

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
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Tuesday, 27 September 2011
10 The hearing starts at 9.19 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.
15 Good morning, everyone. Good morning, the accused persons.
16 Before asking Mr. Katanga to take the stand, the Chamber would
17 like to draw your attention to filing number 3173 dated the 26th of
18 September, 2011, that is yesterday, and that filing is from the Registry
19 and relates to the interpretation into Lingala that has been provided to
20 Mr. Katanga ever since the beginning of the proceedings. That filing of
21 the Registry was transmitted to all of you and you can see that the
22 Registrar concludes the document by calling into -- calling the Chamber
23 to put an immediate end to interpretation into Lingala. We are not going
24 to deal with that filing today. We are going to talk about it tomorrow
25 morning at 9.00 a.m.

1 And, Mr. Hooper, tomorrow at 9.00 a.m. we will ask you for your
2 observations. The Prosecutor and the other parties will also make their
3 observations if they so do wish, and this brief delay will make it
4 possible for everyone to refresh their memories about the conditions
5 under which that interpretation into Lingala was ordered at the end of
6 procedural arguments before the Pre-Trial Chamber and also before the
7 Appeals Chamber resulting in the issuance of an order for an expert report and a
8 subsequent decision which we are requested today to bring into question.

9 So, Mr. Hooper, tomorrow at 9.00 a.m. you will provide your
10 observations on that filing by the Registry.

11 Mr. Kilenda, the Chamber has received your filing number 3164 of
12 the 21st of September, 2011. We thank you for transmitting to the
13 parties and participants and to the Chamber a more explicit document on
14 the subjects that will be dealt with during the direct examination of
15 Mathieu Ngudjolo. The Chamber notes the fact that for the time being you
16 intend to maintain an approximate time of 40 hours for the direct
17 examination and we have read with keen interest the reasons that you have
18 put forward for such a duration. However, the Chamber continues to
19 believe that this time of 40 hours - which you yourself describe as
20 approximate - is very long. We therefore ask you to reflect on the
21 issue, and in light of the conditions under which the direct examination
22 of Germain Katanga will take place, we appeal to you to reconsider that
23 position.

24 This is where we stand at now and we will revisit this issue
25 after the testimony of Germain Katanga because at that time you would

1 have the possibility of reconsidering your initial position. But we
2 wanted to draw your attention to this point right now.

3 Before we call Mr. Katanga to take his solemn undertaking, the
4 Chamber would like to hand down an oral decision on filings number
5 3157-Conf and 3163-Conf from the Defence of Germain Katanga requesting
6 leave to add documents to the list of documents that they would like to
7 use during the presentation of their case after the expiry of the
8 dead-line set by the Chamber.

9 The Chamber is seized of two applications from the Defence of
10 Germain Katanga, one dated the 16th of September, 2011, that is number
11 3157; and the other dated the 21st of September, 2011, number 3163. They
12 both request authorisation to add a certain number of documents to the
13 list of documents to be used in their case and this after the expiry of
14 the dead-line set by the Chamber.

15 The Chamber recalls that it had set the dead-line for the
16 disclosure of the two Defence teams of documents that they intended to
17 use in the presentation of their respective cases for the 7th of March,
18 2011. These applications have been submitted after the two Defence teams
19 have completed the testimonies of all their witnesses, subject to an issue with the
20 ballistics expert report, and are submitted, on the one hand,
21 for the purpose of using a certain number of documents during the direct
22 examination of Germain Katanga and, on the other hand, for the purpose of
23 introducing certain documents without passing through a witness, that is,
24 via a bar table motion.

25 It is possible to split the 20 documents into several categories.

1 Number one, 14 photographs representing pictures of people or groups of
2 people at various occasions. It would be too long to give you the
3 references here, but you have all of them. We would like to point out
4 that the Chamber does not include in this category the panel of
5 photographs of militia commanders in Ituri, which is DRC-D02-0001-0953.
6 Because this is not a simple photograph, but it is a presentation of
7 those various military leaders in a specific order. So there are 14
8 photographs there. There are also four documents that had been disclosed
9 by the Prosecutor and, lastly, two new documents including the panel of
10 photographs that we have just mentioned. The references of those six
11 documents, that is, four plus two, will not be given to you here because
12 they will be mentioned during a more detailed examination that will come
13 later.

14 The Chamber set the dead-line for responding to these two
15 applications as the 23rd of September, 2011, so you have to work very
16 quickly. Both the Prosecutor and the Legal Representatives of the
17 Victims submitted their filings within the dead-line set. The Defence of
18 Mathieu Ngudjolo stated that they did not have any observations by
19 e-mails of the 16th and 23rd of September, 2011.

20 The Chamber would like to point out that all the documents in
21 question except one or so were in the possession of the Defence in 2008,
22 2009, and 2010, well before the 7th March of 2011. And so the conditions
23 set out by Regulation 35(2) of the regulations of the Court, that is the
24 demonstration by the Defence of its inability to submit its application
25 because of reasons or circumstances beyond its control, have not been

1 fulfilled. The Chamber is, therefore, not convinced that the Defence has
2 proven the existence of circumstances beyond its control in this case.

3 With regard to the exception that has just been mentioned, that
4 is document DRC-OTP-0029-0109, and that is a letter from Colonel Matata
5 to operator Oudo, as well as its translation DRC-OTP-1024-0091. With
6 regard, therefore, to that document, both the Prosecutor and the Legal
7 Representatives seem to agree that given the fact that this document was
8 disclosed by the OTP only on the 19th of April, 2011, that is, after the
9 expiry of the dead-line set for the Defence and during the presentation
10 of its case, the conditions set out by Regulation 35(2) have
11 been fulfilled. Subject to how the Defence intends to use the document,
12 the Prosecutor is not opposed to the addition of this document to the
13 list of Defence documents. That said, the Chamber duly notes this
14 position and recalls that it does not pre-judge on the use that the
15 Defence intends to make of that document and the Chamber therefore
16 authorises the late addition of that document.

17 With regard to the other documents, the Chamber recalls that, in
18 accordance with its jurisprudence, we have the ability to authorise the
19 disclosure of a document after the dead-line, even if it does not satisfy
20 the criteria of Regulation 35(2), if the Chamber feels that the document
21 in question is significantly more convincing than the other documents
22 already disclosed or highlights a fact that is significant in the case
23 and if the Chamber feels that the late addition does not cause any
24 prejudice to the fairness of the proceedings and that the other parties
25 have the necessary time to respond to the document.

1 With regard to the category of photographs, the Legal
2 Representatives limited themselves to pointing out that the conditions of
3 Regulation 35 have not been fulfilled and defer to the wisdom of the
4 Chamber. The Prosecutor for his part is not opposed to the late addition
5 subject to the use that this document will be put to.

6 The Prosecutor objects to only one photograph, that is, the
7 photograph of Antilope, the bodyguard of Germain Katanga, and that
8 document is DRC-D02-0001-0950. In answer to the Defence allegation according to
9 which this photograph would be useful in ascertaining the age of Antilope and
10 therefore prove that the accused person did not have child soldiers as members of his
11 escort, the Prosecutor submits that the Defence could have presented that photograph
12 to Witnesses P-250, P-219, and P-28. He adds that this photograph is not
13 contemporaneous to the events and therefore does not have sufficient probative value
14 in light of what the Defence intends to demonstrate.

15 The Chamber shares that analysis regarding the use of that
16 photograph to ascertain the age of the person known as Antilope at the
17 time of the events. However, it is of the opinion that there should be
18 no distinction made between the various photographs in this category.
19 It should be noted that none of the photographs in question is of significant interest
20 with regard to the criteria that has been laid out. And as the Prosecutor has pointed
21 out quite correctly, the photographs can only be used to put names to the faces" and
22 we therefore do not object to their inclusion, as which, in the Chamber's opinion, could
23 facilitate discussions. However, the Prosecutor objected to the use of all the
24 other photographs. They do not object to their being added, and this
25 includes the photograph of the house of the father of Germain Katanga.

1 The Prosecutor feels that this photo is not useful, contrary to what the
2 Defence has suggested, in enlightening the Chamber regarding the distance
3 between that house and the BCA camp. The Chamber takes a similar
4 position to the one that it took regarding the photograph of Antilope and duly takes
5 note of this. The Chamber decides to authorise the belated addition of documents if
6 they only will be used to illustrate the answers of Germain Katanga and
7 facilitate his testimony by making it more lively, insofar as they do not
8 create any prejudice regarding the fairness of the proceedings. The
9 Chamber therefore grants the request of the Defence for all the category
10 of photographs without taking any decision on the positive -- on the
11 probative value that the Defence intends to attribute to it.

12 Regarding document DRC-OTP-0185-0816, that is the status of the
13 troops, the Defence submits that this document from the United Nations
14 mentions only 35 child soldiers that were counted in Aveba in August 2003
15 and that this contradicts the statistics in the notebook of P-267, which
16 was tendered into evidence as EVD-OTP-00120. Both the Prosecutor and the
17 Legal Representatives opposed the late addition of this document because
18 there is no information in -- regarding the conditions of its
19 preparation, particularly the absence of the name of the author, and
20 therefore the document is not reliable. The Chamber is of the opinion
21 that this document is not significantly more convincing than the
22 documents already in the record, and therefore rejects the request of the
23 Defence on this issue.

24 Regarding document DRC-OTP-0233-0525-R01 which is an internal
25 memo of the OTP, the Defence alleges that it contains new information on

1 the conduct of intermediaries 143 and 316 and on Witness P-267. The
2 Legal Representatives opposed its late addition on the grounds that it is
3 not significantly more convincing than other elements already tendered
4 into evidence. The Prosecutor recognises that the Defence was deprived
5 of the possibility of cross-examining Witness P-267 on this document
6 because the document was disclosed after the testimony of that witness,
7 and therefore has stated that they are ready to make an admission
8 relating to the information contained in the report and relating to that
9 witness. However, the Prosecutor opposes the late addition of the
10 memorandum, pointing out that the issue of intermediaries 143 and 316 is not
11 significant in the instant case. The Chamber is of the opinion that this
12 document contains information that has been unknown so far and that it
13 has -- it is significant enough for the Defence of Germain Katanga. The
14 Chamber feels that as this document was disclosed by
15 the Prosecutor himself, the addition of the document will
16 not cause any prejudice. The Chamber therefore authorises the -- or
17 grants the application to add that document to the Defence list without
18 prejudice to the decisions that it will take about the bar table motion.

19 Regarding document DRC-OTP-0026-0224, these are the minutes of
20 the various meetings of the FNI/FRPI. The Defence submits that this
21 document is particularly significant because, amongst other things, it
22 shows the difficulties faced by the FNI/FRPI command in controlling its
23 militiamen as well as the organisational problems. The Prosecutor feels
24 that the Defence could have used that document during the testimony of
25 Witness D02-236 and that this document which has no signature or stamp

1 and was prepared several months after the Bogoro attack and without any
2 link to Germain Katanga is therefore not relevant. Subject to the
3 justification that the Defence could provide with regard to the use of
4 this document during the direct examination of Germain Katanga, its
5 authentication and all the information that could be provided by the
6 accused, the Chamber feels that the minutes of the meetings could have a
7 significantly more convincing effect than other documents already
8 disclosed or tendered into evidence without causing prejudice to the
9 fairness of the proceedings.

10 The document is a small document and was disclosed by the
11 Prosecutor since December 2008. Therefore, the Chamber grants the
12 request to add that document.

13 With regard to document DRC-D02-0001-0953, that is the panel of
14 photographs of military commanders in Ituri. The Defence presents this
15 panel of commanders as a document of the UN which illustrates the little
16 influence that was attributed to Germain Katanga at the time, who only figures in
17 fourth position on this document. The Prosecutor points out that the conditions for the
18 preparation of this panel are not known and that the quality of the
19 photograph is mediocre and that they themselves disclosed a more convincing
20 MONUC document, that is DRC-OTP-0001-0302, being the document annexed to their
21 filing. For the same reasons put forward by the Prosecutor, the Chamber is of the
22 opinion that the photograph of this panel is not significantly important enough to be
23 allowed as a late addition.

24 Now, regarding the other new document, that is the list of secret
25 codes of the APC, DRC-D02-0001-1009, the Defence alleges that it

1 corroborates its thesis according to which the APC collaborated with the
2 militiamen in Aveba. The Prosecutor points out that this document was
3 prepared after the Bogoro attack and that the addressee is unknown. So
4 according to the Prosecutor, it adds nothing to the case. The Chamber is
5 of the opinion that even though this document is signed, considering its
6 contents and the date, it is not significantly convincing enough and does
7 not provide any significant new information for the case. The Chamber
8 therefore rejects the application relating to this document.

9 To conclude, therefore, the Chamber grants the two applications
10 of the Defence except for the following documents: DRC-OTP-0185-0816,
11 that is the status of the troops; document DRC-D02-0001-1009, that is the
12 secret codes; and document DRC-D02-0001-0953, that is the panel of
13 photographs of the militia commanders.

14 Court Usher, this is the time for Mr. Germain Katanga to leave
15 his seat and move to the witness-stand.

16 (The witness takes the stand)

17 PRESIDING JUDGE COTTE: (Interpretation) Can you hear me
18 properly?

19 THE WITNESS: (Interpretation) Very well, thank you.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

21 Mr. Katanga, the Chamber has noted for a certain time now but is
22 doing so officially, that you have decided to testify under oath before
23 this Court. We would remind you, as we have reminded your counsel, that
24 we handed down decision 3153 on the 13th of September, 2001 (* as
25 interpreted), upon the request of your co-accused, Mr. Mathieu Ngudjolo,

1 and according to this you can or we can clarify the position of an
2 accused who is testifying as a witness vis-à-vis the guarantees of
3 Rule 74 under the Rules of Procedure and Evidence. The Chamber believes
4 that your counsel has clearly explained to you what the situation is and
5 what is contained in this decision. Is that correct, please?

6 THE WITNESS: (Interpretation) Yes, that is correct.

7 PRESIDING JUDGE COTTE: (Interpretation) In the same way, the
8 Chamber reminds you that on the 23rd of September, 2011, we handed down
9 decision 3171, and this relates to the measure of separation which could
10 have been implemented between the accused and also relates to the problem
11 of communication which exists between the accused who are testifying as
12 witnesses and their counsel. I'm sure that you've been informed of this
13 decision. I'm sure that your counsels have commented on this to you. Is
14 that correct?

15 THE WITNESS: (Interpretation) Yes, indeed, President.

16 PRESIDING JUDGE COTTE: (Interpretation) Very well. So you
17 remember, therefore, that what you are going to say before this Chamber,
18 even if you say it in the presence of Mathieu Ngudjolo, what you will say
19 as a witness should not be talked about with Mr. Mathieu Ngudjolo outside
20 of this Court, neither should you talk about this with your co-detainees
21 in the prison. Are you agreed on that, Mr. Katanga?

22 THE WITNESS: (Interpretation) Yes.

23 PRESIDING JUDGE COTTE: (Interpretation) Very well. I see that
24 we understand each other.

25 Now, unless the parties have any objection -- we've just been

1 requested to comply with the five-second rule of which you are familiar
2 with. Unless the parties see any objection, the Chamber is not going to
3 ask Mr. Katanga to state his identity. He did this at the opening of
4 this case before he was asked whether he was going to plead guilty or
5 not. So we will not go back over the identity of Mr. Katanga.

6 Mr. Hooper may perhaps in the course of his examination-in-chief
7 may want to ask you to state several details of your identity, who -- the
8 accused who has now become a witness.

9 Since you are testifying as a witness, Mr. Katanga, you must take
10 the solemn oath to say the truth. You have often heard this said by the
11 President of the Chamber. You have heard me read this out on many
12 occasions, and it is a very important oath for you at this moment. It's
13 very important for me to read it out once again to you, although you
14 perhaps know it by heart now.

15 Mr. Katanga, you must now state to us solemnly that you will say
16 the truth, all the truth, and nothing but the truth. Is that going to be
17 the case? Will you do that?

18 THE WITNESS: (Interpretation) Your Honour, yes, I will.

19 PRESIDING JUDGE COTTE: (Interpretation) Then the Chamber
20 considers that you will say the truth, the whole truth, nothing but the
21 truth. This solemn undertaking which you have just taken, saying yes, I
22 will, this solemn undertaking is important because if in the course of
23 your testimony or if in answer to a question you do not say the truth,
24 you may be prosecuted by the Court for perjury. And if the facts were
25 proven, then you may be sentenced. You've often heard me say this. At

1 the moment I'm saying this to you. Do you understand this properly, sir?

2 THE WITNESS: (Interpretation) Your Honour, yes, I do

3 understand.

4 PRESIDING JUDGE COTTE: (Interpretation) Then the Court notes

5 that Article 69(1) of the Statute has been satisfied and Rule 66(1) and

6 (3) have been satisfied. These are part of the Rules of Procedure and

7 Evidence.

8 Now, this is a reminder for everybody, we must speak clearly, we

9 must speak slowly, we must comply with the five-second rule. You have

10 chosen to testify in French. We will talk about this tomorrow at 9.00 in

11 the morning. Do not change the language that you speak in and may I just

12 point out, because it's important, that you will not talk about the

13 content of your statement here with anybody when you leave this

14 courtroom, and particularly not to Mr. Mathieu Ngudjolo. Your counsel --

15 through the decision which the Court has just handed down on the 23rd of

16 September, 2011, your counsel has understood its obligations throughout

17 your testimony. We will not go back over this now.

18 Mr. Katanga, like all witnesses, please do not hesitate to take a

19 glass of water if you need it. You are familiar with all these

20 procedural possibilities and measures. You've been attending this Court

21 for quite a few weeks now.

22 Mr. Hooper, you have the floor.

23 MR. HOOPER: Thank you, Mr. President. Before I start, can I

24 just say that we've received no questions, written questions, from the

25 Victims' Representatives. I don't know if the Court has received them,

1 but we haven't received them as such.

2 PRESIDING JUDGE COTTE: (Interpretation) You are quite right, Mr. Hooper, to
3 bring this point up, which came back to me yesterday. And I should probably have
4 talked about it this morning.

5 To the Legal Representatives, the statement -- the
6 testimony of Mr. Germain Katanga is not so improvised, as it were, as the testimony we
7 heard a few weeks ago and which took place a little more quickly than we thought.
8 This testimony was forecast for a specific date. Mr. Hooper, given the fact that we have
9 not been able to sit regularly this week or next week, in fact Mr. Hooper will be taking
10 several days in his examination. So we do need to act very quickly. In fact, for
11 tomorrow we require a list of non-spontaneous questions, that is to say, questions that
12 you would like the accused to answer in his current capacity as witness. This will not
13 prevent you from asking any spontaneous questions.

14 We've never opposed this in the past so long as it is part of your duties
15 as representatives of the victims.

16 So for tomorrow by 4.00 we need a list of the questions which you
17 would like to ask of Mr. Katanga, and it is indeed important that his
18 Defence counsel and the OTP and the Chamber should know exactly what you
19 want to ask.

20 Now, Mr. Hooper, let me hand over to you once again.

21 MR. HOOPER: The one other matter is that we still don't have
22 maps in the case. And I know that the Chamber invited the Prosecution to
23 provide some maps, but we still haven't received any. I'm going to need
24 to refer to maps. We had a slight panic this morning when I realised
25 that we hadn't actually identified specific maps and that some had to be

1 printed out, which required going over the road to the Defence offices.
2 And I've got some copies now. They're not in colour, as the originals
3 were, and they're not particularly good in hard copy. They're
4 sufficient, though, but they're not maps that have been introduced so far
5 but they're not maps that have been produced by the Defence, I think, for
6 the main part. They're maps that have come one way or another through
7 the Prosecutor to us and we will use these maps in order to make up for
8 the lack of maps that we've had. I'm sure that won't provide a problem.

9 But as I intend to at least refer to a map or maps at an early
10 point in Mr. Katanga's examination-in-chief, I'll mention that now.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well. Could I
12 just interrupt you for a minute.

13 Mr. Prosecutor, we must avoid any useless points of friction so
14 that we can work in a constructive and peaceful atmosphere. I know that
15 everybody will take that to heart. So we have a request to obtain maps
16 which we can use as working documents. This is a long-standing request,
17 it has been renewed. I feel that you will be able to give us a
18 short-term and positive answer, sir.

19 MR. MACDONALD: (Interpretation) Your Honour, I think first of
20 all that my colleague should be more precise. We have communicated -- and this
21 was right back at the beginning of the case, the Chamber was asking if we could
22 provide a map of Ituri. We have an in-house map which we have handed over to our
23 colleagues, they came back to us. Some localities in the Walendu-Bindi region were
24 shifted slightly, , for example, and these maps were used and I believe that one of
25 them, if I am not mistaken, figures on the list

1 of documents which we wish to use in our cross-examination. That is one
2 point.

3 A second point, your Honour, concerns Zumbe. We have a map which
4 was communicated, this is a map, a printed map, the name was perhaps
5 redacted but it comes from a European army which had completely mapped
6 out Ituri with its terrain, height of land, and so on. Now, this was
7 communicated. I don't have the reference number. I was not expecting to
8 talk about it. One thing is certain and this is why I'm saying this, the
9 Prosecution does not have a map of the region of Zumbe
10 with Zumbe clearly indicated, Ezekere, other than the same map we have in the
11 documents which we wish to use for our cross-examination. We don't have a map in
12 our possession at this moment with small villages indicating -- showing
13 the Bedu-Ezekere groupement. Sadly, the only precise sketch which we have is
14 that of the Chef Manu, but we also have maps -- there are maps available
15 on Google Earth.

16 PRESIDING JUDGE COTTE: (Interpretation) May I interrupt you
17 here because I think we could talk for a very long time about this
18 question, but we have to find a solution. From memory, when I intervened
19 on this point perhaps two or three weeks ago - unless I'm wrong - I had
20 called on the parties to talk to each other in order to come up with
21 common, joint document which might be an improvement on what we had had
22 up until now because this seemed to be the request of the Defence of
23 Germain Katanga and probably what Mr. Mathieu Ngudjolo's team would like
24 to see as well. And the Chamber sees advantages in having a better
25 document than the one we have in hand because since the beginning of this

1 trial, a certain number of points need to be verified through attentive
2 reading of a map.

3 So either you once again send to everybody the document or
4 documents which seem to you to be fundamental documents so that we can
5 properly understand what we are all working on together. There is
6 nothing worse than not being sure of the validity, as it were, of what
7 we're working on and we all have to work on the same documents. Or you
8 get together - as I had asked, recommended even - with the Defence teams,
9 the Legal Representatives as well, so that whether using Google or any
10 other kind of map you may find, you decide what will be the document on
11 the basis of which you will be questioning the accused who are testifying
12 as witnesses. We don't want to once again spend hours talking about
13 this. We want to know what will be the common working document for
14 everybody.

15 So either, I repeat, you send me the documents which are the best
16 you have in hand and we will just work with these or you meet together to
17 decide which document will be the best working document possibly.

18 Very quickly, Mr. MacDonald, please.

19 MR. MACDONALD: (Interpretation) Thank you. Let me say that we
20 worked on this point when you asked us to. Unfortunately, our attention
21 was drawn to other tasks at the time. We are coming back to this. We
22 have not had time to communicate this to other colleagues, and the EVD
23 I'm referring to is in the document which comes from Mr. Hooper himself
24 and I'm referring to EVD-D02-0008. This is a map which covers the
25 geographical region of Ituri which we are talking about, and this covers

1 the Bedu-Ezekere groupement.

2 PRESIDING JUDGE COTTE: (Interpretation) Very well. We are
3 aware of the amount of work which has been asked of the different parties
4 in the course of the past few days, and we do not despair of your making
5 available to everybody another document after consultation. What is important is to
6 have this document before we delve into the examinations, not afterwards. Mr.
7 Hooper does have a map in hand and we will now at last start with the testimony of
8 Mr. Katanga who is before us today as a witness.

9 Mr. Hooper, you may now take the floor.

10 MR. HOOPER: Yes. Thank you very much. In order, I hope, to
11 expedite matters, this isn't in eCourt but can I ask that this hard copy
12 of an administrative map of the Democratic Republic of Congo showing the
13 entire country be distributed, and then with the Chamber's leave I'll
14 refer to that and we'll have it put up into eCourt in due course. It's a
15 very straightforward map and I think this came originally from the Office
16 of the Prosecution. And there's also another extracted map of Ituri. It
17 hasn't photocopied particularly well but it's clear enough to follow, and
18 again that could be distributed. And then once the parties have seen
19 that and if there's no objection and with the Chamber's consent, I'll
20 provide Mr. Katanga with hard copies of both of those documents.

21 PRESIDING JUDGE COTTE: (Interpretation) So this is the document
22 which I mentioned myself a few minutes ago.

23 Mr. Prosecutor, we need to have this document for next Tuesday.
24 We have no hearings on Thursday, Friday, and Monday, and I think this
25 should be quite possible. So next Tuesday, please, at 9.00 we will have

1 the appropriate maps.

2 Mr. Hooper has just handed out two documents --

3 MR. HOOPER: (* Previous translation continues) ... reference at
4 the moment. The large administrative map of Congo speaks really for
5 itself. The second of the documents I'll call map 1, that's not
6 confusing. So we have an administrative map of the Congo, we then have
7 map 1, and I now have map 2 in my hands, which I ask also be distributed.
8 And so in all, the Chamber and all the parties should receive a total of
9 three maps.

10 MR. MACDONALD: (Interpretation) We have no objection for the
11 first two maps which are being handed out. These are indeed -- well, a
12 map of the Congo and one of Ituri and these are maps which can also be
13 accessed on the web.

14 PRESIDING JUDGE COTTE: (Interpretation) Very well. -

15 MR. MACDONALD: (Interpretation) I believe that we communicated
16 the second one.

17 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Prosecutor.
18 I don't believe that there are any objections from the team of Mathieu Ngudjolo.
19 The Legal Representatives don't have any either. So we have the first two documents
20 which can be used by the Defence for Germain Katanga this morning. Yes?

21 MR. HOOPER: (* Previous translation continues) ... the third of
22 the maps which I'm calling map 2 and I'm marking mine map 2, if there's
23 no objection to its being introduced. So we then have the administrative
24 map of Congo; we have, for ease of reference, map 1, which is an extract
25 of the area around Bunia; and this map 2 is also an extract of a map

1 showing the area around Bunia, though with more detail on it.

2 PRESIDING JUDGE COTTE: (Interpretation) Map number 1 are the
3 first two documents; is that correct?

4 Mr. Prosecutor, on map number 2 --

5 MR. MACDONALD: (Interpretation) Yes, well, the third one handed
6 out, map number 2, could I ask us to come back to it? This is just an
7 example, but south of Bunia, I see that there is the entry to Kasenyi and
8 we also see Kasenyi on the edges of Lake Albert. Now, I don't know of any
9 Kasenyi immediately south of Bunia, so this would perhaps be a
10 mistake there. And this is really all the problem with maps in Ituri.
11 Some villages or localities have the same name but in different locations, such as
12 Djugu or Irumu for example, and this is why I'm just voicing my reservations with
13 regard to map 2 for the moment.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Well, I
15 think everything will depend on how Mr. Hooper wants to use these maps,
16 and as the case arises maybe we have to state details if we look at the
17 positioning of Kasenyi. I'm just reading through this quickly - it
18 would seem that most of the places and place names which we have heard of
19 from the different witnesses, most of these places do seem to be where we
20 think they should be and where we usually find them.
21 Mr. Hooper, we are listening to you. Over to you, sir, for your examination in chief.

22 MR. HOOPER: Thank you very much.

23 WITNESS: WITNESS DRC-D02-P-0300

24 (Witness answered through interpreter)

25 Questioned by Mr. Hooper:

Witness: Witness DRC-D02-P-0300 (Open Session)
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1 Q. So before I start asking my questions of you, Mr. Katanga, can I
2 get each of these particular plans -- maps in front of you so that that's
3 done and dealt with. We'll mark them up 1 and 2 for you so that you have
4 the same numbering as I think we've adopted. If those can be passed to
5 you. Just have a -- when they come to you, if you can just have a quick
6 glance at them and then put them to one side and we'll come to them in
7 due course.

8 And when we come to the break I'll take those back off you and
9 we'll punch some holes in them and perhaps put them in a folder so that
10 you can have that in the course of your evidence and perhaps other
11 documents as well in hard copy.

12 So let's commence your evidence at last. First of all, let's
13 start with your name. Give us your full name, please.

14 A. I am called as Germain Katanga.

15 Q. Do you have any nickname or other name?

16 A. I have another name which you can find on all my school
17 documents, Simba.

18 Q. And Simba is in -- which language is Simba?

19 A. Simba, as you hear it being said, is Swahili.

20 Q. And how did you come by that name?

21 A. The name Simba is the name of my maternal grandfather.

22 Q. What is your date of birth?

23 A. My date of birth is the 28th of April, 1978.

24 Q. And where were you born?

25 A. I was born in Mombasa -- correction, Mambasa.

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1 Q. All right. I'm going to call up a map actually on the screen,
2 I've got a hard copy of it as well, just so that we can get these facts
3 clear, and that's EVD-D02-00118. And I have a hard copy for you and I'm
4 going to have that provided to you.

5 MR. HOOPER: That's a public document.

6 MR. MACDONALD: Excuse me, which number on your list, Mr. Hooper,
7 please, on the list of documents?

8 MR. HOOPER: It's a map of Ituri with that number, EVD-D02-00118,
9 so it's a map.

10 MR. MACDONALD: Yeah, but I want to know is it on your list?

11 MR. HOOPER: I don't think it is.

12 MR. MACDONALD: Okay. All right.

13 MR. HOOPER: Because we had -- I'll address the Court perhaps.

14 As I tried to explain this morning, we had difficulties with maps and
15 plans. We haven't agreed any. We're dealing with it in this way. So if
16 we can have that. Is that brought up?

17 PRESIDING JUDGE COTTE: (Interpretation) Can we have this carte
18 up on the projector -- this map up on the projector, please.

19 COURT OFFICER: (Interpretation) This map may be seen on "PC 1."

20 MR. HOOPER: (* Previous translation continues) ... on the
21 projector. We've got it on the -- it's already had an EVD number so it's
22 on there.

23 Q. And we're just going to pass the hard copy over to you and --

24 MR. MACDONALD: (Interpretation) Your Honour, the Office of the
25 Prosecutor has no objection. This is a map. We are not objecting

Witness: Witness DRC-D02-P-0300 (Open Session)
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1 because we want this to proceed smoothly. Any other unexpected documents
2 we will object.

3 PRESIDING JUDGE COTTE: (Interpretation) Well, let us not get off on the footing
4 that there will be categorical objections immediately, because it will be on a case by
5 case basis. In this case, thank you to the Office of the Prosecution for your goodwill
6 here and we will proceed.

7 MR. HOOPER: Q. And so looking at that we can see clearly Mambasa and where it is
8 in relation to Bunia. And how long did you live in Mambasa?

9 A. I lived in Mambasa from my birth up to the age of 14.

10 Q. Now, you've given us your date of birth, April 1978, which now
11 makes you, of course, 33 years of age. And at the time of the events
12 we're concerned with, that is, 24th of February, 2003, you would have
13 been 24 years of age; is that correct?

14 A. In 2003, yes, I -- I was age 24, in fact, and a few months.

15 Q. Almost, almost -- coming up to 25, of course, in April. Do you
16 have a religion; and if so, which is it?

17 A. I am a member of the Protestant church.

18 Q. What is the name of your father? Where is his -- where is he
19 from? And what is his ethnicity?

20 A. My father is Jacob Nduru. He is from the Indru ethnic group,
21 commonly known as Ngiti, I-n-d-r-u.

22 Q. And where is he from and where does he live?

23 A. He lives in Aveba Mukubwa in the sub-locality Atelengba.

24 Q. And what does he do, what is his occupation?

25 A. My father, like my step-mother, are both nurses.

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- 1 Q. And you mention your step-mother. What is her name?
- 2 A. My step-mother is called Josee Mabo Nakusi (* phon).
- 3 Q. What is the name of your mother?
- 4 A. My mother's name -- my birth mother's name is Elizabeth Regine.
- 5 Q. And where is she from? What is her ethnicity?
- 6 A. My mother is from the Yogo ethnicity, she is from Haut-Uele in
- 7 Isiro.
- 8 Q. And where does she live today?
- 9 A. She lives in Mambasa.
- 10 Q. How many children did your mother have?
- 11 A. My mother had just one child, namely, Germain Katanga.
- 12 Q. How many children did your father have?
- 13 A. My father has 15 children.
- 14 Q. And where are you in the hierarchy of children?
- 15 A. In the list of children, I am the second son of my father.
- 16 Q. Now, your father being Ngiti but your mother being Yogo, which
- 17 ethnicity are you?
- 18 A. Ours is a patriarchal community, which means that I am of
- 19 Indru Ngiti ethnicity
- 20 like my father because things follow the father's line.
- 21 Q. I want to come to the subject of languages. What is your mother
- 22 tongue?
- 23 A. My mother tongue is Kingwana which is a subdialect of Swahili.
- 24 Q. In general where is Kingwana spoken in DRC?
- 25 A. Kingwana is spoken in the Eastern Province, in Maniema, in the

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1 Katanga region, and also in part of Eastern Kasai.

2 Q. What is the national language spoken in DRC?

3 A. In the DRC we have four national languages: Lingala, Kikongo,
4 Swahili, and Tshiluba.

5 Q. Which, if any, of those languages do you speak?

6 A. I speak Lingala fluently and Kingwana.

7 Q. Which is the language you feel most at home in in speaking?

8 A. I would say that I -- since -- from the time I was born I've
9 spoken Lingala and I've always lived with people who speak Lingala and I
10 feel at ease in Lingala.

11 Q. Now, if we look at that map again that showed us Mambasa where
12 you told us you spent your first 14 years and grew up, looking at the --
13 looking at our map, is that -- is that a Ngiti area or not?

14 A. No. I'm sorry for the interpreters, but Mambasa, as the name
15 suggests, Mambasa is not a Ngiti name, it's a Bhila name. Bhila is an
16 ethnicity in Mambasa. The name Mambasa is generally written like that
17 but it's actually called Mambamusa (* phon).

18 Q. Do you speak Ngiti or Nduru as it's more properly termed?

19 A. Ndruna Ngiti, that's just the correct pronunciation. I don't
20 know Ngiti well.

21 Q. How well, for example, in comparison to -- do you speak English
22 now a little?

23 A. Well, if somebody -- it's better if somebody speaks English to me
24 than Ngiti to me.

25 Q. How does it compare to your Dutch?

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1 A. Sometimes I think it -- I would say it's about half and half,
2 that might make it easier to understand.

3 Q. Now, you're speaking in French and to what extent is French
4 spoken where you grew up and where you come from?

5 A. French is only spoken in school in our country.
6 If you don't have an educated family, the mother in particular because
7 the mother is the basis of the family to educate the children and to
8 teach the children the language, otherwise it's a national or the mother
9 tongue that dominates. So if your mother speaks Swahili at home, it's
10 Swahili which is dominant. We did not have an opportunity to have a
11 mother who had studied a lot. So French was practically not spoken at
12 home. French is spoken just in school.

13 Q. Now, you've been a guest of the detention facility here for
14 almost four years, it will be four years in a few weeks' time. And in
15 the past four years to what extent have you been exposed to French?

16 A. What I could say is that it's the family life with your -- with
17 the people around you speaking French. So I could try to explain what I
18 understand a little in French despite the mistakes I may make and perhaps
19 my grammar is not correct. I think I have evolved in the detention
20 centre with the people around me.

21 Q. Let's just very briefly deal with your fellow detainees and the
22 languages or the language they speak in. Thomas Lubanga, in what
23 language do you speak to him?

24 A. So that our community is not imbalanced, the language which I
25 would say is imposed on us is French. We have -- we've decided to use

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1 the French language so that we are not incomprehensible to our fellow
2 detainees who don't speak Kingwana, which is what I would speak at home in Ituri.
3 I can speak Kingwana with Thomas Lubanga, but if -- but if we are all
4 together it is best that we all speak French so that everyone can partake
5 of the conversation.

6 Q. Very well. And among the facilities you have in the detention centre, we know
7 there's television. What television do you watch, is it in English or French or what?

8 A. To be quite honest, I would say that the -- in the detention
9 centre when I arrived there was only one French channel, that was TV 5.
10 All the rest were in English or Dutch. I hope -- I think that for the last 2 years
11 approximately we now have three, four, or five or in fact six French-speaking
12 TV channels.

13 Q. Now, you're giving your evidence in French. Can you confirm that
14 that is after discussion with me and on my advice that you gave your
15 evidence in French?

16 A. I couldn't do that. It was thanks to your advice.

17 Q. But the important --

18 MR. MACDONALD: I have to make an intervention at this stage
19 because (interpretation) The choice came from the accused, your Honour,
20 as to which language he testifies in. It is not the choice of his counsel.
21 That is where there is a difference between the rights of the accused,
22 his own inherent rights. Obviously he can listen to the legal advice
23 from his counsel, but we are -- this is the testimony of the accused, and
24 to avoid any subsequent problems, your Honour, the accused himself must
25 make an enlightened personal choice, his choice. And this is something

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1 which the Chamber will be discussing tomorrow on another point. But in
2 the interests of continuity of the proceedings, Mr. Katanga must be aware
3 that it is for him to choose within the parameters established for him by the Chamber
4 previously. We're told Kingwana -- I have not finished,
5 your Honour --

6 MR. HOOPER: (* Previous translation continues) ... (*
7 overlapping speakers) ...

8 PRESIDING JUDGE COTTE: (Interpretation) Please, order. We are
9 not now going to launch into the discussion which has been scheduled for
10 tomorrow morning at 9.00 a.m.

11 Mr. Hooper obviously wanted the witness to give some
12 clarification about which languages he spoke and it was almost
13 unavoidable that we would encroach on tomorrow morning's debate. But we
14 will leave things at this stage now and we will discuss these matters
15 tomorrow morning. We have noted that the choice which lies with the
16 witness, the choice was made in consultation with his counsel who seems
17 to have given him advice which he will explain tomorrow.

18 Mr. Hooper, you may continue.

19 MR. HOOPER: Yes, I had some other matters just on this subject.

20 Q. It is your choice to give your evidence to this Chamber in this
21 serious case, it's your choice to do so in French. Is that correct?

22 A. Yes, I -- that is my choice following advice.

23 Q. And I think what it's important for the Chamber to appreciate and
24 hear from you, if it's correct, is: Are you at ease, do you feel
25 comfortable and capable of giving your evidence in French? Have you

1 reached a point where you're comfortable with doing that?

2 A. Yes, counsel. The problem is that sometimes you need to listen
3 directly to what is being said. We've noted this. We've been here for
4 four years, nearly four years now in this chamber. Sometimes there are
5 changes when you say something directly, sometimes in the interpretation
6 the sense -- the meaning of what you've said might be changed. So even
7 if my French is not 100 per cent correct, I would ask everyone to bear
8 with me, to put up with the mistakes I'm making, but if my
9 message is coming through directly, I would be at ease with that.

10 Q. All right. Thank you. Just one final thing on languages, you've
11 mentioned speaking English and a little Dutch. Did you speak either
12 language before coming here?

13 A. I would say I spoke a little French because we spoke French at
14 school, and we could muddle through with the staff of the MONUC but there
15 were always interpreters with the MONUC staff. But I think I have learnt
16 here, I've learnt in this courtroom. I've learned with my co-detainees,
17 I've learned with my Defence team.

18 Q. Not necessarily including me of course. (* Indiscernible).

19 Let's move on. It's right you're a married man; is that correct?

20 A. Yes, counsel.

21 Q. And your wife is Denise and you have two children, and indeed
22 you've had visits from your family while you've been here over the last
23 little while. Which is your eldest child? What's his name?

24 A. My son is called Samson Mayele Katanga.

25 Q. And you have a daughter and what's her name and age?

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1 A. I'm very pleased to receive that question, counsel, because today
2 I'm celebrating my daughter's birthday. She is the 27th of September,
3 2005, so she is 6 years old today.

4 Q. And until she visited you here, it was a year or two ago, had you
5 ever seen her? Before she came here?

6 A. I left before she was born. I was arrested on the 26th of
7 February, 2005, and until she came to see me here in November 2008, that
8 was the first time I saw her in person.

9 Q. And what is her name?

10 A. Her name is Anita MacAdams Katanga.

11 Q. And where did the name MacAdams come from?

12 A. The name MacAdams is the name of the director of the MONUC in
13 Bunia.

14 Q. Now, in addition to your two natural children, I understand that
15 your wife also has -- that there's other members of the family. What are
16 those members of the family, of your immediate family? What other
17 children are there in the household?

18 A. Yes, counsel. I have a child who was an orphan called Dieu Merci
19 Guillaume. I don't know where his parents are, I think they are all
20 dead. And two daughters. A daughter of my brother from my enlarged family and
21 another daughter who is the daughter of my sister.

22 Q. And where do they all live, those five children and your wife?

23 A. All my family lives in Aru.

24 Q. And we've met of course Aru before, but again for reference if we
25 look at our EVD-D02-00118 map, we can see in the top right-hand portion

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1 of that map Aru and we can see it's a substantial distance from the area
2 we're concerned with south of Bunia.

3 Can I just come back for a moment to adopted son Dieu Merci
4 Guillaume. How did he come to be a member of the family? Where did you
5 first meet him and how old was he?

6 A. I met this young boy at the Kengelu market. It was during the
7 evening and the market had already closed. So I found this child who had
8 stayed there under a shelf. I was with some combatants. I approached him
9 and I asked him what he was doing there. I thought that maybe his family
10 or his parents had beaten him for indiscipline. He did not speak
11 Kingwana. He answered in Ndruna and said: I do not have anywhere to go.
12 That is how come we took him and we thought that maybe he was trying to
13 deceive us or to lie to us. I took him to my house in Aveba.

14 Q. And how old was he at the time?

15 A. I could only approximate. I did not have any details about his
16 age. I simply approximated that he was about 5 years old. That is how
17 come we tried to decide on a date, a random date, to have him registered
18 at school.

19 Q. He's been a member of the family since then; is that right?

20 A. Today if you ask him who his father is, he will tell you that his
21 father is Germain Katanga. He does not know anyone else. And his mother
22 is Denise.

23 Q. Now, living in Mambasa until you were 14, what happened after
24 that?

25 A. From Mambasa my paternal uncle went to Isiro.

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1 Q. All right. Now, we're just going to find Isiro on a map and I
2 think the only map we can do that with, I think, is the administrative
3 map of Congo, which is the very small-scale map, of course. It has a
4 scale, as we can see at the bottom 500-kilometre marking there, that we
5 can also perhaps get some idea of the scale of the Congo by looking at
6 the size of Rwanda and Burundi that are indicated there on the -- on the
7 right, which rather gets swallowed up in any part of your country. But
8 if we look at the top right we can see - and it is a very small scale -
9 we can see Bunia and Irumu, we can see Mambasa. And then if we go to
10 the -- slightly to the north at 10.00, as it were, to Mambasa we get to
11 Isiro in -- what's the name of that area again, it's a difficult word for me. Uele, is it?

12 A. The name is Haut-Uele. And there is Haut which is linked by a
13 dash as Haut-Uele.

14 Q. So Isiro, and that's at 14. And what was the name of your uncle?

15 A. My maternal uncle's names is Ngando Ngomo.

16 MR. MACDONALD: (Interpretation) Can some of those names be
17 spelled. I know that Mr. Hooper gave us a list.
18 There's some of the names there but not all. They are not on the transcript at any rate
19 and I believe that as we go on it is assumed that the Chamber knows all those names
20 and spellings, but just like the last name that was mentioned, it can be wrongly
21 spelled in the transcript. And I remember the step-mother's name, there was an
22 asterisk placed in front of that name in the transcript. So I just wanted to remind my
23 learned friend about that. We can obviously come back on the spellings after the break,
24 if necessary.

25 PRESIDING JUDGE COTTE: (Interpretation) If the name is slightly

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1 complicated, it has to be spelled. When it comes to Isiro, for example,
2 there is no dispute about that spelling.

3 Mr. Hooper, please proceed.

4 MR. HOOPER: The name's on the list, but I do appreciate it's not
5 always easy to get to them in time, as it were, particularly for the
6 interpreters. The mother's name for reference was Elizabeth Regine. She
7 was from Haut-Uele too which - we've got the spelling of now - is the
8 province to the north-east of the DRC. I think Yogo has been correctly
9 spelled, Y-o-g-o. The name of the orphan, adopted orphan, was Dieu Merci
10 Guillaume.

11 PRESIDING JUDGE COTTE: (Interpretation) There is the maternal
12 uncle whose name phonetically is Ngando Mongo and since there is a star
13 or asterisk, is it N-g-o-n-d-o -- or rather, N-g-a-n-d-o Mongo,
14 M-o-n-g-o?

15 THE WITNESS: (Interpretation) Ngomo is written N-g-o-m-o.

16 PRESIDING JUDGE COTTE: (Interpretation) Ngomo, N-g-o-m-o, very
17 well. Thank you. The final edited transcript will take care of that and
18 include the right spelling, and if there is a complex name in the future,
19 please spell it because you are aware of those difficulties.

20 Mr. Hooper, please proceed.

21 MR. HOOPER: Yes. Just for completeness the name of the maternal
22 uncle is Ngando Ngomo, as the list.

23 Q. And your uncle, what ethnicity was he?

24 A. My uncle is Yogo.

25 Q. Is he alive today?

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1 A. No, he's no longer alive. He died in 1996.

2 Q. When was the first time you met your father, your father in
3 Aveba? When was the first time you met him?

4 A. I visited my father in 1998.

5 Q. So we can see you would have then been 20 years old. Before you
6 were 20 years old, had you known him or visited Aveba or the land of the
7 Ngiti prior to that visit in 1998?

8 A. Counsel, what I can tell you is that I did not know my father.
9 My father was my uncle. That is all. I even had difficulty knowing
10 whether my mother's name was Elizabeth Regine. I knew that my mother was
11 Esther. That is the wife of my maternal uncle Ngando Ngomo.

12 Q. And what did your uncle do? What was his profession?

13 A. At that time, my uncle during his lifetime he was a soldier in
14 the Zairian armed forces.

15 Q. And as we know, that was the national army in what is now DRC,
16 then known as Zaire under President Mobutu; is that correct?

17 A. Yes.

18 Q. And in what circumstances did he die?

19 A. He died at the front during the AFDL advance in Irumu on
20 Christmas Eve.

21 Q. And you gave us the year that that happened. Can you just repeat
22 it, please, for completeness, the year -- the Christmas Eve -- which year
23 was that Christmas Eve that he was killed?

24 A. I'm not saying on Christmas Eve, specifically the 24th, but that
25 is around the 20th, that is, during the 20s in December 1996.

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- 1 Q. Thank you very much.
- 2 MR. HOOPER: If that's a convenient moment -- thank you.
- 3 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. Thank
- 4 you, Mr. Hooper.
- 5 Court Usher, can you lead Mr. Katanga to his usual seat.
- 6 Mr. Katanga, we will reconvene in 30 minutes.
- 7 (The witness stands down)
- 8 PRESIDING JUDGE COTTE: (Interpretation) We will resume at
- 9 11.30. The hearing is suspended.
- 10 Recess taken at 10.59 a.m.
- 11 (The witness takes the stand)
- 12 On resuming at 11.34 a.m.
- 13 (Open session)
- 14 COURT USHER: All rise.
- 15 PRESIDING JUDGE COTTE: (Interpretation) Please be seated. We
- 16 will start back with the questions.
- 17 Mr. Hooper.
- 18 MR. HOOPER:
- 19 Q. So you grew up in Mambasa until the age of 14 and then you moved
- 20 to Isiro and perhaps we can just touch on your education. By the time
- 21 that you'd moved to Isiro, had you completed or not completed your
- 22 primary education?
- 23 A. Yes, counsel, I had already finished my primary education. And
- 24 in Isiro I was starting what is called in French the *cycle d'orientation*.
- 25 Q. And what, if any, secondary education did you do in Isiro?

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1 A. In Isiro, having finished this *cycle d'orientation*, I then had to
2 choose my option and I went for maths and physics.

3 Q. Now, you told us how your uncle who you regarded as your father
4 at the time, was in the F-A-Z, the FAZ, and Mobutu's army. In Isiro,
5 where did you live, did you live in an army environment or not?

6 A. Counsel, we lived within the military encampment.

7 Q. And where was the school that you attended, the secondary school?

8 A. The secondary school was within the town.

9 Q. Did you do any military training?

10 A. Yes.

11 Q. And what was that?

12 A. I was in the civil guard.

13 Q. And what did that involve?

14 A. The civil guard was a kind of police. These were soldiers who
15 were attached to the civil authorities. They were guardians of the
16 civilians, as the name indicates. For example, if there were any kind of
17 trouble coming from rebels or coming from armed bandits, for example,
18 then these were the people who would intervene first and foremost.

19 Q. Now, was this a full-time position, being in the garde civile?
20 Was this like a job or what?

21 A. No, I was not full time in the civil guard. At the end of our
22 training, that was the time of the fall of Mobutu. That was directly the
23 time of the fall of Mobutu. So having finished my training, we then had
24 to be either integrated into different companies or units, but that was
25 not done because with the war everything came to a halt, all the soldiers

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1 were sent up to the front, and we didn't work effectively with Mobutu.
2 Nevertheless, in the camps we could live peacefully and within the secure
3 safety of the camp.

4 Q. And when you're talking about the time when Mobutu fell, what
5 year are you talking about?

6 A. I would say that the fall of Mobutu was the 17th of May, 1997.
7 That was the date of the complete fall of Mobutu when Laurent-Désiré
8 Kabila took power at Kinshasa. You could say that Mobutu fell little by
9 little because the war had started in the east, he lost control of the
10 east, and then this moved little by little towards the west. This is why
11 I am saying in fact that Mobutu -- well, when we had finished our
12 training, after that there was the final fall of Mobutu. At the end of
13 year 1996, Mobutu at that time no longer had any real control over the
14 east or the whole of Ituri.

15 Q. So you told us how your uncle who you considered as your
16 father -- can I just ask you this: When you were living in Isiro you
17 were living with your uncle and was your uncle himself married; and if
18 so, to whom?

19 A. My uncle was married to Esther. That was the only name I knew,
20 Mama Esther. She was the woman I considered as my mother. Unfortunately
21 for her, she didn't have any children and she, therefore, considered me
22 as her own child.

23 Q. And were you brought up by your uncle and Esther or by your
24 mother? Who were you living with, for example, back when you were in
25 Mambasa? Who were you living with there?

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1 A. I'm sorry to use this expression, may I say, in fact, and I would
2 like to apologise to my mother, but I was -- my birth was a mistake. In
3 fact, my mother was in a convent * she was a nun, and she met my father and it was
4 by their mistake or error that but I was conceived.

5 Q. And having been born, who were you then brought up by? Was it --
6 we understand it's your uncle and Esther or your mother or a bit of both.
7 What was the situation?

8 A. Once I was no longer being breast-fed, then Mama Esther took me.
9 I grew up with her. I don't know what date this happened at, but all my
10 life I was with Mama Esther.

11 Q. Very well. That's -- that's clarified what may not have been
12 clear certainly to me.

13 So 1997, May, you've referred to the fall of -- the final overthrow of Mobutu.
14 You at that time we know would have been 18 years of age. What were you doing
15 in May 1997 when Mobutu fell and what happened subsequently?

16 A. On the 17th of May, the date of the overthrow of Mobutu in
17 Kinshasa, we were officially informed of this afterwards, but on that
18 date the eastern Congo was under the influence of Laurent-Désiré Kabila. So,
19 Mobutu was overthrown in Kinshasa. Laurent Kabila's soldiers had already been
20 there since January, February. So it might be then that we
21 got the official information of the fall of Mobutu on that date. If you
22 were to say to me: What about April or June, what was the precise date
23 of the fall of Mobutu, I wouldn't be able to tell you the precise date
24 because we didn't know then.

25 Q. (* Previous translation continues) ... city, which city is that?

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1 A. When I said that when we were living in the east of the Congo,
2 North Kivu, the Eastern Province, part of the Equatorial region, even
3 back in February Kabila was progressing towards Kinshasa. So back in
4 February, March, we had Laurent-Désiré Kabila's soldiers there with
5 the -- with the FDL (* as interpreted).

6 Q. So we're talking about mid-1997, you're 20 years old, your
7 uncle's been killed some six months or so before. What do you do -- what
8 are you doing and what do you do?

9 A. Given the tremendous difficulty I had when my uncle was killed,
10 it was very difficult to live because the regime in power had completely
11 changed. All the advantages I'd had up until then had disappeared. The
12 only solution was to look for my biological mother and this is when,
13 going back to 1997, I went to look for my mother in Lolwa, which was
14 where she lived at the time.

15 Q. And where is Lolwa?

16 A. If we look at the map, the situation of Lolwa, Lolwa is between
17 Mambasa and Komanda, 35 kilometres from Komanda heading towards Mambasa.

18 Q. Indeed if we look at what I've called map 2 that was distributed
19 this morning, which is the more detailed map of the Bunia region, we can
20 see if we go down the main road from Bunia through Irumu we get to
21 Komanda at the junction. If we then go from Komanda towards what we know
22 to be Kisangani many kilometres away, along that road we have on the map
23 section that we see, it's halfway along, and we can see Lolwa. And just
24 to -- so there's no misunderstanding, can you confirm that that's the
25 Lolwa that you're talking about?

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1 A. (No verbal response)

2 Q. And you shake your head affirmatively. Yes, thank you.

3 A. Yes, indeed, counsel.

4 THE INTERPRETER: Correction from the interpretation: Page 1 (*
5 sic), line 14, it's AFDL.

6 MR. HOOPER:

7 Q. And so we're not losing sight of it, the AFDL you referred to was
8 the army of Laurent Kabila, the father of the present president of Congo
9 or DRC who was at the time with his AFDL attacking and removing Mobutu.
10 That was the position. Can -- you can confirm that as a fair summary of
11 the position?

12 A. If we want to properly understand the AFDL acronym, then you have
13 to understand this was an alliance of forces. We're talking about the
14 armies. So it's an alliance of forces which chased Mobutu out of power.

15 Q. Just pausing there, very briefly, who -- which forces composed
16 this alliance?

17 A. In the alliance you had the democratic forces for the liberation
18 of -- as you can see in the acronym. It was the Rwandans and the
19 Congolese who accompanied Laurent-Désiré Kabila in order to take power.

20 Q. All right. Thank you. So in 1997 you get to Lolwa. Did you
21 make contact with your mother and what happened then?

22 A. When I arrived in Lolwa, I met my mother. I had to continue my
23 studies. I needed to continue my studies, but she for her part couldn't
24 help me out. She couldn't look after me. And so the situation was
25 rather complicated. On the one hand, there was no way of my continuing

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1 my studies, but I did need to do that. I needed to find a way of
2 continuing my studies. And this is why I thought of looking for any
3 means possible of finding my father.

4 Q. Did you find your father?

5 A. Yes, counsel, I did find my father, if I remember, in 1998.

6 Q. Between the fall of Mobutu in mid-1997 and the time when you
7 first made contact with your father, what were you doing? Where were you
8 and what were you doing?

9 A. Before I went to look for my father, I was in Lolwa with my
10 mother. I tried by all means possible to come by something, anything.
11 Luckily, before my uncle died he taught me how to live.
12 I muddled through. When I got to Lolwa I had to go back to
13 Isiro. When I went back to Isiro I was the inheriter of all the property. He had a
14 house in the city, in the town, and Mama Esther said to me that this was my house
15 and I could manage it as I wanted. I went to Isiro to sell this house, I
16 sold it, then I went back to Lolwa. And with this money I could,
17 therefore, live as I wanted. I managed to buy a motorbike which allowed
18 me to travel around somewhat and allowed me to get along in life.

19 Q. Can you remember when it was that you made contact with your
20 father?

21 A. You're talking about arriving in Aveba or actually having any
22 written contact or through an intermediary with him?

23 Q. Let me be more specific. When was the first time you met your
24 father face-to-face? Where was that and when was it?

25 A. I met my father face-to-face in Bunia -- no, I beg your pardon,

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1 in Aveba. In Aveba, in his house.

2 Q. And when was that?

3 A. October.

4 Q. And which year?

5 A. 1998.

6 Q. Having made contact with your father in October 1998, when you
7 would have been 20 years old, what did you do? What happened from
8 October 1998 onwards?

9 A. When I arrived under my father's roof, he enrolled me in school
10 at the Bajanga Institute.

11 Q. And we have met that name, but just tell us where is the Bajanga
12 Institute.

13 A. The Bajanga Institute is 3 kilometres from Aveba Mukubwa, so it's
14 very close to Kengelu. It's a part of the Anglican church. It's an
15 Anglican church school.

16 Q. Can you recall which year it was -- which school year, academic
17 year, was it that you started there?

18 A. In the Congo, generally, the school year or university year even
19 starts in September. But I hadn't been able to start in September. In
20 fact, I had to start around mid-November. I can't quite remember the
21 precise date, whether it was a Monday, Tuesday, or a Wednesday.

22 Q. And which year secondary was that?

23 A. It was fourth year, humanities and pedagogy.

24 Q. Did you complete that academic year?

25 A. I failed.

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1 Q. At the time going to school in Aveba, where were you living?

2 A. I'm sorry, counsel, but it wasn't the school -- I wasn't at

3 school in Aveba. I lived in Aveba but I went to school in Bajanga.

4 There is a slight difference. You need to be aware of that difference.

5 Because in Aveba there is another school called the IPAM Institute. That

6 is the secondary school coming -- run by the Emmanuel community and I

7 went to the school run by the Anglican church.

8 Q. Yes. So we understand that Bajanga, that institute, is some

9 3 kilometres away from Aveba, you told us. There may have been a problem

10 with the way I put the question or interpretation. The question I was

11 asking was this: While you were attending the Bajanga institute, you

12 were living in Aveba, where were you living?

13 A. I was living in my father's house at Atelengba, together with my

14 other brothers.

15 Q. Now, we have --

16 (Defence counsel confer)

17 MR. HOOPER: Yes, it may be a convenient moment to look at a

18 photograph we have.

19 So if we can just call up a public document which is

20 DRC-D02-0001-0955.

21 COURT OFFICER: (Interpretation) To see the photo, please press

22 "PC 1."

23 MR. HOOPER:

24 Q. Now, disregarding the various people in that photograph,

25 children, looking to the house that we can see behind, can you tell us

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1 whose house that is?

2 A. That is my father's house where I was living at the time.

3 Q. My understanding is this photograph was taken two or three years
4 ago. Looking at the state of the house, such as we can see it there, how
5 does that compare with the state of the house back in 1998 when you first
6 arrived in Aveba? Is it the same house? A different house? Is it
7 changed in any way? Can you just help us on that.

8 A. It is the same house except that back then it was newer than it
9 appears now in this photograph.

10 Q. Now, while we have that photograph up on the screen, can you just
11 identify for us who the person is standing in the picture with his hands
12 on his hips in the blue shirt.

13 A. That is my father, Jacob Nduru Katanga. Next to him is my
14 step-mother Josee Nakusi Mabo. And between my -- between the two there
15 is -- you can see part of a person whose head is not visible.

16 Q. Very well. And there's various children we don't need to
17 identify. Now, in the course of your evidence when you refer, as I
18 anticipate you will, to your father's house, this is the house that we're
19 referring to; is that correct?

20 A. Yes, it is that house.

21 Q. And in the event that we travel to Aveba, we can find that house
22 and recognise it through that photograph?

23 A. The house has not changed, it's still there, it still looks like
24 that.

25 Q. And in which part of Aveba is it to be found?

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1 A. The house is in the Atelengba *sous-localité*, also known as
2 Ateliday (* phon) in the Jimo (* phon) locality, about 200 metres from
3 the landing strip.

4 Q. Now, your fourth year secondary school at the Bajanga Institute
5 from 1998 to end of the scholastic year, which we've learned is July of
6 1999 it would be, come the next academic year, so that's September 1999
7 through July 2000, were you at school or not?

8 A. Yes, counsel, I was at school. I started the normal school year
9 and I progressed normally through school up to the sixth year of
10 secondary school.

11 Q. Did you get your national school leaving certificate; and if so,
12 when?

13 A. At the time, no. I failed the state exam. I failed in 2001, but
14 I sat the national exam for a second time in 2004.

15 Q. And in 2004 when you sat it, did you pass or fail it then?

16 A. In 2004 I passed the exam and I received the state diploma.

17 Q. Now, in 2001 when you sat but failed that exam, you told us,
18 where did you sit the exam?

19 A. In 2001 I sat the exam in Nyakunde.

20 Q. I'll come back to that in a moment. So that's mid -- that would
21 be mid-2001, just to anchor the position. In 1999 or 2000, were there
22 any -- was there any conflict at all in Walendu-Bindi?

23 A. In 1999 and 2000, we learnt that the Ugandans were oppressing the
24 civilian population in Djugu, in the north, a long way away, it was a
25 long way away and we didn't receive any other information.

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1 Q. As far as -- and I'm speaking here of the Walendu-Bindi area and
2 particularly Aveba, when, if any, did problems start there and why was
3 that?

4 A. During this period there was a flow of displacements. There
5 were -- the Ugandans began to attack the localities using attack
6 helicopters, using tanks. We didn't know why.

7 Q. And when was that, can you recall?

8 A. I remember because there was Colonel Edison Muzora who was
9 crisscrossing our area with an attack helicopter in January when he
10 bombed Codeza at the time. Now it's called Codeco. He bombed Codeco, he
11 bombed in Gety, he bombed Kagaba, and a lot of our collectivity was -- a
12 lot of our collectivity was being attacked at that time.

13 Q. Can I come back to that gentleman's name, Colonel Muzora, is that
14 M-u-z-o-r-a, and I think you may have provided another name as well, an
15 additional name for him?

16 A. Edison.

17 Q. And can you spell that, please?

18 A. Edison is written E-d-i-s-o-n. And Muzora is written M-u
19 -z-o-r-a.

20 Q. And you spoke of him attacking places with his attack helicopter
21 and you mentioned Codeza, as with a Z, now called, you said, Codeco,
22 C-o-d-e-c-o. You mentioned Kagaba which we know. And there was another
23 name Ngeli, was it? Ngali? I didn't hear it myself, so ... I haven't
24 seen the transcript. Did you mention somewhere else? I think you did.

25 A. Gety.

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1 Q. Right. That's plain enough. Thank you very much.

2 Now at that time with the Ugandan attacks or before -- I should
3 say before the Ugandan attacks, was there any system in place of
4 self-defence by the various villages or not? What was the situation?

5 A. Yes, counsel. When this conflict began, the young people in the
6 village, even the displaced persons, could organise themselves to defend
7 themselves from the Ugandans because when the Ugandans came they shot at
8 everyone. They didn't just shoot at specifically identified people.
9 They shot at everyone. So there was a self-defence movement set up. I
10 would say that a lot of the people coming from Kobhu came to our
11 collectivity in Walendu-Bindi.

12 Q. Can you give us a spelling for Kobhu, please.

13 A. Kobhu is written K-o-b-h-o -- sorry, it should be U. K-o-b-h-u,
14 Kobhu.

15 Q. And where is Kobhu, where did the displaced people you speak
16 about come from?

17 A. Kobhu is something I've just heard -- place I've heard about,
18 I've never been there. It's in the north of Bunia, the north of Bunia,
19 it's in Djugu.

20 Q. So following these helicopter attacks, what happened?

21 A. At that time there were combatants. There was somebody named
22 Safari, Colonel Safari, and he came from Kobhu. And then there was
23 somebody else who was Colonel Simba. Safari was in Kagaba and Simba was
24 in Codeza.

25 After these bombardments and the fires, the combatants using what

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1 resources they had available drove out the soldiers who had entered
2 Codeza, the land forces of the Ugandans. So the combatants chased the
3 Ugandans out as far as Nyakunde. So the combatants attacked Nyakunde and
4 they drove the Ugandans out of Nyakunde. After having driven the
5 Ugandans out of Nyakunde -- so after having chased the Ugandans out of
6 Nyakunde, they met in Songolo, and there Colonel Safari comes down from
7 Kagaba to Songolo with the combatant troops coming from Codeza to launch
8 an attack on Bunia to try to find the helicopter
9 which was coming to bomb them, and that's why the combatants were going
10 to attack the airport in Bunia and Kpandroma.

11 Q. And these combatants who attempted to attack the airport in
12 Bunia, what weapons did they have?

13 A. I'd say most of them just had bladed weapons and there were some assault
14 weapons, some assault rifles.

15 MR. MACDONALD: (Interpretation) I'm sorry to interrupt. I
16 appreciate all this information, but my colleague has not yet established
17 the source of this information. I think it's important to know whether
18 this is first-hand information or hearsay information so that the Chamber
19 can assess the probative value of these historic events. Thank you.

20 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, will you
21 give us this clarification from Germain Katanga.

22 MR. HOOPER: Yes.

23 Q. In relating these events, are you speaking from your own
24 knowledge from participating in them or are these things that you've
25 heard Mr Katanga?

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1 A. Your Honour, your Honours, I'm addressing you when I answer
2 Mr. Hooper. These were facts which were known.
3 The Prosecutor knows that our collectivity had
4 been bombed by the Ugandans, by Edison Muzora, and everyone knew that, we
5 heard that, everyone said that. When a MiG-24 fires a rocket at about
6 50 kilometres away, you hear it. It's not an AK-47 which is fired in one
7 area and the other areas don't know about it. We're talking about attack
8 helicopters. The Ugandans used mortars, 92, 120, and when that explodes,
9 everybody hears it, the detonation. I heard the detonation. I didn't
10 just hear about this on the radio. I actually heard the explosion with
11 my own ears. Thank you, your Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) So these are events
13 which you experienced.

14 THE WITNESS: (Interpretation) Yes, your Honour, these are
15 events I experienced.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Katanga.

17 You may continue, Mr. Hooper.

18 MR. HOOPER:

19 Q. Now, the attack on the airport at Bunia, to attack the
20 helicopter, combatants attacked that. What was the result of that
21 attack?

22 How did they -- how did their attack go, as far as you know?

23 A. Counsel, I would say that it was a disaster, and what do I mean
24 by a disaster? Try to imagine the civilian population which is not
25 well-trained, which is poorly equipped, which goes off to try and attack

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1 a military base. The tanks -- the tanks came out three -- there were
2 three tanks in Bunia at the time and an assault helicopter. And that
3 helicopter took to the airs and the tanks came out into the streets. The
4 poor population who didn't even know the -- Bunia. They didn't even know
5 what would be a suitable fallback position. They didn't even know, they
6 didn't have any passwords, they didn't know if they had to fall back,
7 which road they should take, they knew nothing. And the others, when
8 they heard the explosions, they were lost. Instead of going back to the
9 south, they headed north. The people who wanted to head to the east went
10 instead to the west. So it was total chaos, and a lot of those
11 combatants were captured and, in fact, they were slaughtered. A lot
12 died, a lot were imprisoned, and I would say in short that it was a
13 disaster.

14 Q. Now, at this time was there an ethnic element in these incidents?

15 A. Counsel, regarding ethnic conflicts I would say no because at
16 that time it was the Ugandans. So it is not possible for me to tell you
17 that these were ethnic groups. It was a country. So how can you
18 describe that conflict? Maybe Lendu/Ugandan conflict? I do not know.

19 Q. Now just pausing there in terms of -- you used the word "Lendu,"
20 and through your parentage, through your paternity, you consider
21 yourself, you told us, Ngiti and you are considered Ngiti through your
22 parentage. Have you ever visited Zumbé or the villages associated with
23 Zumbé on the Blue Mountains, *Montagnes Bleues*?

24 A. Counsel, my answer to you is no, simply no.

25 Q. Now, I'm going to ask you to help us very, very -- as briefly as

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1 you can, really. I'm going to ask you to look at our plan 1 that was
2 distributed this morning. I'm going to hand you another copy of it. I'm
3 going to ask you to mark on it. We'll provide you with a nice thick pen
4 if there is one. I think there is -- certainly what looks like that
5 coming up to you. And I'll give you this. And what I'm going to ask you
6 to do, if you can, is as best you can just indicate on this the area of
7 Walendu-Bindi, that is to say, the Ngiti area of Walendu -- called
8 Walendu-Bindi.

9 A. (Marks)

10 Q. Right. And if you're happy with that, can we perhaps see it,
11 please, on the overhead projector.

12 COURT OFFICER: (Interpretation) Please press "Docu Cam
13 Witness" to see the document.

14 MR. HOOPER:

15 Q. So -- so thank you for that. And just for the transcript, you've
16 drawn or marked what is almost -- not quite a square with a line running
17 just to one side of Bogoro, to the south of Bogoro, down to Lake Albert
18 and down along and up just short of Boga and then up towards Komanda, but
19 not reaching Komanda, and then across. And does that line run through
20 and include Nyakunde or not?

21 A. The former border of the collectivity included Nyakunde. But
22 after, the border was brought back to the Talolo river, that is, after
23 the Nyakunde centre but directly on the border with Nyakunde. So that
24 river known as Talolo represents the border between the Walendu-Bindi
25 collectivity and the Andisoma collectivity. So it is about 3 kilometres

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1 away from Nyakunde centre.

2 Q. Right. Now are you in any position to help us in an approximate
3 way as to give us an idea how many people lived within this area that
4 you've delineated? I mean, if you don't know or it's a wild guess, then
5 tell us. But do you know the approximate population of that
6 Walendu-Bindi area?

7 A. Recently here, I think in October, there was a census and I even
8 tried to inquire about the information before coming here because ever
9 since this war has been ravaging our territory and after joining the
10 army, I tried to find out about the members of our population. And I was
11 told that with the displaced persons who left their villages because of
12 unrest the population is approximately 180.000 inhabitants.

13 Q. Just so that we can understand what you're saying, that's your
14 understanding from the figures from a recent census, as you understand
15 it, 180.000 sometime within the last year or two, something like that?
16 Is that the position?

17 A. This is information that I received last year.

18 Q. Now, within this area that you've delineated, our understanding
19 is that the majority of people are Ngiti. Do you know what proportion of
20 the people in this area approximately will be Ngiti as opposed to any
21 other ethnic group?

22 A. I would say with regard to the proportions that the area is
23 90 per cent Ngiti. I will not go beyond 90 per cent because I might be
24 exaggerating there, but I can even say more than 90 per cent are Ngiti.

25 Q. Now, you told us how you were brought up for those first 14 years

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1 in Mambasa, that afterwards you go to Isiro until eventually coming down
2 to Aveba in October of 1998 when you're 20. Now, have you at any time in
3 your life lived in a Lendu area? And by that let me say very
4 approximately that I refer to the area north of Bunia -- well, from
5 Kasenyi --

6 MR. MACDONALD: (Interpretation) Mr. President, I would like to
7 object here. I didn't do that before because we were dealing with
8 general and undisputed issues. But the more we progress I realise that
9 my learned friend is continuing to ask leading questions. I will give you an example.
10 He can be asked: Where did you live when you found yourself in Ituri, when you
11 arrived there from Lolwa? And he will tell us about the regions and areas, instead of
12 suggesting: "Did you live in Lendu areas and maybe localities and so on. And if so
13 'north of Bunia' and". So in giving the name of the locality we get the same response.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, you will
15 not be cut too much slack, as you realise, but try to avoid excessively leading
16 questions, or quite simply any leading questions, because you are in direct
17 examination. So please proceed in such a way that the witness can provide us a
18 maximum amount of information.

19 MR. HOOPER:

20 Q. So you've told us how you lived in Komanda and then in Isiro
21 until you were 20 when you first came to Walendu-Bindi. And my question
22 is: Aside from any time you've spent in Walendu-Bindi, have you ever
23 spent any time in a Lendu area, such as we understand from the evidence
24 we've received so far constitutes the Lendu area, that is, parallel and
25 north of Bunia as we can see on our plan 1. Have you ever been in

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1 Djugu -- I mean to live, have you ever lived in any of these areas, a
2 Lendu area?

3 A. No.

4 Q. Did you -- do you have any connections of family or anything like
5 that with Lendus?

6 A. No.

7 Q. How -- from your knowledge, how do the languages compare, the
8 language spoken by the Ngiti and the language spoken by the Lendu, how do
9 they compare? Are they similar? Dissimilar? How do they compare?

10 A. The two languages are completely different.

11 Q. Again, as far as you know, in terms of customs, traditions
12 between Ngiti and Lendu, how do they compare, do you know?

13 A. In any case, since I never lived in the Lendu areas, it would be
14 difficult for me to tell you whether the two customs are different or
15 similar. I do not know.

16 Q. All right. Now, let's go back to the helicopter attacks of
17 January 2001 and the subsequent attack on Bunia airport you've told us about.
18 What happened after that in 2001 inasmuch as we're concerned
19 with Walendu-Bindi?

20 MR. MACDONALD: (Interpretation) Your Honour, you see what is
21 happening here? The witness never mentioned 2001.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well. Let me try to look at the
23 transcript. I did not follow the last exchange. I was taking down my notes, so let me
24 wait for the transcript and then you may address the Court, Mr McDonald. There may
25 be differences between what was said, what you can see on the

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1 transcript and what can be checked over when reading. Now, page 57, line 7:

2 "Q. Very well. Let us come back to the helicopter attack in
3 January 2001 and the subsequent attack at the Bunia airport that you
4 talked to us about. What happened after that in 2001 with regard to
5 Walendu-Bindi?"

6 Now, what is your problem, Mr. Prosecutor?

7 MR. MACDONALD: (Interpretation) It is the date, January 2001,
8 it was never mentioned by the witness. That is the point that I'm
9 raising here.

10 PRESIDING JUDGE COTTE: (Interpretation) What happened after
11 that in 2001?

12 MR. MACDONALD: (Interpretation) My colleague, my learned
13 friend, is suggesting January 2001.

14 PRESIDING JUDGE COTTE: (Interpretation) I cannot see "January."

15 MR. MACDONALD: (Interpretation) He is suggesting January 2001
16 for the helicopter attack. It has not been placed on the record via Mr Katanga. That's
17 where we are. And then the question is asked as to what happened subsequently in
18 2001. A short while ago we were talking about 1999 and 2000.

19 PRESIDING JUDGE COTTE: (Interpretation) Very well. Mr. Witness -- or rather, Mr.
20 Hooper, please proceed, and try not to guide the witness too much in his answers and
21 I'm referring here to dates that might not have been mentioned here.

22 MR. HOOPER: Sorry, he'd mentioned January. I thought he'd
23 mentioned the year. I've looked at the transcript and he hasn't.

24 Q. Can you recall, except by implication, as we spoke of 1999 and
25 2000, can you recall when approximately the helicopter attacks and the

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1 attack on Bunia airport took place?

2 A. Mr. President, your Honours, Mr. Hooper, I can tell you that the
3 Prosecutor is aware that the helicopter attack and the combatants' attack
4 on Bunia was in January 2001. He knows that. I'm not a witness who came
5 from outside. I am part of the case. I read the record. And when I
6 tell you January 2001 or even if I did not say January 2001, you can
7 simply ask me for specifics there regarding attacks. There are many
8 dates, 19th January and so on and so forth.

9 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed,
10 Mr. Katanga. You are in a special position as an accused person
11 testifying as a witness. So it means you are very familiar with the
12 record. That is the originality of the situation and perhaps its wealth; we shall see.

13 Mr. Hooper, please continue. Maybe you are going to ask
14 questions on this issue, but a short while ago Mr. Katanga stated that he
15 experienced and he heard explosions from the shelling, from the -- of the
16 helicopter. And before that he talked about Colonel Safari and Colonel
17 Simba who sort of organised a self-defence operation. Are these people
18 that you met, were you able to see them? In other words, is this
19 something that you experienced yourself? Please answer that question and
20 then Mr. Hooper can continue. It is in order for us not to forget, we are dealing with
21 this specific issue now and it is important to understand it well.

22 THE WITNESS: (Interpretation) I will answer you right away,
23 your Honour. In the year 2001, there was a sort of pacification which
24 was linked to the arrival of Jean-Pierre Bemba who pacified Ituri. That
25 is when Colonel Simba returned to the north, if I'm not mistaken. Now,

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1 regarding the case of Colonel Safari, he died in Kaswara. He died there.

2 That is the answer I can give you.

3 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, at this
4 point I will allow you to continue. Maybe we will ask questions for the
5 purpose of clarification later, but you can proceed now.

6 MR. HOOPER:

7 Q. Did you have any contact with either of those men?

8 A. Counsel, I did not have any contact with either Safari or Simba.

9 But we could see them passing by. These were people who were moving
10 about on bikes, going to one place or the other. We could see them.

11 Q. At that time were you a combatant?

12 A. Yes, counsel, I was a combatant.

13 Q. And when did that start? How did that start?

14 A. Regarding my integration as a combatant, it was from 2001 the
15 Ugandans were advancing from Boga towards Bukiringi, Bukiringi.

16 Q. If we look at our plan 2 we can see there Boga which is the --
17 just outside the southern-most area where you've indicated earlier was
18 Walendu-Bindi. You see Boga. Then if we go further up the map just a
19 centimetre, you come to Bukiringi. And again if we look at that map we
20 can see again if we go a bit further up we come to Aveba. So 2001,
21 Ugandans, you tell us, advancing up towards Bukiringi. When was the
22 first battle that you participated in? Where was it?

23 A. Counsel, I will try to assist you to correct the date, the year
24 that you mentioned. I said that in Bukiringi when I took part as a
25 combatant it was in 2000. In 2001 I made further progress because the

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1 Ugandans were at that time in our collectivity. They had come into our
2 collectivity and they were launching attacks all the time. But in
3 2001 – no, in 2000, they launched only two attacks from Bukiringi. That is
4 what I wanted to clarify.

5 Q. So -- just so we're clear, in what year did you -- how did you
6 become a combatant, in what year? What were the circumstances?

7 A. Counsel, the Ugandans were merciless. When the Ugandans moved
8 into our collectivity, it was in 2000. They moved into our collectivity
9 and we did not know their objectives or their intentions. When they
10 started attacking the villages, people became afraid. And how did they
11 do this? They left their headquarters in Gety and used the road from
12 Gety to Boga. And on their way we do not know what happened to them,
13 what disturbed them. They moved towards the Bajanga Institute. And when
14 the students saw soldiers -- because that was not their path. That was
15 not the road that they normally used. So the students panicked and
16 started fleeing. The Ugandans opened fire on the students. So this is
17 something that is unbearable. One could not go to a school where soldiers
18 were opening fire on the students. That is where the idea of
19 joining the self-defence came to me. This was in 2000. You could not
20 have said that they had the objective of carrying out this attack. They
21 were simply passing by but they left the road that they were travelling
22 on and took this diversion to attack the school. This was my line of thought,
23 Counsel.

24 Q. All right. Thank you. Now, this self-defence group, where was
25 it and how did it organise itself?

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1 A. At that time one could not say that there was already a group as
2 such. You could be there and having a meal with your brothers or someone
3 else in your family, then you would hear an explosion and you could say
4 maybe it is one of my brothers who is being killed. Then you will go
5 there to assist. There was no group, there is no such thing as a group.
6 As for me personally, when I was in my father's house, when I heard an
7 explosion on the road, then I would get up and go there. That is how it
8 happened.

9 MR. HOOPER: I'm wondering if we could have the screen down
10 there. Is that possible, please? Thank you.

11 PRESIDING JUDGE COTTE: (Interpretation) Do you want to call up
12 a confidential document?

13 MR. HOOPER: (* Previous translation continues) ...

14 PRESIDING JUDGE COTTE: (Interpretation) I'm sorry, I did not
15 understand. I was thinking about the blinds behind the accused, who
16 happens to be the witness right now. The overhead projector.

17 Please continue, Mr. Hooper.

18 MR. HOOPER:

19 Q. So what happened with the Ugandans? How did things develop?

20 A. Up until the Ugandans started using their helicopters, burning
21 houses, and so on, there may have been some kind of agreement, some kind
22 of diplomatic understanding. I can't tell you precisely what was
23 happening at that time. I knew or I know that a moment in time
24 Mr. Jean-Pierre Bemba of the FLC at the time, he landed in Gety. Just
25 before that Jean-Pierre landed in Gety, the Ugandans had actually left

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1 the collectivity. They'd pulled out. We don't know what was negotiated.
2 But after that, Jean-Pierre Bemba came in and -- well, I don't know if it
3 was to see what damage had been caused by the Ugandans, but he landed at
4 Gety at -- and he met the chiefs, the collectivity chiefs of Walendu-Bindi chiefdom,
5 M. Akobi Chomi Katorogo Edouard. He landed there in his helicopter. He
6 held meetings. And after that, he promised that he would send
7 peacekeeping troops or troops whose business it was to keep the peace.
8 Now, we knew that that probably meant the UN troops. There -- some of
9 the combatants had weapons at the time. Chief Akobi collected these
10 weapons and handed them over as part of pacification, peace, in his collectivity.

11 Unfortunately, the houses had been burnt. The school children,
12 old people, mothers had been killed, and these were the same people who
13 then went back to Gety. The same Ugandans who had left the collectivity,
14 they then came back to Gety. And it was from that point onwards that
15 things went in a very bad direction indeed. This was from 2001 onwards.

16 PRESIDING JUDGE COTTE: (Interpretation) Mr. Katanga, we would
17 ask you to say very clearly, spell out the name of the head of the
18 collectivity, the chief that you mentioned just now. You said he lands
19 in Gety, meets the customary chief, and you said the name very swiftly.
20 Could you mention this again, please.

21 THE WITNESS: (Interpretation) Apologies to the interpreters.
22 In fact, the name of the head of the collectivity of Walendu-Bindi was
23 Akobi Chomi Katorogo Edouard, Edward in English.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper.

25 MR. HOOPER:

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1 Q. Can you help us with the spelling there. Chomi, I think we
2 understand. What was the next part of his name? Akobi Chomi?

3 A. Katorogo. Katorogo, K-a-t-o-r-o-g-o.

4 Q. Now, up until that time had you yourself ever participated in
5 combat?

6 A. Up until then I had been in Bukiringi once.

7 Q. And what had happened there? What had you done there?

8 A. At the time there were no weapons, no fire-arms. The Ugandans
9 had invaded Bukiringi, they burnt it down, people died. Some people
10 stayed. There were injured and so on. And that was the situation. They
11 occupied and burnt Bukiringi and they -- when they wanted to move in,
12 they did. But the main point was to try and stop the advance of the
13 military so that behind the lines the civilians could flee and get away.
14 The idea was to attract the attention of the military, of the soldiers,
15 so that they would turn and attack you and then the old people and the
16 children, and so on, would have time to flee in the other direction.

17 Q. Now, you've mentioned that after Jean-Pierre Bemba's peace
18 efforts there was a lull and then the Ugandans came back, you told us, to
19 Gety and things got worse you told us. What happened?

20 A. Your Honours, counsel, in Gety in our collectivity, the wise old
21 men -- after the UPDF had set up in Gety, Mr. Kasaki Bandru, I will spell
22 this for you, Kasaki, Ka-s-a-k-i, Bandru, B-a-n-d-r-u.

23 Q. (* Previous translation continues) ... quite important. Can you
24 give us the first name again, spell the first name.

25 A. Kasaki, K-a --

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1 Q. (* Previous translation continues) ... what the witness just said,
2 that's K-a-s-a-k-i?

3 A. Bandru, B-a-n-d-r-u.

4 Q. So please continue.

5 A. Kasaki Bandru, after the Ugandans came in to Gety -- in fact it
6 was more or less a battalion of Ugandans that set up in that place and
7 Kasaki decided that the combatants had to be able to attack the Ugandans
8 before they could really take up position. That is to say, before they
9 could set up proper communication channels, build the trenches and
10 protection lines. The idea was to quickly attack the Ugandans before
11 they could really take up a proper military position, before they could
12 set up proper defence lines.

13 When Kasaki called on Chef Akobi, the aim of this was that --
14 well, Kasaki called Akobi, Chief Akobi to say to him that he could leave
15 Gety because there was a risk. If the combatants were indeed defeated,
16 then the Ugandans would shoot at everything that was still alive. So the
17 idea was to get the chief out first of all. However, the chief said
18 that he could not do this. He said that the combatants had to dare to
19 move. He saw the capacity of the Ugandans, what the fire-power was, he
20 saw the number of Ugandans there were, and he said that Kasaki could
21 return. Kasaki returned disappointed. Unfortunately for chief Akobi, the day
22 after this meeting, Kasaki, called Chief Akobi; his
23 administrative advisor or judge was captured by the same Ugandans and he
24 was buried alive. The judge -- the councillor to Chef Akobi was buried
25 alive. He was called Mr (* phon) Ayamaya. Ayamaya is written as

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1 follows: A-y-a-m-a-y-a.

2 Q. And what happened then?

3 A. Afterwards, the Ugandan soldiers had their own agenda and nobody
4 knew what they were going to do. They started on their own operations.
5 I don't know if it was written on their maps, but they went for the
6 village where Chief Akobi was born. They burnt the whole of that place
7 down. They killed everybody they found there and anybody who escaped was
8 lucky because the Ugandans moved very early in the morning.

9 Gety was -- Zitono was 3 to 5 kilometres away. By progressing
10 with their operations, they went to or they went as far as the village
11 called Kazana. In Kazana they found a combatant called Surambaya. I
12 will spell this name for you, S-u-r-a-m-b-a-y-a. Mr. Surambaya saw the
13 strike power of the Ugandans and pulled out, he fled. When he did this,
14 we were with Chief Kasaki. Surambaya didn't even want to stop on his
15 route and tell us what was happening.

16 Kasaki, when we asked him for explanations, he handed us a
17 weapon, the A-47 which he had, AK-47. It was every man for himself. We
18 couldn't abandon our village. There was some ammunition in this weapon. I
19 took this and with a few other men we went to Kazana and we did
20 everything we could. We did everything we could to help. There were
21 combatants who had been killed, Ugandans as well, and they had to fall
22 back.

23 In Kazana when the Ugandans had already gone through the birth
24 village of the chief Akobi, they gathered all the livestock which they
25 found. Now there were goats, there were pigs, cows, all the livestock

1 they gathered together. In Kazana we recovered all these things.
2 Now, the problem arose as to how to restore this property to the
3 owners. The owners were very largely Chief Akobi. Kasaki said: Well,
4 no, we mustn't hand this livestock back over to Akobi because he said
5 that we couldn't attack the Ugandans before they set up camp. And now
6 look they -- we recovered the property of Akobi and that's all well and
7 good. There was some discussion about this. I was on the spot. Kasaki
8 was our master, our protector, but I was a person who had lived through
9 the bombings, the explosions, and so on. And I said: Well, no, all this
10 property should be given back to Chief Akobi. It's for him, it's his. There was no
11 agreement between myself and Kasaki, but I managed in the end to convince him to
12 hand all this back to Chief Akobi. He wasn't there but we handed this property back
13 to people, and on our own initiative, we took a bull which we gave to Chief Kasaki,
14 said if you need meat, then take a bull, take one, that's enough and the rest you
15 return, and that was what happened.

16 Q. Now, what was the significance for you of those events at Kazana,
17 of you fighting and then later dealing with the animals in that way?
18 What, if any, is the significance for you in that story?

19 A. *Mr David, fighting in Kazana, recovering the property of our
20 population, giving this back to the owners, that was our whole purpose.
21 Our aim was to defend our population, to protect our property because it
22 wasn't just their goods, it was our property as well. *When they slaughter a bull at
23 the market, we could then buy the meat. So it was to everybody's benefit.
24 The big problem or our major preoccupation was that of self-defence. We
25 didn't want to leave the population to suffer. And thanks to this

1 intervention, * this really made history at that time. The interventions did not happen
2 that way. People reacted to them differently according to their understanding.

3 Q. Now, remaining still in 2001, did this situation, this problem,
4 with Ugandans continue or not?

5 A. From that point onwards, the Ugandans increased their number of
6 soldiers because they saw that *they had run into some problems.
7 So they increased the number of soldiers and expanded their area of activity
8 and tried to advance. In what direction? Now they wanted to
9 go further, to leave Gety behind, take the whole of the road which could be used
10 because they understood that the small country paths, as it were, were not able
11 to be used. They wanted main roads which they could drive on with their pick-ups,
12 so they developed their former route to Gety, Monobi, Kaswara, Aveba, Bajanga,
13 Bukiringi, and so on and so forth. They could now travel up and down all this road.

14 Ladies and gentlemen, I don't know if the Ugandans didn't want to
15 see any kind of house at all, whether it be made of wood, mud or
16 straw. They had to burn them down in our country, region. That is how
17 the houses are built. It's wood, mud, and straw. And if we're not
18 allowed to sleep in that, then where can we sleep? We don't have any caves.
19 The Ugandans burnt all these houses as they moved along.

20 Kasaki was stationed in Aveba.

21 Q. Did the fighting continue with Ugandans in 2001 or what?

22 A. Sir, I would say that up to a certain point in time, the Ugandans
23 felt that as they expanded their zone of operation they were also losing confidence.
24 and manpower they were losing the trust and relations with the population. At a
25 certain point in time, towards the middle of 2001, after a period of

1 intense fighting with the Ugandans, they stopped operations and they
2 stayed in their camp.

3 Q. All right.

4 MR. HOOPER: Now just for the remaining minutes, can I ask for
5 some EVD numbers in respect of the documents that have gone in today, and
6 it's as follows. I ask for an EVD number, please, for the picture of the
7 house that we saw, which is DRC-D02-0001-0953 -- no, 55, and also for the
8 three maps, the administrative map of DRC, the document we've called map
9 1, and the more detailed document or map, map 2. And finally the map
10 that was annotated by Mr. Katanga in showing the boundaries of where he
11 said was Walendu-Bindi, the Ngiti area. So that's one, two, three, four,
12 five documents, please.

13 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda.

14 MR. KILENDA: (Interpretation) Very briefly, our client has made
15 comments, observations, about map 2. It would seem that certain places
16 are not correctly indicated on the map. I don't know if we can give an
17 EVD number on that straight away or not. Let me just quote these places.

18 PRESIDING JUDGE COTTE: (Interpretation) Now, the Prosecutor
19 said that there was uncertainty about Kasenyi which was situated one half
20 of a centimetre south of Bunia but which is written in italics, which did
21 not give it the same configuration as the other names. It would seem
22 this is being designated as perhaps a region. I don't know.

23 MR. KILENDA: (Interpretation) Our client is saying that even --
24 we have Saliboko, Saliboko is not where it is indicated.

25 PRESIDING JUDGE COTTE: (Interpretation) North-east -- west

1 slightly.

2 MR. KILENDA: (Interpretation) Kasenyi, Datele -- Datule --

3 PRESIDING JUDGE COTTE: (Interpretation) Well, I think that
4 obviously we need to have a document which everybody fully agrees on. So
5 we will do this. We will give an EVD number to the photograph which
6 indicated the house of the father and mother-in-law of Mr. Katanga.
7 We'll also give an EVD number to the map -- document map 1, and this is
8 in two parts in fact, and then document 1 as filled in by Mr. Katanga,
9 annotated by Mr. Katanga. We'll do that and then we'll set to one side.
10 Map 2, we will not give an EVD number to this this morning in order to
11 try and clarify the doubts which are hanging over this document, as have
12 been indicated by both parties.

13 Court Officer, you have three EVD numbers to give to these different
14 documents and we need to clarify the situation on the other map in the
15 forthcoming days.

16 COURT OFFICER: (Interpretation) Thank you very much indeed.
17 The photograph DRC-D02-0001-0955 will be referenced EVD-D02-000215. The
18 map which we called map 1 will be EVD-D02-000216.

19 The map which was annotated by the witness will be
20 EVD-D02-000217, and all of these documents will be registered as public
21 documents.

22 PRESIDING JUDGE COTTE: (Interpretation) Concerning the document
23 which you have reservations on point -- sorry, map 2, do you think that
24 we could give it an MFI number for the moment which could be
25 changed into an EVD number later on?

1 COURT OFFICER: (Interpretation) The map which we're calling map
2 2 will be referenced MFI-D02-000218 and it will be recorded also as a
3 public document.

4 MR. HOOPER: (* Previous translation continues) ... the
5 administrative map of DRC, please.

6 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed, but this was tied up
7 with the document which we annotated as one. It would be simpler to separate them.

8 MR. MACDONALD: (* Previous translation continues) ... (*
9 overlapping speakers) ...

10 PRESIDING JUDGE COTTE: (Interpretation) Yes.

11 MR. MACDONALD: (* Overlapping speakers) ...

12 THE INTERPRETER: The two people are speaking at once.

13 PRESIDING JUDGE COTTE: (Interpretation) The administrative map
14 of the whole of the DRC which was attached to document number 1 will have
15 a separate reference. This is what everybody has asked for. So,
16 Court Officer, could you give this an EVD number.

17 COURT OFFICER: (Interpretation) This will be EVD-D02-000219.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much
19 indeed.

20 Mr. Hooper, Mr. Katanga, your testimony started this morning.
21 It started after the Chamber through myself had read a long statement
22 given a great number -- a great amount of information. We haven't used
23 the full time allotted to you.

24 Mr. Hooper, if we look at the subjects which you sent to us, we
25 are still on theme number 2. Tomorrow, provided that the -- that we

1 start at 9.00 and if we have Lingala interpretation, depending on whether
2 we have it or not, we should have more time which would allow us to move
3 forward faster in this examination-in-chief.

4 Mr. Katanga will now go back to the seat he usually occupies and
5 we will be here tomorrow morning at 9.00 in order to hear Mr. Hooper make
6 the different comments required by the filings of the Court Officer.

7 (The witness stands down)

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you to everybody
9 for their assistance. See you tomorrow. The hearing is finished.

10 The hearing ends at 1.31 p.m.

11 CORRECTIONS REPORT

12 Pursuant to the oral order issued by the Trial Chamber II on the 19th October 2011
13 this transcript has been revised and corrected.

14 Please note that the corrections have been implemented directly into the transcript.

15 SECOND CORRECTIONS REPORT

16 The Court Interpretation and Translation Section has made the following corrections
17 in the transcript:

18 *Page 38 lines 3 to 4

19 "and she met my father and it was a mistake but I was conceived."

20 Is corrected by

21 "she was a nun, and she met my father and it was by their mistake or error that but I
22 was conceived."

23 *Page 64 line 19

24 "A. Counsel,"

25 Is corrected by

- 1 "A. Mr David,"
- 2 *Page 64 lines 22 to 23
- 3 "If you kill a bull on the market then you can buy meat afterwards.
- 4 So it's for everybody."
- 5 Is corrected by
- 6 "When they slaughter a bull at the market, we could then buy the meat.
- 7 So it was to everybody's benefit."
- 8 *Page 65 lines 1 to 2
- 9 "this really marked history at that time. Everybody saw things and received what was
- 10 due to him."
- 11 Is corrected by
- 12 "this really made history at that time. The interventions did not happen that way.
- 13 People reacted to them differently according to their understanding."
- 14 *Page 65 lines 6 to 8
- 15 "they had problems on their hands. So they increased the number of soldiers. They
- 16 broadened the scope of their action. The idea was to advance."
- 17 Is corrected by
- 18 "they had run into some problems. So they increased the number of soldiers and
- 19 expanded their area of activity and tried to advance."