

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Germain Katanga and Mathieu Ngudjolo
5 Chui - ICC-01/04-01/07
6 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and Judge Christine
7 Van den Wyngaert
8 Trial Hearing
9 Tuesday, 11 October 2011
10 (The hearing starts in open session at 9.04 a.m.)
11 THE COURT USHER: All rise. The International Criminal Court is now in session.
12 PRESIDING JUDGE COTTE: (Interpretation) Please be seated. Good morning
13 everyone. Good morning accused persons. Mr Hooper, the floor is yours.
14 MR HOOPER: Yes, thank you, Mr President.
15 WITNESS: DRC-D02-P-0300 (On former oath)
16 (The witness speaks French)
17 QUESTIONED BY MR HOOPER: (Continuing)
18 Q. And good morning, Mr Katanga. I'm just going to detain you further just for a
19 short while just to go through some documents and matters and the first thing I'd like
20 to look at with you is our EVD-OTP-00237, which is a public document, and we have
21 a hard copy I think for you which we can provide you with.
22 MR MACDONALD: (Interpretation) Once again, we need to be able to locate the
23 document.
24 PRESIDING JUDGE COTTE: (Interpretation) In principle, this would be document
25 number 47, but I'm going to check.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 MR MACDONALD: What is the year and number, Mr Hooper? By any chance do
2 you have it?
3 THE INTERPRETER: Microphone, Mr Hooper.
4 MR HOOPER: (Microphone not activated) ...
5 THE COURT OFFICER: Your microphone.
6 MR HOOPER: Oh, sorry.
7 MR MACDONALD: Sorry, I didn't get that number, ERN, I'm sorry, because we
8 can't find it. I'm very sorry about this.
9 MR HOOPER: 0029-0356. 0028, it's not clear. 0028-0356 is how it's shown but
10 it's -- you'd have to adapt, I think.
11 MR MACDONALD: (Interpretation) We have no objection, your Honour.
12 PRESIDING JUDGE COTTE: (Interpretation) The document has been identified and
13 it was not objected to by the Prosecutor. We have it with us and it will be called up
14 on the screen.
15 THE COURT OFFICER: (Interpretation) Your Honour, the document was initially
16 filed as a confidential document.
17 PRESIDING JUDGE COTTE: (Interpretation) In any case, we are going to pull down
18 the curtains behind Mr Katanga so that everyone in the courtroom should be able to
19 see it on their screens.
20 THE COURT OFFICER: (Interpretation) Please press "PC1" to view the document.
21 MR HOOPER:
22 Q. Excuse me. So, Mr Katanga, we'll start in the morning with this letter. Now,
23 before we come to the letter I just want to ask you generally about letters. We can
24 see that this letter is typed. Can you just tell us -- and we can see the date's
25 December 2003 and has a reference it looks like 32FRPI/Prés/Cab/B12003. Now,

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 when it came to letters, did you ever type letters, produce letters?

2 A. No, I have never typed any letter at all. It was the secretary of the FNI who
3 had fled to Aveba. He was disabled and he was a computer technician, Jabed
4 (phon).

5 Q. Was that his name, and can you spell it first, please?

6 A. Jean actually, that is French. Bedi B-E-D-I or Y, Jean Bedi.

7 Q. All right. Now, on this particular document at the bottom, we can see that
8 there's a stamp, which is a rather strange looking lion, perhaps. What does it
9 represent, that sort of figure? Am I right, is it a lion -- is it meant to be a lion or -- on
10 the stamp?

11 A. This is something that looks like a lion because there was no drafts person who
12 was adequate enough to do that, so we had to look for something that looks like a
13 lion because everywhere in Congo you will find that our emblems bear the head of a
14 lion.

15 Q. All right. Now, dealing just with the stamp, where did you get the stamp, if
16 I'm in Aveba in what, December 2003 or in 2000, where do I get a rubber stamp?

17 A. This is something that is really locally made. People cut up their stamp with
18 razor blades. In Aveba, people actually manufactured such stamps.

19 Q. All right. I'm not concerned -- well, let's just look at not so much the content.
20 It's signed "Germain Katanga Simba, President." Addressed to "Chef d'état-major
21 Cobra." And this in December 2003. Do you have any comment at all to make in
22 respect to that?

23 A. Yes, I do.

24 Q. And what is it?

25 A. To begin with, if you look at the hierarchy closely I can tell you that a president

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 cannot negotiate with his subordinate. This is the first point. It means that we
2 really did not have a vertical hierarchy at that time. Secondly, when you look at that
3 title "President" on the document, it means that the title "President" was evolving and
4 so on 8 February 2004 I actually made it official. So that title "President" had been
5 evolving progressively. Those are the two comments I can make.

6 Q. Can I look at another letter. This is EVD-OTP-00238, and we have the hard
7 copy for it as well and --

8 MR MACDONALD: Sorry, maybe once again, Mr Hooper, if you don't mind
9 providing us with the ERN number? That would be much appreciated.

10 MR HOOPER: It's 00029-046, as it appears.

11 MR MACDONALD: (Interpretation) I note, your Honour, that this document is
12 not on their list.

13 PRESIDING JUDGE COTTE: (Interpretation) That is what I am realising. I am
14 looking at the list and, Mr Hooper, I have not found a document, whether under the
15 DRC or the EVD document. It does not feature on your list.

16 MR MACDONALD: (Interpretation) Before that document is called up, your
17 Honour, I would ask for 30 seconds to consult with my colleague. Even though this
18 document is on our list for our cross-examination, we have certain preliminary
19 objections. With your leave, your Honour, I would like a moment.

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

21 MR HOOPER: Sorry, I didn't catch that? I'll move on to another document. Can I
22 call up EVD-OTP-00239, and that is DRC-0029-072 as it's recorded.

23 MR MACDONALD: (Interpretation) Once again, Mr President, I believe that
24 document is not on the list.

25 PRESIDING JUDGE COTTE: (Interpretation) That is what I have also realised.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

- 1 MR MACDONALD: (Interpretation) Once again, I would like to ask for a moment
2 to consult on the issue. Let me stop at that.
- 3 MR HOOPER: All right.
- 4 MR MACDONALD: (Interpretation) To assist my learned friend, for these two
5 documents which are on -- which are not on the list and which have EVD numbers,
6 but which are on the list of the Prosecution for cross-examination, my learned friend
7 can add those on his list.
- 8 MR HOOPER: Well, I'm going to move on to another document, which I hope is on
9 the list, and this is EVD-OTP-00025.
- 10 MR MACDONALD: (Interpretation) We have no objection, your Honour. It is
11 on the list.
- 12 PRESIDING JUDGE COTTE: (Interpretation) Please proceed.
- 13 MR HOOPER: Well, this is on the list. This is on the list, so -- and we've met it a
14 number of times before and we've got a hard copy, I think, and if we can --
- 15 PRESIDING JUDGE COTTE: (Interpretation) It is document number 48 and we
16 are quite familiar with that document.
- 17 THE COURT OFFICER: (Interpretation) Please press "PC1" to view that
18 document.
- 19 PRESIDING JUDGE COTTE: (Interpretation) I no longer remember whether that
20 document is confidential or not, court officer. Mr Hooper, is it confidential?
- 21 THE COURT OFFICER: (Interpretation) The document is public.
- 22 PRESIDING JUDGE COTTE: (Interpretation) Very well, let us pull up the blinds.
23 Does everyone have the document? Mr Ngudjolo?
- 24 Then please proceed, Mr Hooper.
- 25 MR HOOPER: Thank you.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. Mr Katanga, I just want to you look at the stamp on this document and ask you
2 have you ever seen a stamp on a document like that?

3 A. I've never seen that stamp before, except here in the courtroom or in the files.

4 Q. Now, in terms of photographs, I think we had a photograph earlier of the BCA
5 which was submitted. I don't need to repeat that, but can I ask you -- I do apologise,
6 just one moment. Sorry, we've got some photographs, but the numbers on them are
7 illegible basically. They've been occluded by the printing.

8 PRESIDING JUDGE COTTE: (Interpretation) We do have a certain number of
9 photographs on the list that you disclosed.

10 MR HOOPER: Well, maybe I've got another version, which I can see, and it's
11 DRC-D02-0001-0810.

12 PRESIDING JUDGE COTTE: (Interpretation) It is document number 16.

13 MR HOOPER: Very well.

14 Q. And can you identify it for us?

15 A. Yes, I can see three buildings with corrugated iron sheets. This is the
16 Aveba-Mukubwa primary school. There is a straw hut there. I cannot identify that,
17 because this must have been put up after me, after I left. In fact, this is the football
18 pitch, and the path that you can see there is right in the middle of the landing strip
19 and on the left of those straw huts there is an Ndruna translation office.

20 PRESIDING JUDGE COTTE: (Interpretation) Please explain the configuration of the
21 football pitch and the landing strip.

22 THE WITNESS: (Interpretation) The landing strip extends along that path; that is
23 the unpaved path.

24 PRESIDING JUDGE COTTE: (Interpretation) Very well.

25 MR HOOPER:

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. And just so there's not a confusion, how many football pitch areas were there?

2 A. There were two football fields in Aveba. The first football field was this one
3 and this is where almost all the minor competitions, or tournaments, were taking
4 place. There was another football pitch at the BCA, between the BANBATT camp,
5 the transit centre and the BCA camp, so there was a football pitch right in the middle.

6 Q. We had a photograph of the terrain of the BCA camp earlier and so I won't ask
7 you to identify that kind of photograph again, but can I ask please just to have a look
8 at DRC-D02-0001-0806, please, which is again a public photograph?

9 PRESIDING JUDGE COTTE: (Interpretation) It is document number 12.

10 MR HOOPER: Thank you. And do you see that?

11 PRESIDING JUDGE COTTE: (Interpretation) Not yet, but it will soon appear.
12 There it is.

13 MR HOOPER:

14 Q. And looking at that photograph, what do we see, Mr Katanga?

15 A. These are small typical houses that you would find in our area. They are
16 buildings that are typical to our area. That is what I can tell you. Close to those
17 small houses, you would always find small gardens where you can find some
18 vegetables on each piece of land or plot. In this case, you'll see some cassava close to
19 the small houses, which can be used as vegetable at any time.

20 Q. Thank you. Could we look, please, at DRC-D02-0001-090 -- and we've lost the
21 last number. 3. So it's 0903. So I'll repeat the thing again. It's
22 DRC-D02-0001-0903, and it's a public document.

23 PRESIDING JUDGE COTTE: (Interpretation) That would be, in principle, document
24 number 25.

25 MR HOOPER: And can you see that? Not quite.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 PRESIDING JUDGE COTTE: (Interpretation) There it is.

2 THE WITNESS: (Interpretation) Yes.

3 MR HOOPER:

4 Q. And what is that, Mr Katanga?

5 A. On the photograph you can see the Aveba-Mukubwa institute, IPAM.

6 MR HOOPER: Thank you. And can I call for DRC-D02-0001-0905, please.

7 PRESIDING JUDGE COTTE: (Interpretation) Document number 27. The
8 document is on the screen.

9 MR HOOPER:

10 Q. And what is that that we see?

11 A. Although the photograph is a bit dark, we can see the Aveba primary school.

12 MR HOOPER: And finally in the photographs, DRC-D02-0001-0906, please.

13 PRESIDING JUDGE COTTE: (Interpretation) Document number 28.

14 MR HOOPER:

15 Q. And when that's up, can you tell us please what we see?

16 PRESIDING JUDGE COTTE: (Interpretation) There it is.

17 THE WITNESS: (Interpretation) Yes. This is the Aveba-Mukubwa health centre.

18 MR HOOPER: Thank you. Now can I call -- I want you to have a look at a
19 document EVD-D02-00147, and that's also got the number 0001-0932, and it's
20 the -- one of the EMOI documents.

21 MR MACDONALD: (Interpretation) Mr President, I believe that there is an
22 objection regarding this document. Mr President, this document does not come
23 from this witness. It is one of those documents that was disclosed in late June this
24 year and was introduced through Witness Logo. I believe that my colleague can put
25 preliminary questions relating to this document without the witness benefiting from

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 it, although he had seen it, although he had read it in the case file. In spite of all
2 these things, or all these considerations, let me say that the document speaks for itself
3 and I, therefore, do not see how Mr Katanga can make any remarks on this document.
4 In any event, the content of the document or information relating to its content, can
5 be dealt with with him by way of questioning. So that is our position, Mr President.
6 And in your decision 1665, Mr President, it is stated that there must be a link or a
7 connection between the document and the witness. In spite of the fact that the
8 EMOI issues have been discussed, I believe that at this juncture it is difficult to
9 establish a link between this document and to establish a link between this document
10 and the witness, even on the surface of it, so I don't see how this can be done.

11 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, what do you intend to do
12 with this document? Are you going to put questions to the witness from this
13 document? Are you going to submit it to him or what is your intention?

14 MR HOOPER: My intention was merely to see if Mr Katanga can assist us with
15 what some of these terms mean.

16 PRESIDING JUDGE COTTE: (Interpretation) Very well. Mr Prosecutor, as I said
17 last week, we cannot hide behind the law. We are dealing here with an accused
18 person who has decided to testify in his own case. So from the beginning of the
19 proceedings the witness is aware of the document, it is an EVD document which
20 belongs to a case file which he knows very well. I therefore believe that what
21 Mr Hooper wants to do is quite reasonable, to the extent that it enables the Bench to
22 fully understand the meaning of some of the terms in the document. So, Mr Hooper,
23 please proceed. We are listening to you.

24 MR HOOPER: I don't know if we'd have a hard copy. So we're going to pass up a
25 hard copy for you. It will be much easier for you to deal with the document in that

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 format while -- thank you very much.

2 PRESIDING JUDGE COTTE: (Interpretation) If this is a confidential document, and
3 Mr Katanga has to look at it, I think that we must pull down the curtains.

4 MR HOOPER:

5 Q. I think it's right, Mr Katanga, you hadn't seen this document until it was
6 produced in this Court; is that right?

7 A. Yes, Mr David, I only saw that document here.

8 Q. Now, I don't think I can deal with every word on this document, certainly not in
9 a timely way, so let me go to the top. We can see it's from the "Quartier General of
10 the 'État Major Interarmees." If we drop down to the middle of the page, we can see
11 the headline "Composition et Articulation Des Forces" and then we've got "Bde"
12 infantry. What do you understand that to mean?

13 A. That is the infantry brigade. "Bde" stands for "brigade."

14 Q. And then moving across, we have "PNC Deux Bn PIR." And again what do
15 you understand that to mean?

16 A. "PNC" stands for "Police National Congolese." National police of Congo and
17 below it two Rapid Intervention Police Battalions.

18 Q. And can you just take us through the next -- well, the next line? "CIE, CDO,
19 Kamina," what do you understand that to mean?

20 A. "CIE" stands for company and "CDO" stands for commando, while "Kamina" is
21 the base. So this is the commando company of Kamina base, meaning that they
22 came from Kamina if we could put it that way.

23 MR MACDONALD: (Interpretation) Objection, particularly when the witness says
24 "That they came from Kamina." That is not what is stated in the document and, as
25 the Bench would note itself, this document is actually a draft, it is not signed and now,

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Mr President, I think that the witness must be directed to simply provide meaning.
2 For example, "Kamina would be a place, or a base," and that is it without any further
3 comment. Now, if the gentleman knows that a commando company came from
4 Kamina to go to any other place, maybe he can say so, but otherwise making such
5 suggestions to the Chamber would be baseless.

6 PRESIDING JUDGE COTTE: (Interpretation) We are mindful of this,
7 Mr Macdonald.

8 So, Mr Katanga, please answer strictly the questions that have been put to you in
9 order to help us to understand the meaning of all these words and acronyms, and
10 please do not make any comments that do not relate directly to the questions that
11 have been put to you.

12 Mr Hooper, please proceed.

13 MR HOOPER:

14 Q. And why do you say "from Kamina"?

15 A. I mentioned Kamina because Kamina is a base. It is the base where the
16 commando company was trained. That is it. I cannot say more than that. It is a
17 base at which the commandos were trained, as simply as that.

18 Q. Now, the next section, can you just take us through those "SCTL sector"? Just
19 take us through that little bit there, line-by-line.

20 A. That means "Sous Control Sector." "SC" means under the control sector.

21 Q. And after that, what do the three lines - the various things on those next three
22 lines - represent, as far as you know?

23 A. "EM ZOps" means headquarters operational zones. "Cie spéciale FAé" is
24 Special Company of Air Forces. "Cie Recce (Kananga)" stands for the -- I do not -- I
25 can't explain that. I don't know what "Recce" stands for, "Recce (Kananga)."

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 "Recce" or "Recce," I'm not able to tell you what it is.

2 Q. All right. Now, we go on to the next page and given what you've told us we
3 can I think fairly understand much of it, but under "(c)" at "(2)" can you just read that
4 and put it into French, as it were, for us please?

5 A. Point 2 reads as follows: "Equip and provide guidance for the FAC ...," which
6 is the Congolese Armed Forces, "... three infantry battalions of the APC which have
7 just completed training in Nyaleke, Mont Ahwa and Kamango."

8 Q. And going down to item 5, "Pacify the sector," and then in brackets can you
9 help us as to what that stands for, or not?

10 A. "Pacify sector. (Operational sector for disarmament, demobilisation and
11 reintegration)."

12 Q. And then "(d)," can you interpret that?

13 A. Point (d) relates to the enemy situation. See draft operation appended or
14 attached as an annex."

15 Q. Now over the page, page 3, again much of it now perhaps more intelligible to
16 us, but the third phrase that starts "Garder en," can you attempt to interpret that for
17 us, please?

18 A. "Keep a commando company and a ..." -- well, I'm not yet able to tell you what
19 the word "Recce" stands for. "Keep those on standby with a view to respectively
20 conducting former officers and information gathering."

21 THE INTERPRETER: Says the witness.

22 MR HOOPER:

23 Q. And then down at "(2) Feux" and in brackets we see "Bie 107." Do you know
24 what that is, "Bie 107"?

25 A. I am not going to put my hand into the fire. I don't understand this.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. All right. Over the page at page 4, number "(1) Brigade Infantry" and I can
2 understand that, but what's the second part, "Sur ordre"? Can you help us with
3 that?

4 A. "We'll conduct a counter-offensive, as ordered, with a view to recover lost
5 positions."

6 Q. And then down towards the bottom of the page we have "Instructions de
7 Coord," and that's co-ordination, and what appears to be days with various events
8 happening. The first one "Diffusion des" and then it's "OO" or "00," does that mean
9 anything to you?

10 A. No, it doesn't ring a bell. No.

11 Q. Now, can I ask you this: You've told us about one of the EMOI commanders,
12 Commander Aguru. Did you ever get any letter, or letters, from him at all?

13 A. Colonel Aguru was considered as -- in fact, I considered him to be my elder
14 brother. He was senior to me, senior at work, senior in the army, senior in age in
15 Ituri, where we all came from, so we were always in contact with Colonel Aguru and
16 we talked with him at all times. Even when I was in prison in Kinshasa, I continued
17 to talk with him. So there was a lot of communication, many letters, but I cannot
18 vouch that I would remember the content of all the letters. In any event, I received
19 several letters.

20 Q. Don't say "Yes" if you don't, but would you recognise his signature?

21 A. I surely can recognise his signature, Aguru's signature.

22 Q. Then can I ask you, please, to look at document EVD-D02-00149 with that
23 purpose, and I stress if you don't recognise it do say so. If you do by all means tell
24 us, but please look at the signature on this document when it's presented. In fact, we
25 can perhaps provide you with a hard copy.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 MR MACDONALD: (Interpretation) Mr President --

2 MR HOOPER: I'm not going to be concerned with the -- I'm not going to be
3 concerned with the contents of this letter. My purpose is limited to recognition, if
4 possible, of the signature on the letter.

5 MR MACDONALD: (Interpretation) In that case then, Mr President, I suggest that
6 the last page of the document be displayed on the screen where the signature appears,
7 if that is the only purpose my learned colleague is pursuing.

8 PRESIDING JUDGE COTTE: (Interpretation) Fair and good. Court officer, please,
9 would you display the last page of the document.

10 Mr Hooper, would you please confirm the confidentiality level of this document. Is
11 it confidential? It bears the indication "Confidential" in our folder.

12 MR HOOPER: Yes, it is confidential because of its source.

13 THE COURT OFFICER: (Interpretation) The document can be viewed.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Madam.

15 MR HOOPER:

16 Q. And if you want a hard copy of the last page, we can let you see it. Are you
17 okay looking at the one on the screen, or would you prefer to have a hard copy? I'd
18 rather you look at this, actually, the hard copy. It's much clearer than the screen.

19 PRESIDING JUDGE COTTE: (Interpretation) I'm not so sure that this is the right
20 page on the screen. Court officer, I think it's page 3 we want to see on the screen.
21 Right now we have page 4 on the screen. Page 3 is the one that we had need to have
22 up on the screen. We'll try to zoom in on the signature and the stamp. Great.
23 Thank you very much, ma'am.

24 MR HOOPER:

25 Q. In fact, the hard copy I provided you, it is I think demonstrably clearer; it's

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 come out clearly. Others can see as they wish. And now looking at that signature
2 and the stamp as well, can you tell us whether you in fact do recognise that to be the
3 signature of the person that it purports to be on the letter?

4 A. If you look carefully, if you look carefully at the signature, you'll see that
5 even -- it even looks like his name. It looks like his name. There's an initial there,
6 "A," Aguru, it's already there. The signature's there; AG.

7 Q. My question is, do you recognise that as being the signature of Commander
8 Aguru?

9 A. Your Honours, this same signature will be seen everywhere. You will see it
10 everywhere in all the things that Aguru signed. It's his signature.

11 MR HOOPER: All right. Thank you. All right. You can set that aside. Let
12 me have the hard copy back and we can raise the blind behind you.

13 PRESIDING JUDGE COTTE: (Interpretation) Court officer, if the blinds could be
14 raised.

15 MR HOOPER: Thank you very much. All right. Thank you. And just wait there,
16 Mr Katanga, there will be some further questions put.

17 PRESIDING JUDGE COTTE: (Interpretation) Mr Hooper, have you concluded?
18 Thank you. I'll take this opportunity at the end of the examination-in-chief to insist,
19 and with regard to the Ngudjolo Defence team, for instance, I'd like to insist that it is
20 absolutely, absolutely necessary, when many documents are being shown, to give a
21 number to each and every document, serial number so to speak, so that we can
22 quickly find them during the hearing and this will make things smoother. So this is
23 absolutely necessary.

24 So I believe that in the case of Mr Ngudjolo's Defence team, you were preparing
25 something along those lines. We did waste some time desperately searching

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 through a document of ten pages, trying to find EVD numbers, and I think we really
2 need to make things easier for one another. So, Professor Fofé -- Mr Hooper, please.

3 MR HOOPER: I'm sorry, I omitted to request, as I must, EVD numbers for the three
4 photographs that were shown; the first one with the number 0903, the second one
5 0905 and the final one 0906.

6 PRESIDING JUDGE COTTE: (Interpretation) 906. Court officer, we will do so
7 before we allow Professor Fofé to take the floor. So 0903 first of all, that particular
8 document.

9 THE COURT OFFICER: (Interpretation) Thank you. This shall bear the number
10 EVD-D02-00229 and shall be recorded as a public document. The next document,
11 DRC-D02-0001-0905 shall bear the number EVD-D02-00230 and will also be recorded
12 as a public document. The third document, DRC-D02-0001-0906 has already been
13 recorded under the number EVD-D02-00200. Thank you, your Honour.

14 PRESIDING JUDGE COTTE: (Interpretation) Thank you, ma'am. Professor Fofé,
15 please proceed.

16 MR FOFÉ: (Interpretation) Good morning, your Honours. Thank you very much
17 for this opportunity to address the Court.

18 QUESTIONED BY MR FOFÉ: (Interpretation)

19 Q. Good morning, Mr Katanga.

20 A. Good morning, Mr Fofé.

21 Q. Mr Katanga, I have listened carefully to your testimony, which has provided us
22 with a great deal of relevant information. I do not have many questions for you.

23 Just one particular point if I might, one particular specific point, and this is a point

24 which was raised at the hearing held on 6 October 2011 which we can find, your

25 Honours and learned friends, in transcript 318, French version, page 3, line 6 to line

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 14. And just to give you some context, Mr Katanga, I will read out this short passage
2 from your testimony. Question from Mr Hooper, and I quote: "Now let us talk
3 about the attack that occurred on 24 February," and I'll add that we are talking about
4 24 February 2003. I repeat, question from Mr Hooper: "Now let's talk about the
5 24 February attack. After the attack of 10 February you told us that Kabiduru (phon)
6 had arrived, Adirodu, and that there had been a confrontation with Kisoro and that
7 he had set up operations in Kasara, at least that's what you believe, and that Blaise
8 Koka had received the order to mount an attack on Bogoro. These plans and the
9 details relating to the attack on Bogoro, do you know how this was discussed?" That
10 was the question from Mr Hooper. And here is your answer, and I'm quoting you,
11 you said: "The details, how we could attack Bogoro, were set down on a piece of
12 paper and so the outline, the very plan of the attack on Bogoro, had been put down
13 on paper, written down."

14 My question is as follows: These plans, the plan to attack Bogoro on
15 24 February 2003, these plans which were written down on paper, where did these
16 plans come from?

17 A. The plan of attack came from Beni.

18 Q. This plan of attack was drawn up by whom?

19 A. By the EMOI.

20 MR FOFÉ: (Interpretation) Thank you very much, Mr Katanga. Thank you. Your
21 Honours, I have concluded. Thank you very much.

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

23 Prosecutor, you may proceed, if you wish. If you want to take a few moments to
24 organise yourself and prepare your documents.

25 (Pause in proceedings)

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 MR MACDONALD: (Interpretation) Your Honours.

2 QUESTIONED BY MR MACDONALD: (Interpretation)

3 Q. Mr Katanga, good morning.

4 A. Good morning.

5 Q. To start off, Mr Katanga, the objective of my questions is to try to help the
6 Chamber make sense of a number of things, things that are not being challenged,
7 things you have acknowledged and, in this way, the Chamber will certainly be in a
8 better position to assess all the evidence that has been provided, all the testimony that
9 has been given, as well as all the various exhibits, be they audio recordings or
10 documents, all the things that have EVD numbers.

11 Now, I understand from your testimony that you agree with all of us, all of us here in
12 this courtroom, that there was a conflict in Ituri that may have begun in 2001, perhaps
13 even before that time with the first and second Congo wars, but the period of time
14 that is of interest to us, that we are focusing ourselves upon during this trial, is the
15 period from the month of July or August *2002 all the way to July or August of 2003.
16 So my question is as follows: You agree with all the evidence that we have seen that,
17 indeed, there was a conflict in that period of time, July or August *2002 to
18 July/August 2003; is that not so, Mr Katanga?

19 A. It was an ongoing conflict. It was ongoing.

20 Q. Very well, it was an ongoing conflict. We will get back to that point.
21 However, I realise that during your testimony you mentioned that initially there was
22 a conflict between the Lendu-Ngiti *and the UPDF. Now, for the *sake of these
23 admissions I don't think we need to get into the specifics right now. We'll hark back
24 to that later.

25 During the period of time at hand, July *2002 to August 2003, this conflict which

1 involved the UPDF, this conflict expanded and the UPDF became -- well, was
2 replaced by the UPC, as you said, and during that period of time it was the UPC
3 against the Lendu-Ngiti. Do you agree with that statement? The conflict that you
4 said was an ongoing one involved, during the period of time at hand, the UPC
5 against the Lendu-Ngiti?

6 A. Perhaps you're forgetting the APC.

7 Q. The APC, I understand you made reference to that, reference -- you made
8 reference to that, so be it, but let us set aside the APC for right now. Is it correct to
9 say that at one particular point in time -- well, no, rather during this period July 2002
10 to August 2003 this ongoing conflict included or opposed you, the Lendu-Ngiti
11 fighters and the UPC fighters?

12 A. Well, I'll give you a practical example, Prosecutor. Please, the UPC, for the
13 first time that it could attack the Walendu-Bindi collectivity, that was just after
14 Lompondo left.

15 Q. So you agree, don't you? We agree that Lompondo's fall -- and I think
16 everyone agrees on that point, no one is challenging this point, the Chamber can
17 assess that admission. Mr Lompondo left Bunia on 9 August, 9 August 2002. So I'll
18 ask my question once again and, given the answer you've just provided us, you agree
19 with me that this conflict, an ongoing conflict during that period of time
20 July/August 20002 to July or August 2003, opposed Lendu-Ngiti combatants and
21 UPC combatants?

22 A. No, not in that meeting. Let us consider the dynamics of the matter. The
23 UPC combatants were attacking our community only in places where the UPC
24 soldiers -- correction, where the APC soldiers were. That's the practical, or the
25 concrete, explanation.

1 Q. Let me continue. I can see that you're not willing to acknowledge that this
2 conflict between you, the Lendu combatants, Lendu-Ngiti combatants, versus the
3 UPC combatants. Well, we'll come back to this point, because you always add - and
4 this is what we understand to be a central element of your defence, or rather your
5 testimony - the whole issue of the APC. This is a central part of your testimony.
6 Each thing that you did, each justification of your actions, has been related to an APC
7 intervention. We will come back to that point and we will try to demonstrate - and
8 we're not hiding anything from you - that you are deliberately misleading the
9 Chamber when you make mention of the APC.

10 Mr Katanga, I can see that you're laughing. I see that you laughed when my
11 colleague was putting questions to you. Let me tell you, this is not a -- this is no
12 laughing matter. This is your trial. Several hundred people died in Bogoro. Out
13 of respect, we have to be serious. Some decorum.

14 MR HOOPER: I think my friend should show some decorum as well. And I was
15 repeatedly criticised for rather long questions, but they pale into insignificance in
16 their length compared to the four/five questions or statements that have been
17 announced by the Prosecutor this morning. Are we going to get direct questions?

18 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofé.

19 MR FOFÉ: (Interpretation) I'm very much aware, your Honour, that there are some
20 things going on here that are just not quite right. I don't think that we can take such
21 a truncated view of this conflict. The Prosecutor has his own particular theory. He
22 does not want to depart from it, not in the slightest, but he must realise that his
23 theory is very far from the actual reality of what happened. I didn't want to express
24 this in particular, but I think we all have to make our contribution to a demonstration
25 of the truth.

1 Now, during that period, that period of time, there were all those various players
2 involved in the events.

3 PRESIDING JUDGE COTTE: (Interpretation) We are beginning this
4 cross-examination and this is an important point in the trial because the accused
5 persons have decided to give testimony and, since the examination-in-chief and since
6 the short number of questions from Professor Fofé have concluded, I think it's
7 absolutely necessary for the cross-examination to be conducted under the right
8 conditions, in a very calm and serene manner. The time has not come for anyone to
9 present concluding arguments. We are far from that point. Each and every one of
10 us -- through Mr Germain Katanga who has decided to give testimony, each and
11 every one of us has to make his or her contribution so that we can come to the truth of
12 this matter.

13 Prosecutor, please ask questions that are short, appropriate for cross-examination.
14 Please don't attach too much importance to expressions on people's faces, or anything
15 like that. Mr Katanga, please focus on the questions put to you by the Prosecutor.
16 I don't want anyone to get worked up. I want a very calm and serene trial.

17 Now, as for the Prosecutor's viewpoint, he will be expressing his views. I don't
18 know whether he is sticking to his position firmly, but for the time being he's just
19 beginning his cross-examination and I reiterate this cross-examination has to be
20 conducted under the right conditions. The Bench very much desires a calm and
21 serene trial.

22 Mr Prosecutor, please proceed.

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

24 Q. Mr Katanga, I mentioned that to you because -- and once again I'm being very
25 frank with you and, as Mr Hooper has often said, indeed we have to challenge. We

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 have to show you what our theory is. So that is why I said to you that we are going
2 to try to demonstrate that in actual fact, when you mention the APC intervention, you
3 are twisting things around. So let us hark back to the conflict.

4 You have said, and you have stressed, that indeed attacks were conducted in places
5 where the APC was located, and you agree with me that there were Lendu and Ngiti
6 combatants at those positions, not just the APC? Do you agree? Do you at least
7 agree with me on that point, as you seem to have said in your testimony?

8 A. Prosecutor, I am saying to you that there were fighters but before the
9 movements of the APC, before they never attacked us. This is what I'm telling you.

10 Q. Just a question, a minor question, as we embark upon this terrain and try to
11 come to an agreement. Let's come to an agreement about the actual reality. When
12 the UPC attacked Songolo on 31 August 2002, you agree that they attacked the village
13 of Songolo, don't you?

14 A. The village of Songolo where the APC soldiers took refuge.

15 Q. Isn't it true, Mr Katanga, that in Kasangolo (phon) we found, even before the
16 movements of the APC there were Ngiti combatants, even before Lompondo fled and
17 found himself in Songolo, that there were -- let us set aside Kandro and the other
18 Yarimbaya (phon) and all of that. There were Ngiti combatants there, weren't there?

19 A. Mr Prosecutor, I wouldn't say that. There were Ngiti combatants, I agree, but
20 the APC never attacked. Let's be clear about that.

21 Q. Mr Katanga, isn't it correct that on 31 August, 31 August in Songolo, there were
22 a number of combatants, Ngiti combatants. And if we listen to your testimony,
23 there were also soldiers, APC soldiers. You agree with me on that point? The same
24 place, on 31 August, when the UPC attacked, both groups were present there?

25 A. Okay. Let's go.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. Do you agree with this statement that I am putting to you, that there were on
2 31 August, in Songolo, Ngiti combatants and APC soldiers and that the two groups
3 were attacked by the UPC.

4 A. In Songolo, yes.

5 Q. So you agree with me on that. So you agree with me, as well, that certainly
6 when the Nyankunde attack occurred in 2002, on 5 September, you agree with me
7 that there were APC soldiers and there were also Ngiti or Lendu combatants who
8 attacked the UPC in Nyankunde on 5 September 2002, do you agree with this
9 statement?

10 A. We are in agreement, we agree on this point.

11 Q. And you agree with me that these two events are part of this conflict which you
12 described as an ongoing one; isn't that so? The Songolo attack and the Nyankunde
13 attack, you agree with me that they were part of this ongoing conflict?

14 A. Yes.

15 Q. Well, you see, I asked the question at the very beginning and we didn't seem to
16 understand one another. You didn't want to admit, but now I see that our two
17 positions are coming closer together that, indeed, the UPC was attacking Lendu-Ngiti
18 combatants and Ngiti-Lendu combatants were attack being them?

19 A. No, no, no. No, no, no. Don't confuse things, Prosecutor. Let us be frank
20 here, let us be frank. I beg of you. I told you that the combatants in the
21 Walendu-Bindi collectivity. However, if Lompondo had not been driven out of
22 Bunia, our collectivity would not -- would have been attacked by the -- that's what
23 I'm telling you. So don't associate the combatants with the initiatives. The
24 Walendu-Bindi collectivity was going to attack? No. It was just when the APC
25 arrived in Songolo, after that attack on 31 August 2002, that was when the combatants

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 with the APC went to Nyankunde. Other than that, there never was an attack that
2 the combatants themselves launched against the APC. Let us be frank about this
3 point. I didn't say that the combatants left their area and went to attack the APC.
4 No, no, no, no.

5 Q. Mr Katanga, do you agree with me that during that Nyankunde attack - and
6 I believe you even admitted that there were several hundred civilian, and I am talking
7 about 1,000, 1,200 civilians who died during that attack - do you agree with me that
8 during the Nyankunde attack of 5 September 2002 about 1,000 people died?

9 A. Mr Prosecutor, I have respect for those who have lost their lives. If someone
10 dies, I cannot deny that someone has died. If it was 1,000, 2,000, 5,000, I do not deny
11 that people died. I am saying that there was a large number of people who died in
12 Nyankunde. I cannot deny that.

13 Q. And this was an event that was widely known to everyone. You agree with
14 me that it was even the largest massacre, the largest attack, the largest war during
15 that ongoing conflict. Do you agree with me that that Nyankunde attack was an
16 important point in the history of Ituri?

17 A. Unfortunately, Mr Prosecutor, you did not investigate that attack. Why did
18 you not investigate? People had difficulties moving about in Nyankunde because of
19 that. Why did you not investigate those massacres in Nyankunde? The APC was
20 in control of that area, and I believe you didn't investigate that attack because you
21 realised that.

22 Q. Please, I am asking the questions here and it might take very long if you,
23 yourself, ask questions and answer them without answering the questions that I'm
24 asking you. Do you agree with me that this was the biggest massacre in that
25 ongoing conflict?

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 A. Mr Prosecutor, the numbers, the figures are available, and the same applies to
2 Songolo, the figures are there. Thousands of people died and these figures can be
3 compared. I cannot say that more people died in Nyankunde or more people died
4 in Songolo or Drodro. What I am telling you is that there was no one who was there
5 who counted the number of people who died, but I cannot deny that people died. I
6 cannot.

7 PRESIDING JUDGE COTTE: (Interpretation) Mr Prosecutor, we note that
8 Mr Katanga is not disputing the fact that many people died in Nyankunde; he is not
9 in a position to confirm to you the approximate numbers that you have put forward,
10 but we have to make progress. Please proceed.

11 MR MACDONALD: (Interpretation)

12 Q. Yes, indeed. Songolo on 31 August many, many civilians also died during that
13 attack, isn't that true, and that also was known to everyone?

14 A. That is in written documents, Mr Prosecutor. I was not there to count the
15 number of people who died.

16 Q. During those two attacks, that is in Songolo and Nyankunde, women, children,
17 elderly people, mothers and fathers, they died during those attacks; is that correct?

18 A. I am not denying that.

19 Q. But did you learn later on from your contacts, the people you knew, why so
20 many civilians had been killed in Nyankunde? Why was it necessary to kill all those
21 civilians? That was my first question.

22 A. My answer to you is I do not know.

23 Q. But since you are a soldier, you agree with me -- well, we'll come back to that.
24 You were 26 years old when you were promoted to the rank of brigadier-general, that
25 is something important, but from your experience as a soldier, what you know about

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Nyankunde and the presence of the APC -- of the UPC, was it necessary to kill so
2 many civilians to drive out the UPC?

3 A. I will tell you, Mr Prosecutor, that Major Faustin, who was the leader of that
4 operation, was a professional. I do not know what happened with Major Faustin
5 and Kandro in Nyankunde. I heard that people died, that many people died. I
6 cannot deny that. But I'm telling you that Kandro and Major Faustin were all
7 professionals, so I am also wondering about that. Why were there so many deaths?

8 Q. Very well. Let us move away from Nyankunde and go on to other admissions.
9 You have -- you referred to Songolo, Nyankunde, and you have mentioned Drodro.
10 I think this was on 4 April 2003 or 2 April - I'm usually mistaken about that - that it
11 was also an attack that it was important in Ituri. There were repeated attacks on
12 both sides, that is during that period from July 2002 to August 2003. These were
13 repeated incidents. One side would attack and the other side would attack; is that
14 correct?

15 A. No. And I am saying "no" quite simply because while in my collectivity I
16 could not know what was happening in the north. There was a road which served
17 as a boundary, so I do not know what was happening in the north. The place that I
18 even mentioned, Drodro, I do not know it.

19 Q. We have to be careful and comply with the five-second rule. Now, you
20 mentioned Drodro as an example, but you have no idea where Drodro is located; is
21 that what we are to understand by your last answer?

22 A. All I know is that Drodro is geographically located north of Bunia. I have
23 never been there. That is all I know.

24 Q. Let us go back to that issue of a permanent or ongoing conflict. What do you
25 mean by that, that this conflict was ongoing or permanent, between the period

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 July 2002 to August 2003? What did you mean by that?

2 A. Mr Prosecutor, ever since foreign forces came into Ituri one could not expect a
3 period of calm. It was a period of unrest, of disturbances. The Ugandans were in
4 our area. We did not feel comfortable. Even our soldiers, Congolese soldiers, were
5 not comfortable because they did not have responsibilities. How is it possible that a
6 mere Ugandan lieutenant would issue orders to a Congolese major or colonel? That
7 is degrading, Mr Prosecutor, so there was a force occupying Ituri.

8 Q. Very well. Let us go back to the fall of Lompondo and talk about the
9 geography of Walendu-Bindi. There is Boga, which is south of Bukiringi; do you
10 agree with me on that?

11 A. Yes.

12 Q. Very well. The UPC was present at that location, that is Boga, at the time that
13 Lompondo fell; is that correct?

14 A. I cannot confirm that to you, Mr Prosecutor, and that is because subsequently,
15 when I discussed with people from Boga, it was instead PUSIC which was the
16 dominant force there. So I do not know whether it was initially the UPC which was
17 later replaced by PUSIC there.

18 Q. You agree with me that PUSIC was the political party of Chef Kahwa; do we
19 agree on that?

20 A. At the beginning, yes.

21 Q. A little bit of history, and I believe you will agree with this because it is not in
22 dispute: Chief Kahwa was a member of the UPC before he went on to create PUSIC;
23 isn't that true?

24 A. Yes, we heard that Kahwa was a member of the UPC.

25 Q. But Kahwa was someone that you knew for a long time. When you arrived in

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Ituri in '98, over those years Chief Kahwa was someone you knew?

2 A. No, Mr Prosecutor.

3 Q. You agree with me that he was a member of the UPC, but there was a
4 misunderstanding between him and Thomas Lubanga towards the -- around the
5 month of November, early December. Did you hear about that, Mr Katanga?

6 A. During this case, yes.

7 Q. But while you were there, didn't you ask yourself questions? "What is
8 PUSIC?" "Who are they?" "What are they doing?" "They are in Boga, they are not
9 the UPC." Did you wonder about that?

10 A. I saw that acronym "PUSIC" on 22 March 2003. That is when I saw that
11 acronym. I did not know what it meant.

12 Q. Very well. Let us move away from Boga. Now the road between Bunia and
13 Komanda, do you agree with me that between July 2002 and August 2003 at certain
14 times it was the UPC that was on that road, other times it was the APC, there were
15 attacks and those in control changed. And I believe you were even involved in the
16 attack at Chey, C-H-E-Y, not Chai.

17 A. You are talking about when, August?

18 Q. 2003.

19 A. August 2003?

20 Q. I believe right up to the time of -- from the fall of Lompondo there were attacks
21 on that road, there was fighting.

22 A. Mr Prosecutor, let us be clear: Are you talking of August 2002, that is
23 9 August 2002, to August 2003? Well, I do not know whether there were any attacks
24 after the fall of the UPC in Bunia; that is, on that Bunia-Komanda road. I do not
25 know.

1 Q. You, therefore, agree with me - that is what you have just said - that right up to
2 March 2003, that is at the fall of the UPC in Bunia, and we know that that was on
3 6 March 2003, there was conflict on that road, that is Bunia-Komanda, do you agree
4 with me?

5 A. Are you talking about a conflict, or skirmishes or what?

6 Q. Everything.

7 A. No, I cannot confirm that.

8 Q. So what happened there specifically on that road?

9 A. I will tell you that in December 2002 the UPC, MLC and the national RCD were
10 occupying that road right up to the 23rd, 24th of 2002. They were near Erengeti.
11 There was a conflict, a battle between the RCD and the MAI MAI fighting against that
12 alliance. So apart from -- as from that day, whether it was the RCD -- the national
13 RCD and the operation effacer le tableau, they fled to Mambasa. So that segment
14 from Erengeti to Komanda, the APC took over control of it without any fighting.

15 Q. You are talking about the south of Komanda. I am talking about Komanda to
16 Bunia.

17 A. I was coming to that. Right up to 6 March 2003, the APC was at Chey, that is
18 the APC, with Commander Hilaire.

19 Q. And what happened after 6 March, did he go away?

20 A. After 6 March, based on what I read in the ceasefire decision, the APC was
21 asked to withdraw from that road and go to Komanda.

22 Q. Why?

23 A. That was the CPI policy. I did not know.

24 Q. What about the other road, that is Bunia-Kagaba, Bunia-Dele, Katonie-Bogoro,
25 Lakpa-Kagaba, on that road is it correct to say that there were attacks here and there

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 on that road?

2 A. Mr Prosecutor, I do not know what was happening between Dele and Bogoro.

3 I'm not aware of that.

4 Q. Very well. So talk to us about Bogoro to Kagaba.

5 A. Very well. Kagaba in January, that is when Yuda arrived in Kagaba, we do not

6 know whether the UPC was aware that the soldiers had set up camp in Kagaba. It

7 was then that Kagaba was also attacked.

8 Q. And that went on 'til when?

9 A. Mr Prosecutor, the UPC, they came and attacked. And when they felt that it

10 was not going on well, they would return to their base.

11 Q. The Bogoro base?

12 A. Yes.

13 Q. So you agree with me that on that road Bogoro-Kagaba, the UPC which was

14 based in Bogoro would come out and attack along the road right up to Kagaba; is that

15 it?

16 A. Yes, that is what I'm telling you. Even if you go there today, you will realise

17 that there are no houses.

18 Q. The UPC was causing suffering amongst the members of the population on that

19 road?

20 A. I am telling you that our population, our people, always suffered and it was

21 worse during that period. It was the worst suffering.

22 Q. What do you mean by "the worst"?

23 A. This means that people were suffering a lot. People were suffering very much.

24 Imagine the inhabitants waking up all the time after hearing gunshots, why would

25 they not suffer?

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. The civilian population was being terrorised, isn't that correct? They could not
2 go out, they could not move about at the risk of their lives.

3 A. Please listen, Mr Prosecutor: In our area, in our country, war does not take
4 place as in Europe. In Europe people protect themselves in their houses. In our
5 country, it is the contrary; if you stay at home, people will set your house on fire and
6 you will burn inside. So instead of people staying at home, they take the direction of
7 their farms; they go and take refuge in their farms, not in their homes. So in our area,
8 if there is an attack now, after 30 minutes and people are aware that things are calmer
9 then you will see them in the village.

10 Q. Mr Witness - Mr Katanga - from Bogoro there were also attacks launched
11 against Medhu and Songolo, isn't that correct? There was the UPC base in Bogoro,
12 which also attacked on the other side of Muwaka Mountain; is that correct?

13 A. Mr Prosecutor, I am not aware of that itinerary; that is, Bogoro to Medhu. The
14 name "Medhu," the village that was set up in Medhu was set up as from 12 May
15 when the population fled Bunia. That is when members of the population settled
16 next to that small market. It was merely a small market. It was a stock-breeding
17 concession. People were not living there because in our country people live in areas
18 where they can farm, but this was a stock-breeding concession. Many people did
19 not live there, and the purpose of having that market there was to trade and survive.

20 PRESIDING JUDGE COTTE: (Interpretation) Please make sure to comply with the
21 five-second rule. Mr Katanga, I'm sorry, I'm simply reminding you because I have
22 been reminded. It is difficult to always remember that. Mr Prosecutor, you have
23 four minutes remaining.

24 MR MACDONALD:

25 Q. Mr Katanga, this small market is known as Tatu, T-A-T-U, isn't that correct?

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 A. I think so.

2 Q. You know that. After -- or, rather, behind that market if you continue from
3 there you will arrive at Songolo; is that correct?

4 A. Yes.

5 Q. During that period, right up to 6 March 2003, that is at the fall of the UPC in
6 Bunia, the population of Songolo was also suffering, isn't that correct; that is, the
7 population along the localities that you marked on your map, they were the victims
8 of attacks between August 2002 and March 2003?

9 A. The locality of Songolo-Anyoso (phon) suffered a single attack, and that was on
10 31 August.

11 Q. I'm talking to you about Songolo-Androzo, Songolo-Muta.

12 A. It is "Mula."

13 Q. Yes, indeed, it is Mula. I am sorry. Songolo-Fouh.

14 A. What I can tell you is that Fouh-Mula, I would say that it is -- they are located to
15 the left of Anyoso. To the right there is Songolo-Anyolo (phon), which is on the road
16 to Medhu. I cannot confirm to you whether there were attacks in Songolo-Androzo
17 or not. I do not know. I cannot remember.

18 Q. So when it comes to this, your memory is defective. You have never heard of
19 attacks? There were never any attacks or maybe there were attacks, but you do not
20 know, you do not remember?

21 A. What I can tell you is that maybe there were attacks, but I have no idea.

22 MR MACDONALD: (Interpretation) This is the time for the break, Mr Katanga.
23 We will resume in 30-minute's time.

24 PRESIDING JUDGE COTTE: (Interpretation) Court usher, can you lead Mr Katanga
25 back to his seat, please. We will reconvene at 11.30 after the break. The hearing is

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 suspended.

2 THE COURT USHER: All rise.

3 (Recess taken at 11.00 a.m.)

4 (Upon resuming in open session at 11.37 a.m.)

5 THE COURT USHER: All rise.

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

7 Is everyone present? Yes.

8 Mr Prosecutor, please proceed with your cross-examination.

9 MR MACDONALD: (Interpretation) Thank you, Mr President.

10 Q. Mr Katanga, let me visit the attacks or skirmishes or disturbances between
11 Bogoro and Kagaba. During those attacks or clashes with the UPC which was based
12 in Bogoro, isn't it correct that civilians died? That they were killed by the UPC
13 forces?

14 A. Wherever there have been clashes I cannot say no, because there might always
15 be victims.

16 Q. That road towards Bunia was cut off or blocked at Bogoro and the civilians
17 living along the road from Bogoro to Kagaba coming from Aveba, for those people it
18 was very difficult to go to Bunia for trading; is that not the case?

19 A. Mr Prosecutor, many people in our community have never been to Bunia, even
20 from the time of their birth until they die.

21 Q. Mr Katanga, my question was the following: Isn't it correct that because
22 Bogoro was cut off, since the road was blocked for the Ngiti, the civilians and
23 villagers, it was difficult for them to go to Bunia if it were only for business purposes
24 or trading purposes?

25 A. Mr Prosecutor, we have two points: First of all, you need to understand that

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 many traders from Bunia get their supplies from Butembo. This is what you would
2 notice if you were on the ground in Bunia. Some of the major traders leave Bunia
3 and get their supplies from Butembo. Now, whether it was our traders or the major
4 traders from Bunia, their place of supply was in Butembo. Now, when the
5 Kasenyi-Ntoroko line was open there was a lot of risk, because we did not have the
6 boats that could carry two or three containers across and that was the problem we
7 had on Lake Albert. Now, you have talked about the road having been blocked to
8 our traders, well, I do not understand it that way as far as economics goes.

9 Q. Mr Katanga, between Kasenyi and Tchomia, people crossed the Lake Albert to
10 Uganda for supplies which they bring back into the country up -- down to Bunia. I
11 believe that you agree with me on that point. So if one were in Bunia, one would not
12 get goods only from Butembo. Supplies come from Uganda as well; is that not the
13 case?

14 A. Mr Prosecutor, please clarify this point for me. You say that products come
15 from Uganda to Beni. Can you clarify that?

16 Q. No, I am talking about Bunia.

17 A. Well, I heard the word "Beni" but, Mr Prosecutor, that would not be in sufficient
18 quantity. I say so because MONUC had a small big boat which would bring
19 supplies from Kasese. They had a base in Kasese and they would cross Lake Albert
20 with that boat. I think the boat was called Koko (phon) something. I don't
21 remember the name of the company. It is that small boat alone which provided
22 supplies to MONUC, but as for traders or merchants, they used this school, which
23 was a local canoe or boat, which does not have the capacity to carry up to two
24 containers. What they do is take the available merchandise, load it as best they can
25 and every now and then they would be hit by storms and they will be -- and their

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 vessels would capsize and everyone would drown.

2 Q. Witness, it has been your testimony this morning that the Tatu market only
3 developed after the exodus from Bunia on 12 May. Are you referring to
4 12 May 2003?

5 A. Well, maybe my French was not clear enough. What I said was that the
6 market existed, but that the village expanded when the displaced persons arrived.
7 Maybe I didn't speak clearly, but what I meant was that the market had been there,
8 the Tatu market had existed before within the stock-breeding concession, and there
9 was -- there were not too many people in that area at the time.

10 Q. Mr Katanga, those survivors, or rather refugees, did not move to that area only
11 on 12 May; this had started much earlier with the exodus of 9 August 2002.
12 Lendus/Ngitis you would agree with me fled Bunia and sought refuge in various
13 areas, particularly in the Walendu-Bindi area, which is your area; is that not the case?

14 A. Yes, I agree that from 9 August 2002 people fled from Bunia and sought refuge
15 in our collectivity, but as far as Medhu goes in particular, there were no people there
16 and I can say so. Clearly. People started to move massively to Medhu to settle
17 there, I would say around the 10th, 11th or 12th and that was the time at which there
18 was an influx to Medhu which had a direct route into our collectivity without having
19 to go through Bogoro or through Songolo which were far away. But let me
20 confirm -- I cannot confirm that it was from 9 August. In fact, what happened was
21 that from 9 August people took the two itineraries, one from Bunia crossing through
22 the Hoho (phon) market to Chey and then straight on to Songolo. On the other side
23 people went straight to Zumbe. Those were the two roads - the only two
24 roads - Mr Prosecutor.

25 Q. So the second road led people to seek refuge in Zumbe; is that the case?

1 A. Yes, yes, yes, many people went to Zumbe.

2 Q. Many people to Zumbe?

3 A. Yes.

4 Q. Witness, let us return to the Bunia-Komanda road. Would you not agree with
5 me that in the fall of 2002, that is from September to November/December, a number
6 of attacks occurred on Singo, Songokoi and the neighbourhoods in that area around
7 Singo?

8 A. Let me be specific. It was after the APC was driven out of Nyankunde, yes,
9 there were attacks.

10 Q. Were these UPC attacks? Would you agree?

11 A. Yes. Yes, indeed.

12 Q. Were these attacks launched from Nyankunde?

13 A. Yes.

14 Q. When did the UPC recapture Nyankunde?

15 A. The UPC recaptured Nyankunde in October.

16 Q. Until when?

17 A. Until Christmas Eve and even after Christmas they were still in Nyankunde,
18 Christmas of 2002. They were still in Nyankunde.

19 Q. Can you tell us the date on which they recaptured Nyankunde in October?

20 A. I don't have a specific date in mind, but I know that it was one month later
21 because I went through Nyankunde to meet Commander Hilaire in Marabo and then
22 we went to Chey and from there I was wounded and taken back from Chey to
23 Marabo through Nyankunde.

24 Q. To be more specific, was it at the beginning, in the middle or the end of the
25 month of October? Can you give us an indication?

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 A. Mid-October.

2 Q. Mid-October following the fight in Chey the UPC recaptured Nyankunde? Is
3 that your testimony?

4 A. Yes, maybe mid-October, yes.

5 Q. It can therefore be said that in spite of the fighting in Chay, C-H-A-Y, that is on
6 the way to Nyankunde, Bunia, you did not win, you were defeated, and the UPC
7 maintained its position in Chey and then later went to recapture Nyankunde. Is that
8 the case?

9 A. Yes, not directly. Not directly, because we left the APC forces first of all in
10 Chey and then I was taken away, but it is true that the next day they fled.

11 Q. The combatants of your group fled?

12 A. No, no, no, no, no, no, no. I and my combatants with whom we came from
13 Aveba, we went back because I was wounded and we left the APC troops in Chey
14 under Commander Hilaire's command. That is of the 11th Battalion.

15 Q. Very well. Now, Mr Katanga, I would also like to revisit or rather move on to
16 another area. We shall return to some of the things we have just talked about
17 subsequently. For now, I would like document EVD-D02-0096 to be displayed on
18 the screen. This document was used by my learned colleague, Mr President, during
19 his examination-in-chief.

20 PRESIDING JUDGE COTTE: (Interpretation) That is -- is that a document on your
21 list?

22 MR MACDONALD: (Interpretation) No, no, Mr President. This is a document
23 Mr Hooper used yesterday afternoon. I simply want to put a few questions to the
24 witness on that document.

25 PRESIDING JUDGE COTTE: (Interpretation) Court officer, let us now look at

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Mr Hooper's documents.

2 MR MACDONALD: (Interpretation) It is the photograph of Bunia in June 2003
3 showing Mr Katanga along with other persons.

4 PRESIDING JUDGE COTTE: (Interpretation) Is it a confidential photograph?

5 MR MACDONALD: (Interpretation) No.

6 PRESIDING JUDGE COTTE: (Interpretation) No, it is not, court officer.

7 THE COURT OFFICER: (Interpretation) Mr Prosecutor, it's not a photograph of
8 Bunia. Is it a group picture?

9 PRESIDING JUDGE COTTE: (Interpretation) Yes, it's a group photograph of a
10 number of persons bearing number 70 in Mr Hooper's bundle.

11 MR MACDONALD: (Interpretation) I'm sorry for the confusion. It is an
12 EVD-OTP-0096. I'm sorry.

13 PRESIDING JUDGE COTTE: (Interpretation) Yes, that is correct. Court officer,
14 please display the photograph and I see the photograph is now on your screens.

15 MR MACDONALD: (Interpretation) Thank you.

16 Q. Mr Katanga, can you see that photograph?

17 A. Yes, Mr Prosecutor.

18 Q. Now, this photograph was taken in June 2003, according to your testimony. I
19 would like simply to confirm that you were 25 years old at that time on this
20 photograph, if my calculation is correct?

21 A. Yes, 2003; correct.

22 Q. You had just turned 25 in April 2003?

23 A. 28.

24 Q. Am I to understand that these people are people you had known for a while, for
25 some time, Mr Alezo Sipa, Mr Muhito, Mr Iribi, these are people you had known for

1 some time; is that the case?

2 A. Pascal Alezo, Muhito, we were together in our collectivity.

3 Q. Together in the collectivity for a very long time; is that the case?

4 A. I will not say for a very long time, because I had not known them before. I got
5 to know them at a certain time.

6 Q. Now, let us not beat about the bush. What year are you talking about?

7 A. We came together towards the end of 2002.

8 Q. But Mr Katanga, you knew Mr Muhito before the end of 2002?

9 A. He was a teacher in Nyankunde.

10 Q. Yes. Why didn't you mention that? Why did you talk of the end of 2002?

11 Why do you say end of 2002 and yet now you say that you knew him from the time
12 he was a teacher in Nyankunde? What are you hiding?

13 A. Mr Prosecutor, I am not hiding anything. I need -- we need to be sure what we
14 mean by knowing somebody, that is being close to them, and knowing who they are
15 within themselves. I got to know Muhito very well when he came close to me.

16 Before then I knew him superficially in Nyankunde to be a teacher. That is the
17 distinction that needs to be made. When you say "know somebody" it might just be
18 a physical acquaintance which is different from knowing them when they become
19 close to you. That is the context in which I provided the answers and if I was off
20 track, then I am really very sorry.

21 Q. Mr Sipa, Pascal Alezo Sipa, from what year did you know him? In what year
22 did you know him? The same question that I put to you about Emile Muhito? Tell
23 us the year.

24 A. Yes. As for Sipa, in concrete terms, it was the end of 2002.

25 Q. Once again, Mr Katanga, isn't it true that you knew him well before that time,

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Mr Pascal Alezo Sipa?

2 A. No, not in Nyankunde.

3 Q. Why have you talked about Nyankunde? I asked you a question about a year
4 and now you say something about Nyankunde. Why? Why? Nyankunde?

5 A. Mr Prosecutor, please calm down. I have an answer for you. Calm down. I
6 said not in Nyankunde, because Sipa came from Bunia from the ISP, from the USP,
7 according to the story he told us. He told us that he came from Bunia, from the USP.

8 Q. What is the link between that and Nyankunde? I have asked you for the year
9 in which you got to know him. When did you know that individual and you said
10 "end of 2002" and when I asked for further details you said "not Nyankunde," so my
11 question is why did you say "not Nyankunde"?

12 A. That is clear. I gave you the answer in terms of my knowledge of Muhito in
13 Nyankunde, but what I am saying is that at that time Muhito was not in Nyankunde.

14 Q. Mr Witness, isn't it correct that you knew Mr Pascal Alezo Sipa since
15 Nyankunde?

16 A. Can you explain to me how?

17 Q. I put it to you again: Mr Katanga, isn't it correct that you knew Mr Pascal
18 Alezo Sipa from the time of Nyankunde?

19 A. No, simply. Quite simply, no.

20 Q. Very well. Your wife, Denise, can you tell the Court the year in which you met
21 her and the place at which you met her? Can you say that again?

22 A. In Nyankunde, Mr Prosecutor.

23 Q. What year?

24 A. '98.

25 Q. Is it correct that Denise is Mr Angaika Didi's sister?

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 A. No.

2 Q. Same family?

3 A. No.

4 Q. There's no relationship between the two of them?

5 A. None whatsoever.

6 Q. Isn't it true that you know Mr Angaika Didi very well? Isn't that so?

7 A. I can give you the name of brothers of Denise, Denise's brothers. The other
8 one is the director of the school, the principal at the Kibonge Institute in Komando.
9 His name is Eric.

10 Q. Mr Katanga, I will put the question to you once again. Isn't it true that you
11 know Mr Angaika Didi very well?

12 A. Well, that was the answer I was wanting to give you. You were putting -- I
13 was explaining the differences between the two families. Angaika Didi is from Isiro
14 locality and my wife, Denise, is from Kawango (phon) locality. There's a great
15 distance between the two places.

16 Q. Mr Katanga, I'll ask you the question once last time. Regardless of any links
17 that there might be between your wife and Mr Angaika Didi, isn't it true that you
18 know him very well? It's a simple question. It's a clear question and it's direct.

19 A. I know Didi. I know Didi very well. He was the teacher at the school at the
20 institute in Songolo. He was in Singo. Yes, I know him.

21 Q. But you know him for other reasons, because of other things that he did, other
22 duties, not just because he's a teacher in Singo or in other places, but for other reasons;
23 isn't that so?

24 A. Well, I met Didi when we were with him and what I can add is that the duty
25 that he had within the FNU.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. It is correct, Mr Katanga, Angaika even travelled with you to Beni in
2 November 2002; isn't that so?

3 A. I agree.

4 Q. Well before the creation of the FNI?

5 A. I'm telling you I knew him. At that time he was the headmaster at the
6 secondary school. That's how I knew him.

7 Q. In what year? What year? What year did you meet him when he was the
8 principal of the school?

9 A. In 2002 he was still the principal of the school.

10 Q. When in 2002?

11 A. Mr Prosecutor, you just said that -- to me that we had travelled together in
12 November. You've already given the answer.

13 Q. Mr Katanga, isn't it correct that you have known -- you knew Angaika even
14 before the year 2000?

15 A. His name? Well, one might hear his name, I'm not denying that, but to be
16 beside Didi, to stay with him at that time in November 2002, how could a school child
17 spend time with the principal of a school? That just doesn't make sense.

18 Q. Witness, Nyankunde, it is correct that there are -- well, after the exodus in
19 July 2001 many people from Nyankunde went and lived in Aveba?

20 A. Yes, and myself too.

21 Q. Isn't it correct that it was that time when Mr Bedi - Bedi, your secretary, whom
22 you mentioned this morning - travelled to Aveba during that period?

23 A. No, no, no, Bedi wasn't able to go there. There was -- to walk there. There
24 was no one to take him.

25 Q. You agree with me that Mr Bedi came from Nyankunde? He is a person from

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Nyankunde who was living in Nyankunde?

2 A. Prosecutor, Bedi, everyone knew him at the Nyankunde Evangelical Health
3 Centre. He was a computer person and he was the only person -- when the
4 computer system got there, he was the one -- only one who could use it, so everyone
5 knew him. He was infirm.

6 Q. We know. We interviewed him. Mr Safco?

7 A. Safco?

8 Q. How many of them are there?

9 A. Which one?

10 Q. Choose one.

11 A. Brother-in-law?

12 Q. What is his family name?

13 A. Safari Mangala (phon) Bernard.

14 Q. So the last one, he's part of your family through your wife and your sister
15 Francine?

16 A. Yes, he is my brother-in-law. Just a moment, please. I may have said Bernard,
17 instead of Safari. It's Ferdinand. That's the name, please.

18 PRESIDING JUDGE COTTE: (Interpretation) We have made note of that indeed,
19 Ferdinand.

20 MR MACDONALD: (Interpretation)

21 Q. It is true that he was one of the combatants in Aveba; isn't that so?

22 A. No, no, no, no, no.

23 Q. Isn't it true that he was an S3 in your group in Aveba? Isn't that so,
24 Mr Katanga?

25 A. No. The combatants called one another escadre. S -- correction, S4.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. What is an S4 then in military terms?

2 A. An S4 means a person in charge of logistics; but to be more specific as far as his
3 statute was, when we were with Mon Papa, with Mon Papa, he was the one who was
4 like the co-ordinator. He was the co-ordinator of all the little family organisations.
5 He was the one who was doing that, in charge of that.

6 Q. For that reason he was known by -- as an S4, a military term, is that your
7 testimony, Mr Katanga?

8 A. Mr Prosecutor, yes, in that term that word doesn't really have that kind of
9 meaning. People use that expression as a name.

10 Q. Just like people called you the president; isn't that so?

11 A. Prosecutor, even if the photograph here that I was shown, when I wonder why
12 people called me colonel, you could see that I didn't have the rank of colonel then. If
13 you look at the photograph -- or if someone -- if someone from outside were to look at
14 the photograph, that person wouldn't be able to determine whether I was a colonel,
15 or even a captain or any rank.

16 Q. Could you explain this? While we are talking about these various military
17 terms, what's an S2? Oh, pardon me, an S3. What is an S3?

18 A. Prosecutor, from an etymological point of view, an S3 is someone in charge of
19 operations.

20 Q. An S2?

21 A. A person in charge of intelligence.

22 Q. An S1?

23 A. An administrator.

24 Q. A G5?

25 A. Someone in charge of the morale.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. And what is the difference between -- because I want to understand in the army
2 people use "S" and "G," G1, G2, G3, G4, that sort of thing. What's the distinction
3 between these two categories?

4 A. Even MT as well.

5 Q. Well, let's start with the Gs. Ah, I've been reminded that we are going far too
6 quickly?

7 PRESIDING JUDGE COTTE: (Interpretation) And you will have to respect the
8 five-second rule. Mr Katanga, Mr Macdonald, don't answer immediately after the
9 question. Go ahead. You often do this, but then you forget about the rule. Please
10 go ahead.

11 THE WITNESS: (Interpretation) Thank you, your Honour.

12 These expressions are used within army headquarters. The Gs, the Gs are used in
13 the military field.

14 MR MACDONALD: (Interpretation)

15 Q. Let's go back to the G. So the headquarters, the army headquarters.

16 A. The army headquarters.

17 Q. So G1 and S1 mean the same thing, but it might be a major?

18 A. Yes.

19 Q. And just a T, because I've misunderstood I think, what's a T1?

20 A. T1 also is a person in charge of administration, but really within the military
21 field.

22 Q. This leads me -- perhaps I'm taking a fork in the road but, in any event, your
23 military training when did you do your military training? What year was that?

24 A. Prosecutor, I had the training in 1996.

25 Q. That was the only time you had military training, or did you do military

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 training at other times, years other than 1996?

2 A. Other than that training, unless -- well, the academy, or if there were a
3 specialisation, but the basic training I got in '96.

4 Q. So other than that basic training in 1996, did you receive other military training?

5 A. No.

6 Q. What year? Oh, no, excuse me, you did say the year. 1996. Now, where?

7 Where did you do this military training? Tell the Chamber where?

8 A. I would say in Gombari.

9 Q. And how do you write that word?

10 A. Gombari is written G-O-M-B-A-R-I. We were seconded there.

11 Q. And where was that before we look at a map?

12 A. In upper Wele.

13 Q. How long did this training take?

14 A. About six months.

15 Q. Because I think you agree with me that there mustn't have been many
16 brigadier-generals aged 26 in the Congolese army?

17 A. I don't understand your question, please.

18 Q. My question is as follows: You were 26 when you were made
19 brigadier-general, isn't that so?

20 A. Yes.

21 Q. We agree that that's very young; isn't that so?

22 A. I was the very youngest general.

23 Q. The youngest one?

24 A. Yes, that's what "Benjamin" means in French, the very last one, the youngest
25 one.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. Let us go back to Nyankunde and the people who came from Nyankunde who
2 found themselves in Aveba under your command. Bahati from Zumbe, a
3 person -- that person was from Nyankunde, wasn't he? You met him in Nyankunde,
4 didn't you?

5 A. Please, Prosecutor, if you could correct this question, because you're telling me
6 that the people who left Nyankunde went to Aveba and remained under my
7 command. No, I didn't have the command of those people from Nyankunde.

8 Q. All right. We'll come back to this later, but you agree with me that Bahati from
9 Zumbe -- I'll break down my question. Bahati from Zumbe comes from
10 Nyankunde?

11 A. I learned that, because he studied in Nyankunde.

12 Q. But could you tell us when you met him for the first time in your life? Just
13 give us the year.

14 A. 2002.

15 Q. Before that you had never met, ever, ever met this person?

16 A. For what reason? My tooth wasn't hurting.

17 Q. His brother, you know his brother, Nibo Shah (phon)?

18 A. That's the brother really in the extended family, meaning Gagaba (phon) from
19 Zalu. They called each other brothers. People in our part of the world refer to each
20 other this way.

21 Q. Bochar (phon), you know that person, don't you?

22 A. I'll give you one detail about Nibo Shah. My younger brother John *got Nibo
23 Shah's elder sister pregnant, and now they have a child together.

24 Q. He was also in Nyankunde, wasn't he?

25 A. Indeed, in Karinge.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

- 1 Q. You knew him in '99?
- 2 A. In 2001, yes.
- 3 Q. Muhito, you also met him in Nyankunde?
- 4 A. Yes.
- 5 Q. Nyanza, N-Y-A-N-Z-A, Nyanza as well, also from Nyankunde?
- 6 A. It's Nyanza Nyatsimba.
- 7 Q. Yes.
- 8 A. He ended up in Nyankunde, but I met him in Aveba.
- 9 Q. And his other name that you mentioned, could you spell that out for us?
- 10 A. Nyatsimba, it is already in the file, N-Y-A-T-S-I-M-B-A.
- 11 Q. What year did he finish in Nyankunde?
- 12 A. I don't know, Prosecutor, but I do know that in 1999, or the year 2000, he was a
- 13 medical administrator in Aveba.
- 14 Q. You said that he finished in Nyankunde. He finished there. What year was
- 15 that when he finished in Nyankunde?
- 16 A. I don't know.
- 17 Q. Could you relate it to us in terms of the fall of Bunia on 12 May? Was it before,
- 18 after?
- 19 A. I'm talking to you about 1999 or the year 2000. You are still talking to me
- 20 about the fall of Bunia in 2003. That's the contrary.
- 21 Q. I'm sorry, I just want to avoid any confusion. I'm going to have another look at
- 22 the transcript here. You mentioned on page 14, on this page of the transcript you
- 23 said the following: "Nyanza, he concluded in Nyankunde. I met him in Aveba"?
- 24 PRESIDING JUDGE COTTE: (Interpretation) Page 60, line 14.
- 25 THE INTERPRETER: Overlapping speakers.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 MR MACDONALD: (Interpretation)

2 Q. You mentioned, and I will repeat, "Nyanza ended in Nyankunde and I met him
3 in Aveba." Are we to understand that you met him in Aveba before he moved or
4 found himself in Nyankunde? Is this -- that's what I'm trying to understand.

5 A. No, that was according to his story. I knew that he had studied in Nyankunde.
6 When he arrived as a medical administrator at the Aveba medical centre, that's when
7 I learned that he had finished in Nyankunde. It's a story. It's his past.

8 Q. I see. Kachuaki, and I will spell out that name, K-A-C-H-U-A-K-I Kachuaki,
9 you know that person?

10 A. Perhaps if you called write out that name the way it is pronounced. It is
11 K-A-T-S-W-K-A?

12 Q. So do you know him?

13 A. He had deserted.

14 Q. It's true that you knew him in Nyankunde? He was in Aveba?

15 A. No, I didn't meet him in Nyankunde.

16 Q. You knew him in Aveba.

17 A. In Aveba, yes.

18 Q. What was he doing?

19 MR HOOPER: It's been, we have been trying to follow both in the English or the
20 French transcript, and it is quite apparent that they are having difficulty keeping up,
21 not surprisingly.

22 PRESIDING JUDGE COTTE: (Interpretation) The important thing is for everyone
23 to speak slowly, to respect the five-second rule, because you are forgetting it once
24 again, and we certainly agree that ex-FAZ means the former member of the FAZ, the
25 Zairean armed force. Let's make that very clear. We will now continue. So you

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 met him in Aveba and Mr Katanga said "yes" and you said "What was he doing?",
2 and Mr Katanga will answer. Mr Katanga.

3 THE WITNESS: (Interpretation) Yes, I met him in Aveba when he came to the
4 BCA camp in 2002.

5 MR MACDONALD: (Interpretation)

6 Q. I would like to go back to one particular point. Nibo Shah, Richard, what was
7 his task when he was in Aveba? What were his duties?

8 A. He was a combatant.

9 Q. Oudo Jackson, Juliette Oscar, I'll say that more slowly, Oudo Jackson, we know
10 that, he was less known as Juliette Oscar? He was in Aveba, wasn't he?

11 A. He was there. He was in charge of transmissions.

12 Q. He was also from Nyankunde, wasn't he?

13 A. He came from Nyankunde.

14 Q. He also has a brother by the name of Philémon, doesn't he?

15 A. Yes, yes.

16 Q. You're in contact with him from the Makala Prison?

17 A. No.

18 Q. He was being detained with you until you were transferred here in The Hague;
19 isn't that so?

20 A. Yes.

21 Q. He was also in Aveba, wasn't he?

22 A. My private secretary.

23 Q. Before or after Bedi?

24 A. Bedi wasn't my private secretary.

25 Q. Pastor Alain. You know that person, don't you?

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

- 1 A. I met him when he conducted the marriage in Aveba.
- 2 Q. Sir, you already knew him from Nyankunde when you were seeing Denise?
- 3 Come on.
- 4 A. No, no, no, no. No.
- 5 Q. You're sure of that?
- 6 A. Yes.
- 7 Q. Jeannot Malivo Kagaba, that's a person you know as well, don't you?
- 8 A. Yes, I saw him in Aveba. Yes.
- 9 Q. But better than that, you already knew him back from Nyankunde?
- 10 A. I don't remember whether I really identified Malivo there. I don't have a
- 11 recollection of that, but to be clear, Prosecutor, I identified him in Aveba.
- 12 Q. Witness, you're saying that Denise had a very large family and this very large
- 13 family was mostly in Nyankunde. You agree with me on this point, don't you?
- 14 A. Not mainly in Nyankunde. Many members of the family were in the
- 15 collectivity of -- the locality of Kawango. Her biological mother, her father, the
- 16 little brother of her father. Denise lost her father when she was very young, so she
- 17 was raised by --
- 18 THE INTERPRETER: Inaudible.
- 19 THE WITNESS: (Interpretation) -- the father and then he gave her to the pastor.
- 20 MR MACDONALD: (Interpretation)
- 21 Q. Mvani (phon), indeed. I understand that there is a family tie with Pastor
- 22 Alain?
- 23 A. I'm not familiar with the family ties. I already have -- already have two
- 24 different family groups there. Denise, Pastor Alain, with the co-ordinator. That's
- 25 the Zalu groupement.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. And that is in the Kagaba region?

2 A. Perfect.

3 Q. When you say "perfect" does that mean --

4 A. Yes.

5 Q. Mr Witness, the reason I'm asking that question, apart from establishing the link
6 with the witnesses who came to testify for you, is this: Isn't it true that the vast
7 majority of the people who were in Aveba had fled after the attack on Nyankunde in
8 July/August 2002 -- I'm sorry, 2001? They had fled to Aveba where they took
9 refuge?

10 A. And so if they fled Nyankunde, what is the link with their testimony? It does
11 not exist.

12 Q. Let me ask you the question once again. There was an attack on Nyankunde in
13 July 2001. Most of the people who were in Nyankunde, including those that we
14 have mentioned, went and sought refuge in Aveba?

15 A. Who are we talking about, because many people were mentioned at the same
16 time?

17 Q. We will come back to that.

18 A. You are leaving me in the dark here, because I do not know to whom you are
19 referring.

20 Q. Mr Witness, you bear the name Simba. It's not a nickname. It is one of your
21 real names; isn't that correct? Your name is Germain Katanga Simba, but there is
22 also another name that was mentioned before "Nduru." Nduru; is that correct.

23 A. I never mentioned the name Nduru to you. That is not correct.

24 Q. But is Nduru one of your names, one of your family names?

25 A. Who told you that?

1 Q. Mr Katanga, what is your full name? Please tell the Court.

2 A. You said it correctly. Germain Katanga Simba. That is the name you will
3 find in my school documents, Katanga Simba.

4 Q. Isn't it true that you were also known by the nickname Ariakpa, A-R-I-A-K-P-A,
5 Ariakpa. This has nothing to do with the previous question. We will come back to
6 that question later, but Ariakpa was your nickname; isn't that true?

7 A. Mr Prosecutor, we are confusing things here. Ariakpa means Simba. There is
8 a candidate in the presidential elections who is called Koi (phon). It means Leopard,
9 but in Swahili it is Chui.

10 Q. Which language is Ariakpa? It is in which language?

11 A. It is my language, Kingiti Ndruna.

12 Q. But you do not speak Ndruna?

13 A. No.

14 Q. But people refer to you by that name, Ariakpa, didn't they?

15 A. It is a name, just like Mamba or Mbogo (phon). It is merely a name,
16 Mr Prosecutor.

17 Q. Your father's name was Jacob Nduru?

18 A. Makabo.

19 Q. Makabo Nduru. Were there people who referred to you as Germain Katanga
20 Nduru? Did this happen? Just the way they called you colonel, president, were
21 you ever referred to as Germain Katanga Nduru?

22 A. I do not know. Nobody called me Nduru face-to-face. That is my father's
23 name.

24 Q. You have brothers. You mentioned John a short while ago.

25 A. Yes.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. John was with you in Aveba amongst the combatants. I was going to say "in
2 the business," but I would say amongst the combatants?

3 A. He was with me in my father's house, yes.

4 Q. But he was a bit more than that. He was also one of the combatants, wasn't he,
5 just like you?

6 A. Let me give you a brief explanation on that. Mr Prosecutor, before I joined the
7 combatatiseme (phon) before becoming a combatant, I asked for the permission of my
8 father and my stepmother. John Musangura (phon), for his part, also decided that
9 he too would do the same.

10 When my father and my mother called us into their room, my mother, my stepmother,
11 took a mat. She sat on the mat, as tradition demands, and asked me to sit on her legs
12 for a traditional ritual. And she told me "As a mother, I'm giving you the traditional
13 blessing; to indicate that, as a person representing your mother, I am giving you that
14 blessing. You are going to go to combat and you are going to return alive."

15 John Musangura also asked for that authorisation, but I said "No, one person is
16 enough," but he was blessed by the mother and by the father. We were given
17 chickens or hens for the traditional ceremony for us to join up, but I told him "My
18 brother, you are my younger brother. If I decide to go to the front, you have to stay
19 with the family and you will know how to lead the family. For example, if I'm at the
20 front, then you can help the family and say let us go in that direction and so on and so
21 forth, because you are mature and you are strong."

22 That is what happened, Mr Prosecutor, but to say that John became a combatant
23 directly, no, but he went through the ritual.

24 Q. Is it correct that his full name, as your other brother Jonathan said, is
25 Musangura Nduru, N-D-U-R-U; is that correct?

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 A. Yes, yes.

2 Q. This John, was he with you when you were sworn in in Kinshasa as a
3 brigadier-general?

4 A. What would he have gone to do in Kinshasa? Absolutely not.

5 Q. In January or February 2005, was John with you in Kinshasa?

6 A. Mr Prosecutor, John does not know Kinshasa. He never was in Kinshasa.

7 Q. Isn't it true that he was the S3 in your movement in Aveba?

8 A. John was not the S3 of the movement. The combatants called him S3 because
9 he was a bike driver. He was a repairman. Sometimes it happened that he would
10 accompany soldiers on the bike. That is all.

11 Q. Let me recapitulate. Another member of your family, and I am including
12 Safari, is also referred to by a military name but he is not one of the soldiers. That is
13 your testimony. John was known as "S3," but he was not a combatant; is that it?

14 A. That is what I'm telling you. It was because of the ritual that he became a
15 combatant, but in practical terms the facts are different. If I go to Bunia, for example,
16 if I went to Bunia, it was John who would take me on the bike. He knew the area
17 well. He could transport two or three people on a single bike. This was difficult
18 for the rest of us.

19 Q. But I thought that when you travelled by bike you would travel with your
20 escort - this would be the person driving you - am I mistaken?

21 A. No, no, Mr Prosecutor. I myself, I'm a biker. If my bodyguard drives the bike,
22 then who is going to transport the weapons? That is a problem. I am the
23 commander. If we were going somewhere and the bodyguard decided to ride the
24 bike, how would he transport the weapons? That would be difficult, Mr Prosecutor.
25 He would have to have an AK-47 on his chest, because in case of problems I would

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 also need an AK. So where would he put the second weapon? So I have to be in
2 front. I know how to ride and then he would be behind with two AKs, even if I had
3 a G2.

4 MR MACDONALD: (Interpretation) With your leave, your Honour, I would like a
5 few moments to locate a document, locate the information I am looking for, because I
6 wanted to show the witness a document.

7 THE INTERPRETER: And correction, the other weapon was a GP, not a G2.

8 MR MACDONALD: (Interpretation)

9 Q. Your brother John, he had an AK47? He was armed?

10 A. No, I did not tell you that.

11 Q. Was he armed when he travelled with you?

12 A. No, no, no.

13 Q. Can you tell us the names of your other younger brothers, please, that is apart
14 from John and Jonathan? Who are the other younger brothers?

15 A. Patrick Bangadjuna Adizo.

16 Q. Slowly, please.

17 A. I'm going to spell the name. I mentioned it to begin with. Bangadjuna is
18 spelled B-A-N-G-A-D-J-U-N-A. Adizo is spelled A-D-I-Z-O and the other is Baraka
19 Djarido.

20 Q. Let me spell that one for you. Baraka is okay, then there is D-J-A-R-I-D-O; is
21 that correct?

22 A. Yes.

23 Q. Isn't it true that he was also a militiaman? He was a member of the group of
24 combatants?

25 A. I thought you would ask that question, because his name is in that book. He

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 was not a combatant.

2 Q. Yes, indeed, I was going to show you that notebook. Which document is it?

3 A. It is the document belonging to the transit site.

4 MR MACDONALD: (Interpretation) I have in my hands document

5 EVD-OTP-00120 which, Mr President, is --

6 PRESIDING JUDGE COTTE: (Interpretation) It is number 50. That is the last
7 amended list that was added to the previous one at the very end. It is a well-known
8 document, number 50.

9 MR MACDONALD: (Interpretation)

10 Q. You do remember that questions were put to your brother on this matter, and if
11 you look at page DRC-OTP-0164-0874 there is an entry there, top left, number 24, and
12 you can see that name, Baraka Djarido, male, 16 years, and it is at number 183. Did
13 he bear any name or title - any other name or title?

14 A. No.

15 Q. His name is in this demobilisation notebook, but he was not a member of the
16 militia also; is that what you are telling us?

17 A. The majority of people on that list are children of the village.

18 Q. We can come back to that later, but you are telling us that the names on this list
19 are all false child soldiers; is that correct?

20 A. Mr Prosecutor, I'm going to tell you why I'm saying this. We were very happy
21 when the transit site was set up in Aveba. We needed to assist those children and in
22 our own way we decided that they were child soldiers, because they were living in
23 the camps without any family members. There is a typical example, Karido.

24 Karido lived inside the camp. In order to be concrete about the demobilisation, we
25 took an AK-47, your Honour, and we handed it over to him so that he should go and

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 demobilise himself. That is what we had in mind about demobilisation. A person
2 needed to have a weapon in order to be demobilised. It was within that meaning
3 that we took Karido. We went to the armoury or depot, we took a weapon and we
4 were looking for a possibility of taking him back to his family, because he was a
5 burden for us also. That is what we had in mind regarding demobilisation, but
6 when changes took place, when things changed, we played with the system the way
7 it was set up. That is what happened, Mr Prosecutor.

8 Q. Let us move on to something else completely different. Regarding radio
9 stations, such as Radio Candip, you monitored that in Aveba either on shortwave
10 radio or AM radio?

11 A. I do not know, Mr Prosecutor. I never listened to that radio station, Radio
12 Candip. I listened to FM stations.

13 Q. Very well. What were the FM radio stations that you could monitor in Aveba?

14 A. In Aveba, we have VOT, the people's voice, that is Ugandan radio station.
15 There was RTE, Radio Tangazeni (phon) Kristo, there was a programme known as
16 conseil des auditeurs. I do not remember whether it was Radio Candip or an FM
17 station. There was a radio station broadcasting from Bunia and we can -- we could
18 listen in Aveba.

19 Q. That was Radio Candip. You have just said that you did not listen to Radio
20 Candip, but you mentioned a Radio Candip programme?

21 A. I was not the one listening to it. I heard about it somewhere. I was not
22 interested in the radio, or even to information, and even here I am not.

23 Q. Mr Witness, did you listen to the radio, or you did not listen to the radio?

24 A. I, personally, I did not listen to the radio. Personally I did not tune the radio to
25 Radio Candip, VOT and so on. Music is enough for me. I would put in a CD, or a

1 DVD. Music was enough for me.

2 Q. Isn't it true that you were also able to listen to Radio France Internationale, RFI,
3 in Aveba?

4 A. People who were interested in information - in news - they could listen to all
5 those radio stations, your Honour, but I was not concerned by that. It was of little
6 interest to me. That is the problem, but people could listen to those stations and
7 even today you can see people with small radio sets. They don't buy those sets just
8 like that. They listen to information.

9 Q. The people in Aveba who listened to the radio, could they also listen to BBC?

10 A. That is what I'm saying, Mr Prosecutor. Those people who have radio sets
11 could listen to any radio station, but I, Mr Katanga, I had large radio sets, two of them,
12 and they were only used to play music.

13 MR MACDONALD: (Interpretation) Very well. Just a moment, your Honour.

14 Q. I would like to ask you this question: You have said that you did not know
15 your father before the age of 20; is that correct?

16 A. Yes, that is true.

17 Q. Let me slow down. Did you ever visit Ituri before you were 20 years old? As
18 a young person, did you travel? Did you visit members of your family in Ituri?
19 Did that ever happen?

20 A. Mr Prosecutor, maybe you do not know where I was born. I was born in Ituri
21 still. Mambasa is also in Ituri, so when you ask me when I visited Ituri, well, I will
22 tell you I was born in Ituri. Mambasa is located in Ituri. We are not very far from
23 Ituri.

24 Q. Mambasa is in Ituri, Komanda also as well as Irumu; is that correct?

25 A. Even Aru and Nyanya, they are both in Ituri. Ituri is very large.

1 Q. Very well, let me rephrase my question. Did you ever visit members of your
2 family, that is prior to 1998, who were either in Nyankunde or in Walendu-Bindi
3 collectivity?

4 A. Not in the Walendu-Bindi collectivité, no, Mr Prosecutor.

5 Q. Am I therefore to understand that you visited members of your family in
6 Nyankunde?

7 A. I did not go to Nyankunde to visit members of my family. When I went to
8 Nyankunde in '98, it was simply to pass through and go and see my father.

9 Q. So before '98 you had never been to Nyankunde. Nevertheless, how much
10 time did you spend in Nyankunde in 1998 when you were passing through to go and
11 see your father, so how long did you stay in Nyankunde? Did you live in
12 Nyankunde?

13 A. That would be too much to say "live in Nyankunde". I was simply passing
14 through.

15 Q. Did you travel frequently between Aveba and Nyankunde? You went to see
16 your father, there was a family reunion, and after that did you frequently travel to
17 Nyankunde?

18 A. Mr Prosecutor, yes, it was possible for me to go there to fetch supplies for my
19 family. I was a big boy. I went to Nyankunde on weekends. I had a motorcycle
20 that I could use to go to Nyankunde and procure basic commodities for my family.

21 Q. Very well. Mr Witness, let me now go back -- well, but before I do that, I will
22 probably set aside that topic for tomorrow. I'm sorry. I would like to go back to
23 the month of March, 03/03/2003. Who were those that were present in that meeting
24 in Chay with Kakado?

25 A. What you must understand first of all is that, according to Kakado's hierarchy,

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 he Kakado was the PDG.

2 Q. My question was --

3 A. I'm getting to your question. Please, Mr Macdonald. So after Kakado was
4 Kasaki; after Kasaki, Pastor Saradu (phon); and after that it was the old man Usamo
5 (phon); and then after him there were several other people who were in his group.
6 So we had the group of combatants, Germain Katanga in Chay, Kizo in Chay and
7 other combatants as well. There were several combatants in Chay. Even church
8 pastors were also there, chiefs of various localities were there and there were many of
9 us in Chay?

10 Q. Pastors of churches. Which churches? Which groups are you talking about?
11 Which churches.

12 A. From all groups. All pastors who felt that they were able to join the movement
13 went there; who were able to move went there. Those who believed in Kakado's
14 ideology went there.

15 Q. Mr Katanga, Kisoro, Cobra and yourself, are those the only persons you are able
16 to name who were combatants? You're not able to provide the names of any other
17 combatants who were at that meeting on 3/3/2003?

18 A. Mr Prosecutor, I have provided you with the names of the key persons. I
19 could tell you about Antelope, about Doppel, and so what I have done is provide you
20 with the names of those people who were present and who had an impact. So you
21 had people like Move, Bebi and who have you. They could have been there too.

22 Q. Mr Katanga, let us be specific. Was Move there? And you're testifying,
23 Mr Katanga. Was Move there, or not?

24 A. That is what I have told you. He could have been there or he may have been
25 absent. What I have told you is that the key persons whom I identified and whom

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 I can remember are Kisoro, Cobra and Germain Katanga.

2 Q. Was Bebi there, Mr Katanga? Was he there or not?

3 A. Let us take Bebi aside, set Move aside and let us take Katanga, Matata, Kasanga,
4 Usamo and several others. That would be the specific -- those are the specific names
5 I can provide.

6 Q. Mr Katanga, were there any other commanders in attendance at that meeting
7 apart from Kisoro and Cobra? Were there any others in attendance on
8 3 March 2003?

9 A. That is what I have told you and I'll say it again. The important people I have
10 already mentioned, so I cannot venture into saying that, no, this person was there or
11 was not there and then afterwards you will ask me other questions and I will say "Oh,
12 he was there," or was not there.

13 What I am saying is that the presence of the persons I have mentioned was -- I mean,
14 it stood out to all and sundry. I don't want to talk about things which I may not be
15 able to substantiate. The event with Kisoro caught my attention, and now I
16 remember that we were afraid for Kisoro and although he was not there he was here
17 and that I remember.

18 Q. Let us clarify one point for the record. TcheY, this meeting took place in TcheY,
19 T-C-H-E-Y; is that correct? Is there another name for TcheY?

20 A. What name? What other name.

21 Q. Maybe I'm mistaken but Tshele-Tshele, is that another name in the same area?
22 Can TcheY be the same as Tshele-Tshele?

23 A. You are mixing up things. People mix up those names. Tshele-Tshele is the
24 area where one commander Nyamolongi (phon) was, but Kakado Bernard - the old
25 Bernard Kakado - used to live in TcheY. "TcheY" which stands for skin. Skin.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Q. At what time did the meeting start and how long did it last? Are you able to
2 tell us? Was it in the morning, was it in the afternoon, was it in the evening and how
3 long did the meeting last? How much time did people spend there?

4 A. Prosecutor, what I can tell you is that from midnight the party, so to speak,
5 started. There were several choirs, many choral groups had come from various
6 churches. They had left their churches to gather at that place and what I can tell you
7 is that there were thousands. Thousands of people.

8 Q. So everything started on the 3rd and continued into the night of the 3rd to the
9 4th? The party continued into the night of the 3rd to the 4th? I just want to
10 understand.

11 A. Mr Prosecutor, let me talk about my personal experience, my own example.
12 After the day of the 3rd, I went back to my place on the 4th, but some of the choristers
13 stayed on and continued.

14 Q. Yes, I agree that you left on the 4th, but you enjoyed the feast that evening
15 because as far as you go it was a very important event.

16 A. Even for our entire community, yes.

17 Q. Let me put the question to you again. You were at the feast in the night of the
18 3rd to the 4th, right, maybe late in the evening, midnight, early in the morning, you
19 spent that night celebrating in Tchev; is that the case?

20 A. Mr Prosecutor, please listen. I told you that the feast started, but I was not
21 there and I arrived in the morning. The night or the 3rd begins at midnight 01, that
22 is when the day of the 3rd begins, but the choirs had arrived even before that time
23 and there were several chiefs from various areas who had come before. And
24 Kakado took the floor in the morning, maybe 8 o'clock, 9 o'clock, 10 a.m. or
25 thereabouts. That is what I mean, Mr Prosecutor.

1 Q. Kisoro and Cobra are there, and I understand that they returned to their areas
2 on the 4th as well; is that the case?

3 A. What did you say?

4 Q. Kisoro also left on 4 March. Those who had stayed there, who had
5 spent -- who had slept there, the other commanders who had been there, they left the
6 next day, including Cobra; is that the case?

7 A. It depended on the specific individuals. I am not in a position to confirm that
8 Cobra left on the 4th, or that I left with him. All I can say is that I left on the day
9 after the 3rd, which is the 4th, so I left Tchev on that day.

10 Q. Witness, was Cobra Matata appointed to any position on that day and were
11 there any other appointments apart from yours?

12 A. Mr Prosecutor, it was said -- or, rather, Kabayonga (phon) said that Cobra will
13 be the only one to be called a colonel and that was it.

14 Q. Did Kakado -- "Kakado" to be brief, or you can say the "PDG," did he appoint
15 him to any other position apart from giving him the rank of colonel?

16 A. No, Mr Prosecutor. The appointment we are talking about here is not to be
17 understood as the ordinary type of appointment which comes by a decree. It is
18 simply a pronouncement, a pronouncement by an old man who is not an intellectual.
19 There is no document to certify it, and it could happen that the very next day he will
20 deny that he ever said so. But that is a matter of responsibility. What he said,
21 however, was that since Cobra wanted to kill anyone who wanted to be called a
22 colonel he, Cobra, would be the only one to be known as a colonel and these are the
23 words that were spoken by Kakado.

24 Q. Apart from Doppel and the others who were there, your escorts or your
25 bodyguards who may have come back or have accompanied you, who else did you

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 return to Aveba with?

2 A. Mr Prosecutor, I had a large escort because I didn't know what could have
3 happened along the road. We went on foot and there were many of us together.

4 Q. On that occasion, therefore, you went on foot and not on a motorbike. Had
5 you lost your motorbike?

6 A. Mr Prosecutor, you do not know our turf. You do not know the area, or the
7 land, we are talking about. You see, when you leave Aveba and you're headed for
8 Tchey, you have to go around Mont Arab, which is well-known today, through
9 Kamachi (phon). You have to circumvent all of that area, whereas there are
10 footpaths that go from Kamachi as well as from Kaswara. So we were bound to
11 have some reservations. If people came from Kisoro through Kaswara to Tchey
12 were on foot and could hear the rumblings of a motorbike, that would have not been
13 good for us in terms of security.

14 PRESIDING JUDGE COTTE: (Interpretation) Before going to Aveba, I would like
15 to put a question to Mr Katanga. Now, you gave us a hierarchy of the persons who
16 were present at the meeting and in answering the Prosecutor you mentioned Kakado,
17 Kasaki, Pastor Saradu and so on and so forth. Now, on page 77 of the transcript, line
18 19, you mentioned that Move, Bebi and others may also have been there.

19 Now, can you remind us, in relation to the date of 3 March 2003, what the specific
20 status and position of Move and Bebi were? You did not mention them in the
21 hierarchy at the beginning, but I would like to know from you what their status and
22 their positions were at that time. Maybe you have already mentioned this, but
23 please provide us with that clarification.

24 THE WITNESS: (Interpretation) To that date, Mr President, Move and Bebi were
25 under the control of the APC. They were acting under the orders of the APC.

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 Move on his side was in Nyabiri, whereas Bebi was in Bukiringi as commander of a
2 platoon or company or what have you, and that is how things were.

3 PRESIDING JUDGE COTTE: (Interpretation) And you do remember that there
4 were platoon or company commanders? Do you remember? These are not the
5 same positions. Do you know -- do you remember what their ranks were and the
6 positions they had within the sections, platoons and companies? You understand
7 this military terminology very well.

8 THE WITNESS: (Interpretation) When Bebi left Aveba for Bukiringi, he was still a
9 platoon commander. That, I do remember. Now, when he became a company
10 commander, I must say that I am not able to tell you whether it was before 3 March or
11 after, so I expressed some reservations on that point, but as for Move, while he was in
12 Nyabiri he was a company commander.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Katanga.
14 Mr Prosecutor, I return the floor to you.

15 MR MACDONALD: (Interpretation)

16 Q. What is the APC doing in Tchei? What are the representatives of the APC
17 doing in Tchei, if they are there? If Move and Bebi are in Tchei, Mr Katanga, what
18 would they be doing there? They are not combatants. They have nothing to do
19 with your movement. What are they doing there?

20 A. Mr Prosecutor, you are from Quebec, if I am not mistaken. Now, if the
21 Quebecers were to hold a ceremony in Canada, and although you are a Prosecutor at
22 the ICC, you would be concerned about something happening in your community.
23 That is the difference. Mr President, we -- we believe that we are born. Well, we
24 believe that -- and although today I am before you, people might order me to do this
25 and to do that, but there are things that you may force me to and I will never do

1 because my community has not authorised me to do so. Therefore, Move was Ngiti,
2 the other is Ngiti and they know the importance and the significance of that old man,
3 of that Papa, so they could have handed over their responsibilities to their deputies
4 and gone to that ceremony and they received the same treatment as we did because
5 they were Ngiti. They wanted to protect their culture and it is in that manner that
6 those things happened the way that they did.

7 Q. Mr Witness, how many men again do we have in a section?

8 A. Let's put it at 12. A platoon three times 12, 36, yes.

9 Q. A company?

10 A. Let us put it at 120.

11 Q. And a battalion?

12 A. 600/620.

13 Q. What did you say? 600?

14 A. 600 to 720.

15 Q. And a brigade?

16 A. Put it at 3,000.

17 Q. How many battalions in a brigade, usually?

18 A. Three/four depending on the organisational chart.

19 MR HOOPER: I don't know, but the transcript might need, certainly in English, in
20 terms of the size of a battalion --

21 MR MACDONALD: (Interpretation) We can clarify that.

22 Q. How many combatants in a battalion?

23 A. Yes, Mr Prosecutor. I said - and I was being evasive - that from 600 to 720,
24 depending on the organisational chart in place.

25 Q. Mr Katanga, in February 2003, isn't it true that there was a position at Lakpa, or

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 rather, sorry, defended by Mr Lobo Tchamangere?

2 A. You said "a position." Yes, it was a position of people who were looking out.

3 Q. Do you agree with me that the word "Tchamangere" is an Ngiti word, isn't it?

4 A. I am not in a position to tell you who Lobo Tchamangere was, because
5 inhabitants of Lakpa are both from Lendu North and Lendu South. They are
6 inhabitants of Katonier (phon).

7 THE INTERPRETER: Says the witness.

8 THE WITNESS: (Interpretation) And so when the administrative distribution of
9 territory was made, they remained in that area and their brothers were in Katonier.
10 So I don't know whether they are Lendu, or they are Ngiti. The soldiers speak
11 Kilendu and Kingiti.

12 MR MACDONALD: (Interpretation)

13 Q. When you say "Katonier," are you referring to Katonie?

14 A. Katonie is a new name. It changed from Katonier to Katonie. It was a
15 Katonier camp.

16 Q. Is Katonie part of the Bedu-Ezekere groupement?

17 A. I know that Katonie is on the road between Bogoro and Lopomboro (phon).

18 Q. There was a position in Medhu in February 2003; is that correct?

19 A. Yes.

20 Q. There was even Oudo Mbafele at that position; is that the case?

21 A. Well, Oudo -- I'm sorry, five-second rule. Yes, Oudo Mbafele at the time
22 before February, that is after Bunia, they was still at Olongba.

23 Q. The Tatu market in Walendu-Bindi is an important market that needed to be
24 protected by combatants. Are you agreeing that there were combatants protecting
25 the Tatu market?

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 A. Prosecutor, I wasn't going to answer at the same time as you were speaking, so
2 please when you switch off your microphone I will answer. That is what I wanted
3 to do. Tatu had a security detachment, and now you call it the Lakpa position in the
4 same way as one could have said there was a Medhu position at Tatu.

5 Q. Do you agree that it was Oudu Mbafele who was in charge of that area; in
6 charge of the combatants who were in that area?

7 A. Yes.

8 Q. But he was under the authority of Cobra Matata, who was in Olongba; is that
9 the case?

10 A. They were all in Olongba with Cobra. You see, Cobra integrated the Oudo
11 camp. Initially Cobra was in Omia-Ma (phon), and then there was a conflict
12 between Safco and Cobra which caused Cobra to flee Unyama, burning down the
13 Unyama camp and then escaping to join Nyamalongi (phon) in Tshele-Tshele.
14 When he came back, Cobra joined the Oudo camp. That is what happened,
15 Mr Prosecutor.

16 Q. Oudo Mbafele is an Ngiti as well; is that correct?

17 A. Yes, Mr Prosecutor.

18 Q. Bulandjabo, where Kisoro had his main place, is that almost along the
19 Irumu-Nyankunde road from Bunia? Would that be correct?

20 A. No, no, Mr Prosecutor. Bulandjabo is on the other side. It is behind. It was
21 a Protestant mission, which was really on the other side far from Nyankunde.

22 Q. On the other side of what?

23 A. Between Codeza and Irumu to the right, and then behind Bulandjabo there was
24 Komanda.

25 Q. Is it very far away from Kaswara? Some 60 kilometres away, if not more?

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 A. Yes. Yes, maybe.

2 MR MACDONALD: (Interpretation) Tomorrow we will identify this on the map,
3 which we will file subsequently with an ERN number and have an electric version
4 that we can use. So I don't know whether we need an ERN number for now, but we
5 would look at the details to be provided from -- by the witness so that we can develop
6 this electronic version.

7 I had a few more questions, but I can stop here.

8 PRESIDING JUDGE COTTE: (Interpretation) I think you will stop here because,
9 bearing this question in mind, the Chamber would like to follow up with a question
10 to Mr Katanga.

11 Now, I return to the hierarchy of that meeting of 3 March. You said that Move and
12 Bebi were acting under the control of the APC, but you did not mention them initially.

13 However, Cobra was mentioned. Was Cobra more important than Move and Bebi?

14 THE WITNESS: (Interpretation) Mr President, he was more important to the
15 extent that before relations between the combatants Kandro and Lompondo, before
16 those relations were established those people were already known in our collectivity.
17 They were the ones who had brought in some weapons into our collectivity. They
18 were people who were already known. They had AK-47s with them, some three,
19 four, five or ten in number, and it showed their strength at the time when there was a
20 shortage of weapons in our area.

21 PRESIDING JUDGE COTTE: (Interpretation) So to your mind Cobra had more
22 significance and importance than Move and Bebi?

23 THE WITNESS: (Interpretation) Yes, Mr President.

24 PRESIDING JUDGE COTTE: (Interpretation) Was he able to give them
25 instructions?

Trial Hearing
Witness: DRC-D02-P-0300

(Open Session)

ICC-01/04-01/07

1 THE WITNESS: (Interpretation) It would have been very complicated. In those
2 circumstances, it would have been impossible. Move was -- rather was answerable
3 directly to the APC, as well as Bebi.

4 PRESIDING JUDGE COTTE: (Interpretation) So they were in different categories
5 and different hierarchy?

6 THE WITNESS: (Interpretation) Yes, Mr President. Yes, Mr President.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr Katanga.

8 Mr Prosecutor, before we adjourn, I would like this to be just an approximate
9 indication. Although you are right at the beginning of your cross-examination,
10 Mr Hooper has finished his examination-in-chief and maybe you are in a position to
11 know which themes you want to handle in your cross-examination? Are you able to
12 give us an idea of how much time you need for the cross-examination?

13 MR MACDONALD: (Interpretation) I think I'm not going to take too long, not as
14 much time as we took for Chef Manu. Now, mindful of the content of the
15 examination-in-chief, the Prosecution would like to tackle a number of specific points
16 and maybe I could conclude tomorrow, or on Thursday morning. That is what I
17 wish for, but sometimes it might take a little longer than one plans.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank you, that is perfect.

19 Mr Katanga, we shall resume tomorrow morning.

20 THE WITNESS: (Interpretation) Mr President, please, with your permission, I
21 simply want to ask Mr Macdonald relating to the map, because the map does not
22 show the rivers, the rivers along the roads, so if it is possible for MONUC to provide
23 a map that shows those rivers that would be very good, because sometimes we use
24 the rivers as bearings because we know that they cross the road at this place and that
25 will enable us to be able to give specific locations along the road. So I think that we

1 need to agree on that. A MONUC convoy can go from Bunia to Bogoro, they have
2 their GPS in the vehicles, and it is going to clearly show the bridges and rivers and
3 what have you. That is something that can be done quite simply.
4 PRESIDING JUDGE COTTE: (Interpretation) I now have to stop the proceedings,
5 because we can no longer record our proceedings, and we will listen to what
6 Mr Katanga had to say tomorrow. I would ask the usher to take Mr Katanga back to
7 his place. We now adjourn until tomorrow morning 9 a.m.

8 (The hearing ends in open session at 1.31 p.m.)

9 CORRECTIONS REPORT

10 The Court Interpretation and Translation Section has made the following corrections
11 in the transcript:

12 *Page 18 line 15

13 "August 2001" Is corrected by "August 2002"

14 *Page 18 line 17

15 "August 2001" Is corrected by "August 2002"

16 *Page 18 line 22

17 "...the Lendu-Ngiti, the UPDF. Now, for the point of these admissions..." Is corrected
18 by "...the Lendu-Ngiti and the UPDF. Now, for the sake of these admissions..."

19 *Page 18 line 25

20 "...July *2001 to July 2003..." Is corrected by "...July 2002 to August 2003..."

21 *Page 47 lines 22 and 23

22 "...My younger brother John *gave the -- was with the sister and now they have a
23 child together." Is corrected by "...My younger brother John got Nibo Shah's elder
24 sister pregnant, and now they have a child together."