

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 Wednesday, 28 September 2011
10 The hearing starts at 9.04 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) You may be seated.
15 Good morning to everyone. Good morning, Mr. Witness. Good
16 morning, Mr. Ngudjolo.
17 Before we continue with the evidence in chief of Mr. Hooper, I
18 would like to point out that next week we will sit as usual on Tuesday
19 morning and Thursday morning, but on Wednesday, 5th of October, we are
20 going to sit in the afternoon because this courtroom has to be freed up
21 in the morning for another hearing of the Court.
22 Mr. Hooper will now take the floor to give us his observations on
23 the filing by the Registry dated 26th of September, 2011, and that is
24 number 3173, and the filing requests the Chamber to put an end to the
25 Lingala interpretation that has been provided to Mr. Katanga since the

1 beginning of the proceedings.

2 After that we will have the observations of Mr Hooper, the Prosecutor and
3 the parties and participants. Then we will talk about the ballistics
4 expert opinion in reply that we have received. Yesterday Mr. Kilenda expressed his
5 intention to make a few observations, and this is what we will do before
6 reverting to Mr. Hooper for the continuation of the direct examination.

7 Now, Mr. Hooper, for the time being there was the Lingala
8 interpretation provided so far to Mr. Katanga and then now he has decided
9 to speak in French.

10 Mr. O'Shea.

11 MR. O'SHEA: We did discuss the matter with Mr. Katanga
12 yesterday, and of course Mr. Katanga is very grateful to the Registry and
13 to the interpreters, in particular the Lingala interpreters, for their
14 assistance during the course of these proceedings. Just to put this in
15 its proper context and light, I think the Registry has been a bit taken
16 aback by the fact that Mr. Katanga has decided to testify in French.
17 There are, of course, particular and good reasons for doing that, not
18 least of which is that having reached a proficient level in French for
19 the purpose of expressing his position on the events, he feels that it is
20 appropriate to speak directly to the Judges insofar as possible. And how
21 more direct than to speak in the mother tongue of the Presiding Judge in
22 a language which both other Judges understand with a great degree of
23 fluency.

24 We have reached a stage in the trial now where we have got
25 through the vast majority of the evidence, and in principle, the only

1 witness who remains after Mr. Katanga is Mr. Ngudjolo. Of course we
2 don't know for certain whether there will be other witnesses, but at this
3 point in time it looks as though there's not going to be. We assume that
4 if there was going to be any attempt to try to rebut any evidence which
5 has already passed, that such application would have already been put in
6 by now. So in those circumstances we can see that the circumstances have
7 changed, but of course this is not the choice of the Defence team or
8 counsel, this is a choice of Mr. Katanga. It's a question of language
9 and it's a question of which language he feels comfortable in.

10 And his position at this stage is that Lingala remains his
11 language of preference, it remains the language in which he is most
12 proficient, but he is happy to leave the question in the hands of the
13 Court at this stage of the proceedings.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you for that
15 explanation, Mr. O'Shea.

16 Mr. Prosecutor, do you wish to address the Court briefly?

17 MR. MACDONALD: (Interpretation) Very briefly, your Honour. I
18 would like to recall that the Chamber and the parties remember the
19 filings 81 and 870 of the Prosecution, according to which there was a
20 perception that the level of understanding and writing and speaking
21 abilities of Mr. Katanga made it possible for him to follow the case in
22 French in accordance with the relevant provisions of the Statute. In
23 answer to the question put, Mr. President, we do not believe that the
24 interpretation in Lingala -- we do not think that it should continue.
25 Obviously Mr. Katanga is not listening to it when he's testifying. This is a fact.

1 Yesterday we intervened on the issue of knowing whether Mr. Katanga
2 during his testimony is testifying in full knowledge of the facts linguistically.
3 We would not like for there to be complaints in subsequent proceedings, were
4 this to be the case, that the accused did not understand the questions put to him
5 during his testimony. I believe that yesterday the illustration was clear that Mr.
6 Katanga is fully capable of understanding the proceedings in French.
7 Because if one can testify in a language, then he can understand in that language.

8 I would like to recall also that there is interpretation into Swahili, in fact a
9 Swahili dialect – Kingwana. However, with a few exceptions all of the witnesses for
10 the Prosecution testified in the Swahili spoken in Ituri. [...] And this was
11 not a problem. Mr. Katanga is able to follow interpretation in Swahili too[...]
12 He was able to four years ago. That is our observation. Thank you.

13 PRESIDING JUDGE COTTE: (Interpretation) The Defence team of
14 Mathieu Ngudjolo, do you wish to take the floor on this?

15 MR. FOFÉ: (Interpretation) Good morning, Mr. President, your
16 Honours. Our team does not have a clear-cut position regarding the
17 specific problems relating to Germain Katanga. Yesterday we listened to
18 his explanations which seemed to us to be plausible based on what we
19 understood. He has made progress in his level of understanding and
20 speaking French ever since his arrival here at The Hague. That is his
21 choice, Mr. President, and we have no intention of interfering in that
22 choice.

23 Maybe I can add that we understand the special position of the
24 team, the Defence team, of Germain Katanga. Considering the composition
25 of that team, maybe it is preferable for them to have a dialogue, to

1 communicate, correctly with Germain Katanga in French, given that there
2 is no member of Mr. Katanga's team who would be able to follow-up and
3 monitor the answers given by Mr. Katanga and their interpretation from French into
4 Lingala. So, this might be a detail that the Chamber could take into consideration
5 with regard to Germain Katanga's unusual situation. And in any case, I
6 believe this is a lesson to be learned for the future. When one finds
7 themselves in a situation such as the situation of the DRC, it is always
8 preferable to have one or two members in the team who has knowledge of
9 the situation language. And I believe this is also applicable to the
10 Prosecution teams.

11 As far as we are concerned, your Honour, we are aware that the
12 interpretation into Lingala has financial implications. That is quite
13 true. And, Mr. President, you have been reproaching me of repeating
14 things that you fully understand, but that is my job. Justice is costly,
15 it is expensive, for the simple reason that it makes it possible for the
16 society to improve.

17 We are here at the International Criminal Court and this Court
18 deals with situations in all the countries of the world. So this problem
19 of language shall always arise. And given the situation, I do not think
20 that we are travelling backwards or that we are regretting anything. I
21 do not think that is the case. I believe we have to move forward. And
22 in the area of the use of languages, I think we can even hope that one
23 day we should be able to have transcripts in the language used by the
24 witness in his testimony.

25 As far as we are concerned, your Honour, we would like to notify

1 the Chamber that Mr. Mathieu Ngudjolo will testify in Lingala. He has
2 decided to testify in Lingala because that is the language that he
3 understands and speaks fluently. So if there is a decision that is to be
4 taken with regard to Lingala, then the Chamber will have to take into
5 consideration this position adopted by Mr. Ngudjolo. Thank you.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
7 Professor Fofé.

8 Does Mr. Gilissen or Mr. Luvengika have anything to say?

9 MR. GILISSEN: (Interpretation) Thank you, your Honour. The Legal Representatives
10 are paying attention to the fairness of the trial [...], notably fairness with regard to legal
11 representation, but also with regard to the parties and, as a priority, to the accused,
12 failing which our presence would serve no purpose. The proceedings are rendered
13 meaningful by virtue of their fairness. We have all followed the progress made by
14 Mr. Katanga and we congratulate him because he has high-quality French and I would
15 hope to also learn Swahili to that level. I believe the Chamber will make its determination.
16 We do not want to intervene in this debate. We duly note what has happened
17 and we believe that the Chamber will be a competent arbitrator. Thank you very much.

18 PRESIDING JUDGE COTTE: (Interpretation) Judge Diarra.

19 JUDGE DIARRA: (Interpretation) I have listened with keen
20 interest to what Professor Fofé has said, but there is an obstacle to his
21 wishes because all the languages that are spoken particularly in African
22 countries are not written languages. And at this time in Trial Chamber
23 IV we are facing the problem of Zaghawa which is not a written language.

24 MR. FOFÉ: (Interpretation) Fully understood, your Honour.

25 PRESIDING JUDGE COTTE: (Interpretation) This is something we

1 did not intend to talk about in this particular case but it is important
2 because it makes -- it is part of the daily life of the Court.

3 MR. FOFÉ: (Interpretation) Yes, indeed, your Honour. This
4 question has arisen today but we have the privilege of being the pioneers
5 of proceedings in the ICC and we are facing problems that will arise over
6 and over again in the future. That is obvious.

7 The only thing I wish to underscore is that the International
8 Criminal Court shall be seized of situations from throughout the entire
9 world and with the necessary commitment of the state -- of the states.
10 We have to do everything possible for justice to be administered in the
11 best possible conditions. Thank you.

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Luvengika.

13 MR. LUVENGIKA: (Interpretation) Thank you very much, your
14 Honour. After having listened to everything that has been said this
15 morning, I defer to the wisdom of the Chamber. Thank you.

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

18 Mr. Luvengika and Mr. Gilissen have understood that this is a
19 general issue and we wanted to have their observations. The important
20 thing right now is for Germain Katanga himself to give us his position,
21 his answer, because it is his choice.

22 Now, Mr. Katanga, right now, do you believe that it is absolutely
23 necessary for you for the continuation of the proceedings to continue to
24 receive interpretation into Lingala which has been provided to you so
25 far? That is the question. The decision is up to you. Your Defence

1 team can of course assist you in the answer that you might want to give,
2 but through your counsel you have proved to us that you have a better
3 understanding and a better mastery of the French language. We were able
4 to realise that yesterday. Now, do you believe that you need to continue
5 to have the interpretation into Lingala that you have been provided with since
6 the beginning of the proceedings? The Chamber is submitting this question to you.

7 MR. KATANGA: (Interpretation) Good morning, Mr. President, your
8 Honours. I do not want to disrupt the proceedings of the Chamber or to
9 disturb the Chamber. I have asked myself that question also. Yesterday
10 answers were given by myself in response to the questions that I -- that
11 were put to me. I was wondering whether the Chamber understood my
12 answers. That is the first question.

13 The second issue is that the Prosecutor has never communicated or
14 disclosed a document to us in Lingala. All their documents are in French
15 and English. I made an effort to read French and English. Sometimes
16 there were other languages that I could not even identify, but I read those documents
17 to try to understand what the case against me is. I was only able to understand
18 half of what I read with great effort. I will express what I am able to express,
19 but I can express myself. Now with regard to the Lingala interpretation, your Honour,
20 it is not up to me to say that we should put an end to that today or tomorrow.
21 I am also making a request to the Prosecutor. In future before he
22 arrests a suspect, he has to be sure which language the accused person
23 speaks or understands.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Katanga.
25 I have asked you a question and in your answer you have very

1 intelligently answered with a question. Did you understand me yesterday
2 when I was answering Mr. Hooper's questions or the Chamber's questions?
3 The answer of the Chamber is very clear: We understood you. And in
4 order to continue to understand you well and to understand you even
5 better, it will be necessary for you not to go into very lengthy answers
6 or explanations. At the end of the hearing, Mr. Hooper allowed you the
7 latitude to speak at length, but it will be necessary for you to be
8 briefer in your answers. But what you said yesterday was perfectly
9 understandable for -- to the three Judges who speak and understand
10 French. And I believe also to all the Francophones in this courtroom and
11 I believe the English speakers in the courtroom who understand French
12 were also able to understand you directly. So we would like to reassure
13 you that when you speak slowly and you do not speak for too long your
14 French seems to us to be excellent.

15 It is also important that the questions that are put to you
16 should be short and phrased in simple language. And I'm also addressing
17 this issue to myself. The French used should be easily accessible to
18 you. And as far as we are concerned, we will therefore put an end to the
19 interpretation into Lingala, and this is an opportunity for us to thank
20 the interpreters who provided interpretation to you. It is important, as in its decision
21 number 522 of the 26th May, 2008, the Appeals Chamber stipulated that you should
22 receive high-level interpretation and that is why there was an expert report that
23 was ordered by the Chamber, and you provided your cooperation. At the time,
24 based on the outcome of that expert report, the Chamber felt that it was necessary to
25 provide that interpretation to you into Lingala. This interpretation certainly

1 turned out to be highly expensive for the Court, but it was necessary at that time
2 because Article 67 of the Statute stipulates that a language should be used that is fully
3 understood and spoken by the suspect. This was certainly not the case when we started
4 the proceedings. But you have said so yourself, and your counsel have confirmed that
5 you have improved and we have realised that you have improved significantly.
6 So we are not going to go backwards. You received that interpretation into Lingala
7 and in the near future Mr. Ngudjolo will also be provided that interpretation if we
8 understand Mr Fofe correctly. In view of yesterday's hearing, we wanted this debate
9 to take place only this morning because the Chamber needed to follow your answers,
10 to listen to your answers, and be able to make a determination as to your level
11 of proficiency. In answer to your question, we are reassured. Maybe in answer to
12 Professor Fofé and the Prosecutor, who talked about the fact that we are at the
13 beginning of the life of the Court, maybe in other cases it will be necessary to
14 periodically ask the question relating to the requirement for interpretation,
15 which may turn out to be unnecessary at some point. We have
16 understood that maybe the debates in French in this Court have helped you
17 to improve your level of French. I thank all the parties and
18 participants for your constructive observations. We thank you for your frank answer.

19 We want to reassure you once again, Mr. Katanga, that we
20 perfectly understood you yesterday as long as you speak slowly and you do
21 not speak for too long. We have to understand everything that you say, that we
22 understand your French, and the substance of your answers.

23 So, Court Officer, you can now notify Madam Arbia that it is no
24 longer necessary from this point on to provide Lingala interpretation to
25 Mr. Katanga. The Chamber is aware of the financial implications that that

1 interpretation involved throughout this period, but there was a need for that.

2 We will now move on to another general issue that we wanted to
3 talk about. Mr. Kilenda, as it so happened, yesterday the Office of the
4 Prosecutor and the members of the Chamber received the second expert
5 report carried out by Dr. Fabrizi and Dr. Rochefort. This second expert
6 report which you wanted and which was performed in the time set for it,
7 we noted that the conclusions or, in fact, the comments by Dr. Baccard
8 and the two -- second experts reached similar findings. And that
9 basically they reached similar conclusions.

10 We noted that Dr. Baccard said that the macroscopic signs of the
11 scars of 132 and 249 appeared to be compatible with a wound caused by a
12 bullet from a fire-arm and that later the same expert says that other
13 mechanisms relating to the lesions could also explain such a scar. So
14 the conclusion is open.

15 The two second experts for their part said that the description
16 of the technical aspects of the linear scar on A, on 132, and examination
17 of photographs of the right shoulder relating to that scar does not enable us to reach
18 a conclusion that they were caused by ballistics. And further on, several
19 etiologies of the wounds including possibly the action of a fire-arm
20 would be compatible with the technical, descriptive and photographic
21 aspects of that scar without it being possible to rank the possibilities
22 of causes. And the conclusions of the second experts are similar as
23 relates to 249.

24 For 287, the conclusions are also in line, the alternative
25 experts, though, stressed the fact that the fact that the witness was hit

1 by the fragments of a bullet whose initial trajectory we are unaware of
2 does not enable us to characterise whether the person who fired the
3 fire-arm was actually firing at the victim. So it seems that there is an
4 additional conclusion in the report of -- in the second report which we
5 don't have in Dr. Baccard's report.

6 But the similar findings and the almost common conclusions,
7 subject to nuances or wording which is not exactly the same but which in
8 both reports suggests that it would -- the wound could have been caused
9 by a fire-arm, but that is not the only possibility, this leads us and
10 this led us before we received the filing from the Office of the
11 Prosecutor to question whether it is absolutely essential to have
12 Dr. Fabrizi appear before the Court. Of course it goes without saying
13 that the second expert report will be in the file with its different
14 shades of meaning and the explanations which I think your Defence team
15 wanted. But we really do question the need.

16 Of course we've understood the cost issues. We shouldn't be
17 cheese paring, but there is a financial cost involved and there is also a
18 cost in terms of the duration of our debates. And also we have to
19 adjourn the -- we have to conclude the -- we have to adjourn the
20 testimony of Germain Katanga on the 10th of October and he will be in
21 full flow, so to speak. And yesterday we also asked the Prosecutor to give his
22 view, but the Prosecutor's already given his views, by saying that for
23 his part - and I'm now looking for the document the OTP sent us which I
24 ought to have here in front of me but I'm not as quite well organised as
25 I thought I was, but I now have it - 27th of September, at 16:22, the

1 Prosecution agrees that Mr. Rochefort and Fabrizi's report as
2 communicated should be submitted as it stands and the Prosecution does not feel that
3 it is necessary for the second experts to appear.

4 We can ask Mathieu Ngudjolo's -- so we can ask Germain Katanga's Defence
5 team and the Legal Representatives their opinion, but you are the first person to
6 speak. You may address the Court. You can see the Chamber's view on the matter.
7 We are not rejecting the report. The report is here with its different nuances,
8 and it is for the Chamber to assess those nuances. Does the expert
9 really need to be present when the OTP does not intend to cross-examine him?

10 MR. KILENDA: (Interpretation) Could you please give me a few
11 minutes to consult my colleagues, please, President.

12 PRESIDING JUDGE COTTE: (Interpretation) Yes, you may.
13 (Defence counsel confer)

14 MR. KILENDA: (Interpretation) Mr. President, your Honours.
15 Having received Dr. Fabrizi's report, we worked in our team and we felt
16 that in accordance with the provisions of Article 67(e) of the Statutes
17 that we were entitled to have this expert appear to address the Chamber.
18 The situation has changed. You have just recalled the content of the
19 various reports, including the -- Dr. Baccard's report and the report by
20 our experts. Quite frankly, we believe that what you have suggested and
21 the solution which was suggested by the OTP yesterday is acceptable. If
22 the other parties agree, we would like to ask that this report be -- will
23 be included in the file and be given an EVD number.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.

25 Mr. O'Shea, I turn to you now because I believe you spoke when

1 Dr. Baccard was present. Do you have any objections for this report
2 being included in the case files and being submitted to the Chamber?

3 MR. O'SHEA: (* Previous translation continues) ... with Court
4 and with the parties and would have no objection to that course.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.

6 Mr. Gilissen, Mr. Luvengika, I won't give you the floor on this
7 point because I don't think you have any major objections to voice, but I
8 do -- I look in your direction nonetheless.

9 Thank you, Mr. Kilenda. We'd like to thank you for the position
10 you have just adopted which is both judicious and constructive. You can
11 take this opportunity to thank the experts from Lyon for the speed with
12 which they carried out -- they prepared their report. It's very
13 interesting to read their reports, I have no doubts about that. And in
14 addition, while bringing certain nuances, it does confirm the work in the
15 first report by Dr Baccard; that was important. I think the Chamber is better
16 informed than it was previously. This is essential. Thank you very much.

17 So, Madam Court Usher, I think we have to give an EVD report to
18 this second expert report. I'm going to look for the date. It was
19 submitted on the 26th of September in an e-mail at 11.28 by
20 Mathieu Ngudjolo's Defence team. Forensic medicine and technical
21 medicine report carried out by Jean Rochefort and Hervé Fabrizi in Lyon
22 on the 15th of July, 20th of August, 16th of September and 19th of September. If
23 you can't do this now-- Maître Kilenda, you can do it during the hearing.

24 MR. KILENDA: (Interpretation) Your -- it is already -- it
25 already has a DRC -- DRC-D03-0001-0748.

Witness: Witness DRC-D02-P-0300 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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- 1 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Maître
2 Kilenda.
- 3 So, Madam Court Officer, if you can give us a number now, please.
- 4 COURT OFFICER: (Interpretation) Thank you. It will have the
5 number EVD-D03-00105.
- 6 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Madam
7 Court Officer -- Court Usher.
- 8 So, Mr. Katanga, we will resume our work after these procedural
9 matters.
- 10 Mr. Hooper, you have the floor.
- 11 MR. HOOPER: Thank you, Mr. President.
- 12 WITNESS: WITNESS DRC-D02-P-0300 (Resumed)
13 (Witness answered through interpreter)
- 14 Questioned by Mr. Hooper: (Continued)
- 15 Q. Good morning, Mr. Katanga.
- 16 MR. HOOPER: Before recommencing questions I go to a correction
17 that needs to be made from yesterday. It's in the English transcript at
18 page 45, line 1, where in response to a question by me as to in which
19 part of Aveba was his father's house to be found, the transcript shows
20 the house -- the reply is:
- 21 "The house is in Atele ngba *sous-localité* also known as Atele
22 in the Jimu locality."
- 23 So I'd like to just come back to that with you very briefly,
24 Mr. Katanga. Can you just tell us again and perhaps spell it where your
25 father's house is found in Aveba.

1 A. Good morning, counsel. Atele ngba is in the locality of Jimu.

2 Q. Can you spell Atele ngba for us, please.

3 A. Atele ngba is written A-t-e-l -e N-g-b-a, or Atele 2, Atele 2 ,
4 Atele - -space and then the figure 2.

5 Q. Thank you very much. Now you told us again and we find this on
6 the same page yesterday, you told us that in 2001 you had sat the
7 national exam the first time but failed the exam, and you were asked
8 if you sat it for a second time and you said:

9 " I sat the examination in Nyakunde."

10 And I want to pick up your account from that point. Can you
11 recall which -- what time of year it was that you sat that exam in
12 Nyakunde?

13 A. At the time state examinations were organised in July 2001.

14 Q. And where did you stay in Nyakunde?

15 A. I was at the house of my younger sister Francine, who is married
16 to Safari.

17 Q. And why was it necessary to sit the exam there and not in Aveba?

18 A. In Aveba there was not the option which I was taking. There was
19 not the option maths and physics. They did -- they took different
20 options in Aveba. So in Aveba there was humanities and pedagogy, that
21 was the only option.

22 Q. And so we're clear, how long did you spend in Nyakunde? Were you
23 at school there or was it just the taking of the exam there? What was
24 the position?

25 A. I just went to Nyakunde to take the exams.

1 Q. And while you were there, did anything particular happen?

2 A. Indeed. When we were in Nyakunde, at the end of July and the beginning of
3 August, a conflict broke out in Nyakunde between the Bira of the Andisoma
4 collectivity against the Lendu and the Ngiti in general. The Lendu in
5 general, the Lendu, and the Ngiti. The Bira did not want them in
6 Nyakunde.

7 Q. And what happened?

8 A. The leaders of the Andisoma collectivity provided arms to their
9 people. They gave them -- they provided them with bladed weapons to
10 attack the Lendu. And when I speak of the Lendu I'm -- I mean -- I mean
11 Lendu in general rather than saying Lendu and Ngiti. The Lendu were
12 being hunted down and killed and they were being driven out of Nyakunde.
13 And in all the neighbourhoods in Nyakunde, the majority of the
14 collectivities were occupied by Ngiti and Lendu, and a small part is
15 occupied by the Bira. And that is why -- we don't know why -- we don't
16 know why they did this, but they decided to attack the Lendu and to kill
17 them using bladed weapons. And later they were supported by the PDF in
18 driving them out of Nyakunde.

19 Q. And what happened to you? What was your experience?

20 THE INTERPRETER: Correction from the English booth: It was the
21 UPDF.

22 THE WITNESS: (Interpretation) I was in the mainly Ngiti area in
23 Lakindi -- in Kalingi (* phon) when the Bira combatants arrived. They
24 showed no mercy, no mercy. And what we did then was to try to get our
25 families away and to take refuge in the hospital. If you see -- if you

1 look at Nyakunde, the hospital in Nyakunde, all the staff in the hospital
2 and the mission, three quarters of the people were Lendu and it was a
3 place, therefore, where the Lendu community could go and take refuge.

4 MR. HOOPER:

5 Q. And what did you do yourself?

6 A. I too went to take refuge there with my sister Francine. She had
7 just had a baby. She had a baby daughter. And we thought it was better
8 to evacuate and to protect her there and we went as well. A week later
9 the military governor, who is now the minister of -- the minister
10 of defence, Mr. Bule Gbangolo was sent to Nyakunde. Bule Gbangolo is
11 written B-u-l-e-e-u (* as interpreted), Gbangolo, G-b-a-n-g-o-l-o. At
12 the time he was a brigadier general and he was appointed governor. And
13 he came to try to sort out the problems in Nyakunde and that's what he
14 did and that gave an opportunity for the Bira and the Ugandans to have an
15 exit corridor so that the Lendu were obliged to leave Nyakunde and that
16 is what happened.

17 Q. And where did you go?

18 A. I left Nyakunde with my sister and my brother-in-law and the
19 other members of the family. I had a large family in Nyakunde. We left
20 Nyakunde with my father's other older brother, Emile Tacima, and with all the
21 family we left to go and live in Aveba. We all went to Aveba.

22 Q. All right. And can just you remind us what -- approximately what
23 part -- what month -- what part of the year was that when eventually you
24 got back to Aveba?

25 A. With all the Lendu and the Ngiti who were in Nyakunde, we left in

1 August 2001. I don't know the exact date or what day of the week it was.

2 Q. That's all right. Now, you can't -- you say you don't know what

3 the source of the conflict was, this attitude the Bira had towards you.

4 Did the -- did the relationship between the Bira and the Lendu Ngiti, did

5 it remain as it was in August or not?

6 A. Mr. President, there was a confusion between the Bira. Some of the Bira

7 were opposed to the system of the leaders of the collectivity in Andisoma. It was

8 a collectivity divided into different groupement and some Bira created alliances

9 with the Lendu, so -- the Bira who were on the edge of the Walendu-Bira collectivity --

10 Q. (* Previous translation continues) ... as you saw it. I'm

11 listening to the English interpretation. Just please carry on. I don't

12 mean to interrupt you.

13 A. All of this Bira population tried not to get involved

14 and this is why you will see that other Biras took refuge in the Walendu-Bindi

15 collectivité. I mean that the majority of the Bira did not engage in the conflict.

16 Q. Generally, what was the relationship like between Lendu and Bira?

17 A. The relationship was very critical because there was a lot of

18 tension because people -- a lot of people died in Nyakunde and people had

19 to abandon everything they had in Nyakunde. When you leave your house,

20 you leave it with the clothes you've got on your back. And if you

21 weren't very quick in putting a few items of -- a few -- a couple of

22 pairs of trousers in your back-pack, you had to leave everything behind.

23 You left everything behind. That was the situation.

24 Q. Are -- can you just help us. We understand that the Bira are an

25 ethnic group. Are they related to either Lendu or Hema? What's

1 their ...

2 A. The Bira ethnic -- ethnicity is its -- its own ethnicity. They
3 are the Bira ethnicity. But according to what we were told, we were told
4 that it is the Hema community which influenced the Bira to -- to --
5 against the Lendu. So it's the Hema who influenced the Bira to take action
6 against the Lendu. Of course the Hema had that ability, the Hema had
7 that ability.

8 Q. And how was the relationship then between the Hema and the Bira?

9 A. I'm sorry, could you please repeat the question.

10 Q. Let me put it like this. You've said that the Hema, you
11 understood or you heard, had influenced the Bira into taking this
12 attitude towards the Lendu. Did that -- did the Bira maintain -- keep
13 that attitude towards the Lendu, did their relationship with the Hema
14 remain the same? What happened in respect of that?

15 A. This attitude remained. This attitude, as I said, remained. So
16 a faithful party -- a part of the Bira remained loyal, but the other part was not
17 and there was, therefore, a division. One part of the Bira was faithful to the
18 Lendu, the other to the Hema. So there was this division within the Bira.

19 Q. Did the Bira have a chief at Nyakunde or not?

20 A. The Bira had a chief of collectivity who himself organised the Bira militia.
21 He was called Bulamuzi chief. If I could spell that out. B-u-l-a-m-u-z-e or i, i at
22 the end. Bulamuzi. And if I am not mistaken, I believe his second name was Sezabo,
23 S-e-z-a-b-o. And he was the head of the collectivity of Andisoma.

24 Q. And what did happen to him ?

25 A: Well, afterwards we learned that he had been killed, shot.

1 Q. (* Previous translation continues) ... who was responsible?

2 A. Well, apparently the people he had armed to create the militia,
3 saying he will lead operations against the Lendu, so when he failed
4 then he was killed. It was the Hema.

5 Q. What was the Bira reaction to his being killed, do you know?

6 A. Let me say quite simply that many Bira after that rallied to the
7 Lendu, whether it was Lendu North or South, they rallied to the Lendu
8 cause in order to express their discontent against the Hema.

9 Q. Now, it's been suggested by witnesses for the Prosecution from
10 time to time that you had a deep prejudice against Hema. Do you -- what
11 do you say to that?

12 A. That is not true, that is not fair. I could maybe develop what I
13 mean here. In 1997 I stayed with the older sister of Thomas Lubanga.
14 She was called Juise (* phon). This was in Lolwa. The wife of a former
15 colleague of my father, she was called Angali Kiana. Her husband was Budu.
16 Angali is written A-n-g-a-l-i. Ki ana, K-i-a-n-a. Now, this was in
17 Lolwa. And when sometimes I travelled to Nyakunde, this
18 family-in-law, of Thomas Lubanga -- the Pasha family-in-law, I went to see them
19 and I would stay with them for the night and I consider them as my brothers.
20 Even when I was in prison in Kinshasa, one of the young boys who is
21 called Stany Pasha, came to see me in prison in Kinshasa.
22 I grew up with an assistant of the project at the time when compassion reigned
23 he was called Mugisa Pasha.

24 I have -- well, perhaps not close direct relations, but I lived
25 with the Hema. When I say "lived," I mean that we went to school

1 together. We shared almost everything together. Somebody like Mugisa
2 Pasha helped me enormously.

3 Q. Now, when you went to live in Isiro, did you have any contact
4 with Hema at all there?

5 A. Well, first of all, this ethnic difference, even -- you know, I
6 didn't know what ethnic group I belonged to. Was it important to say to
7 somebody: What ethnic group to you belong to? Without going
8 further, this question of ethnic differences, at the time of Zaire,
9 it didn't exist. the problem of inter-ethnic conflict. It was when I
10 arrived in the zone, in the region, that I saw that there were ongoing
11 conflicts between the Ngiti and the Hema because that went back to
12 colonial times. But in actual fact, outside of the Ngiti community,
13 nobody was really interested in that, nobody knew about it.

14 Q. And when did you first find out that you were of Ngiti heritage?

15 A. Counsel, upon the death of my uncle. When my uncle died, I asked myself this
16 very question, and when I was growing up I remember that my natural mother, my
17 biological mother, came to see my uncle. And I was told, She, this woman, is your
18 mother. And this is when I started to ask myself a few questions and-- well, if I
19 asked : " you 're telling me that this is my natural mother, well, and the other one
20 here, Esther, who is she ? " This was when I started to ask myself different questions
21 and people said: Well -- well, we are your adoptive parents. I asked: "is it possible
22 that my uncle and his sister conceived me ?" No, there would be a third person.

23 So from that point onwards I started to ask questions , for example, who is
24 my father? I was told -- I was given his name, but I didn't know where
25 he lived. They hid from me the place where my father lived up until his

1 death, until the death of my uncle. This was when I was told: Well, in
2 fact your father is in Gety, outside of Ituri, therefore outside of the
3 Walendu-Bindi collectivity. If you ask anybody who is in Bunia, Where
4 are you going? Even if he's going to Kagaba he'll say, I'm going to
5 Gety. If he's going to Aveba, he'll say, I'm going to Gety. I really
6 didn't know where my father was in Gety. Gety was such a vague name, it
7 didn't really mean anything. It was very difficult to know where my
8 father lived.

9 So to try and be a little more brief, that is my answer. It was
10 upon the death of my uncle that I started to become aware of who my
11 father was.

12 Q. Now, you flee Nyakunde and arrive back in Aveba in August 2001.
13 The academic year that would have been September 2001 to July 2002, were
14 you at school during that year?

15 A. No. After having finished my exams, I was waiting for the
16 results. And since the situation in the east of Congo was very
17 confusing, we didn't even know if our exam papers would reach Kinshasa
18 safely. We didn't know that. Because if you manage to get through the
19 exam in Ituri, only about 10 per cent of people got through the exams.
20 People really missed out on their exam results.

21 . We were waiting for the results, but we never in fact
22 got them.

23 Q. So the latter part of 2001 into 2002, in brief what was the
24 situation in -- in and around Aveba with the Ugandans, for example? What
25 was the situation at that time?

1 A. Mr. David, at this time when we left Nyakunde we were about 7
2 kilometres from Nyakunde. This was what was called the Nyamalinga
3 villages, N-y-a-m-a-l-i-n-g-a. Now, this was a Bira village which was
4 abandoned by the Bira . They went back to Nyakunde. So you went
5 from Nyamalinga to -go in the direction of Olongba
6 (*inaudible*) where there was still another UPDF base, in Olongaba, we went that
7 way. When we arrived in Singo, there was fighting in Singo. And
8 you could not cross road from Singo to Olongba. You had to go in through
9 the bush to go around it. So there was unrest and there were problems
10 ongoing all the time.

11 When we arrived in Aveba, let me tell you quite honestly that
12 the schools had started back, they had started back, but with the Ugandans
13 coming through, the school children didn't go to school and they waited -- the school
14 children waited for the Ugandans to leave. And then once they had left,
15 then school would reopen. That's how life was. For example, when the Ugandans
16 left their headquarters in Gety to head towards Aveba, on the hills there were
17 people permanently posted there , I don't know if people had been posted to watch
18 from the hills . They could warn immediately : This is where the convoy is heading.
19 And this means of communication went from one hilltop to another.

20 People on the top of one hill would pass a message on to the
21 person on the next hill. So the message would that way travel a long
22 distance in a very short space of time. This is how people managed to
23 avoid attacks and avoided killings as well.

24 Q. So through 2001 and into 2002, where were you living?

25 A. To be honest before this Court, let me say, Mr. David, the family

1 was very big, very, very big indeed. And life was extremely hard. You
2 had to manage as best you could. I did everything I could to survive. I
3 went hunting. We would hunt for food.

4 Q. What did you hunt?

5 A. We would hunt the elephants. This was illegal.

6 Q. And with what objective of hunting? When you hunted the
7 elephants, what was the objective?

8 A. Well, the ivory of the elephants represents a lot of money. It's
9 worth a lot and this is why we shot the elephants. We also shot okapi,
10 the okapi skin brings you in money, \$500 in fact for an okapi skin.

11 Q. Did the Ugandans remain in -- in Gety and in Walendu-Bindi or
12 not?

13 A. In the middle of 2002, the Ugandans pulled out of our
14 collectivity, and that was after the arrival of Jean-Pierre Lopondo Molondo.

15 Q. We've heard quite a lot about Lopondo Molondo. We know he was
16 military governor of Ituri based in Bunia. We've heard that from several
17 witnesses. Which party or force was he part of?

18 A. Jean-Pierre Lopondo was part of the RCD-K/ML of Mbusa Nyamwisi.

19 Q. Who was head of that group ?

20 Q. I hadn't -- thank you, thank you, interpreter. So that's the
21 party, RCD-K/ML, remind ourselves of the party of Mbusa Nyamwisi. And
22 we've heard that the RCD-K/ML was the government effectively of Ituri.
23 How long was it the government of Ituri for -- effectively the government
24 of Ituri?

25 * A. Well, this is something I can tell you from what I know directly. I only became

1 aware of the existence of RCD-K/ML when Jean Pierre Lopondo arrived. Up until
2 then politics was a mess. It was a mess. All we knew was that the
3 Ugandans occupied Ituri. We knew that developments in the FLP, MLC and ACP were
4 taking place gradually. So, in fact, all we knew was that Ituri was occupied by a
5 foreign force. That was what stood out in our minds. Even in politics, any talk of the
6 RCD K/ML, MLC, FLC, that didn't really have any influence on the Ugandans. The
7 Ugandans had control over the ground they occupied.
8 That was the basic situation in a nutshell. But I knew that the RCD-K/ML was at that
9 time -- well, and I read this in the files here, that the RCD-K/ML was there
10 well before then, well before the arrival of Jean-Pierre Lopondo, and I
11 learned that, in fact, from reading the files here.

12 Q. And we obviously all heard and learned that the APC was the army
13 of the RCD-K/ML. Do you know, in the sense of have you heard or learned,
14 the size of the APC, how many soldiers it had in its force?

15 A. The APC had a serious problem, I would say. We learned after the
16 arrival of Jean-Pierre Lopondo that there had been a mutiny in Bunia. In
17 April when this mutiny happened, the military revolted and they rallied
18 to the UPC. So the APC military revolted, they left the APC and they
19 went to the UPC. So the APC army was weakened at that point. They were
20 divided in half, I would say. If you imagine in Ituri -- let me
21 give you an example. If there had been two or three brigades, then this
22 would have melted away to one and a half brigades, one and a half
23 brigades simply disappeared and that was a problem that the APC
24 encountered back in April 2002.

25 Q. And how many would be in a brigade when you talk of a brigade?

1 A. I would say 3.000. I'm not a military expert, but that's what I
2 would say because I'm not a military expert.

3 Q. Now, when the APC experienced this mutiny within it and half its
4 force left, where did the half that left -- where did they go? What did
5 they do?

6 A. The soldiers rallied to the UPC.

7 Q. Now, these soldiers, whether APC or UPC, do you know whether they
8 had proper military training or not?

9 A. On this point of the military training of the UPC, if you look
10 back to who mutineered, they were well-trained soldiers. Even back then
11 at the time of the mutiny, they were well-trained, they had gone through
12 military training in Nyale, Rwampara , in different places, and then after that
13 they kept on training. They also swelled the numbers in their ranks.

14 Q. After April 2002 and this division, APC and UPC, what happened in
15 brief? We don't need long answers, just in brief. What happened to
16 Lopondo?

17 A. After this mutiny, the UPC decided to chase out Lopondo, and that
18 was on the 9th of August, as everybody knows from the files here.

19 Q. What had Lopondo's relationship been with people in Walendu-Bindi
20 or any part of them prior to being chased out, do you know?

21 A. With the APC weakened and with the technique adopted by
22 Lopondo -- well, in fact his technique was to swing between the two
23 sides. Lopondo had understood that the soldiers had rallied to the Hema,
24 in order to counter-balance that, he rallied to the Lendu and he set up
25 or created relations with the Lendu with the influence of some leading

1 notables, Dr. Adirodu, for example. He put Lopondo in contact with
2 Kandro.

3 Q. And what happened then?

4 A. Kandro, in mid-June right through to mid-July, roughly - I'm not
5 precisely sure of the dates - but until the month of July Kandro was invited to Bunia
6 to the Ndromo Camp. Kandro went to Ndromo Camp
7 with fighters in order to swell the ranks of the APC and to
8 carry out and lead operations with the APC in Bunia and in the surrounding area.

9 Q. And what happened?

10 A. They carried out operations in Rwampara, Shari, and other places.

11 Q. Did you play any part in that?

12 A. No, no.

13 Q. Now, we know that, as you've said and we've heard, on the 9th of
14 August, 2002, Lopondo was pushed out of Bunia by the UPC and he fled.
15 And we've heard various details of what happened. But can you just
16 briefly tell us your understanding of what happened after the 9th of
17 August. From the 9th of August -- for the next month leading up to and
18 until the attack that we heard took place at Nyakunde, can you just take
19 us through that, your understanding of it.

20 A. Instead of starting where you want me to start, I will start
21 ahead. I would say firstly that it was the APC that took the place of the Ugandans
22 in our collectivity. That is the first point. That is, where the
23 Ugandans were in our collectivity in June, these positions were taken
24 over by the APC.

25 After that, as I have said, on the 9th of August, Lopondo was

1 driven out. The APC forces were in our area, in our collectivity, and
2 when he was chased out he took the road to Songolo because they had a
3 good relationship with Kandro. He arrived in Songolo. He was welcomed by
4 Kandro. He even lived in Kandro's house, in Kandro's place. After that,
5 he was supposed to move on and try to prepare his return to Bunia.
6 In Songolo he did not have the means, he could not get
7 ammunition from there. He had to go back to the headquarters in Beni. His
8 intention was to return to the headquarters in Beni, but this was not
9 easy because there was no road. Lopondo had to travel on foot. But as
10 you can see, someone -- for someone who had never walked 20 kilometres on
11 foot, it was difficult to do so in the bush or the forest and people had to help him
12 to reach the road and look for a means of transport.

13 But what I'm trying to tell you here, Mr. David, is that the
14 objective of Mr. Lopondo was not to retreat with the soldiers. He wanted
15 to leave the soldiers behind and then go and look for the necessary
16 resources to resupply his soldiers as soon as possible and begin a counter-offensive
17 against Bunia. That was the situation.

18 Q. So Lopondo leaves and goes up -- makes his way towards Beni. And
19 what happened in Songolo?

20 A. Counsel, that is why I have told you that that is how come we saw
21 these UPC uniforms for the first time in our collectivity. It was at that time
22 at the end of August that UPC entered Songolo. The UPC attacked Songolo,
23 they killed people, they looted, they set houses on fire. And Kandro,
24 who was there, resisted with the remaining soldiers of the APC who were
25 with him and the combatants. But it was difficult. From Bunia right up

1 to Kombokabo - and I should say that in Kombokabo there is a direct
2 motorable road right up to Songolo - but the UPC reinforced themselves
3 before attacking. They were fully prepared. They knew that those forces
4 were there.

5 And even before Lopondo left, the people of Bunia used to come
6 and buy cassava flour in Songolo. They had reliable information and so
7 people came to buy provisions. They had reliable information. And so
8 they returned and informed the UPC that they had seen a strong APC
9 presence there, and that is why the UPC prepared themselves fully before
10 attacking Songolo. They attacked with a sufficiently strong force and chased out
11 Kandro as well as the APC soldiers who were with him. Kandro fled and
12 returned to Avenyuma and the other soldiers of the APC fled into the rest
13 of the collectivity. They were scattered.

14 So When the Songolo attack took place, it was at that same time that
15 the APC strengthened its ranks. Commander Faustin arrived on the evening
16 of the same day of the attack. He arrived in Songolo and found that Songolo
17 was empty. However, in our area the members of the population sometimes has
more endurance than the combatants. They found at least some members of the
population there, who told Faustin that another part of the APC group was in Singo --

18 MR. MACDONALD: (Interpretation) I would like to object at this point that
19 the personal knowledge of this witness has not been established. Where do
20 these facts come from? Was he with Kandro? He is giving an account of what
21 someone would have told Faustin and so on and so forth. So, I believe the Chamber
22 needs to be informed as to the probative value of what the witness is stating.
23 This is the objection that I made yesterday and I am repeating it today.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor,
25 Mr. Katanga will give us a clarification on that. He is asking -- or

1 rather, answering Mr. Hooper's question, put some time ago but which is ongoing,
2 and providing his perception of certain events.

3 So, Mr. Katanga, in the course of
4 your answers please try to explain to us in your account what was told you and by
5 whom and also distinguish between that and what you yourself experienced,
6 what you saw, and what you heard. So if you can try to make that distinction
7 in the course of your account, that will make it possible for us to better
8 understand. So you have to differentiate between what you directly
9 experienced and what you heard from other people. And if -- in that case
10 you should also point out to us whether what you heard was actually
11 confirmed or cross-checked. Please continue.

12 THE WITNESS: (Interpretation) Thank you, your Honour. I will
13 answer right now. Yuda, who is being described today as an important
14 person, he arrived with all the soldiers who had fled Bunia to Songolo.
15 With regard to Move, he was in Songolo at the time that Songolo was
16 attacked. He fled from Songolo right to Nyabiri where I was, he fled.
17 Garimbaya, who was with me in Aveba, he fled from Songolo.

18 Mr. President, the APC soldiers fled and were scattered all over
19 the place.

20 PRESIDING JUDGE COTTE: (Interpretation) And you later had the
21 opportunity to meet with them and listen to them; is that correct?

22 THE WITNESS: (Interpretation) Yes, indeed, your Honour. Yes.
23 The arrival of Major Faustin was a very important event. It was upon his
24 arrival that the APC soldiers who had scattered everywhere started coming
25 back together where they could find a commander.

1 PRESIDING JUDGE COTTE: (Interpretation) Very well.

2 Please proceed, Mr. Hooper.

3 MR. HOOPER:

4 Q. And Yuda, Move, and Garimbaya were soldiers of which force, Garimbaya ?

5 A. Counsel, you are going to hear about that later when we are going
6 to name the commanders of every camp of our collectivity, and then you
7 will learn that all those commanders were members of the APC.

8 Q. Now, after the -- at that time you said in your answer that you
9 were talking of Move and he was in Songolo at - I read the transcript -
10 at the time that Songolo was attacked. "He fled from Songolo right to
11 Nyabiri where I was ..."

12 Nyabiri, where is that in relation to Aveba? What were you doing
13 there?

14 A. Counsel, Nyabiri is right next to Olongba and Olongba is a small
15 trading centre. When I was in Nyabiri, it was also to take care of my
16 personal needs. When I went into the forest, I would come back to
17 Nyabiri because that is where the traders were. So rather than bringing the goods
18 that I had from far afield, I went to sell them there. So
19 that was a strategic location for me, given the business that I was
20 involved in even though this was illegal. I was able to be with the
21 traders and I was also covered there because Kasaki was there. I was
22 protected.

23 Q. Can I just come to the subject of your hunting. Where did you
24 learn to hunt?

25 A. Mr. David, when I told you that my uncle taught me, that is the

1 case. It was my uncle who taught me using a hunting weapon, and ever
2 since Isiro I could take a 12-calibre weapon and go hunting. That is
3 simple. Now, with the elephants, you can imagine that you needed a
4 larger-calibre weapon, not the 12-calibre weapon. So you needed a
5 special hunting weapon.

6 Q. And you mentioned Kasaki. You said your being at Nyabiri -- "I
7 was able to be with the traders and I was also covered there because
8 Kasaki was there." Now, what do you mean by that?

9 A. Counsel, in our collectivity, after Kabayonga Kakado Bernard, he
10 is the one. Chief Akobi was nothing in comparison to Kasaki.

11 PRESIDING JUDGE COTTE: (Interpretation) Can you be more
12 specific, can you be clearer when speaking about Kasaki. You have told
13 us that this was someone who was important but you need to clarify that.

14 THE WITNESS: (Interpretation) Thank you, your Honour. When I
15 say that Kasaki was very important in our collectivity, it is because he
16 is the one who tells the combatants what to do.

17 PRESIDING JUDGE COTTE: (Interpretation) Can you be even clearer?

18 A OK

19 MR. HOOPER: I don't know if that's -- I'm attempting to cover
20 that subject extensively or at least --

21 PRESIDING JUDGE COTTE: (Interpretation) Very well.

22 MR. HOOPER: (* Previous translation continues) ... but I think
23 sufficiently but perhaps --

24 PRESIDING JUDGE COTTE: (Interpretation) It was simply so that
25 we should not forget.

1 MR. HOOPER: It --

2 PRESIDING JUDGE COTTE: (Interpretation) Please continue with
3 your examination.

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

5 Q. -- about this point. I'm just asking -- we'll come back to
6 Kasaki and you can tell us more about him in the not very distant future.
7 But it was just your reference to Nyabiri and he being there. I've
8 forgotten the phrase that we used or that you used. Let me see if I can
9 find it.

10 PRESIDING JUDGE COTTE: (Interpretation) In the French
11 transcript, page 37, this is what was said:

12 "While in Nyabiri I was able to meet with the traders and I was
13 covered because Kasaki was there."

14 Is that what you are looking for?

15 MR. HOOPER: Yes, thank you.

16 Q. So what did you mean "*couverture*," what did you mean by that?
17 Short answer, don't need a long answer.

18 A. By saying that I was covered, I simply wanted to say that Nyabiri
19 was known as the headquarters. So it was Kasaki's fief or stronghold
20 in the sense that what was there was strategic, that is, the
21 headquarters.

22 Q. Well, I think I'm going to adopt the suggestion of the learned
23 President. Let's deal with Kasaki then. Who was Kasaki? First of all,
24 is that his full name or has he got other names, Kasaki?

25 MR. MACDONALD: I think the witness answered that question

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1 yesterday and he gave the name -- the full name already.

2 MR. HOOPER:

3 Q. Can you just give us the full name?

4 PRESIDING JUDGE COTTE: (Interpretation) Please continue,

5 Mr. Hooper. Let us not interrupt for issues of this nature. So

6 continue. We are starting with the Kasaki subject and we are going to go

7 to the very end.

8 THE WITNESS: (Interpretation) Kasaki's second name is Bandru,

9 so the name is Kasaki Bandru.

10 MR. HOOPER:

11 Q. Approximately how old was he at the time?

12 A. At that time Kasaki was between 55 and 60 years old.

13 Q. Where did he normally live? Which village was he from?

14 A. Kasaki was in Aveba.

15 Q. What did he do -- what function did he have?

16 A. As you would hear everywhere in our collectivity, he was called '*chargé de*
17 *fonds*', he was a *féticheur*, a healer.

18 Q. Who was the main *féticheur* in your area, in Walendu-Bindi, was it
19 he or the other gentleman you mentioned?

20 A. I would say that he had his leader, his boss who was Bernard
21 Kakado Kabayonga Tsubina. I can spell the name.

22 Q. Well, Bernard we've got. That's not a problem. Bernard. What
23 was the next name?

24 A. Kakado.

25 Q. And the next name?

1 A. Tsubina.

2 Q. (* Previous translation continues) ... can spell that for us,
3 please.

4 A. Tsubina is spelled T-s-u-b-i-n-a.

5 Q. All right. We'll come back to him. Let's just stay on Kasaki.
6 Everywhere in your collectivity, you were telling us, fetish had a role.
7 What is the role of fetish would you say?

8 A. I would say that in the broad sense of the word "fetish" it
9 includes a healer, that is, the traditional healers or nurses and that is
10 my own explanation of that. These are people who use herbs to treat
11 illnesses. In the case of Kasaki, he harvested or collected herbs to
12 render us invulnerable, as he said, and protect us during fighting at the
13 front. So he was responsible for that. So before the combatants went to
14 the front, they had to go and see him and he would give them something
15 wrapped up in a small bundle or he would make cuts on their bodies. That
16 is all.

17 Q. And you yourself, did you participate in these ceremonies,
18 these -- this provision of fetish by Kasaki? Did -- were you a believer
19 and a follower in that or not?

20 A. Mr. President, your Honours, I brought it right to The Hague. It
21 is Marc Dubuisson who is keeping it. So I believe.

22 Q. You brought what to The Hague? What did you bring to The Hague?

23 A. I brought my gris-gris. I was arrested while I had it with me,
24 and when I arrived and boarded the plane, there was a security officer
25 who was accompanying me. He is the one who kept it right to the

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1 detention centre, and I don't know whether they gave it to Marc Dubuisson
2 because it is Marc Dubuisson who brought me here. In fact, I can demand
3 that he returns that to me. So I believe in it, and if we are alive
4 today, it is because of it.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, I believe
6 we will need to break now except you have a very short question,
7 otherwise we will continue with this topic or a different one after the
8 break.

9 MR. HOOPER: No, I think this is a good time to break and I'll
10 come back to the same topic in more detail.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

12 Mr. Katanga, we are going to suspend the hearing for 30 minutes
13 and that will enable you to take a breather, to rest.

14 Court Usher, please lead Mr. Katanga back to his usual seat.

15 (The witness stands down)

16 PRESIDING JUDGE COTTE: (Interpretation) This hearing is
17 suspended. We will reconvene at 11.30.

18 Recess taken at 10.59 a.m.

19 (The witness takes the stand)

20 On resuming at 11.37 a.m.

21 (Open session)

22 COURT USHER: All rise.

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

24 The Office of the Prosecutor.

25 MR. MACDONALD: (Interpretation) Very, very quickly, with your

1 permission, your Honour, just to inform the Chamber of developments with
2 regards to the maps. My colleague Mr. Dutertre gave the two Defence
3 teams a map which is like the map I referred to yesterday. But if my
4 colleagues could check the places they are interested in together with
5 the clients to see whether the villages and localities we're interested
6 in for the purposes of their presentation are in the right place. Now,
7 we can sit down together and reach agreement on where these places are
8 and then we would have a proper map on Tuesday. It's the map of Ituri,
9 for the geographic areas of interest a little north of Bunia down to the
10 south, in the Irumu territory to be more precise, and I think it should
11 be possible for us to reach agreement on the map. Thank you.

12 Oh, and one final point, your Honour, we checked with our
13 colleagues once again to see whether there was a more sophisticated, a
14 more detailed map under MONUSCO but they all have hand-drawn maps
15 prepared individually. There is no detailed map as suggested by my
16 colleagues that we should refer to certain other institutes. But
17 unfortunately even the United Nations does not have such a map, the kind
18 of map we have in Europe, your Honour.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
20 Mr. MacDonald, for what you've done. So if you could, all of you, get
21 together, have a discussion, and reach agreement, and ensure that by --
22 on Tuesday we have a common working document, that would be ideal.

23 Mr. Hooper, you can continue your direct examination.

24 MR. HOOPER: Thank you. Can I just say that I can see from one
25 of the documents that we'll be alluding to in due course that there

1 clearly is reference to a map with a specific what I call ordnance survey
2 scale, so such maps do exist. They may not be part of the library here,
3 but they do exist, it would appear.

4 In terms of the map we've got, and obviously we're not in contact
5 and won't be in contact at all with Mr. Katanga, and what I propose is we
6 have a large-scale map that's been provided by the Prosecution which is
7 essentially the same as the map we have already. As you can see it's
8 quite a bulky document. My only worry is once it's reduced to A4 size
9 it's going to -- may not be so legible, indeed it isn't. But we do have
10 that already in electronic format.

11 But what I was going to propose was that -- well, it goes from
12 just north of Bunia as far south as Bukiringi, and here's the lake here.
13 So we can see the general aspect of it. I was going to suggest that if
14 we could be provided with two copies of these, two of these, and that
15 Mr. Katanga takes both of these away with him when we rise later today,
16 today being Wednesday, if we can collect them or have them collected from
17 him through the Detention Unit tomorrow evening. In the meantime, if he
18 can look at these and perhaps mark up in a neat hand, imitating the
19 script and the size of the script that's already on the plan, if he can
20 add a list -- add from a list that we'll provide him 1, 2, 3, 4 -- about
21 six or seven place names. We'll just provide him with that document,
22 actually, that Post-it there, he can take them away and have one, then,
23 to work on in rough. And then, as sometimes as inevitably happens, if
24 there's a mistake or something like that, he can then do it in fair copy
25 on the other plan and we can collect that tomorrow night, provide it to

1 the Prosecution who will have the means then to make an electronic copy
2 of such a large-scale plan and they can then put it into eCourt and
3 circulate it. And my guess is that the corrections or the additions made
4 by Mr. Katanga will probably be acceptable, bearing in mind that
5 effectively what we're having is a sketch plan of the area. And so -- so
6 with your Honours' leave, perhaps that's a course we can -- we can adopt.
7 So ...

8 MR. MACDONALD: (Interpretation) Yes, indeed, your Honour. I've
9 just sent a message to my colleagues whether it be possible to get an
10 extra two copies of that map which I gave to the Defence colleagues. We
11 could give them to the Court Usher so that a copy is given to
12 Mr. Katanga. I think Mr. Hooper's proposal is very good and we could
13 accept that as our working basis. Thank you.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

15 So, Madam Court Usher, please ensure that the services of the
16 Registry can provide two copies of that large-scale map to Mr. Hooper
17 so under the conditions which have just been recalled, which I won't
18 repeat now, Mr. Katanga can mention where other localities are situated.
19 And then in due time I think we'll have to proceed in the same way with
20 Mathieu Ngudjolo, who might also wish, at the request of his counsel or
21 at his own initiative, to provide additional clarification on the same
22 map.

23 Mr. Kilenda.

24 MR. KILENDA: (Interpretation) Thank you. Mr. Ngudjolo has
25 already received his homework to do. Don't worry, your Honour.

1 PRESIDING JUDGE COTTE: (Interpretation) Right. I won't worry
2 about that then. I was just trying to be quite sure that the -- everyone
3 has equal arms.

4 You may proceed, Mr. Hooper.

5 MR. HOOPER: Thank you.

6 Q. Now, in respect of events at Songolo, the attack by the UPC, you
7 mentioned a man called Faustin. Who was he?

8 A. Commander Faustin was the commander of the 12th Battalion of the
9 UPC.

10 THE INTERPRETER: Correction: APC.

11 MR. HOOPER:

12 Q. And again, speaking from hearsay, from what you learnt from
13 others, again, in brief, we don't need a long detailed history, where had
14 they come from? Where had he and his men come from after the fall of
15 Bunia to the UPC?

16 A. I'm sorry to give you the origin. The origin is the APC. But to
17 reach Songolo they came from Zumbe. They don't come from Zumbe.

18 Q. Where had they been? We've heard some of this history already.
19 It's a commonplace story, but just in brief tell us what your
20 understanding is of Faustin. What rank was he, first of all? What was
21 his rank in the APC?

22 A. Today he has the rank of major, but at the time he was a
23 battalion commander, which is similar to a major. At the time of the --
24 at the time of the rebellion, people didn't wear their uniform with
25 epaulettes, it was really the individual's duties which counted. I

1 didn't see his stripes, but I knew he had the function of
2 the battalion commander. He deserved the rank of major.

3 Could I continue? Before they reached Zumbe they were in Kasenyi,
4 Kasenyi.

5 Q. That -- that's for the interpreter, Kasenyi. He was in Kasenyi
6 and what happened then? Very briefly. We've heard this track -- the
7 story already. But just your understanding just to let us know what your
8 understanding is. What happened to him?

9 A. Following the fall of Lopondo, as we all know from the case
10 notes, the UPC occupied Bogoro. There was not any path which the
11 12th Battalion could take from Lake Albert -- to -- from -- to reach the APC troops.
12 So the only way was to reach Lendu territory because that was loyal to
13 the central government -- to which the RCD-K/ML was allied.

14 Q. And so where do they go from Kasenyi?

15 A. From Kasenyi they went up the Monts Bleus, *the chain of mountains north of
16 Zumbe -- I would say to the north of Zumbe today, but at the time I
17 didn't know where it was. We just know that they left Kasenyi and they
18 went up the Monts Bleus hills but from the file I know that
19 they reached Zumbe. But I only knew, according to what I heard, that
20 they left Lac Albert and they went up the Monts Bleus hills.

21 Q. (* Previous translation continues) ... bleu what happened there,
22 how did they get away from there?

23 A. They tried -- they tried by all means to attack Bogoro as well.
24 I would say that even Faustin's battalion had the same problem as Lopondo
25 had in Bunia. In the 12th Battalion, you've got people who are loyal to

1 the UPC and at the fall of Lopondo they wanted to join their allies, notably the
2 UPC. And then from the file we learned that the UPC Army
3 was called the FPLC. But at the time, those loyal to the FPLC also left the
4 12th Battalion and there was therefore a fall in the number of troops.
5 And Faustin couldn't do anything. He just needed protection and his
6 protection was to be in the Lendu area. That was the only protection
7 which the APC had at the time. The UPC already had more troops than the
8 APC because they were allied to the Ugandans, whereas the APC had
9 nothing.

10 Q. So where did he go

11 A. From what I learnt, they attacked Bogoro. They attacked Bogoro
12 to get through to get through there. Lopondo's forces were nearby
13 in Songolo, in Zumbe, the Monts Bleus, so it wasn't far to get to Songolo. But the
14 problem was that there were -- there were troops, which were not their
15 troops, in the way. There were enemy troops in the middle and they --
16 and in order to get through that, they had to fight. So they fought in
17 Bogoro and they failed, and then they looked for other ways of going --
18 falling back to Kasenyi, but they failed. So they went to -- back to
19 Zumbe and then they reached Songolo. But the way they reached Songolo is
20 something which I only learned through the case, how -- how they took the
21 route, they left the Monts Bleu chain and -- to reach Songolo.

22 Q. Now, you mentioned that they got there at a particular time when
23 there was -- earlier you told us they arrived and there was an attack.
24 And you've already told us about the attack by the UPC on Songolo. So
25 I'm going to step over that. You've talked about that earlier this

1 morning. And I want to ask you now about -- about Nyakunde. Now, we
2 have a date for Nyakunde. I'll ask you. Do you know the date that the
3 attack on Nyakunde took place?

4 A. I learned from the case files, the 5th of September, 2002.

5 Q. And at that time, just remind us, where were you?

6 A. I was in Nyabiri.

7 Q. How far is that from Nyakunde?

8 A. Nyabiri to Singo is about three hours. And from Singo to
9 Nyakunde would be about two and a half hours/three hours.

10 Q. So we have a distance of -- that's a walking distance I take it,
11 is it?

12 A. Yes, that is on foot. In our region we don't have a system of
13 roads and so on. At the time there weren't any roads.

14 Q. Now, did you participate in any way in the attack on Nyakunde?

15 A. The attack on -- I did not participate in the attack on Nyakunde.

16 Q. What is your understanding from what you heard and learned of
17 what happened?

18 A. I learnt, and afterwards I saw, that -- it was a disaster in
19 Nyakunde. I went to Nyakunde in October. Your Honour, your Honours,
20 Mr. President, the -- the medical -- evangelical medical centre had been
21 swept -- swept away. What we could say -- I don't know how many
22 fatalities there were but it was very -- it was serious. The radio
23 referred to 1,000, 1,200 fatalities and so on. But I don't know anyone
24 who was there. I didn't speak to anyone who was there present, but
25 people did die there.

1 Q. What is your understanding of who participated or -- and led that
2 attack?

3 A. I would say that there were two main people involved in this attack, the first
4 is a man who was in charge. That was the APC. The APC had fled. They wanted
5 to recover their lost land as part of their counter-offensive. And the second was
6 Kandro, Kandro who was a victim of the UPC attack in Nyankunde province. So he
7 quite simply relied on the troops that he had.. And it was a success.
8 The number he had was sufficient to attack Nyakunde.

9 Q. At that time, how many Hema lived in Nyakunde, do you know? What
10 proportion of Hema were resident in Nyakunde?

11 A. Counsel, the proportion even before the war, the proportion of
12 Hema was not high in Nyakunde. Nyakunde was mainly inhabited by Lendu,
13 Ngiti and Lendu, but the main part were Ngiti and Bira. Hema were a long
14 way from Nyakunde from the main -- the other side of the main road. They
15 were in the pasture, the field -- the livestock area, but not in Nyakunde
16 because in Nyakunde there's no room for livestock farming. So they
17 weren't in Nyakunde.

18 Q. Now, the hospital itself which we understand was a very well
19 equipped hospital, the evangelical hospital there, do you know what
20 happened to the equipment that was there?

21 A. Counsel, even now you will find the hospital instruments, the
22 equipment, material, in Oicha, in Oicha. If the hospital in Nyakunde was
23 pillaged, it was by the APC that took everything off to that place.

24 Q. Now, just staying with Nyakunde. Following the attack, the --
25 well, let me ask you this first of all. Had there been a UPC force in

1 Nyakunde, do you know, at the time of the attack? It may sound an odd
2 question. It's just so I'm not leading you very much. Well -- well,
3 you've told us -- let me cut through this. You've told us how the UPC
4 attacked Songolo and that there was then the APC Kandro attack on
5 Nyakunde. What happened to the UPC in Nyakunde?

6 A. The UPC in Nyakunde fought Kandro's forces and they fought
7 Faustin's forces and then they fled. They abandoned Nyakunde after a
8 very heavy bout of fighting.

9 Q. Did they ever return to Nyakunde?

10 A. Yes. The UPC did take Nyakunde back.

11 Q. And do you know when that was?

12 A. I would say around the month of October, around the month of
13 October, yes.

14 Q. And having gone back to Nyakunde, do you know if the UPC remained
15 there from October, October 2002, how long did they remain there?

16 A. When the UPC returned to Nyakunde, the APC was back
17 to Singo, beg your pardon, in Singo. And then part of them went to North
18 Kivu, going through the forest, and the others stayed on the spot.

19 Q. Now, after that attack, when was the first time you went to
20 Nyakunde?

21 A. After this attack I passed through Nyakunde. This was in
22 October, before the UPC took Nyakunde back.

23 Q. Now, we're dealing with events after -- after Nyakunde. Now I
24 want to deal with events between that attack on Nyakunde and your going
25 to Beni later in the year. So let's come back to you and what you were

1 doing in early September of 2002. You told us you were at Nyabiri and
2 that you had occasion to go there in respect of your selling ivory and
3 animal skins. Were you at that time a combatant? What was your status
4 in relation to *combattantisme* I think you referred to it yesterday. What
5 was your status, what was your position, in that?

6 A. When I talked about "*combattantisme*" in French, well, I was
7 talking about a phenomenon. When I used this word, "*combattantisme*," it
8 was a phenomenon of self-defence of people who used to be called
9 combatants. If you want to look at it even further, you might find
10 another sense to the word "combatant" amongst villagers. If you say this
11 word "combatant" to a villager, this simply means a man who fights, who
12 uses a bow and arrow, using traditional weapons. For a villager this is
13 basically a combatant.

14 Whether you -- if you had a fire-arm, then you would not be
15 considered a combatant. So this is to try and explain what I meant
16 yesterday by "*combattantisme*." To answer your question, sir, I was still
17 a combatant. As a student I was still a combatant.

18 Q. Just keeping on your last answer. "If you say this word
19 'combatant' to a villager, this simply means a man who fights ... who
20 uses traditional weapons ..."

21 I just want to be clear. When you use the word "combatant," are
22 you using the word in that sense, as someone who's an ordinary man who
23 takes up his traditional weapons in a particular situation? Is that your
24 use -- is that how we're going to understand your use of the word
25 "combatant"? And if it is and if there's a difference between such a man

1 and a man who gets himself an AK-47, for example, can you let us know
2 what word you would use for the word for the man with the AK-47 who is
3 not a formal soldier in the APC or the FAC or UPDF? I understand that's
4 a soldier, but what -- just help us so that we get our terms right at the
5 start.

6 A. Well, thank you, sir. When I talk about villagers, giving you
7 this answer, because these people don't actually understand the sense of
8 the word "combatant." It doesn't mean anything to them. I understand
9 that combatant comes from the word "*combattre*" in French, to combat. And
10 I used this word to say that there can be a self-defence group and you
11 would call these people combatants and then these people may be -- may
12 have bladed weapons or fire-arms. I would use the word "combatants" to
13 describe these people. These are people who could go up to the front to
14 fight. This is how I understand the word "combatant" and that is how I
15 have used it.

16 MR. MACDONALD: (Interpretation) May I just say I haven't
17 objected up until now. I understand that we need to have definitions of
18 terms and I understand that Mr. Katanga is able to distinguish between
19 different meanings. However, the way in which the question was
20 formulated was extremely leading, suggestive I would say. I would like
21 this to be noted because as we move forward in this period we are referring to
22 , despite the fact that Mr. Katanga has been able to hear all
23 the evidence before he testified and as he said he has read all of the
24 case file, I do understand that we want to move forward. But on this
25 point of leading questions or closed questions which lead the question --

1 lead the witness in one direction or another, then I wanted to note this.

2 We've seen this just now, Mr. Hooper in order to help the witness
3 said, We'll take you up to where you were in Beni towards the end of the
4 year. Now, this is a suggestion as well and I didn't object to this, but
5 now I am raising this point. I understand that certain facts are not being mentioned
6 at this juncture, but the rules must be obeyed because we
7 have to get a clear answer from the witness which should not be suggested
8 by the questioning of one of the parties

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, on this
10 point of suggestive questions which you apparently heard a little while
11 ago, very well, we take note of this.

12 And, Mr. Hooper, would you please take due note of this as well.
13 On the point of the exchange of the definition of the word "combatant,"
14 in the sense given to it by villagers, what we have understood - and this
15 is extremely important for everybody - what we have understood,
16 Mr. Germain Katanga, you will tell me if I'm wrong, but for a villager a
17 combatant is a person who uses so-called traditional weapons. That is
18 correct, is it not? But answering Mr. Hooper's question when you were
19 asked if you would consider yourself as a combatant in the villagers'
20 sense of the term, you said, unless I'm mistaken, you said no. You said,
21 For me, a combatant is someone who goes up to the front, whether it be
22 with lances, spears, machetes, bows and arrows, or fire-arms. We agree
23 on that point and this is how you consider yourself as a combatant. Do
24 we agree on that point?

25 THE WITNESS: (Interpretation) Yes, I do.

1 PRESIDING JUDGE COTTE: (Interpretation) Could you please
2 continue, please, Mr. Hooper.

3 MR. HOOPER:

4 Q. Did the villagers ever use the word "combatant"? The word in
5 French, the French-derived word which we use in English too, combatant.

6 A. Mr. David, this word, "combatant," arrived on the scene later on.
7 On the radio, I was struck by this. I was struck by this on the radio in January 2001,
8 when the combatants attacked Nyakunde in pursuit of the UPDF, the
9 journalist said the cultivators, farmers, they used this expression
10 "*cultivateurs*" in French, farmers, So when I refer to
11 the word "combatant" I mean that it depends on the person's level of education and
12 knowledge.

13 The word "combatant" arrived on the scene later on and the meaning evolved
14 gradually. Villagers didn't really understand what combatant
15 meant or what militia meant. It's too much now. In fact, if you use
16 this term today, it's because it's become used by the system. Even a grandfather
17 today can talk about militia, even if he does not understand the meaning of the word
18 'militia'. But when seeking to use a word that designates
19 gangsters, those who are distracting people, even for that they will use the word
20 "militia," and sometimes fathers call their own children militia because
21 the children are not being respectful and there's a lack of knowledge there.

22 Q. All right. So, for example, someone like Kandro at that time, if
23 you were in Aveba and talking about someone like Kandro and the people
24 with him, what word would you be using? How would -- what would your
25 vocabulary be, whether in Swahili or Ngiti or French even? What -- was

1 there a term for these people?

2 A. Let me give you a direct example. Our wisemen call us the
3 youngsters, now in Swahili "*Wa vijana*." Over time this changed and the intellectuals
4 wanted to find a word over time to designate self-defence, and this is how the
5 word "combatant" came to be used by basically everybody. And I would say
6 it was the word to use, a prestigious word to be used as it were because combatant
7 is "The" word to be used. I don't know if I have answered your question.

8 Q. Right. Now, you are in Nyabiri using the market-place there. My
9 question is this: What was your status and I'm going to use the word
10 combatant from now on, mindful of what you've said about its general use
11 at the time but I'm going to use the word "combatant." Were you a
12 combatant at that time? What was your position in September -- early
13 September 2002?

14 A. I was part of the bodyguards of Kasaki Bandru.

15 Q. Was that a full-time position or not?

16 A. If there were any problems, for example, then perhaps a combatant
17 would cause problems for civilians and then we would be called upon to do
18 something. We tried to extend our field of work as bodyguards, and sometimes if a
19 problem arose between the combatants and the civilian population, then we would
20 try and intervene.

21 Q. And where did your hunting fit into this?

22 A. Are you talking about hunting or luck?

23 Q. Hunting, "*la chasse*."

24 A. Very well. You know, Mr. David, in -- when you hunt, you hunt in
25 a team, always. The animals don't sit in the forest and wait for you to

1 come and they don't just sit in a small area, they move around. So you
2 may leave a place one day, the others stay in the forest. We had our own
3 hunts guides, we knew what to do. I am a man of the forest and I could
4 follow animals that had been in the forest a week previously. I could
5 look at tracks and say that is the sign of our groups and I'm going to track them
6 wherever they go without following any paths. . So we could be in Nyabiri for a
7 week, maybe two weeks, and then the second week we would leave, we would go
8 away for three or four days and come back to Nyabiri because if the other
9 members of the team had something, we would come back and put a price on it

10 Q. Now, following the APC Kandro attack at Nyakunde -- and again,
11 it's a story that we've heard from several mouths but I'm going to ask
12 again if you can give us your account, of your understanding, and that is
13 of what happened to Kandro. What happened to Kandro?

14 A. After the attack on Nyakunde, suddenly we learned of the death of
15 Kandro. Kandro died at the Olomba market.

16 Q. And how did he die?

17 A. Kandro's death was provoked by the conflict, the conflict between
18 Kandro and Cobra. It was a conflict of leadership. The
19 or the oldest person was Cobra. He was the oldest person in -- the
20 collectivity. And from June/July onwards, Kandro was -- his name
21 was being heard everywhere and this was shocking for Kandro because
22 this -- it should have been his name that everybody was talking about, but people
23 were talking about how somebody was coming in to usurp his place. He didn't
24 want Kandro to be called colonel because he too was a colonel. And as
25 two cockerels can't live in the same courtyard, then one had to be

1 eliminated. There was one too many.

2 Kandro also had won the confidence of the population in Songolo

3 and so on by keeping the Songolo market

4 open. Up until the flight of Lopondo -- even after the fall of Lopondo,

5 the Songolo market was still open and people from Bunia even went to it.

6 So the population really had started to trust Kandro. And things were

7 swaying to and fro between one leader and the other and then Cobra came

8 to see Kandro as a real danger for his future because he was not being

9 successful.

10 If I've not satisfied you with my answer, perhaps you'd like to

11 rephrase it.

12 Q. Right. So how was he killed?

13 A. Kandro -- Kandro was shot. It was, I believe, Cobra's bodyguard

14 who shot him.

15 Q. How long after Nyakunde on the 5th of September, as we know, did

16 that happen?

17 A. I'm not too sure about a definitive answer, but I would say

18 roughly or less than two weeks. One week at least went past and it was

19 perhaps in the course of the second week. The second week was not yet

20 over as far as I remember. I do not have a precise date in mind.

21 Q. Now, Cobra, Kandro, let's start with Cobra. By that time, that

22 is by the death -- timely death of Kandro, had you met Cobra?

23 A. I would say that Cobra was like a furious lion or a furious dog.

24 After the death of Cobra, Cobra became terrible for the population --

25 THE INTERPRETER: This is what the witness has actually said.

1 MR. HOOPER:

2 Q. Let me come back to my question. It may not have got to you
3 quite as it left me.

4 By the time Kandro was killed, had you by then met Cobra? Did
5 you know Cobra before Kandro's death?

6 A. Before the death of Kandro, I knew Cobra -- I did know him, yes.

7 Q. What was his history as you understood it to be? Where did he
8 come from? What was he doing? This is before the death of Kandro.

9 A. Sir, before the death of Kandro, these two groups actually
10 co-operated with each other, Kandro and Cobra. What divided them was
11 their initiatives, the way in which they worked, their *modus operandi*
12 were different. I would say that Kandro lived off banditism, the
13 activities of banditry. Kandro was in the army of Mobutu and he had
14 joined the AFDL. He had even joined the new rebellion, together with the
15 Wamba group and so on. For Kandro to disappear from the rebellion, it
16 was for his own interest.

17 In the Walendu-Bindi collectivity, the Baviba groupement is quite
18 well-known for mining gold, for mining gold. Now, the Baviba groupement
19 is known for this. Kandro saw that in Bavi gold was being mined. He
20 preferred to go and take refuge in the mountains between Songolo and Bavi
21 in order to hunt for gold diggers and to earn his living that way. If
22 he met you, he would steal the gold off you. And the same thing with
23 Cobra. What split them was that Kandro wanted, if it were possible, to
24 target specifically the people he could steal from, from the natives.

25 When Kandro met a brother whom he knew, let me give you a typical

1 example, you would have -- there's a trader in Olongba who was called
2 Masikili (* phon). Now, this was a villager, a trader, from there, he
3 was from Olongba. Now, he fell into an ambush and the trader said that
4 he had been attacked by Cobra. This meant that people's confidence,
5 well, they weren't at ease. The difference
6 with Kandro was that they had trading interests, commercial interests,
7 which meant that when Kandro recovered the gold of what we called the
8 jajambu (* phon), that is the non-natives, the people who didn't
9 originally come from that region. When he took gold from these people,
10 he would then sell it back to the same traders of Olongba there cheaper, and that was
11....the economic advantage which the traders and villagers had in
12 that region and *vis-à-vis* Kandro. But the population moved away from
13 Cobra because Cobra was indiscriminate.

14 Q. All right. And where was Cobra based?

15 A. There is a hill known as Omi.

16 Q. (* Previous translation continues) ...

17 A. That hill is spelled O-m-i.

18 Q. And in early September 2002, which is the period I've asked you
19 to talk about, if we went to see Cobra at Omi hill, how many men would we
20 have found that he had under his control?

21 A. I would say that he had a camp which was known as Omi-Ama.
22 Omi-Ama, spelled O-m-i - A-m-a. At that time I would say that he had more than
23 50 men without taking into consideration the others who were on mission. Maybe
24 you can find 50 people in the camp, but there might have been others scattered
25 across the mission, in the gold fields. These were young people with whom he did

1 military training in Nyaleke and who came together as that group.

2 Q. And who did the military training -- which group had the military
3 training at Nyaleke?

4 A. Counsel, I don't know whether the Nyaleke centre existed in
5 Mobutu's time. I'm not sure. But we heard a lot about the Nyaleke
6 centre after the arrival of the Ugandans, at the time of the rebellion, and
7 specifically with the arrival of the AFDL. It was then that we started
8 hearing a lot about Nyaleke, but I do not know whether it existed in
9 Mobutu's time. I'm really not sure about that.

10 Q. Where is it, Nyaleke?

11 A. Nyaleke is located 12 kilometres away from Beni centre, 12
12 kilometres away.

13 Q. Again, dealing with this period of September 2002, if one had
14 visited Cobra and his men, how would they have been armed? Would they
15 have AK-47s or similar weapons or not?

16 A. Yes, they did have them.

17 Q. Now, Omi, Omi-Ama, which was Cobra's camp -- when we talk of
18 Cobra and Cobra's camp over the next period of a year, was it always in
19 the same place, was it always at Omi-Ama, part of Bavi groupement, or
20 not?

21 A. I'm sorry, counsel, can you repeat that question?

22 Q. You've just specified that Cobra's camp was in Baviba groupement
23 at Omi-Ama. Did it remain there during the period of time we're going to
24 discuss, and that is through -- from 2002 through to 2003? I just want
25 to establish whether when in future we talk of Cobra and his camp we are

1 going to talk about Omi-Ama or anywhere else? What's the position?

2 A. Yes, I have understood you now. The Omi-Ama camp was burnt down
3 by the junior brother of Kandro, Safari Ndekote. When Kandro died,
4 Safco wanted to obtain revenge for his brother, so he went and attacked
5 that camp and chased Cobra away from there.

6 Q. Just for clarification on the transcript when you say the junior
7 brother of Kandro was Safari Ndekote, are you saying he was also called
8 Safco? Because I've got that name as well in the transcript. Is it the
9 same person?

10 A. Yes, yes. I can give you clarification about the name Safco.

11 Q. Well, simple question: Safari Ndekote, is he also known as
12 Safco?

13 A. Safco is the short form of Safari.

14 Q. Right. Thank you. Now, Baviba groupement, can you very briefly
15 list the other places that make up Baviba groupement?

16 A. The Baviba groupement is the second-largest groupement in our
17 collectivity. It is quite large and it includes all the localities of
18 Songolo because Songolo alone includes Anyoso, Mola, Fau, Androzo.

19 Q. Can you spell Fau for us, please?

20 A. Fau is spelled as it is pronounced, F-a-u, it is actually Fau,
21 F-a-u.

22 Q. So we've got Songolo, and when you talk of Anyoso and Mola and
23 Fau and Androzo, what are they? Are they villages, localities, what are
24 they?

25 A. They are localities that form part of Songolo. So after the

1 little groupements of localities, there are other zones that are still in the Bavi groupement,
2 including, for example, Avenyuma is still part of Bavi, the main town of Baviba and --

3 Q. (* Previous translation continues) ... yet. You've just spoken
4 down Songolo, Anyoso, Mola, Fau, and Androzo. What other places other
5 than Songolo that are relevant to us do we find in Baviba groupement?

6 A. There is Singo, Avenyuma. One can say that the chief town or
7 headquarters of Baviba is Soki (* phon). There is also Olongba, Nyabiri.

8 Q. (* Previous translation continues) ... you've done well naming
9 those. So -- so when we hear, for example, of Bavi Olongba, you've
10 mentioned Olongba, sometimes we hear of Bavi Olongba, is that the same
11 place or a different place to the Olongba that you've just mentioned?

12 A. People say Bavi Olongba simply to indicate that it is located in
13 the Baviba groupement. But the name of that locality is Olongba.

14 Q. And Omi-Ama, Cobra's place at the time, before it gets burnt
15 down, is that a separate place or is it one of the places you've named?

16 A. It is a different place.

17 Q. But within Baviba groupement?

18 A. Yes.

19 Q. How old was Cobra at the time, approximately?

20 A. In 2002 Cobra could not have been 30 years old.

21 Q. Now let's come to Kandro -- well, just before we leave Cobra, let
22 me ask you this: You had met Cobra by then. In what circumstances had
23 you met him? Did you ever, for example, fight together with him, that
24 is, were you ever a combatant with him?

25 A. When I say that I know Cobra, it is not because we were together.

1 One simply knows Cobra by reputation. We did not associate with each
2 other. I can say that we reconciled with Cobra just here, recently. I
3 even have some bad memories of him.

4 Q. All right. Now, let's come to Kandro, I hope briefly. What was
5 his history, Kandro?

6 A. Kandro was a good and well-trained soldier. Kandro was a soldier
7 in the FAZ army and he was there with the AFDL and even in the rebellion
8 with Wamba dia Wamba. But at one point Kandro disappeared for his own
9 personal interests. He deserted the army to serve his own personal
10 interests in banditism, if one can call it that. That is what I know
11 about the history of Kandro.

12 Q. And though you've told us, just repeat, please, where was he
13 based in September of 2002?

14 A. In September 2002, he moved from Avenyuma to Singo. He came to
15 Singo from Avenyuma.

16 Q. Did his group have any particular name, his men, his group of
17 men?

18 A. The name of his group was *garnison*, they were known as *garnison*
19 *mobile* or mobile garrison

20 Q. And in early September 2002, do you know approximately how many
21 men he had in his group?

22 A. It was difficult to know about Kandro's group after the fall of
23 Lopondo because the number of APC soldiers who were there swelled the
24 number of Kandro's soldiers, and I can say this because there were many
25 Lendus in the APC and more specifically Ngitis. There were many Ngitis

1 in the APC and who were allied to Kandro. So it is very difficult to
2 give you a precise number because he was very familiar with APC soldiers.

3 Q. Yuda, Move, and Garimbaya, where were they at that time, early
4 September 2002?

5 A. In early September 2002, Yuda, Move, and Garimbaya were in
6 Nyakunde. After the fall of Nyakunde, they were in Nyakunde.

7 Q. And what was their history? Let's start with Yuda. What do you
8 know about Yuda?

9 A. I did not know very much about Yuda before I knew him. All I
10 know is that he arrived in Songolo with Lopondo. So I know that after
11 Lopondo's fall, Yuda came to Songolo, just like Move and Garimbaya.

12 Q. Did Yuda have any men under his control?

13 A. When Yuda fled Bunia, I believe that he had some men under his
14 command. I am not sure whether he was a platoon or section commander,
15 but he had men under his command and they came and joined Kandro in
16 Songolo.

17 Q. Move, what do you know about him, at that time, September 2002?

18 A. In September 2002 I also saw Move. All I know is that Move also
19 arrived along with that same group belonging to Lopondo.

20 Q. And Garimbaya, what about him?

21 A. It was the same thing with Garimbaya. Garimbaya was a platoon
22 commander who left Bunia alongside Lopondo and subsequently he was with
23 me in Aveba also.

24 Q. All right. Now, after one of Cobra's men, as you related, killed
25 Kandro, what happened to Cobra?

1 A. As I have said, everyone was hunting for Cobra, particularly
2 members of the *garrison* group. They were looking for Cobra, particularly
3 the junior brother, Safari Ndekote. He himself proclaimed himself leader
4 of the group that had been left by his elder brother. So he carried out
5 operations against Cobra, and at one point Cobra returned, attacked
6 Safco, and chased him away from Avenyuma. That is where people split up.
7 There was a group that were loyal to Yuda and another group that was
8 loyal to Safco. It was at that time that Avenyuma was set on fire by
9 Cobra's group. Safco returned his -- to his former fief in Songolo, while Yuda went
10 back to his native village.

11 Q. (* Previous translation continues) ...

12 A. That was Kagaba.

13 Q. So Cobra attacks Avenyuma, from what you say, it appears, forcing
14 out Yuda and Safco. Yuda goes to Kagaba; is that correct? Where does
15 Safco go, do you know?

16 A. Safco wanted to go to Songolo, and that is where he went. He
17 went to Songolo.

18 Q. And just to complete it, where did Cobra go?

19 A. After having driven out the *garrison* from Avenyuma, because it is
20 only a small river separating them, Olongba and Avenyuma, these are
21 neighbouring localities, Cobra set up a camp in Olongba and he could look
22 across on the other side at Avenyuma. So after having chased away the
23 *garrison*, Cobra set up base in Olongba.

24 Q. Now, can you help us as to when it was that Yuda and the *garrison*
25 or part of the *garrison* was chased out of Avenyuma and set up in Kagaba?

1 When was that? I don't expect a date from you, but can you help us as to
2 a month or time of year when that happened?

3 A. Yes. I do remember the month of January 2003.

4 Q. And when Yuda and part of the *garrison* arrived in Kagaba, do you
5 know whether there was a camp or group of combatants, *groupe*
6 *d'autodéfense*, already in Kagaba or not?

7 A. There were local combatants in Kagaba. They were living at their
8 place of origin in their own homes, but after Yuda arrived, a camp was
9 set up or built in Kagaba. And I want to specify once again that it was
10 when Yuda arrived in Kagaba that a camp was set up there.

11 Q. Now, did you remain at Nyabiri or not?

12 A. No, I did not remain in Nyabiri on stand-by. Firstly, we went
13 back to Aveba with Kasaki and then we went to see Major Hilaire.

14 Q. Now, what time -- we know that there's a camp called BCA in
15 Aveba. Do you know when it was set up and who set it up?

16 A. When -- when I say that the combatants -- when I speak of the
17 combatants, the combatants in Aveba were there when Kasaki moved in.
18 Kasaki moved -- set up in Aveba a little earlier, a short time before
19 2002 he was there. But as to saying when the camp was set up, the camp
20 was set up a little later than 2002. But I don't know exactly when. But
21 I would say around 2002.

22 Q. Well, for example, was it there by September of 2002, that is, at
23 the time -- say early September, at about the time of the attack on
24 Nyakunde, was there a camp, can you recall, in Aveba or not?

25 A. Yes, during the attack on Nyakunde there was a camp in Aveba.

1 There was a camp.

2 Q. And who occupied the camp?

3 A. There were the local combatants and a platoon from the APC in
4 Aveba.

5 Q. And who commanded that platoon?

6 A. In turn I would say there were two commanders, one after the
7 other, in Aveba at the BCA camp. The first was Alpha Bebi --

8 Q. (* Previous translation continues) ... excuse me. Did Alpha Bebi
9 have any other name that you can recall?

10 A. I'm sorry I didn't answer your question. Alpha Bebi is the son
11 of Mama Régine Kaswara. I don't know any other name for him.

12 Q. So -- and who was the other platoon commander at Aveba, Alpha
13 Bebi and you said there was a succession. Who was the other one?

14 A. After Alpha Bebi it was Kambale and the -- Mbale would be the
15 short form.

16 Q. Can you give us the -- spell the short form for us?

17 A. Kambale is written K-a-m-b-a-l-e, Kambale, and the short form,
18 the abbreviation of Kambale, you just remove K-a and you keep the
19 M-b-a-l-e.

20 Q. And when you say a platoon, how many are in a platoon?

21 A. Counsel, that depends on the different formations, different
22 structures. You have some sections where you might have 12 people or
23 more, but in a section you would assume there's 36 men, although there
24 could be more. So three sections.

25 Q. All right. Thank you.

1 A. So three sections, therefore. Three sections.

2 Q. So a section is 12, is it, and three sections are a platoon, but
3 it varies. Is that the position or not?

4 A. I'm sorry. I think I'm getting different -- I'm not sure that I
5 understood your question. Could you repeat it.

6 Q. It's just to settle this point. How -- normally how many people
7 are there in a section?

8 A. What I've just said, it depends from one place -- one country to
9 the other -- one place to the other. For example, in the militia we
10 want -- they wanted to have a section of 12. The AFDL had its number,
11 the Rwandans had their numbers, the UPDF had their numbers --

12 Q. I'm asking about the APC at Aveba, how many did they have?

13 A. Counsel, I apologise. But we talked about the platoon commander.
14 One is a platoon commander and a platoon would be made up of three
15 sections, to be technical.

16 PRESIDING JUDGE COTTE: (Interpretation) So if there are three
17 sections, three times 12, we reach 36. Thank you.

18 MR. HOOPER:

19 Q. And while we're on numbers, the *garrison*, the combatants at
20 Kagaba, camp set up in January of 2003, you told us, do you know
21 approximately how many men Yuda had, either by way -- well, first of all,
22 the *garrison*; and secondly, any men he had access to among the local
23 combatants? How many *garrison* were there, how many were there all
24 together at Kagaba, have you any idea?

25 A. In the *garrison*, the troops who were loyal to Yuda would be in

1 excess of 300. I think there'd be more than 300. Safco did not have a
2 large number of troops.

3 Q. And when you say Yuda 300 men, does that include the local Kagaba
4 combatants, the auto-defence who were there, or not?

5 A. No, no. The locals who were in Kagaba remained in their own
6 homes, they lived in their own homes. They didn't -- they didn't move
7 into the camp.

8 Q. All right. So at the BCA in Aveba you have a platoon of APC, you
9 tell us, and local combatants, and I'm talking about a time
10 September/October-ish 2002, November perhaps, how many combatants would
11 there be -- not APC, but combatants, would there have been in the BCA
12 camp at Aveba?

13 A. Unfortunately there was not a list with everyone's name, but I
14 would say, counsel, that there was a large number of combatants in Aveba.
15 I would say approximately at least 500 troops were there, 500 combatants
16 in Aveba.

17 Q. (* Previous translation continues) ... or local men from Aveba or
18 not?

19 A. No, counsel. I would say no because a lot of people fled their
20 villages and they moved to Aveba because they felt that Aveba was
21 peaceful, there were -- there was not fighting in Aveba.

22 Q. Was there a person who was in command of those 500 combatants?
23 What was the position in terms of any command of those people? And I'm
24 talking September, October, November 2002.

25 A. I would say there were three main commanders there, Nono, Abala,

1 and Mbalu (* phon).

2 Q. And those three men, were they Aveba men, were they from the
3 village of Aveba or Boloma or where did they come from?

4 A. Nono was not from Aveba. He was not from Aveba, but Abala was
5 from Aveba and Mbalu was from Aveba. I'm -- when I say Nono was not from
6 Aveba I mean he wasn't born in -- that he was not native to Aveba, but he
7 was born and grew up in Aveba.

8 Q. Did any of them have a history of military training or being in
9 any armed forces?

10 A. No, those three were locals. They were the local self-defence
11 force.

12 Q. And at that time, September/October 2002, how would they have
13 been armed? What arms did they have?

14 A. As is usual in our region, the combatants generally bear
15 traditional weapons. They didn't have any -- there may have been some
16 AK-47s among their weapons.

17 Q. And just tell us what these traditional weapons are, please.

18 A. Firstly I would say that the first weapon we use, it's not a
19 weapon. It's our working instrument, it's a machete. That is our
20 working instrument. Then a spear, that could be described as a
21 tool, and bladed weapons, and arrows, bows and arrows.

22 Q. And did the arrows -- were they ordinary arrows or what?

23 A. The arrows -- there were different kinds of arrows. There were
24 arrows which had been prepared by the pygmies, they're terrible. That's
25 what drove the Ugandans away. The arrow doesn't have to penetrate. It's

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1 sufficient just to have a surface wound and you're going to die. So the
2 traditional pygmy arrows were more powerful than our traditional arrows
3 because our traditional arrows may -- may -- may if they enter someone's
4 leg, the person could be treated and cured, but not with the pygmy
5 arrows. So there were different categories of arrows. The basic one
6 would be the metal -- the metal arrow made from nails or --

7 THE INTERPRETER: What the interpreter thinks is made from
8 barrels, *tonneaux*.

9 MR. HOOPER:

10 Q. Yeah, I don't think that sounds right. We've got arrows made
11 from nails and did you use the word "*tonneaux*"? What was the word you
12 used? Made -- sorry, it's just an interpretation query. It was arrows
13 made by -- we've got the poisonous arrows, we've got arrows made from
14 nails and what was the ...

15 A. They are barrels, empty barrels or "futs" (* phon) is the word --
16 no, metal -- yes, metal barrels.

17 PRESIDING JUDGE COTTE: (Interpretation) Just so that we
18 understand what we're talking about. How could one use a barrel, which
19 is something round, to make an arrow?

20 THE WITNESS: (Interpretation) Mr. President, the barrels are
21 cut up and there are blacksmiths who can make the arrows then.

22 MR. HOOPER:

23 Q. All right. I think we've got the general idea. Now you were
24 speaking of Commander Hilaire. Who was he?

25 A. Hilaire was the commander of the 11th APC Battalion.

1 Q. And where was he based?

2 A. He was based at the time in Marabo.

3 Q. Do you know what happened, if anything, to Commander Faustin of
4 the 12th Battalion after Nyakunde?

5 A. Commander Faustin was arrested at the military headquarters in Beni
6 to explain the situation in Nyakunde. He was arrested there.

7 Q. I'm not going to trouble us with a map at the moment, but where
8 generally is Marabo, where Hilaire was?

9 A. Marabo, if you look at the map, you look first at Nyakunde. On
10 the main road from Komanda to Bunia, Marabo is -- the road passes through
11 Marabo to go to Nyakunde. So it's on the main road between Komanda and
12 Bunia at the crossroads with the road which leaves the main road to go to
13 the centre of Nyakunde.

14 Q. (* Microphone not activated) ... sorry. We can find it on our
15 plan 1 of yesterday. I don't need to take you specifically to it, but
16 it's the junction of the Nyakunde turnoff on the Bunia-Komanda-Beni road.
17 And what happened -- and again, you're here talking of your own personal
18 experience rather than what you heard. What happened between you and
19 Commander Hilaire? We've only got a few minutes, so just give us an
20 overview and we can pick up the account when we next meet, which will be
21 next week of course, but what happened?

22 A. I would answer you directly. I was due to meet Hilaire, the
23 commander of the 11th Battalion, to see whether we could go to Beni.

24 Q. And how come it was you who was going to see him? Was it
25 something you chose yourself, or was it something that you were asked to

1 do, or how was it that you at that time would go to see him in terms of
2 Beni?

3 A. No, I didn't go to see Hilaire in Beni. I went to see him in
4 Marabo. I was selected -- the -- the wise elders selected me to go and
5 talk to him, to discuss the details with Hilaire. He -- the person who
6 could give us the real directions was Commander Faustin, but since
7 Commander Faustin had been transferred following orders, he couldn't tell
8 us what we had to do. So it was the elders, the wise elders, who sent me
9 to meet Hilaire.

10 Q. And why did they select you?

11 A. As I told you, in our collectivity, not many people speak
12 Swahili, or what you call Swahili, Kingwana. It's not what we speak back home. --
13 people speak Ndruna. So speaking to a person from outside is very difficult,
14 even intellectuals have difficulty in communicating, and that is why I
15 went to have talks with Major Hilaire because I could -- I could speak
16 fluently and without any difficulty and it would be easy for us to
17 understand each other.

18 Q. And what was the purpose of seeing him?

19 A. The aim of the meeting -- perhaps if I were to explain the aim it
20 would take too long - I'm looking at the clock - but I would say it was
21 for the preparations about going to Beni. But if you have any other
22 questions, perhaps I could give you more details if we -- if and when we
23 have the time.

24 Q. Yes. Well, let me come back to that on Tuesday and leave it
25 there. Thank you very much, Mr. Katanga. I hope you have a pleasant

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1 break. I'll see you next week.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, just before
3 we part company, could Germain Katanga tell us when all this happened.
4 Are we still talking about the same period of time?

5 THE WITNESS: (Interpretation) Mr. President, the visit to
6 Commander Hilaire was in October 2002.

7 PRESIDING JUDGE COTTE: (Interpretation) Perfect. Yes. And
8 also before we -- we part company, but perhaps Mr. Hooper had intended to
9 raise this point. When you said that in the Aveba camp there were local
10 combatants and an APC platoon commanded successively by Alpha Bebi and
11 then by Mbale, do we agree that Alpha Bebi and Mbale commanded the APC
12 platoon? Is that the case?

13 THE WITNESS: (Interpretation) Yes, Mr. President, that is
14 right.

15 PRESIDING JUDGE COTTE: (Interpretation) Yes. To be more
16 specific, this APC platoon, did it -- did it -- was it more important in
17 terms of the hierarchy than the local combatants? We don't have much
18 time, but if you could answer.

19 THE WITNESS: (Interpretation) The APC command is different from
20 that of the combatants because they respected orders.

21 PRESIDING JUDGE COTTE: (Interpretation) Is it just the -- could
22 the leader of that platoon give orders to the local -- local combatants
23 or only members of his platoon?

24 THE WITNESS: (Interpretation) He could give orders to the local
25 combatants with the co-operation of the local commanders as well.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Katanga.
2 As Mr. Hooper has just said, we will resume 9.00 on Tuesday
3 morning. We began yesterday morning with your testimony as your witness
4 testimony. Things are moving forward peacefully, constructively, and
5 we're all very grateful to you for this. So we will meet again on
6 Tuesday morning. You may now go back to your normal seat.

7 Yes, Mr. MacDonald?

8 MR. MACDONALD: (Interpretation) Very briefly, Mr. President.
9 Could -- for the next -- does Mr. Hooper intend to continue for the next
10 three days next week? When can we expect to begin the cross-examination?
11 Could Mr. Hooper give us some details about the time-frame, given the
12 list of themes to be covered?

13 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, as you --
14 as you said you intend to take the whole of next week, the three days of
15 the hearing, Tuesday, Wednesday, and Thursday next week, or do you think
16 you will have finished your direct examination before Thursday at
17 1.30 p.m.?

18 MR. HOOPER: I think it will be four to five days and at the
19 moment more likely five, but I hope we may be able to finish it in a
20 further two days of sitting.

21 PRESIDING JUDGE COTTE: (Interpretation) So we're -- we --
22 reasoning in terms of continuing with the direct examination, the whole
23 of next week, three days of hearing, and the following week we will be
24 sitting for five days. So just for organising your own work, there will
25 be Mathieu Ngudjolo's Defence. Next week we have understood that we will

1 still be with Mr. Hooper's direct.

2 Could the Court Usher -- Mr. Luvengika, please be quick.

3 MR. LUVENGIKA: (Interpretation) With your permission,
4 Mr. President, I just wanted to state that we hope that at some stage we
5 will be included in the debate from this morning on the maps and before there are
6 admitted. I don't need to recall that the geographic situation is of interest to us and
7 the interests which we represent.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
9 Mr. Luvengika. We count on the parties to include you in this pooling of
10 information about the maps which we can all use, and we want that done by
11 Tuesday morning.

12 Mr. Katanga, you may return to your normal seat.

13 (The witness stands down)

14 PRESIDING JUDGE COTTE: (Interpretation) We would like to thank
15 you for your contribution to the work of the Court this morning. We will
16 resume on Tuesday morning. Don't forget that Wednesday we will be
17 sitting in the afternoon. The Court will rise.

18 The hearing ends at 1.31 p.m.

19 CORRECTION REPORT:

20 The Court Interpretation and Translation Section has made the following correction in
21 the transcript:

22 * Page 25 line 25 to page 26 line 11:

23 "A. Well, this is something I can tell you. I followed the existence
24 of RCD-K/ML when Lopondo arrived. Up until then I didn't -- I wasn't
25 interested in politics. We knew that the Ugandans occupied Ituri, we

1 knew about the FLSA (* as interpreted), of the different movements, and
2 so roughly -- but we knew only that Ituri was occupied by a foreign force
3 and that was what stood out in our minds. Even if you said this is the
4 K/ML, it's the LMC, the FNLC, that didn't really have any influence on
5 the Ugandans. The Ugandans had control over the ground they occupied.
6 That was the basic situation. But the RCD-K/ML at that time of the
7 year -- well, and I read this in the files here. The RCD-K/ML was there
8 well before then, well before the arrival of Jean-Pierre Loponde, and I
9 learned that, in fact, from reading the files here."

10 Is corrected by

11 "A. Well, this is something I can tell you from what I know directly. I only became
12 aware of the existence of RCD-K/ML when Jean Pierre Loponde arrived. Up until
13 then I didn't -- I wasn't interested in politics. It was a mess. We knew that the
14 Ugandans occupied Ituri. We knew that developments in the FLP, MLC and ACP were
15 taking place gradually. So, in fact, all we knew was that Ituri was occupied by a
16 foreign force. That was what stood out in our minds. Even in politics, any talk of the
17 RCD K/ML, MLC, FLC, that didn't really have any influence on the Ugandans. The
18 Ugandans had control over the ground they occupied.
19 That was the basic situation in a nutshell. But I knew that the RCD-K/ML was at that
20 time -- well, and I read this in the files here, that the RCD-K/ML was there
21 well before then, well before the arrival of Jean-Pierre Loponde, and I
22 learned that, in fact, from reading the files here."

23 SECOND CORRECTIONS REPORT

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

- 1 Please note that the corrections have been implemented directly into the transcript.
- 2 THIRD CORRECTIONS REPORT
- 3 The Court Interpretation and Translation Section has made the following corrections
- 4 in the transcript:
- 5 *Page 42 line 15
- 6 “mountain range,”
- 7 Is corrected by
- 8 “the chain of mountains north of Zumbe”.