

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 Wednesday, 12 October 2011
10 (The hearing starts in open session at 9.06 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
13 everyone. Good morning to the accused persons.
14 Now, some general information before we ask the Prosecutor to take the floor.
15 The court officer has told us that Mr Hooper's examination-in-chief was 17 hours and
16 25 minutes. In light of the examination-in-chief, is the Ngudjolo Defence team in a
17 position to give us a general idea of how much time that they will be taking for their
18 examination-in-chief, so that we can take stock of all this?
19 MR KILENDA: (Interpretation) I think 40 hours would be a bit too much. Let
20 us -- correction, let us restrict ourself to 20 hours. Our team has never gone over time.
21 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Kilenda, for that item of
22 information. Now, regarding the last week of October, the Chamber would have liked to
23 have provided more information about our possible sitting hours.
24 Now, the week when the Judges will be sitting in plenary is going to be somewhat
25 complex in terms of scheduling, so please set aside your Thursday and Friday of that

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

- 1 week. The Monday, Tuesday and Wednesday are free for you, because the plenary will
2 be held during those three days, but the Thursday and Friday of the last week of
3 October - 27 and 28 October - it is possible that we may sit. And if the plenary were to
4 end on Wednesday late afternoon, we don't want to lose the two sitting days so please
5 don't make any commitments for those two days.
- 6 It is possible that we won't know until just before the night before, but please assume that
7 there will be a sitting. There may not be one, but please provide for hearings those two
8 days. I apologise for the fluctuating scheduling. We won't be sitting on 21 October,
9 which is a Friday, I believe. We will not be having any hearings on 21 October.
- 10 So, to sum up, we are not sitting on 21 October, and we do hope to have hearings on the
11 27th and 28th, unless you hear otherwise; and as of 1 November, for the reasons that I set
12 out earlier yesterday, we will not be sitting either. There are a few things up in the air for
13 the time being, but that week as well we don't expect to.
- 14 MR MACDONALD: (Interpretation) Good morning. I would just like to ask for
15 confirmation: Since we're talking about the 21st, the Friday, I think Monday the 17th --
- 16 PRESIDING JUDGE COTTE: (Interpretation) Yes, yes, that's been the case for quite a
17 while.
- 18 THE INTERPRETER: Overlapping speakers.
- 19 PRESIDING JUDGE COTTE: (Interpretation) Yes, 18th, 19th and 20th. You may
20 proceed now, Mr Macdonald. Please continue with your cross-examination.
- 21 MR MACDONALD: (Interpretation) Good morning, your Honours.
- 22 WITNESS: DRC-D02-P-0300 (On former oath)
- 23 (The witness speaks French)
- 24 QUESTIONED BY MR MACDONALD: (Interpretation) (Continuing)
- 25 Q. Good morning, Mr Katanga.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 A. Good morning, Prosecutor.

2 Q. Today I have a message for the interpreters and stenographers: I will attempt
3 to -- and also to the court officer, I will try to respect the five-second rule and I will speak
4 considerably slower than I do normally.

5 Mr Katanga, I would like to go back to one particular passage from yesterday's testimony
6 regarding demobilisation of child soldiers. I will make reference to transcript 320, the ET
7 version - that is to say, the edited version - page 59 towards the bottom of the page.

8 A. I beg your pardon. Before you get started, I do have a technical problem here. I
9 have a technical problem. I am listening to the Prosecutor directly, but the interpretation
10 isn't coming through the headset.

11 PRESIDING JUDGE COTTE: (Interpretation) Perhaps the court usher could help us
12 with this problem.

13 THE WITNESS: (Interpretation) Thank you very much.

14 PRESIDING JUDGE COTTE: (Interpretation) Is that all right?

15 Prosecutor, please proceed. You were saying that we needed to look at yesterday's
16 transcript, page 59, transcript 320.

17 MR MACDONALD: (Interpretation)

18 Q. So starting at line 16, just to find our bearings. I had shown you a notebook, a
19 notebook that Witness P267 testified on before the Chamber, and I asked you the
20 following question: "And we could go back to that later, but do you maintain the story
21 that the names in this notebook are all the names of false child soldiers; is that correct?"
22 And your answer at line 19 was as follows: "Prosecutor, I will explain why I'm saying
23 that. We were very happy when the transit site was set up in Aveba. Indeed, we
24 needed to help those children who -- well, we deemed it best to say that they were child
25 soldiers. They were living in the camp without any family members. A typical

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 example, Prosecutor, was Karido (phon). Karido was living at the camp. In practical
2 terms, this meant for demobilisation an AK-47 was given to him so that he could go off
3 and demobilise. Just imagine what we were thinking, what we had in mind when we
4 were thinking about demobilisation. A person has to have a weapon so that that person
5 can then be demobilised, and so that is why we took Karido. We went to the arms depot,
6 we took a weapon, because our objective was to try to reunite him with his family. He
7 was one too many for us. He was one too many. So our thought was to put him
8 through the demobilisation process, but then things changed and so we played the system
9 as they wanted and, you see, that's what we did, Prosecutor."

10 I apologise for my reading so slowly. Mr Katanga, Witness 267 gave testimony before the
11 Chamber and you heard his testimony. My first question is: Do you agree with me that
12 an AK-47, a weapon, when a conflict, an armed conflict is raging, when civilians' lives are
13 at stake, when the protection of civilians is the most important thing, when it's a matter of
14 self-protection, an AK-47 is a precious asset, a valuable asset, isn't it, for you, a combatant?
15 This is my question to you.

16 A. Very good, Witness.

17 THE INTERPRETER: Correction: "Very good, Prosecutor."

18 THE WITNESS: (Interpretation) Firstly I would like to correct the transcript. There were
19 two words that struck me. There was one word, "notre troupe": (our troop), and (de
20 trop): "too many." I don't know if there is a problem there, when you read it, it says
21 "troupe" and "de trop". So, to be clear, I said that this child was one too many, not one of
22 the troops, thus he was a burden for us.

23 PRESIDING JUDGE COTTE: (Interpretation) In the transcript, page 60, line 3, just to
24 make sure that this is clear to everyone, "He was one too many," T-R-O-P in French.
25 "One too many, so that is what was meant. That is why we thought of demobilisation."

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 This is the transcript from yesterday that I'm reading from, so I think we can move on and
2 I will now allow for a reply.

3 Mr Hooper?

4 MR HOOPER: I am sorry to interrupt. I didn't interrupt earlier to allow the question
5 and the answer. I was going to raise a matter yesterday and that was that, when the
6 question was put by the Prosecution yesterday and as it's been repeated, it's been put on
7 an entirely false premise because what is being stated or suggested is that it's the
8 Defence case - Mr Katanga's case - that all the names in the book were names of quote, the
9 Prosecutor used this phrase, "False child soldiers."

10 Now, that's not exactly the case. I think it's been explained through other witnesses what
11 the Defence case is, and that is that there may have been children there who had perhaps
12 absolutely nothing to do with it at all, but it was a stretch of the use of the word
13 "EAFGAs." I say "EAFGAs," and the Court is familiar with the phrase, children
14 associated with armed groups. That was the criteria for passing through the transit site.
15 To use the word "demobilisation" in that context is not really accurate. These were
16 children touched by the war, and the Defence called and the Court heard a number of
17 witnesses that related how it was that the criterion for passing through that site became
18 quite a wide criteria. So we've moved away from the concept as the Prosecutor has put it
19 of "False child soldiers," and we are into a particular use of the criterion for the phrase
20 "EAFGA;" the acronym as we know for the French phrase which I won't attempt.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, I'm interrupting you. You
22 wanted to make a point, once again, and you have made it clear what the Defence's
23 position is regarding this notebook and the content thereof and if we could get back on
24 track.

25 Mr Prosecutor, please continue your examination-in-chief, in light of what Mr Hooper has

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 just said, and I think the important thing is for you to get additional information from
2 Mr Katanga regarding the content of this notebook and the quality, so to speak, of the
3 information regarding the many people mentioned in this notebook. Please continue.
4 We have heard your message, Mr Hooper.

5 MR HOOPER: Thank you. Can I just say while I am on my feet, so I don't interrupt my
6 friend again I hope unnecessarily, the transcript yesterday in English, there was a
7 considerable confusion in between the words "Tchai" and "Tchey." I put it like that,
8 because one can't blame the interpreters and transcribers for that error. There is Tchai,
9 the place nearer Bunia, and there's Tchey which is the place to the left of our map. Those
10 were confused and I think we sent a total of 15 or 16 suggested corrections to the
11 transcribers last night, or this morning.

12 The other area of misunderstanding -- and, again, as soon as I say the two acronyms it will
13 be obvious and self-evident why. That's UPC and APC, and those were
14 severally -- several times confused and obviously if we don't unravel that problem now
15 it's going to be very difficult in the future.

16 Now, the trouble is that if we go to the transcript -- if we go to the tape and it's listened to,
17 if those mistakes are contained on the tape in pronunciation, for example, in questions,
18 then it's not going to be resolved. So what we will do is we will send the same document
19 that we sent to the transcribers to the Prosecution, and perhaps and to the other parties,
20 and if everyone agrees with our suggested areas of concern then perhaps those who have
21 to put that in order will be perhaps more convinced that those errors are what we suggest
22 they are. Thank you.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Hooper. It is true and
24 Tchai and Tchey could lead to misunderstandings, also UPC versus APC, so please come
25 to some agreement on this point and in the future, once we use the names of those two

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 places or the names of these two movements, the two acronyms, UPC and APC, let us
2 please take a bit of time to articulate very carefully so that the interpreters and the
3 transcribers can clearly hear the "U" and the "A" in the two acronyms.

4 Mr Prosecutor.

5 MR MACDONALD: (Interpretation) Just on that last point, I am sure you've realised
6 that, concerning the two localities, phonetically they are very close and I tried to spell
7 them out when I used them and now I understand. I realise that my learned friend has
8 risen to object to page 59 and the question and the whole theory regarding the children
9 affected by war, and I believe that my learned friend will have all the time he wants to
10 make these points in his closing arguments and in his written submissions regarding
11 translation and the like. I would point out that interruptions do hinder the process.
12 I will now move on to my questioning of Mr Katanga.

13 Q. AK-47s. Don't you agree that AK-47s are a valuable asset?

14 A. Well, to reply directly, and by giving the AK-47s to someone, the person who went
15 to the transit centre would get \$150, you see? So ask yourself the question, how many
16 AKs does that come to? So you hand in one AK but with \$150 you don't know how many
17 AKs you can get for that. That is one aspect of it. Furthermore, Prosecutor, you didn't
18 necessarily know whether the AK-47 was working, or not. That was the second problem.
19 The third problem was the fact that we didn't have war. We had almost forgotten the
20 war in Aveba, and so who was going to come and attack us in Aveba? There were forces
21 at the front who had started to forget. The harmony was there. The police were there,
22 the MONUC. The FARDC was deploying as well. We wanted to join the national army.
23 That was our concern. That was our concern.

24 PRESIDING JUDGE COTTE: (Interpretation) I haven't quite understood the first term
25 in your answer. I understood the second and the third thing, but could you explain to us

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 the first part?

2 THE WITNESS: (Interpretation) Well, the term was "Laying down arms at the transit
3 centre." When the person left, he would be sent home with \$150. That's what I meant.
4 The \$150 would be worth more than two, three or four AK-47s. In other words, you
5 could get 50 AK-47s. If you needed them you could get them in another way.

6 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, now I think we have a better
7 idea now about the value of an AK-47. In any event, please continue.

8 MR MACDONALD: (Interpretation) I don't think any questions about that will be
9 necessary after this next question.

10 Q. Mr Katanga, Witness 267 gave testimony - you were here when he gave
11 testimony - isn't it true that the children within the programme that was in effect in
12 late 2004, early 2005-- that the children didn't need to actually go there with weapons in
13 order to go through the demobilisation process? This is late 2004, early 2005. Do you
14 remember that? Is this coming back to mind?

15 A. It all depended. When Witness 267 testified, you didn't ask any questions directly
16 of me relating to that. That's my first point. The second thing is that the demobilisation
17 of children without weapons, well, we didn't know. We didn't know. In our minds, we
18 just knew that a child soldier meant someone who had had training and had had a
19 weapon and had fought.

20 That's what we thought a child soldier meant, and so to come to the point when we chose
21 Karido (phon) - Karido - given that his situation was different to -- even though he hadn't
22 had military training, the -- a child can't be at a camp without a guardian. That was our
23 concern, other than the situation of Karido, the system of saying that the children would
24 be demobilised without weapons.

25 267 was talking about schools and churches, but we in the camps we were

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 under-informed. Was I to send all my children, all the family to the transit centre?

2 Because, you see, these were children who had been traumatised and the fact that -- well,
3 you see, the information was going about in the towns, in the schools, in the markets. I
4 wasn't informed of that.

5 Q. Mr Katanga, you talked about \$150 which they received. Well, let's talk about child
6 soldiers; we will talk about adults later.

7 Now, as for child soldiers, you also heard the testimony of P267, you were present, and
8 you were there in Aveba. You were their leader. You were in charge at that time; you
9 were the president of the FRPI. Isn't it correct to say that children did not receive money
10 but that, rather, they received what was known as the demobilisation kit? So this, your
11 story of trade by barter, whereby they received \$150, which would be used in buying
12 other weapons, I don't understand it. Can you explain it further?

13 A. Very, very well. Very well. Mr President, Mr President or Prosecutor, I'll explain
14 this to you very clearly. The transit sites, when it is said that money was not given to the
15 children, that is only the official position. You do not know what was happening
16 unofficially. I can say it and I can confirm it. Why do you go -- why go and fetch
17 pygmies in the forest or children from schools or children from the city?

18 So, Mr Prosecutor, just think about it. Just think about it. It is true that the official
19 position was that children who entered the transit site did not receive money. That was
20 the official position but, Mr Prosecutor, we were the ones on ground and that gentleman,
21 267, he did that in order not to use up the source because the water needed to flow from
22 that source.

23 That gentleman, when he explained his family situation to you here, \$150 per month,
24 would that have been enough for him to run his family of ten or 15 children? He was
25 receiving \$150 US per month.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Q. It would appear that you know Witness 267's background to be able to talk about it
2 here in Court, and that you deem it appropriate to mention it here in Court.

3 A. He said it himself here.

4 Q. Yes, indeed, about this witness you said that you never saw him; you had no
5 memory of ever having seen him. Do you remember that D02-196 also testified -- and I
6 don't know that I can mention his name in open session, I don't remember whether he
7 testified under a pseudonym. Witness D02-196, I am ready to write down his name on a
8 piece of paper and I wonder if the Katanga team can confirm to us whether his name can
9 be mentioned.

10 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, I do not remember the
11 conditions and situation in which D02-196 testified. Was he protected?

12 MR HOOPER: That's Katobe, and he was public. It would be helpful to get a list of
13 pseudonyms if we're going to go into names, as was suggested.

14 PRESIDING JUDGE COTTE: (Interpretation) Yes, this is public information, the name
15 can be mentioned, but if any other names were to be mentioned which need to be
16 protected then we need to have that list handy. Otherwise, Mr Prosecutor, please
17 proceed.

18 MR MACDONALD: (Interpretation)

19 Q. Witness, I am referring to previous testimony not in order to deal with the
20 credibility of one witness against the other, because that is the work of the Court,
21 including considering or assessing your own testimony, my purpose is simply to provide
22 a context; 267 had a physical reaction, it was quite... despite the fact that I was not there,
23 on reading the transcript and discussing it with my colleagues, I was unable to attend, but
24 they thought that it was unbelievable that you would state that you did not remember
25 him. Because Mr Hooper cross-examined 267 and put it to him that you said that you did

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 not remember meeting him, and 267 thought that it was unbelievable that you did not
2 remember him, but furthermore your own witness, Katobe, testified that he met you and
3 Witness 267 at BCA having a discussion on demobilisation. Do you remember that
4 meeting? Does that jog your memory?

5 A. Mr Prosecutor, we must speak in concrete terms. Katobe did not meet me with 267.
6 He said that they came together, so let us understand this point clearly. His testimony in
7 this Court was that they came together. That is one point. Secondly, I did not say -- in
8 fact, I do not remember him.
9 I know -- I knew the boss of Save the Children. Maybe they came with Katobe and we
10 had a discussion together and maybe 267 mentioned in his testimony that I told him to
11 continue the discussion with my secretary Jabed. That was his testimony here before this
12 Court, if you do remember.

13 I do remember that such was his testimony but, Mr Prosecutor, I do not have any image of
14 that gentleman in my mind. I know many people who used to work at the transit centre,
15 some of the senior persons, but the low-level staff such as those who were gathering the
16 children in the neighbourhoods I did not know them.

17 I knew Pastor Nyaka, for example, he was a leader in Aveba. I know Xavier; he was the
18 deputy of CONADER. And I know Isaac, he was there. I also know Faburé, who was
19 the director of the UNDP centre in Aveba. I know Martin Mululu who was the boss of
20 Save the Children. I know major -- the major of MONUC, Mr Sabir de Bangobat. I know
21 those senior personalities, but as for the other ones who went into the neighbourhoods to
22 gather the children I did not know them. They went about in the neighbourhoods with
23 megaphones and I don't -- I did not know them.

24 Q. Mr Katanga, do you remember -- this is -- are we on Wednesday today? Well, the
25 319 transcript is transcript from Monday, I believe. Well, on Monday, then, you alluded

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 to the demobilisation exercise and mentioned the number of combatants that were under
2 your responsibility. You provided figures for Ituri in general but also specific figures for
3 Walendu-Bindi, the area which was under your responsibility.

4 My question for you is in relation to the figures you mentioned, the numbers you used,
5 particularly in relation to MONUC trips to your area in Aveba.

6 In August 2003, in Kinshasa, you said that you met Witness P12 during the CCGA
7 meeting. That is the consultative committee on armed groups. This August 2003
8 meeting was the fourth meeting of the CCA, according to the records. Is it correct that
9 during that meeting, Mr Katanga, you talked about the issue of child soldiers and the
10 demobilisation of child soldiers?

11 A. In Kinshasa?

12 Q. Yes, in Kinshasa, when Mr Iribi was there... Mr Floribert Ndjabu – excuse me – was
13 there, Mr P12, Chef Kahwa, Colonel Bernal maybe, and the group when they were all
14 there.

15 A. Mr Prosecutor, that meeting was organised by MONUC, so why don't you just ask
16 MONUC for a report of that meeting? I don't have any details because these things
17 happened a long time ago; but all I know is that we were shown a programme by the task
18 force, it was displayed on a screen, and then there were discussions as how -- as to how
19 the DDR process would be undertaken, and in particular in Ituri, it would be the DRC. ,
20 and those are the types of things that I can remember.

21 Q. Spontaneously, spontaneously, you no longer remember having any discussions
22 during the CCGA on the demobilisation of children, of child soldiers?

23 A. Mr Prosecutor, maybe P12 told you that because he jotted things down in his diary,
24 but now, if you look at me here, or in fact if you look at the video footage of that meeting,
25 you will not see me writing down anything. I did not jot down anything. I was there,

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 and what I remembered from the meeting is simply what I have told you.

2 Q. Why are you referring to P12's testimony, Mr Katanga? Why are you saying that if
3 P12 told you that? I'm just trying to understand where you're coming from. Matters of
4 the CCGA are well-known, independently of P12's testimony, so I'm just trying to
5 understand. You are here and I'm asking you whether this issue was discussed, and in
6 your answer you talk about P12's testimony. Why?

7 A. Mr Prosecutor, do you remember what you yourself have said? You yourself are
8 the one who mentioned P12. You said he testified and that he said this and that we were
9 with him and that this was the fourth meeting of the CCGA. Mr Prosecutor, you are the
10 one who have said that. Please be frank.

11 Q. Following that meeting, Mr Katanga, that meeting in Kinshasa, isn't it correct that
12 MONUC went to Aveba in September 2003 to draw up a list of persons and see for
13 themselves and assess the situation on the ground, to determine whether there were
14 indeed combatants and whether they were armed and whether there were child soldiers,
15 and that during that visit they met you in person? Do you remember that, Mr Katanga?

16 A. That is possible. It is possible, but I don't have any clear recollection as to whether
17 there was a visit on a specific date and so on and so forth. All I know is that in
18 September, or thereabouts, Bangobat camp was set up in Bogoro and they might have
19 taken the helicopter, or what have you, for those purposes, but I don't have any clear
20 recollection as to whether there was a visit by MONUC by helicopter at that time, but it
21 may have happened after the road was constructed. They could perhaps have come by
22 helicopter, but I may have also forgotten.

23 But you want to know that, in order to set up the Aveba transit site properly, it was
24 necessary for a road to be built, for bridges to be built. There were very many small
25 bridges that needed to be repaired by MONUC and it took some time for all of that to be

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 done. I don't have any recollection of the specific dates, Mr Prosecutor.

2 Q. Mr Katanga, forget about 2004. I'm talking about September 2003. I would like to
3 draw the attention of the Chamber, and my colleagues, to tab 7, document DRC-OTP-0009
4 -037 -- I will not show the document.

5 MR HOOPER: There's an objection, and by as it were having a glancing blow at the
6 document and not producing it is hardly an answer to the problem of an objection. This
7 is a MONUC report that --

8 MR MACDONALD: (Interpretation) The witness is in Court.

9 MR HOOPER: I'm sorry, I'm on my feet. He raised an objection.

10 PRESIDING JUDGE COTTE: (Interpretation) Order, order, please. Mr Hooper, you
11 have the floor and we are listening to you. Please make your representations briefly.

12 MR HOOPER: Well, first of all, my friend's just announced, as I understand it, he is not
13 going to use the document, so one's puzzled by his allusion to it at this stage, but what is
14 of particular concern is that there was another and subsequent document
15 proposed -- drawn up by MONUC in October, which gives completely different figures
16 and which the Defence at one time tried to get in but it was opposed by the Prosecution.
17 So we have even here a selective, shall I put it, allusion to a document which isn't going to
18 be used by the Prosecutor. What possible value is that to the Chamber?

19 PRESIDING JUDGE COTTE: (Interpretation) Mr Macdonald, please tell us what
20 objective you are pursuing?

21 MR MACDONALD: (Interpretation) My purpose here is not to show the document,
22 because I am fair with all and sundry. I am not hiding anything from anyone. I am not
23 trying to take anyone by surprise. The Prosecution's questions are based on material in
24 the file. I want to refer all and sundry to that document from which my questions will
25 flow.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Now, to answer the last question of my colleague, I would like, Mr President, to refer to
2 tab 6 and a subsequent meeting which I will be dealing with later on, for which there is a
3 date and an identification and which provides more specific information over and above
4 that contained in the document which my learned colleague has attempted ... to which we
5 objected, to introduce via a bar table motion or another document to add it to the list
6 under rule 35.

7 So, Mr President, that is what I am trying to do right now, to put the witness in a context
8 which enables the entire Court to know where my questions are coming from, given that
9 there's an allegation of a meeting with the accused person.

10 PRESIDING JUDGE COTTE: (Interpretation) Let us not mix things up. I note that the
11 transcript does not even have the reference of the first document, which is tab 7,
12 DRC-OTP-0009-0372, EVD-OTP-00202 -- 220, rather, and the second document in tab 6 is a
13 different document which was considered during a motion from Germain Katanga's
14 Defence team.

15 For now, let's deal with document in tab 7, EVD-OTP-00220. We understand that you are
16 not going to show this document to the witness, who is testifying on his own behalf, and
17 we note that this document refers to an alleged meeting with the accused person.

18 So please proceed. Put your question so that Mr Katanga may shed light on what this
19 meeting may have been, or deal with the figures that appear to have been dealt with
20 during that meeting in order to deal with those issues, but the matter of the probative
21 value of this document will be dealt with subsequently. Please proceed.

22 MR MACDONALD: (Interpretation) Thank you.

23 Q. We have a report in the case file about a trip by MONUC representatives to Aveba
24 on 12 September 2003. This is the context, Mr Katanga. This trip by MONUC was
25 within the framework of the CCGA, and the delegation that was on that trip included

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 representatives of the CPI, the Commission for the Pacification of Ituri, as well as
2 representatives of the FRPI and MONUC, and they met you in Aveba. Do you
3 remember such a meeting? In August 2003 you were in Kinshasa, then you came back to
4 Aveba and on 12 September 2003 you were in Aveba and you met CPI representatives, as
5 well as other members of the FRPI and representatives of MONUC, and I went to mention
6 the name of the representative of MONUC. His name is Captain Yousfi Mohamed, G2.
7 Does that ring a bell?

8 A. Mr Prosecutor, let me simply tell you that, if such a thing happened, I do not have
9 any way of knowing that I was in Aveba on 12 September. That is what they wrote.
10 Maybe they are right, maybe they are wrong, but I cannot say. I cannot testify here that
11 on 12 September I was in Aveba. I do not know. Let me tell you. Let me -- and I'm
12 opening a parenthesis here. Captain Yousfi, when I left Aveba for Bunia, we used to
13 spend the night in the same bed. He is from Morocco.

14 Q. Yes, indeed, I see that you know him very well. Do you remember meeting him in
15 Aveba, along with representatives of the CPI, to discuss the issue of the composition of
16 the FRPI forces in Walendu-Bindi and in Aveba and so on and so forth?

17 A. Mr Prosecutor, all I can tell you is that all the missions to Aveba were under
18 captain -- under the captain Yussufi, and I'm not able to tell you whether he came on the
19 12th, 13th or 14th. I do not even know whether I was in Aveba myself on the 12th. All I
20 can tell you is that I know him very well. I know that he used to come to Aveba with the
21 MONUC helicopter, but I cannot give you a specific date, no.

22 Q. Do you also remember that Colonel Bernal was also present on the same occasion?
23 Maybe the first question should be do you know Colonel Bernal? Do you know who he
24 is and what he was at that time?

25 A. Bernal was an observer of French nationality.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Q. Did you meet him in Aveba with Mr Yousfi Mohamed?

2 A. I don't have any recollection of Colonel Bernal in Aveba, but I have recollections of
3 him in Kinshasa. I know him, we had several discussions at various meetings and I
4 know him, but I cannot say that on 12 September he was in Aveba, or that I was in Aveba.
5 I don't have a diary, a diary which indicates I was in Aveba on 12 September. Maybe if I
6 had a diary in which it was -- there was an entry that Germain Katanga had a meeting
7 with the MONUC delegation on 12 September then I would agree with you, but I have no
8 such recollection.

9 Q. Isn't it correct that, as you testified in transcript 319, page 56 -- and we will be
10 revisiting this point. Isn't it correct that you had a discussion on the numbers, the
11 composition of your forces and the location at which those troops or combatants were?
12 Mr Katanga, do you have a recollection of such a discussion?

13 A. How do you expect me to remember that? I do not remember that. What I know
14 is that in Kinshasa we talked about the DRC process, and how the combatant forces could
15 be gathered and settled and how the locations of the transit sites can be determined. So I
16 don't know what you mean by figures and combatants and what have you.
17 This issue was one that involved our government and ourselves. It was not for MONUC
18 to integrate us into the army. We gave a list of our troops, it was blown out, but the
19 purpose was to submit it to our government so that the government could integrate us
20 into the army with various ranks as proposed in our list. That is what we did, but we did
21 not give a list of names to MONUC.

22 Q. Mr Katanga, isn't it correct that on 12 September 2003 there were three brigades in
23 the Ituri; one in the north, one in the south and one --

24 MR HOOPER: hooper objection missing

25 PRESIDING JUDGE COTTE: (Interpretation) Please, go ahead.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 MR HOOPER: My friend starts by saying "Well, I'm not going to produce this
2 document," but he is producing it. He is producing it to the Chamber in the course of his
3 cross-examination of this witness. Now, we don't know how a MONUC report like this
4 came to be composed.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, I am interrupting you
6 because I have two observations to make: Germain Katanga is an accused, and he made
7 the decision to testify as a witness; and in making that choice he was aware that he was
8 exposing himself to questions and requests for explanations on a certain number of points
9 related to the period that is of interest to us, 24 February and a little before and after that.
10 We have with us an EVD document. At one point Germain Katanga told us that he is
11 familiar with the case. There are a certain number of things that he learned during the
12 proceedings. So I'm thinking that you should allow the Prosecutor to put the questions
13 that he wants to put, and we will determine the probative value of the documents later. I
14 will allow you to conclude, if you wish, but please bear in mind the three observations
15 that I've just made.

16 MR HOOPER: Well, he's put assertions, isn't it -- sorry. It's being put as an assertion by
17 the Prosecutor by the form of his question. We could see the last -- the form of the last
18 question that he was leading into, putting as facts things contained in this document, but
19 we've already heard from this, from Mr Katanga, that he has no specific recollection of a
20 particular conversation nor, indeed, of discussing directly figures concerning
21 demobilisation or the numbers of militia and the like directly with MONUC.
22 He's already just stated that he did that of course with central government in Congo. But
23 the difficulty, and this is the sensitivity that we have, is that the Prosecution had this
24 document for some time; and if they'd wished to, they could have called Chaudury or
25 Bernal, the two officers in the case, or sought to have included them in their -- in their

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Prosecution list of witnesses.

2 Now, you might have thought that a Prosecutor might have considered that very
3 seriously and, in fact, perhaps developed his case along the lines of people who may have
4 appeared to have been on the spot at the time.

5 The trouble is we don't know how these MONUC reports come to be composed. And
6 there's a later report, as we saw, where the figures given are very different to the figures
7 that we see here, and that was a document that we weren't in a position to produce.

8 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, Germain Katanga has said
9 that he has no recollection of a meeting that might have taken place on 12 September 2003.
10 The Chamber accepts this. It is possible not to remember a meeting on a specific date
11 between 2011 and 2003. But we are told that in the course of that meeting he had a
12 discussion with various persons mentioned by the Prosecutor, including a MONUC
13 officer, and Mr Katanga has said that he knows that officer.

14 The Prosecutor would like to have information about that meeting, irrespective of the
15 specific date, but this meeting is supposed to have taken place after the dates of concern to
16 us. But that is not unreasonable.

17 The Prosecutor has referred to transcript 319, page 56, line 1: "At the time of
18 demobilisation can you give us a number, an idea of the number of combatants who were
19 in Walendu-Bindi, and I'm referring to the real combatants." I do not know the intention
20 of the Prosecutor, but he wants to refer to numbers that have already been discussed in
21 this Chamber, in light of a discussion that might have taken place with a MONUC officer.
22 So let us allow the Prosecutor to complete his questions. Mr Katanga can respond to the
23 extent possible if he remembers, because he has limits with regard to his memory.

24 So, Mr Prosecutor, please continue.

25 MR MACDONALD: (Interpretation) Thank you.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Q. Yesterday, Mr Katanga, I asked you questions about the number of soldiers in a
2 section, in a platoon, a company, a battalion, a brigade. Do you remember that yesterday
3 you told us that a company is composed of 120 men?

4 A. What did I say? Or rather, yes, I said that.

5 Q. Isn't it true that this is the same thing that you said during that meeting of 12
6 September 2003?

7 A. I do not know.

8 Q. Isn't it true that, as we heard from other witnesses, on 12 September you stated that
9 there were three brigades in Ituri; one in the north, one in the centre and one in the south?

10 A. Mr Prosecutor, I do not remember.

11 Q. Isn't it correct that you also said that a battalion is made up of 1,200 soldiers?

12 A. Mr Prosecutor, I'm telling you that I cannot dispute the United Nations document.
13 They have their own mission and that is different from the objectives of the combatants,
14 the minor combatants that we were in Aveba. They have their strategy. If I discussed
15 these figures with them, then I no longer remember. The documents are there in the
16 computer and in hard copy, but I cannot remember all the documents that I read. What
17 I'm telling you is that I do not remember whether I had any discussion on that issue with
18 MONUC on 12 September 2003.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor, I believe that Mr Katanga
20 has stated three times that he does not remember, so that shows the limits to which that
21 document can be used. He says that he does not remember a meeting of 12
22 September 2003 and you asked him questions on the supposed discussions during that
23 meeting, and he says that he does not remember. It seems to us, therefore, that you may
24 have to reconsider your intention to use that document.

25 MR MACDONALD: (Interpretation) Obviously I agree with you, Mr President, but I

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 would like to put one last question.

2 PRESIDING JUDGE COTTE: (Interpretation) Do not justify yourself. Just ask the
3 question.

4 MR MACDONALD: (Interpretation)

5 Q. Let us set the document aside. At that time, Mr Katanga, isn't it true that you were
6 responsible, you were the leader, the commander of that brigade in the south? Let us
7 begin with that question. You were at the head of that brigade in the south.

8 A. Mr Prosecutor, this is something that we were preparing, that we were developing.
9 We were preparing the beginning of demobilisation. Demobilisation had already started
10 in Bunia, your Honours, but we were lagging behind in our area. So saying that I was at
11 the head, I was the leader, yes, I agree. But what you are reading in the document,
12 Mr Prosecutor, I do not know whether the person who prepared that document, whether
13 he was faithful to what happened or he just wrote down what he wished. I do not have
14 any recollection of that meeting on 12 September 2003. That is all I can say.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr Katanga, we have fully understood
16 you, you do not remember, but if I understood the Prosecutor's question correctly he is
17 asking you for his own reasons whether you were the commander, whether you were the
18 leader of the brigade in the south? Did you answer this question? I don't have the full
19 transcript but I believe you did not answer.

20 THE WITNESS: (Interpretation) I answered, Mr President.

21 MR MACDONALD: (Interpretation) He said yes.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well. Let us continue.

23 MR MACDONALD: (Interpretation)

24 Q. Once again, let us set the document aside. Now, you, as the person responsible for
25 the brigade in the south -- and you have shown us that you are intelligent, you were the

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 youngest person ever appointed as brigadier-general in the Congolese army - that is
2 important - you had people under your command. Now, in September 2003, isn't it
3 correct that you had about 3,000 men under your responsibility? Would I be correct in
4 saying that?

5 A. Mr Prosecutor, do not confuse the rank and the people that I had under my
6 command. Why am I saying this? The army is different from the militias. In order to
7 become a general in a normal army you have to go through the military academy; you
8 have to become an adjutant and then you are promoted to captain, colonel, so imagine
9 someone who never even had the rank of a corporal.
10 So when you are taken from the bottom, right to the top, how would you react? I myself
11 really doubted that rank, so do not confuse the issue of the numbers of combatants in
12 militia groups and the rank. We did that just in order to be integrated into the army. I
13 did not force the Head of State of Congo to appoint me a brigadier-general. He could
14 also have appointed me a captain or lieutenant, just like MONUC referred to me.

15 MONUC referred to me as a lieutenant, but that was not my problem, but when you talk
16 about numbers you can have 1,000, 2,000, 3,000, 4,000, 5,000. This was just any number.

17 Q. Mr Katanga, we have your testimony of yesterday, page 56, lines 1 to 15, but I would
18 like to come back to this issue. Isn't it correct that in September 2003, when you met with
19 this group you mentioned to them that you had about 40 child soldiers per company?

20 MR HOOPER: Do you know, you see, I am going to object again and interrupt. Unless
21 my friend is minded to read the two sentences in brackets on his document
22 0090317, (Speaks French).

23 THE INTERPRETER: "A reasoning that remains to be confirmed."

24 MR HOOPER: I won't read it now, because I am subject to the view of the Chamber and
25 it would -- but reading those next four lines is essential if my friend is going to use a

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 document in this way, in order to bring fairness to his questioning of this witness and to
2 put this witness in the position that the Prosecutor should be in reading this document.

3 Now, I'd -- frankly, my submission is that we insist that the Prosecutor reads those four
4 lines to the witness, if he's going to start bandying these figures around. I see
5 Mr Macdonald smiling. He appears very happy with that suggestion.

6 MR MACDONALD: Not with the suggestion.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, this shows that you are
8 really involved in a game of hide and seek ever since the beginning of the use of this
9 document. It is an EVD document, which is in the case file, and I believe Germain
10 Katanga is familiar with it when he was preparing his defence. It is clear that it is the
11 meeting -- the report of a meeting. Mr Katanga has said that he does not remember the
12 date.

13 We have to be transparent with the witness and point out that the author of this report
14 provides certain figures and indicates that these are figures that remain to be confirmed
15 concretely, on the field, and also states that the commanders have a tendency of inflating
16 the figures. So it appears Mr Katanga's memory is defective, but the Prosecutor wants to
17 have clarification about figures which, as we know, do not represent the gospel truth.
18 So I believe everything is clear and, Mr Prosecutor, you can proceed.

19 MR MACDONALD: (Interpretation) Very well.

20 Q. Mr Katanga, isn't it correct that in the following month, that is the month of October,
21 towards the end of the month of October 2003, MONUC went to Aveba once again to
22 meet with you and to discuss specifically about the demobilisation of child soldiers? Do
23 you remember that?

24 A. Mr Prosecutor, I do not remember dates and I cannot tell you that we met on
25 such-and-such a date, no.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Q. The President pointed this out, Mr Katanga. We understand about the dates, but
2 you can remember the event itself. That is the difference, Mr Katanga. Let us forget
3 about the date. That date is 20 October 2003, to be specific, but do you remember
4 meeting with MONUC? And I will give you the name of one person, Mr Rama
5 Chaudury. Do you remember that? Do you remember meeting with him at your place
6 in Aveba?

7 A. That name, Rama Chaudury, doesn't ring a bell at all, Mr Prosecutor. Not Rama,
8 no.

9 Q. Let us forget about the document. I will ask you a specific question. In
10 October 2003, isn't it correct that your brigade was known as Cobra?

11 A. That is absolutely correct. That brigade was known as the Cobra Brigade, yes.

12 Q. Isn't it correct, Mr Katanga, that in October 2003 under your command of the Cobra
13 Brigade there were ten military camps? There were ten military camps under your
14 responsibility?

15 A. I do not know. I cannot tell you that I had ten camps. All I can tell you is that
16 there were detachments. I cannot tell you how many detachments were in each battalion.
17 It was possible for a battalion to send out several platoons outside. As you know, the
18 purpose of detaching those persons, those units, was because it was not possible
19 sometimes to feed them all in one place, because you need the space to be able to feed
20 those people. If you are able to then you can have large numbers, but if you are not able
21 to you try to reduce the numbers. But, Mr Prosecutor, to be fair to you, I can tell you that
22 when you mentioned ten camps it could even be more, because an entire brigade cannot
23 live in those ten camps if they have been split into other units.

24 Q. Isn't it correct, Mr Katanga, that in October 2003 you had women soldiers?

25 A. Can we have the names of those women? Are you talking about the wives of

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 soldiers, or women soldiers? What do you mean by that?

2 Q. I will slow down and ask the question more clearly. This is a term that

3 unfortunately I do not wish to use, but were there female soldiers?

4 PRESIDING JUDGE COTTE: (Interpretation) I think we could say "women under

5 arms."

6 THE WITNESS: (Interpretation) Mr President, there are women in armies everywhere

7 in the world. That does not mean that you had the so-called PMFs, or female soldiers, in

8 Aveba, but they exist. They are combatants, but I can give you an example. When

9 Major Adolphe arrived from Nyaleke, they had fled the war in Kanyabayonga. He

10 arrived with four female soldiers from Beni. They came to Aveba, yes, and those women

11 joined the FRPI.

12 MR MACDONALD: (Interpretation)

13 Q. That was a term that I wanted to avoid, but I can see that you used the term "PMF,"

14 female military personnel.

15 A. I am not sure. I simply used that word "PMF" to refer to a woman who was a

16 soldier.

17 Q. And how many of them did you have in October 2003?

18 A. I do not know.

19 Q. If I put it to you the equivalent of a platoon?

20 A. I am not able to confirm that, because I did not draw up a list to indicate that there

21 were at least 36 female soldiers, no.

22 Q. How many soldiers did you have at that time, Mr Katanga, in October 2003? And

23 let us be specific here: Children who were under 18 and who were soldiers?

24 A. First of all, to explain my position to you, a child soldier is a child who has gone

25 through the training centre.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Q. Mr Katanga, how many of them were there in October 2003? You have already
2 given the Chamber your definition and we have fully understood it. Now, in that Cobra
3 Brigade, in October 2003, how many child soldiers were there?

4 A. Mr Prosecutor, you're speaking into the microphone. I am begging you to speak
5 slowly.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr Katanga, please allow me to call the
7 Prosecutor to order, if necessary, but please limit yourself to answering the questions. I
8 will remind him, if necessary, but it is not your job to make such observations.

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

10 PRESIDING JUDGE COTTE: (Interpretation) Very well, answer the question.

11 THE WITNESS: (Interpretation) Mr President, yes, I will answer the Prosecutor's
12 question. I can say concretely that there were no child soldiers, because there was no
13 child soldier who had gone through the training centre and who was trained, no. There
14 were children that we had, who were traumatised. There were children living with us in
15 the camp. There were many of them. I do not even have figures.

16 MR MACDONALD: (Interpretation)

17 Q. Very well, let us conclude with the issue of child soldiers. I would like to show you
18 a photograph, Mr Katanga, and these are in tabs 39 and 40. These are photographs that
19 were presented by witness Renaud Khan, EVD-OTP-0092 and 0094. We will begin with
20 0092. Mr Katanga, according to the testimony of Mr Renaud Khan, these photographs
21 were taken on 18 August 2003 in Nyankunde. Please look at that first photograph.
22 Take your time. We have hard copies. My question is this: How old are those people
23 who are on the photograph?

24 A. Those children that I can see here can be 13 or 14 years old.

25 Q. Very well. Let me show you another photograph, 0094, and I am asking you the

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 same question. How old are those people carrying weapons?

2 PRESIDING JUDGE COTTE: (Interpretation) Can everyone see the photograph; that is,
3 the second photograph?

4 THE WITNESS: (Interpretation) I believe that the first one with a bandana on his head
5 is the same person who was on the other picture. And the other person can be 11 years
6 or 12 years old.

7 MR MACDONALD: (Interpretation) Thank you, Mr Katanga. Those photographs
8 can now be withdrawn, please.

9 Q. I would now like to briefly, I hope briefly, give the Chamber some background,
10 some context. This is to help the Chamber better understand the various events that
11 occurred the months, the years, so that we can clear up some items of information,
12 important items of information that you gave the Chamber during your testimony, and
13 the reference point that I'd like to use is the attack on Nyankunde in July, August 2001.
14 You mentioned that the Bira attacked you in July or August, attacked the Ngiti-Lendu
15 who were there, and you fled and you went to live in Aveba. It is correct, Mr Katanga,
16 that there was an earlier attack on Nyankunde by Ngiti, and apparently they killed about
17 50 Hema people. That attack was in January 2001. Now, I think you remember this.
18 You mentioned that you were shuttling between Aveba and Nyankunde, do you
19 remember that?

20 A. The fighters had left Codeza, Codeco at the time. They were led by Colonel Simba,
21 if you understand me. I'm talking about Colonel Simba; he left Codeco after being
22 shelled there. That was on 10 January, that's when they were shelled in Codeco (phon),
23 and they attacked Nyankunde.

24 Mr Prosecutor, if at that time it was defined as an interethnic war that could be a disaster
25 because the UPDF fled Nyankunde. Your Honour, the UPFD - the Ugandan army - fled

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 and left Nyankunde empty. If that fighter had in mind the thought of massacring the
2 Hema, they would have done that.

3 In any event, when you say that the combatants in January 2001 had killed some Hema
4 people, okay, perhaps, because during the clashes when a cartridge goes off or a bullet
5 goes off you don't control where it goes. There might be -- the bullet might hit a civilian.
6 In any event, I can't deny that.

7 When a person dies, we feel bad about it. We feel bad. We regret if a civilian dies, but
8 that doesn't mean that combatants massacred Hema people.

9 Q. I just want to understand what you're saying. Are you now acknowledging that,
10 during the conflict that there was in the Ituri region at that time, there was an ethnic
11 component to the conflict?

12 A. That is the opposite of what I said. The opposite. Perhaps my French is not
13 understood by you. What I said was this, Prosecutor: If there was an interethnic
14 conflict, at that time, during that specific period of time, in January 2001, because it was
15 the combatants, the Ngiti combatants who entered Nyankunde - it was the Lendu
16 combatants who entered Nyankunde.

17 If you say that there were deaths of civilians, I am saying okay, perhaps - perhaps some
18 stray bullets, and so on and so forth - but to tell you that these combatants went there to
19 kill Hema people, no. There were no -- there was no conflict between Ngiti and I don't
20 define it that way.

21 Q. Very well.

22 PRESIDING JUDGE COTTE: (Interpretation) Let us respect the five-second rule. I've
23 been reminded of this point. Thank you. Mr Prosecutor.

24 MR MACDONALD: (Interpretation)

25 Q. That was when during that attack you heard on the German radio that the

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 combatants had mentioned farmers. "Cultivateurs" in French, is that correct?

2 A. Yes, Prosecutor.

3 Q. What news report or radio were you listening to? You were talking about a
4 German radio station. Which one did you mean exactly?

5 A. I heard that from some village people in our area. It was a programme broadcast in
6 Swahili. It was in Swahili and I think it was between 11 and 12, local time, Deutsche
7 Welle. I'm not sure if I'm pronouncing it correctly, and we had heard on the German
8 radio that, the German radio, that some farmers had driven the Ugandans out of the town.
9 That is what I had heard.

10 Q. You mentioned the shelling of the airport in Bunia, that was attacked. You agree
11 with me that the attack on the Ugandan helicopter at the airport was a reprisal for the
12 attack on Codeza; isn't that so?

13 A. I think there's a bit of a misunderstanding here. You said that there was shelling at
14 the Bunia airport. Who was shelling whom?

15 Q. I beg your pardon. Let me resume. You said on 10 January, I mentioned Codeza,
16 that's the Codeco, because at that time it was Congo, not Zaire, the Ugandans shelled
17 Codeco, we agree on that point. My question is as follows: In reprisal for the shellings,
18 the combatants went and attacked the airport in Bunia with a specific aim of destroying
19 the Ugandan helicopter that had been shelling you, and they would do anything to reach
20 that goal?

21 A. Prosecutor, I think what you've understood is that the combatants didn't leave
22 directly Codeco to go directly to Bunia. The 10th, when the helicopter shelled Codeco,
23 there was an infantry force, so in pursuit of that infantry force, they went to Nyankunde,
24 and attacked the base there and from there, the combatants went up the hill to Songolo,
25 and from there they prepared their premises, their place, to attack Bunia and the airport

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 on 19 January 2001.

2 Q. Agreed. So you place that attack on the airport on the 19th. Some people say it's
3 the 18th, that doesn't matter, but I just want to go back to one point. You mentioned that
4 the combatants were going to Songolo and they were after the UPDF infantry, is that
5 correct? Or was it the infantry battalion that was after the UPDF? Who was attacking
6 who?

7 A. Prosecutor, the helicopter was in the air. When we're talking about the infantry we
8 are talking about soldiers on the ground. The ground forces. So the UPDF, with the
9 attack helicopter, was shelling and the infantry was advancing on foot. When the
10 helicopter withdrew to get more rockets, that is when the combatants regained control of
11 the situation, and drove out the UPDF ground forces to Nyankunde and kicked them out
12 of there. When they fled Nyankunde, the combatants in turn organised themselves in
13 Songolo.

14 Q. At -- in Kandro's area; isn't that so?

15 A. No, no, no, no. Prosecutor, you mustn't mix things up.

16 Q. Isn't it true -- I will respect the five-second rule. Is it not correct that Kandro
17 attacked the airport? He was one of the combatants who attacked the helicopter?

18 A. Well, I don't know. I don't know, because at that time Kandro, his geographical
19 situation was absurd. It was impossible to locate him. He was being chased by the
20 Ugandans; on the other hand, among others, it was they who were terrorizing the
21 population and so forth, so I really can't confirm to you whether he had a base in Songolo.
22 At that time there was no system of bases, the facilities at that time.

23 Q. Isn't it true that the UPDF shelled Codeco on 10 January because it was also a place
24 where combatants were being trained? Isn't that so, Mr Katanga? Combatants were
25 being trained there?

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 A. Prosecutor, there never was a training centre there. Never in Codeco. Codeco
2 was just for agriculture. That's all.

3 Q. Mr Katanga, one thing I would like to hark back to, and this is in one of the exhibits
4 in the file, and the information is to be found in our exhibit EVD-OTP-00206, more
5 specifically, tab 49. This is a report from the United Nations that draws up a list of the
6 various attacks, the most major attacks. Isn't it true that that very evening, the evening of
7 that attack at the Ngiti airport, that very evening, the Hema were taking revenge and
8 going door-to-door and killed nearly 200 Ngiti in the Mudzipela neighbourhood; do you
9 remember that, Mr Katanga? Do you remember that? This is footnote 16, paragraph 22
10 of the report.

11 A. That was written in the report. It's written in the report. I wasn't in Bunia. I am
12 saying in the -- there might have been massacres in Bunia after that, that attack on the
13 Ugandan helicopter. I don't know. Myself, personally, I don't know whether there was
14 a massacre of 200 Lendus in Bunia. I don't know. At that time I didn't know about
15 Bunia.

16 Q. Mr Katanga, you agree with me that if you hear about this on the German radio
17 station, that some 50 Hema people died, it must have been a notable fact, event, in the
18 Mudzipela neighbourhood, more than 200 Lendu, Ngiti that died. Did you not hear about
19 that?

20 MR HOOPER: I am sorry, just a correction because it becomes a little bit more astringent
21 perhaps when the word "Ngiti" is used; 200 Ngiti killed. The footnote refers to Lendu.

22 PRESIDING JUDGE COTTE: (Interpretation) Let us be specific. Thank you, Mr
23 Hooper. Please continue, Mr Macdonald.

24 MR MACDONALD: (Interpretation)

25 Q. Mr Katanga, at that time, where were you living at that time, by the by? Where

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 were you in January 2001?

2 A. First of all, Prosecutor I will begin at the point where you asked the basis of your
3 question, saying that the German radio was talking about approximately 50 Hema who
4 had been killed. I didn't say that the German radio had said that the Ngiti had killed
5 Hema. I didn't say that. I did not say that. In Bunia, you say that there were 200
6 people, Lendu people who had been killed in Mudzipela? I don't know about that. I
7 read this as you read this. It's on a piece of paper, you can read it. You can read it.
8 This is a person, person X, who drew up this report at the United Nations. Some person
9 prepared this. I don't know whether someone caused 50 Hema to be killed in
10 Nyankunde and in Bunia as well, and some 200 Lendu people to be killed., so -- and the
11 report, fortunately it concludes that the attack on the airport was on the 19th. You said a
12 few moments ago that it was the 18th.

13 Q. Very well, Mr Katanga. Let's move forward. I'd like to go back to something
14 that you said, and this has to do with the timeline of when you -- the time when you
15 became a combatant, because I want us to really find our particular spot in time. Earlier
16 you gave testimony and you said that it was towards the end of the year 2000, initially.
17 That is when you joined the movement, the movement of fighters. You said that your
18 first attack, the first attack you took part in, the first war, was at Bukiringi. And then you
19 made reference to an incident, some adviser to Chef Akobi had been buried, and you put
20 that incident in the same period of time; Bukiringi, Gety, Kazana. You mentioned
21 Kazana. You seem to put that in the year 2000, the year 2001 Is your recollection of those
22 dates correct -- late 2000, Bukiringi, then early 2001, Gety, Kazana.

23 A. The Kazana event, that was early in 2001. I don't know whether it was January or
24 February, but I do know that when Jean-Pierre Bemba came back from Kampala, with the
25 movement that is called the FLC, he brought the Ugandan soldiers to Gety, saying that

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 they were peacekeepers. The Bukiringi events, that was late 2002. The Ugandans came
2 from Boga to attack Bukiringi. That's something different. Late 2002, arrival of the
3 UPDF saying that they were peacekeepers, in the three months of 2001.

4 Q. Listen, I think you're mistaken. I'm saying this very bluntly because you just said
5 late 2002 for the arrival of the UPDF and you just said -- did you make a mistake? Did
6 you mean 2002 or 2001? Could you repeat? When did you take part -- well, I will put
7 the question to you. Do you remember the month or the year, the date on which you
8 took part in that attack in Kazana? We will start with Kazana, that was the highlight, so
9 to speak, of this story?

10 A. No, Prosecutor. If possible, I was talking about Bukiringi, late 2002. Let's set that
11 aside. Bukiringi. That's over. We've dealt with that. That was 2002. The Ugandans
12 came from Boga to attack Bukiringi and they stopped -- I don't know whether they ended
13 up in Uganda or elsewhere.

14 Q. Let's set that aside. In Gety, 2002, 2002, is that what you are saying?

15 A. Did I say 2000 or 2002? I was talking about 2000, the end of 2000. The year 2000,
16 the Ugandans who came with Jean-Pierre Bemba as part of the FLC -- they came -- in the
17 first quarter of 2001. I hope that I am clear on this point. That is when the Kazana event
18 occurred, in 2001.

19 Q. Agreed. Listen. Mr Katanga, sometimes people make mistakes. Sometimes,
20 someone speaks too quickly or whatever. I had heard 2002, and I don't think I'm the
21 only person in the room who heard that but you are now saying that you meant the year
22 2000? Now, Mr Katanga, I put it to you that that incident, the Kazana incident, was not
23 in 2001 but rather in 2002, and I put it to you, and then after that I will attempt to
24 demonstrate to you that you are mistaken and that this incident occurred in March, early
25 March 2002. I'll even go further. In your testimony, your previous testimony, I think it

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 was on the first day, transcript 318, you said, correction, 314, you said that the UPDF came
2 in the year 2000, and then withdrew from Ituri, and then came back and set up operations
3 in Ituri. Do you remember saying that? Do you remember your testimony in this
4 regard?

5 A. Unless perhaps I got mixed up. Maybe I mispronounced the name of Ituri, but I
6 said that they had left our collectivity.

7 Q. I see. I see that you are correcting me. So you remember, indeed, that the
8 Ugandans withdrew and then came back and set up operations in your community. I
9 put it to you that that event occurred early in February 2002, that return of the Ugandans
10 was in 2002, and I also will put it to you, keeping in mind Kazana, early March, the
11 incident when Mr Ayaya --

12 A. Ayamaya --

13 THE INTERPRETER: Overlapping speakers.

14 MR MACDONALD: (Interpretation)

15 Q. I have a document with his name. That was mid-February 2002, around the 16th.
16 I believe it's the 16th, if my memory serves me. Do you remember that, the battle, the
17 arrival of the Ugandans, and the burial of this man and that this was in February,
18 March 2002 and not in 2001?

19 A. That's a complete misunderstanding, complete misunderstanding. In
20 February 2002, Jean-Pierre Lompondo went around, among others with Peke Irianta
21 (phon), who was defeated on returning to Bogoro, that was in 2002. But when I talk
22 about 2001, that was when Jean-Pierre Bemba went down to Gety to see Chef Akobi.
23 That was -- a helicopter landed on a football pitch. That was a highlight. People
24 remember that. That was in Gety. That is something different. Those are two
25 different events, two different periods of time.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 MR MACDONALD: (Interpretation) Your Honour, if I could ask, could we take the
2 break now because this will allow us to look at a document during the break, document 47
3 on our list. This is a document that I will be using for my questions later. I realise we
4 have about four minutes still, four minutes remaining, but if we could perhaps suspend at
5 this particular moment?

6 PRESIDING JUDGE COTTE: (Interpretation) Indeed, we will now suspend. Court
7 usher, could you please escort Mr Katanga to the usual waiting area. We will suspend
8 until 11.30 and we will resume in 32 minutes. The hearing is now suspended.

9 (Recess taken at 10.57 a.m.)

10 (Upon resuming in open session at 11.37 a.m.)

11 THE COURT USHER: All rise.

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

13 Mr Prosecutor, you have the floor.

14 MR MACDONALD: (Interpretation) Thank you, Mr President.

15 Q. Mr Katanga, we shall continue our questioning on your time-line or chronology, but
16 let us backtrack somewhat. Where did you live in January 2001?

17 A. In January 2001, in the month of August, I had come from Nyankunde and I settled
18 in my father's house.

19 Q. In January 2001, were you in Nyankunde? Were you living there?

20 A. No, in January 2001 I was attending the Bajanga Institute.

21 Q. Mr Katanga, before the break we were talking about the arrival or return to the
22 Walendu-Bindi collectivity of the Ugandans and we were discussing the issue of
23 Mr Ayamiya (phon) and all the Kazana incident as well. Now -- well, Mr Katanga, isn't
24 it correct that in the Walendu-Bindi at that time, January, February, March, April,
25 May -- May. Let's stop at May for now. Isn't it correct that there were many attacks by

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 the Ugandans, with the assistance of Hema militia?

2 A. Where, Mr President, for example? I want to locate myself in the Walendu-Bindi
3 collectivity chiefdom. Where would that have taken place?

4 Q. You used the word "chiefdom." "Chiefdom," that seems to be the first time you are
5 using that word, "chefferie" in French. What is a "chefferie," or "chiefdom"?

6 A. I said the collectivity chiefdom, or chefferie, of Walendu-Bindi. "Chiefdom" refers
7 to an area, or the power that a chief or a king may have over his chiefdom or kingdom.

8 Q. In that chiefdom there was an Ngiti community or organisation known as the
9 communautés de base Ngiti, or Ngiti basic community; is that the case?

10 A. I don't know what the hierarchy was, that is the reason why I refer to our
11 community every time, our community. So I would just say to you our community, it is
12 Walendu, so all the Ngiti, our community, that's it. That is the definition I have of our
13 community.

14 Q. Within that community there were some people who administered the community,
15 the administrators of the chiefdom; isn't it so?

16 A. Of course. Chief Akobi was the head of them all.

17 Q. There were other administrators supporting Chief Akobi, is that not the case?

18 A. Yes, he had an administration - a classical administration - under him. I don't
19 know how I can define it, but, you see, after Chief Akobi there was a -- there were
20 registrars and people surrounding him, secretaries and many people who were part of his
21 administration surrounding him.

22 Q. There were notables, right, who were members of that administrative set-up; is that
23 not the case?

24 A. Yes, I think so.

25 Q. And there were various committees within that administration as well, isn't it?

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 A. I do not understand your question, that type of hierarchy that you are setting up.
2 All I know is that the chief of the collectivity of the chiefdom of the Walendu-Bindi
3 chiefdom had people serving in his administration. Apart from that, the collectivity is
4 broken down into various groupement, or groups, and each group has its chief and its
5 administration and so on and so forth. Now when you start talking about a community
6 and notables and whatever other word you used, I think you used another word which
7 really is not that clear to me.

8 PRESIDING JUDGE COTTE: (Interpretation) Mr Katanga, can you help us to
9 understand. There was -- the collectivity of Walendu-Bindi had a chiefdom and that
10 chiefdom was the administrative unit over that collectivity; is that the case?

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

12 PRESIDING JUDGE COTTE: (Interpretation) So it is a group of persons who have
13 various responsibilities in administering the community?

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

15 PRESIDING JUDGE COTTE: (Interpretation) And that is what is called the "chefferie," or
16 "chiefdom"?

17 THE WITNESS: (Interpretation) Yes, Mr President, that is correct.

18 PRESIDING JUDGE COTTE: (Interpretation) Yes, that was just to enable me to
19 understand.

20 Mr Prosecutor, please proceed.

21 MR MACDONALD: (Interpretation)

22 Q. Witness, you would agree with me that Ben Didi Osee, O-S-E-E, Angaika was one of
23 the members of that chiefdom administrative unit?

24 A. What does O-S-E-E stand for?

25 Q. What is Mr Angaika Ben Didi's first name?

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 A. I know him as Angaika Didi, and that is it.

2 Q. Very well. Is it not true that this person was part of the administration of the
3 Walendu-Bindi chiefdom, that civilian administrative unit of the Walendu-Bindi?

4 A. No, no, Mr Prosecutor. Angaika Didi was the leader of the school. He was the
5 headmaster. You see, in our place, the headmasters or intellectuals can be called upon to
6 serve as counsellors at meetings of intellectuals who then assist the chief. All I know is
7 that Angaika Didi was the headmaster in Songolo, in Singo, Bukiringi and what have you.
8 He was a headmaster.

9 Q. Was he headmaster in Gety as well? In early 2002, first half of 2002, he was in Gety,
10 isn't it so?

11 A. I know that he is a native of Isura in Gety, in Ntarama collectivity. Ntarama.
12 N-T-A-R-A-M-A. Ntarama. N-T-A-R-A-M-A. So when you say that he was the -- it
13 can be said that he was a prefect there or a headmaster there as well. I really -- I don't
14 know.

15 Q. Was he also a notable? He was also recognised as a notable; is that not the case?

16 A. He was one of our intellectuals and, therefore, would have been a notable.

17 Q. He was very involved, Mr Didi was very involved in all matters pertaining to the
18 fate of the Ngiti people in the Walendu-Bindi collectivity. He was someone who was
19 concerned for the welfare of his fellow Ngiti in his capacity as a notable?

20 A. Well, as a notable, he had to be concerned about those things, but for me to be -- to
21 say that he was concerned about the situation of the entire community, I don't -- I can't say
22 so. I don't know. I cannot be specific because I did not know Didi very well prior to
23 meeting him.

24 Q. You met him in Beni, indeed, in November 2002, Witness; is that not the case? You
25 travelled with him to Beni in the company of those people who had that letter of

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 15 November which was taken to the RCD-K/ML authorities; that is correct, isn't it? He
2 was with you?

3 A. Yes. Now you're talking about November, whereas before you mentioned
4 January 2002, and I was focusing on January 2000, as you mentioned.

5 Q. Was he with you in November, on the 21st? When you left Aveba, was he with
6 you?

7 A. Yes, we went to Beni together, Mr Prosecutor.

8 Q. Since when had you known him, had you known Mr Didi, Mr Witness? That
9 21 November when you travelled with him to Beni, that was not the first time you were
10 meeting him? You had known him for some time already; is that not the case?

11 A. Mr Prosecutor, you are sort of putting too many things together. In 2002 I was
12 24 years old. Myself, Germain Katanga, I, Germain Katanga, had barely completed my
13 education. Didi was a headmaster. I may have known him because people would call
14 him the prefect of Singo, just like they would say he was the prefect of Bukiringi, and
15 someone may have pointed him out to me when I was going by. But to get close to him,
16 it was only during that trip, it was during that trip that we -- they all met in Aveba to draft
17 the letter, and that is when I got to know Didi as "Didi."

18 Q. Let us return to early 2002. See, Mr Katanga, the reasons for which I am putting
19 these questions to you is that I want to mention a number of dates to you. I want to put
20 some dates to you which I have obtained from a number of documents, documents that
21 are on the list. I am not going to show this list to the witness before my learned
22 colleague rises, if at all.

23 Now, in May, 7 May 2002, Mr Angaika Didi, a notable and member of the committee for
24 the monitoring of the Irumu territory, drafted a typed document depicting the chronology
25 of events between -- around May 2002 of several attacks in the Walendu-Bindi collectivity,

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 and I'm referring to a document, which was at tab 47. I will mention it -- it doesn't have
2 an EVD, DRC-OTP-0029-0262. The title of the document, maybe you have already read
3 the document, the title of the document is, "Review of the sinister and tragic events that
4 occurred in the Walendu-Bindi collectivity chiefdom since January 2002 to date." The
5 document is signed on and dated 7 May 2002, contemporaneously to the events.
6 Have you already heard mention of this document or have you seen it prior to testifying
7 here, apart from the fact that it is in the file that has been disclosed? My question is in
8 relation to whether you became aware of this file, this document, before coming to the
9 Court?

10 A. Never, I never saw that document before coming to the Court.

11 Q. You have stated that Mr Didi is an intellectual. You have confirmed that he is a
12 notable. This document which he drafted or authored was copied or was forwarded to
13 the Minister of Home Affairs, or the interior, to the President of the RDC and to OCHA,
14 the organisation, to the Minister of Human Rights, to Medair and to another organisation
15 OGOU.

16 MR HOOPER: I'm sorry, you know, it's going much further than I'm happy with.
17 I don't know anything about this being sent anywhere. The document bears a date.
18 I don't know, no evidence of that being an accurate reflection of the matter. This isn't a
19 document that's ever appeared on any Prosecution Bar table request. It is not a
20 document that's got an EVD number. If this is an exercise to say, well, do you agree with
21 such-and-such a date, then perhaps that's the proper form of the question and the witness
22 can then agree or disagree. It's a matter for him. My learned friend shouldn't really use
23 it as a springboard of positive assertion, that's the problem.

24 PRESIDING JUDGE COTTE: (Interpretation) Two observations: Mr Prosecutor, you
25 have definitely noted that the witness has stated that he does not have this document in

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 his memory, so the document apparently doesn't ring a bell for him. He never saw it.

2 Secondly, we also have a series of objections from Mr Hooper and Mr Kilenda to the effect

3 that -- and, in fact, this document so far to date had not yet been objected to. But,

4 Mr Prosecutor, please proceed, but bear in mind that this document doesn't ring a bell for

5 Mr Katanga although, as you have mentioned, it was signed by Mr Angaika and dated

6 7 May 2002 which, as you stated, was an important period in the sequence of events that

7 occurred in the Ituri.

8 So please proceed, but bear in mind that the witness does not recall this document.

9 MR MACDONALD: (Interpretation) Thank you, Mr President.

10 Q. Mr Katanga, isn't it correct that there was a monitoring committee in the Irumu

11 community to monitor the events that were unfolding during that conflict, particularly

12 during that significant phase of the conflict?

13 A. Monitoring committee, no, I have no recollection of that committee.

14 Q. Mr Katanga, I put it to you that on 7 February 2002 the Ugandans re-entered the

15 Walendu-Bindi collectivity, and I put it to you that they came in through different routes,

16 via Uganda, Boguma, Kagoro, Gety. One group. Another group, Uganda, Boguma,

17 Kagoro, Kasenyi, Bogoro, Gety. Another group via Uganda, Burasi, Boga, Bukiringi, and

18 these soldiers got to Gety on 9 February 2002, but you indicated that they had come back

19 in 2001, but I'm putting it to you that you are mistaken, and that it might simply be a

20 mistake on your part, but that this incident, this particular incident, took place between 7

21 and 9 February 2002?

22 A. I would put it to you, too, Mr Prosecutor, that the gentleman himself also must have

23 been mistaken. You see, nobody can forget the event of the arrival of Jean-Pierre Bemba

24 in February 2002. That is the return of Jean-Pierre Molondo Lomondo when he arrived

25 in Ituri as the military governor. So those are two separate things, entirely distinct the

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 one from the other. And I am telling you with total conviction that these two events are
2 entirely separate, the one from the other. Jean-Pierre Bemba landed with his helicopter
3 and aboard the helicopter was Tibasima himself, Thomas Lubanga and others, and they
4 landed in Gety.

5 Now, when you say that they landed in February 2002, well, there cannot be any
6 co-alliance between the RCD-K-ML, the UPC, and the MLC. It was still not the FLC. It
7 was not the case, then.

8 THE INTERPRETER: Mr President, we were not able to follow the list mentioned by the
9 witness.

10 MR MACDONALD: (Interpretation)

11 Q. I agree with you that Jean-Pierre Bemba was in the Ituri in that area of the Congo for
12 about three months in 2001, whereas there was support from Ugandans towards him. So
13 we all know as well - and you might be in a position to confirm that - that Mr Jean-Pierre
14 Molondo Lompondo arrived to serve as the administrator of the Ituri. He arrived in
15 Bunia in person in March 2002 and some documents refer to the month of 2 March 2002.
16 Would you agree with me that it was in March 2002 that Lompondo effectively arrived in
17 Bunia?

18 A. When you say early March, I cannot confirm that to you. All I know is that he
19 arrived during that period from February onwards. Without going too far,
20 Mr Prosecutor, these are two very separate periods. And why am I telling you that? If
21 Jean-Pierre Bemba caused the Ugandans to return in 2002, why would Lompondo return
22 to Ituri and come right up to Gety? It doesn't tally. One cannot say one or two months
23 after Jean-Pierre Bemba, Lompondo arrived. No, I do not remember that.

24 Q. Mr Katanga, Mr Didi in his document confirms that Mr Molondo Lompondo,
25 accompanied by Colonel Peter Karim, did indeed go to the Walendu-Bindi on 4 April 2002

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 and that he was still present there on 5 April 2002. That is what Mr Didi says. He also
2 mentions an important incident, that is burying an administrator of the chiefdom, or
3 chefferie, and he mentions that this took place on 16 February 2002. He also mentions
4 the death threats against Mr Ayoho, A-Y-O-H-O, and Mr Ndodu (phon). This is also
5 another incident that you remember, don't you? Isn't it true that a certain amount of
6 money had to be paid for this person -- these people to be freed?

7 A. Freed by whom?

8 Q. The Ugandans.

9 A. Mr Prosecutor, I'm not aware of that. What I can tell you is that Peter Karim and
10 Jean-Pierre Lompondo did indeed come -- did indeed come during that period. I do not
11 have a specific date, but the month of February corresponds to the arrival of Jean-Pierre
12 Molondo Lompondo in Bunia, Ituri. The arrival of the Ugandans, that is the soldiers
13 presented to us by Jean-Pierre Bemba as pacificators, or peacekeeping soldiers, it was in
14 2001 if you ask that question anywhere you will find that same answer. It is known.

15 Q. In that case, Mr Katanga, then explain to us why Colonel Peter Karim of the UPDF
16 and Mr Lompondo came to the collectivity in April 2002? What did they go to do there?
17 What was the purpose of their trip? Why were they visiting that collectivity?

18 A. You have now touched on the reason, Mr Prosecutor. Mr Peter Karim told the
19 Ngiti population something. This is the message that he gave, "I came to your place to
20 assess the damage caused by the Ugandan army." This was a clear message.

21 Q. Isn't it correct that that damage was a result of an escalation of attacks and deaths
22 amongst the Ngiti civilian population, including the fact that that administrator was
23 buried with Mr Timolo (phon); isn't that correct? This was to calm things down?

24 A. No, Mr Prosecutor. We were defending ourselves, even though this army was
25 heavily equipped. It was because Chief Akobi and his administration was distracted that

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 we found ourselves in that situation. Kasaki warned the chief of the collectivity. He
2 told him that Kakado had sent a message, "If you are close to these Ugandans, there is a
3 risk. You will find yourself in a situation that will make you regret your entire life." So
4 Chief Akobi had to withdraw from Gety. He needed to withdraw from Gety, where the
5 Ugandan soldiers were based. Kasaki wanted the combatants to attack the Ugandans
6 immediately at that time before they could reinforce their positions. That is what
7 happened, Mr Prosecutor.

8 Q. You are not answering my question, Mr Katanga. You are talking about Kasaki
9 and Kakado, but what I'm telling you is that the conflict that you are referring to, the
10 attacks by the Ugandans, the incident at Kazana, all that happened in 2002, right before
11 the fall of Lompondo. I do agree with you that those incidents took place, but this was in
12 2002 and not in 2001, as you claim. It was for that reason that Peter Karim travelled there,
13 because the Ugandans had been shelling you. They had been attacking you.

14 A. That is not correct, Mr Prosecutor, because when the helicopter with Muzora was
15 moving about, what could Peter Karim do in the presence of Muzora? Muzora retreated
16 with the Ugandan arsenal and they didn't manage to arrest him until recently here and
17 they are still together with Uganda. I will tell you, Mr Prosecutor, that what Mr Didi
18 produced concerns only him. You can call him and he will give you the details of what
19 he wrote, but what I'm telling you is something that I can remember. These were
20 significant events that I cannot forget. I would like to leave it at that, but these events
21 took place in 2001. In February 2002, that was the time that Jean-Pierre Molondo
22 Lompondo arrived. I will stop there.

23 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor, we have the feeling that
24 there is a lot of repetition. There are two positions that cannot be reconciled. You are
25 relying on the document that you are using and then there is also the position of

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Mr Katanga. He says that these are significant events that he remembers, but that does
2 not correspond to what is in Angaika's document. I don't think we can continue on this,
3 because these are two positions that we realise cannot be reconciled and the document on
4 which you are relying is a document that Mr Katanga has said he does not recognise.

5 MR MACDONALD: (Interpretation) Very well, your Honour.

6 Q. But before moving on, irrespective of whether it was in 2001 or 2002, isn't it true that
7 at that time the Ugandans were supported by Hema militias? Isn't it correct that the
8 Hema were also involved in the events during that period, whether it was in 2001 or 2002?

9 A. Let me tell you that there was a mutiny in April 2002. That is when we realised
10 that there were Hema militiamen gathering around the UPC. So that mutiny took place
11 in April 2002 and allied themselves with the UPC, and that was when the UPC armed
12 wing was given a name, the FPLC.

13 Q. Everyone knows that that mutiny was in April and at the same period as the Sun
14 City events. There is something that you did not mention. They allied themselves to
15 Thomas Lubanga?

16 A. I said the UPC, and the President of the UPC was Thomas Lubanga. I did not say
17 that the APC mutineers joined Thomas Lubanga. I said they joined the movement, the
18 UPC, because they understood that policy.

19 Q. Isn't it true, Mr Katanga - and this is the last time I am putting that question - that at
20 the time that the mutineers split from the APC, to create the UPC army, there were
21 already Hema militiamen who caused you to suffer in Walendu-Bindi, who caused
22 problems for you there?

23 A. Mr President, if those militia had dared to attack our collectivity at that time, they
24 would have fled. The Ugandans did not even have control in our collectivity. Even if
25 they set houses on fire, they did not go beyond the second neighbourhood. They

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 stopped at the main road. We were defending the area. As for the UPC, no. Maybe
2 they existed? I cannot tell you for sure that at that time I saw the UPC allied with the
3 Ugandans, no. The Ugandans, yes, they caused serious problems for us, serious
4 suffering.

5 Q. When you split from the FRPI in February 2004, I believe Didi was with you in
6 Kampala; isn't that correct? There was also Cobra?

7 A. No, no, no, no. That statement was produced in Fort Portal. There was P12, Allio,
8 Kisembo, Bitamara myself and Pascal Sipa. There were five of us.

9 Q. You travelled with Angaika Didi to Uganda in 2003/2004, end of 2003, early 2004,
10 from August 2003 to February 2004, Mr Didi Angaika was with you in Kampala; isn't that
11 correct?

12 A. We travelled with Angaika only once and that was the last trip. That is when we
13 agreed to leave a representative in Uganda, and this was in February 2004. That is
14 different from 8 February 2004 when I signed a memo announcing the end of the alliance
15 between the FNI and the FRPI. Those were two different missions.

16 Q. And at that time you, when you travelled with Mr Didi to Uganda, you trusted him,
17 you had a trusting relationship with him; is that correct? Was it within the framework of
18 your organisation?

19 A. Mr Prosecutor, what trip are you referring to? We travelled only once with Didi.

20 Q. You are not answering my question, Mr Witness.

21 A. But you also need to be precise on your part. We were with Didi, I was with Pascal,
22 Cobra, Didi, P12. That was it.

23 Q. This is the last time I will ask you that question. Mr Didi was a person that you
24 trusted; isn't that correct?

25 A. Trust? I even trust you, Mr Prosecutor, because you are a respectable person.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 One can trust someone who is respectable, so when you ask me whether I had confidence
2 or trust in someone, I can trust even a child. So within a general context, even before you
3 decide to say I will travel with you, you have to trust the person. You cannot take
4 somebody you don't trust and go to a mission like that.

5 JUDGE DIARRA: (Interpretation) Those lengthy answers disturb me. Do you -- did
6 you trust Didi, yes or no? With all due respect to Mr Katanga, those answers are just
7 lengthy, extensive.

8 PRESIDING JUDGE COTTE: (Interpretation) Mr Katanga, you have listened to what
9 Judge Diarra said. You understood what was meant by that feeling of trust, whether it
10 existed or not, based on the situation, but there was a specific question from the
11 Prosecutor, so please try to answer it directly. Is Angaika someone that you trusted, that
12 is all?

13 THE WITNESS: (Interpretation) Yes, I trusted him.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well. But whatever you explained
15 to us before was also interesting. It gives us more information on certain aspects. So,
16 Mr Prosecutor, you can continue.

17 MR MACDONALD: (Interpretation) Thank you.

18 Q. Let us move on to something else, still talking about your background. Isn't it
19 correct, Mr Katanga, that when Kandro went to Bunia in June/July 2002 there was Cobra
20 Matata, of course, but the true leader, the real leader of the combatants of the resistance
21 was Kandro?

22 A. Mr Prosecutor, Kandro took over that position after Cobra.

23 Q. Isn't it correct, Mr Katanga, that when Kandro went to Bunia in June/July 2002 - and
24 I will add that he went to Ndromo camp with that group of Ngiti combatants - at that time
25 he was the real leader, the true leader of the combatants of Ngiti resistance?

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 A. That is where the conflict started, sir. The conflict between Cobra and Kandro
2 started there. Cobra did not accept the fact that Kandro was better known than him,
3 whereas he knew the field better. That is when the conflict broke out, as from that time.

4 Q. Isn't it true that those Ngiti combatants who followed Kandro to the Ndromo camp
5 in Bunia, that is the APC camp, arrived in mid-June and left in mid-July? I could tell you
6 that they fled with Lompondo on 9 August, but what I'm telling you that they -- is that
7 they were in that camp in Bunia for a very short time, one month or one-and-a-half
8 months.

9 A. I could agree with you in the sense that Kandro returned. Kandro did not stay
10 with Lompondo until his fall, but I partially agree with you. It is possible that some
11 combatants stayed in the Ndromo camp. I did not know what happened in Bunia, so
12 I can tell you that it is also possible that the combatants fled with Lompondo from Bunia
13 to Songolo, but Kandro was already in Songolo.

14 Q. Isn't it correct, Mr Katanga, that the reason that Kandro went to Songolo before the
15 fall of Lompondo that he did not agree with Lompondo? They did not get along because
16 Kandro wanted control -- wanted to control Bunia town because his enemy was the UPC,
17 the famous mutineers?

18 A. It is clear, Mr Prosecutor, if there was no understanding, when Lompondo fled to
19 Songolo Kandro would have attacked him again, and put him back in UPC hands. They
20 had an agreement. It is not for any reason that when Lompondo fled he went to Songolo,
21 it was because they had an understanding. If they had a conflict between them,
22 Lompondo would not have fled to Songolo where Kandro was. So when you say
23 Kandro wanted to control Bunia, he would have controlled Bunia as who? It was
24 Lompondo who was the governor of Ituri.

25 Q. Mr Katanga, a disagreement does not mean that people are enemies. I did not say

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 that Kandro and Lompondo were enemies. On the contrary, but they disagreed on the
2 way of -- on the manner of tackling the problem that the UPC had become, and it was for
3 that reason that Kandro left and set up his base in Songolo.

4 A. You could be right and I wrong, but also I could be right and you wrong. But in
5 Bunia there was the APC, there was the UPDF and then there were the mutineers. But
6 Kandro also came there as a fourth force, that is true, but I cannot give you any details
7 about their disagreement over the control of Bunia because I do not know what was
8 happening in Bunia.

9 Q. Who were those people who went to Ndromo camp with Kandro during that period
10 of one month? Who were the commanders, the combatants who followed Kandro there?
11 Can you give us the names of the most important ones?

12 A. Regarding the commanders of the combatants at that time I can tell you that, apart
13 from Kandro and Cobra and their subordinates, I was in Aveba. That area was quite far
14 away, and the system was for people to come together. The camps had really not been
15 set up yet. I can remember a certain Bifanda (phon) Adjiba Fanda, Abichi, and so on and
16 so forth, but I do not know whether they were in a camp when they left Songolo for Bunia.

17 Q. Do you know of other subordinates who went to Bunia in order to accompany
18 Kandro

19 MR HOOPER: Can we have a spelling, perhaps, for those names, because I don't think
20 we have --

21 PRESIDING JUDGE COTTE: (Interpretation) Very well. Let us spell those names.

22 THE WITNESS: (Interpretation) There is Adjiba, A-D-J-I-B-A, Abichi, A-B-I-C-H-I.

23 PRESIDING JUDGE COTTE: (Interpretation) There is one name left.

24 THE WITNESS: (Interpretation) I thought that was all.

25 PRESIDING JUDGE COTTE: (Interpretation) Very well. Let us move on, then.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 MR MACDONALD: (Interpretation)

2 Q. Mr Katanga, we do agree on one thing: When Kandro and all those combatants
3 went back to Songolo – he was not APC, we are at least on agreement on that.

4 A. When Kandro left Bunia to go to Songolo, it was when his troops were combatants.
5 That is the first thing. The combatants there who were loyal to him, yes. So, when
6 Lompondo fled, was it the combatants who were his bodyguards or were they the APC,
7 Mr Prosecutor.

8 Q. Mr Witness, Mr Katanga, you do agree with me that when Lompondo fled all the
9 APC soldiers also fled. The objective of the APC soldiers who did not hail from Ituri was
10 to go to Beni, or at least to go to the APC strongholds which were much further away,
11 after Nyankunde?

12 A. Mr Prosecutor, that was not a military objective. It was something tribal. There
13 were some soldiers, for example, from Kindu. There fled Bunia and they went to Kindu.
14 There were other members, who were from the Équateur province, and they fled Bunia to
15 the Équateur province. That was very different, but from a military point of view one
16 cannot retreat in that way. You cannot leave Bunia and went directly to their base.
17 There is a danger that the enemy would follow you and attack you at your base, so it is
18 not possible to retreat in that way. It is difficult.

19 Q. Mr Katanga, isn't it true that the people who were part of the APC didn't go and
20 regroup at a meeting place, fleeing with Lompondo? They didn't go to Marabo, in other
21 words? They went and scattered about themselves about in Walendu-Bindi, that the
22 APC Ngiti fled Bunia and spread out throughout the entire collectivity - throughout their
23 entire collectivity - of Walendu-Bindi?

24 A. Mr Prosecutor, for the APC to get to Marabo they -- Commander Hilaire had them
25 set up operations there after the fall of Nyankunde. It was after the fall of Nyankunde,

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 that is when Hilaire arrived in Marabo, but all the soldiers who fled with Lompondo, they
2 all headed towards Songolo. When -- before the attack, before the attack of 31 August,
3 Lompondo had already left with a certain number of soldiers who went along with him,
4 because he was a colonel. That was for his security. Perhaps an entire battalion would
5 have gone with him, I agree, but as for the rest they didn't have -- he didn't have two or
6 three battalions behind him, no.

7 Q. A battalion went with Mr Lompondo to Beni, is that what you're saying? The 11th
8 Battalion, isn't it so?

9 A. No, the 11th Battalion was based on the Komanda-Beni road. They were there
10 always, permanently, he is mistaken and I think that -- you see, when Lompondo was
11 driven out, he too might abandon Komanda and go to Ido (phon), or Tomabere (phon), in
12 that direction. That doesn't mean that when Lompondo fell the APC remained in
13 Komanda, no. They all withdrew.

14 Q. And the 12th Battalion by the lake, Major Faustin, Lompondo took the road to Beni
15 with one battalion, after stopping at Songolo, but, Mr Katanga, isn't it true that when
16 Lompondo left and took the road, he went around Nyankunde at that time; isn't that so?
17 He couldn't go by way of Nyankunde. He had to go to Songolo in order to get to the
18 road to Komanda, the APC that remained behind were all Ngiti people from the
19 collectivity who went back to their strongholds, to their houses; isn't that so?

20 A. Well, when I gave the name of "Mbale," is that an Ngiti name? Typically Mbale, it
21 is an Ngiti name. Kampale, that's a Nande name.

22 Q. Is that your answer?

23 A. I'm giving you a practical answer, because you said that only Ngiti people remained
24 behind. No, there were many, many other tribes. Many other tribes remained behind.
25 Prosecutor, what I'm going -- I'll give you other examples. The fact that at one particular

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 time there were many Lendu people who were recruited and were sent to Nyakele to be
2 trained during the Wamba dia Wamba period, and that is when we saw that the number
3 in the APC of Ngiti-Lendu, Iturians, that number was large. So if, for example, there was
4 people like Move, people like Bebi, Garimbaya, remaining in the collectivity, that was
5 their choice. That was their choice. It was a strategic thing as well.

6 Q. Mr Katanga, you agree that Faustin's goal was to reach Beni. He took the lake and
7 his objective was to go towards Beni, perhaps to stop in Komanda,

8 THE INTERPRETER: Inaudible. Inaudible.

9 MR MACDONALD: (Interpretation)

10 Q. His objective was to leave, leave the lake any way possible, any imaginable way,
11 because he was surrounded. Go by way of Zumbe, he too went to Songolo, he was able
12 to get round Nyankunde, he certainly fought in Nyankunde, but his objective was to leave,
13 wasn't it?

14 A. Prosecutor, when you look at the political aspect of this event, when the -- when you
15 look at the overall position, you see that it's very -- it was very, very difficult to agree to
16 that. That the RCD-K/ML might lose Ituri, that was difficult from a political and strategic
17 point of view, and also from a financial point of view it was difficult. If, for example, by
18 leaving Ituri, North Kivu -- well, it wasn't the RCD-K/ML that controlled the whole of
19 North Kivu. The RCD-Goma also had a large part of North-Kivu. So, that there had to be
20 from Butembo to Eringeti. If, for example, they said that the RCD-K/ML all went back to
21 their base, that meant that all the APC, the RCD-K/ML, would have to remain in a
22 distance of 50 or 60 kilometres. It would be very difficult for a party of the rebellion that
23 wanted to show up for the splitting up of the pie, so to speak. Let's put it that way.
24 People wanted to have positions within the transitional government. From a political
25 point of view it was difficult to leave because, you see, because of the revenue, the gold

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 mines, customs revenue, all of that meant that the RCD-K/ML had an interest in going
2 into Bunia. And above all Mr Prosecutor, space. So how could you talk in front of rebel
3 groups that had square kilometres and kilometres of space when you only had 50
4 kilometres from the north, to the south, from the east, to the west? You have 20 kilometres,
5 it's difficult.

6 Q. Mr Katanga, I'd like to go back to one of your earlier replies, but before I do that I'll
7 ask you once again: It is correct that Yuda is an Ngiti person?

8 A. Yes, quite so, from Kagaba.

9 Q. Move is Ngiti?

10 THE INTERPRETER: Overlapping speakers.

11 PRESIDING JUDGE COTTE: (Interpretation) Go ahead, but remember the five-second
12 rules, even if we understand you do wish to speak quickly.

13 THE WITNESS: (Interpretation) He is Ngiti, your Honour.

14 MR MACDONALD: (Interpretation)

15 Q. Well, you confirm that Yuda is Ngiti and Move is Ngiti?

16 A. Yes.

17 Q. You confirmed that Mr Garimbaya is Ngiti?

18 A. Yes.

19 Q. You confirm that Mr Alpha Bebi is Ngiti?

20 A. Yes.

21 Q. You also confirm that Mr Mbadu is Ngiti?

22 A. Ngiti.

23 Q. You confirm that Mr Kisoro is Ngiti?

24 A. Yes.

25 Q. You confirm, once again, that Mr Cobra Matata is Ngiti?

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 A. Even Mr Germain Katanga, because I see where you're heading.

2 Q. Tell me, have you ever been part of the APC?

3 A. Me? No.

4 THE INTERPRETER: Overlapping speakers.

5 MR MACDONALD: (Interpretation)

6 Q. Mr Katanga, isn't it true that the APC was absolutely nothing in August and
7 September 2002 after the fall of Lompondo, that they needed help from combatants to
8 withdraw for their safe conduct, so that they could run off, head off?

9 A. The APC was fleeing. Let me now give you --

10 Q. That's fine. You said, "Yes."

11 A. No, no, no, I'll explain this to you. Prosecutor, if you were to conduct your
12 investigation by telephone now, if you were to call people in Ituri and ask, "After the fall
13 of Lompondo, after he fled, what happened to the Hema who were in Beni?", many of
14 the Hema people who had positions in Beni, your Honours, were arrested in Beni. They
15 were arrested in Beni, many of them. The contrary happened in Bunia. On the other
16 hand, the UPC was arrested -- correction, stopped the aeroplane of Satra Kar (phon).
17 I don't know whether the name -- what the name of that company was. I may have
18 forgotten the name, but if it comes back to me I will give you that name; the name of that
19 plane. The UPC blocked his plane in Bunia at the Bunia airport, and what
20 facilitated -- the boss of that company went to argue and to beg Mbusa Nyamwisi to free
21 the Hema who were in Beni so that his aircraft could come back. That was part of the
22 conflict, the conflict to say that the APC had nothing? Why the RCD-K/ML, his army
23 was the APC, why -- why did they take the initiative to arrest those people? It was
24 revenge.

25 Prosecutor, you gave the names of all the combatants, saying they are Ngiti people, Ngiti,

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Ngiti, Ngiti. Who recruited those Ngiti people? The RCD-K/ML, who trained them.
2 The RCD-K/ML. So you see, your Honour, that's the way it was. I just want to give
3 you --

4 Q. Mr Katanga, Mr Katanga, all these people they were deserters; isn't that so? They
5 had deserted the APC. Explain to us once again, Mr Katanga, why Faustin was taken in
6 for questioning in Beni, because I can quote you, but I'd like to see how you reply this
7 time. Explain to the Chamber why Mr Faustin was questioned in Beni?

8 A. It was because of the massacres, just because of the massacres, the same thing with
9 Commander Papy. It's not a fact to say that it was just Nyankunde, the APC was doing
10 that. Papy was in the mining area there. So that happened too. They were similar
11 cases.

12 Q. Mr Katanga, isn't it true that Faustin was questioned perhaps he should have been
13 questioned because of what had happened in Nyankunde. But he was not taken in for
14 questioning for that. He was arrested because there had been all these desertions,
15 including perhaps people from the UPC, the mutinies, and also all these Ngiti deserters,
16 and I refer the Chamber to EVD-OTP-00206, page 20287, and this exhibit is found under
17 tab 49. If you don't mind, just one moment, I can even quote from it, paragraph 61.
18 And to be perfectly frank -- and this is found in other documents that have been disclosed,
19 that are -- or known or public source documents, among other documents. "Ituri covered
20 in blood," and I will read out to you the following: Unfortunately, this is the English
21 version.

22 (Speaks English) "To date, none of those alleged to be responsible for the mass killings in
23 the collectivity of Andisoma in December 2002 have been brought to justice. After
24 September 2002, APC Commander Faustin was reportedly arrested in Beni and detained
25 by APC for letting his troops desert. He was subsequently released and he is reportedly

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 still a member of APC. The Ngiti --"

2 MR HOOPER: Yes, well, that, it's the report "reportedly," it's the word "reportedly" that
3 has particular significance in the UN document.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Thank you, Mr Hooper, for
5 stressing that point. We did take note of that. Judges always notice when the
6 conditional tense is use. Please continue.

7 MR MACDONALD: (Interpretation)

8 Q. Then other sources regarding this information, my learned friend Mr Hooper is well
9 aware of them. I will continue reading out. I will read out the entire paragraph, just to
10 be fair:

11 (Speaks English) "Colonel Kandro was allegedly killed during the sharing of the loot that
12 followed the attack on Nyankunde. However, other commanders, such as Commander
13 Matata, are reportedly still leading Ngiti militia in Irumu."

14 (Interpretation) So, Mr Katanga, I put it to you that the reason for which Faustin was
15 arrested was that there had been deserters, and these deserters, these Ngiti fighters who
16 had joined your collectivity, who rejoined your movement, as was reported by other
17 witnesses who gave testimony here before this Chamber, who were present at the time of
18 the events, and that you now, you are making up this story about the APC being present
19 in Walendu-Bindi?

20 A. Well, very well, Prosecutor, I will reply: The person who could arrest him because
21 of the desertions was Lompondo because the soldiers, the mutiny occurred in Bunia; it
22 didn't happen in Kasenyi to arrest Faustin, your Honour. The mutiny was in the town of
23 Bunia. If, if it had started directly under the responsibility of Lompondo, if there were
24 mutineers, people who had fled, who had deserted, why would you just arrest Faustin?
25 There were a good number of soldiers who created that mutiny in Bunia. Lompondo

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 was there, he was responsible. All the same, Lompondo was also questioned, who was
2 in Bunia. You can't just go and see the commanders of battalions who were in a very
3 difficult situation and impose that situation on them, no. No, Prosecutor, I don't agree
4 with you.

5 Q. Mr Katanga, if we take this line of argument very far, but you have to justify that at
6 a certain time he joined your group. and this intellectual gymnastics that you want the
7 Chamber to accept, you have given us that in transcript 319, page 12, as of line 16, and I
8 will read out this testimony to you: "At that particular time, you see, Mr Katanga, my
9 learned friend was asking a question of you, page 12, transcript 319, no, line, line 16.

10 Transcript 319, page 12, line 16.

11 I will start at line 5, and I'm sorry to be so lengthy but this is a central point, an important
12 point that the Defence raised and the Defence that Mr Katanga offered in his testimony.

13 Line 5. Question from Mr Hooper: "After the UPC was driven out from Bunia in March,
14 what were the dealings or the relationship between the government based in Kinshasa,
15 the central government, and the RCD-K/ML of Mbusa Nyamwisi" And your answer,
16 line 8: "In any event, this relationship grew stronger because the whole zone that the
17 FAC used was the territory controlled by the RCD-K/ML. The alliance was strengthened.
18 And what's more, what I can tell you is that during that period, May and June, already the
19 APC troops were being integrated into the National Army. So already they had been
20 integrated and so the president of the republic, Mr Joseph Kabila, you see, he had signed
21 an order calling upon senior army officers, the army of Mbusa Nyamwisi at the time, so
22 that meant that the relationship had moved things along on the side of the RCD-K/ML
23 And now the part that is of interest to us, the persons not of that origin... that is to say the
24 persons of that origin."

25 "With regard to the non-APC combatants such as yourself, or the others, let me start again.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 "With regard to the non-APC, combatants such as yourself, and the others... or the others,
2 people like that, during that period, March to May, March, April, May, were measures
3 taken to integrate you; yes or no?"

4 Now, before I read out the answer, let's be clear; we're talking about 2003. "I would say
5 us, the combatants, we were paid by -- we were paid peanuts. Why were we paid
6 peanuts? If -- if we look back, those APC soldiers who were with us in the collectivity, in
7 the Lendu areas, were abandoned. They hadn't even been integrated; they were just left
8 like that. Their names did not appear amongst the soldiers on the list of the RCD-K/ML,
9 the list that was given to the government in Kinshasa. That is why all those APC soldiers
10 amongst the combatants said to themselves: Okay, since we have been rejected by our
11 military hierarchy we will go our -- along our own path and now soldiers are being
12 integrated, local combatants, and so there was this mixing of the APC and the combatants.
13 So it was the fact that the government, the RCD-K/ML government, hadn't rewarded
14 them." And I'll stop at this point.

15 The next part -- now, Mr Katanga, now I'm coming to my question: It wasn't the APC
16 that abandoned them, it was them, they abandoned the APC. They were the ones who
17 deserted, who deserted the APC and joined your movement. That is why they weren't
18 included into the FAC. Do you understand my question? Do you understand the logic,
19 the reverse logic supported by the documents?

20 A. Well, that's your logic, your line of argument. That's different from my
21 defence because I was in the field. I was in the field. When asking your question in the
22 lead-up, you said that I was playing an intellectual game with the Chamber, and I
23 apologise because, you see, my schooling is much lower than anyone else here. I say that
24 myself.

25 Secondly, when you say that it was the combatants who -- who abandoned the APC, that

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 they abandoned the APC, Prosecutor, they weren't going to obey orders coming from Beni.
2 I'm just telling you simply. If there had not been dealings, if there had not been that
3 relationship, are you sure that people like captains, Bipe, for example, Blaise Koka,
4 Captain Mutombo, would have -- let me clear things up for the Chamber.
5 Those commanders came from Beni. They couldn't just come from Beni like that and
6 move about amongst the combatants knowing nothing. They knew what they were
7 doing, what they were going to do. They knew who they were dealing with. They just
8 didn't arrive like that. You were informed that someone like Captain Blaise Koka,
9 Mutombo, Bipe was in Aveba. I do hope so.
10 So I do not agree that the Ngiti abandoned the APC. That was -- that was -- it was a
11 matter of strategy, strategy. There was no way for the APC to move ahead on the road,
12 and the situation - the situation defined by Lompondo - it was revolting to the Ngiti, or
13 the Lendu, who were within the APC.
14 So absolutely they had to take a position because, you see, your Honour, you will perhaps
15 be informed by a third person that the ideology that was advanced to our community was
16 an ideology that no one - no one - can challenge. When you say, "Mr Katanga, your plot
17 of land, someone is going to come and take it," well, your Honour, even -- even if I have
18 no strength I'm going to do all I can.
19 So this ideology of saying, "No," the UPC with the ideology of creating a Hema Tutsi
20 empire, that was terrible because when you talk about Hema Tutsi, you remember what
21 happened in Rwanda? So driving us off our own land area so that the Hema could
22 expand their area of influence from Rwanda all the way to Ituri, no, we couldn't go along
23 with that.
24 So that is why things occurred the way they did. It's not a matter of just saying when we
25 drove out Lompondo from Bunia that Lompondo -- the RCD-K/ML couldn't go to Bunia,

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 no. From a military point of view, from a political point of view, that wasn't possible.

2 Q. Mr Katanga, we agree with you that Bipe, Mike 4, Mutombo and Blaise Koka all

3 went to Aveba. That we don't challenge and we agree with you on that.

4 Yesterday you may remember that you talked about Alpha Bebi and Move in relation to

5 the 3/ 3//2003. You see, you are the only one who has testified on that date, being as an

6 outstanding date. Move and Alpha Bebi went around and about, because they were a

7 part of your movement. They did not belong to the APC. Blaise Koka was not there,

8 Butembo was not there, Mike 4 was not there. No one.

9 A. They were in Aveba.

10 MR HOOPER: I'm sorry, did you say -- I'm sorry, did you say "November" as it's come

11 out on the transcript, or are we talking about March?

12 MR MACDONALD: (Interpretation) 3/3/2003.

13 MR HOOPER: I'm sorry, it's difficult for you.

14 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed, it's 3 March 2003, but

15 Mr Prosecutor what matters is that you should put a question to Mr Katanga so that he

16 can answer you and we are waiting for your question.

17 MR MACDONALD: (Interpretation)

18 Q. Isn't it correct that Blaise Koka was not there, Mutombo was not there, no one from

19 the APC was there? According to you, Alpha, Bebi and Move?

20 A. Mr Prosecutor, let me say the following: (1) Blaise Koka, Mutombo and Bipe, are

21 you sure that those two captains could have come to command the deserters? That is the

22 first question. It is very difficult for an officer to come to give orders to any deserters.

23 Their presence in Aveba, who would they have come to Aveba to command? Would it

24 have been deserters who are already identified soldiers?

25 Now, secondly, Mr Prosecutor, what we call in our place gris-gris, I used to carry the

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 gris-gris with me as did Move and Alpha Bebi as well. They saw that it was the only
2 way of protecting themselves on the battle-front, so anybody can interpret things in the
3 way that fits them. In the lower Congo, (inaudible) they have some soldiers there, they
4 also follow their rituals. (inaudible) Maybe you have read on the internet that there is a
5 phenomenon there which people believe in? It is a practice that we have in our own area
6 as well. We believe in them. We believe in these gris-gris, or talismans, if you may
7 want -- if you may say or use that word, so everybody wanted to have a piece of gris-gris
8 for themselves. So, if you see that Bebi took advantage of this situation... having the
9 gris-gris, it is as if you have a raffle, or tombola system, where anybody can play and take
10 part, and if he wins, he wins.

11 So Bebe and Move went there under those circumstances to see whether there were any
12 new gris-gris that they could also take for themselves, since they were native to that area.

13 Q. Very well. Let us backtrack and talk about the professional army. Isn't it correct
14 that Mr Bahati of Zombe participated in the Nyankunde attack, Mr Katanga?

15 A. Yes, he brought Commander Faustin and was in Nyankunde.

16 Q. So he participated in the Nyankunde attack?

17 A. Since he came with Commander Faustin, entry into Nyankunde was already part of
18 the attack and therefore he participated.

19 Q. Faustin was weak at that time. He had no troops, for all intents and purposes.
20 Maybe 50 or 80 combatants. How many would you put them at?

21 A. No, Mr Prosecutor. Faustin had at least 300 people, 300 men.

22 Q. Kandro, how many men did he have in Songolo?

23 A. Kandro in Songolo had more or less more than a hundred men. What I can tell you
24 is that the combatants who went to Kandro were not only those of Kandro in Songolo.

25 They came from different areas.

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Q. Under Kandro, and apart from Songolo and those who were with him, how many
2 people did you have?

3 A. More than a hundred. More than a hundred combatants who were loyal to Kandro.
4 On the other side, Cobra had his own men, more than 60 of them, and that is why I put
5 the figures at the levels I did.

6 Q. Did Cobra participate in the attack on Nyankunde?

7 A. What I can say is that it is from that situation that I had a bad memory of Cobra.
8 Yeah, I'll get to what you're seeking, because you have mentioned something that has
9 brought a specific incident to mind, my mind. Nono was the commander from Aveba
10 who went to Nyankunde and fought in Nyankunde. When Nono died in Nyankunde,
11 no one in Aveba knew that Nono had died. Cobra then left Nyankunde to come and
12 massacre -- I'm sorry, to come and massacre people in Aveba, saying that it was or
13 claiming that it was the people of Aveba who had bewitched Nono and that is why Nono
14 died. It is from that time on that I had a very bad memory of Cobra. I say this before
15 answering the question and saying that Cobra came from the attack in Nyankunde on the
16 same day to kill people in Aveba.

17 Q. Cobra, the same Cobra with whom you travelled in Uganda? Cobra Matata? Is it
18 the same Cobra?

19 A. Yes, the same Cobra Matata Banaloki.

20 Q. Mr Katanga, what you're telling the Court is that at the time of the Nyankunde
21 attack Faustin had 300 men with him, Kandro had a hundred and that this group of 400 is
22 the group that attacked Nyankunde. Is that your testimony, because we could revisit
23 what you have stated previously?

24 A. Mr Prosecutor, apart from those men of Cobra and Faustin, there were other
25 combatants of the APC, including Move, Garimbaya and others, many of them, so what

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 I can mention is that there were more than 300 persons with Faustin when he came from
2 Zumbe to Songolo. I am not saying that the entire number of men of APC persons in the
3 collectivity was this. No, I didn't provide any number. Maybe I misspoke, but if I did
4 I'm sorry. What numbers I have provided is in relation to the number of people Faustin
5 had with him when he left Zumbe for Songolo, and once again my figures can only be an
6 approximation because I didn't proceed to a head count.

7 Q. How many men, APC -- forget about Faustin. Let's take 300 out. The rest, how
8 many people in total approximately? Kandro, the other APCs, altogether how many
9 people would that have made?

10 A. Mr Prosecutor, there was no assembly of persons at which numbers could be
11 determined. There were combatants. This person could have had ten or 15 combatants
12 loyal to him and they would move, ten, 15 and what have you, so the number varied
13 according to the confidence and the levels of trust that the soldiers had in those leading
14 them. So I am not in a position at all. In fact, it is difficult for me to give you a figure.

15 Q. How many of them were armed?

16 A. I would say almost all the APC combatants were bearing arms, almost all of them.
17 Almost all of them had weapons; the AK-47 to be specific.

18 Q. How many men did you arrive with?

19 A. I did not go to Nyankunde.

20 Q. Where were you?

21 A. I was in Nyaribi.

22 Q. Selling hides and skins of elephants and okapi?

23 A. That is my business. Even if I were to go back, I would be able to make money
24 doing that business quite quickly.

25 Q. Mr Katanga, you agree with me that the Songolo attack took place on 31 August, the

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 biggest massacre of Ngitis in the Walendu-Bindi collectivity? Do you agree with me?

2 A. Well, as you have noted, it may have been proper to investigate and bring those
3 responsible before the courts. We were massacred, we were killed, people were killed,
4 and this has gone unpunished. It is really unfortunate, Mr President, that an entire
5 population, an entire people like that, could be massacred and the international
6 community would not even conduct an investigation into it. I'm really -- I feel very bad
7 about it.

8 Q. Your brothers and sisters and fathers and mothers were massacred; is that not the
9 case?

10 A. They had the power and the massacred them. What was I going to do? What
11 could I have done? We were massacred, our houses were torched, our cattle was looted
12 and I accept that. Look at the distance involved. Yes, it is a very difficult situation, but
13 the massacres took place.

14 Q. Mr Katanga, you are a combatant. At that time you were a combatant. In
15 addition to being a poacher, you were a combatant. Do you remember what you said
16 about Kazana? If you hear sound or noise in our family, the first thing we do is we go
17 out to help our friends. Is that what you did, is that what you did on that day? Well,
18 but you remained in Nyabiri to sell elephant tusks and what have you.

19 A. It would have been better to put that question to me that way, and my direct answer
20 to you would have been "I was in Nyabiri." You know, in our area, you don't engage in
21 war as the classical warfare would be carried out, because in our place you go through a
22 test and if you're told you can't go then that's it; otherwise, if you go, you'll die.

23 Q. Are we to understand, then, from your answer that Kasiki stopped you from going
24 to the Nyankunde attack, some kind of prohibition by Kasiki, is that what you're telling
25 us?

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 A. Mr Prosecutor, you have talked about the Songolo massacres on 31 August. Now
2 you are moving on to Nyankunde. Why don't we finish off with one aspect first? You
3 have talked about people being massacred, and you have said that, as a combatant, if I
4 heard any explosions I was supposed to react; and I have told you that I was in Nyabiri
5 and I was not in a position to react at that time simply in relation to a matter concerning
6 our community.

7 Q. What is it that stopped you from going to help your brothers? Everyone was going
8 to Nyankunde. The entire Walendu-Bindi was going to fight in Nyankunde and you
9 remained in Nyabiri? What was the reason?

10 A. Mr Prosecutor, do not think that the entire community went to Nyankunde. There
11 are at least one reason: 180,000 persons in the collectivity. If all of them had gone to
12 Nyankunde, what would have happened in Nyankunde? All I can tell you is that we are
13 talking here -- are we talking about Songolo here or about Nyankunde? Let us
14 distinguish the two issues.

15 Now, the first one is Songolo. On the Songolo attack I have told you that I did not go
16 because the situation simply within my community, or the professional secrets within my
17 community, did not allow me to go.

18 Secondly, even if I went to Songolo I could have gone there on foot, Mr President, and by
19 that time the attack would have been over because there is -- it is quite some distance
20 away from where I was.

21 Q. Mr Katanga, I want to interrupt you. I'm talking about Nyankunde, and you know
22 very well that I'm talking -- and you know very well that I'm talking about Nyankunde,
23 and I put it to you that you are aware that all combatants were going to Nyankunde but
24 you remained in Nyabiri.

25 Question: Why did you say in Nyabiri? What stopped you from going to Nyankunde?

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 That is my question, Mr Katanga. Your security in the Walendu-Bindi is at stake because
2 of Songolo, and then there is the attack in Nyankunde on the 5th. Why do you remain in
3 Nyabiri, Mr Katanga?

4 A. Mr Prosecutor, I'm sorry, in my mind I was dealing with the Songolo issue. That is
5 over now and we have moved to Nyankunde.

6 PRESIDING JUDGE COTTE: (Interpretation) Yes, we are dealing with Nyankunde now.

7 THE WITNESS: (Interpretation) Nyankunde was an initiative taken by Faustin and
8 Kandro. Going to Nyankunde did not mean that I did not protect my community. My
9 community was not in Nyankunde, my community was in Songolo. And, yes, you are
10 right they were massacred. What was the significance for me to go to Nyankunde?
11 Nyankunde was not my area. We are the defenders, we are the defenders,
12 Mr Prosecutor.

13 MR MACDONALD: (Interpretation)

14 Q. Is that your answer?

15 A. Yes.

16 Q. Then Nyankunde was not in Walendu-Bindi at that time, is that your answer?

17 A. Mr Prosecutor, Nyankunde is in the Andisoma collectivity chiefdom.

18 PRESIDING JUDGE COTTE: (Interpretation) Mr Katanga, please take your time and
19 speak slowly, and try to clarify matters for us so that we can understand your answers,
20 particularly in respect of the fact that you did not go to Nyankunde. You started
21 answering, but please take your time and rearrange your thoughts properly and explain
22 to us, because we still have some time and we can still listen to you.

23 THE WITNESS: (Interpretation) Yes, Mr President, Nyankunde is not a Ngiti village, it is
24 in another collectivity known as Andisoma. True, soldiers left Nyankunde to attack
25 Songolo, but the initiative or the idea to attack Nyankunde was one from Kandro and

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 Commander Faustin. I did not go to Nyankunde simply for the reason that there was
2 misinformation or disinformation. Information was not properly channelled, that is on
3 the one hand.
4 Secondly, my situation did not allow me to go there. I had a double-pronged situation.
5 What do I mean by that? I mean that I kept on doing my business. And, secondly, any
6 matters relating to Kandro were such that we had reservations obeying him.
7 You see, we suffered in Aveba and, when we were suffering, Kandro's group did not
8 come to help us. So there was a situation whereby if we understood that if you run into
9 any problems you would defend yourselves or by yourselves. I don't -- that is it,
10 Mr President, as simply as that. I don't know if I've been understood, I've been clearly
11 understood, otherwise I wait -- I wait guidance from you.

12 MR MACDONALD: (Interpretation)

13 Q. This might be my last question for the day, and we would have to move to another
14 area of questioning, but I would rather do so tomorrow with your leave, Mr President.
15 Now my last question: Mr Katanga, you told us that when Lompondo fell the UPC
16 replaced the UPDF in Nyankunde, and you confirm - as you said yesterday clearly - and
17 you used the expression "thousands of people died in Songolo," so you can confirm that
18 the UPC was in Nyankunde and killed 800 or 700 people, according to some reports, and
19 that the security of your collectivity was under threat by the presence of the UPC in
20 Nyankunde. This is clear.

21 You are a combatant who -- made his mark on history in Kasana and yet you failed to go
22 to Nyankunde to help your brothers. Is that your testimony, Mr Katanga?

23 A. Mr Prosecutor, we went to Kazana because it was within, within, truly within
24 our community or collectivity. Then when we saw the advance of the UPDF we had
25 to intervene. That is (1). (2) Kandro and Cobra had many weapons. When our

Trial Hearing

(Open Session)

ICC-01/04-01/07

Witness: DRC-D02-P-0300

1 villages in Aveba were torched, they did not come to help us. So we also took the
2 position that Songolo was their business.

3 So let me explain to you very simply: We had problems among ourselves and, although
4 it is said that we were all combatants and that we were all helping our communities, you
5 may want to know that there were internal problems between us which may not have
6 been understood by those looking in from outside.

7 You know, dirty linen has to be washed within the family, so we settled our problems
8 among ourselves.

9 MR MACDONALD: (Interpretation) Could we stop here, Mr President, and continue
10 tomorrow morning? And I may need the whole day tomorrow, but I'll try as much as
11 possible to complete my cross-examination tomorrow although sometimes it might take a
12 much longer time. But it is true that I will not need as many hours as Mr Hooper used.

13 PRESIDING JUDGE COTTE: (Interpretation) Mr Court Usher, please take Mr Katanga
14 back to his seat. Mr Katanga, we will resume tomorrow morning at 9 a.m. to continue
15 and hopefully end this cross-examination exercise.

16 Proceedings are adjourned.

17 THE COURT USHER: All rise.

18 (The hearing ends in open session at 1.26 p.m.)

19 CORRECTIONS REPORT

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

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