



Case No. SCSL-2003-01-T

THE PROSECUTOR OF  
THE SPECIAL COURT  
V.  
CHARLES GHANKAY TAYLOR

FRIDAY, 22 OCTOBER 2010  
10.00 A.M.  
STATUS CONFERENCE

TRIAL CHAMBER II

Before the Judges:

Justice Julia Sebutinde, Presiding  
Justice Richard Lussick  
Justice Teresa Doherty  
Justice El Hadji Malick Sow, Alternate

For Chambers:

Mr Simon Meisenberg  
Ms Sidney Thompson

For the Registry:

Mr Saleem Vahidy  
Ms Advera Nsiima Kamuzora  
Ms Rachel Irura  
Ms Zainab Fofanah

For the Prosecution:

Ms Brenda J Hollis  
Mr Nicholas Koumjian  
Mr Mohamed A Bangura  
Ms Maja Dimitrova

For the accused Charles Ghankay  
Taylor:

Mr Terry Munyard  
Mr Morris Anyah  
Mr Silas Chekera  
Ms Logan Hambriek  
Ms Salla Moilanen  
Ms Kimberley Punt

1 Friday, 22 October 2010

2 [Open session]

3 [The accused not present]

4 [Upon commencing at 10.05 a.m.]

10:05:28 5 PRESIDING JUDGE: Good morning. We'll take appearances  
6 first, please.

7 MS HOLLIS: Good morning, Madam President, your Honours,  
8 opposing counsel. This morning for the Prosecution, Nicholas  
9 Koumjian, Mohamed A Bangura, Maja Dimitrova, and Brenda J Hollis.

10:06:02 10 MR MUNYARD: Good morning, Madam President, your Honours,  
11 counsel opposite. This morning for the Defence, myself, Terry  
12 Munyard, Morris Anyah, Silas Chekera, Logan Hambrick, our case  
13 manager Salla Moilanen and joining - appearing in the Court for  
14 the first time are our new legal assistant, Kimberley Punt,  
10:06:27 15 P-U-N-T, and two interns, Sylvia Csevar, spelt C-S-E-V-A-R, and  
16 Alexandra Popov. Yes, I think that's the full complement.

17 PRESIDING JUDGE: Thank you, Mr Munyard. And the team is  
18 certainly welcome to the Court.

19 Mr Munyard, Mr Taylor is not in court. Would you like to  
10:07:01 20 put something on the record?

21 MR MUNYARD: Yes, Madam President. He indicated that for  
22 personal reasons that he would prefer to remain where he resides  
23 today and to be informed by us of the outcome of today's hearing.  
24 And so, of course, he gives his full consent for proceedings to  
10:07:23 25 take place in his absence.

26 PRESIDING JUDGE: Very well. Then the proceedings will  
27 continue in the absence of the accused, pursuant to Rule 60B of  
28 the Rules of Procedure and Evidence in his absence.

29 Now, we are here basically for a status conference that was

1 convened pursuant to an agenda that was published a couple of  
2 days ago. But before we go into the agenda, as you know, there  
3 is one decision pending, there's a motion pending before the  
4 Court. And we have reckoned that in the interests of expediting  
10:08:08 5 matters, the Chamber will issue an oral decision now without  
6 reasons and will issue - we will publish the reasons later. And  
7 I'm speaking of the decision on public with confidential annexes  
8 A to J and public annexes K to O, Defence motion requesting an  
9 investigation into contempt of court by the Office of the  
10:08:38 10 Prosecutor and its investigators.

11 The Trial Chamber dismisses this motion in its entirety and  
12 will publish the reasons therefore in due course.

13 Now, to the agenda items. The first agenda item that was  
14 proposed by the Defence was an item entitled "Disclosure review  
10:09:12 15 by the Prosecution". Mr Munyard, I'm going to ask you to submit  
16 and explain what this item agenda is about.

17 MR MUNYARD: Madam President, this really follows from the  
18 matter that I raised at the beginning of the last status  
19 conference, which was that as the Prosecution are under a  
10:09:31 20 continuing obligation of disclosure, we asked them to review all  
21 the material they had in relation to witnesses who we had  
22 indicated as potential Defence witnesses who had also been  
23 potential Prosecution witnesses. We have had, since that status  
24 conference, disclosure in relation to one of the witnesses who  
10:09:57 25 fell into that category, and, indeed, in fact, in relation to  
26 another one who was a potential Defence - or Prosecution witness.  
27 We've also had some disclosure in relation to him. So we've had  
28 disclosure only in relation to two.

29 Madam President, you may well recall I think it was

1 Her Honour Justice Doherty who clarified with the Prosecution  
2 that the batch of witnesses we were talking about was a small  
3 group, not the entirety of either the Defence or the Prosecution  
4 witness list. But it still ran into double figures. And, as I  
10:10:40 5 say, we've had disclosure since then in relation to two people  
6 who fall within that group. And so we are formally inviting the  
7 Prosecution to indicate if they are still continuing to review  
8 matters relevant to that batch of witnesses.

9 PRESIDING JUDGE: Very well. Keeping with that agenda  
10:11:04 10 item, Ms Hollis, can we hear from the Prosecution.

11 MS HOLLIS: Thank you, Madam President. Madam President,  
12 the Prosecution has conducted a review using the guidance that  
13 your Honours put forward in your decision on disclosure relating  
14 to DCT-097. As a result of that review, we did, in fact,  
10:11:24 15 disclose, per your order, disclosure materials for DCT-097.  
16 Yesterday, per your order, we disclosed materials in relation to  
17 DCT-032. In addition to those witnesses, we have in our response  
18 to the Defence motion that your Honours have dismissed, disclosed  
19 information relating to DCT-133, and that was in confidential  
10:12:00 20 annex 2 of our response to that motion.

21 As Defence counsel said, we have made one additional  
22 disclosure, and that was as to a witness who is DCT-102. It has  
23 still not been confirmed to us that, indeed, the disclosure we  
24 made was for the same individual as DCT-102, because there were  
10:12:28 25 different names that were used. But there were similarities and,  
26 to ensure that we were not violating the directions of the Court,  
27 we disclosed this information, assuming this was the same  
28 individual. It may not have been, but at any rate, we have  
29 disclosed for that individual as well. We have completed our

1 review and we have no additional disclosure to make.

2 PRESIDING JUDGE: Thank you, Ms Hollis. I think that  
3 disposes, Mr Munyard, of that agenda item. And as far as the  
4 trial managers are concerned, namely ourselves, that is no longer  
10:13:05 5 an issue that stands in the way of the completion strategy.

6 MR MUNYARD: Well, your Honour, I can in fact confirm for  
7 Ms Hollis - I'm slightly surprised that I need to - it is the  
8 same witness. So let there be no doubt that 102 is the witness  
9 that we are both talking about. The disclosure that the  
10:13:30 10 Prosecution have given to us does relate to that person.

11 PRESIDING JUDGE: Very well. Now, the second agenda item,  
12 which is the date of formal closure of the Defence case.

13 MR MUNYARD: Yes.

14 PRESIDING JUDGE: You'll remember that at the time - the  
10:13:45 15 last time the Court sat here, substantially, I did draw the  
16 parties' attention to the fact that the Court has set - or had  
17 set the date of 12th November as the closure - the date of the  
18 formal closure of the Defence case. And that was contingent upon  
19 the calling of seven outstanding witnesses.

10:14:08 20 MR MUNYARD: Yes.

21 PRESIDING JUDGE: Now, when that didn't happen, the Trial  
22 Chamber was prepared to review that date by bringing the closure  
23 date forward, not extending it. Forward. And so in view of the  
24 information we received yesterday, by email, that the Defence is  
10:14:29 25 thinking of calling one more witness, we would like to hear from  
26 the Defence what their ideas are on this second agenda item.

27 MR MUNYARD: Certainly. The position is that we decided to  
28 call one further witness, this is DCT-102. We were initially  
29 under the impression that he was fully ready to travel and we

1 were hoping he would be travelling very, very shortly. In fact,  
2 it subsequently turned out that although he'd been through all  
3 the WVS procedures, his Schengen visa had very recently expired.  
4 Less than two weeks ago, it turns out, his Schengen visa had  
10:15:25 5 expired. So we've spent a considerable amount of time discussing  
6 logistics. And bearing in mind, in particular, the cost to the  
7 Court, with the WVS, we've come up with a practical proposal  
8 which appears to be the speediest time that we can get the visa  
9 proposed and the witness here.

10:15:54 10 What it is, the timetable that we've worked out with WVS is  
11 that - I won't go into all the details about the visa process,  
12 but the timetable we're looking at is flying the witness here on  
13 Wednesday, Wednesday of next week.

14 Now, he will arrive, having travelled overnight, and so  
10:16:21 15 that's Wednesday 27th. So we don't anticipate being able to  
16 proof him until Thursday. Realistically, it's going to take two  
17 days to proof him. So we would wish to call him on Monday - the  
18 following Monday which is 1st November. I do not intend taking  
19 any more than two days in evidence-in-chief.

10:16:48 20 How long he will be cross-examined for, of course, isn't a  
21 matter that I can cast any light on. But looking at a best case  
22 scenario, we could anticipate concluding that witness's evidence  
23 by the Friday, which is the 5th of November.

24 However, I think to be safe, and to allow for  
10:17:14 25 eventualities, such as problems in processing the visa,  
26 eventualities such as occurred earlier in the year when there was  
27 a huge disruption to air traffic by act of God, the volcanic ash  
28 from Iceland - allowing for those sorts of eventualities that  
29 none of us can predict, if we were actually to go back to

1 12 November as the formal date of closure of the Defence case,  
2 hopefully we will be in a position to close before then. But I  
3 certainly agree with my colleagues who have suggested that we  
4 ought to build in a certain amount of leeway for the kind of  
10:17:58 5 eventualities that I've just been talking about.

6 So if we were to say definitely by 12 November and  
7 hopefully before that, then I believe that that is a practical  
8 and sensible approach to the timetable for closure of the Defence  
9 case.

10:18:19 10 May I say, and I'm anticipating some of the other agenda  
11 items here, I'm not going to go into them in any detail now - may  
12 I say that the formal closure of the Defence case is not  
13 of course stopping us working on the other matters that the Court  
14 is going to be concerned with in the rest of the agenda for this  
10:18:38 15 morning. So in that sense it's a formal closing date but we're  
16 not asking that anything else only flows from that date.

17 JUDGE LUSSICK: Mr Munyard, just out of interest, you'll be  
18 taking this witness yourself, right?

19 MR MUNYARD: Yes.

10:19:00 20 JUDGE LUSSICK: Thank you.

21 PRESIDING JUDGE: Perhaps at this stage I can only say that  
22 it's really in the Defence's hands to get this witness here as  
23 quickly as possible. So far I have heard nothing to cause me to  
24 shift that date originally set of 12 November, and certainly  
10:19:24 25 would welcome an earlier closure date. But we'll hear from the  
26 Prosecution, if they have anything to say in response.

27 MS HOLLIS: Simply this, Madam President, your Honours: We  
28 would suggest that the closure date be the end of that witness's  
29 testimony and, in any event, no later than 12 November.

1           PRESIDING JUDGE: Mr Munyard, do you oppose that proposal?  
2 It sounds quite logical to me.

3           MR MUNYARD: I think actually Ms Hollis is encapsulating  
4 the very proposal that I put forward and therefore obviously we  
10:20:08 5 agree. The parties appear to be at one on that matter.

6           PRESIDING JUDGE: We note that the parties are in agreement  
7 and certainly the Chamber also agrees that the order as it now  
8 stands is that the Defence closure date will occur at the end of  
9 the witness DCT-102 and, in any event, not later than  
10:21:42 10 12 November 2010. So it's a slight amendment to the earlier  
11 order.

12           Which brings me to item agenda number 3, the date for  
13 filing of the final trial briefs. I don't know if it's practical  
14 at this stage, with this nebulous point in time or period of the  
10:22:11 15 closure of the Defence case, but I will hear from the Prosecutor  
16 now first. Date of the filing of the final trial briefs.

17           MS HOLLIS: Thank you, Madam President. We think it is  
18 entirely appropriate to discuss this matter now and to set the  
19 date. And we would note in that regard that in the RUF case  
10:22:34 20 Trial Chamber I set the date for the filing of the final trial  
21 brief before the closure of the Defence case. And there's no  
22 reason not to do that.

23           As Defence counsel acknowledged, there's nothing to prevent  
24 the parties from working on the final trial brief, and we expect  
10:22:53 25 that the Defence has, as we have done, begun our preparations  
26 already. So we suggest that it is appropriate and we would ask  
27 your Honours to set a date for that today.

28           In terms of what that date should be, we suggest that that  
29 date should be 17 December, which is a date we propose to be the

1 last working day before the recess. That is a Friday,  
2 17 December.

3 Again, as the Defence has acknowledged, the fact they are  
4 calling one more witness after a six-week break in their case,  
10:23:32 5 and another apparent week before that witness - or more before  
6 that witness will be called, should not be a reason to delay the  
7 filing of the final trial brief. It would be eight weeks from  
8 today if your Honours set it for 17 December.

9 That period of time is consistent with past practice. And  
10:23:58 10 if we review past practice, we look at the RUF case, from the end  
11 of the last witness's testimony of the last accused, the final  
12 trial brief was set for six weeks from that date. Six weeks from  
13 the date of the end of testimony of the last accused's witness.

14 Now, as I said, the date for the final trial brief in the  
10:24:30 15 RUF case was set before the Defence case had closed, so it was  
16 set at a time when counsel were still involved preparing to  
17 question witnesses, to cross-examine witnesses. And as your  
18 Honours will, of course, remember in the AFRC case it was  
19 approximately five weeks from the conclusion of the testimony of  
10:24:56 20 the last witness of the last accused until the filing of the  
21 final trial briefs in that case. So we suggest that this would  
22 be a period of time that is sufficient time and is consistent  
23 with past practice.

24 It is more than enough time for the parties to file their  
10:25:14 25 submissions. As we said, both parties have had ample time to  
26 begin to work on the final trial brief and typically, that is  
27 what you do. You don't wait until the last witness and the last  
28 party to call a witness has finished before you begin that work.

29 The Defence team certainly has the resources to make this

1 happen in this period of time. We note that in addition to the  
2 lead Defence counsel, they have four co-counsel. The last order  
3 of appearance that was filed with the Chamber, they had five or  
4 more legal assistants. And, of course, they had interns. And in  
10:26:02 5 that regard, they have had more resources than the accused in the  
6 other cases before this Court and they certainly have sufficient  
7 resources to meet that very ample deadline. So we would suggest  
8 that the appropriate date that is consistent with the dual  
9 mandate of this Court to ensure both a fair and expeditious  
10:26:29 10 trial, is the 17th of December. And we would also suggest,  
11 anticipating a bit this issue of whether there would be a written  
12 response, that the 17th of December should be the date, the last  
13 date upon which all written submissions are filed with this  
14 Court. So that as we move into the new year, we have only the  
10:26:52 15 oral argument before us.

16 PRESIDING JUDGE: Ms Hollis, I'd rather you didn't pre-empt  
17 item number 5, because we haven't even ruled that there will be  
18 any replies.

19 MS HOLLIS: Yes.

10:27:05 20 PRESIDING JUDGE: So we'll stick with the fourth - third  
21 agenda item.

22 MS HOLLIS: Yes, Madam President. All written submissions  
23 in our view should be before your Honours no later than the 17th  
24 of December. And that is our recommendation to your Honours.

10:28:03 25 PRESIDING JUDGE: Right. Ms Hollis, I'm going to invite  
26 the Defence to give us their indication of when they propose the  
27 filing of the final trial briefs will be. What I propose to do  
28 actually is to go through the agenda items one by one. The Bench  
29 will then retire to consider carefully each item and then we'll

1 return with our decision on what we think is the best way  
2 forward.

3 So on item number 3, Mr Munyard, I think we'll hear from  
4 you.

10:28:39 5 MR MUNYARD: Thank you, Madam President. We are,  
6 of course, cognisant of the resources that we have. I don't  
7 propose outlining to the Court all the members of staff of the  
8 Prosecution, partly because, frankly, I've no idea and how many  
9 staff they have doesn't concern me. All I can say is that we  
10:29:03 10 have carefully, and I hope judiciously, attempted to come up with  
11 a realistic and reasonable timetable for the submission of a  
12 proper closing brief in this case. We have also, of course,  
13 taken account of practice in other trials. But, of course, this  
14 trial has its own unique features. And you, as the judges,  
10:29:34 15 although you've sat on another case, are all too cognisant of the  
16 unique features of this case, and so past practice, while  
17 helpful, is in no way binding and may not in fact be a  
18 particularly useful guide when it comes to looking at the time  
19 table for this case.

10:29:54 20 May I note in relation to the RUF case, there the Trial  
21 Chamber issued a date for the filing of the closing brief, the  
22 final trial brief, some three months before that date. On  
23 29 April 2008 they set a date of 29 July for the submission of  
24 the final brief. Now, by that time, 29 April, when they gave  
10:30:32 25 that order, the first accused's case was closed. I accept,  
26 of course, that they, obviously, had an interest in the remaining  
27 witnesses relating to the other two accused. But I'm merely  
28 raising this to illustrate that giving examples of what happened  
29 in other cases isn't always of direct application to this case.

1           As far as we are concerned, we looked at the  
2 remaining weeks of the year. We've also borne in mind that there  
3 is likely to be a judicial recess. We're assuming that there is  
4 going to be a judicial recess. And so doing the best we could,  
10:31:26 5 we worked on an assumption, and it is only an assumption, and you  
6 yourselves will make all the decisions. But we worked on an  
7 assumption that if there was a three-week judicial recess  
8 commencing close of business Friday 17 December, that that our  
9 submission is that the date for the filing of the final trial  
10:31:53 10 brief would be the end of the first week after a three-week  
11 judicial recess. And let me give you the dates I'm talking  
12 about. If the Court rose on Friday 17 December, and after a  
13 three-week break sat again on Monday 10 January, we would invite  
14 you to say that Friday 14 January would be an appropriate date  
10:32:26 15 for the filing of the final trial brief.

16           If any party was able to submit their final trial brief  
17 before that date, or as Ms Hollis has just indicated, she takes  
18 the view that Friday 17 December is more than enough time for  
19 both parties to put in their final trial brief, then it may well  
10:32:51 20 be that one or other party could file it before the date the  
21 Court sets. But doing the best we can and being realistic about  
22 the size of the task before us, being realistic about the huge  
23 number of exhibits in this case, for example, that makes it very  
24 different from the RUF case and the other cases, we came to the  
10:33:12 25 conclusion that nine working weeks rather than eight would be an  
26 appropriate time in which to complete that task. That,  
27 of course, leaves the parties some time, whatever time they  
28 choose, to work over the course of the recess, or part of it.  
29 And so that effectively we are asking for one more week than the

1 Prosecution are asking for, but it does give the parties the  
2 opportunity of using the judicial recess to continue work.

10:34:07 3 PRESIDING JUDGE: What you are saying, Mr Munyard, is you  
4 are incorporating one more week, effectively, but also  
5 incorporating the judicial recess in this scenario.

6 MR MUNYARD: Well, the time period would include the  
7 judicial recess. It's entirely up to the parties what they use  
8 that recess for.

10:34:26 9 PRESIDING JUDGE: I understand. Okay. Just give me a  
10 moment.

11 MR MUNYARD: Certainly. I was just going to say is there  
12 any other area you would like me to deal with in relation to the  
13 date for the final trial brief.

10:35:01 14 PRESIDING JUDGE: No, Mr Munyard, there's nothing else on  
15 that agenda item.

16 MR MUNYARD: Thank you.

17 PRESIDING JUDGE: As I said, we'll go through the agenda  
18 items and then the Trial Chamber will retire.

10:35:13 19 Item agenda number 4 is the length of the final trial  
20 briefs. Now, as you know, there's a length I think prescribed in  
21 the practice direction, but we'll discuss this. We'll hear your  
22 views, Ms Hollis.

23 MS HOLLIS: Madam Prosecutor, your Honours, at an informal  
24 meeting on 20 October the Defence indicated that they wished a  
10:35:35 25 length - an extension of the length to no more than 600 pages.  
26 And the Prosecution does not object to that request for an  
27 extension of the length of the final trial brief to no more than  
28 600 pages.

29 PRESIDING JUDGE: What about your own brief? I thought

1 you - are you talking about the length of your own brief or the  
2 length of the Defence brief?

3 MS HOLLIS: We're talking about the Court giving to both  
4 parties an extension of no more than 600 pages.

10:36:16 5 The Defence has proposed that. We do not object to that.  
6 We are hopeful that ours will not be that length, but if your  
7 Honours were to grant that for the Defence, we would ask that  
8 similarly, you grant that the Prosecution be allowed to file a  
9 final trial brief of no more than 600 pages.

10:36:38 10 PRESIDING JUDGE: Very well. Mr Munyard, is that in order?

11 MR MUNYARD: That's correct. And I note in passing,  
12 although I have just invited the Court, to a certain extent, not  
13 to take account of past practice, the only thing I would say  
14 about past practice is that none of the other trials have adhered  
10:36:58 15 to the limits set out in the practice direction. They've all  
16 exceeded them by up to and including 600 pages. I've no more to  
17 say on that. Thank you.

18 PRESIDING JUDGE: Very well. Item agenda number 5, which  
19 is the possibility of a written response to the final trial  
10:37:30 20 briefs and then the date - if we do think that that's suitable, a  
21 date and the length thereof of filing of that response. This  
22 again is an item agenda proposed by the parties. Perhaps I'll  
23 hear you from you, Mr Munyard, first.

24 MR MUNYARD: Madam President, we thought, bearing in mind  
10:37:56 25 the size of the case, and bearing in mind the inevitable  
26 necessity to deal with a number of issues raised by the opposite  
27 party, that it might be convenient for - not just the parties but  
28 the Court also - to have in writing the response on key issues of  
29 each party to the other party's final brief. And we were

1 proposing that because we thought that it would actually help to  
2 clarify issues before a short hearing - or short oral hearing  
3 which is provided for in the rules as the final stage in this  
4 part of the case. And so what we would propose is perhaps three  
10:38:57 5 weeks after receipt, after the filing of the final trial brief,  
6 the parties' written submissions in response, limited to a  
7 page limit of 100 pages, no more than 100 pages in response. And  
8 then - well, I don't want to move on to item number 6, I think -

9 PRESIDING JUDGE: Is this by consent or is this a Defence  
10:39:37 10 proposal purely?

11 MR MUNYARD: It was a Defence proposal. I think that what  
12 came out of the informal meeting between the parties two days ago  
13 was that if it were to happen, then it should - there should be a  
14 page limit of no more than 100 pages. I think we agreed that the  
10:39:59 15 page limit, not necessarily the principle of written submissions.

16 PRESIDING JUDGE: Ms Hollis, what are the Prosecution views  
17 on this?

18 MS HOLLIS: Well, we do believe that past practice is  
19 something to look at, and we see no reason to deviate from past  
10:40:19 20 practice in this case. And the past practice has been that the  
21 oral argument is the opportunity for the parties to respond to  
22 the opposing party's final trial brief. The fact that the  
23 parties have to deal with issues that the other party has raised  
24 is not new to this case, that's been true in all of the cases,  
10:40:42 25 and the practice in this Court has been to deal with those issues  
26 in oral argument. We would suggest that that is an appropriate  
27 practice, it is an efficient practice and it is one that should  
28 be followed.

29 In terms of clarifying issues for the Trial Chamber, your

1 Honours will have the benefit of the final trial briefs. You  
2 will have had the benefit to review those and to determine in  
3 your own minds what areas you want additional clarification on,  
4 and of course that could be given in the form of responses to  
10:41:13 5 your questions during oral argument. So we don't think either of  
6 those reasons would justify having a separate written response  
7 that would further delay the final conclusion of this Court - of  
8 this case and providing the case to your Honours for  
9 deliberation.

10:41:33 10 We believe that responding during oral argument is a fair  
11 procedure. It requires, in some ways, the parties to focus more  
12 clearly on the significant issues so as to fit them within the  
13 time frame of oral argument. And if your Honours want additional  
14 submissions in writing after reviewing the final trial briefs and  
10:41:55 15 even the oral arguments, you can certainly direct that.

16 So we do not support a request for a written response. In  
17 our view, it should be as has been the practice in the past and  
18 it should be part of the oral argument in the case. And we  
19 certainly would not support a written response three weeks after  
10:42:16 20 a final trial brief that the Defence proposes to you would not be  
21 filed until sometime in January. We'd be looking  
22 at January or February before all of the written responses, all  
23 of the written submissions were before your Honours. And we  
24 don't think that that is fair or expeditious and we do not  
10:42:36 25 support that.

26 PRESIDING JUDGE: Thank you. And, Ms Hollis, whilst you're  
27 on your feet, I'll ask you to address us on the sixth agenda  
28 item, that's the date for presentation of the closing arguments.

29 MS HOLLIS: Yes, Madam President. This is tied somewhat

1 with our suggestion for the recess, and so I will base it on that  
2 and then give a more conditional answer.

3 What we suggest is that the oral argument occur during the  
4 week of 17 January for three consecutive days. We choose the  
10:43:26 5 week of 17 January because we will suggest to your Honours that  
6 there should be a recess that would end the week of 17 January.

7 Three consecutive days. The first day would be oral  
8 argument for the Prosecution. And the reason that we are in  
9 agreement of one day each for the Prosecution and Defence to make  
10:43:53 10 their initial closing arguments to your Honours is that,

11 of course, we do have a lengthy record and so one day would give  
12 the parties the ability to respond to the opposing brief as well  
13 as to respond to your Honours' questions. So the first day the  
14 Prosecution would make its oral argument to your Honours. The

10:44:17 15 next day the Defence for one day would make its oral submissions  
16 to your Honours. On the third day the Prosecution and the  
17 Defence would each have one half day to address any issues that  
18 have arisen during the prior two days that were not addressed at  
19 that time. So three days; one day Prosecution, second day

10:44:41 20 Defence, third day Prosecution and Defence each having a half  
21 day. That is our proposal to your Honours.

22 In terms of three consecutive days and the order that I  
23 have just outlined, that, it is my understanding, was agreed to  
24 by the Defence during our informal meeting on 20 October,  
10:45:03 25 although of course the dates for the oral argument were not  
26 agreed.

27 PRESIDING JUDGE: Thank you. Mr Munyard, please address us  
28 on the same issues.

29 MR MUNYARD: Madam President, I'm not entirely sure if I

1 followed Ms Hollis on the dates, because I thought she was saying  
2 consistent with the Prosecution's position in our informal  
3 meeting, that they were proposing a four-week recess ending the  
4 week - ending on the 17th - sorry, a four-week recess - oh, yes,  
10:45:35 5 I have understood her. They are proposing a four-week recess  
6 followed by a week in which there is oral argument.

7 I'll simply address the matter from our perspective, if I  
8 may, rather than responding specifically to the dates and  
9 proposals put forward by my learned friend.

10:45:58 10 On our proposal, if the Court were to adopt a three-week  
11 recess and then come back and at the end of the first week have  
12 the final briefs submitted, then if we're talking about final  
13 briefs of up to 600 pages each --

14 PRESIDING JUDGE: Sorry, Mr Munyard, you have your judicial  
10:46:26 15 recess ending precisely when?

16 MR MUNYARD: Well, the Court would resume on Monday,  
17 10 January. Final briefs lodged on Friday, 14 January. That's  
18 the one extra week. Well, I say it's one extra week that the  
19 Defence are suggesting. On the Prosecution's timetable of course  
10:46:43 20 it's not an extra week because their timetable postulates a  
21 four-week recess. And so we'd all be coming back on the 17th  
22 rather than the 10th. However, I'll stick to our proposals --

23 PRESIDING JUDGE: Mr Munyard, stick to your proposals.  
24 We'll work the mathematics out.

10:47:04 25 MR MUNYARD: Yes, exactly. If we were to submit final  
26 briefs on the 14th, then it would be in our submission  
27 unrealistic to expect oral argument on the final briefs,  
28 including the opposing party's final brief in the following week.  
29 And we would submit that two weeks would be needed for the

1 parties to digest each other's final briefs and be in a position  
2 to then follow it with oral argument. And so we would suggest  
3 two weeks later.

10:47:41

4 PRESIDING JUDGE: But, Mr Munyard, did you not just a few  
5 moments ago say that after your final briefs, if you were to go  
6 for a written response, and at this stage it's only the Defence  
7 that's in favour of this --

8 MR MUNYARD: Yes.

10:47:59

9 PRESIDING JUDGE: You would need three weeks after the  
10 filing on the 14th. Isn't that what you've just said?

11 MR MUNYARD: Yes. I'm sorry, I'm addressing the - I'm  
12 dealing first of all on the assumption that there isn't a written  
13 response.

14 PRESIDING JUDGE: No, I don't think you can do that.

10:48:13

15 MR MUNYARD: All right.

16 PRESIDING JUDGE: I want you to be consistent in the  
17 Defence timeline as you see it.

10:48:29

18 MR MUNYARD: All right. I did submit earlier three weeks  
19 for a written response. If the Court - the Court may decide that  
20 a written response would be appropriate but not give us such a  
21 long time. And so either a two-week or a three-week time to  
22 submit a written response. If we work on my original three weeks  
23 written response, then a week after that, which would take us to  
24 the end of the first week in February - so we'd be beginning  
25 Monday, 7 February for the oral argument.

10:48:58

26 Now, we do agree with the Prosecution one day for the  
27 Prosecution, one day for the Defence, and then half a day each in  
28 rebuttal. It may be that the Court would think it appropriate to  
29 have a break between the first two days and the rebuttal day. It

1 may be that you would think one day for Prosecution, one day for  
2 the Defence, a day's break then for the parties to consider each  
3 other's arguments and come back on day four for the half day each  
4 in rebuttal. That's a matter for the Court. I suggest that as  
10:49:40 5 one practical approach to that.

6 So sticking with our proposed timetable, file the closing  
7 brief on the 14th, three weeks later written response, which  
8 takes us to Friday the 4th, and argument starting on Monday the  
9 7th, oral argument.

10 PRESIDING JUDGE: 7th of February?

11 MR MUNYARD: Yes.

12 PRESIDING JUDGE: 2011. And the Defence timeline has the  
13 whole thing wrapped up by when exactly?

14 MR MUNYARD: Well, either 7th, 8th and 9th, ending on  
10:50:33 15 9 February with the two half days of oral argument - sorry, the  
16 day in which each party has half a day to present their oral  
17 argument. Or, if you thought it appropriate, have a break on the  
18 Wednesday and the parties come back on the Thursday to present a  
19 half day each of oral response.

10:50:59 20 PRESIDING JUDGE: Thank you. Mr Munyard, I don't know,  
21 this is probably rhetorical now, but we're on agenda item  
22 number 8, which is the date for the proposed judicial recess, the  
23 next judicial recess.

24 Mr Munyard, please address us on your reasons, if I may  
10:52:01 25 say, for wanting a judicial recess and for the length that you  
26 propose of the judicial recess.

27 MR MUNYARD: Borrowing the words from my learned friend  
28 opposite, past practice has always provided a judicial recess  
29 over the Christmas and New Year period. Past practice has

1 involved initially the announcement of a three-week judicial  
2 recess over that period and then much closer to the time we have  
3 had an extra week added on. And so past practice has involved a  
4 four-week judicial recess. We are not asking for that length of  
10:52:39 5 time. We are asking for what has been traditionally a three-week  
6 judicial recess, because it seems to be consistent with the three  
7 previous years that we've been here. I was trying to count the  
8 number then, that's why I was slightly lost.

9 I mentioned three weeks rather than four because when we  
10:53:14 10 have been given a fourth week it's been given later and for  
11 reasons I no longer recall. And so I am, on this occasion,  
12 relying entirely on past practice.

13 PRESIDING JUDGE: So you propose a three-week recess  
14 starting?

10:53:40 15 MR MUNYARD: 5 p.m. or 5.30 p.m., whatever our closing time  
16 is, on Friday, 17th December and resuming on Monday,  
17 10th January 2011.

18 PRESIDING JUDGE: Thank you, Mr Munyard.

19 MR MUNYARD: May I say, I don't mind being given a  
10:53:59 20 four-week judicial recess but we're not asking for it at this  
21 stage. We're certainly not opposing it.

22 PRESIDING JUDGE: Ms Hollis, what are your views on the  
23 coming judicial recess other than past practice?

24 MS HOLLIS: Well, we would suggest that our views will be  
10:54:20 25 consistent with past practice. Our recommendation, consistent  
26 with our request that the final trial briefs be filed no later  
27 than 17 December, is that we, indeed, be given a judicial recess  
28 commencing that following Monday, 20th December to 17th January.  
29 The 17th of January being the first working day after the recess.

1 And we request the four-week period, contingent on the date  
2 determined that the final trial brief will be filed.

3 The reason that we suggest four weeks after a filing on the  
4 17th is that, indeed, in the past this Trial Chamber in this case  
10:55:11 5 has given four-week - recesses of four weeks, that it would be  
6 appropriate at that time, because four weeks gives each party  
7 sufficient time to be able to phase time off, vacation time for  
8 its members, but still continue to work toward what we hope will  
9 be oral submissions. So the four weeks gives us flexibility in  
10:55:40 10 terms of what period of time people may take off on our team, so  
11 we can stagger that. We do not look at a recess as everybody  
12 going home and not working during the recess, but we do look at  
13 it as a time to give our people some time off but still enable  
14 them to be able to work toward our next objective. That's the  
10:56:02 15 reason that we suggest the four weeks if the filing date is  
16 17th December. Should your Honours make the filing date  
17 in January, then we would ask, as does the Defence, for a  
18 three-week recess.

19 So if your Honours do not order final trial briefs to be  
10:56:25 20 filed on 17th December but you order them to be filed later, then  
21 we support the Defence request for a three-week recess, the first  
22 day of that recess being 20th December.

23 Are there are any other questions about that, that I may  
24 answer?

10:57:00 25 PRESIDING JUDGE: No, I was just wondering about the - I  
26 suppose I'm asking this because I don't have a calendar for next  
27 year in front of me. But if we were to look at the four weeks  
28 that you propose, commencing 20 January 2010 [sic], then we would  
29 be back in court precisely when?

1 MS HOLLIS: We propose the oral arguments the week of  
2 17th January, 17th is a Monday, so the recess would be over on  
3 the Monday. What we propose is that the arguments take place the  
4 19th, 20th and 21st. So that by the end of the week of the 17th  
10:57:40 5 of January all submissions will have been made to your Honours  
6 and the case will be to your Honours for your deliberations. So  
7 the 17th of January is a Monday, the 19th is a Wednesday, the  
8 20th a Thursday, 21st a Friday, of January.

9 PRESIDING JUDGE: Actually, the simple question I had asked  
10:58:10 10 is; how long do you have your judicial recess ending, your  
11 four-week recess ending? That's the simple question I asked,  
12 without anything else.

13 MS HOLLIS: If it is four weeks, the recess itself would be  
14 over as of the 17th, that would be the first duty day after the  
10:58:26 15 recess.

16 PRESIDING JUDGE: Okay.

17 MS HOLLIS: And we would propose the arguments at the end  
18 of that week, the Wednesday, Thursday, Friday.

19 PRESIDING JUDGE: Thank you. Now, that brings me to the  
10:58:40 20 last agenda item, which is any other business. Is there any  
21 other issue that the parties wish to bring to the Chamber's  
22 attention before we retire to deliberate?

23 MR MUNYARD: No, thank you.

24 MS HOLLIS: We have nothing further.

10:59:46 25 PRESIDING JUDGE: We think that we need sufficient time to  
26 look up a number of things that will help us to fix specific  
27 dates, in view of all these things that we've discussed today.  
28 And so I reckon that we will take the rest of the morning to do  
29 that, and we will reconvene at 2 o'clock with - we will - just

1 one moment, please.

2 Like I was saying, we will reconvene at 2 o'clock and  
3 return with some rulings on the time frames. Thank you.

4 [Break taken at 11.03 a.m.]

13:50:59 5 [Upon resuming at 2.18 p.m.]

6 PRESIDING JUDGE: Yes, good afternoon. Ms Hollis, you are  
7 on your feet.

8 MS HOLLIS: May I note a change of appearance, Madam  
9 President, Mr Koumjian is no longer at the Prosecution table.

14:18:54 10 MR MUNYARD: Likewise, Madam President, there is a change  
11 of appearance on the Defence Bench, in that Mr Anyah is no longer  
12 here.

13 PRESIDING JUDGE: That is noted, and, of course, the  
14 accused continues not to be here, but as ruled before, we will  
14:19:08 15 proceed.

16 Now, after considering the submissions of the parties on  
17 the agenda items set for the status conference, the Trial Chamber  
18 has fixed specific dates for the final stages of the trial  
19 proceedings in this case.

14:19:26 20 In fixing the dates we have taken into account a number of  
21 factors. Firstly, we've taken into account the fact that the  
22 Defence has confirmed to the Court that its last witness will be  
23 witness DCT-102 whom they expect will start testimony on the 1st  
24 of November. After which testimony the Defence will then  
14:19:49 25 formally close its case or at the very latest, by  
26 12 November 2010. The date being the date that the Trial Chamber  
27 ordered earlier for formal closure of the Defence case.

28 We've also taken into account that given the complexity of  
29 this case and the unprecedented volume of the evidence and

1 transcripts - and here I'm given to believe from the registry  
2 that we have over 1,000 exhibits filed and for the time being we  
3 have up to 50,000 or thereabouts, 50,000 pages of transcript.  
4 Now, in view of that volume, the Trial Chamber expects nothing  
14:20:40 5 less than comprehensive and well reasoned arguments, in the final  
6 trial briefs and closing arguments, because these are the kinds  
7 of arguments that will assist us in our deliberations and  
8 judgment writing at the end.

9 Here I would like to note that from past experience, of  
14:21:02 10 both Trial Chambers of this Court, the final trial briefs of the  
11 parties have often not been comprehensive or well reasoned  
12 enough, with the result that judgment writing has been delayed or  
13 certainly not assisted by the submissions of the parties.

14 Accordingly, the Trial Chamber has taken into account the fact  
14:21:26 15 that the parties require adequate time to be able to prepare well  
16 reasoned, well researched and comprehensive final trial briefs.

17 Now, thirdly, and related to this is the issue of the  
18 written responses to the final trial briefs. Here the Trial  
19 Chamber agrees with the Defence that written responses tend to be  
14:21:51 20 well thought out and more comprehensive than oral arguments  
21 delivered in court. And that they are ultimately more helpful to  
22 the Trial Chamber during its deliberations and judgment writing.  
23 And so we will agree that - we have agreed that if a party wishes  
24 to respond to the final trial briefs, it will have to be in the  
14:22:18 25 form of written responses.

26 Now, we've also taken into account, given that the year is  
27 coming to an end, that everyone needs to take a meaningful break.  
28 We've seen the staff, the parties around, looking fatigued, and,  
29 of course, here we are mindful that the judicial recesses that

1 have been scheduled so far this year have not really been  
2 meaningful as the staff and parties have often worked right  
3 through those recesses and certainly the judges have not been  
4 able to take a break throughout the year. So the Trial Chamber  
14:23:02 5 intends to accord the staff and the parties and themselves a  
6 meaningful break towards the end of this year, provided,  
7 of course, that the recess will not prevent a party or the  
8 parties, if they so choose, to make filings during the recess.  
9 But that will be their choice.

14:23:24 10 Also in fixing the dates the Trial Chamber has taken into  
11 account the fact that after receiving the final trial briefs or  
12 written response, as the case may be, an opposing party would  
13 require sufficient time to study the pleadings, meaningfully  
14 before it can respond. And the parties appear to have overlooked  
14:23:48 15 this aspect in the morning when they were making their  
16 submissions. So we've tried to provide or factor in the aspect  
17 of the time required. And lastly, of course, we've noted the  
18 aspects upon which the parties agree, for example, the length of  
19 the final trial briefs et cetera.

14:24:09 20 And so the Trial Chamber makes the following orders:

21 1, that the Defence case will formally close soon after the  
22 end of the testimony of witness DCT-102 or at the very latest by  
23 12th November 2010.

24 The Trial Chamber also schedules a three-week judicial  
14:24:36 25 recess commencing close of business Friday 17 December 2010 and  
26 which ends at the beginning or the opening of business on Monday  
27 10 January 2011, in other words, we expect to see everybody back  
28 at work by Monday, 9 o'clock in the morning, Monday  
29 10 January 2010 - 2011, I beg your pardon.

1 Final trial briefs will be filed by close of business  
2 Friday 14th January 2011. Of course, if a party is ready well  
3 before that and they feel that they need to file before, they're  
4 welcome to do that.

14:25:24 5 Now, the written responses, if a party wishes to make  
6 written responses, those will be filed by close of business  
7 Monday 31 January 2011.

8 The oral arguments are scheduled to commence on Tuesday  
9 8 February and the Prosecution will take that day to make their  
10 closing arguments. The next day, Wednesday 9 February, the  
11 Defence will make their closing arguments. There will be a  
12 one-day hiatus on 10 February for the parties to consider any  
13 rebuttals that they may wish to make. Then on Friday  
14 11 February, and we intend only to sit during the morning hours,  
14:26:21 15 so Friday we will commence at 9 o'clock with the Prosecution  
16 rebuttal, if any, and that will be two hours from nine until  
17 eleven, for the Prosecution rebuttal, and we will close with the  
18 Defence rebuttal from 11.30 to 1.30. So you see there's a  
19 30-minute break in between the two rebuttals.

14:26:46 20 Now, the Trial Chamber will issue a formal scheduling  
21 order, perhaps I omitted to state that the length of the final  
22 trial briefs, as agreed by the parties, will be not more than 600  
23 pages each. And the length of the written responses, if any,  
24 will not exceed 100 pages each.

14:27:21 25 With those orders I will now adjourn the proceedings to  
26 1 November at 9 o'clock in the morning for the testimony of  
27 witness DCT-102.

28 MR MUNYARD: Madam President, before we formally leave  
29 today, we would like, on behalf of the Defence team, to record

1 our warm appreciation of the work of Ms Sidney Thompson, one of  
2 your legal officers who is leaving the Court, who has been a  
3 pleasure to work with all the years that we've been here, and we  
4 wish her well in her practice, in her criminal practice in the  
5 future.

14:27:58

6 PRESIDING JUDGE: Thank you, Mr Munyard, that's very  
7 thoughtful of you. And Ms Sidney is definitely in court I think,  
8 isn't she? Yes, I'm sorry. And those comments are appreciated.

9 Court will adjourn until 1 November at 9 o'clock.

14:28:40

10 [Whereupon the hearing adjourned at 2.29 p.m.  
11 to be reconvened on Monday, 1 November 2010 at  
12 9.00 a.m.]

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