

1 International Criminal Court

2 Trial Chamber I

3 Situation in the Democratic Republic of Congo - ICC-01/04-01/06

4 Case against Thomas Lubanga Dyilo

5 *(Hearing - Closed Session) Reclassified as Open session.

6 Wednesday, 25 March 2009.

7 (Mr. Lubanga entered court)

8 The hearing starts at 9.31 a.m.

9 COURT USHER: All rise. The International Criminal Court is now
10 in session. Please be seated.

11 PRESIDING JUDGE FULFORD: Good morning.

12 Can we go into public session, please.

13 (Open session at 9.32 a.m.)

14 COURT OFFICER: Open session.

15 PRESIDING JUDGE FULFORD: Mr. Sachdeva, in relation to the
16 witness who is to come, Witness 17, am I right in concluding that what we
17 have essentially been provided with is a large file which I now hold up
18 of interview transcripts which do not have any kind of witness statement
19 accompanying them?

20 MR. SACHDEVA: That's right, Mr. President.

21 PRESIDING JUDGE FULFORD: Right. Now, we've touched on this
22 subject before and we're now going to return to it, Mr. Sachdeva, not in
23 any way to castigate the Prosecution now but to indicate that our
24 unequivocal view for the future, as far as this Bench is concerned, is
25 that if individuals are interviewed and following the interview or

1 interviews a decision is taken to call that individual as a witness, then
2 unless there are exceptional circumstances a witness statement should
3 then be compiled which sets out the main factors which the Prosecution
4 submit are relevant to the case that they intend to present at trial.
5 Because otherwise the Judges and the Defence and any participating
6 victims have to go through a voyage of discovery through these documents,
7 trying to work out what it is that the Prosecution are intending to rely
8 on for the purposes of its positive case.

9 Now, as I say, we are all learning. This is not meant as
10 criticism. This is meant as a helpful observation for the future.

11 MR. SACHDEVA: Yes, Mr. President. And thank you for that.
12 Might I say that the interview was conducted pursuant to Article 55(2)
13 and therefore it was audio and video-recorded. What I would say is that,
14 and I understand this may have been done in this --

15 PRESIDING JUDGE FULFORD: That's not the point, Mr. Sachdeva,
16 that there may well be an audio and a video-recording, that doesn't make
17 our task any easier, when we do our work prior to coming into Court
18 trying to understand what on earth this -- and we are told that this is a
19 lengthy witness, what on earth this witness is about.

20 MR. SACHDEVA: Yes, Mr. President, I understand and I was going
21 to say that I understand that prior to the case commencing a summary of this
22 witness's evidence was provided to the Chamber and the parties,
23 indicating which parts of the document containing the charges the
24 evidence goes to. I do know that in other ad hoc Tribunals prior to or
25 when you provide the witness list to the Court and to the parties, what's

1 called a 65 ter summary is provided whereby there is exactly what your
2 Honours are suggesting, a summary of the evidence that is significant for
3 the case at hand, the paragraphs of the indictment, and the pre-trial
4 brief to which the evidence goes to. And, therefore, it can be a
5 suggestion in the future that this is undertaken as part of the Court's
6 procedure.

7 PRESIDING JUDGE FULFORD: No, that's not what we are suggesting.
8 These are interviews sometimes conducted when a person is a suspect, and
9 at a later stage a decision is taken to call that individual to speak to
10 particular events as the truth in Court before the Judges. Our view is,
11 it is not satisfactory to simply provide a summary. If the witness is to
12 be called as a witness of truth, he or she needs to set out the relevant
13 matters in a properly prepared witness statement which ends with the
14 declaration that what is said in the witness statement is true and that
15 the witness understands the consequences if they have said something
16 which is not true. And so we can't bind other Chambers, Mr. Sachdeva,
17 but as far as these three Judges are concerned, as has happened with some
18 of the other witnesses who have been called before us, there should be a
19 witness statement.

20 MR. SACHDEVA: Yes, Mr. President, I'm guided.

21 PRESIDING JUDGE FULFORD: Good. Thank you.

22 As I say, forcibly stated but not meant critically, Mr. Sachdeva.

23 Now, next the issue of names and the use of names in the
24 Democratic Republic of Congo. Have you had an opportunity of discussing
25 this matter with Maitre Mabille and, what I'm really interested in, are

1 there any useful conclusions following any conversations?

2 MR. SACHDEVA: Mr. President, we did briefly discuss it with the
3 Legal Representatives and the Defence, and at that point the consensus
4 was we would wait and see what Mr. Prunier would have to offer, whether
5 he feels it was within his competence to discuss matters of that kind, and
6 thereafter if we were to get a negative response we would then see how it
7 would proceed.

8 PRESIDING JUDGE FULFORD: Thank you. Would you have any
9 objection to the filing that came in from Mr. Diakiese and Mr. Keita
10 being supplied to Mr. Prunier?

11 MR. SACHDEVA: No objection.

12 PRESIDING JUDGE FULFORD: Thank you. And I'll inquire of Maitre
13 Mabille in a moment.

14 Finally, therefore, protective measures so that there's no
15 misunderstanding, these are voice and face distortion with the identity
16 of the witness being withheld from those who are metaphorically, if not
17 literally, the other side of the glass divide. Is that right,
18 Mr. Sachdeva?

19 MR. SACHDEVA: Yes, that's right, Mr. President.

20 PRESIDING JUDGE FULFORD: So the curtains to remain where they
21 are, and the witness to come in and out of court in the presence of the
22 accused?

23 MR. SACHDEVA: Yes.

24 PRESIDING JUDGE FULFORD: Thank you very much. Very helpful, Mr.
25 Sachdeva. Anything else you want raise?

1 MR. SACHDEVA: Yes. One thing. Are we commencing straight away
2 with the witness because there was a matter of my -- of me reading out the --

3 PRESIDING JUDGE FULFORD: One of the reasons we've gone into public session
4 is so that you can read out those parts of the statements that you wish to.

5 MR. SACHDEVA: Thank you.

6 PRESIDING JUDGE FULFORD: Pause for a moment, please, Mr. Sachdeva, because
7 I want to see whether Maitre Mabilie objects to Mr. Prunier having the
8 filing from Mr. Keita and Mr. Diakiese so as to point him in the right --
9 possibly to point him in the right direction?

10 MS. MABILLE (interpretation): I have no objection, President, as
11 this is a public filing. I still, as you also mentioned yesterday, I am
12 still rather surprised at this application, and I would like the Legal
13 Representatives of Victims to understand they are not amicus curiae or
14 experts, and this type of request can't be made in this way in future
15 during this trial. It's important for us to emphasise that, it is not
16 proper. Thank you.

17 PRESIDING JUDGE FULFORD: Thank you very much, Maitre Mabilie. I
18 rather gently tried to give that indication yesterday.

19 Good. Do you want to read into the record, therefore,
20 Mr. Sachdeva, those parts of the last witness from yesterday who the
21 Prosecution -- which the Prosecution particularly rely on?

22 MR. SACHDEVA: Yes, Mr. President, and I would just stress that
23 we intend to rely on the full statement, but --

24 PRESIDING JUDGE FULFORD: You're absolutely right. That needs to
25 be said, Mr. Sachdeva, so that there's no misunderstanding hereafter.

1 The entirety of the statement of this witness and the preceding witness,
2 the entirety of those statements are evidence in the case. The excerpts
3 now being read out are excerpts that are being provided to the public for
4 the public's benefit.

5 MR. SACHDEVA: Yes.

6 PRESIDING JUDGE FULFORD: Thank you.

7 MR. SACHDEVA: I'm going to commence at paragraph 20.

8 "Officially," and this is in relation to Witness 43,
9 Mr. Kabasele.

10 "Officially, I am a national legal officer -- I am a national
11 legal service officer awaiting transfer, i.e., awaiting a new posting,
12 but I still have the title of Tribunal de Grand Instance President;
13 although, I do not perform any duties. I have been in Kinshasa awaiting
14 my assignment for more than two years."

15 Paragraph 26 entitled: Justice under the UPC.

16 "The UPC's minister of justice was Tshibengabo, a former
17 president of the TGI in Bunia. He is from the Kasai Orientale. It was a
18 way of showing that the government included people who were not from the
19 region. In reality, though, such people had no authority. Decisions
20 were taken elsewhere. Tshibengabo had no choice in accepting the
21 position. At the time, he was the principal private secretary to Uringi
22 Padolo who is now a senator. He was a lawyer, and he told me that he had
23 not been consulted when he was appointed and that he could not refuse
24 because that would be interpreted as meaning he was against the UPC.

25 The legal system did not work well. With some of the case files,

1 the people liable to prosecution lived in neighbourhoods we could not
2 enter. If the complainant was a Lendu and the culprits Hemas, I could
3 not enter Hema neighbourhoods or Hema villages and vice versa. It was
4 therefore extremely difficult to investigate ethnic-based crimes. One
5 day, we arrested six people for murder and some armed Ugandan soldiers
6 came straight into the Court in mid-hearing to halt the judicial
7 investigation and break things up.

8 When the UPC took power in Bunia, they released those of their
9 members that we had arrested from prison. We did not have any personal
10 security and we could not work. Output diminished greatly. When the UPC
11 took power, Lubanga was not present in Bunia and Lonema and Litsha were
12 coordinating UPC activities, mostly Lonema. He was referred to as the
13 coordinator. They started meeting with the chiefs of various
14 administrative departments and since they did not get in touch with me I
15 asked for a meeting with them. In the presence of Pierre Antoine,
16 MONUC's political officer, all of the legal service officers met with
17 Lonema, Litsha, and some other people.

18 Following the UPC's take-over, we were not able to discuss
19 matters with Beni, Kisangani, or Kinshasa anymore. They told us to
20 forget Kinshasa. In principle, cases are tried in the first instance in
21 Bunia. The Appeals Court is in Kisangani and for judicial review
22 applications, the case has to be referred to Kinshasa where the country's
23 only Supreme Court of Justice is.

24 The UPC did not want things to work like that, and they told us that
25 they were going to work their way. They wanted us to select cases and

1 were not supposed to punish everything. Litsha, whose father had just been
2 killed, told me that we were -- we were not to take up all cases. Lonema
3 told me that power came from guns and not codes. The UPC distrusted the
4 legal system. They asked us to stop dealing with certain case files. Such
5 was the case with the murder of the ICRC employees. We did not take on the
6 case because we knew that was extremely dangerous, especially as certain
7 rumours had it that the Hemas were responsible. After meeting with
8 Lonema and Litsha, they told me to re-open the Court and said they would
9 provide security, so warily we re-opened.

10 The Hemas sought to dominate other ethnic groups. I had friends
11 among the Hemas, but none within the UPC. I got on well with the Savos,
12 but when they took power they turned against me. They were not part of
13 the official system but as financiers they were extremely powerful.
14 There was Savo Manasse, the brains, the architect. And then there was
15 Savo Mafuta, the one who carried out the orders and handled public
16 relations for the family. He was the one, for example, who used to come
17 and talk to us at the Court. Savo Parke was the financier. They are
18 related to Lubanga, and it was them that funded him in the early days. I
19 do not know how they are related but it is closely.

20 When Ugandan soldiers reached -- searched the Savos' home after driving the
21 UPC out of town, they uncovered large quantities of arms and ammunition.
22 The Ugandans performed the search, but I was not there when the search
23 was carried out. The Savos wanted the UPC to give them the easy life
24 with custom -- customs duties. They used to import oil products and
25 cigarettes and so could make huge profits.

1 At around 12 o'clock on the 30th of November, I was in the prison.
2 Nembe came to tell me that I had been released but that beforehand I was
3 going to have an interview with Rafiki to be explained the situation. On
4 Nembe's orders, I was received by Rafiki on the 2nd of December in his
5 office in Bunia in the residential neighbourhood in a home built on to
6 the official residence of the Court president. He advised me to be wary
7 of whom I spoke to and walked around with. He told me that since UPC had
8 lost a lot of men because of Molondo, my friend, the UPC soldiers thought
9 I was a person passing on their war plans and that I should be shot. He
10 told me that the decision to arrest me had come from the parties' top
11 hierarchy, though he did not go into greater detail; whereas, the desire
12 to shoot me came from the soldiers. The top hierarchy had made and
13 decided to arrest me for investigation purposes because I was an
14 important public figure. To me, top hierarchy meant a decision from
15 Thomas Lubanga, but I do not know who attended the meeting. Rafiki
16 confirmed that it was on Thomas Lubanga's instructions that he ordered
17 Nembe to arrest me.

18 Throughout my stay at the DGM, two officials from Save the
19 Children non-governmental organisation (NGO) were being held in the prison.
20 The UPC accused them of transferring two Rwandan children who had been in
21 Ituri to Rwanda without authorisation from the UPC. I do not know why
22 the two or three villagers had been arrested."

23 And that completes the read-out, Mr. President.

24 PRESIDING JUDGE FULFORD: Thank you very much, indeed,
25 Mr. Sachdeva. That's very helpful.

1 One last issue, Mr. Sachdeva, before the witness comes in. We
2 have now received a fairly considerable number of documents - I'm not
3 saying that in any way critically - from the Defence which currently bear
4 an MFI characterisation. You will need to reflect on whether you object
5 to any of the documents being trans.. -- or having a different EVD
6 characterisation. I'm not going to put you on the spot now, but we
7 shouldn't leave this as an ever-growing pile of MFI documents. So
8 perhaps on Friday afternoon could you inform the Chamber whether there
9 are any documents submitted so far by the Defence during the course of
10 their questioning that you object to receiving an EVD number.

11 MR. SACHDEVA: Yes, we can do that, Mr. President.

12 PRESIDING JUDGE FULFORD: Thank you very much indeed.

13 Closed session, please, so that the witness can come into Court.

14 *(Closed session at 9.51 a.m.) Reclassified as Open session.

15 PRESIDING JUDGE FULFORD: Maitre Mabilille.

16 MS. MABILLE (interpretation): I would like my colleague,
17 Mabanga -- before the witness arrives, I'd like to tell the Chamber that
18 my learned colleague, Mabanga, wanted to make a request because he would
19 like to withdraw the application he'd made Monday.

20 PRESIDING JUDGE FULFORD: Thank you very much, Maitre Mabilille.

21 Of course if he wishes to withdraw it, he may. Yes, thank you very much

22 indeed. Witness, please. Yes.

23 MR. SACHDEVA: President, I apologise. There's just one
24 matter that I forgot and that is, I want to use two maps with this
25 witness. They are maps that have been disclosed to the Defence. They

1 are --

2 PRESIDING JUDGE FULFORD: All right, bring the witness in.

3 MR. SACHDEVA: They are not on our exhibit list, but the first
4 map is a clean copy of the map that I used with Witness 38 and the second
5 map is in fact an unmarked version of a marked version that was supplied
6 to the Defence as an exhibit, it was Exhibit 106. I understand the Defence
7 do not have an objection, but I formally seek leave to add them to our list.

8 (The witness entered court)

9 PRESIDING JUDGE FULFORD: In the absence of any objections from
10 the Defence, certainly, Mr. Sachdeva.

11 MR. SACHDEVA: Thank you, Mr. President.

12 PRESIDING JUDGE FULFORD: Good morning, sir.

13 THE WITNESS: Good morning.

14 PRESIDING JUDGE FULFORD: Are you well? Are you well, sir?

15 THE WITNESS (interpretation): Yes.

16 PRESIDING JUDGE FULFORD: Good. I just want to reassure you that we will
17 ensure that your identity is protected during the course of your
18 evidence. This means that some of your evidence will be given in private
19 session, which means that only those in this courtroom can hear what you
20 say; and on other occasions when your identity is not at risk of being
21 revealed we will then go into public session, which means that those
22 outside of this courtroom can hear your evidence. Don't worry if a
23 mistake is made and you say something which has a tendency to reveal who
24 you are, because there is a 30-minute time delay on any public
25 transmission of our proceedings. And if mistakes are made, we can ensure

1 that any parts that shouldn't be broadcast are simply removed. So don't
2 get anxious about what you say, but when we are in public session, if you
3 could try to avoid, please, saying things that will obviously reveal who
4 you are because one of our highest priorities is to ensure your safety
5 and welfare.

6 Good. Can we go into public session, please, so that the witness
7 can take the solemn undertaking.

8 Yes, certainly.

9 THE WITNESS (interpretation): I would like to have the
10 interpretation in French, not Swahili.

11 PRESIDING JUDGE FULFORD: I'm sure that can be arranged.

12 (Open session at 9.55 a.m.)

13 COURT OFFICER: Open session.

14 PRESIDING JUDGE FULFORD: Sir, there should be a card in front of
15 you written in French. Could you please read out what is on the card,
16 read it out loud, so that everybody can hear what you say.

17 THE WITNESS (interpretation): I solemnly declare that I will
18 tell the truth, the whole truth, and nothing but the truth.

19 WITNESS: WITNESS DRC-OTP-WWWW-0017

20 (Witness answered through interpreter)

21 PRESIDING JUDGE FULFORD: Thank you very much indeed.

22 Mr. Sachdeva, I imagine you want to start in private session; is
23 that right?

24 MR. SACHDEVA: Yes, Mr. President. Thank you.

25 PRESIDING JUDGE FULFORD: Good.

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 13

1 Private session then, please.

2 *(Private session at 9.56 a.m.) Reclassified as Open session.

3 COURT OFFICER: Private session.

4 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

5 MR. SACHDEVA: Thank you, Mr. President.

6 Questioned by Mr. Sachdeva:

7 Q. Good morning to you, sir.

8 A. Good morning.

9 Q. Are you feeling well?

10 A. Yes, I'm very well.

11 Q. Now, we have quite a lot of material to get through and I'm going
12 to try and do this as clearly and as efficiently as possible. If there
13 ever comes a time that you need me to repeat a question, please let me
14 know. You understand that?

15 A. Yes.

16 Q. Could you please tell the Court your full name.

17 A. My name is (Redacted).

18 Q. Please -- could you please tell the Court your date and place of
19 birth.

20 A. I was born in Bunia on the (Redacted), 1979.

21 Q. Could you please tell the Court your father's name.

22 A. (Redacted).

23 Q. And your mother's name, please.

24 A. (Redacted).

25 Q. Now, what I'm going to be asking you questions on at the moment

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 14

1 is your educational and professional background, so we'll deal with those
2 issues right now. Is it right that you went to primary school in Bunia
3 at the (Redacted)?

4 A. Yes.

5 Q. And at some point you moved to Kisangani and went to the - and
6 forgive my pronunciation - the (Redacted); is that right?

7 A. Yes, (Redacted).

8 Q. Thank you. And after that you -- you returned to Bunia to finish your
9 studies at a (Redacted), I think it's called (Redacted) - is that
10 right? - in (Redacted)?

11 A. Yes.

12 Q. And thereafter you moved to (Redacted), and that's where you left
13 school and you were 18 at the time. Is that correct?

14 A. I finished in (Redacted).

15 Q. And after school you studied at the (Redacted) et
16 (Redacted), and you received a diploma in the year 2000. Is that right, sir?

17 A. Yes.

18 Q. Now, is it right that in 1999 you spent four months in the army ?

19 A. Yes.

20 Q. Which army was that?

21 A. At the time -- at the time the RCD controlled Ituri, so there was some
22 trouble between Professor Wamba Dia Wamba and Mbusa Nyamwisi, afterwards
23 there was a lot of movement and upheavals in Ituri; that's how I ended up in
24 a camp in Motawa.

25 Q. And for those four months in 1999, what were your duties? What

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 15

1 -- what were you doing while you were in the army?

2 A. I was serving as a recruit at the beginning; and after that, I was
3 taken by the commander of the centre who used me as a bodyguard.

4 Q. And as a recruit, did you undergo any training?

5 A. Yes.

6 Q. What were you trained in?

7 A. At the beginning we started with physical training, running and all the
8 exercises that have to do with physical training; after that we carried
9 out drill, marching, saluting, respect of the authorities; then we moved on
10 to weapons, the types of weapons we were going to use, how to handle and
11 disassemble them, for example. We learned how to go out on the field, how to
12 deploy, how to fight, and we also did shooting, shooting practice, to train.

13 PRESIDING JUDGE FULFORD: Pause a moment, Mr. Sachdeva.

14 Sir, you're doing very well. There's only one problem. Your
15 voice is very quiet and the interpreters in the booths to the left and
16 right of us must hear everything you say. So could you just raise your
17 voice slightly to make sure that everything that you say is picked up by
18 the microphone.

19 THE WITNESS (interpretation): Yes.

20 PRESIDING JUDGE FULFORD: Thank you very much.

21 Please carry on, Mr. Sachdeva, and could you take note of that.
22 If the witness's voice falls too low, could you make an appropriate
23 intervention.

24 MR. SACHDEVA: Yes, Mr. President, I will.

25 PRESIDING JUDGE FULFORD: Thank you.

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 16

1 MR. SACHDEVA:

2 Q. Sir, if I can just ask you, you spoke about the weapons that you
3 were trained in. Can you give us an idea as to what types of weapons you
4 had to work with while you were at the army in 1999?

5 A. We used three types of weapons. We had the AK-47 Kalashnikov, we
6 had the FAL, and we also had Nato.

7 Q. And a Nato is what, please?

8 A. It's a weapon manufactured by the French if I'm not mistaken.

9 Q. Thank you. Now, after the stint in the army you returned to
10 Bunia in 2001. Is that right?

11 A. I had to go and continue my studies first, and then in 2001 --

12 THE INTERPRETER: The interpreter didn't hear the last part of
13 the witness's answer.

14 MR. SACHDEVA:

15 Q. I'm sorry, the interpreter didn't record your last -- the last
16 part of your answer. In 2001 -- where did you go in 2001?

17 A. From Mahagi, I went to Bunia in 2001.

18 Q. Thank you. Now, is it right that in early 2002 you joined the
19 UPC?

20 A. Yes.

21 Q. Do you recall roughly when that was?

22 A. I don't know the precise date, but it was shortly after the
23 attack on Mudzipela, and in the same week Bunia was taken over by the
24 UPC.

25 PRESIDING JUDGE FULFORD: Mr. Sachdeva, do we need to be in

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 17

1 private session still?

2 MR. SACHDEVA: I was just about to ask to go into open session,
3 Mr. President.

4 PRESIDING JUDGE FULFORD: Now?

5 MR. SACHDEVA: Yes, please.

6 PRESIDING JUDGE FULFORD: Public, please.

7 (Open session at 10.06 a.m.)

8 COURT OFFICER: Public session.

9 PRESIDING JUDGE FULFORD: Yes.

10 MR. SACHDEVA:

11 Q. Very well, sir, so you joined in 2002. And how long did you stay
12 with the UPC?

13 A. Up to the year 2003 when I left Bunia.

14 Q. Can you tell us when in 2003?

15 A. Around the month of August 2003.

16 PRESIDING JUDGE FULFORD: Yes, Maitre Mabilille.

17 MS. MABILLE (interpretation): I apologise for interrupting.

18 He did not say that he joined the UPC at the beginning of 2002. You --
19 he said it was at the time the UPC took Bunia.

20 PRESIDING JUDGE FULFORD: Right. Thank you, Maitre Mabilille.

21 Could we clarify that, please, Mr. Sachdeva. Could you go back
22 over that part of the witness's evidence so that we can see precisely
23 what it is that he's saying on that subject?

24 MR. SACHDEVA: Yes, Mr. President.

25 Q. Witness, I asked you if it's correct that you joined the UPC in

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 18

1 early 2002 and you answered, Yes. I'm not looking for a precise date,
2 but can you give us the month, perhaps, in 2002 when you joined the UPC.

3 A. I do not remember the month.

4 Q. Was it early in the year? In the middle of the year? Late in
5 the year? Do you remember that?

6 A. I don't know the month.

7 Q. Very well. Now, in your time with the UPC up until August 2003,
8 what was your role?

9 A. When I was with the UPC, I was head of section, that's in 2003.

10 Q. And during the time that you were in the UPC, did you -- well,
11 let me ask you this:

12 What was -- what did you have to deal with while
13 you were in the army? What was your exact role?

14 A. I cannot say this in public. We are in open session. If I talk
15 about this, the person with whom I worked will be able to recognise me.

16 PRESIDING JUDGE FULFORD: That's an extremely sensible
17 intervention, if I may say so. We will go into private session, but it's
18 entirely appropriate that you said that, sir.

19 Private session, please.

20 *(Private session at 10.09 a.m.) Reclassified as Open session.

21 COURT OFFICER: Private session.

22 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

23 MR. SACHDEVA: Thank you, Mr. President.

24 Q. Witness, you said you were head of a section. What section was
25 that?

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 19

1 A. After the attack on Bunia by the APC in Mudzipela (Redacted),
2 on the second day when the UPC Army arrived there was a battalion on this
3 point which tried to push back the enemy on the road of Lipri. I was in
4 (Redacted) and that was the time I joined the UPC. On their return, they had
5 to go to the town of Bunia and they had to leave a platoon there with a
6 company commander. The company commander of the platoon with whom we worked -
7 I was serving as section commander, and our role was to protect (Redacted)
8 between (Redacted). A (Redacted) which was the only access road
9 for the APC to come back to (Redacted). We were there to secure (Redacted)
10 and to patrol around (Redacted).

11 Q. Thank you, for that. I'm going to --

12 THE INTERPRETER: The interpreter would like to remind the
13 Prosecutor that the witness is very fast and he has a bit of an accent
14 problem. If he can speak slowly and clearly. Thank you, sir.

15 MR. SACHDEVA: Q. Sir, can I just ask you because it's essential that what you
16 say is properly recorded to try and speak a bit slower and louder if you can.
17 We would want to make sure that everything you say is properly recorded.

18 A. Yes.

19 Q. Thank you very much for that. I do want to take you through in detail
20 the chronology of your time with the UPC, but at the moment I'm -- I'm
21 just asking some general questions. During your time with the UPC did
22 you have anything to do with weapons?

23 A. Yes.

24 PRESIDING JUDGE FULFORD: I think, Mr. Sachdeva, we can now
25 return to public session, can't we, and what I'm going to do is to

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 20

1 encourage the witness if at any stage he has concerns that what he's
2 going to say may reveal who he is, to intervene in exactly the way that
3 he did before, so as to alert us to difficulties that you may not be
4 aware of and the Judges certainly or almost undoubtedly are going to be
5 unaware of.

6 MR. SACHDEVA: Yes, Mr. President. In fact, I was just
7 approaching a question that I thought might provide an answer which
8 should be in closed session.

9 PRESIDING JUDGE FULFORD: Well, carry on the for the time being,
10 but can we be conscious of the fact that the public at the moment are
11 excluded.

12 MR. SACHDEVA: Absolutely, Mr. President, yes.

13 PRESIDING JUDGE FULFORD: Thank you.

14 MR. SACHDEVA:

15 Q. Witness, what kinds of weapons did you have to deal with, heavy
16 weapons? Light weapons?

17 A. When I joined the UPC in (Redacted), I was using the Kalashnikov,
18 which was the weapon that everyone was using.

19 Q. During the period from when you joined through to August 2003,
20 did you at any time become involved with artillery?

21 A. Yes. After some time in (Redacted), I was one of those who was
22 selected to go and learn or study about heavy weapons in Rwanda. When I
23 returned, I was using or operating heavy weapons.

24 MR. SACHDEVA: Mr. President, at the point -- at this point we can move
25 into open session.

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 21

1 PRESIDING JUDGE FULFORD: Thank you.

2 Public session, please.

3 (Open session at 10.14 a.m.)

4 COURT OFFICER: Open session.

5 PRESIDING JUDGE FULFORD: Yes.

6 MR. SACHDEVA: Thank you.

7 Q. Sir, I want to ask you some questions about the structure of the
8 UPC, the military structure of the UPC. Can you explain to the Court how
9 the UPC was structured?

10 A. I would like to talk about the armed wing in which I was working
11 and which I know. There was a Chief of Staff who was in Bunia who had a
12 staff operating in his office. He had G1, G2, G3, G4, and G5 who had
13 different duties, and then there were brigades who came under these army
14 staff, and under the brigades you had the brigade commander who was
15 answerable to this sector commander and who was in charge of the
16 brigades. The sector also had a staff, and the officers had different
17 duties. In the brigade you also had a staff that had various duties and
18 you had from T1, T2, right up to T5. And under the brigade, we had the
19 battalions. The battalion was composed of three companies, and each
20 company had three platoons. And in the platoon you had three sections.

21 Q. Thank you for that. That's very clear. The Chief of Staff at
22 the time you were in the UPC, who was that?

23 A. General Kisembo.

24 MR. SACHDEVA: Mr. President, I seek your guidance. I want to go
25 into the names and the brigades within which the witness was, and I think

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 22

1 out of an abundance of caution it should be done in closed session.

2 (Trial Chamber confers)

3 PRESIDING JUDGE FULFORD: This probably is being very cautious,
4 Mr. Sachdeva, but -- but yes. Can we move out of private session as soon
5 as we can, though, please.

6 MR. SACHDEVA: Yes. In fact, I will probably try and elicit the
7 name of a certain commander and then we can move back.

8 PRESIDING JUDGE FULFORD: Exactly, then we can -- we can move in
9 and out in that way.

10 So private session just for a moment then, please.

11 *(Private session at 10.17 a.m.) Reclassified as Open session.

12 COURT OFFICER: Private session.

13 PRESIDING JUDGE FULFORD: Yes.

14 MR. SACHDEVA: Thank you.

15 Q. Sir, the brigade -- you mentioned brigades. Which brigade were
16 you in while you were with the UPC?

17 A. I was in the brigade led by Commander Salumu.

18 Q. And Commander Salumu, did he report to anyone?

19 A. After we took Mongbwalu, we were sent to sector commander who was
20 (Redacted).

21 THE INTERPRETER: The interpreter didn't hear the last part, the
22 last few words.

23 MR. SACHDEVA:

24 Q. Would you mind repeating the name again please, sir, the sector
25 commander?

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 23

1 A. I said he was called Salongo.

2 Q. Thank you. And before the battle of Mongbwalu, who did Salumu
3 report to?

4 A. When I joined Salumu's troops, there was no sector commander.

5 Q. And so above Salumu, what level would that be?

6 A. He had to report to the operations commander who was the G3 and
7 the Chief of Staff who were all at the army headquarters.

8 Q. And what was your role in Salumu's brigade?

9 A. At the beginning when I joined I was working as the user of a
10 heavy weapon; at the end, (Redacted) within
11 that brigade.

12 Q. When you say "the end," can you tell the Court roughly from when
13 was it that you were appointed (Redacted)?

14 A. When we took the town of Mongbwalu again, we went to Kilo. Our
15 unit was based in Kilo Etat and that is where I was appointed as
16 (Redacted).

17 MR. SACHDEVA: Mr. President, we can move back into open session.

18 PRESIDING JUDGE FULFORD: Thank you.

19 Open session, please.

20 (Open session at 10.20 a.m.)

21 COURT OFFICER: (Interpretation) Public session.

22 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

23 MR. SACHDEVA:

24 Q. Sir, you spoke about Mr. Kisémbé and the G1 to G5 at the staff
25 level. Can you tell the Court in the period that you joined up until

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 24

1 March 2003, who occupied the G1, the G2, the G3, the G4, the G5, if you
2 can remember?

3 A. G1 I don't know; G2 was Ali; G3, Bosco; G4, Romeo Charlie, Eric
4 and Papy, Papy Romeo Charlie; and the G5, it was Eric Mbabazi.

5 Q. And the G2 -- well, let's start with the G1. The G1 signified
6 what function?

7 A. In charge of administration.

8 Q. And if you could tell the Court the rest, for the G2, G3, G4, and
9 G5, what functions did they signify?

10 A. G2, intelligence, surveillance, security, that was G2; G3,
11 operations; G4 was responsible for logistics, ammunition, food, that sort
12 of thing; G5, it was a political commissioner, liaison with the
13 population, morale issues, that sort of thing.

14 Q. You mentioned Kitembo as the Chief of Staff. Do you know if he
15 reported to anyone above him?

16 A. He was the supreme chief in the army, the president of the UPC
17 was the person above him.

18 Q. And just so we're clear, who was that, the president of the UPC?

19 A. It was Thomas Lubanga.

20 Q. Now, we've dealt with the main staff. You also spoke about the
21 brigade, and I want you to tell the Court the names of those persons
22 that occupied the staff positions within your brigade?

23 PRESIDING JUDGE FULFORD: Should that be --

24 MR. SACHDEVA: (Overlapping speakers)

25 PRESIDING JUDGE FULFORD: Yes.

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 25

1 I'm very sorry to interrupt you, sir, this should be in private
2 session. Again, for the benefit of members of the public, I anticipate this
3 won't be long, but we need for a moment to go into private session.

4 *(Private session at 10.24 a.m.) Reclassified as Open session.

5 COURT OFFICER: Private session.

6 PRESIDING JUDGE FULFORD: So the names, please, sir, of those who
7 occupied staff positions within the brigade in which you were serving.

8 THE WITNESS (interpretation): When Mongbwalu was taken, because
9 it changed later: (Redacted)
10 (Redacted). I can't remember who T5 was.

11 MR. SACHDEVA:Q. And after Mongbwalu was taken, did the names -- did
12 the persons stay or were there any changes?

13 A. After Mongbwalu was taken, when I was in Kilo, T2 was arrested
14 at the general staff. We had a new T2, (Redacted).

15 Q. When was the battle of Mongbwalu?

16 A. Towards the end of the year 2002. It was almost the beginning of 2003.

17 MR. SACHDEVA: Mr. President, I want to ask -- may I have one
18 moment just to make sure

19 PRESIDING JUDGE FULFORD: Yes. No, No of course.

20 MR. SACHDEVA: I don't do that in a --

21 PRESIDING JUDGE FULFORD: Of course.

22 (Prosecution counsel confer)

23 PRESIDING JUDGE FULFORD: Maitre Mabilille.

24 MS. MABILLE (interpretation): Yes, I'm sorry to interrupt you,
25 but the French is really problematic this morning, and as we're going to

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 26

1 have to work with the French transcript I would really like for us to try
2 and improve the situation. I don't understand why this is the case
3 because the witness is speaking in French, so why are we faced with such
4 a situation. I apologise for this intervention. I haven't taken the
5 floor on a number of occasions, but it appears to me that this is a real
6 problem.

7 PRESIDING JUDGE FULFORD: Thank you very much for that, Maitre
8 Mabilille. Can I suggest this solution, that we do the best we can for the
9 next half-hour before the break, and during the break I will take such
10 steps as I can to investigate to see what the nature of the problem is.
11 Would that be satisfactory? Yes. Thank you.

12 MS. MABILILLE (interpretation): That's perfect. I do apologise
13 for having interrupted the proceedings.

14 PRESIDING JUDGE FULFORD: No, I - we understand the problem
15 Maitre Mabilille.

16 Now, Mr. Sachdeva, should we be in open or closed session?

17 MR. SACHDEVA: We'll remain, with your leave, in closed session,
18 Mr. President.

19 PRESIDING JUDGE FULFORD: Certainly.

20 MR. SACHDEVA:

21 Q. Sir, we spoke about your brigade and the staff positions in the
22 brigade. I want to now ask you about the battalion. Are you able to
23 tell the Court the names of the battalion commanders in your brigade?

24 A. When the town of Mongbwalu was taken, there was Abelanga, who was
25 the battalion commander; there was American, who was also a battalion

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 27

1 commander.

2 Q. And the same question for the company commanders. Do you know
3 names of the company commanders, sir?

4 A. Yes. There were a lot of them. There was Eric, who was the
5 company commander; Mangaino (phon) was also a company commander. There
6 were quite a few of them.

7 MR. SACHDEVA: Mr. President, we can move into open session.

8 I -- I'm going to show the witness a document shortly but that document
9 should be not broadcast to the public.

10 PRESIDING JUDGE FULFORD: So the -- the evidence can be given in
11 open session, but the document should not go beyond this side of the
12 glass divide. Is that right?

13 MR. SACHDEVA: That's right.

14 PRESIDING JUDGE FULFORD: Good.

15 Public session then, please.

16 (Trial Chamber and Court Officer confer)

17 (Open session at 10.30 a.m.)

18 COURT OFFICER: (Interpretation) Public session.

19 PRESIDING JUDGE FULFORD: Sir, I'm very sorry to keep on raising
20 with you the issue of how you give evidence. It's all extremely
21 unnatural, I'm afraid. It's not like having a conversation in a bar.
22 There needs to be just a slight pause between Mr. Sachdeva asking you a
23 question and your answer, because if you come back in too quickly the
24 interpreters never have an opportunity to catch up. And I suspect that's
25 causing some of the problems this morning.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 28

1 The same of course, Mr. Sachdeva, applies equally to you. We
2 must try and build in a gap between questions and answers; otherwise,
3 we're storing up problems for the future. So can we all speak loudly,
4 speak slowly, and pause, a little bit of moment for reflection, before
5 saying something. Thank you.

6 MR. SACHDEVA: Are we in open session? We are.

7 PRESIDING JUDGE FULFORD: We're now in public session.

8 MR. SACHDEVA: Thank you.

9 Q. Sir, you mentioned Abelanga. In your time with the UPC was this
10 person known for anything in particular?

11 A. I don't know how to comment on this. He was known as a good
12 commander -- a commander in the UPC. Yes, that's what he was known for,
13 the commander of a battalion, Abelanga, yes.

14 Q. Was he known for anything in relation to the other soldiers or
15 recruits in the army?

16 A. When we arrived in Mongbwalu he was arrested. That's how I
17 learnt that he had a bad reputation, since Mandro, where he had also been
18 a commander, when the recruits were trained in Mandro, he had a bad
19 reputation, that's what they said. But when I knew him as a commander --
20 well, it's true that he was brutal. He drank a lot of alcohol. He often
21 had problems with the population, yes.

22 Q. You said he had a bad reputation since Mandro, and you talked
23 about the alcohol and problems with the population. Was there anything
24 else that you heard in relation to the other soldiers or -- or persons in
25 Mandro, for example?

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 29

1 A. No. All that I know is what I have already told you.

2 Q. Did the UPC have men and women as soldiers while you were there?

3 A. Yes, they did.

4 Q. And amongst the men, were there just adults or were there
5 children as well?

6 A. Most of them were adults but there were children too.

7 Q. And in respect of the women, what was the situation? Were there
8 children and adults as well?

9 A. As for the women, I would say that most of them were adults.

10 Q. Were there some that were children?

11 A. Yes.

12 Q. In respect of the -- the children who were female that you speak
13 about, I'm going to ask you a similar question. Was there anything that you
14 heard in respect of Abelanga in relation to the female children in the UPC?

15 A. Yes. (Redacted), on our
16 return from Rwanda, in Abelanga's, there was the battalion commander, the
17 company commanders, they were all there. But in Abelanga's there were some
18 young soldiers and there was some girls among them.

19 There was a rumour circulating amongst the soldiers, and even
20 the commander talked about it, that Abelanga had abused
21 a young girl from Mandro who was one his bodyguards
22 and she was still in his escort, and he found that
23 intolerable. So he was criticised for this reason.

24 Q. Now, before I show you a document, I want to take you back now to
25 the -- the persons that you said occupied the positions in the main

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 30

1 staff, and I want to ask you whether you know if they were referred to in
2 other ways during operations. So, for example, let's start with Bosco.
3 Do you know if he was referred to in any other way during combat or
4 during military operations?

5 A. I'm not following your question. With regard to the names -- I
6 don't know.

7 Q. Perhaps my question wasn't clear and I apologise for that. Let
8 me ask you this: During your time at the UPC, was there communication?

9 PRESIDING JUDGE FULFORD: That's a hugely general question,
10 Mr. Sachdeva. At the time in the UPC was there communication.

11 MR. SACHDEVA: Well -- okay.

12 Q. Witness, how did --

13 PRESIDING JUDGE FULFORD: I don't think this was a silent order
14 of monks, Mr. Sachdeva. I think you need to be a little bit more
15 precise.

16 MR. SACHDEVA:

17 Q. Witness, how did you or how did the main staff communicate with
18 Floribert Kisembo?

19 A. If you want to know something about communication, well the UPC
20 had the means of communication in battalions, brigades, they all had a
21 means of communications, above all Motorolas.

22 Q. And in respect of the Motorolas, when communications were
23 undertaken via the Motorolas, were there particular names or terms used
24 when different commanders would speak to each other?

25 A. Yes, there were special words.

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 31

1 Q. And what were those words described as? What could you describe
2 them as?

3 A. They would call them cross-numbers in order to identify the
4 person who was calling.

5 Q. So let's go back to Bosco. Did he have such a cross number; and
6 if he did, what was it?

7 A. Yes, Bosco had a cross-number, but I can't remember it right now.

8 Q. That's fine. How about Eric, the G5?

9 A. I can't remember it either.

10 Q. Do you remember the cross-numbers for --

11 MR. SACHDEVA: Mr. President, perhaps we can move into closed
12 session. I apologise.

13 PRESIDING JUDGE FULFORD: Private session, please.

14 *(Private session at 10.42 a.m.) Reclassified as Open session.

15 COURT OFFICER: Private session.

16 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

17 MR. SACHDEVA: Thank you.

18 Q. Sir, in respect of your brigade you mentioned (Redacted)
19 (Redacted). Do you recall whether they had cross-signs?

20 A. Yes, within the brigade there were cross numbers. Salumu was
21 called Sierra India; (Redacted), who was called (Redacted), who was
22 called (Redacted), he was called (Redacted) as
23 well; and (Redacted) was called (Redacted); and the commander of the
24 brigade, Salumu, I've already mentioned it. And the sector commander, who
25 was (Redacted), who was called (Redacted), and (Redacted) was called (Redacted).

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 32

1 Then there was (Redacted), but I can't remember his name. His cross
2 number -- known num.. no -- name was (Redacted). As far as the staff
3 people were concerned we had G5s, but I can't remember. The Chief of Staff
4 himself, Kitembo, was Zulu Mike. Then David Pigwa, I can't remember either.
5 Yes, there were such cross-numbers that were used during communications.

6 Q. Thank you, sir. Can I ask you just to repeat the call-sign or
7 the cross sign for the Chief of Staff. It's just not properly recorded.

8 A. Kitembo was Zulu Mike.

9 Q. Thank you. Thank you, sir.

10 MR. SACHDEVA: Mr. President, we can move into open session.

11 PRESIDING JUDGE FULFORD: Public session, please.

12 (Open session at 10.45 a.m.)

13 COURT OFFICER: Public session.

14 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

15 MR. SACHDEVA: I'd like to, with your leave, Mr. President, show
16 the witness a document. The document for the Court Officer is
17 DRC-OTP-0167-0043.

18 Mr. President, I have prepared binders with copies of all the
19 documents that I intend to use with this witness for -- for the Bench,
20 and I can hand them up to you at this point.

21 PRESIDING JUDGE FULFORD: Thank you very much. So could a copy
22 of this document then please be given to the witness and thank you very
23 much for preparing the divider -- the binders, Mr. Sachdeva, if the Bench
24 could have those as well. Thank you.

25 COURT OFFICER: (Interpretation) So the document, the number will

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 33

1 be DRC-OTP-3960-0396.

2 MR. SACHDEVA: Mr. President, for your convenience it is the
3 document in the fourth subdivider that I intend to show the witness, and
4 as I move along with my examination I will explain the other documents --
5 or I can do that now, for your benefit.

6 PRESIDING JUDGE FULFORD: No, let's - shall we deal with them
7 as we reach them. Now, what are you going to do, Mr. Sachdeva? Are you
8 giving the witness a folder in the same way as we have or is he going to
9 be given the documents one by one?

10 MR. SACHDEVA: I intend to show the witness the documents one by
11 one. For one particular document, it has to come from the Court Officer
12 for reasons I shall explain.

13 PRESIDING JUDGE FULFORD: All right.

14 MR. SACHDEVA: For this one it's sufficient, I would think, for
15 it to be broadcast on to the witness's screen, if that's possible,
16 broadcast --

17 PRESIDING JUDGE FULFORD: Rather than a hard copy?

18 MR. SACHDEVA: Absolutely. But of course not broadcast to the
19 public.

20 PRESIDING JUDGE FULFORD: With respect, Mr. Sachdeva, I think it
21 would be more convenient if the witness could have both. If it's
22 available to him on the screen and if he could have this document -- a
23 photocopy of this document as well, I'm sure you've got a spare somewhere
24 that could be handed to him.

25 MR. SACHDEVA: I do, yes.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 34

1 PRESIDING JUDGE FULFORD: Good.

2 If the usher then could please pass a hard copy to the witness.

3 Right, Mr. Sachdeva, I think we're all there.

4 MR. SACHDEVA: Thank you.

5 PRESIDING JUDGE FULFORD: Where do we go from here?

6 MR. SACHDEVA:

7 Q. Sir, you see that document in front of you?

8 A. Yes.

9 Q. Do you recognise it?

10 A. Yes, I do.

11 Q. What is it?

12 A. This is a document when I gave my statement I was asked to draw a
13 graph or to write down this representation in order to make it easier to
14 understand. This is what I drew at the time.

15 Q. And just very briefly because we have canvassed this a moment
16 ago, but can you explain if we have -- if you just stay with the first
17 page,sir, the first page where it says "Etat Major." Do you see that?

18 A. Yes, I do.

19 Q. Would you please explain what it is that you drew there.

20 A. Well, this is a sketch representing the army, the UPC, as I knew
21 it. First, on top you have the General Staff, below that, three brigades
22 represented here; with three battalions inside each brigade; and within a
23 battalion there are three companies; and within each company there are
24 three platoons; and within a platoon there are three sections. And then
25 you have the approximate numbers, 11 soldiers per section; up to 45

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 35

1 soldiers per platoon; per company, 120 soldiers, plus staff; so that's up to
2 150. Within a battalion there were 380 soldiers plus staff, so 420.

3 In a brigade you had 1500 person plus staff, that's 1800 to 2,000
4 persons.

5 Q. Thank you. And below those figures we have some names, and I
6 won't ask you about that at the moment but we will come back to that.
7 Could I ask you to turn over, please. And again, very briefly can you
8 describe what is depicted here?

9 A. The brigade where I was serving, the staff at the top, T1 to T5,
10 with the names that I remembered. The battalion commander, whom I
11 could remember, and below you have a company commander, those I
12 remembered, and there's line separating them; this is for the
13 Mongbwalu operation. And at the bottom you have the brigade commander
14 with a staff and a number of battalion commanders and company commanders.
15 The names I remember. So that's after Mongbwalu was taken.

16 Q. And at the bottom you also have "État Major". Could you briefly
17 explain that, please.

18 A. I explained the General Staff before. This is the General Staff before
19 the clash against the Ugandans, those I knew. And after that was when we
20 came back with General Kisémbu to Bunia, the way in which the General Staff
21 was organised. Well, staff G1 to G5. At the bottom, you had the -- another
22 sector commander with name at the bottom of the page.

23 Q. Thank you very much.

24 MR. SACHDEVA: That -- I will return to this document but it
25 should be tendered under seal.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 36

1 Q. Thank you, Witness. I want to continue with some general
2 questions before I move into your specific experience with the UPC. You
3 mentioned Mandro earlier on. What -- during your time in the UPC, what
4 was taking place there?

5 A. Well, for the first time I went to Mandro, when I went there for
6 the first time there was a training camp as well as the residence at the
7 centre of Mandro, because there is a difference in Mandro between the
8 the centre where they train the recruits, and the centre of town which
9 is -- or the place where there is a market and the residence of Chief Kahwa.
10 So I went there, I went to the centre where the market is, and about
11 200 metres from the residence of the Kahwa chief -- Chief Kahwa - sorry.

12 Q. And when was the first time you went to Mandro, do you recall?

13 A. It was before the time when Bunia was taken by the UPC.

14 Q. And you said that: "... for the first time I went to Mandro."
15 Did you go there on other occasions?

16 A. Later on, yes, I went there again.

17 Q. Was it just the one more time or were there other times that you went
18 to Mandro?

19 A. I went to Mandro on a number of occasions.

20 Q. In respect of the training camp at Mandro, can you describe for
21 the Court the -- how the camp was situated. Was it on flat ground? Was
22 it on elevated ground? Can you provide more details on that, please.

23 A. As I said, in Mandro there is the town center - where the market is and
24 then there was another camp which was the training camp which was closer to
25 the residence of Chief Kahwa. There were recruits there too, but it was not

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 37

1 the only training centre that was in Mandro. On the hilltop around Mandro e
2 there weretraining centres there but I didn't go there. The place where I went
3 just up there is close to the residence of Chief Kahwa. There is a
4 building there and other buildings in the surrounding area dating from
5 the same period, and then there's grounds in the middle, and this is
6 where the military activities were taking place on that field.

7 Q. The places where the training was conducted and also, in fact,
8 where the residence of Chief Kahwa was, are you able to describe the
9 terrain? I'm trying to get an understanding as to whether the camps were
10 on flat ground or elevated ground, if you know that, sir.

11 A. No, it's a flat ground. You can play soccer there. It's not
12 totally flat there. It's somewhat -- there's a slope, but it is flat ground
13 altogether.

14 MR. SACHDEVA: Mr. President, perhaps it's time.

15 PRESIDING JUDGE FULFORD: First of all, can I say both to you,
16 Mr. Sachdeva, and to the witness, you're doing extremely well in terms of
17 delivery. So thank you very much. You're speaking at an appropriate
18 speed. You're pausing excellently, and your voice is now at a good
19 level. So could you keep this up, please, for the rest of your evidence.
20 It's extremely helpful to us, so congratulations to both of you.

21 We will now have a half-hour break and we'll sit again at half past
22 11.00.

23 Maitre Mabilie, before we adjourn, I think I'm right in saying
24 that since your intervention and since the witness and Mr. Sachdeva have
25 somewhat moderated how they speak, the transcript has been very

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 38

1 substantially improved in French. Are you able to express an opinion on
2 that at the moment, or would like to look at it over the break?

3 MS. MABILLE (interpretation): No, I think this is true. There's
4 been an improvement. However, two things seem to be important to me.
5 Often we see "inaudible" written in the French transcript. Something
6 rather puzzling me. I don't see the word "inaudible" in the English
7 transcript; I only see this in the French transcript. So I'm not sure as
8 to how we can possibly solve the problem. When it says "inaudible," how
9 could we -- or could they solve the problem? Because we need to be able to
10 work on the basis of a transcript -- we work on the basis of the French
11 transcript of the hearings, and where the French transcript is very
12 different or where there are many missing parts, of course, is difficult
13 because we have to use the two transcripts at the same time. This is our
14 problem.

15 As far as names are concerned, there too the witness should
16 perhaps spell out the names so that we can write down the names. But
17 clearly there's been an improvement. We would like to see a further
18 improvement, if possible.

19 PRESIDING JUDGE FULFORD: Right. That's very helpful, Maitre
20 Mabilille. Thank you.

21 Mr. Sachdeva, I think certainly as far as names is -- names are
22 concerned, the point is particularly well made. Although, when we've
23 adjourned and the transcript is then listened to, the names are then
24 filled in later; however, that doesn't help counsel, particularly if
25 they're going to have to question the same day. So could you bear this

Witness: Witness DRC-OTP-WWWW-0017 (Closed Session)
Questioned by Mr. Sachdeva

Page 39

1 in mind. When the transcript reveals that the stenographer or the
2 interpreters have really been unable to hear what's been said, could you
3 please go over the names again so that we have it clear first time rather
4 than having to wait until this is investigated later?

5 MR. SACHDEVA: Yes, Mr. President.

6 PRESIDING JUDGE FULFORD: Good. Thank you very much indeed.
7 Excellent. Half past 11.00, then. Thank you -- I'm sorry,
8 closed session, closed session. Sorry.

9 *(Closed session at 11.01 a.m.) Reclassified as Open session.

10 COURT OFFICER: Closed session.

11 PRESIDING JUDGE FULFORD: Good, if the witness could take - if
12 the usher could take the witness, please.

13 (The witness stands down)

14 PRESIDING JUDGE FULFORD: We'll say 25 to 12.00. Thank you.

15 Recess taken at 11.02 a.m.

16 On resuming at 11.36 a.m.

17 COURT USHER: All rise. Please be seated.

18 PRESIDING JUDGE FULFORD: Witness, please.

19 (The witness takes the stand)

20 PRESIDING JUDGE FULFORD: Thank you very much, sir.

21 Are we in public session, Mr. Sachdeva?

22 MR. SACHDEVA: Yes, Mr. President.

23 PRESIDING JUDGE FULFORD: Good.

24 Public session, please.

25 (Open session at 11.38 a.m.)

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 40

1 COURT OFFICER: Open session.

2 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

3 MR. SACHDEVA: Thank you, Mr. President.

4 Q. Hello, sir. Before the break you told us that you had returned
5 from Rwanda, and I want to ask you: What had you been doing in Rwanda?

6 A. We went to Rwanda for training on heavy weapons.

7 Q. When was that roughly? I don't need an exact date, but roughly
8 when did you go for your training?

9 A. It was still in 2002.

10 Q. Are you able to say whether it was in the beginning, in the
11 middle, towards the end of 2002?

12 A. I would say it was around the end of 2002.

13 Q. Before you went for your training in Rwanda - and you've told us
14 that you visited Mandro on several occasions - did you visit Mandro
15 before you went for your training?

16 A. Yes, to go to that training we went to the Chief of Staff and
17 then we went to Mandro, and we spent practically a whole day and a night
18 still in Mandro. And then we took the road to Tchomia to get a plane.

19 Q. I want to ask you some questions about that particular time in
20 Mandro. When you got to Mandro, what did you see there?

21 A. We were billeted in the camps that were close to Chief Kahwa's
22 house. In that camp there were recruits and soldiers who had already
23 finished their training.

24 Q. Was the Mandro camp a -- a small camp? A large camp? Can you
25 help us with its size?

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 41

1 A. Well, the place I'm talking about is big, that has to be said.

2 It was big. It covered a large area, but where we assembled, the grounds

3 I was talking about was between the buildings.

4 Q. You said that in the camp there were recruits. Are you able to
5 say whether there were many recruits or a small number of recruits? Can
6 you help us with that, sir?

7 A. I would say there were sufficient numbers of them.

8 Q. And amongst these recruits, what were the ages of these recruits?
9 What was the age-range, if you can tell us?

10 A. Well, there were those who were considered as adults and there
11 were also children.

12 Q. When you say "children," what age-range are we talking about?

13 A. Well, I would say probably 12, 13, some even 14.

14 Q. And, sir, how -- how were you able to determine that? How do you know
15 that they were 12, 13, and some were 14 years of age?

16 A. Well, about the girls, I don't want to be vulgar, but sometimes
17 nature does strange things. But a girl that is over 15 has breasts, and
18 if she doesn't have any she's probably under 15 because -- but some girls
19 are mature at 13, 14, they might already have breasts at that age.

20 That's for the girls. But for the boys you could see it from their
21 behaviour. Some would cry for their mother when they were hungry. They would
22 whine at night, and during the day they were playing games, children's
23 games, even if they had their weapon next to them. So you would see that
24 these children weren't even adolescents yet. Their voice hadn't yet broken,
25 so they were children, they were children still.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 42

1 Q. You said the boys would cry for their mother at night and during
2 the day they would play games even if they had their weapons. Did the
3 girls that you saw also have weapons?

4 A. The recruits didn't carry weapons, but the girls that were in
5 service often had weapons with them.

6 Q. How were these recruits dressed?

7 A. They were in civilian clothes.

8 Q. After this time that you went to Mandro before you went to
9 Rwanda, was there another time that you visited Mandro?

10 A. After Rwanda, I only went once to Mandro; but before I went to
11 Rwanda, that's when I said I went several times to Mandro.

12 Q. And it is that occasion that I want to ask you questions on.
13 After Rwanda when you went once to Mandro, do you recall roughly when
14 that was? Again, I'm not looking for an exact date but roughly what time
15 of year that was?

16 A. March 2003.

17 Q. At that time when you went there, in March 2003, how long did you
18 go there for?

19 A. I wasn't there for long, that is, during the day we were in a
20 car, we went there, and then we returned in the same day.

21 Q. What were you doing there when you went?

22 A. Just after the Kobu operations, our troops were brought to Bunia.
23 There we were billeted in Bunia and there was an attack on Mandro, so the
24 soldiers in Mandro couldn't defend themselves anymore. And so more
25 troops were sent to Mandro to intervene and to support the troops that

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 43

1 were in Mandro.

2 Q. And when you went there, did you see other soldiers?

3 A. Yes. There were only billeted soldiers but there weren't any
4 recruits anymore.

5 Q. And when you saw the soldiers, what were they doing at that time?

6 A. They were in their camp, that's all.

7 Q. At that time when you saw the soldiers -- well, can you describe
8 the circumstances in which you saw those soldiers that were occupying the
9 camp?

10 A. As I explained previously, Mandro had been attacked by the enemy
11 and there were troops lodged in Mandro and around Mandro there were a
12 couple of camps -- small camps like that, but they didn't manage to
13 defend themselves anymore. So there's the commander, with whom I left by
14 car, who talked about the fact that they even took a heavy weapon to Mandro
15 and they had looted livestock because there was some around Mandro. And
16 -- we so we had to defend Mandro and that's why we went to intervene because
17 there were shootings and confrontations going on, so we went over there
18 to intervene in that way.

19 Q. Thank you, sir. Perhaps my question -- questions have not been
20 clear. When you saw those soldiers, were they organised in any way that
21 you recall?

22 A. Yes, they were organised like other units. There was a company
23 commander and his soldiers, they were organised.

24 Q. At the time you saw them, were they undergoing any exercises?

25 A. It was a military camp. The soldiers were in -- there

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 44

1 were no recruits, so it was a regular task, they were there in their camp.

2 Q. And at the camp would there have been parades or line-ups?

3 A. We went there to intervene. They were there. They were even in combat
4 position, because as I said Mandro was attacked and they were in their war
5 trenches they had dug. They had taken up war position and they were
6 occupying those positions.

7 Q. Amongst the soldiers that you saw, were there only adults or were
8 there also children?

9 A. At that time it was difficult to make a difference because we were
10 not assembled, so they were occupying different positions all along the
11 camp. They were not together. They had taken up their combat positions so
12 we could not see all the soldiers at the same time. I saw the commander who
13 arrived with -- who spoke with my commander. He had bodyguards, and amongst
14 those bodyguards, yes, there was a young soldier.

15 Q. At that time, what was the name of the commander that spoke to
16 your commander? And just to be clear, I'm not looking for the name of
17 your commander.

18 A. I do not know his name.

19 Q. Apart from Mandro, are you aware of other training camps within
20 the UPC during the time you were in the UPC?

21 A. I know there was a camp in Bule, there was a camp in Mongbwalu, a
22 camp in Mandro. Those were the big training camps. I know that there
23 were other people who were trained in Rwampara.

24 Q. And how was it that you knew about the training in Rwampara?

25 A. During the take-over of Nyangarayi, which was a bit far

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 45

1 from our position, the soldiers posted to that place came from Shari.
2 There was a commander who had his soldiers and those soldiers were
3 trained in Rwampara. That's how I came to know that there was some
4 training going on in Rwampara.

5 Q. Sir, I just want to take you back to -- I asked you for the name
6 of the commander who met your commander in Mandro when you went there. I
7 understand you don't recall his name, but can you tell us his function if
8 you know that?

9 A. It must have been a company commander, but I can't remember his
10 name because that was a long time ago.

11 Q. You mentioned Mongbwalu camp. During your time with the UPC, did
12 you visit that camp?

13 A. The camp was at the airport of Mongbwalu and sometimes I went to
14 the airport of Mongbwalu, and that was also where recruits were trained.

15 Q. And, if I may, similar questions to what I asked you regarding
16 Mandro. Can you say whether there were many recruits in Mongbwalu or a
17 small number? Can you help us with that, sir?

18 A. There were many of them.

19 Q. Can you be more specific perhaps and provide a number, if you
20 know?

21 A. They could make up a whole battalion.

22 Q. And just to confirm, as you have stated in that document that we
23 saw previously, a battalion would typically have around 380 to 400
24 persons. Is that right?

25 A. Between 380 and 450 persons, yes -- rather, 420 persons, yes.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 46

1 Q. Amongst these recruits, were there only adults or were there also
2 children?

3 A. There were adults and there were children.

4 Q. You also mentioned Bule camp. During your time with the UPC did
5 you visit that camp?

6 A. The training camp in Bule, no.

7 Q. Did you ever visit the Bule camp, irrespective of whether you
8 were with the UPC?

9 A. I have never gone to the training camp in Bule.

10 Q. Did Bule have a military camp?

11 A. To my knowledge, yes, there was a military camp in Bule, yes.

12 Q. Did you visit that military camp?

13 A. I went there in passing. It wasn't the Bule training camp. It was the
14 camp on the road that links Bule to the road to Largu.

15 Q. When was that, sir?

16 A. It was around the year 2003, that is, after the UPC had left the
17 town of Bunia. There were no longer any troops in Bunia, so it was
18 afterwards.

19 Q. And, sir, while we're here, why did the UPC leave the town of
20 Bunia at that time that we're speaking about?

21 A. The Artemis operation had arrived, and they requested the UPC to
22 leave the town of Bunia.

23 Q. So after the Artemis operation and after the UPC left Bunia town,
24 that's when you said you went to the Bule military camp. What did you
25 see there when you went there?

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 47

1 A. I went to see a commander that I know well. We discussed for a
2 while, and I explained to him what I had to do, where I was going to; and
3 after that, I left.

4 MR. SACHDEVA: Mr. President, might I move into private session
5 for one question, please?

6 PRESIDING JUDGE FULFORD: Certainly.

7 Private session.

8 *(Private session at 12.03 p.m.) Reclassified as Open session.

9 COURT OFFICER: Private session.

10 PRESIDING JUDGE FULFORD: Yes.

11 MR. SACHDEVA:

12 Q. Sir, can you tell us the name of the commander that you knew, well
13 that you saw, in Bule?

14 A. I went to see (Redacted).

15 MR. SACHDEVA: We can move back into public session,
16 Mr. President.

17 PRESIDING JUDGE FULFORD: Public session, please.

18 (Open session at 12.04 p.m.)

19 COURT OFFICER: (Interpretation) Public session.

20 MR. SACHDEVA:

21 Q. At that time in Bule, did you see any soldiers?

22 A. Yes. There were soldiers in the camp.

23 Q. Were the soldiers all adults or were there children as well?

24 A. There were children as well. There were also adults.

25 Q. Incidentally, sir, was there -- are you aware of a term that was

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 48

1 used in the UPC to refer to children?

2 A. They were usually called kadogos.

3 Q. Sir, thank you for those -- thank you for that. Now I'm going to
4 take you through in detail your involvement in the UPC, and then perhaps
5 at the end I will ask you further questions of a general nature. But you
6 said earlier on that you joined the UPC during the attack in Mudzipela.
7 What did you do after the attack in Mudzipela? Where did you go?

8 A. After that I travelled to Rwanda with the others. We went there for
9 training.

10 Q. Before you went to Rwanda, you've told us that you were in
11 Mandro. Before you went to Mandro, were you in -- were you anywhere
12 else?

13 A. No, we always worked in the town of Bunia.

14 Q. When you were in Bunia, where did you stay?

15 A. I cannot give you that detail because it may lead people to
16 recognise me.

17 PRESIDING JUDGE FULFORD: Do you need it or private session?

18 MR. SACHDEVA: I do. I -- I would like it, Mr. President, yes.

19 PRESIDING JUDGE FULFORD: Certainly.

20 MR. SACHDEVA: Private session.

21 PRESIDING JUDGE FULFORD: Yes. Private session, then, please.

22 *(Private session at 12.08 p.m.) Reclassified as Open session.

23 COURT OFFICER: (Interpretation) Private session.

24 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

25 MR. SACHDEVA:

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 49

1 Q. Thank you, sir, for being vigilant. It does help tremendously.

2 So when you were in Bunia at that time, where were you staying?

3 A. I was still living in (Redacted). We had our position -- we had
4 our position in (Redacted) as well.

5 Q. And whereabouts in Bunia is (Redacted)? Is it the north? The
6 south? The west? The east?

7 A. From the geographical standpoint, I don't know where (Redacted) is. But
8 it is along the road which leads to (Redacted).

9 Q. And after (Redacted), did you at any point in time move to another
10 location in Bunia, before you went to Mandro and before you went to
11 Rwanda?

12 A. No. I was working in (Redacted), but at one point it happened
13 that I worked as a bodyguard. So we could move around in the town of
14 Bunia or go all the way to Mandro. That was the only trip I made at the
15 time.

16 PRESIDING JUDGE FULFORD: Public session, Mr. Sachdeva?

17 MR. SACHDEVA: Yes, for the moment, Mr. President, yes.

18 PRESIDING JUDGE FULFORD: Good.

19 Public session, please.

20 (Open session at 12.10 p.m.)

21 COURT OFFICER: (Public session)

22 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

23 MR. SACHDEVA: Thank you.

24 Q. Sir, you said that you were given orders to go and train in
25 Rwanda. Who gave you those orders?

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 50

1 PRESIDING JUDGE FULFORD: Can you answer that in public, sir?

2 THE WITNESS (interpretation): I think so.

3 PRESIDING JUDGE FULFORD: Good. Well, please do so then.

4 THE WITNESS (interpretation): The order was given to me by the
5 Chief of Staff, to me personally, to go to the General
6 Staff, to the office. I went to the office and it was said that the
7 gathering would be at the house of the Chief of Staff. I saw
8 two other soldiers arrive who had been selected randomly. We all
9 gathered at his home. They'd been selected, we all gathered there, and we
10 waited orders -- awaited orders there.

11 Q. Where was the Chief of Staff's office?

12 A. It was in the town centre of Bunia, but the house was a little
13 in the direction of the subregion.

14 Q. The house that you speak of, was it -- was it close to another
15 building that you knew of, that was well known?

16 A. The neighbourhood housed UPC members. President Thomas Lubanga's
17 house therefore wasn't far away from his house.

18 Q. How far away was it from Lubanga's house?

19 A. I'd say about 200 metres.

20 Q. While you were in the UPC and while you were in Bunia, did you
21 come to know of a place called the EPO camp?

22 A. Yes.

23 Q. Where was that camp located?

24 A. Just behind the neighbourhood where UPC staff lived. After that
25 building there was this camp, the EPO camp.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 51

1 Q. And what was this EPO camp?

2 A. When we returned from Rwanda we were billeted there in that camp.
3 There was an old building there. I think it was a residential building at
4 the time, which had a garage next to it, another smaller building. a bit
5 further along. There were some soldiers there. There were trenches and
6 there were little houses that could be used by the troops to take
7 shelter.

8 Q. Sir, may I ask you, are you able to read maps?

9 A. Yes.

10 Q. If I was to show you a map of -- well, would you be able to mark
11 the locations that we have spoken of on a map?

12 A. Yes.

13 MR. SACHDEVA: Mr. President, I would at this point like to show
14 the witness a map, and I'd like the witness to -- to mark certain points.
15 I would like to do that in open session, but I wondered if I could -- if
16 the witness could be asked whether he's comfortable in doing that. In my
17 submission I think it should be fine, but I wouldn't want --

18 PRESIDING JUDGE FULFORD: Well -- yes, we can do this relatively
19 easy, Mr. Sachdeva.

20 Sir, you're going to be asked simply to mark certain locations on
21 a map. What you mark isn't going to be seen by anybody outside this
22 courtroom. Is there any difficulty in you doing that?

23 THE WITNESS (interpretation): That's fine.

24 PRESIDING JUDGE FULFORD: Good. All right. Let's --

25 MR. SACHDEVA: (Overlapping speakers)

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 52

1 PRESIDING JUDGE FULFORD: -- show the witness the map, and if we
2 can go through it location by location, Mr. Sachdeva.

3 MR. SACHDEVA: Thank you very much, Mr. President. The map -- I have a hard
4 copy for the witness. For the benefit of the Court Officer it is 0207 - DRC-
5 OTP-0207-0330, and for the benefit of the Chamber the map is in the binder -

6 PRESIDING JUDGE FULFORD: In divider 5.

7 MR. SACHDEVA: I think it is, Mr. President -- indeed, yeah.

8 PRESIDING JUDGE FULFORD: That's right, divider 5.

9 COURT OFFICER: The unmarked map shall carry the number EVD-OTP-00397.

10 Is the map itself confidential, the unmarked version?

11 MR. SACHDEVA: No, in fact -- no, it's not, and once the markings
12 are placed perhaps the map can also be public because it won't identify
13 the witness. But it's whether the questions can be asked in public,
14 which I think they can.

15 PRESIDING JUDGE FULFORD: I'm afraid, Mr. Sachdeva, only you can
16 know the answer to that. I'm not able to guess what questions you want
17 to ask. Right. Can a version of this map please be displayed publicly,
18 the unmarked version, so the witness has a copy before him. Has he been
19 provided with a pencil or a pen, please? He has. Good.

20 Now, first location, Mr. Sachdeva, and you're happy to ask these
21 questions in public session.

22 MR. SACHDEVA: Yes, Mr. President.

23 PRESIDING JUDGE FULFORD: Good.

24 Right. What's the first location then that you want the witness to mark
25 and what do you want him to write next to the cross that he's going to

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 53

1 put on the page?

2 MR. SACHDEVA:

3 Q. Witness, first of all, what is that a map of?

4 A. Here we have a map of the town of Bunia.

5 Q. Can you first of all place or circle the area of Mudzipela and
6 place the letter M on top of that circle.

7 A. (Marks)

8 MR. SACHDEVA: Mr. President, I'm sorry to be pedantic, but I
9 wonder if there's a way for the witness to do this under the ELMO so it
10 can be followed while the witness is marking the locations.

11 PRESIDING JUDGE FULFORD: I imagine it can, but let's have this
12 first one marked and then we'll have the piece of paper placed in the
13 machinery. Good. So a circle and an M for Mudzipela. Right.

14 Usher, could you please then place that ...

15 What's the name of the piece of machinery, Mr. Sachdeva?

16 MR. SACHDEVA: I know it as an ELMO.

17 PRESIDING JUDGE FULFORD: An ELMO.

18 MR. SACHDEVA: I don't know what it stands for.

19 PRESIDING JUDGE FULFORD: Good. Under the ELMO then, please.

20 Right. If we look towards the top we can see an M and the faint outline
21 of a circle.

22 Right. Where are we going now?

23 MR. SACHDEVA:

24 Q. Now, Witness, can you mark the -- in a similar fashion can you

25 mark the area that you describe as the subregion, the subregion, and then

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 54

1 place -- place the letter S there, please.

2 A. (Marks).

3 Q. Thank you. Witness, on that map are you able to locate the
4 residence of the Chief of Staff and also the residence of Mr. Lubanga at
5 the time that we're speaking of?

6 PRESIDING JUDGE FULFORD: Well, let's do them one by one, Chief
7 of Staff first.

8 Would you be able to mark that, sir?

9 And what do you want him to write on the document?

10 MR. SACHDEVA:

11 Q. If you -- if you can find it, Witness, perhaps you can circle it with a
12 small circle, and on top of that you could place the letters FBK, for
13 Floribert Kisembo, FBK.

14 A. I'm sorry, but the scale of the map is too small. It's difficult
15 to distinguish the buildings.

16 Q. That's all right. I understand. But perhaps just a general area
17 then. It doesn't have to be the exact building, but the general area if
18 possible.

19 A. I remember where the UN, or rather, MONUC had its base. If you
20 go beyond that building, then there's a small roundabout with the SONAS
21 building there at the corner, and then you take the road to the right.
22 And less than 10 metres further away you can find Kisembo's house, and
23 less than - approximately 200metres away from there you can find the
24 house of the president, Thomas Lubanga.

25 Q. Thank you - thank you.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 55

1 PRESIDING JUDGE FULFORD: Mr. Sachdeva, I have to say, given the
2 scale of this I'm not at the moment persuaded that asking the witness to
3 mark a particular house is necessarily going to be hugely helpful.

4 MR. SACHDEVA: And that's why I asked him now to mark the general
5 area. Perhaps if he could mark where the UN base was.

6 Q. And perhaps, sir, if you do -- if you can mark a general area as
7 you've described where Mr. Kisémbó's house was and Mr. Lubanga's house,
8 it doesn't have to be the exact building but the general whereabouts. It
9 would be very helpful if you can do that.

10 A. As I said, I can see a UN site here. If you pass it, because
11 there were a lot of buildings there occupied by MONUC, but in this
12 neighbourhood you even had the University of CUEB and if you pass
13 all of these buildings there's these crossroads, or rather, roundabout,
14 as I said, and then you turn right. And when you turn right, 10 metres
15 away, I think, you can find Kisémbó's house, he was the Chief of Staff,
16 and then no more than 200 metres away from that house you can find the
17 house that belonged to the president, Thomas Lubanga.

18 PRESIDING JUDGE FULFORD: Could -- could you then, given that description,
19 simply mark where the UN building is and we can do the rest of it, as it
20 were, by our imaginations. So if you can just mark UN at the point where
21 you understand the UN building to have been.

22 THE WITNESS: (Marks)

23 PRESIDING JUDGE FULFORD: Well, it's up to you, Mr. Sachdeva. If
24 you want to try to get more detail than that, you can, but I practically
25 don't think it's worth it given the size of the circle with the UN inside

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 56

1 it. I don't think we're likely to get anything more useful by way of
2 precision, but you may have a reason for wanting to try to take it
3 further of which I'm unaware.

4 MR. SACHDEVA: I may want to ask one more question, if I'm
5 allowed to.

6 PRESIDING JUDGE FULFORD: Of course you can, sir. I'm not trying
7 to stop you, Mr. Sachdeva, I'm just trying to be practical.

8 MR. SACHDEVA:

9 Q. Sir, again I'm sorry to push this, but are you able to say within the
10 circle that you've drawn, roughly would Kisenbo's residence and Lubanga's
11 residence be within that circle that you have just drawn?

12 A. As I said, the scale is very small, it's very difficult to make
13 out the buildings.

14 PRESIDING JUDGE FULFORD: You're going to have to get an A to Z
15 I'm afraid, Mr. Sachdeva. There's no point in trying to force the
16 witness to do something that he's reluctant to do. It is not going to help
17 us.

18 MR. SACHDEVA: Yes, Mr. President. Perhaps I can at some point
19 show the witness a larger map.

20 PRESIDING JUDGE FULFORD: Absolutely. You're than welcome to return
21 to this in due course with a -- with a map with a more appropriate scale.

22 MR. SACHDEVA: Thank you, Mr. President.

23 PRESIDING JUDGE FULFORD: Now, any more locations on this map?

24 MR. SACHDEVA: On this map, no, Mr. President.

25 PRESIDING JUDGE FULFORD: Good.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 57

1 Is there any reason why this map shouldn't be shown to the
2 public? There's nothing on it, as I understand it, that will identify
3 this witness.

4 MR. SACHDEVA: Precisely.

5 PRESIDING JUDGE FULFORD: No.

6 Let me just have a quick word with the Court Officer.

7 (Trial Chamber and Court Officer confer)

8 PRESIDING JUDGE FULFORD: Yes. I'm going to ask, therefore, that
9 this document is placed back on the ELMO and that is then broadcast
10 publicly, please. Yes, and while that's happening, Mr. Sachdeva, you can
11 proceed with your next questions.

12 MR. SACHDEVA: Thank you, Mr. President.

13 PRESIDING JUDGE FULFORD: And I think the Court Officer is about
14 to give this a number.

15 COURT OFFICER: Thank you, Mr. President, the annotated map shall
16 carry the number EVD-OTP-00398.

17 MR. SACHDEVA:

18 Q. Sir, you spoke about the Chief of Staff giving you the order to
19 go to Rwanda. At the time that order was being given, were there any
20 other commanders present?

21 A.I -- when I came to his residence, there were other soldiers there. We had
22 to assemble, and during assembly someone, a person who was accompanying, I
23 would say a high-ranking or ranking officer, and that's when I saw Kasangaki.

24 Q. This may be an obvious question, but when you say "assembly,"
25 what do you mean by that?

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 58

1 A. It was just the military act that was done each time. The FOREN is an
2 assembly when they want to issue an order, when they want to take a decision
3 concerning the soldiers or there is a communiqué to be issued to the
4 soldiers, there's always a meeting in the camp where the soldiers are. Apart
5 from the fact it was always every day, usually it's in evening or in the
6 morning, but sometimes they can decide to have a meeting at any time because
7 a decision has to be taken, or they want to initiate manoeuvres and then they
8 call assembly, and this is where they tell everyone everything.

9 Q. And who would organise -- who would typically organise these
10 meetings, this assembly?

11 A. In this particular case, it was at the headquarters, that's where it was
12 organised, but wherever there are units and where the camp is, the officer of
13 the week, the aide-de-camp, who is responsible for doing that, or else there
14 are troops that are on duty during the week. They have one person who is in
15 charge of organising such assembly and he is to call on the soldiers or to
16 give the orders so that people get together for meeting, assembly.

17 Q. And during your time in the UPC, was there a particular phrase
18 that was used to describe this -- this assembly, this meeting?

19 A. Yes, the word we used in French was "FOREN."

20 Q. If I may ask you to spell that word just for the record, please.

21 A. F-o-r-e-n. Q. Thank you very much. After then you were given the
22 orders by the Chief of Staff to go to Rwanda, you mentioned that you went to
23 Tchomia. What did you do in Tchomia?

24 A. First of all, we went to the head -- Chief of Staff for assembly, he told
25 us of the order that we were going to Mandro first, then we would disarm, we'd

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 59

1 take the car to Mandro. It was in the evening, so we would spend the
2 night there. The next morning we spent the whole day there because there
3 had to be some sorting out of the people who were to go to Rwanda. There
4 had to be a selection of persons. So there were a number of tests. We
5 spent the whole day there, and the night, and the next day in the morning
6 we took the road to Tchomia.

7 Q. You said "we would disarm." Why did you disarm?

8 A. We didn't know the reason why because, one, we reached -- once we
9 reached Mandro, the road from Mandro to Tchomia, we walked all the way
10 through the mountains and the hills, it was dangerous, so we were still
11 carrying weapons. From Mandro to Tchomia we still had our weapons at
12 that time.

13 Q. What happened when you arrived in Tchomia -- well, sorry, before
14 you answer that question, I apologise. Where -- can you say where
15 Tchomia is located?

16 A. Tchomia is close or near the Albert lake.

17 Q. I'm sorry, what was the name of the lake again, please?

18 A. Lac Albert, Albert lake.

19 Q. Thank you. So now my initial question: When you arrived in
20 Tchomia, what did you do?

21 A. So there was a camp, a UPC camp there too. That's where we were
22 welcomed or received. We spent the night there. And the following
23 morning the camp commander called us for assembly. A battalion commander
24 was there. He asked to take the road towards the airstrip at
25 Tchomia airport.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 60

1 Q. Who was the camp commander?

2 A. Kabo was the company commander and Mugisa Muleke was the
3 battalion commander.

4 Q. Are you aware of any relation between Kabo and Kahwa?

5 A. From what I heard in the UPC, he is the younger brother of Chief
6 Kahwa.

7 Q. You -- well, how many were you in this group that went to Tchomia
8 and that were selected to go to Rwanda?

9 A. I do not know. At the time when we left Mandro to go to Tchomia, there
10 were still many of us, more than 60, plus the soldiers who were there who
11 accompanied. When we got to the airport in Tchomia, there were other people
12 there who were getting ready to go to Rwanda, but among the --
13 in the group, 47 of them took the plane to Rwanda and I was among them.

14 Q. You mentioned the camp commander in Tchomia and you also
15 mentioned the battalion commander. Did you meet any other commanders
16 while you were in Tchomia before you went to Rwanda?

17 A. Yes, at the airport there was Commander Safari.

18 Q. What was his function?

19 A. He was the liaison agent, liaison officer.

20 Q. The liaison officer between whom? A. Liaison between the UPC and Rwanda.

21 Q. And at the airport, did he have responsibility for anything in
22 particular with respect to your travel to Rwanda?

23 A. There was no higher commander on the ground there, as far as I could see.
24 He was constantly communicating until the plane landed. He was the one who
25 talked to the officer on the plane, and he was in charge of us. He would tell

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 61

1 us, Get on the plane, take this plane. This is what he did.

2 Q. By what means did he communicate with the officer on the plane?

3 A. He used a communication device, the brand name was Uradiom.

4 Q. Sir, may I once again ask you to, if you can, spell that device
5 just so we have it properly recorded on the record.

6 A. U-r-a-d-i-o-m.

7 Q. Thank you very much for that. You said that you were in the
8 group that took the plane to Rwanda. Where in Rwanda did you land?

9 A. Kanombe.

10 Q. And when you landed in Kanombe, were you met by anyone?

11 A. The officer who was with us on board asked us to be discreet,
12 asked us to wait. We had to be patient. We waited for some
13 time in the plane, that went to a hangar, until two trucks came
14 which were covered in tarpaulin with the rear part open, and then we were
15 asked to get in it quickly in order not to be
16 seen.

17 Q. Who was the officer who was with you on board?

18 PRESIDING JUDGE FULFORD: Are you happy to answer that question
19 in open session?

20 THE WITNESS (interpretation): Yes.

21 PRESIDING JUDGE FULFORD: Good. Please do so.

22 THE WITNESS (interpretation): He was wearing an officer uniform
23 -- he had his stripes on the shoulder. He introduced himself by saying
24 he was a major. That's all he said. He didn't give his name.

25 MR. SACHDEVA:

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 62

1 Q. And I just want to take you back one second, sir. The -- you
2 talked about Safari who was involved with communicating with the plane.
3 Do you know what nationality he had?

4 A. I don't know his nationality, but he would speak Rwandan
5 language.

6 Q. Apart from the officer and the soldiers on the plane that you
7 arrived in, were there any Rwandans that came to meet you when you
8 landed?

9 A. At the airport, no.

10 Q. Where was it then where they met you?

11 A. When we reached the training camp, there were officers and
12 soldiers waiting for us there at camp.

13 Q. Did the training camp have a name?

14 A. Yes. It was the Gabiro training centre.

15 Q. Sir, I'm sorry, I would ask you again to spell the name of the
16 training centre.

17 A. G-a-b-i-r-o.

18 Q. Thank you. Did that training centre have a commander; and if it
19 did, do you know that person's name?

20 A. The chief commander who met us spoke of the fact that he was only
21 an interim officer, the actual chief had left to be trained in -- for
22 training in the US, was in charge. He was Captain Charles Sibo.

23 Q. May I ask you, please, to spell the last name of the person you
24 just mentioned, if you could spell Sibo?

25 A. S-i-e -- sorry, I don't know how they write it, but I write it as

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 63

1 I hear it in French. S-i-s-e-a-o (sic).

2 Q. Thank you. Thank you for your patience, sir. What -- while you
3 were there at the camp, what were you trained in?

4 A. In the beginning with different types of heavy weaponry, we did
5 that for quite a while; and then after that we studied antipersonnel
6 mines, and around the end there was the ideology, Siassa they called it.

7 PRESIDING JUDGE FULFORD: Mr. Sachdeva, can we just go back to
8 Mr. Siseau a second. In the French transcript he's down as Captain
9 Charles Siseau. In the English transcript he's down as George Siseau, so
10 which of those two is it, was he George or was he Charles or was he
11 neither?

12 THE WITNESS (interpretation): Charles Sibbo, Captain Charles
13 Sibbo.

14 PRESIDING JUDGE FULFORD: Thank you. Very helpful.

15 Well, on that occasion, Maitre Mabilille, the French transcript was
16 better than the English.

17 Yes, Mr. Sachdeva.

18 MR. SACHDEVA: Thank you, Mr. President.

19 Q. What -- you mentioned this ideology, Siassa. Can you
20 explain what that was, please.

21 A. At the beginning it was the revolution. I'll try to explain
22 the revolution, how a commander had to
23 behave vis-a-vis the population, how to treat them, the people, and then
24 they focused on the Geneva codes of war, prisoners of war, that you
25 shouldn't whip them or treat them badly or torture them. They talked

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 64

1 about those things.

2 Q. Did you have an understanding as to who was running this training camp?

3 A. As I said, the centre commander, when we were trained, was

4 Captain Charles Sibomwa. He was there standing in for the major

5 who had gone to the States, he had gone for training in the States.

6 Q. A captain in which army? I'm sorry to push this, but just to be

7 clear, in which army was he a captain?

8 A. We're talking about Rwanda, so it was the Rwandan army.

9 Q. You said that you were trained in heavy weapons, you were trained
10 in the ideology, and the Geneva codes and conventions. Was there --
11 excuse me, was there anything else that you undertook during your
12 training with respect to combat techniques?

13 A. Yes, around the end they tried to get us up to the right level as
14 they called it, because we had different levels among all the people
15 there. So we started -- they forced us. We still had to do drill,
16 military marches, military respect and all that, we had to do it again
17 there. And also combat techniques, some combat
18 techniques, the movements and manoeuvring on the ground.
19 Yes, those are also things we did.

20 Q. And apart from those of you who were with the UPC being trained,
21 did you during the time of your training receive a visit from another
22 person in the UPC?

23 A. Yes, the chief of staff, Kisembo came to visit us. On the same
24 occasion he was accompanied by Dhetchuvi, Professor Dhetchuvi, and the
25 Chief of Staff of Rwanda, James Kabarebe.

Witness: Witness DRC-OTP-WWWW-0017 (Closed Session)
Questioned by Mr. Sachdeva

Page 65

1 MR. SACHDEVA: Mr. President, I now will move on to another
2 subject. Perhaps if I may suggest it's --

3 PRESIDING JUDGE FULFORD: It's always amazing, Mr. Sachdeva, how
4 a new subject emerges at about three or four minute to 1.00, but I'll
5 take the hint, certainly.

6 Thank you very much, sir. We're going to have lunch now. Your
7 assistance is much appreciated. We'll look forward to seeing you at 2.45.
8 Closed session, please.

9 *(Closed session at 12.57 p.m.) Reclassified as Open session.

10 COURT OFFICER: Closed session.

11 PRESIDING JUDGE FULFORD: Yes, thank you. The upstairs public
12 gallery is empty. The witness can leave. Thank you very much.

13 (The witness stands down)

14 PRESIDING JUDGE FULFORD: On current progress, Mr. Sachdeva, just
15 an approximation?

16 MR. SACHDEVA: How long I have left, Mr. President? I would, I
17 think, sometime tomorrow in the last session I should be completed.

18 PRESIDING JUDGE FULFORD: Thank you.

19 2.45.

20 COURT USHER: All rise.

21 Luncheon recess taken at 12.58 p.m.

22 On resuming at 2.46 p.m.

23 COURT USHER: All rise. Please be seated.

24 PRESIDING JUDGE FULFORD: This is just to remind everyone that
25 this afternoon we have an ex parte hearing at 4.15 with the

Witness: Witness DRC-OTP-WWWW-0017 (Closed Session)
Questioned by Mr. Sachdeva

Page 66

1 representatives of the victims. Yes, which means that we are going to
2 have to rise in an hour's time because the Court needs to move from
3 public into ex parte session.

4 You want to say something, Mr. Sachdeva?

5 MR. SACHDEVA: Mr. President, just a clarification. Before the
6 break I said that I would continue tomorrow. Of course, Mr. Prunier is
7 coming tomorrow, so it would be after his testimony.

8 PRESIDING JUDGE FULFORD: Witness, please.

9 We could experiment with having two witnesses at the same time,
10 Mr. Sachdeva.

11 (The witness takes the stand)

12 PRESIDING JUDGE FULFORD: Public session, please.

13 (Open session at 2.48 p.m.)

14 COURT OFFICER: (Interpretation) Public session.

15 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

16 MR. SACHDEVA: Thank you, Mr. President.

17 Q. Welcome back, sir.

18 A. Good afternoon.

19 Q. We rose for lunch. You told us about the Rwandan Chief of Staff
20 who was -- who came to the camp, and I would like you to again spell his
21 last name, his name, if you can.

22 A. J-A-e-a-m-e-s k-a-r-k-o-r-a-b-e (as interpreted).

23 Q. And the Rwandan Chief of Staff was James Kabarebe. Is that right?

24 A. Yes.

25 Q. When was the training completed? When did you finish your time

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 67

1 in Rwanda?

2 A. It must have been at the beginning of the month of November.

3 Q. Where did you go after Rwanda, where did you return to?

4 A. All of us returned to Bunia and then we were assigned, and I was
5 assigned to the brigade I talked about earlier.

6 Q. And how did you travel back to Bunia?

7 A. This time we went back by air again from Kanombe and we landed at
8 the airport of Bunia.

9 Q. During the travel back to Bunia, did you -- well, how were you
10 dressed? Were you in uniform?

11 A. Yes.

12 Q. Did you have weapons?

13 A. Yes.

14 Q. Just one question: Why -- do you know why it was that you flew
15 to Rwanda from Tchomia but returned to Ituri in Bunia? Why did you not
16 fly from Bunia initially to Rwanda?

17 A. I think it was a question of discretion. I think the idea was
18 that they did not want the Ugandans who were in Ituri to know - they were
19 not on good terms with the Rwandans. So they wanted to avoid them
20 knowing about that, I think.

21 Q. And is that the reason why you left from Tchomia?

22 A. I think so, yes.

23 Q. How were you then able to return to Bunia in November 2002?

24 A. I don't know, but to avoid suspicion at the airport we were
25 requested to leave behind all documents that proved that we were -- that

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 68

1 we were returning from Rwanda and that we should abandon the clothing
2 that was given to us in Rwanda; that is, clothes that did not resemble the
3 uniforms used by the UPC. We were told we had to leave them behind, in order
4 to make sure that the Ugandans who were controlling the airport of Bunia,
5 so that they would not be able to determine that we were coming from Rwanda.

6 Q. And what about the weapons that you had?

7 A. The major we travelled with, the one who was at the airport, who gave us
8 those orders, said we were going to land at Bunia airport. We were also
9 surprised since we knew that there could be an incident or pressure. That is
10 why we were given weapons. We were even given more cartridges, and this is
11 not something that is generally done for an air trip, that they give you
12 more weapons. So we were afraid there was going to be an incident at Bunia
13 airport, so we had to carry weapons.

14 Q. When you arrived in Bunia, did you retain those weapons?

15 A. Yes.

16 Q. How --

17 PRESIDING JUDGE FULFORD: Maitre Mabilille.

18 MS. MABILLE (interpretation): Well, excuse me. The Court
19 reporter in French is saying that you are a bit too fast and it is making
20 it difficult for them to do the transcript.

21 PRESIDING JUDGE FULFORD: Thank you very much for bringing that
22 to our attention, Maitre Mabilille.

23 Mr. Sachdeva, sir, we were doing extremely well before lunch.
24 Can we keep the pauses that we built in this morning between questions
25 and answers. Thank you very much.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 69

1 MR. SACHDEVA: Yes, Mr. President. Thank you.

2 Q. Sir, do you know how many soldiers were with you on the plane
3 that returned from Rwanda?

4 A. We were 107 in number.

5 Q. When you arrived at the airport in Bunia, was anybody there to
6 meet you?

7 A. Yes, there was the Chief of Staff Kisémbó who was there with his
8 bodyguards.

9 Q. Do you know how many bodyguards he had at that time?

10 A. I don't know the exact number, but there were many of them.

11 Q. Did the Chief of Staff say anything to you and your fellow
12 soldiers when he came to meet you at the airport?

13 A. He did not talk to us. He talked with the officer who was with
14 us in the plane.

15 Q. Do you know what he said to the officer?

16 A. No.

17 Q. Where did you go after you arrived at the airport?

18 A. We boarded a truck at the airport and we went to EPO camp.

19 Q. And is that the camp that you said was in the subregion
20 of Bunia?

21 A. Yes.

22 Q. What happened when you arrived at the camp?

23 A. When we arrived in the camp we stayed there for some time, and
24 then the head of the camp called us to assemble. Then we saw the vehicle
25 of the Chief of Staff arrive. He alighted from the vehicle and he was

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 70

1 accompanied by President Lubanga.

2 Q. Who was the head of the camp?

3 A. The head of the camp was Kaswara.

4 Q. Did this person have any other role that you know of?

5 A. He was responsible for the soldiers who were often sent to serve in the
6 Chief of Staff's escort. Since he was company commander he was in charge of
7 three platoons in his unit. So each time a platoon was sent to work for the
8 Chief of Staff, the rest couldn't stay there and they shared the EPO camp,
9 and he also stayed in the camp.

10 Q. Would Kaswara, would this person communicate with the Chief of Staff?

11 A. I don't know how he communicated with him, but I know that he was
12 one of those who was responsible for the security of the Chief of Staff.
13 He was the company commander assigned around the compound which guarded
14 the compound of the Chief of Staff. He did not reside with the Chief of
15 Staff, that's why they lived in the EPO camp.

16 Q. You said that the Chief of Staff was accompanied by President
17 Lubanga and they alighted from a vehicle. Do you recall what type of
18 vehicle it was?

19 A. I don't know the brand, but it was a four-by-four jeep type of
20 vehicle.

21 Q. How was Mr. Lubanga dressed?

22 A. He was dressed in the camouflage uniform of the UPC, tache-tache.

23 Q. Just so we're clear, you said that there were 107 of you that
24 returned from Rwanda. Did all of you -- were all of you at the camp at
25 the time Mr. Lubanga came?

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 71

1 A. Yes.

2 Q. What did Mr. Lubanga do when he arrived at the camp?

3 A. As I said, we were asked to assemble, we lined up. The Chief of
4 Staff alighted from the vehicle, first of all, and he issued orders that
5 we should show respect to the president in the tradition of the army.
6 The president alighted, he surveyed the troops, and then he talked with
7 the Chief of Staff for a while. He did not spend a long time and he got
8 back into his vehicle and they left.

9 Q. Just to go back to the vehicle, do you remember the colour of the
10 four-by-four vehicle?

11 A. It was part khaki, part chocolate.

12 Q. Who was it that asked you to assemble, to line up?

13 A. We had a leader, because in Rwanda there was so many soldiers-- there
14 was a structure that the Rwandans asked us to do. There was a company
15 commander because there were hundreds of us, you could have formed a
16 whole company with that number. So there was the commander of the
17 company, there was the commander of the platoon, and there were people who
18 had been appointed. The person who called us was responsible for
19 supervising us. It was the man who had been appointed who called us to
20 assemble and we all went.

21 Q. Were the -- was the commander of the platoon and the person who
22 was responsible for supervising you, to which military group did they
23 belong to?

24 A. They were all UPC people.

25 Q. You said that the president surveyed the troops and then he

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 72

1 talked with the Chief of Staff for a while. Are you able to describe how
2 the president surveyed the troops? Did he do anything in particular?

3 A. No, he only observed us, observed our posture.

4 Q. Did he say anything to you?

5 A. No, he didn't say a single thing.

6 Q. Roughly how long did Mr. Lubanga spend at the camp at that time?

7 A. At least a quarter of an hour, but not more than 20
8 minutes. He didn't spend much time there.

9 Q. What -- what happened after he left? What did you do?

10 A. The Chief of Staff spoke to the company commander. We had
11 returned from Rwanda and we had to draw up a list of individuals
12 who were able or who knew a lot about weapons who
13 could train others; people who could lead troops were to be assigned
14 to units. A list of individuals who were capable of accomplishing
15 certain tasks was to be drawn up.

16 Q. What was the purpose for these lists to be drawn up?

17 A. It was in order to assign individuals. Our company
18 commander Christian was to go to Bule that evening, where he would be the
19 leader of the training camp; others would be assigned to the General
20 Staff, others were to be assigned to certain units. It was just a matter
21 of assigning individuals to these various groups.

22 MR. SACHDEVA: Mr. President, might I ask to move into closed
23 session for one question?

24 PRESIDING JUDGE FULFORD: Certainly.

25 Private session, please.

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 73

1 *(Private session at 3.12 p.m.) Reclassified as Open session.

2 COURT OFFICER: (Interpretation) We are now in private session.

3 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

4 MR. SACHDEVA:

5 Q. Were you, Witness, assigned to a unit?

6 A. Yes. In the evening, on the following day, I was recruited and I
7 was sent to the troop within the Salumu brigade.

8 Q. Did the Salumu Brigade have another name that you're aware of?

9 A. I'm not aware of any other name. It's commonly called Salumu's
10 brigade.

11 Q. At that time that you were deployed to that brigade, did you have
12 a rank?

13 A. No, I was just there to carry heavy weapons, to use heavy
14 weapons.

15 Q. Once the assignment -- the assignments had been completed and
16 once you were assigned to the brigade, what did you do? Where did you
17 go?

18 A. Most people, the staff and Salumu's soldiers were in Lalo just behind
19 Mabanga. First we went with Salumu to Mabanga, and from there we walked
20 to the staff where the rest of Salumu's troops were in Lalo. And after a
21 while we were involved in the Mongbwalu operation.

22 Q. What was in Mabanga?

23 A. In Mabanga there was a military camp. There was a camp and also the centre,
24 the Mabanga market, it's a small gold-bearing centre, the goldwasher worked
25 there, and there is also the local population; we were in the military camp.

Witness: Witness DRC-OTP-WWWW-0017 (Private Session)
Questioned by Mr. Sachdeva

Page 74

1 But we were in the military camp.

2 PRESIDING JUDGE FULFORD: Mr. Sachdeva, I'm going to intervene.

3 Up on the screen in French, even at the rate we're going, there's a
4 suggestion that the pause before you come in with the next question needs
5 to be slightly longer. So take your time.

6 MR. SACHDEVA: I will try, Mr. President. Thank you.

7 Q. At that time, which group controlled the Mabanga military camp?

8 A. Mabanga was under the control of the UPC.

9 Q. How would -- at that time or -- how would you travel from Bunia
10 to Mabanga?

11 A. We would travel by car from Bunia to Mabanga and from Mabanga to
12 Lalo we walked.

13 Q. Sir, I would like -- well, let me ask you this: If I were to
14 show you a map of the region, would you be able to locate Mabanga on that
15 map?

16 A. I think so.

17 PRESIDING JUDGE FULFORD: Do we still need to be in private
18 session, Mr. Sachdeva?

19 MR. SACHDEVA: No, I apologise. I thought we were in open
20 session. I apologise.

21 PRESIDING JUDGE FULFORD: No, no, you must keep an eye on it
22 because we are dependent to a very large extent on counsel's judgement on
23 this.

24 Public session, please.

25 MR. SACHDEVA: I apologise, Mr. President.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 75

1 (Open session at 3.18 p.m.)

2 COURT OFFICER: (Interpretation) Public session.

3 MR. SACHDEVA: I'm going to have a map brought up on the screen.

4 The ERN is 0 -- DRC-OTP-0207-0669.

5 Q. And, sir, you'll see a map on your screen. And firstly, I'd like
6 you to look at the map and let me know if it is clear enough for you to
7 make markings on.

8 COURT OFFICER: I'm sorry, is the map public?

9 MR. SACHDEVA: Yes.

10 COURT OFFICER: Thank you.

11 MR. SACHDEVA: And for the benefit of the Chamber, it's tab 6 in
12 the binder.

13 COURT OFFICER: The map shall have the evidence number
14 EVD-OTP-00399.

15 MR. SACHDEVA:

16 Q. Does that map appear clear enough for you, sir?

17 PRESIDING JUDGE FULFORD: Wouldn't it be easier with a hard copy,
18 Mr. Sachdeva? Looking at what I've got behind tab 6, I have to say I
19 think it's easier to read in hard copy than it is on the screen, frankly.

20 MR. SACHDEVA: Yes.

21 PRESIDING JUDGE FULFORD: Again, I'm not going to tell you how to
22 do it, you must take your own course, but that's certainly how it strikes
23 me.

24 MR. SACHDEVA: Very well. I wanted to avail myself of the
25 e-court -- of the e-court procedure.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 76

1 PRESIDING JUDGE FULFORD: You're absolutely right, Mr. Sachdeva,
2 but we -- we shouldn't become slaves to it.

3 MR. SACHDEVA:

4 Q. Is that easier, sir?

5 Sir, if you can, could you mark the location of Mabanga with a
6 cross and if you could write out the name of the -- the name on top of
7 that cross, please.

8 A. (Marks)

9 PRESIDING JUDGE FULFORD: Could we put that on to the ELMO,
10 please.

11 COURT OFFICER: The marked map -- oh, sorry, forgive me.

12 MR. SACHDEVA: Were you going to announce a number? I actually
13 want the witness to mark another marking, please.

14 PRESIDING JUDGE FULFORD: Sorry, Mr. Sachdeva?

15 MR. SACHDEVA: I'd like the witness to make another marking.

16 PRESIDING JUDGE FULFORD: Another mark?

17 MR. SACHDEVA: Yeah.

18 PRESIDING JUDGE FULFORD: All right.

19 MR. SACHDEVA:

20 Q. Witness, would you be able to mark the location Centrale in the
21 same fashion, please?

22 PRESIDING JUDGE FULFORD: So what are we doing, a cross and a C?

23 MR. SACHDEVA: Yes, a cross and a -- if the witness can write out
24 the name, Centrale.

25 PRESIDING JUDGE FULFORD: So write out "Centrale," all right.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 77

1 So a cross, please, sir, and write out the word "Centrale."

2 THE WITNESS (interpretation): There's a slight problem. We have
3 Centrale -- there was a little hydro dam there and it's called Centrale
4 Solenyama and there's another Centrale where the population lives which
5 is called Centrale, strictly speaking, so there are two.

6 MR. SACHDEVA:

7 Q. Can you mark both?

8 PRESIDING JUDGE FULFORD: And what do you want him to write to
9 distinguish them, Mr. Sachdeva?

10 MR. SACHDEVA:

11 Q. I was just going to say perhaps you can mark Centrale 1 and
12 Centrale 2.

13 PRESIDING JUDGE FULFORD: All right. And you're going to have to
14 establish in due course which is which.

15 THE WITNESS (interpretation): 1 and 2, 1 is where the Centrale
16 Solenyama is. That's where the dam is, the electric power station, and a
17 little further on is Centrale 2, the village of Centrale which is
18 inhabited by local people.

19 MR. SACHDEVA:

20 Q. And during the time you were in the UPC, was there a camp at
21 Centrale?

22 A. Yes, there was a camp at Centrale.

23 Q. And was the camp at Centrale 1 or Centrale 2?

24 A. Centrale 2.

25 MR. SACHDEVA: Mr. President, as the examination proceeds, I

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 78

1 would like to ask the witness to make further markings on this map. So
2 perhaps it shouldn't be given a number now but once it's all completed.

3 PRESIDING JUDGE FULFORD: Thank you, usher, you can take it off
4 the machine now or return it to the witness perhaps, yes.

5 MR. SACHDEVA:

6 Q. Sir, how would -- well, let me ask you this: Could one travel
7 directly to Mabanga from Centrale?

8 A. There is a passable road from Bunia through Centrale to the other
9 Centrale, going all the way to Barrière -- Barrière, and then from
10 Barrière you can go to Nizi, the road goes all the way to Mabanga.

11 Q. And how about from Centrale to Mabanga?

12 A. Yes, there is a passable road.

13 MR. SACHDEVA: Mr. President, since we are still with the maps, I
14 now have a larger map of the Bunia map, and I would endeavour to ask the
15 witness to make those markings from before --

16 PRESIDING JUDGE FULFORD: Right, on a - on a better map?
17 Certainly.

18 MR. SACHDEVA: Yes.

19 PRESIDING JUDGE FULFORD: Have we got copies for the Bench? Has
20 one been provided to the Defence?

21 MR. SACHDEVA: Mr. President, they were difficult to produce.
22 They are the same maps, but we have one large copy for the witness. I do
23 apologise.

24 PRESIDING JUDGE FULFORD: All right. Don't worry. We'll
25 survive, Mr. Sachdeva.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 79

1 Let the large copy be given to the witness, and I for my own part
2 can't see any problem in giving the map that's just been taken away from
3 the witness a number now so we don't lose track of this. So could we
4 give the last -- the map just been removed an EVD number.

5 COURT OFFICER: Annotated map, the one that has just been
6 annotated by the witness shall carry the number EVD-OTP-00400.

7 PRESIDING JUDGE FULFORD: Now, Mr. Sachdeva, how is the witness
8 supposed to deal with this map? Where do you suggest this takes place?

9 MR. SACHDEVA: What I would suggest, but I see that it can't be
10 done now, is to have a -- I don't know what it's called --

11 PRESIDING JUDGE FULFORD: A whiteboard.

12 MR. SACHDEVA: A whiteboard, yes.

13 PRESIDING JUDGE FULFORD: Let -- let's move away from the subject.
14 Large map back to counsel, please, and somebody from the Office of the
15 Prosecutor tomorrow -- no, not tomorrow, the day after, can provide us
16 with a blackboard. Good.

17 So where are we going now, Mr. Sachdeva?

18 MR. SACHDEVA:

19 Q. Witness, you mentioned -- you mentioned that you were preparing
20 for the Mongbwalu operation. What was the purpose of that operation?

21 A. Well, the purpose of the operation was to take back the city of
22 Mongbwalu, the town of Mongbwalu, which was controlled by the APC.

23

24 Q. And who were you taking the city back from?

25 A. I said that the city of Mongbwalu was controlled by the APC.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 80

1 Q. You said that you went to Lalo. What was in Lalo?

2 A. Well, in Lalo, the staff of the brigade commander -

3 Salumu was in Lalo.

4 Q. Do you mean Salumu?

5 A. Yes, the staff of the brigade commander, Salumu, was at Lalo.

6 PRESIDING JUDGE FULFORD: Is the word "leading" on your lips,

7 Maitre Mabilille?

8 MS. MABILLE (interpretation): Yes. This is what I had in mind

9 and I was thinking also about the fact that on the screen we see UPC

10 instead of APC -- it's just been corrected. So I wanted to speak for

11 the -- to discuss the two problems, to mention the two problems we had.

12 PRESIDING JUDGE FULFORD: One corrected, one to be careful about,

13 Mr. Sachdeva.

14 MR. SACHDEVA: Yes, Mr. President. The second point is already

15 on the record in my submission, the brigade commander of -- that's why I

16 thought I could -- but I will take the --

17 PRESIDING JUDGE FULFORD: Yes.

18 MS. MABILLE (interpretation): I'd like to apologise again. On

19 the English transcript, 78, line 3, we see UPC, it should be APC.

20 PRESIDING JUDGE FULFORD: Yes. I think at line 5 it is, in fact,

21 corrected and there's an indication on the English transcript that there

22 is something there that needs to be corrected or perfected. So don't

23 worry, Maitre Mabilille, the stenographer has made a note that there is a

24 mistake to be corrected hereafter, and at line 5 it's been corrected in

25 any event.

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 81

1 I think you're right, Mr. Sachdeva, in fact, in relation to where -- the
2 point of which I said you were to be cautious. I think the witness had
3 been trying to give the name and in any event it's been given already.
4 So the suggestion that you were leading I think was probably harsh.
5 Please continue.

6 MR. SACHDEVA: Thank you.

7 Q. And, sir, just so we're clear you said the staff of the brigade
8 was present at Lalo. Are we talking about the -- the departments that
9 you had mentioned earlier on, logistics, intelligence, administration. Is
10 that right?

11 A. Yes, this is the staff I had in mind.

12 Q. Were there also battalions present at Lalo?

13 A. Yes.

14 Q. How many?

15 A. Well, they said that it was almost Salumu's full brigade that was there. But
16 on site at the time of assembly, you could see there were two battalions and
17 then there were other troops nearby, but there were about two full battalions.

18 Q. Amongst the troops that were within the battalions and the
19 brigades, were there -- were there only adults or were there also
20 children?

21 A. There were children as well.

22 Q. What were these children doing there? What was their function?

23 A. Some of them were in the troops and units, but the majority of
24 them were bodyguards.

25 Q. What was the age-range of these children?

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 82

1 A. I would say that there were none younger than 10. You could tell. They may
2 have been from 10, 11, 12. It varied, but some were under 15 - you could see
3 that they were under 15. Q. And amongst the children that were

4 under 15, were there boys and girls or just boys?

5 A. There were boys and girls, but girls -- there were not as many
6 as the boys. You could easily see many boys; as to the girls, the
7 majority of girls within Salumu's brigade were older, but some were under
8 15. You can easily see it if they were under 15.

9 Q. And at Lalo and in the brigade, what were the girls under 15
10 responsible for? What were their duties?

11 A. The majority of girls whom I saw at Lalo, almost all of them were
12 in the houses where the commander lived. They were bodyguards. It was
13 difficult to eat, it was difficult to find shelter at Lalo. The
14 situation was difficult and they ended up with the commanders a lot -- I
15 mean, all the girls I saw there at Lalo were at the commander's house.

16 Q. How were they dressed?

17 A. Most of the time, they were wearing military uniforms.

18 Q. What was the size of the uniforms they were wearing?

19 A. Well, you know, the majority of persons in the UPC who lived --
20 sometimes it was easy to have alterations made to their military uniforms
21 by a tailor. So they had uniforms, especially girls had uniforms that were
22 proportional to their size for the child soldiers I would see and other
23 soldiers would wear larger uniforms.

24 Q. And would anything be done to the large uniforms so as to allow
25 them to be worn by the children?

Witness: Witness DRC-OTP-WWWW-0017 (Open Session)
Questioned by Mr. Sachdeva

Page 83

1 A. As I explained, many of them were bodyguards, so if they had a good
2 commander in charge, he could help them to go to a tailor, but those who
3 were in units -- I mean, the boys in units were often wearing uniforms that
4 were too large. So they had to fold them several times.

5 Q. Incidentally, why was it that the children that you described ended up
6 with the commanders? Was there a particular reason for that?

7 A. I said I, you know, in general at the UPC it was easy for a young child
8 to end up being a bodyguard. They were not very demanding, they were not
9 asking for money to buy what they wanted, they didn't have a girlfriend,
10 they couldn't drink, whereas older young soldiers had other troubles as
11 well. A child -as long as he can wash and eat, that's all he needs, while
12 adults -elder soldiers, want more than that.

13 MR. SACHDEVA: Mr. President, do we rise at quarter to 4.00? I'm
14 now going to move on to another subject, legitimately I am.

15 PRESIDING JUDGE FULFORD: Yes, certainly, Mr. Sachdeva. Thank you for
16 anticipating it. Sir, unfortunately for the rest of this afternoon we've got
17 to deal with an issue that's been raised by some of the participants in the
18 case, which means we're going to have to interrupt your evidence.

19 Indeed, not only are we going to have to interrupt your evidence today,
20 I'm afraid we will -- we won't be able to turn to your testimony again
21 until Friday because there's another witness who has got to intervene
22 tomorrow.

23 So I'm sorry that you are going to have to wait and I'm sorry for
24 the interruption, but the schedule is one that really cannot be run in
25 any other way. Thank you for your assistance today and we look forward

Witness: Witness DRC-OTP-WWWW-0017 (Closed Session)
Questioned by Mr. Sachdeva

Page 84

1 to seeing you, I hope, at 9 o'clock on Friday morning.

2 So the public understand, there will be no more public hearings
3 this afternoon because the other matters that we've got to deal with are
4 confidential and have to be dealt with in closed session.

5 So can we please then go into closed session so the witness can
6 withdraw.

7 *(Closed session at 3.45 p.m.) Reclassified as Open session.

8 COURT OFFICER: Closed session.

9 (The witness stands down)

10 PRESIDING JUDGE FULFORD: Mr. Sachdeva, I'm right, am I not that
11 tomorrow has been set aside for Mr. Prunier, with the possibility, and
12 he's been kind enough I think to assist in this regard, of his evidence
13 going over into such part of Friday as we need. Is that correct? Or
14 certainly Friday morning?

15 MR. SACHDEVA: Yes, yes, that's right, Mr. President.

16 PRESIDING JUDGE FULFORD: So on any realistic estimate, we're not
17 going to require the current witness to be brought to Court tomorrow just
18 in case; on all reliable estimates, Mr. Prunier is going to be all day?

19 MR. SACHDEVA: Yes, that's right.

20 PRESIDING JUDGE FULFORD: Good. Well, I'm sure that the Victims
21 and Witnesses Unit will see this on the transcript and act accordingly.

22 Therefore, we will rise now and we will sit on the case tomorrow
23 as usual at half past 9.00. We will sit in half an hour so that we can
24 hear the matter that's been raised by some of the victims'
25 representatives.

Witness: Witness DRC-OTP-WWWW-0017 (Closed Session)
Questioned by Mr. Sachdeva

Page 85

1 Thank you all for your assistance.

2 COURT USHER: All rise.

3 The hearing ends at 3.47 p.m.

4 RECLASSIFICATION REPORT

5 Pursuant to Trial Chamber I's email instruction dated 17th January 2012,
6 the transcript is reclassified as public after the indicated redactions have
7 been implemented as ordered by the Chamber. All private and closed sessions
8 (*) are now available to the public with the exception of the portions of the
9 transcript that have been redacted.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25