

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 Tuesday, 18 October 2011
10 The hearing starts at 9.02 a.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 Good morning, everyone.
16 Good morning, accused persons.
17 MR. KATANGA: (Interpretation) Good morning.
18 PRESIDING JUDGE COTTE: (Interpretation) Before handing over to
19 Maître Gilissen, I would like to confirm to Mr. O'Shea, as Ms. Toumaj,
20 our Court Officer, must have told him that the oral presentation of his
21 application to produce letter DRC-OTP-0029-0038 will be made at the time
22 of your cross-examination.
23 MR. O'SHEA: (Previous translation continues) ...
24 PRESIDING JUDGE COTTE: (Interpretation) Please remind me of
25 that. It goes without saying.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 2

1 Mr. Gilissen, you were the one on your feet and you can now
2 continue with your questions to Mr. Katanga.

3 MR. GILISSEN: (Interpretation) Much obliged, Mr. President.
4 Good morning, your Honours.

5 WITNESS: WITNESS DRC-D02-P-0300 (Resumed)
6 (Witness answered through interpreter)
7 Questioned by Mr. Gilissen (Continued)

8 Q. (Interpretation) Good morning, Mr. Katanga.

9 A. Good morning, counsel.

10 Q. I hope you had a good weekend and that you have recovered from
11 the difficult hearings of last week. I believe those were difficult and
12 I hope we are going to continue under good conditions. We are going to
13 continue from where we were at and you will remember that we were talking
14 about the daily lives of young people, young children under 15 years who
15 were in the camp in Aveba. And I believe I quote you correctly when you
16 said that on the one hand there were children who were going to school
17 while others were working in the fields or the farms. Those were those
18 who were not going to school.

19 Now, I would like to ask you a question on the two categories of
20 children. How did you choose to have them live -- or rather, why did you
21 choose to have them live in the militia camp rather than in the village
22 right next to the camp?

23 A. It was simply because there were no families wishing to host
24 those children outside of the camp. There was the problem of poverty and
25 the families could not welcome in many more people. So my answer to you

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 3

1 is simply that it was difficult for parents who did not know a child to
2 take in that child just like that. This was due to poverty.

3 Q. Mr. Katanga, the infrastructures to host those families and those
4 children could have been built separately outside of the camp. You
5 didn't need additional effort for that. So, I understand your answer, but
6 you will agree with me that you would not resolve any problem by having
7 children under 15 years living in a camp and it is different than having
8 them live in the immediate vicinity. I am trying to understand this confusion. I
9 understand the problem of poverty; that is really true – these were difficult times -,
10 but your answer does not seem to be satisfactory in light of the objection. So why
11 did you make the choice - and I believe it was a choice - to keep the children in
12 the camp, integrate them in the camp rather than close by?

13 A. Maybe the word that you have used is too strong. You said
14 "integrate children in the camp." That would suggest that we encouraged
15 people to come into the camp, no. We did not integrate the children. It
16 was the members of the family. People had family relationships to those
17 children within the context of the extended families. There were
18 cousins, sons, people who came from the same village, those were things
19 that we had in common that made it possible for us to be together. It
20 does not mean that we integrated those children. In fact, we did not
21 have that possibility to say: Look, let us go and build a camp somewhere
22 to host young people who did not have families. That was not possible.

23 We knew that keeping those people with us will make it possible
24 for us to be together. So if, for example, a child came to have his
25 meals in your house, he wanted to be protected in your house, he wanted

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 4

1 to go to school and he wanted you to support him in school, if you
2 decided to chase him away, well, that would not be African. That would
3 really not be African. A child who left his father's house or fled from
4 his father's house and came to your house as a member of the family, you
5 would not chase him away. You would not send him to a different place.
6 So in a nutshell I will tell you that we did not integrate those children
7 because we did not encourage them to come. They came as someone coming
8 to live with family members, a brother, cousin, so on.

9 Q. Thank you, Mr. Katanga. I did not talk about chasing those
10 children away. You are putting words into my mouth, but you are the one
11 raising the possibility of chasing these children away even though this
12 is a bit strong. I believe you must have thought of setting them aside
13 from the soldiers? You must have discussed such issues with MONUC?

14 A. We did not discuss the issue of building houses for those people
15 or settling them somewhere in the vicinity, no. We simply felt that, if
16 it was possible, the international community could, for example, take
17 those children and send them to school because those children were a
18 burden on us too. I, for example, did not have a child of school-going
19 age, but I already had five to ten people under my responsibility that I
20 was sending to school. Sometimes I wondered why would I be sending other
21 people's children to school?

22 If possible, given that the international community is
23 responsible for protecting everyone, particularly the weak, it was up to
24 that international community to also assist us, that is, take those
25 children who were living with us, for example, UNICEF could try to send

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 5

1 them to school.

2 I do not know whether I've answered your question.

3 Q. Yes and no, Mr. Katanga. You have partially answered my question
4 and I thank you for that. But the Prosecutor mentioned several cases of
5 documents being provided by Monuc containing information from you about these
6 children. There was the report of the 12th of September as well as the report of the
7 20th of October and mention is made in these reports of discussions that you're
8 supposed to have had with members of MONUC and that this issue was
9 discussed. I can read this document to you if it jogs your memory, but
10 it is said that you told MONUC officers, whether it was in August,
11 October, or the 12th of September, that there were children, not only in
12 the camps but children who were part of military units, who took part in
13 the activities of militia. And according to this document, the number of children is
14 considerable, not just 2- or 3, but rather hundreds, maybe even over a thousand.

15 What can you tell us about this contact with MONUC on this issue
16 of children? I have not dealt with the other aspects.

17 A. Mr. Gilissen, there is total confusion regarding this issue of
18 demobilisation, awareness-raising, and so on and so forth. The MONUC
19 report indicates that, that there were children in the camps.

20 Well, I don't know how to explain this because you have said
21 that children were participating in military gatherings. I have nothing
22 to tell you about that.

23 I can give you a typical example of a child such as Kado. He
24 never took part in any military activities. He never got up in the
25 morning to take part in the parade.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 6

1 Q. I don't want to interrupt you, but what you are telling us you
2 have already told us very well. My intention is not to put you in any
3 difficulty or to confront you. We simply have two detailed reports from
4 MONUC --

5 MR. HOOPER: (Previous translation continues) ... my friend give
6 the reference first, please.

7 MR. GILISSEN: (Interpretation) Very well, Mr. Hooper.

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

9 PRESIDING JUDGE COTTE: (Interpretation) This is the opportunity
10 for me because on several occasions we have been informed that we have
11 been speaking without complying with the five-second rule. So you have
12 to be slow in your speech and please observe the five-second rule.

13 Thank you, Mr. Katanga.

14 Thank you, Mr. Gilissen.

15 And once again, you have to give us the references to any documents or
16 pages of the transcript that you are relying on. Please proceed, Mr. Gilissen.

17 MR. GILISSEN: (Interpretation) Thank you very much,
18 Mr. President. I will make an effort to comply.

19 Document DRC-00073-9372 and it is a report of the reconnaissance trip on the 12th
20 of September, 2003, in the Aveba region --

21 MR. HOOPER: (* Previous translation continues) ... is this a
22 document that's been admitted into evidence or is this an attempt without
23 notice to introduce a document? If it's the latter, there's a very firm
24 objection.

25 PRESIDING JUDGE COTTE: (Interpretation) Very well,

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 7

1 Mr. Gilissen.

2 MR. GILISSEN: (Interpretation) We are not trying to force in
3 any document. This document was dealt with in open session. Questions
4 were put on this document and Mr. Katanga in fact provided answers to
5 certain aspects of this document. The second document is DRC-409364. I
6 obviously have no intention of producing this document as such, but I
7 want to deal with its subject matter. The document exists and contacts exist. Mr.
8 Katanga has confirmed this. I believe I am entitled to ask Mr Katanga

9 MR. HOOPER: (Previous translation continues) ... need -- I'm
10 sorry --

11 PRESIDING JUDGE COTTE: (Interpretation) Please, Mr. Hooper,
12 please, Mr. Hooper, please observe the five-second rule otherwise we will
13 not have adequate interpretation or court reporting. Please continue
14 now.

15 MR. HOOPER: All we need is the EVD number.

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen, I cannot
17 now in realtime determine whether this document was given an EVD. Does
18 it have an EVD number?

19 MR. GILISSEN: (Interpretation) I do not think so, your Honour.

20 PRESIDING JUDGE COTTE: (Interpretation) Very well. Then
21 obviously Mr. Hooper's objection is for the main purpose of asking you to
22 rely only on documents that have been admitted into evidence. I believe
23 that wisdom would compel us to comply with this simple rule and I will
24 say this with a lot of caution because I believe you are being careful.
25 But make an effort to really focus on the period of the events that is of

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 8

1 concern to us, even if the period after Bogoro is of interest, particularly in
2 relation to the policy of demobilisation. Do we agree on that, Mr. Gilissen?

3 MR. GILISSEN: (Interpretation) Very well, Mr. President. I'm
4 going to set aside these two documents. The fact remains that the facts,
5 or rather, that these issues were discussed.

6 Q. So, let us no longer discuss these documents, Mr Katanga, but rather let us
7 discuss your meetings with MONUC during which you dealt with child soldiers, not
8 only the EAFGAs, not only the children in the camps, but the issue of child
9 soldiers. You know that MONUC produced reports and I would like to know
10 whether you believe that the information we have from MONUC is wrong, it
11 is erroneous, or what do you think about it?

12 A. Mr. Gilissen, I cannot say that an important organisation such as
13 the United Nations is telling lies, no. I cannot challenge them, I
14 cannot dispute what they say. Why? Because they're preparing reports
15 based on information from third parties. If you tell them something,
16 they are going to write it down. Another person tells them something,
17 they are going to note it down. I cannot say that the UN was lying or
18 that they produced a false report, no. But for my part, I cannot also
19 confirm to you that I discussed with the United Nations about child
20 soldiers. There is confusion persisting on words used, the definition
21 of child soldiers, EAFGAs, traumatised children, there is confusion with
22 regard to these words, EAFGAs, traumatised children. That's the problem. So, the
23 fact that this confusion existed, EAFGAs, traumatised children – we were lost. And
24 when MONUC arrived, children could also be called from the school and told:
25 Look, young people, please come here, line up, and people do exercises in

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 9

1 school. They are taught to march left, right, left, right, forward, and
2 so on and so forth. This is done in the schools. If you call up some students and
3 you tell them to do that for a Milobs he could think that these are child soldiers.
4 But these were not child soldiers. Children can come from the school and you
5 are being told: You need children, these are the children that are traumatised.
6 They are, coming back from school. And the children would be asked to come
7 and line up in front of MONUC. And then the MONUC will produce its
8 report the way they want.

9 Q. Thank you, Mr. Katanga. I agree. But the children that we are
10 talking about are not the children who were involved in gymnastics. We
11 talked about it. You signed an agreement and there was a dual
12 recognition of this.. There is EVD-D03-0044. You
13 were accompanied by others --

14 MR. HOOPER: (Previous translation continues) ... I'm sorry to
15 interrupt. I have to speak because my friend may go on for a while, but
16 we've had no notice of any documents that it was the intention of either
17 representative to put to the witness in conformity, as we understand it,
18 with the general rule that applies to all of us. I -- so we need a
19 little time when that is mentioned in that way to catch up with it, but
20 we object generally to this off-the-cuff kind of questioning with no
21 notice because it gives us absolutely no opportunity to prepare -- to
22 prepare properly in response to it.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you are
24 very demanding there because the rules of the game were clearly defined
25 at the beginning of the proceedings. The Legal Representatives ask

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 10

1 questions and they send in a list of questions at the specific time.
2 There is an exception when our timetable is disrupted and the Legal
3 Representatives are not able to send in those lists within the specified
4 time-frames. But also, it was decided that they could ask spontaneous
5 questions based on what they heard during the direct examinations and
6 during the cross-examination of the Prosecutor. That was one.

7 Point two is that we have accused persons who have decided to
8 testify as witnesses, and as Legal Representatives those representatives
9 may be able to ask a few more questions than when we are dealing with an
10 ordinary witness. So if a Legal Representative is referring to an answer
11 that the witness - in this case Mr. Katanga - answered in the course of
12 the cross-examination, there is no problem. So let us try to remember
13 what our original rules were and that the victims are represented
14 according to the Rome Statute. We have to adapt to those innovations.

15 So, Mr. Gilissen, please continue with the necessary caution.

16 MR. GILISSEN: (Interpretation) Please allow me to work this
17 morning --

18 MR. HOOPER: (Previous translation continues) ... I withdraw my
19 objection. We've caught up with the reference and I have no objection at
20 all.

21 PRESIDING JUDGE COTTE: (Interpretation) This is fantastic. Let
22 us now continue serenely.

23 Mr. Gilissen.

24 MR. GILISSEN: (Interpretation) As I was saying, I would like to
25 ask Mr. Hooper to allow me to work this morning because objections have a

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 11

1 limit. When you call a witness without a statement and you ask for
2 people to put questions to them in the dark, this is something that
3 happens in life. We are compelled to work, whereas the Defence has
4 decided not to provide the useful tools. I believe that there is no
5 prejudice to the Defence by talking about -- in talking about issues that
6 have already been raised. So I'm referring myself to my learned friends
7 and I believe we understand each other.

8 Q. Mr. Katanga, what I was saying was that when someone signs a
9 convention or a contract, if that person does not want that convention to
10 be implemented and it is read out to the person and he says: I did not
11 read the convention or the agreement, that it has no value at all. You were
12 in the delegation of three. Even if you did not read the document, you
13 were there with people that you have described as intellectuals. You
14 said that on Friday. So there is something beyond knowing whether this
15 was believable or not, but there is a commitment on your part, an
16 acknowledgement on your part I was re-reading the transcript of Friday
17 and I did not find any answer to that. You told us that you were
18 compelled and then, secondly, you told us that you were surprised. What
19 is the true version? What is your final version?

20 MR. O'SHEA: (Previous translation continues) ...

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea.

22 MR. O'SHEA: (Previous translation continues) ... examination,
23 I'm afraid. I've been waiting to see in which direction it goes. I
24 notice that it was becoming a cross-examination about five questions ago,
25 but now I see it really is becoming a cross-examination. If my learned

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 12

1 friend wishes to challenge the credibility of Mr. Katanga, he must first
2 make an application to this Chamber and justify his position as to why he
3 should be given specific leave to do so. And that -- that is contained
4 in your Honours' rules at paragraph 90(C) of decision 1665.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen, you have
6 just heard what I said and which indicate that the Legal Representatives
7 should play their role but in accordance with the rules. Obviously at
8 this particular time you have to make sure that you don't give the
9 impression that you are carrying out a cross-examination bis. Appearance
10 is also important here, so please do not appear, do not give the
11 impression that you are a Prosecutor bis. This is the aspect that you
12 have to avoid.

13 There is no intellectual terrorism in this chamber. The fact
14 that someone gets to his feet does not automatically interrupt you, but
15 you have to be careful. For some time now the Defence of Germain Katanga
16 has been on the alert, and therefore it is very important for you to
17 refocus your questions, to limit them, and ensure that your questioning
18 takes place without interruptions. Otherwise, it would not be of any
19 interest to all of us.

20 MR. GILISSEN: (Interpretation) Thank you, Mr. President.

21 Mr. Katanga's testimony is a difficult exercise for him as well
22 and I understand that. However, Mr. President, following Mr. Hooper's
23 examination and the cross-examination by the Prosecutor, there is an
24 apparent contradiction and we would like to have an answer, not answers
25 picked and chosen here and there, otherwise we will be mixing up things.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 13

1 Now, during the examination by the Defence, Mr. Katanga was very
2 clear on a number of issues and then when the Prosecutor rises the answer
3 then changes. One is no longer obliged but the situation changes. And I
4 would like to pursue this without acting as a Prosecutor because that is
5 not my role. We want to have a clear answer from the witness. Why sign
6 a convention when you don't feel bound by it? I don't think that this is
7 a question from the Prosecutor. This is a question that can come from
8 all and sundry, from anybody whosoever.

9 Q. So, Mr. Katanga, yes, you signed an agreement with an explicit
10 acknowledgment. What is the real situation? Were you obliged? Was it
11 an emotional thing? There is a contradiction there. And furthermore,
12 you were assisted by two intellectuals. And I know that this is not my
13 role. You are the one who made the statement on record and now we need
14 to know, we need to know what the truth is --

15 MR. O'SHEA: (Previous translation continues) ... if you would
16 like to draw out contradictions, can we please have the transcript
17 references. I maintain my objection that it is not the victims
18 representatives' role to draw out the contradictions. That is an issue
19 of the credibility of the witness, but there are no contradictions. So
20 we need to have the transcript references so that we can demonstrate in
21 re-examination that there are no transcript references. That is, if this
22 line of questioning is allowed because in my submission it should not be.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda.

24 MR. KILENDA: (Interpretation) I believe that the victims
25 representatives should be reminded of point (A) of paragraph 90 of your

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 14

1 decision which is very specific. Questions should not re-visit or repeat
2 that which has already been dealt with by parties. As far as I can
3 recall, when the Prosecutor was examining the testimony, he dwelt at
4 length on these questions that our learned colleague is again
5 re-visiting.

6 MR. GILISSEN: (Interpretation) Mr. President, should I provide
7 the reference?

8 PRESIDING JUDGE COTTE: (Interpretation) Please grant me one
9 second so that I can see what Mr. Kilenda has been referring to,
10 particularly in reference to our decision 1665, paragraph 90. Legal
11 Representatives of Victims should focus on questions tending to clarify
12 or elucidate matters in the witness's answers. However, they may put
13 questions relating to facts beyond matters raised in the
14 examination-in-chief, subject to the following limitations:

15 (A), the questions should not repeat or deal with matters that
16 have already been dealt with by the parties and the questions should be
17 limited to any matters that are contentious between parties, and
18 demonstration must be made that they are directly linked to the interests
19 of the victims representatives. Furthermore, the Legal Representatives
20 shall not be allowed to put any questions on the credibility of the
21 witness or the correctness of his testimony except they are in a position
22 to prove that they have provided evidence that directly contradicts the
23 interests of their -- the victims they represent and unless the Trial
24 Chamber does otherwise authorise them to put questions relating to
25 matters of reparation and compensation for individuals and groups of

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 15

1 individuals.

2 So, Mr. Kilenda, I thank you for reminding us of these concepts
3 and I believe that Mr. Gilissen has to be very cautious as he progresses.
4 He needs to pay great attention because he is walking a tightrope and he
5 might slip because the Defence counsel for the two teams are on alert,
6 particularly Mr. Germain Katanga's team.

7 So, Mr. Gilissen, we would like to remind you about these
8 regulations and rules that were laid down on the 1st of December, 2009, a
9 long time ago, and to ensure that Mr. Katanga's Defence team does not
10 jump up too often if we are to make meaningful progress. I also think
11 that - and you are fully aware of this being a professional - I am sure
12 that you will get much more clarifications and specific answers from
13 Germain Katanga if you put brief and precise questions to him. And I
14 would like you to believe that I am not criticising, but I simply want to
15 point out that the impression - and I insist the impression - should not
16 be given that each question or too many questions are now being put
17 together in some kind of a mini submission because that, as you can see,
18 is being counter-productive.

19 Let us, therefore, proceed with a good understanding under better
20 conditions. And I now give you the floor to deal with this specific
21 point and to put one last question to him. And if you do not get more
22 from Germain Katanga, please move on to something else.

23 MR. GILISSEN: (Interpretation) Thank you, Mr. President. I
24 believe that a small presentation to represent my questions is simply to
25 point out to Mr. Katanga that I am not being the Prosecutor bis. That is

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 16

1 not my role. We are just proceeding normally.

2 I think, Mr. President, that as representatives of child
3 soldiers, it is indeed our duty to deal with this agreement because it
4 deals clearly with the recruitment and use of child soldiers, as I can
5 read in the document, into the armed forces. And such a practice is
6 contrary to international law. Therefore, I should be in a position to
7 know much more than what appears in the transcript of Friday, transcript
8 reference being TR 323, particularly page 379, line 24, at which point
9 Mr. Katanga confirmed that he was in the presence of Mr. Pichou, I quote
10 him, Mr. Pichou and Pascal who had the greater intellectual capacity.

11 Q. And I want to say that when one reads through this transcript of
12 Friday, Mr. Katanga, there is need for that situation to be clarified in
13 light of decision 1665. My question, then, is: How come you are not
14 bound by that agreement --

15 MR. HOOPER: (Previous translation continues) ... Mr. Gilissen,
16 unfortunately. Can he give us the reference because that reference
17 doesn't appear to lead us to a relevant part of the transcript.

18 PRESIDING JUDGE COTTE: (Interpretation) Now, Mr. Gilissen, are
19 you referring to transcript 323 of Friday, 14th October, page 3,
20 lines 24? Is that the reference you provided?

21 MR. GILISSEN: (Interpretation) Yes.

22 PRESIDING JUDGE COTTE: (Interpretation) In the French
23 transcript -- so, Mr. Hooper, please cross-check with the English
24 transcript because the reference was to the French transcript, page 3,
25 and the English corresponding page should be easy to locate.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 17

1 Mr. Gilissen, on that point, please note that Mr. Katanga has
2 provided a number of answers which may have surprised some of the parties
3 but which may not have surprised others. So please do not belabour this
4 point because it reflects his position and his statement and it is for
5 the Trial Chamber to make an assessment of such a statement. So I give
6 you the floor to put one last question and then proceed to other matters
7 within your purview.

8 MR. GILISSEN: (Interpretation) Thank you, Mr. President. All I
9 can do is repeat the same question because it is crucial for us.

10 Q. Now, how come you do not feel bound -- and I understand that you
11 don't feel bound by those -- that agreement. That is the purpose of my
12 question, to find out how it is that you don't feel bound by the
13 agreement.

14 A. My answer can also be very brief. Maybe you needed to clarify
15 and be specific as to whether I was invited to be part of the meetings
16 which drafted those texts. Was I invited, Mr. Gilissen? No, I was not.
17 Secondly, I was in Bunia only as a matter of coincidence and that is how
18 it happened that I signed that document. If you have any evidence
19 pointing to the possibility that I was invited, then, well, I'm waiting
20 for that evidence.

21 When you claim that I contradicted myself, then you are probably
22 contradicting yourself as well because the definition of the word or
23 expression "child soldier" was rather complex because it was not possible
24 pursuant to that definition to be able to determine that this and this
25 and this person was a child soldier. In our place there was never any

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 18

1 recruitment, there was never any training, there was never any
2 preparation of the children to bring them into an army. So no, that
3 never happened.

4 What happened in our place is that we were being shelled.
5 Children, young persons, adults, and elderly people, of all categories,
6 we were being shelled. Rockets were dropping on us, and I cannot tell
7 you that in those circumstances of shelling it was possible to identify a
8 child soldier and an old soldier. So that was the situation. That was
9 the experience.

10 There was no training centre in our area. There was no training.
11 There was no recruitment. There was no mobilisation, yet there was
12 demobilisation. No mobilisation but there was demobilisation. So that
13 is what I can tell you in a nutshell. You know how the children were
14 demobilised, not child soldiers, children, children who were traumatised,
15 children who were in the area in which the fighting or the war took
16 place. That is what I have been trying to explain to you. That is the
17 answer I can give you about demobilised children, but, Mr. Gilissen,
18 please, please, I beg you. You see, my understanding, according to me,
19 whether you question me from today till next year, I can never agree that
20 there was any training or any recruitment in our area.

21 Q. Mr. Katanga, prior to the signing of that agreement, did you
22 denounce this once, twice?

23 A. Denounce what? I never spoke on the radio. I was never filmed.
24 That was the very first time that I was ever in front of any cameras, on the 22nd.

25 Q. Did you ever denounce those agreements at any time? Did you ever

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 19

1 say that you should not have signed what you actually signed?

2 A. Mr. Gilissen, maybe you have a greater understanding of these
3 things than I do or greater knowledge of these things than I do. I want
4 to tell you that these ideas never crossed my mind, they never crossed my
5 mind. I could not turn around and just denounce what I had done. How
6 can it be that one did wrong in signing for peace? We needed peace. The
7 title of the agreement was "cease-fire," not "cease child soliders." It was a cease-fire,
8 an agreement for peace and that was the base of it all, but now you are
9 trying to say that it was an agreement to stop child soldiers being used
10 or being whatever. So my understanding was that this was a cease-fire
11 agreement to stop the fighting. So all those other small definitions,
12 such as child soldiers, were really not present on my mind. I did not
13 take those into consideration.

14 Q. Mr. Katanga, when you were contacted and informed about a
15 demobilisation programme, what information did they give you about child
16 soldiers and the demobilisation centre which would attend to child
17 soldiers?

18 A. Let me repeat, there were no child soldiers in our area. There
19 were no child soldiers in our area. There were children living in camps,
20 yes, I agree. Children living in camps. Even my child was living in a
21 camp and he could have also be known as an EAFGA because he used to live
22 in the camp pursuant to the ONG definition, including traumatised
23 children.

24 Why recruit children from schools? Why go to school -- to
25 churches and ask children to come for demobilisation? Why is it that the

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 20

1 demobilisation did not focus only exclusively on the children in the
2 camps? Why? Mr. Gilissen, you have had a lot of time to deal with these
3 matters, four years. You could have gone to the schools to check whether
4 indeed any child soldiers were demobilised. Were they child soldiers or
5 were they simply children from the village? That is the difference.

6 Maybe your understanding is such that you have a definition for
7 child soldiers, but what we understood properly in our area was that it
8 was dealing with traumatised children. My child, if he had the age
9 required at that time, he would have also been demobilised. This doesn't
10 mean that he was a child soldier. He was my child, he lived in the camp,
11 my cousin and some of my juniors were demobilised in order to get a
12 little something. So I don't know what definition you have of
13 demobilised children. I'm not talking about demobilised child soldiers.
14 I'm talking about demobilised children. I don't know what your
15 understanding of that is.

16 Q. That was not my question, Mr. Katanga. My question was the
17 following: When you were contacted for the first time and a demobilisation
18 programme was suggested to you, what information did they give you at that time
19 about child soldiers very specifically? That is, prior to the
20 introduction of the demobilisation programme in Aveba, what information
21 were you given at that time regarding child soldiers?

22 A. Mr. Gilissen, maybe I don't understand you. Please help me to
23 understand what you mean by "child soldiers." Who is a child soldier
24 according to you and according to this institution? Is it my child,
25 Samson, who was born in the camp, or is it the children or pupils, or is

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 21

1 it the nieces and nephews and cousins of combatants? Who is a child
2 soldier in that context?

3 MR. GILISSEN: (Interpretation) Mr. President, maybe I need the
4 assistance of the Trial Chamber if I'm not being clear enough.

5 Q. My opinion doesn't matter, Mr. Katanga. You were contacted at a
6 certain point about a demobilisation programme, yes, a demobilisation
7 programme. What did they tell you? I think maybe at that time they
8 didn't talk about EAFGA at that time. Maybe reference was made to child
9 soldiers. My question then is: Before the Aveba centre was set up, what
10 information did they give you? Do you understand the time-frame I am
11 dealing with?

12 A. Very clearly, Mr. Gilissen, I do understand. But maybe in the
13 reports there is different information.

14 But on the ground, Mr. President, how can I go on to talk about
15 child soldiers when we only had our children to deal with? That to me is
16 the problem. That's the distinction. According to us in our area, the
17 term "child soldier" was defined as the children living in the camps,
18 quote/unquote. Now, to say that a child soldier was one bearing an AK-47
19 and what have you, that did not exist in our area. So, Mr. Gilissen, I
20 don't know how to deal with your question. Maybe my answer counts only
21 for 20 per cent of your question, but I don't know.

22 Q. Mr. Katanga, I really need to understand you and I think that I'm
23 not the only one who wants to understand this matter in the courtroom.
24 Did you agree to the child soldier demobilisation programme, whereas you
25 knew that you did not have any child soldiers in your area? That is what

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 22

1 I'm trying to understand quite objectively. Now, what information were
2 you given? Did they talk to you about child soldiers, and when they did,
3 did you agree to such a programme? So I think -- I want to really be
4 very frank with you. You know, quite honestly, there is an apparent
5 contradiction in this matter and that is why I would like to find out
6 from you what you were told and how the programme was presented to you
7 before you agreed to it and before it was implemented.

8 A. There is a saying that he who shouts first gets the greatest
9 attention. You see, the international community was in charge and
10 whatever they said could not be challenged. The report refers to child
11 soldiers, but, Mr. Gilissen, what I can tell you is that there were no
12 child soldiers in our area. I simply agreed to demobilise child -- I
13 simply agreed to demobilise children, not child soldiers. If there were
14 no child soldiers in our area, how could I have agreed to demobilising
15 child soldiers?

16 So, Mr. Gilissen, what came to us came from different sources and
17 in different manners. Each person brought in some kind of information.
18 So the person who drafted this report is the author of that report. That
19 is not our report. That is his report. Now, if he wanted to present
20 that report according to certain parameters, then that is what he did.
21 So I cannot challenge what he did because he did it according to those
22 parameters, which are unknown to me.

23 Q. Very well, Mr. Katanga. So you note that I still do not know
24 what you were told at the time before the programme and the centre were
25 set up in Aveba. Did they talk to you about EAFGA at that time or did

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 23

1 that concept crop up later on?

2 A. Mr. Gilissen, let me observe the five-second rule. Even if we
3 spend the whole day here you would put the same question to me and I will
4 give you exactly the same answer. The person who drafted this report --
5 take an example, a typical example. When I signed the cease-fire
6 agreement, one, I was not invited to the ceremony; two, the manner in
7 which I signed the cease-fire agreement was such that I did not notice
8 that there were any points on child soldiers and what have you. All that
9 mattered and all that I understood - and this was enough for me - was
10 that this was a cease-fire agreement. So the issue of child soldiers and
11 what have you, they might have been in there, but my understanding, my
12 agreement, was to the fact that the cease-fire was going to bring peace
13 and for peace we were ready to settle for anything.

14 So what I can tell you is that I did not agree that I had child
15 soldiers, whether it be today, tomorrow, or the day after, the answer I
16 will give you will be exactly the same. There were no child soldiers in
17 our area. The person who drafted that report drafted it according to the
18 parameters required by his job.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen, so we
20 have very distinct and separate points of view here, and it might be very
21 difficult to harmonise them one way or the other. So please, I urge you
22 to move on but I don't know whether you will continue along the same line
23 of questioning. But quite clearly, it would appear to the Chamber that
24 you are not likely to make any more progress on this point as I can
25 observe.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 24

1 MR. GILISSEN: (Interpretation) That is also my feeling and,
2 Mr. President, I was going to deal with another excerpt of transcript 323
3 of last Friday, page 14 and follows, starting at line 19 of page 14.
4 Q. Mr. Katanga, now we are dealing with the 24th of February, 2003,
5 the day on which Bogoro was attacked. The Prosecutor questioned you on
6 the information that you obtained on that day and this information came
7 directly from you. We were not aware of it before then, namely, your
8 presence at the Aveba health centre with Mike 4 and the contact with the
9 person known as Aldo. This is information that came live and I would
10 like to find out from you whether mindful of the previous statements that
11 you made, can you tell us what happened once the fighting took on a new
12 dimension when the camp fell? What kind of messages were being shared
13 among the participants, that is, those who had walkie-talkies?

14 A. After the operations, the message was that Bogoro had fallen and
15 we were going to consolidate it.

16 Q. On the same page, line 23, when Yuda arrived and you had
17 discussions with him over two days, according to you, what information
18 did you obtain from him about the children in Bogoro? And I am speaking
19 in general terms, whether it be in the camps of those attacked or those
20 attacking. In view of the fall of Bogoro and its consolidation
21 after the fighting, as you say, what information did you obtain from
22 Yuda?

23 A. Well, if you were to speak with Yuda and talk to him, you would
24 probably have a lot of difficulty. He doesn't talk very much and
25 whatever he says is sufficient for him. Now, as regards what actually

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 25

1 happened on the battle-field in Bogoro, even if you spent a year with
2 Yuda he wouldn't say anything. He didn't say anything. All he said was
3 that he was injured and that there had been a lot of fighting, a lot of
4 shooting, when he left the battle-field.

5 PRESIDING JUDGE COTTE: (Interpretation) Well, from what you
6 have just stated in response to Mr. Gilissen's question that you yourself
7 did not hear any comment from Yuda regarding the presence or not of
8 children at the attack on Bogoro on February 24th, 2003.

9 THE WITNESS: (Interpretation) Yes, he didn't give any details.

10 PRESIDING JUDGE COTTE: (Interpretation) Because Yuda is not
11 very talkative and because he left the battle-field before others because
12 he'd been injured; is that correct?

13 THE WITNESS: (Interpretation) Yes, that's correct.

14 PRESIDING JUDGE COTTE: (Interpretation) Please proceed, Maître
15 Gilissen.

16 MR. GILISSEN: (Interpretation) Yes, that's also what I had
17 understood.

18 Q. Let's go on to the next page, page 15 of the transcript, line 4.
19 I nonetheless wanted to be informed of how they succeeded in this
20 operation and you stated that two days later you went to Kagaba to meet
21 with Garimbaya. Do we agree on that? And indeed you met Mr. Garimbaya
22 and you were to discuss with him. We still agree, Mr. Katanga? Thank
23 you. Well, at that point in time what information did you obtain
24 regarding the organisation of the attack once you were on site, that is,
25 how things evolved and what the results, whether or not it succeeded --

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 26

1 MR. O'SHEA: A note on that question, if I may, your Honours. It
2 appears to me to be quite broad in scope. My learned friend is
3 effectively asking for details as to the operation of the attack in very
4 general terms. Can I perhaps through your Honours invite him to narrow
5 his question to the issue of children in combat.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. Gilissen, during
7 the previous question, I'm referring to the previous question, you
8 referred very generally - and I must say I was about to interrupt
9 you - when you concentrated your question on children that might have
10 been in Bogoro. And I believe Mr. O'Shea's comment is quite valid. So
11 please, regarding not Yuda but Garimbaya, to concentrate your question on
12 your precise areas of concern.

13 MR. GILISSEN: (Interpretation) Yes. Well, I wanted to
14 emphasise the chronological events the day of the 24th. That is the
15 approach to Bogoro, the attack on Bogoro, and then after the fall of
16 Bogoro.

17 Q. What kind of information were you able to obtain from
18 Mr. Garimbaya not regarding the participation of child soldiers but the
19 participation of young people at these various stages in time?

20 A. Well, I would say that the children could not undergo such fire.
21 The shelling was very serious. On 10 February, we could really feel the capacity
22 of the enemy. A child would only be in the battle-field if the enemy is
23 attacking. If you -- it would just be a case of children wandering
24 through a battle-field because they don't know where they're going
25 because they're lost. But when people left Kagaba for Bogoro, it was not an

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 27

1 area that was authorised for children and children never went there.
2 They never went to the battle-field. I can tell you that as regards my
3 discussions with Garimbaya, he didn't say anything about the presence of
4 children, nothing at all, because afterwards he went directly back to
5 Kagaba.

6 The officer in charge of consolidating positions in Bogoro was
7 Dark and when Dark stayed in Kagaba -- no, I correct myself, Bogoro, he
8 stayed in Bogoro. And when I got to Kagaba, I did not have an
9 opportunity to discuss with Dark. And we -- I didn't have the
10 opportunity to ask how the operations went. The answers we got were that
11 there were certain techniques used, there were weapons. And so there
12 was -- there were enough weapons, enough support weapons, so that we were
13 able to dry up the enemy forces. In other words, they used their
14 ammunition up until they were worn out.

15 Q. Thank you. Thank you, Mr. Katanga. That is perfectly clear.
16 To your knowledge, since we've discussed Aveba quite a lot and Friday I
17 asked you more general questions, in the groups other than those in Aveba
18 was the situation similar to the situation in Aveba or were there
19 children amongst the armed groups?

20 A. Well, I would say we were home, the entire collectivity. So
21 children could go anywhere to see their family members, to camps, to
22 various shelters, and there were children in the camps. They lived with
23 family members, et cetera. So the children went to see their family
24 members. If they needed help, well, they could go. Because they knew if
25 they could go see a certain person they would be able to get help.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 28

1 PRESIDING JUDGE COTTE: (Interpretation) Your answer applies
2 beyond Aveba, in other words, it applies to the entire collectivity of
3 Walendu-Bindi. Have I understood correctly?

4 THE WITNESS: (Interpretation) Yes. Wherever there were camps
5 and no attacks, the children were living there normally.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
7 Please proceed, Mr. Gilissen.

8 MR. GILISSEN: (Interpretation)

9 Q. In the APC camp -- camps, were there also the presence -- were
10 there also children under the age of 15, young people under the age of
11 15?

12 A. Well, APC, they were professionals and the various battalions
13 that I saw in Ituri, I didn't see child soldiers. I didn't see any. I
14 didn't see any child soldiers.

15 Q. And what about the other battalions other than the APC, did you
16 see child soldiers, Mr. Katanga?

17 A. Which battalion do you mean?

18 Q. Well, I mean generally speaking at any point in time. Did you
19 see child soldiers? And here we're being -- I'm talking about something
20 very specific. At any point in time in an armed group did you see a
21 child integrated into such a group, bearing weapons, participating in
22 various activities with or without the weapon? Have you seen any
23 children participating in military activities? Is it something you have
24 seen or have you never seen it?

25 MR. O'SHEA: (Previous translation continues) ... my learned

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 29

1 friend has to focalise a little bit. One cannot ask a question: Have
2 you at any time seen a child with an arm, the definition of a child
3 soldier, in any armed group? We're dealing with quite specific
4 circumstances in this case and we've had days of evidence from
5 Mr. Katanga setting out quite specifically where he was, which groups he
6 was in contact with. So my learned friend really has to state which
7 group he's talking about and within which time-period. That's the only
8 fair way to put the question to the witness and we don't want to waste
9 our time on questions which are not relevant to the specific facts of
10 this case.

11 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor.

12 MR. MACDONALD: (Interpretation) Your Honour.

13 PRESIDING JUDGE COTTE: (Interpretation) Yes.

14 MR. MACDONALD: (Interpretation) I think that given the answers that have been
15 given, I think my learned friend has concentrated on Walendu-Bindi and the
16 witness has totally refused, negated the existence of the phenomenon. And
17 therefore this question is valid as to whether they were present or not,
18 regarding what the witness may or may not have seen. And I do believe that in the
19 assessment you will conduct at the end of the trial, that this is a relevant question.

20 MR. O'SHEA: (Previous translation continues) ... intervention
21 because, in fact, what my learned friend for the Prosecution has done is
22 he's illustrated or demonstrated that the only purpose of the last
23 question could be to explore the credibility of Mr. Katanga, which is not
24 the role of Mr. Gilissen, as we know. So if his objective is not to
25 explore the credibility of Mr. Katanga, and that cannot be his

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 30

1 appropriate objective at this stage, then in my submission he must
2 focalise his question.

3 PRESIDING JUDGE COTTE: (Interpretation) Now, that was a very
4 clear and sharp exchange. On the one hand there's been mention of the
5 credibility of the witness. The Prosecutor has emphasised the relevance
6 of questions that he might have asked himself. Nonetheless, the
7 time-frame has been clearly limited. I'm sure Mr. Katanga has understood
8 that we're talking about August 2002 to March 2003. And I'm repeating
9 and Mr. Gilissen will correct me if I'm mistaken, the question referred
10 to your own perception in Aveba and in the Walendu-Bindi collectivity.
11 You've just answered as regards APC and you mentioned that they were
12 professionals. Mr. Gilissen could perhaps make his question more
13 precise. When you asked your question, what were you thinking of? Were
14 you thinking of Yuda's troops or were you thinking of commanders coming
15 from Gety? Were you thinking of -- what kind of soldiers were you
16 thinking of when you asked Mr. Katanga, when you asked him whether
17 according to his knowledge there were or were not any child soldiers?

18 MR. GILISSEN: (Interpretation) Well, it seems to me that we're
19 drowning ourselves in a glass of water. On page 27, line 4, Mr. Katanga
20 gave a very explicit answer and I would like to thank him for that. We
21 need no further information regarding the presence of child soldiers in
22 the APC. He has said that he never saw any, never. In any of the
23 battalions of the APC, he never saw any child soldiers. And my question
24 was simple and I don't think it challenges his credibility. I simply
25 asked whether elsewhere, other than within the APC -- now I've been

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 31

1 criticised that this question is too vague. Well, let me say.

2 Q. During the period that we're interested in, that is, between 2002
3 and 2003 -- well, June 2002 until June 2003 to be more specific, have you
4 seen in any other military or paramilitary groups or militias or other
5 fighters, combatants, have you yourself with your own eyes seen what you
6 consider today as being a child soldier?

7 A. Well, on various videos or photographs that I discovered with you
8 here in the courtroom of the ICC, I did see that there were children
9 bearing weapons. But I don't know who they belong to or what group they
10 belong to, but yes, there are videos that show them wearing UPC uniforms
11 under the command of the UPC. There were other soldiers bearing weapons
12 where the photographer said that the pictures were taken in Nyakunde or
13 elsewhere. But I can't tell you whether they belong to Germain Katanga
14 or any other battalion because Reynaud and I were not together when these
15 photographs were taken. But I did see in pictures presented by
16 Mr. Reynaud who stated that they were children and it was visible that
17 they were children. But I can't really say whether I myself saw them. I
18 saw photographs of them.

19 Q. Thank you very much. That's very clear. In other words, you
20 yourself personally between the period of May/June 2002 until June of
21 2003, you never saw children bearing weapons, children participating in
22 military activities or participating in armed groups or militia groups.
23 Have I understood you correctly? If I have, please correct me.

24 A. Yes, I can say that most frankly because I went back to Bunia. I
25 went to Kindia. I went back and forth from different neighbourhoods.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 32

1 But during the conflict in Bunia there was a difference, you see, because
2 UPC was not with us. But we could see children wandering all over Bunia
3 but without weapons. They were following people, they were walking
4 around. We could see them going and coming. But I can't tell you that
5 they were child soldiers. It's impossible for me to say that they were
6 child soldiers.

7 Q. Thank you. We now understand your own personal experience of the
8 phenomenon. But at the time, at that same period, June 2002 until June
9 of 2003, during that time-frame did you receive any information regarding
10 the existence of child soldiers even if you did not see them yourself?
11 In other words, did you receive any information according to which there
12 were child soldiers in Ituri? I'm referring to Ituri, of course.

13 A. Well, I began understanding the expression starting with the CCGA
14 because I was in regular contact with NGOs and with MONUC. When the CCGA
15 began, that is when we began gleaning some understanding about what this
16 concept of child soldier meant. Why am I saying that? Well, at a given
17 point in time we were told that there was a phenomenon of child soldiers
18 quite exaggerated in Ituri, that children were being recruited and sent
19 off to the front. For me, that was meaningless. We couldn't consider
20 recruiting a child and sending the child to fight a battle. We didn't --
21 we couldn't believe it. But then we were told about the situation with
22 the UPC, the facts were described to us and the AFDL -- well -- but I
23 can't tell you that I was in contact with child soldiers until up to
24 2003. I hope I've answered your question clearly, but if not, please
25 repeat your question.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 33

1 Q. No, that was clear. Thank you. You mentioned the CCGA. When
2 did that take place? What is the time-frame? What month was it? We
3 don't need the exact date but what month was it?

4 A. The CCGA began in August of 2003.

5 Q. And the work you did within the CCGA - and your work was
6 important, we know that that's the case - what kind of information did
7 you provide? What was your contribution in terms of information relating
8 to child soldiers? To be perfectly clear, what were you able to state,
9 what were you able to declare at the CCGA?

10 A. Well, when we went to Kinshasa we began the regrouping
11 programmes, and that's when we had to define things, that is, the
12 children living in the camps were called EAFGA. And that's when we took
13 the initiative of saying: Okay, the children living in the camps, those
14 are the children who could benefit from the help of UNICEF by saying that
15 they're child soldiers. But to be perfectly clear, they were our
16 children, the children of our brothers.

17 Q. But was that before the Aveba demobilisation centre was set up?
18 Is that when the decision was made, before or after?

19 A. Could you repeat your question to be perfectly sure that I've
20 understood.

21 Q. Well, what you've just described, the decision regarding the
22 EAFGAs, the regrouping and what happened to the children in the camps,
23 this decision to enable them to benefit from a new status, if you will,
24 was this decision taken once the demobilisation centre was set up in
25 Aveba, before or after this centre was set up?

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 34

1 A. Well, Mr. Gilissen, what I can say is that in the beginning we
2 were thinking in terms of the children living in the camps, August,
3 September, and thereafter, when we came back from Kinshasa to organise
4 the regrouping of the children. But when the site itself was built, our
5 goal, our main goal, was to go from camp to camp and identify the
6 children who were living in these camps. Therefore, when we began
7 opening the transit centres, this proposal that we had made failed simply
8 because we didn't have the necessary personnel to set up these transit
9 centres. So when the children, at the beginning, when we began regrouping
10 them, each family -- well, the number of children reduced. The children
11 who had families outside, well, they left the camp and they went home.
12 So the children remaining were our own children or the children of our
13 cousins or brothers who didn't have enough support outside of the camp.

14 So before the demobilisation, actually the system had already
15 begun identifying the camps, identifying where we could put these sites
16 to demobilise the EAFGAs. It had already begun.

17 Q. These children in the camps, Mr. Katanga, the children in the
18 camps in particular in Aveba, did they participate in the daily life of
19 the camp? Did they occupy certain functions? Did they provide help or
20 did they have chores? Were they involved in transporting minor things?
21 Did they participate in the daily life of the camp?

22 A. No, Mr Gilissen. Well, let me go back to my example. My child served my own
23 family. I had a young girl, Aline (* phon), who was already 12 or 13, she
24 participated.

25 She helped my own family. When my life did the cooking, this girl would help

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Gilissen (Continued)

Page 35

1 with the dishes, et cetera. Each child was living with his or her family
2 members and participated in the day-to-day chores, dusting, cleaning. It
3 was their home, after all. If visitors were coming to their house it had
4 to be clean. So each child would participate. It was as if they were
5 still living at home outside of the camp. In fact, for these children it
6 was a good thing because there was more space. They could get together,
7 10, 15 children could play together.

8 Q. I've almost finished, Mr. Katanga. I believe this is going to be
9 my last question or almost. Did -- was there discussion of children at
10 the Beni meeting, when Mr. Adirodu came to Aveba with what you described
11 as a paper in hand? When some left Aveba to go to Bogoro to attack the
12 village of Bogoro, at that point in time was there any talk about
13 children or was it not mentioned at that point in time?

14 A. I have no memory. I have nothing in mind as regards Adirodu talking about
15 children. Children, from what point of view? No, I don't think so. No,
16 I would say not at all. It was not discussed and it was not discussed
17 for Aveba or Kagaba, no. There was no discussion of children.

18 Q. Well -- well, on either side, from the camp or the side that was
19 being attacked, there was no mention of children?

20 A. Well, Mr. Gilissen, I can say clearly no, that was not at all in
21 mind.

22 Q. Thank you very much, Mr. Katanga. The goal was not at all to
23 question your credibility. I believe that the answers you have given --
24 I now have a much clearer understanding of your own position and I'd like
25 to thank you because you've helped us do our job.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 36

1 My task here is not to make submissions or pleadings and it is up
2 to the Chamber now to decide. I'm not trying to convict anyone; that's
3 not my purpose here. I am here so that those who are victims of a
4 situation see that justice be done. This has been stated and repeated.
5 I am not your enemy. I'm not a Prosecutor bis. That's a childish view
6 of the situation and that's not at all my understanding of the situation.
7 I thank you very much.

8 A. Thank you.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
10 Mr. Gilissen.

11 Mr. Luvengika, it is now your turn to examine the witness. I'd
12 like to recall the terms of paragraph 90 so that everything is perfectly
13 clear, but as regards your situation and your role I'd like to call your
14 attention to paragraph (D) which refers to reparations. Obviously if you
15 feel it is necessary - and no doubt you might - if you feel it is
16 necessary to refer to looting, to what was being looted, but let us not get involved in
17 any accounting at this point in time, in particular, livestock issues
18 which would take a lot of time and we can't deal with it with the necessary
19 precision at this stage. You may proceed.

20 MR. LUVENGIKA: (Interpretation) Thank you, Judge Cotte, your
21 Honours.

22 Questioned by Mr. Luvengika:

23 Q. (Interpretation) Good morning, Witness, Mr. Katanga.

24 A. Good morning.

25 Q. It's been close to two years that we've been sitting in this same

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 37

1 courtroom. We've never had the opportunity to say good morning. I think
2 you have now understood how the international justice system functions.
3 As Mr. Gilissen has just explained, what he's just said applies to me. I have
4 nothing against you. My role here is to represent the interests of the victims in
5 Bogoro, be they Hema, Lendu, or other, and Ngiti. I'm sure you understand. I am
6 here to defend their interests. I would have acted in much the same way had I been
7 asked to represent the Ngiti victims in Aveba, Kagaba or elsewhere. I am sure we
8 understand each other. As you must have realised ever since the beginning of the
9 proceedings, I am representing victims with regard to what happened in
10 Bogoro and I will try to stay within that context. This leads me to my
11 first question. Did you ever have the opportunity to travel to Bogoro at
12 any time prior to the events of the 24th of February, 2003?

13 A. My simple answer to you is that on the 10th of February, 2003, I
14 went to Bogoro.

15 Q. Thank you. You stated this during your testimony, but my question is much
16 more general, that is, it does not concern only the attacks on Bogoro.
17 Before the events, did you ever have the opportunity to visit Bogoro?

18 A. No, I never was in Bogoro before that.

19 Q. During your direct examination by Mr. Hooper, and I am going to
20 give you the context because this was a few days ago, Mr. Hooper asked
21 you whether you heard anything about civilians who might have been killed
22 during the attack of 24th February, 2003, transcript number 318, page 29,
23 lines 16 and 17, as well as page 30, lines 27 and 28. And this was your
24 answer, you said that - and I'm quoting page 31, lines 5 to 7 - you said
25 that the soldiers were professionals. They could not accept to be

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 38

1 accused of having massacred civilians, they could not accept that. They
2 could not say that. You also explained that it was in Bunia that you
3 were informed through the media that there had been 400 or even 500
4 deaths during the attack in question. My question is very precise.
5 Through which media did you learn this, do you remember the specific
6 media organs that reported this at that time?

7 A. I do not remember the specific media organs, but I believe there
8 was a written report and probably newspapers. But I do not recall the
9 specific media outlet. Even in Bunia people were talking about
10 information according to which the UPC had declared over the local radio
11 station that many people had died, 400, 500, and this number kept
12 increasing. So I cannot tell you the specific media organ that gave that
13 information.

14 Q. If I understand you well, you did not directly hear or read this
15 information from the media. That is something you were told?

16 A. Yes, that is correct.

17 Q. Apart from the media, did you hear about this from other sources?
18 In the course of your testimony, you stated that two days after the
19 Bogoro attack you went to Kagaba. Mr. Gilissen just mentioned this a
20 short while ago. The Prosecutor and my learned friend Mr. Hooper
21 mentioned that. Now, during your stay in Kagaba - and you have said that
22 you discussed with Garimbaya - all those people who participated in the
23 attack, Captain Blaise Koka and others, did none of them ever tell you
24 about the massacre of civilians that had taken place in Bogoro?

25 A. Counsel, let me repeat my answer. These were people who knew

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 39

1 that accepting this massacre would constitute a burden on them. So it
2 was difficult for them to say that they had killed civilians in Bogoro.
3 So none of those people could accept that.

4 Secondly, given that if civilians had died, for example, I cannot
5 deny that civilians died but you say they told me. No, they did not tell
6 me. These people who know how operations are carried out and in their
7 system it is known that if they accepted such a thing, they would go to
8 prison. It is in this light that I'm telling you that they themselves
9 never told me.

10 Q. Did you ever hear from subordinates or foot soldiers? I
11 understand that this would be difficult for officers because they might
12 be held liable, but did you never hear about those massacres from any
13 combatants?

14 A. I never had the opportunity to discuss with the local combatants
15 as such. It never occurred to me to discuss this. All I know is that I
16 was told that UPC soldiers fell on the battleground, many of them. That
17 is all what I was told.

18 Q. Mr. Katanga, I have one last question for you on this issue with
19 the leave of the Chamber, of course. You yourself, Mr. Katanga, do you
20 accept or admit that there was a massacre of civilians in Bogoro on the
21 24th of February, 2003?

22 A. Mr. Nsita, this is a difficult question. Accepting massacres?
23 Well, I cannot describe those as massacres. I can simply tell you that
24 people died. What I'm really saying is that wherever there is an attack,
25 wherever there were attacks, people were killed. I cannot tell you that

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 40

1 there was a massacre because the force that was in Bogoro was armed, just
2 like those that came to attack. And so for me to tell you that people
3 were massacred, I believe that word is a bit too strong for me. But
4 people died indeed. I do not know whether I have made myself clear.

5 Q. Very well. Let us set aside the term "massacre." But do you
6 accept that civilians were killed?

7 A. Mr. Nsita, given our consideration for humanity, even the
8 soldiers who died -- when shells are being fired, they cannot be directed
9 only to the camp. If a shell misses its target, it can hit a house.
10 Obviously people died. Wherever there is fighting, people die. So I can
11 tell you that people died. I cannot deny that people were killed.

12 Q. Mr. Katanga, this is a question which is of great interest to
13 victims. What types of weapons did the combatants use during that
14 attack, can you tell us?

15 A. In this case these were not combatants. They were trained
16 soldiers. They really had assault weapons. There were heavy weapons,
17 support weapons. There were enough of them. If there were machetes, for
18 example, those are weapons that any soldier can have, a hoe, an axe, a
19 machete, because if they're going through the forest they can clear a
20 path with those tools.

21 Q. You have anticipated my question and that was to ask you whether
22 any edged or traditional weapons were used in that attack. And if I
23 understand your answer, those weapons were used but by professional
24 soldiers. Is that correct?

25 A. In the army, soldiers could have those things, an axe, a machete,

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 41

1 a hoe, because if they want to dig a hole or a trench they will need a
2 hoe and so on and so forth. So each soldier carries those tools.

3 Q. I would like to follow-up on your last question. Who were those
4 people, children, women, young people? Witnesses in this courtroom said
5 that these people were dressed in leaves, they were carrying gris-gris,
6 they had edged weapons, they were singing, finishing off victims and
7 slashing people. Many witnesses mentioned this here, children, young
8 people, women carrying gris-gris and dressed in leaves. They were said
9 to have taken part in that attack. Who are those people?

10 A. Mr. Nsita, I can tell you that when there is fighting and AKs are
11 being fired, when someone is speaking, it would be very difficult for
12 anyone to understand what is being said. When bullets are flying by and
13 when shells are exploding. I am not insisting on the fact that witnesses
14 said this or that. I might even have contradicted them because it is
15 possible that they may have heard, so I have something -- I have nothing
16 to say about that.

17 But what I can say, counsel, is that there were people who were
18 living in Bogoro at that time and who found themselves following these
19 people to come and recover their property that they had abandoned ever
20 since 2001. So maybe in that context people followed the combatants. In
21 our collectivity I can say that it is only the pastors and the true
22 faithful, they are the only ones who do not carry gris-gris, but everyone
23 in Ituri, people have those things even in their houses. You may even
24 have pastors in the church, yes, but you don't know what is hidden
25 behind. You can have flowers planted around the house, whereas the

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 42

1 purpose is not for those to be real flowers, they are something else.

2 All Congolese know that all flowers planted around the house are not
3 simply there for purposes of beautifying the place. You have gris-gris.

4 Now, regarding the leaves, maybe they simply wanted to create a
5 difference to distinguish themselves so that there should be no confusion
6 with the opposing party. So that can happen.

7 Q. Mr. Katanga, we are referring here to the 24th of February, 2003,
8 aren't we?

9 A. Yes. I'm with you. What I'm explaining here is related to the
10 question that you put to me.

11 Q. What my question said or indicated was that these were not people
12 who came after the attack to loot. These people were part of the attack.
13 They came and finished off the victims with machetes. They hacked them.
14 They were singing as some witnesses have told us here in this courtroom,
15 and this was on the 24th of February, 2003.

16 A. Mr. Nsita, what I can tell you is that this was not an occasion
17 for making speeches where people were speaking, singing, while bullets
18 were flying by. No. Maybe they were somewhere else. You cannot start
19 singing and dancing when shells are falling all around you. That is
20 difficult. It is for that reason that I am telling you that I'm not
21 denying that victims might have heard people's voices. But to actually
22 hear what was being said, I cannot be sure of that. You can hear people
23 shouting even if there is sustained gun-fire. But to say that somebody
24 said "Finish him off. Kill him." Unless the noise abates, you might be
25 able to hear, but I have a serious reservation here, accepting that when

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 43

1 there was fighting people were singing and doing this and that. Who were
2 they singing for? They were not in church. So all I'm telling you is
3 that I'm not denying that victims might have heard people's voices, but I
4 have serious reservations that they could have heard specific words such
5 as "kill them" or "finish them off."

6 Q. Mr. Katanga, you said that Bogoro was important from a military
7 point of view. It's in transcript 318, page 34, line 3, you stated that
8 even after Bogoro was conquered on the 24th of February, 2003, there were
9 still pockets of resistance, and this is in transcript 318, page 33, line
10 10. Can you tell us who were in those pockets of resistance?

11 A. All I can tell you is that I made that statement because in the
12 mind of the international community, people feel that the Bogoro attack
13 took place on a single day. You would also have heard witnesses, both
14 Defence and Prosecution witnesses, testify that the attack did not take
15 place on a single day. The attacks continued. I do not know whether the
16 UPC completely withdrew from Bogoro on the same day, no. Because any
17 soldier who is attached to his position, if he is dislodged it is
18 difficult for him to flee immediately far away. That is why I'm saying
19 that there was serious resistance and the operation did not end on the
20 same day.

21 Q. Based on what you know, where were these pockets of resistance?
22 Was it still in the UPC camp or in the vicinity of Bogoro, that is, based
23 on what you know?

24 A. I can say that UPC still had forces around Kasenyi. They could
25 travel back to attack. They -- there were UPC troops who fled. They did

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 44

1 not all die. So at any time they could regroup and return. So it was
2 possible that UPC soldiers should leave Kasenyi and come back up. If the
3 attack was impossible they would retreat. And those who were in the
4 bush, they had means of communication. They could decide to reinforce
5 themselves strategically. That was possible.

6 Q. In light of your answer I would like to seek some clarification
7 from you. Based on what you're saying, is this something that you know
8 or it is something that you are supposing?

9 A. Mr. Gilissen --

10 Q. It is actually Mr. Nsita.

11 A. Mr. Nsita, I know that the Bogoro attack did not end in a single
12 day. It could have been on the 25th or the 26th. I cannot know for
13 sure. I know that on the day of the attack when Yuda was injured and he
14 arrived Aveba, he arrived on the 24th. I do not know. So this is to
15 tell you that I'm really not sure myself the day on which Bogoro fell.

16 Q. To your knowledge, for how long did those pockets of resistance
17 persist? Did that attack last for one week? Three days? In any case,
18 till when did that resistance last, that is, if you know?

19 A. I cannot tell you precisely whether it was two, three, four days,
20 or one week. But I know that perhaps two days afterwards there was total
21 calm. After a few days, Ugandan troops coming from Kasenyi also attacked
22 the combatants there in order to open up the road, and they went to
23 Bunia. This is something that we do not also understand. Was it the
24 UPDF or the UPC? It was a confusing situation. No one knows till today.
25 But from the bodies that were identified there, that were seen there, it

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 45

1 was known that it was the UPDF.

2 Now, how is it possible that the UPC was chased out of Bogoro and
3 then the UPDF succeeded in attacking the force that had conquered Bogoro?
4 This is unclear, counsel. Two days after the date of the 24th I can say
5 that the situation calmed down. But after that there was yet another
6 attack from Kasenyi. It was a major attack and the troops involved
7 passed by and went to Bunia. We do not know precisely who they were, but
8 the bodies that were left there were in Ugandan uniforms.

9 Q. Mr. Katanga, in your testimony you stated that because of the
10 threats represented by Kisoro to Aveba you had no other choice than to
11 stay in Aveba to protect your community. You further explained that in
12 times of war, as was the case in 2003, during a situation of ongoing
13 conflict, people do not protect themselves in their houses because, let
14 me quote you, if you stay in your house, your house will be set on fire
15 and you will be burned inside. Do you remember this testimony? This was
16 when you were explaining why you had not gone to Bogoro because Kisoro
17 was threatening to attack Aveba. But what is of interest to me here is
18 not Kisoro but the fate of the population. You are worried about your
19 community, your population, you were worrying about them and you said
20 that in times of war when people tried to protect themselves and stay at
21 home, the houses are set on fire and they are burned inside.

22 So my question is as follows: Are we to understand that during
23 times of war the civilian population was threatened and massacred?

24 A. That is a good question, Mr. Nsita, because we are the ones who
25 suffered this phenomenon. When the occupation forces arrived, that is

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 46

1 what they did. They even gathered people together and told them: Go
2 into this house. Go into the church. Come together and go into the
3 church. They were the ones who locked up the houses with a padlock and
4 set them on fire. This is what the Ugandans did. So that is why we
5 remember. It is engraved in our memories, that in case of conflict
6 people should flee into the bushes and not stay in the houses.

7 Initially when the Ugandans came, they did not shoot. They
8 organised gatherings or rallies, and after that gun-shots would be fired
9 somewhere and they would say: Please, go in there, gather there, we will
10 cross-check what is happening, and then we will provide security.

11 After that they locked up the houses and set fire to the houses,
12 and if you wanted to escape through the window they will shoot you and
13 you will fall back in the fire.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Katanga, we are at
15 the end of the two hours of the first session, and if Mr. Luvengika has
16 any further questions he will continue after the break.

17 Madam Usher, please lead Mr. Katanga to his seat.

18 Court Officer, Mr. Kilenda, it appears almost clear now that
19 Mr. Ngudjolo's testimony will not begin today. So the Lingala booth is
20 free to go, so that testimony will start tomorrow in the morning.

21 Mr. Luvengika, how much time do you have left?

22 MR. LUVENGIKA: (Interpretation) I believe I will need about
23 half an hour depending on how Mr. Katanga answers the questions.

24 PRESIDING JUDGE COTTE: (Interpretation) This hearing is
25 suspended. We will reconvene at 11.30 a.m.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 47

1 Recess taken at 11.01 a.m.

2 On resuming at 11.32 a.m.

3 (Open session)

4 COURT USHER: All rise.

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

6 Mr. Luvengika, please proceed with your questioning.

7 MR. LUVENGIKA: (Interpretation) Thank you, Mr. President.

8 Q. Mr. Katanga, I want to go back to the question we were dealing
9 with before the suspension and I want to be a little more explicit. When
10 I talked about Kisoro, it was for purposes of giving you a context, and
11 in your answer you talked about Ugandans. However, what I was more
12 interested is the situation of the civilians during the attacks in
13 general terms. And we were talking about Kisoro and now we have your
14 reaction, very protectionist of your population. Because if one
15 understands you properly, if the population is not protected it will be
16 massacred or the people will be killed. Now, if we put ourselves in the
17 context of the ongoing conflict in the Ituri at that time, then the
18 question must be to seek to understand whether during that period the
19 civilian population ran the risk of being killed, being massacred. That
20 is my question.

21 A. I hope that my answer -- in fact, my answer touched on Uganda in
22 relation to the killings and the burning down of houses. And what I
23 meant to say was that in our area, during the attacks people did not seek
24 refuge in houses. They went to the valleys, they went to the valleys, in
25 order to avoid being victims of these things which had already befallen

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 48

1 them previously.

2 Now, as to your specific question, let me answer by saying,

3 Mr. Nsita, that where there is an attack and a bullet is fired, one has

4 no control over it. It is gone. You cannot orientate it anew. You

5 cannot redirect a bullet that has already been fired. So where there

6 is -- where there are clashes, the victims are civilians. They are not

7 prepared to hear and deal with the explosions and gun-shots. The normal

8 state of things is calm, where the people can sing, go to church, work on

9 their farms, and engage in other businesses. But under the present

10 circumstances all I can tell you is that the population is always a

11 victim wherever there is warfare.

12 Q. I understand when you talk about stray bullets, but what about

13 bladed weapons and machetes, people who were killed using such weapons?

14 A. Mr. Nsita, I am really not in a position to provide you with any

15 detailed answers. Until proof of the contrary, I did not go out to carry

16 out such actions. So I am not in a position to tell you what those who

17 used machetes did, I cannot. Within our collectivity, we did not use any

18 machetes to kill any civilians, no, we did not do that. We were in our

19 area. So when you talk about killing people with machetes, that is a

20 strange phenomenon to me. I did not see that. I did not experience

21 that.

22 Q. But just before the suspension you explained to the Court that

23 the bladed weapon was also part of the arsenal that the soldier had upon

24 him or herself when conducting an attack. You talked about machetes and

25 hoes and maybe you mentioned other instruments, but in your testimony you

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 49

1 said it was part of their arsenal.

2 A. Have I contradicted myself in any way? It is the same thing. I
3 haven't contradicted myself.

4 Q. Last Thursday, transcript 322, page 16 (* as interpreted), you
5 testified that it was possible for soldiers or combatants to lose their
6 calm and react instinctively and then kill innocent civilians. According
7 to you, what happens in a combatant's mind to trigger that instinct which
8 leads him or her to kill civilians?

9 A. I do not know the context in which I gave you that answer, but
10 what I remember is that I talked about the instinct of APC soldiers or
11 APC combatants, to be very specific. That answer was dealing, in fact,
12 with the point that over and beyond their specific mission, they were
13 also driven by instincts of revenge and punishment. Why do I say
14 "punishment"? Everybody knows that when the UPC separated itself from
15 the RCD-K/ML, in fact in any event the RCD-K/ML did not take it well that
16 Lubanga should be a Hema and choose to belong where he did. So any Hema
17 who was RCD-K/ML was considered to be their enemy. So when it happened
18 that soldiers of the RCD-K/ML were faced with a Hema, they reacted
19 instinctively with a sense of punishment. And that was the thrust of my
20 answer. I am not saying that it was the Lendu or Ngiti combatants who
21 had those instincts to behave that way. I was talking specifically about
22 the APC combatants in that context who instinctively took it out on the
23 Hema population, and it did arrive that such a thing would happen.

24 MR. HOOPER: It's merely that that reference, it's not on that
25 page. I think we can all recall something along those lines was said,

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 50

1 but can we have the reference, please. It's not page 16.

2 MR. LUVENGIKA: (Interpretation) My page reference was 6-0 not
3 1-6, 60, not 1-6.

4 PRESIDING JUDGE COTTE: (Interpretation) I'm looking at
5 transcript 322 and this is realtime and reference is made to page 16.
6 Now we shall all shift and move to page 6-0.

7 Mr. Hooper, have you found the English reference corresponding to
8 page 60 in the French?

9 MR. LUVENGIKA: (Interpretation) For the French transcript
10 please refer to line 13.

11 PRESIDING JUDGE COTTE: (Interpretation) Mr. Luvengika, please
12 proceed.

13 MR. HOOPER: Yes, I think it would be fairer to have put that
14 section because it's in the context where he's speaking of Serbia and
15 other comparative examples and he talks, in fact, at that line of
16 combatants -- sorry, not of combatants, of professionals. And you'll
17 bear in mind I think Mr. Katanga just a moment ago said specifically: "I
18 don't know the context in which that was said." So I think it would be
19 perhaps preferable if again it's a question of putting specific words,
20 that those specific words as on the transcript are put to the witness.

21 MR. LUVENGIKA: (Interpretation) Mr. President, I believe that
22 Mr. Katanga understood the question very well, and in his answer he
23 talked about the APC soldiers. And from my understanding of his
24 testimony on this matter, whenever he talks about professional soldiers
25 he's referring to the APC soldiers.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 51

1 PRESIDING JUDGE COTTE: (Interpretation) Well, Mr. Hooper wanted
2 to point out that the transcript refers to the fact that Mr. Katanga was
3 talking about professionals, and as you have said, there is no ambiguity
4 to his mind and that his answer points to that direction. Please
5 proceed.

6 MR. LUVENGIKA: (Interpretation)

7 Q. Mr. Katanga, I wanted to point out to you that we all know that
8 there is a distinction between the Hema North and the Hema South.
9 Thomas Lubanga is a Gegere from the Hema North and the Bogoro Hema are from
10 the Hema South. And these are those from Bogoro who do not have the same
11 connection with the north. Is that the case?

12 A. You say so because you know. Those who do not know cannot make
13 that distinction. So we use the word "Hema," Hema North or Hema South,
14 but someone who is not familiar with that distinction would have
15 difficulty understanding it. So there are people who may have become
16 aware of these things now because the case file is now open, it is
17 everywhere, it is on the internet, there is a distinction being drawn
18 between the Hema North and Hema South, Lendu North, Lendu South, but
19 prior to that it was only the language, the spoken language, that would
20 distinguish the people. And so reference to Hema did not necessarily
21 make the distinction between a Hema North and Hema South.

22 Q. Let us move on to another area, that of looting or pillaging.
23 Transcript 318, page 25, lines 7 to 9, it was your testimony that
24 according to you there were many Ngiti living in Bogoro and you added
25 that these Ngiti returned to Bogoro to recover whatever they could find

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 52

1 to make up for what they had left in Bogoro. You repeated that very
2 position this morning. Now, my question to you is the following. The
3 Ngiti you are referring to, were they combatants or civilians?

4 MR. O'SHEA: Can I just contextualise what my learned friend has
5 just asserted. I think the expression used by Mr. Katanga was "people,"
6 not necessarily only exclusively Ngiti. People.

7 MR. LUVENGIKA: (Interpretation) Mr. President, I provided the
8 transcript reference.

9 PRESIDING JUDGE COTTE: (Interpretation) I will read the
10 transcript. French transcript page 25, line 5:

11 "At the commercial centre there were old buildings, old
12 buildings. Well, I would not state who those buildings belonged to. All
13 ethnic groups were present in Bogoro. What I understood was that there
14 were many Ngiti living in Bogoro. Those Ngiti went back to Bogoro to
15 recover whatever they could find to make up for what they had left in
16 Bogoro. That was my understanding. However, to say that Bogoro was
17 looted, what would have been looted?"

18 That is the reference from the French transcript, page 25, number
19 318, lines 5 to 10.

20 Mr. Luvengika, please proceed.

21 MR. LUVENGIKA: (Interpretation)

22 Q. I don't know if you have understood my question. The question
23 was the following. Those Ngiti who went to recover their property, were
24 they Ngiti civilians or Ngiti combatants?

25 A. Mr. Nsita, they were civilians, civilians. They had no

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 53

1 connection whatsoever with the combatants. They were civilians.

2 Q. What exactly did they recover, their property or the property of
3 other persons? Because you used the word "compensate" or "make up for"?

4 A. I cannot provide you with a specific answer because I did not see
5 what they took back to their homes. I do not know. All I knew is that
6 the situation in the city was a very sad one. The walls and the
7 buildings were dilapidated and it was a sad and very sorrowful picture.
8 But I cannot tell you what was taken away by the people. I have no
9 specific answer for that question.

10 Q. It is because you in your testimony said that they went to
11 recover whatever they could in order to make up for or compensate for
12 their loss. And that is why I am asking you whether you know what was
13 taken or not. It is really not a problem if you do not know. So the
14 question was simply to find out whether you were aware of anything that
15 these Ngiti who went back to Bogoro would have collected.

16 A. I have told you that I have no details to provide by way of
17 answer. So those who went back could have found anything and would have
18 taken it. For example, a door or anything that they found. So for those
19 who went back, depending on what they were interested in, they would do
20 what was possible. So I cannot tell you that they took away a door or
21 furniture or what have you. I cannot be more specific than that. All I
22 can say is that people came to fetch or look for something or anything.

23 Q. Please, can you provide some clarification. A short while ago in
24 answer to my question you said it was a sad image or a sorry situation.
25 Can you explain what you mean by that sad picture. Can you describe to

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 54

1 us what you yourself observed?

2 A. Houses had been abandoned, no more inhabitants, no maintenance,
3 the walls of buildings were dilapidated, some have collapsed because of
4 the rain and erosion and plants had not been tended and so on and so
5 forth. So one could not say at that point again that Bogoro looked like
6 a village that had been inhabited.

7 Q. Was it a ghost village?

8 A. I did not use those terms. I simply said that it was a village
9 that did not look like a village where people would live.

10 Q. So according to you, it is the Ngiti who came to recover their
11 property, but you went on to explain that after the attack the -- there
12 was unsafety and insecurity in Bogoro because the UPC could come back at
13 any time. Same transcript, 318 (* as interpreted), page 32, lines 14 and
14 15. You also said that the roads were in a poor state.

15 Question: How did those Ngitis manage to come back to recover
16 their property if the situation was so unsafe?

17 MR. HOOPER: I'm sorry again, in the English transcript again
18 we've got the reference that we had for your last reference as being
19 transcript 319. Can you confirm that it is 319 because on the last
20 transcript it was in fact 318. It's just that if we get these errors
21 now, they're difficult to address later, as it were. Can you just
22 confirm the number of the transcript.

23 MR. LUVENGIKA: (Interpretation) Transcript 318 (* as
24 interpreted), page 32.

25 PRESIDING JUDGE COTTE: (Interpretation) Line 14 and 15.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 55

1 MR. O'SHEA: And on the transcript in English it's come at 319
2 again.

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. Luvengika, would
4 you please read the sentence in the French version, 318, page 32, 14 and
5 15. It is page 32 of 48 long -- 48-page-long transcript. Could you
6 please read the sentence you are referring to, Mr. Luvengika.

7 MR. LUVENGIKA: (Interpretation) Let me repeat from the
8 transcript 318, 318, page 32, line 14. I'll start from line 12.
9 Question which was asked:

10 "After having taken over Bogoro from a military standpoint, after
11 that was Bogoro safe?"

12 Your answer:

13 "No, no, no. There was no assurance of people staying under the
14 same circumstances in Bogoro because the UPC could have come back at any
15 time. UPC was going to come back. Those who were in Kasenyi -- were in
16 Kasenyi, Kasenyi, Tchomia and many villages along the lake were occupied
17 by the UPC ..."

18 Now, I don't know whether I should continue but I could summarise
19 the testimony.

20 PRESIDING JUDGE COTTE: (Interpretation) In any event the
21 statement has been read and I think we can harmonise the transcript
22 references later on. The transcripts might bear different numbers in
23 English and French, that might be a problem, but I hope that this can be
24 clarified and this may simply be a technical issue that could be
25 clarified. But there might be benefit in having the French and English

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 56

1 transcripts bearing the same page numbers even if more material
2 were to be fitted into the English pages. But this is a different
3 problem.

4 Mr. Luvengika, please proceed.

5 MR. LUVENGIKA: (Interpretation)

6 Q. I don't know whether after all what has been said you still
7 remember the question?

8 PRESIDING JUDGE COTTE: (Interpretation) Please rephrase your
9 question.

10 MR. LUVENGIKA: (Interpretation)

11 Q. This is my question: Mindful of the insecurity that you
12 described to have been obtaining in Bogoro, can you explain to the Court
13 how it is that the Ngiti then managed to return to Bogoro to attempt to
14 recover whatever they were able to recover, whereas, in your own words,
15 the roads were in a poor state because of the insecurity that prevailed.

16 A. Mr. Nsita, what I can tell you is that right from the beginning I
17 told you that Bogoro had been occupied by several and different ethnic
18 groups. We agreed on that so we set that aside. As for those who came
19 to Bogoro to collect property and so on and so forth, it was not on the
20 same day. It was not on the day after. They realised that things had
21 calmed down and that bullets were not flying here and there any longer.
22 So what I can say is that I went to Bogoro on the 8th of March and I saw
23 people going about in Bogoro. I am therefore not in the position to tell
24 you whether it was on the 24th, 25th, 26th or 27th. All I can tell you is
25 that when I went to Bogoro on the 8th of March, I saw that people were

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 57

1 moving about and doing whatever they had to do. Some were going across
2 the road and people were there. The civilian population, as one could
3 see, was there along with the soldiers.

4 Q. Thank you. Now, still talking about looting during attacks in
5 general, going by transcript 316, page 40, line 1 to 3, this is what you
6 said, and I quote:

7 "What I want to tell you is that we were asked to leave the
8 people alone, to leave them alone. But when -- but since we did not have
9 any salaries, when one found something one took it."

10 In transcript 318, which I have referred to a short while ago,
11 and talking about Kisoro, this is what you said:

12 "If one left Aveba and left Aveba in Kisoro's hands, then the
13 health centre and the schools would be looted and the people would be
14 massacred. Looting the schools and the health centre, that is what was
15 happening."

16 So in that testimony you described to the Court a normal practice
17 which occurs during attacks; namely, that looting takes place because
18 combatants have no salaries and therefore leaving Aveba to Kisoro would
19 have led to schools and the health centre being looted.

20 Now, if according to you --

21 MR. HOOPER: (Previous translation continues) ... it's -- what my
22 friend's done is taken two separate quotes and put them together. It
23 would be fairer, in my submission, to deal with each of those matters
24 separately. And having done that, if it's then open to my friend to
25 compound them, then he would be in a position to do so. But it's not

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 58

1 fair just to co-join two quite separate comments in that way, in my
2 submission.

3 PRESIDING JUDGE COTTE: (Interpretation) Well, Mr. Luvengika,
4 you can see that Germain Katanga's Defence team is most vigilant and if
5 you would be so kind as to ask your questions separately.

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

7 Q. Mr. Katanga, in your opinion the principle of looting was, in
8 fact, forbidden. And -- well, how exactly did the attacks against the
9 civilian population take place? And here I mean in terms of looting.

10 A. Well, I don't know whether -- or, rather, what you mean by
11 attacking and looting. You're talking about looting and now you're
12 talking about attacking. I don't understand the question.

13 Q. Well, I will clarify my question. And I must keep in mind the
14 five-second rule. I will repeat my question. Let me summarise your
15 testimony. During your testimony you told us about what is forbidden.
16 You mentioned Kakado, Kasaki, and you mentioned that it was forbidden to
17 loot and to steal. You even referred to the Ten Commandments in the
18 Bible. In your testimony, on the other hand, you also referred to the
19 fact that combatants ended up having to loot because they were not
20 getting any salary.

21 Therefore, my question is as follows: During the attacks, how
22 did it come about that combatants ended up looting? And here I'm
23 referring to attacks in general, whether it's in Aveba. We've also
24 mentioned Kisoro. We talked about the health centre, the schools.

25 Generally speaking when there is an attack, the combatants

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 59

1 carried out looting. How can you explain this?

2 A. Well, you're talking about Kisoro. He was not a local combatant.

3 He was a professional soldier. Well, what I can say to be brief,

4 regarding what you're referring to as combatants looting, whenever you

5 have contacts between the FRDC and the rebels or the militia, it was the

6 FRDC that did more looting. They were the ones who were doing the most

7 looting, your Honour. They were the ones who were looting, the FRDC.

8 And you know, they were trained soldiers. Soldiers are trained to loot.

9 They target what they want to take. Well, to be clear, take the case of

10 Nyakunde. Precise types of property were taken off by the APC to the

11 North Kivus. Take a look at Bunia. If you take a look at what was

12 looted, this was done professionally. After all, they were professional

13 soldiers, and since they're professional soldiers they do their looting

14 in a professional way. I'm not saying that combatants were telling the

15 soldiers how to do the looting, on the contrary. It was the soldiers

16 themselves who encouraged the combatants to join in in the looting. So

17 this issue of looting was not -- it wasn't the combatants, it was much

18 more the professional soldiers who were involved to this day.

19 PRESIDING JUDGE COTTE: (Interpretation) In other words, we are

20 to understand that it was the professional soldiers did carry out the

21 looting and that combatants also carried out looting, but it was the

22 professional soldiers who helped themselves first; is that right?

23 THE WITNESS: (Interpretation) Yes. It's as if you tell someone

24 not to do something. If you tell a child not to do something and yet you

25 do it yourself, you're giving the example and encouraging the child to do

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 60

1 the same thing. So a professional soldier, if the professional soldier
2 loots, well, then the other combatants feel encouraged to do the same
3 thing in spite of the fact that it was forbidden.

4 PRESIDING JUDGE COTTE: (Interpretation) To your knowledge, as
5 regards the professional soldiers was looting forbidden? In other words,
6 had their commanders, their chiefs, the people in charge given orders
7 against looting?

8 THE WITNESS: (Interpretation) Your Honour, I cannot tell you
9 that that was the case. For example, there was a motorcycle, a vehicle,
10 a four-wheeled vehicle that was looted by soldiers from the 11th
11 Battalion and they took it to Beni. It was even identified by the
12 personnel in Nyakunde. They knew exactly who that belonged to. It was a
13 pilot from the MAF and they knew exactly where it came from. How did a soldier
14 get hold of it? And even the hospital installations
15 were then taken to the Oicha Health Centre in Beni. So that's what I mean.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
17 Mr. Katanga.

18 Mr. Luvengika, would you please proceed.

19 MR. LUVENGIKA: (Interpretation)

20 Q. On Thursday October 6, and this is transcript 318, page 27, I
21 repeat transcript 318 for the benefit of Mr. Hooper. You stated that
22 during the conflict when there was looting of livestock, the livestock
23 had to be taken through Aveba to go to the North Kivus and to be sold
24 there. And you didn't see any going by after the attack on Bogoro. Can
25 you explain to us what happened to the livestock that was looted during

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 61

1 the period of the conflict?

2 A. Well, when I say that the livestock was taken through Aveba, what
3 I mean is that when the buyers go off to buy livestock, the shortest
4 road, the shortcut, goes through Aveba, Bukiringi, and then you go
5 through the forest and you get to the North Kivu. That's why I said that
6 the itinerary to the North Kivus went through Aveba. That was the first
7 point.

8 Now, secondly, let me say that everyone knows that livestock in
9 Ituri was the basis of business in Bunia. Today there are large
10 livestock farms in Ituri. I mean, this is obvious. I can't make it any
11 clearer. So three-quarters of the livestock in Ituri is now representing
12 the wealth of the North Kivu. How else can I tell you, whether it's the
13 Hemas, the combatants, the APC, if they wanted to sell cattle that's
14 where it was sold. And as regards the two communities who are said to
15 have been fighting, if they wanted to sell livestock from Boga, for example, they went
16 to Eringeti. If, in our collectivity, we need to sell livestock you have to
17 go to the North Kivu. The livestock that was looted by the APC went to
18 the North Kivu. So that was the only destination, if you will.

19 Q. You mention buyers, the buyers who went to Beni to buy livestock.
20 Who did they buy livestock from? That wasn't perfectly clear in your
21 answer a moment ago. We're talking about the period of the conflict, of
22 course.

23 A. Well, the soldiers had livestock. When they organised an
24 operation, they would have livestock and they could sell it in the North
25 Kivu. It was in the North Kivu that livestock was sold and the soldiers

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 62

1 themselves had livestock. I don't know how I can make it any clearer.

2 The market was in Beni.

3 Q. Thank you, Mr. Katanga. I have one last question and I will have
4 finished my examination. You stated on several occasions that you were
5 not that familiar with Bogoro. In transcript 318 in particular, which I
6 have referred to on several occasions because that's in particular where
7 you referred to civilians and the victims that I'm defending -- that I'm
8 representing. On page 6 -- when you stated on page 25 that there was no
9 farming and no livestock, on page 26 further on when you stated there was
10 no farming in Bogoro, no livestock in Bogoro, and I'm sure that my
11 learned friends can find the passage with the reference I've just given.
12 But, in fact, you know nothing about the situation in Bogoro before the
13 24th of February attack, do you?

14 A. Well, if you were to look at the satellite image of Bogoro, if
15 you turn it around and look at it as the Prosecutor showed us, you can
16 see that from the north around Bunia down to Nguna), that's close to
17 3 kilometres, I believe. I'm not quite sure of the length, and you can
18 see the width. Now, in this small portion that the Prosecutor presented
19 of Bogoro, could that have served both for animal husbandry, farming and to
20 accommodate the population? Of course not, no. From the map presented by the
21 Prosecutor, what I can say is that would be impossible because where I
22 come from, we send livestock out to pasture. So when you see the
23 skeletal shape of Bogoro with the few houses, et cetera, seen from a
24 satellite, it's less than a kilometre wide. Where can you keep your
25 livestock? And, you know, it's not like in Europe. Livestock are not

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Luvengika

Page 63

1 fed in the same way. They're set out to pasture to get their food themselves
2 and they have to go out to find water.
3 And where are they going to find the salt they need for their digestion? They
4 know where to find it. The animals know where to find it. We just milk them
5 in the morning and let the animals go out to pasture. We don't even have to lead
6 them. They know where to go. They know how to go on their own. That's
7 why.

8 Q. Well, if I've understood you correctly, your answer is the result
9 of a deduction based on the satellite picture that was presented here,
10 but in fact you had never been to Bogoro and you really knew nothing
11 about the situation in Bogoro. Is that what you're saying?

12 A. Yes, I know what cattle-raising is all about. It's -- that's not
13 how it's done. In such an area it's not possible to raise cattle.
14 Mr. Nsita, it's just not possible. I had never been to Bogoro before,
15 but the situation of Bogoro as it was presented here just does not make
16 it possible to consider cattle-raising nor agricultural fields for that
17 matter.

18 Q. Well, in light of your answer, with the Chamber's permission, I'd
19 like to ask another question. Were you aware of the existence of a World
20 Bank BIP programme to support agriculture in Ituri and the headquarters
21 was in Bogoro? And the project also covered Gety in the Walendu-Bindi
22 collectivity --

23 PRESIDING JUDGE COTTE: (Interpretation) What date was that?

24 MR. LUVENGIKA: (Interpretation) It was closed down in 2001
25 after the first attack on Bogoro, but it was an eight-year project.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 64

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

2 THE WITNESS: (Interpretation) I'm not familiar with the BIP.

3 PRESIDING JUDGE COTTE: (Interpretation) Well, you can't know
4 everything.

5 MR. LUVENGIKA: (Interpretation)

6 Q. Mr. Katanga, you stated that the first time you went to Bogoro
7 after the attack it was March 8th, 2003. Can you tell us who was living
8 in Bogoro at the time? Were they Lendu civilians? Were they Hema
9 civilians? Were they combatants? Who was living in Bogoro in March 2003
10 when you went through Bogoro at the time?

11 A. It was the military, the soldiers, under the command of Dark.

12 MR. LUVENGIKA: (Interpretation) Thank you very much, your
13 Honour, I have completed my questioning. No further questions.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
15 Mr. Luvengika.

16 Questioned by the Court:

17 PRESIDING JUDGE COTTE: (Interpretation) Mr. Katanga, the time
18 has now come for the Chamber to ask you a number of questions. In order
19 for things to be perfectly clear - and Mr. Gilissen has attempted to
20 clarify the situation regarding his task as Legal Representative of
21 Victims as did Mr. Luvengika - the Chamber would like to recall that here
22 we are not in favour of one or the other parties. We are not allies of
23 the Prosecutor or of the Defence nor of the Legal Representative of
24 Victims. Our task is to make a determination as regards the charges that
25 are held against you. It will be up to us to determine whether or not

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 65

1 you are guilty of those charges. I hope you understand that.

2 You were not obliged to do so but you decided to testify as a
3 witness, whereas you are an accused and you have already answered a
4 number of questions in the cross-examination by the Prosecution and
5 you've answered the questions of the Legal Representatives of Victims.
6 This choice that you have made to testify as a witness will enable the
7 members of the Chamber to ask you for additional clarification on some of
8 the answers you've given and will enable us to confirm some of the things
9 you have stated. Because it is extremely important for all three of us
10 to understand perfectly clearly exactly what you have stated.

11 You have seen that occasionally there may be misunderstandings as
12 to how some of the words have been transcribed. So this is an
13 opportunity for us to make clear a number of points, and you've had an
14 opportunity to hear because you've attended the hearings. You've seen
15 that we have asked questions to a number of other witnesses. In
16 particular witness detainees. You remember in March/April we asked quite
17 a large number of questions. So do not be surprised that there may be
18 quite a few questions on behalf of the Chamber and that is why
19 Mr. Mathieu Ngudjolo will most likely not be able to begin his testimony
20 until the second part of tomorrow morning.

21 Here is my first question: In transcript 314, page 56, lines 17
22 to 27, you explained to us that following the battle in Kazana in 2001
23 you returned property to Chief Akobi against the will of Kasaki. You
24 stated that you managed to convince Kasaki by offering him a bull in
25 exchange for his accepting this, that the livestock be returned to Akobi.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 66

1 Our question is: What authority did you have to call into
2 question Kasaki's decision? How was it that you were able to oppose his
3 decision? You said on line 23 that in the field it was you, but was that
4 enough for you to be able to oppose Kasaki? Because we had the
5 impression that for you he was someone of great importance. Have you
6 understood my question?

7 A. Yes, I have understood.

8 PRESIDING JUDGE COTTE: (Interpretation) Well, then go ahead and
9 answer, please.

10 A. Well, your Honour, in order to convince Kasaki, I succeeded because it
11 was our ideology to protect the population and their property, and when I
12 explained that to Kasaki, I explained that even Chief Akobi was a member
13 of this very population that we were protecting and therefore we could
14 not take revenge on Akobi simply because he had refused that we attack
15 the Ugandans in Gety. He is our father, our elder, and so it was because
16 I had defined our goal. I explained to him that in one way or another
17 Akobi could not accept to send us off to be killed.

18 PRESIDING JUDGE COTTE: (Interpretation) So it was logical. It
19 was the application of the rules of conduct that you had defined together
20 and you managed to convince him and that -- you convinced him that he had
21 to change his mind. Is that it?

22 A. Yes, in the case of Kakado as well, and afterwards he thanked me
23 for having done that because out of anger Kasaki wanted to do otherwise.

24 PRESIDING JUDGE COTTE: (Interpretation) In other words, Kasaki
25 accepted following the discussion you had with him, but it took him a

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 67

1 bull to be convinced.

2 A. Well, I don't know if he needed a bull but, so to speak, in order
3 to convince him our -- to convince him that our goal was not to benefit
4 from the property of the population. And, if you will, the bull enabled
5 us to present Akobi's apologies if you will.

6 PRESIDING JUDGE COTTE: (Interpretation) Well, in spite of
7 Kasaki's authority, the major authority, you were nonetheless able to
8 discuss with him, to have a dialogue, and at the end of the day to
9 convince him. That is what you managed to do. Have I understood
10 correctly?

11 A. Yes, I did that because that was part of our goal.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you. In
13 transcript 315 on page 22, let me find the precise line, 18 to 28, lines
14 18 to 28, you explained that you were involved in poaching because you
15 had to live and survive and feed the people around you. Now, I'm not
16 just talking about elephants and okapis. But what did you do with the
17 animals that were poached, did you keep them for yourself and your
18 family?

19 A. Well, that was my own property. It was for myself and my family.
20 It was a way of surviving.

21 PRESIDING JUDGE COTTE: (Interpretation) In other words, the
22 meat from the animals that you hunted - and I may be saying something
23 silly but I'm not very familiar with this - when you were poaching okapi,
24 was this meat kept for the use of your family or did you give it to
25 combatants who were resisting against the Ugandans? In other words, did

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 68

1 you distribute this meat?

2 A. Your Honour, poaching was illegal. I could have been attacked by
3 the chief of our community. So what I was interested in was to get
4 money, otherwise the meat was just rotting in the forest.

5 PRESIDING JUDGE COTTE: (Interpretation) In other words, illegal
6 hunting, poaching of elephant tusks and okapis for their skin, and you've stated it
7 was for your business at the time, as you put it?

8 A. Yes, your Honour.

9 PRESIDING JUDGE COTTE: (Interpretation) As a poacher on and
10 off, did you set aside your activity as a combatant - and I'm using the
11 term "combatant" - or were you doing both at the same time?

12 A. Your Honour, when there's a situation of necessity in the
13 collectivity and in particular in the zone where I lived, I was not
14 involved in poaching. I was involved in security in that area.

15 PRESIDING JUDGE COTTE: (Interpretation) Let me go back to the
16 discussions you had with Kasaki which enabled you to convince him that
17 the rules of conduct that you had defined be applied. To your knowledge,
18 were there any other individuals who had similar conversations with
19 Kasaki because he was a very important individual? Was anyone else other
20 than you yourself, Germain Katanga, able to have such difficult
21 conversations with Kasaki and be able to say, "You are making a mistake"?

22 A. Well, indeed Kasaki was a very important person, but when he took
23 advice he listened to everyone. If you came and presented a problem to
24 him, if it was well founded he would listen.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that very

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 69

1 clear answer.

2 In transcript 315, page 45, lines 14 to 18, you mentioned that
3 you had become Kasaki's bodyguard in September of 2002. Why? Why did he
4 choose you, Mr. Germain Katanga, as a bodyguard?

5 A. Your Honour, yes, it was because he trusted me, first of all.
6 And secondly, you know, our elder Kasaki used to drink a lot of beer and
7 when he did that, if we had to go from one place to another, when he had
8 had some beer he might even forget the mission that we were on. And I
9 would have to say: Well, we have to continue because we hadn't reached
10 the goal of our mission, if you will. I would say to him, I would say to
11 Kasaki: We have to keep going in order to arrive in time.

12 PRESIDING JUDGE COTTE: (Interpretation) Well, that's important
13 because in answering other questions you used the term "trust" and you
14 said "he trusted me." Tell me if I'm mistaken, were you his man of
15 confidence, man of trust as a bodyguard, as a guide if he'd had too much
16 beer and might get lost. You were also his memory of sorts to remind him
17 of things that he needed to do, of people he needed to visit. Was that
18 the case?

19 A. Yes, Mr. President, but saying that I was (* as interpreted) his
20 memory is a little bit exaggerated, but I can say that I assisted him
21 whenever the need arises. For example, if during a ceremony he needed a
22 chicken -- he used to organise such ceremonies even when there were no
23 battles. It could have been possible for him to have nothing and if I
24 had something I would give him, and whenever he had something coming in,
25 then he would refund me. So there was this approach, our ideology, which

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 70

1 was almost similar.

2 PRESIDING JUDGE COTTE: (Interpretation) And when you served as
3 Kasaki's bodyguard, was this a full-time occupation or did you continue
4 with your poaching activities when you had the opportunity?

5 A. Your Honour, this was not a full-time job. I could inform him,
6 for example, that tomorrow or the day after tomorrow I would go and check
7 our supply sources to see what I could acquire and sell. So this was not
8 a full-time job. Sometimes I would leave and go to carry out my own
9 personal activities.

10 PRESIDING JUDGE COTTE: (Interpretation) So sometimes you would
11 propose something to him and other times he would be the one to ask you
12 to do something for him?

13 A. The essential thing was to be of service to him. Sometimes if I
14 needed something myself I could ask him.

15 PRESIDING JUDGE COTTE: (Interpretation) Were you the only
16 bodyguard of Kasaki or were there others with you?

17 A. There were many of us because not all of us were with him all the
18 time. When someone was not present, another person would be there to
19 replace him. So there were many of us.

20 PRESIDING JUDGE COTTE: (Interpretation) But did you have the
21 feeling that you were the bodyguard that Kasaki trusted more than the
22 others? In other words, did the other guards have as sole occupation to
23 protect Kasaki or did they also benefit from his trust which had led you
24 to assist him in other ways?

25 A. Your Honour, he also trusted his other bodyguards because some of

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 71

1 them became his apprentices in the area of organising the ceremonies that
2 he conducted, for example. So amongst us bodyguards, some of them became
3 apprentices. There are many of them. I can even tell you about them.
4 So there was a group that became his apprentices and others such as us
5 continued as combatants.

6 PRESIDING JUDGE COTTE: (Interpretation) In that activity as a
7 bodyguard who had Kasaki's trust, you did travel with him sometimes and
8 did you attend certain meetings in which you took part and were you
9 present sometimes when he issued instructions? So, you accompanied him travelling
10 from one locality to another and attending meetings with him. Did you do that?

11 A. Mr. President, I have told you that on the 23rd and 24th of
12 December, 2002, there was a major operation on the North Kivu road. We
13 were there with Kasaki. He was compelled to be there on the spot.
14 Usually his work was done at his base, but at that time he was compelled
15 to go close to the area of operations. And so we went right to Janda
16 which is at the beginning of the forest in the direction of North Kivu.

17 PRESIDING JUDGE COTTE: (Interpretation) And when he had to go somewhere
18 for reasons linked to his important activities, did you stay outside? Would you
19 go into the house with him? Did you assist in the discussions?

20 A. Mr. President, these were mystical things. He could send an
21 emissary one or two days before. That emissary would go to the place
22 where we were going to go and he would prepare the house in which he
23 would live. In that house there would be a room where he was the only
24 one who could go in there and no one else. He would go in there and
25 spend an entire day without food or water. Sometimes he even spent two

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 72

1 days there and we would stay outside carrying out other activities.

2 There were permanent guards there so there was no risk for him. When he
3 needed something he would come out of that room, he would come to the
4 sitting room, he would ask for something, and when he was given that
5 something, he would go back into his room.

6 PRESIDING JUDGE COTTE: (Interpretation) We are simply trying to
7 fully understand who Kasaki was. When he travelled, did he travel with
8 you or with many bodyguards?

9 A. Sometimes there were even 15 of us. Some of them carried weapons
10 while others carried only materials for his work.

11 PRESIDING JUDGE COTTE: (Interpretation) So there was
12 protection. There was technical and material assistance and then there
13 was the person that he trusted and sometimes you would say: Maybe I
14 should propose this to him. Is that correct?

15 A. That is correct, your Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) From when did you
17 yourself, Mr. Katanga, start having bodyguards? We mentioned Amazone and
18 another person whose name I can't remember right now. When did you have
19 your own bodyguards for the first time and how did you choose them and
20 for what reason?

21 A. Your Honour, even though I was Kasaki's bodyguard, I also had
22 those who were loyal to me.

23 PRESIDING JUDGE COTTE: (Interpretation) I'm sorry, I said
24 "Amazone," but I meant to say "Antilope." Amazone has nothing to do with
25 that.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 73

1 A. I wanted to correct you, your Honour. But Antelope, Antelope
2 became my bodyguard slightly later. But what I can say is that I had
3 certain people who were loyal to me and who had stayed with me in Aveba.
4 Even though I was guarding old man Kasaki, when I returned, in my own
5 corner I had my own men who were next to where I was living. So even
6 though I was Kasaki's bodyguard I also had my own men.

7 PRESIDING JUDGE COTTE: (Interpretation) This means that you had
8 people who were loyal to you who later became your bodyguards; is that
9 correct?

10 A. Yes.

11 PRESIDING JUDGE COTTE: (Interpretation) In transcript number
12 317, page 20, line 14, you stated that you went from the position of
13 commander in Aveba to the position of co-ordinator. "I changed my status
14 from commander of Aveba to become co-ordinator of Aveba." We don't want
15 to get lost in the chronology here but we want to be clear about your
16 career profile. Can you begin by telling us why you left your position
17 as bodyguard, a trusted bodyguard, of Kasaki to become one of the
18 commanders in Aveba. Why did you do that and when?

19 A. Your Honour, up until the time that I was appointed I was still
20 one of those people who had Kasaki's trust. So even though I was a
21 commander, I was still close to this old man.

22 Now, when it come to my becoming a commander, there were three
23 stages that I had to go through. After I was injured in Chay, I went to
24 the hotel -- or rather, to the hospital in Aveba and I was living in my
25 father's house. Close to me there were a few combatants who were loyal

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 74

1 to me. They left other places and they came and joined me. On the other
2 side at the airport, Garimbaya set up base there and Mbadu was at the
3 BCA. And since I was close to Kasaki, I could not actually walk at that
4 time, so he became closer to another person, Abala, then there was Nono
5 and others. So when he became closer to those people, I was in fact
6 further away from him because I could not accompany him when he
7 travelled. Now, when the decision was taken to go to Beni, that is the
8 opportunity I used to go to Beni and say that I was the commander of
9 Aveba. It was as from that time that we went to Beni to represent Aveba
10 that I stated that I was the commander of Aveba. That is what happened,
11 your Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you. So this was
13 towards the end of November 2002 in Beni and, unless I'm mistaken, that
14 was the second stage. Now, when you returned from Beni in December 2002,
15 you told us that you then became the co-ordinator. Now, can you tell us
16 once again and more precisely what the attributions of the co-ordinator
17 were. Who and what were you co-ordinating? And I'm sure you understand
18 the difference there. Which people did you co-ordinate and what did you
19 co-ordinate? What did you do in your capacity of co-ordinator?

20 A. Yes, your Honour. When we returned to Beni, the mission was
21 clearly defined. We were supposed to have APC units and then local
22 combatants. From time to time there were differences between us.
23 Because of the differences in training, we felt that the professionals
24 were making fun of us. So this created minor conflicts. So, in order for me to
25 become the coordinator we had to

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 75

1 define or tell the combatants who were with us in Aveba that we were the
2 allies of the APC soldiers who were with us. They were our friends,
3 our -- those who supported us, our allies. And in case of problems, they
4 would not abandon us.

5 Furthermore, even though they were there, when, for example,
6 there was a delegation from Beni that came to Aveba, they could live in
7 APC houses, that is, in their camp. But each time they would need to
8 carry out joint meetings and to assess the prevailing situation. They
9 needed to know the needs of the combatants as well as those of the APC
10 soldiers. That would make it possible for them to send joint reports.
11 That is, bring together the combatants and our allies, the APC soldiers,
12 and make it possible that messages coming from Beni, for example, should
13 be well received by our local combatants through Kasaki.

14 PRESIDING JUDGE COTTE: (Interpretation) So if we understand
15 ourselves well and if we talk in terms of mechanics, you had to put oil
16 into the equipment for it to function well?

17 A. Yes.

18 PRESIDING JUDGE COTTE: (Interpretation) We talked about sparks,
19 the conflicts that might have existed between the combatants and the APC
20 soldiers. If I have understood you correctly, please give us a few
21 examples if you remember how you intervened at that time in your capacity
22 as co-ordinator.

23 A. Mr. President, I believe that as from October there was a
24 conflict between Bebi and Mbadu. Both of them were natives of the area,
25 but Bebi felt that he was very professional in relation to Mbadu. They

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 76

1 were born at the same time. They grew up together, but they did not get
2 along with each other. Mbadu always wanted to fight with Bebi.
3 Sometimes Mbadu could seize some of the weapons of the APC and this
4 created conflict because this did not make it possible for us to live in
5 harmony with our allies. This happened.

6 PRESIDING JUDGE COTTE: (Interpretation) And did you succeed in
7 solving the problem?

8 A. Somewhat, yes. Sometimes I succeeded and sometimes I did not.
9 Because it is possible that the weapons that could have been forcibly
10 seized were taken and sent somewhere else. Those weapons could not be
11 taken and handed back to the APC.

12 PRESIDING JUDGE COTTE: (Interpretation) You were a young man
13 and they respected you even though you were a young man? Just like
14 Kasaki, they also listened to you when you tried to restore harmony?

15 A. Mr. President, one could always make oneself understood because
16 when I earned Kasaki's trust, if at some point I reached a deadlock I
17 would request the old man to assist me. And when he did that, we would
18 succeed. We would provide a solution.

19 PRESIDING JUDGE COTTE: (Interpretation) Were you the first
20 person to occupy that position of co-ordinator or, to your knowledge, did
21 someone play that role before you?

22 A. In principle, your Honour, to define that term "co-ordinator,"
23 when there was that initiative between Kandro and Molondo, I can say that
24 Kandro's status can be comparable to that position. That is when Kandro
25 left Songolo to go and ally himself with Loponde. But that term was not

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 77

1 defined. But the attributions could have been comparable. However, I
2 believe I was the first one to use that word "co-ordinator." But in my
3 mind, I can see that my duties were similar to those that Kandro had been
4 carrying out, for example, going from Songolo to Bunia to establish an alliance with
5 the APC.

6 PRESIDING JUDGE COTTE: (Interpretation) You sort of created
7 this position. It had somehow been occupied by someone before, but you
8 redefined that position?

9 A. I believe so, your Honour.

10 PRESIDING JUDGE COTTE: (Interpretation) And when you were
11 co-ordinator, you were the only co-ordinator at that time or, to your
12 knowledge, did someone play a similar role?

13 A. Mr. President, the objective was in light of the fact that there
14 were many advantages in Aveba. The landing-strip was there. Positive
15 messages had already been sent about Aveba and its vicinity. The fact
16 that I took over that position of co-ordinator was simply because there
17 was no one else who was playing that role of co-ordinator. So it was
18 someone to -- somehow to bring together the combatants of Aveba and the
19 APC soldiers.

20 PRESIDING JUDGE COTTE: (Interpretation) Somehow teach them to
21 live together?

22 A. Yes.

23 PRESIDING JUDGE COTTE: (Interpretation) Because they had a common
24 objective?

25 A. Yes.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 78

1 PRESIDING JUDGE COTTE: (Interpretation) In page -- on page 28
2 of transcript number 317, lines 14 to 17, you stated that as the
3 commander of Aveba you had at your disposal about 60 men. Line 17, you
4 stated that you had --

5 "I had about 60 men in Atelengba, men who were loyal to me."

6 How did you recruit those men?

7 A. Mr. President, I did not even recruit them. They simply came to
8 where I was. I was injured. I was in hospital. They wanted to be with
9 me. There were many other men at the BCA also and it is also possible
10 that other men left the BCA to come and join me.

11 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. You have
12 just confirmed that there were about 600 -- or rather, 60 people who
13 decided to come and join you and to work with you. Now, how were these
14 people organised? Were they organised or were they simply a group of 60
15 men with you?

16 A. Your Honour, I do not know how I can describe the situation. We
17 simply came together as a group. What was important was simply to know
18 whether anyone can take -- had taken arms from our area to go elsewhere
19 and do what they wanted, but I cannot say that I was a commander and my
20 deputy was so and so. No, this did not happen. We were simply a group
21 of young people. We simply managed to group people into sections such
22 that when it came time to have a meal, for example, people will group
23 themselves in their section to share the food.

24 PRESIDING JUDGE COTTE: (Interpretation) So this was quite
25 spontaneous, but they were at least organised into sections. Did you

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 79

1 have an assistant or a deputy or you -- were you the only person in
2 charge of that -- those 60 or so people who joined you?

3 A. To be clear, maybe my deputy was the head of my bodyguard unit.
4 He was the one who sometimes was in control of the combatants who were
5 there, but to be frank, I did not have a deputy.

6 PRESIDING JUDGE COTTE: (Interpretation) You have told us that
7 these people joined you spontaneously and they came from the BCA camp.
8 Did they all come from the BCA camp or did some of them come from
9 elsewhere, just because they wanted to place themselves at your disposal?

10 A. Your Honour, giving the example of Antilope, for example, he came
11 from Songolo to join me. I can say that there are people who left their
12 villages to come and stay with me. There were others in Gety. There
13 were others who came from BCA and even Songolo. I have given you the
14 example of Antilope who came from Songolo.

15 PRESIDING JUDGE COTTE: (Interpretation) Does this mean that you
16 were well-known, at least sufficiently well-known for people to come from
17 different places to come and join you?

18 A. Your Honour, there were the contacts that were made in Irumu in
19 late September/early October before I was injured. This did not go
20 unnoticed. During that operation we also procured a lot of weapons and
21 ammunition. And when I was injured, this worried a lot of people. So my
22 presence in that operation in Chay did not go unnoticed.

23 PRESIDING JUDGE COTTE: (Interpretation) To conclude on this
24 issue I will ask you to make a big effort. Amongst those 60 people or
25 so, can you give us the percentage of those who came from the BCA camp as

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 80

1 opposed to those who came from others? Did the majority come from the
2 BCA or did that majority come from the various other localities, as you
3 have said?

4 A. I would say, your Honour, that 60 per cent came from the BCA, and
5 I can say that 20 per cent came from Nyabiri.

6 PRESIDING JUDGE COTTE: (Interpretation) Where you had lived and
7 where you were known?

8 A. Yes. And the rest, including Antilope and the others from Gety,
9 because when Mutombo was there the combatants knew that they visited
10 Aveba and so on. So the rest from other places would represent 20
11 per cent.

12 PRESIDING JUDGE COTTE: (Interpretation) A short while ago you
13 mentioned Mbadu. When you yourself became commander of Aveba, how many
14 men did Mbadu have under his command? That is approximately, if you
15 know.

16 A. Your Honour, there was significant number of combatants at the
17 BCA, a big number of combatants, maybe up to 500 men at the BCA.

18 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed, you said
19 so. Transcript 315, page 58, you said that 500 persons changing, as the
20 case may be, were they under Mbadu's orders?

21 A. Yes, Mbadu exclusively.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well. Of those
23 500 persons, the -- did they include displaced persons, war-displaced
24 persons, people who had fled, among those combatants?

25 A. Maybe, maybe yes, but I am not in a position to confirm that

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 81

1 because there was confusion as to those who had fled from Nyakunde in
2 August 2001. And I do not know whether at that time they had joined the
3 BCA or not. In any event, those who had fled Singo Kandana (* phon) and
4 so on and so forth were also in Aveba in great numbers. I can also say
5 that some of those who came from Nyakunde were also there.

6 PRESIDING JUDGE COTTE: (Interpretation) Very well. Let me
7 revert to transcript 315 and backtrack somewhat, 315, page 56, line 10
8 and 11. In answering to the question who was the commander of that
9 platoon, your answer was: "It was successively led by two commanders who
10 were at Aveba in the BCA camp. The first commander was Alpha Bebi and
11 after Alpha Bebi," et cetera. So Alpha Bebi, at some point, at some
12 point in time was one of the commanders of the APC in Aveba. Now, did
13 Alpha Bebi have authority enough to give orders and instructions to
14 Garimbaya?

15 A. Well, the situation there was somewhat different because
16 Garimbaya was the company commander. In terms of Bebi's situation, Bebi
17 was a platoon commander, whereas Garimbaya was the company commander. So
18 Garimbaya was higher in rank than Alpha Bebi when he arrived.

19 PRESIDING JUDGE COTTE: (Interpretation) So there was a platoon
20 commander on the one hand, Alpha Bebi, and Garimbaya was the battalion
21 commander?

22 A. Company commander.

23 PRESIDING JUDGE COTTE: (Interpretation) Correction, a battalion
24 being higher than a company. So when we deal with these military things
25 we need to understand them clearly.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 82

1 Now, as a co-ordinator, now that we understand better what the
2 function entailed, did you have any special relations with Blaise Koka?
3 Did you have the possibility to say "no" to him if ever he asked you to
4 do something which you thought did not tally with the proper lines of
5 conduct? Did you have real authority or was everything a matter of
6 negotiations and persuasion?

7 A. Your Honour, let us take an example to answer your question. If
8 Blaise Koka were to tell me: Let us go to such and such a location for
9 such and such an activity, well, before I go I will go to the old man
10 Kakado -- or, rather, Kasaki and ask him: Mr. Blaise Koka has asked me
11 to do this or that. And before I do anything else, I consult him and he
12 will cross-check whether what I have said -- he will cross-check using
13 his own ways what I have told him. Then I would now return to Blaise
14 Koka and tell him, if that were the case: No, I will not go with you.

15 PRESIDING JUDGE COTTE: (Interpretation) If you did not have
16 time to contact Kasaki, were you in a position to object to what Blaise
17 Koka was saying? And I am asking mindful of your relations with Kasaki.

18 A. Yes, I took a similar initiative before and that is why I was
19 wounded in Chay. I left without informing. I simply went without
20 informing him or finding out what his choice or decision would have been.
21 So my answer is: Yes, I have done that and I suffered the consequences,
22 like being injured, because I didn't get any assurance that I could
23 proceed the way I had decided.

24 PRESIDING JUDGE COTTE: (Interpretation) So the issue of taking
25 initiatives could have happened where there was an emergency?

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 83

1 A. Well, Mr. President, when there is an emergency we can take
2 alternative routes and work things out.

3 PRESIDING JUDGE COTTE: (Interpretation) You talked about this
4 and Mr. Luvengika talked about it again this morning on the agreement or
5 disagreement between Kasaki and Blaise Koka relating to the attacks of
6 the 24th of February, 2003 on Bogoro. Koka wanted to intervene but Kasaki was
7 rather in favour of a ritual, mindful of the presence of dead bodies on
8 the -- in the area since the 10th of February, 2003. So there was a
9 disagreement, and I think we agree on this, a disagreement between
10 Blaise Koka and Kasaki.

11 Do you know whether there were any other incidents of
12 disagreement between Blaise Koka and Kasaki on other matters relating to
13 the purpose of this trial? Are you aware of any other circumstances
14 where there was conflict between Koka and Kasaki which may have led you
15 in your position as a co-ordinator to intervene and try to settle
16 matters?

17 A. Mr. President, it did happen, it did happen. You see, for
18 Kasaki, his understanding of his work led him to think that he did not
19 want the combatants to act outside of the collectivity or to go outside
20 of the collectivity. That is -- that was his understanding of his
21 assignment. Now, why did we go to Bunia on the 8th of March with
22 Blaise Koka? It was simply because I succeeded in explaining to Kasaki
23 why we were going there, why we were going to Bunia.

24 During that time and according to what people were saying,
25 pacification was going to take place in Bunia. So before engaging in the

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 84

1 pacification exercise, the Ugandans were expected to leave Bunia, and
2 upon leaving Bunia the question then was who would take over. Would they
3 leave Bunia in the hands of the APC or in the hands of the UPC? Up until
4 that time we did not know with certainty whether the UPDF and the APC had
5 gone separate ways, gone their separate ways. So I was able to explain
6 to Kasaki that it was necessary for us to go there to find out for
7 ourselves on the ground how things were developing at Bunia. And to
8 determine whether it was the APC or the FAC commanders who will take over
9 Bunia before the integration of the APC or not.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Aveba,
11 Aveba, was Aveba the most significant position of the APC in
12 Walendu-Bindi? Was it the most important? Was it the most equipped in terms
13 of men and material, equipment, arms and ammunition? Could it be said
14 that such was the case?

15 A. Your Honour, Aveba was like a logistics base. It was like a
16 logistics base, but the number of men there depended on the nature of
17 operations. There was a significant number of men in Singo and a
18 significant number of men in Kagaba. Those are the areas where I can
19 tell you that there were many, many APC combatants.

20 PRESIDING JUDGE COTTE: (Interpretation) Are you saying,
21 therefore, that it is difficult to argue that Aveba was the most
22 important position of the APC? It was a logistics base, but according to
23 the times and the circumstances, there might have been more men in Kagaba
24 than in Aveba. Is that your testimony?

25 A. Yes, Mr. President. Simply I say so because the battle-front was

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 85

1 in Kagaba and Aveba was behind, was further away from the front and there
2 was no need to have many men in Aveba.

3 PRESIDING JUDGE COTTE: (Interpretation) So things developed,
4 things changed?

5 A. Yes, Mr. President.

6 PRESIDING JUDGE COTTE: (Interpretation) Did Blaise Koka receive
7 the APC commanders in Aveba, specifically those who had positions in
8 other localities within the Walendu-Bindi? Did it ever happen that
9 Blaise Koka would receive commanders from other areas within the
10 Walendu-Bindi collectivity?

11 A. Your Honour, I think that Blaise Koka arrived there in the month
12 of February, the same month of February. But I am not able to tell you
13 that apart from Mutombo who came from Gety to Aveba, I cannot tell you
14 that Blaise Koka -- or rather, it's Blaise Koka who left Aveba and went
15 to the zones. After Blaise Koka arrived there, he was the one who would
16 leave Aveba and go to outside positions, including Kagaba. But I think
17 that at some point he also went to Singo, yes.

18 PRESIDING JUDGE COTTE: (Interpretation) So during the first
19 meeting which took place in Aveba, did -- were you present? Did you
20 attend? And when he went out to other positions, as you have just
21 mentioned, did you have the opportunity to go with him?

22 A. Your Honour, let me give you an example relating to our trip of
23 the 10th. We went out together. Furthermore, I can tell you clearly
24 that Blaise Koka cannot even drive a motorbike. He cannot ride a
25 motorbike, so he needed to use either one of my bodyguards or someone

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 86

1 else who knew how to ride a motorbike to take him to those locations. So
2 sometimes when he left I would know because he would come to ask for my
3 motorbike.

4 PRESIDING JUDGE COTTE: (Interpretation) Yes, we understand your
5 answer. But the question is: Did you ever have to travel with him on
6 any of those trips, not only as the motorbike driver but as someone who
7 went along with him to be part of the meetings which he held with other
8 persons at other positions or in other camps?

9 A. Before the operation of the 10th, your Honour, we went out
10 together through Gety. We met the area commander, we met the commander
11 there, then we went to Kagaba. And then with Blaise Koka, after the fall
12 of Bunia we also went to visit other commanders. And we went to Singo
13 after the 10th. After the month of March we also travelled with Blaise
14 Koka even to Beni. We went to Beni with Blaise Koka.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Are you
16 able to give us the names of the commanders of the local combatants who
17 were positioned in the various areas within the Walendu-Bindi? You have
18 already provided a number of names but let us now do a head count, so to
19 speak, of the -- I mean, this is as far as you can recall, the names of
20 the commanders of the local combatants who were positioned in various
21 areas across the Walendu-Bindi.

22 A. Let me start I don't know where -- okay, let's start with Gety.
23 Gety Etat, Androzo Joel. He was the commander at Gety Etat or Gety
24 State. In Nguluma (* phon), Mandre. Then we go down to Olongba and it
25 was Oudo Mbafele Moise who was the commander. In fact, his headquarters

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 87

1 or his general staff was there before he went to Medhu. In Nyabiri,
2 Adolphe Mbinga was the commander before Move arrived at that location.
3 In Bukiringi it was Kasa, not Kasaki, Kasa. Not Kasaki. In -- what is
4 that now -- in Nyaga there was commander known as Bayi, B-a-y-i, Bayi.
5 In Kaswara the commander was called Dido. In Buguma (* phon) the
6 commander was Lubay (* phon). In Kagaba the commander was Ngurima. In
7 Lakpa, the Lakpa position was supervised by Lobho Tchamangere,
8 Tchamangere.

9 PRESIDING JUDGE COTTE: (Interpretation) Tchamangere?

10 A. Tchamangere. Now, I don't know whether there was a commander in
11 Nyachuchu (* phon) at the time. No. In Kabona the commander was
12 Commander Mateso.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Katanga,
14 for those details.

15 Now, as far as you know, in those various camps, did Kakado send
16 a spokesperson to those camps like Kasaki to the Aveba camp? Did
17 anyone -- did everyone in those camps have the benefit of the services of
18 Kakado's spokesperson?

19 A. All those envoys were assigned to various sectors. There was a
20 Kakado envoy in Mandre, I forget his name. In Kagaba it was Dr. Raymond.
21 In Nyabiri and Aveba it was Kasaki. In Bukiringi it was -- there was an
22 old woman, a mother, who was there. I forget her name. In Tcheletchele
23 (* phon) there was Kisu (* phon). In Tcheletchele there was Kisu. Along
24 with Commander Nyamalonge (* phon) there was Kisu. In fact, the old man
25 Kakado also had a number of people with him and he would pull them

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 88

1 together and send them to any location of his choice. So he had a
2 significant number of personalities around him. And then in the other
3 area around Kagaba, on the other side, there was -- or rather, in Mandre,
4 the old man there was called Jacques Katala in Mandre. Now, next to
5 Kagaba there was another envoy, I hope that I can remember his name and
6 if his name does come to mind I will mention it.

7 PRESIDING JUDGE COTTE: (Interpretation) Did Kasaki have any
8 authority over these other Kakado's envoys? We understand that Kasaki
9 was not alone and that in other areas Kakado had other emissaries, other
10 spokespersons. Did Kakado have authority over those other spokespersons
11 or did they report directly to Kakado as far as you know?

12 A. It is very difficult to define that hierarchy, at least for me.
13 However, what I can tell you is that according to Kakado's hierarchy,
14 after him the next person was Kasaki. All the others were only carrying
15 out Kasaki's instructions, doing what Kasaki had already organised. For
16 example, the person who was assigned to Mandre received a finished
17 product from Kasaki through Kakado after everything has been blessed. So
18 what the envoy receives is a finished product and the only thing that the
19 envoy does is to treat the combatants and that is how things happened.
20 In Kagaba, for example, with Dr. Raymond, he mixed up these duties. He
21 provided treatment for patients and also for combatants to get them ready
22 for the front. But the pioneer was Kasaki who was the one who was in
23 charge of the fronts in his own words.

24 PRESIDING JUDGE COTTE: (Interpretation) Now we are talking
25 about Kasaki's situation in relation to the other spokespersons. Did

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 89

1 Kasaki have any authority over the local commanders in the other areas
2 which you have mentioned? And you gave us a large number of those
3 commanders, although they were not the spokespersons in those various
4 areas. But did he have any authority, as far as you understand, on the
5 local commanders?

6 A. Mr. President, if you disobey Kasaki you will not receive any
7 treatment. He will deprive you of all his gris-gris and you will die
8 without any further assistance.

9 PRESIDING JUDGE COTTE: (Interpretation) Did the Aveba commander
10 have any authority over the local commanders in the other areas which you
11 have mentioned giving us a significant number? Was there any hierarchy
12 whereby the Aveba commander had authority over the other commanders?

13 A. Unfortunately, no, no, Mr. President, no. Because in this case
14 it was a matter of interest. No one had authority over anyone else on
15 his turf. I was a chief in my area and others were chiefs in their
16 areas.

17 PRESIDING JUDGE COTTE: (Interpretation) What could the
18 co-ordinator do then under those circumstances?

19 A. The position of the co-ordinator was simply to avoid sparks and
20 skirmishes and to enable people to live in a congenial atmosphere.

21 PRESIDING JUDGE COTTE: (Interpretation) All these questions and
22 answers that we have dealt with, I believe and we agree relate to the end
23 of 2002 up until March 2003. That is the time-frame we have been talking
24 about. Is that not the case?

25 A. Yes, Mr. President, we are agreed. We are together.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 90

1 PRESIDING JUDGE COTTE: (Interpretation) Very well. Very well.
2 Well, I think we will stop here because there is another line of questioning that
3 may follow. Now, Mr. Kilenda, I think that this is important for you. We
4 have about one hour of questioning tomorrow morning and then thereafter
5 the Prosecutor would have the opportunity to take the floor again to deal
6 with any issues that may have arisen following the questions from --
7 questions and answers from Mr. Katanga. That is the way we proceed, and
8 so I believe that tomorrow we will start with you and then Mr. Hooper
9 would speak last and Mr. O'Shea has also said that he has a point which
10 he wants to raise. Are we agreed?

11 MR. KILENDA: (Interpretation) Thank you, your Honour. I think
12 there is no problem. Even if we were to do this on Thursday, we have no
13 difficulty with that.

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

15 MR. MACDONALD: (Interpretation) Thank you, Mr. President. At
16 the beginning of the proceedings you referred to an e-mail from
17 Mr. O'Shea. We only received one mail on the subject of document
18 0029-0038 from Miss Menegon, the Case Manager, , but allusion seems to be made to
19 other exchanges which might have taken place, of which the other parties and
20 participants have not been informed or copied into.. What we
21 know is that maybe this document could be used in re-examination, so what
22 are we dealing with here, a request to re-open the examination? We just need to
23 understand and we need clear information in -- on that matter in order to avoid any
24 assumptions. Maybe Mr. Katanga's Defence team can provide us with those details.

25 PRESIDING JUDGE COTTE: (Interpretation) As far as I am

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 91

1 concerned, what I know is that there is an e-mail from Madam Menegon
2 dated yesterday, 17th of October, at 2125, referencing a letter of 6th
3 March 2003, and I think Mr. O'Shea will be dealing with that letter
4 during his examination. And it would appear to me that you have already
5 replied to that e-mail sometime this morning. Is that the case?

6 MR. MACDONALD: (Interpretation) Yes, it was in relation to the
7 e-mail of 2125, except for the fact that at the beginning of our
8 proceedings there was discussion of that document, and the Prosecution
9 feels that it is rather curious for Mr. O'Shea to have risen on this
10 matter, giving the impression that maybe something else had been
11 discussed on this matter.

12 PRESIDING JUDGE COTTE: (Interpretation) This morning I was
13 informed by the Court Officer that Mr. O'Shea wanted to find out at what
14 time he may have the opportunity to make a brief statement on that
15 document, and it is for that reason that I gave him the floor and
16 following information from the Court Officer. So I wondered with
17 Mr. O'Shea whether three of us thinking together it would be proper for
18 us to deal with this because we were already in the midst of the
19 cross-examination by Mr. Gilissen. That would have been a disturbance of
20 sorts. But I think that there is nothing further than that, otherwise I
21 would like to ask the Court Usher to take Mr. Katanga back to his seat.

22 Mr. Katanga and Mr. Ngudjolo, we resume our deliberations
23 tomorrow morning.

24 MR. HOOPER: Just before we rise, can I also indicate -- just
25 before we rise, can I also indicate on Thursday, I think, of last week, I

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by the Court

Page 92

1 think the 13th, we received a map of Bunia and I may, in fact, seek
2 permission of the Chamber to ask a few questions relating to places on
3 this with Mr. Katanga tomorrow by way of re-examination. (*
4 Indiscernible).

5 PRESIDING JUDGE COTTE: (Interpretation) Who has forwarded this
6 map from Bunia?

7 MR. MACDONALD: (Interpretation) It's the electronic version
8 that we filed to add to the two -- a compilation of the two maps by
9 Mr. Ngudjolo and Mr. Katanga and I think this map was sent to you by
10 e-mail and formally disclosed on that ERN last Friday.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Thank you.

12 Mr. Hooper, anything relating to maps which would enable us to
13 have a better understanding of the matter before us is welcome. It is
14 welcome. So if it is a document you intend to use in your
15 cross-examination, let me say that *a priori* -- or rather, in your closing
16 remarks, *a priori*, you are in a position to use them and this is the time
17 to do so because Mr. Katanga is testifying on his own behalf and this is
18 the opportunity for us to clarify things as best we can.

19 The sitting is adjourned and we will resume tomorrow at 9.00.

20 The hearing ends at 1.30 p.m.

21 CORRECTIONS REPORT

22 Pursuant to the oral order issued by the Trial Chamber II on the 19th October 2011,
23 this transcript has been revised and corrected.

24 Please note that the corrections have been implemented directly into the transcript.