

1 International Criminal Court

2 Trial Chamber I - Courtroom 1

3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio Benito and

4 Judge René Blattmann

5 Situation: Democratic Republic of the Congo - ICC-01/04-01/06

6 In the case of The Prosecutor v. Thomas Lubanga Dyilo

7 Trial Hearing

8 Monday, 25 October 2010

9 (The hearing starts at 9.34 a.m.)

10 (Open session)

11 THE COURT USHER: All rise. The International Criminal Court is now
12 in session. Please be seated.

13 PRESIDING JUDGE FULFORD: Good morning. Before we commence
14 the evidence of this witness, we need to go, please, for a moment into closed session so
15 that one or two administrative matters can be dealt with. Closed session, please.

16 The court officer reminds me correctly. Private, not closed.

17 (Private session at 9.36 a.m.)

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12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)– * Reclassified as Open session

16 PRESIDING JUDGE FULFORD: Thank you very much. We'll then

17 adjourn that issue until a slightly more convenient time either later today or tomorrow.

18 Finally, before we turn to the witness, an issue has arisen as regards witness

19 582 and his availability. Mr Sachdeva, I know that you've been in contact with Ms Guhr

20 this morning about this, so I'll address you on the subject.

21 Given at the moment he is saying that apart from one week in November he

22 has problems that may make him unavailable until the second half of January of next year,

23 two things, please: First, can you explore, I'm sure in the kind of detail that is already in

24 your mind, whether or not there really is a prohibition on him attending at this Court

25 during the course of the evidence on the abuse hearing.

1 If there is an insuperable difficulty would you please discuss this issue with
2 Maître Mabilie and find out what the alternatives are and whether those alternatives are
3 acceptable. And what we particularly have in mind as suggestions, and I underline these
4 are suggestions only, first him giving evidence via video link from the country where he's
5 currently located and if that is either impossible or undesirable a deposition being taken,
6 in situ, with the contents of that deposition then being incorporated later into the
7 proceedings, into these trial proceedings.

8 Those are two suggestions; there may be other ways of receiving his
9 evidence, but this needs active consideration and can we pass the matter over to you,
10 please.

11 MR SACHDEVA: Certainly, Mr President, and we will inquire and revert
12 as soon as possible.

13 PRESIDING JUDGE FULFORD: Thank you very much, indeed. While
14 you are on your feet, Mr Sachdeva, any difficulties with us now reverting to the evidence
15 of this witness?

16 MR SACHDEVA: No, Mr Witness, we can proceed.

17 PRESIDING JUDGE FULFORD: Thank you. Ready to proceed, Maître
18 Mabilie?

19 MS MABILLE: (Interpretation) Yes, your Honour. But before we start
20 the witness's examination, I wish to draw the attention of the Chamber to the fact that the
21 Defence has prepared a document. My colleague Mr Duval talked about this because we
22 need to use it for 321. It is a document in which we have placed on the same page the
23 three lists of children who have to be screened. It is a document which we prepared in
24 order to render it more legible to the witness and to the Chamber; that is, make these three
25 lists more legible. At the time, we do not have any difficulties with the OTP. We

1 simply wish to inform you that we are going to use that document again for 581.

2 MS SAMSON: Thank you, Mr President. In principle, the Prosecution has
3 no difficulty with the use of a list prepared by the Defence. In the case of 581, unlike the
4 case of 321, we're certain that he has seen various emails and lists, the originals of which
5 are available to the Defence to use. It may be and time will tell that 581's memory is
6 better refreshed by looking at original emails and lists attached to those emails than at a
7 compiled chart.

8 But not knowing precisely the ways in which Maître Mabilille intends to
9 proceed, it may be that she intends to do that first, establish the foundation, and then
10 proceed to a comparison chart in which case we would have no objection.

11 PRESIDING JUDGE FULFORD: Well, thank you very much, Ms Samson.
12 If I may say so, that's very reasonable. Maître Mabilille, can you proceed in stages as Ms
13 Samson has asked. See what would be easiest for the witness, first of all, and if it
14 transpires that your list would help him best then move to it; if not, use the originals in the
15 way that Ms Samson has just indicated.

16 MS MABILILLE: (Interpretation) I was, indeed, going to use the originals
17 anyway. I simply wanted to make it such that after the witness sees three lists, he should
18 be able to make up his mind. I have no problem with that suggestion.

19 PRESIDING JUDGE FULFORD: Thank you very much. Good. Can we
20 now establish contact with the witness? Open or private session, Maître Mabilille?

21 MS MABILILLE: (Interpretation) I simply want to make a clarification with
22 the witness in private session and after that we can go into public session.

23 PRESIDING JUDGE FULFORD: Right. We ought to go into public
24 session to begin with and then we'll go into private session after the necessary
25 introductions.

1 (Open session at 9.50 a.m.)

2 THE COURT OFFICER: We are in open session, your Honours, and the
3 witness can hear you.

4 PRESIDING JUDGE FULFORD: Good morning, court officer in the DRC.
5 Can you hear me? Court officer, I'm going to try again. Can you hear me? Court
6 officer, can you hear me?

7 THE COURT OFFICER (DRC): No. The microphone is off on the other
8 side. Now it's off. Okay. Yes. I can hear you. Okay. I can hear you. Thank you.

9 PRESIDING JUDGE FULFORD: Court officer, I'm going to try again. Are
10 you able to hear me?

11 THE COURT OFFICER (DRC): (Interpretation) Good morning, your
12 Honour. We can hear you now.

13 PRESIDING JUDGE FULFORD: Excellent. Witness, good
14 morning.

15 WITNESS: DRC-OTP-WWWW-0581 (On former oath)

16 (The witness answers through interpreter)

17 (The witness testifies via video link)

18 THE WITNESS: Good morning, your Honour.

19 PRESIDING JUDGE FULFORD: I just want to say one or two things before
20 we start. The first is that you remain under oath and the solemn undertaking that you
21 took originally still binds you to tell the truth. Do you understand that?

22 THE WITNESS: I do understand perfectly very well, your Honour.

23 PRESIDING JUDGE FULFORD: Thank you very much. The second thing
24 is that we need to ensure that there is a significant delay between questions being put and
25 answers being given because of the slight time delay between this country and the DRC.

1 So, sir, before you give any answer, will you pause for a moment, having heard the
2 question, so as to give everybody time to catch up. Is that clear?

3 THE WITNESS: Very clear, your Honour.

4 PRESIDING JUDGE FULFORD: Excellent. Thank you very much. Now,
5 Maître Mabilille is about to ask you some questions. We will go for a moment into private
6 session, and we will return, I hope, to public session very quickly. Yes, private session,
7 please.

8 *(Private session at 9.55 a.m.) Reclassified as Open session

9 THE COURT OFFICER: We are in private session, your Honours.

10 PRESIDING JUDGE FULFORD: Thank you. Yes, Maître Mabilille.

11 QUESTIONED BY MAÎTRE MABILILLE: (Interpretation) (Continuing)

12 Q. Good morning, Witness.

13 A. Good morning.

14 Q. I'll introduce myself again. My name is Catherine Mabilille. We have
15 had an opportunity to ask you certain questions on behalf of the Defence team of Mr
16 Thomas Lubanga. The first thing I would like to ask you, the first thing I would like to
17 tell you is that I'm going to ask you questions again about (Redacted).

18 Could we agree that as it was the practice in the month of June we are going
19 to refer to him as "Mr X"?

20 A. No problem, counsel. We can proceed as you have proposed.

21 MS MABILILLE: (Interpretation) Could we return to public session, your
22 Honour?

23 PRESIDING JUDGE FULFORD: Thank you, Maître Mabilille. Public
24 session, please.

25 (Open session at 9.57 a.m.)

1 THE COURT OFFICER: We are in open session, your Honours.

2 PRESIDING JUDGE FULFORD: Yes.

3 MS MABILLE: (Interpretation)

4 Q. I just wish to have a clarification from you. I'm going to show you a
5 certain number of documents and I don't want those documents to be projected on the
6 screen. Mr Witness, before you came to give evidence last 14 June the Office of the
7 Prosecutor informed you that you would be requested to give testimony on the screening
8 of child soldiers presented to them in November 2007; is that correct?

9 A. Yes, I do confirm that. It is correct.

10 Q. Before you came to give testimony on 14 June 2010, did you have the
11 opportunity to re-read the documents in your file related to that mission?

12 A. Yes, I was able to read the documents again.

13 Q. Thank you. I am going to read out to you again an excerpt from your
14 statement of last 15 June, and after that I am going to put to you a certain number of
15 questions. That excerpt is in T301, page 68, line 20. I am going to read out to you the
16 question I asked you: On that morning, you informed us that there was a difference
17 between the list which you received through the OTP and the list that Mr X had with him.

18 Could you more precisely tell us what these differences were? Do you
19 remember them? When I put that question to you, you answered as follows, and I'm
20 going to read out your answer to you: "Yes. To the best of my knowledge, the list
21 produced by Mr X was a bit different. It cannot be said that this list was completely
22 different. What I mean is that there were one or more names on that list as compared to
23 the list that I had at my disposal." That was your statement, Witness.

24 Now I would like you to take the binder that should have been placed
25 before you and together we should turn to tab 26, the last page in that tab.

1 PRESIDING JUDGE FULFORD: Ms Samson.

2 MS SAMSON: Thank you, Mr President. For -- in fairness to the witness,
3 would it be possible for Maître Mabilie to read the full response? She's read the first
4 three sentences, but I would --

5 PRESIDING JUDGE FULFORD: And you'd like her to read how much
6 more?

7 MS SAMSON: I think approximately three more sentences, just so that his
8 full answer is captured.

9 PRESIDING JUDGE FULFORD: Certainly. Maître Mabilie, before you
10 turn to the document, could you read the next three sentences of the relevant exchange.

11 MS MABILLE: (Interpretation) Well, as soon as I find it, yes, your
12 Honour, of course.

13 Q. Witness, I'm going to read the continuation of what you stated: "It
14 cannot be said that it's completely different. In other words, there was one or two
15 additional names compared to the list I had. I also remember that when I met Mr X to
16 discuss with him and in order to carry out this mission of course we had to agree on the
17 children that he was to bring to us. And therefore I noticed that his list was slightly
18 longer than the one I had. I immediately informed the hierarchy. There was a
19 discussion at that level, and in the end we came to an agreement. I was told again, in fact
20 I was written to again, regarding the final list of children that were to be questioned." I
21 believe that I can stop at that point.

22 I would now like to examine the document under tab 26, the very last page.
23 I beg your pardon. Before we go to the last page, I'd like to go to the second to the last
24 page of the document behind tab 26. The second to the last page. The number is
25 DRC-OTP-0233-0164, and I would like to request an EVD number for this document.

1 PRESIDING JUDGE FULFORD: Pause a moment, Maître Mabilille. Can
2 we remember, please, each time a document is introduced just give it the relevant ERN
3 number. And is there any objection, Ms Samson, to this being given an EVD number?

4 MS SAMSON: No, your Honour.

5 PRESIDING JUDGE FULFORD: So ERN number first, please, Maître
6 Mabilille. I'm very sorry. On this occasion, you've given it. I was picking up a message
7 that I was given by the court officer a few minutes ago. Right. EVD number then,
8 please.

9 THE COURT OFFICER: The document will bear the number
10 EVD-D01-00314.

11 PRESIDING JUDGE FULFORD: Thank you very much. Yes. Please
12 proceed.

13 MS MABILLE: (Interpretation)

14 Q. Witness, was it this email exchange that allowed the OTP to send you
15 the list that is then included in the following document?

16 A. Maître Mabilille, would you be so kind as to repeat the question? I'm
17 not sure I understood.

18 Q. I'm referring here to the email that was sent to you, and I'm asking you
19 whether or not this email was sent to you with -- along with the list of children which can
20 be found in the following document. In other words, is this list on the next page the list
21 that was sent to you by the OTP in order for you to meet with those children? Basically
22 that's my question; is this the email that you received?

23 A. As far as I remember, this list as is stated in the email was sent by my
24 headquarters for me to carry out the instructions on site.

25 Q. Thank you. Can you now turn to the last page, which contains the

1 following reference: DRC-OTP-0231-0267. And could we have an EVD number for this
2 document, please.

3 THE COURT OFFICER: (Interpretation) The document shall bear the
4 number EVD-D01-00315.

5 MS MABILLE: (Interpretation)

6 Q. Witness, in looking at this list, do you remember that it is this list that was
7 sent to you by the OTP?

8 A. As far as I remember, yes. This list was sent to me as the email in the
9 preceding page states.

10 Q. So these are the individuals that are to be brought to you by Mr X?

11 A. Yes. I would like to provide a clarification, if I may. During my previous
12 testimony, as you yourself read out a moment ago, I mentioned the fact that there had
13 been a discussion about the children who were to be screened, and there was a discussion.
14 There were exchanges. When I noticed that the list that Mr X had given me was different
15 from the list that I had received, I informed my hierarchy. I actually forwarded the list to
16 my hierarchy, and after discussion at their level the final list was sent to me, and it is on
17 the basis of that list that we worked.

18 So I already mentioned that there had been an email exchange, a discussion
19 with headquarters, in order to agree on the final list that would be the basis for our work.
20 To my knowledge, and as far as I remember, I don't remember that this list here was the
21 final list, as I saw it. So, you see, there was an email exchange; I mentioned this. A
22 discussion with the headquarters. And the final list was then sent to me and it was on
23 the basis of the final list that the actually screening was done.

24 Q. Thank you for that information, but we're going to go through these different
25 aspects. Would you be so kind as to turn now to tab 28. This document bears the

1 number DRC-OTP-0231-0335. Witness, could you please read this document and
2 comment it for us?

3 A. I have this list before me. I recognise that I sent this to my headquarters, as I
4 emphasised, so this is the list that I was given by Mr X and that I sent to the headquarters
5 in order to inform them of the differences. So, indeed, this email is part of the exchange,
6 part of the discussions I referred to, in order to agree on the final list of witnesses to be
7 screened.

8 Q. Could you take a close look at this list. I know it may be difficult, but could
9 you take a look at the previous email and compare the names? Could you take a
10 moment, please, to carry out this comparison?

11 A. Yes. I'm ready. I have the list before me.

12 Q. Would it be correct to say that none of the names on the first list are, indeed,
13 on the second list?

14 A. Yes. At first glance, yes.

15 PRESIDING JUDGE FULFORD: Pause a moment, Maître Mabilie. I'm
16 sorry, Ms Samson. It's just if I allowed you to intervene when you did, it would have
17 been chaotic. Yes, but the objection?

18 MS SAMSON: Thank you. It's, in fact, not an objection to the question,
19 it's simply that -- the list is on the screen. I'm assuming that the screen is not visible, at
20 least it was on the screen before my image appeared. And further, to your Honour's
21 order, I assume that that's not being distributed publicly.

22 PRESIDING JUDGE FULFORD: Just before you raised the issue, I raised it
23 with the court officer. Although we can see everything on the screen, as I understand it
24 as far as the public is concerned this is all scrambled. If you wish to reassure yourself of
25 this, a member of your team can come around and have a look at one of the screens

1 immediately in front of the court officer on which it will be -- on which he or she can see
2 what the public can see. So do ask somebody to come around discretely if you'd like in a
3 moment or two.

4 MS SAMSON: Thank you very much.

5 PRESIDING JUDGE FULFORD: Please carry on.

6 MS MABILLE: (Interpretation)

7 Q. You agree then that these are two completely different lists, and yet you
8 stated in June 2010 that Mr X indicated to you that one or two of the children were not
9 available, T-301, page 3, lines 23 -- lines 18 to 23. Did Mr X tell you why those children
10 did not come? The children who were on the list.

11 A. As far as I remember, at the time Mr X told me that those children, some
12 children, and I think I said it the other day, those children were not available or that they
13 had lost trace of them. So those were basically the reasons; they could no longer get in
14 contact with them.

15 MS MABILLE: (Interpretation) Thank you. I would like to ask for an
16 EVD number on this document, please.

17 THE COURT OFFICER: The document will bear the number
18 EVD-D01-00316.

19 MS MABILLE: (Interpretation)

20 Q. Witness, would you be so kind as to turn to tab 26, the third page. Sorry, I
21 meant the second page. The reference of which is DRC-OTP-0231-0346. I beg your
22 pardon. Apparently, I said the wrong number. It's DRC-OTP-0231-0356 is the correct
23 number. Do you have that email in front of you, Witness?

24 A. Yes, I have it here in front of me.

25 Q. Is this the text of the instructions that the person in charge of the OTP sent

1 you following her receipt of the list that you sent?

2 A. According to the document I have in front of me, I can confirm that it was
3 sent to me.

4 Q. And are these the instructions you received?

5 A. If I may, I'd like to read it. Yes, as I said, indeed.

6 Q. Could you tell us more precisely what you said earlier? I'm quoting you
7 here, you said: "There was an exchange of emails, and I mentioned it. There was a
8 discussion at the headquarters, and a final list was sent to me." And you indicated that it
9 was on the basis of that list that the screening was carried out. Did you receive that final
10 list?

11 A. Yes. As I've had the opportunity to say already, after the discussion, the
12 exchanges, in order to clarify the situation as to the children to be screened, there was a
13 list that we agreed upon. And as I've said from the beginning, the work I was doing was
14 not on my own initiative; I was to report. And when I was in contact with (inaudible) --

15 THE INTERPRETER: There was a stop in the sound.

16 A. (Continuing) Every time I met with this person, I reported and I received
17 instructions. So that the children who were to be screened, the list or, in other words, the
18 names that were chosen following the discussion, that list was sent to the headquarters
19 and it was on the basis of that list that we worked. And it was on the basis of this list
20 that my hierarchy had agreed upon. That's how things should be understood.

21 Q. But did you receive an email with the final list of children that you were to
22 screen?

23 A. As I've already said, as far as I remember, I believe that after I reported -- I
24 believe, again, as far as I can remember, there was a final list that was the basis for our
25 work. I cannot remember exactly whether there was an email, if you will, but as I've

1 already said we worked on the basis of instructions. We didn't do anything upon our
2 own initiative.

3 The names, on the basis of the emails that you've read out, et cetera, the
4 names that I was asked to screen, those names were sent to headquarters and it was on the
5 basis of that list that we did our work. So it was on the basis of instructions I was given.
6 I'd like to repeat that.

7 I cannot remember here today exactly whether or not there was an email or
8 not. This was back in 2007 and I can't really remember, but in my emails, personally at
9 least, I did not see that email, but perhaps the desk officer or the person who sent the
10 email might have a document of that nature. But as regards the list of children to be
11 screened, the final list, everyone at the headquarters had agreed that those children be
12 seen and be screened.

13 Q. Thank you. I'd like to ask you now to turn to tab 12.

14 THE COURT OFFICER: (Interpretation) Would you like an EVD number
15 for the previous document?

16 MS MABILLE: (Interpretation) Yes, I beg your pardon.

17 THE COURT OFFICER: (Interpretation) The document will bear number
18 EVD-D01-00317.

19 MS MABILLE: (Interpretation)

20 Q. I would like to go rather rapidly through 11 documents, and I will give you
21 the DRC number for each of those, and can we perhaps have a general EVD number for
22 all 11 because I'm going to read out the DRC numbers or would the Chamber prefer that
23 each document bear a separate EVD number or that we do them individually?

24 PRESIDING JUDGE FULFORD: If these are separate documents, Maître
25 Mabile, they better have separate EVD numbers, unless the court officer says something

1 different to me. Well, we can go through the 11 and then give them EVD numbers at the
2 end, if that would be convenient.

3 MS MABILLE: (Interpretation) Yes, that's what I was suggesting to have
4 to avoid going through the request for an EVD number after each document because
5 we're going to go through all 11 of them. Could we then go to the first document
6 DRC-OTP-0190-0095.

7 Q. Witness, I'm going to show you the screening notes that we have and for each
8 one I'm going to ask you the same question, which is: Do you remember having drafted
9 the screening notes for this child? Would you please examine this first document. I'm
10 not going to read out the name of the individual, but I have given the reference. Do
11 you remember having interviewed this person?

12 A. Yes, I remember.

13 Q. This one already has an EVD number. It's EVD-D01-00296 and it's the only
14 one of these documents that I'm going to be mentioning. Could you now turn to tab 13,
15 please, Witness. The reference is DRC-OTP-0190-0090. Do you recall having conducted
16 the interview of this witness?

17 A. Yes, I remember that.

18 Q. I shall then move on to the following tab. The reference
19 DRC-OTP-0190-0085. Same question.

20 A. Here again, I do remember.

21 Q. The following tab. DRC-OTP-0214-0364. Same question, Witness.

22 A. I also remember that.

23 Q. Now we shall move on to tab 22. DRC-OTP-0230-0240. Same question.

24 A. Yes, I remember.

25 Q. The following page, DRC-OTP-0230-0244. Same question.

1 A. Yes, I think I remember that. Yes.

2 Q. Following page, DRC-OTP-0230-0248. Same question, Witness.

3 A. Yes, I remember this document.

4 Q. Following page DRC-OTP-0230-0252. Same question.

5 A. Yes, I recall that. Yes.

6 Q. Following page DRC-OTP-0230-0256. Same question.

7 A. Yes, I remember that.

8 Q. Following page 0230-0260. Same question.

9 A. Yes, I think I remember this name. Yes.

10 Q. And the last one DRC-OTP-0230-0264. Same question.

11 A. Yes, yes, I remember that.

12 Q. Thank you, Witness.

13 MS MABILLE: (Interpretation) I should like therefore to have an EVD
14 number for those ten documents that I have just quickly reviewed.

15 PRESIDING JUDGE FULFORD: Can we do that after the break? We're
16 going to take a slightly early mid-morning break now. We'll sit again at 5-past-11. So
17 court officer in the DRC, we'll be back in -- at exactly 5-past-11. Thank you very much.
18 We'll rise now.

19 THE COURT USHER: All rise.

20 (Recess taken at 10.34 a.m.)

21 (Upon resuming at 11.07 a.m.)

22 (Open session)

23 THE COURT USHER: All rise.

24 THE COURT OFFICER: We are in open session, your Honours.

25 PRESIDING JUDGE FULFORD: I'm sorry we're late. The clock in the

1 retiring room is 5 minutes slow. That will be rectified immediately. Yes, Maître Mabilles.

2 Oh, EVD numbers probably first.

3 THE COURT OFFICER: (Interpretation) Thank you, your Honour. The

4 very first number indicated DRC-OTP-0186-0096 -- 0186 -- sorry, 0190-0090, will be

5 EVD-D01-00318. The next one, 0190-0095 -- or 85, sorry, will be EVD-D01-00319. The

6 following document DRC-OTP-0214-0364 will have the EVD number EVD-D01-00320.

7 Document 0214-0364 will be EVD-D01-00320. The following one, 0230-0240 will be

8 EVD-D01-00321. DRC-OTP-0230-0244 will be EVD-D01-00322. The number

9 DRC-OTP-0230-0248 will be EVD-D01-00323. Number DRC-OTP-0230-0252 shall have

10 EVD number EVD-D01-00324. Number 0230-0256 shall be EVD-D01-00325. Number

11 0230-0260 will be EVD-D01-00326.

12 PRESIDING JUDGE FULFORD: Thank you. Yes, Maître Mabilles.

13 MS MABILLES: (Interpretation) One number is missing, the last one.

14 THE COURT OFFICER: (Interpretation) Could you please give me the

15 ERN number again, please?

16 MS MABILLES: (Interpretation) DRC-OTP-0230-0264.

17 THE COURT OFFICER: (Interpretation) My apologies. That document

18 will be EVD-D01-00327.

19 MS MABILLES: (Interpretation)

20 Q. Witness, I would like you to go to tab 34, please. DRC-D01-003-5505.

21 Witness, this document is, in fact, a summary document of ours showing what we've

22 shown you. In the first column, you have the list that the OTP provided to you. In the

23 second column, you have the list that you yourself had sent to -- sorry, and which was

24 sent to you by Mr X. And the third column shows a list of the children that you did

25 indeed screen. This is therefore a summary document. Could you please take a look at

1 this document and tell us whether this corresponds to what we showed you beforehand?

2 A. At first glance, yes, this seems to correspond.

3 MS MABILLE: (Interpretation) Thank you. Could we please have an
4 EVD number for this document, please?

5 PRESIDING JUDGE FULFORD: Yes, EVD number, please.

6 THE COURT OFFICER: (Interpretation) The document shall have the
7 EVD number EVD-D01-00328.

8 PRESIDING JUDGE FULFORD: Thank you.

9 MS MABILLE: (Interpretation)

10 Q. Witness, I should now like to establish with you a certain timeline of events
11 with what happened between November -- in November 2007, and I should like you to
12 refer to tab 26, please. We can see in this email that you are -- no, let me first give the
13 number. This is a document that we have already looked at with the reference
14 DRC-OTP-0233-0164; the second to last page of tab 26. Do you have that email in front of
15 you, Witness?

16 A. Yes. Yes, I confirm.

17 Q. I should like to know, this email says 19 November 2007 -- sorry, 15
18 November 2007, 12.57. From looking at this email, could you please tell us at which
19 point in time you got into contact with Mr X for the first time?

20 A. It is difficult for me to tell you exactly at what time I contacted -- I had contact
21 with Mr X. That's difficult for me to tell you.

22 Q. No, Witness, I'm not asking you at which time. I'm asking you
23 approximately, to the best of your recollection, when you received this email on 15
24 November 2007, 12.57. Did you then contact Mr X on the very same day? I'm talking
25 about the point in time at which you contacted Mr X after having received this email.

1 A. This is what I was saying. It is possible that I had contact with him on the
2 very same day, that is a possibility, but I would not be able to say if it was indeed that
3 very same day, but it is -- it is possible. I cannot actually give you a definite answer, but
4 it is possible that it was the same day.

5 Q. Do you recall did you have contact with him by telephone, or in person,
6 when you contacted Mr X?

7 A. During this operation I must have had in person contacts and contact
8 by telephone with Mr X and on this particular day it is difficult for me to tell you with
9 accuracy whether I saw him in person, or whether contact was by telephone on that very
10 day, but during this operation, as I just said, I did have the occasion to meet in person and
11 also by telephone. In addition, there was contact with the headquarters when I was in
12 situ.

13 Q. Perhaps I can help jog your memory by asking you to turn to the first
14 document under tab 26, which has the number DRC-OTP-0231-0346. Do you have that
15 document in front of you?

16 A. Yes, I have it.

17 Q. This document is an email from yourself dated 16 November at 7.44 in
18 the morning. We agree we are looking at the same document?

19 A. Yes, I agree with that.

20 Q. And this document stipulates that you already have as of 16
21 November completed the screening of three child soldiers; is that not so?

22 A. Yes, that is correct.

23 Q. Can we thus conclude that you had done the screening of these three
24 children in fact on 15 November 2007?

25 A. Given the early hour of the -- of when this email was sent, we could

1 conclude that this had been done prior to that hour, yes. [...]

2 Q. So I shall try to ask again my first question: You have an email sent
3 on 15 November with a list attached, and we therefore know that on the same day you
4 undertook the screening of three children. Therefore, at which point in time did you
5 have contact with Mr X?

6 A. Well then, given the email that I have before me, the screening notes
7 had been sent on the 16th in the morning, so it's very probable that I had met with Mr X
8 the evening prior to that, or the afternoon prior to that, so that I could have contact with
9 the children. But here again, as I said before, practically three years have gone by and I
10 cannot say exactly at which time I saw him, but I think it would have been before this
11 because he would have brought me the children for screening.

12 Q. Could I ask you to go to tab 28, please. Excuse me, I need an EVD
13 number for the last document that I mentioned.

14 THE COURT OFFICER: (Interpretation) The document shall bear the
15 EVD number EVD-D01-00329.

16 MS MABILLE: (Interpretation)

17 Q. Do you have this email before you?

18 A. Yes, I do.

19 Q. This email was sent to you on 16 November at 9.50 a.m., if you look at
20 the heading. It includes a list of 16 names, which are different - completely different - to
21 the initial list. This is November 16th, at 9.50 a.m., so here we can see that the
22 continuation of this email indicates (Speaks English), "... the one who provided, should I
23 proceed? Your guidance awaited." (Interpretation) So what is happening on 16
24 November? What happened after this email? What happened next?

25 A. Could you please repeat your question? I'm not sure what it is that

1 you want to know.

2 Q. We have seen that on 15 November you undertook screening of three
3 children. You had sent that screening to the OTP on the 16th, the very next day, and here
4 you sent an email with a list of completely different names. I should like to know what
5 happened as of this point in time?

6 A. Yes, when I sent this email to my hierarchy there was some feedback.
7 I don't recall whether it was by telephone, or in writing. I really cannot remember, but in
8 any case there was some feedback concerning the email that I had received and in relation
9 to what I had written and there were some instructions so as to continue the operation.

10 Q. Could I ask you, please, to go to tab 26, the second page,
11 DRC-OTP-0231-0356. Here we see that this email was addressed to you on 16 November
12 2007 at 10.35 a.m. and that a person from the OTP is writing to you. I can summarise
13 what we see in this email, "Thank you for double-checking this. Please only screen
14 children who were aged under 15 in 2002 and did not belong -- and belonged to the UPC."
15 Do you remember receiving these instructions?

16 A. Since it seems that this email was addressed to me I can say yes, but
17 personally I no longer have a copy of this email in my correspondence, but since I'm
18 looking at this document I can see that this email was sent to me.

19 Q. This email was sent to you after you had sent an email with the new
20 list to the OTP, and when you received that email can you please tell us what you did next?
21 What did you do in follow-up to this email?

22 A. I think, as the email shows, the email asks me to conduct a
23 double-check to verify either with Mr X in order to meet with the children to find out their
24 ages, et cetera. I think that the idea behind the operation was to find out whether these
25 people met with the profile we were looking for or not. [...]

1 Q. But you were given a list of 16 children, which is totally different from
2 the initial list. What did you do? Did you meet the 16 children and double-checked or
3 well, in concrete terms, what actually happened?

4 A. On the list of 16, as given by Mr X, I would like to say that all the
5 children were not available. I remember that sometimes he would have to go into the
6 field to look for one child or another, and afterwards he would come back to tell me or he
7 would call to tell me that such-and-such a child is not available, or cannot be found, and
8 that consequently we had to move on to the next individual.

9 I do remember that all the persons on that list were not available, and that is
10 why on the list of those who were screened. It seemed to me that about three names had
11 been added. So these persons were added to have a list, that is a longer list of screened
12 persons, to have more or less ten names so that the people at the headquarters who had to
13 do the selection would have several cases to work with, and they would be able to make a
14 choice and retain those individuals whom -- who met the profile that was sought for.

15 So, in summary, all those who were on Mr X's list (inaudible). When Mr X
16 went to the field, I do remember that he would tell me that such-and-such a child could
17 not be found or the child was not at home, that the child could not be found, and so we
18 had to work with those that were available.

19 As I was saying , if there is no mail (inaudible) document, I maintained
20 telephone contact with my headquarters as I was carrying out my activities, so there were
21 certainly instructions that were given over the phone that you would not find in this
22 document. That is what I can say at this juncture.

23 Q. However, on 16 November when you received this mail at 10.35 a.m., a
24 mail giving you certain guidelines, I will even say certain instructions, did you relay these
25 instructions to Mr X?

1 A. To the best of my knowledge, I do not know whether or not that is how I
2 proceeded, but it is highly possible that I discussed with him because he knew the
3 children, and as I have said before practically all these children – (Redacted)
4 (Redacted). I think I discussed
5 with him about the children, the children he retained or who were on the list. And with
6 respect to the instructions that I have received, I think I did that.

7 Q. You told us earlier that Mr X -- he was -- or used to go to look for the children
8 whilst you were there. Is that what you told us?

9 A. I did not fully understand your question. You said whilst I was there.
10 What does that mean?

11 Q. I understood from your testimony that you said Mr X used to go to look for
12 the children. You gave us an example saying that he would go into the field to look for
13 children and the children would not be available, so he would go to look for the children
14 whilst you were in Bunia for that operation?

15 A. Yes, indeed. Yes. During that screening operation, I was present in Bunia,
16 right up to a certain point in time before I moved onto the neighbouring town, to continue
17 with operations, but at that particular point in time I was in Bunia because that is where
18 the screening was done.

19 Q. I would like you to turn to tab 26, the third page. The number is
20 DRC-OTP-0231-0357. As far as this email is concerned, you sent it yourself, and we find
21 that you sent this email on 17 November at 8.48 a.m. And you are talking about the
22 screening of four children, which we can assume you screened on 16 November.

23 A. I think that is a question. Yes, indeed. We can make that assumption. I
24 don't know if the screening was done on the same day, in the morning. It's possible that
25 the screening must have been done on the previous day, in the afternoon, that is highly

1 possible. It's very possible, but I don't know whether it was done on the same day, in the
2 morning.

3 Q. Maybe I made a hasty assumption that the screening was done on the
4 eve, when I look at the time at which you sent the document, but since you said you spent
5 on average 50 minutes on each of the individuals you screened, I told myself that you
6 must have taken about four hours. And you might have -- if you had to do this, you'd
7 start at about 4 or 5 in the morning, and that is why I made the assumption that the
8 screening was done on the previous day, but if I am mistaken could you please tell me?

9 A. As I said, yes, it's highly possible that this could have been done on the
10 16th, that is, on the previous day.

11 Q. There is still one question that I would like answered. On 16
12 November you received instructions, and on the same day you interviewed four children?
13 How were you able to relay information to Mr X such that he would be able to bring the
14 children to you immediately? I find it hard to understand that. Could you please
15 explain it to us?

16 A. Yes. As I have said earlier, in this operation I maintained telephone
17 contact. Whenever I completed screening with a child, I would ask him to come over.
18 We had to work very hard, and I think he himself would confirm this. It was a large
19 volume of work, and it was very tedious.

20 When I received instructions that we had to start working, I called him. I
21 would call him, and we would meet at a particular place. He will bring the child to me.
22 I would cross-check or double-check against the list I had. He would introduce the child:
23 "This is so and so", and I would work with the child. And when I finished working with
24 the child, I would call him and he would come and meet me at the agreed spot and he
25 would take the child away, and then go to look for another child and we will meet later on.

1 And we can meet later on, maybe about 45 minutes later, but it all depended because
2 certain -- not all the children were located out of Bunia. Some were in Bunia.

3 He would go and come about an hour later with another child. Sometimes
4 he would come two hours later; it all depended. So, yes, it was possible that within the
5 space of four, or five and six hours we would see all the children and screen them.

6 When we say the screening took on average 50 minutes, it means that the
7 whole exercise can also take 30 minutes. I do remember having met with a child from
8 the group who was very smart, who was educated, and the screening process went very
9 fast with that child. He answered questions directly, and it was easy. And so that is
10 how we met the children. So we worked from one child to another, proceeding in that
11 manner.

12 Q. I would like you to turn to the next page, DRC-0231-0379 -- or rather,
13 70, and we find that this mail was sent to you on Sunday, 18 November, at 7.30 a.m. Is
14 that the case?

15 A. Yes, indeed.

16 Q. You -- in this mail, you attach four other screening notes for potential
17 witnesses, child soldiers, and my question is: Can we conclude that this screening was
18 done on 17 November?

19 A. Yes, we can make such a conclusion.

20 MS MABILLE: (Interpretation) Could I have an EVD number for this
21 document, please.

22 THE COURT OFFICER: (Interpretation) Counsel, I am going to give EVD
23 references to your last two documents. The document 0231-0357 will bear the EVD
24 number EVD-D01-00330, and the next number, which is DRC-OTP-0231-0370, will bear
25 the EVD number EVD-D01-00331.

1 MS MABILLE: (Interpretation)

2 Q. Witness, I would like you to now turn to tab 36. Can you see that
3 document? The reference is DRC-OTP-0196-0534.

4 A. Yes, I can see it.

5 Q. Could you please tell us what this document is?

6 A. Yes, if I remember correctly you put the same question to me the last
7 time. I think that Mr X was giving me a certain amount of money for a mission which he
8 was not able to make. He had to travel, but he was not able to. If my memory serves
9 me correctly this receipt I have before me is not very legible, but I think that it is a
10 regularisation transaction. He was reimbursing monies for a mission which he was not
11 able to undertake. I think that's what it is.

12 Q. I have two questions for you: This document suggests that Mr X was
13 residing in (Redacted). Do you know whether or not Mr X was living in that particular
14 locality?

15 A. I did not know and I still do not know Mr X's address. I do not know
16 where he lives.

17 PRESIDING JUDGE FULFORD: Pause a moment, Maître Mabilille.

18 Yes, Ms Samson.

19 MS SAMSON: Thank you, Mr President. Of course the Prosecution can
20 send an email to the Chamber on this point, but I think it's wise to alert counsel to be
21 careful when discussing details that should be mentioned in private session.

22 PRESIDING JUDGE FULFORD: Yes, if the geography is tied down too
23 closely there could be security implications. Can you be careful about that, please,
24 Maître Mabilille.

25 MS MABILLE: (Interpretation)

1 Q. This document also suggests that the sum of \$71 was paid to Mr X in
2 the month of December 2007 to contact a witness in Shari. Is it correct that Shari is a
3 locality found very close to the airport of Bunia?

4 A. I don't know. I can't provide an answer to that question. However, I
5 can give some clarification because this is a repetition. This question was put to me in
6 the month of June. And I answered saying that in the month of December my supervisor,
7 who was in Bunia, or in any case a colleague, gave this sum of money to Mr X and we had
8 to recover that money, so it was merely a regularisation transaction. That is the
9 clarification I can give with respect to that question. But talking about Shari, I really
10 don't know where Shari is located. Whether it's a town or a village, I don't know.

11 MS MABILLE: (Interpretation) Your Honour, could we go into private
12 session for one question, please?

13 PRESIDING JUDGE FULFORD: Private session, please.

14 *(Private session at 11.50 a.m.) Reclassified as Open session

15 THE COURT OFFICER: We are in private session, your Honour.

16 PRESIDING JUDGE FULFORD: Yes.

17 MS MABILLE: (Interpretation)

18 Q. Could you please tell us, if you know, which witness is or was in
19 Shari?

20 A. I do not know. I don't have an answer to that question.

21 MS MABILLE: (Interpretation) Could we return to open session, your
22 Honour?

23 PRESIDING JUDGE FULFORD: Public session, please.

24 (Open session at 11.51 a.m.)

25 THE COURT OFFICER: We are in open session, your Honours.

1 PRESIDING JUDGE FULFORD: Thank you.

2 MS MABILLE: (Interpretation)

3 Q. Do you know whether or not it is one of the witnesses whom you
4 should have screened or that was screened in the year 2007?

5 A. I don't know. I do not remember the circumstances under which this
6 operation took place. I'm not in a position to tell. I cannot remember.

7 Q. For clarification purposes, I would like you to turn to DRC-OTP-01896.
8 The document is in tab 20, reference DRC-OTP-0216-0162.

9 THE INTERPRETER: Correction from the English booth: DRC-0196-0298.

10 MS MABILLE: (Interpretation)

11 Q. Can you see this document, Witness?

12 A. Yes, I can see it.

13 Q. In this document, I did put questions to you on this document. What
14 I would like to know is whether it corresponds to the receipt which I showed you a short
15 while ago? Does it relate to the same transaction; that is about the \$71 we talked about?

16 A. It's difficult to say. The previous document you showed me was
17 referring to Shari and this one rather refers to the village -- the villages which are
18 mentioned therein, and so it's difficult for me to say whether or not it relates to the same
19 transaction.

20 Q. Mr Witness, I would like you to turn to tab 26, page 1. We have
21 already examined this document. I will now like us to go to the second part of that
22 document, the sentence which starts with "The intermediary" and which ends with "Could
23 you please give more information about ..." Could you please tell us what this mail is all
24 about and did you indeed receive it?

25 A. I did not receive this mail. It's mail that I sent to my headquarters for

1 clarification. Now, if you want me to explain to you the circumstances under which all
2 of this happened in relation to that sum, I don't know if that's what you want to know
3 about, then --

4 Q. Yes, indeed. Yes, indeed. I beg your pardon, I was mistaken about who
5 sent the mail and you are perfectly correct and right to have corrected me.

6 A. Yes, as the mail suggests, the mail I have before me, indeed Mr X in the
7 contacts I had with him informed me that he had spent the sum which is indicated in the
8 document in establishing contact with the children. I was not aware of that. So I
9 forwarded the information to my headquarters, as you can see in the mail, in order to find
10 out from them what this was all about, and Mr X indeed told us that he had rented a bus;
11 that he had paid transport for the children. I do remember that certain discussions were
12 held at headquarters and, finally, the authorisation was given that Mr X be reimbursed for
13 the expense; there is -- that is with respect to the money sent to him by his direct boss,
14 whose name features in the mail. In my -- the last time I gave testimony, this question
15 was put to me and that is the answer I provided and, if my memory serves me correct, this
16 is merely a repetition.

17 Q. No, Mr Witness, I would like you to concentrate on the three lines written
18 there on the document. I will try to translate them for you:

19 "The intermediary, X, informed me that Witness 31 sent to him \$200 for
20 transportation of clients from the villages to Bunia. I should reimburse him and pay the
21 returning transport for them. Could you please give me more information?"

22 Is that what is written in the mail which you sent yourself?

23 A. Yes, indeed. I sent this mail, because I wanted to know more what the
24 situation was with respect to the statements made by Mr X. He said that his boss, whose
25 name is in the mail, had sent him money for the transportation of the children. I was not

1 aware of that, and he told me that he had spent money sent to him by his boss for the
2 transportation of the children and he said he had to be reimbursed for the expense.
3 Maybe my English is not very good in the mail, but that is the whole idea. He had spent
4 some money, money sent to him by his boss, and we had to reimburse him for the
5 expense. That's the idea. And since I was not aware of this I wrote to my headquarters
6 to get more information about it, because I felt that they were probably aware of this at
7 their level. And may I remind you that Mr X's boss I believe was aware of this, together
8 with the headquarters, that is he was aware of this in his capacity as an intermediary, and
9 as I've always said intermediaries deal directly with the investigators and when there is a
10 problem they can act following the instructions given to me. To sum up, Mr X had spent
11 money for the transportation of the children and he was asking to be reimbursed. That's
12 the idea.

13 Q. Witness, I would like to ask you to turn now to tab 37, which is document
14 DRC-OTP-0196-0572.

15 PRESIDING JUDGE FULFORD: Maître Mabilie, we're going to have a ten
16 minute break and we'll turn to 37 at that stage. By the clock on the wall in the courtroom,
17 we will sit again at quarter-past-12.

18 THE COURT USHER: All rise.

19 (Recess taken at 12.02 p.m.)

20 (Upon resuming at 12.15 p.m.)

21 (Open session)

22 THE COURT USHER: All rise. Please be seated.

23 THE COURT OFFICER: We are in open session, your Honours.

24 PRESIDING JUDGE FULFORD: Document 572, Maître Mabilie.

25 MS MABILLE: (Interpretation) We need an EVD number from the

1 document 0196-0534.

2 THE COURT OFFICER: (Interpretation) The document will bear the
3 number EVD-D01-00332.

4 MS MABILLE: (Interpretation)

5 Q. Witness, I was asking you to go to tab 37, and I would like to ask you to look
6 at this document.

7 A. Yes, I can see it.

8 Q. Is this the same amount of \$200 that we discussed just before the break and
9 where you had written to the Office of the Prosecutor?

10 A. Yes, it must be the same \$200.

11 MS MABILLE: (Interpretation) Could I ask for an EVD number for this
12 document DRC-OTP-0196-0572, please.

13 THE COURT OFFICER: (Interpretation) The number -- the document
14 will bear the number D01-00333.

15 MS MABILLE: (Interpretation)

16 Q. Witness, I'd like to call your attention to the date of signature of this
17 document, and could you read out that date, please?

18 A. The date indicated is 19/11/2007.

19 Q. Was it at that point in time that you gave the money to Mr X?

20 A. Maître, to have a fuller understanding, because these receipts are always
21 accompanied by a report, at least, and therefore the date of payment is not necessarily this
22 date but it was a reimbursement of that amount. But to be more certain of the date at
23 which the payment was made, perhaps I would request to see the table that accompanied
24 this receipt, because these expenditures are made from one date to another, as I have had
25 the opportunity to indicate already.

1 Q. I would like to show you a document which is not in the binder, but which
2 was distributed and which we need to have on the screen.

3 MS MABILLE: (Interpretation) Can I request that this document be
4 passed out to the participants. Of course, this document needs to be shown to the
5 witness on the computer, but not shown to the public. Of course.

6 PRESIDING JUDGE FULFORD: Right. So a copy needs to go on the
7 ELMO, then I think, unless it's already in the system.

8 THE COURT OFFICER: (Interpretation) Is there an ERN number?

9 MS MABILLE: (Interpretation) Yes. DRC-OTP-8096 -- sorry, 0196-0573.
10 It's already in the system, but we had not announced that we were going to use it.

11 THE COURT OFFICER (DRC): (Interpretation) It's fine. We can see it.
12 (Inaudible) unfortunately.

13 PRESIDING JUDGE FULFORD: I think you can ask your question, Maître
14 Mabilie.

15 MS MABILLE: (Interpretation)

16 Q. Witness, can you see this document?

17 A. Yes, I can see it.

18 Q. Can you tell us what it is?

19 A. As I was saying in the email, Mr X told me that he had made certain
20 expenditures and that the amount that he used had been sent to him by his superior, and
21 that he was requesting to be reimbursed for that amount. I informed headquarters, and I
22 was therefore waiting for instructions.

23 He had given me the document that I have before me, a receipt, that states
24 indeed that he had rented a vehicle for transportation, and he was asking for
25 reimbursement and I remember that permission was given, authorisation was given and

1 that that amount be reimbursed to him. That's what I can tell you.

2 MS MABILLE: (Interpretation) I would like an EVD number for this
3 document, please.

4 PRESIDING JUDGE FULFORD: Certainly.

5 THE COURT OFFICER: (Interpretation) The number shall bear the -- the
6 document shall bear the number D01-00334.

7 MS MABILLE: (Interpretation)

8 Q. I'd like to go back to tab 26 for a moment. On the first page,
9 DRC-OTP-0231-0346. Have you found the document, Witness?

10 A. Yes, I have it. I can see it.

11 Q. I'm referring to an email that you sent, and it states, (speaks English) "I
12 should reimburse him and pay the returning transport for them. Could you please give
13 more information about?" (Interpretation) My question is: Did you reimburse the
14 return transportation? Do you remember anything about that?

15 A. Yes. It must be said clearly that when Mr X -- well, you know, my
16 English is not all that good, and when I wrote "I should," I was reporting what Mr X
17 requested of me. He was asking me for reimbursement, and that reimbursement was
18 done once I received authorisation from headquarters.

19 Q. Was there a receipt for these reimbursements that were made? Do
20 you have any recollection of that?

21 A. The document entitled "Witness Expense Sheet" refers to those
22 expenditures, I believe. Perhaps I can clarify. Mr X gave me the receipt; in other words,
23 to prove that he had made those expenditures. And when the authorisation was granted
24 for him to be reimbursed, I had him sign -- as was customary, I had him sign the
25 document that you showed me earlier, four days of vehicle rental to -- for transportation

1 of witnesses. And the amount was \$200, and that's the amount that was paid.

2 MS MABILLE: (Interpretation) One moment, your Honour, if I may.

3 (Counsel confer)

4 Q. Did Mr X give you any receipts to justify the expenses he had incurred
5 for the return of the children?

6 A. The document I received from Mr X justified expenses in relation to
7 the amount that he had requested, and the document that we examined a few moments
8 ago, that is the receipt signed by the owner of the vehicle, and the receipt that we
9 examined earlier - the handwritten receipt - I don't remember the number, but we
10 discussed that document a moment ago. That was the document that the owner of the
11 vehicle that was being rented gave to Mr X for the rental of his vehicle. It was that
12 document that Mr X gave in to me, and I informed my headquarters as is mentioned in
13 the email. I don't know why you're mentioning returning transport for them; my English
14 words in the email, but my English isn't good. He had spent a certain amount of money
15 to rent the vehicle, and he left and he came back and he requested reimbursement and
16 that is indeed what was done and the reimbursement was authorised. The document
17 that you showed me earlier, the receipt for reimbursement for the amount I believe of
18 \$200, it is that document that Mr X signed as a receipt for the amount that I gave him as
19 reimbursement of his expenses.

20 Q. Thank you, Witness, but maybe I should make my question more
21 precise. I'm not talking about the \$200 for the vehicle rental. I'm asking you whether or
22 not there were other reimbursements made to Mr X regarding the returning of the
23 children? We are not talking about the \$200. I'm asking you whether you reimbursed
24 other amounts to Mr X in order for him to provide for the return of the children?

25 A. As I explained previously, Mr X was asked to go and meet the children

1 and bring them to us and, of course, afterwards he was to return the children. So for all
2 of these operations, each time he would receive money for the transportation of the
3 children to take them. He -- if he was going to bring them to me, he also had to take
4 them back to wherever their place of residence was. So, yes, he received money for
5 transportation. It would not have logical that he do all this transportation with his own
6 money. So I don't know if I've answered your question, but to sum up he received
7 money for transportation - round trip transportation - of the children both ways. He
8 would go get them and he would take them back.

9 THE INTERPRETER: The interpreter would like to point out that the
10 sound is becoming quite shaky.

11 MS MABILLE: (Interpretation)

12 Q. Did you see any receipts regarding requests for reimbursement, or
13 payments, or requests for payment, from Mr X for the return of these children? Do you
14 have any memory of that?

15 A. What do you mean? Receipts, taxis, bus tickets, is that what you
16 mean? I don't understand what you're asking me exactly.

17 Q. Well, yes, I'm asking if you have any receipts, anything to justify?
18 We've seen this receipt for the \$200. Is -- do you remember having seen any document to
19 justify the expenses for the return of these children? It could be a taxi receipt, a bus ticket,
20 any document which makes it possible to establish what was spent, and did you make
21 any reimbursements? Did you -- did you allocate money? Did you give advances to
22 Mr X in order to carry out this mission over and beyond the \$200?

23 A. When I gave Mr X the transportation money for the transport of the children,
24 he would go and get them. Well, a taxi costs \$1. If there are two or three children, plus
25 himself, I would give him the amount of money he needed, and when he left I didn't ask

1 him for a receipt. I gave him the money he needed to pay for transportation and, when
2 he came back, I didn't ask him for any receipts. In fact, where I am here, it's very difficult
3 to obtain a receipt, especially if it's a motorcycle taxi. It's not all that obvious. And
4 therefore as regards the receipt - the document entitled "Des charges" in French - for \$200,
5 that corresponds to an amount paid to the owner of a vehicle for rental of that vehicle and
6 that's a different thing.

7 PRESIDING JUDGE FULFORD: Maître Mabilles, we are taking quite a long
8 time with this point now. Could you, as it were, bring this particular issue to a
9 conclusion please.

10 MS MABILLES: (Interpretation)

11 Q. I'd like to now discuss a subject we have already discussed regarding
12 Mr Django, and during your previous testimony here before the Court you indicated that
13 you no longer remembered, or at least you were no longer certain, that he came to you in
14 Bunia and in Beni under the name of Jacques Byaruhanga, or Maki Losa. This is in
15 keeping with your statement made in June 2010 of -- on the 17th, to be precise, page 9.
16 Correction, it was July 17th, 2009. I would like to clarify this point by showing you a
17 document on tab 35.

18 PRESIDING JUDGE FULFORD: Now, just before you carry on, Maître
19 Mabilles, a number of names have been mentioned. Are there any security issues in
20 relation to any of these individuals, Ms Samson?

21 MS SAMSON: No, your Honour, there isn't, not for that particular
22 individual, but I do rise for another point if the Bench will give me permission. This
23 subject matter, in our assessment, ought to have been completed at the time that 581
24 testified previously. Unless counsel can point the Chamber and the Prosecution to
25 something new that was disclosed for which this area needs to be re-rehearsed again, we

1 would object in that it ought to have been completed earlier.

2 PRESIDING JUDGE FULFORD: Was this dealt with at all during the
3 witness's earlier testimony, Ms Samson?

4 MS SAMSON: Yes.

5 PRESIDING JUDGE FULFORD: Maître Mabilille -- thank you, Ms Samson.
6 Maître Mabilille, this witness obviously has been recalled because there was disclosure
7 subsequently. Now, are you putting fresh questions on this point on the basis of new
8 documents, or are you wishing to improve on questions that you put last time around?

9 MS MABILILLE: (Interpretation) I've tried to be extremely careful in
10 asking questions only on new elements, and I would like to add that, as regards this
11 particular point, I have one single question which is related to an investigator's note,
12 which I must say, amongst the 1,800 documents that have just been disclosed, I had -- I
13 shouldn't have missed it, but I did, I must say. And in that document I have a question
14 for clarification regarding this investigator's note, dated March 10th, 2008, which was
15 disclosed on January 26th, 2010, and I have compared the various lists. I would like to
16 say this: even though this question is not directly related to that, it is related to the new
17 disclosures which enabled us to check one point that I was not able to examine the witness
18 on previously. So it is a question for clarification and I think it is in the interests of all
19 that this point be clarified.

20 PRESIDING JUDGE FULFORD: Right. If it's one question, Maître Mabilille,
21 so be it. Put it, please.

22 MS MABILILLE: (Interpretation)

23 Q. Witness, you have indicated that you were hesitating on the names of
24 two individuals. Now, here is the investigator's note, under tab 35, and I would like to
25 ask you to examine paragraph 10 of this note, and since it's relatively brief I'm going to

1 read it out to you. I forgot to give the number. It's DRC-OTP-0221-0701.

2 Your Honour, can we go into closed session for a moment?

3 PRESIDING JUDGE FULFORD: Certainly. Closed session. Do the
4 witness -- the witness has this under tab 35? Right, good. Private session, please.

5 *(Private session at 12.41 p.m.) Reclassified as Open session

6 THE COURT OFFICER: We are in private session, your Honours.

7 PRESIDING JUDGE FULFORD: Yes, Maître Mabilie.

8 MS MABILLE: (Interpretation)

9 Q. I'm referring to paragraph 10:

10 "Once having arrived in (Redacted), DRC-OTP-WWW-0297 and
11 (Redacted) were to be received by the personnel on site of the OTP, in particular
12 (Redacted). When he saw them, Mr Alain Lubamba recognised the
13 (Redacted) DRC-OTP-WWW-0297 whose name is (Redacted). Indeed, this child was
14 indeed (Redacted). The child met by the investigators, Mr Nekane Lavin and Serge
15 Sambou, in Beni in November/December 2007. He was part of the children who had
16 been screened before said mission. "

17 I have one question on this. Does that refresh your memory and can it be
18 said that we are talking about (Redacted), who was being called (Redacted)?

19 A. I'm afraid I can't say it with certainty. The problem I had last time
20 was that it was difficult for me to put a face on all of the names of the children that I had
21 screened. That's why I hesitated, and even now I cannot confirm clearly that it was
22 (Redacted). I don't remember and I said that at the time. I don't remember what name
23 he gave at the time of the screening. I know there was a screening, but I do not
24 remember under which name he was screened. [...] It's extremely difficult. I'm very
25 sorry, but it's extremely difficult to put a face on all of the names, in particular for some of

1 them. So I cannot say with certainty that it was (Redacted), and the other one I
2 mentioned, (Redacted) (phon), it's possible, but I am afraid I cannot state it with total certainty.
3 I'm sorry.

4 MS MABILLE: (Interpretation) Your Honour, we can go back into public
5 session.

6 PRESIDING JUDGE FULFORD: Public session, please.

7 (Open session at 12.44 p.m.)

8 THE COURT OFFICER: We are in open session, your Honours.

9 PRESIDING JUDGE FULFORD: Yes.

10 MS MABILLE: (Interpretation)

11 Q. Do you recall, Witness, that you made contact with MONUC in June
12 2009 about Mr X?

13 A. June 2009, contact with MONUC, the UN mission? Well, offhand, no,
14 I don't know if you have further information that I don't have. I'm trying to remember.
15 Could you perhaps jog my memory?

16 Q. Did someone from MONUC call you to say that Mr X had laid a
17 complaint about the behaviour of the ICC as regards him?

18 A. Yes, yes, this is true. Yes, yes, yes, I remember now. Yes. Yes.
19 We had heard that Mr X had approached MONUC so as to complain. I don't remember
20 at which date but it would have been around that time, in June 2009. It would have been
21 (inaudible) it would have been in the town where there was a (inaudible) at that town
22 there. So if I could try to re-create the context a little. At one point in time ... contact
23 with us (inaudible) regarding Mr X, and he was taken back to his home town, the town I
24 just mentioned which (says the interpreter was inaudible) and the screening was done
25 there and then he came back and we were no longer to take charge of him. It seems to

1 me that this was the reason he went to the human rights office to complain. I think that
2 might be correct, yes.

3 Q. Do you know which decisions were taken by the OTP following up
4 from this complaint that you yourself had received?

5 A. I am not sure. I think that my hierarchy is better placed to answer
6 that question. The question was transmitted to the higher authorities in my hierarchy,
7 but I cannot give you any further information on that.

8 Q. Do you recall the name of the MONUC person who called you?

9 PRESIDING JUDGE FULFORD: Yes, Ms Samson. Don't answer the
10 question for a moment, sir. Yes, Ms Samson.

11 MS SAMSON: The Prosecution objects on the basis of relevance.

12 PRESIDING JUDGE FULFORD: Thank you. Maître Mabilille, does it
13 matter who in MONUC was involved in this?

14 MS MABILILLE: (Interpretation) Mr X went to MONUC, said a number of
15 things, it would appear, about the way that the ICC was operating and in particular what
16 he considered to be certain dysfunctions. It is important, it was important for us to meet
17 with that person to know what Mr X had told him et to have a full grasp of the problem at
18 hand.

19 PRESIDING JUDGE FULFORD: So I think, Ms Samson, the relevance is
20 said to be that it would enable the Defence to explore further the complaints that Mr X
21 was making at this time. Isn't that a legitimate thing for the Defence to do?

22 MS SAMSON: Thank you, your Honour. We withdraw the objection.

23 PRESIDING JUDGE FULFORD: Thank you very much, Ms Samson. So
24 you are being asked if you can remember the name of the person at MONUC who you
25 spoke with. Can you give -- yes, Ms Samson?

1 MS SAMSON: My apologies. The question perhaps ought to be elicited
2 in private session.

3 PRESIDING JUDGE FULFORD: Private session, please.

4 *(Private session at 12.50 p.m.) Reclassified as Open session

5 THE COURT OFFICER: We are in private session, your Honours.

6 PRESIDING JUDGE FULFORD: Thank you very much. So the name then
7 of the person from MONUC who called you?

8 THE WITNESS: (Interpretation) Yes. Mr X complained to the human
9 rights section, of MONUC, that it's there that he made his complaint, and the person who
10 informed me, I don't unfortunately know his name, but it was someone (Redacted)
11 (Redacted) because it seemed that Mr X had told him he had worked in
12 cooperation with our institution, and that (Redacted) knew him and (Redacted) asked that
13 a call be made to us, to see whether we knew that gentleman who wished to speak with a
14 human rights officer, and this was in connection with a complaint.

15 THE INTERPRETER: The interpreter would like to point out that the
16 sound is breaking up.

17 THE WITNESS: (The interpretation) So that Mr X was going to human rights
18 to make his complaint. Apparently permission was given for that. I don't know the details
19 of the complaint but, as far as we were concerned, (Redacted) stated that he had
20 been received, and I cannot remember who called me. I do not know the name of the
21 person who called me but it was someone (Redacted) who wanted to check that we
22 knew that person, and to check that he had indeed worked in cooperation with our
23 institution. That is as much information as I can give you on that.

24 PRESIDING JUDGE FULFORD: Does that finish that point, Maître Mabilie,
25 or have you got further questions arising out of it?

1 MS MABILLE: (Interpretation) There is one further question about Mr X.

2 PRESIDING JUDGE FULFORD: Certainly.

3 MS MABILLE: (Interpretation)

4 Q. Do you know whether Mr X personally accompanied the children to
5 Beni?

6 A. Do you mean after the screening operation?

7 Q. Yes, after the screening operation, did Mr X accompany one or more
8 than one children to Beni?

9 A. Yes. I don't have a recollection of that because I think that Mr X
10 remained in Bunia and dealt with one of my colleagues who was there. He would deal
11 with my colleague from that point on, and he took the children with him. The children
12 travelled with their parents, and if not the parent, then some kind of guardian from the
13 family. To the best of my recollection, I don't think that it was Mr X who accompanied a
14 child or children to that town that you mentioned. The children travelled with their
15 parents or some representative of the family, or some kind of tutor or guardian.

16 PRESIDING JUDGE FULFORD: Thank you very much, Maître Mabilille. I
17 think if there had been any further questions on that subject Ms Samson may have had an
18 objection.

19 Sir, we are going to take a break with your evidence at this stage. Thank
20 you very much indeed for your assistance so far today. We will sit again with you at
21 half-past 2, and court officer in the DRC, thank you very much as well for your assistance.

22 So the link now with the DRC can be broken. There are one or two
23 administrative matters that I want to deal with before we rise for the midday
24 adjournment.

25 Mr Sachdeva, I've been looking at the proposed timetable. I think we

1 received it from the Prosecution very helpfully at the end of last week for next week.
2 And depending on what happens, it's looking potentially quite shaky. We have had an
3 indication from you that Witness 555 may not come at all. I think we need a decision
4 very soon. I'm not asking you to commit yourself now but, later today, I will press you
5 on this so if you could reflect on that over lunch, please, with your colleagues.

6 There is then Witness 38, who is now coming, rather than giving evidence
7 via the video link, and one could see very easily how there may be difficulties in having
8 him ready to give evidence by Friday of next week -- I don't know, maybe I am being
9 pessimistic. Now, I raise those questions because I want to go back to the issue of 582
10 because, if 555 is not coming to give evidence next week, then potentially, next week
11 could be used for a video link with 582. So we need early and urgent discussions, please,
12 between the Prosecution and the Defence on this, and separately, I have asked the court
13 officer to make urgent inquiries today as to how quickly we could establish a video link, if
14 this is found to be an appropriate way for us to proceed.

15 So I am not asking for a response, Mr Sachdeva, I am just alerting you to
16 these issues which in our view need to be addressed today, latest tomorrow.

17 MR SACHDEVA: Certainly, Mr President. We will bear those
18 suggestions in mind. I believe I can anticipate what my learned friend is going to say
19 but --

20 PRESIDING JUDGE FULFORD: Absolutely. All I would say is, Mr
21 Sachdeva, that the video link with the DRC is very good. One would hope that the
22 country where 582 is will provide us with an even better video link and if the choice is
23 that 582 is going to be coming in January then it may be some realistic decisions need to
24 be made. Maître Mabilille.

25 MS MABILLE: (Interpretation) Yes, just very -- we would request that as

1 we have for the last few weeks that the OTP provide us with the statements of the two
2 witnesses you have just mentioned, particularly of those who are supposed to be heard
3 via video link. This is getting urgent. Could the OTP please provide us with those
4 statements because we have been waiting for them for months now.

5 PRESIDING JUDGE FULFORD: I am not going to ask for a response now,
6 Mr Sachdeva, but if we could put that on the list of things to be dealt with either today or
7 tomorrow.

8 MR SACHDEVA: Certainly, Mr President.

9 PRESIDING JUDGE FULFORD: Thank you. I think the court officer
10 wanted to give a last EVD number.

11 THE COURT OFFICER: (Interpretation) Yes, counsel. Document
12 0221-0701 required an EVD number. That document shall therefore bear the number
13 EVD-D01-00335.

14 PRESIDING JUDGE FULFORD: Thank you all very much. We will sit
15 again at half-past 2.

16 (Luncheon recess taken at 1.00 p.m.)

17 (Upon resuming at 2.30 p.m.)

18 (Open session)

19 THE COURT USHER: All rise. Please be seated.

20 THE COURT OFFICER: We are in open session, your Honours.

21 PRESIDING JUDGE FULFORD: Yes, Maître Mabilie.

22 MS MABILLE: (Interpretation) Could we go into private session just
23 so I get a clarification, your Honour.

24 PRESIDING JUDGE FULFORD: Certainly. Private session, please.

25 *(Private session at 2.31 p.m.) Reclassified as Open session

1 THE COURT OFFICER: We are in private session.

2 PRESIDING JUDGE FULFORD: Yes.

3 MS MABILLE: (Interpretation)

4 Q. Good afternoon once more, Witness. I am now going to ask you
5 questions on (Redacted) (phon). Shall we agree to refer to him as "143," please?

6 A. Very well, counsel. No problem.

7 MS MABILLE: (Interpretation) Could we return to open session,
8 your Honour?

9 PRESIDING JUDGE FULFORD: Public session, please.

10 (Open session at 2.31 p.m.)

11 THE COURT OFFICER: We are in open session, your Honours.

12 PRESIDING JUDGE FULFORD: Yes.

13 MS MABILLE: (Interpretation)

14 Q. Witness, I would like you to turn to tab 18. The reference is
15 DRC-OTP-0196-0526 which has already received an EVD reference, which is
16 EVD-D01-00295. Have you turned to that tab, Mr Witness?

17 A. I am on it, counsel. I beg your pardon. I think we have a problem here.
18 We were on tab 18 instead.

19 Q. I am, indeed, referring to tab 18.

20 A. Very well. I am in tab 18.

21 Q. Do you remember that I have already shown you this document? I
22 showed you this document last June and you informed us that the sum of €10 was
23 given for the preparation of a student ID card for Witness 297. Do you remember
24 having said that?

25 A. Yes, I remember clearly.

1 Q. And according to the receipt, this was done on 9 January 2008; is that
2 correct?

3 A. That's correct.

4 THE INTERPRETER: Correction from the English booth. The sum is
5 \$10, not €10.

6 MS MABILLE: (Interpretation)

7 Q. Was the reimbursement done on 9 January?

8 A. Looking at the document in front of me, this was done indeed on
9 9 January 2008 as signed on the document.

10 Q. I would like you to turn now to tab 21, and could you please turn to the
11 last page of tab 21. Are you on that page yet?

12 A. Yes.

13 Q. The reference is DRC-OTP-0196-0618. This document, Mr Witness, was
14 prepared by another individual from the OTP as we can see on the page, and I would
15 like to take you to the first line of this document where it is written "ID card for 297."
16 I think it's written \$10, plus \$5. Can you see that item?

17 A. Yes, indeed, I can see it.

18 Q. Did you -- or were you aware that the OTP paid for two ID cards for
19 Witness 297? The first we saw was for 9 January 2008 and the second, which we see
20 here, is for 19 February 2008.

21 A. I am not in a position to tell you the circumstances under which this
22 second document was prepared; the document which I have before me. I cannot
23 explain the circumstances under which it was prepared.

24 Q. Do you know whether the OTP kept a copy or copies of these identities;
25 that is, these ID documents?

1 A. I do not know. I am not in a position to know. I do not know.

2 Q. Now, one last question. Let's move to the second line on this document.

3 It is written "Identity card for the younger brother of 297." Can you see that item?

4 A. Yes, I can see that.

5 Q. Do you know whether this line is referring to (Redacted), the line
6 which reads "ID card for the younger brother of 297"?

7 A. That is possible. However, since I am not the one who prepared this
8 document, I am not aware of the circumstances under which this document was
9 prepared. I cannot say with certainty, but this is possible.

10 PRESIDING JUDGE FULFORD: Yes, Ms Samson.

11 MS SAMSON: Thank you, your Honour. I just rise to reiterate the
12 need to be vigilant when naming persons in connection with protected individuals
13 and relationships, and that type of information. It's important to be careful.

14 PRESIDING JUDGE FULFORD: I think we need a redaction, don't we?

15 MS SAMSON: Thank you, yes.

16 PRESIDING JUDGE FULFORD: Yes, lines 5 and 6, please. If you
17 could be careful, Maître Mabilille. Please continue.

18 MS MABILILLE: (Interpretation)

19 Q. I would like to know -- well, I am asking you questions related to
20 intermediary 143. Were you aware of any occasions where financial claims of
21 intermediary 143 were considered as unjustified by the OTP?

22 A. No, I am not aware. I was not aware of any such claims to the best of
23 my recollection. I do not remember having any awareness of such claims being
24 considered as unjustified to the best of my recollection. I do not have any
25 recollection of that, no.

1 Q. Do you remember an incident of May 2008 where intermediary 143 was
2 called upon to hand over to you at the request of the OTP to give you written
3 explanations on his work and his movements, or trips?

4 A. Do you confirm that the incident you are referring to took place in
5 May 2008, counsel?

6 Q. Yes, Mr Witness.

7 A. May 2008? Well, at first sight, I do not understand. Maybe you should
8 provide me with further detail.

9 MS MABILLE: (Interpretation) Your Honour, could we go into
10 private session, please?

11 PRESIDING JUDGE FULFORD: Private session.

12 *(Private session at 2.41 p.m.) Reclassified as Open session

13 THE COURT OFFICER: We are in private session, your Honours.

14 PRESIDING JUDGE FULFORD: Yes.

15 MS MABILLE: (Interpretation)

16 Q. Do you know whether intermediary 143 was assisted by certain persons
17 in the implementation of his duties; duties he performed for the OTP?

18 A. It is difficult for me to know. Personally, from my experience,
19 whenever I received instructions I dealt directly with him; that is, with 143. It was
20 with him that I interacted whenever the need arose, so I do not know. I have never
21 had to work with any other person on his behalf, be such a person his assistant or not.
22 I do not remember him having an assistant or someone in that capacity. I dealt
23 directly with him whenever the need arose.

24 Q. Do you know someone by the name of (Redacted) And for the
25 benefit of the record, I am going to spell the name. (Redacted)

1 A. No, at first sight, I do not remember that individual.

2 Q. I will now ask you another question. You informed us that you were in
3 contact with the intermediaries. In that capacity, were you informed when major
4 problems were noticed by the OTP, problems that had to do with an intermediary?

5 A. Yes, counsel, I have already said so. Within the scope of my work, I
6 received instructions to establish contact with intermediaries to provide logistical
7 support, as I have said many times previously, and whenever a problem arose, as you
8 just said, I am not really supposed to know, because I do not manage intermediaries.

9 When a problem arose, and at the level of headquarters it is felt that I
10 should be informed because I have to establish contact with that intermediary, then I
11 could be informed. However, management of the intermediary, as I have said on
12 many occasions previously, was not one of my duties. I saw them on instruction
13 from headquarters and I saw them for specific reasons and in accordance with
14 instructions given. I never got to see them on my own initiative. That is what I can
15 say.

16 MS MABILLE: (Interpretation) Your Honour, could we go into
17 private session, please?

18 PRESIDING JUDGE FULFORD: We're in private session in fact,
19 Maître Mabilille. I think -- I was just about to say we should come out of it, but you
20 want us in private session for a question. We will remain there.

21 MS MABILLE: (Interpretation)

22 Q. I would now like to talk to you about the intermediary (Redacted) and
23 I would like us to refer to him as Mr Z. Are you okay with that?

24 A. That's fine with me, your Honour -- counsel.

25 MS MABILLE: (Interpretation) I think we can return to public

1 session, your Honour.

2 PRESIDING JUDGE FULFORD: Thank you very much. Public
3 session, please.

4 (Open session at 2.46 p.m.)

5 THE COURT OFFICER: We are in open session, your Honours.

6 PRESIDING JUDGE FULFORD: Yes.

7 MS MABILLE: (Interpretation)

8 Q. Did the OTP, your superiors or your bosses, explain to you that Mr Z
9 might have at one time or another given inaccurate information to the OTP?

10 A. No, I was not informed. I was rather informed that at one point in time,
11 well, I received instructions not to establish any contact with him. That's all I can
12 say.

13 Q. Do you remember the date or the year when this took place?

14 A. I think this must have taken place in the second half of the year 2009, I
15 believe. If I remember correctly that's what happened in the second half of 2009, but
16 I cannot be -- speak with certainty on that point.

17 Q. Did you receive written instructions on this matter?

18 A. That is highly possible. When I say that I didn't have to get into contact
19 with Mr Z, what I am saying is that if Mr Z called us, for example, we had to inform
20 headquarters immediately. [...] I think that there were written instructions to that
21 effect, I believe.

22 Q. And in those instructions, were you told why you were not supposed to
23 have any further contact with Mr X -- sorry, Mr Z?

24 A. The main reason from what I understood was that he was no longer an
25 intermediary. That was the main reason.

1 Q. But you were never informed of the reasons why he was no longer an
2 intermediary? You were not aware of those reasons?

3 A. No. Once more let me inform you that management of intermediaries
4 was not one of my duties; it was the investigators who managed intermediaries from
5 headquarters and I didn't have to go asking questions about why. I was informed
6 not to get into any contact with this intermediary and that I had to inform
7 headquarters whenever he contacted me. I simply obeyed without questioning
8 those instructions.

9 Q. Did you receive similar instructions relating to Mr X?

10 A. Yes. At some point we were requested not to get into contact with Mr X
11 because he was no longer an intermediary, that there was no reason to continue
12 contact with him.

13 Q. No information was provided to you as to why you had to stop all
14 contact with Mr X?

15 A. Not at all, no. I did not have any information on that. He was no
16 longer an intermediary and, logically, there was no need to continue any contact with
17 him.

18 Q. Did you receive instructions - the same instructions - in relation to 143?

19 A. With respect to 143 I cannot speak with certainty, but I do not think I
20 received instructions to that end. No, I do not think I received such instructions.
21 Besides, since I was no longer in Bunia, I did not have any further contact with him.

22 MS MABILLE: (Interpretation) Could I have one minute, your
23 Honour?

24 (Counsel confer)

25 MS MABILLE: (Interpretation) I am done, your Honour.

1 PRESIDING JUDGE FULFORD: Thank you, Maître Mabilie.

2 Ms Samson.

3 MS SAMSON: Thank you, Mr President. With your leave, the
4 Prosecution does have a few questions for this witness.

5 PRESIDING JUDGE FULFORD: I assumed you had, which is why I
6 turned to you.

7 QUESTIONED BY MS SAMSON:

8 Q. Good afternoon, sir.

9 A. Good afternoon, Ms Samson.

10 Q. Sir, I just have some questions on two areas that you gave evidence on
11 today, and the first area concerns a document, a confidential document, which is not
12 one that was provided by the Defence so it is the document -- a document that will
13 have to be displayed on the screen. It is referenced as DRC-OTP-0196-0573, EVD
14 reference EVD-D01-00334.

15 PRESIDING JUDGE FULFORD: Am I right in thinking, Ms Samson, it
16 came up in the context of divider 37?

17 MS SAMSON: It did indeed, your Honour, come up in that context,
18 but the document itself is not in the binders.

19 PRESIDING JUDGE FULFORD: Absolutely. I was just obliquely
20 suggesting that for filing purposes the parties and participants may like to introduce
21 that document to that part of the file.

22 Is that now up on the screen so that the witness can see it? Can we get
23 it up, please.

24 THE WITNESS: It is not yet visible.

25 PRESIDING JUDGE FULFORD: There we are. It is now on the screen,

1 Ms Samson.

2 MS SAMSON: Thank you.

3 Q. And my question, sir, is: To your knowledge what did this proof of
4 expenses cover? Did it cover transport of children from villages to Bunia alone, or
5 transport of children from villages outside of Bunia to Bunia and back, or only return
6 transportation? Can you clarify what in your knowledge this proof of expenses was
7 intended to cover?

8 A. To the best of my knowledge, from what Mr X told me, he received a
9 sum of money indicated on the document from his superior and the purpose was for
10 him to go look for the children. From what he said, he rented a vehicle for four days
11 to go to the different villages, as mentioned in the document. He did round trips to
12 locate the children, to identify them and in return for what he paid, the owner of the
13 vehicle gave him this document to attest to the fact that he rented the vehicle for four
14 days.

15 After receiving this document, as I stated this morning, I asked my
16 bosses what this was all about. I did this because I was not aware of the fact that
17 Mr X had rented a vehicle and so on and so forth. When this document was received
18 at headquarters, when the information was received at headquarters, a few days later
19 I was given the authorisation to reimburse this sum of money to him, and it was for
20 transport, for round trips, as stated in the document, for four days.

21 He used the vehicle to go and get the children, so those are the
22 circumstances of this document and that's what I can say.

23 Q. Thank you, sir. I have some questions now on a second topic that you
24 covered in your evidence this morning relating to lists that you had received from
25 headquarters or from Mr X in relation to your mission in November 2007.

1 If I could ask you, please, to turn initially to a document at tab 26 of the
2 binder in front of you, the ERN of the document is DRC-OTP-0231-0267. It is the
3 document that is at the final section of tab 26, so the very last document in the tab. It
4 has already been assigned an EVD number, which is EVD-D01-00315.

5 MS SAMSON: And, your Honour, may I ask the Court's indulgence to
6 move into private session for a few questions on this document?

7 PRESIDING JUDGE FULFORD: Certainly. Private session, please.

8 *(Private session at 3.00 p.m.) Reclassified as Open session

9 THE COURT OFFICER: We are in private session, your Honours.

10 MS SAMSON:

11 Q. Sir, you confirmed this morning that this was a list or a chart that you
12 had received on 15 November 2007 from headquarters with the names of potential
13 child soldiers for you to screen; is that correct?

14 THE INTERPRETER: It would appear the witness is speaking, but the
15 interpreter cannot hear. We have no sound, unfortunately.

16 PRESIDING JUDGE FULFORD: Court officer, can you -- court officer
17 in Bunia, can you hear me?

18 THE COURT OFFICER (DRC): (Interpretation) Yes, your Honour,
19 we can hear you.

20 PRESIDING JUDGE FULFORD: Good. Ms Samson, could you put
21 the question again, please. I'm afraid there was a loss of sound this end, so I am
22 going to ask Ms Samson to put the question again.

23 MS SAMSON: Certainly.

24 Q. Sir, you indicated this morning that this chart is one that was transmitted
25 by headquarters to you on 15 November 2007 with information related to potential

1 child soldiers for you to screen; is that right?

2 A. Yes. As I said, the email that accompanied this table was sent to me
3 from what I can see in the documents that I have before me. So, yes, that would
4 appear to be correct. This is the list that was sent to me for the work that I was to do.

5 Q. And there are -- in the first column on the left-hand side under the
6 heading "Child," there are ten names that are listed, and if I could ask you to look at
7 the column 6 underneath the title "Identified by," can you see that there's a name
8 (Redacted) listed for the first seven and then Witness A, Witness A and Witness B for
9 the last three?

10 A. Yes, I can see that, Madam Samson.

11 Q. And if you look at the next column to the right, which is the seventh column
12 in this chart, it's identified by the heading "Contact method." For five of the ten
13 children, we see the initials (Redacted) Do you know whose initials (Redacted) relates to?

14 A. Yes. The initials (Redacted) correspond to Mr X.

15 Q. So is it right that Mr X was to facilitate contact with five of the children
16 on the list, or was it more than five, or fewer than five?

17 A. As the document indicates, Mr X was to facilitate contact with the
18 children indicated in this chart, but as far as I remember, in particular for the last
19 name, I'm not quite sure. I don't think -- I don't know whether he was the contact
20 person. I really can't be sure, but for the first five as listed here in this document it
21 was Mr X who was the contact person. He was to put them in contact with those
22 names.

23 Q. And if we turn, please, to the first child that's listed in the left-hand
24 column, (Redacted), did you screen him in November 2007?

25 A. Yes, I did a screening of this child, but I think there's a mistake in the

1 spelling of the name as it's written here as I see it, but, yes, I did screen this child.

2 Q. If I could ask you to maintain somewhere your finger on the list that we
3 are looking at right now, while at the same time also moving to tab 14 in the binder,
4 which is identified by number DRC-OTP-0190-0085, EVD-D01-00319, is this the child
5 that you met who is listed in the chart EVD-D01-00315 as (Redacted), the first
6 child on the list?

7 A. Yes, yes. Indeed, I believe it is the same child. This is the one that I
8 screened, indeed.

9 Q. And you've confirmed that it was Mr X who brought this child to you; is
10 that right?

11 A. Yes, indeed, it was Mr X who brought that child to me.

12 Q. And if I could ask you now to return to the chart which we were looking
13 at under tab 26 I believe, the last page, the seventh child down in column 1 whose
14 name is (Redacted), did you meet this child in November 2007?

15 A. Yes, I remember meeting him, screening him, in November 2007.

16 Q. And if I could ask you to turn, please, to tab 22, the fifth document
17 behind that tab at DRC-OTP-0230-0256, can you confirm or not whether this is the
18 same (Redacted)?

19 A. Yes, I can confirm it's the same person. I can confirm it's the same
20 person.

21 THE INTERPRETER: Your Honour, please ask Madam Samson to
22 read the references a bit more slowly when she does so.

23 MS SAMSON:

24 Q. And it was Mr X who brought this child to you I believe you've said; is
25 that right?

1 A. Yes, indeed, it was Mr X who brought that child.

2 PRESIDING JUDGE FULFORD: Ms Samson, did you -- have
3 you -- yes.

4 MS SAMSON: In fact, I am listening to the witness in French, which is
5 why I am going too quickly.

6 PRESIDING JUDGE FULFORD: I think Mr Sachdeva has just
7 pointed -- yes. Good. Thank you.

8 MS SAMSON: Yes.

9 Q. And, sir, back to tab 26, please, to the chart which is the last document
10 under tab 26, the last child who is mentioned in the chart in the first column as
11 (Redacted), is this someone that you met in November 2007? Sir, did you hear my
12 last question?

13 THE INTERPRETER: There seems to be an untoward background
14 noise.

15 THE WITNESS: I did not hear the question. Would you be so kind as
16 to repeat the question.

17 THE INTERPRETER: And please ask Ms Samson not to speak too
18 quickly, because she is overlapping with the interpretation in English.

19 MS SAMSON:

20 Q. In the chart at tab 26 in the first column, the child referenced by the name
21 (Redacted), did you meet this child in November 2007?

22 A. Yes, I remember meeting him and screening that child. Yes, I saw -- I
23 saw that child, indeed.

24 Q. Could I ask you, please, to turn to tab 22, to the second document behind
25 that tab. The ERN reference is DRC-OTP-0230-0244, EVD-D01-00322. Is this the

1 screening of the child (Redacted) who appears in the table?

2 A. Yes, indeed. That was -- yes, I screened that child, (Redacted). This is
3 the screening report.

4 Q. And for this child, you are not certain whether it was Mr X who brought
5 this child to you?

6 PRESIDING JUDGE FULFORD: Maître Mabilie.

7 MS MABILLE: (Interpretation) This is quite a suggestive question.
8 It's a leading question.

9 MS SAMSON: (Inaudible) the question is perhaps redundant in the
10 sense that the witness already gave that evidence, but that was my understanding of
11 his answer.

12 PRESIDING JUDGE FULFORD: Right. There's always a problem
13 when we interrupt the witness mid-answer. Sir, I am going to ask you whether or
14 not Mr X brought that particular child (Redacted) to you?

15 THE WITNESS: I believe I can say, yes, but I would like to add
16 something. I remember that at that time we were having problems getting in touch
17 with this child and I believe in one of the emails there was something about that.
18 What I can say at this point is that I believe it was Mr X who brought that child to me.

19 MS SAMSON:

20 Q. Thank you, sir. And if I could ask you to turn now, please, to tab 28,
21 which is document DRC-OTP-0231-0335 which has been given an EVD number
22 EVD-D01-00316, looking at the list of 16 names that Mr X had given to you, can you
23 identify which of the children on that list you met with in November 2007, starting
24 from the first one?

25 A. I met the first one, but there is a spelling mistake in the name, but it must

1 be one of the individuals. I believe it is 297 that I screened. The second as well; the
2 third as well; the fourth as well; the ninth and the 11th; the 13th; the 14th. For those,
3 I believe I saw them. Perhaps also number 10. There might be a spelling mistake. I
4 believe I met a child called (Redacted). That would be number 10. Yes, number 10.
5 But at the end of the first name there should not be the letter (Redacted), I believe. So the
6 ones I have listed I met with them and I screened them.

7 Q. And just to be certain, let's take a look at the screenings themselves. We
8 have discussed three already. May I ask you to turn, please, to tab 12, which is
9 document 0190-0095, EVD-D01-00296.

10 PRESIDING JUDGE FULFORD: And do we need to remain in private
11 session, Ms Samson? It may be that names are going to be mentioned.

12 MS SAMSON: Regrettably I would like to be able to refer to the
13 names.

14 PRESIDING JUDGE FULFORD: Certainly. We will remain in private
15 session.

16 MS SAMSON:

17 Q. Is this the screening of one of the individuals on the list at tab 28?

18 A. Yes, indeed. It's the first name on the list that we discussed a moment
19 ago.

20 THE INTERPRETER: Your Honour, could we ask the court officer in
21 Bunia if it is possible to have a little bit less background noise which is becoming a
22 problem?

23 PRESIDING JUDGE FULFORD: Court officer in Bunia, it is suggested
24 there is quite a lot of background noise. If it is possible to reduce it, that would be
25 helpful to the interpreters.

1 THE COURT OFFICER (DRC): (Interpretation) Yes, your Honour, I
2 don't hear any noise myself. There's only the two of us here. Perhaps it is when we
3 move, when I move or when the witness moves. We will try to be as quiet as
4 possible.

5 PRESIDING JUDGE FULFORD: I think moving files around and
6 turning pages in fact causes quite a lot of noise. It is picked up on the microphone,
7 so if that can be done quietly, that would be helpful.

8 Yes, Ms Samson.

9 MS SAMSON: Your Honour, upon reflection, if we refer to the
10 numbers that are on the list at tab 28, rather than the names, we may be able to move
11 into public session.

12 PRESIDING JUDGE FULFORD: Let's see how we do. Public session,
13 please.

14 (Open session at 3.21 p.m.)

15 THE COURT OFFICER: We are in open session, your Honours.

16 PRESIDING JUDGE FULFORD: Yes, Ms Samson.

17 MS SAMSON: Thank you.

18 Q. And, sir, if you remain at tab 22, the fourth document behind tab 22,
19 which is referenced by ERN, DRC-OTP-0230-0252 and EVD-D01-00324, could you
20 identify which, if any, of the names on the list at tab 28 this screening may refer to?

21 A. Yes, the name of this person is on the list.

22 Q. Could you please identify the number where this person appears on the
23 list? Not the name, just the number?

24 A. I believe it's the number 2 on the list.

25 Q. And if I could take you back to tab 22, please, the third document behind

1 that tab, referenced by O -- DRC-OTP-0230-0248, EVD-D01-00323, could you tell us
2 whether the person identified in that screening is on the list at tab 28 and --

3 A. Yes, this person is number 3 on the list.

4 Q. And if I could take you back again, please, to tab 22, this time to the first
5 document that's listed behind that tab, the ERN is DRC-OTP-0230-0240, and it's
6 EVD-D01-00321, I would ask again whether this is the name of an individual that you
7 met who appears on the list at tab 28?

8 A. I met this person indeed, and his name is number 14 on the list. I beg
9 your pardon. I beg your pardon, I am mistaken. It is number 4. Number 4, not 14.
10 I repeat, it's number 4.

11 Q. And if I may ask you to move, please, to tab 15. The registration
12 number is DRC-OTP-0214-0364, EVD-D01-00320. Could you tell the Court please
13 whether this individual appears on the list at tab 28, or not?

14 A. Yes, indeed, this person is number 11 on the list. I repeat, number 11.

15 Q. And at tab 13, document DRC-OTP-0190-0090, EVD-D01-00318, is this
16 person on the list at tab 28?

17 A. Yes, that person was screened and he is number 13 on the list.

18 Q. The next two documents I would like you to take a look at are both at tab
19 22. The first is the sixth document behind tab 22. The registration number is
20 DRC-OTP-0230-0260, EVD-D01-00326. Is this person on the list at tab 28?

21 A. Yes, indeed. This person is number 9 on the list.

22 Q. And the final document I would ask you to look at still at tab 22, it is the
23 seventh document behind that tab, the registration number is DRC-OTP-0230-0264,
24 EVD-D01-00327, and is this individual mentioned in the screening indicated in the list
25 at tab 28?

1 A. Yes, that person is number 10 on the list.

2 MS SAMSON: Could I ask for the Court's indulgence for one moment,
3 please? Thank you very much, your Honour. I have no further questions.

4 PRESIDING JUDGE FULFORD: Thank you very much, Ms Samson.
5 Anything finally, Maître Mabilille? No. Thank you. There is an EVD number to be
6 given by the court officer.

7 THE COURT OFFICER: (Interpretation) Thank you, your Honour.
8 Maître Mabilille, I think that the document DRC-OTP-01096-0618 requires an EVD
9 number. This was the last document that you yourself used.

10 MS MABILILLE: (Interpretation) Yes, excuse me.

11 THE COURT OFFICER: (Interpretation) It will be EVD-D01-00336.

12 PRESIDING JUDGE FULFORD: Sir, that now concludes your evidence.
13 I want to thank you on behalf of all three Judges for your cooperation in returning to
14 give evidence, no doubt at some real inconvenience to yourself. Apart from a few
15 problems with the audio feed, this has been a very good connection with Bunia and
16 we have, as I say, apart from one or two occasions been able to hear your account
17 very clearly. So thank you very much indeed and, court officer, that was extremely
18 efficiently done. Thank you very much for your assistance.

19 Good. We can terminate the link with Bunia, please.

20 THE WITNESS: Thank you very much, your Honour.

21 (Video link terminated)

22 PRESIDING JUDGE FULFORD: Right. Mr Sachdeva, now looking at
23 the chart, and I repeat very helpfully provided by the Prosecution on Friday, I think it
24 was, at the moment we have for tomorrow the witness we have just finished. The
25 witness to come is 321. Is he in The Hague?

1 MR SACHDEVA: My understanding is that he is indeed in The Hague.
2 He should be ready to commence tomorrow. His familiarisation was started in the
3 field, so I would hope that, yes, he should be ready for tomorrow, but I would like to
4 check that with the Victims and Witness Unit, if I may.

5 PRESIDING JUDGE FULFORD: Let's in very heavy pencil put in 9.30
6 tomorrow morning, but you have liberty to email the legal adviser to the division
7 before 5 o'clock if there's a problem, Mr Sachdeva.

8 MR SACHDEVA: Thank you, Mr President.

9 PRESIDING JUDGE FULFORD: Thank you very much. The next
10 point then is 555. Are you calling him, or are you not?

11 MR SACHDEVA: Mr President, with the Court's indulgence, may I
12 revert tomorrow morning on that issue?

13 PRESIDING JUDGE FULFORD: Yes, all right. And I think we'll leave
14 the issues that have arisen in relation to disclosure until we know whether or not he's
15 going to be called, because the argument may be put rather differently, depending on
16 whether or not we are going to be hearing from him.

17 We have asked the Registry to make inquiries, as you know, in relation
18 to a video link between The Hague and the country where 582 is. The initial
19 indication was that there may be a problem because a secure link would need to be
20 established and checked. Can you investigate this overnight, please, Mr Sachdeva?
21 Given the present circumstances of that individual, is it going to be necessary - this is
22 the question I put - for a link of the kind with the sort of security that we have had
23 with Bunia to be put in place for this individual?

24 Somebody can go to an Intercontinental Hotel, go to their business suite,
25 sit in front of a television screen with a video camera, and no doubt be linked up to

1 the Court. Now, is that going to be sufficient, or are we going to have to send over a
2 dedicated team with all of the equipment so that a secure line can be established?
3 Can we think about this very carefully and look at what's actually necessary?

4 MR SACHDEVA: Indeed, Mr President, we can. I will at this stage
5 foreshadow that an application will be made in terms of potential protective measures
6 for the witness, so that may affect the scenario somewhat. And, secondly, we did
7 immediately send a message to 582 to determine his availability notwithstanding that
8 there could be a video link possibility. We haven't yet received a response.

9 PRESIDING JUDGE FULFORD: If protective measures are going to be
10 necessary, I don't know what existing United Nations organisations there may be in
11 that country. Now it may be we can borrow some existing UN facilities for this, so
12 can you look at this in the broadest possible way to see whether we can facilitate him
13 giving evidence next week, if 555 is not going to be called?

14 MR SACHDEVA: Certainly, Mr President, we will do so.

15 PRESIDING JUDGE FULFORD: Thank you. While you are on your
16 feet, Mr Sachdeva, there has been, as you will be aware, a Defence filing on the issue
17 of numbering. This is document 2584 dated 11 October. You in fact weren't
18 informed of that filing until Wednesday, the 20th. How long would you like in
19 order to be able to reply to that?

20 MR SACHDEVA: 2 November, Mr President, with your leave?

21 PRESIDING JUDGE FULFORD: All right. Certainly. 4 p.m.

22 MR SACHDEVA: Yes, thank you.

23 PRESIDING JUDGE FULFORD: Thank you. We will adjourn as well
24 then the issues arising as regards order 2 of 21 October, the security issues which
25 were being further investigated by the VWU and the VPRS, but we would be grateful

1 for an answer in relation to that during the course of tomorrow morning, so if the
2 message could go out, please, we do need, if possible, an answer to the queries that
3 have been raised in relation to protective measures tomorrow. I mean, we
4 understand that if the individual simply can't be contacted the individual can't be
5 contacted and there won't be an answer, but there is an element of urgency on this.

6 Now, Mr Sachdeva, is there anything else you wish to raise this
7 evening?

8 MR SACHDEVA: No, Mr President, thank you.

9 PRESIDING JUDGE FULFORD: Good. Before you sit down, can you
10 reflect on Maître Mabilille's request for disclosure. As I understand the
11 Defence contention, there are a number of witnesses to come on this area of the case
12 in relation to whom some statements haven't been disclosed. Can you and
13 Ms Samson discuss this this evening and, if necessary, give us a timetable for
14 disclosure tomorrow morning.

15 MR SACHDEVA: Mr President, the short answer is that of course once
16 we receive the signed statements we will disclose them. We just don't have the
17 signed statements but, of course, even for our own preparation we want those as soon
18 as possible.

19 PRESIDING JUDGE FULFORD: Is it that the statements are in
20 existence and they haven't been signed, or you simply don't have the statements?

21 MR SACHDEVA: We don't have the signed statements from one of
22 them. The second statement we do not have.

23 PRESIDING JUDGE FULFORD: Right.

24 MR SACHDEVA: But we do -- we don't have a finished signed
25 statement from any of the OTP reps.

1 PRESIDING JUDGE FULFORD: You will understand the problem
2 that's going to arise the closer we get to the time when the witnesses are called. We
3 are likely to have complaints and an application for an adjournment. I understand
4 this is probably not wholly easy given these individuals are no longer employed by
5 the OTP, but I am sure you are fully aware of the potential difficulties, Mr Sachdeva.

6 MR SACHDEVA: We are indeed, and of course the anticipation was
7 that 502 would not -- potentially would not start next week and so we had thought
8 that we would disclose the statements sufficiently in advance for the Defence to be
9 able to prepare, but of course we will try and make arrangements as soon as we can,
10 once we know.

11 PRESIDING JUDGE FULFORD: Good, thank you. I mean, if
12 necessary there may have to be a break between examination-in-chief and
13 cross-examination. Good. Thank you very much. Anything else, Maître Mabilille?

14 MS MABILILLE: (Interpretation) Would the Chamber give leave for us
15 to mention two small problems this evening? The first problem that I wanted to
16 raise was the two tables that we have received to do with 321 and 143. These two
17 tables have been very efficacious for the Defence and I would like to say to the
18 Chamber that we were rather surprised to see -- I am not talking about 143, well, as
19 concerns 143 the OTP has said that this is an ongoing process and that's why it's
20 difficult to give us all of these documents.

21 Now, we do not have all of the documents for 143 as concerns the table,
22 but also with 321, who is supposed to come along and testify tomorrow, the vast
23 majority of the information that we have on that chart was unknown to the Defence.
24 The vast majority of information on that chart was unknown to the Defence. That is
25 my first observation.

1 My second is that the table dates from March 2007, but when we read
2 the table as relates to 143, in that table what we have seen is that the start of this
3 person's cooperation with the Court dated from 2004 and 2005. Indeed, everything
4 that we have or on this table is from March 2007. We would like to have all relevant
5 information relating to the period prior to 2007. That is my first observation on these
6 most useful tables that were transmitted to us.

7 And my second observation concerns redactions, and this is a remark
8 that is rather general in nature. I should like to say to the Chamber that sometimes
9 we get the feeling here in the Defence that we have to keep our finger on the pulse,
10 but that we have to do this with our eyes blindfolded. It is sometimes difficult to
11 work under such conditions.

12 The Prosecutor has just disclosed to us us that between, since we came
13 back from the break, let me see, about 1600 pages between then and today. And
14 these documents, we have read them carefully and seen what is useful to us and what
15 has been redacted.

16 We met with the OTP and the OTP said to us that there are three
17 possible theses. Firstly, that these redactions were authorised by the Chamber; the
18 second possible theory is that we did the redactions. We submitted to the Chamber
19 the requests for these redactions and have not yet received a final decision or the third
20 possibility is that the redactions were indeed made, but then the Prosecutor intends to
21 request -- to make a request on these redactions.

22 Now, just to state this as clearly as possible, and this is a document that
23 we used recently, and this is from the file that we looked at recently, we have got a
24 one handwritten document which was not in the file and it is a receipt. It is
25 DRC-OTP-0196-0573. This document is a statement of payment where Mr X, or the

1 person renting the car states that he rented this car to Mr X for the sum of \$200, but
2 this was redacted and we did not actually have the contact details of the person
3 renting the vehicles.

4 I just give you this as an example, because the theory of the Defence was
5 that Mr X had brought the children and that they were all coming from Bunia and
6 from the same district and, therefore, we suspect that these cars were not actually
7 rented out. And today our investigations have not been able to enable us to see who
8 the name of this person who rented the cars is, we could not go and see the person,
9 and obviously the question that we are asking is how could this -- what danger could
10 there be for a person who rents cars and who really had rented the cars on those day?
11 For us, this is a real question that we are asking.

12 Naturally we have tried to discuss this issue with the OTP to try to lift
13 certain redactions and with this document the OTP said to us that I requested from
14 the Chamber about this document [...] and that this request was made on 31 May but
15 that no response was forthcoming from the Chamber, but I would like to draw the
16 Chamber's attention to the fact that we have actually already responded to that filing
17 and we said to the Chamber, "I don't know which document we are talking about."
18 So how are we expected today to be able to offer useful observations on the -- on the
19 redactions requested by the OTP, because we did not have the documents?

20 Now, all we had was a list and we could not actually get a grasp on the
21 useful documents. If at the time we had been able to do so when the
22 document -- when the OTP requested the redaction of those documents, provide
23 some explanation to you at that point in time: "That is why the Defence really needs
24 this evidence", then we would have been able to have given some relevant
25 observations, [...] but if I look also at this list that has just been given, the first list of

1 child witnesses, when we look at this list you can see that the half of this chart has
2 actually been redacted, so we can only do half of the job that we need to be able to do.

3 We said a moment ago that we are doing a puzzle with a blindfold on.
4 It is extremely difficult for us to do our job thoroughly. So I do think that at least we
5 should have no redactions, unless it's with the leave of the Chamber, and if there is a
6 request for redaction done on documents that we know that we are going to need to
7 use, then we would like in the Defence to at least have a list of these documents so
8 that we can offer useful observations to come back to you and to explain our reasons,
9 or to have an explanation of the reasons, why these redactions are necessary given
10 that we need to use these documents.

11 That is what I wished to say, your Honour.

12 PRESIDING JUDGE FULFORD: Thank you very much,
13 Maître Mabilie.

14 Ms Samson, on the first point the -- as I understand it, what it comes to
15 is the Defence are requesting details for the period 2004, 2005 through to 2007 in
16 relation to contacts with both 321 and 143. Is that something that you have
17 addressed, or not?

18 MS SAMSON: Yes, your Honour, in the sense that this format - this
19 database - commenced its existence in 2007.

20 PRESIDING JUDGE FULFORD: Right.

21 MS SAMSON: So it doesn't predate 2007. What we have are records
22 that are stored in other document management systems, which we have been going
23 through and pulling out relevant materials that predate this period.

24 For 321, the issue is moot. His involvement with the ICC does not
25 predate 2007. The issue arises in relation to 143, and we have been reviewing the

1 separate document management system to identify any relevant information that
2 ought to be disclosed, such as the service contracts which we have disclosed which
3 predate 2007 and are not referenced in this database. Similarly, for other relevant
4 materials we have been going through the database as well. It is not organised in the
5 same fashion and so it takes a little bit more time to review and -- but we have
6 certainly been conscious of the fact that this database starts in 2007 and for 143 we
7 have contacts that are before that time.

8 PRESIDING JUDGE FULFORD: The point then is that for 143 you are
9 alive to the issue. You have reviewed the material in your possession and you have
10 been disclosing. You have disclosed such parts of it as are relevant to the issues in
11 this trial.

12 MS SAMSON: That's right. And Mr Sachdeva reminds me that also
13 the receipts that relate to 143, we have been retrieving them from other document
14 management systems and they have been disclosed and they date -- they predate
15 2007.

16 PRESIDING JUDGE FULFORD: Good.

17 Point 2. Now, the 600 pages approximately, do you know what that
18 relates to? Is there a particular body of documents? Maître Mabilie at one stage in
19 her submissions in relation to point 2 referred to a body of documents running to
20 some 600 pages.

21 MS SAMSON: I had understood - I may be mistaken - that Maître
22 Mabilie was referring to the totality of documents that have been disclosed in this
23 case with a redaction in them.

24 PRESIDING JUDGE FULFORD: Oh, I see.

25 MS SAMSON: But I may have misunderstood that.

1 PRESIDING JUDGE FULFORD: All right. Let's focus on 321, because
2 he's next. The strong suggestion made by Maître Mabilille is that it's contended that
3 there have been submissions made to the Chamber by the OTP in relation to
4 proposed redactions which we haven't dealt with, thereby possibly causing
5 difficulties in relation to disclosure in relation to 321. Is that right or wrong,
6 Ms Samson?

7 MS SAMSON: Certainly, your Honour, in the case of the document
8 that Maître Mabilille has referred to, our records indicate - and I think it is filing 2525,
9 but I would have to check - that it is outstanding; that there is a request for redactions
10 that include this document.

11 PRESIDING JUDGE FULFORD: Right.

12 MS SAMSON: Whether there are additional documents that relate to
13 321 in that particular filing I apologise I am not aware, but this document is still
14 pending a decision of the Chamber for the redactions that we have applied for.

15 PRESIDING JUDGE FULFORD: Right. So, if this is anywhere, it is in
16 document 2525?

17 MS SAMSON: Yes, and perhaps Maître Mabilille has a copy of the
18 correspondence with the actual filing number, because I am going from memory and I
19 surely have it wrong.

20 MS MABILILLE: (Interpretation) 2459.

21 PRESIDING JUDGE FULFORD: We are going to have to go and do
22 some homework. Thank you very much, Ms Samson.

23 MS SAMSON: Your Honour --

24 PRESIDING JUDGE FULFORD: That should deal then with -- if you
25 are right and I am sure you are right, once we have looked at that that should deal

1 with the immediate disclosure for 321 problems; is that right?

2 MS SAMSON: I think, your Honour, what may be best is that if this
3 evening I take a look at the filings that we say are outstanding from the Chamber in
4 relation to redactions and I can verify whether there are any other documents that
5 relate to 321 and then send an email, if that would work, to the legal officer for the
6 Chamber and identify the specific documents. Maître Mabilille identified this one.
7 There may indeed be others, but I just don't know.

8 PRESIDING JUDGE FULFORD: Right, thank you. And so the
9 particular document that Maître Mabilille has focused on is 2459; is that right?

10 MS SAMSON: She has focused on filing 2549 (sic), there's a
11 confidential ex parte version and a redacted version, and that's the Chamber -- the
12 request by the Prosecution to the Chamber for redactions in a number of documents,
13 including the document referenced at DRC-OTP-0196-0573. It relates to 321.

14 PRESIDING JUDGE FULFORD: Thank you. Good. We will
15 investigate those matters. Thank you very much for raising them and we will meet
16 at half-past-9 tomorrow morning.

17 THE COURT USHER: All rise.

18 (The hearing ends at 3.54 p.m.)

19 RECLASSIFICATION REPORT

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