

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 Mathieu Ngudjolo Chui

7 Trial Hearing

8 Tuesday, 12 October 2010

9 (The hearing starts at 9.04 a.m.)

10 (Open session)

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

13 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.

14 The accused are with us, so we can begin.

15 Now, when we ended yesterday's proceedings, the Chamber expressed a
16 number of concerns regarding the smooth operation of our proceedings. We said at the
17 end of this witness's testimony we would take stock of the amount of time used, and we
18 are going to be conducting this exercise as soon as the witness concludes his testimony.

19 However, as of today, we would like to remind you first of all on the -- from
20 23 August to 28 September, we heard a great deal of testimony from a number of
21 contextual witnesses who - and I will use an expression that is somewhat familiar - ate up
22 too much time. The Chamber realises that we have been very tolerant and perhaps too
23 tolerant.

24 My second problem is as follows: Witness 12 has given very interesting
25 testimony, yet this has been a very long testimony. It is absolutely necessary, for the

1 purposes of cross-examination, the Defence teams will have to be very careful -- and this
2 is an expression that I often use. I often say, "Please focus on what is truly important and
3 focus on the most relevant aspects of the testimony."

4 Fourth point: The schedule that was set in decision 1665 of 1 December are
5 not absolutely binding. They are there for general purposes, but they can't be
6 disregarded. You can't constantly be going past these time frames.

7 Fifth point: At the end of October, in actual fact 22 October, that particular
8 deadline can't be kept for the conclusion of the Prosecution case. We are quite aware of
9 that. We do not want to make undue haste but, on the other hand, insofar as is possible
10 we will have to respect the deadline of late November.

11 Why? Because three trials will be going on at the same time. I believe on
12 Friday you received a schedule for late October, November and December. The
13 Chamber does hope that we will have the number of hearings that are to be found on that
14 schedule. We are never really at the mercy of difficulties having to do with the number
15 of hearings.

16 Now, if by some bad chance or stroke of bad luck we have a number of
17 problems because of these three trials going on at the same time, the Prosecution will have
18 to finish its case by 10 December. The Chamber does not see this case going beyond the
19 end of 2010. It began in the end of November of 2009, so all efforts must be made to
20 ensure that the Prosecution's case is over by the end of 2010.

21 We wish to specify that having three trials going at the same time in 2011
22 will lead to a number of problems in terms of the number of hearings that will be
23 available for each particular Chamber.

24 I think you've realised that, if the Prosecution case must end by the end of
25 2010, this implies that the Defence will be authorised -- I beg your pardon, the legal

1 representatives, Mr Luvengika, will begin a period of time and this will be discussed at a
2 status conference. After a certain period of time, that will allow the Defence to conclude
3 their enquiries.

4 We will discuss all of this a few hours from now, or in a few days from now,
5 once Witness 12 has concluded his testimony, but we would like you to be very much
6 aware of the objectives that the Chamber is pursuing. As Mr Hooper is about to
7 conclude his cross-examination and as the Ngudjolo Defence team begins their
8 cross-examination, we will not have a long discussion on this. We merely wish to
9 provide information to parties and participants.

10 We will now go into closed session so that the witness may enter the
11 courtroom.

12 (Closed session at 9.09 a.m.)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Open session at 9.10 a.m.)

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

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

20 WITNESS: DRC-OTP-P-0012 (On former oath)

21 (The witness answers through interpreter)

22 PRESIDING JUDGE COTTE: (Interpretation) Good morning, Witness.

23 THE WITNESS: Good morning.

24 PRESIDING JUDGE COTTE: (Interpretation) Well, we are resuming
25 today, this morning. Are you well?

1 THE WITNESS: Fine.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, please proceed.

3 QUESTIONED BY MR HOOPER: (Continuing)

4 Q. Good morning, Mr Witness.

5 A. Good morning, sir.

6 Q. Am I right in saying that in this first visit to Kampala you, as well as Mr
7 Katanga, stayed in the hotel for the period that he was there? You didn't stay at your
8 home; is that right?

9 A. First of all we were in a hotel and then, after we met with the president, we
10 were no longer at the hotel. We were lodged in a *guesthouse.

11 Q. But there were no visits to your home on that visit, is that right, by Germain
12 Katanga?

13 A. No, I wasn't authorised to leave the house we were staying at. However, my
14 wife did come to visit us.

15 Q. Are you aware that Germain Katanga paid a visit to Kampala in January 2004,
16 but did not meet with either you or -- where is the piece of paper? Or number 1?

17 A. Yes, that's possible.

18 Q. Now, I'm taking this more quickly than I might, but in February 2004 there
19 was another visit. You told us about that; a meeting first of all at Ntoroko,
20 N-T-O-R-O-K-O, near Fort Portal, F-O-R-T P-O-R-T-A-L, and a little later another meeting
21 at Rwabisengo, R-W-A-B-I-S-E-N-G-O. And I don't want details of the nature of the
22 meeting, you've told us something about that, but is that right, there were meetings there
23 followed by a visit to Kampala?

24 A. I think you've made the information more complicated. It was much
25 simpler. It would be simpler to say to me, "That day in February were you in Fort Portal?"

1 Were you in Ntoroko? Were you in Rwabisengo?" You could have asked me that. But
2 we never got to Ntoroko, although he went there. That's another matter. You should
3 also understand, sir, that ever since Germain met the president from that time -- well, you
4 see, a satellite phone had been purchased for him and they were in contact without my
5 intervention, so it was possible to reach him anywhere. And they couldn't meet and he
6 often did that thing without me. So it is possible that he might have gone there. He
7 might have been invited. It wasn't my problem. All I had done was I had put the two
8 in contact with one another.

9 Q. Well, somebody had. Let's go to Kampala then. A visit of eight days in
10 Kampala; is that right?

11 A. I no longer recall exactly how many days. If you tell me the time-frame or
12 the circumstances, I will remember.

13 Q. On the third day of the visit there was a meeting with President Museveni at
14 State House. That was the one and only visit to the president during that eight-day stay;
15 is that right?

16 A. Yes. It's possible that it was the third day, but I'd like to correct one thing
17 because you said that Germain arrived the first time in January. But (inaudible). I think
18 that that's not so. The first time he went there was in January and he was not able to
19 meet with the president. The president was not ready to meet with him, so they went
20 back. They went back to Aveba, without having that opportunity to meet the president.

21 The second time, when they came back in February, then they met the
22 president. It might have been after three days. That is when they met the president, but
23 before that they were not able to meet with the president.

24 Q. There may be something lost in translation there. I hadn't asserted anything
25 contrary to what you suggested. Now, can I take you to tab 3 -- 13, sorry, in the bundle,

1 the little bundle we've got. And for the record, this is DRC-OTP-0106-0483. And you
2 can see there that we've got the document from the FRPI, which is a political declaration.
3 If we turn to the end of it -- well, let's start on the front page. It's dated Kampala, 8
4 February 2004. You've got it? Yes, you've got it.

5 A. Yes.

6 Q. 8 February 2004. If you turn to the back - I say to the back, to the next page,
7 over the page - we have it also declaring itself to be made in Aveba, Mkubwa on the
8 8 - that's M-K-U-B-W-A - on 8 February 2004, the same day, and signed by him under the
9 title "President." Now, that document wasn't created in Kampala, was it? It was
10 created in Fort Royal; is that right?

11 A. Which document, please?

12 Q. The one you're looking at.

13 MR MACDONALD: Just for your -- Mr Hooper, I think there is an EVD
14 number for that document.

15 MR HOOPER: I've given -- I've given the number.

16 PRESIDING JUDGE COTTE: Witness, this is at tab 13, a document
17 "political statement"; "déclaration politique" in French. The court officer shall cross-check
18 to make sure you have the right document. Very well.

19 Mr Hooper is speaking of this document dated 8 February 2004.

20 Mr Hooper, please proceed.

21 MR HOOPER: Certainly.

22 Q. I'm just interested to know, Mr Witness, if I may, I put to you that that --

23 MR MACDONALD: (Interpretation) Correction.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr Macdonald.

25 MR MACDONALD: (Interpretation) Just to draw everyone's attention to

1 the fact that there is an EVD number for this document. Unless I'm mistaken, it's
2 D02-00046. So it might be easier for everyone to pinpoint the document with that
3 particular number.

4 PRESIDING JUDGE COTTE: (Interpretation) And it's a public document?
5 There are no difficulties. It is a public document.

6 MR MACDONALD: To my knowledge, it should be public.

7 PRESIDING JUDGE COTTE: (Interpretation) The court officer seemed
8 rather doubtful of that. That is why I asked the question. Very well.

9 Mr Hooper, please proceed. Please go on. Our apologies for the
10 interruption.

11 MR HOOPER: I think we'll sort all the EVDs later. That's a public
12 document. There's no reason for it to be other than a public document.

13 Q. Looking at that document, the question I put to you is do you agree that that
14 was a document drafted and brought into existence in Fort Royal?

15 A. I'm not interested in knowing whether it was drafted in Paris, or New York,
16 or any -- wherever. That doesn't interest me. What I do know is that I did type this
17 document. It doesn't matter where.

18 Q. Well, did you type it in New York or Fort Royal?

19 A. I typed it out in Kampala.

20 Q. Now, if we can go to the next document in that bundle, that's document 14.
21 It's the next document in the little bundle and that's got a following reference,
22 DRC-OTP-0106-0488 dated 22 February 2004.

23 MR MACDONALD: This document should be confidential.

24 MR HOOPER: I don't see why. Very well, let's leave it as confidential at
25 the moment.

1 Q. 22 February 2004, and one can see in the penultimate paragraph the nature of
2 the document. It's appointing someone to be "our representative in Uganda." Now, am
3 I right in saying that that document was produced at a time when Germain Katanga was
4 himself in Kampala?

5 A. Yes.

6 Q. And we see the date, 22 February 2004, and at that date he was in Kampala; is
7 that right?

8 A. I told you that all those dates I really can't remember. I can no longer
9 remember exactly when and how. But, when you read -- well, I can't remember whether
10 it was exactly on that particular date or that other date. I couldn't tell you because I don't
11 remember exactly when. I don't remember the exact dates. So you can read out your
12 information and then ask me the question.

13 Q. Now, it was your idea, wasn't it; you suggested to Germain Katanga that he
14 appoint the person whose name appears in that document, number 1, as his
15 representative? That idea came from you, didn't it?

16 A. He was the president of a political/military group. He didn't need my
17 influence. He needed -- he had his own political advisers, his secretary-general with him,
18 but this document appeared how? The president asked after the meeting for a study
19 commission to be set up with the two groups, the group that he belonged to, and his
20 group, so that the group could set out a foundation, or parameters, for things such as
21 agriculture, education, together. And the president said he was willing to give
22 everything that was necessary so that sort of thing could be done. And Germain didn't
23 have anyone who could continue, ensure the follow-up of what the president had asked
24 for. So he looked and he asked my wife: "Is it possible? Could you help us to do that
25 work?" And that was related to the work -- it was related to what the president had

1 promised. And since he didn't know exactly how to ensure the follow-up on what had
2 been offered by the president, that is what he did. I didn't suggest it. It was for their
3 own interests.

4 And, furthermore, myself, it was a problem for me because I knew I was in a
5 party that seemed to be opposed but, unfortunately, the person, this person number 1,
6 was not all that happy with my participation in the activities within the group that I
7 belonged to. That person thought it was true. I could help. I could be an intermediary,
8 and they could receive -- I was -- what was my influence to be? It really wasn't political
9 in nature; it was more social assistance.

10 Q. I suggest you were looking for some financial advantage here, that was your
11 interest.

12 PRESIDING JUDGE COTTE: (Interpretation) Witness, could you please
13 try to speak more slowly when you're answering.

14 THE WITNESS: My interest? In doing what? To do what?

15 MR HOOPER:

16 Q. You could smell a financial advantage here. If you could get in with these
17 boys, you could influence them and there could be economic deals. The fish deal was
18 one, wasn't it? And there was a lot more possible in the future. That's why you pushed
19 number 1 into that position?

20 A. That might be really an honour for me. If you were to ask your client how
21 much money he received from the president, he visited him, and yesterday he said -- it
22 was said -- you said that I was given \$5,000 for the trip. Ask him, when he met the
23 president, how much money was given to him. You should ask him that. You should
24 ask him whether, when they met the president, who paid for the suits and the shoes, and
25 everything. Whether he got the money from the president or me, it would be better to

1 ask him, rather than saying "Oh, you -- there was some financial advantage in it for you."

2 Ask him.

3 I was waiting there. No. The president said that he was going to begin
4 agricultural work, and Mr Germain had a satellite telephone that had been given to him
5 by that government and he could speak with them. They could tell him, "Well, we have
6 provided such-and-such a thing for you," but the goal was to have an exchange of
7 information, correspondence, so to speak, and he could help them, but not -- now, I don't
8 know about giving money, because he received money. He met with the president.
9 You should ask him.

10 Q. Yes. Well, of course, I have. But, for example, those clothes that you
11 provided, not just to him but to the others as well, quite a lot of clothes, I'm right in saying
12 you were never paid for that, were you? You never got your money back on those; is
13 that right?

14 A. But he knows. He knows when we came back he never gave that to my wife.
15 You should have asked him.

16 Q. To your knowledge -- to your knowledge, did Germain Katanga meet your
17 wife alone?

18 A. I no longer remember, but I know that at the time he came to the house I was
19 there.

20 Q. Did you ever suspect Germain Katanga of having an affair with number 1?

21 A. No, I couldn't. I know number 1 very well. I could not have suspected that.
22 And he himself, Germain, had already told me that he was not so terribly interested in
23 activities with women outside because he loved his dear wife, he had talked to me about
24 that, so I couldn't have suspected him. Given his age, I couldn't have suspected him of
25 having an affair or any such thing.

1 Q. Did Germain ever visit your home when just your wife was there?

2 A. I do not believe so.

3 Q. Now, I was a little unclear. How many visits do you say Germain Katanga
4 made to your home, to your knowledge?

5 A. I do not know. I think it was three times.

6 Q. So I suggest the first time you ever suggested Germain Katanga paid more
7 than one visit to your house was in this courtroom, in your evidence last week; that
8 you've never said at any other point in any of your statements or interviews that he
9 visited your house on more than one occasion.

10 MR MACDONALD: Well, I'll object.

11 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor.

12 MR MACDONALD: (Interpretation) I think I would like to address the
13 Court in the absence of the witness so that we can have a debate on this issue. I would
14 like the witness to leave the courtroom.

15 MR HOOPER: That is quite unnecessary, I'd say.

16 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper.

17 MR HOOPER: If I stand -- if I'm wrong, he can correct me.

18 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, do you intend
19 to dwell at length on this issue? I'm not trying to make any determination here. I'm
20 simply asking whether you want to go on to some extent, whether you accept the
21 objection from Mr Macdonald or you are going to move on to something not so personal?

22 MR HOOPER: I'm not quite sure where that leaves me. I'm not quite sure
23 what the objection is. If the objection is that I'm to be contradicted, then my friend can
24 contradict me. He can do it in his re-examination, which is the appropriate time. It's
25 quite unnecessary to object at this stage. If I've got something wrong, I will stand

1 corrected. And I've made the point and I don't need to discuss it further with the witness.
2 I'm moving on to a further point. So if my friend has a point of objection, based on my
3 assertion being wrong, I'm thoroughly prepared, given the mountain of material that's
4 been produced by this witness, to, in fact, accept what he says, but he'll have to show me
5 the reference. In the meantime, if I can, I'd like to press on.

6 MR MACDONALD: (Interpretation) In light of Mr Hooper's statement,
7 the Prosecutor would withdraw his objection. Let us proceed. But when you are using
8 prior statements and quoting the witness, one has to be very careful, because this witness
9 has given many statements and he said a lot of things on the same subjects on different
10 issues on the statement, particularly in the second statement. That is what I was
11 referring to.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Prosecutor.
13 Insofar as the witness has, indeed, given many statements to the Prosecutor, we would
14 expect Germain Katanga's Defence team to be absolutely objective, and they should not
15 pick and choose statements that contradict each other. The witness should be referred to
16 what he said on the same subject in all the statements that he gave. So there should be
17 objectivity, objectivity and objectivity.

18 Please proceed, Mr Hooper.

19 MR HOOPER: Indeed. I'm stating a negative, of course, so it's quite
20 difficult for me to do other than assert that this has not been said before. Now, if I am
21 wrong about that, then it will be for my friend to correct me, and I'll stand, of course, by
22 any correction. But I'm not -- I'm putting in, what I understand, an objective position.

23 Q. So, how many suppers were there at your home, do you say?

24 A. I do not know. Just understand that he came to my house one, two or three
25 times. I do not remember. I specifically do not remember how many suppers were

1 there.

2 Q. You see, during the eight days that Germain Katanga is in Kampala, he has
3 no recollection of coming to your home for any supper at all, let alone three. You see the
4 area of dispute between us.

5 May I ask you - you're a very keen photographer - did you take any
6 photographs of this social gathering at your house?

7 A. But he has already told you that he did not have supper in my house at any
8 time, so you can stay with that answer. I told you the people who were there. You can
9 ask them. When I say something, the other person says that is not correct. But there
10 were other people who were there; you can ask them. And if he says he never came to
11 my house, then that's what you should take. That's all.

12 Q. Of course, I will. Did you take any photographs at all of this event?

13 A. It was not necessary.

14 Q. Later in -- after the final visit by Germain Katanga to Kampala, at least as far
15 as you were concerned, is it right that you met him once again in Kinshasa? Later in -- in
16 fact, in 2005, when Germain had been appointed brigadier-general and taken to Kinshasa,
17 is it right that you met him in Kinshasa then?

18 A. Yes.

19 Q. Do you remember taking him to a house in Kinshasa?

20 A. Yes.

21 Q. Did you have supper?

22 A. I no longer remember.

23 Q. Was your wife there?

24 A. No.

25 Q. Indeed, not. And was Germain Katanga, in fact, on his own?

1 A. I no longer remember whether he was alone or whether he was with someone.
2 I do not know.

3 Q. Now, in your evidence you say, "Well, Germain Katanga was drinking
4 whisky." How much whisky had he drunk? Was it a bottle of whisky?

5 A. I do not know any longer because that's all he was drinking. It was not only
6 him. We had a bottle of whisky. Those who were there drank that whisky.

7 Q. Now, you told us at T197, line 28 -- sorry -- page 28, line 5, that you had
8 previously -- "I had previously spoken superficially with him." I'd like to ask you about
9 some things that you say he has told you. At transcript 197, you told us, for example,
10 that he had started military activities in Rumangabo near Ngoma. That's
11 R-U-M-A-N-G-A-B-O and Ngoma, N-G-O-M-A. That his father was a soldier; do you
12 remember saying that? When did Germain tell you that?

13 A. I no longer remember precisely when he told me that, but we had a lot of
14 time together, just him and myself, many times, entire days, particularly when he arrived
15 for the first time. During all the time he was there, we were in the hotel for three days
16 before we went to meet the president. Do you think we were sleeping every day or we
17 were discussing? And when we returned we were not authorised to go out and stroll
18 around, and you think we could not discuss or converse? We were speaking all the time.
19 We had time to speak with each other to converse, and it was during that time that he
20 explained to me how he had started. If he told me a lie, then that is his problem, but that
21 is what he told me.

22 Q. Well, his father was never a soldier and he was never at Rumangabo. So, his
23 father's a nurse. Had you ever learnt that his father was a nurse managing the medical
24 centre at Aveba? Did you ever learn that?

25 A. Thank you very much for that information. Now I understand that he is the

1 one who told me a lie. Otherwise, I would have tried to find out who his father was.
2 That would have been easy for me because I was able to do so. But I believe -- I believed
3 what he told me.

4 Q. All right. Well, may it be that those -- may it be that those particular facts of
5 being trained in Rumangabo and his father being a soldier in fact was what Pascal Alezo
6 told you and you've mixed it up?

7 A. How is it possible for Pascal Alezo to tell me that when Germain was not
8 there? How could he have told me that when we were three of us? I would have been
9 able to ask him. Pascal could not have invented stories knowing that we were together.
10 Why or when would he have told me that? There were three of us; Alezo, him and
11 myself. We were living in the same hotel, in the same guest house. It is not as if I met
12 Alezo somewhere, and he told me stories. So it would have been easy for me to ask him
13 the question but he is the one, himself, he who told me. Now I realise he deceived me.

14 Q. Well, maybe you just -- an error in memory. Let me ask you about
15 something that concerns the FIPI meeting but what I want to ask you is this: You may
16 recall, you told us last week at T-195, page 5, line 6, and this was in the context of Angaika,
17 Didier Angaika being present in Kampala in March 2003 for the FIPI meeting, and you
18 said "Later, Germain Katanga told me that when we learned Angaika was there" and I am
19 quoting, "when we learned Angaika was there and when he said we had sent him, we
20 reacted because we didn't want to have any relations with the Hema and we didn't want
21 Angaika to represent us there." Now, just pausing there, is that something that was said
22 at this supper? Did he tell you that then?

23 A. Counsel, I think you said there was never a supper, so it is pointless to ask me
24 questions related to the supper because you said there was never a supper. What I'm
25 telling you is that there was one. He talked to me about Angaika before but when we

1 were at the supper, Angaika himself was present and he had mentioned how Angaika had
2 almost been killed, and he had saved him. Angaika himself was present when he was
3 telling that story. You have read the file and we talked about meeting Angaika.
4 Angaika was present when Germain was telling that story.

5 Q. Well, obviously you claim there was a supper and things were said. As my
6 duty as representing Germain Katanga here, and as I see it, is to make it clear where our
7 stories conflict and where we don't agree with what you are saying. I'm making it clear
8 to the Court. So when I talk about the supper, it obviously doesn't mean I said there was
9 one but I'm going -- reverting back to your evidence about it. I hope that doesn't confuse
10 you. So, Angaika Didier is present. Did -- let me continue with this quotation. It goes
11 on, "Because we didn't want to have any relations with the Hema and we didn't want
12 Angaika to represent us there so this incited us to attack Bogoro, to attack the villages of
13 Chef Kahwa to show that we were discontented." Is that right? That's what Germain
14 told you?

15 A. You are a lawyer. You know how to manipulate words. I don't need to be
16 manipulated that way. You have already said what I said, and that is what Germain told
17 me. He's present. If he told you the contrary, then I'm thinking that it would have been
18 in his interests to tell you the truth, because if you tell that to the other people who were
19 there -- you have said two, three times it's not important but if there is testimony, you can
20 ask those who were there. If he had told me that two, three times without anybody else
21 being present, that would have not been of interest to me, but he said that with other
22 people present so you can have testimony with them. So you can take that into
23 consideration, what I said, when the other people were there.

24 Q. Well, I suggest that was never said. Can we just pause for a moment and
25 look at that. You first saw Didier Angaika at the meeting on 8 March; isn't that right?

1 A. Yes.

2 Q. And the Bogoro attack was 24 February. It doesn't fit, does it?

3 A. Yes. What doesn't fit? It is quite logical. I had told you that this Bogoro
4 attack, which took place on 24th -- on the 25th, Mr Ndjabu claimed responsibility for that
5 attack over the radio, after -- over RFI. And that created tension between him and Chef
6 Kahwa. On 6 March -- on 6 March this issue was discussed in the presence of President
7 Museveni, and that is when Kahwa asked that Adirodo should be brought there. And
8 when Adirodo arrived, Angaika was already there. So what doesn't fit? Because the
9 event took place on the 24th. On 25th, someone claimed responsibility for it. And on
10 the 8th, he was there. He wanted to defend the situation, to say that it was true. In fact,
11 he supported what Ndjabu had said. So I would have -- I would say that they claimed
12 responsibility for that attack in Bogoro, together with Ndjabu. Adirodo had been called,
13 and he said, no, it is Angaika who said that. And the other said, no, I just came. I
14 represent Germain Katanga in this issue. Angaika had already claimed responsibility
15 also. That is logical.

16 Q. Yes. Thank you. We've heard all that. Who told you Didier Angaika was
17 Germain Katanga's brother-in-law?

18 A. It was Germain Katanga himself who said that.

19 Q. Well, he's no such thing. So are you saying that was another -- must be
20 another lie or is it something that you've got from someone else and got it wrong?

21 A. If Germain deceived me, then I am assuming that he has also deceived you as
22 his lawyer. Because he told me that he was his brother-in-law. He told me that
23 Angaika's sister, or maybe even his cousin or some other relation but he told me that his
24 wife was his sister. That's what he told me. And while we were having supper, he told
25 me that if he had not married his sister he would have abandoned him. That's what he

1 said, in the presence of Angaika. I do not know what relationship exists between them
2 but what I'm telling you is what he told me. He had told me that before and he said the
3 same thing, that Angaika was his brother-in-law during the supper.

4 Q. Now, Didier Angaika, it's our position, was confronted over something in
5 Aveba and beaten in 2004. Now, you say that he was tied to a tree because he went to
6 Kampala saying he had been sent by Germain Katanga. When do you say that incident,
7 when he was tied to a tree, occurred? Simply, when do you say it happened?

8 A. You should have asked Germain. You can ask Germain when that person
9 was tied to a tree. Surely it was when he returned from Kampala. It is not me that you
10 are going to ask that question but he's the person who told me that he found him tied up
11 while he was just passing by. So you can ask him; he's -- okay. He's going to explain to
12 you.

13 Q. You see, isn't it right Angaika Didier was there representing the FRPI on 18
14 March when the ceasefire was signed and again on 14 April with Pacification Commission?
15 Isn't that right?

16 A. I saw his signature, but I did not see him during those events.

17 Q. Now, you also say that he talked about Nyankunde. Well, you were asked
18 this question at 197, page 29, 20. The question was, from the Prosecution: "Was any
19 mention made during your meetings with Mr Katanga of the Nyankunde attack in
20 September 2002 when the death of Kandro occurred?" And your first answer was, "No,
21 we never talked about it." And then your memory was jogged by another question, and
22 you said, "Yes, he said he'd been there." And earlier you said at 195, transcript 195, page
23 15, line 15, you said, "The FRPI was directed by Colonel Kandro and Colonel Kandro was
24 killed on the battlefield. He was dead on the battlefield in Nyankunde." Who told you
25 that Colonel Kandro directed the FRPI and who told you that he was dead on the

1 battlefield? Where did you get that wrong information from?

2 A. I think that it is wrong in your mind, counsel. I'm telling you that I had
3 asked Germain a question. First of all, I would like to correct something. You asked me
4 whether we had discussed the Nyankunde issue with Germain and my answer was no,
5 because we never discussed the events that had taken place in Nyankunde with Germain.
6 I did not lie. I'm not mistaken. I said that and it is true, but he had told me that he was
7 there. It does not mean that we discussed the events of Nyankunde. He told me that he
8 was there and he told me that it was during that battle when Colonel Kandro was killed.
9 I had asked him whether -- why it was that being so young he had been appointed leader?
10 That is how he explained to me that when Colonel Kandro died, the others selected him.
11 You should not misinterpret things. We did not discuss the Nyankunde events but I
12 asked him how he had acceded to that position of leadership, and he told me that he was
13 in Nyankunde when Kandro died and the others chose him. Now you are asking me
14 who told me? First of all, Germain himself told me, and, secondly, you can read the
15 UN human rights reports. It is everywhere in public. It is on the internet and it can be
16 explained to you how he died. It is a public document.

17 Q. So you were getting your information from what other people say, or reports
18 you read, or sometimes from the internet. You see, the FRPI hadn't even been founded
19 in September at the time of the Nyankunde attack, so Kandro couldn't have been leading
20 the FRPI, and secondly Kandro was murdered by Cobra Matata. It's a very well-known
21 incident several weeks after the Nyankunde attack. You see, what I suggest is
22 happening is you are putting together a story from information, and saying that you got
23 this information from Germain, when you got no such thing from Germain. He would
24 have no interest in telling you a series of lies, would he? It wouldn't make sense?

25 A. Well, counsel, I am surprised that he did so, but I would say that he also told

1 you lies. He's told you many a story. I told you that I did not ask him about the events
2 in Nyankunde. I asked him how it was that he became the chief. That was my question
3 to him and he explained it to me. I am not interested in knowing what happened in
4 Nyankunde. Were he to have lied to me, well, that's his problem, is it not?

5 Q. And that's your explanation for the difference between fact and what you say
6 Germain Katanga told you, that it was lies told by him perhaps, but let me come to
7 another one. You say that Dark led the operation at Bogoro and that you got that
8 information from Germain Katanga. I suggest that in fact after Bogoro, after the battle
9 had been won and in the weeks that followed, Dark was at that time then put in charge of
10 Bogoro, but not until then. So may it be this; that you later -- I am sorry.

11 MR MACDONALD: Objection. (Interpretation) There is a distinction
12 to be made. There are a number of nuances that have been brought into play by Counsel
13 Hooper, or he is attempting to use at least, and these shades of meaning might mislead a
14 witness because one does not exclude the other; that is leading an attack and being in
15 charge of a location are two completely separate things. I do not see the relevance of the
16 question here, notably of bringing these two facts together and attempting to contradict
17 the witness.

18 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor, we do hear
19 what you're saying, but the way in which the witness is answering the question leads us
20 to believe that he is entirely capable of making that distinction and that, if he wants to
21 answer Counsel Hooper that notably Commander Dark, according to what Germain
22 Katanga allegedly said to him, commanded in Bogoro and then ensured the
23 administration, or was head of the village, well, it's up to him to say. I believe that
24 Counsel Hooper is putting the question and I think that the witness can make the
25 distinction; if there is place for such a distinction in his mind that is.

1 So, Mr Witness, please answer Counsel Hooper's question, and I would seize
2 this opportunity to tell you that it is indeed important for you to speak slowly. This is
3 often -- I am often being reminded of this and you need to respect that famous, or
4 infamous, five second rule, even when you feel that it is necessary to answer rapidly and
5 even if you do feel irritated by -- or surprised by the contents of the question. So please,
6 Mr Witness, we are listening to what you have to say.

7 THE WITNESS: Could counsel please repeat his question?

8 PRESIDING JUDGE COTTE: (Interpretation) He will indeed.

9 MR HOOPER:

10 Q. Well, you've said that Germain told you that it was Dark who led the
11 operation, but I suggest Dark was in fact just a policeman and he was under the command
12 of a commander called Yuda who was based in Kigagba and it was Yuda who was his
13 superior. It would be very strange, would it not, for Dark to have actually led the attack
14 from the beginning given that Yuda was also present and fighting at Bogoro? But it
15 comes down to this, whatever. You say, "Well, Germain told me that Dark in fact was
16 put in charge of the attack," and I am saying that's another thing that you've got wrong.
17 You've picked it up from someone else, or perhaps misunderstood the situation when you
18 found out later that Dark was in charge of Bogoro. You've drawn a wrong conclusion.

19 Let me move on to the -- to my penultimate subject with you.

20 A. But you don't leave me the time to respond.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, please leave
22 the witness the time to respond. You have drawn a number of conclusions from this, but
23 he hasn't given his viewpoint.

24 Mr Witness, please give your viewpoint briefly and then Mr Hooper will
25 move on to another line of questioning. Over to you.

1 THE WITNESS: Well, I think he's informing the Court of what he believes;
2 what he believes and what his client has told him. That's what I see.

3 PRESIDING JUDGE COTTE: (Interpretation) Well, give your opinion
4 then, Mr Witness.

5 THE WITNESS: Well, my viewpoint does not differ in any respect with
6 what I have already said. Germain did not tell me that he had directed operations in
7 Bogoro. What -- he told me that. I think that's important. The second thing is that he
8 told me about another individual, but he said that Dark was in command of these
9 operations. Whether it be Dark, whether it be Yuda, or whether it be anybody else, it
10 doesn't really matter to me. What he said is that Dark was directing. Whether it be
11 anybody else, a commander can delegate another individual to direct an operation. It
12 doesn't mean that a commander-in-chief might go and direct an operation himself. He
13 can delegate another individual in the army to do that and within that group anyone
14 could be delegated to do that, but under the circumstances Germain told me that it was
15 Dark. Whether it be anybody else it matters little to me, but what matters to me is that
16 he said that he took part in that operation. There we have it and, if he says that he did
17 not take part, well, then contradict what I have to say. That's what interests me.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Witness.
19 Don't forget to speak slowly, even if you are passionate in what you want to say or put
20 across.

21 Mr Hooper, please.

22 MR HOOPER:

23 Q. Now, at transcript 197, page 24, you said this, and I quote, "Let me say in
24 passing that Pascal Alezo told me, 'Yes, it's true we took the town ...'", this is in the context
25 of Bogoro, "... 'but we had the assistance of the Ugandans. They helped particularly with

1 arms and ammunition.'" So my question is this: Was that said by Pascal Alezo during
2 the supper - the famous supper that you talk about - or another time?

3 A. In view of the fact that you are confusing me I can't remember when he said
4 that, but he did tell me that. I do not believe it was during the supper. I think that
5 afterwards he told me that they had been glad to receive the Ugandans' help, and I can't
6 remember whether it was during that dinner or not.

7 Q. Was the position of arms and who supplied arms -- was that discussed at all
8 at the supper, or any other time?

9 A. Counsel, please do not try to confuse me, otherwise I will stop answering
10 your questions. I've already answered this. I do not believe that this was said during
11 the dinner. I said previously that Germain was the main person to address those present
12 at the dinner. He was the one really who spoke the most on that day, and were there any
13 contacts with other individuals subsequently - with those others present
14 subsequently - well, that's something else, but I remember that Alezo told me. I didn't
15 say that Alezo told me at that very time, so do not try and confuse the matter and say that
16 he said something different from what I told the Court. That's all.

17 Q. All right. Now, this issue of where arms came from and who supported the
18 attack, particularly if it was Uganda, that was something of great interest to you, was it
19 not?

20 A. Well, how would it have been of interest to me?

21 Q. Now, I'm going to go through a number - half a dozen or more - quotes from
22 you from your previous transcript. I'm going to start with -- and you've been
23 interviewed on many occasions and this I hope is as objective as I can make it. I'm going
24 first to your interview of 12 January 2009, so just last year. I'm going to the fourth
25 transcript, reference 1034-0173, at page -- or rather line 407, where you said this, quote,

1 "Alezo Pascal, Germain's political adviser, told me that, 'No, if we manage to win it was
2 not us. It was the Ugandans who helped us. They pushed us to do it. They were
3 saying 'Go to Bogoro.' We thought the Ugandans were favourable to the Hema, that they
4 were setting us up. Finally, they gave us troops and Captain Kiza, a Ugandan captain.
5 He gave us arms, munitions, et cetera, and the Ugandan military themselves.' He
6 said ..." -- that's what Alezo Pascal told you. And he goes on to say, quote, "It was not
7 only the Lendu who killed. There were also Ugandan soldiers who were behind them,
8 helping them to kill the Hema." First of all, do you remember saying that?

9 A. Yes, I do remember saying that and it is correct.

10 Q. Was that said -- I am sorry, five seconds. Was that said at the supper, or on
11 another occasion?

12 A. Well, I'm not going to answer that because I've already told you.

13 Q. I am just giving you the opportunity. Now, let's go to the same day, 12
14 January. This time the fifth transcript, reference 1030-1087 at line 482, where you say this,
15 quote, "Germain told me it was the Ugandans who pushed him into doing it."

16 MR MACDONALD: I am sorry. I am sorry, you are giving the numbers
17 too quickly. We cannot follow. If I want to read the translation that you are giving of
18 the French transcript --

19 MR HOOPER: Yes, I understand. I understand. I have got the point.

20 MR MACDONALD: -- can we just have it more slowly.

21 MR HOOPER: How slow do you need? When you find it, let me know.

22 MR MACDONALD: Slow enough so I can understand, because I'm not
23 that quick.

24 MR HOOPER: All right. Well, you've got a team there who can perhaps
25 assist you. I am looking at the fifth transcript for 12 January and it's at line 482. It starts

1 "Germain m'avait dit". I am not going to read it in French. "Germain told me it was the
2 Ugandans who pushed him into doing it. They told me, he told me that they had tried
3 with the attack on Mandro." 490. "From the beginning, he could not find how the
4 Hema and Lendu could get along."

5 MR MACDONALD: Objection.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor.

7 MR MACDONALD: (Interpretation) Mr President, I have the transcript
8 before me, and this is not what is written.

9 PRESIDING JUDGE COTTE: (Interpretation) Are you both looking at the
10 same document?

11 MR MACDONALD: (Interpretation) The first page of the transcript is in
12 fact 1034-0203, and we are told that it is at line 482; that is to say, page 1034-0217, and we
13 are paraphrasing from the French into the English. The questions are, if I have a look -- if
14 I read from line 482, well, there are words missing. There are words missing in the
15 translation from French.

16 PRESIDING JUDGE COTTE: (Interpretation) Well, the interpreter does
17 not have the French transcript. One second, please, Mr Hooper. So we will realise that
18 unless, of course, confidence reigns, we have to be extremely vigilant, or the Prosecution
19 has to be extremely vigilant, and each and every one of us needs to be reasoning on the
20 same basis. So, as it was requested of you, Mr Hooper, could you please each time
21 provide a good reference or correct reference of the transcript and the pages so that we
22 can all be in agreement to say that the questions now being put by Counsel Hooper are
23 being made on the basis of 1034 --

24 MR HOOPER: Of course, because it's coming from French here into
25 English here, track into, as you pointed out, to the French booth, you may have to suffer

1 being inflicted with my French because I can't see any other way. So I forgive
2 francophone discomfort at this coming point, but I don't see another way of doing it.

3 THE INTERPRETER: The interpreters don't have access to the transcript
4 either in English.

5 MR MACDONALD: (Interpretation) Well, we should be giving this to
6 the witness, should we not, Judge?

7 PRESIDING JUDGE COTTE: (Interpretation) Mr Macdonald.

8 MR MACDONALD: (Interpretation) We should be showing the
9 transcript to the witness. He is capable of reading it and he is then told to read
10 line-to-line, and Counsel Hooper can put the question to him. This is the way we moved
11 forward with other witnesses, and we can do the same in this regard. Of course, then he
12 can discuss the matter in the French language.

13 PRESIDING JUDGE COTTE: (Interpretation) Well, we would look to
14 listen to Mr Hooper, Mr Hooper speaking French, because, of course, he's completely
15 understandable when he speaks in French very slowly because he does so with a very
16 beautiful accent that we are very sensitive to. So, my concern is to ascertain whether
17 both of you are consulting the same transcript. Mr Hooper is saying 1034-0187. Is that,
18 Mr Prosecutor, the one that you have before you, that is 1034-0187? Yes.

19 MR HOOPER: I think it would be easier, honestly, for me just to read and
20 Mr Macdonald could follow. And we're going to get through this quickly; otherwise,
21 we're going to be all morning, I can assure you. It would be difficult for me to do it
22 quickly.

23 PRESIDING JUDGE COTTE: (Interpretation) No, indeed, we don't want
24 to spend the whole morning on this. We just quite simply want to make sure that in the
25 future we avoid interventions of this nature. So, please, give the reference slowly to the

1 transcript. We have accepted this. And if possible, if you can put it before the witness,
2 it would be advantageous, that's for sure.

3 Now, Mr Hooper, if you are in a position, because everyone has the
4 transcript before them, to read it slowly in French for the witness to be able to understand
5 it, then we shall listen to you and we shall move forward. Now, my concern, and the
6 Prosecutor's concern, is that the witness knows exactly what we're talking about. Of
7 course, this is something elementary, is it not? But we have to make sure of this. Now,
8 Mr Hooper, we are listening to you.

9 THE INTERPRETER: Message from the English booth: We do not have
10 the transcript.

11 MR HOOPER: I see. Do the booths have access to the transcripts? Not
12 at all. I am sorry. I think the best thing is for me to read slowly in the French, and if it
13 gets too difficult I'll ask someone who speaks the language naturally to perhaps stand in
14 but, at the moment, I think because I know the bits I want to speak to. So, 482, I think the
15 English was a fair -- totally fair reflection of it, but I'll put it again. Line 484:
16 (Interpretation) "Germain told me that it was Ugandans who had incited him to do so.
17 They told me -- well, he told me that that they had tried to conduct an attack on -- or they
18 had tried to conduct an attack with Mandro."

19 Who was it who tried? This is Mr Macdonald's question because he
20 was dealing with the witness.

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Speaks English) And then you go on to say this at 490, (interpretation) "Since at the
25 beginning he didn't realise why the Hema and the Lendu could come to an agreement,

1 and in view of the fact that we had gone to Uganda for that purpose, they wanted to
2 mislead us, or set us up. And he told me that it was with a view to setting us up or -- or
3 setting up or misleading us in regard to this meeting that he had attacked Mandro. After
4 having attacked Mandro, he had seen that he had managed to take Mandro, and once they
5 gained entry they thought to themselves, well, why not do the same to Bogoro because the
6 Ugandans had already asked them to do so, and for quite some time."

7 MR MACDONALD: (Interpretation) There's a bit of a sentence missing.
8 (In English) The end to that paragraph, (interpretation) "But they weren't able to do so."

9 MR HOOPER:

10 Q. So let me read the entire sentence of this sentence, with this rather
11 unnecessary ending. (Interpretation) "In view of the fact the Ugandans had already
12 asked them to do so for quite some time but they weren't able to do so."

13 Just pausing there, you're saying, well, we attacked -- they had attacked
14 Mandro, that had been a success, and now they were pushed by the Ugandese into
15 attacking Bogoro, right? Whereas we all know that it was Bogoro first and then Mandro.
16 That's the first thing. Secondly, it's quite clear you're talking about things that Germain
17 had told you. Was this at the supper?

18 A. Well, with regard to the order of events, I can't be mistaken when presenting
19 it in such an order. If you read the file that I said came first, well, I said this. This is
20 what I said: When I was in the company of the investigators, the investigators put
21 questions to me, and I replied immediately. When they put questions to me, I reply.
22 However, when I go home, I then started to think about things in concrete terms and I
23 realised that that is not how it occurred, and this is why I remember having written down
24 a chronology of the events such as I saw it, and I said in this statement dated 12 January
25 that it was probable that I might not be putting things logically because questions were

1 being put to me rapidly and I wasn't able to concentrate.

2 So, the documents are to be found in the file. I took some time to think
3 about things. And if you find that there is a contradiction, well, then you should refer to
4 these documents, because I did have the time to think things over and to put matters in
5 order in my mind.

6 Now, of course, I'm just taking this off the top of my head and this might be
7 why I am mistaken whilst responding to the questions. It is true, and I said this about
8 the statement, that I might have made mistakes because I wasn't prepared for it and it was
9 a long time ago. So you should consult those documents in the file. And what is there
10 is the truth because I had the time to think about things.

11 Now, as for the rest, I might be mistaken because, you know, they were
12 questions put to me in the same manner as you are putting them to me now.

13 Q. And just on this small perhaps side point, I'm looking at a little later in the
14 interview, at 642, you are saying, you know, how it had -- the Bogoro attack had been
15 done, and this is what you say, and again forgive my French.

16 (Interpretation) "Germain took his troops and Ngudjolo brought his troops,
17 too. Because Germain told me we used the Zumbe troops as we had previously. As
18 previously, they used the troops in order to attack Mandro." (Speaks English) All right.
19 So that's later in the same interview, you're -- and you accept that -- well, you say by your
20 last answer, well, if I got it the wrong way around, what Germain was telling me, it was
21 because I was confused.

22 See, I suggest those things were never said at all. That's my point. You're
23 saying that Germain told you things, but you don't have a firm grasp on events and that's
24 why you're mixing it up and you're having the Mandro attack followed by Bogoro, and
25 indeed you're saying here, quite positively, that Germain told you, "We used the Zumbe

1 troops as before they had used the troops to attack Mandro." So it becomes a raison
2 d'être for using the Zumbe troops. I suggest that's not just a confusion in your mind, it's
3 a positive assertion, and it's wrong. Do you want to comment?

4 A. Yes. It is true that you have made use of the statement that was made, and I
5 believe that recently I gave testimony to the same facts before this very Court. I believe
6 that I told you only too well that the Bogoro attack had occurred beforehand, and that
7 Mandro attack, the Mandro attack occurred afterwards. I would remind you -- of course,
8 you are concentrating on this confusion that did exist, but I had already, in my last
9 statement in the month of January, said that questions were being put to me rapidly and
10 that you should refer to what was written. Well, you do not want to refer to that. But I
11 would like to confirm once again before the Chamber that the Bogoro attack occurred, and
12 then was followed on by the Mandro attack.

13 And I would confirm again that Germain told me that he did take part in the
14 Bogoro attack. He asked Ngudjolo to come with his troops, and Ngudjolo brought his
15 troops, and they brought their troops and they attacked Bogoro. I reconfirm what I said,
16 and I believe that this is what you should retain.

17 Q. Yes. Now, at line 674, a bit deeper than that, about 680, you're talking about
18 arms and who provided the arms. In fact, there's been a question at 664. (Interpretation)
19 "The Lendus had" -- (speaks English) The question is: (Interpretation) "And how is it that
20 they acquired arms and ammunition in order to conduct the attack upon Bogoro?" I
21 hope fairly to shorten the quote I'm quoting.

22 And you say at about 680, (Interpretation) "However, during that operation
23 they had been armed by Uganda. That is what happened, because one of the captains
24 who died, I also know that Captain Kiza, he was the one who Uganda had sent in order to
25 negotiate with the Ngiti. They negotiated with the Ngiti so that they could dislodge the

1 UPC in Bogoro, and they gave them weapons."

2 (Speaks English) Who gave you that information and when? Was it during
3 the supper?

4 A. I believe we already talked about what happened at -- during the supper. I
5 don't want to go back to that. I've already told you everything that happened at the
6 supper. I don't want to go back to that. You can ask me the question a thousands times;
7 you'll get the same answer.

8 I would like to ask the Presiding Judge, could I have the transcript in
9 question? Because if I had it, I would be able to follow what's being said.

10 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, a short
11 question, organisational in nature. It would be most preferable if the witness could have
12 a copy of the document that you were reading out so that he could make reference to it
13 and provide a more complete answer.

14 Similarly, as Presiding Judge -- well, does -- I do not read English perfectly,
15 so when you need to read something out in French, if it is within a certain framework,
16 very well. But you could ask another member of your team to read it out. There's no
17 problem with that. You have your Defence team here. And if you have eight or ten
18 lines to read out, perhaps one of your colleagues could rise and read out the passage in
19 French, and we have no trouble with that. It might be easier for you; preferable for the
20 witness. So I really think it's up to you to make an assessment of this, but we don't see
21 any obstacle with that.

22 The witness would like to have a copy of the French version of what's being
23 read out, and I think it would be a good thing for you to provide that. Working through
24 the usher, you could make reference to the appropriate pages. Mr Hooper, please
25 proceed.

1 MR HOOPER: I wondered when the white flag was going to go up in
2 terms of my French and I do -- I do appreciate the point. What I'll do is I'll indicate to,
3 perhaps, Miss Menegon, because she's sitting next to me, to pick up the French, and she'll
4 say it far more charmingly than I could muster myself.

5 And in terms of the document itself, I'm looking at the fifth transcript of 12
6 January. My reference for that is 1030-0187. They sometimes take different numberings,
7 depending on the document I've taken it from. If that can be called up, and if we can go
8 then to the -- line 674.

9 MR MACDONALD: With your leave, your Honour --

10 PRESIDING JUDGE COTTE: (Interpretation) Either the document is
11 provided to the witness in hard copy or the page is put on the screen. We leave the
12 choice up to you. I don't know what would be faster. Mr Prosecutor?

13 MR MACDONALD: (Interpretation) Earlier -- well, rather, at the very
14 beginning, when Mr Hooper was making reference to earlier transcripts or statements, I
15 mentioned that we had to be fair to the witness, and you yourself said, your Honour, to
16 Mr Hooper, that the statements must be provided and must be put in proper context,
17 given the volume of information that the witness was able to provide in the past.

18 I would draw the Chamber's attention to this matter of Mandro and Bogoro
19 and the inversion. The witness said that he himself had to review all the documents that
20 he had provided or wrote himself.

21 MR HOOPER: This isn't an objection. This is -- this is a little speech in the
22 middle of the trial. He takes these opportunities.

23 MR MACDONALD: (Interpretation) Your Honour, I think, just to be fair
24 to the witness, Mr Hooper will have to use the first statement.

25 PRESIDING JUDGE COTTE: (Interpretation) Mr Macdonald, please

1 entrust -- please trust the Chamber for the time being. We will settle it. We will sort
2 everything out. Let us try to be as effective as possible. Our witness has the
3 information that we need, so we will allow him to reply.

4 Now, Mr Hooper, you mentioned line 674. Perhaps this is excessive.
5 Now, is this document available to the witness?

6 Court officer, does the witness have the document at hand, directly at hand
7 or on the screen, the document that Mr Hooper wishes to make reference to? I just want
8 to make sure that the court usher ensures that the document is provided so that we can
9 keep on going with our proceedings in a useful manner.

10 MR MACDONALD: (Interpretation) Of course, this is confidential, your
11 Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) If it has to be read out in
13 French, Mr Hooper, please do not be offended. He can ask one of his assistants to read
14 out the statement in question. There you have it. Very well.

15 MR HOOPER: The only other thing is if everyone now has or is looking at
16 the particular transcript, do I need to read it in French? I can go into English. I'm
17 making points with a clear to follow, I hope, in terms of the text, as you can see. So I've
18 read -- I've read from the line (interpretation) "but that operation." If you pick that up.
19 I'm not going to read it. Do you want that bit read again in French? I'm happy -- well,
20 I'm happy that I've read it already.

21 Q. Witness, let me just pause there from that part. You say there that
22 he'd been -- you'd been provided arms, or you were told that they'd been provided arms,
23 and that that happened through Captain Kiza, who is now dead, someone that you knew.
24 And again, was this something that was said --

25 MR MACDONALD: (Interpretation) We do not have the page reference.

1 Page 0022?

2 PRESIDING JUDGE COTTE: (Interpretation) Court officer, court usher,
3 please make things easy for us. I see only the title page, the first page of the transcript in
4 question. Now, does the witness have the page at which Mr Hooper is -- the page that he
5 is - I see. Yes. Very well. The right page is on the screen. Now, is it legible?

6 Mr Hooper, could the passage be read out so the witness knows exactly
7 what we're talking about? In that way we can all make progress and continue with the
8 proceedings calmly and in good humour. Now the page is up on the screen. Could you
9 please specify which line or lines you are referring to? And then you or one of your
10 colleagues can read out the particular passage and we will proceed in that way.

11 MR HOOPER: I hope the Court appreciates I've had to move from the
12 French transcript into an English translation - and that you don't have - and then I lose the
13 page numbers. I have line numbers, so I can deal with it approximately by line numbers.
14 But you can see from the nature of the document that these are fragmented inasmuch as
15 they are questions and answers and interruptions, and every word and cough is included
16 on those -- on those interviews. So I take sometimes the repetition out and the ghost
17 questions that come in, and comments, and go, I hope, to the essential.

18 So the part I am looking at here is the line that starts at -- so it's line 683, and
19 Ms Menegon will read that down to --

20 PRESIDING JUDGE COTTE: (Interpretation) Very well. Line 683.

21 MS MENEGON: (Interpretation) "The person heard: But that operation,
22 they were armed by Uganda. EM: How did that happen? The person heard: It was
23 done because the -- a captain who was -- who died. Me, myself, I also know Captain
24 Kiza. He is the one that Uganda sent to negotiate with the Ngiti. They negotiated with
25 the Ngiti so that they could drive out the UPC from Bogoro. EM: I see. Person heard:

1 And they gave the weapons. I was the one. I know I helped. I was there when
2 they -- when he was given weapons and they were delivered. He crossed with Semiliki.
3 What? I know that -- how did that happen? I see. Person heard: And in this
4 particular case, he is the one who said with Alezo, Pascal Alezo, who was his political
5 adviser. They said Captain Kiza brought us ammunition. Everything, everything,
6 everything. That was the first time they had everything. EM: Agreed."

7 PRESIDING JUDGE COTTE: (Interpretation) Slowly. Please speak
8 slowly.

9 MS MENEGON: "The person heard. EM: Do you know what kind of
10 ammunition? What kind of ammunition was provided by the Ugandans the person
11 heard. I don't know but I do know what they usually gave. What they usually gave us,
12 I know."

13 THE INTERPRETER: Message from the English booth. If the young lady
14 could please slow down.

15 MS MENEGON: "EM: Do you know how this ammunition was
16 transported. The person interviewed: Transported? Well, it's not hard to transported
17 ammunition, munitions. They -- the ammunition was taken across the lakes. EM: I
18 see. Person interviewed: What? EM: So it was -- I mean, it was transported by way
19 of boats, planes. Person interviewed: When you cross, yes, it's -- well, it's by canoe.
20 EM: I see. Person interviewed: You cross using canoes. There are not just the
21 Ugandans; the Ugandans were -- they were there. They were in Ituri. It's not that they
22 weren't there; they were there. EM -- correction. Person interviewed: And we drove
23 out the Lendu when the Ugandans were there. Don't forget that the Ugandans have
24 occupied the territory ever since they began the war, but the problem will be the UPC
25 wanted to provide -- hand over the territory to Kigali. That is the problem."

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Mr Hooper.

2 MR HOOPER: (Interpretation) Thank you. Thank you.

3 Q. (Speaks English) Now, was that discussed at supper, or not?

4 A. No. Fortunately, I have the document right in front of me and I realise that
5 you have avoided some parts to ask me questions that I can't understand. I said that I
6 had many discussions with Germain and Alezo, the time that we were together. We had
7 many discussions because we had nothing else to do. And during our discussions, we
8 talked about many things and they told me many things. What happened at the supper,
9 I already explained that to you. These stories were not about -- at the supper but during
10 our usual conversations that we already had when we were together. Not at the supper.
11 At the supper, as I told you, the main topic was the -- Germain's intervention to say how
12 he had saved Angaika from death. I repeat, how he had saved Angaika from death.
13 And he explained the situation, how it happened.

14 Now, I'd like to go to 14 January, the third interview, at line 330. So let me
15 just call -- that's the third interview of 14 January, and that's 1034 -- DRC-OTP-1034-0323.

16 THE INTERPRETER: Message from the English booth. If reference
17 numbers could please be given more slowly.

18 MR HOOPER: I am sorry. The reference number was 1034. I'll start
19 again. DRC-OTP-1034 -0323 and I'm going to go to line 330, which is on page 9. And
20 we needn't dwell very long on that line, it's just for the context of the conversation that
21 follows. And looking at it, you can see it says, so you spoke about the Bogoro attack
22 during supper. And then if we go down towards 360 -- to 356, on page 10, you can see
23 that there the witness is being directed to try to recall specifically what was said -- or what
24 he said - and this is Germain Katanga, we can see in the previous context - try to recall
25 specifically what he said to you on the subject of Bogoro. And now we have line 360.

1 And if you can, Sophie, read -- hold on. If you can read from 360 for me. Read it slowly.

2 Yes. Can you see it? It's difficult to see, perhaps.

3 MS MENEGON: I will be reading from line 359. "The person being heard:

4 Well, you see he had said -- I had already explained that to Nicolas, what he had said.

5 He said they had suggested to them, they had suggested -- by the Ugandans because them,

6 they didn't have the military resources to go to Bogoro, fight with the UPC. The UPC

7 was really armed. And them, they couldn't. We had suggested -- correction, it was

8 suggested to us by the Ugandan army if they could drive out the UPC people from there.

9 SG: Who suggested that exactly? Person interviewed: The commander. He said to
10 me the commander of the UPDF who was with them in their sector. But it was Alezo

11 who added -- Alezo, during the discussion, he said, no, it was Commander Kiza.

12 Captain Kiza from the Ugandan army. SG: Did he tell you exactly how that contact

13 was made? Person interviewed: With Kiza? SG: Yes. How? How did

14 they -- Person interviewed: No, no. SG: Came into contact with one another. Person

15 interviewed: But they always would visit one another."

16 MR HOOPER:

17 Q. All right. Now, I want to go now, if I may, to line 530. And this still deals

18 with what is being said, and that's at page 14, line 530. The question is at 529. So,

19 Sophie, if you could read from 529, please, slowly.

20 MS MENEGON: "SG: And more specifically, he gave you details about

21 the Ugandans' participation? Person interviewed: No, he didn't give me details about

22 the participation of the Ugandans but I wanted to know, I wanted to know whether the

23 Ugandans also were on their side. That was part of the work that I was doing. I

24 wanted to know if they had taken part, the Ugandans had participated in that attack.

25 Furthermore, you -- with regard to the heavy weaponry, they used the heavy weaponry

1 and they didn't know how to use it. And the Ugandans knew; they had specialists.
2 Since the UPC had mortars -- they had mortars. And them, they had almost nothing.
3 They had Kalashnikovs, but they -- but at times they had looted some bombs and all of
4 that. So they didn't have specialists for that. The Ugandans were the ones who had
5 specialists, people who knew how to use heavy weaponry, and they used that to drive out
6 the UPC. SG: But does that -- because I'm trying to clarify. Was it the Ugandans who
7 had Germain's people use the weapons or was it the Ugandans themselves? The person
8 interviewed: Themselves. Themselves. They -- you -- SG: And that, who told you
9 that? Person interviewed: Well, themselves, the -- Germain's -- they said to me the
10 same day, they told us that the Ugandans had helped them. EM: Specifically during
11 the attack on Bogoro? Person interviewed: Yes. EM: With heavy weapons? Person
12 interviewed: Yes, they used them."

13 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, you have five
14 minutes.

15 MR HOOPER:

16 Q. Yes. So we can see from those extracts that -- and particularly that last one,
17 it's on the same day, at that supper, and Germain's telling you about how the Ugandans
18 had helped them and also about the use of heavy weapons. Do you remember that being
19 discussed at the supper?

20 A. I think that when you follow the discussion, you realise that there were many
21 hesitations in there. A great deal of hesitation when we were talking about questions.
22 Why? Because there was a great deal of information, in my mind. A lot of discussions
23 that we had had, with Germain and Alezo, and surely -- perhaps I wasn't able, when you
24 asked the question I wasn't able to place matters in the precise context. So you see that
25 there was a lot of hesitation during the interview. And so I said, no, I wasn't ready to

1 answer directly the questions asked but the logical order that I had to think about it
2 carefully is what was written, when I consulted what was written, so that I could find the
3 logical order. So I can't tell you that it's all of those things at the supper. We had many
4 discussions. When I talked, sometimes I mixed many things up, things that we had
5 talked about, but what I've told you, I am not going to add to that to what was discussed
6 during the supper. I don't have to add anything about that.

7 MR HOOPER: Thank you. I see the time.

8 PRESIDING JUDGE COTTE: (Interpretation) I think we will now
9 suspend our proceedings. Thank you, Mr Hooper. Thank you, ma'am. Witness, we
10 will take a 30-minute break and during that time you can rest and relax. Court officer, if
11 we could go into closed session so the witness can leave the courtroom quietly.

12 (Closed session at 10.59 a.m.)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Open session at 10.59 a.m.)

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

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you. We will now
21 suspend the hearing and resume at 11.30 a.m.

22 (Recess taken at 11.00 a.m.)

23 (Upon resuming at 11.32 a.m.)

24 (Closed session)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Open session at 11.34 a.m.)

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

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Mr Hooper.

10 MR HOOPER: Yes, thank you.

11 Q. Hello again, Mr Witness. And I had been dealing with the transcript, the
12 third transcript of 14 January and we've passed from that, but just one line at 743, you say,
13 "That day he spoke in front of my wife." Can I just ask you this: Do you agree, can you
14 confirm, that that day your wife was present during the supper conversation; is that
15 correct?

16 A. Which conversation are you talking about? Because I don't want us to
17 confuse the other conversations with the supper. If it is that one, then the answer is, yes,
18 she was there.

19 Q. All right. Now, you see, what I find puzzling is this: You say these things
20 were said at the supper or you say, "Well, maybe I'm confused and they were said on
21 another occasion," that is about the Ugandans providing arms, the Ugandans providing
22 soldiers, the Ugandans providing their expertise in heavy weaponry for the attack on
23 Bogoro.

24 Now, I'll make my position very clear because I represent Germain Katanga,
25 and it's only fair to you and the Court that I do so. And it's this, that, you see, I suggest

1 to you that the Walendu-Bindi didn't get one gun, one bullet provided by the Ugandans at
2 the time of the Bogoro attack, they didn't have Ugandan soldiers supporting them, they
3 didn't have or use Ugandan expertise in heavy weaponry. So, all that's untrue. So,
4 where do you say you heard that from? In the interviews we can see you're clearly
5 saying it was things that Germain was telling you, and Pascal as well, together they were
6 telling you these things. Do you stand by that?

7 A. If they did not receive arms or support from Uganda, then I doff my hat to
8 them. Then I would understand that they would have become very strong, and that's all
9 very well and good, but do not ask me a thousand times to confirm. I have already
10 confirmed and reconfirmed that they told me that they had received support from the
11 Ugandans. So, don't ask me that question ten times because I am not going to answer
12 again. I have just said that they told me that they had received assistance from the
13 Ugandans.

14 Q. All right. You may not be able to answer this question but if you think you
15 can, please do. Can you think of any reason why they may have been lying to you about
16 Ugandan involvement, or is it something that you can't help us with?

17 MR MACDONALD: (Interpretation) Your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor.

19 MR MACDONALD: (Interpretation) He's asking for an opinion, that is
20 clear. It is not possible for the witness to know why such a thing would be said. That is
21 separate from the opinion of the witness that he's seeking.

22 THE WITNESS: I can answer that question.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well, Mr Witness, if
24 you can answer, answer, because you have control over your testimony.

25 THE WITNESS: He's asking me if I can give reasons why they lied, and my

1 answer is they did not lie to me. They told me the truth and, to date, I believe that as the
2 truth. I knew that they themselves do -- did not have the military capacity to dislodge
3 the UPC from there. They did not have that military capacity. So if they told me that
4 they did not lie to me. You, Counsel, are the one telling me that they lied. I believe that
5 they did not lie to me. They told me the truth.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.

7 Mr Hooper, please proceed.

8 MR HOOPER:

9 Q. You see, at the time when you were meeting OTP investigators and others,
10 apart from incriminating Germain Katanga, in these statements you were also
11 incriminating Uganda, weren't you? That's right, isn't it?

12 A. I am not the one who incriminated them. From the beginning I told you that
13 it was Alezo who started by saying that they had received support from the Ugandans.
14 They are the ones who started saying that. I am not the one who suggested it, because I
15 was not aware. Since I had not been there, I was not aware whether they had received
16 that support or not, so I am not the one who incriminated them.

17 Q. Back in summer of 2005, you had by then fallen out with the Ugandans,
18 hadn't you? You were looking for somewhere else to live, weren't you?

19 A. No. Why would I have fallen out with them? Why? In what aspect?

20 Q. Kisémbu was arrested, wasn't he?

21 A. Yes, and what has that got to do with me?

22 Q. And you thought you were going to be next?

23 A. I no longer remember the date. Kisémbu had written a letter to the
24 Ugandans. He had written a letter to MONUC in which he was resigning from his
25 position as president of PUSIC. He said he was no longer a member. And when he was

1 arrested it was not because of any reasons related to the party. There was a certain Dido
2 who had joined the group with Colonel Ngudjolo. This person was in contact with
3 others, and I do not know whether they were rebels or terrorists or whoever. But please
4 allow me to finish.

5 Q. I know. Basically, what you're saying is, no, Kisembo was arrested for
6 something else, I understand that. And I'm going to come and ask you about the new
7 rebellion in a few minutes, so I am wondering if we could leave it until then because we're
8 going to go backwards and forwards otherwise. All I want to do is complete this part of
9 my questioning, which is about Uganda arming the Walendu-Bindi. So I will give you
10 your opportunity.

11 A. No, no, no, because you are going to mislead me. You are going to ask me
12 something that is complicated. Let me explain how Kisembo was arrested.

13 PRESIDING JUDGE COTTE: (Interpretation) Very well, Mr Witness.
14 You have to be brief, because this is, in fact, Mr Hooper's cross-examination. So, if you
15 want to explain now, be brief about it, but please accept that it is counsel who is leading
16 the cross-examination. So, please go ahead and Mr Hooper will conclude.

17 THE WITNESS: I was saying that where Dido was there were people who
18 had come from somewhere, and the Ugandans had gone to arrest Dido and they saw
19 Kisembo in the same house. These were people -- I do not know whether they were
20 terrorists, or what. That is how come Dido and Kisembo was -- were arrested. It has
21 nothing to do with the party.

22 MR HOOPER:

23 Q. Thank you. Now, just finally on this issue, and then I've got one other issue
24 to deal with and then I'll be finished. And I am going to look -- you see, was the position
25 this: That you thought, "Well, where do these Walendu-Bindi get their arms from?"

1 They must be getting them from Uganda." Isn't that how you came to think about it? It
2 wasn't what you were told by Germain or Alezo Pascal. This was something you've
3 made up. You've concluded. You've added two and two together, but you've got five
4 here, as it were. Do you follow me? Can I ask you this: Did you ever here of EMOI?

5 MR MACDONALD: Okay. Objection. (Interpretation) Your Honour,
6 there are statements thrown at the witness and then counsel changes the subject.
7 Suggestions have been made to the witness. He should have the opportunity to answer,
8 because the goal-posts are being shifted here.

9 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, please split up
10 your questions so that the witness should know precisely which question he has to
11 answer. So please ask him the question that you think is relevant at this point.

12 MR HOOPER:

13 Q. Can I refer to a statement that you've made? And that statement it is the
14 fourth transcript of 14 January 2009, and its reference is DRC-OTP-1034-0346. And I'm
15 going to ask that we have that on the screen for you at page 20, at line 742, and then I can
16 ask the question and shorten my point.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you, court usher.
18 The witness has the document in front of him. Mr Hooper.

19 MR HOOPER: If Ms Menegon would be good enough to read, as you've
20 agreed.

21 MS MENEGON: (Interpretation) I will read as from line 742.

22 PRESIDING JUDGE COTTE: (Interpretation) You can remain seated, if
23 you wish.

24 MS MENEGON: (Interpretation) Thank you. "SG: Do you know
25 whether EMOI supplied weapons to the Lendus and Ngitis before the Bogoro attack?

1 Person interviewed: Yes. SG: And how do you know that? Person interviewed:
2 Well, no, no, no, that is not true, because before the Bogoro attack the EMOI was not there.
3 EMOI was not there. SG: How is that? Why are you saying that they were not there?
4 Person interviewed: Yes, EMOI was not there because I remember that EMOI came
5 afterwards. They were not there. The Bogoro attack took place in February. No, I do
6 not think that EMOI was there, because in the press conference of Chef Kahwa in July, he
7 talked about those weapons. But I do not know EMOI was not there to supply weapons
8 since. SG: You do not think or do you know that they were not there? Person
9 interviewed -- SG: That is correct. If you do not know, that is okay. Person
10 interviewed: Wait, wait, wait. No, no, no. Since I remember when they came, I
11 remember when they came, because people were complaining. I have to think about that
12 date. You had the Pretoria accords. The Pretoria accords, Ntumba. The problem of
13 Ntumba Luaba. This was in August 2002 and, in any case, I really do not remember, but
14 it cannot be EMOI."

15 MR HOOPER:

16 Q. Do you know now, with reflection - I know that's what you said last
17 year - but is it not right that in fact EMOI was based in Beni from the -- towards the end of
18 2002? Isn't that right?

19 A. I am not aware of that. I do not know about the period.

20 Q. No. And you mention there reference to the Pretoria accord. Wasn't that in
21 July 2002?

22 A. I am telling you that I have no information about those dates, about what
23 happened during that period, no. I have completely forgotten. But you have even seen
24 during the statement I was hesitating very much, so I did not work a lot on EMOI so, I'm
25 sorry, I cannot provide you any clarification on that.

1 MR HOOPER: Can I look just at 658 in the same document. That's just a
2 little earlier. Can you just read 658 for me? It's on page 18, bottom of the page.

3 MS MENEGON: (Interpretation) "SG: And if I tell you about an
4 organisation known as L'Etat Major Opérationnel Intégré or Integrated Operational Staff
5 Headquarters, E-M-O-I, EMOI, does that ring a bell? What do you know about that?
6 Person interviewed: The integrated operational staff headquarters, EMOI, that was in
7 Beni. It was in Beni. When Mbusa had started a relation with Kabila, Kabila had sent
8 soldiers, soldiers who arrived Beni from Kinshasa. SG: And when was that? Person
9 interviewed: It was in 2003, when the Pretoria accords had been concluded. It was after
10 the Pretoria accords that Mbusa travelled to Kinshasa. He discussed with Kabila and
11 Kabila sent soldiers there, soldiers to train Mbusa's troops, which were known as EMOI."

12 MR HOOPER:

13 Q. Right. So you root it sometime after the Pretoria accords, which I suggest
14 were in 2002. You see, what I suggest is that that was the source of the arms. The arms
15 were coming Kinshasa, Beni, Aveba from the end of 2002 into 2003. Did you ever hear
16 about that? Did you ever hear of planes landing at Aveba, for example, with weapons?

17 A. I know that it is true there were weapons that were coming from Beni and
18 that went into the region. I do not know how, because the Ngiti group had gone to fight
19 alongside EMOI at Beni. They had an operation in the area of Rutembo and Rubero
20 (phon) against the RCD-Goma. And when they returned to Beni, Colonel Kakolele said
21 that they had really started causing a lot of damage in Beni town. They were asked to
22 withdraw. They demanded to be paid, to be given something for their participation.
23 They were given weapons and they returned with those weapons, so I know that they
24 acquired weapons from Beni, from Beni. That is one thing. There was also something
25 else, and I am going to answer a question that you asked yesterday. You said that there

1 were no Nalus and Uganda was pretending. You were right. The reality is that there
2 were no Nalus, but the threat of the Nalus was present. The Ugandans were not wrong
3 in complaining about this. Why? Because I personally went to the Kamango area.
4 There was a diplomatic mission in Uganda for whom I went to see whether the Ugandans
5 were correct in using the Nalus as a reason. I went there for two weeks - that is, in
6 Kamango - and I realised that there were no Nalus as they had claimed, but there was a
7 group of people linked to Colonel Kakolele and Kakolele passed them off as Nalus in
8 order to seek assistance from Uganda. And it was in those circumstances that they
9 formed groups of people that went and attacked Ugandans and the Ugandans thought
10 that these were Nalus. I have already said in my testimony that when we were with
11 Germain and the president, he said that Kakolele had asked him to give him 500 people
12 and in exchange he would be given one weapon per person. It is true that certain people
13 were involved. It could have been Ngitis, Nandes, Hemas. They were people recruited
14 by Kakolele and who were supposed to pass themselves off as Nalus to go and attack and
15 that is how the Ugandans were convinced that the Nalus were there.

16 JUDGE DIARRA: (Interpretation) Mr Witness, you are being
17 interpreted.

18 MR HOOPER:

19 Q. Yes. And can I come back perhaps to my question: Do you accept that the
20 Walendu-Bindi were getting their arms from Beni and not from the Ugandans?

21 A. Of course. Those people did not receive weapons from the Ugandans
22 because they did not entertain any relations with them, that is true.

23 Q. I'm not -- I don't want to confuse you. I'm concerned -- I'm representing
24 Germain Katanga here, not the Nalu. My question is this: Do you accept the
25 Walendu-Bindi were receiving arms not from Uganda but from Beni at the period that

1 we're concerned with, because we're talking of course of the time up to the Bogoro attack.
2 Do you accept that they weren't getting any weapons from Uganda; they were getting it
3 from Beni? Do you accept that?

4 A. Well, I do not see the interest in knowing whether people received arms from
5 Beni, from Kinshasa. I do not see the interest in finding that out, but they told me that
6 they had received the support in a form of Ugandan arms were -- if they received
7 weapons from Beni, well, very well. If they received weapons from the Ugandans, well,
8 how does that help me? If they received weapons from Beni, so what? I am saying that
9 they told me that they received weapons and that they received support from the
10 Ugandans. That's what they told me. I know that before that they were not in contact
11 with Uganda and they did not receive any weapons from the Ugandans. I am aware of
12 that.

13 Q. All right. Very well. Now, let's leave the supper conversation and let me
14 just ask you a few questions about what happened. Now, January 2004, when you've
15 told us about how helpful you've been to Germain Katanga on his visits to Kampala at
16 that time, am I right in saying that -- you mention this man Dido, D-I-D-O, who was a
17 PUSIC member I understand, and did he contact you in January 2004 and was it in order
18 to try and put into place a military plot to take over Jérôme Kakwavu - that is,
19 K-A-K-W-A-V-U - Jérôme Kakwavu's territory with its lucrative customs income in
20 northern Ituri? Did he contact you about that and did you as a consequence go with him
21 to the chieftaincy of military intelligence in Kampala in January in order to get support
22 from the intelligence community in Uganda for that plot? And if you can deal with that
23 very shortly, because we don't want the long history, but essentially is that right; that's
24 what you did?

25 A. I think the question has been put badly and, were I to answer to that, it would

1 be a question answered in two parts. I think -- I think you need to cut the question down
2 into pieces. If you want to know whether I met Dido, well, if you mix things up and if I
3 am supposed to answer with yes or no, then it's going to complicate matters for me
4 somewhat.

5 Q. Let me ask you this: Did you go with him to the chieftaincy of military
6 intelligence in Kampala in January 2004? That is a possible "yes" or "no."

7 A. Yes.

8 Q. Good.

9 A. Yes.

10 Q. And did you meet someone called Major Buturu there, B-U-T-U-R-U?

11 A. Yes.

12 Q. And was this in order to see if they would support you in taking over Jérôme
13 Kakwavu's territory with its lucrative customs income in northern Ituri or was it for
14 something else?

15 A. Well, this is where things become complicated. You said -- you asked me
16 whether -- it was in fact an operation under the command of Dido. It was not my
17 operation as such. Dido had informed me of the fact that he wanted to go and undertake
18 certain operations against Jérôme and that he had the support from CMI. And I said that
19 it would be better if I could ascertain the situation for myself. I went with him and we
20 drafted the letter that he was to copy out again. And as I explained to you previously,
21 any attempt to destabilise the country, well, if I were to chance upon a document in this
22 regard then I would take it and communicate it to the international community, and that's
23 what I did. Now, it was Major Buturu who wrote this letter himself. I took it, I typed it
24 up for him and I kept the copy, and I gave another copy to the international community.
25 And it might be that you are in possession of such a copy. That is what he wanted to do.

1 But other individuals who were in the department there, who were collaborating with
2 Jérôme, had also informed him previously that there was an individual by the name of
3 Dido who wanted to conduct an operation of the same ilk.

4 Q. And essentially Kakwavu already had those people in his pocket, is that right,
5 so they tipped him off and that was the end of that? Does that fairly reflect the situation?

6 A. Well, that is not my problem. He had made his arrangements. He had his
7 contacts within the CMI, because his group had the support of the Ugandans and it was
8 only normal for him to have contacts there. But to say that they had tipped him off, well,
9 I don't know. Those people believed in him. He worked together with them within
10 that context.

11 Q. All right. Now, let's move forward again and briefly, and I've not got very
12 many minutes more with you, to early 2005 and at that time what was known as -- or has
13 become known as the "new rebellion." In fact, this was the creation of a common front
14 against Kinshasa and MONUC, supported by Rwanda; is that essentially correct?

15 A. Yes, apparently.

16 Q. Well, in June 2005 didn't you meet members of the new rebellion at the
17 International Hotel in Kampala? Weren't you present at their discussions?

18 A. No, not at the International Hotel in Kampala, but in Ginga.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor.

20 MR MACDONALD: (Interpretation) We are far from the subject of
21 June 2005. In the subject of June 2005, we are far from the events in Bogoro and the
22 influence that these facts could have had upon those events in -- or situation in Bogoro,
23 and I believe that the Trial Chamber should perhaps put pressure upon Counsel Hooper
24 to move on to another subject.

25 PRESIDING JUDGE COTTE: (Interpretation) In fact, yes, we are indeed

1 far afield, and do you intend to dwell lengthily on this period of time?

2 MR HOOPER: No. I've got a couple, just a couple of questions and the
3 relevance will become I hope apparent almost immediately.

4 Q. In relation to that new rebellion that was opposed to Kinshasa,
5 MONUC - that's United Nations obviously - and with the object of seizing Ituri and the
6 Kivus as a separate entity from DRC, with that background did you in fact on behalf of
7 those plotters contact Colonel Chimboa of the Ugandan army in order to see if he'd sell
8 arms for the benefit of the rebellion? Did you go and contact Colonel Chimboa; you
9 personally?

10 A. Yes.

11 Q. And did you reach an agreement with him that he could provide 20 cases, a
12 battalion's worth of arms, at a thousand dollars each?

13 A. I shall carry on by answering that question, if you allow me to provide you
14 with an explanation.

15 Q. Well, yes.

16 A. Well, under those circumstances, yes. When I met him, he said that, yes, he
17 was ready to give the weapons on the condition that the money be given in return, but
18 I had already entered into contact with the investigators from the Court and I had
19 explained to an investigator what the situation was and the substance of the proposal put
20 forward by the groups in attempting to get their hands on these arms, and the investigator
21 had said, "There is no problem. Please continue. Carry on. But when you get to the
22 point where there is a problem with the supply, then inform me. On the very same day
23 that there is -- that the supply is planned, the delivery is planned, then I should be there, I
24 should be told and I should be there." And I then told them that I would inform them
25 and they could come. So this was an investigator Nicholas; he was aware and he wanted

1 to have some evidence of what was going on and then the operation could be put a stop to
2 there. This is why I carried on doing this with them. Unfortunately, the group did not
3 have the money requested in order to have these cases and the operation was suspended,
4 but of course this operation was a trap as I just explained.

5 Q. And can you remember when you met that investigator and told him this?

6 A. No, I no longer recall.

7 Q. Is it right that in July you informed the ambassador for DRC in Kampala
8 about it? Is that right?

9 A. Before this new group could commence, Mr Ngudjolo had entered into
10 contact with Justin Lobho in Kampala and he had spoken to him about this. He
11 explained what his intentions were, notably, to go to Kigali and start a new life. I asked
12 Justin, I said, "Please, do not cause any further harm to the country. There is no point in
13 entering into new undertakings when the end is nigh," and he said, "Well, then, maybe we
14 should go to explain this to our ambassador and tell him what is being prepared."

15 So we went to the embassy together. He explained the problem at the
16 embassy and I do not know what happened subsequently but, at the embassy he was
17 given a laissez-passer so that he could go and attend the meeting in Kigali with the hope
18 that he would provide them with feedback, a report, as to what went on. This
19 is -- this -- the embassy or the ambassador did not tell me this, but he said that the
20 suggestion had been put to him that he go there and bring information. He went --

21 Q. Can I just ask you -- just this: I asked you a pretty straightforward question.
22 Did you yourself tip off the ambassador for the DRC and, if so, was that in July 2005?

23 MR MACDONALD: (Interpretation) Mr President, I am sorry to
24 interrupt. Might we move into private session at this juncture, please?

25 PRESIDING JUDGE COTTE: (Interpretation) And why is that?

1 MR MACDONALD: (Interpretation) I would say that this has a bearing
2 upon the witness's identity.

3 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. This was quite
4 a specific question, quite targeted. May we go into closed session or private session
5 before the witness provides his answer, and then we will move on slowly from the subject
6 of the year 2005.

7 (Private session at 12.17 p.m.)

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Page 54 expunged. Private Session

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20 (Open session at 12.23 p.m.)

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

22 PRESIDING JUDGE COTTE: (Interpretation) I thank you, court officer.
23 Indeed, there are a number of or a considerable number of EVD numbers to be assigned
24 because documents were presented to the witness and there were or was a document in
25 association with which the witness mentioned an address. I think this might have been

1 when we suspended last week some time. This document might need to have an EVD
2 number assigned. Prosecutor?

3 MR MACDONALD: (Interpretation) Yes. In order to accelerate things
4 somewhat, before Mr Kilenda's team commence, would it be possible for us to have from
5 Mr Hooper's team the list of documents for which he would like to have EVD numbers
6 assigned, that we receive it, that we look at each and every number of exhibits and that we
7 ascertain their level of confidentiality in order to make sure that we do not forget any of
8 those exhibits that were mentioned during cross-examination, and in this manner we will
9 be able to come back to the Chamber with the -- our comments in terms of confidentiality
10 levels.

11 PRESIDING JUDGE COTTE: (Interpretation) Do we have a complete list
12 of documents?

13 MR HOOPER: Yes, you have a complete list of documents and we are
14 quite happy that that and the Prosecution can look at that once it has been done, but
15 one-by-one we can go through them, but the list I think is in the hands of the Registry, so
16 perhaps we can just go through them. It would be easier.

17 PRESIDING JUDGE COTTE: (Interpretation) Court officer, do you have
18 the list? Is it rather a sizeable list and how many EVD numbers do you think need to be
19 assigned? Well, we might be able to finalise this now in order to be more at ease to listen
20 to the cross-examination for the Ngudjolo team.

21 MR HOOPER: Well, there seems to be 12 documents in all, so it's not an
22 immense number.

23 PRESIDING JUDGE COTTE: (Interpretation) Yes, that is indeed what I
24 understood. There were 12 documents. Mr Kilenda.

25 MR KILENDA: (Interpretation) I withdraw what I was saying.

1 PRESIDING JUDGE COTTE: (Interpretation) But remain where you are.
2 Court officer, could we please deal with this EVD business now. Let's look at the first
3 document. Let's do it calmly and rapidly.

4 MR MACDONALD: (Interpretation) But the problem, Judge Cotte, is
5 that the Prosecution has to be able to look at each and every document and trace them.

6 PRESIDING JUDGE COTTE: (Interpretation) So court officer, you are
7 going to send by mail this list to each and every party and participant, and if we see that
8 in the quarter-of-an-hour before the end of the hearing we can solve this issue then very
9 good. Otherwise, we shall assign these numbers tomorrow morning at 9 a.m. Would it
10 be possible to do this, court officer? Very well.

11 So, either we solve this issue at quarter-past-1, or we solve it tomorrow
12 morning at 9 a.m. Now we shall listen to the cross-examination for the Ngudjolo team,
13 who shall bear in mind everything that I said this morning, and whom I am sure will
14 make the most of all the responses provided to date by the witness put to him by
15 Counsel Hooper. Would you, despite this, Professor Fofé, allow me to put a little
16 question to the witness with a view to obtaining clarification? I think this could be useful
17 to all parties and participants as well as to the Trial Chamber.

18 Mr Witness, you, in answering a number of very insistent and repetitive
19 questions on the part of Counsel Hooper indicated that Uganda had supplied weapons to
20 the Ngiti in order to attack Bogoro. Now, in supplying these weapons, did the Ugandans
21 not take the risk of themselves having capitulate their attempt to bring together the Lendu
22 and the Hema within the CPI, the pacification commission? Could you please assist us
23 in this regard if you are able to and briefly? Assist us in understanding Uganda's
24 strategy if this was indeed Uganda's strategy, of course.

25 THE WITNESS: Yes. Well, in the month of January Mr Thomas Lubanga

1 had made a statement in Kampala saying that he was no longer with them, that he did not
2 want to collaborate with Kampala, and then General Salim Saleh was sent to undertake
3 further negotiations with Lubanga, and Lubanga refused to receive him. The Ugandans
4 then attempted to drive out the UPC and replace the UPC. The only possibility for them
5 was to have -- for the way to be free for them to go to Bogoro, because then they could
6 rapidly send things through from Lac Albert to Bunia, and this was why it was in their
7 interest to get Bogoro -- get Lubanga out of Bogoro. But they did not have any particular
8 relation with the Ngiti. It was, however, in their interest to have a free road to Bunia.
9 That's why.

10 PRESIDING JUDGE COTTE: (Interpretation) I thank you, Witness.

11 MR FOFÉ: (Interpretation) Thank you very much, your Honour. Good
12 afternoon, your Honours.

13 QUESTIONED BY MR FOFÉ: (Interpretation)

14 Q. Good afternoon, Witness.

15 A. Good afternoon.

16 Q. My name is Jean-Pierre Fofé. I am one of the two co-counsels within the
17 Mathieu Ngudjolo Defence team. Now, the questions I will be asking you are with only
18 one goal in mind; namely, to allow the Chamber to draw out from your testimony as
19 much relevant information as possible so that they can better understand what happened
20 in Ituri during the period during which the events occurred, events that had been brought
21 before this Chamber. I would like to thank you in advance for being available to answer
22 my questions here.

23 Now, my questions are, for the most part, based on your statement to the
24 investigators of the OTP in May and July of 2005, statements that contain a great deal of
25 information, information of -- that is very useful but, before that, just a few questions to

1 get some details about your testimony here before the Chamber.

2 Some questions may appear simple to you. I would encourage you to
3 merely answer them because simple questions are sometimes a very good basis upon
4 which to prepare a demonstration of information, or an argument.

5 Now, on 24 February 2003, where were you?

6 A. I was in Kampala.

7 Q. As far as you know, what force was occupying Bogoro up until that date,
8 24 February 2003? Please reply on the basis of your own knowledge.

9 A. The UPC forces.

10 Q. Do you know how long the UPC forces had been in Bogoro?

11 A. No.

12 Q. Do you know what the military strength was of the UPC; How many
13 soldiers were there in Bogoro at that time?

14 A. No.

15 Q. Did you know what weapons were held by the UPC, who were occupying
16 Bogoro up until 24 February 2003?

17 A. No, but I presume that the same weapons as the Tchaligonza group in Shari,
18 that kind of weaponry, the same as all the UPC positions had. And, as well, there were
19 landmines that MONUC had seized and destroyed publicly in Bunia. So, I think that
20 they had nearly the same kinds of weapons, but I don't know what the quantities were.

21 Q. Could you tell us what kind of weapons were to be found, Tchaligonza?

22 A. They had Kalashnikovs, they had mortars, 60-millimetre mortars, they had
23 RPG-7s - in French "RPG-7," like 14, half of 14. They also had landmines, and I think they
24 also had some 81-millimetre mortars. They also had machine guns, submachine guns.
25 Those were amongst the weapons that I remember seeing held by the Tchaligonza group.

1 Q. Thank you very much, Witness. Do you know what kind of weapons were
2 used by the forces that drove out the UPC from Bogoro on 24 February 2003?

3 A. No.

4 Q. Do you know what the reaction of the UPC was after that force was driven
5 out of Bogoro on 24 February 2003?

6 A. No.

7 Q. Thank you very much, Witness. Now, so far we will try to follow the
8 timeline of events. You explained to the Chamber how tension had begun to rise
9 between the UPC soldiers and the APC when an APC soldier had been killed, in
10 particular, at the hearing of 28 September 2010, and I am referring to transcript 194, page
11 35, lines 10 to 12. Now, just to remind you, this APC soldier who had been killed was
12 Claude Kiza?

13 A. That's right.

14 Q. So, it was this tension that sparked the war of 9 August 2002 during which
15 the UPC drove out Lopondo and the APC from the town of Bunia. You've already said
16 that. The Chamber knows that. Now, Witness, do you know Professor Dhetchuvi?
17 And I will spell out that name: D-H-E-T-C-H-U-V-I, Dhetchuvi.

18 A. Yes, I know him, but we've never spoken to one another.

19 Q. And what did he do at that time within the UPC? What were his duties?

20 A. I no longer recall.

21 Q. Now, do you know if he were responsible for external relations?

22 A. I think that was the case but I don't know exactly how things were organised,
23 but I think he was in charge of external relations of the UPC.

24 Q. Now, are you aware of a document that Professor Dhetchuvi had sent to
25 MONUC regarding a so-called confession of guilt for massacres in Ituri, a confession or an

1 admission by Governor Lopondo?

2 A. I don't recall.

3 Q. So, you don't remember either the answer that Lopondo provided to
4 MONUC in this regard?

5 A. No. I remember that some letters from Professor Dhetchuvi had been sent to
6 Mr Kisembo Bitamara. Mr Kisembo Bitamara transferred those letters to me as well,
7 those letters from the professor, but I've forgotten exactly what those letters were about.
8 It might have been about Lopondo or something else. I've forgotten. I do remember
9 that I did see many letters that he himself wrote, but I've forgotten whether I made a
10 photocopy and gave it to the Court or to the investigators. I don't recall.

11 Q. I'm going to show you a document that we received from the Prosecutor, and
12 he himself received it from MONUC. This is a public document. And please tell me
13 whether you have had an opportunity to see it in the past.

14 MR FOFÉ: (Interpretation) Now, with leave from the Presiding Judge,
15 could the court officer show the document to the witness and to all of us, show
16 DRC-OTP-0024-0632? This is a three-page document and it is a public document.

17 MR MACDONALD: (Interpretation) Might you have a copy for the
18 witness?

19 MR FOFÉ: (Interpretation) Yes, Prosecutor.

20 PRESIDING JUDGE COTTE: (Interpretation) Do you see it on the screen
21 and can the accused see the document on the screen as well? A hard copy will be
22 provided.

23 Now, court usher, perhaps you could take the document from the
24 Katanga -- the documents that came from the Katanga Defence team so that the witness is
25 not troubled by all kinds of different documents on the desk. Thank you.

1 So we have this document here displayed on the screen. Yes, Professor
2 Fofé.

3 MR FOFÉ: (Interpretation) Usher?

4 PRESIDING JUDGE COTTE: (Interpretation) So the witness can see this
5 document on his screen and also has a hard copy. Now, Professor Fofé.

6 MR FOFÉ: (Interpretation) Thank you, your Honour.

7 Q. Now, you have the document before you, Witness. Have you had an
8 opportunity to see this document before?

9 A. No.

10 Q. Very well. I'm going to ask you a question, and it won't be a difficult
11 question. And tell us -- I do believe that it is important, and you can answer this
12 question. As you can see, this is a letter that Governor Lompondo sent and -- well, let us
13 begin with the first page. Let us begin with the first page. This is a letter dated --

14 MR MACDONALD: (Interpretation) I object.

15 PRESIDING JUDGE COTTE: (Interpretation) Why?

16 MR MACDONALD: (Interpretation) The same comments for all the
17 documents, your Honour. Indeed, Mr Fofé, now, first of all, he should take the
18 document away from the witness. The witness is not familiar with the document.
19 Secondly, my learned friend is asking about the contents about this letter but,
20 unfortunately, the witness has said that he has never seen this document, so it is difficult
21 for him to make comments on a document that he is not familiar with.

22 So, once again, ever since the beginning the practice that we have developed
23 with documents and related -- and other materials, well, if it is to see if he recognises the
24 signature of the governor or to decipher an acronym, that is one thing, but for the rest,
25 that's another kettle of fish.

1 PRESIDING JUDGE COTTE: (Interpretation) Understood, Prosecutor.
2 Now, I believe Professor Fofé had that in mind. Now, the witness has said that he does
3 not know this document. Perhaps the question could be rephrased.

4 MR FOFÉ: (Interpretation) Well, we'll see whether he's able to answer the
5 question, but I thought I would briefly cover the document and discuss it before I ask my
6 single question about it. I would imagine that's how we should proceed.

7 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead. Do not
8 ask any questions of the witness regarding the content of a document that he is not
9 familiar with, and then please ask the questions that you think are relevant. Please go
10 ahead.

11 MR FOFÉ: (Interpretation) Thank you, your Honour.

12 Q. Witness, you are currently seeing this document and it is from Komanda,
13 26 August 2002, and on the last page we see that this is a letter written by the governor of
14 the province of Ituri, Jean-Pierre Molondo Lompondo, Operational Commander. Now,
15 since you've never seen this document, I will restrict myself to a single question, and it has
16 to do with the second page, last paragraph, page 2, the first phrase. The following is
17 written, first sentence, and I quote -- before I ask my question I hereby quote, "The lack of
18 true financial resources that each member of the group has is very much in contrast with
19 the quantities of weapons and munitions that have been brought into Bunia over the past
20 two years."

21 My question is a very simple one. As an observer, as an experienced
22 observer, one who is quite familiar with the politics and the military life of the Ituri region,
23 were you personally a witness of these contrasts between the restricted resources of
24 certain players, certain political and military groups, and the quantities of weapons and
25 munitions that were brought into Bunia?

1 A. Well, if you are asking me my opinion, I think that, yes, there really was a
2 contrast, from a financial point of view, and also in terms of logistics. There certainly
3 were contrasts; that is true.

4 Q. Thank you very much, Witness. We will restrict ourselves to that question
5 with regard to this particular document. Witness, after the UPC was driven out,
6 Lompondo and his army -- after they chased out Lompondo and his army from Bunia, do
7 you know whether the Ugandan authorities had tried to arbitrate this conflict between
8 Thomas Lubanga and Mbusa Nyamwisi?

9 A. Could you rephrase your question?

10 Q. My question is as follows: After the UPC drove out Lompondo from Bunia,
11 there was an open conflict between the RCD-K/ML of Mbusi (phon) and the UPC of
12 Thomas Lubanga. There was an open conflict between the two groups. Now, to your
13 knowledge, did the Ugandan authorities attempt to serve as an arbitrator, a mediator,
14 between the two groups?

15 A. I don't believe so, but I do know that in June, I believe, June 2002, the
16 Ugandan authorities had brought together people from Ituri, brought them together with
17 people from Beni, after the death of Commander Kiza. And the Ugandan authorities
18 wanted to try to improve the relationship, which was worsening, between the Hema
19 people and the Nande people, in particular, the RCD-K/ML. But the RCD-K/ML was
20 disappointed by the decision taken by Uganda to ask Mr Mbusa to leave Ituri to the
21 people of Ituri and not to talk about the people who had died. That was at the Kasese
22 meeting. He wasn't happy about that and, ever since the incidents with
23 Governor Lompondo, I really don't see -- I really didn't see any attempt to reconcile the
24 UPC and the RCD-K/ML. That is my analysis when I look at the situation as it occurred.

25 MR FOFÉ: (Interpretation) Thank you very much. With the Presiding

1 Judge's leave, I will ask the court officer to show the witness, the parties and the
2 participants a public document, DRC-OTP-0106-187. This is a public document. We
3 have a copy here for the witness.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well.

5 MR FOFÉ: (Interpretation)

6 Q. Witness, are you familiar with this document?

7 A. I believe I've seen it, if I remember correctly.

8 Q. Indeed. Could you tell us what this document is all about, if you read the
9 title, for example, which is in English?

10 A. It is a document. It has to do with an agreement between the RCD-ML and
11 the UPC.

12 Q. Thank you. So this document, which is in English, is entitled "The Kampala
13 Understanding ..." (speaks English) "RCD-ML and UPC." (Interpretation) Now if you
14 turn the page and go to the second page of this document, you will see that the document
15 is dated 15 November 2002, and it bears the signature of Mr Mbusa Nyamwisi, Thomas
16 Lubanga -- let me repeat. Mbusa, RCD-ML, Thomas Lubanga UPC and James
17 Wapakhabulo, Uganda. Can you tell us who is that person, James Wapakhabulo?

18 A. Yes, I remember this James Wapakhabulo I believe was the Minister of
19 Foreign Affairs of Uganda at the time. I remember that they had a meeting in Entebbe
20 which was attended by Mbusa Nyamwisi, and Mbusa Nyamwisi was angry during that
21 meeting because the people with whom we were in Kampala had said that they had
22 signed the documents only to release themselves and leave because they felt that Uganda
23 was biased, they were supporting the UPC, and he signed the document in Entebbe and
24 then left. But according to his representative in Kampala, he did not agree with that
25 document, but because he wanted to leave he signed the document.

1 Q. On page 1.1 of that document the following is written, and I quote, (speaks
2 English) "The RCD-ML and the UPC shall cease hostilities at all fronts in Ituri
3 immediately." (Interpretation) Mr Witness, after reading this point, are we to
4 understand that on the date at which that document was signed, that is 15 November 2002,
5 the RCD-ML of Mbusa Nyamwisi and the UPC of Thomas Lubanga continued fighting
6 each other on several fronts in Ituri?

7 A. I do not know precisely, because the RCD-ML did not agree with the sharing
8 that the Ugandans had done. The Ugandans had asked the RCD-ML to leave Ituri, but
9 they wanted to stay in Ituri. That is why they had occupied Komanda. Ugandans, the
10 Ugandans wanted them to leave even Komanda and go to Beni, but they did not want to
11 do so. The UPC was determined to go after them wherever they were so that they could
12 leave Ituri. I do not know whether there was a ceasefire by that date and I am not sure
13 precisely which battles followed after that, but I know that there was still tension because
14 even during the Ituri Pacification Commission the armed groups in Ituri continued to
15 demand that the RCD-K/ML leave Komanda because they were still occupying Komanda.
16 Even though they had signed the document, tactically and militarily they were still
17 prepared to fight. The intention to fight was still there.

18 Q. Thank you, Mr Witness. On the same page, point 2, the following is written,
19 and I quote, (speaks English) "In order to promote pacification of Ituri, RCD-ML agrees to
20 immediately cease all military and political activities in Ituri which may affect the
21 pacification process." (Interpretation) And point 3 continues, and I will quote, (speaks
22 English) "The three parties - namely Uganda, RCD-ML and the UPC - agree to finding a
23 solution to the problem of Ituri through the Ituri Pacification Committee, IPC, in
24 accordance with the Luanda agreement." (Interpretation) Mr Witness, point 3 refers to
25 the Luanda agreement. Are we to understand that this is the Luanda agreement of

1 6 September 2002 between the Kinshasa government and Uganda?

2 A. Yes, and that is because from that time on the Ugandans started organising
3 many meetings with members of the elite of Ituri. One of the meetings had been
4 organised in Nyambole where almost all the forces in Ituri had gone to express their
5 grievances. This was a way for Uganda to set up the Ituri Pacification Committee; that is
6 the way they went about it. And since not everybody was agreed, things continued to
7 drag on.

8 Q. Thank you very much. And last quote from this document, point 4, same
9 page, I quote, (speaks English) "RCD-ML supports pacification efforts, and as a sign of
10 goodwill agrees to withdraw all its forces in areas around Bunia to areas beyond
11 Komanda." (Interpretation) The translation is incorrect. At the end, the French
12 transcript is incorrect.

13 Mr Witness, from point 4 it can be seen that at the time that this agreement
14 was signed the forces of the RCD-ML were positioned all around Bunia, right up to
15 Komanda; is that correct?

16 A. Yes, I think so.

17 MR FOFÉ: (Interpretation) Thank you very much. Your Honour, we'd
18 like an EVD number to be assigned to this document, which is a public document.

19 PRESIDING JUDGE COTTE: (Interpretation) Court officer, this is
20 DRC-OTP-0106-0187. Mr Macdonald.

21 MR MACDONALD: (Interpretation) The Prosecution does not have any
22 objection to that because it was the witness himself who provided that document to the
23 Prosecution and I think that should be taken note of.

24 PRESIDING JUDGE COTTE: (Interpretation) Yes, that is noted and it is
25 in the transcript. Court officer, please.

1 THE COURT OFFICER: Your Honours, therefore DRC-OTP-0106-0187
2 shall be given evidence number EVD-D03-00063 and is admitted as a public document.
3 Thank you.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Professor
5 Fofé.

6 MR FOFÉ: (Interpretation) Thank you, your Honour.

7 Q. Mr Witness, let us now refer to your statement given to the investigators of
8 the OTP in May/July 2005. We have a copy of the document, which is
9 DRC-OTP-0105-0085. We have a copy to be handed over to the witness, just so that he
10 can refer to it and we make progress.

11 PRESIDING JUDGE COTTE: (Interpretation) Court usher, please, can
12 you give that document to the witness.

13 MR FOFÉ: (Interpretation) Obviously, we are going to take our
14 document back at the end of the session. Given that the first page of that document is
15 confidential --

16 MR MACDONALD: (Interpretation) And the subsequent pages also,
17 your Honour.

18 MR FOFÉ: (Interpretation) Well, I will distinguish between those that are
19 confidential and those that are not, and I will try to select my first quote and that will be
20 paragraph 102.

21 MR MACDONALD: (Interpretation) The problem is that you have the
22 name of the witness and his signature on each page. That is why I am submitting that all
23 the pages should be confidential, Mr Fofé. It's not to disturb you in any way.

24 MR FOFÉ: (Interpretation) Very well, this document may not be shown
25 to the public. It is confidential, but we are going to read out the paragraphs in open

1 session. Court usher, please.

2 Q. Mr Witness, as I told you, the Chamber has very limited time. The Defence
3 has a lot of information to deal with in your statement. We are going to read out some of
4 the paragraphs of your statement and I will ask you a few questions on those. Please
5 refer to paragraph 102 on page 19 of that document. In paragraph 102, whilst speaking
6 about the meeting in Kasese, Uganda, you said the following, and I quote: "I heard about
7 the meeting between the supporters of Lubanga and those of Nyamwisi which had taken
8 place in Kasese from a journalist known as Joska who owns Le Millénaire. They were
9 present at that meeting as representatives of the media.

10 The meeting had been organised by General Kazini in order to try and find
11 an understanding between the supporters of Lubanga and those of Nyamwisi.
12 According to Joska, the Nandes were hoping that Kazini would condemn Lubanga for the
13 murder of Kiza. Instead of that, Kazini told them that in a revolution it was not
14 necessary to dwell on the dead but, rather, to take care of the living.

15 Kazini had proposed that the Nande soldiers should be barracked at Beni
16 and the Hema soldiers barracked in Bunia and all of them should stay under the control
17 or authority of Nyamwisi. No one was happy about those proposals and they all
18 dispersed without having really solved the problems."

19 Mr Witness, my first question to you is as follows: When did this meeting
20 take place in Kasese?

21 A. I think it was immediately after Kiza was killed, between May and June.
22 That is when the meeting was organised. Kiza had died in April. After his death - and I
23 believe this was in May or June - General Kazini had convened a meeting, because tension
24 was rising in Bunia.

25 Q. Very well. So this was well before the agreement of 15 November 2002

1 which we have just seen a short time ago?

2 A. Yes, it was well before that, because Mbusa did not take part in this small
3 meeting. His representatives were present but he himself was not there.

4 JUDGE DIARRA: (Interpretation) Mr Fofé, you are overlapping each
5 other and that is very arduous.

6 MR FOFÉ: (Interpretation) Yes, indeed. Our case manager pointed it
7 out. I just wanted to save some time.

8 JUDGE DIARRA: (Interpretation) You start speaking barely after he has
9 finished.

10 MR FOFÉ: (Interpretation) Very well. We are going to make an effort.

11 Q. Mr Witness, let us try and pay attention to that. Mr Witness, we are seeing
12 that the conflicts between the UPC and the RCD-K/ML were deep-rooted; isn't that so?

13 A. Yes, they were indeed deep-rooted.

14 Q. And it was for that reason that the RCD-K/ML had also signed the cessation
15 of hostilities agreement of 18 March 2003?

16 A. Yes, because the memorandum of understanding that they had signed in
17 Kampala had never been complied with. There were still troops in Ituri and since they
18 wanted that Ituri should be a weapons-free zone all the armed groups were supposed to
19 sign and that is how come the RCD-ML, which was still occupying Komanda was, also
20 compelled to sign the cessation of hostilities agreement.

21 Q. And in this paragraph 102, you say amongst other things, and I quote, I
22 believe it must be the last or penultimate sentence, "According to Joska, the Nandes were
23 hoping that Kazini would condemn Lubanga for the killing of Kiza. Instead of that,
24 Kazini told them that in a revolution it was not necessary to dwell on the dead but instead
25 to take care of the living."

1 My question is as follows: What revolution was Kazini referring to?

2 A. I do not know. I think this was simply a lesson in morality that he was
3 giving to the belligerents, that during a revolution one should not spend too much time
4 thinking about the dead but, rather, take care of the living and when you talk of
5 revolution it could be, generally speaking, all sorts of revolutions. I think he was
6 speaking generally.

7 Q. And Kazini, is he a Rwandan general? For purposes of clarity, can you give
8 us his full name and nationality?

9 A. General Kazini was the UPDF Chief of Staff; that is the Ugandan army. In
10 that capacity, he also had control over the Ugandan troops in Ituri. In my opinion, he
11 was the one who instigated the creation of the UPC, because he's the one who installed
12 Madam Lotsove as governor of Ituri.

13 He is the one who militated for the departure of Professor Wamba Dia
14 Wamba and he was frequently linked to the plundering of the resources of the country.
15 That was the image that was given of Mr Kazini. And finally, President Museveni,
16 having been harassed by questions from journalists and the international community, he
17 relieved him of his duties and replaced him with Odongo, JJ Odongo.

18 There were many incidents and I remember that when the investigators of
19 the UN panel were operating in Uganda he was denounced because Kazini had create a
20 province which in fact did not exist. This province had never existed; it was a creation of
21 Kazini. And most of the problems in Ituri were attributable to poor management, poor
22 political management, by Kazini.

23 MR FOFÉ: (Interpretation) Thank you, Mr Witness. I think we will end
24 there for today.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,

1 Mr Fofé. The Chamber has noted that Mr Macdonald on the one hand, and Ms Menegon,
2 examined the issue of EVD numbers and the classification of the exhibits. We will do
3 that tomorrow morning and the court officer will remind us of that at -- tomorrow
4 morning.

5 Mr Fofé, you think you will use the entire day of tomorrow?

6 MR FOFÉ: (Interpretation) Yes.

7 PRESIDING JUDGE COTTE: (Interpretation) How -- when can we think
8 about bringing in Witness 79? 219, Witness 219? Can we be looking at Thursday,
9 maybe somewhere midway through the hearing?

10 MR FOFÉ: (Interpretation) Your Honour, I understand the concern of the
11 Chamber. Can we make an assessment at the end of the hearing tomorrow?

12 PRESIDING JUDGE COTTE: (Interpretation) Very well.

13 MR MACDONALD: (Interpretation) Very briefly, your Honour. You
14 will recall that for one of the documents of Mr Hooper, that is the manifesto of the
15 creation of the FRPI which was shown to the witness, and which the witness did not
16 recognise, the Prosecution does not have an objection to an evidence number being
17 assigned to that document. I understand that that is a Bar table application from the
18 Defence and we have no objection.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
20 Mr Prosecutor. Court officer, we are going to go into closed session for the witness to
21 leave the courtroom. Thank you very much, Mr Witness, for your contribution. We
22 will see you again tomorrow at 9 a.m., as well as you, the accused persons. I would also
23 like to thank all those who assisted us during this hearing, the court reporters, interpreters
24 and all the others.

25 (Closed session at 1.28 p.m.)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Open session at 1.29 p.m.)

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

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

8 This hearing is adjourned and we will meet again tomorrow morning.

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

10 CORRECTION REPORT

11 The following correction has been brought to the transcript:

12 * On page 4 line 10: "safe house" has been corrected by "guesthouse".