

1 International Criminal Court

2 Trial Chamber I

3 Situation in the Democratic Republic of Congo - ICC-01/04-01/06

4 Case against Thomas Lubanga Dyilo

5 Hearing - Open Session

6 Wednesday, 8 July 2009

7 The hearing starts at 9.01 a.m.

8 COURT USHER: All rise. International Criminal Court is now in
9 session. Please be seated.

10 PRESIDING JUDGE FULFORD: Good morning. Ms. Solano, do you have
11 any amendments to make as regards your time estimate?

12 MS. SOLANO: Not -- no, your Honour, perhaps only to convey to
13 your Honours that we have been informed by the United Nations that should
14 it become necessary and should the Chamber deem it appropriate, the
15 representative is available on Monday as well. And furthermore, your
16 Honours, just to remind you that the Defence and the Prosecution had
17 jointly come to the view that only two -- that two afternoon sessions
18 would be sufficient to finalise the evidence of Witness 116.

19 PRESIDING JUDGE FULFORD: Well, we will share your optimism then,
20 Ms. Solano. Thank you very much.

21 Witness, please.

22 (The witness takes the stand)

23 WITNESS: WITNESS DRC-OTP-WWW-0046 (Resumed)

24 (Witness answered through interpreter)

25 PRESIDING JUDGE FULFORD: Good morning.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Procedural Matters

Page 2

1 THE WITNESS (interpretation): Good morning.

2 PRESIDING JUDGE FULFORD: We've received a request overnight that
3 as part of a possible memory-refreshing exercise you may wish to look at
4 documents that are on your laptop in addition to those which have been
5 copied which you've brought into court. The difficulty which we
6 anticipate that may arise if you start looking at your laptop so as to
7 refresh your memory is that in principle, the Defence and the
8 representatives of the victims would be entitled to look at your laptop
9 at the documents that you have refreshed your memory from, and we
10 anticipate that you would not be enthusiastic at the prospect of the
11 Defence, even in your presence, being given access to your own personal
12 computer.

13 It follows, therefore, that if there are documents in addition to
14 those that you've brought into court today that you need to look at in
15 order to refresh your memory, we'll have to adjourn so that those
16 documents can be found on your computer, downloaded, and copied.

17 I hope that's clear.

18 THE WITNESS (interpretation): Absolutely.

19 PRESIDING JUDGE FULFORD: Yes, Ms. Solano.

20 MS. SOLANO: Thank you, your Honours. Good morning.

21 Questioned by Ms. Solano: (Continued)

22 Q. My last question yesterday before the hearing finished was about
23 the proportion of the 167 children who were under 15 and served with the
24 UPC that had been recruited or used between mid-2002 and mid-2003. Have
25 you had an opportunity to recall that information?

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 3

1 A. Among the 167 cases, 167 interviews I had with the children, 71
2 of the children were under 15 when they were recruited. Of the 71, 33 of
3 them clearly stated that they had participated in combat before they
4 reached the age of 15. In some of these interviews, it wasn't quite
5 clear what the age of the children was at the time that they claimed that
6 they participated in the fighting, so I didn't include them in the figure
7 of 33.

8 Q. My question also meant to elicit an answer from you as to the
9 time period in which these 71 children were, in fact, part of the UPC.
10 Are you able to assist us with that information?

11 A. I didn't follow that question about the period. Most of them
12 participated in combat before the end of 2003, but I'd have to go back to
13 my notes to really provide you with the information that you require.

14 MS. SOLANO: Your Honour, as this is an important point, might
15 the witness be allowed to retrieve this information during the break?

16 PRESIDING JUDGE FULFORD: Yes, if that's convenient for your
17 questioning, Ms. Solano.

18 MS. SOLANO: It is, your Honour. Thank you.

19 THE WITNESS (interpretation): I apologise. Could you please
20 repeat the period that you were referring to?

21 MS. SOLANO:

22 Q. Mid-2002 to mid-2003. Yesterday I asked you about the child who
23 had returned from Uganda in 2001 and who was monitored by the NGO SOS
24 Grand Lacs. You said that he had been remobilised by the UPC and that
25 you spoke to him in 2003. Were you able to find your notes on your

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 4

1 interview with that child?

2 A. Yes, I was. The interview took place on the 21st of October,
3 2003. The child was 14 at the -- at the time. The child is a boy, and
4 he said that he had joined the UPC after the fighting in March 2003 in
5 Bogoro.

6 Q. Thank you. I would like to show you a document which bears --
7 which is under tab 5 of the binders and which bears ERN
8 DRC-OTP-0152-0244. This document already has an EVD and it is
9 EVD-OTP-00256. And this is a MONUC child protection weekly report for
10 the week of June 15, 2003, which we already saw yesterday.

11 Can I ask you to please turn to the third page.

12 MS. SOLANO: And if the Court Officer could please broadcast the
13 third page. The ERN finishes in the number 0246.

14 Q. And, Ms. Peduto, could I direct you, please, to the sub-heading
15 near the top of the page where it says: "Recruitment and Use of Child
16 Soldiers." Can you please read the five or six lines that are -- appear
17 immediately underneath that heading. And please let me know once you're
18 done.

19 A. I've read it.

20 Q. Can you confirm whether the interview with the child demobilised
21 by SOS Grand Lacs referred to in that paragraph is the same interview you
22 have just told us about?

23 A. No. That's not at all the case. This is another child.

24 Q. So --

25 A. I'm sorry. Perhaps I could point out that during this period,

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 5

1 May to June, I met a number of children, and the interview notes for
2 those children weren't put down on one document, so it's not surprising
3 that there was another child.

4 Q. So is this in fact a second child from the group of children
5 demobilised by -- or with the assistance of SOS Grand Lacs that you
6 interviewed?

7 A. Yes, that's right.

8 Q. Can you confirm that -- that it was the child referred to in this
9 weekly report who informed you that 30 young persons, including minors,
10 would have joined the UPC training camp in Rwampara?

11 A. Yes, that's right.

12 Q. Did this child tell you the age range of the persons who would
13 have joined the UPC at Rwampara camp?

14 A. No, I can't remember that. He mentioned young people, young
15 adults, I assume, and in my report I said that it included minors, but I
16 can't remember whether the child mentioned the age of those who were
17 recruited there.

18 Q. Yesterday I asked you about how you, yourself, cross-checked the
19 information provided to you by children, and you said that you used the
20 chronologies available to you to ascertain the veracity of certain dates
21 indicated by the children. With respect to the age, you said that if you
22 had reason to doubt the information given to you by the children, you
23 would refer the matter to the NGOs who were doing the follow-up and that
24 the NGOs would come back to you.

25 My question is: Did your NGO partners in fact come back to you

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 6

1 with age assessments for these children who were -- that were different
2 to the ages the children had indicated to you?

3 A. Yes, that did happen on a number of occasions, in particular with
4 regard to children who had given ages that seemed too high for me, and
5 partners got back to us and said that in fact these children were
6 younger. There were also some young people who had been taken by the
7 multinational force or by some of the Ituri battalion, and we went to
8 check their age together with our protection partners, and we would then
9 see some of these individuals who were thought to be over the age of 18.
10 This happened -- well, I think it was in September, August,
11 September 2003, when some of the UPC leaders were arrested in a residence
12 in Bunia, and there were some young people and children who were
13 arrested, and some told the multinational force that they were children,
14 whereas after having conducted interviews with protection partners of
15 ours we realised that they were older.

16 Q. Since you've referred to this, I want to ask you a question. You
17 said that -- you said at the Confirmation Hearing that during the summer
18 of 2003 a raid was carried out on one of the UPC's buildings and that you
19 spent a long time trying to retrieve a 14-year-old child from that
20 building. You said that the raid had been carried out by the brigade.

21 Do you recall that incident which you referred to at the
22 Confirmation Hearing?

23 A. Not really. Would it be possible to see the document?

24 MS. SOLANO: Your Honour, with your leave, I could direct the
25 witness to the relevant portion of the transcript.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 7

1 PRESIDING JUDGE FULFORD: Yes, certainly.

2 MS. SOLANO: It is transcript 39, and the page number is 63.

3 That's a reference for the English transcript.

4 PRESIDING JUDGE FULFORD: Yes. The witness is going to have
5 assistance, Ms. Solano, in finding the right page, so can you ensure that
6 she's got the right file, and perhaps either with your assistance or the
7 usher's assistance she's directed to the right section.

8 MS. SOLANO: Indeed, your Honour. And perhaps this is a good
9 time to hand out to your Honours the binders that we've prepared with the
10 transcripts. One copy for the witness and the other three for the Bench,
11 please. The Defence and participants were kind enough to agree last week
12 to bring in their own copies.

13 PRESIDING JUDGE FULFORD: Then with the usher's assistance.
14 Thank you.

15 MS. SOLANO:

16 Q. Ms. Peduto, I will ask you to confirm. You are all right, are
17 you, looking at the English version of the transcript?

18 A. No, absolutely not.

19 Q. Okay. Ms. Peduto, if you can turn to page 63 of the English
20 version of transcript 39, it should be under the third tab in the binder.

21 PRESIDING JUDGE FULFORD: Now, what are you going to do,
22 Ms. Solano, in light of Ms. Peduto's observation that she's not happy to
23 look at the English version of the transcript? What course?

24 THE INTERPRETER: Interpreter's correction --

25 MS. SOLANO: (Previous translation continues) ... the exchange was

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 8

1 relayed somewhat different and my understanding is the witness --

2 THE WITNESS (interpretation): I don't have a problem looking at
3 the transcript in English.

4 PRESIDING JUDGE FULFORD: I think there was a problem in the
5 interpretation. It came out in the English as a heavy negative,
6 Ms. Solano, whereas in fact it should be an enthusiastic positive. Good.
7 We're all right with the English version then. Please carry on.

8 MS. SOLANO: Thank you.

9 Q. Have you been able to read the relevant section?

10 A. Yes, I can remember the case that you are referring to.

11 Q. Is this the same episode that you were referring to?

12 A. No, not at all. This is a child who was arrested. I think it's
13 his father who came to alert MONUC about the situation. He feared for
14 his life. The child was found in the UPC building, in a UPC building,
15 and the child was in a fairly poor state.

16 Q. Am I to understand then that you were able to retrieve this
17 14-year-old child that you referred to during the Confirmation Hearing?

18 A. Yes. This child did come out. To be quite clear, it's not a
19 child associated with armed forces.

20 Q. Can you confirm what group this had child was associated with?

21 A. The child wasn't associated with an armed group.

22 Q. Thank you. Ms. Peduto, going back to my earlier question about
23 the differences in age assessment, if your NGO partners came back to you
24 with information that suggested that the age of the child was different
25 from that which you had initially recorded, did you keep a record of

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 9

1 this?

2 A. Some -- well, at a given point in time I was supported by some
3 colleagues from the Congo who helped me with the documentation, and the
4 two interviews have been taken down in my notes. So the difference
5 between what the child said the first time and the second time are set
6 down side by side so we can take note of the differences.

7 Q. In addition to documenting this in your notes, did this
8 information form part the database that you maintained or not?

9 A. Yes, it was updated.

10 Q. Yesterday you said that in assessing the age of the children you
11 took into account the information the child gave you, the information the
12 social workers gave you, and that you also took into account the child's
13 physical appearance. In addition to this, were you or your NGO partners
14 able to conduct independent verification of the ages of these children?

15 A. Well, I imagine you are aware of the fact that identity cards and
16 documents in the Congo are not very common. Very few people have
17 official papers, in particular, children. In fact, I never saw a child
18 with an identity card in Ituri, so carrying out such a verification on
19 the basis of administrative documents was not possible. So when you say
20 independent verification, well, other than the information that the
21 children gave regarding their schooling, that was one way we had to have
22 an idea and to perhaps reinforce the information stated by the children.
23 So the answer to your question is no.

24 Q. Did the child's behaviour and demeanour during your encounters
25 with him or her influence your assessment of their age or not?

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 10

1 A. Well, the interviews with the children and -- well, when you
2 evaluate a child, of course it's not just on the basis of what they say
3 but how they act. There are a set of elements which lead us to
4 considering that the age is the correct one or that the child is older or
5 younger. I have seen cases of little children who began crying in my
6 office. Most likely, 18-year-olds wouldn't do that. The behaviour of
7 very young children can vary compared to older adolescents.

8 I don't know if I'm answering your question or not.

9 Q. Do you recall the ages of children who, for example, cried in
10 front of you during the interviews?

11 A. I remember two little boys who were brought in either by the
12 brigade or the multinational forces. One was 11, the other 13, and they
13 were so very afraid. They had been frightened by the behaviour of the
14 military. They probably were not very maternal in their behaviour, and
15 most likely the children didn't know where they were being taken or what
16 might happen to them. So when I began explaining to them and asking them
17 questions, one of them broke down in tears and we stopped the interview
18 immediately and we sent them both to the CTO. And I remember taking the
19 hand, holding the hand of the younger child to cross the street with him.

20 Q. Were these two children --

21 A. He was so small.

22 Q. -- (Overlapping speakers) ... associated with an armed group?

23 A. Yes. They were with the UPC.

24 Q. Do you recall the time when this incident happened?

25 A. I -- I could find it. I think it was the summer of 2003.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 11

1 PRESIDING JUDGE FULFORD: Now, Ms. Solano, overlapping.

2 MS. SOLANO: I've seen it, your Honour. Thank you.

3 Q. Do you recall in what time period these two children had been
4 with the UPC?

5 A. No, I didn't know that exactly. I know that they were with the
6 UPC when they were arrested, and given how upset they were, I didn't
7 continue the interview. I took down the names of their parents and their
8 age, and I referred them to the CTO, which went further in the interview
9 most likely.

10 Q. Was there anything else in the behaviour of the younger children
11 that you met with, for example, the 12- and 13-year-olds, that you could
12 describe to the Court as something that would have assisted you in
13 assessing their age?

14 A. Perhaps the difficulties -- well, not really the difficulties.
15 The younger children had more trouble talking about their family
16 experience, in particular if one of their parents or their mother or
17 their father had died. The way they spoke about the death of their
18 parents, it was harder for them to express it in words, to express the
19 situation in words, compared to the older children who were able to
20 express the fact, "My father died," or, "My mother died," whereas the
21 smaller children tended to avoid answering the question. That was one of
22 the signs -- or, rather, one of the characteristics. A younger child
23 would say, "My daddy is there. He's doing this, that, and the other
24 thing," and wouldn't mention the mother. He would talk about something
25 else. And if we were to come back to talk about the second parent, then

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 12

1 we would realise that there had been a problem.

2 That was one of the characteristics. Of course, it's not a
3 general rule.

4 Q. Did it happen that children who you had interviewed once and you
5 had already registered or documented in your notes or in your database
6 came before you a second time?

7 A. Yes, it did happen. Well, I do remember one child that we met at
8 the Rwampara camp in March of 2003, and I saw that child again in the
9 fall of 2003, and after the fact he gave us an explanation about the
10 first group of children that I had met in Ituri, and he said that those
11 children had not been demobilised, that they hadn't been told or given
12 instructions to go back to civilian life at that point.

13 I remember that one. I don't think it happened very often. I
14 know that I met some children several times that I had seen in my office
15 and that I would bump into in Bunia or elsewhere.

16 Q. Is this child that you've just referred to part of the
17 12 children that were interviewed in-depth during your second visit to
18 Rwampara in late March 2003?

19 A. He was part of the 34. As for the 12, I'm not sure. I'd have to
20 check my notes. I beg your pardon. I would have to check my notes to
21 check on that one point. He's definitely part of the 34 that I met with
22 in Bunia at that time. No, wait a minute. Yes, of course I met him in
23 Rwampara because he gave me information about Rwampara. So I correct
24 what I said. Yes. The answer is yes.

25 Q. Forgive me if this question is obvious, but you evidently met

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 13

1 many children while you were in Ituri. Would you have been able to
2 recognise them if you had seen them a second time?

3 A. Not all of them. No, not all of them. Some of them, yes, for
4 various reasons, but not all of them. I did meet some of them again, and
5 they said that they had already seen me, but I hadn't recognised them.

6 Q. The database that you maintained, can you tell us what format it
7 existed in? Was it a physical hard copy collation of information? Was
8 it kept in some other format?

9 A. It was a database, an Excel database, so relatively easy to use.
10 Nothing complicated about it. We would print out paper copies regularly
11 as a safety measure in case the computer crashed. And in addition to
12 that database, I would keep -- we would keep some of the details of the
13 interviews with the children in a Word file, and again we would copy the
14 files regularly as a safety measure, paper copies.

15 Q. Can you explain succinctly for what purpose -- for what purpose
16 that database was created?

17 A. First of all, to preserve in an orderly fashion the information
18 that we had obtained to enable us to analyse it at some future point in
19 time so that we could have an idea of the tendencies. Initially the
20 purpose was to store the information, and obviously it could help us
21 analyse the situation.

22 Q. Do you recall what data was input in this database, what specific
23 fields, if you like?

24 A. Well, I may not be able to remember everything, but I think I've
25 already given some of this information before. The name of the child,

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 14

1 last name, first name, the date of the interview, who was doing the
2 interview, the name of the mother, name of the father, the family
3 situation, well, whether or not the parents were alive, the place of
4 origin of the child, the date of their enlistment, the place of the
5 enlistment, the persons or the group that had recruited them, the name of
6 the person who had trained them, the name of the last commander, the
7 structure or organisation the child had been referred to, and I think
8 that at the end there was a column regarding a certificate. We didn't
9 call it a demobilisation order but sort of certificate from the armed
10 groups that were signed by the interim administration. In other words,
11 we would indicate whether or not the child had received that certificate
12 or not.

13 Q. Did you also record the age?

14 A. Yes, of course. There was also the age and the sex of the child.

15 Q. Did you record the age at the time of the interview or at another
16 point in time?

17 A. There were two columns. There was the age of the child at the
18 interview and the age of the child when the child had been recruited.

19 Q. Who was involved in the population of this database? Who entered
20 information in the database?

21 A. Myself exclusively until I received the assistance of another
22 colleague from the child protection service who joined me in 2004, in the
23 middle of the year 2004.

24 Q. Did you share the information contained in this database with
25 other persons or organisations?

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 15

1 A. The database was accessible to my hierarchical superiors in
2 Kinshasa. It was protected absolutely, and it was public information,
3 and I had information that I shared with my colleagues from MONUC and
4 other colleagues who were involved in child protection, that's all. Or,
5 rather, it wasn't public information. It was only shared with colleagues
6 from MONUC and the other partners involved in child protection.

7 Q. The English transcript has just been corrected.

8 In what way did you share the information contained in the
9 database with colleagues involved in child protection? Was it done
10 verbally or was -- were portions of the database actually shown to your
11 colleagues from child protection?

12 A. Now, the transmission of statistics drawn from the database was
13 done verbally. I am certain that no one ever saw the content of the
14 database. Maybe I showed it to my colleagues from UNICEF. It's possible
15 that they probably saw the design, that I shared with him the design or
16 the format of the database so he sees how the database was designed, that
17 was all.

18 MS. SOLANO: Your Honour, if I may have a moment to check the
19 French transcript, please.

20 (Prosecution counsel confer)

21 MS. SOLANO: Thank you.

22 Q. Madam, can I ask you to please turn to the document found at
23 tab 9 of your binder. The ERN of this document is DRC-OTP-0138-0106.
24 And this document already has an EVD number. It is EVD-OTP-00475.

25 PRESIDING JUDGE FULFORD: Usher, can you make sure, please.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Private Session)
Questioned by Ms. Solano (Continued)

Page 16

1 MS. SOLANO:

2 Q. Tab 9.

3 A. I have a question on the document.

4 Q. Yes, please go ahead.

5 A. Is it a document which is shared with all the participants in
6 court? Is this document redacted?

7 Q. No. The document is available to all the parties and
8 participants, and of course to the Judges, in its present form.

9 MS. SOLANO: Your Honour, might we perhaps go into private
10 session to discuss this document?

11 PRESIDING JUDGE FULFORD: Private session, please.

12 *(Private session at 9.47 a.m.) Reclassified as Open session.

13 COURT OFFICER: Private session.

14 PRESIDING JUDGE FULFORD: Now, Ms. Peduto, the question that you
15 put to Ms. Solano would seem to indicate that you're troubled by the fact
16 that this document has been made available certainly within this Chamber.

17 THE WITNESS (interpretation): That's correct.

18 PRESIDING JUDGE FULFORD: Right. It may be that this will at
19 some stage have to be the subject of a discussion between you and the
20 representatives of the Office of the Prosecutor. However, I'm afraid
21 there's not much benefit now in investigating whether or not it should
22 have been disclosed because it has been disclosed. And so unless
23 Ms. Solano has anything else that she wishes to raise in relation to that
24 disclosure, I'm afraid we must proceed with your questioning, Ms. Solano.

25 THE WITNESS (interpretation): I will discuss this with the

1 Office of the Prosecutor and the representative of the United Nations.

2 PRESIDING JUDGE FULFORD: Now, madam, unless I'm mistaken, you
3 look as though you're rather upset. Would you like a break for a moment
4 so that you can compose yourself?

5 THE WITNESS (interpretation): That's right.

6 PRESIDING JUDGE FULFORD: Would you please accompany the witness
7 to the witness waiting-room --

8 MS. SOLANO: Your Honour --

9 PRESIDING JUDGE FULFORD: No, Ms. Solano. If the witness is
10 upset and has asked to withdraw, then the witness is going to withdraw.

11 MS. SOLANO: I have something that might reassure her but ...

12 PRESIDING JUDGE FULFORD: Right, but we'll deal with it in a
13 moment.

14 (The witness stands down)

15 PRESIDING JUDGE FULFORD: I intend to suggest that Mr. Johnson be
16 given the opportunity of going and discussing the issue of what has upset
17 the witness with her rather than the evidence that she is going to give
18 on this document. Would you have any objection to that course being
19 followed, Mr. Biju-Duval?

20 MR. BIJU-DUVAL (interpretation): No, your Honour.

21 PRESIDING JUDGE FULFORD: Would that be convenient to you,
22 Ms. Solano?

23 MS. SOLANO: Yes, your Honour. Might I be allowed to provide
24 some information in the presence of Mr. Johnson that perhaps will assist
25 in the situation?

1 PRESIDING JUDGE FULFORD: Certainly. If there's useful
2 information that Mr. Johnson will be able to impart to Ms. Peduto, then
3 please outline it now.

4 MS. SOLANO: Thank you. Neither Ms. Peduto nor the United
5 Nations are the source from which the Office of the Prosecutor obtained
6 this document.

7 PRESIDING JUDGE FULFORD: Well, I think that's too elliptical.
8 Are you -- are you saying that this document was, in any event, publicly
9 available?

10 MS. SOLANO: No, your Honour. I have no reason to think that.
11 I'll clarify. I have no reason to think that this document was publicly
12 available. However, it was evidently available to persons outside of the
13 United Nations from whom the Prosecution obtained it, but I have no
14 reason to believe that these other persons shared this document with
15 additional parties.

16 PRESIDING JUDGE FULFORD: All right. And can you remind me,
17 Ms. Solano, this document has obviously been seen by those sitting in
18 court. Has it been broadcast publicly?

19 MS. SOLANO: No, your Honour, because it has been -- it was
20 discussed in private session.

21 PRESIDING JUDGE FULFORD: Right. So Ms. Peduto can be reassured
22 as regards what you have just said, and in particular, that the
23 dissemination of the document has been limited to those who sit this side
24 of the glass divide.

25 MS. SOLANO: Yes, your Honour, I can confirm that.

1 PRESIDING JUDGE FULFORD: Thank you.

2 Now, Mr. Johnson, does that assist? Is there anything else that
3 you would wish Ms. Solano to deal with before you go and speak with
4 Ms. Peduto? Good. Right.

5 We will therefore -- stay there, sir. We will therefore adjourn
6 and we will sit again once Mr. Johnson has had an opportunity of
7 discussing matters with Ms. Peduto and once she feels comfortable about
8 returning to court to continue her evidence.

9 Mr. Johnson, if Ms. Peduto has any further questions arising out
10 of this document, I think it would be useful if you could convey those
11 questions to us before she returns to court so that we can consider them
12 in advance of her recommencing her testimony. Thank you very much
13 indeed, sir.

14 Well, we'll rise now and sit again when we're informed that
15 everyone is ready.

16 COURT USHER: All rise.

17 Recess taken at 9.53 a.m.

18 On resuming at 10.19 a.m.

19 COURT USHER: All rise. Please be seated.

20 PRESIDING JUDGE FULFORD: Mr. Johnson, I think there are a few
21 things that you want to say.

22 MR. JOHNSON: I'm sorry, I do apologise. I apologise. I was
23 able to speak to the witness, and several things.

24 First, we were reassured that neither the witness nor the
25 United Nations were responsible for the disclosure of the document. This

1 information was quite helpful. Thus there is no question about any
2 confidentiality obligations of the United Nations having been put in
3 jeopardy. But the witness does feel and the United Nations does feel
4 that there may be a question of safety and security of individuals that
5 are named. Apparently the document has names of children, and therefore
6 regardless of the source, even in closed session our suggestion would be
7 that she not be asked about individuals who are identified by name or
8 their place of origin, because neither the United Nations nor the witness
9 would wish to be part of anything that could endanger safety and security
10 of the named individuals.

11 Thank you, your Honour.

12 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Johnson.
13 That's very clear.

14 Ms. Solano, for your purposes -- for your purposes, are you
15 intending to ask the witness about particular individuals contained
16 within this document?

17 MS. SOLANO: Not at all, your Honour.

18 PRESIDING JUDGE FULFORD: Well, that's simple and
19 straightforward.

20 Mr. Biju-Duval.

21 MR. BIJU-DUVAL (interpretation): Your Honour, the Chamber will
22 easily understand that this is a delicate but very capital issue. The
23 Defence would like to state clearly that it intends to obtain the
24 greatest amount of information possible on the sources, the information
25 sources available to the witness at the time, and these sources obviously

1 include the children that she met. So we should not fear to state that
2 we are going to come up against a real difficulty in this matter.

3 The Defence would like to very frankly state to the Chamber that
4 it deems it necessary to investigate these information sources and that
5 with the leave of the Chamber, the Defence may have to put questions on
6 the identity of certain persons whether such persons be children or other
7 persons who provided the information which the witness is today giving to
8 the Chamber.

9 Of course, we will obey any decision taken by the Chamber, but
10 the Defence would like to state its position and reiterate the fact that
11 this is going to raise real difficulties with respect to the fairness of
12 the trial.

13 PRESIDING JUDGE FULFORD: Well, let's not be over-pessimistic
14 about it, Mr. Biju-Duval. First of all, you are clearly going able,
15 generally, to ask the witness questions as to the general nature of her
16 sources in the sense that that doesn't involve naming individual
17 children. It may be that by reference to particular individuals without
18 naming them but identifying them by their row number, you may also be
19 able to ask questions without requiring the witness to refer to those
20 individuals by names. So it may be that much if not all of the ground
21 which you wish to traverse can be dealt with without descending into a
22 naming exercise.

23 Now, if in due course you need to go further and actually for
24 some reason that at the moment I can't anticipate you need to refer to
25 the individual by name, well, then we'll cross that bridge when we reach

1 it. But the direction that we would give at the moment is for you,
2 please, to try to deal comprehensively with the matters that you want to
3 raise without specifically refers to names; but if you need to do so, can
4 you indicate to the Chamber that we've reached the stage where you do, in
5 your judgement, have to refer to names and then we will consider the
6 merits of the application that you're then making.

7 Is that satisfactory, Mr. Biju-Duval, as a way of proceeding?

8 MR. BIJU-DUVAL (interpretation): Yes, your Honour.

9 PRESIDING JUDGE FULFORD: Thank you very much indeed.

10 Now, I must inquire of the Court Officer as to what we must now
11 do in terms of sitting times, because ordinarily at half past 10.00 we
12 would be having a break, and I suspect that the interpreters and
13 stenographers have been imprisoned in their booths since we sat at 9.00.

14 (Trial Chamber and Court Officer confer)

15 PRESIDING JUDGE FULFORD: What we're going to propose, ladies and
16 gentlemen, is reversing the order of the one-and-a-half-hour and the
17 two-hour session so that we sit now until 11.00, and at that stage we
18 will then have a half-an-hour break. If that's unacceptable, could you
19 make a speedy telephone call, please, to the Court Officer. If we hear
20 nothing. I see some thumbs being raised positively. Thank you very much
21 indeed.

22 Good. We'll sit, then, until 11.00. Can the usher please go and
23 collect Ms. Peduto.

24 (The witness takes the stand)

25 PRESIDING JUDGE FULFORD: Ms. Peduto, thank you very much for

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Private Session)
Procedural Matters

Page 23

1 coming back. We are highly sympathetic to your position, and we readily
2 understand why some of these matters may be extremely upsetting for you.
3 If at any stage during the remainder of your evidence you would like a
4 further break, you only have to indicate that shortly and we will break
5 off immediately.

6 To reassure you to the extent that I can, no names mentioned in
7 this document are going to be mentioned unless a specific application is
8 made to us, and in those circumstances we will then halt your evidence,
9 and we will hear submissions that will include Mr. Johnson as to whether
10 it's necessary for names to be mentioned. So you can work on the
11 assumption that the names contained within this document will not feature
12 as part of the questioning of you, and as I say, if that assumption is to
13 be set aside, it will be the subject of specific legal argument before
14 us.

15 Now, Ms. Solano, do you want us to continue in private or public
16 session?

17 MS. SOLANO: Your Honour, I will not be eliciting any names, so
18 perhaps as long as the document isn't broadcast we can go into public
19 session.

20 PRESIDING JUDGE FULFORD: Good. And once your questioning
21 continues, if either Ms. Peduto or Mr. Johnson have any concerns about
22 the questions that you're putting on it being dealt with publicly, of
23 course they will indicate in the way that I have asked.

24 Public session, please.

25 (Open session at 10.30 a.m.)

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 24

1 COURT OFFICER (interpretation): Public session.

2 MS. SOLANO:

3 Q. Madam, I will perhaps ask you some questions initially in open
4 session, and perhaps for later questions we can go to private session if
5 it's necessary.

6 Have you been able to look at this document?

7 A. Yes.

8 Q. Can I direct you, please, to the header row on the first page.
9 There are several columns in this document. I want to ask you a question
10 about the information that appears in the 11th column, and that
11 information contains the letters SET. Can you inform the Court what SET
12 means?

13 A. * Transitory Care Structures. This term is used in Ituri rather
14 than CTO. CTO means transit and orientation centre.
15 SET is a more comprehensive term than CTO.
16 These transitory care centres
17 include, but are not limited to, CTOs.

18 MS. SOLANO: Your Honour, I am just inviting a revision of the
19 translation of the first line of the witness's evidence. In French it
20 was captured accurately as Structure -- Structure for Transitory
21 "encadrement." It was --

22 PRESIDING JUDGE FULFORD: Don't worry, Ms. Solano. You've
23 highlighted that there's area that needs careful consideration when the
24 edited version is compiled, and we so direct. Thank you very much.

25 MS. SOLANO: Thank you, your Honour.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Private Session)
Questioned by Ms. Solano (Continued)

Page 25

1 Q. Madam, can you please look at the fourth column in this document,
2 and look at the four rows. In all four rows the word "MONUC" appears and
3 then the acronym "CPA." Can you indicate what that means, please?

4 A. "Child Protection Advisor."

5 MS. SOLANO: Your Honours, your indulgence to consult with my
6 colleagues for a moment, please.

7 (Prosecution counsel confer)

8 MS. SOLANO: Your Honour, with my apologies. Upon consultation
9 with my colleagues, I request that we go into private session.

10 PRESIDING JUDGE FULFORD: Fully understood, Ms. Solano. Closed
11 session -- private session, please.

12 *(Private session at 10.35 a.m.) Reclassified as Open session.

13 COURT OFFICER: Private session.

14 MS. SOLANO:

15 Q. Madam, what does the header of the second row where it says
16 "Informal Identification Date" relate to? What does it that mean?

17 A. It's the date when we first had contact with the child concerned.
18 It concerns MONUC. I apologise. The second column is the date when the
19 child was provided -- provided for by a structure, when a certain
20 organisation started taking care of the child.

21 Q. What does it mean in this document when MONUC CPA is identified
22 as the identification partner on the fourth column?

23 A. This date is the time when I or one of my colleagues from the
24 child protection unit had an interview with the child. It's different
25 from the second column, because the column, the second column, says when

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Private Session)
Questioned by Ms. Solano (Continued)

Page 26

1 care was first provided for the child by an organisation. The difference
2 is that MONUC doesn't take care of children. The MONUC can refer
3 children or not refer children in certain cases. So this was a
4 distinction that we made. And also, we could make a note of children who
5 had been seen by MONUC and by some other body.

6 PRESIDING JUDGE FULFORD: Ms. Solano, before you carry on, the
7 French transcript, page 32, around line 22, will need careful revision
8 for the perfected version because there are elements in the English
9 transcript which are at the moment fuller than the French. No criticism
10 at all of the stenographer. This is difficult evidence to get down, but
11 that needs careful revision, please, in due course.

12 Yes, please carry on, Ms. Solano.

13 MS. SOLANO: Thank you, your Honour.

14 Q. Ms. Peduto, I wonder whether in your answer you were in fact
15 talking about the fifth column, by is entitled "MONUC Interview Date."

16 A. That's correct.

17 Q. If I take you to the fourth column called "Identification
18 Partner," you will see that on some cells the acronym for NGOs appear.
19 For example, on the fifth line, on the fifth row, (Redacted) whereas on
20 the first four rows, "MONUC CPA" appears. Can you assist in explaining
21 what this might mean?

22 A. I apologise. I've lost you there. Could you please repeat that?

23 Q. Certainly. Fourth column called "Identification Partner." First
24 four rows say "MONUC CPA." The following columns list a NGO -- or two
25 NGOs, in fact.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Private Session)
Questioned by Ms. Solano (Continued)

Page 27

1 A. Yes. You'd like some details? (Redacted)

2 (Redacted).

3 Q. Thank you. And where "MONUC CPA" appears on the first four rows,
4 what does that indicate?

5 A. That the MONUC child protection unit saw the child.

6 Q. Thank you, madam. Can I ask --

7 PRESIDING JUDGE FULFORD: Ms. Solano, forgive me for interrupting
8 again. I'm very sorry.

9 Madam, sometimes your voice is falling very low. Could you --
10 could you make sure that you speak up so that we ensure that the
11 interpreters and stenographers hear everything you say. Sorry to
12 intervene.

13 Yes, Ms. Solano.

14 MS. SOLANO: Thank you.

15 Q. Madam, what was the role of (Redacted) as identification
16 partners?

17 A. These partners had to take care of the children as part of the
18 demobilisation process that was ongoing in Ituri.

19 Q. And in the case where the MONUC CPA is listed as the
20 identification partner, what would be the role of the MONUC CPA?

21 A. The role was that of documentation, reference, if necessary.
22 When the children contacted us, as I said yesterday, well, we'd verify
23 whether the children were armed or not, and we would also compile
24 documentation on the situation before referring them, if necessary, to a
25 certain body.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Private Session)
Questioned by Ms. Solano (Continued)

Page 28

1 If I may go back to the document and the question that you put to
2 me earlier on, this is a document that was shared with partners in the
3 field of child protection. I think it was in mid-2004, and it was to
4 ensure that children who hadn't been referred to structures or bodies who
5 were being monitored or to ensure the monitoring of children who had been
6 sent back to their families in Bunia.

7 It's a working document, if I remember this correctly, that would
8 allow one to find these children and to ensure that they wouldn't be
9 provided with care if it wasn't necessary, but we wanted to ensure that
10 these children had certificates showing that they had left or -- armed
11 forces or been demobilised from armed forces.

12 Q. Madam, can I take you to the fourth column from the right
13 entitled "Armed Group." There are three handwritten entries on the first
14 three rows, and then there is a typed entry which says "UPC," and then
15 for most of the rows that follow there is no entry in the column "Armed
16 Group." Are you able to assist the Court in understanding what armed
17 group the children for whom no armed group is listed belonged?

18 A. This is information that wasn't communicated, provided to MONUC.
19 There was no obligation for the partners who saw children to draft
20 reports for us. As this wasn't the case, sometimes there were children
21 for whom we had no information, and I imagine that the handwritten notes
22 were made by the organisation in charge of those children and the
23 organisation that drafted this document perhaps for their own needs and
24 -- I don't know.

25 Q. My final question is whether you can confirm if this document

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Private Session)
Questioned by Ms. Solano (Continued)

Page 29

1 appears to be a printout of the database which you maintained.

2 A. It's a document that is a very partial extract from the database,
3 and it was provided to the partners, the protection partners, in a
4 strictly confidential manner, which is why I'm surprised.

5 MS. SOLANO: Your Honour, we can return to open session.

6 PRESIDING JUDGE FULFORD: Public session, please.

7 (Open session at 10.47 a.m.)

8 COURT OFFICER: Public session.

9 MS. SOLANO:

10 Q. Madam, you said during the Confirmation Hearing that your human
11 rights colleagues had carried out an important mission in August 2002 in
12 Bunia and that they produced a report which was either particularly
13 detailed or extremely worrying. Our English and French transcripts are
14 divergent on that case, but in any case, during the Confirmation Hearing
15 you referred to a mission to Bunia by your human rights partners in
16 August 2002 and to them having produced a report.

17 Do you recall the dates on which that mission took place?

18 A. No. I'm sure that it was after the 9th. I think it might be the
19 third week of August. I can't remember. The report was published
20 internally at the end of September.

21 Q. Do you recall how -- what the duration of that mission was?

22 A. No, I don't.

23 Q. Do you recall, on the basis of you having read the report,
24 whether your human rights colleagues met with the authorities who were in
25 control of the town?

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 30

1 A. They met with the authorities, but as regards the level of those
2 authorities, I don't know exactly.

3 Q. Do you know who was present at the meeting -- I beg your pardon.
4 Do you know who participated in the preparation of the report, which
5 members of the human rights section?

6 A. I remember one name for sure, but if you're asking me to give the
7 name, I would rather do that in private session.

8 Q. Are you able to tell us the position this person occupied?

9 A. Human rights officer.

10 Q. Thank you. And which authorities did your human rights
11 colleagues meet with?

12 A. Those that were put into their positions by the UPC at the time.

13 MS. SOLANO: Might I have a moment, your Honour? Your Honour,
14 the witness provided -- when she provided the statement to the Office of
15 the Prosecution, she recalled some additional details about this meeting,
16 and I wonder whether I might be allowed to let the witness refresh her
17 memory by directing her to a paragraph of her statement?

18 PRESIDING JUDGE FULFORD: Right. So you anticipate that given
19 the lapse of time, the witness may not now be able to remember all of the
20 details of that meeting.

21 MS. SOLANO: Yes, your Honour.

22 PRESIDING JUDGE FULFORD: Good. Well, can you readily identify
23 for the witness where she should go in order to look at the relevant part
24 of her statement.

25 MS. SOLANO: Yes, your Honour.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 31

1 Q. Madam, can you turn to your statement, and if one is not in front
2 of you, we can provide one immediately.

3 PRESIDING JUDGE FULFORD: Right. Well, Ms. Solano, you must
4 identify where in the documents in front of Ms. Peduto the statement is
5 to be found, and then I'm going to ask the usher to go over and help,
6 please. Thank you.

7 MS. SOLANO: Your Honour, if I might hand over a copy of the
8 statement in French to the usher.

9 PRESIDING JUDGE FULFORD: Certainly.

10 MS. SOLANO: And it's, of course, a statement which bears the ERN
11 DRC-OTP-0155-0009.

12 PRESIDING JUDGE FULFORD: Now which paragraph do you want
13 Ms. Peduto to look at?

14 MS. SOLANO: Paragraph 44 on the page that bears ERN 0061.

15 PRESIDING JUDGE FULFORD: And do you want Ms. Peduto to read the
16 whole paragraph or only part of it?

17 MS. SOLANO: I think it's preferable for her to read the whole
18 paragraph, your Honour.

19 PRESIDING JUDGE FULFORD: All right. Could you read that to
20 yourself, please, Ms. Peduto, and let us know when you've finished.

21 THE WITNESS (interpretation): Could you repeat the reference and
22 the paragraph?

23 MS. SOLANO:

24 Q. Forty-four, paragraph 44. Can I ask that that page, please, not
25 be broadcast.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 32

1 PRESIDING JUDGE FULFORD: Usher, can you help Ms. Peduto, please.

2 Paragraph 44 of the statement. I want to make sure. She has it. Good.

3 Sorry, I just saw the witness looking up.

4 Yes, Ms. Solano.

5 MS. SOLANO:

6 Q. Madam, have you been able to refresh your memory with reading
7 this paragraph?

8 A. Yes.

9 Q. Are you able to tell me the date on which -- the dates on which
10 this mission took place?

11 A. August 27th to September 24th, 2002.

12 Q. Thank you. And are you now able to tell me with which
13 authorities, with which individuals, your human rights colleagues met
14 during this mission?

15 A. Mr. Thomas Lubanga.

16 Q. And on what date did that meeting take place?

17 A. September 23rd.

18 Q. And can you say succinctly what the meeting -- what topics were
19 discussed during the meeting according to what you read in the report?

20 A. Well, the human rights colleagues most definitely discussed the
21 security situation, the impact of the various battles that had taken
22 place in Bunia and the environs, the future involvement or impact of the
23 Luanda Agreement signed between the Congo in Luanda on September 6th, in
24 particular the setting in place of an interim administration and also the
25 withdrawal of the Ugandan troops. And I think that my human rights

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 33

1 colleagues were particularly -- well, they took particular care to
2 discuss the impact of the political process on civilian victims that were
3 in Ituri at the time and the human rights situation.

4 Q. And on the basis of what you learnt about this -- about what was
5 discussed in this meeting, are you able to say whether or not the issue
6 of child recruitment was broached at all?

7 A. I don't remember that.

8 PRESIDING JUDGE FULFORD: Would that be a convenient moment,
9 Ms. Solano? Thank you very much indeed.

10 Madam, we're going to give those who assist us a break, to say
11 nothing of ourselves. We look forward to seeing you again in half an
12 hour's time at half past 11.00.

13 Could the usher please accompany Ms. Peduto back to the witness
14 waiting-room. Thank you.

15 (The witness stands down)

16 PRESIDING JUDGE FULFORD: Half past 11.00.

17 COURT OFFICER: All rise.

18 Recess taken at 11.00 a.m.

19 On resuming at 11.32 a.m.

20 COURT USHER: All rise. Please be seated.

21 PRESIDING JUDGE FULFORD: Yes. Witness, please.

22 Public session, Ms. Solano?

23 MS. SOLANO: Yes, your Honour.

24 PRESIDING JUDGE FULFORD: Thank you.

25 (The witness takes the stand)

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 34

1 PRESIDING JUDGE FULFORD: Welcome back, Ms. Peduto.

2 Yes, Ms. Solano.

3 MS. SOLANO: Thank you, your Honour.

4 Q. Madam, during the Confirmation Hearing you said that during your
5 second mission to Bunia in about the 10th of September, 2002, you said
6 that this mission had coincided with the visit of the deputy military
7 commander of MONUC, General Martinelli. You said that as far as you
8 knew, a meeting took place between General Martinelli and Thomas Lubanga.

9 Do you know what was discussed at that meeting?

10 A. There were several things, but mainly to follow up after the
11 signature of the Luanda agreements. There was also the matter of the
12 children who had been associated with the UPC. I had given a full
13 report, and there were major discussions with our team of military
14 observers based in Bunia regarding that matter the day before
15 Mr. Martinelli's visit.

16 Q. Who did you provide the briefing to?

17 A. To our team of military observers based in Bunia.

18 Q. Did this briefing have any connection with the meeting between
19 General Martinelli and Thomas Lubanga?

20 A. Yes. Well, my first visit was September 3rd and 4th, and I went
21 back specifically with the goal of meeting with Mr. Lubanga as well as
22 the religious authorities of the town to deal with the particular matter
23 of children associated with armed groups, and the briefing that I was not
24 able to do directly to Mr. Martinelli was relayed to him by my
25 colleagues, the military observers.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 35

1 Q. Thank you. You said also during the Confirmation Hearing that
2 when you visited the Rwampara camp in late March 2003, the commander of
3 that camp was a person called Barongo. I would like to show you a
4 document the ERN of the document is DRC-OTP-0152-0286, and it can be
5 found under tab 10, and it has the EVD number EVD-OTP-00480.

6 It is a document under tab 10. And, madam, can I ask you to look
7 through this document so that you may become familiar generally with what
8 it is.

9 PRESIDING JUDGE FULFORD: Well, do you mean for Ms. Peduto just
10 to, as it were, glance at the pages, Ms. Solano, rather than reading it,
11 because it's quite long.

12 MS. SOLANO: Yes, your Honour. I wasn't very clear. All I ask
13 her to do is to glance through the pages to -- so she knows what the
14 document is.

15 Q. Madam --

16 PRESIDING JUDGE FULFORD: Yes, Ms. Solano.

17 MS. SOLANO:

18 Q. Do you recognise this document?

19 A. Yes, certainly.

20 Q. What was it?

21 A. It is an internal report which was prepared by the special MONUC
22 investigation team that carried out investigations in Ituri from March 26
23 to -- March 24th to April 6th in 2003.

24 Q. If you look through the first three pages of the document. I
25 just want you to look at the to and from fields on the first page, and

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 36

1 paragraph 11 of -- on the third page to identify who the persons are that
2 are named in the to and from fields and the person whose name appears
3 after the eleventh paragraph.

4 In relation to the first page, are you able to explain what
5 "Outgoing code cable" means?

6 A. It is, or it refers to documents that were usually transmitted
7 between the peacekeeping forces and New York. It's a document transfer
8 system.

9 Q. And the person whose name is indicated in brackets on the third
10 page, at the bottom of the third page? The name appears as Sonia Bakar.
11 Can you say who that person was?

12 A. This person was a human rights officer in MONUC, in charge of the
13 special investigation team.

14 Q. Thank you. And am I correct to understand that the first three
15 pages of this document simply indicate that the document that was
16 included thereafter was being transmitted from MONUC Kinshasa to
17 headquarters in New York?

18 A. That's correct.

19 Q. Can you please now turn to the fifth page of the document. It
20 bears ERN 0290. And just to be sure, this is an index of the document.
21 Can you turn your attention to item 5B, "Recruitment and Use of Child
22 Soldiers."

23 A. 3C in the annex?

24 Q. Can you turn to pages 20 to 25 of the report, and the first of
25 those pages has ERN which ends in 0308.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 37

1 Madam, you were shown this document during the Confirmation
2 Hearing, and you confirmed that you drafted the section of the report
3 dealing with use and recruitment of child soldiers at pages 20 and 25 to
4 which I have just taken you. Can I ask you to turn to paragraph 97?

5 PRESIDING JUDGE FULFORD: Just before you go further, Ms. Solano,
6 is there any reason why this shouldn't be displayed publicly?

7 MS. SOLANO: Your Honour, I think the document can be displayed
8 publicly.

9 PRESIDING JUDGE FULFORD: I see no objections from either
10 Mr. Johnson or Ms. Peduto, so can that happen, please.

11 MS. SOLANO: And just to be absolutely clear, your Honour, and
12 for the benefit of Mr. Johnson and Ms. Peduto, the page which will be
13 broadcast now is a page on which -- for which the United Nations has not
14 requested any redactions.

15 PRESIDING JUDGE FULFORD: Well, I think that's relatively clear
16 then. Good. Yes. Please ask your question.

17 MS. SOLANO:

18 Q. Madam, can you look at the third sentence of paragraph 97 where
19 it says -- or Commander Barongo is mentioned, and then in quotation marks
20 and I quote:

21 "He was informed that Thomas Lubanga had been previously
22 approached in order to stop recruitment of children."

23 On the -- given that you were present at the Rwampara camp during
24 the end of March 2003 visit, are you able to confirm that this was in
25 fact said to Commander Barongo?

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 38

1 A. That's right. I was there at the time with a colleague, a MILOBS
2 who explained this very clearly to the commander.

3 Q. And in saying that Thomas Lubanga had been previously approached,
4 do you know what was the previous occasion or previous occasions on which
5 Thomas Lubanga had been approached on this topic?

6 A. It was my colleagues, the military observers, who did this. I do
7 not have any details of the date or the circumstances under which these
8 meetings took place. I know that they took the initiative of making
9 these explanations clear to him. That's all I remember.

10 MS. SOLANO: Your Honour, might I be allowed direct the witness
11 to a paragraph in her statement, as I believe this might refresh her
12 memory?

13 PRESIDING JUDGE FULFORD: So again, Ms. Solano, you apprehend
14 that the affluxion of time may have resulted in memory problems that
15 would be improved by reference to the witness statement.

16 MS. SOLANO: Indeed, your Honour, I do.

17 PRESIDING JUDGE FULFORD: Good. Paragraph number, please.

18 MS. SOLANO: Fifty-seven, please.

19 PRESIDING JUDGE FULFORD: Now, in the mass of papers you have
20 before you, Ms. Peduto, I hope you've still got your witness statement.
21 You have.

22 Do you want Ms. Peduto to read the whole paragraph or only part
23 of it?

24 MS. SOLANO: Your Honour, it is more important that she read the
25 second half of the paragraph but as it is no more than 15 lines, perhaps

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 39

1 she could read the whole thing for context.

2 PRESIDING JUDGE FULFORD: All right. Could you glance through
3 the whole of that paragraph, please, Ms. Peduto. That's paragraph 57?

4 MS. SOLANO:

5 Q. Madam, having read this paragraph, do you now recall what was the
6 previous occasion at which Thomas Lubanga had been approached in order to
7 stop recruitment of children, which is referred to in paragraph 97 of the
8 final report of the special investigation teams' report?

9 A. It refers to the meeting that took place in September with
10 General Martinelli. It is possible that the military observers who met
11 Mr. Lubanga met him on other occasions and maybe raised this matter with
12 him, but I really can't give you an answer with regard to that issue.

13 Q. Thank you. You said that you were part of a MONUC delegation
14 that met with Thomas Lubanga on 30 May 2003 at his residence in Bunia.
15 You said that those present included, in addition to yourself,
16 Mr. Alpha Sow who was head of the mission at the time and Mr. Gomez who
17 was in charge of policy affairs in Kinshasa also of MONUC?

18 I have a question in relation to Mr. Sow. Were there any persons
19 in the MONUC hierarchy that had a higher level than Mr. Sow at that time?

20 A. Well, with respect to levels of hierarchy, I think that
21 Charles Gomez was higher up in the hierarchy, but I can't say this with
22 certainty, especially as Mr. Alpha Sow was a sector head. Really, I
23 don't know.

24 Q. Madam, in the MONUC hierarchy would you say that Mr. Sow and
25 Mr. Gomez were relatively high up or relatively low down in the

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 40

1 hierarchy?

2 A. They were relatively very high up.

3 Q. Can you say how relatively?

4 A. Well, Mr. Ngongi was the special representative. His deputy was
5 force commander, and then we had the sector heads of MONUC, as well as
6 certain section heads in Kinshasa. Well, of course there was also the
7 policy section.

8 Now, with respect to the difference in the level hierarchy
9 between section heads and policy heads, I think they were virtually on
10 the same level. In any case, these persons worked in collaboration with
11 each other.

12 Q. Thank you. You've mentioned the special representative. Can I
13 ask you to indicate who the special representative was a representative
14 of?

15 A. You want the name? The representative of the United Nations.

16 Q. You said that Mr. Sow, and Mr. Gomez wanted to talk to
17 Thomas Lubanga about the arrival of the multinational force in Ituri.
18 You said that during the meeting the withdrawal of troops was discussed
19 and the organisation of Bunia as a weapons-free town.

20 In what capacity did you understand -- sorry, I'll rephrase that.

21 Do you know why it was important to broach these topics with
22 Mr. Lubanga at the time?

23 A. Because the armed group under his control controlled the town of
24 Bunia, that is, "controlled" the town of Bunia.

25 Q. Thank you. You said that during the meeting you informed

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 41

1 Mr. Thomas Lubanga that you were, and I'll quote, "recording the actions
2 of the commanders."

3 Do you recall what actions of the commanders you were referring
4 to at the time?

5 A. I was referring to the recruitment and use of children by armed
6 groups and his group in particular.

7 Q. For what purpose did you inform him of this?

8 A. I shared certain documents with him, including international
9 resolutions and instruments on the protection of children. I also
10 mentioned to him that we were trying to document the recruitment of
11 children that was ongoing, and that we were carrying out detailed
12 documentation of this phenomenon. I informed him that the recruitment
13 and use of children was a crime. I also talked about the signature of
14 the Rome Treaty. I also alluded to this court. It was in that context
15 that this was mentioned.

16 Q. Just one clarification. You mentioned the signature of the
17 Rome Treaty. The signature by whom?

18 A. That is ratification by Congo, by the Democratic Republic of
19 Congo.

20 Q. At the time of the Confirmation Hearing you said that you could
21 not recall who had been present at this meeting for the UPC in addition
22 to Mr. Lubanga. Do you recall that now?

23 A. No.

24 Q. Was the meeting recorded in any way? Were the discussions of the
25 meeting recorded in any way by the UPC, as far as you could see?

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 42

1 A. No. I knew that an audio and video recording may have been done,
2 but I am not aware of this. In any case, we would have been opposed to
3 such a recording being done.

4 Q. What was Mr. Lubanga wearing at this meeting? How was he
5 dressed?

6 A. He was dressed in civilian clothes.

7 Q. Do you recall what other members of the UPC present were wearing?
8 Do you recall how they were dressed?

9 A. I remember that there were certain persons dressed in military
10 uniform, and as to whether the others were dressed in civilian clothes, I
11 cannot remember.

12 Q. Who led the discussion at the meeting?

13 A. Mr. Alpha Sow, the MONUC sector head.

14 Q. And did someone speak during the meeting on behalf of the UPC?

15 A. Mr. Thomas Lubanga alone.

16 Q. Thank you. Madam, I want to clarify something that you said
17 during the Confirmation Hearing as it has been recorded differently in
18 the English and French versions of the transcript.

19 During the Confirmation Hearing, you said that guards located
20 outside of the MONUC premises at the time of your visits in
21 September 2002 were -- had been sent by the administration in place.

22 The English transcript indicates that the persons guarding the
23 MONUC premises were -- where the military observers were based were child
24 soldiers, whereas the French version of the transcript indicates that
25 they were displaced persons. Are you able to clarify this?

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 43

1 A. No, they weren't displaced persons, that's for sure. Perhaps I
2 could explain this in greater detail.

3 Our military observers were not armed. Nowhere in the Congo were
4 they armed. They were deployed in various zones, and this deployment was
5 conducted in consultation with the authorities who were in charge of a
6 given stretch of territory, and these authorities from these territories
7 organised security conditions for our military observers, the security
8 for our military observers. So armed security was provided by the
9 authorities who were in charge of -- well, when I say in charge of, I
10 mean who had control over these areas.

11 MS. SOLANO: Your Honour, if I may have a moment. I'm going to
12 consult the transcript from the Confirmation Hearing.

13 I'm going to quote from a section of the transcript of the
14 Confirmation Hearing. It's transcript 37, page 32, and I will be quoting
15 an answer that the witness gave which can be found at line 3 of the
16 English version of the transcript.

17 Q. Ms. Peduto, I see that you're trying to find it, so I will wait
18 for you to do so. It's the English version of the transcript.

19 A. Page 33?

20 Q. Thirty -- 32. I will quote from line 9 -- I beg your pardon,
21 from line 3. The witness answered:

22 "Yes, yes, yes. Excuse me. If I might add, strangely, and this
23 is something which I and other colleagues at MONUC did not understand,
24 our military observers were based and were guarded by persons sent by the
25 administration in place, and some of the guards who were located outside

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 44

1 the MONUC premises were also child soldiers. Not the youngest, but they,
2 too, were young, and they protected us at the time."

3 Can I ask you, first of all, who -- who was the administration in
4 place at the time?

5 A. At the time, it was the UPC.

6 Q. And are you now able to clarify whether in fact what you meant to
7 say at the Confirmation Hearing was that the MONUC premises were guarded
8 by child soldiers sent by the administration, or did you mean to say
9 something else?

10 A. This question was raised on numerous occasions -- well, in fact,
11 it wasn't the first time that the question had been raised, that the
12 issue had been raised with MONUC by civilians. In Province Orientale,
13 this situation was raised with the RCD-ML on two occasions in the first
14 half of 2002. This issue was raised with regard to Bunia, and in fact,
15 individuals who seemed to be under the age of 18 were guarding certain
16 residences and the workplaces of our military observers. Mostly these
17 issues were resolved very rapidly.

18 Q. What was the age range of the persons guarding the -- the
19 premises when you visited?

20 A. Well, look, most of them were adults. I remember having seen one
21 person who was obviously under the age of 18.

22 Q. Thank you. Could you be more precise as to the age range of the
23 persons that you had in mind when you said that they were under the age
24 of 18?

25 A. No.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 45

1 Q. At the Confirmation Hearing, you gave testimony about interviews
2 that you had conducted in Uganda while you were on mission there in
3 February and March 2003, with certain children, and certain children gave
4 you information -- certain children told you that they had been recruited
5 by the UPC. Did you also learn while you were on mission in Uganda about
6 other cases of recruitment of children by the UPC in Ituri?

7 A. The mission in Uganda didn't focus on documenting violations
8 committed by the UPC or by some other group exclusively. It was a matter
9 of examining the situation of displaced persons and obtaining information
10 on all the violent acts committed in Ituri by whatever group the violence
11 was committed. During the mission we obtained information on recruitment
12 carried out by the UPC (as interpreted), the army of the RCD-ML, and we
13 received information on children who had been trained in a camp in Beni.

14 THE INTERPRETER: The interpreter didn't hear the name of the
15 camp.

16 THE WITNESS (interpretation): We received information about the
17 creation of a militia in Boga in August 2002. This was done by
18 Commander Nembe and Bianchi. The same commander appealed to the
19 recruitment of children in Fataki in autumn 2002. There was recruitment
20 carried out by the UPC in the area of Amee at the beginning of January,
21 2003. There was recruitment carried out in November 2002 in the Makbo
22 (phoen) area and this recruitment was carried out by the UPC yet again,
23 and there was also recruitment that was more recent in February 2003. I
24 can't remember the date of the recruitment in Mahagi-Port, but in
25 February 2003 it was in Kudikoka, Ndrele, and I can't remember any more.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 46

1 And as far as this particular issue is concerned, well, I didn't go back
2 over the errors that I made a note of, the two errors that I wanted to
3 inform the Chamber of or yourself. Perhaps this would be an appropriate
4 time to do so.

5 PRESIDING JUDGE FULFORD: Certainly, Ms. Peduto. Thank you.

6 THE WITNESS (interpretation): One of the mistakes relates to
7 this mission. I said during the first interview that the recruitment in
8 Ndrele took place on the 20th of February. I had another look at my
9 notes and the recruitment took place, in fact, on the 15th of February.
10 It's the market day that took place on Saturday. And this mistake is in
11 paragraph 68 of my first interview.

12 The second error I noted relates to paragraph 63, and it is
13 stated there that young people were sent to the camp of Rwampara. It
14 wasn't to the camp of Rwampara. They were sent to the camp of Mandro.

15 MS. SOLANO:

16 Q. Is that the reference to Rwampara in approximately the fifth or
17 the sixth line of the paragraph?

18 A. Paragraph 63 -- I apologise. It's line seven.

19 Q. Thank you.

20 MS. SOLANO: Your Honour, may I have your indulgence for a
21 moment, please.

22 PRESIDING JUDGE FULFORD: In a moment, Ms. Solano. I think there
23 was something that Ms. Peduto wanted to say.

24 THE WITNESS (interpretation): I hadn't concluded with regard to
25 the information that I received in Uganda, but as far as recruitment is

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 47

1 concerned, we also received information on recruitment that took place --
2 or, rather, calls for recruitment before August 2002, and there was a
3 recruitment campaign launched by some intellectuals who were close to the
4 UPC. That was as of April 2002. And we also reported on the event
5 during which students or many students from the ISP in Mudzipela were
6 sent for military training to Mandro. Some witnesses told us that they
7 were young people. I didn't receive any details about their age. Some
8 were involved in events that took place at the beginning of August in the
9 town of Bunia, and they were on the side of the UPC.

10 PRESIDING JUDGE FULFORD: Thank you, madam.

11 Now, if you need a moment, Ms. Solano, please take it.

12 MS. SOLANO: Thank you, your Honour, I do.

13 (Prosecution counsel confer)

14 MS. SOLANO: Thank you, your Honours. I'm grateful for your
15 indulgence.

16 Q. Madam, I want to clarify the location of a camp that you
17 mentioned in the beginning of your answer. I'm going to read back to you
18 what the transcript says and ask you if indeed the location has been
19 captured correctly.

20 You said, and I'm quoting from page 45, line 7 of the English
21 transcript:

22 "During the mission we obtained information on recruitment
23 carried out by the UPC (as interpreted), the army of the RCD-ML, and we
24 received information on children who had been trained in a camp in Beni."

25 Is the location Beni the location that you in fact referred to?

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 48

1 A. Yes. This is information obtained with regard to the RCD-ML
2 army, information on recruitment that took place in Oicha, and the
3 children were sent to a camp in Nyaleke which is close to Beni in
4 North Kivu.

5 PRESIDING JUDGE FULFORD: Yes, Mr. Biju-Duval.

6 MR. BIJU-DUVAL (interpretation): I apologise. I would just like
7 to make sure that there are no misunderstandings when this comes to the
8 transcript. The French transcript refers to the APC army, whereas the
9 English transcript refers to the UPC. I think that the witness could
10 clarify this.

11 THE WITNESS (interpretation): APC. That's quite correct.

12 PRESIDING JUDGE FULFORD: And I think there is a slight
13 difference between the two, Mr. Biju-Duval. Thank you for clarifying
14 that.

15 Yes, Ms. Solano. Please continue.

16 MS. SOLANO: Thank you.

17 Q. Madam, you mentioned, listed, rather, different locations at
18 which recruitment took place according to what you learned during your
19 mission, and you also indicated different dates. I would like to ask for
20 your assistance in identifying which of those recruitments were done,
21 according to the information you received, by the UPC.

22 A. All apart from the recruitment that took place in Oicha. And I
23 mentioned that the children had been sent to Nyakele in that case.

24 Q. Madam, when at the Confirmation Hearing you were asked about
25 children that you interviewed towards the end of March in Rwampara and in

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 49

1 Bunia, you made reference to a document called "The Individual Case
2 Story," which was shown by the Prosecution to you at that time, and you
3 indicated that in addition to containing notes on your interviews with
4 children at Rwampara, the document also contains notes from meetings with
5 children which took place in Bunia subsequently. In other words, after
6 the interviews at Rwampara.

7 What I would like to know is whether the subsequent meetings in
8 Bunia were meetings with the same children you interviewed at Rwampara or
9 with other children.

10 A. Well, rather than "meetings," I'd prefer to refer to interviews
11 with children. The interviews that I had in Bunia were carried out with
12 children who had not been present in Rwampara, in the camp of Rwampara.
13 These were different children.

14 Have I answered your question?

15 Q. Yes, and I'm grateful for that clarification.

16 At the time that you met with this group of children in Rwampara
17 and in Bunia, were there non-governmental organisations available to
18 provide support to them?

19 A. Well, it's difficult to give you a yes/no answer. Well, there
20 were no particular programmes other than the limited initiative of SOS
21 Grand Lacs with the children who'd been retrieved from Rwanda in 2001,
22 but as regards protection organisations, some did help these children.
23 They assisted them, some of the children who had left armed groups and
24 who had received assistance.

25 THE INTERPRETER: The interpreter corrects: It was Uganda,

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 50

1 line 15.

2 THE WITNESS (interpretation): Some of those NGOs did provide
3 assistance to some children.

4 Well, no one had any numbers, and there were no lists. At least
5 to my knowledge no one had established lists at the time, but they were
6 talking about 50 to 200 children, children that could be referred to in
7 that way, who were in the town and that were no longer at that point in
8 time under the control of an armed group.

9 MS. SOLANO:

10 Q. You've said that they were no longer at that point in time under
11 the control of an armed group. Had they, to your knowledge, been under
12 the control of an armed group previously?

13 A. Yes. Yes, indeed. It was the UPC for the vast majority of them.

14 Q. And did that -- I'll rephrase. Do you know what was the age
15 range of those children that had been under the control of the UPC?

16 A. Could I ask you for permission to examine my notes?

17 PRESIDING JUDGE FULFORD: Certainly.

18 THE WITNESS (interpretation): Amongst the 34 cases of children
19 that were documented, sometimes very briefly, four were under 15, eight
20 were 15, nine had been recruited before they were 15, and amongst those
21 children six had not participated in combat, including those who had been
22 recruited between January to March of 2003. Some were able to escape
23 very quickly.

24 MS. SOLANO:

25 Q. Ms. Peduto, could you -- would you be able to provide the ages

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 51

1 the children who had not been in combat?

2 A. Well, if I look at my notes, yes.

3 PRESIDING JUDGE FULFORD: If they'll help.

4 THE WITNESS (interpretation): I beg your pardon. It might take
5 me a moment to find the right place.

6 Your question was what was the age of those who had not
7 participated in combat; is that correct? The youngest was 11. The
8 others, amongst those I've just looked at, they were 14, 15, 16.

9 MS. SOLANO:

10 Q. Thank you. You said during the Confirmation Hearing, in
11 referring to the period after March 2003, I believe, that Ituri was
12 extremely dangerous for people working on child protection issues and
13 that members of NGOs and humanitarian organisations were being directly
14 threatened and expelled.

15 Are you able to say by whom these organisations and people were
16 being threatened and expelled?

17 A. I beg your pardon. Could you please repeat the first part of
18 your question where you mention the period of time?

19 Q. Yes.

20 MS. SOLANO: In fact, your Honour, if I can have your indulgence
21 to find -- locate the reference in the transcript? I do have the
22 reference with me, I just have to turn to it.

23 PRESIDING JUDGE FULFORD: Take your time, Ms. Solano.

24 MS. SOLANO: Thank you. Just a moment, please.

25 THE WITNESS (interpretation): My question was just that I hadn't

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 52

1 really heard the beginning of your question.

2 PRESIDING JUDGE FULFORD: Well, why not put the question again,
3 Ms. Solano, and see where we get to.

4 MS. SOLANO: Yes, your Honour, I just want to go back to the
5 transcript to make sure that I'm placing the question in the right
6 context, please. In fact -- thank you, your Honour, for your indulgence.

7 Q. In fact, Ms. Peduto, the answer which you gave at the
8 Confirmation Hearing in response to a question that was posed to you was
9 not restricted to a period of time. You said, and I quote from page 69
10 of transcript 39, English version, line 9:

11 "This is one of the problems we had in Ituri. We had to mobilise
12 actors who were interested in real effective protection for children
13 associated with armed groups. Ituri was extremely dangerous at that
14 time. Expatriates were being expelled -- not expatriates but members of
15 non-governmental organisations and humanitarian organisations. NGO
16 members were being directly threatened. Human rights violations were
17 legion, and we tried to mobilise anyone who could provide solutions at
18 that time and at that time we had no immediate response."

19 Are you able to say which were the persons and organisations
20 which you had in mind when you provided that evidence?

21 A. It could be a very long answer. When I was saying that Ituri was
22 not secure, it was not safe, I was referring to the entire province of
23 Ituri. As regards the humanitarian community, everyone was shocked by
24 the murder of the ICRC people which occurred in 2001, I think, and after
25 that tragedy, many humanitarian organisations expressed reservations as

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 53

1 regards the development of their activities in that zone. Some did,
2 however, some were, however, able to work there.

3 Well, the humanitarian community had to come to grips with
4 numerous security issues. Some zones were not accessible for security
5 reasons and because it was impossible for them, and it was also
6 impossible for MONUC, for us, to negotiate secure access to certain
7 portions of the territory.

8 In 2002, some people -- several people belonging to humanitarian
9 organisations, various humanitarian organisations, were arrested by the
10 "administration," under the control of the UPC or -- at the time the
11 representative of OCHA had been expelled and declared persona non grata.
12 And later, early in 2003 I think, the person in charge of a religious
13 community was also declared persona non grata and asked to leave within
14 48 hours, to leave the territory. In March and May of 2003 humanitarian
15 organisations, that is, NGOs and the United Nations bodies which were
16 present in Bunia, had to deal with attacks not just by the UPC. There
17 were threats to humanitarian personnel. It would perhaps be abusive to
18 say that such threats were constant, but let's say that there was a
19 general atmosphere that we were living in. It was just not easy to work
20 in Ituri, and the environment was not safe, was not secure for the
21 organisations that were working in the territory of Ituri.

22 PRESIDING JUDGE FULFORD: Ms. Solano, do you think it would be
23 helpful if the French transcript was shown on the screen in front of
24 Ms. Peduto so that she can see when occasionally she's speaking perhaps a
25 little bit too quickly, thereby causing difficulties upstairs?

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 54

1 MS. SOLANO: Absolutely, your Honour.

2 PRESIDING JUDGE FULFORD: Good. Can that easily -- can that
3 quickly be arranged, please.

4 Please continue, Ms. Solano.

5 MS. SOLANO: Thank you.

6 Q. Madam, I want to take you back to your 30 May 2003 meeting as
7 part of the MONUC delegation with Thomas Lubanga. You mentioned that you
8 informed Mr. Lubanga that the Democratic Republic of the Congo had
9 ratified the Rome Treaty or the Rome Statute. My question is what, if
10 anything, did Mr. Lubanga say when you provided him with this
11 information?

12 A. Um, I don't think he commented on that particular point. I most
13 likely gave more details in my previous statements. I think that he
14 mentioned children who had joined the UPC because they needed protection.
15 He mentioned, if I remember correctly, that those children could have
16 been orphans. I'm afraid I'm -- I might be mixing up with other things
17 if I say more.

18 Q. Ms. Peduto, throughout your time as a child protection advisor in
19 charge of Ituri, did the UPC contact MONUC or its -- or other
20 organisations to officially hand children over?

21 A. After that meeting which took place May 30th, I was informed,
22 thanks to the monitoring of public information, in particular the
23 monitoring carried out by our teams of Radio Okapi, I was informed of a
24 text that was sent out from the Presidency of the UPC, and I've commented
25 on this before, which referred to the demobilisation of some children.

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 55

1 The text itself or the official document I never actually had it myself
2 in Ituri. I do know that we looked for it in the days that followed this
3 announcement. No one was able to find the text.

4 However, two or three weeks later, one of the child protection
5 agencies told us that one of the UPC commanders had contacted them in
6 order that they take care of some of the children, and I believe that
7 that organisation responded by advising -- or, rather, suggesting to say
8 to this commander that the UPC should go through the interim structure
9 that had mandate to deal with the matters of demobilisation and
10 disarmament of -- for the civilian administration.

11 I know that some of the children who had left the ranks of the
12 UPC went to a particular transit centre, and in spite of repeated
13 requests on the part of MONUC and other child protection agencies to the
14 UPC, there was never any follow-up to our request for a meeting, that is,
15 an official meeting with the members of the UPC as regards that matter.

16 Q. Did recruitment of children by the UPC continue throughout the
17 time that you were responsible for Ituri?

18 A. Yes, that's correct.

19 PRESIDING JUDGE FULFORD: Mr. Biju-Duval.

20 MR. BIJU-DUVAL (interpretation): I am not opposed to our seeking
21 to gain time, so long as we do not do so by putting leading questions.

22 PRESIDING JUDGE FULFORD: Probably a rather important area,
23 Ms. Solano. Probably would have been advisable to ask it in a more
24 neutral form, but please carry on.

25 MS. SOLANO: Thank you, your Honour, for your guidance. And in

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 56

1 fact, your Honour, this brings me nearly to the end of my examination.
2 The Prosecution wants to show one video -- or, rather, two videos to the
3 witness, with your leave.

4 PRESIDING JUDGE FULFORD: How long are they?

5 MS. SOLANO: The portions that I intend to show initially are six
6 minutes long.

7 PRESIDING JUDGE FULFORD: On we go.

8 MS. SOLANO: Thank you, and I'm being assisted by my colleague
9 Ms. Struyven.

10 PRESIDING JUDGE FULFORD: I'm glad to see that she can multitask,
11 Ms. Solano. Yes. Can we show these sections, then, please. Publicly?
12 To the public, Ms. Solano?

13 MS. SOLANO: Yes, your Honour.

14 PRESIDING JUDGE FULFORD: Good. So these can be broadcast
15 publicly.

16 MS. SOLANO: Your Honour, I just want to clarify that we are
17 going to play these two videos without sound.

18 PRESIDING JUDGE FULFORD: Ms. Peduto, all you have to do is to
19 watch the screen for the time being. Thank you.

20 On we go, Ms. Solano.

21 MS. SOLANO: Your Honour, the ERN of the two videos that I'm
22 going to play, I'm going to give the two ERNs at the same time because
23 actually we're going to play one video straight after the other. Both
24 videos contain raw footage from a documentary, and so they're basically
25 the same thing. The ERNs are DRC-OTP-0116-0011 for the first video, and

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 57

1 DRC-OTP-0116-0005 for the second video.

2 Q. And, Ms. Peduto, for your information I'm going to play three
3 portions of these two videos without sound, and at the end I will ask you
4 whether you recognise the place, whether you recognise the people in the
5 video and if you have any idea as to when this was filmed?

6 I will start with video DRC-OTP-0116-0011, and I will play
7 minutes 00:42:00 to 00:42:57. I will then stop and subsequently play
8 minutes 00:57:30 to 01:00:28 of the same video. And finally I will play
9 minutes 00:00:00 to 00:02:00 of the second video, which has ERN ending in
10 0005.

11 PRESIDING JUDGE FULFORD: Reading out the numbers almost took
12 longer than watching the videos, Ms. Solano. Thank you. Let's play
13 them.

14 (Video-clips played)

15 PRESIDING JUDGE FULFORD: Now, Ms. Solano, we're five to 1.00.
16 How many lengthy questions from this or only a few?

17 MS. SOLANO: About nine, your Honour --

18 PRESIDING JUDGE FULFORD: Well --

19 MS. SOLANO: -- but they are --

20 PRESIDING JUDGE FULFORD: Well, start. We may have to finish it
21 tomorrow morning.

22 MS. SOLANO: Thank you.

23 Q. Ms. Peduto, were you present when the images that you have just
24 seen were filmed?

25 A. No, but can I ask you a question? Was this video given to you

Witness: Witness DRC-OTP-WWW-0046 (Resumed) (Open Session)
Questioned by Ms. Solano (Continued)

Page 58

1 with the authorisation of the agency managing this -- this structure?

2 PRESIDING JUDGE FULFORD: Well, Ms. Solano, you're not obliged to
3 answer that question. I'm sorry, Ms. Peduto, but counsel shouldn't be
4 expected to answer questions. Now, if you have a concern, I'm more than
5 happy for you to speak to Mr. Johnson.

6 And I think Ms. Solano, we're going to draw stumps at this point.
7 We'll continue this tomorrow. Ms. Peduto can have an opportunity of
8 speaking with Mr. Johnson about it, and we'll pick up on the evidence at
9 that point.

10 Good. We will then sit again at 9.00 tomorrow morning.

11 Mr. Biju-Duval, fortunately you should not feel under any
12 restriction of time, because Monday's going to be available, such part of
13 Monday is going to be available as you will need to conclude your
14 examination of Ms. Peduto. So do not feel under any pressure.

15 Thank you all very much. Could the usher then please accompany
16 Ms. Peduto to the witness waiting-room.

17 And, Mr. Johnson, please feel free to liaise with Ms. Peduto
18 about any security issues and the one that's just been raised in
19 particular.

20 (The witness stands down)

21 PRESIDING JUDGE FULFORD: EVD number, please, for the videos?
22 One EVD number, Ms. Solano, or two?

23 MS. SOLANO: Two, your Honour, please.

24 PRESIDING JUDGE FULFORD: Thank you. Two EVD numbers, please.

25 COURT OFFICER (interpretation): For the first two extracts of

1 the first video it will bear the number EVD-OTP-00487. And the third
2 extract of the second video will bear the number EVD-OTP-00488.

3 PRESIDING JUDGE FULFORD: Thank you very much.

4 One thought -- or, rather, two thoughts for tomorrow. The first
5 is, Ms. Solano, can you make sure that we have now identified all of the
6 areas where Ms. Peduto believe there were mistakes to the statement and
7 to the transcript before the Confirmation Hearing. If there's any doubt
8 about it, we must make sure that a mechanism is devised so that that is
9 clear for the future. So can that be done, please.

10 We need to think about the outstanding question as regards
11 Mr. Keta's examination of this witness. As I understand it, the area of
12 objection concerns the suggestion that Ms. Peduto should be asked about
13 the names of the commanders involved in forceable recruitment. And as I
14 understand it, Mr. Keta wishes Ms. Peduto to indicate whether or not
15 during her conversations with commanders, whether they spoke about
16 recruitment and whether they spoke about demobilisation and
17 re-integration.

18 It may be helpful if those conducting the questioning in that
19 regard could identify whether particular commanders have been named in
20 the background materials that have been provided to the legal
21 representatives so that we can give some focus to that area of
22 questioning, and at an appropriate moment tomorrow I will be asking
23 whoever the legal representative is who is going to be conducting that
24 questioning if the Bench, please, could be assisted by some more
25 particularity as regards the individuals concerned. So I put down that

1 marker now, not for a response now but for assistance tomorrow.

2 Anything, Ms. Solano?

3 MS. SOLANO: Yes, Mr. President. Thank you. I just wanted to
4 note that the Prosecution has no objection to the proposed questioning by
5 the legal representatives.

6 PRESIDING JUDGE FULFORD: Thank you. We're aware of that. It's
7 Mr. Biju-Duval who has raised the issue rather than the Prosecution,
8 Ms. Solano, but thank you.

9 Thank you very much for your attendance. Thank you, Mr. Johnson.
10 We'll meet again tomorrow at 9.00 a.m.

11 The hearing ends at 1.00 p.m.

12 RECLASSIFICATION REPORT

13 Pursuant to Trial Chamber I's email instruction dated 7 December 2011, the
14 transcript is reclassified as public after the indicated redactions have been
15 implemented as ordered by the Chamber. All private and closed sessions (*) are now
16 available to the public with the exception of the portions of the transcript that
17 have been redacted.