

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Germain Katanga
5 and Mathieu Ngudjolo Chui - ICC-01/04-01/07
6 Presiding Judge Bruno Cotte
7 Status Conference
8 Friday, 25 November 2011
9 * (The hearing starts in closed session at 9.02 a.m.) Reclassified as Open session
10 PRESIDING JUDGE COTTE: (Interpretation) Very well. Our status conference begins
11 now. I want to greet everybody in the courtroom and the accused persons as well.
12 The Chamber wants to note, first of all, that the parties and participants did not raise any
13 objections as to the holding of this status conference, designed to be a working session,
14 should hold with a single judge - the Presiding Judge - chairing.
15 In fact, the purpose of our status conference is for the Chamber to give you some
16 information on our transportation, to get your comments and remarks on our itinerary
17 and the protocol rules that should apply regarding the conduct of all and sundry during
18 this exercise.
19 The Chamber also seeks to obtain information from the Registry, as well as clarifications
20 that will be useful to all parties and participants.
21 The purpose, therefore, of our status conference is to consider all aspects that would make
22 it possible for the Chamber to come to a collegial decision on the judicial material and
23 organisational matters relating to our transportation, or our trip.
24 We are all here dressed in civilian attire and we will be starting soon. Representatives of
25 the Registry are sitting at the witness dock, but they are not witnesses. It is simply a

1 matter of convenience for them to sit there so that we can have them before us, rather than
2 have them sit behind the legal representatives of victims.
3 Let me also talk about the exploratory mission conducted by the Registry, and on
4 18 November 2011, 3202, we referred to a reconnaissance trip by the Registry carried out
5 at the end of October 2011.
6 The purpose of that mission was to ensure that on the ground all material elements were
7 in place for us to travel to the various locations as suggested in your submissions of 12
8 September 2011.
9 That mission also sought to assess and to temporarily determine, subject to change, all
10 organisational logistical and security matters pertaining to this judicial trip.
11 The Registry understandably did not proceed to assess the time limits, or the relevance of
12 going to any of those proposed areas, because that wasn't within its purview. This
13 matter lies with the Chamber, which will come to a determination bearing in mind a
14 number of parameters as to the areas which should be visited, the list of the locations or
15 places to be visited, as well as the lists of specific sites and buildings.
16 On 12 September 2011, we received very concrete proposals from all parties and we thank
17 you for that. We have also just received yesterday evening from Mr David Hooper -- this
18 was submitted last evening, but I received the document only this morning. We received
19 additional and very specific information from his team.
20 We shall therefore be suggesting the itinerary - the possible itinerary - that we may adopt,
21 mindful of budget constraints as well as security considerations which must be taken into
22 consideration.
23 As you understand, the trip we intend to make is one that is feasible, although the
24 financial resources need to be obtained in rather difficult times, whereas we all want to do
25 our level best to do everything that we want to do.

1 So I intend to read out a document and then subsequently seek your remarks, so that we
2 can set the itinerary which will be included in the collegial decision to be delivered by the
3 Bench, or by the Chamber, following this status conference.

4 The Chamber wants to underscore at this juncture that it does not intend to make a
5 determination on the comments and rationales or relevance of the various sites proposed
6 in your submissions of 12 September 2011, as well as in the submissions of Mr Hooper
7 filed last evening. It is true that those submissions were detailed and mentioned a
8 number of reasons for those suggestions, but the Court, as we want to clarify, will not be
9 taking those details into consideration.

10 So we want to underscore that the itinerary is subject to change on the ground, mindful of
11 the time and duration of travel and any unforeseeable circumstances that may be
12 encountered. You know that travelling is not an exact science, because of climate,
13 security considerations on the ground at that time, which by the way will be a
14 post-electoral period. So mindful of the security situation then, we will have to review
15 our itinerary on an ongoing basis.

16 We start by Bogoro, which to our mind is a priority. I will convey to you a document
17 which proposes an itinerary - a working document, actually - which I would like us to
18 look at in the context of our judicial trip; that is from Aveba, to Zumbe, then to Bogoro
19 and back to Bunia.

20 After looking at each of those localities I would like to hear your comments maybe not in
21 detail, but your comments in general which will help the Chamber to take those points
22 into consideration.

23 I want to thank Mr Hooper for having anticipated this aspect and forwarded his own
24 proposals, which maybe do not take into account our budget and time availability.

25 So we have focused essentially on what appears to be the priority for each locality, and

1 also what we may be able to do if we have sufficient time and also issues that we may not
2 delve into because we would have run out of time. Once the itinerary has been
3 addressed, then we would look at issues of escort, or guide; protocol issues; note-taking;
4 minutes; possible contacts that the counsel may have from site with the accused persons,
5 who would still be here at the detention centre; issues of interpretation; and matters such
6 as the presence or none of national judicial authorities, journalists, local population; and
7 any problems relating to taking the floor by persons who may be related to this trial and
8 who may happen to be present.

9 The Registry will be free to take the floor at any time and I am thankful that
10 representatives of the Registry are present here to provide us with information as to the
11 organisation of this trip, as it is now mindful of possible changes and also to talk to us
12 about logistics and security measures that would be taken.

13 This is a broad picture of how we intend this status conference to unfold.

14 Court officer, please would you kindly distribute this provisional working document to
15 all parties and participants. Thank you.

16 Before we take any comments on this document, I would like to ask whether the person
17 from the Registry in charge of security matters would like to take the floor to address all
18 matters -- all manner of constraints that may relate to this trip so that we can have an
19 overview of the situation before we engage into this free and open and informal status
20 conference, which to my mind should be useful and fruitful?

21 MR HAMO: (Interpretation) Thank you, Mr President, for giving me the floor.

22 I would like to talk to you about the security situation in Ituri. The general situation is
23 such that we can say that it is volatile and non-predictable in the east of the Congo.

24 Militia are still active in that area, and yet some concrete security measures may yet be
25 taken to water down any risks to our activities during the trip.

1 The Bunia area is placed under level 3 security, which is moderate. For this reason, we
2 need to put in place security measures in that area. Travel should be from 6 a.m. to 6
3 p.m. Then we have the constraint of notifying, or rather of obtaining, security clearance
4 before any such official travel to enable all parties to travel, and this will therefore require
5 that security measures be taken in times of any such crisis. This calls for caution,
6 therefore.

7 As for the travel proper, we intend to put in place the following additional measures: At
8 the level of the Court, we shall use our security officers from the Court and on the field
9 who shall go along with our team. Then we shall require an armed escort from
10 MONUSCO, depending on the areas to which we travel, and wherever there will be a
11 stop, or a break, the armed escort will be available. The National Congolese Police will
12 also be used for security purposes. It is an armed force.

13 In Aveba we have a few pockets of areas that may be considered to be at risk, Corporal
14 Mutata (phon) and the FPGC and other such pockets, so we are going to require or
15 request from MONUSCO armed patrols during the time we will be present on or at those
16 sites.

17 As for medical security, we shall take our paramedical team with us and we shall request
18 medical support from MONUSCO and at each of the sites, so there will be a medical
19 representative to go along with all the teams to the various sites.

20 Those are the security measures we are considering in broad strokes. I am ready to take
21 any additional questions.

22 PRESIDING JUDGE COTTE: (Interpretation) We will take questions subsequently so
23 that we may now move forward.

24 I would like us to turn to the draft itinerary, and I would like you to note that we have
25 only one day within which to travel within the area. We must comply with this

1 condition. It is short. We must make choices, including rapid transportation such as
2 helicopters, motorised vehicles, travelling by foot and what have you, so you may want to
3 also consider that a delegation of our size may not be very easily mobile and there are all
4 types of considerations that must be taken into account when organising our trip.
5 The intention then is to land at the MONUSCO camp in Aveba. For the Chamber, the
6 priority would have been to travel by vehicle to Aveba market and then to go on foot
7 across part of the airport before boarding other vehicles to travel to the Garimbaya airport
8 camp, which is at the end of the runway. This was suggested by Mr Hooper at
9 paragraphs 35 and 37 of his submission of 12 September. I am not referring to the
10 submission of last evening.
11 Then we would take the car again to go to the war displaced persons site, and then walk
12 to Camp BCA and to the demobilisation site. I am referring to paragraphs 36 and 37 of
13 Mr Hooper's submission.
14 Were time to allow, then we will be driven by vehicle to Germain Katanga's father's house
15 in Atelengba neighbourhood, paragraph 35 of Mr Hooper's submission, and where
16 possible we may have the opportunity to visit one of the manyatas of the FARDC camp
17 which was identified by the Registry during its reconnaissance meeting.
18 For lack of time, and contrary to Mr Hooper's suggestion at paragraph 37 of his
19 submission, we will not be able to visit Blaise Koka's house.
20 We shall then return to the MONUC camp, board the helicopter and return to Zombe.
21 That is what we will do in Aveba.
22 I have some comments from Mr Hooper in the document submitted last evening,
23 although I have not been able to read it. So Mr Hooper, Mr O'Shea, those of you who
24 probably are the most interested in the situation in Aveba, which is the native area of
25 Germain Katanga, maybe you have a thing or two to say about what I have just read out,

1 our proposal? You have the floor.

2 MR HOOPER: Yes, good morning, Mr President. I don't know if the draft working
3 document, if I can put it like that, that I submitted last night, whether the Registry have
4 been able to have sight of it, but if there is a copy -- and I think there is one coming to you.
5 Can I just stress that this document, in fact which was rather rapidly I am afraid and
6 belatedly put together last night, is not a filing. It's merely a suggested form of working
7 document. And what it does, and what it's attempted to do, is to bring together those
8 places that were nominated first of all by the victims' representatives - and indeed their
9 submission has been the template in a way for this document - to which has been added
10 the submissions made on behalf of Mr Ngudjolo in their filing. That's why you see that
11 part of it is in French and part of it is in English, and the English part needless to say is a
12 cut and paste made from our filing of those places that were suggested that we visit on
13 behalf -- in the filing on behalf of Mr Katanga.

14 The reason for the suggestion of this document is that by your decision, the Chamber's
15 decision of 18 November, your decision 3203, together with the annex that was attached to
16 that document, that filing, there were certain suggestions and parameters which I
17 appreciate we are yet to come to and revisit again this morning, such as what can be said
18 and what can be done in the course of the visit, and amongst those suggestions it was said
19 that perhaps the utility, as it were, of seeing a particular place.

20 For example, the Waka River. Supposing we nominate the Waka River as a place to have
21 identified in some way, then it seemed to us, looking at the decision of this Chamber, that
22 the decision of the Chamber indicated the Chamber would be or might be assisted by
23 suggested relevance from time to time, if that was possible.

24 And so what this document is is basically a list. It's not a -- it's not a schedule. It's
25 merely a list of places, whether it be Bogoro or whether it be Zumbe in one column, the

1 first column, and in the second column are various observations that have already been
2 made in those three filings by the parties and by the Defence. And, as I say, it's not
3 meant to be a formal document, but merely our suggestion as to how we could perhaps
4 nominate on the one hand places and, on the other hand, the utility of seeing those places.
5 And it's also to perhaps overcome another difficulty and that is this: That there might be
6 from time to time, for example, the identification, particularly in Bogoro, of Prosecution
7 witnesses' homes at the time of the Bogoro attack that may be relevant. And it would be
8 difficult obviously to identify those premises, other than very discretely, and it was
9 suggested, or we suggest - we suggest - that it may be that, if this working document is a
10 satisfactory assistance to people, and the Prosecution of course need to add their own
11 comments perhaps to it, once we've got a list of places we can quickly number them 1 to
12 100, or whatever it might be. So if we are, for example, passing the home (Redacted) in
13 Bogoro, we can just say that we are looking at item 16 or 17 and it gets about the problem
14 of using the word "witness" that might be overheard, or the like.

15 Anyway, that's perhaps a finer detail of the document.

16 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, thank you very much. I
17 have fully understood what you have said and I will convey the information to my two
18 colleagues that this is not an official submission, or filing, and that this document is not
19 binding as such, but that you simply are putting forward a working document designed
20 basically to provide information and documentation to be consistent with the expression
21 "working document."

22 So we shall read the document but, as you have understood, we need to make some very
23 specific choices between the helicopter, vehicles within the locations or sites and going on
24 foot. These three means of transportation do not leave us with much time. That is why
25 we must make the essential choices on a well-informed basis, and I believe that your

1 document provides us with additional information in addition to your filing of 12
2 September 2011.
3 So during this status conference what matters therefore is that, after providing all parties
4 and participants with what the Chamber thinks are its priorities in relation to what we
5 think we may be able to do on the ground and the things we may not be able to do on the
6 ground, then you will be in a position to tell us whether or not you agree with this point,
7 or that point, and say, "This is not a priority for us," or "That is a priority for us." So you
8 and the Prosecutor, for example in relation to Aveba, may be able to tell us what is a
9 priority and what is not; all of that subject to the decision of the Trial Chamber.
10 So for Aveba the priorities are the Aveba market, the airstrip, the airport camp, or the
11 Garimbaya camp at the airport.
12 Mr Hooper, please -- be seated, please. Don't stand up. Just sit down.
13 The BCA camp is a priority, the site for the war displaced persons and, if possible,
14 Germain Katanga's father's house and possibly a manyata, since the first
15 witnesses - Prosecution witnesses - referred extensively to manyatas, but this in itself is
16 not an absolute priority.
17 As for Blaise Koka's house, I do not think that we have enough time to visit that house.
18 As I look at the document which you forwarded to us last evening, I realise that our
19 positions are very close. So I would like to ask you, or the Prosecutor, whether -- and the
20 legal representatives, whether you have any major suggestions to make? This is the
21 approach we intend to adopt.
22 MR MACDONALD: (Interpretation) Good morning, Mr President, and thank you. I
23 think it would be timely, with relation to all the sites and locations suggested, that the
24 Chamber indeed allow us to express ourselves.
25 We are totally in agreement with your suggestions regarding Aveba.

1 Now, this is a general comment, Mr President, especially in light of what you said that we
2 will not be able to visit the house of Mr Blaise Koka due to the lack of time. There are
3 additional difficulties to the extent that -- and I would like to raise these, to the extent that
4 no witness has been questioned on a location, none of these locations have been identified
5 on a map and the identification of some locations identified by the parties and
6 participants might then come down to an agreement between the parties once we're out
7 on the ground.

8 For example, Blaise Koka's house. There is no proof or evidence, apart from the
9 neighbourhood itself, as to the location - the precise location - of this house. So when we
10 are out on the ground and the Chamber requests that one of the parties identified a
11 location, I believe that this should be based on evidence that has already been tendered
12 into the case file. If this is not the case then there should be an agreement between the
13 various parties, but of course the fact that there might not be any evidence tendered into
14 the case file, with regard to the notes, then we should write down the importance of
15 such-and-such a location.

16 In general terms - and I understand that we shall broach this subject - in terms of
17 experience, when we go out into the field, for example Bogoro, with regard to the
18 neighbouring mountains of course we can see those mountains very clearly. Mount
19 Lagura for example, which is very high, is a very obvious land point, and another location
20 identified in your document, Mr President, Mount Rwakalongo, can also be clearly seen,
21 and so if we travel and go to the foot of this mountain we can also see the river.

22 I believe that there are some things that Counsel Hooper identified, because he wanted to
23 be able to append his comments and this with regard to evidence, but those locations once
24 we are out on the ground we can see those locations clearly, and of course we understand
25 the submissions that have been made in this regard.

1 Now, let us return to the question submitted by the Chamber. We have no objection as to
2 the itinerary suggested by the Chamber with regard to Aveba. There might be a small
3 question to raise here. When we are talking about an itinerary, how much time are we
4 planning to spend on location? Are we talking about doing everything on the same day?
5 Are we talking about spreading it over two days? We understand, of course, why the
6 Chamber is limited in terms of time.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Prosecutor. As we
8 indicated in our decision of 18 November, unless I am mistaken, with regard to the field
9 trip, the field trip will be conducted on one and the same day using various means of
10 transport; notably helicopters to go from one location to another and then using a vehicle
11 within each site. These are important details that the Registry will give us in fine.
12 Based on the idea and also under the control of the Registry, who are already thinking
13 about such matters and who are in charge of logistics, we shall start as early as possible in
14 the morning from Bunia. Leaving Bunia by helicopter, one or two helicopters will then
15 take the delegation to Aveba, and as I indicated at an earlier stage we shall then move on
16 to Zumbe and possibly Kambutso and then from Zumbe, Kambutso to Bogoro. We will
17 then go from Bogoro back to Bunia.

18 We will need to arrive in the same day. We shall have to start very early and finish our
19 trip at the end of the day. We will need to integrate into this field trip what we believe to
20 be essential and a matter of priority.

21 As each and every one of you has very well explained in this courtroom, that is since
22 November 2008, of course the Chamber needs to have an idea of the general atmosphere;
23 secondly of the various locations; and thirdly of a number of localities; and fourthly of a
24 number of buildings that have been mentioned; and fifthly there should be a possibility,
25 or there might be a possibility, that a witness has -- has or had not seen what he claims to

1 have seen in his testimony.

2 Of course this is somewhat regrettable, but of course you are all well-versed in the matters

3 and you know that even in the judicial field we have budgetary constraints, but we cannot

4 spend one, two or three days out on the ground.

5 Now, a delegation of this type might for the length of one day go unnoticed, but I do not

6 believe that for the entire extent of our trip we will go entirely unnoticed.

7 Now, that's what I wanted to say. Of course, I would like us to be able to move forward.

8 Mr Prosecutor, yes, please. Of course we have seen that with regard to the plan to visit

9 Aveba you had no specific observations to make, but you did want to specify details as to

10 the visit to the house of Blaise Koka which I believe we will not be able to integrate in our

11 itinerary and visit to Aveba.

12 MR MACDONALD: (Interpretation) And this commentary, Mr President, applies to

13 other similar locations with regard to evidence. Of course, yes, we did note,

14 Mr President, what you just said, that the delegation will arrive the day before, we will

15 sleep in Bunia and then we will leave very early the next day and we will at the end of our

16 journey then go on to Entebbe.

17 PRESIDING JUDGE COTTE: (Interpretation) I do apologise for the five second -- I will

18 then ask you to think about the journey and how we should set off on our trip. Of course,

19 there will be a trip from -- to Entebbe and from Entebbe to Bunia and vice-versa and then

20 returning to Schiphol.

21 Now with regard to Aveba, does the Mathieu Ngudjolo Defence team have any

22 observations to make? As for Mr Katanga's team, we do have its submissions and its

23 note from yesterday.

24 MR KILENDA: (Interpretation) Yes, thank you, Mr President. We only have one

25 observation to make. We note that we are not able to visit the house of Mr Blaise Koka.

1 PRESIDING JUDGE COTTE: (Interpretation) Now, legal representatives, do you have
2 anything to say on Aveba, because you did submit a number of very concrete proposals to
3 us, did you not?

4 MR GILISSEN: (Interpretation) I thank you, Mr President, and good morning.
5 Now, once again with regard to the plan to visit Aveba, I might have a small observation
6 to make as to the MO. Generally speaking, we are wondering whether in concrete terms,
7 in material terms, as to the identity of the individual who is going to be showing the
8 location to us. We are under the impression, this might be obvious, that he is a member
9 of the Registry. This is on the basis of the list finalised by the Chamber. I presume he
10 will be identifying the location and I produce -- I presume that he has certain
11 responsibilities.

12 PRESIDING JUDGE COTTE: (Interpretation) Maître Luvengika, please take the floor
13 and then I shall ask for information as to the guide.

14 MR NSITA: (Interpretation) Yes, thank you, Mr President, for granting me the floor. I
15 have no objection as to the itinerary put forward by the Chamber to our visit to Aveba,
16 but I hope that the Chamber will be somewhat flexible with regard to the timing which
17 might be short in terms of all those locations that we wanted to visit and now which seem
18 to be excluded.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Maître Luvengika. I shall
20 now stop talking about the itinerary and tell you a little bit about the guide and tell you
21 what the Chamber intends to do.

22 MR HOOPER: I'm sorry. I'm sorry, your Honour did invite me to make comments in
23 respect of that and I chose to speak instead about the document. Can I come back to the
24 observations in respect to the place?

25 In general, I -- there has been clearly a decision taken that we spend just one day visiting

1 these sites. We don't know, or I don't know anyway, the compelling reasons why it
2 should be one day and not for example two days, and we would say that two days would
3 make it far more comfortable and practical in many ways in terms of visiting the site.
4 We don't know whether it's an issue of security, an issue of accommodation or an issue of
5 finance, though we would have thought the latter really an extra day wouldn't make a
6 great deal of difference.
7 It is I think possible, if we start at half-past-6 or something in the morning, to visit those
8 three sites by helicopter, and I'm assuming that to go from Bunia to Aveba would take
9 about half-an-hour in a helicopter, I don't know what the timings are in fact, and that
10 would give possibly the possibility of two hours in Aveba which I think would be
11 adequate.
12 There's then the journey to Zumbe, which I assume would be another half-an-hour, and
13 an hour-and-a-half or so there, and that would be possible. And then the Chamber
14 would be visiting Bogoro, it's main point and object of destination, and it would be doing
15 so on this itinerary in the afternoon when it gets a bit hotter, it's hard to work, it's not easy,
16 but in any event it is possible to spend some time obviously in Bogoro itself.
17 May I say for our part we would have thought a better itinerary, if we can put it like that,
18 would have been to have gone by helicopter to Aveba and Zumbe on one day and to have
19 gone by transport along the road from Bunia to Bogoro for a specific visit to Bogoro and
20 perhaps Kasenyi on day two. That, we submit, is -- would be a better visit for the
21 Chamber and an easier visit for the Chamber, because Bogoro is plainly going to occupy
22 quite a deal of time.
23 But, as I say, we are not privy to the principal motives for restricting this visit to one day
24 and we respect the fact that the Chamber of course is privy to the reasons for it, but we
25 hope that those reasons aren't too Registry-led, if I can put it like that.

1 In terms of Aveba, on arrival we would say that the better itinerary is to go to Atelengba,
2 where Germain Katanga's father's home is, and Blaise Koka's residence, which can be
3 identified if there is a will to do so, is merely a few hundred yards away from that; to go
4 to the health centre, which we can pass, we don't necessarily have to go in, but there
5 would be time to go in; to visit the piste, and it's not necessary to go to a separate camp,
6 it's all one of the same place; to see the school and church which you pass in any event; to
7 go down towards where the BCA camp was; and all that can be done I would have
8 thought in an hour-and-a-half.

9 We don't quite understand why the manyata of the FARDC, which has played no role in
10 this case, should be included. If it's included in order to see what a manyata might look
11 like, well, we just don't know if these are straw buildings that comply with the kind of
12 straw buildings that the Ngiti for example were building, or the Lendu were building.
13 We just don't know. So it may not be typical, we don't know, but we would submit that
14 all that would be achievable in an hour-and-a-half or so.

15 We would also say that it's likely that the elders of the village would be very interested to
16 meet the Chamber, and I don't know if -- if any allowance has been made for that. It
17 might be something that the Chamber does not wish to have happen, but I know that it's
18 one of those problems the Chamber --

19 PRESIDING JUDGE COTTE: (Interpretation) Maître Hooper, if you heard me earlier,
20 this is a subject matter that we intend to broach, of course that of the local population and
21 any possible discussions that we might conduct with them. It is not possible for me to
22 broach everything at the same time, clearly.

23 At an earlier stage today, I listed the various points that we would be discussing. I talked
24 about the local population and we shall come to that. I also talked about the individuals
25 who might have been witnesses before the Chamber previously and who might be out on

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1 location, and we'll come to that, with your leave.

2 Now, the calculations that you are talking about. The Registry made these calculations,
3 and they shall talk to us about that, and this is precisely the reason why a reconnaissance
4 mission was sent out on to the ground at the end of October in order to ascertain the
5 feasibility of the itineraries that you have variously proposed on 11 September last as to
6 whether it would be possible within the space of one or two days to conduct this field trip,
7 and this is why they have then provided us with a time-scale.

8 So the finalised itinerary shall be decided upon, and the Registry shall explain to us that of
9 course on the budgetary level we are not comfortable and we do not yet know whether
10 the ASP will vote the budgetary extension that we require. Of course, there are various
11 constraints that we need to integrate that will be reassessed as we go along.

12 There is of course the inevitable size of the delegation, because the delegation shall not be
13 limited to three individuals. There are two Defence teams, three and four, seven people;
14 there are two people from the Prosecution, that's nine; two people from the legal
15 representatives, that's 11; and then the assistants, I don't quite know how many people
16 that will be; and the representatives of the Registry who -- and, of course, to move more
17 than 20 people from one location to another cannot be done just like that. Of course, it's
18 quite a lengthy process to organise and that is why we do not want to mess up this field
19 trip.

20 We want to go to the crux of the matter and concentrate on what we see to be the essential
21 points. We might have been able to -- we might have been -- we might have limited
22 ourselves to Bogoro, but it would have been regrettable not to visit Aveba and Zumbe that
23 we discussed at length during our proceedings.

24 Now, Mr Dubuisson, Director of the Services Division of the Court, would you like to
25 now address the Court as to whether we are talking about a one day time-frame, or not?

1 MR DUBUISSON: (Interpretation) I thank you, Mr President. Now, first and
2 foremost I would like to reassure everybody that these are decisions that have been taken
3 by the Registry and by the Registry alone to date, and these decisions have been taken
4 subsequent to discussions and communication with security and logistics within the
5 Registry, in addition to contact established with those individuals who will be able to help
6 us out in the field.
7 Now, of course there are risks involved in such a trip and we need to assess those risks,
8 and according to the information that we are receiving we do believe today that it would
9 be preferable to limit the trip to one day, which will be a very full day, and of course, yes,
10 we will indeed leave very early in the morning.
11 As soon as the curfew is raised we shall leave, that is to say that at 6 a.m. we shall set out
12 and we shall return at approximately 5.30/6 p.m., which will enable us to make the most
13 of all those minutes of time allowed us. And, of course, if the weather permits we will be
14 travelling in by helicopters. These are large helicopters and they take 20 to 30 minutes to
15 be able to take off. We need to take into account all of these details.
16 And to come back to what was said previously as to the journey by helicopter, yes, to
17 Aveba it's 30 minutes, to Zumbe it's 20 minutes, Zumbe Bogoro it's seven minutes and
18 then another 15 minutes to return. So these are the time-frames that have been taken into
19 account for the helicopter journeys.
20 We are -- we believe that on the basis of our reconnaissance trip we will be able to visit
21 various locations in the three villages that we were asked to conduct a reconnaissance trip
22 to. It is feasible. It is doable. It is doable in terms of journey on foot, journey by
23 vehicle, within the time-frame established, but of course we do not -- we should not run
24 up against any problems and if we respect the time-frame provided we will be able to do
25 this in one day.

1 We will be able to visit all those sites that are of interest to us, hoping of course that
2 during this discussion there will not be any other interests raised because, if we increase
3 the number of sites subsequent to these discussions and the decisions -- decision handed
4 down by the Judge, we might have to increase the time-frame, but by virtue of what we
5 have discussed and examined it is feasible.

6 So 30 people travelling at the same time, this is quite some convoy. It is quite difficult to
7 move 30 people around at once and there is a great risk factor. We visited Aveba a few
8 days after an attack happened there. We took the time to talk with the dignitaries of the
9 village in order to ascertain the possibility of being able to visit all locations. This took
10 time and we promised those dignitaries that we would meet with them once again, but of
11 course for us we have to make sure that this judicial field trip is conducted within a
12 bubble, in the sense that you will not yourself be in direct contact with the local
13 population, with the village heads, and we shall be facilitating the various visits that you
14 will be conducting.

15 So, yes, today we are recommending and we insist on the fact that the visit should be
16 conducted in one day.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you for this information. You
18 have understood once again that we want to be able to conduct this trip without the
19 Judges of this Chamber having to come to a decision without having seen Aveba, Bogoro,
20 et cetera, and of course without having been in a position to ascertain whether what the
21 witnesses stated was indeed possible, or not.

22 So we are working with what we can in the context -- in a security context. This is a
23 security context that I cannot really judge myself, but I also know that we are up against
24 budgetary constraints. Of course, travelling by helicopter one day or more is not the
25 same in terms of budgetary considerations.

1 Now, in anticipation of the question of the guide, in his submission Mr Hooper and also
2 the legal representatives indicated that the various tribunals - international
3 tribunals - used a guide when a Chamber went out on a field trip on the ground, and it
4 seemed to me, to the Chamber, to myself, that the best guide that we could conceivably
5 have available to us would be a representative of the Registry.

6 As has been recalled on numerous occasions, the Registry is a neutral organ of the Court,
7 and a representative of the Registry having actively participated in the recce mission
8 undertaken at the end of October 2011, specifically with the view to visit those locations
9 that have been suggested and also the possibility of being able to travel there, the
10 possibility of a delegation of more than 30 people to travel there, well, this established the
11 possibility. So this individual - this guide - would be in a position to be able to head up
12 this field trip because he has already reconnoitred the terrain.

13 It seemed to us that the person in the best possible decision -- position would be the
14 Director of the Court Services Division, Mr Dubuisson, assisted by Mr Vanaverbeke who
15 is also in our midst today.

16 We should be very clear on the matter. The guide will have to limit himself to indicating
17 the locations or sites that the Chamber wishes to visit, providing the briefest possible
18 comments, these comments once again being purely for information, and at the behest of
19 the Chamber on the ground he might -- we are talking about protocol here. He might
20 lead further discussions on the matter and, were challenges to arise -- to arise as to the
21 location of certain buildings, or certain individuals who said that they were at
22 such-and-such a location, those challenges will then be mentioned in the report to be
23 compiled. Nobody, therefore, will impose the location of such-and-such a building or
24 such-and-such an individual, on say 24 February, if an agreement has not been reached.
25 That goes without saying.

1 Now, Mr Hooper, in your filing you suggested that a GPS system be used in order to
2 determine or establish distances, and were photographs to be taken - we'll come to this - a
3 GPS system might enable us -- and I'm stepping carefully here, because I'm not a
4 technician. Such a system, GPS system, will enable us to locate the photographed
5 location with more precision. This was a suggestion put to the Registry and, to the
6 degree possible, the Registry will indeed get hold of such a system. Mr Gilissen, this was
7 indeed a useful suggestion on your part.

8 Now, let us move on to the subject of Zumbe. Having left Aveba, it is planned that we
9 then land at Zumbe primary school. We heard about this from Chief Manu and various
10 witnesses, and we recall that this location housed various troops at various points in time.

11 Now, the priority of the Chamber would then be to go to Zumbe market with a view to
12 identifying certain locations on the basis of the map drawn by Witness P-280, paragraphs
13 17 and 19 of the filing submitted by Maître Kilenda, and also reference to the sketch by
14 Witness 241 --

15 THE INTERPRETER: With an EVD number that the interpreter did not catch.

16 PRESIDING JUDGE COTTE: (Interpretation) And then it would seem that this is the
17 focal point. In Zumbe, we would then go from the market to the former protestant
18 church in order to attempt to various (sic) the various viewpoints that we can have out on
19 Bogoro. Once again it is not indispensable for us to return to what we've heard in terms
20 of testimony, but we shall be bearing in mind those who have not yet been out on the
21 ground that Zumbe is at a high altitude and that from Zumbe it might be possible for us
22 to visually have a view down on the site of Bogoro. Paragraph 13 of Maître Kilenda's
23 filing.

24 If we have the necessary time, and we hope to have the necessary time, all will depend on
25 the discipline of our small team. The vehicles will take us to the Kambutso health centre

1 which has been mentioned by Mr Mathieu Ngudjolo and many others. If possible on the
2 way, then we will make a stopover in Likonie, to identify the house of Mathieu Ngudjolo,
3 paragraph 17 and 18 of the filing of Mr Kilenda.
4 Because of the lack of time and because of difficult access the Chamber does not plan to
5 visit Lagura village as suggested by Mr Kilenda in paragraph 19 or to visit the natural
6 fortress which has been referred to as the large rocks of Zumbe mentioned in paragraph
7 15 of his filing.
8 Then we will return by vehicle to the Zumbe primary school and then board the
9 helicopter which shall take us to Bogoro. That is the main focus of our field trip. Mr
10 Kilenda, regarding Zumbe which is your priority area, do you want to make a comment?
11 MR KILENDA: (Interpretation) Thank you, your Honour. We do agree with the
12 planned itinerary but we would like to make a request to the Chamber, and they should
13 take out the word "if we have time" because to us it appears crucial to visit the Kambutso
14 health centre.
15 PRESIDING JUDGE COTTE: (Interpretation) Very well. We take due note of that and
16 we will see what is possible to do. We can be very optimistic. I am not trying to be very
17 negative all the time, it's just that we have to be very prepared for everything. No
18 observations, Mr Prosecutor and Mr Hooper, about Zumbe?
19 MR HOOPER: No observations on behalf of Mr Katanga.
20 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Hooper. Mr Gilissen?
21 MR GILISSEN: (Interpretation) We have no observations your Honour, thank you.
22 PRESIDING JUDGE COTTE: (Interpretation) And Mr Luvengika?
23 MR NSITA: (Interpretation) No observation, your Honour, thank you.
24 PRESIDING JUDGE COTTE: (Interpretation) Thank you everyone. Now we are back
25 in our helicopter and we are landing in Bogoro which is the most crucial stop during our

1 field trip. We will land at the MONUSCO camp which is at the end of the Diguna road.
2 We have several priorities. We will walk on foot from the MONUSCO camp to the
3 Muzora institute and then by vehicle to the SECA 20 church which is paragraph 24 of the
4 filing of the legal representatives and here we will deal with issues related to the
5 testimony of Witness 353, paragraph 21 of Mr Hooper's filing, as well as witness
6 V19P-0002, paragraph 22 of the filing of Mr Kilenda. Then we will go by vehicle to the
7 Bogoro roundabout and then walk towards the Bogoro institute. We will go into the
8 classrooms, and then look at the location of the trenches, paragraph 16 of Mr Hooper's
9 filing, paragraph 20 from Mr Kilenda and paragraph 40 for the legal representatives.
10 It would be interesting for the Chamber if that is possible to be able to locate the house of
11 Pastor Babona's house. We will then walk to the foot of Mount Waka so as (Redacted)
12 (Redacted) and what he described as his hiding place so as to assess the two
13 points of observation, and this is paragraphs 19 and 24 for Mr Hooper, paragraph 20 for
14 Mr Kilenda, and paragraph 41 for the legal representatives. On the way from the Bogoro
15 institute to (Redacted) it should be possible to see Mount Rwakalongo, Mount
16 Zumbe and Mount Lagura. That is paragraph 27 of the filings of the legal
17 representatives.
18 MR MACDONALD: (Interpretation) In Diguna, for example, it is much easier to see
19 Mount Lagura. I know that you included this here but there are other points of interests
20 that are already included in the itinerary where it is better to observe those mountains and
21 those hills.
22 PRESIDING JUDGE COTTE: (Interpretation) Thank you. The idea is that maybe
23 from this particular point it would have been possible to see the three mountains at the
24 same time but thank you for your observation. Then we will take the vehicle again from
25 (Redacted) to travel to the Bogoro market in order to assess the scope of the

1 testimony of P-279. I'm not going back into the details of that testimony. For the time
2 being this itinerary is devoid of any comments.

3 This relates to paragraph 21 of the filing of Mr Kilenda, and paragraph 28 from
4 Mr Hooper. From this point it should be possible to see the road leading from Bogoro to
5 Mount Lagura. We will then board the vehicles to go back to the office of the
6 groupement, paragraph 28 of the legal representatives, then the livestock market and then
7 walk on foot to the hill which makes it possible to see the Ngida neighbourhood, the
8 dipping tank, paragraphs 30 and 33 of the legal representatives. From that location the
9 Chamber should be able to locate the Matama and Kahiro streams in order to be able to
10 assess the testimony of Witness P-268, EVD-OTP-00044.

11 Mr Hooper insisted on the various entry points of the attackers in paragraph 15 of his
12 filing. These locations are possible to be seen, that is using the itinerary that we have
13 described. The livestock market, Medhu road, the Maya Franga River, Lagura road, the
14 Bogoro roundabout, Gety road, (Redacted), Waka road and the Diguna quest
15 house, MONUSCO camp.

16 If we have time from the market it will be possible to walk down the Sitaki Avenue,
17 paragraphs 36, 37 of the legal representatives' filing, in order in order to see or locate the
18 hiding place of Witness P-233, that is according to his testimony. It is at the intersection
19 of the Bayo River and I refer you to the testimony of P-233, page 69 , one, four to ten, and
20 EVD-OTP-00010. It would be interesting also to go up the Bunia road to have a
21 panoramic view of Bogoro village before going back down to the MONUSCO camp.

22 Because of a lack of time, the Chamber does not think that we will be able to go to the
23 summit of Mount Waka, and assess the testimony of P-323, paragraphs 18 to 20 of
24 Mr Hooper's filing. We would like to remind you that the Defence of Germain Katanga,
25 during the testimony of Jean Logo, introduced a video on that site into the evidence and I

1 believe that should make it possible to know what can be seen from Mount Waka.
2 We were talking a short time ago about the location of (Redacted). This
3 Chamber will not stop at the Metu Hotel but we should be able to pass by there. We do
4 not also think that we should be able to take the Kasenyi road in order to see Maya Franga
5 River. Paragraphs 31 of Mr Hooper's filing, and the paragraphs 45 and 46 for the legal
6 representatives, but we should be able to see this from the helicopter. We will then go
7 back to the MONUSCO camp to board the helicopter.
8 Regarding Bogoro itself, Mount Waka, and so on, please, your observations right now if
9 you wish? The Prosecutor, we will begin with you and then the Defence teams.
10 MR MACDONALD: (Interpretation) I insist on taking the floor now because Bogoro is
11 a crucial point for the Prosecution.
12 PRESIDING JUDGE COTTE: (Interpretation) Everybody will have a chance to speak
13 so there is no problem. Please continue.
14 MR MACDONALD: (Interpretation) We have no problem with the itinerary proposed
15 by the Chamber. The only thing that I would like to mention, your Honour, is when you
16 refer to the various streams, or rivers, we have to agree about what is a river, what is a
17 stream, and others. I am trying to look for the expression because there are even dry
18 river beds.
19 PRESIDING JUDGE COTTE: (Interpretation) Let us just say streams, or water-beds.
20 MR MACDONALD: (Interpretation) And once again also, Mr President, when we talk
21 about roads, most of the time these are only paths, and these are paths that are used
22 during hiking, for example. Now, from Diguna, after landing, we would be able to
23 assess the road that descends into the Kasenyi plateau. It is a pity that we will not have
24 the possibility to go right down to the plateau but just to go down that road so as to be
25 able to assess the topography of the field. I do not think that we should be able to see the

1 Maya Franga River from there, or from the Bunia-Bogoro road because of the uneven
2 terrain.

3 These were the main observations that I wanted to make and, obviously, we will have to
4 plan for a little bit more time in Bogoro, and I believe it is not necessary to go up the Waka
5 mountain, even though we might have the impression that it is very high but it is not that
6 high. There is of course a certain distance to be covered on foot to Mount Waka.

7 Now, behind the Bogoro institute or, rather, from the roundabout there is a small path to
8 go to the Bogoro institute and most of the houses that are supposed to be in Bogoro centre
9 are actually at the roundabout, or very near to it.

10 Now, as we saw in the 360 degree presentation, there is some impressive vegetation there,
11 and which does not make it easy to travel on foot behind that institute, that is the entire
12 area known as the SEI, on the road right to Medhu. So, you have to move by the
13 livestock market and so on and so forth, and when something is referred to as an avenue,
14 in fact it is within the meaning of Bogoro, it is a road that is not very wide. It is not even
15 as wide as the Bunia-Bogoro road. It is clear that the main points of interest on which we
16 should focus include Diguna, the roundabout itself, the institute, and after that we go
17 back to that junction by vehicle. At that time it was the road to Medhu and I believe
18 those are the crucial locations to be visited.

19 You have suggested that we continue on that road one kilometre, 1.5 kilometres before
20 Bogoro. When you come from Bunia there is a promontory, an elevated point from
21 where you can have a very good view, but once you are there you will be able to assess
22 the geography and topography of the area and you don't need to go everywhere to be able
23 to assess that.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Do you have any
25 observations regarding the priorities in Bogoro? Mr Hooper, this will depend on the

1 time and there are things that are actually feasible right now.

2 MR HOOPER: Essentially not, Mr President. The scheduling here seems quite

3 thorough, if I may say so, and so I have nothing to add. Perhaps just one or two

4 comments.

5 The first one is that I don't think there is actually a road that you can see that ascends up

6 to Lagura. There is reference here made to it but there might be a path.

7 Secondly, if we are landing in Diguna, at the MONUC camp there, then it might be

8 possible from there to look down to Kasenyi and the plain and get some idea to that

9 extent but I agree with Mr Macdonald, if it was possible to go down to the plain and back

10 again, it's not more than about ten kilometres, you do get a particular feel of the place

11 because of the geography, as you'll see it, but it may be that the Court won't have time for

12 that.

13 And I'd also add, it might be here but I haven't seen it, the Kavali institute, which is the

14 primary school that was discussed, that is something that will be passed. A lot of these

15 places are just one side of the road so it's not a difficult journey to see them all.

16 In terms of Waka Hill, even a slight ascent of it may prove useful because you do get a

17 good view of the terrain between the hill and the Bogoro institute which, as

18 Mr Macdonald has just indicated, isn't itself otherwise easily assessable, but between the

19 Bogoro institute and Waka Hill there is a road, an unmade road which is, I would have

20 thought -- I walked it but I've not driven it but it looked very drivable, making both the

21 source of the Waka and part of Waka Hill, if one wanted to ascend a bit of it, it is not high,

22 as Mr Macdonald has said, probably 80, 100 metres at the most, I would have thought, one

23 can access from the Bogoro institute by vehicle both the source and a little bit of an ascent

24 of the Waka Hill, and you then look back and you get a good view and that's my only

25 suggestion to Mr Dubuisson. I see there is no mention of lunch in this so far but I am

1 sure Mr Dubuisson is providing a good range of Belgian wines and the like.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you for those suggestions,

3 Mr Hooper. We are going to look at the feasibility. Mr Kilenda.

4 MR KILENDA: (Interpretation) Thank you, your Honour. We do not have any

5 observations regarding the visit to Bogoro, but if we can find time to go to the summit of

6 Waka Hill, that would make it possible to determine whether from there you can identify

7 someone at the Bogoro institute, for example. Thank you.

8 MR MACDONALD: (Interpretation) With your leave, your Honour? It should be

9 pointed out that not everybody is of the same level of physical fitness. The three Judges

10 of the Chamber should be able to see the same locations. This is very important to point

11 out. We cannot overlook that. It is possible that certain places should be visited for one

12 reason or the other but we have not -- we should not forget this, especially when we are

13 talking about visiting places on foot. Thank you.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Prosecutor. I pointed

15 out a short while ago that moving a delegation of 25 to 30 people from place to place is

16 difficult. Everyone does not have the same degree of mobility. We should be aware of

17 that and we should bear in mind that the three Judges should be able to see the same

18 things at the same time and this requires perfect co-ordination in the movement of

19 everyone, but I believe we are going to be able to do that.

20 I will now give the floor to Mr Gilissen and Mr Luvengika and maybe the Registry is

21 going to tell us something about the vehicles that will be made available, which should

22 clarify the points of views of the Defences.

23 MR GILISSEN: (Interpretation) I have one observation only. I am happy about

24 everything that has been planned. Thank you.

25 PRESIDING JUDGE COTTE: (Interpretation) Very well. That is very reassuring.

1 Mr Luvengika.

2 MR NSITA: (Interpretation) Thank you, your Honour. Perhaps I will have an answer
3 to my observation during the visit because I was going to suggest that we visit the Waka
4 source or spring, which is at the foot of Mount Waka and I believe when (Redacted)
5 (Redacted) then we should be able to see that spring, and that is something
6 that was mentioned several times here during the testimonies of the various witnesses
7 and many people are supposed to have fled there.

8 My learned friend Mr Hooper has also suggested at least a look at the Kavali primary
9 school, and I believe that from the roundabout to the administrative offices, I believe we
10 should be able to pass in front of the Kavali school.

11 There was something else in our filing, and this was in case this visit is made by road.
12 Unfortunately, we are not going to travel by road, but if we travel by helicopter, would it
13 be able to see the Bunia-Bogoro itineraries so that we should be able to see Kavalega 1,
14 Kavalega 2 and Katonie and these are all locations that are close to Bogoro and which
15 were mentioned on several occasions during our proceedings. Those are the
16 observations that I wanted to make. Thank you.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Luvengika. We do hope
18 that if the weather is agreeable, then our travel by helicopter should make it possible for
19 us to identify certain sites that are important to the parties and participants in this
20 Chamber. That is if we are not flying too high.

21 Regarding the Waka source or spring, I'm talking on the basis of sketches and maps that
22 have been produced, but unless I am mistaken, when I mentioned (Redacted),
23 (Redacted) as well as his hiding places, (Redacted).

24 Now, regarding vehicles. Mr Director, can you give us some information because this
25 might make it possible to answer some suggestions that have been made? What types of

1 vehicles will we have? How sturdy are they and how many vehicles will we have?

2 MR DUBUISSON: (Interpretation) Thank you, your Honour. I will talk about lunch,

3 for example. We have provided for a lunch which will be taken in the MONUSCO camp,

4 and you will have a magnificent view over Lake Albert and as well as the slope on the hill

5 going down towards the Kasenyi plateau and Lake Albert. That is where we will have

6 our lunch, and for the 30 to 45 minutes that we will be there you will have that

7 magnificent view and the road.

8 Now, regarding vehicles, this is very difficult. There will be about 30 of us and we

9 should have three, four, five vehicles which obviously will be four-by-four vehicles, the

10 vehicles typically used by the Court and the United Nations, and I believe if we squeeze in

11 a little bit, five or six people by vehicle, maximum, well, you will realise that it will not be

12 very very comfortable but you should also know that for security reasons, some vehicles

13 have to constantly be close to the Judges and in fact close to the group.

14 During the reconnaissance village, the distance between the institute and Mount Waka is

15 more or less 500 metres and if we walk slowly it will take us about seven minutes. That

16 is up to the place where the slope starts to begin to be much steeper. The spring is

17 further down. We went there during the month of October and everything was visible.

18 Now we need to know whether the situation will be the same. The vegetation was not

19 very high at that time and so we were able to see everything from the places we visited.

20 There were some grass that was three metres tall, for example, and from there you can't

21 see anything so everything depends on the period that will be chosen by the Chamber for

22 the visit.

23 We carried out our own visit in October, and it is no problem at all to travel from the

24 institute, for example, to the foot of Mount Waka. You travel by car less than five

25 minutes and then on foot you go towards the spring or the source, but here we are talking

1 about a convoy of four-by-four vehicles. Some of those vehicles will even be armoured
2 vehicles, which means they are extremely heavy and can be bogged down if it rains.

3 That is the information that I can provide. Do you have something to add?

4 MR HAMO: (Interpretation) Mr President, I am sorry I had stayed seated and that is
5 because I have limited experience in the courtroom.

6 PRESIDING JUDGE COTTE: (Interpretation) No problem.

7 MR HAMO: The Director mentioned armoured vehicles. In my experience, each time
8 we have august visitors armoured vehicles are made available if possible for their
9 transportation. It is true that in Aveba and in Bogoro it is planned that we will have the
10 armoured vehicles but we will not have those vehicles in Zumbe because it is not possible
11 for those vehicles to travel to Zumbe. On the eve of the visit, there will be advance teams
12 that will go and spend the night on the sites and await for the delegation the next day.

13 Thank you.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much. Thank you for
15 those details. End of our itinerary, Bunia and surrounding neighbourhoods. At
16 paragraph 9 of the submission, Mr Kilenda and also Mr Hooper in his information sheet
17 of last evening, talk about Bunia. Yes, we shall be landing in Bunia but we do not intend
18 to go about or around in Bunia or at the airport. The only movement will be to get to our
19 vehicles and other air transportation that will be available.

20 As we read through Mr Kilenda's submissions or filings, we remembered that there were
21 meetings held in March or April 2003 of the pacification commission at the airport. We
22 remember the videos of P-02 and P-30, which were screened a number of times, and we
23 therefore do not believe that subject to available time we will be able to stop at length in
24 Bunia. All we may be able to do is to overfly Bunia.

25 Now, as for Dele, there is a question mark on Dele at this point in time because we are

1 mindful of the interest that there may be in going to Dele farm in order to measure the
2 distance between Dele farm where allegedly, and I want to be as clear as possible, where
3 (Redacted) houses (Redacted) rather, were
4 allegedly located at the place where the Ugandan camp was alleged to have been located.
5 There seems to be contradictions in some of the points of views expressed in the Court,
6 and I am referring here to paragraph 12 of Mr Hooper's submission, and paragraphs 10
7 and 11 of Mr Kilenda's submission, so it will be interesting to locate that camp of
8 Ugandans.
9 This is subject now to a possible reconsideration. In any event, we will do everything
10 possible, mindful of the material feasibility, which will enable us to determine whether it
11 will be possible for us to go to Dele farm. I hope that you have understood that this is a
12 point of interest but also you have understood what I am stating.
13 Mr Macdonald, you have the floor.
14 MR MACDONALD: (Interpretation) Now, on the matter of (Redacted), I didn't
15 refer to P-161 because there was a testimony --
16 PRESIDING JUDGE COTTE: (Interpretation) P-61, as far as I can remember, made an
17 introductory statement, stating that he wanted to speak publicly to the entire world so his
18 testimony was in public.
19 MR MACDONALD: (Interpretation) For that reason I do not see any security issues
20 arising with any trip to the foot of Mount Waka, and to the area where he lived in Bogoro.
21 However, regarding (Redacted), the situation is quite different. These witnesses were
22 granted protective measures, and in addition, the fathers of these witnesses also testified
23 for the Defence, and were also granted protective measures, so we need to be mindful of
24 this as we conduct this field trip in relation to the possible identification of areas where
25 these witnesses may live. I therefore simply want to bring this to our attention.

1 Now, as for Bunia, let me draw our attention to the fact that if we were to arrive in Bunia
2 in the evening, probably during daylight time, then we would be going to the field office
3 through Bunia, through the main road, which goes through Bunia centre, or by another
4 alternate route which goes by the detention centre. Unavoidably, the Chamber would
5 then be able to assess Bunia for itself, and know what it looks like today.
6 I also believe that if we were to be at the field office the next day then we would have to
7 go to MONUC house to eat, and at that time we will also be able to see how dark it gets
8 because when it gets dark it is really dark and we should be able to observe those things
9 as we go to Bunia or to downtown Bunia.
10 That is why when we talk about the airport we must bear in mind that in 2011 some of the
11 infrastructure at the airport might be the same as what was in place in 2003 but things
12 have changed significantly, even if it were only for the presence of MONUC, which is
13 the major organisation in Congo.
14 You see, Bunia at the time was a centre of activities in Congo but today, MONUC
15 activities are to be seen across the entire city today.
16 PRESIDING JUDGE COTTE: (Interpretation) Directors, parties, would this field trip or,
17 rather, this trip from the airport to the residence, which will take place during our first
18 night or our second night, will this trip give us an opportunity to have an assessment
19 somewhat of the area?
20 MR DUBUISSON: (Interpretation) Yes, absolutely, Mr President. It is for you to
21 determine what itinerary to follow, whatever routes have been suggested, but you don't
22 have too much of a choice but you may also want to know that we will not be able to host
23 30 persons in our field office except we all sleep very tightly, and so there will be people
24 in all areas that would have been previously secured, so to speak, and we will therefore
25 go to those areas from the airport and of course we will meet at some location in the

1 evening to have dinner, and for security reasons all of this will be co-ordinated.

2 So, in the evening, when we get there just before night falls or, rather, by the time we will
3 be dropping off people at the various sites it will still be daylight and then vehicles would
4 be used to bring them, later on, to the MONUC house where we will be eating.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you for those details,
6 Mr Prosecutor, and once again I am just gathering comments from all parties, and I am
7 not coming to any decision because the decision will have to be collegial and will be made
8 subsequently.

9 Now, as for the concerns relating to (Redacted), I
10 believe that if we were able to go to Dele, what matters would not be just simply stopping
11 at the houses or the residences of these (Redacted) but rather what matters would be to
12 attempt to find out the location of the Ugandan camp, and the residences of these persons.
13 So it's a matter of distance, and also of time constraints.

14 Any other comments, remarks?

15 Now, before we break -- Mr Kilenda.

16 MR KILENDA: (Interpretation) Thank you, Mr President. We have no objection
17 regarding Bunia. The Prosecutor and the Director have provided you with additional
18 information to the effect that upon leaving the airport and going to the places mentioned
19 you would have had an idea of what Bunia town looks like.

20 Now, as for Dele, I would like to say that you have somehow addressed one of our
21 concerns.

22 (Redacted) were granted protective measures, and this consideration should
23 not stop the Chamber from determining for itself whatever material may be relevant to
24 look at in Dele. So we would like to see time allotted for a visit to Dele which, by the
25 way, may enable you to determine the distance between Dele and Zumbe. Thank you,

1 Mr President.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Kilenda. Appended to
3 our decision of 18 November 2011, a protocol was appended rather to that decision, which
4 was drafted along the lines of similar protocols that were implemented during field trips
5 by Chambers of the ICTY.

6 This protocol takes into account the various suggestions made in the submissions of
7 Mr Hooper, and legal representatives, and to a lesser extent by Mathieu Ngudjolo's
8 Defence team. You have read through that protocol which is divided into two parts.

9 The first one dealing with procedures relating to the field trip proper and the second part
10 relating to the report on the field trip, which will enable us to have a relevant working
11 document.

12 The Chamber is aware that Mr Hooper, in his filing, insisted on the fact that there was no
13 specific guideline as to how to conduct, or memorandum of understanding as to how to
14 conduct this field trip, but also required that we be discreet and not over-zealous, be it a
15 party or participant in relation to each other, so that for these reasons we all have to be
16 transparent, impartial and the third component of the suggestion I believe was, I am
17 looking it up now. Well, you can all find it, I am not able to find it right now but just to
18 be clear, give me a second to find that third component. Impartiality, equality of arms
19 and transparency. Those are the threefold considerations. So we have tried to outline a
20 number of rules of conduct therein and I wonder whether you have any comments on this
21 protocol? Mr Prosecutor, you have the floor.

22 MR MACDONALD: (Interpretation) Thank you, Mr President. I would simply like
23 to clarify a thing or two. After cross-checking on behalf of the Prosecution and working
24 with colleagues from the former -- for the Tribunal for the Former Yugoslavia, that is the
25 ICTY, colleagues who are now working here, I think there are a number of issues that you

1 identified at point 4, and to a lesser extent point 2 deals with the issue of admissibility of
2 evidence on the field, as I mentioned earlier on.
3 On point 4, I would like to emphasise and quote that any useful details relating to the
4 events, as they unfolded, this is the crux of the difficulty. If there is a problem this is
5 where it is, so this is really the problem because, quite clearly, this point can raise a
6 number of problems and difficulties.
7 One of our colleagues suggested at some point that if the parties, at the request of the
8 Chamber, were to identify places and locations and sites and what have you, it must be
9 necessary for the Chamber to have control over the time, the speaking time of each of the
10 parties, maybe one minute, two or three minutes, in order to avoid a situation wherein
11 this might lead to submissions of a sort that will take up our rather limited time. So it
12 might be necessary either to amend paragraph 4 to take out all useful or necessary details
13 relating to the events, and either to identify the locations because these matters as to
14 details will be for closing briefs or final submissions, written or otherwise. So I believe
15 that the Chamber has already identified the sites that need to be visited, and then, when it
16 comes to the final written or oral submissions, any other arguments will then be brought
17 forward. But having to refer to evidence during the field trip would be very tricky and
18 cumbersome because then this would have to show on the record and so I think that for
19 these reasons maybe the Chamber would like to clarify for our benefit what it
20 understands by useful details as to the events as they unfolded. Maybe I have
21 misinterpreted this clause but clearly, from experience, at the ICTY, it did happen that
22 various arguments, endless arguments took place or occurred on the field and this should
23 be avoided mindful of the rather limited time that we have.
24 But that having been said, Mr President, you have identified a number of sites and I do
25 not think that there are any additional submissions to be made about Mount Lagura,

1 Mount -- and witness this and that, Bogoro and what have you. I don't think that there
2 are any issues that would give rise to extended arguments as such relating to the various
3 sites that the Chamber has already identified in the documents that have been circulated.
4 That having been said, I believe that it is still useful to be mindful of what may happen on
5 the ground because each party has its duties and obligations towards their clients and/or
6 towards, as the case may be for the Prosecutor, towards the Prosecution. So I think we
7 need to be mindful of these considerations.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Prosecutor. We thank
9 you for your comments and concerns. Let me simply make a few remarks myself. We
10 all have to show proof of discipline, so that we may achieve what we want to achieve in a
11 day. There will be no arguments and no submissions on the field, on the ground, when
12 we are at a site or at a building. I hope that this is clear enough. I am aware of your
13 concern and I will discuss it with both my colleagues, in order to put a time limit on any
14 oral submissions that may be made on the field.

15 Item number 4 you have referred to, lies within the discretionary purview of the
16 Chamber, and the purpose of that item is simply to deal with a situation where we might
17 be at a building, or at a site, or at an alleged hiding site by a witness, this should allow the
18 Trial Chamber, as quickly as possible, to seek clarification from the parties which simply
19 would help us to have a meaningful field trip. This is the purpose.

20 I have also reminded you that if ever, during such a time, there were to be any arguments,
21 or anything of that matter, the Registry will take note. Mr Kilenda, you have the floor.

22 MR KILENDA: (Interpretation) I would like to agree with the Prosecutor because point
23 4 can be the source of significant difficulty on the ground. We have noted the significant
24 work done by the Registry on the ground in October, and you told us a while ago that we
25 shall be led or guided by the Registry. So, regarding the itinerary, and the places you

1 have already outlined, there should be no difficulty, I believe, but if you were to ask me to
2 give you some details about the events that took place there, honestly, I must tell you that
3 I will not be able to do so.

4 So, if you were to keep this paragraph in the protocol, then it would require that the
5 accused persons be present during the trip, and for that reason I suggest that the
6 paragraph be simply deleted.

7 PRESIDING JUDGE COTTE: (Interpretation) Are you referring to the entire paragraph
8 4 or simply the reference to "which may cause some difficulty, namely, as need be provide
9 useful details on the events that took place at such a site in relation to the discussions at
10 the time"?

11 So I think it would be unfortunate for the Chamber not to have the opportunity to gather
12 information on the spot, in the presence of our guide, or the Director of our services who
13 may not be able to identify the location specifically. Why then, should the Chamber be
14 deprived of the identification of such a location by parties and participants? And of
15 course, I do set aside the other component of the sentence, which may lead to some
16 difficulty.

17 So the Trial Chamber at least should be able to get information from the parties and the
18 participants relating to various sites and locations relating to that. But I think that the
19 difficulty is with providing additional information to the events as they unfolded. Is that
20 where the problem is?

21 MR KILENDA: (Interpretation) Yes. I think that is the clause that should be deleted.
22 You need to be able to do something to avoid having any unclear provisions within the
23 protocol.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr Luvengika, any comments?

25 MR NSITA: (Interpretation) Yes, your Honour, we share the same views as Mr Kilenda

1 but I believe, your Honour, that our concern is only in relation to that segment of the
2 sentence dealing with the events that happened at that site. I would like to suggest an
3 amendment. "As the case may be, provide any useful information as to the identified site
4 and the alleged facts in the case at hand." That would be my suggestion as an
5 amendment to that part of the sentence, which seems to be problematic.
6 In any event, I agree with the Chamber, that paragraph 4 is a useful inclusion because we
7 do not know what we may find on the ground, and as we go through the list of sites and
8 locations, it might become necessary to talk about these areas and other places that we
9 come across during the field trip.
10 PRESIDING JUDGE COTTE: (Interpretation) I take good note of comments by
11 Mr Kilenda, and Mr Luvengika, and the proposed amendment as well as comments by
12 Mr Macdonald, and along with my colleagues, we will see how possible it is to rephrase
13 that paragraph. Yes, Mr Prosecutor, we have five minutes before the break.
14 MR MACDONALD: (Interpretation) I would like to speak to point 7 on the protocol.
15 PRESIDING JUDGE COTTE: (Interpretation) Mr Gilissen.
16 MR GILISSEN: (Interpretation) Before the Prosecutor speaks I would like to say
17 something on point 4. You have heard all the comments that have been made, and I
18 think this is the crux of the matter relating to what you yourself referred to as the
19 discretionary purview of the Chamber.
20 We all have the feeling that we need to agree with the identification of sites, locations and
21 buildings and what have you. Well, we have a joint need to make comments on such
22 locations, and then we believe also that there might be room for comments to be made, as
23 need be, but without deleting Article 4, I still believe that if we give room for explanations
24 to be provided as to the link between the location and the facts, then we are opening the
25 floor for arguments and submissions and I agree with the Prosecutor. So once we visit

1 such a location, if we open the door for these types of arguments, then there will be a lot
2 of difficulty.

3 PRESIDING JUDGE COTTE: (Interpretation) That indeed points to the relevance and
4 the importance of this status conference. We no longer have much time but you have
5 noticed that paragraph 6 and 7, oh, by the way Mr Prosecutor, you have the floor.

6 MR MACDONALD: (Interpretation) Thank you. Under point 7 I would like to find
7 out whether the parties and participants will be able to read the minutes or transcript of
8 the field trip but before it gets an EVD number?

9 PRESIDING JUDGE COTTE: (Interpretation) We, I've taken note of your question.
10 We will look at the manner in which the transcript or report will be taken, and how a
11 good report can be produced, and determine what may be or may not be included, so we
12 will look at that and discuss it at 11.30. But, however, I believe that if we are to resume at
13 11.30, by 12.30 we should be done. This status conference should be over by 12.30,
14 except an unforeseen circumstance were to occur. So we will then deal with the issues of
15 reporting, and the minutes of our field trip, as well as a number of issues which I raise,
16 contact with the accused persons, interpretation and what have you. I believe that with
17 all the details we will get from the Registry we should be able to conclude the second
18 segment of our status conference in an hour or so.

19 We must break now so that our assistants may take a breather and for that reason we shall
20 take the break now and resume at 11.30.

21 (Recess taken at 11.00 a.m.)

22 * (Upon resuming in closed session at 11.32 a.m.) Reclassified as Open session

23 THE COURT USHER: All rise.

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

25 So we shall now talk about note-taking as an activity during the field trip and also the

1 compilation of the minutes of this field trip.

2 Now, unless there are any observations on your part, the note-taking activity will be

3 undertaken by our court officer during the trip. If -- now, how will he or she undertake

4 this note-taking process? Well, we are going into the nitty-gritty here, but of course

5 Mr Hooper wanted us to be transparent on the matter. The note-taking activity can be

6 conducted in the simplest of manners using a notepad and the court officer might be

7 assisted by such-and-such a representative of the Registry authorised to do so. Then

8 there's the question mark next to the voice recorder idea. Maybe, yes, we talked about

9 this with our colleagues and this would be solely with a view to providing a support or

10 assistance to the note-taking activity. This would not be a report or would not give rise

11 to a report that was authoritative.

12 Now, when you are using a voice recorder amongst 20 individuals or more out in the

13 open air, of course there are vagaries involved here and we might have difficulty in

14 recording. It might be a possible backup for the note-taking individual who will then be

15 compiling the notes and the report subsequently, but only at the time being will the

16 written version of the report be authoritative subsequent to the field trip.

17 Now, with regard to the photographs, the Chamber was minded that it would not exclude

18 the taking of photographs at locations where this was deemed to be useful, necessary or

19 indispensable in order to specifically pinpoint a location, a site or a building. So this is

20 not to be excluded as a possibility.

21 Maître Kilenda talked about the possibility of making a film, of taking footage. Now, in

22 theory we have not excluded this possibility, but this should not be used to make or

23 produce a piece of evidence, because this would presuppose a protocol that we are not in

24 a position to compile or draft as to how one would film in what language and under what

25 circumstances. Once again, of course the duration of the film would also be a difficulty

1 were this to be a piece of evidence.

2 However, were it to be possible to take items of footage that might be used subsequently

3 by the outreach service of the Registry of the Court, either as a pedagogical tool or as an

4 information tool, the Chamber would not see any problem with that because sometimes

5 there is a manner in which we can present the Court or have it better known to the outside

6 world via footage that might be filmed on the ground during an on-site visit.

7 Are there any observations to be made on the subject of the film or footage? Once again,

8 the written report will be authoritative. The voice recorder will be a support. The

9 photos, if we agree on the matter, will be able -- will enable us to identify certain locations

10 and we'll talk about the usefulness, but we do not believe that a film as such, or footage,

11 could be used as evidence in the trial. Are there any observations to be made on this

12 point? No? Very well.

13 The Registry will then be invited to consign a specific list of participants with their various

14 functions. Also, the locations, localities, sites and buildings visited, or in front of which

15 we might have pulled up or stopped, or which we might have driven past with the

16 indication as to the -- for example, the CECA church. So, as I said, locations, localities,

17 sites, and buildings that we might have visited or driven past with mention of the date

18 and the times of arrival and departure to this location, locality, site or building.

19 The Registry will consign in the notes, and subsequently in the report, the interventions or

20 comments made by the various parties and participants, whether they be made at the

21 behest of the Chamber or because this should not be excluded were there to be, for

22 example, an intervention on the part of a party or participant where the Chamber might

23 say "Yes, indeed, we should do this or do that." So we cannot be completely

24 strait-jacketed.

25 So the Registry will respect the protocol to be appended to the decision with regard

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1 notably to paragraph 4.

2 The notes will be taken throughout the trip and will give rise to a report which should be

3 finalised upon our return to The Hague, and as rapidly as possible after our return to The

4 Hague and as indicated in point 7, and this is still in the air with regard to what the

5 Prosecutor said, to be therefore -- this report to be disclosed to the parties and participants.

6 It shall either be disseminated during a status conference, which is a solution that was

7 favoured at the ICTY, for example, in public session, or in a written form to be addressed

8 to the parties and participants in a written filing where the various operations will be

9 outlined in writing, and the report will be enclosed or appended thereto.

10 Now, with regard to contact with the accused persons, the Registry took the initiative,,

11 and we thank them for that, of establishing the possibility for the representatives of both

12 Defence teams to enter into contact, were the need to arise, the accused located at the

13 detention centre. Were it to arise that Mr Hooper or Maître Kilenda wanted, for example,

14 to enter into contact rapidly with Mr Katanga or Mr Ngudjolo, this possibility should be

15 open to you, because of course you might need to ask them for a specific detail, but it

16 might be useful to you.

17 Of course this is not a hearing as such. This is a site visit and there will not be any place

18 for communication between the Chamber and the accused. This will be a telephone

19 connection that will be set up for use by the accused and the Defence teams uniquely. It

20 would seem that this is possible, technically speaking, and you will see whether in Aveba

21 it is possible. It might be more difficult for us to have network coverage in Aveba than it

22 is in Bogoro, but that is something that we wanted to bring to your attention.

23 As for interpreters, Mr Hooper, we are putting the question to you on the subject, in view

24 of your tandem situation working for Mr Katanga. Should we foresee a French/English

25 English/French interpreter? Of course, there won't be any legal discussions as such.

1 There won't be any presentation of evidence, will there? There will be limited
2 interventions in terms of time, because time is of the essence, but these will be discussions
3 that are quite free and informal, but I ask you the question: Would you like there to be a
4 French/English English/French interpreter present?
5 MR HOOPER: No. No, thank you.
6 PRESIDING JUDGE COTTE: (Interpretation) Well, thank you. On behalf of the
7 Chamber I would thank you and we shall do our best to speak as we do in the courtroom;
8 that is to say slowly, because of course the English language is of course better for me to
9 understand when I hear it spoken slowly.
10 Now, Maître Kilenda.
11 MR KILENDA: (Interpretation) Of course we would like to respect the protocol to be
12 established that has been established and that will be established. Apologies. We'd like
13 to obtain clarification from the Chamber as to whether it will be allowed for us to take
14 personal notes?
15 PRESIDING JUDGE COTTE: (Interpretation) Of course, yes, I authorise myself to
16 bring you this response without the assistance of my colleagues. Of course all parties
17 will be able to take the notes that they see fit and the participants can, if they would like to
18 have those contacts that they wish amongst each other, but the only objective to be
19 respected is to be present with the three Judges of the Court when we go to visit the
20 location, such as a building or other location that we are interested in, because of course
21 we have to respect the adversarial system here, but you can take any of the notes that you
22 wish.
23 In theory, we should not need a Swahili interpreter locally and were it to be necessary for
24 the guide to have rudimentary interpretation in order to be able to determine
25 such-and-such a location, it might be that you will have available local resources with

1 those individuals from the Court working out on the ground and I can see you nodding.
2 Now, when talking with the various representatives of the Registry as to the possibility of
3 conducting this field trip, the Registry told us that it could not be excluded that the
4 Congolese, the judicial authorities within the Congo, wish to send a representative,
5 whether it be a local or national judicial representative we do not yet know, but we
6 wanted to indicate to you that this should not be excluded, and it goes without saying that
7 for the Chamber, were there to be such a representative present, then he should confine
8 himself to merely being present during the trip, but of course we have to be courteous and
9 there is a principle of complementarity here. We -- if this person voices any wishes, then
10 we need to listen to them. Maître Kilenda.

11 MR KILENDA: (Interpretation) Yes, thank you, Judge Cotte, your Honour. With
12 regard to one point within the protocol, this should be specifically mentioned that a
13 member of the local authorities should not be allowed to get involved in the work carried
14 out by the Court on the ground.

15 PRESIDING JUDGE COTTE: (Interpretation) Yes, we will discuss this with our
16 colleagues -- with my colleagues, but were there to be a representative present I quote,
17 "Were there to be a member of the judicial authorities present, he or she shall confine
18 himself to taking part in the field trip or the transport, the organisation of the transport."
19 Of course, we cannot exclude that there might also be the presence of journalists. This is
20 not certain at all, but let us say that at a given location one or more journalists are present,
21 a local representative of the outreach programme of the Court, who is experienced in
22 working with the journalists, will graciously explain to these journalists that part of a legal
23 proceedings is underway and that they should keep their distance, and in the same vein
24 this person representing the outreach programme of the Court will also make sure that the
25 security personnel placed at the disposal of the Chamber for this trip will not in too

1 rigorous a manner obstruct any requests for contact that these journalists might voice.
2 We don't want to push them away, but we want to graciously and courteously have them
3 understand that part of legal proceedings are underway and that this is not a press
4 conference.
5 Now, Mr Hooper talked about the local population this morning. It appeared to us that
6 in seeking to be courteous, were one of the local leaders to be present it would be
7 appropriate for us to briefly greet this individual, briefly, and (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 Now, were it to be the case that there were individuals on the ground who had some
15 connection with the case, we cannot exclude this, for example witnesses for the
16 Prosecution, or witnesses for the Defence, witnesses for legal representatives, or whether
17 this be a resource person, this individual might be present. It could also be a victim, of
18 course, or a member of the victim's family, or a member of -- a family member of one or
19 both of our accused persons. They are not allowed to have contact with the Chamber
20 unless of course we exchange elementary greetings. Were I to take an example, in theory,
21 were we to find ourselves in front of a house occupied by one of the family members of
22 either of the accused, were a family member to come out of the house, of course the
23 Chamber would greet them, but in no way will we enter into a conversation with
24 individuals who have a connection with the case, whether they be a family member of the
25 accused, whether they be a victim, whether they be a resource person, whether they be a

1 family member of a victim, or a witness.

2 Mr Macdonald.

3 MR MACDONALD: (Interpretation) And I'm very happy to hear what the Chamber
4 has to say on the matter, but I presume that as second members of the Defence team they
5 not part of the trip itself. Mr Logo, for example, or a resource person or Mr Logo,
6 because of course he testified. Is this what I'm understanding when I hear what you say?

7 PRESIDING JUDGE COTTE: (Interpretation) In our mind, and of course we have come
8 together today in order to share information -- in our mind the two members of the
9 Defence team who will be present during this field trip are members of the Defence team
10 who are ordinarily present in the courtroom. We had not envisaged that this might be
11 somebody from The Hague plus a local resource person. The Chamber quite simply
12 wanted to envisage the hypothesis that it cannot forbid a certain individual resource
13 person from being present, whether it be in Zumbe, Aveba, et cetera. We could not
14 forbid them access to a given site in the DRC, but we just wanted to say that we do not
15 envisage entering into discussion with individuals who have a connection with the case,
16 but who might be third parties to the trip. Have I made myself understood?
17 Mr Luvengika? Of course, unless we need to courteously speak to people, because you
18 know.

19 MR NSITA: (Interpretation) I wanted to make the most of the opportunity in seeking
20 clarification from the Chamber, notably with regard to a victim. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE COTTE: (Interpretation) Director, are you in a position to respond

1 to this? (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Director, please.

7 MR DUBUISSON: (Interpretation) Thank you, your Honour. As for informing the
8 person, yes, of course with regard to the identification of the individual there are people
9 who will be out on the ground ahead of time who will be able to enter into contact, and
10 the day before or a few days ahead of time the leader of the village will be informed, and
11 if we are to visit specific houses, you know, if we need access to these houses, I'm talking
12 about the health centre here, if we are to visit that location, in order for us to gain access to
13 this place we need to conduct a certain number of activities ahead of time.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Mr Macdonald.

15 MR MACDONALD: (Interpretation) Yes, on this point you mentioned this but my
16 colleague is referring to (Redacted). Now with regard to the location or geography of
17 (Redacted) which is close to the roundabout and close to the stairs leading to the
18 institute it might be that we come up against such a situation, that is, that the Chamber
19 will run into him, and I also understand that of course this has been foreseen, but it is true
20 that when we arrive en masse as a delegation from an institution such as ours the local
21 practices, well, it would seem inevitable that the dignitaries expect there to be some form
22 of minimal interaction in terms of greeting, but I do understand that it is the Registry that
23 will be in charge of this aspect in order to avoid or minimise any contact that there might
24 be with the group during its trip by letting the people understand the aim of the mission,
25 but of course this is something that is unavoidable, Mr President, in terms of local customs

1 and habits and, as you know, in Bogoro there are two witnesses, that is the former and
2 current head of village, who testified.

3 PRESIDING JUDGE COTTE: (Interpretation) Yes, of course, we are well aware of that.
4 We will have to reconcile the requirements in terms of courtesy, tradition and our desire
5 to make sure that this trip is confined to its judicial remit, because of course we do not
6 have much time.

7 Once again, we would like to thank the services of the Registry who will be preparing in
8 the days to come our arrival on the ground, and once again in Zumbe or Aveba, were the
9 heads of the localities to come forward, of course we must greet them, that goes without
10 saying, but we do not intend -- my colleagues and myself do not intend to give them
11 much time, because we do not have the time.

12 Now, with regard to Bogoro, in view of the fact that the former and current leader both
13 have a specific status, we would prefer that the normal greetings be conducted by the
14 Registry which will not in any way minimise the courteous relations to be held at the time,
15 because of course it is one of the people working within the Registry or working for the
16 Registry who will be establishing this contact.

17 Maître Kilenda.

18 MR KILENDA: (Interpretation) In order not to cut into the discussions, I had two
19 concerns to raise with regard to the possible presence of a member or representative of the
20 local judicial authorities. The first question: Would the identity of this individual be
21 known to the parties and participants before our trip? And, secondly, would this
22 personality receive an indication of the protocol to be respected by all and sundry?

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Maître Kilenda.

24 Mr Director, as to the existence and presence on the ground and identity of the individual,
25 do you believe that you are in a position - and this is what we hope for - that you will be

1 able to have clarifications or details before our departure so the parties and participants
2 are informed thereof, but of course this won't be available before the decision, but before
3 the second half of January?

4 MR DUBUISSON: (Interpretation) Now, we are in a post-electoral period now and it is
5 an extremely sensitive time for the government. Of course, we have the obligation in
6 terms of complementarity to request co-operation. We shall submit a request for
7 co-operation which will specify the grounds for the Judges' trip. It will indicate the
8 number of individuals, 30 individuals approximately, and the deployment of forces that
9 will accompany those individuals and the various sites and locations to be visited. We
10 do not have a choice here. This is a request that we have to submit to the Congolese
11 authorities.

12 We do not at all know what their response will be. In another case where there was an
13 attempt to conduct a hearing at the institute itself, or to conduct a trial at the institute itself,
14 we received a negative response because of security concerns.

15 Now, we have worked upstream this time. We have put security on our side this time
16 round, but we are still subject to authorisation from the Congolese authorities. We do
17 not have a choice here.

18 The Chamber might, or the Registry might through a request for co-operation, will need
19 to request the authority and assistance of the Congolese government. We do not know
20 what the answer will be to that application, but we may be told that, since this is a legal
21 proceeding in the DRC, the State might ask that judicial authorities be present.

22 Today I'm speaking without knowing specifically whether that will be the case, or not.

23 This is the only question that has remained unanswered for us so far but, given our
24 relations with the government, we can be very clear about the role of such people in that
25 mission and I believe that so far all -- all the principles have been respected.

1 There have been transfers and so on, but there is -- there is always some intangibles that
2 we have to resolve at the last minute, and for reasons of security we need to know the
3 names of everyone who would be imposed to us by the government and, if people have to
4 be identified, then we need to have their names and once we have those names we will
5 convey those names automatically to the Chamber.

6 Once again, we have a problem with space. Obviously, we are not going to accept that
7 50 Congolese authorities should accompany us. Maybe they may want to take another
8 helicopter and follow us, but this is something that has to be resolved. There are risks
9 that are partially assumed by the Congolese State, so I can assume that, since they are
10 going to bear some of the risks, they should have representatives to ensure that there is a
11 proper co-ordination within the police and military authorities.

12 We would have wanted to manage everything 100 per cent, that is by ourselves, the
13 Registry, in the area of logistics and security. Obviously there will be no interference
14 with the judicial aspects of the trip itself, no interference at all, and the Congolese
15 government has always respected its role in such cases and I hope this will also be the
16 case with the field trip.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Director.

18 Once again, we need to strike a balance here. The Court is seized of this case and we are
19 embarking on a field trip in DRC territory. We have to take into consideration the
20 sensitivities of all the parties, but we have to ensure that this trip is not the opportunity to
21 meet local or national authorities. I believe that in the application for co-operation this
22 has to be clearly pointed out. It is a judicial field trip. It is not the President of the
23 Court, or the Registrar, visiting the DRC within an administrative context. So it will be
24 appropriate to indicate that, if it is planned to have representatives of the DRC judiciary,
25 then he will only participate in the sense of being present, but without taking the floor.

1 We are not in a situation of a special court, or any such thing. We are simply having a
2 visit by a Chamber, which will visit Congo briefly within the context of complementarity.
3 And I will seize this opportunity now to address the two accused persons, Mr Ngudjolo
4 and Mr Katanga. Accused persons, you are taking part in this status conference because
5 it concerns you, and you must have realised that the conference is taking place in closed
6 session and all the filings related to this trip for the time being are confidential filings and
7 in all likelihood it is practically confirmed that that trip will take place during the third
8 week of January, that is Sunday 16th or Monday 17th, but it will be the third week of
9 January.
10 I'm simply asking you, Mr Accused Persons, to understand that we would like to carry
11 out this field trip to be able to better assess a certain number of testimonies and also to
12 familiarise ourselves with the atmosphere in the specific locations in your country.
13 It would be good if during the correspondences or the conversations that you have with
14 your contacts there you should not reveal the date of that field trip, so you have to help us
15 ensure that the field trip takes place within the context of maximum calm and serenity. I
16 believe you understood me, yes, Mr Katanga? I believe you understand the spirit in
17 which we are making this statement?
18 MR KATANGA: (Interpretation) Yes, your Honour, I have fully understood and I will
19 refrain from all communication myself during that period.
20 PRESIDING JUDGE COTTE: (Interpretation) Once again, we are not saying that you
21 should not communicate, but please simply don't reveal any information relating to the
22 time during which we will visit.
23 Have you understood me?
24 MR NGUDJULO CHUI: (Interpretation) Yes, your Honour, I have fully understood
25 you. I believe that it is in our interest that you should go to the field and make your visit.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you, parties and participants.
2 Given the time that we have, we would like to -- you have made your observations
3 regarding the visits, and regarding the date of departure, logistic means and so on, if you
4 have any further observations you can make those observations. You have heard from
5 the parties and participants, Mr Director. You can remain seated, if you want?
6 MR DUBUISSON: (Interpretation) Thank you, your Honour. If we leave on Monday
7 morning from Schiphol, for example, we will arrive Entebbe, Uganda, quite late in the
8 evening at about 11 p.m. We would spend that first night in Entebbe, and from that
9 moment on we should be always together.
10 The following morning we would be in groups and we will be issued MONUSCO badges,
11 identification badges, so as to facilitate movement in DRC territory. That would be in the
12 morning.
13 Then we will have lunch, and in the early afternoon we will travel back to Entebbe airport
14 and depart to Bunia. The planes take off at around 5 p.m./5.30 p.m. to Bunia. It will be
15 a special flight, and once again everybody will be travelling together.
16 You will be installed in the various locations where you will stay and all those locations
17 are within the perimeter of the United Nations' premises, and regarding the degree of
18 comfort in Bunia obviously you have to expect that it will not be at the same level as what
19 you would have experienced in Entebbe.
20 Then there will be a meal with everyone, because you will be specifically requested not to
21 make any appointments with any friends or acquaintances and you will not be allowed to
22 travel out of the United Nations' perimeter. You are being asked to remain under United
23 Nations' authority for security reasons. There will also be a security briefing, which is
24 compulsory whenever someone enters DRC territory.
25 Very early the following morning, at about 5 a.m., you will be asked to prepare yourselves

1 so as to travel to the Bunia airport as quickly as possible. We have provided for two
2 helicopters. The teams will be divided up and, if you don't wish to be separated from the
3 other members of your team, then you have to tell us in advance. You have to notify us
4 in advance, but generally speaking we prefer to split up the teams so that in case of
5 problems we know that there is at least one person from the team who is accompanying
6 the Judges.

7 We will start by one village, then a second village and a third village, but what is clear as
8 of now is that we will have our lunch in Bogoro. Depending on the security situation
9 and the weather, we will adapt. We plan for about two hours in Aveba, two hours in
10 Zumbe and four hours in Bogoro, because the helicopters need about 20 minutes to start
11 up and it will also depend on difficulties with landing. Sometimes it takes time.

12 So this will depend on the movements, so we will be giving you up-to-date briefings
13 about timing and you'll be able to determine whether it is possible to go and see another
14 site, or not. So if you believe that you have some very important questions to ask at a
15 particular point, you should know that that would endanger the possibility of visiting
16 another site. So it is all up to you, but you will be kept informed.

17 The return will begin in the early evening, and hopefully before nightfall, and we will
18 return to Bunia where we will spend a second night. The special plane will be waiting
19 for us there, and Bunia does not have a landing strip that is usable at night and so we have
20 to spend the night there and we constantly have to be in contact with you.

21 You will have a complete security briefing. You will also have means of communication,
22 each -- if you are scattered at several locations, and you will be asked to answer all calls
23 from security to ensure that everything is fine.

24 The following morning, you will be moved once again to Bunia. You will be given time
25 to recover and you will travel in the late morning or early afternoon; that is if you have

1 lunch in Bunia. You will travel to Entebbe, from where you will take a normal ordinary
2 flight back to Amsterdam. That is the chronology of that visit.

3 In the event that the Judges or others wish to organise a meeting, we can do that in
4 Entebbe or in Bunia. You will be dispersed at that time, but we arrive in the evening, the
5 visit is from morning to evening and then on the day of departure back to Amsterdam
6 we -- back to Entebbe and Amsterdam we depart in the early afternoon, so if you wish to
7 have any discussions with anyone then we have to be notified in advance.

8 It is of course important that all those who will take part in that trip they must have a
9 passport - a valid passport - and the necessary visas. It is necessary to have the
10 applicable vaccines, the vaccination book, and it is also absolutely necessary and I believe
11 you have already done that.

12 In fact, those are the basic security - basic and advanced security - trainings. That is
13 compulsory. If there were to be an incident, then you have to be prepared for that. It is
14 clear that we will be finding ourselves in a volatile territory, in addition to the fact that
15 this will be a post-electoral period.

16 When we went to Aveba, after a few days there were gunshots. We did not feel that we
17 were in a situation of insecurity. We met with the village leaders, who opened up the
18 village to us. They were very cordial and there was a context of mutual respect.

19 They have been informed that there will be a visit and that it will benefit everyone and
20 this was well-received, so I believe that the notables of the village said that they
21 understand the situation and that they will not try to speak with the Judges. That has
22 already been pointed out.

23 We will have vehicles on the spot. Each time we land somewhere, we will gather
24 together and take the vehicles. If we do not have a sufficient number of vehicles, then
25 part of the group will be transported to the site and then the vehicle will have to return

1 and pick up the others, because the distances are generally short, even though we need
2 time to move from one place to the other.
3 So it is absolutely important that we should have the precise list of participants as soon as
4 possible and, if you have any doubts about any of the members of your team, then you
5 have to prepare someone who can replace that person at the last minute because if
6 somebody feels -- falls sick it may be too late to take the necessary vaccines and so it might
7 be necessary to have a Plan B at all times. So regarding the number of people per team it
8 is up to the Chamber to decide that, but we have to be very clear about the methodology
9 that we will use.
10 There is no telephone conversation possible from Aveba, so what can be used there are the
11 satellite telephones. We will make satellite telephones available at the detention centre
12 belonging to the Court. We will make those phones available to your clients during the
13 period -- during the period of the visit so that you can continue your privileged
14 communications with your clients. These will be privileged communications, but I
15 simply wanted to point out that it would be satellite communication. As for the other
16 locations, you can have normal telephone conversations.
17 PRESIDING JUDGE COTTE: (Interpretation) This means, Mr Director, that we will
18 leave on one day?
19 MR DUBUISSON: (Interpretation) We will travel an entire day by plane. On the
20 second day we have the identity cards, and the third day --
21 PRESIDING JUDGE COTTE: (Interpretation) Third day?
22 MR DUBUISSON: (Interpretation) The third day is the visit to the field and the fourth
23 day it is our return travel back here.
24 PRESIDING JUDGE COTTE: (Interpretation) So everyone should understand that the
25 entire trip will take four days and, if everything goes well, this should be Monday to

Status Conference

(Closed Session)

ICC-01/04-01/07

1 Thursday.

2 Does anyone have any questions, any points of clarification, that you would like to seek
3 from the Director? You do realise that we have mentioned many details here, but it is
4 appropriate to do that.

5 MR NSITA: (Interpretation) I simply wanted to ask a practical question. You have
6 mentioned passports, vaccination cards and others. I would like to know with regard to
7 applications for visas do the teams refer to CSS as usual, or will the Registry send us note
8 verbales for that so that the team can initiate the procedures themselves?

9 MR DUBUISSON: (Interpretation) With regard to logistics everything will be
10 co-ordinated by our field service, that is FOS, but I advise you to go through Peralta, that
11 is the normal channels, so that he can get into contact with the field services, but we will
12 have an overview of everything that is happening and if somebody is being delayed then
13 we will remind that person to proceed faster.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Are there any further
15 questions for Mr Dubuisson?

16 I believe that we have covered a lot of territory and, because we want to be successful,
17 please remember that this will take place during the third week of January.

18 On the basis of the transcript of this status conference I will meet with the other two
19 Judges to finalise the decision on the field trip, to which will be appended a protocol
20 which obviously will be amended on the basis of all the contributions that have been
21 made. The decision in early December, end November/early December, will specify the
22 itinerary that would have been adopted based on your recommendations, but once
23 again - and the Registry may correct me here - I am insisting on the fact that not selecting
24 one site or the other does not mean that we did not think -- we do not think that it is not
25 relevant. It might simply be less relevant and there may be other constraints, and the

1 Registry has also mentioned security or weather constraints which may make it possible
2 for us to visit certain sites and not others.
3 So those of you who have already travelled there, you will know that there are many
4 difficulties. When we saw the photographs of Ms Buisman or Mr Hooper amongst
5 young Africans we think that the organisation in those cases would have been much
6 simpler, but to travel as a Chamber for the first time is something that is unusual and we
7 know will be very difficult, but we know that it is necessary and appropriate. We will do
8 that and we will count on the goodwill of everyone.

9 I would like to thank the Registry Services, because we have created a lot more work for
10 them even if it is their duty, and on behalf of the Chamber we would like to thank all the
11 parties and participants for your contributions, particularly the very informative filing of
12 Mr Hooper. Your observations will be analysed and we will decide on what to accept
13 and what not to accept. The decision will not be very long, but the more important thing
14 will be the final report of the trip.

15 Mr Hooper, please.

16 MR HOOPER: It was just one thing, and that is a member of my team very kindly
17 prepared a file for me for today which includes I see the various sketches and maps that
18 have been put in evidence with EVD numbers. I am sure the Chamber will have its own
19 choices perhaps to make in that regard, but it might be helpful, and perhaps in that light
20 I can send a list, or we can compose a list, of what might be useful documents to print out
21 and to have -- and to have individually with us.

22 I'm looking in particular for example at EVD-D02-00099, which was I think a sketch
23 produced by one of the Prosecution witnesses, or a series of sketches, which in fact is
24 fairly accurate and helpful, and -- but there's a number of others, including annotations to
25 our own frequently used court documents and the like, and so that might be something

1 that's helpful.

2 And the other matter is this: I don't want to harp on about it at all, but going back to

3 point 9 on the annex very briefly, there's very little need for anyone to say anything or

4 very much in our submission in respect of these visits and it will all be in any event at the

5 discretion of the Chamber, as we know, and for my part I don't see a problem arising.

6 But the document that we produced - and I say "we produced", the document that was

7 circulated last night and this morning - just for example if you take page 2 of that and look

8 at the last two entries, one is the le marché de Bogoro and l'école Kavali, and then you

9 have got -- and these, as I repeat, are extracts from those submissions that were previously

10 made. It's been a cut and paste of those, but you'll see that there is the market of Bogoro.

11 Just pausing there, I don't know if Mr Dubuisson's aware, but our understanding is that

12 the market that's there now, that is presently there, is not where it was back in February of

13 2003. So that's something we need to be alert to, but that's not the point I make.

14 Simply this: You will see that there is a comment and that one happens to be in English,

15 but on page 1 for example I think from the Ngudjolo team there is the reference to the

16 aéroport de Bunia and there's a little bit of explanation there as to their view of the

17 relevance. From time to time, at Dele for example, you can see again there is references

18 in English and French to that.

19 So I'm just wondering whether the Court - and it is entirely a matter for the

20 Chamber - would feel that between now and the next few weeks if in fact for example at

21 the market of Bogoro there were particular aspects -- and there need not be because often

22 it's just a question of seeing the place, but from time to time it might be that the Court

23 would be assisted by for example as here drawing the attention of the Chamber to what a

24 particular witness said so that when it comes to closing brief time it's not a surprise and a

25 regret that perhaps, you know, if we had that in mind we could have, you know, looked

1 at that particular position.

2 So I don't think there's a situation where everything needs to be as it were extensively

3 referred to, but there's probably half a dozen or a dozen useful references to for example

4 where a particular Prosecution witness may have hidden, or a Defence witness spoke

5 about, where the Court might be assisted because obviously we can't take around all this

6 evidence in our heads all the time, or nearly a quarter of it. So I hope that the -- that's an

7 idea.

8 And finally can I express my thanks and our thanks, Mr Katanga's thanks, to

9 Mr Dubuisson and the Registry for the obvious efforts and thought that's gone into this.

10 It's quite apparent to us, and until I heard of the security difficulties that he,

11 Mr Dubuisson, had personally been confronted with, I perhaps hadn't fully realised some

12 of the difficulties that confront such a mission as this.

13 My only regret, as I say, is that if we are staying a second day that some way couldn't be

14 found to do the Bogoro bit on the second day on the morning by motor from Bunia to

15 Bogoro and to separate that from the helicopter rides to Zumbe and Aveba.

16 Now, I don't say that in any way critically or anything, because you know the position

17 much better than I do in terms of the difficulties, but it does seem to me getting up

18 speaking personally, not being a good early riser, at 5 o'clock, or the equivalent to be

19 3 o'clock our time probably, and then having that day ending up with a visit to Bogoro, it's

20 going to be obviously a bit of a strain. It's something I am sure we are all capable of

21 accomplishing, but perhaps not necessarily with the wakefulness and vigour that perhaps

22 would be possible if the Registry on review could perhaps consider - and the Chamber

23 indeed - possibly doing the Bogoro bit on the morning of the second day, because as has

24 rightly been assessed four hours would be quite enough and it's about 40 minutes I think

25 by vehicle from Bunia to Bogoro. So I merely suggest that because, if the second day is

1 being spent there, then if it's possible to do that certainly for our part I think it would be
2 an easier way of approaching the views.
3 Thank you very much, your Honour.
4 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Hooper. Now, without
5 attempting to impose on you like Winston Churchill blood, sweat and tears, now subject
6 to any other considerations we would like to accomplish everything in a single day. The
7 concern about having more time is something that we have been considering for a long
8 time, but the constraints for such a trip are much broader than we would have considered
9 initially.
10 Now, as for the information document you referred to, we have clearly understood the
11 mindset in which you sent it to us, as well as the comments included therein which
12 appear to be more elaborate than what was contained in your filings of 12 September 2011,
13 as well as was the case for Mr Kilenda and the legal representatives of victims.
14 So we will take your remarks into consideration but, as I said this morning, please bear
15 with us if we do not consider the rationale of your arguments, because these are simply
16 guidelines which have helped us and which will help us, because we did some work with
17 the Registry even before he went on the reconnaissance mission, because Mr Dubuisson
18 could not have travelled without having an idea of what we were thinking about. So we
19 welcome your comments and we note that 279, for example, said that he saw at such a
20 location such-and-such a person and we may need to cross-check that information on-site.
21 Now, as to your initial proposal, and thanks to the assistants of the Bench, we have been
22 able to put together various diagrams that were produced in Court, we have gathered a
23 number of EVD numbers which are relevant and, if you have done the same on your team
24 and you are ready to make that available with your usual courtesy as a document - as an
25 information document - to all other parties and participants, that would be fair and good.

1 In that way we all know that we have all been looking at the same things and maybe note
2 that some of the items have been left out, and so this will enable us to give more meaning
3 to our field trip by highlighting these points. These are not procedural matters, they are
4 not on the record, but they simply will be tools that can help us do our job better if we
5 understand it that way.

6 I believe the time has come for us to adjourn, or to stop our deliberations. I thank you all
7 on behalf of the Chamber for your availability this morning, this afternoon, I thank you all
8 for paying attention to what has been discussed and, as soon as we are in a position to
9 hand down a final decision on this field trip, we will do so. In any event, we must
10 continue to keep in touch with each other, even if it were to be informally, to ensure that
11 our field trip is done under the best possible circumstances. If it were necessary, we may
12 have to meet again a few days before our trip, that is during the second week of January,
13 but that is not on the agenda as of now.

14 Thank you all. I thank the interpreters, I thank the court reporters and thank you all for
15 being part of this status conference. Our conference has now come to an end. Good
16 afternoon and I thank you.

17 (The status conference ends in closed session at 12.38 p.m.)

18 RECLASSIFICATION REPORT

19 Pursuant to Trial Chamber II's documents ICC-01/04-01/07-3261-Conf and
20 ICC-01/04-01/07-3261-Conf-AnxA dated 16th March 2012, the transcript is reclassified as
21 public after the indicated redactions have been implemented as ordered by the Chamber.
22 The closed session (*) is now available to the public with the exception of the portions of
23 the transcript that have been redacted.