

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Wednesday, 13 April 2011
10 The hearing starts at 2.35 p.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
15 The accused persons are with us. Good afternoon, sirs.
16 Good afternoon, everyone.
17 Court Officer, Court Usher, can you please have the witness
18 brought into the courtroom.
19 (The witness takes the stand)
20 PRESIDING JUDGE COTTE: (Interpretation) Good afternoon,
21 Mr. Witness.
22 THE WITNESS: (Interpretation) Good afternoon, your Honour.
23 PRESIDING JUDGE COTTE: (Interpretation) I can see that you are
24 able to hear me well.
25 THE WITNESS: (Interpretation) Yes.

1 PRESIDING JUDGE COTTE: (Interpretation) Very well. The Chamber
2 will first of all hand down a decision on an application from the Defence
3 of Germain Katanga in public session and then we will provide some
4 information in private session before continuing with the testimony of
5 Mr. Ngabu Ndjabu. We will first of all hand down a decision on
6 application number 2823 from the Defence of Germain Katanga dated the
7 7th of April, 2011, relating to assurances and guarantees that they would
8 like granted to the five Defence witnesses D02-P-176, 017, 001, 047, and
9 148 by filing number 2822 of the 7th of April, 2011, the Defence of
10 Germain Katanga requests that Witnesses D02-P-176, 017, 001, 047, and 148
11 should be granted the assurances provided for in Article 93(2) of the
12 Statute as well as the guarantees set out by Rule 74 of the Rules of
13 Procedure and Evidence. The Defence also wishes to have from the
14 authorities of the DRC the assurance that they will not initiate
15 proceedings against those five witnesses. On that same day, that is, the
16 7th of April, 2011, the Chamber requested the observations of the
17 Prosecutor under Article 93(2) and of Rule 191 as well as the opinion
18 provided for under Rule 74(4) of the same rules. In his observations,
19 2828 dated the 11th of April, 2011, the Prosecutor indicated that they
20 did not have any objections to the witnesses being granted the assurances
21 under Article 93(2) and the guarantees under Rule 74. The Chamber has
22 also decided to make it known to the Defence of Germain Katanga that the
23 Registry will designate a counsel to assist the five witnesses in
24 accordance with decision number 1665 of the 1st of December, 2009,
25 relating to Rule 140 of the Rules. It will be incumbent on that counsel

1 to notify the witnesses of the provisions of Article 93(2) and Rule 74
2 and to inform them of the assurances and guarantees defined in those
3 provisions. It will also be up to the counsel to take the observations
4 of the witnesses in application of Rule 191 of the Rules.

5 Lastly, the counsel will provide all information on legal
6 opinions requested by the witnesses. Regarding the assurances expected
7 from the Democratic Republic of Congo the Chamber has already referred to
8 the letter of the minister of justice of that country dated the 30th of
9 January, 2009, and in particular at the beginning of the testimony of
10 Witness 236, Mr. Floribert Ndjabu Ngabu. The substance of that letter
11 and particularly its paragraph 2 was recently confirmed by the minister
12 of justice in a letter dated the 7th of March, 2011, relating to the
13 three detained witnesses. The minister reiterated his own undertaking
14 according to which, and I quote:

15 "The witnesses called upon to testify for the Prosecution and the
16 Defence before the Court within the framework of the ongoing
17 investigation in the situation of the DRC will not be prosecuted before
18 the Congolese jurisdictions for acts and crimes that they indicate they
19 were aware of or which they participated in their commission before this
20 Court or for acts and crimes committed by themselves which would not have
21 come to light without their testimonies here."

22 The Chamber takes note and considers that that undertaking is
23 applicable to all the witnesses called upon to testify before the Chamber
24 without it being necessary to seek any new undertakings for every single
25 witness that appears. The Chamber recalls, however, that the only

1 guarantees that they can give in application of the core text of the
2 Court are those provided for under Rule 74 of the Rules.

3 Court Officer, we request you to inform the counsel designated by
4 the Registrar of this excerpt of the decision because it concerns him.

5 And, Court Officer, we will also like to go into private session
6 now.

7 (Private session at 2.43 p.m.)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1

2

3

4

5

6

7

8

9

10

11

12 Page 5 expunged. Private Session.

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12 Page 6 expunged. Private Session.

13

14

15

16

17

18

19

20

21

22

23

24

25

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Open session at 2.52 p.m.)

7 COURT OFFICER: (Interpretation) We are in open session,
8 your Honour.

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

11 Prosecutor, please proceed. We have four hours of work. We did
12 not ask the next witness to be on stand-by. We know that the Prosecutor
13 has a certain number of questions, the Legal Representatives also, as
14 well as the Chamber. So we need time to listen to all the answers given
15 to us by Mr. Ndjabu as well as the final words of the two Defence teams.
16 So we need to conclude the testimony of Mr. Ndjabu today and everybody
17 should bear this in mind.

18 MR. MACDONALD: (Interpretation) With your leave, Mr. President,
19 I know that we are in open session but I would like to come back to the
20 observations of the parties.

21 PRESIDING JUDGE COTTE: (Interpretation) We can talk about this
22 without mentioning the substance. We gave you the dead-line of tomorrow,
23 2.00 p.m., because we believe that filing deserves an urgent response
24 which we would like to hand down as soon as possible. Do you want an
25 extension of the dead-line?

1 MR. MACDONALD: (Interpretation) Given that we will be in this
2 hearing right up to 7.00 p.m. and tomorrow right up to 1.30 p.m.

3 PRESIDING JUDGE COTTE: (Interpretation) This applies to all of
4 us. We have a very restricted timetable and we have to respond to these
5 filings within a very limited period of time.

6 MR. MACDONALD: (Interpretation) The questions asked were for
7 the purpose of circumscribing the discussion, so the Chamber needs to
8 precise or to specify whether the only problem is whether the witness has
9 to be heard in closed session for security reasons or whether that -- we
10 will go beyond that scope.

11 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
12 go into private session.

13 (Private session at 2.55 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Private Session)
Questioned by Mr. MacDonald (Continued)

Page 9

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Open session at 2.58 p.m.)

13 COURT OFFICER: (Interpretation) We are in open session.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

15 Court Officer.

16 Mr. Prosecutor, you can proceed.

17 MR. MACDONALD: (Interpretation) Mr. Prosecutor, your Honours,

18 thank you for extending the dead-line for our reaction to that filing by

19 a few days.

20 WITNESS: WITNESS DRC-D02-P-0236/DRC-D03-P-0011 (Resumed)

21 (Witness answered through interpreter)

22 Questioned by Mr. MacDonald: (Continued)

23 Q. (Interpretation) Now, Mr. Ndjabu, before going back to where we

24 left off last Friday, we were at Arua talking about the meeting with the

25 members of the UPC, but I would like to backtrack a little bit for

1 purposes of clarification of your testimony last Friday in answer to my
2 questions. To begin with, let me go back to Mr. Charif. You stated that
3 your first meeting with that person to the best of your knowledge was in
4 Bunia in the residence of Lopondo shortly before Lopondo fled the town on
5 the 9th of August, 2002, and I'm referring to transcript 245, page 21,
6 line 21. My question to you is as follows - and that reference was for
7 the French transcript of course - my question to you is as follows: What
8 was Charif doing in Lopondo's residence when you met him there? Why was
9 he there?

10 A. I do not know what he had come to do in Governor Molondo's
11 residence at that time, but I saw him.

12 Q. As you were present what was the subject of conversation in the
13 presence of Mr. Charif and Molondo Lopondo?

14 A. I wasn't present when they met the Governor Molondo.

15 Q. So if I have understood you correctly, you simply saw him there
16 but you didn't speak to him. Did you greet him? What in fact happened?

17 A. I didn't put any questions to him, and I remember it must have
18 been one evening. Everyone had to go back to where they were residing.

19 Q. So it was an evening at Mr. Lopondo's and it was a social
20 setting. It wasn't anything official that had to do with the RCD-K/ML or
21 anything like that?

22 A. We've already said that I was a member of the RCD-K/ML at the
23 time, and my presence at Molondo's and the surroundings was justified by
24 the simple fact that I was a member of that movement.

25 Q. I apologise, I'll interrupt you because you are not answering the

1 question. And as the Chamber has said we have to complete your testimony
2 today. So I'm going to interrupt you to put the question again. Was the
3 event in question a social event, yes or no?

4 A. I don't have an answer for you.

5 Q. How much time was it before -- the 9th of August, 2002, how much
6 time before Loponde's departure from Bunia was that?

7 A. I couldn't say exactly how much time it was before the departure
8 of Molondo.

9 Q. Are we talking about days? Weeks? Months?

10 A. As I have said, I don't want to guess about dates that I'm not
11 sure of.

12 Q. Was it a meeting that took place in July 2002?

13 A. Yet again, I don't want to speculate with regard to dates; this
14 is dangerous.

15 Q. Mr. Charif, if I have understood this correctly, took refuge in
16 Beni; isn't that correct?

17 A. I didn't understand that.

18 Q. Mr. Charif, following the fall of Loponde's government, took
19 refuge in Beni; isn't that correct?

20 A. Absolutely. He was in Beni.

21 Q. As far as you know, while you were in Beni do you know whether
22 Mr. Charif travelled to Kpandroma?

23 A. I wouldn't know. Could you perhaps be more specific with regard
24 to the period.

25 Q. At the time that you arrived in Beni, up until the point in time

1 that you left Beni to go to Kpandroma and Arua, during this period of
2 time. So we're dealing with autumn 2002. To the best of your knowledge
3 did Mr. Charif travel to Kpandroma?

4 A. I don't know. I don't remember having said anything of that
5 sort.

6 Q. Did you, yourself, travel with Charif to any destination in the
7 month of August 2002? Did you go anywhere outside of Beni? Did you
8 travel with him? Did you go outside Beni in the autumn of 2002?

9 A. I've already said no to that question.

10 Q. Very well. I would now like to go back to this meeting in the
11 presence of Mr. Adirodu which took place in Beni. There were others,
12 Mr. Iribi, Mr. Sambidhu and Mr. Adirodu mentions the FRPI for the first
13 time. Can you find your bearings there?

14 A. Yes.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor and
16 Witness, please take care that there is a five-second break between
17 questions and answer. Thank you.

18 MR. MACDONALD: (Interpretation)

19 Q. Isn't it true that the main objective of co-ordination was to
20 deal with local problems because there were a lot of displaced people
21 from Ituri and from the Walendu-Bindi region who were in Beni and they
22 were causing problems with members of the APC of the military who were in
23 Beni; is that correct?

24 A. I haven't fully understood your question.

25 Q. Isn't it true, sir, that there were a lot of refugees from Ituri,

1 and above all from the Walendu-Bindi region and from Bunia who were in
2 Beni in autumn, in the autumn of 2002?

3 A. I'm not sure of the gist of your question.

4 Q. What is it you failed to understand? Please explain for the
5 benefit of the Chamber in what way you fail to understand my question.

6 A. Well, what do you want me to tell you exactly about
7 co-ordination? What is it that you want me to tell you exactly?

8 Q. The question that concerns co-ordination is one I put to you.
9 You didn't understand it. I put another simple question to you. Isn't
10 it true -- but please listen to the question. Isn't it true that there
11 are witnesses -- I apologise, that there are refugees who were displaced,
12 who moved from Bunia and from the Walendu-Bindi vo -- Irumu region and
13 they went to Beni, so they were refugees in Beni in the autumn of 2002?

14 A. Well, as far as I know the people who fled to Beni were mostly
15 people from Bunia and subsequently those who fled to Beni were people who
16 came from Mongbwalu, as far as I know.

17 Q. Isn't it also true, Witness, that there were refugees from the
18 Walendu-Bindi region and they were in Beni in the autumn of 2002?

19 A. I have said that as far as I know there were refugees and most of
20 them came from Bunia and there were others who came from Mongbwalu a
21 little bit later. But as to whether there were other displaced
22 individuals from the Walendu-Bindi region -- well, I don't really have
23 any information about that because over there there was still some
24 security. So apart from Bunia and Mongbwalu that's where -- well, it's
25 from Bunia and Mongbwalu, in fact, that people mostly fled to Beni.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 14

1 Q. Isn't it true that there were many refugees in Beni in the autumn
2 of 2002, and as a result of their presence there were certain
3 difficulties for the local authorities in Beni because all of a sudden
4 the town was besieged by refugees?

5 A. I think that the movement of people during that conflictual
6 period was certainly a problem that would be of concern for the
7 authorities of the RCD-K/ML; that's quite natural.

8 Q. And as a result of that issue, your group created a co-ordination
9 body and one of its main objectives was to deal with the situation to
10 find a solution to the problem of refugees?

11 A. That is not what I said. A co-ordination body, as far as I know,
12 that was to be created in Beni did not have as one of its objectives
13 managing the refugee situation. I said that this should be the
14 responsibility of the RCD-K/ML authorities.

15 Q. Isn't it true that Mr. Iribi was commissioner in charge of
16 relations with soldiers - those were his duties - and this liaison had to
17 do also with the problems that refugees had or the people who went to
18 Beni had, the problems they had with their cattle, for example, their
19 cattle would be stolen by soldiers --

20 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper.

21 MR. HOOPER: These questions, in my submission, are not
22 sufficiently open.

23 PRESIDING JUDGE COTTE: (Interpretation) No, I believe that the
24 Prosecution may continue.

25 Please continue.

1 MR. MACDONALD: (Interpretation) I will perhaps simplify my
2 questions.

3 PRESIDING JUDGE COTTE: (Interpretation) You have put numerous
4 questions with regard to the objective of co-ordination that could have
5 to do with refugees. Perhaps you could be briefer and -- so that the
6 witness can go to the heart of the matter, but I think you can continue.
7 In any event, we'll be following you.

8 MR. MACDONALD: (Interpretation)

9 Q. Now, my first direct and simple question: Isn't it true that
10 Mr. Pichou Iribi was in charge of relations with soldiers? We'll start
11 with that question.

12 A. I wouldn't be able to say so.

13 Q. Isn't it a fact that APC soldiers would steal the livestock that
14 arrived from Ituri or they would overtax farmers who arrived with their
15 livestock from Ituri in order to sell this livestock at the markets
16 and ...

17 A. I'll repeat what I have said. If that was the case, if that had
18 been the case, it would have happened after I was there because I said
19 after the co-ordination I left Beni. So what happened after I had left
20 is not something I can tell you anything about to be quite frank.

21 Q. And isn't it a fact that Mr. Iribi played this role, it was his
22 main role -- as member of this co-ordination body, his main role was to
23 deal with the problem of APC soldiers who were causing difficulties for
24 people from Ituri?

25 A. I believe I have already said that I left Beni. If that happened

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 16

1 after I had left, I believe that -- I don't want to invent answers.

2 Perhaps it's better to put questions to those concerned because I wasn't
3 there at the time.

4 Q. Was Mr. Iribi in Kpandroma when you were elected as president of
5 the FNI?

6 A. He wasn't in Kpandroma.

7 Q. But wasn't he one of the five candidates for the presidency of
8 the FNI?

9 A. Even if he was a candidate for the presidency, they didn't depend
10 on me. You have to ask this question -- put this question to the
11 assembly that put his name on the list of candidates because I had left
12 the hall during the elections and the names that the assembly had
13 selected as presidential candidates -- well, there's nothing I can
14 comment on as far as that is concerned.

15 (Prosecution counsel confer)

16 MR. MACDONALD: (Interpretation)

17 Q. Very well. These are the preliminary questions that I had for
18 you on going back there. Let's go back to the subject of Arua and your
19 trip on the 24th of December, 2002. Mr. Mache Ngona Labu was he also one
20 of those who went to Arua, Mache Ngona Labu?

21 A. I don't know this name.

22 Q. And if I suggested that he's Martin Safari's brother, would this
23 refresh your memory?

24 A. Martin Safari's brother is not called Ngona Mache.

25 Q. What's his name?

1 A. The name I know is Mache and there's the other family name Labu
2 and that's all.

3 Q. Could you repeat that, please, because I haven't understood you
4 correctly. Mache Labu, is that Martin Safari's brother's name, Mache
5 Labu?

6 A. In any event they have another family name, Mache Ngona, however,
7 is not his name.

8 Q. So Labu is something you associate with Mache?

9 A. I don't associate that. Labu Labu is perhaps one of their
10 father's -- but Mache was there.

11 Q. He was in the helicopter, wasn't he?

12 A. Of course he was.

13 Q. Why didn't you mention his name when I gave you a list of names
14 last Friday? Why didn't you mention the name of that person as one of
15 the persons who was present?

16 A. I remember having said that the list wasn't an exhaustive one.

17 Q. So at one point in time in Arua you met with the UPC; isn't that
18 correct? You had discussions with a UPC delegation?

19 A. Yes.

20 Q. On the 24th you travelled, on the 25th, the 26th, the 27th, if I
21 suggested that during these three days you drafted Statutes, you
22 organised and instructed the FNI in view of your meeting with the UPC in
23 the future, isn't it correct that you did this?

24 A. I've already answered that question. The meeting with the
25 UPC - how would I put it? - it wasn't because we were going to meet the

1 UPC that I had to appoint others.

2 Q. As far as you can remember, do you remember who was part of the
3 UPC delegation? Please provide us with all the names that you can
4 remember.

5 A. As far as the UPC is concerned, I remember that there was, for
6 example, Jean Tinanzabo, there was Daniel Litsha, okay, and others.

7 Q. Mr. Litsha was the general secretary of the UPC at the point --
8 at that point in time; isn't that correct?

9 A. I wouldn't be able to tell you who had what position. I can see
10 who they are. But as for their duties, as for the posts they held, I
11 don't know.

12 Q. Jalum, was he present?

13 A. Jalum, I believe that Jalum was there.

14 Q. So Jalum, it's J-a-l-u-m. Aderiko Johnson, was he also present,
15 A-d-e-r-i-k-o?

16 A. I don't know.

17 Q. Onzini (* phon) Kidipa, was he also present, Onzini Kidipa,
18 K-i-d-i-p-a?

19 A. Yes, of course, Kidipa was there.

20 Q. Dheda Tikpa, D-h-e-d-a, Tikpa is T-i-k-p-a. He was also present,
21 wasn't he?

22 A. Dheda Tikpa was also present.

23 Q. Someone whose name was Lilo, L-i-l-o, he was also present?

24 A. Yes, Lilo was also present. He was the younger one. He's
25 deceased.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 19

1 Q. I think there were several other individuals, numerous other
2 individuals from the UPC who were present. But my question is now as
3 follows: It's true that there were non-Hema individuals at this meeting
4 representing the UPC; is that correct?

5 A. As far as I know, the UPC isn't only identified with the Hema so
6 I don't know what to say.

7 Q. Witness, among the delegation among the UPC members were there
8 any representatives who were of a different ethnic group, who were not of
9 the Hema ethnic group?

10 A. Most of them, in fact.

11 Q. If I suggested, sir, that these persons who were not Hema within
12 the UPC delegation in Arua were hostages in a certain sense and that if
13 they were UPC members it was so that they could protect themselves, their
14 property, and their families, it was under such circumstances that they
15 had in fact become UPC members; what would you say?

16 MR. HOOPER: How is the witness really in a position to answer
17 that question? I mean, he might have a stab at it, but is it a
18 reasonable question to pose?

19 MR. MACDONALD: (Interpretation) As far as he knows,
20 Mr. President.

21 PRESIDING JUDGE COTTE: (Interpretation) As far as he knows, is
22 that what you have just said, Mr. Floribert Ndjabu? As far as you know
23 were there within the UPC delegation members who were not of the Hema
24 ethnic group who had in a certain sense become members to protect
25 themselves or their families? Answer the question if you know about

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 20

1 this; if not, say so. Is this a reasonable possibility? This seems to
2 be the question that the Prosecution is putting to you, and Mr. Hooper is
3 concerned that you might fail to understand this question. If you have
4 an answer you will tell us; if not, that doesn't matter.

5 THE WITNESS: (Interpretation) Your Honour, I have understood
6 the Prosecution's question and I did not see amongst the members any
7 people who said that they were UPC hostages because I saw them discussing
8 with conviction discussing their ideology, I saw them submit proposals to
9 us that couldn't have come from individuals who were in the hands of the
10 UPC in a certain sense. And on one occasion in Uganda -- well, they
11 could stay in Uganda. It was a sort of asylum, territory for asylum for
12 them. They could've stayed there. But, as far as I know, I didn't see a
13 single person from the UPC who seemed to indicate or who stated that he
14 or she had been taken in because of their security concerns.

15 MR. MACDONALD: (Interpretation)

16 Q. But the UPC members didn't travel with family members, did they?
17 They were there on their own representing the UPC; isn't that correct?

18 A. Well, the fact that they didn't travel with their families, does
19 that mean that they had been taken hostage? My answer to that is no. I
20 heard them say certain things. They had committed themselves to the
21 cause. If we were to travel with our wives on each occasion that we went
22 to negotiate, well that would be a new formula. I would have gone to
23 Arua with my wife too but she was in Bunia.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, we'll
25 move on.

1 MR. MACDONALD: (Interpretation)

2 Q. It is also true, isn't it, that at this meeting no compromise was
3 possible with the UPC delegation because the stumbling block was their
4 participation in the future commission for pacification in Ituri and this
5 was the sole -- major bone of contention as far as the UPC was concerned?

6 A. Well, in fact, that was the main problem. For them they were to
7 organise this commission for pacification in Ituri by themselves, whereas
8 there were other elements, other bodies, that were also to take part in

9 this discussion on peace.

10 Q. I suggest, Witness - and I'll conclude on this question that
11 concerns Arua - that all the discussions that took place with the UPC
12 continued until about the 31st of December, New Year's Eve, roughly
13 speaking; is that correct?

14 A. I can't remember exactly, but it did last for a certain period of
15 time, our discussions with them.

16 Q. Later your group, which is now the FNI, isn't it, went to
17 Kampala; is that correct?

18 A. Yes, that's correct.

19 Q. And as you have already said, you stayed in Arua towards -- up
20 until about the end of January, it was after mid-January, and then you
21 went to Kampala?

22 A. Yes, we went to Kampala, in fact, from Arua. We went by bus with
23 other members from the FDLC (* as interpreted).

24 Q. And among the persons that you appointed who took the helicopter
25 to go to Arua, well were they the same individuals who went to Kampala in

1 the end?

2 A. I don't think so.

3 Q. Who in the group did not take this trip amongst those who took
4 the helicopter to Arua, who stayed behind or who went back to Ituri or
5 Kpandroma?

6 A. Sorry, I did not understand. In the delegation who came, who
7 came by helicopter who were in Arua.

8 Q. So all of your delegation went to Kampala. Could we now talk
9 about the meetings with the FIPI.

10 MR. MACDONALD: (Interpretation) And with the Chamber's
11 permission, I would like to call EVD-OTP-00193.

12 MR. HOOPER: (Previous translation continues) ... point, the last
13 comment by my friend sort of summarising where he understood he was. So
14 all of your delegation went to Kampala. But it wasn't a question and
15 it's in conflict with what the witness has said just the question before.
16 It doesn't reflect, at least my understanding looking and hearing the
17 English translation, what the witness said.

18 MR. MACDONALD: (Interpretation) I can rephrase this. There may
19 be a distinction between the French and the English.

20 PRESIDING JUDGE COTTE: (Interpretation) Yes, to avoid any
21 possible confusion, do please ask the witness to re-state before move on
22 to the next point of evidence, do please ask the witness what was the
23 exact composition of this delegation. Did the delegation that went to
24 Kampala -- was this delegation the same as that that went to Arua? This
25 is what we want to know. So, Mr. Witness, could you simply tell us this?

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 23

1 THE WITNESS: (Interpretation) The delegation which went to
2 Kampala was not the same. There were two extra people. It was
3 Mawa Olimani who is now dead. I spoke about this person the previous
4 time. He was the strategic advisor to the president of the DRC Mbusa at
5 the time and he came at the request of Mbusa Nyamwisi.

6 Q. Who was the other person?

7 A. The other person was -- must have been Buki.

8 Q. Who was Buki? Could you spell his name and say what Buki did,
9 who he was?

10 A. At this time Buki was in Beni, but I am not familiar with the
11 travel plans of Mbusa when he was accompanied by his advisor.

12 Q. Coming back to EVD-OTP-193 -- 00193.

13 COURT OFFICER: (Interpretation) Could you please -- to see this
14 piece of evidence, you press the button PC 1.

15 MR. MACDONALD: (Interpretation)

16 Q. Take time to look at the first and last pages. Take time to
17 familiarise yourself with the document, please.

18 This is a document, agreement on the creation of a political
19 military platform regrouping the FNI, the FPD C and the PUSIC for the
20 pacification of Ituri, and we see your signature on the last page of this
21 document. Do you recall this document?

22 A. Yes, I do remember this document.

23 Q. There is no date on this, but I put it to you that this document
24 was established in the course of your FIPI activities towards the 4th of
25 March, 2003, and that the original was given to the Ugandan authorities

1 and that the other remaining copies were not necessarily dated copies.

2 This is my question: Was this document indeed established around the
3 4th of March and given to the Ugandan authorities?

4 A. I would not like to venture an answer. We've all forgotten the
5 date, but this is not a problem.

6 Q. But you agree that this was written in Kampala?

7 A. Yes, I agree with you on that point.

8 Q. This was written before you left for Dar es Salaam; is that not
9 correct?

10 A. Yes, that is correct.

11 Q. Please look at the first page. And you emphasise the Luanda
12 agreement, particularly Article 1, paragraph 3. Do you remember what
13 Article 1, paragraph 3 of the Luanda agreement actually says?

14 A. Well, obviously I can't remember all of this.

15 Q. I'll try and refresh your memory. And here I will remind you of
16 the Luanda agreement which has an EVD number. The parties commit
17 themselves to setting up with the assistance of --

18 MR. HOOPER: (Previous translation continues) ... before my
19 friend reads the Luanda agreement or part of it, can you refer us to the
20 agreement so we can call it up and follow what's being said, please.

21 MR. MACDONALD: (Interpretation) Unfortunately, I did not
22 include this document in the documents which I wanted to call up but I
23 have the EVD number. EVD-D03-00066. Let me repeat. EVD-D03-00066.

24 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could
25 you bring this agreement up onto the screen. Can you show us this EVD

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 25

1 number? Could we have it in a reasonable time-period.

2 And, Mr. Prosecutor, could you tell us what page you intend to
3 read?

4 MR. MACDONALD: Well, it's 00066.

5 PRESIDING JUDGE COTTE: (Interpretation) We'll wait a few
6 seconds for the Court Officer to bring this document up on the screen so
7 that everybody can follow its reading so that both parties can follow it.

8 COURT OFFICER: (Interpretation) Please press PC 1 to see this
9 document.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you for your
11 swift reaction, Court Officer.

12 MR. MACDONALD: (Interpretation)

13 Q. Mr. Witness, may I therefore refer you to the -- I beg your
14 pardon. One second. If you look at the bottom of the page, Article 1(3)
15 and I read:

16 "The parties commit themselves to setting up with the assistance
17 of the United Nations mission in the Democratic Republic of Congo (MONUC)
18 a pacification commission" --

19 PRESIDING JUDGE COTTE: (Interpretation) Please wait a second
20 because we are still on page 143. We need to move on to page 144. Very
21 good. Please continue.

22 MR. MACDONALD: (Interpretation)

23 Q. So:

24 "... commission for pacification in Ituri composed of the
25 parties of political, military, economic and social forces which are

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 26

1 active in Bunia and representatives of the local communities. In
2 addition, Uganda restates a determination to withdraw its troops from
3 Bunia as stipulated in the implementation plan included in annex 'A.'"

4 I understand, therefore, that this document which I have referred
5 to concerning the creation of a platform, the FIPI, emphasises particular
6 the creation of a pacification commission in Ituri with, in particular,
7 the withdrawal of the Ugandan troops; is that not so?

8 A. Concerning the FIPI, I think that these texts in fact were not
9 even used and I do not see why we should continue on this point. The
10 FIPI died on the same day. We did not even apply this.

11 Q. Is it not a fact that the purpose of the FIPI was to replace the
12 UPC becoming the administration body in Ituri and, therefore, certainly
13 in Bunia?

14 A. This was perhaps in our minds, but that never became reality.

15 Q. You say that FIPI was born dead with this document which you have
16 before you entitled the platform, EVD-00193.

17 MR. MACDONALD: (Interpretation) Now, with your permission,
18 your Honour, I would like to call up an extra document which I think we
19 sent on Saturday and I sent an e-mail to this effect to everybody
20 DRC-OTP-008-0105 (* as interpreted). The title of this document is the
21 "Demands of FIPI."

22 PRESIDING JUDGE COTTE: (Interpretation) Madam Court Officer, do
23 you have this document?

24 COURT OFFICER: (Interpretation) Is this DRC-OTP-0018-0105; is
25 that the correct number?

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 27

1 MR. MACDONALD: (Interpretation) We maybe had a minor technical
2 problem here and we maybe did not send the document for it to be included
3 in the eCourt system.

4 Your Honour, after the break could I come back to this point? If
5 you will -- otherwise, I have the document and I can show it to my
6 colleagues so they may refer to it and understand what its contents are.
7 I also have a clean copy, if you wish, which we can put on the overhead
8 projector.

9 PRESIDING JUDGE COTTE: (Interpretation) We will put it on the
10 overhead projector, but looking through the archives, Saturday 9th April,
11 1618, there was a document DRC -- sorry, we have the name of the
12 witness -- sorry. I cannot find this document. I find OTP-0014-0195.
13 This was document which I thought I'd received Saturday afternoon.
14 However, it doesn't matter.

15 Court Officer, could you please put this document on the overhead
16 projector so everybody can see it. The document is entitled "The demands
17 of the FIPI."

18 MR. MACDONALD: (Interpretation) I apologise. I have two
19 different ERNs.

20 PRESIDING JUDGE COTTE: (Interpretation) I have a document sent
21 on Saturday entitled demands of the ITP -- DRC-OTP-014-391, -391 at the
22 end. Maybe the references are different, but the document would seem to
23 be the same. This is the important point. Let's put this on the
24 overhead projector and the paper copy will be given back to the witness
25 if we need.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 28

1 MR. MACDONALD: (Interpretation) I have a copy. This is an
2 extra copy.

3 PRESIDING JUDGE COTTE: (Interpretation) It really doesn't
4 matter. Let's continue.

5 MR. MACDONALD: (Interpretation) I have this copy paper for the
6 witness if the Court Usher would please hand it to him.

7 PRESIDING JUDGE COTTE: (Interpretation) We are putting the
8 document up on the overhead projector and the witness is taking the paper
9 copy.

10 MR. MACDONALD: (Interpretation) Can we therefore put this
11 document onto the computer? This is going to be 001 -- 0014-0391. This
12 is a document which we apparently received at Saturday afternoon.

13 COURT OFFICER: (Interpretation) Could I have the
14 confidentiality status of this document?

15 MR. MACDONALD: (Interpretation) This is public,
16 non-confidential.

17 Q. Do you recognise this document, the demands of the FIPI, this is
18 dated the 8th of February, 2003, and you have your signature on this?

19 A. Yes, I see this.

20 Q. Is it not a fact that this document was drawn up by your
21 platform, FIPI, and this was just before you went to Dar es Salaam?

22 A. I will say this once again. When all of this was drawn up
23 following -- this was followed on -- from a misunderstanding and the FIPI
24 always involved -- and the FIPI never pursued their commitments.

25 Q. We'll be coming to this point, but do you recognise this

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 29

1 document?

2 A. I've just said that this is a document which is previous to the
3 dislocation.

4 Q. May I ask this document be given an EVD number?

5 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

6 COURT OFFICER: (Interpretation) Thank you. The document
7 DRC-OTP-0014-0391 will have the number EVD-OTP-00251.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.

9 Mr. Prosecutor, please continue.

10 MR. MACDONALD: (Interpretation)

11 Q. On the 9th and 10th of February, 2003, there were the meetings in
12 Dar es Salaam between your president, Mr. Kabila; Mr. Museveni, the
13 Ugandan president; and also, of course, the Tanzanian president; and an
14 Angolan delegation. Is it not true, Mr. Witness, that on the 10th of
15 February in the course of this meeting in Dar es Salaam initially the
16 FRPI was not represented?

17 A. At that time the FRPI was not in Dar es Salaam.

18 Q. Is it not also true that it was clear that the purpose of this
19 meeting was to set up and to make effective the pacification commission
20 in Ituri, and that therefore there was an amendment to include the armed
21 groups of Ituri so that they would participate in the pacification
22 committee but the UPC did not sign this?

23 A. I think I've already talked about the official meeting.

24 Q. At the end of this meeting, Presidents Museveni and Kabila also
25 restated their representative commitments to the Luanda agreements of the

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 30

1 16th of February, 2002, and I've read Article 3 -- Article 1(3) of this
2 and President Museveni restates his commitment to withdraw the Ugandan
3 troops from Ituri?

4 A. I was not there when this communique was made. If this is true,
5 then that is not a problem.

6 Q. Is it not true that in Dar es Salaam one of the commitments made
7 by the Ugandans was to withdraw from Ituri -- well, from the DRC?

8 A. I didn't follow that part.

9 Q. But you were there, weren't you?

10 A. I didn't follow this. I didn't know that the Ugandans were
11 saying what you say.

12 Q. On the 11th of February with Mr. Kahwa and Mr. Unen can you
13 returned to Kampala; is that correct?

14 A. After Dar es Salaam we return to Kampala.

15 Q. Very good. Let's now move on to the 6th of March. Let me take
16 you on to the date of the 6th of March just for us to understand where we
17 are in time, Bunia has just fallen. UPC has just been chased out of
18 Bunia. So we're on the 6th of March, 2003, you're in Kampala?

19 A. Yes.

20 Q. On that date?

21 A. Yes, of course.

22 Q. This is not a date which is contested. On the 6th of March, UPC
23 was in Bunia, and on that morning is it not true that President Museveni
24 called you - called the members of the PUSIC, FPDC and the FNI - called
25 you to go to his residence to talk about the fact that UPC had been

1 expelled from Bunia?

2 A. I do not remember this but what I maybe can say is I met the

3 President Museveni -- I don't actually remember all of this.

4 Q. Let me refresh your memory. I would say that you were with

5 President Museveni as well as an FPDC delegation, the PUSIC delegation,

6 and people from the FNI. In the course of this meeting

7 President Museveni told you that you could -- you, the three groups,

8 could go back to Ituri and, moreover, that given that you could return to

9 Ituri that the meetings of the FIPI, of the three groups, should continue

10 because the aim was for these three groups to return in order to

11 administer the Ituri territory?

12 A. I do not remember this at all.

13 Q. Let me put it to you that during this meeting with you there

14 were, of course, President Museveni, of course, and Colonel Mayombo who

15 was there. Mr. Mayombo is in charge of military intelligence in Uganda;

16 is that not correct?

17 A. Yes, he was at the time.

18 Q. There was also Mr. Mbabazi, who was a minister in Mr. Museveni's

19 government at the time?

20 A. I'm sorry, my memory fails me on that. I don't remember very

21 well.

22 Q. Chief Kawa was there, Mr. Kitembo Medard Uvon. You know

23 Medard Uvon?

24 A. Since I do not remember the meeting, there's no point continuing

25 to ask me if I remember all these names.

1 Q. I think it is worthwhile continuing, and you will understand why
2 in a few minutes. Medard Uvon is somebody whom you know. Who is
3 Medard Uvon?

4 A. Kisembo Uvon, it's the same person.

5 Q. It's the same person, Medard Uvon.

6 A. I don't know.

7 Q. Kisembo Medard, you know, a member of the PUSIC Ndjabu?
8 Medard Kisembo? Isingoma Gaston, does this name mean anything to you?

9 A. Isingoma Gaston, yes, I recall this name.

10 Q. Lotumbe, Lotumbe, L-o-t-u-m-b-e, Lombeya Lotumbe?

11 A. I don't know him either.

12 Q. Mr. David Kisangani was also at this meeting; I put this to you,
13 sir.

14 A. Since I don't remember the meeting in question, it's very
15 difficult to see who you're talking about. There was also
16 Mr. Gustav Lobbo (* phon) --

17 THE INTERPRETER: And the interpreter did not hear the second
18 name.

19 MR. MACDONALD: (Interpretation)

20 Q. And finally Colonel Mbuyi and this is where things become
21 interesting because this colonel was in charge of UPC intelligence but I
22 think he had just defected. Does that not mean anything to you, a
23 meeting, Museveni at his residence, with Alan Mbuyi, who -- M-b-u-y-i?

24 A. I am lost. Since I don't recall the meeting, I really find it
25 very difficult.

1 Q. Let's look at what was said at this meeting because in this
2 meeting before President Museveni in his present there was a row between
3 you and Chief Kahwa. Chief Kahwa had strongly reacted in front of
4 President Museveni because he just had the attack of the 4th of March,
5 2003, in Mandro and the body of his father had just been discovered, had
6 been dug up. Do you remember that?

7 A. I think you are wrong, sir. There is total confusion in my mind.

8 Q. Mr. Witness, is it not true that Mandro was attacked on the 4th
9 of March, 2003, and that you knew that although you were in Kampala?

10 A. I don't understand your question at all. Is this the same
11 meeting you're talking about at Museveni's place? I just can't situate
12 what you're talking about.

13 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the
14 Prosecutor has asked you a series of questions on the meeting of the
15 6th of March, which you seem to have problems remembering. The
16 Prosecutor has also asked you a separate question and this separate
17 question is to find out whether you remember if there had been a battle
18 in Mandro according to the Prosecution on the 4th of March, 2003. Can
19 you answer that separate question? And then the Prosecutor will draw his
20 own conclusions from that if he wants to come back to the meeting of the
21 6th of March or not. But do you recall if there had been -- if there was
22 a battle in Mandro on the 6th of March, 2003, whilst you were in
23 Dar es Salaam?

24 MR. MACDONALD: (Interpretation) It was Mr. Museveni.

25 PRESIDING JUDGE COTTE: (Interpretation) Yes, Mr. Museveni who

1 was in Kampala.

2 MR. MACDONALD: (Interpretation) Yes, in his residence.

3 THE WITNESS: (Interpretation) One thing is certain. The
4 meeting that he is referring to here which was attended by people amongst
5 them myself and Mr. Kahwa, and where there was an exchange. Well, I do
6 not remember the people that you have mentioned.

7 MR. MACDONALD: (Interpretation)

8 Q. Mr. Witness, Chief Kahwa was reacting to President Museveni, who
9 was asking you to return to Ituri to administer Ituri, that you should
10 understand yourselves, that is, the three groups. And Kahwa said, "Look,
11 I cannot have an understanding with Mr. Floribert Ndjabu because he is
12 criminally responsible for an attack over which he had no control," and
13 he's referring to attacks including the Bogoro attack. And he was
14 accusing you of being irresponsible in the presence of
15 President Museveni. Do you remember that?

16 A. I remember that, but it is not during that meeting that you are
17 referring to. There is some slight confusion here. The meeting during
18 which we had a heated debate in the presence of President Museveni did
19 not include Chura or the others; that is something else. So when you say
20 it the way you have been saying it, I am totally lost. In the meeting
21 where we discussed returning to Bunia and administering Ituri, I do not
22 remember. But I remember a meeting in Museveni's house one evening in
23 the presence of the two ambassadors from Tanzania and South Africa and
24 our *chargés de mission* in Kampala. I remember that meeting. But when
25 you mention Chura and others, I am completely lost. I do not remember

1 that.

2 Q. I will continue. During that meeting you told President Museveni
3 that you had nothing to do with the attacks on Bogoro and Mandro, despite
4 the fact that you claimed responsibility for those over RFI, and
5 Chief Kahwa said that, according to him, those responsible were the
6 Ngitis and that is why he asked for the presence of Adirodu, and
7 President Museveni said, "That is all right, I will call Mr. Adirodu."

8 Do you remember that?

9 A. I do not remember.

10 Q. But one thing is certain, do you remember that there was a
11 meeting between Dr. Adirodu and yourself in Kampala?

12 A. Yes, I have already mentioned that. There was a meeting at the
13 CMI in Kampala.

14 Q. And after that meeting with President Museveni you left his
15 residence and you went to the CMI premises with Colonel Mayombo and the
16 other colleagues from PUSIC and the FPDC because despite the
17 protestations of Kahwa, President Museveni had asked you to make an
18 effort to reach an understanding. Do you remember that?

19 A. No. The situation is still confused, given that I do not
20 remember that meeting which we left and then went to the C -- to CMI.
21 The meeting that took place at the CMI took place during the day-time and
22 we were not coming from Museveni's house.

23 Q. That is correct. It was during the day-time, but I am putting it
24 to you that you were coming from President Museveni's house.

25 A. I have just told you that the meeting with the ambassadors and

1 Museveni took place at night, and I did not leave Museveni's house to go
2 to the CMI. So there is still some confusion there. Please -- very
3 well.

4 Q. Incidentally, Mr. President, Butchu Chedya was your commissioner
5 for defence, but you replaced him while you were at Kampala, is that
6 correct? I'm talking about Mr. Butchu Chedya.

7 A. I do not remember the time when I had him replaced.

8 Q. Where were you when you replaced him?

9 A. I do not know, but it was probably in Bunia or elsewhere.

10 Q. But one thing is certain, it was Pichou Iribi who replaced
11 Butchu Chedya; is that correct?

12 A. Yes. Pichou was indeed Chedya's deputy, and so it was Pichou who
13 replaced him.

14 Q. Why did you replace Butchu? I put it to you that it is because
15 he stole money from you, he stole money belonging to the movement; is
16 that correct?

17 A. He embezzled money belonging to the soldiers, and when the
18 soldiers were asking for the money he no longer had it. And it was for
19 that reason that he no longer had our trust.

20 Q. And for him to come back to our good graces he had to refund that
21 money; is that correct?

22 A. I did not follow that up to the end. I don't know whether he
23 wanted to refunded the money or not. What is certain is that we no
24 longer wanted him.

25 Q. Let us come back to your chronology. On the 6th of March, you

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 37

1 left the meeting with President Museveni. You went to the CMI, and there
2 in that meeting with Kahwa, Unencan, and yourself there was Pichou Iribi
3 who arrived and you had called for him. Is it not correct that
4 Pichou Iribi arrived Kampala on the 6th of March, 2003, after your call?

5 A. I remember having called Pichou to Kampala; that is correct.

6 Q. And when you called him, is it correct to say that Bunia had not
7 yet fallen? You called him probably on the 4th or the 5th for him to
8 travel to Kampala; is that correct?

9 A. I do not remember the exact chronology, but I called him and it
10 took him a few days to come. They did not arrive immediately. They came
11 afterwards.

12 MR. MACDONALD: (Interpretation) With your leave, your Honour, I
13 would like us to call up EVD-OTP-00194, and I believe that is a public
14 document and it is entitled "Specifications of the FNI for the purpose of
15 the Ugandan mediation."

16 COURT OFFICER: (Interpretation) Please press PC 1 to be able to
17 view the document.

18 MR. MACDONALD: (Interpretation) Perhaps a copy should be shown
19 the witness.

20 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, can you
21 remind us, though, of the beginning of the reference. Is it 0026194?

22 (Trial Chamber and Court Officer confer)

23 PRESIDING JUDGE COTTE: (Interpretation) I would like to be sure
24 about the document. I can see on the screen DRC-OTP-0106-0176.

25 MR. MACDONALD: (Interpretation) I have an EVD document, not the

1 DRC.

2 PRESIDING JUDGE COTTE: (Interpretation) Yes, we have to
3 distinguish between the two. We have the document now.

4 MR. MACDONALD: (Interpretation) I have a copy for the witness.
5 And, your Honour, I would like to seize the opportunity to explain that
6 the usual practice in the OTP in this case is that when an EVD number is
7 assigned, we include it in a list and we refer to those references so
8 that our Legal Representative colleagues, for example, who have access to
9 eCourt should not be confused. We refer to the DRC references if the
10 document has no EVD number.

11 PRESIDING JUDGE COTTE: (Interpretation) Yes, I was simply
12 referring to that because one of the documents bearing number ending with
13 194 was objected to by the Defence of Mathieu Ngudjolo. Please proceed.

14 MR. MACDONALD: (Interpretation)

15 Q. Mr. Witness, you have the document in front of you. I would like
16 to draw your attention to the first page, point 1, "Policy and
17 administration," and point 2:

18 "The FRP are present at the front and are fighting side by side
19 with the UPDF and the UPC."

20 MR. FOFÉ: (Interpretation) Your Honour, please.

21 PRESIDING JUDGE COTTE: (Interpretation) Yes, Professor Fofé.

22 MR. FOFÉ: (Interpretation) I'm sorry, Mr. Prosecutor, but
23 given the peculiarity of this document which we know --

24 MR. MACDONALD: (Interpretation) I'm going to rephrase. You do
25 not need to go to the end. I understand what you are referring to.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 39

1 MR. FOFÉ: (Interpretation) Very well. It is better to start
2 by that.

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

5 MR. MACDONALD: (Interpretation)

6 Q. Do you know this document, Mr. Witness?

7 A. I'm not familiar with that document.

8 Q. You never saw that document?

9 A. No.

10 Q. It is dated the 7th of March, 2003, with your name. It is not
11 signed. But you never saw this document?

12 A. No.

13 Q. Is it the first time you are seeing that document?

14 A. Yes.

15 Q. Well, I will slow down. Despite the fact that you have not seen
16 the document, I will put some questions to you using that document but it
17 will be independent of the substance and the signatures.

18 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, very
19 briefly, please. Do not forget that even though there is no signature
20 the document at least bears the name of the witness.

21 MR. FOFÉ: (Interpretation) Thank you, Mr. President. I do not
22 understand the haste of the Prosecutor. I think that there is need to
23 proceed stage by stage, bearing in mind the manner in which this document
24 was tendered into evidence and through -- and the witness through which
25 the document was admitted. If I remember correctly, that document was

1 admitted into the record on the 29th of September, 2010, during the
2 testimony of Witness P-12. We raised an objection at that time to this
3 document which does not bear the signature of Mr. Floribert Ndjabu.
4 Mr. President, your Honours, please refer to transcript 195-conf French
5 version of the 29th of September, 2010, pages 28 to 32. This said, the
6 Prosecutor has the right to ask the witness questions. He can do so
7 directly without referring to that document, without relying on this
8 document which the witness does not recognise. He can ask him any other
9 direct questions but without relying on this document. Thank you,
10 your Honour.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well. We have
12 heard you.

13 Please proceed, Mr. Prosecutor. You can ask questions based on
14 this document, bearing in mind that the witness had not recognised it.

15 MR. MACDONALD: (Interpretation) You have another version from
16 another witness. It will be up to the Chamber to make its determination.
17 It is within that context that we are asking our questions in
18 cross-examination.

19 PRESIDING JUDGE COTTE: (Interpretation) Well, put your
20 questions directly and if possible Mr. Ndjabu will answer. That will
21 take a little bit more time but it is more appropriate. Please proceed.

22 MR. MACDONALD: (Interpretation)

23 Q. Mr. Witness, is it not correct that you or, in other words, the
24 FNI proposed to the Ugandan authorities that you would take over
25 responsibility for the administration of Ituri, explaining that the FNI

1 was a political movement and the FRPI was the armed wing, and that this
2 was during the days immediately before the fall of the UPC in Bunia 2003?

3 A. I am not aware of that.

4 Q. Mr. Witness, what was the objective of the FNI in Kampala at the
5 time of the fall of Bunia? What was the purpose of the FNI? What was
6 its *raison d'être*?

7 A. I believe I have explained the various objectives of the FNI. I
8 do not know whether you want me to go back to that, if it is necessary
9 for me to do so, but I will tell you clearly what I know. And since you
10 are asking me what were the objectives of the FNI, I can give you three
11 out of the six. At the time it was founded, the primary objective of the
12 FNI was national reconciliation and in brackets it was written
13 (pacification).

14 Q. You have explained those three objectives in the past. Let me
15 ask you another question. You studied at the seminary. You are a
16 seminarian; is that correct?

17 A. Yes, of course.

18 Q. If I tell you the same thing, replacing Chief Kahwa will be
19 stealing from Peter to pay Paul, does that not come from you?

20 A. I cannot comment on this observation which I do not know. That
21 expression does not come from me. If you have read my writings, you will
22 compare what I write, how I write in French and you will understand what
23 my level of French is. That is not my expression.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, let us
25 not go into too much analysis. Let us try to make progress.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 42

1 MR. MACDONALD: (Interpretation) Very well, your Honour, I'm
2 trying to make progress.

3 Q. Is it not correct that in Kampala you were trying to organise
4 yourselves, trying to transform the FRPI into your armed wing?

5 A. I have already discussed that at length. We tried to have an
6 armed wing in Bunia but we did not succeed.

7 Q. Is it not a fact that you tried that experience in Kampala? Also
8 before signing the cessation of hostilities agreement in Kampala you had
9 discussions, including with Pichou Iribi, so that the FRPI should become
10 your armed wing?

11 A. I do not remember such a discussion.

12 MR. MACDONALD: (Interpretation) Your Honour, can we call up
13 document number DRC-OTP-0106-0479.

14 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

15 COURT OFFICER: (Interpretation) What is the level of
16 confidentiality, please?

17 MR. MACDONALD: (Interpretation) It is a public document. And I
18 have a copy for the witness.

19 COURT OFFICER: (Interpretation) Please press PC 1 to view the
20 document.

21 MR. MACDONALD: (Interpretation)

22 Q. Mr. Witness, please look at the document. It is a few pages long
23 but try to locate your signature as well as the date and place. Is it
24 not correct that that is your signature there, Mr. Ndjabu?

25 A. I'm not very certain as it appears here.

1 Q. Is that your signature, Mr. Ndjabu, yes or no? And I remind you
2 that you're under oath.

3 A. Let us suppose that this is mine, let us accept it even though it
4 is not exactly like my signature.

5 Q. Proposals from the FNI for the setting up of the pacification
6 commission in Ituri, and I draw your attention to part 2, "Security
7 assurances." And I will read it out aloud because it is worth it:

8 "The guarantee of security is of crucial importance after a
9 cease-fire decreed throughout the entire territory. In fact, the forces
10 present on the field, the UPDF will remain for a period of 30 days for
11 security. The FRPI, forces for the patriotic resistance in Ituri, armed
12 wing of the FNI, will work in collaboration with the UPDF. We ask that
13 MONUC should also be present in Ituri."

14 And this document bears your signature. It is dated Kampala
15 13th of March, 2003.

16 Mr. Ndjabu, is it not correct that in Kampala in March 2003 your
17 objective was to bring together the FNI and the FRPI under one umbrella
18 and this is the evidence that is not disputable?

19 A. I believe that in this case I can agree with you to the extent
20 that I've already told you about the meeting at the CMI in Kampala during
21 which the owner of the FRPI said what he wanted to do. And I do not see
22 how you can represent this as such because the national spokesperson of
23 the FRPI had opposed any collaboration. So to say that the FNI had asked
24 for the FRPI to become its armed wing is your opinion.

25 What is written here, even if you are showing it to us, it is

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 44

1 possible that someone wrote this. But I have already explained to you
2 that we discussed this issue, but it never succeeded. Dr. Adirodu
3 travelled from Beni to Kampala and said the same thing, so I cannot see
4 how I would have tried the same thing. But I've already told you that
5 after looking at the signature and comparing it to my other signatures,
6 there is a difference but you asked me for an answer.

7 MR. MACDONALD: (Interpretation) I will ask for an EVD number
8 and ask for the break.

9 PRESIDING JUDGE COTTE: (Interpretation) We will break.

10 But before that, Court Officer, please assign an EVD document.

11 COURT OFFICER: (Interpretation) Thank you, your Honour.

12 Document DRC-OTP-0106-0479 will bear the reference number EVD-OTP-00252.

13 PRESIDING JUDGE COTTE: (Interpretation) Very well. Thank you,
14 Court Officer.

15 Mr. Witness, we are going to break now for 30 minutes. Please
16 take the opportunity to have a rest.

17 Court Usher, can you kindly accompany the witness out of the
18 courtroom, please.

19 THE WITNESS: (No interpretation)

20 PRESIDING JUDGE COTTE: (Interpretation) Very well, Mr. Witness,
21 we have only a short recording space left, so be brief.

22 THE WITNESS: (Interpretation) Your Honour, can I see
23 Mr. Mabanga, my lawyer, please?

24 PRESIDING JUDGE COTTE: (Interpretation) Very well.

25 Court Officer, please ensure that the witness can see his lawyer.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 45

1 It goes without saying that you can meet with your lawyer at any time
2 that you wish.

3 THE WITNESS: (Interpretation) Thank you, your Honour.
4 (The witness stands down)

5 PRESIDING JUDGE COTTE: (Interpretation) The hearing is
6 suspended. We will reconvene at 5.00 p.m. to 7.00 p.m.

7 Recess taken at 4.30 p.m.

8 On resuming at 5.03 p.m.

9 (Open session)

10 COURT USHER: All rise.

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

12 Could the usher please bring the witness into the courtroom.

13 (The witness takes the stand)

14 PRESIDING JUDGE COTTE: (Interpretation) Witness, can you hear
15 me?

16 THE WITNESS: (Interpretation) Yes, your Honour, I can hear you.

17 PRESIDING JUDGE COTTE: (Interpretation) Before the Prosecution
18 resumes its cross-examination, the Chamber would like you to clarify
19 something for us because we, or rather, I, personally, remain uncertain
20 as far as the following issue is concerned, namely, do you recognise your
21 signature at the bottom of the document shown to you by the Prosecution?
22 I have tried to consult the transcript and I couldn't consult when the
23 question was put to you and it seems to me that there was something not
24 quite clear there. Do you recognise your signature on the document that
25 the Prosecution showed you before we adjourned?

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 46

1 THE WITNESS: (Interpretation) Well, in fact, your Honour, as
2 far as that document is concerned I told the Prosecutor that I wasn't
3 sure about my signature when I had a close look at it. When I had a
4 close look at it, it didn't really seem to resemble my signature. That's
5 what I told the Prosecution before the adjournment.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. Ndjabu Ngabu, at
7 this stage can we consider the signature at the bottom of that document
8 to be your signature or not? It's important. It's important. Do you
9 simply have the impression that this signature is not yours or are you
10 telling us it's mine?

11 THE WITNESS: (Interpretation) Your Honour, my impression is
12 that this signature isn't mine. If the signature were mine, I would say
13 so. I wouldn't be afraid of recognising it as my signature.

14 PRESIDING JUDGE COTTE: (Interpretation) So you are saying that
15 you cannot claim with certainty that this is your signature.

16 THE WITNESS: (Interpretation) That's right, your Honour.

17 PRESIDING JUDGE COTTE: (Interpretation) That's what you are
18 telling us now?

19 THE WITNESS: (Interpretation) Correct.

20 PRESIDING JUDGE COTTE: (Interpretation) The Prosecution may now
21 proceed.

22 MR. MACDONALD: (Interpretation) I apologise, your Honour. May
23 I just have a moment?

24 PRESIDING JUDGE COTTE: (Interpretation) Of course.
25 (Prosecution counsel confer)

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 47

1 MR. MACDONALD: (Interpretation)

2 Q. Witness, we will now deal with the 18th of March, 2003, when the
3 cease-fire in Ituri was signed and I'm referring to the following
4 document EVD-D03-00044.

5 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

6 COURT OFFICER: (Interpretation) It's PC 1 to see the document.

7 MR. MACDONALD: (Interpretation) I have an example -- a copy,
8 rather, for the witness.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you, usher.

10 Thank you, Court Officer.

11 Can the accused see the document on their screens now? Yes.

12 MR. MACDONALD: (Interpretation)

13 Q. Let's go directly to the last two pages, page 4 and page 5 of the
14 agreement. Your signature appears on page 5, isn't that correct, that is
15 your signature, isn't it?

16 "For the FNI, Floribert Ndjabu Ngabu, 18th of March, 2003."

17 A. Yes, that's my signature.

18 Q. Isn't it a fact that Mr. Pichou Iribi travelled with you on the
19 17th or the 18th because you returned to Bunia?

20 A. Unless I am mistaken, Pichou wasn't with us.

21 Q. So, as far as you know, when did Mr. Iribi return to Bunia?

22 A. I don't know the date offhand, but I have the impression that he
23 came from Beni to Bunia, not from Kampala.

24 Q. So explain to us what happened. Mr. Iribi was with you in
25 Kampala, you called him. Did he return? We know that the agreement was

1 signed on the 18th. Do you know how many days prior to the signing on

2 the 18th he went to Beni, how many days prior to that event?

3 A. To be quite frank, I can't remember.

4 Q. Who did he return to Beni with?

5 A. First of all, I'm not sure who he returned to Beni with, who did

6 he return to Beni with from Kampala.

7 Q. So you don't know when, you don't know with whom, you're not even

8 certain that he went to Beni; is that correct?

9 A. I believe that he went to Beni because I think I can remember

10 something. He must have had a family problem.

11 Q. Can you remember what sort of a family problem he had?

12 A. It's as if there had been a birth, I think. If not, his wife

13 must have been ill. It was either one or the other.

14 Q. Can you explain the reason for which Mr. Iribi, on page 4 of the

15 agreement on a cessation of hostilities, signed under the heading "for

16 the FRPI"?

17 A. I can't explain that because he signed. He can explain that.

18 Q. But at that time he was your minister of defence in the FNI,

19 isn't that correct, we agree on that?

20 A. Well, first he signed after I returned, and he is the only person

21 in a position to explain why he signed there.

22 Q. But he was the minister of the defence in the FNI at the time?

23 A. During the agreement in Bunia, yes, that was the case.

24 Q. And do you know why he signed on the 22nd of March?

25 A. I do not know.

1 Q. Because you were not there; is that right?

2 A. Yes. If I had been there, I would have known why he signed; but
3 as I wasn't there I don't know why. It's for him to explain this. I
4 believe that he was familiar with the signature and the date. I can't
5 really explain this for him. He's in a better position to do so, but the
6 reason for which he signed on the 22nd of March, he can explain that.

7 Q. But he signed with Mr. Germain Katanga; that's certain, isn't it?

8 A. If they signed together -- well, yet again I wasn't there. He
9 has to explain this.

10 Q. You will also note that Mr. Ngudjolo signed on the 18th of March
11 as colonel but with the Lendu; isn't that correct?

12 A. I can see Colonel Ngudjolo Mathieu here. If that's signature --
13 well, he can tell you about that. I don't know what his signature looks
14 like.

15 Q. Just a minute, please. You were present at the meeting with
16 Mr. Ngudjolo when he signed or do I have to show you a video?

17 A. We weren't just together with Ngudjolo. There were many people
18 there.

19 Q. Mr. Ngudjolo signed in your presence, he signed the agreement on
20 the cessation of hostilities in your presence; isn't that correct,
21 Witness?

22 A. He signed but not only in my presence. It was in the presence of
23 the entire delegation. It was a very large delegation. I wasn't there
24 alone. Why do you want to say that it was in my presence?

25 Q. Why do you say that only he can answer the question as to whether

1 it's his signature or not, given that you were present?

2 A. Only person who has signed can say whether the signature's his or
3 not.

4 Q. You returned to Kampala after the signing of the agreement; isn't
5 that right?

6 A. Yes, I returned to Kampala.

7 Q. And you returned at the beginning of April, roughly speaking, it
8 was before the commencement of the CPI work?

9 A. Yes, that's right.

10 Q. And isn't it true that at that time you tried to establish a main
11 staff with combatants. It was supposed to be the armed branch of the
12 FRPI; isn't that correct?

13 A. Yes. At the time we wanted to do this but we were unsuccessful.

14 Q. Isn't it true that when you returned to Bunia in April you
15 telephoned Germain Katanga and Mathieu Ngudjolo?

16 A. I've already explained this. There was someone who was
17 responsible for what is called communication here, local communication.
18 I've already explained this. I asked him to convey this message to
19 Germain Katanga, in fact, and I have already told you that all these
20 compromises didn't result in a main staff.

21 Q. Isn't it true, sir, that your objective was for Mr. Ngudjolo and
22 Katanga and Maître Kiza to become the three persons responsible, the
23 three highest-ranking persons of the main staff of the FRPI?

24 A. I wanted to recruit them, of course, but this never worked out.

25 Q. But at that point in time, it was, in fact, your intention. You

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 51

1 had specifically chosen those three individuals; isn't that the case?

2 A. I hadn't yet selected them. We were in the process of trying to
3 recruit them.

4 Q. Isn't it a fact that you chose Maître Kiza because he represented
5 the north of Ituri and you had chosen Mr. Ngudjolo because he had
6 conquered Bunia and was in Zumbé in the centre of Ituri and
7 Germain Katanga represented at that point in time the south of Ituri, of
8 FRPI as a whole?

9 A. I didn't say that.

10 Q. Witness, I'd like to draw your attention to the statement you
11 gave to colleagues from the Defence. I'm referring to DRC-D03-001-0607
12 and we could just have a look at page 063 (* as interpreted). This is a
13 public document as mentioned by Mr. Hooper last Friday.

14 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

15 MR. MACDONALD: (Interpretation) I also have a clean copy for
16 the witness and I will show him the page in question, with your leave,
17 your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) Let's see the page and
19 could the usher show the clean copy and the right page of the document to
20 the witness.

21 COURT OFFICER: (Interpretation) Could you confirm the page
22 number, please.

23 MR. MACDONALD: (Interpretation) 0631.

24 COURT OFFICER: (Interpretation) It's PC 1 to see the document.

25 MR. MACDONALD: (Interpretation)

1 Q. Witness, you have the page before you. Third line at the top it
2 starts with:

3 "Germain didn't come. Cipa and Muhito came on his behalf.
4 Ngudjolo was also there."

5 It's after the phone call. You were trying to recruit. There
6 was a meeting at the beginning of April, and:

7 "I asked them to work together on our ideology but I said that
8 Germain was to be the chief of the main staff in the army and Ngudjolo
9 was to be the first deputy and Kiza deputy number 2."

10 Do you remember having signed this document when you were
11 interviewed by Germain Katanga's team?

12 A. To have signed this document? Yes.

13 Q. So isn't it true that when there was a meeting in April in Bunia,
14 it was your intention for Germain Katanga to be the Chief of Staff and
15 Ngudjolo was to be his deputy and Maître Kiza was to be the number 2 or
16 number 3, rather; isn't that correct?

17 A. I believe that this intention doesn't merit commenting because it
18 wasn't realised, so -- I believe that it is mentioned here somewhere, as
19 you have said, when you want someone to become a leader, as in this case,
20 you have to be sure that he is perfectly familiar with what the objective
21 you are pursuing is. So in order to be able to recruit people you have
22 to inform them about FNI ideology. And as I have already said and I will
23 continue to state this, this recruitment was never in fact effected.

24 MR. MACDONALD: (Interpretation) With your leave, your Honour,
25 we can take away the statement before the witness. If the usher could

1 take away the statement and the other documents, please.

2 PRESIDING JUDGE COTTE: (Interpretation) Could the usher please
3 return these documents to the Prosecution.

4 MR. MACDONALD: (Interpretation) Could we now have a look at the
5 following document and then we will move on. EVD-OTP-0233, it's a
6 document entitled "Concerns," and I believe that it's a confidential
7 document, your Honour, for a reason that I am unaware of, but I believe
8 that it is a confidential document. If my colleagues have nothing
9 against it, we could reclassify it and make it a public document. I
10 don't know whether this had to do with a decision of the Chamber as -- in
11 order to be cautious you wanted it to be confidential, but I believe it
12 could be public.

13 PRESIDING JUDGE COTTE: (Interpretation) Does the Defence team
14 have any objections to this document entitled "Concerns"? And I believe
15 this document has already been used by one of the Defence teams. Does
16 the Defence have any objection to reclassifying this document as a public
17 one?

18 Mr. Hooper, do you believe that this document "Concerns" could be
19 reclassified and could be labelled as a public document?

20 (Defence counsel confer)

21 MR. MACDONALD: (Interpretation) Your Honour, I believe that we
22 suggested to the Chamber that it should be confidential. We apologise
23 for that. It was at the request of the Prosecution. I just wanted to
24 point that out.

25 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 54

1 MR. FOFÉ: (Interpretation) Yes. Thank you. We would like to
2 thank the Prosecutor because we had the intention of requesting that the
3 Chamber reclassify this document as a public one. There is absolutely no
4 reason that this document should remain confidential. The document is
5 EVD-OTP-00233. That is the document we are dealing with, and perhaps its
6 twin document, 00234, could also be dealt with in that manner.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Professor.
8 Mr. Hooper.

9 MR. HOOPER: (Previous translation continues) ...

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you. This is
11 something the Court Officer will deal with.

12 Mr. Prosecutor, would you like to continue now?

13 MR. MACDONALD: (Interpretation) Yes. I have a copy here. We
14 could show it. It doesn't really concern the purpose of my question --
15 in fact, it's so the witness can answer my questions. It doesn't have to
16 do with the content.

17 PRESIDING JUDGE COTTE: (Interpretation) We'll have a look at
18 this document, Court Officer, the document entitled "Concerns," which is
19 a two-page document and the date must be the 18th of June, 2007; is that
20 correct?

21 MR. MACDONALD: (Interpretation) Yes.

22 PRESIDING JUDGE COTTE: (Interpretation) Court Officer. It's on
23 the screen now. Perfect.

24 Please go ahead.

25 MR. MACDONALD: (Interpretation)

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 55

1 Q. Witness, you have the document before you, the two-page document.

2 Isn't it true that you drafted this document with the help of

3 Mr. Pichou Iribi?

4 A. This document, I don't believe I drafted it with Pichou, no.

5 Q. Are you certain of that, sir, Mr. Ndjabu? Take your time to

6 think about it. I suggest that you drafted this document with

7 Mr. Pichou Iribi's assistance.

8 A. No. This document here, I didn't draft it with Mr. Pichou Iribi.

9 Q. Very well.

10 MR. MACDONALD: (Interpretation) With your leave, your Honour,

11 could we see document EVD-OTP-00234 now.

12 PRESIDING JUDGE COTTE: (Interpretation) That's what we'll do

13 and that is the document referred to by Professor Fofé so that it could

14 also be reclassified.

15 MR. MACDONALD: (Interpretation) I have a copy here. Could it

16 please be shown to the witness.

17 PRESIDING JUDGE COTTE: (Interpretation) Let's have the document

18 on the screen and please show the document to the witness.

19 MR. MACDONALD: (Interpretation) It's a document that I would

20 call "Certain truths" or "A few truths."

21 PRESIDING JUDGE COTTE: (Interpretation) Yes, in fact, it's a

22 six-page document.

23 Mr. Hooper, Professor Fofé doesn't object to this document 0234

24 being reclassified as a public one. Is your position the same? That

25 would simplify matters .

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 56

1 MR. HOOPER: It is. But before I leave the last document, I'm --
2 I don't understand where we are with it. Does it -- I don't know whether
3 the Prosecution wants to take it up with the witness or wants to leave it
4 to me in re-examination. But was this document drafted by the witness or
5 not? He was asked whether he drafted it with Pichou and he said, "I
6 didn't draft it with Pichou," but the question, at least in the English
7 translation, wasn't concluded as to who -- whether he drafted it or
8 whether Pichou drafted it and he signed it and what the position may have
9 been. I'm a bit unclear.

10 MR. MACDONALD: (Interpretation) With your permission,
11 your Honour, may I point out --

12 PRESIDING JUDGE COTTE: (Interpretation) Please, five seconds or
13 else we will be reminded. So, Mr. Prosecutor, to finish this point on
14 the document entitled "Concerns," Witness did you draw up this document?
15 The Prosecutor asked you this question, said the document contains your
16 signature. Mr. Hooper would like to know a perfectly legitimate
17 question: Did you draw up this document entitled "Concerns"? You said
18 that you did not draw it up with Pichou. "Concerns," is it your
19 authorship?

20 THE WITNESS: (Interpretation) Yes, I wrote this.

21 PRESIDING JUDGE COTTE: (Interpretation) Fine. Fine. We left
22 "Concerns" and we're moving on now to "A few truths."

23 MR. MACDONALD: (Interpretation) I think we already established
24 this.

25 PRESIDING JUDGE COTTE: (Interpretation) Well, I think that

1 sometimes there are a few failings in our memories and there may be a few
2 differences in the speed of transcript. Let's not go back over this.
3 Let's move on to the next document entitled "A few truths" which is now
4 reclassified. We agree on this. Court Officer. So second document
5 reclassified.

6 Over to you, Mr. Prosecutor.

7 MR. MACDONALD: (Interpretation)

8 Q. Mr. Witness, is it not true that you also drew up this document
9 entitled "A few truths," this document which you have before you?

10 A. I drew this up.

11 Q. I would put to you that you also wrote with this -- you also
12 wrote it, wrote this document, with the support of Mr. Pichou Iribi. Do
13 you agree with what I say?

14 A. No, I don't agree with that statement.

15 Q. So you did not write this with or with the support or with the
16 assistance of Mr. Pichou Iribi?

17 A. No.

18 Q. Is it not true, Mr. Witness, that "Some concerns" was written
19 before "Some truths"?

20 A. I think that A must have been written before B.

21 Q. When you refer to "A," you are talking about "Concerns,"
22 EVD-OTP-233, and "B" is therefore EVD-OTP-00234; is that correct? This
23 is for -- this is a question of precision. So A was written before B?

24 A. Yes.

25 Q. I would suggest that both documents were also written when you

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 58

1 were held in the Makala prison in Kinshasa; is that correct?

2 A. Yes.

3 Q. Is it not also true that you were going to write a third document
4 which was going to be called "The Memorandum"? And now I refer to
5 Exhibit EVD-OTP-00230?

6 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, who's
7 working hard to bring up this third document.

8 MR. MACDONALD: (Interpretation)

9 Q. I will not give it to you, Mr. Witness, but I simply wanted to
10 show it. Please look in my direction. We are talking about this
11 memorandum. Can you see this? Do you recognise this document?

12 MR. MACDONALD: (Interpretation) Then if we could hand that to
13 the witness, please.

14 PRESIDING JUDGE COTTE: (Interpretation) Prosecution, you would
15 like, in fact, this document to be handed to the witness, after all?
16 Then, please, Court Usher, hand this memorandum to the witness.

17 And, Court Officer, you have -- have you been able to bring this
18 document up?

19 COURT OFFICER: (Interpretation) Yes, it's on the screen.

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

22 MR. MACDONALD: (Interpretation)

23 Q. Mr. Witness, this memorandum was written on the 31st of January,
24 2007; is that correct?

25 A. I believe this is the date.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 59

1 Q. And on the last page there is your signature, isn't there?

2 A. Yes, that is my signature.

3 PRESIDING JUDGE COTTE: (Interpretation) Could we see the last
4 page on the screen, please.

5 MR. MACDONALD: (Interpretation) Court Officer, this is page
6 DRC-OTP-0015 (* as interpreted) is the end of the reference number.

7 PRESIDING JUDGE COTTE: (Interpretation) Please continue,
8 Mr. Prosecutor.

9 MR. MACDONALD: (Interpretation) Could we show the previous
10 page.

11 Q. In the final paragraph, Mr. Witness, which starts:

12 "If the state asks him, the prosecutor will defer the
13 investigation into these people ..."

14 This is -- do you see this on the last-but-one page?

15 A. Yes, yes, I see this.

16 Q. Let's continue a little further in the paragraph. And on this
17 point the minister of information and the press spokesman of the
18 government has, to our immense satisfaction, supported on the 9th
19 of November, 2006, in the course of the broadcast dialogue between
20 Congolese people on Radio Okapi maintained that after Thomas Lubanga
21 there will be other criminals put under lock and key in the prisons in
22 the country and others who are still in the streets at large and who will
23 soon be transferred before the ICC in The Hague ."

24 Do you see this, Witness?

25 A. Yes.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 60

1 Q. Is it not true that effectively you have access to the radio in
2 Makala detention centre and you had access to this radio in November
3 2006?

4 A. In the Makala prison centre there was television, radio, they
5 were no forbidden.

6 Q. Therefore, you had access to the television and radio broadcast
7 which are taking place here which are broadcast by the RTNC and also by
8 Radio Okapi?

9 A. Generally, we follow parts of the proceedings, not all the
10 proceedings.

11 Q. This is what the media want to broadcast. What you have access
12 to is what the media want to broadcast?

13 A. Yes, Mr. Prosecutor.

14 Q. And at that time, Mr. Witness, we're back in November 2006 and
15 there is a government spokesman who is on Okapi radio. And if we look on
16 Okapi's web site you can actually listen to the broadcast dated on the
17 10th of November. Do you believe that there could be a mistake, it was
18 not on the 9th but it was on the 10th of November, you actually heard the
19 broadcast on the 10th of November, 2006?

20 A. I think that if we got the date wrong -- well, maybe we did but
21 is it not the content which is the most important thing?

22 Q. The spokesman said that it was no secret for anybody that could
23 be other transfers of persons to the ICC. Is that not correct?

24 A. That is what the minister stated, and I don't know how you want
25 me to comment on this. This is what the minister said and there we are.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Private Session)
Questioned by Mr. MacDonald (Continued)

Page 61

1 If you want me to make a comment on his statement, I don't know what you
2 want me to say.

3 Q. Mr. Witness, is it not true that on the 11th of November, 2009 --
4 well, I would say that the broadcast went out on the 10th, but the next
5 day you met a representative of Human Rights Watch in Makala prison who
6 came to visit you, and you talked together about the document entitled --
7 the two documents entitled "Concerns" and "A few truths." Do you recall
8 this?

9 (Expunged)

10 (Expunged)

11 Q. If we could very, very quickly move into private session, please.

12 PRESIDING JUDGE COTTE: (Interpretation) I did not understand
13 the final sentence of the witness, so please ask him to clarify what he
14 said. Please just a second, just for us to move into private session.

15 (Private session at 5.42 p.m.)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Private Session)
Questioned by Mr. MacDonald (Continued)

Page 62

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Open session at 5.44 p.m.)

11 COURT OFFICER: (Interpretation) We are now in open session.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

13 Mr. Prosecutor.

14 MR. MACDONALD: (Interpretation).

15 Q. Mr. Witness, the day after the Okapi broadcast I submit to you
16 that you met a representative of Human Rights Watch, but the reason why
17 there was a report on the Okapi radio on the 10th was the day before in
18 the Lubanga trial the confirmation of charges had taken place. The
19 procedure of confirmation of charges had started on the 8th or the
20 9th - I don't quite remember the exact date. Do you recall that Lubanga
21 trial started around the 8th or 9th. On the 10th there was a report on
22 the broadcast Okapi radio, and then on the 11th you met the
23 representative of Human Rights Watch?

24 A. I don't remember this at all.

25 MR. MACDONALD: (Interpretation) Can I, with your permission,

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 63

1 call up DRC-OTP-1008-0089.

2 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

3 COURT OFFICER: (Interpretation) Could you confirm the

4 confidentiality of this document.

5 MR. MACDONALD: (Interpretation) Unfortunately, I would rather

6 that this document were confidential, given the names which the -- the

7 name which we cited in private session.

8 PRESIDING JUDGE COTTE: (Interpretation) Therefore we have to

9 bring the curtains down.

10 MR. MACDONALD: (Interpretation) No.

11 PRESIDING JUDGE COTTE: (Interpretation) Yes, if we're putting

12 this up on the overhead projector and even up on the screen. So we will

13 bring down the curtains -- the screens which are behind the witness for a

14 few moments.

15 COURT OFFICER: (No interpretation)

16 MR. MACDONALD: (No interpretation)

17 Q. (No interpretation)

18 MR. FOFÉ: (No interpretation)

19 PRESIDING JUDGE COTTE: (No interpretation)

20 MR. FOFÉ: (No interpretation)

21 PRESIDING JUDGE COTTE: (No interpretation)

22 MR. MACDONALD: (No interpretation)

23 PRESIDING JUDGE COTTE: (No interpretation)

24 MR. MACDONALD: (No interpretation)

25 THE WITNESS: (No interpretation)

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 64

1 MR. MACDONALD: (Interpretation)

2 Q. This is 0090. Can you see at the bottom, this was written in
3 2005 in prison X Makala C CPRK in Kinshasa. Do you see this at the
4 bottom?

5 A. Yes.

6 Q. Is it not true that when you met (Expunged) --

7 PRESIDING JUDGE COTTE: (Interpretation) Maître Hooper.

8 MR. HOOPER: Maybe it's the time of day. I'm getting a little
9 behind on this. What document are we looking at here, because the 0090
10 document I'm looking at is dated 11th November 2006 not 2005. I don't
11 understand.

12 MR. MACDONALD: Just under. Look under, Mr. Hooper.

13 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, we are
14 trying to understand this and it was Professor Fofé's comment a few
15 minutes ago. Are we looking at EVD-OTP-0233 "Concerns," which was dated
16 17th of June, 2007, this doesn't seem to be the case. We now have a
17 document, the first page seems to be the same, but the second page has a
18 distinct clear date. The Prosecutor will ask questions about this if he
19 wishes, but he just said that he is referring to a document which was
20 written in the course of 2005.

21 Is that correct?

22 MR. HOOPER: It's the way it's done. We have a document that
23 bears a date the 11th of November, 2006, that date's repeated on the
24 second page, 0090. And then there's a note beneath that relating to
25 "this document has been written (2005)" the way my friend's doing it is

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 65

1 very confusing and it must be for the witness as well.

2 MR. MACDONALD: (Interpretation) With your permission I will try
3 and simplify this straight away with the witness. I would like the
4 witness to answer. I understand there are a lot of questions. I'm
5 trying to clarify this.

6 PRESIDING JUDGE COTTE: (Interpretation) Five-seconds' pause.
7 Prosecutor, could you try and clarify this with short questions so that
8 the witness can and answer this as clearly as possible. We all need to
9 have clarification about whether this is the same document which seems to
10 have different dates.

11 Prosecution.

12 MR. MACDONALD: (Interpretation)

13 Q. Mr. Witness, do you remember having met the representative of
14 Human Rights Watch and having talked with her and having reviewed each
15 page of the document entitled "Concerns" and also the other document
16 entitled "Some truths" do you remember this and I put it to you that this
17 took place on the 11th of November, 2006?

18 A. I believe that that is possible. I said that this person
19 sometimes came to see us in prison.

20 Q. Is it not a fact that when you met on the 11th of November, 2006,
21 with the Human Rights Watch representative that you hand-wrote on the
22 same -- second page "this is written in the year (2005) in prison
23 X-Makala CCPRK in Kinshasa"?

24 A. I don't really understand your point, sir.

25 PRESIDING JUDGE COTTE: (Interpretation) The question is a

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 66

1 simple one. Do please make an effort. We need to move forward and get
2 out of this temporary impasse.

3 Mr. Prosecutor, could you rephrase your question.

4 Witness, could you listen very attentively.

5 MR. MACDONALD: (Interpretation)

6 Q. Witness, please look at the second page. You have this in front
7 of you?

8 A. I do.

9 Q. For the FNI Floribert Ndjabu Ngabu. This is your signature, you
10 see that?

11 A. Yes.

12 Q. And at the bottom do you see the date 11th of November, 2006?

13 A. Yes.

14 Q. And below that, what is written, please read it out loud?

15 A. This was written in the year (2005) in prison X-Makala CCPRK in
16 Kinshasa."

17 Q. Is it not a fact that you wrote this, sir, this is your writing
18 and this is your signature?

19 A. Let me say what I have already said. I have already said this.

20 Q. Well, you agree with what I said, this is your writing and your
21 signature; is that correct?

22 A. Yes, I've already answered that.

23 Q. Well, Mr. Witness, the document concerns was therefore written
24 apparently in 2005. Is it not true that "A few truths" was written in
25 2006?

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 67

1 A. I can't really get the dates straight in my head. In fact, the
2 first was written on the 11th of November, but it was actually drawn up
3 well before that. The second document where it says the 11th of
4 November, for that date -- I don't recall that date. I don't remember if
5 it was in the course of a meeting with this lady.

6 Q. One thing is certain, Mr. Witness, you wrote the document
7 "Concerns," Exhibit A, before Exhibit B. And you therefore wrote B
8 because there had been no reaction from the authorities to document A
9 which is called "Concerns."

10 A. I remember the context. Indeed, the first document led to no
11 reaction and then the second document followed.

12 Q. And there was no reaction to the second document either? The
13 Lubanga trial was starting. Radio Okapi was saying there may be other
14 transfers of prisoners. You met (Expunged) and you started drawing up the
15 memorandum which is dated 31st of January, 2007; is that correct,
16 Mr. Witness? The memorandum was written as a reaction to the fact that
17 there no reaction to the documents "Concerns" and "A few truths"?

18 A. You have to be clear about things here. The memorandum was
19 written - how can I say this --the memorandum did not follow on from the
20 two preceding letters because if you look carefully, the page where there
21 is the signature also bears the signature of the -- our friend from the
22 UPC. So the memorandum does not follow on from the two other letters,
23 not at all.

24 MR. MACDONALD: (Interpretation) May I ask for DRC-OTP-1008-0089
25 be given an EVD number, please.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 68

1 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we will
2 give this exhibit an EVD number.

3 MR. HOOPER: (Previous translation continues) ...

4 PRESIDING JUDGE COTTE: (Interpretation) I would like to finish.
5 Can I point out that we need to respect the five-second time-period when
6 there are dialogues and exchanges.

7 Mr. Hooper, please.

8 MR. HOOPER: (Previous translation continues) ... you,
9 Mr. President. This particular document which is the one with facing
10 page "*Inquiétudes*" which carries on to the other document of several
11 pages, can I confirm that it has the last page on it, which is 1008-0100,
12 which has a statement on it by (Expunged) as to her receipt of
13 the document and also has another date at the top of it, November the
14 3rd, 2006.

15 MR. MACDONALD: Yes.

16 MR. HOOPER: And I'm not sure if that was ever drawn to the
17 attention of the witness, but ...

18 MR. MACDONALD: (Interpretation) The Prosecution did not have
19 the intention of coming back there. Mr. Hooper can do that in
20 re-examination if he wishes. The witness acknowledges having met with
21 that person on that date and we can see that his signature is on every
22 page.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well. You can
24 proceed.

25 MR. MACDONALD: (Interpretation) Can an EVD be assigned to that

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 69

1 document?

2 PRESIDING JUDGE COTTE: (Interpretation) The Court Officer is
3 going to do that.

4 COURT OFFICER: (Interpretation) Thank you, your Honour.
5 Document DRC-OTP-1008-0089 will bear the reference number EVD-OTP-00253
6 and will be filed as confidential.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
8 Can we draw back the curtains behind the witness?

9 MR. MACDONALD: (Interpretation) Yes.

10 PRESIDING JUDGE COTTE: (Interpretation) Very well.
11 Court Officer, let us pull up the blinds and the
12 cross-examination will continue.

13 And we should be very careful about complying with the
14 five-second rule because we are greatly complicating the lives of the
15 court reporters and of the interpreters also.

16 Mr. Hooper.

17 MR. HOOPER: And I notice at page 62 in the English transcript
18 the interpreters were just quite unable to keep up with the speed that
19 Mr. MacDonald was speaking, the result that there's a substantial chunk
20 of what was said omitted. They just haven't been able to obviously deal
21 with it.

22 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed,
23 Mr. Hooper. The Court Officer informed me a short while ago that the
24 English booth was having serious difficulties because of the speed and I
25 could not notice that because I'm following the French transcript. That

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 70

1 is why I said a short while ago that we have to comply with that
2 five-second rule, so as not to complicate the work of the court reporters
3 and the interpreters. So we have to be very careful so that the team of
4 Germain Katanga should not be discriminated against in the course of the
5 proceedings and they should be able to follow like everyone else.

6 Mr. Prosecutor, please proceed.

7 MR. MACDONALD: (Interpretation)

8 Q. Mr. Witness, you have stated that you wrote the documents
9 "Concerns" and "Some truths" alone. You did not have the assistance of
10 Mr. Iribi.

11 MR. MACDONALD: (Interpretation) With your leave, your Honour, I
12 would like document DRC-OTP-1017-0541 to be called up and specifically
13 page (* as interpreted) 0457. And while this is done I'm going to ask
14 the witness a few questions to see to it in time and space.

15 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please,
16 you are being called upon to make a lot of effort to call up those
17 documents.

18 And, Mr. Prosecutor, you can put your preliminary questions to
19 the witness.

20 MR. MACDONALD: (Interpretation) Thank you.

21 Q. You remember having met with the OTP and having been interviewed
22 in Kinshasa by Madam Christine and Nicolas Sebire, that is our colleagues
23 at the time. Do you remember that?

24 A. Yes.

25 Q. Do you recall that they asked you questions about those two

1 documents "*Inquiétudes*" and "*Quelques vérités*," do you remember that?

2 A. Yes, I do.

3 Q. And for the purpose of that exercise you asked for the presence
4 of a lawyer and a duty lawyer was duly assigned. Do you remember that?

5 A. I was not the one who asked for a lawyer. You came with a lawyer
6 and that is what happened.

7 Q. Mr. Witness, is it not correct that during the meeting with the
8 OTP you were presented in Annexes A and B the documents "Concerns" and
9 "Some truths" or specifically "*Inquiétudes*" and "*Quelques vérités*." They
10 were presented to you together, after which they were separated and
11 marked A and B, do you remember?

12 A. Yes.

13 Q. Do you also remember whether you asked whether you had written
14 those two documents, do you remember that?

15 A. Yes, I do remember.

16 Q. Do you remember whether you were also asked whether you wrote the
17 documents alone or with someone else, do you remember that?

18 A. Yes, I do.

19 Q. Regarding the 11 pages which were clipped together, you were
20 asked whether you wrote that with another detained person, do you
21 remember?

22 A. I no longer remember.

23 Q. Is it not correct that your answer was you had written the
24 document with Mr. Pichou Iribi, do you remember that?

25 A. I do not remember. Maybe it is an error on your part.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 72

1 Q. An error on our part. Do you remember that it was recorded on
2 audio and video?

3 A. That is difficult because Pichou is not even aware of that
4 document.

5 JUDGE DIARRA: (No interpretation)

6 THE INTERPRETER: Judge Diarra's microphone was not switched on.

7 MR. MACDONALD: (Interpretation) I'm sorry. I will make an
8 effort. I wanted to conclude before the end of the hearing.

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, if we
10 need to have Mr. Floribert Ndjabu Ngabu with us tomorrow morning, then we
11 will do so. We would like to seize the opportunity of his presence to
12 ask some questions, but it does not mean that you should use up all the
13 time but it does not also compel you to be too fast. You have to ask
14 your questions slowly, and it is also important for Mr. Ndjabu to answer
15 calmly and slowly. Even though we need to be expeditious in the
16 proceedings, everything should be done in the appropriate manner.

17 Please take your time without taking too long.

18 MR. MACDONALD: (Interpretation) I will slow down.

19 JUDGE DIARRA: (Interpretation) Simply observe a pause before
20 speaking because you are both speaking at the same time.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, be
22 careful about Judge Diarra's reaction.

23 MR. MACDONALD: (Interpretation) One thing is clear, there is no
24 danger that anyone will fall asleep in this case.

25 Now, is it possible to call up the page that I'm referring to,

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 73

1 0547?

2 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

3 MR. MACDONALD: (Interpretation) I have a copy for the witness.

4 PRESIDING JUDGE COTTE: (Interpretation) And the Court Usher
5 will take the document from you. Thank you.

6 Court Officer, can the two accused persons see everything? Is
7 every document visible? Yes. Very well.

8 MR. MACDONALD: (Interpretation)

9 Q. Witness, I will refer you to page 6 of the transcript, that is a
10 word-for-word transcript of your interview with the Prosecutor on the
11 18th of June, 2000 --

12 MR. HOOPER: (Previous translation continues) ... to the witness,
13 my friend should start on page 5 where the subject is introduced so that
14 the witness (* indiscernible) the subject. It starts with the word "it's
15 the one beginning of 'Concerns.'" And I assume the interpreters have
16 copies of the document.

17 MR. MACDONALD: (Interpretation) It is line 171, page 5.

18 Q. And, Mr. Witness, I have no objection to that. You can read the
19 document yourself.

20 PRESIDING JUDGE COTTE: (Interpretation) Very well. Let us
21 begin on page 5. It is -- if it is all right with everyone.

22 Court Officer, can you display that page on the screens.

23 And please proceed, Mr. Prosecutor.

24 MR. MACDONALD: (Interpretation)

25 Q. At that time a document was presented to you, the document

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 74

1 *"Inquiétudes"* but the other document *"Quelques vérités"* was attached and
2 the total was about 11 pages. Later on, they were separated into annexes
3 A and B. Do you remember?

4 A. I no longer remember.

5 Q. Mr. Witness, please read line 171 on page 5. You can look at all
6 the other pages, but we are referring here to pages 5 and 6. You can
7 read the French version. I understand that there was simultaneous
8 interpretation for my colleague Madam Chung. You can read right up to
9 line 205 of page 6.

10 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you
11 can scroll down to page 6. Thank you.

12 Thank you, Court Officer. Please scroll down a little bit more.
13 Perfect.

14 MR. MACDONALD: (Interpretation)

15 Q. Have you read that page, Mr. Witness? My question is simply
16 whether you were able to read from lines 171 to 205?

17 A. Yes.

18 Q. Is it not correct that you indeed mentioned the documents
19 "Concerns" and "Some truths" had been written with the assistance of
20 Mr. Pichou Iribi, a co-detainee of yours. Is that not what you told the
21 OTP? And if you say you did not say that, we can also show you the
22 audio/video recording if necessary.

23 A. Yes, I have understood the question. Before I answer, I should
24 point out that the interview referred to of the OTP took place within the
25 context in which I was being fingered as a suspect. That is one thing.

1 And imagine that the Prosecutor comes to question you and considers or
2 classifies you in the category of suspects. That is point one. Now,
3 with regard to this particular question, I believe there was an error
4 either on your part or on my part. It is possible that I did not quite
5 understand the question because the truth is that Pichou is not even
6 aware of this document. You can use other means, but the reality is that
7 he does not even know this document. As far as I am concerned, the truth
8 is that Pichou is not familiar with this document.

9 Q. You have just told us some very interesting things. We are going
10 to take them one by one. Now, you have said it is either an error on the
11 part of the OTP or on your part; is that correct? Now, let me ask you to
12 go to page 7 from line 248 to line 261. If those lines can be displayed
13 on the screen, please. Now, take the time to read those lines and then I
14 will ask you my question.

15 A. Which pages?

16 Q. I'm sorry, I did not hear you.

17 PRESIDING JUDGE COTTE: (Interpretation) I believe the witness
18 was asking you about the lines to be read. You said lines 248 to 261.
19 Yes.

20 Mr. Witness, lines 248 to 261.

21 MR. MACDONALD: (Interpretation)

22 Q. Mr. Witness, is it not correct that you did not only say this on
23 pages 5 and 6 but you confirmed your statement on pages 6 and 7, that you
24 prepared those two documents with the assistance of Mr. Pichou Iribi. So
25 I am putting it to you that it is not an error.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 76

1 A. I will tell you precisely what you want me to say, but the
2 situation is as follows: If I tell you that this was an error, then
3 believe me because I will tell you something. At that time, Pichou could
4 not have agreed for us to do this. He could not possibly accept it
5 because he still believed in the government. He believed that we could
6 still be extricated from that situation and that the government could
7 stop our suffering. So he could not accept that. So I believe this was
8 an error of understanding. The truth is that at that time and during
9 that year Pichou still fully trusted the government and he could not have
10 accepted. In order for you to better understand -- you can try to
11 understand it in your own way, but you will find that he is not familiar
12 at all with those two documents. He knows nothing about them. That is
13 the truth.

14 Q. Mr. Witness, the truth is also that you were indeed questioned as
15 a suspect because at that time the Prosecution has had grounds to believe
16 that you might have participated in crimes in Ituri, so we did not take

17 any chances. We made sure that you had a lawyer with you during that
18 meeting with the OTP. But is it not correct, Mr. Witness, that this
19 interview with the OTP took place at your request? You were the one who
20 had asked to meet with the OTP, as you indicate in the memorandum, and
21 that was also discussed with the OTP during their meeting with you in
22 June 2005.

23 A. I'm tempted to tell you the truth. A prisoners such as myself,
24 you come to question me as a suspect. I do not know whether it occurred
25 to you in which state -- to understand in which state I would be after

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 77

1 hearing that you were coming to question me as a suspect. Now, if it was
2 because the OTP had read our memorandum that you came to interview me,
3 that would not be a problem; but you never formally told me that I had
4 requested that you come and question me. Officially, I never requested
5 that. I believe that your office or the OTP simply took into
6 consideration the sentences included in the memorandum or it was simply
7 what you wished. If it was on that that the Prosecutor relied, then that
8 is acceptable, but frankly when I was taken out of the prison to come and
9 meet with you I was not aware of anything.

10 MR. MACDONALD: (Interpretation) With your permission, I would
11 like to call up page -- well, just a moment, your Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Very well.

13 MR. MACDONALD: (Interpretation) If we can call up transcript
14 number DRC-OTP-1017-0503 and specifically page 0522. I will hand over a
15 copy to the witness.

16 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we need
17 your services once again.

18 COURT OFFICER: (Interpretation) The level of confidentiality of
19 the document?

20 MR. MACDONALD: (Interpretation) It is a public document.

21 And, Court Usher, please could we have the other documents back
22 from the witness, please.

23 Q. Now, Mr. Witness, I would like to draw your attention to line 619
24 to line 654.

25 Mr. Ndjabu, is it not correct that in the memorandum you asked to

1 meet with the ICC, and indeed in June 2007 my colleagues Chung and Sebire
2 were there for that purpose and that is what you can see. It was at your
3 request; is that not correct?

4 A. This is precisely what I said. It was on the spot that you
5 mentioned this to me and I reacted. You can see that in the document.
6 Here we are. That is what I said. I have told you that if the OTP or
7 your colleagues took into account that appeal that we made in the
8 memorandum to come and ask us certain questions, there is no problem.
9 But I have told you that I was not aware that you were coming to question
10 me until I was taken out of the prison to come and meet with you. That
11 is why, as you can see here, in my attitude, as I say, here we are, I
12 have understood. So what I'm saying effectively is that it was on the
13 basis of the memo that you came to question me. That is correct. But
14 there was no direct co-operation between you and myself. That is what I
15 wanted to point out.

16 Q. Mr. Witness, we are going to move on to something else. We are
17 going to come to your statement later because there are other things to
18 which I would like to draw your attention. But let us change registers
19 completely.

20 Mr. Witness, is it not correct that in 2002/2003 in Ituri there
21 were children of less than 15 years old who were fighting in all the
22 armed groups alongside the adults in order to defend their villages or
23 other things, but there were child soldiers in all the armed groups?

24 A. We have to put things in perspective. Here there are many errors
25 in the opinions held by many people. We have to be able to distinguish

1 between what we referred to here as the villagers who were fighting with
2 each other and there were elderly people and others. This was an ethnic
3 conflict. This is something else. That is where members of a village
4 attack another village. That is something else.

5 Now, if we are talking about the presence of child soldiers in
6 the armed groups, then we have to go back to the recruitment process.
7 Who recruited which child? As far as I know, I'm not aware of any
8 movements that actually recruited children. And if this was the case,
9 how was it done? This is because there are principles to be complied
10 with before anyone joins a movement. If you're talking about child
11 soldiers in ethnic conflicts, that is possible. And there you have to
12 actually distinguish between the various situations because you have to
13 clearly indicate who recruited the children, where they were trained, and
14 the battles in which they took part and the side on which they were
15 fighting. I have frequently heard about child soldiers in armed groups
16 in Ituri, and those who make those statements should be able to
17 demonstrate clearly how it happened. That is what I can say about child
18 soldiers.

19 Q. Witness, isn't it true that you, yourself, you personally
20 witnessed cases of recruitment, and, in any event, of training of
21 children in your region, this was done in your presence before your very
22 eyes in June 2003?

23 A. In June 2003, I don't know where I was then, but one thing is
24 certain. One thing is certain. I remember having found a small boy, a
25 very small boy next to the guards who were in my place in Kpandroma, and

1 this little boy -- well, we put questions to him and I believe that he
2 answered and said that his father had been killed in the course of the
3 conflict, his mother was deceased, and he took shelter with the soldiers
4 and he wanted to stay there. That's one thing. So I also saw a little
5 boy whom I recognised because we lived in the same neighbourhood. He got
6 lost on the Watsa road. He was returning from there and wanted to go to
7 Bunia. I asked him where he was going. He said, You see, I was with the
8 soldiers on the other side, in the direction of Watsa and my parents fled
9 and I got lost and I want to return. When I informed myself, I was told
10 no the little boy was, in fact, with the soldiers. Unfortunately the
11 little boy in question -- we did everything so that he would go back to
12 school, but two months later I think he fled, he returned to Bunia, he
13 went back to Bunia. So the phenomenon of child soldier -- well, we never
14 had a training centre, first of all, so where would I be able to train a
15 child soldier?

16 Q. Witness, you never had a training centre you say, but I say there
17 was one in Kpandroma in June 2003, and you were present there with a
18 journalist Sam Kiley. Do you remember that journalist, Sam Kiley, do you
19 remember that? We have the video here, Witness, and we will show it now
20 because you are in the video with Mr. Kiley. And there is a sequence, an
21 extract where you can see children, two of whom are under the age of 15
22 and they are being trained in your area.

23 A. I will repeat what I have said and I will continue repeating this
24 because the day you are referring to is what I was mentioning here. They
25 arrived in Kpandroma, in fact, and at my residence, and while we were

1 visiting the surroundings there were guards on parade. And in fact the
2 journalists saw that child there and approached the child. As he didn't
3 know French or Swahili, they went to one side with the journalist and I
4 remember with Mr. Butchu too. At the time he was still alive. And they
5 spoke, the young boy spoke. I never recruited him and that is the truth.

6 Q. Witness, before I show you DRC-OTP-1002-008 (* as interpreted)
7 and the transcript that relates to it. Before I do that, I have a
8 question for you: You remember that in the agreement of the 18th of
9 March, 2003, three months prior to when the video was shown, you signed
10 the agreement on cessation of hostilities. One of the paragraphs in that
11 agreement states that the parties will interrupt all recruitment and all
12 use of child soldiers in the armed forces and they recognised that such
13 practice violates international law. You signed this agreement, didn't
14 you?

15 A. Yes, I signed that agreement. But remember one thing, I said
16 this from the outset: When Kisempia was in Bunia he was to deal with all
17 those "armed groups ." And now I -- I came from Kampala. I was in
18 Kpandroma. I see these soldiers who had been abandoned by Kisempia, as
19 far as I could see. And now -- well, I didn't recruit anyone. I signed
20 the document here. I know what a child is. So to tell me that I
21 recruited children after having signed the agreement in Bunia, an
22 agreement in which it clearly says that recruitment of child soldiers is
23 prohibited, well this is appalling. After that, I believe there was no
24 recruitment and I won't stop saying this. We didn't recruit. We didn't
25 have any centres for military training; there were no such centres.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 82

1 MR. MACDONALD: (Interpretation) Your Honour, with your leave my
2 colleague will provide you with the exact references because she is
3 better prepared than I am right now, but I suggest that we conclude
4 perhaps with the presentation of this four-minute extract. The two
5 transcripts, I believe, that the interpreters have had the opportunity
6 to -- Mr. Hooper, just allow me to conclude. I know that we're all
7 tired. I understand -- the interpreters have told me they have had the
8 opportunity to listen to the video and apparently the sound is good
9 enough for interpretation purposes, to be interpreted into the necessary
10 languages. The transcript is here just as a form of assistance as in the
11 case with other videos. That's what I wanted to point out.

12 PRESIDING JUDGE COTTE: (Interpretation) Very well.

13 Mr. Hooper, you have the floor.

14 MR. HOOPER: An objection that we raised is we put the
15 Prosecution on notice in respect of it. Essentially, it goes to
16 relevance. As the Prosecution have already indicated, this is a video
17 that relates to events in June of 2003, some three months or more after
18 the events that concern this Court. That's the first matter, time.
19 Secondly, the events concern the filming of that event in Kpandroma,
20 which as you know is some 150 kilometres or possibly much nearer 200
21 kilometres away from Aveba. And the subject appears - from what the
22 Prosecutor has said - to relate to recruitment which it is our
23 understanding this Tribunal has already ruled is not a relevant issue as
24 it's outside the scope of the charges. So those are the objections.

25 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, you

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 83

1 also wanted to take the floor -- or rather, Ngudjolo's Defence wanted to
2 object. So briefly.

3 MR. FOFÉ: (Interpretation) Yes, your Honour, very briefly.
4 Mr. Hooper has raised the relevant points that concerns the relevance of
5 this video and also the geographical distance to put it in that way. So
6 the question of relevance with regard to the facts we are dealing with is
7 at issue basis we are dealing with Kpandroma here, but you have to deal
8 with the events in Bogoro in 2003. With regard to these arguments
9 presented, I have one question. If we follow the Prosecution's
10 examination, the last few questions put, I had the impression that they
11 want to accuse the witness of these matters; but the witness is here to
12 testify. The witness is not here in the capacity of an accused. The
13 witness is not appearing before the Court as an accused; he's here to
14 testify. Thank you, your Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, before
16 we rule on these objections, could you please tell us exactly what your
17 intentions are when showing this video. I hear the word "recruitment."
18 Is it your intention to accuse the witness in a certain sense of
19 recruiting child soldiers or is your intention simply to show certain
20 context, to show that the witness wasn't unaware of child soldiers?

21 MR. MACDONALD: (Interpretation) It's the second point. It has
22 to do with credibility, your Honour. As far as geography is concerned,
23 Kpandroma is in Ituri. But as far as the witness is concerned, there was
24 not just training, there was recruitment and so on. But the images I
25 would like to show, as far as time is concerned, it's in June. I would

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 84

1 like to remind you of the testimony of Witness 373 as well, your Honour.
2 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
3 Mr. Hooper, Professor Fofé, we have received -- please remain
4 seated, Mr. Hooper. I'm addressing both of you because you are both the
5 authors of these written objections that we received in good time, and we
6 have examined them. The Chamber would just like to refer you to
7 paragraph 73 of instruction 1655, the 1st of December, 2009. It says
8 that the cross-examination will allow the party that hasn't called the
9 witness to obtain any other relevant evidence that could be useful for
10 his case or necessary for the demonstration of truth. As a result, the
11 party cross-examining must, on this occasion, mention all the questions
12 they want to put to the witness. The Chamber won't allow the party to
13 summon a witness if they've already had the possibility of
14 cross-examining the witness. The Chamber was concerned with dates. It
15 was in June of 2003. As far as places are concerned you have also
16 specified the place involved. So we are not dealing with
17 spatial-temporal matters on the 24th of February, 2003, in Bogoro and we
18 are also not in Aveba. It is in February 2003, a little later, and it is
19 a little further away from Bogoro and Aveba. But as far as this subject
20 of child soldiers is concerned, the Court has heard a certain number of
21 witnesses who did not all speak about the presence of child soldiers on
22 the 24th of February, 2003, in Bogoro. And, therefore, we have heard
23 testimony that went beyond the spatial-temporal scope which is what you
24 base your objection on, the absence of spatial-temporal relevance.
25 However, it is important that the Court be well informed and it will

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 85

1 decide on the matter in due course. The testimony of
2 Floribert Ndjabu Ngabu has been proceeding for a certain amount of time.
3 So as far as all these elements are concerned, the Chamber needs as much
4 information as possible and then we will assess the information when the
5 time comes. It's a four-minute video. It's quarter to 7.00. I hope
6 there won't be any technical problems. If you have any follow-up
7 questions, Mr. Prosecutor, you will put them to the witness and then we
8 will adjourn. Madam, you may take the floor and we will now have a look
9 at the video.

10 MS. FROLICH: (Previous translation continues) ... present,
11 your Honours. The video will actually be commanded by
12 Madam Court Officer. It is in the -- so as previously said,
13 DRC-OTP-1002-0008, the extract shown will be from time stamp 1.22.30 to
14 1.27.10. The accompanying transcript references from DRC-OTP-0180-0384,
15 from line 742 to line 820, and translation DRC-OTP-0180-0162, from line
16 744 to line 823. Thank you, Mr. President.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
18 Madam Prosecutor. So the reference to the transcript and to the
19 translation is there. It is an aid, if I may put it this way. As a rule
20 the interpretation should be possible. Could the usher make sure the
21 witness can see the video on his screen.

22 Madam Prosecutor, we can start with the screening, if I can put
23 it that way.

24 What should we press, Court Officer?

25 COURT OFFICER: (Interpretation) PC 1 to see the video.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 86

1 (Video-clip played)
2 "FN: So it's like that. It's a big job.
3 "SK: It's like a dance.
4 "FN: Yeah, (indiscernible) I would call it drill.
5 (Indiscernible) they do like that, because they don't have another kind
6 of parade, so they (indiscernible) that's best for them.
7 "SK: To keep them busy. And that one in the middle, how old is
8 he?
9 "FN: Which one?
10 "SK: That little boy there.
11 "FN: The small one?
12 "SK: Yeah.
13 "FN: (Indiscernible) He wanted to be a soldier but several time
14 I was ... I have been chasing him, but every time (indiscernible) he is
15 only here.
16 "SK: He comes back?
17 "FN: Yeah. I come here, I find him here.
18 "So my house is there. If you want to see it.
19 "SK: Perhaps we can just talk with a few."
20 "FN: (No interpretation)
21 "INI2: (No interpretation)
22 THE INTERPRETER:
23 (Voiceover) "SK: Can you translate?
24 "INI1: (No interpretation)
25 "SK: Do you speak Kilendu?

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 87

1 "INI1: No.
2 "SK: But do you speak French?
3 "INI1: Kilendu.
4 "SK: Do you speak Kilendu?
5 "INI1: Yes.
6 "FN: (No interpretation)
7 "EN1: (No interpretation)
8 "FN: (No interpretation)
9 "SK: How old are you?
10 "FN: Go ahead. Go ahead.
11 "INI1: He is 16, 16 years old.
12 "SK: 16? My ass!
13 "INI1: 16.
14 "SK: Is that true, 16? He's too small to be 16.
15 "INI1: You see, it's given these circumstances we don't have any
16 humanitarian aid.
17 "SK: Where is he going?
18 "INI1: (No interpretation).
19 "SK: Where is that one going? Kadogo."
20 (No interpretation)
21 "It's okay. Relax, at ease. Stand at ease, relax, relax. How
22 old are you?"
23 "INI1: He is 13.
24 "SK: 13? Why do you want to be a soldier?
25 "INI1: He is an orphan. That's why he likes to be a soldier.

Witness: Witness DRC-D02-P-0236/DRC-D03-P-0011 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

Page 88

1 "INI1: He's been an orphan for a long time, for two years.

2 "SK: When you -- (interpretation) When your parents were killed
3 you became -- did you become a combatant immediately? Immediately after
4 your parents were killed, did you become a combatant?

5 "INI2: He decided to become a combatant.

6 "SK: Don't be afraid of me.

7 "INI2: He's not afraid of you."

8 PRESIDING JUDGE COTTE: (Interpretation) Perfect.

9 Mr. Prosecutor.

10 MR. MACDONALD: (Interpretation) A few brief questions.

11 PRESIDING JUDGE COTTE: (Interpretation) You have six minutes.

12 MR. MACDONALD: (Interpretation)

13 Q. You saw the video, Mr. Ndjabu, didn't you? Isn't it true that
14 the person we can see with -- well, in red, the first child we can see in
15 red who you asked to relax, didn't he say in the video that he was 14.
16 But when his name was provided it was said that he was 16; isn't that
17 correct, Mr. Ndjabu?

18 A. I spoke to you about this quite a while ago.

19 Q. Please answer my question.

20 A. Let me explain this to you.

21 PRESIDING JUDGE COTTE: (Interpretation) You can explain and if
22 necessary, we'll continue tomorrow. But first answer the question and
23 add details if you think it's necessary to explain yourself.

24 THE WITNESS: (Interpretation) Thank you, your Honour, because I
25 wanted to speak. The Prosecution isn't giving me the time but I'm being

1 accused.

2 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead. You
3 have the floor. Take your time to answer the question.

4 THE WITNESS: (Interpretation) As I have already said to the
5 Prosecution, we signed an agreement in Bunia. And in relation to that
6 agreement, we could no longer recruit children. So here when those you
7 saw in the film arrived -- well, that was in my residence in Kpandroma.
8 And one should point out one thing. Such children, when you see them
9 next to soldiers, to drive them away you need to use a certain technique.
10 Everyone has been following this, the Prosecution too. You followed how
11 questions were put to them because that was the first time I saw him. A
12 question was put to him. They tried to drive him away and he kept
13 returning, but he is an orphan so are we to take him somewhere? Where?
14 To which centre? A centre I was so he could stay there or somewhere
15 else? But to be frank, after this, the person, the child in red, in a
16 red -- red clothing in the film and the little one, they were taken to a
17 centre that we call Save the Children. I think that's what we call the
18 organisation, something like that. As an official, I issued the order
19 for recruitment. And in the film what you can see and in the video, it's
20 not a matter of recruitment or training, it was a parade. When
21 authorities arrive they can give you a demonstration. It wasn't
22 training, so to speak, and what I'm saying is correct. And, in addition,
23 I never saw a centre - you can verify this - a recruitment centre, a
24 training centre, in Kpandroma. This was never the case under our
25 leadership.

1 So, Mr. Prosecutor, what we saw -- well, yes, I was present and
2 we acted consistently. This child who said he was an orphan, well, I saw
3 him there for the first time, and the other child in red, they had all
4 been -- they were all driven away later because there was no place for
5 them there. So in brief, that's what I can tell you with regard to this
6 video. I can confirm that it was in my residence at Kpandroma. That's
7 what I know about this event. I was very well informed.

8 PRESIDING JUDGE COTTE: (Interpretation) Witness, the
9 Prosecution put a question to you that concerned age. We heard a child
10 who said that he was 14, and the adult who was by his side then said that
11 he was 16. What do you think about that? We'll continue tomorrow, but
12 tonight what does this -- how do you react to this with regard to the
13 age?

14 THE WITNESS: (Interpretation) Your Honour, I've just said that
15 very same evening I noted that they wanted to whisper the answer to the
16 child, but the same evening in order to understand what was happening --
17 when I understood what was happening, they were punished because the
18 child in fact said that he was 14. The other person was whispering to
19 him that he was 16. I followed that. I followed that myself. And the
20 little boy, the little boy in red and the other boy, they left. As far
21 as I'm concerned, that's what I can say about the issue.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well, Witness,
23 Prosecutor. We now have to adjourn because we no longer have -- we have
24 run out of tape. You will continue tomorrow, Mr. Prosecutor, with regard
25 to this subject or something else. You will decide. You have an idea

1 what you will be doing. So far you have used up a lot of time but this
2 is up to you. You have a certain amount of time. Do you think you will
3 need a lot of time tomorrow?

4 MR. MACDONALD: (Interpretation) No, I won't need much time
5 tomorrow to continue.

6 PRESIDING JUDGE COTTE: (Interpretation) Very briefly, you're
7 tired but we have to adjourn.

8 MR. MACDONALD: (Interpretation) I think I will need 45 minutes
9 to complete what I'm doing.

10 PRESIDING JUDGE COTTE: (Interpretation) Very well.

11 The Legal Representatives will then appear if they so desire.

12 The Witness 228 will have to appear for the break.

13 Court Officer, after the break we'll need some time for questions
14 from the Chamber. The witness should be ready to testify at 10.15,
15 10.30. He will wait for a while in the appropriate waiting-room.

16 Witness, we will resume tomorrow at 9.00 for a brief period of
17 time, but the Chamber would also like to seek clarification from you with
18 regard to certain points that seem to be important to us. I hope you
19 spend a good night and if the usher could please escort the witness out
20 of the courtroom with the security officers.

21 THE WITNESS: (Interpretation) Thank you, your Honour.

22 PRESIDING JUDGE COTTE: (Interpretation) I will see you
23 tomorrow, Mr. Floribert Ndjabu Ngabu.

24 THE WITNESS: (Interpretation) Thank you.

25 (The witness stands down)

1 PRESIDING JUDGE COTTE: (Interpretation) Gentlemen accused, we
2 see each other back here at 9.00 tomorrow morning for another hearing. I
3 think that we will be able to sit on the 20th of April. You must have
4 received an e-mail. A lot of changes but this is a hearing which would
5 probably be good for our detainees. Thank you to everybody who has
6 insisted in this.

7 The hearing ends at 7.02 p.m.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25