

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Monday, 19 April 2021
10 (The hearing starts in open session at 1.31 p.m.)
11 THE COURT USHER: [13:31:28] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [13:31:39](Interpretation) The hearing shall
15 now begin. Good afternoon, everyone.
16 Madam courtroom officer, if you could please call the case.
17 THE COURT OFFICER: [13:31:56] Good afternoon, Mr President,
18 your Honours.
19 Situation in the Republic of Mali, in the case of The Prosecutor versus Al
20 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference
21 ICC-01/12-01/18.
22 And for the record, we are in open session.
23 PRESIDING JUDGE MINDUA: [13:32:11](Interpretation) Thank you, Madam
24 courtroom officer.
25 Now, for the record, we will now proceed to introductions, beginning with the

1 OTP.

2 Madam Prosecutor.

3 MS CORBIN: [13:32:27](Interpretation) Good afternoon, your Honours. The
4 OTP is represented this afternoon by Dianne Luping, Mr Garcia, and myself,
5 Nelly Corbin.

6 PRESIDING JUDGE MINDUA: [13:32:37](Interpretation) Thank you very
7 much, Madam Prosecutor.

8 And now the Defence counsel.

9 MS TAYLOR: [13:32:43] Good afternoon, Mr President, good afternoon,
10 your Honours, good afternoon to everyone inside and outside the courtroom.
11 The Defence for Mr Al Hassan is represented today by Maître Antoine Vey, by
12 Maître Damia Taharraoui, by Maître Marion Lafouge, by Maître Sarah
13 Marinier-Doucet and myself, Melinda Taylor. Thank you very much.

14 PRESIDING JUDGE MINDUA: [13:33:17](Interpretation) Thank you very
15 much, Ms Taylor.

16 And now the Legal Representatives of Victims.
17 Counsel.

18 MR KASSONGO: [13:33:25](Interpretation) Good afternoon, everyone, good
19 afternoon, your Honours. The team of Legal Representatives of Victims is
20 represented by Biyéké Dipanga, who is assisting me; Tixier-Dunet Ludivine,
21 who is with us; and myself, Mr Kassongo. Thank you very much.

22 PRESIDING JUDGE MINDUA: [13:33:51](Interpretation) Thank you very
23 much, Mr Kassongo.

24 This afternoon we will continue with the testimony of the 29th Prosecution
25 witness; namely, witness P-646.

1 And now I turn to the witness.

2 Good afternoon, Mr Witness, can you hear me?

3 WITNESS: MLI-OTP-P-0646 (On former oath)

4 (The witness speaks French)

5 (The witness gives evidence via video link)

6 THE WITNESS: [13:34:14](Interpretation) Yes, very well. Good afternoon,

7 your Honour.

8 PRESIDING JUDGE MINDUA: [13:34:19](Interpretation) Thank you very

9 much, Mr Witness.

10 Once again, welcome. And I would like to remind you that you are still under

11 oath. Thus you must tell the truth, the whole truth and nothing but the truth.

12 I would also like to remind you that there are a number of practical

13 considerations when you speak. You have done very well so far, and I expect

14 you will continue to do so, by allowing pauses after each remark you make.

15 I will now ask the Prosecution to proceed.

16 Madam Prosecutor.

17 MS CORBIN: [13:35:14](Interpretation) Thank you.

18 QUESTIONED BY MS CORBIN: (Interpretation)(Continuing)

19 Q. [13:35:19] Good afternoon, Mr Witness.

20 A. [13:35:21] Good afternoon.

21 Q. [13:35:21] On Friday afternoon you were telling us about the daily

22 briefings at the DSM, and, you mentioned, among other things, the various

23 intelligence summaries that were made as part of the briefing, and that is from

24 the transcript of that day. What was the format of the summary? What sort

25 of document was this? Page 17, transcript 75.

1 A. [13:35:58] Thank you very much. After each daily briefing, we would
2 drop a summary of the information received from our sources throughout the
3 country and we would select the proper information, as I mentioned last time.
4 The information that represented true threats that needed to be sent to the
5 minister were selected and then -- and then sent on. That took the form of an
6 intelligence bulletin or, in some cases, we sent dispatches - *messages portés*, in
7 French - or merely a memorandum. In actual fact, it would depend
8 particularly on the value of the intelligence we had and, thus, in some cases, we
9 had to forward the information very quickly, in other cases, no. So it would
10 depend on all these factors.

11 That is how the information was sent on to the minister, either by way of
12 a dispatch, a *message porté*, or by way of an intelligence bulletin or sometimes
13 even summaries.

14 That is my answer to your question, counsel.

15 Q. [13:38:06] Thank you. Within the DSM, who would draft these
16 documents that you have just told us about?

17 *A. [13:38:17] This draft was sent to the assistant director, and the copy, which
18 was almost final, would be sent on to the director. At each level of the
19 hierarchy, the manager would decide if it was necessary to tidy up the text.

20 Q. [13:39:39] Very well, thank you very much. Now, at the national level,
21 were there other units that also sought out intelligence other than the DSM?

22 A. [13:39:53] The DSM was an intelligence service that focused on
23 specifically military intelligence, but along with that we did general
24 intelligence work, and so within the department, we had various units that
25 handled intelligence. For example, the gendarmerie, the police, the state

1 security directorate, the DSM. These various units would provide
2 intelligence.

3 * As part of the updating of all these various units, to better cross-check
4 intelligence, this time at the strategic level, the various leaders or senior
5 managers of these intelligence units would frequently meet to discuss matters.
6 And that way, we would obtain strategic intelligence, often, that was provided
7 to the minister and even to the presidency on that occasion.

8 Q. [13:42:09] I'd now like to ask you some questions about the way in which
9 intelligence was collected and used in 2012 and 2013, and, to begin, I'd like to
10 ask you, what was the security situation in Mali in 2012 and 2013?

11 A. [13:42:41] In 2012-2013, the Malian army for which I was providing
12 intelligence was having many, many difficulties. Many difficulties. We were
13 dealing with a rebellion that had quickly turned into terrorism, particularly in
14 the north of the country.

15 So after the events in Libya, we saw that many former combatants were coming
16 back, former combatants from the Libyan army. These former combatants
17 were well equipped, well trained and, for the most part -- well, in most
18 cases - 90 per cent, I would say - they were people originally from the north.
19 And that's a very important point because they had excellent knowledge of the
20 terrain. They were extremely familiar with it.

21 So the state was facing the massive arrival of these people, and the state of Mali
22 had difficulty managing them and returning them to society, providing a sort
23 of a framework for them because, obviously, in our view, these former fighters
24 did not want to return and take their place within Malian society. So
25 this -- the political attempt failed and there were clashes with the army.

1 As I was saying earlier, with all the advantages that they had, they were well
2 equipped by the Libyan army, well trained, they were very familiar with the
3 terrain and so the army suffered setbacks, considerable setbacks. This led us
4 to abandoning the area. We went down -- when I say "we", I mean the Malian
5 army, we withdrew to locations much further to the south, to a place called
6 Mopti in the Sevare garrison.

7 So, in short, that was the security situation that I described to you in 2012 and
8 2013.

9 Q. [13:47:24] Did this context affect the way in which the DSM was
10 organised?

11 A. [13:47:31] Yes. It completely disorganised the DSM, insofar as the DSM
12 has been -- had been working with its sources within a military framework, but
13 when the military framework abandoned the territory, all the DSM members
14 also withdrew. So the army was very disorganized, and, all of a sudden, all
15 the army units found themselves disorganised in a difficult situation, in an
16 uncomfortable situation.

17 So, in short, this certainly had an impact on the classic standard organisation of
18 the DSM and its structure and services.

19 Q. [13:49:31] And what about the *capteurs*, the sources, during this period of
20 time?

21 A. [13:49:40] As I said earlier, the sources abandoned the field at that time
22 along with the units. Since the new line at the front was in the Sevare area
23 and Mopti. This meant all our sources found themselves naturally within
24 their units but at the front line, so they, along with the units, went back to
25 Sevare.

1 Q. [13:50:41] Now with the sources in the field withdrawing, how did the
2 DSM adjust when it came -- or adapt, rather, when it came to the collection of
3 intelligence?

4 A. [13:51:00] During that period, despite the difficulties for the entire army,
5 the DSM had to -- like all parts of the army, had to reorganise internally,
6 innovate, and so this was done so that the mission could continue.

7 For the army, this was a strategic withdrawal. It wasn't the end of the fight.

8 And so we needed ideas, we need initiatives, so as to continue the mission

9 even though we weren't actually in the field. We held many meetings within

10 the DSM at that time under my command to try to determine how we could

11 reorganise the DSM --

12 THE INTERPRETER: Correction: How we could reorganise intelligence.

13 THE WITNESS: [13:52:40](Interpretation) Now, I was saying that one of our

14 sources of intelligence was the civilian population. The army - along with the

15 members of the DSM, the sources, the *capteurs* - went back down to the south,

16 but the civilian population was still at the same locations under the yoke of the

17 attackers.

18 In this statement I said that our strategy of dispatching our sources -- we were

19 always very careful to send them to the places where they had originally come

20 from; that way they could have as much contact as possible, useful contact, so

21 as to gather intelligence for the DSM.

22 So we reorganised ourselves during that period so that intelligent (sic)

23 activities could continue with the civilian population who were still in the field.

24 Often, we had people who had formerly -- we had worked with people who

25 were formerly part of the security apparatus in those areas who could -- could

1 be aware of what was going on in the field in one way or another.

2 And since, to some extent, this occupation was not to the liking of the civilian
3 population, we sensed that their commitment to providing us with intelligence
4 was even firmer.

5 So those were the various -- well, basically that was the approach that we took
6 to reorganise the DSM during that extremely difficult period of time for the
7 army -- the Malian armed forces. So there you have it.

8 Q. [13:55:42] So you've just said, on the subject of the civil -- civilian
9 population, we felt that their commitment was still a lot more firm.

10 Could you explain what you mean by that?

11 A. [13:56:01] Indeed, what we saw during this period when we were getting
12 a lot of information, we got a lot more information about the nature of the
13 attackers, their numbers, their activities through and via civil society, the civil
14 population -- civilian population. And we thought that due to their refusal to
15 accept the situation, that they necessarily and voluntarily were committed
16 when it came to providing information and intelligence, and, as such, the
17 amount and -- the amount and the number of intelligence that we received at
18 the time was considerable. That's it.

19 Q. [13:57:39] You were speaking about a considerable amount of intelligence.
20 How did you manage to divide up the information that came to you?
21 How did you sort it?

22 A. [13:58:13] Intelligence is not an exact science. All the information that
23 we received during this period, we tried to see what the source of the
24 information was, first of all, the credibility of the information, the credibility of
25 the source. And with regards to this information that we were receiving, in

1 accordance with our experience, that could lead to us having certain

2 reservations in that regard.

3 * Also, depending on the cross-checking that we were conducting, we could

4 confirm whether the intelligence that we had available to us was credible or

5 not. I think I can take a concrete example that the same intelligence that we

6 received from our intelligence source X, if it's the same intelligence that we get

7 from another intelligence source Y, they're not in -- who is not in the same zone

8 or area, and, who, in most cases, do not know each other, then we can say in

9 this case that it is indeed credible. That's it.

10 Q. [14:00:45] So just to be clear, how did the population communicate this

11 information to the DSM?

12 A. [14:01:08] The population that remained in the field was already in

13 contact with the intelligence sources. If you take a particular location, for

14 example, within the unit that was located there, you would have our

15 intelligence services within -- our intelligence sources within the unit.

16 Now each of these sources, through the mission that they had, they would

17 create a network around themselves. So already before the army's

18 withdrawal, there was contact which -- contact which had already been

19 established. As such, with the army's withdrawal, the contact that was

20 established remained, but the distance increased because the sources were still

21 with us on the front line. But for the most part, the population

22 stayed -- remained after us in the field and they kept contact with their sources

23 always by telephone.

24 Q. [14:03:06] Did the daily briefings continue in 2012 and 2013?

25 A. [14:03:19] Indeed, they did. They always continued.

1 Q. [14:03:31] Apart from this human intelligence, did you also get
2 intelligence from other sources or on other media?

3 A. [14:03:52] Yes. We got information via other sources or media. What I
4 said earlier, firstly, with regard to the heads of intelligence, the intelligence
5 chiefs, they would come together. That was a source of intelligence for the
6 DSM. We would have technical intelligence and we would also have open
7 intelligence. We had an audio room, which was fully equipped for the DSM
8 officials, and, from that audio-equipped room, they were able to carry out open
9 intelligence.

10 That's just a few examples with regards to the different means we had of
11 improving our capacity to gain intelligence.

12 Q. [14:05:32] What do you mean by "technical intelligence"?

13 A. [14:05:39] Technical intelligence, this is the intelligence that you get via
14 electronic means. It's also intelligence that you get within the framework of
15 military cooperation with other units.

16 Q. [14:06:32] In this context, in this particular context, 2012-2013, are we
17 speaking about the motivation of the agents at the time? Can you speak to us
18 about the particular motivation that the officers of the DSM had at this time?

19 A. [14:07:10] It was a difficult time for the DSM as it was for all the armed
20 forces in Mali. In the DSM, we thought that the life of the units for the most
21 part depended on the quality of the intelligence that was provided. In this
22 case, within the framework of retaking over, the DSM had to play a role,
23 a primary role in doing so and we made great efforts to do so. We wanted
24 people to really take on that -- that the success of the mission in being able to
25 retake back the area depended on the quality of the intelligence that * we gave

1 to our units. That every -- every agent, that every intelligence source, they
2 had to know that they were an important link in the chain, in the intelligence
3 chain, and a weak link in that chain could jeopardise the entire strategy to
4 recapture the territory. We had to find the right words to galvanise them.
5 I had the honour of having some meetings with the directorate to say that the
6 Malian nation was looking to us, and that the Malian nation is counting on us,
7 and we must not disappoint them.
8 I think this was a message that got through, and my men went back to work.
9 As a director, I was proud of what they did for their army. That's it.

10 PRESIDING JUDGE MINDUA: [14:11:03](Interpretation) Madam Prosecutor,
11 we're going to stop there. As you know, we have to have a break after 40
12 minutes. We've just finished 40 minutes. We shall therefore break.
13 But at the request of the Defence, the break will no longer be 10 minutes, but 15
14 minutes. We shall therefore come back at 2.25.

15 The hearing is now suspended.

16 THE COURT USHER: [14:11:39] All rise.

17 (Recess taken at 2.11 p.m.)

18 (Upon resuming in open session at 2.29 p.m.)

19 THE COURT USHER: [14:29:27] All rise.

20 Please be seated.

21 PRESIDING JUDGE MINDUA: [14:29:42](Interpretation) The hearing shall
22 now resume. And the Prosecution may address the Court.
23 Madam Prosecutor, how much time do you need? Could you do your
24 calculations and let me know when, but before the end of the day, just so that
25 we know and so that we can tell the Defence how much time you've used.

1 Thank you.

2 MS CORBIN: [14:30:16](Interpretation) Thank you.

3 PRESIDING JUDGE MINDUA: [14:30:17](Interpretation) Please proceed.

4 MS CORBIN: [14:30:19](Interpretation) Thank you. I think by the end of the
5 session it will be easier to give an estimate.

6 PRESIDING JUDGE MINDUA: [14:30:24](Interpretation) Thank you.

7 MS CORBIN: [14:30:30](Interpretation)

8 Q. [14:30:31] I'd now like to ask you some more specific questions about the
9 way in which military intelligence was recorded in writing and preserved and,
10 to do that, in a few moments, we'll be having a look at some actual examples
11 with documents that are to be found in the binder that you were provided
12 with.

13 Before we do that, a few moments ago you mentioned three kinds of
14 documents: The *messages portés* or the sort of dispatch, the intelligence
15 bulletins or reports, and the memorandums.

16 Now briefly, we will be looking at the various kinds of documents in greater
17 detail, but what are the main characteristics of these documents and what are
18 the main differences amongst them.

19 * A. [14:31:34] What you must realise is that, taken together, all these
20 documents are intended to forward intelligence to the authorities, and in
21 particular, to the minister of defence. Let us take the example of
22 a message porté, a dispatch. The main characteristic of such a document is
23 that it is forwarded very quickly, it's sent off very quickly. We receive
24 information immediately, which has to be processed immediately, so we
25 quickly draw up a dispatch, a *message porté*, which we forward nearly

1 immediately to the minister of defence. These are usually rather short
2 documents and they are military in style.

3 Intelligence reports, in contrast, are more elaborate documents. They may
4 contain a great deal of intelligence, different kinds of intelligence, and the need
5 to send off such a document is not systematically recommended.

6 The memoranda or information notes are, yet again, a different kind of
7 document. They contain analyses of the situation. Often in relation to the
8 intelligence, they provide different viewpoints and they are much broader in
9 scope than the two other documents that I've already mentioned.

10 I was saying that we also had weekly summaries that we would prepare. All
11 the intelligence that we would see on a daily basis on these -- in these various
12 forms, dispatches, memorandum, BRQ -- "BRQ" stands for *daily information
13 bulletin, in any event, we would gather all this information from these various
14 sources and consolidate it into a single document, which we would send off to
15 another authority.

16 So that is what I meant when I was talking about the various kinds of
17 documents that allowed us to forward intelligence to the minister of defence.

18 Q. [14:36:04] If you could now look at the binder which has 246 different
19 items within it.

20 We will set aside the first three documents, which have to do with your
21 statement, and I'd like to ask you some questions about the documents
22 between tabs 4 and 246.

23 Now, during the preparation session, we saw these same documents, they
24 were shown to you and they were organised in the same way, by family, so to
25 speak, and then, within each family of document, in chronological order.

1 Before I put any questions to you about these documents, I'd like to ask you to
2 leaf through the binder quickly just so that you can familiarise yourself.

3 A. [14:37:28] I think it's fine. I'm ready. We can continue.

4 Q. [14:37:33] Very well. Do you remember having seen or reading these
5 243 documents during the preparation session -- 243 documents?

6 A. [14:37:54] Yes. We reviewed all these documents, I can confirm that.
7 We looked at them one by one during our long preparation sessions.

8 Q. [14:38:15] If you could look at the list at the beginning of the binder.

9 A. [14:38:55] Yes, I have it here. Sorry about that.

10 Q. [14:39:05] Very well. Now, at the left, on the left-hand side you see the
11 numbers of the various tabs within the binder. Other than the first three
12 documents and other than the documents -- and other than the documents
13 number 239 to 242, * MLI-OTP-0012-0287, 0012-0295, 0012-0310 and
14 0012-0327... other than these various documents, are the other documents all
15 from the DSM?

16 A. [14:39:55] Yes, I can confirm that. All these documents have been signed
17 -- signed "DSM".

18 Q. [14:40:16] These are copies, scanned images. In your opinion, are these
19 carbon copies identical to the originals?

20 A. [14:40:29] Yes. These are copies of documents that are in keeping with
21 the documents from the DSM.

22 Q. [14:40:47] We will go into greater detail in a few moments, but in general
23 terms, why do you say that these documents are accurate copies of the
24 originals? Carbon copies?

25 A. [14:41:04] Well, in these documents, I recognise the stamp of the unit, the

1 signature of the director, and often I even recognise the font of the machine. I
2 think I can say that the content is familiar. The documents do bring back
3 some memories of my time at the DSM.

4 Q. [14:42:15] I see that you have one particular document right with you,
5 could you tell me which document you are looking at?

6 A. [14:42:28] It's one of the dispatches, one of the *messages portés*.

7 Q. [14:42:35] There is a registration number MLI-OTP at the bottom of the
8 page. Can you read out that reference at the bottom of the page to us.

9 A. [14:42:49] MLI-OTP-0012-0888 -- 98. And that is the same document as
10 tab 4.

11 Q. [14:43:08] Thank you. Could you tell us where the originals of these
12 documents are kept?

13 A. [14:43:18] The first copy of the original is sent to the recipient directly, to
14 the minister of defence. Then you need a copy for the databases, so one copy
15 is kept within the DSM, and that copy is often a double. The second copy at
16 the end of the year is sent to the archives, the DSM archives.

17 Q. [14:44:56] Could you briefly explain the archiving process to us?

18 A. [14:45:02] We did have an archives office and that was part of the division,
19 the administration and finance division of the DSM. And so at the end of each
20 year, the secretariat would file all the various documents, the dispatches, all the
21 BRQs, the intelligence bulletins, and the memorandums and the summaries,
22 they would be filed chronologically within the secretariat of the director. And
23 they would be filed in the archives office with a signature.

24 So you see, all the documents that we would provide to the minister, for
25 information purposes, at the end of the year, would be filed by date and

1 number within the archives office.

2 Q. [14:47:03] Who would have access to the archives?

3 A. [14:47:12] Well, in actual fact, the directors would have -- all had access to
4 the archives, and that would be with the permission of the director or the
5 deputy director. The management and the various subdirectors would all
6 have access. And it would depend on the quality of the request -- or the
7 nature, rather, of the request. If the various directors had agree -- had the
8 agreement from the deputy director to plunge into the archives, there was
9 a registry with the archivist and there would be a record with the name of the
10 officer who was given access to the document, the day that he was given access,
11 and whether or not that person needed the document outside of the actual
12 premises -- outside the actual archives of the office. Then, after that, the date
13 on which the document was returned.

14 All that information was recorded in this registry and some of the
15 higher-ranked noncommissioned officers would be doing this. Usually, it was
16 a higher-ranked noncommissioned officer who served as head of the archives
17 office.

18 Q. [14:49:34] Do you remember giving permission to give documents from
19 the DSM archives to members of the OTP?

20 A. [14:49:47] I believe that when we received staff from the OTP, when I
21 received them, given the extent of the mission and what was needed to ensure
22 the success of the mission, we did not object to that request.

23 Q. [14:50:48] Regarding the content of the documents, which you had
24 a chance to review during the preparation session, in general terms, do you
25 remember what period of time was at hand? What period of time did these

1 documents cover?

2 A. [14:51:17] The document deals with a period 2011, 2012, 2013, generally.
3 The end of 2011, 2012, 2013.

4 Q. [14:51:42] And what does it deal with more generally?

5 A. [14:51:47] Intelligence on the security situation and the different threats
6 against the security armed forces -- against the security and the armed forces.

7 Q. [14:52:17] Now, we are going to go over this document together in order
8 to understand what is meant by these events which happened at the time and
9 which were reported in a contemporaneous way, as was said on Friday. And
10 I'm not going to ask questions on each document individually. What I
11 suggest I do to save time is go by groups of questions and to stop on certain
12 documents time by time in particular.

13 MS CORBIN: [14:53:03](Interpretation) Your Honour, your Honours, to save
14 time with the groups of documents, I would propose not to read every number,
15 every MLI-OTP number, but just to read the tabs that they refer to, and,
16 afterwards, to ask that they be submitted into the dossier so that they can be
17 associated with the numbers in the tab. But I do propose, however, to read
18 the registration number of the first and last documents to ensure that they are
19 in the right order.

20 PRESIDING JUDGE MINDUA: [14:53:46](Interpretation) That's perfect. Do
21 we have the list of documents in the binder? If so, please proceed as intended
22 and we will save time in that way.

23 I can see Ms Taylor.

24 MS TAYLOR: [14:54:01] Thank you very much, Mr President. I would just
25 like to ask a point of clarification, given that this proposal was not discussed or

1 raised with the Defence before today's hearing, and, that is, specifically, we
2 have no objection per se to the Prosecution relying upon tab numbers rather
3 than MLI numbers, but the Defence does insist that documents cannot be
4 submitted or formally entered into the record unless they have been discussed
5 and put to the witness in accordance with the decision on the conduct of
6 proceedings. And that is consistent with the position that's been adopted
7 with other witnesses, particularly because the Prosecution did not request or
8 has not been granted the right to submit this evidence through Rule 68.

9 PRESIDING JUDGE MINDUA: [14:55:09](Interpretation) That's true. We're
10 not in the framework of Rule 68. This is a viva voce witness. We have 246
11 documents, and, a moment ago, I asked the Prosecutor how much time the
12 Office of the Prosecutor needed.

13 Now, the method that the Prosecutor proposes is very reasonable. We have
14 a list of documents and, each time that she's going to mention a group of
15 documents, she's going to mention the first document with its MLI number and
16 the last document; so we can all follow that. It's not today that she's going to
17 tender the documents into evidence, surely.

18 MS TAYLOR: [14:55:56] Thank you, Mr President. Yes, we understand that
19 this is the system just for references and not a system for admitting documents
20 by group, as that would occasion prejudice for cross-examination.

21 PRESIDING JUDGE MINDUA: [14:56:27](Interpretation) Counsel, as you are
22 raising the issue of the cross-examination, I'm going to discuss this with my
23 colleagues for the follow-up, hereafter.

24 (The Trial Chamber confers)

25 PRESIDING JUDGE MINDUA: [14:59:33](Interpretation) Yes, Ms Taylor.

1 The problem that we have is saving time. So we've got 246 items of evidence.
2 The Prosecutor proposes discussing them by group, five, 10, or whatever, but
3 when she's going to submit the group, we will discuss the documents in
4 general, I imagine, Prosecutor, not the particular content of each evidentiary
5 item. Please, could you tell me.

6 MS CORBIN: [15:00:19](Interpretation) No, that's exactly right. The aim is to
7 ask general questions by group with regards to the formalities within the
8 document, and there will be general questions with regards to the content.
9 They're organised in a chronological way, so we'll try to organise them by
10 theme when we carry out this division as well for these documents, which are
11 the most relevant in our opinion, then we will ask questions about these
12 documents specifically. Furthermore, the Defence will have the opportunity
13 to cross-examine on any document they wish to do.

14 PRESIDING JUDGE MINDUA: [15:00:54](Interpretation) So the method's
15 clear. It's by group, by theme, and the Prosecutor will ask questions to the
16 witness about the way in which the items were made by group and in general,
17 and, if necessary, on a particular item.

18 Now, we aren't forgetting you, Ms Taylor and the Defence, because you will
19 have the opportunity to cross-examine, and if you want to go to a particular
20 document, you can do so. If not, the method, as proposed, it satisfies the
21 Chamber in order to save time.

22 MS TAYLOR: [15:01:40] Thank you -- thank you very much, Mr President. If
23 I may respectfully ask for clarification as to the status of this ruling in light of
24 the Chamber's prior ruling in the sense that before the commencement of this
25 witness's testimony, the Defence submitted objections to the use of specific

1 items of evidence on the grounds that particular documents had not been
2 signed. The response of the Chamber to that request was to reject it, subject to
3 the obligation of the Prosecution to lay a foundation as concerns each item that
4 we contested before it could indeed be submitted into evidence. That decision
5 implied that the Prosecution, if they wished to rely upon those items of
6 evidence, would be required to put them to the witness so that a sufficient
7 foundation could be established.

8 My concern is that with a group approach to documents, that requirement
9 would therefore be vitiated and the Defence would not be on notice as to
10 whether those documents could or could not be admitted into evidence. This
11 ambiguity would impact upon the cross-examination in the sense that prior to
12 cross-examination, the Defence would not actually know if the Prosecution still
13 intends to submit those documents into evidence if they do not during
14 examination put them to the witness.

15 PRESIDING JUDGE MINDUA: [15:03:16](Interpretation) Madam Prosecutor,
16 how do you intend to react to that objection?

17 MS CORBIN: [15:03:24](Interpretation) Quite simply to say that we're not
18 going to show the documents which are not * signed to the -- to the witness
19 given the answers given during the preparatory session.

20 PRESIDING JUDGE MINDUA: [15:03:33](Interpretation) Very well. The
21 Chamber is satisfied.

22 Madam Prosecutor, please continue.

23 MS CORBIN: [15:03:40](Interpretation)

24 Q. [15:03:42] Before starting, I'd just like to say that all the documents are
25 confidential.

1 Witness, we already spoke about this in the preparatory session. The
2 documents will not be visible by the public, but obviously your answers will be
3 public.

4 MS CORBIN: [15:04:06](Interpretation) I now turn towards the Court Officer.
5 The Prosecution would propose to show the documents; so for the group of
6 documents -- we can't show all the documents at the same time, we will refer to
7 the binder. But for the documents which are shown individually, with your
8 agreement, we will show them directly from our computer, if that is possible.

9 PRESIDING JUDGE MINDUA: [15:04:36](Interpretation) Please go ahead,
10 Madam Prosecutor.

11 MS CORBIN: [15:04:41](Interpretation)

12 Q. [15:04:41] Witness, the first group of documents that I'm going to show
13 you are the *messages portés*, the dispatches. These are the first documents in
14 the binder. Is it correct that all of these dispatches from September 2011, that
15 they cover the period going from 30 September 2011 to 2 April 2013?

16 A. [15:05:28] Yes. I confirm that the *messages portés*, the dispatches, go from
17 30 September 2011 to 2 April 2013.

18 Q. [15:06:07] And before starting with the groups of documents, I propose
19 that we look together at two dispatches to be able to understand the format of
20 this type of document.

21 Now, the first which I would like to show you, this is as at tab 20, ERN
22 MLI-OTP-0012-0748. If it could be shown on the screen. (Speaks English)
23 Evidence 1? Two. Evidence 2.

24 THE COURT OFFICER: [15:06:48] Evidence channel 2.

25 MS CORBIN: [15:06:56](Interpretation)

1 Q. [15:06:58] So I would propose that we go through it methodologically, so
2 that we can all follow. So if you can comment on the form of this document.
3 Quite simply, let's start at the top and go towards the bottom of the document.
4 So let's start at the top of the document. If you could describe this, if you
5 would be so kind.

6 A. [15:07:28] So the message, MLI-OTP-0012-0748, this is a message from the
7 DSM with the stamps of the DSM on it. It's a message which is being sent to
8 the ministry of defence of the former combatants, the chief of general staff, and
9 the commander of operations, and a copy of this message is being sent to IGAS,
10 the General Inspectorate for the Service Army -- the General Inspectorate for
11 the Armies and Service. That's it. *L'Inspection générale des armées et services*,
12 in French.

13 Q. [15:09:06] Just to be clear with regards to the addressee, these are their
14 acronyms which figure after "**To:**", are they not? "MDAC-CEM/GA - CDT
15 OPS"?

16 A. [15:09:25] Yes, that's correct.

17 Q. [15:09:38] IGAS? What is this entity? Why is that copied, the I-G-A-S,
18 *l'Inspection générale des armées et services*?

19 A. [15:09:52] IGAS is the General Inspectorate of Armies and Service. So
20 the head, it's the General Inspector of Armies and Service. You know that in
21 all major institutions, you have the inspection services which are responsible
22 for controlling or monitoring the proper conduct of all directorates and entities
23 under the authority of the minister of defence. IGAS is directly under the
24 orders of the ministry of defence, and, according to the needs, it carries out
25 missions, supervisory missions and inspections, and monitoring of the proper

1 conduct within these departments and the proper functioning of these major
2 units of the department. So it's a very important unit. And from our
3 perspective, without being directly in the chain of intelligence, it should be
4 informed, nevertheless, as to what is happening with regards to the general
5 developments in the situation. And that's the reason why you will see that
6 the other entities are never mentioned in the same line. It's generally -- 90 per
7 cent of the time, it is put in as copy.

8 Q. [15:12:07] So a clarification with regards to the addressee "BKO", what's
9 that?

10 A. [15:12:17] Bamako.

11 Q. [15:12:20] Bamako. There are three stamps in the document and what
12 are they?

13 A. [15:12:35] There's the "**SECRET DEFENCE**" stamp. You will see that
14 most of the documents coming from the DSM are documents which are
15 extremely sensitive. Very, very sensitive. They must not be known of even
16 among most of the units within the army. So the secret nature of the defence
17 or the "**SECRET DEFENCE**", the writing there, that's what it's supposed to do.
18 There's also "extremely urgent", which is written on it as well. That means
19 that the information has to be communicated quickly. Those who are
20 responsible for receiving the document or editing these documents --

21 THE INTERPRETER: [15:14:05] Corrects the interpreter --

22 THE WITNESS: [15:14:06](Interpretation) -- they must know the importance
23 of this stamp. They must not delay within the secretariat. And the third
24 stamp, that's the stamp that links us to the ministry of defence, and it means it
25 should not go for external diffusion or dissemination.

1 The DSM is saying that all this is to stress the fact that it is secret -- everything
2 that's being done is to show that it's secret, and it's about the need for
3 expeditiousness and speed when it comes to this message.

4 MS CORBIN: [15:15:26](Interpretation)

5 Q. [15:15:26] The contents starts with, "Clear number", followed by a number.
6 What does that mean and whose put that number on it?

7 A. [15:15:38] Well, what I was saying, when I spoke earlier about the
8 functioning of the archives and the document, they are classified in
9 a chronological way in accordance with the number scheme, and, as such, the
10 number "0118", that we can see, tells us that in 15 days, 118 dispatches were
11 sent. It's the 118th message of the year.

12 And you asked, who wrote that number onto the message, and that was the
13 individual secretary working for the director of military security. That's it.

14 Q. [15:17:28] Now, we see a date right beside that, 18 January 2012. Was
15 that the date on which the document was sent out?

16 * A. [15:17:40] The 18th of January 2012, first of all, is the date on which the
17 message was drafted. Between the time of the drafting and the sending of the
18 message there may be a few hours or one or two days, but when you see the
19 heading of this message, the secretary in charge of processing this information
20 and forwarding it does everything possible to ensure that the document does
21 not sit on a desk for a day.

22 So the document was definitely drafted on 18 January and signed on 18
23 January. After that, it goes through the secretarial process. And, as I was
24 saying, the secretaries do all they can to avoid keeping these documents for
25 hours and hours more. Otherwise, there could be a penalty if the intelligence

1 is not forwarded on time as requested, and that is all depending on the specific
2 nature of the DSM.

3 PRESIDING JUDGE MINDUA: [15:20:09](Interpretation) Madam Prosecutor,
4 *excusez-moi*.

5 Just a clarification, Mr Witness, what does *message porté* mean? You said that
6 it's the particular secretary who attributes the number, and then the message is
7 given to a soldier to -- and that person takes it to the minister.

8 How does it all work?

9 THE WITNESS: [15:20:36](Interpretation) Exactly, your Honour. The
10 *message porté* is a message that is dealt with by the secretary quickly. Because
11 of the urgency, he puts the number on it, he stamps it with the various stamps,
12 he puts it in an envelope, he calls a soldier and tells the soldier to provide the
13 document immediately to his counterpart at the ministry of defence.

14 Now, to better understand the speed at which this is done, you see, the unit is
15 organised around the time -- the times at which the mail comes in. After the
16 briefing at 9 -- well, at 9 o'clock, the mail comes in. At 11 o'clock, you have
17 mail coming in. In the afternoon, more mail comes in. So you have to be
18 very organised with the documents.

19 However, the *message porté* and certain other correspondence can't wait the
20 usual processing of mail, and, then, such messages are taken out of the
21 ordinary correspondence and sent off immediately. The director can't always
22 be in his office and, if ever an urgent piece of correspondence ends up in the
23 normal correspondence, you can lose a lot of time, quite a bit of time. So we
24 take the initiative of removing that mail from the general mail. And, you see,
25 it's an item of correspondence that cannot wait. It is dealt with by the deputy

1 director, and it's all to ensure speediness.

2 PRESIDING JUDGE MINDUA: [15:23:07](Interpretation) Thank you very
3 much, completely understood.

4 Madam Prosecutor.

5 MS CORBIN: [15:23:10](Interpretation)

6 Q. [15:23:11] Now, to understand how the document is created, could you
7 please read the content.

8 Oh, have you already done that?

9 A. [15:23:33] Uncoded number "-0118/DSM" --

10 Q. [15:23:38] Could you read it to yourself.

11 A. [15:23:41] Oh, to myself.

12 Q. [15:23:46] We just want to know what the document is all about.

13 What is this message all about?

14 A. [15:25:03] It has to do with the attack upon the Aguelhok camp and it
15 specifies to some extent the nature of the attackers and their operating methods.

16 It describes the situation of friends and, in particular, one person who was
17 wounded, a wound to the head, one of our soldiers.

18 So that is basically the content of this message.

19 Q. [15:26:13] To your knowledge, what is the typical source of such
20 information?

21 * A. [15:26:24] Given the precision with which this information is given, there
22 can be no doubt that it is from one of our capteurs, or intelligence agents,
23 within the unit. The message speaks of the method of attack, the means used,
24 the means of the friendly forces and their difficulties. So this is intelligence
25 that is so well developed that the message comes from a *capteur*, an agent.

1 Q. [15:27:50] At the very bottom of the document, we see a signature. Do
2 you recognise this signature?

3 A. [15:28:00] Yes, I do recognise the signature, Youssouf Goita, brigadier
4 general, director of military intelligence at the time of the events.

5 Q. [15:28:35] Other than the director of the DSM, could other people sign
6 these *messages portés*?

7 A. [15:28:47] Yes. Right from the outset, your Honour, I'd like to say that
8 these *messages portés* were such that -- well, you see, such messages could not
9 wait in a secretarial office or anything like that. The director may have to be
10 away, for several reasons - meeting with the minister, meeting other
11 directors - and, if the director was away, the deputy director would replace
12 him and carry out all his duties.

13 Q. [15:30:02] You told us earlier that you were the deputy director at the
14 DSM until March of 2012. When you were deputy director, what knowledge
15 did you have of all the *messages portés* issued by the DSM?

16 A. [15:30:27] As the deputy director, all those documents would go through
17 the deputy director. He was sort of a filter. He would not sign, but he might
18 make changes, depending on his knowledge of the content of the message
19 before -- before writing "*vu*" and preparing the document for signature by the
20 director. So the deputy director would be entirely aware of all the messages
21 and documents that would be put to the director for his signature, and he
22 would sign them. Or after -- well, if the director -- or he would sign them too,
23 if the deputy -- if the director was away.

24 So as deputy director, I was entirely familiar with the content of the various
25 messages that were provided to the director for his signature.

1 Q. [15:32:15] I have nearly concluded my questions.

2 Now, we can see a stamp on one of these signatures. What is this stamp?

3 A. [15:32:24] That is the stamp -- it's not easy to make out, but it is the stamp
4 of the DSM.

5 Q. [15:32:35] Thank you. Is that the standard format for a *message porté*?

6 A. [15:32:44] Yes, that is the general form or shape of a conventional *message*
7 *porté*.

8 Q. [15:33:02] And this is also the conventional heading of the DSM?

9 A. [15:33:10] Yes. The heading and the stamp of the DSM, the
10 conventional -- the usual heading and stamp.

11 Q. [15:33:24] Thank you. Thank you, Mr Witness, I have concluded for
12 today.

13 A. [15:33:32] Thank you.

14 PRESIDING JUDGE MINDUA: [15:33:33](Interpretation) Very well, Madam
15 Prosecutor, you have finished for today. Do you have any idea how much
16 time you will be needing to conclude your examination-in-chief?

17 MS CORBIN: [15:33:49](Interpretation) It's not easy to give a specific estimate,
18 but I --

19 PRESIDING JUDGE MINDUA: [15:34:01](Interpretation) Well, think about it
20 and let us know tomorrow. Is that okay? Is that possible?

21 MS CORBIN: [15:34:09](Interpretation) Yes, that is possible.

22 PRESIDING JUDGE MINDUA: [15:34:11](Interpretation) Very well.
23 Thank you very much, Madam Prosecutor.

24 Mr Witness, it is 3.35 and the time has come for us to conclude today's hearing.
25 Once again, the Chamber thanks you very, very much for being so kind as to

1 answer the questions in a very clear and measured fashion and, since your
2 testimony has not concluded, please return tomorrow.

3 And our schedule provides for a 9.30 am start, is that correct, Madam
4 courtroom officer? Madam, tomorrow, 9.30?

5 Yes, that's correct.

6 In the meantime, Mr Witness, as you must realise, you cannot speak about
7 your testimony to anyone whatsoever.

8 I would now like to thank all the parties and participants. I thank the court
9 reporters and the interpreters. I shan't forget our security officers. And,
10 once again, I express my gratitude to the public in the gallery and those who
11 are listening from afar. I'd like to wish everyone a very pleasant evening, and
12 we resume tomorrow.

13 The hearing is adjourned.

14 THE COURT USHER: [15:35:49] All rise.

15 (The hearing ends in open session at 3.35 p.m.)

16 CORRECTIONS REPORT

17 The following corrections, marked with an asterisk and included in the
18 audio-visual recording of the hearing, are brought into the transcript.

19 Page 4 lines 17-19:

20 "A. [13:38:17] The first draft would be done by the operations division and
21 they were responsible for all the sources -- the *capteurs*, in French. If a draft
22 was sent to the assistant director, the almost final copy would be sent on to the
23 director. At each level of the hierarchy, the person as the head of the unit
24 would make a judgment, an assessment of the need. In some cases, there
25 would have to be some adjustments made to formatting and so on and so

1 forth." Is corrected to

2 "A. [13:38:17] This draft was sent to the assistant director, and the copy, which
3 was almost final, would be sent on to the director. At each level of the
4 hierarchy, the manager would decide if it was necessary to tidy up the text."

5 Page 5 lines 2-6:

6 "As part of the updating of all these various units, to better delineate the
7 intelligence and the strategy, the various leaders of these intelligence units
8 would frequently meet to discuss matters, and, that way, we could obtain
9 strategic intelligence that was provided to the minister and even to the
10 presidency on that occasion."

11 Is corrected to

12 "As part of the updating of all these various units, to better cross-check
13 intelligence, this time at the strategic level, the various leaders or senior
14 managers of these intelligence units would frequently meet to discuss matters.
15 And that way, we would obtain strategic intelligence, often, that was provided
16 to the minister and even to the presidency on that occasion."

17 Page 9 lines 1-3:

18 "Also, depending on the way in which we were working, that would make it
19 possible for us to confirm whether the intelligence that we had available to us
20 was credible or not." Is corrected to

21 " Also, depending on the cross-checking that we were conducting, we could
22 confirm whether the intelligence that we had available to us was credible or
23 not."

24 Page 10 lines 23-24:

25 "we were getting from our units." Is corrected to "we gave to our units"

1 Page 12 lines 17-19:

2 "A. [14:31:34] What you must realise is that, taken together, all these
3 documents are intended to forward information, forward intelligence to
4 authorities within the ministry of defence and, in particular, the minister of
5 defence."

6 Is corrected to

7 "A. [14:31:34] What you must realise is that, taken together, all these
8 documents are intended to forward intelligence to the authorities, and in
9 particular, to the minister of defence."

10 Page 14 lines 11-12:

11 "OTP-0012-0 ... (no interpretation)" is corrected to "MLI-OTP-0012-0287,
12 0012-0295, 0012-0310 and 0012-0327"

13 Page 20 line 16:

14 "assigned" is corrected to "signed"

15 Page 24 lines 14-16

16 "A. [15:17:40] The 18th of January 2012. Well, first of all, the date on which
17 the message was drafted, between the time of the drafting and the sending of
18 the message," is corrected to

19 "A. [15:17:40] The 18th of January 2012, first of all, is the date on which the
20 message was drafted. Between the time of the drafting and the sending of the
21 message,"

22 Page 26 lines 19-21:

23 "A. [15:26:24] Given the specific nature of this information, I couldn't say
24 that -- I couldn't say that it was a message from a *capteur*, from an agent within
25 the unit. " is corrected to

1 "A. [15:26:24] Given the precision with which this information is given, there
2 can be no doubt that it is from one of our capteurs, or intelligence agents,
3 within the unit. "

4 CORRECTIONS REPORT

5 The following correction, marked with an asterisk and not included in the
6 audio-visual recording of the hearing, is brought into the transcript.

7 Page 13 line 12

8 "daily" Is translated and added.