

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 – Tuesday, 05 April 2011
9 The hearing starts at 2.31 p.m.
10 (Open session)
11 COURT USHER: All rise. The International Criminal Court is now
12 in session.
13 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
14 The accused persons are here with us. Good afternoon, sirs.
15 Mr. Prosecutor, before we start our hearing you wanted to take
16 the floor. You can now address the Court, please.
17 MR. MACDONALD: (Interpretation) Thank you, Mr. President,
18 your Honours.
19 Dear colleagues, as some of us might already have learned,
20 yesterday and earlier today it is with regret and deep sorrow that I
21 announce to you the death of our colleague, Mr. Alain Kongolo Lubamba,
22 who died in extremely tragic circumstances. The United Nations plane in
23 which he was travelling crashed on landing yesterday in Kinshasa. Based
24 on the latest information at our disposal, 32 out of the 33 passengers on
25 that flight perished. Ever since May 2006, Alain was working as a

1 co-ordinator of field operations in the operational support unit of the
2 OTP, also known as OSU. In that capacity Alain was directly involved in
3 providing support for missions carried out in the field in this case.
4 Alain was not only an excellent professional but also a well-liked
5 colleague with whom each and everyone could establish friendly relations.
6 At 42 years, Alain leaves behind his wife and three young children. It
7 is with sadness that on behalf of the Prosecutor Mr. Moreno-Ocampo and
8 all his colleagues that we express our most sincere condolences to his
9 wife, his children, and to his entire family. Our thoughts also go to
10 the families of the other victims who were on board that flight who, for
11 the most part, were working for the United Nations Mission in the
12 Democratic Republic of Congo.

13 Thank you, your Honour, for having given me this opportunity.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
15 Mr. Prosecutor. You have definitely understood that the Chamber joins
16 you in your sadness as well as all the others in the OTP. We did not
17 know Mr. Kongolo Alain, but, listening to you, we understand that he
18 contributed towards the accomplishment of the task that we are all
19 engaged in, each person in his or her own sphere assuming the
20 responsibilities incumbent on us.

21 As you have said, Mr. Prosecutor, he was one of us and we will
22 spare thought for him, of course for his family and close ones as well as
23 for all the families of those who were in that plane.

24 We will now move on with our proceedings, and before the witness
25 is brought into the courtroom, the Chamber will like to make its remarks

1 on the agreements on facts, that is, under Rule 69 of the
2 Rules of Procedure and Evidence.

3 Yesterday afternoon, we received by e-mail a list of three facts
4 which the parties agreed were not in dispute. The Chamber duly notes
5 those facts and calls on the Court Officer to read them out for the
6 record.

7 Court Officer, please.

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

9 Dr. Baudouin Adirodu authored the FRPI *Manifeste de la Résistance*
10 EVD-D02-00063. Colonels of the *Forces Armées Congolaises* in the EMOI
11 included: Colonel Aguru, Colonel Kilebele, Colonel Duku and
12 Colonel Ekuba. Nyankunde was attacked on 5 September 2002.

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

15 Subsequent to the exchanges of views that we have had on this
16 topic, particularly during the last hearing in transcript T 242, pages 6
17 to 11, and particularly the concerns raised by the Defence of
18 Mathieu Ngudjolo, the Chamber wishes to stress clearly that the fact of
19 noting that the parties do not dispute certain facts that will be
20 testified to by the witness does not mean that the witness may not
21 provide certain details and clarifications on those facts. The purpose
22 here before everything else is to facilitate the direct examination of
23 the witness by authorising counsel to ask question on the basis of
24 undisputed facts. Beyond the testimony of the witness, these agreements
25 will make it possible to focus our proceedings on the issues that are

1 really in dispute and that will also enable us to save time, and this
2 during our proceedings and also during the work on the final analysis
3 that we have to each do on the facts. It was important for us to have
4 this clarification on the record.

5 Madam Court Officer, Court Usher, please bring in Witness 236,
6 Mr. Ndjabu, to the courtroom.

7 (The witness takes the stand)

8 PRESIDING JUDGE COTTE: (Interpretation) Good afternoon,
9 Mr. Witness. Good afternoon, Mr. Ndjabu.

10 THE WITNESS: (Interpretation) Good afternoon, your Honour.

11 PRESIDING JUDGE COTTE: (Interpretation) I can see that you hear
12 me well.

13 THE WITNESS: (Interpretation) Yes, your Honour.

14 PRESIDING JUDGE COTTE: (Interpretation) How do you feel today?

15 THE WITNESS: (Interpretation) As you know, your Honour, I was
16 slightly indisposed, but today I am feeling better and able to work. But
17 I would like to apologise because I was not aware that we would work
18 today and that is why I am not properly dressed for the Court.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, we are
20 happy to note that you're doing much better, that is the essential thing,
21 and you are dressing -- the way you are dressed is really of no
22 consequence. I think you are appropriately dressed, as far as we are
23 concerned, even though you may feel that you are not properly dressed.
24 That is absolutely no problem to us. So please feel at ease. And since
25 we know that you were ill over the past few days and that you underwent

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1 certain tests, we are asking you that you should tell us if in the course
2 of the hearing you feel tired or anything else, please ask us to slow
3 down. Is that understood?

4 THE WITNESS: (Interpretation) Yes.

5 PRESIDING JUDGE COTTE: (Interpretation) Very well. You would
6 have noticed that Mr. Gilissen, who is the Legal Representative of the
7 group of child soldiers is not present today. His assistant is also not
8 present and those absences were authorised by the Chamber. So do not be
9 surprised to see a face that you are not used to that you do not know.
10 So this is a person who is representing the relevant section of the Court
11 who is there to take note of what is happening and to keep Mr. Gilissen
12 abreast. That is so that you should know precisely who is here in the
13 courtroom.

14 Mr. Hooper, you can now proceed.

15 MR. HOOPER: Yes, thank you, Mr. President. And I hope you
16 understand that we, too, were concerned that you were unwell last week,
17 that the system, as I hope you appreciate, doesn't permit me or anyone
18 from the Defence to contact you.

19 WITNESS: WITNESS DRC-D02-P-0236 (Resumed)

20 (Witness answered through interpreter)

21 Questioned by Mr. Hooper: (Continued)

22 Q. Can I first ask you this though: When did you first get notice
23 that you were going to be required to give evidence this afternoon? When
24 did you first find that out?

25 A. I was told in the room right next door.

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1 Q. Yes. Well, I think that's quite unsatisfactory. And I hope that
2 in future, witnesses, Defence witnesses with whom we have no contact, are
3 kept fully informed as to the itinerary and scheduling of this Court so
4 that they're not taken by surprise.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, we will ask
6 the Court Officer to clarify the issue, but it is clear that having
7 learned on Wednesday in the early afternoon that Mr. Ndjabu was not well,
8 we were, of course, concerned to know when he would be able to resume,
9 and without violating any professional secret, we wanted to know what was
10 being done. And we adopted a plan B which meant that if he was
11 unavailable another witness would be called because -- but that would
12 have complicated your task. The concern of the Chamber was to be
13 notified as early as possible about the situation of Mr. Ndjabu, and
14 except I am mistaken, the Chamber was informed yesterday at midday at
15 around 1.00 p.m. that Mr. Ndjabu would be able to resume the proceedings
16 today. And if that is the case, I am really surprised that Mr. Ndjabu
17 was not informed yesterday of the time of resumption. So we are going to
18 try to clarify that. It is, of course, not a good thing for him to be
19 informed at the last minute, and we will try to find out what happened.
20 But for the time being, Mr. Hooper, you can continue with your direct
21 examination.

22 Mr. Witness, Mr. Hooper is now going to continue with his
23 questions.

24 THE WITNESS: (Interpretation) Thank you, Mr. President.

25 MR. HOOPER:

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1 Q. And thank you, Mr. Ndjabu.

2 Now, you will recall that when we last met here last Wednesday
3 you dealt with various matters, principally aspects of your own
4 background. You dealt with your knowledge of the founding of the FRPI
5 and you dealt with your knowledge of the organisation called EMOI. And
6 you dealt with your knowledge of distribution of arms and weapons. And I
7 want, if I may, just to go back to two matters relating to that very
8 quickly and they both involve maps. And you may recall that you told us
9 how you, yourself, had been born and brought up in a place called Buba,
10 and you made reference thereafter to Kpandroma and Mongbwalu. And what I
11 ask you to do, if I may, is I'm going to ask you to look at a map, a very
12 straight forward map, I hope, that has these places on it, so that we
13 know where they are and that that's on the record.

14 Just one moment.

15 So the first map I'm going to ask you to look at is
16 DRC-D02-0001-0164. It's a public document, obviously, and we have a hard
17 copy of it which I'd ask to be handed to you because it's sometimes
18 easier to see than on the screen.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Court Usher.

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

22 MR. HOOPER:

23 Q. Very well. Can you see the -- you've got a copy, a hard copy in
24 front of you. You should also have a copy if you want to refer to it on
25 the screen in front of you. And you'll see that almost in the centre of

1 the extract of the map in front of you is Bunia, which we're very
2 familiar with in this Court. And then moving north, right at the top on
3 the frontier, what we know is the frontier between DRC and Uganda on the
4 top right the last printed name is Aru, A-r-u. Now, can you indicate
5 there -- I don't think you'll find the name of your village or town of
6 Buba, but can you tell us approximately where it is on that plan, the
7 nearest perhaps named place that you find on that plan that indicates
8 where you were born and brought up?

9 A. Yes. Buba is located very close to where it is indicated
10 Kwandruma. On the map you will find that my village is located between
11 Mahagi and Kwandruma, that is right there at the middle.

12 Q. Just on a small but technical issue, as we look on this map, is
13 Kwandruma spelled -- can you just spell Kwandruma as the name is spelled
14 on the plan here. And afterward, tell us if that is the only spelling
15 that you get of that particular place.

16 A. Kwandruma here is spelled K-w-a, they have omitted the n, but it
17 is n-d-r-u-m-a. So here it is Kwandruma. However, the original name of
18 this place is Kpandroma, Kpandroma, and it is spelled K-p-a-n-d-r-o-m-a,
19 Kpandroma.

20 Q. All right. Thank you very much and I hope that avoids future
21 difficulties, particularly in respect of the spelling. Now, the second
22 matter I'd like to invite you to look at, and we'll pass on it now from
23 this plan to another.

24 MR. HOOPER: So can I have an EVD number at this stage for this
25 plan to be submitted?

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1 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please,
2 an EVD number for this map.

3 COURT OFFICER: (Interpretation) Thank you, Mr. President. The
4 document DRC-D02-0001-0164 will bear the reference number EVD-D02-00118,
5 and it will be filed as a public document.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
7 Court Officer.

8 Mr. Hooper, please.

9 MR. HOOPER: Now, the second matter relates to a map that hasn't
10 gone through the EVD system. And, in fact, we've all got paper copies, I
11 hope, of this and the Prosecution have been good enough not to raise any
12 objection to it being introduced at this stage and this time. And what
13 it goes to, as you may recall, last week you were telling us in the
14 context of EMOI you made reference to the Mayi-Mayi and you referred to
15 them as coming from the region of Opiengi. And over the weekend we've
16 tried to find out where Opiengi is and you weren't too sure yourself. So
17 what we are seeking is to have this basically Google map taken off the
18 Google web site, which one can see in the top left-hand corner in terms
19 of the site refers to Opiengi map, and I have a copy for you, so you will
20 be provided with one. Let me hand up this copy. And I continue to say
21 this is a map of the relevant part of DRC, eastern part of DRC. And on
22 it, if we look, we can see Bunia and, indeed, Bogoro are indicated in the
23 right-hand quarter of the plan. And if we move to the far left of the
24 plan we can see Kisangani, one of the major, of course, cities or towns
25 to the east of the DRC. And almost in between the two is a blue mark

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1 which indicates Opiengi.

2 I don't know if the Prosecution are perhaps in a position to
3 assist us by agreeing that that is a true representation of the position.

4 *Mr. MacDONALD: Yes, that is correct, your Honour.

5 MR. HOOPER (Interpretation): Thank you very much.

6 Then I don't need to draw a comment from you about that, Mr. Witness.

7 Perhaps I can ask for an EVD number in respect of the second of
8 the sketched maps. Thanks.

9 PRESIDING JUDGE COTTE: (Interpretation) Court Officer.

10 COURT OFFICER: (Interpretation) Thank you, your Honour. This
11 map will bear the reference EVD-D02-00119 and it will be filed as a
12 public document.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

14 Mr. Hooper, please.

15 MR. HOOPER: (Previous translation continues) ... Mr. President.

16 Q. Mr. Ndjabu, can I then take you away from the maps and to a
17 separate issue. Now, you told us how you were -- became president of the
18 FNI, and I want to ask you to give us what you know about the founding of
19 that organisation and subsequent events relating to it. So when did the
20 FNI first appear? When did the name, to your knowledge, first come into
21 existence?

22 A. The FNI, *Front des Nationalistes Intégrationnistes*, was formed in
23 the month of November 2002 at Kpandroma.

24 Q. Were you present when it was first formed or not?

25 A. In fact, I was present when the FNI was formed; however, I was

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1 not a member of the committee whose task it was to set up a movement like
2 this one because in the room where the meeting was taking place, there
3 were three committees, and, personally, I was a member of the committee
4 for the cessation of hostilities.

5 Q. Who composed the committee - I don't need names but just in
6 general terms - who constituted the committee that first established the
7 FNI?

8 A. The committee was made up of several eminent persons, people who
9 had been called upon by Uganda to bring in their amendments in relation
10 to an agreement that was referred to as the Nambole agreement, Nambole is
11 spelled N-a-m-b-o-l-e, that's in Uganda.

12 Q. Now, you told us last week of a visit you'd paid to Uganda where
13 you met President Museveni. By the time the FNI was established, had you
14 already met Museveni or not?

15 A. When the FNI was formed, I had already met President Museveni
16 prior to that.

17 Q. Now, in November 2002 when this FNI was first established, did it
18 have a leader? Did it have a president? What was the situation in
19 respect of that?

20 A. Quite frankly, once the FNI was formed in the month of
21 November 2002 there was no president.

22 Q. Did that change? Did there come a time when there was a
23 president; and if so, how did that process occur?

24 A. Yes. Later on, I was to be elected president of the FNI. That
25 was the day before Christmas, so practically the 24th of December, 2002.

1 Q. And how did you come to be president?

2 A. Once the FNI had been formed and because there were serious
3 threats against the locality of Kpandroma, the personalities present
4 there thought it appropriate for the FNI to have a president, and that is
5 how during the election I ended up by being elected president.

6 Q. Now, following your election what happened, what did you do?

7 A. Once I was elected president of the FNI, we went to a negotiating
8 meeting. Practically that very same day there was an attack, and we were
9 *invited to Arua. Arua is in Uganda and it is written A-r-u-a, Arua.
10 That is where we went together with the FNI delegation to take part in
11 that negotiation -- peace negotiation meeting.

12 Q. And who organised that meeting and who participated in it?

13 A. Meeting was organised by the Ugandan authorities.

14 Q. And who participated in it? There was you, presumably as the
15 FNI. Was there anybody else?

16 A. Yes. At the Arua meeting there were the delegations from the
17 UPC/RP, that is Thomas Lubanga's faction, together with eminent
18 personalities from the Ituri. And on our side there was myself and the
19 other members of the FNI that had come with me.

20 Q. What, if anything, was decided at that meeting?

21 A. During that meeting we discussed the fact that the parties that
22 were in conflict should first decree a cease-fire, and then, after that,
23 that there should be a committee formed which would be in charge of
24 bringing about the pacification of Ituri. And lastly, we also discussed
25 the possibility of establishing a system for monitoring the agreement.

1 Those were the three points we discussed at that meeting in Arua.

2 Q. Now, coming back to the FNI as it was composed at that time, was
3 it composed of any particular ethnic group or were there several ethnic
4 groups within it? What was the position?

5 A. Well, I, myself, was the president. The general commissioner or
6 the general secretary was Mahagi from Mustenaru (* phon) territory. We
7 had two commissioners, Guillaume Losa and Buleni and they were Hema, and
8 there were other members that were members of the FNI that belonged to
9 other Congolese provinces.

10 THE INTERPRETER: Or came from other Congolese provinces,
11 interpreter's correction.

12 MR. HOOPER:

13 Q. May I ask, were there any Ngiti at all in the FNI at that stage?

14 A. Well, I need to recall something at this point, and that is that
15 during the election for the Presidency, there was also Ngiti Pichou
16 Iribi Mbodina, that was his name, but because he was not elected I
17 appointed him as commissioner for defence and security.

18 Q. Now, the meeting at Arua, how long did it last?

19 A. The Arua meeting lasted practically two days. And because our
20 friends from the UPC did not agree as regards the cease-fire, we had to
21 sign the agreement unilaterally, on our own. And as a result of that,
22 the meeting didn't last any longer.

23 Q. And how long did you stay in Arua yourself, and what did you do
24 after that?

25 A. After the Arua meeting where -- well, we spent practically the

1 whole month of January 2003 there and then went to Kampala.

2 Q. And how long did you stay in Kampala?

3 A. Kampala, well exactly at the Hotel Exotic Inn, well we spent
4 practically one or two weeks there before going to Dar es Salaam.

5 Q. And before going to Dar es Salaam while you were in Uganda after
6 the Arua meeting, what did you do? And by that I mean what did you do
7 that may be relevant to the matters before these Judges?

8 A. When we reached Kampala at the Exotic Inn, we began to go into
9 training for a new platform called, or rather, the creation of a new
10 platform called FIPI, F-I-P-I, the acronym for *Front Pour Intégration et*
11 *Pour la Paix en Ituri*.

12 Q. Now, we will come to Dar es Salaam, but before we come to
13 Dar es Salaam, you told us of you having met on one occasion
14 President Museveni. Did you meet him on any other occasion before going
15 to Dar es Salaam?

16 A. The first time I met him, I believe it was on his farm in
17 Rwakitura. Rwakitura is spelled R-w-a-k-i-t-u-r-a. So before we went to
18 Dar es Salaam, again we met him.

19 Q. Right. Can you please be provided by the Registry with pen and
20 paper so you can scribble down these names as we were doing last week. I
21 can see you looking around for it.

22 Now, this further meeting with President Museveni, what happened
23 at that meeting?

24 A. The Ugandan president, Mr. Museveni, had invited us together with
25 the other two political and military movements, i.e., the FPDC, F-P-D-C,

1 the *Forces Populaires pour la Démocratie au Congo*, the president of which
2 was called Thomas Unenkan. Unenkan is spelled as follows:
3 U-n-e-n-c-a-n, but it reads as Unenkan. He was the president of the
4 FPDC. And, in addition, there was PUSIC, P-U-S-I-C, the president of
5 which was Chief Yves Kahwa Panga Mandro --

6 Q. (Previous translation continues) ... spelling of that because
7 it's a name that we've met before. And at this meeting, what was
8 discussed, this meeting before you go to Dar?

9 A. Museveni, the Ugandan president, had invited us and told us that
10 he was going to be meeting with the Congolese president, Joseph Kabila,
11 and that he thought that he would be speaking to him about what we felt
12 and that he was willing to support the efforts of the FIPI platform and
13 that they would agree with his Congolese counterpart.

14 Q. Now, can you recall when you went to Dar es Salaam in Tanzania?

15 MR. MACDONALD: (Interpretation) If I may, I can see that the
16 witness has been given a piece of paper and he is writing something down,
17 not just the names, as the -- he is being examined. And I don't think
18 that the purpose of this paper is to permit the witness to take notes.

19 PRESIDING JUDGE COTTE: (Interpretation) The paper that was
20 handed over to Mr. Witness -- well, its purpose is essentially to allow
21 you to write down the proper names that you might find it difficult
22 spelling just from memory. So please use it for that purpose only.

23 Mr. Hooper, you can go on.

24 MR. HOOPER:

25 Q. Can you recall when you went to Dar es Salaam, which we know to

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1 be in Tanzania, of course. When did you go?

2 A. The first time that we went to Dar es Salaam, if I remember
3 correctly, was, I believe, the 9th of February, 2003.

4 Q. And what happened in Dar es Salaam?

5 A. In Dar es Salaam, we met with a large delegation, three
6 presidents, i.e., the Congolese president, Joseph Kabila Kabange, there
7 was also the Tanzanian president, Benjamin Mkapa and, of course, there
8 was also the Ugandan president, Yoweri Museveni. And if I'm not
9 mistaken, there was also the delegation from Angola represented by the
10 defence minister. There we are.

11 Q. And you are there. Can you tell what capacity you are there?

12 A. Yes. I was there as the president of the FNI inasmuch as before
13 going to Dar es Salaam there was no agreement, no agreement was reached
14 so as to designate somebody as president for the FIPI platform. This is
15 how it happened that each president in fact attended the meeting to
16 represent their respective organisations.

17 Q. So aside from you and any others relating to the FNI, who else
18 was there amongst those parties?

19 A. The other persons present at this meeting, I remember them as
20 being diplomatic affairs *chargés* in Kampala. Her name is Isabella Ibula,
21 Ibula. There was also the director of the deputy -- the deputy director
22 of the cabinet for the Congolese president of the republic,
23 Professor Samba Kaputo, and also many other guests.

24 Q. Were there any other political groups represented there, any
25 Iturian groups other than the FNI?

1 A. While we were in the meeting with the various presidents of the
2 three states there was also President Thomas Lubanga from the UPC who was
3 present in Dar es Salaam and at the same hotel as us. But he was not
4 present at the meeting where we were meeting with the leaders.

5 Q. How long did the Dar es Salaam -- the February meeting in
6 Dar es Salaam last?

7 A. The meeting did not last for several days. It was about one day,
8 and as there were two meetings, the first was an official meeting and the
9 second was an unofficial meeting. We were invited by
10 President Joseph Kabila to go to Kinshasa for other useful discussions.
11 And on the 10th of February -- well, if it wasn't the 10th, it was the
12 11th of February, we went back to Kampala.

13 Q. So let's come to, first, the official meeting. Did you attend
14 it; and if so, what happened?

15 A. At the official meeting which I attended, there was discussion
16 about setting up a peace-making commission for Ituri in accordance with
17 the Luanda agreement. And for that purpose, President Thomas did not
18 agree with certain clauses of the agreement and that is why the three
19 heads of state were displeased. And that was during the official meeting
20 and that was when I remember the Ugandan president saying, "These are
21 young people who are prepared to contribute to reaching peace in Ituri."

22 And the rest was out of his hands and depended on our president,
23 Joseph Kabila. That, in short, is -- that is a short summary of the crux
24 of the official meeting.

25 Q. Now, you made reference there to the Luanda Agreement. I'm not

1 suggesting you go into any detail about it, but can you just remind us
2 what the Luanda Agreement was?

3 A. In the Luanda Agreement signed, I believe, in September 2002,
4 there is question of the setting up of a peace-making commission for
5 Ituri, a pacification committee for Ituri, but not taking into account
6 the armed groups, as they were called, which were operating in Ituri. In
7 that agreement, it was also stated that the political aspirations of the
8 people of Ituri should be channelled through MONUC, and that MONUC, in
9 turn, could find a solution together with the Congolese authorities. Of
10 course I don't remember all the details of the agreement, but I think it
11 does revolve around that point, the pacification commission for Ituri.

12 Q. Yes, thank you very much.

13 Now, that's the first meeting that you have and you said there
14 was then a second unofficial meeting. Can you tell us who was present at
15 that meeting and what happened. Were you present there?

16 A. During the second unofficial meeting, I, myself, was present and
17 the subject of the meeting was the possibility of setting up a mechanism
18 to stop the UPC so that it would no longer be -- no longer block the
19 pacification mission in Ituri. As to the details, the Congolese
20 president, Joseph Kabila, invited us to join him in Kinshasa 48 hours
21 later so as to decide how to set aside the UPC. That is basically what
22 was at the heart of the discussions in Dar es Salaam in
23 President Kabila's room.

24 Q. And when you refer there to what you describe, as it's translated
25 for me, as a mechanism to stop the UPC, how to stop the UPC, what did you

1 understand that mechanism to be? What kind of mechanism?

2 A. There's a saying that if you want peace you should prepare for
3 war. The mechanism was to drive the UPC out of power and to regain
4 control of Ituri from Thomas Lubanga's people.

5 Q. Now, where did you go when you came to leave Dar es Salaam?
6 Where was the first place you went to?

7 A. After leaving Dar es Salaam I -- we had 48 hours to get to
8 Kinshasa to meet the president. We went from Dar es Salaam to Kampala
9 and then took a plane to Kinshasa.

10 Q. And at Kinshasa, what happened?

11 A. In Kinshasa, as President Kabila had said, that the late
12 Professor Samba Kaputo would be looking after us. He did indeed send to
13 Ndjili airport his private secretary. I only know one name for him, his
14 name was Safari. He came with a car, it was a Land Rover, he came to
15 meet us at the Ndjili airport to take us to the hotel which at the time
16 was called the Christmas, and it's just behind or very close to the
17 Kakolo in Kinshasa.

18 Q. And the Kakolo is what, please?

19 A. Kakolo is a military camp in Kinshasa.

20 Q. Now, you mentioned a name which I see -- it certainly appears on
21 my transcript so I'm not going to ask you to repeat it, Samba Kaputo, and
22 also the name of the airport, Ndjili. I think those are all, I hope,
23 correct spellings so I'm not going to go over those again.

24 So what happened there in Kinshasa? Did you have a meeting with
25 President Kabila; and if so, what happened at the meeting?

1 A. When we got to Kinshasa the following day - I remember it was a
2 Saturday - at about 8.00 p.m. President Kabila did indeed send for us to
3 go and meet him and we went to meet him at -- we went to meet him and
4 there were six of us. And there was a Ugandan called Captain Maguru.
5 Captain Maguru, who did not manage to go to the president because they --
6 because he had disagreement with one of the colleagues. But we went to
7 see the president. It was me, my director -- the director of my private
8 office. And then on the other side there was the Kahwa; for the FPDC
9 there was President Thomas Unenkan accompanied by his vice-president,
10 Mr. Nzia; and with us in the room there was President Kabila himself and
11 the deputy director of his private office, the late professor
12 Samba Kaputo.

13 Q. And what happened at the meeting? What was discussed?

14 A. We'd barely arrived in the room when he'd just heard on the radio
15 that Thomas Lubanga was opposed, I think, to humanitarian aid, and he
16 said that we had to act quickly and then we had to go back so that Ituri
17 could be -- could be recovered from the hands of the UPC. And he ordered
18 Professor Samba Kaputo to have his jet come from Lubumbashi to bring us
19 back on the Sunday to Kampala. And for the other strategies, he agreed
20 with the Ugandan president that the Ugandan president would give us
21 everything we needed so that the UPC could be driven out and we could
22 recover Ituri from their hands. And that he would send with us one of
23 his itinerant or plenipotentiary ambassadors, Mr. Seraphin Ngwej, who was
24 going to accompany us to Kampala, accompanied by his assistant, whose
25 name I don't know, and that briefly is what he told us during that

1 meeting.

2 Q. Thank you. Can you just help us with the spelling of
3 Seraphin Ngwej, please.

4 A. Seraphin is spelled S-e-r-a-p-h-i-n, Seraphin. And then his
5 second name is Ngwej, N-g-w-e-j, so his name is Seraphin Ngwej,
6 N-g-w-e-j.

7 Q. Now, I want to ask you if at that time if you'd ever heard of an
8 organisation with the acronym MLC?

9 A. MLC, *Movement de Liberation du Congo*, that is Jean-Pierre Bemba's
10 association.

11 Q. And can you recall now what the MLC was up to in February or
12 around February of 2003 when you're here in -- there in Kinshasa at that
13 time. Can you recall what they, if anything, were up to?

14 A. The MLC a little while earlier had entered into a coalition with
15 the UPC and the Roger Lumbala's people, the RCD national, so as to make
16 the RCD-KMH unable to act. I remember that because at the time I was in
17 Beni.

18 Q. And what was the result of this coalition? What if anything were
19 they doing?

20 A. The coalition was designed was designed to prevent the RCD-K/ML
21 from Mbusa because the RCD-K/ML Mbusa had provided its territory to
22 Kinshasa and therefore was endangering the interests of the MLC and of
23 the other side, the RCD-Goma. Thus, the MLC did not approve of the fact
24 that Kinshasa was present in Beni and -- through the EMOI and that they'd
25 sent a lot of troops to Beni. That was looked upon as being a danger for

1 the future.

2 Q. And do you know, did the MLC do anything about that; and if they
3 did, what was it to your knowledge?

4 A. I remember having been informed in December - I think it was the
5 30th of December - about a meeting held in Gbadolite where they discussed
6 stopping fighting and I remember Mbusa was in that group. And I think
7 they must have tricked the UPC but they signed an agreement on the
8 30th of December, 2002, in Gbadolite where they didn't want the MLC,
9 supported by the UPC, in co-operation with the RCD national. They didn't
10 want them to continue to advance on Beni.

11 Q. Now, in terms of an advance on Beni, do you know how that
12 advance -- how advanced the advance was? Do you know where they were in
13 respect of Beni, at what distance they were away from Beni?

14 A. They organised themselves in Mambasa, and from there they went to
15 a place called Maimoto. It's not far from Beni. And when they got there
16 they were driven back by the Hema groups who were well organised. So
17 they were driven back, and that's why they afterwards signed the
18 agreement.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, I think we
20 will have to adjourn -- oh, no, sorry. It should be 4.30, not 4.00. I'm
21 sorry, we normally meet from 2.00 to 4.00, so I'm half an hour out. I do
22 apologise. Please continue.

23 MR. HOOPER: You raised a false hope. I was going to -- can I
24 just intervene and just ask the witness.

25 Q. Witness, I appreciate you have been there some time. Are you

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1 still comfortable? I'm not suggesting we adjourn at all, but can I ask

2 you are you comfortable?

3 A. Yes, I'm comfortable. There is no problem.

4 Q. Thank you very much.

5 PRESIDING JUDGE COTTE: (Interpretation) We will then continue.

6 MR. HOOPER:

7 Q. Now, at the time had you heard of, were you aware of, a group
8 called the RCD-Goma, G-o-m-a; and if you were, what was their position as
9 you understood it in February or about that time, end of 2002 to February
10 of 2003, what was the position with them in brief?

11 A. I do remember that when the MLC coalition was advancing on Beni,
12 on the other side in the direction of Kanyabayonga; that is Kanyabayonga,
13 it is spelled K-a-n-y-a-b-a-y-o-n-g-a, Kanyabayonga.

14 PRESIDING JUDGE COTTE: (Interpretation) The Prosecutor, please.

15 MR. MACDONALD: (Interpretation) I'm sorry for interrupting the
16 witness. I wanted him to complete his sentence before I could intervene
17 with your leave.

18 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, please
19 complete your sentence and the Prosecutor will tell us what he wanted to
20 say.

21 THE WITNESS: (Interpretation) In the K anyabayonga area there
22 were also snipers who wanted to attack. There was skirmishes. And once
23 again, EMOI had to resort to the other soldiers who had been sent from
24 Kinshasa to protect that territory of the RCD-K/ML which was very useful.

25 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor.

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1 MR. MACDONALD: (Interpretation) Unfortunately I do not have the
2 Defence document with me, but if I'm not mistaken, this is not a theme
3 that was announced by the Defence in its filings and it was not mentioned
4 by the witness in his statement. It is my submission that despite the
5 fact that previously Mr. Hooper was interested in this issue while
6 cross-examining Prosecution witnesses, I do not believe that it was
7 mentioned as an issue during the testimony of this witness, that is the
8 issue of the MLC/RCD in the Goma area, I mean the details.

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, please, can
10 you explain, is that a misunderstanding on the part of the Prosecutor or
11 did you prepare us to listen to this testimony? Are you keeping with
12 what was planned for this examination?

13 MR. HOOPER: Well, of course we were only required to give a
14 summary of matters. We've gone further than that and furnished
15 Prosecution with a statement. And it's always sometimes a mistake to get
16 on your feet and say, "I don't have the Defence document with me, but
17 this wasn't mentioned."

18 MR. MACDONALD: (Interpretation) It is not mentioned. We have
19 cross-checked the document, your Honour.

20 MR. HOOPER: Well, can I -- well, let me check my document.
21 Excuse me, your Honour, while I do that because as you know it's in --

22 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead.
23 (Defence counsel confer)

24 MR. HOOPER: Well, can I call up DRC-D02-0001-0624, which is a
25 page of DRC-D02-0001-0617, and there at page 8 under the heading "maison

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1 militaire EMOI," it reads, (Interpretation) "The MLC joined up with the
2 UPC to attack Beni" --

3 PRESIDING JUDGE COTTE: (Interpretation) Please, please, please.
4 For those who were referring to the witness statement, we have been
5 having some difficulties, but we are all going to calm down.

6 Mr. Hooper, you can continue, but bear in mind that the witness
7 was present.

8 MR. HOOPER: Of course I'm very much bearing that in mind, as
9 your Honour would appreciate I would.

10 Page 8 of the statement bottom of the statement under the heading
11 "maison militaire EMOI," the first sentence clearly covers this area.

12 PRESIDING JUDGE COTTE: (Interpretation) Very well.

13 So, Mr. Prosecutor, let us proceed from the page that has been
14 referred to by Mr. Hooper. It is indicated that the witness will provide
15 explanations on the ideas mentioned on -- in those three lines. We hope,
16 Mr. Hooper, that if you can get the witness to clarify what has been said
17 so far, I believe that would be an advantage. There are certain things
18 that we know need to be clarified about. So you can proceed after this
19 explanation that you have given. Thank you.

20 MR. HOOPER: Yes. Well, I don't know, I hope the Prosecution can
21 concede that it's clearly referred to here, just for the record.

22 MR. MACDONALD: Not the way the team was -- the theme or this
23 line of questioning was presented, no, it was not announced. We're
24 talking about -- and the suggestiveness of bringing this topic and the
25 context while it's brought up and the fact that we're reading the

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1 statement to the witness, no. The Prosecution is not willing to concede
2 anything.

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, after
4 your intervention, which was quite justified, we simply wanted to
5 understand where we are at this moment in Mr. Hooper's examination. And
6 the reference that he made had as its purpose to get us to better
7 understand because I had difficulties, not in following, but simply to
8 find the context that we were in. And now I know because I can see that
9 the witness is providing clarifications because Mr. Hooper is asking him
10 those questions. So we have been clear about it in our own heads.

11 Mr. Hooper, you can proceed.

12 MR. HOOPER: Yes. Thank you.

13 Q. Now, for this purpose can I take you then to one of the maps we
14 looked at earlier this afternoon, EVD-D02-00119. And this is really just
15 to help our general sense of geography. It's not straightforward, I
16 know. Now, I'm sure these places are all familiar to you. Can I --
17 looking at that map, first of all, can we find on it Beni? Beni is -- we
18 can see in the -- slightly to the middle to the right of the map. Do you
19 have that, Beni?

20 A. Yes, I can see it.

21 Q. And with terms of the context, we're dealing at a time when of
22 course the RCD-K/ML has moved to Beni and you were telling us about
23 attacks that were being made by, on the one hand, the MLC of
24 Jean-Pierre Bemba, and on the other by the RCD-Goma. Let me deal with
25 the first matter that you spoke about, attacks by the MLC who had at one

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1 time you told us been in liaison with the UPC. You mentioned in that
2 context Mambasa. And if we look a couple of centimetres north-west of
3 Beni, we come -- we can see Mambasa. You've referred us to that and
4 you've referred us to an attack by the MLC on Beni. Now, I want you to
5 look, if you may, also in this context at the other map we looked at,
6 that's EVD-0002-00118. And again we've got a hard copy for you if you
7 want it. And that's a bigger-scale map and right at the bottom of it we
8 can see Beni. And also indicated on it is the road to and the place of
9 Mambasa. Now, where, to your knowledge, did the MLC forces reach in
10 respect of the attack or their attack on Beni? Can you give us a general
11 indication on the map where you understood their front line got closest,
12 as it were, to Beni.

13 A. Very well. The forces of the MLC and its coalition members which
14 were advancing towards Beni followed this road that I'm indicating
15 through Teturi and they came very close to Beni, specifically to a
16 location known as Maimoto, which unfortunately is not indicated here on
17 the map. However, this is a locality which is not very far away from
18 Beni.

19 Q. Looking at the other place names either side of the road there,
20 are any of those place names near it, or can you just help us on the plan
21 where it is, if you can.

22 A. Well, I think if the map is correct that would not be far away
23 from the location indicated here as Biakato, but it is actually Biakato.
24 If you are coming from Mambasa, you go down and you can see Teturi and
25 then you see Biakato, and Maimoto is very close to there.

1 Q. All right. Thank you. Now if we put that map aside now and go
2 back to the first of the maps, the Opiengi map, as it were, and you go
3 back and we see where Beni is, the centre-ish part of that map. If we go
4 down to the bottom of the plan below Beni a few centimetres down we see
5 Goma and we also see the word "Rwanda." And you referred to the
6 RCD-Goma. I appreciate this is a much larger scale than the plan we just
7 looked at, the map we just looked at, but approximately where was this
8 fighting between the RCD-K/ML and the RCD-Goma?

9 A. It was in the Kanyabayonga area. That is above Goma. If you go
10 up you will see Masisi, and after Masisi, above, you can see
11 Kanyabayonga. That is where there was a delineation between RCD-Goma and
12 the RCD-K/ML of Mbusa Nyamwisi.

13 Q. All right. Thank you very much. Now, after this meeting in
14 Kinshasa, where did you go? What happened?

15 A. After Kinshasa at around 11.00 a.m. on Sunday, we returned to
16 Kampala. And upon our arrival in Kampala, that is, at Entebbe we did not
17 meet with the Ugandan president, Museveni. He was at the front in the
18 Gulu region and we left President Kabila's envoy, whose name I mentioned
19 before, that is, Seraphin Ngwej. We allowed him to go and see the
20 president in Gulu.

21 Q. And what happened?

22 A. He went and met with the Ugandan President Museveni in Gulu while
23 we stayed in Kampala.

24 Q. And what happened there, as far as you were concerned?

25 A. We stayed in Kampala until we heard over the radio that there was

1 fighting in Bogoro. At that time we were still in Kampala.

2 Q. And what happened then?

3 A. When we heard that Bogoro had been attacked, I was interviewed I
4 believe by RFI, *Radio France Internationale*, and I believe I spoke about
5 that Bogoro attack during that interview. A few days later when I met my
6 colleague of PUSIC, Yves Kahwa, he told me that what I said over the
7 radio was not correct and I did not know what had happened in Bogoro. He
8 also told me that he did not understand how people had come from Beni to
9 attack Bogoro, whereas in his opinion Bogoro was a very important
10 location and he did not agree with that. I left him and we met again at
11 another meeting at the CMI.

12 Q. And essentially what had you said on RFI?

13 A. Quite frankly, I do not remember precisely what I said over the
14 radio, but I believe that my statement to *Radio France Internationale* did
15 refer to claiming the attack against Bogoro or something like that.

16 Q. Now, did you know anything about the Bogoro attack before the
17 attack took place? Did you know it was going to take place? What was
18 your position?

19 MR. MACDONALD: (Interpretation) Your Honour, this question is a
20 very leading question. The witness could have been asked, "What do you
21 know about the Bogoro attack?"

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you ask
23 your question after the break. We are going to take the break now and
24 allow the witness to rest.

25 Mr. Witness, we are going to break for 30 minutes. Please try to

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1 rest and we will reconvene at 5.00 p.m.

2 Court Officer, Court Usher, in collaboration with the security
3 officers, please accompany the witness out of the courtroom.

4 See you shortly, Mr. Witness.

5 THE WITNESS: Thank you, Mr. President.

6 (The witness stands down)

7 PRESIDING JUDGE COTTE: (Interpretation) We will meet again at
8 5.00 p.m. The hearing is suspended.

9 Recess taken at 4.26 p.m.

10 On resuming at 5.04 p.m.

11 (Open session)

12 COURT USHER: All rise.

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

14 Mr. Usher, will you please escort the witness into the courtroom,
15 please.

16 (The witness takes the stand)

17 PRESIDING JUDGE COTTE: (Interpretation) Witness, are you ready
18 to resume?

19 THE WITNESS: (Interpretation) Yes, Mr. President.

20 PRESIDING JUDGE COTTE: (Interpretation) All right. Then we
21 will proceed. Mr. Hooper had a question that had -- was unanswered and
22 the Prosecutor wanted it to be formulated differently.

23 Mr. Hooper, the floor is yours. You can go on from where you
24 left off.

25 MR. HOOPER: Thank you, Mr. President.

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1 Q. When did you first hear about the Bogoro attack?

2 A. I heard about the Bogoro attack from the radio, RFI, must have
3 been one or two days later.

4 Q. Did you know anything about any preparations being made for it or
5 anything like that?

6 A. As regards preparations for the attack on Bogoro, well, I had
7 absolutely no knowledge of any.

8 Q. You mentioned a man called Adirodu in the context of the meeting
9 concerning the FRPI in Beni. Did you ever see Adirodu again at any time
10 those meetings or that meeting?

11 A. I did see Adirodu, if I recollect, at Kampala at the CMI.

12 Q. And what was the CMI?

13 A. The CMI was the headquarters for military intelligence of the
14 Ugandan army.

15 Q. And when and why were you there?

16 A. In fact, it must have been on the 7th of March since it was just
17 after Bunia fell. We were invited to the CMI because the Ugandans did
18 not agree that people should be allowed to remain in Bunia, and what they
19 wanted very forcefully was that the members of the FRPI who were there in
20 Bunia should return or go to a military camp. It was for this reason
21 that the Ugandan authorities invited us together with other delegations
22 of the RCD-K/ML Mbusa Nyamwisi.

23 Q. And what happened in respect of Adirodu? What, if anything, do
24 you recall happened?

25 A. Yes, I do remember. Adirodu, what he said was that he was the

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1 spokesman for the FRPI in Bunia and that he was willing to allow the FRPI
2 go into the interior. That was his position in relation to the presence
3 of the members of the FRPI in the city of Bunia.

4 Q. Did you ever go back to Bunia?

5 A. Ever since the 24th of December, 2002, up to the 18th of
6 March, 2003, I didn't go to Bunia.

7 Q. And what, if anything, happened on the 18th of March?

8 A. On the 18th of March, 2003, we were asked to come to a grand
9 ceremony concerning the agreement on the cessation of hostilities.

10 Q. And just -- did you have anything to do with that agreement?

11 A. Yes, as president of the FNI I was involved, particularly in view
12 of the fact that all the political, social forces and all the faiths were
13 invited, the various communities from the Ituri, so of course we were
14 concerned, were invited to take part in the ceremony.

15 Q. That's a document we've seen, but can I call it up. It's a
16 public document, EVD-D03-00044.

17 And that will appear on your screen, Mr. Ndjabu, in a moment.

18 COURT OFFICER: The document is available on your screens by
19 pushing the button next to your screens PC1.

20 MR. HOOPER:

21 Q. It's on PC 1. Let's look at the first page that comes up,
22 "*accord de cessation des hostilités en Ituri*." If we go through that
23 document we can very quickly see the nature of it and remind ourselves,
24 and we can look at the signatories on that. We've got -- we're looking
25 at DRC -- page 204 of the document.

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1 MR. HOOPER: There's a copy here for the witness, if he can get
2 that. Thanks.

3 Q. Just the hard copy there and you can flip through that and remind
4 yourself of the nature of the document, but it's the last two pages.
5 Just look at that and we can see very quickly it's dated the 18th of
6 March, 2003. It has the party signatories in this order, representatives
7 of the Lendu from Djugu then Lendu - Bindi then "*pour le FRPI*." I'll
8 come back to that in a moment. And then on the last page "PUSIC"
9 (* indiscernible), and then "*pour le FNI*, Floribert Ndjabu Ngabu," your
10 signature, is that right, and the date. Can you confirm that is your
11 signature and that you signed the document of which this is a copy?

12 A. Yes, indeed, that is my signature.

13 Q. And then we have the other signatories for the FPDC, for the
14 RCD-ML. I don't think there's any signatories there for the UPC, but the
15 signatures for the FAPC and for MONUC as a witness. And just if we go
16 back to the previous page and the names listed that have signed on behalf
17 of the FRPI, we see at number 1 Germain Katanga; number 2, Pascal Alezo;
18 number 3, Pichu Iribi. And the dates there, unlike the other dates which
19 are the 18th of March, we can see is the 22nd of March. Now, to your
20 recollection, when did you first meet Germain Katanga? I know I've asked
21 you that before, but just in this context can you help us.

22 A. I remember meeting with Germain Katanga in the month of
23 August *2003 in Bunia.

24 Q. Right. Come back to that in a moment. Let's just keep our
25 chronology. How long did you stay in Bunia at that time having signed

1 this document on the 18th of March?

2 A. Following the signature of that agreement, I went back to
3 Kampala.

4 Q. (Previous translation continues) ... remain there and what were
5 you doing?

6 A. I went back to Kampala after the signature because we were
7 expecting that the relevant Ituri pacification commission be implemented.
8 That didn't happen immediately after the signature. It was going to take
9 some time and that is when I went back to Kampala waiting for the
10 appropriate moment to go back to Bunia.

11 Q. Now, by the time you went back to Kampala, had you yet met
12 Germain Katanga?

13 A. Not yet, no. I hadn't met him yet.

14 Q. I merely ask that because I see in response to an earlier
15 question it was transcribed as 2002. I don't know if that was said or it
16 was a mistranscription, but just to clarify that.

17 Now, did you ever return to Bunia; and if so, when?

18 A. I did go back to Bunia, I think it was towards the end of March,
19 at the time when the actual work of the commission for pacification of
20 Ituri was supposed to begin but I don't know what the exact date was.

21 Q. And when you went back - again, approximately if you can help
22 us - how long did you remain there that you can recall?

23 A. So when I went back to Bunia, well it was the beginning of April,
24 I believe. And not very long later, perhaps two or three weeks later, I
25 once again left Bunia and went to Kampala. So I went to Kampala for the

1 second time to take part in the commission's work, but we left other
2 members of our movement to continue there and work in the various
3 committees while I was in Kampala.

4 Q. Now, do you know whether during this period whether the Kinshasa
5 government was playing any role in Ituri; and if it was, what was the
6 nature of that role?

7 A. First of all, once I went back at the beginning of the month of
8 August, as I said before -- of April, sorry, well, we began work and a
9 little while later Kinshasa did indeed send out policemen under the
10 command of General Kisempia, General Kisempia, K-i-s-e-m-p-i-a. He was
11 sent to Bunia together with two other military officers; namely,
12 Lieutenant-Colonel, at the time Lieutenant-Colonel, Urbain Tambuka.
13 Tambuka, T-a-m-b-u-k-a. So he was called Urbain Tambuka. And another
14 colonel was also there and he was known there because he had been in
15 Bunia for a long time, and that was Colonel Luzembo. Luzembo,
16 L-u-z-e-m-b-o. So he went to Bunia and called me to attend a meeting. I
17 went there with my cabinet director and also Demod Pasek (* phon). And
18 this is what he told me, President Joseph Kabila, according to him, had
19 sent him so as to deal with all the armed men there, and that from then
20 onwards he was going to be the chief, in military terms, and he would
21 proceed with organising them in a conventional manner. And he added that
22 that morning he had already met with Mathieu Ngudjolo and had already
23 told him the very same thing. That, in short, is what the message that
24 was conveyed by Kisempia, the general message.

25 Q. Are you aware of any steps he took to organise these men?

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1 A. At the same meeting, during the same interview, he had displayed
2 to me what he referred to as being an organisational chart, a
3 conventional military organisational chart. And this is what he was
4 intending to implement. He also confirmed that he had the logistics, he
5 had the rations for all these military men as well as military uniforms.

6 Q. Can you recall today any aspects of the chart of the
7 organisation, the organisation chart that you saw, any positions, for
8 example, or anything like that?

9 A. No, because I saw that he was -- had it in his hands and that
10 same evening I left Bunia. So after my meeting with Kisempia in the
11 afternoon when leaving the hotel where he was staying, as the attacks has
12 just begun I went to get my suitcase to go to the airport and to go back
13 to Kampala. So I saw the organisational chart in his hands and I think
14 he must have implemented it afterwards.

15 Q. Now, I want to come to ask you about -- you've reached that point
16 of April 2003 and you're about to go back to Kampala -- well, let me just
17 go a little bit further along the events as they befell you and I'll go
18 on the subject. So let me ask you another question. After that meeting
19 with Kisempia you returned to Kampala, how long did you remain there for?
20 What happened after that?

21 A. I left Bunia while the attack was going on and I went to Kampala,
22 and I stayed some time in Kampala until there was a second meeting
23 scheduled in Dar es Salaam and that was at the beginning of May because I
24 left Bunia on about the 24th of April. And then at the beginning of May
25 there were -- there was terrible fighting in Bunia and MONUC, together

1 with President Kabila, had convened another meeting in Dar es Salaam.
2 And I left Kampala because I had to monitor everything that the president
3 had ordered be given us in Kampala. And the president called me and said
4 that already sent the rations and that for the other things I, myself,
5 would have to go because everything had to be paid for by our country.
6 So somebody had to sign, and that's why I went to Kampala during the
7 fighting, and it was to ensure the follow-up.

8 Q. So can we just take that in turn. You go to Kampala and there's
9 a meeting, you tell us, in Dar es Salaam in May following dreadful
10 fighting in Bunia. What was the consequence of that dreadful fighting in
11 Bunia? What was the dreadful fighting about in May of 2003?

12 A. You know, sir, the UPC had not signed the document which we just
13 saw on the screen. The UPC was still opposed to any presence of Kinshasa
14 in Bunia, and when they saw General Kisempia in Bunia with military or
15 police forces, that caused frustration on their part and the fighting,
16 therefore, had resumed in Bunia. And two days afterwards, I learned that
17 Kisempia had disappeared, had more or less abandoned the people under his
18 command, and had gone back to Kinshasa.

19 Q. And in his absence what happened in Bunia, do you know?

20 A. In his absence, we heard that there was fighting and a lot of
21 people took refuge at the MONUC headquarters and others headed for the
22 villages, and above all the villages where the UPC or others were present
23 to make them secure. So they went to the villages. That's what I --
24 where the APC, sorry, was present in the villages. That is what I heard
25 about the attack in May in Bunia.

Witness: Witness DRC-D02-P-0236 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Q. And you were where during that fighting in Bunia? Where were
2 you?

3 A. Before the fighting began, I was in Musafiri, at the
4 Hotel Musafiri, in the centre of Bunia.

5 Q. And what did you do when the fighting?

6 A. As I said, it was when I went to see Kisempia that when I was
7 leaving the meeting the attack began. And when I got back to my hotel I
8 took my belongings and I left the same day. So while the fighting was
9 going on I'd already gone back to Kampala.

10 Q. And how long did you stay in Kampala for and where did you go
11 after Kampala?

12 A. In Kampala, as we hadn't agreed with the Ugandan authorities
13 about the rations they'd provided, I -- we went to Dar es Salaam after
14 that.

15 Q. And just in sum, how did things resolve themselves, if they did,
16 that year, 2003? What happened after that?

17 A. We went to Dar es Salaam. There was a second official meeting
18 where MONUC was present. We signed a document called the Dar es Salaam
19 commitment document which stated that we would no longer -- we would not
20 resume fighting in Bunia and that we had to let the humanitarian workers
21 move freely and that we had to let the CPI, the pacification -- the Ituri
22 pacification commission, the CPI, set up and start working without
23 hindrance. And that we should support the efforts of the transitional
24 government of the time. If I remember correctly, that was the content of
25 the Dar es Salaam commitment document.

Witness: Witness DRC-D02-P-0236 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Q. Was there any representative of the DRC at that meeting?

2 A. In Dar es Salaam too there was President Kabila himself. There
3 was Vital Kamere, there was also the minister of human rights,
4 Tumba Luaba, and the other members of the Ituri pacification commission,
5 Petronille Kah (* phon), Luc Emmanuel and other members of that
6 commission were present.

7 Q. Now after that Dar es Salaam meeting number 2 in May, did you
8 ever return to Bunia?

9 A. After Dar es Salaam II, there was a problem with the MONUC blue
10 helmets. I think they were called MILOBs; in other words, they were
11 MONUC military observers who were murdered in Mongbwalu. Thus, MONUC,
12 together with President Kabila had asked us together with Jérôme Kakwavu,
13 to go and carry out an investigation to find out who had killed those
14 blue helmets. And that's why I went back to the Congo via Kampala.

15 Q. Now, can I come back to the subject of Germain Katanga. Do you
16 recall today saying you met him for the first time in Bunia. Can you
17 tell us about that first meeting. Where was it and when was it?

18 A. I met him because there was talk of our going to Kinshasa to an
19 official meeting of what was known as the committee for negotiations,
20 consultation between the armed groups. That meeting was convened by
21 MONUC and the government, and Germain Katanga, too, was invited to that
22 meeting. Thus, we asked the French troops or the Artemis troops who were
23 in Bunia to enable us to go and wait for Germain at the entrance to Bunia
24 because not everyone could enter. And that's how I met Germain Katanga
25 for the first time in Bunia.

Witness: Witness DRC-D02-P-0236 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Q. Now, before that meeting had you ever been in any form of
2 communication with him, telephone or letter or e-mail or whatever other
3 forms of communication may have been available at the time? Had you ever
4 spoken to him or communicated with him before that meeting that you've
5 just spoken about?

6 A. You need to understand that -- I may have forgotten to make this
7 point. Between March -- after the 18th of March after the work of the
8 CPI, we'd had -- we had already tried to call him to have him come to
9 Bunia. But the means of communication were not very sophisticated. We
10 refer to this form of communication as phone -- white phoney. It's a
11 system of relays and we were trying to get him to come to Bunia.

12 Q. Now, before meeting -- well, obviously, you referred to -- tried
13 to contact him with the phonie blanche before your meeting. May I ask
14 you this: When did you first ever hear anything about Germain Katanga,
15 can you recall?

16 A. Firstly, I learned about Germain Katanga when I was in Beni
17 sometime before. It was more or less after the death of Kandro because I
18 was in Beni and there I heard talk about Germain for the first time. It
19 was back then.

20 Q. And in what context did you hear about him?

21 A. You know, as I said, that people went to EMOI Beni to get
22 reinforcements and I knew Kandro because he had come to Bunia at the time
23 of Molondo. And as he had just died, people said, "No, there is another
24 young man who is very helpful and he's a person they are talking about
25 there."

Witness: Witness DRC-D02-P-0236 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Q. Now, you've spoken of the manner in which the FRPI came into
2 existence and the FNI came into existence. Now, can you tell us whether
3 there was ever any co-ordination between the FRPI and the FNI? What was
4 the nature of the relationship between those two organisations, please?

5 MR. MACDONALD: (Interpretation) I'm sorry to interrupt,
6 your Honour, but the first part of the question is a leading question;
7 the second is not. I think the answer is being suggested in putting the
8 question and I'd like to draw the attention of the Chamber to these
9 crucial points. Of course all these points are at the very heart, at the
10 very essence of this case, and that is why I must protest. I'm trying to
11 do so as little as possible.

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, we will ask
13 the witness whether as far as he knows there were any links between the
14 FNI and the FRPI. And if he replies in the affirmative what those
15 relations were.

16 So, Mr. Witness, were the links between the FNI and the FRPI, if
17 there were such relations between them, what were those relations? Could
18 you please explain that.

19 THE WITNESS: (Interpretation) Your Honour, it's a very awkward
20 question. Were the relations between the FNI and the FRPI at what
21 time -- at what time? When it was set up? Could you be more specific
22 about which time.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you're
24 conducting the examinations, you will need to be more specific in your
25 question.

1 MR. HOOPER: May I say that I find absolutely no element of a
2 leading -- no leading -- no element of a leading question in my previous
3 question, which I'm driven back to essentially.

4 Q. You told us about the founding of the FRPI and you've told us
5 about the founding of the FRPI. That was the first part of my question.
6 There's nothing leading about that. It's as plain as day and that's what
7 the witness has been talking about. The second part of the question is:
8 Do you know if there was any form of co-ordination between them? What
9 was the relationship between them? There's no form of leading there
10 either.

11 So let's go back to your original position when you become
12 president of the FNI. When to your knowledge was there -- you had been
13 present at the founding of the FRPI. You leave and you go off to north
14 Ituri, to Kpandroma and then to Kampala. During that time, what, if any,
15 contact was made as far as you know between you, president of the FNI,
16 and the FRPI during those times? And I'm talking about the time,
17 therefore, before you get back of course to Bunia on the 18th of March,
18 the cease-fire signing. So in that period, generally, what do you know
19 of any contact, relationships, between yourself and the FRPI?

20 A. I think that the FRPI from its creation never had good relations
21 with me personally. Firstly, in Beni when Dr. Adirodu arrived with this
22 name of the FRPI in Beni he thought -- he saw that I had been elected
23 co-ordinator for everyone coming from the interior of Ituri. He was
24 opposed to that, and he told me that in Kinshasa where he had come from
25 people only knew the FRPI and that nobody else should presume to speak on

1 behalf of the FRPI except he, himself, and that he did not want me as
2 co-ordinator and that he wanted my assistant to be the co-ordinator, and
3 I've already spoken about him, he was Sambidhu. So the relations between
4 the FRPI and me are conflictual relations. In addition, when I became
5 president of the FNI, the relations deteriorated further because we had
6 different aims. If you look at the FRPI manifesto and if you read the
7 bylaws, the Statutes, of the FNI you will understand that it is not easy
8 to have friendly relations or to plan to work together. That's my first
9 point.

10 Secondly, now you will understand that when the FNI was set up in
11 its structure there was no military high command at the time. This was
12 attempted in Bunia while we were at the Musafiri hotel, but,
13 unfortunately, it was not successful and then you know what happened
14 afterwards. General Kisempia dealt with it -- the matter. I think that
15 that is how one should interpret the relations between the FNI and the
16 FRPI.

17 Q. Thank you. Now, let's come back to this situation you've just
18 touched on at the Musafiri hotel. When you get back to Bunia, 18th of
19 March, and the weeks that follow wherever you are, what, if any, was the
20 relationship between the FNI and the FRPI? You've spoken just then of
21 trying to create a high command. What was all that about?

22 A. As I have already said, at the Musafiri hotel in Bunia those of
23 us who had come from abroad thought about setting up a military command
24 because we had, before then, been involved only at the political level.
25 We had wanted the FRPI to become the military wing of the FNI, but that

1 did not work out as I have already said. Subsequently, General Kisempia
2 arrived and took over all those groups, not only the FRPI but all the
3 armed groups in Bunia and he placed them under his command. And that is
4 where it all ended, as far as I'm concerned.

5 Q. And when you came back into Bunia at that time, in March, trying
6 to set up a high command, do you know at that time whether there was a
7 high command structure in the FRPI? What was the position, as far as you
8 know?

9 A. Quite frankly, I did not know and I have already said this
10 before. During the Kampala meeting at the CMI you have heard that
11 Dr. Adirodu prohibited us from discussing the FRPI. So as far as I'm
12 concerned, I could not even go beyond that to find out whether there was
13 a high command or not. All that we could do at that time was to think
14 about carrying out recruitment, but this was a failure. That is all.

15 Q. Now, you met Germain Katanga. At any time when you met him, did
16 you ever see him in the company of what one would describe fairly as
17 child soldiers, very young child soldiers, children posing or acting as
18 soldiers?

19 A. To be frank, when we went to meet him at the entrance to Bunia
20 there were two of them. He was on a motorbike. I saw the person who was
21 accompanying him. I have forgotten his name. I believe he was married
22 to two wives. So I saw Germain and he was accompanied by an adult, not a
23 child at all, an adult. But beside that incident, I never saw him with
24 any soldiers by his side. I only saw the person who was with him on the
25 motorbike and the four or five people who had come before him and who

Witness: Witness DRC-D02-P-0236 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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1 stayed outside of Bunia and who were not child soldiers.

2 MR. HOOPER: Now if we can just go into closed session for a
3 moment.

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

5 (Private session at 6.07 p.m.)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness DRC-D02-P-0236 (Resumed) (Private Session)
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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Open session at 6.10 p.m.)

14 COURT OFFICER: (Interpretation) We are in open session,
15 your Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

17 Mr. Hooper.

18 MR. HOOPER:

19 Q. Number one, you will recall who that is, where did you meet him
20 and ... ?

21 A. I met him for the first time in Kampala in the hotel at which we
22 were staying, the Exotic Inn.

23 Q. And to what extent did you have dealings with him and how well do
24 you know him?

25 A. At the time he was known (Expunged), but he attended

Witness: Witness DRC-D02-P-0236 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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1 our meetings as a member of PUSIC and I believe even (Expunged)

2 (Expunged).

3 Q. Did you ever have -- speaking of yourself now, did you ever have
4 any particular difficulties or problems with him?

5 A. When we met at the Exotic Hotel, where we were to discuss the
6 FIPI platform, he used to attend, but afterwards he would go and say
7 things that had not been said during the meeting elsewhere and he did
8 that quite frequently.

9 Q. Did you find him to be a truthful man?

10 MR. MACDONALD: (Interpretation) Objection. This is an opinion,
11 your Honour. Can we go into private session very briefly because I
12 realise I cannot say everything in open session.

13 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
14 go briefly to private session.

15 (Private session at 6.14 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 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Open session at 6.16 p.m.)

10 COURT OFFICER: (Interpretation) We are in open session,
11 your Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

13 Mr. Hooper.

14 MR. HOOPER: Yes. The Prosecution objects to the question, as I
15 understand it, on the basis that it's opinion evidence. But in my
16 submission, a witness can give evidence as to his opinion of a witness's
17 general truthfulness and that is the issue that it goes to, and it goes,
18 of course, eventually to the credibility of (Expunged). The rest of
19 the matters, that is, the amount of weight that you the Judges place on
20 this particular invited opinion which may or may not be provided -- have
21 examples provided is of course entirely a matter for the Chamber at the
22 end of the day when it comes to review the evidence. It is then that the
23 weight to be attached to these comments can be -- is attached.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, when I look
25 at the French transcript, page 52, line 21, I can read:

Witness: Witness DRC-D02-P-0236 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 "During our meeting at the Exotic Hotel which we had to discuss
2 the platform of FIPI, he used to come there, but afterwards he will go
3 somewhere and say what had not been said during the meeting and he did
4 that frequently."

5 So without making any major effort, that is a statement that has
6 been made by the witness and he has added that that type of behaviour was
7 frequent. Maybe that is where we should stop.

8 Court Officer, I have problems with my headsets and the sound
9 level frequently drops. Sometimes I look at those who are speaking and
10 they are really speaking into their microphone, so there may be problems
11 there that you should try to sort out for tomorrow.

12 Mr. Hooper.

13 MR. HOOPER: Yes, certainly. I certainly accept the position as
14 your Honours indicated.

15 Q. Did you ever have any financial dealings with number one?

16 A. Yes, of course.

17 Q. Were they satisfactory?

18 A. No, but he fleeced us. There was money that he had to give to
19 us. After having said yes in the evening, in the morning he gave the
20 money to someone else who fled to Kampala with it.

21 Q. How much money are we talking about?

22 A. It was only \$3.000 US.

23 Q. Now, can I pass on to number two and merely ask you this: During
24 the period that we're concerned with this Court which I'm sure you
25 appreciate, 2002/2003, did you ever see or meet up with number two?

Witness: Witness DRC-D02-P-0236 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 A. I frankly do not remember having met him. However, during the
2 time of the activities of the CPI, number two was in Bunia and that is
3 because one of my brothers came and told me, "Have you seen your
4 brother-in-law?" And I said, "No, I have not yet seen him." My cousin
5 also came to see me about the children, and I told her that I had heard
6 about her husband but I had not yet seen him. That is all I know.

7 Q. Now, I want to ask you this question finally: If it was
8 suggested that during this period Germain Katanga was chief of all the
9 Ngitis, what would you say to that?

10 MR. MACDONALD: (Interpretation) Objection, your Honour. If it
11 were to be suggested? Well, we should be allowed to do that in
12 cross-examination, if necessary. That is (* indiscernible) of the
13 Prosecution. And secondly, there is no specified period. So the
14 question is vague but also very leading because if it is suggested to
15 you, and so on and so forth. I believe Mr. Hooper has to rephrase his
16 question in a non-leading way and limit it in time and space. Thank you.

17 PRESIDING JUDGE COTTE: (Interpretation) As you realise,
18 Mr. Hooper, there is a pressing request or application from the
19 Prosecutor, so we would like to know the answer. You should rephrase the
20 question, please.

21 MR. HOOPER: It's not leading, that question. It may take the
22 witness to a subject, but that's not leading. The question is open to
23 the witness to answer in any manner that he wishes to answer. I'll see
24 if I can reformulate it.

25 Q. We're concerned with the period around the period of the attack

Witness: Witness DRC-D02-P-0236 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 on Bogoro in particular, and my question is this: Was Germain Katanga
2 head of all the Ngiti at that time to your knowledge or not?

3 A. Counsel, there is one thing that must be made clear. As a
4 community, the Ngiti have their spokesperson, and everything that
5 concerns their community is dealt with at that level. I never heard that
6 Germain was the leader of the Ngiti. In fact, the leader of the Ngiti or
7 the Walendu-Bindi is known as Akobi. It is not Germain Katanga.
8 Similarly, the chief of my collectivity is Ndjabi. It is not me who is
9 the leader of the Lendus. The FNI does not mean Lendus, just like the
10 FNI does not mean Ngitis. These are all communities who have their
11 spokespersons known as the spokespersons of those communities. So I
12 never heard that Germain Katanga was the leader of the Ngitis. That is a
13 great deal of confusion, and, by the way, my own leader of the Lendus is
14 Tchabi Lombe.

15 Q. All right. Those are all my questions at this stage, Mr. Ndjabu.
16 There are going to be some other questions, so just wait there, please.

17 PRESIDING JUDGE COTTE: (Interpretation) Am I to understand,
18 Mr. Hooper, that that is the end of your direct examination?

19 MR. HOOPER: If I hadn't made that clear, yes, I have.

20 PRESIDING JUDGE COTTE: (Interpretation) Very well. Thank you,
21 Mr. Hooper.

22 Can the Defence team of Mathieu Ngudjolo begin their own
23 examination?

24 MR. FOFÉ: (Interpretation) Mr. President, your Honours, we are
25 looking at the time and it is our opinion that it would be better to

1 start tomorrow.

2 PRESIDING JUDGE COTTE: (Interpretation) You really cannot begin
3 with any questions - let us not say repetitive questions - but questions
4 that would allow you to lay a foundation?

5 MR. FOFÉ: (Interpretation) Your Honour, as you can guess,
6 after the examination-in-chief of Mr. Hooper we have to carry out some
7 streamlining. He has touched on a good number of issues, and I believe
8 that it would be to the advantage of the Chamber to grant us those
9 30 minutes to effect a selection. And after that work that we would have
10 done, we will not have too many questions to put to Mr. Ndjabu. So we
11 have to carry out that analysis so as to target the relevant areas.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you. You have
13 been very persuasive, Professor Fofé.

14 And so, Mr. Witness, maybe this is a good thing for you because
15 you have to rest up and re-energise yourself for tomorrow. Tomorrow we
16 will meet again at 2.30 p.m. It seems that you were indeed informed
17 belatedly about the hearing of today. That will not happen again, and
18 tomorrow you can come dressed in the way that you wish to dress.

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

20 PRESIDING JUDGE COTTE: (Interpretation) Court Usher, please
21 accompany the witness out of the courtroom.

22 Thank you very much, Mr. Ndjabu, for your contribution during the
23 afternoon. Please rest and we will see you tomorrow.

24 THE WITNESS: (Interpretation) Thank you, Mr. President.

25 (The witness stands down)

1 PRESIDING JUDGE COTTE: (Interpretation) The Chamber would like
2 to thank all those who assisted us during this hearing.

3 Mr. Kilenda, Professor Fofé, we are waiting for you tomorrow at
4 2.30 after you must have done your selection of questions.

5 Court is adjourned.

6 The hearing ends at 6.30 p.m.

7 CORRECTIONS REPORT

8 The Court Interpretation and Translation Section has made the following corrections
9 in the transcript:

10 *Page 10 lines 4 to 5

11 "that is a true representation of the position.

12 Thank you very much."

13 is corrected by

14 "that is a true representation of the position.

15 Mr. MacDONALD: Yes, that is correct, your Honour.

16 MR. HOOPER (Interpretation): Thank you very much."

17 *Page 12 line 9

18 "we were at Arua"

19 is corrected by

20 "we were invited to Arua"

21 *Page 33 line 23

22 "August 2002 in Bunia"

23 is corrected by

24 "August 2003 in Bunia"

25