

1 International Criminal Court
 2 Trial Chamber VI
 3 Situation: Democratic Republic of the Congo
 4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
 5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
 6 Trial Hearing - Courtroom 3
 7 Monday, 5 December 2016
 8 (The hearing starts in open session at 9.33 a.m.)
 9 THE COURT USHER: [9:33:59] All rise.
 10 The International Criminal Court is now in session.
 11 Please be seated.
 12 PRESIDING JUDGE FREMR: [9:34:25] Good morning, everybody.
 13 Court officer, please call the case.
 14 THE COURT OFFICER: [9:34:33] Thank you, Mr President.
 15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
 16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
 17 We are in open session.
 18 PRESIDING JUDGE FREMR: [9:34:47] Thank you.
 19 Now appearances, starting with Prosecution.
 20 MR VAN DER WERF: [9:34:53] Good morning, Mr President, your Honours.
 21 The Prosecution is represented by Dianne Luping, trial lawyer; Nicole Samson, senior
 22 trial lawyer; Selam Yirgou, case manager; James Pace, assistant trial lawyer; and
 23 myself, Rens van der Werf, assistant trial lawyer. Thank you.
 24 PRESIDING JUDGE FREMR: [9:35:14] Thank you, Mr van der Werf.
 25 Defence now, please.

1 MR BOURGON: [9:35:19] (Interpretation) Good morning, your Honour.

2 For the Defence this morning, Jules Guillaumé, Dignité Bwiza, and myself

3 Stéphane Bourgon. Thank you.

4 PRESIDING JUDGE FREMR: [9:35:29] Thank you, Mr Bourgon.

5 Legal Representatives of Victims, please.

6 MS PELLET: [9:35:33] (Interpretation) Thank you, your Honour. The former

7 child soldiers are represented by Mohamed Abdou, and myself Sarah Pellet, counsel

8 with the Office of Public Counsel for Victims.

9 MR SUPRUN: [9:35:48] (Interpretation) Good morning, your Honour, your

10 Honours. The victims of the attacks are represented today by myself Dmytro

11 Suprun, counsel with the Office of Public Counsel for Victims.

12 PRESIDING JUDGE FREMR: [9:36:00] Thank you, Ms Pellet.

13 Thank you, Mr Suprun.

14 I have to note for the record that Mr Ntaganda is not present at the moment, but

15 according our information he is going to join us in 10 minutes hopefully.

16 And the Chamber would like to utilise this time just to deliver oral ruling concerning

17 Witness P-31.

18 Parties, do you have any objection to proceed for those 10 minutes without

19 Mr Ntaganda? Prosecution?

20 MR VAN DER WERF: [9:36:39] No, Mr President.

21 PRESIDING JUDGE FREMR: [9:36:42] And it's mainly for Defence.

22 MR BOURGON: [9:36:44] No, Mr President.

23 PRESIDING JUDGE FREMR: [9:36:45] All right. We appreciate your

24 understanding.

25 So now I will deliver preliminary oral rulings on Prosecution's Rule 68(3) request for

1 Witness P-31 seeking the admission of Witness P-31's prior recorded testimony under
2 Rule 68(3).

3 I will refer to this as the "request" and we can start delivery of this ruling in open
4 session.

5 On 16 November 2016, the Chamber granted a Defence request for extension of
6 deadline in which to respond. Accordingly, the Defence responded on

7 22 November 2016 in filing number 1643, opposing the request in its entirety.

8 In filing number 1647, the Prosecution sought leave to reply to the Defence response
9 on two issues. This was opposed by the Defence in filing number 1650. On

10 25 November 2016, the Chamber ruled, by way of email, that it would not be assisted
11 by further submissions on either of the issues identified.

12 Turning to the substance of the request, the Chamber incorporates by reference the
13 applicable law as recently set out in its decision bearing filing number 1640.

14 Noting the Defence objections, the Chamber hereby renders a preliminary ruling on
15 the request. In line with usual practice, any formal decision on admission would be
16 rendered when the witness appears before the Chamber and would depend upon
17 whether the relevant requirements are satisfied.

18 And now we have to move into private session for the next part of the ruling.

19 (Private session at 9.39 a.m.) *(Reclassified partially in public)

20 THE COURT OFFICER: [9:39:11] We are in private session, Mr President.

21 PRESIDING JUDGE FREMR: [9:39:20] Thank you, court officer.

22 And I continue:

23 First, with regard to the witness's (Redacted), the Chamber notes

24 that the Prosecution seeks the witness's (Redacted),

25 contained at annexes 2 to 13 of the request, to be admitted in full pursuant to

1 Rule 68(3). The Defence opposes this on the basis primarily of the volume of the
2 material and the potential prejudice which would be caused by: One, having to
3 cross-examine the witness on such a large volume of material within a limited time
4 frame; and two, the overburdening of the record with material which it submits is
5 likely to be repetitive.

6 The Chamber acknowledges that (Redacted) are relevant long, (Redacted)
7 (Redacted). The
8 length of (Redacted), however, appears to be attributable, in part, to (Redacted)
9 (Redacted)

10 (Redacted)

11 The Chamber finds the introduction of (Redacted) pursuant to Rule 68(3) to be

12 appropriate, having considered the fact that: One, (Redacted)

13 (Redacted); two, (Redacted)

14 (Redacted); three, (Redacted)

15 (Redacted); four, (Redacted)

16 (Redacted)

17 (Redacted); and five, such

18 introduction would significantly contribute to the efficient conduct of proceedings.

19 It is further noted that in the event the Chamber was minded to apply Rule 68(3), the

20 Defence did not oppose admission of (Redacted).

21 Eight documents are sought to be tendered as (Redacted)

22 (Redacted). These are in annexes 15 to 22 of the request. As noted by the Defence,

23 one of those items, it's item DRC-OTP-0138-0106 at annex 20, has already been

24 admitted into evidence and the Chamber therefore will not consider it further here.

25 In respect of annexes 15 to 19, which the Defence does not oppose in the event that the

1 (Redacted) are being considered for admission, the Chamber considers that
2 they are adequately used and explained (Redacted) and may be
3 considered as (Redacted).

4 The Defence challenges annexes 21 and 22 on the basis that the witness had not been
5 and is not in a position to adequately comment on them. The Chamber notes at the
6 outset that it appears that these documents, which comprise (Redacted)

7 (Redacted)

8 (Redacted) The witness was, however,

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 The Chamber notes that the (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted) It is further recalled that, independent of this witness's testimony, the

16 Chamber has heard previous evidence in relation to this (Redacted). The

17 Chamber considered the documents to be prima facie relevant, and having

18 considered the stated origin of (Redacted) and the degree to which the witness was

19 able to explain them, will also consider annexes 21 and 22 for admission as associated

20 material. In so doing, the Chamber has had regard to potential prejudice, including

21 arising from the documents' length and the fact that the witness was not in a position

22 (Redacted). The Chamber will

23 therefore exercise caution in its assessment of (Redacted) and recalls that any

24 evidentiary weight is to be assessed in light of the entirety of the evidentiary record.

25 In relation to the witness's (Redacted) statement, at annex 14 of the request, the Defence

1 raises certain arguments identical to those made in the context of Rule 68(3)
2 applications for previous witnesses, such as Witness P-2, to the extent of the statement
3 having been in effect (Redacted). The Chamber therefore
4 refers to its previous reasoning at transcript 167, pages 5 to 6, in indicating that it does
5 not find these submissions convincing. However, having had regard to the specific
6 paragraphs in question, the Chamber does not consider that their introduction
7 pursuant to Rule 68(3) would assist the proceedings. For example:
8 Paragraphs 24 to 25 appear to serve little purpose other than verifying that the
9 witness was the source of certain documents;
10 Paragraphs 32 and 63 to 66 contain a degree of repetition with (Redacted)
11 (Redacted) and therefore, should the Prosecution wish to elicit specific further detail,
12 this should be done viva voce;
13 Paragraphs 84 to 87 contain distinct subject matter of more relevance to the charges in
14 (Redacted). Certain content is already
15 captured, albeit briefly, (Redacted)
16 (Redacted). Nonetheless, given the specificity of the incidents
17 being referred to, the Chamber considers that application of Rule 68(3) is of limited
18 benefit and that it would be more appropriate and equally efficient for this evidence
19 to be elicited directly from the witness.
20 Similar considerations apply to paragraphs 135 and 136.
21 In relation to paragraphs 142 and 144, the Chamber does not consider them necessary
22 to support (Redacted) at annexes 17 and 18, which the Chamber has already
23 indicated it will consider for admission. Further, it is noted that the witness was
24 specifically asked (Redacted)
25 (Redacted)

1 (Redacted)

2 I will break for a while because I just got information that Mr Ntaganda is ready to
3 come in so, please, you can bring him into the courtroom.

4 (Pause in proceedings)

5 PRESIDING JUDGE FREMR: [9:50:23] Mr Ntaganda, can you hear me?

6 MR NTAGANDA: (No interpretation)

7 PRESIDING JUDGE FREMR: Mr Ntaganda, good morning. I would like to inform
8 you that we started without you, but we were informed that you would join us soon.
9 And we only started with delivery of oral ruling concerning Rule 68(3) request for
10 Witness P-31 and we started with the agreement of your legal team, Defence team.

11 And now we are in the middle of delivery of this decision. So I will continue.

12 Now I have *to check when I finished. So I will continue:

13 Similar considerations apply to paragraphs 155 to 163, 165, 167, 169, 172, 174 to 175.

14 The witness discussed (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted) The Chamber

19 considers that the Prosecution had the opportunity to (Redacted)

20 (Redacted) The parties

21 should not use Rule 68 as a way of seeking to be less selective about the material
22 presented. The Chamber will therefore not consider the specified paragraphs or
23 related sketches for introduction under Rule 68(3) without prejudice to the
24 Prosecution using its allocated time for supplemental examination to seek to use or
25 tender these items for admission.

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1 And we can now return back into open session again for the remainder of this ruling.

2 (Open session at 9.53 a.m.)

3 THE COURT OFFICER: [9:53:33] We're in open session, Mr President.

4 PRESIDING JUDGE FREMR: [9:53:40] Thank you, court officer.

5 In summary, the Chamber *has not found it appropriate to admit the specified
6 paragraphs of the witness's 2006 statement as prior recorded testimony, but notes that
7 the Prosecution remains free to elicit these further elements viva voce, should it wish
8 to do so. The Chamber will consequently also not consider annexes 23 to 41 for
9 introduction as associated documents.

10 Turning to the time, notwithstanding the fact that the request is only being partially
11 granted, the Chamber considers that two hours should be sufficient for both the
12 completion of the formalities associated with Rule 68(3) and any supplementary
13 examination. In so finding, the Chamber has had regard to the nature and subject
14 matter of the witness's testimony, the extent to which these topics have already been
15 addressed in the prior recorded testimony, and the areas identified by the Prosecution
16 for further examination.

17 The Defence has requested 10 hours for cross-examination, however, this appears
18 excessive to the Chamber. As previously mentioned, the length of the prior recorded
19 testimony does not reflect its relatively focussed scope in terms of subject matter.
20 The Chamber considers that six hours should be sufficient and any extension of time
21 will require a well-motivated request.

22 As usual, the parties are further directed to file public redacted versions of filings
23 1615, 1643, 1647 and 1650 within five weeks of today.

24 This concludes the Chamber's ruling and we now can proceed with the rest of
25 cross-examination of our witness.

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1 So, court usher, please bring Mr Witness into the courtroom. And in the meantime
2 update on timing. Mr Bourgon, according our measuring, you so far have used
3 16 minutes only from time allotted to you.

4 MR BOURGON: [9:56:48] Mr President, with your leave I would like to address
5 the Chamber regarding the time allotted for this witness. The Chamber has allotted
6 the Defence six hours for this witness. I have used so far 16 minutes. I intend to do
7 everything possible to complete the cross-examination within the time that was
8 allotted, however, as the Trial Chamber will see today a lot of the cross-examination
9 has to do with the playing of videos and it is very difficult to assess whether this will
10 be sufficient. So, Mr President, I ask for the Chamber's indulgence in assessing the
11 time required to play these videos if and when I make an application for additional
12 time later today.

13 (The witness enters the courtroom)

14 PRESIDING JUDGE FREMR: [9:57:40] All right. Well noted, Mr Bourgon.

15 Mr Witness, good morning. Are you feeling okay to continue with your testimony?

16 WITNESS: DRC-OTP-P-0002 (On former oath)

17 (The witness speaks Swahili)

18 THE WITNESS: [9:58:01] (Interpretation) Good morning, yes.

19 PRESIDING JUDGE FREMR: [9:58:02] Very well, I am glad to hear it. And it's
20 my duty as usual to remind you that you are still under oath, which means that you
21 must say the truth and nothing but the truth. And also allow me to remind you
22 those practical aspects of your testimony, mainly the fact that you shouldn't respond
23 to questions put to you immediately but wait at least for three seconds, because this
24 pause is essential for proper recording and translating of your testimony.

25 Do you understand that?

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1 THE WITNESS: [9:58:52] (Interpretation) Yes.

2 PRESIDING JUDGE FREMR: [9:58:53] Thank you, Mr Witness.

3 And since this witness is protected witness, which means that his identity shouldn't
4 be revealed during testimony, so depending on questions which Mr Bourgon is
5 intending to put to the witness, I'm asking you, Mr Bourgon, whether we can remain
6 in open session or whether it's necessary to move into private session?

7 MR BOURGON: [9:59:19] It is better to remain in private session, Mr President.
8 Please.

9 PRESIDING JUDGE FREMR: [9:59:25] So let's move into private session, court
10 officer, please.

11 MR BOURGON: [9:59:32] Mr President.

12 PRESIDING JUDGE FREMR: [9:59:35] Yes.

13 (Private session at 9.59 a.m.) *(Reclassified partially in public)

14 THE COURT OFFICER: We're in private session, Mr President

15 PRESIDING JUDGE FREMR: [9:59:48] Thank you, court officer.

16 Mr Bourgon, you wanted to say or to add anything?

17 MR BOURGON: [9:59:53] Yes, Mr President. I would like to keep five minutes at
18 the end of this session to address an issue in relation to P-31.

19 PRESIDING JUDGE FREMR: [10:00:02] All right. So please remind me five
20 minutes before the end. You will be given the floor for this purpose.

21 Now you may proceed with cross-examination.

22 MR BOURGON: [10:00:15] Thank you, Mr President.

23 QUESTIONED BY MR BOURGON: (Continuing)

24 Q. [10:00:22] Good morning, Mr Witness.

25 A. [10:00:26] Good morning.

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1 Q. [10:00:29] When we ended our session last Friday, we were talking about type
2 of injuries caused to various victims by Lendus using armes blanches or using, we
3 were calling weapons such as knives, arrows, spears and machetes. I refer to the
4 transcript T-170, that was on page 108, the question I asked you was:

5 "And, sir, have you yourself seen this type of wound before? Have you seen
6 wounds caused by such weapons?"

7 And at line 16 your answer was: "Yes."

8 So the first thing I'd like to do this morning is to show you a video which was
9 communicated to us (Redacted). So I refer

10 to the following video. The video excerpt is DRC-OTP-0080-0013.

11 Mr President, I will ask a few questions before I play the video, however, I would like
12 permission from my colleague to take over the handling of the showing of the videos.

13 PRESIDING JUDGE FREMR: [10:02:19] All right.

14 MR BOURGON: [10:02:21]

15 Q. [10:02:22] So, Mr Witness, this is a video (Redacted)
16 and it has to do with victims of various injuries in Blukwa. And you referred to this
17 video in your material that was in your statement of (Redacted), the number of the
18 statement was (Redacted) and that was on page 0192 where you address this video in
19 paragraphs 27 to 29. What you say here in paragraph 28 is the following -- sorry, in
20 paragraph 29. It is in French so I will take a brief pause and then move into French.
21 (Interpretation) Paragraph 29: "(Redacted) The video shows
22 dead bodies and wounded persons or injured persons in Blukwa in 2000. (Redacted)
23 (Redacted)
24 (Redacted)"
25 (Speaks English) Sir, do you recall which video I'm talking about?

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1 A. [10:04:16] Yes.

2 Q. [10:04:29] Now, with the understanding that (Redacted),

3 I would like to show you part of this video and see if you recognize the scenes

4 depicted therein and then I will have a few more questions.

5 I would like to play the extract without sound from minute 00.03.30 to 00.04.30. So

6 it's a total extract of one minute and 10 seconds.

7 THE COURT OFFICER: [10:05:34] For the record, there is a technical problem to

8 broadcast the video unfortunately. We are trying to fix the problem as soon as

9 possible.

10 MR BOURGON: [10:06:00] Mr President, I am told that we are not able to play any

11 video, so I guess we have to --

12 PRESIDING JUDGE FREMR: [10:06:08] Court officer.

13 MR BOURGON: [10:06:09] -- adjourn.

14 PRESIDING JUDGE FREMR: [10:06:10] Yes, probably you would be right.

15 How much time we will need to fix this problem? Please, at least we will try to at

16 least get information how much time it will need, please verify that issue, otherwise

17 I'm afraid that it would mean that we really should break.

18 So it wouldn't possible to -- I know it would be a little inconvenient, but to move to

19 another computer, because in our computers it's fine so the problem is in specific

20 computer.

21 (Pause in proceedings)

22 PRESIDING JUDGE FREMR: [10:07:46] So anyway, we will break and hopefully it

23 seems that the issue will be solved shortly.

24 THE COURT USHER: [10:07:54] All rise.

25 (Recess taken at 10.07 a.m.)

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1 (Upon resuming in private session at 10.15 a.m.)

2 THE COURT USHER: [10:15:41] All rise.

3 Please be seated.

4 PRESIDING JUDGE FREMR: [10:15:55] So we have solved the second problem we
5 faced today. Hopefully it will be the last one.

6 Mr Bourgon, please proceed.

7 MR BOURGON: [10:16:19] Thank you, Mr President.

8 Q. [10:16:23] Mr Witness, just before the -- we had a short technical break I was
9 about to show you an extract of a video. This is the video from Blukwa in 2000.

10 And I will play for you a one-minute extract going from 03.30 to 04.30.

11 Please watch your screen and we will proceed from there.

12 (Viewing of the video excerpt)

13 MR BOURGON: [10:18:06]

14 Q. [10:18:07] The video has been stopped at 04.30.

15 Mr Witness, you recall having seen this video; is that correct?

16 A. [10:18:34] Yes. I have already seen it.

17 Q. [10:18:43] And I'd like to know in 2000 when this video was filmed in Blukwa,
18 I would like to know where you yourself, where you were at the time.

19 A. [10:19:20] I was in Bunia. I think I was in Bunia.

20 Q. [10:19:29] Do you mean to say that you were living in Bunia at the time?

21 A. [10:19:43] Well, I was in Bunia, (Redacted). It's not a
22 problem going from Bunia to Mongbwalu. (Redacted)

23 Q. [10:20:04] (Redacted)

24 (Redacted)

25 A. [10:20:24] (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [10:24:45] (Redacted)

6 A. [10:25:07] (Redacted)

7 Q. [10:25:14] (Redacted)

8 (Redacted)

9 A. [10:25:43] (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. [10:26:39] Sir, in your statement (Redacted) you made

18 some comments on this specific video, the one that we just saw, and I refer here to of

19 course it is your statement, (Redacted). The number

20 is (Redacted) and it is on page 0220.

21 This is what you say here and I will quote from your statement. It is in French. I'll

22 take a pause before we begin:

23 (Interpretation) "These are the dead and injured in Blukwa in 2000. Hemas were

24 killed by Lendus. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)"

3 (Speaks English) Sir, my next question is: In 2000 you were familiar with the
4 clashes that took place in Blukwa; is that correct?

5 A. [10:28:23] I think I was referring to those killings.

6 And I never lived in Blukwa myself. I was only referring there to those killings.

7 Q. [10:29:10] Sir, would you agree with me that the type of injuries that we saw
8 on these bodies was a common happening of injuries caused by Lendus with such
9 armes blanches on Hema at the time in 2000; would you agree with me with that?

10 A. [10:30:06] I think that injury caused by a machete is different from injury
11 caused by a rifle. However, here we can see clearly that the injury came from a
12 machete.

13 Q. [10:30:34] And, sir, we've heard from other witnesses, but also we have
14 information that we've obtained during investigation, that when this conflict was
15 happening from 1999 and 2000 that the Hema people were living in fear of such
16 attacks and such injuries. Would you agree with me?

17 A. [10:31:22] Counsel, what you are saying is okay, but I can say that a Muhema
18 could also have been as frightened as a Mulendu because both tribes were killing each
19 other and each party could have been afraid of being killed by the other. But my
20 personal position is that I am neutral, so I cannot say whether it was the Hema or the
21 Lendu who were afraid. All I can say is that, as human beings, they were all afraid.

22 Q. [10:32:02] And sir, would you agree with me that as the conflict -- if we look at
23 this conflict from 1999 up to the period of 2002-2003, which we will cover in a number
24 of your videos, that the conflict really evolved with time in terms of the organisation
25 of both sides, organisation of -- into armed groups; would you agree with me?

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1 A. [10:32:43] I would say the following: When the conflict started people were
2 killing each other with machetes, with arrows, spears, and afterwards they started
3 using rifles. How did rifles come into it? They were friends with which we had
4 grown up. They went to follow military training in *Nyaleki camp, Beni, that's
5 where Mbusa Nyamwisi was. There were people who went there to follow the
6 training. Most of the young people were Hema, they went to follow military
7 training there. And after that there were commanders who came, young Hema.
8 The conflict started to take on a different dimension and afterwards the Lendu started
9 to enlist in the army. But all that came from the authorities who were governing
10 Ituri, they were the ones who were behind all that.
11 This conflict went into churches. Pastors were getting mobilised as well, mobilising
12 their flock as it were. The Lendu as well. *They were also getting organised. In
13 the churches, nobody was telling Hema or Lendu not to kill each other and that's how
14 the conflict became more intensified, if I remember correctly.
15 President Wamba -- no, Jean-Pierre Bemba, when he came to Bunia, he went to
16 Mongbwalu with his helicopter and all his men, because he wanted the war to stop,
17 but the killings continued until we got to a situation which was very serious. The
18 UPC was created, there was the pacification commission afterwards, and today Hema
19 and Lendu can live together, they can meet, they can greet each other, but at the time
20 it was very dangerous. Myself, I was a victim of what happened. On two occasions
21 I had a weapon put to my head, (Redacted)
22 (Redacted) the conflict had got worse.
23 There were consequences which last to this day.
24 THE INTERPRETER: [10:35:34] Your Honour, the Swahili booth asks if the witness
25 could be asked to slow down.

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1 PRESIDING JUDGE FREMR: [10:35:41] Yes, two things: First of all, Mr Witness,
2 your testimony is very interesting but please try to slow down a bit because the
3 interpreters sometimes have problems to capture everything.
4 My second comment goes to Mr Bourgon. I'm afraid that we are very close in this
5 kind of questioning to area which is for expert witness, so please don't forget that we
6 have a witness who is a witness of what he saw, what he heard. But I am not saying
7 that those responses cross this line, but still, I would like to keep in witness in his area
8 as a witness, not as an expert witness.

9 MR BOURGON: [10:36:27] Indeed, Mr President. Thank you very much.

10 Q. [10:36:30] Mr Witness, you mentioned the influence of the authorities in
11 conflict evolving. I take it that you are familiar with the arrival in Ituri, and more
12 specifically, in Bunia of the RCD-K/ML. You're familiar with that movement; is that
13 correct?

14 A. [10:37:06] I think that you're coming back to the same question. Could you
15 repeat your question.

16 Q. [10:37:14] Are you familiar with the arrival in Ituri of RCD-K/ML, who were
17 governing Ituri at that time?

18 A. [10:37:36] Yes, I remember, I remember RCD-ML was in Bunia in 2000,
19 2000-2001. Yes, I remember.

20 Q. [10:37:57] (Redacted)

21 (Redacted) And my next question is: You know that

22 RCD-ML, as you say, had a military arm or a military branch called APC; you
23 remember that, correct?

24 A. [10:38:27] Yes.

25 Q. [10:38:30] And since you were living in Bunia generally during that time frame,

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1 I'd like to know if you were aware that the APC actually started to team up with the
2 Lendu combatants to target Hema villages?

3 A. [10:39:04] I would say the following about that: The APC collaborated with
4 Lendu combatants when the UPC was created, I think. If I remember correctly,
5 I think that it was the young Hema men who firstly joined the APC. I think. That's
6 what I remember.

7 Q. [10:39:54] Before we move into further videos, you yourself (Redacted)
8 (Redacted), did you -- did you flee from Mongbwalu at any one time along with all
9 the Hemas that left Mongbwalu to take refuge in Bunia?

10 A. [10:40:24] Yes, yes. I'm one of these people who left the area. I was taking a
11 lot of risk. When the Hema left, I left as well. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [10:41:31] (Redacted)

20 (Redacted)

21 A. [10:41:58] (Redacted)

22 Q. [10:42:02] (Redacted)

23 (Redacted)

24 (Redacted)

25 A. [10:42:27] (Redacted)

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1 Q. [10:42:30] (Redacted)

2 (Redacted)

3 A. [10:42:45] (Redacted)

4 Q. [10:42:55] And at this particular time, the APC were actually fighting against
5 the Lendus. Do you recall this?

6 A. [10:43:14] Yes, I remember because the APC was an occupying force that was
7 there. And the Lendu came, killing people, and when the Lendu came, killing
8 people, the APC reacted. They protected the population.

9 Q. [10:43:29] And I take it that you're familiar that at some point in time the wind
10 changed and then suddenly the APC were fighting with the Lendus; you're familiar
11 with that?

12 A. [10:43:59] Yes, I remember. Yes, I remember. Because when we entered
13 Mongbwalu Commander Bosco said that there were APC troops who were there
14 mixed with the Lendu. And when the Hema left Mongbwalu, the APC army
15 remained there and when the UPC came, Bunia was divided into two. Mbusa
16 Nyamwisi had been driven out of Bunia and the APC stayed in Mongbwalu. And at
17 that time the APC was mixed with the Lendu, but what happened there I don't know.

18 Q. [10:44:43] Thank you. That's basically what I wanted to establish. Before I
19 move to the first video I would like to show you, I have one last area I would like to
20 explore. This is something that was discussed with you on Friday. Since we are
21 into Mongbwalu, I'd like to know if you recall on Friday talking about (Redacted)
22 (Redacted). Do you recall talking about this on
23 Friday?

24 A. [10:45:30] Yes.

25 Q. [10:45:32] Now, just so that we are on the same page, (Redacted)

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1 (Redacted)

2 (Redacted); that's correct?

3 A. [10:45:54] Yes.

4 Q. [10:45:57] And I would like to know if during your preparation session with
5 the Prosecution since you've arrived in The Hague about (Redacted) days or so ago, have you
6 had the opportunity to discuss this (Redacted) with the Prosecution?

7 A. [10:46:31] I didn't have the opportunity to discuss it with them. Sorry. I
8 didn't have the opportunity to speak about the (Redacted). With
9 (Redacted), no. I didn't discuss that.

10 Q. [10:46:52] Maybe my question was not clear. I'm talking about you've been in
11 The Hague now, we are in private session, you've been in The Hague now for some
12 (Redacted) days; is that correct?

13 A. [10:47:16] Yes.

14 Q. [10:47:17] Now, with the Prosecution you had a preparation session which
15 lasted many days during which you had the opportunity to look at various videos or
16 other materials; is that correct?

17 A. [10:47:41] Yes.

18 Q. [10:47:42] Now, my question is: During this period of time with the
19 Prosecution, what we call the preparation session, did they ask you any questions
20 about the (Redacted)?

21 PRESIDING JUDGE FREMR: [10:48:00] Hold on, Mr Witness.

22 Mr van der Werf.

23 MR VAN DER WERF: [10:48:02] Your Honour, this question has been asked and
24 answered. The witness stated at page 26, line 13 and 14, "(Redacted),
25 no. I didn't discuss that."

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1 PRESIDING JUDGE FREMR: [10:48:20] And in fact he repeated now again.

2 Mr Bourgon.

3 MR BOURGON: [10:48:24] Well, Mr President, my colleague refers to line 13, it

4 says "(Redacted), no. I didn't discuss that." That's why I ask again.

5 Because I thought he misunderstood the question.

6 PRESIDING JUDGE FREMR: [10:48:38] But I think we can just put on the record

7 that I heard that, Mr Bourgon, even regardless of my order which obviously came too

8 late, he said "No".

9 MR BOURGON: [10:48:49] Thank you, Mr President. I'll move on.

10 Q. [10:48:53] Now, Mr Witness, we will look at, together with a (Redacted)

11 (Redacted), and I'd like now to move with you all the

12 way to March of 2003. And my first question is of course you know that, I suggest to

13 you that you are familiar with the fact that on 6 March 2003 there was the battle of

14 Bunia between the UPDF and the UPC or FPLC; you're familiar with that, correct?

15 A. [10:49:39] Yes.

16 Q. [10:49:42] And you are familiar with the fact that a bit earlier in February,

17 24 February exactly, there was a widespread -- or, there was a fierce attack by the

18 Lendus in Bogoro, you're familiar with that, correct?

19 A. [10:50:14] Could you repeat the question?

20 Q. [10:50:18] Yes. Are you familiar with the attack of the Lendu combatants on

21 Bogoro on 24 February 2003?

22 A. [10:50:41] I can't answer that because I don't remember it.

23 Q. [10:50:52] Do you recall, sir, being asked by the Prosecution if you (Redacted)

24 (Redacted)?

25 A. [10:51:13] No.

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1 Q. [10:51:17] After the break I'll come back with a document that was given to us
2 by the Prosecution where they asked if you are aware of the events in Bogoro, (Redacted)
3 (Redacted), but I'll show you after the break.

4 Now I come back to 6 March, are you familiar with the fact that on 6 March during
5 the battle of Bunia that the UPDF were fighting alongside the Lendu combatants?

6 A. [10:51:55] I remember that when war started in Bunia this attack on the sixth
7 hit. I was at home at that time when there was gunfire in the morning. We were all
8 at home. And I thought of going to take shelter with UPC troops. I heard gunfire
9 here and there. Firstly, I hid myself and I hid under the bed. And I thought if
10 somebody comes here, say that I'm not here. And I heard gunfire and then people
11 left and they were shouting. (Redacted)
12 (Redacted) And then I left my house and I went to one of my relative's
13 house and they were saying that Chef Kahwa was coming, people were behind him,
14 the Lendu, and some minutes afterwards I saw a vehicle coming to get me from home
15 with *Mike Arereng. He came to get me from home. And members of my family
16 said that I weren't there, but when he said it was Mike, "I'm Mike," I heard Mike's
17 voice and then I came out of my hiding place and Mike said "Come, we're going to
18 work," and we went outside and we started working.

19 There was a vehicle that was there, Afande Kale Kayihura's vehicle, and we got in
20 and we went to the residence of honourable Thomas Lubanga. And that's how
21 things went. We saw Lendu in the town and that was the situation. There were
22 Lendu, there were the UPDF who were fighting. That's how things went.

23 Q. [10:54:25] And, sir, my only point was you know that the *UPDF fought with
24 the Lendus on that day against UPC or FPLC, you're familiar with that, you saw that
25 with your own eyes, correct?

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1 A. [10:55:03] I don't know anymore, but I saw during the clashes that there were
2 Lendus who came in *during the battle. I saw that. After that there were
3 assemblies, I also watched that. You will see that the Lendus are saying that when
4 the UPC want to drive the Ugandans out they came and they were involved in the
5 war. They had weapons. They were in communication with the UPDF. And after
6 that, I asked questions to the population. I said on this video -- well, you can see it
7 on the video. I can't add any more to that, but the Lendu never arrived in Bunia
8 when we were there with the UPC. But when the UPDF fought the UPC, then the
9 Lendu came. It's possible that the Lendu went with the UPDF, but it was the UPDF
10 who were in front. Well they were on the front line at least. And afterwards you
11 can see that in what the Lendu population say.

12 Q. [10:56:26] Thank you, sir.

13 MR BOURGON: [10:56:28] Mr President, I suggest we stop here. I just have a
14 quick issue to a raise before.

15 PRESIDING JUDGE FREMR: [10:56:35] Yes, exactly. It was also my point.

16 So, Mr Witness, we will break your testimony now and we will continue after
17 30 minutes. So first we can assist Mr Witness to leave the courtroom.

18 And, Mr Bourgon, your submission, could it be made in open session, or it's better to
19 remain in --

20 MR BOURGON: [10:56:53] I believe it can be made in open session, Mr President.

21 PRESIDING JUDGE FREMR: [10:56:57] All right.

22 So in the meantime, let's move into open session.

23 (Open session at 10.57 a.m.)

24 THE COURT OFFICER: [10:57:09] We are in open session, Mr President.

25 PRESIDING JUDGE FREMR: [10:57:10] Thank you, court officer.

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1 Mr Bourgon, you have the floor.

2 MR BOURGON: [10:57:13] Thank you, Mr President.

3 Just in respect of Witness P-31, who is scheduled to testify this week, we have been in

4 contact with the Prosecution for some time regarding some redactions applied to

5 material. And these redactions, more specifically there are two so-called F

6 redactions which are redactions that were authorised by another Trial Chamber at

7 another time. We have been informed by the Prosecution that they had made a

8 request to the Chamber for these redactions to be lifted, and I even think -- I'm not

9 sure if the Chamber has ruled or not -- but my only point, Mr President, is we would

10 like to have these redactions lifted as soon as possible if the Chamber so agrees with

11 the Prosecution's request because we are in the midst of preparing for Witness P-31.

12 That's the only thing I'd like to say at this time, Mr President. I have the two

13 documents here. I believe the document I'm talking about, DRC-OTP-0162-0056,

14 which is the English version, and the French version is DRC-OTP-0193-0074.

15 That's all I want to say, Mr President.

16 Thank you.

17 PRESIDING JUDGE FREMR: [10:58:43] Yes, noted. And I can confirm that we

18 are going to decide on that either by today or in the morning tomorrow at the latest.

19 So now we break and we will take our regular 30 minutes break and will resume half

20 past 11.

21 THE COURT OFFICER: [10:59:04] All rise.

22 (Recess taken at 10.59 a.m.)

23 (Upon resuming in open session at 11.30 a.m.)

24 THE COURT USHER: [11:30:39] All rise.

25 Please be seated.

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1 PRESIDING JUDGE FREMR: [11:31:12] So we will continue directly with the further
2 part of the cross-examination of our witness. And since we broke in the regime of
3 private session, I guess that we will return back to private again.

4 MR BOURGON: [11:31:32] Yes, Mr President, please.

5 PRESIDING JUDGE FREMR: [11:31:34] All right. So -- Mr Van der Werf.

6 MR VAN DER WERF: [11:31:38] Yes, Mr President. I would just like to note that
7 Nicole Samson and James Pace have left the courtroom.

8 PRESIDING JUDGE FREMR: [11:31:43] Thank you very much for this correction of
9 our transcript or record.

10 Now let's move into private session.

11 (Private session at private 11.31 a.m.) *(Reclassified partially in public)

12 THE COURT OFFICER: [11:32:03] We are in private session, Mr President.

13 PRESIDING JUDGE FREMR: [11:32:05] Thank you, court officer. Mr Bourgon,
14 please proceed.

15 MR BOURGON: [11:32:08] Thank you, Mr President.

16 Q. Welcome back, Mr Witness. We're going to move right away into one of the
17 (Redacted).

18 And I refer here to, for the interpreters, because we will need the interpreters for this
19 one, to tab 11 in the binder that we distributed to the interpreters. This video bears
20 the number DRC-OTP-0081-0009. And I would like to play an extract of 8 minutes
21 26 seconds, going from 13.11 to 21.37.

22 (Redacted)

23 (Redacted)

24 In tab 11 of the binder, there are the references to the transcript of the video. The
25 number is DRC-OTP-1043-1175, and we will be going from pages 1183, line 241, until

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1 page 1185, line 328. References for the translation are as follows:

2 DRC-OTP-1042-0328. We will be going from page 0337, line 258, until page 0340,
3 line 364.

4 Before I show you the video itself, Mr Witness, I would simply see if you recall this
5 video. And first I refer to your statement of 2005. The number of the statement is
6 0087-0188 at page 0194, paragraph 43.

7 And I will simply read the last line, where you say in French, I quote: (Interpretation)
8 (Redacted)

9 (Speaks English) In one of the annexes to your statement, this is DRC-OTP-0087-0229,
10 you say the following about this video, in French (Interpretation) "A journalist from
11 MONUC called José Menga who was interviewing General Kale on 13 March 2003."

12 (Speaks English) Sir, do you recall this video?

13 A. [11:36:19] I think I do remember. I'll have to take a look. I see that my screen
14 is all black.

15 Q. [11:36:34] I will start maybe with a first extract of 10 or 15 seconds, but before I
16 do so I want to ask you one further question. You recall that 13 March is a little
17 more than a week after the battle of Bunia between UPCD and UPC or FPLC; that's
18 correct?

19 A. [11:37:22] Could you repeat your question, please?

20 Q. [11:37:32] Yes, of course. We established a little earlier that on 6 March there
21 was fighting in Bunia between UPDF, Lendu combatants and the UPC. Now we are
22 13 March so all I want to do is to draw your attention that this is about a week before
23 this battle, to see that you recall this time period.

24 Let's move -- if of the interpreters are ready, let's move with the first 15 seconds just
25 so that the witness can confirm that he recalls the video. So we begin at exactly 13.11

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1 and we will just run the first 15 seconds.

2 (Viewing of the video excerpt)

3 THE INTERPRETER: [11:38:45] (Interpretation of the video excerpt)

4 "That's fine. It's okay there. I think there's no problem. They're carrying out their
5 business, their activities *and the road going to Kasenyi has been opened."

6 MR BOURGON: [11:38:57]

7 Q. [11:38:57] (Redacted)

8 A. [11:39:17] (Redacted)

9 MR BOURGON: [11:39:21] So we will continue with playing the video and we will
10 take of course regular breaks to allow the interpreters to follow along with the
11 transcript.

12 MR VAN DER WERF: [11:39:37] Mr President.

13 PRESIDING JUDGE FREMR: [11:39:38] Yes.

14 MR VAN DER WERF: [11:39:39] I would just like to request a correction to the
15 transcript because it appears the part of the video that was just interpreted appears as
16 if it was the witness's answer, which it was not. So I request that correction.

17 PRESIDING JUDGE FREMR: [11:39:52] Yes. It was in fact translation of the video
18 excerpt we had seen.

19 THE INTERPRETER: [11:40:02] Your Honour, if counsel could also give the line
20 numbers of the translation of the portion that he would like quoted, that would be
21 very helpful. Thank you.

22 PRESIDING JUDGE FREMR: [11:40:13] Mr Bourgon, understood?

23 MR BOURGON: [11:40:15] Absolutely, Mr President. I provided the line, but I will
24 say again so that we are exactly the same place.

25 To be sure, let's start again at line 258 of the translation. And the translation as

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1 mentioned earlier bears the number 1042-0328 and we are at page 0337 in tab 11 of the
2 binder.

3 THE INTERPRETER: [11:40:46] If counsel could just tell us where you would like to
4 play to in terms of line numbers because we need to know where to finish as well, for
5 each extract. Thank you.

6 MR BOURGON: [11:40:57] Well, this extract has 8 minutes 26 seconds, but to give
7 you the first portion will go until line 269.

8 (Viewing of the video excerpt)

9 THE INTERPRETER: [11:41:23] (Interpretation of the video excerpt)

10 "It's fine, it's fine over there, I think there's no problem. People have been carrying
11 out their business and the army has been helping people, planes have been landing.
12 There are people, there are goods. And life has resumed its normal pace and now
13 we are ready to start on the programme that you know about, the pacification
14 programme, in other words, the programme of the Ituri pacification commission.
15 And peace has come back to Bunia, but as regards what's happening elsewhere, well,
16 you know here we have a battalion, and when members of the UPC attacked us, we
17 pushed them back. We don't have enough troops to bring peace back everywhere.
18 We knew that those people were going to counterattack us. They're getting
19 organised to fight us. And they said they'd asked for reinforcement, help by plane
20 for different places. They came to Mongbwalu, Bule. And those are of the
21 difficulties facing us. We're trying to find a solution."

22 MR BOURGON: [11:43:25]

23 Q. [11:43:25] The video has been stopped at timestamp 13.37. The reason being,
24 there appears to be a problem with the lines in the translation. I wanted to begin at
25 line 258 on page 0337, and we appear to have skipped this whole paragraph. So I'd

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1 like to go from 258, where it says "... c'est bien ... ça va bien là-bas ..." until 269 where it
2 says "... commission de pacification de l'Ituri."

3 So, Mr President, we have to start over again the tape, the video.

4 Are we okay with -- okay. So we'll start over again. I apologise, Mr President.

5 Starting at 1 -- 13.11.

6 (Viewing of the video excerpt)

7 THE INTERPRETER: [11:44:56] (Interpretation of the video excerpt)

8 "It's fine. It's fine there. I think that there's no problem. People are now going

9 about their business. I hear that they have resumed their activities. The

10 Kasenyi-Bunia road, we've reopened it the day before yesterday, when our troops

11 returned. They came to help us. They pushed back those who had surrounded

12 Bogoro, those who had attacked Bogoro. We fought against them and we pushed

13 them back. I think that business is being carried out normally. Planes are landing

14 here, bringing in people, goods, and the inhabitants' life is good. It's starting to get

15 good again and we're now waiting for the moment when we're ready to start the

16 peace programme that you know, and that's the reason I came for the Ituri

17 pacification commission."

18 MR BOURGON: [11:46:09]

19 Q. [11:46:10] The video has been stopped at timestamp 14.26, which goes with line

20 269 of the transcript.

21 Sir, one question on this short extract: You recognize the person speaking as being, I

22 suggest, General Kale Kayihura; is that correct?

23 A. [11:46:51] Yes.

24 Q. [11:46:52] Let us continue with starting at 14.26 and we will go all the way up to

25 line 296. So in terms of the transcript -- or translation, sorry, I apologise, the

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1 translation, we go from 270 until 290.

2 (Viewing of the video excerpt)

3 THE INTERPRETER: [11:47:23] (Interpretation of the video excerpt)

4 "If peace has indeed come back to Bunia, we're still getting reports that say that

5 surrounding villages are still facing difficulties. What is actually happening? You

6 know that we had a battalion here and we can't -- when we -- when they -- when the

7 UPC people attacked us, we didn't have -- we -- we fought against them and they left,

8 although we didn't have enough troops to guarantee security in the town and all the

9 villages. And there's another thing that we were expecting, and that was that people

10 would say that there was going to be a counterattack. So we organised ourselves

11 and we fought them. People were also saying there would be reinforcement coming

12 in by plane, landing in a certain place. I can tell you people were saying they would

13 land in Irumu and in Mongbwalu, in Bunia. We -- we focussed on these events that

14 we were expecting and we started to make plans to deal with this and we got ready to

15 bring back security and safety to the towns and some have already been secured.

16 Okay, the people are worried, but only in a few places. In the light of the situation

17 here, given that we are not in the villages and *there is a lot of killing, and that's

18 certainly something that we should" --

19 MR BOURGON: [11:49:08] The video has been stopped at *timestamp 6.08, which

20 corresponds to line 290.

21 Q. [11:49:28] (Redacted)

22 (Redacted)

23 (Redacted)

24 A. [11:49:56] Yes. He's talking about the situation after the attacks and also the

25 situation in the surrounding villages.

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- 1 MR BOURGON: [11:50:16] We will continue with the video, starting at timestamp
2 16.08 and we will go right up until -- right up until line 315 in the translation, so the
3 exact lines are we start at 291 on page 0338 and we go until 315 on page 0339.
4 (Viewing of the video excerpt)
- 5 THE INTERPRETER: [11:50:57] (Interpretation of the video excerpt)
- 6 "Yesterday *we got a report that said people had been killed, yes, yes, yes, but we too,
7 we got a report from the MONUC saying that some Lendu from Lipri who had gone
8 there to attack them, but our troops went to provide reinforcement to the other
9 soldiers who were very close to Mongbwalu, that's because our objective after ending
10 the war here, here in Bunia, our goal, our objective, was to send troops to take Irumu,
11 and we've already taken it, take Mongbwalu, and we took it yesterday, and take *Bule.
12 We haven't yet taken Bule but the process is underway.
- 13 So you fought in Mongbwalu, was there actual fighting or did they withdraw?
- 14 We fought outside, we fought in Kilo. The fighting occurred in Kilo and -- and in the
15 middle close to Mongbwalu. However, when -- when we got close to Mongbwalu,
16 they fled towards the place called Mbijo, Mbijo, Mbijo, I think the road goes towards
17 Watsa.
- 18 Watsa.
- 19 Watsa. So there was no fighting in the town.
- 20 Mm.
- 21 And the inhabitants there haven't had any problem, apart from the commander who
22 sent us a message saying that there were incidents on the -- on the way similar to here.
23 He hadn't any instructions, though he said there wasn't any killing among the civilian
24 population. There is none. He hasn't received any reports to that effect."
- 25 MR BOURGON: [11:53:12] The video has been stopped at timestamp 18.16, which

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1 corresponds to line 315 in the translation on page 0339.

2 Q. [11:53:29] Sir, in the part that we just saw in this video you can confirm that Kale
3 Kayihura is talking about the fact that the Lendus went in Lipri where they were
4 doing some fighting there. Did you hear this in the video?

5 A. [11:54:06] Lendu fighting in Lipri? I think Lipri is a place where Lendu people
6 live. I think you were talking about Liseyi.

7 Q. Well, sir, the reason I ask is that the person that you identified as being General
8 Kale Kayihura says the following, in French: (Interpretation) "We received a report
9 from the MONUC informing us of the fact that there were Lendu inhabitants of Lipri
10 who went there to attack them."

11 (Speaks English) So what do you understand from these words?

12 A. [11:55:36] I was following what you were saying, but I think that they received a
13 report from MONUC saying that it was the Lendu in Lipri who had attacked, the
14 Lipri, Nyangarai, the Liseyi, and then he continued talking about attacks in Kilo,
15 that's what I understood. That is where they were fighting against the UPC troops.
16 They were fighting outside Mongbwalu. There was no killing there because the
17 UPC troops protected the population and the troops were repelled and they
18 withdrew to Mbijo.

19 Q. [11:56:36] And sir, do you acknowledge from this, from what General Kale
20 Kayihura is saying here that they, they, the UPDF, have taken Mongbwalu yesterday,
21 which would be based on the date 12 March?

22 A. [11:57:18] If we take that date, I'd say it was more likely the 12th.

23 Q. [11:57:34] (Redacted)

24 (Redacted)

25 A. [11:57:50] (Redacted)

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1 Q. [11:57:50] (Redacted)

2 (Redacted)

3 A. [11:58:13] (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [11:58:32] Fine, we will continue at timestamp 18.16 which corresponds to line
7 316 in the translation, and we will go all the way down to line 333 in the translation.

8 (Viewing of the video excerpt)

9 THE INTERPRETER: (Interpretation of the video excerpt)

10 "Yes.

11 The difficulties, the difficulties are situated in this zone that you have spoken about,
12 the Nyangarai road, let's say, on the road which goes from here in the direction of
13 Kilo. And we've deployed troops to give them reinforcements and that's already
14 arrived at Kilo. Furthermore, we've given them the order to carry out patrols on the
15 road, or the part of that road which you spoke about, so that the inhabitants may
16 return. And at the moment, at the moment, now, we've finished with these two
17 zones and we now have the capacity to start coming to the aid of certain villages.
18 There's another sector very close to here. It's the Ngiti of *Songolo/Letu. These
19 people are the most dangerous of all the communities of Ituri that I was able to meet.
20 All the others, the great majority want peace, but this community of Songolo, Ngiti,
21 they are arrogant, they continue to attack villages, they continue to kill inhabitants,
22 they continue to steal cows and I can't accept that. We know that we've had
23 problems with them because it is they who cross the Semliki to go and steal cows in
24 Uganda and bring them here. And they provoke us. They launch bombs in
25 Uganda."

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1 MR BOURGON: [12:00:49] The video has been stopped at *timestamp 20:08, which
2 corresponds to line 333 in the transcript.

3 Q. [12:01:06] Sir, you understand that General Kale Kayihura here is describing his
4 observations concerning the Ngitis of Songolo/Geti; is that correct?

5 A. [12:01:32] Yes.

6 Q. [12:01:34] Is this a situation you were familiar with in addition to hearing
7 General Kale Kayihura mention it?

8 A. [12:01:51] Yes.

9 Q. [12:01:53] Let's continue with the video, starting at line 334 in the translation on
10 page 0339, and we will go up until 349 on the same page, and so we start at
11 timestamp 20.08.

12 (Viewing of the video excerpt)

13 THE INTERPRETER: (Interpretation of video excerpt)

14 "And these bombs, where did they find them?

15 Answer: I heard that it was Mbusa, it was Mbusa, Mbusa who provided them with
16 munitions and Mbusa, I -- we -- we heard on the radio that he had to stop these things.
17 He had to stop sowing problems in Ituri. We found that in -- in -- in the period -- the
18 period of peace, pacification. What does he want? For what reason? Is he aiding
19 these bandits to create problems here? But the UPDF has spoken to us about
20 MONUC and MONUC has told us that, in its opinion, it is us who are able to
21 re-establish peace here, and we are ready. And I'm going to tell those responsible
22 about Songolo. Here, too, there was another incident.

23 Question: NGOs?

24 Answer: NGOs, we came to an agreement with the NGOs. They had -- they said
25 that they proposed starting to come in aid of the inhabitants of the villages. They

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1 gave KOPA (phon). There is an NGO called KOPA?

2 Answer: KOKO (phon)."

3 MR BOURGON: [12:04:14] The video has been stopped at timestamp, 21.52, 21
4 minutes, 52 seconds, which corresponds with line 349 in the translation.

5 Q. [12:04:28] Sir, would you agree with me that what we hear from General Kale
6 Kayihura is that Mbusa is supplying weapons to the Lendus, who are creating
7 problems? Would that be a fair summary of what we just heard General Kale
8 Kayihura say?

9 A. [12:04:58] Yes. I think that we've all followed the video. There's no other
10 explanation to give.

11 Q. [12:05:08] And do you know, sir, who is Mbusa?

12 A. [12:05:17] Mbusa was the leader of the RCD/ML. His army was called the
13 APC.

14 MR BOURGON: [12:05:30] Let's play the last part of the video, and we start at line
15 350 in the translation and we go to the end of this excerpt, which is until line 364. So
16 we start at 21.52.

17 (Viewing of the video excerpt)

18 THE INTERPRETER: (Interpretation of the video excerpt)

19 "Yesterday she sent assistance in aid of children who were in a mission called Bandia.
20 And on returning in the evening, their vehicle broke down at a crossroad. And
21 Bandia and Irumu, with the road towards Bunia, and Bunia, they informed their
22 colleagues about the fact that their vehicle had broken down. And at that time
23 I don't know, they, they, they started to hear voices, voices of the Ngiti. And then
24 radio contact was lost. They came to us to ask for help. And we sent troops at
25 night. When they arrived at the place where they said that the vehicle had broken

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1 down, they didn't find either the people nor the vehicle. We found out afterwards
2 that those who had taken the vehicle had been take -- who were in the vehicle had
3 been taken to Songolo. I sent a message for those people to ask them to come back,
4 to free, to free the members of the staff, to free these people of COOPI. They have to
5 be freed, that they be freed, that they let them leave so that they can come back, their
6 vehicle. They don't do that. We're ready. We are going to occupy them. Yes, we
7 can't continue like that."

8 THE INTERPRETER: [12:07:49] Correction: We're going to deal with them.
9 Corrects the interpreter.

10 MR BOURGON: [12:07:55] Video has been stopped at timestamp 2358, 23.58.

11 Q. [12:08:06] Sir, you hear in this video that the vehicle from the NGO COOPI has
12 been hijacked by the Ngitis, along with some personnel from COOPI; is that correct?

13 A. [12:08:26] Ndiyo.

14 Q. [12:08:27] Is this a situation you were familiar with other than hearing General
15 Kale Kayihura speak about it?

16 A. [12:08:41] Yes, I had heard them speak about that. People spoke about it.

17 There were meetings, other meetings. (Redacted) He also spoke
18 with Afande Ngudjolo, the Lendu Ngiti chief, so they could give the vehicle back to
19 COOPI. I think there are other videos which speak about that.

20 Q. [12:09:12] Thank you, sir.

21 MR BOURGON: [12:09:13] Mr President, based on the answers provided by the
22 witness (Redacted), I would like to have this
23 excerpt admitted in evidence as a Defence exhibit. So I'm not sure if I need to say
24 again, but the video was from 13.11 until 23.48 and the pages were from line 241 on
25 page 1183 of the transcript until line 328 on page 1185. This is the transcript. And

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1 the translation is 1042-0328, from line 258 on page 0337 until line 364 on page 0340.

2 PRESIDING JUDGE FREMR: [12:10:28] Prosecution.

3 MR VAN DER WERF: [12:10:29] No objection, your Honour.

4 PRESIDING JUDGE FREMR: [12:10:30] May I take it there is no objection to also

5 admit evidence of transcript and translation?

6 MR VAN DER WERF: [12:10:37] No.

7 PRESIDING JUDGE FREMR: [12:10:37] All right, then.

8 So all three exhibits are admitted as a further, into evidence as a further Defence

9 exhibit.

10 MR BOURGON: [12:10:58]

11 Q. [12:10:59] Sir, we will move to (Redacted)

12 (Redacted) to video

13 DRC-OTP-0080-0006. I have an extract I would like to look at with you, going from

14 06.01 until 23.20.

15 I have the references, so for the interpreters, this is found in tab 10 of the binder.

16 You have the extract part that we would like to play, so for the transcript it is

17 1042-0010. We'd like to begin at line 59 on page 0013 until line 247 on page 0017.

18 As for the translation, DRC-OTP-1041-0442. We would like to begin on line 61 on

19 page 0446 and we would like to stop at line 278 on page 0451.

20 So, sir, I will first play a small part of the video without any interpretation just so that

21 you can recognize what this video was about.

22 So we will start at 06.01.

23 Sir, if you can just listen and then we'll start the video from the top once you

24 recognize it.

25 (Viewing of the video excerpt)

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1 MR BOURGON:

2 Q. [12:13:57] Sir, do you (Redacted)

3 (Redacted)?

4 A. [12:14:14] Ndiyo.

5 Q. [12:14:15] For the record, I refer to the second statement of (Redacted) of the witness,

6 DRC-OTP-0087-0188, where the witness says at paragraph 17 on page 0191, in French:

7 (Interpretation) "(Redacted)"

8 (Speaks English) I also refer, sir, to your second statement of (Redacted) in one of the

9 annexes, and this annex bears the number DRC-OTP-0087-0211, on page 0211.

10 (Redacted)

11 (Redacted) So it is the page,

12 again the number of the annex is 0087-0211 and the page is 0211. If we can have this

13 page displayed on the screen, please.

14 Yes, it's my understanding that the page will be shown by -- it's not a part of the video,

15 it's one of the exhibits to be shown by the court officer.

16 THE COURT OFFICER: It is on the evidence 1 channel.

17 MR BOURGON: [12:16:39] Thank you.

18 Q. [12:16:39] Sir, do you see this page on your screen? If we can just focus on the

19 names and the top part of the page.

20 Sir, I'm not sure if you read French or not, but here we have timestamps along with

21 (Redacted), but the part that we will play, we will

22 see is the interview that began on the screen that you saw a few minutes ago. Do

23 you recall, sir, that this was an interview with a Mr Kisembo Bitamara?

24 A. [12:18:01] Yes.

25 Q. [12:18:03] And who is Kisembo Bitamara?

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1 A. [12:18:23] He was the director of the cabinet of Chef Kahwa. He was
2 responsible for PUSIC.

3 Q. [12:18:40] Sir, if I suggest to you that he was actually the number 2 of PUSIC and
4 who would replace Chef Kahwa in his absence, does that refresh your memory?

5 A. [12:18:53] Yes.

6 Q. [12:18:56] So we will play this extract, starting at 06.22 on line 72 of the
7 translation, and we will go right up until line 84.

8 (Viewing of the video excerpt)

9 THE INTERPRETER: (Interpretation of the video excerpt)

10 "Mike ARERENG: You're continuing to watch our programme and, today, we have
11 the honour of welcoming an important person here to the town of Bunia, that is
12 Mr Kisembo -- Mr Kisembo, welcome --

13 Kisembo Bitamara: Thank you very much.

14 Question: The aim of our presence here is to meet journalists who you see here
15 present and each of them is going to give his name before asking a question on the
16 subject of the situation that prevails in each political -- in the political party. To start,
17 we're going to start on this side with this person who will introduce himself.

18 My name is John Kanyonyo. I'm a journalist. Director, I would like to ask a
19 question on the subject of agreement that you signed yesterday, and agreed on an
20 agreement on the cessation of hostilities in the district of Ituri. We have learnt that
21 killings have been perpetuated in certain villages and that you have been brought to
22 adopt another position with regards to this agreement. Could you tell us what that
23 is exactly?"

24 MR BOURGON: [12:21:02]

25 Q. [12:21:02] Sir, you recognize the moderator of this kind of press event as being

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1 *Mike Arereng; is that correct?

2 A. [12:21:24] Yes.

3 Q. [12:21:26] (Redacted)

4 (Redacted)

5 A. [12:21:39] (Redacted)

6 (Redacted)

7 Q. [12:21:51] Now, in the last extract we heard a question was asked to Mr Kisembo

8 Bitamara and this question was about killings taking place in certain villages, and

9 they were asking Mr Bitamara to see if this has caused PUSIC to adopt a different

10 position. So now we will continue with the video at timestamp 0723, line 85 from

11 the translation, and we will go all the way down to line 111.

12 (Viewing of the video excerpt)

13 THE INTERPRETER: (Interpretation of the video excerpt)

14 "Thank you very much, Mr Kanyonyo. Indeed, on the 19th we have signed an

15 agreement asking the different groups involved in the war here in Ituri, namely the

16 groups of Lendu, the Hema, the Alur and even the group from Aru to end hostilities,

17 and also members of the PUSIC political party, which means party for the unity and

18 safeguarding of the integrity of Congo. We have accepted to sign to say that we

19 have weapons and we wish to live with the others as brothers and engage in dialogue

20 to put an end to the killings. And while we've just signed this agreement, the day

21 after the rising of the day, we have been the target of attacks of rare violence. People

22 have entered into our territory and have massacred inhabitants. They have killed

23 approximately 52 persons and they've seriously wounded 23 persons. These

24 wounded people are still internalised at the CNK hospital here in the town of Bunia.

25 Numerous inhabitants have fled, more than 300 cows have been stolen, houses have

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1 been set alight, and we ask this not to happen. We have just signed the same day in
2 the evening. We see our Lendu brothers who come to invade our territory. They
3 come armed. They have massacred people. They've stolen cows. These -- all
4 these acts are not a sign of honesty on their part. That's why this morning, towards
5 9 o'clock in the morning, we issued a press release in which we've expressed our
6 position.
7 Firstly, we have addressed the special representative of the Secretary General of the
8 United Nations, Mr Namanga Ngongi. We have also addressed the leader of the
9 delegation of the government of Kinshasa, who was here, the general commissaire
10 Vital Kamerhe. We've also addressed the special representative of President
11 Museveni, who is here at the airport of Bunia, the person responsible for the UPDF
12 troops. We presented this problem to them and we told them that we've just
13 together signed in good faith, with a view to reconstruction of Ituri and the Congo of
14 tomorrow. Today we call for, in first place, we call for MONUC to immediately send,
15 without delay, an investigation commission to the villages and for this commission to
16 draft a report which will be addressed to everybody, including the UN. That's the
17 first thing that we are calling for."

18 MR BOURGON: [12:26:33] The video was stopped at timestamp 11.13, 11.13.

19 Q. [12:26:46] Sir, in this short extract of the video, we hear that there was an attack
20 of a rare intensity committed by the Lendus and that 52 people were killed. (Redacted)
21 (Redacted), were you familiar with these events
22 of the Lendus launching this attack the day after the signing of this agreement?

23 A. [12:27:35] I think we all followed that on the video.

24 Q. [12:27:43] Indeed, we did. I'm just asking you if at the time you were aware of
25 the event itself, the attack with 52 people dead and 300 cows taken away and what is

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1 described in there. (Redacted)

2 (Redacted)

3 A. [12:28:06] Yes. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [12:28:39] Thank you. We will proceed with the video itself, starting at

9 timestamp 11 or 11.13, which corresponds to line 112 of the translation. And we will

10 go all the way up to line 131 of the translation.

11 (Viewing of the video excerpt)

12 THE INTERPRETER: (Interpretation of the video excerpt)

13 "The second shows that -- the second thing, and that is that all the wounded should be

14 looked after by MONUC, where it concerns their medical care. It should not be the

15 case that people should continue to have to look after themselves all by themselves

16 with regards to medical care. They asked to find that MONUC has to take

17 responsibility for that.

18 Thirdly, we ask that the UPDF reestablishes security in these territories very quickly.

19 And fourthly, we call upon all combatants, the Lendu, the Ngiti, to return to their

20 territories, I want to say to their respective administrative entities. And then that

21 they organise themselves in their general neighbourhoods. That way there will no

22 longer be clashes between us because the Lendu will be in their territory, the Hema

23 will be in theirs, the Alur will also be in their villages and in that way there's no

24 possibility for clashes.

25 Those are the three or four points that we ask the government of Kinshasa, MONUC,

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1 and the UPDF there in case that what we demand is not executed. I don't see how
2 we can continue to be sat at the same discussion table while our children, our wives,
3 our women and our families continue to suffer from these atrocities. I hope that
4 MONUC, the government of Kinshasa and the UPDF sincerely act in favour of
5 security. If that's the case, we will see certain actions being carried out this evening.
6 And if they do what we ask, the agreements to, if they do what we ask, we are ready
7 to continue with the process at any time."

8 MR BOURGON: [12:31:34] The video has been stopped at time stamp 13.38 -- 39
9 seconds.

10 Q. [12:31:45] Sir, did you follow what was being discussed by Mr Bitamara, what
11 was being said?

12 A. [12:32:03] Yes.

13 Q. [12:32:03] Now, sir, can you help us with a date for this press conference, if you
14 recall? To the best of your knowledge, of course.

15 A. [12:32:41] I think it was in the month of March between the 16th, 17th and 18th.
16 So 16th, 17th or 18th, but before the 19th. Before the 19th of March 2003, I think.

17 Q. [12:33:04] And why do you say before the 19th?

18 A. [12:33:20] I'm trying to work it out on the basis of the video. I say the 19th but I
19 don't remember exactly. The important thing is to watch the video. It might be
20 possible to recall which month. It was a long time ago. I'm only a human being
21 and I can't remember everything as if I were a machine.

22 Q. [12:33:48] Thank you very much, sir, that's very helpful. If I suggest to you that
23 this of course is linked to the agreement of 19 March, would that ring a bell to you?

24 A. [12:34:17] All I can say is that *Mr Kisembo Kamara (phon), well, in fact, they
25 had an agreement with all of the parties. They just signed agreements to put an end

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1 to the war, but afterwards the Lendu continued to attack certain places. It was
2 'round about the 16th. It was around the 16th, and that's why there were problems.

3 Q. [12:35:09] Let's continue with the video. We will continue from time stamp
4 13.39, which corresponds to line 131 on page 0440, and we will go all the way down to
5 *line 162 and that will be it for this extract. So we start at line 132.

6 (Viewing of the video excerpt)

7 THE INTERPRETER: (Interpretation of the video excerpt)

8 "My name is Marc Uzele Kassamba from the RTNC Bunia. First of all, I'd like to ask
9 you, political commissioner, to give us the names of places where the incidents
10 occurred and then I'd like to know -- there were people who are fleeing, there were
11 people who were leaving Bunia yesterday evening, and even the day before yesterday,
12 there was a feeling of fear among the civilians around Mudzipela. But how can you
13 explain that? Because the incidents that you're talking about did not occur in the
14 town of Bunia. Are you saying that those were incidents -- that those are incidents
15 that you've just been talking about and that they occurred at those places and these
16 were the ones that caused terror in the civilian population? In fact, the people who
17 were fleeing were Hema. Can you say that those are -- it was those incidents that
18 caused panic among the Hema?

19 Thank you very much, Mr Marc Kassamba. I'm sure that you're familiar with the
20 region of Ituri. To be honest, there are two different facts here. First of all, it's true
21 that the Lendu and the Ngiti invaded the area of Bembey, as of Bembey right up to
22 the hill that we call the blue mountain, Mont Bleu, not far from Mandro, and that they
23 killed people. That happened in the night of the 19th. And then yesterday, around
24 10 p.m., there were rumours that in, here in the town, that Lendu were getting ready
25 to launch an assault, an attack against the town and that's why you saw that there

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1 were inhabitants, even those around Simbiliabo, all of those around Mudzipela who
2 were fleeing towards the town, they hoped to find protection there. And we wanted
3 to check these rumours, to find out where they came from.
4 People had learned over recent times that the strategy being decided on by the Lendu
5 was to encircle the town of Bunia. You'll see that in the north, to the north of Lipri,
6 for instance, people were moving around, they felt threatened. In Zumbe, people
7 were moving around, they felt threatened. You see that Bembey had fallen. And
8 you'll find another group of combatants who had already arrived two kilometres off
9 from the town Dele. You have learned that on the 18th they set fire to Tchai, they set
10 fire to Meteo, and they have even got close to Shari. That means then that the whole
11 of Bunia was under siege and the civilian population couldn't go out into the fields,
12 they couldn't leave the town of Bunia. They were in a state of turmoil. And if you
13 follow closely what's happening, you will see that even in Bogoro there were
14 roadblocks that had been set up. In Tchai, you will find roadblocks. In Makabo,
15 roadblocks why were people setting up roadblocks, why were the soldiers setting up
16 these roadblocks if they didn't intend to torture the population? Thank you."

17 MR BOURGON: [12:39:08] The video was stopped at 17.01, which corresponds to
18 line 162.

19 Q. [12:39:19] Sir, my first question in relation to this short extract, we see here
20 Simbiliabo. You're familiar with this as being one of the areas in Bunia; is that
21 correct?

22 A. [12:39:42] Yes.

23 Q. [12:39:43] And were you familiar with the fact that is described here by
24 Mr Bitamara that in terms of the people of Bunia feel like they are being sieged in
25 Bunia and that they are not able to leave Bunia; you're familiar with these facts in

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1 addition to what is being said by Mr Bitamara?

2 A. [12:40:31] Yes. Personally, I don't think that he was lying, but it also depended
3 on people. I know, and there's no hesitation, that Simbiliabo was affected and the
4 Lendu were coming in from the hills, they were coming to fight against the Hema.
5 There was a real problem there because a lot of people chose to live in the town
6 because it was dangerous to live outside the town. People were afraid, and
7 everybody felt that fear, and people protected themselves as best they could. So he's
8 right, but the UPDF was asking people to go to their homes, to stay in their homes,
9 and they disarmed the Lendu militia. You know that it's very difficult to control the
10 militia. You can't differentiate from someone who has got a weapon in his house
11 and someone who hasn't. It's very difficult to exert any sort of control over them.
12 It's always difficult when civilians have weapons.

13 Q. [12:42:22] Now, sir, earlier on you describe, you -- not describe but you mention
14 that this was the period, let's say, generally between 16 and 19 March. My question
15 is: During that time period, of course there is no trace of UPC in Bunia; you will
16 agree with me?

17 A. [12:43:04] I completely agree with you. UPC had already left Bunia at that time.
18 But according to *what Afande Kale said, they'd gone up to Mbijo when they were
19 chased out of Mongbwalu. There *were some soldiers at Chef Kahwa's residence,
20 Kisembo said that, but the UPC as well, the UPC had fought against soldiers who had
21 come from Uganda. They were pushed back to Shari. Sometimes the Lendu might
22 wonder why the soldiers were in Shari and they felt that it was a danger for them.
23 But the UPC troops had already gone because they'd refused to fight against the
24 UPDF. But, in general, the UPC soldiers were outside the town.

25 Q. [12:44:29] Thank you, sir. We will come back later to the troops which are in

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1 Shari.

2 MR BOURGON: For the time being, Mr President, I would like to have this extract

3 admitted in evidence, (Redacted)

4 (Redacted)

5 (Redacted)

6 PRESIDING JUDGE FREMR: [12:44:58] I don't think so. You specified that and we

7 have it on the record.

8 Prosecution, Mr Van der Werf, any objection?

9 MR VAN DER WERF: [12:45:04] No objection, your Honour.

10 PRESIDING JUDGE FREMR: [12:45:06] In such a case, excerpt specified by

11 Mr Bourgon is admitted into evidence as a further Defence exhibit.

12 Please proceed, Mr Bourgon.

13 MR BOURGON: [12:45:18] Thank you, Mr President.

14 Q. [12:45:19] Sir, before I move on to the next video, it's my understanding that you

15 are familiar with a platform called FIPI, F-I-P-I. Are you familiar with this group?

16 A. [12:45:45] I don't know much about FIPI. The only thing I could say is that at a

17 meeting at Kanama (phon) he was talking about FIPI. It was a platform. It was a

18 platform *where the Lendus -- and that was the only time when I heard anything

19 about FIPI.

20 Q. Well, then I'll just ask one question about FIPI. Are you able to confirm that in

21 FIPI there were actually three parties, including the FNI and the PUSIC? Are you

22 able to confirm this?

23 A. [12:46:46] Yes, I can confirm that because they were involved, they collaborated in it.

24 Q. [12:47:02] Are you able to explain from your own knowledge how it is that the

25 UPDF fighting with the Lendus and PUSIC being in a platform with the Lendus, now

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1 both are against the Lendus? Do you know what happened in that situation, from
2 your own experience?

3 A. [12:47:47] Personally, as I saw things, as regards the union of the Lendu, the
4 Hema, the FIPI, in fact it depended on the leadership of the time. Chef Kahwa was a
5 member of the UPC. They all had the same party, it was the UPC, but the leaders
6 had a different vision and thus it was that they set up the FIPI. But apparently it's as
7 if Chef Kahwa wasn't satisfied with certain things within the UPC. To my mind it
8 was a means of bringing peace to Ituri, but different leaders had different visions.
9 I mean, that happens within a family, different children might have different ideas.
10 This is my personal point of view.

11 Q. [12:49:30] My question is more directed at how is it that all of these FIPI, PUSIC,
12 UPC, UPDF, they all had problems with the Lendu combatants? From your own
13 experience, are you able to explain what happened?
14 Unless you have something really in your own experience then we'll move on, sir. I
15 don't want to put you into any kind of difficult situation.

16 A. [12:50:40] From my personal point of view, the PUSIC, FIPI, FLPC (phon), well, I
17 think the FIPI was an organisation that they wanted to set up in order to unify the
18 combatants.

19 But when it comes to fighting against the Lendu, that's a battle that's already been
20 held, but I think what they wanted to do in setting up FIPI was to find a means of
21 bringing peace to Ituri. I don't have anything else to add.

22 Q. [12:51:32] Let's move to (Redacted). I refer here to video
23 DRC-OTP-0087-0014. I have a short one-minute extract to show you from this video.
24 The transcript reference is DRC-OTP-0181-0309, and we will run from page 0314, lines
25 1 to 10. As for the translation, 0181-0165, and we will look at lines 1 to 12 on

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1 page 0171.

2 Before we watch the video together, sir, let me just refer to what you said in

3 this -- concerning this video. This is in your statement of (Redacted), 0087-0188, on page

4 2 -- sorry, 0201 at paragraph 93, where you say in French: (Interpretation) "(Redacted)

5 (Redacted)"

6 (Speaks English) In the annex to your statement, the number of the annex is 0087-0256,

7 and it is on page 0256. You say the following in French:

8 (Interpretation) (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Speaks English) Sir, do you recall which video I'm talking about?

17 A. [12:55:32] Yes.

18 MR BOURGON: [12:55:33] For the interpreters, please go to tab 5 the binder and we

19 will play starting at line 1 until line 12.

20 (Viewing of the video excerpt)

21 THE INTERPRETER: (Interpretation of the video excerpt)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 you explain?"

2 MR BOURGON: [12:57:05] The video has been stopped at time stamp 01.00.

3 Q. [12:57:13] Sir, my first question is: (Redacted)

4 (Redacted)

5 A. [12:57:31] Yes.

6 Q. [12:57:33] (Redacted)

7 A. [12:57:37] (Redacted)

8 Q. [12:57:42] In this short extract we heard the term (Redacted) I suggest to you, sir,
9 that actually (Redacted); is that correct?

10 A. [12:58:05] Yes, (Redacted)

11 Q. [12:58:11] And in this extract, there is reference to (Redacted)

12 (Redacted). Can you confirm that (Redacted)

13 A. [12:58:41] Yes, (Redacted).

14 MR BOURGON: [12:58:48] Now, Mr President, I would like to have this short
15 extract admitted in evidence.

16 PRESIDING JUDGE FREMR: [12:58:55] Mr Van der Werf, any objection?

17 MR VAN DER WERF: [12:58:57] No, no objection, your Honour.

18 PRESIDING JUDGE FREMR: [12:58:59] All right. So this excerpt is admitted into
19 evidence as a further Defence exhibit. And probably we will have to break at this
20 moment, Mr Bourgon.

21 MR BOURGON: [12:59:11] I agree, Mr President.

22 PRESIDING JUDGE FREMR: [12:59:13] All right. Let's move into open session.
23 (Open session at 12.59 p.m.)

24 THE COURT OFFICER: [12:59:28] We are in open session, Mr President.

25 PRESIDING JUDGE FREMR: [12:59:31] Thank you, court officer.

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1 We take our 90 minutes lunch break and it means that we will reconvene at

2 half past 2.

3 THE COURT USHER: [12:59:44] All rise.

4 (Recess taken at 12.59 p.m.)

5 (Upon resuming in open session at 2.34 p.m.)

6 THE COURT USHER: [14:34:58] All rise.

7 Please be seated.

8 PRESIDING JUDGE FREMR: [14:35:24] Good afternoon, everybody.

9 Any changes in appearances? I see some changes in the Prosecution team.

10 MR VAN DER WERF: [14:35:34] Yes, Mr President. Nicole Samson and James Pace

11 are back this afternoon.

12 PRESIDING JUDGE FREMR: [14:35:39] All right. Otherwise I don't see any further

13 changes.

14 Mr Bourgon, we were told you would like to address us, so please briefly.

15 MR BOURGON: [14:35:50] Thank you, Mr President. At this point in time, based

16 on the progress achieved to date with the videos covered with the witness I would

17 like to make a substantiated request for additional time. It simply will not be

18 possible for me to cover the material that I intended to cover in the six hours allocated

19 for this witness.

20 Mr President, the Prosecution in its material had seven extracts that were admitted

21 and out of these seven extracts we come to a total of 16 different short pieces of videos.

22 I myself would like to address eight of the -- six of these videos that were admitted by

23 the Prosecution. I also have 11 new segments, very short segments that I wish to

24 add to those that were already admitted in evidence.

25 That's the first part.

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1 In addition to that, I have videos that I started to cover this morning. I have eight
2 left. Most of them are pretty short, other than for one video involving Chief Kahwa,
3 which is longer, but that's a total of 25 that I have left, extracts that I intend to use
4 with this witness.

5 And I also intended to spend quite a bit of time on the Mongbwalu video, which in
6 itself lasts for two hours, and I have a series of questions that I wish to ask this
7 witness on the Mongbwalu video.

8 Mr President, when the Prosecution initially scheduled this witness, they indicated
9 that they would need eight hours for their examination-in-chief of this witness, which
10 of course with the rule in principle would have given the Defence eight hours to
11 complete its examination -- its cross-examination.

12 The Prosecution has since moved to Rule 68(3), which was granted. Of course by
13 going with Rule 68(3), it relieves the Prosecution of having to show videos, but then it
14 puts the burden on the Defence of having to show those videos that I would like to
15 ask questions on. So it increases the time and the burden on the Defence.

16 The eight hours were reduced by the Chamber to six hours. Mr President, I would
17 like to ask the Chamber to stick with the eight hours that were planned for this
18 witness. That will allow me sufficient time. If I cannot use all the videos that I
19 intend to use, I will make a selection. I have been working on this over the lunch
20 break to see which one I could do away with, and with eight hours I would be able to
21 complete a cross-examination of this witness.

22 Thank you, Mr President.

23 PRESIDING JUDGE FREMR: [14:38:55] Thank you, Mr Bourgon.

24 Prosecution.

25 MR VAN DER WERF: [14:39:00] Yes, Mr President. We do oppose the request for

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1 two additional hours. We want to be reasonable, but at the same time the Defence
2 has spent quite some time on video material this morning that is of remote relevance
3 to the case. Therefore, we would encourage or suggest that more careful selection of
4 video excerpts and shortening of video excerpt be done prior to any decision on
5 additional time be made. So we do oppose this request, your Honour.

6 PRESIDING JUDGE FREMR: [14:40:00] All right.

7 I would rather conduct our deliberations in the deliberation room, so even if it will be
8 relatively brief, we will for a while leave the courtroom. So we will be soon back.

9 THE COURT USHER: [14:40:15] All rise.

10 (Recess taken at 2.40 p.m.)

11 (Upon resuming in open session at 2.43 p.m.)

12 THE COURT USHER: [14:43:10] All rise.

13 Please be seated.

14 PRESIDING JUDGE FREMR: [14:43:33] So the Chamber has deliberated and our
15 ruling is that we will give one more hour to Defence, so the complete time allotted
16 to -- or total time allotted to the Defence is seven hours.

17 But at the same time I would like to add strict caveat, Mr Bourgon. First of all, really
18 it's up to you and it's the main thing in this exercise really to select the most relevant
19 excerpt and in this connection I have to say that I share partially what Mr van der
20 Werf said, that in the morning session I am not saying that they didn't -- those
21 excerpts were not relevant, but really connection between those excerpts and charges
22 was even to me relatively, relatively remote.

23 Moreover, it was mainly about the general situation in Ituri, about the fact that also
24 Lendus committed, allegedly, some atrocities, which in my view also have been
25 presented by numerous witnesses.

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1 So I would strongly encourage you really to make -- and I can imagine that it won't be
2 an easy ask for you, but really to make a strict selection and simply avoid even some
3 relevant excerpts but take those most relevant because really after seven hours sharp I
4 will have to take floor from you and I will simply finish your cross-examination,
5 regardless of at what stage you will be at this moment. So please take it into
6 account.

7 Now you have the floor and I guess we can invite Mr Witness into the courtroom and
8 I guess we will continue in private session.

9 Mr Bourgon?

10 MR BOURGON: [14:45:52] Thank you, Mr President.

11 PRESIDING JUDGE FREMR: [14:45:57] So in the meantime we can move into
12 private session.

13 (Private session at 2.46 p.m.) *(Reclassified partially in public)

14 THE COURT OFFICER: [14:46:11] We are in private session, Mr President.

15 PRESIDING JUDGE FREMR: [14:46:16] Thank you, court officer. And we still have
16 to wait for Mr Witness.

17 (The witness enters the courtroom)

18 PRESIDING JUDGE FREMR: [14:46:45] Mr Witness, good afternoon. Mr Bourgon
19 will directly continue with your cross-examination. And, yes, so we can just
20 continue.

21 Mr Bourgon, please go ahead.

22 MR BOURGON: [14:47:03] Thank you.

23 PRESIDING JUDGE FREMR: [14:47:04] I just wanted to inform you that we are in
24 the regime of private session, Mr Witness, just to let you know.

25 Mr Bourgon, you have the floor.

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1 MR BOURGON: [14:47:13] Thank you, Mr President.

2 Q. [14:47:17] Good afternoon, Mr Witness.

3 A. [14:47:24] Good afternoon.

4 Q. [14:47:29] Let's move without delay to a different video extract and I refer here to
5 the video that we played just before lunch, DRC-OTP-0087-0014 and I would like to
6 play from this video minute 25.11 to 26.51. The transcript reference is

7 DRC-OTP-0181-0309 and we will play lines 485 to 502 on page 0327. As for the

8 translation, 0181-0165, and we will play lines 536 to 554 on page 0185. So we

9 will -- everything is in tab 7 for the interpreters. And we will move immediately with

10 the video, as I have already asked some introduction questions concerning this video.

11 (Viewing of the video excerpt)

12 THE INTERPRETER: [14:49:12] (Interpretation of the video excerpt)

13 “*Here in Bunia on the 5th of April of this year, 2003, as you can see, the situation

14 continues to be bad. You see there are people here at the airport in Bunia, they spend

15 the night here and they were -- there was some fighting here, *on the third. Up to this

16 day people continued to spend the night at the airport. That's why you can see their

17 mattresses, they are people who are afraid of the killings which were carried out in

18 town. *And who -- which occurred following the clashes between certain groups in

19 town, this is the reason why people spend the night there at the airport. The security

20 situation is much more difficult and things are becoming more difficult in Bunia. This is

21 why you see people spending the night at the airport, where the Ugandan troops and

22 the UPDF soldiers are staying. And it is the UPDF troops that are providing security

23 for people in Bunia. But for some time now the UPDF has handed over security

24 matters to MONUC and has continued only to be at the airport. From the time of the

25 war and clashes that took place in Bunia, six people died. People are afraid and that is

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1 why they are sleeping at the airport. This is the third day that they are spending the
2 night at the airport, from the 3rd till today, which is the 5th."

3 MR BOURGON: [14:50:54] The video was stopped at timestamp 26.57, which
4 corresponds to line 553 of the translation.

5 Q. [14:51:09] (Redacted)

6 A. [14:51:24] (Redacted)

7 Q. [14:51:27] And, sir, my second question is: I would like you to confirm that
8 immediately following -- or immediately -- in the days following the battle of Bunia
9 between UPDF, Lendu combatants and UPC, a refugee camp was set up at the airport.
10 You are able to confirm this, sir?

11 A. [14:52:03] I think that we have just seen on the screen that some people were
12 spending the night at the airport. These are people who fled to the airport, so
13 a camp was not set up there. The camp was built after the UPDF troops left. But
14 even before then, people spent the night there in open air.

15 Q. [14:52:44] Sir, with respect to what you say about people spending the night in
16 open air, I agree with you, we just saw this video where people are on the -- in the
17 stairs leading to the airport. But immediately close to the airport a number of people
18 set up camp there, immediately after the events or the battle between the UPDF, the
19 Lendu combatants and the UPC. Would you agree with me with this statement, sir?

20 A. [14:53:34] Yes.

21 MR BOURGON: [14:53:37] Mr President, I would like to have this excerpt admitted in
22 evidence. I don't think I need to repeat the numbers. However, I do have one
23 correction I would like to make or at least the interpreters to make. When we started
24 with this video and we started off, and I refer here to line 17 on page 69, and it says the
25 following: "Yes, in 2003, as you can see, the situation continues to be bad." I would just

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1 like to confirm with the interpreters that on line 538 in the translation, there is a part
2 missing with the date, where it says, "This is Bunia, the 5th of the month of April."

3 THE INTERPRETER: [14:54:37] That is correct, Mr President.

4 MR BOURGON: [14:54:40]

5 Q. Mr Witness, are you able to confirm that the video we saw was in fact on
6 5 April?

7 A. [14:55:00] Yes. Yes, that is what is stated clearly in the video.

8 PRESIDING JUDGE FREMR: [14:55:08] All right, we noted that clarification.

9 Mr van der Werf, your position as to the request to tender video excerpt?

10 MR VAN DER WERF: [14:55:18] No objection, your Honour.

11 PRESIDING JUDGE FREMR: [14:55:20] All right. So this document is admitted
12 into evidence as a further Defence exhibit.

13 You may proceed, Mr Bourgon.

14 MR BOURGON: [14:55:30] Thank you, Mr President. We move with another video
15 extract from the same video, DRC-OTP-0087-0014, and I would like to play from
16 minute 12.00 until 12.35. Everything can be found in tab 6 for the interpreters. The
17 transcript reference 0181-0309, and we will play lines 251 to 260 on page 0320 and
18 page 0321. As for the translation, the reference is DRC-OTP-0181-0165. And we
19 will play lines 280 on page 0178 to line 287 on page 0179.

20 Q. So we will go straight into the video, sir, please watch your screen carefully.
21 (Viewing of the video excerpt)

22 THE INTERPRETER: [14:57:06] (Interpretation of the video excerpt)

23 "The confrontation that took place in Bunia, well, we did -- well, there were not too
24 many deaths, three or four deaths, thereabouts, and a few injured persons, three or
25 four injured persons as well."

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1 MR BOURGON: [14:57:41] The video was stopped at timestamp 12.35, which
2 corresponds in the translation to line 285.

3 Q. [14:57:58] (Redacted)

4 A. [14:58:08] (Redacted)

5 Q. [14:58:11] Sir, we will see a bit later on in this -- in the transcript of this video
6 and another extract that these events, what we saw, took place on 3 May 2003. I
7 suggest to you that this is the correct date; are you able to confirm?

8 A. [14:58:47] Could you repeat your question, please?

9 Q. [14:58:51] Yes, we just looked together at an extract of a video and I suggest to
10 you that what we just saw took place on 3 May 2003.

11 A. [14:59:19] Yes, I think that can be true. If I remember correctly, yes, it would be
12 around that date.

13 Q. [14:59:33] Thank you, sir.

14 MR BOURGON: Mr President, I would like to have this extract admitted in
15 evidence.

16 PRESIDING JUDGE FREMR: [14:59:40] Prosecution?

17 MR VAN DER WERF: [14:59:42] No objection.

18 PRESIDING JUDGE FREMR: [14:59:44] So this extract specified by Mr Bourgon is
19 admitted into evidence as a further Defence exhibit.

20 MR BOURGON: [14:59:57]

21 Q. [14:59:57] Mr Witness, we move to another extract of the same video,
22 DRC-OTP-0087-0014, and I would like to show the minute 30.50 until 33.35.
23 Everything can be found for the interpreters in the binder under tab 8. The
24 transcript reference 0181-0309. The lines are line 603 on page 0330 to line 671 on
25 page 0332. As for the translation, reference is 0181-0165 and we will watch from

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1 lines 662 on page 0189 until line 739 on page 0191. Again, we go straight into the
2 video.

3 Sir, if you can just watch your screen and pay attention, please.

4 (Viewing of the video excerpt)

5 THE INTERPRETER: [15:01:43] (Interpretation of the video excerpt)

6 "Mm, sir, how are you?

7 Fine.

8 Why are you here, sir?

9 If we are here, it is because there are security problems, there is no security.

10 No security?

11 Mm.

12 who are the people who have attacked you?

13 We have been attacked by Lendu.

14 Are you talking about Lendu soldiers or civilians?

15 We don't know if they are soldiers or if they are --

16 Mm. There are a lot of them.

17 In fact, they are mixed, a mix of the two.

18 Civilians and soldiers together.

19 Civilians who when --

20 And some have taken --

21 Clearly there was fighting here two days ago. Can you tell us where this came from?

22 We don't know where the fighting came from. We just saw people coming carrying
23 knives, guns, machetes. We didn't know who they were, but we didn't see any FAC
24 soldiers among them.

25 Has anyone been killed?

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1 Eh?

2 What did you say?

3 Mm, and now, tell us, are there any dead?

4 The problem is I tell you that I arrived the day before yesterday, we went to the
5 market, there were Lendu soldiers, we arrived there and we left. The people went
6 off. Once they had gone, there was then an attempt to find people in their homes
7 because the Lendu, the soldiers, the --

8 They were looking for Hema who had problems.

9 The Lendu soldiers and the Lendu civilians started to arrest people in their homes.

10 Then the FAC came. For two days the houses were being searched. There was no
11 fighting, strictly speaking, but they came to your home to get you. They came into
12 each house. They looted. And they killed people and that went on until last night.
13 And today --

14 we decided to go because we felt that we were very unsafe.

15 Leaving to go where, you're Congolese and here you are in the Congo.

16 Yes, of course we are Congolese, but nobody is helping us in the slightest, nobody is
17 helping us with the difficulties facing us. Nobody cares about us.

18 And now we see that the soldiers from Uganda, the UPDF are here.

19 The UPDF.

20 What are they doing for you?

21 The UPDF have decided to protect us and without the UPDF we wouldn't be alive
22 now. People wouldn't be alive. If there hadn't been, if the UPDF had not been here
23 since that day up until today, we would have been exterminated. But we sought
24 refuge in the town where the UPDF -- at the UPDF camp. There is no other place
25 where we could hide, seek refuge. If the UPDF left again, I don't know what we

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1 would do.

2 And yet some people say that it is the UPDF behind this war, is that not true?

3 Well, for us personally it's the UPDF that helps us. It's not the UPDF who is causing
4 the war, because if the UPDF had caused this -- these problems, this disorder, we
5 wouldn't be here as refugees, we have been here for four days now.

6 Today, however, the UPDF are leaving. What have you decided to do?

7 We have decided to leave with the UPDF, if it is possible, because it's becoming
8 difficult to continue to live here. If the UPDF leave, we will leave too. That is our
9 decision."

10 MR BOURGON: [15:06:04] The video has been stopped at timestamp 35.11, which
11 corresponds to, in the transcript, to line 737.

12 Mr President, I note for the record that the video was not stopped exactly at the right
13 place. The reason is that the -- when the interpreters provide the interpretation, the
14 video goes quicker than the interpreters. But the reference that we would like to
15 stop at is lines 33.35, which corresponds with line 737.

16 Q. (Redacted)

17 A. [15:07:20] (Redacted)

18 Q. [15:07:24] And, sir, you can confirm that this is the follow-up to the previous
19 video that we saw?

20 A. [15:07:39] Yes. I think that it had started on the 3rd or the 4th when there were
21 people killed and that's why the civilians were scared and fled to the airport, and it
22 continued up until the Ugandan soldiers left.

23 Q. [15:08:04] And, sir, you can confirm that other than the fact that (Redacted)
24 (Redacted) the people living in Bunia, many of
25 them preferred to leave with the UPDF rather than to remain in Bunia after the

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1 departure of the UPDF, you are familiar with this, aren't you?

2 A. [15:08:38] Yes, I can confirm that. I think that you heard what was said in the
3 video (Redacted)
4 (Redacted).

5 Q. [15:09:03] And, sir, you can confirm that this took place after the
6 Commission de pacification de l'Ituri ended its work on 14 April; is that correct?

7 A. [15:09:26] You see, this video talks about what happened in the month of May
8 after the 14th.

9 Q. [15:09:39] Are you familiar with the fact, sir, that the
10 Commission de pacification de l'Ituri ended its work on 14 April with the signing of
11 the final report?

12 A. [15:10:13] Yes, I think that could be right. I remember that there was a closing
13 ceremony that I attended. If I'm not mistaken, it could have been around 14 April.
14 But if you have more in the way of precise detail than I have.

15 Q. [15:10:44] Well, I do, sir. I will show you the final report of the
16 Commission de pacification de l'Ituri.

17 If I can have on the screen, please, DRC-OTP-0107-0223. If I can have the first
18 page of the document. Do you need the number again?

19 Do you see the document on your screen, sir, this is the first page of the document.
20 It had already been -- Thank you very much. It had already been admitted in
21 evidence, but you see this is the final report of the Commission de pacification
22 de l'Ituri. You can confirm that you attended the closing ceremonies of this, of the
23 Commission de pacification?

24 A. Yes, I was there. I was there at the opening of the ceremony, but I was there at
25 the closing of the ceremony, at the closing ceremony. I was at both of them in fact.

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1 MR BOURGON: [15:12:38] If I can have on the screen, please, page 0316.

2 Q. Now, sir, at the end of this report there are pages signed by those who
3 are -- who were in attendance at the Commission de pacification de l'Ituri. Let me
4 read you the names on this page, and ask you if you know these people.
5 John Tinanzabo, you know this individual, correct?

6 A. [15:13:31] Yes.

7 Q. [15:13:32] And Eustache Mateso, do you know this individual?

8 A. [15:13:42] Yes, I know him.

9 He was my teacher and I know him. Mateso, yes, I know him.

10 Q. [15:13:55] Are you aware that he was the secrétaire national à l'énergie?

11 A. [15:14:11] Yes.

12 I know that he was one of the members of the UPC, I know him.

13 Q. [15:14:26] And, sir, you are familiar with Marcel Adubango?

14 A. [15:14:52] Yes.

15 Q. [15:14:53] And if I suggest to you that he was the secrétaire national à
16 l'Éducation nationale and that he was, that he is an Alur from Mahagi, can you
17 confirm this?

18 A. [15:15:19] Adubango, that's an Alur name. Is it an Alur name?

19 Q. [15:15:25] Well, that's what I suggest to you, but I would like you, if you can
20 confirm. Are you familiar with his ethnic group or --

21 A. [15:15:59] If I take a look at his name, as I come from Ituri, I can tell what his
22 ethnic group is on the basis of his name.

23 Q. [15:16:13] Sir, I wouldn't want you to guess. What about Mr Denis Akobi, do
24 you know him as the secrétaire national à l'Économie, Commerce et l'Industrie? Are
25 you familiar with the man?

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1 A. [15:16:51] Yes. I remember this list of national secretaries. When there was
2 a meeting, they all came together. But I've just remembered actually all of these
3 names, they're familiar to me. It happened a long time ago.

4 Q. [15:17:20] Thank you, sir. Did you see any of these individuals at the opening
5 or closing ceremonies of the Commission de pacification de l'Ituri?

6 A. [15:17:56] I remember, I remembered when I was looking at the video, I saw
7 Papa Mateso and Eustache. There were also other representatives of our community.
8 There was killing around about Kpandroma (Redacted). And
9 I can say that I wasn't there for the whole time, I was moving off to whether there had
10 been bombs near the quarry, near the mine. Perhaps they were there or perhaps
11 they were there when I was absent because most of the time I wasn't always there, I
12 moved around. But as I have just seen their names and their signatures, that
13 reminds me of certain things.

14 MR BOURGON: [15:18:57] Thank you, sir. Mr President, I would like to have this
15 video admitted in evidence.

16 PRESIDING JUDGE FREMR: [15:19:03] Prosecution?

17 MR VAN DER WERF: [15:19:04] No objection.

18 PRESIDING JUDGE FREMR: [15:19:05] So video specified by Mr Bourgon is
19 admitted into evidence as a further Defence exhibit.

20 MR BOURGON: [15:19:21]

21 Q. [15:19:21] Sir, we move straight into another extract of the same video, the last
22 one, from time 01.22.51 until *01.24.02. All the material, for the interpreters, can be
23 found under tab 9, and the transcript reference is DRC-OTP-0181-0309. We will
24 watch from lines 1887 to 1900 on page 0367. And as for the translation, the reference
25 is 0181-0165, and we will see it from lines 2022 until 2039 on page 0227. So we can

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1 move straight into the video.

2 Sir, please watch carefully on your screen.

3 (Viewing of the video excerpt)

4 THE INTERPRETER: [15:20:46] (Interpretation of the video excerpt)

5 "Here are the people who have fled the inter-ethnic war in the town of Bunia.

6 They are Lendu fighters who had been fighting, who are fighting against the

7 population of what we call Hema. They attacked them in the town of Bunia. They

8 kill people and that's why all of these people have fled and they're following the

9 UPDF soldiers, an army of inhabitants, the army that has brought peace to Ituri.

10 And as the UPDF soldiers are going back home, going back to Uganda, these

11 inhabitants, including young girls, women, children who are frightened of the

12 inter-ethnic slaughter have followed them.

13 Here, as I speak to you, we have left Bogoro on the date of -- we've left Bunia.

14 They've left Bunia on the date of the 6th, and today is the 7th. They spent the night

15 at Bogoro on the 6th, and on the 7th they arrived in Kasenyi. Here as I speak to you,

16 we are on the road to Kasenyi. We are about to arrive in Kasenyi and you can see

17 the inhabitants, they are walking along, carrying their luggage and they're tired. It's

18 the cameraman, *Kaisi Dior, who has provided the explanations. I've shown you all

19 of the images as we see them at this very moment."

20 MR BOURGON: The video was stopped at timestamp 01.24.02, which corresponds

21 to the translation at line 2037.

22 Q. [15:22:26] (Redacted)

23 (Redacted)

24 A. [15:22:40] (Redacted)

25 Q. [15:22:44] (Redacted)

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1 (Redacted), you can confirm that this is before the return of the UPC when Kisembo
2 liberated Bunia on 12 May, are you able to confirm this?

3 A. [15:23:12] Yes, I can say that. When the Ugandan troops left, there was some
4 insecurity. We were told the UPC was going to come back, but as the Ugandans had
5 just left, people were expecting there to be war. People were worried.

6 THE INTERPRETER: [15:23:36] The Swahili interpreters corrects himself: They
7 were worried.

8 MR BOURGON: [15:23:41] Mr President, I would like to have this video admitted in
9 evidence.

10 PRESIDING JUDGE FREMR: [15:23:46] Prosecution?

11 MR VAN DER WERF: [15:23:46] No objection.

12 PRESIDING JUDGE FREMR: [15:23:48] This video then is admitted into evidence as
13 a further Defence exhibit.

14 MR BOURGON: [15:23:58]

15 Q. Sir, we move to a different video. This time it is DRC-OTP-0082-0018. I have
16 three extracts I would like to show you. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Speaks English) Sir, we will go straight into the first extract I would like to show
21 you from this video, which goes from 01.31.32 until 01.32.55.

22 And the material for the interpreters can be found in tab 4. The transcript reference
23 is DRC-OTP-0180-0802. And we go from lines 786 to 797 on page 0825. The
24 translation reference is DRC-OTP-0181-0042 and we will watch from lines 840 to 854
25 on page 0067.

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1 Sir, please take a look at your screen and I will have follow-up questions.

2 (Viewing of the video excerpt)

3 THE INTERPRETER: [15:26:27] (Interpretation of the video excerpt)

4 "As you can see, this is a region where there a lot of Hema rearing their cattle. Today,

5 however, there is no one left. As you can see, all of the houses that used to be here

6 have been burnt or have been destroyed by the Lendu or the Ngiti. Those are the

7 people who don't want peace and they are the ones who are damaging the road at this

8 very moment. Not a single house has been spared. The inhabitants have been

9 attacked and they have fled and it is for that reason that there is not a single house

10 standing at this very spot. I see a great expanse, a huge road, a long journey, there

11 isn't a single house, there isn't a single place where you could sit down to drink water.

12 It's in this way that the situation is evolving today in Congo in this Hema region.

13 My name is Kaisi Dior. I am on my way to Uganda with the Ugandan soldiers, I will

14 accompany them until they get back to their country. In the Hema region we can see

15 that the village was inhabited by many people, but now there isn't a single soul left.

16 The interethnic war has caused everybody to flee. You can see that there were

17 houses everywhere but now there isn't a single one left. They have been destroyed,

18 they have been burnt down by combatants from the Ngiti ethic group. The Congo is

19 facing these problems. Particularly Ituri."

20 MR BOURGON: [15:28:00] The video has been stopped at timestamp 01.32.56,

21 which corresponds to line 854 in the translation.

22 Q. [15:28:19] (Redacted)

23 (Redacted)

24 (Redacted)

25 A. [15:28:55] If we follow all of the videos, and if we see what happened on 3 and

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1 4 May, when people were being killed. And I can say that even in my home I was
2 a victim. When I saw the combat flesh coming out, I heard somebody in my home,
3 the intestines out, blood all over the place, they came to get *my cameras. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted) I have very sad memories. That is what I remember

7 when I think back, the way in which we left, the way in which we have fled. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. Thank you, sir.

16 MR BOURGON: [15:31:12] Mr President, I would like to have this video admitted
17 into evidence.

18 PRESIDING JUDGE FREMR: [15:31:17] Mr van der Werf?

19 MR VAN DER WERF: [15:31:21] No objection, your Honour.

20 PRESIDING JUDGE FREMR: [15:31:22] In such a case this video is admitted into
21 evidence as a further Defence exhibit.

22 MR BOURGON: [15:31:28]

23 Q. Sir, this is the second extract of the same video, 0082-0018. This time I would
24 like to show you from 54.47 until 57.09.

25 The material can be found for the interpreters under tab 3. The transcript reference

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1 is DRC-OTP-0180-0802. And we will cover from line 402 on page 813 to line -- sorry,
2 line 354 on page 813 to line 402 on page 0814. The translation reference 0181-0042.
3 And we will cover line 379 on page 0055 to line 437 on page 0056.
4 Sir, please take a look at your screen and I will have follow-up questions.
5 (Viewing of the video excerpt)
6 THE INTERPRETER: [15:33:14] (Interpretation of the video excerpt)
7 "Thank you. What is the problem, sir?
8 Nothing, nothing. I am waiting for a *canoe to take me to Uganda.
9 I see.
10 We want to go to Uganda, even today.
11 You want to go to Uganda? Uganda is a foreign country, you are Congolese. You.
12 I am going as a refugee and I will work as a Ugandan. I would work as the
13 Ugandans do. In our place there are too many problems. After you leave, we are
14 going to suffer.
15 There are soldiers here from Kinshasa now and some from MONUC. What do you
16 say to these soldiers?
17 The soldiers from Kinshasa are listening to Bunia. They are gauging the situation in
18 Bunia at this time.
19 What did they say?
20 The situation in Bunia, you understand?
21 I don't understand. Bunia, what is the problem there?
22 Many of our brothers had to leave Bunia neighbourhood. Why are they fleeing?
23 The situation here is bad in Bunia.
24 Inhabitants are dying?
25 Yes, they are dying.

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1 I see. So to put an end to the war, to put an end to this interethnic war, what do you
2 want? What do you want to put an end to this war?
3 We want peace to return so that we can return to our Congo.
4 As at now, the UPDF soldiers are leaving, the Ugandan soldiers are going back to
5 their country. What are you going to do in order to live in peace?
6 In order to be able to live, we want Kinshasa to send us soldiers, to send soldiers here
7 to help us.
8 The soldiers in Kinshasa are already in Bunia -- the soldiers from Kinshasa, rather, are
9 already in Bunia.
10 The soldiers from Kinshasa are in Bunia, but these soldiers are not yet here, so our
11 brothers are exterminating us. They are too close to here. As soon as of the UPDF
12 soldiers would leave, they would come here. What are these people -- who are these
13 people who kill?
14 We are afraid of our Lendu brothers.
15 Eh-hé. What do they do? They kill people and they eat them?
16 They kill, they kill Hema and Gegere and they are discriminating against people.
17 And I learned that these people eat human flesh, is that true?
18 that is true.
19 Can you confirm that?
20 Yes, we can confirm that. They ate some of our children. It was in Nyakunde.
21 They cut them into pieces.
22 And they ate them as meat?
23 Yes, as meat, as meat. They would grill them and then eat with chikwangue, which
24 is a manioc paste.
25 And you think that these people can give up the trouble?

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1 No, they cannot stop giving trouble.

2 What can you say to that?

3 As we leave, well, we will remain -- we will remain and the soldiers, eh, the UPDF

4 and the UPDF, they are leaving, we were so afraid, it is impossible for to us stay.

5 And you decided to follow the soldiers of the UPDF; is that correct? Yes, we must

6 leave. We must leave to get some rest in Uganda and when peace will return, we

7 will follow the UPDF troops. We will go. We will go, we will not stay here, until

8 peace returns. That will be fine. *Because the way the government in Kinshasa

9 manages the region leaves something to be desired. Thank you.

10 What is your name? My name is Rashidi. And you, sir? Old Pases Nestor."

11 MR BOURGON: [15:37:38] The video was stopped at timestamp 57.09, which

12 corresponds to the translation at line 437.

13 Q. [15:37:55] Sir, you confirm that (Redacted)

14 (Redacted)

15 A. [15:38:09] That's correct.

16 Q. [15:38:10] Sir, (Redacted)?

17 A. [15:38:27] Well, (Redacted)

18 (Redacted)

19 (Redacted) the Lendus had just attacked Tchomia. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) When the Lendus attacked Tchomia, (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 MR BOURGON: [15:39:48] Thank you, sir. Mr President, I would like to have this
4 video extract admitted in evidence.

5 PRESIDING JUDGE FREMR: [15:39:56] Prosecution?

6 MR VAN DER WERF: [15:39:56] No objection, your Honour.

7 PRESIDING JUDGE FREMR: [15:40:00] So this video specified by Mr Bourgon is
8 admitted into evidence as a further Defence exhibit.

9 MR BOURGON: [15:40:10]

10 Q. [15:40:11] Sir, I move to the third and last extract of this video, and this one is
11 again the same video so it is 0082-0018, and I would like to show from minute 46.01 to
12 46.58. The material for the interpreters can be found in tab 2 of your binder. The
13 transcript reference, 0180-0802. We will go from lines 222 to line 232 from page 0809
14 to page 0810.

15 The translation reference will be lines 243 to 251 on page 0051.

16 Sir, please take a look at your screen.

17 (Viewing of the video excerpt)

18 THE INTERPRETER: [15:41:30] (Interpretation of the video excerpt)

19 "As I speak to you, we are on the shores of Lake Kasenyi. In Kasenyi, there is a lake
20 which serves as a border between Uganda and Congo. At this time there are
21 Ugandan soldiers, UPDF soldiers, stationed in Congo who are returning to their
22 country, returning to Uganda. A surprising thing, however, is that the inhabitants
23 who are afraid of killings in the Ituri, following the Ugandan soldiers, the UPDF
24 soldiers. That is why you can see young girls, women, young men, children
25 following the UPDF soldiers considering -- who are considered to be refugees.

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1 These persons say that they are afraid of the killings in the Ituri. As you can see,
2 there are so many of them and the boat can -- appears to be too small. This is done at
3 the cost -- or the cost of this is borne by the Ugandan government."

4 MR BOURGON: [15:42:47] The video was stopped at timestamp 46.58, which
5 corresponds to line 251 of the translation.

6 Q. [15:43:06] Sir, (Redacted)

7 (Redacted); is that correct?

8 A. [15:43:20] Yes, that is correct, (Redacted).

9 (Redacted)

10 (Redacted) At that time, there were many Congolese
11 in Uganda. These people were very well received by the Government of Uganda.

12 I cannot tell you a lie about this. That is what happened.

13 Q. [15:43:52] Now, sir, last Friday we looked at a video (Redacted)

14 (Redacted) going to Uganda but on a completely different road. Do you

15 remember that?

16 A. [15:44:16] Yes.

17 Q. [15:44:18] That different road was moving up north towards Bule and Mahagi; is
18 that correct?

19 A. [15:44:27] Yes.

20 Q. [15:44:32] So you are well aware that the people who left Bunia, they left on two
21 different axes to reach Uganda; you are familiar with that?

22 A. [15:44:49] Yes, I know.

23 MR BOURGON: [15:44:51] Mr President, I would like to have this video admitted in
24 evidence.

25 PRESIDING JUDGE FREMR: [15:44:56] Prosecution?

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1 MR VAN DER WERF: [15:44:57] No objection.

2 PRESIDING JUDGE FREMR: [15:44:59] This video is admitted into evidence as
3 a further Defence exhibit.

4 MR BOURGON: [15:45:07]

5 Q. Now, sir, you mentioned a little earlier today, a few minutes ago, that (Redacted)

6 (Redacted). And I think you said that (Redacted)

7 (Redacted); is that correct?

8 A. [15:45:24] No, (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 However, what I said is the following: From Kasenyi, there are two roads. Where

13 you saw many people taking the boat to cross, the soldiers could not cross, so only

14 some soldiers and vehicles were able to cross over. But they helped a number of

15 civilians. So when it came to soldiers, they crossed -- or they went by other roads

16 towards Mudiba, and in that area there was a hill. (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [15:46:52] Now, sir, you say that (Redacted), but I take it that

20 you are familiar with the fact that Bunia was -- and I suggest to you that you are

21 familiar with the fact that Bunia was liberated on 12 May by Kisembo's forces. Are

22 you familiar with this fact, sir?

23 A. [15:47:20] Yes. I heard mention of that. I heard that UPC had returned to

24 Bunia. When the Ugandan soldiers left, there were clashes between the Lendus and

25 the UPC. Yes, we became aware of that information (Redacted). So

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1 I don't know if you have understood me.

2 Q. [15:47:51] Sir, (Redacted)

3 (Redacted)

4 (Redacted)

5 A. [15:48:15] Yes.

6 Q. [15:48:22] (Redacted)

7 (Redacted); is that

8 possible?

9 A. [15:48:50] (Redacted)

10 Q. [15:48:53] (Redacted)

11 A. [15:49:04] (Redacted)

12 Q. [15:49:09] I will look at my video again and maybe we will cover that tomorrow.

13 For now, I would like to -- I am not sure if I did ask admission of this last extract.

14 Yes, we did. Okay.

15 Okay, we move on to another video entirely different, and we move to the end of May

16 of 2003. This video bears a number DRC-OTP-0081-0012.

17 The material for the interpreters can be found in your binders under tab 12. The

18 transcript reference is DRC-OTP-1047-0106, and we will look at lines 588 to 659, and

19 that can be found on pages 0125 to pages, to page 0127. The translation reference is

20 DRC-OTP-1047-0081 and we will cover from line 608 on page 0101 until line 694 on

21 page 0103.

22 Sir, before I begin with this video, let me just make a reference to what you said in

23 your (Redacted) statement about this. This is your statement of (Redacted) with the reference

24 number (Redacted) on page 0195 at paragraph 48. And in this paragraph you say,

25 amongst other things, in French:

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1 (Interpretation) "(Redacted)

2 (Redacted)"

3 (Speaks English) (Redacted)

4 (Redacted)

5 (Redacted)

6 A. [15:52:23] Yes.

7 Q. [15:52:24] This one is a bit longer because we are talking about a 6 minute and

8 33 seconds video. So we will stop on a couple of occasions just to give a break to the

9 interpreters. So we can immediately begin with timestamp 18.58 seconds and we are

10 on line 694 of the translation on page 0101. Please take a look at your screen and I

11 will have follow-up questions.

12 (Viewing of the video excerpt)

13 THE INTERPRETER: [15:52:58] (Interpretation of the video excerpt)

14 "We are here with Chef Kahwa, president of PUSIC. PUSIC is the movement that

15 controls Kasenyi, Tchomia, which is in the region where clashes broke out today.

16 We are here with President Kahwa and I would like the chief Kahwa to explain to us

17 what happened in this region. Chief, tell us how did things begin and what is the

18 situation like now? You have crossed the border and you are in the Congo -- you

19 were in the Congo and now you are in Uganda.

20 Well, the situation calmed down somewhat when we left. We were attacked at

21 about 5 a.m. in the morning by APC troops, troops of Lendu combatants and FAC

22 troops which came from Mbuji-Mayi. They landed in Beni and then from Beni went

23 to Geti and Komanda and then later on to Bogoro and then from Bogoro to Zumbe,

24 and then they got here. They were about a battalion of soldiers as well as

25 combatants with heavy weapons. They came with RPGs and 12s and other such

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1 weapons. They came with all those and attacked our -- this region. But the young
2 people tried to protect the population. However, many of these -- many people lost
3 their lives. More than 250 people were killed. So about at around noon or 12.30 we
4 were able to drive them out of Tchomia sector.

5 Now you have left some people there and people are crossing the lake, some of them
6 having been injured."

7 MR BOURGON: [15:55:00] Sorry, we will stop here. I'm sorry to interrupt the
8 interpreters, just to give you a chance to pause. We stop at line 624 and this
9 corresponded to timestamp 20.57.

10 Q. (Redacted)

11 A. [15:55:28] (Redacted)

12 Q. [15:55:29] Now, Chef Kahwa is describing to this paragraph an attack which
13 took place early in the morning at 5 o'clock when the APC troops and the Lendu
14 combatants attacked Tchomia. Is that -- you're familiar with this attack?

15 A. [15:55:53] Yes.

16 MR BOURGON: [15:56:01] We will move on until line 650 and then I will have
17 further questions. So we will resume at timestamp 20.57, which corresponds to line
18 625 of the translation, and we will go until line 650.

19 (Viewing of the video excerpt)

20 THE INTERPRETER: [15:56:33] (Interpretation of the video excerpt)

21 "Well, now you have left the inhabitants there and people crossing the lake, some of
22 them being injured. Did you see an accident along the way?

23 There were soldiers as well and they were unfortunate. But this shows that there
24 was a plan, the government -- by the government of Kinshasa. Some time ago,
25 before Mr Ntumba Luaba went to France he called and my spokesperson, Chief

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1 Kisembo, and threatened him, saying that FAC forces were going to encircle Bunia
2 and that we were going to have problems. It was before he went to France. And
3 you see, you know, this action was planned by President Kabila. And when you
4 have the CPI, the Commission de pacification de l'Ituri, the first person who breached
5 the CPI, I know that you know that it is the government of Kinshasa.

6 Hm-mm.

7 Well, by the channel of general Kisempia, they breached the agreement by facilitating
8 combatants and stating openly over radio that they appreciated the work that was
9 done by the combatants because it was a matter of nationality, patriotism and that
10 they had fought against the aggressor and allies of the aggressor. So they did that,
11 they made that allusion and we, my ethnic group, and so on and so forth, considered
12 this to be a plan of the government to exterminate the Hema from the Congo.

13 Now then what do you intend to do, since you are in difficulty?

14 As far as I am concerned, we are going to continue to protect ourselves because that is
15 our duty and we cannot accept that people come and kill us. You see, you have
16 filmed what has happened here and we are going to give you a film. They kill, they
17 cut up little children and these people become, well, for us they are on -- they are
18 enemies of humanity and enemies of peace and we are -- we cannot accept that such
19 things should go on. We shall continue to resist and to fight these persons or those
20 types of persons.

21 Thank you."

22 MR BOURGON: [15:59:16] The video was stopped at timestamp 22.46, which
23 corresponds to line 649 of the translation.

24 Q. [15:59:30] Sir, you have already told us that you are familiar with this attack that
25 was committed. Now, we haven't seen a date here, but I suggest to you that this

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1 happened towards the end of the month of May, on 28 May, more specifically. Are
2 you able to confirm?

3 A. [16:00:04] (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [16:00:43] Now, sir, are you aware that after Kisembo would have liberated
10 Bunia on 12 May, that there was an agreement that was signed among -- between all
11 the armed groups in order to start again the pacification process of Ituri? Are you
12 aware of this agreement at all?

13 A. [16:01:31] I didn't fully understand your question.

14 Q. [16:01:35] Well, in this interview, Chef Kahwa is talking about the first one to
15 have violated the agreement was the government of Kinshasa. He said this at line
16 636. Let me show you a document to see if you are familiar with this document.
17 I would like to call up on the screen please, the document is DRC-OTP-0086-0017 and
18 the title of this document, sir, is in French, "Acte d'engagement pour la relance du
19 processus de pacification de l'Ituri." So this document will appear on your screen.
20 It's in French, but we can cover a few paragraphs and see if you are familiar with this
21 agreement or acte d'engagement.

22 Sir, you see this document on your screen?

23 A. [16:03:06] Ndiyo.

24 Q. [16:03:08] I believe that you can read French, can you?

25 A. [16:03:11] Yes.

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1 Q. [16:03:15] Just for the record, I will read the top part of the document in French:
2 (Interpretation) "Undertaking for the return of the pacification process in Ituri.
3 We, representatives of the special interim administration and the political military
4 movements in Ituri; meeting at the conference of Dar es Salaam for the return to the
5 Ituri pacification process at the invitation of Excellency Joseph Kabila, president of the
6 Democratic Republic of Congo, and in the presence of the Special Representative of
7 the Secretary General of the United Nations; we affirm the following principles."
8 And I shall just read out the first paragraph, "Principle 1: The *cessation of hostilities.
9 The parties reiterate their undertaking to respect as of this day 16 May 2003, the
10 agreement on the cessation of hostilities signed on 18 March 2003 in Bunia."
11 (Speaks English) Sir, are you familiar at all with the signing of this acte
12 d'engagement on 16 May 2003?

13 A. [16:05:19] I know that there were agreements, but I have not seen this document.
14 The 6 May I was in Bunia.

15 Q. [16:05:56] Okay, thank you, sir. Let me just show you the second page of this
16 document.

17 And if I can have on the screen, please, the -- I guess it is the page 0019 of the same
18 document.

19 Sir, on this page we see that this acte d'engagement was signed in Dar es Salaam on
20 16 May 2003.

21 I would just like you to confirm whether you know the individuals that are
22 mentioned here on this document. Halfway through the page we have PUSIC, and
23 we have Kisembo Bitamara, so we know that you know him. Do you know the
24 other fellow that is there under PUSIC, Cisangani Bahunde?

25 A. [16:07:12] Yes.

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1 Q. [16:07:13] And the next armed group mentioned on this document is the FNI,
2 Front de Nationalistes intégrationnist and we have a gentlemen there called Ndjabu
3 Ngabu. Do you know this individual?

4 A. [16:07:44] You are talking about Ndjabu Ngabu Floribert? Yes, yes, the one
5 from the FNI, yes, I know him.

6 Q. [16:07:58] And, sir, are you familiar with the next group mentioned, the FPDC?

7 A. [16:08:16] Yes.

8 Q. [16:08:18] And I believe you are familiar with the *FAPC, you have already
9 testified about this, that is Jérôme Kakwavu's group. You know him, right?

10 A. [16:08:37] Yes.

11 Q. [16:08:39] The last individual on this page is Thomas Lubanga for the UPC, and
12 you are familiar with him?

13 A. [16:08:52] Yes.

14 Q. [16:08:53] Now, sir, these individuals signed this act d'engagement, basically to
15 start again the pacification process (Redacted)

16 (Redacted)

17 (Redacted). So we will continue now with the second part of the interview,
18 starting at line 652 on page 0102, and the timestamp is 22.46.

19 (Viewing of the video excerpt)

20 THE INTERPRETER: [16:09:40] (Interpretation of the video excerpt)

21 "There was one thing, you left and you've left inhabitants behind you, whereas you're
22 the chief, the president. You're leaving and the inhabitants" --

23 MR BOURGON: [16:09:49] Please, sorry, I have to interrupt you. There is a -- I
24 apologise.

25 So we are back to the video.

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1 PRESIDING JUDGE FREMR: [16:10:03] we have to start again.

2 (Viewing of the video excerpt)

3 THE INTERPRETER: [16:10:13] (Interpretation of the video excerpt)

4 "So there is one thing, you left and you left inhabitants behind you, whereas you are

5 the chief, the president. You're leaving and the inhabitants, haven't you actually

6 abandoned them, left them behind you? The inhabitants, well, I've informed the

7 soldiers. You know that we fought and if we hadn't had valiant soldiers, these

8 people would have exterminated the entire sector in line with their plan, and you

9 know that the Tchomia sector has some 55,000 inhabitants. So it is because they tried

10 to protect the majority of the population that we lost an awful lot of soldiers. They

11 fought in order to protect the population, to prevent the assailants from getting into

12 other areas. So we are confident that the soldiers are there and that they will be able

13 to continue to guarantee security, and I will be with them at all times.

14 What I would like to know is this: Does that mean that you left the inhabitants

15 behind in the state of security? Those people you left behind, can you confirm that

16 their security is guaranteed?

17 Yes, there is security, but it's essential that the inhabitants continue to leave because it

18 will be difficult for us to fight against the government, given that we are not fighting

19 against just the Lendu. We are in the process of fighting against all of the forces.

20 We are fighting against the Mbusa forces, we are fighting against the Kabila forces,

21 we are fighting against the combatants. And there have even been some fatalities

22 among the FAC soldiers, people who were wearing FAC uniforms, and when they

23 arrived, as some of them were speaking Lingala, others Lendu and others Nande,

24 which means that we were fighting against all the forces in the Congo. We are

25 fighting. We hope to be able to repel all of these people, and we'll continue to fight

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1 unrelentingly against the enemies of peace and human rights.

2 And now, Chief, what is the situation in Bunia as some of your troops are also in?

3 Bunia what is happening there?

4 My troops have left Bunia, they have left the town of Bunia in accordance with

5 the *IPC agreements because it was absolutely essential that my party respect these

6 agreements that we signed, and in the agreements we have agreed that the town

7 would be demilitarised. It is for that reason that I took my troops out after taking

8 Bunia. You know I took Bunia. That the UPC then arrived and, in the evening, we

9 withdrew, so when the combatants tried to take the town again, I think that you know

10 that once again we had to send in our troops. We freed the sector of Yambi, of

11 Kindya (phon) and Dele (phon) and that we then withdrew in line with the

12 agreements. This was due to the fact that those who entered were killing people and

13 committing acts that run counter to human rights. My troops are therefore not in

14 Bunia. Today in Bunia, it is Thomas Lubanga's troops that are there. They are

15 there, they are in Bunia. There are Thomas Lubanga's troops and also *''troops of

16 Lendu combatants."

17 MR BOURGON: [16:13:50] The video was stopped at timestamp 25.31, and which

18 corresponds on the translation at line 696.

19 Q. Now, sir, there is a number of interesting things here being said by Chef Kahwa.

20 One, it appears, according to what he says here, that he is the one who liberated Bunia

21 before UPC returned.

22 Do you have any knowledge of this?

23 A. [16:14:46] (Redacted)

24 (Redacted) I can't really comment on what Chef Kahwa has just said. What he said,

25 well, he was speaking on his own behalf, in his own capacity. But, you know, in fact

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1 he occupied Bunia with the UP -- I think it was one and the same operation, because
2 the UPC's goal was to protect the population that were threatened by the Lendu. So
3 I would say that maybe Kahwa's concern was also to protect the population, but
4 maybe he said that if he stayed in Bunia, things might prevent him from then
5 withdrawing. I mean, that's my point of view, but he was the one who knew what
6 he wanted.

7 Q. [16:15:59] Now, of course, sir, I understand (Redacted),
8 but a little earlier on, Chef Kahwa appears to be saying that now he is basically
9 fighting against everybody, Mbusa, Kabila, FAC, Lendu combatants. So he has
10 become kind of a -- he is fighting all these groups. Were you familiar with that, with
11 this state of fact, based on your own knowledge?

12 A. [16:16:47] Well, he said it himself, he showed the weapons that they had. (Redacted)
13 (Redacted)
14 (Redacted) Mongbwalu, they arrested certain soldiers and said that they were from
15 the APC and element soldiers of President Kabila. You know, (Redacted).
16 I can't say if I haven't seen something. But if you ask people, that's what people said.
17 Everyone said that. (Redacted)
18 (Redacted)

19 Q. [16:17:41] Thank you, sir.
20 Mr President, if I can have this video admitted in evidence.

21 PRESIDING JUDGE FREMR: [16:17:49] Mr van der Werf?

22 MR VAN DER WERF: [16:17:50] No objection.

23 PRESIDING JUDGE FREMR: [16:17:52] This video is admitted into evidence as
24 a further Defence exhibit.

25 MR BOURGON: [16:18:01] Mr Witness, I will try to save some time by going into

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1 one area which has to do with Chef Kahwa. And in one of the videos that was
2 admitted in evidence, (Redacted) a conversation with Kasangaki. Do you
3 recall this video, sir?

4 A. [16:18:36] I think that I can remember if I were to see the video.

5 Q. [16:18:47] I was just trying to, hoping that we could maybe avoid looking at this
6 video tomorrow. Well, at this point in time, sir, we will move to a different video
7 (Redacted) in Mongbwalu. So with the 10 minutes that we
8 have, we will go straight into this one. But maybe I have one last question for you
9 first with respect to Chef Kahwa. Are you familiar with what happened to
10 Chef Kahwa in 2004 when he returned to Bunia?

11 A. [16:19:30] Yes.

12 Q. [16:19:32] And what can you tell us about what happened to
13 Chef Kahwa in 2004?

14 A. [16:19:45] Chef Kahwa was taken prisoner in Bunia by the MONUC. (Redacted)
15 (Redacted)
16 Chef Kahwa has been arrested (Redacted)
17 I just heard that he had been arrested there. And it continued until he was
18 transferred to Kisangani and then Kinshasa, and after that he was released. That's all
19 I know for the time being. I know that he was arrested and then that he was
20 released.

21 Q. [16:20:52] And sir, are you familiar with the fact that Chef Kahwa was later
22 convicted by a Congolese court and sent to jail for a number of years?

23 A. [16:21:24] Yes, I heard that.

24 Q. [16:21:25] And are you familiar with what events he was convicted for? If you
25 know.

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1 A. [16:21:45] (Redacted) I didn't want to follow what was

2 happening, but I know that he was arrested and that afterwards he was released.

3 Q. [16:22:05] Thank you, sir.

4 Sir, I move to your, your (Redacted) statement, paragraphs of which have been admitted in

5 evidence. The number of this statement is (Redacted). And I would like to begin by

6 asking you: You recall, or you had the chance to look at this statement during your

7 preparation session with the Prosecution; is that correct?

8 A. [16:22:44] Yes.

9 Q. [16:22:59] And this statement deals with your description of what happened

10 when (Redacted); is that

11 correct?

12 A. [16:23:17] Yes.

13 Q. [16:23:24] So what I would like to do at this stage is to immediately go and take

14 a look at this video. It is already admitted in evidence but I want some clarifications

15 I would like to ask of you. So the number of the video is DRC-OTP-2058-0251. So

16 in the next questions and tomorrow when we resume I will be talking about the (Redacted)

17 statement so that we know that this is your statement that refers to this video.

18 And now we will simply take a look, without sound, at this video from (Redacted).

19 So without sound, we do not need any interpretation at this time.

20 Sir, if you can take a look at the screen, please.

21 (Viewing of the video excerpt)

22 MR BOURGON: [16:24:58] The video was stopped at timestamp -- at timestamp

23 (Redacted).

24 Q. [16:25:19] Sir, my first question is: (Redacted)

25 (Redacted), right?

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1 A. [16:25:32] Yes.

2 Q. [16:25:39] And looking at the first images you see on the video, it starts in Bunia
3 on the tarmac; is that correct?

4 A. [16:25:50] Yes.

5 Q. [16:25:57] And the gentleman that we see, we saw him before in other videos,
6 but you can confirm that this is Mike Alerenge; is that correct?

7 A. [16:26:14] Yes, it's him, Mike Alerenge.

8 Q. [16:26:21] Now, do you recall, sir, that (Redacted) the Bunia
9 airport (Redacted) two aeroplanes that would have been captured by the UPC; do you
10 recall this event?

11 A. [16:26:51] Yes, I remember. There was a plane that was captured by the UPC.

12 Q. [16:27:03] Sir, I refer to paragraph 14 of your statement on page 0004, where you
13 say the following:

14 "The planes in the background have been captured by the UPC. One was captured
15 in *Aruba by Major General Kakwavu. Kakwavu worked together with the UPC. (Redacted)
16 (Redacted)"

17 So my understanding, sir, is that (Redacted)
18 (Redacted); is that correct?

19 A. [16:27:41] Yes. Yes, (Redacted).

20 Q. [16:28:06] Now, sir, I would like to confirm that (Redacted)
21 (Redacted) that actually these planes which were captured are planes that
22 used to transport weapons for RCD-K/ML and Lendu combatants. (Redacted)
23 (Redacted)

24 A. [16:28:46] Yes.

25 Q. [16:28:52] We will go just into one very quick segment of the video and that will

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1 be it for today. I would like to show you from the video from (Redacted).

2 Again, without sound. Please take a look carefully at your screen.

3 From (Redacted).

4 (Viewing of the video excerpt)

5 MR BOURGON: [16:29:38]

6 Q. [16:29:40] Sir, in paragraph 16 of your statement you say the following:

7 "(Redacted)

8 (Redacted)"

9 Does that corresponded to your knowledge of this video today.

10 A. [16:30:20] Yes.

11 Q. [16:30:21] Sir, if I suggest that (Redacted)

12 (Redacted), does that refresh your memory?

13 A. [16:30:54] Well, (Redacted)

14 (Redacted)

15 Q. [16:31:19] Sir, we will stop here for today.

16 And we will resume in the morning, Mr President, with your leave?

17 PRESIDING JUDGE FREMR: [16:31:24] Exactly.

18 Now let's move into open session for the remainder of the session.

19 (Open session at 4.31 p.m.)

20 THE COURT OFFICER: [16:31:37] We are in open session.

21 PRESIDING JUDGE FREMR: [16:31:38] Thank you, court officer.

22 So, first of all, Mr Witness, thank you very much. Today you clearly and patiently
23 responded to all questions put to you.

24 We will continue tomorrow 9.30 and, again, it is my duty to remind you that in the
25 meantime you must not discuss your testimony with anybody else. Do you

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1 understand, Mr Witness?

2 THE WITNESS: [16:32:05] (Interpretation) Yes, I do.

3 PRESIDING JUDGE FREMR: [16:32:14] Fine.

4 So court usher, please assist Mr Witness to leave the courtroom.

5 (The witness stands down)

6 PRESIDING JUDGE FREMR: Court officer, may I ask you for update on the timing
7 because I got some information, so hopefully that it's correct, according my
8 information.

9 THE COURT OFFICER: [16:32:35] The Prosecution has used so far 4 hours and
10 12 minutes.

11 PRESIDING JUDGE FREMR: [16:32:39] Twelve minutes, which means, Mr Bourgon,
12 you still have 2 hours 48 minutes at your disposal.

13 Before we leave the courtroom I would like to pay compliment to you, Mr Bourgon.
14 It is not very common, you know, but today really I have to highlight the way how
15 you organised your cross-examination, especially precise references to so many
16 excerpts. I believe that also this compliment should be also paid to your colleagues
17 who helped you to prepare it, but it was really excellent. So I would encourage
18 strongly any further examiners to proceed in such a way when using videos.
19 So now we adjourn and we will resume tomorrow, 9.30.

20 THE COURT USHER: [16:33:33] All rise.

21 (The hearing ends in open session at 4.33 p.m.)

22 RECLASSIFICATION REPORT

23 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
24 the public reclassified and lesser redacted version of this transcript is filed in the case.