: You say disclosure outstanding and the
5 Prosecutor has acknowledged that. We're trying to get an idea from you the extent
6 of the difficulty you are encountering in light of your own special situation. Let's
7 assume that the Prosecutor is able to complete its disclosure obligations by, say, June,
8 end of June this year, how much time would you need in light of your newness to the
9 case?

10 MR TAKU: Well, let me venture, your Honours, venture to say at least four months.

11 PRESIDING JUDGE EBOE-OSUJI: An idea. We're not tying you down to it, but at
12 least it's good to have an idea. Thank you.

13 MR TAKU: Yes, your Honour. The four months, we'll be able to read through, I
14 will have adequate resources in order to read through and investigate some of those
15 allegations. As I said earlier, apart from the emails, most of the evidence against him,
16 I mean, it's in Cameroon, so we need to go to -- and Central African Republic, so we
17 need to go down to the field. It is not just about the Prosecution's case, about our
18 ability to verify the allegations made in order to be able to test the credibility of those
19 witnesses.

20 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

21 Mr Djunga, do you see a date for trial?

22 MR DJUNGA: (Interpretation) Thank you, your Honour. We believe that it
23 would be difficult to venture a date, but as far as we are concerned, as soon as we
24 would have received all the materials from the Prosecutor, given that we have to
25 carry out a certain number of investigations on the ground in certain African

1 countries and here, I think six months would seem to be reasonable to us. But as
2 long as we don't have all the materials, we cannot really be specific, but as soon as we
3 have those things, I think four to six months would be reasonable.

4 PRESIDING JUDGE EBOE-OSUJI: Thank you.

5 Mr Gosnell.

6 MR GOSNELL: Mr President, I am mindful of the clock, and I am also no more
7 courageous or better informed than any of my colleagues in respect of the start of
8 trial.

9 I would wish to underscore one point though, Mr President, and that is that the
10 materials that are currently delaying the completion of disclosure by the Prosecution
11 are not in the hands of the Prosecution, and it is understood of course that they are
12 not responsible for those delays, nor, however, Mr President, are any of the accused.
13 The accused are not in any way responsible for any of those delays and they do have
14 a right to be tried without undue delay. Thank you, Mr President.

15 PRESIDING JUDGE EBOE-OSUJI: Thank you.

16 Mr Djunga, while we are on the subject of commencement of the trial date, there is a
17 special matter you raised in your submissions, your written submissions, something
18 to the effect of suspending the proceedings. We're not quite sure reading your
19 written submissions whether you meant suspending all pre-trial or -- not
20 pre-trial -- all preparatory procedure or steps ahead of the commencement of the trial
21 or whether you meant to not start the trial proper until the delivery of the judgment
22 in the case of Bemba I.

23 So what -- first let me say this, if your request is to the effect -- I must assume you're
24 not requesting, as paragraph 37 of your materials appears to suggest, you're not
25 requesting that no steps should be taken in the case until the delivery of the judgment.

1 I must presume that is not what you are submitting. We will take it you meant that
2 this trial not commence until Bemba I judgment has been rendered, is that the case?

3 MR DJUNGA: (Interpretation) Thank you, your Honour. It is true that we were
4 talking about a commencement date of this trial. It is true that we did not have the
5 agreement of the other members of the teams regarding this particular issue. But
6 with regard to Mr Kilolo, we simply wished to draw the attention of the Chamber to
7 the difficulty that he would have in defending himself effectively, adequately and
8 freely because, as you are fully aware, he was the lead counsel of the main case, as we
9 stated before. He is a lawyer and he continues to practise his profession in the
10 Brussels Bar and he is very attached to lawyer-client privilege and today he is
11 required to defend himself in a criminal case.

12 It is true that the code of ethics in the Paris -- in Paris in fact makes it possible for the
13 confidentiality to be lifted in order to defend himself effectively. He has the
14 intention to do that, but the problem here relates to the main case.

15 It is true that we might have been tempted to request to apply for such a suspension,
16 but the issue is to know what would happen if in the course of his own defence he is
17 compelled to provide to other parties - specifically the Prosecutor - some information
18 that may undermine the defence case in the other -- in the main case.

19 So I must admit that I don't yet have a response or a solution to that issue. So he
20 needs to perform some sort of gymnastics to comply with lawyer-client privilege
21 requirements, but still be able to defend himself. This is a question that I'm raising.

22 PRESIDING JUDGE EBOE-OSUJI: Yes, it's -- it is a question you are raising. There
23 is also a question arising, assuming that the question is not speculative - assuming
24 that it is not speculative - it raises a question, the inverse question: Are we in a
25 position at this stage to make that assumption that the question is not speculative?

1 My point being that if we accept that the question is not speculative, one can, you
2 know, consider your argument without deciding it now. You raise a question you're
3 worried about embarking upon a line of defence in this case that may cause
4 difficulties for Mr Bemba in the main case, that's your argument, but is that
5 speculative at this stage, do we know? That's one question.

6 While you are thinking about it, if you can answer it mindful of your Professional
7 Code of Conduct, there is also another question and that is: How far does your
8 concern go if your concern is we must wait for the delivery of the judgment? Are we
9 talking about just the judgment at the trial level in Bemba I, or does it also -- do your
10 concerns also contemplate waiting until any appeal on the merit of that case has been
11 adjudicated and settled?

12 Can you address those two questions for me, please, if you can?

13 MR DJUNGA: (Interpretation) Thank you, your Honour.

14 This is not speculation. With your leave I would like to ask for a private session and
15 I would like to ask for leave for my client, Mr Kilolo, to speak very briefly and present
16 certain issues that may place him in a very delicate situation.

17 (Trial Chamber confers)

18 PRESIDING JUDGE EBOE-OSUJI: All right, Mr Djunga. As regards your request
19 to go into private session so as to address the question about whether it is speculative,
20 do that in writing, ex parte filing, okay? File those submissions from Mr Bemba in
21 writing ex parte to the Chamber.

22 But on the second question I asked you, do we have to also wait until the appeals
23 judgment has been delivered in the case before we can start this trial?

24 MR DJUNGA: (Interpretation) Thank you, Mr President.

25 We shall indeed file a motion. That is what our colleague, Ms Taylor, said also.

1 In regard to the second question I will be tempted to say, yes, that is after the appeals
2 phase, because we need to have a final decision, a final judgment. So I am tempted
3 to say yes, but at the same time I know that I will need to make a written filing with
4 all the other members of the teams -- of the other teams. We really do not want to
5 slow down this case, or to undermine the expeditiousness of the case, because that is
6 a minimum guarantee.

7 PRESIDING JUDGE EBOE-OSUJI: All right, let's do this.

8 MR DJUNGA: (No interpretation)

9 PRESIDING JUDGE EBOE-OSUJI: Let's proceed in this way. Mr Djunga, do this.
10 File your written submissions on that, but if there is -- make it either public or
11 confidential for the written submissions. If you have any attachments that may
12 implicate lawyer/client privilege between Mr Bemba and Mr Kilolo you can put that
13 attachment in confidential ex parte for only the Chamber, but the legal arguments will
14 need to be known to everybody else in the case because they have an interest when
15 we start the case, not necessarily by being privy to any lawyer-client privileged
16 information you want to add.

17 Do you understand the instruction, or the direction?

18 MR DJUNGA: (Interpretation) Perfectly, your Honour.

19 (Trial Chamber confers)

20 PRESIDING JUDGE EBOE-OSUJI: All right. We -- that would be -- sorry,
21 Prosecutor. Go ahead.

22 MR VANDERPUYE: Just very briefly, Mr President. I'm sorry. I don't want to
23 delay things.

24 I just wanted to clarify for the record something that Mr Gosnell stated during his last
25 arguments, and he referred to the materials that are currently delaying the completion

1 of disclosure by the Prosecution.

2 I want to make clear that the materials that we're -- there are no materials delaying the
3 disclosure by the Prosecution. His reference was to the seized materials and the
4 materials that we had previously provided to the Registry. That is not delaying the
5 disclosure by the Prosecution.

6 What I've said is that it could impact the completion of disclosure, but the materials
7 that we do have in our possession we are disclosing on time and appropriately. So I
8 just want the record to be clear on that issue.

9 Thank you, Mr President.

10 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

11 Now we will be closing the session soon, or about now, but before we do that we
12 will -- we note that the Registrar -- Mr Peralta is here. Do you have any observations
13 to make at this stage?

14 MR PERALTA-LOSILLA: Mr President, your Honours, thank you. Thank you
15 very much.

16 I came here just to address the issue of languages that was raised before my -- before
17 I was present here, and I just wanted to mention that in fact, as Mr Kilenda has
18 mentioned, there is some -- there is already jurisprudence saying that it's the
19 responsibility of the counsel to constitute the team in a way that includes proficiency
20 in both working languages of the Court.

21 I understand that mention has been made of the possibility of having that expertise in
22 the second language at the level of associate counsel. The -- right now, as you know,
23 the issue of the scope of legal aid for the trial phase is before you, and the -- in the -- in
24 the preparation of that decision on the scope of the -- of the legal aid there was no
25 consideration - specific consideration - of the issue of languages, among other reasons

1 because it was never raised by the -- by the Defence teams.

2 In -- what I can say is that we -- even if there is this need of having competence in
3 both languages in -- within the -- a single Defence team, it doesn't need to be at the
4 level of associate counsel. It can be at other levels - legal assistants, et cetera - and
5 that is something that it is up to the counsel to decide.

6 It also has to be mentioned that, when there is a specific need, we have the assistance
7 of the Court Interpretation and Translation Section of the Registry that can produce
8 even not revised translation within a very, very short period of time to allow the
9 teams to -- to work with it.

10 And if there is a specific need to -- to appoint new members of the team on the basis
11 of languages, as always the Registry is more than willing to assess that need and to
12 see if that need is reasonably necessary for the effective and efficient defence. And
13 I can -- I think that what I can do here is to invite the -- all the teams to address this
14 issue with us if they see this need.

15 PRESIDING JUDGE EBOE-OSUJI: Thank you very much, Mr Peralta. That's very
16 helpful.

17 Now we will give counsel the opportunity now of two minutes each, no more than
18 that - you don't have to take it - to make any closing submissions you have. You
19 don't need to.

20 Mr Prosecutor, you go first.

21 MR VANDERPUYE: Thank you.

22 No, Mr President. I take your -- I take your direction.

23 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

24 Ms Taylor?

25 MS TAYLOR: Thank you, Mr President, but we don't need any more time.

1 Thank you.

2 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

3 Mr Kilenda?

4 MR KILENDA: (Interpretation) Thank you, Mr President.

5 I would like to very briefly revisit the questions that you put to Mr Djunga.

6 At the beginning of this case, I myself was counsel for Mr Kilolo and I am wondering
7 whether we are not in a case where a criminal case is happening within a criminal
8 case. So would it not be necessary to wait for the final judgment of the main case to
9 be able to proceed? I believe this has to be taken into account when you deliberate
10 on the motions to be filed by Mr Djunga.

11 PRESIDING JUDGE EBOE-OSUJI: Thank you.

12 Mr Djunga, any closing remarks at all?

13 MR DJUNGA: (Interpretation) Very briefly I would like to talk about the issue of
14 co-counsel.

15 I think it would be simplistic to think that the co-counsel is a translator. That was
16 not the issue. I believe that the issue was the presence of a co-counsel - and
17 Mr Kilenda's put it brilliantly - that is in relation to the workload of a team. So the
18 greater need is to have a co-counsel who is sufficiently qualified according to the
19 standards.

20 Thank you.

21 PRESIDING JUDGE EBOE-OSUJI: I thought that is what I was telling Mr Gosnell
22 when he spoke to the matter, but Mr Gosnell now that I've mentioned you any final
23 remarks? Two minutes.

24 MR GOSNELL: No need, Mr President. Thank you very much for your
25 consideration.

1 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

2 And Mr Taku?

3 MR TAKU: Yes, your Honours.

4 I would like to make a special appeal to the scope of the disclosure relating to the
5 specific witnesses that will be listed to testify against my client.

6 At this point in time, what I see I do not know -- I don't know whether to characterise
7 that as recantation of what they have testified in another trial or not, because I've not
8 seen any prior proceedings in regard to any recantation anyhow in another
9 proceeding.

10 However, in the light of -- I think that is a presumption. It is a presumption that
11 they made that they brought the charges. I would like the Prosecutor should be able
12 to disclose all information, prior statements that are made in the Bemba trial or
13 elsewhere, relating to this -- to these witnesses, what they said about my client.
14 I hesitate to say it is a recantation, because there has been no proceedings in any other
15 court or before any Trial Chamber testing exactly the validity, the relevance and the
16 probative value of the recantation. There is none. I believe that, in light of the
17 information they provided the Prosecutor, we'll go and investigate that.

18 So if in the Bemba trial there was any specific mention, or any other evidence
19 regarding these -- these allegations that are made by these witnesses, then the
20 Prosecutor should try to disclose that to me as soon as possible.

21 PRESIDING JUDGE EBOE-OSUJI: All right. You take that matter up with the
22 Prosecutor and if need be, if you need to make any request to the Chamber at the end
23 of your dialogue with the Prosecutor, we'll take it from there at that time. Okay?

24 MR TAKU: Thank you very much, your Honour.

25 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

- 1 And we come to the end of the proceedings. We thank the interpreters and the court
- 2 reporters for their assistance, as usual, in the -- it's been a very helpful first meeting
- 3 with counsel in this case and the court is now adjourned.
- 4 Thank you.
- 5 THE COURT USHER: All rise.
- 6 (The status conference ends in open session at 1.24 p.m.)