

Trial Hearing
Witness: DRC-OTP-WWWW-0316

(Open Session)

ICC-01/04-01/06

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Thomas Lubanga Dyilo
5 ICC-01/04-01/06
6 Presiding Judge Adrian Fulford,
7 Judge Elizabeth Odio Benito and Judge René Blattmann
8 Trial Hearing
9 Tuesday, 9 November 2010
10 (The hearing starts in open session at 9.34 a.m.)
11 THE COURT USHER: All rise. The International Criminal Court is now in session.
12 Please be seated.
13 THE COURT OFFICER: Good morning, your Honours, Mr President. We are in
14 open session.
15 PRESIDING JUDGE FULFORD: Good morning. Yes, Mr Sachdeva.
16 MR SACHDEVA: Thank you, Mr President. The Chamber had asked the
17 Prosecution to revert on when we could propose a public version of 321's transcripts,
18 and I would have to say that we will try and finish this task within a week if that's
19 amenable to your Honours, but it brings me to my next point, and that is the edited
20 version of the transcripts. This new system, I don't know if it's reversible or not, but
21 it really is proving quite troublesome for at least the Prosecution because, for example,
22 we do not have yet the edited version of 321's transcripts, because I understand there
23 had been a change following the resumption of the trial, that the Registry would, I
24 understand it, take more time in providing an edited transcript. So it normally
25 would receive it by the end of the day or the next morning. At this stage we still do

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- 1 not have the edited version of the transcripts, and it's proving difficult to be able to
2 rely on certain passages where there are problems.
- 3 One of the ways to resolve that is obviously to be more meticulous during the
4 examination and the cross-examination, ensuring that mistakes are pointed out
5 immediately but that of course is going to extend the Court time unnecessarily.
- 6 PRESIDING JUDGE FULFORD: Mr Sachdeva, let's not take up time with this now.
7 Thank you for raising the issue. You're absolutely right. We spoke with the
8 Registry about this and we agreed that there should be a trial, no more than a trial, it
9 hasn't been implemented as a permanent system or a permanent change, a trial to see
10 whether we could overall improve the quality of the evidence by taking a little longer
11 in preparing the edited transcripts.
- 12 Now, if this new system has unfortunate - perhaps unforeseen - consequences then
13 that will go into the melting pot and will form part of the evaluation which will take
14 place quite soon as to whether or not we continue the present system.
- 15 What would be most helpful is if you, Maître Mabilie and indeed the participating
16 victims, could send to the legal adviser to the division any observations you have on
17 either benefits or difficulties that are being experienced.
- 18 MR SACHDEVA: We will certainly do so, Mr President.
- 19 PRESIDING JUDGE FULFORD: And so your cut-off time for reviewing the
20 transcripts?
- 21 MR SACHDEVA: If we could be given a week, Mr President.
- 22 PRESIDING JUDGE FULFORD: Certainly. Shall we say 4 p.m. Tuesday next
23 week?
- 24 MR SACHDEVA: Yes. Thank you. And with your leave my colleague,
25 Mr Omofade, would like to address the Court.

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- 1 PRESIDING JUDGE FULFORD: Certainly, of course. Thank you, Mr Sachdeva.
- 2 Yes.
- 3 MR OMOFADE: Your Honour, might we go into private session?
- 4 PRESIDING JUDGE FULFORD: Certainly, of course. Yes, thank you, Mr Sachdeva.
- 5 Yes.
- 6 MR OMOFADE: Your Honour, might we go into private session?
- 7 PRESIDING JUDGE FULFORD: Certainly, of course. Private session, please.
- 8 *(Private session at 9.36 a.m.) Reclassified as Open session
- 9 THE COURT OFFICER: We are in private session, Mr President.
- 10 PRESIDING JUDGE FULFORD: Yes.
- 11 MR OMOFADE: Your Honour, it's to revert back to the Chamber on the issue of
- 12 Witness 583 that I raised yesterday. The Prosecution is in a position to give an
- 13 update on one aspect but we'll crave the Chamber's indulgence to revert on the other
- 14 aspect.
- 15 As regards the scheduling, we've managed to come up with a solution with Mr Sebire,
- 16 and it does appear that the arrangements that he has made with his employers to
- 17 depart to New York on the morning of 25 November cannot be changed. Therefore,
- 18 the only dates he has available to testify, if it is to take place before 26 November,
- 19 would be the 22nd, the 23rd, and the 24th, or part of the 24th.
- 20 We did, however, discuss with him an issue that I did not raise yesterday, and that's
- 21 the issue of whether or not he can testify via video link. He thinks that's a solution
- 22 that might be workable. Obviously, it depends on the logistics that we're able to
- 23 arrange probably in conjunction with the Registry, but it does appear that's -- if that is
- 24 to take place it could take place in a location at some proximity to where he works.
- 25 So what that does is it gives us a bit more time. It means that the whole of -- well,

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1 firstly, it prevents the need for travel to The Hague and, secondly, it gives us the
2 whole of the 22nd and the 23rd and most of the 24th.
3 The one difficulty that probably does arise is the time difference because of the
4 six-hour time delay but I believe that's something that we might be able to resolve
5 anyway, depending on whether or not it's possible.
6 PRESIDING JUDGE FULFORD: Mr Omofade, as I understood your submission just
7 now, even with him travelling to The Hague we have the 22nd, 23rd, 24th with him
8 needing to depart to New York on the morning of the 25th; is that right?
9 MR OMOFADE: No, your Honour. I do apologise if that's the impression I gave.
10 He needs to depart New York itself on the 25th for a pre-arranged mission.
11 PRESIDING JUDGE FULFORD: Fine. That's all right. It's just line 22 of the
12 real-time transcript says arrangement he's made with his employers to depart to New
13 York on the morning of the 25th. So it's depart from New York; right. We leave
14 this with you. We need to have a sensible assessment as to how long his evidence is
15 going to take and if we go down the video link route whether that is going to provide
16 us with enough time to get through his evidence prior to his departure from New
17 York on the morning of the 25th.
18 So you're going to need to reflect on that. Perhaps discuss the matter with
19 Maître Mabilie as and when the Defence have got something that they can look at so
20 that they can have an idea as to the kind of questioning they are going to need to
21 advance.
22 If we're going to do it by way of video link, given it's New York, I presume, I hope
23 this isn't going to involve sending an army of ICC technicians across the Atlantic in
24 order to make this possible. I would hope that using United Nations equipment we
25 can do it for minimal expense.

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1 MR OMOFADE: Your Honour, I would hope so myself. I'm aware that there is a
2 liaison office in New York --

3 PRESIDING JUDGE FULFORD: Exactly.

4 MR OMOFADE: -- for the ICC, so it might be that we can harness the facilities and
5 resources that we have there.

6 PRESIDING JUDGE FULFORD: Quite. When there was a suggestion of another
7 witness giving evidence from another country in the Middle East, I was absolutely
8 astonished at the number of people who it was said were necessary to travel to that
9 country in order to make a video link possible. So we must really look at paring this
10 down to the absolute minimum. Right. That's point one. I think you had another
11 point that you wanted to raise.

12 MR OMOFADE: The other point, your Honour, was the issue of protective
13 measures itself and that was the point that I said we still need to revert to the
14 Chamber on. So it may be that some time after the luncheon adjournment we're able
15 to update the Chamber.

16 PRESIDING JUDGE FULFORD: We really need to resolve this finally either today
17 or tomorrow, Mr Omofade, so could you do everything you can please to put us in a
18 position to be able to make some final decisions about when this witness is going to
19 give evidence and the circumstances in which he's going to give evidence.

20 MR OMOFADE: Certainly, your Honour.

21 PRESIDING JUDGE FULFORD: Thank you very much indeed. Good. Closed
22 session, please, and witness.

23 *(Closed session at 9.41 a.m.) Reclassified as Open session

24 THE COURT OFFICER: We are in closed session, Mr President.

25 (The witness enters the courtroom)

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1 PRESIDING JUDGE FULFORD: Private session, please.

2 *(Private session at 9.43 a.m.) Reclassified as Open session

3 THE COURT OFFICER: We are in private session, Mr President.

4 PRESIDING JUDGE FULFORD: Good morning. Yes, Mr Sachdeva.

5 MR SACHDEVA: Thank you, Mr President.

6 WITNESS: DRC-OTP-WWWW-0316 (On former oath)

7 (The witness speaks French)

8 QUESTIONED BY MR SACHDEVA: (Continuing)

9 Q. Good morning, sir. Yesterday you had told us that when you were working in
10 the informal stage with Mr Sebire, you were paid for expenses, in particular transport
11 and communications. Who was it that gave you the money for those expenses?

12 A. I believe that I was clear, because the person I was working with was Mr Sebire
13 and he was the one who gave me that money. In exchange I provided him with
14 receipts, particularly invoices and other receipts for the expenses incurred.

15 THE INTERPRETER: The interpreters would like to ask the witness to speak louder,
16 please. Could you ask the witness to speak closer to the microphone.

17 MR SACHDEVA:

18 Q. Sir, again I'm sorry to have to remind you, but it would be most helpful if you
19 could speak a little bit louder so your evidence is properly recorded. Thank you.

20 PRESIDING JUDGE FULFORD: And if I may, Mr Sachdeva. Sir, if you could come
21 a little bit closer to the microphone, please. Thank you.

22 THE WITNESS: (Interpretation) Thank you.

23 MR SACHDEVA:

24 Q. Now, when Mr Sebire would provide you with the money, did you have to sign
25 anything?

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1 A. Yes.

2 MR SACHDEVA: Mr President, I want to show the witness some documents and
3 actually these documents are not contained in the binders your Honours have, but I
4 do have copies for the Bench and the parties and participants.

5 PRESIDING JUDGE FULFORD: Yes, certainly. Usher, could you help distribute
6 these, please.

7 THE INTERPRETER: Message from the English booth: Could the interpreters also
8 have a copy, please? Thank you.

9 PRESIDING JUDGE FULFORD: Did you hear the message just -- yes, thank you.
10 Just two things before you commence, Mr Sachdeva. First, can we obviously
11 remember to give EVD numbers as necessary as we go through them. Secondly, I
12 know it's difficult, but if the opportunity for public session arises, please seize it with
13 both hands.

14 MR SACHDEVA: I will do certainly, Mr President.

15 Q. Now, sir, what you have been provided with is a series of, well, five documents,
16 and for the benefit of the Court, the ERN range is DRC-OTP-0216-0017 through to
17 0021. Now, what I'd like you to do first is to have a look at those documents and tell
18 me if your signature is contained on those documents.

19 PRESIDING JUDGE FULFORD: Sir, I think at the moment you needn't read the
20 documents. If you could just quickly glance through them to see whether your
21 signature appears on each page.

22 THE WITNESS: (Interpretation) I apologise, but I thought it was quite a good idea
23 to have a quick look.

24 PRESIDING JUDGE FULFORD: I think the question, sir, is whether your signature
25 is on those documents.

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1 THE WITNESS: (Interpretation) Affirmative.

2 MR SACHDEVA:

3 Q. Now, if you want to take a moment to have a look at these documents, do so
4 and please then tell us what these documents are about. What do they pertain to?

5 A. I think that these documents with regard to what I'd already said cover the
6 expenses incurred, so this was by way of reimbursement.

7 Q. If you take a look at the first one, you see here the term (Redacted). Are you
8 able to explain what that refers to?

9 A. Excuse me, I don't see what you're referring to. Could you -- could somebody
10 please help me to see what you're referring to?

11 Q. Certainly. Maybe I can focus you a bit more, but it's the term that's just above
12 your signature on the first page, (Redacted)

13 PRESIDING JUDGE FULFORD: Can I suggest that you take the bundle over to
14 Mr Sachdeva so that he can point out to you, usher, exactly what it is he's focussing
15 on and then you can show the witness.

16 THE WITNESS: (Interpretation) Could you please repeat the question?

17 MR SACHDEVA:

18 Q. Certainly. Are you able to tell the Court what this reference means,
19 (Redacted)?

20 A. First of all, the reference (Redacted) is not something that I wrote myself. All
21 that I know is that this document related to a job carried out in Bunia, with several
22 people, and we made a copy because certain receipts and documents were required
23 and for security reasons we couldn't take away the logbook in which it was written.
24 This covered the expenses that were incurred. This document is a copy and I think
25 that these are documents that related to the Bunia airport.

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1 Q. Now yesterday, when I asked you when -- I asked you when was it that you
2 started informal contacts with the ICC, you responded that you were not sure of the
3 precise date, but perhaps it was towards the end of the year,
4 August/September/October. I'd like you to look at the dates on these documents
5 and tell us if you have anything to say about the dates that you see here?

6 A. Yes, good. I see the date 17 April 2005, and I had said at the beginning that I
7 did not only work with Nicolas. I also worked with other members of personnel
8 who came either under the auspices of MONUC, or of other local NGOs. Now, you
9 will observe along with me that in this receipt there is no mention anywhere to -- of
10 the role carried out either by Nicolas Sebire, or by (Redacted).

11 Q. If you could now take a look at the last three documents, in other words starting
12 from DRC-OTP-0216-0019 to 0021, and the same question in respect of these receipts:
13 Do you have anything to say about the dates?

14 A. Yes, I know that it is while they were on mission in Bunia. Each time they
15 asked me to render a service I did that, and this is why there are different dates.
16 You can see the date of the 19th, the dates in May, and I cannot confirm if these are
17 expenses relating to the same mission because he would come, he would go away, he
18 would come back again.

19 THE INTERPRETER: Interpreter correction: They would go. They would come
20 back.

21 MR SACHDEVA:

22 Q. And we see -- at the bottom of these receipts, we see the name Sabina Zanetta.
23 Do you know who she is?

24 A. Yes, I know her, because each time she was always there with Nicolas Sebire.

25 Q. And who was she working for?

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1 A. I think that when I met her I knew that -- I already knew that she was working
2 for the Court, because she came regularly - sometimes quite unexpectedly - with
3 Nicolas Sebire.

4 MR SACHDEVA: Thank you. Mr President, if these documents could be given
5 EVD numbers?

6 PRESIDING JUDGE FULFORD: The entire batch to receive one EVD number?

7 MR SACHDEVA: If that's sufficient, yes, that would suffice.

8 PRESIDING JUDGE FULFORD: Mr Desalliers?

9 MR DESALLIERS: (Interpretation) Mr President, as I am probably also going to
10 refer to these documents, I would prefer them to have individual EVD numbers
11 because otherwise it would be quite difficult to find what we're talking about.

12 MR SACHDEVA: That's acceptable of course, yes.

13 PRESIDING JUDGE FULFORD: Good. Individual numbers, please, court officer.

14 THE COURT OFFICER: Yes, your Honour. The document -- the first document,
15 referenced as DRC-OTP-0216-0017, will receive reference EVD-OTP-00599. The
16 second document, referenced as DRC-OTP-0216-0018, will receive reference
17 EVD-OTP-00600. The third document, ERN number DRC-OTP-0216-0019, will
18 receive reference EVD-OTP-00601. The next document, which is ERN
19 DRC-OTP-0216-0020, will receive reference EVD-OTP-00602. And the last document,
20 ERN referenced DRC-OTP-0216-0021, will receive reference EVD-OTP-00603. Thank
21 you.

22 PRESIDING JUDGE FULFORD: Thank you. Yes, Mr Sachdeva.

23 MR SACHDEVA: Thank you, Mr President.

24 Q. Sir, I now want to show you another document, another couple of documents.
25 Again, Mr President, I apologise, but this document is also not in the binders that

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1 your Honours have, but I do have again copies for your Honours and the participants
2 and parties.

3 PRESIDING JUDGE FULFORD: Certainly, no difficulty. Distribute, please, usher.

4 MR SACHDEVA: And before I do that, I'll tell the Court the ERN number. This is
5 DRC-OTP-0234-0166.

6 Q. Sir, the same question: Do you see your signature on this document?

7 A. Yes, I can see my signature.

8 Q. What is this document that you have signed?

9 A. This document is an individual contract with the Court.

10 MR SACHDEVA: Mr President, we do not have a French translation, so with your
11 leave I'd like to read out a portion contained in point 2 of this contract and then ask
12 the witness a question.

13 PRESIDING JUDGE FULFORD: Absolutely, Mr Sachdeva, certainly.

14 MR SACHDEVA:

15 Q. Sir, under point 2 of this contract, it reads as follows: "This contract shall
16 commence on 19 November 2005 and shall expire on the satisfactory completion of
17 the services described above, but not later than 31 December 2005, unless -- unless
18 sooner communicated under the terms of this contract. This contract is subject to the
19 conditions on the following page."

20 And my question is this: In respect of the dates of the duration of the contract, do
21 you have anything to say about that?

22 A. I do not have any comment to make on the subject, but what I do know is that
23 the contract came to an end on 31 March 2006, and at the outset this involved a
24 procedure because we had -- I had to send off certain documents, and this is why you
25 can see that there is a difference in the dates because there was a signature provided

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1 in The Hague and then other signatures were supposed to be appended in the
2 country itself. So that stage of the procedure meant that there was a difference in
3 dates, but I do recognise the contract itself.

4 Q. And do you have anything to say about the commencement date of this
5 contract?

6 A. As I said, I don't really have many comments to pass on the subject, because
7 even before the contract arrived I was already working on an informal basis with the
8 Court.

9 MR SACHDEVA: Thank you. May this document have an EVD number, please,
10 with your leave.

11 PRESIDING JUDGE FULFORD: Certainly. EVD number, please.

12 THE COURT OFFICER: Yes, your Honour. The document which I read in the
13 transcript is referenced as ERN DRC-OTP-0234-0166, will receive EVD reference
14 EVD-OTP-00604 and will be marked as confidential. This document is not currently
15 on Ringtail, so -- thank you very much.

16 PRESIDING JUDGE FULFORD: It needs to be uploaded, Mr Sachdeva, please.

17 MR SACHDEVA: It will certainly be so. Thank you. Mr President, I believe that
18 if I -- if I adhere to the manner of questioning on the previous document in terms of
19 its vagueness, I could probably do the next part in open session.

20 PRESIDING JUDGE FULFORD: Let's try it.

21 Sir, you should know that we're now going to go into public session, which means
22 that although there's a half-an-hour delay, there will be a broadcast outside of this
23 Chamber of anything you say. If you reach a point in your evidence where you
24 feel -- where you think you are about to say something that should be dealt with in
25 private session, could you alert me and we'll then make a decision as to whether or

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1 not we move into private session. So, public session, please.

2 (Open session at 10.08 a.m.)

3 THE COURT OFFICER: We are in open session, Mr President.

4 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

5 MR SACHDEVA:

6 Q. If I can now ask you to look at the document contained in tab 41 of the binder
7 that you have there.

8 And for the court officer, the ERN number is DRC-OTP-0231-0250.

9 Sir, first question again: Do you see your signature on this document?

10 A. Yes, indeed, I can see my signature.

11 Q. And what is the document that you have signed?

12 A. Once again, this is a copy of the individual contract.

13 Q. And do you have anything to say about the duration of the contract that you see
14 here? Or perhaps let me read it out, the duration of contract, and it says that "The
15 contract shall commence on 1 January 2006 and shall expire on the satisfactory
16 completion of the services described above, but no later than 31 March 2006."

17 A. I do not have any comments on the subject because I know the contract lasted
18 three months.

19 MR SACHDEVA: Thank you. Mr President, if that can be given an EVD number.

20 PRESIDING JUDGE FULFORD: Certainly.

21 THE COURT OFFICER: Yes, Mr President. Document under tab 41, reference
22 DRC-OTP-0231-0250, will receive reference EVD-OTP-00605 and would be marked as
23 confidential unless otherwise indicated.

24 MR SACHDEVA: Certainly, confidential, yes. Thank you. Mr President, for this
25 next session, could we move into private session.

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1 PRESIDING JUDGE FULFORD: Private session, please.

2 *(Private session at 10.12 a.m.) Reclassified as Open session

3 THE COURT OFFICER: We are in private session, Mr President.

4 MR SACHDEVA:

5 Q. Sir, I want to ask you if you know somebody called (Redacted).

6 A. I would say yes.

7 Q. I'd like to show you another document at this stage. For the Chamber's benefit,
8 it's under tab 35 and it's DRC-OTP-0234-0059.

9 Sir, who was this person on this photograph?

10 A. I believe that I could say that the person that I know is not this individual, but it
11 is him, however, because I can see the distinctive traits. Just under his right (Redacted) that
12 is the (Redacted) that I see on my left-hand side, that is the distinctive sign or trait
13 that he had. And when I saw him, however, I do not believe that he had a scar of
14 this nature, but I do believe that it's him. I'm not sure. And at the time when I saw
15 him, he was still a child. I can see that he has grown up because he already has a
16 beard. At the time he did not have one.

17 Q. And just to be clear, when you say "him," who are you referring to?

18 A. When I say "him," I mean the individual I know by the name of (Redacted).

19 MR SACHDEVA: May we have an EVD number for this one, Mr President?

20 PRESIDING JUDGE FULFORD: Certainly.

21 THE COURT OFFICER: Yes, Mr President. Document in tab 35 referenced as
22 DRC-OTP-0234-0059 will receive reference EVD-OTP-00606 and will be marked as
23 confidential.

24 MR SACHDEVA:

25 Q. Now, sir, I want to ask you questions about this individual and I want to try

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- 1 and do this in public session so I'm going to refer to (Redacted) as "Mr X" and
2 I would ask you if you are going to use -- if you are going to refer to him, to also refer
3 to him as "Mr X." Do you understand that?
4 A. Yes, I have understood.
5 PRESIDING JUDGE FULFORD: Thank you. Public session, please.
6 (Open session at 10.15 a.m.)
7 THE COURT OFFICER: We are in open session, Mr President.
8 PRESIDING JUDGE FULFORD: Yes.
9 MR SACHDEVA:
10 Q. How is it that you know Mr X?
11 A. I came to know Mr X as a child soldier who was demobilised and -- and he and
12 his friends found a structure that could rehabilitate him, and this is how they were
13 given a hairdressing salon that was called (Redacted). I remember that this
14 hairdressing salon was to be found on (Redacted) and this is how I came to meet him
15 because sometimes we would pass by and have our hair done there. That's where I
16 met him.
17 MR SACHDEVA: Mr President, I think out of an abundance of caution that last
18 answer needs to have certain redactions. I would defer to the Defence, but I
19 understand that that would be the case.
20 PRESIDING JUDGE FULFORD: If we redacted (Redacted), would that suffice?
21 MR SACHDEVA: And also the name of the (Redacted).
22 PRESIDING JUDGE FULFORD: You're quite right. Yes, there's the name of the
23 salon. Happy, Mr Desalliers?
24 MR DESALLIERS: (Interpretation) Indeed, Mr President.
25 PRESIDING JUDGE FULFORD: Then an order, please, for those redactions. Yes,

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1 please continue, Mr Sachdeva.

2 MR SACHDEVA:

3 Q. You say that Mr X was -- you knew him as a child soldier who was demobilised.

4 How is it that you know that?

5 A. As I said, I was working for the (Redacted) firstly, and secondly, I was also
6 working for the Ituri Pacification Commission of which we were, I might say,
7 undercover members, if you like. And all of those children who were demobilised
8 were recorded with us and they had been demobilised as there was no other structure
9 to take care of them.

10 We had to seek out such structures and this is how some went to become drivers or
11 mechanics. Others became masons and others entered trades such as hairdressing,
12 and most of them, however, had chosen to become drivers and many of them were
13 driving motorbikes. I would say that most of the -- or at least 90 per cent of the
14 motorbike drivers were former soldiers or former combatants.

15 MR SACHDEVA: Mr President, I am indeed trying but I suspect that the first -- the
16 reference to the witness's work ought to be redacted, with your leave.

17 PRESIDING JUDGE FULFORD: Yes, let's persevere for a little longer, but I think
18 lines 10 through to 13 need to be redacted, please. Yes, carry on, Mr Sachdeva.

19 MR SACHDEVA:

20 Q. Mr X was demobilised from which army; do you know that?

21 A. From the UPC. The UPC was -- well, at that moment in time, it wasn't a party,
22 as such, it was a movement; it was an armed movement of which there were two
23 branches; notably, the political branch and the armed branch. The armed branch
24 was called the Front patriotique pour la libération du congo. That was the armed
25 branch. I remember that only too well.

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1 Q. Do you know when Mr X was demobilised from the UPC?

2 A. The demobilisation commenced with the inception of the pacification
3 commission for Ituri. Firstly, the child soldiers were evacuated. That was the first
4 objective. We needed to protect the children who were victims. The children who
5 were used in fighting, these children needed to be demobilised.

6 Q. Do you recall the year or -- well, firstly, the year when you met Mr X for the first
7 time?

8 A. The truth be told, I cannot remember the year, but I remember that I was in
9 (Redacted) at the (Redacted), as I stated, and when I went home, when I went back to
10 my country, I had my office and when you're in an office you have to use your
11 archives, which I did, and I compared what was on paper with what was happening
12 out in the field, the reality of what was happening out in the field, and this is how I
13 came to discover that hairdressing salons had been opened for demobilised soldiers
14 from the UPC and that there were also some on the side of the FNI towards
15 Yambi-Yaya, and that we also had to locate and establish whether those children had
16 been re-enlisted in the army or not because some children had been demobilised but
17 were recruited anew by the armed groups.

18 PRESIDING JUDGE FULFORD: Thank you. We need a further redaction for line
19 23. We need to keep the number of these redactions under review, because there
20 comes a point at which the administration are unable to implement them reliably, but
21 we'll carry on for the next five minutes until the mid-morning break anyway. Thank
22 you, Mr Sachdeva. So redaction to line 23, please.

23 MR SACHDEVA: Mr President, may I have one moment?

24 PRESIDING JUDGE FULFORD: Yes, of course.

25 (Counsel confer)

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1 MR SACHDEVA:

2 Q. You've already answered about the circumstances in which you came to know
3 Mr X. Can you tell us was -- was there a purpose as to why you met with Mr X, but
4 perhaps that -- that question should be asked in private session, Mr President. I'm
5 sorry.

6 PRESIDING JUDGE FULFORD: Yes. Could you not answer the question for a
7 moment. Private session, please.

8 *(Private session at 10.27 a.m.) Reclassified as Open session

9 THE COURT OFFICER: We are in private session, Mr President.

10 PRESIDING JUDGE FULFORD: Yes. Sir, the question is: Was there a purpose for
11 your meeting with Mr X?

12 THE WITNESS: (Interpretation) At the outset, there was none. He was
13 demobilised, like any other. And as I said yesterday, subsequently, there were
14 particular incidences which meant that contact was established. As I said, there was
15 a series of photographs that the investigator - if you allow me to give his name,
16 Mr Sebire - had brought, and amongst those photographs, and with identity there
17 was Mr X who was amongst those children, and it was in that context, in those
18 circumstances, that I became interested and I approached him.

19 MR SACHDEVA:

20 Q. And tell us about that moment when you approached Mr X, (Redacted),
21 what took place?

22 A. When I approached him, I identified him. I identified him because I did not
23 know him by name. There was a list of those who had been demobilised, but I did
24 not know who was who. And when I saw that it was him, I recognised him, and I
25 even gleaned information from the others to the effect that it was indeed him. And I

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1 approached him, and every time I went to the (Redacted) I would seek him out.
2 Even if he was absent I would seek him out, because I wanted him to do (Redacted).
3 There were many clients. I was not the only one. Since the town was divided,
4 there were people who came from -- from the Hema side, they limited themselves to
5 that place. And there were people who also came --
6 THE INTERPRETER: Message from the interpreter: The witness is speaking at
7 great speed and very confusedly. Could he please be asked to repeat?
8 THE WITNESS: (No interpretation)
9 PRESIDING JUDGE FULFORD: Sir, I'm sorry, I'm going to have to interrupt you.
10 I'm afraid you suddenly speeded up and the interpreters really lost what you were
11 saying, and I'm afraid you're going to have to give a large part of your last answer
12 again.
13 What was picked up was that you approached him, you identified him, you didn't
14 know him by name. There was a list of those who had been demobilised, but you
15 didn't know who was who. You went to the (Redacted), you would seek him out
16 even if he was absent because you wanted him to do (Redacted), and then you
17 mentioned there were other people who came from the Hema side.
18 Now, everything after that was lost, so could you pick up your answer, please, from
19 that point.
20 THE WITNESS: (Interpretation) Thank you, your Honour. I was saying there
21 were people who would come from the Hema side of town. I was saying that the
22 town was divided. People from the Hema side of town could no longer go to the
23 (Redacted) that was on the Lendu side of town. I was saying that. I was saying at
24 the same time, you see, the salon had been opened up and for the demobilised people
25 on the Hema side from the UPC, and also other (Redacted) were opened up for the

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- 1 demobilised people who were on the FNI side of town.
- 2 PRESIDING JUDGE FULFORD: Thank you very much. Mr Sachdeva, we'll pick
3 this up again after the first of the morning breaks. Thank you, sir, we're going to
4 take a break now. We look forward to seeing you just after 11 o'clock.
- 5 Closed session, please. Yes, thank you, usher. There is no one in the public gallery.
- 6 *(Closed session at 10.33 a.m.) Reclassified as Open session
- 7 THE COURT OFFICER: We are in closed session, Mr President.
- 8 (The witness stands down)
- 9 PRESIDING JUDGE FULFORD: Mr Sachdeva, I know you've got a considerable
10 amount on your plate at the moment and I don't want to add to it. There was an
11 email yesterday from Ms Buteau, just after midday, identifying quite a lot of
12 information that the Defence are seeking disclosure of. Is that currently under
13 consideration within your team? Are you liaising with the Defence? Where are we
14 on that?
- 15 MR SACHDEVA: Indeed, we have been liaising with the Defence and we have had
16 a couple of meetings regarding those issues. The Prosecution is intending to submit
17 a response, if you like, to the email. The question is when we would be asked to do
18 that. We would like, with your leave, Mr President, to have a week to respond to
19 those details. At the outset, at least, that's the request.
- 20 PRESIDING JUDGE FULFORD: Right. So you're in the process of seeing whether
21 there are some items that can be disclosed, discussing with the Defence as regards
22 those in relation to which access cannot immediately be provided.
- 23 Mr Desalliers, for the outstanding items it's been suggested a week. The response of
24 the Defence to that? Do take a moment with Maître Mabile.
- 25 Yes, Mr Sachdeva.

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1 MR SACHDEVA: Mr President, sorry. With respect to some of the documents
2 related to 316, that -- they are being disclosed and they have been disclosed and in
3 fact some of the items in our submission have been disclosed.

4 PRESIDING JUDGE FULFORD: Yes.

5 MR SACHDEVA: In terms of the response I was referring to some of the substantive
6 comments my learned friends have made and generally the office's position on
7 disclosure in addition to the filing that we're going to submit on Friday but, yes, some
8 of the items can be divulged on an inter partes basis as soon as practicable.

9 PRESIDING JUDGE FULFORD: Yes. I mean, there may be a proper distinction to
10 be drawn between for instance those items concerning 143 and those concerning 316.
11 I imagine those for 316 Mr Desalliers would like immediately.
12 What's your position, Mr Desalliers?

13 MR DESALLIERS: (Interpretation) Indeed, your Honour, for the documents that
14 have to do with the current witness it is urgent for the Defence to obtain copies as
15 quickly as possible.

16 I'd like to specify, regarding the application yesterday, this is not a new request
17 actually. This is a summary of earlier requests that were made of the OTP and so
18 these requests should not be dealt with as a new application. We are at a stage
19 where we feel the need to make a summary, your Honour.

20 PRESIDING JUDGE FULFORD: I think at my request, Mr Desalliers, in fact.
21 I think I had asked you to do this.

22 Right, let's not take any more time now. Mr Sachdeva, could you perhaps over the
23 break that's about to take place have a look at those items for 316 which have been
24 requested. If there are any where there cannot be immediate disclosure we probably
25 need to set aside a bit of time before the luncheon adjournment to review them, but if

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- 1 you could come back to us on this subject at some convenient moment before lunch.
- 2 Good. We'll sit again between 5 and 10-past-11. Thank you.
- 3 THE COURT USHER: All rise.
- 4 (Recess taken at 10.38 a.m.)
- 5 *(Upon resuming in closed session at 11.06 a.m.) Reclassified as Open session
- 6 THE COURT USHER: All rise. Please be seated.
- 7 PRESIDING JUDGE FULFORD: Witness? Yes, witness, please.
- 8 (The witness enters the courtroom)
- 9 PRESIDING JUDGE FULFORD: Private session, please.
- 10 *(Private session at 11.08 a.m.) Reclassified as Open session
- 11 THE COURT OFFICER: We're in private session, Mr President.
- 12 PRESIDING JUDGE FULFORD: Mr Sachdeva, I've quite fairly been told off by the
- 13 interpreters for speaking too quickly. We need all to bear in mind both speed and
- 14 making sure that there is a gap between one speaker and another.
- 15 So, sir, can you be careful, please, to keep the speed moderate and to make sure that
- 16 you don't come back too quickly once Mr Sachdeva has completed his question.
- 17 Private or public, Mr Sachdeva?
- 18 MR SACHDEVA: Mr President, I believe private session, with your leave.
- 19 PRESIDING JUDGE FULFORD: Thank you. Please continue.
- 20 MR SACHDEVA: Thank you.
- 21 Q. Sir, you've said that you would go to the (Redacted) and you would see (Redacted)
- 22 there, and also Mr Sebire had asked you to identify him from a photograph. Can
- 23 you say roughly how often in that period would you meet or see (Redacted)?
- 24 A. First of all, I can say that indeed I would go not every day, because you don't
- 25 need to have your (Redacted) to every day. You might have your (Redacted) once

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1 a week or once every two weeks. And each time I would go to the (Redacted). From the
2 time I had identified him, I would approach him, and each time he would do (Redacted)
3 and he did a very good job of (Redacted).

4 Q. Did you have occasion to meet him outside of the (Redacted)?

5 A. At that time insecurity was prevalent. And outside of some very specific
6 points -- well, you could not go to some places and for me, that was the only place
7 where I could meet him. Sometimes he would not be there, but I did want to see
8 him, absolutely, because he didn't live there.

9 Q. Sir, is it fair to say in sum from your answers that in that period you would see
10 him regularly?

11 A. I would see him not frequently, sporadically. Some days would go by and we
12 would not see one another. Sometimes I would go to the (Redacted), and he would
13 say, "Sir, it's been many days!" And I would say, "Yes, Here I am today."

14 MR SACHDEVA: Mr President, perhaps if we again refer to Mr X and if I could ask
15 the witness, if he is going to refer to the (Redacted), perhaps to refer to the (Redacted)
16 the place where Mr X works, that might assist, if it's okay for the witness.

17 PRESIDING JUDGE FULFORD: Certainly. Let's try public session again. Sir, if
18 we can then keep to using the name Mr X for Mr Sebire, and if you refer to the
19 (Redacted), can you simply refer to it as the place where he worked, and let's see how
20 we do.

21 MR SACHDEVA: Mr President --

22 PRESIDING JUDGE FULFORD: No, not Sebire, I'm sorry. Yes. Wrong person,
23 wrong name. Talk about adding confusion, Mr Sachdeva. Not Mr Sebire, but
24 using Mr X as we did during the last public period. Good. Public session, please.

25 (Open session at 11.13 a.m.)

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1 THE COURT OFFICER: We are in open session, Mr President.

2 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

3 MR SACHDEVA: Thank you.

4 Q. Sir, would you say then that you came to know Mr X quite well?

5 A. Yes, I knew him from that time when I identified him. I didn't know him just
6 from the (Redacted). In relation to my profession, I went into the depth of the matter
7 and I even got to know his family and I located the place where he lived. He lived in
8 a hidden way as well, and also the location of his exact family. So I knew him fully.

9 MR SACHDEVA: Mr President, I believe that -- there probably needs to be a
10 redaction to the reference where the --

11 PRESIDING JUDGE FULFORD: Line 6?

12 MR SACHDEVA: Yes.

13 PRESIDING JUDGE FULFORD: Yes. The word "(Redacted)" in line 6, please.
14 Just that one word. Is that sufficient, Mr Sachdeva?

15 MR SACHDEVA: Yes, indeed.

16 PRESIDING JUDGE FULFORD: Good. Please continue.

17 MR SACHDEVA:

18 Q. You say that you knew him fully. Did you come to know anything about his
19 personal habits?

20 A. First of all, his personal habits, I would say, no. I didn't live with him, but
21 there was some appearances in terms of -- well, the place where he was trained and
22 also in terms of his -- his obedience and his receptivity. He was also open to me, so
23 that is how I knew him. Perhaps he hid other habits. And as I was saying, he was
24 still a child. I found him really -- he was wearing shorts most of the time. And
25 that -- habits can change over time as one grows older. One could be -- one might

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1 become a drunkard for example, but at that time he was still a child.

2 Q. You've said that one might become a drunkard, for example. Are you saying
3 that Mr X became a drunkard?

4 A. I just gave one example, because habits can change. The photograph that I see
5 here, I don't know if he had an accident or if he got into a fight, I don't know, but the
6 time I knew him he did not have a scar other than the scar that I pointed out earlier.
7 That doesn't mean that I'm saying that he had become a drunkard, no, that was one of
8 the habits that might change as one grows older.

9 Q. What, if anything, do you know about his habit in relation to alcohol?

10 A. I said that at the time he was a child and he didn't drink. I didn't know
11 whether he drunk alcohol. Myself, I didn't drink.

12 Q. You said at the time he was a child and he didn't drink alcohol. Was there a
13 time later when that changed or not?

14 A. I have no information about that. At the time when we were with him --

15 THE INTERPRETER: Inaudible.

16 THE WITNESS: (Interpretation) I didn't see him in a state of drunkenness. I
17 never noticed any incident that might have happened to him. I can say, no.

18 MR SACHDEVA:

19 Q. Now, it's right, isn't it, that you have been interviewed by the Office of the
20 Prosecutor on several occasions.

21 A. Yes.

22 Q. You were interviewed last year in October, October 2009.

23 A. Yes, October 2009.

24 Q. You were interviewed just prior to you coming to Court on the 5th -- 4 and
25 5 November 2010.

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1 A. Yes.

2 Q. You know that Mr X has testified in this Court, don't you?

3 A. Yes.

4 Q. You have had an opportunity to study and read what Mr X said in this Court,
5 haven't you?

6 A. That's right.

7 Q. You have been able to review the allegations that Mr X has made about you?

8 A. Yes.

9 Q. I am going to go into detail about those allegations, but for the moment, do you
10 have anything to say in a general sense regarding the allegations that you have had
11 an opportunity to study?

12 A. Thank you for your question. At the outset, after reviewing the testimony
13 from Mr X, I am shocked. I am shocked, very shocked by the many lies and false
14 accusations, I would even say attacks upon my character and the use of forgeries, all
15 this in regard to me.

16 I took note of a number of facts; I will not set them out here. When I speak about
17 forgeries and the use of forgeries or false writings, I think that I have read a letter that
18 I would describe -- well, I would say that it was a threatening letter. And apparently
19 in the letter it was said that I -- it said that I wrote the letter in my own compound
20 with my own pen, on paper that I myself purchased, and it is said that I signed this
21 letter and that I sent it to him.

22 Initially, the description that he provided of my residence is false. In the compound
23 where I live, there has never been a tree called "goyavier", that is guava tree. I never
24 sat with Mr X to write a note, the substance of which and the form of which and even
25 the very format of which is not from me, is not of my doing.

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1 Another thing, the pen that was used, and I think that people who have visited our
2 country do know -- and if I could point this out, the pens that we use, the pens that
3 we use both at the office for -- used by officials and also the pens used at school by
4 children, the ink cannot be injected in any way and it cannot be -- well, he talked
5 about the little finger. I don't know if he was talking about a thumb or a ring finger,
6 but there is no ink from a pen that could have been used in the way that was used [...]
7 on this letter. I said that I never wrote that letter.
8 Furthermore, I would ask, because science has made considerable progress -- and
9 since that time, I asked whether the original of that letter could be provided so that
10 the DNA could be checked, because that way we would know whether I wrote that
11 letter, as it has been alleged. We would be able to determine as well that the finger
12 that was used, whether that finger was mine.
13 Furthermore, also in relation to this letter, I had asked that the original be
14 shown -- and I'm -- sorry. Well, I've seen the photocopy. And during the hearing, a
15 number of documents -- and if I could refer to my CV which I wrote with my own
16 hand, the original may be there, and there are specialists who know how to identify
17 handwriting. And I think, at the appropriate time -- I have confidence in the Court,
18 and they will be able to determine exactly who wrote that letter. And what's more,
19 it would be timely for people to know under what conditions the letter was written,
20 under what circumstances and conditions the letter was written. Of course, I don't
21 have the letter with me. I would also have to look at the date. I don't know if the
22 date is there, but I just what has been taken from that letter. That's the first thing
23 that I would -- that I saw about the letter. I reiterate I never, never, wrote that letter.
24 I've never seen that letter and I am shocked to see that letter.
25 Another thing, Mr X said that I planned with him, planned the telling of lies, and I

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1 would have been asked: "Well, how much time?", because I was asked that question
2 to determine how much time was spent at (Redacted) with him.
3 But personally I'm saying that the time that was spent with him in (Redacted), even if
4 he were a robot or a computer, in the presence of others, because he wasn't alone.
5 There were (Redacted) and many customers were there at the same time, and those
6 customers, once (Redacted), did not pay the money to the (Redacted) -- to the
7 (Redacted). There was a system. Each client would pay at the cash register, but it
8 was a matter of good faith. When somebody does you a service, you can say to
9 them on the side, "Here, this is something for you." And I think that is what I did
10 personally as well after having (Redacted).
11 I did not plan to tell any lies at all with (Redacted). In his statement, (Redacted) also
12 declared that on more than one occasion I telephoned him from a masked telephone
13 number. I say that this is false. It is totally wrong. First of all, at that time in the
14 country --
15 Q. I'm very sorry.
16 A. (No interpretation)
17 Q. In a moment. I am very, very sorry to interrupt you. I am very sorry. It's just
18 that there is material now that, in our submission, Mr President, should be redacted
19 and perhaps we could continue in private session?
20 PRESIDING JUDGE FULFORD: Yes, this is -- this is important material and I don't
21 want to artificially limit the witness. Page 33, line 22, through to the end of the
22 witness's last answer should all be redacted, please, and private session for the time
23 being.
24 *(Private session at 11.33 a.m.) Reclassified as Open session
25 THE COURT OFFICER: We are in private session, Mr President.

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1 MR SACHDEVA:

2 Q. Sir, please -- please I would ask you to continue the answer, but just bear in mind
3 that I am going to take you through the allegations in detail and ask for
4 your -- basically ask you questions about those allegations. So you will have an
5 opportunity to deal with the specific allegations in more detail but, as I said, please
6 continue your answer and I will then ask you further questions.

7 A. Thank you. I was talking about telephone contact and saying that Mr X had
8 said that on more than one occasion I had telephoned him from a masked telephone
9 number. If I may talk about this, I believe that the Congolese government at that
10 time monitored all telephone conversations; that is (Redacted)
11 (Redacted). We called this the
12 listening and identification service. They had to listen and control the messages
13 received. And these messages were always in the inbox where messages had to be
14 controlled if declared or if the numbers were hidden. And I would say that on no
15 occasion -- and this can actually be verified. On no occasion did I ever contact
16 anybody from a masked telephone number. We were not authorised to do so.
17 I could go further, but I would like to stress the fact that (Redacted) said that I myself
18 went to buy pharmaceutical products for him. I apologise for using his name here.
19 Mr X said that I accompanied him to a house to buy for him not a pharmaceutical
20 product, but a (Redacted), and I say that this too is a false
21 accusation simply because I am not a specialist and even today I do not know what
22 products are used in (Redacted) that are
23 used by the (Redacted). And I say - and I repeat - that I never went to any boutiques
24 or shop with (Redacted) in order to buy (Redacted) for him.
25 I believe that taking these points that I have raised as a point of departure other

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1 points will also arise, and I can say from the outset that (Redacted) a lot of lies in his
2 statement to the Court.

3 Q. Now, as I said, I will be dealing with some of the specifics of the allegation, but
4 before I do so you have told the Court that you were interviewed by the Prosecution
5 in October 2009. Now, at or during that interview, do you recall if you were asked
6 questions about (Redacted)?

7 A. Yes.

8 Q. And do you recall if you were asked whether you knew (Redacted)?

9 A. I cannot hear anything.

10 PRESIDING JUDGE FULFORD: Ask again, Mr Sachdeva.

11 MR SACHDEVA:

12 Q. Sir, perhaps it's contained in your previous answer, but do you recall
13 specifically if you were asked if you knew (Redacted) during the October 2009
14 interview?

15 A. Yes, I remember that this question was put to me, and I asked that delegation
16 from the Court to show me one of the photographs to identify this (Redacted) they
17 were talking about. This was not done, and I was entitled to say that I did not know
18 him because there was no identity. There was no photograph but, when I re-read
19 his statement there where he was clearly identified regardless of his photographic
20 image, I understood that it was indeed him.

21 Q. When you were -- you've also told the Court that you were interviewed by the
22 Prosecution on 4 and 5 November 2010. Had you by that time read the allegations
23 that (Redacted) had made against you?

24 A. I believe that I have already answered this question. When you asked me if I
25 had read the statement which (Redacted) against me I said, "Yes, I read this

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1 because his statement was shown me and on that occasion I was also shown his
2 photograph and all of his identity details."

3 MR SACHDEVA: Mr President, may I just have one moment?

4 PRESIDING JUDGE FULFORD: Certainly, Mr Sachdeva.

5 MR SACHDEVA: Thank you, Mr President.

6 Q. So, as I said, I'm now going to take you through some of the more specific
7 allegations and then ask you questions. This is what I propose to do, is to read out
8 the direct allegations that (Redacted) has made and then I would just ask you to
9 comment on them. Do you understand that?

10 A. Yes.

11 Q. The first one is as follows - and for my learned friend this is transcript 256, page
12 11, lines 6 to 13 - and I'm going to substitute Mr X for the witness in the box.

13 (Redacted) said the following:

14 "During our meeting with Mr X," that is yourself, "he said to me that he was working
15 with the ICC and so he called me and we talked. He said to me that he needed
16 someone to say something about Mr Thomas Lubanga and so that is what we
17 meticulously planned during the meetings to tell lies, and after half a day of
18 discussion he took me to meet with the OTP investigators and from that point, well, I
19 met the people from the OTP and they took me to the city of Kampala and Mr X," that
20 is you, "was with me."

21 PRESIDING JUDGE FULFORD: Pause a moment, Mr Sachdeva. Yes,
22 Mr Desalliers.

23 MR DESALLIERS: (Interpretation) Thank you, Mr President. I apologise for
24 intervening. It appears to the Defence to be complicated at this stage to do what my
25 esteemed colleague is doing at the moment. For the time being we are far from

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1 having covered through open questions all of the encounters, the discussions, the
2 exchanges between the witness and witness for the Defence number 16, and so
3 directly suggesting these elements to him, Mr President, in our view is a way of
4 suggesting answers.

5 It seems to us that there have not yet been exploratory questions that present certain
6 elements to the witness because we have not yet addressed what these elements may
7 relate to. So, Mr President, the Defence submits that the Office of the Prosecutor
8 should, first of all, set the context through open questions: What were his contacts;
9 what were the encounters he participated in; what happened with the witness, before
10 any specific allegations are put to him.

11 PRESIDING JUDGE FULFORD: Well, Mr Desalliers, we have had quite a lot of
12 questions on the context in which they knew each other, and what Mr Sachdeva is
13 doing now is simply putting to the witness the allegations that have been made
14 against him. Now, that isn't what is usually referred to as leading questions. It is
15 simply giving the opportunity to the witness to respond to adverse criticisms that
16 have been made of him. Now, I don't think there's an obligation on Mr Sachdeva to
17 explore in detail every occasion when this witness and Mr X have had contact with
18 each other. He's decided to do it reasonably shortly, and isn't that a question for
19 him?

20 MR DESALLIERS: (Interpretation) Yes, Mr President. I am making this
21 submission in a very considered and prudent way because I do not think that it is not
22 timely for the Prosecution to formulate these questions. I believe to the contrary,
23 that they have a duty to do so, but my learned friend's last question makes reference
24 to a place which has not been covered at all for the time being in the questions he has
25 put to the witness, and I'm making reference here to Kampala. That is why I felt that

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1 it was somewhat complicated, but I will not go any further than this, Mr President. I
2 was simply expressing a concern on the part of the Defence.

3 At the same time, ultimately, yes, I believe that these allegations will need to be put to
4 the witness. The Defence's position was simply that perhaps it would have been
5 preferable to establish a certain broad context or canvas before doing so. But I won't
6 push it any further, Mr President.

7 PRESIDING JUDGE FULFORD: I understand the desire, Mr Desalliers, for
8 everything to be dealt with neutrally before specific - what I'm going to describe as
9 loaded - questions are put. But if we were to follow that, we would be here for
10 another two or three years. We cannot go through every place, every possible
11 reference in the allegations that have been made separately before we then go to the
12 precise allegations that have been made against the witness. So, thank you for
13 expressing your concern but, Mr Sachdeva, please continue.

14 MR SACHDEVA: Thank you, Mr President.

15 PRESIDING JUDGE FULFORD: I'm afraid you've now read out the passage.
16 Mr Sachdeva, I leave it to you as to whether you want to read out the passage again
17 or whether you want to remind the witness of the context or the main elements of it
18 before you ask him to reply, because it will have faded a bit by now.

19 MR SACHDEVA: Indeed.

20 Q. Sir, I'm just going to identify the main, the salient point in this allegation and
21 ask you to comment: Essentially, that (Redacted) alleged that you had
22 meticulously planned, during meetings with him, to tell lies and that you needed
23 someone to say something about Mr Thomas Lubanga. What do you say to those
24 allegations?

25 A. I did not do it. I don't have any comments to make on this. I did not do it.

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1 Q. (Redacted) also alleged that you had planned with him to say that Mr Lubanga
2 had enrolled children in the army and that (Redacted) one of those children. Is
3 that -- well, what do you say to that allegation?

4 A. I say that this too is false. When (Redacted) enrolled -- I do not know when he
5 was recruited. I said at the beginning that I saw (Redacted) among the demobilised
6 children, and on the basis of that I understood that he was a child soldier. I have no
7 comments.

8 Q. What about the allegation that you had written down details of information that
9 (Redacted) would give to the investigators? What do you say to that?

10 A. I say that this is wrong, totally wrong. That allegation comes into the category
11 of his statement that I wrote a letter, and this letter is not a letter that I wrote. He
12 knows the situation himself. I say that it is false, totally false. It is a false
13 accusation.

14 PRESIDING JUDGE FULFORD: Private or public, Mr Sachdeva?

15 MR SACHDEVA: Public, I believe, Mr President. Yes, thank you.

16 PRESIDING JUDGE FULFORD: Thank you. Public session, please.

17 (Open session at 11.52 a.m.)

18 THE COURT OFFICER: We are in open session, Mr President.

19 MR SACHDEVA:

20 Q. Sir, I'm going to read out another allegation from Mr X, and I quote: "There
21 was a plan. While we spoke of all that, some names were written down of army
22 members who were in the rebellion, who had fought. If I were asked questions
23 about a battle that had occurred in a particular village, I was supposed to give the
24 names of certain people who were in the army, in no particular order. We were
25 getting ready in this fashion." Do you have anything to say about that allegation?

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1 A. I say that this is false. It is false. I did not give him any name. I did not
2 even make any comments concerning this. It was not in my interest. This is a false
3 allegation. Thank you.

4 Q. Upon answering the question as to why Mr X agreed to tell the lies to the
5 investigators, his answer was as follows: "Well, at the time he had money. He
6 would buy me drinks and he encouraged me to take action. He would give me a bit
7 of money, and I agreed to lie. So that is how things came to be." What do you say
8 to that?

9 A. I say that this is only binding on him. It -- I said earlier that I never met with
10 him in a bar and we did not, under any circumstances, deal with that subject.

11 Q. He also said that "He was supposed to say that he had seen young children and
12 girls who were in the army and that young girls had given birth to children whilst
13 they were in the army, so I was supposed to say that I had seen young children
14 enlisted, children from my family and others, people whom I knew who were
15 children and who had been enlisted in the army. That is what we were saying to
16 each other whilst he was prepping me." Do you have any comment on that?

17 A. I have no comment because I did not say that.

18 Q. He has also said that, on one occasion when he met you, you were drunk.
19 What do you say to that?

20 A. Excuse me, could you please repeat the question?

21 Q. Certainly. He has said that on one occasion when you met at the Hellenique
22 Restaurant, you were drunk. What do you say to that?

23 A. I say that people can ask about me, ask about my character. First of all, my
24 professional activities - and I repeat, my professional activities - do not authorise
25 drunkenness, and this could not can be proved in any way under any -- or at any time

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1 could it be proved that -- or, at no time could it be proved that Mr X was drunk.
2 During all of the years that I spent during -- within my service, nobody among my
3 colleagues or my head of service could say that I had been found drunk at any time or
4 could impugn my morality. I say that this is a false allegation.
5 PRESIDING JUDGE FULFORD: Mr Sachdeva, we're going to have a short break.
6 The interpreters are asking us to build in a bigger pause between the end of answers
7 and the beginning of the next question. A couple of times recently, I think
8 particularly in the French transcript, there has been a difficulty where the
9 intervention has come too quickly. So, we'll give everybody a bit of a break and
10 we'll sit again at 10-past-12. Closed session, please.
11 * (Closed session at 11.59 a.m.) Reclassified as Open session
12 THE COURT OFFICER: We are in closed session, Mr President.
13 (The witness stands down)
14 PRESIDING JUDGE FULFORD: 10-past-12.
15 THE COURT OFFICER: All rise.
16 (Recess taken at 11.59 a.m.)
17 *(Upon resuming in closed session at 12.10 p.m.) Reclassified as Open session
18 THE COURT USHER: All rise. Please be seated.
19 PRESIDING JUDGE FULFORD: Witness, please.
20 (The witness enters the courtroom)
21 PRESIDING JUDGE FULFORD: Private session, please.
22 *(Private session at 12.12 p.m.) Reclassified as Open session
23 THE COURT OFFICER: We are in private session, Mr President.
24 PRESIDING JUDGE FULFORD: Mr Sachdeva, forgive me saying it again, but just to
25 remind everyone, speak slowly, speak at a good volume, and leave a pause between

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1 any answer or any question. Please carry on.

2 MR SACHDEVA: I will do so, Mr President. May I just make one confirmation,
3 because I understand we're in private session, but I see the red light.

4 PRESIDING JUDGE FULFORD: Well done, Mr Sachdeva. Yes. I said -- ah, it's
5 now gone green. There we are. That is slightly worrying, because I said private
6 session and I don't think we've ever been in open session because we started off in
7 closed and then went to private. Can we check, please, that the light is working.
8 So can -- we needn't take up time with it now, but can -- whoever's in charge of the
9 equipment, make sure that the light is working properly. Yes, we should be in
10 private session. Please carry on, Mr Sachdeva.

11 MR SACHDEVA: Thank you.

12 Q. Sir, did you -- you talked about your meetings with (Redacted) in Bunia. Did
13 you evidence(?) have occasion to meet him outside of Bunia and indeed outside of the
14 DRC?

15 A. I met (Redacted) in Bunia and I also met him in Kampala. What is more, since
16 that date I have not seen him again, nor do I know where he is, nor do I know his
17 contact details.

18 Q. Tell us about the circumstances in which you met him in Kampala. Firstly, do
19 you recall when that was?

20 A. Yes, only too well. In order to go to Kampala, well, my presence was not only
21 required for him to meet with the investigator, but I stated that I was also a member
22 of personnel within (Redacted) and whilst I was in Bunia circumstance would have it
23 that, in association with my activities, (Redacted)
24 (Redacted), who was in Kampala, who managed the entire east
25 region, which he would then transmit faithfully, I hope, because this was

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1 verified -- he would transmit them to the authorities of the country. My mission in
2 Kampala, because whilst I was there I was not able to define -- well, I could not define
3 the (Redacted). I hail
4 from the east and all the other members of personnel hailed from the west. They
5 could not identify those people who hailed from the east and, more specifically, those
6 from the district of Ituri where war was raging. There were batches of passports that
7 the government had put at the disposal (Redacted). There were people who came
8 from Bunia, people who were requesting passports who came from the east in
9 general, and we had to make sure that whether the government could authorise these
10 individuals to have a passport issued; an ordinary passport that is.
11 To this effect, any person requesting a passport hailing from the east had to sign their
12 (Redacted). I had to identify this individual. I had to know where this individual
13 hailed from. I also had to ascertain why it was that he wanted to have a passport
14 issued, because we had to manage those who were fleeing. We had to stop the flow
15 of people who were fleeing; those who were involved in the war that had brought
16 strife to the Ituri region.
17 So this was an opportunity for me to take with me during this period (Redacted)
18 Kampala and, before leaving Bunia, (Redacted) did not have any documents to enable
19 him to say: "These are the documents that I have." He was a minor and, at that
20 moment in time, he did not have any identity papers. I took pains to travel with him,
21 and under my security clearance, in view of the fact that I was managing (Redacted)
22 (Redacted), I had travelled with
23 him without any problem and this journey to Kampala incurred a number of
24 expenses which were reimbursed by the investigator.
25 Q. Thank you. Can you tell us when that trip took place? When was it that you

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1 travelled with (Redacted) to Kampala?

2 A. I thank you for that question. If my memory serves me correctly, I made a
3 journey with (Redacted) from Bunia to Kampala at the end of September/beginning of
4 October. I cannot recall the precise date, but I think it was around that time; that is
5 towards the end of September, towards the beginning of October, 2005 of course.

6 Q. You said that you travelled with him. Was it just the two of you, or did
7 anybody else travel with you?

8 A. I believe that within the context of my work I reserve the right to state whether
9 or not I was in someone's company. All that I can tell you is that there were
10 associates who might be used in terms of security clearance, or cover if you like. It
11 was a very, very difficult situation. Nobody could leave Bunia, unless it was one of
12 the officials.

13 Q. Did a member of your family either travel with you to Kampala, or was there a
14 member of your family that you met in Kampala? Is that -- did that happen, or not?

15 A. As I said at the outset, (Redacted). I wasn't alone. I was with my
16 (Redacted) in Kampala, and it was not even timely for me to say (Redacted), "Oh, this
17 is (Redacted). This is my (Redacted). I believe that, as I said earlier
18 on, my mission was to get him to his destination in all security and safety, and he
19 arrived and he met with the investigator. As to what they said to each other, I do
20 not know.

21 Q. You said that you do not know what the investigator and (Redacted) to
22 each other. When they met, where were you?

23 A. Upon arriving in Kampala we were staying in a hotel, and I remember or I
24 would remind you that the investigator - the aforementioned investigator identified
25 previously - reimbursed those expenses incurred by the journey we had made and,

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1 upon arriving in Kampala, we had to find a framework within which to work because
2 you can't just bring somebody there and abandon them in the street. Upon leaving
3 Bunia his family, his wife, (Redacted) had travelled, and of course even at
4 the airport and at the border crossings it was known that (Redacted) had travelled
5 with Mr X and in Kampala I had to take care of him. I put him up in a hotel, and the
6 expenses incurred by this stay at the hotel were reimbursed by the investigator.
7 However, with regard to contacts, the investigator had arrived. I did not know
8 where he was staying but, upon establishing contact with him, he directed me to a
9 certain location and I went there firstly on my own. He told me where to go and I
10 was supposed to organise transport. I was supposed to pay for taxis, because I
11 didn't have a car, and even if I had had one I could not have used it for this purpose.
12 So we rented vehicles for security purposes, and when I say "for security purposes"
13 what do I mean by that? Well, when the UPC was driven out of Bunia there were
14 some officers and some soldiers who had sought refuge in Kampala, and even before
15 I went home to my country I also knew who they were in Kampala and for security
16 reasons he had also asked that I protect him and I had to do that and that is why I
17 took him to the entry. I don't know whether I can use the English word. I am
18 using the word gate here. I don't know whether it's the right word to use. So I
19 bought him or brought him to the gate, and the investigator then picked him up there
20 and took him away for their interview.
21 After the interview I was called to pick him up at a corner, and I remember that
22 throughout all of the contact that was established we never maintained the same
23 pick-off -- pick-up and drop off point for all of our dealings.
24 Q. And when the interview was taking place, were you present at that time?
25 A. As I said, in the negative. I did not even hear what was being talked about,

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1 and even when he came back he would go into his room and he would go and eat in
2 the restaurant. All that I did was make sure that he was there. I made sure that he
3 was well looked after and I think that that was all.

4 Q. Were you -- did you have any information as to what topics would be covered
5 in the interview with (Redacted) and the investigators?

6 A. Never. I never had any idea what the topics would be. Never at all.

7 Q. Did you discuss with (Redacted) during the time that he was interviewed any of
8 the topics or subjects that he was asked questions on?

9 A. I never did, and it wasn't even important for me to do that. I never did that.

10 Q. I want to read out another allegation and again ask you to comment. This is
11 what (Redacted) said about you, and I quote: "Mr X," that is yourself, "had the
12 responsibility of taking me to the investigators together with a driver. He would
13 come to pick me up and take me back to the hotel and then he would ask me what we
14 discussed and if there was anything that had been asked of me that had not been
15 discussed as part of our plan and whether the interview was going as we had
16 planned, and he would give me a little money." And my question is: What do you
17 have to say to that allegation?

18 A. First of all, that is a false allegation. He did say that I would take him, and I
19 would bring him there. The investigator would pick him up. I would pick him up
20 once he was back, to take him back to his room. But never, never did I speak to him
21 about the questions that had been put to him during his discussions with the
22 investigator. I reiterate: Never. And if I had done so, why didn't he say that to
23 the investigator the next day. And also, I'd like to add, I wonder - and this is just my
24 opinion - since the year 2005 up until the year 2008, if I could set some limits, those
25 three years, 2005, 2006, 2007, 2008, (Redacted) never gave a deposition to gainsay all

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1 the information he had given to the investigator -- so my question today is as follows:
2 Why? Why did he choose today or this particular time to refute everything that he
3 had said? And I also wonder, and I'm saying this very clearly - this is just my
4 opinion - who's behind him? Who is manipulating him so that he tells lies about
5 me?

6 Q. (Redacted) has also said, and I'm going to -- I'm not going to quote but I'm
7 going to tell you the salient points of this allegation. He has said that you and him
8 sat down and wrote down the names of various commanders on an exercise book, so
9 that he can remember this information during his interview. What do you have to
10 say about that?

11 A. I have no comments, and I really don't have any interest in commenting because
12 I didn't even know what their discussion was all about.

13 Q. Well, is it --

14 PRESIDING JUDGE FULFORD: Sorry, Mr Sachdeva. Public?

15 MR SACHDEVA: Yes. Yes, Mr President. I apologise.

16 PRESIDING JUDGE FULFORD: Thank you. No, no, not at all. It's very difficult.
17 Public session, please.

18 (Open session at 12.36 p.m.)

19 THE COURT OFFICER: We are in open session, Mr President.

20 MR SACHDEVA:

21 Q. Sir, what I've just told you is a very serious allegation, and I want to know from
22 you if it's true or not.

23 A. If you could repeat the question?

24 Q. Certainly. I've just asked you about the allegation regarding the writing down
25 of names on an exercise book, and you have said that you do not want to comment.

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1 And my question is this: Is it true or is it false?

2 A. It's false. I didn't write down any names.

3 Q. I'd like to now show you some documents, and these are contained in the
4 binder under tabs 49, 50 and 51.

5 For the benefit of the court officer, the ERNs are DRC-OTP-0208-0150, 0151 and 0152.

6 They're somewhat difficult to read, at the very right-hand corner at the bottom.

7 PRESIDING JUDGE FULFORD: I'm sorry, Mr Sachdeva, I probably should know
8 the answer to this but do we have the originals or not?

9 MR SACHDEVA: We don't, Mr President.

10 PRESIDING JUDGE FULFORD: Thank you. Right. The witness has those;
11 they've been pulled out. So where do we go from there, Mr Sachdeva? And should
12 we be in public or private for this?

13 MR SACHDEVA: We can be in open session, Mr President.

14 PRESIDING JUDGE FULFORD: Good.

15 MR SACHDEVA:

16 Q. Sir, after having looked at these documents, my question is: Did you have any
17 role -- or did you play a role in producing or completing these documents?

18 A. No. First of all, I don't even know what document this is. Even the writing
19 on it, this surprises me. Really, I'm sorry, very sorry. If I could ask a question,
20 please. May I ask a question? Could I please do so?

21 PRESIDING JUDGE FULFORD: You can certainly ask the question, sir. I don't
22 guarantee it will be answered, but certainly ask the question.

23 THE WITNESS: (Interpretation) Thank you, your Honour. I think that the
24 question was already asked about the original of this document. I would also like to
25 say that what I mentioned about the progress in science and the original, perhaps we

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1 could proceed in the same way, to identify whether I was the person, with my own
2 hand, who allegedly wrote what we find on this scanned copy of the document, or
3 this photocopy. Thank you, your Honour.

4 PRESIDING JUDGE FULFORD: Thank you for raising that. Do not fear, I've made
5 a note to myself in very large handwriting that you would like us to explore, where
6 relevant, fingerprints on documents or objects, handwriting and DNA, and I well
7 understand that you will have the same observation to make in relation to this
8 document. Good.

9 Please carry on, Mr Sachdeva.

10 MR SACHDEVA: Thank you. May these documents be given an EVD number,
11 with your leave.

12 PRESIDING JUDGE FULFORD: Certainly. EVD numbers, please, and they better
13 be given individually.

14 THE COURT OFFICER: Yes, your Honour. The first document, referenced as
15 DRC-OTP-0208-0150, will be given EVD number EVD-OTP-00607. The next
16 document, referenced as DRC-OTP-0208-0151, will be given reference
17 EVD-OTP-00608; and the third document, referenced as DRC-OTP-0208-0152, will be
18 given reference EVD-OTP-00609.

19 MR SACHDEVA:

20 Q. I'd now like to show you another document and it's contained in tab 16 of the
21 binder. And the ERN number is DRC-OTP-0216-0038.

22 A. I'm sorry, I don't have it here quite yet.

23 Q. That's fine. Just let me know when you've found it.

24 PRESIDING JUDGE FULFORD: Tab 16. Good. It's open.

25 MR SACHDEVA:

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1 Q. The first question, sir: Is your signature on that document?

2 A. Yes, that is my signature and that is my writing, my handwriting.

3 Q. And just explain what this document relates to. But before you do so -- I
4 apologise.

5 MR SACHDEVA: Perhaps the answer might require us moving into private session,
6 with your leave, Mr President.

7 PRESIDING JUDGE FULFORD: I understand. Private session, please.

8 THE WITNESS: (Interpretation) The document, here, your Honour --

9 *(Private session at 12.45 p.m.) Reclassified as Open session

10 THE COURT OFFICER: We are in private session, Mr President.

11 PRESIDING JUDGE FULFORD: Sorry, we're there now. So carry on, sir. Thank
12 you.

13 THE WITNESS: (Interpretation) Thank you, your Honour. The document here
14 is entitled "Relevé de Comptes" - statement of account - for the stay of (Redacted)
15 in Kampala. And in brackets, I put "U," and that stands for Uganda. From 26
16 September to 6 October 2005. That's the title.

17 There are two columns. Well, "column" is a term from the world of accounting, and
18 I had said initially that each time I had to make an expenditure, Mr Sebire was
19 obliged -- well, not exactly obliged but he had to reimburse me for the expenditure,
20 and I was supposed to furthermore explain to him, explain to him all the
21 expenditures that I had incurred. And that is why you will say the 28th -- no, 28
22 September 2005, you will see here that he gave me \$400, and that was the first
23 payment. I noted it here. That was on the 28th. And if my memory serves me,
24 this is a document that was prepared on 3 October 2005.

25 On the 29th, that is to say the next day, I also received from him personally \$700.

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1 And in accounting terms, the total was nine-hundred-and -- correction, \$1,100. And
2 I provided, and that was in cash, \$300 to (Redacted). So there was a balance of 800.
3 Passport photo, a quickie passport photo, \$7. That was also for (Redacted).
4 And each time I would record and I would give the receipts.
5 Entry number 5. I paid for the hotel, \$300. Purchase of a ticket, I bought a ticket,
6 \$180. And I provided \$200 in cash to (Redacted) and I also bought for him during
7 the trip -- and you see, he -- he needed a pass so that his stay would be regulated in a
8 foreign country. I paid for that visa.
9 And also I provided receipts. And I think I mentioned -- below there's some details,
10 the amount and the expenditure incurred and the balance that remained. So this is
11 document is a photocopy, and I'm sure the original must be here, and I confirm that
12 this document was indeed written and prepared by me, and signed by me.
13 MR SACHDEVA: Mr President, can it be given an EVD number, with your leave?
14 PRESIDING JUDGE FULFORD: Most certainly.
15 THE COURT OFFICER: Yes, your Honour. The document under tab 16 with ERN
16 number DRC-OTP-0216-0038 will be given reference number EVD-OTP-00610 and
17 will be marked as confidential.
18 Your Honour, there has been a misunderstanding in the previous attribution of EVDs.
19 Should I do the correction now or later on?
20 PRESIDING JUDGE FULFORD: Now, please.
21 THE COURT OFFICER: The previous documents under tabs 49, 50 and 51 will be
22 attributed for the first, DRC-OTP-0208-0151, EVD-OTP-00607 marked as confidential.
23 Document under tab 50, DRC-OTP-0208-0152, will be referenced as EVD-OTP-00608
24 marked as confidential. The last tab under tab 51, DRC-OTP 0208-0153, will be
25 referenced as EVD-OTP-00609 marked as confidential. Thank you.

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1 PRESIDING JUDGE FULFORD: Thank you very much. Yes, Mr Sachdeva.

2 MR SACHDEVA:

3 Q. Sir, perhaps you have been clear, and I apologise if I'm covering territory that's
4 already been covered, but I just want to confirm: When you say this was completed
5 by you, are you referring to every aspect of this document or just part?

6 A. The document that you just showed me here, which I have right here under my
7 eyes, this is a document that was written and signed by me.

8 Q. You have said that -- well, if you look at the entry on -- entry number 7 on 1
9 October 2005 for an amount of \$200, do you recall what that was for?

10 A. In fact, when it comes to accounting, it was an outlay. In other words, money
11 that went out. It's shown here, "Provided in cash (Redacted)." Cash, you would
12 say in English. Excuse my poor pronunciation, but "en espèces" means cash. So it
13 means money was handed over to him, \$200.

14 Q. And do you recall what it was for?

15 A. That money I gave him in cash was so that he could buy his (Redacted)
16 products.

17 MR SACHDEVA: Mr President, I want to show the witness -- well, perhaps I can do
18 it. No problem.

19 Q. Sir, I'm going to show you another document, and it's found under tab 14.
20 And for the court officer, it is DRC-OTP-0216-0016. So, sir, do you see your
21 signature on this document?

22 A. Yes.

23 Q. And just explain what this document relates to?

24 A. I think it is a receipt of a reimbursement for expenses, expenditures that were
25 incurred, and it was prepared by the investigator, of course, and I signed it.

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1 Q. And it is apparent from the document, but can you just explain what kind of
2 expenses this, the reimbursement, was for?

3 A. I think --

4 THE INTERPRETER: If the witness could please speak into the microphone.

5 Message from the English booth: Inaudible.

6 PRESIDING JUDGE FULFORD: Sir, I'm sorry. You are looking at the document
7 and you've moved away from the microphone. Could you start your answer again,
8 please.

9 THE INTERPRETER: Many thanks from the English booth.

10 THE WITNESS: (Interpretation) Yes. I was saying that there are some terms that
11 I don't understand because the document was not written by me, but what I do know
12 there was a salary paid to me. There was transportation to Kampala, and I see
13 communications in Kampala. There was also the tickets, the aeroplane tickets as
14 well. There were expenditures relating to vehicles -- correction, a vehicle from Arua
15 to Bunia.

16 And there were minor expenses. For example, there were roadblocks here and there.

17 At the airport, for example, various small check-in fees that had to be paid. There
18 are various, several offices, as you know, and one must pay fees. I think that this
19 document had to do with the trip that we made to Kampala, and it provides the
20 details. It even sets out the itinerary that we followed for our trip to Kampala.

21 MR SACHDEVA: Thank you. Can this document be given an EVD number.

22 PRESIDING JUDGE FULFORD: Please.

23 THE COURT OFFICER: Yes, your Honour. Document under tab 14 referenced as
24 DRC-OTP-0216-0016 should be given reference EVD-OTP-00611 and marked as
25 confidential.

Trial Hearing
Witness: DRC-OTP-WWWW-0316

(Closed Session)

ICC-01/04-01/06

- 1 PRESIDING JUDGE FULFORD: Is that a convenient moment, Mr Sachdeva?
- 2 MR SACHDEVA: It is, Mr President. I had wanted to revert in respect of the
- 3 Defence's letter regarding disclosure for 316.
- 4 PRESIDING JUDGE FULFORD: Yes. Should we do that at half-past-2?
- 5 MR SACHDEVA: Certainly.
- 6 PRESIDING JUDGE FULFORD: Thank you very much. Thank you, sir. We are
- 7 going to have the lunch break now. We look forward to seeing you at half-past-2.
- 8 We'll in fact be sitting in a court two floors below this.
- 9 Closed session, please.
- 10 *(Closed session at 1.00 p.m.) Reclassified as Open session
- 11 THE COURT OFFICER: We are in closed session, Mr President.
- 12 (The witness stands down)
- 13 PRESIDING JUDGE FULFORD: Courtroom 1, half-past-2.
- 14 THE COURT USHER: All rise.
- 15 (Luncheon recess taken at 1.01 p.m.)
- 16 RECLASSIFICATION REPORT
- 17 Pursuant to Trial Chamber I's email instruction dated 8 December 2011, the
- 18 transcript is reclassified as public after the indicated redactions have been
- 19 implemented as ordered by the Chamber. All private and closed sessions (*) are now
- 20 available to the public with the exception of the portions of the transcript that have
- 21 been redacted.