

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra
4 and Judge Christine Van den Wyngaert
5 Situation: Democratic Republic of the Congo -
6 ICC-01/04-01/07

7 In the case of The Prosecutor v. Germain Katanga and
8 Mathieu Ngudjolo Chui
9 Trial Hearing

10 Tuesday, 7 September 2010

11 (The hearing starts at 9.08 a.m.)

12 (Open session)

13 THE COURT USHER: All rise. The International
14 Criminal Court is now in session.

15 PRESIDING JUDGE COTTE: (Interpretation) The Court
16 is now in session. Please be seated. The accused are with
17 us.

18 Counsel O'Shea, you wish to make an intervention and
19 go back over the issue raised by Counsel Luvengika last week.
20 We are listening to you.

21 MR O'SHEA: Yes, thank you very much, Mr President,
22 your Honours.

23 This is a brief application and it's a two-stage
24 application which is made firstly not to the Chamber, but to
25 the legal representatives of the victims through the

1 Chamber, and secondly if it becomes necessary an application
2 to this Chamber.

3 On 1 September, which is a short while ago now,
4 having had a couple of days out of court at the end of last
5 week, it was raised by my learned friend Mr Macdonald, for
6 the Prosecution, that there was evidence which the
7 Prosecution was investigating which was of a potentially
8 exonerating nature and, if I recall the words of
9 Mr Macdonald, potentially exonerating nature in relation to
10 evidence which has already been called before the Chamber.

11 Now, there was some discussion during the course of
12 that piece of information being provided to the Chamber where
13 the Prosecution indicated that they were embarking upon
14 investigations, where the legal representatives indicated
15 that they were distributing resources towards those
16 investigations, although as I understand it merely from a
17 protocol point of view, and following those discussions I did
18 approach the legal representatives of the victims. I won't
19 disclose the details of the conversation between counsel, but
20 suffice to say that I did approach the legal representatives
21 of the victims with a view to possibly ascertaining the
22 nature of this potentially exculpatory evidence.

23 I repeat that application to the legal
24 representatives in open court through your Honours. We would
25 like, if possible, to know as of today - and we don't see why

1 not - the nature of this potentially exonerating material so
2 that we are in a position to from our side see what, if any,
3 steps we should be taking, or preparing for.

4 I understand that there are investigations being
5 conducted into this but, as things stand at the moment, there
6 is obviously information in the hands of the legal
7 representatives, or at least according to the representation
8 of Mr Macdonald, which would suggest potentially exculpatory
9 material.

10 And it may not -- it may be that we can't be
11 provided with all the details, but we could be provided
12 for -- with the nature of this exonerating material, or the
13 reasons why it's felt that it is or may be of an exonerating
14 nature.

15 Of course I note that the Appeals Chamber has
16 confirmed this Trial Chamber's observations that there is no
17 general obligation of disclosure of exculpatory material by
18 legal representations -- by legal representatives on the
19 Defence, as there is in the hands of the Prosecution.

20 However, in my submission, there's a distinction
21 between a situation where one is arguing that the legal
22 representatives have a general obligation to disclose
23 information in their possession and to search for and provide
24 such information in a general way, and a situation such as
25 this one where it has been openly declared in front of the

1 accused that such material exists, or may exist.

2 I think that puts us in a situation which is
3 slightly distinguished from the general propositions which we
4 put to the Appeals Chamber some time ago. But, of course,
5 aside from the legal position, it is always open to the legal
6 representatives to provide information as a matter of
7 courtesy between counsel, if necessary, and in the interest
8 of fairness to the proceedings. So I invite a reaction from
9 the legal representatives on this matter.

10 The Prosecution, of course, do have an obligation to
11 disclose exculpatory material but they may say, well, we are
12 investigating at this point in time information which has
13 been provided to us by the legal representatives and we are
14 not in a position to say anything at this time, if we were to
15 ask them on a strictly legal basis. But, again, it may be
16 that the Prosecution, from their side, might be in a position
17 to provide us with information, at least to the nature of
18 this exculpatory material. And then, if we get a negative
19 reaction from all corners of the court, then we turn to your
20 Honours to exercise your Honour's discretion, perhaps under
21 Article 64, and bear in mind the rights of the accused, in
22 particular, the adequate time and facilities to prepare the
23 Defence, to exercise your Honour's discretion to make an
24 appropriate order, if the Court feels appropriate.

25 Thank you.

1 MR KILENDA: (Interpretation) If you would allow
2 me.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you
4 Counsel O'Shea. Please go ahead, Counsel Kilenda.

5 MR KILENDA: (Interpretation) Thank you, your
6 Honour, your Honours. I will just intervene briefly here in
7 order to support what was said by Counsel O'Shea. We
8 consider that this approach really goes in the right step.
9 It is going in the direction of a fair trial, and we also
10 think that the legal representatives of victims who has
11 provided the information to the Office of the Prosecutor did
12 so following his investigations in the field and, as such, we
13 do not see why the Office of the Prosecutor should take too
14 much time in order to investigate with regards to these
15 facts.

16 This evidence was brought to the Prosecution
17 following investigations carried out by the colleague, and I
18 think this colleague should be believed, and we have every
19 reason to trust that person. So, the steps that are taken
20 are right. We would like to go to the Chamber so that it
21 rules with regards to this.

22 PRESIDING JUDGE COTTE: (Interpretation)
23 Prosecutor, I have the feeling that one of you wants to take
24 the floor.

25 MR DUTERTRE: (Interpretation) Good morning, your

1 Honour. Good morning, your Honours. I do want to take the
2 floor perhaps before the legal representatives take it, but I
3 think they give me leave to do so.

4 I have six points, all of which are quite short,
5 related to this question.

6 Firstly, at the moment we are dealing with this
7 question.

8 Secondly, when it comes to having the necessary
9 means, this is something that we have to do as short as -- as
10 quickly as possible, so, unlike what my honourable
11 contradictor, Counsel Kilenda, says that we're taking too
12 much time, we are currently dealing with this issue. Doing
13 things quickly is good, but doing things well is better, and
14 this is -- we are taking the necessary measures to deal with
15 this issue; that it's too early at this stage to say if the
16 information will be exculpatory or not. If we're going to
17 have something which is exculpatory, then -- and that is the
18 reason for the investigations that we are carrying out, to
19 try and see what it is.

20 Fourthly, if we stated that, that is because the
21 Prosecution has nothing to hide and that it does not wish to
22 surprise the participants and the Chamber. As soon as we
23 have the necessary elements, we would like to inform everyone
24 thereof.

25 And my fifth point: This does not mean, however,

1 that there can already be disclosure of the information
2 called for by Counsel O'Shea. There are two openings with
3 regards to the same evidence. You have the Prosecutor and
4 you also have the legal representatives channel, if you like,
5 but it's the same issue which is at stake.

6 Counsel O'Shea recognises that we are carrying out
7 investigations and that it's legitimate in not disclosing
8 information at this stage, and I would say that we have to
9 preserve the integrity of the investigations that we're
10 carrying out at the moment.

11 The last point that I wanted to make is that once we
12 have got the necessary elements, information, then if there's
13 a disclosure obligation, we will do so. The disclosure will
14 have the time that's needed to prepare. It's not because
15 today there's no information which is precise communicated or
16 disclosed to the Defence that they will not afterwards have
17 the time to take the necessary measures in order to carry out
18 its work. So, if you like, the time lag in terms of the
19 disclosure of information does not violate in any way the
20 rights of the Defence, quite the opposite.

21 The work we are doing is done to ensure that the
22 Defence rights are fully respected, and we will -- we are
23 carrying out investigations. If we have to, we will provide
24 disclosure, and then the Defence can do what it considers to
25 be necessary. It's clear that the procedure which has been

1 undertaken by the Prosecution with speed, by putting the
2 necessary means in order to achieve it, has been done in
3 order to ensure that the rights of the Defence are respected.

4 Very briefly, that's what I wanted to say, your
5 Honour, and I shall now give the floor to Counsel Luvengika,
6 who I think would also like to provide his point of view in
7 this regard.

8 PRESIDING JUDGE COTTE: (Interpretation) We're just
9 going to wait for a moment before giving the floor to Counsel
10 Luvengika. I would just ask you for a moment. Thank you,
11 Prosecutor.

12 Before giving the floor to Counsel Luvengika,
13 Counsel O'Shea, you have come back to an issue which was
14 dealt with by the Prosecutor Macdonald on 1 September, and on
15 that occasion we learned that Counsel Luvengika, legal
16 representative of victims, of the large majority of victims,
17 had turned to the Office of the Prosecutor to the extent that
18 it has to investigate both exculpatory and inculpatory
19 matters and incriminating matters, and what we have
20 understood, that if any victim of which is the legal
21 representative may be able to provide exculpatory evidence
22 which the Defence can benefit from.

23 The Prosecutor indicated to us that he was
24 investigating with regard to information that Counsel
25 Luvengika felt that it was necessary to provide him with.

1 The Chamber wished that these investigations be done very
2 quickly and that an update be made on 15 September.

3 The Chamber also recalled on this occasion that if
4 it would appear that the Prosecutor was showing facts which
5 were exculpatory, then it was up to the Prosecutor and
6 incumbent upon him to disclose them.

7 The Chamber also stated that if Counsel Luvengika
8 was going to ask for the authorisation to call these victims
9 as witnesses, and if the Chamber granted that, then the
10 Defence could also in its cross-examination obtain further
11 clarification with regards to these potentially exculpatory
12 facts.

13 Now, the Chamber also stated that if Counsel
14 Luvengika did not intend to ask for leave to call these
15 victims as witnesses, then the Defence could themselves call
16 these witnesses if they considered it to be important for the
17 Court to hear their testimony. This is where we are at the
18 moment.

19 Counsel Luvengika, you are the person who had the
20 feeling that one or whichever of the victims that you
21 represented could possibly have potentially exonerating
22 evidence. You turned to the Prosecutor in this regard, and
23 we understand the sense of that because the Prosecutor has to
24 investigate both exonerating and incriminating facts.

25 Now, on this matter, the legal representatives of

1 victims has shown that you are not an objective ally of the
2 Prosecutor but that you were also showing a concern in
3 order -- with the means that the Prosecutor has available to
4 them, which are more than yours, that you wanted to show
5 potentially exculpatory evidence. Having said that, if you
6 wish to give some evidence to the Defence team with regards
7 to what you consider to be potentially exculpatory evidence,
8 the Chamber sees no problem with that. That is an issue that
9 has to be debated between counsel.

10 The legal representatives of victims are the
11 hostages of nobody, not of the Prosecutor and not of the
12 Defence teams either. They have their place here. If you
13 think that within the framework of the professional work that
14 you carry out that you can provide evidence that would
15 possibly be favourable for the Defence team, with a view to
16 preparation, then please do so, but this is up to your
17 judgment. It is not either about going against the
18 investigations that the Office of the Prosecutor has -- is
19 carrying out because, as we have just recalled, this
20 Prosecutor has the necessary means, is trying to carry out
21 its duties with due diligence, and it will disclose. If it
22 does consider that there are potentially exculpatory
23 evidence, it shall disclose it. That is its legal
24 obligation. But, once again, the Chamber cannot prevent
25 contact between the parties and it will -- at the appropriate

1 junction, shall see when -- if there has been disclosure or
2 if there has not and, if there has been disclosure, if this
3 evidence is potentially exonerating.

4 Now, we're not able to state anything at the moment,
5 but we shall give you full freedom to meet Counsel O'Shea and
6 Counsel Kilenda.

7 Counsel Luvengika, you have the floor but you know
8 our point of view in this regard.

9 MR LUVENGIKA: (Interpretation) Your Honour,
10 Judges, yes. The Prosecutor has already summarised the
11 situation that is of concern to us. I have listened very
12 carefully to the remarks made by the Presiding Judge.

13 It is true that the Defence has never considered the
14 dealings between the legal representatives and their clients
15 as true client/solicitor dealings. I have contacts with my
16 clients, the victims, and during discussions with them I
17 learned about various events and because of my code of ethics
18 I am not in a position to disclose anything that was said to
19 me in confidence. But with the authorisation of the victims
20 concerned themselves, if I receive authorisation from them, I
21 can share information with the OTP. That is one point.

22 My second point is that if the Office of the
23 Prosecutor and I hastened to organise a trip back to the
24 field, it is because at the current state of affairs we do
25 not have sufficient detail regarding this information, and so

1 this is why we wish to explore this information in greater
2 depth.

3 Unlike what my learned friend, Mr O'Shea, is saying,
4 our presence, within this mission is not just a matter of
5 protocol or contacts between certain participants and
6 victims. It is because, as the Presiding Judge just said,
7 our clients, our victims, may be called here to give
8 testimony here in the Court. That is why during this trip
9 the Prosecutor will conduct investigations on these various
10 exonerating elements, and we will take statements from
11 victims and, if the statements are relevant, we will disclose
12 to the Chamber, at the right time, so that the Chamber can
13 decide whether this victim should appear before the Chamber.

14 For the time being, I do not have any documents or
15 exhibits to disclose to you, to disclose to the Defence, and
16 I do not have sufficiently detailed information regarding
17 these materials. We are acting in good faith. We wish to
18 help. I know that the whole issue of disclosure of
19 exonerating material - and I know this is an issue very dear
20 to the hearts of the Defence counsel - we understand.

21 We must consider the ruling of the Appeals Chamber.
22 This obligation does exist but -- and, out of courtesy, if we
23 are in a position to provide material to you, uncontroversial
24 material that I may have learned of to move things ahead, I
25 will not hesitate to disclose them to you but, for the time

1 being, we do not have specific items. So that is the
2 approach we are taking and perhaps within a week, or slightly
3 longer, everything shall be clear.

4 There you have it, your Honour.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
6 Mr Luvengika. Mr Gilissen.

7 MR GILISSEN: (Interpretation) Mr President, I'm
8 not in a position to say too much, but I'm very much aware of
9 what has just happened. I think there is a true difficulty
10 here.

11 This is not the Defence's business, what we are
12 doing with managing the interests of the people whom we
13 represent. I think there is an extremely serious
14 intellectual abuse going on here. To put this -- cast this
15 debate in the light of fairness, there is no obligation, and
16 if -- to try to dribble, to take an image from the world of
17 sports, and to say that this application, this principle,
18 does not apply. I would say that, from an intellectual point
19 of view, we are playing with the most fundamental principles
20 and then adding the volition to perhaps change the rules in
21 the middle of the match. And I would say be very careful.
22 Be very careful. You are on a very slippery slope, and this
23 is a real problem.

24 This is a matter of our own internal management, our
25 own internal handling of the interests of our clients. And I

1 must reiterate, and I am going to be very clear about this,
2 let there be no mistake. There is no obligation -- no
3 obligation has been announced by the Chamber or confirmed by
4 the Appeals Chamber. Now, the explanations are clear. There
5 is no legal obligation. There is no concrete material for
6 the time being. But just to be very clear, there may be a
7 problem, and portraying this as a matter of fairness, well,
8 this is not acceptable. I am extremely aware that the
9 problem has been cast in this way.

10 One can wish to have information - that is
11 respectable - but to suggest that we have an obligation,
12 whereas the Defence is always -- when the Defence violates
13 all principles, acts in a unilateral manner with a person
14 represented who has not received a copy of his written
15 statement, and we have been waiting for months. So I think
16 there is nothing, nothing reasonable about that, Mr Kilenda.
17 And this is really very disturbing, your Honours.

18 If it were a matter of courtesy, I think my
19 colleague and I, Mr Luvengika, we are certainly very
20 courteous, but trying to impose nonexistent legal obligations
21 upon us, really, I think, in one way or another, there is an
22 attempt here to channel rights. And there you have it, your
23 Honours.

24 I didn't want to take up too much time, but I did
25 want to speak out. I think there is a real problem here.

1 Fairness is something that has to be demonstrated throughout
2 the entire process and, you know, before a child is even
3 born, to continue to suggest while we attempt. And I thank
4 the Chamber for its understanding. We have been perfectly
5 loyal. We will speak of the problem but, to say that we have
6 an obligation, that is -- the Defence can only expect a blunt
7 refusal for us.

8 PRESIDING JUDGE COTTE: (Interpretation) Very
9 quickly, the Chamber wishes to end this discussion.

10 MR KILENDA: (Interpretation) Thank you. Your
11 Honours, as you know, the law is something that is subject to
12 interpretation. One might misinterpret a rule, but we do
13 have an obligation, when we sense that there is a problem, to
14 raise an issue and, at the appropriate moment, you, the
15 Judges, impartial arbiters, will have to make sense of it
16 all. And I don't think it's an intellectual abuse, as
17 Mr Gilissen put it, of a very serious nature. It was an
18 issue that was raised with respect for all parties and
19 participants.

20 You offered a solution, the legal representatives
21 announced their positions, which is respectable, and we
22 respect their position. But I would point out to my learned
23 friend, Mr Luvengika, he said that we have never considered
24 the dealings that he has with his victims as dealings between
25 solicitor and client. That has never been our concern. We

1 realise that they are lawyers, they are on the other side of
2 the courtroom, and one day we might find ourselves on the
3 other side of the courtroom, and we certainly have respect.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you
5 for those remarks, those very calm and positive remarks.

6 Mr Dutertre, very quickly, because I do want to end
7 this discussion so that we can move on to our next witness.

8 MR DUTERTRE: (Interpretation) I will be even
9 briefer. Article 54(1)(a) states that the Prosecution has a
10 certain obligation, and we must preserve the integrity of the
11 investigation that we are conducting.

12 PRESIDING JUDGE COTTE: (Interpretation) Very well.
13 First of all, just on a more humorous note, in light of the
14 nationality of the Presiding Judge, any comparisons or
15 metaphors from the world of football is -- they are out of
16 order. They are forbidden.

17 Secondly, the Chamber does not want any courtroom
18 dramatics, nor do we wish a climate of suspicion to prevail.
19 The Chamber has the impression that ever since we've begun
20 discussing this matter each party and participant has been
21 playing its role, has played its cards, but within a general
22 framework of mutual trust, and I think we must continue in
23 this manner.

24 The Chamber finds itself with two considerations.
25 And on the one hand, on the Defence side there is a strong

1 appetite for potentially exonerating information from one of
2 the victims who's represented by Mr Luvengika. The Defence
3 teams are straining at the leash, so to speak. On the other
4 hand, Mr Luvengika, who has put this very well, he has a
5 concern. He wishes to delve into the information more
6 deeply. He needs additional time so that he can provide,
7 within this framework of dealings between the lawyers, the
8 legal representatives, et cetera -- he wishes to delve more
9 deeply into the information.

10 Now, there is no obligation on the legal
11 representatives to disclose exonerating information. We were
12 reminded of this, and I believe Mr O'Shea touched upon that
13 in his own remarks. He mentioned the Appeals Chamber's
14 decision. So there is no fire. The Chamber on 1 September
15 asked the OTP to take stock of this and report back by 15
16 September, and investigations were to be conducted as quickly
17 as possible.

18 Mr Luvengika, Prosecutor, 15 September, you will
19 take stock, report back to us and we do hope -- and well, why
20 not? Mr Luvengika may have additional information at that
21 time and, if he believes that he needs to present them
22 briefly in open court, he will do so. If he believes that in
23 a personal discussion with the Defence counsel he is to do
24 that, he will do that. If he is of the belief that he is not
25 in a position to do so, that is what he will do.

1 Now, if disclosure is to be conducted of exonerating
2 material, the Defence will have the appropriate time to
3 decide
4 what this disclosure means for them and how they will use
5 this potentially exonerating material that they may be
6 receiving. So we will deal with this again on 15 September.

7 Madam Court Officer, we will go into closed session
8 so that the witness can enter the courtroom, but before that,
9 the two accused - Mr Ngudjolo and Mr Katanga - will have to
10 briefly leave the courtroom pursuant to yesterday's ruling so
11 that the witness can enter the courtroom without them being
12 present.

13 I think you will remember that it was decided that
14 we will not install the longer curtains, the side curtains.

15 (The accused exit the courtroom)

16 PRESIDING JUDGE COTTE: (Interpretation) Court
17 usher, have the side curtains been withdrawn or pushed back
18 sufficiently? Have the curtains been pushed back
19 sufficiently or is that the usual position that the curtains
20 are in? In any event, the curtains should not hide or -- the
21 witness from the accused persons. Yes, please.

22 (Closed session at 9.46 a.m.)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Open session at 9.52 a.m.)

11 PRESIDING JUDGE COTTE: (Interpretation) Courtroom
12 security officers, if you could bring the two accused back
13 into the courtroom. Thank you.

14 THE COURT OFFICER: We are in open session, your
15 Honours.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank
17 you, court officer.

18 (The accused enter the courtroom)

19 MR KILENDA: (Interpretation) Please, your Honour,
20 I don't want to disturb the proceedings, but I would like to
21 know whether you have decided whether or not our client must
22 sit elsewhere.

23 PRESIDING JUDGE COTTE: (Interpretation) Indeed.
24 Security officers, Mr Ngudjolo -- they don't understand.
25 Madam Court Officer, could you say in English that

1 Mr Ngudjolo may remain in his place. I did not see that -- I
2 believe there's a misunderstanding or someone is not
3 understanding.

4 THE COURT OFFICER: Thank you, your Honour. Just
5 for the security information, the -- Mr Ngudjolo and Mr
6 Katanga should be seated where they are usually seated.

7 PRESIDING JUDGE COTTE: (Interpretation) You will
8 have to ensure that the screen of Mr Ngudjolo is -- once
9 again, make sure that it's operating again.

10 I'm just repeating, just before we begin hearing
11 from our new witness -- Mr Ngudjolo, our decision yesterday
12 was a first, so to speak. There was a slight hitch, and now
13 you can go back to your place.

14 Good morning, Witness, can you hear me?

15 THE WITNESS: (Interpretation) Yes.

16 PRESIDING JUDGE COTTE: (Interpretation) Very well.
17 Witness, the Court will now hear your testimony. You will
18 help us better understand the events that have been -- that
19 are alleged, and your testimony is important to this Court.

20 You're already familiar with giving testimony, since
21 you already appeared before another Chamber of the
22 International Criminal Court, so you are well aware of how
23 things operate, how the Prosecution begins questioning and
24 then the legal representatives and then the Defence teams.

25 Since the representatives of the VWU have told you

1 this, you are to speak with no one about your testimony, what
2 you say or what you hear in this room. You will enjoy a
3 number of protective measures: We will use a pseudonym when
4 speaking to you. We will say "Witness" or we will refer to
5 you as "Witness 2." Your voice will be distorted; in other
6 words, it will be made non-identifying. And your image will
7 also be scrambled so that no one will be able to recognise
8 you on the computer screens.

9 When necessary the proceedings will be held in
10 private session and the Chamber reminds all parties and
11 participants, once again, that it is extremely important to
12 use private session as little as possible.

13 As you may have seen, you will be entering the
14 courtroom without the accused being present and you will
15 leave the courtroom once they have left themselves. I would
16 like to ask you to look at the Chamber when you speak,
17 because you will be addressing us.

18 As you know, you must speak slowly so that the
19 interpreters can translate your remarks so that everyone can
20 understand your answers to the questions. So please speak
21 slowly, speak loudly and speak only in one language so as not
22 to make the work of the interpreters even more difficult.

23 For a few moments we are going to go into private
24 session so that you can give us some identifying information.
25 We need this identifying information but, of course, it is to

1 be provided in private session.

2 Madam Court Officer, if we could go into private
3 session for a moment.

4 (Private session at 9.58 a.m.)

5 (Expunged)

6 (Expunged)

7 (Expunged)

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17 (Expunged)

18 (Open session at 10.02 a.m.)

19 THE COURT OFFICER: We are in open session, your
20 Honours.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank
22 you, Madam Court Officer.

23 Mr Witness, as you are aware, before starting your
24 testimony you must undertake to speak the truth. This is a
25 solemn undertaking. I'm going to read it slowly, so that you

1 should understand it's importance clearly as well as its
2 scope, so listen to me very attentively: "I solemnly declare
3 that I will speak the truth, the whole truth and nothing but
4 the truth." Did you understand me?

5 THE WITNESS: (Interpretation) Very well.

6 PRESIDING JUDGE COTTE: (Interpretation)
7 Mr Witness, do you now undertake to speak the truth, the
8 whole truth and nothing but the truth?

9 THE WITNESS: (Interpretation) Yes.

10 WITNESS: DRC-OTP-P-0002 (Sworn)

11 (The witness answers through interpreter)

12 PRESIDING JUDGE COTTE: (Interpretation) Mr
13 Witness, once again, please listen to me very carefully. You
14 have just undertaken to speak the truth, the whole truth and
15 nothing but the truth. If in the course of your testimony,
16 or in answer to questions that are put to you, you do not
17 speak the truth, you may be prosecuted before the
18 International Criminal Court for false testimony and, if the
19 facts are proven, you could be convicted. Once again, did
20 you understand me well?

21 THE WITNESS: Yes, I have understood you. I declare
22 that I will speak the truth and nothing but the truth.

23 PRESIDING JUDGE COTTE: (Interpretation) The whole
24 truth. Thank you, Mr Witness. The Court notes that the
25 provisions of Article 69(1) of the Statute and Rule 66,

1 paragraphs (1) and (3) of the Rules of Procedure and
2 Evidence, have been complied with.

3 Once again, Mr Witness, let me remind you that you
4 have to speak only one language, you have to speak loudly,
5 very slowly and into the microphone. In front of you you
6 have a jug of water and a glass, and you can have a drink of
7 water any time you want during the testimony. The Court has
8 no problem with that. You also have in front of you a box of
9 tissue paper that you can use freely and you can blow your
10 nose whenever you want - we do not have a problem with that -
11 especially since you are in a place where it is not very hot.

12 The Court recalls that yesterday, or rather
13 recalled, that we will begin with the excerpts of the
14 statement and annexes that were admitted that we will begin,
15 as well as the extracts that have been admitted subject to
16 the consent of the witness, and this will be the
17 responsibility of the Prosecutor.

18 We can immediately begin with the cross-examination
19 of the Defence teams with regard to the extracts that were
20 admitted. That was the essence of the decision of last 16
21 July and I wanted to remind you of that.

22 So, Mr Witness, it will be the Prosecutor who will
23 address you now.

24 You have the floor, Ms Luping.

25 MS LUPING: (Interpretation) Good morning, your

1 Honours. Good morning, Mr Witness.

2 QUESTIONED BY MS LUPING:

3 Q. (Speaks English) My name is Dianne Luping and I'm
4 going to be questioning you on behalf of the Office of the
5 Prosecutor in this case against Germain Katanga and Mathieu
6 Ngudjolo.

7 Before I start, I just wanted to raise a few points.
8 First, I would ask that you not hesitate to let me know if
9 any of my questions are not clear. Simply ask and I can
10 either repeat the question, or reformulate it.

11 Secondly, I would ask that you listen very carefully
12 to the specific questions that I pose and only answer those
13 specific questions.

14 If there are any questions that might reveal your
15 identity, I will ask the leave of the Presiding Judge to go
16 into private session. This means that nobody outside this
17 room can hear the information that you are providing that can
18 identify you. Is that understood, Mr Witness?

19 A. Yes, I can understand you perfectly.

20 Q. Mr Witness, do you remember meeting staff of the
21 Office of the Prosecutor in May, June and July of 2005?

22 A. Yes.

23 Q. And do you remember providing them in May 2005 with
24 your first witness statement?

25 A. Yes, I do remember.

1 Q. And do you confirm that you told the truth, to the
2 best of your knowledge?

3 A. Yes.

4 MS LUPING: I refer to divider 0A in everybody's
5 binders and statement DRC-OTP-0087-0146; a document which has
6 currently been assigned MFI-OTP-00144. I'd ask that the
7 court usher please provide this document to the witness so
8 that he can read it.

9 Q. Mr Witness, I'm just going to explain that I will
10 be asking you some brief questions relating to this document.
11 If you just flick through it, you will see that the document
12 in certain parts is highlighted. Please just ignore those
13 highlights. They should be of no concern to you. It's just
14 a matter of procedure just pursuant to a decision of this
15 Chamber.

16 My first question is: Is this the document -- I am
17 sorry, is this document the statement that you gave to the
18 Office of the Prosecutor in May 2005?

19 Mr Witness, I'll ask -- I'll ask a few other
20 questions first before getting you to confirm this. I'd ask
21 you first just to turn to every page to look at the bottom of
22 each page. If you look at the bottom of each page,
23 Mr Witness, can you confirm that you recognise your initials
24 at the bottom of each page?

25 Mr Witness, would you like me to repeat the

1 question?

2 A. Yes, please.

3 Q. Okay. Could you please look at the bottom of each
4 page and confirm whether you recognise your initials at the
5 bottom of each page?

6 A. Yes.

7 Q. Thank you. And if you turn to page 9 of your
8 statement, if the court usher could assist you it's page
9 DRC-0008-7153, can you confirm is that your signature?

10 A. Yes.

11 Q. And the date that is set out there, 11 May 2005, do
12 you confirm that this is when you signed the statement?

13 THE INTERPRETER: The Swahili interpreter did not
14 hear the witness's answer.

15 PRESIDING JUDGE COTTE: (Interpretation)
16 Mr Witness, can you repeat your answer. The interpreter did
17 not quite hear you, please.

18 THE WITNESS: Yes. Yes, I recognise that the
19 signature is mine, and the date indicated is correct.

20 MS LUPING:

21 Q. So, is this document the statement you gave to the
22 Office of the Prosecutor in May 2005?

23 A. Yes.

24 Q. Do you confirm that you consent to the admission as
25 your testimony of portions of your witness statement?

1 A. Yes.

2 MS LUPING: Mr President, if an EVD number could be
3 please be assigned to this document. It should have a
4 confidential status.

5 PRESIDING JUDGE COTTE: (Interpretation) Court
6 officer, please assign an EVD reference to this document
7 which so far had an MFI number. So this is this first
8 statement of this witness.

9 THE COURT OFFICER: Your Honour, the documents which
10 has previously been assigned with the number MFI-OTP-00144
11 will become EVD-OTP-00144 and it is -- it remains
12 confidential. Thank you.

13 PRESIDING JUDGE COTTE: (Interpretation) Please
14 proceed, Ms Luping.

15 MS LUPING: If the court usher could provide the
16 next document to the witness. This is in divider 0B of
17 everybody's binders. It is document DRC-OTP-0087-0188. It
18 has MFI number OTP-00145.

19 Q. Mr Witness, again, parts of the document has been
20 highlighted but, again, don't let this concern you. This is
21 simply again a manner of -- a question of procedure. Could
22 you please look at the bottom of each page of this document.
23 And my question is if you recognise your initials at the
24 bottom of each page.

25 A. Yes.

1 Q. And if the court usher could assist you because
2 I'll be asking if you could turn to page 20 at the end of the
3 statement, that is page DRC-0008-7206. My question is: Do
4 you recognise your signature on this page?

5 A. Yes.

6 Q. And the date indicated of 12 July 2005, is that the
7 date that you signed the statement?

8 A. Yes.

9 Q. And this document is the second witness statement
10 you provided to the Office of the Prosecutor in June, July,
11 2005; isn't that correct?

12 A. Yes.

13 Q. Mr Witness, do you confirm that you consent to
14 admission of portions of your second witness statement as
15 your testimony?

16 A. Yes, I have no problem with that.

17 MS LUPING: Mr President, if an EVD number could be
18 please be assigned to this document. It should have a
19 confidential status.

20 PRESIDING JUDGE COTTE: (Interpretation) Court
21 officer, just like we have done, the second document will
22 move from MFI to EVD. Please assign a number.

23 THE COURT OFFICER: Thank you, your Honour. And
24 just to confirm with the counsel, I understand she's
25 referring to DRC-OTP-0087-0188-H01; is that correct?

1 MS LUPING: That is correct.

2 THE COURT OFFICER: Thank you. And therefore the
3 MFI, MFI-OTP-00145, will become EVD-OTP-00145, and it remains
4 confidential.

5 MS LUPING: Thank you. If the court usher could
6 provide the four remaining documents to the witness. For the
7 record, these are four annexes and the ERNs are
8 DRC-OTP-0087-0213-H01; DRC-OTP-0087-0227-H01;
9 DRC-OTP-0087-0236-H01; and DRC-OTP-0087-0256-H01. MFI
10 numbers have already been assigned to these documents ranging
11 from 00146 to 00149.

12 Q. Mr Witness, again, parts of the documents that I've
13 just -- that have just been put before you have been
14 highlighted. Again, ignore those highlights. I'd first ask
15 you to look at the initials at the bottom of each page and
16 ask again if you can confirm that these are your initials.

17 A. Yes, those are my initials.

18 Q. And can you confirm that these are some of the
19 annexes you provided to the Office of the Prosecutor in July
20 2005, and are commentaries on video footage?

21 A. Yes.

22 Q. And do you confirm that you consent to admission of
23 portions of these annexes as your testimony?

24 A. Yes.

25 MS LUPING: Mr President, if EVD numbers could

1 please assigned to these four documents, and they should all
2 have a confidential status.

3 PRESIDING JUDGE COTTE: (Interpretation) Court
4 officer, for the four documents, let us move from MFI to EVD.

5 THE COURT OFFICER: Your Honour, therefore, MFI
6 numbers ranging from MFI-OTP-0046 through MFI-OTP-00149 will
7 become EVD-OTP-00146 through EVD-OTP-00149, and all four
8 documents remain confidential. Thank you.

9 PRESIDING JUDGE COTTE: (Interpretation) Please
10 proceeded, Madam Prosecutor.

11 MS LUPING: Mr President, I'll now be dealing with
12 the five video excerpts and the corresponding excerpts of the
13 transcripts and translations as provisionally admitted into
14 the evidence. If we could please just briefly go into
15 private session so I can discuss a matter which is
16 potentially identifying.

17 PRESIDING JUDGE COTTE: (Interpretation) Court
18 officer, let us go into private session.

19 Mr O'Shea, you want to address the Court in open
20 session or private session?

21 MR O'SHEA: Open, please. Sorry, I was a bit late
22 on my feet.

23 PRESIDING JUDGE COTTE: (Interpretation) Court
24 officer, for the time being, let us stay in open session.
25 Mr O'Shea.

1 MR O'SHEA: Yes, Mr President. Obviously, in one
2 sense, I'm being a bit premature because I don't know the
3 questions that my learned friend is going to put. I'd just
4 like to say that my understanding of the procedure which was
5 going to be adopted is that once the statements and the
6 videos were going to be admitted - statements and video
7 extracts were going to be admitted - that we would proceed
8 immediately to cross-examination on those admitted extracts.

9 I understand that my learned friend for the
10 Prosecution has stated that she wishes to ask some questions,
11 and I may be -- I may be completely pre-empting her, but I'd
12 just like clarification as to what's going to happen now.

13 PRESIDING JUDGE COTTE: (Interpretation) Madam
14 Prosecutor, can you please clarify the situation, not on the
15 substance of the questions that you are going to put but on
16 the methodology that you intend to use.

17 MS LUPING: Certainly, Mr President. The questions
18 are of a similar nature that I have been asking. It's simply
19 a matter of procedure. The point is that the matter and the
20 way I will be putting it will be potentially identifying.
21 That is all.

22 PRESIDING JUDGE COTTE: (Interpretation) Very
23 well. Let us immediately go into private session for the
24 time being, court officer.

25 (Public session at 10.28 a.m.)

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Page 34 expunged. Private session.

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22 (Open session at 10.33 a.m.)

23 THE COURT OFFICER: We are in open session, your
24 Honours.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

1 court officer.

2 It's good that the public know what they can hear.
3 So the Prosecutor proposed a moment ago to present a video
4 extract to the witness. This is the video extract.

5 Court officer, usher, you're going to make that
6 appear on our screens, if you would. Thank you very much.

7 MS LUPING: Thank you. Just to repeat again, this
8 can be shown publicly and it will require interpretation.
9 Could the court officer please confirm if it's on the
10 screens? My colleague cannot see it on her screen.

11 PRESIDING JUDGE COTTE: (Interpretation) We are
12 going to continue with our lesson in collective patience,
13 waiting for the technician to get the presentation up.

14 Witness, there appears to be a slight technical
15 problem. This explains why the Prosecutor is still being
16 silent for the moment.

17 MS LUPING: Mr President, I believe it's working
18 now.

19 (Video extract played)

20 PRESIDING JUDGE COTTE: (Interpretation) We're very
21 pleased. Please continue, Prosecutor.

22 MS LUPING: A reminder; this particular excerpt can
23 be played publicly and it does require sound interpretation.

24 (Video extract played)

25 THE INTERPRETER: "(Interpretation) Thank you very

1 much, ladies and gentlemen. Thank you for having accepted
2 the invitation to come here. (No interpretation) ... that
3 needless to say, that this is a very historic day for all the
4 people of Ituri, because this marks the beginning of the
5 process which (inaudible). (No interpretation) ... corporate
6 delegations would be speaking. And all she was hoping from
7 the participants is that they would give their best so that
8 the objective which is sought by all, which is the return of
9 peace to Ituri, can be obtained. Finally, we explained that
10 the pacification role has been given to the government of
11 Angola. But whilst we wait for the arrival of the
12 facilitators from Angola (inaudible), which is myself,
13 geo-political and police officer of MONUC, and at the same
14 time head of the MONUC office in Uganda and chairman of the
15 MONUC Ituri pacification task force, I have been asked to try
16 to facilitate the works of the group and the Angolans
17 hopefully to come to join us. Thank you very much. (No
18 interpretation)." (End of interpretation).

19 MS LUPING: I am simply pausing because I want to
20 clarify that the witness is actually seeing the video footage
21 on the screen. Could the witness confirm that he does have
22 the image on his screen, please?

23 THE WITNESS: I see nothing on my screen.

24 PRESIDING JUDGE COTTE: (Interpretation)

25 Mr O'Shea.

1 MR O'SHEA: Yes. I just wanted to draw attention to
2 my learned friend and to the Chamber that we're not receiving
3 an English translation. I realise that there's a form of
4 sort of English summary of what's being said in French, but
5 through our earphones we're not receiving the English
6 translation.

7 THE INTERPRETER: The English booth would kindly
8 request that the Prosecutor give us the tab number and then
9 we will be able to use the prepared transcripts.

10 PRESIDING JUDGE COTTE: (Interpretation) The last
11 intervention was spoken slowly in French in a completely
12 audible way. Were there difficulties in particular for the
13 interpretation booth where it concerns and particularly the
14 last intervention which was perfect?

15 MS LUPING: Mr President, what I will do is -- for
16 the sake of the interpreters, I will give the divider number,
17 the transcript and translation references including pages and
18 lines as highlighted in their binders. It's divider 0G. The
19 transcript reference is DRC-OTP-1042-0010, pages 33 to 36.
20 That's lines 880991. The translation is DRC-OTP-1041-0442,
21 pages 0469 to 0472. And the relevant lines are 1025 to 1139.
22 I'll now be replaying this for the sake of the witness.

23 Q. Mr Witness, with every extract if you wouldn't mind
24 putting my hand up as we're playing it to indicate if there's
25 any problem before we start. I will be replaying this

1 footage from the start, so that you have the opportunity to
2 follow this extract.

3 THE INTERPRETER: Message from the English booth.
4 If you could give us a moment to find our spot in the binder.

5 MR O'SHEA: I think the interpreter wanted to say
6 something.

7 PRESIDING JUDGE COTTE: (No interpretation).

8 MR O'SHEA: Yes. And, Mr President, I just wanted
9 to say to my learned friend that I'll also raise my hand if
10 there's a problem, so I don't have to interrupt the extract
11 so that she can verify it from her side and decide what to
12 do.

13 PRESIDING JUDGE COTTE: (No interpretation).

14 MS LUPING: Thank you, Mr President. And obviously,
15 the interpreters do have the translations and transcript
16 references. So if there's also any problem with sound,
17 hopefully they can also be using this as a form of
18 assistance. Thank you.

19 THE INTERPRETER: The interpreters would like to
20 thank the Prosecutor for kindly giving us the references.

21 MS LUPING: And I'd like to thank the interpreters
22 for their work.

23 PRESIDING JUDGE COTTE: (Interpretation) Please
24 just be careful with regards to the time, Madam Luping. We
25 have got ten minutes.

1 (Video extract played)

2 THE INTERPRETER: "(Interpretation) ... in Ituri,
3 (inaudible) based in Bunia, Mr Masum Khan (phon) of the
4 (inaudible). I'm going to give the floor to Mr Khan.
5 Mr Khan. Thank you very much, Mr (inaudible). Thank you
6 very much.

7 Ladies and gentlemen, it is a shame that -- well,
8 I'm afraid that we haven't had the time. Thank you for
9 having responded to our invitation for the start of the
10 launching of the preparatory committee for the commission for
11 the pacification of Ituri.

12 I think that it's not exaggerated to say that this
13 is a great day for the Iturians, men and women, because I
14 think that this day marks the start of the work of the
15 pacification commission in Ituri and you have all been called
16 upon with all our wishes so that together, with you alongside
17 us, we can ensure that peace and reconciliation returns to
18 Ituri.

19 This region has certainly - which is very dear to
20 you - certainly and which has undergone so many killings and
21 so many years of suffering. Mr Khan was starting to tell us
22 that this is a very historic (End of interpretation).

23 ... all the people of Ituri, because this marks the
24 beginning of the process which is to return (inaudible) all
25 of them (inaudible).

1 (Interpretation) I'm not going to make a speech
2 because the president (inaudible) is certainly going to do
3 it, but I'm going to give the impression of what's happening
4 today. I just wanted to quite simply say by finishing with
5 some words that we all have the hope that everyone amongst
6 you will give the best of themselves, so that this objective
7 which I've just mentioned be attained as soon as possible.

8 Now, who's directing our bureau in Kampala and is
9 responsible for playing the role of facilitator for the work
10 of the preparatory committee and while we're waiting for the
11 Angolan delegation for the validation who will play that
12 role, but unfortunately this Angolan delegation hasn't yet
13 arrived. So we are going to proceed with the work of the
14 preparatory committee, and I have the honour and the great
15 privilege of giving the floor to Mr (inaudible). (End of
16 interpretation).

17 ... will be speaking. And all she was hoping from
18 the participants is that they will give their best so that
19 the objective which is sought by all, which is the return of
20 peace to Ituri, can be obtained. Finally, we explained that
21 the facilitation role has been given to the government of
22 Angola. But whilst we wait for the arrival of the
23 facilitators from Angola (inaudible), which is myself,
24 geo-political and police officer of MONUC, and at the same
25 time head of the MONUC office in Uganda and chairman of the

1 MONUC Ituri pacification task force, I have been asked to try
2 to facilitate the works of the group and the Angolans
3 hopefully to come to join. Thank you very much.

4 (Interpretation) So I think that it was greatly
5 wished for on the occasion of this meeting that's starting
6 today. As we all know, this day marks the point of departure
7 of the preparatory work of the pacification commission of
8 Ituri. We seize this opportunity, firstly, to praise the
9 efforts made by the President of the Republic, His Excellency
10 Major General Joseph Kabila, who showed great application in
11 searching for peace for our country and in favour of the
12 Congolese people.

13 We wish that our brothers from Ituri get greater involved in
14 the process which is starting today. Obviously, this process
15 has been somewhat delayed. We won't go back over that. The
16 facilitation is sufficiently done but today, from today, we
17 wish that our brothers from Ituri involve themselves to a
18 greater extent in the process which is starting. This is the
19 same for all the leaders of this party. Part of the Republic
20 who we are -- they are expecting from us a total involvement
21 in the process which is starting today, and this process has
22 the end and the aim of the pacification of Ituri and also the
23 pacification of -- which is part of the pacification of the
24 whole of the Democratic Republic of Congo. Obviously --"
25 (End of interpretation).

1 MS LUPING: Mr President, I'm stopping at 7 minutes
2 and 3 seconds. Being conscious of the time, I would propose
3 that after the break I can -- I start from this point and
4 continue on.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank
6 you, Madam Prosecutor. You realise that these are
7 constraints that are beyond our control, for example, the
8 length of the recording tapes, and sometimes these
9 constraints are quite tiresome but, in any event, there you
10 have it. I'd like to ask the security officers to escort the
11 two accused out of the courtroom. We will resume in
12 half-an-hour.

13 Court officer, if we could go into closed session,
14 so that the accused -- correction, so that the witness can
15 leave the courtroom.

16 Witness, we will resume at 11.30. You'll have
17 half-an-hour to rest and relax.

18 (The accused stand down)

19 (Closed session at 11.02 a.m.)

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21 (Expunged)

22 (Expunged)

23 (Expunged)

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1 (Expunged)

2 (Open session at 11.03 a.m.)

3 THE COURT OFFICER: We are in open session, your
4 Honours.

5 PRESIDING JUDGE COTTE: (Interpretation) We will
6 now suspend our hearing and resume at 11.30.

7 (Recess taken at 11.03 a.m.)

8 (Upon resuming at 11.30 a.m.)

9 (Closed session)

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6 (Open session at 11.38 a.m.)

7 THE COURT OFFICER: We are in open session, your
8 Honours.

9 (The accused enter the courtroom)

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
11 court officer.

12 Madam Prosecutor, if you could resume where you
13 stopped. And you would like us to finish with the viewing of
14 a video extract? Please proceed. And we remind you, like
15 last week, we would be most appreciative if -- well, you may
16 conduct your examination seated or standing and, if you
17 choose to remain seated, the Chamber will take no offence.

18 MS LUPING: Thank you very much, Mr President. I
19 just want to first clarify with the court officer if the
20 footage is able to be seen on everybody's screens?

21 PRESIDING JUDGE COTTE: (Interpretation) The
22 technician will be coming to deal with one last technical
23 difficulty. And it is absolutely necessary that henceforth
24 several videos are going to be shown at the request of the
25 Prosecutor, or at the request of the Defence teams. It is

1 absolutely necessary for us to have no video or audio
2 problems.

3 (Pause in the proceedings)

4 MS LUPING: Mr President, just whilst the technical
5 problems are being sorted out, I have just a suggestion
6 perhaps to speed up the process, because for these excerpts
7 we're not going to be asking detailed questions. Perhaps if
8 the court officer could call up this document and, if she
9 could play it, that might speed things up, at least for these
10 five extracts, anyway.

11 The extract that this witness was being shown, it
12 has the MFI, MFI-OTP-00158. I can also provide her the ERN
13 of the original video, if she requires it, and it was from
14 minutes -- 6 minutes and 56 seconds. If she could play from
15 that point onwards.

16 PRESIDING JUDGE COTTE: (Interpretation) Agreed.
17 Court officer, did you hear the suggestion from the
18 Prosecutor?

19 (Video extract played)

20 MS LUPING: Court officer, if you could only play
21 from the time stamps 6 minutes and 56 seconds onwards so that
22 we don't repeat the whole thing.

23 PRESIDING JUDGE COTTE: (Interpretation) I beg your
24 pardon.

25 MR O'SHEA: You've probably already noticed that

1 we're having a problem with the French transcript, our side.
2 It's probably the same, your side.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
4 Mr O'Shea. I was going to speak when you were rising, but
5 you are ahead of me. Yes, the French transcript must begin
6 recording what's been said ever since the beginning of this
7 hearing, because there were some mention -- some mention made
8 of the pacification commission here, but I think that the
9 problem can be dealt with when the transcript is finalised.

10 Does the image appear on everyone's screens? I see
11 my own image.

12 JUDGE DIARRA: (Interpretation) Your Honour --

13 THE INTERPRETER: "(Interpretation) First of all,
14 I'd like to begin by congratulating the Government of the
15 Democratic Republic of the Congo, the people of Ituri and
16 MONUC for beginning the peace process in Ituri. (End of
17 interpretation).

18 ... this process has encountered a lot of obstacles
19 and it's, therefore, not the main achievement that at long
20 last (inaudible).

21 (Interpretation) As the facilitator mentioned, the
22 process has begun today. There were many obstacles in the
23 path and it's excellent that we were able to get things off
24 the ground this morning. (End of interpretation).

25 One of the stakeholders in (inaudible) that is the

1 UPC, soldiers are -- my -- I had a lot of pessimism that this
2 process would abort.

3 (Interpretation) Indeed, when on 6 March we were
4 attacked by one of the participants in the pacification
5 process, namely the UPC soldiers, I was very pessimistic.
6 (End of interpretation).

7 ... that this process had begun, because when I came
8 here, when I reached (inaudible) 20 May 2003 as a delegate to
9 this -- to the pacification commission, preparatory
10 committee, the situation was so hopeless that in fact at one
11 point I was -- it was being suggested that I came here not to
12 make peace, but to make war.

13 (Interpretation) So you can imagine just how happy
14 I am today to see things get going, because when I arrived
15 here a few weeks ago there were so many problems, so many
16 difficulties, some people even thought I had come here with a
17 hidden agenda, but I had come here as a member of the
18 preparatory committee and the work of this committee is
19 beginning today. (End of interpretation).

20 ... of this process by the starting of the
21 preparatory committee indicates the intentions of the Ugandan
22 government in Ituri.

23 (Interpretation) So with the beginning of the work
24 of the preparatory committee today, we see the volition of
25 the government to move ahead to solve the problems. (End of

1 interpretation).

2 Indeed, as the facilitator mentioned, this process
3 (inaudible) achievement that at long last that it will take
4 off today.

5 (Interpretation) As you mentioned, facilitator, the
6 process has had a number of obstacles, and today we were able
7 to get things off the ground. (End of interpretation).

8 ... by one of the stakeholders in the Ituri
9 pacification, that is the UPC soldiers, our -- my -- I had
10 basically a lot of pessimism that this process would abort.

11 (Interpretation) On 6 March when we attacked by one
12 of the parties in the peace process in Ituri we became more
13 pessimistic. (End of interpretation).

14 ... extremely excited that this process had begun."

15 MS LUPING: Mr President, if I could please ask the
16 court officer to stop the footage. I believe it's simply
17 replaying the last two minutes again that have already been
18 played.

19 PRESIDING JUDGE COTTE: (Interpretation) Court
20 officer.

21 Ms Luping, you wanted more footage to be shown or do
22 you wish to address the Court?

23 MS LUPING: No. I wanted the whole of the footage
24 to be shown, Mr President, but I just saw that it was simply
25 repeating a scene and the exact extract from approximately

1 two minutes ago. So it seemed to have jumped by two minutes.
2 If the court officer could confirm that the footage was shown
3 in its entirety before it jumped backwards.

4 THE COURT OFFICER: Could the counsel repeat the
5 minutes, the time codes?

6 MS LUPING: It was from 6 minutes 56 seconds, but I
7 believe we've already seen the most -- most of it already.
8 If you could confirm where you just stopped it at, please.

9 (Pause in proceedings)

10 PRESIDING JUDGE COTTE: (Interpretation) If there
11 is any particular difficulty and we have to play part of this
12 extract again we will do so, but we can't remain on standby
13 like this.

14 Madam Prosecutor, apparently owing to technical
15 difficulties - and I am totally taken aback, because my
16 ignorance knows no bounds when it comes to AV matters - we
17 are obliged to replay the extract. We will play it again.

18 Court officer, I would like to ask you to speak on
19 behalf of the Court. Please speak to the Registry and say
20 that it is unacceptable for us to have such difficulties
21 viewing extracts of video clips. Everyone has been preparing
22 for weeks; if not days, if not weeks. I am not targeting the
23 court officer or the court usher. These problems are much
24 more structural in nature, much broader.

25 This Chamber must ensure that the trial is conducted

1 expeditiously, and we can no longer lose time the way we are
2 losing time. So before the beginning of our hearings, before
3 our hearings resume after a suspension, trial-runs must be
4 done so that the Chamber can enter the courtroom and the
5 parties and the participants, the Chamber, the witnesses who
6 have come from far, and the accused who are here before the
7 Judges, are not -- can deal with a system that operates
8 properly. It's as simple as that. So we will now play.

9 JUDGE DIARRA: (Interpretation) Duly noted. The
10 Presidency takes note of this.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
12 I believe these are structural problems within the Registry.
13 The Registry is supposed to provide basic systems that
14 operate properly to the Chambers.

15 Madam Prosecutor.

16 MS LUPING: Thank you, Mr President. Perhaps just
17 to assist in this process, I believe that the extract does
18 not have to be replayed again. If I could just briefly go
19 into private session to ask one quick question of an
20 identifying nature and then we can go back into public
21 session again very rapidly.

22 PRESIDING JUDGE COTTE: (Interpretation) Certainly.
23 Now, public, we are going into private session for a moment
24 because the Prosecution will be asking a question that could
25 lead to the identity of the witness being revealed which we

1 must avoid at all cost. Madam Court Officer, if we could go
2 into private session.

3 (Private session at 11.55 a.m.)

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21 (Open session at 11.56 a.m.)

22 THE COURT OFFICER: We are in open session, your
23 Honours.

24 MS LUPING:

25 Q. Mr Witness, do you confirm that you consent to this

1 video extract being admitted as part of your testimony?

2 A. Yes.

3 MS LUPING: I note that an MFI number has already
4 been assigned to this video excerpt and to the relevant
5 extracts from the transcript and translation, and we would be
6 requesting an EVD number obviously after the
7 cross-examination by Defence in relation to this excerpt and
8 we can refer to the MFIs at that point in time.

9 I will be moving on to the second video excerpt and
10 I propose to play this. I believe the technicians did manage
11 to get it to work this time, so I will be playing it but it
12 cannot be shown publicly. It needs to be shown
13 confidentially and we will require sound interpretation.

14 The video excerpt is extract 1 from video
15 DRC-OTP-0081-0006. The original time stamps are at
16 15 seconds to 3 minutes 12 seconds. The MFI number is
17 MFI-OTP-00159. For the information of the interpreters, they
18 should be turning to 0H of their binders. The transcript
19 number is DRC-OTP-0180-0764, it's page number 765, and they
20 should refer to lines 3 to 37. The translation reference is
21 DRC-OTP-0180-0434, page 0436, again lines 3 to 37. If the
22 court officer could please confirm that everybody can see the
23 image on their screens and including the witness?

24 THE COURT OFFICER: It will be broadcast, yes.

25 MS LUPING:

1 Q. Mr Witness, can you confirm that you can see the
2 image on your screen? Is there anything on your screen?

3 A. The screen is still blank.

4 PRESIDING JUDGE COTTE: (Interpretation) That is
5 the same for me, Mr Witness, and also the accused persons, do
6 you have anything on your screens? No, we will wait for the
7 image to appear.

8 Given that this video extract is confidential, we
9 are going to go into private session. Court officer, please.

10 (Private session at 12.01 p.m.)

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Page 56 expunged. Private session.

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2 (Open session at 12.07 p.m.)

3 THE COURT OFFICER: We are in open session, your
4 Honours.

5 PRESIDING JUDGE COTTE: (Interpretation) Very well.
6 Madam Prosecutor, please continue.

7 MS LUPING:

8 Q. Mr Witness, do you consent to admitting this video
9 extract as part of your testimony?

10 A. Yes.

11 THE INTERPRETER: The Swahili booth is asking the
12 witness to move closer to the microphone when he's answering.

13 PRESIDING JUDGE COTTE: (Interpretation)
14 Mr Witness, the interpretation booth is asking you to move
15 closer to the microphone. You are speaking loudly and
16 closely, that is perfect, but you have to speak directly into
17 the microphone. Thank you.

18 Madam Prosecutor.

19 MS LUPING: Thank you, Mr President. We will be
20 seeking EVD numbers at the appropriate time after the
21 cross-examination by Defence on this extract. I will now be
22 seeking for the third video excerpt to be played. It can be
23 shown publicly. It is extract 1 from video
24 DRC-OTP-0082-0004, that's MFI-OTP-00160. The original time
25 stamps are 39 minutes 20 seconds to 41 minutes 23 seconds and

1 I'd also be requesting that there be interpretation. The
2 relevant binder divider is 0I. The transcript reference is
3 DRC-OTP-1050-0832. Please refer to page 0843, lines 395 to
4 410. The translation reference is DRC-OTP-1050-0801. That's
5 page 0814, lines 418 to 434. If the witness -- sorry, if the
6 witness could please confirm it is on his screen before it is
7 shown?

8 THE WITNESS: Yes, I can see the image.

9 PRESIDING JUDGE COTTE: (Interpretation) Let us
10 proceed.

11 (Video extract played)

12 THE INTERPRETER: "... your minister allow me to
13 briefly and be conscious of time bring -- make -- bring out a
14 few highlights as we mark the occasion when our forces,
15 especially the forces of the sector command of Mahagi, have
16 totally pulled out. I just want (inaudible) that all the
17 troops, all the troops, all the battalions of (inaudible)
18 command of Mahagi under Colonel (inaudible) have all pulled
19 out. I also want to inform (inaudible) and everybody here
20 present that all the troops in the other sector because as
21 you know we have two sectors, the Mahagi sector and the Bunia
22 sector, all the battalions of the other sector, the Bunia
23 sector, have all pulled out. We are only left with 55
24 battalion which is at the border on -- at Kasenyi. That is
25 the landing site, a lake town, on our border. They are

1 fighting with the (inaudible) on Lake Albert (inaudible)
2 logistics and finally walk 60 kilometres to (inaudible) and
3 then they have gone home. I would expect that to happen in a
4 few days.

5 So, sir, I want -- I wish on behalf of all the
6 commanders, all the staff officers and all the militants who
7 are here to thank you and through you to his excellency, the
8 President, and the commander-in-chief who made it possible
9 for this occasion to be organised, who facilitated this
10 occasion."

11 MS LUPING: Mr President, if we could briefly go
12 into private session for a question of an identifying nature.

13 PRESIDING JUDGE COTTE: (Interpretation) Private
14 session, please.

15 (Public session at 12.13 p.m.)

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4 (Open session at 12.14 p.m.)

5 THE COURT OFFICER: We are in open session, your
6 Honours.

7 PRESIDING JUDGE COTTE: (Interpretation) Very well.
8 Madam Prosecutor.

9 MS LUPING:

10 Q. Mr Witness, do you confirm that you consent to
11 admitting this video extract as part of your evidence?

12 A. Yes.

13 MS LUPING: Thank you. I'll now be moving on to the
14 fourth video excerpt, which will need to be played
15 confidentially, but with sound and interpretation. It's
16 extract 1 from video DRC-OTP-0087-0014. It has the
17 MFI-OTP-00161, original time stamps 5 seconds to 5 minutes.
18 For the interpreters' information, they should go to their
19 binders at 0J. Transcript reference is DRC-OTP-0181-0309,
20 pages 0314 to 0315, lines 3 to 48. The translation can be
21 found at DRC-OTP-0181-0165, pages 0171 to 0172, lines 5 to
22 60. If the court officer and if the witness could please
23 confirm that they see it on their screen before it's played
24 with sound.

25 PRESIDING JUDGE COTTE: (Interpretation) Given that

1 this is a confidential extract, we will go first of all to
2 private session so that the court officer can start showing
3 the video.

4 (Private session at 12.16 p.m.)

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21 (Open session at 12.26 p.m.)

22 MS LUPING:

23 Q. Mr Witness, do you confirm that you consent to the
24 admission of this video excerpt? Oh --

25 THE COURT OFFICER: We are in open session. I

1 apologise for interrupting you. Thank you.

2 MS LUPING: Thank you, court officer.

3 Q. Mr Witness, can you confirm that you consent to
4 admission of this video excerpt as part of your evidence?

5 A. Yes.

6 MS LUPING: I'll now be moving on to the fifth video
7 excerpt, which will also have a confidential status, and
8 sound and interpretation will be needed.

9 MR O'SHEA: Before that's done, Mr President, are we
10 in private session?

11 PRESIDING JUDGE COTTE: (Interpretation) For the
12 time being, no, we are in open session.

13 MR O'SHEA: Then can I go into private session for
14 one moment then, please?

15 PRESIDING JUDGE COTTE: (Interpretation) For
16 something that is identifying? Very well, let us go into
17 private session.

18 (Private session at 12.28 p.m.)

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24 (Open session at 12.32 p.m.)

25 PRESIDING JUDGE COTTE: (Interpretation) The

1 Chamber had understood by anticipation -- certainly
2 anticipation -- certainly anticipated what you were going to
3 say.

4 Quite simply, Prosecutor, where it concerns this
5 fifth extract, we are in the same configuration as for the
6 fourth excerpt; is that correct? For the fifth excerpt we're
7 doing in the same configuration as for the fourth one; is
8 that correct?

9 MS LUPING: That's correct. That's correct,
10 Mr President.

11 PRESIDING JUDGE COTTE: (Interpretation) We all
12 know - we all know - that there was a legitimate concern
13 given by Counsel O'Shea. This is one that is at everyone's
14 heart here. The Chamber -- very much foremost in this
15 regard, the Chamber is very much concerned that closed
16 sessions/private sessions have to be the exception. However,
17 we have to go into private session for this next excerpt.

18 Court officer, please, could you have the excerpt
19 appear on the screen.

20 (Private session at 12.34 p.m.)

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17 (Open session at 12.38 p.m.)

18 THE COURT OFFICER: We are in open session, your
19 Honours.

20 PRESIDING JUDGE COTTE: (Interpretation) Perfect.
21 Prosecutor.

22 MS LUPING:

23 Q. Mr Witness, do you confirm that you consent to
24 admission of this video extract as part of your evidence?

25 A. Yes.

1 MS LUPING: Mr President, those were the five video
2 excerpts provisionally admitted into evidence. The
3 Prosecution will be seeking EVDs for these, together with the
4 relevant translation and transcript references, following
5 cross-examination by Defence.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
7 Prosecutor. So the Chamber shall rule with regards to the
8 transformation of an MFI number into an EVD number once the
9 two Defence teams have proceeded with their
10 cross-examination.

11 Counsel O'Shea, you were first. Please have the
12 floor.

13 MR O'SHEA: Yes. Before I proceed to that,
14 Mr President, I note that we're now in public session and I'd
15 like to state that the Defence for Mr Katanga, in closed
16 session, expressed a concern regarding the public or closed
17 session nature of certain video extracts. The Chamber has
18 ruled that the extracts were properly in private session, the
19 ones, at least, that I referred to. However, I do have a
20 proposal. Because we, on the side of the Defence, we don't
21 want a situation where there's wrong or undue speculation as
22 to what's being shown and the extent of its incriminating
23 nature against Mr Katanga.

24 Our proposal is this: That the Prosecution, or the
25 Prosecution counsel, who is best placed to do this, I think,

1 just provide a short verbal summary of the nature of the
2 five -- or sorry -- the three video extracts which have been
3 shown, which have been broadcast confidentially, just so that
4 the public is aware of the nature of the content of the
5 videos in a general nature, in a general manner.

6 PRESIDING JUDGE COTTE: (Interpretation)
7 Prosecutor?

8 MS LUPING: Mr President, we do believe it's more
9 appropriate that if any summaries of these video extracts are
10 to be provided to the public, that it should be by the
11 Chamber, rather than the parties themselves.

12 (Trial Chamber confers)

13 PRESIDING JUDGE COTTE: (Interpretation) Counsel
14 O'Shea, because the subject is on the more general question
15 of private sessions and the use of, perhaps too frequent use
16 of private session, the Chamber would like to remind everyone
17 here that this is one of its constant concerns and has been
18 since the start of the substantive proceedings.

19 It would also remind everyone that you seized the
20 Chamber of an application, and it is about to answer that
21 application, which is not only your application, because
22 after your application there were also calls for comments and
23 observations from all of the parties and participants. This
24 is an issue which is common to everyone in this courtroom and
25 which is, of course, not of any individual.

1 This is an open hearing. It's a fundamental
2 principle. Use of private session essentially has the
3 objective of ensuring the protection of the witness who is
4 testifying before this Chamber because for this Court it is
5 an obligation, a legal obligation. We should, within a short
6 time, give you an oral decision which will be a summary of
7 what some of you have proposed in a very constructive and
8 positive way and which will also provide a rule or the
9 expression of a rule of good practice which will make it
10 possible to improve the running of our proceedings.

11 Now, where it concerns the two video extracts which
12 were shown in private session, the Prosecutor explained the
13 reasons that led to the confidential nature of these excerpts
14 with regard to technical problems linked to the fact that it
15 is not easy to split in the same extract confidential parts
16 and public parts which are mixed with each other, and it's
17 also linked to the fact that there could be a problem with
18 regards to protection, given that there are possibilities to
19 identify the person through the voice.

20 These excerpts are difficult to summarise to the
21 extent that the purely video part is quite static for
22 everyone; it shows bodies, and we don't know what is the
23 reason behind their death or the cause of their death.

24 Now, once again, when everybody does their best to
25 avoid going into private session too often, we are very much

1 aware of the fact that, as far as we are concerned, as far as
2 you are concerned and for our future work and for the public
3 as well who are in the -- in this courtroom or outside this
4 courtroom, and particularly in the Democratic Republic of the
5 Congo as well, the public nature of hearings is a fundamental
6 safeguard and guarantee, but at the same time, we have to
7 ensure -- and this is the obligation incumbent upon us, we
8 have to ensure that in no case are people exposed to risks
9 due to comments or words which were stated at the hearing or
10 due to the showing of pictures which was made publicly during
11 the hearing. So we do very much understand your concerns;
12 they are not superficial, they are important.

13 Now, if you so wish, you can start with your
14 cross-examination with regards to these five video excerpts
15 which were admitted by the Chamber and which were shown just
16 now.

17 MR O'SHEA: Thank you very much, Mr President. I'm
18 grateful for those comments.

19 QUESTIONED BY MR O'SHEA:

20 Q. Good afternoon, Mr Witness.

21 A. Good afternoon.

22 Q. My name is Andreas O'Shea, and I represent
23 Mr Germain Katanga and I will be asking you not many
24 questions about the video extracts which you've seen during
25 the course of today. So I won't be keeping you long on these

1 specific extracts, but we will meet again later after the
2 Prosecutor has brought your attention to some other video
3 extracts.

4 Now, before I ask specific questions on the five
5 extracts which have been shown, or with a view to
6 contextualising those five extracts, I would like to first
7 ask you some -- a few questions which I will ask in closed
8 session, which are designed to allow me to measure or to
9 gauge the extent to which you will be in a position to help
10 me on these five extracts and it will enable me to measure
11 the nature and extent of my questions to you.

12 So, Mr President, I'll go into closed session
13 briefly, please.

14 PRESIDING JUDGE COTTE: (Interpretation) So, court
15 officer, please, can you take us into private session.

16 (Public session at 12.49 p.m.)

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20 (Open session at 1.07 p.m.)

21 THE COURT OFFICER: We are in open session, your
22 Honours.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr O'Shea,
24 please proceed. Thank you, court officer.

25 MR O'SHEA:

1 Q. Now, when for example we have seen five video
2 extracts today, would you say that you have a working
3 knowledge of the political circumstances which are being
4 spoken about in those extracts, or not?

5 A. I think that I have that knowledge. (Expunged)
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10 Q. Now, the first video extract which was shown to you
11 made reference to the beginning of a pacification process and
12 was dated 16 March 2003. Now, is it right that at that time,
13 16 March 2003, Ugandan troops occupied Bunia?

14 A. Yes, on 16 March the Ugandan troops were occupying
15 the town of Bunia, that is true.

16 Q. And is it also correct that the forces that one
17 would normally expect in a time when there is no conflict, in
18 other words the forces of the national army of the national
19 government and the forces of the national police, were not
20 yet there at that time?

21 A. Yes, I think that during the first meeting of the
22 commission - the Ituri Pacification Commission - the regular
23 forces were not present; be it the Kinshasa police or the
24 regular army from Kinshasa. The army which controlled Bunia
25 was the UPDF. There were other armed groups, including the

1 FNI and others -- other groups that had weaponry and were
2 present in and around Bunia.

3 Q. We heard during the course of today that a certain
4 relief or jubilation at the commencement of a pacification
5 process and reference to the fact that there had been
6 difficulties in getting that pacification process started.
7 Do you know how long from 16 March 2003 it took to put this
8 pacification process in place?

9 A. I think that it didn't take a lot of time. The
10 process began and signed -- agreements were signed. As of
11 the 16th, well, there was a meeting and from that date
12 henceforth it was two months. The process took two months -
13 two months and a few weeks - and after the work of the Ituri
14 Pacification Commission the Ugandan army withdrew and went
15 back to Uganda and the Congolese government sent troops from
16 Kinshasa.

17 Furthermore, MONUC was there * as well as the
18 Uruguayan forces. Those forces were deployed in the region
19 and the Ugandan army allowed MONUC to take over, and I would
20 say that the pacification process in Ituri took between two
21 months and a few weeks and three months.

22 Q. Yes, and if I am to understand you correctly from
23 what you have been saying and also from what we've been
24 hearing, it was towards the end of this pacification process
25 that the Ugandan troops were moving finally out of Bunia?

1 A. Yes.

2 Q. And while the Ugandans were in Bunia, they at least
3 saw themselves, or at least portrayed themselves, as
4 fulfilling a security role in Bunia?

5 MS LUPING: Mr President.

6 PRESIDING JUDGE COTTE: (No interpretation)

7 MS LUPING: The concern with the question that has
8 just been put to the witness is that he's been asked a
9 question regarding intentions of Ugandan troops that he can't
10 possibly comment on. He can only comment on what was within
11 his own direct knowledge and experience, and here he's being
12 asked whether they saw themselves, or portrayed themselves,
13 as fulfilling a security role in Bunia.

14 PRESIDING JUDGE COTTE: (Interpretation) Two
15 things: Mr O'Shea shall rephrase his question and, Witness,
16 we just would like to remind you that when you are not able
17 to answer a question, say so. Well, you know you mustn't
18 make up answers. You answer, giving information that you are
19 sure of. The Court cannot go by approximate answers.

20 Mr O'Shea, please rephrase your question. Please
21 don't give the impression that you are asking the witness to
22 engage in a series of intellectual arguments, so to speak.
23 Please proceed.

24 MR O'SHEA: No, I don't want to do that.

25 Q. Have you heard representatives of the UPDF or the

1 Ugandan government making statements that they were
2 conducting the security of Bunia?

3 A. On that point with regard to the Ugandan army, an
4 officer of the Ugandan army had said that he knew why the
5 Ugandan army was there, but myself, personally, I can't
6 answer that question; namely, why they were in the town of
7 Bunia. For them, well, they were there for security matters
8 relating to their country and then there was an agreement
9 between them and Angola, and that agreement required the
10 Ugandan army to be present in the Ituri region to ensure an
11 ongoing military presence until another force, such as a
12 peacekeeping force, was deployed in Ituri.

13 Q. And would it be right that, as the Ugandans began
14 to move out of Bunia, the national police began to move in?

15 A. Yes. When the first Ugandan troops withdrew --
16 well, the Ugandan troops withdrew gradually and from that
17 time on the Kinshasa police were sent to Bunia.

18 Q. Now, you've also been shown a video extract with a
19 gentleman called Chef Kahwa Mandro speaking, and Kahwa is
20 spelt K-A-H-W-A, and Mandro, M-A-N-D-R-O. Do you recall
21 having seen that video excerpt today?

22 A. (Speaks English) Yes.

23 Q. Now, is it correct that Chef Kahwa had Hema
24 ethnicity?

25 A. (Speaks English) Yes, that's right.

1 THE INTERPRETER: Message from the Swahili booth:
2 The witness has given two replies in English.

3 PRESIDING JUDGE COTTE: (Interpretation) Witness,
4 this may be sort of an automatic response on your part, but
5 you have answered twice in English, which is not prohibited
6 but, as I said earlier, this makes life more difficult for
7 our interpreters. They are expecting you to be speaking
8 Swahili. If you could, insofar as possible - we are coming
9 to the end of the hearing today - if you could refrain from
10 switching languages during your answer, it would make the
11 work of the interpreters easier, and they are trying very
12 hard to interpret what you say very carefully, because what
13 you are saying is very important to all of us. Thank you.

14 Mr O'Shea, we have eight minutes left. Please
15 proceed.

16 MR O'SHEA: Thank you, Mr President.

17 Q. And Chef Kahwa was the head of an organisation
18 known as PUSIC, P-U-S-I-C?

19 A. Yes.

20 Q. And do you know when PUSIC was created?

21 PRESIDING JUDGE COTTE: (Interpretation) Madam
22 Prosecutor?

23 MS LUPING: Mr President, we have allowed certain
24 questions regarding context to be asked. We can understand
25 why Mr O'Shea is asking them, but our concern, out of

1 fairness to this witness, is that he's not a political or
2 historical analyst. His background is well-known to
3 everybody, and he's being asked specific questions that
4 shouldn't really be expected of him. And we would ask that,
5 really, they be more focused questions in the
6 cross-examination relating to these video excerpts and the
7 specific information contained within them. Indeed, he's not
8 a contextual witness.

9 MR O'SHEA: Well, these questions are not designed
10 for context. These questions are designed to attack the
11 reliability of the video extract containing the words of Chef
12 Kahwa.

13 PRESIDING JUDGE COTTE: (Interpretation) Madam
14 Prosecutor, indeed, it is not very easy to disassociate
15 questions asked during this first cross-examination regarding
16 video extracts tendered into evidence and the questions that
17 will follow your own examination-in-chief. Insofar as the
18 videos that the witness is being asked to comment on deal
19 with periods in the political history of this region of the
20 DRC, and insofar as the witness has shown himself to be
21 capable to provide some comments, he is -- he looked at the
22 situation, the political situation of his country, in an
23 intelligent fashion, taking interest in the matter so as to
24 understand, so he can answer a question such as the one just
25 asked if he is able to do so.

1 Witness, you answer the questions if you feel you
2 can. If you can't, you don't reply.

3 Now, Mr O'Shea, you have one-and-a-half minutes.
4 Perhaps it might be wiser to keep that question until
5 tomorrow at 9 a.m. What do you think? Yes?

6 MR O'SHEA: (Overlapping speakers)

7 PRESIDING JUDGE COTTE: (Interpretation) The
8 Chamber thanks you for being so understanding, Mr O'Shea.

9 Now, I was speaking of eight minutes, but our court
10 officer informed me that it was actually only five minutes.
11 I would now like to ask the security officers to escort
12 Mr Katanga and Mr Ngudjolo out of the courtroom. Gentlemen,
13 we will see you tomorrow morning at 9 a.m.

14 (The accused exit the courtroom)

15 PRESIDING JUDGE COTTE: Madam Court Officer, we can
16 go into private session so the witness can leave the
17 courtroom.

18 Mr Witness, thank you for your first morning of
19 testimony with us. We will resume tomorrow at 9 a.m. We
20 will see you then. Take advantage of the afternoon to rest.

21 The Chamber also thanks the interpreters who have
22 been of great assistance today, the court reporters and the
23 technicians who are doing all they can with the resources
24 available to them. And the Presiding Judge commented on some
25 technical difficulties, and this is a feeling shared by all

1 the Judges of the Bench. We have the impression that the
2 resources are insufficient.

3 Now, court usher, could you please conduct --

4 THE INTERPRETER: Correction: Escort.

5 PRESIDING JUDGE COTTE: (Interpretation) -- the
6 witness from the courtroom once we are in closed session.

7 (Closed session at 1.28 p.m.)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Open session at 1.28 p.m.)

14 THE COURT OFFICER: We are in open session, your
15 Honours.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
17 court officer.

18 The hearing is now adjourned and we will resume
19 tomorrow at 9 a.m. I wish everyone a pleasant afternoon.

20 (The hearing ends at 1.30 p.m.)

21 CORRECTION REPORT

22 The following correction has been made to the English
23 transcript:

24 * Page 85, lines 17 to 18

25 "...MONUC was there and other armed forces from other

1 countries..."

2 Is corrected by

3 "...MONUC was there * as well as the Uruguayan forces..."