

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra, and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and Mathieu
7 Ngudjolo Chui
8 Trial Hearing
9 Tuesday, 3 May 2011
10 The hearing starts at 10.24 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated. We
15 are not resuming, but we are beginning our work. So, Court Officer,
16 Court Usher, please have Mr. Sharif brought into the courtroom.
17 (The witness takes the stand)
18 PRESIDING JUDGE COTTE: (Interpretation) Good morning,
19 Mr. Sharif.
20 THE WITNESS: (Interpretation) Good morning.
21 PRESIDING JUDGE COTTE: (Interpretation) I can see that you are
22 able to hear me well.
23 THE WITNESS: (Interpretation) Yes, I can hear you very well.
24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, we had
25 some technical problems this morning which delayed your appearance in

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1 this courtroom. We can now begin and it is the turn of the Prosecutor to
2 begin his cross-examination.

3 Mr. Dutertre, you can start now.

4 MR. DUTERTRE: (Interpretation) Good morning, Mr. President.
5 Good morning, your Honours.

6 WITNESS: WITNESS DRC-D02-P-0350 (Resumed)

7 (Witness answered through interpreter)

8 Questioned by Mr. Dutertre: (Continued)

9 Q. Good morning, Mr. Witness. Mr. Witness, we met briefly during
10 the courtesy meeting and my name is indeed Dutertre. I represent the
11 Office of the Prosecutor and I have some questions to put to you. Let me
12 tell you immediately that I will not be long. I have only few questions
13 to clarify certain issues related to your testimony of yesterday.

14 We will begin with the first point. Yesterday Mr. Hooper asked
15 you a question about the FRPI manifesto, and it is page 40 to 42 of the
16 French transcript of yesterday. He asked you whether the FRPI had a
17 manifesto. And yesterday on page 41, lines 14 to 15, you answered as
18 follows, and I quote:

19 "I have heard about the manifesto but I have never seen it. I
20 heard it said that there was an FRPI manifesto but I never saw it."

21 Is this indeed your testimony of yesterday, Mr. Witness?

22 A. Yes, that is correct.

23 Q. Mr. Sharif, you will remember that you gave a statement to
24 Madam Buisman in March 2011. Do you remember that?

25 A. Yes, I remember.

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1 Q. And you signed that statement dated the 15th of March, 2011; is
2 that correct?

3 A. Yes, that is correct.

4 Q. With the leave of the Chamber, I would like your statement to be
5 given to you. It was on the list of Prosecution documents, and I have a
6 clean copy here that the Court Usher can show you?

7 PRESIDING JUDGE COTTE: (Interpretation) Very well.

8 Court Usher, please take that clean copy of the statement.

9 MR. DUTERTRE: (Interpretation) It is for the witness.

10 PRESIDING JUDGE COTTE: (Interpretation) And that is indeed at
11 number 1 on the list of documents that the Prosecutor indicated that he
12 would use.

13 Mr. Prosecutor, the witness has the document with him now, you
14 can proceed.

15 MR. DUTERTRE: (Interpretation)

16 Q. Is that your document, your statement, Mr. Witness?

17 A. Yes, it is indeed my statement.

18 Q. (Microphone not activated)

19 THE INTERPRETER: Mr. Dutertre's microphone is not on.

20 MR. DUTERTRE: (Interpretation)

21 Q. Can you go to the last page, Mr. Witness, that is page 10?

22 A. Yes, I'm there.

23 Q. Thank you. There's the date of the 15th of March, 2011, which is
24 indicated there and your signature is below that; is that correct?

25 A. Yes.

1 Q. And that statement was read out to you both in French and
2 Swahili; right?

3 A. Yes, it was read to me in French.

4 Q. And also in Swahili; is that correct?

5 A. No, it was read to me only in French and not in Swahili.

6 Q. Did you fully understand the contents of that statement?

7 A. Yes, I did.

8 Q. And you attested that the contents of that statement are true?

9 A. Yes.

10 Q. Mr. Witness, let me now refer you to page 6 of that statement,
11 fourth paragraph from the top, and the paragraph begins with "*j'étais*
12 *présent*," I was present. Have you seen it?

13 A. Yes, I am there.

14 Q. In that paragraph, Mr. Witness, you stated, and I will read it
15 out verbatim:

16 "I was present at another meeting at the hotel casino when the
17 manifesto was signed."

18 Was that indeed what you stated?

19 A. Can you please repeat your question?

20 Q. Yes, of course, Mr. Witness. In this paragraph you stated, and I
21 quote:

22 "I was present at another meeting at the hotel casino when the
23 manifesto was signed."

24 That was your statement; isn't that so?

25 A. If you look at that entire sentence, you will understand. I

1 would like you to read right to the end of that sentence.

2 Q. Yes, indeed. It is stated that: "We were obliged to sign." But
3 you stated that you actually signed the manifesto; right?

4 A. I did not quite understand your question.

5 Q. Mr. Witness, my question is very simple. I would like to know
6 whether you stated in your statement signed by you on the 15th of March,
7 2011, the following sentence, and I quote:

8 "I was present at a meeting in the hotel casino when the
9 manifesto was signed."

10 Did you say that yes or no?

11 A. I believe that when that question was put to me in French, I
12 answered as follows -- by the way, what was the question to begin with?
13 I was asked whether I was one of the signatories of the FRPI manifesto.
14 I did not have any idea about that manifesto. A question was put to me
15 about the document which set up the FRPI. We did not sign the FRPI
16 manifesto, but we signed a document creating the FRPI. Our names were
17 mentioned in the manifesto, but we were instead obliged to sign a
18 document creating the FRPI.

19 Q. Mr. Witness, in this paragraph, 4, you state that the manifesto
20 was drawn up by the RCD-K/ML officials without us and we were obliged to
21 sign it. It is indeed the manifesto that you're referring to in this
22 paragraph; correct?

23 A. I am reading here that it is the manifesto, but the question put
24 to me by the lawyer was whether I had signed a document creating the
25 FRPI. And my answer was "yes." And I explained that we were obliged to

1 sign the documents presented to us by the RCD officials. Our names were
2 mentioned in the manifesto. All of us who were present there had our
3 names included, but we did not sign the manifesto. We signed a different
4 document creating the FRPI.

5 Q. Mr. Witness, can you move two paragraphs further down, that is,
6 paragraph 6 on the same page. Are you there?

7 A. What does that paragraph begin with?

8 Q. It is the paragraph that ends with "at the request of Dr. Adirodu
9 of the RCD-K/ML ...," that is the sixth paragraph. Are you there?

10 A. Yes.

11 Q. In that paragraph and in the last sentence you stated, and I
12 quote: "We came exclusively to sign the manifesto at the request of
13 Dr. Adirodu of the RCD-K/ML," just like in paragraph 4 reference is made
14 here to the manifesto and not to a different document, Mr. Witness; is
15 that not correct?

16 A. I do not understand what is written here. I was speaking about
17 the creation of the FRPI, but here they are talking about the manifesto.
18 That is where the problem lies. It is said "at the request of
19 Dr. Adirodu," and it refers to the manifesto. But what I know is that we
20 signed a document creating the FRPI because the manifesto does not bear
21 our signatures. We did not sign the manifesto. Our names were mentioned
22 in the manifesto but we did not sign it. We signed a different document
23 creating the FRPI.

24 Q. Mr. Witness, that was not my question. My question to you was
25 did you indeed state as follows:

1 "We came for the sole purpose of signing the manifesto at the
2 request of Dr. Adirodu of the RCD-K/ML"?

3 That is what is in your statement; correct?

4 A. I believe that there was a problem. I think I was misled into
5 confusion between the manifesto and another document creating the FRPI.
6 I believe that the manifesto was not signed by anyone. We signed another
7 document creating the FRPI which we were obliged to sign, but we did not
8 see the manifesto.

9 Q. Mr. Witness, we are going to move on to something else and put
10 that statement aside for the time being so as not to be distracted.

11 You will remember that Mr. Hooper asked you a question or
12 questions yesterday about the Bogoro attack, pages 44 and onwards of the
13 French transcript. In answer, page 44, lines 7 to 12, of the French
14 transcript you mentioned a meeting with Mbusa in Beni. Mbusa was coming
15 back from Equateur, and you add the following:

16 "It was on that day that I learned he was preparing a battle for
17 Bogoro."

18 That was your testimony yesterday, Mr. Witness; right?

19 A. Yesterday this is what I said. When Mbusa returned from
20 Equateur, there was a meeting during which Mbusa said that he would
21 provide all assistance to attack Bunia. I said that the objective was
22 not to attack Bogoro but Bunia; however, Bogoro was on the way to Bunia.
23 That was my testimony yesterday.

24 Q. You stated yesterday and regarding the meeting with Mbusa who was
25 coming back from Equateur, and I quote you:

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1 "It was on that day that I understood he was preparing a battle
2 for Bogoro."

3 That was your testimony yesterday; right?

4 A. Yesterday I said the following: When Mbusa returned from
5 Equateur, his mission was as follows, to change the name of APC to FRPI.
6 The objective was to reconquer the entire territory of Ituri. The target
7 was Bunia and not Bogoro; however, Bogoro was on the road to Bunia.

8 MR. DUTERTRE: (Interpretation) Just a moment, Mr. President.
9 (Prosecution counsel confer)

10 MR. DUTERTRE: (Interpretation)

11 Q. Mr. Witness, yesterday in the transcript you stated: "It was on
12 that day that I learned that a battle was being prepared. He was
13 preparing a battle for Bogoro."

14 Is it not correct that in your statement of the 15th of March,
15 2011, you said that you had known nothing about Bogoro?

16 MR. HOOPER: I'm sorry to interrupt, and I appreciate my
17 friend's --

18 MR. DUTERTRE: (No interpretation)

19 MR. HOOPER: I appreciate my friend's position, and I'm not
20 trying to distract him nor the witness, but there's been a particular
21 passage that's been put to the witness and in fairness, in fairness, and
22 I'm looking at my English transcript which isn't a finally authorised one
23 but I got it last night, and I'm grateful for that, in the English
24 transcript and my friend will find it just several lines below the point
25 where he is after the intervention of the learned President, pointing out

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1 the difficulties that the interpreters were having in translation and
2 repeating what the witness had said, the witness was asked by you,
3 Mr. President, you said: "It would seem that the last sentence that you
4 made was not understood by --

5 MR. DUTERTRE: (No interpretation)

6 MR. HOOPER: Could you kindly repeat --

7 MR. DUTERTRE: (No interpretation)

8 MR. HOOPER: No, I think --

9 THE INTERPRETER: There are overlapping speakers.

10 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, I
11 believe you have to allow Mr. Hooper to complete what he is saying
12 because apparently he is saying that a sentence that you quoted in the
13 French version might not actually correspond to what he has in the
14 English transcript. So, Mr. Hooper, please explain whether we are indeed
15 referring to what the Prosecutor was discussing with the witness.

16 MR. DUTERTRE: (Interpretation) This is a very important issue
17 and I believe if we have to discuss this it should be in the absence of
18 the witness. It is something that is crucial for this case and we should
19 not discuss in front of the witness.

20 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, do you
21 understand English?

22 THE WITNESS: (Interpretation) Yes (* as interpreted).

23 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, I will ask
24 you to remove your headsets for the time being and Mr. Hooper will
25 explain.

1 MR. HOOPER: I can explain quite straightforwardly without
2 reference or reading out or putting --

3 MR. DUTERTRE: (No interpretation)

4 MR. HOOPER: I wish my learned friend would just give me the
5 courtesy (Overlapping speakers) --

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, I have the
7 impression that everybody is wondering about page 1 of our witness's
8 statement and he indicates that he speaks French, Lingala, and English
9 and wisdom will require that we ask the witness to leave the courtroom.

10 Mr. Witness, do not be offended. There is an exchange that will
11 take place while you are away. Please do not be worried about that.

12 And, Court Officer, make sure that the witness does not go very
13 far.

14 THE INTERPRETER: And the correction from the interpreters the
15 witness had answered "no" to the question as to whether he spoke English.

16 (The witness stands down)

17 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, we were
18 talking about the witness's testimony yesterday, which was referred to by
19 the Prosecutor. And I read:

20 "It was on that day that I learned that a battle was being
21 prepared, that he was preparing a battle for Bogoro."

22 And that was the statement on which Mr. Dutertre was questioning
23 Mr. Sharif. So Mr. Hooper intervened at that moment.

24 Can you explain to us why, Mr. Hooper?

25 MR. HOOPER: It's in relation to the passage that's been put

1 several times to the witness. Now, Mr. Dutertre has always conducted
2 himself in the most fair manner and I am sure that he intends to here.
3 And if you just scroll down from there in the French - I'm looking at the
4 English but it's the same in the French - you can see that there's a
5 discussion and you, Mr. President, intervened. Then there's a question
6 about who did he send to train. The Lingala interpreter didn't hear the
7 last sentence. You intervene in respect of that. And then we come to
8 the witness's reply, and bearing in mind what the witness has had put to
9 him today and bearing in mind what his answer has been today, it's my
10 submission that it's a plain fairness to the witness that my learned
11 friend, Mr. Dutertre, also refers the witness - and indeed the Chamber,
12 it's not a matter for me to do in re-examination - to the totality of
13 what he said. And it's as clear as it can be because what he says there
14 is, and I read from the English:

15 "This is what I said. I do not have details about the Bogoro
16 battle. What I know is this: In Beni they were preparing themselves to
17 go and fight in Bunia and not in Bogoro, but they had to pass through
18 Bogoro to arrive where they were going. That is what I said. The
19 preparation of the battle done in Beni was to attack Bunia and not
20 Bogoro."

21 And my submission is and I've taken Mr. Dutertre there, and I'm
22 sure he cannot stand in the way of the straightforward submission that
23 given the question he's put to the witness, given the extract he's put to
24 the witness, it's a fairness to the witness and indeed to the Court, to
25 give the totality of it. And that's what the witness is saying. That

1 was my simple point, and I could have made that point just by reference
2 to the page lines without the disturbance of the witness and the great
3 mystery. I appreciate that -- and what rather troubles me, I must say,
4 is did my friend appreciate that that's the bit that I was going to refer
5 to?

6 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

7 MR. FOFÉ: (Interpretation) Your Honour, if I can be useful,
8 this page, this excerpt that my learned friend has read in English is in
9 French page 46, lines 8 to 12.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
11 Professor Fofé, I had indeed located that extract. I would simply want
12 to point out that what I said yesterday relating to interpretation
13 concerned a reference in the English transcript to soldiers he had
14 given -- commanders of soldiers or soldiers to commanders to go and
15 prepare for the operations.

16 Now, regarding the passage on page 46 of the French version, let
17 us not forget that a short while ago on page 9 of the French transcript
18 the witness came back on this point. He said that yesterday:

19 "This is what I said: 'When Mbusa came back from Equateur, what
20 was his mission? His mission was first of all to change the name from
21 the APC to the FRPI and the objective was to conquer the entire Ituri
22 territory. The target was Bunia not Bogoro; however, Bogoro was on the
23 way to Bunia. Everything revolves around the word 'preparation' I
24 believe.'"

25 So, Mr. Prosecutor, bear in mind what Mr. Hooper has said and

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1 when you refer to the witness talking about the preparation for Bogoro,
2 let us not isolate it from what appears in page 44 and page 46 of the
3 French version because maybe in his mind he's not sure whether there was
4 a distinct preparation for Bunia and for Bogoro given that Bogoro was on
5 the way to Bunia. Do we agree on that, Mr. Prosecutor, because that word
6 "preparation" is important and we have to put it into context in relation
7 to Bunia and Bogoro which was on the way to Bunia. So, Court Officer,
8 can we continue to 12.20 because we started at 10.20?

9 Very well, let us bring in the witness hoping that we can
10 continue without having to break once again.

11 Court Usher, can you please fetch the witness who should actually
12 be very close by.

13 We agree, Mr. Prosecutor, on the verb "to prepare" which has to
14 be placed in context in relation to Bogoro and Bunia.

15 MR. DUTERTRE: (Interpretation) I will go straight to the point,
16 your Honour.

17 PRESIDING JUDGE COTTE: (Interpretation) Very well.

18 (The witness takes the stand)

19 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me
20 properly, Mr. Witness?

21 THE WITNESS: (Interpretation) Yes, I hear you perfectly well.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well.

23 Mr. Prosecutor, you can proceed.

24 MR. DUTERTRE: (Interpretation)

25 Q. Do you have your statement before you Mr. Witness?

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1 A. Yes, I do.

2 Q. Would you mind turning to page 8 right at the top of the page 8,
3 Mr. Witness? Are you at the top of page 8, Mr. Witness?

4 A. Yes, I am.

5 Q. Mr. Witness, we are now going straight to the point. You did
6 indeed state, did you not, "I didn't know anything about Bogoro." Is
7 that the case?

8 A. Yes, that is the case.

9 Q. Thank you, Mr. President, your Honours. I have no further
10 questions to put.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
12 Mr. Prosecutor.

13 Counsel Goffin, do you have any questions to put to Mr. Sharif?

14 MS. GOFFIN: (Interpretation) I have no questions to put to the
15 witness. Thank you, your Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
17 counsel.

18 Counsel Luvengika, do you have any questions to put to the
19 witness?

20 MR. LUVENGIKA: (Interpretation) Thank you, Your Honours, for
21 allowing me to address the Court. I just have one or two questions just
22 by way of clarification. There's one in fact that picks up on the
23 question that was put earlier on by the Prosecutor and this is a
24 clarification about a time-frame, because if you look at the transcript
25 of yesterday with regard to the chronology, I wasn't able to place into

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1 proper context the statement made by the witness.

2 Questioned by Mr. Luvengika.

3 Q. Good morning, Witness, I name is Mr. Fidel Nsita and I am the
4 Legal Representative of the victims of Bogoro. I would like to put to
5 you one or two brief questions, but I would like you to be accurate in
6 your answers. This won't take even beyond two or three minutes. Would
7 you mind telling us quite precisely when you learned -- so according to
8 your statement you were in Beni at this time. A battle is being
9 prepared, be that of Bunia going through Bogoro or the battle of Bogoro.
10 Do you remember when you learned that in terms of days, months, year?

11 A. I think that when things were set up in Bunia -- when EMOI was
12 set up in Bunia we went to -- we went with Aguru and at that particular
13 point in time the preparation of the Bunia battle was entrain. When the
14 commanders of the APC met in Bunia, they went to Beni and they -- the
15 commanders went to Beni to get weapons, the preparation was entrain and
16 the basis -- the base was in Bunia and people were coming from Uganda to
17 prepare, fighters were coming from Uganda to prepare. I --

18 Q. I've given you an indication, but you're talking about the
19 time-frame when -- the time when you were at Beni. I don't need to
20 re-read the transcript to recoup what you said, but here you're talking
21 about the return of Mbusa. You were in Beni and that was when you
22 learned about the preparations of what was being prepared to attack Bunia
23 going through Bogoro. So my question is the following: I want to
24 establish, when did you learn that? What particular day did that fall
25 upon?

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1 A. I think it was when Mbusa came from Equateur, I think it was
2 between the 20th of December, between the 20th of December and after
3 Christmas, because it was when Mbusa had come back from Equateur. The
4 battle had begun before Christmas, and just before Mbusa convened us with
5 the APC commanders and told us that we had to recover Bunia. And I think
6 this was being -- between the 20th and the 30th of December, 2002.

7 Q. So if I've fully understood what you said, you learned that from
8 Mbusa; is that correct?

9 A. Yes, that is correct. When Mbusa came back that meeting was held
10 and the decision to re-take Bunia was taken at that particular point in
11 time.

12 MR. LUVENGIKA: (Interpretation) Your Honour, I don't have any
13 further questions to put to the witness. Thank you very much.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
15 Mr. Luvengika.

16 Mr. Witness, the Bench would like to put to you one or two
17 questions, and not numerous but one or two questions nonetheless, which
18 should enable you to provide greater clarification with regard to the
19 remarks you made yesterday. And we would like to obtain from you one or
20 two ancillary items of information with regard to those remarks. You
21 don't need to provide lengthy answers, but please provide these
22 clarifications to the best of your ability in order to fill the gaps.

23 MR. FOFÉ: (Interpretation) Do forgive me, your Honour, I would
24 just like to provide a correction which to my mind is crucial. On page
25 27 (* as interpreted), line 3:

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1 "That's right, as soon as Mbusa arrived at Aguru."

2 This is not what the witness said.

3 "When Mbusa arrived with Aguru."

4 And this is crucial.

5 PRESIDING JUDGE COTTE: (Interpretation) Quite so. So Madam
6 Court Officer, ladies and gentlemen of the court reporters, please make
7 sure that this line 3 of the provisional French transcript page 17, make
8 sure therefore that this doesn't turn a person into a locality because
9 Mr. Aguru we know now for a while is a colonel.

10 Questioned by the Court:

11 PRESIDING JUDGE COTTE: (Interpretation) So, Mr. Witness,
12 yesterday you answered a question put to you by Mr. Hooper about the
13 establishment -- the date of the establishment of the FRPI. This is page
14 37 of the French transcript received yesterday, line 16. I quote what
15 you said. Mr. Hooper says:

16 "Do you know at what particular time the FRPI was created and
17 when?"

18 You answer:

19 "Yes, I think it was between the 20th and the 25th that the
20 conflict took place and these -- and soldiers had come from Komanda and
21 others came from Mambasa. They had to take Beni on the 25th based on
22 what Thomas Lubanga had said over the radio, that they would take control
23 of Beni on the 25th."

24 The question is very straightforward. Would you mind very simply
25 providing clarification, the 20th and the 25th of what month and of what

1 year?

2 A. It was the 25th of December, 2002.

3 PRESIDING JUDGE COTTE: (Interpretation) 25th of December, 2002.

4 Thank you very much, Mr. Witness, Mr. Sharif. So let's stay with page 37
5 but also running into page 38 of the same transcript. You told us that
6 you answered to the call made by Colonel Aguru who wished to arm people
7 who were displaced peoples from Ituri. Can you tell us whether you took
8 up particular responsibilities within these forces that Colonel Aguru
9 assembled. Did you exert certain duty or responsibility, in which case
10 what responsibility did you fulfil?

11 A. When Aguru assembled the displaced people in Bunia and the
12 umbrella of the organisation *in situ*, I was responsible for keeping the
13 kitty, the money that was given to me to buy food, I was responsible for
14 buying food.

15 PRESIDING JUDGE COTTE: (Interpretation) You therefore had
16 responsibilities that could be dubbed administrative mainly; is that
17 correct?

18 A. I don't understand what you mean by an intendant or -- I was
19 responsible for purchasing food for our co-ordination and all our guests.
20 I was responsible for buying food to eat that food with our guests.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
22 Mr. Witness. Page 40 of the transcript of the hearing yesterday -- of
23 yesterday, you answered to a series of questions put to you by
24 Germain Katanga's Defence team pertaining to EMOI. And you told us, I'm
25 referring to line 13:

1 "There were a number of meetings at EMOI, and I believe from time
2 to time the commanders who were in Ituri came and commanders of small
3 groups came to meetings convened at EMOI. And from time to time Aguru
4 came from Kinshasa and he came to provide fresh instructions and he
5 invited us and so we went. And then he told us what would follow in
6 terms of the operations."

7 Mr. Sharif, would you mind making it clear to the Bench the
8 number of meetings in order to quote you, the number of meetings that you
9 attended; and after telling us the number of meetings that you attended,
10 would you mind providing clarifications, even rough -- roughly -- what
11 particular date these meetings took place.

12 A. I think that I stayed -- when I stayed at Beni I don't know how
13 many meetings took place, but I attended some meetings. I can't recall
14 how many meetings there were because this is really a long time in the
15 past now.

16 PRESIDING JUDGE COTTE: (Interpretation) We are fully alive to
17 the fact that this is very much in the past, but a scale of things. Are
18 we talking about meetings that you can count on one hand or more than
19 that, more than five meetings?

20 A. There were a number of meetings, but the meetings that I remember
21 and those that I attended -- well, I was with Aguru and I went twice when
22 Aguru came from Kinshasa. I think it was in September, a month after my
23 arrival in Beni, he arrived in September and he asked us to come to Beni.
24 So we were with people coming from Mongbwalu, from
25 Kung Fu (* as interpreted), and he told us that we had to retrieve Bunia

- 1 from people from Kpandroma and Mongbwalu, and to help us recoup Bunia.
- 2 And I think it was at that particular point in time, I think it was in
- 3 September in Beni, these were the meetings that we attended with Aguru.
- 4 This was a meeting that we attended with Aguru.
- 5 * Now, on the second meeting we went to Aguru's house to recoup the weapons
- 6 while our soldiers had gone to repel MLC-UPC attacks at Bunia. And fighting was
- 7 taking place there. We went with Aguru. We took weapons to the children who were
- 8 with us and a little money was given to the children, so that was the second meeting
- 9 that I can recall. This took place in December 2002. This was just before Christmas.
- 10 Another meeting was the one that was held with Mbusa.
- 11 A number of our people were there as well, and this was still in Bunia.
- 12 For other meetings, I cannot quite recall.
- 13 THE INTERPRETER: Message from the interpreters: Would the
- 14 witness mind speaking more slowly.
- 15 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
- 16 Mr. Sharif. If you wouldn't mind just slowing down a little more to
- 17 enable the interpreters to properly interpret your remarks.
- 18 As far as you can remember, to your knowledge, Ituri commanders
- 19 you talked about a number of commanders. You cited names of commanders
- 20 by saying that they were in such and such a locality. To the best of
- 21 your knowledge, the Ituri commanders, did they attend these meetings?
- 22 Were they present at these meetings that you yourself went to? And if
- 23 indeed there were commanders from particular towns in Ituri, would you
- 24 mind naming them as well?
- 25 A. I think the first meeting with Aguru these commanders weren't

1 present. We were only amongst ourselves, people from our -- from the
2 group at Beni. In the second meeting, however, he wasn't there either
3 because this was a war that concerned Beni. These commanders were
4 responsible for other cities where the government and the APC were
5 located. Another meeting, there was a commander Papy. Papy -- there was
6 Papy Yani (* phon) among the Ituri commanders. He was with Mbusa. He --
7 Dr. Adirodu was among the high-ranking officers of the RCD-K/ML and
8 Charlotte (* phon) was also there.

9 PRESIDING JUDGE COTTE: (Interpretation) Those are the memories
10 that you have -- that's your recollection? Another question: During the
11 meetings that you attended, do you recall any instructions that
12 Colonel Aguru brought with him from Kinshasa? Because if we fully
13 understood, he regularly shuttled back and forth between Beni and
14 Kinshasa. So during these meetings did he provide instructions from
15 Kinshasa or did he spontaneously talk off his own bat?

16 A. During these various meetings Aguru told us that we had to
17 recover Bunia, that we were going to fight the UPC and the Rwandans. And
18 he told us that if we were to recover those areas, the head of state was
19 going to give us some work. Those people who wanted to go into the army,
20 they could do so, those people who wanted to continue their studies, then
21 they could do so. These are the promises that were made to us.

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, once again
23 I'm going to have to call upon you, you know that I'm very demanding, but
24 I would call upon you to speak more slowly. Please try and establish a
25 slower pace. You have just indicated to us that colonel -- the colonel

1 talked of the necessity to recover Bunia. Again, as in your -- do you
2 remember during these meetings it was specifically about Bogoro and to
3 recover Bogoro specifically, or was it only about recovering Bunia?

4 A. During the first meeting that we had, Colonel Aguru brought a map
5 of Ituri. On this particular map he indicated to us -- well, when there
6 were commanders in situ, he indicated what the strategy -- what strategy
7 should be espoused to recover Bunia, and he also talked about Bogoro and
8 he indicated the positions that the Ugandans and the APC occupied. It
9 was about Nyankunde, Mongbwalu, the strategic areas that were occupied by
10 the enemy, and the -- it was important, therefore, to recover all these
11 positions. And it was in this way that we could recover Bunia.

12 Kpandroma, had to recover Mahagi, and he indicated all the strategic
13 areas that had to be recuperated, Mongbwalu, Mahagi, and finally Bunia.

14 PRESIDING JUDGE COTTE: (Interpretation) If the Bench is fully
15 understood, and please tell me if I've misunderstood, Bogoro therefore
16 featured among those strategic places that were to be recovered on the
17 way to Bunia?

18 A. When Aguru showed us the map he indicated all the positions that
19 were occupied by the enemy, the UPDF and the UPC and Kpandroma was
20 indicated and Bogoro, and these are the areas that had to be recovered
21 before going to Bunia. So among these areas, therefore, he cited Bogoro.
22 It wasn't about Bogoro specifically, but Bogoro featured among those
23 areas that were occupied by the UPC.

24 PRESIDING JUDGE COTTE: (Interpretation) Therefore, Mr. Witness,
25 during these meetings the instructions, the remarks, instructions made by

1 Mr. -- by Colonel Aguru, these were instructions that were military and
2 strategic in nature; is that the case?

3 A. I think it was indeed the case. He was commander of operations.
4 It was he that he was responsible for all operations with a view to
5 recovering Bunia. He talked about strategy to recover Bunia, so it was
6 military strategy.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you. And this
8 first meeting during which the colonel showed you the map, even this --
9 even though this is very much in the past, do you recall the names of
10 those who attended that particular meeting or the name of some of the
11 participants at that meeting?

12 A. If my memory serves me well, I believe there was a commander,
13 Kung Fu was his name as one of the commanders who came from Mongbwalu,
14 came from Mongbwalu, and he was very accustomed to dealing with Aguru,
15 and he was the one who had a lot of relations with Aguru. I remember
16 him. There were other members of the government. I don't recall their
17 names because they didn't stay a long, long time in Beni.

18 PRESIDING JUDGE COTTE: (Interpretation) During these meetings
19 were you a passive participant or did you sometimes speak?

20 A. During that particular meeting I had nothing to say because I
21 wasn't to go in the field because I was to stay in Beni. I was passive.
22 I just listened to what was said during that particular meeting.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you. And when
24 the colonel referred to objectives or spoke of strategy, do you remember
25 having heard him talk about civilians who were located along the way, the

1 way that maybe one day the soldiers or troops could go down?

2 A. Very often during these meetings, he indicated that it was
3 important to protect civilians and that -- in their battle, if ever
4 civilians were encountered, they shouldn't be attacked.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Sharif.
6 On page 42 of yesterday's transcript you answered to a question put to
7 you by Counsel Hooper. You answered that it was Mbusa who established
8 the FRPI in order to replace the APC in the field. This is line 20 and
9 21. You even said the same thing on page 44, line 12, "FRPI --" or 43:

10 "FRPI is a military movement to replace APC in Ituri."

11 What did you mean by that, by using "replace," the verb
12 "replace"? Would you mind making that clear? Why was it important to
13 replace the APC?

14 A. I think that when he came back from Equateur at the
15 reconciliation meeting between the RCD and the MLC, the decision was to
16 no longer fight because Mbusa had understood maybe that if hostilities
17 were to be -- were to continue that he may lose and that's what he told
18 us, that to continue the battle and to recover all these cities it was
19 important to transform the APC and therefore another name had to be given
20 to it to continue in the fight to recover the areas that the government
21 occupied in the east.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Sharif.
23 Let's stay with page 42 of yesterday's transcript. You told us - and
24 maybe you reiterated this point this morning in response to a question
25 put to you by Mr. Prosecutor, you told us, and this is line 21:

1 "We were forced to accept everything that Mbusa did and told us
2 to do," I'm just skipping the name of the city because I'm not quite sure
3 that it is Bunia that you really wanted to talk about here, "because we
4 were almost taken hostage, if you will."

5 And so here is my question: "We were forced to accept everything
6 Mbusa asked of us," Mbusa could provide sanctions if you were not to obey
7 and follow his instructions. Did he have the power to impose sanctions
8 or disciplinary action if you didn't obey?

9 A. At Beni we were still displaced people because the war -- we had
10 fled the war because the war was very fierce and there were lots of
11 killings. Bunia was in the hands of the Ugandans and the UPC. Goma had
12 gone to the UPC and Uganda had the UPC as its ally. So we had nowhere to
13 go to seek shelter. And so therefore we had to accept everything he said
14 because we were in his city, and everything he said and where he told us
15 to go, we quite simply had to do that because we had nowhere else to go.
16 At Beni we were surrounded.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Still on
18 this same transcript, page 44 and 45, you stated that Mbusa had sent
19 military personnel - this is line 16 - such as Mutombo and that he sent
20 these people to the commanders in the field. Can you tell us if these
21 military people who were sent by Mbusa to the field officers could give
22 orders to these people?

23 A. I think that in all armies orders are given. The people who were
24 there, if they were given orders and if they gave orders themselves
25 and -- well, we were a small group, we didn't always know what the orders

1 were, whether to replace people or to pass orders on to the people in the
2 field. What we did know was it was Mbusa who sent commanders from Beni
3 in order to continue operations so that operations would continue in the
4 field.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Sharif, can you
6 tell us if these commanders sent by Mbusa were, as far as you can recall
7 and from what you saw, were these people trainers? Were they military
8 advisors? Or did they also have power of command over the different
9 commanders in the field?

10 A. What I know is this: In the field there were commanders who were
11 operational commanders and who were fighting all fronts in Ituri. There
12 was one commander called Moyi (* phon) in Mongbwalu. There was the
13 Commander Papy and Ani (* phon) in Ngiti. There was also the
14 Commander Faustin, Hilaire (* phon), and other commanders too who were
15 sent, as I've just said, but I don't know what instructions they had been
16 given.

17 Since there had been several meetings, the people of the
18 government and the APC, had their own instructions, and I don't know what
19 these instructions were. So in all the meetings which were held
20 together, they had meetings in which we did not actually participate.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Sharif.
22 One final question which leads the Chamber to come back, in fact, to your
23 previous answer. When I asked you about why the APC was replaced by the
24 FRPI, you replied - this is in this morning's transcript, the provisional
25 transcript - page 24, and I read:

1 "I think that after his return from the Equateur region," this is
2 Mbusa, "after his return from the Equateur region at the reconciliation
3 meeting between the RCD and MLC, a decision was taken to no longer fight
4 because Mbusa had perhaps understood that if ever he continued fighting
5 then he might lose. And so he told us that to continue fighting and
6 recover all the towns, the APC army had to be transformed and give it
7 another name in order to continue the fight which he had been undertaking
8 in order to recover all the land which the government occupied in the
9 east."

10 You are not somebody who had military authority. You've
11 explained that you dealt with questions of supplies but you also said
12 that you went to the meetings which were held in Beni. Now, there was
13 not just that reason, in fact, you don't transform the APC into a
14 movement called the FRPI simply for the reason which you described. In
15 Mbusa's mind you, of course, don't know what went through Mbusa's head,
16 but did Mbusa not give any other explanations for saying "we're going to
17 change our name"? Did he not mention any other reasons for this? Have
18 you no other explanation to give us for this change of name? Do please
19 make an effort, think back hard on what happened at the time, please.

20 A. Well, as I said, the meeting at the Equateur held -- we thought
21 the APC was going to attend. In the Beni fight, there was two groups,
22 the MLC and the UPC. The military organisation was set up. At the
23 meeting what was said it was agreed to no longer fight. Mbusa, since
24 Ituri was a strategic place, he didn't want to let go of Ituri. So he
25 wanted to change all the uniforms and the name, and change the name from

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1 API (* as interpreted). Everything was being supplied from there. We
2 changed the name so that Bemba would not know who he was fighting and so
3 that he would think he had a new enemy to fight in Ituri. This is really
4 everything I know.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Sharif.

6 Mr. Prosecutor, as I stated yesterday, the questions of the
7 Chamber are after your cross-examination. It is now possible and before
8 the Defence teams take the floor once again perhaps asking one or two
9 questions in order to obtain further clarifications for the details, of
10 course neutral and objective questions, certainly not plunging into any
11 kind of cross-examination, but, Mr. Prosecutor, you may ask any further
12 questions if you wish.

13 MR. DUTERTRE: (Interpretation) Could I please have a few
14 minutes in order to confer with my learned colleagues?

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Indeed of
16 course. Normally our hearing, Madam Court Officer, we have recordings up
17 until what time, half past 12.00?

18 (Trial Chamber and Court Officer confer).

19 PRESIDING JUDGE COTTE: (Interpretation) Up until 20 past 12.00,
20 so please do bear that in mind with your questions, ladies and gentlemen,
21 and it -- we will need to set a few minutes aside in order to think about
22 the new witness coming in.

23 (Prosecution counsel confer)

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, whilst the
25 Prosecution team is conferring, may I just come back to the question of

1 the APC and the FRPI. Can we understand that once the change had taken
2 place you no longer talked about the APC. We're talking about the FRPI.
3 So can we understand from this that the soldiers who previously fought
4 under the banner of the APC then fought under the banner of the FRPI?
5 Were there transfers of soldiers from the APC into the FRPI?

6 A. I believe that that is what happened. The commanders were not
7 changed. They all stayed as commanders as they had been under the APC
8 and they had weapons which came from Mbusa and the EMOI.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

10 Mr. Prosecutor, over to you.

11 MR. DUTERTRE: (Interpretation) We haven't quite finished our --
12 I'm afraid, we were listening to what was being said and we were still
13 conferring.

14 PRESIDING JUDGE COTTE: (Interpretation) Then insofar as
15 possible, do be as swift as possible.

16 (Prosecution counsel confer)

17 MR. DUTERTRE: (Interpretation) No extra questions.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you. No extra
19 questions then.

20 Madam and Monsieur, ladies and gentlemen, representatives of the
21 victims, given the kind of questions which have been asked by the Chamber
22 we are in the framework of your mandate.

23 Professor Fofé, you stood up yesterday. Over to you.

24 MR. FOFÉ: (Interpretation) Thank you very much, your Honour,
25 for letting me speak. We have followed and looked at the testimony of

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1 Mr. Sharif and we have no questions to ask. Thank you very much, your
2 Honour.

3 PRESIDING JUDGE COTTE: (Interpretation) We thank you,
4 Professor Fofé.

5 Mr. David Hooper, for your final observations you have the floor.
6 The witness is still with us.

7 MR. HOOPER: Yes, thank you. Can I address you, Mr. President,
8 before I, as it were, put a question to the witness, but it might be
9 helpful to have some clarification about the use of the word that is
10 translated into the French as "*enfant*" from time to time. Of course, the
11 witness is giving his evidence in Lingala and it's being translated.
12 What I'd like to know is what's the word in Lingala that he's using, what
13 does it mean, and what does he mean, if I may be permitted to ask that
14 question.

15 PRESIDING JUDGE COTTE: (Interpretation) This is very important
16 because unless I am mistaken the witness answering I believe the first
17 question of the Chamber, we would need to go back to check this on the
18 transcript, but I believe that he did indeed use the word "child" or
19 "children" and this was the interpretation which I heard in French and
20 apparently also the interpretation in English was the same. So I'm
21 trying to find the exact place in the transcript.

22 MR. HOOPER: (Previous translation continues) ... in French. We
23 don't have an English transcript, as you know, this morning.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much
25 indeed, Mr. Hooper. So we're on page 20, line 12. The witness says:

1 "I think that at that moment it must have been September in Beni,
2 there were meetings which we participated in with Aguru. The second
3 meeting was held when we went to Aguru to recover weapons and our
4 military people repulsed the attacks of the MLC and the UPC in Bunia."
5 You were still talking at this point, Mr. Sharif. "And then
6 Kumba (* phon), was there. We went to Aguru. We handed weapons to the
7 children so that they could accompany us. This was the second meeting
8 which I recall and this took place in December 2002 just before
9 Christmas."

10 Mr. Hooper - and the Chamber believes this is important
11 too - Mr. Hooper would like you, Mr. Witness, to clarify this word
12 "children," which you said in Lingala and the translation was "children."
13 You said you gave weapons to the "children" so they could accompany you.
14 In the context of your answer, what do you actually mean by this word
15 "children"? Can you please clarify this?

16 THE WITNESS: (Interpretation) When I'm talking about children,
17 the Lingala word is "*ubana*" (* phon).

18 PRESIDING JUDGE COTTE: (Interpretation) Can you be clearer.
19 These were combatants. You say there were combatants. What kind of
20 combatants, what age were they?

21 THE WITNESS: (Interpretation) I believe that they were
22 combatants military of the FRPI. These are the people I am calling
23 children. I don't know what their precise age was. They were aged over
24 20. They were recruited because the younger children were in the refugee
25 camps. It was adult children who were in the casino camps.

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1 PRESIDING JUDGE COTTE: (Interpretation) In the course of the
2 debates and questions and answers before this Court, Mr. Sharif, the word
3 "Kadogo" has been used several times which apparently for you does mean
4 something specific. The people you have just talked about whom you say
5 were combatants aged roughly 20 or over, so these were not Kadogo. This
6 is a question I am putting to you, sir.

7 THE WITNESS: (Interpretation) Well, talking about children --
8 combatants, talking about combatants, these were not children, these were
9 not Kadogo.

10 PRESIDING JUDGE COTTE: (Interpretation) Can I hand back over to
11 you, Mr. Hooper, if you have any other final questions to ask of the
12 witness or ask for further clarification of anything.

13 Further Questioned by Mr. Hooper:

14 MR. HOOPER: Yes, it's a clarifying question relating to the
15 questions put to you by the Judges a moment ago relating to the
16 relationship between the APC and the FRPI. And my question is this:
17 After about Christmas of 2002, did the APC, the military force of the
18 RCD-K/ML, did the APC participate in battles in Ituri; and if so, in what
19 form did they participate? That's my question.

20 A. Could you please repeat your question, sir.

21 Q. Certainly. After Christmas of 2002, did the APC, that is, the
22 military wing of the RCD-K/ML, did the APC participate in combat, in
23 battles, in Ituri; and if so, in what form? And by "form," if that's the
24 word that may be a trouble to you, I mean is did they fight as APC? Did
25 they fight in uniforms? Or did they fight as something else? And if so,

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1 what was that?

2 A. After the meeting of Mbusa and after the name of the APC had been
3 changed to the FRPI, all writing mentioning APC was removed from
4 everything. The same fighters continued, however, and they still fought
5 until the fall of Bunia and the new commander arrived. We were still
6 with the people of the APC and the government when the Commander Kisempia
7 he came to organise the people in Bunia.

8 Q. Thank you.

9 MR. HOOPER: Those are all my questions and in those
10 circumstances, sir, it just behooves me to thank you on behalf of
11 Germain Katanga for coming to assist the Court with your evidence. Can I
12 say this, that we have -- we know that you -- your history and we know
13 that you are of course detained as a prisoner in Kinshasa. And we
14 haven't dwelt on that but we've heard quite a lot about the background to
15 that from previous witnesses who have given evidence in this Court and
16 who are in a similar situation to yourself. So we haven't gone into
17 details about that. The Judges are very aware of the background to your
18 circumstances. And again, thank you very much for troubling yourself
19 enough to come all this way to give evidence.

20 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, your
21 testimony is now finished. It has been relatively short but you have
22 been able to provide answers to the questions posed by Mr. Hooper, the
23 Prosecution, the Legal Representatives, and the Chamber, and therefore we
24 would like to thank you for your contribution to this case. You will
25 recall that everything which is said within these walls must be kept

1 confidential and not repeated. After this hearing you can meet
2 Mr. Germain Katanga and his Defence team for a few moments and they will
3 therefore have the opportunity to thank you for your testimony not only
4 verbally but they can also shake your hand.

5 Madam Court Officer, when the witness leaves the chamber please
6 ensure that he does not go too far because in a few minutes' time we will
7 be adjourning so that Mr. Katanga, Mr. Hooper and his team can salute to
8 the witness.

9 Thank you very much, Mr. Witness, and good-bye to you.

10 Court Usher, would you be kind enough to conduct the witness out
11 of the hearing room, out of the courtroom.

12 (The witness withdrew)

13 PRESIDING JUDGE COTTE: (Interpretation) Before we adjourn,
14 Madam Court Officer, we need to look back over -- look at the arrival of
15 Witness 176. Do you have any extra information to provide us with in
16 relation to what was said this morning? I understood this morning that
17 Witness 176 would only be leaving the Democratic Republic of Congo this
18 morning. The Registry had thought that the testimony of Mr. Sharif would
19 in fact take longer than it has and there was a certain amount of doubt
20 about the exact time-line and scheduling for this week. If Witness 176
21 does indeed leave the DRC today, then it should be possible to proceed
22 with the familiarisation of the witness tomorrow to proceed with the
23 meeting of the witness with the appointed counsel, because Mr. Hooper
24 expressed the wish and we talked about this. The Court made a ruling on
25 this on the 13th of April, I believe, Mr. Hooper wished that this witness

1 should be provided with the guarantees of Article 93 of Rules of
2 Procedure. Therefore, tomorrow we should be able to proceed with
3 familiarisation. There should be a meeting with a specialised department
4 of the unit. All this is technically possible but is the witness in fact
5 leaving the Democratic Republic of Congo or not? So, Madam
6 Court Officer, do you have any information to give us on this point?

7 (Trial Chamber and Court Officer confer)

8 THE INTERPRETER: Correction from the English booth: It was also
9 Rule 74 of the Rules of Evidence and Procedure.

10 PRESIDING JUDGE COTTE: (Interpretation) The witness will be
11 arriving tomorrow morning. He will then be undergoing the
12 familiarisation stage. He will be meeting a psychologist. This is a
13 witness who could be provided with protection measures during the
14 hearing. He has a completely different status from that of the three
15 previous witnesses. And we absolutely must ensure that this witness has
16 a meeting with the counsel appointed by the Registry, Mr. Mabanga, and
17 therefore contrary to what was planned we will not be meeting tomorrow.
18 If I could use a sporting expression -- yes, Mr. Hooper, please.

19 MR. HOOPER: Yes. I'm sorry. I'm sorry to interrupt. It was
20 merely if I could share our thoughts on the position with the witness and
21 witnesses. In respect of 176, yes, our understanding is that he will be
22 here tomorrow morning after a night flight. Our concern is that he
23 should not commence his evidence on Thursday morning. I know that means
24 that we lose tomorrow and Thursday, but our concern is that he's got
25 quite a full statement. You've seen it. He doesn't speak -- well, he

1 speaks Swahili and he's going to need to have that statement translated
2 to him. He's also going to have to go through the processes that you've
3 already indicated, and we're just concerned that it's a lot to expect of
4 someone travelling -- coming from his own particular situation to arrive
5 here and accomplish all that in a day and be in Court at 9.00 the day
6 afterwards.

7 What we are proposing is, and appreciate that this is an
8 inconvenience to the Court, but that is that we start his evidence on
9 Friday morning when we're sitting. We think his evidence will take, I
10 think two days, but my team is otherwise united in the thought that it
11 will take three days. It's always difficult to judge these things as
12 we've just seen. I tend to be rather more optimistic than others as to
13 how long things are going to take. Sometimes that's justified, but I
14 have to confess in the main it hasn't been justified looking back over
15 the past as you well know.

16 We then have Witness 134. He's not a protected -- named witness,
17 that's -- but I am firmly instructed not to mention his name and I won't,
18 D-134. And I can also mention in the context of 134 the next witness
19 501. Now, both of those witnesses are travelling together. They leave
20 on Saturday and they arrive Saturday evening. I must confess I'm not
21 clear what VWU are willing or able to do over the weekend. Obviously
22 they're arriving Saturday evening, that would mean that they would be
23 available for processes to commence, if they can be commenced, on the
24 Sunday, but I suspect that VWU, like most of us, doesn't necessarily work
25 on a Sunday.

1 So we felt that if Witness 176 commenced on Friday that his
2 evidence would continue on Monday when we're sitting. As I said, I
3 thought his evidence would take two days, it may be a little bit longer,
4 but you see what I'm getting at, that we started him, as it were,
5 Thursday, we'd still probably end up with possibly a lose Monday, not
6 always an unattractive thought, I know, but in this context if we can
7 start with 176 on Friday he will go over the weekend, certainly give my
8 friends from the Prosecution the opportunities they no doubt will seek
9 for preparation, and we then have the following witnesses, 134 and 501,
10 going through the various introductory matters on Monday and they can
11 start their evidence on Tuesday. My estimate is that 134 could be dealt
12 with on Wednesday and Thursday the 11th, it could take less time than
13 that. And that Witness 501, as I say, is also leaving Saturday and
14 arriving Saturday evening here, I estimate that I would be about 45
15 minutes in chief with him, perhaps up to an hour at the outside.

16 So if in fact 134 falls short on Thursday then we can certainly
17 start and get quite a considerable way with 501. And the next witness
18 after that, witnesses 8 and 9, they might be reached as early as the
19 Thursday or the Friday overlapping perhaps to the Monday, the 16th.

20 Now, we've invited or we've asked the WVU if they'd be -- well,
21 I'm sure they will be interested to meet us today but they haven't been
22 able to get back to us so far but we will pursue that. But what I can
23 indicate is on the timing and scheduling of flights and arrivals and the
24 time necessary for the introductory matters and the familiarisation
25 matters that concern the witnesses, if we were to sit Friday and not

1 until Friday in respect of the next witness, he would be better prepared,
2 and after that as far as I can see certainly over the next four or five
3 witnesses that should all fit in, if I can put it, nicely as far as their
4 consecutive appearances thereafter concerned for the days that we're
5 sitting.

6 And if we have a meeting, as we hope we will have later today,
7 with WVU or that we're otherwise in contact with WVU, we hope to
8 encourage them to bring forward the arrival of witnesses. I anticipate
9 that we can finish this batch of witnesses, that is, the witnesses other
10 than of course Mr. Katanga himself, by the 3rd of June or possibly the
11 10th. There's a bit of a range there. In other words, I think Friday is
12 the 3rd. We're not sitting on the Monday or the Tuesday of the next
13 week, that's the 6th and the 7th. I think that we will finish by the end
14 of that week.

15 PRESIDING JUDGE COTTE: (Interpretation) I think we are sitting
16 on the 7th. I believe we are sitting on Tuesday, the 7th. I have to
17 cross-check. Unless there has been a change. Yes, it seems to me that
18 we are sitting on Tuesday, the 7th.

19 MR. HOOPER: Yes, your Honour's correct and I'm corrected. So
20 we're not sitting on the 6th, but my estimate is that we will finish that
21 batch of witnesses, the Katanga Defence witnesses other than
22 Germain Katanga himself if called as a witness by the end of that week,
23 just to give an indication to the Chamber and to everybody else of how I
24 see, it's my responsibility, I suppose, to look into that glass ball, how
25 I'm seeing things can work out. Of course there can be problems, as

1 we've met with many witnesses in terms of illness, in terms of the
2 computer systems that may lie in our path. But at the moment - and I
3 hope I'm not being over optimistic, that's my prognosis.

4 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you believe
5 that you can conclude the testimonies of the witnesses around the month
6 of June. Now, which witnesses specifically? Can you simply give us a
7 summary of the witness numbers? Well, I have noted 176 then 134, who
8 comes after that, then 501. But where will you stop for this period of
9 June?

10 MR. HOOPER: (Microphone not activated)

11 THE INTERPRETER: Counsel's microphone.

12 MR. HOOPER: -- Jean Logo who is 258. May I say that's against a
13 background of certain choices that have yet to be finalised and made, but
14 there's a duplication of some of these witnesses. So that may explain
15 the otherwise inexplicable, and that is how we're going to fit all these
16 in. But the reason is that I can foresee that the decision will be
17 taken, certainly when Mr. O'Shea comes back from his mission which he's
18 currently engaged in in DRC, that choices will be made. And I anticipate
19 that we will lose three, possibly four of the witnesses currently listed.
20 So we reduce the witness list by up to four and with the remaining
21 witnesses my estimate is that we will finish them by the 9th of June but
22 that's a prognosis and not a promise.

23 PRESIDING JUDGE COTTE: (Interpretation) Perfect. In light of
24 that prognosis, if it turns out that way then we can think that
25 Mathieu Ngudjolo's Defence team, that is subject to the possible

1 testimony of Germain Katanga, can begin calling their own witnesses as
2 from the second part of the month, that is, subject to the testimony or
3 not of Mr. Katanga.

4 I was inclined to have the young witness, that is the new
5 witness, coming for two hours on Thursday morning because I had thought
6 that during that time we would be able to provide him with the
7 information on protection measures as well as the reassurances under
8 Article 93 and the guarantees under Rule 74 as well as to take his solemn
9 undertaking. These are formalities but which take up Court time, but
10 after listening to you wisdom dictates that we should not sit in the
11 coming two days so as to allow the witness to prepare himself correctly
12 and familiarise himself correctly. I'm not sure it is Mr. Luvengika who
13 is going to complain because this allows him more time to even better
14 prepare his questions. And in that case, Mr. Luvengika, try to submit
15 your anticipated questions to us as soon as possible. I do not think
16 that the Prosecutor has an objection to that also. This means that we
17 will meet again on Friday at 9.00 a.m. to begin the testimony of Witness
18 176. We are all aware that the schedules that we try to respect are very
19 difficult to adhere to and we didn't know that Witness 350 would conclude
20 so fast. So we have to adapt ourselves.

21 The Prosecutor.

22 MR. DUTERTRE: (Interpretation) Very briefly. Yesterday we
23 received an *ex parte* filing from the Defence on the proposed points of
24 agreement. Obviously we are going to have to analyse it before taking a
25 final decision in due course.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you. We have
2 also received the list filed by the OTP. So, accused persons, we will
3 see you on Friday morning, but in the time being, Mr. Katanga can greet
4 Mr. Sharif who has just concluded his testimony. Court is adjourned.

5 The hearing ends at 12.12 p.m.

6 CORRECTIONS REPORT

7 The Court Interpretation and Translation Section has made the following corrections
8 in the transcript:

9 *Page 20 lines 5 to 12

10 “Now, the second meeting when we went to Aguru's house to recoup weapons and
11 soldiers that had repelled MLC-UPC attacks at Bunia, and the combats were taking
12 place there. We went with Aguru. We took weapons to the children that was with
13 us and a little money given to the children, then that was the second meeting that
14 I can recall. This took place in December 2002. This was just after Christmas.

15 Another meeting was one that was held with Mbusa. A number of our people
16 were there as well, but this was always in Bunia”

17 Is corrected by

18 “Now, on the second meeting we went to Aguru’s house to recoup the weapons
19 while our soldiers had gone to repel MLC-UPC attacks at Bunia. And fighting was
20 taking place there. We went with Aguru. We took weapons to the children who were
21 with us and a little money was given to the children, So that was the second meeting
22 that I can recall. This took place in December 2002. This was just before Christmas.

23 Another meeting was the one that was held with Mbusa. A number of our people
24 were there as well, and this was still in Bunia.”

25