

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 International Criminal Court  
2 Trial Chamber VI  
3 Situation: Democratic Republic of the Congo  
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06  
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and  
6 Judge Chang-ho Chung  
7 Trial Hearing - Courtroom 2  
8 Monday, 17 July 2017  
9 (The hearing starts in open session at 9.30 a.m.)  
10 THE COURT USHER: [9:30:25] All rise.  
11 The International Criminal Court is now in session.  
12 Please be seated.  
13 PRESIDING JUDGE FREMR: [9:30:56] Good morning, everybody.  
14 Court officer, please call the case.  
15 THE COURT OFFICER: [9:31:07] Thank you, Mr President.  
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor  
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.  
18 For the record, we are in open session.  
19 PRESIDING JUDGE FREMR: [9:31:21] Thank you, court officer.  
20 Appearances, please.  
21 MS SAMSON: [9:31:24] Good morning, Mr President. Good morning,  
22 your Honours. Appearing for the Prosecution today are Mr Rens van der Werf,  
23 Ms Dianne Luping, Ms Selam Yirgou, Ms Claudine Umurungi, Ms Marion Rabanit  
24 and myself, Nicole Samson.  
25 Q. [9:31:43] Thank you, Ms Samson.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Defence, please.

2 MR BOURGON: [9:31:49] (Interpretation) Good morning, Mr President.

3 Representing Bosco Ntaganda, who is present in the courtroom this morning,

4 Ms Salomé Biet, Ms Victoria Cichalewska, Mr Justin Kabika,

5 Mr David Wagen-Magnon, Maître Isabelle Martineau and myself,

6 Stéphane Bourgon. Thank you, Mr President.

7 PRESIDING JUDGE FREMR: [9:32:12] Thank you, Mr Bourgon.

8 And now Legal Representatives of Victims, please.

9 MS RAMBOLAMANANA: Thank you, Mr President. For the former child soldiers  
10 today, myself, Vony Rambolamanana, associate legal officer for the Public of Counsel  
11 for Victims.

12 MR SUPRUN: [9:32:34] (Interpretation) Good morning, Mr President. Good  
13 morning, your Honours. For the victims of the attacks, myself, Dmytro Suprun of  
14 the OPCV, counsel. Thank you.

15 PRESIDING JUDGE FREMR: [9:32:44] Thank you, Ms Rambolamanana. And  
16 thank you, Mr Suprun.

17 Today we are going to continue with the next part of cross-examination of our  
18 witness D-300, who is Mr Ntaganda, conducted by the Prosecution.

19 Ms Samson, you have the floor.

20 MS SAMSON: [9:33:09] Thank you, Mr President.

21 WITNESS: DRC-D18-D-0300 (On former oath)

22 (The witness speaks Swahili)

23 QUESTIONED BY MS SAMSON: (Continuing)

24 Q. [9:33:15] Good morning, Mr Ntaganda.

25 A. [9:33:17] Good morning.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Q. [9:33:19] Last week on Friday we were discussing your role within the  
2 UPC/FPLC and I'll continue with that a bit this morning. And my first question is:  
3 Those who could give orders to commanders included yourself, Mr Kisembo and  
4 Mr Lubanga; is that right?

5 A. [9:34:00] Yes, with each person having their own levels of responsibility and  
6 all orders were issued pursuant to those levels.

7 Q. [9:34:10] I would like to show you a message from your logbook. The  
8 original logbook is DRC-OTP-0017-0033. I believe there is a binder for the witness.  
9 And the translation is DRC-OTP-2102-3855.

10 PRESIDING JUDGE FREMR: [9:34:40] Court usher, please assist to convey the  
11 binder and please give chance to Ms Samson to check it.

12 MS SAMSON: [9:35:15]

13 Q. [9:35:16] If you could please open your logbook to the message at page 0157.  
14 In the translation it's page 3979. Are you there, page 0157?

15 A. [9:35:48] Please kindly give me the last three digits, that would guide me  
16 better.

17 Q. [9:35:59] Certainly. The last digits are 157, 0157.

18 A. [9:36:28] I am there now.

19 Q. [9:36:29] And the message that I would ask you to focus on is the last one on  
20 the page. It's dated 13 February 2003, a message sent at 11.07 from the sector  
21 commander of the north-east sector, Jérôme Kakwavu, to the minister of defence, and  
22 copied for information is the chief of general staff, Kisembo, yourself, the deputy chief  
23 of staff operations and organisation, Tiger One and the G2. And I'll read the passage  
24 that I have a question for you about, and I will read it in French.

25 (Interpretation) "In the UPC the person who can give me an order is the president.

1 Stop. The chief of general staff. Stop. The deputy chief of general staff operations  
2 and organisation. Stop. Only. Stop."

3 (Speaks English) And my question, sir, is that this message confirms that the sector  
4 commander Kakwavu states that he will only follow orders received from the  
5 president, Mr Kisémbó and yourself; that's right?

6 A. [9:38:16] Yes. That is how things worked in the army. We were his  
7 hierarchical superiors and the brigade commander could not give him an order, nor  
8 could a battalion commander.

9 Q. [9:38:36] In terms of your role in the UPC/FPLC, it's right, isn't it, that at times  
10 Thomas Lubanga referred to you as the chief of staff of the army?

11 A. [9:38:58] He had signed the decree appointing me to the position of deputy  
12 chief of general staff, which was the position I held. I was the deputy to the chief of  
13 general staff, who was Kisémbó. The decree appointing me was very clear on that  
14 point.

15 Q. [9:39:33] But at times in 2002 and before the end of 2003 Thomas Lubanga  
16 would refer to you as the chief of staff and as the head of the army, didn't he?

17 A. [9:40:02] No, no. Whenever I met him, he referred to me as commander,  
18 Commander Bosco or Commander Ntaganda, and that was it.

19 Q. [9:40:13] I would like to show you an item. It's a video at  
20 DRC-OTP-0120-0293, item 862. And the translation is DRC-OTP-2101-2810, item 865.  
21 The minutes that I would like to show of the video are 09.45 to 11.39, and for the  
22 translation it's page 2818, line 158, to page 2819, line 195.

23 THE COURT OFFICER: [9:41:28] Before the video is played, could you please  
24 confirm that it's a public document.

25 MS SAMSON: [9:41:33] Yes, that's correct, it's public.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [9:41:40] Prosecution, any objection -- sorry, Defence,  
2 any objection?

3 MR BOURGON: [9:41:48] I would appreciate it if we could get the minutes over  
4 again, please. Just the minutes.

5 MS SAMSON: [9:41:54] Certainly, yes. The minutes are 09.45 to 11.39.

6 MR BOURGON: [9:42:05] No objection, Mr President.

7 PRESIDING JUDGE FREMR: [9:42:09] Thank you. So we can proceed.

8 MS SAMSON: [9:42:12]

9 Q. [9:42:13] And, sir, just to situate this video in your mind, it's an item that  
10 you've looked at during your testimony in-chief, a visit to the Rwampara training  
11 camp on 12 February 2003.

12 We'll be playing the video with sound.

13 THE COURT OFFICER: [9:42:43] The video will be displayed on the evidence 2  
14 channel.

15 MS SAMSON: [9:42:48] And just for the purposes of clarity for the interpreters, if  
16 possible if they could interpret. They have been provided with the interpretation.  
17 If they could interpret at the same time as the video is being played, please.

18 (Viewing of the video excerpt)

19 THE INTERPRETER: [9:43:09] (Interpretation of the video excerpt)

20 "And today, this is the second time that I'm coming here. I believe that many of you  
21 have heard my name, and I remember on radio, before you joined you were watching  
22 TV. I am Thomas Lubanga, president of our party, the UPC. I know that this is the  
23 first time that some of you are seeing me, isn't it?

24 Yes.

25 Ah?

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Yes.

2 Have you already seen me before? You are used to having discussions with our  
3 commanders who help in this work of training and who build the army each, each  
4 day. I am here with them all the time, but there's a lot of work, a lot of work. And  
5 my occupations -- my occupations sometimes include travelling abroad or I  
6 have -- where I have to continue to attend meetings and discussions and meetings.  
7 That is why it is difficult for me to meet you regularly. I am (sic) the chief of general  
8 staff, Commander Bosco, has come to see you. Did he come here?

9 Yes.

10 Does he come often?

11 Yes.

12 If he doesn't come, please tell me. Does he come often?

13 Yes!

14 I consider you as an enemy, but I think that you must not do that. He needs the  
15 army, he is the one who leads the army. Therefore, we have come to see you to  
16 encourage you. Why do we need to encourage you? Because this work that we are  
17 doing, we must do with you. This work that you know, enlist in the army, receive  
18 training and take up arms."

19 MS SAMSON: [9:45:59] I have already indicated that the video stopped at 11.39.

20 Q. [9:46:10] Now, did you hear --

21 PRESIDING JUDGE FREMR: [9:46:13] Sorry, Ms Samson, before we continue,  
22 I would like to check whether the at least English translation is correct. Page 7, line  
23 10, it's sentence, "I am the chief of the general staff ..." Is it the correct translation?

24 MS SAMSON: [9:46:32] No. The translation says -- it's Mr Lubanga speaking and  
25 he says, "The chief of general staff, Commander Bosco, comes to see you."

1 PRESIDING JUDGE FREMR: [9:46:44] All right then.

2 MS SAMSON: [9:46:46] Mr President, would you like the interpreter to confirm  
3 that or is it sufficient?

4 PRESIDING JUDGE FREMR: [9:46:50] Yes, I would like the English booth, if they  
5 could confirm that now the correction made by Ms Samson is the right one.

6 THE INTERPRETER: [9:47:03] Mr President, we would need to be guided on the  
7 exact line of the transcript that this refers to.

8 MS SAMSON: [9:47:11] Certainly. The line is line 180.

9 THE INTERPRETER: [9:47:22] Yes, there is an exclamation at the beginning, "Ah",  
10 maybe not "I", "Ah, the chief of general staff".

11 PRESIDING JUDGE FREMR: [9:47:39] All right.

12 MS SAMSON: [9:47:44]

13 Q. [9:47:45] Sir, did you hear in that video that Thomas Lubanga, when speaking  
14 to recruits and instructors and other high-level individuals within the UPC/FPLC who  
15 were present, states that you are the chief of staff and that you lead the army?

16 A. [9:48:20] Your Honour, he was introducing me to the troops, to the recruits,  
17 but the question you put to me before, when he calls me, when he addresses me when  
18 I'm in front of him, how does he address me? And I said that he calls me  
19 Commander Bosco or Commander Ntaganda. He says, "Commander Bosco, come  
20 here. Commander Ntaganda, come here". These are two different things. Here he  
21 was introducing me to the recruits.

22 Secondly, there are no two commanders with the same function in the army. When  
23 he said "the chief of general staff", he did not want to say that there was no chief of  
24 general staff. He didn't finish his sentence in referring to my entire position, it was  
25 a -- sort of, curtailed. I don't see the issue here. You see, for example, if one were to

1 say these are my counsel, Maître Bourgon and Maître Gosnell, they are my counsel,  
2 but between them, both counsel, there is a lead counsel and there's a deputy counsel.  
3 I think that is the way in which he was introducing me. It was just a way of  
4 introducing me to the troops, Madam Prosecutor.

5 Q. [9:49:45] Yes. Thank you. But you do agree, in any event, that the words  
6 that he used to describe you and introduce you was that you were the chief of general  
7 staff and the one who heads the army, those are the words that he used?

8 PRESIDING JUDGE FREMR: [9:50:04] Asked and answered, I think. Move on,  
9 Ms Samson.

10 MS SAMSON: [9:50:08] Certainly.

11 Q. [9:50:12] And, sir, in fact, you referred to yourself as the chief of staff at times  
12 before your official appointment as chief of staff; is that right?

13 A. [9:50:31] When was I designated chief of general staff? September 2002. In  
14 October and in July I never said that I was the chief of general staff.

15 Q. [9:51:01] I'm referring to the period after September 2002 and before  
16 December 2003, do you recall referring to yourself as the chief of general staff?

17 A. [9:51:21] I remember that at some point, and you may want to know that at  
18 some point I wasn't very fluent in English, I was at the airport and Mike Arereng, a  
19 journalist, asked me, "Who are you?" And I said I was chief of staff. And I wanted  
20 to say deputy chief of staff, but I was not able to say that in English. Then I switched  
21 and said that I was the chief of operations.

22 So that is a mistake I made at the airport when I went to receive my chief, Kisembo.

23 I made a mistake in referring to myself and then I went on to correct myself. I  
24 wanted to say that I was the deputy chief of general staff, but I hesitated somewhat  
25 and then later on I corrected saying that I was the chief of operations in Mongbwalu.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

- 1 So I made that mistake, but I went on immediately to correct it.
- 2 Q. [9:52:24] Let's take a look at that particular video.
- 3 MS SAMSON: [9:52:29] Mr President, I would like to show a video at
- 4 DRC-OTP-2058-0251, item 282. It's a public video. I would like to show 05.36 to
- 5 06.59. The transcript is at DRC-OTP-2062-2023, at page 2027, lines 82 to 109, and
- 6 that's item 283.
- 7 PRESIDING JUDGE FREMR: [9:53:14] Defence, any objection?
- 8 MR BOURGON: [9:53:17] If I can have just a very quick minute just to find.
- 9 PRESIDING JUDGE FREMR: [9:53:23] Take your time.
- 10 MR BOURGON: [9:53:34] The item on the Prosecution's list, please? I mean, you
- 11 may have said it, but I --
- 12 MS SAMSON: [9:53:39] Certainly, yes. The video is item 282 and the transcript is
- 13 item 283.
- 14 MR BOURGON: [9:53:47] We can proceed, Mr President. I don't want to waste
- 15 any time.
- 16 PRESIDING JUDGE FREMR: [9:53:51] Thank you, Mr Bourgon.
- 17 So let's proceed.
- 18 MS SAMSON: [9:53:55] Thank you. We're going to play just this brief minute or
- 19 so and then I'll have some questions for you after that.
- 20 THE INTERPRETER: [9:54:06] Mr President, the interpreters haven't found the
- 21 document yet.
- 22 PRESIDING JUDGE FREMR: [9:54:11] So let's give some time --
- 23 MS SAMSON: [9:54:14] Certainly.
- 24 PRESIDING JUDGE FREMR: [9:54:16] -- to the interpreters. And please let us
- 25 know as soon as you are ready.

1 THE INTERPRETER: [9:54:47] Mr President, would counsel please kindly repeat  
2 the references for the transcript in French.

3 PRESIDING JUDGE FREMR: [9:54:55] Ms Samson, please.

4 MS SAMSON: [9:54:56] Yes, certainly. I believe what we've provided is the  
5 transcription because the portion at issue is in English. So there is Swahili and then  
6 there is English but this section is in English. And the transcript is at  
7 DRC-OTP-2062-2023, at page 2027, lines 82 to 109.

8 I'm advised that there may be an updated version --

9 THE INTERPRETER: [9:55:57] We can proceed from the screen, Mr President.

10 MS SAMSON: [9:56:01] Do the interpreters have the interpretation?

11 THE INTERPRETER: [9:56:04] Message from the French booth: The document is  
12 now displayed on the screen and we can proceed.

13 PRESIDING JUDGE FREMR: [9:56:12] All right. So all booths are ready to  
14 proceed.

15 MS SAMSON: [9:56:32] We will proceed to play the video.

16 (Viewing of the video excerpt)

17 (The following is a transcription prepared and provided by the parties of the  
18 aforementioned recording without any modification or alteration)

19 "82 MA : This is MUNGWALA [phon.] airstrip. MUNGWALA [phon.] town was captured three days ago by

20 83 the UPC rebels. UPC stands for Union Patriotic of Congo. I am now talking to Commander... Sector

21 84 Commander BOSCO. Uh ... BOSCO, how is the situation here after capturing this town, is it fine?

22 85 BN : Yeah, is it fine [phon.] but I am not a Sector Commander, I am Chief of staff of UPC.

23 86 MA: Uh Chief...

24 87 KD : [Voix off] Operation Commander.

25 88 MA : ...haya tungerudia basi.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 89 [00:06:09. Écran noir]

2 90

3 91 [00:06:13. Changement de plan : Vue sur BN et MA]

4 92

5 93 MA : This is MONGBWALU airstrip. MONGBWALU town was captured some few days ago by the

6 94 Union Patriotic of Congo rebels. This town was being controlled by RCD/ML rebels, which is led by

7 95 Mbusa NYAMWISI. I have now met the Chief of Staff of UPC rebels' forces. Commander BOSCO.

8 96 Commander BOSCO, how is the situation here after capturing the town of MONGBWALU?

9 97 BN : Situation now is OK.

10 98 MA : It's fine?

11 99 BN : It's fine.

12 100 MA : There is no problem?

13 101 BN : There is no problem.

14 102 MA : Everything is fine?

15 103 BN : Everything is fine.

16 104 MA : People are doing their business peaceful?

17 105 BN : No problem.

18 106 MA : There is no problem.

19 107 BN:Mmh.

20 108 MA : Thank you very much. ... continues to be like this. We are now going to town and we shall be

21 109 back on air. Mike ARERENG, reporting from MONGBWALU airstrip."

22 MS SAMSON: [9:58:06]

23 Q. [9:58:08] Now, sir, you've had a chance to watch the video, in this video you

24 correct the journalist who calls you a sector commander to state that you're the chief

25 of staff; is that right?

1 A. [9:58:42] No. This is the explanation I have already provided to the Judges.  
2 Your Honours, if you look at the transcript of my conversation with the journalist,  
3 that journalist, I was not able to say deputy chief of general staff in English. So he  
4 asked for the interview to be re-done and that's when I referred to myself as the one  
5 in charge of operations.

6 My problem was that I was not able to say in English chief of -- deputy chief of  
7 general staff. I told him that I was in charge of operations. And there is a video of  
8 this, there's a footage of this, and if you played the video you would be able to see,  
9 because this is only an excerpt of the video that has been played, you stopped  
10 somewhere, but if you go through the entire video you'll realise that I corrected  
11 myself.

12 Q. [9:59:39] Now the video that I have is all the video that we have in relation to  
13 this interview. And from what we can see, the journalist makes an error in your title,  
14 you correct it to chief of staff and then the journalist wishes to resume the interview  
15 afresh with the correct title, which he does, and he confirms that he met with the chief  
16 of staff of UPC rebel forces Commander Bosco. So you did not seek to clarify your  
17 title with him in between takes?

18 A. [10:00:30] I made a correction. At some point I said that I was the  
19 commander in charge of operations. And I'm sure you can find that on the footage,  
20 if I'm not mistaken. In the transcript maybe the interpreters did not explain things  
21 clearly, but if we watch the video again, you will notice that I made a change. I was  
22 not able to say that I was deputy, I said chief of staff, but my position was deputy  
23 chief of staff. And at that time I hadn't completed the sentence I was making when I  
24 said, by way of correction, that I was the commander in charge of operations. If you  
25 watch the entire video, I think it will establish this point.

1 Q. [10:01:28] And this journalist speaks Swahili, does he not?

2 A. [10:01:38] He was speaking English. At a certain point he asked me questions  
3 and I didn't speak English very well and I said that and then he changed languages in  
4 order to ask me further questions.

5 Q. [10:02:01] And he speaks Swahili, does he not? He's someone who speaks  
6 and understands the Swahili language?

7 A. [10:02:16] Yes, he speaks Swahili and he also speaks English, but I spoke very  
8 poor English. It was a language that I was not competent in.

9 Q. [10:02:38] And in between takes or when he stopped the initial shooting of the  
10 film in order to retake the interview, you did not provide him with more information  
11 in Swahili such as "I made a mistake in English, I'm not really the chief of staff, I'm  
12 actually the deputy"? You had an opportunity to explain that to him in Swahili but  
13 you didn't?

14 A. [10:03:20] Madam, we have the video. Perhaps we should look at that. This  
15 is a long time ago and I say that what is there is correct. Why should we not show  
16 the video again?

17 PRESIDING JUDGE FREMR: [10:03:37] Mr Ntaganda, the question targeted the  
18 time between those two parts of video. Ms Samson asked you whether you had  
19 some dialogue in Swahili between those two footages.

20 THE WITNESS: [10:04:06]) (Interpretation) Before we did the interview I had  
21 already provided my correction saying that I was operations commander for -- to  
22 correct this because I had said that I was chief of staff. "Chief of staff" is English.  
23 And rather than mix the two languages together, English and French, I stopped there  
24 and said that I was operations commander. And then after that I gave the interview.

25 PRESIDING JUDGE FREMR: [10:04:46] Ms Samson, please proceed.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 MS SAMSON: [10:04:48] Thank you.

2 Q. [10:04:50] The person that we -- we can hear a person say "operations  
3 commander" during that clip that we just saw but it wasn't you, was it?

4 A. [10:05:14] Yes, it was me. No one else was operations commander. That  
5 was me. I was the only person being asked questions during this interview.

6 Q. [10:05:29] I think there may be an issue with the question in how it gets  
7 relayed. My question is that the person who makes the correction and says  
8 "operations commander" when describing you is the cameraman or a person off  
9 screen, but in the clip that we just saw you are not the person who makes any  
10 correction to state that you're the operations commander; that's right, isn't it, based on  
11 what we just saw?

12 A. [10:06:18] The voice saying "operation commander" that was my voice.  
13 Perhaps you should listen to it again. It was me. I recall that.

14 MS SAMSON: [10:06:35] Mr President, it may make sense to replay the video for  
15 the witness and for the Court with your leave.

16 PRESIDING JUDGE FREMR: [10:06:43] All right. So let's see it again.

17 MS SAMSON: [10:06:51] And for the purposes of the transcript, it's again 05.36 to  
18 06.59. And I'm told that there was a transcript correction that I needed to make, the  
19 transcript is DRC-OTP-2102-3708, at lines 82 to 109, page 3712. We will now replay  
20 the video.

21 (Viewing of the video excerpt)

22 (The following is a transcription prepared and provided by the parties of the  
23 aforementioned recording without any modification or alteration)

24 82 MA : This is MUNGWALA [phon.] airstrip. MUNGWALA [phon.] town was captured three days ago by  
25 83 the UPC rebels. UPC stands for Union Patriotic of Congo. I am now talking to Commander... Sector

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 84 Commander BOSCO. Uh ... BOSCO, how is the situation here after capturing this town, is it fine?

2 85 BN : Yeah, is it fine [phon.] but I am not a Sector Commander, I am Chief of staff of UPC.

3 86 MA : Uh Chief...

4 87 KD : [Voix off] Operation Commander.

5 88 MA : ...haya tungerudia basi.

6 89 [00:06:09. Écran noir]

7 90

8 91 [00:06:13. Changement de plan : Vue sur BN et MA]

9 92

10 93 MA : This is MONGBWALU airstrip. MONGBWALU town was captured some few days ago by the

11 94 Union Patriotic of Congo rebels. This town was being controlled by RCD/ML rebels, which is led by

12 95 Mbusa NYAMWISI. I have now met the Chief of Staff of UPC rebels' forces, Commander BOSCO.

13 96 Commander BOSCO, how is the situation here after capturing the town of MONGBWALU?

14 97 BN : Situation now is OK.

15 98 MA : It's fine?

16 99 BN : It's fine.

17 100 MA : There is no problem?

18 101 BN : There is no problem.

19 102 MA : Everything is fine?

20 103 BN : Everything is fine.

21 104 MA : People are doing their business peaceful?

22 105 BN : No problem.

23 106 MA : There is no problem.

24 107 BN : Mmh.

25 108 MA : Thank you very much. ... continues to be like this. We are now going to town and we shall be

1 109 back on air. Mike ARERENG, reporting from MONGBWALU airstrip."

2 MS SAMSON: [10:08:57]

3 Q. [10:09:00] Sir, we've now replayed the video. And it's right, isn't it, that the  
4 person who makes the correction to add "operations commander" is not you but the  
5 cameraman or somebody off camera? It's a different voice to yours, isn't that right?

6 A. [10:09:26] Madam, the journalist, the cameraman, what right did they have to  
7 give corrections. It was I who was giving corrections. I said that I was not the chief  
8 of staff. I don't speak English. I said that I was the operations commander. I said  
9 it myself.

10 Q. [10:09:56] Okay. I think that's -- that's clear, what -- your position on that is  
11 clear.

12 PRESIDING JUDGE FREMR: [10:10:07] Mr Bourgon.

13 MR BOURGON: [10:10:08] Thank you, Mr President. I understand that the  
14 transcript says what my colleague is saying, but when we look at the original and we  
15 listen to the original sound we see who said those words. So it's a matter of who  
16 said these words. To me they're not very relevant, but if it is an issue to the  
17 Prosecution we should listen to again to see who said those words.

18 PRESIDING JUDGE FREMR: [10:10:37] No need to repeat it. I think, one thing is  
19 comment made by Mr Ntaganda whether it is relevant, if -- is it relevant, which is  
20 right, right comment, is what the Chamber has heard. And I think we heard it twice,  
21 so I think it's clear, from the point of the Chamber it's clear, so it's no need to repeat  
22 again, so we can move.

23 MS SAMSON: [10:11:02]

24 Q. [10:11:04] Now by 6 December 2003, you officially became the chief of staff of  
25 the UPC/FPLC, correct?

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 A. [10:11:14] If -- yes, I had an official decree in November 2002. From  
2 4 September 2002, I was the deputy chief of the general staff responsible for operation  
3 and organisation. So I was already deputy chief of general staff responsible for  
4 operations. That is when Kisémbu sent me to Mongbwalu to free it after the first  
5 defeat of Salumu and when I had liberated Sayo. And the next day, the 26th,  
6 Kisémbu arrived with a delegation, I was already deputy chief of staff. The decree  
7 had already been issued. I was never appointed twice, I was only appointed once in  
8 2002. And in December, December 2003 I became chief of the general staff after  
9 Kisémbu's defection, at which point he set up his own party.

10 Q. [10:12:54] Yes. I was referring in fact in my question to 6 December 2003  
11 when you officially became the chief of staff of the UPC/FPLC, which you've just  
12 confirmed. And indeed we looked at a document --

13 A. [10:13:16] (Overlapping speakers)

14 PRESIDING JUDGE FREMR: [10:13:17] Mr Bourgon.

15 MR BOURGON: The witness just answered.

16 THE INTERPRETER: [10:13:24] Ad interim.

17 THE WITNESS: [10:13:30] (Interpretation) I was appointed acting or interim chief  
18 of staff in December 2003.

19 PRESIDING JUDGE FREMR: [10:13:41] Thank you for this clarification.

20 Ms Samson, please.

21 MS SAMSON: [10:13:46] Yes. Thank you.

22 Q. [10:13:47] Sir, did -- was anybody ever -- was anybody else ever appointed to  
23 the position of deputy chief of staff of the UPC/FPLC after 6 December 2003?

24 A. [10:14:04] Yes. Linganga was appointed acting or interim deputy chief of  
25 staff. He was not confirmed because the person who appointed us was also the

1 president of the UPC, an acting president of the UPC. I believe it was Djokaba, if  
2 I am not wrong.

3 Q. [10:14:46] And you mentioned that you were the interim, did anybody else  
4 have the position of chief of staff other than yourself after 6 December 2003, the chief  
5 of staff position?

6 A. [10:15:12] No. I was acting chief of general staff because Kisembo had left.  
7 When he left I was appointed acting chief of general staff in order to take over the  
8 post that Kisembo had left.

9 Q. [10:15:33] And you took over with all his responsibilities; is that right?

10 A. [10:15:46] Yes. In an acting capacity, interim capacity.

11 Q. [10:15:57] And I would like to show you a document, it's DRC-OTP-0016-0131.  
12 It's public. It's item 494. Are you able to see this document, sir, clearly?

13 A. [10:17:04] Yes. The letters are very small, but I recognise the document.  
14 I think it is a document that we signed, yes.

15 Q. [10:17:23] It's on FPLC UPC/RP letterhead. It's entitled in French,  
16 "Proposition des Affectations". Number 1 is the chief of general staff major general  
17 Bosco Ntaganda. And then in the centre -- well, it's signed by yourself, sir, is that  
18 right, along with Linganga as your deputy on 6 December 2003; is that right?

19 A. [10:18:11] Yes. That is when we signed.

20 Q. [10:18:18] And if you look at the centre of the page where it says "N.B.", under  
21 the first bullet point, and I'll read it in French:

22 (Interpretation) "The chief of the general staff is the boss after President Thomas  
23 Lubanga of our army the FPLC."?

24 A. [10:18:53] Yes, I was given these responsibilities which were attributed to  
25 Kisembo previously. The chief of the general staff AI, ad interim, and that's where I

1 signed. And I see that Linganga also signed, again ad interim.

2 Q. [10:19:29] Now, you've said that these had been the responsibilities of  
3 Kisembo before to be the patron after Thomas Lubanga, correct?

4 A. [10:19:57] Kisembo was not chief of the general staff ad interim. He was chief  
5 of the general staff of the FPLC.

6 Q. [10:20:10] Yes, it may be my question, but you've confirmed that the  
7 description here of the position you were taking over was a description of the position  
8 you say Kisembo held, to be the boss after Thomas Lubanga. That is the position of  
9 the chief of staff? That's an accurate description of the chief of staff position?

10 A. [10:20:50] This was a position ad interim, whereas Kisembo was the confirmed  
11 chief of the general staff. I myself was only there in an interim capacity. There is a  
12 difference. I had not yet been confirmed in the position of chief of general staff.  
13 I was there in an acting or ad interim capacity.

14 Q. [10:21:15] Well, my question isn't about an acting capacity. It's simply about  
15 whether or not the description given to the chief of general staff is accurate. It's the  
16 person who is the boss after Thomas Lubanga of the FPLC army. Would you agree  
17 that that's an accurate description of the position being held by Kisembo when he had  
18 it -- I'm sure you would agree with that -- or yourself when you held it in  
19 December 2003?

20 A. [10:22:03] Yes. Ad interim, that's correct.

21 Q. [10:22:09] And when you look at the number 2 under there, there is also a  
22 description of the responsibilities of Linganga who will be, and I quote here in French  
23 (Interpretation), "The deputy chief of general staff G3 is responsible for all operations  
24 and organisations and armaments."

25 (Speaks English) And that is an accurate description of the position that he was going

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 to hold and that you held before that, correct?

2 A. [10:22:50] No. I did not occupy the G3 post. That was not a position I held.

3 Q. [10:23:19] Do you disagree that the duties set out here for the deputy chief of  
4 staff are different to the duties that you held in the same position? Do you disagree  
5 with that?

6 PRESIDING JUDGE FREMR: [10:23:38] Hold on, Mr Witness.

7 Mr Bourgon.

8 MR BOURGON: [10:23:40] Mr President, the question is misleading. The  
9 description that you have here refers to two posts. That's what the witness said.

10 There are two posts in the same position so the question should be accurate.

11 PRESIDING JUDGE FREMR: [10:23:54] Ms Samson.

12 MS SAMSON: [10:23:55] I will rephrase in case there's any question.

13 PRESIDING JUDGE FREMR: [10:23:58] Please.

14 MS SAMSON: [10:23:59]

15 Q. [10:24:00] Do you disagree that your position as deputy chief of staff in charge  
16 of operations and organisation is different to what is listed here?

17 A. [10:24:23] There I understand correctly. Your question is clear. I was  
18 deputy chief of the general staff responsible for operations and organisations only.

19 For Linganga, another aspect was added and he was to be responsible for the G3.

20 Q. [10:24:49] So which part of the description of his responsibilities that you see  
21 here differed from the responsibilities that you had as deputy chief of staff  
22 responsible for organisation and operations?

23 A. [10:25:27] That's quite clear on the paper here. You can look first where it  
24 says deputy chief of general staff responsible for operations and organisations, quite  
25 simply, and for this other individual he was also given an additional responsibility.

1 Q. [10:26:00] Is your evidence then that as deputy chief of staff in charge of  
2 operations and organisation you had no responsibility for weapons? Is that the  
3 distinction you're seeking to make?

4 A. [10:26:26] Yes. That's correct. I had no responsibility for armaments.

5 Q. [10:26:40] After the G3, John Hoyeti left at the end of 2002 for illness purposes  
6 but had not been formally replaced, you took up responsibilities, did you not, of the  
7 G3?

8 A. [10:27:11] No. In my decree, which is quite clear, I was not given this  
9 responsibility or any other responsibility of any type.

10 Q. [10:27:41] We touched briefly last week on your communication abilities. It's  
11 right, isn't it, that in 2002 and 2003 you were able to communicate to sector  
12 commanders, brigade commanders, to Kisembo, Lubanga by various means,  
13 including Motorola, Manpack, relay messages, Thuraya, written communications or  
14 in person?

15 A. [10:28:30] The way you present it is clear, but it did depend on the distance  
16 between me and my interlocutor. I could use Motorola or I could use Manpack to  
17 send messages if there were no difficulties. In terms of the Thuraya, when I had  
18 units and I had the unit charged, we could use it to call, but that was not possible at  
19 all times. There were difficulties encountered in terms of communications.

20 Q. [10:29:21] And the ability to communicate by some or all of those means  
21 depending on -- (Overlapping speakers)

22 A. [10:29:34] And this communication capacity through some or all of these  
23 means.

24 Q. [10:29:45] I'll start again. And this communication capacity that you had  
25 through some or through all of these means extended throughout the territory that

1 UPC/FPLC had control of, correct?

2 A. [10:30:19] That depended on the time. For example, sometimes we had  
3 contact, but if you were busy doing other things, you couldn't necessarily call. It  
4 depended on circumstances, as I've already explained. It also depended on the  
5 availability. So there was not the ability to communicate at all times.

6 Q. [10:30:59] You could communicate fairly continuously, though, with your  
7 units wherever they were stationed in Ituri; isn't that right?

8 A. [10:31:29] No. Not at all times. There might have been times when there  
9 was a problem with the network and other difficulties. I could have been on mission,  
10 and it could have also been that the Thuraya was not properly charged, and it was  
11 also possible that I didn't have units. Therefore, you cannot say that communication  
12 was possible at all times. In any event, we tried to train our army and to give it the  
13 capacity to fight against the APC and the Lendu combatants. This was done over a  
14 period of six months. We did not have enough resources for that, but we did our  
15 best to do so.

16 Q. [10:32:36] And to do so you also issued standing orders, I believe you've just  
17 said that, orders that would continue over periods of time; is that right?

18 A. [10:32:59] No. We did not achieve our goal. That was our project, namely,  
19 to have good communication, functional communication, with a well organised army,  
20 but we didn't reach that goal.

21 Q. [10:33:23] I'll repeat my question in case it was not clear. You issued standing  
22 orders from time to time to your commanders; isn't that right?

23 A. [10:33:51] Permanent, permanent orders? No. We did not have the  
24 possibility to issue permanent orders. We were not like other well-established  
25 armed forces. Our army was being set up with rather limited resources and a lot of

1 problems in the area of communication. And our goal in any event was to reach that  
2 level which you have referred to. Unfortunately, we didn't make it.

3 Q. [10:34:33] You testified in-chief that you issued orders to your troops on the  
4 ways in which they should behave, but now you're saying that you didn't have the  
5 capacity to issue permanent orders. Can you explain?

6 A. [10:35:04] Madam, what you see in the logbook is not sufficient. What you  
7 read in there is not sufficient. I tried to achieve this, but I was not successful. So  
8 these were not permanent orders. I did this in my capacity, but these didn't amount  
9 to permanent orders. There were times when we had some difficulties, but at the  
10 time of sending that particular message, we did not have any difficulty. But  
11 whenever we encountered difficulties, I would not be in a position to do so.

12 Q. [10:36:00] I would like to show you a message in the logbook. It's the  
13 logbook that you have, which is DRC-OTP-0017-0033 at page 0212, 0212. The  
14 translation is DRC-OTP-2102-3855 at page 4034.  
15 The message that I'm referring to is dated 24 November 2002. It's the last message  
16 on the page. It's sent at 10.10. It's a message that you have sent to all stations.  
17 And that's all FPLC stations; is that right?

18 A. [10:38:05] Yes. That is correct. I'm the one who sent that message.

19 Q. [10:38:11] And it states, and I'll read in French: (Interpretation) "You are  
20 informed that. Stop. You must regularly conduct operations in your zones. Stop.  
21 To keep the enemy away from you."

22 (Speaks English) This is an example of a message that you sent or an order that you  
23 sent that would cover a period of time and the type of message that I refer to as "a  
24 standing order" in some sense, isn't it?

25 A. [10:39:02] No. That is not a permanent message. If you look carefully, you

1 will note that this message is in relation to the period from September up until the  
2 time when we were driven out by the Ugandans. That message, therefore, was  
3 issued in relation to that period on 24 November 2002. It is not a permanent order.

4 Q. [10:39:37] It's an order covering a period of time, isn't it? It may not be  
5 permanent, but that isn't my question. It's an order that you've given out for your  
6 troops to conduct regular operations in their zones over a period of time and you only  
7 had to send that once for that regular order to be followed, correct?

8 A. [10:40:19] At that time, depending on the position of the enemy -- you see, the  
9 enemy could change positions and that would cause you to change your tactics too.  
10 Enemy -- the enemy does not always attack in the same manner. The enemy does  
11 not always deploy in the same way. The enemy changes its tactics and you too must  
12 change your tactics in order to respond to what the enemy has done. And you must  
13 adapt in those circumstances.

14 Q. [10:41:05] You also gave orders for your troops to be on standby from time to  
15 time; is that right?

16 A. [10:41:25] Can you provide me with a reference so that I can also provide a  
17 good explanation?

18 Q. [10:41:42] Yes, I can, but first my question is just a general one. You gave and  
19 issued orders to your troops to be on standby at times with further orders to follow; is  
20 that something that you did?

21 A. [10:42:01] Please point me to a message. I cannot just answer you without  
22 reference to a message which I would read because I need to understand why I may  
23 have asked them to be on alert, for what reasons.

24 Q. [10:42:21] Setting aside the content of why you might have done that, do you  
25 agree that you were able to, and you in fact did from time to time, issue orders to

1 your commanders to be on standby and to await further instructions? That's  
2 something that you would do, wasn't it?

3 A. [10:42:50] I was not in communication with the forces at all times because I  
4 could have been involved in other duties. I may have been dispatched to some other  
5 location, I could have travelled, and so I'm asking you to point me to a message, a  
6 relevant message so that I can provide explanations in relation thereto. Just as I have  
7 told you, as I have told you, it could all depend on the assignment I was dealing with  
8 at the particular time. For example, at some point I was asked to closely monitor the  
9 Mahagi and Komanda sectors. That is in the north-east.

10 Q. [10:43:47] Sir, I will get to a message, certainly, and you can provide  
11 explanations in relation to any messages I put to you. But you will agree that when  
12 you were in communication, when you had your Manpack or your Thuraya or your  
13 Motorola or relay messengers or via written order, you were able to order your troops  
14 to remain on standby, which was something that you sometimes did, correct?

15 A. [10:44:24] It would depend on the period during which I wrote that particular  
16 message. If I send a message to a commander asking him to do such and such a  
17 thing or to behave in such and such a manner or not to do such and such a thing, it all  
18 depends on the specifics of the message which I sent. You have my messages, so  
19 please refer to a particular message and I will provide the relevant explanations.

20 Q. [10:45:05] Sir, I'm going to move to a logbook message. It's a message in the  
21 logbook that you have, page 0202. In the translation at 2102-3855, it's at page 4024.  
22 It's a message on 24 December 2002 sent by you to all stations and you write -- or the  
23 message states, and I quote in French:

24 (Interpretation) "All UPC/FPLC forces are requested to be on standby during these  
25 feasts or festive season, to be executed by each commander. Stop. You will be

1 informed of what follows. Stop."

2 (Speaks English) Sir, you agree, I'm sure, looking at this message, that you have the  
3 authority to order all FPLC stations to be on standby during the holiday period in  
4 December 2002 and that all commanders should execute your order and that they  
5 would be informed of further orders at a later time. That's right, isn't it?

6 A. [10:47:22] I remember this message clearly. This was sent before the end of  
7 year festivities. And you may want to know that there is a lot of uncertainty around  
8 that time of year and that is why security has to be reinforced. I remember that  
9 Kisembo had asked me to reinforce security towards the end of year festivities  
10 because the enemy could have taken advantage of that to attack us. That is why I  
11 sent the message. Soldiers were not expected to engage in end of year festivities.  
12 And so I remember that Commander Kisembo told us that all our forces needed to be  
13 on alert and to abstain from engaging in the festivities. And so I remember that I  
14 sent this message following a message from Kisembo and that message was drafted  
15 on 24 December, that is on Christmas Eve.

16 Q. [10:48:42] And you confirm that you sent the message ordering all troops to  
17 remain on standby from 24 December 2002 until further instruction from you. And  
18 you also had the power to deploy troops, you could do that?

19 A. [10:49:28] I think that I have already talked about the manner in which I  
20 proceeded with deployments. This was done during examination-in-chief.  
21 Kisembo is the one who was familiar with the area. He knew the area. I was not a  
22 native of the Ituri. So he is the one who knew the area and would tell me, "Deploy  
23 this commander to this location". He knew the area. When it came to commanders,  
24 he is the one who knew how to deploy them.  
25 Now, when it came to communication, he told me that, "Once you get to that location,

1 please make sure that there is no problem with the population. Your duty is to  
2 protect the population". So I received those orders and went on to tell my troops  
3 during the deployment what their conduct should have been or what their conduct  
4 should be.

5 Q. [10:50:25] Now, you drew a number of maps for the Chamber during your  
6 examination-in-chief which exhibited quite a detailed knowledge of Ituri, of Bunia  
7 and of a number of different villages. It's right, isn't it, that your knowledge of Ituri  
8 geographically was quite developed in 2002 and 2003, correct?

9 A. [10:51:13] I think I have not quite understood your question. But in any event,  
10 I will not say that the Ituri was well developed. There were no roads. There were  
11 many problems. The war was ongoing. And then there were many problems in the  
12 area. When I showed you the regions in the Ituri on the map, I was able to do so  
13 because I had spent some time in the Ituri and had become familiar with the region.  
14 That is why I was able to tell you that our troops were deployed to such and such a  
15 location. Kisembo could have told me, "Send troops to Kasenyi or to Nyankunde or  
16 to Fataki", and I would implement those orders because I was beginning to get  
17 familiar with the region gradually.

18 Q. [10:52:29] Sir, I think part of my question might have been misinterpreted but  
19 you've also addressed it as well. I put to you, or I suggest to you, that you had to  
20 have a developed sense or a very deep knowledge of the Ituri region where your  
21 troops would be deployed, where they would be based, where these enemies were  
22 located, because otherwise you would not be able to fulfil your job as deputy chief of  
23 staff in charge of operations and organisation. Isn't that right?

24 A. [10:53:28] What you have said is different. My superior asked me to deploy  
25 troops to areas which I was familiar with. If he asked me to deploy troops to such

1 and such a location, I would do so because I knew those areas. When it came to  
2 areas which I was not familiar with, I could not deploy the forces there. But I  
3 became familiar with these areas because those were areas to which we had deployed  
4 our troops.

5 Q. [10:54:13] You testified in-chief that when Kisémbó was injured, he told you to  
6 control the entire area, correct?

7 A. [10:54:36] When he was injured, we were somewhat short on troops. We did  
8 not have control yet of many areas. But when he recovered, he gave me other duties.

9 Q. [10:55:09] And you testified in-chief - I'll go back to my question in case you  
10 didn't understand it - you testified in-chief that when Kisémbó was injured, he told  
11 you to control the entire area; is that right?

12 A. [10:55:40] Madam, I remember the context in which I testified, but I would like  
13 to request that you point me to that part of the transcript.

14 Q. [10:55:54] Certainly. At transcript T-215, page 48, lines 6 to 11, the question  
15 that was asked of you, and I quote, was:

16 "During your meeting with Kisémbó did he give you any instructions or did he  
17 inform you about anything that you needed to in relation to or because of the attack  
18 on Nyankunde?

19 Answer: Yes, he told me that he had ... been injured and that I should be courageous  
20 and continue to control the entire zone, entire area while he was receiving medical  
21 attention." End quote.

22 Now, that was in early September 2002 that he was injured, correct?

23 A. [10:57:15] It was in early September, at which point we didn't have control  
24 over a vast area. The area in our control was rather small. That's what he told me  
25 at that time and then shortly thereafter he was injured.

1 Q. [10:57:38] The testimony that I just cited was a discussion that he had with you  
2 following his injury, you said, where he told you to be courageous and to continue to  
3 control the entire zone, the entire area while he was receiving medical attention.

4 That's what he told you to do and that's what you did, isn't it?

5 A. [10:58:11] I don't remember testifying that he went to receive treatment. He  
6 received treatment at home. I did not testify that he went to receive treatment  
7 anywhere. He was there.

8 Q. [10:58:30] My question isn't really about where he might have received  
9 treatment. The heart of my question is the evidence that you gave in-chief, which is,  
10 as I read to you, that Kisémbé asked you, you said, to be courageous and to continue  
11 to control the entire zone, the entire area while he, Kisémbé, was receiving medical  
12 attention. That's what you did, isn't it?

13 A. [10:59:03] Yes. We deployed to a small area when he was injured. At that  
14 time we had no Manpacks, we had no telephones. So I tried to follow the situation  
15 as closely as possible in spite of the problems or the difficulties we were experiencing  
16 and the lack of resources.

17 Q. [10:59:42] And at that time you set up the battalion of Commander Bugasaki in  
18 Mandro and then you deployed him to Simbilibabo?

19 A. [11:00:11] Yes. He asked me to -- or he handed Bugasaki over to me. I  
20 didn't know him. He asked me to set up a battalion for him, which I did. And he  
21 was deployed to Simbilibabo, that is true.

22 Q. [11:00:35] And you then visited the troops at camp Ndromo and you ordered  
23 those troops to stay there pending further orders; that's right?

24 A. [11:00:58] Yes. When Kisémbé was injured, those who had retreated from  
25 Nyankunde or rather -- came to be reorganised in camp Ndromo.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 MS SAMSON: [11:01:34] I see it's the time, Mr President.

2 PRESIDING JUDGE FREMR: [11:01:37] Yes, you are right, Ms Samson.

3 Mr Bourgon.

4 MR BOURGON: [11:01:42] Mr President, there was a word missing on the  
5 transcript but it just appeared.

6 PRESIDING JUDGE FREMR: [11:01:47] Fine.

7 So we take our regular break for 30 minutes and will reconvene at half past 11.

8 THE COURT USHER: [11:01:55] All rise.

9 (Recess taken at 11.01 a.m.)

10 (Upon resuming in open session at 11.30 a.m.)

11 THE COURT USHER: [11:30:21] All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: [11:30:50] Second session of the day and we will  
14 proceed with next part of cross-examination of Mr Ntaganda conducted by

15 Ms Samson, lead counsel of Prosecution.

16 Ms Samson, you have the floor.

17 MS SAMSON: [11:31:07] Thank you, Mr President.

18 Q. [11:31:10] We were discussing some deployments that you had ordered prior  
19 to the break and I will continue by asking you about a deployment that you made in  
20 Mabanga. You deployed Museveni and Roy with two companies to Mabanga  
21 sometime in end of August or early September 2002; is that right?

22 A. [11:31:48] This was at the request of the minister of defence at that time,  
23 Mr Thomas Lubanga. I didn't know Mabanga. He asked me to deploy forces in  
24 Mabanga because this locality had been attacked. The members of the population  
25 had been attacked and, thus, Thomas Lubanga, minister of defence, asked me to

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 deploy forces there. I can recall that.

2 Q. [11:32:22] And you deployed forces to Mabanga, two companies?

3 A. [11:32:34] Yes. At the request of Thomas Lubanga I sent two companies  
4 commanded by Commander Museveni.

5 Q. [11:32:50] At the time you testified that Thomas Lubanga had received  
6 information from peace committee members while he was in Mandro about a  
7 potential -- potential issues in Mabanga; correct?

8 A. [11:33:19] I don't recall that. Perhaps you can read what I said in my  
9 testimony.

10 Q. [11:33:32] Can you recall testifying that Lubanga asked you to deploy troops in  
11 Mabanga at the end of August 2002 when you were with him in Mandro during the  
12 Ntumba Luaba hostage-taking situation, that's the time when he spoke to you about  
13 Mabanga?

14 A. [11:34:17] I recall that he gave me the order to deploy two companies in  
15 Mabanga.

16 PRESIDING JUDGE FREMR: [11:34:26] Hold on, Ms Samson.  
17 Mr Bourgon.

18 MR BOURGON: [11:34:29] Mr President, we have an issue with the French  
19 transcript which is not working and I think it is very important for us to be able to  
20 follow the English and the French side by side.

21 PRESIDING JUDGE FREMR: [11:34:45] Court officer.

22 THE COURT OFFICER: [11:34:48] Indeed we have noticed the technical issue.  
23 The technician is on his way.

24 PRESIDING JUDGE FREMR: [11:34:58] Mr Bourgon, could you -- would it be fine  
25 with you to continue at least for some five minutes, and if the situation will not

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 change, we will then wait until it will be fixed, but for the moment could you proceed  
2 without French? Or, if you insist on waiting for French transcript, we will break.  
3 It's up to you.

4 MR BOURGON: [11:35:27] Mr President, I believe that I would like to wait. I  
5 apologise, but --

6 PRESIDING JUDGE FREMR: [11:35:30] No, no, no. It's your legitimate right.  
7 So we will break and please, court officer, let us know when the French transcript is  
8 ready.

9 THE COURT USHER: [11:35:42] All rise.

10 (Recess taken at 11.35 a.m.)

11 (Upon resuming in open session at 11.40 a.m.)

12 THE COURT USHER: [11:40:04] All rise.

13 Please be seated.

14 PRESIDING JUDGE FREMR: [11:40:23] I appreciate that the problem with French  
15 transcript has been resolved quickly and hope that it's the last time at least today we  
16 face it.

17 So, Mr Bourgon, now French transcript is fine?

18 MR BOURGON: [11:40:38] Yes, Mr President. Thank you very much.

19 PRESIDING JUDGE FREMR: [11:40:40] Very well.

20 Ms Samson, please proceed.

21 MS SAMSON: [11:40:43] Thank you.

22 Q. [11:40:45] Before the break we were discussing your deployment of Roy and  
23 Museveni to Mabanga. Now, you have insisted that you received the orders to  
24 deploy two companies from Thomas Lubanga. And my question is: Thomas  
25 Lubanga, as you've acknowledged, had no military experience, so it's right, isn't it,

1 that Thomas Lubanga could not tell you or give you orders in relation to the details of  
2 the military deployment that you were about to do?

3 A. [11:41:46] Even if he had experience, what details he could he have given me?  
4 He gave me the orders to deploy the troops. I didn't tell the commanders what to do.  
5 They had to see what was the situation when they arrived there. I, like Mabanga,  
6 didn't know what the situation was in the locations. I couldn't tell them, the  
7 commanders, what to do before they actually got there and were able to assess the  
8 situation and respond accordingly. These commanders had requested assistance  
9 because members of the population had been attacked. There was no peace  
10 committee at that time because there was military training going on in Mandro at the  
11 time.

12 PRESIDING JUDGE FREMR: [11:42:37] Ms Samson, sorry, I would like now to  
13 utilise this moment and put one more general question to Mr Ntaganda.

14 Mr Ntaganda, could you briefly describe what was the role, if any, of Mr Lubanga as  
15 regards military issues, how often he intervened, if he intervened, to the military  
16 issues, whether you have been consulted sometimes, or whether he, in fact, limited  
17 himself to very general instructions? Could you just provide us with some narrative  
18 on Mr Lubanga's role as concerns military issues?

19 THE WITNESS: [11:43:37] (Interpretation) Mr President, at that time he had just  
20 returned from Kinshasa. We respected him because he was the minister of defence  
21 within the UPC. He -- we were military and he gave us the order to deploy troops in  
22 Mabanga. Apart from that, he did not say anything in relation to the army at all.  
23 But I know that he was closer to Kisembo. And I got orders from Kisembo. So  
24 between Lubanga and me, I didn't get orders directly from him, apart from  
25 Mongbwalu when he sent me to liberate the members of the population from

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Mongbwalu who were being threatened by the Lendu combatants. Apart from that,  
2 I can't think of any case when I received orders directly from him.

3 PRESIDING JUDGE FREMR: [11:44:37] And do you know what was the  
4 relationship between Kisembo and Mr Lubanga, to what extent he instructed  
5 Mr Kisembo how to proceed with military operations and so on, or whether he let  
6 everything on Mr Kisembo?

7 THE WITNESS: [11:45:17] (Interpretation) Mr President, I didn't pay great  
8 attention to that. I was a soldier and trained. I didn't concern myself with the  
9 relationships between my hierarchical superiors, I didn't accord it much attention.  
10 When they met or what they said to each other, I didn't pay that much attention and I  
11 didn't really consider it particularly important, Mr President.

12 PRESIDING JUDGE FREMR: [11:45:54] No problem. As I said, if you don't know,  
13 no problem.

14 Now, Ms Samson, please proceed.

15 MS SAMSON: [11:46:02] Thank you.

16 Q. [11:46:09] You were describing deploying Museveni and Roy to Mabanga  
17 when you stated that they had to go and find out what the situation was there  
18 because Thomas Lubanga didn't know from personal experience the situation and  
19 you didn't because you also were not in Mabanga. So it's right, I think, based on  
20 your answer, that you deployed Roy and Museveni and then, thereafter, they were to  
21 report to you on what the situation they found in Mabanga, correct?

22 A. [11:47:02] There may be a problem with the interpretation or it may come from  
23 you, so I will explain the situation.

24 Roy was a native of Mabanga. He was the chief of the village. He came and  
25 requested assistance. I did not deploy Roy. President Lubanga asked me to deploy

1 troops to assist the members of the population and he accompanied them as being a  
2 native of Mabanga. I didn't deploy him, that's the first point.

3 Secondly, when Museveni went with his troops and arrived in the field, he evaluated  
4 the situation that he found because I didn't know Mabanga, I didn't know where  
5 Mabanga was. That's why it's incorrect to say that I deployed Roy and Museveni  
6 together.

7 Museveni and his troops went to assist the population at the request of  
8 President Thomas Lubanga who had asked me to deploy two companies. From  
9 Mandro where I was, there was no communication, we didn't have any Manpacks,  
10 that's why I was talking about the difficulties we encountered right from the outset.

11 Q. [11:48:26] Now, as I read your testimony-in-chief, transcript 215, page 22, lines  
12 11 to 17, you were asked, question, and I quote:

13 "Do you remember who sent you the troops?

14 Answer: I deployed Commander Museveni with two companies. He left with Roy.

15 Question: Who's Museveni?

16 Answer: At the time I arrived in Ituri, he was a member of the APC. But he  
17 surrendered to our side. He was Rwandophone. I got to know him when I arrived  
18 in Ituri. He is originally from north Kivu." End quote.

19 And when you sent Commander Museveni, who you say left with Roy, they were to  
20 report back to you on the situation they found in Mabanga, correct?

21 A. [11:49:46] Normally the communication between Mabanga and Mandro -- well,  
22 I should say that they are quite a long way apart. If there had been the means to  
23 communicate, I could have asked what the situation was, but there was no possibility  
24 to communicate. If there had been a possibility, then I could have been sent the  
25 reports.

1 Q. [11:50:13] So your evidence is that you deployed troops to Mabanga and you  
2 had no possibility of communicating with them thereafter?

3 A. [11:50:34] Not directly, no. In a provisional and occasional way. If there  
4 was a problem, people could come on foot to report to us. And once they'd analysed  
5 the situation on the field, fortunately there was no enemy attack.

6 Q. [11:51:04] Now, you deployed troops to Largo. You sent two companies with  
7 Thomas Lubanga's brother, Lyevin, and you gave them a weapon, correct?

8 A. [11:51:31] Yes, that's what I did with -- following the order of the  
9 ministry of defence. At that time I didn't know a Largo. At that time I was  
10 there -- I met him for the first time then. He was a member of the APC also.

11 Q. [11:51:54] And you, just to be clear, you deployed them and you gave a  
12 weapon or weapons to him, Lyevin?

13 A. [11:52:14] These troops had weapons, as did the other troops. They took a  
14 heavy weapon. It wasn't weapons, it was a support weapon. And everyone took  
15 his own personal weapon, every soldier took his own personal weapon.

16 Q. [11:52:47] You gave the support weapon to Lyevin?

17 A. [11:53:03] These troops had support weapons. They'd had them since we  
18 were in Mandro with Kisembo, where we gave weapons to all the troops and they  
19 were waiting to be deployed. That -- it wasn't on that day that I gave them weapons;  
20 they received them on the same day that Kisembo and I distributed weapons to  
21 troops awaiting deployment.

22 Q. [11:53:36] Your answer in your direct testimony, sir, is a bit clearer and does  
23 not reference Kisembo. Shall I read it to you? It's in transcript T-215, page 25. I'll  
24 start at line 22 to 25, and then page 26, lines 1 to 7. Quote -- the question is asked to  
25 you:

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 "When you sent Lyevin and when you carried out other deployments, who decided  
2 on the weapons that were going to be taken by the forces deployed?

3 Answer: The soldiers had personal weapons. You know, each soldier who is  
4 deployed must have a personal weapon in his possession available to him. Now,  
5 Lyevin had a support weapon, a 12.

6 Question: Did Lyevin already have this weapon or was it you who provided such a  
7 weapon to the company?

8 Answer: Lyevin was not with us at the beginning. He was in the APC, and when  
9 he joined us, he learnt how to handle this weapon. I gave it to him and he left with  
10 it. It was a weapon that belonged to the company. It wasn't his personal weapon.  
11 So I gave both weapons to him." End quote.

12 Are you changing that in any way, sir, or do you stick by the evidence you gave  
13 in-chief, which was that you gave a weapon to Lyevin or both weapons - it's  
14 somewhat unclear - when you deployed him to Largo?

15 A. [11:55:35] I'm sorry. Well, when one deploys troops, it's done as follows:  
16 Three companies and each company had weapons. I gave that to Lyevin, who was  
17 responsible for the company, and he took the weapon and he left with it. There is no  
18 difference between what I said and what you have just read out, Madam Prosecutor.  
19 I have changed nothing.

20 Q. [11:56:12] Very good. Incidentally, the Commander Roy that you referred to,  
21 is he Hema?

22 A. [11:56:32] No, he's not Hema. He's an Alur.

23 Q. [11:56:40] Do you recall his full name?

24 A. [11:56:56] All I know that he is called Roy. I don't know his other names, just  
25 Roy.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Q. [11:57:12] You've indicated that you deployed troops in Kunda, a  
2 Commander John, in October, you said, 2002?

3 A. [11:57:39] In October, yes. I deployed him after Kisembo gave me the order  
4 to do so. So on the orders of Kisembo, I deployed him to Kunda, yes.

5 Q. [11:57:56] You deployed one company to Katoto, correct?

6 A. [11:58:17] Kisembo gave me the order to deploy troops to Katoto. Yes, I recall  
7 that very well.

8 Q. [11:58:27] My question wasn't actually about Floribert Kisembo, but about  
9 what you were doing. You deployed a company to Katoto, was your evidence  
10 in-chief, correct?

11 A. [11:58:52] I recall having said on a number of occasions that I was unfamiliar  
12 with the locations. When I got orders from my superior to deploy troops, I did that.  
13 He told me to deploy troops to Katoto because my superior was a native of Ituri. I  
14 know that I said this on a number of occasions during my testimony.

15 Q. [11:59:27] But you did not, in fact, say it in relation to the deployment in  
16 Katoto. You were asked at page -- transcript 215, page 76, lines 3 to 5:

17 "Question: Do you remember what type of deployment you carried out in Katoto?

18 Answer: I sent one company there." End quote.

19 Your direct evidence did not refer to Kisembo, correct?

20 A. [12:00:12] Madam Prosecutor, even if I didn't say it explicitly, I'd said earlier  
21 that I didn't know that area, and each time he said to me to send or to deploy troops  
22 to a particular place, I did so. And you can rhyme off various place names to me,  
23 but that's not going to change much.

24 Q. [12:00:42] What was the date when you deployed troops to Katoto?

25 A. [12:00:57] I know it was in October, but I don't remember the exact date.

1 Q. [12:01:03] You deployed one company to Iga-Barrière?

2 A. [12:01:22] Yes, at that time as well. My direct superior asked me to deploy in  
3 Iga-Barrière, I remember, yes.

4 Q. [12:01:39] And that is not information that you provided during your  
5 examination-in-chief, that your superior ordered you to do that, to Iga-Barrière?

6 A. [12:02:02] I may not have said that. As I said, I wasn't familiar with the Ituri  
7 region at first because I was still new. I didn't know the importance of the various  
8 regions. So if you say that, well, it's the same thing.

9 Q. [12:02:26] Sir, in-chief you indicated that you were in charge of the Komanda  
10 axis.

11 A. [12:02:45] When he found me in Mongbwalu, we did the transfer and I  
12 was -- my mission was to monitor the situation in Mongbwalu -- no, rather, in  
13 Komanda, around Mahagi, the sector allocated to Commander Jérôme.

14 Q. [12:03:08] And your evidence was that at the end of August 2002 you were  
15 involved in an operation in Komanda?

16 A. [12:03:30] That is when the APC had defeated our troops. Kisembo asked me  
17 to deploy there when we drove out Noiret and his troops. So I was asked to go and  
18 assist those elements, that it was in August. Even Kisembo met up with me there at  
19 that place when we -- in the -- when we were moving forward on the front.

20 Q. [12:04:10] And you knew at that time that Komanda was a very important  
21 road that led to Bunia?

22 A. [12:04:29] I didn't know where Komanda was. When I went there was a  
23 guide who went along with me to show me where Komanda was located.

24 Q. [12:04:44] When you were describing this, your role in the Komanda attack  
25 in-chief at transcript 215, page 12, lines 15 to 19, you noted that Komanda was a very

1 important road which led to Bunia. And so as at August, end of August 2002 you  
2 were becoming very familiar, weren't you, with the very important roads and areas  
3 leading to Bunia?

4 A. [12:05:36] He didn't ask me what period of time it was at. I remember at the  
5 beginning to go and deploy there. Kisembo was the one who asked me to send men  
6 there because it was a way to block the road, well, to block off that road that heads  
7 towards Bunia, but I didn't know which direction he was referring to.

8 Q. [12:06:06] In transcript 214, page 80, lines 18 to 21, you were also describing  
9 this Komanda operation and you stated that: "... late Kisembo told me that the most  
10 important location was Komanda so I promptly prepared what we refer to as a  
11 company, and that would be 50 or 60 soldiers, and I dispatched them to Komanda  
12 promptly." End quote.

13 And then in transcript 215, page 12, lines 18 to 19, in relation to this same Komanda  
14 operation, you stated, and I quote: "And you may want to know that Komanda was  
15 also a very important road which led to Bunia." End quote.

16 So it's right, isn't it, according to your own evidence, that as of the end of August 2002  
17 you knew at least that this was a very important road leading to Bunia?

18 PRESIDING JUDGE FREMR: [12:07:19] Hold on, Mr Witness.

19 Mr Bourgon.

20 MR BOURGON: [12:07:22] Thank you, Mr President. I object to this kind of  
21 questioning which is jumping back and forth because my colleague just read a quote  
22 which was from page 80, at lines 18 to 20, and then she stopped the quote at "I  
23 dispatched them to Komanda promptly".

24 The next two lines say: "Do you remember who was deployed to Komanda?" And  
25 the answer from the witness was: "I did not know Komanda. I had never been to

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Komanda previously. I was new to the Ituri area. I did not know the people of  
2 Komanda. I had not worked with the people in Komanda because at the time I was  
3 in detention ..." and it goes on and on. But instead of reading that part, my colleague  
4 jumps to another section trying to establish a knowledge when this answer is on the  
5 transcript. I object to that kind of questioning, Mr President. Thank you.

6 PRESIDING JUDGE FREMR: [12:08:18] Ms Samson.

7 MS SAMSON: [12:08:19] Mr President, my question was not aimed at  
8 understanding the witness's knowledge of Komanda as a location. I am generally  
9 following what the witness has said in-chief about what the late Kisembo told him  
10 was the importance of the location of Komanda and what he himself offered as  
11 "Komanda was a very important road leading to Bunia."

12 And my -- I don't respectfully believe that I'm being improper in the way that I have  
13 framed the question or the way that I have read what the witness said in-chief. I  
14 think it's an important point because the witness is suggesting that he has no  
15 knowledge of Ituri, or very little, and I would like to challenge him on that.

16 PRESIDING JUDGE FREMR: [12:09:07] Ms Samson, with this explanation it's fine  
17 with me, but I have to admit that I find something on Mr Bourgon's objection because  
18 if any quotation is, you know, isolated from the context, it could completely change  
19 the trend made by the witness during this testimony. So please, if quoting, try to  
20 avoid something like that, just to put isolated part which could change the sense of  
21 the context.

22 But as I said, now with your explanation I am fine with that, you may proceed.

23 MS SAMSON: [12:09:45] Thank you, Mr President.

24 Q. [12:09:48] Sir, I'm going to read the excerpt again that I read from your  
25 transcript, T-214, page 80, lines 18 to 21, and in this excerpt you are describing what

1 the late Kisémbó told you about the importance of Komanda. And this is what you  
2 said, quote:

3 "Before deploying that company to Mudzipela and to other locations which had been  
4 vacated by the APC, late Kisémbó told me that the most important location was  
5 Komanda so I promptly prepared what we refer to as a company, and that would be  
6 50 or 60 soldiers, and I dispatched them to Komanda promptly."

7 That's correct, isn't it? That's what you said and that's what Kisémbó said to you?

8 A. [12:10:52] Yes, I did send men, but I didn't know that place.

9 Q. [12:10:59] And then in transcript 215, page 12, lines 15 to 19, you stated:

10 "At that time I hadn't settled in Bunia yet so I went to fetch other companies to  
11 provide reinforcements to the troops in Komanda, because Komanda was a weakened  
12 area which could be struck at any time by the enemy and the troops in Komanda  
13 could have come under attack at any time. And you may want to know that  
14 Komanda was also a very important road which led to Bunia." End quote.

15 And so my question to you is that by the end of August 2002, when you had a  
16 discussion about Komanda with the late Kisémbó, he told you then that Komanda  
17 was an important location and you, yourself, in your testimony acknowledged that  
18 you knew that Komanda was a very important road which led to Bunia; is that right?

19 A. [12:12:23] Yes, but there's two things here. First of all, I sent a company at  
20 Kisémbó's request because that region was important, as you said, then we attacked  
21 those troops and those troops were defeated, so he asked me to reinforce the troops  
22 there. They were attacked in one week after their -- their arrival. So when he said  
23 that to me I knew that it was an important area, I knew that when -- well, I  
24 understood it was an important area when I sent the first group. We're talking about  
25 the same thing.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Q. [12:13:08] And you knew, didn't you, that when you deployed troops to  
2 Katoto that this was a predominantly Hema area?

3 A. [12:13:30] Not at all. I had not yet got there. I didn't know which areas were  
4 inhabited mostly by Hema people. When the men were being deployed, I didn't  
5 know which ethnic group was which. When Kisembo asked me to send troops here  
6 or there, I -- well, as a soldier I didn't know all about tribes and the ethnic groups.  
7 You see, we soldiers, we are one single unit. All these things about ethnic groups,  
8 that doesn't exist in the army.

9 Q. [12:14:12] You had been to Katoto when the Mandro training camp was  
10 attacked in June 2002?

11 A. [12:14:35] I went there in June 2002 to go and visit the recruits who had fled  
12 towards those locations. So, so there you have it. Yes, that is correct what you're  
13 saying.

14 Q. [12:14:55] When you left the Mandro training camp at the time it was attacked  
15 and you went with recruits to Katoto you knew that this would be a safe area for you  
16 to be because the population was predominantly Hema; correct?

17 A. [12:15:27] I knew that it was a secured area, yes, but I didn't know what ethnic  
18 groups were the majority at those places, but I went there, I went there and I came  
19 back. I didn't have time to find out about the various ethnic groups living there.

20 Q. [12:15:49] When you were there --

21 THE INTERPRETER: [12:15:51] Message from the Swahili interpreter: Could the  
22 witness be requested to repeat the last sentence. The Swahili booth did not hear the  
23 last sentence of his reply.

24 PRESIDING JUDGE FREMR: [12:16:01] Mr Ntaganda, could you kindly repeat the  
25 last sentence of your response because it hasn't been captured by the Swahili

1 interpreters. I can read what we have at the moment in the transcript:

2 "I knew that it was a secured area, yes, but I didn't know what ethnic groups were the  
3 majority at those places, but I went there, I went there and I came back. I didn't have  
4 time to find out about the various ethnic groups living there."

5 And then probably last sentence is missing. If you can repeat the last sentence which  
6 is missing.

7 THE WITNESS: [12:16:54] (Interpretation) I think that everything that you've just  
8 said is what I said. That day I went, I didn't ask which ethnic group was living there.  
9 I went there, it was a one-day trip there and back. That's what I said.

10 PRESIDING JUDGE FREMR: [12:17:11] Thank you.

11 Ms Samson, please proceed.

12 MS SAMSON: [12:17:15]

13 Q. [12:17:16] And when you state that you knew it was a secured area, you knew  
14 that the Lendu combatants didn't have their base there, correct?

15 A. [12:17:42] As I said I was still new in those circles when I went to Katoto.

16 When they talked about villages, well, you know, a village is different from a town,  
17 the Congo is very large. When they mention Katoto, I told you I went to Katoto, but  
18 I didn't get to the centre of Katoto. If you had investigated in those area, you would  
19 know that the centre is around Loga. I didn't allow the base to be there. In Loga  
20 there were APC and combatants were attacking Katoto. It was after that I've got that  
21 information, but at that time I didn't know where the enemy was.

22 Q. [12:18:30] Just to confirm your evidence, is your evidence that you knew that  
23 there were no Lendu combatants in Katoto, or you didn't know when you deployed  
24 your troops there?

25 A. [12:18:52] What I said was this: When our recruits went there, our recruits

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 were not at the very centre of Katoto. Katoto is a very large place. Our recruits  
2 were based not far from Arita (phon) church, but that place had already been attacked  
3 in the past. That place is on the road heading towards Loga, and Loga is not far.  
4 Those combatants were in Loga. At that time I didn't know where the Hema villages  
5 were and the Lendu villages were. I didn't know about that.

6 Q. [12:19:35] But you did know, as you've just told us, that Lendu combatants  
7 were in neighbouring Loga, correct?

8 A. [12:19:54] I found out later about that. When we attacked Katoto, I went and  
9 fought them. We fought the APC and the APC in Loga. Because we went with a  
10 guide and we asked him, "Where did the enemy come from, the enemy that attacked  
11 Katoto?" We went by that area.

12 THE INTERPRETER: [12:20:21] The interpreter correction -- interpreter correction:  
13 The APC, the Lendu combatants.

14 MS SAMSON: [12:20:42]

15 Q. [12:20:43] You stated that you deployed troops to Iga-Barrière, and you know,  
16 don't you, that Iga-Barrière is a predominantly Hema village?

17 A. [12:21:05] No. No one told me that. I didn't know which tribes lived in  
18 those places. I was still new in that region.

19 Q. [12:21:22] You know today, don't you, that in 2002 Iga-Barrière was a  
20 predominantly Hema village?

21 A. [12:21:39] Yes, there were several ethnic groups in those areas, but the Hema  
22 were in a majority. I learned about that later.

23 Q. [12:21:50] And Nizi, where you had troops, that was also predominantly  
24 Hema?

25 A. [12:22:08] No, no. Nizi is a Mbisa village, the Mbisa ethnic group.

1 Q. [12:22:21] There were no Lendu combatants stationed in Nizi in 2002, were  
2 there?

3 A. [12:22:39] There were not any Lendu combatants when we sent our forces.  
4 Later I went there on my way to Mandro -- Mongbwalu and there were no Lendus  
5 there. There were only just the one company that we had deployed there.

6 Q. [12:23:01] As the deputy chief of staff in charge of operations and organisation,  
7 you wanted to make sure, no doubt, that where you were sending your troops was  
8 going to be secure for them to be stationed, correct?

9 A. [12:23:29] No. I couldn't question the order given to me by my superior.  
10 When he decided that forces would be deployed, I couldn't go and -- I couldn't go and  
11 find out whether the area was safe or not. I couldn't suspect my chief of deceiving  
12 me, no, I couldn't do that.

13 Q. [12:23:57] You had to know, didn't you, which zones within the Ituri area that  
14 you occupied or wanted to occupy were safe or supportive of you and your troops as  
15 opposed to those areas where Lendu combatants were stationed? You had to know  
16 that, didn't you, to do your job?

17 A. [12:24:39] Well, you ask me this question and I'm telling you, I didn't know the  
18 area. My direct superior asked me to send troops to a particular area, so his order  
19 was enough. My superior, my direct superior was familiar with the region. He  
20 designated various places. He was the one who told me such and such a  
21 commander knows such a place, so you should deploy him there. So we were  
22 building our army, we were building a new army.

23 Q. [12:25:25] And you -- we've looked at some deployment. You've given other  
24 operational orders, as we can find in the logbook, to troops, correct?

25 A. [12:25:55] When do you say I gave orders to the troops? Because at one point,

1 if it was a very specific time recorded in the logbook, we will see, and other places I  
2 didn't do that. So it depends. What period of time? What period of time are you  
3 referring to exactly?

4 Q. [12:26:20] Well, in general terms, from August 2002 through to the end of 2003,  
5 you gave operational orders to troops by various means. Some may be in the  
6 logbook because they were issued by Manpack, others were in writing, others were  
7 oral, correct?

8 A. [12:26:59] In August we were mutineers, part of the mutiny. In September  
9 we had a political wing and a military wing, and at a particular point in time we  
10 started using the Manpacks. So, you see, they were different periods. If you're  
11 speaking generally, I don't agree with you.

12 Q. [12:27:28] I am speaking generally, and can you be clear as to what you do not  
13 agree with in my statement, that from at least August, certainly the end of  
14 August 2002, through to the end of 2003, you gave operational orders to troops by  
15 various means of communication? Please let me know what part of that statement  
16 you disagree with.

17 A. [12:28:12] You know what I told you. Your question, your first question was  
18 ever since August until the end -- I don't know what period of time. You say I gave  
19 orders via Manpack and it was recorded in the logbook. I'm saying no. At one  
20 time, at one particular point in time, we wrote down the orders in the logbook. So I  
21 told you which period of time, which month, which year. That is why I'm saying I  
22 don't agree with you.

23 Q. [12:29:01] I need to understand your answer in order to follow up on it. Do  
24 you disagree that you gave operational orders to troops in the FPLC from the end of  
25 August until December 2003? Do you disagree with that?

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 A. [12:29:34] Well, I'll give you a specific reply: Ever since September, when we  
2 became a political/military movement, I became deputy chief of staff, and at my level  
3 I would receive missions that I was supposed to carry out in accordance with my  
4 level, which was deputy chief of staff within the FPLC.

5 Q. [12:30:09] You testified today and also during your examination-in-chief, or  
6 the examination done by your counsel, about your participation in this Komanda  
7 operation at the end of August 2002. You dated it 26 August 2002 by reference to a  
8 United Nations document. So as of 26 August 2002, you were giving operational  
9 orders to troops under your command; do you agree?

10 A. [12:30:53] On 26 August 2002, I don't know what I said on that. I think I was  
11 talking about deploying in Komanda on the orders of my direct superior. At that  
12 stage, we were soldiers. We had no party. We didn't have the RCD/K-ML, the  
13 APC. You will see that this is incompatible. And then you refer to the party.  
14 That's something completely different.

15 Q. [12:31:31] Sir, it's the evidence that you gave. You were shown -- after having  
16 described the Komanda operation, you were shown a United Nations situation report  
17 which stated that the -- there had been an operation in Komanda. There was a  
18 reference to the UPC, which you stated must have been incorrect at that time. But  
19 you confirmed the event and date, and it was 26 August 2002. And I'm only trying  
20 to focus you in on that period for my question to you, which is: As of that date, you  
21 were issuing operational orders to troops in Komanda, which you've stated was an  
22 operation you were involved in; that's correct, I think, isn't it?

23 PRESIDING JUDGE FREMR: [12:32:24] Hold on, Mr Witness.

24 Mr Bourgon.

25 MR BOURGON: [12:32:27] Thank you, Mr President. I've been listening to this,

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 the generality of the questions being put to the witness. It would be much  
2 easier -- but it's -- everything goes fine until we ask the words "as of ... you were".  
3 My colleague can simply go straight to the point: Did you command that operation?  
4 Did you issue an operational order in Komanda? It would be so easy and we would  
5 get answers. Now we're just wasting time and running around in circles with  
6 generality, "As of this date you were ..." She could simply ask the witness: Did you  
7 have the power to issue an order to the troops as of -- on that day? Was it the same  
8 on that day?  
9 But now we're just running around in circles. I'm really trying to assist my colleague  
10 in getting to the point so we have the evidence. Thank you.

11 PRESIDING JUDGE FREMR: [12:33:17] Ms Samson.

12 MS SAMSON: [12:33:18] Yes, Mr President. Well, I would -- I have asked the  
13 question many times as to whether or not between the end of August 2002 and the  
14 end of 2003 the witness agrees with me that he was able to issue operational orders to  
15 troops under his command. I must have asked that at least three times and the  
16 witness appears not to be able to say yes or no. And, therefore, I've tried to bring  
17 him to a particular operation at the end of August 2002, in which I'm suggesting to  
18 him he was issuing operational orders in accordance with his evidence-in-chief.  
19 Now, I would also like this to go faster if the witness would be able to answer my  
20 question. I've also asked him whether or not he would be able to tell me during  
21 what period of time or what part of my statement he disagrees with, so I'm trying to  
22 do it because the witness is not providing an answer to my initial questions.

23 PRESIDING JUDGE FREMR: [12:34:26] Yes, all right. But I have to agree with  
24 Mr Bourgon that the more concrete would be the question, there is the higher is  
25 chance to get some concrete, concrete answer.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Please proceed.

2 MS SAMSON: [12:34:38] Thank you.

3 Q. [12:34:39] Sir, I'm focusing you in on August 2002. This is a very specific  
4 question that I asked you. And it's right, isn't it, that at the end of August 2002 when  
5 you were participating in the operation in Komanda you were able to issue  
6 operational orders to your troops?

7 A. [12:35:17] Yes. I commanded this force in Komanda at the end of  
8 August 2002 on the orders of my superior who found me there. That is the answer I  
9 can give.

10 PRESIDING JUDGE FREMR: [12:35:38] Sorry, Ms Samson, I have to correct  
11 transcript, which is not correctly quoting what I said. The English transcript page 59,  
12 line 13, I said "there is the higher chance to get some concrete answer". So the word  
13 "risk" should be deleted.

14 Please proceed.

15 MS SAMSON: [12:36:08] Thank you.

16 Q. [12:36:12] And you also issued written orders to commanders at the end of  
17 August 2002, correct?

18 A. [12:36:47] When I was fighting in the army we did not use documents.  
19 I'd -- nobody wrote documents, whether it was in Komanda or anywhere else. We  
20 were in the bush. We were not sending written messages.

21 Q. [12:37:13] I would like to show you an item, it's DRC-OTP-0029-0255. It's  
22 item 498. And the translation is DRC-OTP-2061-0715. The item is public. The  
23 translation is item 499. Could we enlarge the document, please.

24 Can you see the document clearly?

25 A. [12:38:32] Yes, I can see it. Yes, I can see it.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Q. [12:38:36] Now, this document is in Swahili handwriting and signed by you,  
2 correct, at the bottom of the page?

3 A. [12:39:00] I, myself, wrote to the commander that there were problems in the  
4 areas where they were. I did not only sign this document, I also wrote it.

5 Q. [12:39:19] Yes. Now, we have a translation of this which I will read out, and  
6 it says, it's in French, the translation --

7 PRESIDING JUDGE FREMR: [12:39:30] Ms Samson.

8 THE COURT OFFICER: [12:39:32] I'm sorry to interrupt, but could we please have  
9 the ERN again for the record. Thank you.

10 MS SAMSON: Of the translation? Yes, certainly. It's DRC-OTP-2061-0715. It's  
11 item 499 on the list.

12 And I will read out the translation of this in French, and I quote:

13 (Interpretation) "From: Commander Bosco. To: German and Byaruhanga.

14 Following the fact that you sent this person to collect mortars and rockets, I will give  
15 them to him, but I would like you to work together. You, Byaruhanga, I want to put  
16 to you separately and to give you your own company. Go ahead, but I don't want  
17 you to lose any equipment belonging to the army. Be there very early at 5 a.m.,  
18 attack and set traps, and then withdraw.

19 I will remain in contact. Byaru and German, I have full confidence in you.

20 I wish you the best of luck.

21 Commander Bosco Ntaganda.

22 You will do estimates as leaders.

23 26 August 2002."

24 (Speaks English) Now, according to this written -- handwritten document, which

25 you've confirmed you wrote, you are giving orders to these two commanders, are you

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 not?

2 A. [12:42:20] This is some advice and an order and these are troops from Kasenyi.  
3 Germain was a commander of troops in Kasenyi who was deployed at Bogoro. They  
4 had a company and there were enemy very close, very near to a water source and I  
5 asked them to attack and to set traps to carry out an ambush and also to collaborate.  
6 I wrote this letter, but this was not in the middle of the operations, this was a letter,  
7 just simply a letter that I sent to them.

8 Q. [12:43:11] Well, I have to press you on that point because this is not simply a  
9 letter for advice. You are Commander Bosco Ntaganda and you are ordering them  
10 and giving operational orders to them and ordering them not to lose military  
11 equipment and to be at the place early, at 5 o'clock, to attack, place traps and then  
12 retreat. These are orders, aren't they?

13 A. [12:43:56] Yes, that's an order. I asked them to collaborate, and I think that's  
14 also included in this.

15 Q. [12:44:11] You've stated that you will remain in contact with them, correct?

16 A. [12:44:30] If I had had the means to contact them, I would not have sent this  
17 letter, I would have communicated with them by radio, but in this case I was in  
18 Mandro and so I sent this letter. Someone left for Bogoro by motorbike to give them  
19 the letter. That was our only means of communication.

20 Q. [12:45:02] But you didn't say here that you won't speak to them again.  
21 You've stated that you will stay in contact. And since you were able to send  
22 messengers with your written order, you could have done that again and that is what  
23 you intended to do, to remain in contact with them, correct?

24 A. [12:45:46] Is this a contact? Can I send a verbal message? That's also a  
25 means of contacting them. It can be done in writing or as a spoken communication.

1 Q. [12:46:11] Absolutely. Absolutely. What you are telling them in this  
2 message is that by whatever means at your disposal you will remain in contact with  
3 them while they are executing your orders. That's what this means. It's not limited  
4 to any means of communication, but that you will remain in contact with them during  
5 this operation. That's what you meant?

6 A. [12:47:11] There, madam, you're asking me a question to which you have a  
7 reply. I can't communicate between Bogoro and Mandro, we didn't have a Thuraya  
8 available, so I had the choice of using either written communication or sending an  
9 oral message. You know that the distance between Mandro and Bogoro is a very  
10 long way.

11 Q. [12:47:50] The translation that I read as you were reading it, it was accurate  
12 with your words, your written words?

13 A. [12:48:10] Let me step out of the military framework. Even if I write a letter  
14 to someone in Africa, I'm going to keep contact with that person. I can say that we  
15 will remain in contact, that doesn't necessarily mean that it's going to be regular  
16 contact.

17 Q. [12:48:52] My question is not about the regularity of your contact necessarily,  
18 but you wrote when issuing important orders to your commanders about an attack to  
19 place traps and to retreat, that you would remain in contact with them. That's what  
20 you wrote, correct?

21 A. [12:49:35] When it is necessary, a commander gives orders to his men. And  
22 when there is the means to have contact we -- well, then one does so, but I can't say  
23 that there was contact between Mandro and Bogoro at that time. We are talking  
24 about August 2002. At that time, there was no contact because we couldn't use a  
25 Motorola and I didn't have a Thuraya nor a Manpack and so the -- these soldiers had

1 no means of communication. The only means that I had at my disposal was to write  
2 a letter, as you see.

3 Q. [12:50:23] And you've stated that these commanders were located in Bogoro  
4 and Kasenyi, this -- which are -- Bogoro is in the neighbourhood of Songolo, is it not?

5 A. [12:50:58] I don't know Songolo at all. That was Mugisa's battalion whose  
6 headquarters were at Kasenyi. I have no idea of the distance between Kasenyi and  
7 Bogoro or Songolo.

8 THE INTERPRETER: Between Kasenyi and Songolo, corrects the interpreter.

9 MS SAMSON:

10 Q. [12:51:24] You do know where Bogoro and Songolo are on a map?

11 A. [12:51:51] Maybe if I could read the names of the places. I know Bogoro, but I  
12 don't know Songolo.

13 Q. [12:52:07] Sir, you spent time doing many map-drawing exercises for the  
14 Chamber based on your knowledge of places in Ituri. Do you only know the places  
15 that were asked of you? Do you have no other knowledge of locations in Ituri than  
16 those that you were specifically asked about in your examination by your counsel?

17 A. [12:52:55] If you give me a map here I will be able to say here is Songolo, here  
18 is Komanda. I was there, but I wasn't in that place.

19 Q. [12:53:13] And your evidence is that right now you can't tell the Court whether  
20 Bogoro and Songolo are near each other on a map?

21 A. [12:53:43] In any case, I can't tell you where Songolo is in relation to Bogoro. I  
22 couldn't, if I were in Bogoro, tell you which direction Songolo is.

23 Q. [12:53:58] The Prosecution's suggestion to you is that this order is directing,  
24 ordering Germain and Byaruhanga to attack Songolo at the end of August 2002 and  
25 that you sent this order to them. Do you agree with me or do you not agree with

1 me?

2 A. [12:54:35] No, no. You could never deduce this from the FPLC. The force  
3 attacked Songolo -- was Kisémbu and his guard was injured there. They were  
4 deployed at Kasenyi -- and they did not ever attack Bogoro, not in the history of the  
5 FPLC, so I cannot agree with your premise.

6 Q. [12:55:20] In English, and I can't check the French, but in English you said,  
7 "They were deployed at December -- and they did not ever attack Bogoro, not in the  
8 history of the FPLC." That's page 65, lines 22 to 24. I can't confirm that you're  
9 referring to Bogoro, but my question was about Songolo and that this order was sent  
10 by you to commanders Germain and Byaruhanga for them to attack Songolo. Do  
11 you agree with that or do you not agree?

12 A. [12:56:27] Your Honours, I cannot understand this question. In this letter  
13 there is no mention of the attack on Songolo, unless you are reading a different letter  
14 from the one I have.

15 Q. [12:56:46] I'm reading the -- the handwritten letter that you sent to  
16 Commanders Germain and Byaruhanga. It's the same one, but my -- what the  
17 Prosecution is suggesting or what I'm asking you is that this order is one that you sent  
18 to them about the attack on Songolo at the end of August 2002. Now, you can agree  
19 with that or you can disagree with that.

20 A. [12:57:31] But I don't agree with what you said. I am quite certain  
21 Byaruhanga and Germain were commanders of Mugisa in the Kasenyi battalion,  
22 which never launched an attack on Songolo, neither of them, neither of the two  
23 commanders ever attacked Songolo. I refute this categorically.

24 Q. [12:58:00] And you are in a position to know, aren't you, which commanders  
25 attacked which areas, right?

1 A. [12:58:23] The attack on Songolo was after the defeat of Kisembo, so I  
2 discussed it with him, I discussed it with him when we're talking about deployment  
3 on Mahagi. Kisembo attacked Songolo, but in vain. I'm familiar with the attack on  
4 Songolo and I know who was there. I know that the people who were there told me  
5 what took place there. So that was not Germain or Byaruhanga, not at all. There  
6 was a defeat in Songolo.

7 Q. [12:59:09] And you've stated at page 66, lines 17 to 21, "I'm quite certain  
8 Byaruhanga and Germain were commanders of Mugisa in the Kasenyi battalion,  
9 which never launched an attack in Songolo, neither of them, neither of the two  
10 commanders ever attacked Songolo. I refute this categorically." End quote.  
11 And my question is you refute that because you know where all your commanders  
12 were attacking during the period you were in the UPC/FPLC, you were in a position  
13 to know where they were attacking. Because you're not just talking about Songolo  
14 end of August, you said they've never attacked Songolo, ever, correct?

15 A. [13:00:19] Yes, I know, and if I know that because you are asking me questions,  
16 not because I knew all the commanders, when they participated in an attack. I could  
17 know about some attacks, but not others. I can tell you what I know and I can reply  
18 on certain subjects that -- on that particular subject I have no information.

19 PRESIDING JUDGE FREMR: [13:00:49] Ms Samson, I am sorry that I have to  
20 repeat myself, but these kind of general questions have no chance to bring any  
21 relevant response because as now Mr Ntaganda said, sometimes it could be a case,  
22 sometimes not. So please have it in mind.

23 MS SAMSON: [13:01:07] Yes, Mr President.

24 Q. [13:01:09] Sir, you stated earlier in your answer that the FPLC never attacked  
25 Songolo, and then a bit later you stated that Kisembo attacked Songolo. Can you

1 explain?

2 PRESIDING JUDGE FREMR: [13:01:36] Mr Bourgon.

3 MR BOURGON: If we can have a reference for the first part of the questions because  
4 I don't recall Mr Ntaganda saying that FPLC never attacked Songolo. Two  
5 commanders never did, but he never said that FPLC did not do that.

6 PRESIDING JUDGE FREMR: [13:01:55] Ms Samson.

7 MS SAMSON: [13:01:59]

8 Q. In the French transcript, I believe it's also in the English, but page 61, lines 15:

9 (Interpretation) "We never attacked Songolo in the history of the FPLC."

10 (Speaks English) And a bit further down, page 62, line 17 you stated:

11 (Interpretation) "The attack on Songolo was -- took place after the defeat of  
12 Kisembo."

13 (Speaks English) Can you clarify this contradiction, please?

14 A. [13:02:59] I will go over this again. I didn't say these two things. I said  
15 that -- I said that in the history of the FPLC and at that time in -- in August there was  
16 as yet no FPLC. I said that maybe I was wrong on -- from a historical point of view,  
17 but the -- there was a battalion in Kasenyi, Tchomia and Bogoro and commanders  
18 Germain and Byaruhanga never attacked Songolo in this period. The two who  
19 attacked Songolo were Kisembo and Didier. And at that time when the forces  
20 attacked they were with Kisembo and did not set out from Bogoro. That's what I  
21 recall having said.

22 MS SAMSON: [13:04:04] I have one last question with your leave, Mr President,  
23 before the break.

24 Q. Sir, what operation were you ordering Germain and Byaruhanga for? Where  
25 were you sending them at 5 o'clock in the morning to attack, place traps and retreat?

1 A. [13:04:48] It was near a river. From Kasenyi to go to the river there was a  
2 place where APC had combatants. This was not a place with a name, it was very  
3 near water, very near the lake.

4 Q. [13:05:17] You can't provide any name at all as to where this region is, no  
5 further detail beyond "near the water"? Near Kasenyi? Anything further you can  
6 remember about where this was?

7 A. [13:05:46] I don't know the names of many places close to the lake. I know  
8 there was an enemy who left from that place to attack them. At that time I told them  
9 to -- to conduct a counter-offence and provide for some ambushes. The place close  
10 to the lake is made up of Tchomia, Kasenyi, Joo, heading towards Semuliki, but I  
11 don't really know the names of those places very well.

12 MS SAMSON: [13:06:24] Thank you, Mr President.

13 PRESIDING JUDGE FREMR: [13:06:25] All right. So now we take -- Mr Bourgon.

14 MR BOURGON: [13:06:28] Thank you, Mr President. I waited till the end just to  
15 make a few transcript corrections.

16 The first one is I'd like to have the audio verified with the French on pages 61, lines 15  
17 and 16. And it's just the issue of Songolo and Bogoro, so I would like that to be  
18 checked.

19 But more importantly, I'd like to refer to page 60 in the English transcript, at lines 10  
20 to 13 and page 56, at lines 4 to 7 in the French transcript. What we heard and what I  
21 would like to be checked is there are words missing when the witness answer "When  
22 I was fighting in the army we did not use documents. I'd -- nobody wrote  
23 documents" and then there's something missing there as to what we heard, "whether  
24 it was in Komanda or anywhere else". There's part of a sentence missing there  
25 which we say is very important. We can either ask Mr Ntaganda to fill it in now or

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 just check the audio transcript.

2 PRESIDING JUDGE FREMR: [13:07:41] I would rather solve it now if possible.

3 MS SAMSON: [13:07:45] We can. I think it would also be appropriate to check  
4 the audio. Of course, Mr President, you will decide what is the best course of action.

5 PRESIDING JUDGE FREMR: [13:07:58] (Microphone not activated) It would be  
6 fine for you to put this question or to clarify it now.

7 MS SAMSON: [13:08:05]

8 Q. [13:08:05] Sir, you stated moments ago that you didn't use written documents  
9 in the army. It appears that you might have said something else. If you did, could  
10 you please explain what you might have said now that you've seen the document?

11 A. [13:08:34] You asked me whether we wrote letters to -- about Komanda, but  
12 that was no. It was the middle of fighting, in the middle of a war, in the middle of a  
13 rebellion. At that time we did not write letters. That is the answer I gave you.  
14 And you wanted to know whether in Komanda we sent letters or wrote letters, I said  
15 no.

16 MS SAMSON: [13:09:02] Mr President, I would -- I would like that transcript  
17 section to be checked because I -- in my submission this is an addition and a change  
18 now that the witness was confronted with a written document contrary to his earlier  
19 answer, so the procedure I think is perhaps not the best one, but it needs to be  
20 checked as against the original and this has to be noted for the Chamber, please.

21 PRESIDING JUDGE FREMR: [13:09:26] Yes, I agree. I support that it should be  
22 verified.

23 Any further point, Mr Bourgon?

24 MR BOURGON: [13:09:32] No. We fully agree, Mr President, because what he  
25 said then is important. Thank you.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 MS SAMSON: [13:09:36] I have one last procedural matter, please. The  
2 translation of the written order is -- has not been admitted into evidence. An earlier  
3 version of the translation was admitted into evidence. The Prosecution has provided  
4 the Defence some time ago, a year ago or perhaps more, with an updated translation  
5 and I seek, in light of the witness's answers, to have that translation admitted into  
6 evidence. I can repeat the ERN, if that's required.

7 PRESIDING JUDGE FREMR: [13:10:11] Please do.

8 MS SAMSON: [13:10:12] DRC-OTP-2061-0715.

9 PRESIDING JUDGE FREMR: [13:10:20] Defence, any objection?

10 MR BOURGON: [13:10:22] Well, I just want to note, the one that was used today  
11 on the screen, is that the correct one or the previous one?

12 MS SAMSON: [13:10:29] The document on the screen was the original Swahili so  
13 that the witness could follow. The translation is a corrected version, the ERN that I  
14 set out. There was an error in the translation and some time ago we made the  
15 correction. The ERN is the one that I stated.

16 PRESIDING JUDGE FREMR: [13:10:51] Mr Bourgon.

17 MR BOURGON: [13:10:52] I would just like -- I'll take the lunch break to verify  
18 both documents just to see.

19 PRESIDING JUDGE FREMR: [13:10:57] All right.

20 MR BOURGON: [13:10:58] I don't see any problems, I just want to make sure.  
21 Thank you.

22 PRESIDING JUDGE FREMR: [13:11:02] Point taken. So please take your time and  
23 we will return back to that issue after the lunch break.

24 We prolonged this session so we will shorten the afternoon session accordingly, and  
25 in order to keep 90 minutes lunch break we will reconvene at 2.40.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 THE COURT USHER: [13:11:21] All rise.

2 (Recess taken at 1.11 p.m.)

3 (Upon resuming in open session at 2.41 p.m.)

4 THE COURT USHER: [14:41:01] All rise.

5 Please be seated.

6 PRESIDING JUDGE FREMR: [14:41:26] Good afternoon, everybody.

7 Before we move to the next part of cross-examination of Mr Ntaganda by the

8 Prosecution, there is still one pending request for admission of corrected translation

9 of one of the videos and Defence was given time to double-check.

10 So Mr Bourgon what is your position to -- on that request?

11 MR BOURGON: [14:41:59] We have no issues with the translation. It's fine with

12 us. Thank you.

13 PRESIDING JUDGE FREMR: [14:42:05] So I believe there is no need to repeat the

14 number. So it was the last item tendered, and our ruling is that this translation or

15 this document containing translation is admitted into evidence as a further

16 Prosecution exhibit.

17 Now, Ms Samson, you may proceed.

18 MS SAMSON: [14:42:32] Thank you, Mr President.

19 Q. I have another question or two in relation to the handwritten order that we

20 looked at a moment ago. And it may assist you to see it, so if I may ask the court

21 officer to publish again the document DRC-OTP-0029-0255. It's a public document,

22 item 498 on our list. And the French translation is DRC-OTP-2061-0715, item 499.

23 I see that the translation is -- has been published, but perhaps for the witness the

24 original could be published.

25 PRESIDING JUDGE FREMR: [14:44:19] (Microphone not activated). Yes, I have to

1 repeat because I didn't switch on my mic. So I just highlighted that we need the  
2 handwriting, am I right, Ms Samson?

3 MS SAMSON: [14:44:41] You're right.

4 PRESIDING JUDGE FREMR: [14:44:44] Which has been shown to witness just  
5 before the break.

6 MS SAMSON: [14:45:01]

7 Q. [14:45:02] Can you see the document clearly?

8 A. [14:45:11] Yes, I can see it.

9 Q. [14:45:17] I have a question in relation to the first sentence of your order,  
10 where you have written, and I'll read the French translation, quote:

11 (Interpretation) "Consecutively, owing to the fact that you sent this person to go  
12 fetch mortars and rockets, I give them to him, but I would like you to act in  
13 concertation with him."

14 (Speaks English) And my question for you is: Based on this order that you've  
15 written, it's correct, isn't it, that Commanders Germain and Byaruhanga sent  
16 somebody to you for mortars and rockets and that you distributed or authorised the  
17 giving of those weapons to this person?

18 A. [14:46:47] I think that I provided them with that. I don't remember, but in  
19 light of what I read in this document, I gave them that -- the mortars and the rockets.

20 Q. [14:47:14] And distributing weapons and authorising their distribution is a  
21 power that you held while you were in the UPC/FPLC, correct?

22 A. [14:47:40] Well, if I was in Mandro, I remember it was after the liberation of  
23 Komanda by our troops. I remember that I was with Kisembo. He is the one who  
24 gave the order to provide those young people with the rockets and the mortars. I  
25 remember that very well. We were at the home of Chef Kahwa.

1 Q. [14:48:23] At this time, in August 2002, was Kisembo not preparing to attack  
2 Songolo just days later?

3 A. [14:48:48] Kisembo left when Chef Kahwa assigned tasks to us. That was on  
4 29 August. I remember that we had received -- we received Lubanga at the airport.  
5 That day Chief Kahwa assigned tasks to us and I do remember quite well that it was a  
6 few days later that we set up operations in Mandro. And I remember quite well  
7 when those young people came to get the mortar and the rocket, and we saw that on  
8 the video.

9 Q. [14:49:55] I'm sorry, did you say that we saw on the video these people coming  
10 to get rockets and mortars?

11 A. [14:50:15] No, you asked me if Kisembo hadn't planned for Songolo and I said  
12 that when the young men came, Kisembo went to Komanda for a second time, and  
13 that is when the delegation arrived in Bunia. And Chief Kahwa had assigned tasks  
14 to us. I stayed there to ensure the security of those that Chief Kahwa had taken  
15 hostage awaiting the delegation that was coming from Kinshasa. And Kisembo  
16 went to Komanda. I remember quite well that is when Kisembo left. And later  
17 Didier came and he said to me that they had been attacked in Songolo but it was not  
18 successful.

19 Q. [14:51:20] Now, these people who came to get the weapons, they came to you  
20 in Mandro?

21 A. [14:51:38] It was just one person who came, yes.

22 Q. [14:51:42] And when you gave this person the weapons as requested, Kisembo  
23 was not with you in Mandro?

24 A. [14:52:00] We were together. He was the one who said to me, "I know  
25 Byaruhanga quite well and he knows how to use the mortar", and he asked me to give

1 him the mortar.

2 Q. [14:52:20] When you write your order to the two commanders, you remind  
3 them not to lose any military equipment, correct?

4 A. [14:52:46] Yes. When you deploy a commander, you have to remind him that  
5 he must not lose any weapons and he should not destroy them.

6 Q. [14:53:05] You had oversight responsibility over the military equipment and  
7 weapons?

8 A. [14:53:27] When my direct superior gives me an order, I comply with it. I  
9 was carrying out orders. I was -- well, my position was one of a person who carries  
10 out orders.

11 Q. [14:53:46] But surely at your level, as deputy chief of staff in charge of  
12 operations and organisation, you could issue orders to your troops providing them  
13 with weapons and ordering them not to lose weapons? Surely that was a part of  
14 your obligations and responsibilities in the role that you had?

15 A. [14:54:23] At that time, I was not yet deputy chief of staff. We were just  
16 mutineers.

17 Q. [14:54:41] Throughout the time that you were deputy chief of staff in charge of  
18 operations and organisation, which you say was not until early September 2002 until  
19 the end of 2003, surely you had independent responsibility for orders related to  
20 weapons, distribution of weapons and oversight to ensure that weapons were not lost  
21 or destroyed?

22 A. [14:55:26] All the weapons were the responsibility of Kisembo, who had a G3  
23 and a G4 under him. When he gave me orders, I would go see the G4. And when  
24 he deployed me somewhere, I had to go see the G4 and I would say to him, "The chief  
25 of staff -- the chief of general staff has just deployed me to such and such a place, I

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 need such-and-such a piece of military equipment". So each person had his own  
2 responsibilities.

3 Q. [14:56:16] I would like to show you another document. It's at  
4 DRC-OTP-0018-0170. It's item 496, a public document, and the translation is  
5 DRC-OTP-0173-0517. It's item 497.

6 PRESIDING JUDGE FREMR: [14:56:50] Before doing that, Mr Bourgon.

7 MR BOURGON: [14:56:53] Thank you, Mr President. Now that we're moving to  
8 a next document, there is a translation or interpretation issue regarding the last  
9 document. Page 74 in the English transcript, line 23 to 25, two words were added in  
10 the English version. I'd like that to be checked with the record, please.

11 PRESIDING JUDGE FREMR: [14:57:14] Well noted. Thank you, Mr Bourgon.  
12 Now as concerns the use of the document which we'd like present to Mr Ntaganda,  
13 Ms Samson, any objection to that?

14 MR BOURGON: [14:57:48] No objection, Mr President.

15 PRESIDING JUDGE FREMR: [14:57:50] All right. Let's proceed as proposed.

16 MS SAMSON: [14:58:24]

17 Q. [14:58:25] Sir, can you see this document in front of you?

18 A. [14:58:36] Yes, I can see it.

19 Q. [14:58:39] And can you confirm that this is a handwritten order from you to  
20 Commander Aigle Vipère on 6 August 2003?

21 Sir, is that an order that you wrote?

22 A. [14:59:59] I remember that at that time Kisembo was ill on that date. It was  
23 before he was attacked in Miala, that is when this was written, I remember. We were  
24 a bit disorganised, I remember. I -- we wrote the letter to Aigle Vipère, and at that  
25 time we didn't have any Manpacks, we didn't have a lot of communications resources,

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 we were having trouble.

2 Q. [15:00:33] For now, I didn't ask about the context. I just want to confirm that  
3 this is your handwritten letter, an order issued by you to Commander Aigle Vipère on  
4 6 August 2003; can you confirm that?

5 A. [15:01:09] When it was a matter of giving orders as part -- well, within the  
6 framework of discipline that was --

7 THE INTERPRETER: [15:01:23] Message from the interpreter: Could the witness  
8 be kindly requested to repeat the last sentence of his reply.

9 PRESIDING JUDGE FREMR: [15:01:31] Mr Ntaganda, your response was not  
10 captured completely. At the moment we have, "When it was a matter of giving  
11 orders as part" -- something there is missing -- "within the framework of discipline  
12 that was --"

13 So could you kindly repeat the whole of your response to make it reasonable.

14 THE WITNESS: [15:02:02] (Interpretation) Yes, your Honour. When it came to  
15 military orders having to do with discipline, I was intransigent, as I've already said  
16 earlier in my testimony.

17 PRESIDING JUDGE FREMR: [15:02:24] Now, Mr Bourgon.

18 MR BOURGON: [15:02:27] A translation issue, Mr President. Both in English and  
19 in French the same word appears. In English it's at page 79, and it's line 2. I would  
20 like if this could be corrected now because it is a timing issue as to when this  
21 document would have been issued. The second line on page 79, and my colleague  
22 can take that up with the witness.

23 PRESIDING JUDGE FREMR: [15:02:56] Ms Samson.

24 MS SAMSON: [15:02:57] Certainly.

25 Q. [15:02:58] Sir, when this order was issued, was it -- when was it in relation to

1 the attack on Miala?

2 A. [15:03:20] No, no, it was during the same period; the period of the Miala  
3 incident. What I know is that Eagle Viper was in Mabanga and I said that I did not  
4 want to have any problems in the gold mine. I told him that if I ever heard that any  
5 soldiers had gone to the gold mine, I would come and arrest him myself. I wanted  
6 these soldiers to abstain from engaging in gold mining alongside with the civilians.  
7 And this was in June 2003.

8 Q. [15:04:26] Now, I'm going to ask my question again: Sir, the order that you  
9 see before you, this is your order, your handwriting, your signature? Can you focus  
10 on that part of my question for now and tell me if that is correct or not?

11 A. [15:04:59] That is my signature. The letter was written by myself regarding  
12 discipline.

13 Q. [15:05:14] Now, if we look at the letter, and I'm going to read out the French  
14 translation of it in the -- the content, it says, and I'm going to read in French:

15 (Interpretation) "People came to see me to talk to me about the problems that were  
16 arising there.

17 In your capacity as someone who was responsible, could you try to stop that  
18 problem? Shooting bullets in an unplanned manner while we have problems with  
19 bullets -- that's for a; b - take out all the soldiers from the centre and send them to the  
20 camp.

21 Send him here. I have a central prison like Loy and others."

22 (Speaks English) Sir, there when you're referring to the central prison, are you  
23 referring to a location or are you referring to a person? And is it Loy, L-O-Y, or Roy,  
24 R-O-Y?

25 A. [15:07:13] He was a commander whom I left behind in Mabanga when I went

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 to liberate Mongbwalu in 2003, in June 2003. I learnt that he had been involved in  
2 the gold trade and so I arrested him. Commander Roy, that's the name.

3 Q. [15:07:48] Now, is this Commander Roy who had been deployed with  
4 Museveni that we looked at this morning in Mabanga at the end of August or early  
5 September 2002?

6 A. [15:08:19] Yes. At some point in time he was in charge of the peace  
7 committee and he was trained by Kisembo, who took him all the way to Mamedi, and  
8 I met him when he was already a major. So we went to Mongbwalu with him  
9 in 2003. He is the one whom I arrested because he mixed up his military duties with  
10 business.

11 Q. [15:08:56] Now, this order doesn't indicate that you arrested him. It says you  
12 have a central prison, as he does.

13 A. [15:09:29] Wherever we had a brigade or general -- or a headquarters, there  
14 was a detention centre. And since he was a senior officer, he had to be held at the  
15 level of the headquarters or the general staff.

16 Q. [15:09:57] And then I'll read the rest of the letter, your order, before I get to the  
17 part I want to speak to you about, which is at the beginning. It continues:  
18 (Speaks French) --

19 THE INTERPRETER: [15:10:10] Mr President, if counsel would be advised to  
20 pause before switching languages because the first part of the sentence is often not  
21 captured by the interpreters.

22 PRESIDING JUDGE FREMR: [15:10:23] I guess Ms Samson has noted.  
23 Please proceed.

24 MS SAMSON: [15:10:26] Yes. So I will start to read it again in French:

25 (Interpretation) "As for the other soldiers, I learnt that they are all in gold pits. So if

1 you do not solve that problem, I will come and settle there myself." End of quote.

2 Q. [15:10:49] (Speaks English) Now, sir, the questions that I have for you relate to  
3 the earlier part of your order, the very beginning, where you are writing to  
4 Aigle Vipère and you are telling him that he must put an end to the fact that  
5 cartridges are being shot in an unplanned way and that this is a problem because the  
6 cartridges or bullets are effectively being wasted. And my question is: You had the  
7 authority, did you not, to order your subordinates not to waste bullets and not to fire  
8 their weapons in an unplanned way?

9 A. [15:11:56] Even if I didn't say it, any commander would have said so, given the  
10 situation in which we were in August 2002. That is when Thomas Lubanga asked us  
11 not to conduct any operations, but to take up defensive positions. There were  
12 attacks from the APC and the Lendu combatants at that time. So I heard you talk  
13 about soldiers who were using -- or I was told that there were soldiers who were  
14 wasting bullets and I told them not to do so. So whether it was I or any other  
15 battalion commander, they would have said exactly the same thing.

16 Q. [15:12:42] And so I think it's -- from your answer, you do agree that you were  
17 issuing an order on your behalf because that was something within your power to do  
18 in relation to bullets?

19 A. [15:13:20] Yes, I was a commander and it was my duty to tell my troops how  
20 to behave.

21 Q. [15:13:33] Now, the Roy that we're speaking of here, did you confirm that it's  
22 the same Roy who had deployed to Mabanga in August 2002 or early  
23 September 2002?

24 A. [15:14:00] Yes, it's the same Roy.

25 Q. [15:14:04] Do you know whether his -- one of his full names was

1 Roy Ndima Christ or Roger Djonga Bahati?

2 A. [15:14:31] I think it was Roy Ndima Christ. That is a name which I did not  
3 quite remember, but I think it was -- it is Roy Ndima Christ. He must be the one.  
4 However, I am not very sure. If it becomes clearer to me along the way, I will  
5 confirm to you that it was indeed -- that he is indeed the one.

6 Q. [15:15:13] Yes, please do so. According to information that we have heard,  
7 Roy Ndima Christ is Hema. Does that assist you in any way?

8 A. [15:15:37] No. No, madam. I know Roy very well. He's an Alur. I  
9 arrested him and I know him very well. He is Alur. If we were to go into private  
10 session, I could provide you with a more exhaustive answer.

11 Q. [15:16:10] It's not necessary for my purposes at the moment. I'm moving to  
12 another example of your personal involvement in weapons and ammunition  
13 distribution. I would ask to move to a message in the logbook, which is the one you  
14 have in front of you, I think, or, if not, we'll have to get it back. It is  
15 DRC-OTP-0017-0033 at page 0213, 0213. And the translation is DRC-OTP-2102-3855  
16 at page 4035. It can be displayed publicly.

17 A. [15:17:33] I would not want us to mix things up. In August 2003 Artémis had  
18 destroyed all our equipment at our headquarters in Miala. So I think you need to  
19 distinguish between that period -- between that month and a different period.

20 Q. [15:17:56] Certainly. The Chamber will have that in mind. That was just  
21 one month I wanted to highlight where you were describing your role with  
22 ammunition. And the message I'd like to take you to now is one from 19  
23 November 2002. It's the last -- or the second message on the page in front of you.  
24 It's a message sent at 13.10 from operations commander Bosco Ntaganda to  
25 Commander Salumu and Commander Seyi. And the message reads -- and I will

1 read it now. I'm going to read it in French. So I'm switching to French. I'll pause  
2 for a moment. In French it states:

3 (Interpretation) "Do everything possible and all advance to the objective. Stop. I  
4 at all times they are repairing my vehicles. Stop. I will bring you Salumu the  
5 cartridges that you gave to Seyi. Stop. To be implemented as a matter of urgency."

6 (Speaks English) Now, in this message that you have sent on 19 November you're  
7 ordering Salumu and Seyi to advance to the objective, correct?

8 A. [15:19:58] Madam Prosecutor, I did not quite follow your question. Could  
9 you please put it again.

10 Q. [15:20:04] Yes, certainly. The first line of your message, and I'll read it again  
11 in French:

12 (Interpretation) "Do everything possible and advance all the way to the objective."

13 (Speaks English) This is, is it not, an order you're giving to Salumu and Seyi to  
14 advance to the objective on 19 November 2002?

15 A. [15:20:44] Yes. I had received orders from Kisémbu from Aru with  
16 President Thomas that the people of Mongbwalu should be liberated because the  
17 people were in a bad situation against the APC troops. That is why I gave that order  
18 to Seyi and to Salumu. I remember it very clearly.

19 Q. [15:21:11] You had command responsibility over the troops who went to  
20 conduct the operation at Mongbwalu?

21 A. [15:21:36] As the deputy to the chief of general staff, Kisémbu, what I can say  
22 is that he is the one who gave me the orders to command those forces to go and  
23 liberate Mongbwalu again, and it is at that time that I took the commanders'  
24 baton and went ahead to implement that order which had been given to me by the  
25 chief of general staff and by President Thomas Lubanga.

1 Q. [15:22:07] And he entrusted you with the forces and he put them under your  
2 command, correct?

3 A. [15:22:28] Yes. When we left they were under my command.

4 Q. [15:22:34] And you told him it would be -- it would be better to use Jérôme's  
5 brigade as well, that was your idea that you could use Jérôme's brigade and have  
6 them come from the Mbidjo road, correct?

7 A. [15:23:08] When Kisembo told me that Salumu had arrived and I was in Aru at  
8 the time absent, he took some ammunition and some support weapons and gave me  
9 the responsibility, but then I told him that it was better to use Jérôme's brigade so that  
10 I could work with them because the enemy who was attacking Salumu had come  
11 from Mongbwalu. I do remember that clearly.

12 Q. [15:23:44] And Kisembo thought that that was a very good idea, didn't he?

13 A. [15:23:59] Yes, he agreed with my proposal and said that it was a good idea.

14 Q. [15:24:07] Now, coming back to the order in the logbook it was crucial to your  
15 plan that Salumu and Seyi both advanced at that moment, right?

16 A. [15:24:43] Yes, I told them to advance to the objective and that I would arrive  
17 at any time. My vehicle was being repaired at the garage and as soon as it was  
18 repaired I was going to be with them at any time.

19 Q. [15:25:02] And it was up to you to coordinate the advance, correct?

20 A. [15:25:19] When they left I was not in a position to coordinate them. I felt that  
21 they would be able to get to the objective by themselves. I was not able to  
22 communicate with them because they were quite a distance away from where I was.

23 Q. [15:25:41] The message that we're looking at right now shows that you were  
24 able to communicate with them, doesn't it?

25 A. [15:25:59] Yes, that was the last message I transmitted to them before they left.

1 After that message there is no other message until I met up with them in Mongbwalu  
2 when they had just liberated the area. So, yes, it is indeed a message that I sent to  
3 them.

4 Q. [15:26:20] You advised Salumu and Seyi that you were going to bring  
5 ammunition to them, right?

6 A. [15:26:42] No. If you read the message, Madam Prosecutor, it is clear. This  
7 is what I said: When Kisembo told me that there was ammunition that Salumu had  
8 already provided to Seyi, I told Salumu that I was going to bring him the ammunition  
9 which he had given to Seyi.

10 Q. [15:27:14] It may be just a difference in words, but my question and the point  
11 I'm making is that you were bringing and letting them know that you were going to  
12 be bringing ammunition; that's right, isn't it?

13 A. [15:27:41] Well, that is not what I meant in Swahili.

14 Q. [15:27:51] Well, let's look at what it says in the translation, and I'll read in  
15 French:

16 (Interpretation) "I will bring you Salumu the cartridges you gave to Seyi."

17 (Speaks English) Isn't it right that you're telling Salumu that you're bringing to him  
18 some ammunition?

19 A. [15:28:27] What I said was that I was going to give him the cartridges that he,  
20 himself, had previously given to Seyi. That is what it means in Swahili.

21 Q. [15:28:48] Doesn't that mean that you were going to give him ammunition?

22 A. [15:29:03] I haven't quite understood your question.

23 Q. [15:29:13] In the English transcript, page -- starting page 88, lines 1 -- sorry, 2  
24 and 3, you say, "I told Salumu that I was going to bring him the ammunition which he  
25 had given to Seyi." Can we agree that that's what you are saying in this message?

1 "I was going to bring him the ammunition which he had given to Seyi." That's your  
2 answer. Page 88, lines 1 to 3 -- 4, 1 to 4.

3 A. [15:29:59] Let me revert to the original text so that the interpreter can follow  
4 my message.

5 "I am bringing to you Salumu the cartridges which you gave to Seyi. I am bringing  
6 to you Salumu the cartridges that you gave to Seyi."

7 That's what I meant.

8 Q. [15:30:27] Okay. And so last question on this: Do you agree that you're  
9 telling Salumu that you're bringing him cartridges?

10 A. [15:30:43] Yes. I told him that I was going to bring him the cartridges that he  
11 had given to Seyi and I did so.

12 Q. [15:30:51] And without this ammunition and ammunition generally, the  
13 objective of the attack would fail, wouldn't it?

14 A. [15:31:23] I haven't understood your question.

15 Q. [15:31:26] I can rephrase. The ammunition was necessary for Salumu, Seyi to  
16 reach their objective successfully, wasn't it?

17 A. [15:31:46] No. The ammunition that liberated Mongbwalu was given by  
18 Kisembo to Salumu. When he was short of ammunition he gave him ammunition.  
19 And when I was given responsibility I received that message and I was told that  
20 Salumu had given the ammunition to Seyi and I said to Salumu "I will give you back  
21 the ammunition you originally gave to Seyi". When I got there the place was already  
22 freed. So the cartridges, Mongbwalu, those are the ones that Kisembo gave before  
23 his departure. The cartridges -- you see, the cartridges were a reimbursement of the  
24 cartridges that had been given earlier in November 2003.

25 Q. [15:32:55] Now, sir, in relation to the attack in Mongbwalu, which we will look

1 at in much greater detail at a different moment during this examination, you assisted  
2 in planning that operation that was successful, did you not, given that you planned  
3 and organised the troops coming from Aru through Mbidjo into Mongbwalu?

4 A. [15:33:47] No. I know full well what happened. When I was given  
5 responsibility for freeing Mongbwalu, I wrote that message, and that was the time  
6 when I received command on 9 November 2002 --

7 THE INTERPRETER: [15:34:11] Correction, 19 November 2002.

8 THE WITNESS: [15:34:13] (Interpretation) At that time Salumu had already gone.  
9 He was over in Dala, Lalu, Mabanga, where -- because, you see, he failed in the first  
10 attack, so when I was given that responsibility, Jérôme's forces were fighting the  
11 enemy.

12 So I learned that it was better to coordinate our forces with Salumu's forces so as to  
13 overcome the enemy. That is when I had this idea to use the two forces at the same  
14 time. I asked my direct superior for permission and he granted permission so I gave  
15 the order to the troops to move forward towards the objective. That is where I  
16 started. That was the second attack upon Mongbwalu. That is when I gave the  
17 order to Seyi and Salumu.

18 But during the first attack, I did not take part in that. I did not take part in the first  
19 attack. I started on 19 November 2002. I'm very familiar with that date; that is  
20 when I took control of things.

21 MS SAMSON: [15:35:35]

22 Q. [15:35:36] Yes, I and I am referencing, of course --

23 THE INTERPRETER: [15:35:39] Message from the Swahili interpreters: Could the  
24 witness be kindly encouraged to slow down.

25 PRESIDING JUDGE FREMR: [15:35:47] Mr Ntaganda, there is a request from the

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 interpreters if you could kindly slow down a bit.

2 THE INTERPRETER: [15:36:00] Many thanks from the interpreters.

3 MS SAMSON: [15:36:03]

4 Q. [15:36:03] As I said, we will get into the Mongbwalu operation in some detail,  
5 but to be clear, I was referring to the Mongbwalu operation that was successful, not  
6 the first failed operation. But I do want to get back now while we're dealing with  
7 your role in relation to weapons.

8 And my question is, you kept personal access to weapons, including weapons that  
9 were stored in your residences in Bunia and Mandro, correct?

10 A. [15:36:58] No, no. There were the weapons at my home. At my home there  
11 were two shooters; there was Gege and Nduru. I had them come in October. They  
12 were living in my home, my residence. They had the B-10, just the B-10s and the 12s.

13 Q. [15:37:33] Your evidence in-chief, or when your counsel was asking you  
14 questions related to weapons at your residence in Bunia, the 12 grenade launchers  
15 and the B-10, which you testified were kept in a building and were in the keeping of  
16 Gege in your compound and these troops were there to ensure the security of the  
17 weapons; is that right?

18 PRESIDING JUDGE FREMR: [15:38:20] Hold on, Mr Witness.

19 Mr Bourgon.

20 MR BOURGON: [15:38:23] Can we have a reference, please, so that we can follow  
21 the text, the words being attributed to the witness.

22 PRESIDING JUDGE FREMR: [15:38:30] Ms Samson.

23 MS SAMSON: [15:38:31] Certainly. Transcript 215, page 83 to page 85.

24 PRESIDING JUDGE FREMR: [15:38:51] Please wait a moment. Do you have it,  
25 Defence? Okay, now we may proceed.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 MR BOURGON: [15:38:57] I have three pages, so.

2 PRESIDING JUDGE FREMR: [15:39:03] Would it be possible to be more specific  
3 just to facilitate the role of the Defence just to follow.

4 MS SAMSON: [15:39:10] Certainly. Page 83, line 19 to page 85, line 5.

5 PRESIDING JUDGE FREMR: [15:39:18] Thank you, Ms Samson.

6 MS SAMSON: [15:39:22]

7 Q. [15:39:22] Mr Ntaganda, when you were asked questions in-chief about B-10  
8 grenade launchers and the 12, you testified that these were within your compound  
9 and that you had troops there to ensure the security of those weapons?

10 A. [15:39:49] I didn't say that. I repeat to be quite clear, and I showed it on the  
11 map, I showed where the headquarters were where my bodyguards lived. At that  
12 place there was my company, there were the 12s and a rocket launcher. In my  
13 compound, I was with my wife, I -- Gege and Nduru and Signaller were there. They  
14 were in adjoining buildings, where Gege and Nduru were staying with the B-10s.  
15 They were in other buildings. It's not where the other weapons were being stored.

16 PRESIDING JUDGE FREMR: [15:40:47] Hold on, Ms Samson. I see Mr Bourgon  
17 on his feet.

18 Mr Bourgon.

19 MR BOURGON: [15:40:51] Thank you, Mr President. For the record, what the  
20 witness said at lines 20 on page 84, the question was, "You said the grenade launcher  
21 and the 12 was at the headquarters. Where was the B-10?" And the witness  
22 proceeds to say that the B-10 was at his place. So he never said that the 12 and the  
23 grenade launcher were at his place. He said they were at the headquarters. Thank  
24 you.

25 PRESIDING JUDGE FREMR: [15:41:17] Noted.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 MS SAMSON: [15:41:20]

2 Q. [15:41:21] And, sir, is it right that you indicated in-chief that after the weapons  
3 had been air dropped in and around Mandro that there were so many that you had a  
4 reserve of weapons at the Mandro camp where you were residing?

5 A. [15:41:52] Repeat your question, ma'am.

6 PRESIDING JUDGE FREMR: [15:41:53] Sorry, hold on.

7 Mr Bourgon, anyway.

8 MR BOURGON: [15:41:57] Sorry, to intervene, Mr President, but my colleague is  
9 moving back and forth with months of differences between two questions. The  
10 question where Gege has a B-10 at Mr Ntaganda's residence is in November or  
11 October of 2002. Now she goes back all the way down to when the weapons arrive.  
12 She can do that as long as she provides the date or a reference time so that the witness  
13 can follow without being misled.

14 PRESIDING JUDGE FREMR: [15:42:28] But I believe there was the only occasion  
15 when or more occasion when weapons had been dropped down.

16 Ms Samson.

17 MS SAMSON: [15:42:37] Yes, your Honour. I can seek to give some further  
18 information to the witness about the date of my question.

19 PRESIDING JUDGE FREMR: [15:42:46] Please do.

20 MS SAMSON: [15:42:48]

21 Q. [15:42:48] Now, it's right, isn't it, that when you testified in-chief you made  
22 reference to weapons being dropped. And at this point I am referring to a period in  
23 the summer 2002, where there were so many or an excess of weapons that there was a  
24 reserve or cache of weapons in Mandro where you were at the time living. Correct?

25 A. [15:43:30] I don't remember. Give me the reference. You know, when it

1 comes to these matters I've said many things, your Honours. That was at late  
2 July 2002 when the weapons were dropped from a plane. I've said many things  
3 about these topics. I said that all the recruits who were there received individual  
4 weapons. And from Komanda we deployed them. I said that later the military  
5 uniforms arrived. So your question, I don't know whether it refers to which event in  
6 particular so that I can give you a specific answer.

7 Q. [15:44:25] I think you have situated it in time, late July 2002, when the  
8 weapons were dropped from a plane. That's in your answer at page 95, lines 7 to 8.  
9 That's the period that I'm referring to right now. Do you remember saying in  
10 testimony or from having lived through the experience that there was an excess of  
11 weapons and that you stored some at your -- the training camp in Mandro?

12 PRESIDING JUDGE FREMR: [15:44:56] Mr Bourgon.

13 MR BOURGON: [15:44:58] Mr President, the witness requested a reference.  
14 There's a word being put in that question that I cannot find anywhere which is the  
15 word "excessive". The witness knows very well what period we're talking about.  
16 He knows what he did, but now we're asking him to remember what he said. And I  
17 cannot find the word "excessive", but if my colleague can find a reference, the witness  
18 will say yes or no.

19 PRESIDING JUDGE FREMR: [15:45:24] Ms Samson, please quote because it seems  
20 the witness is uncertain and he even asked for full quotation. So please quote.

21 MS SAMSON: [15:45:35]

22 Q. [15:45:35] Now, sir, I'm quoting from your direct evidence at transcript T-214,  
23 page 43, starting at line 13, and the question which was asked of you is:  
24 "The weapons dropping operation, was this done in a visible way? Was it a public  
25 operation or did anybody try to hide it?"

1 And your answer was: "It wasn't made public. It wasn't brought to everybody's  
2 attention. We heard the information later. We were asked to come and receive the  
3 merchandise, but at the time of the drop, it wasn't everybody who saw it, just those  
4 who were close to Mandro. Those who were far away did not see the drops.

5 Question: What quantity of weapons did you receive?

6 Answer: I remember that everybody received a weapon. There were even reserves.

7 Question: Were all the weapons operational?

8 Answer: Some weapons had been damaged in the drop, some parachutes were  
9 defective.

10 Question: Where were the arms stocked, Mr Ntaganda?"

11 And I'm continuing on to page 44.

12 "Answer: Each recruit had a weapon. They became soldiers. When a recruit gets a  
13 weapon, that person is no longer considered a recruit but a soldier. Now some other  
14 weapons had been damaged. Others had been put into reserve. We dug trenches  
15 behind Chef Kahwa's residence and that's where we stocked them. We used the  
16 technique that soldiers use to stock rifles in trenches.

17 Question: At what time did you distribute the weapons to the persons present in  
18 Mandro?

19 Answer: On the same day as the drop, the distribution was carried out. All those  
20 who had undergone the pass out received a weapon, each of them."

21 And so, sir, the passage that has now been read and the term is not "excess", it is  
22 "reserve", it is right, isn't it, that there was a reserve or extra weapons at Mandro  
23 following the weapons drop in or about July 2002?

24 A. [15:48:42] I remember the weapons that had been damaged. We transported  
25 them to a trench. That's what I remember. And all the weapons that were in good

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 working order were handed out to the recruits who had just finished their training,  
2 who were becoming soldiers. If there were any reserves of weapons, it must have  
3 been those damaged weapons, because there were a great many damaged weapons.  
4 Well, not really a large amount, in large numbers, but there were many  
5 large -- correction, there were many damaged weapons. I can't give you an exact  
6 number, but the majority were weapons that were damaged. The weapons -- there  
7 were only -- there were -- there was a small number of weapons in good working  
8 order.

9 PRESIDING JUDGE FREMR: [15:49:40] Sorry to interrupt, Ms Samson, but in my  
10 understanding, those weapons which had been damaged couldn't serve as a reserve  
11 weapon, weapons, at least should be probably fixed or repaired?

12 THE WITNESS: [15:50:12] (Interpretation) Your Honour, we thought that those  
13 weapons were going to work and that is why we gave them to those -- to a young  
14 person, a former government soldier, and he tried to repair them. But he was not  
15 able to because the weapons could work but from time to time they were -- well, they  
16 were always breaking, so they were discarded.

17 THE INTERPRETER: [15:50:40] Correction: They were dropped, air dropped.

18 THE WITNESS: (Interpretation) And so, you see, sometimes they would not work.  
19 So these weapons really didn't work.

20 PRESIDING JUDGE FREMR: [15:50:51] And you thought that young soldiers  
21 would be able to repair them?

22 THE WITNESS: [15:51:11] (Interpretation) All the men that we had were able to  
23 use firearms. You're talking about assembling and disassembling a weapon or are  
24 you asking about repairing a weapon that has been broken or defective?

25 PRESIDING JUDGE FREMR: [15:51:31] I am talking about what you said. You

1 said that the damaged weapon had been given to young soldiers, their expectation  
2 they could repair them, but they were not able to repair them. But at the beginning,  
3 according your -- and I can also quote, according your answer, you said, "Those  
4 weapons were given to young soldiers to repair them".

5 THE WITNESS: [15:52:11] (Interpretation) What I said this, your Honour, is that  
6 when the weapons arrived, all the recruits had just finished their training and they  
7 received weapons. The ones that had been damaged were stored in a storage area.  
8 And if some of the weapons had been damaged, all those weapons were given to a  
9 soldier who had come to us. He used to be APC. He was the one who tried to  
10 repair these damaged weapons, but he was not able to. The weapons worked, but  
11 sometimes they would break. And I make reference to damaged weapons, and I'm  
12 talking about the weapons that had been air dropped.

13 PRESIDING JUDGE FREMR: [15:53:09] And last clarifying question from my part,  
14 because my understanding of term "reserve" would be that, in fact, by this drop of  
15 weapons from the aircraft, in fact you received more weapons than you were  
16 used -- were able to use at that moment. So am I wrong in this interpretation of your  
17 words?

18 THE WITNESS: [15:53:56] (Interpretation) Yes. What I said was this: The  
19 weapons that came and were in good working order were given to the recruits who  
20 had just finished their training. But amongst these weapons there were some that  
21 had been damaged. Some had not been completely damaged. The ones that were  
22 not completely damaged were kept in a storage area. And there weren't a lot of  
23 those weapons. Maybe 50. There were 50. We stored them with the weapons  
24 who were -- that were in good working order. Our idea was to have them repaired  
25 and use them later. That is what I said, your Honour.

1 PRESIDING JUDGE FREMR: [15:54:40] Thank you.

2 Ms Samson, please proceed.

3 MS SAMSON: [15:54:45] Thank you.

4 Q. [15:54:46] Now, we've listened to your explanation just now, Mr Ntaganda.

5 In your testimony in-chief that I read to you earlier you made a distinction and you  
6 said, from page 44, lines 3 -- actually, line 3:

7 "Now, some other weapons had been damaged. Others had been put into reserve."

8 Your testimony in-chief, wasn't it, that the weapons put in reserve were not damaged,  
9 because you already made that distinction in your examination-in-chief?

10 A. [15:55:44] I know very well what happened. Read that to me again because I  
11 haven't understood your question, and I'll explain to the honourable Bench that in the  
12 trench there were weapons, damaged weapons. Others were in good working order,  
13 but there weren't so many of them. I don't know what I said to my lawyer.

14 THE INTERPRETER: [15:56:06] Message from the interpreter: If the witness  
15 could be encouraged to slow down.

16 PRESIDING JUDGE FREMR: [15:56:12] Mr Ntaganda, again, I know that it's a bit  
17 emotional, but still, please, try to slow down a bit. Thank you.

18 MS SAMSON: [15:56:23]

19 Q. I can -- in fairness to you, since you've asked me to read it again, I will. You  
20 said at page 84, transcript T-214 -- pardon me, page 44, line 3:

21 "Now, some other weapons had been damaged. Others had been put in reserve."

22 And my suggestion to you is that the weapons put in reserve you've already stated  
23 were not damaged.

24 A. [15:57:09] That's what I explained to the honourable Bench.

25 PRESIDING JUDGE FREMR: [15:57:13] So to complete this litigation -- in fact, I see

1 two alternatives: One alternative of your testimony given during the  
2 examination-in-chief, the other one now during the cross-ex. So which of them is the  
3 correct one? Today's testimony or the previous one? Or by the other words, so are  
4 you insisting on your explanation given today?

5 THE WITNESS: [15:57:59] (Interpretation) Your Honour, I just haven't  
6 understood her question yet. I remember that in the trench we dug, in that trench --

7 PRESIDING JUDGE FREMR: [15:58:13] Mr Ntaganda, just to make it short, there  
8 are two, in fact, versions of your testimony on the same issue: One given to your  
9 counsel, now another one which is in some details different, given to Ms Samson.  
10 You even -- she asked you about the explanation. You gave some explanation. So  
11 do you insist on your explanation or the previous testimony was the correct one?  
12 There is still some difference, so it is up to you to explain to the Chamber -- not  
13 explain, to say either the original testimony was correct one or today's testimony,  
14 including my explanation, is the correct one. It's easy.

15 THE WITNESS: [15:59:10] (Interpretation) What I do know, I know that I told  
16 you -- what I told you is similar to what I said to my lawyer.

17 PRESIDING JUDGE FREMR: [15:59:20] Even that we can take as an explanation.  
18 Then it's up to the Chamber to evaluate that.

19 Ms Samson, please move.

20 MS SAMSON: [15:59:33]

21 Q. [15:59:33] Mr Ntaganda, we've seen during your testimony so far -- and I'm  
22 asking whether you'll confirm that subordinates would report to you and ask -- and  
23 have asked for mines. Do you recall that or would you like me to bring you to the  
24 specific message that I'm referring to?

25 A. [16:00:12] I don't remember very well, but I do know there might be such a

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 message, but show it to me so I can read it. I don't want to fall into the same trap  
2 like the one I just fell into a few moments ago.

3 PRESIDING JUDGE FREMR: [16:00:35] Mr Ntaganda, there is no reason to call it a  
4 trap. So please refrain from those words.

5 But please, Ms Samson, could you then provide current or exact number of the page  
6 and we will put it on the screen, allowing Mr Ntaganda to follow that.

7 MS SAMSON: [16:00:57] Yes, certainly.

8 Q. The message is one from the logbook that you have in front of you. It's the  
9 message at DRC-OTP-0017-004 -- 0033 at page 0041. So in your book, Mr Ntaganda,  
10 it's page 0041. And the translation is DRC-OTP-2102-3855 at page 3863. And it's a  
11 public document. Mr Ntaganda, it's page 0041.

12 PRESIDING JUDGE FREMR: [16:01:57] Mr Bourgon.

13 MR BOURGON: [16:01:59] I'm just reminded, Mr President -- or informed that the  
14 witness did not use the word "trap". He used the word "confusion" or "problem".

15 He did not use the word "trap". Thank you.

16 PRESIDING JUDGE FREMR: [16:02:13] Sorry, but I was just following the English  
17 translation.

18 Anyway, thank you. It's important to make such a correction.

19 Ms Samson, please proceed.

20 MS SAMSON: [16:02:27]

21 Q. [16:02:27] Are you at page 0041? I would like you to focus on the first  
22 message that you see. It's a message dated 5 December 2002, received -- you  
23 received it at 12.15 from Tiger One, Salongo. It was sent to you, and for information  
24 to the chief of general staff. And I will read the message in French:

25 (Interpretation) "State of the enemy. Stop. Kilo. Stop. Liseyi. Stop. Itendeyi

1 is calm. Stop. We have arrived at the Kobu road. Stop. We request mines to be  
2 laid along this road (1 box). Stop. I have put together a group that will go to Yedi,  
3 namely Matope will be going in that direction. Stop. I will send 40 persons. I am  
4 asking for final confirmation. Stop. We have caught an APC soldier who's injured.  
5 He was a foot soldier. His name is Papi. Stop. Answer please. Stop." End of  
6 message.

7 (Speaks English) We can see here in this message, and I'll ask you to confirm, that  
8 Tiger One is asking you for mines to place on the route 1 box; that's correct?

9 A. [16:04:51] Yes, he sent me that message, and at Kisembo's place there  
10 was -- there were some anti-tank mines, and at that time I was in Kilo, and he was  
11 asking for mines that would be placed along the road.

12 Q. [16:05:21] And we've seen that Tiger One addresses this message requesting  
13 mines to you, correct?

14 A. [16:05:43] Yes, he made the request to me and I responded.

15 Q. [16:05:46] I will move to the response in just one moment, but in his message  
16 he refers to a term that is italicised or may not be translated in the message, "matope".  
17 What does that mean?

18 A. [16:06:14] "Matope" means "the enemy".

19 Q. [16:06:24] And now you've mentioned that you responded to this request for  
20 mines, and I can take you to that response. It's at page 0209.

21 PRESIDING JUDGE FREMR: [16:06:35] Mr Bourgon.

22 MR BOURGON: [16:06:37] Thank you, Mr President. I'd like my colleague to  
23 verify part of the answer. I heard differently, but I'm not sure it's the same in  
24 English and in French, and it is important for the next answers. And that is -- I'll just  
25 say the reference without saying more, when -- it is on page -- it's at page 104, and

1 from lines 13 to 16. So I'd like if my colleague -- because I heard something different  
2 from what is in the translation, and it is material. Thank you, Mr President.

3 MS SAMSON: [16:07:26] Just for clarity purposes, is there a difference right now  
4 between the English and the French or is counsel suggesting that the Swahili response  
5 had a different answer?

6 MR BOURGON: [16:07:40] That the Swahili response was a different answer.

7 MS SAMSON: [16:07:45] Could we have that checked overnight or, your Honour,  
8 would you prefer that I get that clarified now.

9 PRESIDING JUDGE FREMR: [16:07:52] I understood it is something important,  
10 Mr Bourgon?

11 MR BOURGON: [16:07:56] We believe it is, Mr President.

12 PRESIDING JUDGE FREMR: [16:07:57] So I would then prefer to clarify it now.

13 MS SAMSON: [16:08:00] Certainly.

14 Q. [16:08:01] Now, if I understood -- sir, I'm going to read out to you what the  
15 transcript captured of your answer in English, and you can please let us know  
16 whether that is correct or not. And if I understood, it's page 104, lines 13 to 16. I  
17 read the message to you, sir, and then I asked you to confirm that Tiger One is asking  
18 you for mines to place on the route 1 box; that's correct?

19 And you stated, answer: "Yes, he sent me that message, and at Kisembo's place there  
20 was -- there were some anti-tank mines, and at that time I was in Kilo, and he was  
21 asking for mines that would be placed along the road."

22 Is that correct or is it not correct?

23 A. [16:09:16] No. What I said is that the anti-tank mines were at Kisembo's  
24 while I was in Bunia. Tiger One was in Kilo and Kisembo was in Mongbwalu. In  
25 Mongbwalu there were no anti-tank mines so he asked me to send him some

1 anti-tank mines while I was in Bunia. Tiger One was in Kilo at the time.

2 MS SAMSON: [16:09:50] Does that end the inquiry?

3 PRESIDING JUDGE FREMR: [16:09:52] It seems to me sufficient. Mr Bourgon,  
4 likewise?

5 MR BOURGON: [16:09:58] Yes, Mr President.

6 PRESIDING JUDGE FREMR: [16:09:59] Please proceed.

7 MS SAMSON: [16:10:00]

8 Q. And now I'd like to move to your response which you've alluded to, which was  
9 just a few hours the next -- the same day. It's at page 0209 in your logbook. And  
10 for the translation, it is DRC-OTP-2102-3854 at page 4031.

11 I'm referring you now to the first message on the page. It's a message on 5 December,  
12 which is the same day as the first message you received. It's a message that you sent  
13 at 15.36, so three hours after -- three hours and 15 minutes after you received the  
14 message from Tiger One. You are sending the message to Tiger One and for  
15 information you've copied the north-east sector commander. You did not copy the  
16 chief of staff in your response, did you?

17 A. [16:11:48] As I said before, Kisembo had a signaller and a Manpack. I had a  
18 Thuraya, and I was able to talk to him without going through a message. He was  
19 my superior. And all I needed to do was consult him so that he could give me the  
20 green light. It was therefore not necessary to copy him on this message.

21 Q. [16:12:18] And your evidence today is that you have a recollection of speaking  
22 to him on the Thuraya about this. That's your evidence today?

23 A. [16:12:39] That did happen sometimes, it was possible. But sometimes it was  
24 not possible. I do recall that he had a Thuraya and that the mines were in a cave or  
25 basement at his place.

1 Q. [16:12:56] I understood your testimony now to say that you -- well, I'll read it  
2 to you. Page 107, lines 10 to 11.

3 "I had a Thuraya and I was able to talk to him without going through a message."  
4 Now, was that just a general response or were you responding in relation to this  
5 message and saying that you now recall having had a discussion with him on the  
6 Thuraya about the request by -- from Tiger One? Do you remember speaking to  
7 Kisembo on Thuraya about this request?

8 A. [16:13:45] What I said is that some time when I was able to contact him, it was  
9 not necessary for me to copy messages to him. So you see here you have a message,  
10 but there are times when a signaller could be used and he would receive messages,  
11 but if I was able to contact him by Thuraya, I would call him and that is -- that is what  
12 I can say.

13 Q. [16:14:20] If Kisembo had -- had the authority over you in relation to  
14 distribution of mines, wouldn't you have copied him into a message to highlight to  
15 him that this is a message that he must review?

16 A. [16:14:56] That -- that was not necessary. Putting that in writing didn't add  
17 anything to the duties or responsibilities that Thomas had assigned to us. It did not  
18 in any way take away from what had to be done.

19 Q. [16:15:26] And my suggestion to you, or the Prosecution's case to you in  
20 relation to this, is that you did not need to copy Floribert Kisembo into messages like  
21 this because this was entirely within your authority to do, to send messages in  
22 relation to weapons or other operational matters. And you can agree with that or  
23 not.

24 A. [16:16:22] When I sent him a copy, it was not to make a demand or a request,  
25 but it was to inform him. I know how things transpired. If a problem came up and

1 you did not deal with that problem, your superior could ask you what you had done  
2 in order to solve that problem. So whenever a problem was raised with me I could  
3 either call him or solve the problem without calling him. And when I acted in that  
4 manner through my own initiative he was satisfied.

5 Q. [16:17:19] Now, we haven't taken a look at the content of the message yet and  
6 your response to Tiger One, so let's take a look at that. It's first message, as I've  
7 mentioned to you, the message in front of you, 0209, translation ending in 4031. I'm  
8 going to respond to the item that you've listed under A and I'll read it in French:

9 (Interpretation) "Regarding the mines, I am asking if these are anti-personnel mines  
10 or for vehicles. Stop."

11 (Speaks English) So, sir, you, it's right, isn't it, we're asking Tiger One what kinds of  
12 mines he wants so that you could thereafter distribute those mines?

13 A. [16:18:45] Unfortunately, I didn't receive a reply or an answer, but if he had  
14 specified to me that it was anti-personnel mines, I would have told him that I had  
15 received only one box, that only one box of anti-personnel mines had come from  
16 Goma, and that it was at Kisembo's place. So there were -- that box was not to be  
17 used. I wanted to know how many mines were available and when such mines  
18 could be used, and that is why I put this question to him to be able to know what type  
19 of mines were being requested, but I did not receive an answer.

20 Q. [16:19:41] You continue to respond to Tiger One's request. In B you say, and  
21 I'll read in French:

22 (Interpretation) "Regarding means of communication, I have provided the force  
23 from Bambu and they will forward them to you given that the aircraft is broken  
24 down. Stop."

25 (Speaks English) And with this part of the message you are also dealing with other

1 military supplies. In this case, you're giving communication, means of  
2 communication, to the force coming from Bambu, correct, who will then give those  
3 means of communication to Tiger One, correct?

4 A. [16:21:09] I think there is a mistake here. On 5 December our forces were not  
5 in Bambu. I think that the idea was for the people in Nizi to communicate with the  
6 people in Mabanga on the road from -- all the way to Kilo. And you may want to  
7 note also that at that time the plane was broken down. And in those circumstances,  
8 the force had to go to Nizi, Mabanga, Dala and then Kilo. At that time we did not  
9 have any troops in Bambu.

10 Q. [16:21:57] I believe in fairness to you that during your examination-in-chief,  
11 although I don't have the reference here, that you also suggested that this was a  
12 mistake and that Bambu should refer to Nizi. But my question to you is, you're an  
13 experienced military officer and you would agree, I'm sure, that precision and  
14 accuracy in recording messages and transmitting messages to troops about  
15 operational or supply matters is extremely important, isn't it?

16 A. [16:23:01] No. It is impossible not to err because mistakes are made in  
17 everything in life, whether something that is entered in the logbook, like the one we  
18 have here. It is possible for mistakes to occur. You see, the signallers, because they  
19 work that much, may make mistakes from time to time, and this is only normal.

20 Q. [16:23:32] My question was, though, about the importance of accuracy. Do  
21 you agree that that is important when you're communicating with your troops, that  
22 your message is accurately conveyed?

23 A. [16:24:14] I was not thinking about the signallers. I did not read those  
24 messages. I was not the one who sent the messages, and I did not know that I was  
25 going to be asked questions on these messages. That's why I don't agree with what

1 you just said.

2 Q. [16:24:35] So you don't agree that accuracy is important, but how will your  
3 troops, how would Tiger One, know from which troops he was supposed to be  
4 getting a means of communication if the words in your message were not correct?  
5 You are, after all his hierarchical superior; you've ordered that means of  
6 communication. In fact, you've given means of communication to a force coming  
7 from somewhere you claim now it's not Bambu, but if you're not accurate in this  
8 message, how will Tiger One ever know where he's going to get his means of  
9 communication?

10 A. [16:25:39] You don't have mistakes in all the messages, but to err is human.  
11 Anybody can make a mistake, sometimes even in speaking or in writing, or even in  
12 just moving about. The important thing was that the message by Motorola from  
13 Nizi, Mabanga went through. That communication is important.

14 Q. [16:26:09] Now, we have seen, together with -- when your counsel was  
15 examining, asking you questions, that at times when there was a correction that  
16 needed to be made, you would issue an erratum. You did not issue a correction in  
17 relation to the mention of forces from Bambu, did you?

18 A. [16:26:58] There is a difference between this erratum and the erratum on the  
19 appointments. For example, when you are mistaken about the title of a company  
20 commander at the time of the appointment, that is quite a different kind of mistake,  
21 so there is an issue of the level, an importance of communication involved.

22 Q. [16:27:31] And in the message that we looked at moments ago from Tiger One  
23 to you asking for mines for the road, he says, and I'll read in French:

24 (Interpretation) "On the Kobu road."

25 (Speaks English) And for your reference, it's back to page 0041 in the logbook. Full

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 ERN is DRC-OTP-0017-0033, at page 0041. And the translation is

2 DRC-OTP-2102-3855, at page 3863.

3 So for you, Mr Ntaganda, it's page 0041. And it's a public document, it's the message  
4 we just look at together, initially from Tiger One to you asking for mines to be placed  
5 on the road. Let me know when you've reached the message.

6 A. [16:29:05] I'm there, madam.

7 Q. [16:29:15] Now, in the message, as I've read previously, Tiger One states --

8 PRESIDING JUDGE FREMR: Ms. Samson, is your mic switched on?

9 MS SAMSON: Yes, it is but it's not --

10 I'll try this one. I think that's better.

11 PRESIDING JUDGE FREMR: [16:29:36] It's better. Now it is working.

12 Q. [16:29:40] So, sir, at page 0041 it says, Tiger One writes to you in French, and I  
13 quote:

14 (Interpretation) "We have arrived at the Kobu road."

15 (Speaks English) Now, he wants to place mines on the Kobu road because he says,  
16 and I quote:

17 (Interpretation) "To place on that road one box."

18 (Speaks English) And it would make perfect sense geographically for you to have sent  
19 a force to Bambu with means of communication because Bambu and Kobu are quite  
20 close to each other; isn't that right?

21 A. [16:30:58] Our soldiers never went or settled in Kobu. I believe that you have  
22 conducted several investigates over several years. In December, we did not have  
23 any forces in Bambu. That is why I said that there was a mistake here, because at  
24 that time we were on the Nizi-Mabanga-Dala-Mongbwalu road to go to Kilo. That  
25 force which went to Kilo came from Mongbwalu, and it was Salumu's brigade.

1 When I left Mongbwalu on 28 November, Salumu was still there. And when I  
2 arrived in Bunia, it is Kisembo who sent him to his village in the -- to the Banyali-Kilo  
3 village so he would liberate his mother who was still there. That's what I know  
4 concerning those events.

5 Q. [16:32:06] If I may ask one further question before the break.

6 PRESIDING JUDGE FREMR: [16:32:09] One is fine.

7 MS SAMSON: [16:32:11] Thank you.

8 Q. [16:32:12] Just following up, I want to be clear that you're focusing in on my  
9 question. Tiger One says to you: "We have arrived on the route or road of Kobu,"  
10 and you have to date not made any correction to that message. Tiger One and his  
11 troops have arrived on the route of Kobu. They want to place mines on that route  
12 and they're asking you for those mines. You respond in relation to the mines and  
13 you respond also that there are means of communication that you've given to forces  
14 coming to Bambu. Nobody is suggesting that you have headquarters in any of those  
15 places. My suggestion to you is that the reference to Kobu in the first message from  
16 Tiger One and the reference to Bambu in your response are in fact correct references  
17 because you are asking troops to meet each other at locations that are geographically  
18 close together.

19 It is a very long question, but I'd like to know whether you agree or not that the  
20 reference to Kobu and the reference to Bambu are correct in these two messages.

21 A. [16:33:50] No. The road to Kobu -- well, you can see from Mongbwalu that  
22 there is a road to Kobu -- rather, Kilo. Now, he was on the road to Kobu when they  
23 were in Kilo. When I said there was a mistake, it is that in December we did not  
24 have any forces in Bambu. There was only one company in Nizi, and it could not  
25 have been in Kobu because it would have been defeated there. So there is a mistake

1 here. It is said here that our soldiers were in Bambu.

2 THE INTERPRETER: [16:34:33] Message from the Swahili booth. Could the  
3 witness, Mr President, be asked to repeat the last part of his answer because he's  
4 speaking too fast and mentioning too many names of places and it's difficult to follow  
5 him.

6 PRESIDING JUDGE FREMR: [16:34:51] Mr Ntaganda, please, as I have already  
7 told you, you should a bit slow down, otherwise like in this case, there is no chance to  
8 capture all your response, especially if you are providing some names. So now  
9 please could you repeat the last part of your response.

10 I will just quote the last two sentences and you probably should add what is missing.  
11 So the last two sentences were: There was only one company in Nizi and it couldn't  
12 have been in Kobu because it would have been defeated there, so there is a mistake  
13 here. It's said here that our soldiers were in Bambu. So if anything is incorrect or  
14 missing, please, you should correct that.

15 THE WITNESS: [16:35:57] (Interpretation) Yes, your Honour. I was saying this:  
16 On 5 December 2002 we did not have any forces in Bambu. There was a company in  
17 Nizi. If that company had been in Bambu, the APC would have defeated them, so  
18 there was a mistake if we had sent communications to go by way of Nizi, Mabanga,  
19 Dala, Mongbwalu, all the way to Kilo.

20 PRESIDING JUDGE FREMR: [16:36:43] Thank you, Mr Ntaganda.  
21 Ms Samson.

22 MS SAMSON: [16:36:47] I've completed my questions for today. Thank you.

23 PRESIDING JUDGE FREMR: [16:36:52] Very well.

24 So we can conclude for today and we will continue tomorrow half past 9.

25 Now Court is adjourned.

Trial Hearing  
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

- 1 THE COURT USHER: [16:37:08] All rise.
- 2 (The hearing ends in open session at 4.37 p.m.)