

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra
4 and Judge Christine Van den Wyngaert
5 Situation: Democratic Republic of the
6 Congo - ICC-01/04-01/07
7 In the case of The Prosecutor v. Germain Katanga and
8 Mathieu Ngudjolo Chui
9 Trial Hearing
10 Tuesday, 31 August 2010
11 (The hearing starts at 9.01 a.m.)
12 (Open session)
13 THE COURT USHER: All rise. The International
14 Criminal Court is now in session.
15 PRESIDING JUDGE COTTE: (Interpretation) Our
16 hearing is now commencing. Please be seated.
17 The accused persons are with us. Therefore, we can
18 start with our hearing.
19 Before having the witness come in and before giving
20 the floor to Professor Fofé - who, it would seem, has felt
21 that the Chamber is careful in this regard - the Chamber would
22 just like to express its concerns with regards to paragraph 73
23 of our decision 1665 of 1 December, states that "the
24 cross-examination makes it possible for the party that has
25 not called the witness to be able to obtain other relevant

1 evidence which could be used or useful for the case or necessary
2 for the manifestation of the truth. As such, it is incumbent
3 on the party carrying out the cross-examination to raise on
4 that occasion all the questions that it wishes to put to the
5 witness."

6 Should the Chamber -- well, the Chamber has to be
7 certain that the subjects that you consider useful for the
8 Defence of your client, they must be really relevant and
9 sufficiently linked to what the witness has seen, heard or
10 noted himself. If that is not the case, then it is up to you
11 at the appropriate juncture to yourself call witnesses within
12 the framework of the presentation of your own case.

13 At this stage of our proceedings, even if we feel
14 or might guess the way it's going, we still don't know where
15 you wish to go nor what exactly you want to demonstrate. During
16 our last hour of the hearing yesterday afternoon, you read
17 to the witness parts of the statement that he made before
18 the Office of the Prosecutor. You presented (Expunged)
19 (Expunged) hearing by the Office of the
20 Prosecutor, but you didn't ask questions and this is what
21 surprised us.

22 Furthermore, we are not able to really fully
23 appreciate the relevance of the demonstration that you are
24 making and, as such, we are also not fully able to assess
25 whether it is appropriate to assign possible EVD numbers.

1 As you know, I don't need to remind you of this,
2 you are perfectly aware of this, but the Chamber is subject
3 to its obligations of diligence and it has to constantly weigh
4 up the time that is spent on the presentation of evidence
5 and their probative value. The time used should not be
6 disproportionate with the probative value which is expected
7 or hoped for, so we propose that you do that. It is
8 indispensable to shed light on this case which is common to
9 all of us. This is what we're asking you to do with Witness
10 30.

11 Please, you have the floor.

12 MR FOFÉ: (Interpretation) Thank you very much,
13 your Honour. Your Honour, Honourable Judges, good morning.

14 The Defence of Mathieu Ngudjolo would briefly like
15 to address the concerns of the Chamber where it concerns the
16 links that exist between paragraph -- the paragraphs of the
17 written statements of the witness, the witness who's currently
18 testifying, and the video extracts that the Defence has
19 selected.

20 In the paragraphs which we have read, this witness
21 explains the event, the date and the context, as well as the
22 key figures who are present. There is, therefore, a close
23 link between these paragraphs of the written statement and
24 the video extracts which we have selected. These paragraphs,
25 just like these video extracts, are very important for the

1 Defence of Mathieu Ngudjolo.

2 May it please the Chamber, to remember our opening
3 statements of 24 November 2009, which sets out the line of
4 the Defence of Mathieu Ngudjolo, all the evidence that we -- all
5 the documents that we tender into evidence go into this
6 framework which is the thesis of the Defence or the argument
7 of the Defence. The evidence contained in the paragraphs which
8 were read out and in the video extracts which we have seen
9 and are going to see are extremely relevant for the Defence
10 of Mathieu Ngudjolo and for the following reasons:

11 Firstly, these elements or this evidence traces the
12 political and military context in which the attack on Bogoro
13 occurred, which doesn't come from an interethnic conflict,
14 but a high intensity conflict which involved state powers.

15 Secondly, this information dates back to January
16 and February 2003, a time of the attack of Bogoro on
17 24 February 2003.

18 Thirdly, these evidentiary items show the issues
19 at stake.

20 Fourthly, they show who the key players were who
21 were present. On the one hand, the UPC; on the other, the
22 Ugandan government with its army, the UPDF; the Congolese
23 government with its army, the FAC, which became the FARDC;
24 the RCD-KML with its army, the APC.

25 Fifthly, these items make it possible to reply to

1 or answer the following crucial question: Who had an interest
2 in dislodging the UPC from Bogoro, from driving the UPC out
3 of Bogoro? In whose interest was that? The Defence of Mathieu
4 Ngudjolo considers that it can tender into evidence also
5 evidence from the UPC site via this witness because most of
6 the evidence published or the documents published by the UPC
7 in its site are (Expunged)
8 (Expunged)

9 And to finish, your Honour, the Defence of Mathieu
10 Ngudjolo is aware that the judicial time is extremely precious.
11 It uses its speaking time very sparingly. On the date of 16
12 July 2010, the speaking time used by the Prosecutor for its
13 examination-in-chief and by the two Defence teams for their
14 cross-examinations, their respective cross-examinations,
15 was as follows:

16 The Prosecutor, 69 hours and 10 minutes. Katanga
17 team, 53 hours, 30 minutes. Ngudjolo team, 24 hours and
18 57 minutes. The Ngudjolo team, therefore, thinks it has
19 credit where it concerns the speaking time. You will have
20 noted, your Honour, your Honours, that on two occasions the
21 Defence of Mathieu Ngudjolo decided not to cross-examine two
22 Prosecution witnesses. It manages with rigor its
23 cross-examination time.

24 Today it considers it important to use its small
25 reserves in terms of speaking time with Witness number 30

1 in order to tender into evidence essential evidence which
2 support the argument of Mathieu Ngudjolo.

3 Your Honours, I would like to thank you.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank
5 you, Professor Fofé, for all these clarifications. Where it
6 concerns the last point of your intervention, the Chamber
7 completely concords with the rigorous management of your
8 speaking time. It has not forgotten that on two occasions
9 you did decide not to cross-examine.

10 Now, where it concerns the substance of your words,
11 as I stated previously, we guessed because we hadn't forgotten
12 your opening statement, but we feel better having heard you.
13 We know where you're going. You are aware that the proportion
14 that there has to be between time and probative value is that
15 we are aware of the importance that you attach to this part
16 of the proceedings and the presence of this witness. You also
17 have to be fully aware of the need to really focus this exact
18 classification and his ability to respond to a certain number
19 of your questions.

20 So I'm not asking you to go with prudence, but to
21 basically state that yesterday -- well, I think yesterday
22 and yourself we used -- well, you stated that he wasn't a
23 political analyst, so we're going to continue our proceedings
24 with that in mind.

25 Court officer -- Prosecutor, please go ahead.

1 MS LUPING: (Interpretation) Good morning, your Honour,
2 your Honours.

3 (Speaks English) Two brief comments. The first is
4 that the Prosecution has no objection to Professor Fofé reading
5 out parts of the witness's statement. It's simply that as
6 a question of procedure we would expect that certain questions,
7 as I mentioned yesterday, would still be posed to the witness
8 as per the usual procedure. Obviously, there has to be an
9 indication from the witness that the footage being shown does
10 correlate to the information he can actually provide and that
11 he is asked the questions necessary.

12 Secondly, on the issue of the documents coming from
13 the UPC website, well, I believe the -- we've already commented
14 on that and a decision has already been made in relation to
15 that. So, we won't be making the same observations again on
16 this. I think it's been decided.

17 That was all, Mr President.

18 MR GILISSEN: (Interpretation) If you would allow
19 me? I didn't wish, or rather when legal representatives have
20 an interest in the case with regards to 64, I didn't want
21 to take the floor with regards to proceedings that I do think
22 are substantive, but I did understand -- with an interest
23 I listened to the explanations of Professor Fofé in this regard
24 and it is true that there were few surprises there, but I
25 would like to thank Professor Fofé for the clarity of his

1 words and also for their relevance, because really I think
2 we had the answer that we were all waiting for.

3 I would -- also with regards to the last extracts
4 that we have seen that have been used, there's the question
5 that I asked myself yesterday with regards to other extracts.
6 Having questioned number 30 with regards to the identity of
7 certain people belonging to different military units, well,
8 the witness said he didn't -- said that he didn't know these
9 people and he had said in examination-in-chief that he had
10 stated or he had made a link between the cross-examination
11 in this Court.

12 Now, I am convinced by Professor Fofé and with
13 regards to the very clear explanations that he gives with
14 regards to certain extracts. I do think that it would be not
15 honest or incorrect not to say that I'm less convinced with
16 regards to other extracts. And perhaps there is a choice that
17 needs to be made not with regards to the extracts that the
18 Defence of Mathieu Ngudjolo takes, that is its right to do
19 so, but it's rather with regards to the procedural moments.
20 I think that I would be prudent there, but I'm repeating what's
21 already been said in a different way, but this is what my
22 concern is.

23 Thank you very much, your Honours.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank
25 you, Counsel Gilissen.

1 So Professor Fofé, Counsel Kilenda, I'm addressing the
2 Defence of Mathieu Ngudjolo. As you did yesterday, I think you're
3 going to continue with your preliminary stage. You're going to
4 go from the materials and then there will be questions and answers.
5 That's how it's going to be done, I think, court officer.

6 MR FOFÉ: (Interpretation) Yes, this is a question
7 with regards to the method. I would like -- when we are going
8 to show quite long extracts, I would like to be able to ask
9 the court officer to stop for a moment so that the interpreters
10 have the time to interpret what has been said. So please do
11 not be surprised if you hear me on the microphone when the
12 extracts are being shown. So, that's what I wanted to say
13 to the court officer; if she could stop shortly in order to
14 allow the interpreters to interpret the part that's being
15 shown.

16 Thank you.

17 PRESIDING JUDGE COTTE: (Interpretation)
18 Understood. Please bear in mind that the witness has to be
19 able to be attentive throughout, so if the extract is too
20 long this is something that you will have to assess if you
21 consider it's useful for the Defence of Mathieu Ngudjolo,
22 but please do not forget that we do not know this person's
23 capacity with regards to his attention. So I think we all
24 have to try to ensure that our witness -- well, that it's
25 not too much. That hasn't been the case yet, but we have to

1 be careful in this regard.

2 So, court officer, we're now going to go into closed
3 session. Usher, please could you go and bring in the witness.

4 (Closed session at 9.22 a.m.)

5 (Expunged)

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9 (Expunged)

10 (Open session at 9.24 a.m.)

11 THE COURT OFFICER: We are in open session, your
12 Honours.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank
14 you very much, court officer.

15 WITNESS: DRC-OTP-P-0030 (On former oath)

16 (The witness answers through interpreter)

17 PRESIDING JUDGE COTTE: (Interpretation) Good
18 morning, Witness.

19 THE WITNESS: Good morning.

20 THE INTERPRETER: The interpreters ask the witness
21 to speak louder.

22 PRESIDING JUDGE COTTE: (Interpretation) The
23 Court is very pleased to see you. We're going to work this
24 morning for three-and-a-half hours. The interpreters have
25 asked us if we could ask you to speak louder, so please sit

1 right in front of your microphone. Please don't be timid - you
2 aren't - and please speak loudly and strongly.

3 Professor Fofé, please go ahead.

4 MR FOFÉ: (Interpretation) Thank you very much,
5 your Honour.

6 QUESTIONED BY MR FOFÉ: (Continuing)

7 Q. Good morning, Witness.

8 A. Good morning.

9 Q. Witness, yesterday we watched three video extracts
10 from DVD DRC-OTP-0157 -- sorry, 0058. Do you remember
11 this -- the content of these extracts which we saw yesterday
12 towards the end of the meeting? DRC-OTP-0058.

13 A. Yes.

14 MR FOFÉ: (Interpretation) Thank you, Witness.

15 Your Honour, can we now go into private session,
16 please?

17 PRESIDING JUDGE COTTE: (Interpretation) Court
18 officer, please could you take us into private session for
19 a moment.

20 (Private session at 9.26 a.m.)

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18 (Open session at 9.28 a.m.)

19 THE COURT OFFICER: We are in open session, your
20 Honours.

21 MR FOFÉ: (Interpretation) Thank you, court
22 officer.

23 Q. Witness, so this conference took place in Kampala.
24 Do you remember the date of this press conference?

25 A. The date figures on the video.

1 Q. May I put it to you that it was 11 February 2003, the
2 day after the Dar es-Salaam meeting; is that correct?

3 A. Yes.

4 MR FOFÉ: (Interpretation) Thank you very much,
5 witness.

6 Your Honour, I believe that for the first three
7 extracts we could assign an EVD number to them, perhaps.

8 PRESIDING JUDGE COTTE: (Interpretation) In light
9 of the explanations that you provided a few moments ago, could
10 the court officer allocate an EVD number to these extracts?

11 THE COURT OFFICER: DRC-D03-0003-0382 shall
12 receive an EVD number: EVD-D03-00027. The second extract,
13 the ERN number DRC-D03-0001-0383 shall receive an EVD number:
14 EVD-D03-00028. And finally, the third extract,
15 DRC-D03-0001-0384, shall receive an EVD number:
16 EVD-D03-00029. And could the counsel please indicate if
17 the -- all three extracts should be admitted publicly.

18 MR FOFÉ: (Interpretation) Yes, ma'am, they are
19 public items.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank
21 you, Madam Court Officer.

22 Mr Fofé, please proceed.

23 MR FOFÉ: (Interpretation) Thank you, your Honour.

24 Could the court officer now play extract number 4,
25 that is, of DRC-0001-0385 and number 5, DRC-D03-001-0390.

1 Thank you.

2 THE INTERPRETER: Correction, 86.

3 MR FOFE: (Interpretation) These are public items,
4 so they may be viewed in open session. I beg your pardon,
5 they can be viewed in public with sound and interpretation,
6 as much as is possible, as much as the interpreters can do.

7 (Video extract played)

8 THE INTERPRETER: The reason for the discussion
9 about the UPDF in the Congo is that, according to the agreements,
10 later, all foreign troops will have to leave the Congo, and
11 at the current time (inaudible) except for the UPDF. Given
12 that at one particular time there was some tension between
13 two armies who were pursuing somewhat different aims, this
14 tension was such that the population was able to express their
15 desire to see the UPDF leave.

16 With regard to (inaudible) the UPC is in favour of
17 pacification, has never opposed pacification. But the UPC
18 has always endeavoured to ensure that the agreement be adapted
19 to the true situation in the field, and that is why during
20 the meeting yesterday in the schedule some meetings of experts
21 are scheduled from MONUC, from the government of Kinshasa,
22 and from the UPC. So, this will be a preparatory meeting so
23 that (inaudible) can be set up.

24 "(Indiscernible) troops second (indiscernible)
25 there was the tension between the two armies, UPDF and the

1 UPC armies, and we saw it was necessary to make it -- to make
2 the UPDF to -- to (indiscernible) from Congo. And the
3 second -- the third was the accord or agreement (indiscernible)
4 Dares-Saalam yesterday. UPC agreed with that accord but there
5 are some points which should be -- could not be arranged.
6 So this accord, these agreements, there must be some
7 (indiscernible) to the local condition, local situation, and
8 there is a team of experts which will work on that."

9 MR FOFÉ: (Interpretation) Thank you, court
10 officer. If we could go on to the next extract, extract number
11 5.

12 (Video extract played)

13 THE INTERPRETER: (Inaudible) Your party, you, as
14 leader, you say that you support peace between the Lendu and
15 the Hema to halt the killings.

16 "In the Ituri province, so what's your position about
17 that?"

18 (Interpretation) What we experienced in the Congo,
19 and all the parties should lead Ituri; the first party that
20 should stop the killing in the Ituri area is our party, the
21 UPC. Thus, there is no more ethnic war. There has been a
22 considerable drop in hostilities in the ethnic war. You've
23 heard of the Lendu and the Hema. There has been a political
24 war. The UPC troops took up arms to fight the misgovernment,
25 the poor government. For the time being, there are no longer

1 any fears. If the UPC -- if the UPDF were to leave, there
2 would be no further killings. Our party leads the whole area
3 and ensures the security of all the tribes. There would be
4 no further conflicts between the various groups and we
5 were -- are doing all we can to implement peace. If the UPDF
6 troops were to leave today, there would be no further ethnic
7 wars ...

8 " ... or tribal clashes. Thank you very much.
9 Maybe just for a little -- any (indiscernible) within the
10 last (indiscernible) and the location should be very
11 (indiscernible). Thank you very much.

12 MR FOFÉ: (Interpretation) Thank you, Madam Court
13 Officer. Thank you to our interpreters.

14 Your Honour, for the first series of questions could
15 we go into private discussion briefly?

16 PRESIDING JUDGE COTTE: (Interpretation) We will
17 go into private session, so private session, court officer.

18 This is in keeping with the arrangements provided
19 by Ms Luping.

20 (Private session at 9.40 a.m.)

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20 (Open session at 9.48 a.m.)

21 THE COURT OFFICER: We are in open session, your

22 Honours.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank

24 you. Professor.

25 MR FOFÉ: (Interpretation) Thank you very much,

1 your Honour. I have no further questions regarding these two
2 extracts. I would like to ask the Chamber if an EVD number
3 can be assigned to these two extracts.

4 PRESIDING JUDGE COTTE: (Interpretation) Madam
5 Court Officer, if an EVD number could be assigned to these
6 extracts.

7 THE COURT OFFICER: Your Honours, the extract ERN
8 number DRC-D03-0001-0385 shall be given the evidence number
9 EVD-D03-00030. And the extract ERN number DRC-D03-0001-0386
10 shall be given evidence number EVD-D03-00031. And both videos
11 are admitted publicly. Thank you.

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

14 MR FOFÉ: (Interpretation) Thank you very much,
15 your Honour.

16 Court officer, if we could now view the extracts
17 6 and then number 7. Extracts 6 and 7. These are public items,
18 so there is no problem. With sound and interpretation, please.
19 I forgot to mention that.

20 (Video extract played)

21 (Speaks English) (Indiscernible)

22 (Interpretation) He said that young people went
23 to Uganda to undergo training, and they received weapons and
24 they came back and killed people at the border between Uganda
25 and the Congo. He says that people were attacked in Nebbi

1 and three people were killed. He would like to know whether
2 you have received such information or not.

3 (Speaks English) (Indiscernible) "There were
4 rumours that he (inaudible) group was clarified to go to Beni,
5 to go to Beni. So I want to know whether this issue was addressed
6 in the Dar es-Salaam region."

7 (Interpretation) He would like to know whether the
8 UPC troops were advancing towards Beni. (Inaudible).

9 Each time, often the military officers, the Ugandan
10 military officers were in Kabali to provide information
11 regarding the UPC. It is possible that there may be problems
12 or trouble around Nebbi, because a UPDF officer by the name
13 of Roda Kalica (phon), he is the one who is in the habit of
14 providing training to young people around Paidha to
15 destabilise the UPC. That is possible, that could be true.
16 A while ago, he took some people to -- so disorder around
17 Mahagi.

18 "(Inaudible) some news from Congo and Uganda to go
19 and (inaudible) in the -- around the border between Uganda
20 and the Congo. So it's true that there's some (indiscernible),
21 but they're being kept and they're being protected by
22 (indiscernible). And several times UPC has (indiscernible),
23 but no action has been taken."

24 (Interpretation) With regard to Beni, it is true
25 that when we received the information that the Kinshasa

1 government had provided reinforcements in Beni, the UPC
2 decided to attack Beni because the first time when Kinshasa
3 sent troops to Beni, those troops moved forward and drew close
4 to Bunia and the soldiers killed civilians and they attacked
5 the Nyankunde hospital and the hospital near Mongbwalu.

6 When we learned that there were troops from Kinshasa,
7 we prepared to attack, but at yesterday's meeting we talked
8 about this issue and I asked President Joseph Kabila to withdraw
9 his troops from Beni and to have them go back to Kinshasa.
10 I think this will make it easier to achieve peace.

11 "There was a time in Kinshasa (indiscernible) troops
12 invaded Beni and some parts of Ituri, and they came closer
13 to Bunia where they wanted to capture Bunia, but they could
14 not make it. And they caused havoc in Mongbwalu and Nyankunde
15 hospital, it's a big hospital in Nyakunde. We were ready to
16 fight against troops which are loyal to RCD-KML
17 (indiscernible)."

18 (Interpretation) After yesterday's meeting --

19 "-- we raised that question, and we talked to
20 President Joseph Kabila and told him that he should -- he
21 should tell his soldiers from Beni, who are located in Beni,
22 to quit Beni immediately."

23 (Interpretation) At the end regarding Kabila, we
24 answered that question, there are no Ugandan rebels on our
25 side --

1 "- from Uganda, which is an Ituri province."

2 MR FOFÉ: (Interpretation) Thank you,
3 interpreters. Thank you, court officer. If we could move
4 on to extract number 7, please.

5 (Video extract played)

6 (Interpretation) Just a clarification regarding
7 the CPI. You speak of withdrawal, and the UPC holds the region,
8 so where (inaudible) a disagreement according to which if
9 I've understood correctly (inaudible). (Inaudible). The
10 expert commission will be talking about this. I think this
11 is the simplest solution.

12 "(Indiscernible) implemented in Ituri (inaudible),
13 will be UPC's troops, which will patrol the area. So the answer
14 was not -- that's a matter of the experts. They will discuss
15 the problem and give the answer."

16 "Thank you very much for attending the press
17 conference."

18 MR FOFÉ: (Interpretation) Thank you very much,
19 Madam Court Officer.

20 MR FOFÉ: (Interpretation) Your Honour, as usual,
21 can we begin in private session?

22 PRESIDING JUDGE COTTE: (Interpretation) Court
23 officer, let us go in briefly to private session.

24 (Private session at 10.00 a.m.)

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Page 24 expunged. Private Session.

1 (Open session at 10.02 a.m.)

2 THE COURT OFFICER: We are in open session, your
3 Honours.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank
5 you.

6 Professor Fofé.

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

8 Q. Mr Witness, in these extracts mention is made of
9 the presence of four FAC battalions in Beni; is that correct?

10 A. I watched the extract on the screen, just like every
11 one else.

12 Q. Thank you, Mr Witness. Since you were more or less
13 a witness of what was happening at the time, was the UPDF
14 accusing the UPC at that time of harbouring Ugandan rebels
15 in the area under their control?

16 A. What I can say is that this was a matter, or this
17 was a question, raised by the journalists, but personally
18 I'm not aware of the UPDF having accused the UPC of harbouring
19 rebels in its territory in Ituri.

20 Q. Thank you, Mr Witness. In these extracts, mention
21 is also made of the setting up of the Pacification Commission
22 of Ituri; is that correct?

23 A. Yes, this was a question that was asked by a journalist
24 and I have no comment to make on that.

25 MR FOFÉ: (Interpretation) Thank you, Mr Witness.

1 And, your Honour, we would like to have an EVD reference attributed.

2 PRESIDING JUDGE COTTE: (Interpretation) Court
3 officer, please.

4 THE COURT OFFICER: Your Honour, extract
5 DRC-D03-0001-0387 will therefore receive the EVD number
6 EVD-D03-00031 and the last extract DRC-D03-0001-0388 will
7 receive an evidence number EVD-D03-00033, and both videos
8 are admitted publicly.

9 MR KILENDA: (Interpretation) Your Honour --

10 PRESIDING JUDGE COTTE: (Interpretation)
11 Mr Kilenda?

12 MR KILENDA: (Interpretation) I think there might
13 be a little mistake, because 00031 has been assigned twice.

14 PRESIDING JUDGE COTTE: (Interpretation) Yes,
15 indeed, it seems so. Is there a problem, court officer?

16 THE COURT OFFICER: I apologise. I misspoke, your
17 Honour. The number for the first extract is indeed
18 EVD-D03-00032. Thank you.

19 PRESIDING JUDGE COTTE: (Interpretation) You have
20 been forgiven, court officer. Be aware that Mr Kilenda is
21 following up everything very closely.

22 Professor Fofé, please proceed.

23 MR FOFÉ: (Interpretation) Thank you, your Honour.

24 Q. Witness, reading through your statement given to
25 the OTP in April 2006, we realised in paragraph 36 that you

1 stated as follows. It is a short paragraph and I can read
2 it out.

3 PRESIDING JUDGE COTTE: (Interpretation) Are we
4 going to stay in open session for that paragraph, Professor
5 Fofé?

6 MR FOFÉ: (Interpretation) No, your Honour, we
7 should go into private session.

8 PRESIDING JUDGE COTTE: (Interpretation) Very
9 well. A brief private session, court officer, and if by chance
10 a copy of the statement is available it should be made available
11 to the witness.

12 (Public session at 10.09 a.m.)

13 (Expunged)

14 (Expunged)

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Page 28 expunged. Private Session.

1 (Expunged)

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5 (Open session at 10.15 a.m.)

6 THE COURT OFFICER: We are in open session, your
7 Honours.

8 PRESIDING JUDGE COTTE: (Interpretation) Thank
9 you, court officer.

10 Please proceed, Professor Fofé.

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

12 Court officer, can you please kindly show us document
13 DRC-D03-001-358? It is a two-page document, which is public.

14 Your Honour, we have a hard copy of that document.
15 Maybe we can give that copy to the witness to enable him to
16 follow properly.

17 PRESIDING JUDGE COTTE: (Interpretation) Very
18 well. And this will also help to save some time.

19 THE COURT OFFICER: The document is public.

20 MR FOFÉ: (Interpretation) It is a public
21 document.

22 PRESIDING JUDGE COTTE: (Interpretation) Court
23 usher, please hand over this document from Professor Fofé
24 to the witness.

25 MR FOFÉ: (Interpretation)

1 Q. Mr Witness, simply follow the reading of this document.
2 Do not be intimidated by its content. It does not concern you
3 directly, but it is important for this trial.

4 PRESIDING JUDGE COTTE: (Interpretation)
5 Mrs Luping, I can see that you are on your feet.

6 MS LUPING: Yes, Mr President. Just a question of
7 procedure again. The witness should be asked simply if he
8 has seen this document before, as we agreed previously.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank
10 you, Madam Prosecutor.

11 Professor Fofé will certainly follow that procedure.

12 MR FOFÉ: (Interpretation) Thank you, Madam
13 Prosecutor. Thank you, your Honour.

14 Q. Mr Witness, have you had the opportunity to see this
15 document before today, or have you ever seen any similar
16 documents from the same source?

17 A. No.

18 Q. Mr Witness, you were not aware of the existence of
19 UPC site?

20 PRESIDING JUDGE COTTE: (Interpretation)
21 Ms Luping.

22 MS LUPING: Our objection to this question is we
23 believe the decision in relation to this category of documents
24 was very clear. If the witness confirms that he has not seen
25 this document before, that should simply be the end of the

1 matter and no further questions should be put to him,
2 Mr President, as you indicated yourself yesterday. That was
3 our understanding.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank
5 you, Madam Prosecutor. The witness has told us that he does
6 not know this document. That is one thing. But it does not
7 prevent the Defence of Mr Ngudjolo to ask him a more general
8 question on the existence of a site from which this document
9 was downloaded. It is possible that other documents that will
10 be presented by the Defence of Mr Ngudjolo might be known
11 to the witness.

12 We are dealing here of the 13-plus-2 list, and the
13 witness is going to answer the question asked by Mr Fofé:
14 "Were you aware of the existence of a UPC website?"

15 THE WITNESS: I know that the UPC had a website.
16 Of course, one week after the site antenna was installed,
17 the UPC was driven out of that area and the antenna was looted
18 by UPDF soldiers.

19 MR FOFÉ: (Interpretation)

20 Q. Thank you very much, Mr Witness. I will now read
21 out this document to you and ask you a question.

22 MS LUPING: Mr President.

23 PRESIDING JUDGE COTTE: (Interpretation) Madam
24 Luping.

25 MS LUPING: We must object. I think we stated our

1 position very clearly in relation to this previously.

2 The witness does not recognise this document. He's
3 neither a political or historical analyst. His background
4 is well known. There is no link between this document and
5 the witness. This is asking him to speculate on matters that
6 are not relevant to his background. He's not the appropriate
7 witness to comment on the content of this document. He is
8 also not in a position to authenticate it because of this
9 lack of a link. As we understood the decision, once he confirms
10 that he does not recognise the document, no substantive
11 questions should be put to him on it.

12 MR FOFÉ: (Interpretation) Your Honour, the
13 Prosecutor is talking about speculative questions and yet
14 I have not even asked any questions so far. I know that this
15 witness is not a political analyst. We are not going to ask
16 him substantive analytical questions. What is of interest
17 to us is simply to establish a link between the video extracts
18 that we have seen and the content of this document. So we
19 are not going to ask any speculative questions.

20 I'm sorry, Madam, but I would like to say that the
21 witness has just stated in this courtroom that that site existed
22 at one point and was later destroyed by the UPDF. All the
23 documents that we intend to produce were communiques of the
24 UPC which were published on this site.

25 Your Honours, none of us can recognise all documents

1 published in any site at all. It is not possible. Websites
2 are created for the publication of documents, and no user
3 of any site can recognise all documents published on a
4 particular site; it is not possible. So we simply want to
5 read out the content to show you a link between this document
6 and the video extracts.

7 Furthermore, we know that the Chamber had already
8 taken a decision for the assignment of an MFI reference, and
9 that would be enough for us to begin.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank
11 you Madam Prosecutor. Thank you, Mr Fofé.

12 Madam Prosecutor, yesterday you understood, and you
13 also heard this morning, that the Chamber distanced itself
14 somewhat from the 13-plus-2 documents that were supposed to
15 be used by Mathieu Ngudjolo's Defence. This simply means that
16 we want to be cautious, and if we are asked to assign reference
17 numbers, we will begin by assigning only MFI references, and
18 at the end of the cross-examination we will determine, based
19 on the relevance and probative value of the documents, whether
20 we should assign EVD numbers.

21 Now, this is the first document that is being produced.
22 Professor Fofé indicated that he wished to ask one question.
23 We want the witness to feel at ease, and we all know that
24 he is not a political analyst, but at one point he was an
25 informed observer. (Expunged) he

1 was an observer of a certain number of events that he witnessed.
2 If he is in a position to provide an answer, then he will
3 give us an answer. If not, then he will not answer.

4 So, Mr Fofé, please, you can read, but you have to
5 decide whether you need to read the whole document, or you
6 need to read only certain excerpts, and then you will ask
7 your questions and we will make progress in this
8 cross-examination.

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

11 Q. Mr Witness, I'm going to read this document for you.
12 I hope that the interpreters also have that document.

13 "Press communique number 1, 1 February 2003. The
14 President of the Union of Congolese Patriots for Peace and
15 Reconciliation, Patriot Thomas Lubanga, declines the
16 invitation given to him by Kampala.

17 In his capacity as national secretary for Defence and
18 security, the statements of Mr Vital Kamere, general
19 commissioner responsible for the peace process in the great
20 lakes region, statement broadcast over Radio France
21 International on 1 February should be taken seriously.

22 He did state that the Ugandan troops are advancing
23 towards Mahagi to confront Rwandan troops based in Ituri.
24 Furthermore, he mentioned the presence of four battalions
25 of the Kinshasa Army, FAC, in Beni where they are claiming

1 to be restructuring and reintegrating members of the APC,
2 the RCD-KML army, into the national army.

3 All this shows and confirms the existence of a
4 coalition between the government of Kinshasa, Uganda and the
5 RCD-KML of Mbusa and Nyamwisi, who is determined to sacrifice
6 the Congolese people of Ituri. And yet, in the present
7 circumstances, the people have accepted and are making efforts
8 to restore peace through a well-identified procedure.

9 Yesterday, Uganda considered the Kinshasa
10 government as their enemy, which had invaded the DRC; and
11 today, for reasons that we do not know, they have become allies
12 to the detriment of the suffering Congolese people of Ituri.

13 In addition, at the same time when the Kinshasa
14 government is defying the international community in relation
15 to what the government spokesperson said on Saturday, the
16 question being asked by the UPC RP is whether -- or, rather,
17 is why Kinshasa has to build up troops in Beni and why Rwanda
18 and Uganda have to fight against each other in Ituri; whereas,
19 none of their enemies are based on Iturian soil.

20 The UPC/RP requests the Congolese population of
21 Ituri to stay calm because they are making efforts day and
22 night to provide security. Peace and reconciliation in Ituri
23 remains an inalienable and irreversible process. The UPC/RP
24 requests the international community to take this sword of
25 Damocles seriously, which is a threat to our innocent people.

1 These diabolical machinations was twice denounced
2 before the Secretary General of the UNO in the letter sent
3 to him in January 2003.

4 Lastly, who is in favour of peace in Ituri? Mathieu
5 Amboko Bebetu, national secretary for information and media
6 and a spokesperson of the executive of the UPC/RP."

7 Witness, I would ask you the following question:
8 This document which we have just read takes up the comments
9 which were made by Thomas Lubanga in the video that we've
10 just seen and which Mr X made; is that not correct?

11 A. I would state the following: It could be true because
12 the national secretary as the minister could not move away
13 from the logic of the president of the party. He only reflects
14 the thinking of his group. That is what I think. That is
15 what I thought.

16 Now, where it concerns this press communique, you
17 are a university professor; therefore, you can't be surprised
18 by that, that an opposition journal will not go along with
19 the majority. With regards to the internet site, there are
20 people who write things, put them on the internet; they write
21 these communiques and they post them on the internet.

22 Q. Thank you very much, Witness. So what you can confirm
23 is that, to your knowledge, Mathieu Amboko Bebetu was the
24 secretary for -- international secretary for information and
25 press of the UPC?

1 A. Yes, I confirm that.

2 MR FOFÉ: (Interpretation) Your Honour, could an
3 MFI number be attributed to this communiqué.

4 PRESIDING JUDGE COTTE: (Interpretation) Court
5 officer, please give an MFI number to this document, if you
6 would be so kind.

7 THE COURT OFFICER: (Microphone not activated)

8 PRESIDING JUDGE COTTE: (Interpretation) Court
9 officer, please be careful to put your microphone on, so
10 perhaps --

11 THE COURT OFFICER: The documents ERN number
12 DRC-D03-0001-0358 will be given the number MFI-D03-00034 and
13 is a public document. Thank you.

14 PRESIDING JUDGE COTTE: (Interpretation) Please
15 continue, Professor.

16 MR FOFÉ: (Interpretation) Thank you, your Honour.
17 Court officer, could we now go to the second document,
18 DRC-D03-0001-0360. We have an extract -- or a paper copy of
19 this document that we can provide the witness with, with the
20 agreement of the Presiding Judge. Usher, please, could you
21 take this document and show it to him?

22 PRESIDING JUDGE COTTE: (Interpretation) Please,
23 could you provide it to the witness? Thank you, usher.
24 Professor Fofé, please proceed in the same way, in the same
25 chronological order that you were following.

1 MR FOFÉ: (Interpretation) Yes, your Honour.

2 Q. Witness, as I just stated, this is -- these are the
3 proceedings, but don't feel concerned by this or targeted.
4 These are the proceedings which we are following.

5 Now, have you seen this document before?

6 A. No.

7 Q. As you will note, this is a document which comes
8 from the same site that we spoke about before. You already
9 answered in that regard where it concerns this site.

10 MS LUPING: Mr President.

11 PRESIDING JUDGE COTTE: (Interpretation) Madam
12 Luping.

13 MS LUPING: The concern is just simply with a comment
14 that it comes specifically from the UPC website. I mean, it's
15 suggesting information to the witness that he can't confirm.
16 He's not in a position to confirm this or authenticate it
17 and cannot comment on the accuracy of that statement at all.

18 PRESIDING JUDGE COTTE: (Interpretation) Madam
19 Luping, the Chamber, once again, is perfectly aware that the
20 documents that are presented come from a movement or a party
21 which is defending a particular cause, or which supports a
22 particular ideology, or which does both. The Chamber is fully
23 aware of that and at the appropriate juncture conclusions
24 will have to be drawn from that. But within the framework
25 of the Defence of Mathieu Ngudjolo, as was presented to us

1 this morning, the Chamber cannot forget that during a certain
2 time the witness who is with us here had, according to different
3 arrangements that I won't go into -- (Expunged)
4 (Expunged)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged) to this extent, that it
9 is not unreasonable to allow Professor Fofé the opportunity
10 to -- or, for example, you can ask for -- you can ask for
11 clarifications which he can answer.

12 Professor Fofé.

13 MR FOFÉ: (Interpretation) Thank you very much,
14 your Honour. We are going to read certain extracts from this
15 document, relevant extracts: The first paragraph, paragraph
16 3, and the first two sentences of paragraph 4. That will be
17 enough for the Defence.

18 Q. Witness, I will read out this document. I'll read
19 certain extracts and here I shall quote from it.

20 MS LUPING: I'm sorry to interrupt, Mr President.
21 I don't want to hold up the process, but just simply a suggestion
22 to save time. We're aware this witness does read French.
23 Perhaps to save time he can simply be directed to relevant
24 paragraphs to read himself before questions are put to him,
25 rather than taking time to read them out to him. It is just

1 a simple suggestion of procedure to save time.

2 PRESIDING JUDGE COTTE: (Interpretation) This is
3 a suggestion which we can put to Professor Fofé. Perhaps it
4 might be -- would it be useful that the words be -- figure
5 in the transcript?

6 MR FOFÉ: (Interpretation) Exactly, your Honour.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank
8 you for having taken the extracts in a way, or not to read
9 too many long paragraphs, so please just read paragraph 1,
10 3 and the first two sentences of paragraph 4.

11 MR FOFÉ: (Interpretation) Thank you very much,
12 your Honour.

13 Paragraph 1 I quote here:

14 "Press release number 2, 1 February 2003.

15 (1) Radio France International this morning
16 broadcast information according to which Kinshasa has amassed
17 four FAC battalions in Beni and that Uganda has sent troops
18 to Mahagi to prepare a possible clash with the Rwandan army.
19 With regards to this last piece of information, RFI quoted
20 Vital Kamere, who is the general commissioner responsible
21 for the peace process in the Great Lakes region.

22 (3) By way of reminder, for four years Kinshasa
23 has not stopped from arming the RCD-ML and the negative forces
24 in order to carry out wide-scale massacres of the civil
25 population of Ituri. Since the month of August, 2002, the

1 UPC/RP has been involved in the pacification process, having
2 dislodged the RCD-ML, which is a genocidary movement.

3 (4) Today the four battalions and allies wish to
4 destroy Ituri and create destruction in the east in general.
5 From Beni, Kinshasa is therefore preparing a major offensive
6 on three fronts: The south in the direction of Goma against
7 the RCD; in the northwest towards Mombasa in Ituri against
8 the MLC; and the RCD/N in the northeast towards Bunia against
9 the UPC/RP."

10 I shall stop there. "This document was made in Bunia
11 on 1 February ..." and it says "200", but that should be 2003
12 because that is the date that we see at the top of the page,
13 "... Dieudonné Dheda Bamunoba, adviser in communication and
14 spokesperson of the president, which must be logically the
15 presidency."

16 Q. Witness, just a question I would put to you. Once
17 again this document takes up the comments made by Thomas Lubanga
18 in the video that we saw and which Mr X filmed; is that correct?

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

21 MS LUPING: This question is calling for an opinion
22 from a witness who is not competent to answer the question.
23 We let the first question go, but we're now seeing a second
24 question calling for an opinion from a witness which is not
25 appropriate. It's also a compound question, which makes it

1 difficult for the witness to respond to.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank
3 you, Prosecutor.

4 Professor, this parallel which you wish to achieve,
5 perhaps this could be reformulated. Please reformulate your
6 question, if you would.

7 MR FOFÉ: (Interpretation) I shall try, your
8 Honour.

9 Q. Witness, does the content of this press release
10 correspond with the video content that we saw, or the comments
11 that we heard, in the extracts that were presented?

12 PRESIDING JUDGE COTTE: (Interpretation) Madam
13 Luping.

14 MS LUPING: Mr President, our concern is that this
15 is still calling for an opinion from the witness. We have
16 the same objection.

17 PRESIDING JUDGE COTTE: (Interpretation) No, I
18 think the witness can answer that question.

19 THE WITNESS: I think that what is said here doesn't
20 conform with the Kampala declaration. In Kampala (Expunged)
21 (Expunged)
22 (Expunged)
23 (Expunged)

24 MR FOFÉ: (Interpretation)

25 Q. Okay, thank you. I am now going to try and remind

1 you of the information and you can tell me what you think
2 of that. In this press release which we've just read out,
3 they speak for example about the presence of four FAC battalions
4 in Beni. Does the presence of these four battalions -- or
5 was it not mentioned in the extract or in one of the extracts
6 that we have seen?

7 A. Here I see some questions and answers that were from
8 journalists. It would be better to invite the President of
9 the UPC and to have -- and to question him, or to invite
10 Mr Mathieu Bebetu Amboko and ask him. I would really like
11 to express my reservation when it comes to making comments
12 on this.

13 Q. Yes, we understand you very well. I have to tell
14 you that we don't want you to make comments. It's just
15 something to be noted.

16 Just a last question that I want to put to you.
17 Mr Dieudonné Deda Bamunoba, was he the communication adviser
18 and spokesperson for the UPC?

19 A. Mr Dieudonné Deda was the adviser of the general
20 secretary, rather than the secretary for communication,
21 Mr Amboko. He wasn't the spokesperson. That was Amboko
22 Bebetu.

23 MR FOFÉ: Thank you very much, Witness.

24 Your Honour, we have no more questions on the subject
25 of that document and we see what the time is. Perhaps - do

1 we have time to give an MFI number to this document with your
2 agreement, your Honour, if possible?

3 PRESIDING JUDGE COTTE: (Interpretation) Court officer,
4 could you give an MFI number to this. We should have time
5 to do that.

6 THE COURT OFFICER: Your Honours, the document number
7 DRC-D03-0001-0360 shall be given the MFI number MFI-D03-00035
8 and is a public document.

9 PRESIDING JUDGE COTTE: (Interpretation) Thank you, court
10 officer.

11 The Chamber would indicate to the public, who have just entered,
12 that we've been sitting for two hours and now we have to suspend.
13 We regret that you have come into the gallery, that you are
14 sitting in the gallery at this precise moment, but court officer
15 can you now take us into closed session so the witness may
16 leave the courtroom.

17 Witness, we're going to finish for 30 minutes, 30 minutes
18 in which you will be able to rest, and then we will be back
19 at 11.30.

20 (Closed session 10.59 a.m.)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Open session at 10.59 a.m.)

4 THE COURT OFFICER: We are in open session, your
5 Honours.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank
7 you, court officer.

8 Before we separate, Professor Fofé, Counsel Kilenda,
9 I would just like to draw your attention to a particular point.

10 You have selected -- made selections in the second
11 document that you've presented. The Chamber would just like
12 to hear -- I'm not saying it's a manoeuvre on your part. This
13 is just something that we've noted. We would just like to
14 state that when we read this document in extenso -- or this
15 document that MFI number is given to, you don't, in fact,
16 introduce into or tender into evidence the document that we
17 don't know what -- well, we don't know what the definitive
18 number will be. So, if you have to produce others among the
19 13-plus-2 documents, it would be more desirable if you could
20 just read certain extracts and that these documents would
21 be a springboard for the questions you wish to ask. But when
22 it comes to -- with regards to putting them -- tendering them
23 into evidence, we don't know what their definitive number
24 shall be.

25 I'm sorry for this slight delay. We will be back

1 at 11.32 or 33. Thirty-five says Judge Diarra. I'm very
2 attentive to what Judge Diarra says, so we shall now suspend.

3 (Recess taken at 11:02 a.m.)

4 (Upon resuming at 11.44 a.m.)

5 (Open session)

6 THE COURT USHER: All rise.

7 PRESIDING JUDGE COTTE: (Interpretation) The
8 hearing is reconvened. Please be seated. A few quick remarks
9 before the witness comes back in, and these remarks stem from
10 our concern to have an ongoing assessment of our work and,
11 really, this has nothing to do with time, Professor Fofé,
12 but after our two hours of hearing, the first two hours this
13 morning, we have the feeling that the probative value of the
14 replies that our Witness has been providing in response to
15 the questions that you've been asking on the basis of a number of
16 documents shown to him and videos shown, we have the impression
17 that the probative value is rather limited because his replies
18 are somewhat evasive. The witness does not always have the
19 sufficient personal knowledge of these matters.

20 This is an observation that we have made. I'm sure
21 you've seen this as well. And I think this must encourage
22 us to be somewhat more selective in terms of evidence shown
23 and also perhaps a tighter focus, a tighter focus in questions
24 so that the witness can reply, for example, about a person,
25 his duties, his role, his title (Expunged)

1 (Expunged)

2 So, please try to elicit from him useful items, useful
3 things for the defence of your client and also for us, since
4 we are all working towards a greater determination of the
5 truth.

6 Madam Court Officer, if we could have the
7 witness brought into the courtroom so that we can get on with
8 our proceedings.

9 (Closed session at 11.47 a.m.)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Open session at 11.48 a.m.)

17 THE COURT OFFICER: We are in open session, your
18 Honours.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank
20 you. Witness, can you hear me? We are back now at -- and
21 we will continue until 1.30.

22 THE WITNESS: Yes.

23 PRESIDING JUDGE COTTE: (Interpretation) Very
24 well. Professor Fofé, please proceed and continue with your
25 cross-examination.

1 MR FOFÉ: (Interpretation) Thank you very much,
2 your Honour. We shall continue with a presentation of item
3 DRC-D03-001-0365. This is a two-page document, 365 to 0366.
4 If the court officer would be so kind as to present the document.
5 We have a hard copy which we can show to the witness.

6 PRESIDING JUDGE COTTE: (Interpretation) Court
7 usher, if you could take the hard copy of this document and
8 provide it to the witness. Thank you.

9 MR FOFÉ: (Interpretation)

10 Q. Witness, as we've done previously, I will be asking
11 you a question: Have you had an opportunity to look at this
12 document, this communique?

13 A. No.

14 Q. I would like to ask you to turn the page and look
15 at DRC-D03-0001-0366 and you will see the name J.M. Barongo
16 Djole Rokokan. Do you know this person?

17 A. That is the name of a journalist from Radio Candip.
18 I don't remember him any more.

19 Q. Thank you very much, witness. With the agreement
20 of the Presiding Judge, I will read a few paragraphs and I
21 will begin with the first page, page 365. I will read out
22 paragraphs 2, 3, 4 and 5, and I quote -- first of all, I'll
23 begin with the headline, which reads: "A plot by Kinshasa
24 and Beni to attack Ituri."

25 Paragraph 2: "Indeed, according to Radio France

1 Internationale in a broadcast this Saturday, 1 February 2003,
2 quoting a MONUC representative, Vital Kamere, the general
3 commissioner responsible for the peace process in the Great
4 Lakes region, a number of Ugandan troops are moving towards
5 Mahagi. The presence of the Rwanda army in Ituri and the
6 movement of RCD troops supported by Rwanda who are preparing
7 to attack Kenya by Yunga."

8 Paragraph 2: "According to him, a clash is expected
9 between the two armies, the Ugandan army and the Rwandan army
10 in Ituri. According to RFI, Kamerhe justifies the presence
11 of four battalions of FAC soldiers, the Kinshasa army in Beni,
12 by the restructuring and the reintegration of RCDML army
13 soldiers in the FAC, the Congolese Armed Forces."

14 Paragraph 3: "The truth is that there are no Rwandan
15 army troops in Ituri. Of course, there are UPDF troops - that
16 is to say, troops of the Ugandan army - and it is expected
17 that they will be withdrawing from Ituri. There certainly
18 are soldiers from the FPLC, the UPC army RP in Bunia headquarters,
19 and in Ituri in general, made up of all different kinds of
20 Congolese citizens since Ituri is a place -- is at a crossroads
21 and is a place where different people meet."

22 Paragraph 5: "As for this conflict that was
23 mentioned, one might think that it is a plot, a plot by the
24 government of the Kinshasa with their ally, the RCD-ML, to
25 attack Ituri because the concentration of four FAC battalions

1 in Beni, North Kivu province, for a restructuring is absolute
2 nonsense. Why would one have four battalions in Beni, the
3 chief town of a particular territory, from an administrative
4 point of view, which doesn't even have a company? And why
5 now, at a time when reunification of the Congo is a process
6 that concerns the entire country?"

7 I'll now flip the page and read out one paragraph.
8 So, this is page 366 and I will be reading from the third
9 paragraph, and I quote: "Within this framework, one recalls
10 last week's meeting between the government of Kinshasa,
11 Ugandan army officers and the RCD-ML of Mbusa Nyamwisi in
12 Lubumbashi after the failure of Ugandan General Salim Saleh
13 in his manoeuvring, his calculated manoeuvring, to kidnap
14 the president of the UPC-RP from Bunia itself."

15 And I'll move on to the end of the article done in
16 Bunia 1 February 2003, "J.M. Barongo Djole Rokokan."

17 Once again, Witness, I would like to ask you the
18 following question. Does this article reflect the various
19 features or aspects that we saw in the video viewed just before
20 the break; namely, in particular the presence of four FAC
21 battalions in Beni? The plot that the UPC is speaking out
22 against by the government of -- the government of Kinshasa
23 and the RCD-KL and the tension between the UPC and the UPDF;
24 is that correct?

25 MS LUPING: Mr President, we don't have an objection

1 to questions being put per se, but just some comments or concerns
2 as to the way the questions are being put. The first is that,
3 to be fair to the Witness, this shouldn't be just turning
4 into a memory exercise as to whether he can remember what
5 he heard in a video extract and whether there's any link to
6 the document extracts that are being read to him. I mean,
7 these were played some time ago and now he's being asked to
8 recollect whether there's any correlation between what he
9 heard and what is being read out to him. What we would simply
10 suggest is that more direct questions be put based on what
11 is now being read out, number (1).

12 Number (2), again this is the way these -- these
13 questions are being put. These are compound questions. He's
14 being referred to a number of factors: Presence of FAC
15 battalions; the Kinshasa and UPC so-called conspiracy;
16 tension between the UPC and UPDF. It's a very confusing way
17 to put the question to the witness as to exactly how he's
18 supposed to respond, and what he's supposed to respond to,
19 so if Professor Fofé could simply reformulate his question
20 so as not to confuse the witness.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank
22 you, Madam Prosecutor. There are two points, and the first
23 point concerns the memory exercise that will be required of
24 the witness. It is clear that the fact that we have to break
25 every two hours creates a time lapse between the presentation

1 of the video, the reading of the document and the question
2 being asked the witness as to whether there is a link between
3 the video and the contents of the communiqué.

4 So, Mr Witness, if you have the feeling that the
5 video was showed too long ago, then you can ask for it to
6 be shown again. The Chamber believes that these are events
7 that are on your mind ever since you started your testimony
8 and so, Mr Fofé, it would also be preferable for the question
9 to be as simple as possible.

10 Regarding the establishment of this link, you would
11 like to know whether, after reading this excerpt to the witness,
12 he can see a connection between the document and what he saw
13 on the video. I believe, if that is the case, then the
14 witness would be in a position to answer the question if it
15 is put simply. In that case, you could rephrase.

16 MR FOFÉ: (Interpretation) Yes, your Honour.
17 I believe I can break down the question to facilitate the
18 witness's understanding.

19 Q. Mr Witness, in the communiqué that we have just read,
20 if you look at paragraph 5 of the first -- of the first page,
21 mention is made of a concentration of four FAC battalions
22 in Beni. That fact - that is, the presence of the four
23 battalions in Beni - was mentioned in one of the videos that
24 we saw; isn't that so?

25 A. This is what I can say as concerns those four FAC

1 battalions. Well, we know that FAC refers to the national
2 army. It could have been four battalions, or seven battalions.
3 It is the national army. Kinshasa is the capital of the
4 Democratic Republic of the Congo. Kinshasa cannot hatch a
5 plot against the country. What is written here is the point
6 of view of the person who wrote that communiqué. Kinshasa
7 has the right to integrate or to bring in all the soldiers
8 or all those who took up arms against the powers that be,
9 such as the UPC.

10 With regard to those four battalions, I think there
11 are indeed battalions of the national army and the -- a national
12 army can be based in Beni, or elsewhere in the country, and
13 that does not constitute any risk for the country. It is,
14 rather, the presence of rebels that represent a danger to
15 the country. So it is the rebels that would have given way
16 to the FAC.

17 Q. Thank you very much, Mr Witness. You gave us your
18 own analysis, which is quite relevant, and thank you for it.

19 The second element is the presence of Ugandan army
20 soldiers which the UPC had asked to withdraw from the country.
21 That element is also included in the video extracts that we
22 saw; isn't that so?

23 A. That is another issue altogether. I do not
24 understand anything. How were all those communiqués
25 broadcast on the 1st? All those three communiqués are dated

1 1 March. Why are other dates not mentioned, such as 2 or 3
2 February? I have a bad feeling about these documents.

3 I think it would be better to move on to something else.

4 Q. Yes, Mr Witness. I have to insist on the fact that
5 these questions are not intended to unsettle you. If you just
6 give your answers quickly, then we would make rapid progress.
7 I thank you for your answer and I will, therefore, not insist.

8 MR FOFÉ: (Interpretation) Your Honour, I have no
9 further questions based on this document. I believe an MFI
10 reference can be assigned to it.

11 PRESIDING JUDGE COTTE: (Interpretation) Court
12 officer, please.

13 THE COURT OFFICER: Your Honours, the document
14 DRC-D03-0001-0365 will receive the MFI number DRC -- I
15 apologise, MFI-D03-00036 and is a public document.

16 PRESIDING JUDGE COTTE: (Interpretation) Please
17 proceed, Mr Fofé.

18 MR FOFÉ: (Interpretation) Thank you, your Honour.

19 Court officer, we will now move on to video extract
20 DRC-OTP-0227-0061.

21 Q. Once again, Mr Witness, to enable you to understand
22 what we are talking about I will read out to you
23 paragraphs 172 -- and let me point out that paragraph 172
24 has already been admitted into evidence. There will also be
25 174 and 185 - 174 to 185 - of document DRC-OTP-0151-583, which

1 is your statement to the OTP in April 2006.

2 THE COURT OFFICER: I apologise. Could the counsel
3 please repeat the number of the video that he would like to
4 be displayed?

5 MR FOFÉ: (Interpretation) Yes, Madam Court
6 Officer. Let me point out, first of all, that paragraph 172
7 has already been admitted into evidence by decision 2233 of
8 30 June 2010, and the paragraph in question as well as paragraph
9 174 will be read in private session.

10 In addition to that paragraph, we would also like
11 to read out paragraphs 175 to 185 so as to refamiliarise the
12 witness with the statement and the contents of the video.

13 PRESIDING JUDGE COTTE: (Interpretation) If I
14 understand you correctly, we are going into private session
15 to read out paragraph 172 and then we'll go back to open session
16 for the reading of paragraphs 175 to 185.

17 Court officer, please let us go into private session
18 and have this paragraph read out before the video footage
19 is shown.

20 (Private session at 12.14 p.m.)

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6 (Open session at 12.24 p.m.)

7 THE COURT OFFICER: We are in open session, your
8 Honours.

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

11 MR FOFÉ: (Interpretation) Your Honour, in order
12 to make it possible for the members of the public to understand
13 what is going on, I will repeat the reading of paragraph 174
14 while not reading out the last sentence completely.

15 I quote: "This was a meeting in Bunia in a cinema
16 hall on 23 January 2003 to which the Bunia population had
17 been invited to give their opinion to Ugandan general Salim
18 Saleh regarding the necessity of having the Ugandan army in
19 Ituri." I will end there.

20 Paragraph 175, and I quote: "At the conference table
21 the following people were present: The representative of the
22 UPC, Thomas Lubanga, Bosco Rafiki, Lola Lapi and Djalum.
23 General Salim Saleh, Colonel Mayombo and Captain Maguru
24 represented the UPDF." Let me stop there for now.

25 Q. Mr Witness, is this, indeed, your statement?

1 A. Yes.

2 MR FOFÉ: (Interpretation) Your Honour, I believe
3 that for purposes of clarity we can go back into private session
4 briefly.

5 PRESIDING JUDGE COTTE: (Interpretation) Court
6 officer, please.

7 (Private session at 12.27 p.m.)

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25 (Expunged)

1 (Expunged)

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5 *A. He was Minister of Press and Information.

6 Q. Of which government? Of which party, which group?

7 A. He was part of the UPC-RP group.

8 (Expunged)

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10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Open session at 12.31 p.m.)

14 THE COURT OFFICER: We are in open session, your
15 Honours.

16 PRESIDING JUDGE COTTE: (Interpretation) Please
17 continue.

18 MR FOFÉ: (Interpretation) Thank you very much,
19 your Honour. Once again, in order to allow the public to be
20 able to follow the extracts, one of them which will be shown
21 with regards to the MONUC UPC meeting that was held, I'm going
22 to take up paragraph 178 without reading the last sentence.
23 And here I quote: "It was a meeting between the UPC executive
24 and MONUC on 24 February 2003. I remember that at that time
25 the atmosphere was tense in Bunia. Indeed, it was only a few

1 weeks before 6 March 2003, when the UPC was driven out of
2 the town."

3 Paragraph 179, and here I quote: "At this meeting,
4 the UPC asked MONUC to report to Kinshasa and to the
5 international community that they were not a militia, but
6 rather they were rebels. The UPC stated, furthermore, among
7 other things, that given that their army counted more than
8 15,000 men, neither the Kinshasa government nor the
9 international community could continue calling them a
10 militia.

11 Paragraph 180, and here I quote: "As already
12 explained, in my opinion Thomas Lubanga wanted to be recognised
13 by Kinshasa, as by the other RCD-KML rebels and the MLC, to
14 participate in the negotiations and to obtain posts in the
15 government.

16 Paragraph 181: "The meeting took place in Thomas
17 Lubanga's office. In the recording thereof, the persons
18 seated next to the windows are MONUC representatives. The
19 members of the UPC executive are seated next to the wall."

20 Witness, could you confirm that this is your
21 statement?

22 A. I want to state the following: Everything that you
23 see here is in my -- is my statement; everything.

24 Q. Thank you very much, witness. I would repeat, once
25 again, the procedure requires us to carry out this exercise.

1 Please do not be annoyed by it.

2 MR FOFÉ: (Interpretation) Your Honour, by way
3 of -- as a precautionary measure, we would ask for a short
4 private session for the reading of the last three paragraphs.

5 PRESIDING JUDGE COTTE: (Interpretation) Court
6 officer, please take us into private session.

7 (Private session at 12.37 p.m.)

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12 (Open session at 12.41 p.m.)

13 THE COURT OFFICER: We are in open session, your
14 Honours.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank
16 you. Professor, please continue.

17 MR FOFÉ: (Interpretation) Thank you, your Honour.

18 Q. Witness, before continuing, I would like you to look
19 at paragraph 183, the second line thereof. I read the name
20 John Tinanzabo. John Tinanzabo. Could you remind us who this
21 person was?

22 A. He was a co-founder of the UPC.

23 Q. Thank you very much.

24 MR FOFÉ: (Interpretation) Your Honour, with your
25 leave, we can now view video DR -- DVD DRC-OTP-0127-0061.

1 We're going to go through a group of extracts, taking
2 into account of the time and leaving it to the interpreters,
3 giving them the time to interpret.

4 If the court officer could start by showing us extract
5 number 8, DRC-D02-0001-0389. At the end of this extract, if
6 you would, we will stop to allow the interpretation to take
7 place and, after the interpretation, we shall go to the next
8 extract, extract number 9, DRC-D02-001-0390, and at the end
9 of this extract we shall also stop to allow the interpreters
10 time in order to interpret. Thank you very much, court
11 officer.

12 PRESIDING JUDGE COTTE: (Interpretation) Court
13 officer, we will leave it to you to put into practice the
14 request that was made by Professor Fofé, with extract number 8,
15 firstly.

16 MR FOFÉ: (Interpretation) It's clear, court
17 officer, that the extracts have sound and interpretation.

18 THE INTERPRETER: According to the fact that the
19 fighting can start at any time, this creates enormous suffering
20 for the population. This also depends on the fact that we
21 have two armies here on the same area - two armies who have
22 two different commands as well - and also given that there
23 have been agreements which have been signed in order for the
24 return for all foreign -- of all foreign troops of the
25 Democratic Republic of the Congo.

1 MR FOFÉ: (Interpretation) Please could you stop
2 there.

3 Court officer, our case manager is pointing out that
4 that isn't the extract, so if you could show extract number 8,
5 DRC-D02-001-0389 (sic). That is an extract which lasts for
6 approximately two minutes.

7 (Pause in proceedings)

8 PRESIDING JUDGE COTTE: (Interpretation) We just
9 have to wait for a few seconds for this extract to appear
10 on our screens.

11 (Pause in proceedings)

12 (Video extract played)

13 THE INTERPRETER: It is a group of all the mothers
14 of Ituri, who've made this association because they haven't
15 seen the importance of the fighting. The object of the
16 referendum is as follows: (Inaudible). We give the copy of
17 this memorandum ...

18 The interpreter points out that the speed of the
19 speech is very fast.

20 There is also another group of mothers who have come
21 together for the rights of women; to defend the rights of
22 women. We also provide the memorandum of this group.

23 Everything that we have asked, we have put in the
24 first memo. We're not going to go back on that. What we want
25 to state is the following: Ituri is a pacific peaceful zone

1 where people are living in peace, people live together. It
2 was like a paradise, but we are astonished to see that today
3 people have come to create disorder in this area. We ask them
4 to leave us in peace. We ask you to leave us in peace and
5 to bring peace back here. This is a lot of correspondence
6 which I'm not going to read here, but I need to provide you
7 with a copy thereof.

8 MR FOFÉ: (Interpretation) Perhaps before going to
9 the next extract, if I could already ask some questions to
10 the witness so that it remains fresh in memory?

11 PRESIDING JUDGE COTTE: (Interpretation) Please
12 go ahead, Professor Fofé.

13 MR FOFÉ: (Interpretation) We are in open session.
14 I'm going to ask a question and I hope to have the agreement
15 of the Prosecutor. I shall come back to continue the procedure
16 we've adopted, but I'm going to ask a question to the witness.

17 Q. So, Witness, could you speak to us about this scene;
18 this woman who we've just seen. What did she do? Before I
19 come back to that, just with regards to that scene there,
20 this lady who we've just seen, what did she do, quite briefly?

21 A. Here it is a meeting *that we spoke about before.

22 It was when General Salim Saleh arrived. The objective
23 of this meeting was to ask the general to send the UPDF troops
24 from Ituri.

25 Q. Thank you. And this lady, who was she?

1 A. She is a member of one of the Iturian mothers'
2 associations.

3 Q. What did she provide in terms of documentation to
4 General Salim Salim (sic), the Ugandan general?

5 THE INTERPRETER: Salim Saleh, corrects the
6 interpreter.

7 THE WITNESS: It was a memorandum drafted by Iturian
8 mothers.

9
10 MR FOFÉ: (interpretation) Thank you, Witness.
11 We shall go back with other questions after the next extract.

12 Court officer, could you show extract
13 DRC-D03-001-0390. This is an extract of approximately ten
14 minutes, extract 9, with the sound and with interpretation,
15 if you would be so kind.

16 (Video extract played)

17 THE INTERPRETER: No, I am a foreigner, or with
18 regards to the situation in the Congo I consider myself to
19 be a stranger to it. Currently I -- the United Nations are
20 looking for me.

21 MR FOFÉ: (Interpretation) We don't see the
22 images.

23 PRESIDING JUDGE COTTE: (Interpretation) We don't
24 have the video. We've just got the audio. Would it be possible
25 to get the video as well?

1 (Video extract played)

2 THE INTERPRETER: You know, I am an outsider. I am
3 an outsider in -- when it comes to the situation in the Congo.
4 The United Nations is currently looking for me. It is thought
5 that I am the number 1 looter of the natural resources of
6 the Congo. You see, I think that you are all in agreement
7 with this opinion and it's really not up to me to judge this
8 matter. God himself will make that judgment.

9 As well, the white person that you see there. So
10 if you are talking about the victimization, that's the first
11 thing that I didn't want in terms of the situation in the
12 RDC. I would like to say this to you -- correction, DRC.

13 I would like to say this to you: The people who
14 are talking about victimization, I am part of this group.
15 I am the first. If you think that the UPDF is bringing peace
16 here to the Congo, I would like to tell you this: Let me tell
17 you this: Your leader is not deceiving you. Your leaders
18 do not deceive you. Wait. I want to talk to you. You will
19 have an opportunity to speak. Let me speak, too.

20 I hope that your leaders do not deceive you. I hope
21 they don't tell you that the resources of the Congo are being
22 used to the benefit of the UPDF troops. Look for the truth
23 and you will find it.

24 This is the first time I have come here to the eastern
25 part of the Congo. This is really my first time here. I've

1 been to Kinshasa four times with a view for re-establishing
2 peace in your area. Whether you accept this or not, it's the
3 truth. This is my version of the facts, and this is what I am
4 telling you.

5 I have evidence. I have sufficient evidence. The
6 various people who are here, including your president,
7 including the friend who is here and the other person who
8 is the leader of an army, let me tell you that I am the person
9 in the best position looking for peace in this area. I believe
10 that I deserve some applause.

11 I believe I deserve even more applause. Thank you
12 very much.

13 This is a question that has to do with doubt, doubt
14 that your leaders have, as well as the military leaders here,
15 doubts found only in their minds and, for that reason, they
16 cannot make the population suffer. We did not come here to
17 say that the UPDF has no role to play here. If the UPDF has
18 enemies here, the UPDF will fight these enemies. If there
19 are no such enemies (inaudible).

20 My second message is as follows: I heard you say
21 that we are here of our own will. The MONUC commander is here
22 in this hall (inaudible). (Inaudible). (Inaudible).

23 The issue of the presence of the UPDF I asked of
24 the MONUC representatives to respond. Since December we have
25 been asking the MONUC for approval to leave and to go back

1 home. Ask the question of the MONUC officers who are here.
2 You know, I know that you are going to take this badly, but
3 I can see that this meeting was held to talk about the UPDF.
4 That is true.

5 And the UPDF for several years -- has been in
6 existence for several years. I don't know how many months
7 that the UPC has been in existence - six months or a year - so
8 you must realise that there are some who are older than you.
9 Is that agreed? We are not here for our own personal reasons
10 or needs. We are here for all of Africa, because of all of
11 Africa. You can say anything you like. What you may say will
12 not affect me in the slightest.

13 I wanted a MONUC representative to come here and
14 answer your questions.

15 Secondly, I would like to ask you this: Do not
16 engage in provocation. You know that there are politicians
17 who talk about different things in accordance with their
18 intelligence. There is a difference. The meeting that you
19 organised here, I wanted to ask all of you not to provoke
20 us.

21 The third thing that I would like to ask of you
22 is -- it has to do with the boundaries, the boundaries that
23 were set by the white men. The border was set by white men.
24 (Inaudible).

25 And now my third point, and the fourth point I will

1 let my colleagues respond to you. I would like a
2 representative from the MONUC to come up here and answer your
3 questions. Thank you very much.

4 MR FOFÉ: (Interpretation) Thank you very much,
5 court officer. Thank you, interpreters. Your Honour, may
6 we briefly go into private session?

7 PRESIDING JUDGE COTTE: (Interpretation)
8 Certainly. Court officer, if we could go into private session
9 for a moment.

10 (Private session at 1.09 p.m.)

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22 (Expunged)

23 (Expunged)

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25 (Expunged)

1 (Expunged)

2 (Open session at 1.11 p.m.)

3 THE COURT OFFICER: We are in open session, your
4 Honours.

5 PRESIDING JUDGE COTTE: (Interpretation) We shall
6 continue.

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

8 Q. Witness, the general whom we just saw, could you
9 give us his name, please?

10 A. That person is General Salim Saleh.

11 Q. And he is a general in which army?

12 A. He is from the UPDF.

13 Q. The UPDF is the Ugandan Army, is it not?

14 A. That's correct.

15 Q. Could you tell us, apparently there are many people
16 attending this event. What was -- what was this event all
17 about exactly?

18 A. All these people who you see are people who were
19 in the hall.

20 Q. So they were the people of Bunia. It was a rally,
21 was it not, or citizens' gathering?

22 A. Yes, it was a rally that was held in a hall. Usually
23 rallies are held outdoors. I think it was a rally, a gathering
24 of the general population.

25 Q. To the best of your knowledge, it was held in which

1 hall?

2 A. It was in the Cine Azanga (phon) hall.

3 Q. Do you remember the date of this rally? When was
4 it?

5 A. Well, here it shows 23 January 2003.

6 Q. Indeed. And this date, 23 January 2003, is also
7 mentioned in paragraph 174 of the written statement that we
8 read out. We read out paragraph 174 of your written
9 declaration. Thank you very much, Mr Witness.

10 MR FOFÉ: (Interpretation) Your Honour, I believe
11 that we can ask for an EVD number for these extracts - these
12 two extracts.

13 PRESIDING JUDGE COTTE: (Interpretation) Madam
14 Court Officer, with regard to these two video extracts?

15 THE COURT OFFICER: Your Honour, extract 8 of the
16 ERN number DRC-D03-0001-0389 played with sound and
17 interpretation will receive the EVD number EVD-D03-00037,
18 and extract number 9 of the DRC-D03-0001-0390, also played
19 with sound and interpretation, will receive the EVD number
20 EVD-D03-00038, and both videos are admitted publicly. Thank
21 you.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank
23 you, Madam Court Officer.

24 Professor, please continue.

25 MR FOFÉ: (Interpretation) Thank you very much,

1 your Honour. I can see that we still have ten minutes.

2 I think that we can view extracts 10 and 11.

3 Court officer, if we could see DRC-D03-0001-391,
4 that is extract number 10, and if you could stop at the end
5 of this extract, and then the next extract 08 -- 0392.

6 I believe the two together take about ten minutes. If you
7 could, with sound and interpretation, please.

8 (Video extract played)

9 "I wanted to say that the focus being made between
10 the UPC and the (inaudible) are (inaudible) contacts. MONUC
11 was associated (inaudible) has are very complex ones and we
12 cannot I think be very (inaudible) before this audience to
13 give a reply to the questions they are asking.

14 If you let him follow in your (inaudible), you would
15 have been ready and prepared to give our reply to the question
16 you put, but it seems we've just been invited as observers
17 and so we are not be expected to be asked to respond to such
18 questions. So, please, if such questions have to be put to
19 MONUC, put it in writing and then we will definitely have
20 a written response by the authorities concerned in Kinshasa
21 and New York. Thank you very much."

22 THE INTERPRETER: I was saying that the meeting
23 (inaudible) with the Ugandan authorities is a bilateral
24 meeting and we are pleased to be a part of this meeting. We
25 were asked as observers to come, so I would ask for you to

1 be understanding. And the delegation from Uganda, the
2 questions should be asked (inaudible) (inaudible). We were
3 contacted by no authority in (inaudible).

4 I was going to say that these issues are extremely
5 complex. Such issues are very complex and it would be best
6 to have written questions and we will be able (inaudible),
7 but I think it would be unfortunate here to answer these
8 questions (inaudible), so once again I call upon you to be
9 understanding.

10 MR FOFÉ: (Interpretation) Thank you very much,
11 Ma'am. I think we will leave it at that for today, given the
12 amount of time that we have remaining, and I would just like
13 to ask a few questions of the witness.

14 Q. Witness, this extract, is this the same rally of
15 23 January 2003? Is that not so?

16 A. Yes.

17 Q. Could you give us the name of the person who was
18 just speaking?

19 A. I don't know that person's name.

20 Q. And what was he doing? Which organisation did he
21 represent? Which organisation was he from?

22 A. He was the leader of the MONUC; the MONUC delegation
23 in Bunia.

24 MR FOFÉ: (Interpretation) Thank you very much,
25 Witness.

1 Your Honour, in light of the time, perhaps we could give
2 an EVD number to that particular extract, if you are so inclined?

3 PRESIDING JUDGE COTTE: (Interpretation) Madam
4 Prosecutor?

5 MS LUPING: Just a question of procedure. There is
6 a normal question we put in private session before an EVD
7 number is assigned and currently we are in open session. I am
8 assuming Professor Fofé does intend to put that question.

9 MR FOFÉ: (Interpretation) Yes, your Honour, I
10 wanted to save some time. I understand the response from the
11 Prosecutor. I thought that with the question -- it was the
12 same rally as a few moments ago and I thought that would be
13 sufficient. Well, perhaps we could quickly go into private
14 session to ask that question?

15 PRESIDING JUDGE COTTE: (Interpretation) We'll go
16 into private session for a moment, Madam Court Officer.

17 (Public session at 1.23 p.m.)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Open session at 1.24 p.m.)

12 THE COURT OFFICER: We are in open session, your
13 Honours.

14 PRESIDING JUDGE COTTE: (No interpretation).

15 THE COURT OFFICER: Your Honour, with regards to
16 extract 10 of DRC-D03-0001-0391, it will be given evidence
17 number EVD-D03-00039, thank you, and this is a public exhibit
18 as well.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank
20 you, court officer.

21 Now, with reference to your earlier communication,
22 Mr Fofé, Mr Kilenda, with a chart that provides this
23 information in summary form we see that -- well, we have this
24 information. We will resume tomorrow at 9, from 9 to 1.30.
25 The Chamber wishes to thank the interpreters and all those

1 who've been assisting us, who have allowed us to follow the
2 proceedings properly, and thank you for the interpretation
3 of the audio extracts. Witness, we thank you as well.

4 Court officer, if we could go into closed session
5 so that the witness can leave the courtroom.

6 (Closed session at 1.26 p.m.)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Open session at 1.27 p.m.)

18 THE COURT OFFICER: We are in open session, your
19 Honours.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank
21 you, court officer. This hearing now stands adjourned and
22 we will resume tomorrow.

23 (The hearing ends at 1.27 p.m.)

24 RECLASSIFICATION REPORT

25 Pursuant to Trial Chamber II's email instructions dated 10

- 1 July 2012, the following excerpts of the transcript are
- 2 reclassified as public, as ordered by the Chamber:
- 3 *Page 61 lines 5 to 7.
- 4 *Page 67 line 21.