

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 - ICC-01/04-01/07
6 In the case of The Prosecutor v. Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Monday, 13 September 2010

10 (The hearing starts at 2.03 p.m.)

11 (Open session)

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

14 PRESIDING JUDGE COTTE: (Interpretation) We shall
15 now begin today's hearing. Please be seated. Before bringing
16 in the witness for the examination-in-chief of the Prosecutor,
17 the Chamber wishes to announce an oral decision regarding
18 applications for reparations and participation filed by witness
19 132 and her spouse.

20 On 14 May 2010, when witness 132 was testifying, to
21 be more specific, at the end of questioning by the legal
22 representatives of victims, Mr Luvengika informed the
23 Chamber of the following:

24 During the courtesy meeting between the Victims and
25 Witnesses Unit - that is to say "the unit" and this particular

1 witness - the witness said that she had thought incorrectly
2 that as a witness before the Court she was also a participating
3 victim, participating in the proceedings, and that Mr Luvengika
4 was her counsel.

5 At that point, Mr Luvengika suggested that the unit
6 take note of this request for participation from witness 132,
7 her request to be also considered a victim. And I refer you
8 to pages 21 and 22 of ICC-01/04-01/07-T-141.

9 The Chamber asked for the official procedures to be
10 complied with; that is to say, the drawing up of an application
11 for participation, and the Chamber asked the victims
12 participation and reparations section to contact witness 132;
13 Transcript 141, page 22.

14 On 22 May 2010, the VPRS told the Chamber that on the
15 previous day the section had met with witness 132 and her spouse
16 and, at that meeting, the section, and I quote, said the
17 following:

18 "The rights of victims before the Court, particularly
19 with regard to participation and reparations, as well as the
20 practicalities of their implementation and their application
21 in this case had been explained to these two people. Furthermore,
22 the section mentioned that the issue of legal representation
23 had been discussed and a reminder had been given that the
24 Chamber had decided not to accept any further applications for
25 participation from victims."

1 At the end of this -- correction. After this meeting,
2 witness 132 and her husband decided to fill out an application
3 for reparations and they appended a statement stipulating that
4 they also wanted to take part in the proceedings. In light
5 of the protective measures that had been granted to witness
6 132, as a Prosecution witness, the Chamber asked the Registry
7 to register the two applications for reparations as ex parte
8 applications solely for the Chamber so as to ensure whether
9 redactions were necessary before the forms were forwarded to
10 the parties and participants.

11 On 14 May 2010, the Registry filed the two
12 applications. On 25 June 2010, the Chamber ordered
13 reclassification of these applications so that they could be
14 made available to Mr Luvengika, as the two applicants had
15 mentioned on their forms that they intended to designate him
16 as their legal representative

17 The Chamber notes that along with the application
18 forms for reparations, there were statements to the effect that
19 the applicants also wished to take part in the proceedings.
20 The Chamber points out that these applications were filed late
21 and so they cannot be recorded, as such.

22 In this regard, the Chamber would remind all that in
23 its ruling of 26 April 2010 -- I beg your pardon; allow me to
24 correct.

25 The Chamber set a deadline of 20 April 2009 for the

1 registering by the Registrar of any new application for
2 participation. This deadline was set so that parties would
3 be in a position to know, insofar as possible, exactly who the
4 victims were taking part in the proceedings and also to ensure
5 that the trial would run smoothly.

6 The Chamber wishes to stress that witness 132, as a
7 Prosecution witness, had contacts with investigators from the
8 OTP and, thus, did have information about the process to follow
9 to file an application for participation within the deadline.

10 Furthermore, the Chamber notes that there was, in the
11 forms that were filed on 20 May, there was no information to
12 be found justifying late filing of the two applications.
13 Furthermore, the Chamber sees that the witness did give
14 testimony before the Chamber between 10 and 19 May 2010.

15 At that time, the witness was questioned by the
16 Prosecutor and then later by legal representatives of victims.
17 After that, the witness was cross-examined by the two
18 Defence teams and this was before her application for
19 participation had taken official form.

20 The Chamber sees that the witness had ample
21 opportunity to inform the Chamber of the events that she
22 experienced and the events that she alleges were harmful to
23 her.

24 Finally, the Chamber wishes to note that
25 participation in the proceedings is not a prerequisite for filing

1 an application for reparations. Consequently, the
2 Chamber hereby orders the Registry to forward as quickly as
3 possible to the parties the applications for reparations from
4 witness 132, and her spouse, with the redactions that the VPRS
5 deems necessary following the criteria set out by the Chamber,
6 particularly in Ruling 933 of 26 February 2009.

7 Finally, if there are any difficulties, the
8 Chamber wishes to be notified thereof. And I would like to
9 add one additional detail: The mistake I made a few moments
10 ago when reading out the decision is such that rather than
11 26 April the date in question should be 26 February 2009.

12 Madam Court Officer, we will now go into private
13 session so our witness can quietly enter the room. Before the
14 accused are escorted out of the courtroom the Chamber will take
15 advantage of the -- of us being in private session to provide
16 certain information to participants.

17 MR HOOPER: A brief matter. You will notice there's
18 a fresh face in our team this afternoon. May I introduce him?
19 His name is Ruhumuza Mbonyumutwa. He is of origin Hollandaise.
20 He lives in Belgium and has graduated from the University of
21 Leuven. He is a jurist. He will be with us as an intern for
22 the next six months and, apart from it being very pleasant to
23 be able to introduce him, it's also an opportunity for members
24 of other teams to see who the Defence team is composed of, to
25 avoid perhaps in the future any unfortunate over-hearings or

1 conversations that might otherwise take place, you know who
2 we are, as it were. Thank you very much.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
4 Mr Hooper. Welcome, sir. Welcome to your -- the new member
5 of your team. We wish you a warm welcome.

6 Mr Prosecutor?

7 MR DUTERTRE: (Interpretation) Good afternoon,
8 your Honours. The Prosecution also wishes to welcome our new
9 colleague. I just wanted to touch very briefly upon the matter
10 of the application of sound distortion to certain video extracts.
11 We mentioned this matter last week.

12 The Chamber had asked the Prosecution to apply voice
13 distortion to certain excerpts, the sound quality of which had
14 been improved by the Registry. I wish to inform the Chamber that,
15 from a technical point of view, that was not possible because
16 if I understand the technical ins-and-outs properly, the changes
17 are such that when you try to apply voice distortion to the
18 improved tape you hear nothing, or the voice remains entirely
19 identifiable. As a result, we will be using the Prosecution
20 video extracts with the existing voice distortion.

21 PRESIDING JUDGE COTTE: (Interpretation) This
22 shall lead us all to refer -- now, if the interpreters have
23 too much difficulty, we may have to make reference to the
24 translations that have been cross-checked by the Registry. So
25 if you could remember that point when making reference to -- or

1 making use, rather, of these video extracts.

2 MR DUTERTRE: (No interpretation).

3 PRESIDING JUDGE COTTE: (Interpretation) with
4 regard to the new member of the Katanga Defence team, we will
5 have to ensure that the interpretation of Mr Hooper's remarks
6 is entirely found in today's transcript, because I believe that
7 there were a few omissions. Not everything could be interpreted,
8 and we really must include all the details so that we can really
9 grasp the unique nature of our new colleague.

10 Now, if the accused could -- ah, Mr O'Shea.

11 MR O'SHEA: I am sorry, I wanted to catch a moment
12 when we weren't in closed session.

13 Good morning, Mr President, your Honours. I'd like
14 to raise once more an issue which I raised last week, which
15 is this. The extract which can be found at 1.3 in the binder,
16 which is described as "Extract 3 OTP-0081-0004", is an extract
17 in which we now see the gentleman which has been described as
18 Kale Kayihura of the UPDF effectively denies the participation
19 of Ugandan forces in the attack on Bogoro.

20 And in the summary of that video extract, which we
21 had reached at the -- on the last occasion, the Prosecution
22 outlined to us that this raises as part of the relevance of
23 why they're introducing it before the Chamber -- raises the
24 question of the implication of the UPDF in certain attacks,
25 including the attack on Bogoro.

1 Now, paragraph 12 of the document summarising the
2 charges, which is a document designed to synthesise the notice
3 to the Defence of the case against it - and that document is
4 document 1588 of 3 November 2009 - that paragraph 12 indicates
5 that significant numbers of UPDF troops directly participated
6 in several military operations, and it includes within the list
7 that follows the FNI/FRPI takeover of Bogoro in February 2003.

8 So through you, Mr President, I raise the question
9 now, as we reach -- as we reach this point, to the Prosecution,
10 does paragraph 12 still represent the Prosecution case? In
11 other words, is the Prosecution seeking to prove that UPDF troops
12 directly participated in the Bogoro attack of February 2003?

13 And I raise that question, of course, because the
14 extract which has been introduced would tend to suggest that
15 the Prosecution may have changed its position and, if the
16 Prosecution has changed its position, that is significant for
17 us and so we would like to know.

18 Thank you.

19 PRESIDING JUDGE COTTE: (Interpretation)

20 Mr Prosecutor, if we've understood properly, because the
21 transcript was having some difficulty keeping up with the remarks
22 made by Mr Hooper, which is understandable, now he would like
23 to understand whether there is some sort of distortion between
24 paragraph 12 of filing 1588 - apparently, if I've understood
25 properly, the UPDF forces are alleged to have taken part in

1 the attack on Bogoro in February 2003 - and extract 1.3, which
2 was shown last Wednesday, which according to Kali (phon) Kale
3 hinted that such was not the case.

4 Are you in a position to provide any further
5 explanations to Mr O'Shea? Please proceed.

6 MR DUTERTRE: (Interpretation) Thank you, your
7 Honour. The Prosecution's position is absolutely clear.
8 Germain Katanga and Mathieu Ngudjolo are the ones responsible,
9 it is alleged, for the attack on Bogoro in February 2003.

10 The Defence may wish to explore various possibilities
11 alleging the participation of various people, or groups, during
12 this attack - they are free to do so during their
13 cross-examination - and they may argue or present whatever
14 arguments they wish in their final submissions.

15 Now, as for paragraph 12 which was mentioned earlier,
16 indeed that is taken from the decision of confirmation of charges,
17 the ruling from the Pre-Trial Chamber which was summarised,
18 and paragraph 12 deals in particular with the nature of the
19 conflict.

20 To get back to the Prosecution, well, our position
21 is that indeed it is the two accused who were responsible for
22 the attack. This is our allegation. That's really all we have
23 to say.

24 PRESIDING JUDGE COTTE: (Interpretation) And you do
25 not wish to speak further about the possible role of Ugandan

1 troops, because apparently this was the point of the question
2 asked by Mr O'Shea?

3 MR DUTERTRE: (Interpretation) I believe that the
4 Defence may explore that point. Witnesses come, they are
5 examined by each side and the Defence may do their work in a
6 legitimate fashion to explore all aspects of that attack.

7 PRESIDING JUDGE COTTE: (Interpretation)
8 Mr O'Shea?

9 MR O'SHEA: Well, with respect, Mr President, your
10 Honours, that answer is somewhat evasive and inadequate, as
11 far as we are concerned.

12 The Prosecution has elaborated its position in its
13 summary of the charges and the Defence is surely entitled to
14 know the case against it, and isn't this essential -- a central
15 evidential pillar to the position of the Prosecution?

16 Obviously, the Prosecution is asserting that the
17 accused are responsible for the attack on Bogoro in February 2003.
18 That goes almost without saying. What I am saying is that the
19 Prosecution has taken one position at the beginning of this
20 case, now appears to be introducing evidence which clearly
21 contradicts its position and why is it so difficult for my learned
22 friend to simply state to this Court, in fairness to the accused,
23 is the Prosecution case still that UPDF troops participated
24 in Bogoro, or not?

25 I don't think my learned friend is entitled to simply

1 sit on the fence and say, "It is for the Defence to explore
2 whatever issue they wish." We've identified a clear divergence
3 in Prosecution strategy which affects the way we approach this
4 case and the way we defend ourselves.

5 The Prosecution is in a position, in my submission,
6 to simply state whether it stands by paragraph 12, or not. If
7 it's changed its position, we are entitled to know.

8 PRESIDING JUDGE COTTE: (Interpretation)
9 Mr Prosecutor?

10 MR DUTERTRE: (Interpretation) Yes, your Honour. I
11 must acknowledge that we could have had this discussion when
12 the extract was shown, rather than after the battle. We are
13 reopening the debate on this particular extract.

14 Now, the position of the Prosecution is perfectly clear
15 and I don't understand how the Defence can hint that they don't
16 quite understand, that things are fuzzy, or anything like that.
17 We had a confirmation of charges hearing, we provided all
18 material, both inculpatory and exculpatory, the charges were
19 set out in the document mentioned by Mr O'Shea and we, the
20 Prosecution, have shown -- in the chart setting out the charges
21 we have shown in a very detailed fashion what the charges are.

22 There is no ambiguity. It's quite clear what the
23 charges are and there are no grey zones, or shadows. I would
24 simply urge my colleague to review the chart, it's quite clear
25 and all the positions of the Prosecution are set out in a very

1 specific way, so I really don't grasp why the Prosecution is
2 being asked about its position right now. The position of the
3 Prosecution is entirely clear.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well.
5 Mr O'Shea talked about -- perhaps now we've moved on to a
6 discussion of cat and mouse, after talking about other animals.
7 I don't think we need to spend too much time on this particular
8 point.

9 Now, the Prosecutor has just confirmed orally that
10 in the mind of the Prosecution the two accused, Mr Katanga and
11 Mr Ngudjolo, were both responsible -- this is what the
12 Prosecution has been saying; responsible for the attack on Bogoro
13 on 24 February 2003.

14 Mr O'Shea, you are not wrong to stress that extract
15 1.3 of document 0081-0004 that was produced last Wednesday speaks
16 of a statement by Kale Kalu (phon) according to which the UPDF
17 did not take part in the attack on Bogoro, so there seems to
18 be a discrepancy here between what the Prosecution said and
19 what we find in one of the many excerpts that will be shown
20 to the witness that we are currently hearing from.

21 The Chamber will draw the appropriate conclusions at
22 the appropriate time of these discrepancies, particularly since
23 the entire -- particularly once everything has been heard, all
24 the extracts have been shown. After that, we will move into
25 private session. After that, we will move into private session.

1 Court officer.

2 Before having the witness brought in, last week, when
3 the Prosecution showed a number of excerpts, you may have seen
4 that an EVD number was assigned to an EVD and another one to
5 a transcript and a third to the translation. As of today, a
6 single number will be given to the extract, the transcript and
7 the translation, and it will be possible to distinguish between
8 the three on our screens.

9 The court officer will go back to the three excerpts
10 that were classified last week and there will be only a single
11 reference number, which I think will make things much easier
12 for us.

13 And Madam Court Officer, you may now proceed.

14 THE COURT OFFICER: Good afternoon. Therefore, the
15 video DRC-OTP-0081-004, three extracts of which were admitted
16 on Wednesday 8 September, will be re-numbered as follows:
17 Extract 1 of the video will receive the number EVD-OTP-00163.
18 Extract 2 of the video will receive the EVD number EVD-OTP-00164.
19 Extract 3 of the video will receive the number EVD-OTP-00165.

20 Numbers 166 through 171 are, therefore, vacated.
21 Thank you.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you
23 very much, court officer. So into -- yes?

24 MR DUTERTRE: (Interpretation) Just a very short
25 point. In light of the confidential filing 2383 today --

1 PRESIDING JUDGE COTTE: (Interpretation) This is
2 precisely this that I wanted to speak about, but I thought it
3 would be better in private session, but if you think it can
4 be done in open session, that's perfect. I'm listening to you.

5 MR DUTERTRE: (Interpretation) Well, we could
6 disclose the name of the person in question.

7 PRESIDING JUDGE COTTE: (Interpretation) Well,
8 we'll continue to be so evasive. You will all have received
9 on 13 September submissions of the Registry with the number 283,
10 and you will also have noted in this submission that this put
11 an end to a long wait where it concerned the disclosure of the
12 identity of a person whose identity you wish to know. So,
13 Prosecutor, are you able to disclose this identity in the best
14 possible time frame?

15 MR DUTERTRE: (Interpretation) We can do it today
16 by email.

17 PRESIDING JUDGE COTTE: (Interpretation) That's
18 exactly what we want. Thank you very much. Everybody has,
19 therefore, received just before this session, 2383. I'm just
20 looking at everybody. Yes. Madam Menegon? Yes. Legal
21 representatives? Yes. They're also nodding their head. This
22 is a whole wave of nodding heads, which puts an end to this
23 long period of suspense.

24 So the accused are going to leave the courtroom so
25 that the witness can enter.

1 Prosecutor, you also have to provide us with a copy
2 of this email, if you would be so kind, so that we can put an
3 end to this episode. Thank you.

4 (The accused exit the courtroom)

5 (Closed session at 2.34 p.m.)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Open session at 2.35 p.m.)

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

20 (The accused enter the courtroom)

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
22 officer. The two accused have come back.

23 Good afternoon, witness.

24 THE WITNESS: Good afternoon.

25 PRESIDING JUDGE COTTE: (Interpretation) I deduce

1 from that you can understand me well.

2 THE WITNESS: Yes.

3 PRESIDING JUDGE COTTE: (Interpretation) You can
4 hear me well, so we are therefore going to be able to continue.

5 Prosecutor, it is your examination-in-chief that we
6 interrupted during the last hearing. You're going to continue
7 with it. Even if the Chamber wanted to put an end to the
8 exchanges that took place between Counsel O'Shea and yourself,
9 it would like throughout the presentation of extracts that will
10 be made to this witness that, despite that, the issue of whether
11 for the accused the 24 February 2003 there were troops from
12 Uganda, or there were Ugandan soldiers there individually, or
13 Ugandans who were not soldiers. This is a point which does
14 definitely need to be clarified and made clear. You have the
15 floor, Prosecutor.

16 MR DUTERTRE: (Interpretation) Thank you very much,
17 your Honour.

18 QUESTIONED BY MR DUTERTRE: (Continuing)

19 Q. Good afternoon, Witness.

20 A. Good afternoon.

21 Q. My name is Gilles Dutertre. I work for the Office
22 of the Prosecutor, and I'm going to continue today with the
23 examination-in-chief which was started by my colleague Dianne
24 Luping last week.

25 I will speak in French and you -- if you understand

1 this language, please wait for the Swahili translation of my
2 question before answering the question. That will make it
3 possible for the interpreters to deal with overlapping speakers.

4 The last preliminary matter: It may be the case that
5 I interrupt you. We have a limited amount of time in order
6 to present our evidence and, as such, please do not see that
7 as a lack of politeness. It is just done in order to make us
8 to respect the allotted timetable and to focus on the question
9 at hand.

10 I would not like to turn to 1.4 in the binder, extract
11 1.4 -- extract 4 of the video DRC-OTP-0081-0004. I repeat:
12 0081-0004. The reference in the video for this extract are
13 45.34 to 46.30 seconds. The number of the original transcript
14 is DRC-OTP-1045-0076, page -- page 1045-0102, lines 881 to 900.
15 And the French translation has the ERN DRC-OTP-1045-0027.
16 DRC-OTP-1045-0027, page 1045-0057 - 1045-0057 - and it's
17 lines 971 to 993. It is public.

18 I would like it with the sound and I'd like to ask
19 for interpreters to interpret. And I have to remind you that
20 in accordance with the procedure last week, it was stated that
21 the interpreters could read the transcript which has been
22 corrected by the Registry.

23 I'm going to go through the whole extract, 55 seconds,
24 and I will sit down if you would give me leave to do so, your
25 Honour.

1 PRESIDING JUDGE COTTE: (Interpretation)

2 Understood. For all this period of the hearing where we have
3 to show video and to comment thereon, then everybody will work
4 out for themselves if they would rather stand up or sit down.
5 The most important thing is that the work is done correctly.

6 We make sure that everybody can see the extract on
7 their screen. The accused, can you see it? Witness, can you
8 see it on your screen as well? Okay, let's go ahead.

9 (Video extract played)

10 THE INTERPRETER: (Interpretation) "We were blamed
11 for having cut access to Bogoro, but we didn't cut access to
12 Bogoro. Bogoro, since the start of the fighting, we always
13 left Bogoro access 3. And from now on, even yesterday, there
14 was fighting there, but the inhabitants were in Bogoro market,
15 where they got flour and brought it here to Bunia. Is that
16 true? Because since the fighting started, there's the market
17 here in our town and flour has come to Bunia."

18 MR DUTERTRE: (Interpretation) Your Honour, can I
19 go quickly into private session, your Honour?

20 PRESIDING JUDGE COTTE: (Interpretation) Please
21 take us into private session, court officer, in order to avoid
22 any identification of the witness.

23 (Private session at 2.45 p.m.)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Open session at 2.46 p.m.)

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

19 PRESIDING JUDGE COTTE: (Interpretation)
20 Prosecutor, please continue.

21 MR DUTERTRE: (Interpretation) Thank you very much,
22 your Honour. Just a small point: I note that the transcript
23 of the video is not completely reflected in the transcript today,
24 and I suppose this work will be carried out later.

25 Q. witness, I would like to remind you with regards to

1 the excerpts that were shown on Wednesday, you recognised Mathieu
2 Ngudjolo and soldiers from the -- or, sorry, Androzo
3 from -- Androzo Dark from the FRPI. With regards to the extract,
4 we see somebody who is speaking on the screen. He's wearing
5 a sleeveless jacket, and he's also wearing a shirt with stripes.
6 He mentions Bogoro. Since the start of fighting, we've always
7 left the access to Bogoro free, close inverted commas.

8 This person who we see on the screen, once again, and
9 the timing is 00.00, is that still Androzo of the FRPI?

10 A. Yes, it is Androzo Dark.

11 Q. And the person who sometimes answers him is Kale
12 Kayihura that we heard before?

13 A. Yes. General Kale Kayihura, who's asking the
14 question.

15 MR DUTERTRE: (Interpretation) Your Honour,
16 I would like an EVD number for this video extract, as well as
17 for the translated passages and the reviewed and corrected
18 version of the Registry.

19 PRESIDING JUDGE COTTE: (Interpretation) Court
20 officer, please give an EVD number to what we will now call
21 the trilogy, the troika, if you prefer that, the trilogy.

22 THE COURT OFFICER: Therefore, the extract 4 will
23 receive the number EVD-OTP-00166 and is admitted publicly.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
25 Prosecutor, please continue.

1 MR DUTERTRE: (Interpretation) Thank you very much,
2 your Honour.

3 Q. I'm going to ask you to go to tab 1.5. This is extract
4 5 of the same video DRC-OTP-0081-0004. The references to the
5 time stamp on the video are 50 minutes 18 seconds to 54 minutes
6 and 48 seconds. The reference to the transcript is
7 DRC-OTP-1045-0076, page 10045-00107. 0107. And lines 1121.
8 1055-1123. DRC-OTP-1045-0027, page 1045-0062, 1045-0062,
9 lines 1155 to 1236. 1155 to 1236.

10 I'm going to play this publicly with the sound and
11 with interpretation. If the interpreters could aid us in this
12 regard, and I'm going to show the whole extract; it's 4 minutes
13 and 30 seconds. Thank you very much for looking at it without
14 any comments at this stage, Mr Witness.

15 (Video extract played)

16 THE INTERPRETER: (Interpretation) "Because we are
17 in bush, in reality Bogoro is causing a lot of problems for
18 us to the extent that we don't even have food. This has to
19 be maintained to be in order to preserve security such that
20 we can return home in order to get money, and when there is
21 supply of flour for those who are in town, so that we are able
22 to buy some, but we are blocked as if we weren't full Congolese
23 with the right to be able to go to the town of Bunia. That
24 is why we have decided to leave by force, because they've harassed
25 us through incursions, into our houses, with fires, in villages,

1 like Songolo. Most of people here all know the places and
2 surroundings where we have been chased in order to carry out
3 war and even civilians are witness to that.

4 And when they go back, they make statements on the
5 radio saying that they have taken this sector, in Geti, or this
6 sector in Lipri, while the fighting is still continuing. And
7 because of that, we said, 'well, because this is the situation,
8 we're going to chase them into their territory to have a bit
9 of rest and perhaps even in the last minute, in the final phase,
10 we can achieve pacification through force.' We therefore
11 decided to leave free access to Bogoro so our brothers who were
12 in the hills could go and get potatoes.

13 MR DUTERTRE: (Interpretation) I'm just taking a
14 break so that the interpreters and the court reporters can catch
15 their breath back, as it were. Get their breath back. 144,
16 and I start again.

17 (Video extract played)

18 THE INTERPRETER: The interpreter cannot find the
19 place in the transcript. (No interpretation).

20 PRESIDING JUDGE COTTE: (Interpretation) Perhaps,
21 Prosecutor, we could go backwards a bit to allow the interpreters
22 to find where they were, with regards to the transcript and
23 ourselves with regards to the transcript and the translation
24 itself.

25 MR DUTERTRE: (Interpretation) I have gone back a

1 bit and I should be around lines 170, 169, 170.

2 (Video extract played)

3 THE INTERPRETER: (Interpretation)

4 "Anti-personnel mines, there are anti-personnel mines, it's
5 prohibited everywhere. They've taken the decision and we can't
6 use anti-personnel mines. The UPC is using them. This is a
7 lie. We don't have the possibility to establish communication
8 with the people who are in Kasenyi. They are advancing with
9 their vehicles and going into the town. The conditions were
10 not met when our colleagues came to find a solution to this
11 problem. I think that the UPDF brought them together around
12 a table for a dialogue and with a spokesperson they committed
13 an act, a contrary act by following us. They planned it and,
14 having planned it, they made us go with -- they fought us
15 afterwards. And thereafter, when they came, when our objective
16 was to go into town, we followed them to their territory in
17 Mandro where they had set up their HQ. And after our retreat,
18 they said, 'Ah, now the combatants have made an incursion here
19 to sow trouble,' and this was after we had learned Kisémbó had
20 been speaking under -- or had a press release on the radio saying
21 that all the Ugandans, the UPDF, should go out of all the zones
22 and that they should stay here only and that they should leave
23 the Congolese territory as soon as possible. And so we told
24 ourselves that must be it. If the UPDF leave Délé, and our
25 sector, these people can then fall -- fair -- make an incursion

1 with vehicles to cause harm with the war.

2 And for the moment, we came to install ourselves next
3 to Dele.

4 Question: Your behaviour is changing.

5 Answer: We left Dele in order to go to the airport
6 and during this time the UPC went to occupy this territory.
7 And we went to Dele, when the UPDF wanted to withdraw,
8 when -- because they didn't have any problems with anyone,
9 we heard it said on the radio that we had won the war in Bogoro
10 with the help of the UPDF. And however, I should say that it's
11 the first time that the commander saw me. If he called all
12 the UPDF troops and brought them here, and that we were all
13 going to live with the inhabitants, nobody would say hello to
14 us as soldiers because the people do not know us and we don't
15 know them either. This is a pure lie.

16 If the people say, because the people have told us,
17 there are troops that came from Kinshasa, who is it that can
18 bring proof?"

19 MR DUTERTRE: (Interpretation) Can we please go into
20 private session, your Honour?

21 PRESIDING JUDGE COTTE: (Interpretation) Can we go
22 for a moment into private session for potentially identifying
23 questions.

24 (Private session at 3.00 p.m.)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Open session at 3.01 p.m.)

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

17 PRESIDING JUDGE COTTE: (Interpretation) Please
18 proceed, Mr Prosecutor.

19 MR DUTERTRE: (Interpretation) Thank you, your
20 Honour.

21 Q. Mr witness, in this extract there is one person
22 speaking at length and who mentions the victory in Bogoro. He
23 also mentions an intervention right in the Mandro territory
24 and he talks of a confrontation with the UPC in Dele, so this
25 is the person we can see at 0 minutes 0 seconds in the footage.

1 This is still Androzo Dark of the FRPI; is that correct?

2 A. Yes, it is the same person. It is Dark.

3 Q. And at 3 minutes 21 this is also still General Kayihura;
4 is that correct?

5 A. Yes.

6 MR DUTERTRE: (Interpretation) Mr President,
7 I would like an EVD reference number for this extract, as well
8 as translations and reviewed transcripts public version.

9 PRESIDING JUDGE COTTE: (Interpretation) EVD
10 numbers for these three documents, court officer, please.

11 THE COURT OFFICER: Thank you, your Honour.
12 Therefore, extract 5 of the video shall be given an EVD number
13 EVD-OTP-00167 and is admitted as a public exhibit. Thank you.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
15 court officer.

16 MR DUTERTRE: (Interpretation) Your Honour, I will
17 refer you now to tab 1.6 of the binder, extract 6 of the same
18 video DRC-OTP-0081-0004. The time stamp references of the
19 original video are 57.51 to 58.44. The transcript number in
20 the original language is DRC-OTP-1045-0076, pages 1045-070,
21 or rather -010, lines 1158 to 1167. The ERN number in French
22 is DRC-OTP-1045-0027, pages 1045-0065, lines 1077 to 1087.
23 This footage will be played publicly with sound and the
24 assistance of the interpreters. It is 53 seconds long. And
25 please, Mr witness, do not make any comment until the end of

1 the footage.

2 (Video extract played)

3 THE INTERPRETER: (Interpretation) "And now if there
4 are vehicles which are moving about those are not military
5 vehicles, but vehicles belonging to civilians. They move with
6 passengers without any problem and go to their destinations.
7 There is movement of goods also, and tomorrow the inhabitants
8 will be able to go to Bogoro. We have set up a market.

9 The UPDF, which is in Dele, knows that the inhabitants
10 can come even to Dele without any problem, and the opening of
11 that road makes it possible for people to go to the market and
12 after that they can go back home without any problem.

13 We did not stop anyone from moving about, including
14 those who were said to be leaders of the UPC, so this has not
15 prevented anyone from leaving there."

16 MR DUTERTRE: (Interpretation) I would like a
17 private session, your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) Court
19 officer, let us go into a very brief private session for an
20 identifying question.

21 (Private session at 3.08 p.m.)

22 (Expunged)

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 (Expunged)

11 (Expunged)

12 (Open session at 3.09 p.m.)

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

15 PRESIDING JUDGE COTTE: (Interpretation)

16 Mr Prosecutor, please proceed.

17 MR DUTERTRE: (Interpretation) Thank you, your
18 Honour. I will play the sequence from 15 seconds to 25 seconds
19 with interpretation.

20 THE INTERPRETER: (No interpretation).

21 MR DUTERTRE: (Interpretation) I stopped at 00
22 minutes 27 seconds.

23 Q. Mr witness, the person who is speaking and he says
24 that "In Bogoro we set up a market," this is still Androzo Dark
25 of the FRPI; is that correct?

1 A. Yes, this is the same person.

2 (Video extract played)

3 Q. I have moved to 0 minutes 36 seconds, and the person
4 who can be seen on the right of the screen, that is the person
5 not wearing anything on his head, that is Mr Mathieu Ingujolo,
6 isn't it, Mr Witness?

7 A. Yes.

8 MR DUTERTRE: (Interpretation) Your Honour,
9 I would wish to have an EVD reference for this extract, as well
10 as for the transcriptions and corrected translated versions.

11 PRESIDING JUDGE COTTE: (Interpretation) Court
12 officer, please, for these three documents.

13 THE COURT OFFICER: Your Honour, the number assigned
14 to extract 6 of the video will be EVD-OTP-00168 and it is admitted
15 as a public exhibit. Thank you.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
17 Madam Court Officer.

18 Please proceed, Mr Prosecutor.

19 MR DUTERTRE: (Interpretation) I will move on to tab
20 1.7 of the binder, the seventh and last extract of this video
21 ERN number DRC-OTP-0081-0004. The time stamp references of
22 the full video are 1 hour 02 minutes 04 seconds to 1 hour
23 03 minutes 25 seconds. The transcript number is
24 DRC-OTP-1045-0076, pages 1045, 0 to 0112 to 1045-0113,
25 lines 1053 to 1069. The ERN number for the translation is

1 DRC-OTP-1045-0027, pages 1045-0068, lines 1369 to 1400. It's
2 a public document and we want to play it with sound and
3 interpretation. The extract is 1 minute 22. Once again,
4 Mr witness, please refrain from commenting at this point,
5 please.

6 (Video extract played)

7 THE INTERPRETER: (Interpretation) "Come back here
8 and we will conclude. I'm going to conclude. I'm a soldier.
9 I would like to make the last intervention as a soldier. This
10 is what I can say. Those people and the people of the UPC are
11 in the vicinity. Some of them are locking themselves up in
12 their houses and they have not yet come out. Others are in
13 Katoto, Barrière and Central, quite close by here. They have
14 to be told that we have already opened the roads and we do not
15 want to hear that anyone was murdered on the roads. We no longer
16 want to hear that because at this time they returned, they have
17 returned to the forest, and then they came back like thieves
18 or rebels. They are going to be carrying out ambushes, and
19 this has to be stopped. If they want to, they can come back
20 for dialogue, but we have to put an end to this problem immediately.
21 As soldiers, we like our job. As soldiers, the Kinshasa army
22 will soon be here. And anyone who wants to be a soldier can
23 join the government to work with the army."

24 MR DUTERTRE: (Interpretation) Just like before,
25 your Honour, I would like us to go into private session.

1 PRESIDING JUDGE COTTE: (Interpretation) Court
2 officer, let us go briefly into private session.

3 (Pprivate session at 3.16 p.m.)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Open session at 3.17 p.m.)

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

22 PRESIDING JUDGE COTTE: (Interpretation) Very well.
23 Please proceed, Mr Prosecutor.

24 MR DUTERTRE: (Interpretation)

25 Q. Mr witness, I will play the first two to three seconds

1 back to you with sound. The person that we see speaking at
2 the beginning for about two to three seconds, that is still
3 Androzo Dark, isn't it?

4 A. Yes, he is the one. He is wearing a hat.

5 Q. I will continue to the tenth second.

6 (Video extract played)

7 The person who interrupts Dark and who is visible on
8 the screen at 10 seconds and who confirms his capacity as a
9 soldier, this is Mathieu Ngudjolo, isn't it?

10 A. Yes, he is the one.

11 (Video extract played)

12 MR DUTERTRE: (Interpretation)

13 Q. At the very end of the extract, would you happen to
14 know this person who is on the left of the image and who is
15 wearing a green beret? Would you happen to know that person?

16 A. He is an FRPI soldier, but I do not remember him. I
17 have forgotten his name.

18 MR DUTERTRE: (Interpretation) I would like an EVD
19 number to be assigned for that extract, which is a public extract,
20 as well as for the corresponding translations and transcripts.

21 PRESIDING JUDGE COTTE: (Interpretation) Court
22 officer, please.

23 THE COURT OFFICER: Your Honours, extract 7 of the
24 video shall be given the EVD number EVD-OTP-00169 and is admitted
25 as a public exhibit. Thank you.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
2 court officer. Mr Prosecutor, please.

3 MR DUTERTRE: (Interpretation) Mr President, I'm
4 through with this first series of videos. I'll move on to the
5 second series. And as we have realised, maybe there are
6 procedural issues that have to be dealt with and this has to
7 be done for a few minutes.

8 PRESIDING JUDGE COTTE: (Interpretation) If
9 Mr O'Shea stands by his objection, then we will have to discuss
10 that in the absence of the witness. And there is video 1017-1482,
11 you raised an objection. Do you maintain that objection and
12 will you raise the issue again, or will you allow the Prosecutor
13 to continue with his video?

14 MR O'SHEA: Yes, I gave notice of various extracts
15 that we intended to object to, but of course you'll understand,
16 Mr President, that if -- if notice is not given in a timely
17 fashion, the -- that the train is lost. So we're a little bit
18 perhaps over cautious sometimes when we're giving notice of
19 objections. It doesn't necessarily mean that we will follow
20 them through. In this instance, we are not following through
21 with the objection.

22 PRESIDING JUDGE COTTE: (Interpretation)
23 Mr Prosecutor, you can therefore begin. Since you knew that
24 there was a possibility of an objection, maybe you were prepared
25 to give us some clarification that could reassure Mr O'Shea

1 and possibly the members of the Bench. (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 PRESIDING JUDGE COTTE: (Interpretation) Let us go
8 into private session.

9 (Private session at 3.24 p.m.)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

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 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Closed session at 3.26 p.m.)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Private session at 3.27 p.m.)

24 (Expunged)

25 (Expunged)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 36 expunged. Private Session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 37 expunged. Private Session.

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Closed session at 3.34 p.m.)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Open session at 3.35 p.m.)

25 THE COURT OFFICER: We are in open session, your

1 Honours.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
3 court officer. Once again, we are in open session. The accused
4 are back with us.

5 Now, witness, this was a short pause. And
6 Mr Prosecutor, if we've understood you properly, it is the
7 Prosecution version of the video that you will be playing for
8 us, and I suppose this means the interpreters will have to make
9 a particularly forceful effort, and we thank them in advance.
10 You may proceed.

11 MR DUTERTRE: (Interpretation) Yes, your Honour,
12 indeed. And I did speak without the accused being present,
13 but I will reiterate one point. The last version, it is the
14 Prosecution version, but then the others it will be the
15 Registrar.

16 PRESIDING JUDGE COTTE: (Interpretation) So it is
17 divider 2.3.

18 MR DUTERTRE: (Interpretation) Indeed. So this is
19 extract number 3 of video -- extract 34 of video
20 DRC-OTP-1017-1482 and the time stamp is 14.24 to 18 minutes
21 40 seconds, 18.40. The transcript number is DRC-OTP-1019-0282,
22 pages 1019-0282, pages 1019-2 --

23 THE INTERPRETER: The English interpreter apologises.
24 Numbers read out too quickly.

25 MR DUTERTRE: (Interpretation) I'll repeat the

1 numbers: 1019-0282, 1019 -- lines 291 to 342. ERN, number of
2 the translation of the French version is DRC-OTP-1019-0237,
3 page 1019-248 to 1019-0249, lines 309 to 361. In light of what
4 I said during our brief discussion, your Honour, I would like
5 to play this first extract in private session without
6 sound -- correction, so that the sound is not heard outside
7 of the courtroom.

8 PRESIDING JUDGE COTTE: (Interpretation) we will go
9 into private session for a moment, court officer.

10 (Private session at 3.40 p.m.)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 41 expunged. Private Session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 42 expunged. Private Session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 43 expunged. Private Session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 44 expunged. Private Session.

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 3.50 p.m.)

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

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
9 Madam Court Officer.

10 Mr Prosecutor, please resume.

11 MR DUTERTRE: (Interpretation) Yes, your Honour.
12 I'd like to ask for an ERD number for this ex -- EVD number
13 for this extract.

14 PRESIDING JUDGE COTTE: (Interpretation) Court
15 officer, please assign an EVD number for this excerpt; the
16 transcript and the translation.

17 MR DUTERTRE: (Interpretation) Confidential,
18 please, your Honour.

19 THE COURT OFFICER: Therefore, extract 3 of
20 DRC-OTP-1017-1482 shall be given an EVD number EVD-OTP-00170
21 and is admitted confidentially.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank
23 you.

24 Mr Prosecutor -- ah, Mr O'Shea, please.

25 MR O'SHEA: I may have lost the thread somewhere, but

1 I understood why we were in closed session for the purposes
2 of discussing the video. I'm not quite clear why the video
3 itself should be confidential. Whether I am missing something,
4 I don't know, but it seems to me that the video itself should
5 be public.

6 PRESIDING JUDGE COTTE: (Interpretation)
7 Prosecutor, I believe you have a somewhat difficult exercise
8 to do in open session.

9 MR DUTERTRE: (Interpretation) Yes, your Honour.
10 If I could say there are some identifying elements in this
11 particular video and, if this part were to be made
12 open - public - as well as the transcript and translation, it
13 would be possible -- by gathering all that information together
14 (Expunged)
15 (Expunged)

16 All the other extracts will be public. I certainly
17 understand the concern of my colleague, but it's just the first
18 and the last extract that will be confidential. This is an
19 introductory element and I don't think it really would do any
20 harm to the Defence if it is dealt with in this manner; that
21 is to say in a confidential manner.

22 PRESIDING JUDGE COTTE: (Interpretation) The fact
23 that there are certain hints, or clues, that might be -- the
24 fact that they are to be found in the translation of the transcript
25 of the video, this is what is leading you to continue with this

1 request? I understand.

2 Now, Mr O'Shea.

3 MR O'SHEA: I'm in agreement as to what's being said.
4 I'm not into agreement as to the appropriate conclusion. Could
5 I go into closed session for a moment?

6 PRESIDING JUDGE COTTE: (Interpretation) we will
7 very briefly - because I'm told that we have only five minutes - go
8 into closed session. Madam Court Officer, if we could go into
9 private session, we will try to deal with this matter in the
10 remaining five minutes.

11 (Private session at 3.54 p.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 48 expunged. Private Session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 49 expunged. Private Session.

1 (Expunged)

2 (Closed session at 3.59 p.m.)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Open session at 4.00 p.m.)

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

8 Honours.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 court officer. We shall suspend our hearing and resume at 4.30.

11 (Recess taken at 4.00 p.m.)

12 (Upon resuming at 4.32 p.m.)

13 (Open session)

14 THE COURT USHER: All rise.

15 PRESIDING JUDGE COTTE: (Interpretation) Please be
16 seated. The Court is now in session. We are going to bring
17 the witness into the courtroom.

18 (Closed session at 4.32 p.m.)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Open session at 4.33 p.m.)

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

1 court officer. The accused are with us.

2 (The accused enter the courtroom)

3 PRESIDING JUDGE COTTE: (Interpretation) The
4 accused are with us. Therefore, we can continue. Just for
5 way of clarification, Prosecutor, before we leave each other,
6 we have said that the other -- well, you told us that the other
7 extracts from video number 2 will be public.

8 MR DUTERTRE: (Interpretation) Yes, with the
9 exception of the last excerpt due to the element that I told
10 you about in the closed session.

11 PRESIDING JUDGE COTTE: (Interpretation) So we wait
12 for the end of the presentation of all these videos, number
13 2, in order to take a position with regard to -- yes, court
14 officer? It would seem that the transcript in English is having
15 some difficulties in that it is not functioning at all. Despite
16 that, I'm going to finish my sentence, as that will benefit
17 those who do understand French. The English transcript will
18 catch up. So we will assess whether the confidential nature
19 of the presentation of video 23 needs to be maintained because
20 there's the EVD number attributed to it, when the whole of this
21 video number 2 has been presented, in particular the last extract
22 thereof, so provisionally, the confidential nature of it remains
23 and later we shall decide whether we confirm this confidential
24 attribution of it.

25 PRESIDING JUDGE COTTE: (Interpretation) Is the

1 English transcript now working, Counsel O'Shea?

2 MR O'SHEA: I was wondering about that. I'm just
3 wondering if it's me or it looks like there might be a problem,
4 actually.

5 PRESIDING JUDGE COTTE: (Interpretation) No,
6 you're not the only person; there is a general problem here.
7 So we're going to have to be patient. Do you think it's going
8 to take a long time, court officer? Counsel O'Shea, I have
9 been told that to put the -- to correct the functioning of the
10 transcript in English, this could take about ten minutes. To
11 the extent that the presentation of these extracts always takes
12 a certain amount of time, where the spoken part is not
13 quantitatively very significant, do you think that it would
14 be possible for you to allow the Chamber continue without the
15 English transcript, which of course will catch up with the delay
16 afterwards, or do you think for you that is a handicap that
17 you would not be -- want to be faced with?

18 MR O'SHEA: Mr President, we can carry on. It's only
19 a short delay. It will be caught up with.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you
21 very much to the Defence team of Germain Katanga for its
22 understanding. So, Prosecutor, you therefore can continue,
23 which -- well, perhaps you may speak even slower, and more
24 distinctly than you do normally so that the team who understands
25 French, sometimes very well, can follow you better, with the

1 following extracts, that's extract 24.

2 MR DUTERTRE: (Interpretation) Understood, your
3 Honour. So 24, video extract, same video,
4 DRC-OTP-1017 -- DRC-OTP-1017-1482, the references to the time
5 stamps are 20 minutes 38 seconds, to 23 minutes 31 seconds.
6 The transcript number in the original language is
7 DRC-OTP-1019-0282, pages 1019-0283, 93, rather, to 1019-0295,
8 from lines 372 to 417. The references for the French translation
9 thereof are DRC-OTP-1019-0237, pages 101-9250 to 1019-0251.
10 And those are the lines 3, line 52444. I'm now going over the
11 Prosecution version, with sound and interpretation, in public.
12 And I would like to play the whole extract, 2 minutes 53 seconds.

13 (Video extract played)

14 PRESIDING JUDGE COTTE: (Interpretation) I got the
15 impression, there is sound? No, there is no sound. It would
16 seem that there is sound now, Prosecutor.

17 MR DUTERTRE: (Interpretation) I will start again
18 from zero.

19 (Video extract played)

20 THE INTERPRETER: (Interpretation) "Very well.
21 There are friends who are going to present themselves. I work
22 in the army and I'm brigade commander. Which group do you
23 represent? I represent the FRPI group. I am the brigade
24 commander of the FRPI. I direct them with the commander, the
25 colonel who is seated over there. Yes, I am the brigade commander.

1 I direct the children. The name, can you tell us the name?
2 My name is Mago Paluku. Thank you very much. That's good.
3 And your friend? I'm called Cherife Dhina. I'm the coordinator
4 of the FRPI. Thank you very much. We have been able to listen
5 to you. So we have people here who are going to give different
6 points of view and we also have journalists, this journalist,
7 who is going to give his name. I'm Daniel Djogo (phon) from
8 the Central Conflict Resolution, it resolves problems which
9 occur in different zones and there, too, there is his colleague.
10 Thank you, Uncle Francoise Mbula. I am the director of the
11 association and peace in Ituri. Yes. We also edit a journal,
12 journal called Amani. Thank you very much. Also over there
13 there is a person. Can you tell us your name, too? There are
14 two here. I am called Androzo Dark. I am the commander of
15 the S3 battalion in the first zone operational in the
16 collectivity of Walendu Bindi and I'm the one who insures the
17 command of the (inaudible) zone. Thank you very much. Now
18 we want everybody to be -- to introduce themselves. Furthermore,
19 with regards to transport travel, we also have a representative
20 who is the president of taxi owners here in the Province of
21 Ituri and I would ask you to give your name, first of all. I
22 am called Lobho Justin. In the army, I'm responsible for
23 security issues. I'm responsible for issues related to
24 information. I'm also responsible for military and political
25 matters. In which group? FRPI. Thank you. We should

1 probably also have the representative of the union of drivers
2 vehicles here in the Province of Ituri because they play a role.
3 Thank you (inaudible)."

4 PRESIDING JUDGE COTTE: (Interpretation) So the
5 English transcript is working. Thank you very much, Counsel
6 O'Shea. Prosecutor, please continue.

7 MR DUTERTRE: (Interpretation) Thank you, your
8 Honour. I noted certain holes in the French transcript, but
9 I imagine that it's something that can be corrected later in
10 accordance with the established procedure.

11 I would now like to go into private session quickly
12 for identifying questions.

13 PRESIDING JUDGE COTTE: (Interpretation) Court
14 officer, can you take us very quickly into private session.

15 (Private session at 4.51 p.m.)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

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 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Open session at 4.53 p.m.)

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

21 PRESIDING JUDGE COTTE: Prosecutor?

22 MR DUTERTRE: (Interpretation) The witness
23 repeated the word re -- during -- the word, "yes," during your
24 intervention, President.

25 Q. Witness, I'm going to play again certain seconds from

1 this excerpt where different members of the FRPI introduced
2 themselves and I'm going to play from 2 minutes 35 to 2 minutes
3 43.

4 (Video extract played)

5 MR DUTERTRE: (Interpretation)

6 Q. Witness, on the left of the screen - that is to say,
7 on the right, Justin Lewow (phon) - the person with the green
8 beret and in military uniform, that is Mathieu Ngudjolo, is
9 it not?

10 A. Yes.

11 MR DUTERTRE: (Interpretation) And for the
12 transcript, I'm at 2 minutes 43 seconds where I'm paused.
13 I would like an EVD number for this item, public, and with the
14 transcript and associated translation reviewed by (no
15 interpretation).

16 PRESIDING JUDGE COTTE: (Interpretation) Court
17 officer.

18 THE COURT OFFICER: Your Honours, therefore, extract
19 number 4 of the video shall be given EVD number EVD-OTP-00171
20 and is admitted publicly. Thank you.

21 PRESIDING JUDGE COTTE: (Interpretation) Please
22 continue, Prosecutor. Thank you, court officer.

23 MR DUTERTRE: (Interpretation) Your Honour, I'm now
24 going over to tab 25. This is extract 5 of the video
25 DRC-OTP-1017-1482. The reference to the time stamp of the video

1 are 31 minutes and 55 seconds to 39 minutes and 13 seconds.
2 The transcript in the original language is DRC-OTP-1019-0282,
3 page 1019-0297 to 1019-0298, lines 506 to 564. In the French
4 version, I refer to DRC-OTP-1019-0237, page 1019-0254 to
5 1019-0255 and the lines are 539 to 595. This excerpt is public.
6 I will play it with sound and interpretation. I'm going to
7 play the first 40 seconds and then I will play it in its entirety.

8 (Video extract played)

9 THE INTERPRETER: (Interpretation) "Thank you very
10 much. We are going to address Colonel Ngudjolo Chui and Androzo
11 Saba (phon), and I've just spoke about the political and ethnic
12 groups in the war which -- well, there was in Ituri. What's
13 your vision on that? What can you resolve? Do you want to
14 resolve everything at once or are you going to do it step-by-step?
15 Thank you very much. I should start by saying that I am preparing
16 a message of peace and then I am going to answer your question.
17 First of all, I am from Ituri."

18 PRESIDING JUDGE COTTE: (Interpretation) Can you
19 take us into private session, court officer, to prevent any
20 identification that might occur.

21 (Private session at 5.00 p.m.)

22 (Expunged)

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 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Open session at 5.01 p.m.)

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

16 PRESIDING JUDGE COTTE: (Interpretation) Please
17 proceed, Mr Prosecutor.

18 MR DUTERTRE: (Interpretation) Thank you, your
19 Honour. I will now play the entire video with sound and
20 interpretation.

21 (Video extract played)

22 THE INTERPRETER: (Interpretation) "Thank you very
23 much. We have begun to talk about the collective and ethnic
24 issue. Now, my question is this: what is your vision? What
25 do you want to resolve? Do you want to resolve everything at

1 the same time, or which part of the problem?

2 Thank you. I should have begun with what I prepared,
3 with a message of peace. Then I will answer your question.
4 To begin with, I am from Ituri. I am a Congolese. I am from
5 Bunia. I left Bunia six months ago. There are many people
6 that know me. I am a medical assistant. I worked at the Rwankole
7 hospital. I worked at the Bunia General Hospital. I will
8 address myself to the population of Ituri. I'm not just here
9 for the Ituri people. I have a message of peace, but what I had
10 to say to the population of Ituri, to begin with, is let us
11 forget the past because, if we continue to dwell on what happened,
12 pacification will have no meaning. It will be pointless. It
13 will bring nothing to us.

14 Secondly, let us unite in order to build, because unity
15 is strength. There is no solution that weapons can bring to
16 us. Weapons cannot provide us with anything except destruction.
17 For that to happen, my vision on this issue of participation
18 is what I would like to ask. I don't have this vision to continue
19 with the war. It is pointless to shed blood, and I am even
20 a nurse and it is unthinkable for me to start shedding human
21 blood.

22 At this point, the question I was going to ask to those
23 responsible for pacification, I have three questions and I need
24 answers to that. I am prepared for pacification. I do not
25 like this war. That is not the first time that weapons have

1 been laid down, that the axes and machetes have been laid down.
2 It is not the first time that these stories have been brought
3 up, but I do not know what that has led to. After the cessation
4 of hostilities, people signed ceremonies, organised, goats and
5 animals are slaughtered, but then war breaks out again. What
6 I would like to ask is as follows: Since we do not want to
7 come back to the same things, we cannot always dance to the
8 same music. We have to make progress. These people who are
9 in favour of pacification, who have they come to pacify? Where
10 have these people come from? Who are they? I do not know whether
11 the journalists can answer us.

12 I understand your question. It is quite surprising.
13 You have talked about those who came for the pacification of
14 Ituri. You are from Ituri. You are Congolese. You are
15 speaking on behalf of the Iturians and the Congolese. You know
16 that the pacification commission has been organised by the
17 Congolese government, and it is a government to which you belong.
18 The Congolese government which is governing you has a concern,
19 a concern for uniting the country, a concern for Ituri.

20 I want to understand what you mean. If I ask that
21 question, it is not for the first time as a trained soldier,
22 and I'm not someone that was just picked up from the street.
23 I am not a soldier who was trained in two weeks. I am well
24 trained. What I've seen in our area is that the politicians
25 who have gone to Sun City, who have gone to Lusaka, who even

1 went to Dar es-Salaam recently, they went to Addis Ababa. What
2 did they bring back for us? What I wanted is that the two groups
3 of belligerents, that is, you will still answer this question
4 but we have to know whether if these people came, they came
5 to create or to pacify a Mulendu with a Muhema. Maybe they
6 came to pacify the combatants of the UPC, but unfortunately
7 I do not know whether there are UPC representatives here. I
8 have concluded. I can give the floor now to the operations
9 commander for Bogoro."

10 MR DUTERTRE: (Interpretation) I would like to thank
11 the interpreters. I believe that the transcript for the video
12 will be reviewed and corrected as necessary.

13 Q. Mr Witness, the journalist begins his question by
14 addressing two people, that is, Ngudjolo Chui and Androzo Dark.
15 I will replay two brief excerpts. There is time stamp 5 minutes
16 54 seconds, then it goes to 6.09, with sound and interpretation.

17 (Video extract played)

18 THE INTERPRETER: (Interpretation) "As a trained
19 soldier, and I was just not picked up from the street, I am
20 a soldier -- not a soldier that was trained in two weeks. I
21 am a well-trained soldier. What I am seeing here -- "

22 MR DUTERTRE: (Interpretation) I stopped at
23 6 minutes 14 seconds.

24 Q. Mr Witness, the person who is saying that he is a
25 well-trained soldier is Mathieu Ngudjolo, isn't it? He is on

1 the left of the image and wearing a green beret?

2 A. Yes.

3 MR DUTERTRE: (Interpretation) I will play a second
4 brief excerpt from 7.06 to the end.

5 (Video extract played)

6 THE INTERPRETER: (Interpretation) "I have
7 concluded and I can hand over the floor to the operations
8 commander of Bogoro."

9 MR DUTERTRE: (Interpretation)

10 Q. Witness, on the last image of this extract the person
11 to whom Mathieu Ngudjolo has decided to hand over the floor
12 is Androzo Dark, isn't it?

13 A. Yes.

14 Q. Who is in the middle there, wearing a hat?

15 A. Yes.

16 MR DUTERTRE: (Interpretation) Your Honour, I would
17 like to have an EVD number assigned to this extract and the
18 corresponding transcripts and translations as reviewed by the
19 Registry.

20 PRESIDING JUDGE COTTE: (Interpretation) Court
21 officer, please.

22 THE COURT OFFICER: Extract 5 of the video shall be
23 given the EVD number EVD-OTP-00172 and is admitted as a public
24 exhibit.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

1 court officer. Prosecutor, please proceed.

2 MR DUTERTRE: (Interpretation) Thank you, your
3 Honour. I will move on to tab 2.6, and that is extract number
4 6 of video DRC-OTP-1017-1482. The time stamp references on
5 the original video are 39 minutes 13 to 41 minutes 57. The
6 number of the transcript is DRC-OTP-1019-0282, page 1019-0298,
7 lines 165 to 188. The translation is ERN number
8 DRC-OTP-1019-0238, pages 1019-0255, lines 596 to 619. The
9 extract is public. I will play the full extract with sound
10 and interpretation. It is only 2 minutes 43 seconds.

11 (Video extract played)

12 THE INTERPRETER: (Interpretation) "Allow me,
13 journalists, to ask another question. My question was to know
14 on the two aspects of the war afflicting Ituri, that is, the
15 two aspects of the war that is bringing distress or desolation
16 to Ituri. Which do you give priority to? What do you want
17 to resolve first? As the colonel has just said, you signed
18 today, and tomorrow the war breaks out again. You cannot always
19 dance to the same music. So the population would like to know
20 whether you really want to end the war in Ituri.

21 Thank you, Mr Journalist, for giving me the floor. I am
22 very happy that you asked me a question about ethnic warfare.
23 I'm not the one doing it. When it comes to the ethnic war,
24 it was necessary to find representatives of the UPC so that
25 they should answer these questions and, as for myself, if it

1 is said that a Lendu or the combatants of the FRPI waged an
2 ethnic war, it is because we were enclaved. We were surrounded
3 by the UPC under conditions that did not make it possible for
4 us to feel like Congolese. So, we had to break down this curtain
5 which separated us from our Congolese brothers. And, in fact,
6 when it comes to the ethnic war, in fact, the young people of
7 Ituri are happy when they are near their television sets and
8 see me speaking because they are witnesses of the efforts that
9 we are making for national unification. National unity, not
10 tribal unity. The Hemas, as the Gegeres, who were being seen
11 as enemies of Lendus, or people who had been educated in Ituri,
12 are members of the UPC. They can pass freely. They can travel
13 freely through Bogoro, night and day. They move about freely
14 and they can carry out their business as necessary."

15 MR DUTERTRE: (Interpretation) Your Honour, once
16 again, the transcript will be completed later on. I would like
17 to go into private session.

18 PRESIDING JUDGE COTTE: (Interpretation) Court
19 officer, please.

20 (Private session at 5.20 p.m.)

21 (Expunged)

22 (Expunged)

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 5.20 p.m.)

11 THE COURT OFFICER: We are in open session, your
12 Honours.

13 (Video extract played)

14 MR DUTERTRE: (Interpretation)

15 Q. Mr witness, at 0 minute 0 second, the person who is
16 speaking and sitting between Mathieu Ngudjolo and Justin Lobho
17 is Androzo Dark, isn't it?

18 A. Yes.

19 MR DUTERTRE: (Interpretation) I would like to have
20 an EVD number for this extract and the corresponding translations
21 and transcriptions as reviewed by the Registry.

22 PRESIDING JUDGE COTTE: (Interpretation) Court
23 officer, please assign an EVD number for these three documents.

24 THE COURT OFFICER: Your Honours, the EVD number will
25 be EVD-OTP-00173, and the video is public. Thank you.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
2 court officer. Mr Prosecutor, please proceed.

3 MR DUTERTRE: (Interpretation) Not surprisingly,
4 your Honour, I will move to tab 2.7, extract 7 of video number
5 DRC-OTP-1017-1482. The time stamp reference in the full video
6 is 56 minutes 00 seconds to 59 minutes 04 seconds, the
7 transcript number DRC-OTP-1019-0282, pages 1019-0303 to
8 1019-0304, lines 771 to 801. The French version is
9 DRC-OTP-1019-0237, pages 1019-0260 to 1019-0261, lines 819 to
10 857. It is a public extract which I will play with sound and
11 interpretation. I will begin by playing it in full to save
12 time. It is 3 minutes 05 seconds.

13 (Video extract played)

14 THE INTERPRETER: (Interpretation) "Thank you.
15 After listening to our brother speak, we can continue with our
16 programme. The question often asked by many Congolese concerns
17 the national army. One can wonder whether there will be a
18 national army that would include people from Ituri working in
19 Kalemie without only thinking about Ituri. They should say that
20 'I am a Congolese. I have been transferred. I was sent by
21 my commander to go to Ituri or Kalemie'. This is a question
22 that we want to ask the colonel: what is your position? Can
23 you join the national army as a Congolese? If today you were
24 asked to leave Bunia and transfer to Kinshasa, would you agree?
25 If today you were asked to leave Bunia and go to Lubumbashi,

1 would you agree? If you have listened to me from the very
2 beginning, I am a Congolese from Ituri, not from an ethnic group
3 and not a Lendu. I am ready. This is not the first time that
4 I have been waging war. We started fighting even from the era
5 of Mobutu and we fought during the period of Kabila. We fought
6 in Goma. I fled to Lubutu and Kisangani and I arrived Bunia.
7 I abandoned the army. Then I went and pursued my medical studies.
8 I concluded them. Today I'm a doctor, but I have gone back
9 into the army. If we are united here today and we are
10 signing -- in fact, I even spoke with international journalists.
11 The FAC, that is the army from Kinshasa, should come so that
12 we should join them. They can lead us. If we have to go to
13 Boma or Matadi or even Lubumbashi, we are prepared to go and
14 work there because our position is based on territorial integrity.
15 It is not the day on the date that the visitor will come that
16 we will eat a chicken, but it is not a visitor who is going
17 to put an end to our problems beginning by us people of Ituri.
18 If the Congolese can all be united and look at the problems
19 in our country, we can resolve them without external interference,
20 whether it is the problems with the Hemas -- whether we are
21 Hemas, Biras, Bakongos, Balubas, we have to come together and
22 form a national army. I don't have much else to say. Thank
23 you very much."

24 MR DUTERTRE: (Interpretation) Once again, we'll
25 base ourselves on the principle of the transcript being completed

1 at a later point in time by the Registry.

2 PRESIDING JUDGE COTTE: (Interpretation) Yes, we
3 will use that as our working assumption. Please proceed,
4 Prosecutor.

5 MR DUTERTRE: (Interpretation) If we could very
6 briefly go into private session for a number of identifying
7 details.

8 PRESIDING JUDGE COTTE: (Interpretation) If we
9 could briefly go into private session, court officer, as is
10 the case after each time we present a video.

11 (Private session at 5.30 p.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Open session at 5.31 p.m.)

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

7 PRESIDING JUDGE COTTE: (Interpretation)

8 Mr Prosecutor.

9 MR DUTERTRE: (Interpretation) Thank you, your
10 Honour. I would like to replay a snippet of this excerpt 1.15
11 to 1.42, time stamp 1 minute 15 seconds to 1 minute 42 seconds,
12 with sound and interpretation.

13 (Video extract played)

14 THE INTERPRETER: (No interpretation).

15 MR DUTERTRE: (Interpretation) Apparently, there
16 was no interpretation.

17 PRESIDING JUDGE COTTE: (Interpretation) would you
18 like to play the excerpt again with the interpreters making
19 another attempt?

20 MR DUTERTRE: (Interpretation) Yes, your Honour, if
21 possible.

22 THE INTERPRETER: A message from the Swahili booth:
23 Line reference, please.

24 PRESIDING JUDGE COTTE: (Interpretation) Line
25 reference, please. 832. we will resume at line 832. Line 832;

1 that is to say, in the translation.

2 THE INTERPRETER: The Swahili booth: Thank you, your
3 Honour.

4 "I'm ready. This isn't the first time that I've waged
5 war. We started to fight at the time of Mobutu. We fought
6 against Kabila. We fought there in Goma. I fled. I took the
7 path of Lubutu, Kisangani and we arrived in Bunia. I set aside
8 my work in the army and I decided to study medicine. I finished
9 now, I'm a doctor, and now I have resumed my work in the army."

10 MR DUTERTRE: (Interpretation)

11 Q. That is Colonel Mathieu Ngudjolo speaking, who said
12 that it wasn't the first time he had waged war.

13 A. Yes, it is Afande Ngudjolo who was speaking of himself
14 and speaking of war.

15 Q. You just used a term that you used last week as well,
16 speaking of Mr Katanga. When you were speaking of -- it's the
17 word "Afande?" You said Afande Monsieur Katanga last week and
18 now you have said Afande -- you said Afande as well with reference
19 to Mr Ngudjolo. Could you translate that term? What does it
20 mean?

21 A. Yes, the term "Afande" means commander. I think that
22 you've understood me correctly.

23 Q. Thank you, witness.

24 MR DUTERTRE: (Interpretation) Your Honour, could
25 an EVD number be assigned to this extract, the transcripts and

1 the translations that are associated with the excerpt as reviewed
2 by the Registry?

3 PRESIDING JUDGE COTTE: (Interpretation) An EVD
4 number, please, court officer.

5 THE COURT OFFICER: Your Honours, extract 7 of the
6 video shall be given the EVD number EVD-OTP-00174 and is admitted
7 as a public exhibit. Thank you.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
9 Prosecutor, please go ahead.

10 MR DUTERTRE: (Interpretation) Your Honour, I would
11 like to refer you to tab 2.8. This is video extract 8 from
12 the video DRC-OTP-1017-1482. The references to the time stamps
13 are as follows: 1 hour 22 minutes 43 seconds to 1 hour
14 28 minutes 36 seconds. Transcript number DRC-OTP-1019-0282,
15 page 1019-0310 to page 1019-0311, lines 1052 to 1114.
16 Translation DRC-OTP-1019-0248, page 1019-0267 to 1019-0268,
17 lines 1117 to 1179. Public extract which I will be playing
18 with sound and with the assistance of our interpreters with
19 interpretation.

20 (Video extract played)

21 THE INTERPRETER: (Interpretation) "12 hours. We
22 are at the -- on the -- currently -- the very last thing is
23 a scene of (inaudible) forces of resistance."

24 The English booth apologises: we cannot find the
25 extract from the transcript or the translation.

1 (Interpretation) "... and the UPC because there was
2 two forces who saw each other in combat, whereas in the back
3 hall so to speak there were also forces that were taking part
4 in one way or another, but for us the Force de Résistance
5 Patriotique en Ituri, we say, we see pacification as returning
6 peace (inaudible). Our vision, we do not have the other vision;
7 that is, to go beyond Ituri. We only want to protect our friends,
8 our fellow Congolese. We want to live in total peace and to
9 feel -- to enjoy freedom, even of expression, (inaudible), and
10 we have gone as far as Bogoro. People may condemn us, saying
11 that we fought Mandro perhaps. We were looking for freedom,
12 because we were enslaved by the UPC. When someone is away,
13 the other person who is present always tries to benefit from
14 the situation, and if the -- we sense that pacification only
15 means return to peace in Ituri. And what is your contribution?

16 Answer: The FRPI has already implemented
17 pacification. The Hema have left to my home in Bogoro, where
18 I am the commander. Even the Gegere, there are many. Even
19 the driver who is here can bear witness to this. There are
20 (inaudible). As far as we are concerned, we do not want the
21 costs and we don't want pointless rhetoric on the radio or mere
22 words. Other people are taking advantage of the situation,
23 but we want the reality in the field. We want peace everywhere
24 in Ituri. Thank you very much, commander. Sir, may I ask a
25 question? What about the people (inaudible)?

1 Answer: Those people are still alive and the vehicle
2 has broken down. If the driver or if the boss were to get his
3 act together and bring some spare parts to repair the vehicle,
4 he could get the vehicle back with the passengers.

5 Question: (inaudible).

6 Answer: From the time -- he will be here. He will
7 see. The two enemies never say the truth from their side.

8 Question: Commander, you say that you want to bring
9 peace and then you are saying that you are taking people hostage,
10 the vehicles are still, there and then you spent the night with
11 those people there. What leads you to say that?

12 Answer: It's really not a good idea for a civilian
13 to move around, to travel around with just anyone and say that
14 there is pacification."

15 MR DUTERTRE: (Interpretation) Thank you,
16 interpreters. Your Honour, if we could go into closed session
17 briefly.

18 PRESIDING JUDGE COTTE: (Interpretation) If we
19 could briefly go into closed session -- correction, private
20 session.

21 (Public session at 5.46 p.m.)

22 (Expunged)

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 5.46 p.m.)

11 THE COURT OFFICER: We are in open session, your
12 Honours.

13 PRESIDING JUDGE COTTE: (Interpretation) Please
14 proceed, Mr Prosecutor.

15 MR DUTERTRE: (Interpretation) Thank you, your
16 Honour. I would like to replay a short extract from 25 to
17 27 seconds.

18 (Video extract played)

19 THE INTERPRETER: (Interpretation) "(Inaudible)."

20 MR DUTERTRE: (Interpretation)

21 Q. Witness, now this is Mr Ngudjolo who is answering for
22 the RPI and when I speak of Mathieu Ngudjolo I am speaking of
23 the person who is seen on the left of the screen. He later
24 gives the floor to another person.

25 A. Yes.

1 Q. This is 0 minutes 35 seconds. Allow me to go on to
2 40 seconds; namely, from 35 seconds to 40 seconds.

3 (Video extract played)

4 THE INTERPRETER: (Interpretation) "Thank you. As
5 far as we are concerned --"

6 MR DUTERTRE: (Interpretation)

7 Q. 040 seconds. The person speaking immediately to the
8 left of Mathieu Ngudjolo is Androzo Dark?

9 A. Yes.

10 MR DUTERTRE: (Interpretation) Your Honour, could
11 an EVD number also be attributed to this excerpt, the transcript
12 and the translation reviewed by the Registry, and I would imagine
13 any omissions will be corrected in the transcript?

14 PRESIDING JUDGE COTTE: (Interpretation) Court
15 officer, if an EVD number could be assigned.

16 THE COURT OFFICER: Extract 7 of the video shall be
17 given EVD number EVD-OTP-00174 and is admitted publicly. Thank
18 you.

19 PRESIDING JUDGE COTTE: (Interpretation) Isn't it
20 75, court officer? It seems to me that you already attributed
21 such a number to extract 27.

22 THE COURT OFFICER: I do apologise, your Honours.
23 This is extract 8 which shall be given the number EVD-OTP-00175.
24 Thank you.

25 PRESIDING JUDGE COTTE: (Interpretation) You are

1 entirely forgiven, court officer.

2 Mr Prosecutor, please go ahead.

3 MR DUTERTRE: (Interpretation) Your Honours,
4 please refer to tab 2.9. This is extract 9 from video
5 DRC-OTP-1017-1482. I will be playing the Prosecution version
6 this time and this will be done confidentially with sound and
7 interpretation. The references - the time stamp
8 references - are: 1 hour 56 minutes 59 seconds to 2 hours
9 1 minute 19 seconds; transcript reference DRC-OTP-1019-0282,
10 page 1019-0319 to page 1019-0321, lines 1445 to 1508; translation
11 reference number DRC-OTP-1019-0248, page 1019-0277 to page
12 1019-0279, lines 1550 to 1613. I will show the entire excerpt
13 directly on a confidential basis.

14 PRESIDING JUDGE COTTE: (Interpretation) Could you
15 tell us -- with the current configuration could you tell us
16 why you wish to play extract 9 confidentially, or do you need
17 a more confidential framework to provide explanations?

18 MR DUTERTRE: (Interpretation) We could go into
19 private session so I could give fuller explanations.

20 PRESIDING JUDGE COTTE: (Interpretation) We will go
21 into private session for a few moments so that we can be told
22 exactly why this excerpt must be played on a confidential basis.

23 (Private session at 5.54 p.m.)

24 (Expunged)

25 (Expunged)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 78 expunged. Private Session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 79 expunged. Private Session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 80 expunged. Private Session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 81 expunged. Private Session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 82 expunged. Private Session.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 83 expunged. Private Session.

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Open session at 6.09 p.m.)

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

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
20 court officer.

21 For the attention of the public, the Chamber has just had
22 a short debate in private session which led it to consider that
23 this extract 2.9, just like the extract 2.3, should be classified
24 with an EVD number, but it should be confidential.

25 Please continue, Prosecutor.

1 MR DUTERTRE: (Interpretation) Thank you, your
2 Honour, Judges. I would invite you to look at 3.2 in your binder.
3 This is extract 2 of a new video,
4 DRC-OTP-0080 -- DRC-OTP-0080-0010. The reference with
5 regards to time-stamps are 51 minutes 14 seconds to 55 minutes
6 06 seconds. The reference to the transcripts are
7 DRC-OTP-1050-0012, page 1050-0030 to 1050 -- 1050-0032, lines
8 642 to 689. As regards the translation, DRC-OTP-1049-0514,
9 page 1049-0535 to 1049-0536, lines 713 to 765. If I'm too fast,
10 I would like the interpreters to tell me so that I will slow
11 down.

12 The extract is public. I will play it with sound and
13 interpretation as well, and I'm going to play it directly and
14 fully. It is approximately four minutes.

15 (Video extract played)

16 THE INTERPRETER: (Interpretation) "We are here at
17 RTNC, Bunia. In front of us we have Colonel Mathieu Ngudjolo
18 Chui who is responsible for restoring peace -- peace with the
19 support of Lendu groups, that is to say Lendu combatants, and
20 he wants us to inform the population of the fact that he has
21 just opened an office responsible for the registering the
22 suffering of inhabitants. Hello Colonel. Thank you very much
23 for giving me leave to speak here. First of all, I would like
24 to greet the population of Bunia and in all of Ituri. I am
25 the Colonel, as the journalist has just told you. I am here

1 in Bunia and have been here since the start of the war and I
2 would like to bring to the knowledge of the population of Bunia
3 and Ituri that I have just opened a liaison office and, as such,
4 if there is a problem then you can come here into the town,
5 you can come to the office in order to inform me thereof, and
6 this office, as you know well, is in the place where Commander
7 Rafiki lived, that is near Epuv (phon) town. That's what I
8 wanted to tell you. And I would also like to tell you that
9 all the rumours that you hear with regards to the troubles,
10 the disputes, these are things that people say, but they are
11 not true. If, however, you hear something, do not be concerned
12 yourself. Come and report it to me and we will verify the
13 situation together and thereafter we will see what measures
14 need to be taken. Our brothers who are in Lipri, and you who
15 were in Zumbe and the others in Kobe (phon) and those of you
16 who are in Kpandroma, if you want to come and see me you can
17 come and do so in that place now. We are currently preparing
18 the pacification and I think that's going to start on 1 April.
19 We are ready to restore security and peace in the town of Bunia.
20 There is another thing that I wanted to ask the combatants as
21 well as the militia and this is no longer to call people onto
22 the roads.

23 Yesterday, I went to Bogoro and I was very pleased
24 to meet on the route some of our Hema brothers who were going
25 by foot on the road to Kasenyi. From Kasenyi. I was very pleased

1 about this and this system of escorting vehicles is something
2 that I don't accept. Can you confirm that the security of
3 travellers is in your hands? Yes, I confirm this. It's true
4 that the security is in my hands because I have seen the
5 inhabitants circulate freely without having the slightest
6 military escort behind them.

7 Question: And why is that? well, there is a vehicle
8 which was held next to Songolo. Can you explain us to, because
9 people are saying that this vehicle has not yet returned. It
10 is a COOPI vehicle.

11 Answer: In reality I can't lie to you. This vehicle
12 hasn't yet come back. It was next to Songolo, but I am convinced
13 that this vehicle will come back.

14 Question: And would you really recommend to the
15 population that they should travel by vehicle at night from
16 Kasenyi to Bunia? Is that something that you can confirm?

17 Answer: I confirm it. Yesterday, I carried out a
18 briefing with the commander of the combatants who were in Bogoro,
19 if there is a vehicle, and the chauffeur wants to go back into
20 town, even during the night they are to be given free access.
21 Even the UPDF, I spoke to them yesterday, if there is a vehicle
22 that wants or a driver who wants to go back into the town then
23 they should let that person enter and if they want to spend
24 the night there they spend the night. There is no problem with
25 that. Thank you very much."

1 MR DUTERTRE: (Interpretation) There is a whistling
2 sound.

3 PRESIDING JUDGE COTTE: (Interpretation) Are all
4 the microphones switched off? Apparently it is now working
5 properly. You can therefore continue.

6 MR DUTERTRE: (Interpretation) Thank you very much,
7 your Honour, Judges. Thereto we will have to complete the
8 transcript on the basis of the corrected transcript, corrected
9 by the Registry. I would now like to go into private session
10 for identifying matters.

11 PRESIDING JUDGE COTTE: (Interpretation) Please
12 take us into private session, please, court officer.

13 (Public session at 6.20 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

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 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Open session at 6.22 p.m.)

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

22 Honours.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you

24 very much, Registrar. Prosecutor, we have very little time

25 left. Please use it as well as possible.

1 MR DUTERTRE: (Interpretation) I will play the start
2 again very quickly.

3 (Video extract played)

4 MR DUTERTRE: (Interpretation) I am stopping at
5 15 seconds.

6 Q. Witness, do you know who the person is who is speaking?
7 He is starting the interview, whose voice we hear at the beginning
8 of this extract.

9 A. Yes. It is a journalist called Marc Uzele.

10 MR DUTERTRE: (Interpretation) Your Honour, with my
11 concern of making the meeting as open as possible, public as
12 possible, there is a question that ought to be put in private
13 session.

14 PRESIDING JUDGE COTTE: (Interpretation) You want
15 us to go into private session. We'll do so very quickly. Court
16 officer, if you would be so kind, for the last question of this
17 afternoon.

18 (Private session at 6.25 p.m.)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Open session at 6.26 p.m.)

9 THE COURT OFFICER: We are in open session, your
10 Honours.

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

13 Should I deduce therefrom that you are finishing for this
14 evening and you are going to continue tomorrow morning?

15 MR DUTERTRE: (Interpretation) Yes, but we can
16 already have an EVD number assigned to this and the associated
17 transcript and translation.

18 PRESIDING JUDGE COTTE: (Interpretation) Court
19 officer, you are going to be the person who finishes this hearing
20 with an EVD number attributed to the excerpt which has just
21 been shown and shown publicly.

22 THE COURT OFFICER: Your Honours, therefore extract
23 2 of DRC-OTP-0080-0010 shall be given the EVD number
24 EVD-OTP-00177 and is admitted as a public document. Thank you.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

1 court officer. We shall therefore ask the security officers
2 to escort Mr Germain Katanga and Mathieu Ngudjolo out of the
3 courtroom. The accused, we shall therefore be back tomorrow
4 morning at 9 o'clock. See you tomorrow. Then we are going
5 to go into closed session so that the witness can leave the
6 courtroom discreetly.

7 (The accused exit the courtroom)

8 (Closed session at 6.28 p.m.)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Open session at 6.29 p.m.)

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

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
24 court officer. The Chamber has noted that during the hearing
25 information was given to it by which you received the identity

1 that you were waiting for. That is perfect. The Chamber would
2 like to thank the interpreters and the court reporters, all
3 those who have assisted us. The hearing is now adjourned. We
4 shall be back at 9 o'clock tomorrow morning.

5 (The hearing ends at 6.29 p.m.)