

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 1

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 Monday, 31 October 2011
10 The hearing starts at 9.07 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now in session>
13 PRESIDING JUDGE COTTE: (Interpretation) Please be seated. Good
14 morning, everyone. Good morning, accused persons. We will continue from
15 where we left off last Friday at 1.30 p.m.
16 Mr. Kilenda, you were on your feet, so please proceed.
17 MR. KILENDA: (Interpretation) Thank you, Mr. President. Good
18 morning, Mr. President. Good morning, your Honours. I am very happy to
19 see you again.
20 WITNESS: WITNESS DRC-D03-P-0707 (Resumed)
21 (Witness answered through interpreter)
22 Questioned by Mr. Kilenda: (Continued)
23 Q. (Interpretation) Good morning, Mr. Ngudjolo.
24 A. Good morning, Counsel. Good morning, Mr. President. Good
25 morning your Honours.

1 Q. Did you have a good rest this weekend?

2 A. Yes, Counsel.

3 Q. So you are in good shape for us to continue our examination?

4 A. Yes, Counsel.

5 Q. You know the -- what I can call legendary guide-lines of the

6 Chamber. Let us both speak slowly and comply with the five-second rule.

7 At 1.30 p.m. last Friday, when the Presiding Judge adjourned the hearing,

8 you were explaining the statement of the Prosecution Witness EVD-D03-00133

9 and that is number 3. Do you know who I'm referring to? Do you have the list?

10 A. No, Counsel, I don't have the list.

11 MR. MACDONALD: (Interpretation) I think that that witness can
12 be named because she testified in open session.

13 PRESIDING JUDGE COTTE: Go ahead then and refer to her by name.

14 MR. KILENDA: (Interpretation) We are going to give her name,
15 but the witness -- we are going to give that person's name, but the
16 witness should at least have the list.

17 Q. It is Madam Sonia Bakar who is supposed to have met with you
18 somewhere behind the Bunia Hellenic Centre and you are supposed to have
19 told her that you regretted having been in Bogoro.

20 MR. MACDONALD: (Interpretation) Objection. Witness Sonia Bakar
21 never said that Mr. Ngudjolo had told her that he regretted being there. In fact the
22 Prosecution holds the exact opposite view to that.

23 MR. KILENDA: (Interpretation) I withdraw and I will refer you
24 directly to the transcript.

25 PRESIDING JUDGE COTTE: (Interpretation) I believe that is the

1 rule we adopted last Friday. Let us go directly to the transcript
2 reference. And if the excerpt is not too long, it should be read out,
3 otherwise it should be summarised. And each party and participant should
4 have the transcript. Let us now proceed.

5 MR. KILENDA: (Interpretation) Thank you.

6 Q. It is transcript number 328 of the 28th of October, 2011, and I'm
7 not going to read everything because it is long. I will remind you of
8 what Madam Sonia Bakar said. On page 59 of the transcript, lines 27 and
9 28, that lady is supposed to have stated that the Ugandans had asked you
10 for authorisation to go to Bogoro. And in the same transcript, 228,
11 page 43, transcript 228, page 43, line 22, according to
12 Ms. Sonia Bakar, this person said that she met with you the following
13 day. She had asked for an appointment and you joined her the same day to
14 talk about Bogoro and Mandro.

15 Still in transcript 228, page 44, line 5, which contains the
16 testimony of Ms. Sonia Bakar, she added that there were soldiers at the
17 entrance into the house that you used as an office. On page 44, line 12
18 of the same transcript, you are supposed to have confessed having
19 organised the Bogoro and Mandro attacks and that you allegedly told her
20 that if it was necessary to kill all the Hemas, women and children, you
21 were going to do that. I -- because they were all armed. That is what
22 you are supposed to have said. I asked for your explanations and you
23 were in the process of explaining yourself. Before the adjournment - and
24 this is transcript number 328, page 62, that is the last page - you had
25 just said "and thirdly."

1 Do you remember all that? If you do not remember, I would like
2 to ask you the following: What can you say to all those allegations made
3 by Ms. Sonia Bakar?

4 Well, just one moment. I am going to remind you of the first two
5 parts of the answer. First of all, regarding the allegation according to
6 which the Ugandans had asked you for authorisation to visit Bogoro, you
7 answered that General Kale Kayihura was calling you "doctor" and you did
8 not think you were in a position to grant authorisation to the Ugandans
9 because even the Congolese government in order to travel to Bunia, to
10 Ituri at that time had to pass through the Ugandans.

11 Secondly, with regard to the allegation of having organised the
12 Bogoro and Mandro attacks, you were saying that on the 18th of March, you
13 signed the cessation of hostilities agreement as a representative of the
14 Lendu community. And the person who in that room had said aloud that the
15 Lendu South -- Lendu Souths and the Lendus North had worked -- that that person
16 worked for the UNO and that you even saw him recently on the television during
17 the Gbagbo-Ouattara conflict, and that this person was the spokesperson
18 of ONUCI in Côte d'Ivoire, and you were surprised that that person
19 submitted a report here, stating that you were the one who had fought in
20 Bogoro. That was your second explanation.

21 Now, do you have anything else to add?

22 A. Yes, counsel. As I have said, the first time that I saw that
23 lady was here in the courtroom. I have never met her before. Uganda had
24 occupied Ituri, and it was difficult for the Ugandans to come and seek
25 authorisation from me to go and carry out investigations. I did not have

1 any authority to prevent the Ugandans from doing whatever they wanted to
2 do.

3 Secondly, in order to go to Bogoro, according to that lady, it
4 was General Kale Kayihura who provided a military escort for her. That
5 same general is the person who provided Ugandan military observers. How
6 would it be possible for that general to come to me to ask for
7 authorisation? That would have been impossible. Your Honours, that
8 could not have happened and it never happened.

9 Thirdly, that lady stated in this courtroom that she had gone to
10 Bogoro and that she had met Dark in Bogoro. She had said that she wanted
11 to go into the camp and observe what was happening there, but Dark had
12 prevented her from entering the camp because there were still dead bodies
13 in the classrooms. When she returned, she prepared a report and
14 according to that report more than 200 people had been killed. When she
15 arrived there, there were dead bodies and that is why Dark had prevented
16 her from entering. I'm therefore wondering whether dead bodies could
17 -- stayed there for one month without being buried and at the same time people
18 are supposed to have been living at the same location, whereas when dead
19 bodies decompose there is an unbearable stench. Is it possible that
20 people would have still continued living there without suffering from
21 epidemics?

22 Fourthly, when she was shown a photograph of Dark here, she said
23 that Dark did not have a beard. On the 22nd of March, 2003, when we met
24 at the airport, that is, Dark, Germain Katanga, and myself with General
25 Kale Kayihura, you can see in the video that Dark had a beard. And on

1 the 30th of March, 2003, during the televised debate on Radio Candip,
2 Dark still had a beard. According to her testimony she went to Bogoro on
3 the 26th. Between the 22nd and the 30th does she mean that Dark's beard
4 had simply disappeared? I'm wondering whether she actually did go to
5 Bogoro. I am asking myself that question.

6 Counsel, everything that she said about me to the effect that I
7 met with her, she had an appointment with me, and we talked about Bogoro,
8 that is not correct. I will tell you, Counsel, that we never met, we
9 never talked about the battle or the war. That is what I can say about
10 that. Furthermore, so far there is no evidence to establish that she
11 ever met with me. Right here in her report and according to the victims
12 that she met, they had said that the Ugandans, the APC, and the FAC were
13 involved in the Bogoro attack. Right here in this courtroom she
14 testified that it was the Lendus and the Ngitis who were involved in the
15 Bogoro attack, but in her report the Ugandans are supposed to have been
16 involved. So why did she change her story in this courtroom? Thank you,
17 counsel.

18 Q. I am the one who should be thanking you, Mr. Ngudjolo. Can you
19 now refer to our list and specifically number 5. Did you see the person
20 at number 5 and do you know the person?

21 A. Yes, I can see the name and I know the person.

22 Q. How did you get to know that person?

23 A. I got to know the person in Bunia (Redacted).

24 MR. O'SHEA: Forgive me. Mr. President, your Honours, may I make
25 a respectful suggestion to my learned friends that we, in fact, use the

Witness: Witness DRC-D03-P-0707 (Resumed) (Private Session)
Questioned by Mr. Kilenda (Continued)

Page 7

1 pseudonyms because I'm just imagining myself reading through the
2 transcripts later and having to have the obligation of having a
3 particular piece of paper with me in order to work out what's going on in
4 the transcript. I mean, the pseudonyms should be sufficient.

5 MR. MACDONALD: (Interpretation) Also, Mr. President, I would
6 like to ask that we go briefly into private session for reasons of
7 security.

8 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, let us
9 go very briefly into private session.

10 (Private session at 9.26 a.m.)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-D03-P-0707 (Resumed) (Private Session)
Questioned by Mr. Kilenda (Continued)

Page 8

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 8 Redacted – Private session.

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Open session at 9.30 a.m.)

6 COURT OFFICER: (Interpretation) We are in open session,

7 Mr. President.

8 PRESIDING JUDGE COTTE: (Interpretation) Very well.

9 Mr. Kilenda, please proceed.

10 MR. KILENDA: (Interpretation) Thank you, Mr. President.

11 Q. Mr. Ngudjolo, we are talking about P-2, as you can see. That

12 person (Redacted) the ceremony or the cessation of

13 hostilities agreement on the 18th of March, 2003, in Bunia. In your

14 capacity as the Lendu representative of the Djugu territory you signed

15 this agreement, reference transcript 192, page 30 to 35 -- pages 30 to

16 35. And I would like you to look at P-30 as well, P-30 at number 7,

17 P-30. P-30 also said the same thing.

18 Are you in a position to explain to the Judges that, according to

19 P-30, you and your group were there and you signed the agreement for

20 the cessation of hostilities? Can you explain that point to the Court?

21 And this appears in transcript 176, page 45, lines 4 to 18, which states

22 that you and your group were present at the pacification commission in

23 Ituri?

24 A. Counsel, I signed that agreement in my capacity as the

25 representative of the basic community. You see, the international

1 community was calling for peace. Everybody wanted peace for our basic
2 community. So other parties could not have signed an agreement
3 unilaterally without the participation of the purported beneficiaries of
4 the agreement, without their presence. That is why all the communities
5 of Ituri had to sign that agreement which was designed to restore peace
6 within the community. And we acted on behalf of the community which we
7 represented. That is why I had to be present in order to represent my
8 people at this agreement which was going to restore peace. This does not
9 in any way mean that I myself was a combatant at that time.

10 Q. Thank you, Mr. Ngudjolo. Can you explain to the Court why and
11 for what reasons on that day of the 18th of March, 2003, why were you
12 clad in military uniforms?

13 A. I was wearing a military uniform because I had a goal and an
14 ambition to achieve at that time. As stated in my previous testimony, I
15 had desired to join the army following that agreement and that is why I
16 put on that uniform. However, as a matter of fact, I was not yet a
17 soldier at the time of the agreement.

18 Q. Still on the 18th of March, why did you sign that agreement on
19 that occasion in your capacity as the Lendu representative of the Djugu
20 territory?

21 A. This is what happened and this is what things looked like. There
22 were four of us who signed the agreement for the Lendu North group. Each
23 group was supposed to send four people. Those of us who signed, Ngabu
24 Wele --

25 THE INTERPRETER: And other names mentioned which the interpreter

1 did not get, three other persons.

2 THE WITNESS: (Interpretation) -- when they saw me, they asked
3 me to join them in signing the agreement and that is how I came to sign
4 that agreement.

5 MR. KILENDA: (Interpretation)

6 Q. You mentioned a number of names which the interpreters did not
7 get. Can you please state those names again for the record.

8 A. I am sorry. The first name is Ngulo which is spelled N-g-u-l-o,
9 Ngulo. And there is Bubu, B-u-b-u for Bubu. And then there is Dhene,
10 spelled D-h-e-n-e, Ngulo Bubu Dhene. That's the first name, Ngulo Bubu
11 Dhene. Then the second name is Dheda Dikba. D-h-e-d-a, Dheda. Dheda
12 Dikba. D-i-k-b-a for Dikba. Dheda Dikba. And the third name is Ngabu
13 Wele. N-g-a-b-u for Ngabu. Ngabu Wele. Wele is spelled W-e-l-e. Ngabu
14 Wele.

15 Q. Thank you, Mr. Ngudjolo.

16 MR. KILENDA: (Interpretation) Mr. President, with your leave,
17 we would like to have an excerpt of video EVD-OTP-00164 to be played
18 at 0.25.

19 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.

20 COURT OFFICER: (Interpretation) Press "PC1" to view the video.

21 MR. KILENDA: (Interpretation) 8th second, number 14, 14. From
22 the 8th to the 14th seconds.

23 (Video-clip played)

24 MR. KILENDA: (Interpretation) There is no sound.

25 PRESIDING JUDGE COTTE: (Interpretation) The volume is rather

1 low.

2 (Video-clip played)

3 THE INTERPRETER:

4 (Voiceover): "People are being killed in Chay and in Bogoro."

5 MR. KILENDA: (Interpretation) From the 12th to the 13th second,
6 that's what we want. From the 12th second.

7 MR. MACDONALD: (Interpretation) Let us not distort the
8 material. This is an EVD, and if we were to look at the transcript, we
9 would all be edified. And this will be transcript DRC-OTP-1045-0025 at
10 page 0039, lines 23 and follows, to be specific in the said excerpt.

11 MR. KILENDA: (Interpretation) What we want is the excerpt in
12 which General Kale Kayihura talks to the witness and refers to him as
13 "doctor."

14 MR. MACDONALD: (Interpretation) That is it. That is exactly
15 the segment.

16 PRESIDING JUDGE COTTE: (Interpretation) Can we then replay the
17 video starting from the second requested by Mr. Kilenda.

18 (Video-clip played)

19 THE INTERPRETER:

20 (Voiceover): "I would like to ask you, doctor, and I insist ..."

21 MR. KILENDA: (Interpretation) Thank you, Court Officer.

22 MR. MACDONALD: (Interpretation) Mr. President, objection. I
23 object to this manner of proceeding because it distorts the entire
24 excerpt and only highlights what one is interested in. This tends to
25 mislead the Court if we proceed in that manner.

1 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, please.

2 MR. KILENDA: (Interpretation) Your Honour, I am the one who is
3 leading my examination. At 31.64.40 you have the -- our position that we
4 will be leading this witness and dealing with the statements made by
5 Mr. Ngudjolo himself. The purpose of my examination is to remind
6 Mr. Ngudjolo that at a specific point he had a discussion with this
7 Ugandan general who referred to him as "doctor." If that has been
8 established, then I would put questions to him to ask why he was being
9 referred to as "doctor." And that does not in any way distort the
10 excerpt or the record.

11 PRESIDING JUDGE COTTE: (Interpretation) We have fully
12 understood your intention. And last week Mr. Mathieu Ngudjolo said - and
13 I do not have the exact transcript reference - he said that General Kale
14 Kayihura had referred to him as "doctor." This morning again, as was the
15 case last Friday before we adjourned, it would appear that Mr. Ngudjolo
16 also testified that he -- further he was really not in a position to give orders to the
17 General Kale Kayihura who had referred to him as "doctor." So your
18 concern appears to be that you want to confirm those statements by
19 relying on an excerpt from a video, which of course is much longer, and I
20 don't think that we are going to listen to the entire excerpt of the EVD
21 only to hear the word "doctor" being mentioned. We have just heard it
22 and please continue.

23 MR. KILENDA: (Interpretation) Thank you, Mr. President.

24 Q. Mr. Ngudjolo, why did General Kale Kayihura call you "doctor"?

25 A. That was the first time I was meeting General Kale Kayihura and

1 at that time I introduced myself to him as a nurse. And that is why --
2 or rather, that was -- on the 7th of March, 2003, when I met him for the
3 first time, I introduced myself to him to be a nurse. And then when we
4 met again at another meeting with many people in attendance, including
5 some traders and the governor of the UPC, at that meeting in Dele some
6 people, some other persons were in attendance, and because I had
7 introduced myself to him that way previously to be a nurse, it is for
8 that reason that he referred to me as "doctor." He was an
9 English-speaking person and he called me or he referred to me as
10 "doctor." And that is how these things happened.

11 Q. In what language did you introduce yourself to the general and
12 what did you tell him specifically in Swahili?

13 A. I introduced myself to him in Swahili. I said that I was a
14 "muganga". "Muganga," that is the word I used.

15 Q. Is that what the general translated into "doctor"?

16 A. Yes, Counsel, that is correct.

17 MR. KILENDA: (Interpretation) Mr. President, with your leave, I
18 would like to look at EVD-OTP-00172, number 29.

19 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, please.
20 Court Officer, one second, please.

21 Mr. Prosecutor.

22 MR. MACDONALD: (Interpretation) Can we stop the video, please,
23 for a second.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, you
25 have the floor.

1 MR. MACDONALD: (Interpretation) With your leave, I would like
2 to -- to reiterate something, although I know that the Chamber has
3 already decided on a number of objections. But I think the factual basis
4 for showing this excerpt has to be established. There has to be some
5 introductory background that is put forth before these excerpts are
6 played, and this is the only point I would like to make, Mr. President.
7 Thank you.

8 PRESIDING JUDGE COTTE: (Interpretation) At Friday's hearing we
9 responded to your objection, requesting that the videos be not displayed.
10 We shall not revisit our decision of that time. But in any event, Mr. Kilenda, the fact
11 remains that there has to be a foundation laid according to each case and according
12 to what you have to say before such an excerpt is played. So in the case at hand, do
13 you have any such foundation to lay before putting the questions to
14 Mr. Ngudjolo?

15 MR. KILENDA: (Interpretation) Thank you, Mr. President.

16 PRESIDING JUDGE COTTE: (Interpretation) Once again the purpose
17 being to define the context of the specific video.

18 MR. KILENDA: (Interpretation)

19 Q. Mr. Ngudjolo, do you recall any meeting or any situation in which
20 you were talking about pacification at which you said --

21 MR. MACDONALD: (Interpretation) Objection, objection.

22 Mr. KILENDA: What is all this?

23 MR. MACDONALD: This is

24 leading, entirely leading. This is exactly what I'm talking about. You
25 can say he was in this place and at that time and what did you talk about.

1 PRESIDING JUDGE COTTE: (Interpretation) Yes, Mr. President.

2 Yes, that is the way Mr. Kilenda will proceed and he has broad elbow room
3 to proceed within that context.

4 MR. KILENDA: (Interpretation) Thank you, Mr. President. I
5 don't know how I can cheat with this witness because he said a number of
6 things and he must explain them to the Court. He said that he was a
7 trained soldier, a very well-trained soldier. He has to explain that to
8 the court -- to the Court, rather. Do you challenge the fact that these are the things
9 that he has said?

10 PRESIDING JUDGE COTTE: (Interpretation) For now, Mr. Kilenda,
11 the Prosecutor is simply asking of you that you lay a proper foundation
12 in space and in time as to the reason for dealing with this video that
13 you want to display. So please address that and only that, and then
14 thereafter you will put the questions to the witness after laying that
15 foundation which defines the context of the video.

16 MR. KILENDA: (Interpretation) Thank you.

17 PRESIDING JUDGE COTTE: (Interpretation) Please let us all
18 uphold the five-second rule. I have just been reminded of it by the
19 Court Officer.

20 MR. KILENDA: (Interpretation) Thank you, Mr. President.

21 Q. Mr. Ngudjolo, we are still talking about Prosecution Witness
22 P-2. You know his occupation, and please don't mention it. Now,
23 are you aware of any direct or indirect contacts with that witness? Did
24 you have any contact with that witness?

25 A. Counsel, let me help you. My first meeting with General Kale

1 Kayihura took place on the 7th of March, 2003. This meeting was not
2 recorded. It is the second meeting that was filmed or recorded and that
3 is what we have just been looking at. After that meeting, there was
4 another meeting on the 18th of March which was videotaped. And then
5 after the meeting of the 18th of March there was another meeting on the
6 22nd of March, 2003, which was also taped and that meeting took place at
7 the airport. After the meeting of the 22nd of March, on the 29th of
8 March, 2003, there was another occasion at which I was recorded. Then
9 Radio Candip also videotaped a televised debate in which I participated
10 which was also carried over radio and the matter being discussed was the
11 Ituri Pacification Commission at the time.

12 During that debate with Radio Candip, many people were present,
13 representatives of the FNI, of PUSIC, of FPDC, as well as journalists, a
14 pastor was in attendance, as well as representatives of a number of NGOs
15 and some Ugandans as well, in particular Captain Felix Kulaije.
16 On our side, Dark Androzo was present. Many issues were discussed on
17 that occasion, and this is what I said. I introduced myself as a colonel
18 and Chief of General Staff of the FRPI. I also mentioned that I had been
19 involved in the war under the Mobutu regime. I went on to say how I had
20 studied nursing and that I was also a well-trained soldier. I talked
21 about the issue of the Bogoro hostages and I believe a number of other
22 items which I may not remember right now. But if we were to look at the
23 video excerpt I might be able to remember.

24 Q. Are you saying, then, that, among other things, you also stated
25 that you were a well-trained soldier?

1 A. Yes.

2 Q. Can you explain to the Judges why you stated that you were a
3 well-trained soldier?

4 A. Mr. President, your Honours, at that time and at 30 March 2003
5 during that debate over Radio Candip on the CPI, I mentioned that I was a
6 well-trained soldier. But the fact of the matter is that even up to that
7 day I have never received any military training. I was a member of the
8 civil guard or civilian guard which is a police force under the Ministry
9 of the Interior or the Ministry of Home Affairs.

10 Now, the reason for which I said that I was a well-trained
11 soldier is that I simply wanted at the time to give some value added and
12 importance to myself so that as my colleagues listened to me they would
13 think that I was a strong man. So the only reason was to give some
14 significance to myself because, in fact, at the time I was not even a
15 true soldier. The training I had received was not military training. I
16 had received police training for civil -- civilian guards. That is the
17 reason, namely, that I wanted to give some importance and some value to
18 my person. It is for that reason that I introduced myself as a
19 well-trained soldier. Thank you.

20 MR. KILENDA: (Interpretation) We understand, your Honour,
21 that at this time there's no point in showing the excerpt, so I will
22 therefore continue.

23 Q. Mr. Ngudjolo, when you took the floor just now and you mentioned
24 the different subjects that you had dealt with when you were filmed, you
25 spoke about the war at the time of Mobutu's regime. Could you say

1 something about that for the Judges?

2 A. Yes, Counsel. I went to the battle front when the war started in Goma
3 during the entry of the RCD. An order was given
4 to soldiers, to the people of the civil guard and those of the gendarmerie, they
5 were all taken to the war in Goma and among the people who were involved
6 in that battle. I, at that time, was working as a civil guard for the
7 medical service. You know, in the army S1, S2, S3, S4, S5, all these S
8 services, they have a medical department. That is to say, these
9 soldiers, when they go to war, they take the medical staff in order to
10 treat the wounded and these staff are responsible for caring for the
11 wounded. And it is within that framework that I went there to
12 participate in the battle as a member of the army medical staff.

13 So when I spoke about this battle there was our unit, our civil
14 guard unit, you know, the civil guard was not trained to fight. When the
15 battle got more intense we fled by foot by the -- on the road to
16 Kisangani. And when we got to Kisangani I deserted. I was finding a way
17 of returning to Ituri. So when I spoke of having participated in the
18 battle, that was to give myself importance or ascribe importance to
19 myself. There was no other reason, Counsel.

20 Even when I introduced myself as a division commander, that was
21 because when the enemy are going to hear this title, they're going to be
22 afraid. But I wasn't the division commander because a division commander
23 has to be a division general. I wasn't a division commander in my
24 capacity as colonel. That's it.

25 Q. Thank you very much, Mr. Ngudjolo. We've also heard it said that

1 because you were on Radio Candip, that you spoke about hostages in
2 Bogoro. Could you tell us about that. Please explain to the Judges what
3 that is about.

4 A. When I became a member of the FNI/FRPI alliance, Bogoro had
5 already fallen. It was already occupied. During this occupation there
6 were lots of forces in Bogoro. The APC, UPDF, Dark were there and he
7 introduced himself as the commander of the FRPI. At that time the Hema
8 civilians went to Kasenyi on vehicles and they were stopped.

9 During the debates, the director of cabinet of Chef Kahwa --
10 well, this is something else I have to say is that when Dark introduced
11 himself as a commander of operations of Bogoro, he introduced himself
12 also as the person who was directing or governing Bogoro. So I also have
13 to say that the *directeur de cabinet* of Chef Kahwa, he asked a question
14 to Dark with regards to the hostages. And right at the start, before
15 Dark answered him, I spoke.

16 Why did I speak concerning a fact that I knew nothing about? I'm
17 going to tell you the reason. When these people were stopped or
18 arrested, the commander of the UPDF who was in Bogoro called General Kale
19 Kayihura and he said there were Hema civilians who had been arrested in
20 Bogoro and they were with Dark, and that is the reason why their general
21 asked that these people be freed. These people were not freed. So the
22 general sent me to meet Dark and to take stock of the situation and see
23 why these people were really arrested. And that was the reason why I
24 went to meet Dark. He told me, "Yes, we have arrested these people, but
25 these people are no longer in Bogoro, they're in Kagaba, where the

1 vehicle is."

2 So I'm going to go back to the reason why I decided to speak.

3 You know, in the army at that time we had a provisional alliance, and
4 when I became a member of this alliance, I had a superior title to that
5 of Dark. In an army, a subordinate cannot speak before that person's
6 hierarchical superior. When he was asked the question, I already knew
7 that Dark had said to me that these people who had been arrested had been
8 arrested and I knew that he could not lie. And when I went to see the
9 general, I confirmed that, adding that there was a problem with regards
10 to the vehicle. And that is how -- why I answered the *directeur de*
11 *cabinet* of Chef Kahwa by saying, "Yes, these people have indeed been
12 arrested. They are there. But there is a problem, namely, with regards
13 to the vehicle which is broken down. And if the owner of this vehicle
14 buys the necessary parts, these people can go home." Unfortunately, these
15 people never made it back to their homes. That is it.

16 Q. Thank you very much, Mr. Ngudjolo. So we have noted that during
17 this meeting you were with Dark, that at a particular time Dark had to
18 answer the question. You interrupted him. It was you who took the floor
19 at that occasion. And how did you introduce Dark during this meeting?

20 A. Well, in military terms we used terms such as "my commander," "my
21 operator." I introduced him as my operational commander, and it is
22 possible that I might have made a mistake -- that I might be making a
23 mistake, but I introduced him as my commander of operations. And unless
24 I'm mistaken, you can re-read the extract, have a look at the extract or
25 the excerpt, and you will see that I introduced him in that way. Now, we

1 were in the FNI/FRPI alliance at that time.

2 MR. KILENDA: (Interpretation) Your Honour, the excerpts that we
3 would propose to screen to have exactly those words (as interpreted).
4 I think that none of the parties here or any participant challenges that.
5 We could save a lot of time if that is the case, if you would allow me to
6 do so.

7 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead. You
8 can continue. Mr. Ngudjolo has given a lot of details and perhaps that
9 makes it not necessary to show these extracts or excerpts.

10 MR. KILENDA: (Interpretation) Thank you very much, your Honour.

11 Q. Mr. Ngudjolo, Dark, was he your operator?

12 A. I said right from the start that I joined the FNI/FRPI alliance
13 after the 22nd of March, after Bogoro had been attacked and occupied.
14 When I joined the FNI/FRPI, Dark was the commander of operations in
15 Bogoro and had been since the 24th of February, 2003. He was already in
16 Bogoro. As for myself, I joined the alliance in which Dark was. But at
17 that time I had a higher rank than his and that's why I called him my
18 operator or my commander of operations. That does not mean that I was
19 the one who appointed him as commander of operations in Bogoro, no.

20 Q. I would ask you to speak slowly. What you said is understanding -- what you
21 said is important for our understanding. So in order for everything to be clear, Dark --
22 well, did he come under your command? Was he under your orders?

23 A. No, Counsel. In a theoretical way I could accept it, but in a
24 practical way, no. If he obeyed my orders, the problem with regards to
25 the hostages would have been resolved and the people who had been

1 arrested would have gone to their homes. That is a fact and that shows
2 in an obvious way that he did not come under my orders, he was not
3 subject to my orders.

4 Q. Thank you, Mr. Ngudjolo. Now, when you were in Bunia at that
5 time, did you have an office?

6 A. Yes, Counsel.

7 Q. Where was this?

8 A. (No interpretation)

9 THE INTERPRETER: The interpreter didn't understand the question
10 of Counsel Kilenda.

11 MR. KILENDA: (Interpretation) The interpreter did not
12 understand my question.

13 Q. My question was as follows: At the time when you were in Bunia,
14 did you have an office? And if that is the question ...

15 A. Yes, I did have one. I opened a liaison office in Bunia. I can
16 explain myself with regards to how this office came into being. When we
17 were in Bunia, we got an order from a general. He said that all the
18 weapons that were in the territory must come from the UPDF, but all
19 around us there were troubles. If you look at another excerpt that the
20 Prosecutor has shown which was attributed an EVD number, then you will be
21 able to see that we are speaking about people who were killed in the
22 villages and you will also see an interview. And it was -- and when I
23 was interviewed about Bogoro and I spoke about the vehicle of the
24 organisation. There was certain problems around Bunia. That was on the
25 29th I think. And he asked that there be a liaison officer in Bunia so

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 24

1 that if there was any problem whatsoever, this officer would resolve it.
2 And that is how under the orders of General Kale Kayihura I opened the
3 liaison office at Epoville (phon), that is to say, in the
4 neighbourhood, the subregion.

5 THE INTERPRETER: The interpreter adds that the organisation was
6 called COOPI, C-O-O-P-I, in the French transcript.

7 MR. KILENDA: (Interpretation)

8 Q. Thank you, Counsel (as interpreted).

9 MR. KILENDA: (Interpretation) For the attention of the Chamber,
10 the answer that Mr. Ngudjolo has just given us where it concerns this
11 liaison office would have led us to show excerpt EVD-OTP-00177, but I
12 would imagine that no party challenges this. I just want for purposes of
13 the transcript to point out that it is this excerpt which relates to the
14 liaison office. We're not going to show it. Everybody knows that it is
15 that one. That can be seen at entry 24. And I would also like to seize
16 the opportunity still with your leave to also point out that all the
17 developments that Mr. Ngudjolo has mentioned here when he says that he
18 was well-trained, for example, and he speaks about the hostages who were
19 arrested, or where he gave the floor to his -- his operator Dark, all those excerpt
20 well are also -- come -- or they come under entries 29 and 31, these are
21 excerpts of EVD-OTP-00172 and EVD-OTP-00175, which we're not going to
22 show in order to save time. That is it, your Honour.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
24 Counsel Kilenda.

25 MR. KILENDA: (Interpretation)

1 Q. Mr. Ngudjolo, now still with reference to Radio Candip, when you took
2 the floor on that day, when you spoke on that day, were you not also
3 speaking about what you -- about roads which you had opened?

4 A. No, it wasn't that same day, your Honour. That's another
5 excerpt. On that day that concerns the day when we were with Dark, and
6 the general, at that time, he gave an order. He didn't want to see
7 weapons again in town. And the traders came to make a request with
8 regards to the vehicles that were in Kasenyi. They came to make this
9 request to the general so that he could give an order such that the
10 vehicles which was in Kasenyi could go to Bunia and that the road would be
11 opened. It was Dark who answered that question, if I remember it
12 rightly, that is what I had stated on that day. There was the governor of the
13 UPC who had spoken, Dark had done so too, spoke about the battle of
14 Bogoro and Mandro. And right at the end I spoke and I said the following
15 and this is something that you can find in an excerpt.

16 I stated the following: My general, the UPC forces are in houses
17 and others are in Central, Iga-Barrière and Katoto. And we have already opened
18 the road and all of those who wanted to continue to be in the army, they
19 can come, those from Kinshasa, such that we can unite and make one
20 army therefrom.

21 Katoto, Iga-Centrale are to the north of Bunia. You can't -- shouldn't
22 confuse that with the road from Bunia, Bogoro to Kasenyi. The person who spoke
23 about the road Bunia-Kasenyi-Bogoro, that was Dark. He was the one who had to
24 speak with regards to that. He was the one who was the commander in
25 Bogoro. Your Honour, Katoto, Iga-Barrière, Centrale, these are

1 localities which are in the north of Bunia or which are north of Bunia.
2 Bogoro and Kasenyi are south of Bunia. These are two different routes.
3 The Prosecutor spoke about a common plan. No. No. There's no
4 similarity between the two localities. Katoto is in the south and
5 Bogoro's in the south -- one's in the north and the other's in the south. In
6 the excerpts the Prosecutor showed in this courtroom you
7 will not find-- not in any one of them will you see any of these excerpts will you find
8 Mathieu Ngudjolo claiming to have participated in the battle of Bogoro or Mandro. If
9 I had participated in those battles, I would have said so because I attended
10 the first meeting with Kayihura on the 11th of March, 2003. But
11 on that day it was Dark who had taken the floor to speak about the
12 battle of Bogoro and of Mandro as well. On the 30th of March, on Radio
13 Candip, it was he who spoke about the battle of Bogoro and Mandro. It
14 was he still. But on no day did I say or state anything with regard to
15 the battle of Bogoro and Mandro. That's something you can check in the
16 videos and the other evidence.

17 The Prosecutor has caused confusion. Why? Perhaps because he
18 saw me together with Dark and so he thinks that because I was with Dark
19 that I participated with him in the battle of Bogoro and Mandro. That is
20 a confusion. I would also add that I knew Dark right at the start. He
21 was the young brother of Dr. Adirodu who was the doctor of the *chef de*
22 *zone* of the -- of where I was working. I was working where he was working,
23 I was in his area, so I knew his family, his wife, his children, and his brothers.
24 So I knew Dark with Dr. Adirodu and he was a policeman at the time. When
25 the RCD-K/ML was in power, during their reign, he was arrested and

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 27

1 convicted to life. It was Dr. Adirodu who went to free him and
2 thereafter he left and he went somewhere else. And I met him later and
3 he introduced himself as a member of the FRPI. If I met him -- just
4 because I met him, that doesn't mean that we both participated in the
5 battle of Bogoro. That's not the way it was.

6 Q. Thank you very much, Mr. Ngudjolo.

7 MR. KILENDA: (Interpretation) Your Honour, for a good
8 understanding of the words that have just been said, we do consider it
9 essential to show the excerpt EVD-OTP-00169 and that can be found in
10 entry 35.

11 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if you
12 would be so kind as to show that.

13 MR. KILENDA: (Interpretation) The whole excerpt if you would be
14 so kind. Excuse me, I'm going to make an effort to speak more slowly.

15 (Defence counsel confer)

16 COURT OFFICER: (Interpretation) In order to view the excerpt,
17 please press "PC1."

18 (Video-clip played)

19 THE INTERPRETER: What was said was inaudible for the Swahili
20 booth.

21 (Voiceover): "Others are in Katoto, others are in Centrale, and
22 we, we opened the passage. We don't want to hear it said that people
23 have been killed on the road because they went into the bush and they're
24 like bandits, rebels, and they attempt ambushes, set up ambushes. And if
25 that's wanted, we can talk about it (inaudible). We would like to invite

1 those who want to work with the army to join the Kinshasa army when they
2 come (inaudible)."

3 MR. MACDONALD: (Interpretation) I would simply want to point
4 out that we have an official revised transcription which had been
5 assigned an EVD and it is in the record.

6 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed. Thank
7 you, Mr. Prosecutor, for that reminder.

8 Mr. Kilenda, we have listened to that audio, but it was not
9 perfect because the interpreters were not able to hear and interpret everything and
10 the Prosecutor has just said that we have a transcript on the record. Please
11 continue.

12 MR. KILENDA: (Interpretation) Thank you. And I will thank the
13 Prosecutor for that reminder, but there is a rule whereby I cannot ask the
14 witness "Do you confirm this or that." However, what we have just heard is
15 indeed what Mr. Mathieu Ngudjolo had already explained and I was
16 intending to ask him which road he was referring to. But right now the
17 Chamber and the parties and participants know which road he mentions. So
18 I will no longer dwell on this point.

19 Q. Mr. Ngudjolo, who were the commanders who were in Bogoro after
20 the 24th of February, 2003?

21 A. The Bogoro attack took place on the 24th of February, 2003.
22 After that battle, I went to Bogoro for the very first time on the 28th
23 of March, 2003, after I had just joined the FNI/FRPI alliance. The
24 commander -- the commanders that I saw in Bogoro are the following:
25 Dark, who introduced himself as the FRPI commander. There was a UPDF

1 commander, he was a major. I did not get to know his name but this can
2 be found in the video extract. There was also Blaise Koka of the APC.
3 He had come from Beni and he had a deputy who was called Mutombo, also
4 known as "Demuto". I did not see any FAC officers, but I heard that on
5 that day they had gone to Aveba. So they were not present there. These
6 were the commanders that I saw with my own eyes in Bogoro.

7 Q. Thank you, Mr. Ngudjolo.

8 MR. KILENDA: (Interpretation) Mr. President, with your leave,
9 we would like to view extract EVD-D03-00056. That is at number 2.

10 PRESIDING JUDGE COTTE: (Interpretation) Court Officer.

11 MR. KILENDA: (Interpretation) From second 18.

12 COURT OFFICER: (Interpretation) Please press "PC1" to view
13 that extract.

14 MR. KILENDA: (Interpretation) It's that image that we want to
15 see, so if you can freeze it right there.

16 Q. Can you see those three people there, Mr. Ngudjolo?

17 A. I can see them. I can identify them but it is not very clear.

18 Q. That is what we would like you to do. Please identify those
19 people from left to right.

20 A. Mr. President, to my left, that is Lieutenant-Colonel Asani Chi
21 Boya (phon). He was the UPDF sector commander in Bunia. The person in
22 the middle is a major and a UPDF commander in Kasenyi and they're there
23 in his camp. And the person on the right is the major who was in Bogoro.
24 He was the UPDF commander in Bogoro and I do not know his name.

25 Q. And where are those people on the photograph?

1 A. They are in Kasenyi. This is not Bogoro, it is Kasenyi.

2 Q. Thank you, Mr. Ngudjolo. Now please refer to our list. At
3 number 6 you have P-12. And then at number 8 you have P-160.

4 A. I'm sorry, Counsel. Your Honour, I wanted to add something
5 relating to the video extract before talking to you about those two
6 people.

7 Dark -- well, you will see in the extract that the Prosecutor
8 presented in which Dark stated as follows: "It was said that we have
9 fought against the Ugandans, it was said that Kinshasa soldiers had
10 fought in Bogoro." That is not true. In that video I am there together
11 with the general and the UPC governor, as well as the president of FREC.
12 Mr. President, at that time Dark was telling lies. That was diplomatic
13 parlance. That is because on the 24th of February, 2003, after the
14 attack, the UPC, during the news on Radio Candip, had stated that they
15 had been attacked by Kinshasa soldiers who had come from Beni alongside
16 UPDF soldiers.

17 If you watch that extract, Dark is saying that there were no
18 Ugandan soldiers, that there were soldiers from Kinshasa, and that is
19 because he could not accuse the Ugandans when UPDF soldiers were present, given
20 that the UPC had accused the Ugandans and the Kinshasa government. In that
21 extract we were together with people of the UPC so he could not accuse
22 the Ugandans in the presence of the UPC governor. That is what I wanted
23 to add, Mr. President. The fact is that the plan to attack Bogoro came
24 from Kinshasa. The plan was also prepared by the Ugandans. It was those two
25 groups who prepared to attack on Bogoro. It was in their interest to

1 attack Bogoro.

2 We were with the general and I asked him this question: How is
3 it possible that the UPC could have driven you out of Bunia and you
4 retreated all the way to the airport and Dele? General Kale Kayihura
5 answered as follows: After the Bogoro battle, the UPC accused them.
6 They took General Kale Kayihura hostage and they kept them until they
7 received an order to release him from President Museveni. When Kale
8 Kayihura and Museveni accepted -- had accepted to leave Bunia town, this led to the
9 release of General Kale Kayihura who was then released in the presence of
10 MONUC. The agreement was signed on the 2nd of March, 2003. He had been
11 taken hostage --

12 THE INTERPRETER: From the Lingala booth: Can the witness be
13 asked to repeat the last part of his answer.

14 PRESIDING JUDGE COTTE: (Interpretation) Mr. Mathieu Ngudjolo,
15 if you remember where you were at when you said "he had been taken hostage," can
16 you continue from there because you said that General Kale Kayihura was
17 released in the presence of MONUC and that agreement was signed on the
18 2nd of March, 2003. What you said after that was not interpreted. So
19 please kindly repeat beginning by -- beginning with "he was taken hostage
20 on the ..."

21 THE WITNESS: (Interpretation) Thank you, your Honour. General
22 Kale Kayihura was arrested by General Kisembo and held in Thomas
23 Lubanga's residence. General Kale Kayihura was there together with
24 Captain Birudji (phon). The UPC stated that they would be released only
25 if the UPDF withdrew from Bunia town to the airport and Dele. Kale

1 Kayihura was released after he called President Museveni, and President
2 Museveni told Kisembo that he had granted all his demands. The agreement
3 was signed in the presence of MONUC on the 2nd of March, 2003. The UPDF
4 then withdrew from Bunia town and retreated to the airport and Dele.
5 That is how it happened, Mr. President.

6 MR. KILENDA: (Interpretation)

7 Q. Thank you, Mr. Ngudjolo, for that information. We are going to
8 come back to P-12 and then P-160. To begin with P-12, do you know
9 that person?

10 A. Yes, I know the person.

11 Q. Did you ever meet with him or her?

12 A. We met for the very first time on the 30th of March, 2003, at
13 Radio Candip, during the televised debate on the CPI, the Ituri
14 Pacification Commission. That was the very first time I met that person.

15 Q. Do you know P-160?

16 A. I do not know that person. I saw that person for the very first
17 time in this courtroom.

18 Q. In transcript 196, page 54, lines 23 to 28, and page 55, line 1,
19 P-12 stated in this courtroom that you had military escorts everywhere
20 made up of child soldiers. Did you have child soldiers who were members
21 of your escort?

22 A. No, Counsel.

23 Q. In transcript 197, page 36, lines 14 to 21, and page 36, lines 21
24 to 22, P-12 stated that during a meeting that you attended, you had
25 already been converted or been transformed and that you were already a

1 different person, and that you told him on that occasion that you had
2 committed many mistakes by killing Hemas mistakenly because you had
3 confused between biological and ethnic affiliation, and that you were really
4 sorry for having killed many Hemas. You allegedly added that that was
5 the end of it and that from then on you had to work towards the
6 development of your region. P-12 even told the Judges that you were
7 speaking frankly but that he did not know who you had killed.

8 Where were you in May and June 2004?

9 A. Mr. President, your Honours, I was arrested on the 23rd of
10 October, 2003, in Bunia, in the Lokana case. I was tried, and on the 3rd
11 of June, 2004, the Judges handed down their decision. I was acquitted
12 but I was not released. I was still in detention. On the 14th of
13 September, 2004, we were transferred to the Makala prison in Kinshasa.
14 On the 24th of December, 2003 I was released. In May
15 and June 2004 I was in detention, Mr. President, and I could not have
16 been in two places at the same time. P-12 said that I said things in a
17 hotel in Uganda, whereas in May and June 2004 I was in detention in
18 Bunia. I could not have been in Uganda to speak with P-12, and P-12
19 never visited me in detention. He said that we met in Uganda, but at
20 that time I was in detention. If you look at my detention record, you
21 will realise that I was in Bunia. This is what happened. I have no idea
22 what he is talking about. Maybe he saw my shadow or ghost, I do not know.

23 Q. Mr. Ngudjolo, you state that when you were acquitted in the
24 Lokana case you were not immediately released. You stayed in detention
25 and at one point you were transferred to Kinshasa, but when precisely

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 34

1 were you released from Makala prison?

2 A. I was released on the 24th of December, 2004, in Kinshasa.

3 Contrary to the report of the NGO which stated that I escaped from the
4 prison in Kinshasa, Mr. Prosecutor, I never escaped from prison. I was
5 released.

6 PRESIDING JUDGE COTTE: (Interpretation) The real-time transcript
7 page 36, line 26, French version it is 24th December 2004 and not 2003.
8 Mr. Ngudjolo has just confirmed that it was 2004, which is quite logical
9 in light of his previous statements.

10 Please proceed, Mr. Kilenda.

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

12 Q. Mr. Ngudjolo, do you have any documents that prove that in May
13 and June 2004 you were in detention?

14 A. Counsel, I have told you to look at my record, my detention
15 record, and you will be able to establish that.

16 MR. KILENDA: (Interpretation) Your Honour, with your leave, we
17 would like to call up document DRC-OTP-0039-0403, which is at number 23,
18 as well as DRC-OTP-0039-0409.

19 MR. MACDONALD: (Interpretation) We have objections, your
20 Honour. Please give us a moment to determine whether those objections
21 are still valid before any documents are called up. Thank you.

22 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead.
23 (Prosecution counsel confer)

24 MR. MACDONALD: (Interpretation) The Prosecution has no
25 objection to those materials being shown to the witness and even adduced

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 35

1 into evidence and given EVD numbers.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you. So document
3 number 23, there is no objection to that as well as a document relating
4 to the decision of 2004.

5 MR. KILENDA: (Interpretation) We just wanted EVD numbers.

6 PRESIDING JUDGE COTTE: (Interpretation) Very well. You have
7 document DRC-OTP-0039-0423 and this is a document for which we need an
8 EVD number. And the same applies to -- also to document number 0039-0409
9 which is transcript record of the 3rd of June, 2004. So those documents
10 should be assigned EVD numbers.

11 (Trial Chamber and Court Officer confer)

12 COURT OFFICER: (Interpretation) Thank you, Mr. President.
13 Document DRC-OTP-0039-0403 will have the reference number EVD-D03-00134.
14 Document DRC-OTP-0039-0409 will have the reference number EVD-D03-00135.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
16 Court Officer.

17 We will break for 30 minutes.

18 MR. KILENDA: (Interpretation) These are public documents.

19 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed.

20 We will now break for 30 minutes.

21 Court Usher, can you please lead Mr. Mathieu Ngudjolo to his seat.

22 (The witness stands down)

23 PRESIDING JUDGE COTTE: (Interpretation) This hearing is
24 suspended. We will reconvene at 11.30 a.m.

25 THE COURT OFFICER: All rise.

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 36

- 1 Recess taken at 11.00 a.m.
- 2 (The witness takes the stand)
- 3 On resuming at 11.40 a.m.
- 4 (Open session)
- 5 COURT USHER: All rise.
- 6 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
- 7 Let us resume our proceedings.
- 8 Mr. Kilenda, you have the floor.
- 9 MR. KILENDA: (Interpretation) Thank you, Mr. President.
- 10 Mr. President, your Honours, I would like to refer to transcript 197,
- 11 page 58, lines 12 to 20.
- 12 Q. Mr. Ngudjolo, P-12, P-12 asserted before this Court that you
- 13 had difficulties demobilising the children. What is your reaction to
- 14 that?
- 15 A. Mr. President, your Honours, the demobilisation of the children
- 16 started in 2004. That process started in 2004 while I was in prison and
- 17 I never participated in it.
- 18 Q. If you pick up our sheet, look at Prosecution Witness P-161,
- 19 number 9.
- 20 THE INTERPRETER: Could Mr. Kilenda be advised not to move his
- 21 sheets of paper around the microphone. It's not convenient for the
- 22 interpreters. Thank you.
- 23 MR. KILENDA: (Interpretation)
- 24 Q. Do you know this witness?
- 25 A. No, I don't know.

1 Q. Do you know this person?

2 A. No, I do not know that person. I saw him for the first time here
3 in this courtroom.

4 Q. If we were to look at transcripts 114, page 15, lines 19 to 22,
5 this witness told the Court that an Ngiti/Lendu coalition attacked Bogoro
6 in 2000. According to that witness the Lendu were your people,
7 Ngudjolo's people, or Ngudjolo's men, according to that person. What is
8 your reaction to that?

9 A. Mr. President, your Honours, there was no war in our sector in
10 2000, whether it be in Bogoro in the Ezekere groupement. It is on the
11 9th of January, 2001, that the war started in Kotoni. 13 Ugandan
12 soldiers and the Hema attacked Kotoni and I've already talked about that.
13 In 2000 I was a student in Bunia. When, then, would it have been
14 possible for me to have soldiers to prosecute war in Bogoro while I was a
15 student at the technical institute in Bunia? I was a student.

16 Q. Mr. Ngudjolo, at transcript 111, page 45, lines 15 to 19, this
17 witness asserted that you owned cows. Did you own any cows?

18 A. No, Counsel. I have never owned any cows.

19 Q. Please look at our list again, number 10, P-166. Do you know
20 that person?

21 A. Yes, I know that person.

22 Q. How did you come to know that person?

23 A. The village where I lived was close to his. I used to go to his
24 village at the time and that is how I got to know him. Furthermore, in
25 2000 he came for treatment in Kotoni, in my area.

1 Q. Do you want to mention the name of his village as well as the
2 name of your village? Would you please kindly do that.

3 A. At that time I used to live in Kotoni, while he lived in Bogoro.

4 Q. At transcript 227, page 21, lines 27 to 28, and page 22, lines 1
5 to 3, this witness, under oath, told the Judges that all the 2001 and
6 2002 attacks were launched by people from Lendu North, that is, the group
7 from Zumbe. What is your reaction to that?

8 A. In 2001, the Zumbe people or of the Bedu ezekere groupement never went to fight
9 in Bogoro. They had no interest in doing that, and as I already stated, the war started
10 in Bogoro and went to Kotoni. In our area we lived at peace with our neighbours.
11 They are Irumu and we are Djugu. We have never had any land problems with them.
12 In our area we have farmers and stock-breeders alike, and they too have farmers and
13 stock-breeders in their area. So we were living together and we had a Prodel just like
14 they had an association called Prodel, an association of breeders and
15 farmers, funded by the pacification commission. So there was really no interest in
16 prosecuting war in Bogoro for them.

17 It is the Ugandans who sparked off war in areas where there were
18 no landed conflicts. They incited people to fight. Where there were
19 problems with a number of concessions of land, they would spark conflict
20 between the Lendu and the Hema or the Hema among themselves or against the
21 Alur, and so on and so forth. And this was all related to a number of
22 land concessions where, should I say, conflict was sparked by the Ugandans. The
23 Ugandans will go into these areas and they will start a
24 conflicts around land, then they would fan such conflict into flames of war.

25 But in our area, we never really had any problems among

1 ourselves. And that is how the Ugandans came in and fanned these
2 conflicts into flames of war. But we never, we never went to fight in Bogoro.

3 Q. Thank you, Mr. Ngudjolo. And once again I would like to remind
4 you to speak slowly.

5 If we look at the transcript number 227, page 18, lines 4 to 11,
6 we see that P-166 told the Judges of this Court that he had learned that
7 while you were in Bunia you asked people to take their property and to
8 come along with you to Zumbe. He went on to say that at that time a
9 young man whose name was Tuki (phon) allegedly took a mortar and came
10 along with you to Zumbe.

11 What is your reaction to that allegation?

12 A. I do not know anybody called Tuki. I do not know any Tuki.
13 Furthermore, I never asked anyone to come along with me to Zumbe. On the
14 12th of May, people were fighting and I was not in Bunia. People fled
15 because of the war in Bunia. Everybody fled to any direction of their
16 choice.

17 Q. 12 May of which year?

18 A. 2003.

19 Q. Very well, Mr. Ngudjolo. Please look at our list again and turn
20 to number 11. You will see P-233, and at number 12 you will see P-249,
21 and then you can also look at P-268 at number 13. I take those three
22 together because they all had more or less the same testimony before this
23 Court and I don't want us to waste the time of the Court. And so I would
24 like you to provide your explanations after you have listened to me
25 carefully.

1 Now, do you know P-233?

2 A. No, I do not know that person. I saw that person here for the
3 first time.

4 Q. Do you know P-249?

5 A. No, I do not know that person either. I saw that person here for
6 the very first time.

7 Q. Do you know P-268?

8 A. No, I do not know that person. I also saw that person for the
9 first time here.

10 Q. Very well. At transcript 83, page 78, lines 22 to 24, and
11 page 79, line 1, P-233 said the following, and I'm going to quote
12 because it is short.

13 "For us the enemy were the Lendu and the Ngiti and those people
14 came from two roads: The Ngiti road and the Lendu road. When we were
15 attacked on the 24th of February, 2003, we knew that it was the Lendu and
16 the Ngiti who had attacked us."

17 At transcript number 135, page 63, lines 8 and following, P-249
18 stated that the attackers came from Zumbe, from the mountains. And at
19 transcript 107, page 5, lines 1 to 12, page 26, line 25, and page 27,
20 lines 1 to 2, as well as page 61, lines 9 to 11, P-268 told the Judges
21 of this Court, under oath, that the Bogoro attackers or the attackers of
22 Bogoro in February 2003 were Ngiti and Lendu of the FNI and the FRPI.

23 What is your reaction to all these allegations?

24 A. I'm sorry. On 24 February 2003, the FNI was in Uganda. It came
25 to Bunia for the first time on the 18th of March, 2003, after the Bogoro

1 attack. The Lendu of Zumbe did not go to Bogoro. The FNI/FRPI alliance
2 was created after the attack of the 23rd of March, 2003. You have all
3 read the letter on the cessation of hostilities. The FNI signed, the
4 FRPI signed, but they signed on different days, 18th of March for the FNI
5 and the 22nd of March for the FRPI. So before that date, the two groups
6 were not united. They did not work together to conduct such an
7 operation.

8 MR. MACDONALD: (Interpretation) Mr. President, I would like to
9 state that -- for the attention of Maître Kilenda, that when three
10 aspects of a question are raised, as the witness may understand -- I note,
11 by the way, that the witness has only answered to the allegations of 268.
12 This is not clear because this might be significant later on when the
13 witness has to answer a multi-pronged question that has been put to him.

14 PRESIDING JUDGE COTTE: (Interpretation) Maître Kilenda, we
15 understand that you want to put your questions together, combine them, because
16 they deal with the same theme and that is only fair because you are the one
17 conducting your examination. But it is also proper for the witness to
18 provide the greatest amount of clarification possible. So I think that
19 we have understood what you seek to clarify in relation to 233, 249, and
20 268, but it might be best if you can break down the questions into
21 smaller parts. As for now, please continue.

22 MR. KILENDA: (Interpretation) Thank you very much, your Honour.
23 Thank you, Prosecutor. I shall respect this rule.

24 Q. Mr. Ngudjolo, we are going to start with Witness 233. So in the
25 transcript 79, 22 to 29, and page 69, line 1, this witness of the

1 Prosecutor stated, and here I quote:

2 "For us the enemy was the Lendu, the Ngiti, and these people came
3 by two routes, the Ngiti route and the Lendu route. When we were
4 attacked on the 24th of February, 2003, we knew that it was the Lendu and
5 the Ngiti who had attacked us."

6 What is your reaction to that statement from Witness 233?

7 A. Counsel, the Lendu and the Hema live in the same place; they are
8 not enemies. As I stated previously to the Presiding Judge, the Lendu/Hema
9 conflict that's always been spoken about is a small conflict in Nombe, Lakpa and
10 Lagba. It's a well-known conflict. And despite the existence of this conflict,
11 the Lendu and Hema have always lived together. And by way of proof of
12 this, the president of Prodel in Ezekere was a Hema and this person's name was
13 Kataboga Esin. Prodel was a stock breeders cooperative so
14 that the cows of the Hema could go to the same pastures as the Lendu cows
15 and even cows from other tribes. So there were two Prodel in the
16 groupement Ezekere. The president of Prodel in Ezekere was also a Hema. I
17 forget his name. But the veterinary nurse of Prodel Mont Rhina was a Lendu. They
18 all were living together and their cows were taken to the same grazing pastures.

19 So, that conflict that we've always heard people speak about didn't
20 really exist. The people who really caused this conflict were the Ugandans
21 and that was for their own interests. And that is how they were trying to justify
22 their presence in Ituri.

23 When I was arrested, the first person who came to visit me in Makala
24 prison was Logo. Logo was Germain's resource person and he came to visit
25 and brought me food. Thomas Lubanga I only got to know in prison. I

1 had never met him in Ituri. But in prison, in Kinshasa, Thomas Lubanga came
2 to visit me. That was the first time that we met. So if there was
3 really a conflict between the Hema and the Lendu, could I have eaten food
4 brought to me by a Hema?

5 So all of this is orchestrated by the Ugandans to
6 justify their presence. My own older brother got married to a Hema
7 woman. So the Hema and the Lendu marry between themselves and they have
8 children and they live together to this day.

9 Also, this has all been a manipulation and
10 orchestration.

11 Q. You mentioned a name, Mon Rino (phon). Could you spell that
12 name? That's page 46, line 6, of the French transcript.

13 A. Prodel Mont Rhina. "M" like mountain, (indiscernible), r-h-i-n-a.
14 That is an association of livestock breeders which was funded by a
15 Canadian company from Quebec and it's this association that funded the
16 association of livestock breeders in Ituri.

17 Q. And you said that the President of Prodel -- what is Prodel?
18 What does Prodel mean exactly?

19 A. Prodel, Prodel was a cooperative association of grazers, an
20 association of livestock breeders called Prodel. That's
21 P-r-o-d-e-l, Prodel.

22 Q. And you've also said that the president of Prodel was a Hema.
23 Could you remind us of his name and could you also spell that, please.

24 A. Yofesi Katabuka. Y-o-f-e-s-i, Yofesi. Katabuka,
25 K-a-t-a-b-u-k-a. Katabuka.

1 Q. Thank you, Mr. Ngudjolo. Have you already said if you know P-249?

2 A. No, I do not know him.

3 Q. In Transcript 135, 63, line 8 -- page 63, line 1, P-249 the judges were told
4 that the assailants came from Zumbe, from the mountains, and they also
5 came from Kagaba. What do you say to that?

6 A. Counsel, no people came from Zumbe. If there had been people
7 from Zumbe, I would have known. People die in every war, and the -- and
8 the -- there are the wounded as well. If they had
9 gone there and been wounded, they would have -- they would have taken
10 their wounded to me. I was a nurse. If there were people who died, I
11 would have known about this because it was a small village. So news of
12 the deaths would have spread, and if there had been people from the
13 mountain or from Zumbe who had gone there, then that's something I would
14 have found out because if they would have gone there I would have known
15 that. That's the first point.

16 Secondly, when Bogoro fell, we know that there's a Lendu locality near Bogoro,
17 Kavalega 1, Kavalega 2, Kotonie and Buy- Sabuni, which are neighbouring places.
18 The population of those villages, those Lendu villages,
19 when Bogoro fell -- if the Lendu of the groupement Bedu-Ezekere had
20 attacked Bogoro, then the civilian population would have come
21 directly, in the same manner as the population of Nombe, Kagaba, and others had
22 returned. They would have all gone back, returned. What would have prevented
23 them from returning? I am -- that's why I insist on saying that the people from
24 Zumbe were not involved in the battle of Bogoro.

25 What I do know, Counsel, is that on the 14th of August, 2002,

1 when the 2nd Battalion of the APC went to Zumbe, they went on to attack
2 Bogoro from Zumbe. That's something that I do know; and that was the second
3 time. Apart from that, the people from Zumbe or from
4 groupement Bedu-Ezekere never attacked Bogoro, never!.

5 Q. Thank you very much, Mr. Ngudjolo. Now, coming back to P-268 --

6 MR. KILENDA: (Interpretation) Your Honour, I think - and it's
7 also the opinion of the Prosecutor - that Mr. Ngudjolo has already
8 answered the allegations of 268. Wouldn't it be fastidious of us to
9 repeat that?

10 PRESIDING JUDGE COTTE: (Interpretation) We can just keep
11 or accept the answer that was given a moment ago, but I would just
12 like to be sure that I have really understood what was said when
13 Mr. Ngudjolo spoke to us about Kavalega 1 and Kavalega 2, two Lendu
14 localities, which he says are close to Bogoro. That's in the provisional
15 French transcript on page 48, lines 1 and 2.

16 Did you want to tell us, Mr. Ngudjolo, by that, that these two
17 localities -- that the Lendu population of these two localities, if those
18 from Zumbe had gone to Bogoro, that they would also have gone? Is that
19 what you wanted to tell us?

20 THE WITNESS: (Interpretation) No. I wanted to say the
21 following: After the fall of Bogoro, these localities, Kavalega 1,
22 Kavalega 2, these were Lendu localities which were situated -- well, they
23 are close to Bogoro, and if the people of Bedu-Ezekere and these two
24 Lendus went to fight in Bogoro, then after the fall of Bogoro the
25 population of these towns would have returned to the villages but they didn't

1 do that, just like those from Lakpa returned to Bogoro. But our people never
2 returned to their village. They waited until MONUC came and set up
3 in Bogoro, and it was at that time that the people from Koton and
4 Kavalega returned to their villages. That's what I wanted to say, your
5 Honour.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.
7 Counsel Kilenda.

8 MR. KILENDA: (Interpretation) Thank you very much, your Honour.

9 Q. Mr. Ngudjolo, do you remember where the population of Kavalega 1
10 and Kavalega 2 was on the 24th of February, 2003?

11 A. The population was in Zombe, around Zombe. The people were in
12 Zombe, Masu, Kambutso, just there.

13 Q. Thank you, Mr. Ngudjolo.

14 MR. KILENDA: (Interpretation) Your Honour, I think that we owe a duty of
15 loyalty and transparency to the Chamber and also to the parties and
16 participants, this makes it -- unlike what we've just said a moment ago,
17 necessary, I think, for us to go back to 268 with your leave, your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) If this
19 back tracking will make it possible to get further clarification, please do
20 so.

21 MR. KILENDA: (Interpretation) Thank you, your Honour.

22 Q. Mr. Ngudjolo, speaking about Witness P-268, in the transcript
23 107, 26 -- page 26, and page 25, lines 1 to 2, this witness said to the
24 Judge that among the attackers - and there were numerous - there were
25 children, there were women who smashed houses, and there were

1 also a lot of men. And in the transcript 107 still, page 61 thereof,
2 lines 9 to 11, this witness added that the number of assailants or
3 attackers was around 400. What is your reaction to that?

4 A. Counsel, I don't know what the number of attackers were. I
5 wasn't in Bogoro. I wasn't among the attackers, so how could I possibly
6 know that?

7 Q. Going back to your list, number 14, P-287, do you know this
8 person?

9 A. No, I don't. I only know her husband, number 20. That's her
10 husband. I know her husband. I don't know this lady.

11 Q. Do you see in the transcript 109 ,page 45,
12 line 16 to 18, in transcript 130, page 20, lines 5 to 8, P-287 describes
13 pillaging by women who were transporting these goods to the hill of
14 Zumbe, which is where the Lendus live. Do you know anything about that?
15 What would you answer to that?

16 A. Counsel, I know nothing with regards to the issue of pillaging.
17 If you would allow me to go back to something else, to talk about her
18 husband ...

19 Q. I would prefer it if I could ask the questions for a moment,
20 unless it is in relation to --

21 MR. O'SHEA: Just a question with the transcript. At line 10,
22 page 49 of the English transcript, the question of Mr. Kilenda:

23 "Do you see in the transcript 109 ..."

24 I think that's meant to say "the transcript 129."

25 PRESIDING JUDGE COTTE: (Interpretation) Is that the case?

1 MR. KILENDA: (Interpretation) That is the case, it is 129.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Counsel O'Shea,

3 129 and not 109. In the French

4 transcript, we have 129 in the French transcript. So both transcripts

5 should say "129."

6 Counsel Kilenda, please continue.

7 MR. KILENDA: (Interpretation) Thank you, your Honour.

8 Q. Mr. Ngudjolo, I note that you have just expressed the need to

9 speak about number 20. Don't mention the name of this person. I will

10 allow you to say what you feel you have to say to the Judges, but we have

11 already spoken about this person, albeit briefly, last week. Please go

12 ahead.

13 A. This person I met in 2006, August 2006. He

14 came to my house to join our politico-military group. He also brought

15 weapons, and I was expecting you to ask me something about

16 how we separated with this person -- why we separated from this

17 person. This person, when he arrived, wasn't the only Hema. I had the

18 Secretary-General of the UPC with me and I was with the chief of security

19 of Thomas Lubanga who was also with me. And I had the G3

20 of the UPC who was also at my home. And I was with a lot of

21 other ex-UPC officers, and Cesar was also with me.

22 I respect people who are dead. I was a victim. I have a lot of

23 respect for all the people who died in Ituri and everywhere else. I

24 understood that his father and mother and other relatives died on the

25 24th of February during the attack. He indicated that it was my soldiers

1 that had attacked Bogoro, so how could it be that at that time people --
2 the people of Bogoro Bedu-Ezekere -- I mean, they didn't talk much. And
3 after, in Bunia, in radio and TV, Radio Candip, there was the commanders
4 of the UPDF. How could they know that they were my soldiers who attacked
5 Bogoro? That's one point.
6 Secondly, why was he not afraid when he indicated that it was my soldiers that
7 had killed the members of his family? Was he not afraid that I was going to kill him
8 too? And I've understood that he came here because when we were together, the
9 the first -- what he had said was that when he joined us, he sometimes went out
10 with his group because he needed them, but he came to find me and I appointed
11 him commander of a company. And sometimes he went to harass and take away
12 goods from the population and I was -- I arrested him. I took all the weapons
13 from him and he fled. And I had sent soldiers to look for him because he
14 fled to Nyakeru, and we sent soldiers to look for him but they didn't
15 find him. When we returned to Bunia I couldn't find him anymore.

16 That was the point of disagreement such that when he came here to
17 state that he knew that it was people under my orders who attacked Bogoro
18 on the 24th of February, this was a way of settling scores -- a type of
19 vengeance because at that time he could not have known what my name was.
20 It was settling of scores.

21 And news is often broadcast on radio, television, and at that
22 time the radio was in the hands of the UPC. And the people
23 of Bedu-Ezekere couldn't go to Bunia. The television was also in their
24 hands as well. So how could it be that my name was being stated in that
25 regard? How would they have known that?

1 So to go back to that person's wife, Bogoro had been defeated, it
2 was occupied, and the soldiers could not accept that people who hadn't
3 fought just came to pillage. No, they didn't accept that, that other
4 people don't fight and then you just turn up and pillage stuff. No, that
5 can't be done because the soldiers who attacked Bogoro and who drove out the UPC
6 from Bogoro, they set up in Bogoro. They would not admit that anyone else
7 who did not fight come and pillage goods from Bogoro, and that is --
8 by that I want to say that the people of Bogoro did not face pillaging there.

9 Q. Thank you, Mr. Ngudjolo, for these details. But let's go back to
10 the incident that you've been talking about between you and the husband,
11 P-176. When did that occur, what year, what date?

12 A. This incident took place in November 2006 in Kambutso, in my
13 village.

14 Q. Thank you.

15 MR. MACDONALD: (Interpretation) Just to clarify this, there was
16 an error on the part of my colleague. We're talking about D02 -- D02-176.
17 It's not a Prosecution witness. He said P-176 and not D02-176. That's
18 something we have to clarify D02-P-176.

19 MR. KILENDA: (Interpretation) That is indeed correct, your
20 Honour.

21 Q. If you have a look again at your sheet, you will see at number 15
22 P-279. Don't say the name. Do you know this person, Mr. Ngudjolo?

23 A. No, I don't know the person.

24 Q. I would like to refer to transcript 145, page 29, lines 1 and
25 following, and page 30. This witness, 279, Prosecution witness, stated

1 to the Judges that you had instructed your combatants or fighters not
2 to kill civilians, that your order -- that your orders hadn't been
3 respected. A lot of civilians had been killed and then you gave the
4 order to bury them, and a whole day was needed to bury them in the same
5 grave. And that -- that it was the same grave was as per transcript 148, 22,
6 lines 2 to 4, and lines 15 to 17. What comment would you like to make
7 about that?

8 A. Counsel, I arrived in the Ezekere groupement on the 14th of
9 August. I stayed there from that day up until the 6th of March. I was a
10 nurse. I did not have any soldiers to whom I could issue orders. I
11 never issued any orders for soldiers to go to the front and to bury dead
12 bodies who were victims of the battle at the front. I do not did not do it
13 and by the way I do not even know that person.

14 Q. Thank you, Mr. Ngudjolo. Let us now move on to P-280, who is
15 number 16. Do you know that person?

16 A. No, I do not know him. I'm sorry about that. I do not know that
17 person.

18 Q. P-280 is one of several Prosecution witnesses who told the Judges here that
19 you were their commander in Zumbe and that you led the operations in Bogoro
20 on the 24th of February, 2003. What do you have to say to that?

21 A. On the 24th of February, 2003, I was doing my job as a nurse at
22 the Kambutso health post. Between the 14th of August -- and 6 March, or, rather,
23 between the 14th of August 2002 and 6 March, 2003, right up to that date
24 I was in the Bedu Ezekere groupement, I was a nurse in the Kambutso health centre.
25 I did not have any soldiers

1 under my command, and therefore I did not lead any operations in Bogoro.

2 Q. Thank you, Mr. Ngudjolo. Now, let us move on to number 17 who is
3 Witness 323. Do you know that person?

4 A. No, I do not know him.

5 Q. In transcript number 211, page 16, line 22, that witness, talking
6 about Bogoro, stated as follows, and I quote a short excerpt:

7 "It is Mathieu Ngudjolo who took me there. We fought in Bogoro.
8 That is what I told you; right? It was Bogoro. It was Ngudjolo who took
9 me to Bogoro to fight."

10 How can you explain such a statement to the Judges?

11 A. Counsel, the name at number 17 is a Hema name. I am a Lendu.
12 Bogoro is Hema territory. How can you explain that I should use a Hema
13 to fight against his brothers? This is a Hema name. Furthermore, I do
14 not know that person. I was not a soldier at the time. How could I have
15 relied on this person to go and fight against the Hemas?

16 MR. O'SHEA: Sorry, Mr. Kilenda.

17 Yes, a concern has been raised about the dates in the English
18 transcript, sorry to raise this, but it's important that we try and
19 ensure that dates are correct at least. Page 53, lines 17 to 21, the
20 answer of the witness reads as follows in English:

21 "On the 24th of February, 2003, I was doing my job as a nurse at
22 the Kambutso health post. Between the 14th of August -- or, rather,
23 between the 14th of March, 2003, right up to that date I was a nurse in
24 Kambutso health centre."

25 Now, obviously something's going wrong there with the English

1 transcript.

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

3 That error is also in the real-time French transcript, page 55, line 15.

4 "On the 24th of February, 2003, I was doing my job as a nurse at
5 the Kambutso health post. And between the 14th of March, 2003," and the
6 witness repeats, "right up to the 14th of March ..."

7 Mr. Ngudjolo, just like you said before -- in fact, what was the
8 precise period that you were referring to? 14th August of which year?

9 THE WITNESS: (Interpretation) I arrived in the Ezekere
10 groupement on the 14th of August, 2002, and I stayed there up to the 6th
11 of March, 2003. So from the 14th of August, 2002, to the 6th of March,
12 2003.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you. So there is
14 agreement here regarding the two witnesses that you have just talked
15 about because you have told us clearly that between the 14th of August,
16 2002, when you arrived, and 6th of March, 2003, you were a nurse in
17 Kambutso.

18 Thank you, Mr. O'Shea. The edited versions of the transcript
19 will be corrected accordingly.

20 Please proceed, Mr. Kilenda.

21 MR. KILENDA: (Interpretation) Thank you, your Honour.

22 Q. Mr. Ngudjolo, I believe that you gave me an answer, but I want to
23 ask you a more specific question: Did you go to Bogoro after the 24th of
24 February, 2003?

25 A. After the battle of the 24th of February, 2003, I went to Bogoro

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 54

1 only on the 28th of March of that same year, coming from Bunia. So after
2 the 24th of February, 2003, I did not go to Bogoro from Zumbe, but I went
3 there on the 26th of March, 2003, from Bunia.

4 Q. In what capacity did you go to Bogoro on the 28th of March, 2003?

5 A. I was a member of the FNI/FRPI alliance as the Deputy Chief of
6 Staff in charge of operations. It was in that capacity that I went to
7 Bogoro.

8 Q. Who sent you there?

9 A. It was General Kale Kayihura of the UPDF.

10 Q. Thank you, Mr. Ngudjolo.

11 (Defence counsel confer)

12 MR. KILENDA: (Interpretation) Mr. President, on page 57, lines
13 26 and 27, even from line 25, Mr. Mathieu Ngudjolo states:

14 "After the 24th of February, 2003, I did not go to Bogoro from
15 Zumbe, but I went there from Bunia on the 26th of March, 2003."

16 Q. Was it on the 26th or the 28th?

17 A. The 28th of March, 2003.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you. This is a
19 date that you gave a short while ago, so the transcript has to show the
20 28th and not the 26th. That's page 56, line 27, of the real-time
21 transcript.

22 Mr. Kilenda, please.

23 MR. KILENDA: (Interpretation)

24 Q. Where specifically in Bogoro did you go to?

25 A. In Bogoro, I went to the roundabout to the Bogoro Institute where

1 I met Dark. Then I went to -- I went to the Bogoro Athénée which is on
2 the -- on the Kasenyi road. That is where the UPDF commander was.

3 Q. And who did you find in Bogoro on that day, on the 28th of March,
4 2003?

5 A. Counsel, I met Dark and the UPDF commanders. I met with him at
6 the Bogoro roundabout, where the Bogoro Institute is. The UPDF
7 commanders were staying at the Athénée in Bogoro.

8 Q. Thank you, Mr. Ngudjolo.

9 Mr. Ngudjolo, do you know about the Mandro attack?

10 A. Yes, Counsel.

11 Q. Was there an attack in Zumbe before the Mandro attack?

12 A. If I remember correctly, in the Ezekere groupement the last
13 battle took place in December 2002. After that I do not have any precise
14 information to give you, but I think it was on the 17th or the 18th of
15 December. It must have been between the 16th and the 18th of December.
16 After that battle there was never any more fighting in the Ezekere
17 groupement.

18 Q. According to Prosecution Witness 250, you are supposed to have
19 taken part in that attack. What do you have to say to that?

20 A. Counsel, on the 4th of March, 2003, I was in Kambutso.
21 Witness 250 was not in Bedu-Ezekere. (Redacted). I knew his
22 family. He was not in the Ezekere groupement, no. I was not involved in
23 that battle.

24 Q. Mr. Ngudjolo, did you ever hear of the Tchomia attack?

25 A. Regarding the Tchomia attack I would say, yes, I heard about it.

1 I heard that there had been an attack in Tchomia. At that time I was in
2 Beni.

3 Q. You do remember Witness P-12, Prosecution Witness P-12. Do
4 not mention his name. I'm referring to transcript 196, page 26, line 12,
5 page 26, lines 16 and 17. It would appear that in January 2005 he was
6 talking about the Tchomia attack and said that Mr. Floribert Ndjabu
7 allegedly attributed the responsibility for that attack to you, and you
8 are said to have told Mr. Ndjabu that you yourself did not understand
9 Mr. Lobho Justin. And I am on transcript 196, page 26, lines 7 to 9.
10 P-12 is supposed to have asked the question to Mr. Lobho Justin, the
11 same question, and he is supposed to have answered as follows:
12 "We do not understand how Ngudjolo could have organised those
13 attacks."

14 What do you have to tell the Judges today regarding those
15 statements?

16 A. Counsel, I left the Ezekere groupement on the 30th of May, 2003.
17 I went to Beni and returned to the Ezekere groupement.

18 THE INTERPRETER: The Lingala interpreter says he did not hear
19 the date.

20 THE WITNESS: (Interpretation) Lobho was in Kampala so I was not
21 with him. When the battle of Tchomia took place, Lobho was in Kampala
22 and I was in Beni. So how is it possible that Lobho could have made such
23 a statement, given that we were not together?

24 PRESIDING JUDGE COTTE: (Interpretation) Can you specify the
25 date on which you returned from Beni? The interpreter did not hear that

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. Kilenda (Continued)

Page 57

1 date. You said you left the Ezekere groupement on the 30th of May, 2003,
2 then you went to Beni, and then you returned to the Ezekere groupement.
3 Did you specify a date?

4 THE WITNESS: (Interpretation) I returned on the 20th of July,
5 2003, from Beni.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you. This is a
7 date that has already been mentioned before.

8 MR. KILENDA: (Interpretation)

9 Q. Mr. Ngudjolo, still in transcript 196, page 27, lines 2 to 17,
10 and I will summarise, P-12 told the Judges that women were abducted in
11 Kasenyi on the 11th of June, 2003, and forcibly taken to Zumbe and that
12 those women never returned. What do you have to say to that allegation?

13 A. Counsel, you know, there are certain things that we only found out about
14 while here. On the 11th of June, 2003, there is supposed to
15 have been a battle in Kasenyi, but on that day I was in Beni. And I
16 never heard that women had been abducted in Kasenyi and we never
17 discussed that issue with P-12.

18 Q. But according to P-12, and this is still in transcript 196,
19 page 24, line 8, page 24, line 21, page 25, lines 21 to 24, according to
20 P-12 it was the Lendus who came from Zumbe, and I quote:

21 "... soldiers of Colonel Ngudjolo who went down to attack Tchomia and
22 perpetrate those massacres."

23 What do you have to say to this?

24 A. Counsel, regarding the Tchomia attack, this is what I can say. I
25 was in Beni and when I returned, I never heard that anyone from Zumbe had

1 gone to fight in Tchomia. No, I never heard that.

2 Q. Mr. Ngudjolo, where were you on the 6th of March, 2003?

3 A. On the 6th of March, 2003, I was in Kambutso. We were with Chef
4 Manu, and then I went to Bunia where I spent the night.

5 Q. What happened in Bunia on the 6th of March, 2003?

6 A. There was a battle between the UPC and the UPDF.

7 Q. Who started that war between the UPC and the UPDF?

8 A. It was the UPC soldiers who started the war.

9 Q. And do you know why?

10 A. Counsel, there was a dispute between those two groups, but let me
11 start by saying that those two groups had initially been allies. When
12 the UPC signed an alliance with the RCD-Goma, this was on the 6th of
13 January, 2003, this is when the conflict between the UPC and the UPDF
14 started. The UPDF believed that the alliance between the UPC and
15 RCD-Goma, which, in fact, was supported by the Rwandans who had fought
16 against the Ugandans in Kisangani and were enemies, I would say that that
17 conflict started at that time and continued right to Bogoro, that is, up
18 to the time of the arrest of General Kale Kayihura who was taken hostage.

19 Subsequently, on the 4th of March, 2003, the UPDF started the
20 battle in Mandro. After that battle, the UPDF set up base in Mandro. I
21 believe this can be seen in a video extract where -- in which the
22 military leaders were talking about the occupation. So it was from the
23 6th of January, 2003, when the UPC signed the alliance with RCD-Goma that
24 that conflict started. This means that the UPC had signed an alliance
25 with the Rwandans. That was the beginning of the conflict between the

1 two groups and that continued right up to the Bunia battle.

2 PRESIDING JUDGE COTTE: Maître O'Shea.

3 MR. O'SHEA: Yes. I don't know if it's the -- if it's the speed at which the
4 testimony is given or if there's another reason, but I heard through my ear --
5 earphones the date of the attack on Mandro being given as the 4th of March but it
6 didn't come into the transcript. Again, it's important that the dates
7 are there and, of course, correct.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.
9 The date of 4th March is on page 62, line 20, of the French transcript.
10 So that should be the same in the English transcript. Thank you. Mr. Kilenda.

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

12 Q. Mr. Ngudjolo, let us come back to the subject of the trial in
13 this chamber, that is, the Bogoro attack of the 24th of February, 2003.

14 As far as you know, who drove out the UPC from Bogoro?

15 A. As far as I know, it was the Congolese government ...

16 Q. Holland government? Are you saying the Congolese government and
17 the Dutch government?

18 A. No, no, no, I did not talk about the Dutch or Holland government,
19 but the Ugandan government.

20 PRESIDING JUDGE COTTE: (Interpretation) That is the Congolese
21 government and the Ugandan government.

22 MR. O'SHEA: I'm sorry to interrupt again. I know it must be a little
23 irritating, but at -- on page 60, line 13, it states:

24 "Subsequently, on the -- the UPDF started the battle in Mandro."

25 Is -- is -- is that what was actually said?

1 After that -- the battle, the UPDF set up a base in Mandro.

2 PRESIDING JUDGE COTTE: (Interpretation) Let us note that this
3 is a transcript, it's a real-time transcript, and we have on page 63,
4 line 20:

5 "On the 4th of March, 2003, the UPC started the battle in Mandro.
6 Thereafter, the UPDF settled in Mandro."

7 Is that what you intended to say, Mr. Ngudjolo?

8 THE WITNESS: (Interpretation) This is what I said: The UPDF
9 fought in Mandro. And after the UPC was driven out, the UPDF set up in
10 Mandro. Let me add that soldiers from Bogoro also went to Mandro.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well.

12 Mr. Kilenda, so let us return to Mr. Mathieu Ngudjolo's
13 question -- or the answer to your question, namely, who drove out the UPC
14 from Bogoro and the specific answer was the Congolese and the Ugandan
15 government. Now you have the floor.

16 MR. KILENDA: (Interpretation) Thank you, Mr. President.

17 Q. Mr. Ngudjolo, can you explain to the Court and to all those in
18 the courtroom why, according to you, Uganda had an interest in driving
19 the UPC out of Bogoro. Let us start with Uganda.

20 A. Mr. President, your Honours, while I was at the Ezekere
21 groupement we did not have any information about what was happening.
22 When I went to Bunia, it is then that I found out or I learned about
23 what had happened.

24 The UPDF fought in Bogoro because they had an interest to do so.
25 What was the interest in that battle for them? When the conflict broke

1 out between the UPDF and the UPC, and when the UPC signed an alliance
2 with the RCD-Goma, the officials of the RCD-Goma came to Bunia. These
3 were Dr. Adolphe Onosumba -- and the Ugandans saw that happening because
4 all of this took place in their presence and they were not happy. The
5 Ugandans were afraid of the Rwandans. So the Ugandans had a key and
6 vital interest, strategic interest, in that matter because Bunia -- you
7 see, from Bunia to Kasenyi which is on the border with Uganda, from Bunia
8 to Kasenyi the distance between those two locations is about 55
9 kilometres.

10 And there are other roads such as the Bunia-Mahagi road which,
11 however, is a rather tortuous road. So the UPDF felt that if the
12 Rwandans and the UPC attacked the Ugandans in Bunia, they would not have a way
13 out using a short-cut through Bogoro, and that if there was need for any supplies,
14 the supplies would have to come in from Bogoro. That is why they wanted
15 to drive the UPC out of Bogoro in order to have access to those roads
16 which would allow them to escape from Bunia or receive reinforcements in
17 Bogoro. They did not want Bogoro to be an obstacle. It is for that reason that they
18 fought in Bogoro and occupied Bogoro.

19 The UPDF was not a United Nations force to occupy an area in
20 which they had not fought. You see, it is only UN soldiers who can
21 occupy areas where there has been fighting, and so it was for this reason
22 that the Ugandans came to Bogoro. That is the interest they had in
23 Bogoro because they felt that if there was to be any fighting in Bunia,
24 Bogoro should be an escape route for them and should be a supplies route
25 for them as well because waiting for any reinforcement from Mahagi would

1 be rather difficult because it was a long and roundabout road. So they
2 simply wanted to drive out the UPC which was in their way, and that is
3 why the Ugandans fought in Bogoro and remained in Bogoro and consolidated
4 their position in Bogoro. That is the explanation.

5 Q. Now, the Congolese government, what was the interest in it for
6 the Congolese government?

7 A. The government of Congo also had a legitimate interest in the
8 area. You see, the UPC wanted to secede and that was an unacceptable
9 position for the Congolese government. It is for that reason that the
10 Congolese government had a legitimate reason to drive out the UPC, not
11 only from Bogoro but from the entire Ituri region. The idea was not only
12 to drive out the UPC from Bogoro, but from the entire Ituri region.

13 This is the same thing that happened when there was a secession
14 in the Katanga region. The Mobutu government at the time sent out
15 soldiers to chase out the secessionists. It was a legitimate reason. So
16 for the Congolese government this was a legitimate reason, but
17 unfortunately, the government did something unacceptable and sent me here
18 as a scapegoat.

19 Q. Mr. Ngudjolo, what causes you to say that the Kinshasa government
20 had an interest in driving out the UPC from Bogoro? How do you come to
21 that determination? Do you have any evidence to substantiate your
22 position?

23 A. Yes. Counsel, when I arrived in Bunia I met General Kisempia.
24 General Kisempia arrived in Bunia in April 2003 along with the deputy
25 Chief of Staff of the EMOI in -- E-M-I-O -- in charge of

1 intelligence. He also came with two contingents of commanders and one
2 battalion of the rapid intervention police, the BIR. So General Kisempia
3 was with us in Bunia for one year. He left Bunia on the 5th of May,
4 2003.

5 We had discussions with Kisempia during that period when we met
6 from time to time. Kisempia went to Kisangani in order to file the
7 security report on Bunia and on the Ituri in general. And this is what
8 he told me: He told me that he would be leaving and that he would meet
9 the president, that he had to meet the deputy *directeur de cabinet* of the
10 president's cabinet because he had to file a report on the operations
11 that he co-ordinated in the east from Beni. So he went to prepare his
12 report. On the 8th of May he sent the minister for human rights,
13 Professor Tumba Luaba, who brought money for rations for the commandos
14 and the policemen and other joint military groups that were in Bunia.
15 Each group received an amount of \$10,000. So for the FNI and the FRPI he
16 gave \$10,000 which were handed to Pichou.

17 When he brought that money, at the Bunia airport, the UPC was
18 already at the airport and they shot at the minister's plane which was
19 forced to land in Entebbe instead, which is in Kampala. Thereafter, this
20 was in June, I went to Beni. And while in Beni I met officials of the
21 EMOI and they told me what their goals and purposes were. They told me
22 how they had come and had set up in Beni. There was someone there whom I
23 knew, someone who used to work in the office of the deputy director of
24 President Joseph Kabila's cabinet.

25 So when we arrived here, the Bogoro issue came up. And then I

1 remembered that the only one who used to work with Professor Samba, who
2 was the deputy director for President Kabila, was the one who
3 co-ordinated all the activities in the east from the military house. And
4 as I had already told you, if you contacted such-and-such a person, they
5 would be in a position to provide all the documents that would prove that
6 the -- a number of actions were undertaken from Kinshasa regarding the
7 Ituri.

8 I asked you to contact that person whom I knew very well, and
9 that person handed over a document that had been drafted by Samba Kaputo,
10 who was the deputy director of President Kabila's cabinet. And this
11 document, this letter, included instructions on targeted operations among
12 which were operations against targeted towns like Bogoro, Mandro,
13 Mongbwalu, and I believe that there must have been other documents which
14 you may have in your possession. We were sent here by the government
15 authorities. So it is very difficult for the truth to emerge,
16 particularly as this is the only letter that was sent in that connection.

17 Q. Thank you, Mr. Ngudjolo.

18 MR. KILENDA: (Interpretation) Mr. President, with your leave we
19 would like to look at document D03-001-0707.

20 MR. MACDONALD: (Interpretation) Objection, Mr. President.
21 Would you allow me a few minutes to confer with my colleagues?

22 PRESIDING JUDGE COTTE: (Interpretation) Yes, a few minutes.
23 Please continue to confer, but briefly.

24 MR. MACDONALD: (Interpretation) Yes, we just want to determine
25 whether we would stand by our objection or not. Thank you.

1 (Prosecution counsel confer)

2 MR. MACDONALD: (Interpretation) Mr. President, we stand by our
3 objection. The witness cannot make any comments on this document. He is
4 not the author of the document, and according to his testimony he never
5 had that document before him. And this is not the case with Mr. Logo
6 who, himself, was within the chain of custody for a similar document.
7 And then we have here that the sources of the document are not
8 identified. I, therefore, would submit that the witness cannot make any
9 comments on this particular document. Mindful of all the answers he has
10 provided in his testimony so far and his version of the chronology of
11 events, I think the Defence still has an option to use the Bar table
12 motion. And in that scenario, we will proceed according to the criteria
13 laid down by the Court.

14 So I argue that there is no way this document can be introduced
15 through this witness with whom there is no direct link and who is not in
16 a position to make any comments on the document which he did not draft.
17 But on the other hand, Mr. Logo testified, and I think that under the
18 present circumstances we should proceed in that manner. Respectfully
19 submitted, Mr. President.

20 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda, very
21 briefly, please.

22 MR. KILENDA: (Interpretation) Mr. President, when we read your
23 decision 1665 very carefully, and we do so on a daily basis, at
24 paragraphs 71 and 73, this is your position: The Trial Chamber
25 underscores that cross-examination, which the Prosecutor will conduct in

1 a while, should also contribute to the emergence or determination of the
2 truth and should not be used to complicate or slow down the process
3 whereby facts are established and determined. Mr. President - and this
4 is still part of your decision - at paragraph 73, cross-examination
5 should enable the party who did not call the witness to obtain from such
6 witness any other relevant evidence which may be useful in his case or
7 which may contribute to the determination or the emergence of the truth.

8 In the case at hand, Mr. President and your Honours,
9 Mr. Mathieu Ngudjolo's Defence believes that there is a direct link, an
10 intrinsic link between this witness – Mathieu Ngudjolo – and this
11 particular document. One, this document was obtained thanks to
12 Mr. Ngudjolo, who provided the information that enabled our team to
13 obtain this document; two, this document enables us to destroy the
14 Prosecutor's argument and it outlines the position of the Congolese
15 government in relation to the Bogoro battle; three, Defence argues that
16 it is for Prosecutor to incriminate, and that Prosecution has not challenged the
17 authenticity or fakeness of the document and that it cannot object to this
18 document as such by simply by stating that it is Mr. Logo who brought the
19 document in. Now, this document, Mr. President, in that context is a document
20 that already has an EVD number, EVD-D02-00149 and
21 EVD-D02-00202 as well as D02-00203. Now, when Mr. Ngudjolo was
22 describing this document you heard him say that the author of the
23 document was the director -- the deputy director of the president's
24 cabinet, late Professor Samba Kaputo, and that it was addressed to
25 Lieutenant Liwannga (phon) of the joint forces general staff.

1 Now, Mr. President, the Prosecutor himself used EVD-D02-00149,
2 and if you look to the left of that particular document, there is a stamp
3 or seal which clearly states that there was a joint military headquarters
4 under the command of Lieutenant-General Liwanga. So to our mind,
5 Mr. President, this document contributes to the emergence of the truth
6 and I am not going to recall all the submissions that we have made to the
7 Trial Chamber on this matter in order to be able to include this document
8 on our list of documents, list of Defence documents. That will be all, Mr. President,
9 and I don't know whether Professor has anything else to add.

10 MR. FOFÉ: (Interpretation) Yes, Mr. President, and I will be
11 brief. I simply want to underscore, Mr. President and your Honours, the
12 following: The Prosecutor has mastery over prosecuting at the
13 international level. Now, here we are dealing with a document whose
14 authenticity has not been challenged by the Prosecutor. The Prosecutor
15 has had time, ample time, to check the authenticity of this document and
16 we want to confirm, Mr. President, your Honours, that this is an
17 authentic document. It is, indeed, a document which clearly seeks to
18 deal with a location which is at the centre of the matter before you.

19 Mr. President, I therefore do not believe, your Honours, I do not
20 believe that we should set aside or sacrifice the determination of the
21 truth by relying on what could be referred to as empty formal
22 considerations. It is for this reason that I believe that it is
23 necessary to give more importance to the emergence of the truth in this
24 matter. And so, Mr. President, your Honours, the Prosecutor had all the
25 facilities and means he needed to check the authenticity of this

1 document. If we look at the letter from the president of the Democratic
2 Republic of the Congo on the 3rd of March, 2004, signed by the president,
3 it is clearly written that the authorities of the DRC are ready to
4 co-operate with the Court for the emergence of the truth. That will be
5 all, Mr. President. Thank you.

6 MR. MACDONALD: (Interpretation) Very briefly, Mr. President.

7 PRESIDING JUDGE COTTE: (Interpretation) I think we need to
8 conclude on this matter. We meet again only next Monday.

9 Mr. Prosecutor, a short while ago when you spoke you referred to
10 admission by a Bar table motion.

11 MR. MACDONALD: (Interpretation) Yes, according to established
12 criteria. But I simply want to add that we are all doing our jobs here
13 respectful of each party, so I think that we need to tone down the
14 comments that we make. I think Mr. Ngudjolo cannot help the Chamber any
15 further on this point because this -- there is no direct link. So I
16 think that the Bar table motion is our only way out and that was all I
17 wanted to say.

18 PRESIDING JUDGE COTTE: (Interpretation) Yes, thank you. That
19 seems to be a constructive approach. Now we remember the Regulation 35
20 motion and we know that the source of this document is still an issue --
21 is an issue and I think that Mr. Ngudjolo would like to talk about this
22 document. He has been conferring with Mr. Macdonald and his team and he
23 stands by his objection.

24 However, it is the position of the Chamber that this document is
25 useful for the emergence of the truth, and following what has been said

1 in relation to this document, we believe it can be useful for the
2 determination of the truth and it will be part of other documents that
3 will be used in assessing matters when the time comes. And therefore we
4 believe that this Bar -- this document should be produced through a Bar
5 table motion.

6 So, Madam Court Officer, this document will be entered not
7 through Mr. Ngudjolo but we will have it on the record and we will assess
8 it at the appropriate time. And so this is the time to ascribe an EVD
9 number to that document before we break.

10 COURT OFFICER: (Interpretation) Thank you, Mr. President. The
11 document will bear the number EVD-D03-00136.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

13 Unfortunately, Mr. Kilenda, we have to stop here but you have
14 30 seconds.

15 MR. KILENDA: (Interpretation) I'm sorry, just one second,
16 Mr. President.

17 (Defence counsel confer)

18 MR. KILENDA: (Interpretation) Mr. President, now that this
19 document has an EVD number, I would like to tell the Court, the parties and
20 other participants, that I have no further questions for Mr. Ngudjolo.
21 That will be all.

22 Q. Thank you, Mr. Ngudjolo, for asking -- for answering all our questions. And in
23 due time you will be answering questions from other parties. Thank you.

24 PRESIDING JUDGE COTTE: (Interpretation) The Chamber thanks you
25 very much, Mr. Kilenda, and we have less trouble adjourning 'til next

1 Monday because I believe on Monday Mr. O'Shea will start off on behalf
2 of Mr. Germain Katanga, and then the Prosecutor will follow with his
3 cross-examination, and therefore this is how we shall proceed.

4 MR. KILENDA: (Interpretation) This is a public document, isn't
5 it?

6 PRESIDING JUDGE COTTE: (Interpretation) Yes.

7 MR. MACDONALD: (Interpretation) And what is the source?

8 PRESIDING JUDGE COTTE: (Interpretation) I note that there is a
9 confidential mention on the document.

10 MR. KILENDA: (Interpretation) We will think through the issue
11 and --

12 PRESIDING JUDGE COTTE: (Interpretation) We will determine this
13 matter subsequently.

14 MR. MACDONALD: (Interpretation) Your Honour, I think that we
15 started the proceedings a little late, but before we break off, do you --
16 would it be possible to know from our colleagues how long they intend to
17 examine Mr. Ngudjolo? If we had that information, then we would be able
18 to know how to proceed.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, on Monday
20 as we reconvene you will have the floor. Do you know how much time you
21 will need for your examination, even approximately?

22 MR. O'SHEA: If there are questions,
23 there will not be many but I'm not in a position to give an exact
24 time-scale at this juncture.

25 PRESIDING JUDGE COTTE: (Interpretation) Do you think that the

1 Prosecutor would be in a position to start his cross-examination next
2 Monday within the four hours that we have? Do you think you will need
3 the four hours?

4 MR. O'SHEA: Extremely unlikely.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much.

6 So, Mr. Prosecutor, be ready to proceed on Monday afternoon.

7 Court Usher, please, could you take Mr. Ngudjolo back to his
8 seat.

9 And, Mr. Ngudjolo, we shall reconvene next Monday.

10 Mr. Katanga, we will reconvene on Monday, next Monday.

11 (The witness stands down)

12 PRESIDING JUDGE COTTE: (Interpretation) I want to thank those
13 who have assisted us today, particularly the Lingala interpreters. And
14 this hearing is adjourned.

15 The hearing ends at 1.31 p.m.

16 CORRECTIONS REPORT

17 Pursuant to the Decision ICC-01/04-01/07-3216 issued by the Trial Chamber II
18 on the 13th December 2011, this transcript has been revised and corrected.

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

21

22

23

24

25