

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 Thursday, 8 September 2011
10 (Open session)
11 The hearing starts at 9.03 a.m.
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
15 Good morning, everyone. Good morning to the accused.
16 Now, we understand that Mr. Hooper is likely to have a bit of
17 conflicting commitments this morning and will have to be attending
18 another hearing in another room today between 10.00 and 11.30. So there
19 is the possibility that -- well, there may be some final observations
20 from the Katanga Defence team after cross-examination by the Prosecutor.
21 So depending on how the hearing goes this morning, we will try to assess
22 the situation and we will be at a later point reading out a ruling and we
23 may be doing that at a different time of day to allow for this
24 unforeseen ...
25 Now, Court Usher, if you could be so kind as to fetch the

Witness: Witness DRC-D03-P-0088 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

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1 witness.

2 Mr. Gilissen, we're awfully pleased to have you with us again.

3 THE INTERPRETER: Interpreter's correction: This unforeseen
4 scheduling problem.

5 (The witness takes the stand)

6 PRESIDING JUDGE COTTE: (Interpretation) Good morning,
7 Chief Manu. Can you hear me?

8 THE WITNESS: (Interpretation) Good morning. I can hear you
9 just fine.

10 PRESIDING JUDGE COTTE: (Interpretation) Well, we shall now
11 resume the proceedings.

12 Mr. Prosecutor, please proceed.

13 MR. MACDONALD: (Interpretation) Thank you, your Honours.

14 WITNESS: WITNESS DRC-D03-P-0088 (Resumed)

15 (Witness answered through interpreter)

16 Questioned by Mr. MacDonald: (Continued)

17 Q. (Interpretation) Good morning, Chief Manu.

18 A. Good morning, Prosecutor.

19 Q. Now, just to cast our minds back to where we were yesterday when
20 we concluded yesterday's hearings, I'm going to ask you about the attack
21 on Mandro of the 4th of March, 2003, and after the Presiding Judge's
22 remarks, you answered the question about who was responsible for the
23 attack. And I'd just like to read back to you the reply that you
24 provided. Transcript 305, page 74, line 22 --

25 MR. O'SHEA: Can I intervene at this stage? I'm not sure at this

1 stage - and I think we have to look at this, Mr. President - I'm not sure
2 that we're dealing at this stage with an inconsistency. And if we're
3 not, then I don't think there's a foundation for putting the statement to
4 the witness. My learned friend can put what the witness said to him to
5 impeach his credibility if there's a contradiction somewhere. I'm not
6 sure we're at that stage, are we?

7 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, I think we
8 are going to have to cast our minds back and try to remember.

9 MR. MACDONALD: (Interpretation) That was your question, your
10 Honour.

11 PRESIDING JUDGE COTTE: (Interpretation) We have to cast our
12 minds back to yesterday's hearings. I think I intervened because it
13 seemed to me that despite several specific questions that you had put to
14 the witness, the witness wasn't replying directly or so it appeared.
15 And -- well, ever since the beginning of his testimony, it has been
16 necessary on several occasions to remind him that when it was necessary
17 to give details, he needed to do so, and when a simple "yes" or "no" was
18 required, he should do so; and if the answer was no, he merely had to say
19 "no." I think I spoke after several unsuccessful attempts and I wasn't
20 trying to help anyone in particular, but rather, I was helping the
21 Chamber deal with a witness that I think everyone thinks is important
22 because of the responsibilities that he had at the time of the events.

23 So I think that's where we are, Prosecutor. Prosecutor, could
24 you help us, exactly what was the thread of yesterday's cross-examination
25 when we concluded yesterday at 1.20 in the afternoon, if you could help

1 us with that? Please proceed, Mr. MacDonald.

2 MR. MACDONALD: (Interpretation)

3 Q. Chief Manu, yesterday at the end of the hearing I was asking
4 you --

5 MR. MACDONALD: (Interpretation) Well, I was going to give you
6 the reply, I was going to repeat the reply and use that as sort of the
7 basis for following questions. That was my aim, your Honour, before my
8 learned friend opposite rose to interrupt.

9 Q. Chief Manu, my last question -- and -- well, the answer that you
10 gave to the Presiding Judge. When we read your last answer and the
11 following -- well, you're quite familiar with what you said about this.
12 So why was it necessary for the Chamber to intervene to get some kind of
13 answer out of you? That's where we were yesterday at the end of the
14 hearing, so I would like to go back in time a bit and go back to the
15 answer that you gave to the Presiding Judge's question regarding the
16 people, the groups that took part in the Mandro attack. And I did that
17 in a non-leading fashion by asking open-ended questions.

18 Chief Manu, yesterday you said -- yesterday you said that you
19 were given a report after a misunderstanding between Mbulo and someone
20 else regarding weapons because, in Mandro, Germain Katanga and the group
21 that had left Bogoro and another group that wanted to attack Mandro took
22 up arms -- took weapons and ammunition. That's what you first said.
23 Then a few moments later, page 75, line 2 -- or, rather, line 1 even, you
24 said that you weren't there on the day of the fighting and you added that
25 Mbulo acted on his own initiative. Now, I don't know why he did

1 so - this is what you said - and you said I was asked why and I couldn't
2 do that because I was right beside the great chief. That's why I
3 couldn't condemn him.

4 Now, you said that you couldn't do it because you were right
5 beside the great chief, so you couldn't condemn Mbulo because you were
6 right beside the great chief. And when you make reference to the
7 fact that -- well, it is correct, Chief Manu, that you were referring to
8 your discussion with the Office of the Prosecutor because you were asked
9 questions to determine, well, in light of your answer, whether there had
10 been any sanctions or punishment of Mbulo for acting on his own
11 initiative. So my question is as follows:

12 Do you remember that you were asked these questions regarding the
13 sanctions against Mbulo? You can answer by a simple "yes" or "no."

14 A. Well, I won't answer by saying "yes" or "no." This is how I'm
15 going to answer you, Prosecutor. When there is fighting, it is difficult
16 to condemn someone, particularly when the person has come back from
17 fighting and also if I'm right beside my leader. I told you that I
18 wasn't there, I wasn't present when the fighting occurred. I was with my
19 leader, my chief. In the morning -- well, the next day I went to Bunia.

20 Even if I got there, even if I had gotten there three days
21 earlier, I wouldn't have taken the initiative of condemning him or
22 criticising him. I got there in the night at midnight and the next
23 morning I went off again to Bunia. How would I have had the time to call
24 all the wisemen and have a meeting in order to condemn him? I got there
25 at midnight and then the next day I went to Bolo (* as interpreted). So

1 you can see the amount of time that I had. I didn't have time to call a
2 meeting.

3 Q. Chief Manu, Mbulo, now, Mbulo was a young member of the
4 self-defence group living in Bedu-Ezekere, if I understand your answer
5 correctly?

6 A. Yes.

7 Q. And this same person, Mbulo, was involved in the management of
8 the health centre, the health station, of Kambutso. Isn't that so?

9 A. I didn't say that.

10 Q. I make reference to the document that was placed on the record by
11 my learned friends during examination of Witness 0055.

12 Chief Manu, isn't it --

13 MR. FOFÉ: (Interpretation) I beg your pardon.

14 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

15 MR. FOFÉ: (Interpretation) I beg your pardon. Could the
16 Prosecutor be more specific about this particular document, the document
17 that he just made reference to.

18 MR. MACDONALD: (Interpretation) That reference can be provided
19 by e-mail. I will send it. I won't mention the reference in front of
20 the --

21 PRESIDING JUDGE COTTE: (Interpretation) You mentioned a
22 document DRC-OTP-1055, is that the document?

23 MR. MACDONALD: (Interpretation) No. I was referring -- I think
24 you'll recall that there was testimony from an earlier witness by the
25 number D03-P-0055, and during that testimony, a document was filed - I

1 don't remember the EVD number for the moment, but I can send that
2 information to the Chamber and everyone else - and that document had to
3 do with the setting up of the health centre, and I think this will allow
4 everyone to remember and I believe the name of the person appears on that
5 document.

6 Q. Chief Manu, this young fellow, Mbulo, a member of the
7 self-defence group, did he go all by himself or were there other people
8 with him during that attack on Mandro? In other words, were there other
9 young members of the self-defence group that went to Mandro during your
10 absence that you heard about, that you received a report about when you
11 came back?

12 A. Yes. I said so earlier. I had said that he had gone off with
13 other young fighters. However, since I wasn't there, I wasn't in a
14 position to know who went with him. I got there at night.

15 Q. Chief Manu, it is also correct that Mbulo and the other young
16 fighters who were with him and who took part in this attack on Mandro had
17 disobeyed the wise old men or had disregarded the order not to attack.
18 This is what you have been saying since the beginning of your testimony.
19 But in this particular case, Mbulo and the people who went with him
20 disobeyed the wise old men. Isn't that so?

21 A. Prosecutor, I think you'll recall that I had said Mbulo died
22 because of his lack of respect. He did not obey orders. I wasn't there.
23 He stayed there and he didn't obey the wise old men, and the consequences
24 were such that he died. So I repeat, I wasn't there when the fighting
25 occurred in Mandro. That's why it's difficult for me to provide

1 explanations about this.

2 Q. Chief Manu, I think you'll recall that yesterday you said that
3 Boba Boba, Kute had disobeyed, and now you say that Mbulo disobeyed and
4 the others who went with him. We agree on this point and that they had a
5 few strokes of bad luck. One died, another one died, but Boba Boba
6 didn't die, and the other fighters who joined Mbulo to attack Mandro,
7 several of them are still alive. Isn't that so, Chief Manu? You know
8 that as well.

9 So my question is: Isn't it correct, Chief Manu, for the last
10 time I'm asking you the question, the traditional authorities, the wise
11 old men, had no control over the young members of the self-defence
12 groups, the fighters, in Zumbe? What's more, and this was mentioned in
13 the document from June 2002, you had absolutely no control over them.
14 Isn't that right?

15 A. I'm -- beg your pardon, Prosecutor. I have the impression that
16 you're trying to speak on my behalf. When you ask your question and I
17 start to answer, you stop me. Let me tell you this: It was the wise men
18 who had the power. Boba Boba had fled the village. If you read your
19 documents carefully, you will see that I said that Boba Boba had fled the
20 village. Please, give me some time so I can answer the questions and
21 please don't ask such long questions. I told you that Boba Boba had
22 fled. After my departure from Bunia I no longer followed, I no longer
23 tried to find out what was going on before. I was focusing on the
24 future, on the things that were coming up in the future. I think I've
25 answered this question in this way several times.

1 Q. Now, just to refer the Chamber to the document
2 EVD-D03-0001-00087, the list of participants; and 00090, the document
3 regarding the meeting as such regarding the health centre in question.
4 Chief Manu, Mbulo and the fighters of Zumbe -- well, the young
5 people who belonged to the self-defence group who took part in the attack
6 on Mandro, yesterday you talked about -- you mentioned the name of
7 Germain Katanga. So what did you mean by that? What did you try to say
8 when you talked about Germain Katanga and you made reference to another
9 group? There were the young people from Zumbe and then there was another
10 group. Who were the people in this other group? What was this other
11 group all about?

12 A. First of all, I'd like to answer the question about
13 Germain Katanga. Regarding your second question, I know that I wasn't
14 there. Let's go back to the first question about Germain Katanga. When
15 I arrived, I was told that Mbulo -- there had been a disagreement between
16 Mbulo and Germain Katanga. There was a misunderstanding about heavy
17 weaponry. They had quite a bit of ammunition and there was a
18 disagreement or a misunderstanding between them. That's why I mentioned
19 Germain Katanga.

20 As for the second question, you talked about another group and
21 I've already told you that arrived at night, and the next day I went off
22 to Bunia. So I didn't know who had left and who had not left. I'm
23 giving you my version of the events and I have no further information to
24 give you. If I mention a group that left, I will --

25 THE INTERPRETER: Correction, groups in the plural.

1 THE WITNESS: (Interpretation) -- I will repeat that again.
2 I've just told you the context in which I mentioned Germain Katanga. I
3 mentioned him not because I saw him, not because I talked to him, not
4 because I received him, I didn't see him. I mentioned him just because I
5 heard people say that there had been a misunderstanding between him and
6 Mbulo. That's why I mentioned him.

7 MR. MACDONALD: (Interpretation)

8 Q. Chief Manu, this misunderstanding about heavy weaponry, where did
9 this heavy weaponry come from? You heard about that as well, didn't you?
10 Where was the heavy weaponry obtained? Where did it come from? What
11 place did it come from?

12 A. Well, we're talking about Mandro, about the Mandro war and the
13 weapons from Mandro and the ammunition from Mandro. So what do you mean
14 by your question? You see, we're talking about Mandro. We're not
15 talking about some other place. We're talking about Mandro and you're
16 asking a question that's not clear. I don't know. And I've already told
17 you that I didn't want to talk any longer about Mandro since I wasn't
18 there.

19 Q. I realise that you're in an uncomfortable position right now,
20 isn't that so? You don't want to talk about the Mandro attack, do you,
21 because -- because you just mentioned Germain Katanga and that's making
22 you uncomfortable, isn't it?

23 A. I am comfortable, but this only problem is that I've already
24 answered your question several times now.

25 Your Honour, I have already answered the question several times

1 now.

2 Q. The heavy weapons and the ammunition were obtained from whom?
3 Who did they belong to before? Which group was in possession of those
4 weapons?

5 A. The ammunition came from Mandro and I do not know who handed it
6 over. I do not know whether the person who handed over the weapons was
7 killed or not or whether he was arrested or not. The only thing I know
8 is that it happened in Mandro. I do not know the contact person.

9 Q. Chief Manu, is it correct that Germain Katanga and his group and
10 young people of the self-defence group in Zumbe attacked Mandro and
11 obtained this heavy weapon that is usually placed behind a 4 by 4 vehicle
12 and it is an enormous machine-gun and that they also had the ammunition.
13 You are fully aware that it was during that fighting that those weapons
14 were recovered from the enemy in Mandro?

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea.

16 MR. O'SHEA: (Previous translation continues) ... come back to
17 where we were yesterday and to re-establish the base-line that we had
18 established yesterday. Your Honours had requested my learned friend to
19 shift back to his method of cross-examination that he adopted at the
20 beginning of the previous day, to stick to open questions and to act with
21 this witness as if he would as if it were his own witness, quite a proper
22 ruling in the circumstances. So I would like to remind the Chamber and
23 my learned friend of that fact.

24 MR. MACDONALD: (Interpretation) Mr. President, very briefly.

25 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed,

1 Mr. Prosecutor. Your very last question does not comply with the rules
2 of the game that we set out. So take your time and proceed even if we
3 wish the proceedings to be expeditious.

4 MR. MACDONALD: (Interpretation) Very well. I will take my
5 time, and in that way Mr. O'Shea will not always object to ensure that
6 Mr. Hooper will return to the hearing.

7 PRESIDING JUDGE COTTE: (Interpretation) Very well. We will
8 manage the situation the way it is. There is no difficulty there.

9 MR. O'SHEA: (Previous translation continues) ... I'd appreciate
10 it if my learned friend does not speculate as to my intentions. I'm not
11 trying to manipulate the proceedings. I'm not that kind of lawyer, thank
12 you very much.

13 PRESIDING JUDGE COTTE: (Interpretation) We are very sure about
14 that, Mr. O'Shea.

15 Mr. MacDonald, please proceed calmly.

16 MR. MACDONALD: (Interpretation)

17 Q. Chief Manu, yesterday you referred to the issues about which you
18 were asked questions during that meeting with the OTP in Entebbe. You
19 mentioned that questions had been put to you on that topic. Now, do you
20 remember what you said in your prior statement about the Mandro attack,
21 that is, specifically with regard to the participants, those who had
22 taken part in the Mandro attack. Do you remember what you said? And
23 once again, Mr. Witness, you can realise that even though you are asking
24 for the topic, the line of questioning, should be changed, we are staying
25 with this topic with the leave of the Chamber.

1 My question is: Do you remember what you said about the Mandro
2 attack?

3 A. You said that you were going to produce a tape or documents on
4 that, but you were not able to do that. You talked about insecurity. I
5 do not remember those details. It happened a long time ago.

6 Q. Chief Manu, you also confirmed, very briefly, that during your
7 familiarisation process in the VWU, you had the opportunity to re-read
8 the transcripts of your interview with the OTP. Now, let me refresh your
9 memory --

10 MR. O'SHEA: (Previous translation continues) ... again,
11 Mr. President, your Honours, we have during the course of this trial
12 established principles on when it is appropriate to refresh a witness's
13 memory. And your Honours have ruled that that decision will be made on a
14 case-by-case basis, on a witness-by-witness basis, and that the criteria
15 involved will depend upon how the witness is in the witness box, the
16 ability of the witness to answer questions.

17 Now, when your Honours were referring to the ability of the
18 witness to answer questions, I believe or I submit that -- I would submit
19 that your Honours were referring to answer questions about events in
20 2003. We're not here referring to whether the witness can remember his
21 interview with the Prosecutor. That is not -- that is not, in my
22 submission, an appropriate way to try to introduce that document into
23 these proceedings. It's a prior statement.

24 I've expressed very strong concerns yesterday about the dangers
25 with regard to the fairness of these proceedings and allowing the

1 Prosecutor to try to put that document into evidence in the
2 circumstances, the circumstances in which it was disclosed, et cetera.
3 And in my submission, in all those circumstances, it would not be
4 appropriate to allow Mr. MacDonald to attempt to refresh the memory of
5 this witness using potentially incriminating statements that he may or
6 may not have made in the past in an interview with the Prosecutor.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, explain
8 to us precisely what you intend to do and whether what you intend to do
9 goes outside of what we have been -- we have accepted to do.

10 MR. MACDONALD: (Interpretation) Your Honour, I'm asking
11 questions about Mandro within the context of cross-examination.

12 PRESIDING JUDGE COTTE: (Interpretation) Let us not judge the
13 attitude of the various parties, but let us be clear. After putting
14 questions to the witness, is your objective to confront him with the
15 statement that he made during the interview of 2009, yes or not? If yes,
16 then this is a policy that we have adopted and you can do so; otherwise,
17 if your purpose is different, what is it?

18 MR. MACDONALD: (Interpretation) My answer is no.

19 PRESIDING JUDGE COTTE: (Interpretation) So this is not -- the
20 idea is not to refresh the witness's memory, but to confront the witness
21 with what he is saying today and a prior statement that he made about the
22 same subject. I have said today and yesterday that what is of greatest
23 concern to the Chamber is what the witness states before the Chamber
24 under oath. And you must bear in mind, Chief Manu, that you have sworn
25 to tell the truth and nothing but the truth.

1 So you can proceed, Mr. Prosecutor.

2 MR. MACDONALD: (Interpretation)

3 Q. Chief Manu, one last time and I will ask you a very open
4 question. Who were the people who attacked Mandro? I do understand that
5 you were not there and the Chamber is fully aware also. We know that you
6 heard about it upon your return, but my question is very specific. Who
7 are the people or the groups that attacked Mandro?

8 A. As concerns Mandro, I have said that I was not there. There was
9 a group which arrived from Bogoro and other people came from our place.
10 Young people who went to Mandro, but I was not there. I already told you
11 so the day before yesterday or three days ago. Now, if I mentioned
12 Germain, I said that he quarrelled with Mbulo. I said that I heard about
13 it. I was not there when they quarrelled. I do not know what is
14 happening. I have already told you the same thing.

15 Q. So what you are telling us is that Germain attacked Mandro with
16 Mbulo? Are we to understand that from your answer?

17 MR. O'SHEA: (Previous translation continues) ... said on the
18 previous occasion, is it? What he said on the previous occasion was that
19 he had heard that Germain Katanga had attacked Bogoro (* sic). Heard --
20 heard his men had attacked Bogoro. He did not say "with Mbulo."

21 PRESIDING JUDGE COTTE: (Interpretation) Chief Manu, you will
22 realise that ever since yesterday this Mandro attack had been -- has been
23 at the heart of the Prosecutor's questions. You have told us that you
24 were not there and I have told you that we fully understand you. The
25 Prosecutor is simply asking you what you might have heard about that

1 battle, that is, from third parties. You have understood that the
2 difference is important. You are someone who is knowledgeable and who
3 understands nuances. We need to leave this issue of the Mandro attack
4 and go on to other things. So please answer the Prosecutor's question as
5 clearly as possible and then we will be able to make progress. And
6 please be careful, we are not talking about Bogoro, we are talking about
7 Mandro. It is possible that there were slips of the tongue here. We are
8 talking about the Mandro attack in which you were not present.

9 MR. O'SHEA: (Previous translation continues) ...

10 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea.

11 MR. O'SHEA: Thank you very much. That is -- that's helpful
12 because the transcript does say "Bogoro" and I'm told I said "Bogoro."
13 That was a mistake, I'm sorry, I meant to say "Mandro."

14 PRESIDING JUDGE COTTE: (Interpretation) Now that is very clear.

15 Now, Chief Manu.

16 THE WITNESS: (Interpretation) Yes, your Honour. I have already
17 stated here -- well, I did not say it in Bunia or in Entebbe. I said it
18 here. I arrived at night and the important piece of information that I
19 heard was that Germain Katanga and Mbulo had a quarrel about a weapon.
20 And the following morning, given that I had arrived at midnight, the
21 following morning we went to Bunia. With regard to Mandro and what
22 happened there, I did not hear anything about that, I did not speak about
23 that event, I did not say that it was one person or the other from Zumbe.
24 We did not touch on that topic.

25 What I can remember is that the two of them quarrelled about a

1 weapon and ammunition. This is something that I remembered, that is, the
2 quarrel. I did not speak about the war. Because of the war, myself and
3 the chief, we stayed there. Maybe someone said that I was there myself,
4 but that is not true. If someone has said that I was there, I want to
5 tell you that I was not there.

6 And, Mr. President, your Honours, I am telling you this under
7 oath, I was not there.

8 MR. MACDONALD: (Interpretation)

9 Q. One last question on this topic. Upon your return to Zumbe with
10 Chief Ngabile, did you hear whether apart from that weapon and the
11 ammunition there had been looting in Mandro, that is, by the young people
12 of the self-defence group or those who took part in the attack?

13 A. The word "looting" or "pillaging" is a European word, but I know
14 that there were cows that were shared. They returned with cows. Now,
15 regarding looting, I do not know about that. I know that they took away
16 everything that they found, even baby's underwear.

17 Q. Where were these cows taken to, Chief Manu?

18 A. A thousand cows or more can be consumed by the population. Maybe
19 the cows were taken to Bogoro or Bunia, but as far as I'm concerned, no
20 cows were brought to my place. I did not share in those cows. But if
21 meat is prepared and I'm there, I'm not going to die of hunger. I'm
22 going to eat some of it.

23 Q. Chief Manu, you have just stated that maybe the cows were taken
24 to Bogoro. Who took those cows to Bogoro?

25 A. Mr. Prosecutor, if I say that people brought cows and shared

1 them, you are asking me who brought the cows. I do not know the people
2 who brought the cows. It was the combatants who brought them. Now,
3 you're asking me who took the cows to Bogoro. I do not know. Now, would
4 you have a problem with me if I decide to keep silent here?

5 Your Honour, would it be an error or a mistake on my part for me
6 to refuse to answer the next questions under the circumstances?

7 PRESIDING JUDGE COTTE: (Interpretation) Chief Manu, please
8 answer the questions put to you and we will no longer talk about cows.

9 MR. MACDONALD: (Interpretation)

10 Q. Chief Manu, isn't it correct that after the Bogoro attack of the
11 24th of April -- 24th of February, 2004 (* as interpreted), it was
12 Germain Katanga's people who were there in Bogoro? This is the very
13 purpose of our proceedings and objections are being made left and right.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, the
15 rules of the game were set out yesterday, the rules of procedure were
16 defined yesterday. Do not ask any leading questions when you are talking
17 about possible incrimination of Germain Katanga. So take the time to
18 rephrase your questions and you can proceed, and in that case Mr. O'Shea
19 will not jump to his feet.

20 Mr. Kilenda.

21 MR. KILENDA: (Interpretation) Your Honour, since you are in
22 control of the hearings, you have to remind the Prosecutor of certain
23 rules of the game. An objection is a right. Maybe it is not -- it may
24 not be founded, but one cannot prevent a learned colleague from rising to
25 his feet to object.

1 PRESIDING JUDGE COTTE: (Interpretation) It goes without saying,
2 Mr. Kilenda, but you are aware of the pressure on the person who is
3 examining or cross-examining and who in the heat of the action may have a
4 rather abrupt reaction if he feels that an interruption is unjustified.

5 The Prosecutor has calmed down and we can see that he is going to
6 continue in a serene manner.

7 Please go ahead.

8 MR. MACDONALD: (Interpretation) Fortunately, your Honour, you
9 can keep your calm and call us to order in a diplomatic manner.

10 PRESIDING JUDGE COTTE: (Interpretation) I was elected on list A
11 as a jurist.

12 MR. MACDONALD: (Interpretation)

13 Q. Chief Manu, after the 24th of February, 2003, who was in control
14 of Bogoro?

15 A. I do not know.

16 Q. Chief Manu, are you serious when you say that? Are you sure that
17 you do not know that? Or do you want to take some time out to reflect on
18 it before maintaining that answer?

19 A. I gave you that answer because when I left Loga with the chief,
20 we returned to Bunia the following morning. I was not yet in Bogoro, so
21 it is not possible for me to know what happened there. I know that
22 people from Gety were in Bogoro. I also know that those who were helping
23 the EMOI soldiers, that is, the government soldiers, were there. That is
24 what I heard, but I was not in Bogoro so I do not know who was in control
25 of Bogoro at that time. It is true that when a force takes over a

1 region, then they keep soldiers there to control the area. I was not in
2 Bogoro, so I do not know what happened at that time.

3 Q. Chief Manu, very well. On the 5th you were in Zumbe. On the 6th
4 you were in Bunia. But between the 24th of February, 2003, and your
5 departure to Loga, that is, around the 2nd or 3rd of March, Chief Manu,
6 isn't it correct that you heard and you know very well who attacked
7 Bogoro?

8 Listen, but there is a comment here I want to make. There is a
9 certain level of credibility that the Chamber may not have. You were a
10 traditional leader. Bogoro was about 7 to 10 kilometres away from Zumbe
11 and you are telling this Chamber that you had no idea who attacked Bogoro
12 and that you never heard about it? Nobody ever told you? Let us be
13 serious, Chief Manu.

14 A. You are speaking too much, and yet it is a small question that I
15 can answer. I arrived at night and I was shown a letter, and in it it
16 was said: We are going to attack the UPDF, we are going to attack
17 Bogoro, we are going to attack Zumbe, because the Ngitis were in Bogoro.
18 I know that, and on that day Bogoro was attacked. We knew that the
19 Ngitis were in Bogoro, and even right now as I speak to you, the Ngitis
20 are in Bogoro. They are the ones who received that letter. I know that
21 the Prosecutor was in Bogoro and he met with Ngitis. It was those Ngitis
22 who received the Prosecutor in Bogoro. If you go there today, you're
23 going to find them. Please wait, allow me to finish.

24 In our region, Mr. President, it seems to me that we are going
25 into too many details here. In my place, if you are a witness, you are

1 asked: Do you know this or that? And then you explain if you know. But
2 here I am answering questions. When I came here, I thought that I would
3 explain only what I know before the Judges, but here it seems as if I'm
4 on trial. Today in Bogoro there are Ngitis there. Those who were in
5 Bogoro a long time ago are still there. The Hemas and Ngitis are living
6 in harmony in Bogoro. I know that.

7 PRESIDING JUDGE COTTE: (Interpretation) Before the Prosecutor
8 continues, we would like to explain something to you. You came to
9 testify before this Court. It is an adversarial process. Each party has
10 a different objective. You have the Prosecutor on the one hand and then
11 the Defence on the other hand. It is clear that you are not the one to
12 choose the questions that are being put to you. Some of them may sound
13 unusual, but you have to answer them to the extent possible. But allow
14 the Prosecutor the possibility of asking his questions. You must have
15 realised that the Defence teams are there, they are alert, and they
16 challenge anything that seems unusual. You are not on trial here. You
17 are here to assist us to ascertain the truth. I can see that you have
18 perfectly understood now and we can continue.

19 Mr. Prosecutor.

20 THE WITNESS: (Interpretation) Very well. I have understood
21 you.

22 MR. MACDONALD: (Interpretation).

23 Q. Chief Manu, do we agree that on the 24th of February, 2003 - and
24 you have mentioned this - it was possible to see the UPC camp in what was
25 the Bogoro Institute from Zumbe hill. It was a large force. It is clear

1 to the Chamber, and this is a fact that is not in dispute. Who chased
2 out that UPC force?

3 A. Let me begin with what you said. You said that Bogoro can be
4 seen from Zumbe and you mentioned the date of the 24th. I have already
5 said that there was fog on the 24th. Now you are asking me who chased
6 out that force. I have said that there were Ngitis in Bogoro. I was not
7 in Bogoro. I did not see what happened, but I know it was the Ngitis who
8 arrived in Bogoro.

9 When I talk about the Ngitis, it's because they left from Gety.
10 What is essential here is not my presence in the place. I can't explain
11 to you what happened if I wasn't there, but I can tell you that it was
12 the Ngiti who left Gety who took control of Bogoro. You need to know
13 that, but I cannot recount to you what happened in Bogoro because I was
14 not physically there, although you can also learn things from the radio.

15 Q. Who are the commanders you spoke to personally and who told you
16 that they had participated in the battle in Bogoro? Please give us their
17 names.

18 A. I'm going to tell you something. I have forgotten this. The
19 first time when I left Kasenyi - and, by the way, I had forgotten to
20 mention this to your office, the Office of the Prosecutor - I was
21 accompanied by Mac Adam, but I had not yet mentioned that name to you.
22 That day, the people from MONUC were in Bogoro, and the person I found
23 who was talking with the people from MONUC was Dark and Dark is still
24 alive. I would like you to ask Dark that question who was the commander.
25 He can tell you about their military plan and their young people. I do

1 not know about it. I know Germain Katanga, I know Yuda, I know Safco, I
2 know Baraka and I know a lot of other people. But who was there at that
3 time?

4 Your Honour, at that time we knew there was someone called
5 Omunyi (* phon) who was a chief of a locality there and there was
6 Azodia (* phon) who was the chief of a post, but these were
7 administrative leaders. With regard to commanders, I just can't answer
8 you.

9 On my arrival I found Dark there. He had a training session and
10 was operating as a police agent. When I arrived, he was talking with the
11 people from MONUC.

12 Other than that, I don't know anything further. But in Dele --
13 please let me continue. In Dele, when we came into Bunia, we found
14 Mr. Germain in Dele who was not in Bunia.

15 So Germain arrived in Dele where the Ugandans were. We found
16 Yuda there. we found Cobra, Dark, and Sipa, but we are talking here
17 about the events in Dele. This was after the fighting. If you want to
18 go there and visit, please feel free, but I'm telling you now about the
19 events in Dele. The person who went with us to Bunia was Oudo, who had
20 come from Kavariaose (* phon).

21 So that is my testimony with regard to this question that you
22 have asked me. I know that you are going to come back to it and ask me
23 further questions, but I've already answered you.

24 Oudo arrived with his group and then they left again. But we met
25 Germain who was not at Bunia. I met Dark and I asked him why he had

1 been -- why he had an injury on his arm and he told me that that had
2 happened in Bunia. Germain arrived in Bunia with Dark and other people
3 but after the fighting. And that is what I can tell you with certainty.
4 You place a commander here or there, a vice commander, but I was not
5 present. I think that I have answered several of your questions.

6 Q. Are you certain that it is Dark who told you that he had a hand
7 injury or was it possibly another commander?

8 A. I was talking about Yuda. It was Yuda who was injured.

9 THE INTERPRETER: The Swahili interpreter apologises. It was
10 perhaps because of the speed of the testimony.

11 MR. MACDONALD: (Interpretation)

12 Q. Chief Manu, I understand that Yuda explained to you that he had
13 received a hand injury. How did Germain Katanga react when Yuda was
14 telling you that story about the injury to his hand?

15 A. Mr. Prosecutor, I did not go there to have conversations with
16 Yuda. I saw Yuda at a certain distance. I heard talk about the fact
17 that a lot of Ngitis had arrived and I hurried to receive them. I
18 thought to myself the fighting would now stop, and when they arrived,
19 people organised themselves to put some order into the situation. I
20 didn't recognise everyone, but there was Yuda, there was Dark, there was
21 Germain, and Cobra, as well as other leaders like Sipa. They entered
22 Bunia and they were moving around. But I wasn't there. I told you that
23 I did not have the time to talk with Germain to say: This is what needs
24 to be done, and so on. That was not our purpose. What interested us was
25 to see the fighting stop. You need to understand that.

1 Q. My question was very simple. Let us come back now to Bogoro
2 instead of going off to Bunia. Let's stay with Bogoro. Chief Manu, is
3 it not correct that you heard that a large number of civilians had died?

4 MR. MACDONALD: (Interpretation) And this is my question,
5 your Honour, this is cross-examination, it has no connection -- well, I
6 think the Chamber understands me.

7 Q. Chief Manu, is it not correct that you had learned that a number
8 of civilians had died in Bogoro or are you going to deny that also?

9 A. This is a lie. I have already said that we did not hear the
10 first gun-shots on the 24th. You're saying that from Zumbe we could see
11 the camp. A civilian cannot stay at a place where there is fighting
12 today, tomorrow, or the day after tomorrow. He simply cannot. And I say
13 this before the Judges. We thought that the gun-shots were in Lakpa,
14 Kagaba, and so on. All of this took place over three days.

15 THE INTERPRETER: The Swahili interpreter is asking the witness
16 to repeat that testimony from the 24th onwards.

17 PRESIDING JUDGE COTTE: (Interpretation) Witness, could you
18 please repeat the last part of your answer when you were talking about
19 the 24th of February. Could you please repeat that part of your answer
20 and could you please make an effort to answer clearly the question put to
21 you by the Prosecutor, who asked you very clearly, and it was a short
22 question, whether to your knowledge civilians died in Bogoro, yes or no.
23 You're telling us that civilians cannot remain in an area where there is
24 fighting, but if, by chance, civilians were still present in Bogoro, the
25 Prosecutor would like to know what was their fate, if you know. Could

1 you please answer, Mr. Witness.

2 THE WITNESS: (Interpretation) Yes. What I was trying to say
3 was this: About two days before the 24th, we heard gun-shots and we
4 thought that those gun-shots were coming from a great distance from
5 there. And that day there was a lot of fog. The Prosecutor has asked me
6 this question, which I have understood clearly, and the question was:
7 Did you hear or did you know that civilians died in Bogoro? Well, I
8 cannot say that I heard or knew that civilians had been killed in Bogoro
9 because I did not go there. If, for example, attacks take place where I
10 am, civilians cannot remain behind the soldiers, they simply can't. Even
11 if you hear a bomb explode outside this chamber, we're all going to lie
12 flat on the ground. I didn't know whether civilians were killed in
13 Bogoro. I don't know what happened there. I was not there. And so you
14 mustn't ask me questions about those civilians.

15 MR. MACDONALD: (Interpretation)

16 Q. Chief Manu, is it not correct that the town of Bogoro was
17 destroyed? The sheet metal roofing on the houses was stripped off.
18 Inevitably, you could see those sheet metal houses from Zumbe when the
19 sun was shining on Bogoro, so from Zumbe you could see that, could you
20 not? My question is this, Chief Manu: Is it not a fact that the village
21 of Bogoro was looted and destroyed following the gun-fire that you heard
22 either on the 23rd, 22nd, 24th, 25th, if you like, of February,
23 2003 - and you knew this very well - is it not correct that you learnt
24 that, better than that, that you even saw it with your own eyes?

25 A. Mr. Prosecutor, I did not go to Bogoro to see everything that you

1 are talking about. You're saying that I had heard about it. Well, I
2 cannot rely on what people say. I came here to testify with regard to
3 the facts that I witnessed. You're talking about Bogoro and looting.
4 Well, I was talking rather about looting in Mandro where cows were stolen
5 and I tell you about that because it's something that I observed for
6 myself. Before the Judges I am not going to say I heard talk of this.
7 I'm going to say rather: I saw this, I saw that. You asked me if from
8 Zumbe you can see Bogoro. I told you that you can see the institute but
9 not the entire centre. When you talk about sheet metal roofing -- well,
10 look, I don't know about that.

11 Q. Chief Manu, in your testimony you told us the extent to which you
12 even had Hema people in your community. Now, you are a traditional
13 chief. In 2003 you were a civilian authority, an important authority,
14 Chief Manu. Is it, therefore, your testimony -- are we to
15 understand that in the days, the weeks, the months following you never
16 received any report at all, any information concerning the death of these
17 Hema compatriots, these villagers who were in Bogoro, the former place of
18 your studies as a young man?

19 A. I did not hear anything about it. I did not receive any
20 information about it either.

21 Q. Chief Manu, is it not correct that Bogoro was looted even by
22 members of your own population who went there after the war to steal
23 cattle, livestock, crops, the roofing of houses, whatever remained inside
24 the houses? Is it not true that that is what happened?

25 A. All of that is a lie.

1 Q. All of that is a lie? But are you stating before this Court --
2 more than that, Chief Manu, you are swearing before this Court that there
3 was not one person who could come here and state that as somebody who
4 comes from the Bedu-Ezekere groupement? Never mind which witness the
5 Chamber may call to testify before it, there would be not one member of
6 the groupement of Bedu-Ezekere who could come here and state that? Is
7 that right?

8 A. I cannot tell you facts which I do not know. I can only tell you
9 what I know. If you call somebody else, they will tell you what they
10 know themselves. For me, it is for the Court to make the decision. The
11 Court is going to listen to everybody and draw conclusions. If you call
12 somebody who was in a place other than where I was, well that person will
13 give their version of their facts. I cannot tell you what I do not know
14 myself.

15 Q. Chief Manu, you were hearing the crackle of gun-fire, the sound
16 of heavy weaponry firing on the 24th of February, 2003, and you have
17 testified to the effect that you stayed at home in Zumbe and you were
18 going about your ordinary activities. Is that what we should understand
19 you were doing on that day? You could hear background noise, heavy
20 weaponry, gun-fire, and you stayed in Zumbe in the fog?

21 A. You're speaking the truth there. That is what happened.

22 Q. And more than that you thought that the noise came from Lakpa,
23 from Kagaba, maybe it could have possibly come from Bogoro, but despite
24 that, you gave an order to the young people: You must not go to Bogoro.
25 You must not go to Bogoro. Why did you give them that particular order,

1 Chief Manu? You didn't know where the fighting was taking place. Why
2 did you give them the order not to go to Bogoro as a chief?

3 A. Mr. Prosecutor, I gave that order when I left Beni. That was not
4 the day of the fighting in Bogoro. Do not believe that I gave that order
5 when fighting was taking place in Bogoro. I gave that order well before
6 that when I arrived. And I talked with my wisemen, we talked about the
7 difficulties I had encountered on the road.

8 Q. Chief Manu, allow me to come back to your testimony in
9 transcript 300, page 63, line 3, with regard to a question put by my
10 learned friend Professor Fofé and I will try and read this slowly. I
11 don't know if the interpreters have the transcript available to them. If
12 I read slowly it might help them to pull it up on the screen, page 63 of
13 transcript 300, line 3.

14 "Q. On that day, did you know that Bogoro was being attacked?
15 If so, how, how did you know?

16 "A. Everybody was talking about it in our community. People
17 were saying: It's happening in Lakpa. Other people were saying: It's
18 in Kagaba. While others were saying: Well, perhaps it's not in Kagaba.
19 Maybe it's only in Lakpa. Each person interpreted the situation as they
20 saw it because we were in the fog. When we heard explosions we might
21 have thought that it was in Bogoro. Bogoro was just below where we were,
22 because from the top of our hill we could see Bogoro. But people thought
23 that it was in Bogoro and we were not sure that it was Bogoro. Some
24 people were saying Lakpa, others were saying Kagaba, others were saying
25 Bogoro, but we were not sure. Even if there is fog -- even if there was

1 fog, I ordered that nobody should leave our locality to go to Bogoro.
2 Maybe there were bandits who didn't listen to me and who went off, but
3 those people did not leave under my orders."

4 Chief Manu, you will notice that that is not exactly the same
5 answer that you have just given. Do you have an explanation to give the
6 Chamber as to why you are seeming to contradict yourself concerning at
7 what moment you ordered people not to go to Bogoro? On that precise
8 point. Please don't get off the point and digress.

9 A. You have read out what I stated and what I am saying. I am
10 saying it myself, there is no contradiction at all. There is no
11 contradiction between what I am saying here and what you read. I said we
12 heard people talk about it. I already said before today that I told
13 people not to go to Bogoro.

14 Q. You have just said in your previous response that it was in Beni
15 that you ordered people, the wisemen, not to go to Bogoro. And here it
16 is clearly at the time when the attack is apparently underway. You hear
17 noise and you tell people not to go to Bogoro. That is where the
18 contradiction is, Chief Manu.

19 A. When I left Beni, I talked with the wisemen. And I've already
20 said this. I gave the order after having spoken with the wise people.
21 We said: Okay, we have to stay at home and not go to Bogoro. That's
22 what I said. Perhaps somebody else did not render that correctly, but
23 what did I do wrong by saying people shouldn't move around and leave?

24 Q. Chief Manu, why give the order in Beni or before you leave --
25 left Beni, the order not to attack Bogoro? Why did you give that order?

1 What was the point of it?

2 A. I did not give the order when I was in Beni. I think that's
3 where the misunderstanding lies. I was not in Beni. When I left Beni,
4 first of all, I wanted to get ammunition in Bolo, but I was not given
5 any. When I observed that there was an attack on the village and I had
6 not received what I wanted, well, I made a report.

7 In Beni, when I was in Beni, Baraka said something to me. I
8 asked what had been discussed during the meeting with the soldiers.
9 Baraka told me that they had wanted to cut off the road to prevent the
10 UPC getting new supplies from Uganda. They wanted to block the Ugandans.
11 That's what I said. Baraka -- I discussed the matter with the wisemen,
12 and we decided that people should not go to Bogoro. That is a discussion
13 that took place in Zumbe, not in Beni. Now, perhaps you'd forgotten
14 that. When I was in Beni, I asked Baraka the question: What was
15 discussed at that meeting? And I retained what he had said in my mind.
16 And when I was refused ammunition --

17 MR. FOFÉ: (Interpretation) Excuse me, your Honour, I do
18 apologise. What the witness is saying is extremely important.

19 MR. MACDONALD: (Interpretation) I'm going to come back to that.

20 MR. FOFÉ: (Interpretation) May I continue?

21 PRESIDING JUDGE COTTE: (Interpretation) All right. Chief Manu,
22 can you please complete your testimony here and then it's likely that the
23 Prosecutor will ask you for clarification. Please go ahead, Witness.

24 THE WITNESS: (Interpretation) All right. Thank you very much.
25 I will resume. When I was in Beni, I did not participate in the council,

1 but I asked Baraka what happened. And Baraka was a cheerful young man
2 who was a secretary in the garrison -- the Avenyuma garrison in Dombe
3 (* phon) and I asked him what had been discussed in the council. I'm the
4 one who asked him the question.

5 Baraka answered me as follows: In this council we wanted to take
6 a decision to cut contact between the UPC and Uganda. We said that if
7 they took control of Bogoro, then their supply lines would be rendered
8 impossible and the fighting would stop. When I arrived in Bolo, I was
9 not able to find ammunition, even though my village was on fire, was
10 burning. I discussed matters with the wisemen, and I already knew what
11 Baraka had told me. And that is how we came to give the order, which
12 consisted in forbidding people to go to Bogoro.

13 We took that decision because Baraka told me what I have just
14 recounted to you and I have already told you, Mr. Prosecutor, about this.
15 That is why I took the decision to tell people not to go to Bogoro. That
16 is what pushed me to make that decision. And that order was taken in
17 Zumbe, not in Beni. And you know this perfectly well, Mr. Prosecutor,
18 but you didn't mention that.

19 MR. MACDONALD: (Interpretation)

20 Q. Chief Manu, this is the eighth day of your testimony, and here
21 now you tell us about this meeting in Beni -- this encounter in Beni
22 where Baraka tells you about discussions that took place behind closed
23 doors and at which you were not present, the plans for a supposed attack
24 on Bogoro. And then you are now volunteering this information to the
25 Chamber when I am asking you questions on other questions, and you say:

1 No, no, don't ask me questions about that. I was not there, I can't
2 answer.

3 Chief Manu, Chief Manu, in the month of February 2003, is it not
4 correct that there was absolutely no Ugandan in Bogoro, they had already
5 left Bogoro way back in the month of August 2002? Only the UPC was in
6 Bogoro. You knew that, did you not? So this chat you had with Baraka to
7 cut off the supply line between Uganda and the UPC - and I'll tell you
8 why - that's impossible.

9 A. On the 6th of March there was fighting in Bunia. Before that day
10 he was not in Bogoro -- you say he wasn't in Bogoro -- well, their food,
11 their items -- well, they went -- all that went through Bogoro. That was
12 the main supply line for weapons and also for convoys of vehicles
13 carrying various goods. So you're saying he wasn't there? They were
14 going that way. They were in Bunia. They had a camp in Bunia. They
15 also went to Bogoro. The UPDF was there.

16 Q. Chief Kahwa had left at the end of November 2002. He was in
17 Uganda. He was taking part in a special meeting with the FNI, and
18 Jérôme Kakwavu, the name -- a third group, the name escapes me, he was no
19 longer with the UPC in February -- in February 2003, the Ugandans went by
20 way of Tchomia or other places or by the lake or by helicopter to
21 transport weapons. Chief Manu, what you're telling us right now is
22 completely, completely, untruthful. You're misleading the Chamber,
23 aren't you?

24 A. I'll explain the situation. You weren't there. Chief Kahwa had
25 an argument with the others or they went their separate ways. I know

1 that. I can explain. I'd like to tell you that the FNI arrived after
2 the war, and I talked to Baraka before the fighting. The FNI came after,
3 when there was an agreement. There was a special meeting in Bunia, the
4 FNI was there, Chief Kahwa and PUSIC were there, and that happened
5 after the Bogoro attack. It was well before, just like the
6 Bunia attack, and my discussion with Baraka occurred before
7 the Bogoro fighting. The FNI, Chief Kahwa, all of that happened after.
8 I'm explaining the situation to you and you are mixing things up.
9 You are confusing the FNI and Adwani (* phon). That happened later. The
10 Ugandans were there, they went by that way, and I'm telling you when they
11 left, when they left Bunia to go to Uganda they went by way of Bogoro.
12 And the whole group went by Mayi and they went by the direction of
13 Uganda, they went by way of Bogoro. The UPDF went by way of Bogoro. I'm
14 telling you the truth. I'm not lying.

15 Q. Well, it will be up to the Chamber to decide.

16 Chief Manu, is it not true that after the 24th of February, 2003,
17 the road -- the Bogoro road was opened, it was open. You were no longer
18 surrounded in the Bedu-Ezekere groupement?

19 A. Well, the German NGO, *Agro alimentaire* (* as interpreted), and
20 Mac Adam from MONUC, they agreed to repair the road, but everyone was
21 afraid. It was during a period -- well, it was nearly the end of the
22 conflict. I was called and the co-ordinator Marcus, who was referred to
23 as Colonel Marcus, I don't know if he was German or not. Well, he called
24 me and he said about the young people, and he said: Everyone is refusing
25 to help us. I called the young people, 265 young people from Dele to

1 Kasenyi. Those young people worked on the road and I was there when the
2 road was reopened, and all the authorities were there and we opened up
3 the road. And up until now, I have been the advisor to the council that
4 is in charge of that road, the management committee, the committee of --
5 the committee that manages that road.

6 THE INTERPRETER: The Swahili interpreter did not hear the last
7 answer from the witness or the last sentence thereof.

8 MR. MACDONALD: (Interpretation)

9 Q. I would like to refer you to the much-mentioned item and I show
10 you this chart here or this sketch that you made in front of the
11 Prosecutor. Bogoro, Bunia, Mandro, Tchomia, Kasenyi, the 24th of
12 February, at that time you were cut off, you were surrounded, and the
13 road was completely cut off. You were suffering. Reference number
14 EVD-D03-0096. On the 24th of February the attack occurred on Bogoro.
15 Bogoro was freed. On the 4th of March, Mandro was attacked. Mandro was
16 no longer a problem. The 6th of March, Bunia, the UPC was driven out.
17 The 31st of May, the attack on Tchomia. The 11th of June, the attack on
18 Tchomia.

19 Chief Manu, is it not true that you are very much aware that the
20 objective of attacking Bogoro first was to free you, to liberate you, to
21 relieve you, so that you would no longer suffer because your community
22 had been surrounded?

23 A. Who said that was our aim? That's what you're saying, but that's
24 not what we were trying to achieve. That wasn't our aim. . * I explained that
25 authorities who had come from Kinshasa had had a meeting in Beni and Baraka

1 said that Bogoro was going to be attacked. I said that their aim was not to liberate us,
2 the community in Zombe. They had not come to open up the road for the people of
3 Zombe. This road was reopened later, thanks to the NGO called Agro-Action
4 Allemande.

5 Q. Isn't it correct that after the 24th of February, the road was
6 open and you were able to go to places like Gety, Aveba, Lakpa, you were
7 able to meet your friend Lobho Machakare (* phon) that you mentioned, you
8 gave us his entire family tree when Professor Fofé mentioned that? Isn't
9 that correct? Isn't that right, that the road was opened? You were able
10 to travel about more freely, you could buy essential goods in Aveba,
11 Kagaba, at the Bogoro market that had re-opened.

12 A. All that happened later, not right after the 24th, not the day
13 after. You mention the 24th. There was the fighting and then people
14 were able to travel around after. Kisémbé Floribert announced on the
15 radio that he was going to attack Bogoro, Zombe, and the UPDF forces.
16 What you're telling us happened a long time after. You shouldn't mix up
17 those events with the events of the 24th of February, 2003.

18 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

19 MR. FOFÉ: (Interpretation) I would like the reply that the
20 witness gave page 40, lines 18 to 26, be listened to again and
21 transcribed very carefully, page 40, lines 18 to 26.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well,
23 Professor Fofé.

24 Now, right now we have a provisional transcript with all the
25 difficulties that that entails. So we shall ensure that special

1 attention is devoted to that particular excerpt.

2 MR. MACDONALD: (Interpretation)

3 Q. Chief Manu, isn't it correct that -- Chief Manu, isn't it correct
4 that -- that the Lendu of Bedu-Ezekere and the Ngiti of Walendu-Bindi had
5 a common interest, a clear common interest to liberate Bogoro. And you
6 were suffering not just in terms of day-to-day survival but also in
7 Bedu-Ezekere you were being attacked, and in Bunia, Mandro, Kasenyi,
8 Tchomia.

9 A. Well, the interest of the Bedu-Ezekere community, well, it was a
10 matter of opening up access to Bunia because we were going to have
11 access. We would be able to buy salt, cooking oil, and other goods. And
12 in Bogoro what would you have found? The Hema were not growing crops.
13 We got supplies from Gety even today. You can take bananas to Bogoro,
14 but the Hema do not farm. The food is from Gety. So we needed Bunia to
15 be accessible so that we could get salt, cooking oil, and other
16 commodities. We did not ask for Bogoro to be liberated. That was not
17 our aim.

18 Q. So Bogoro was the first step in a larger plan, namely, to attack
19 Bunia and liberate Bunia so that you could survive. Is that what you're
20 saying, it was the first step, Bogoro, and then you would go on to Bunia?

21 A. Ask Aguru and the six other people who got to Beni, who took part
22 in the meeting in Beni. Aguru is still alive. Ask him. You see, what
23 you're saying is leading me to think about what happened. In Beni I was
24 given \$400 and Germain Katanga's group maybe got a much larger amount of
25 money. * They bought weapons in anticipation of the attack on Bogoro, and I think we

1 should leave it at that. It means that Germain got a larger amount of money, he hid
2 that money, and you're saying that with my money I didn't help the people. Germain
3 was able to charter an airplane, buy firearms, ammunition, and he didn't give any to
4 me. He was preparing the attack on Bogoro. Now ask them too what they did, ask
5 Aguru, ask the central government and ask [inaudible]. Myself, my concern was the
6 presence in my area of massive numbers of people from Bunia, from Kinshasa, and
7 from other places. There were many of them.

8 As far as Bunia's concerned, I had an interest in Bunia being
9 accessible, but not Bogoro. I had no interest in Bogoro. For Bunia, I
10 did have an interest. We did have an interest in getting access to Bunia
11 because we would have access to salt and other goods.

12 Q. Chief Manu, I think we have exhausted this topic, but one last
13 question. Is it not correct, Chief Manu, that you took that road after
14 the 24th of February, in the weeks following that date, isn't that so?
15 You went to Kasenyi and Tchomia. Do you remember that? Do you remember
16 taking a little trip? Tell us. Tell us about it. Tell us about the
17 little trip. Am I right?

18 A. That happened after, after the Bunia fighting. The Ugandans had
19 already been driven out of Bunia, so I went there. I went as far as
20 Tchomia, that's true. I went to Tchomia to prepare for the pacification
21 process with Chief Kahwa. I was the one who took the initiative on the
22 25th of December, the 25th December --

23 THE INTERPRETER: The witness repeats.

24 THE WITNESS: (Interpretation) -- 2003. We signed a
25 pacification agreement with Kahwa. Let me explain the situation.

1 MR. MACDONALD: (Interpretation)

2 Q. Chief Manu, isn't it true that you went to Tchomia or Kasenyi --
3 well, to get to Tchomia you have to go by way of Kasenyi. That's
4 unavoidable. Katonie, Bogoro, Kasenyi, Tchomia, isn't it true --
5 wasn't -- you didn't go in December. It was well before that time, well
6 before, February, March, April, May, June, July, think about it a bit.
7 Isn't it true that you went well before that time?

8 A. That's not true, Prosecutor. I'm sorry, but before the attack I
9 didn't go to Tchomia. That's a lie you're telling us. I know that I
10 went once with Mac Adam and another time with Kisembo Bitamara (* phon),
11 another time again with Mac Adam, and when we -- when the road was
12 opened. We cut the ribbon when the road was reopened to Kasenyi. I was
13 with the chief from the Djugu territory.

14 THE INTERPRETER: The Swahili interpreter would like to ask if
15 someone could interrupt the witness and ask him to speak more slowly.

16 THE WITNESS: (Interpretation) -- the 1st of January, 2004, one
17 day in January 2004, the Hema arrived in Zumbe, and that is why we were
18 travelling around with the MONUC people and some people from the special
19 mission. That was part of the pacification process. I was travelling
20 around doing outreach work because the people were afraid. I was
21 travelling all around the region. This was part of the peace-building
22 process, a sustainable peace through demobilisation. It was part of my
23 work. I went to Djugu and other places. But that wasn't before the --
24 the 20th, that's not true.

25 Q. Mr. Lopa Koli -- we're going to change topics now. Mr. Lopa

1 Koli, that's a person you know? You know him, don't you?

2 A. Yes.

3 Q. Am I correct to say that he was present when the Prosecutor
4 visited the village; isn't that so?

5 A. He was in Bunia.

6 Q. Chief Manu, Jean Logo, Jean Logo, you know that person? You're
7 stroking your beard, but you know fully well who I'm talking about.

8 A. I think you're mixing people up. There are many people by the
9 name of Logo in our part of the world. I don't know. I don't know
10 Jean Logo. When you add the first name Jean to the surname Logo, that
11 just confuses me.

12 Q. Perhaps the following suggestion -- well, actually, he is
13 Mr. Katanga's investigator. Maybe that reminds you of something. I
14 remind you, you are under oath.

15 A. Well, if you're talking about Germain Katanga's investigator, I
16 do know him, I've met him. I met him in Bunia when I was working on that
17 project to rebuild the road. He called me one day and he said,
18 "Chief Manu, where are you?" And I said, "I'm on the road with the
19 workers." And he said to me, "I'm in Bunia and I would like to talk to
20 you." He wasn't where I was, but he came to where I was on the road.
21 And he said, "Where are you going?" And I said, "I'm going to Kasenyi."
22 "To do what? And I said, "I'll explain it to you. He said to me, "Is
23 this your number?" And I said yes. And then he went off to Kasenyi.

24 One day I met him again in Kindia, and another day I met him in
25 the town. A woman -- might be here actually, a white woman, she might be

1 here. She was with Logo at that time. I believe that the woman is here
2 and she might even make her presence known. So they called me on the
3 phone and asked me to go and see them when I was -- when I'm called, I
4 answered the phone, that was in Bogoro -- I'll explain. I was asked what
5 was new with me. I was asked for explanations about certain events, and
6 so we chatted briefly. And I said to them, "Well, you're interrupting me
7 during my trip." And they said, "Well, we have nothing to offer you but
8 we can give you something to drink."

9 I do know Logo. He is -- he's from the Hema group, from Djugu,
10 but I saw him in Kindia. Perhaps it was some kind of celebration where I
11 saw him. I saw him in Bunia as well with a white woman and I think that
12 she is here in the courtroom, and perhaps she -- well, she's not making
13 her presence known and I can't identify her, but she could make her
14 presence known.

15 Q. Maybe Caroline Buisman?

16 A. I didn't remember her name. You see, even your name I haven't
17 remembered.

18 Q. Chief Manu, Chief Manu --

19 A. I'm listening.

20 Q. -- Mr. Lukpa Ngally, we've talked about him earlier when I began,
21 the first day of cross-examination. You know that person, you know him
22 well. You said that he was not from Bedu-Ezekere, that he was from
23 Penyi. But other than that, other than those details -- well, how did
24 you come to meet him? Where did you meet him? What were the
25 circumstances? Explain to the Chamber how you made the acquaintance of

1 Mr. Lukpa Ngally?

2 A. Are you saying Lukpa? Lukpa Ngally?

3 Q. Lukpa. Don't play innocent, the Lukpa we were talking about the
4 first day when I was asking you questions.

5 (Redacted)

6 (Redacted) yes, I know him. He works at Secope (* phon) and he is a
7 watchman.

8 Q. Well, why do you know him? Explain to the Chamber how you came
9 to know that person, briefly, because unfortunately we only have four
10 minutes left.

11 A. Lukpa is a tailor. The younger -- he is the younger brother of
12 Mandro Michel. He is in Bogoro and in Gety as well. Lukpa is a tailor
13 but he also works at Secope. I know that he is a Lendu from Penyi. If
14 there are other details about him, well, I have no idea and I can't tell
15 you more than that about him.

16 MR. MACDONALD: (Interpretation) I think we could take the break
17 at this particular point. I'm sorry about how much time I've taken. I'm
18 trying to make progress, move forward, as quickly as I can, but it's not
19 an easy task. But I certainly will be finishing -- I still have two
20 topics, two areas, to ask questions about. This one and then there's
21 another thing.

22 And then I will be finished. I do believe -- well, I think it
23 will take me about 30 minutes.

24 PRESIDING JUDGE COTTE: (Interpretation) Very well. It is
25 absolutely, absolutely necessary, we're only sitting two hours tomorrow.

1 So this witness's testimony must conclude tomorrow. At the very
2 beginning of the hearing - and this is urgent - I will be reading out the
3 oral ruling regarding the expert witness because the countdown for the
4 Ngudjolo Defence team has begun.

5 Court Usher, could you please escort the witness out of the
6 courtroom.

7 MR. MACDONALD: (Interpretation) We are assuming 30 minutes and
8 then Mr. Hooper --

9 MR. O'SHEA: I think I better put the Court on notice that I'm
10 not sure whether the optimistic or the hopeful wish to finish this
11 witness by 11.00 tomorrow will come to fruition. I have to discuss with
12 Mr. Hooper where we are with this witness, but we may be in a position
13 where we may have to spend some time with him. So I think it's important
14 that the Court is aware of that.

15 PRESIDING JUDGE COTTE: (Interpretation) Well, indeed, we did
16 say yesterday that if you have to make final observations and they might
17 be long, then you would have the necessary time to do so. In that case,
18 we will continue Monday if absolutely necessary.

19 Court Usher, you may lead the witness outside of the courtroom
20 and, Court Officer, I don't think the next witness will be appearing
21 today.

22 (The witness stands down)

23 PRESIDING JUDGE COTTE: (Interpretation) We will now suspend and
24 resume at 11.30.

25 COURT OFFICER: (Interpretation) All rise.

1 Recess taken at 11.00 a.m.

2 On resuming at 11.33 a.m.

3 (Open session)

4 COURT USHER: All rise.

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

6 Court Usher, we are going to read out an oral ruling to begin
7 with.

8 Mr. O'Shea.

9 MR. O'SHEA: One moment, your Honour, while I ...

10 Your Honour, the English transcript, page 37 from line 7 onwards,
11 one, two, three, four, five, six -- it's about ten lines of text, we
12 believe that there may have been a translation difficulty because the
13 English doesn't completely correspond with the French and I'm told that
14 the French doesn't completely correspond with the Swahili. So I'd
15 request that that be checked, please.

16 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

17 MR. FOFÉ: (Interpretation) In the same vein, your Honour, I
18 would like to ask that the witness's answer should be cross-checked on
19 page 42, and that is the last answer of the witness on page 42, lines 18
20 to 28. There were a few minor interpretation difficulties, probably due
21 to the speed of the witness. I believe that was certainly the reason. I
22 hope the interpreters can make the effort to review that extract. Thank
23 you.

24 PRESIDING JUDGE COTTE: (Interpretation) Regarding both the
25 interventions of Mr. Fofé and Mr. O'Shea, the Court Officer has taken due

1 note. And as you have said, Mr. Fofé, that should remind us to be always
2 slow, to speak very slowly, and we will remind the witness of that upon
3 his return. Thank you in advance, Madam Court Officer.

4 The Chamber was seized of an application by the Defence of
5 Mathieu Ngudjolo number 3136 on the 5th of September, 2001, requesting
6 the extension of the dead-line for the disclosure of the rebuttal expert
7 report that they intend to produce; secondly, the postponement of the
8 possible appearance of one of the two authors of the report as a witness;
9 and three, the authorisation to consult the originals of the four X-rays
10 outside of the Registry premises for a period of seven days.

11 In accordance to the instructions of the Chamber, the parties and
12 participants made oral observations in response during the audience of
13 yesterday, the 7th of September, 2011, transcript number 305.

14 The Prosecutor and the Legal Representatives, amongst other
15 things, deplored the late disclosure of this report. They expressed the
16 wish that they would have a time for preparation, they would have some
17 time to prepare between the effective disclosure and the possible
18 appearance of one of the authors of the report as a witness. They also
19 pointed out that the late disclosure of the said report should be the
20 subject of an application on the basis of Regulation 35 of the
21 Regulations of the Court.

22 The Chamber notes that given that the Defence itself does not yet
23 have access to the expert report, it is, as a consequence, not in a
24 position to decide whether they wish to use that report or not in the
25 presentation of their case. An application to add the said report to the

1 list of the documents of the Defence on the basis of Regulation 35 of the
2 Regulations of the Court would be premature at this stage, even though it
3 is true that the application seems to anticipate on this point.

4 In any case, given that the debate on this rebuttal expert report
5 has already taken place, such an application would be irrelevant at this
6 stage. The Chamber believes that the presentation of the case of
7 Mathieu Ngudjolo at this stage makes it necessary to set a dead-line for
8 the disclosure of this report in case the Defence decides to use it.
9 Taking into account the difficulties advanced by Mr. Kilenda as well as
10 the schedule of the hearings to come, the Chamber has decided to set that
11 dead-line on the 3rd of October, 2011, at 4.00 p.m.

12 Before dealing with the issue of the postponement of the possible
13 appearance of one of the experts as a witness, the Chamber would like to
14 point out that *a priori* it does not appear certain to it that it is
15 indispensable for the results of the expert report to be presented in a
16 hearing by one of its authors. It is quite possible for the Defence to
17 apply for that report to be admitted into evidence as an exhibit without
18 going through a witness, that is, by a bar table motion, on condition
19 that the Prosecutor does not feel that it is absolutely necessary to
20 cross-examine the expert that would present the report.

21 That said, if the Defence of Mathieu Ngudjolo stands by its
22 intention to call one of the two authors of the report as a witness, then
23 the Chamber, considering, on the one hand, the concern expressed by the
24 two Defence teams and supported by Mr. Luvengika to not disrupt the order
25 of appearance of the witnesses, and on the other hand, the concern

1 expressed to allow preparation time, reasonable preparation time, for the
2 parties and participants as from the date of disclosure of the report,
3 the Chamber decides that the appearance of the person designated should
4 take place on the 10th of October, 2011, at the very latest, assuming of
5 course that the testimonies of the previous witnesses would have been
6 completed by that date.

7 The Chamber therefore insists on the absolute necessity, as
8 mentioned by the Prosecutor, to inquire as quickly as possible about the
9 availability on that date of the witness who would be called to testify.

10 Lastly, regarding the request for authorisation to consult the
11 originals of certain X-rays outside of the premises of the Registry, the
12 Chamber notes that the Prosecutor is not opposed on condition that the
13 documents should be handed over personally to the experts and for a
14 limited period of time. The Chamber points out, as Mr. Luvengika said,
15 that he had reservations regarding taking out the documents from the
16 Registry for purposes of safe-guarding confidentiality. The Chamber also
17 notes that Regulation 16-5 of the Regulations of the Registry provides
18 for the possibility, under exceptional circumstances, to ask the Registry
19 and not the Chamber for authorisation, including for a period not
20 exceeding 24 hours.

21 The Chamber is not opposed to the original documents being taken
22 out of the Registry for a duration not exceeding four days, including
23 travel time, on condition that they should be handed over personally to
24 the experts.

25 The Chamber allows counsel for Mr. Mathieu Ngudjolo to consider

1 with the Registry whether it is necessary to send one of the members of
2 the Defence teams or a member of the Registry to Lyon. Whatever the
3 case, the Chamber insists on the necessity to ensure the confidentiality
4 of the information made available to the experts in Lyon.

5 The Chamber, taking into account these short time-limits set out
6 which justifies the current state of the proceedings and which respond to
7 the requirement for expeditiousness cannot over-insist on the necessity
8 to implement this decision as a matter of urgency. And the Chamber
9 decides that this should happen early next week at the very latest, so as
10 to allow those concerned to carry out the mission that has been assigned
11 to them.

12 Mr. Kilenda, the Chamber asks you to file a public redacted
13 version of your filing number 3136 and, Court Officer, the Court also
14 requests you to forward this decision immediately to the competent
15 services of the Registry because they will be contacted very soon by the
16 Defence team of Mr. Ngudjolo in order to decide who is supposed to travel
17 to Lyon, whether it will be an officer of the Registry or a member of the
18 Defence team. The Chamber gave its point of view on the implementation
19 of Regulation 16-5 of the Regulations of the Registry so as to save time.
20 But we point out once again that it is incumbent on the Registry to make
21 a decision on this matter.

22 Court Usher, can you please fetch the witness.

23 (The witness takes the stand)

24 PRESIDING JUDGE COTTE: (Interpretation) Is your headset all
25 right, Chief Manu?

1 THE WITNESS: (Interpretation) Yes.

2 PRESIDING JUDGE COTTE: (Interpretation) Very well. The
3 Prosecutor will now conclude his cross-examination.

4 Please go ahead, Mr. MacDonald.

5 MR. MACDONALD: (Interpretation) Thank you, Mr. President.

6 Q. Chief Manu, I would like to go back to the transcript and refer
7 you to your last answer. I asked you whether you knew Lukpa and this was
8 your answer on page 47 as from line 19:

9 "Lukpa is a tailor and he is the junior brother of Mandro Michel.
10 He is a tailor in Bogoro and also in Gety. Lukpa is a tailor but he also
11 works at Secope. I know that he is a Lendu from Penyi, and if there are
12 any other details about him, then I have no idea. I cannot tell you
13 anything else about him."

14 Chief Manu, isn't it true that you know a little bit more than
15 that about Lukpa? You know a little bit more than what you claim because
16 it is true that, in 2002 and 2003, he was living in your Bedu-Ezekere
17 groupement?

18 A. You are confusing things. Sometimes you say Lukpa, sometimes you
19 say Bukpa. I was personally referring to Lukpa. I do not have much
20 information about him. Even the question that you asked me about Michel,
21 that is the tailor in Bogoro, this is a long story that goes back a long
22 time.

23 Q. I did not ask you anything about Michel. You are the one who
24 mentioned Michel of Mandro in your answer. Chief Manu, do you mean that
25 you do not have any further information to give us about Mr. Lukpa? That

1 notwithstanding, Chief Manu, I am going to ask you questions to try to
2 enlighten the Chamber.

3 Is it correct to say that Mathieu Ngudjolo had a wife who is
4 currently no longer his wife and whose name is Ndjangusi, I will spell it
5 because my pronunciation is not the best. N-d-j-a-n-g-u-s-i. You know
6 who I'm referring to, don't you? She was one of Mathieu Ngudjolo's
7 wives; isn't that correct?

8 A. Yes.

9 Q. Mr. Witness, isn't it correct, Mr. Witness, that this person, in
10 2002/2003, was living with her husband in Kambutso? You do agree with
11 me, don't you?

12 A. They were living in Zumbe. She was living in Zumbe. Ndjangusi
13 was in Zumbe, she was not in Kambutso.

14 Q. Very well. Chief Manu, isn't it true that you are fully aware
15 that Lukpa has a family relationship with the erstwhile wife of
16 Mathieu Ngudjolo, that is, Ndjangusi?

17 A. This is something I came to know afterwards.

18 Q. You got to know that only subsequently? Very well. We will come
19 back to that if necessary.

20 Chief Manu, still with regard to Lukpa, isn't it also true that
21 you know Mr. Gustave Likpa Jigu?

22 A. Yes, I know him.

23 Q. At one time he was even the acting chief in Ezekere in the early
24 1990s, slightly before you time, but you do remember, don't you?

25 A. Yes, but he was not the acting chief. He was the chief.

Witness: Witness DRC-D03-P-088 (Resumed) (Private Session)
Questioned by Mr. MacDonald (Continued)

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1 Q. For how long was he the chief of Ezekere?

2 A. I'm not able to answer that question because I was not in Ezekere
3 at that time.

4 Q. Chief Manu, this Gustave was also a registrar at Ezekere, wasn't
5 he?

6 A. I do not know.

7 Q. Chief Manu, you are also aware, because you heard about it, that
8 Gustave was related to Lukpa, wasn't he?

9 A. I do not know.

10 MR. MACDONALD: (Interpretation) Mr. President, I will now
11 request that we go into private session. It is a pity for the people who
12 have just joined us in the public gallery, but I hope to be brief.

13 PRESIDING JUDGE COTTE: (Interpretation) Very well. Hoping that
14 you will not be very long in private session because the proceedings need
15 to be oral -- or rather, public to the extent possible.

16 Court Officer, let us go into private session so as to elicit
17 some identifying information.

18 (Private session at 11.56 a.m.)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-D03-P-088 (Resumed) (Private Session)
Questioned by Mr. MacDonald (Continued)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
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- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted).
- 24 (Redacted)
- 25 (Open session at 12.00 p.m.)

1 COURT OFFICER: (Interpretation) We are in open session,
2 Mr. President.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

4 Mr. Prosecutor.

5 MR. MACDONALD: (Interpretation)

6 Q. So, Mr. Witness, you are saying that there was a communiqué
7 specifying that Pierre had gone away to study. We discussed this subject
8 in private session. Now my question is as follows concerning that
9 communiqué. Who drafted that communiqué and who, therefore, circulated
10 it?

11 A. That communiqué was not drafted over the radio, as you are
12 saying. First of all, it was his family who was looking for him and we
13 learnt that his family did not know where he had gone. Later, somebody
14 told his family - and personally I heard from the Lendus who were in
15 Bunia - who were saying that Pierre had gone to pursue his studies. I
16 was happy. I thought to myself: Well, Pierre, who is a Lendu, has gone
17 away to study and that is something to be pleased about.

18 Q. Chief Manu, I come back to my question. Is it not true that you
19 learnt that not only had Pierre gone away to study, but he had, once
20 again, not only co-operated with the Office of the Prosecutor but that
21 Pierre had testified before this Court? Is it not true that that
22 information was also circulating and that it was brought to your
23 attention?

24 A. Recently I saw him in Bunia at the home of a young man whose name
25 was (Redacted). When I saw him, I called him

1 and I asked him where he was and he said he was coming back from
2 Kinshasa. That's all.

3 Q. But you are not answering the question, which is a very simple
4 one. And could I remind you once again that you are under oath. Is it
5 not true that you learnt that Pierre had co-operated with the Office of
6 the Prosecutor?

7 A. I don't have a lot to tell you on the subject of Pierre because I
8 had other concerns besides Pierre. Now, concerning this co-operation, I
9 heard about that later and it was members of his family who were talking
10 about it. I -- it wasn't me, I wasn't part of his family.

11 Q. Chief Manu, I'm going to quote a transcript, transcript 303, at
12 page 27 and I will try and replace the names. If I may, could I just
13 have a quick look? I'm going to use Pierre.

14 PRESIDING JUDGE COTTE: (Interpretation) Take your time to avoid
15 any difficulty.

16 MR. MACDONALD: (Interpretation) It's all right. I don't need
17 to use any alternative names.

18 Q. Coming back to the famous matter of kotsa (* phon) or *godza*
19 (* phon) and your answer to one of my questions. At line 21 you said the
20 following:

21 "Kilendu is my language. Don't worry about it. Allow the
22 Prosecutor to ask his question." This is you addressing the Judge.
23 "First of all, Mr. Prosecutor, I'm going to give you the meaning of the
24 name of *godza* or *godza*, phonetic, because the person who gave you that
25 word said a lot to you. Now I'm going to give you an explanation, let

1 everybody hear it."

2 Chief Manu, is it not true that when you gave that answer there
3 you knew very well that you were referring to Pierre because Pierre did
4 indeed explain to the Office of the Prosecutor in his statements what a
5 *godza* was and you heard about that?

6 A. Honourable Judge, this is false. I never talked with Pierre.
7 There was no television set at my home. I never had a discussion with
8 Pierre concerning his testimony or his statement here. I have never
9 talked with Pierre about *godza*, Mr. Prosecutor, and I don't know if it is
10 Pierre who talked to you about this. And I beg your pardon, I have no
11 contact with Pierre. If Pierre spoke to you about *godza*, well, it's his
12 problem. Personally I have never spoken with Pierre about this subject
13 and I swear this before God. Here in this witness box I told you that
14 Lendu is not your language. You should not mix things up. Don't confuse
15 issues that concern Pierre. I have nothing to do with Pierre.

16 Q. Chief Manu, is it not true, not from Pierre's mouth, but is it
17 not true that to give that answer there that I read to you from
18 transcript 303, when you make a reference to a person who allegedly
19 misinformed us concerning *godza* and that you wanted to correct that
20 person, you had obtained the information that Pierre had given to the
21 Office of the Prosecutor. You had learned or possibly even read Pierre's
22 statements, and that is my question, Chief Manu. Is it not true?

23 A. Mr. Prosecutor, it is wrong, completely wrong. I have never read
24 under any circumstances any statement by anybody. You know, we do not
25 get ourselves involved in other people's business. I have never read

1 such a statement. If Pierre told you that, then it is a lie on his part
2 and it is his business and his alone. Who could have given that
3 statement to me when you're telling me that these things are
4 confidential? I have never read such a declaration. Pierre lied to you
5 about everything. I don't live with Pierre. I do my job.

6 PRESIDING JUDGE COTTE: (Interpretation) One moment.
7 Mr. Kilenda.

8 MR. KILENDA: (Interpretation) Thank you, your Honour. It is
9 here - and we have always heard this from the Prosecutor - that you need
10 to be fair with the witness. You will remember, Mr. President, that when
11 this question was asked of the witness and I stood up, you asked me to be
12 seated so that the witness could answer. And the witness gave
13 explanations because the Prosecutor was trying to find out the name of
14 the person in question. You have heard the witness's explanations, which
15 are recorded in the transcript, and when the Prosecutor earlier asked his
16 question he was leaving aside all of the answers that the witness had
17 already given on this subject and he's doing that entirely
18 deliberately -- excuse me, correction. Mr. -- Professor Fofé and I
19 remained seated deliberately so that the witness could answer.

20 Now, when the witness gives an answer to the Prosecutor, the
21 Prosecutor also needs to be fair to the witness and respect the answers
22 that the witness has already given to the Chamber because otherwise it is
23 really an excess of zeal.

24 PRESIDING JUDGE COTTE: (Interpretation) We have clearly noted
25 that before taking this line of questioning, the Prosecutor did refer to

1 transcript 303 and he refocused the context in which transcript 303 the
2 questions were asked. If memory serves, you began your intervention by
3 saying: Let us come back to the *godza*. The debates have evolved
4 somewhat since then. Complementary information has been provided by the
5 witness. It is not unreasonable for the Prosecutor to continue. Just
6 this, in the light of the answers of the witness who is saying to us with
7 great consistency that he cannot go beyond what he knows.

8 So, Mr. Prosecutor, if you need to, you may continue without
9 being excessive, of course, or otherwise you can move on to another
10 subject. You may have the floor.

11 MR. MACDONALD: (Interpretation) Thank you, your Honour.

12 Q. Chief Manu, I just want to come back to your last answer where
13 you say at line 17 of page 62:

14 "Who could have given that statement to me when you are telling
15 me that these things are confidential?" And I'll stop there.

16 Did I say that these things were confidential? I never said
17 that. So why are you saying that these statements were confidential? Is
18 it that you know that indeed these items of evidence were confidential?
19 Is this something that you also learnt since Mr. Mathieu Ngudjolo was
20 arrested, that the evidence that the Prosecution discloses to the Defence
21 is confidential?

22 A. Mr. Prosecutor, you personally, in Entebbe, you said to me that
23 you were not going to show me a cassette because it was confidential, and
24 you were writing the word "confidential" on your documents. So why are
25 you asking me this question? In Entebbe you said to me the cassette was

1 confidential. And you refuse to allow me to say that these are
2 confidential things?

3 Q. Chief Manu, upon what document did you see the word
4 "confidential"? On what document? Because if you look -- if you could
5 just give me one moment, please.

6 (Prosecution counsel confer)

7 MR. MACDONALD: (Interpretation) I leave my question at that.

8 Q. On what document, on what Prosecution document during your
9 interview did you see the word "confidential"?

10 A. Tell me if you never said to me that the cassette in question was
11 confidential. These are words that I heard from your own mouth. I don't
12 have these terms in French. It was even said in Bunia, that these were
13 confidential things. This is a French word, this word "confidential."
14 It's not a term that I would use. It's difficult for me to say.

15 Q. Chief Manu, on the documents, the transcript of your interview,
16 you make -- reference is made to the word "restricted." The word
17 "confidential" does not appear. Chief Manu, you have told us earlier
18 that you had learnt that Pierre had been a witness for the Prosecution.
19 I think that you mentioned that it was from his parents.

20 So I'll ask you this question again: Who informed you that
21 Pierre was a witness? When and where were you? These three questions.
22 I can ask them as three separate questions, but the first question is:
23 Who, who is the person who informed you? Please give the name of that
24 person.

25 A. Mr. Prosecutor, I have stated here that that was something being

1 said by the members of his family. They were saying that he was in
2 Europe to study. * With regard to his testimony, this is information that
3 we received later and we received that information when he was back in
4 Bunia. Now, today I don't know where he is, but three, four, or five
5 months ago I saw him in Bunia.

6 * With regard to his testimony, this is information that we
7 received later, but earlier than that, people were saying that he had
8 gone to pursue his studies. And that was being said by the members of
9 his family. Make an effort to contact the members of his family, they
10 can tell you more about it.

11 Q. Chief Manu, which member of his family informed you? Name that
12 person. Who is the member of his family?

13 A. You know, the members of someone's family may be the father, the
14 mother, a brother, or a sister, this is information that was given by his
15 father, who said that he had learnt that the child was in Europe for the
16 purposes of study. But he isn't the one who told me this information.
17 He gave this information to other people, saying that white people, white
18 men, had taken his child away to pursue his studies in Europe. And later
19 on he said that the child had come to give testimony and that that could
20 endanger him. But he said that his child was dead.

21 It's the father of the child -- rather, it's the son, the child
22 who said that his father and his mother were dead. His father, his
23 mother, who are part of his immediate family, were deceased. That is
24 what the child said and that is how we knew that the child had come here.
25 If you make an effort to find his father, he can give you all of these

1 explanations.

2 Q. Chief Manu --

3 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé, please
4 speak before your microphone so that we can hear you and slowly.

5 MR. FOFÉ: (Interpretation) Your Honour, I think we need to
6 check this last page, line 21, 22, and 22, 23, when there is talk about
7 death, that is not -- perhaps we can clarify something.

8 PRESIDING JUDGE COTTE: (Interpretation) All right. We're going
9 to ask the witness to give clarification himself.

10 Mr. Prosecutor, if you could do that, please. Just ensure that
11 he has to answer one of your questions concerning the identity of the
12 person who informed him. Make sure that he does not say the name -- the
13 exact name of that person in open session, that, rather, he gives the
14 family connection. I think you've thought about that before I did, no
15 doubt.

16 MR. MACDONALD: (Interpretation) Yes. My colleagues are
17 constantly reminding me of this -- my colleagues from my team are sending
18 me internal messages to remind me of the need for that. I know that
19 we're treading a fine line at the moment, your Honour.

20 Q. Chief Manu, you mentioned something along the lines that the
21 child had said -- rather, that his father and his mother were dead, his
22 father and his mother, who are part of his immediate family, were
23 deceased. I just wanted to come back to that. Could you please explain
24 to us once again what you were trying to say in that regard.

25 A. I said that his parents found out that he was here --

Witness: Witness DRC-D03-P-088 (Resumed) (Open Session)
Questioned by Mr. MacDonald (Continued)

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1 THE INTERPRETER: The Swahili interpreter is asking for the
2 Presiding Judge to ask the witness to repeat that answer. It is not
3 clear.

4 PRESIDING JUDGE COTTE: (Interpretation) Witness, could you
5 please repeat your answer slowly. The interpreters are having difficulty
6 interpreting what you are saying. So could you please repeat that answer
7 without rushing, speaking slowly. Thank you very much.

8 THE WITNESS: (Interpretation) The information that the child
9 was here came from his parents. However, I do not know who gave them
10 that information, the information that the child allegedly said that they
11 were all dead. This is information that was given by his parents, his
12 father and his mother. As far as we are concerned, it was his parents
13 who gave us this information. That is how we learned that he had come
14 here, and this is information that we received from his parents.

15 MR. MACDONALD: (Interpretation)

16 Q. But, Chief Manu, I asked you a question earlier which was a very
17 simple one. And in order to continue I'm going to have to go into
18 private session because we were using names.

19 MR. MACDONALD: (Interpretation) So with your permission,
20 your Honour, could we do that.

21 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we
22 go into private session for just a moment.

23 (Private session at 12.25 p.m.)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-D03-P-088 (Resumed) (Private Session)
Questioned by Mr. MacDonald (Continued)

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Page 62 redacted – Private session.

Witness: Witness DRC-D03-P-088 (Resumed) (Private Session)
Questioned by Mr. MacDonald (Continued)

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Page 63 redacted – Private session.

Witness: Witness DRC-D03-P-088 (Resumed) (Private Session)
Questioned by Mr. MacDonald (Continued)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Open session at 12.31 p.m.)

7 COURT OFFICER: (Interpretation) We are in open session, your
8 Honour.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
10 Professor Fofé, please.

11 MR. FOFÉ: (Interpretation) Your Honour, before the Prosecutor
12 continues, I would like to draw the Chamber's attention to page 70,
13 line 4, where mention is made of the place where Eric works. Eric
14 doesn't work in Zumbe but rather in Bunia.

15 PRESIDING JUDGE COTTE: (Interpretation) That's -- is that an
16 interpretation error or was it a slip of the tongue on the part of the
17 witness?

18 MR. FOFÉ: (Interpretation) We can check that with the witness.

19 PRESIDING JUDGE COTTE: (Interpretation) Witness, a few moments
20 ago you said that Eric - and I think you remember exactly who we mean by
21 Eric - and I'll repeat what you said: "It was said by the members of the
22 family that Eric was working in Zumbe and I work in Bunia."

23 Now, when you said "Zumbe," did you mean Zumbe or perhaps you
24 meant Bunia?

25 THE WITNESS: (Interpretation) I have been understood.

1 THE INTERPRETER: Correction: Misunderstood.

2 PRESIDING JUDGE COTTE: (Interpretation) And so where does Eric
3 work?

4 THE WITNESS: (Interpretation) Eric works in Bunia. He works in
5 Bunia. And his house, his residence, is in Bunia. We call him Eric and
6 I don't think there's any problem with giving the name of the place where
7 he works.

8 PRESIDING JUDGE COTTE: (Interpretation) No problem, as long as
9 his true identity is not mentioned in public.

10 MR. FOFÉ: (Interpretation) Thank you.

11 PRESIDING JUDGE COTTE: (Interpretation) Mr. MacDonald, please
12 proceed.

13 MR. MACDONALD: (Interpretation)

14 Q. Chief Manu, I would like to go back to the transcript, page 66,
15 line 21 of the realtime transcript, the provisional transcript. You
16 mentioned that -- you mentioned the following and I shall read out. It
17 will be easier.

18 "Later, he said that the child came to give testimony and that
19 that could put him at danger."

20 My question is as follows: Are we to understand that Eric told
21 you that his son was in danger because he had come and given testimony
22 before this Chamber? Is that what you meant when you gave your answer,
23 that Eric was worried after his son had given testimony?

24 A. Eric and I did not talk about that. Eric talked to his family
25 members and I heard talk about this. He told them that his son had said

1 that Eric had died and his mother had also died, and that he had gone to
2 Europe for some business. And, you see, that has to do with Eric and his
3 family. I heard talk about that. But Eric did not meet with me
4 specifically to talk to me about that. It's an item of information that
5 I heard about.

6 Q. Yes, you say people are talking about, there is talk about this,
7 but who, who told you that Pierre had come to give testimony and that he
8 was in danger? Who mentioned that to you? How did you learn that? It's
9 a simple question. Give us the name of the person. Otherwise I will
10 help you and I will suggest a few names.

11 A. I didn't come here to ask you for help. I'm saying that it was
12 Eric who said so. He said that to his family members, and then I heard
13 talk about it too. Take careful note of this and underline it. Eric
14 said that his child had announced his death. His child had announced his
15 death, so who do you want me to talk about? What name do you want me to
16 give you? When you meet with Eric, ask him, ask him where he got that
17 information from, that information that he gave to his family, and that
18 way I'll know exactly how he was informed of that. Are we going to use a
19 lot of time to talk about something that only concerns the family of
20 Eric?

21 Q. We'll take the time that we need to take, Chief Manu. Isn't it
22 correct that it was quite common knowledge in the groupement of
23 Bedu-Ezekere, it was known to people close to Mathieu Ngudjolo, it was
24 known to one and all, that Pierre had come to give testimony before this
25 Chamber. Isn't that so? That information was in the community and

1 everyone knew. Isn't that so? Or was it a secret?

2 A. Don't ask me that question. Ask Eric that question. I have a
3 house in Linga (* phon), I have a house in Poka (* phon), I have a house
4 in Bunia because I work in Bunia and my children go to school in Bunia.
5 So ask the question of Eric because this is a question that doesn't have
6 anything to do with my family. This has to do with Ngudjolo, Eric, and
7 the family. But don't ask me the question.

8 Q. Chief Manu, Martin Banga, is it correct that he is also known as
9 Kapengu? And if necessary I'll spell that out for you, K-a-p-e-n-g-u,
10 K-a-p-e-n-g-u, Kapengu.

11 MR. MACDONALD: (Interpretation) I beg your pardon. I'm sorry,
12 I made a small mistake. I shall repeat my question about this person
13 known as Kapengu.

14 Q. It's Mr. Ngabu Safari; isn't that so?

15 A. Pakenge (* phon), not Kapengu, it's Kpenge (* phon). Kpenge.

16 Q. Well, if we set aside the pronunciation --

17 PRESIDING JUDGE COTTE: (Interpretation) No, I really have to
18 intervene. Now, the witness is answering some questions.

19 Now, Witness, it is true that we are asking you for specific
20 questions. We're not asking you to correct other people's pronunciation,
21 so why don't we move ahead.

22 MR. MACDONALD: (Interpretation)

23 Q. Kpenge, he's also known as Ngabu Safari, isn't he?

24 A. Yes.

25 Q. And not only that, but also -- if you don't mind just one moment

1 to confer. I don't want to get this wrong.

2 (Prosecution counsel confer)

3 MR. MACDONALD: (Interpretation)

4 Q. Chief Manu, when you met the father of Pierre, is it possible
5 that you were with Jean Logo? Is it possible that you had a meeting with
6 the -- Pierre's father and Mr. Jean Logo?

7 A. Jean Logo gave me a telephone call and he asked me if I knew
8 Eric's house, and I said I did know Eric's house. So he asked me where I
9 was and I told him that I was in Kindia, and I drove to Eric's house.
10 And when we got there, I went off to one side. And the two of them
11 talked to each other. I said nothing during their meeting and I don't
12 even know what they talked about, whether they talked about fetishes,
13 about sorcerers. It was their business only.

14 If Jean Logo told you that I said something, well, he should
15 answer before God. I only drove him there and I showed him the house,
16 his house. I waited, I waited for Jean Logo. He came and got me on his
17 motorcycle, and I went and showed him the residence and then I went back
18 home.

19 Q. You know that Jean Logo gave testimony before the Chamber, don't
20 you? You know that he came and gave testimony?

21 A. Well, so you say. How would I know?

22 Q. Chief Manu, at Kpenge's funeral, Ngabu Safari, you were present,
23 weren't you?

24 A. Yes.

25 Q. It's also true that there was talk of Pierre. Isn't that so?

1 People were talking about Pierre's co-operation with the Office of the
2 Prosecutor. Isn't that right? And once again, Chief Manu --

3 A. Well, for you they might know something, but personally, most of
4 that I didn't talk about that. You see, when a Lendu person dies,
5 everyone is very saddened and it's a burden. We didn't talk about
6 Pierre; we were in mourning. And when you say that things occurred
7 differently, that's not so.

8 Q. Chief Manu --

9 A. Yes, I'm listening.

10 Q. -- isn't it true that Pierre is related by Ngadjusi (* phon) to
11 Mr. Mathieu Ngudjolo, he is a relation, they are related through Ngadjusi
12 because he is Eric's son. Isn't it correct to say that the parents of
13 Pierre are very worried because their son came and gave testimony here,
14 he testified against the colonel, Colonel Mathieu Ngudjolo?

15 A. How should I know? I'm not part of their family. How should I
16 know that? How should I know if there is some disagreement amongst those
17 people? I can't know that.

18 Q. Because, Chief Manu -- and these are questions I asked you. Now,
19 Mathieu Ngudjolo --

20 THE INTERPRETER: Inaudible.

21 MR. MACDONALD: (Interpretation)

22 Q. -- prison. The meeting in March 2009, you were in contact with
23 Mathieu Ngudjolo. Do you remember?

24 A. Where was I?

25 Q. When we met in Entebbe in March 2009. Do you remember I asked

1 you some questions about your telephone contacts with Mathieu Ngudjolo
2 and I asked you whether you were in contact with him, and you said, yes,
3 you were. He calls you. Do you remember saying that?

4 A. I told you this. Mathieu Ngudjolo called me only one time about
5 his vehicle, about his truck. That's all I told you. Mathieu Ngudjolo
6 is present here. If he called me after that, well, I didn't receive his
7 call. I've already told you, I only talked to him about the vehicle. He
8 called me to ask me questions about his vehicle, and regarding that
9 vehicle, the soldiers confiscated it because he had had an accident on a
10 road.

11 THE INTERPRETER: The Swahili booth did not hear the name of the
12 road in question.

13 PRESIDING JUDGE COTTE: (Interpretation) If you could please
14 specify, Witness, which road the accident occurred on because the
15 interpreters in the Swahili booth did not quite hear that name.

16 THE WITNESS: (Interpretation) It was the Gety road. Perhaps
17 Kagaba. I don't have specific information. I didn't go to that area.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.

19 MR. MACDONALD: (Interpretation)

20 Q. Chief Manu, is it not correct to say, well, that it wasn't the
21 only conversation that you had with Mathieu Ngudjolo. You must have had
22 other conversations with him. We met with you in March 2009, but after
23 that you had other discussions with him. Most likely you as the former
24 traditional chief who was even going to take over from the current chief
25 when the Prosecutor was to visit. Chief Manu, ever since the time of our

1 meeting, March 2009, you've certainly been in touch with Mathieu
2 Ngudjolo. Am I correct? I'm putting this to you.

3 A. That is not true. Fortunately your satellite records everything
4 perfectly. Perhaps we could listen again.

5 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

6 MR. FOFÉ: (Interpretation) I let the witness answer this
7 question and the answer continued page 77 and then page -- correction,
8 page 78/79. Now, could the Prosecutor be so kind as to tell us what is
9 the factual basis of his question? What is he basing himself on to put
10 this question? What does he base himself upon to make this statement?
11 What is he basing himself on? Your Honour, I'm insisting on this point.
12 The Prosecutor must give us the factual foundations for his assertion.

13 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, you have
14 had a question from Professor Fofé and if you could be so kind as to tell
15 us about this statement, March 2009. Apparently the chief mentioned a
16 conversation. I believe you did make reference to the statement taken in
17 March 2009 and I believe we do have this statement somewhere. Could you
18 tell us exactly -- I believe there's seven or eight. So which -- which
19 statement makes mention of this? You may now respond to Professor Fofé.

20 MR. MACDONALD: (Interpretation) Certainly, your Honour. It's
21 the last transcript. It begins with number DRC-OTP-1043-0536, unless I'm
22 mistaken.

23 PRESIDING JUDGE COTTE: (Interpretation) Item 28.

24 MR. MACDONALD: (Interpretation) Beginning at page 0 -- I beg
25 your pardon. 0552 and on.

1 And to answer Professor Fofé's question, as was the case for
2 Mr. Katanga's witnesses, the Prosecution is basing itself on a reasonable
3 basis, that is the English way of putting it. On a reasonable basis we
4 have deduced -- so the witness is giving us answers, I'm bound by his
5 answers. I can't contradict him. That is where we are. We did the same
6 thing with Mr. Katanga's witnesses. So I'm using what the witness said
7 earlier in March 2009 to the OTP, and I am pushing a bit as if I were
8 back in March 2009. And now I am expecting or I have a reasonable
9 expectation that the witness given -- in light of all his answers over
10 eight days of testimonies, I am deducing that he may very well have had
11 conversations with Mathieu Ngudjolo. That is what I am basing myself on.

12 MR. FOFÉ: (Interpretation) Your Honour.

13 PRESIDING JUDGE COTTE: (Interpretation) Yes.

14 MR. FOFÉ: (Interpretation) The Prosecutor is talking about
15 various possibilities. He says that this or that is a possibility. I
16 would say this is more of a hypothesis. This is a hypothetical question.
17 It is based on no actual fact. It is a figment of the imagination --

18 MR. MACDONALD: (Interpretation) Just a minute, just a minute.
19 I'm sorry --

20 THE INTERPRETER: Overlapping speakers.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. MacDonald, we are
22 not going to have some sort of semantic debate about words such as
23 "speculation," "hypothesis," "hypothetical," et cetera, et cetera. We've
24 understood that in a way you have taken one particular thread or two out
25 of -- from the 2009 statement. And now you are asking the witness

1 questions in light of this decision -- correction, this document,
2 1043-0536. You wanted to know whether the witness had been having
3 telephone calls with Mathieu Ngudjolo. You just asked him the question.
4 You just asked him the question. He has just responded. Put the
5 question to him one last time. Let's not spend half an hour going around
6 and around talking about something that the witness has given a
7 reasonable -- a reply to.

8 Now, we realise that this roll of string, so to speak, can't be
9 unravelled continuously.

10 MR. FOFÉ: (Interpretation) Your Honour, I call upon you to tell
11 the Prosecutor not to use such a tone. I beg of you, he must stop
12 speaking in such a manner. This is not a courteous tone, it is not
13 respectful. I am not his child. So I hope this will be the last time.
14 I'm really insisting, your Honour. Your Honour, this is just getting to
15 be too much.

16 PRESIDING JUDGE COTTE: (Interpretation) We are not
17 underestimating this particular point that you've just raised, even
18 though I think there might be a bit of a generational conflict here if
19 you were to be the son of Mr. MacDonald, if you will allow me a bit of a
20 joke. Now, we sense that you are irritated and so is Mr. Kilenda. It's
21 been quite a stormy hearing and this sort of thing is inevitable, but all
22 the same, the proceedings should always be courteous in nature.

23 Now, the Prosecutor is coming to the end of a difficult and long
24 cross-examination, which means a certain amount of fatigue. So let us --
25 please be careful and let's not give Professor Fofé the impression that

1 he is being -- that he is under assault. He said that this was getting
2 to be too much and that it might be the straw that breaks the camel's
3 back.

4 So, please, Prosecutor, ask your question again. I believe it
5 was something about: Since March, have you been having telephone calls
6 with Mathieu Ngudjolo? Was that your question? Was that your question?

7 Witness, please answer the Prosecutor and then the Prosecutor
8 will most likely ask other questions, perhaps on the same matter or on
9 another matter.

10 THE WITNESS: (Interpretation) Your Honours, with all due
11 respect, before God and before the entire world, I never spoke with
12 Mathieu Ngudjolo. I have a cell phone which I have with me here, but I
13 do not have any phone line here. I cannot speak with my wife or my
14 family. I do not know Ngudjolo's wife's number or the number of anyone
15 in his family. I have my cell phone, which I have in a room here. I do
16 not have a diary and I never spoke with Ngudjolo. If he spoke with me,
17 then he should say so before God and before everyone.

18 I would like to ask you something. With regard to Pierre -- or
19 rather, Eric, Chief Luango should be asked those questions, that is the
20 current chief. This is something that was said in Zumbe. Chief Luango
21 could know that because I have already handed over the duties of chief to
22 him. Whatever is happening with Mathieu Ngudjolo's family in Zumbe, that
23 chief can tell you about it because it never happened during my tenure.

24 I work with the roads department. I am on technical leave. I'm
25 here in Holland and you can ask the current chief. I did not speak with

1 Ngudjolo. He has not said that he called me. I did not call him, so we
2 did not speak with each other. That's all.

3 MR. MACDONALD: (Interpretation)

4 Q. Chief Manu, let us conclude. According to your testimony,
5 Mathieu Ngudjolo exchanged his nurse's uniform for a military uniform on
6 the 6th of March, 2003. That is when he came down from Zumbe hill to go
7 and participate in the attack and support the UPDF in Bunia; is that
8 correct?

9 A. He was in civilian clothing. It is true that he went to Bunia,
10 but he was dressed as a civilian. At that time he was not wearing a
11 military uniform. It was only during the time of the FNI that he started
12 wearing a military uniform.

13 Q. Let us talk about the FNI. On the 18th of March, 2003, the
14 cessation of hostilities agreement was signed in Bunia in the presence of
15 an entire delegation from Uganda, including Floribert Ndjabu Ngabu. Were
16 you present there on that day in Bunia, yes or no?

17 A. No.

18 Q. However, subsequent to the signing of that agreement, the general
19 staff of what was known as the FNI/FRPI was put in place. Is that what
20 you heard?

21 A. I heard about that.

22 Q. And if I'm not mistaken, in your testimony before this Chamber
23 you even mentioned that the general staff was made up of
24 Mathieu Ngudjolo, Germain Katanga, and Goda Sukpa; is that what you said?

25 A. Yes, that was my testimony.

1 Q. Chief Manu, and that general staff was set up towards the end of
2 March. You are also aware of that, aren't you?

3 A. I do not know that because I was not present.

4 Q. But you heard about it, didn't you?

5 A. Yes, I have just told you so. I heard about it.

6 Q. Explain to this Trial Chamber, because it has been eight days,
7 but this was the question that asked by the Kilenda team. Explain to
8 this courtroom how a male nurse in March 2003 could have become a member
9 of the general staff of a political military group known as the FNI/FRPI.
10 To your knowledge, how did this come about?

11 A. That is something of concern to him. What was of interest to me
12 was that he had to complete his studies and obtain his certificate. He
13 knows why he started wearing a military uniform. Sometimes what he does
14 is not agreeable to me, but that is his business.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the Bench
16 is intervening at this point because this is something that is of concern
17 to us and that we would certainly have asked you to clarify in due
18 course. This is a question which is important because you can answer the
19 question. You need to assist us to the extent that you understand. Help
20 us to understand how a nurse - and you have told us many times about the
21 medical duties of Mathieu Ngudjolo - how could he have moved so quickly
22 from being a nurse to being a leader of the FNI? This was a very rapid
23 transition and you have to assist us here so that we better understand
24 the case and the role that might have been played by the accused persons,
25 specifically Mathieu Ngudjolo. So if you are able to provide

1 clarification on this issue, this is the time to do so.

2 THE WITNESS: (Interpretation) Thank you.

3 I'm talking to you about what I thought, that is, my personal
4 ideas. Personally, I wondered about the same thing at the time. So this
5 is my opinion. I told myself the following. Mathieu Ngudjolo abandoned
6 his studies and joined the army. I told myself that maybe it was because
7 he had become -- or rather, that he had been involved with the civil
8 guard when the Egyptian instructors were there. But how come he accepted
9 to join the army? I asked myself that question. But afterwards I
10 remembered the following: The Walendu-Tatsi collectivity had to choose
11 one person.

12 The young people in our area do not speak Lingala, which is the
13 language of the national army; they also do not speak French. They do
14 not understand Swahili words. And when they met in Dele, on the first
15 day I asked the FNI people: Who are you? And they told me: We are of
16 the FNI. And I said: What are you going to do for us? And then they
17 drove me away. I know that Ngudjolo was chosen by the Walendu-Tatsi
18 because he had done some studies and he spoke both Lingala and French.
19 And when the senior authorities arrived, he would be able to express
20 himself. That is what I thought when I thought about Ngudjolo.

21 In Gety, Germain was also chosen. I was not there. I also
22 wondered about it. Maybe Germain is someone who is well-known in Gety
23 and that is why he was chosen. In the Walendu-Tatsi area they chose
24 Goda. He is known as Sukpa here, but that is his father's name. Goda
25 was selected because he had done advanced studies. I know that he also

1 spoke a little Lingala.

2 The person who knew what was happening in the Walendu-Pitsi
3 community was Maître Kiza. This is somebody who made a lot of effort,
4 but he spoke neither French nor Lingala. He was a soldier. I don't know
5 whether he was referred to as colonel or something else, but he was not
6 added to the team, and that is Maître Kiza that I'm talking about. But I
7 thought Ngudjolo was selected and he was going to become a member of that
8 group and he abandoned his studies, so I thought that he had been chosen
9 because he could speak those languages.

10 He joined the army without telling me: Father, I'm going to go
11 and join the army. He forgot that I was the one who asked him to go and
12 study. But he went to Bunia on his own initiative. He did not tell me
13 anything. And so regarding why he changed abruptly, this was of great
14 concern to me, but I did not know why. Maybe they decided that since he
15 could speak Lingala he could discuss with the authorities.

16 Since I was not a member of his immediate family and I could not
17 give him direct advice, I kept quiet. I do not know whether you
18 understand me, your Honours.

19 PRESIDING JUDGE COTTE: (Interpretation) All of us have
20 understood you and we are also aware that you expressed your opinion,
21 which is not necessarily that of Mathieu Ngudjolo. We note that at one
22 point he changed his status. You have given us your own explanation for
23 that.

24 But once again we would like to have your opinion on something
25 else. Was it the FNI that decided to select Mathieu Ngudjolo or was it

1 the collectivity that gave him the authorisation or the mandate to do
2 what he did? We know that at that time you were not in your
3 collectivity. You had left. You told us in transcript 301, page 58,
4 that you had spent some time in Beni and Aveba, two weeks each. We
5 believe that this corresponds approximately to the same period.
6 According to you, was it the collectivity that asked Mathieu Ngudjolo to
7 go beyond his status as a nurse, or was it instead the FNI that decided
8 to co-opt him? Do you have an opinion on that?

9 THE WITNESS: (Interpretation) I understand you very well,
10 your Honour. It was not us as a collectivity who decided that he should
11 join the FNI. No, he did not inform us about that. And that is my
12 opinion. I think that it was the FNI, and I can mention a name to you,
13 Ndjabu Floribert and his collaborators. I believe that it was probably
14 them who looked for him to offer him that position because they
15 considered him as someone who understood things. That is my personal
16 opinion.

17 Mr. President, you have asked for my opinion. I did not discuss
18 with him the question of his joining the army. I did not discuss that
19 with Ngudjolo.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Chief Manu.
21 You are giving us your opinion and it is important for us to know about
22 it in relation to issues that are important to us in this case.

23 Please continue with your cross-examination, Mr. Prosecutor, and
24 we hope you are going to conclude.

25 MR. MACDONALD: (Interpretation)

1 Q. Isn't it correct, Chief Manu, that if the FNI chose
2 Mathieu Ngudjolo, it is because he was not only probably an intelligent
3 man, but because he was also someone who had taken part in the Bogoro
4 attack and liberated Bogoro, someone who had supported the Ugandans when
5 they were attacked by the UPC on the 6th of March, and also because, in
6 between the two events that I have mentioned, he also took part in the
7 attack on Mandro on the 4th of March, 2003, and that ever since his
8 arrival in the Bedu-Ezekere groupement as a refugee in August 2002, he
9 had this entire gang or group of young people that he had brought
10 together to train to defend the inhabitants, the suffering inhabitants of
11 Zumbe. Is it not because of those reasons, Chief Manu, that the FNI
12 appointed Mathieu Ngudjolo as a member of its general staff and not just
13 because of his abilities as a nurse? Isn't that correct, Chief Manu?

14 A. Listen to me carefully and I will give you an answer. Ngudjolo
15 did not fight in Bogoro. Ngudjolo did not have any group in Zumbe. I
16 was in Zumbe. Ngudjolo did not have any group of young people there. I
17 am saying this calmly. When Ngudjolo or Germain or Goda were chosen or
18 appointed by the FNI, I was not present. If their objective was -- well,
19 maybe Floribert told them before he died. If it was because they had
20 fought in Bogoro, then that is incorrect.

21 Let me tell you this before I go back home. I know very well
22 that Ngudjolo was not in Bogoro. If Ngudjolo was elected Chief of Staff
23 of the FNI and you are saying that he had a group of people behind him,
24 well, I do not know. I did not take place in their meetings. I was a
25 traditional chief and this is the only thing that was of interest to me.

1 Military affairs were not my business at all. I will be very happy if
2 you understand me.

3 Q. Chief Manu --

4 A. I'm with you, Mr. Prosecutor.

5 Q. -- in order for him to be appointed, he needed to be someone who
6 is known, who has experience. Isn't that correct? Now, in your road
7 maintenance department, when you are recruiting people to occupy
8 positions of responsibility, you recruit people who are qualified, who
9 have experience. You do not choose someone who has no experience at all,
10 do you? I believe you fully understand my question.

11 A. I understand your question very well and I will answer you. The
12 young people of Zumbé who were working in the self-defence group had not
13 received any military training. Personally as a foreman in roadworks, I
14 never learned to build roads. But you may have a young person who is
15 courageous and useful, someone who wishes to be fully integrated into the
16 community and who loves his community. If there is a young person with
17 those qualities, then he will be liked and appreciated by everyone.
18 There were times when I was not present, but maybe it was his courage and
19 his determination that was responsible for his being selected or
20 identified.

21 I was not there. I am not saying that I took part in his
22 appointment. These were the internal affairs of the FNI and they are
23 different from the business of the Bedu-Ezekere chiefdom. The person
24 responsible for the FNI is not from our area. He's from Pitsi.

25 Q. Thank you, Mr. Witness. And I would like to seize the

1 opportunity to wish you a safe journey home.

2 A. Thank you.

3 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

4 Mr. Prosecutor.

5 Mr. Gilissen, Mr. Luvengika, we are not going to continue now,

6 but tell us all the same whether you intend to ask a few questions

7 tomorrow morning.

8 MR. GILISSEN: (Interpretation) Good afternoon, your Honours.

9 With the leave of the Chamber, I would indeed wish to ask a few questions

10 and I would like to point out that these are related to the interests

11 that I represent. It is usually very difficult to approximate the time.

12 It is just like approximating distance, but given the way the witness is

13 answering, I do not think we will go beyond 30 minutes.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

15 And you, Mr. Luvengika?

16 MR. LUVENGIKA: (Interpretation) Good afternoon, Mr. President,

17 your Honours. The situation is the same for me. In light of the

18 questions that the Prosecutor has asked during today's hearings, I will

19 have a few questions for clarification related to the Bogoro attack. But

20 generally speaking, my questions, those that I intended to ask have

21 already been asked. So I should not go beyond ten minutes.

22 PRESIDING JUDGE COTTE: (Interpretation) Very well. So we will

23 assume that you will use about 40 minutes at least. The Chamber will

24 have only a few questions to ask. We have already asked some questions,

25 and this means that tomorrow, Professor Fofé, you can begin your last

1 remarks. But please bear in mind that we have only two hours and then we
2 will continue on Monday afternoon.

3 I'm sorry, it will be Mr. Hooper or Mr. O'Shea.

4 Mr. Witness, we will see you again tomorrow.

5 And, Court Officer, we will try to determine whether in -- on
6 Monday we will need to have the next witness ready on stand-by. We will
7 determine that tomorrow.

8 Does Mr. Hooper or Mr. O'Shea have an idea of how much time they
9 will need approximately?

10 MR. O'SHEA: Well, we might -- we might -- we might be in a
11 position to surprise everyone and dispense this witness from the artful
12 questions of Mr. Hooper, but we're going to think about it.

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

14 The suspense is almost unbearable.

15 Mr. Witness, we will adjourn now. We will see you tomorrow at
16 9.00 a.m. The usher will lead you out. Try to rest this afternoon
17 because the hearing of today was very hectic. And we would like to ask
18 the Defence team of Mr. Mathieu Ngudjolo to contact the Registry as
19 quickly as possible regarding the expert witness.

20 (The witness stands down)

21 PRESIDING JUDGE COTTE: (Interpretation) We hope that we will
22 resume tomorrow in very good conditions. The hearing is adjourned.

23 The hearing ends at 1.28 p.m.

24 CORRECTION REPORT:

25 The Court Interpretation and Translation Section has made the following corrections

1 in the transcript:

2 * Page 34 lines 4 to 6:

3 "and that happened after -- before the Bogoro attack. The Bogoro attack was before,
4 the Bunia attack was before,"

5 Is corrected by

6 "and that happened after the Bogoro attack. It was well before, just like the Bunia
7 attack,

8 * Page 35 lines 24-25 and page 36 lines 1 to 4:

9 "I explained that there was a meeting in Beni and Baraka said that he was getting
10 ready to attack Bogoro, and I'm telling you this. It wasn't to liberate us, the
11 community in Zumbe. It wasn't to open up the road for the people of Zumbe. This
12 plan to repair the road came later and it was an initiative of the Agro Action
13 Allemande, which is an NGO."

14 Is corrected by

15 "I explained that authorities who had come from Kinshasa had had a meeting in Beni
16 and Baraka said that Bogoro was going to be attacked. I said that their aim was not
17 to liberate us, the community in Zumbe. They had not come to open up the road for
18 the people of Zumbe. This road was reopened later, thanks to the NGO called
19 Agro-Action Allemande."

20 * Page 37 line 25 and page 38 lines 1 to 7:

21 "They bought weapons to plan the attack on Bogoro, and I think we should leave it
22 at that. It means that Germain got a larger amount of money, he hid that money, and
23 you're saying that with my money I didn't help the people. Germain was able to rent
24 an airplane, buy fire-arms, ammunition, which he didn't give to me. He was
25 preparing the attack on Bogoro. Ask Germain Katanga, Aguru, and the other ones.

1 Ask them. I know that there were people from Bunia, Kinshasa in my area, there were
2 many of them.”
3 Is corrected by
4 “They bought weapons in anticipation of the attack on Bogoro, and I think we
5 should leave it at that. It means that Germain got a larger amount of money, he hid
6 that money, and you're saying that with my money I didn't help the people. Germain
7 was able to charter an airplane, buy firearms, ammunition, and he didn't give any to
8 me. He was preparing the attack on Bogoro. Now ask them too what they did, ask
9 Aguru, ask the central government and ask [inaudible]. Myself, my concern was the
10 presence in my area of massive numbers of people from Bunia, from Kinshasa, and
11 from other places. There were many of them.”
12 * Page 52 lines 7 to 9
13 (Redacted)
14 (Redacted)
15 Is corrected by
16 (Redacted)
17 (Redacted)
18 * Page 59 line 2:
19 “With regard to his statement”
20 Is corrected by
21 “With regard to his testimony”
22 * Page 59 line 6
23 “With regard to his statement”
24 Is corrected by
25 “With regard to his testimony”