

1 International Criminal Court

2 Trial Chamber II - Courtroom 1

3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra

4 and Judge Christine Van den Wyngaert

5 Situation: Democratic Republic of the

6 Congo - ICC-01/04-01/07

7 In the case of The Prosecutor v. Germain Katanga and

8 Mathieu Ngudjolo Chui

9 Trial Hearing

10 Tuesday, 24 August 2010

11 (The hearing starts at 9.02 a.m.)

12 (Open session)

13 THE COURT USHER: All rise. The International
14 Criminal Court is now in session.

15 PRESIDING JUDGE COTTE: (Interpretation) Today's
16 hearing is now about to begin. Please be seated. Now the
17 accused are with us. Good morning, gentlemen. Good morning,
18 everyone.

19 The Chamber shall now announce a decision in light
20 of a number of points raised yesterday. This has to do with
21 the * admissibility of the 17 extracts that Madam Prosecutor
22 wishes to present to the Chamber and, in particular, with
23 regard to the relevance of these extracts the Chamber is of
24 the opinion that the relevance cannot be challenged, given
25 that these extracts are entirely in keeping with the context

1 in which the events occurred and are of a nature that will
2 allow the Prosecutor to establish the general context of the
3 crimes that she wishes to prove. These extracts should allow
4 the Chamber to better understand and better assess the context
5 of the conflicts, in particular the interethnic conflicts
6 that occurred between the first months of 2003 in Ituri
7 contents --

8 THE INTERPRETER: Correction, context.

9 PRESIDING JUDGE COTTE: (Interpretation) -- that
10 the Chamber must be familiar with. Also, the Chamber will
11 be in a better position to understand the means that were
12 used by the combatants to fight their enemies and the fate
13 of civilians. The Chamber will be in a better position to
14 understand the conditions under which the Ugandan troops left
15 and the reactions that their departure caused.

16 With regard to the probative value of these extracts,
17 authenticity: Their authenticity is not to be challenged,
18 given that Witness 30 (Expunged). The
19 Chamber would remind parties and participants that we did
20 allow the paragraphs of the witness's statement (Expunged)
21 (Expunged)
22 (Expunged)

23 The date of the events shown in these extracts is
24 only a few weeks after the events of the case, namely, March,
25 April and May 2003.

1 With regard to prejudice to the Defence: With regard
2 to the presentation of the injured and corpses, the Chamber
3 has taken note of the possible emotional reaction or shock
4 that was mentioned by the two Defence teams. However, the
5 Chamber is not so influencable to an extent that the Chamber
6 would be unable to make a distinction between scenes that
7 are not directly having to do with the case and what is alleged
8 to have happened in Bogoro on 24 February 2003.

9 Moving on to the remarks made by people who were
10 present when the videos were filmed, the Chamber would remind
11 all that we must make a clear distinction between testimony
12 and remarks or comments, mere comments. Furthermore, we would
13 remind all that in this particular case the people who made
14 these comments or remarks did not do so with a view to using
15 them for legal purposes.

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged) Thus,

20 the Chamber intends to allow these 17 videos as material to
21 be presented to the Court, and after each particular one is
22 shown the Chamber will ask the court clerk to assign an EVD
23 number to the particular extract.

24 The task of Madam Prosecutor then will be to show
25 each one of the 17 videos, one after another, and to conduct

1 her examination-in-chief.

2 After that, the legal representatives will ask their
3 questions of the witness, if they choose to do so.

4 After that, the Defence teams will conduct their
5 respective cross-examinations. They will be in a position
6 to ask the witness for all details or clarifications that
7 they think are important so that the Chamber will be in a
8 position to assess the relative weight to be allocated to
9 these various extracts once the Chamber is in possession of
10 all aspects of the material admitted into evidence.

11 Before we ask the court clerk and the court usher
12 to bring the witness into the courtroom, Witness 30, the
13 Prosecution's witness, the Chamber would also like to announce
14 the protective measures that Witness 30 will enjoy during
15 the hearing. By way of ruling 1667 of 23 November 2009 having
16 to do with the protection of certain witnesses, the Chamber
17 has decided that the witness shall benefit from the following
18 measures: First of all, use of a pseudonym; secondly, his
19 voice will be distorted; and third, his image will be distorted
20 as well. The Chamber is of the opinion that today there are
21 not sufficient grounds to revisit this issue.

22 Indeed, during a discussion with the VWU on 2 July,
23 and at the time it was thought that the witness would be heard
24 before the Court recess, so at that point in time the witness
25 himself said that he wished to benefit from these measures.

1 Furthermore, the Chamber notes that the witness is within
2 the Court's protection programme.

3 Furthermore, we are of the opinion that his identity
4 should remain anonymous and that only these protective
5 measures are sufficient to do so and, thus, the Chamber will
6 be ordering a closed session when the witness enters the
7 courtroom and leaves. These are the three measures that we
8 have granted to the witness.

9 Now, do the Defence teams have any objections? No?
10 Thank you. The Chamber also wishes to specify that, although
11 the witness does speak French and can read French, he wishes
12 to speak Swahili in the court. The Chamber would remind all
13 that the person must be referred to by way of a pseudonym
14 and his voice and his image will both be distorted.

15 Now, Madam Court Officer, before the witness comes
16 discreetly into the courtroom, could we move into
17 closed -- correction, could we move into private session and
18 then have the witness shown in.

19 Madam Prosecutor, please.

20 MS LUPING: (Interpretation) Good morning, your
21 Honours. (Speaks English) Before the witness is called in,
22 I was wanting to put forward some proposals in relation to
23 the methodology to be used in terms of how this footage should
24 be shown to the witness, and I thought it would be better
25 if this was done outside the presence of the witness.

1 I wanted to touch very briefly on four issues - number
2 one is the methodology - to explain the selections made in
3 terms of the footage and the issue of the binders, as well
4 as the prior admitted evidence, the methodology for dealing
5 with that.

6 As regards the methodology, as the Chamber is aware,
7 both the Witness 30 and the witness to follow him, Witness 2,
8 are witnesses who will be commenting on video footage, and
9 we propose that the procedure to be adopted be the same as
10 used, essentially, in the Lubanga proceedings. And before
11 I go into detail on that, just if I could briefly ask that
12 we go into private session on one issue relating to methodology
13 that could be of an identifying nature.

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

17 Ms Luping, as soon as you think that it is possible
18 to exit private session, if you could indicate that to us.

19 (Public session at 9.16 a.m.)

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18 (Open session at 9.25 a.m.)

19 THE COURT OFFICER: (Interpretation) We are in
20 open session, your Honour.

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

23 Madam Prosecutor, you just touched upon the first
24 of four points that you would like us to discuss; is that
25 correct?

1 MS LUPING: That is correct, Mr President. The
2 other points can be dealt with much more briefly.

3 PRESIDING JUDGE COTTE: (Interpretation) Very
4 well. Let us proceed.

5 MS LUPING: This matter still deals with issues of
6 methodology. As all the parties are aware, the Prosecution
7 has prepared a DVD of all the video extracts and has provided
8 copies. These extracts are simply copied from the original
9 whole version of each video available on Ringtail.

10 The Prosecution first seeks permission from the
11 Chamber to play these extracts itself from the Bench to save
12 time. These extracts were provided on 8 July to all parties
13 and formally disclosed to Defence and are uploaded in eCourt
14 for ease of reference. The Defence and other participants
15 have had an opportunity to compare these extracts with the
16 original and, again, this procedure is as was adopted in the
17 Lubanga proceedings.

18 When playing the extracts, we propose to refer to
19 the original time stamps from the whole version of the video,
20 as well as the time stamps from the extracts taken from that
21 original. We just simply want to explain that, obviously,
22 when extracts are created they don't retain the old time stamp
23 referencing; they start from zero up to the time period of
24 the specific extract. So if we stop at a time stamp within
25 an extract, we will only refer to the time stamp from the

1 specific extracted version, as that is the version that we
2 will be seeking an EVD number to be assigned.

3 For every extract played with sound we want to make
4 it clear that we do request interpretation. And we are seeking
5 an EVD number for the extracts being played, together with
6 the relevant excerpts of transcripts and translations for
7 those extracts.

8 Moving on to the second issue, which was just to
9 briefly discuss the selection of these extracts, simply to
10 explain that to make it easier for the witness we have grouped
11 the extracts according to video scenes and not by issue. We
12 do want to reassure the Chamber that we have focused on the
13 most pertinent extracts. We're very mindful of paragraph 17
14 of your decision 2233 in this regard. Thirdly, just briefly
15 on the issue of the binders as provided to all the parties
16 on 8 July and to the court officer and interpreters on the
17 5th, each binder has 29 dividers for each video extract and
18 we will be referring to the divider references before playing
19 each video extract and, as the parties are aware, each

20 annex does detail the specific references from
21 translations and transcripts and the timestamps being relied
22 upon.

23 Finally, as to the admission of this witness's prior
24 testimony, we propose to submit that evidence to the witness
25 and briefly question him to confirm his consent for the

1 introduction of this material into the record.

2 Those were the matters of procedure I wanted to raise
3 before the witness is brought in, Mr President. I have no
4 further submissions at this stage.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank
6 you, Prosecutor. As far as the Chamber is concerned, there
7 are two comments: First of all, you have demanded of us all
8 clarity so that no matter how well-versed we are in the technical
9 side of things or not, when it comes to the presentation of
10 the videos we are all going to be in a position where we can
11 follow what's going on.

12 So under point 3, you said there would be reference
13 made to the binders. These, up until now, have been our working
14 documents, so it's very important that we clearly have the
15 references such as to prevent us getting lost in all of the
16 intricacies of the presentation. And when I say
17 "intricacies," there is nothing pejorative about it.

18 Second comment on your first point to do with
19 methodology, to our mind as soon as the witness is in a situation
20 where he (Expunged)
21 would like us to go into private session or in closed session?
22 Obviously we are aware of the fact that it's necessary to
23 guarantee the protection of the witness, but we would very
24 much like to ask you to make sure that the closed sessions
25 or private sessions are only allowed when they're absolutely

1 essential.

2 We cannot have hearings that are constantly cut off
3 from the point of view of the public. The whole principle
4 of the hearing is that it be public. If it is indispensable,
5 we will go into private session or indeed into closed session,
6 but we would urge you to be extremely vigilant on this issue
7 so as to allow us to the extent possible to guarantee the
8 public nature of this hearing.

9 Do the Defence teams have any specific points to
10 raise? Mr O'Shea.

11 MR O'SHEA: Yes. Thank you, Mr President, your
12 Honours. I don't think we have any particular difficulty with
13 the procedures which have been outlined by my learned friend.
14 We understand that this is not a memory exercise for the witness
15 and that (Expunged) the videos can be played with sound.

16 The one specific point I would like to raise is in
17 relation to the suggestion that the transcripts of the videos
18 be admitted into evidence. My understanding is that there
19 will be -- of those video extracts which are going to be played,
20 there will be a translation from the booths of what is coming
21 from the video and that seems to be procedurally correct.

22 It would not, therefore, appear to be necessary to
23 admit the transcripts, first of all, but also of course the
24 transcripts contain portions of text which are not reflected
25 in the videos either because the page contains a more extensive

1 text than the extract itself or because occasionally pages
2 are there that should not be there. I mean, the second point
3 of course can be rectified with a post-check by my learned
4 friend.

5 And the third point is this: That we are unsure
6 of the accuracy of the transcription/translation. When I was
7 listening to these videos with my client, I did notice that
8 there were times when it was extremely difficult to hear exactly
9 what a particular word or a particular phrase was which had
10 been said on the video and I don't know, you know, how faithfully
11 the transcription is to not only what was said but also what
12 was not clear.

13 And I understand that it's a unit of the Prosecutor's
14 office which has done these translations. Thus, the interest
15 of course in having the interpreters in the booths do the
16 translation of the videos, then we are all clear that it's
17 an impartial translation, but for those reasons I'm concerned
18 about the suggestion of admitting the transcripts themselves
19 of the videos. I mean, they can remain part of the bundle
20 as an aid, but as for them being admitted into evidence in
21 our submission the -- what's said from the interpretation
22 booth and put into the record is what's important.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank
24 you, Mr O'Shea. Professor Fofé?

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

1 Good morning, your Honours. Having heard from the Prosecutor,
2 we don't have any specific concerns or difficulties. But we
3 would quite simply like to stress the need for clarity such
4 as you, your Honour, have already done, and I think that in
5 order to facilitate things for us in following the 17
6 extracts - and I repeat the 17 extracts expressly, because
7 that I hope is what we will be doing dealing with, in other words
8 there will only be the 17 extracts being shown - anyhow, in
9 the interests of clarity it would be ideal if we could go
10 through the binder with the tabs, if possible.

11 We have the 17 extracts on the list that the Prosecutor
12 gave us yesterday. Our concern is that there be clarity, and
13 if everything goes well we will see at that point whether
14 we have specific reactions. Thank you.

15 PRESIDING JUDGE COTTE: (Interpretation) Thank
16 you, Professor Fofé. Prosecutor, I think you've probably got
17 something to say in response to these two interventions?

18 MS LUPING: Thank you, Mr President. First on the
19 issue relating to the excerpts of transcripts and translations,
20 obviously there is a difference between real-time translation
21 and the opportunity for transcribers to spend a significant
22 amount of time to listen to the video excerpts to determine
23 precisely what is being stated, and the proposal to submit
24 transcripts and translations also into the record is simply
25 to provide a tool or an aid for all the parties, including

1 for passages that may be perhaps more difficult for
2 interpreters to listen to in real-time in the courtroom.
3 However, we are obviously in the Chamber's hands on this matter
4 and leave the Judges to decide how they prefer to deal with
5 this issue.

6 On the second issue raised, I believe I hope we made
7 our position clear. Our intention is to play the 17 priority
8 extracts and provide an indication at the end of the
9 witness's -- towards the end of the witness's testimony as
10 to whether any of the 12 extracts would be played and the
11 decision and perhaps debate could occur at that point in time,
12 but our proposal at this stage is to play the 17 and to confirm
13 whether or not any of the 12 would be played at the end. Thank
14 you.

15 MR O'SHEA: Just one point of clarification, your
16 Honour, if I may. I have no objection to the bundles going
17 to the interpreters. In fact, I had hoped that the bundles
18 were already with the interpreters, because it's my
19 understanding of their method of work that they like to look
20 at documents in advance of proceedings so that they can prepare
21 for a difficult task of translation and we don't doubt that
22 this is a difficult task of translation.

23 Obviously I would like to make that clear that we
24 have no objection to the interpreters having sight of these
25 transcripts. That's not the issue I raised.

1 PRESIDING JUDGE COTTE: (Interpretation) I would
2 ask for a few moments.

3 (Trial Chamber confers)

4 PRESIDING JUDGE COTTE: (Interpretation) Thank
5 you. Thank you for your patience. What we are all concerned
6 with here is seeking clarity. The witness that we are going
7 to be hearing from has to provide us with a testimony that
8 is useful and will serve our interests in seeking truth.

9 Those of us who have already taken a look at the
10 binder that was made available on 8 July have indeed noted
11 that the transcripts of conversations that were recorded at
12 the time of the footage being shot are sometimes difficult
13 to read. The interpreters' task is going to be an arduous
14 one. The interpreters will do their utmost. They will do
15 their utmost assisting themselves by using the binders that
16 have been made available.

17 If they are unable to interpret because they cannot
18 understand what they're hearing, they will say so and we will
19 all take note of that. The proceedings at this stage are
20 primarily oral, so, Prosecutor, we cannot yet give an EVD
21 number to the transcriptions. The interpreters will be doing
22 their best. We will show patience, because we are aware of
23 the fact that their task is going to be difficult, and we
24 know that in a straightforward and professional capacity they
25 will do their best, drawing also on what is set down in writing,

1 and we will use what they have been able to translate to develop
2 our understanding of the truth.

3 Now, I think we can perhaps bring the witness in,
4 if everyone agrees, and I would ask the court officer to have
5 the witness brought in. We will go into closed session for
6 him to give us his identity, and obviously after that we will
7 go into open session and I am giving these explanations in
8 the interests of the public.

9 (Closed session at 9.44 a.m.)

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19 (Open session at 9.45 a.m.)

20 THE COURT OFFICER: (Interpretation) We are in
21 open session, your Honour.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank
23 you, court officer. Good day, witness.

24 THE WITNESS: (Interpretation) Good morning.

25 PRESIDING JUDGE COTTE: You can hear me, can you?

1 And you are receiving the translation?

2 THE WITNESS: (Interpretation) Yes.

3 PRESIDING JUDGE COTTE: (Interpretation) Good.

4 Witness, the Court is going to be hearing your testimony and
5 we count on you to assist us in acquiring a better understanding
6 of the charges against the two accused persons and your
7 testimony in this context is very important for us.

8 You know how a hearing operates because we understand
9 that you have already appeared as a witness before another
10 Chamber of the Court. First of all, the Prosecutor will be
11 putting questions to you based on video extracts that are
12 going to be shown to everybody in this courtroom. She will
13 explain to you the practical aspects of the way in which this
14 will be done. It is then the legal representatives of the
15 victims sitting to my left who, if they have any, will put
16 questions to you, after which the counsel for the defence of
17 Mr Katanga, in other words Messrs Hooper or O'Shea, or Mr
18 Ngudjolo's Defence, Professor Fofé and Mr Kilenda, will put
19 questions to you. You are familiar with the way of proceeding,
20 but I think it was important that I remind you of it at this
21 stage.

22 The representatives of the Victims and Witnesses
23 Unit have probably already told you that you are not allowed
24 to talk to anybody about the testimony that you are giving
25 before this Court. You are not allowed to talk about what

1 you say in this room, nor what you hear in this room.

2 The Chamber would like to remind you of something
3 you are probably already familiar with. In the course of the
4 proceedings we will not be using your name; we will use a
5 pseudonym. We will refer to you as "Witness" or "Witness 30."
6 Your voice will be distorted; in other words, outside this
7 courtroom it will not be heard as it normally is, and your
8 face will also be distorted.

9 The Court would ask you to speak slowly, because
10 if we understand correctly you are going to be speaking Swahili.
11 Swahili will be translated into French and then into English,
12 which means that there is a gap between the moment when you
13 speak and the moment when Mr Katanga's Defence counsel hears
14 what you are saying in English, so please speak slowly in
15 order to make things easier for the interpreters and that
16 will also facilitate everybody's understanding. Speak
17 loudly and clearly and into the microphone.

18 If you have any difficulties with the microphone,
19 then the usher, who is sitting opposite you, is there to help
20 you. You just need to let him know. You may well be tired
21 from time to time. You can also have a drink of water and,
22 if you are really tired at a certain moment in time, then
23 please let us know.

24 So, witness, we are going to go into closed session
25 so that you can give us your name, your date of birth, your

1 place of birth and your profession, but that is going to be
2 done in private session so that you can speak freely.

3 Court officer, we will quickly go into private
4 session, please.

5 (Private session at 9.50 a.m.)

6 (Expunged)

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3 (Open session at 9.52 a.m.)

4 THE COURT OFFICER: (Interpretation) We are in
5 open session, your Honour.

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

8 Witness, before you begin your testimony you must
9 undertake to tell the truth. This is a solemn undertaking.
10 I am going to read it out to you slowly so that you can understand
11 how important it is, so please listen carefully.

12 WITNESS: DRC-OTP-P-0030 (Sworn)

13 (The witness answers through interpreter)

14 PRESIDING JUDGE COTTE: (Interpretation) Did you
15 understand me? Did you hear me?

16 THE WITNESS: (Interpretation) Yes, I did.

17 PRESIDING JUDGE COTTE: (Interpretation) Do you
18 undertake to speak the truth, the whole truth and nothing
19 but the truth?

20 THE WITNESS: (Interpretation) Yes, I do.

21 PRESIDING JUDGE COTTE: (Interpretation) The
22 Court would ask you to listen once again very carefully. You
23 have just undertaken to speak the truth, the whole truth and
24 nothing but the truth. If during your testimony, or in answer
25 to a question that might be put to you you do not speak the

1 truth, proceedings may be taken against you by the
2 International Criminal Court for false testimony, for perjury,
3 and this might lead to a sentencing. Have you understood this?

4 THE WITNESS: Yes, I understand.

5 PRESIDING JUDGE COTTE: (Interpretation) The
6 Court takes note of the fact that you have complied with
7 Article 69(1) of the Statutes and Rule 66(1) and (3) of the
8 Rules of Procedure and Evidence. Witness, once again let me
9 remind you to speak clearly, slowly and speak directly into
10 the microphone. Don't switch languages when you are speaking.
11 Speak in one and the same language so as not to confuse things
12 and make the task even more difficult for the interpreters.

13 We can now begin the examination-in-chief by the
14 Prosecutor. Prosecutor, please proceed.

15 MS LUPING: Thank you, Mr President.

16 QUESTIONED BY MS LUPING:

17 Q. Good morning, Mr Witness. My name is Dianne Luping
18 and I am going to be questioning you on behalf of the Office
19 of the Prosecutor in this case against Germain Katanga and
20 Mathieu Ngudjolo. Before we start, I just wanted to raise
21 a few matters with you.

22 First, I would ask that you not hesitate to say when
23 any of my questions are not clear. Simply ask me to repeat
24 the question, or reformulate it.

25 Secondly, I would ask you to listen very carefully

1 to the questions being asked and only answer the specific
2 questions put to you.

3 Thirdly, please say when you do not know an answer
4 to a question or cannot remember.

5 If there are any questions that may reveal your
6 identity, I will be asking the permission of the Presiding
7 Judge to go into private session, or closed session, which
8 means that nobody outside this courtroom will hear the
9 information that could identify you.

10 Do you understand that?

11 A. Yes, I understand.

12 Q. Mr Witness, do you remember meeting staff of the
13 Office of the Prosecutor in April 2006?

14 A. Yes, I do remember.

15 Q. And do you remember providing them in April 2006
16 with a witness statement and commentaries on video evidence
17 which were attached as annexes 1 to 4 of your statement?

18 A. Yes, I do remember.

19 Q. And do you confirm that you told the truth, to the
20 best of your knowledge?

21 A. Yes, I told the truth.

22 Q. I refer to divider 0 in the binders. I would ask
23 that the court usher provide the witness with a copy of the
24 redacted version of the statement found at divider 0, with
25 the ERN number DRC-OTP-0151-0583. Mr Witness, if you look

1 at this document, if you just flick through the pages, you'll
2 see that some parts of it have been blacked out. I would just
3 ask you to ignore the blacked-out parts. This should not
4 concern you. This is just a matter of procedure pursuant to
5 a decision of this Trial Chamber. My question is: Is this
6 document in front of you the statement you gave to the Office
7 of the Prosecutor in April 2006?

8 A. Yes, it is indeed that document, because I have just
9 seen it here.

10 Q. Could you please turn to the last page of this document.
11 It's at page, for the record, DRC-OTP-0151-0620. There is
12 a date found there, 11 April 2006. Do you confirm that this
13 is the day that you signed the statement?

14 A. Yes, I so do confirm.

15 Q. And do you recognise your signature at the bottom
16 of every page of this document?

17 A. Yes, I recognise my signatures.

18 Q. Do you confirm that you consent to the admission
19 as your testimony of portions of your witness statement?

20 A. Yes.

21 MS LUPING: Mr President, if an EVD number could
22 be assigned to this document, and it has a confidential status.

23 PRESIDING JUDGE COTTE: (Interpretation) Court
24 officer, please, on this part of the statement admitted with
25 the consent of the witness.

1 THE COURT OFFICER: (Interpretation) Thank you,
2 your Honour. Document number DRC-OTP-0151-0583 will bear the
3 EVD number EVD-OTP-00128. It will be filed as a confidential
4 document.

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

7 MS LUPING: I referred to annex 3 to the witness's
8 statement. That is found at 0 bis of the divider in the binders,
9 and this document has the ERN DRC-OTP-0151-0645. Again, if
10 I could request that the court usher please proceed a copy
11 of this document to the witness.

12 PRESIDING JUDGE COTTE: (Interpretation) In the
13 French transcript it should be tab 0 bis, not 010. I think
14 that is already done. Madam Prosecutor?

15 MS LUPING: Thank you, Mr President.

16 Q. Mr Witness, again if you could take a look at the
17 document in front of you, there are parts of the document
18 that have been blacked out. Again, please don't concern
19 yourself with that. Please ignore that. My question is: Is
20 this document an annex which was attached to your statement
21 relating to video (Expunged)

22 (Expunged)

23 A. Yes, it should be the annex to that document.

24 Q. Do you recognise your signature at the bottom of
25 each page?

1 A. Yes, it is indeed my signature.

2 Q. And did you sign this annex in April 2006?

3 A. Yes, I signed it in April 2006.

4 Q. Do you confirm that you consent to admission of annex
5 3 as your testimony?

6 A. Yes, I gave my consent.

7 MS LUPING: Mr President, if an EVD number could
8 please be assigned to annex 3, and it will have a confidential
9 status.

10 PRESIDING JUDGE COTTE: (Interpretation) Court
11 officer, please, like you did a short while ago, assign an
12 EVD number to that annex 3.

13 THE COURT OFFICER: (Interpretation) Thank you,
14 your Honour. Annex 3 will be assigned the reference number
15 EVD-OTP-00129 and will be filed as confidential.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank
17 you, court officer. You can proceed, Madam Prosecutor.

18 MS LUPING: Mr President, I have a few questions
19 to ask the witness that are of an identifying nature. if we
20 could please go briefly into private session.

21 PRESIDING JUDGE COTTE: (Interpretation) Very
22 well, with the understanding that you have to ask all the
23 main questions that you want to ask in private session at
24 the same time so as not to chop up the proceedings too much.

25 Court officer, let us go into private session.

1 (Private session at 10.10 a.m.)

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2 (Open session at 10.21 a.m.)

3 THE COURT OFFICER: (Interpretation) We are in
4 open session, your Honour.

5 PRESIDING JUDGE COTTE: (Interpretation) Very
6 well. Thank you, Court officer. Madam Prosecutor, please.

7 MS LUPING:

8 Q. Mr Witness, as I stated, I will be showing you
9 specific excerpts from video footage. If you need to have
10 any video excerpt shown again, please don't hesitate to say
11 so. Just to explain that the time codes that you will see
12 are different to those from original video footage of the
13 whole video simply because these are extracts taken from the
14 original videos. When the extracts created are shown, new
15 time codes appear because the old time codes are not
16 retained - they start from zero - but all this footage is
17 identical to the original.

18 MS LUPING: I ask that the parties turn to divider
19 1 of their binders. This is extract 1, and I'll be showing
20 footage from video DRC-OTP-0127-0065. For the record, I note
21 that the original time stamps are from 00.13.52 to 00.15.19.
22 This footage can be shown publicly and sound interpretation
23 will be required.

24 Q. Mr Witness, I will be playing the first 16 seconds
25 of this extract; that's 00 to 00.00.16. I ask that when I

1 show this footage that you not make any comments until I ask
2 questions and only answer those questions.

3 THE COURT OFFICER: (Interpretation) In order to
4 watch the video clip, please press on the button PC1 next
5 to your screens.

6 MS LUPING: Mr President, I also ask for permission
7 to be seated when I play the video footage.

8 PRESIDING JUDGE COTTE: (Interpretation) Yes, of
9 course, Madam Prosecutor.

10 MS LUPING: Thank you.

11 (Video extract played)

12 MS LUPING: Could the Court officer confirm that
13 everybody has the screen up? Okay.

14 (Video extract played)

15 THE INTERPRETER: The Swahili interpreter points
16 out that the sound from the video is inaudible.

17 PRESIDING JUDGE COTTE: (Interpretation) Madam
18 Prosecutor, the interpreter has told us that the sound is
19 inaudible. Is there any possibility of going backwards and
20 beginning the video clip again, perhaps lowering the volume
21 slightly or making some change?

22 MS LUPING: Yes, Mr President. I've just tried to
23 lower the volume, but if the interpreters could let me know
24 also if it's due to a technical problem or the sound being
25 too loud?

1 PRESIDING JUDGE COTTE: (Interpretation)
2 Interpreters, could you provide that explanation to Madam
3 Prosecutor. Is it just a matter of volume, or is it a matter
4 of your being unable to hear the remarks being made by the
5 person who we see on the screen?

6 THE INTERPRETER: Message from the English booth:
7 The interpreters will confer for just one very brief moment.
8 Message from the English booth: We are not entirely
9 sure which language is being spoken on this video.

10 PRESIDING JUDGE COTTE: (Interpretation) I
11 believe we have lost trace of our interpreters or perhaps
12 they did not hear us.

13 THE INTERPRETER: Message again from the English
14 booth: We are un -- we are not sure which language is being
15 spoken.

16 Message from the Swahili booth now: The person was
17 speaking French. Perhaps the French booth or the English booth
18 could tell us whether the sound was audible.

19 PRESIDING JUDGE COTTE: (Interpretation) Thank
20 you, sir. I now turn towards the English and French booths.
21 Now, the Swahili interpreter has said that the person who
22 we see on the screen was speaking in French. Was the French
23 audible and will it be possible to provide an interpretation
24 into English?

25 THE INTERPRETER: The English booth agrees with his

1 colleague in the French booth that the sound quality is not
2 acceptable.

3 PRESIDING JUDGE COTTE: (Interpretation) And --

4 MS LUPING: Perhaps if I can play the footage again
5 at a slightly lower volume to see if this improves
6 the sound quality?

7 PRESIDING JUDGE COTTE: (Interpretation) Go ahead.
8 We will make an attempt and then we will see. Let us resume
9 at the beginning. On your marks, get set.

10 (Video extract played)

11 MS LUPING: I stopped the footage at 18 seconds.
12 Perhaps if I can put the question to the witness that he should
13 be able to respond by looking at the footage.

14 PRESIDING JUDGE COTTE: (Interpretation) Please
15 go ahead.

16 MS LUPING:

17 Q. Mr Witness, do you recognise this footage? Oh,
18 sorry. My apologies. If we could go into private session for
19 the next series of questions.

20 PRESIDING JUDGE COTTE: (Interpretation) Court
21 officer, what is going on? Court officer, we will go into
22 private session.

23 (Private session at 10.31 a.m.)

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23 (Open session at 10.37 a.m.)

24 THE COURT OFFICER: (Interpretation) We are in
25 open session, your Honour.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank
2 you, court officer. Madam Prosecutor, unless the
3 Defence sees some barrier to this, the Chamber doesn't see
4 any problem with your continuing the examination seated, if
5 you wish. It is up to you to decide whether you wish to remain
6 standing or sitting, so please if from time to time you wish
7 to sit down while asking your questions don't be worried.
8 We are not going to be very formal about this. If ever you
9 need to, you can always raise your hand and we will understand.
10 It is entirely up to you. Please proceed.

11 MS LUPING: Thank you, Mr President. I will take
12 you up on that offer and I will be seated.

13 Q. Mr Witness, I will now be playing the whole of the
14 extract again with sound. I will be asking the interpreters
15 to try to interpret this extract.

16 I would ask the witness not to make any comments
17 again, but simply to watch the whole of this extract and answer
18 the questions specifically asked of him. The extract runs
19 from 0 to 00.01.29.

20 (Video extract played)

21 THE INTERPRETER: Message from the English booth.
22 The sound quality is such that interpretation cannot be
23 provided.

24 "From 24 January to 7 February leading to the
25 signing of the solemn commitment of all for the pacification

1 of Ituri are examples of the commitment of the UPC to the
2 domestic pacification process."

3 MS LUPING: Mr President, the message from the
4 English booth was that they couldn't provide an interpretation.
5 If we could have an understanding from the French and Swahili
6 booths as well as to whether translation was possible or not.
7 I will need to play the extract again. It is important that
8 the witness does hear and we do have interpretation of what
9 is said.

10 PRESIDING JUDGE COTTE: (Interpretation) Do the
11 French and Swahili booths believe that it is possible to give
12 an interpretation of what was just said? The French? And
13 the Swahili booth?

14 THE INTERPRETER: The Swahili booth thinks that the
15 speaker is speaking very quickly, the sound is rather poor,
16 quite inaudible, and one must follow the transcript.

17 PRESIDING JUDGE COTTE: (Interpretation) Very
18 well. Madam Prosecutor, the French and Swahili booths believe
19 that it is possible - it won't be easy for the Swahili booth - to
20 provide an interpretation, but they will have to follow the
21 written document that has been provided to them. So that is
22 the information from those booths.

23 Now, could we attempt this interpretation using this
24 modus operandi? Yes? Very well. Madam Prosecutor, please
25 proceed. Now, even for those who can hear directly in French,

1 the hearing what is being said is not easy. There are a number
2 of interruptions. My ears are rather old, and I think this
3 is a rather common denominator amongst the group here in the
4 courtroom. Now, if the interpreters could try to provide an
5 English version to the Katanga Defence team, we would be most
6 grateful to the interpreters.

7 Madam Prosecutor, please proceed.

8 BY MS LUPING:

9 Q. Mr Witness, I will be replaying this now for the
10 1 minute 29 second extract.

11 (Video extract played)

12 THE INTERPRETER: I remind you that the UPC took
13 control of matters in Ituri within a context of hatred and
14 interethnic conflict. Domestically, the pacification
15 mission carried out in the Aru and Mahagi territories in
16 November and December (inaudible) in Uganda late in
17 December 2002 and early in January 2003 the discussions
18 (inaudible). The (inaudible). (No further
19 interpretation).

20 MS LUPING: Mr President, I do have a number of
21 questions I can already be putting to the witness without
22 playing it again, but I will need to play it again at the
23 end because there are specific questions related to this part
24 of the footage which currently is stated to be inaudible,
25 but for which there had previously been a transcription for.

1 PRESIDING JUDGE COTTE: (Interpretation) Please
2 go ahead, Madam Prosecutor.

3 MS LUPING:

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 Q. And where was that?

8 A. It was at the welcome centre at the CECA 20 church.
9 The CECA 20 church, the African community church --

10 THE INTERPRETER: Repeats the witness.

11 THE WITNESS: It was a church.

12 MS LUPING:

13 Q. And in which town or city was this church located?

14 A. It is in Bunia. The church, this CECA 20 church,
15 is found in the town of Bunia behind the offices of the MONUC.

16 MS LUPING: I am now going to replay from 1 minute
17 28 seconds to 29 seconds. I will freeze at 00.01.29.

18 (Video extract played)

19 MS LUPING: I am stopping actually at 01.28.

20 Q. Mr Witness, the date stamp that appears on the screen,
21 4 April 2003, is that an accurate indication of the date it
22 was filmed?

23 A. Yes, that is the date.

24 Q. And do you recognise the speaker depicted in this
25 footage?

1 A. Yes, I remember that person and I see him.

2 Q. And what is his name?

3 A. His name is Mr John Tinanzabo.

4 Q. And do you recall to which group he belonged?

5 A. He was a member of the UPC and at that time he was
6 representing -- at that event he was representing the UPC.

7 Q. And do you know what his role was within the UPC
8 at that time?

9 A. Well, at the time -- well, listen, I can't
10 really -- it's hard to answer because people changed their
11 jobs quite or their positions quite frequently. I think he
12 was the general secretary of the UPC.

13 Q. And what event does this footage depict?

14 A. I can tell you that in French. It was an event that
15 had to do with the CPI, the Commission for the Pacification
16 of Ituri, the CPI. It was an event related to the work of
17 that commission.

18 Q. And did you attend the whole of the CPI?

19 A. Yes, I was there from the beginning to the end of
20 the ceremony.

21 Q. And do you recall if John Tinanzabo's speech was
22 towards the beginning or the end of the CPI?

23 A. He spoke at the end of the ceremony. In a way, it
24 was a closing speech.

25 MS LUPING: Mr President, we are conscious of the

1 time. There will be a few additional questions. Perhaps if
2 we took the break now and we could seek to replay the footage
3 on our return?

4 PRESIDING JUDGE COTTE: (Interpretation) Agreed,
5 Madam Prosecutor.

6 Witness, we are now going to suspend for 30 minutes.
7 During this 30-minute break you can rest and we will resume
8 at 11.30. Court officer, we are going to go into private
9 session so that the witness can leave the courtroom in a low-key
10 manner.

11 (Private session at 10.55 a.m.)

12 (Expunged)

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20 (Expunged)

21 (Open session at 10.56 a.m.)

22 THE COURT OFFICER: (Interpretation) We are in
23 open session, your Honour.

24 PRESIDING JUDGE COTTE: (Interpretation) Thank
25 you, Madam Court Officer. Our hearing is now suspended and

1 we will resume at 11.30 and continue until 1.30.

2 (Recess taken at 10.56 a.m.)

3 (Upon resuming at 11.33 a.m.)

4 (Closed session)

5 (Expunged)

6 (Expunged)

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12 (Expunged)

13 (Open session at 11.35 a.m.)

14 THE COURT OFFICER: (Interpretation) Your Honour,
15 we are in open session.

16 PRESIDING JUDGE COTTE: (Interpretation) Thank
17 you, court officer.

18 Witness, we are resuming for approximately two hours.
19 Can you hear me?

20 THE WITNESS: Yes.

21 PRESIDING JUDGE COTTE: (Interpretation) Fine.

22 Prosecutor, we shall resume. It's rather difficult to get
23 things going. Certainly for the future, when we have videos
24 to show, it might be a good idea if it's technically possible
25 to have subtitles shown which would facilitate things for

1 everybody, if that's possible from a technical and budgetary
2 point of view. It's not, however, the case today, so we shall
3 continue with the resources available.

4 Perhaps when it's rather difficult to make out what's
5 being said, it would be a better idea to show shorter sessions
6 so that the interpreters hear briefer durations of speech.
7 It might make it easier for them to interpret more easily.

8 Anyhow, we are certainly aware of the fact that,
9 whether it's Swahili, English or French interpreters, they
10 are being asked to do something very difficult and we appreciate
11 this and we'd like to ask them really to do their utmost to
12 make sure that everybody in this courtroom in his or her own
13 language hears the best possible translation, and I'd like
14 to thank them particularly for the effort they're deploying
15 today.

16 So please proceed, Prosecutor.

17 MS LUPING: Thank you, Mr President. Before I
18 proceed, that was indeed going to be my suggestion. I propose
19 to play every ten seconds of the segments to try to make it
20 easier for the interpreters. I'll pause at ten seconds,
21 every ten seconds. One other suggestion may be at some point
22 in time for perhaps better earphones to be provided to the
23 interpreters. I'm not sure that would make any difference.
24 I would also note that my French colleagues have confirmed
25 that they are able to hear all of it, so hopefully with the

1 ten minute -- ten second segments it might make it easier
2 for everybody concerned.

3 I'll now replay the whole of the extract portion
4 by portion.

5 PRESIDING JUDGE COTTE: (Interpretation) You are
6 talking about ten second bursts. You know how much time you
7 have available to you and so, Prosecutor, it's up to you to
8 organise this and over to you.

9 (Video extract played)

10 THE INTERPRETER: Your excellency, representative
11 of the Secretary-General ... and the remainder was inaudible
12 from the point of view of the interpreters.

13 (Video extract played)

14 THE INTERPRETER: ... in the context of hatred and
15 interethnic conflict. From a domestic point of view, the
16 pacification mission (inaudible).

17 MS LUPING: Mr President, apparently there is a
18 technical issue that needs to be sorted out. I'm being told
19 that the image on the screen is not being seen properly any
20 longer. It's fine on my computer that I'm working from, so
21 I can only assume it's a problem elsewhere.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank
23 you, Madam Prosecutor. We don't see anything on my screen
24 at all and for the last few minutes I've been trying to function
25 as a video technician, but I'm not too hot at that, I'm afraid.

1 Madam Prosecutor, there is a technician who is going
2 to be coming along to try to sort out this technical hitch,
3 because it does indeed seem that on my neighbouring -- the
4 neighbour's screens there's a image, such as we didn't see
5 earlier on, and as for mine there's nothing. So it's very
6 important that we at least get the images sorted out and,
7 if we could get the sound as well, that would be an extra
8 bonus. Ah, our saviour.

9 (Video extract played)

10 PRESIDING JUDGE COTTE: (Interpretation) Well,
11 let us proceed, Madam Prosecutor. It would seem that the
12 images are now working and you're going to be keeping the
13 sound to short bursts so as to facilitate the interpreter's
14 work.

15 MS LUPING: Thank you, Mr President. I will replay
16 the passage from 21 seconds.

17 (Video extract played)

18 THE INTERPRETER: From a domestic point of view,
19 the pacification mission --

20 MS LUPING: I'm going to replay that passage again.

21 (Video extract played)

22 THE INTERPRETER: Internally the mission for
23 pacification in the region --

24 PRESIDING JUDGE COTTE: (Interpretation) This
25 brief passage is audible in French and as such can be interpreted.

1 This brief passage is audible in French. I'd like to know
2 whether it's been interpreted into English.

3 MS LUPING: Part of it seems to have been interpreted
4 but not all of it, and I understand that there's been no
5 interpretation at all in French.

6 PRESIDING JUDGE COTTE: (Interpretation) I think
7 that's a very good point from the French interpreter. The
8 French was audible. The fact of it being repeated should make
9 it possible to interpret into English, given that this binder
10 has been available for some time. Are you going to move on
11 to the next sequence?

12 MS LUPING: Yes. We will need this passage also in
13 French, Mr President. Shall I should play this passage that
14 was not transcribed once more before going on to the next?
15 It is important.

16 PRESIDING JUDGE COTTE: (Interpretation) That's
17 fine. There was a difference between interpretation and
18 transcription.

19 MS LUPING: Playing from 21 seconds.

20 (Video extract played)

21 THE INTERPRETER: Internally the mission for
22 pacification in the region ... the remainder is
23 incomprehensible from the point of view of the sound quality
24 for the English interpreters unless we rely solely on the
25 transcription of the recording.

1 MS LUPING: Mr President, I understand that nothing
2 is being set out in the French version of the transcript of
3 what is heard. If the French interpreter could please state
4 what he can hear, and perhaps then the English translation
5 can follow from that.

6 PRESIDING JUDGE COTTE: (Interpretation) I did not
7 understand what it was that you were saying earlier on. You're
8 saying that on the transcript, whether it's the French or
9 the English version -- the latter, I haven't looked at it.
10 I was only looking at the French. You're saying that on the
11 transcript you do not see the words that were spoken, which
12 means that we're asking the French interpreters, quite simply,
13 to repeat what they heard spoken by the person on the video;
14 is that correct? Okay. Well, I think that's clearer now.

15 Similarly, in the English transcript, do you get
16 a translation? You do. Fine. Okay. Well, we should be able
17 to move on. In fact, we must move on.

18 Do you want to show it one last time, Prosecutor?
19 We will see this extract one last time, asking all of the
20 interpreters to express it, either in French or in English,
21 so that both transcripts can set down clearly the words of
22 the person on the video.

23 Please proceed.

24 (Video extract played)

25 THE INTERPRETER: Internally, the mission for

1 pacification in the regions --

2 PRESIDING JUDGE COTTE: (Interpretation) Please
3 proceed. If it's inaudible, we cannot make it audible.

4 (Video extract played)

5 THE INTERPRETER: Incomprehensible.

6 (Video extract played)

7 THE INTERPRETER: The meeting with the
8 combatants --

9 PRESIDING JUDGE COTTE: (Interpretation) I think
10 we heard the word "la rencontre," "the meeting" in French.
11 So can we proceed, Prosecutor?

12 (Video extract played)

13 THE INTERPRETER: Again incomprehensible.

14 MS LUPING: I'm just going to replay the five seconds
15 that preceded that.

16 (Video extract played)

17 THE INTERPRETER: The meeting with the combatants,
18 Uganda (incomprehensible).

19 (Video extract played)

20 THE INTERPRETER: 2003. The roads Bunia --

21 MS LUPING: I'm just going to play the first ten
22 seconds of that, the ten seconds that came before this.

23 PRESIDING JUDGE COTTE: (Interpretation)

24 Prosecutor, we are doing this today because we are trying
25 to improve the conditions for the showing of these extracts,

1 but I think it's pretty clear that for each of the extracts
2 it's not going to be possible to spend as much time as we
3 are now. The fact that it's a difficult thing to do is all
4 very well, but at the same time it's important that all of
5 the parties, whoever they may be, when it comes to using a
6 technical means to present evidence, make sure that this can
7 be done in conditions that will allow us to go ahead with
8 proceedings quite normally.

9 So we shall show this extract once again and then
10 you'll have to go on to the questions you'd like to put, bearing
11 in mind the time that this is taking out of your time. It's
12 using up all of our time, but it's taking out time from your
13 time. So please proceed.

14 MS LUPING: Understood, Mr President.

15 (Video extract played)

16 THE INTERPRETER: Discussions with the combatants.
17 The roads between Bunia and -- Lendu South combatants
18 (inaudible).

19 (Video extract played)

20 THE INTERPRETER: Inaudible.

21 (Video extract played)

22 THE INTERPRETER: The organisation from 24 January
23 leading to the signing (inaudible).

24 (Video extract played)

25 THE INTERPRETER: Examples of UPC commitment.

1 MS LUPING: Mr President, I'm understanding that
2 much of the subsequent segment of this video footage is not
3 appearing in the French transcript. Our concern is that these
4 transcripts were provided -- the extracts, including the
5 video extracts with the actual video footage itself a
6 substantial time ago now, and so there's been an opportunity
7 to listen to this footage time and time again. And our concern
8 is that -- I'm not a francophone, and I can understand also
9 what's being said, that none of this is appearing in the
10 transcript. This will delay matters.

11 PRESIDING JUDGE COTTE: (Interpretation) Yes.
12 But Madam Prosecutor, of course the videos were handed over
13 to the interpreters some time ago for them to familiarise
14 themselves with that. The interpreters were not in a position
15 to know precisely which extracts you would use. The Office
16 of the Prosecutor is very familiar with what we are supposed
17 to be hearing for a long time now. And many people, including
18 myself, are hearing this sound for the very first time, and
19 hearing it is difficult, even if we are listening in French.
20 We have to pay a lot of attention and then -- even then, we
21 hear little bits and pieces of sentences, and the words are
22 omitted.

23 And now for the interpreters, we have to know whether
24 they have to make a maximum effort to simply interpret what
25 they are hearing or whether they should refer to the written

1 documents that you provided last 6 July. The Chamber feels
2 that when evidence is provided it has to be sufficient unto
3 itself through the interpreters, of course, but only on
4 condition that the interpreters can do their job.

5 No one can be expected to do the impossible.
6 Everybody's doing their job. We know that they have tried
7 to look at those videos before, but it is also clear that
8 if there is an extract that is extremely difficult to understand,
9 then you have to set it aside and move on to the next one
10 because the Court is not going to dwell too long on the same
11 extract, given that we have to make progress. And this is
12 common sense. And even if this was not common sense, I think
13 this is a strategy that is indispensable for the conduct of
14 the proceedings.

15 So you have to make your decision, Madam Prosecutor.
16 If what we have heard so far can be the basis for you asking
17 questions to the witness, then you can do so. If that is not
18 the case, then you have to move on to the next extract, while
19 making sure that the visuals are good, which is the case with
20 this video, and that the sound quality is good also, which
21 was not the case with this particular extract.

22 MS LUPING: Just one comment to simply clarify
23 matters: There's no denying that this is a difficult task,
24 and we're not trying to diminish the difficulties faced by
25 the interpreters, but indeed the precise extracts that we

1 were relying upon was also provided as information in advance.
2 That's simply for the Chamber's information. I am able to
3 ask specific questions of the witness on the basis of what
4 has been interpreted to date and on the record.

5 PRESIDING JUDGE COTTE: (Interpretation) Very
6 well. Mr Witness, you have been very patient, and you are
7 a video technician, you should be aware that that is not very
8 easy.

9 Madam Prosecutor, please proceed.

10 MS LUPING:

11 Q. Mr Witness, could you first clarify for us the
12 purpose of the CPI as you understood it?

13 A. The CPI brought together all the ethnic groups in
14 Ituri and all the armed groups sat down at the same place
15 to negotiate, to speak with each other. So this was
16 essentially the CPI as far as I know.

17 Q. And do you recall which other armed groups
18 participated in the CPI, other than the UPC?

19 A. I remember the armed groups which were represented.
20 For example, Mathieu Ngudjolo's group, the FNI, Chief Kahwa's
21 group, PUSIC, as well as the government of the Democratic
22 Republic of the Congo. There were also other armed groups,
23 including the UPC, but there were also elders from all the
24 ethnic groups who were present.

25 Q. Mr Witness, in part of the video footage that has

1 been interpreted of Mr Tinanzabo's speech, there is a
2 reference to a meeting with Lendu combatants that were grouped
3 under the -- this group of the -- called the FNI in Arua at
4 the end of December 2002. In Arua, Uganda. Had you heard
5 of this meeting before?

6 A. Regarding the meeting between the UPC and the FNI,
7 I heard about it. Generally speaking we heard about this
8 meeting, but personally I did not know whether it was a meeting
9 between the UPC and the FNI or between the UPC and another
10 group, and this is because there were many groups, many Lendu
11 groups.

12 MS LUPING: No further questions in relation to this
13 extract, Mr President. If an EVD number could please be
14 assigned to it.

15 PRESIDING JUDGE COTTE: (Interpretation) Madam
16 Court Officer, please assign an EVD number to that extract
17 as seen and heard.

18 THE COURT OFFICER: (Interpretation) Thank you,
19 your Honour. Extract number 1 of DRC-OTP-0127-0065 will bear
20 the reference EVD-OTP-00130 and will be filed as a public
21 document.

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

24 Madam Prosecutor, please.

25 MS LUPING: I'll now move on to the second extract.

1 If you could turn to divider two in your binders. This is
2 footage from the same video; that's DRC-OTP-0127-0065. For
3 the record, the time stamps are from 00.28.26 to 00.29.39.
4 Again, we will require interpretation, and this can be shown
5 publicly.

6 Q. Mr Witness, I will be showing or playing the first
7 30 seconds of this video extract. Again, I ask you not to
8 make any comments on the footage at this stage.

9 (Video extract played)

10 THE INTERPRETER: Inaudible.

11 (Video extract played)

12 MS LUPING: If we could move briefly into private
13 session, Mr President, for my first questions that are of
14 an identifying nature.

15 PRESIDING JUDGE COTTE: (Interpretation) Court
16 officer, let us move to private session very briefly so as
17 to avoid any possible identification of the witness.

18 (Private session at 12.13 a.m.)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

1 (Expunged)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Open session at 12.15 p.m.)

11 THE COURT OFFICER: (Interpretation) We are in
12 open session, your Honour.

13 PRESIDING JUDGE COTTE: (Interpretation) Thank
14 you. Please proceed, Madam Prosecutor.

15

16 MS LUPING:

17 Q. Mr Witness, I'm now going to be playing the whole
18 of the extract, which goes from 0 to 1 minute and 16 seconds.
19 I ask that you not make no comments whilst this footage is
20 being played, and only respond to the questions I'll be asking
21 after I show it.

22 (Video extract played)

23 THE INTERPRETER: The other provinces of the country.
24 That is why proposes to MONUC ... (no further interpretation).

25 MS LUPING:

1 Q. Mr Witness, is this part of the same event as shown
2 in the prior extract?

3 A. Yes, it was the same event.

4 Q. And when you say it was part of the same event, do
5 you mean the meeting at the CPI you mentioned previously?

6 A. Yes, it was the same CPI meeting.

7 Q. And do you recall the date that this particular
8 footage was filmed? Was it the same date?

9 A. Yes, it was the same date. It was during the closing
10 ceremony.

11 Q. And was it filmed in the same place?

12 A. Yes, it was the same location.

13 MS LUPING: I'm now going to replay the first 30
14 to 31 seconds and ask you again not to make any comments whilst
15 I play that.

16 (Video extract played)

17 MS LUPING: I've stopped at 30 seconds.

18 Q. Mr Witness, can you see a board or a sign on the
19 top left, on a white board, in the screen? Can you see a sign?

20 A. Yes, I can see it.

21 Q. And can you read it?

22 A. Yes, I can. If you allow me, it is "FRPI".

23 Q. I'm now going to play a sequence from 30 seconds
24 to 51 seconds. When I play it, I ask that you look at the
25 footage carefully to see if there's anybody that you recognise.

1 Please don't make any comments at this stage. I just simply
2 want you to watch it the first time to see if there's anyone
3 you recognise. I will play it again. It's only when I play
4 it again that I'll be asking you to put your hand up so I can
5 stop at any point where you may recognise a person. But here
6 I'm just playing it for the first time.

7 (Video extract played)

8 In fact, I stopped at 52 seconds. Mr Witness, in
9 that footage that you saw before, do you believe there was
10 anybody that you recognised?

11 A. Yes, I recognised people, not just one person. I can
12 give you further details if you allow me.

13 Q. Yes, if you could name the people that you recognised.

14 A. I saw Mr Ngudjolo's face, as well as the honourable
15 Jalo Dudu, as well as others, but the images were a bit more
16 fuzzy, that is, in relation to the others that I was able
17 to recognise.

18 Q. Mr Witness, I'm going to play the exact same extract
19 again and this time I'll ask you to put your hand up so that
20 I will stop at the point that you say you recognised Mr Ngudjolo.

21 (Video extract played)

22 I just note for the record that the witness put his
23 hand up at 37 seconds. You stated previously that this is
24 a person called Ngudjolo. Do you know his -- any other names
25 for him?

1 A. I know him as Mathieu Ngudjolo Chui.

2 Q. And again for the record, could you confirm whether
3 you're referring to the person closest to the screen that
4 can be seen more clearly at 37 seconds, in military uniform?

5 A. Yes, it is the person who is wearing a military
6 uniform.

7 Q. And the person in the foreground; is that correct?
8 I can repeat the question, if you like. You stated it was
9 the person -- you clarified it's the person wearing military
10 uniform at 37 seconds. Is this the person closest to the screen,
11 the person in the foreground; is that correct?

12 A. Yes, that's correct. That is Mr Mathieu Ngudjolo
13 who is dressed in military uniform.

14 Q. I'm now going to continue towards the end of the
15 footage. Again if you could make no comments, I have a specific
16 question to ask you. I'll be playing at -- 'til 1 minute and
17 15 seconds.

18 (Video extract played)

19 Mr Witness, can you see a -- a sign in the screen
20 in white, on the far right of the screen?

21 A. Yes, I can see it.

22 Q. And can you read it?

23 A. It says, "Délégation Lendu Nord", North Lendu
24 delegation.

25 MS LUPING: Thank you, Mr Witness. Mr President,

1 I have no further questions in relation to this extract. If
2 it could please be assigned a EVD number and it would be public.

3 PRESIDING JUDGE COTTE: (Interpretation) Madam
4 Court Officer, if you could.

5 THE COURT OFFICER: (Interpretation) Thank you,
6 your Honour. This extract of the video DRC-OTP-0127-0065
7 shall bear the number EVD-OTP-00131 and shall be registered
8 as a public document.

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

11 MS LUPING: Thank you, your Honour. I'll be playing
12 extract 4 in your binders. That's divider 4. It's footage
13 from the same video, so that's DRC-OTP-0127-0065. For the
14 record, the original time stamps are 00:36:59 to 00:37:45.
15 Sound interpretation is required and it will have -- it can
16 be shown publicly.

17 Q. Mr Witness, I'm going to be playing you the whole
18 of the extract, the whole 46 seconds. I ask again that you
19 make no comments at this stage.

20 (Video extract played)

21 MS LUPING: My apologies. I'll replay that.

22 (Video extract played)

23 THE INTERPRETER: We are very sorry to see the
24 noncompliance with (inaudible) all parties having to do with
25 (inaudible) armed groups that are active to conclude ... (No

1 further interpretation)

2 MS LUPING: Mr President, if we could move into
3 private session for some brief questions of an identifying
4 nature?

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

7 (Private session at 12.35 p.m.)

8 (Expunged)

9 (Expunged)

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14 (Expunged)

15 (Expunged)

16 (Expunged)

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19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Open session at 12.36 a.m.)

24 THE COURT OFFICER: (Interpretation) We are in open
25 session.

1 PRESIDING JUDGE COTTE: (Interpretation) Very
2 well. Madam Prosecutor.

3 MS LUPING: I'll be replaying the whole of this
4 extract, but this time I'll be pausing because we will be
5 requiring the interpretation.

6 (Video extract played)

7 MS LUPING: I will be replaying this short part of
8 the segment again.

9 (Video extract played)

10 THE INTERPRETER: To conclude, PUSIC (inaudible)
11 Commission for the Pacification of Ituri (inaudible).

12 MS LUPING: I'm just replaying the first few seconds
13 just before this portion.

14 (Video extract played)

15 THE INTERPRETER: ... of the 3rd of June and the
16 massacre of civilians (inaudible) in Ituri. Massive
17 violations of human rights (inaudible) on a daily basis in
18 Ituri. (Inaudible) situation is such to hinder the proper
19 operations of the CPI.

20 MS LUPING:

21 Q. Mr Witness, what event is depicted in this footage?
22 Is this the same event as shown in the prior extracts?

23 A. Yes, it is the same event having to do with the CPI.

24 Q. And is it the same day of the prior extracts? Is
25 it still 4 April 2003?

1 A. Yes, it was the same day. It was during the fourth
2 month.

3 Q. And when you say it was in the fourth month, do you
4 mean it was -- was it 4 April 2003?

5 A. Yes, it would have been 4 April 2003. (Expunged)
6 (Expunged). I remember it was an event that -- it
7 was the closing ceremony.

8 THE INTERPRETER: The witness did not end his
9 sentence.

10 MS LUPING:

11 Q. Is this event taking place in the same place? Is
12 it still the CECA 20 church in Bunia?

13 A. Yes, the event was held in the same hall that was
14 rented; the CECA 20 meeting room.

15 Q. "I refer to the comment made by the speaker, who
16 says he's from PUSIC, that PUSIC regrets the non-application
17 of the cessation of hostilities agreement in Ituri." My
18 question is had you, or have you, heard about this cessation
19 of hostilities agreement that he's referring to?

20 A. I don't quite understand your question. Could you
21 ask it again?

22 MR O'SHEA: Before my learned friend asks the
23 question, may I just ask that she be faithful to what the
24 interpreters have said in Court, rather than her own record
25 in the Prosecution transcript?

1 MS LUPING: Indeed I can assure my learned friend
2 I was in fact reading from the Court record, the French
3 transcript.

4 MR O'SHEA: I am sorry, that's where the confusion
5 is then, because there's a difference between the English
6 and the French. I'm sorry.

7 PRESIDING JUDGE COTTE: (Interpretation) Please,
8 no apologies necessary. This is an observation that we make
9 on a daily basis and makes our work more difficult and sensitive
10 at times, despite everyone's good will.

11 Madam Luping, please proceed, being mindful of the
12 remark made by Mr O'Shea, even though it was not justified
13 under the circumstances. Please proceed.

14 MS LUPING:

15 Q. I'll repeat again first the passage that I was
16 referring to made by the speaker, and then I'll ask my question.

17 The speaker says, "However, PUSIC notes with regret
18 the non-application of the cessation of hostilities agreement
19 in Ituri."

20 My question is: Had you heard of the cessation of
21 hostilities agreement he's referring to?

22 A. Well, far away from here, from the CPI, people speak
23 of the ceasefire agreements. There were negotiations about
24 the ceasefire within the MONUC or in Uganda or in other
25 countries.

1 PRESIDING JUDGE COTTE: (Interpretation) Is that
2 answer satisfactory to you, Madam Prosecutor?

3 MS LUPING: Yes, Mr President. I'll ask my next
4 question.

5 Q. He refers to the cessation of hostilities agreement
6 in Ituri. Were you present when it was signed in Ituri?

7 A. The ceasefire agreement was signed when I was away.
8 It was a matter that had -- that was between politicians.
9 Personally, I was never present.

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

13 PRESIDING JUDGE COTTE: (Interpretation) Madam
14 Court Officer, if you could be so kind.

15 THE COURT OFFICER: (Interpretation) Thank you,
16 your Honour. This extract, DRC-OTP-0127-0065, shall bear the
17 EVD number EVD-OTP-00132 and shall be registered as a public
18 document.

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

21 MS LUPING: Mr President, before I play the next
22 extract, I have a point of a potentially identifying nature
23 that I wanted to make. If we could move briefly into private
24 session for that purpose.

25 PRESIDING JUDGE COTTE: (Interpretation) Madam

1 Court Officer, if we could go into private session for a moment .

2 (Private session at 12.49 a.m.)

3 (Expunged)

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15 (Open session at 12.52 a.m.)

16 THE COURT OFFICER: (Interpretation) We are in
17 open session, your Honour.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank
19 you. Madam Prosecutor.

20 MS LUPING: I'll now be playing extract 6. It's
21 divider 6 in your binders. It is footage from the same video,
22 DRC-OTP-0127-0065. For the purposes of the record, the
23 relevant time stamps from the original video is 00.45.09 to
24 00.47.39. We will be requiring interpretation, and this
25 footage can be shown publicly.

1 Q. Mr Witness, I'm going to be playing the first few
2 seconds, the first 15 seconds from this extract. Again I ask
3 that you make no comments whilst I'm playing it.

4 (Video extract played)

5 THE INTERPRETER: Statement from NGOs, human rights
6 NGOs (inaudible).

7 MS LUPING: Briefly move into private session,
8 Mr President, for the next few questions, which are of an
9 identifying nature.

10 PRESIDING JUDGE COTTE: (Interpretation) Madam
11 Court Officer, please, if we could go into private session.

12 (Private session at 12.54 p.m.)

13 (Expunged)

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22 (Expunged)

23 (Expunged)

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1 (Expunged)

2 (Open session at 12.55 a.m.)

3 THE COURT OFFICER: (Interpretation) We are in
4 open session, your Honour.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank
6 you. Please go ahead, Madam Prosecutor.

7 MS LUPING:

8 Q. Mr Witness, before I replay this footage, can you
9 confirm what the event depicts? What is the event depicted?
10 Sorry.

11 A. It was the same event of the CPI. It happened in
12 that room.

13 Q. When you say, "It happened in that room," do you
14 mean it's the same place, at the CECA 20 Church in Bunia;
15 is that correct?

16 A. Yes, it is the room that -- the room of CECA 20 in
17 Bunia.

18 Q. And was it the same day as the previous extracts?
19 Is it still 4 April 2003?

20 A. Yes, it was on the same date.

21 Q. I'm now going to be playing the whole of the extract
22 and I will be pausing at one point towards the end. The extract
23 is from 0 to minute 2, 33 seconds. I'll ask that you make
24 no comments while I'm playing it.

25 (Video extract played)

1 THE INTERPRETER: Statement by representatives of
2 human rights NGOs (inaudible) mineral and -- mineral
3 resources (inaudible). In recent years this high-risk zone
4 has become famous for its massive violations of human rights
5 (inaudible). The interethnic wars, arbitrary arrests, cases
6 of arson, destruction (inaudible) and public infrastructure
7 and, above all, this barbarianism of the middle ages (inaudible)
8 human rights activists, human rights principles are
9 consecrated under international law (inaudible). All
10 human beings, be they here or overseas (inaudible).

11 MS LUPING: I pause the footage at 2 minutes 11
12 seconds.

13 Q. Mr Witness, can you see a sign, a white sign, to
14 the far right corner of the screen?

15 A. Yes, I can see that sign.

16 Q. And can you read what it says?

17 A. It says FNI.

18 Q. I'm now going to play from this timestamp up to
19 22 minutes 29 seconds. Mr Witness, I would ask that you watch
20 this portion very carefully to see if there are any individuals
21 that you can recognise. I will be playing this same portion
22 again, so at this stage if you could just simply watch it.
23 When I play it again, as before, I'll be asking you to put
24 your hand up when you recognise a person, at which point I'll
25 stop.

1 (Video extract played)

2 THE INTERPRETER: The situation of human rights in
3 Ituri.

4 MS LUPING:

5 Q. Mr Witness, in that short portion, was there anybody
6 that you recognised?

7 A. Yes, I recognised somebody. Yes, I did.

8 Q. Can you name that person?

9 A. I can see Mr Pitchou, but I don't know the others.

10 Q. Mr Witness, I'm going to play the extract one more
11 time. I'm not going to ask you to put your hand up at this
12 point; I'm just going to ask you to watch it one more time,
13 to let us know if there are any other individuals you recognise.

14 (Video extract played)

15 THE INTERPRETER: The situation of human rights in
16 Ituri ... (no further interpretation).

17 MS LUPING:

18 Q. Did you recognise anybody else in addition to
19 Mr Pitchou?

20 A. There's somebody who I'm mixing up with Commander
21 Lobo, but I know Commander Lobo. He was an officer within
22 the FNI. And there's somebody who looks to me to be like him.

23 MS LUPING: Mr President, I have no further
24 questions in relation to this extract. If an EVD number could
25 please be assigned to it, and it can be public.

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

3 THE COURT OFFICER: (Interpretation) Thank you,
4 your Honour. Extract 6 from DRC-OTP-0127-0065 shall bear the
5 reference EVD-OTP-00133, and it will be filed as a public
6 document.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank
8 you.

9 Prosecutor, please proceed.

10 MS LUPING: I'll now be playing extract 15, so that's
11 divider 15 in everybody's binders. The video is
12 DRC-OTP-0155-0004. For the record, the original timestamps
13 are 00.34.43 to 00.36.26. I'll be playing first the whole
14 of the extract without sound, and it can be shown publicly.

15 Q. Mr Witness, when I do play it, if you could please
16 simply watch the footage without making any comments until
17 I ask questions.

18 (Video extract played)

19 MS LUPING: Mr President, if we could briefly go
20 into private session for some questions of an identifying
21 nature.

22 PRESIDING JUDGE COTTE: (Interpretation) We will
23 go into private session, court officer, please.

24 (Private session at 1.10 p.m.)

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11 Page 73 expunged. Private session.

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10 (Expunged)

11 (Expunged)

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13 (Expunged)

14 (Expunged)

15 Open session at 1.17 p.m.)

16 THE COURT OFFICER: (Interpretation) Your Honour,
17 we are in open session.

18 PRESIDING JUDGE COTTE: (Interpretation) Thank
19 you. Please proceed, Prosecutor.

20 MS LUPING:

21 Q. Mr Witness, you've indicated previously that you
22 were present in Bunia, in the centre of Bunia, on 3 May 2003.
23 My question is: Do you know if there was any event that took
24 place in Bunia on this day? Was there anything that happened
25 in Bunia on this day?

1 A. I don't have any recollection as regards the date
2 of the 3rd. I don't remember anything specific, but things
3 were happening. Things were going on, obviously, in Bunia.
4 But once again, as regards this date of the 3rd, I have no
5 recollection of any specific event.

6 Q. And when you say things were happening in Bunia,
7 what do you mean by this? What was happening?

8 A. A lot of things were happening in Bunia. I can't
9 tell you everything that was happening. At a certain moment
10 there were troubles in one district. The inhabitants of that
11 district sought shelter elsewhere. In some parts of the town
12 there was shooting, and we didn't know where the shooting
13 originated. So lots of things were happening in the town of
14 Bunia, and I can't tell you everything.

15 Q. And when you refer to there being troubles and
16 shooting, do you know which military groups were involved
17 in the troubles and the shooting?

18 A. In general, there were groups fighting each other
19 in Bunia. There was the UPC and the APC, the Ugandan army.
20 There was also the RDC-KLM. Those groups were present in the
21 centre of Bunia. But there were other groups such as Lendu
22 groups that were not involved, but often there was shooting
23 and we heard bullets when we were told that the Lendus had
24 arrived somewhere. But there were all sorts of troubles in
25 the town and it's very difficult for me to explain all of

1 this to you.

2 Q. Do you know when the Ugandans left Bunia?

3 A. I know when the Ugandans left Bunia, but I can't
4 give you the exact date. I don't remember it. But I do know
5 that it is something that has been set down in my statement.
6 I think it was 6 May 2003, but to be absolutely certainly
7 about this, you'd have to take a look at my statement or
8 statements that I've signed.

9 PRESIDING JUDGE COTTE: (Interpretation)
10 Prosecutor, you can put one last question.

11 MS LUPING: Mr President, I have no further
12 questions in relation to this extract. If an EVD number could
13 please be assigned to it. It's of a public nature.

14 MR FOFÉ: (Interpretation) I beg your pardon, your
15 Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) Please
17 go ahead.

18 MR FOFÉ: (Interpretation) I think, in the light
19 of the answers given by the witness to the questions put by
20 the Prosecutor to do with this extract, I don't really see
21 how an EVD number can be given to it.

22 MS LUPING: Mr President --

23 PRESIDING JUDGE COTTE: (Interpretation) Please
24 proceed.

25 MS LUPING: I refer to the procedure used in the

1 Lubanga proceedings where, even in the situation where the
2 witness -- well, actually, perhaps if I could just go briefly
3 into private session for this particular point because it's
4 of an identifying nature. It will only be a brief point.

5 MR FOFÉ: (Interpretation) I beg your pardon, your
6 Honour.

7 PRESIDING JUDGE COTTE: (Interpretation) Please
8 go ahead.

9 MR FOFÉ: (Interpretation) We've almost reached
10 the end of the time and I can say that the Defence has changed
11 its mind on this issue as regards the EVD number.

12 PRESIDING JUDGE COTTE: (Interpretation) Thank
13 you, Professor Fofé, for showing such wisdom. We did intend
14 to give an EVD number to this evidence. Bearing in mind what
15 was said at the start of the hearing this morning, the weight
16 to be granted to the material, the evidence, will be assessed
17 at the end of the discussion, once we have everything available
18 to us.

19 So, court officer, please could you give an EVD
20 number to this extract. Unless I'm mistaken, it was extract
21 number 15.

22 THE COURT OFFICER: (Interpretation) Thank you,
23 your Honour. Extract 15 of video DRC-OTP-0127-0065 will bear
24 the EVD number EVD-OTP-00134. It will be filed as a public
25 document.

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

3 We're going to go into private session so that the
4 witness can leave the courtroom.

5 Witness, that brings us to the end of the proceedings
6 for today and we'd like to thank you for your contribution
7 to the work of the Court, and we shall meet again tomorrow
8 morning at 9. Thank you, Witness; good day. Once we have
9 gone into private session, the usher will escort you from
10 the courtroom.

11 I'm sorry, closed session, not private.

12 (Closed session at 1.27 p.m.)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Open session at 1.28 p.m.)

21 THE COURT OFFICER: we are in open session, your
22 Honour.

23 PRESIDING JUDGE COTTE: (Interpretation) Thank you, court
24 officer.

25 The Court would like to thank in particular the interpreters

1 and the other technicians assisting us, and we would ask the
2 interpreters to gather their strength for the day of tomorrow,
3 for tomorrow, because the contribution that we're asking of
4 them is a difficult one, but we're counting on you. The hearing
5 is adjourned.

6 (The hearing ends at 1.29 p.m.)

7 CORRECTION REPORT

8 The following correction has been made to the English
9 transcript:

10 * Page 1, line 21

11 "the relevance of extracts..."

12 Is corrected by

13 "the * admissibility of the 17 extracts..."