

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Germain Katanga
5 and Mathieu Ngudjolo Chui - ICC-01/04-01/07
6 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra
7 and Judge Christine Van den Wyngaert
8 Trial Hearing
9 Friday, 14 October 2011
10 (The hearing starts in open session at 9.03 a.m.)
11 THE COURT USHER: All rise. The International Criminal Court is now in session.
12 PRESIDING JUDGE COTTE: (Interpretation) Please be seated. Good morning to
13 all. Good morning to the accused persons. Mr Prosecutor, you have the floor to
14 continue and complete your cross-examination.
15 MR MACDONALD: (Interpretation) Thank you, Mr President. Thank you, your
16 Honours.
17 WITNESS: DRC-D02-P-0300 (On former oath)
18 (The witness speaks French)
19 QUESTIONED BY MR MACDONALD: (Interpretation) (Continuing)
20 Q. Good morning, Mr Katanga.
21 A. Good morning, Mr Prosecutor.
22 Q. Mr Katanga, yesterday when we broke up we were talking about the signature;
23 the signature for the Cessation of Hostilities Agreement and the context in which it
24 happened. Let me take you back to transcript 318, page 43, and to put us back into
25 the context there was a visit to the airport and filmed meeting with Mr Kale Kayihura,

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- 1 and you go on to state that you were taken, isn't that the case, to the Institut Supérieur
2 Technique Biblique, the Bible Technical Higher Institute?
- 3 I will read out, but I note that your answers are very lengthy in relation to this
4 meeting at the airport, and I will read it out from page 43, lines 1 and follows, but I'll
5 focus on line 4: "And I said, 'Why?' And he said, 'No, we are going to sign the
6 ceasefire.' And I said, 'Ceasefire? What?' We were -- well, he took me and put me
7 in his pick-up and we went there. When we got there, I found a document that
8 others had already signed. I did not even have time to read that document, because
9 I was given the paper and right there in my presence, in my presence, the word 'FRPI'
10 was written down and I was asked to sign.
- 11 During -- rather, within that building, Pitchou was present. We had come with
12 Pascal and so I said, 'All right, I will not sign alone. All of us will sign.' That is
13 how I ended up signing the ceasefire. I did not know the content of the document,
14 no. At that time I saw the acronym 'FNI,' and so I asked 'What are these things: FNI,
15 PUSIC and other acronyms?' So I said, 'What are these things?' And I was told,
16 'Well, the FNI -- the President of FNI is Ndjabu,' and that is how I became aware of all
17 those things."
- 18 Mr Katanga, isn't it correct that as of 22 March 2003 you were already perceived to be
19 one of the FRPI representatives? You were actually recognised as one of the FRPI
20 representatives; is that not the case?
- 21 A. Who recognised me, or acknowledged me?
- 22 Q. Who wrote down the word "FRPI"?
- 23 A. This was written at the Bible Higher Institute.
- 24 Q. Who wrote down those words?
- 25 A. The one who brought it to me must have been from Protocol and he must

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1 have been asked to write that down. I don't know.

2 Q. That protocol representative, on whose behalf was he acting, or which
3 institution?

4 A. I don't know. He was there. All I know is that he brought that piece of paper.
5 I don't know whether it was one, two or three sheets. All I did was check the names
6 of those who had signed, and I don't know on whose behalf the protocol officer was
7 acting.

8 Q. Mr Katanga, isn't it correct that you were asked to sign, because at that time you
9 were indeed the leader of the FRPI?

10 A. That is your assertion. If I was already the chief of the FRPI, I think it would
11 have been typed in even before they brought the text before me. UPC, FNI, PUSIC,
12 RCD-K/ML, they had all been invited, MONUC was there, UPDF was there, all of
13 those had been mentioned on the document already, so why was "FRPI" not typed
14 into the document if they knew that I was the FRPI representative? Why would they
15 have waited until I came before they added it in handwriting in my presence?
16 Does that make sense to you?

17 Q. So are you acknowledging that these authorities who asked you to sign the
18 Cessation of Hostilities Agreement knew that you were the leader of the FRPI?

19 A. Mr Prosecutor, all what you are doing is adding salt to your soup, or to your
20 food, to give it some flavour. That's all. So what I'm saying is that perhaps they
21 gave some colour to "FRPI" because they wanted it to exist. That's my
22 understanding.

23 Q. Isn't it correct that you asked Iribi and Alezo to commit themselves as well by
24 signing the document? Is that not the case?

25 A. Prosecutor, I know that the problem of signatures is a difficult one in my

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1 community. When one takes up responsibility on behalf of an entire community, I
2 saw that this was not something that I was in a position to do. I could not justify that.
3 So I needed people who had the intellectual capacity, and that is why I asked them to
4 stand by me when I was signing. If my community were to ask me later on why I
5 signed, I, Germain Katanga, may not have the right words to explain, but Pitchou and
6 Pascal were intellectually advanced, capable of providing such explanations by
7 saying, for example, "no, we were the ones who perhaps encouraged him to sign on
8 the basis of point A, B, C and D." They were able to give appropriate explanations,
9 and that is why I asked them to sign along with me so that they may be in a position
10 to explain these things were the question to arise at any point.

11 Q. Isn't it correct that at that time Mr Iribi was your defence deputy and Mr Alezo
12 was the G2 in charge of intelligence?

13 A. Mr Prosecutor, please, please, correct your question. Correct your question.
14 Pitchou was not my deputy.

15 Q. Isn't it correct, Mr Katanga, that at that time Mr Iribi was the deputy to the
16 defence official and Mr Alezo was the G2 in charge of intelligence?

17 A. I did not tell you that Alezo was the G2. Maybe he was called the S2.
18 Because, as you may want to know, the Chief of Staff was not yet in place and when
19 you make reference to G2 you are referring to the Chief of Staff or the General Staff
20 already. THE INTERPRETER: Rather, to the General Staff. Correction from the
21 interpreter.

22 THE WITNESS: (Interpretation) I don't know whether he identified himself as the
23 G2. Now, he just said that he was working as the person who was in charge of
24 intelligence, that is what I know. He introduced himself as the one who was in
25 charge of intelligence, that I know, and Pitchou was the vice-minister or

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1 Commissioner of Defence which is equal to the Vice-Minister of Defence, but just of
2 the FNI, not of the FRPI.

3 Q. Mr Katanga, why, after all, did you not read that document? Why did you not
4 read the document?

5 A. A very simple reason, Mr Prosecutor: First of all, I was frustrated. I didn't
6 feel comfortable. Mr President, Mr Prosecutor, what I can tell you is that the
7 situation in which I found myself was really the first time for me to be dealing with
8 such a serious situation. I had never had such an experience. Somebody who has
9 never been caught on camera, who has never been videoed, videotaped, how do you
10 expect that person to feel comfortable, sitting in a chair in such a situation, no, no? I
11 had never found myself in front of a camera and I was destabilised by the entire
12 show.

13 MR MACDONALD: (Interpretation)

14 Q. I would like to refer to a document on our list, that would be EVD-D03-0044,
15 and I think if number 15 -- 19, rather, number 19 please, on our list. Mr Katanga,
16 you would agree with me, wouldn't you, that an agreement on the cessation of
17 hostilities would be an important document, isn't it?

18 A. Mr Prosecutor, that's right. These are things that people had already signed.
19 People had buried the hatchet several times. In '92 they said, yes, let us bury the
20 spears and the weapons because it is time for peace. In 2001 Jean-Pierre Bemba
21 came, he buried the bows and the arrows but he didn't bury the weapons. Well, in
22 2003, this matter of ceasefire or what have you is something that I don't even
23 understand. What happens when such a transaction takes place, I don't know.

24 Q. Mr Katanga, today you are testifying that you did not read that document. Let
25 me put it to you that were that to be your testimony, I take you to Article 2.3 to point

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1 out the following; namely, that the reason for which you make that assertion today is
2 actually to be found in the document, and I quote: "the signatories of the document
3 agree to forbid any recruitment or use of child soldiers within their armed forces,
4 recognizing that such an action is contrary to international law." And now that you
5 are now on trial before this Court you want to claim that you signed the document
6 without reading it and it is, indeed, for that reason that you argue that your state of
7 mind, or psychological mindset, was such that you were disturbed by the cameras.
8 In brief, you make that argument today because you are on trial.

9 A. Mr Prosecutor, maybe you selected that sentence as a lawyer, because you are a
10 lawyer, but as for me, I do not remember whether what you are talking about was
11 important at that time or not. At the time, I did not know whether there was going
12 to be any investigation as to the use of child soldiers. I was not aware of that. So
13 those who used those terms were important people, people who had the intellectual
14 capacity to understand these things, and they put those things together in a document
15 which could be read, and whoever reads such a document would have a clear
16 understanding of it. But I want to say, Mr Prosecutor, that I personally did not
17 know if the person who -- anyone who signed that document was committing an
18 offence. I didn't know that it would be an offence. And then now you have picked
19 out a sentence, you have picked out a sentence because you are a lawyer, and that
20 sentence for you, as a lawyer, is an important sentence but for me it means
21 absolutely -- it meant absolutely nothing at the time.

22 Q. Mr Katanga, I want to refer you to Mr Iribi's testimony and the reference, as Mr
23 Hooper asked for yesterday, is transcript 250, page 19. Did Mr Iribi mention ---
24 transcript 250, French version, page 19, Mr Hooper --- this was the question that was
25 put to Mr Iribi relating to the context in which the agreement was signed. Let me

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1 read Mr Iribi's answer on page 17: Answer: "Yes, thank you, I clearly remember
2 what happened. As far as I'm concerned personally, after Floribert Ndjabu signed
3 the document, I was not supposed to sign the document because he was the
4 hierarchical boss of the FNI. The signature of the FRPI was imposed upon the group
5 by MONUC. Germain Katanga and the others came in later. I am the one who
6 took them to MONUC for the usual formalities. It is at that time that MONUC
7 asked Germain Katanga to sign the document and also asked us to sign as well,
8 particularly myself and Pascal Alezo. I clearly remember these events. I was taken
9 to that MONUC meeting by the political officials at the time, Alessandra Trabattoni,
10 who took me to MONUC for that purpose. The political officer took me to MONUC
11 for that purpose."

12 Q: Mr Katanga, so we agree that there is a great discrepancy between the ISTB and
13 the MONUC premises, they are two buildings that---

14 MR HOOPER: It's surely a little unfair, there's rather a considerable consistency;
15 wouldn't that be a more balanced view?

16 PRESIDING JUDGE COTTE: (Interpretation) Watch your words, Prosecutor, but
17 proceed.

18 MR MACDONALD: (Interpretation)

19 Q. Mr Katanga, you are mistaken as to the circumstances or, rather, let me
20 rephrase. Did you go to MONUC or did you go to ISTB?

21 A. Mr Prosecutor, let me tell you and reassure you of the following: You need to
22 go back and look at the recordings that date back to that time. At that time you will
23 see the buildings of the ISTB in baked bricks. Where was -- where were the
24 MONUC offices? In fact, at that time I did not even know where the MONUC
25 offices were located. I simply did not know.

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1 Q. On 8 March you didn't notice that?

2 A. I did not know where the MONUC headquarters were located. I did not know.

3 You see, when I got to Bunia I did not go into the city; I came in in the evening and I
4 went off ... I was given accommodation in Yambi, no in Kindia and then, from there,
5 I was taken in a car to the airport, and that is it.

6 Q. Mr Katanga, we have the sleeves of the cassettes and the recording with Kale
7 Kayihura was not on 22 March, it was on 21 March. This material is in evidence, and
8 it is on our list. Now, this state of mind or psychological disposition that you talked
9 about, were you still in that same state of mind, were you still afraid of the cameras,
10 when you signed on 22 March?

11 A. Mr President or, rather, Prosecutor, you said that it was on the sleeves. You
12 could have started filming on one day and used the second half on the next day. Yes,
13 it is true, it is the sleeve of the recording but it's not the content.

14 Q. Mr Katanga, let me put it to you again, let me put the question to you:
15 Following Mr Iribi's testimony that I have read out, did you sign this agreement at the
16 ISTB or at the MONUC? And I put the question to you for the last time.

17 A. I am the one who was there -- I was the one who was there and I tell you that it
18 was at ISTB, not at MONUC. Maybe Pitchou _ Iribi had some other forms to fill
19 out at MONUC in order to get the per diems and what have you. Maybe, yes, for
20 the per diems and, yes, you see, you heard that they had other formalities to fulfil
21 with the political officials of MONUC, so I might agree that they were there but my
22 testimony is that I signed that document at the ISTB.

23 PRESIDING JUDGE COTTE: (Interpretation) Let us try to slow down. I simply
24 want to remind all and sundry to slow down.

25 THE WITNESS: (Interpretation) I'm sorry.

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1 PRESIDING JUDGE COTTE: Not at all. It was just a reminder.

2 MR MACDONALD: (Interpretation) Very well. I will now turn to the Kisoro
3 matter.

4 Q. In your testimony you explained the incident on that landing strip in Aveba
5 when Dr Adirodu arrived from Beni and, according to your testimony, with the plan
6 of attack. You stated that Mr Kisoro tried to stop the plane from taking off, and
7 I believe that you even testified that Kisoro asked Dr Adirodu to kneel down on the
8 landing strip?

9 A. Not kneel down, Mr Prosecutor. Use the right words.

10 Q. Correct me.

11 A. To sit down.

12 Q. And you went on to say that in order to calm him down, and correct me if I am
13 wrong -- 317, transcript 317, from page 52, French version, 52. Rather, 52? I am
14 told that it is page 58. I am just trying to summarise these things, and I want to
15 reassure Mr Katanga and Mr Hooper --

16 MR HOOPER: Yes, but my problem is that your tendency is not to summarise it
17 correctly, and that's the problem, so that's why we need the reference. I'm sorry, it's
18 page 58 in the French, is it, please?

19 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed, page 58. Mr Prosecutor,
20 do not summarise in order to avoid any possible challenge later on. Please read the
21 excerpt so that we may proceed relying on the transcript. You have the floor. Page
22 58 in the French transcript, dealing with the arrival of Mr Kisoro.

23 MR MACDONALD: (Interpretation)

24 Q. Line 15, page 58 -- line 14: "When the incident occurred, we decided, okay,
25 since he has arrived, to calm him down and get him to go back home, we'll give him

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1 some ammunition." Line 20: "Lieutenant Bip was there. He was in charge of
2 preparing the package. Instead of putting real ammunition specifically for those
3 kinds of weapons, which he needed, they put something else. For example, if he
4 came back, he would be unable to drive us out with the ammunition because we
5 knew what his capacity was."

6 Just one little question: Kisoro, you know his temperament. Before he did this
7 little trick of giving non-operative bullets, you knew -- you knew his temperament?
8 You were familiar with his character, weren't you?

9 A. Well, it wasn't the first time that Kisoro would shake up _the APC in this way,
10 shake up the combatants. We knew that. This wasn't the first time, your Honour,
11 that he operated in such a way.

12 PRESIDING JUDGE COTTE: (Interpretation) Could you explain? What do you
13 mean by "shake people up"?

14 THE INTERPRETER: Five-second rule.

15 THE WITNESS: (Interpretation) Yes, I beg your pardon. The five-second rule.
16 Your Honour, Kisoro, whenever he needed something, he would ask you for it. He
17 would ask you and you would give him what he wanted, and then he would assess
18 the amount and _he would say, "Okay, if I was given this much, it means that he
19 has five times more," so since I was given that amount I have to get the rest by force.

20 PRESIDING JUDGE COTTE: (Interpretation) So he always wanted more?

21 THE WITNESS: (Interpretation) He always wanted to have the lion's share of
22 whatever.

23 PRESIDING JUDGE COTTE: (Interpretation) I see.

24 Prosecutor.

25 MR MACDONALD: (Interpretation)

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1 Q. Let's continue. Line 26: "The day after that, on the 16th, Kisoro went back
2 to fight us so he could take all the ammunition by force." Page 59, line 1: "It was
3 possible to drive him away, luckily, quite simply because he didn't have any
4 ammunition, he did not have enough ammunition. He withdrew. He went back to
5 Kaswara. So when he went back to Kaswara, the people from Aveba could not cross
6 by that area and they were prohibited to cross at Kaswara. Why am I explaining
7 that? Well, to say that during these many operations led by Kisoro, and since he
8 didn't lead these operations over one single day, he was always in Kaswara. We in
9 Aveba, we were in a very difficult situation because we knew that he could come and
10 attack at any time. That is why, since Captain Blaise Koka was supposed to quickly
11 proceed with the orders given to him, he couldn't rely on what was happening in
12 the field, and so he decided to go by foot. He went by way of a shortcut to Gety.
13 That's what he did, and after he took a great deal of the APC that was there. He left.
14 We, we stayed there. We stayed there in Aveba with this dangerous situation,
15 knowing that Kisoro was going to come back either during the day or in the night.
16 Consequently, we stayed in Aveba awaiting Kisoro."

17 So how long did you wait for him 'til? Until what date?

18 A. Prosecutor, well, Kisoro wasn't in Kaswara. I learned that on 3 March at Tshey.
19 That's what I've already told you, that's when I learned that.

20 Q. Listen to my question carefully. My question is specific and it's a simple one.
21 You waited for Kisoro until what time? What date?

22 A. I'm giving you a date. I've already given you a date. Even if we left, I left
23 Aveba to go to Tshey. I went at night, very early in the morning, to get to Tshey on
24 the 3rd, and once I was there I saw Kisoro and I said "We are in a dangerous position
25 back there." (*inaudible*) Kaswara. I met up with him there again. So there you

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1 have it. I have given you a date. 3 March 2003. I have given you a date.

2 Q. Well, we'll get back to that. You also mentioned, page 55 of transcript -- of the
3 transcript, and I'll read out the particular passage from that transcript, starting at line
4 12. Counsel was asking you this question, line 14 -- I beg your pardon, just one
5 moment. I think I have the wrong page reference, sorry.

6 It's page 57. I've found the correct page now, very close to the passage that I read
7 out earlier. The question was as follows from Mr Hooper: "We heard a bit last
8 week about this, but please tell us what group did he belong to? Where was he
9 stationed?" He was referring to Kisoro. Line 15, you answered: "Kisoro is an APC
10 combatant, an APC soldier. He was living in Bulanjabo, and his birth village was
11 Kaswara -- he would always go and visit his father, _who_ was in Kaswara.
12 Sometimes, when the plane landed in Aveba, he was in Kaswara. He would go
13 about with more than 100 men behind him."

14 So a hundred men. I just want to understand your testimony. On the 15th, the
15 plane landed. Kaswara was there. Were his 100 men with him on that day, or
16 was it just the next day, the 16th?

17 A. Prosecutor, when Kisoro was walking about, I will tell you that he was ready
18 for anything. We knew that he had the 100 men surrounding him because he had
19 arrived with his men in Aveba. In the confrontation, _we_ we couldn't count them all,
20 we couldn't see how many of them there were. So the group, the approximate
21 number that I would give you is 100 men because we saw him with his troops,
22 when there was no fighting going on. We were able to see that no, it might have
23 been 100 men around him, but when he came and attacked us we were not able to
24 count the number of people in the group. That was impossible.

25 Q. Isn't it correct that he was going about and it was well-known he would go

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1 about with 100 men? And how many men did you have in Aveba at that particular
2 time, on the 16th, the 17th, the 18th, the 19th, the 20th, the 21st, the 22nd, the 23rd and
3 the 24th of February? How many men did you have?

4 A. Prosecutor, I can tell you that even if we had been 500 in Aveba in general, the
5 number of weapons, the kind of weapons, that was different and that's what makes
6 an army strong. You... there could have been ten of them with -- with sophisticated
7 weaponry, they could have driven us all out. That's how it was. Superiority in
8 weapons trumped everything. It was the _ quality of the weapons that counted.
9 The weapons used, the number -- the morale of a soldier depends on the weaponry
10 and a soldier knows that with a particular weapon he is guaranteed.

11 Q. Mr Katanga, do you remember that you gave testimony to the effect that two
12 days after the Bogoro attack you went to Kagaba? Do you remember mentioning
13 that, or would you prefer that I read the transcript back to you?

14 A. I told you that? I told you that I went by way of, I went by motorcycle. You
15 didn't ask me whether or not, after that date, I went there. I went. I travelled there.
16 There are many roads that go to Kagaba. Going by way of Kaswara is not the only
17 option.

18 Q. Weren't you afraid that Kisoro might attack you, or attack Aveba, when you
19 were going to Kagaba?

20 A. Prosecutor, that was a trip that you could -- you could go and come back. It
21 was not the same thing as going and preparing a front. It was different because I
22 went on a motorcycle and I was certain, I was going to leave Aveba, if it was going
23 to take me three hours, I would be able to come back, I was sure that I was going to
24 spend the night in Aveba. I would be spending, well, not the entire day in Aveba,
25 but at least one third, I would be there. Even if a clash began, how many men did I

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1 go with? You see, I only had my bodyguard_. That's all. I didn't go with my troops.
2 No, I didn't go that way. I took one bodyguard, _ on my motorcycle and we went
3 just to find out what was happening and then we came back. We came back home
4 to Aveba on the same day.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor, I'm going to have to
6 interrupt.

7 Now, Mr Katanga, you said that there's a distinction to be made between a brief
8 absence and going away to go to the front. Now, is this the distinction that explains
9 why you were able to leave Aveba despite the risk of Kisoro the day that you went to
10 Tshey on the 3rd? Because, on the 24 of February you said "I was not in Bogoro,
11 Kisoro was too much of a threat." But on 3 March you were in Tshey. So how long
12 was that celebration, the ceremony in Tchev?

13 THE WITNESS: (Interpretation) Your Honour, when I went to Tshey I left on the
14 3rd, very early in the morning, and I got to Tshey in the morning, in the course of the
15 morning. When I saw that Kisoro was in Tshey, I was not able to go back the same
16 day. I was guaranteed there was nothing and so I could _ spend my night quietly in
17 Tshey, but the fact is that if I hadn't seen him there -- you see, I was to go back the
18 same day. --Moreover, if I had been able to ask in some other way to speak to old
19 Kakado before, for a short period of time, like that, that he liberate me, that he just
20 know that I answered his call and I went back for that reason.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you. We understand.
22 Prosecutor.

23 MR MACDONALD: (Interpretation)

24 Q. Mr Katanga, before we talk about the reasons for your visiting Kagaba two days
25 after the attack, still regarding Kisoro, you agree with me that 100 men is a

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1 considerable number. You also agree that Kaswara is not very far away, and I'm
2 sure you agree with me now, as well, that when 100 men travel about, when they
3 leave Kaswara, people hear about that inevitably, even if it's just from the villagers
4 who leave Kaswara and go to the Aveba market. Because they were able to travel
5 around, go to Kaswara, since Kisoro was no longer a threat; he had left?

6 A. Prosecutor, for people from Kaswara to go to the market in Aveba they have to
7 have access. Because on our side, we said, "No, no, no. If the Kaswara people
8 come to our area they are going to infiltrate and they are going to take information
9 back." Just like the people from Kaswara don't like us people from Aveba to go to
10 their locality. It was a complete block. No one from Kaswara came to our
11 community or vice-versa.

12 Q. Very well. Just one question, because it's not in the transcript in your answer,
13 about this trip to Kagaba. So it was two days after the attack. So let's make sure
14 we're understanding this. Two days after the attack, according to you, what date
15 was that?

16 A. Prosecutor, judging from the file, the file that you have confirmed, it was the
17 24th. So directly, it must have been the 26th because, in my mind, I know that after
18 the day that I went to the health centre I heard on the radio, , now, Bogoro no
19 problem. In any event Bogoro, that's over. And I know that I spent the night. The
20 other Yuda came the same day. The next day we were with him. We saw one
21 another. It was two days later that I left for Kagaba. So if, for example, I learned
22 that Bogoro fell on the 26th, I would say the 28th but, in my mind, it was two days
23 after the Bogoro attack.

24 Q. Could you please remind us why you went to Kagaba? Could you remind us
25 of that? Why did you go to Kagaba on 26 February?

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1 A. Prosecutor, I've already said that when the APC people, Garimbaya, Blaise Kola,
2 left Aveba to go to Kagaba they didn't go back directly, they stayed there. For me, I
3 wanted to get information about how they had been able to achieve this operation,
4 how they had succeeded in this operation, because the possibility to find some
5 trace -- you know, of our people who had died and so on and so forth, was it possible?
6 Did they see that? Or, for example, if perhaps other people had been captured, for
7 instance, had they had an opportunity to get them back. That's the kind of
8 information I went to get. Because I knew that someone who was sure, someone
9 could give me that information would be Garimbaya. He was in Kagaba. I had to
10 go there to get all the information. I went and I spoke to Garimbaya.

11 Q. Mr Katanga, I am going to refer you to transcript 318. Just one moment while I
12 find the particular transcript. I beg your pardon, just give me one moment, please.

13 PRESIDING JUDGE COTTE: (Interpretation) Take your time.

14 MR MACDONALD: (Interpretation) I have the reference but I don't have the page.
15 Oh, it's page 18, line 23. I had the information, but it was just cut and paste.

16 Q. So we're talking about 24 February, Aveba. Yuda had arrived, and the
17 question at line 20: "So Yuda had arrived. How did he get there?" Answer:
18 "Yuda came to Aveba on a motorcycle. It was the only way to have him come there
19 as quickly as possible." Question: "What else happened that day, that you
20 remember?" Answer: "Having arrived somewhat later, once Yuda had already
21 arrived I went in. And all the same, we had to find some way to prepare something
22 for him, and so on and so forth. And there, at the health centre, the health centre,
23 Mike-4 with Aldo had created a system, a kind of duty roster for communications
24 and _Aldo sent the messages, the walkie-talkie messages, that they exchanged with
25 the people who were in Bogoro -- directly to Mike-4 to monitor the developments on

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1 the battle-ground."

2 Mr Katanga, according to this version of your testimony, you had direct access to
3 what was going on in the field as of 24 February, and in your last answer that you just
4 gave, you added reasons for which and details explaining why you went to Kagaba
5 on the 26th in relation to what you said earlier. Let me go back to my question once
6 again.

7 If you had direct access to the walkie-talkie communications with a relay to Kagaba
8 by way of Aldo to Mike-4, and you were right beside him, Yuda, who was injured,
9 who came and explained to you certainly the details of the attack, why did you go to
10 Kagaba again on the 26th? What was the point of doing that? You had a
11 communications link on the 24th and you had this threat, this wild bull, so to speak,
12 that could take Aveba any time.

13 A. The question?

14 Q. Why did you go to Kagaba? Because you had information, you didn't need to
15 go to Kagaba to get information. You had this threat, Kisoro, this major danger or
16 threat in your view.

17 A. Well, I was waiting for you to finish and I was ready to answer. It's just that
18 the communications -- well, you don't get all the information, the information about
19 how things are progressing. That's limited. For example, "we killed ten soldiers"
20 you can't get that detailed information that way. They can't -- you can't hear the
21 soldiers explaining that, you know, that they shot at a particular location or that they
22 killed someone, no. You might get general information. For example, we moved
23 ahead, or "we are moving forward." We saw some people, or an antenna, or a
24 particular target. There are a few pockets of resistance here and there. That's what
25 you hear by walkie-talkie.

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1 Now, getting back to Yuda, he was injured before Bogoro fell, and that is why Dark
2 took command. That's why, Prosecutor. Yuda was injured before, so he didn't
3 know what happened after that, after that point. He didn't even go into the camp.

4 Q. Well, let's go back to Mr Kisempia. We'll change topics. Mr Kisempia.
5 Mr Katanga, isn't it true that Mr Kisempia was present in Bunia to oversee the
6 integration of the fighting forces within the national army?

7 A. I beg your pardon? If you -- could you ask the question again?

8 PRESIDING JUDGE COTTE: (Interpretation) Well, it may not be very clear what
9 you mean by "overseeing." You said "Mr Katanga, isn't it true that Mr Kisempia was
10 present to oversee, or monitor, the integration of the forces?" Could you be clearer?

11 MR MACDONALD: (Interpretation) Certainly, your Honour.

12 Q. Isn't it true that Mr Kisempia was present in Bunia to undertake the integration
13 of fighting forces from the various groups into the national army?

14 A. Well, I would say that Kisempia, since he asked us to do some work, well, he
15 asked us to draw up an order of battle as he wished it to be. If he was going to
16 integrate us directly, I don't know. Well, he would have to draw up a report first for
17 headquarters in Kinshasa, and then after that the Minister of Defence would have to
18 sign that integration order. He couldn't just sign it in Bunia. He couldn't sign it
19 directly for all the integration of the combatants since he was regional commander.
20 Our situation had to be described in a report. For example, how many men; the
21 order of battle; how it was made up. And then, after that, he would have to send it
22 to Kinshasa and then on to the Minister of Defence. And if the minister agrees, well,
23 okay. If he doesn't, changes would be required. It wasn't one particular stage,
24 okay, here's this list and now you're integrated. That's not how things happened.

25 Q. So you agree with me, as well, that the arrival of Mr Kisempia stemmed from

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1 the consequences of the Sun City agreement, Article 13 thereof. Sun City, that was
2 in April 2002. It also stems from the Luanda agreement, September 2002, and
3 Articles 2.1, amongst others, and 1.3, in which provision is made for the setting up of
4 the CPI and the integration of the armed forces into the national army.
5 What's more, the Pretoria agreement, 17 December 2002, Sections 1.2, 2.1 and 2.3,
6 which reaffirm the principles of Luanda, namely "The RDC ..." -- correction, "The
7 DRC wishes to re-establish sovereignty over the Ituri region and include the rebel
8 forces in the National Army."
9 That was the role of Kisempia, wasn't it, and that is why the CPI was set up and
10 operating? And then at the end of the CPI, or towards the end, Kisempia met with
11 you and also the FNI, the FRPI, the PUSIC; isn't that so, Mr Katanga? I may have
12 given you a lot of information in that question, a lot of elements within my question,
13 but that was Kisempia's role, wasn't it, to integrate all these various people, including
14 the UPC?
15 A. I do not know. When you talk about the Sun City, Pretoria agreements, I have
16 absolutely no idea. These are agreements that I have seen here. You are the one
17 who sent me those documents, the various agreements. Your Honour, before I did
18 not even know. I did not know whether those agreements existed, or not.
19 Now, if Kisempia came for that reason, then I am not aware. I cannot tell you that I
20 knew that there were points A, B, C in the Pretoria agreement, but you also said that
21 Kisempia came to integrate the rebel forces, but we were not rebels. We were not
22 rebels, Mr Prosecutor. We were simply a resistance force, which is legal in our
23 constitution. A country can have resistance fighters, or nationalists, that's what we
24 were. We were not rebels, so I am correcting the term that you used by referring to
25 "rebels." That is not what I think.

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1 Q. Two more questions on this topic and then we will move on to something else.
2 Let me refer you once again to transcript 319, page 11, line 13. Question: "And
3 what happened? What happened to the RCD-K/ML and its army the APC during
4 that month?", and reference was being made here to the month of April: "I can tell
5 you that a large number of APC soldiers went to Bunia town, saying that they were
6 so-called combatants. Amongst them there was Commander Unega. There were
7 many of them in Bunia: Unega, Frank, Ouetchi and people like Zarabaud and
8 others. They came from Beni, by way of Komanda. They arrived in Bunia and they
9 said that they were Lendu combatants."

10 Mr Katanga, the objective of Kisempia - and we can read all these agreements - was to
11 follow-up, to monitor those APC soldiers in Beni. It was clearly planned in the
12 agreements that they would be integrated into the national army. They did not need
13 to pass themselves off as combatants in Bunia, be it in March, April, May, June 2003.
14 It was already provided for in the agreements, that they would be integrated in the
15 national army. So I would like to understand why did you say that they were
16 undercover combatants in Bunia at the time? What was the interest for them?

17 A. The interest for them was the mission. There was an operational mission.
18 They did not come to integrate themselves into the army. They came for a mission.
19 They knew that after the Ugandans left they would be the ones to take over; that is
20 the APC, the combatants. How could they take over positions to provide security in
21 Bunia? How could the combatants do that, set up offices and police stations and so
22 on? No, there was need to have a professional army that would be able to take over
23 control of the town. So they did not come to be integrated into the army. They
24 came to accomplish their mission.

25 Q. Mr Katanga, you say that the objective of the RCD-K/ML and the APC in

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1 February was to take over Bunia, but when Bunia fell all those APC soldiers in Aveba,
2 Kagaba, Bogoro -- well, Bunia fell. They did not return triumphantly into Bunia.
3 Lompondo did not return to serve as administrator. The APC was not there to
4 manage and provide military security in Bunia. Why? Why did they come back
5 undercover?

6 A. What is your question, Mr Prosecutor? Please be clear.

7 Q. Mr Katanga, my question is very simple. You said that there was an important
8 plan to take Bunia. Bunia did, indeed, fall. The APC was there. They did not
9 return triumphantly into Bunia. Isn't it a fact that it was the men from Zumbe, the
10 combatants from Zumbe and from Walendu-Bindi, who caused the fall of Bunia?

11 MR HOOPER: If my friend just looks at his question, how can any witness deal with
12 that? Wouldn't it be better just to break it down and get the response?

13 MR MACDONALD: (Interpretation) I will indeed break it down and that would be
14 my last question.

15 PRESIDING JUDGE COTTE: (Interpretation) Very well.

16 MR FOFÉ: (Interpretation) I'm sorry, Mr President, but the five-second rule is not
17 being complied with.

18 PRESIDING JUDGE COTTE: (Interpretation) Yes, there are many indications to that
19 effect. I made a sign to Mr Katanga to slow down and he saw that sign and slowed
20 down. He complied. So we have to be very careful, and also, Mr Prosecutor, you
21 have to ask simple questions that are well-phrased so that the witness should know
22 what is expected of him. Thank you, Professor Fofé.

23 Thank you, Mr Prosecutor, and please proceed.

24 MR MACDONALD: (Interpretation)

25 Q. Isn't it true, Mr Katanga, that it was the Zumbe combatants - the Ngiti

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1 combatants - who actually conquered Bunia? Isn't it correct that this is what really
2 happened?

3 A. What do you mean by that, Mr Prosecutor? It was not the Walendu-Bindi, or
4 Zumbe, combatants who chased out the UPC. The occupation army was there, the
5 UPDF. If the combatants allied themselves to the UPDF, that is something else, but
6 what you should know is that it was the Ugandan forces. You will see in the
7 statement ... You have the Kale Kayihura recording in which he says that, "We fought.
8 We chased out the UPC. We did that," and he did not say that it was the combatants
9 who chased out the UPC. He said it was the Ugandan forces that chased out -- the
10 UPDF that chased out the UPC. And he is an important person, Brigadier Kayihura.
11 He said himself that the Ugandan forces chased out the UPC because the UPC had
12 come and attacked them. He even said that people fired shells on the airport from
13 Ndromo and they retaliated. The UPC fired shells from Tibasima farm, and that
14 they retaliated from the airport and after that the UPC was routed. I was able to
15 see that on one of the tapes that you disclosed to us. Yes, I saw that.

16 Q. Mr Katanga, isn't it true that at that time the UPDF was supported by, among
17 others, the combatants from Zumbe? You can call that a self-defence force, or
18 whatever you like, but there were also Ngiti combatants, including some who had
19 been positioned in Bogoro, and all these people supported the UPDF in taking over
20 Bunia on 6 March 2003?

21 A. When you say "support," maybe that is a bit of an exaggeration. Maybe I don't
22 understand well. I don't know. Maybe you could use the word "help," or "assist,"
23 but "support"? That seems like a bit much, to use the word "support," to say that
24 the combatants supported the UPDF. What did they provide to the UPDF? That is
25 why I have a problem with that word "support." But if it is said that the combatants

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1 helped or assisted the UPDF in chasing out the APC, perhaps, then I can understand
2 because "support" would mean that the combatants were providing weapons,
3 ammunition and so on. That is what "support" means.

4 Q. Mr Katanga, isn't it a fact that the Ngiti combatants and the Zumbe combatants
5 fought alongside the UPDF using weapons and ammunition to chase out the UPC
6 from Bunia? You do agree with that, don't you?

7 A. Mr Prosecutor, the first thing is that the distance between Bogoro to Bunia is 25
8 kilometres and people travelled on foot. And how long does it take on foot? That
9 is already five hours. If people left Bogoro to go to Bunia at 5 or 6 a.m., then they
10 would arrive at 11 a.m. If they were carrying weapons, they could not travel five
11 kilometres in one hour. No, they would walk slowly, because when the enemies
12 heard explosions they wouldn't even know who was fighting. That was my first
13 point.

14 Secondly, if the combatants came from Zumbe, then they would have allied
15 themselves to the UPDF forces to chase the UPC, as you say. Well, I do not have a
16 comment on that because I did not actually witness the combatants fighting alongside
17 the UPDF to drive out the UPC, but I heard that the combatants were in Bunia. They
18 accompanied the UPDF to chase out the UPC which had attacked them at the airport
19 and at Dele.

20 Q. Explain to us, once again, you did previously describe Kisempia's attempt to set
21 up a General Staff and implement the integration. Based on the information that
22 you have, Mr Katanga, I'm asking you an open question here: Why was
23 Mr Ngudjolo appointed to a position which, of course, was important, Chief of Staff
24 in charge of operations? Transcript number 319, page 9.

25 A. This was simply a question of representation. In order to construct our battle

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1 order, everyone had to be represented. We know that in the north, Ndjabu was
2 president of the FNI in Kpandroma. Next to him there was Maître Kiza. I was
3 there in the south and we needed someone also from the centre, and beyond Zumbe
4 we needed to have Goda, and around Mongbwalu we needed to have someone. We
5 wanted everyone to be represented. Each collectivity had to be represented, so our
6 battle order was more a community-based battle order.

7 Q. But Kiza was the strong man in the north, you were in the south, but where was
8 Mathieu Ngudjolo? Where was he?

9 A. I saw Mathieu Ngudjolo in Bunia. He was coming from Bedu-Ezekere, in the
10 Blue Mountains.

11 Q. Do you agree with me that Kiza was chosen because he was an important
12 combatant and commander? You were also an important combatant and
13 commander. What about Mathieu Ngudjolo, what was he?

14 MR HOOPER: And again, is it possible to have broken down questions because we
15 have again a series of questions which are wrapped up, wrapped up assertions.

16 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé?

17 MR FOFÉ: (Interpretation) Thank you, your Honour. I would like to refer the
18 Chamber to its oral decision of 7 September 2011. I have the precise reference here.
19 If the Prosecutor wishes to go further, or to delve further into this matter, that is use
20 Germain Katanga to incriminate Mathieu Ngudjolo, then he knows how he should
21 proceed. In that case, then, he should refrain from asking leading questions. He
22 has to put to the witness neutral questions, such that the witness can answer without
23 being influenced. I can give you the references to that decision; I believe you are
24 aware of it.

25 PRESIDING JUDGE COTTE: (Interpretation) Don't be worried, Professor Fofé, I

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1 have that oral decision of 7 September 2011 handed down during the testimony of
2 Chief Manu. And in that decision the Chamber specified the elbow room or margin
3 of manoeuvre that the Prosecutor has during the cross-examination, or when an
4 accused person possibly incriminates a co-accused. We are not going to go back to
5 that.. Mr. O'Shea made his views known at that time. I believe the Prosecutor
6 knows what he has to do. Do you recall that decision, Mr Prosecutor? Mr O'Shea,
7 we are not going into a procedural debate on this.

8 MR O'SHEA: Well, your Honours, it's our respectful submission that the oral
9 decision which your Honours made with respect to the Defence witnesses of Mathieu
10 Ngudjolo was in that specific context of the Defence witnesses of Mathieu Ngudjolo.
11 What we are dealing with here is the cross-examination of an accused person, and I
12 may add that this is the first time in the International Criminal Court that there has
13 been a cross-examination of an accused person. And it is our submission that while
14 the submission of Professor Fofé is quite correct, and falls in line with your Honours'
15 oral decision, that when dealing with an accused person the Bench must go further
16 than they did in that oral decision.

17 So when your Honour says that we should not deal with a procedural matter at this
18 stage, it is I think on the assumption that the ground was laid in that previous oral
19 decision, and that's a perspective that I fully understand in the context, your Honour.
20 However, the ground here is different, and from that perspective I would seek your
21 Honours' leave to explain why?

22 PRESIDING JUDGE COTTE: (Interpretation) Can you begin by explaining to me
23 why the questions put by the Prosecutor raise a problem? At this time, I do not
24 want us to deal with difficulties that we have not yet come across. We will deal with
25 that when those difficulties arise. What is the difficulty now?

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1 MR O'SHEA: Yes, indeed. I mean, I am on my feet because the issue has been
2 raised by Professor Fofé, but let the Prosecution --

3 PRESIDING JUDGE COTTE: (Interpretation) It sounds or, rather, it seems to me
4 that he raised that issue as a precautionary measure, and do you want Professor Fofé
5 to dispute the circumstances under which the Prosecutor is putting questions to the
6 witness? Mr Hooper has asked the Prosecutor to break down his questions so that
7 the witness should be able to answer them calmly, without having to deal with
8 multiple topics all at once. That is what started the objection.

9 MR FOFÉ: (Interpretation) Thank you, your Honour. Personally, I was afraid
10 that the Prosecutor might have forgotten that your oral decision of 7 September 2011.
11 That is why I rose to my feet, to draw the attention of the Bench to that decision and
12 to ask the Prosecutor to refrain from using the testimony of the co-accused to attempt
13 to incriminate the other accused.

14 We know the Prosecutor's arguments, and he's using his questions to develop these
15 arguments, and yet you have prohibited the parties from pleading through the use of
16 questions. It is important for the Prosecutor to ask precise questions to the witness
17 so that the witness should be in a position to answer clearly.

18 With regard to Mathieu Ngudjolo, he should of course be very careful, particularly
19 when he deals with an incriminating aspect. He should do that in a very neutral
20 fashion, rather than using leading questions as he had started to do.

21 PRESIDING JUDGE COTTE: (Interpretation) A short while ago the Prosecutor
22 asked an open question. "We will recall that throughout the direct examination
23 conducted by Mr Hooper at no time did Germain Katanga incriminate Mathieu
24 Ngudjolo." Therefore, it is prohibited for the Prosecutor to deal with an issue that
25 was never raised in the examination-in-chief. I believe we agree on that, Mr O'Shea.

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1 As part of his cross-examination, the Prosecutor is nevertheless free to ask a certain
2 number of questions because, specifically, it is unusual for this Court to see an
3 accused person testifying as a witness. We are all aware that the accused person ---
4 and he has shown us this ever since he began giving his testimony --- decided to take
5 that risk and he assumes the responsibility. At times he has assumed the
6 consequences of his choice --- this is not a value judgment, this is an observation ---
7 with a certain amount of brio and dexterity.

8 So, Prosecutor, if you want to talk about Mathieu Ngudjolo, we cannot totally exclude
9 him because he does exist, he is in this courtroom. He is going to testify himself, and
10 he is a player in the life of Ituri and in the life of Zombe, during a period of time that
11 is of concern to us. Now, if that is the case, Mr Prosecutor, you have to ask the most
12 cautious questions possible, as if you were in direct examination. You should not
13 ask leading questions, but rather, please ask clear, open-ended question, as Professor
14 Fofé suggested. That is where we are at, and you can now proceed.

15 MR MACDONALD: (Interpretation) Thank you, your Honour. I fully agree.
16 I believed that you mentioned one thing which I believe is an obiter dictum. That is
17 the fact that there was nothing sought in the examination-in-chief that was
18 incriminating, nothing incriminating that was mentioned by Mr Hooper. In light of
19 your decision 1665, it is stated that anything that was not raised in direct examination
20 can be raised in cross-examination insofar as it is something that is relevant to the
21 establishment of the truth. I believe this is an obiter dictum, and is not necessary.

22 Mr President, I fully agree with you because you mentioned that it should be open
23 questions.

24 PRESIDING JUDGE COTTE: (Interpretation) Very well. I think that is where we
25 are at for the time being, so you can proceed.

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1 MR MACDONALD: (Interpretation) All the same, I believe I can ask leading
2 questions regarding Kiza and the accused person himself.

3 Q. Now, isn't it correct that Maître Kiza was the major personality, the major
4 combatant in the north?

5 A. Not that great personality that you are referring to. Maybe he was a
6 combatant, just like myself. I was a defender, I was a combatant. In fact, in order
7 to be a combatant it is normally because your community appreciates the fact that
8 you are defending them. It is the community that makes someone important. If
9 the community does not attribute importance to you, then you would not be a great
10 person. But when the community gives you that opportunity, even if you are an
11 unimportant person, you are going to become important. But I cannot say that he
12 was the great personality there, but he was a combatant. The people of the
13 community chose him to represent them.

14 Q. Isn't it correct that Maître Kiza had experience in self-defence and this was
15 certainly one of the logical reasons underlying the fact that he was appointed to the
16 General Staff?

17 A. No, it's ... Mr Prosecutor, what we should understand is the fact that someone
18 like Kiza in our area we did not know him. Our community as well, we did not
19 know him, so it was the people of Kpandroma who witnessed what he had said, what
20 he had done and decided that he would represent them. It was not the General Staff
21 that decided that they would choose that person. So our battle order to rebuild, it
22 was a process, it was defined in terms of ensuring that each community, or clan, was
23 represented. We simply did not say this was a great man, no.

24 Q. Mr Katanga, are you telling us that Kisempia, a member of the army, and
25 I believe that on the list of photographs – Mr. Hooper had a photograph with you and

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1 Kisempia when you were being sworn in as brigadier-general in the national army.

2 Are you telling us that Kisempia would set up a General Staff with people who do
3 not have military experience? Is that what we should take to be your testimony?

4 A. Kisempia did not set up the battle order. He simply stated how it should be
5 set up and he said, "If you want to set up an organisational chart, you should do it
6 this way," but he is not the one who went on to say, "I will appoint Maître Kiza and
7 Germain Katanga to this position, or that position," no.

8 Q. Mr Katanga, when a General Staff is set up, or a battle order as you referred to it,
9 with the idea of being representative of the people, yes, indeed in Ituri people wanted
10 it to be representative, people wanted leaders; military leaders. The General Staff,
11 that is what it is all about, isn't it?

12 A. Prosecutor, you are using your own terms such as "General Staff" or whatever
13 it may be called at the international level, but that is your problem. For us, those of
14 us who were combatants, this is the way we designed our General Staff. This is not
15 a system where you knew that someone had been trained at a military academy, or
16 had done this, or done that, or had been in such-and-such a department, no. You
17 see, the Chief of Staff, when he sees only the CVs, can then proceed to make
18 proposals for nomination or appointment to the minister of Defence, but that was not
19 the case in our situation. Somebody's past was not known, that was the difference.

20 Q. The Trial Chamber will assess your answers to these questions, Mr Katanga.
21 Now, let us proceed to review a number of documents in the case file. Let us start
22 with document number 12, which you have already testified about, EVD-OTP-00237,
23 and I think it might be proper for the document to be displayed for the benefit of
24 Mr Katanga.

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

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1 THE COURT OFFICER: (Interpretation) Please can you confirm the confidentiality
2 level?

3 MR MACDONALD: (Interpretation) Public.

4 THE COURT OFFICER: (Interpretation) The eCourt records have it as
5 confidential.

6 MR MACDONALD: (Interpretation) I am sorry, I thought it was a public document.
7 Just looking at it, I do not see why the document should be confidential. Maybe --

8 PRESIDING JUDGE COTTE: (Interpretation) Can this document be confidential at
9 this stage in our proceedings?

10 MR MACDONALD: I do not think so.

11 PRESIDING JUDGE COTTE: We shall present this as a public document, court
12 officer.

13 THE COURT OFFICER: (Interpretation) Press "PC1" to view the document.

14 MR MACDONALD: (Interpretation)

15 Q. Mr Katanga, in your previous testimony, transcript 320, page 3 -- page 3, where
16 Mr Hooper puts the following question to you at line 18, and the question was in
17 relation to the seal, or stamp. At line 20, line 20, you answer as follows -- rather, line
18 20 is the question: "Now, let us look not at the content, but the signature. We can
19 see the signature, 'Germain Katanga Simba, President,'" and the letter is to the Chief
20 of General Staff Cobra, December 2003. Do you have any comments to make on
21 this?" Answer: "Yes, I can." "What comments can you make?" "If you look
22 carefully at the hierarchy, I want to tell you that a president cannot enter into
23 negotiations with his subordinate. That is the first point. This proves that up until
24 that time we did not have a vertical hierarchy in place.

25 Secondly, when you see the word "President" there on the document, it is because the

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1 name "President" was beginning to progress and when we got to 8 February 2004 I
2 officialised it. So it was a gradual progression in the use of the word "President."
3 I think that those are the two points I wanted to make."

4 Q : Mr Katanga, I am interested in your first point. You can see on the letter that it is
5 addressed to the Chief of General Staff Cobra and then to the organisation -- to the
6 organiser of the cattle market. Can you tell us - can you tell the Court - what you
7 meant when you said, "A president cannot enter into negotiations with his
8 subordinate. This proves that up until that time there was no vertical hierarchy in
9 place.". Are you saying that the hierarchy was horizontal, that it was not vertical?
10 Do you mean that it was horizontal?

11 A. Mr President, we need to look at the content of the letter and I answered in
12 relation to the content of the letter. We were negotiating at the time and, if I was
13 indeed the president that Oudo recognised, I would have said "Mr Battalion
14 Commander, I recommend the following persons 1, 2, 3, 4 to you," and then at the
15 end I would have said "so ordered." This shows directly that no, that's fine.
16 But during negotiations you may say that you want to remember that we agreed on
17 point A, and that such-and-such a thing happened and that we talked about
18 such-and-such an item, so, please, on your side agree that our people can also go
19 there to deal with such-and-such a matter. That is the thrust of my answer, when I
20 explained about a vertical and parallel hierarchy during the negotiations.

21 MR MACDONALD: (Interpretation) Let us now look at document 13,
22 EVD-OTP-00236, page 1, which is a follow-up on a similar document.

23 THE COURT OFFICER: (Interpretation) Please confirm confidentiality of this
24 document.

25 MR MACDONALD: (Interpretation) What is your level? It might be easier to

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1 proceed that way, but I don't see why it should not be a public document. In fact,
2 I think in other words that this is a public document.

3 Q. Mr Katanga, are you with me? Just to revisit what you just said, "The physical
4 presence of each commander is required and no absence will be tolerated by order,"
5 signed by you, the President, in Aveba-Mukubwa, 15 July 2003, Germain Katanga
6 Simba.

7 Is that what you were referring to previously when you recommended that they
8 should attend the meetings?

9 A. I wrote it down and I signed, but the issue is did they reply? Did they answer?
10 That is the issue. When I used those words, are you sure that they replied or they
11 answered?

12 Q. The battalion commander on the road between Bunia and Attatu was Oudo
13 Mbefele, isn't that the case?

14 A. Yes, he's the one.

15 Q. Is that the person you were referring to when talking about the other
16 document?

17 A. I'm with you, I'm with you.

18 MR MACDONALD: (Interpretation) Yes, very well. Let us now look at
19 document number 15, 3 March 2003, EVD-OTP-00239.

20 PRESIDING JUDGE COTTE: (Interpretation) Not very legible, but we might be able
21 to read it better on the screen. The paper copy is not very legible.

22 THE COURT OFFICER: (Interpretation) What is the confidentiality level for this
23 document?

24 MR MACDONALD: (Interpretation) I think this document has previously been
25 displayed in these proceedings, and I believe it is public. And I don't see why it

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1 should not be public, except there are reasons which I do not understand; otherwise,
2 it should be a public document.

3 PRESIDING JUDGE COTTE: (Interpretation) Please, court officer, display it as a
4 public document. Court usher, please zoom in more. Thank you very much.

5 MR MACDONALD: (Interpretation) Maybe there's an issue with the chain of
6 custody; otherwise, that is all I can say about the document, but maybe we can deal
7 with those technicalities subsequently.

8 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor.

9 MR MACDONALD: (Interpretation)

10 Q. This is an important document in your testimony because as you said
11 previously, and I believe it was yesterday, you were there on the 3rd and, therefore,
12 could not be at Mandro on the 4th. This I believe is also an attempt to determine the
13 time at which you became president, is that the case? Isn't it correct that, according
14 to your testimony, it is from that time on that your community recognised you as the
15 president? Mr Katanga, is that not the case?

16 A. President of the combatants, yes.

17 Q. Can you explain to us how it is that Mr Cobra Matata refers to you as the
18 President of the FRPI in Bolo? Mr Katanga, the floor is yours and we are listening to
19 you.

20 A. I don't know whether he wrote this letter to me and I don't know whether I
21 received it. I have seen this letter here in The Hague and you are the one who
22 produced this letter. I do not recognise this letter. I have never seen it. I see, as
23 you have too, that it is written to the President of the FRPI in Bolo, but I have never
24 seen this letter before. It is here in this Court that I saw this letter.

25 Q. How many presidents are there in Bolo, so that we understand this matter?

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1 Who ... A soldier wrote "I have the honour to write to you on the matter referenced
2 above, authorisation to collect gold taxes." How many presidents in Bolo could
3 there have been to whom Mr Matata was writing? Referring to the president of the
4 FRPI as well.

5 A. Mr Prosecutor, all I can tell you is that this is what is written in this document
6 but if I didn't see it before, how can I confirm that to you? Absolutely not. I can see
7 the word "President" there, just like you do, but to say that he wrote this to me,
8 maybe the letter got to my office, I do not know, but I do not recognise this letter. I
9 have never seen it. That is the first thing..

10 Secondly, if he used the word "president," we were all in Tchei on the same day, we
11 were all there. We were with Cobra in Tchei on the same day, and maybe he
12 may have heard old men like Kakado say it by word of mouth and he decided to
13 use it because we were all present. And, again, this is something -- a small
14 typewriter that he may have brought with him.

15 Q. We will get to that, we will get to that. Mr Katanga, at transcript 319, page 23,
16 line 16, this is what you said: Question: "In 2004, we note that you signed as
17 President of the FRPI." Reference is being made here to the FNI/FRPI separation in
18 the document of 8 February 2004. "Before that date, did you use the title 'President
19 of the FRPI?" Answer: "That is what I have just told you. Before the old man
20 Kakado conferred upon me the title of 'president of the combatants,' 'president of the
21 combatants,' to his mind he did not know about the FRPI problem. He was not
22 aware of it. He knew that there were combatants and that was enough for him. It
23 is from that date, that is 8 February, that I officialised, but maybe there are earlier
24 documents, which I signed as president before that date. That is it. There are
25 documents from June, July, August and so on and so forth, but officially, it is from

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1 that date that I took on the name of 'president,' and we are referring here to the
2 document of 8 February 2004."

3 Q: Mr Katanga, Cobra Matata sends you a letter in which you are identified as the
4 President of the FRPI in Bolo. Cobra Matata signs, here, in his capacity as Supreme
5 Chief of General Staff. "Colonel Matata Bwanaloki Justin Cobra."

6 Now, this document, as you can see, has a second page which is on the flip-side.

7 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed, there is a second page
8 with a handwritten insert and a stamp.

9 MR MACDONALD: (Interpretation)

10 Q. Mr Katanga, to be fair with you, to be very fair with you - because we do not
11 want to be accused of misleading you - on this document you see : "the battalion and
12 operations commander in Medhu Tatu" , and there even are serial numbers , and as
13 you can see here, "when Ouyama Olongba", Mr Katanga, this document was typed
14 in Medhu or was, rather, seized in Medhu during a search referred to earlier in this
15 case when we dealt with similar documents.

16 My question to you, then, Mr Katanga, is the following: Can you explain to us why
17 Cobra would recognise you as the president of the FRPI?

18 A. That would be according to his understanding. Now, if you had told me that
19 you collected all these documents in my home in Aveba, that would have been better.
20 In Aveba, the MONUC took everything away from my house, including the pots.
21 They took everything, everything away, in the plural, everything, and they were very
22 happy to do so. So why are you showing me a document -- or you could have been
23 better off showing me a document from my house.

24 Now, this report can -- or this stamp exists to this day. Cobra's signature can be
25 reproduced in some other way. So with the computer systems today, you know, it's

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1 difficult to believe anything. I don't believe in anything whatsoever. But if you
2 had collected this material from my home, then I might have been in a position to
3 explain to you that, perhaps I saw it. But in the present circumstances I did not see
4 this. Maybe all of this was even done by police officers there. You can see the
5 writing is different. You have something typed on the inside and then on the
6 reverse side it is handwritten, and so on and so forth, so I can't say whether or not I
7 am familiar with this document. No, I cannot say that.

8 Q. Mr Katanga, let us go to page 41 in the real-time transcripts, line 7, something
9 you just said, and line 7, line 3, rather, as well. "Secondly, I can tell you that if he
10 used the word 'president,' well, we were all there in Tchei perhaps at that time he
11 heard it directly from the old man Kakado and decided to use it. You see, we were
12 all there and there is a small typewriter that he could have taken with him."

13 Did you see Cobra with a typewriter?

14 A. This letter is typewritten.

15 Q. Is it a fake or it is not?

16 A. I did not tell you that I saw him. What I can tell you is what I see on the piece
17 of paper. It is typed. A typewriter is a small instrument, a small machine which
18 you can take along with you wherever you are going. I'm sorry. Now, if you want
19 to appear to be an important person, well, you could use this type of equipment and
20 maybe it was in his style to go around with it. I don't know. But what I can tell the
21 Court is that I see that this is a typed document.

22 Q. Mr Katanga, I want to draw the Trial Chamber's attention to this. You have to
23 be careful, Mr Katanga, because your counsel - and I want to refer to document
24 number 18 --- is applying to produce, by way of a -Bar table motion, another Medhu
25 document to which the Prosecution raises no objection. Nor do my learned friends

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1 from the Kilenda defence team.

2 So what I'm saying is that this document was seized at the same location and the
3 signature, the signature is - and I'm not an expert in these matters - the signature is
4 rather quite similar to the other one. I just want to point that out to you. So last
5 question before the break: I want you to look carefully at the point "Olongba on
6 3 March 2003." That is the entry, and you see we must understand that one cannot
7 be at Tshey and Olongba at the same time, Cobra. Why do you laugh at that?

8 A. Yes, I am laughing. Why don't you want me to laugh? When I have a
9 feeling which I want to express, am I not supposed to show it? It's spontaneous.
10 Please, don't let me be angry for too long. Now, what I want to say is that I, myself,
11 told you that before I wrote a memorandum in Fort Portal, and instead of putting the
12 venue at Fort Portal I put "Kampala 8 February 2004." Now, so, I had to write "Done
13 in Aveba 8 February 2003," I mean, 2004, because that was my headquarters.
14 What I am saying, therefore, is that I wrote this memo while in Kampala, in Uganda,
15 the capital of Uganda. My headquarters is what I used in the memo which is Aveba,
16 and that is the way I demonstrated this point.

17 Now, if Cobra wanted to set up his headquarters in Olongba, that's for him to say. I
18 do not know.

19 Q. One very last brief, very brief question.

20 PRESIDING JUDGE COTTE: (Interpretation) Very, very, very brief.

21 MR MACDONALD: (Interpretation)

22 Q. Mr Katanga, isn't it correct that you were recognised as the president before
23 3 March 2003? That's my question. Isn't it correct that prior to that meeting in
24 Tshey of 3 March 2003, you were already recognised as the president? You can say
25 yes or no, mindful of the time, as you choose to.

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1 A. Simply, no. I want to give you possible arguments in support of my answer,
2 Mr Prosecutor. Mr Prosecutor, anyone can use words the way they choose to, and I
3 know that we are out of time, but let me simply say that he could have called me by
4 any name. People called me by many different names, and I have already stated
5 that on the record.

6 PRESIDING JUDGE COTTE: (Interpretation) I know that it is unusual or, rather, not
7 proper to cut into somebody's answer so we will allow you to provide a full answer
8 when we return.

9 THE WITNESS: Yes, Your Honour.

10 PRESIDING JUDGE COTTE: Mr Katanga, thank you. So you will have time to
11 answer that question completely, Mr Prosecutor, how much more time do we have
12 for the period ahead with your cross-examination?

13 MR MACDONALD: (Interpretation) I have two more documents to deal with, and
14 I think the Trial Chamber can understand, and then I will deal with admissions
15 relating to Prosecution witnesses and that will be it. All going well, Mr President,
16 I think, things being the way they are, I might need another 30 minutes.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Court usher, please take
18 Mr Germain Katanga back to his seat. We shall resume in 30 minutes at 11.30. The
19 proceedings are suspended.

20 THE COURT USHER: All rise.

21 (Recess taken at 11.00 a.m.)

22 (Upon resuming in open session at 11.34 a.m.)

23 THE COURT USHER: All rise.

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

25 Prosecutor, you may proceed. Please go ahead.

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1 MR MACDONALD: (Interpretation) Thank you, your Honour. Perhaps before
2 we resume, I would like to extend an invitation to my learned friends opposite to
3 facilitate the work of the Chamber, because these are exhibits that are accessible on
4 the internet, and I make reference to a number of agreements that are shown on our
5 list for cross-examination, in particular the Sun City agreement and the Pretoria
6 agreement.

7 Sun City we had a version that was disclosed previously, and we have found
8 another version on the internet. What's more, we found a version of the Pretoria
9 agreement. If my learned friends don't object, rather than proceeding by way of a
10 Bar table motion we could come to an agreement and allocate an EVD number to
11 these documents, or the Chamber could use its own powers to ask the Prosecution to
12 provide a copy and ensure that the documents receive EVD numbers. So this is the
13 proposal. Think about it. But if there is no objection, because I can see that my
14 colleagues from the Kilenda team already have the Luanda agreement, the September
15 version, and I think it would also be useful to have the Sun City and the Pretoria
16 documents. Also in light of an exhibit that was shown by Mr Hooper, a document
17 from the CEIMIA, this is at tab 2 on our list and this is why I'm making this proposal.
18 Some documents make reference to these agreements as well.

19 Perhaps the Chamber already has these agreements, but perhaps we could make
20 everything official by having EVD numbers allocated to them.

21 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

22 MR FOFÉ: (Interpretation) Thank you, your Honour. I'm not responding directly
23 to the proposal regarding the two agreements mentioned by the Prosecution but, in a
24 similar vein, I would like to request the Prosecutor's co-operation insofar as is
25 possible. Could he find for us and present to parties and participants --- and this

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1 will also be of benefit to the Chamber --- the legislation dealing with the organisation
2 and functioning of administrative entities in the DRC at the time of the events, at the
3 time of the events?

4 This idea came to my mind because I think you'll recall, your Honour, that during his
5 cross-examination the Prosecutor asked Mr Katanga among other things a question
6 relating to the difference between collectivité chefferie and collectivité sector. And,
7 you see, I think it might be useful for the Chamber to consult this act, the act does
8 exist, this act which relates to the organisation of territories, of administrative entities,
9 within the DRC during the period of time; namely, 2002/2003.

10 PRESIDING JUDGE COTTE: (Interpretation) Now, is this something that
11 Mr Hooper would also like to see? Is there any objection to that, Mr Hooper, the
12 production of this piece of legislation? I don't have the exact title, but I believe Mr
13 Fofé mentioned, yes, an act relating to the organisation and operations of
14 administrative entities within the DRC at the time of events, namely the legislation
15 that was prevailing at time of the events.

16 This document could allow us to better understand the administrative organisation of
17 the country, in particular within this region. Now, I don't see you -- I don't think
18 you have any particular objections?

19 MR HOOPER: No, to either the various agreements or to the document proposed by
20 Professor Fofé. If those documents can be sent to us, and we will consider them, but
21 we certainly won't stand in the way of anything that's going to be helpful to the
22 Chamber.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you. So on the one hand
24 Professor -- correction, Mr Prosecutor, you have this request from Professor Fofé.

25 MR MACDONALD: (Interpretation) Sorry for interrupting. We will take the

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1 necessary measures. If my learned friends already have the legislation, there is no
2 problem with them sending it to us, but we will take the necessary measures on our
3 side. And if they have access to that legislation, we would have no objection at all.

4 PRESIDING JUDGE COTTE: (Interpretation) Very well. So it's a matter of
5 co-operation on both sides, and I believe we can assume that there will be good
6 co-operation. Now, when Mr Macdonald began he was mentioning a number of
7 agreements and they've been mentioned several times during the trial. They have
8 been shown to witnesses, comments have been made in relation to these agreements.
9 Mr Hooper has said that he really does not object to any of this, so I think it would be
10 good if the Ngudjolo Defence team could quickly tell us what their position is,
11 because I think we could deal with all of this orally. Which would undeniably be
12 more simple. Yes?

13 MR MACDONALD: (Interpretation) Before -- well, if you don't mind, before my
14 learned friend ... Because Mr. Hooper suggested that we send the document, but
15 these are the same documents that are already to be found on our list at tab 43. I'm
16 also referring to tab 44.

17 PRESIDING JUDGE COTTE: (Interpretation) And I believe you also mentioned
18 tab 2.

19 MR MACDONALD: (Interpretation) Both. I beg your pardon, yes, both, tab 2
20 has already provided us evidence.

21 PRESIDING JUDGE COTTE: That's right. Indeed.

22 MR MacDONALD: Now, just to reassure Mr Hooper, and I think this is a
23 consideration that he had objected to, the version that was disclosed earlier of the Sun
24 City agreement can be found at tab 48. So to sum-up, 43 -- 43 is new, 44 and 48 are
25 the same, the Sun City agreements. 48 has already been disclosed.

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1 PRESIDING JUDGE COTTE: (Interpretation) So I would suggest that in the course
2 of the afternoon you come to an agreement so that everyone is quite sure that they are
3 talking about the same version of the document. We don't want any
4 misunderstandings about earlier versions, so please co-ordinate your efforts. And
5 ideally Tuesday morning, when we resume, you will be able to tell us that you have
6 come to an agreement on these various agreements which apparently should be
7 achievable without any particular difficulty.

8 Mr Macdonald.

9 MR MACDONALD: (Interpretation) Thank you, your Honour.

10 MR HOOPER: Sorry. Just before my learned friend starts, we've got the
11 agreement -- which one's this? I think that's --

12 MR MACDONALD: That's Pretoria that you have in your hand.

13 MR HOOPER: -- Pretoria, and that is obviously in an authentic format, it would
14 seem to us. The other one we don't have in an appropriate format, so I'm sure that
15 somewhere in the papers given the relevance of this document to various cases in this
16 Court that there is in some file somewhere that -- a copy of that agreement. And in
17 any event it would be lodged with the UN, so I would have thought it would be
18 recoverable by Tuesday. Thank you.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr Kilenda?

20 MR KILENDA: (Interpretation) The comprehensive agreement on the transition
21 in the Democratic Republic of the Congo was published in a special issue of the
22 official journal of the Democratic Republic of the Congo. We shall also endeavour to
23 find the document, the official version.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Ideally, these two
25 agreements, Sun City and Pretoria, will be provided in the most official version

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1 available. Now, if they were published in the official gazette or journal of the DRC,
2 very well. Otherwise, the document under tab 48, the comprehensive agreement,
3 appears to be a reference document, that is reliable, without any particular problem.
4 So for Sun City I am speaking of exhibit 44, if we could find the most official version
5 that, once again, would be a good thing. If it is not possible to clear all of this up by
6 Tuesday morning, well, I would imagine everything should be dealt with without
7 any particular difficulty by Wednesday morning. Thank you, everyone.

8 MR KILENDA: (Interpretation) If you don't mind, your Honour, regarding the
9 legislation mentioned by Professor Fofé, would the Chamber mind if we were to
10 provide a recent work entitled "Treaty of Congolese Administrative Law?" This is
11 written by a Congolese professor, and it sets out the history of all legislation in this
12 area ever since the Congo became an independent state, and I actually ordered this
13 book yesterday from Academia, in Louvain-la-Neuve, and it should be coming quite
14 soon, within seven days. I leave it up to you to decide.

15 MR MACDONALD: (Interpretation) And what would the purpose be? Because
16 we have to be very careful. There's a difference between providing a reference work
17 and hearing testimony from an expert.

18 PRESIDING JUDGE COTTE: (Interpretation) We agree.

19 THE INTERPRETER: Overlapping speakers.

20 PRESIDING JUDGE COTTE: (Interpretation) If the reference work includes
21 comments that's an entirely different matter. If it's just an inventory of legislation
22 that's not a problem as long as the flyleaf of the book is mentioned. I think the
23 simplest solution would be to have the actual text of the legislation. I hope that's not
24 going to be hopelessly complex and we shall see and I would imagine that the
25 text - the actual text - of the legislation will be provided within this document, within

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1 this treaty.

2 Prosecutor, please continue.

3 MR MACDONALD: (Interpretation) Very well.

4 Q. I would like to call -- well, in light of your last answer, Mr Katanga, perhaps
5 before I call for document number 16 on our list to be shown... Would you like to
6 add anything to your last reply? My question was: Were you called "President"
7 before 3 March 2003? Did you want to add anything to the reply you provided? If
8 so, I can read out your previous answer, if you would like me to do so?

9 A. I answered. If you allow me - if the Chamber allows me - as the Presiding
10 Judge says, I could add to that, yes.

11 PRESIDING JUDGE COTTE: (Interpretation) I did say that you had that
12 opportunity, so please use the opportunity and finish off your reply. Please
13 proceed.

14 THE WITNESS: (Interpretation) Yes, your Honour. I'd already begin -- I had
15 already begun to say that this term "President," well, I don't have any guarantees. I
16 can't say whether I was aware of how I was called before 3 March, but I heard with
17 my very own ears when the CEO Kakado said those words himself, I would say, to be
18 sure, it was as of that point in time, but if that name was used earlier, well, I don't
19 know.

20 Q. Mr Katanga, Kasaki Bandru, you mentioned that person earlier. What is his
21 full name, just to clarify this particular matter, because I believe he does go by
22 another name? What's his full name?

23 A. Well, you have already provided the full name. Kasaki Bandru, that's a full
24 name, name and post-name.

25 Q. Was he known by another name?

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1 A. Are you talking about his name, or his title?

2 Q. Well, his title. I think you said that he was also responsible for the front; isn't
3 that so?

4 A. That was his title, not his name.

5 Q. I entirely agree with you, Mr Katanga, and remind us what a person in charge
6 of the front actually does?

7 A. A chargé de front, as one says in French, as we use that word in our part of the
8 world, is well, just -- well, in our area, in our culture, that person should go with the
9 people, the combatants, to the front and if an attack occurs at a particular place this
10 person will bring together the ingredients, gather the leaves, and take all the
11 necessary measures to ensure that combatants do not die. So to give them
12 invulnerability.

13 Q. So that the combatants will be invulnerable. So it's a form of protection? This
14 is a féticheur?

15 A. Well, I don't want to use that word "féticheur". I don't want to use that
16 expression. I don't know whether the word is correct. I don't know. Let's just say
17 he was the chargé de front. He would gather the plants for us. He would gather
18 leaves and various roots in order to prepare things to protect us. It is better to
19 describe him that way.

20 Q. And in the Congolese army, what is this title? What is a chargé de front in the
21 Congolese army?

22 A. I don't know whether that term exists in the army. I don't know. There are
23 people in charge of operations in the army, but the chargé de front, I don't know. I
24 don't know, since I never went to a military academy. It might be possible. I'm just
25 telling you that I've already heard with my own ears that there were people who

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1 were referred to as the "chargés des operations", the people in charge of operations,
2 not as "chargés de front."

3 Q. Very well. Could document number 16 on our list be put on the screen,
4 DRC-OTP-0029-0076, and just to clarify matters, your Honour, and the matter of
5 confidentiality, we found out why they were confidential because when there was an
6 inter partes disclosure is not public, it is confidential, and within the framework of
7 Bar table motions such applications, or bar table motions, were confidential since they
8 referred to elements of evidence, but once accepted, once there is an EVD number,
9 those documents can become public in nature, so the same holds true for this
10 particular document.

11 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, you have just
12 endeavoured to present this document. Court officer, if it could be shown to the
13 witness.

14 MR MACDONALD: (Interpretation) I also have a hard copy that can be shown to
15 the witness with your leave, your Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) Do so. Thank you.

17 THE COURT OFFICER: (Interpretation) This document can be viewed on "PC1".

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

19 MR MACDONALD: (Interpretation)

20 Q. Look at this document that you have already seen before coming here, before
21 coming to give testimony. Isn't that so, Mr Katanga?

22 A. Well, I have two different documents. On the screen, there is one document
23 and this hard copy here is something else.

24 PRESIDING JUDGE COTTE: (Interpretation) Court usher, could you please --

25 MR MACDONALD: (Interpretation) I am extremely sorry. I gave you the wrong

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1 document. I truly apologise to you, Mr Katanga.

2 MR HOOPER: Can I say there is notice of an objection to this document, so my
3 friend must be aware of that, so he shouldn't be passing it around just yet.

4 PRESIDING JUDGE COTTE: (Interpretation) No, no, but Mr Hooper, I was very
5 careful to say before the document was placed on the screen and Mr Macdonald -- I
6 said that Mr Macdonald was endeavouring to introduce this document to see to what
7 extent the witness might be in a position to provide useful additional information
8 regarding the document, and the answer regarding the actual duties of the chargé de
9 front might seem somewhat doubtful, but I think Mr Katanga should be answering
10 these questions that the Prosecutor has just put to him, and these questions seem to
11 be very much within the line of questioning that's been followed to this point. So go
12 ahead, Mr Prosecutor.

13 Now, we have given you, Mr Katanga, a document.

14 MR MACDONALD: (Interpretation) Indeed. Document 0029-0076, we can see at
15 the top, at the left, it says "Office of the chargé de front," to the right, "Aveba Mkubwa,
16 9 February 2003. CC: Information for the first PDG of Codeco in Tshey." And we
17 also see the various people who are mentioned here and various places are
18 mentioned as well as the ranks and responsibilities.

19 MR HOOPER: I am so sorry, I just -- there's an objection to the admission of the
20 document. My friend knows that. I'm a little unclear whether the Chamber wishes
21 to entertain any submissions in respect of it, or not?

22 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, in a written document
23 which we received a while ago, you said that in relation to tab 16 and the title seems
24 to be --- since the accused has it before him right now --- the title seems to be
25 "Prohibition on brandishing weapons" and you seem to be saying that there was not

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1 enough of a link between this document and Mr Katanga. It did not come from
2 Mr Katanga. It does not appear to be in the chain of custody. There was no
3 reaction, no verbal reaction when the Prosecutor rose to mention the document. He
4 asked a number of questions about the title "chargé de front," and here in this
5 document we see that this comes from the office of the chargé de front. So, to our
6 mind, this is an attempt to show this document to Mr Katanga on the part of the
7 Prosecutor, and I just said that the answers from Mr Katanga are somewhat puzzling
8 and we aren't quite sure as to what answers might come from the Prosecutor -- in
9 light of these questions, but in light of the correspondence, and considering the
10 questions that have been asked for a while, we thought that there really was no
11 barrier to the Prosecutor using this document and then we will see what fate awaits
12 the document. In any event, the probative value of the document remains a
13 debatable matter.

14 Now, Prosecutor, please continue.

15 MR MACDONALD: (Interpretation)

16 Q. Mr Katanga, I think we can see at the bottom. If you look at the bottom it says
17 "Chargé de front patriotique in Ituri," and it's difficult to make out the stamp, but it
18 seems to say "Kasaki Bandru." That's the first thing, first thing, Mr Katanga. And
19 also to the left we see, as we have seen on other documents, that it was received and
20 read in Tatu, and the signature may be more legible, Waradyuma.

21 And I make reference to another document already on the case file. Unfortunately
22 it's the following one on our list at tab 17 which has an EVD number, so I draw the
23 Chamber's attention to that, EVD-OTP-00025.

24 So, Mr Katanga, here we can see that it has been addressed to the president of the
25 movement in Aveba Mukubwa, and it was addressed by Kasaki. Isn't it true that it

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1 is addressed to you? This document was addressed to you?

2 A. Please demonstrate that, Mr Prosecutor.

3 Q. Did you see that document before, Mr Katanga?

4 A. Yes, here at the ICC, at the International Criminal Court.

5 Q. Mr Katanga, please read that document. I suggest that you read it.

6 "Mr President, for the good functioning of the cattle market, 14 February 2003,
7 soldiers are strictly prohibited from carrying firearms if they have not been selected
8 to provide security at this event. All extortion is also prohibited, as well as public
9 drunkenness. In other words, only the guards will -- designated guards will carry
10 weapons. And I appeal to you, Mr President, to do everything possible to ensure
11 that this instruction is implemented with best regards." Then we see the stamp of
12 Mr Kasaki Bandru.

13 Mr Katanga, isn't it true that you have already seen this stamp before?

14 A. Are you asking me to look at the stamp or at the letter? The letter is different
15 from the stamp. I have already seen the signature here and the stamp, I have
16 already seen it, it belongs to Kasaki, but I never saw the letter.

17 Q. Do you remember that Mr Kasaki Bandru was asking you to do everything
18 possible to ensure that that exhibition, that occasion, should take place without any
19 problem?

20 A. I do not know if it is the president of what movement in Aveba Mkubwa. It is
21 which movement? It is up to you to tell me whether he specifically wrote to me
22 Germain Katanga.

23 Q. Before the break, Mr Katanga, I asked you how many presidents there were in
24 Aveba. You were not in a position to tell us that there were presidents other than
25 yourself. I am putting it to you, Mr Katanga, that this document dated 9

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1 February 2003 clearly shows that reference is being made to you and you are referred
2 to as "the President" because they wanted to avoid problems from the soldiers, or the
3 combatants. Isn't that correct, Mr Katanga, that Kasaki was writing to you? That is
4 my question.

5 A. That is what I am asking you to prove, because you have shown what is written
6 in the letter but the name "Germain Katanga" is not mentioned inside that letter.

7 Q. Is that your answer, Mr Katanga? You have been detained here in The Hague
8 for four years and this trial has been ongoing for nearly two years. We are showing
9 you a document. You have mentioned Kasaki. You have mentioned the CEO of
10 Codeco, you have told us about the market in Tatu. You have recognised the
11 stamp, you have recognized that it is Kasaki's stamp. We have a document dated
12 3 March 2003 indicating President of the FRPI written by Cobra Matata and you are
13 telling us that this letter is not addressed to you and that we have to prove it? Is that
14 your answer?

15 A. If I had the right to ask you questions, I would also be asking you questions.
16 Now, what is the problem? Before seizing documents such as this you should have
17 taken the documents that were in my house, that is the documents that I received. I
18 do remember that in my office, my secretary acknowledged receipt of letters.
19 How can I talk about a letter that was received in Tatu and you are telling me that I
20 was the recipient of that letter? I do not agree. If it was indicated that the letter has
21 been delivered to Aveba, either to Germain's secretary or the BCA secretary or any
22 other secretary, I would agree, but it is indicated here that this letter was received at
23 Tatu. I do not remember whether this market ... and I can tell you that this cattle
24 market never took place.

25 Q. Mr Katanga, isn't it correct that on 9 February 2003 you were the one who was

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1 responsible for the combatants, all the combatants who were in Aveba?

2 A. Mr Prosecutor, having combatants in Aveba does not prove that it was those
3 combatants from Aveba who attacked Bogoro. Let us be clear about things. What
4 is the problem? If there were combatants in Aveba, they were in Aveba. Prove to
5 me that this letter shows anything.

6 It is indicated there 9 February 2003. You have not yet proven to me that my
7 secretary acknowledged receiving this letter, because if my secretary acknowledged
8 receipt of the letter in Aveba, you ... You would have been able to get me there, you
9 would have had me there, it would be a bit difficult for me to dodge by saying that I
10 hadn't seen it. But there is no clear indication here that there is a letter which was
11 received in my office. I cannot say such a thing, because Tatu is located very far
12 away, Mr Prosecutor.

13 Q. Mr Katanga, isn't it true to say - and I would go even further - that not only
14 were you the commander in charge of all the combatants in Aveba but in the entire
15 Walendu-Bindi, that is the entire territory of the collectivity, you were recognised as
16 the person who was responsible for both civilian and military administration? You
17 were the strong man, the all powerful person who ran the entire Walendu-Bindi
18 community.

19 A. I'm going to give you a simple answer, Mr Prosecutor. Even if I were to die
20 today, you have transformed me into a hero. I have become a hero. Everyone
21 knows me now. If I return to my collectivity now, without even doing any
22 advertising, and I run for the National Assembly I will be elected as a national
23 parliamentarian. I will be elected, because you have turned me into a hero.
24 We were suffering. Now you arrested me because we were suffering. But
25 what about making allowances for the circumstances? Now I'm well-known.

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1 Everyone can talk about me, even small children. As you know, I can tell you that
2 my name "Germain Katanga" has been given to many newborn babies,
3 Germain Katanga, Germain Katanga, everywhere, because people remember this
4 poor child who was suffering for us, now he has been arrested for nothing. I am
5 well-known now. You have transformed me into a hero, Mr Prosecutor, even if I
6 were to die.

7 MR MACDONALD: (Interpretation) Your Honour, I would like to ask for an EVD
8 number to be assigned to this document for the following reasons: This document
9 was seized at the same time as the previous document of 3 March. It was also
10 amongst the documents subject to the Bar table motion the my learned friend filed
11 recently, which the Prosecution does not object to. This document was acquired
12 under the same circumstances as the document that already has an EVD, the
13 request for aid, which is at tab 17. Mr Katanga has recognised the stamp of
14 Mr Kasaki, which is a guarantee of reliability. You also have guarantees of
15 reliability because the document was also copied to the CEO of Codeco in Tchei. Mr.
16 Katanga has testified about all these aspects. There is also a colonel in Olongba who
17 is known to be Cobra Matata. And, Mr President, there is also a commander of
18 operations, in Olongba, Oudo Mbafale, and the document, the stamp at the bottom on
19 the left, proves this.

20 And obviously, as you said previously, it will be up to you to determine the probative
21 value to be given to this document in light of the entire body of evidence. Thank
22 you.

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

24 MR O'SHEA: Yes. Well, first of all, with regard to the probative value of this letter,
25 there is no mention whatsoever of the name of Germain Katanga on the face of the

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1 letter. It is only referenced to President of the Movement. In the absence of other
2 indications, we have absolutely no idea what that refers to.

3 So, in that sense, its prejudicial effect in referring to the word "President" in my
4 submission outweighs any probative value it may have, because it cannot in any
5 sense establish that this letter was addressed to Germain Katanga.

6 My friend has asked questions to Germain Katanga on the content of the letter, and
7 his response is that he has seen the letter for the first time during the course of these
8 proceedings. He was asked about the stamp and the signature, and the answer that
9 we have on the transcript at lines 12 to 15, page 59, is: "Are you asking me to look at
10 the stamp or at the letter? The letter is different from the stamp. I've already seen
11 the signature and the stamp, those belong to Kasaki, but I never saw the letter."

12 It is not clear from that answer whether Mr Katanga is saying that he has seen the
13 stamp and the signature already on this letter, or distinctly on other documents, so
14 that answer is unclear. So it does not, in fact, authenticate the document. My
15 learned friend would have to go further in his questions in order to do that but, in
16 principle, this letter has very little if no probative value with regard to establishing
17 the position of Germain Katanga because it does not mention Germain Katanga.

18 And the expression used here has no correlation -- Président De Mouvement Aveba
19 Mukubwa has no correlation to any other expression used in relation to
20 Germain Katanga in any other evidence presented before this case.

21 I am reminded that the other, the only other reference to a movement was with
22 regards to a Lendu movement, but this specific expression "Président de Mouvement
23 Aveba-Mukubwa" will not be found anywhere else in the evidence. The reference
24 that I have just referred to is the "Mouvement de Libération Lendu" which is found at
25 the top of a letter DRC-0002-9109.

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1 MR MACDONALD: (Interpretation) Your Honour, there is EVD-OTP-00237 - I'm
2 sorry to interrupt my learned friend - of 15 December. The second paragraph of this
3 document reads as follows: "However, this decision taken by the movement for the
4 reorganisation of all the cattle markets." This document was referred to a short
5 while ago and I wanted to remind Mr O'Shea of that.

6 PRESIDING JUDGE COTTE: (Interpretation) Very well. Mr Katanga, we have
7 listened carefully to the answers that you have provided to the Prosecutor and
8 Mr O'Shea, we have also listened to you carefully. We duly note the fact that
9 Germain Katanga's name does not appear on this document, but we have also
10 listened to the Prosecutor's submissions in his efforts to place this document in
11 context amongst other documents which, according to him, support his arguments.
12 For the time being, we are going to assign an EVD reference number to this document.
13 You do remember that we have noted that the name Germain Katanga does not
14 appear on the document and in due course we will assess its probative value which
15 Mr O'Shea believes to be very low. That is where we are at right now.

16 Court officer, can you assign an EVD number in light of what I have just said?

17 THE COURT OFFICER: (Interpretation) Thank you, your Honour. Document
18 DRC-OTP-0029-0076 will bear the evidence number EVD-OTP-00278 and it shall be
19 filed as a public document.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
21 Please proceed, Mr Prosecutor.

22 MR MACDONALD: (Interpretation) With the help of the court usher, this
23 document, which now has an EVD number, should be replaced on the screens by the
24 next document that I would like to show, and it is the last document that I will use.
25 It is a document dated 29 January 2003 and it is in tab 14. It is EVD-OTP-00238. I

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1 believe this can also be a public document. It was accepted by the Chamber
2 through a Bar table motion of the OTP. I have a hard copy which I would like
3 shown to Mr Katanga. I gave you that mistakenly a short while ago, but the time
4 has now come to deal with that issue in paragraph 3.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Prosecutor. I would
6 like to ask the court usher to have that document projected and to darken the colour.
7 Maybe he should add a little bit of contrast, because it is hardly visible on the screens.

8 MR MACDONALD: (Interpretation) I believe contrast affects -- is affected by our
9 own screens and the angle at which those screens are placed.

10 PRESIDING JUDGE COTTE: (Interpretation) Yes, you are quite correct there.
11 The angle of the screen plays a role. Mr Prosecutor, please proceed, and if you really
12 need to use that document you will have to read it out.

13 MR MACDONALD: (Interpretation) Very well, that is what I am going to do.

14 Q. Mr Katanga, this document comes from religious authorities and specifically
15 from the reverend Pastor Matata Alube, sectional evangelist. It is dated 29
16 January 2003, and we can see that there is no dispute about the date in light of the
17 second paragraph which refers to 15 February 2003 to 1 March 2003. It is addressed
18 to Mr Kasaki, the chargé de front at Bolo. It is also addressed to other people
19 including Dr Raymond, whom you referred to in your testimony when you talked
20 about the kidnapped or abducted lady who was married to Mr Raymond, but it is
21 specifically addressed to you, "His Excellency Colonel Katanga Nduru Germain at
22 Aveba Mukubwa." I will read it to you: "It is an honour for us to address
23 ourselves to your excellency to give you our observations. As indicated in the
24 subject line, we are writing in order to provide you with information on the
25 evangelisation campaign within the Kagaba section, we would like to inform you that

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1 the administrative evangelisation office, Kagaba section, is organising an
2 evangelisation campaign within the section from 15 February 2003 to 1 March 2003.
3 That is when the campaign will come to an end in Kagaba, God willing. These
4 activities will take place in our Walendu-Bindi collectivity, which you are currently
5 managing, particularly in the Zadu groupement and in the Baviba groupement,
6 specifically within the Kagaba section. Yours most respectfully. We hope to have a
7 favourable answer. Thank you." And I have read out the name to you a short
8 while ago. Mr Katanga, do you remember having received this document, this
9 letter?

10 A. As you can see, I do not know this document.

11 Q. Let us look at the next page, which is DRC-OTP-0029-0047, "chargé de front in
12 Bolo" This is a copy for Kasaki. You don't remember that an evangelisation
13 campaign had to take place in Kagaba between 15 February 2003 to 1 March 2003?

14 A. First of all, I don't belong to that church. That is the first thing. I do not
15 know---

16 MR HOOPER: Sorry, just before that answer comes, can I just invite my friend,
17 because in my transcript I see that it is referred to as "chargé de front" and the name
18 "Kasaki" appears. That -- it might be that it is Kasaki, but does Kasaki appear on his
19 document?

20 MR MACDONALD: (Interpretation) My learned friend is quite correct. I am the
21 one who said -- well, you at the beginning testified to that effect, at the very
22 beginning. You talked about Kasaki, you even talked about Kasaki within a context
23 where he was in charge of the front. He was above you and below you there was
24 Nbadu. You were in the middle.

25 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor, given that we have a

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1 document the back of which only reads "chargé de front," in charge of the front, I
2 think it would certainly be prudent, before you say that it is Kasaki, for you to have
3 the witness confirm that this is actually the person involved. Can Mr Katanga
4 confirm that it was Kasaki who was chargé de front, who was in charge of the front?
5 THE WITNESS: (Interpretation) Yes, Mr President, I can confirm that this person,
6 the chargé de front, was Kasaki, but I cannot tell you whether this letter was written
7 or arrived -- was addressed to Kasaki or not. I cannot confirm that.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Please proceed,
9 Mr Prosecutor.

10 MR MACDONALD: (Interpretation)

11 Q. Did you see that letter before, Mr Katanga, not here at The Hague, in Aveba?

12 MR HOOPER: Can I just invite my friend to indicate its provenance to us, because it
13 is unclear to us?

14 MR MACDONALD: (Interpretation) I will send you that information, but from
15 memory it is once again the same chain of custody as the documents referred to
16 previously, but I'm going to confirm it is exactly the same thing as the other
17 documents.

18 THE WITNESS: I beg your pardon, Your Honour. If the Prosecutor says that---

19 MR HOOPER: Can I say that that is not what we have had indicated. We have had
20 it has been indicated from TGA at Bunia. The same with other documents. We are
21 now getting a sort of deeper provenance. I.e., before that, it is in Medhu.

22 MR MACDONALD: (Interpretation) I will clarify.

23 PRESIDING JUDGE COTTE: (Interpretation) So we will have to check this
24 particular point. Was this a document that was seized?

25 MR MACDONALD: (Interpretation) It was a seizure at Medhu by the Court of

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1 First Instance of Bunia, but at that time, and the date is October 2004, the court of First
2 Instance of Bunia could not send anyone to Medhu, but MONUC went there, seized
3 the documents and handed them over to the Court of First Instance in Bunia. That is
4 what happened and this was the result of a search, so MONUC assisted the Court of
5 First Instance in Bunia, because of security reasons, went on site, seized all the
6 documents that were there, and this document was one of the documents seized.
7 After that, our investigators procured those documents from the MONUC. So
8 theoretically, these documents came under Article 54-3 (e). There was a discussion
9 between the court of First Instance of Bunia and MONUC and then it was decided
10 that the documents could be handed over. So that is what ... and we kept the
11 MONUC copies.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that clarification.
13 Please continue.

14 MR MACDONALD: (Interpretation)

15 Q. Mr Katanga, I will put that question to you again. Do you remember an
16 evangelisation campaign taking place between 15 February 2003 and 1 March 2003 in
17 Kagaba?

18 A. Let me go further back, Mr Prosecutor, and tell you that the chain of custody for
19 this letter is doubtful. Why do I say so? Kasaki was not in Medhu so a document
20 for him could not have been seized, and here you see "Chargé de front in Bolo."
21 How can the letter that was sent --

22 Q. Mr Katanga, you are not answering the question.

23 A. I will answer your question.

24 Q. Was there an evangelisation campaign in Kagaba?

25 PRESIDING JUDGE COTTE: (Interpretation) Let us observe the five-second rule.

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1 Mr Katanga, please do not go that far back in laying the foundation, but please
2 answer the question and we are listening to you.

3 THE WITNESS: (Interpretation) Your Honour, my answer is that I never heard of
4 this issue of an evangelisation campaign. Never, never.

5 Mr President, secondly, I think we need to be aware of the distance between Aveba
6 and Medhu. The Prosecutor says that the court of first instance also recovered or
7 seized these documents among others in Medhu, but Kasaki was living in Aveba.
8 What's the -- how come a letter to Kasaki was found in Medhu, whereas Kasaki used
9 to live in Aveba? I don't see the link, Mr President.

10 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor, I will not answer that
11 question, but you have the floor. Rather, it's not for me to answer that question.
12 You have the floor, Mr Prosecutor.

13 MR MACDONALD: (Interpretation)

14 Q. Mr Katanga we have here a document which was drafted on 29 January 2003 as
15 indicated. Even before the Congolese authorities referred this case to the ICC, the
16 religious or evangelical authorities from Kagaba had already recognised you as being
17 the one in charge at least at that time of the management of the Walendu-Bindi
18 collectivity.

19 Isn't it correct, Mr Katanga, that you were indeed the one in charge of the
20 administration or management of the Walendu-Bindi collectivity at that time, because
21 during that time of the ongoing conflict you, Commander Germain, were the
22 administrator or manager of the collectivity?

23 A. Mr Prosecutor, my answer is that I really am not that person. I am not that one,
24 simply because I ... I do not know whether they asked me for that authorisation.

25 Mr Prosecutor, to be specific, one needs to determine that the written letter was

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1 received by my office. I had a private secretary who could have received this letter
2 and acknowledged receipt of the letter. If I did not see this letter, how then can I
3 state that these people referred to me as an important person?

4 No, I do not know whether this letter ever got to my office and whether they ever
5 informed me that there will be an evangelisation campaign. And I don't even know
6 which church you are talking about here. I don't know this church. I don't know
7 this church. I see here "ECC," "ECC." I don't know what "ECC" stands for.

8 Q. Church of Christ in the Congo, top left.

9 A. I don't know that church. I belong to CE39, Communauté Emmanuel 39.

10 Q. You don't know that church? You don't know which church this is? Why is it
11 that on page 68, line 15 --

12 THE INTERPRETER: Inaudible. The Prosecutor is inaudible.

13 MR MACDONALD: (Interpretation)

14 Q. Why did you then say "I do not belong to that church. That is the first thing. I
15 don't belong to it"? You said that a short while ago, Mr Katanga. Isn't it correct
16 that you simply answered spontaneously and said what one may refer to as anything
17 whatsoever to get off the hook, in a rather opportunistic manner, and yet contradicted
18 yourself? Is that not the case?

19 A. Mr Prosecutor, all I can tell you is that there is a difference between ECC and
20 CE. Maybe - maybe - you should also listen to me carefully when I talk. I might
21 not have the right terms, and I'm sorry for that, but what I said was that this is the
22 ECC and I do not belong to the ECC church. When you talk about evangelisation, I
23 come to the understanding that you are talking about and dealing with the church,
24 and this is clear to me; but when I say that I do not belong to this particular church,
25 what I am saying is that my own church is different from this church which I do not

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1 know. Now, not knowing the church means that I cannot put my finger on it.

2 I don't know what that church is about.

3 Q. Very well. Well, Mr Katanga, you talked to us about Witness P12. P12,

4 Mr Katanga. P12, before you were transferred to the ICC, was someone with whom

5 you had a relationship, someone you trusted. In view of the documents in evidence

6 relating to the FNI/FRPI separation, and you agree wouldn't you with me that you

7 appointed yourself President, and considering all the help he gave you, you agree

8 with me that he was someone you trusted before your transfer to the ICC?

9 A. Well, what kind of help? Don't mix things up. Don't mix things up such as

10 documents and trust and help he provided and what have you. Let us proceed

11 step-by-step. What assistance or help did he give us? Well, maybe he led us to

12 Uganda. Maybe he put us in contact with the Ugandans. Yes, to that extent he

13 helped us, he assisted us.

14 But now, when it comes to the drafting of memorandums, yes, I could also say that he

15 provided some assistance because he was a man with an advanced level of

16 intellectual ability. Yes, he helped us. Three, when you say "help us," I think you

17 must know that he is as poor as myself. He is as poor as myself.

18 Q. Witness, or Mr Katanga, isn't it correct also that Witness P160 is someone who

19 helped you in your contacts with the Ugandan government?

20 A. P160 helped us very much in our moving about and around, because she was

21 driving her car. She is the one who collected us from the bus terminal in her car and

22 took us to the hotel. Now, it is true that she helped us, because she went out to

23 distribute the letters, yes, and we sent her to buy things for us, the things we needed,

24 clothing and what have you, yes, she did that for us and I must acknowledge that she

25 helped us a lot.

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1 Q. She was also your representative at a meeting in Aru, is that the case, or Arua?

2 A. I don't know. I have never been to Arua. I have never been to Aru.

3 Q. That is not my question, Mr Katanga. You know very well what I'm talking
4 about. Don't -- don't play that game with me. Answer the question. Did she
5 represent you at any meeting, that is my question, in the Aru or Arua area? I might
6 mix up Aru with Arua. Aru is in Congo and Arua is in Uganda, I think.

7 A. I think -- what I can tell you is that I never sent her to Aru. All I can say is that
8 we designated her to be our representative in Kampala, and on that point I agree with
9 you entirely.

10 Q. Having appointed her as your representative means that you trusted her; is that
11 not the case?

12 A. Mr Prosecutor, yes, before appointing someone to that position you must trust
13 them. Trust matters.

14 Q. Mr Katanga, isn't it true that you admitted to Witness P12 that you attacked
15 Bogoro and Mandro? Mr Katanga, let me remind you that this discussion took place
16 in Kampala when you went with them to meet Mr Museveni's Ugandan authorities,
17 so with P12. This discussion with P12, you had an informal discussion one
18 evening with him and during that discussion you admitted having participated in the
19 Bogoro and the Mandro attacks?

20 A. You are not repeating what P12 said here. You said -- yes, P12 said, if I
21 remember very well, that he -- that I admitted that to him during dinner at his place.
22 That is what I remember from that day. Now, in Kampala, P12 and his
23 girlfriend -- we all lived together at the hotel. We were all at the hotel.

24 THE INTERPRETER: Microphone. Microphone, Prosecutor.

25 MR MACDONALD: (Interpretation)

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Witness: DRC-D02-P-0300

1 Q. Let's take it to the hotel. Did you admit during a discussion at the hotel with
2 Mr Cobra Matata, the colonel, did you admit at such a discussion at the hotel that you
3 indeed attacked Mandro and Bogoro?

4 A. All those things are lies, Mr Prosecutor. What I can simply tell you is that
5 when he says that I told him that, what importance would that have for me? What
6 am I going to gain from saying that I killed people, that I did this or that? What
7 success will derive for me from that? I did not say that. You see, he said that the
8 body of Kahwa's father was exhumed, and so on and so forth, and that we ate people.
9 Those are very serious accusations, and he likens the image of a human being to that
10 of an animal. So, Mr Prosecutor, no, I never told him that I attacked Bogoro or
11 Mandro. No.

12 Q. Mr Katanga, isn't it correct that you also admitted to Witness P12 that you
13 attacked Nyankunde and that you were part of that attack on Nyankunde?

14 A. Mr Prosecutor, that is your man. He can tell you anything he wants.

15 Q. Well, he is not my man, Mr Katanga. I'm going to answer you for once: This
16 is a witness of the Court, who sat on the same seat as you are sitting on and testified
17 under oath. So isn't it correct, Mr Katanga, that in your own testimony you said that
18 you had an adoptive father? Do you remember that father who unfortunately died
19 while you were 18 years old, I believe? Your father who raised you? Do you
20 remember talking about that with Mr P12, talking about that father who adopted you
21 and who had received military training and was in the FAZ, the FAZ? Do you
22 remember that? I want to point out that this was a very personal detail that you
23 shared with P12.

24 A. No, it is not too personal. It is not very personal. You know, what surprised
25 P12 about me is that he discovered that I was Ngiti but I could not speak Kingiti.

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1 He found that to be funny and so he asked me a number of questions, for example
2 how is it that you live in Gety and you cannot speak Kingiti? Secondly, all those
3 who come from my area, you can directly identify that no, this gentleman doesn't
4 have the same attitude as the others who live in that area. That is the case,
5 Mr Prosecutor.

6 Q. Mr Katanga, you remember that you may have discussed with him these issues
7 about your adoptive father who died under certain circumstances that you
8 mentioned before this bench simply because you trusted him; is that not the case?
9 You do not talk about your father, Jacob Nduru, but you talked rather about your
10 uncle who was your adoptive father; is that not the case?

11 A. Mr Prosecutor, I cannot go beyond that. I knew that my uncle - that
12 uncle - was my father. I knew that. You see, when we started to go to Bunia, there
13 are many people with whom I grew up in Bunia, many of them. In the UPC, they
14 were there. There were many of them. Several of them who saw me grow up,
15 Mr President. Kaba, Pasha and others. They saw me grow up and they can tell you
16 my story. So it is not for me to start telling my own story to anyone.

17 Q. Mr Katanga, isn't it also correct that you told Witness P160, or you confessed to
18 Witness 160 during discussions, that you had attacked Bogoro and Mandro?

19 A. When you talk about 12 and 160, those are almost one and the same person to
20 my mind. They are mutually complementary.

21 Q. Is it because they are married?

22 A. At the time I do not know whether they were married to each other. What
23 I know is that there was a something of a boyfriend/girlfriend relationship going on
24 between them as a manner of co-operation. To my mind I cannot say that they were
25 married. They were not wearing any rings. There was no symbol that would lead

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1 one to think that they were indeed married.

2 Q. Very well, Mr Katanga. Last question. Isn't it correct, Mr Katanga, that in
3 July/August 2004 you met Dr Adirodu?

4 A. In July?

5 Q. July/August 2004, just before the opening of the transit centre that fall.

6 A. Dr Adirodu?

7 Q. Yes, Dr Adirodu, Mr Katanga. Isn't it correct that you met him in Aveba in
8 July/August 2004?

9 A. I do not know. Maybe he came to Aveba, but I do not remember. I do not
10 remember. He might have come. He has a house in Aveba. He has a family in
11 Aveba. He may have come to Aveba at that time.

12 Q. Mr Katanga, there was a photograph I believe of you and Mr Adirodu taken in
13 January or February, I believe, when you were being sworn in as a soldier or
14 brigadier-general in Kinshasa. You were sitting around a table sharing a drink.

15 A. Yes, that was at his home, in his living room, in Adirodu's house proper.

16 Q. That photograph, perhaps we could wrap up with that photograph since Mr
17 Katanga acknowledges. Unfortunately, I don't have the number of the document. I
18 don't have my binder of evidence material. Maybe – the list of the Defence
19 evidence. Maybe my colleagues can help me out with identifying this photograph?
20 So if I could ask for document DRC-D02 --

21 THE INTERPRETER: Sorry, the interpreter has missed the reference to the
22 document, if Mr Macdonald would kindly repeat?

23 MR MACDONALD: (Interpretation) It's a public document.

24 Q. Mr Katanga, the person to your immediate left is Dr Adirodu, isn't it, and the
25 reference number is DRC-D02-0001-1003.

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1 A. Yes, and in front of him there is a large bottle.

2 Q. He is leaning forward. Is that the case?

3 R. Yes.

4 Q. This photograph was taken in January or February 2005 in Kinshasa, is that
5 correct, at the time you were sworn in as brigadier-general?

6 A. This photograph was taken in his living room in January/February 2005.

7 PRESIDING JUDGE COTTE: (Interpretation) In his living room in which area?

8 THE WITNESS: (Interpretation) He lives in the Mbinza commune I think, in
9 Mbinza Ipene (phon), close to the higher military centre.

10 PRESIDING JUDGE COTTE: (Interpretation) Are you saying that this was his
11 living room in Kinshasa?

12 THE WITNESS: (Interpretation) Yes, in Kinshasa.

13 PRESIDING JUDGE COTTE: (Interpretation) Yes, you said a short while ago
14 that he also had a residence in Aveba. We just wanted to make sure that this was in
15 Kinshasa?

16 THE WITNESS: (Interpretation) Yes.

17 MR MACDONALD: (Interpretation)

18 Q. Let us now return to July/August 2004. Mr Katanga, do you remember, again
19 in relation to Dr Adirodu, that you mentioned to him that you had attacked Bogoro,
20 do you remember that? And you even provided further detail; namely, that the
21 fighting lasted some four days?

22 A. I do not know. I do not know. I know that ... That is what he told you. I do
23 not know. That is what he told you. I cannot challenge something which I am
24 not familiar with. I cannot challenge it.

25 Q. Mr Katanga, please be specific so that we can avoid any ambiguity. Did you

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1 tell him that you attacked Bogoro and that the fighting lasted four days? Did you or
2 did you not?

3 A. I do not know whether I talked to him. I do not know whether he came to
4 Aveba. All I have told you is that he has a family in Aveba and when he came -- if
5 he came to Aveba, maybe I saw him, maybe I did not see him. I have no recollection.
6 Now, he told you something. I don't know the circumstances in which he told you
7 those things. Maybe on his side he too wanted to spare himself of the Bogoro
8 situation, so your investigators went to put questions to him and he may also have
9 taken a defensive stance.

10 Q. Mr Katanga, five-second rule. I will respect it. Now, we must seek to
11 understand one another. You see, it is important what we're dealing with here now.
12 You do not remember whether or not you admitted or acknowledged to
13 Dr Adirodu that you had attacked Bogoro; is that what we should understand to be
14 your testimony?

15 A. Mr Prosecutor, Adirodu knows whoever went to Bogoro. Adirodu, he's the
16 one who took everything that was needed for Bogoro. How then would I go to tell
17 him "Oh, you know what I did on that day, this is what I did?" No. He is the one
18 who said "You, Blaise Koka, you will do this, this, this, this, according to instructions
19 A, B, C." He is the one who was running that. How then would I be the same
20 person to tell him in 2004 that I conducted the operation? Sorry. I was not the one.
21 Not me, Mr Prosecutor. Dr Adirodu himself knew that Bogoro was going to be
22 attacked. He is the one who brought the ammunition. He is the one who brought
23 the ammunition and the arms that would be required for that operation.

24 Q. Mr Katanga, you did not only talk to him about attacking Bogoro. You also
25 told him that --

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1 MR HOOPER: I'm sorry, but that's a false assertion.

2 MR MACDONALD: (Interpretation) I will rephrase.

3 Q. Isn't it correct that you told Dr Adirodu that, following the Bogoro attack and
4 thereafter, your men chased after the UPC up to Mandro? So, Mr Katanga, you
5 didn't tell him that you took part in the attack, to be specific. What you told
6 Dr Adirodu is that your troops chased after the UPC all the way to Mandro, up to
7 Mandro. Do you remember telling him something similar to that?

8 A. I do not know whether you yourself understand the words you use in the same
9 way as I do. To chase after someone, in military terms, when the UPC was chased
10 out of Bogoro you would be following them directly to Mandro. Now, that is what I
11 understand to chase after or to pursue would mean. I am telling you no, there was
12 no pursuing to Mandro, no. The UPC was in Mandro and those who were in Bogoro
13 simply fled. That is where it ended. So when you claim that I told Adirodu that
14 I pursued the UPC from Bogoro to Mandro, all I can say is that this is the story he told
15 you. What I can tell you is that Adirodu himself brought arms, ammunition,
16 medication, food and rations to provide support for that operation, so it was really
17 not for me again to start telling Adirodu, no. Even in 2004, absolutely not, because
18 he himself knew that after the operations, immediately after. He knew.

19 Q. Mr Katanga, to just be absolutely clear that we have understood your answer,
20 did you tell him that your troops or your men went to Mandro during that attack?

21 A. It is the members of your team who talked to him. It is difficult for me to say
22 that I told him something and then he passed it on to you. I don't know. It is very,
23 very difficult, Mr Prosecutor.

24 Q. Mr Katanga, set aside our team. That is not my question. My question is:
25 Do you remember telling him anything like that in July or August 2004 in Aveba?

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1 That is the question and I'm putting it to you that you had a discussion with
2 Mr Adirodu and you told him during that discussion that your troops went as far as
3 Mandro?

4 A. It might be better to pit Adirodu and myself directly one against the other,
5 because then I will be able to convince him, because when he says that I told him
6 and he transmitted it to you, then I will tell him that, no, I did not say so because you
7 are the one who arrived in Aveba. I will be able to challenge him on the basis of the
8 truth. Maybe he lied to you. If he lied to you -- well, I don't know, maybe he was
9 telling the truth. The fact of the matter remains that Adirodu was already very well
10 informed of what was going to happen. Not what happened, but what was going to
11 happen.

12 PRESIDING JUDGE COTTE: (Interpretation) Now, judging by your
13 cross-examination there seems to be two versions, Mr Katanga's version and
14 Dr Adirodu's version, judging by the answers, and it's up to you to decide whether
15 you want to continue along this line of questioning but I think we've heard a number
16 of concentric questions on this same issue. It is up to you.

17 MR MACDONALD: (Interpretation) I am afraid I had taken off my headset and
18 finished---

19 PRESIDING JUDGE COTTE: Would you like me to repeat what I---

20 MR MACDONALD: my cross-examination. I was going to say that I have
21 concluded my questioning and I thank you all. Thank you.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Prosecutor.

23 MR HOOPER: Yes. Is it the Prosecution's intention - settled intention - to call
24 Dr Adirodu?

25 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, the end of your answer

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1 escaped into thin air --

2 MR HOOPER: I'm sorry, I'll start again. I'm sorry. My question was this: Is it
3 the Prosecutor's settled intention to seek to call Dr Adirodu?

4 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor?

5 MR MACDONALD: (Interpretation) The answer is "no." I suggested -- just one
6 minute, Mr Hooper, let me finish.

7 MR HOOPER: Well, I -- you don't need to anticipate what I'm going to say, though
8 you have correctly, in my submission it was wholly improper to put the content of
9 some of those matters without that settled intention, wholly improper.

10 MR MACDONALD: (Interpretation) Well, if I could hit the ball back into my
11 learned friend's court: P12, during my friend's cross-examination regarding the
12 father of Germain Katanga, and all those issues about what was proper or improper,
13 but I would put it to you that what I have done is quite fair.
14 As the Chamber has already requested, I showed the document, the statement, to the
15 witness. Mr Katanga was well aware of all this, as he demonstrated, there was no
16 surprise, no trap, no games were being played. Mr Katanga answered, he agreed, he
17 was well aware. And I'm quite sure that Mr Hooper explained to his client very well
18 what legal issues would be involved in his giving testimony. Thank you.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, let us recall. As I said a
20 few moments ago, when the Prosecutor had interrupted his interpretation because he
21 was planning to conclude, I said a few moments ago that we find ourselves
22 confronted with one particular line of argument from the Prosecution, from
23 Dr Adirodu, and then another version from Mr Katanga provided through his
24 various answers to the Prosecution's questions. So there you have it. And this is
25 really what a judge's job is all about, to deal with such contradictions at the

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1 appropriate time.

2 Now, Prosecutor, you have concluded and we thank you. Thank you for taking a
3 very reasonable amount of time for cross-examination.

4 Now legal representatives of victims shall now proceed. And on 28 September they
5 did send a list of questions that they were expecting to put to the witness, and we
6 realise that with the examination-in-chief by Mr Hooper and the questions from
7 Professor Fofé and the cross-examination of the Prosecution, are such that this may
8 lead to some changes to this list of anticipated questions.

9 Now, Mr Gilissen, and I think Mr Luvengika will have to respond as well, please try
10 to avoid any pointless repetitions. As you are well aware, the Prosecution has
11 already put a number of questions regarding child soldiers and any knowledge that
12 Mr Katanga might have of child soldiers.

13 I think you've seen, Mr Gilissen, that through the replies he gave Mr Katanga has set
14 a number of limits, so to speak, on the enterprise that you are about to begin and this,
15 of course, falls within the framework of your mandate representing child soldiers,
16 your mandate. And this is -- this is a reminder and I think a useful one.

17 We did notice that in the list of anticipated questions that you sent to us you did
18 provide some gradations, or gradients, that could lead to some confusion in the
19 witness's mind, since at times you made reference to children, sometimes you refer
20 to young people, you -- sometimes you said young people under the age of 15,
21 sometimes you spoke of child soldiers, so I think you'll have to be very specific and
22 only subdivide people into these categories when absolutely necessary. Try to set
23 the proper foundation for your questions.

24 What's more, you seem to have a certain progression within your questions from the
25 various activities that the children or young people, rather, may have been involved

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- 1 in. So please decide upon the terminology you are going to use. Our only concern
2 is that the witness should be asked very specific questions; otherwise I think you
3 realise Mr Hooper will rise immediately, so -- or perhaps Mr O'Shea. So, yes,
4 Mr O'Shea, I see you are already on your feet. Please proceed.
- 5 MR O'SHEA: Yes. I just wanted to say, because, you know, rather than
6 interrupting my friend in the course of his questions, he did of course send us a list of
7 questions which fall specifically of course within the bounds of his mandate.
8 I would say, however, that they struck me as being of a particularly vague nature.
9 Given the nature of the testimony that Mr Germain has given during the course of
10 these proceedings, I would invite him to focalise his questions geographically and
11 temporally.
- 12 PRESIDING JUDGE COTTE: (Interpretation) Agreed, Mr O'Shea. You are saying
13 something that is very much in keeping with my recommendations to Mr Gilissen.
14 No doubt he has been given so much advice he may not even dare rise. He will? Yes,
15 he will rise.
- 16 Now, Mr Gilissen, you may proceed.
- 17 MR GILISSEN: (Interpretation) Thank you, your Honour. Your Honours, good
18 afternoon. Rest assured, I am in no way afraid to rise and proceed before this
19 Chamber. And even at this point in the morning, this advanced time in the morning,
20 we will try to move forward under your monitoring, of course, and with your leave,
21 and with Mr Katanga.
- 22 QUESTIONED BY MR GILISSEN: (Interpretation)
- 23 Q. Good morning, Mr Katanga.
- 24 A. Good morning.
- 25 Q. I'm pleased to have this opportunity to ask you some questions, and I pay

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1 tribute to your decision to give testimony. I think that this is a very positive thing
2 and I really must stress this. You are saying what you have to say, you are giving
3 explanations, and I think it's important. Everyone in the courtroom will agree that
4 this is important. You are helping us to better understand your position, and this
5 will -- certainly will help the Presiding Judge and the two other Judges to come to a
6 decision.

7 I am slightly surprised, and I won't hide this from you. Mr Katanga, I'm somewhat
8 surprised. I was trying to determine the various time-frames for various questions I
9 was attempting to frame, about the various roles that were given to various people,
10 and I'm trying to help you give you the necessary tools, but judging by the very kind
11 and courteous criticisms I have heard, I'm afraid perhaps I have been somewhat
12 lacking in this task?

13 PRESIDING JUDGE COTTE: (Interpretation) Mr Gilissen, we certainly have
14 understood your efforts. Don't worry, there are no gratuitous reproaches or
15 criticism, we are just asking you in the course of the proceedings... You see, as
16 questions and answers go back and forth, efforts to really subdivide people into
17 categories might be harmful, but perhaps I'm a rather old judge and I find myself
18 within a new framework; namely the dynamic of the ICC. There may be some
19 surprises, pleasant surprises. So please proceed.

20 MR GILISSEN: (Interpretation) Yes, this was a false assumption on my part.

21 Q. Now, I do have the impression that -- well, really what I had tried to do when
22 phrasing my questions is no longer relevant today, and I think you have been clear
23 regarding the particular issue that is of concern to me, both in your replies to the
24 Prosecution and also when giving replies to questions from my learned friends
25 opposite.

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- 1 First of all, I'll try to be brief and, with you, I will attempt to help the Chamber by
2 bringing out additional information and this is really a fundamental right not for me,
3 but rather for the victims.
- 4 What I would like is to ask you to help the victims, help them, help us understand
5 what happened in Bogoro. I understand your account. You say you were in no
6 way involved in what happened in Bogoro. And there have been some accounts of
7 you being present, there have been some accounts, correct or incorrect, of children
8 being present during the time of the attack, the assault on Bogoro, and we are
9 counting on you for assistance so that the people who were there can understand
10 what happened to them.
- 11 So I think we should just get going in a very simple manner, setting aside these
12 questions, and my first question is a very simple one, sir: What could you have seen
13 in Ituri between June 2002, June 2003? What might you have seen? Did you see
14 young people, very young people - we're not going to describe them - less than 15, or
15 apparently less than 15 years of age, in armed groups? No matter what the nature of
16 the armed groups? Do you have any information for us about what you yourself
17 saw? Did you see young people in these groups?
- 18 A. Have you finished your question?
- 19 Q. As you wish, Mr Katanga. I finished my question, but if you wish between
20 June --
- 21 PRESIDING JUDGE COTTE: (Interpretation) No, no. The question has been put.
- 22 MR GILISSEN: (Interpretation)
- 23 Q. Did you see anything? I can put it to you differently two, three, four, five
24 times, it's not a problem.
- 25 PRESIDING JUDGE COTTE: (Interpretation) No, no. Perhaps the way you were

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1 phrasing your question or perhaps the questioning tone was not quite understood.

2 Q. Have you understood the question, Mr Katanga?

3 THE WITNESS: (Interpretation) I've understood. I didn't want to answer while
4 his microphone was still on. That's all. I'm sorry about that.

5 PRESIDING JUDGE COTTE: (Interpretation) No worries. We shall take all the
6 necessary time for the legal representatives of victims to ask their questions. We are
7 beginning at the end of the day with their questions, while is never ideal, but we will
8 continue Tuesday morning. In any event please go ahead. We want to understand
9 your position on this particular point.

10 THE WITNESS: (Interpretation) Yes. Mr Gilissen, concerning the young people,
11 I don't know whether you said "young children" or "young people," but let's just
12 make sure we are on a level playing field. I would say to you that there were
13 moments when we began to have young people come a lot, because we were
14 heading towards that situation which was demobilisation. First of all, when I tell
15 you June 2002, me, June 2002, I can't tell you exactly whether or not there were young
16 people in the militia, but it is possible, there may -- it might have been that some
17 young people were to be found in areas where militiamen were to be found. Being
18 in a militia or being in an area where combatants were predominant, I really can't
19 deny that. They were there, for example, in Aveba. There were young people who
20 were there, even in the camp, but they were not part of -- they were not part of the
21 militia. They lived with their families. For example, myself, I had during that
22 period of time, I had my adoptive child Dieumerici with me. He was in the camp.
23 So that's what kind of things happened. So some people did come. Some young
24 people did live in the area who were in the militia.

25 JUDGE DIARRA: (Interpretation) If you don't mind, I would like to ask

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1 Mr Katanga whether he thought those children were like Afghans?

2 THE INTERPRETER: Correction, EAFGA --- children associated with armed groups
3 and forces, because they were living with these armed militiamen.

4 THE WITNESS: (Interpretation) In that case I will go along with that, that they
5 were EAFGA.

6 JUDGE DIARRA: (Interpretation) Thank you.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr Gilissen, please go ahead.

8 MR GILISSEN: (Interpretation) Thank you.

9 Q. Thank you very much, Your Honour, Mr Katanga, because we are talking about
10 the same thing, and I think we have made tremendous progress already. Now, in
11 your reply just now, I understand that there were two periods of time that we must
12 distinguish, namely, the period -- the period preceding the demobilisation
13 programme and then another period, the period during which the programme was
14 being prepared, this demobilisation programme. What interests me, and even if it's
15 late in the day, even if you have just concluded a series of questions that took a great
16 deal of energy from you, a great deal of mental energy, but in this period of time of
17 interest to us, namely, between June 2002 and February 2003, in practical terms, what
18 did you see? Now, what you've told us you've already said. Now, what did you
19 see? What was the situation in Ituri? You were in Aveba. You explained you
20 travelled about Ituri in that period of time, and this is of particular interest to the
21 Chamber. You even went to the North Kivu province and you must have seen some
22 very different things in a number of very different geographical locations. So in
23 terms of this problem relating to the young people -- well, not -- let us focus on young
24 people under 15. In very objective terms, what can you tell us? What new
25 information can you give us, without repeating what you have said earlier? If you

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1 have seen nothing, answer simply, and if you have something to tell us I think the
2 Judges will be very interested in any information you can provide us with.

3 A. Regarding the point that I touched upon, the EAFGAs, that term came later.
4 That term came later. I have to be straight with the Chamber. This idea of bringing
5 these young people together and calling them this -- by this acronym, that happened
6 later. So in the North Kivu area it was not possible for children to be walking
7 around with weapons, and it was the same thing in our collectivity, it was not
8 possible for children to be walking around with weapons. Perhaps they had knives
9 or machetes. That was part of their activities, for example, when they were hunting
10 and that sort of thing, that's the kind of equipment that is always to be found in a
11 home. In an area you might find -- in a house you might find a machete, or knives.
12 In one house you might find arrows or spears, so a child might -- for example, if you
13 were going to the farm, a child might head off with such tools, or --

14 Q. Thank you, Mr Katanga. Thank you very much, but let us focus. Let us not
15 forget that we are talking about children in relation to armed groups. This is what I
16 am interested in. I'm not interested in hearing about children who might be going
17 off and hunting, or might have a troop of animals and would have a bladed weapon.
18 I am interested in these very young people, or young women, under 15, or apparently
19 under 15, and in relation to these armed groups. According to what you seem to be
20 saying, in your collectivity in the areas around Aveba, you clearly said that there
21 were no children bearing weapons in relation to these groups, so these are the two
22 criteria. Is your answer indeed that? Have I understood you correctly? Have I
23 expressed what you are saying correctly?

24 A. Mr Gilissen, I will reassert that one might have seen children carrying weapons,
25 but to say plainly that they were associated with the army, no.

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1 Q. That's clear, and you are confirming what I think you have been saying ever
2 since the beginning of your testimony. So according to you, however, there may
3 have been children in this category, very young children in this category, namely
4 under 15 years of age, in military camps. You told us and you repeated yourself a
5 few moments ago -- and I can quote. I have actually taken several passages from the
6 transcript in which you said that there were children in the camps. What were these
7 children doing in a military camp at a time of war, in a time of fighting, disturbances,
8 massacres? What were the children doing? What were they doing in these military
9 camps? This is the heart of my question.

10 A. Well, the answer, Mr Gilissen, is that -- well, merely, for example in a camp that
11 is at the front, beside a place where the -- well, let's take an example. The enemy is
12 in Bogoro and yesterday they came to Kagaba, or Lakpa. Children can't stay there.
13 They will all flee. The mothers, the old men, they will all flee and go stay on the
14 sidelines somewhere -- they will join their family members. I'll be specific. For
15 example, if people -- if children fled Singo in 2002, if they know that their brother is in
16 Aveba and that things are quiet in Aveba, they will go to Aveba. If they see that in
17 Gety things are calm, they will go and join their brother, uncle, cousin in that place.
18 So that is why the children would leave one place and go to another. They just
19 wanted to stay with family members. That's what I mean.

20 Q. So that is in keeping with ---and you have been true to yourself -- that is in
21 keeping with the explanations that you have provided us with, but let me repeat,
22 Mr Katanga: How can we accept that risk, that huge risk - and I'm being very
23 pleasant, nice when I am putting it this way - of having children in these camps,
24 young girls, young people under 15 in these camps full of militiamen, armed groups?
25 This is an environment for adults. Why would you allow these children to be within

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1 the camp? It wasn't the place for them to be. That's what I would like to hear you
2 tell us.

3 A. Well, I've already given you the reason. I too, I had my wife. I had children.
4 I can't give you any other explanation. I thought that there I could have control over
5 my wife, over my children. I could watch over them. They would be with me. I
6 could take care of them. If a child wants to go to school, I would need -- I could
7 even check at school how he was doing. So it is the same thing. A child might stay
8 at the camp with family members so that life could go on. It was for survival.
9 What's more, I can tell you the combatants had some money to eat well, that... in the
10 normal situation. So you see, that was it. It was possible for a child to take interest
11 in someone because -- because that person would actually give them a meal, would
12 feed him, take care of him. And he would be all right.

13 Q. According to you, Mr Katanga, these children in the military camps --- and
14 personally, you will not dissuade me from thinking that these camps were no place
15 for a child -- now, these young people, what were they doing on a day-to-day basis,
16 each and every day that went by over those months? What did they do? What
17 were their activities?

18 A. Some children were school children and they continued going to school. They
19 just continued going to school and they left the camp and they were wearing blue and
20 white uniforms. They would head off to school with their school bags slung over
21 their back and they would come back to the camp from school. That's what they did.
22 So for us, we took the camps not in a technical way. We took the camps as really a
23 way of making sure that the weapons wouldn't be scattered all over the place. If
24 there was a problem, at least the people would be in one place. If people were all
25 over the town, someone might go about his business and throughout the course of a

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1 day and if something happened, if there was a catastrophe, so that's what I mean.

2 But let me clearly say: The children, they were school children, or they were
3 children who couldn't even -- study. They would stay there. They would go with
4 their family to the farm as well, because I often went to the farm.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr Gilissen, I am afraid I am going
6 to have to interrupt you. You began under difficult conditions. It's never easy to
7 begin 15 minutes before the end of a long hearing, but Tuesday morning at 9 a.m.
8 right in the beginning of the morning you will resume. Everyone will be mentally
9 fresh, including the accused himself. We will see you all Monday -- correction,
10 Tuesday morning at 9 am for a continuation of your questions.

11 MR GILISSEN: (Interpretation) Yes, thank you, your Honour. That's the way of
12 it.

13 PRESIDING JUDGE COTTE: (Interpretation) With regard to questions from
14 Mr Luvengika and the Chamber, we will see whether it is possible to begin the
15 hearing of Mr Ngudjolo some time Tuesday morning. It hasn't been ruled out; it has
16 been provided for. It will all depend on the questions from Mr Gilissen and
17 Mr Luvengika and the Chamber would like to ask Mr Katanga for some information,
18 because it's not all that often that an accused person agrees to testify. You have
19 given us quite a bit of information to process and we need to ask for some
20 clarifications. Mr Katanga, we will see you Tuesday morning. Mr Ngudjolo, we
21 will see you Tuesday morning.

22 MR MACDONALD: (Interpretation) An EVD number.

23 PRESIDING JUDGE COTTE: Yes, I had forgotten that point. I think there was one
24 final photograph that had been shown by the Prosecution showing Mr Adirodu in his
25 living room with Mr Katanga and that was in Kinshasa. We'll give a number to that.

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1 THE COURT OFFICER: (Interpretation) Thank you, your Honour. The
2 document DRC-D02-0001-1003 shall bear the EVD number EVD-OTP-00279 and shall
3 be recorded as a public document.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Court usher, if you
5 could escort Mr Katanga to his seat. We will see one another once again on Tuesday
6 morning at 9 a.m. This hearing is adjourned.

7 THE COURT OFFICER: (Interpretation) All rise.

8 (The hearing ends in open session at 1.31 p.m.)

9 CORRECTIONS REPORT

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

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