

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra, and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Tuesday, 8 November 2011
10 The hearing starts at 9.04 a.m.
11 (Open session)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session.
14 PRESIDING JUDGE COTTE: (Interpretation) You may be seated.
15 Good morning, everyone. Good morning, accused persons.
16 Before we begin our work, I believe Mr. Gilissen wants to
17 introduce a new collaborator to us. Please, Mr. Gilissen.
18 MR. GILISSEN: (Interpretation) Thank you. Good morning,
19 your Honours. Good morning, everyone. I have the pleasure to introduce
20 to you a new member of our team, Mr. Maxim Toller, who is a Belgian of
21 German origin and who has joined us to help us in the work that we are
22 doing in this Court. Thank you very much, your Honour.
23 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
24 Mr. Gilissen.
25 Welcome, counsel, and we wish you a lot of personal and

1 professional fulfilment in the work that you will be doing in
2 Mr. Gilissen's team.

3 Before Mr. O'Shea puts his questions to Mr. Mathieu Ngudjolo, I
4 would like to point out that there were several requests to address the
5 Court. The Prosecutor wanted to provide some information about the
6 seizure of documents on the 23rd of September, 2004, upon the
7 instructions of the Court of First Instance of Bunia and he informed us
8 about that through email of the 1st of November, 2011, at 15.19. He also
9 wanted to give us his point of view on the admission of a document which
10 is an internal memo of the OTP DRC-OTP-0233-0525 and it is an application
11 from the Defence of Germain Katanga. They sent us on email on the
12 7th of November, 2011, at 12.28 and the Prosecutor responded on the
13 7th of November, 2011, at 12.54. We are going to begin with the
14 Prosecutor and then we will move on to Mr. Kilenda.

15 Prosecutor, please.

16 MR. MACDONALD: (Interpretation) Thank you very much,
17 Mr. President. I would like to begin with the second point with your
18 leave.

19 PRESIDING JUDGE COTTE: (Interpretation) Please, go ahead.

20 MR. MACDONALD: (Interpretation) We all realised that there was this
21 application under Regulation 35 and subsequently in the Bar table motion the
22 document was absent. This request did not appear in relation to the admission of
23 this document. The Prosecution did not respond at that time and we merely
24 provided explanations about the document. We have a few things to say in
25 relation to that application, your Honour, because if we refer to the

1 provisions of Regulation 35, it referred to Witness P 267 and his role
2 in the OTP. The Prosecution had indicated that we were ready to admit
3 that part, but the Defence also wants to refer to an extract relating to
4 intermediaries. Ever since our response to Regulation 35, we revisited
5 the documents that had been disclosed, including investigator's notes
6 from the OTP relating to intermediaries. These were documents disclosed in
7 October or November 2010, and it turns out that we could have provided additional
8 information for the belated addition of that document. It goes without
9 saying that we would wish to have a new application filed so that we
10 should be able to respond and provide all the necessary information to
11 the Chamber in light of the criteria developed by the Chamber relating to
12 the admission of documents by Bar table motion. I think we don't need a
13 long dead-line, but I think this would be of interest to the Chamber,
14 that is, to have all the information available. This is my observation
15 regarding that first point.

16 Now, relating to the documents that were seized by the Court of
17 First Instance in Medhu, the Prosecution sent an email to all the
18 parties and participants providing further information in response to the
19 question put by the Chamber. This seizure was -- or rather, took place
20 within the framework of the mandate of the prosecutor general at the
21 Court of First Instance. At that time it was a criminal case and based
22 on the information that we have, this person could order the search and
23 seizure of such documents. So this is the response that we received,
24 this is the information that we received, and I wanted it on the record.
25 Thank you, your Honour.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
2 Mr. Macdonald.

3 Regarding the information about the seizure of documents carried
4 out at the instruction of the Court of First Instance of Bunia, I believe
5 that point is now closed because you have provided all the information
6 necessary.

7 Now, regarding the application by Mr. O'Shea, I think we have to
8 back-track a little bit. In the oral decision handed down by the Chamber
9 on the 25th of September, 2011, in paragraph 14, in relation to the
10 application under Regulation 35 of the Regulations of the Court, the
11 Chamber decided that they authorised the Defence of Germain Katanga to
12 add document DRC-OTP-0233-0525-R01 which is an internal memo of your
13 office and which refers to the role that intermediaries in your office
14 could have played. And this decision was the 27th of September, 2011.

15 Now, in decision 3184 of the 21st of September, 2011, regarding
16 the Bar table motion of the Defence of Germain Katanga, the Chamber did
17 not issue a decision on this memorandum because the Defence of
18 Germain Katanga did not include it in the final version of its Bar table
19 motion. It seems to us that it was difficult for that Defence to do so
20 because we had not yet handed down a decision about the Regulation 35(2)
21 motion. And under that regulation in filing 3165 you gave your opinion,
22 Mr. Prosecutor, and today we need to know whether under a Bar table
23 motion we will admit that internal memorandum or not.

24 Mr. O'Shea, can you give us any oral observations on this point?
25 And then we will ask Mr. Kilenda why his team is apparently not

1 favourable to that admission and then the Chamber will decide. Briefly,
2 Mr. O'Shea.

3 MR. O'SHEA: Yes, very well. Yes,
4 your Honours. In our submission, this is a document which has probative
5 value to the -- it is the case of the accused that the case against
6 Mr. Katanga has not been properly investigated; and if it had been
7 properly investigated, Mr. Katanga would not find himself here today.
8 We, therefore, submit that the document has probative value to these
9 proceedings and that it is a matter which can be dealt with through a Bar
10 table motion. It's not necessary, in our submission, that every single
11 conceivable witness be called before the Court. That, of course, would
12 be obstructive to the judicious exercise of the proceedings. And in
13 those circumstances, we would ask for the document's admission. Thank
14 you.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, please
16 tell us right now and orally what are your reasons for not accepting that
17 admission.

18 MR. MACDONALD: (Interpretation) Your Honour, as we mentioned in
19 our Regulation 35 application, this was subject to an admission through
20 the Bar table motion, but for that to happen there has to be a Bar table
21 motion. So the Prosecution did not have the possibility to make its
22 submissions to give the document an EVD, that is, final admittance is
23 something else that is another stage from the Bar table motion. What we
24 would like to point out, your Honour, is that there are two reports.
25 That paragraph deals with three individuals who were -- who had met with

1 the OTP. One of these people is P-28. There is information that is
2 limited in space and time and which is not also very detailed. We
3 submitted two investigator's reports in October/November, as I have
4 mentioned, and in which the underlying information to that assessment
5 before you had been disclosed and which could have been used during the
6 cross-examination of P-28 but was not used. That being the case, we
7 submit that it becomes difficult now to admit a report on that point.

8 The witness was here and questions could have been put to him,
9 but that was not done and I would like to recall to all parties and
10 participants that Witness P-28 and most of the other Prosecution witnesses
11 that we referred to as witness victims or insider witnesses were questioned at one
12 point or the other by Mr. Hooper and the Katanga Defence on the issue of
13 intermediaries. So I am submitting that the Defence is trying once again
14 to raise this issue of intermediaries, whereas the witnesses had answered
15 the relevant questions. Witness P-28 is the only one who under oath
16 explained the circumstances under which some information was provided to
17 the OTP under precise -- on the specific point. So I believe it would be
18 advisable that an application be filed, a specific application be filed,
19 and that the Prosecution should be able to provide its response and annex
20 the two disclosed reports. The Chamber will then have all the entire information
21 necessary and they can say: You had the possibility to ask P-28
22 questions, you did not do so, and we cannot admit this document now.
23 That is what we would have argued under Regulation 35. We did not do
24 that. Unfortunately, we had forgotten about the disclosure of those two
25 reports, which would probably have led the Chamber to reject that

1 document.

2 Regarding P-267, the Prosecution acknowledges that a new report
3 can even be filed with that paragraph because the dispute relates only to
4 that extract, that is, to the details concerning the intermediaries. Thank
5 you.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea, please.

7 MR. O'SHEA: Yes. My learned friend on the one hand
8 says that he wants to put his arguments in writing, on the other hand
9 gives his argument. In my submission, your Honours do have the
10 discretion to deal with this matter orally and, in fact, your Honours
11 have just ruled that this matter should be dealt with orally, otherwise I
12 wouldn't have made any submissions at all.

13 Essentially, this is a document which was -- as -- to my
14 understanding was redacted for the Defence. So this information about
15 P-28 is information which is privy to the Prosecutor and not to the
16 Defence. And our objective in using this document was not specifically
17 related to P-28. I have doubts as to whether we would have been able
18 to use this document with P-28 and what use it would have had to have
19 done it, both legally and factually. But, indeed, the question is rather
20 in relation to the intermediaries W-143 and W-316 and the issue of their
21 conduct, the differences in their accounts, and the issue of their
22 credibility, both in terms of their honesty but also in terms of how the
23 Prosecution case is conducted. So P-28 is not really the issue as
24 such.

25 MR. MACDONALD: (Interpretation) To be clear, your Honour, the

1 two other documents disclosed refer to what is described in that passage
2 in front of you, and when read together, those documents deal with P-28
3 and two other witnesses who are not witnesses in this case but in the
4 Lubanga case, that is the context that we want to provide to the Chamber.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea and then
6 Mr. Kilenda.

7 MR. O'SHEA: It's all very well to sit and say when you put the
8 documents together it's clear, but that's from the position of a person
9 who is looking at an unredacted document. So from our position, that's
10 not necessarily the case. My -- if my learned friend wanted us to have
11 the full context, he should have allowed us to have the full context.
12 But choosing not to allow us to have the full context and asking for
13 certain redactions, fairness dictates that we are limited by those
14 redactions.

15 MR. MACDONALD: (Interpretation) Last point, your Honour for clarification. No
16 no no. The redactions did not concern P-28. None of the redactions related to
17 P-28, because this was part of an investigation mission that had several
18 purposes. The only paragraph concerning him is there.

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

20 MR. KILENDA: (Interpretation) Thank you, Mr. President. Good
21 morning, your Honours. Subject to the possible decision of the Chamber
22 regarding the filing requested by the OTP, the Defence of
23 Mathieu Ngudjolo would like to inform you right now that we are opposed
24 to the admission of that document for the following reasons: To begin
25 with, in filing 3159 of the 16th of September, 2011, page 8, we stated in

1 relation to Witness P-267 that that witness was based solely in Aveba.
2 We added that what he had said was not binding or did not commit our
3 client, Mr. Mathieu Ngudjolo. We even added at that time that the
4 witness had testified only about the FRPI in Aveba and that the document
5 was not in the list of documents filed by the Defence of
6 Mr. Germain Katanga. We even went further, submitting that the testimony
7 about the child on page 2 relating to Mathieu Ngudjolo had not been retained by the
8 Prosecution because of contradictions and inconsistencies. And this child had been
9 recruited by the very controversial intermediary 143, whose name I will not mention,
10 that is, regarding the child that was talked about on page 2.
11 Your Honour, furthermore, this document for which admission is being requested is
12 an additional documentary basis for the charges against Mathieu Ngudjolo,
13 that is, the enrolment and use of child soldiers. That document does not
14 provide Mr. Ngudjolo any possibilities of rebutting the incriminating
15 information contained therein because the so-called children are not identified and
16 were not called to testify.

17 Lastly, the facts with which Mr. Ngudjolo is charged are clearly
18 false, and those, your Honours, are our reasons for telling you right
19 now, subject to your decision on the request made by Prosecutor
20 Eric Macdonald a short while ago, that the Defence of
21 Mathieu Ngudjolo is opposed to the admission of this document. That is
22 my submission. Thank you.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.
24 The Chamber has just listened to the Prosecutor, to Mr. O'Shea, and to
25 Mr. Kilenda, so these have been adversarial submissions regarding the

1 admission of this document. And as Mr. O'Shea said, and we agree with him, this is a
2 memorandum that is relatively of a general nature because the part that seems to
3 concern the Defence of Germain Katanga, and they were wondering about the
4 conditions under which the OTP conducted its investigations, now, that part very
5 generally indicates that a meeting was held to try and clarify the source
6 of the information that was described as false and which related to the
7 conditions in which three child soldiers could have allegedly been harassed by
8 Prosecutor's intermediaries. This is a document which was disclosed at
9 that time by the OTP, and the document as we have it does not mention
10 Witness P-28. So it is hard to imagine how the Defence of
11 Germain Katanga could have questioned Witness 28 on that issue. So
12 everything that is related to how the OTP intermediaries acted is of
13 interest to the Chamber and it is true that during the testimonies of
14 some of the witnesses, the two Defence teams tried to get a better understanding of
15 how those intermediaries worked and the way in which the witnesses had been
16 approached or contacted. This document might make it possible to obtain
17 additional information on this point.

18 So, Madam Court Officer, please assign an EVD number to this
19 document which has -- is being admitted through the Bar table motion and
20 the various arguments that we have heard made it possible for the Chamber
21 to take this decision.

22 Court Officer, please.

23 COURT OFFICER: (Interpretation) Thank you, Mr. President. This
24 document will bear the reference number EVD-D02-00245.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

1 Mr. Kilenda also indicated that he wished to take the floor
2 through an email of the 4th of November, 2011, at 15:28. He stated that
3 he wanted to provide clarification on the confidential or public nature
4 of document EVD-D03-00136, which relates to a letter to the joint chiefs
5 of staff.

6 Mr. Kilenda, please.

7 MR. KILENDA: (Interpretation) Thank you very much. All this
8 will be further developed by Professor Fofé, but with your leave, I would like to
9 talk about it without casting doubt upon the decision of the Prosecutor's clarification
10 concerning the seizure of the documents in Bunia; in fact , I
11 would like to simply obtain a few details from the Prosecutor. On page 4, line 1, of
12 the transcript I heard that this was a seizure ordered by the General
13 Prosecutor of the Republic working with the Tribunal of Grand Instance in
14 Bunia. Let me simply point out to the Chamber that in the Congo there is
15 no prosecutor general with the *tribunal du grand instance*. Perhaps we're
16 talking about the prosecutor working with the Court in Bunia.

17 Secondly, on a procedural point we would like to know what actually triggered
18 the seizure. As for the rest,
19 Professor Fofé is available to answer any of your questions.

20 PRESIDING JUDGE COTTE: (Interpretation) Concerning the
21 prosecutor of the republic, of course you are better positioned than we
22 are to know how the legal affairs of the DRC are organised. On the
23 second point concerning a request for details, Mr. Prosecutor, if you can
24 supply these details, then you will do that at another hearing.

25 For the moment we will concern ourselves with the confidential or

1 public nature of the letter to the Chiefs of the joint staffs. Please,
2 sir, go ahead.

3 MR. FOFÉ: (Interpretation) Good morning, your Honours. Thank
4 you very much for letting me speak. You will recall, your Honours, that
5 towards the end of the hearing on Monday, 31st of October, 2011, when the
6 examination-in-chief of Mr. Mathieu Ngudjolo was coming to an end
7 there was an exchange of views about classification of Exhibit
8 DRC-D03-0001-0707 and the EVD number D03-00136 had been given to this
9 document. May I refer to you to the transcript 329 in the French
10 version, page 60, line 19, and page 61, line 8 to 16.

11 After due thought and proper consideration, we have arrived at
12 the conclusion that this document does deserve to be public even though
13 its author had decided that it should be confidential.

14 Now, this is for the following reasons: First of all, the facts
15 which are mentioned in this document go back to 2002 and 2003.
16 Therefore, as we stand today, there is no risk whatsoever of the
17 country's security being harmed. Secondly, given the importance of this
18 document in terms of demonstrating the truth, it ought to be made public.
19 Justice should be made public, as is provided for in the Statutes of the
20 International Criminal Court, particularly Article 67(1). And thirdly,
21 the fact that this document should be made public will not lead to any
22 extra risk being run by the source who is not mentioned in this document.

23 Your Honours, this is what I have to say concerning this first
24 document and that was the first point which I wanted to make this
25 morning, your Honours.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much
2 indeed, Professor Fofé. You've had time, therefore, to think about the
3 classification of this document. You would like it to be made public.

4 Madam Court Officer, EVD-D03-00136 will therefore be a public
5 document.

6 You also expressed the wish to speak about having an EVD number
7 for the document DRC-D03-0001-0789, this is DRC 4th of April, 2003, and
8 the global inclusive agreement, and document D03-0001-0859, this is a
9 decree of the 8th of July, 1998, concerning the administrative and
10 territorial organisation of the DRC. These are documents which in a
11 previous hearing you said you wanted to file as a whole and, if I recall
12 things corrected, you suggested that you guarantee that this should be
13 done. Now I think today you simply want to make sure that we have an EVD
14 number for these documents which you want to tender or have been
15 tendered.

16 MR. FOFÉ: (Interpretation) We opted for official journal 44th
17 year 2003 concerning the first document which you mentioned, the document
18 finishing with 0789. We believe that this document contains the details
19 of the constitution of the transition plus the Global and Inclusive
20 Agreement. It has to be mentioned, however, your Honours that the --
21 this is part of the overall and inclusive agreement, as you can see in
22 point 7(A) of the final agreements of the Global and Inclusive Agreement.
23 If you actually look at point 7(A), then you will be able to read. This
24 is page 60, by the way, of this special number for the 44th year. You
25 will see that the constitution of the transition was set up on the basis

1 of the Global and Inclusive Agreement and is wholly part of it. In other
2 words, the full version of the Global and Inclusive Agreement does
3 contain and must contain the constitution of the transition, which
4 defines. And you certainly saw this as you read through the documents,
5 it defines the shape or form of the state, Articles 4 and 5; the source
6 of power, Article 10; public liberties and the rights and -- the fundamental rights and
7 duties of the citizens, Article 15, amongst other relevant clauses. This
8 is why this special number which is not only an official one and
9 therefore is a totally official document, but this is the most
10 complete document which contains both parts of this same document. This
11 is what I wanted to say on this point, your Honour.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
13 Professor Fofé.

14 Does anybody have any objection to this? No. Thank you very
15 much.

16 Then, Madam Court Officer, would you please give EVD numbers to
17 both of these documents, the constitution and the decree of the
18 8th of July, 1989.

19 MR. FOFÉ: (No interpretation)

20 PRESIDING JUDGE COTTE: (Interpretation) The documents are
21 sufficient unto themselves?

22 MR. FOFÉ: (Interpretation) Yes.

23 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could
24 you please -- I beg your pardon, we're not respecting the five-second
25 rule.

1 COURT OFFICER: (Interpretation) Thank you. The document
2 DRC-D03-D001-0789 will be listed EVD-D03-00137. Document
3 DRC-D03-0001-0859 will be listed as EVD-D03-00138.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
5 Madam Court Officer.

6 Now, for two emails of the 30th of October at 8.39 and on the
7 7th of October -- November, you -- you talked about the existence of DRC
8 at D03-0001-075 -- 0785. This is a letter from Joseph Kabila to the
9 Prosecutor asking him to investigate the situation in the DRC. It was
10 the 31st of December mail. There was no follow-up given to this in the
11 course of your examination-in-chief and I imagine that you want an EVD
12 number given to this?

13 MR. FOFÉ: (Interpretation) Exactly.

14 PRESIDING JUDGE COTTE: (Interpretation) I don't believe there
15 will be any objection to awarding this EVD number.

16 Madam Court Officer, could you do this and Mr. O'Shea will, after
17 that, take the floor to continue with his examination of
18 Mr. Mathieu Ngudjolo.

19 COURT OFFICER: (Interpretation) Thank you. DRC-D03-0001-0785
20 will have the EVD number EVD-D03-00139.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much
22 indeed.

23 Professor Fofé, yes.

24 MR. FOFÉ: (Interpretation) Your Honour, I would like to point
25 out to the Chamber that Germain's -- I beg your

1 pardon, Mathieu Ngudjolo's team is opposed to the Prosecutor's proposal concerning
2 the Global and Inclusive Agreement which is of course signed. This is the document
3 which the Prosecutor disclosed at entry 46 and which he intends to use to cross
4 examine Mr Ngudjolo. Your Honour, if you are agreeable to this and if it doesn't
5 overburden the files given, the fact is that this document and the content are the same
6 as the document which has just been tendered as evidence, the Global
7 Inclusive Agreement on the transition, infact the fact that these two
8 documents are the same but for the fact that the document suggested by the -- or
9 offered up by the Prosecution does specifically contain the
10 signatures of the people who participated in this agreement. And
11 therefore, if the Chamber were agreeable I think another EVD number could
12 be given to this document, given its specific nature, since it also
13 contains the signatures.

14 And to finish off very rapidly, your Honours, we believe that the
15 political agreement, the -- for the consensual management of the
16 transition, namely the Sun City Agreement of 2002, the Prosecutor has
17 also communicated this document, entry number 46, this document is an
18 important document. It contains the different agreements which were
19 signed by the political partners during this troubled period.
20 Your Honour, I have finished on this point. Thank you very much.

21 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, on
22 these two points concerning the version of the Global and Inclusive
23 Agreement on the transition in the DRC with the signatories, do you see
24 any obstacle to or do you have any objection to it being given an EVD
25 number? Should we give it an EVD number from your office?

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. O'Shea

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1 MR. MACDONALD: (Interpretation) If you so wish, Your Honour.

2 PRESIDING JUDGE COTTE: (Interpretation) And for the Sun City
3 Agreement?

4 MR. MACDONALD: (Interpretation) Very well, too.

5 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, once
6 you've identified the Sun City Agreement, when we come back at 11.30 after
7 the break, then perhaps you could proceed with the EVD numbers.

8 Mr. O'Shea, over to you. I'm not going to say that we're going
9 to get down to brass tacks, but let's get down to the substance of our
10 discussions and the questions which you wish to ask of
11 Mr. Mathieu Ngudjolo.

12 MR. O'SHEA: Yes, Mr. President, your Honours, thank you very
13 much.

14 WITNESS: WITNESS DRC-D03-P-0707 (Resumed)
15 (Witness answered through interpreter)

16 Questioned by Mr. O'Shea:

17 Q. Mr. Mathieu Ngudjolo, good morning.

18 A. Your Honour, good morning. Good morning to Mr. O'Shea. Good
19 morning to everybody.

20 Q. As you will have become fully aware over the last three years, my
21 name is Andreas O'Shea and I am the associate counsel in the team of
22 Mr. Katanga, representing Mr. Katanga, although we have not spoken until
23 now. I can reassure you that I have very few questions for you and that
24 I will not keep you long. And then the Prosecutor can take over.

25 Now, you will remember, I think, the evidence of Witness 250.

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. O'Shea

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1 If I say "250," do you remember which witness that refers to?

2 A. Yes, I do remember, sir.

3 Q. Thank you. Now, the part of Witness 250's evidence which I'm
4 going to refer to can be found in transcript 98 of the 9th of February,
5 2010, and those are the English transcripts, at page 56, lines 22 to 25.

6 And in that portion of 250's evidence he referred to the fact that on
7 the night of the Bogoro attack Germain Katanga spent the night at your
8 house. So that's the portion of evidence to which I am referring. And
9 to assist the Chamber in understanding that evidence and whether it
10 should be believed, can I ask you, first of all, in Zumbe did you have a
11 house?

12 A. Sir, at that time I did not have a house in Zumbe. My house was
13 built -- was in Kambutso, specifically in the Likoni locality.

14 Q. Yes, and you have of course told us that during the relevant
15 period you were, indeed, in Kambutso. And with respect to that house in
16 Kambutso, can you assist the Chamber with regard to the nature of that
17 house as to what facilities there would have been for Germain Katanga to
18 stay? If you could describe, if possible, the house -- the size of the
19 house, the number of people living there, and give us an idea as to
20 whether Germain Katanga would have or could have stayed there.

21 A. Sir, this house does still exist. Germain Katanga never came to
22 my house. This house has four rooms. I am a father and there are a lot
23 of people who come to my house. This house could not welcome
24 Germain Katanga into it and he never came to my house.

25 Q. Why do you say that it could not have welcomed Germain Katanga?

Witness: Witness DRC-D03-P-0707 (Resumed) (Open Session)
Questioned by Mr. O'Shea

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1 A. Well, at that time Germain and I did not know each other. We
2 simply did not know each other. He could come to my house like anybody
3 else could come to my house. I had visitors who came to my house, but we
4 didn't know each other. And this is why I say that Germain never came to
5 my house.

6 Q. Thank you. Now, it's right, isn't it, that it was on the 8th of
7 March that you first met Germain Katanga?

8 A. Yes, indeed, sir.

9 PRESIDING JUDGE COTTE: (Interpretation) For better understanding
10 of the transcript, could we simply specify that this is the 8th of March,
11 2003. This is a fact which has been well-established from what
12 Mr. Ngudjolo has been saying.

13 MR. O'SHEA: Yes, thank you very much, Mr. President. It is
14 indeed important to specify a date, years, even on obvious dates.

15 Q. So we are, of course, talking about the 8th of March, 2003; is
16 that right?

17 A. Yes, yes, indeed.

18 Q. Now, when you met Germain Katanga on the 8th of March, is it
19 right that Germain Katanga arrived with Blaise Koka?

20 A. That is true, sir.

21 Q. And when he arrived with Blaise Koka, he also met with
22 Captain Kiza?

23 MR. MACDONALD: Objection.

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

25 MR. MACDONALD: (Interpretation) I don't want to interrupt this

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1 for any reason, but this is very brief and we can rely on the rules in your Decision
2 1665. Could we also mention what the witness said previously?
3 We need to be more specific when referring to what the witness may have said
4 because the Prosecution doesn't remember these things off the cuff. If we're talking
5 about leading questions and non-leading questions, we need to refer to
6 Decision 1665.

7 PRESIDING JUDGE COTTE: (Interpretation) Ok. Mr. O'Shea, could we
8 just ensure that the questions do comply with the code which we have
9 laid down for ourselves. And if you have a reference which was previous to
10 what Mr. Mathieu Ngudjolo is saying, then do please - and it's
11 recommended to do so - do please refer to this, provide the relevant
12 reference so that the Prosecution, parties, participants and the Chamber can
13 refer to it. Over to you, sir.

14 MR. O'SHEA: Yes. Well, there's no -- there's no specific
15 reference to the question that I just put, but to the issue which I am
16 addressing I will come to the transcript references in due course. These
17 are preliminary questions.

18 MR. MACDONALD: (Interpretation) Your hounour, your Decision 1665 states at
19 paragraph 76 that this is a point which was not elucidated in the examination since
20 we're referring to a co-accused person. Let me read this out. At the very end of the
21 paragraph:

22 "In principle, the co-accused in the course of the examination shall not
23 be authorised to ask closed or leading questions on points which are
24 touched on for the first time unless the witness is clearly hostile."

25 PRESIDING JUDGE COTTE: (Interpretation) We do agree on this

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1 point, sir.

2 Mr. O'Shea, help us to not get lost in all of this. You referred
3 to the presence of Blaise Koka. The Chamber, the President, has to or
4 needs his memory refreshed on this point. What point in time are we
5 referring to here when Blaise Koka was with Germain Katanga? Are we
6 talking about the first meeting on the 8th of March, 2003. I simply do
7 not remember this personally and I do not remember Blaise Koka being with
8 Germain Katanga on the 8th of March, 2003. Could you help us out or
9 could you help me out on this point, please.

10 MR. O'SHEA: Well, the -- the -- the questions which I'm asking,
11 your Honour, go to issues which were raised during the
12 examination-in-chief. The issue of this gentleman meeting Mr. Katanga on
13 the 8th of March, 2003, was dealt with during the examination-in-chief.
14 In my submission, I am entitled to explore the circumstances in which
15 that meeting took place. There'd be very little point in me asking any
16 questions at all if I was confined to asking the witness to repeat things
17 that he's already said.

18 MR. MACDONALD: (Interpretation) Indeed, my learned colleague
19 should really pay attention to the way he asks his questions and in
20 particular what he says to the Chamber because we do not wish to mislead
21 the Chamber. There is the testimony of Mr. Ngudjolo on meeting with
22 Germain Katanga. Mr. Ngudjolo and Mr. Katanga met, and Blaise Koka was
23 also mentioned but in another context, completely different. Now the
24 question is, despite the fact, your Honour, that this subject has been
25 raised, this is an open question, the open question is: Who was with

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1 Mr. Katanga when you met him? That's what the question is. And my
2 learned colleague has by – a round about means --

3 PRESIDING JUDGE COTTE: (Interpretation) Perhaps it was a
4 shortcut.

5 MR. MACDONALD: (Interpretation) Yes, a shortcut. I will stop here.

6 PRESIDING JUDGE COTTE: (Interpretation) Yes, a shortcut. No
7 one has been queried here. We're trying to proceed as strictly as
8 possible, respecting the agreed procedures.

9 So, Mr. O'Shea, you may proceed and you can help us through Mathieu Ngudjolo
10 to understand how this meeting on the 8th of March occurred. He said this
11 was the first meeting. And who was with Germain Katanga at the meeting
12 on the 8th of March. So Mathieu Ngudjolo needs to explain to us whether
13 Germain Katanga was accompanied by someone and by whom he was
14 accompanied.

15 The floor is yours, Mr. O'Shea.

16 MR. O'SHEA: Yes.

17 Q. So where did Germain Katanga meet with you on the 8th of March,
18 2003?

19 A. We met with Germain at Dele on the 8th of March. He was with
20 Captain Koka from the APC.

21 Q. And where precisely did you meet?

22 A. We met at the entrance to the UPDF camp in Dele.

23 Q. And apart from yourself, who else did Mr. Katanga meet at that
24 instance?

25 A. Bango Nakuta Kibono (phon). I met them at the entrance to the

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1 camp. They were getting ready to meet with Captain Kiza from the UPDF and there
2 were some soldiers. Apart from that I don't know if they met any other people.

3 Q. And -- and is it right that Blaise Koka was APC?

4 A. Yes, that's right, sir.

5 Q. And what was Captain Kiza's reaction on discovering that
6 Blaise Koka was APC?

7 A. When Captain Kiza discovered that Koka was APC, he had his
8 hierarchical superior, in other words, before he met Captain Koka he had
9 to ask for approval from his superior, General Kayihura so that he could
10 give him authorisation to meet Captain Blaise Koka. In other words, he
11 had to ask approval from the General and on that day it was already
12 afternoon. And that was why the meeting didn't happen and that's why
13 they spent the night in Dele.

14 Q. So the meeting did not occur because there was no authorisation
15 to meet with the APC at that stage; is that correct?

16 A. Yes.

17 Q. Yes, thank you.

18 Now, transcript T-328 of the 28th of October, 2011, at page 18,
19 line 15, this is the French transcript, you said as follows when you were
20 describing the day of the 24th of February you said:

21 (Interpretation) "There were bullets -- noise of bullets and
22 bombs. It was very loud."

23 (In English) And then you were speaking about a medical meeting,
24 and at lines 17 to 20 of the same page, that is, page 18, you said as
25 follows:

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1 (Interpretation) "When he arrived, we spoke. First he said:
2 'Look, I'm going to go up to the hill to see what's happening.' He went
3 there. He stayed for around an hour. Then he came back to us to tell
4 us: 'Well, things are happening near Bogoro.' That's why the meeting
5 was postponed."

6 (In English) So is it right that on this day of the 24th of
7 February, 2003, the only information that you received about the Bogoro
8 attack was the fact that it was in Bogoro and the fact that bullets and bombs were
9 being used because you heard it?

10 A. Sir, I can help you. The person we spoke to then was the
11 president of the committee of the Kambutso health centre. That was the
12 person who went to the hill and who heard the noise, who heard the
13 gun-fire and the bombs. And when he came back, he told me that the
14 crackling bullets and bomb explosions could be heard in Bogoro. If I'm not mistaken,
15 I also said that I was following the news on the Candip radio and that
16 Bogoro had been attacked by soldiers from Kinshasa who had come from Beni
17 together with the UPDF soldiers. That's what I said unless I'm mistaken.

18 Q. Yes. But is it right that in terms of your direct knowledge of
19 the details of what was happening at Bogoro on the 24th of February, your
20 direct knowledge, the only things you knew that day from your own
21 perceptions was the sound of the bullets and the bombs and the fact that
22 it was coming from the direction of Bogoro; is that right?

23 A. I heard the noise of the gun-fire and the bombs. As for the
24 truth about the battle of Bogoro, I heard about that in Bunia. That's
25 where I got the details about what had apparently happened in Bogoro.

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1 MR. O'SHEA: If you could give me one moment, Mr. President,
2 your Honours.

3 PRESIDING JUDGE COTTE: (Interpretation) Of course.
4 (Defence counsel confer)

5 MR. O'SHEA:

6 Q. Mr. Ngudjolo, thank you very much for answering my questions.

7 MR. O'SHEA: And those are all my questions, Mr. President,
8 your Honours.

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

10 Now, Mr. Ngudjolo, it is now the Prosecutor who will
11 cross-examine and you will, therefore, answer him.

12 Prosecutor, you have the floor.

13 MR. MACDONALD: (Interpretation) Thank you, your Honour,
14 your Honours. If I may have just 30 seconds.

15 PRESIDING JUDGE COTTE: (Interpretation) Please. And the
16 lectern will be brought to you.

17 Questioned by Mr. Macdonald:

18 Q. (Interpretation) Good morning, Mr. Ngudjolo.

19 A. Good morning, Prosecutor.

20 Q. Mr. Ngudjolo, I understand that you understand French but that
21 you are giving your testimony in Lingala. We have to comply with the
22 five-second rule and I'm the first person -- most importantly, I'm the
23 one who has to comply with the five-second rule. Now, Mr. Ngudjolo, may
24 I start with a few questions about your movements in the
25 Democratic Republic of Congo or outside the country, and these will cover the

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1 years when you were a soldier or during the civil war up to the time you
2 were transferred here to the International Criminal Court. Now, I see
3 that you said that you had been a member of the civil guard and that you
4 had fought in Goma. Could you please remind us what year that was?

5 A. Prosecutor, what I said was this: I went to the battle, I took
6 part as a military nurse, as a member of the civil guard. That was in
7 October 1996.

8 Q. So that was October 1996. Could you be more accurate?

9 A. Are you asking me a detail about the date or the day we went to
10 Goma? I couldn't tell you. But I do remember that it was in
11 October 1996.

12 Q. Could you tell us how much time you spent in Goma, Mr. Ngudjolo?

13 A. We didn't stay very long. The battle had already started before
14 we got there and it was very intense and we couldn't stay for a long time.

15 Q. Mr. Ngudjolo, are we talking about one week? Two weeks? One
16 month? Three days? You see, Mr. Ngudjolo, we are just starting but what
17 I've noted about your testimony is that you have a very good memory of
18 dates and sometimes even of the days of the week. So that's why I'm
19 asking the question and it's not without importance.

20 A. It wasn't more than a week.

21 Q. Is it right to say that you don't remember the number of days you
22 spent in Goma as a member of the civil guard on the front line in Goma?

23 A. I can't remember exactly the day. When we arrived, the battle
24 had already started. If we'd been there on the site at the beginning of
25 the battle, I could give you details about the exact length of time. But

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1 I'll repeat what I said, we arrived after the battle had already started
2 and that's why I said that we didn't stay more than a week.

3 Q. Fine. You also said that you had travelled to Beni in 2003. My
4 first question is: How many times did you go to Beni?

5 A. In my life I have been to Beni twice. The first time was coming
6 from Kambutso on the 30th of May, 2003; I walked there. I arrived in the
7 month of June 2003. I'm talking about Beni here. The second time I went
8 was in August 2003. That's it. Those are the two occasions when I went to
9 Beni, and apart from those two times I have never been to that place.

10 Q. Okay. Let's talk about the first time. You said you walked
11 there. Could you tell us who you went with? How many people were with
12 you?

13 A. I was with my bodyguards. There were more than 50 people.

14 Q. So if I've understood correctly, you had your bodyguards. How
15 many bodyguards did you have at that time?

16 A. 12.

17 Q. And if I've understood correctly, the other members of the group
18 were civilians; is that right?

19 A. The others were APC soldiers, those who had run away from the war
20 in Bunia.

21 Q. Isn't it right, Mr. Ngudjolo, that with the group walking with
22 you there were also civilians, that they weren't just bodyguards and APC
23 forces but also civilians?

24 A. No, no, there were no civilians.

25 Q. Mr. Ngudjolo, you said that you'd done military training in

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1 Kinshasa in 2007, and when you did that training you were arrested and
2 transferred to the Court in February 2008. I'd like to come back to your
3 movements between your second trip to Beni in August 2003 and the trip to
4 Kinshasa in 2007 for the military training. This is an open question,
5 it's a general question, which will give you an opportunity to
6 voluntarily give information to the Court. Did you travel outside the
7 country during this period, between August 2003 and 2007?

8 A. In August 2003 I went to Beni. I didn't go outside the country.

9 Q. Okay. Let's clarify a point, and I want to focus on a more specific time
10 and be even clearer. We're talking about the period between the 6th of
11 March, 2003, the fall of Bunia or when Bunia was taken - for some people
12 that's their point of view - and the trip in the month of August 2003
13 when you went to Beni. Okay? So during that period of a few months, did
14 you travel outside the Congo, outside the DRC?

15 A. Yes. Yes, I did.

16 Q. Where did you go and why?

17 A. I went to Kampala in Uganda. That was the first time I'd ever
18 been there. What did I go to do there? Commander Kung Fu had been
19 involved in the Mongbwalu battle with the Ugandans. He'd been wounded.
20 He'd been shot at, and his situation was getting worse and that's why
21 General Kale Kayihura had sent me off to get him so that we could
22 transfer him to the hospital in Kampala. That was also the first
23 withdrawal by the UPDF forces from Ituri. If I remember correctly, it was the 24th
24 of April -- between the 24th of April and the 28th of April 2003. That
25 was when I went there. I spent the night there and the next day I came

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1 home.

2 Q. So between the 24th and the 28th of April or after the 28th of
3 April did you return to Uganda before your second trip to Beni in the
4 month of August?

5 A. No, I didn't go back then.

6 Q. After August 2003, Mr. Ngudjolo, did you go to Uganda?

7 A. It was in 2005.

8 Q. What date? What month? What time?

9 A. I think it was late June or July 2005.

10 Q. I'd just like to come back to the trip you said you made in April
11 2003. This was the first trip to Kampala. Isn't it true to say that
12 Mr. Justin Lobho was also with you?

13 A. Yes.

14 Q. And isn't it also right, Mr. Ngudjolo, to say that you took part
15 in a ceremony in Kampala to welcome the UPDF fighters who were coming
16 there and you were there with General Kale Kayihura, do you remember
17 that?

18 A. Yes, I do recall.

19 Q. Apart from you and Justin Lobho, were there any other commanders
20 from Ituri who were present? Were there any other colonels?

21 A. No. Let me assist you. There was myself and Lobho, Justin. We
22 were also accompanied by P-02, and Mike Areng (phon). There was also a
23 journalist, Uzele Muke Kasamba. Kung Fu was also there as well as his
24 wife.

25 Q. Just to be clear, I believe you mentioned a name. You said

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1 P-2 was with you. I don't need to give his name. Then there was also

2 Mike Areng, A-r-e-n-g; is that correct?

3 A. It was Mike Arerenge. That is M-i-k-e, Mike. Arerenge is spelled

4 A-r-e-r-e-n-g-e. Arerenge. And if you allow me to complete, there was

5 Uzele Muke Kasamba, spelled U-z-e-l-e, that is Uzele; Muke, M-u-k-e, Muke; and

6 then Kasamba, K-a-s-a-m-b-a, Kasamba. Uzele Muke Kasamba Marc.

7 Q. And to be more specific, Mr. Ngudjolo, you agree with me that

8 that meeting was filmed and it took place at the Entebbe airport; isn't

9 that correct?

10 A. Yes, indeed, Mr. Prosecutor.

11 Q. You have said that in 2005, either in June, that is, end of

12 June/early July 2005, that is, you said you travelled to Kampala, Uganda.

13 Once again, why did you go there at that time?

14 A. Mr. Prosecutor, we went there to submit our MRC memorandum in

15 Kampala, and when we arrived there we were arrested. We spent almost two

16 months in the safe house and then we were deported. We were sent back

17 to Congo because we were considered to be *persona non grata*.

18 Q. And you mentioned MLC -- MRC. Is this a political military group

19 that you founded? Can you confirm that to us?

20 A. MRC means *Mouvement Revolutionnaires Congolais*, that is, the

21 Congolese Revolutionary Movement. I was not the one who founded that

22 movement. I was just one of the people who signed the document setting

23 up that movement.

24 Q. So who founded that movement? Please tell the Chamber.

25 A. The founder was Bwambale Kakole. This was one of the commanders

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1 of the MLC-K/ML of Mbusa Nyamwisi. The name is Bwambale Kakole.

2 Q. Mr. Ngudjolo, he was not the only one. There were others who
3 jointly founded that party when they ...

4 A. If I said that he was the founder, it is because he was the one
5 who was the co-ordinator. The other persons who co-signed the founding
6 document, such as myself and these people, were 12 or 14 in all.

7 Q. Mr. Ngudjolo, was Mr. Dieudonné Mbuna not one of those who signed
8 that founding document of the MRC?

9 A. Mr. Prosecutor, let me help you. Amongst the signatories of that
10 document there was myself; Mbuna, Dieudonné, who was the resource person
11 of Thomas Lubanga; there was Lobho, Justin; Dido Manyiroha. I no longer
12 remember all their names.

13 Q. You referred to Mr. Dieudonné Mbuna as the resource person of
14 Mr. Thomas Lubanga. Did you ever contact Mr. Dieudonné Mbuna from the
15 detention centre, that is by telephone? Did you ever have any phone
16 conversations with Mr. Dieudonné Mbuna?

17 A. Yes, I believe I spoke with Mbuna.

18 Q. The translation states "I believe I think I spoke with him."
19 Don't you remember?

20 A. What I said was I did speak with him.

21 MR. FOFÉ: (Interpretation) Could that name be spelled and
22 particularly Bwambale Kakolele, I am pronouncing it the way I heard it.
23 Bwamba Kakolele. And the other is Dido something. Maybe Mr. Ngudjolo
24 should spell those names.

25 PRESIDING JUDGE COTTE: (Interpretation) Very well.

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1 Mr. Ngudjolo, spell those names and then the Prosecutor will
2 continue with his questions.

3 MR. MACDONALD: (Interpretation) These are names that were
4 mentioned by the witness himself already, including Mr. Kakolele. I
5 believe that my learned friend can remain seated and we will come back to
6 that.

7 PRESIDING JUDGE COTTE: (Interpretation) Let us at least spell
8 Dido Manyiroha so that the transcript can be corrected.

9 So, Mr. Ngudjolo, spell the names of Dido Manyiroha and after
10 you will continue with your answers.

11 THE WITNESS: (Interpretation) Yes, indeed, Mr. President. Dido
12 is the short form of Dieudonné. Manyiroha is M-a-n-y-i-r-o-h-a,
13 Manyiroha. Bwambale is B-w-a-m-b-a-l-e, Bwambale. Kakolele is
14 K-a-k-o-l-e (sic), Kakolele.

15 PRESIDING JUDGE COTTE: (Interpretation) And, Mr. Ngudjolo, each
16 time you realise that you are mentioning a name for the first time, and
17 if the spelling is a bit complicated, do not hesitate to spell that name
18 yourself right away so that we should not be interrupted.

19 Please proceed, Prosecutor.

20 MR. MACDONALD: (Interpretation)

21 Q. Let us come back to Mr. Mbuna, the resource person of
22 Mr. Thomas Lubanga. How many times did you speak with him, that is, from the
23 detention centre, Mr. Ngudjolo?

24 A. I do not remember all the times I spoke with him. I cannot tell
25 you that.

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1 Q. Give us an approximate number, more than ten or less than ten?

2 A. I would say more than five, more than five times.

3 Q. And do you agree with me, Mr. Ngudjolo, because once again it is
4 your memory which is of interest to me here, you have been detained ever
5 since February 2008 'till today, it's about three and a half years, a
6 little longer than three and a half years. Now, over the past four
7 years, let's just say four years, you do not remember how many times you
8 spoke with Mr. Dieudonné Mbuna. But at least do you remember the last
9 time? When was it? It should be still fresh in your memory, that is,
10 over the last three to four years.

11 A. I do not remember, but it was not this year or 2010. It must
12 have been in 2008 or 2009.

13 Q. So you think 2008/2009. You have no idea. Where is Mr. Mbuna
14 currently, that is, as far as you know?

15 A. I do not know but I know that his home or residence is in Bunia.

16 Q. Very well. Let me now come back to the issue of languages. You
17 agree with me that the Lendus - and you are a Lendu - and the
18 Hema Gegeres, you share the same language; is that correct?

19 A. Yes, indeed, Mr. Prosecutor.

20 Q. And that language is Kilendu, isn't it?

21 A. Yes.

22 Q. Mr. Ngudjolo, there were certain people who came to testify here
23 in your defence. There was Chief Manu, for example. I believe you know
24 Chief Manu very well, don't you?

25 A. Yes, I know Chief Manu.

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1 Q. When was the last time that you had a conversation with
2 Chief Manu?

3 A. The last time I spoke with Chief Manu, it was after he completed
4 his testimony here.

5 Q. And before that? Because this last time you mentioned for the
6 purpose of my question does not count. What about before that?

7 A. I do not know. It must have been in 2009, yes. I believe it
8 must have been 2009.

9 Q. Once again, you are not able to be more specific? You have said
10 "2009." Twelve months is a bit long. Can you specify the month?

11 A. Mr. Prosecutor, I have a lot of people that I deal with. I
12 cannot remember which specific date any particular person contacted me
13 on. I cannot remember that.

14 Q. How many times did you speak on the phone with Chief Manu from
15 the detention centre?

16 A. One time. Yes, that's what I'm telling you, once only.

17 Q. One time; is that your testimony?

18 A. Mr. Prosecutor, I speak with many people and I cannot remember
19 that I spoke with such-and-such a person this number of times. I cannot
20 remember all that. What I'm telling you is that ever since I was in the
21 detention centre I spoke by cell phone with Chief Manu.

22 Q. Very well. (Redacted), this is also
23 someone that you know, isn't he?

24 A. Yes, I know him.

25 Q. You also know him very well, don't you?

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1 A. Mr. Prosecutor, the only person that one can know very well is
2 one's wife. You only just know the other people.

3 Q. Have you been in contact with (Redacted) recently, that is, over
4 the three, four -- the past three, four years? Was he one of the several
5 people with whom you were in contact during those years?

6 A. No, I do not have (Redacted) number. I never had his number. The
7 people that I know with whom I am in contact are those whose numbers I
8 have.

9 MR. KILENDA: (Interpretation) Your Honour.

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

11 MR. KILENDA: (Interpretation) I do not intend to interrupt the
12 Prosecutor. I simply want him to remember that he should be careful
13 about certain names which were subject to protective measures by the
14 Chamber.

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

16 Mr. Prosecutor, you and your team have to be vigilant regarding
17 previous protective measures. For the time being, please proceed.

18 MR. MACDONALD: (Interpretation) Yes, of course. I pay
19 attention to the context and I do not mention occupations and why those
20 people are known, contrary to Chief Manu that I mentioned. In a general
21 context I believe those other names can be mentioned, but that is duly
22 noted.

23 Q. Mr. Ngudjolo, let us agree on one thing: You don't need to have
24 someone's number to speak to that person. A phone can be given to a
25 third party, to a third party in Congo, and that person can hand over the

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1 phone like -- such as to DO2-P-0066.

2 A. No, that is forbidden in the detention centre. If you have a
3 correspondent you need to indicate the name of his wife and that is it.
4 If you have the name of the husband, the the wife's name would have to be given.
5 Apart from that, you cannot proceed otherwise at the detention centre.

6 Q. If I'm not mistaken, this was forbidden only as from 2009. Let
7 us leave witness 0066 aside. Let us speak about Jean de Dieu Safari.
8 This is someone who is deceased and who was supposed to come and testify
9 in your defence here. Jean de Dieu Ngabu Safari.

10 A. I know Jean Ngabu Safari well. I had his telephone number.

11 Q. Please tell us once again the full names of his wife?

12 A. Jean's wife? I do not know his wife's full name. I know only
13 the first name which is Antoinette. I do not know the other names.

14 Q. And what is her occupation?

15 A. Apart from being a housewife, she has no other occupation.

16 Q. We do understand that Mr. Ngabu Safari was also known as Kpenge,
17 and I will spell it for the transcript K-p-e-n-g-e, Kpenge, you know
18 that, don't you?

19 A. The name is K-p-e-n-g-e, Kpenge.

20 Q. Kpenge, that is indeed the spelling that I gave. Now, you
21 confirmed that you were in telephone contact with him from the detention
22 centre, don't you? How many times?

23 A. Yes. Mr. Prosecutor, I cannot tell you how many times.

24 Q. How long before his death, and that would be easy to remember
25 because this man died. So you must have been informed about that event.

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1 When he died you must have thought: well, the last conversation that I had
2 with him was this long ago. So can you remember the last time you had a
3 conversation with him?

4 A. I believe it was in 2008 or 2009.

5 Q. Martin Banga, that is another person that you know; right?

6 A. Yes, I know him.

7 Q. You don't know him as well as your wife, but you still know him
8 quite well; isn't that correct?

9 A. I know him.

10 Q. Is it correct that Mr. Martin Banga is also known as
11 Martin Cobra?

12 A. The name that I know is Martin Banga Dheji. The name Cobra I do
13 not know. I know that name Martin. He was called Martin.

14 Q. You said Martin Banga and then you gave another name. Can you
15 spell that name, please?

16 A. Banga, B-a-n-g-a, Banga. Dheji, D-h-e-j-i, Dheji.

17 Q. Just to be clear, as you know, Witness D03-P-0088 confirmed that
18 Mr. Martin Banga was also known as Martin Cobra. You have said
19 Martin Banga Dheji. You don't remember that --

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

22 MR. KILENDA: (Interpretation) Let us comply with the decision
23 you made, that is, to refer to the specific references in the transcript.

24 PRESIDING JUDGE COTTE: (Interpretation) We will come back to
25 that after the break. You will give us the transcript reference and we

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1 will continue with the Witness D-03-0088, who has been mentioned here.

2 Mr. Ngudjolo, we will break for 30 minutes and then we will

3 reconvene at 11.30 a.m.

4 Court Usher, can you please lead Mr. Ngudjolo back to his seat

5 and when we resume, the Court Officer will give us the pending EVD

6 reference numbers.

7 (The witness stands down)

8 This hearing is suspended. We will reconvene at 11.30 a.m.

9 Recess taken at 11.00 a.m.

10 (The witness takes the stand)

11 On resuming at 11.34 a.m.

12 (Open session)

13 COURT USHER: All rise.

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

15 We are now resuming after the break. The Court Officer will

16 give the EVD number for the Sun City Agreement and for the

17 Global Inclusive Agreement which we were talking about in the first part of

18 today's hearing.

19 Court officer, please.

20 COURT OFFICER: (Interpretation) Thank you.

21 The document DRC-OTP-1063-0007 will have the EVD number

22 EVD-OTP-00280. The document DRC-OTP-1063-0032 will be EVD-OTP-00281.

23 Both documents are recorded as public documents.

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

25 Prosecution.

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

2 Q. Coming back to the reference to Witness D03-P-0088, better known
3 as Chief Manu, following on from what my colleague said, I can tell you
4 the reference of is Transcript 304, page 39, line 2, lines 2 to 8, in fact. And
5 therefore, Mr. Ngudjolo, Chief Manu did confirm that
6 Mr. Banga Dheji Martin was also known under the name of Martin Cobra. My
7 question therefore is: For you, the name Martin Cobra doesn't mean
8 anything?

9 A. Sir, a man can have several names. You see, somebody may know a
10 person by several names, but another person -- no, I know
11 Martin Banga Dheji, but I do not know him as Martin Cobra. I do not
12 recognise that name. Now, if Manu recognised him as Cobra, well, that is
13 up to him, but I do not know him as Cobra.

14 Q. Mr. Kiza Ngaluba. This is somebody you refer to in your
15 testimony. For the transcription, I will spell out the name. This is
16 N-g-a-l-u-b-a. Now, Mr. Kiza Ngaluba, can you tell me where he is as of
17 this moment?

18 A. He is dead.

19 Q. Very well. President Jacques. Do you know anybody called
20 President Jacques?

21 A. Yes, I do know this person and he is also deceased.

22 Q. In your testimony, Mr. Ngudjolo, you mentioned the names of
23 people who worked in the health centre in Kambutso at the time or the
24 period which is of interest to us, that is to say, February to March.
25 And this is in transcript 328, page 11, line 5.

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1 Is it true, Mr. Ngudjolo, that Mr. Likpa Ngure was not working
2 between February and March 2003 at the health centre of Kambutso? Is
3 that true? And Ngure is N-g-u-r-e, Likpa, L-i-k-p-a
4 And he was not working in the health centre between
5 February and March 2003; is that not correct?

6 A. No, I do not agree with what you say. Let me give you another piece of
7 information however. Likpa is a community health worker in the Zumbe district. Up
8 until now he lives in Likoni. At that time in question he was working
9 as a community health worker in collaboration with the Kambutso health centre.
10 However, he didn't come to work at
11 the health centre itself as a nurse.

12 Q. Mr. Ngudjolo, I will refer to transcript 328, page 11. My
13 colleague asked you the question, line 1:

14 (As read) "Mr. Ngudjolo, can you quote the names of some people
15 who worked in this health centre?

16 "Answer: Yes, sir. The first person was called Kiza Ngaluba. He was
17 a certified nurse. I appointed him to help to sign my
18 training report. There was Mama Jeanne, who was in charge of the
19 maternity ward. We also had Longadi Philippe. These were trainees whom
20 I trained. They were health workers. There was Manje, Bulu, Ndaki
21 Lubanga, Ngube, Lokpa, and I have forgotten his other
22 name. I can't remember his name straightaway but I will perhaps
23 remember it later."

24 Mr. Ngudjolo, is it not true that at no point in your testimony
25 up until now have you mentioned this person, Likpa Ngure, who was, according to

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1 your testimony now, a health worker who worked as a health worker in
2 the Kambutso health centre? In fact you have talked about
3 Longadi Philippe, you refer to Mandje, Bulu, Ndaki,
4 Lubanga and Ngube but you never mentioned Mr. Likpa Ngure's name. Is that not
5 correct?

6 A. Sir, the people whom I quoted who were health workers and
7 trainees undergoing their training course. Likpa had already completed his training.
8 Katabuka, (Ngaya, Ucama, Nziru and others) (as interpreted) --

9 THE INTERPRETER: Other names which the interpreter has not been
10 able to fully identify.

11 THE WITNESS: (Interpretation) These were community health
12 workers working in the Mandro health District, because at that time we were
13 managed by the Mandro health centre. It was only afterwards when
14 Zumbe became a health centre in its own right that there was division.
15 Zumbe became a separate health District and all those who had been trained
16 previously -- and as for the instructions relating to health centres they provided that
17 health workers within a district cannot work outside of the district, so you
18 have to work within, you cannot leave the particular centre. And therefore,
19 the names which I quoted were the names of people who were doing their
20 internship and working in the centre. But the people I did not mention
21 had already finished. Let me take Ndjakusi as an example,
22 Lochovo Lomani (phon). There are many names
23 which I could mention.

24 MR. KILENDA: (Interpretation) Your Honour, could you point out to
25 Mr. Ngudjolo that he should answer the questions of the Prosecutor slowly

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1 because on page 43, lines 1 and 2, there are a lot of inaudibles mentioned
2 in the transcript.

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

4 Please, Mr. Ngudjolo, speak slowly, articulate very clearly so that the
5 interpreters can interpret things as well as possible and, above all, in
6 a fashion which the court reporters can understand which makes our work
7 easier as well. This means that -- well, we have a provisional
8 transcript which at the end of the day is very close to the final
9 transcript.

10 Mr. Prosecutor.

11 MR. MACDONALD: (No interpretation)

12 THE WITNESS: (Interpretation) I apologise, sir.

13 MR. MACDONALD: (Interpretation)

14 Q. Mr. Ngudjolo, I don't want to lose track of what we're talking about.
15 I'm talking about February/March 2003. Now, you see, you were there when
16 Witness -- your witness, in fact, DRC-D03-P-0055 wrote document EVD-D03-0089,
17 and he was asked about the names of the people who were working in the
18 health centre in Kambutso. Now, the name of this person does not appear
19 there, Mr. Likpa Ngure. Is it not true, therefore, that Mr. Likpa Ngure
20 was not working in the Kambutso health centre between February and March
21 2003?

22 A. Sir, there are names which appear in the documents, including
23 those of trainees and nurses who were working in the health centre. The
24 names which I cited, Katabuka, Ngayu (phon), Ochama (phon),
25 Uzero (phon), Mandro, Ndalo, and other names, these were people who had

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1 already finished their traineeship and this is why their names are not on the list of the
2 people who were working or had worked in the health centre. The health centre
3 workers, as I've already said, are health auxiliaries and their task is to conduct
4 awareness building. They did this work in the Zumbe health District at that time.
5 However, they were not supposed to work as nurses in the health centre.
6 Q. Mr. Ngudjolo, we have a document which was filed during your testimony after
7 questioning by Mr. Kilenda. This is EVD-D03-00110. Now, we don't need to call up
8 this document, but this is the document attesting to your traineeship between
9 September 2003 to the 6th of March, 2003 -- sorry, 2002 to 2003. Now, this is a
10 document which comes from your counsel. So if I understand things properly, this
11 person whose training you supervised at some point in 1998 is the very one who
12 certifies your own traineeship program since he had become a certified nurse, in fact
13 in 2011, in May 2011, he is already.. sorry because we see that on the 18th of June, 2011,
14 we see that now he is a fully-fledged nurse in the Kambutso health centre; is that not
15 correct?

16 A. Sir, are you talking about Likpa Ngure or Kiza?

17 THE INTERPRETER: The interpreter did not hear the name.

18 PRESIDING JUDGE COTTE: (Interpretation) Mr. Ngudjolo, since the
19 interpreter did not hear the name which you have just mentioned, it would
20 seem - and Mr. Macdonald will correct me - but I think we're talking
21 about Likpa Ngure; is that not correct? Could we show the exhibit,
22 please. Yes, it is indeed Mr. Likpa Ngure.

23 MR. MACDONALD: Let us display the exhibit. And yes indeed Your Honour
24 it is about Likpa Ngure

25 PRESIDING JUDGE COTTE: (Interpretation) Could you call up on to

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1 the screen the EVD-D03-00110. This is the certificate which was produced
2 during examination by Mr. Kilenda.

3 COURT OFFICER: (Interpretation) You can see this document on
4 "PC1."

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

6 Do you have the document in front of you, sir? Very well.

7 Please go ahead, Mr. Prosecutor, go back to your question so that
8 Mr. Ngudjolo does understand what you are driving at.

9 MR. MACDONALD: (Interpretation)

10 Q. Mr. Ngudjolo, Mr. Likpa Ngure was the person who supervised your
11 traineeship --

12 THE INTERPRETER: "Whom you supervised," correction from the
13 interpreter.

14 MR. MACDONALD: (Interpretation)

15 Q. Whom you supervised for his traineeship?

16 A. Yes.

17 Q. In June 2011 he has now become a nurse in a health centre which
18 you built?

19 A. Yes, that is true.

20 Q. Mr. Ngudjolo, could you remind us of the date when the health
21 centre was built?

22 A. The Kambutso health centre was built between September 2003 --

23 THE INTERPRETER: "2002," correction.

24 THE WITNESS: (Interpretation) -- and October. I previously
25 said that we took a month to build this health centre using

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1 traditional construction material, and therefore it did not take very
2 long to build.

3 MR. MACDONALD: (Interpretation)

4 Q. Can we go back to transcript 328, page 6, lines 25 to 27.

5 "It took me a month to build the house. At the end we started
6 the work."

7 In other words, at the end of the construction, people started
8 working in the Kambutso health centre.

9 A. We started working in the building once I had finished building
10 it, but since I had a house people used to come to my house for medical
11 care.

12 Q. Mr. Ngudjolo, at which date in September 2002 did you become
13 a trainee nurse in Kambutso? Because, you see, the certificate doesn't
14 actually mention a start date, but there is an arrival date of 6
15 March 2002. What was the date when you started your
16 traineeship as a nurse in Kambutso?

17 A. Officially, the starting date in Kambutso health centre was in
18 September. We had a meeting on the 20th of September, 2003
19 and from that point onwards people were told that
20 they could come to my house to be looked after medically. And then that was when
21 I started to work and I started working on my report, my traineeship
22 report. Once the building was finished, I took the medical equipment and
23 medication and set it up in a health centre, and that is how we therefore started our
24 work and continued our work.

25 Q. Mr. Ngudjolo --

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1 PRESIDING JUDGE COTTE: (Interpretation) I would like you to
2 tell me the year. You said: we had the meeting on the 22nd of September,
3 in what year, the beginning of the -- the opening of the health centre
4 was in September. We had the meeting on the 20th of September. In which
5 year, please?

6 THE WITNESS: (Interpretation) Your Honour, it was in 2002.

7 PRESIDING JUDGE COTTE: (Interpretation) Then the transcript
8 page 47, line 12 should mention the 22nd of September, 2002.

9 MR. KILENDA: (Interpretation) Line --

10 THE INTERPRETER: The interpreter cannot hear what Mr. Kilenda is
11 saying. He is too far away from his microphone.

12 MR. KILENDA: (Interpretation) The Prosecutor is talking about
13 the 6th of March, 2002.

14 MR. MACDONALD: (Interpretation) No, I'm talking about
15 6th of March, 2003. This was a mistake. If I said 2002, I apologise, I
16 meant 2003 as is specified in the document.

17 PRESIDING JUDGE COTTE: (Interpretation) So for the
18 court reporters, page 47, French, line 6, 6th of March, 2003, not 2002. And 47,
19 line 12, 22nd of September, 2002, and not 2003.

20 Mr. Macdonald, please go ahead.

21 MR. MACDONALD: (Interpretation)

22 Q. Mr. Ngudjolo, the official date was 22nd of September. So the
23 health centre opened its doors on the 22nd of September, whereas, in fact
24 it's not even built. You said previously, and we read this in the
25 transcript 328, that it's only at the end of October that the first

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1 patients could come to this health centre and your certificate does not
2 mention the date of the 22nd of September.

3 Mr. Ngudjolo, let me suggest two things to you: Is it not true
4 that if there is no date mentioning the start of your traineeship, it is
5 because the health centre had not yet been built? It was not
6 functioning. And not only that, but Mr. Ngure, the person you supervised
7 in 2008 -- in 2003, in February and March 2003 he was not working in the
8 health centre in Kambutso. You gave these dates to Mr. Likpa Ngure to
9 testify here that you were working in the centre at that time. But in
10 actual fact the health centre didn't exist in September and
11 Mr. Likpa Ngure was not even working there.

12 A. Well, let me say this to you, sir: When I got there, people knew
13 that I was a nurse. They used to come to my place to buy drugs and to
14 receive treatment. What's more, when I saw there was more and more demand
15 and more and more pressure, I thought that calm would be returning to Bunia and
16 that I could go back home. But as things didn't settle down, then I took
17 the initiative of opening the Kambutso health care centre. And that's
18 why I sent out invitations, and that time Likpa Ngure had already
19 completed his training as a community health care worker and he was
20 working as a community health care worker. And to prove this, I'll say
21 that Likpa Ngure is originally from Likoni. At the end of his training,
22 he would have stayed in his village and worked as a community health care
23 worker. But with the past events, including those of the 24th of February,
24 Likpa Ngure was there, and he knew all that was going on there.
25 That's what I wanted to say. As for my work as a trainee or as a nurse, it

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1 started just when I arrived there. The date that you want to know is
2 the 22nd of September. When I called the leaders of the locality and
3 the people of the locality and told them that I intended to open a
4 health centre, that was when people started to come to my place.
5 And my training programme report started on that date. Have I made this
6 clear enough?

7 Q. Mr. Ngudjolo, isn't it true to say that you or a third party gave
8 the dates of the training programme to Mr. Likpa Ngure for him to draw up
9 this statement for it to be presented here as evidence during your
10 testimony to try and back up what you are saying here in the courtroom?
11 But you're the one who gave those dates, sir, that's what you did,
12 Mr. Ngudjolo, didn't you?

13 A. Prosecutor, Likpa Ngure is from that locality and was thus a
14 community health care worker in that village. And to this day he holds a
15 position as a nurse at the Kambutso health care centre and he can't
16 forget what date that health care centre opened. He knows very well what
17 the date is.

18 Q. Okay. Let's go on to another subject. You stated that you had
19 done a nine-month training programme before becoming a member of the
20 civil guard under the Mobutu regime. You can find that reference in
21 transcript 327, page 28, line 14. That's right, isn't it, Mr. Ngudjolo,
22 you had nine months' training?

23 A. Yes, that's right.

24 Q. You confirmed this morning that in October 1996 you went to the
25 front line, you were fighting in Goma; is that right?

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1 A. I went as a nurse.

2 Q. Would it also be right to say that as a nurse you had the rank of
3 corporal with the civil guard?

4 A. Medical staff, whether they're members of police forces or armed
5 forces in our country, have a rank. Even a doctor who's with the army
6 can be captain, that's possible. But he is a military doctor, that's
7 possible.

8 Q. I'd like to come back to what you said previously about the
9 matter of your serving either with the civil guard or your military
10 service, and for this I would like to refer to transcript 329, page 16,
11 from line 14 on -- sorry, page 16, line 5. Now, to make things clear, I'll
12 read the passage which is quite long. The question was as follows:

13 "Could you explain to the Judges why you said you were a
14 well-trained member of the military forces?"

15 And the answer on line 5 was:

16 "Your Honour, your Honours, at that time, on the 30th of March,
17 2003, Candip Radio, the Kanzi (as interpreted) debate on the CPI, I
18 said that I was a well-trained member of the military forces. In fact,
19 until that date I had never done any military service. I was more a
20 member of the civil guard, as I said previously. The civil guard is a
21 police force. The civil guard comes under the authority of the Ministry
22 of the Interior. So when I may have said I was a well-trained member of
23 the military forces, what I wanted to do was to make myself seem
24 important, to give myself some prestige, so that when my colleagues heard
25 me, they would consider that I was a strong man. So I was just trying to

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1 give myself a sense of importance, but that doesn't mean that at the time
2 I was a real member of the military forces because the training which I
3 had undergone was not military training. It was more police training
4 with the civil guard."

5 That is what you said, Mr. Ngudjolo, in transcript 329. Do you
6 stand by that statement?

7 A. Yes, I do.

8 Q. Fine. And yet when your lawyer questioned you about your
9 selection by Floribert Ndjabu to be member of the coalition you made the
10 following statement, and here I'm referring to transcript 328, page 34,
11 and specifically from line 12 on. And the question of Mr. Kilenda was as
12 follows:

13 "Mr. Ngudjolo, what criteria were used for you to be given the
14 position of deputy chief of the general staff in charge of the FNI/FRPI
15 operations?"

16 And your answer was:

17 "There were no specific criteria. It's just that I'm a civil
18 person. I was trained for that, and my view is that Ndjabu saw that I
19 could help him to organise the command of the FNI/FRPI. That's the
20 reason. And I don't know what his other reasons were."

21 So if we understand your testimony properly, you would agree with
22 me, Mr. Ngudjolo, you would say that the people there -- Mr. Floribert Ngabu
23 Ndjabu recognised that you had the qualities required, the knowledge
24 required, to organise and structure the command of an armed branch of a
25 political military party. Is that what you're saying, Mr. Ngudjolo?

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1 A. Prosecutor, I said this: I was trained with the civil guard and Ndjabu
2 chose me to help him with organising the general staff. And he chose to make me
3 deputy chief of staff in charge of operations, but that doesn't
4 mean that I was a member of the military forces. He wanted to set up
5 an organisation, but that didn't mean that I was any smarter than other
6 people in the FNI/FRPI structure. That's not it. Don't think that he
7 chose me as deputy chief of staff in charge of operations because I was
8 more important or had more value than any other people. That's not the
9 case, Prosecutor, no, no, that's not it.

10 Q. Mr. Ngudjolo, would you agree with me when I say that to be part
11 of the command of a political military party requires qualifications.
12 It's not just a makeshift arrangement, is it?

13 A. Prosecutor, you have to realise what context was. Now, Floribert
14 wanted to set up an organisation. Now, I'll give you an example where I
15 was involved with the FARDC, the Congolese Armed Forces. I
16 was appointed a colonel on the 2nd of October -- no, it was the 2nd of
17 October, 2006, and on the 2nd of January, 2007, I was directly appointed
18 as advisor for intelligence for the Ituri combat zone and that's where I
19 met Colonel Ekuba who was the brigade commander.

20 In June 2003, Commander Ekuba --

21 THE INTERPRETER: The Lingala booth would like the witness to
22 repeat his answer. The Lingala booth is requesting the witness to repeat
23 his answer.

24 PRESIDING JUDGE COTTE: (Interpretation) Mr. Ngudjolo, the
25 interpreters have missed some of your statement. Could you please repeat

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1 what you were saying about -- what you were saying about the military
2 forces and you were citing the example of Commander Ekuba. So could you
3 resume and speak slowly, please. Thank you.

4 THE WITNESS: (Interpretation) Excuse me, your Honour. In 2006,
5 on the 2nd of October, 2006, I was appointed colonel with the Congolese
6 Armed Forces, the FARDC. On the 2nd of January, 2007,
7 in other words, two months after, I was appointed advisor of intelligence
8 with -- for the commander of the operational zone of Ituri. When I was
9 appointed in that Ituri operational zone, I found there were four
10 brigades and one of the people in charge of the brigades, one of the
11 leaders, was Colonel Ekuba. I already knew him before as a colonel. He
12 was a colonel in June 2003. And when I was appointed advisor to the
13 operational zone, from that time on I became his superior.
14 That's what happens in the army. It's possible. It can happen in the
15 army.

16 Don't think that when Ndjabu suggested me I was more important than
17 other persons. There were other people who had better academic qualifications
18 or who were better than I was, but the situation within the army is quite peculiar
19 to the army. Now, I have the same rank -- had the same rank as Ekuba but he
20 occupied another position, G3 at Head quarters, and I owe him much respect.
21 However, when I was in the OPS of his area, he respected me. In the operational zone
22 he had to respect me. That's the situation and the reality within the army.

23 MR. MACDONALD: (Interpretation)

24 Q. Mr. Ngudjolo, could we come back to March 2003. Isn't it right
25 to say that you don't just have a makeshift arrangement with a military

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1 commander, particularly within the general staff , and according to your
2 version of the story, there were people who were experienced who did have
3 that experience and who knew you. There's the example -- there was
4 Mr. Kiza in the north, there's Mr. Katanga in the south, Kiza in the north, and he was
5 your friend Dark, and you knew him. There was Dark and he'd fought in Bogoro.
6 Did you just improvise yourself into a colonel and were appointed to the general staff
7 and none of those experienced persons raised a finger? No one said Eh eh hold on!?
8 Why should you appoint Ngudjolo? He's got no experience? In
9 English you'd say: He is a nobody.

10 Mr. Ngudjolo, wouldn't it be right to say that Floribert Ngabu
11 Ndjabu chose you to be part of the general staff because you were the
12 leader of the combatants of the Bedu Ezekere groupement nad because youindeed
13 had taken the city of Bunia on the 16th of March, 2003, isn't that it?

14 That's the logical argument in this case, Mr. Ngudjolo .

15 A. Prosecutor, that is wrong. You don't know what happened at the
16 end of all these events. When I self-appointed myself colonel, he then made that
17 proposal but not everybody liked that suggestion. But in the end when I was
18 appointed, I was appointed as colonel not for the FNI or the FRPI, because not
19 everybody liked my attitude. Not everybody liked that, Prosecutor. And
20 that's why they put me to one side.

21 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, warning
22 card, you're all speaking too fast.

23 MR. MACDONALD: (Interpretation) I said, your Honour, that I'm
24 the first person to plead guilty of speaking too fast.

25 Q. Now, Mr. Ngudjolo, let's come back to the events in the case.

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1 This last answer you've given, now would it not be right to say that you
2 never said that before and you've just said it now because you're making up your
3 answers depending on the questions asked. And here you're adding points
4 that not everyone was happy about it whereas for three days of testimony you
5 never mentioned that, did you?

6 A. Prosecutor, this doesn't mean that I can say everything all at
7 once. My answers depend on the questions asked to me. Now, what I've
8 said here is a matter of fact, the events as they happened. When I was
9 with the military command, I was colonel with the FRPI. Not everybody
10 liked that situation and so I was finally set aside.

11 Q. Fine. Well, then, can you explain the different titles, ranks of
12 positions which you had from the 6th of March, 2003, up to the time of
13 the 31st of December, 2003? We'll just restrict ourselves to that period
14 there, around nine months.

15 A. Prosecutor, may I help you. From the 21st of October, 2003, I
16 was in detention, so December -- I don't know what happened in December.
17 When we met General Kale Kayihura, as I said earlier, I self-proclaimed on
18 the 18th of March, and then we met with Floribert who gave his proposals and I
19 joined their movement, their alliance, and I stayed there until October. And
20 then I didn't know that they'd already separated. I didn't have that information
21 then quite honestly. On the 23rd of October I was arrested. In 2004,
22 when appointments were made, a request was made for a list of names and
23 each armed group had to submit names of people from their military
24 command for appointments, either to positions as generals or senior
25 officers. And I wasn't on the list. You can check in the decree, it's an

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1 official document, and you won't find my name there. And it was from
2 that time on, Prosecutor, if you want to know what happened and what
3 people were members of which movement, then you need to look at that
4 decree. For example, in the UPC general staff you will find the people
5 who were also with the FRPI and the FNI and the people who were part of
6 the general staff of those groups.

7 Q. My question is very simple. You've gone on further. I gave you
8 a specific period there. I said the dates. And I asked what the
9 different ranks or positions or titles you held during that period were. You
10 said until you were detained in October you were part of the FNI/FRPI,
11 but within the FNI/FRPI, what were your different positions or titles,
12 Mr. Ngudjolo, from the 6th March, the 22nd, the 30th, whatever, it
13 doesn't matter, until the time you were arrested?

14 A. I knew I was the deputy chief of general staff in charge of
15 operations. That was the only position I had. I started with the rank of
16 colonel, and when I saw that people were appointed as generals, I gave myself
17 the title of general. I was colonel but I gave myself the rank of
18 general, but I had the same position, same jobs. But to make myself seem
19 important, I used to say and I used to write whenever I introduced myself
20 that I was the Chief of general staff. That's the situation,
21 Prosecutor.

22 Q. Mr. Ngudjolo, when you were arrested in October, I know that you
23 were detained in the camp of the Uruguayan forces. There was the first
24 contingent of UN forces under Chapter 7, unless I'm mistaken, and they were the
25 first ones to come to Ituri; is that right? Were you detained by them?

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1 A. I was arrested at the Uruguayans, there were the Uruguayan blue berets. When
2 they arrived, that was under Chapter 6 that -- it was in 2004 that they changed
3 to Chapter 7. But when they came they were Chapter 6.

4 Q. So you were detained in their camp in October 2003; is that
5 right?

6 A. Yes.

7 Q. And while you were in detention held by the Uruguayans, is it right
8 to say that you had visitors? You were held under humane conditions and
9 you were allowed to have visitors, weren't you?

10 A. Yes, yes, that's right, I had visitors.

11 Q. Is it also right to say that at one time during this period when
12 you were detained by the Uruguayans that you had a visit from D03-P-0055;
13 is that right?

14 MR. MACDONALD: (Interpretation) Could we go into a private
15 session? We could do that very briefly if you would like me to give the
16 name of the person who is 0055.

17 PRESIDING JUDGE COTTE: (Interpretation) We shall briefly go
18 into private session, Court Officer one second, that means two minutes.

19 (Private session at 12.29 p.m.)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Open session at 12.30 p.m.)

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

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

9 Please proceed, Mr. Prosecutor, with D03-P-0066.

10 MR. MACDONALD: (Interpretation) That is correct, your Honour.

11 Q. Mr. Ngudjolo, in private session I gave you the name of that
12 person, 0066. Isn't it correct that while you were being detained by the
13 Uruguayans that person visited you.

14 A. Mr. Prosecutor, I had visits but I no longer remember whether he
15 was one of those who visited me. He could of course have visited me, but
16 I no longer remember. It is possible that I received him, but I no
17 longer remember.

18 Q. Very well. Mr. Ngudjolo, I would like to know, prior to your
19 arrest what was the name given to the troops that you controlled?

20 A. The armed wing of the FNI was the FRPI.

21 Q. Where were these FRPI forces positioned in Ituri? What was their
22 location?

23 A. The FRPI was based in the Walendu-Bindi collectivity. The
24 co-ordination unit for those forces was in Beni, so that is how I came to
25 know this movement when I became a member of the alliance.

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1 Q. And where were the FRPI combatants in Ituri, Mr. Witness –

2 Mr. Ngudjolo – only in Walendu-Bindi?

3 A. Mr. Prosecutor, you see, at the beginning when I answered

4 Mr. Kilenda's questions this is what I said. That alliance did not last

5 for long. When General Kisempia arrived, he made his proposal. On the

6 12th of May the people who had come from Bunia went away in

7 different directions, and I did not know the developments that followed,

8 or rather, I was unaware of the way that the FNI was functioning. But at

9 that time I was a member of that FNI/FRPI coalition. The soldiers of

10 that alliance, whether they belonged to the FNI or the FRPI, at that time

11 were all in the FRPI, just like Maître Kiza who was in Kandro. That was

12 the situation. But at the beginning the FRPI was in the Walendu-Bindi collectivity,

13 and its leadership was in Beni. I believe that is what I was aware of at

14 that time.

15 Q. Mr. Ngudjolo, how many combatants were there in that FNI/FRPI

16 alliance?

17 A. I cannot give you an answer. The alliance did not last for long.

18 There had to be an awareness campaign and a census but that was not done,

19 so I cannot give you a figure because I do not know.

20 Q. You have stated that there was a coalition of the members, those

21 who were under the FNI together with those who were under the FRPI. But

22 where were the FNI combatants located at that time? Where were they

23 positioned before the coalition?

24 A. To my knowledge, they were with Maître Kiza in Kpandroma --

25 THE INTERPRETER: The Lingala interpreter did not hear the last

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1 part of the witness's answer.

2 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the
3 interpreter did not hear the last part of your answer. You said that "to
4 my knowledge, they were ..." if you can complete that, please.

5 THE WITNESS: (Interpretation) Yes, your Honour, this is what I
6 said: I know that the combatants who were in Kpandroma, under the orders
7 of Maître Kiza, were FNI combatants.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank you.
9 Please proceed, Mr. Prosecutor.

10 MR. MACDONALD: (Interpretation)

11 Q. Mr. Ngudjolo, do you agree with me that as from the 6th of March,
12 2003, you were the commander of the FRPI troops of that coalition, that
13 is, the FRPI which was positioned in Bedu-Ezekere?

14 A. No, Mr. Prosecutor, it was not on the 6th of March. The
15 alliance was established after the 22nd of March, 2003.

16 Q. Isn't it correct, Mr. Ngudjolo, that from the 22nd of March,
17 2003, you were the leader, you were responsible for the members of the
18 FRPI which were in Bedu-Ezekere and who were members of that FNI/FRPI
19 alliance?

20 A. Mr. Prosecutor, from the 6th of March I was in Bunia. I was not
21 in Bedu-Ezekere. I became a member of the alliance of my own initiative,
22 just like the others.

23 Q. Let me ask you that question again.

24 A. I gave you an answer.

25 Q. Was it a "yes" or a "no"? Just answer the question. Isn't it

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1 correct that you were the commander of the combatants of those FNI/FRPI
2 alliance soldiers who were there in Bedu-Ezekere, that is, after the
3 22nd of March, 2003, right up to the time of your detention? Let us
4 limit ourselves to that period.

5 A. I have understood you well. Mr. Prosecutor, the alliance was set
6 up in Bunia. That is where I joined. And at that time I was living in
7 Bunia. I was not living in the Bedu Ezekere groupement. From Bunia, I
8 went to Kambutso, the next destination was Beni. This means that I do
9 not agree with your statement.

10 Q. Mr. Ngudjolo, do you agree with me that after the 6th of March,
11 2003, or let us say after the 22nd of March, 2003, there were combatants
12 who were members of that alliance who were in the Bedu-Ezekere
13 groupement? There were soldiers there in that groupement. Do you at
14 least admit that fact? The combatants were not all "barracked" in
15 Kpandroma or in Aveba in Walendu-Bindi. They were also there in the
16 Bedu-Ezekere groupement; isn't that correct?

17 A. Mr. Prosecutor, at that time I was in Bunia. I was not in
18 Bedu-Ezekere. That is why I cannot tell you whether or not there were
19 combatants in the Bedu-Ezekere groupement after the alliance between the
20 FNI and the FRPI was concluded, no I cannot tell you that.

21 Q. Mr. Ngudjolo, is it your testimony that once you went to Bunia on
22 the 6th of March, 2003, right up to the 12th of May, 2003, I believe that
23 is when the UPC reconquered Bunia, you did not set foot, not even once, in the
24 Bedu-Ezekere groupement? You never went there, and that was your
25 stronghold at that time.

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1 A. Mr. Prosecutor, maybe you don't quite follow me. This is what I
2 said: From Bunia I went to Kambutso, and from there I went to Beni.
3 That is what I said and repeated.

4 Q. You are not answering the question, Mr. Ngudjolo, and I believe
5 you are avoiding the question. Let me repeat. Is it your testimony that
6 despite the fact that you were living in Kambutso, at that time there
7 was -- there was a health post there run by the trainee nurse, there was a health post
8 there. On the 6th of March you left Zumbe, sorry, Kambutso to Bunia. You mean
9 that you never returned, you had no information regarding the presence or not
10 of combatants in Bedu-Ezekere from March to May, when you fled Bunia to
11 return to Kambutso? You do not know whether there were combatants there
12 and you were deputy Chief of Staff in charge of operations at that time.
13 You had no idea whether or not there were combatants in Bedu-Ezekere?

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

15 MR. KILENDA: (Interpretation) I believe it would be a good idea
16 for the Prosecutor to split his questions. Does he want to know whether
17 Mr. Ngudjolo returned to Bedu-Ezekere or does he want to know whether he
18 was aware of the presence of combatants there?

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.
20 We believe that for some time now the Prosecutor has been trying to have
21 answers to three questions. There is one question.

22 Mr. Ngudjolo, while you were in Bunia, did you have the
23 opportunity to return to the Bedu-Ezekere groupement, and specifically
24 Kambutso? That was one of the questions.

25 And the second questions, not necessarily in that order, is were

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1 there combatants at that time, between the 6th of March and the 12th of
2 May, 2003, in the Bedu-Ezekere groupement? Then it seems that there is a
3 third and more direct question.

4 Were you, yes or no, the commander of those combatants in the
5 Bedu-Ezekere groupement, that is, if there were combatants there.
6 Mr. Kilenda wanted those questions to be split up and I believe those
7 were the three questions that the Prosecutor had asked. So please, you
8 may now answer.

9 THE WITNESS: (Interpretation) Mr. President, between the 12th
10 of May and the 30th of that same month, I went to Kambutso. That is the
11 first thing. Secondly, between the 12th and the 30th of May, I went to
12 Kambutso together with my bodyguards. There were young people of the
13 self-defence group of the Bedu-Ezekere groupement in Bunia who had joined
14 the FNI/FRPI, like Lobho Justin and Boba Boba. Those were the people who
15 joined that alliance. When we left Bunia, they went to the Bedu-Ezekere
16 groupement. Lobho did not return there. He went to Kampala. And so I cannot say
17 that there were combatants in Bedu-Ezekere, what I can say instead is
18 that when the alliance was formed, each party went back to their own
19 place from Bunia and waited to be integrated in the
20 Congolese Armed Forces. That is what happened. However, that process
21 took a long time, so much time, and that is why people were discouraged.

22 PRESIDING JUDGE COTTE: (Interpretation) What about the last
23 question of the Prosecutor? Did you consider yourself as the leader of
24 the combatants of Bedu-Ezekere?

25 THE WITNESS: (Interpretation) The people who were with me in

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1 Bedu-Ezekere, that is, my bodyguards, were with me between the 12th and
2 the 30th of May. I travelled all over. I was moving about with them all
3 the time. Regarding the leadership of the young people of the
4 self-defence group of Bedu-Ezekere, they remained under the responsibility
5 of the grass roots committee.

6 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, please
7 proceed with your cross-examination.

8 MR. MACDONALD: (Interpretation)

9 Q. Now, are we to understand from your testimony that some
10 people - and you mentioned Boba Boba and Justin Lobho - joined that
11 FNI/FRPI alliance, whereas others did not join and they stayed under the
12 supervision of the *comité de base*, or grass roots committee, is that
13 your testimony, Mr. Ngudjolo?

14 A. Yes, that is what happened, Mr. Prosecutor.

15 Q. When you arrived on the 12th of May, 2003, did you see any of
16 those combatants who had joined the FNI/FRPI who had returned home as you
17 have just said, did you see any of them on the 12th of May in the
18 Bedu-Ezekere groupement?

19 A. Mr. Prosecutor, Nyunye returned to his own house in Zumbe.

20 Q. I was coming to that later, probably tomorrow. But since you
21 have mentioned this, there was Boba Boba who joined that alliance; is
22 that correct? There was also Nyunye who joined that alliance, as you
23 have said. Who else became a member of that alliance, that is, who else
24 from the Bedu-Ezekere groupement?

25 A. No, I do not know all of them, but I do remember Nyunye, Kpadole.

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1 Well, I don't remember all the names of all those who joined the
2 movement.

3 Q. You just mentioned Kpadole, did I understand you correctly?

4 A. Yes. His name is spelled K-p-a-d-o-l-e, Kpadole.

5 Q. There is one person who has been mentioned several times during
6 the proceedings, Kute. Did you meet him in Bunia, that is, as part of
7 the FNI/FRPI alliance?

8 A. Mr. Prosecutor, Kute?

9 THE INTERPRETER: The Lingala interpreter did not understand what
10 the witness said.

11 THE WITNESS: (Interpretation) No, I did not see Kute in that
12 alliance. He was a free electron.

13 MR. MACDONALD: (Interpretation)

14 Q. And that is the same expression that the Presiding Judge used to
15 describe Kisoro. So Kute was also a free electron; is that your
16 testimony?

17 A. Yes.

18 Q. Is it correct that he was one of the combatants in the
19 self-defence group before the 6th of March, 2003?

20 A. Mr. Prosecutor, when Kute returned to the Ezekere groupement, you
21 have to remember that everyone had fled to Zumbe and that included Kute
22 because that was his area. At that time he decided to return to Lagura
23 where he lived. He did not come under the authority of
24 the *comité de base*. That is why I'm using that expression "free
25 electron" to refer to him.

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1 Q. Mr. Ngudjolo, your own witnesses came and testified that Kute was
2 indeed in Lagura. He was a member of the self-defence group even though
3 the grass roots committee, or *comité de base*, could have had difficulties
4 with him?

5 MR. KILENDA: (Interpretation) Can we have the references,
6 your Honour?

7 MR. MACDONALD: (Interpretation) I will give you those
8 references tomorrow morning, but everything I have mentioned is in
9 evidence.

10 MR. KILENDA: (Interpretation) We simply need the references so
11 as to avoid any confusion.

12 PRESIDING JUDGE COTTE: (Interpretation) The ideal thing would
13 be for the reference to be given even before the witness answers. This
14 should prevent any future confusion. So Mr. Ngudjolo can you answer the question
15 -- you can come back to that and give us the references later.

16 MR. MACDONALD: (Interpretation) I will give the reference for
17 Lone Nyunye but I will provide the reference for Kute later.

18 Q. Now, regarding Bebe Besto, do you know that person? Bebe Besto.

19 A. Yes, I know him.

20 THE INTERPRETER: And from the Lingala booth: Can the Prosecutor
21 pause before asking his question?

22 PRESIDING JUDGE COTTE: (Interpretation) Very well.

23 Mr. Prosecutor, you need to comply with the five-second rule.

24 Thank you, Mr. Interpreter, for reminding us.

25 Please proceed, Prosecutor.

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1 MR. MACDONALD: (Interpretation)

2 Q. Bebe Besto, do you know that person?

3 A. Yes, I know him.

4 Q. And who was he?

5 A. Bebe Besto was together with Kute.

6 Q. Is it not correct that he was his deputy? I can see that you
7 have a small smile on your face, Mr. Ngudjolo?

8 A. Mr. Prosecutor, you will never see me smiling here in this
9 courtroom because we are here in this courtroom for a serious purpose.
10 No, I am not smiling at all!

11 Q. Now, can you answer the question. Was Bebe Besto Kute's deputy,
12 second in command?

13 A. I'm not familiar with the structure of which Kute was the leader,
14 so I cannot tell you whether he was the leader or the second in command.
15 I know that Kute had a few young people with him on Mount Lagura, that is
16 all.

17 Q. Mr. Ngudjolo, Bebe Besto also was a member of that FNI/FRPI
18 alliance, wasn't he?

19 A. Kute and those who were close to him were not in the FNI or in
20 the FRPI.

21 Q. I have the reference for Mr. Kute here.

22 (Prosecution counsel confer)

23 MR. MACDONALD: (Interpretation)

24 Q. Witness 0055, transcript number 293, page 48, lines 28, to page 49 up to
25 line 4. It is said that Kute was in Lagura and was a member of the

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1 self-defence group. And you are saying that he was not a member of the
2 self-defence because he was a free electron.

3 MR. KILENDA: (Interpretation) Your Honour.

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

5 MR. KILENDA: (Interpretation) Can he read out that passage
6 completely?

7 MR. MACDONALD: (No interpretation)

8 MR. KILENDA: (No interpretation)

9 THE INTERPRETER: From the interpreter: There are too many
10 overlapping speakers. That makes it difficult for interpretation to be done properly.

11 MR. MACDONALD: (Interpretation) Why should I be required to
12 read all that when the Defence did not read most of their extracts?

13 PRESIDING JUDGE COTTE: (Interpretation) Calm down, everyone.

14 Please, read it out. This may contribute to provide a more
15 complete answer.

16 MR. MACDONALD: (Interpretation) Well, it will take the time
17 that it will take, but it is clear that if we have to proceed in that
18 way, whereas my learned friend simply gave references of the transcript....

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, this
20 will not be the case for every question that you ask, but in this
21 particular case the Defence for Mr. Ngudjolo wishes you to read out the
22 extract. I, myself, do not have the transcript. So read from the bottom
23 of page 48, line 28, right up to page 49, but that will not be the rule.
24 You are aware that we do not need to have every text read, only when it
25 seems to be necessary to one of the parties. Please go ahead.

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1 (Prosecution counsel confer)

2 MR. MACDONALD: (Interpretation)

3 Q. Transcript T-293-Conf-CT page 48, line 25:

4 "Question: Mr. Witness, do you know a gentleman called Kute?

5 "Answer: Yes, I know Kute.

6 "Question: Where did he live?

7 "Answer: Mr. Kute lived in Lagura.

8 "Question: What did he do?

9 "Answer: He was part of the self-defence group."

10 Mr. Ngudjolo, is it not true - and this is my final question - is
11 it not true that Mr. Kute was part of the self-defence group as you,
12 yourself, said as your own witness said, 0055?

13 A. To begin with, everybody met in and around Zumbe. Kute went to
14 Lagura. He became a free electron, he did what he wanted. And Kute's
15 story ended with his death. If Kute had been part of the self-defence
16 group of the youngsters in the Ezekere groupement, he would not have
17 ended his life as he did.

18 Q. Lone Nyunye when he was part of the self-defence group, where did
19 he live?

20 A. Lone Nyunye, to begin with, he lived in Kotonie, near Lagura. After
21 that when people fled from there he went back to Zumbe, and that is
22 where he stayed thereafter.

23 Q. Did he have a deputy?

24 A. Let me try and help you on this point. The structure of the
25 young people in the self-defence group was that there were no leaders

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1 and there were no deputies. The young people organised them
2 so that on such-and-such a day such-and-such a group would go out to
3 watch a road. Another day another group would go to watch another road.
4 There was no specific military structure with leaders and deputies.

5 Q. Boba Boba, he became a colonel in the FARDC,
6 did he not?

7 A. No, he was actually a major
8 I would say in the FARDC.

9 Q. Is it not true that -- (No interpretation)

10 THE INTERPRETER: The interpreter did not hear what Mr. Macdonald
11 said.

12 THE WITNESS: (Interpretation) At this time, Boba Boba was not
13 in his village in Ezekere.

14 MR. MACDONALD: (Interpretation)

15 Q. Is it not true that he lived at a certain point in Ladile and he
16 was protecting it as part of a self-defence group?

17 A. I would say this, perhaps you didn't understand me: From August
18 to the end of March Boba was in Ladile but his village of origin was
19 Ezekere.

20 Q. In your previous testimony you referred to Saidi. Where was he
21 in the self-defence group?

22 A. Saidi lived in Zumbe close to Buy-Hu (phon). This was where he
23 lived and he fled from the war in Bunia. He didn't come from this
24 village. It's true that he's Lendu, but he's a Lendu from the
25 Walendu-Djatsi collectivity and his native village was in Pimbo (phon).

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1 Q. What are his full names, please?

2 A. I know him as Saidi Mateso. I don't know if he has another name.

3 Q. What is the real name of Bebe Besto, please, perhaps you could
4 provide that to the Chamber?

5 A. No, I don't know his other names. I only know him as Bebe Besto.

6 Q. In Masu were there also youngsters in the self-defence group there?

7 A. When people fled the Ezekere groupement, they went to settle in Zumbe,
8 Masu, Kambutso and in part of Buy-Hu. This is where people grouped
9 together as well as in Ladile. All the youngsters in the self-defence group were
10 roughly deployed in that area or within that perimeter. I can't tell you if such-and-
11 such a person lived in such-and-such a place. I can't tell you that.

12 Q. Take Kiza, was there not a youngster called Kiza who was in Masu, who
13 was in the self-defence group?

14 A. Yes, I know Kiza.

15 Q. How many people called Kiza were in the Ezekere self-defence
16 group?

17 A. Not anybody can be called Kiza. Depending on the family. I
18 know Kiza because he lived in Masu. He doesn't actually come from Masu.
19 He comes really from Ezekere. He had fled, too, because of the war and this is
20 why he ended up in Masu. His name is Kiza Tcholi.

21 Q. So, Mr. Ngudjolo, maybe he was the one in charge of the young people in Masu
22 and this is why you know which of the Kizas I'm actually
23 talking about?

24 A. It's not because I know one person that I know everything he has
25 done. I know that Kiza was in Masu and was a member of the self-defence

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1 group of youngsters.

2 Q. There was also a young person called Tsemboko, T-s-e-m-b-o-k-o,
3 in Masu?

4 A. No, Tsemboko was not from Masu. Tsemboko was from Ezekere.

5 Q. But he was part of the self-defence group, was he not?

6 A. Yes, that is true.

7 Q. All the people of Ezekere had retreated. Where were they?

8 A. They were not in Zumbe, but, you see, the people had moved around
9 depending on where the war was happening. They could go to Masu if there
10 was a battle there, then they would move, they would fall back going in
11 the other direction. And this is why people had no fixed home at that
12 time.

13 Q. There was also -- there was also Bulu, who was part of the
14 self-defence team. He gave you, in fact, wood to help to build the
15 health centre in Kambutso, did he not?

16 A. Yes, I know Bulu. He was also a member of the self-defence group
17 and he lived in Kambutso and he was somebody from Kambutso.

18 Q. There was also somebody called Kabosse, K-a-b-o-s-s-e, is that
19 not correct, he was part of the self-defence team -- group -- was he not?

20 A. A lot of people are called Kabosse because in my country you can
21 say this name in different ways. Kabosse is not really a name. You can
22 call somebody Tantine (phon) or Kabosse, so it's a nickname.

23 Q. How many people in the self-defence group had this nickname of
24 Kabosse?

25 A. I really can't tell you that.

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1 Q. Was there at least one?

2 A. I know Kabosse Milu. Milu came along with Kute from Nyakele. He was a
3 native of Zumbe. He was the son of Pastor Dupete.

4 Q. Kabosse Milu, you know that name. Is it not true that he also
5 was in charge of a certain number of young people who were in the
6 self-defence group; is that not true?

7 A. Milu was was in Lagura with Kute, Besto, ... He was in Langura..

8 Q. He had fallen back to Lagura from Katoni; is that not correct?

9 A. He was a native of Zumbe. Kute, Kabosse and Milu really came from the
10 village of Zumbe, and they went to be trained together and they came back
11 together. When the people fled to Zumbe we'd also fled to Zumbe. When
12 they fell back to Lagura, he went with Kute because they had trained
13 together.

14 Q. Just to finish off on this point. Boba Boba, is it not true to say
15 that he had military training as well?

16 A. No. Boba Boba had been in the civil guard. Boba Boba was in the
17 second batch that of the civil guard. At the time Boba Boba had not,
18 in fact, received any military training. He was in the civil guard. I
19 can continue on this, if you will, sir. Boba Boba had also gone to Goma. He
20 was part of a group which went from Kisangani, Bukavu and down to Goma. I don't
21 know how they got separated. This is Boba Boba's own story.

22 Q. They were brothers in arms in the civil guard and they lived in
23 Ladile, which was part of Bedu-Ezekere, like you yourself ... Boba Boab, right?

24 A. Boba Boba was in the civil guard with me, yes, indeed.

25 Q. What was his rank in the civil guard, please, the rank of

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1 Boba Boba?

2 A. When he finished his training before going into operations,
3 Mobutu had ordered that all the civil guards should go to Bunia and
4 become corporals. This was to encourage them. So Boba Boba became a
5 corporal as well.

6 Q. And at some point he called himself or had himself called a
7 colonel. This was when he was in Bedu-Ezekere.

8 A. Well, first of all, this name, "Boba Boba" I got to know it in Bunia -- well, I
9 found out his rank, that he was a colonel when he was in Bunia.

10 Q. At what point was this when you were in Bunia?

11 A. After the 6th of March, 2003.

12 Q. What does "Boba Boba" mean?

13 A. I don't actually know myself, sir. I don't know what "Boba" means.

14 Q. "Hit hit," does it not mean that?

15 A. No. Well, in fact, I don't know what this means. I don't know.

16 Q. Why do you say "no," when in fact you don't know what it means?

17 A. I don't know what "Boba Boba" means. I just know that it's a
18 nickname.

19 Q. So on the 16th of March you learned that he was a colonel in the
20 alliance of the FNI/FRPI. This was in March; is that correct?

21 A. This was after the 6th of March, 2003, after that date, sir.

22 Q. But before that, you had no idea at all that he was being called
23 a colonel? You didn't know this about Boba Boba. It was only after the
24 6th of March that you learned this; is that correct?

25 A. Yes.

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1 Q. But Boba Boba was not chosen to be part of the general staff of
2 the FNI/FRPI. He was in the self-defence group of Bedu-Ezekere and he
3 was being called a colonel or he was a colonel. Floribert Ndjabu didn't
4 think at all of choosing Boba Boba who had, indeed, this military
5 experience?

6 A. He didn't have military experience. He had police experience,
7 yes. I don't know if Boba Boba knew Floribert Ndjabu. Mr. Prosecutor,
8 if Floribert had chosen people, it was because he knew them. There were
9 other people who joined the movement later on whom he did not know.

10 Q. Yes, Mr. Floribert Ndjabu, you know him. So he knew that you
11 were simply a trainee nurse; is that not true? He knew that you had been
12 a nurse with the Red Cross in Bunia. That's what he knew about you,
13 Mr. Ngudjolo; is that not correct?

14 A. As I have said, when I met with Floribert Ndjabu on the 6th of March,
15 I was in a military uniform. This is what I have said to you here.

16 Q. You're not answering my question, Mr. Ngudjolo. Floribert Ndjabu
17 said that he knew you. You testified to this. He -- you said that you
18 knew each other. So, therefore, according to your version of events which
19 you would like the Chamber to accept, in fact, you were nothing. From
20 nothing at all to the general staff of the
21 FNI/FRPI. And if you were wearing a military uniform, then Mr. Ndjabu
22 certainly did not, according to you -- was not fooled by this false
23 military uniform which you were wearing at that time. Is that not true?

24 A. No, Mr. Prosecutor. You see, it's true that Floribert Ndjabu
25 knew me as a nurse. Now, when we met on the 18th of March, he saw me in

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1 military fatigues and said, "Well, have you become a soldier as well?"
2 We chatted, he talked about his plan, and I answered, saying, "Yes, I
3 would like to join the army as well." And it was from that day onwards
4 that he made me the offer because he trusted me. Maître Kiza, who he
5 appointed as Chief of General staff, had never had any military training. He
6 was not an educated man. He couldn't even write his own name, and
7 yet he was appointed Chief of Staff. He did as he wanted. It was the
8 way he saw things.

9 Q. You don't have any military training either, do you, but
10 Maître Kiza fought in Kpandroma. He was in charge of the combatants in
11 Kpandroma, wasn't he, whereas, in fact, you were only a trainee nurse.
12 You had no military training. You had nothing -- you were nothing on the
13 16th of March. You were nobody. And yet, and yet, you were chosen by
14 Floribert Ndjabu because he was your friend.

15 A. Mr. Prosecutor, all the members of the self-defence groups in
16 Ituri, if they became soldiers it was by mere improvisation almost. Nobody
17 amongst any of these people were really soldiers. It was because of the
18 situation that was prevailing that people became soldiers. Without the
19 war, nobody would have thought of becoming a soldier.

20 Q. Final question for today. Well, I come back, once again, to my
21 point, the question which I asked before the adjournment. If
22 Mr. Floribert Ndjabu chose you and selected you to be part of the
23 general staff together with Kiza and Germain Katanga, then it
24 was because you had the necessary background and you had the men behind
25 you; is that not true, Mr. Ngudjolo? And if you look at all the facts

1 taken together, then this all is purely logical and falls into place. Is that not true, sir?

2 A. Mr. Prosecutor, that is your interpretation of things and that
3 does not concern me at all. The way you described things is not what
4 happened at all.

5 PRESIDING JUDGE COTTE: (Interpretation) Mr. Ngudjolo, we're
6 going to end here for today. The Prosecutor will continue his questioning
7 tomorrow. I would like to ask the Court Usher to accompany you back to
8 your seat and we will be back tomorrow.

9 (The witness stands down)

10 MR. MACDONALD: (Interpretation) May I just say a couple of
11 words?

12 PRESIDING JUDGE COTTE: (Interpretation) Yes.

13 MR. MACDONALD: (Interpretation) First of all, I would like to
14 apologise for the way in which I got carried away just now.

15 PRESIDING JUDGE COTTE: (Interpretation) You didn't really get
16 carried away.

17 MR. MACDONALD: (Interpretation) But I think we have to sort
18 things out. I give the references, I give the pages, I give the lines, I
19 give the information which I am integrating into my questions. I give
20 everything, absolutely everything, and this is based on what is in the
21 files. I understand that my colleague, when he questioned the witness
22 previously, he gave the references and he summed up. Now, the
23 Prosecution now is being forced to read out certain passages. I don't
24 mind doing this, I can do it every time, but I would suggest that there
25 are times when it is less necessary to do it than others. I had planned

1 to do this for the witnesses of the Prosecution, and I will do it
2 tomorrow, but only when we're talking about very important points. Here we
3 were simply talking about the confirmation of whether somebody was a
4 member of the self-defence group or not.

5 Now, this is not, of course, any excuse for the fact that I got carried
6 away. But I think we do need to take a fresh look at this question.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr. Prosecutor, you did
8 not really get carried away, and we are not casting any doubt whatsoever
9 on the way in which the very honest and open way in which you are
10 carrying out the cross-examination and the very honest references to what
11 has already been said. Sometimes it may be necessary to read out
12 relevant passages. We want to, of course, keep this as short as
13 possible. The Defence teams of Mr. Ngudjolo and Mr. Katanga should take
14 note of what you have said. Tomorrow we will be continuing together,
15 probably into Thursday morning.

16 MR. MACDONALD: (Interpretation) Yes. I think it would be best
17 to say that the Prosecution will finish the cross-examination in the
18 course of Thursday morning.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank you to everybody.
20 Thank you to those who have helped us, the interpreters, the
21 court reporters.

22 Yes, Mr. Kilenda, we're almost out of time.

23 MR. KILENDA: (Interpretation) Yes, you said at page 81 that you
24 would be reconvening tomorrow at 11.00.

25 PRESIDING JUDGE COTTE: (Interpretation) No, it is of course at

1 9.00 that we will be coming back together. We now adjourn these proceedings and
2 we will see each other at 9.00 tomorrow.

3 The hearing ends at 1.30 p.m.

4 CORRECTIONS REPORT

5 Pursuant to the Decision ICC-01/04-01/07-3216 issued by the Trial Chamber II

6 on the 13th December 2011, this transcript has been revised and corrected.

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

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