

1 International Criminal Court
2 Trial Chamber I
3 Situation in the Democratic Republic of Congo - ICC-01/04-01/06
4 Case against Thomas Lubanga Dyilo
5 Hearing - *Closed Session Reclassified as Open session
6 Wednesday, 1 April 2009
7 The hearing starts at 9.32 a.m.
8 COURT USHER: All rise. The International Criminal Court is now
9 in session. Please be seated.
10 PRESIDING JUDGE FULFORD: Witness, please.
11 Yes, Mr. Sachdeva, before the witness comes in?
12 MR. SACHDEVA: Yes, please, Mr. President.
13 PRESIDING JUDGE FULFORD: Right. Usher, could you pause, please.
14 Yes, Mr. Sachdeva.
15 MR. SACHDEVA: Mr. President, good morning and good morning to
16 your Honours. It's just in respect to the English transcript yesterday.
17 I see now today that there has not been a revision, and I understand that
18 it is contained in the French transcript but that particular answer by
19 the witness is for the Prosecution's case very important that it is
20 properly recorded and it is at line -- page 58 to 59 yesterday.
21 PRESIDING JUDGE FULFORD: Well, Mr. Sachdeva -- (Microphone not
22 activated).
23 THE INTERPRETER: Microphone, please, for Judge Fulford.
24 The microphone is not on.
25 PRESIDING JUDGE FULFORD: Sorry. Only bringing individual

1 transcription problems to if it's necessary. Mr. Sachdeva, we can't --
2 we can't check save unless absolutely necessary each and every problem
3 that's arisen with the transcripts. It would double the length of the
4 trial.

5 MR. SACHDEVA: Yes, Mr. President, and I apologise. I just
6 understood that because there had been no revision it may require
7 something further than what is normally undertaken by the court
8 reporters.

9 PRESIDING JUDGE FULFORD: You must investigate this further,
10 Mr. Sachdeva. You must find out whether this is susceptible to
11 rectification without bringing it to our attention, and only if all other
12 measures fail should it be brought before us. We're not in court going
13 to undertake a comparison exercise between the French and the English
14 versions unless we absolutely have to.

15 MR. SACHDEVA: Yes, Mr. President.

16 PRESIDING JUDGE FULFORD: Thank you very much. Witness, please.

17 (The witness takes the stand)

18 WITNESS: WITNESS DRC-OTP-WWWW-0017 (Resumed)

19 (Witness answered through interpreter)

20 PRESIDING JUDGE FULFORD: Morning, sir.

21 THE WITNESS (interpretation): Good morning.

22 PRESIDING JUDGE FULFORD: Public session, please.

23 (Open session at 9.35 a.m.)

24 COURT OFFICER (interpretation): Public session.

25 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

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1 MR. SACHDEVA: Thank you, Mr. President.

2 Questioned by Mr. Sachdeva: (Continued)

3 Q. Good morning to you, sir.

4 A. Good morning.

5 Q. When we left yesterday afternoon, we were talking about the radio
6 phonie logbook, and you had told the Court that you knew somebody that
7 worked at Kilo with the radio phonie. My -- my initial question is did
8 you observe your friend when he was recording messages in the logbook?

9 A. Yes.

10 Q. Did you at any point in time enter information yourself in the
11 logbook?

12 A. No.

13 Q. At the occasion when you observed your friend entering
14 information in the logbook, do you recall what that information was?

15 A. As I said, it was a friend whom I knew. An order had been
16 issued. He had to do his work because there was a small house for his
17 use. There were orders that high-ranking soldiers shouldn't approach
18 this place especially when he was recording these messages, these radio
19 reports. Sometimes we, too, weren't allowed to approach the place, but as
20 he was a friend of mine, I would often approach him when I was idle, so we
21 could speak to each other. He would say things like "See what has
22 happened in such place or on the other side." So, through him, I found out
23 about what happened on the other side in Ituri where the UPC was. He would
24 write all this down. He had everything in his notebook.

25 Q. During your time with the UPC military, do you -- did you come to

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

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1 know of a term "standby class zero"?

2 A. Yes.

3 Q. What does it mean?

4 A. When a commander issues this order it means that he is perhaps
5 preparing for battle or to go to the front or to launch an attack; then you
6 have to be ready for everything. You can't move. You can't do other things.
7 You're there with your weapons ready to obey orders, ready to move.

8 Q. Was it a term that was used in your brigade or was it used, to
9 your knowledge, within the UPC military generally?

10 A. I would say that it was a term used in general by the UPC.

11 MR. SACHDEVA: Mr. President, I would at this stage like to show
12 the witness an exhibit. I understand that it is now in -- the original
13 exhibit is now in court, and for the benefit of the Chamber, the -- the
14 handwritten -- a copy of the handwritten log-book is in the Chamber's --
15 in the binder with the Chambers and then there is a typewritten version just
16 after that for the convenience of the Chamber.

17 PRESIDING JUDGE FULFORD: Right. So we understand, Mr. Sachdeva,
18 the Prosecution want to find out whether this is the log-book that the
19 witness has described having seen.

20 MR. SACHDEVA: No.

21 PRESIDING JUDGE FULFORD: No. What is it then?

22 MR. SACHDEVA: This is a log-book that we would submit from the
23 UPC military, and I want to inquire whether it is of a similar type that
24 the witness has given evidence on.

25 PRESIDING JUDGE FULFORD: All right. So -- so not the one but

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (Continued)

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1 whether it is similar to, right?

2 MR. SACHDEVA: Precisely.

3 PRESIDING JUDGE FULFORD: Fine. Unless there's any objection,
4 let that then be -- Maitre Mabilille?

5 MS. MABILLE (interpretation): Yes, Mr. President. I have a
6 twofold objection. Firstly, this notebook has been shown to the witness
7 when work was being done with the investigators, and the witness said
8 that he didn't recognise the document. He said that he had never
9 previously seen it. DRC-OTP-0175-0190. So we could conclude that the
10 witness can't confirm the authenticity of the document in question.
11 That's the first point.

12 On the other hand, as far as the Defence is concerned, the
13 Defence doesn't know who the author of the document is, nor does the
14 Defence know how the document was created. So we have no elements of a
15 reliable nature with regard to this document. As things stand, I don't
16 see why the Prosecution should use this document given the two things I
17 have just mentioned. That's the Defence position, your Honour.

18 PRESIDING JUDGE FULFORD: Right. Mr. Sachdeva, first of all, is
19 it correct that when this was shown on an earlier occasion to the witness
20 he gave the response that Maitre Mabilille has outlined?

21 MR. SACHDEVA: When he was shown the log-book, he gave the
22 response that he had not seen it before and that -- well, I won't go so
23 far as to say that he did not recognise it, but he was able to discuss the
24 contents. He was able to state that what he had seen with his friend at
25 his brigade was a notebook of similar type to the one that was presented

1 during the interview. And in my submission, there are other --

2 PRESIDING JUDGE FULFORD: I'm going to interrupt you a second. I
3 think this discussion should take place in the absence of the witness.

4 Sir, I'm going to ask you for a moment, please, to step outside
5 court. Don't go too far away. We will need to have you back so you can
6 continue your evidence very shortly, but if you would please for a moment
7 go with the usher.

8 And we will need to go into closed session so that this can happen.

9 In the meantime, Mr. Sachdeva, we need to see, please, the point
10 of the interview where this was raised. Where is this to be found
11 conveniently, please?

12 *(Closed session at 9.45 a.m.) Reclassified as Open session

13 COURT OFFICER: Closed session.

14 (The witness stands down)

15 MR. SACHDEVA: Mr. President, I might need a second.

16 PRESIDING JUDGE FULFORD: Public session, please.

17 (Open session at 9.45 a.m.)

18 COURT OFFICER: Open session.

19 MR. SACHDEVA: Mr. President, the -- unfortunately, the
20 translation into English does not have ERN numbers, but for the French it
21 starts at DRC-OTP-0175-0169, then 0186 -- 0175-0186 to 0188, and then it
22 continues --

23 PRESIDING JUDGE FULFORD: Slow down, please. So 0169, and within
24 0169, 86 through to 88. Is that right?

25 MR. SACHDEVA: That's right, although the first four numbers are

1 0175.

2 PRESIDING JUDGE FULFORD: Yes. Absolutely. 0175-0186. Right.
3 Now, let's stay with that page. What -- what do you say, in essence, is
4 said by the witness on that page about his knowledge of this particular
5 document? What's the summary of it, please, Mr. Sachdeva?

6 MR. SACHDEVA: Mr. President, on this page and also other pages
7 the summary is that indeed the witness did not know anything about the
8 particular document that was shown to him. In other words, he wasn't the
9 author. He didn't make entries in that notebook.

10 PRESIDING JUDGE FULFORD: Right.

11 MR. SACHDEVA: However, he did identify extracts and entries that
12 corresponded to his knowledge while he was in the UPC and, in my
13 submission, directly relates to evidence that he has given thus far in --
14 in his evidence. He --

15 PRESIDING JUDGE FULFORD: Well, now, this is not clear. He identified
16 extracts and entries that corresponded to his knowledge while he was in
17 the UPC. What does that mean?

18 MR. SACHDEVA: Corresponded to events that he was involved in and
19 that he witnessed or knew about when he was in the UPC.

20 PRESIDING JUDGE FULFORD: We need to establish, Mr. Sachdeva, why
21 this document -- why you're seeking to introduce this document. Are you
22 seeking to introduce it just simply to show us the kind of log-book that
23 was filled in so that we simply understand part of the procedures that
24 were used when communication took place; or are you seeking to introduce
25 it so that we can look at the content to see what is written there and

1 for us to rely, if we wish, on the content that we find within the
2 log-book? Now, which of the two is it?

3 MR. SACHDEVA: Mr. President, it's -- it's a mixture of both.
4 Firstly -- firstly the fact that this was a method of communication or
5 contemporaneous method of communication for which the evidence -- for
6 which the witness has given evidence on. He should be able to identify
7 the type, the manner in which the recordings have been made.

8 Secondly, to further develop the indicia of reliability of this
9 document, the fact that the witness has spoken about certain terms used
10 in the military, the fact that the witness has given evidence of certain
11 incidents with certain commanders, in our submission, those -- those
12 details and that information is contained in this log-book to which I
13 will show the witness, I will take the witness to.

14 Thirdly, the -- the manner in which the messages are recorded.
15 In other words, it emanates from a certain person or a certain department
16 which the witness has already given evidence on and then the recipients
17 of these messages. For example, it may be that the Chief of Staff
18 received this message. It may be that for information President Lubanga
19 received certain messages. And I simply want to inquire with the
20 witness, given his experience in the UPC and given the fact that he has
21 testified about this method of communication in some detail, whether this
22 log-book is the kind of log-book that he had seen at his brigade
23 headquarters.

24 The witness has already said that there were 20 persons
25 specifically trained in this method of recording with this information --

1 with this communication mechanism. He has said that the messages were
2 for the most part recorded contemporaneously and not after the fact, and
3 in my submission all those point to indicia of reliability for which at
4 least the witness can -- can comment on the document and eventually for
5 its admission. The Chamber has already ruled that one does not need to
6 have the author of a document brought to court to give testimony if -- if
7 there are other indicia of reliability, and in my submission there --
8 there is at this stage and there will be once the examination is
9 complete.

10 PRESIDING JUDGE FULFORD: Has this document been included in the
11 materials which you wish to rely on, Mr. Sachdeva? Has this been
12 identified as one of the documents which forms part of the evidence that
13 you're presenting?

14 MR. SACHDEVA: Absolutely.

15 PRESIDING JUDGE FULFORD: Right. Now, it -- you've known for
16 certainly some time. It was clear yesterday that this was going to be
17 the source of objection by the Defence. We can't possibly rule on
18 admissibility without having had the opportunity of looking at the
19 material that is disputed and understanding how this is argued on both
20 sides. So given that we now understand how you put it, we are now, in
21 order to resolve this, going to have to look at the document itself to see

22 whether this is a piece of material which is properly admissible. It
23 would have been hugely helpful, Mr. Sachdeva, if we had been given some
24 kind of proper advance warning that the point was going to be taken, what
25 the issues were, and been provided with a copy of the document so that we

1 could focus on it properly.

2 Now, at the moment I don't see any option, apart from us now
3 being provided with a copy of this so that we can take it away to have a
4 look to see whether this is something that should be admitted in evidence
5 or not. Can you see any alternative to us taking that course?

6 MR. SACHDEVA: Mr. President, I do apologise. I did not know the
7 Defence were going to raise an objection until last night. I -- this
8 list -- this document has been on our list for the last two or three
9 weeks, and it is in e-court, and therefore it is available to everyone,
10 in my submission.

11 The -- perhaps I could start with asking some initial questions
12 with the witness once he's shown this log-book and --

13 PRESIDING JUDGE FULFORD: Mr. Sachdeva, a point of admissibility
14 is taken, and it is said this document should not be shown to the witness
15 at all and he should not give evidence about it. Given that objection is
16 taken, we have got to make a decision as to whether or not it is fair for
17 him to be shown the document. It requires a preliminary ruling, and in
18 order for us to make a ruling on the document, we have got to see it.

19 MR. SACHDEVA: I do understand that. However, showing -- showing
20 the witness a document does not necessarily mean the document should be
21 admitted. He may give more evidence that increases the indicia of
22 reliability for an eventual decision for admissibility.

23 PRESIDING JUDGE FULFORD: We cannot be make a decision as to whether or not
24 it should be shown to him until we have seen it, Mr. Sachdeva. At the
25 moment Maitre Mabilille says this should not be introduced at all. At the

1 moment the Chamber is in a complete vacuum. of course it may be on
2 the e-court but there are a very large number of documents on the
3 e-court, and you cannot expect the Judges, particularly with a witness
4 like this where there is no statement, to have familiarised themselves with
5 each and every line in advance against the possibility that there's going
6 to be an admissibility objection.

7 Now, Maitre Mabilille, can you see any other alternative -- thank
8 you, Mr. Sachdeva.

9 Can you see any other alternative than the Chamber now looking at
10 the document so that we can be put in a position deciding whether or not
11 it should be introduced before this witness at all?

12 MS. MABILILLE (interpretation): No, I don't see any other
13 solution, and I do want to discuss this with the OTP. We've had
14 excellent working relations, but we said last week that this document
15 was -- or raised a problem for us, so we had warned the OTP about the
16 fact that this document was a problem, but I don't see any other solution
17 for now other than the Judges looking at the document and ruling on its
18 admissibility.

19 PRESIDING JUDGE FULFORD: Right. Our apologies, please, to the
20 witness who should now return to the witness waiting-room. A -- three
21 copies of this document should be provided immediately, please. Are they
22 available, Mr. Sachdeva?

23 MR. SACHDEVA: Mr. President, they're in the binder that I handed
24 up at the very beginning of the evidence.

25 PRESIDING JUDGE FULFORD: Right. We will -- now, this is the

1 binder, then, entitled "Witness 17"?

2 MR. SACHDEVA: That's right.

3 PRESIDING JUDGE FULFORD: Right. And where in the binder do we
4 find it?

5 MR. SACHDEVA: The first two tabs.

6 PRESIDING JUDGE FULFORD: The first two tabs.

7 MR. SACHDEVA: And if I may assist, the original exhibit which
8 contains the cardboard covers is in the possession of the Registry, and
9 that's the exhibit I want to show the witness.

10 PRESIDING JUDGE FULFORD: Right. So it's the first two tabs, and
11 you want -- you want to introduce this not only so that he can say,
12 potentially, that this is how documents of this kind were filled in, this
13 is what happened, you also want it for its content.

14 MR. SACHDEVA: Well, I intend to take the witness to various
15 extracts.

16 PRESIDING JUDGE FULFORD: Well, which?

17 MR. SACHDEVA: I --

18 PRESIDING JUDGE FULFORD: How can we assess whether this is fair
19 unless we know in advance which extracts you want to take the witness to?

20 MR. SACHDEVA: I can provide you with that.

21 PRESIDING JUDGE FULFORD: Right. And how is that to be done?
22 Are you going to do that orally now or have you got it written out for
23 us?

24 MR. SACHDEVA: I can read them out right now.

25 PRESIDING JUDGE FULFORD: Right. You'll have to take us through

1 the page numbers, then, please, so we understand which sections you want
2 positively to go in as part of the evidence in the case. Which are they,
3 please?

4 MR. SACHDEVA: The page numbers can be identified by the ERN on
5 top. You'll see that there's an ERN 0017 and then a number. So the
6 first entry I would take him to is entry 205. And my questions on this
7 entry are simply to establish that this is the manner in which such
8 messages were recorded, and I expect the witness to give evidence on the
9 coded manner in which the messages are recorded.

10 PRESIDING JUDGE FULFORD: Now, where on page 2 -- 205. Where on
11 page 205 do we see the particular parts that you want to rely on as
12 demonstrating the way in which these are recorded?

13 MR. SACHDEVA: It's the -- you'll see that in 205 there are three
14 messages.

15 PRESIDING JUDGE FULFORD: Yes.

16 MR. SACHDEVA: It's the first message.

17 PRESIDING JUDGE FULFORD: Right.

18 MR. SACHDEVA: And I'm going to take him to -- to the call-sign
19 Tiger 1, which he has already given evidence on.

20 PRESIDING JUDGE FULFORD: Yes.

21 MR. SACHDEVA: I'm also going to ask him questions about the
22 manner in which the messages -- the from and then the to. In other
23 words, the authors and the recipients and ask generally some questions
24 about the way the messages are recorded.

25 PRESIDING JUDGE FULFORD: Right. So this then isn't -- well,

1 it's partly for the content because of Tiger 1 and the author and the
2 recipient but this is really being used therefore as an example of how
3 this kind of work is undertaken.

4 MR. SACHDEVA: Precisely.

5 PRESIDING JUDGE FULFORD: Right. Where do we go to from there,
6 please?

7 MR. SACHDEVA: If we can then go to entry 190.

8 PRESIDING JUDGE FULFORD: So this is going back in the document.

9 MR. SACHDEVA: That's correct.

10 PRESIDING JUDGE FULFORD: Right.

11 MR. SACHDEVA: And I'm going to concentrate on the last message.
12 There are three messages on that page.

13 PRESIDING JUDGE FULFORD: So the last message. And what's the
14 purpose of going to this last message?

15 MR. SACHDEVA: I'm going to take him to the term "Standby
16 Class zero."

17 PRESIDING JUDGE FULFORD: Ah, yes. Standby Class zero. And what's
18 the purpose of taking him to Standby Class zero?

19 MR. SACHDEVA: Because the witness has just explained that that
20 term was a term specifically used by the UPC military --

21 PRESIDING JUDGE FULFORD: Right.

22 MR. SACHDEVA: -- and in the Prosecution's submission, the fact
23 that it is recorded in this document may -- may provide indicia of
24 reliability for the authenticity of this document.

25 PRESIDING JUDGE FULFORD: Right. Again, so as far as it goes,

1 this is then another -- an example. The content is relevant but it is an
2 example of that code sign being used. Right. Where from there,
3 Mr. Sachdeva?

4 MR. SACHDEVA: If we now go to entry 176.

5 PRESIDING JUDGE FULFORD: Right.

6 MR. SACHDEVA: I'm going to concentrate on the third message, and
7 in my submission that message contains information regarding the -- the
8 evidence the witness gave yesterday about a commander that refused to
9 carry out an order and did not want to advance but instead wanted to get
10 married and was reprimanded.

11 PRESIDING JUDGE FULFORD: Right. Well, I can't read it,
12 Mr. Sachdeva. What do you say the message says that supports that?

13 MR. SACHDEVA: It says that a commander refused to advance, and
14 it relates to the -- it relates to the Kobu operation, and in my
15 submission that is what the evidence -- the witness has spoken about
16 yesterday, at around that time of year.

17 PRESIDING JUDGE FULFORD: So for this one you want its content to
18 corroborate evidence that's been given by the witness already.

19 MR. SACHDEVA: Indeed. And in fact, if that does take place, in
20 my submission it is a further indicia of reliability of this document.

21 PRESIDING JUDGE FULFORD: So -- and so what you're seeking is
22 indicia of reliability for the document and not of the witness. Is that
23 right?

24 MR. SACHDEVA: It can work both ways, Mr. President, because it
25 corroborates what the witness has said --

1 PRESIDING JUDGE FULFORD: No. No, I want to understand,
2 Mr. Sachdeva, how you are putting this, and you have so far this morning
3 put it specifically on the basis that you're seeking to undertake this
4 task in part so that you can establish indicia of reliability of the
5 document. Now, are you saying it's more than that; it's indicia of
6 reliability of the document and the document acting as indicia of
7 reliability of the witness?

8 MR. SACHDEVA: It's primarily for the document, of course, but --
9 but if there is a contemporaneous record of what the witness has spoken
10 about, then in my submission that in any event will -- will enhance the
11 testimony of this witness, not that it's required but it does have that
12 effect.

13 PRESIDING JUDGE FULFORD: Next?

14 MR. SACHDEVA: If we can stay with entry 176, I'm going to ask
15 him about the last message, and I'm going to ask him questions about the
16 terminology used.

17 PRESIDING JUDGE FULFORD: More specific, please.

18 MR. SACHDEVA: I'm going to ask him about the
19 president and the chef.

20 PRESIDING JUDGE FULFORD: But what will your question be?

21 MR. SACHDEVA: I will ask him to read -- to look at the line that
22 talks -- that says "Info" and ask him what he understands by that.

23 PRESIDING JUDGE FULFORD: What is the objective, Mr. Sachdeva, in
24 asking that question? What are you seeking to elicit that will be of
25 assistance to us in this trial?

1 MR. SACHDEVA: The fact that Mr. Lubanga was intimately involved
2 in the communications coming from the field and also coming from
3 headquarters to the troops in the field, and therefore notice -- notice
4 and knowledge evidence.

5 PRESIDING JUDGE FULFORD: Next?

6 MR. SACHDEVA: It's entry 48, and it's the last message on that
7 page. And the purpose of this is again with respect to the content of
8 the witness's evidence. He has testified about an incident whereby a
9 commander was involved in an ambush and a soldier was killed. The UPC
10 lost a soldier. And in my submission, this entry records that event, and
11 I'll ask him appropriate questions on that.

12 PRESIDING JUDGE FULFORD: As a matter of interest, these entries
13 are written in which language?

14 MR. SACHDEVA: It's Swahili, as I understand it. Mixed with
15 French but Swahili primarily.

16 PRESIDING JUDGE FULFORD: And no translation is provided?

17 MR. SACHDEVA: There is a French translation. There is no
18 English translation, that is correct.

19 PRESIDING JUDGE FULFORD: Where is the French translation?

20 MR. SACHDEVA: The copy that your Honour is looking at is the --
21 the initial log-book is handwritten, and the Prosecution converted --

22 PRESIDING JUDGE FULFORD: Yes, I see.

23 MR. SACHDEVA: -- the type to make it easier --

24 PRESIDING JUDGE FULFORD: Each is then reflected in tab 2; is
25 that right?

1 MR. SACHDEVA: That's right.

2 PRESIDING JUDGE FULFORD: All right. All right. Next, please.

3 MR. SACHDEVA: It is going to be entry 160.

4 PRESIDING JUDGE FULFORD: Mm-hmm.

5 MR. SACHDEVA: And it's the -- I would say the message in the
6 middle, and again it -- I'm going to ask the witness whether this
7 contains information that he has already given evidence on, in other
8 words, the incident that took place in Kilo when he was there.

9 PRESIDING JUDGE FULFORD: All right. So that's content again.

10 MR. SACHDEVA: Yes.

11 PRESIDING JUDGE FULFORD: Next?

12 MR. SACHDEVA: It's entry 83.

13 PRESIDING JUDGE FULFORD: Yes.

14 MR. SACHDEVA: And it's the top message, and this relates to the
15 training camp in Bule, and the witness has given evidence of such a camp,
16 and I'm going to ask him appropriate questions on that. So it's for the
17 content.

18 Next is entry 62, and it's the last message.

19 PRESIDING JUDGE FULFORD: Yes.

20 MR. SACHDEVA: And I will ask the witness questions related to
21 the terminology used. In other words, what does he understand by the
22 term "Commander in Chief," and also in the body of the message what does
23 he understand by the term "President Mouvement." "Commander-in-Chief -
24 President Mouvement."

25 PRESIDING JUDGE FULFORD: Yes.

1 MR. SACHDEVA: And the final two are 212 and 213.

2 For 212 it's the middle message, and for 213 it's the top
3 message, and similarly I'm going to ask him questions regarding the term
4 "President UPC," and that's for entry 213. And for entry 212 I will ask
5 him questions about content regarding the incident with the airplane
6 and what would he understand by such a message.

7 PRESIDING JUDGE FULFORD: Right. So the witness will in fact,
8 therefore, be asked to comment on a document that in all probability he's
9 only seen before when it was shown to him by the investigators when he
10 was not involved in compiling any of the entries and when you are seeking
11 to rely on those entries in part to corroborate his own evidence. Is
12 that right?

13 MR. SACHDEVA: In part, Mr. President, but I would also submit
14 that again it's for demonstrating indicia of reliability of this
15 document.

16 PRESIDING JUDGE FULFORD: Well, demonstrating indicia of
17 reliability of the document. He -- he has given evidence about certain
18 incidents. One can stand back objectively and look to see whether those
19 incidents are in fact reflected in this document, and one can make an
20 assessment as to whether or not there appears to be a marriage or a
21 dissimilarity, but what is the advantage of asking the witness
22 effectively to comment on a document which he was not at any stage
23 involved in the compilation of?

24 MR. SACHDEVA: Well, the witness has already given evidence that
25 such documents existed in the UPC.

1 PRESIDING JUDGE FULFORD: Yes, but not this document,
2 Mr. Sachdeva. I'm sorry to interrupt you. He's given evidence about
3 documents of this kind, and speaking entirely for myself, at the moment I
4 don't see a particular problem in him simply identifying this as being a
5 document of the type. What may cause a more interesting difficulty,
6 possibly profound difficulty, is this witness being asked to comment on
7 the content of a document which he at no stage was involved in compiling.
8 So asking him to remark on someone else's entries so as to further
9 enhance the value of the document which he was not involved in compiling.

10 MR. SACHDEVA: Could the witness not be asked whether those
11 entries appear to be accurate to his knowledge, firstly?

12 Secondly, the terms that he has used in the military and has
13 given evidence on, the fact that they are contained in -- in this
14 document demonstrate authenticity to some extent. The fact that the
15 witness -- well, that's going to be -- that's, I understand, going to be
16 permitted, that he can discuss the description of the log-book, the
17 covers, the page numbers.

18 PRESIDING JUDGE FULFORD: Well --

19 MR. SACHDEVA: That is also a further indicia of reliability of
20 this log-book, and therefore I need to take you to those entries that I
21 have identified.

22 Further, this witness was in the UPC for -- for just -- just
23 under a year. He worked closely with the Chief of Staff, and in my
24 submission, he is someone who should be familiar with the terminology
25 used in this document. For example, "chef d'etat major," "chief of

1 operations," and of course the "president" and "Commander-in-Chief,"
2 and in my submission, it would be appropriate to take him to those terms
3 and ask questions on those terms and to identify whether to his knowledge
4 this would be a document that emanated from the UPC.

5 PRESIDING JUDGE FULFORD: Anything else you want to say on it,
6 Mr. Sachdeva.

7 MR. SACHDEVA: Not at this stage, no, Mr. President.

8 PRESIDING JUDGE FULFORD: Thank you
9 very much indeed.

10 Maitre Mabilille, anything else from you?

11 MS. MABILLE (interpretation): I strongly maintain the objection
12 I made, because when I listened to the questions that the Prosecutor
13 wishes to put to the witness, he would like the witness to approve the
14 content of a document, a document which the witness says he does not know
15 anything about. So I maintain the objections I made, your Honour.

16 PRESIDING JUDGE FULFORD: Thank you very much.

17 (The Trial Chamber confers)

18 PRESIDING JUDGE FULFORD: Mr. Sachdeva, we're going to rise to
19 look at these entries and to consider the admissibility of this document.
20 We wish our apologies, please, to be expressly extended to the witness
21 who will now be kept waiting.

22 We wish, please, to be provided by counsel on both sides with two
23 dates. First, the date on which it was first indicated that the
24 Prosecution intended to rely -- or to introduce this document; and
25 secondly, the date on which it was first indicated by the Defence that

1 objections were taken to its admissibility. Now, we don't ask for those
2 immediately. Could counsel please put their heads together and agree
3 them and then give a message to Ms. Guhr, who sits in front of us to our
4 right, so that she can bring it out to us to our room.

5 We will sit once we have made up our minds as to what we're going
6 to do about this. Thank you.

7 COURT USHER: All rise.

8 Recess taken at 10.18 a.m.

9 On resuming at 10.43 a.m.

10 COURT USHER: All rise. Please be seated.

11 PRESIDING JUDGE FULFORD: In August of 2006, the Office of the
12 Prosecutor disclosed to the Defence a document that has been the subject
13 of an admissibility argument this morning. It is a log-book that is
14 contained within a book that has on its cover the words "FIS Manuscript."
15 It runs to just under 200 pages and consists of numerous handwritten
16 entries that appear to have been made during 2002 and 2003.

17 Originally, the author of this log-book, who, as we understand
18 it, acted as a communications operator, was to be called as a witness in
19 the case, and he or she would have been in a position, no doubt, to give
20 evidence as to its contents. However, that witness, number 290, has
21 declined to come to the Hague to give evidence during this trial. As a
22 result, on the 13th of March, 2009, the Prosecution indicated that this
23 document was to be linked with and to feature in the evidence of the
24 current witness, number 17.

25 We are told that there were discussions between the Prosecution

1 and the Defence about this evidence on the 25th of March, which was
2 Wednesday of last week, although it is unclear as to exactly what the
3 result of that discussion was. There appears to have been some
4 misunderstanding. By last night it was evident that the Defence objects
5 to this document being introduced as part of the evidence of the current
6 witness.

7 It is necessary for us to emphasise that this witness was not at
8 any stage the author of any of the entries within the log-book. Indeed,
9 it would appear to be the position that he was not shown it until he met
10 with an investigator during the research by the Office of the Prosecutor
11 into these alleged crimes. When he was shown this particular item, he
12 indicated, as we understand it, that he had never seen this particular
13 log-book before, although he may well be able to indicate that it is
14 similar in style and content to other log-books that he has seen when
15 they were compiled by one or more operators who he knew.

16 We are persuaded that it is appropriate for this witness to be
17 shown the document for that limited purpose, for him to say one way or
18 the other whether or not looked at, as it were, generally and in its
19 entirety the document appears to be the kind of log-book which operators
20 were compiling during the relevant time-frame.

21 However, Mr. Sachdeva, on behalf of the Prosecution, wishes to
22 take the matter further than that in this sense: He wishes, first, to
23 ask the witness, by reference to particular entries, if he is able to
24 comment on particular terms which are found within certain entries, and
25 in particular, at page 62 the reference to "Commander-in-Chief" and

1 "President of the movement"; at page 190 where there is a reference to
2 "Standby Class 0," and page 205 where there is a reference to "Tiger 1."

3 There may be other similar entries which Mr. Sachdeva wishes to
4 refer the witness to which I have omitted to refer to, but for the
5 purposes of this decision those that I have listed are sufficient.

6 The second way in which Mr. Sachdeva wishes to develop this
7 evidence by reference to the document is by asking the witness to give
8 evidence about particular incidents which he has already seemingly
9 described during the course of his testimony. Page 48 reveals a
10 reference to a soldier killed during an ambush. Page 83 contains
11 reference to training at Bule. At page 160, there is a reference to an
12 incident at Kilo. The Kobu operation and a commander who refused to
13 advance are set out at page 176, as is a reference to Lubanga apparently
14 being involved in communications. At page 212, there is a reference to
15 the president, and at page 213, there is some detail given of an incident
16 that involved an aeroplane. In our judgement, there is either no or
17 negligible value in the witness giving evidence about those terms and those
18 incidents by reference to a log-book which he did not
19 compile and which he did not see
20 until it was shown to him by an investigator some little time ago. He is
21 no better placed than anyone else in this court to comment on the content
22 and the meaning of 290, the witness who is not going to be attending,
23 when that individual made the relevant entries. It is highly likely to
24 lead to speculation on the part of the present witness as to what 290 had
25 in mind when he made the particular handwritten entries which have been

1 brought to our attention.

2 Given in our view there would be no or negligible evidential
3 value in this exercise, it is one that should not take place.

4 The witness can be asked about the terms. Mr. Sachdeva can quote
5 exactly the particular terms that he seeks assistance on without showing
6 the relevant entries to the witness. "Standby Class zero," "Tiger 1,"
7 "Commander-in-Chief," and "President of the movement," et cetera, are all
8 terms which the witness can be asked questions or further questions
9 about. Similarly, the witness has been asked and can be asked further
10 questions about the ambush and a soldier being killed, training at Bule,
11 the incident at Kilo, et cetera, et cetera. Again here, there is no need
12 for the particular log-book to be shown to him when any further
13 description is provided by the witness as to those incidents.

14 Finally, it is wholly correct of Mr. Sachdeva to observe that
15 consistently with the decision that we have handed down on the admission
16 of hearsay evidence, it may be that there is a proper basis for this
17 document to be admitted in due course as a hearsay document. If the
18 Prosecution wish to consider making an application of that kind in
19 relation to some or all of the contents of this document, it should be
20 set out in the usual way with an explanation being provided to the
21 Chamber as to why we should admit a part or all of the document, thereby
22 enabling the Defence and the participants to bring to our attention any
23 objections that they may have.

24 What, in our view, is impermissible is for the Prosecution to
25 seek to introduce a document that was not created by this witness during

1 the course of his evidence.

2 That concludes this ruling. We are now at 11.00, which is the
3 time when the stenographers and the interpreters are entitled to a break,
4 and so we are not now going to be able to sit until half past 11.00, when
5 we will resume with the evidence of this witness. Thank you very much.

6 COURT USHER: All rise.

7 Recess taken at 11.00 a.m.

8 On resuming at 11.30 a.m.

9 COURT USHER: All rise. Please be seated.

10 PRESIDING JUDGE FULFORD: I understand that one of the
11 interpreters wishes to bring a correction to our attention.

12 THE INTERPRETER: The French booth interpreter would like to make
13 a correction in English to the French transcript for the expression
14 "commandant en chef," which should be translated by "commandant en chef"
15 and not "chef d'etat major" as was interpreted from English into French.

16 PRESIDING JUDGE FULFORD: Thank you. Witness, please. We'll
17 have to go into closed session so that the witness can be brought in.

18 *(Closed session at 11.33 a.m.) Reclassified as Open session

19 COURT OFFICER (interpretation): Closed session.

20 (The witness takes the stand)

21 PRESIDING JUDGE FULFORD: Public session, please. Sir, thank you
22 very much. I'm sorry we've kept you waiting. We're just going to go
23 into public session so that we can return to your evidence.

24 (Open session at 11.34 a.m.)

25 COURT OFFICER (interpretation): Public session.

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1 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

2 MR. SACHDEVA: Thank you, Mr. President. May I start by asking
3 the Court Officer to show the witness the document. If I can provide the
4 ERN or -- yes. It's DRC-0001-7033.

5 COURT OFFICER: You would like to have the hard copy, the
6 original evidence presented to the witness?

7 MR. SACHDEVA: Yes, please.

8 Q. Sir, if you -- if you could just familiarise yourself with that
9 document. Have a look at the covers and generally the -- the pages
10 inside for a moment, and then I'll ask you a couple of questions.

11 COURT OFFICER: Could you please tell us whether the document is
12 public and whether it can be shown to the public gallery, outside
13 broadcasted.

14 MR. SACHDEVA: Yes, to both questions.

15 COURT OFFICER: Okay. It will bear the evidence number
16 EVD-OTP-00409.

17 MR. SACHDEVA: Thank you.

18 Q. Sir, do you need a moment to have a look at the document, or are
19 you ready to answer questions?

20 A. It depends on the type of question.

21 Q. When -- given what you have said in evidence about the log-book
22 you saw when in Kilo, does this document appear to you to be of the same
23 type?

24 A. Well, as regards the format and the size as I described that
25 there were about 200 pages and the size, except for the cover page which

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1 wasn't that colour. It was also cardboard but not that colour.

2 Q. And to your knowledge, does this document appear to you to be one
3 that was used by the UPC generally throughout the time that you were in
4 the UPC?

5 A. Well, I would say that I saw the man with the book that I described,
6 which is almost the same format, so to put it. The size of the book was the
7 same format. It wasn't the same colour. It - they were somewhat -- the one
8 I saw in Mongbwalu wasn't the same notebook. It was smaller.

9 Q. And if you could just have a brief look inside, and if you could
10 answer this question: Whether the form of the entries were of a similar
11 type to what you saw in Kilo.

12 A. Actually, what I see here, and I said that last time, too, the
13 notebook, I don't know whose it is, but what I can say is that it's a
14 notebook from somebody who probably knew the events enough -- the events
15 unfolding enough, because that person wrote a lot within the book that
16 corresponds to the time of the UPC, but I see the message as the person
17 in Kilo did noting it inside, and the typical format, this format --
18 well, it's difficult to say because I don't know the person who wrote it.

19 MR. SACHDEVA: Mr. President, that's sufficient for this
20 document.

21 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Sachdeva.
22 Then if the usher could retrieve the exhibit from the
23 witness, please.

24 MR. SACHDEVA: May I ask the Court Officer to bring up once again
25 EVD-OTP-00396, and it should not be broadcast to the public but questions

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Questioned by Mr. Sachdeva (Continued)

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1 on it can be undertaken in open session. Thank you.

2 Q. Sir, do you see this document on your screen now?

3 A. Yes.

4 Q. And at the bottom of this page you'll see a list of names, and
5 without mentioning any of them, what does this refer to?

6 A. It's the list that I had been asked about to see whether I
7 remembered any of the people we were talking about who had travelled
8 with me, travelled with me to Rwanda.

9 Q. Thank you. Sir, do you know where the place called Mwanga is?
10 M-w-a-n-g-a.

11 A. Yes.

12 Q. And do you know the place called Centrale?

13 A. Yes.

14 Q. While you were in the UPC was it possible to travel direct from
15 Mwanga to Centrale?

16 A. It depended on the means.

17 Q. By road. By vehicle.

18 A. To my knowledge it's clearly impossible.

19 Q. And how about by motorcycle?

20 A. To leave Centrale and go to Mwanga, the road that can be used,
21 you actually have to return from Centrale towards Bunia and cross the --
22 the Shari bridge which is in Mudzipela too use this road to go to Mwanga,
23 Ngongo--- all the way to Lipri; but I know that because there's a
24 river, the Shari, that separates the two parts of land I was talking
25 about. I know that there were people at the time had made a little

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1 bridge to cross that river. But on a bike to cross the river is
2 practically, I would say, impossible, because with all the wars, the only
3 means of crossing was a rope bridge which was cut off. So I would say that
4 even by bicycle or on a motorbike it was impossible.

5 Q. You spoke about a little bridge to cross that river. Was it
6 possible, then, by foot to use that bridge?

7 A. Personally I never went, but what I -- what I know is that there
8 were people that went -- could cross that part on foot and go to the
9 other side of the river.

10 MR. SACHDEVA: Mr. President, might I have one moment?

11 PRESIDING JUDGE FULFORD: Certainly. Of course, Mr. Sachdeva.
12 (Prosecution counsel confer)

13 MR. SACHDEVA: Thank you, Witness.

14 Mr. President, that's the examination-in-chief.

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

16 Have there been any applications by participants to question this
17 witness? No. I think the answer is no to that. Thank you, Mr. Walley.
18 Thank you, Ms. Massidda.

19 Maitre Mabilille.

20 Questioned by Ms. Mabilille:

21 Q. (Interpretation) Good morning, Witness.

22 A. Good morning.

23 Q. I'm Catherine Mabilille. I'm a lawyer, and I'm going to ask you
24 some questions on behalf of Mr. Thomas Lubanga's Defence team.

25 I would like to hand two binders over to you. The first binder

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1 concerns the whole of your evidence, the statement you made to the office
2 of the investigators. As this statement is very lengthy and as it
3 contains a large number of pages, I had a second binder compiled
4 containing parts of the first binder, but to simplify the reading
5 thereof, I have isolated the points concerning which I would like to
6 question you. And as we go along, I will therefore ask you to refer to
7 the small binder in which I have identified the specific points, but
8 please refer to the general binder with the whole of your statement if at
9 any stage you wish to have a more complete version. That's what I wanted
10 to say from the outset.

11 So, please forgive me. Apparently you only have one big binder which
12 contains tabs, and I will ask you perhaps to refer to these if we
13 encounter a misunderstanding concerning the issues
14 I'm questioning you about.

15 PRESIDING JUDGE FULFORD: Thank you, Maitre Mabilille. It's very
16 useful to have these documents provided.

17 MS. MABILILE (interpretation):

18 Q. My initial questions concern your military background. Have I
19 understood you correctly? You started your military career in the APC in
20 1999?

21 A. I didn't mention the APC.

22 Q. So then I would like to know, did you start your military career
23 in 1999, and if so, within which body?

24 A. In fact -- I should be specific about the place?

25 Q. No. I would like you to tell us whether you agree that it was in

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1 1999 that you started your career, and then I'd like you to say which
2 group you were a part of in that year?

3 A. Yes, it was in 1999, but at the time Ituri had seen troubles.
4 There was the RCD that had come back to Ituri. The RCD was created,
5 RCD Kisangani. Wamba Dia Wamba returned to Ituri. Soon there was a
6 change of movements. Ituri was under the RCD at the time.

7 Q. So you commenced your military career within which group? Could
8 you tell us?

9 A. The RCD.

10 Q. Could you tell us how much time you were part of the RCD troops?

11 A. I would say about four months.

12 Q. And then you mentioned that you had arrived in the UPC after the
13 Mudzipela attack and prior to the fall of Lomondo. Isn't that correct?
14 That's what you said?

15 A. Yes.

16 Q. Could you describe for us and tell us about the events that took
17 place in Mudzipela?

18 A. I'd like to answer your question but in private session, I
19 believe.

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

21 *(Private session at 11.53 a.m.) Reclassified as Open session

22 COURT OFFICER (interpretation): We're in private session.

23 MS. MABILILE (interpretation):

24 Q. I would like you to tell all of us something about what happened
25 in Mudzipela. What do you remember about this particular period?

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1 A. I'll first say -- well, I was in (Redacted) as well. These are
2 villages. And when this ethnic conflict commenced, well, (Redacted)
3 (Redacted). We saw how things were unfolding. I left Mahagi to go to Bunia where
4 we felt safer because the army was there. When I arrived in Mudzipela we
5 felt a bit protected there. There was a system of village committees for
6 the purposes of defence and there was the APC Army in the town that could
7 protect the population efficiently. Part of them were in Lipri, a few
8 kilometres away from Mudzipela. I remember the day we were in Mudzipela.
9 It was normal. There was pressure, there were rumours that "Mudzipela is
10 going to be attacked. Mudzipela is going to be attacked."
11 (Redacted)
12 (Redacted) and first of all, there
13 was the attack launched in the morning. In the vicinity of (Redacted)
14 there is a little village. Some women were coming back from the fields
15 and they were attacked. (Redacted) was killed. There was a gentleman who was
16 a guard at the (Redacted) residence who was killed, and then later in the
17 afternoon we the young people (Redacted) tried to push them back. They
18 fled. In the afternoon, however, there were armed people, APC soldiers, who
19 attacked Mudzipela. There was this system of self-defence, of protection,
20 which wasn't really well-organised, and so there were dead people. There were
21 people who were killed. They reached Mudzipela. They even set fire to some
22 houses. They killed people in front of the church, in the markets. The
23 population who had taken shelter, as I said, from Fataki, from everywhere in
24 Mudzipela, fled towards the town of Bunia. So that was
25 the first attack that was launched on Mudzipela.

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1 Q. I understand your testimony. You were present on the day of the
2 attack; is that correct?

3 A. Yes.

4 Q. And you said -- you have just said that this took place in two stages. Who
5 attacked, as you said, in the morning? Who attacked at that point in time?

6 A. In the morning there were fighters. They had bladed weapons,
7 arrows, machetes. That was in the morning. In the afternoon it was the
8 army. They had weapons. They were in uniforms, tache-tache uniforms,
9 and they were all armed.

10 Q. And the combatants in the morning --

11 PRESIDING JUDGE FULFORD: Maitre Mabilille, very sorry. Can you please
12 remember that the temptation is with two French speakers for the questions
13 and answers really to flow too quickly, and in that way a momentum is built
14 up so the overall speed becomes such that fingers on keyboards will cease
15 to make contact. So can we slow it down slightly, please. Thank you.

16 MS. MABILLE (interpretation): I'll do my best.

17 Q. I'd like to go back to the events that unfolded in the morning.
18 You said that in the morning there were fighters who arrived in
19 Mudzipela, combatants. Do you remember where they came from, and was
20 there a particular ethnic group that was involved? Could you be more
21 precise and tell us who the combatants in the morning were?

22 MS. MABILLE (interpretation): And I apologise. Could we move
23 back into open session?

24 THE WITNESS (interpretation): (Redacted)

25 (Redacted).

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1 Q. Thank you for that answer. We will remain in private session.

2 A. To answer your question, this road of (Redacted) -- (Redacted)

3 (Redacted) - this road was much coveted (Redacted).

4 However, among the fighters - since we fought against them, we saw them, they
5 were from one side and we were from the other side - most of them were Lendu;
6 but there were the (Redacted), too, who were also part of the group.

7 Q. And then you said that in the afternoon the attack was launched, in
8 fact by soldiers, members of the military, and they were from the APC.

9 Is that correct?

10 A. Yes.

11 Q. Could I ask you to tell us how you knew at the time that these
12 were members of the APC.

13 A. Because of their uniform, and then because they were armed. In
14 the area, people didn't have weapons like that. They weren't organised
15 in that manner. So they had the uniforms that the APC in Bunia had.

16 Q. In your statement, in your testimony, you referred to the cruelty
17 or the cruel acts in the town at the time, and can you tell us why you
18 said that? Could you provide us with some details about this?

19 A. When I spoke about cruelty, well, there was a pressure exerted on our
20 ethnic group. We, the Hema, couldn't even go to the other side of town. We
21 couldn't pass by the roundabout on the road to the airport because it was an
22 area occupied by APC members, APC soldiers. So even in the Bunia markets, if
23 they spotted you, well, you could just disappear. And then they were on
24 patrol, the APC would patrol the area, and they were even supported by the
25 Ugandans who assisted them on patrol. I myself, I was a victim at one point

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1 in time. (Redacted). It

2 was such that our parents ---I remember an old man in our neighbourhood who

3 would spend the night outside with us, (Redacted), because he was

4 afraid of being abducted from his home. There was this pressure,

5 and it was terrible.

6 Q. At the time you felt that you were in danger because you were

7 Hema. Is that your testimony?

8 A. I was saying people started fleeing from Fataki. The small villages

9 were gradually being drained of their inhabitants. Even I had to leave the

10 interior to take refuge in Bunia. So there was this feeling of insecurity,

11 and the situation became worse, and we felt that there was no security. We

12 didn't even know where to go. Those who were able to went to Kisangani,

13 Kampala, by plane. That was even

14 before the time of the UPC.

15 Q. At the time in Mudzipela, is that when you became aware of how serious

16 the situation was? Is it at that point in time that you felt that the

17 situation you were in was very insecure?

18 PRESIDING JUDGE FULFORD: Now, pause, please, before answering.

19 Maitre Mabilille, you've quite correctly brought to our attention

20 deficiencies in the French transcript. We are creating those very

21 deficiencies now, and the transcribers are indicating that they are

22 unable to keep up at the speed with which this evidence is unfolding.

23 Now, the French transcript is there for your benefit, and I don't want to

24 have to keep on intervening, and so I -- you are now conducting this

25 questioning, and can I please politely ask you to ensure that the

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1 evidence proceeds at a pace that enables the stenographers to keep up.
2 So please bear that in mind.

3 Yes. Now, a question has been put to you, sir, which was:

4 "At the time in Mudzipela, is that when you became aware of how
5 serious the situation was? Is that the point in time that you felt that
6 the situation you were in was very insecure?"

7 And what's your answer to that, please?

8 THE WITNESS (interpretation): I would say that it wasn't just for me
9 but for all of the Hema. That was the peak. One felt we had reached the
10 end of our tether; we were at our wits' end.

11 MS. MABILILE (interpretation):

12 Q. When you say that you were at your wits' end, does that mean that one
13 was really trying to kill you? Is that what you're trying to say today?

14 A. Madam, I said that the situation had reached its peak. We had nowhere
15 to turn to and we sought refuge everywhere; and even that changed. So
16 it was over for us. We'd reached our limit.

17 Q. I also noted in your testimony, in your statement to the
18 investigators, that it was the situation of insecurity that made you join
19 the UPC. Is that correct?

20 A. Yes.

21 Q. Could you tell us why you did this -- or, rather, what made you
22 think that by joining the UPC you would be able to confront this
23 situation of insecurity? Can you tell us, explain for our benefit what
24 you felt about joining the UPC at the time?

25 PRESIDING JUDGE FULFORD: And sir, before you

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1 answer that question. Would it be possible for you to give your reply in
2 open session? Can we return now? I think so. Good.

3 Open session, then, please, and I'll put the question again.

4 (Open session at 12.08 p.m.)

5 COURT OFFICER (interpretation): Open session.

6 PRESIDING JUDGE FULFORD: We're now back in public session, and
7 Maitre Mabilille has just asked the witness as to what made him think that
8 by joining the UPC he would be able to confront this situation of
9 insecurity.

10 Yes, sir. If you could give your answer to that, please.

11 THE WITNESS (interpretation): I would say before joining the UPC we felt
12 better in the committees. It was somewhat organised. There were patrols.
13 We could be forewarned of certain things, but when the UPC arrived it was
14 better structured and they had weapons, above all, and that's what made us
15 feel more confident, because at the time, you know, things weren't over with
16 the APC, and there was this feeling of there being a war between ethnic
17 groups. People were dying. That was the reality. Families would just
18 disappear. So it was necessary to be within the system, not outside of the
19 system, because if you were inside you could perhaps take shelter more
20 easily, but on the outside you felt as if you
21 were elsewhere and without protection.

22 MS. MABILILLE (interpretation):

23 Q. Could you explain what you have just said to us about the
24 committees? How did these committees function, and as of which date were
25 they, in fact, operational?

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1 A. The first time was in Fataki. It was a matter of self-defence,
2 because the village had been attacked by surprise. The villagers hadn't
3 been warned. They didn't know they were going to be attacked. So there
4 were more people who were killed. They hadn't been warned. That's how
5 this system developed, the system of committees which were organised.
6 Individuals could go on patrol around the villages, and thus they would
7 warn us if there were any attacks. They were informed. They would warn
8 us. If it was necessary to flee,
9 you could do so rapidly.

10 Q. And who was part of those committees? Who were the people who
11 joined the committees?

12 A. Well, many of them were organised around the traders, persons who
13 had the resources to manage our people. So they could hire people who knew
14 how to operate weapons, because they needed to use them within the committee
15 and they needed to hire strong people, dynamic people. So very often
16 the traders were in charge.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. And actually, these were civilians who were armed, those who were
21 in these committees?

22 A. Yes, in most cases.

23 Q. So it was the civilian population who organised itself in a way.
24 Was that what the committee was all about?

25 A. Yes.

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1 Q. I would like to ask you a question about the ethnic composition
2 within the UPC. Could you tell us whether there were different ethnic
3 groups represented in the UPC?

4 A. I would say yes.

5 Q. Would you be kind enough to tell us which were the ethnic groups,
6 or at least which members of different ethnic groups you met with during
7 your time in the military, those you met with and spoke to. Could you
8 tell us that?

9 A. Most of them from our ethnic group, the Hema. Hema North
10 and Hema South. This actually accounted for the majority. There were
11 also many Lugbara, Aru, and there were also many Alur in the UPC. I saw
12 Ngitis, Nyalis, and I heard people mention Lendus
13 within the UPC, but I didn't meet them. And we also had Lingalaphones
14 who came from Kisangani. There were also people from Kivu who were there
15 but in very small numbers.

16 Q. Thank you.

17 MS. MABILILE (interpretation): I would like, your Honour, to ask
18 a question in closed session.

19 PRESIDING JUDGE FULFORD: Certainly, Maitre Mabilille.

20 Private session, please.

21 *(Private session at 12.14 p.m.) Reclassified as Open session

22 COURT OFFICER: Private session.

23 PRESIDING JUDGE FULFORD: Yes, Maitre Mabilille.

24 MS. MABILILE (interpretation):

25 Q. Is it correct to say that you were put in contact with the UPC

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1 through a person by the name of (Redacted)

2 A. Yes.

3 Q. Could you tell us who this person's -- what this person's role
4 was in the UPC?

5 A. At the time, he was a company commander in (Redacted).

6 MS. MABILILE (interpretation): I think we can come back to open session.

7 PRESIDING JUDGE FULFORD: Yes. Thank you, Maitre Mabilille.

8 Public session, please.

9 (Open session at 12.15 p.m.)

10 COURT OFFICER: Public session.

11 PRESIDING JUDGE FULFORD: Yes.

12 MS. MABILILE (interpretation):

13 Q. Is it indeed Mr. Kisembo who hired you personally?

14 A. What for, to go to Rwanda? In that case, yes.

15 Q. He was the one who assigned you to training people on the use
16 of artillery? Do we agree on that point?

17 A. Yes.

18 Q. I would like to quote a sentence which you mentioned, and we
19 could find it in the documents, and -- but if you say that this is a
20 problem, we'll come back to it and read it, read your exact words. And
21 the sentence is the following:

22 "On the military side, Kisembo knows about everything in the UPC. The army
23 almost belonged to him." I'm going to stop here for a second. This is
24 document DRC-OTP-0175-0138, and it is on line 01 -- excuse me. It is on
25 page 0159, on the line 747, 748.

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1 PRESIDING JUDGE FULFORD: Can this be shown publicly,
2 Maitre Mabilille, on the machinery?

3 MS. MABILLE (interpretation): No. I
4 think the name of the

5 witness is on the document, so it seems it would be difficult to do that.

6 PRESIDING JUDGE FULFORD: So could that be broadcast then, please, just simply
7 this side of the glass divide. And, usher, I'm going to ask you, please, to
8 go and help the witness. This, I think, is document 2 in the binder
9 that's been provided to the witness and the Chamber,
10 and behind divider 2 it's page 747.

11 COURT OFFICER: The document --

12 PRESIDING JUDGE FULFORD: Except I'm really not sure whether that is right,
13 in fact. Oh, sorry, it's page 159. Yes. My mistake. Page 159, line 747. So,
14 if the usher would be so kind as to go and help with that. Thank you.

15 COURT OFFICER: The document shall carry the number MFI-D-00105.

16 PRESIDING JUDGE FULFORD: Good. I think we're all there.

17 Page 159, lines -- starting at line 747.

18 MS. MABILLE (interpretation):

19 Q. Witness, I will read it out again to make things simpler. You said, and
20 I quote: "On the military side, Kisembo knew everything that happened inside
21 the UPC. The army almost belonged to him." I would like you to confirm that
22 you said that, and secondly, that you might comment on what you
23 meant when you said this.

24 A. I will start by answering yes, I said this. These are my words. And to
25 make things clearer, I shall say that we were within the UPC, and we noticed

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1 that. At least I noticed that Kisémbó's influence was -- was greater,
2 especially within the army, compared to that of President Thomas.

3 Q. Thank you for this answer. I'm going to carry on reading out lines 750
4 and 751 in which you indicated: "On the military side, Kisémbó took
5 decisions like that. That's what I felt when I was next to him." Do you
6 also remember having told the investigators of
7 the Prosecutor's office what I just read out?

8 A. Yes.

9 Q. Does this mean that in your opinion Kisémbó had a major role or
10 played a major role within the UPC in military matters?

11 A. Yes.

12 Q. Thank you. And the last point I wanted to raise and to quote
13 from what you said about Kisémbó's role can be found in document
14 DRC-OTP-0174-1500, and I am referring to page 1529, lines 1037 and 1038,
15 and this can be found under tab number 3.

16 COURT OFFICER (interpretation): Document will bear the number
17 MFI --

18 THE INTERPRETER: Would the court officer kindly repeat the
19 number.

20 COURT OFFICER (interpretation): MFI-D-00106.

21 Is the document confidential, Maitre Mabilille?

22 MS. MABILILE (interpretation): Well, for the same reason, because
23 it bears the witness name at the top -- no. I
24 apologise. The witness's name is not apparent, so I think the document
25 can be shown. Excuse me again. The witness's name appears right at the

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1 bottom of the same document, I'm told.

2 Q. Witness, in what you said in the statement you gave the
3 Prosecutor's office that between Bosco and Kisembo it was Kisembo who was
4 the superior. Do you confirm that?

5 A. Yes.

6 Q. Thank you, Witness. I would now like to talk about the role
7 played by Thomas Lubanga, and I am going to ask you a certain number of
8 questions on his role and on what you said to the investigators about
9 what you understood was the role played by Thomas Lubanga.

10 I'm going to quote, I repeat, DRC-OTP-0175-0138, pages 0158 --
11 page 0158, lines 717 and 718, and this can be found under tab number 2.

12 PRESIDING JUDGE FULFORD: Yes, thank you for the
13 number and could the usher assist, please. This already has a number, so...

14 MS. MABILILE (interpretation):

15 Q. Witness, when the investigators asked you whether you knew what
16 the role played by Thomas Lubanga was and which his actions were, you
17 answered and here I quote:

18 "...his actions, no, were always political, in political affairs. I
19 always witnessed political activities."

20 Witness, do you maintain what you said to the investigators, and
21 in addition to that, could you comment on what you meant when you said
22 that his actions were "non toujours politique."

23 A. I confirm this answer I gave to
24 the investigators and to explain,
25 I said to the investigators that I personally never

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1 heard or assisted or attended personally an occasion in which orders were
2 given by President Thomas Lubanga. As I said, I was part of the army,
3 but I never saw the influence of Thomas Lubanga over and above that of
4 Kisembo in the army. Secondly, I was together with Kisembo in Mamedi and
5 there was talk about that. And talking about our return to Bunia, he said,
6 Well, the President always going on about political affairs; however, this
7 time we will pacify the situation with arms, if we have to. He said this
8 himself. But as I said, I never heard or saw the president issue
9 any decisions or commands on the army. We were in the army and the
10 the person we saw and heard issuing orders was the
11 Chief of Staff, Kisembo.

12 Q. I thank you for specifying this, and I would also like to show
13 you or refer to a statement you gave to the Office of the Prosecutor
14 which can be found under tab 1. The document is DRC-OTP-0174-1625 --

15 THE INTERPRETER: Oh, correction of the interpreter: 1562.

16 MS. MABILLE (interpretation):

17 Q. -- on page 1581, lines 672 to 680. And I am going to quote what
18 you said.

19 COURT OFFICER (interpretation): The document will bear the
20 number MFI-D-00107.

21 MS. MABILLE (interpretation):

22 Q. I'm going to try and read out the text very slowly:

23 "When I joined the UPC there was a Chief of Staff. There's a
24 commander -- correction, there was a commander. He was always in town.
25 There was Thomas who had just arrived. He came from Uganda. And for

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1 Thomas, who was clearly a political figure,
2 the army was apart."

3 Do you remember Mr. -- having said this to the Office of the
4 Prosecutor?

5 A. Yes.

6 Q. When you refer to "Thomas" in what I just read out, do you refer
7 to -- or are you referring to Thomas Lubanga?

8 A. Yes.

9 Q. Can you tell us what you meant when you said that Thomas Lubanga
10 was a political figure and I'm quoting, "and that the
11 army was apart? What did you mean when you made this
12 statement?

13 A. When I said this, and I explained this earlier, in the army we
14 felt the influence of those who were working in the army, and the chief
15 whose influence was most felt was Kisémbó, because he was very
16 influential. When I said that the army was apart, I
17 am also alluding to Chief Kahwa.

18 I went to Mandro. There were recruits there. I did not hear the
19 name of Thomas. Nobody talked about the influence of Thomas. There was
20 more talk of Kahwa instead, and that's why I have always considered, even
21 after I left the UPC, I have always considered that the person in charge
22 of military affairs in the UPC is Kahwa. That's my opinion.

23 When I look at the activities carried out by Mr. Lubanga when we
24 were in the UPC, when I look at those activities, I will say that he,
25 rather, handled the political side of things. I maintain that.

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1 Q. Thank you for your answer. I would now like to refer to another
2 document, which is DRC-OTP-0174-1625, and I am going to turn to page
3 1644, lines 678 to 681. It is under tab number 4.

4 COURT OFFICER (interpretation): The document will bear the code
5 number MFI-D-00108.

6 MS. MABILILE (interpretation):

7 Q. Still, Witness, along the same lines -- the same line of
8 questioning concerning Mr. Lubanga, you mentioned in these lines that
9 Thomas was an ideological leader. I have two questions to put to you.
10 The first is: Are we indeed referring to Thomas Lubanga?

11 A. Yes.

12 Q. And the second question is: What do you mean when you talk
13 of an ideological leader?

14 A. Well, to clarify this point, I would like to say that when the UPC was
15 created the main concern of the population was not this political vision. He
16 was called the political leader but political matters were not the concern of
17 the people. In any case, people trusted, rather, the military aspect of the
18 UPC because they knew that the army could protect them. That was the key
19 concern of the population. They wanted to have security, to stay in their
20 homes and not flee. I said that people in certain villages had to leave
21 their homes and spend the night outside in other villages because they were
22 afraid. So he was perceived as president, but he was perceived as a
23 political figure in Ituri like Wamba dia Wamba. He did not have the type
24 of influence that the army had.

25 Q. Thank you for your answer. I would now like to put to you a

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1 statement from the document DRC-OTP-0175-0138, page 0162, lines 853 and
2 854.

3 Now, in answer to a question put to you by the Office of the
4 Prosecutor, you stated that Commander Salumu rarely spoke to you about
5 Thomas Lubanga. Is that correct?

6 A. Yes.

7 PRESIDING JUDGE FULFORD: Just make sure the witness has found
8 the place, please.

9 So page 162. And then, usher, line 853. That's it.

10 And then the question, sir, was that: "Commander Salumu rarely
11 spoke to you about Thomas Lubanga. Is that correct?"

12 THE WITNESS (interpretation): Yes.

13 MS. MABILILE (interpretation):

14 Q. I would now ask you to go to the document under tab number 6,
15 document DRC-OTP-0174-1683, and I'm referring to page 1686,
16 lines 107 to 108.

17 COURT OFFICER (interpretation): That document will bear the code
18 number MFI-D-00109.

19 MS. MABILILE (interpretation):

20 Q. I would like to say that in this statement you said that to your
21 knowledge Thomas Lubanga had never gone to Mongbwalu. Do you confirm
22 that statement?

23 A. Yes.

24 Q. I will now refer to a new document, which is DRC-OTP-0174-1500,
25 page 1529, lines 1056 to 1057, and that document is under tab number 3.

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1 And, Witness, my question is the following: Is it correct that
2 you had never personally seen Thomas Lubanga with Commander Bosco
3 together?

4 A. Yes.

5 Q. I will now like to put it to you, and this is what you mentioned
6 before the Court, you said that on one occasion you saw Thomas Lubanga
7 wearing a military uniform. Is that correct?

8 A. Yes.

9 Q. I will now turn to the document DRC-OTP-0175-0138, line 771 and
10 line 778 -- sorry, 780, and that's on page 160. Page 0160. It's under
11 tab number 2.

12 Witness, I'm going to quote to you the statement you made to the
13 Office of the Prosecutor with respect to the fact that Thomas Lubanga
14 wore a military uniform. You state:

15 "I, was surprised, and even most of those who were with me were
16 equally surprised. We did not know why we were surprised to see the
17 president wearing a uniform. He was wearing a tache-tache, or
18 camouflage, uniform."

19 Do you remember having made that statement to the Office of the
20 Prosecutor?

21 A. Yes.

22 Q. Can you tell us why you were surprised to see Thomas Lubanga
23 wearing a military uniform?

24 A. Thomas Lubanga was a political figure. We called him the
25 president of the UPC. It is true that he could put on a military uniform

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1 for camouflage reasons, especially if his safety was threatened, but
2 there in Bunia it was surprising. It was surprising for the majority of
3 people, because there were people who were there next to him who had
4 never seen him wearing a uniform. It was the first time we found him
5 wearing a uniform under those circumstances, and so we were surprised
6 because this was not the usual habit.

7 Q. Thank you for that answer. I will now turn to the document
8 DRC-OTP-0175-0138, page 0157, lines 671 to 676, and this is under tab 2.

9 Witness, in this statement you said that the first time you heard
10 any mention of Thomas Lubanga was when he arrived at the airport just
11 after the fall of Lopondo. Do you confirm that statement?

12 A. I said I met Thomas Lubanga when he came to the airport of
13 Bunia. I did not mention Lopondo here in the document.

14 Q. Well, in that case I will turn to ...
15 (Defence counsel confer)

16 MS. MABILILE (interpretation):

17 Q. I think you are perfectly right. I took two items of information
18 which you gave and I put them together.

19 You said that the first time that you heard mention of
20 Thomas Lubanga was when he arrived at the airport. That was the first
21 piece of information you gave. Now, is that information correct?

22 A. Yes. I would like to give some clarification here. His return
23 made a big impression upon the population, the population which had come
24 together in Bunia. People came from Centrale. People came from far to
25 go and see him, because they had placed their hope in him. That is when

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1 I heard mention of him for the first time, of Thomas Lubanga as the
2 political figure who was in charge of the concerns of our population.

3 Q. You talk about the hopes of the population. What were the hopes?
4 What were the aspirations of the population when Thomas Lubanga returned
5 to Bunia?

6 A. I explained this earlier. There was this great concern for
7 security. We didn't know where to turn to.

8 Q. You also mentioned that (Redacted).
9 Do you remember having given such information to the Office of the
10 Prosecutor?

11 A. Yes.

12 Q. Do you know whether Thomas Lubanga himself had any family ties
13 with Adele Lotsove?

14 A. No.

15 Q. I will rephrase my question. You did not know -- let me rephrase
16 this question.

17 Did Thomas Lubanga have family ties with Adele Lotsove?

18 A. To clarify this point I will say we are all of Gegere ethnicity
19 but there are differences from one village to another. They talk of Dele
20 and other villages. So it's people who know the region well who can say
21 something about these family ties.

22 Q. Can I therefore conclude from your answer that you don't know
23 whether or not Thomas Lubanga had family ties with Adele Lotsove?

24 A. Yes. I don't know.

25 MS. MABILILE (interpretation): Thank you. Just a minute,

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1 your Honour.

2 (Defence counsel confer)

3 MS. MABILILE (interpretation):

4 Q. Witness, now I would like to move on to a new topic, and I would
5 like to ask you for some further information about the child soldiers. I
6 would like us to look at document DRC-OTP-0174-1562, and I will quote
7 from page 1563, line 32 to 40. This is under tab 1.

8 You mentioned that when the UPC was in Bunia and before Artemis's
9 arrival, one morning, after having met Thomas Lubanga, the Chief of Staff
10 gave orders to disarm the kadogos.

11 Do you remember having indicated this to the office the
12 investigators?

13 A. Yes.

14 Q. Could you try to remember when that happened?

15 A. The time -- well, I know it was after the president returned in
16 town, in the town in which the events took place.

17 Q. Couldn't you be more precise with the date?

18 A. No.

19 Q. Now I would like to go back to the end of the page 1563, 1564.

20 Could I ask you whether or not your evidence was indeed that after

21 Thomas Lubanga left Bunia, Kisémbu re-enlisted some kadogos?

22 A. I was talking, actually, of the day the incident in town took place.

23 There was an attack on the town of Bunia. I think it was even the last one.

24 Because Artemis was there, but they weren't in town. They were at the

25 airport. So that's the day on which Kisémbu re-armed the child soldiers.

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1 Q. But at that time Thomas Lubanga had already left the town.

2 A. I don't think so.

3 Q. Could we go to what was mentioned on page 1563 and 1564. I think
4 that that is what you actually stated.

5 PRESIDING JUDGE FULFORD: Usher, could you help please? Page 1563
6 and 1564. Any particular lines, Maitre Mabilille, on those pages?

7 MS. MABILLE (interpretation): I'm reading 32 to 39 again to see
8 if it is actually there indeed.

9 PRESIDING JUDGE FULFORD: Do you want to quote out that -- that
10 part of this that you say reflects what you've just suggested?

11 MS. MABILLE (interpretation): Yes. Just one second,
12 your Honour.

13 (Defence counsel confer)

14 MS. MABILLE (interpretation): I apologise. I didn't have the
15 proper reference, and so, actually, the document I'm talking about is
16 DRC-OTP-0174-1562, and I'm referring to line 286 to 291, and actually
17 what I'd like to do is read those.

18 PRESIDING JUDGE FULFORD: I think we'll do this this afternoon,
19 Maitre Mabilille, but thank you.

20 We'll break for lunch now. We'll sit again at 2.45, and could we
21 go into closed session so the witness can withdraw. Thank you.

22 *(Closed session at 1.00 p.m.) Reclassified as Open session

23 COURT OFFICER (interpretation): Closed session.

24 PRESIDING JUDGE FULFORD: Yes, usher. That's fine now. There's
25 nobody in the public gallery upstairs.

1 (The witness stands down)

2 PRESIDING JUDGE FULFORD: Two things before we rise. The first
3 is I'm sure everyone's got in mind that once again we can only sit for an
4 hour with the witness this afternoon because there is an ex parte with
5 the Prosecution and the Victims and Witnesses Unit only to consider
6 various issues later this afternoon.

7 Secondly, for the stenographers, at page 24, line 12, the word in
8 the oral ruling that I used was "present," p-r-e-s-e-n-t, not "presence,"
9 p-r-e-s-e-n-c-e. And when the edited transcript is being prepared, could
10 that correction please be made.

11 2.45. Thank you all.

12 COURT USHER: All rise.

13 Luncheon recess taken at 1.02 p.m.

14 On resuming at 2.45 p.m.

15 COURT USHER: All rise. Please be seated.

16 PRESIDING JUDGE FULFORD: Witness, please.

17 (The witness takes the stand)

18 PRESIDING JUDGE FULFORD: Public session, please.

19 (Open session at 2.46 p.m.)

20 COURT OFFICER: Open session.

21 PRESIDING JUDGE FULFORD: Yes, Maitre Mabilille.

22 MS. MABILLE (interpretation):

23 Q. Good afternoon, Witness.

24 A. Good afternoon.

25 Q. I would like to ask you a few more questions, and I will base

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1 myself on what we said at the end of the morning, before the break.

2 I told you that you had said that the kadogo at one stage were
3 disarmed and then re-armed. Do you remember mentioning this to the Court
4 yesterday?

5 A. Yes.

6 Q. I also asked you or told you and quoted, and I apologise, I
7 didn't quote the right document, so that you apparently stated that at
8 the time the children had been re-armed, Thomas Lubanga had left the
9 town, and therefore I would like to show you your statement, which wasn't
10 under the correct references earlier on. It's a statement with the
11 following reference DRC-OTP-0174-1562, and I will read lines 388 -- I
12 apologise -- 386 to 391.

13 COURT OFFICER (interpretation): Ms. Mabilille, could you please
14 give us the page so we can find it in the e-court system.

15 MS. MABILLE (interpretation): Yes. Sorry. I thought I had
16 given it. DRC-OTP-0174-1573. So 0474-1573 (as interpreted).

17 PRESIDING JUDGE FULFORD: We need a page number within the document,
18 Maitre Mabilille. All right. Got it now. Fine. Sorry. I'm interrupting
19 when I shouldn't. We have a page number. Thank you.

20 MS. MABILLE (interpretation):

21 Q. Witness, I will now read from line 386 to 391. So I'll read 386
22 to give us the background against which you are talking:

23 "Because the -- because the whole of the way we travelled
24 together with the children, I never witnessed them being disarmed," and this
25 is where I'd like to ask you a question. "So when they were re-armed,

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1 did the order also come allegedly from the president?"

2 And you answer:

3 "No. It was in the middle of a battle. Thomas Lubanga had
4 already left the town."

5 Is that correct?

6 A. Yes.

7 Q. Thank you. Is it also correct to say that Kisémbó attempted to
8 become the president of the UPC at one stage, at the stage when
9 Thomas Lubanga was in Kinshasa?

10 A. Yes, that's true.

11 Q. Was it before or after the Artemis operation?

12 A. When Artemis arrived, first there was that battle, and then
13 afterwards it was calm, and they asked us to leave the town, at least the
14 soldiers. So the soldiers left the town and the Chief of Staff at issue
15 as well. The president was in town and he then left for
16 Kinshasa. He wasn't there any more, but we still had the Chief of Staff,
17 Kisémbó, who was in Solenyama, that is towards Centrale and after the
18 incident between the UPC and Artemis, the
19 president wasn't there any more, and it's after that that Kisémbó
20 returned to Bunia town and proclaimed himself the president of the UPC.
21 He carried out those manoeuvres. It was after the president.

22 Q. Thank you for that answer. I'd like to ask you another question
23 concerning Kisémbó. You told the investigators that Kisémbó apparently
24 received 16.000 euros approximately from Artemis. Can you tell us under
25 which circumstances and how you obtained this information?

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1 A. Kisémbu, the Chief of Staff, when he returned to town we were in town, he
2 wasn't allowed to have armed bodyguards. And what is true is that, we who
3 were close to him saw that he had changed. He had petrol and money, and once
4 he even had food aid that was deposited at his place in my presence, and all
5 of this made him change, and that's why he got the idea of carrying out a
6 putsch, of becoming president of the UPC, and it was the people close to him,
7 the ministers, the people that were close to the UPC, that talked about this.
8 And the people that still trusted President Lubanga criticised him because we
9 were all in town. They criticised him about this so-called turnaround that
10 he tried to carry out. And that's how there were rumours that to do all of
11 that he had been paid 16.000 euros. I'm not saying it's Artemis, but we were
12 -- there was talk of white people, white organisations that were in the field
13 and that would have given him that money for him to give in. That's what
14 I said and what I told the investigators.

15 Q. What do you mean when you say "for him to give in", what you
16 just said right at the end of your answer, "for Kisémbu to give in? What
17 do you mean? Can you explain?

18 A. Well, I remember that after the incident with Artemis he was
19 quite calm, and he -- the French patrolled a couple of times even up
20 until Katoto where he sought refuge. He was wanted, and can you
21 imagine that a person who is wanted, who fears for his life, suddenly
22 comes back to town the next day? And we knew he didn't have money, he had
23 no resources, but he came and he settled in. He had the resources to do so.
24 He had been asked to stay in town, and that's how we understood that he had
25 given in to the offers that had been made.

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Open Session)
Questioned by Ms. Mabilie

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1 Q. Thank you for your answer. Do you know if Mr. Kisembo today --
2 do you know what his function is? Do you know what became of him?

3 A. Well, the last I heard was that he had been appointed-- been
4 integrated into the Congolese army as a general and that he worked in the
5 region of Matadi. And last time I read in the -- in the press that he had
6 been moved to the Kindu region, Kindu Province.

7 Q. Thank you, Witness. I only have three or four more questions to
8 ask. These questions are about what you said to us yesterday about two
9 young women, and you said they were called Francine and Mave. Do you
10 remember having told us about these two young women?

11 A. Yes.

12 Q. Do you know whether Francine and Mave were approximately the same
13 age?

14 A. If you say approximately, then I can confirm. Approximately,
15 yes.

16 Q. Do you remember telling us that they were approximately between
17 13 and 14 years old? That's what you told us.

18 A. Yes.

19 Q. The ages you gave us concerning these two young women, these ages
20 were your own personal assessment, weren't they?

21 A. Yes.

22 Q. You didn't in any way check what the real age was, or you were
23 not informed of the actual age of those two people?

24 A. I have never asked what their age was by curiosity, out of
25 curiosity.

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Open Session)
Questioned by the Court

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1 Q. If I were to suggest to you that in 2002, at the time, Francine
2 was aged 17, would it make you think that it's possible you made a wrong
3 assessment of that person's age?

4 A. Well, the Francine I'm talking about, it's impossible she was
5 17 years old.

6 MS. MABILLE (interpretation): Thank you, President. I've
7 finished.

8 PRESIDING JUDGE FULFORD: Maitre Mabilille, thank you very much
9 indeed.

10 Sir, the Judge sitting to my right, Judge Odio Benito, has some
11 questions to put to you.

12 JUDGE ODIO BENITO: Thank you.

13 Questioned by the Court:

14 JUDGE ODIO BENITO: Good afternoon, sir. In your testimony, you
15 referred to a commander that apparently raped a girl soldier. My
16 question is: Was this commander, or any other commander, punished for
17 such conduct against the girls?

18 A. With regard to the person I was talking about, well, I know
19 through the person who informed me that he was reprimanded for this, because
20 it happened in Mandro. So he was reprimanded. But concerning things like
21 going to prison or others, he didn't talk about any of that to me.

22 JUDGE ODIO BENITO: Thank you. In your testimony, you mentioned
23 that Thomas Lubanga visited the EPO camp once, and on that occasion you
24 saluted him. My question is this: Were there children in the EPO camp
25 saluting Mr. Lubanga on that occasion?

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Open Session)
Questioned by the Court

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1 A. Well, what is true, in the camp there were young child soldiers,
2 but upon his arrival he was already the Chief of Staff, and his car
3 showed that it was a high-ranking person coming. So it was all
4 the high-ranking soldiers in the camp that had to take up a position on
5 the other side of the camp to ensure the safety of the Chief of Staff.
6 And where we were, there weren't any child soldiers. I don't think it's very
7 likely that he saw any child soldiers over there.

8 JUDGE ODIO BENITO: Thank you. Also in your testimony you stated
9 that there were some girls in the kadogo unit who were removed from that
10 unit and later you saw them with the commander. My question is this:
11 What did these girls do while they were with the commander? What were
12 their tasks, if any?

13 A. Well, with respect to the girls seen with the commanders, the
14 commanders often said they were bodyguards. But concerning the people I
15 lived with, I saw women soldiers, girl soldiers, next to them, well, those
16 ones were more at home, and they were more in charge of the household tasks,
17 because where we lived there was no tap water. You had to go and fetch
18 it at from a stream, and to do laundry. They had such
19 tasks, and sometimes they recruited civilians to do that. They were
20 always in the houses. That was more their role than being a bodyguard,
21 carrying weapons, or being next to the commander such as others ones did
22 with his communication equipment. They didn't have that role.

23 JUDGE ODIO BENITO: So mainly they were in charge of the
24 household.

25 A. Yes. Most often they were -- they had that role, yes.

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Open Session)
Questioned by the Court

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1 JUDGE ODIO BENITO: Thank you. You said during your testimony
2 that kadogos were dangerous because they carried weapons and smoked
3 cannabis. Did this occur with the adult soldiers also, or were kadogos
4 more dangerous than the adult soldiers?

5 A. Well, you know, a kadogo even without any weapons, anybody can
6 push them over. Their pride was in owning a weapon. And
7 secondly, the kadogo, as I often said, were bodyguards. So sometimes
8 they had this role that they had to play with the commander not to be too
9 influenced. But as regards drugs, there were some kadogos I knew that
10 smoked hemp as the adult soldiers. It depended more on the person, after
11 taking the substance, on how they would behave, but what was often true
12 is that the kadogos could not handle it, because sometimes you would see
13 them in a corner after they had smoked. One would cry, and another would
14 be laughing for nothing. So that was how little by little they turned
15 out to be impolite, and that's when if you tried to insist they would
16 go wild. That's something else.

17 JUDGE ODIO BENITO: Thank you very much, sir. Thank you, Judge.

18 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva, and before you start
19 I recall that, I think, yesterday you indicated you may have some video
20 extracts that you intended to show the witness. Do I take it you've made
21 a decision not to follow that course?

22 MR. SACHDEVA: Precisely, Mr. President.

23 PRESIDING JUDGE FULFORD: Certainly. But any further questions
24 you now have.

25 MR. SACHDEVA: Thank you.

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Open Session)
Further Questioned by Mr. Sachdeva

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1 Further Questioned by Mr. Sachdeva:

2 Q. Sir, good afternoon. Just a couple of questions. In the
3 response to the question from Honourable Judge Odio Benito, Her
4 Honour asked you question regarding the occasion when Thomas Lubanga came
5 to the EPO camp and the question was whether there were children at the
6 EPO camp saluting Mr. Lubanga, and your answer, and I quote:

7 "Well, what is true, in the camp there were young child soldiers,
8 but upon his arrival he was already the Chief of Staff."

9 And my question is: Is that what you meant to say? Is that a
10 correct recording of your answer?

11 A. I wouldn't say so. To clarify this, I said that the car in which
12 they came was that of the Chief of Staff, and when a high-ranking
13 person like the Chief of Staff approaches or when the president
14 approaches, in order to provide security for them the soldiers shouldn't
15 just be all over the place. So there was the camp commander who
16 issued an order and said that they should occupy the surroundings of the
17 camp, and EPO camp is quite large; and they did not take the road leading
18 to the camp. It's not the road they took to arrive. It's the other road
19 behind. That's where the troops were in these trenches around the camp. So
20 they were on that side. Even where we were aligned there were these
21 trenches behind us. And to receive a person like the president or the Chief
22 of Staff, one often greets them with respect, but this wasn't even done on
23 that occasion. There were no troops there to welcome them. So in my
24 opinion it wasn't really highly probable that he saw child soldiers who
25 were over there.

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Closed Session)
Further Questioned by Mr. Sachdeva

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1 Q. During your time in the UPC, roughly from early 2002 up until
2 August of 2003, how many times did you personally see Thomas Lubanga?

3 A. I don't know. I would see him in a vehicle, but up close the
4 first time I saw him was at the EPO camp. Afterwards, perhaps I saw him
5 up close when I was in the UPC. So I'd say on two occasions.

6 Q. And just to be clear, sir, the time when Mr. Lubanga came to the
7 EPO camp, what -- what was his position in the UPC?

8 A. He was the UPC president.

9 MR. SACHDEVA: That's the re-examination, Mr. President.

10 PRESIDING JUDGE FULFORD: Thank you, Mr. Sachdeva.

11 Sir, that finally brings your evidence to a close. May I express
12 to you the profound thanks of this court for the time and trouble that
13 you have taken to come to give evidence before us. We are deeply
14 conscious of the difficulties that this may cause you in terms of your
15 own personal life and the general inconvenience of having to travel such
16 a long way to assist us in our job of seeking for the truth. This court
17 could not function without the cooperation of people like yourself, and
18 so you leave now, as I say, with our most sincere thanks for your
19 assistance and cooperation.

20 Can we please go into closed session so the witness can withdraw.

21 *(Closed session at 3.12 p.m.) Reclassified as Open session

22 (The witness withdrew)

23 PRESIDING JUDGE FULFORD: All right. I understand that there's
24 an amendment to the record which the interpreters would wish to make.
25 Could I invite one of them, please, now to indicate what the amendment

1 is.

2 THE INTERPRETER: Thank you, your Honour. I don't know if you
3 can hear me.

4 PRESIDING JUDGE FULFORD: I can.

5 THE INTERPRETER: Okay. Well, the English booth interpreters
6 would like to draw the attention of the Bench to the translation of a
7 point which we deemed to be material in the transcript. When the witness
8 referred to Mr. Lubanga and stated in the French that, I quote, "pour
9 lui, l'armee etait a cote," it must have been on page 61 or 62 of the
10 French transcript, this expression was variously translated into English
11 as "well the army was slightly not within his purview." That was on
12 page 46, lines 4 to 5. And two, "The army was not within his
13 competence." That was on page 46, line 19.

14 Considering that the French expression used by the witness is
15 vague and that this seems to be a very material point, the interpreters
16 respectfully submit or suggest that one -- a more literal translation,
17 which would be something like "for him the army was apart," be adopted,
18 or two, in the alternative, the witness should be asked to clarify his
19 statement.

20 The interpreters regret any inconvenience that this may have
21 caused. Thank you, your Honour.

22 PRESIDING JUDGE FULFORD: Thank you very much indeed. I'm going
23 to ask the parties to reflect on this overnight. I'm reluctant to have
24 the witness recalled just to deal with that particular point, but if
25 anybody -- well, I say overnight. If anybody has a burning desire for

1 the witness to be recalled to clarify it, please raise the matter before
2 the end of the afternoon. Otherwise, can we try and achieve consensus as
3 to what the proper translation or the proper interpretation should be.

4 Now, the proposal is that we should turn next to Witness 2.
5 There is half an hour left in which that witness can commence, I think
6 I'm right in saying his evidence. The proposals are that he should
7 testify in French, that he should use the pseudonym Pierre Ramazani, and
8 I'm assuming that what I'm going to call the standard protective measures
9 are in place in -- in his case. I don't know whether you're in the
10 driving seat for this, Mr. Sachdeva. Who's handling this witness for the
11 Prosecution?

12 MR. SACHDEVA: Ms. Struyven is handling the witness,
13 Mr. President.

14 PRESIDING JUDGE FULFORD: Thank you, Mr. Sachdeva.

15 Ms. Struyven, anything else to be said on protective measures?

16 MS. STRUYVEN: No, your Honours. That is a correct finding.

17 PRESIDING JUDGE FULFORD: Good. Thank you.

18 Anything to say, Maitre Mabilille?

19 MS. MABILLE (interpretation): No comments, your Honour.

20 PRESIDING JUDGE FULFORD: Thank you very much. Can I ask the
21 Court Officer, then, how long it would take for the witness to be brought
22 to court. Thank you.

23 MR. SACHDEVA: Mr. President, would you excuse us --

24 PRESIDING JUDGE FULFORD: No, of course. A certain amount of
25 disturbance while you change round. Thank you.

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1 (The witness entered court)

2 WITNESS: (Redacted)

3 (Witness answered through interpreter)

4 PRESIDING JUDGE FULFORD: Good afternoon, sir.

5 THE WITNESS (interpretation): Good afternoon.

6 PRESIDING JUDGE FULFORD: I'm sorry you've been kept waiting
7 probably rather a long time today. Can you hear me well over the
8 headphones?

9 THE WITNESS: Yes, I understand.

10 PRESIDING JUDGE FULFORD: Excellent. Not only have you been
11 called into court after a long wait, but I'm afraid we're not going to be
12 able to hear very much of your testimony this afternoon. In about
13 20 minutes, we're going to have to adjourn because the Judges have got
14 another matter to deal with which can only be heard in the absence of the
15 public. However, we can make a start with your evidence at the very
16 least so you become familiar with the process of testifying before the
17 Court.

18 I want to say just one or two things about our procedures before
19 we begin. I know that you've had explained to you that we are going to
20 take all necessary steps to protect your identity. You will be known
21 throughout your evidence by the pseudonym that you have chosen, and we
22 will ensure that any information which may identify you to those outside
23 of this courtroom is removed from the public record. And I want to
24 reassure you that even when we are in public session, there is a
25 half-an-hour delay before anything is relayed over the internet or by any

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1 other means of communication. That means that if something is said which
2 shouldn't have been said publicly which could reveal your identity, then
3 we have a half-an-hour opportunity to remove the offending details. So
4 there are substantial mechanisms in place to protect you.

5 I'm afraid that it means that sometimes we have to move between
6 public session and private session, because some of your evidence will be
7 appropriate for public consumption, some of it should only be heard in
8 private, and there's going to be a classic example of that now, because
9 we're going to have to go into public session so that you can take the
10 solemn undertaking, and immediately after that process has been completed
11 we will move into private session so that your true identity can be given
12 in a non-public way.

13 I hope that's all sufficiently clear.

14 THE WITNESS: Yes.

15 PRESIDING JUDGE FULFORD: Good. Public session, please.

16 (Open session at 3.26 p.m.)

17 COURT OFFICER (interpretation): Open session.

18 PRESIDING JUDGE FULFORD: If you could wait just a second.

19 We have got some extremely slow blinds that take a very long time
20 to go up and down. They're now up, and could you please read out loud
21 the words on the card in front of you.

22 THE WITNESS (interpretation): I solemnly declare to speak the
23 truth, the whole truth, and nothing but the truth.

24 PRESIDING JUDGE FULFORD: Thank you very much indeed.

25 Private session, please.

Witness: Witness DRC-OTP-WWW-0002 (Closed Session)
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1 THE INTERPRETER: The interpreters would like to request that the
2 witness be asked to speak closer to the microphone.

3 *(Private session at 3.28 p.m.) Reclassified as Open session

4 COURT OFFICER (interpretation): Private session.

5 PRESIDING JUDGE FULFORD: Yes.

6 MS. STRUYVEN: Thank you, your Honours.

7 Questioned by Ms. Struyven.

8 Q. (Interpretation) Good afternoon, Witness. My name is
9 Olivia Struyven of the Prosecutor's Office, and I'm going to ask you
10 questions today and tomorrow, certainly tomorrow, regarding (Redacted)
11 (Redacted).

12 Before starting I have a few preliminary remarks. Firstly, as
13 you can hear, these questions are going to be asked in French, but if I'm
14 not clear, please do not hesitate to say that you do not understand what
15 I'm saying or that you do not understand the question, in which case I
16 will rephrase the question.

17 Secondly -- secondly, if you need more time to think about your
18 answer (Redacted)
19 (Redacted) do not hesitate to say so and we will show you (Redacted) again
20 if needed.

21 Thirdly and lastly, since both of us speak French, it is
22 important that we leave a gap between the question and the answer,
23 because what we say is going to be translated into English, and it is
24 important that the interpreters have enough time to translate what we
25 say.

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1 Now, regarding my examination, I'm going to start by asking you
2 questions on your identity, on your profession, (Redacted)
3 (Redacted)

4 The first question is the following: Can you state your name,
5 your real name, please.

6 A. My name is (Redacted).

7 THE INTERPRETER: Comment from the interpreter: Could the
8 witness speak into the microphone, please.

9 MS. STRUYVEN (interpretation):

10 Q. The interpreter was asking you to speak closer to the microphone.
11 I'm going to re-ask the same question. Can you state your name, please?

12 A. My name is (Redacted).

13 Q. What is your date of birth?

14 A. I was born on (Redacted).

15 Q. And where is your birthplace?

16 A. I was born in Bunia, in a sub-region of the RDC.

17 Q. Was your ethnic origin?

18 A. I'm (Redacted).

19 Q. And if I understood you correctly, between 2002 and May 2003, you
20 were born in Bunia, and you worked as (Redacted). Is that
21 exact? Is that correct?

22 A. Yes.

23 Q. And as (Redacted), did you work for the UPC?

24 Is that correct?

25 A. Yes. I worked for the UPC during a certain amount of time.

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1 Q. Do you remember who controlled Bunia when you started working for
2 the UPC?

3 A. Yes. When I used to work for the UPC, the UPC controlled Bunia, and
4 the UPDF was also in Bunia; however, the -- the Congolese forces who
5 controlled Bunia were the UPC forces, directed by Thomas Lubanga, who was
6 the president of the movement.

7 Q. And can you tell us until when you worked for the UPC?

8 A. Yes. I worked for the UPC since its -- since it came into being,
9 since it was created. And before -- before President Thomas Lubanga was
10 arrested in Kinshasa, I used to work for the UPC, especially in 2002.

11 Q. And can you tell us when you stopped working for the UPC?

12 A. Normally I stopped working for the UPC when the UPC was falling
13 apart. That was a time of change. UPDF had taken control of the town,
14 and everybody -- well, we were free, but when the UPC left, well, that
15 was the end -- it was the end of the UPC, but when they came back, I was
16 no longer around. I was no longer in Congo.

17 Q. And when you say until the UPC were chased out, do you know the
18 month and the year in which this happened?

19 A. Yes, I can remember. The UPC was kicked out in 2003. At -- in
20 2003, during the month of March, I think. If I remember correctly, it
21 was on March the 6th.

22 Q. Thank you. Can you explain to us who asked you (Redacted)
23 (Redacted)

24 A. Well, within the UPC there was (Redacted) which was
25 represented by ministers, the ministers -- or minister who was there, who

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1 (Redacted), but there was also (Redacted) who was
2 there to work for the president, who was -- who used to work with him,
3 and he called me to work. There was a whole team (Redacted), a
4 whole team within the movement, (Redacted)
5 who was in charge of assigning different tasks (Redacted).

6 Q. And can you explain to us how -- well, how could I put it? There
7 was this (Redacted), but how did you -- or how were you told that you
8 were supposed to (Redacted) or other?

9 A. Well, I used to work. I used to (Redacted)
10 (Redacted)

11 (Redacted), and at some given point in time the city or the town was
12 divided into two parts. Because, at the time, Bunia was controlled by the
13 RCD-ML of Mbusa Nyamwisi. So when the UPC movement was created the city was
14 divided. We couldn't really know who was controlling the town, and at
15 that point in time there was quite a bit of confusion as to who was in
16 charge of the city. There were the forces
17 of Mbusa Nyamwisi which were
18 under the direction of Molondo Lopondo, the governor, and at that point in
19 time Thomas Lubanga was arrested in Kinshasa. And he was minister of defence
20 of the RCD. He was part of the RCD-ML as the minister of defence.
21 I got more acquainted with the UPC when one day a friend called me
22 and said, "Come. (Redacted)." And I asked what, and he
23 said, "No, no, yes, come on. Well, you'll see." So we went down, and in the
24 middle of town, I knew the place because the company, (Redacted) used to
25 be there. I came to this assembly, and there was a delegation

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1 that came from Kinshasa with Colonel Maguru who came from Ituri as well. He
2 had come from Kinshasa to try and bring together different elements in town.

3 They were elements from the RCD-ML, because the RCD-ML of Mbusa Nyamwisi
4 already had some relations with our government. So he was trying to -
5 actually trying to bring everyone together and avoid the city being divided
6 and see how things could be arranged because, as I've said, the city was
7 divided. There were people who would not come up and some people would
8 not come down to the lower part of the city. So people were scared.

9 But President Lubanga was not there at the time. He was in
10 Kinshasa. He was not in Ituri.

11 Q. So if I understand you correctly, that was the (Redacted)?

12 A. Yes.

13 Q. But you carried on later on?

14 A. Yes, yes. And later on when he arrived, he had returned from
15 Kinshasa, and (Redacted). A friend came to fetch me. I can't
16 exactly remember. I think somebody had lent me a motorbike to be able to
17 (Redacted). So I did him this favour, and I gave him (Redacted)
18 (Redacted). So that's how it actually happened. (Redacted)
19 (Redacted)

20 He arrived --When he arrived -

21 he created his own movement.

22 That was before the war, because when

23 he arrived the city was not yet

24 divided into two parts. He was on

25 one side. The people of Lopondo

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1 were on the other side, but I still rendered them services.

2 The UPC took control over the city after the war between the UPC
3 and the army of Mbusa Nyamwisi. And when Mbusa Nyamwisi's army, the APC,
4 left, the UPC took control over the city, it was then that UPC
5 was in control together with the UPDF, the Ugandan army.

6 PRESIDING JUDGE FULFORD: Sir, one of the ingredients of our
7 procedures is that sitting up above us on both sides are some extremely
8 hard-working interpreters and stenographers who are busily providing
9 simultaneous interpretation and recording a transcript contemporaneously
10 in both French and English.

11 I'm afraid an artificial instruction that I've got to give you,
12 which I'm going to ask you to follow, is to make sure that you don't
13 speak any quicker than I'm speaking now. I'm afraid if you go faster
14 than I'm currently speaking, it makes their life unendurable, and it
15 stores up huge problems for us, because it means that there are then
16 errors in the transcripts which have to be corrected. So would you mind
17 slowing down, please.

18 And Ms. Struyven, this is in a sense, to use the American
19 expression, your witness, and so would you exercise an appropriate degree
20 of control.

21 MS. STRUYVEN: Yes, I will your Honour.

22 PRESIDING JUDGE FULFORD: Thank you.

23 MS. STRUYVEN (interpretation):

24 Q. So, Witness, you explained that a friend would come and collect
25 you or come and fetch you to go (Redacted), amongst other things, the

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1 (Redacted). Can you indicate who this friend was, the one
2 who came to collect you?

3 A. Firstly, it was a friend. They were Hema. He was a Hema, and
4 he's the one who called me to come along and (Redacted) the first time.

5 And the second time (Redacted) and when UPC was there on
6 location, it was (Redacted) who called me, and (Redacted) who
7 called me very often (Redacted) and he came to fetch me. He was in (Redacted)
8 (Redacted).

9 Q. And who was (Redacted)?

10 A. He was called (Redacted).

11 Q. Now, when you (Redacted)?

12 A. Yes, (Redacted)

13 (Redacted).

14 Q. And once you were done with (Redacted), what did
15 you do with (Redacted)?

16 A. After (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)

21 MS. STRUYVEN: Your Honours, I'm not sure whether the time allows
22 us to continue or --

23 PRESIDING JUDGE FULFORD: No. I was waiting to see whether you
24 were getting close to the end of your introductory questions,
25 Ms. Struyven, but in any event, we really ought to adjourn at this stage

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1 because there's a not inconsiderable matter that needs to be discussed.

2 So if that's convenient for you.

3 MS. STRUYVEN: Yes, your Honour.

4 PRESIDING JUDGE FULFORD: Excellent. Thank you very much indeed.

5 Well, sir, I'm afraid I indicated that we were not going to be
6 able to do very much this afternoon but we've made a start for which we
7 thank you. We shall look forward to seeing you again at half past 9.00
8 tomorrow morning, but before you withdraw we need to go into closed
9 session so that members of the public can't see you leave.

10 Closed session, please.

11 *(Closed session at 3.47 p.m.) Reclassified as Open session

12 COURT OFFICER (interpretation): Closed session.

13 PRESIDING JUDGE FULFORD: Yes. Thank you.

14 (The witness stands down)

15 PRESIDING JUDGE FULFORD: We will sit again as soon as the court
16 has been refigured, and could I ask that the Court Officer comes and tell
17 us as soon as that has happened, to consider the ex parte matter with the
18 Prosecution and the Victims and Witnesses Unit only. Otherwise, we look
19 forward to seeing everyone else at half past 9.00 tomorrow morning.

20 Thank you.

21 COURT USHER: All rise.

22 The hearing ends at 3.48 p.m.

23 RECLASSIFICATION REPORT

24 Pursuant to Trial Chamber I's email instruction dated 4th May 2012, the

25 transcript is reclassified as public after the indicated redactions have been

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1 implemented as ordered by the Chamber. All private and closed sessions (*)
2 are now available to the public with the exception of the portions of the
3 transcript that have been redacted.