

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and
7 Mathieu Ngudjolo Chui
8 Trial Hearing
9 Tuesday, 6 September 2011
10 (Open session)
11 The hearing starts at 9.06 a.m.
12 COURT USHER: All rise.
13 PRESIDING JUDGE COTTE: (Interpretation) Please be seated.
14 (No interpretation).
15 (Interpretation) ... if not, we will -- so please think about
16 this and let us know tomorrow regarding the possible reverting back to
17 the original schedule.
18 MR. MACDONALD: (Interpretation) Good morning, your Honours.
19 The Prosecution is available in the morning or the afternoon on Monday,
20 because I believe on the 29th we won't be having a hearing. That's been
21 cancelled, I believe. So we are available for that particular date. But
22 not Saturdays.
23 MR. KILENDA: (Interpretation) We are also available whether it
24 be the morning or the afternoon.
25 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.

1 The Legal Representatives?

2 MR. LUVENGIKA: (Interpretation) Yes, I believe we will be
3 available. As far as I'm concerned I am available.

4 MS. GOFFIN: (Interpretation) I can't speak on behalf of
5 Mr. Gilissen but I'm pretty sure that the change will not be a problem.

6 PRESIDING JUDGE COTTE: (Interpretation) Thank you. And if you
7 could confirm that point with us tomorrow, whether it will be possible to
8 sit in the afternoon rather than the morning. What's more, yesterday, we
9 received an application, and this has been forwarded to you. We are in
10 open session. So I'll have to be rather cryptic. An application from
11 Mr. Kilenda having to do with some matters relating to expert testimony.
12 So tomorrow, if you could give us your observations regarding this
13 application, whether there are any particular consequences for you and
14 then we will rule rather quickly, most likely orally, because we mustn't
15 lose any time, considering the pace at which our hearings are being held.
16 So we will have some observations tomorrow from the Prosecution and the
17 parties and participants who wish to make comments on this particular
18 application. Application 3136 dated the 5th of September, 2011.

19 We will now have the witness brought in. Now, the Prosecutor
20 told us yesterday that he had a particular objective in mind and we shall
21 resume the proceedings this morning.

22 (The witness takes the stand)

23 WITNESS: WITNESS DRC-D03-P-0088 (Resumed)

24 (Witness answered through interpreter)

25 PRESIDING JUDGE COTTE: (Interpretation) Good morning, Witness.

1 Good morning, Chief Manu. Can you hear me?

2 THE WITNESS: (Interpretation) Good morning, your Honour. I can
3 hear you just fine.

4 PRESIDING JUDGE COTTE: (Interpretation) We are resuming our
5 proceedings, and the Prosecutor will resume his cross-examination.
6 Mr Macdonald, you may proceed.

7 MR. MACDONALD: (Interpretation) Thank you. Thank you, your
8 Honours.

9 Questioned by Mr. Macdonald: (Continued)

10 Q. (Interpretation) Good morning, Chief Manu. How are you?

11 A. Good morning.

12 Q. Yesterday, Chief Manu, I think perhaps we were focusing too much
13 on the task at hand and I believe I neglected to say good morning to you,
14 but this morning I have. So let us now resume.

15 Chief Manu, I would like to ask you about the Prosecutor's visit.
16 We will come to that matter in a few moments. Now, I do realise,
17 Witness, that you mentioned that you yourself were present and the
18 current chief of the groupement was also present and you also said
19 earlier that Mr. Deo Lochubo, the brother of Mr. Ngudjolo, was also in
20 attendance, his mother, the mother of Mathieu Ngudjolo, was at the event.
21 You also mentioned that Mr. Zulo-Vili was present.

22 My question is as follows: Now, there were three of the seven
23 notables there. Were the other notables there as well? Were they
24 present when the visitor -- when the Prosecutor visited the village?

25 A. Yes.

1 Q. Let me rephrase my question. Were there other members of the
2 base committee other than Mr. Vili, yourself, were there other people
3 from the base committee present to greet the Prosecutor?

4 A. Yes. All the important people within the Bedu-Ezekere groupement
5 were there.

6 Q. I'm sorry, I was on the wrong channel. So the VIPs of
7 Bedu-Ezekere were present, and I understand that Mr. Bukpa Kalongo was
8 present. Isn't that so?

9 A. No. He wasn't there. You see, he is the principal of a school.
10 He was at his place of work.

11 Q. So, Chief Manu, what members of the base committee were present
12 to greet the Prosecutor? If you could give us their names, please.

13 A. When you make reference to the base committee, do you want me to
14 give the names of -- well, of which people?

15 Q. Allow me to clarify my question, make it more specific. In your
16 testimony earlier, you said that there was a base committee and that this
17 base committee was active during a certain period of time, is that not
18 right? And now, let us move to July 2009. The Prosecutor lands, comes
19 out of a helicopter, and is greeted by a crowd of people. You have said
20 that some VIPs, the main leaders, the important people of the groupement
21 were there.

22 My question is: Who -- which members of the former base
23 committee greeted the Prosecutor? Remember we are talking about 2009.
24 There was you, there was Mr. Zulo-Vili. You said that he was also a
25 member of the base committee at that time. Now, were there other members

1 of this former committee who also were present when the Prosecutor came
2 to visit? Is my question clear now, Chief Manu?

3 A. To my knowledge, the members of the base committee by the name of
4 Banga Jacques had already died. That member had already died. So we
5 called people in accordance with the organisation they belonged to.
6 There were representatives from the church. There was the
7 representative --

8 THE INTERPRETER: The Swahili interpreter is saying -- is using a
9 word that can mean either fetish or medicine.

10 THE WITNESS: (Interpretation) There was someone from Ezekere.
11 There were the representatives of Kambutso. Representatives of Linga,
12 they did not come. Representatives of Ezekere were there. Desho (*
13 phon) was that person's name. As well as the chiefs of various clans.
14 Buy-Sabuni, Katoni, and the other representatives of those localities,
15 Buy-Sabuni (* indiscernible) did not come. We called people in
16 accordance with the group that they belonged to. However, I'd like to
17 add that the representative of the wisemen, Kitongo (* phon) was also
18 present. So those were the important people, the VIPs who had been asked
19 to attend. As for the representatives of the former committee, the 2009
20 committee, there was Zulo and myself. So there you have it. Those are
21 the people who were present at the meeting. You see, at that time, each
22 person was at their particular place of work. People in Kasenyi, you
23 see, some people arrived, they were important people. I'm speaking to
24 you slowly so that you can understand.

25 THE INTERPRETER: The Swahili interpreter points out that there

1 was a representative of the Dawa. That could mean a modern medicine or
2 it could be a reference to *féticheur*.

3 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, could you
4 ask a question to bring out this particular point?

5 MR. MACDONALD: (Interpretation) Certainly.

6 Q. Chief Manu, I'd like to focus on two concepts. You used an
7 expression in Swahili, *Dawa*, in Swahili. Are you referring to the
8 *féticheur* or are you referring to medical staff of some kind?

9 A. Well, when I say "*Dawa*," it means two things. The first meaning
10 is the herbs that God created, vegetation. Smart people use these herbs
11 to prepare medications that can be used to treat people. The population
12 of the village, who had not studied -- well, the people in the village
13 who were not educated also used these herbs for treating headaches,
14 stomachaches or injuries. So I repeat: Smart people use these herbs to
15 make modern medications, whereas people who have not been educated use
16 these herbs to treat illnesses. And the people who use these herbs at
17 home, I don't want to refer to them as *féticheurs* as you would like me
18 to -- as you would have me refer to them. I prefer to speak of
19 traditional healers.

20 Q. Were there traditional healers in attendance as well, yes or no?

21 A simple answer, please, so that we can make some progress, Chief Manu.

22 A. No. We did not invite the healers because we knew that the
23 Prosecutor was not ill, and someone who is ill can't come to our village.

24 Q. Were there people from the Zumbe or Kambutso health centres in
25 attendance? Once again, please answer "yes" or "no."

Witness: Witness DRC-D03-P-0088 (Resumed) (Open Session)
Questioned by Mr. Macdonald (Continued)

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1 A. They were there. They were there.

2 Q. Was Mr. Martin Banga there?

3 A. Martin Banga was not there. Martin Banga is a carpenter, and he
4 was building a house. He was busy building houses in Songolo and he was
5 working for an NGO, an international NGO that was paying for the
6 construction of houses in the area. No, he was not there.

7 Q. You said some people from Ezekere was there. Was Gustaf there?

8 A. Could you repeat the name of the person.

9 Q. Indeed. I did say that name rather quickly. Mr. Likpa Jigu
10 Gustave. Was he present, Witness?

11 A. No. Something came up. And it was actually Mandro, the clan
12 chief who was present. Mandro is responsible for the Katoni health
13 centre. He was present. He was also the head of the Tutsi clan in
14 Ezekere.

15 THE INTERPRETER: Interpreter correction: The health centre in
16 Buy-Sabuni.

17 MR. MACDONALD: (Interpretation)

18 Q. Was Mr. Zulu Ngali Yosia present?

19 A. Are you talking about Zulo-Vili?

20 Q. No. No. I am talking about Mr. Zulo Ngali Yosia, also known as
21 Lukpa Ngali Zumbe, or if you wish, Zumbe Ngali Lukpa. Do you know that
22 person?

23 A. Lukpa, you're talking about Lukpa?

24 MR. MACDONALD: (Interpretation) Could we quickly go into
25 private session?

Witness: Witness DRC-D03-P-0088 (Resumed) (Private Session)
Questioned by Mr. Macdonald (Continued)

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1 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, if we
2 could quickly go into private session.
3 (Public session at 9.27 a.m.)
4 (Expunged)
5 (Expunged)
6 (Expunged)
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9 (Expunged)

10 (Open session at 9.30 a.m.)

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

13 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Prosecutor,
14 you may continue.

15 MR. MACDONALD: (Interpretation)

16 Q. Just to come back to this question in open session, so you do
17 know Mr. Ngali Lukpa and he was not present at that meeting on the
18 occasion of the visit of the Prosecutor; is that correct? And you also
19 mentioned that you know him well, given that he comes -- excuse me, that
20 he was from Penyi. That is correct, is it not?

21 A. Yes.

22 Q. I would just like to come back to something for clarification.
23 Mr. Kitoko (* phon) Zumbe, he was the traditional chief of the groupement
24 of Bedu-Ezekere?

25 A. No.

1 Q. So who is Mr. Kitoko?

2 A. Kitoko is a leader. He is the president of the wisemen, the old
3 wisemen.

4 Q. Mr. Philippe Lokpa Longadi (* phon), was he at this meeting with
5 the Prosecutor? If you know this person, of course?

6 A. I don't know. I know someone who is called Philippe, but he is
7 known by the name of Luzi. He is a young man but in Penyi, he works in
8 Penyi. He is a nurse in Penyi. He is also the principal of a secondary
9 school in Penyi which is situated quite far from the Bedu-Ezekere
10 groupement. So he was not there. He was at the groupement in Penyi. I
11 don't know if you've followed me on this point.

12 Q. I follow you very well, Chief Manu. And so Philippe Luzi is
13 somebody whom you know very well; is that correct?

14 A. I know him because his father has lived in Bogoro. Luzi is
15 young, and I carried him around when he was young. I know him. He is in
16 Penyi, he is a school principal and a nurse in Penyi. He was not in
17 Zumbe at that time.

18 Q. Madam Jeanne Tabo Lissi, was she present at the visit of the
19 Prosecutor?

20 A. This woman looks after other women. She has not done any studies
21 but she is a midwife at the health centre at Kambutso. I called the
22 people from Kambutso but I did not think of this woman. I called the
23 people at Kambutso but I don't recall having seen her at that time.

24 Q. You know this woman very well, don't you?

25 A. I know her very well. She is someone from my family.

1 Q. When you say she is a person from "my family," Chief Manu, is she
2 a person from your close family or from your extended family, as we know
3 it in Ituri or in the Congo in a general sense?

4 A. Her mother and my mother were born in the same household, in the
5 same family. Her mother and my mother are daughters of Buyi (* phon).
6 We are brothers. She is born -- she was born of someone else and I was
7 born of someone else but because of our mothers, we are brother and
8 sister. She is not someone from Lukpa --

9 THE INTERPRETER: From Blokwa (* phon), the Swahili interpreter
10 corrects.

11 THE WITNESS: (Interpretation) -- but my mother and her mother
12 are sisters.

13 MR. MACDONALD: (Interpretation)

14 Q. And so, is she a person of your clan in the seven notables? Is
15 she a person of your clan or a person of a different clan, and if so,
16 which one?

17 A. Our clans are different.

18 Q. Which clan is she from, Witness? Please tell the Chamber. Given
19 that you're saying that you are of different clans, please tell us which
20 is her clan.

21 A. I know her more as someone from the Nzotsi clan but I don't know
22 whether, indeed, she belongs to the Nzotsi clan. I belong to the Batsi
23 (* phon) clan.

24 Q. Just for the sake of certainty, could you please spell for us
25 once again the Nzotsi clan?

1 A. N-z-o-t-s-i. Nzotsi.

2 Q. Do you know Mr. Longa Linjukpa, Mr. Longa Linjukpa?

3 A. Perhaps I've seen him before, but I don't know that name. If
4 I saw him, perhaps I could identify him. It is also possible that you're
5 mispronouncing his name.

6 Q. Do you know someone who is called Longa, L-o-n-g-a?

7 A. No.

8 Q. Very well. We are going to change topic, and come back quickly
9 to the fall of Bunia in August 2002. Mr. Witness, we won't come back to
10 this matter that you mentioned yesterday in your testimony, and also in
11 response to the questions put by Professor Fofé, but there is just one
12 thing that I would like to make certain of. You were the traditional
13 chief, no doubt during that period from 2001 to 2003, and so, if I've
14 understood correctly, you were in charge of all of these people who came
15 to seek refuge in the groupement; is that correct?

16 A. Yes.

17 Q. And so you were the civil authority, along with the other
18 notables, administering ---or for the administration of the groupement;
19 is that correct?

20 A. That's correct.

21 Q. And as we were able to see in the earlier questions and answers,
22 as the chief, you knew the people under your charge quite well, the
23 people under your responsibility, didn't you?

24 A. I know particularly the chiefs of the localities.

25 Q. But well beyond that, you also knew the members of your

1 population, that population which, in times of adversity, was suffering
2 under the attacks. You developed a very close rapport with your
3 population, am I correct in stating this?

4 A. I'm -- I can't be supposed to know everybody because in the
5 groupement, there are 26 localities. It is not a small town or village.
6 You can't know all of the people under your charge when you're a leader.
7 There are certain people within the area who don't know me and who had
8 never seen me. I can't know everybody, even though I have worked with
9 them.

10 Q. The group of notables, the group which also formed the base
11 committee, would you agree with me that this was a group which had very
12 strong ties with the aim of confronting the enemy, with the aim of
13 dealing with this huge influx of refugees, with the aim of meeting the
14 challenges that you were facing? Would you therefore agree that there
15 were strong ties between you? The community of notables was a family
16 with very close ties, if I could put it that way?

17 A. Yes, but this is simply among the leaders. We are not talking
18 about everybody. The notables have 20 people under their authority.
19 These people don't come to me with their complaints. It's only the
20 leaders who come to my home. For example, I could go to see the
21 president of the court but I couldn't go with 20 people under my
22 administration. One person is selected to go and meet with the
23 authority. So these are the people who represent others, who come to see
24 me, and these are the people that I know. That's all.

25 Q. But the question, and I will ask it again and then after that

1 move on, is this: Mr. Manu, you had seven notables or groups of notables
2 represented by a chief and you also said that these chiefs were
3 guardians. You also mentioned that there was a base committee and we
4 will come back to that later. But this base committee is made up of
5 members. There is a health committee, a drafting committee, a young
6 person's committee, a committee of old wise people, among others. These
7 two groups, traditional, on the one hand, and base committee, are people
8 who were bound by ties; isn't that correct? Wouldn't you agree with me?

9 A. I don't understand you very clearly. You're talking about ties
10 between these people. Ties with whom? I think that we should avoid
11 confusing the authority of the chief with the others. It's though you
12 were taking the president, the prime minister and the members of cabinet.
13 You see it's the prime minister who knows his ministers. I don't work in
14 connection with all of the other people. I work with groups, different
15 groups. It's not the case that I was looking after only one matter.
16 I was looking after several different matters. And I would organise
17 myself with the older wisemen and I would say, okay, this person must do
18 this, that person must do that. I didn't know each notable in each of
19 the groups of notables. There were perhaps 100 people behind each
20 notable or perhaps 20 people under that notable's authority, and
21 I couldn't know all of those people.

22 Q. Could you just give me one moment, please. I'm looking for a
23 transcript. All right. We might come back to that at another time. You
24 say that there were APC forces who arrived, didn't you? They arrived in
25 Bunia and they were led by Commander Kandro. Now I would just like to

1 reread to you a passage from your testimony and ask you a question. You
2 mentioned that chief -- excuse me, Major Faustin went to Songolo. Did
3 you communicate with him? Were there communications between you and
4 Commander Kandro before Major Faustin left?

5 A. I sent a group of young people to Kandro and he sent them back to
6 me. He said that he was ready to receive them. He sent them back to me.
7 And it was those young people who left with Major Faustin to Kandro, and
8 I don't know what happened over there. Now, I left, myself, with the
9 second team.

10 Q. So you left with the second group. You went to Songolo; is that
11 correct?

12 A. I did not arrive at the Songolo centre. From Songolo Malo, we
13 went directly to Singo Kandana (* phon), Singo Kandana.

14 Q. Mr. Witness, I'm going to reread to you a passage from line 12 of
15 transcript 300, page 41. So transcript 300, page 41, from line 12
16 onwards. In that passage, you mention, among other things, that Faustin
17 decided to go and attack Bogoro. I won't go over that, but from line 12
18 onwards you say this:

19 "Then after having gone to attack Bogoro twice, he was beaten
20 twice, and then I decided to send some young people to Songolo, at
21 Songolo where Kandro was the military authority. Kandro was the chief of
22 the fighters of Songolo. Kandro also fought against the Hema because the
23 Hema were in the habit of attacking them. And then Kandro said to me,
24 'If these are -- if you have combatants, if you have fighters, then send
25 them to me.'"

1 I will stop there for now. When I read this passage, it seems to
2 suggest to me that you had a conversation with Kandro before the fighters
3 or the soldiers of the APC left. So hence my question. Was there any
4 communication between you and Kandro before he left?

5 A. I'll repeat what I said: I did not talk to Kandro. I sent
6 messengers, young people, who left me and went to Kandro. Why did I do
7 that? Why did I send them? Well, it's because Faustin was seeking a way
8 through to leave, and he would go through Bogoro if he could. He had
9 things to transport by car. He could also have gone through Geti. That
10 was the problem he had. Because he was seeking to leave to go to Beni,
11 I sent young people to Kandro, and I said to them that battalion 12 was
12 at a given place and they had to go through Songolo to get there.

13 They received Lopondo and they transported him because he was
14 having difficulty walking, and so they agreed to accept Lopondo's
15 soldiers. And so therefore I sent young people to him and he also sent
16 young people to me, and these are the young people who left with Major
17 Faustin. The second group stayed and I, myself, accompanied the second
18 group.

19 Q. You are repeating what you had already said in part earlier, but
20 my question is simply: Did you communicate with Kandro beforehand? If
21 I've understood your response, the answer is no. My question is now --
22 all right, you followed the second group. Are you certain of that?
23 "Yes" or "no"?

24 A. I tell you yes, I went with them as far as Singo Kandana.

25 Q. Please explain to the Chamber, then, why you went as far as

1 Singo? What was the purpose of accompanying Commander Faustin of the
2 APC? He had already left, why did you accompany his second group of
3 fighters? Why? Why did you go with him?

4 A. These soldiers did not know the region. I could have left them
5 somewhere along the road and they would have been attacked by another
6 group. That would have been interpreted as though I had left them in the
7 lion's maw. I had to accompany them and ensure that they arrived safely
8 somewhere, that somebody received them at the other end. It's like when
9 I came here to The Hague. You have to take me back to my hotel. You
10 can't just leave me along the roadside. So my objective was to accompany
11 them to somewhere I knew so that they would be properly received and
12 I could make sure that that was the case. I couldn't leave visitors or
13 foreigners just by the road side. I think you would understand that.

14 Q. No. Actually, I don't understand that. You didn't accompany
15 Major Faustin. You sent fighters, and here you're saying you accompanied
16 a second group of fighters. Why not simply send the fighters who were
17 with you? Why did you yourself have to go and accompany that second
18 group, if you did indeed accompany them? There were fighters who could
19 have accompanied that second group without your presence. So why did you
20 personally go?

21 A. Mr. Prosecutor, there was a small matter. I had received them,
22 you see. I could have sent other fighters or other young people to
23 accompany them, but the honour was for me. When somebody builds a house,
24 in fact it is the person who pays the money who is given the praise for
25 having built that house. Had I sent other young people to accompany

1 those groups, then would I -- I would have been congratulated for that.

2 Please allow me to finish.

3 I simply wanted to show them love. Now, we in Africa love
4 foreigners, I wanted to show them my affection, my appreciation for these
5 young people. My objective was that I should suffer myself to ensure
6 that they were properly received. I didn't want to suggest that I was
7 chasing them away. I didn't want to bring bad spirits upon them.
8 I didn't want them to feel that I was dismissing them and chasing them
9 away. I accompanied them so that they would feel calm, that they
10 wouldn't feel that I was trying to get rid of them, chase them away from
11 my place. It's out of the affection that I felt for them that
12 I accompanied them as far as the boundaries of Kandana.

13 My purpose was not to organise or to plan or to accompany anybody
14 or to do anybody any harm. No. That is why I did this. It was not with
15 the intention that you appear to be insinuating.

16 Q. Chief Manu, coming back to the declaration you made, the
17 statement that you made to the Office of the Prosecutor, coming back to
18 this love that you wanted to show for Commander Faustin and the APC
19 fighters, I will read the transcript, I refer everyone to this at
20 DRC-OTP-1043-0204, page 1 of the transcript.

21 MR. FOFÉ: (Interpretation) Good morning, your Honour, Judges.
22 I apologise, Prosecutor. I'm a little surprised by the way in which you
23 want to proceed, using these transcripts. These are interview notes with
24 Chief Manu.

25 MR. MACDONALD: (Interpretation) They are verbatim and the

1 procedure is exactly the same as we have followed for all witnesses that
2 we wanted to question, whether we are talking about statements to the
3 Prosecutor or provided by Mr. Hooper or as my colleagues did in
4 cross-examining the witnesses for the Prosecution.

5 MR. FOFÉ: (Interpretation) Your Honour, I simply wanted to
6 mention and underscore the fact that, to our knowledge, these interview
7 notes were not signed by Chief Manu, except I am mistaken. If those
8 notes were not signed by Chief Manu, I cannot see how the Prosecutor can
9 read extracts of the notes. What he can do is that he may not read
10 extracts verbatim but he can use the notes to base his questions on.

11 PRESIDING JUDGE COTTE: (Interpretation) Very well. Mr. O'Shea?

12 MR. O'SHEA: Mr. President, your Honours, I think the course that
13 my learned friend suggests, and I mean my learned friend for the Defence,
14 is an appropriate and wise one in the circumstances. I can put the Court
15 and the Prosecutor on notice that if there is any attempt, through
16 information in these transcripts, to incriminate Mr. Katanga, there will
17 be an objection from this side. It will make things easier for all of us
18 if, in those circumstances, given the contentious nature of these
19 transcripts, if indeed the Prosecutor does put questions first before he
20 reads out passages in the transcripts. And for those reasons, I support
21 the submission of Professor Fofé.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. O'Shea.

23 Now, Mr. Prosecutor, we note that you wanted to use transcript
24 DRC-OTP-1043-0207, and unless I'm mistaken, this is document number 18 on
25 your list. You have listened to the objections that were filed in

1 writing by Mr. O'Shea, and at that time they were not quite clear, but
2 now he has clarified them. And as far as we understand, you simply
3 wanted to confront the witness with the statements that he's making now,
4 read side by side, with what he told the Prosecutor when you met with him
5 in 2009; is that correct?

6 MR. MACDONALD: (Interpretation) Yes, that is correct.

7 PRESIDING JUDGE COTTE: (Interpretation) You have realised that
8 the two Defence teams would like to proceed with caution and would not
9 like you to read the passages directly, without eliciting additional
10 information from the witness. You have understood what they are asking
11 for, and we believe that you can proceed in that manner, with the
12 understanding that any potential incrimination of Mr. Katanga will cause
13 Mr. O'Shea to rise to his feet. So in order for us to make progress, let
14 us now look at document number 18 so as to be better able to follow the
15 continuation of this cross-examination. Please proceed, Prosecutor.

16 MR. MACDONALD: (Interpretation) Thank you, your Honour, but I
17 have to respond immediately to Mr. O'Shea's objection. To begin with,
18 this passage absolutely does not concern his client. Secondly, if
19 needed, I will come back later to the issue that he has raised.
20 Regarding Professor Fofé's objection, I would like to refer the Chamber
21 to Regulation 112 of the regulations. This is an audio-video recording
22 in which the witness constantly had the opportunity to correct, amend or
23 add to his answers, and in fact, he did so. According to Regulation 112,
24 this is not an interview report in the sense of civil law, but a
25 video-audio recording within the meaning of Article 55(2) and

1 Regulation 112. And the necessary documents were disclosed.

2 Your Honour, I will try to be brief. I will cut to the chase.

3 But it is clear that if I have to attempt to contradict the witness with
4 this prior statement, then I have to read passages from those notes
5 because according to the jurisprudence in this court, which is reflected
6 in decision 1665, I have to read passages so that EVD numbers should be
7 assigned to those passages. So it depends on what the witness answers
8 today.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well. We have
10 understood you, Mr. Prosecutor. Please proceed the way you see fit, and
11 even though you are in cross-examination, make an effort not to ask
12 leading questions on points that were not touched on during the direct
13 examination of Professor Fofé. You can now go ahead.

14 MR. MACDONALD: (Interpretation)

15 Q. Mr. Witness, is it not a fact that you did not accompany the APC
16 soldiers to Songolo and even Singo; you stayed in Zumbe and you did not
17 budge from there at the time that the APC left? That is my first
18 question.

19 A. They went on two occasions. The first time they left, I did not
20 go with them, but on the second occasion, I went with them.

21 Q. Isn't it correct, Chief Manu, that you even wanted the APC to
22 leave the Bedu-Ezekere groupement as quickly as possible because their
23 presence meant that you had difficulties, given that they had just
24 attacked Bogoro on two occasions?

25 A. I have just told you that I wanted them to leave so that we

1 should have some peace.

2 Q. Do you recall having been interviewed by the Office of the
3 Prosecutor? I was present and we asked you questions about Commander
4 Faustin's departure. Chief Manu, do you recall our meeting? You have
5 even mentioned it before. Let me ask you a preliminary question. During
6 your familiarisation process here with VWU, you were able -- were you
7 able to listen to the audio recordings and reread the transcripts in
8 French and Swahili in order to refresh your memory?

9 A. Are you referring to what happened in Zumbe or in Entebbe?

10 Q. Chief Manu, isn't it a fact that during that interview with the
11 OTP, at no time did you mention that you had accompanied the APC
12 combatants right up to Songolo or even Singo?

13 A. I am giving you an answer. It is possible that you noted down my
14 answers incorrectly. I told you that I accompanied them. I did not
15 mention any other person's name. I told you that I myself accompanied
16 them. Do you want me to withdraw what I said before?

17 Q. Chief Manu, my question is very simple. Isn't it a fact that
18 during your meeting with the Office of the Prosecutor, you never
19 mentioned, and the transcripts are correct, the audio-video recordings
20 are there, but you never mentioned that you had accompanied the APC
21 soldiers to Songolo? My question is very simple. Do you remember that
22 you never mentioned that? Today you have mentioned it, but in March
23 2009, isn't it correct to say that you never mentioned that? And your
24 interview was recorded, there is an audio and video recording of that
25 interview.

1 A. Mr. President, is it possible for someone to answer a question
2 that was not put to them? He is asking me to give answers to something
3 that was not asked me.

4 Q. Mr. Witness, I will reread what you said because you say that it
5 is a question that was never put to you, so let me reread what you said.
6 To begin with, I would like to read an excerpt from this document,
7 page 0233 -- 0232, I'm sorry, line 850 onwards. Chief Manu listen
8 carefully. I will read slowly so that what I am reading should be
9 correctly interpreted to you. Once again, you are referring here to the
10 APC, and you say:

11 "Let us look for a way for you to leave. Even at night, let us
12 do everything to ensure that you leave because you have a weapon.

13 "Question: Did he leave?"

14 Your answer: "We spent about two weeks trying to decide how he
15 could leave. I sent four young people who were with me. They went to
16 Songolo. There was Colonel Kandro" - you said "Kando" here but
17 afterwards it is mentioned as "Kandro" - "who was the commander of the
18 combatants. And that Colonel accepted to receive them. The first group
19 left. They succeeded in spending the night, and it was my four young
20 people who returned from Songolo who had taken them there.

21 "The second group left very, very late, after approximately two
22 weeks. And that is how come the road was blocked, because information
23 had arrived that the second group had left. The first group had left
24 with Faustin. It was the second group that left two weeks later. The
25 Hemas were aware that the first group had left. And the second group was

1 compelled to look for another way to leave."

2 And the interview stopped here because, unfortunately, the tape
3 had to be changed. The continuation is in the next transcript, which is
4 DRC-OTP-1043-0235. And I am referring to the next page, 0236, as from
5 line 11. Let me continue reading, line 11:

6 "Okay. The other tape ended while we were talking about the APC
7 groups that had left Zombe. You explained to us that the second group
8 had left two weeks later. What happened after that?"

9 And this is your answer: "After their departure?"

10 And the question:

11 "Very well, continue with what you were telling me after the --
12 before the break." This is an open question.

13 Your answer:

14 "When the second group left, we stayed back only with the members
15 of the population, with the young people from our area. And before Major
16 Faustin left, he left a rifle and he said, 'This is for your security,
17 chief.' And so they went away after leaving a weapon.

18 "Question: And with whom did he leave that weapon?"

19 In the final analysis, it transpired that that weapon had been
20 left with you.

21 Now, Chief Manu, I have just reread those excerpts to you. Isn't
22 it correct that during your interviews with the Prosecutor, and there are
23 13 transcripts, you never at any point mentioned having accompanied the
24 APC soldiers? That is a question I'm putting to you. It is possible
25 that you were mistaken in March 2009, but isn't it correct that when you

1 met with the OTP you never mentioned that fact?

2 A. Please listen to me carefully. I'm going to explain. I would
3 also like to ask you to read the excerpt at which you asked me the
4 question: Did you go with them or not? We are going to come back to
5 that.

6 Let me tell you this: Major Faustin left first with my young
7 people. That is when he left the weapons and went away. I showed my
8 love for them. You said that I stayed with the members of my community.
9 Yes, I stayed with them. I could not have abandoned them. I did not go
10 there to spend five months or more. I simply went to accompany them and
11 then returned. You did not ask me the question to know whether
12 I accompanied them or not. You understood that Major Faustin left
13 weapons with me and then he went away. They left in spite of the fact
14 that the road was blocked. I myself helped them to open the road, and
15 then I returned home. Why didn't you ask me when I returned, after how
16 many days I returned? This is what you, yourself, told me. I am
17 preparing this tape for recording, and it was possible for me to
18 understand which tape was there and which tape was not there.

19 Secondly, you gave me many documents to read. There were several
20 pages that I had to read. I underlined certain passages in those
21 documents and you have them. I confirmed to you that I went there and
22 I came back. I accompanied Major Faustin. Is this a bad thing, to
23 accompany him? Do you have a problem with my accompanying him?

24 Q. Chief Manu, when you say that you underlined certain passages,
25 I understand that because that you did at the VWU premises. You have

1 confirmed that you had the opportunity to reread those transcripts
2 before. When you were in the VWU premises you had the opportunity to
3 reread what I have just read out to you, isn't that correct?

4 A. Mr. Prosecutor, if you do not accept what I'm telling you, that
5 is that Major Faustin left first, after leaving the weapons in my house
6 and that the second time we went together, if you do not accept that, who
7 else is going to give you the necessary information? You want to make me
8 lie. If you do not want me to tell you the truth, who else is going to
9 come and tell you the truth? I am the one speaking here before the
10 Presiding Judge, and I'm telling you that I accompanied them with the
11 purpose of showing them that I loved them, that I had received them well,
12 that I was not chasing them away. That is why I accompanied them.

13 Q. That was not my question, but I will move on to something else.
14 Isn't it correct that Major Faustin and Commander Kandro attacked
15 Nyankunde on the 5th of September, 2002, following the departure of the
16 APC soldiers, the first and second groups went and joined up with Kandro
17 and subsequently attacked Nyankunde? You are aware of that, aren't you?

18 A. Do you want me to explain to you what happened in Nyankunde and
19 Irumu?

20 Q. I'm asking you a specific question. Isn't it correct that you
21 are aware that Kandro and Major Faustin attacked Nyankunde?

22 A. Yes. I heard about it. I do not have any details about that
23 information because I was not personally present. This is something that
24 I was told.

25 Q. Everyone heard, isn't it correct? Well, let me rephrase. The

1 attack on Nyankunde was a major attack; isn't that correct? Did you also
2 hear about that?

3 A. Yes. I heard about it. I cannot give you details because I was
4 not personally present. This is information that I received. I told
5 myself that these people are looking for a way through, like was the case
6 with Bogoro.

7 Q. Was Kandro looking for a way through or was it only the APC
8 soldiers?

9 A. Where would Kandro be looking for a road to go to?

10 Q. Isn't it correct that you know that Kandro attacked Nyankunde to
11 revenge what had happened in Songolo, that is the attack of 31 August
12 2001?

13 A. You are the one even providing the dates of those events. I was
14 in Zombe. How was I to know what they were doing, what they were going
15 to do, given that I was not there? These were events that I heard about.
16 I was not personally present. Let us focus on what happened in Djugu.

17 THE INTERPRETER: Correction from the interpreter, the date was
18 31st August 2002, not 2001.

19 MR. MACDONALD: (Interpretation)

20 Q. Let us talk about your trip to Aveba, there was Adolphe Liga,
21 there was Martin Banga and then there was Bahati Talika or Bahati de
22 Zombe, who was retained because, according to what you said, he was a
23 nurse and, if you fell ill, he would be able to treat you. These are the
24 people who accompanied you. Do you remember saying that about Mr. Bahati
25 Talika?

1 A. Yes. I do recall. Please ask me questions about this and
2 I would be able to answer you.

3 Q. Chief Manu, isn't it a fact that your explanation about why
4 Bahati Talika accompanied you is a complete invention? You have said
5 that you needed a nurse to accompany you in case you fell ill. Isn't it
6 true that this is a pure invention? That is my question. Do you have
7 problems with your head set?

8 A. No. I did not hear the question.

9 PRESIDING JUDGE COTTE: (Interpretation) Very well. The
10 question will be repeated.

11 MR. MACDONALD: (Interpretation)

12 Q. Chief Manu, your explanation that Bahati Talika accompanied you
13 because he was a nurse and he needed to be present with you just in case
14 you fell ill, isn't it correct that that explanation is a pure invention
15 on your part?

16 A. Mr. Prosecutor, why would I invent a story like that? Regarding
17 my trip to Beni, how do you think I would invent such a story? What
18 would be the interest? I am explaining to you what I said before. I was
19 in a group, and a plan had already been drawn up. We had a precise plan,
20 after receiving advice from the council of wisemen. They said such and
21 such a person had to go and so on and so forth. Each person had a
22 specific duty.

23 Q. I am not disputing the fact that you made a trip to Aveba and
24 even Beni. I am talking about what you said, that Bahati Talika was
25 accompanying you because he was a nurse. I am telling you that this is a

1 pure invention on your part, and I will quote what you said previously.

2 Transcript 301, page 9 of 31 August 2011, lines 9 and onwards, and

3 I quote:

4 "Just to ensure that things are very clear, Chief Manu, when you
5 set up this committee that you called the young people's committee, who
6 were in charge of keeping watch over the people, ensuring the protection
7 of the people at that time, was Mathieu Ngudjolo with you in Zumbe?"

8 And your answer was:

9 "Counsel, Mathieu Ngudjolo was not in Zumbe when I was the
10 traditional chief there. Mathieu Ngudjolo had undergone medical
11 training. He was involved because when Lopondo was driven out of Bunia,
12 he came back to where we were. I took him in because we had several
13 people in the collectivity who were injured, and that is why I added his
14 name to the committee. The -- I created the committee even before
15 Ngudjolo got there. Allow me to repeat: It was at my request that
16 Mathieu Ngudjolo's name was added to the committee. I'd asked for his
17 assistance because he was a general practitioner, so to speak, in terms
18 of his training. We called upon him for help. The man we had before,
19 Talika, was just a dentist, he couldn't help us, in terms of general
20 practice."

21 I'll stop at this particular point. Isn't it a fact, Chief Manu,
22 that Bahati was just a dentist, he wasn't even a doctor or a general
23 practitioner? Isn't it a fact that that's not why Bahati Talika went
24 with you, to provide care in case you fell ill? And this leads me --
25 well, I'll let you answer and then I'm going to put another question to

1 you.

2 A. First of all, I would like to respond to this question. Bahati
3 Talika has a diploma. He's certified for his work. Ngudjolo doesn't
4 have a diploma in nursing, but Bahati did have a diploma. He was
5 responsible for the Zumbe health centre. I reiterate: He was
6 responsible for the centre. He was the IT. That means the *infirmier*
7 *titulaire*, the nurse on post there. Just because he was a dentist, that
8 didn't mean he couldn't treat other things. It was the group of wisemen
9 who made that decision, who said, go with him and the other one will stay
10 behind.

11 Bahati has a diploma. Ngudjolo doesn't. Bahati Talika is a
12 doctor, a physician, so if you go see him, you will see that he does have
13 a diploma in medicine, and it was the wisemen who asked me to go with
14 him. It wasn't me who decided who was going to be coming along. The
15 wise men were there to do that. I think you read out things correctly
16 but you've misinterpreted what I said. That is what happened.

17 Q. Chief Manu, tell the Chamber, up until Songolo and Singo with the
18 APC, which doctor went along with you? What is the name of the doctor
19 who went along with you? What is the name of the nurse that went along
20 with you as far as Songolo? There wasn't any such person, was there?
21 When you went to Songolo and Singo, there was no nurse to take care of
22 you, isn't that so?

23 A. That is true. There was no one to go with me, even Ngudjolo
24 didn't go with me.

25 Q. Now, this is a concept that you've been harking back to in

1 earlier testimony, and once again you've brought this up again, this idea
2 that even Ngudjolo didn't go with you. Well, did sometimes Ngudjolo go
3 along on various missions? Did he go with combatants outside of
4 Bedu-Ezekere groupement, 2002, 2003?

5 MR. FOFÉ: (Interpretation) May I please have the floor?

6 PRESIDING JUDGE COTTE: (Interpretation) Yes.

7 MR. FOFÉ: (Interpretation) The Prosecutor is talking about
8 combatants. Ever since the beginning of his testimony, Chief Manu has
9 been talking about the young people of Zumbe. So I think the Prosecutor
10 can put the question but I think he has to respect the concept or the
11 terminology used by Chief Manu.

12 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, please
13 continue. And be careful, be careful about these subtle points that may
14 not be all that subtle. But sometimes, you see, there is very little
15 leeway here in terms of what the witness is telling us, but please go
16 ahead.

17 MR. MACDONALD: (Interpretation)

18 Q. I repeat my question, Chief Manu.

19 MR. MACDONALD: (Interpretation) Your Honour, the witness did
20 use the word "combatant" in the transcript. He has used that word.

21 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor -- Witness,
22 the --

23 MR. MACDONALD: (Interpretation) I can find the references but
24 the witness did use the word "combatant" himself. We can come back to
25 that if necessary, but for the purposes of the case file, if I speak

1 about young people, combatants, soldiers, militia, it's all one and the
2 same. I'm not making my distinction here. I'm talking about armed
3 people who were defending or attacking.

4 MR. FOFE: (* Overlapping speakers)

5 PRESIDING JUDGE COTTE: (Interpretation) (* Overlapping speakers)

6 ... so far, I believe what we've heard from the witness is -- well, he
7 has been talking about self defence and it seems to me that in response
8 to questions, the witness has given us to understand that there was no
9 initiative taken by the young people of Zumbe that -- who were fighting
10 as part of a self-defence initiative. This is one of the things that we
11 have in mind. Perhaps this is the point you want to raise right now.
12 The Chamber has a good memory, and we try to remember things as testimony
13 unfolds, and so this is the context that we find ourselves in and we are
14 listening to the witness's answer.

15 Now, Chief Manu, I believe you raised your hand. Did you want to
16 answer the Prosecutor's question or did you want to say something else?
17 Please proceed. We are all ears.

18 THE WITNESS: (Interpretation) I wanted to say something because
19 he asked a question. He wanted to know how it came to be that I went
20 along with the second group, the APC group. I was accompanied by what
21 doctor? That's what he asked. If I gave the name of Ngudjolo, it was
22 because we are talking about the field of health care. Bahati didn't go,
23 Ngudjolo neither, because they were responsible for health. That doesn't
24 mean that there were only two nurses or doctors in Zumbe. That is why
25 I can't give all the names of care providers in Zumbe. I just gave the

1 names of people who I saw as being responsible. The people I could talk
2 to. I didn't have treating staff with me when I went along with the
3 group. If they had asked me -- if he had asked me, did you go alone
4 I would have said well, I went with this young person or that one and
5 I came back with this or that young person, that's clear. But I didn't
6 go with one person who provides treatment. Ngudjolo stayed behind.

7 I don't want you to mix things up, things that happened in 2001
8 and what happened when Lopondo was on his way out. Because at the time
9 of Lopondo, well, if we have to talk about Lopondo, we have to talk about
10 Lopondo, and if you're talking about 2001, that was before. So you see
11 there is confusion. There is the period when Lopondo departed, and then
12 there is the period of Lopondo's soldiers, and then there's the year
13 2002, so I think there is some confusion here.

14 PRESIDING JUDGE COTTE: (Interpretation) Chief Manu, I think I'm
15 going to remind you of this, even though it's difficult to follow the
16 rule sometimes, please speak slowly. Now, we understand what you're
17 saying. You want the Prosecutor to be even more specific when he words
18 his questions. He will do so. But right now -- and he will decide
19 whether he needs to rephrase his question or repeat it. It would appear
20 that you were asked whether it ever happened that Mathieu Ngudjolo, as
21 nurse, would also go along with these groups of young people, whether
22 they were combatants or not, these groups of young people.

23 Prosecutor, I don't know whether you want to get an answer for
24 this question. If so, please rephrase it very specifically and try to be
25 very clear about the time. This seems to be the witness's concern.

1 MR. MACDONALD: (Interpretation) Thank you, your Honour.
2 I would just like to give one example, if we could hark back to
3 Professor Fofé's point. We can come back to it. I will reformulate my
4 question.

5 Q. Now, the witness in transcript 300, lines 19 -- correction,
6 transcript 300, page 41, lines 19 and on, when he talked about the second
7 group that was leaving to go to Mandro, he made reference, he said,
8 "I took some of my combatants." So --

9 MR. FOFÉ: (* Overlapping speakers) ... I think I have to respond
10 to that. Mr. Prosecutor, take it easy, the Prosecutor was making
11 reference to a passage of the transcript that we had asked to be cross
12 checked. This is a passage that is in dispute. So that's all I wanted
13 to say. Perhaps since I do have the floor right now, with regard to
14 Bahati Talika, and the invitation regarding the Prosecutor, the same
15 transcript, 300, page 28, lines 11 to 12, when Chief Manu was talking
16 about Bahati Talika, he said that he was a nurse who was providing
17 treatment.

18 MR. MACDONALD: (Interpretation) Yes. I do have the
19 conference (* as interpreted) and I'm very happy. I think you could also
20 glance at page 38, line 20, but we are in cross-examination, and we can
21 point out that depending on the time of these matters, you see the
22 witness is providing different explanations about Bahati Talika. This is
23 what we are driving at.

24 PRESIDING JUDGE COTTE: (Interpretation) Please go ahead,
25 Prosecutor. Rephrase your question, if you so desire.

1 MR. MACDONALD: (Interpretation)

2 Q. Chief Manu, according to your testimony, when Lopondo fell on the
3 9th of August, 2002, Ngudjolo came to Bedu-Ezekere groupement and he
4 became a nurse there. My question, and I repeat, between that time, the
5 arrival of Mathieu Ngudjolo in the summer or September of 2002, doesn't
6 matter, until the 6th of March, 2003, the time when Bunia was taken, on
7 the 6th of March, 2003, during that period of time, was Mr. Ngudjolo,
8 as -- working as a nurse, would he go along on these missions, missions
9 such as the one you described about to Songolo or to Aveba and then later
10 to Beni? Did he ever go along on these various missions?

11 A. He did not go along with them on those missions.

12 Q. Very well. I realise -- well, I understand. We are still
13 talking about this infamous trip, and I just want to understand. You
14 left Zumbe and you were going to the collectivity of Walendu-Bindi, and
15 when did you -- where did you spend the first night? In the Songolo area
16 or Olongba?

17 A. Well, at the Malo primary school.

18 Q. In what locality, Chief Manu?

19 A. In the groupement of Baviba, Malo, in Songolo area. Songolo
20 doesn't have a lot of large places. It might have been three or four.
21 So that was the first locality when you come from our area.

22 Q. Who went along with you to that particular place? I beg your
23 pardon: Who greeted you at that place in the Walendu-Bindi collectivity?
24 Who greeted you and helped you set up at this primary school?

25 A. Well, the place is called Sokatalu (* phon), after -- past

1 Kavariaose. Babira people and some Walendu-Bindi people were the ones,
2 so there were some small traditional chiefs there. Now, of course, they
3 had had to receive me and prepare a place for me. But I don't know the
4 traditional chief of that area.

5 The houses had been burnt down, people were staying in schools or
6 were staying up on the hills, but I don't know the name of that
7 particular traditional chief, but Kolumba (* phon), the person -- the
8 person who received me, his name was Oudo. Oudo, he is the one who
9 received me there.

10 Q. Well, let's make sure we understand. Olongba or in Songolo,
11 which one is it? Where was it? Is that the same place? You talked
12 about Oudo, and then the first night, the first night at the primary
13 school, where was it?

14 A. Listen, we left at night. We left at night so that the people
15 who were on the road would not see us, and we made an arrangement not to
16 meet people or dangers. Let me finish.

17 THE INTERPRETER: Overlapping speakers.

18 MR. MACDONALD: (Interpretation)

19 Q. It's a very simple question. You're talking about a primary
20 school. You're talking about a person called Oudo. You're talking about
21 Olongba. My question is very simple. I'm not asking about whether you
22 left at night or not. I'm saying, this school where you stayed, where
23 you spent the night, the first night, Olongba, was this a school in
24 Olongba? Is this the same place we are talking about?

25 A. I've already told you that Songolo Malo is not Olongba. We left

1 at night and we spent the night in Songolo Malo. We got there at night.

2 And then we went to Olongba.

3 Q. And in Olongba, Oudo received you? What is his full name? What
4 is Oudo's full name? And what was he doing, what was his line of work
5 back then, when he greeted you along with Mr. Bahati Talika and Adolphe
6 and Martin Banga?

7 A. The other name, I don't know but he was the leader of the
8 combatants there.

9 Q. And his chief? His immediate -- his direct superior? His
10 immediate superior, what was his name?

11 A. His military chief? What chief are you talking about? The chief
12 of the locality?

13 Q. Indeed, let's make a very careful distinction between the two.
14 The military chief. Who was his military chief?

15 A. Oudo, amongst the Aveba (* as interpreted), their leader was
16 Kandro. In the region of Bolo, the chief, the colonel, was Germain
17 Katanga.

18 Q. Chief Manu, my question was just about who the chief was of
19 Oudo's, Oudo's chief, and I see that you volunteered some information.
20 You said that in Aveba there was a colonel by the name of Germain
21 Katanga. Why did you feel the need to add that piece of information?
22 That information about Germain Katanga? Because I was asking -- you said
23 that the immediate chief of Oudo was Kandro. Why were you talking about
24 Germain Katanga now?

25 A. Because he, Oudo, told me this. You have to first go to Bolo,

1 and then from there, you will know how to go by way of Beni. In Bolo
2 I met Germain Katanga and I slept in his home. You see, why did
3 I mention Germain's name? Well, that's why.

4 Q. When Kandro died -- you learned that Kandro has died, he was
5 killed. You've heard about that, haven't you?

6 A. At that time I was in Zumbe. I heard that news when I was in
7 Zumbe.

8 Q. So in Zumbe you learned about the death of Kandro but you didn't
9 hear about the attack on Nyankunde? And now today you remember about
10 Nyankunde? Can you testify about this? You were in Zumbe. So you
11 learned about Kandro's death. Who killed Kandro? The combatants of
12 which group? Or which leader?

13 A. You asked me about three questions all at once. I'll answer.
14 Now, you're saying that I learned how Kandro came to die. And who told
15 me that. If you understand correctly, the young people from my camp (*
16 as interpreted), because we didn't have any supplies so often they went
17 to Adaba. Everything happened in the Walendu-Bindi area. They might
18 have learned that there and that happened to me too, because they would
19 go to Kagaba to get supplies. So we learned about Kandro's death.
20 I learned about that. You also want to know who killed Kandro. The
21 person who killed Kandro, I don't know exactly who. I don't know who it
22 is. But it was said. Now, I wasn't there. I was in Zumbe. It was said
23 that the -- it was on the news, the news, that was that the young fellow,
24 I've forgotten his name. I'll tell you his name if I remember. I'll
25 give you the name later if I remember. Is that all right? Because I can

1 no longer remember that name.

2 Q. You know very well that it was Cobra Matata's men who killed
3 Kandro. Is it coming back to you now, Cobra Matata?

4 A. There were different groups. It is possible it might have been
5 Cobra Matata's group. I don't know how they organised themselves, those
6 groups. The person, the name of the person is different from the one
7 that you just gave, Cobra Matata. I learned -- I was told that the
8 person who killed him was a young child but his name I no longer recall.
9 I didn't try to find out, whether it was Cobra Matata's group, no. I'm
10 looking for the name. I'm trying to remember the name.

11 MR. FOFÉ: (Interpretation) Please, your Honour, I would like to
12 point out that page 43, line 9, there is a word, a word is mentioned.
13 The young person from my camp. Chief Manu did not mention a camp.
14 I think this point needs to be checked. Page 43, line 9.

15 PRESIDING JUDGE COTTE: (Interpretation) Chief Manu, perhaps we
16 could clarify that now. In response to a question from the Prosecutor,
17 you said -- you said:

18 "Well, you've asked me about three questions all at once. I'll
19 answer. You said that I learned how Kandro came to die. How did I learn
20 that, who told me that?"

21 If you understand -- well, you see the transcript says apparently
22 that it was young people from your camp. You didn't have supplies. And
23 they would often go to Aveba region. Now, if you -- when you spoke about
24 the young people, who were you talking about? Could you give us the
25 exact word that you used? "The young people from my camp," did you mean

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1 the young people from my groupement, from my *collectivité*? Exactly what
2 did you mean? Because I think there might have been an interpretation
3 problem a few moments ago, the word that you spoke a few moments ago. We
4 want to clarify this very quickly, just before we suspend the hearing.

5 THE WITNESS: (Interpretation) Thank you very much.
6 I understand exactly what you mean. The confusion here is -- well,
7 perhaps it might be the interpretation. I said this: Even before I said
8 this, in the past, when I went to Bolo, the young people were looking for
9 supplies. Those young people, those are people from my region, that is
10 to say from my region, and the region is the groupement. The people from
11 Zumbe, they were in the habit of going to get supplies. It wasn't a
12 camp. Perhaps that was the source of the confusion.

13 PRESIDING JUDGE COTTE: (Interpretation) Exactly. Thank you
14 very much, Chief Manu, for being so specific, which resolves this problem
15 that Professor Fofé raised.

16 Chief Manu, we are going to suspend now for 30 minutes and so you
17 will have a chance to take some rest and relax, and we will resume at
18 11.30.

19 Court Officer, could you please -- correction, Court Usher, could
20 you please escort the witness out of the courtroom?

21 (The witness stands down)

22 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, we shall
23 resume at 11.30.

24 The hearing is now suspended.

25 Recess taken at 10.59 a.m.

1 On resuming at 11.33 a.m.

2 COURT USHER: All rise.

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

4 Thank you. Usher, could you please go and fetch the witness.

5 (The witness takes the stand)

6 PRESIDING JUDGE COTTE: (Interpretation) Witness, Chief Manu,

7 can you hear me well?

8 THE WITNESS: (Interpretation) Yes.

9 PRESIDING JUDGE COTTE: (Interpretation) All right. We will

10 resume our work. The Prosecutor will continue his cross-examination.

11 And everybody must make an effort to speak slowly so that our

12 interpreters can do their work properly.

13 Prosecutor, you may go ahead.

14 MR. MACDONALD: (Interpretation) Indeed, your Honour. I note

15 that not only the interpreters but also the stenographers have a

16 difficult task, and in the heat of battle, as the Chamber has noted since

17 the beginning of this hearing, sometimes it is difficult, even very

18 difficult, to observe the five-second rule. But I will try to do so to

19 the best of my ability.

20 Q. Chief Manu, continuing from where we left off, with this trip to

21 Aveba, listen, we know that you signed a document, that document is now

22 admitted in evidence, the EVD number escapes me for the time being but I

23 will refer to the document signed on the 15th of November, 2002. So you

24 would agree with me, Chief Manu, that that trip began at the earliest at

25 the end of October, otherwise at the beginning of November 2002. Would

1 you agree with that, given that you also said earlier, I believe, that
2 you stayed for about one to two weeks in Aveba, when this document was
3 drawn up, this document which you signed?

4 A. Excuse me, what is your question exactly? Do you want to know if
5 I spent two weeks? If so, then the answer is yes.

6 Q. The EVD number is D02-0098. Well, Chief Manu, would you agree
7 with me that given that you signed this document on the 15th of November,
8 this document which was presented to you by Professor Fofé, you therefore
9 began this trip either at the beginning -- the end of October or the
10 beginning of November 2002? This is my question. You began the voyage
11 about the end of October, beginning of November, 2002?

12 A. Yes. We signed.

13 Q. Chief Manu, you would agree with me, would you not, that at the
14 time you travelled, Kandro had been deceased already for some time?

15 A. We didn't talk about Kandro.

16 Q. Is it not true, and I would put it to you, that when you met
17 Oudo, his immediate leader or superior was Cobra Matata at that point
18 because Kandro was dead?

19 A. At the time of my trip, Mr. Prosecutor, we didn't talk about this
20 matter. The only thing that I know is that he told me to go to Buru (*
21 phon).

22 Q. And would I be right in saying that you spent two nights with
23 Oudo in Olongba?

24 A. Yes. Three nights.

25 Q. Witness, is it not right that in the Walendu-Bindi community,

1 there was a commander of the name Cobra Matata?

2 A. Yes.

3 Q. And at that time, the time of your trip, is it not correct that,
4 according to what you said earlier to the Office of the Prosecutor, Cobra
5 Matata was in Tchei? T-c-h-e-y, Tchei.

6 A. No. I had not seen that. Excuse me, I had not seen him. He was
7 in that area but I had not seen him.

8 Q. So in mentioning that he was in that area, you would recognise
9 that you knew that Cobra Matata, the commander, was there among the
10 Walendu-Bindi combatants? That is not new to you? You knew that?

11 A. Yes. He was there, but I did not go to Geti for him. I had no
12 business with him.

13 Q. Just to orient ourselves, when you use the expression Geti,
14 I just want to check something. When you make reference to Geti, are you
15 referring to the locality or are you referring to a broader region which
16 might be something similar to a groupement, the Geti groupement?

17 A. There -- well, we are in the habit of saying that the Ngiti live
18 in Geti, and they have five groupements. When I refer to Geti, I'm
19 talking about Bolo, Yalumba (* phon), Zitono, as well as other
20 collectivities. Geti is their locality. At that time, we are talking
21 about Baviba and Molombo (* phon), the road that I was using. If I make
22 reference to Geti, bear in mind that it is Moloma (* phon). Moloma is
23 not far away. That is the road that I took.

24 Q. Right. Indeed, Chief Manu. What we retain from that is that
25 when you talk about Geti you are referring to Bolo, Bolo which is also

1 known as Aveba; isn't that correct?

2 A. Yes. You should bear in mind the fact that we are talking about
3 the groupement of Baviba and Moloma. When I refer to Geti, what I mean
4 is that we are in the groupement of Moloma and Baviba, we are in the not
5 centre of Geti.

6 Q. Witness, just a question at a tangent to that, given that we are
7 discussing Cobra Matata, there is also another person who is known by the
8 name of Martin Cobra. Does that mean anything to you, somebody called
9 Martin Cobra? Or who was also known as coordinator Martin or Martin
10 Komani? Does that mean anything to you, that person?

11 A. This is the one person who is called Banga Dheji Martin.

12 Q. Chief Manu, do you recall the two photographs that I showed you
13 yesterday, EVD-OTP-0080, if I'm not mistaken, and 0081? I said or
14 I asked you questions about whether you recognised these people, and my
15 colleague asked you whether it was Cobra Matata on the photograph.
16 Chief Manu, is it not a fact that it was actually Martin Banga, Martin
17 Cobra, who was on that photograph in the row -- and there were people in
18 a row behind had him?

19 MR. KILENDA: (Interpretation) I think it would be better if he
20 showed the witness the photograph.

21 PRESIDING JUDGE COTTE: (Interpretation) We will do that. We'll
22 do that.

23 MR. MACDONALD: (Interpretation) Yes, it is photographs 80 and
24 81, evidence by that number. We could begin with photograph number 80.
25 That would be enough.

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

2 THE WITNESS: (Interpretation) No, no, don't show me the
3 photograph. That's enough. I can confirm that it is not Martin.

4 PRESIDING JUDGE COTTE: (Interpretation) Are you certain,
5 Chief Manu? Are you certain that you have the photograph well in mind.
6 We will show it to you. Court Usher, please put the photo on the screens
7 for us so that there is no doubt before Chief Manu states definitively
8 that he does not recognise him.

9 COURT OFFICER: (Interpretation) You can see this document on
10 "PC 1."

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you. Do the
12 accused persons have the photograph on screen before them? Good. All
13 right.

14 Chief Manu, please look at this photograph well again, please,
15 and answer the Prosecutor's question.

16 THE WITNESS: (Interpretation) Your Honour, this is not Martin
17 whom he calls Cobra. This is not Martin Cobra here. You know, Cobra was
18 a nickname that he had earlier. But looking at this photograph, this is
19 not him. Furthermore, I could say that here, you can see Hema on the
20 photograph, and this is not Martin.

21 MR. MACDONALD: (Interpretation)

22 Q. All right. According to you, not only was this photograph not
23 taken at Zumbe but now you are saying that these are Hema on this
24 photograph. Is this your testimony, Chief Manu? We will come back to
25 what we were talking about earlier after this.

1 A. When I say this, it is because I cannot identify even one single
2 person here. Martin Cobra is not on this photograph. Cobra Matata is
3 not here. I do not recognise anybody on this photograph. That is why I
4 am saying that perhaps these are Hema here, because they were our
5 enemies, we were fighting them. I have not confirmed that these are
6 Hema. I'm saying perhaps these are Hema, given that it was the Hema and
7 the Lendu who were fighting each other. I am not in a position to
8 identify this photograph, and I think perhaps these people are Hema.

9 Q. Very good. We can take the photograph off screen now.

10 Getting to Aveba now, and I understand that you spent the night
11 at Germain Katanga's place; is that correct?

12 A. Yes.

13 Q. Is it also true that there was a camp in Aveba, Witness? Do you
14 remember the name of that camp? What was its name?

15 A. BCA.

16 Q. And could you tell us what BCA stands for, please?

17 A. I don't know.

18 Q. You have no idea? Are you sure of that, Chief Manu?

19 A. I am in no position to know.

20 MR. MACDONALD: (Interpretation) Would you give me a moment,
21 please, your Honour?

22 Q. Witness, I would like to remind you about the statement you made
23 to the Office of the Prosecutor, first of all, and after showing you
24 that, I will ask you the question again. Do you remember that at that
25 meeting with the Office of the Prosecutor, you indicated that BCA meant

1 *bureau des combatants à Aveba*, the office of combatants at Aveba, that
2 you yourself gave that information voluntarily. You voluntarily gave
3 that information to the Office of the Prosecutor. Do you remember having
4 said that, *bureau de combatants*, office of combatants?

5 A. If you could refresh my memory, please, given that you are the
6 only person who knows this?

7 MR. MACDONALD: (Interpretation) I would draw the attention of
8 the Chamber and my colleagues to transcript DRC-OTP-1043-0235, which is
9 also on our list, and could I rely on your efforts, your Honour, to give
10 me the number?

11 PRESIDING JUDGE COTTE: (Interpretation) It is item 19.

12 MR. MACDONALD: (Interpretation)

13 Q. And Mr. Witness, could I refer you to the page that ends with the
14 figures 0247, more specifically? And again, more precisely, to line 373.

15 At this moment, you were describing the point in time when you returned
16 from Beni, and you mentioned in line 374 to 37 -- excuse me, 373, you
17 said, "This is when we arrived." You said in line 377:

18 "We didn't land because the BCA, the *bureau de combatants Aveba*,
19 were all over the landing strip and so we returned to Beni again."

20 I have just quoted what you said to us, Chief Manu. Does that
21 refresh your memory? Do you remember having given the information that
22 BCA stood for *bureau de combatants*, office of combatants?

23 A. No. I didn't say that it was the *bureau de combatants*, the
24 office of combatants. The young combatants were at the airport. It's
25 really the same issue, Mr. Prosecutor.

1 Q. Witness, could you just give me a few moments?

2 MR. MACDONALD: (Interpretation) Your Honour, could I take a
3 moment? It will just take a second.

4 I can't find it. I'll come back to this later.

5 Q. Germain Katanga's house, is it true that on the occasion of your
6 visit in November of 2002, it was not within that area known as BCA? It
7 was outside that area, was it not?

8 A. No. His house was not at BCA and he did not live in BCA himself.
9 His house was, rather, on the Kaswara road.

10 Q. I would now like to come back to the document that was drawn up,
11 that is document EVD-D03-00098.

12 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, this is a
13 document dated 15th of November, 2002; is that correct?

14 MR. MACDONALD: (Interpretation) Yes, that is correct, your
15 Honour.

16 PRESIDING JUDGE COTTE: (Interpretation) All right. That is
17 document number 7.

18 MR. MACDONALD: (Interpretation) Yes, number 7 on our list,
19 indeed.

20 Q. Witness, do you recognise your signature on the last page? And
21 I would also like to look at that final page, which has the following ERN
22 number, DRC-OTP-0194-0354, and that is a public document.

23 PRESIDING JUDGE COTTE: (Interpretation) All right. Please,
24 Court Usher, can you put this final page, page 7 of the document, up on
25 the screen?

1

2 MR. MACDONALD: (Interpretation)

3 Q. All right. We can see your signature on the screen, but, Court

4 Officer, can we go up to see the top of the page, please?

5 Chief Manu, you say that you did not read this document before

6 you signed it, but on this last page -- could we perhaps zoom in? Thank

7 you. I am reading an item which is numbered 11 at the top of the page.

8 It says, "We request that the authorities of the UPC/RP of Uganda and of

9 Rwanda be tried by the International Criminal Court for genocide."

10 Witness, at that time, despite the fact that there were

11 intellectuals, the people you had mentioned who were better educated than

12 you, in this group signing, the International Criminal Court and its

13 existence were known in November 2002, was it not? When we read this

14 document it is clear people knew that there was an international

15 institution which could try people who committed crimes of the type of

16 genocide, crimes against humanity, war crimes? This was a known fact,

17 was it not?

18 A. This is a question which ought to be asked of Mr. Alezo because

19 he is the one who signed last. You know, I said that I signed this

20 report because we had succeeded in introducing our information into the

21 document. If there are questions concerning genocide or the

22 International Criminal Court, you should ask them of Munganga, the last

23 person to sign the document.

24 Q. Witness, if we go back to the first page of the document, so it's

25 page 0348, at the bottom of that page, you can see a stamp which says,

1 *"Force de resistance contre l'extermination des Congolais,"* FREC,

2 F-R-E-C, the Resistance Force against Extermination of the Congolese.

3 Witness, you would agree with me, would you not, that there was
4 an organisation which looked to defend the population already in November
5 2002, when you signed this document?

6 A. The document (* indiscernible) could answer your question. I
7 don't know anything about that stamp. These are people from Songolo.
8 You can see that Zumbe is not mentioned on this document.

9 Q. Chief Manu, it is also true that Avenyuma in this period of
10 November 2002, Commander Yuda, Dark and Safco, Safari, were there, you
11 knew that, didn't you? You found that out or perhaps you saw it yourself
12 when you went to Avenyuma?

13 A. Yes. I saw them with my own eyes. However, please ask me
14 questions about what I saw personally. If you ask me questions about
15 everything in Geti, it would be difficult. I saw Dark in Geti. I saw
16 Safco and I saw Yuda with my own eyes. But, please, do not ask me
17 questions about the entire Geti, because it is in Irumu territory, and
18 I live in Djugu territory so I may have doubts about information relating
19 to Geti. I saw Dark, I saw Safco, and I saw Yuda myself.

20 Q. Chief Manu, my question is rather more specific. Isn't it
21 correct that you saw them with your own eyes or you heard that at that
22 time in November 2002, that those three people, Yuda, Dark and Safco were
23 based in Avenyuma?

24 A. I do not know anything about the wisemen of Avenyuma. I knew
25 that I went to Beni with Safco. Neither Yuda nor Dark was there. But

1 regarding questions about the wisemen of Avenyuma, I cannot answer that.
2 They are very far away from us. I never said that they were wise old
3 men.

4 Q. I did not say that they were wise old men either. My question
5 was as follows: Isn't it true that Yuda, Dark and Safco were Ngiti
6 combatants, just like Oudo, Cobra Matata and Germain Katanga?

7 A. Yes.

8 Q. Very well. Let me go back to document EVD-D03-0098. And my
9 question to you is as follows: You discussed the contents and other
10 things relating to the attack on the Bedu-Ezekere groupement. This is a
11 document that you signed. But why did you sign this document if you had
12 not read it? Why would you sign a document, the substance of which you
13 do not know? That was your testimony. What was the purpose of your
14 signing this document, which you were not familiar with?

15 A. Mr. President, over the last few days, this is what I said:
16 I was in the room where the meeting was taking place. I heard everything
17 that was said there about the document. It was said that everything had
18 been planned in advance. It was just by coincidence that I found myself
19 there at that particular time to air my own grievances. It was for that
20 reason that I signed the document.

21 All the other points that were mentioned in that document did not
22 concern me. I cannot give you an account of what happened in all the
23 collectivities of the Walendu-Bindi area. I was responsible for my own
24 groupement. In the case of Walendu Tatu and the Walendu -- and the
25 Walendu Tatu, there were eight groupements in the north and the five from

1 the south that would have met to produce that report.

2 These were the people of the Walendu-Bindi collectivity who
3 prepared the document. In order to send the document to the central
4 government, the items that concerned us had to be included also. It was
5 necessary for the Congolese government to be aware of our own grievances.
6 It is for that reason that I signed. There were other wise men who were
7 present and who could not read French but they also signed the document.
8 The main idea was to prepare that report and sensitise the government
9 regarding the problems of the people so that the government should be
10 able to take decisions. That is why I signed the document. If I had
11 refused to sign, those people would have said that it was those of us
12 from Walendu-Bindi who had opposed the document.

13 Mr. President, if you have fully understood what I have said,
14 then please try to enlighten the Prosecutor.

15 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness,
16 Chief Manu, I told you the other day that it was nice of you to address
17 yourself directly to me, but please do not forget that there are three of
18 us on this Bench. It just so happens there are two women and one man,
19 and it is the man who is the Presiding Judge, but we cannot get into
20 bilateral discussions here. When you are answering a question put to you
21 by the Prosecutor, you are the one who should try to convince him, and
22 please do not ask me to serve as intermediary because it would be
23 complicated. I can see that you understand me very well.

24 Let us continue.

25 JUDGE DIARRA: (Interpretation) I would just like to tell

1 Chief Manu that the Presiding Judge is the Presiding Judge because of the
2 will of these two women, because when we are assigned to a Chamber we are
3 asked to designate a Presiding Judge, and we just happened to have trust
4 in this man.

5 PRESIDING JUDGE COTTE: (Interpretation) Chief Manu, I hope you
6 understand that I am very lucky here.

7 THE WITNESS: (Interpretation) Let me say the following. When
8 there is a man in a group of ten people, and nine women, then it is the
9 masculine gender that is used, and if I address myself to you, in fact
10 I was addressing your entire group.

11 PRESIDING JUDGE COTTE: (Interpretation) I believe you
12 understood me, Mr. Witness, that I was teasing you, and the structure of
13 the French language, with its discrimination, means that just one male in
14 a group of ten people makes it necessary to use the masculine. So let us
15 leave that little digression and the Prosecutor please proceed.

16 MR. MACDONALD: (Interpretation)

17 Q. Chief Manu, isn't it correct that when you are in the
18 Walendu-Bindi region, you can move about easily, without any problem,
19 without combatants, because you are with Mr. Talika, Liga and Martin?
20 And if four civilians had to go to Aveba and Beni without any problem, it
21 was because this area was protected by combatants in Olongba, Tchev,
22 Avenyuma, Aveba, the Walendu-Bindis had a force that defended them
23 adequately? Isn't that correct?

24 A. I believe I can agree with you, but please allow me to elaborate.

25 Q. Very well. Very briefly, please.

1 A. The region occupied by the Hemas in the Djugu and Irumu
2 territories is not very large. It is a small area. It is possible for
3 you to leave the Hema territory because the Hemas do not have a problem.
4 But when we left Bolo, we travelled with 150 young people, and when we
5 arrived Molo, they left. There were many of us in the bush, but when we
6 reached Boie (* phon) there were only 26 of us left, but in the bush,
7 there were many people with us. But subsequently, I was moving about
8 practically alone.

9 Q. Just to be certain that we fully understand you, did you say that
10 there were about 150 young people with you in the bush in Mohoye (* phon)
11 or is this an error in the transcript? And incidentally, can you please
12 spell Mohoye?

13 A. We left Bolo. We passed through Avenyuma, Tchei, Kanana,
14 Mont Hoyo, right up to the road. I will now spell Mont Hoyo,
15 M-o-n-o-t-h-o-y-o (* as interpreted). There was a grotto there. And the
16 people who accompanied us right to the Beni road were numerous. There
17 were about 150 of them. When we came across the APC, there were only 26
18 of us left. And at that time, we were in the territory under the control
19 of the APC. This means that there were not up to 150 people on the
20 battlefield in the bush. The 150 people accompanied us right up to that
21 bush.

22 Q. Chief Manu, when you left Aveba for Beni, Germain Katanga was
23 with you; isn't that correct?

24 A. Yes. That is correct.

25 Q. Were there any other combatants from Walendu-Bindi or Aveba

1 accompanying him?

2 A. In order to travel to Beni, we had combatants with us.

3 Q. There was an escort of combatants with you and Germain Katanga;
4 is that correct?

5 A. There was a young man who was called Amuta. He is already dead
6 now. We found him in Bolo. There were 26 of us in total. And in that
7 group, there were young people providing security for us. I was there,
8 two other people, and 26 young people, four from the Djugu territory and
9 22 from the Irumu territory in Geti. When we arrived Bolo, there were 26
10 of us. Aside from Germain and another pastor as well as about 10 other
11 people, the others were carrying weapons in order to provide security for
12 us.

13 Q. Chief Manu, you had the three people with you from Zumbe, Talika,
14 Adolphe and Banga. There were also civil authorities, including
15 Munganga, as well as someone known as Didi. You also mentioned a pastor.
16 This was Aneno (* phon); is that correct?

17 A. There was another pastor of the Anglican church. I do not know
18 their names. They are from Geti. There were ten to 12 young people
19 protecting us and they were carrying firearms.

20 Q. And this pastor was from which church? The Anglican pastor?
21 What is the name of his church?

22 A. The Anglican church.

23 Q. But did the church have a name, a number?

24 A. Are you talking about the pastor? Well, I do not know his name.
25 I think he simply wanted to travel with us to Beni. He seized the

1 opportunity to make the trip. If my memory serves me correctly, I
2 believe his name was Jacques or Richard.

3 Q. Very well. You did arrive in Beni. Did you have a discussion
4 regarding who was to be the head of the delegation in Beni, who was going
5 to represent the group? My question, more specifically, is as follows:
6 Was it in Beni that you discussed about selecting your head of delegation
7 when you met with the local authorities? That is my question. I do not
8 want you to go back to the details of what you said.

9 A. It happened in front of the RCD-K/ML office.

10 THE INTERPRETER: From the Swahili interpreter: Your Honour, the
11 interpreters did not understand the last sentence.

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, can you
13 repeat your answer, which was not interpreted completely. Thank you.

14 THE WITNESS: (Interpretation) When we arrived Beni, we went
15 into an office belonging to the RCD-K/ML party, but before going into
16 their office, there were discussions between us, that is, Sambidhu,
17 Pitchu and others, who were arguing, they were saying that the head of
18 the delegation was Germain. And Germain was not saying anything.
19 Personally, I said no, I had been invited from the Djugu territory and
20 I was supposed to be the head of delegation. The other members opposed
21 this position and they said the leader was Germain.

22 We were told to go in. We went in and we drew up a list of
23 participants, and I wrote down on the sheet of paper that the head of
24 delegation of Djugu North was myself. That is what I wrote down on the
25 list of participants. The other people also wrote their names on the

1 list. But I was the head of delegation from Djugu. From the south,
2 Germain was the leader. That was the situation at the time.

3 Q. Still in relation to your trip to Beni, I would like to backtrack
4 a little bit and I would like to reassure the Chamber and the parties
5 that we are still dealing with this issue.

6 Mr. Witness, during the direct examination of my learned friend,
7 you pointed out on several occasions that you were the chief, that it was
8 your responsibility to protect the civilians, the citizens, and when
9 those people complained that they were hungry, what were they going to
10 do? What were they going to think of you when they lacked medicines?
11 You said that people needed you to have food. You were surrounded. You
12 were in an enclaved area, and the members of the population were hungry.

13 Now, Chief Manu, isn't it a fact that the \$400 that you received,
14 you spent it on drink and food for yourself, you used it to buy clothes
15 for you and your wife? And when you returned to your groupement in
16 Bedu-Ezekere, in Zumbe, you no longer had a single dime with you? You
17 arrived empty-handed and you did not give any money to the members of
18 your population? Isn't that correct, Chief Manu, that you returned to
19 Zumbe empty-handed?

20 A. Mr. Prosecutor, you know how to count money and people.
21 I reached an understanding with the wise old men, and they did not say
22 anything bad about me. I distributed that money to the members of the
23 population, and I used what remained on the wise old men. There was
24 \$100, 200, 300, \$400. That amount of money cannot help a community which
25 is in a state of war. That is a very small amount of money that could be

1 used to buy tea for the chief.

2 Q. Chief Manu --

3 MR. FOFÉ: (Interpretation) I'm sorry, Mr. President, I believe
4 there is a small problem with interpretation. Line 20 of page 64, it
5 does not precisely reflect what Chief Manu said. I believe this can be
6 cross-checked in the edited version.

7 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Professor
8 Fofé. In order not to interrupt you, Mr. Prosecutor, we will allow you
9 to proceed and maybe clarify with the witness what he wanted to say on
10 line 20, page 64 of the French transcript.

11 Please proceed.

12 MR. MACDONALD: (Interpretation)

13 Q. Chief Manu, can you confirm that when you left Beni and arrived
14 Zumbe, you no longer had a single dime of the \$400 that you had received
15 in Beni? The entire amount had been spent for your personal needs as a
16 chief? Isn't that correct, Chief Manu?

17 A. Regarding this money, I discussed it with the wise old men.
18 I told them that I had used part of the money. What was remaining was
19 used according to what the wise men told me. They told me that what
20 remained could not do anything to help the members of the population.

21 Q. So to be clear, you did not give anything, you did not distribute
22 anything, to the members of the population? According to your testimony,
23 it is the old men, the wise men, who told you to keep the money? Is that
24 correct?

25 A. I briefed them about my trip. I explained to them how I had

1 obtained the money and how I had used it, and the wise men told me that
2 there was no problem. Even if I had come back with \$100, what could the
3 \$100 have been used for?

4 Q. Chief Manu, you were the chief. The members of your community
5 were dying of hunger. Couldn't you set aside what the wise men were
6 saying and give the money to the people who were suffering?

7 A. The people were mainly concerned with having peace. They did not
8 need money more than peace. Even if you gave them 10 billion, when they
9 are going through a period of unrest, that would not help them in any
10 way. What they needed was peace and calm. Even myself, if you give me
11 \$100,000 or \$500,000, and you put a rope around my neck, then that money
12 wouldn't help me in any way.

13 Q. Very well, Chief Manu, let's go back to your return to Aveba.
14 You took the aeroplane, and you explained the circumstances of your
15 travels by plane. We don't need to hark back to that matter of changing
16 places with Mr. Talika. We've heard that. My question is more direct.
17 Is it correct that Germain Katanga was on that plane when it went back,
18 that the two of you were together on that plane, with other people, but
19 he was there, Germain Katanga, was he not?

20 A. Yes.

21 Q. It is also correct that in the plane there was a shipment, cargo,
22 with some cartridges, bullets; is that correct, that there was ammunition
23 on board?

24 A. Yes.

25 Q. Is it also correct that there were rifles that went along with

1 the ammunition?

2 A. There were about five SMGs.

3 Q. It is also correct that there was food on board?

4 A. Yes.

5 Q. Chief Manu, there were other people in the plane who were going
6 along -- going on the trip with you and Germain Katanga, is that not
7 correct? Isn't that so? There were other people on the plane, other
8 than the pilots in the cockpit? We will get back to that later.

9 A. There was Pitchu, Sambi (* phon) and Oudo. The same Oudo -- it's
10 not the same Oudo as the one we were talking about earlier. It's another
11 Oudo that we met in Beni. Yes. The three people got on the plane but
12 they weren't part of our group.

13 Q. Witness, just a bit of an aside very quickly. In Olongba you
14 mentioned one Oudo, and in the plane and it was Oudo Jackson, wasn't it?

15 A. I don't know whether Jackson was his first name.

16 Q. And the Oudo in Olongba, that was another Oudo, wasn't it?

17 A. I know that he went by the first name of Moise, Moses, and he
18 played football in Mont Bleu, Oudo. As for Oudo Jackson, I don't know
19 that person.

20 Q. And Bedu-Ezekere is in Mont Bleu. So this Oudo person, was he
21 also playing football in that area?

22 A. No, no, no. Mont Bleu is the name of the football team in Bunia.
23 It has nothing to do with Bedu-Ezekere. It is a big team and they play
24 against other teams, such as Vijana and Baga (* phon). It is a football
25 team called Mont Bleu in Bunia and the man we are talking about now

1 played in Bunia. He never lived in Zumbé. His father is the principal
2 of the school in Sukisa neighbourhood in Bunia and he also played
3 football on the Mont Bleu team. Mont Bleu is not part of our area. It's
4 in Bunia. I know there is a chain of mountains referred to as the Blue
5 Hills but we are talking about a football team. In Bunia, not Zumbé.

6 Q. If we could hark back to that infamous trip in the plane. You
7 told us that you helped the pilot land, and to do so, you actually were
8 even seated in the cockpit with the pilot -- the pilots. Now, Germain
9 Katanga was in the aeroplane, Germain, the -- Germain Katanga was in
10 Aveba, Bolo. Is it your testimony that you and not Germain Katanga was
11 the one who guided the plane, that the pilots even needed your assistance
12 to land? To land that plane in Aveba on the landing strip, where there
13 is a camp just beside the landing strip?

14 Chief Manu, isn't it true that you never were in the cockpit?
15 You never indicated anything to the pilots so that they could land? And
16 once again, that is an utter fabrication on your part, a fabrication
17 here, that you've offered us here, under oath. And what's more, the only
18 reason, the only reason that you would have gone into the cockpit was to
19 have seen the smoke far away from Lagura. Chief Manu, do you agree with
20 me that you made this up, you made up this story about being in the
21 cockpit to guide the pilots?

22 A. Prosecutor, I don't agree with you, not at all, not at all. Let
23 me tell you this slowly. At the Beni airport, which is called the NRA
24 airport, there was a -- quite an argument, and a white person, I don't
25 know what his nationality was, showed us a map, a map, and asked us where

1 we were going, and the educated people amongst us, Pitchu, Samy, and the
2 others answered the man saying that we were going to Bolo. This white
3 man wrote on the documents, he wrote something in a language that
4 I couldn't understand, and he put the map on a table, and he looked at it
5 and he didn't see Bolo on the map.

6 At that time, I had come back from the hotel, from the hotel to
7 the airport, and I had a bottle of beer called Primus beer, and we were
8 told that we couldn't travel because the pilots hadn't been able to find
9 Bolo on the map. Bolo didn't have a landing strip, and I made fun of
10 them. I said to them, "You are just children. You are kids." They
11 wanted to answer back, and I said to my friends, "Well, you're smarter
12 than this white man."

13 I asked them to show me the map, and I said that they were
14 smarter than the white man. And then there was an English interpreter
15 beside him, and I said, "Sir, where are we now?" And he said, "Here."
16 The witness said this in English. "Here, Beni." And what did that mean?
17 Well, I asked and he said, "Here in Beni." And I said, "Well, show me
18 the Beni landing strip." And he said, "Here in Beni," in English. And
19 I said, "Fine."

20 I also asked him to show me Bunia on the map. It was hard to
21 understand the map properly. I asked him to show me Bunia on the map.
22 He took a pen and he said, "Bunia, here." He said it in English. And
23 I asked him to show me the Bunia airport. And he said, "Bunia" in
24 English. And I said, "Fine."

25 I asked him whether Geti was on the map. And he said, "Geti,

1 here." In English. And I said, "Bolo in Geti," and he said, "Oh, Bolo
2 in Geti" and he said, "Well this man is going to sit beside me in the
3 cockpit" because I had said Bolo, Geti. Bolo wasn't on the map but Geti
4 was on the map. Bolo and Geti. When I said that, the pilot said, "Okay,
5 you have the knowledge, you are going to sit beside me." I sat beside
6 him. It wasn't to see the fire from there. Prosecutor, you weren't
7 there. I was there.

8 Q. Chief Manu, take some time and drink some water. Chief Manu,
9 this entire explanation you just gave us, your presence in the cockpit,
10 guiding the pilots, you've just told us this. Do you remember that when
11 you met with the Office of the Prosecutor, you were asked questions about
12 that trip in an aeroplane, the trip to Beni, the trip back, Beni to
13 Aveba? Chief Manu, you had an opportunity to tell us about all of that,
14 about being in the cockpit, about giving the pilots directions. Isn't it
15 true that you never ever said anything about this when you met with the
16 OTP and my colleagues can confirm that because they have the transcript.

17 MR. KILENDA: (Interpretation) Your Honour?

18 PRESIDING JUDGE COTTE: (Interpretation) Mr. Kilenda?

19 MR. KILENDA: (Interpretation) For several hours, we have
20 remained silent and allowed the Prosecutor to intervene, but we are
21 really wondering what is the relevance about all these questions about
22 money being distributed to the villagers, about the witness being in the
23 cockpit? With all due respect, we just don't see the relevance. The
24 Prosecutor is taking us very far from the actual facts, the actual events
25 that have been brought before this Bench. I think we really need to get

1 down to brass tacks, to cut to the chase. I think we would have finished
2 with this witness yesterday.

3 Your Chamber, here, you have been reminding all of us that what
4 counts is what the witness tells us. I would stress that Chief Manu's
5 statements in Entebbe to the OTP, well, he was not under oath. Here, he
6 is now under oath here. And here is the place. He is telling the truth.
7 And often witnesses will give details that they did not reveal to a
8 Defence team or to a Prosecution team during preliminary investigations.
9 So there you have it. We sincerely think that the Prosecution is really
10 taking us very far away from the matter at hand.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Kilenda.
12 The Chamber has not lost sight of the various issues you have raised. We
13 are concerned. We do want the proceedings to deal with the most relevant
14 matters. But we cannot deprive the Prosecution of their opportunity to
15 bring out or speak to the credibility of the witness giving testimony, be
16 it this witness, witnesses who have testified, or witnesses who will be
17 testifying in the future. This is what the Prosecution has been doing.
18 The Prosecutor shall continue, but we do hope that the proceedings will
19 focus on essential points and we believe -- we suppose that this is
20 essential for you.

21 Mr. Fofé.

22 MR. FOFÉ: (Interpretation) Thank you, your Honour. To follow
23 up on what Mr. Kilenda said I would just like to add the following, and
24 really it's more of a question. When the Prosecutor had the interview
25 with Chief Manu in Entebbe, did he ask him specifically why he had been

1 at one particular spot inside the plane? Was the question put to him?
2 I think this is what we need to check, because you can't ask a witness to
3 talk about everything and nothing at all. The witness has to -- the
4 person has to answer the questions put to him.

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you. These
6 comments are in addition to your earlier comments when the Prosecution
7 was focusing on a discussion in Entebbe in 2009, and he wished the
8 witness to confirm or not confirm what he said, and the witness said that
9 he had not talked about some of those things because he had not been
10 asked questions about them.

11 MR. MACDONALD: (Interpretation)

12 Q. The aircraft landed, not the first day, you went back to Beni and
13 then back to Aveba, and the landing strip was cleared of some people who
14 were bothersome. We've understood that. Now, is it correct that the
15 load was taken off the aeroplane, particularly the weapons and the
16 ammunition? Am I correct to say that they were taken to the house of
17 Germain Katanga?

18 A. The following day -- I wanted to say the second day but I'm
19 afraid you might think it was Tuesday, so I'll say the next day, because
20 I do have confirmation. Sometimes you write things down incorrectly, the
21 things that I say. We missed the first landing, but the second one --
22 and you see there were boxes of ammunition taken out of the aeroplane
23 including boxes of food but that really didn't concern me. The same day,
24 the brother, Germain Katanga, before the aircraft returned, he shot at a
25 cow and we took the meat from the cow and we put it in the aircraft and

1 the aircraft took off again. There was a problem between me and (*
2 inaudible) about the bullet.

3 Q. Chief Manu, my question is very simple. When the aircraft
4 finally landed from Beni, is it correct -- is it correct that ammunition
5 and guns were unloaded? My question is as follows: Is it not correct as
6 well that the ammunition and the guns were taken to the home of Germain
7 Katanga? That's my question. The whole thing about the cow, we can come
8 back to that later but let's focus on my question. It's very simple,
9 very specific. Please answer.

10 MR. O'SHEA: Mr. President, your Honours, I'd just like to --
11 sorry. I'd just like to invite my learned friend, in fact, not to ask a
12 leading question on this specific point. Of course, cross-examination is
13 allowed to ask leading questions. I understand that. But, your Honour,
14 yourself made an indication earlier today that points which were not
15 covered in examination-in-chief should not be the subject of leading
16 questions in the context of incriminating material, and I would agree
17 with that on the basis that this is information which the Prosecution has
18 obtained by virtue of an interview with this witness, has therefore -- so
19 this is not information which has been obtained, as it were, subsequently
20 in the context of this person not in any sense being a witness of the
21 Prosecution. This is a situation where the Prosecution has interviewed
22 this person in the past, quite elaborately, and in those circumstances,
23 I would suggest that it would be more appropriate to ask a non-leading
24 question on this kind of point.

25 MR. MACDONALD: (Interpretation) Briefly with your leave.

1 PRESIDING JUDGE COTTE: (Interpretation) Briefly you may
2 respond.

3 MR. MACDONALD: (Interpretation) Your ruling 1665 is entirely
4 clear. The Prosecution is cross-examining the witness. The witness
5 understands the questions just fine. He is in a position to agree or
6 disagree. There was the remark earlier, and you see they are taking
7 advantage of this because this is a change to the rules except that --
8 except -- except the witness can answer. He either agrees with me or he
9 doesn't.

10 What's more, your Honour, their advance -- I know -- I am trying
11 to provide closed-ended questions, and the witness is divergent in his
12 question (* as interpreted), not answering questions that are clear and
13 specific. Given that context, the witness is giving his answer and if he
14 says no, that the ammunition were not taken to Germain Katanga's home or
15 the guns, he will answer, he will give his answer. And if we want to
16 counter or contrast that with what he said earlier, well -- but right now
17 I'm asking him a very simple question and I'm not beating about the bush.
18 I'm being very straightforward and plain.

19 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor, we -- no
20 one has been contesting ruling 1665 or paragraph 73, which deals with the
21 leeway allowed parties during cross-examination. We would just wish to
22 remind everyone this morning that when the question was asked about the
23 relevance of the testimony that you -- or, rather, the interview that you
24 had in 2009 with the witness, now, it was wise -- Professor Fofé, it was
25 wise to remember -- with regard to Mr. Germain Katanga to remember the

1 examination-in-chief and to focus on what was said during
2 examination-in-chief, and the role of Germain Katanga.

3 Of course, you can ask your questions. Ask them carefully,
4 bearing all of this in mind and bearing these -- this framework or
5 this -- these restrictions. You will have time to hark back to comments
6 that the witness may have made about Germain Katanga's role. But right
7 now, I believe we are now asking questions about a trip, the return trip,
8 and the possible existence of weapons and ammunition and the place where
9 the weapons and ammunition were stored. These are questions that have
10 already been brought before the Chamber when other witnesses gave
11 testimony.

12 So we shall now resume, calmly, on this particular point, and
13 I hope everyone shall recall ruling 1665, the content of the initial
14 examination-in-chief, and I think this really will be common ground that
15 we can base ourselves on.

16 Professor Fofé, you absolutely wish to speak right now?

17 MR. FOFÉ: (Interpretation) I apologise, your Honour. I can't
18 raise the same matter after you've spoken to it, but, rather, I'd like to
19 challenge what the Prosecutor just said, page 75, lines 27 and 28. The
20 Prosecutor said that the witness is all over the map, so to speak.
21 I don't agree at all. I think we have to be fair to the witness,
22 Chief Manu.

23 Chief Manu is answering clearly. He's giving clear answers to
24 clear questions. He's not all over the map. He's -- he has given a lot
25 of information to the Chamber, and I think we really should be fair to

1 him. He is not all over the map. It is up to the Prosecutor to ask him
2 specific questions so that he can give specific answers for the Chamber.
3 So there you have it, your Honours. I thank you.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Professor
5 Fofé. The Prosecutor is responsible for -- and at the appropriate time
6 we will give the appropriate probative value to the witness's replies.

7 Prosecutor, please proceed. You still have half an hour.

8 MR. MACDONALD: (Interpretation)

9 Q. The weapons and the ammunition, what happened with the ammunition
10 and the weapons and all the bullets you received? Where were they taken
11 to? It's an open-ended question.

12 A. Everything that was unloaded off of the aircraft was left at
13 Germain Katanga's residence. After that, I don't know where the shipment
14 went. My answer is based on what I saw, since I was there.

15 Q. Witness, you agree with me, do you not, that there also was a
16 number of combatants there waiting for Germain Katanga? Do you remember
17 that, that there were people from other areas, there were commanders,
18 rather, who were waiting for him, from other regions?

19 A. Yes.

20 Q. Do you agree with me that Yuda was there?

21 A. Yes, yes.

22 Q. Do you agree that Safco was there?

23 A. We arrived with him on the plane.

24 Q. And so they were waiting for Germain Katanga, they were awaiting
25 his arrival, weren't they?

1 A. I was with Safco since Beni. With regard to the others, those
2 who were there, we found them in -- when we arrived. They were waiting
3 for our plane to land.

4 Q. Were there other commanders besides Yuda and Dark who were
5 waiting for that plane to arrive?

6 A. Prosecutor, there were a lot of young people. I was not able to
7 know which group each of them came from. There were many of them. I
8 don't know how they had organised themselves. With regard to Geti, I
9 cannot tell you with any certainty. If it had been Zumbe I could have
10 told you it was this person, that person, the other person or someone
11 else, but I can tell you that when we disembarked, they unloaded bullets
12 and they took that to Germain's place and even the supplies that were
13 there, the oil. And it was at that point that I asked, with regard to
14 the question of who these people were, I didn't know. We were in a
15 difficult situation. I wasn't able to say to people, "Where do you come
16 from? Where do you come from, and where do you come from?"

17 Q. Is it correct that of those who were waiting, they were there for
18 the very purpose of sharing out that ammunition and those weapons that
19 were arriving so that they would be shared out among all of the teams?

20 A. Yes, their objective was to share it out. And that is why I also
21 wanted them to give me my share.

22 Q. Chief Manu, you mentioned that you received cartridges. Is it
23 not correct that at the outset, Yuda and Dark and Safco and the other
24 combatants who were there did not want you to receive any, they did not
25 want things to be shared out with you?

1 A. Yes.

2 Q. Even better than that, at the beginning, Germain Katanga didn't
3 want to give you anything or share anything out with you because he said
4 clearly that you were not a combatant, you were a civilian, and that is
5 why he only wanted to give out cartridges to fighters or to young people,
6 let's call them young people, from your groupement and not to you
7 personally because you were not a combatant?

8 A. That is not how it was. I did not say that it was because I was
9 not a combatant. And that is why Germain Katanga did not want to do so.
10 I did not talk to Germain Katanga to tell him that my young people had to
11 come. Germain Katanga took pity on me and he went to give me some. The
12 young people I called upon because I had been informed that they were in
13 Kagaba.

14 Q. Chief Manu, am I correct when I put it to you that formerly when
15 you were questioned on this subject by the Office of the Prosecutor, you
16 said to Germain indeed that at your home, everything was burning, that
17 there had been a war, and that that was why you were asking for
18 cartridges? Is it true that Germain, Mr. Germain Katanga, said to you,
19 "Give us fighters here. If there are none, then I won't give out
20 anything"?

21 A. That is true. That is why I asked the young people from Kagaba
22 to come.

23 Q. It is clear that Germain Katanga did not consider you at all as
24 being a combatant or a person who was participating in self defence, call
25 it what you want, a soldier, a combatant, a militiaman. For him you were

1 a civilian; isn't that right?

2 A. He did not say that to me. He didn't say it to me in those
3 terms. In Beni, there was Sandina (* phon) and others who said that
4 I would not be able to participate in the meeting of combatants because
5 I was not a combatant. But in Bolo, Germain did not say that to us. He
6 did not say to me that I was a civilian or not a civilian. That is not a
7 phrase that I heard from his mouth. He was calm, he was fairly silent.
8 He would say a word here or there and then he would fall silent, and that
9 is why I began to get irritated with him at one point, he would say
10 nothing. I would speak, then he would say nothing. He would then say a
11 single word. He would fall silent again. He would give out another word
12 and then he would fall silent. That's how he would speak, and that's why
13 I was getting annoyed but it was difficult for me also to get annoyed.
14 Everybody was making noise but he spoke very calmly and very slowly.

15 Q. Chief Manu, how did you communicate with people in Kagaba? If
16 I put it to you that it was using devices of the kind known as Cobra,
17 would I be correct? Small radios, little black radios with an antenna
18 that were called Cobra? In French we call these talkie-walkies, which
19 makes me smile because in English it's walkie-talkies.

20 A. Yes. They were small green devices. When you talk about black,
21 well, perhaps that was just the colour. Yes, these were small devices
22 which were there and we did call them Cobra, yes, and there were young
23 people who had these devices.

24 Q. And did these young people mention where they had got these small
25 radios? Could you perhaps tell the Chamber that now? Where had they got

1 these radios?

2 A. They got them in Nyankunde, they got those devices in Nyankunde.

3 Q. Is it not correct, Chief Manu, that these Cobra communication
4 devices had been stolen during the APC attack of Kandro and Ngiti upon
5 Nyankunde; isn't that right? You -- did you learn that at that time from
6 those young people?

7 A. I did not talk about a theft, as you mention, from Nyankunde. It
8 was not -- I had no reason to ask, "Did you steal these things in
9 Nyankunde?" No. They asked me to help me, and they said that they had
10 got them in Kagaba. I heard that these young people were there. I asked
11 if the young people could be brought down. I didn't ask them, "Did you
12 do any stealing? Did you steal these devices in Nyankunde?" I was not
13 able to ask them that and it was not my objective to do so. What
14 I wanted, I had to have my young people come down to where I was to help
15 me. That's all. Because I was alone. This matter of a theft in
16 Nyankunde is something that we didn't talk about. I can't say anything
17 about a theft in Nyankunde. If I were to talk about theft in Nyankunde,
18 they could kill me over there even though I'm a Lendu, their brother.

19 Q. Chief Manu, you mentioned -- and we will finish with the point on
20 this. You mentioned that you got to Aveba in the plane, that there were
21 commanders from other regions and combatants who were present, who were
22 waiting for that plane to arrive, and the bullets, the cartridges, the
23 weapons, were shared out then. Chief Manu, I've understood that Germain
24 Katanga was the chief, wasn't he, in Aveba? You'd agree with that,
25 wouldn't you? In Aveba itself. Let's begin by Aveba.

Witness: Witness DRC-D03-P-0088 (Resumed) (Open Session)
Questioned by Mr. Macdonald (Continued)

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1 A. Mr. Prosecutor, I have already told you several times, the chief
2 was Germain Katanga. The five guns and the boxes of bullets and the
3 supplies -- I don't know how many times I have to say this to you. I've
4 already repeated it to you. How many times do I have to say it so you
5 understand me?

6 Q. Well, just to be clear, Chief Manu, you would agree with me,
7 would you not, and I'm asking you this, was his authority limited to
8 Aveba or was his power --

9 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea?

10 MR. MACDONALD: (Interpretation) Did his power go further than
11 that?

12 PRESIDING JUDGE COTTE: (Interpretation) Mr. O'Shea?

13 MR. O'SHEA: Yes, I have an objection at this stage, and it's a
14 substantive objection. I think it would be appropriate if it was made in
15 the absence of the witness because I don't want it to be felt that I was
16 in any way attempting to influence the witness.

17 PRESIDING JUDGE COTTE: (Interpretation) All right. Witness, as
18 far as your testimony for today goes, we will bring it to an end now. We
19 will see you again tomorrow morning at 9.00.

20 Court Usher, could you please escort the witness, Chief Manu, out
21 of the Chamber?

22 (The witness stands down)

23 PRESIDING JUDGE COTTE: (Interpretation) See you tomorrow.

24 Mr. O'Shea, please go ahead.

25 MR. O'SHEA: Yes. In support of my objection, I didn't know if

1 I was going to get to this point or not, but I anticipated that we might
2 get to this point, and that is why I distributed two authorities earlier.
3 I think there may still be some people in the room that don't have a
4 copy. Perhaps that could be taken care of. But we have reached the
5 point.

6 I thought that the Prosecutor might restrict himself to using the
7 interview which he had with Chief Manu to impeaching the witness, but
8 apparently it's gone beyond that and the Prosecutor is now using the
9 information that he obtained in that interview with the purpose of
10 incriminating Germain Katanga. And, your Honours, in my submission,
11 there is a line, and the question is where is that line to be drawn?
12 Your Honours will have noticed that we've allowed a number of questions
13 with regard to Germain Katanga, and his role in the context of the way
14 the evidence has gone forward, but there is a line to be drawn.

15 Obviously I concede that decision 1665 is an important decision
16 and forms the basic foundation upon which we have been operating our
17 procedure in this court. A few days ago, Mr Macdonald described it as a
18 Bible, and I accepted that nomenclature but, in fact, it's not so much
19 the gospel as the doctrine, because the gospels are, of course, the
20 Statute and the Rules. This court, like the Special Court for Sierra
21 Leone, but unlike the other ad hoc tribunals, has not regulated in the
22 Statute and the Rules with precision the scope of cross-examination and
23 where the lines are to be drawn. And that is why I've drawn to your
24 Honours' attentions two authorities from the Special Court for Sierra
25 Leone, one in the case of Taylor and one in the case of Fofana.

1 Now, the difficulty with what we have here is that this is not a
2 situation where this is not the Prosecution's witness, the Prosecution
3 does not know what this witness is going to say, and the Prosecution is
4 on the same footing as counsel for Germain Katanga. That is not the case
5 here. This is an exceptional situation. This is a situation where the
6 Prosecution has gone to meet this witness, apparently as far back as --
7 the first contact apparently is in June -- sorry, in February, 6th of
8 February, 2009, and gone through this particular witness, had an
9 interview with him at length on a number of issues, including
10 incriminating matters relating to Germain Katanga. And decision 1665
11 itself makes itself subject to the Statute.

12 It, itself, refers to Article 64(8)(b). And so, it goes without
13 saying that it does not take away from this Chamber the power and the
14 duty to control the fairness of the proceedings.

15 And we can mention here as well, 64(2), and 69(4) where we have
16 regard to the issue of prejudice and probative value.

17 Now, it's important to understand the factual context of the
18 disclosure of this interview to the Defence. This interview was the
19 subject of a decision of your Honours on the 25th of August of 2009. The
20 Prosecution, having first made contact with the witness in February of
21 2009, put in a motion in August of 2009 with a view to the Chamber
22 allowing it to disclose that interview of Chief Manu, not as
23 incriminating material but as exculpatory evidence.

24 And your Honours, in that decision, noted two important facts.
25 First of all, at paragraph 9 of the decision, the decision to allow the

1 disclosure of this exculpatory material, your Honours noted that since
2 this was essentially material of an exonerating nature, according to the
3 Prosecution, your Honours also noted at paragraph 10 of that decision
4 that there had been no objections from the Defence to the disclosure of
5 that material. Obviously, had we been informed that the Prosecution had
6 the intention of using that material for the purpose of incriminating
7 Germain Katanga, we would have had objections at that time. So, in other
8 words, there was a representation on the part of the Prosecution that
9 this was being disclosed as exculpatory material and the Defence relied
10 on that and, it would appear today, possibly to its detriment.

11 Your Honours will be aware that it is a general principle of
12 international law, the existence of the principle of estoppel, if someone
13 makes a representation to the detriment of another and that
14 representation is relied upon, then that may be a factor which criminal
15 courts can rely on in exercising their discretion and we are here dealing
16 with a question of discretion.

17 So here we have this interview which was disclosed as exculpatory
18 material. The Prosecution has never put us on notice that they intended
19 to use the interview of Chief Manu to incriminate Germain Katanga.

20 According to other decisions that your Honours have made, it was
21 incumbent upon the Prosecution to disclose that interview as
22 incriminating material in its table of incriminating material. I refer
23 your Honours to decision 846 of the 23rd of January, 2009, and decision
24 956, dealing with the table of incriminating evidence. And it's noted in
25 that decision that the Chamber decides that after filing the table of

1 incriminating evidence, the OTP shall seek leave of the Chamber before
2 adding any new item of evidence, providing reasons, et cetera, et cetera.

3 So what I'm essentially saying, your Honour, is that while under
4 normal circumstances a Prosecutor has liberty in cross-examination to
5 deal with matters relevant to its case, and that is confirmed in decision
6 1665, and that's all very well, that is still subject to the fairness of
7 the proceedings. And we have the right to be treated in this joint trial
8 in the same manner as if we would be treated in a separate trial.

9 And in a separate trial, the Prosecutor would have to make
10 choices about the witnesses it was going to use once it had interviewed
11 those witnesses. It would have had to disclose to us, if it wished to
12 use this witness for the purpose of our incrimination. It would have had
13 to disclose to us that fact, given us that notice. We would have then
14 treated this witness as an incriminating witness. We would have
15 distributed our resources accordingly, done our investigations
16 accordingly, divided up our time accordingly, and, indeed, we would have
17 cross-examined accordingly.

18 Your Honours will note that following the examination-in-chief of
19 this witness, Chef Manu, we were accorded the opportunity to ask
20 questions of him. At that point in time, we had no reason to challenge
21 his credibility as a witness. And we did ask questions, but we asked
22 questions from the view point that he had not been incriminated by the
23 second accused -- sorry, yes, by the second accused.

24 So here in this joint trial, if the Prosecutor is allowed to go
25 into areas which I would describe as fresh evidence which incriminate

1 Germain Katanga on the basis of an interview that they have elaborately
2 conducted, which gives them a procedural advantage over the Defence for
3 Germain Katanga, then that, in our respectful submission, would not be
4 fair.

5 The area of evidence that we are dealing with now is essentially
6 a question of the authority of Germain Katanga. And it is a question
7 which is not just coming out of the sky. It is a question which the
8 Prosecutor is asking because it is a question which the Prosecutor has
9 asked before, in its interview with this witness. And at the time that
10 it asked the question, it used leading questions at the time of that
11 interview.

12 And your Honours will find the appropriate part of the
13 transcripts at DRC-OTP-1043-0308. And there you will see that the
14 Prosecutor asks questions about the limits of Germain Katanga's
15 authority, whether it is limited to Aveba or it extends to other places.
16 And receives responses from the -- from the witness with regard to --
17 with that particular regard.

18 Now, that is not the same situation as a matter which has been
19 dealt with in chief and is being elaborated on by the Prosecution.
20 Nowhere in the themes given by the team for Mr. Ngudjolo -- right,
21 nowhere in the themes given by Mr. Ngudjolo is there mention of the
22 extent of the authority of Germain Katanga within Walendu-Bindi, and at
23 no point does the Prosecution give us notice that that is a matter that
24 they are going to pursue with this witness.

25 So in my respectful submission, it is inappropriate and unfair to

1 allow this line of questioning at this stage of the proceedings. It
2 wrong-foots the Defence and it puts them in a different position than
3 they would otherwise have been in a separate trial.

4 PRESIDING JUDGE COTTE: (Interpretation) Thank you Professor
5 Fofé -- excuse me. Thank you, Mr. O'Shea. I apologise.

6 Well, we can observe that your objection arose at the exact time
7 at which a very precise question was asked. It was at that instant that
8 you stood up to expound your objection. So Mr. Prosecutor will have to
9 answer your objection tomorrow morning. He will do so tomorrow at 9.00,
10 9.05, 9.10, once you have given us your comments on the application
11 concerning the expert evidence that I mentioned this morning because that
12 is another urgent matter that we need to deal with. It's entirely
13 different in nature but we do need to deal with it.

14 So, Mr. O'Shea, you can continue tomorrow morning. Prosecutor,
15 you will respond. Perhaps in responding, the questions which you
16 envisage asking will perhaps slightly change in nature. We will see that
17 tomorrow morning.

18 We will now rise. We will meet again tomorrow morning at 9.00.

19 The hearing ends at 1.29 p.m.

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