

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 Congo -
6 ICC-01/04-01/07
7 In the case of The Prosecutor v. Germain Katanga and
8 Mathieu Ngudjolo Chui
9 Trial Hearing
10 Wednesday, 25 August 2010
11 (The hearing starts 9.07 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 now begins. Please be seated.
17 The accused persons are with us.
18 Before we bring in Witness 30 - have him come into
19 the courtroom - the Chamber wishes to make a number of
20 observations, and I believe that Madam Prosecutor also will
21 be speaking.
22 The Chamber wishes to speak to the conditions under
23 which yesterday's hearing was held. When the first video
24 extracts were shown, the interpreters - who work for us on
25 a daily basis - had a number of true difficulties interpreting

1 the remarks that were made by the people shown in these extracts.
2 There are several causes for these difficulties; among these
3 causes, the initial sound recording was inadequate, of course,
4 because it was done in difficult, complex conditions, and
5 the people who must be interpreted often are speaking very
6 quickly, too fast, and often with a great deal of background
7 noise.

8 Apparently, for the interpreters, well, they have
9 the unpleasant feeling that they are not up to the task. It
10 is important for them to know that that is absolutely not
11 the case. We know that -- we all know that with the binder
12 that was provided by the OTP they prepared for their hearings,
13 but when they come into the courtroom they do not know exactly
14 which passages will be shown and so they are not quite sure
15 which remarks are to be interpreted.

16 It is difficult for them to refer immediately to
17 the translation provided by the OTP and it is not their task
18 to read
19 the translation in a servile manner because their job is to
20 interpret. At the very most, if they can manage, they glance
21 at a transcript when a word escapes them or perhaps part of
22 a sentence.

23 Interpreters, we would like to ask you to keep on
24 doing your utmost, as you did yesterday, to interpret the
25 remarks made by the Prosecutor so that they can be shown on

1 the transcript as best possible. The Chamber is not ruling
2 out and indeed hopes that in the future some of the extracts
3 will be clear and easy to interpret, but we do realise that
4 some of these extracts will not be -- that it will be possible
5 to interpret them.

6 Madam Prosecutor, please endeavour to choose the
7 extracts that have audible remarks easy to hear, to understand,
8 and thus to interpret. When that is not the case we can replay
9 the extract once, but there is no question of going back several
10 times, as we did for the first extract that was shown yesterday.
11 Using very short segments of the extracts may be useful, but
12 cannot be the general rule because we see that this procedure
13 eats up massive amounts of time. If the interpretation is
14 impossible, or if it becomes obvious that it will be constantly
15 broken up by the interpreters saying "inaudible," please focus,
16 Madam Prosecutor, on the video aspect of the recording and
17 ask your questions on the video, the images, and set aside
18 your questions having to do with the audio. This is what we
19 did for several of the extracts that were shown yesterday.

20 Finally, if all in all, it is just too difficult
21 to use a particular extract, the Chamber will ask you to
22 immediately go on to the next extract. You cannot waste your
23 time before the Court and the Chamber which must ensure that
24 the trial is held in an expedient manner, cannot lose time
25 either, owing to technical difficulties which are not your

1 fault, Madam Prosecutor, not personally your fault, but should
2 have been dealt with before this hearing in this regard and,
3 speaking more generally, a solution might be to have subtitling,
4 subtitles prepared by the translation unit of the Registry,
5 a neutral organ of the Court, must be done or could be done,
6 should be done immediately, if we are dealing with a video
7 that has poor sound quality. This seems -- this would appear
8 to be the only practical solution.

9 Finally, and I am speaking to all, since we all have
10 the binder from the Prosecutor with their translations, do
11 you not think that it might be a good idea to provide a number,
12 not an EVD number - that was ruled out yesterday - but, rather,
13 an HNE number for the translations that go with each extract.

14 We have referred to these translations found in the
15 binders, binder, to prepare for our hearings. We are referring
16 to them during the hearing and we make reference to them after
17 the hearing. By allocating an HNE number to an extract, we
18 would not be providing a -- we would just be providing a
19 reference number, not necessarily admitting it as evidence.

20 Now, obviously, if one of the Defence teams objects,
21 the proposal will be withdrawn but we believe that this proposal
22 would make our work more simple and would make things easier
23 also for cross-examination and later proceedings. So with
24 regard to this proposal to attribute HNE numbers to the
25 translations for reference purposes, are the Defence teams

1 opposed to this possibility? We will give you some time to
2 consult one another.

3 (Counsel confer)

4 Mr O'Shea, please proceed.

5 MR O'SHEA: Mr President, we're fully
6 understanding of the problem here that your Honours are trying
7 to address, and I think that we have no problem in principle
8 with the idea of a number HNE being assigned to the binders
9 in the sense that - and if this is what your Honours have
10 in mind - in the sense that everyone's entitled to look at
11 those documents.

12 The only concern we have is whether there might be
13 any further implications that flow from the HNE number in
14 the sense that -- in the sense that if, for example, the
15 Prosecutor is citing a passage to the witness, we would still
16 want the passage cited to be the passage which is on record
17 through the translators as opposed to the passage which is
18 inside the binder because, as we said yesterday, we don't
19 have full faith in the contents of the translations in the
20 binder.

21 So if it's a question of assisting the judges and
22 assisting the lawyers to be able to refer freely to the documents
23 in the binder we have no objection, but what we are concerned
24 about is any additional implications that might flow from
25 that.

1 In terms of the court record, we'd like it to be
2 ensured that any words are strictly those that have come through
3 the interpretation booths. I hope that assists.

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

6 MR KILENDA: (Interpretation) Thank you, your
7 Honour. We have listened carefully and we've noted that the
8 HNE number is quite different from an EVD number or an MFI
9 number. Given the explanations that you have provided your
10 proposal seems to be pragmatic to us. I thank you.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank
12 you, Mr Kilenda. I would like to ask you -- I beg your pardon.

13 Professor Fofé?

14 PROFESSOR FOFÉ: (Interpretation) I beg your
15 pardon, your Honour, honourable Judges. We would like to add
16 the following point: Perhaps it would be suitable to accept
17 on a later basis, if ever it is seen that certain passages
18 of the transcriptions are not faithful, it would be possible
19 for the Defence teams and perhaps even for the other parties
20 to suggest corrections, if that is possible. I think it would
21 be advisable to allow for that possibility for the parties,
22 since some passages are not entirely audible, it is quite
23 likely that some transcripts will not be entirely clear. Thank
24 you.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank

1 you, Mr O'Shea.

2 MRO'SHEA: I'm sorry to contradict my learned friend
3 to my left, but that may be a solution for the Ngudjolo team
4 but for us that would create great practical difficulties.
5 While we're in trial our ability to consult with client is
6 very limited and it would be an extremely -- I mean, I've
7 gone through this exercise to a limited extent already and
8 it's an extremely difficult exercise to sit down with the
9 client and try and correct the translations, so the idea of
10 post-correcting is not a practical one, at least for this
11 team.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank
13 you. The Prosecutor?

14 MR DUTERTRE: (Interpretation) Good morning, your
15 Honours. I would like to begin with the end. The HNE number,
16 we have no particular difficulty with that and, more
17 immediately, to respond to the issue raised by Mr O'Shea,
18 we will see that yesterday when questions were asked about
19 the remarks made we did not refer to the binder, but, rather,
20 to the transcript of the hearing, and I think people will
21 remember the discussion between the English and the French,
22 and the part that had to do with the meeting with the FNI
23 in December 2002, so there are no concerns in that regard.

24 As for possible corrections, it appears to me that
25 the defence of Mr Ngudjolo has had the extracts for a

1 considerable amount of time and is in a position to make any
2 corrections that might be necessary.

3 The Prosecution * have taken great care in following
4 your directives.* Your Honour.. We have taken note of them,
5 and * as you stressed, we * already began implementing your
6 directives * yesterday, focusing only on certain specific
7 audio * passages or certain...purely visual aspects, aspects
8 relating to the video images. In the future, both for P30
9 and also for P2, it's the entirety of the extract, the entirety
10 of the remarks that is important in terms of the administration
11 of evidence in support of the charges.

12 It is crucial that for the rest of the extracts for
13 P30, and particularly for P2, that the transcript of the hearing
14 reflect what is said on the recording. I don't want to look
15 too far into the future, but for P2 there are a number of
16 protagonists. Confessions are made, mention is made of Bogoro
17 and this is absolutely essential.

18 In some cases subordinates are present and they speak
19 about their own background. They also mention the events,
20 including the events mentioned.

21 We have a proposal to make that could help speed
22 things up and allow better conditions so that the transcript
23 can reflect what is said on the video recordings. The
24 interpreters could read as the transcript -- could read from
25 the transcripts and read them as the videos are shown, with

1 the possibility on a case-by-case basis for the Defence to
2 make an objection to a particular passage being read by the
3 interpreters. Corrections could be made by the Registry's
4 translation unit afterwards.

5 With -- there are a few differences between a video
6 that is subtitled. Naturally who prepares the transcripts,
7 who does the subtitling, that is a relevant question of course,
8 the whole issue of neutrality arises, but in this particular
9 case the Defence has known since 8 July that -- the exact
10 passages that we wish to show. They have had the binders with
11 the page references for each extract, and we are of the opinion
12 that the Defence is able to do that work that we suggest;
13 that is to say, to let some transcripts go with the reading
14 by the interpreters and make objections to others. We believe
15 this would be sufficient --

16 THE INTERPRETER: Correction.

17 MR DUTERTRE: (Interpretation) There was
18 sufficient preparation time and we believe that this is a
19 practical solution that will allow us to speed things up.

20 Now, this doesn't necessarily mean that the Defence
21 would acknowledge the truth of some passages, but that is
22 another matter. The interpreters could read and then the
23 Defence could request interpretation - direct live
24 interpretation - of certain lines, or certain extracts.

25 He -- that is a proposal that we would like to make

1 knowing that P30 and P2 are the only witnesses for whom we
2 will be using these videos, and particularly for P2 it is
3 absolutely crucial to use those descriptive tables. As for
4 the rest, we are going to defer to you, your Honour.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank
6 you, Mr Prosecutor. Can you react to that, Mr O'Shea?

7 MR O'SHEA: Yes, thank you, Mr President.
8 Mr Dutertre as usual very helpful, but I'm afraid that we
9 respectfully oppose the solution which he proposes.
10 I understand his position, stating that the Defence could
11 have raised issues before, et cetera, but you see this is
12 judicial process. It is normal that the interpreters in this
13 room give the official translation.

14 The onus rested on the Prosecution, if they wished
15 to make use of documents of that nature for the purposes of
16 putting them into evidence, to use an impartial method of
17 translation. That option was open to the Prosecution long
18 before 3 July to request the Court that the Court translation
19 services provide a written translation or, as your Honours
20 have indicated, provide for the more sort of technically
21 advanced solution of the headings on the screen.

22 But, as I've indicated, we for our side would have
23 great difficulty trying to correct passages. We believe that
24 the record of these proceedings has to be serious. We can't
25 have the written transcripts in which we cannot have full

1 faith being part of the Court record and then artificially
2 suggesting that it can be corrected for the purposes of
3 evidence.

4 As difficult as it may seem, in a sense the solution
5 to this problem is one that should have been solved before,
6 or can perhaps be solved for the next witness, but in our
7 submission we can't disrupt the serenity of these proceedings
8 by introducing a halfway house where these transcripts become
9 officially part of the record, even with an artificial gloss
10 on that.

11 PRESIDING JUDGE COTTE: (Interpretation)
12 Professor Fofé?

13 MR FOFÉ: (Interpretation) Thank you very much,
14 your Honour. We fully understand the difficulty that we are
15 all facing, particularly so because we ourselves we will have
16 extracts to present in the courtroom. We believe that the
17 solution proposed by the Chamber may be taken into
18 consideration, in that initially the interpreters will
19 continue to make an effort to interpret what they hear from
20 the speakers in the videos and at the same time resorting
21 to the Prosecutor's transcripts.

22 I should say that the Prosecutor's transcripts are
23 there to assist them in case of difficulty, and as I said
24 a short while ago we can accept that HNE numbers be assigned
25 to those Prosecution documents, but as I have already said

1 considering the fact that some of the video extracts are very,
2 very difficult to hear, we have made efforts to listen to
3 them, but certain passages are very, very difficult to hear.
4 This means that it is possible that errors might have been
5 made in the transcription.

6 Experience shows that even the ordinary
7 transcriptions in our hearings are subject to translations,
8 or rather to corrections later, so I do not see why these
9 particular transcripts cannot be subject to corrections if
10 indeed we realise that some of the passages are not faithful
11 to what is said in the video extracts.

12 And lastly, your Honour, an EVD number will be
13 attributed to the video extracts and so it will be the video
14 extracts that will be admitted into evidence, and if at any
15 one time we realise that there is a contradiction between
16 the content of the video which is the -- which is what is
17 in evidence and the transcription of the Prosecutor, then
18 it will be the video extract itself that will be considered
19 as authentic. So I'm talking about the video extract which
20 is the evidence itself and the transcription of the Prosecution,
21 if there are problems between that then it will be the video.

22 PRESIDING JUDGE COTTE: (Interpretation)
23 Mr Gilissen?

24 MR GILISSEN: (Interpretation) Thank you for
25 allowing us to speak. We are awaiting extract 15, which deals

1 with child soldiers. We have been listening to the speakers
2 here and it reflects all the difficulties that we experienced
3 yesterday, but I think we are making progress.

4 What are the problems? We have evidence that is
5 being presented by the Prosecutor which is supplemented by
6 a proposed translation. This proposed translation can
7 obviously raise a certain number of problems, but we all
8 received the documents in a timely manner. We all
9 realised - even the English speakers must have realised - that
10 the assistance provided by the OTP understand, or rather
11 assists us to better understand what is being said and so
12 it made it possible for us to better see or hear what was
13 being said in the videos.

14 Based on what I've heard from all the parties,
15 I believe the best thing may be to allow the Prosecutor to
16 project the extracts that she wishes to project. We have all
17 had the possibility to read. We have heard from the
18 interpreters. If there are objections and reservations they
19 will be expressed and, based on our experience of yesterday,
20 I think in that way we are going to make better progress - much
21 better progress - given the concern for clarity on the basis
22 of what we have agreed on.

23 I have listened to the reservations of the Defence
24 and I fully understand you, but the fact is we have really
25 not -- they have really not put their finger on what they

1 are really specifically objecting to.

2 Yesterday there were certain sources that were
3 presented as inaudible by the interpreters, but we have to
4 admit that in this team we had the feeling that, with the
5 assistance of the documents, things were becoming much clearer
6 and more understandable.

7 That is what I had to say, your Honour. I think
8 that, after reading the transcripts of yesterday, the problem
9 might be less difficult than it seems.

10 And one last thing, your Honour. I fully understand
11 the idea of subtitling, but they are going to raise exactly
12 the same problem as what the Prosecutor is proposing to us
13 right now. We can even think about the difficulty or the risk
14 of having the Registry translate these documents, whereas
15 this is Prosecution evidence and the internal logic of the
16 administration of the evidence of the OTP, that is in addition
17 to providing us with the videos and the extracts is also to
18 provide us with their translations that is at their own risks,
19 because there might be a problem. That is what happens in
20 adversarial proceedings. Proposals are made by one party and
21 reactions are given by the others.

22 Thank you, your Honour.

23 PRESIDING JUDGE COTTE: (Interpretation)

24 Mr Prosecutor?

25 MR DUTERTRE: (Interpretation) I'll be very brief,

1 your Honour. Three points. I'm sorry to insist on this, but
2 it is a technical aspect. Based on the quality of the
3 headphones the sound can be improved, and headphones are just
4 like cars. You have the simple cars and you have the luxurious
5 ones. It might therefore be useful for all the interpreters
6 to be given higher quality headphones.

7 Secondly, for the Prosecution, when we provided the
8 binders with the extracts and the corresponding pages these
9 were extracts that we would have liked to be read, or rather
10 to be entered into the transcripts, and I would like to talk
11 about Witness P2 because the binder for P2 reflects everything
12 that the Prosecution would like to see in the transcripts
13 so the interpreters will, or should, expect those extracts
14 to be projected in their entirety and they will provide the
15 interpretation.

16 Thirdly, with regard to the corrections, I think
17 it is the Registry that should be responsible for that if
18 there are contradictions that are spotted by one or the other
19 of the parties. That is the usual procedure, without any one
20 of the teams having to use some of their resources for that
21 task.

22 Those were the three points that I wanted to make,
23 your Honour.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank
25 you, Mr Prosecutor. Just one moment so that we can consult

1 amongst ourselves.

2 (Trial Chamber confers)

3 PRESIDING JUDGE COTTE: (Interpretation) We will
4 resume our hearing.

5 We all spend some time to try to improve the conditions
6 of our work, and this is not time badly spent because this
7 will be useful in the upcoming direct examinations and the
8 cross-examinations.

9 All three of us would like to point out that we fully
10 appreciate the efforts being made by the interpreters. We
11 are fully aware of the difficulty of their work at this
12 particular time and probably, when Witness P2 will be
13 testifying, the Chamber would like to remind them that they
14 are not expected to do the impossible. We will not impose
15 sweat, blood and tears on them. Like Churchill said, we thank
16 them for their work.

17 There is another point on subtitling. It goes
18 without saying that within a judicial process any translation
19 from one party, no matter what due respect is given to that
20 party, would be a translation that might be considered as
21 not totally impartial, and that is why we were talking about
22 subtitling. This should necessarily be done by the party
23 presenting the evidence but submitted to the neutral organ
24 of the Court, that is the Registry, which will cross-check
25 whether such a translation is faithful or not, and that would

1 be binding to the other parties. So, that is for the future.

2 Regarding the quality of the headsets, that is not
3 an unimportant point, Mr Prosecutor. So, court officer, if
4 you can submit that request to the competent services of the
5 Registry, at least for the upcoming Witness P2, to ensure
6 that the material or the equipment made available to the
7 interpreters should be very adequate; that is, even, if
8 necessary, better than those that we are using, because we
9 are relying on them. That is indispensable. It is crucial.
10 So, you will have to be our faithful messengers because there
11 are two of you and you will have to make that request to the
12 competent services of the Registry.

13 Regarding the work of our interpreters, we are aware
14 that it is difficult to interpret what is being heard in real
15 time while referring at the same time to a written document,
16 even if it is only one page because, once again, in this
17 particular case with Witness P30, we have realised that what
18 is being said does not always begin with the first sentence
19 of the page, and sometimes you have to search in the middle
20 of the page, at the end of the page, or even in the beginning
21 of the second page. So it is only to the extent possible that
22 they will need to refer to those working documents and maybe
23 close a gap or fill the gap between two words that they might
24 have heard. That is not simple. It is maybe even impossible,
25 but we will not expect the impossible of them.

1 Now, regarding the HNE reference numbers - and
2 there's no relation to the swine fever that is also indicated
3 by those letters: Swine flu. Professor Fofé said something
4 that it is important. It is obvious that we will come back
5 to all documents that have HNE numbers. What is really
6 important is what is in the transcripts. So, any document
7 with an HNE reference will be a working document. It will
8 simply be a reference document. That is what we are doing
9 using those documents today, to enable us to better understand
10 what is being said.

11 Now, regarding possible corrections, we are going
12 to continue following the procedure that has been in force
13 so far; that is, it is the responsibility of the Registry
14 to make those corrections, and we are hopeful that we will
15 not have many corrections to make. We hope everything will
16 be better in the future. We do not know how long the examination
17 and cross-examination of Witness P30 will take, but with regard
18 to Witness P2 and, Madam Prosecutor, you have said that witness
19 is very important. Is it possible between now and the time
20 that the witness comes to the Court to do the subtitling?

21 If there are technical issues that the Court can
22 take into consideration, would it be possible to postpone
23 this witness's appearance so that a system can be adopted
24 that we will make it -- that will make it possible for us
25 to better understand the proceedings? This is something that

1 we would like to improve and we do not want to have the same
2 difficulties that we have been having this -- with this witness.
3 We have been doing many different things at the same time
4 and suffering a lot of delays. But with regard to P2, if he
5 is so important that you want everything said to be fully
6 interpreted you have to make sure that everything is audible
7 to begin with, and that the speeches should not be too fast
8 and that there should not be any background noises, that the
9 equipment being used by our interpreters is the best.

10 MR DUTERTRE: (Interpretation) Thank you your
11 Honour. Two things, if I may: As for the tables that the
12 interpreters have, we have given the references to the lines
13 that are of interest to us. So ahead of things, they should
14 be able to work out where we start and where we finish. That
15 applies to P30 and P2 as well.

16 PRESIDING JUDGE COTTE: (Interpretation) Well,
17 fine, but please make this clear verbally before you start
18 showing the videos so that they can find it. They will
19 interpret what they hear, but if they miss something and they
20 can then find it in the text, then it's in the interest of
21 everybody for them to be able to do so. I apologise. I'm
22 speaking too fast, apparently.

23 MR DUTERTRE: (Interpretation) We'll repeat the
24 line numbers. We've already got the dividers, so that should
25 be easy to work out anyhow, so we'd have to give the ERN numbers.

1 On the second point, we'll take a look at this during
2 the break. Obviously, there are questions of availability,
3 practicability, feasibility, but we'll try to come back as
4 quickly as possible and give you an answer on that one.

5 If I may, your Honours, I would like to raise two
6 particular points quickly so as to save time, and I'd like
7 to do this before the following witness comes.

8 The first of these points is as follows: We have
9 40 extracts for P2. We've provided them with a CD. And mainly
10 for technical reasons we had to go over four extracts again,
11 adding a couple of seconds at the beginning or the end. We
12 would ask the permission of the Chamber to put those corrections
13 in place of the extracts that we had, but with the same numbers.

14 I've discussed this with the Defence. They have
15 no problem with that. It's a question of substitution. And
16 if we can do that, it means that we can communicate, we can
17 provide the extracts with the numbers. We can also provide
18 the binders, keeping the tab numbers corresponding to extracts
19 3, 4, 7 and 9; in other words, the four at issue. So we're
20 talking quickly simply about substituting the one for the
21 other.

22 PRESIDING JUDGE COTTE: (Interpretation) I turn to
23 the Defence. You can confirm there's no objection? Fine.
24 Please, go ahead.

25 MR DUTERTRE: (Interpretation) Thank you. My

1 second point - and you're referring to yourself, your
2 Honour - the cross-examination by the Defence of Witness P30.
3 We have received the list of documents sent by Mathieu
4 Ngudjolo's Defence team. We might have objections on certain
5 documents. If we do, we'll provide those as quickly as
6 possible. What we have noted immediately is the duration,
7 the length of the extracts that the Ngudjolo Defence wishes
8 to show. If we calculate fairly, quickly we've got roundabout
9 two-and-three-quarter hours, and I stand corrected if
10 necessary.

11 That's worrying to our mind because for the same
12 witness with two hours video in the Lubanga case, the
13 Prosecution took 14 hours, roughly 14 hours during the
14 examination-in-chief to show these extracts. For P30, we've
15 selected the extracts; the 17 priority extracts make up some
16 40 minutes, and it could well be that we don't go over the
17 next 12.

18 Our concern is that with 2 hours 45 minutes to be
19 shown by the Defence team of Ngudjolo, there could be problems
20 as to the date of the end of the Prosecution case; in other
21 words, the end of October. With P30 himself, who isn't
22 available for a very long time, then also as regards the other
23 witnesses to come. So we would ask that the Ngudjolo Defence
24 team be somewhat more selective as to the extracts to be shown
25 in the same way as we have done, and we're aware of the fact

1 that it's very difficult to go ahead with such a selection.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank
3 you, Prosecutor. We're not going to embark upon a discussion
4 with the Defence of Mathieu Ngudjolo, who yesterday submitted
5 the plan; and similar to any plan, is subject to changes
6 depending on the way in which the proceedings go, the answers
7 given by the witness. So this is an announcement which might
8 change along the way. You've heard what the prosecutor has
9 said; I think that's the main thing. Right. Well, I think
10 all of us are now going to go ahead and work as best as possible.

11 Prosecutor, one last preliminary comment. You've
12 got quite a lot of them to make today.

13 MR DUTERTRE: (Interpretation) Yes, one last one.
14 On P30, before he comes into the courtroom, we're going to
15 be showing the next extracts to him all together in one block
16 so that he can see the context, and this is for contextual
17 reasons and I want everyone to know that before he comes in.
18 And we're talking about extracts 16, 17, 18 and 21; they're
19 all going to be shown as a block.

20 PRESIDING JUDGE COTTE: (Interpretation) Thank
21 you. And once again, we would like to urge that you go ahead
22 with a maximum selection from the point of view of the extracts
23 where you want there to be interpretation. Obviously, we would
24 appreciate it if certain things can be limited, the visual
25 element.

1 Court officer, I'd like us to go into private session
2 so the witness can be brought in. And usher, could you please
3 escort the witness into the courtroom. I mean, closed session,
4 court officer.

5 (Closed session at 10.07 a.m.)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Open session at 10.10 a.m.)

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

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

16 (The witness answers through interpreter)

17 PRESIDING JUDGE COTTE: (Interpretation) Thank
18 you, Court Officer. Good day to you, Witness.

19 THE WITNESS: Good day.

20 PRESIDING JUDGE COTTE: (Interpretation) So you
21 can hear me?

22 THE WITNESS: Yes, I can hear you.

23 PRESIDING JUDGE COTTE: (Interpretation) Good.
24 Let me remind you that you have to allow for a little gap
25 of time between the end of the question and the start of your

1 answer so as to make it easier to interpret your words. And
2 I ask you once again to speak loudly and clearly into your
3 microphone and slowly.

4 The prosecutor is going to resume the
5 examination-in-chief. You have the floor, Madam Prosecutor.

6 MS LUPING: Thank you, Mr President. For
7 everybody's information, the first extract that I'll be
8 focusing on is extract 16; it's divider 16 in your binders.
9 The relevant video reference is DRC-OTP-1042-0006. And to
10 clarify, this is simply a better version, a better version
11 of the previous video that was played DRC-OTP-0155-0004. The
12 relevant timestamps for this specific extract from the
13 original video are 00.04.18 to 00.07.26.

14 I refer the interpreters in particular to the
15 relevant excerpts of the translation and transcript as
16 provided in the binders to them previously. For the record,
17 the translation is DRC-OTP-1047-0005, pages 0016 to 0018,
18 lines 108 to 205. The transcript reference is
19 DRC-OTP-1046-0240, pages 0249 to 0252, lines 104 to 195.

20 THE INTERPRETER: Message from the English booth.
21 If Madam Prosecutor could slow down slightly. The
22 transcribers are having difficulty keeping up. Thank you very
23 much.

24 MS LUPING: I will slow down. I received that
25 message.

1 The first extract is 3 minutes and 9 seconds.

2 QUESTIONED BY MS LUPING:

3 Q. Mr Witness, what I proposed to do is to play you
4 in fact four extracts. I will only be questioning you in the
5 first instance with the first extract, but I'm playing you
6 all four. They come from the same video footage. We believe
7 they relate to similar events in any event, and we would ask
8 you to watch all of the extracts in turn. This is simply to
9 enable you to have a better understanding of the whole of
10 the footage and to appreciate better the first extract I'll
11 be questioning you on.

12 When I play these four extracts to you in turn, which
13 I ask that you view as a whole, whole footage together, I'd
14 ask that you make no comments because I will be coming back
15 to you with specific questions.

16 All this footage can be shown in public.

17 PRESIDING JUDGE COTTE: (Interpretation) I'm
18 sorry. Let me intervene and interrupt the Prosecutor briefly
19 before we show this passage. I've received a message from
20 the interpreters, and I think it's preferable for me to give
21 it to you now so as to avoid there being any interruption
22 halfway through the projection. I've been told that when the
23 video is being shown and when the original language is the
24 French, the French booth will not be repeating what is being
25 said in French because it is not authorised to do so. There's

1 a word that I can't translate because I'm not too sure about
2 this; it's the term "shadowing." Shadowing.
3 S-H-A-D-O-W-I-N-G. And I'm sorry if I'm not pronouncing it
4 correctly, "shadowing," which means that when the passage
5 is being played in French the court reporters will put down
6 what they hear and the English booth will be translating what
7 it hears, but the French booth will not be shadowing, will
8 not be repeating what it is hearing in French because it is
9 not there to do other than interpret. So that is a message
10 that I wanted to pass on to you. And this is to do with the
11 way in which interpreters work, but it's something that I was
12 not familiar with, but I think it's important to share this
13 with you before you proceed.

14 Prosecutor, I am sorry I interrupted you but please
15 proceed now to play the extracts that you wish to show, one
16 after the other.

17 THE COURT OFFICER: I would kindly ask the
18 participants to press the PC1 button right now.

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

21 MS LUPING: Mr President, it's just a question for
22 clarity's sake. Obviously what is being said in French is
23 also extremely important and it's important that all the
24 parties are able to have it reflected in their respective
25 transcripts as they're following the video footage and also

1 to hear it as it's being spoken.

2 Obviously, if a French speaker is listening to the
3 footage, they may not need French interpretation as such,
4 but we will need to have it at a minimum appearing in the
5 French versions of the transcripts so that we have a repetition
6 of what is said in the video specifically recorded within
7 the transcripts themselves. And it would also be helpful to
8 avoid discrepancies between the French and the English if
9 this is simultaneously being provided.

10 PRESIDING JUDGE COTTE: (Interpretation)

11 Prosecutor, yesterday, to my mind, we had this shadowing of
12 the French version by the interpreters. I have been informed
13 today that that is not being done. The Chamber tries to know
14 everything, but it is not aware with the code of ethics of
15 interpreters, and it would seem that this was a difficulty
16 that was not raised yesterday; it's cropped up today. I've
17 passed the message on to you and I'll give it to you once
18 again.

19 It should be pointed out that when the video is being
20 played if the original language is French, the French booth
21 will not be able to repeat what is being said in French because
22 it is not authorised to do so. It is not authorised to shadow.
23 So that means that when it's being played in French, the court
24 reporters will get what they can get and the English booth
25 will interpret what it hears. The French booth will remain

1 silent. That is the situation.

2 MS LUPING: Thank you for the clarification,
3 Mr President. As we understood now, at least the
4 stenographers will be making a record for the transcripts,
5 from what we understood. I'll actually be playing this footage
6 in the first instance though without sound, so this issue
7 doesn't actually arise yet.

8 PRESIDING JUDGE COTTE: (Interpretation) So you
9 have understood, and that goes to show how, whichever party
10 we're talking about, if it intends to show audio/visual
11 evidence, then it has to be of excellent quality. So let's
12 go.

13 (Video extract played)

14 MS LUPING: I'll now be playing on with extract 17.

15 (Video extract played)

16 The next extract is extract 18.

17 (Video extract played)

18 And the final extract I'll be showing is extract
19 21.

20 (Video extract played)

21 And the final extract I'll be showing is extract
22 21.

23 (Video extract played)

24 Q. Mr Witness, I've played you all four extracts to
25 provide you simply with context to familiarise yourself with

1 the specific extract I want to start with, which is extract
2 16. I'm only going to play the first 30 seconds again of the
3 extract 16 and then I'll be posing you specific questions
4 in relation to this extract.

5 (Video extract played)

6 MS LUPING: In fact, I stopped at 40 seconds.

7 Mr President, could we briefly move into private
8 session? I just have a few questions of an identifying nature.

9 PRESIDING JUDGE COTTE: (Interpretation) Madam
10 Court Officer, we will go into private session, please.

11 (Private session at 10.34 a.m.)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

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 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Open session at 10.38 a.m.)

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

25 Honours.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank
2 you, Madam Court Officer. Madam Prosecutor, please resume.

3 MS LUPING:

4 Q. I'm now going to replay the extract, again without
5 sound, and I ask that you make no comments until I ask you
6 specific questions in relation to this footage.

7 (Video extract played)

8 Mr Witness, could you describe what is seen in this
9 extract, in this footage?

10 A. I'm seeing the groups of Lendu people coming back
11 from an attack, because you know at one time they were in
12 the habit of going to attack in Mudzipela, in the trading
13 neighbourhoods of the Hema around the market. I believe that
14 these -- this footage is footage of their return.

15 Q. I'm now going to replay a specific portion of this
16 extract. I'd ask that you simply watch it first before making
17 any comments. For the record, I'm playing from 55 seconds
18 to 1 minute and 24 seconds.

19 (Video extract played)

20 The person that we saw in the foreground of this small
21 excerpt, or the extract, wearing a beret, I'm just going to
22 go back by two seconds so that we can see his face. I'll be
23 asking you if you recognise this person.

24 (Video extract played)

25 I've stopped at 1 minute and 21 seconds.

1 Mr Witness, do you recognise this person?

2 A. I believe that it is a face I've already seen, but
3 to tell you the truth I don't recognise the person. I've seen
4 the face.

5 MS LUPING: If we could just have a moment briefly
6 to confer, Mr President?

7 (Counsel confer)

8 MS LUPING:

9 Q. Mr Witness, you stated previously that this
10 particular extract - this footage - depicts Lendu combatants
11 returning from an attack on Mudzipela in Bunia. My question
12 is do you recall the month and the year that this took place?

13 A. No, it's not possible to give you an exact answer.
14 However, I do know that those events occurred during a certain
15 period of time. No, I couldn't tell you exactly when. I
16 couldn't give you an exact date, or year.

17 Q. You stated yesterday that you recall the Ugandans
18 leaving on 6 May 2003. This incident with the attack on
19 Mudzipela in Bunia, was it before that date of 6 May or after?

20 A. The attack on Mudzipela occurred after the departure
21 of the Ugandans.

22 MS LUPING: Mr President, if we could seek an EVD
23 number, please, for this video extract?

24 PRESIDING JUDGE COTTE: (Interpretation) I beg
25 your pardon. Of course. Madam Court Officer, if you could.

1 THE COURT OFFICER: Thank you, your Honour.

2 Extract 16 of the document ID DRC-OTP-1042-0006 shall receive
3 an evidence number EVD-OTP-00135 and will be admitted as
4 public.

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

7 Madam Prosecutor, you may proceed. I should mention
8 that we have 7 or 8 minutes remaining before we suspend.

9 MS LUPING: The next extract is extract 17. It's
10 divider 17 in your binders. It's footage from the same video,
11 DRC-OTP-1042-0006. The original time stamp reference is
12 00.08.42 to 00.14.11. The translation reference is
13 DRC-OTP-1047-0005 at pages 0019 to 0022, lines 229 to 343.
14 The transcript reference is DRC-OTP-1046-0240 at pages 253
15 to 255, lines 219 to 331.

16 I'll now be playing the whole of this extract without
17 sound and I think that will take us to the break, actually.

18 (Video extract played)

19 MS LUPING: Mr President, I'm conscious of the time.
20 I would suggest that if we do break now and I can return to
21 ask questions of the witness on our return.

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

24 Witness, we are going to suspend now for half-an-hour
25 and we will see you again at 11.30, and at that time the

1 Prosecutor will be asking you some questions about the footage
2 that was just shown to you for a second time.

3 Madam Court Officer, we will now go into private
4 session so the witness can leave the courtroom in a low-key
5 fashion.

6 (Closed session at 10.59 a.m.)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Open session at 11.00 a.m.)

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

19 PRESIDING JUDGE COTTE: (Interpretation) Thank
20 you, Madam Court Officer. We shall now suspend our hearing
21 and we will resume at 11.30.

22 (Recess taken at 11.00 a.m.)

23 (Upon resuming at 11.35 a.m.)

24 (Closed session)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Open session at 11.38 a.m.)

9 THE COURT OFFICER: We are in open session, your
10 Honours.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank
12 you. Mr Witness, can you hear me well?

13 THE WITNESS: (Interpretation) Yes, I can hear you
14 very well.

15 PRESIDING JUDGE COTTE: (Interpretation) Perfect.
16 Madam Prosecutor, please proceed.

17 MS LUPING: Thank you, Mr President.

18 Q. Mr Witness, I'm just going to play 2 minutes only.
19 It's extract 17, which you saw before the break. I'll play
20 just 2 minutes of it, and then I'll be asking you specific
21 questions. Again, if you could refrain from making any
22 comments while you watch this.

23 PRESIDING JUDGE COTTE: (Interpretation) I think
24 we have the same problem as yesterday. Apparently the video
25 goes bad every time we have a break, so we are going to need

1 some time for the technical problem to be resolved. The
2 technical services are taking care of that and we are all
3 very patient, so there is no problem.

4 (Pause in proceedings)

5 PRESIDING JUDGE COTTE: (Interpretation) Thank
6 you very much to the technician. Madam Prosecutor, you can
7 now proceed with your direct examination.

8 MS LUPING: Thank you, Mr President. As I said,
9 I'll be playing the first 2 minutes of this footage before
10 asking questions.

11 (Video extract played)

12 MS LUPING: Mr President, if we could briefly move
13 into private session for questions of an identifying nature?

14 PRESIDING JUDGE COTTE: (Interpretation) Court
15 officer, let us briefly go into private session, just like
16 you have been doing, we have been doing, at the beginning
17 of every extract.

18 (Private session at 11.47 a.m.)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 *A. Yes, I can recognise that location. It is in the

1 centre of town, near the Lukisavana (phon) Hotel.

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 *A. Yes, it is the Bunia town centre, specifically the
20 Bunia Boulevard.

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 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Open session at 11.54 a.m.)

23 THE COURT OFFICER: We are now in open session, your
24 Honour .

25 PRESIDING JUDGE COTTE: (Interpretation) Thank

1 you. Please proceed.

2 MS LUPING:

3 Q. Mr Witness, I'm going to play the extract for you
4 without sound and I'll be asking you specific questions in
5 relation to it.

6 (Video extract played)

7 Mr Witness, can you describe what you see in the
8 scene in the video extract that I played in whole just before?
9 This is extract 17.

10 A. Well, I can see here soldiers who are leaving.
11 They're all going in the same direction. That's what I can
12 see. They were wearing uniforms. They had machetes.

13 Q. You said previously in the same extract that you
14 saw Lendu combatants. In this video footage the combatants,
15 or the individuals that you see, and you mention that they
16 are wearing uniforms and carrying machetes, these individuals
17 to what ethnic group do they belong?

18 A. Most of them are Lendu, but in the images we've seen
19 there are other people who are not Lendu. I know them very
20 well and they were members of that movement.

21 Q. And which movement is that?

22 A. When I'm talking about "the movement", I mean the
23 Lendu movement. We tended to call them the Lendu combatants,
24 in general terms.

25 Q. I'm now going to play a specific portion of this

1 extract from 1 minute 38 seconds to 2 minutes 26 seconds.

2 I would ask that you simply watch the footage in the first
3 instance and not make any comments at this stage.

4 (Video extract played)

5 In fact, I've stopped sooner, at 1 minute 58 seconds.

6 Mr Witness, do you recognise this person?

7 Mr Witness, do you recognise this person?

8 A. No.

9 Q. I'm now going to move to 3 minutes and 15 seconds
10 in this extract. I am sorry, I'll start at 3 minutes 14
11 seconds.

12 (Video extract played)

13 I've stopped, actually, at 3 minutes 15 seconds.

14 Mr Witness, do you recognise this person? I've
15 stopped actually at 3 minutes 16 seconds. Mr Witness, do you
16 recognise this person?

17 A. No.

18 Q. I'm now moving to 3 minutes 44 seconds and I'll stop
19 at 4 minutes 4 seconds.

20 (Video extract played)

21 This person at 4 minutes and 4 seconds, carrying a spear,
22 do you know to what ethnic group he belonged? This person
23 at 4 minutes 4 seconds, carrying a spear, do you know to what
24 ethnic group he belonged?

25 A. No, I don't know which ethnic group that man belonged

1 to.

2 Q. I'm now moving on to 5 minutes 8 seconds.

3 (Video extract played)

4 And I stopped at 5 minutes 16 seconds.

5 Do you recognise this person? And I stopped at
6 5 minutes 16 seconds. Do you recognise this person?

7 A. Yes, I know him.

8 Q. And can you tell us who he is?

9 A. He was known by the name of Gorilla.

10 Q. And do you know what his ethnicity was?

11 A. Yes, I know exactly which ethnic group he belonged
12 to. He was Mukusu from Kindu in the province of Nyamena.

13 MS LUPING: Mr President, we have no further
14 questions in relation to this extract. If it could be assigned
15 an EVD number and it can be made public.

16 PRESIDING JUDGE COTTE: (Interpretation) Very
17 well. Court officer, please could you give this an EVD number.
18 This is for excerpt number 17.

19 THE COURT OFFICER: Your Honour, extract 17 of ID
20 DRC-OTP-1042-0006 shall receive evidence
21 number EVD-OTP-00136 and is admitted publicly.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank
23 you, court officer. Madam Prosecutor, please proceed.

24 MS LUPING:

25 Q. Mr Witness, before we move on to the next extract,

1 this individual that you referred to as Gorilla, do you know
2 what his other name was if he had any other name that you
3 know him by?

4 A. I've forgotten his surname, but he was generally
5 known by the name of Gorilla. I don't know his family name - his
6 surname.

7 Q. And do you know with which group of combatants he
8 was with?

9 A. Yes, he was a member of the Walendu group.

10 Q. And do you know what his military role was within
11 this group; for instance if you know his rank, or what his
12 military role was?

13 A. Yes. In the Lendu combatants group there were no
14 ranks, but he was an officer. He was a very popular person,
15 very well-known. He was a star. He had a high rank, but let
16 me make it clear they didn't strictly speaking have ranks
17 among the Lendu fighters.

18 Q. And do you know where he was based?

19 A. I'm very familiar with his life. He was a gold
20 merchant in Mongbwalu, 80 kilometres from Bunia. During the
21 fighting he was in Bunia, but his base or his HQ was in Nyange
22 or Yambi-Yaya.

23 Q. Thank you. I'm just going to move on to the next
24 extract. This is extract 18, found in divider 18 of the binders.
25 It's video footage from the same video, so that's

1 DRC-OTP-1042-0006. The original time stamps are 00.18.22 to
2 00.18.38.

3 This is a reference for the interpreters. The
4 translation reference is in their binders as well. It's
5 DRC-OTP-1047-0005, page 0024, lines 404 to 410. The
6 transcript is at DRC-OTP-1046-0240, page 0257, lines 385 to
7 390. I'll be playing the whole of this 16-second extract
8 without sound. It can be shown publicly.

9 Q. And again, Mr Witness, if you could refrain from
10 making any comments whilst I play this extract.

11 (Video extract played)

12 MS LUPING: Mr President, if we can briefly move
13 into private session for questions of an identifying nature.

14 PRESIDING JUDGE COTTE: (Interpretation) That is
15 agreed, Prosecutor.

16 So let me say to the public we're now going into
17 private session, as the questions to be put run the risk of
18 identifying the Witness.

19 Court officer, we will quickly and briefly go into
20 private session, please.

21 (Private session at 12.18 a.m.)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 *Q. Mr Witness, do you recognise where this was filmed?

3 A. Yes, I do recognise this place.

4 Q. And can you please explain where this place is?

5 A. It's close to the Uvupara (phon) house. Before that,
6 there's the MONUC hospital on the left. There's the MONUC
7 HQ building. So you've got the headquarters of the MONUC,
8 the MONUC hospital and the Uvupara (phon) house.

9 Q. And can you confirm in which town or city this is
10 filmed?

11 A. It's in the town, the town centre of Bunia, on the
12 boulevard.

13 Q. And do you recognise this footage?

14 A. I think that it's the same thing that we were seeing
15 earlier on, cent -- from the market through to the centre
16 of the town, following through the centre going up to Yambi.

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Open session at 12.21 a.m.)

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

4 PRESIDING JUDGE COTTE: (Interpretation) Perfect.
5 Please proceed, Prosecutor.

6 MS LUPING:

7 Q. Mr Witness, I'm now going to play the footage again
8 for you, this time without sound again, and again please make
9 no comments whilst I'm playing it to you.

10 (Video extract played)

11 Mr Witness, you've mentioned just previously that you
12 believe there were the same elements that we're seeing in
13 this footage as we saw in the prior extracts from the same
14 video. My question is: Do you mean that we are seeing the
15 same group of combatants, Lendu combatants?

16 A. Yes, I see that it's the same group.

17 Q. I'm now going to be playing you a specific portion
18 from this extract from 8 seconds to 16 seconds.

19 (Video extract played)

20 In fact, I only played two seconds. I'm stopped
21 at 9 seconds.

22 Do you recognise the person depicted in the foreground
23 of this image, of this screen, wearing a hat and holding an
24 object in his left hand? And if you want me to play this extract
25 again, I'm happy to do so.

1 A. No, I do not know that person.

2 MS LUPING: Mr President, I have no further
3 questions in relation to this extract, but if an EVD number
4 could please be assigned to it.

5 PRESIDING JUDGE COTTE: (Interpretation) Court
6 officer, please, could we have an EVD number.

7 THE COURT OFFICER: Your Honours, extract 18 of
8 DRC-OTP-1042-0006 shall be assigned evidence
9 number EVD-OTP-00137 and is admitted publicly. Thank you.

10 PRESIDING JUDGE COTTE: (Interpretation) Thank
11 you, Court officer. Prosecutor, please proceed.

12 MS LUPING: I'm now moving on to extract 21, which
13 is divider 21 in everybody's binders. This is footage from
14 the same video, DRC-OTP-1042-0006. The original time stamps,
15 for the record, are 00.27.08 to 00.29.52. The translation
16 reference is DRC-OTP-1047-0005 at pages 0033 to 0035,
17 lines 751 to 804. The transcript reference is
18 DRC-OTP-1046-0247 -- sorry, 240 at pages 0267 to 0268,
19 lines 720 to 770.

20 Q. Mr Witness, I'll be playing the first 2 minutes
21 without sound - it can be shown publicly - and again please
22 make no comments whilst I play this footage.

23 (Video extract played)

24 MS LUPING: Mr President, if we could briefly go
25 into private session for questions of an identifying nature.

1 PRESIDING JUDGE COTTE: (Interpretation) Court

2 officer, please, we'll go into private session.

3 (Public session at 12.30 p.m.)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

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 (Open session at 12.34 p.m.)

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

9 PRESIDING JUDGE COTTE: (Interpretation) Thank
10 you. Thank you. Madam Prosecutor, please proceed. Don't
11 forget, Madam Prosecutor, that if you wish to remain seated,
12 you may do so.

13 MS LUPING: Thank you. Thank you, Mr President.

14 Q. I shall now be playing the whole of the extract without
15 sound, and again please make no comments. I will be asking
16 you specific questions once you've seen the whole of the
17 footage.

18 (Video extract played)

19 Mr Witness, you stated previously that you believed the
20 footage that we're seeing now are the same events that you
21 saw before in relation to an attack by Lendu on Mudzipela.
22 My question is: Can you confirm the ethnicity of these
23 individuals that we've seen in this footage in the vehicle?

24 A. I couldn't confirm the ethnic membership of each
25 person because I don't know, but the group was a group of

1 Lendu combatants, and I can confirm that.

2 Q. I'm now going to be playing you a specific portion
3 from this extract from 1 minute 7 seconds.

4 (Video extract played)

5 I've stopped at 1 minute 25 seconds. My question is:
6 Do you recognise this person wearing a hat and sitting in
7 the driver's seat of the vehicle?

8 A. No, I don't recognise this man.

9 MS LUPING: Mr President, I have no further
10 questions in relation to this extract. If an EVD number could
11 please be assigned to it.

12 PRESIDING JUDGE COTTE: (Interpretation) Madam
13 Court Officer, could we please have an EVD number for this
14 extract?

15 THE COURT OFFICER: Your Honours, extract 21 of
16 DRC-OTP-1042-0006 shall be assigned evidence number
17 EVD-OTP-00138 and shall be admitted publicly. Thank you.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank
19 you, Madam Court Officer. Madam Prosecutor, please proceed.

20 MS LUPING: I will now be playing extract 22. I refer
21 to divider 22 of everybody's binders. It's footage from the
22 same video, DRC-OTP-1042-0006. Time stamps, the original
23 time- stamps, were 00.34.50 to 00.35.42. The translation
24 reference is DRC-OTP-1047-0005, pages 0037 to 0038, lines 893
25 to 919. The transcript, that reference is also found in the

1 binders and in the annexes provided to everybody, including
2 the interpreters. I'll now be playing the 52 second extract
3 without sound, and it can be shown publicly.

4 (Video extract played)

5 MS LUPING: Mr President, if we can briefly go into
6 private session for questions of an identifying nature.

7 PRESIDING JUDGE COTTE: (Interpretation) If we
8 could go into private session.

9 (Private session at 12.45 p.m.)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Open session at 12.46 p.m.)

23 THE COURT OFFICER: We are in open session, your
24 Honours.

25 PRESIDING JUDGE COTTE: (Interpretation) Thank

1 you.

2 MS LUPING:

3 Q. Mr Witness, I'm now going to play a portion of this
4 extract from 27 seconds. Again, if you could refrain from
5 making any comments while I play this.

6 (Video extract played)

7 I stopped at 32 seconds. Mr Witness, this person in the
8 foreground wearing a hat, do you recognise him?

9 A. No.

10 Q. Do you know to which group these group of individuals
11 belonged to?

12 A. No, I don't know their ethnic group.

13 MS LUPING: Mr President, if an EVD number could
14 please be assigned to this extract. I have no further
15 questions.

16 PRESIDING JUDGE COTTE: (Interpretation)
17 Certainly. Madam Court Officer, this is extract 22.

18 THE COURT OFFICER: Your Honour, extract 22 of
19 DRC-OTP-1042-0006 shall be assigned number EVD-OTP-00139 and
20 it will be admitted as a public exhibit. Thank you.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank
22 you, Court officer. Madam Prosecutor, please proceed.

23 MS LUPING: I'll now be playing video extract
24 number 23. It's divider 23 in everybody's binders. The
25 video footage is from the same video DRC-OTP-1042-0006. The

1 original time stamp references are 00.42.35 to 00.47.13. The
2 translation reference is DRC-OTP-1047-0005, pages 0045 to
3 0046, lines 1152 to line 1211. I'll be playing the first 2
4 minutes of the extract without sound and this can be shown
5 publicly.

6 (Video extract played)

7 In fact, I'm stopping at 1 minute and 40 seconds.

8 If we could briefly move into private session,

9 Mr President, for questions of an identifying

10 nature.

11 PRESIDING JUDGE COTTE: (Interpretation) Madam
12 Court Officer, if we could go into private session for a moment.

13 (Private session at 12.52 p.m.)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Open session at 12.54 p.m.)

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

4 PRESIDING JUDGE COTTE: (Interpretation) We are in
5 open session. Madam Court Officer, the Prosecutor has just
6 asked for an EVD number for extract 23. She does not intend
7 to continue examination-in-chief regarding this extract.
8 Could we give an EVD number to this extract, please.

9 THE COURT OFFICER: Your Honour, extract 23 shall
10 be assigned evidence number EVD-OTP-00140 and shall be
11 admitted as a public exhibit. Thank you.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank
13 you, Madam Court Officer. Madam Prosecutor, let us proceed.

14 MS LUPING: I will now be playing extract 24; it's
15 divider 24 in your binders. It's the same video
16 DRC-OTP-1042-0006. Original time-stamps are 00.47.49 to
17 00.48.17. The translation reference is DRC-OTP-1047-0005 at
18 pages 0046, 0047, lines 1228 to 1232. I'll be playing the
19 whole of this 29 second video extract initially without sound
20 and it can be shown in public.

21 (Video extract played)

22 MS LUPING: Mr President, if we could briefly go
23 into private session for questions of an identifying nature.

24 PRESIDING JUDGE COTTE: (Interpretation) Madam
25 Court Officer, if we could briefly go into private session.

1 (Private session at 12.57 p.m.)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 *A. Yes. Unless I'm mistaken, I believe it is the
17 departure of the UPDF soldiers who were going back home, back
18 to Uganda.

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Open session at 13.00 p.m.)

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

4 PRESIDING JUDGE COTTE:
5 (Interpretation) Thank you. Madam Prosecutor, please
6 proceed.

7 MS LUPING: I'm just going to play the first few
8 seconds of this footage.

9 (Video extract played)

10 I have paused at 9 seconds.

11 Q. You stated previously that this is the -- you believe
12 this is the departure of UPDF soldiers who are going back
13 home, back to Uganda. My question is when you refer to this
14 event of UPDF soldiers returning to Uganda, do you know where
15 they were leaving from?

16 A. Those UPDF soldiers were based at the airport. There
17 were also others who had positions in the town, but their
18 main base was at the airport. And here we can see them leaving
19 the airport and going to Kasenyi, passing through the main
20 Yambi-Yaya road. They went through Bogoro, Kasenyi and then
21 they took canoes to cross the border.

22 Q. And you've referred to Yambi-Yaya road. Are you
23 referring to Bunia; the airport and town of Bunia?

24 A. Yes, Yambi-Yaya is indeed in Bunia town.

25 MS LUPING: Mr President, I believe an EVD number

1 can now be assigned to this extract.

2 PRESIDING JUDGE COTTE: (Interpretation) Court
3 officer, please. And this is extract number 24. Please
4 assign an EVD number.

5 THE COURT OFFICER: Thank you, Mr President.
6 Extract 24 of DRC-OTP-1042-0006 shall be assigned an EVD number
7 EVD-OTP-00141 and shall be admitted as a public exhibit.

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

10 MS LUPING: I'll now be playing extract 25. It's
11 divider 25 from the binders. This is a different video. This
12 is video DRC-OTP-0151-0665, original timestamps 00.24.58 to
13 00.36.11. Its translation reference is DRC-OTP-1050-0298 at
14 pages 0329 to 0338, lines 790 to 1124. I note that I'll be
15 using the first category in terms of methodology of showing
16 this video, so I'll be playing it with sound for the first
17 2 minutes and it can be shown publicly. I should clarify if
18 we could have interpretation, please.

19 (Video extract played)

20 THE INTERPRETER: There are gunshots here and on
21 the hill. Bema and his wife. There is also Dieudonné and
22 his wife. There is Bebe. There is someone else. I do not
23 know their name. There is a baby. There is a baby. I do
24 not know the name. It is a woman. It is a mother. (No further
25 interpretation)

1 MS LUPING: Mr President, if we could move briefly
2 into private session for questions of an identifying nature?

3 PRESIDING JUDGE COTTE: (Interpretation) Very
4 well. Court officer, let us go briefly into private session.

5 (Private session at 1.07 p.m.)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Open session at 1.09 p.m.)

22 THE COURT OFFICER: We are in open session, your
23 Honours.

24 PRESIDING JUDGE COTTE: (Interpretation) Very
25 well. Thank you. Madam Prosecutor, please proceed.

1 MS LUPING:

2 Q. Mr Witness, at the 2 minute time-stamp that I stopped
3 at, you see a date stamp at the bottom of the screen on the
4 right of 13 May 2003. My question is: Is this the correct
5 date for the images that we're seeing - the events that we're
6 seeing - in this footage?

7 A. Yes, that is the correct date.

8 Q. I'm now going to play the whole of the extract. If
9 you could make no comments while I play it. I'll be asking
10 you specific questions.

11 (Video extract played)

12 I'm just pausing this footage. I just wanted to
13 confirm that we are wanting interpretation for this extract.

14 (Video extract played)

15 THE INTERPRETER: Bema and his wife. There are
16 gunshots here and on the person's hill. There is Bema and
17 his wife, some other person and his wife, Dieudonné and his
18 wife and their babies - I do not know their names - and a
19 woman whose name I do not know. There is a baby there. It
20 is a woman. It is a woman that I cannot identify. There were
21 a lot of gunshots. We came out only this morning.

22 (The interpreter would like to point out that the
23 other parts of the video are inaudible.)

24 How many women? There is a girl and two boys. Four
25 women, seven men were the survivors. And how many children?

1 Four children. A small girl and four boys. This is an identity
2 card; we found it in his pocket. Who is that? A small girl
3 and four boys, 13 years old. Their names I tried to find out.
4 There is (then a name was mentioned which the interpreter
5 didn't catch) with his wife, Ngabu and his wife Miriam. Ngabu,
6 yes. The wife is Miriam.

7 (There are apparently different languages being used
8 other than French, points out the interpreter.)

9 Where were you?

10 (Interpretation from the Swahili booth.)

11 We were hiding in the house. Explain this to us.
12 How did they come in here? (Inaudible) Suddenly we heard
13 gunshots and we were surprised. What time was it? It was
14 around 2 p.m. We came out to see what was going on. I saw
15 someone coming up and he said the following in Lingala: "Today
16 we are going to kill you." We told ourselves that those people
17 probably could not break through the fence. I hid everyone
18 in the house, then they started to sort (phon). They were
19 using an axe. I saw someone coming with a rocket and he fired
20 a rocket at the house at this point, and then everybody was
21 lying flat on the ground. Tell us, was everybody taken out
22 of the house? Yes, everyone was evacuated. Tell us, was
23 everyone shot at? Yes, they shot at everyone. Can you tell
24 us what your name is? My name is Lolo. Tell us, how did those
25 people come in here? We were in the room.

1 (Inaudible, says the Swahili booth.)

2 When I came out, I went to the other side. I wanted
3 to jump over to go towards where the people from MONUC were
4 located.

5 (Inaudible, says the Swahili booth.)

6 I hid in the room. Those people shot at the house
7 and they damaged everything and they took me away. Did they
8 take you hostage? Yes, I handed myself over because they were
9 about to shoot me. I said, "Please, take me. Do not kill
10 me." They shot and they killed some people. They shot at
11 Mr Dayo's (phon) wife and at another lady who was inside the
12 house.

13 (Inaudible, says the Swahili booth.)

14 They cut the throat of the elder brother who was
15 there. I saw his throat being cut. I sat under the tree which
16 was there, and I saw them pick up this child and slam his
17 head against the wall. They started hacking the bodies to
18 pieces after having cut off the head, and I was there and
19 I could see them destroying the house.

20 (Inaudible, says the Swahili booth.)

21 MS LUPING: Mr President, we're conscious of the
22 time.

23 PRESIDING JUDGE COTTE: (Interpretation) Madam
24 Luping, we have seen that the Witness is raising his hand.
25 He probably wants to tell us something.

1 Mr Witness, what do you want to tell us? Please
2 bear in mind that we don't have much time left. What do you
3 wish to tell us?

4 THE WITNESS: Mr President, with your leave, I will
5 speak for a few minutes.

6 PRESIDING JUDGE COTTE: (Interpretation) We are
7 going to break, so can you wait for about 2 minutes?

8 Madam Prosecutor, the Witness wanted to rest, and
9 if you have something you want to say without the Witness.

10 MR DUTERTRE: (Interpretation) It can be done
11 without the Witness, and if we want to save time, he can stay,
12 but if he wants to go out --

13 PRESIDING JUDGE COTTE: (Interpretation) The
14 problem is that he wanted to leave the room quickly. So, court
15 officer, we can go into closed session so that the Witness can
16 leave us.

17 That is what you wanted, Mr Witness?

18 THE WITNESS: Well, I can wait.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank
20 you very much. Mr Dutertre.

21 MR DUTERTRE: (Interpretation) Your Honours,
22 I would like to come back to the issue of transcripts and
23 translation of the transcriptions of the video extracts. We
24 have a proposal to do -- or rather, to make to the Chamber that
25 could be agreed to by the two Defence teams, and that proposal

1 is as follows:

2 We have the binders and for each extract we have
3 tables referring specifically to the relevant lines of their
4 transcripts and the translations of the extracts, and after
5 the table you have the corresponding pages. The proposal would
6 be to hand over these materials to the translation services
7 of the Registry. And for the testimony of P2, the Registry
8 could use the videos and ascertain that the transcription
9 from the original language and the translation is correct
10 and, if necessary, make the necessary corrections, and these
11 documents would then be used in the hearings and assigned
12 EVD documents. Later this will mean that we will save time
13 that would have been used to apply subtitles, and these
14 subtitles could be put in later.

15 The advantage is that we will respect the order of
16 appearance of the witnesses and we will not lose any Court
17 time while waiting for the subtitling to be done. We would
18 also have reliable materials that reflect the contents of
19 the video and which would have been cross-checked by a neutral
20 organ. We have discussed that with the Defence teams, who
21 are in agreement, and it will be necessary to hand over the
22 materials to STIC.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank
24 you, Mr Prosecutor. If I understand you well, the
25 Defence teams would not object to the Prosecution

1 translations submitted to a neutral and impartial organ; that
2 is, the translation services of the Registry. And if that
3 is the case, EVD numbers would be assigned to those documents
4 and they would be reliable working documents; is that correct?

5 MR O'SHEA: It's a little bit of qualification,
6 Mr President.

7 PRESIDING JUDGE COTTE: (Interpretation) At this
8 time I think that, unfortunately, we will have to resume these
9 discussions tomorrow because it is 1.30.

10 Subject to the qualifications that you will make,
11 I would like to draw your attention to the fact that, in
12 principle, if you agree with the proposal, and also the
13 representatives of the victims, that would be acceptable.
14 But you should bear in mind that this is subject to the
15 availability of the Registry services. The translation
16 services are usually quite saturated. So do we know whether,
17 before the arrival of Witness P02, which is still not
18 determined, will they have the time to provide translation
19 of such quality? So this is something that you can clarify
20 this afternoon before we resume our discussion tomorrow. So
21 you have to contact the Registry services.

22 MR DUTERTRE: (Interpretation) Apart from the
23 reservations that we can discuss, the Registry service can
24 even begin their work as from this afternoon. I have fully
25 understood you.

1 PRESIDING JUDGE COTTE: (Interpretation) Just
2 bear in mind that we do not have knowledge of the priorities
3 of the translation services in while the CBF is holding --

4 MR O'SHEA: I don't think the work can begin today
5 until I've expressed myself on this tomorrow morning.

6 PRESIDING JUDGE COTTE: (Interpretation) You can
7 express yourself tomorrow morning. Nothing can begin today.

8 Thank you to everyone for the proceedings of this
9 morning and for each person's contributions, particularly
10 our interpreters.

11 Court officer, let us go into closed session for
12 the Witness to leave the courtroom.

13 Thank you, Mr Witness, for waiting for an additional
14 5 minutes. We will see you again here tomorrow morning at
15 9 a.m.

16 (Closed session at 1.30 p.m.)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Open session at 1.30 p.m.)

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

1 Honours.

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

4 We will reconvene tomorrow morning at 9 a.m. to
5 listen to Mr O'Shea's reactions to the Prosecutor's proposal,
6 but that should not prevent you, Mr Prosecutor, to contact
7 the competent services of the Registrar to see how practical
8 the exercise will be.

9 Court is adjourned.

10 (The hearing ends at 1.31 p.m.)

11 CORRECTION REPORT

12 The following correction has been made to the English
13 transcript:

14 * Page 8, lines 3 to 8

15 "The Prosecution has taken great care in following your
16 directives. We have taken note of them and we have began
17 implementing your directives, realising that some audio
18 extracts, specific audio extracts are quite difficult.

19 Perhaps they were prepared with the help of a scopist."

20 Is corrected by

21 "The Prosecution * have taken great care in following your
22 directives.* Your Honour.. We have taken note of them, and
23 * as you stressed, we * already began implementing your
24 directives * yesterday, focusing only on certain specific
25 audio * passages or certain...purely visual aspects, aspects

1 relating to the video images."

2 RECLASSIFICATION REPORT

3 *Pursuant to Trial Chamber II's email instructions dated 10 July
4 2012, the excerpts of the transcript Page 44 lines 2 to 16, page
5 36 line 25, page 37 line 1, page 37 lines 19 and 20, and page 54
6 lines 16 to 18 are reclassified as public, as ordered by the Chamber.