

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, 10 July 2017
9 (The hearing starts in open session at 9.45 a.m.)
10 THE COURT USHER: [9:45:29] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:46:00] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:46:04] 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 We are in open session.
19 PRESIDING JUDGE FREMR: [9:46:19] Thank you, court officer.
20 Appearances, please.
21 MS SAMSON: [9:46:23] Good morning, Mr President and your Honours.
22 Appearing for the Prosecution today are Mr Rens van der Werf, Ms Selam Yirgou,
23 Ms Claudine Umurungi, Ms Marion Rabanit and myself, Nicole Samson.
24 PRESIDING JUDGE FREMR: [9:46:38] Thank you, Ms Samson.
25 Defence, please.

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- 1 MR BOURGON: [9:46:44] (Interpretation) Good morning, Mr President.
2 Representing Bosco Ntaganda, who is present in the courtroom this morning, Ms
3 Julia Jan, Mr David Wagen-Magnon, Mr Justin Kabika, Isabelle Martineau and myself,
4 Stéphane Bourgon. Thank you, Mr President.
- 5 PRESIDING JUDGE FREMR: [9:47:05] Thank you, Mr Bourgon.
6 And Legal Representative of Victims now.
- 7 MS PELLET: [9:47:11] (Interpretation) Thank you, Mr President. Former child
8 soldiers are represented by Vony Rambolamanana and myself, Sarah Pellet, counsel
9 at the OPCV.
- 10 MR SUPRUN: [9:47:32] (Interpretation) Good morning, Mr President. Morning,
11 your Honours. For the victims of the attack today, Anne Grabowski, associate jurist,
12 and myself, Dmytro Suprun, counsel at the OPCV.
- 13 PRESIDING JUDGE FREMR: [9:47:42] Thank you, Ms Pellet. Thank you,
14 Mr Suprun.
- 15 Today we are going to continue with the next part of direct examination of
16 Mr Ntaganda as a witness, conducted by Defence.
- 17 Mr Bourgon, you have the floor.
- 18 MR BOURGON: [9:48:00] (Interpretation) Thank you, Mr President.
- 19 WITNESS: DRC-D18-D-0300 (On former oath)
20 (The witness speaks Swahili)
- 21 QUESTIONED BY MR BOURGON: (Continuing)
- 22 Q. [9:48:06] Good morning, Mr Ntaganda.
- 23 A. [9:48:09] Good morning.
- 24 Q. [9:48:10] How are you this morning?
- 25 A. [9:48:13] I'm very well. No problem at all.

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1 Q. [9:48:20] Mr Ntaganda, we shall resume our examination from the exact spot
2 where we stopped last Friday, at which time you told us that you were on the Libi
3 road, Libi road with cargo of weapons which you unloaded in Libi, and that those
4 weapons were unloaded by persons other than your escorts. That was what
5 happened on the last day, on Friday.

6 So once that load of weapons was handed over to the second group of Ugandans, my
7 question, my second question then is as follows: When you arrived with those arms
8 or weapons were any Lendu combatants present?

9 A. [9:49:18] Yes. Their chief was there, and his name is Lombwe (phon), the
10 chiefs of groupement and collectivity, as well as other commanders of Lendu
11 combatants were there. Yes, they were there.

12 PRESIDING JUDGE FREMR: [9:49:39] Ms Samson, please.

13 MS SAMSON: [9:49:41] Yes, thank you. It's a transcript reference, your Honour,
14 that is different in English and French. I think Defence counsel can answer the
15 question since it is an inconsistency in his own question. The French transcript
16 page 3, line 3 mentions that this event was on the road in Libi, but English, page 3
17 line 8, it mentions Lipri and I think for purposes of the record, it would be best if
18 counsel could confirm which of the two locations he was referring to.

19 PRESIDING JUDGE FREMR: [9:50:17] Thank you, Ms Samson.

20 Mr Bourgon.

21 MR BOURGON: [9:50:30] (Interpretation) Thank you, Mr President. I want to
22 thank my colleague.

23 Q. [9:50:35] Mr Ntaganda, the weapons that you had with you, where were those
24 weapons delivered?

25 A. [9:50:43] Libi, Libi, once you go past Fataki there is a locality known as Libi.

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1 PRESIDING JUDGE FREMR: [9:50:56] Corrected.

2 So, Mr Bourgon, you may proceed.

3 MR BOURGON: (Interpretation)

4 Q. [9:51:10] Mr Ntaganda, after the weapons were unloaded and after you had
5 that initial meeting, what happened? Where did you go to at that time?

6 A. [9:51:27] I went to rest in Fataki with the missionaries.

7 Q. [9:51:36] How far is Fataki from Libi?

8 A. [9:51:48] Whenever I travelled on that road it was at night, so I couldn't count,
9 but I would put the distance at about 30 kilometres.

10 Q. [9:52:05] What instructions did you receive -- or, what were your instructions
11 that evening after the weapons were handed over to the second group of Ugandans
12 and the Lendu combatants?

13 A. [9:52:25] We had agreed that after two or -- three or four days, after they had
14 met with all their commanders, they would come back so that we can put in place a
15 new plan to get the UPDF troops out of Ituri.

16 Q. [9:52:52] Mr Ntaganda, my question was to find out whether there were any
17 instructions from your side. Did you have any instructions?

18 A. [9:53:06] The president gave me orders; namely, that I should give them or
19 hand over to them all what they needed and provide security, as well as provide
20 protection for confidential information.

21 Q. [9:53:31] So that evening, once the weapons were handed over, did you report
22 on the achievement of your mission to anyone?

23 A. [9:53:42] Yes, I remember calling President Toms and telling him that the
24 mission had been accomplished.

25 Q. [9:53:58] What means did you use to call president Lubanga?

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1 A. [9:54:08] I used my Thuraya.

2 Q. [9:54:13] For how long did you rest at the missionary's place in Fataki and
3 what did you do thereafter, as far as you can recall?

4 A. [9:54:32] I remember staying there and resting there for the whole day. I was
5 at that place. That's what happened. I remained at that location the entire day.

6 Q. [9:54:50] Were you given any other mission on that day?

7 A. [9:54:56] Yes. In the evening President Toms called me and told me that there
8 was an emergency and that I should come see him as soon as possible. I complied; I
9 left that location at night and got to Bunia at night.

10 MR BOURGON: (Interpretation) Mr President, can we move into private session
11 for a few moments, please?

12 PRESIDING JUDGE FREMR: [9:55:37] All right.

13 Court officer, let's move into private session now.

14 (Private session at 9.55 a.m.)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Open session at 9.58 a.m.)
- 19 THE COURT OFFICER: [9:58:52] We are back in open session, Mr President.
- 20 PRESIDING JUDGE FREMR: [9:59:05] Thank you, court officer.
- 21 Mr Bourgon, please proceed.
- 22 MR BOURGON: [9:59:15] (Interpretation) Thank you, Mr President.
- 23 Q. [9:59:17] Mr Ntaganda, what was the importance of the mission that was
- 24 assigned to you in relation to the confidentiality around the presence of Richard in
- 25 Bunia?

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1 A. [9:59:45] This was not only an important thing, it was something that was
2 dangerous for us, because if they had found out that he was there, we would not have
3 spent the night without being attacked or without being dispersed because this was
4 someone who was very well-known.

5 Q. [10:00:08] So what did you do when you got to Bunia that evening?

6 A. [10:00:20] I returned to my home, to my compound, and I was discreet about
7 everything, and I remained there waiting for night to fall, or night-time to come so I
8 could let him go.

9 Q. [10:00:36] On the next day, Mr Ntaganda, do you recall what you did in your
10 compound or where you were living? Do you recall what you did that following
11 day?

12 A. [10:01:06] I stayed in my compound. I was reading messages that I had
13 received and I sent other messages.

14 Q. [10:01:17] So, Mr Ntaganda, what were your chief concerns on that day?

15 A. [10:01:38] The most important thing was to evacuate this person without this
16 person being identified and without the UPDF being able to identify my movements.
17 That was most important. But we also needed to follow what the UPDF troops were
18 planning because they were able to destroy us in a very short time. Those were my
19 prime concerns.

20 Q. [10:02:13] With your permission, Mr President, I would like to give to the
21 witness a copy of the logbook we were using last week. It's the same document.
22 It's the original version from the Prosecutor. If it could be shown to my colleague,
23 the number of the document is DRC-OTP-0017-0033.

24 PRESIDING JUDGE FREMR: Court officer, please assist.

25 Ms Samson.

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1 MS SAMSON: [10:02:50] Yes, prior to showing the document to the witness,
2 would it be possible to have a sense as to the date that we're at right now in the
3 chronology? It's not clear at what date we're on. And I would like for that to be
4 elicited from the witness before he's provided with the logbook.

5 PRESIDING JUDGE FREMR: [10:03:13] Mr Bourgon.

6 MR BOURGON: (Interpretation) I deliberately did not want to ask the witness to
7 give the date, but since I've been requested to do so.

8 Q. [10:03:33] But do you from your memory know what date we're talking about
9 there, Mr Ntaganda?

10 A. [10:03:39] Yes. That happened a long time ago, you know, but I could give a
11 rough approximation. I think it must have been about the 21st, if I start counting
12 from the time when I left.

13 MR BOURGON: [10:04:17] (Interpretation) Has the document been given to the
14 witness?

15 Q. [10:05:03] Mr Ntaganda, I would like you please to turn to the messages
16 received, section page 172. For the translation, that will be page 2102-3994. And
17 please tell me when you have got to that page.

18 A. [10:05:46] Yes, I'm there.

19 Q. [10:05:49] So on this document you see the first message at the top of the
20 page 21132, February 2003. This is a message from the sector commander of
21 north-east sector, and it is addressed to you. I will read the message and then I'm
22 going to ask you a question about this. So:

23 "I have received information from the UPDF. Stop. That yesterday they tried out
24 their weapons without any warning. Stop. And their aircraft landed in B1 with
25 their heavy objects. Stop. And check this because I have had information according

1 to which in two days there at B1 there might be kamuna between us and the UPDF."

2 Have you read the version of the message in your language, Mr Ntaganda?

3 A. [10:07:06] Yes, I have read it, I have seen this message.

4 Q. [10:07:10] So my first question: There is the word "kamuna", what does
5 "kamuna" mean? I don't know what it says in your language on the last line of the
6 message, but in French it reads "there might be kamuna".

7 A. [10:07:30] That means an attack.

8 Q. [10:07:35] And I see in this message also that we talk about B1. What is B1?

9 A. [10:07:45] It's Bunia. The elements from the UPDF had brought equipment
10 which they would use to attack us.

11 Q. [10:07:57] What is the significance of this information that you received from
12 the commander of the north-east sector on that day?

13 A. [10:08:11] Well, we were preparing ourselves, so this is why I said that we
14 were making plans, thinking about this. We were doing this in secret, and they were
15 also making plans, and that's why I was saying this. We were preparing ourselves
16 for a counterattack, an attack of the UPDF against the UPC/FPLC.

17 Q. [10:08:50] And in this message when it speaks of heavy objects and their
18 aircraft landed at B1 with the heavy objects, what did you understand this message to
19 mean at the time?

20 A. [10:09:08] These were battle tanks that they were bringing in in order to attack
21 us.

22 Q. [10:09:19] I would now like to draw your attention to the second message on
23 this page, 211143B, February 2003. This is another message from the sector
24 commander north-east and it is addressed to you. I will read this message and then I
25 have a question for you.

1 "The FIPI team has returned from Kinshasa. Stop. Kinshasa has accepted to give
2 them a thousand elements and they will land in Beni passing through KLM to start
3 the infiltration and after a week they will begin to attack us."

4 Have you read the version of this message in your language, Mr Ntaganda?

5 A. [10:10:23] Yes.

6 Q. [10:10:23] What was the significance of this information for you?

7 A. [10:10:32] Well, FIPI was a party set up in Uganda, the PUSIC, the FNI, the
8 FPDC and also the APC. There was a coalition of parties. You can see that together
9 with the UPDF, the coalition of these parties was preparing to strike at us. That's
10 what happened thereafter when they came to Bunia on 6 March. So this is the plan
11 that I was talking about.

12 Q. [10:11:16] Mr Ntaganda, when we see in this message Kinshasa has accepted
13 to give them a thousand elements, what did that mean to you at the time?

14 A. [10:11:33] Kinshasa wanted to give them reinforcements by giving them a
15 thousand troops from the FARC, the armed -- from the Congolese Armed Forces.

16 Q. [10:12:04] Mr Ntaganda, now, moving on to the third message on this page,
17 211159B.

18 This message comes from the sector commander north-east. And this is sent to the
19 chief of the general staff, but you appear here as a copy for info. I will read this
20 message and I have a question for you:

21 "Why have all these movements given ranks apart UPC/RP and is this the fruit of the
22 work that we have done even RCD-Kis are already wearing their clothing. Criteria
23 for giving rank, experience, performance. Stop. Service, discipline. Stop.

24 Mr Ntaganda, what is the significance of this information for you on that day?

25 A. [10:13:31] I think that I replied, given the danger in which we find ourselves, I

1 said that it is not necessary. You can assign ranks to the soldiers while we are in the
2 course of the attack. We have to try and survive and then give the ranks afterwards.
3 I explained that it wasn't necessary to assign ranks at that point, that it is -- it was
4 something that could be done much later.

5 Q. [10:14:07] Do you know why this message was sent to the chief of general staff,
6 Mr Ntaganda, rather than immediately to you?

7 A. [10:14:22] Yes. He is the person responsible for assigning ranks to officers.
8 That is his area.

9 Q. [10:14:41] Mr Ntaganda, can we now move to a different page in the sent
10 messages section, on page 174. For the translation, that's 2102-3996. Please let me
11 know when you've found the page.

12 A. [10:15:20] Yes, I'm there.

13 Q. [10:15:26] So let's proceed in the same fashion. The first message, 211 -- sorry,
14 211356, February 2003. This message states that it was sent by you to the sector
15 commander north-east. I will read the message and then I have a question for you:
16 "Regarding the message that you sent from the UPDF. Stop. We all know that. Do
17 not think that we have fallen asleep. I don't want to send much in a message. I will
18 inform you by telephone at your place. Stop."

19 Who sent this message, Mr Ntaganda?

20 A. [10:16:28] I did that myself. I sent this to Commander Jérôme in relation to a
21 large number of messages that he had been sending at this point.

22 Q. [10:16:44] What information did you want to communicate to Jérôme with this
23 message?

24 A. [10:16:58] I wanted to show him that we shouldn't be disturbed, that I had
25 work to do, I had a mission that was confidential. I was trying to calm him down, to

1 tell him that we were not doing nothing. I kept moving around at night for him, and
2 the fact that he didn't know meant that he'd think he was the only person with
3 information, and that's why I decided to work at night. And I wanted him to
4 understand why I was doing this.

5 Q. [10:17:47] Let's move on to the next message, 210820, February 2003. This
6 message seems to have been sent by you to the commander of the north-east sector.
7 And I will read this. Sorry, it was 211404B.

8 "With regard to the distribution of ranks, we -- we will also have the certificate for
9 infantry. For that distribution of ranks is not something to be planned by a person;
10 it's the senior command who should plan this. This is why I say to you to be on
11 standby. Come, we'll sit down and planify. Don't worry; we above you are not
12 anxious."

13 Do you recognise this message, Mr Ntaganda?

14 A. [10:19:08] Yes, I sent this.

15 Q. [10:19:10] Does this message link into the information you receive from Jérôme
16 that same day?

17 A. [10:19:19] Yes, I sent this message which he had also sent to Kisembo as a copy,
18 and I told him not to be worried, that we knew when it was necessary to have a rank.
19 We had certificates issued following training of the infantry. I said to him that he
20 should remain on standby given the dangerous situation we were going through, that
21 we had to do something else first before going to assigning of ranks, that they
22 couldn't do both things at once, that we would distribute the ranks later.

23 Q. [10:20:17] On that day, Mr Ntaganda, we have a date, 21 February, did you get
24 information about what Kisembo was doing on that day?

25 A. [10:20:37] No.

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1 Q. [10:20:39] On the basis of your experience, Mr Ntaganda, is that normal that
2 the chief of general staff does not inform you of what he's doing while you are at
3 Bunia?

4 A. [10:20:59] The chief of general staff did not report to me. He was not my
5 junior officer.

6 Q. [10:21:15] Did you on that day have contact with Richard?

7 A. [10:21:26] Yes. As night was falling, I went to President Thomas and I met
8 him there and then I evacuated him towards Libi.

9 Q. [10:21:51] Do you recall when, at what time you arrived in Libi with Richard?

10 A. [10:22:04] I can't recall the exact time, but it was about 1900 hours -- or, rather,
11 midnight or 1 o'clock in the morning.

12 Q. [10:22:37] When you arrived in Libi, who was there? Who was there when
13 you arrived with Richard?

14 A. [10:22:59] We met a number of his colleagues I didn't really know. Some of
15 them had received our weapons. They had been given weapons, and we discussed,
16 and we said that we had to meet without delay.

17 Q. [10:23:28] Was Paul present that evening?

18 A. [10:23:35] No, he was not there. There were other people who had come to
19 meet Richard.

20 Q. [10:23:46] Were there any Lendu combatants present?

21 A. [10:23:51] Yes.

22 Q. [10:24:00] What did you do following this meeting?

23 A. [10:24:11] Afterwards, I went once again to rest at the missionaries. I was
24 given a room where I could rest once I arrived in Fataki.

25 Q. [10:24:30] How many vehicles and how many bodyguards did you have with

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1 you at that time?

2 A. [10:24:43] Three vehicles, and in two vehicles there were weapons. There
3 were also vehicles transporting bodyguards. And once I was there, the vehicles
4 which belonged to civilians left.

5 Q. [10:25:07] I could perhaps try and clarify my question. What I'm interested in,
6 on the road from Libi where you left Richard, and from Libi to Fataki where you went
7 to the missionaries, how many vehicles and how many guards did you have with you
8 at that time?

9 A. [10:25:34] I had two vehicles carrying weapons, as well as vehicles
10 transporting bodyguards.

11 Q. [10:25:50] How long did you spend with the missionaries in Fataki, and do
12 you remember your movements after that?

13 A. [10:26:13] I don't remember how many nights I spent there, but I remember I
14 went to Bule as well to visit Mr Savo Thomas, an elderly gentleman.

15 Q. [10:26:45] The meeting you referred to earlier with the Lendu combatants, did
16 it take place, this meeting?

17 A. [10:27:06] At that time I was still waiting in Fataki, and when I went to Bule I
18 was still waiting to be called for the planning meeting in order to see how we could
19 chase the UPDF out of Ituri. So I was still waiting. This meeting had not yet taken
20 place and it did not take place.

21 Q. [10:27:39] So starting with the fact that the meeting did not take place, do you
22 know why the meeting did not take place?

23 A. [10:27:58] Yes. The UPDF learnt of our plans and bombed our position where
24 the Lendu combatants and the second group were. This group was destroyed.

25 Q. [10:28:40] Were you present when the UPDF bombarded -- I perhaps have a

1 correction to make to the transcript.

2 Mr Ntaganda, I'll ask my question again: Were you present when the UPDF bombed
3 the position?

4 A. [10:29:18] Where the second group were and the Lendu combatants, that was
5 at Kpandroma. That was a very long way from where I was.

6 Q. [10:29:30] So I will now ask, on page 26 and 27, you said according to the
7 French transcript, "The UPDF was able to learn of our plans and bombarded our
8 positions. There were the Lendu combatants and the second group were."
9 Why did you say our, "our positions"?

10 A. [10:30:09] No, I didn't use the plural. The interpreter perhaps used the plural.
11 It was perhaps the position of the second group and the Lendu combatants.

12 Q. [10:30:27] Where were you when you were informed of the bombing of the
13 second Ugandan group and the Lendu combatants?

14 A. [10:30:45] I remember that I was in Bule. The old man Thomas, I recall, told
15 me that that bombing had taken place. He had friends in Kpandroma who had
16 spoken to him using their Thuraya and who had told him that the bombing had taken
17 place, which was true. The bombing actually took place and some people were
18 actually taken and sent to Uganda.

19 Q. [10:31:27] What was the importance of that information, namely, that the
20 second group of Ugandans and the Lendu combatants had been attacked in
21 Kpandroma?

22 A. [10:31:45] Our plan had been defeated and some of the combatants had
23 betrayed the other group by providing information to the Ugandans. They told the
24 Ugandans about the location of the combatants, for which they were given money.
25 Some of them were then taken up from among the group. And there was a large

1 number of combatants. And so when I became aware that our plan had been
2 discovered.

3 Q. [10:32:36] When you obtained that information from Mr Savo, what did you
4 do at that time?

5 A. [10:32:49] I remember that when we received that information towards the end
6 of the month of February, it is at that time that I went to Drodro and I met
7 Commander Liévin, and I also visited my missionary friends and I spent two nights
8 with them. Upon my return, I was expecting to be called up to attend a meeting to
9 conclude matters, but then there was this shelling that took place at the end of the
10 month of February.

11 Q. [10:33:35] Now, let me seek to clarify something from you. You said that you
12 went to -- at line 19 and 20 of page 19, "I went to Drodro where I met
13 Commander Liévin and I visited my missionary friends where I spent two nights."
14 Which missionary friends are you referring to?

15 A. [10:34:07] I'm talking about the missionaries who are based in Drodro. I had
16 visited them when I went to Largo. There was a missionary friend of mine who was
17 there.

18 Q. [10:34:27] My second question, and I'm somewhat harking back, is in relation
19 to your having learnt that this shelling or bombing had taken place. What do you do
20 after you receive that information?

21 A. [10:34:50] I tried to call Paul on the phone but couldn't get through because it
22 was with him that I had such discussions. When I was unable to reach him by phone,
23 I came to the conclusion that they had been the victims of that shelling or
24 bombardment.

25 Now, during that time there was also a problem in Bunia in relation to the arrest of

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1 Kale Kayuhura.

2 Q. [10:35:34] You have referred to some problems in Bunia relating to Kayuhura.

3 Please can you spell out that name? I think you have done so before, but just to be
4 sure of the spelling, can you spell out that name again please?

5 A. [10:36:14] The first name is K-A-L-E. And the second name is
6 K-A-Y-U-H-U-R-A.

7 Q. [10:36:41] You say that you became aware of a situation in Bunia relating to
8 the arrest of Kale Kayuhura. How did you come by that information?

9 A. [10:37:03] My phone rang at some point. I picked it up. I saw Rafiki's
10 number, and then I answered, and Ali Mbuyi had called me to tell me that there was a
11 big problem where they were. I asked him what the problem was and he said that
12 Kale Kayuhura had been arrested or captured. He asked me to talk to Kisembo so
13 that no evil would befall Kale Kayuhura.

14 Q. [10:37:41] What was your reaction when you received that information from
15 Ali Mbuyi?

16 A. [10:38:04] I asked to talk to my chief. I talked with him. He told me that the
17 situation was very bad and he did not want to deal with the UPDF, that they had
18 killed two of our men, and that some had been given permission to use support
19 weapons, including a company that was detached very close to President Thomas,
20 and that that detachment was believed to have had some bad intentions. He said
21 they were not going to hurt Kayuhura but that it was necessary for that detachment to
22 be taken away from that location.

23 Q. [10:39:04] Let me refer to page 21, lines 8 and 9, and you said, "I asked to talk
24 to my chief and I talked to him." Did you talk with Kisembo?

25 A. [10:39:20] Yes, I talked with him.

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1 Q. [10:39:28] Now, before returning to what Kisembo said, do you know why
2 Ali Mbuyi called you on Rafiki's phone?

3 A. [10:39:44] No, I don't know.

4 Q. [10:39:54] Given what Kisembo said, or rather, now, given what Kisembo said,
5 what happened after that call?

6 A. [10:40:14] He told me quickly, rather quickly, that we needed to put together a
7 battalion quickly and that I had to bring along that battalion because fighting was
8 going to take place at any time, if they would still be alive by the time we arrived.

9 Q. [10:40:44] Mr Ntaganda, I would like to show you a document and then put a
10 question to you in relation to that document. This is document DRC-OTP-2067-1976.
11 It's item number 386 on our list. I would like to first of all look at the first page of
12 this document on the screen, please. It is a document which to the best of my
13 knowledge is public.

14 THE COURT OFFICER: [10:41:32] Evidence 1 channel and according to the
15 metadata in eCourt the document is confidential.

16 PRESIDING JUDGE FREMR: [10:41:41] Ms Samson.

17 MS SAMSON: [10:41:43] Yes, your Honour. No objection to showing the
18 document to the witness. It's a United Nations document, so similar to the caveats
19 we've been applying in the past. Whereas we had shown earlier documents in
20 public session, Defence counsel is correct.

21 In hindsight, it may be preferable to keep the confidentiality of the document and not
22 show it to the public, although it can be discussed in public session, because names of
23 UN staff members appear, and it's an internal document, and the United Nations has
24 often stipulated that their documents, while they can be disclosed and used, should
25 be discussed at times in private session. I think we can keep the discussion public,

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1 but if we could keep the document confidential.

2 PRESIDING JUDGE FREMR: [10:42:31] Mr Bourgon, because I think Ms Samson is

3 absolutely right, we should maintain this policy, so I believe this is also fine with you.

4 All right? So we will not show the document to the public, but we can discuss it

5 again, avoid publicly the use of names of the staff of the UN involved.

6 So now please proceed.

7 MR BOURGON: [10:43:10] (Interpretation) Thank you, Mr President.

8 Q. [10:43:11] Now, Mr Ntaganda, you see the document before you. Maybe we

9 could zoom in on paragraph 1. In the middle of the document, paragraph 1, please.

10 Now, Mr Ntaganda, this document as you can see is a daily report for the period from

11 28 February to 2 March. Could we please scroll down a little bit or bring it down a

12 little bit so that we can see the top of the document, please. Thank you.

13 This document, Mr Ntaganda, as you can see, is from the United Nations. My first

14 question to you is: Have you seen this document before?

15 A. [10:44:14] No, I have never seen this document before. But I think that you

16 have talked about this document here in the courtroom.

17 Q. [10:44:27] Mr Ntaganda, I'm going to read out the first paragraph of the

18 document and then put a question to you thereafter; namely, whether the information

19 in this document is information that you are familiar with.

20 So paragraph 1, I'll be reading it out in English:

21 (Speaks English) "The tension in Bunia increased over the weekend when UPDF

22 decided to deploy troops around the residence of UPC/RP President Lubanga, plus

23 two companies both in Dele and Lengobo (respectively west and south from Bunia).

24 On 2 March, UPC/RP arrested three UPDF soldiers following the alleged killing of

25 two UPC soldiers by UPDF forces. A MONUC brokered meeting was conducted to

1 diffuse the tension and an agreement between the two forces was formally signed.

2 Pursuant to that compromise UPDF agreed, inter alia, to withdraw its forces from
3 Bunia town and to jointly investigate the killing of the UPC soldiers."

4 (Interpretation) Mr Ntaganda, this information that I have just read out, when did
5 you become aware of it, if at all?

6 A. [10:46:40] Yes, I was aware of the deployment to Dele, but when it comes to
7 the death of these youth, I learnt of it through Kisembo, who I believe also told me
8 that pressure was brought to bear on the UPDF so that they could withdraw from the
9 area. That is what he told me.

10 Q. [10:47:05] Mr Ntaganda, let us quickly look at paragraph 2, and then I'll put
11 the same question to you. I'll now read out paragraph 2 in English:

12 (Speaks English) "In addition, the Bunia MONUC team reported fighting between
13 UPC/RP and Lendus on the axis Bunia-Komanda to gain control of Ndromo (12 kms
14 south of Bunia). UPC alleged UPDF involvement in the fighting and accused them
15 of collaborating with Ngiti and Lendus as well as protecting them in the UPDF camp
16 in Dele. However a joint visit of UPC, UPDF and MONUC to the Dele camp did not
17 unveil any presence of Lendu combatants. The joint team went also to Tchai (10 kms
18 south west of Bunia) and observed many burnt houses allegedly set on fire during a
19 Lendu attack."

20 (Interpretation) Mr Ntaganda, the information here, at that time were you aware that
21 there was fighting between the UPC/RP and the Lendus on the
22 Bunia-Komanda Road?

23 A. [10:49:14] At that time I was not aware of that information where I was. Now,
24 if it happened when I was absent, I don't know. What I know is that we had a force
25 in Komanda, but I don't know whether at that time there were any operations going

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1 on along the Komanda Road. No, I did not have that information at that time.

2 Q. [10:49:39] Turning to the end of that paragraph, reference is made to a joint
3 team which went to Tchai and observed that a number of houses had been allegedly
4 burnt during a Lendu attack. Were you aware of that information at that time,
5 Mr Ntaganda?

6 A. [10:50:15] I was aware of the attack on Tchai when they wanted to recover
7 Bunia in October 2002, but I had no further information in that connection thereafter.

8 MR BOURGON: [10:50:31] (Interpretation) Mr President, based on the answers
9 provided by the witness, I would like to request that this document, specifically the
10 paragraphs that have been read out, pursuant to practice, that it should be admitted
11 into evidence within this context.

12 PRESIDING JUDGE FREMR: [10:50:50] Prosecution?

13 MS SAMSON: [10:50:51] Mr President, to a certain extent the witness was able to
14 confirm the information in the first paragraph. Although he has no personal
15 knowledge of it, he says it is information he obtained from somebody else. But in
16 respect of the second paragraph, it appears that the witness was not able to confirm
17 the information in that paragraph.

18 PRESIDING JUDGE FREMR: [10:51:19] Mr Bourgon.

19 MR BOURGON: [10:51:22] I believe, Mr President, that whether he knows or
20 doesn't know is as important -- whether he knows or doesn't know. What is
21 important is that we have a UN report and at that particular point in time, whether he
22 knows or doesn't know about information therein is relevant. But I'm in your hands,
23 Mr President. I would be satisfied to have paragraph 1 admitted, but I don't see why
24 we should not admit paragraph 2 also. But I'm in your hands, Mr President.

25 PRESIDING JUDGE FREMR: [10:51:57] Yes, I believe that it is up to the Chamber

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1 then to deal with the quality -- or the connection between Mr Ntaganda's testimony
2 concerning the paragraph 2. So I believe he can easily also admit both paragraphs.
3 So now the first two paragraphs of the document specified by Mr Bourgon are
4 admitted into evidence as a further Defence exhibit.

5 Mr Bourgon, please proceed.

6 MR BOURGON: [10:52:41] (Interpretation) Thank you, Mr President.

7 Q. [10:52:43] Mr Ntaganda, you told us that Kisembo asked you to bring together
8 or put together a battalion and send it to Bunia. Now, mindful of the distance
9 between your location and Bunia, did you discuss that order with Kisembo?

10 A. [10:53:16] No, I did not have any discussion about distance. He gave me an
11 order to bring a battalion along and I did everything possible, mindful of the urgency,
12 to bring that reinforcement. If as a commander you're asked to provide
13 reinforcements, you must do everything possible to implement the order.

14 Q. [10:53:49] Can you explain to the Court then what you did in order to put
15 together this battalion pursuant to Kisembo's orders?

16 A. [10:54:08] Yes. I asked the 505th brigade to make available a battalion to me.
17 We transported the troops in two lorries. They met me, they met up with me in
18 Fataki and the next day in the morning we left.

19 Q. [10:54:36] Do you remember who in the 505th brigade you talked to in order to
20 obtain the battalion?

21 A. [10:54:53] I looked for Mugisa Paul, who was the brigade commander. In
22 Mahagi, the Ugandan telephone network was available, so it was possible to use a
23 mobile phone. So I tried to get him, but I couldn't reach him. And I called his 2IC,
24 his deputy, whose name was Odongo, and it is Odongo, the 2IC, who sent me the
25 battalion. And that battalion was called Cobra.

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1 Q. [10:55:31] Just to clarify, in French it is said, and I heard, that the name of the
2 battalion was Cobra; is that what you said?

3 A. [10:55:46] No, it is the battalion that was commanded by a gentleman whose
4 name was Cobra.

5 Q. [10:55:58] Mr Ntaganda, please can you spell out the name Odongo, which
6 appears not to have been properly captured on the transcript. How do you spell
7 Odongo, Mugisa Paul's 2IC?

8 A. [10:56:17] Oscar -- O-D-O-N-G-O. O-D-O-N-G-O.

9 Q. [10:56:36] Do you remember whether you were able to -- or, rather, at what
10 time did you arrive in Bunia with the battalion?

11 A. [10:56:46] We arrived in Bunia during the night. We arrived in Bunia at night
12 with the battalion.

13 Q. [10:56:59] What did you do when you arrived with the battalion at night?

14 A. [10:57:10] When I arrived in Mudzipela, I called my chief on the Motorola and
15 told him that the battalion had arrived. He then sent a commander to receive the
16 battalion and proceed to deploy it. And then I went to my place.

17 Q. [10:57:41] Upon going home, do you remember what important event
18 happened next?

19 A. [10:57:59] Mandro was attacked at 5 a.m.

20 Q. [10:58:07] How did you become aware that Mandro had been attacked?

21 A. [10:58:19] RPG shells were falling, mortars were dropping and we could hear
22 that from far away --

23 THE INTERPRETER: [10:58:31] And that could be heard - interpreter
24 corrects - that could be heard from a distance.

25 MR BOURGON: [10:58:37] (Interpretation)

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1 Q. What did you do then at that time?

2 A. [10:58:43] I got up promptly, I took my vehicle, along with my bodyguards
3 who had spent the night near my home, and we boarded the vehicle and drove off to
4 Mandro.

5 Q. [10:59:08] How many of your bodyguards were with you and what weapons
6 did you have?

7 A. [10:59:21] I remember that when I arrived that night, a 12.7 had been mounted
8 on my vehicle. So I left with all the bodyguards who had spent the night at my place,
9 some 12 or 15 of them; I went with that group while others followed. I was up on a
10 hill and I was looking down at Mandro.

11 Q. [10:59:55] So you were in Mandro, and what were you -- what did you do then
12 with your escort and your 12.7?

13 A. [11:00:12] I first called the commander there, known as Bravo Hotel, to know
14 what situation was. I could see smoke rising from Mandro. So I called him. He
15 told me that he had just left Mandro and was on the Katoto road because Mandro was
16 occupied by the enemy. So we were in the -- we had the 12.7 on the vehicle and we
17 were within range of Mandro, so we started firing, using the 12, and then the
18 bodyguards who had been at the general staff came to -- other force left Bunia. That
19 was a company. So we started fighting the enemy in Mandro.

20 PRESIDING JUDGE FREMR: [11:01:14] Ms Samson.

21 MS SAMSON: [11:01:15] Thank you, Mr President. Would it be possible to ask
22 for an approximate date of the event that we're describing? Thank you.

23 PRESIDING JUDGE FREMR: [11:01:23] I believe it should be possible.
24 Mr Bourgon.

25 MR BOURGON: [11:01:27] I can certainly try, Mr President.

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1 Q. [11:01:32] (Interpretation) Mr Ntaganda, do you know roughly what the date
2 would have been when you woke up at 5 o'clock and went to fight in Mandro?

3 A. [11:01:52] The attack on Mandro took place on 4 March, very early in the
4 morning, 5 o'clock in the morning.

5 Q. [11:02:08] And how do you know that it was 4 March that it took place very
6 early in the morning?

7 A. [11:02:23] Because we had fought then on something that I can't forget. We
8 had been preparing an attack against the Ugandans, and that was the date we fought,
9 and that's the reason why I cannot forget that date.

10 Q. [11:02:49] You talked about a company that joined you. How many men
11 were in the company for this attack and who were they?

12 A. [11:03:09] It was a company directed by -- led by Murefu. He had these men;
13 they were about a hundred of them; they had fled from Mandro. We coordinated
14 our movements to attack Mandro in order to chase the enemy out of Mandro.

15 Q. [11:03:41] How long did the fighting last and what was the result of this
16 fighting?

17 A. [11:03:59] The attack lasted all day because there were a lot of the enemy there,
18 the -- when the enemy left we went to see what had been destroyed in Mandro. That
19 took us all day. I left that location as night was falling.

20 Q. [11:04:28] Were there any casualties, any injured or dead during the course of
21 this fighting?

22 A. [11:04:42] On our side, one soldier fell. We found his body and we -- and we
23 had wounded. From the enemy side, when we followed them, we didn't see any
24 wounded or dead. Maybe they had taken them with them.

25 Q. [11:05:14] In the course of this combat, did you see the enemy with your own

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1 eyes and, if so, who was the enemy?

2 A. [11:05:31] Yes, I saw the enemy. I saw combatants, they were there. I also
3 saw soldiers that looked like UPDF soldiers. And I saw APC in military uniforms
4 which looked like UPDF uniforms. That was the coalition that had attacked
5 Mandro.

6 Q. [11:06:15] At the time this fighting was taking place, were there any prisoners
7 in Mandro as far as you're aware, prisoners you had left there?

8 A. [11:06:34] Yes, but Bahati didn't lose soldiers. They had time to evacuate the
9 prisoners. There were some who had fled but who then returned. They had fled in
10 the direction of Katoto.

11 Q. [11:06:56] And what happened to the civilian population of Mandro during
12 this fighting?

13 A. [11:07:08] The civilians fled in the direction of Katoto. Their houses had been
14 set on fire. And when I left, they were attempting to deal with those who had died
15 or those who had been wounded, but I didn't have any reports allowing me to
16 establish the fact.

17 Q. [11:07:40] Did you have any contact at all with the civilian population on that
18 day?

19 A. [11:07:51] Yes, there were a lot of them because a lot of them had left, had fled.
20 We said to them that they should take courage from the fact that we were there.
21 There was a civilian there who was the -- an official, and the registrar, and we spoke
22 to them to try and keep their morale up.

23 Q. [11:08:26] And when you left Mandro, do you recall where you went?

24 A. [11:08:38] It was at night. I went directly to Kisembo because I -- because,
25 well, I was tired, I explained to Kisembo what I had seen in Mandro, and he said to

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1 me that he knew the Ugandans were preparing to attack us. And he said that we
2 would spend the night without any further attack.

3 THE INTERPRETER: [11:09:17] The Swahili booth would like the witness to be
4 asked to repeat his reply, please, because they were unable to capture what he was
5 saying.

6 PRESIDING JUDGE FREMR: [11:09:27] Mr Ntaganda, there is a request from the
7 Swahili booth for you to repeat the last reply because they haven't captured
8 everything.

9 THE WITNESS: [11:09:43] (Interpretation) Yes, what I was saying, when I
10 arrived in Bunia, it was when night was falling. I went first to Kisembo. I gave him
11 my report. I told him everything that had happened. I talked to the enemy in the
12 Mandro, the enemy that had seen the UPDF and others. He said yes, he was
13 preparing a plan to attack us and that they could still attack us. I recall that he said
14 that we would hold a meeting to discuss the situation. He said, "Go and tell the
15 president what you have seen." And I went to the president after that.

16 MR BOURGON: [11:10:36] (Interpretation)

17 Q. [11:10:40] What was the tenor of your meeting with President Lubanga?

18 A. [11:10:56] Yes, everyone was very concerned about the situation. I told him
19 what I had seen in Mandro, and he said -- he asked whether I had spoken to my
20 experts, and I said yes, and did they -- he asked whether they told if there was going
21 to be a meeting on Thursday. I said yes. And they said then we would talk about
22 that. I then greeted him and left and went back to my quarters.

23 Q. [11:11:33] The meeting mentioned by Kisembo and President Lubanga, did
24 that meeting ever take place. President Lubanga and Kisembo, did that meeting
25 ever take place?

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1 A. [11:11:50] Yes. Yes, we had a meeting. We set up our defence plan. We set
2 up a plan to attack the UPDF, and after that we attacked the UPDF.

3 Q. [11:12:16] In order to clarify this, Mr Ntaganda, you said you set up a defence
4 plan and then a plan of attack. What was the plan? Defence? Attack? Could
5 you explain what you discussed?

6 A. [11:12:45] What I said was we set up a plan to defend ourselves; in other
7 words, we set up a plan to fight the UPDF. That's what we set up. On the next day,
8 we attacked the UPDF.

9 Q. [11:13:09] I'll come back to that subject, but I'd like to know, first, who was
10 present at the meeting?

11 A. [11:13:21] There was the president himself, Thomas Lubanga; there was
12 Kisembo; myself; Tiger One was also there; Tchaligonza was there; there was
13 Ali Mbuyi; there was Kasangaki and there was Salumu. Those were the people who
14 attended the meeting.

15 Q. [11:13:59] Where did the meeting take place?

16 A. [11:14:16] In the president's living room.

17 Q. [11:14:19] How long did the meeting last?

18 A. [11:14:24] It lasted all day.

19 Q. [11:14:32] Explain to us, Mr Ntaganda, if you can, you're in the position, you
20 want to defend yourself but you decide to attack. Why did -- why was this decision
21 taken?

22 A. Not to defend. Not to defend, but to attack.

23 THE INTERPRETER: [11:14:59] The witness spoke French at this point.

24 A. [11:15:03] We set up a plan to attack the enemy and the task was assigned to
25 each of us to do this. Having -- once we had established the responsibilities of each

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1 of us, everyone went to their position where they then spent the night. And at that
2 point, Ali Mbuyi fled.

3 MR BOURGON: [11:15:40] Mr President, I think with the new timing, that is the
4 proper time for the break.

5 PRESIDING JUDGE FREMR: [11:15:44] Absolutely, you are right. So we take our
6 regular break for 30 minutes and we are going to reconvene at quarter to 12.

7 THE COURT USHER: [11:16:01] All rise.

8 (Recess taken at 11.16 a.m.)

9 (Upon resuming in open session at 11.45 a.m.)

10 THE COURT USHER: [11:45:46] All rise.

11 PRESIDING JUDGE FREMR: [11:46:05] This session we are going to continue with
12 examination-in-chief of Mr Ntaganda as a witness conducted by the Defence.

13 Mr Bourgon, you have the floor.

14 MR BOURGON: [11:46:22] (Interpretation) Thank you, Mr President.

15 Q. [11:46:33] Mr Ntaganda, before we move on to your plan to attack the UPDF
16 the day following the meeting, I would like to ask a question about the discussions
17 that took place during this meeting. Were there any other topics raised other than
18 the situation and the attack by the UPDF?

19 A. [11:47:12] No, we only spoke of this one subject, the UPDF.

20 Q. [11:47:24] Were there, for example, any sort of conversations about the events
21 of the previous two weeks?

22 A. [11:47:38] No, no.

23 Q. [11:47:50] I would like to know, Mr Ntaganda, when you decided to carry out
24 this attack, could you explain to us what the plan was and what were the functions
25 assigned to each of the people present at the meeting?

1 A. [11:48:25] The UPDF had only two positions; the first one was in Dele, and the
2 second was at the airport. We planned to attack only the position in Dele and to
3 block the road to the airport so that the airport soldiers could not provide
4 reinforcements. So after attacking Dele, we were going to launch a second attack on
5 the airport. Those who were deployed in Dele were Tiger One, Tchaligonza and
6 Salumu.

7 There was also the battalion of the 505 brigade which I had called to come. I was to
8 use the 12.7 near Mudzipela to ensure that the UPDF would not attack from the
9 airport towards the main road. As for Kasangaki and the other support weapons, he
10 should be at camp Ndromo to monitor the airport so that the UPDF could not go and
11 reinforce their troops in Dele, nor go into the town. Kitembo was to coordinate our
12 movements and provide ammunition where necessary, as well as evacuate the
13 casualties. That's what we were all assigned to do.

14 For Ali Mbuyi, he should have been in charge of the road to the airport. Our plan
15 was to use the anti-tank weapons, so he should have been monitoring the tanks at the
16 airport that -- or take charge of the tanks at the airport. That was the plan we had set
17 up, with everyone's responsibilities.

18 We asked President Thomas to go out of the town and go to Centrale so that he
19 would be safer. We did that for his protection. That's the plan that we had put
20 together.

21 Q. [11:51:28] Is there a reason why you decided to attack rather than to await an
22 attack by the UPDF?

23 A. [11:51:42] Yes. If the UPDF were to attack us, their troops would have
24 harmed us because they had equipment which we didn't have. We wanted to get
25 ahead of this, because if they had attacked, it would have been a true catastrophe for

1 us and we would have been blocked in the town.

2 Q. [11:52:20] You said earlier that Ali Mbuyi, I can't -- I'm just looking to find
3 exactly what you said. You said that Ali Mbuyi -- "fled" was the word used in
4 English. What happened in terms of Ali Mbuyi after the meeting?

5 A. [11:53:06] Yes, he fled, indeed, and he went to the UPDF troops and told them
6 everything we had planned.

7 Q. [11:53:20] How did you hear that that was what had happened?

8 A. [11:53:28] After our meeting the commanders deployed and he left with
9 Tiger One. He called Tiger One and he asked him to accompany him to the airport.
10 But he wanted to take him as a hostage. Tiger One didn't know that Ali Mbuyi put
11 his wife in the vehicle. They went to the airport, and once he was there, he said, "I'm
12 not going to fight. You shouldn't go back there." And Tiger One said, "You're
13 bringing your wife. Let me go and get my wife." He was talking to Kale Kayuhura
14 and he said that, yes, he could go and get his wife, but he said, "You shouldn't fight
15 either. You should come back."

16 Tiger One then came back and told us everything that had happened. I recall that
17 Kisembo said, "We're not going to retreat, and Tiger One don't tell the commanders
18 anything. We need to stick to our plan." That's how we became aware of what
19 Ali Mbuyi had done. Tiger One told us.

20 Q. [11:55:08] You said earlier that you asked Thomas Lubanga to leave Bunia.
21 What did Thomas Lubanga do on that day?

22 A. [11:55:30] He left at nightfall and he went towards Centrale.

23 Q. [11:55:38] Did other people leave Bunia that evening?

24 A. [11:55:45] Yes. I evacuated my wife. And Tiger One was with me. They
25 went. Thomas Lubanga also took members of his family. The next day I went to

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1 Centrale and I found him with Lonema.

2 Q. [11:56:28] Mr Ntaganda, I know this may be difficult for you emotionally, but
3 could you tell us what happened on the -- during the fighting of 6 March? Could
4 you please tell us what happened that day?

5 A. [11:56:46] Everybody was in position and at 5 a.m. we launched the attack.
6 Dele was attacked. And they managed to go into the trenches. The Lendu came
7 from Zumbe and they came into the town. Then Kasangaki withdrew a bit, having
8 fought for a short while, and he made contact with the UPDF and he deserted. The
9 UPDF then went to attack Kisembo.

10 The situation got worse and we failed. We had started fighting very early,
11 between 5 a.m. and 3 p.m., 1500 hours. Kisembo was attacked by the UPDF. He left
12 and Tiger One withdrew towards Mandro. I -- after Kisembo had left, I withdrew
13 towards Centrale.

14 Q. [11:58:25] Did you hear during the fighting that Kasangaki had deserted?

15 A. [11:58:36] Yes. When I was communicating with Tiger One to tell him which
16 direction he should take towards Mandro, given that the Lendu combatants had
17 entered into the town, Tiger One called me -- a commander from the UPDF called me
18 to say that some of our troops had joined them and I knew at that time that Kasangaki
19 and Tchaligonza had also left our ranks and joined the UPDF.

20 Q. [11:59:24] When you say that Tchaligonza and Kasangaki deserted, are you
21 talking about them personally or also the troops under their command?

22 A. [11:59:44] Everyone left with some troops, not their entire force, not the -- all
23 the troops under their command. They just went with some of them.

24 Q. [12:00:04] What was the impact of the desertion of Kasangaki and Tchaligonza,
25 how did that affect the battle?

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1 A. [12:00:29] Our plan failed again. The first time was because of Ali Mbuyi.
2 And the reason why we decided to withdraw quite some distance while -- so that we
3 could take the opportunity to reorganise. That was after the UPDF had left.
4 Following the attack on Kisembo, he asked me my position. I said where my
5 bodyguards were. And I asked Tiger One to withdraw as well because he could not
6 fight, himself, so there was a total retreat after Kisembo asked me to evacuate all our
7 forces from the town.

8 MR BOURGON: [12:01:41] (Interpretation) Mr President, my last question
9 doesn't appear in the transcript because I was talking at the same time as
10 Mr Ntaganda. I asked who ordered the retreat, however, the answer is in the
11 transcript.

12 Q. [12:02:08] You said earlier that Tiger One went towards Mandro. Who went
13 with him?

14 A. [12:02:22] He went, he left with Salumu and some forces.

15 Q. [12:02:36] You answered something earlier that surprised me somewhat. You
16 said that you were called by the UPDF. During the battle you had a phone call?

17 A. [12:02:52] No, they were following our movements on Mbuyi's Motorola.
18 And while we were fighting, they took Kasangaki's Motorola and they called me on
19 that.

20 Q. [12:03:21] So the commander or the person who called you, what did they say
21 to you using Kasangaki's Motorola?

22 A. [12:03:36] He asked me to come and join them, the same thing as the others
23 had done. He said he was already with Kasangaki and Tchaligonza.

24 Q. [12:03:53] Mr Ntaganda, I'd like to show you a document and follow the same
25 procedure as we did earlier this morning.

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1 I'd like to have on the screen the document DRC-OTP-2067-1989. This is item 388 on
2 our list. And I would like to have the paragraph 1 on the screen, please.

3 Mr Ntaganda, you will see this document. Please look at it.

4 PRESIDING JUDGE FREMR: [12:04:47] And the level of confidentiality,
5 Mr Bourgon?

6 MR BOURGON: [12:04:53] (Interpretation) I believe, Mr President, that the
7 precautions requested by my colleague apply to this as well. We can discuss it in
8 public but we cannot publish the document on the screen.

9 PRESIDING JUDGE FREMR: [12:05:14] All right. So, court officer, proceed
10 accordingly.

11 MR BOURGON: [12:05:30] (Interpretation)

12 Q. [12:05:32] Mr Ntaganda, this is a UN document. The subject of which is
13 "Daily Report 5 March". I will read you paragraph 1 of the document in English:
14 (Speaks English) "Following several days of increasing tension between the UPC and
15 UPDF, this morning between 0400 and 0600 hours heavy fighting broke out between
16 them in the areas of Bunia Airport and Dele (4 kilometres South of Bunia). The
17 fighting, which included the use of small arms, machine guns, mortars, and
18 reportedly an anti aircraft gun, spread into Bunia and reached within 500 metres of
19 the UN site in the town.

20 By 1130 hours UPDF forces had taken control of the town and a relatively calm
21 situation had returned, albeit with sporadic firing within and on the outskirts of the
22 town.

23 Brigadier General Kayuhura, the senior UPDF commander in Bunia, stated that the
24 UPC leadership had fled north-west. As at 1230 hours some fighting had picked up
25 in the vicinity of the MONUC site and presidential residence in the southern part of

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1 the town."

2 (Interpretation) Mr Ntaganda, this description of the events, does it, generally
3 speaking, correspond to the events that you have just described?

4 A. [12:07:54] Yes.

5 Q. [12:08:04] I would like to continue and read you the rest of the paragraph,
6 again in English:

7 (Speaks English) "It appears that the UPDF forces may be accompanied by militia
8 who have commenced looting (including already the offices of the Italian NGO
9 COOPI) and it is rumoured that the UPDF are providing trucks to transport more
10 militia into the town."

11 (Interpretation) Mr Ntaganda, did you witness these events?

12 A. [12:08:55] Yes. The militia were Lendu combatants who had arrived in large
13 numbers. What is said in this document is correct.

14 Q. [12:09:14] What was the role of the Lendu combatants in this battle, the battle
15 of 6 March?

16 A. [12:09:27] They came to reinforce the UPDF.

17 PRESIDING JUDGE FREMR: [12:09:32] Hold on, Mr. Witness.

18 I see Ms Samson on her feet.

19 Ms Samson.

20 MS SAMSON: [12:09:35] Yes, your Honour, it is just in relation to the date.

21 Counsel mentioned 6 March. The document we're looking at, as he noted, was a
22 daily report from 5 March, and so I'd like clarification as to the date of the 6th, please.

23 PRESIDING JUDGE FREMR: [12:09:52] Mr Bourgon.

24 MR BOURGON: Yes, Mr President, these reports, what you see as the subject, says
25 "Daily Report 5 March" but the date on top is 6 March, right on top of it. And these

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1 reports always cover different, various dates. And my question to Mr Ntaganda.
2 Whether this fighting here was a description of what he went through. And his
3 answer was yes, so it's on that basis that we're talking about 6 March. But I can -- of
4 course, Mr Ntaganda can confirm.

5 PRESIDING JUDGE FREMR: [12:10:26] Ms Samson.

6 MS SAMSON: [12:10:27] Yes, Mr President. The report and the event that we've
7 been describing has been noted by counsel up to now and confirmed by the witness
8 as being 5 March, and so if counsel would now like to find out what date other
9 fighting may have taken place or whether 5 March was the date of fighting of this
10 event, it needs to be asked of the witness in an open-ended way, rather than be led by
11 a question where the evidence has not actually been adduced.

12 PRESIDING JUDGE FREMR: [12:10:59] Yes, I would also appreciate, Mr Bourgon,
13 if you could try to clarify that issue.

14 MR BOURGON: [12:11:06] Thank you, Mr President.

15 Q. [12:11:12] (Interpretation) I have a question about the events of Mandro.
16 You were asked to give the date and you said that the events in Mandro were on 4
17 March. Following the events in Mandro, what events then took place and on which
18 dates?

19 A. [12:11:48] After the attack in Mandro, there was a further attack by the UPDF
20 on the UPC. That was on 6 March. During this attack, the combatant took part in
21 these clashes. I think it's quite clear.

22 Q. [12:12:15] On -- what was the date of the planning meeting with the FPLC?
23 What date did that planning meeting take place?

24 A. [12:12:30] That was on the 5th, on the 5th.

25 Q. [12:12:36] And the attack that you launched against the UPDF was on which

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1 date?

2 A. [12:12:47] That was the 6th.

3 Q. [12:13:04] So, Mr Ntaganda, I come back to my previous question, my last

4 question: What was the role of the Lendu combatants in the battle of 6 March? You

5 started to reply and then we had a little interlude. So tell us about the role of the

6 Lendu combatants on 6 March.

7 A. [12:13:36] They came as reinforcements of the UPDF and they looted. They

8 were simply destroying everything they came across. They had no military training.

9 Q. [12:13:57] On the basis of the replies given by the witness, Mr President, I

10 would like this document to be admitted into evidence, paragraph 1 and the context

11 of the document.

12 PRESIDING JUDGE FREMR: [12:14:14] To be clear, paragraph 1 and the context of

13 document, so you understand that as a whole document?

14 MR BOURGON: [12:14:31] (Interpretation) The same principle, that is that only

15 the part that I have read out should be admitted with the -- and the document to

16 provide the context, but the only part which becomes evidence is paragraph 1, as

17 before.

18 PRESIDING JUDGE FREMR: [12:14:50] Ms Samson.

19 MS SAMSON: [12:14:51] No objection, your Honour.

20 PRESIDING JUDGE FREMR: [12:14:53] In such a case, the request for admission as

21 formulated by Mr Bourgon is accepted and this part of document is admitted into

22 evidence as a further Defence exhibit.

23 MR BOURGON: [12:15:30] (Interpretation)

24 Q. [12:15:31] What happened after the retreat when all of the FPLC troops had

25 left Bunia? Where did you then go?

1 A. [12:15:44] We immediately went to Centrale where Thomas Lubanga, the head
2 of the party, was located.

3 Q. [12:15:55] Who did you meet at Centrale at that time?

4 A. [12:16:04] As I said, I met Lonema, Rafiki and President Toms. My wife and
5 Tiger One's wife were also present.

6 Q. [12:16:26] Was Kisembo present?

7 A. [12:16:31] Yes. The two of us went there, he arrived in before I did, so when I
8 arrived he was already there.

9 Q. [12:16:44] And what was the tenor of the conversations at the time?

10 A. [12:16:56] When we retreated with our forces, the UPDF soldiers were already
11 in Mudzipela so I told them that UPDF were behind us. Tiger One and other troops
12 went to Mongbwalu to see the state of the troops whom they had left at that location.
13 He spoke with the president and he asked the president if he could go there. He
14 answered, "No, you must stay in Djugu in Bule. But, Bosco, you are to take the
15 president's security soldiers" so myself and the members of the presidential security
16 except Kisembo went to Bule, that was the evening of 6 March.

17 Q. [12:18:02] At that meeting in Centrale, how long did it last, Mr Ntaganda?

18 A. [12:18:17] We were in the compound standing there knowing that UPDF
19 troops were approaching the area where we were, so the meeting didn't take longer
20 than 20 minutes at the most. We were all there together in the compound, nobody
21 sat down, we remained standing.

22 Q. [12:18:50] And what happened as regards Kisembo directly after the meeting?

23 A. [12:18:58] We left and we left Kisembo. We parted ways in Barrière. He
24 stayed in Barrière, saying that he would await Tiger One's troops and Salumu and
25 then continue on with them to Mongbwalu.

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1 Q. [12:19:20] And what did you do?

2 A. [12:19:30] We took the road to Lokpa, moving in the direction of Bule. We
3 arrived in Bule and spent the night there.

4 Q. [12:19:50] I'd like to put some questions to you now regarding the days that
5 followed the battle of 6 March?

6 PRESIDING JUDGE FREMR: [12:19:57] Hold on, Mr Witness.

7 Ms Samson.

8 MS SAMSON: [12:19:59] Thank you, Mr President. I haven't been able to check to
9 be sure that the French -- to see if it's different or the same, but there -- there is some
10 confusion entering into the transcript in English at least as to where some of these
11 individuals were deployed. So at page 47, lines 6, 7, the witness states that Kisembo
12 went to Bule and in page 48 he states -- perhaps it's 47, yes, 47, lines 19, 20 Kisembo's
13 going to Mongbwalu. So if we could just have clarity to understand where precisely
14 these troops were meant to go.

15 PRESIDING JUDGE FREMR: [12:20:49] Mr Bourgon.

16 MR BOURGON: [12:21:00] (Interpretation) Of course, your Honour. I'm not
17 sure that I've understood the problem.

18 Q. [12:21:07] But, Mr Ntaganda, please explain, when you left that
19 short 20-minute meeting in Centrale, what did Kisembo do and what did you see
20 Kisembo do?

21 A. [12:21:25] We took the same road together and when we discussed who would
22 go where, Kisembo said that he would go to Mongbwalu with Tiger One's troops and
23 Salumu. He had not yet reached his destination, he was on the road to Mandro.
24 President Toms and myself, we took the road to Bule. So we parted ways. Myself,
25 my bodyguards and the president, President Toms' bodyguards, we went to a

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1 different destination. And Kisembo and Tiger One and Tiger One's troops went to a
2 different destination.

3 Q. [12:22:17] Where exactly did you part ways with Kisembo?

4 A. [12:22:22] At Barrière.

5 Q. [12:22:28] And so when you were with the president and you left Barrière to
6 go to Bule, did Tiger One and Salumu arrive into Barrière?

7 A. [12:22:40] Not yet.

8 MR BOURGON: [12:22:48] (Speaks English) I believe, Mr President, this clarified
9 the matter.

10 PRESIDING JUDGE FREMR: [12:22:50] So do I.

11 MR BOURGON: [12:22:59] (Interpretation)

12 Q. [12:23:02] So who were you travelling with when you went to Bule,
13 Mr Ntaganda?

14 A. [12:23:10] I was with President Toms, Lonema, Rafiki, and I recall that there
15 was another older man who was with us, his name is Mafuta, my wife and Tiger
16 One's wife.

17 Q. [12:23:39] How many members of the security force were with you in your
18 convoy?

19 A. [12:23:48] There were two pickup vehicles carrying bodyguards; in other
20 words, 60 soldiers. And the others followed on later.

21 Q. [12:24:15] So you left Kisembo or you parted ways from Kisembo at Barrière,
22 you then travelled on to Bule. Were you then in communication or the president in
23 communication with Kisembo?

24 A. [12:24:34] Personally, no, I was not in communication with him. As regards
25 the president, well, I didn't ask him and I wasn't with him at all times. I knew that

1 the UPDF soldiers were attacking us. When we arrived in Mahagi I didn't ask the
2 president, so personally, no, I was not in a position to or not able to communicate
3 with Kisembo.

4 Q. [12:25:13] Just to clarify I'm looking at the English transcript page 50, now,
5 there, at line 4 (Overlapping speakers) (Speaks English) "when we arrived in Mahagi"
6 (Interpretation) Is that what you said?

7 A. [12:25:32] No. I referred to Bule, when we reverted -- or arrived in Bule.

8 Q. [12:25:42] So when you were in Bule, did you know what Kisembo's situation
9 was and did you know what he was doing with the troops who were with him?

10 A. [12:25:56] No. It was only later that we learned via the radio that he had been
11 driven out of Mongbwalu by UPDF troops to Mamedì. So we heard that over
12 Radio Candip.

13 Q. [12:26:28] So when you said that you learned that later by Radio Candip, how
14 many days later was that?

15 A. [12:26:38] It was one week later. Yes, one week later. One week after we
16 had parted ways.

17 Q. [12:26:53] What information did you obtain regarding Kisembo during that
18 week?

19 A. [12:27:04] We learnt that he had been driven out of Mongbwalu and that he
20 had taken the road to Mamedì and we learnt that via the radio.

21 Q. [12:27:22] Now, over the course of that week what were the Lendu troops, the
22 UPDF and the APC doing?

23 A. [12:27:37] When we left they were still in Bunia town, but when the people
24 fled the town they then went to seek refuge near the airport where the UPDF soldiers
25 were, that was at the time that we left the city.

1 Q. [12:28:03] Did fighting end on 6 March or was there further fighting
2 afterwards?

3 A. [12:28:11] The fighting continued. We also fought in Fataki. They attacked
4 us there and we fought. That was the last battle. After that we went to Blukwa and
5 an aeroplane arrived in -- from Goma to pick us up and evacuated us.

6 Q. [12:28:43] Now, before your evacuation in Blukwa, during the last or at the
7 end of the fighting how many troops did you have available to you when you fought
8 in Fataki?

9 A. [12:29:09] Part of my bodyguard met with me in Bule, and those of
10 President Toms were in situ. There were also Liévin's troops who were in the region.
11 Linganga also met us there because he had left where he had been imprisoned.
12 When we started fighting the UPDF he came. So there was those battalions and also
13 our bodyguards who were with us. That's it.

14 Q. [12:29:52] Now, who was the enemy who was attacking at that time and what
15 was the objective?

16 A. [12:30:04] UPDF troops arrived in, and Jérôme's message said that, but Jérôme
17 had already left his group, the APC, to attack us. All of his troops came to attack us
18 at Mahagi with UPDF soldiers. But part of those troops had deserted to join us. So
19 the fighting was between FPLC and UPDF.

20 Q. [12:30:45] So let's start with Jérôme. When did Jérôme leave your group, the
21 FPLC?

22 A. [12:31:04] I would say that he deserted officially, he left our group at the time
23 of the fighting of 6 March. It was then that he clearly stated that he was leaving us.

24 Q. [12:31:34] Had you received information prior to that indicating that Jérôme
25 was going to leave the FPLC?

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1 A. [12:31:44] Yes, there were rumours going around at the end of January 2003,
2 and so we continued to observe the observation, but we didn't have enough proof
3 then. Later, of course, we learnt that the intelligence was correct because we saw
4 him during the fighting against the Ugandans and then how he attacked us in
5 coalition with UPDF troops in Fataki.

6 Q. [12:32:24] When Jérôme left the FPLC with his soldiers, what did he then do?

7 A. [12:32:41] He is the one who set up the FAPC and he became its president.

8 Q. [12:32:56] Well, let's return to the situation surrounding the attacks, or rather,
9 the fighting in Fataki. Was your wife present during that whole period?

10 A. [12:33:08] No, when we arrived in Bule, the people who were in Goma sent us
11 some munitions on an aircraft, an aeroplane. The aeroplane land in Bule, and I took
12 my wife and Tiger One's wife and I put them on that aeroplane and they travelled to
13 Goma. So the attack happened after my wife had left; she left two days earlier.

14 Q. [12:33:55] At page 53, you said that there were people in Goma who sent you
15 munitions. Who are you referring to?

16 A. [12:34:10] RCD-Goma.

17 Q. [12:34:19] Please tell us about the situation. Who took the decision that
18 Thomas Lubanga would leave by aeroplane to Goma?

19 A. [12:34:35] He took that decision himself because when the UPDF troops
20 arrived into Bule, we no longer had a place to withdraw. There was Bule and Largo,
21 we had a very small territory there, and that is why he called the people in Goma and
22 they sent an aeroplane. And they left.

23 PRESIDING JUDGE FREMR: [12:35:06] Hold on, Mr. Witness.

24 Ms Samson.

25 MS SAMSON: [12:35:07] Yes, I may have missed it in the transcript, your Honour,

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1 but counsel asked who took the decision that Thomas Lubanga would leave by plane
2 to Goma, and the earlier answer referred to the wives, not to Mr Lubanga. So I just
3 wonder where in the evidence so far has the witness stated that Thomas Lubanga
4 went to Goma. And again, I may have missed it, but I just don't see it immediately.

5 PRESIDING JUDGE FREMR: [12:35:43] Mr Bourgon.

6 MR BOURGON: [12:35:44] I can find the reference. The witness said earlier on
7 that they went to Blukwa and then they took an aircraft from Blukwa. So this -- this
8 is mentioned on page 51, and on page 51, at lines 11 and 12, the answer from the
9 witness was: "The fighting continued. We also fought in Fataki. They attacked us
10 there, and we thought that was the last battle. After that, we went to Blukwa and an
11 aeroplane arrived and evacuated us." And then later on Goma comes into the
12 picture.

13 PRESIDING JUDGE FREMR: [12:36:21] Ms Samson.

14 MS SAMSON: [12:36:22] Thank you. I think in fairness, your Honour, we must
15 tread carefully through areas here, and a reference to being evacuated in Blukwa and
16 then to putting wives on a flight to Goma does not necessarily link so far in the
17 evidence that Mr Lubanga also went to Goma. And, in my opinion, although the
18 question has been answered, in my submission, it was suggestive of the answer, and
19 it also referred to facts not yet in evidence. Thank you.

20 PRESIDING JUDGE FREMR: [12:36:51] All right.

21 MR BOURGON: [12:36:53] Mr President, the wives leaving is a separate matter
22 from Thomas Lubanga leaving, so I don't necessarily see the point, but of course I'll
23 try to do my best to clarify.

24 Q. [12:37:21] (Interpretation) Mr Ntaganda, how did you go from where you
25 were to Blukwa?

- 1 A. [12:37:37] You mean from Bule to Blukwa?
- 2 Q. [12:37:40] Yes, that's right.
- 3 A. [12:37:44] Very well. We and our bodyguards took a vehicle and drove to
- 4 Blukwa.
- 5 Q. [12:37:57] And the aeroplane that came to collect you, where did it come from?
- 6 A. [12:38:07] President Thomas asked that an aeroplane be sent from Goma to get
- 7 us. The aeroplane arrived and I boarded that plane with him and we flew to Goma.
- 8 Q. [12:38:22] Do you recall where the aeroplane landed in Blukwa?
- 9 A. [12:38:28] Yes, near the football stadium in Blukwa.
- 10 Q. [12:38:41] When you took off by plane with President Lubanga, who else was
- 11 with you aboard?
- 12 A. [12:38:50] Well, there was myself, President Toms, Lonema, Rafiki, and an old
- 13 man called Mafuta. We were the passengers.
- 14 Q. [12:39:14] Let's briefly talk about the period in Goma. How long did you
- 15 spend in Goma?
- 16 A. [12:39:26] All right. We stayed in Goma until June.
- 17 Q. [12:39:43] Between the time when you left Goma and June, what were you
- 18 doing? What were your activities in Goma?
- 19 A. [12:39:59] We were internally displaced persons.
- 20 Q. [12:40:07] And were you working? If so, what work were you doing during
- 21 that period?
- 22 A. [12:40:16] Well, we had just fled from war.
- 23 Q. [12:40:25] To your knowledge, did Thomas Lubanga remain in contact with
- 24 members of UPC/RP or the FPLC in Ituri?
- 25 A. [12:40:41] I don't know who he was in contact with, but I do know he had a

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1 phone with him. I'm afraid -- I couldn't say today who he was speaking with, but he
2 may well have been in contact with certain people.

3 Q. [12:41:03] And for your own part, during the period that you were in Goma,
4 did you have contact with members of the FPLC or the UPC/RP in Ituri?

5 A. [12:41:14] No.

6 Q. [12:41:19] Did you still have your Thuraya telephone with you?

7 A. [12:41:29] Yes, but I kept it in a bag. I didn't have a charging unit. And also
8 the cost of units was high, and I didn't have money at that time.

9 Q. [12:41:49] Now, during the period that you were at Goma or in Goma, were
10 there meetings with RCD-Goma or with any other persons?

11 A. [12:42:01] No, I didn't witness or attend any meetings at all.

12 Q. [12:42:12] During the period you were in Goma, did you have information
13 regarding what was going on in Ituri?

14 A. [12:42:19] No. Aside from what I heard on the radio, I had no additional
15 information by means of telephone or any other means, any other communications.

16 Q. [12:42:43] What radio stations were available to you enabling you to learn
17 about what was happening in Ituri?

18 A. [12:42:52] Well, there was BBC radio and in various international stations that
19 were broadcasting in the region, and from time to time they would speak about Ituri
20 and provide information regarding Ituri and other regions, too.

21 Q. [12:43:20] Do you recall any important events that you learnt about during this
22 period that you were staying in Goma?

23 A. [12:43:31] Yes, I recall learning about the Drodro massacre. We heard about it.
24 Very shortly after we arrived in Goma we learnt about that.

25 Q. [12:43:55] And what did you hear about the situation in Drodro?

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1 A. [12:44:04] Well, we heard that civilians had been massacred in Drodoro.

2 Q. [12:44:18] And what ethnic groups did the majority of Drodoro residents belong
3 to?

4 A. [12:44:26] They were Hema.

5 Q. [12:44:33] Did you hear by -- from the radio who had attacked Drodoro?

6 A. [12:44:43] I heard that it was combatants.

7 Q. [12:44:52] Did the radio reports mention the scale of damage or the scale of
8 destruction caused in Drodoro?

9 A. [12:45:07] Yes. It was announced that over a hundred people had been killed.
10 I can't give you an exact figure, but if I recall correctly, there was talk of 100 or 200
11 people.

12 Q. [12:45:35] Mr Ntaganda, I'd like to show you a document and follow the same
13 procedure we've already used this morning. This is DRC-OTP-0052-0049.
14 I would like the first page of the document to be shown on the screen and then I
15 would like to turn to another page before asking my question.

16 PRESIDING JUDGE FREMR: [12:46:13] Ms Samson.

17 MS SAMSON: [12:46:14] No objection, your Honour. I believe it's another one of
18 the same types of reports. Is there an item number so that I can locate the document,
19 please?

20 PRESIDING JUDGE FREMR: [12:46:23] Mr Bourgon.

21 MR BOURGON: [12:46:30] (Interpretation) Of course, Mr President. It's
22 item 392 on our list.

23 Q. [12:46:42] Mr Ntaganda, you see the document on the screen?

24 A. [12:46:50] Yes.

25 Q. [12:46:54] This is a weekly report covering the period from 31 March to 6 April,

1 and this is a UN document. So my first question is to ask you whether at the time
2 you had the opportunity to see this document?

3 A. [12:47:22] No, no.

4 Q. [12:47:27] And did you have the opportunity to see this document during your
5 preparation?

6 A. [12:47:38] I don't recall having seen it.

7 Q. [12:47:43] I would like to have on the screen page 4 of this document, which
8 is 0052, and in particular I would like you to enlarge paragraph 11.

9 Mr Ntaganda, I'm going to read paragraph 11 of this report in English. It will be
10 translated for you:

11 (Speaks English) "On Friday 4 April, the Special Investigation Team (SIT), currently in
12 Bunia, was informed of several killings in a Hema village called Largu near Drodro.

13 At the initiative of the DSRSG" - I will not mention the name - "the SIT, three
14 representatives of the Hema community representatives and two representatives of
15 the UPDF went to Drodro on 5 April. They were presented with a list of 966 persons
16 reportedly executed summarily in and around Drodro. 20 mass graves were
17 identified and traces of dried blood and clothes of the deceased were shown to the
18 group. The survivors said that they had buried about 250 bodies. According to
19 witnesses, the aggressors came simultaneously from five different directions. Some
20 of them spoke 'Kilendu' a local language spoken by both Lendus and Hemas, while
21 others spoke Congolese Swahili. MONUC will continue the investigations in order
22 to identify the perpetrators of the crime. Also, additional MILOB teams will be
23 deployed in Ituri, initially at Komanda, Mongbwalu and Mahagi, in order to maintain
24 more thorough observation in the area."

25 (Interpretation) Does this document correspond in general to what you heard in

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1 radio reports from Goma?

2 A. [12:51:04] Yes, this corresponds to what I heard from the radio and what I
3 heard later while I was in Drodoro.

4 Q. [12:51:23] Did you in the months -- the weeks and months following obtain
5 further information about the massacre in Drodoro?

6 A. [12:51:40] Yes, because I visited Largu, so Drodoro -- and the curate or the priest
7 in the parish there was a friend of mine.

8 MR BOURGON: [12:51:53] Mr President, on the basis of the replies given by the
9 witness, I would like the parts of this document read out, paragraph 11 up to the
10 penultimate line to "Comment", be admitted as evidence in the same way as we have
11 done previously, together with its context.

12 PRESIDING JUDGE FREMR: [12:52:10] Prosecution?

13 MS SAMSON: [12:52:20] No objection, your Honour.

14 PRESIDING JUDGE FREMR: [12:52:23] So the part of the document specified by
15 Mr Bourgon is admitted into evidence as a further Defence exhibit.

16 Mr Bourgon, please proceed.

17 MR BOURGON: [12:52:42] (Interpretation)

18 Q. [12:52:43] Mr Ntaganda, the information that you got about the massacre in
19 Drodoro, did you get additional information about who had committed these crimes?

20 A. [12:53:04] Yes, it was the Lendu combatants. At some point, the UPDF -- the
21 military commander that we'd left behind to protect the population when I'd gone to
22 Goma, when the military left, when they were told to flee rather than fight, the UPDF
23 and the combatants committed aggressions on members of the population.

24 Q. [12:53:51] What information did you get about the possible implication or
25 involvement of the UPDF in this massacre?

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1 A. [12:54:07] I did not have any precise information saying that the UPDF had
2 killed members of the population, but when troops of the UPDF went to look for
3 forces guarding -- FPLC forces guarding Drodro, when the forces were fleeing the
4 UPDF, they killed members of the population who could not protect themselves and,
5 therefore, the UPDF was complicit in the killing of the population at that time.

6 Q. [12:54:50] Mr Ntaganda, I'd like to show you an additional document,
7 DRC-OTP-2078-0393, and it's item 396 on our list. And I would like the first page on
8 the document -- of the document to be shown on the screen, please.

9 And I would like to use the same --

10 PRESIDING JUDGE FREMR: [12:55:27] Hold on, Mr Bourgon.

11 Ms Samson.

12 MS SAMSON: [12:55:30] No objection to showing the document, Mr President.

13 The document, if possible, should remain confidential. And to the extent that
14 counsel will proceed to ask questions on the basis of the document, I would just make
15 the submission that whatever information needs to be elicited without use of the
16 document should be done first so that the exercise is not one of leading the witness by
17 showing the material later. I do not know what portion is intended to be read at this
18 stage, but I raise a general observation and submission that whatever information
19 needs to be elicited, we should get the witness's memory first as the basis to show the
20 document. Thank you.

21 PRESIDING JUDGE FREMR: [12:56:14] Mr Bourgon, do you have any problem
22 with such a proposal?

23 MR BOURGON: [12:56:19] Absolutely not, Mr President. What I intend to elicit
24 was already asked from the witness, so I'm just going to corroborate or confirm what
25 the witness has just mentioned. Nothing new in this regard. But then I agree with

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1 the confidentiality of the document, which should not be displayed.

2 PRESIDING JUDGE FREMR: [12:56:39] All right then.

3 MR BOURGON: [12:56:46] (Interpretation)

4 Q. [12:56:49] Mr Ntaganda, on the first page of the document -- I may not have
5 given the number, DRC-OTP-2078-0393. Here, Mr Ntaganda, we see on this
6 document the date 17 May 2003 and we see the subject of the report:

7 (Speaks English) "Human Rights crisis in Ituri/Drodro report of OHCHR."

8 (Interpretation) Mr Ntaganda, did you have access to this document at the time?

9 A. [12:57:53] No.

10 Q. [12:57:57] Do you recall having seen this document during the preparation for
11 your defence?

12 A. [12:58:10] No, I didn't see it.

13 Q. [12:58:15] I would like to have page 5 of this document displayed on the screen,
14 DRC-OTP-2078-0398. And if possible I would like to enlarge para. 15.

15 Mr Ntaganda, I'm going to read you paragraph 15. It's in French this time:

16 "The assailants were identified as being Lendu militia. However, strong
17 assumptions also implicate the Ugandan army if they did not participate directly in
18 the events of 3 April 2003, had a strategic interest in the attack of Drodro following
19 the fact that their presence have been -- that the presence in the region of Thomas
20 Lubanga had been indicated plus other people whose names I won't mention. Some
21 sources, a number of its sources contacted by the special investigating team did not
22 exclude the possibility of the Ugandan army having been complicit in these events."

23 Mr Ntaganda, does this paragraph in its broad lines correspond to the information
24 that you retained regarding who was responsible for the attack on Drodro?

25 A. [13:00:28] Yes, it is a faithful report.

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1 Q. [13:00:34] Mr Ntaganda, since you have not seen the end of paragraph 15, I
2 would like to have on the screen 2078-0399 with the top of the page visible, please.
3 Do you see Richard's name at the top of this page?

4 A. [13:01:12] Yes, I can see his name there.

5 Q. Mr President, I want this document to be admitted as evidence, that is to say,
6 simply the paragraph read to the witness, paragraph 15, in the context of the
7 document as we have done with the previous documents.

8 PRESIDING JUDGE FREMR: [13:01:38] Prosecution.

9 MS SAMSON: [13:01:40] No objection, your Honour.

10 PRESIDING JUDGE FREMR: [13:01:42] Part of the document specified by
11 Mr Bourgon is entered into evidence as a further Defence exhibit.

12 Mr Bourgon, please proceed.

13 MR BOURGON: (Interpretation) Thank you, your Honour.

14 Q. [13:02:04] Mr Ntaganda, did you receive any other information about other
15 events when you were in Goma and you were listening to radio broadcasts?

16 A. [13:02:23] Yes, there was talk of massacres which were carried out in Bunia.
17 In particular, when the UPDF withdrew, Goma announced that a great number of
18 people had been killed and this was -- this information was broadcast by various
19 stations.

20 Q. [13:02:52] Did the radio reports mention what had happened after the UPDF
21 left and after the events that you have just described?

22 A. [13:03:10] Yes, it was said that many members of the population had left with
23 the UPDF for fear of being killed, and they said that those who remained were hiding
24 with the MONUC and that they were living in a very dangerous situation.

25 Q. [13:03:39] During these reports, did you hear any mention of what was

1 happening to the FPLC in Ituri?

2 A. [13:03:51] Yes. At the time of the liberation of the FPLC and the arrival of
3 Kisembo, this event was also covered by the radio stations.

4 Q. [13:04:14] Do you remember the date on which you left Goma?

5 A. [13:04:29] It was right at the beginning of June 2003.

6 Q. [13:04:35] Where did you go and how did you get there?

7 A. [13:04:45] We left Goma and we went to Blukwa, where we had got the aircraft
8 at the football stadium. Kisembo had sent us vehicles to transport us to Bunia.

9 Q. [13:05:07] When you say "we", who do you mean?

10 A. [13:05:20] Myself, President Thomas Lubanga, Rafiki, Lonema, the old man
11 Mafuta and two or three of Thomas' bodyguards whose name I -- I can't remember
12 how many. I do remember the influential members of the population who were
13 with us.

14 Q. [13:05:55] Who took the decision to go back to Ituri?

15 A. [13:06:05] President Thomas himself.

16 Q. [13:06:10] Did you have the opportunity to discuss with President Lubanga
17 before taking the aircraft to Blukwa?

18 A. [13:06:28] No, he told us to prepare ourselves to go home. I didn't ask him
19 questions, I respected him.

20 Q. [13:06:40] You said that Kisembo had sent vehicles. When you arrived in
21 Blukwa, where did you go?

22 A. [13:06:53] We arrived in Blukwa. We took the vehicles which took the
23 president to where he was to stay in Mudzipela.

24 Q. [13:07:16] Do you recall what the president did in Bunia when he first arrived?

25 A. [13:07:32] President -- I don't know when he started his journey, but it didn't

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1 take long. He went to speak with members of the population to discuss with them
2 and to console them in view of the events that had taken place following the
3 departure of the forces.

4 Q. [13:08:10] Did President Lubanga have any public event with the population?

5 A. [13:08:19] Yes, he held a meeting in the centre of Bunia on a tribune, and he
6 consoled the members of the population, and they asked him questions about the
7 situation and he answered them.

8 Q. [13:08:43] Were you present at this public meeting?

9 A. [13:08:52] Yes, I was there.

10 Q. [13:08:56] What was your role at that time?

11 A. [13:09:01] I had only just arrived and I took part in terms of his own safety
12 because the enemy was not far away at that time. They were close to Bunia. We
13 had to ensure that the enemy should not come and disrupt the meeting between the
14 president and the members of the population.

15 Q. [13:09:36] Before we go to lunch, Mr Ntaganda, I'd like to show you a short
16 video, D18-0001-0431. This is item 306 on our list. The transcript is
17 DRC-D18-0001-5599, and this is item 307 on our list. The translation is at
18 DRC-D18-0001-5609, which is item 308 on our list.

19 Mr President, I suggest that we show 20 seconds to start with so that Mr Ntaganda
20 can verify the recording.

21 PRESIDING JUDGE FREMR: [13:10:46] All right.

22 THE COURT OFFICER: [13:10:48] Could he please confirm that this video is
23 public.

24 MR BOURGON: [13:10:58] (Interpretation) This is, indeed, a public document.
25 I put it in my notes.

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1 Q. [13:11:05] Mr Ntaganda, I'm going to show you 20 seconds without the sound
2 and then we're going to start at 01.48.20 and go to 01.49.00. This is purely for
3 purposes of identification.

4 (Viewing of the video excerpt)

5 MR BOURGON: [13:12:05] (Interpretation) The video was stopped at 01.48.49.

6 Q. [13:12:18] Mr Ntaganda, is this sufficient to allow you to identify the event in
7 question?

8 A. [13:12:27] Yes. I can remember that because when we were in Goma the
9 president did not want to shave his beard.

10 Q. [13:12:46] So what is the event?

11 A. [13:12:54] It's the day that we held the meeting. He was wearing that
12 uniform and that hat. And the person next to him is recording it. He was called
13 Lokana. This was right at the beginning of his return. That was when he held this
14 meeting.

15 MR BOURGON: [13:13:17] (Interpretation) Mr President, if you are in agreement,
16 I would like to show a short extract with sound from 01.48.22 to 01.50.30 with sound.
17 The transcript is on 5607, line 206 to page 5608 to line 235. The translation is on
18 page 5618, line 216 to page 5619, line 251. We are ready to proceed, Mr President, if
19 you agree.

20 (Viewing of the video excerpt)

21 THE INTERPRETER: [13:14:28](Interpretation of the video excerpt)

22 "We should not start signing decrees and decisions motivated by money. Let us sign
23 documents that will stop the massacres.

24 That would be a good way of working.

25 I think that we are at the end of our conversation. I'm going to pass the floor to our

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1 chief of the general staff, General Kisémbu. He's going to speak to you a bit. But as
2 far as I'm concerned, in conclusion, I would ask people in this area and even those
3 who are camping out to come back to their homes.

4 Yes.

5 People should return to their homes so that there be an end to the disorder in the
6 town. People their homes open, they left chairs and cupboards. Today these
7 houses are abandoned, and when people come and steal, the news gets out that at
8 Bunia the UPC is unable to stop looting. This is because people are hiding with
9 MONUC, they want to stay there free of charge, they want to eat free, but they only
10 want to eat biscuits, only biscuits.

11 They should come back to their homes so that we know what we are doing. If it's
12 really true that we have failed to ensure security, then we will know that there we
13 have failed.

14 Yes.

15 But it should not be that the people set up camp out in the periphery and start to tell
16 journalists things that are untrue. I have also heard that they're coming out during
17 the day and they're going into the town and they are returning to their camps in the
18 evening. This is really a disgrace. So thank you, dear brothers, thank you all, we
19 are all happy to have had this day and we will be happy to be with you tomorrow.
20 Thank you very much."

21 MR BOURGON: [13:16:56] (Interpretation) The video was stopped at 01.50.30.
22 (Speaks English) Mr President, I think we can stop here and I will ask my question
23 just when we return from the break.

24 PRESIDING JUDGE FREMR: [13:17:21] No problem. So we are taking our
25 regular lunch break and we will reconvene at quarter to 3, yes.

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1 THE COURT USHER: [13:17:34] All rise.

2 (Recess taken at 1.17 p.m.)^

3 (Upon resuming in open session at 2.45 p.m.)

4 THE COURT USHER: [14:45:56] All rise.

5 Please be seated.

6 PRESIDING JUDGE FREMR: [14:46:19] Good afternoon, everybody. I don't see
7 any changes in appearances. So in this afternoon's session, which, for the reasons I
8 mentioned on Friday, will take 90 minutes only, we will continue with
9 examination-in-chief conducted by Defence.

10 Mr Bourgon, you may proceed.

11 MR BOURGON: [14:46:44] (Interpretation) Thank you, your Honour.

12 Q. [14:46:53] Good afternoon, Mr Ntaganda.

13 A. [14:47:00] Good afternoon.

14 Q. [14:47:05] Before we broke for lunch, we viewed a video of

15 Mr Thomas Lubanga appearing in public upon his return to Bunia in July 2003.

16 Now, my question is the following, Mr Ntaganda: Was the civilian population
17 happy to see Mr Lubanga?

18 A. [14:47:41] Yes. If you viewed the video, you will observe that the people had
19 suffered hardship in our absence and had been awaiting liberation by him and was
20 very happy that he had returned.

21 Q. [14:48:09] How did the people respond, notably to what Mr Lubanga had to
22 say regarding security in Bunia?

23 A. [14:48:32] He gave them an opportunity to put questions, and members of the
24 community talked about how they had suffered and they asked him why he had
25 abandoned the population and left them in the hands of people who had killed

1 people. They spoke of people being killed and their bodies being left in the street.

2 And they asked, "How could you abandon the people to those barbarians?" During
3 the whole period that UPC had governed the town there had been no problems, and
4 in the video you can see the people interacting with Thomas Lubanga and putting
5 questions to him.

6 PRESIDING JUDGE FREMR: [14:49:33] Sorry to interrupt you, Mr Bourgon. If I
7 could put one additional question. Mr Ntaganda, you are in your response talking
8 about people. At that time during this event, during the speech of

9 Mr Thomas Lubanga, what was the ethnic composition of the inhabitants of Bunia at
10 that time? Was there any clear majority, ethnic majority, or was all ethnic groups
11 represented at that time?

12 THE WITNESS: [14:50:15] (Interpretation) Well, I can't really say. He didn't ask
13 what the make-up was of the ethnic groups present, but all ethnic groups were
14 represented. When he returned, all people who had been in internally displaced
15 people's camps returned. And when Lubanga held those rallies, there was a mix of
16 people from various ethnic groups. Some people had fled to Uganda. So it wasn't
17 really possible to say which ethnic groups were in the majority.

18 PRESIDING JUDGE FREMR: [14:50:52] So I will be a bit more concrete. And
19 Lendus also were represented among those people who in fact welcomed UPC
20 arrival?

21 THE WITNESS: [14:51:17] (Interpretation) When the UPC was in control of Bunia,
22 there were Lendus in the civilian population. When we left, I don't know if there
23 was a group which had left and had hidden elsewhere. But as regards the time
24 we're talking about, I can't say whether Lendu were present or not. I didn't really
25 pay attention to that aspect.

1 PRESIDING JUDGE FREMR: [14:51:50] Thank you, Mr Ntaganda.

2 Mr Bourgon, please proceed.

3 MR BOURGON: [14:51:53] (Interpretation) Thank you, your Honour.

4 Q. [14:52:05] So, Mr Ntaganda, following up on the question that was just put to
5 you by the Presiding Judge, when Thomas Lubanga returned in June, were there
6 national secretaries from the Lendu group who were accompanying Mr Lubanga,
7 were in his entourage?

8 A. [14:52:36] On the day that he returned when he met with the local population,
9 I don't recall because I wasn't paying attention to that, but there were Lendu. A few
10 days later I learnt that they had taken up seats on the CPE, the Ituri Pacification
11 Commission. So there was certainly representation from all quarters of the
12 population. So, yes, they were there.

13 Q. [14:53:20] Now, following that public event, and you said that that public
14 event took place shortly after Lubanga's return to Bunia, what were you doing then in
15 Bunia yourself?

16 A. [14:53:51] When I came, I had to start off from zero. My house had been
17 destroyed. I didn't know where my bodyguards were. My -- or the person above
18 me scheduled some bodyguards for me. I had to find a new home. So at that time
19 I was trying to re-establish my life and starting to work again, notably by reforming a
20 bodyguard.

21 Q. [14:54:36] Did you have meetings with Thomas Lubanga during that period?

22 A. [14:54:48] When we left, we arrived into Bunia and then they went to Kinshasa,
23 so I didn't have an opportunity to meet with them.

24 Q. [14:55:09] If we take, for example, the first ten days after your return to Bunia,
25 did you meet with Kisembo during that period?

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1 A. [14:55:23] Yes. Yes. I went to see him and a few days later, when I was
2 looking for a place to live, I saw him again. And before going to Mongbwalu for the
3 third time, I saw him.

4 Q. [14:55:52] Now, when you met with Kitembo in those first days after your
5 return to Bunia, did you discuss events which had taken place in Bunia prior
6 to 6 March?

7 A. [14:56:13] No. We didn't talk to many -- about many things. I was with
8 Lonema and Rafiki. What he said was, "We're meeting again." He laughed, and he
9 also appointed me to the highest rank, a major general like himself. We spent some
10 time together and then he lent me his car so that I could return to my home to see if
11 there was anything left. But we didn't discuss the events which had taken place
12 before or after.

13 Q. [14:57:01] Did Kitembo call the officers together to have a meeting of the
14 general staff when you returned to Bunia?

15 A. [14:57:16] Yes. I recall that we did hold a meeting, and that's when I went to
16 Mongbwalu for the third time. He held a meeting before I left.

17 Q. [14:57:35] And where did that meeting take place?

18 A. [14:57:43] When he liberated Bunia, he went to live where I had previously
19 lived in MBK, where I lived before at the time of the Chui mobile force, not far from
20 the Ituri hotel.

21 Q. [14:58:12] And who was present at that meeting?

22 A. [14:58:17] A number of officers, officers that had helped to liberate Bunia town.
23 Yes.

24 Q. [14:58:34] And when did that meeting take place? If we consider the point in
25 time when you arrived into Bunia and the point in time when the meeting took place,

1 how much time had passed since you had arrived into Bunia?

2 A. [14:59:00] Approximately two weeks. Approximately two weeks.

3 Q. [14:59:08] Do you recall the topics that were discussed at that meeting?

4 A. [14:59:23] I do. I recall that there was somebody from the -- the civil secretary,
5 who came and talked about politics and said that people were painting the UPC black;
6 that they were saying it was a Hema party and that those of us who were not Hema,
7 where were we to fit in; and that we shouldn't follow what was being said, but rather
8 we should persist in our own policies. And the chief of the general staff spoke about
9 the army. He said even if our numbers are depleted now, we need to focus on our
10 remit. He thanked everybody who had stayed faithful to the UPC/FPLC ideology.
11 He talked about those who had defected to the PUSIC and the FAPC.
12 He asked our commander to check their forces and see if there were any soldiers aged
13 under the age of 18 years and he said if there were any such soldiers, they had to be
14 demobilised and provided to the NGOs.
15 And those were the type of topics covered at the meeting.

16 Q. [15:01:03] Do you recall whether there was any discussion of the -- of
17 discipline within the FPLC?

18 A. [15:01:18] Perhaps you didn't follow what I said. That was the first thing I
19 mentioned. When the chief of the general staff took the floor at that meeting,
20 discipline was the first topic that he addressed.

21 Q. [15:01:34] And was the matter of attacks or military operations discussed at
22 the meeting?

23 A. [15:01:49] Yes. I recall that at one point somebody - I think it was the
24 president - sent a message saying that there were foreigners to protect the civilian
25 population and that we should no longer attack. He talked about us protecting

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1 ourselves. Yes, those were topics that were covered.

2 Q. [15:02:31] Mr Ntaganda, I'd like to show you another document. It's

3 DRC-D01-0003-5900. And I would like the first page of that document to be

4 displayed on the screen. It is a public document. And this is an item on our list.

5 It's item 84 -- sorry, 640 on our list.

6 Now, Mr Ntaganda, that document is going to be displayed on the screen in front of

7 you. Can you see the document, Mr Ntaganda?

8 A. [15:03:39] Yes, I can see it.

9 Q. [15:03:43] Can you tell me whether the document you're looking at has a -- or
10 is linked to the meeting that you just described to us?

11 A. [15:04:00] Yes, I know those commanders. We were together at that meeting.

12 Q. [15:04:08] Do you know each of the commanders listed at the top of that
13 document?

14 A. [15:04:23] Yes, I know them all.

15 Q. [15:04:31] Now, if we look at that document, we see that the speaker was the
16 CEMG. Now, what does that mean?

17 A. [15:04:49] That is the chief of general staff.

18 Q. [15:04:56] And who were the invitees to that meeting according to this
19 document?

20 A. [15:05:06] Rafiki Saba.

21 MR BOURGON: [15:05:18] (Interpretation) I'd like the second page of that
22 document to be displayed. That's page 5901.

23 Q. [15:05:28] Mr Ntaganda, I'm going to show you the second page of that
24 document, and I'll start right at the top of the page. I'll start with the second
25 paragraph, which starts "The French ..." I'm going to read that paragraph now. It's

1 in French:

2 "The French have arrived. We must respect them even if the president challenged
3 their deployment. That's politics. He just wanted to show everyone how absurd
4 the attitude of the international community was because just after the departure of the
5 UPDF, Bunia town was left at the mercy of those who would perpetrate massacres.
6 They operated under the cover of the international community and nobody reacted.
7 The French arriving when you have already saved the situation. Avoid any
8 behaviour or any action which might make them hostile. That is just a small
9 contribution which I wanted to make to this meeting."

10 Now, Mr Ntaganda, I'd like to put a question to you regarding the content of this
11 paragraph. What did you know at that point in time about the deployment of an
12 international force in Bunia?

13 A. [15:07:20] Yes. Artémis was already at the airport and preparing for their
14 deployment, but I didn't actually go to the airport myself.

15 Q. [15:07:33] Now, at the time of this meeting, had Artémis already been
16 deployed in the town of Bunia?

17 A. [15:07:50] No. When I left Bunia for Mongbwalu, for the third time, Artémis
18 was not yet in town.

19 Q. [15:08:05] Now, in this paragraph it says that the president had challenged
20 deployment by Artémis. Do you have any information about that?

21 A. [15:08:30] No. When that matter was discussed, it was -- the point that was
22 raised is that people were killed while MONUC was present. I don't know if there is
23 anything else meant by it.

24 Q. [15:08:54] Mr Ntaganda, a little bit further down that page we see paragraph 2,
25 military aspect, and there it is stated that the chief of general staff opened by saying

1 the following:

2 "I hope that you have understood these points. I would now like to speak about the
3 military aspect."

4 And then we have the first paragraph, which is the most important one for me, and it
5 says, "The difficulties at this time". It says:

6 "Prior to 6 March there was total discipline: No armed theft, no rape, et cetera. The
7 army was disciplined and that vis-à-vis all comers, even if journalists tell lies.
8 However, now bizarre revenge acts are taking place. I know that there are
9 independent troops, but it is essential that this ceases immediately."

10 Mr Ntaganda, do you recall these words, this message which was delivered by
11 Kisembo?

12 A. [15:10:13] Yes. He addressed those topics. He said that discipline had to be
13 re-established once again and he laid quite some emphasis on that.

14 Q. [15:10:32] Did you yourself witness poor discipline upon your return to Bunia?

15 A. [15:10:44] No. I think he was referring to other groups such as PUSIC, in
16 addition to our group. Because I think he wanted to differentiate between the
17 groups. He was saying that UPC was being accused of all of these things, but I did
18 not see any UPC member who acted in an indisciplined fashion, at least not before I
19 left for Mongbwalu. I didn't see anybody break rules. Kisembo had a cell where
20 people could be detained if they did breach discipline, but I don't know what offences
21 they may have committed.

22 Q. [15:11:46] Now, in the same document there's a third point and it says, "Child
23 soldiers must also be demobilised. Wherever you find them, take them to the
24 NGOs."

25 Now, what did he say on this topic, Mr Ntaganda?

1 A. [15:12:17] Yes, this is the topic I touched upon before. He said this and he
2 mentioned the criterion of being aged under than 18 years. He asked us to inspect
3 our forces, and if we found persons who were aged under the age of 18 years, to
4 demobilise them and to pass them to the NGOs.

5 Q. [15:12:49] Now, further down on the same page in that document we see that
6 there is a section entitled "Other business will be addressed based on your questions."
7 Now, I'm interested in what is stated at R2. That seems to be the reply to; so the
8 reply to question 2. That reply says:

9 "Artémis will soon be deployed in town and everybody will go to their quarters.
10 However, in the interim, order needs to be established because people will say it's
11 always the UPC. Now, you must know how to react."
12 Now, at that meeting, did you know that when Artémis would be deployed in town,
13 that all troops would -- all UPC troops were to return to their quarters -- FPLC troops
14 were to return to their quarters?

15 A. [15:14:10] Yes. You know, I wasn't there when Artémis asked that all troops
16 should leave the town, but I heard from the commanders that some soldiers did not
17 want to leave the town. Even though the troops had been threatened, ordered to
18 leave town, there were some who stayed and hidden in town. Artémis sought them
19 out in town. All those who stayed in town were not under our control.

20 Q. [15:14:58] I'd like to move now to the next page of the document. It's
21 page 5902 and I have a question for you on this, Mr Ntaganda.

22 I'd like to zoom in on the second part of the document.

23 Now, Mr Ntaganda, there is a section there stated "some recommendations from the
24 chief of general staff." Now, I'd just like to put a question to you on one of those,
25 now, the third point. "One of the recommendations is, set up a military police unit,

1 PM, to patrol and do so as soon as possible."

2 Now, what does that mean to you, Mr Ntaganda?

3 A. [15:16:09] PM stands for military police, soldiers who are in charge of arresting
4 soldiers who commit offences. This measure was introduced in order to reinstate
5 discipline in the town so that soldiers who were indisciplined could be arrested. So
6 the idea was to return discipline to the army.

7 Q. [15:16:41] Mr Ntaganda, before 6 March did such a unit exist in Bunia?

8 A. [15:16:54] All the troops who were my escorts were PMs. When Kisembo
9 was not in Mongbwalu, those of his troops who remained were also PMs. So from
10 the time we entered Bunia, we set up that unit and it was in place until 6 March.

11 Q. [15:17:26] Mr Ntaganda, on this document we can see at the bottom of the
12 document the person who refers to himself as the rapporteur. Who is this person?

13 A. [15:17:49] Rapporteur chief G1. At the time, Peter was the G1. He had a 2IC.
14 But I do not remember the 2IC's identity. He was also in attendance, that 2IC, and
15 he was taking notes as well.

16 Q. [15:18:13] Do you know at what time Peter Dz'tho became G1?

17 A. [15:18:28] Upon my return, Kisembo had promoted him to the rank of colonel
18 and appointed him to the position of G1.

19 Q. [15:18:51] Mr Ntaganda, a short while ago you mentioned that you had been
20 promoted to the highest rank. Let me return to the first page of the document,
21 page 5900, and ask you for more details as to the rank which you were promoted to
22 and how you became informed of that promotion.

23 A. [15:19:27] When I arrived at the place, I went to see Kisembo with Lonema and
24 Rafiki. It is on that occasion that he promoted me. We were a small group, and
25 then during that meeting he announced to all the officers that, "Bosco had been

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1 promoted to the rank of major general, like myself. Although I am a major general
2 I am his superior, but know that he is a brave soldier and therefore deserves to have a
3 rank worthy of his exploits." This is what happened during that meeting.

4 Q. [15:20:11] Going by what you experienced in 2003, was there a link between
5 the assignment of ranks and the reintegration of soldiers into the national army?

6 A. [15:20:35] I would say no. Kisembo promoted people while we were in
7 Mamedi, but that's when I was promoted, but it wasn't linked to anything, because
8 before we went to Kinshasa I was the one who was promoting people when I was
9 appointed chief of general staff after Kisembo created his own party.

10 MR BOURGON: [15:21:29] (Interpretation) Mr President, based on the answers
11 provided by the witness, I would like this document to be entered into evidence as
12 Defence exhibit.

13 PRESIDING JUDGE FREMR: [15:21:37] Prosecution?

14 MS SAMSON: [15:21:38] Mr President, this is one of the documents for which the
15 Prosecution will submit issues in relation to its authenticity. The author of the
16 document is intended -- perhaps I could finish my submission in private session,
17 Mr President.

18 PRESIDING JUDGE FREMR: [15:22:05] All right. Court officer, let's move into
19 private session.

20 (Private session at 3.22 p.m.)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Open session at 3.25 p.m.)

5 THE COURT OFFICER: [15:25:21] We're in open session, Mr President.

6 PRESIDING JUDGE FREMR: [15:25:31] Thank you, court officer.

7 Mr Bourgon, please proceed.

8 MR BOURGON: [15:25:38] (Interpretation) Thank you, Mr President.

9 Q. [15:25:46] Mr Ntaganda, let us return to your activities in Bunia. You said
10 that Kisembo assigned you to return to Mongbwalu. Can you explain to the Court
11 how that happened?

12 A. [15:26:05] Yes. In the week when I was putting my escorts back together, I
13 did not find all of them, so he told me that he had left another force when he had
14 come from Mamedi, and he asked me to use that force to go and liberate Mongbwalu
15 for the third time. Which is what I did.

16 Q. [15:26:46] Mr Ntaganda, can you briefly describe to us how you went to
17 Mongbwalu and what you did?

18 A. [15:27:05] I travelled on the Barrière road, but it was impossible to go through
19 Mabanga as I already told you. So I went on foot all the way to Dhego, where I
20 found the force or the troops in question. I split them into two groups. The first
21 group went to Mbidjo while the second went through the airport. And for the third
22 time we liberated Mongbwalu, but we did not spend much time there. The next day
23 we left Mongbwalu upon the orders of Thomas Lubanga. I went with the group that
24 had travelled through Mbidjo.

25 Q. [15:28:01] When you arrived in Dhego and established contact with the forces

1 that had been left behind, how many troops were present at that location as far as you
2 remember?

3 A. [15:28:24] I know that there were -- I would say there were two battalions of
4 about 500 troops which I divided into two groups; I split into two groups.

5 Q. [15:28:39] You say that you travelled with the group that went through Mbidjo.
6 Who was in charge of the other group?

7 A. [15:29:04] The second group went with one Jimmy and one Roy.

8 Q. [15:29:13] Can you tell us a little more about Jimmy and Roy. Who are they?

9 A. [15:29:25] Jimmy was an FPLC commander in 2004, he was appointed brigade
10 commander, but the events I'm referring to took place in 2003. Now, as for Roy, he
11 went to Mamedì with Kisémbu, and so that second group was under the command of
12 Roy and Jimmy and they went through Dala airport. As for myself, India Queen,
13 Aigle Viper and Kabandana we went on the Mbidjo road.

14 Q. [15:30:19] Can you explain to us briefly what happened on the Mbidjo road.

15 A. [15:30:35] We were meant to attack the FAPC which had allied with the Lendu
16 combatants. It was a group that had been left behind by the UPDF. So we attacked
17 Mbidjo, travelling from the Pili Pili road all the way to Mongbwalu. And the other
18 group was on the road to the airport and then we all met up in Mongbwalu.

19 Q. [15:31:12] Were any civilians involved in the fighting on either or the other of
20 the roads?

21 A. [15:31:31] No. Civilians were never involved in the fighting. During the
22 first attack on Mongbwalu civilians fled. After Mongbwalu was liberated, a group
23 went with Kisémbu to Mbidjo and then returned to Mongbwalu. When we were
24 given orders to leave Mongbwalu, we complied and moved further away from
25 Mongbwalu.

1 Q. [15:32:12] Were there any losses or injury on your side during that attack?

2 A. [15:32:27] Yes. I remember that one of my escorts died in Pluto. We also
3 evacuated a wounded person in our group. As for Roy and Jimmy's group, when
4 they retreated I realised that they also had an injured person in their group.

5 Q. [15:33:05] What about the enemy side, do you know whether there were any
6 losses and injury on their side?

7 A. [15:33:13] No. I was not aware of that. After the fighting in Pluto the enemy
8 retreated and we took control of Mongbwalu. And when the enemy left Mongbwalu
9 civilians were able to move about freely in the town of Mongbwalu. We entered
10 Mongbwalu or we took Mongbwalu without any fighting. We didn't have to engage
11 battle against the enemy.

12 Q. [15:33:58] When you entered Mongbwalu through those two roads, were there
13 any civilians in Mongbwalu?

14 A. [15:34:15] There were no civilians in the city when we entered Mongbwalu.

15 Q. [15:34:26] Once you settled in Mongbwalu, what did you do?

16 A. [15:34:44] We set up awaiting a possible attack by the enemy. And the next
17 day, in the morning, the enemy attacked. We engaged battle and we defeated them.
18 And it is at that time that I asked for ammunition because we were short on
19 ammunition. And that is how President Toms asked me to retreat or to withdraw
20 because some MONUC staff had died and there was an attempt to shift the
21 responsibility for their death to us. So he asked me to withdraw. UN Blue Berets
22 had been killed by Lendu combatants and that is why President Thomas asked us to
23 withdraw so that the responsibility should not be shifted to us.
24 Then we went through Dalu, Mabanga and one other location.

25 THE INTERPRETER: Which the Swahili booth interpreter did not get, one other

1 name mentioned by the witness.

2 MR BOURGON: [15:36:10] (Interpretation)

3 Q. [15:36:11] Mr Ntaganda, can you repeat the road on which you travelled when
4 you retreated?

5 A. [15:36:23] We first went through Dala where I left a few troops, then he went
6 on to Lalu and finally to Dhego -- or, rather, to Dhego and then finally to Mabanga.

7 Q. [15:36:40] Now, let me take you back a little bit. When you arrived in Dhego
8 and established contact with the forces that Kisembo had left behind, were there any
9 civilians with those forces that Kisembo had left behind?

10 A. [15:37:11] Yes, what I'm saying is that when Kisembo went to Mamedi he was
11 followed by some civilians and on the way back they settled in Dhego. Those
12 civilians were the inhabitants of Mongbwalu. When I took control of Mongbwalu
13 they came, but when we left they, too, left Mongbwalu. So these are civilians,
14 women, mothers, old people, young people, inhabitants of Mongbwalu in general.
15 They were not soldiers, but they were civilians who were fearing for their lives.

16 Q. [15:37:57] Mr Ntaganda, the civilians that you are talking about, where were
17 they during the fighting when you entered Mongbwalu, where were they?

18 A. [15:38:15] I don't know where they were, but when we took control of
19 Mongbwalu they found out that the war had ended so they had to return to their
20 homes. They had been following the movements of the soldiers.

21 Q. [15:38:44] When you entered Mongbwalu, did you see that any looting had
22 taken place in Mongbwalu?

23 A. [15:38:55] The troops under my orders could not have engaged in any looting
24 because I was extremely severe. There might have been isolated incidents of looting
25 here and there, but large-scale and widespread looting, no, that did not take place.

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1 Q. [15:39:39] Earlier on you talked about going to Mabanga, how long did you
2 stay in Mabanga and what did you do there?

3 A. [15:40:03] I deployed some troops. Upon my return, I went through
4 Mabanga and we spent the night in Mabanga. After leaving Commander Roy at that
5 location, I gave him the responsibility to lead those troops, and then I went on to
6 Centrale and to Bunia -- rather, to Centrale, not to Bunia because we did not have any
7 positions in Bunia.

8 MR BOURGON: [15:40:50] (Interpretation) Mr President, I've been informed that
9 there are a few words missing in the transcript, but I will follow this up subsequently.

10 Q. So after Mabanga, you say that you went to Centrale. Is there a reason for
11 which you did not go to Bunia?

12 A. [15:41:17] Yes. When I went to Mongbwalu, Artémis had issued an order and
13 the FPLC had been ordered to leave the town. All armed soldiers wearing and
14 anyone wearing military uniforms was prohibited from going about in the town.

15 Q. [15:41:58] Mr Ntaganda, do you know where the forces that were in Bunia at
16 that time, do you know where they moved to?

17 A. [15:42:09] I was not there when they left the town. However, Kisembo
18 deployed some commanders here and there to manage the forces that had left Bunia
19 town. There was a brigade in Katoto in charge of the troops in Centrale, Katoto and
20 Mabanga. Another commander was posted in Largu to take charge of the troops in
21 Djugu. And then there was another one positioned in lake Mindjo and his
22 headquarters was in Miala.

23 Q. [15:43:07] The headquarters in Miala, who was the person in charge of that
24 position -- or, rather, who was at that position?

25 A. [15:43:19] It was Kisembo and the G.

1 Q. [15:43:32] You talk about the G, who was the G with Kisembo at that time?

2 A. [15:43:42] There had been a restructuring, different from the one which we
3 looked at on the organisation chart. The G1 was Peter, G2 was Lobo, G3 Linganga,
4 G4 Freddy, G5 Eric Mbabazi.

5 Q. [15:44:10] And you said that you set up at Centrale yourself. How many
6 troops were there with you and who were they?

7 A. [15:44:31] I did not have more than 30 to 40 escorts. The number increased
8 gradually, but when we arrived at that location there were not more than 40 of them.

9 Q. [15:44:44] Mr Ntaganda, going from the time when you left Bunia, following
10 orders from Kisembo to go engage in combat in Mongbwalu, from then until the day
11 you went back to Centrale, so the time to go to Mongbwalu, the situation there, and
12 then the return to Centrale, how much time did all of that take approximately; how
13 many days?

14 A. [15:45:22] My estimation would be some two weeks, two weeks maximum,
15 including both ways, travelling both ways.

16 Q. [15:45:30] During the operations in Mongbwalu in June, did you have any
17 vehicles and how did you go around or go about?

18 A. [15:45:40] We travelled exclusively on foot.

19 Q. [15:45:50] And when you returned to Centrale and Kisembo was in Miala,
20 what was the distance between those two locations?

21 A. [15:46:05] The two localities are very close, one to another. Between Centrale
22 and Bunia there's a distance of 12 kilometres, and Miala is in between the two, so
23 I would say 5 to 6 kilometres distance.

24 Q. [15:46:32] What I'd now like to know from you, Mr Ntaganda, is that when
25 you returned from Mongbwalu, Thomas Lubanga told you to leave there, and what

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1 was the policy at UPC as regards dealing with the armed forces, or more specifically
2 attacks?

3 A. [15:47:00] An order had just been issued to us not to attack the APC or the
4 commanders of the FAPC. We were told to remain in situ, and even if there were
5 attacks to not to respond, because the international force had been deployed to ensure
6 protection of the civilian population and that we shouldn't interfere with that. That
7 was the order.

8 Q. [15:47:36] Now, did the FPLC comply with that order over the months which
9 followed you setting up in Centrale?

10 A. [15:47:50] Yes, the order was complied with; however, the civilian population
11 did suffer.

12 Q. [15:48:01] Now, when you say that the civilian population did suffer, do you
13 mean to say that there were attacks on civilians during that period?

14 A. [15:48:16] Yes, many attacks.

15 Q. [15:48:19] Could you give us a few examples?

16 A. [15:48:25] I remember that Katoto was attacked before I left; Mongbwalu too.
17 I remember Tchomia. People were massacred; many people were killed. I also
18 recall Nizi. Nizi was attacked in July. Largu also. And another place called
19 Kachele had also been the object of an attack. Those are some attacks that I
20 remember, but there were also smaller attacks at different locations which caused
21 many deaths. And Katoto was attacked before I left for Mongbwalu.

22 THE INTERPRETER: [15:49:25] The Swahili interpreter corrects.

23 MR BOURGON: [15:49:28] (Interpretation)

24 Q. [15:49:31] Now, leaving to one side Katoto, because as you said that took place
25 before your return. Now, I'm interested in the period after your return to Centrale

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1 or after you set up in Centrale. Mr Ntaganda, I'd like to show you a document; it's
2 document DRC-OTP-0005-0267. That's item 323 on our list, and I'd like this
3 document to be dealt with in the same way as the others this morning, that is to say
4 that it not be published but we discuss it because it is a public document.

5 Mr Ntaganda, that document will be displayed on your screen.

6 PRESIDING JUDGE FREMR: [15:50:24] Prosecution, no objection?

7 MS SAMSON: [15:50:25] No, Mr President, no objection, but I don't believe it's
8 item 323, at least, I have a video there.

9 PRESIDING JUDGE FREMR: [15:50:36] Mr Bourgon, could you verify.

10 MR BOURGON: [15:50:39] (Interpretation) Oh, excuse me. I think I was mistaken.

11 It was 823. I'm not sure if that's what I said or not, but it's item 823. Excuse me.

12 PRESIDING JUDGE FREMR: [15:50:57] We do have correct number. Is it okay
13 with you, Ms Samson, please.

14 MS SAMSON: [15:51:02] I believe so, Mr President. Is this in fact another
15 document from the United Nations?

16 PRESIDING JUDGE FREMR: [15:51:09] It should be. It was my understanding.

17 MR BOURGON: [15:51:16] (Interpretation)

18 Q. [15:51:18] Mr Ntaganda, you see that this document has an English title "Bunia
19 daily consolidated report 19 July 2003."

20 Now, I'm going to read paragraph 3, subparagraph I, to you and then I'm going to put
21 a question to you, and I'm going to read, in fact, the second point under "main events
22 of the period". It's in English, and I shall read in English:

23 (Speaks English) "A team of sector 6, with support of IEMF, has performed a recce in
24 Kasenyi and Tchomia. This recce has allowed to confirm the attacked of a city by
25 probable Lendu militiamen from Zumbe on 15th July between five hours 30 and 1500

1 in the afternoon. According to the local responsible of Red Cross, 80 civilians have
2 been killed during the attack, 20 injured and 80 others kidnapped and brought to
3 Zumbe. The damages are very important, with 200 or 250 houses completely
4 destroyed and the hospital totally looted. In Kasenyi the most part of the population
5 has fled and lives in very poor conditions under permanent threat of the Lendu
6 militiamen."

7 (Interpretation) Mr Ntaganda, the events described in this document, are they in
8 line with the information that you received at the time as regards Tchomia?

9 A. [15:53:41] Yes, I knew that Zumbe had been attacked in July 2003.

10 THE INTERPRETER: [15:53:55] Tchomia was attacked. Tchomia and Kasenyi.

11 THE WITNESS: [15:54:00]) (Interpretation) And we were told not to respond.

12 MR BOURGON: [15:54:04] (Interpretation)

13 Q. [15:54:04] So do I understand, Mr Ntaganda, that you left the civilians
14 undefended?

15 A. [15:54:12] It wasn't us. We were following an order issued by the United
16 Nations. We had been told that those forces had been deployed to protect the
17 civilian population, and so we complied with the order which had been passed on to
18 us by President Thomas Lubanga.

19 Q. [15:54:42] Do you know how the civilians in Tchomia responded to that
20 attack?

21 A. [15:54:59] The people were extremely angry. They were very angry with
22 PUSIC, and they swore at PUSIC. They were throwing stones at PUSIC forces to
23 drive them out of the locality when we were there, but unfortunately the United
24 Nations forces also drove us out, telling us that it was not our role to protect the
25 civilian population, and so it was that we left that area and returned to where we had

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1 previously been.

2 MR BOURGON: [15:55:36] (Interpretation) Your Honour, based on the answers
3 provided by the witness, I would ask that this document be dealt with the same way
4 as the other paragraphs. That is to say, that paragraph 3I main events of the period
5 that was read to the witness be admitted as Defence evidence.

6 PRESIDING JUDGE FREMR: [15:55:59] Prosecution?

7 MS SAMSON: [15:56:00] No objection, your Honour, that the paragraph that was
8 read be admitted into evidence.

9 PRESIDING JUDGE FREMR: [15:56:07] So the part of the document read out to the
10 witness is admitted into evidence as a further Defence exhibit.

11 Mr Bourgon, please proceed.

12 MR BOURGON: [15:56:28] (Interpretation) Thank you, your Honour.

13 Q. [15:56:33] Mr Ntaganda, I'd like to show you another document. It's
14 document -- it's item 826, DRC-OTP-0152-1609. This document is in English, and I'd
15 like the first page of that report, which is page 1609, to be displayed on the screen,
16 please. It's a public document. And, once again, I suggest that we deal with it in
17 the same fashion. I don't know if there's names on it, but just to be sure that we
18 don't publish names, I'd like it to be displayed as other previous documents were.
19 Mr Ntaganda, you can see the document on your screen. I'd like us to zoom in on
20 paragraph 1 now, please.

21 And I'm going to read this document in English:

22 (Speaks English) "1. Political/Security".

23 (Interpretation) This is a "Bunia Daily Report 27 July 2003".

24 (Speaks English) "It has been reported that renewed massacres have been
25 perpetrated last Friday, allegedly by Lendu militiamen supported by FAPC, in

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1 Drodro and Largo villages, as well as in other surrounding areas, at about 80
2 kilometres north of Bunia. According to various sources, these forces are still active
3 there. This afternoon MONUC PIO was briefed by two journalists from AFP and
4 GAMA who visited Saturday the area in the aftermath of the killings and described
5 the situation as very bad in the whole area. The journalists saw several dead bodies,
6 wounded persons and destruction of property, and reported that the population not
7 only was in a state of great shock but felt that it was abandoned to its fate by the
8 international community. Throughout the zone they visited, the populations
9 informed the journalists that the Lendu forces were planning further attacks
10 northward in the direction of Bule, Fataki, eastward toward Lake Albert, and
11 southward to Bunia from the village of Mabanga."

12 (Interpretation) Mr Ntaganda, does this paragraph which I have just read match
13 your knowledge of the events as it was at the time when you were located in
14 Centrale?

15 A. [16:00:43] Yes. At that point in time the FAPC was working with Lendu
16 combatants as the UPDF had left them and, as you have been able to follow, we
17 attacked -- Fataki and Nizi were attacked after Bule. What you have read is correct.
18 There was an attack on Fataki in January.

19 Q. [16:01:17] Were you aware of those events when you were in the area in 2003?

20 A. [16:01:22] Yes.

21 THE INTERPRETER: [16:01:24] The interpreter corrects: The attack in Fataki was
22 in July.

23 MR BOURGON: [16:01:30] (Interpretation) Your Honour, I'd like this document
24 to be dealt with in the same fashion; that is to say that paragraph 1, excluding the
25 section entitled "Comment", be admitted in evidence, as the comment part was not

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1 read to the witness.

2 PRESIDING JUDGE FREMR: [16:01:47] Prosecution.

3 MS SAMSON: [16:01:49] No objection, Mr President.

4 PRESIDING JUDGE FREMR: [16:01:52] So part of the document specified by

5 Mr Bourgon is admitted into evidence as a further Defence exhibit.

6 Mr Bourgon, you may proceed.

7 MR BOURGON: [16:02:03] (Interpretation) Thank you, your Honour.

8 Q. [16:02:11] Mr Ntaganda, in this last document we hear that the civilians

9 expressed the feeling that they had been abandoned. Now, does that tally with the
10 information which you had and also with the fact that you had been ordered not to
11 use force during that period?

12 PRESIDING JUDGE FREMR: [16:02:36] Ms Samson.

13 MS SAMSON: [16:02:37] Objection, your Honour. I don't see how this witness is
14 able to comment on what the population thought when they said that they felt the
15 international community had abandoned them.

16 PRESIDING JUDGE FREMR: [16:02:52] Mr Bourgon.

17 MR BOURGON: [16:02:55] (Interpretation) Your Honour, it's not what the
18 civilians think at that time, but I want to know what Mr Ntaganda thought at that
19 time as regards that attack. The civilians said that they felt abandoned by the
20 international community, and what I want to ask is whether he thinks that was linked
21 to the fact that he received an order not to use force. So I'm interested in knowing
22 what he and the FPLC thought at the time. He can't know, of course, what was in
23 the minds of the civilians.

24 PRESIDING JUDGE FREMR: [16:03:37] Ms Samson, after having heard

25 Mr Bourgon's explanation, do you insist on your objection?

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1 MS SAMSON: [16:03:44] Yes, Mr President. I believe the question would have to
2 be reformulated entirely because it's based on what the document says, and the
3 document states that the population is upset at the international community. No
4 reference to the UPC or the FPLC. And so Mr Bourgon can rephrase his question if
5 he's getting at something else. Thank you.

6 PRESIDING JUDGE FREMR: [16:04:11] Mr Bourgon, frankly saying, you maybe
7 can insist on your question, but it's true that, you know, the result probably would be
8 of very low probative value for the Chamber if formulated like at the moment.

9 MR BOURGON: [16:04:34] (Interpretation) I'll rephrase my question, your
10 Honour.

11 Q. [16:04:41] Mr Ntaganda, at the time of the events which are documented in
12 this report, did you -- as one of the commanders of the FPLC, would you have wanted
13 to protect the civilians?

14 A. [16:05:03] I think that the FPLC had been created and I, as a commander, had
15 an objective and that was to protect the civilian population and their belongings, and
16 that is why we were not happy about the massacres which had been perpetrated.
17 We complied with the order which had been issued to us with respect to the
18 international force, but the local people were not happy. They demonstrated in the
19 street, they took to the streets to express their feelings. Some of them went to the
20 offices of the United Nations to stand in front of the building and to complain. It
21 was most unfortunate.

22 PRESIDING JUDGE FREMR: [16:06:06] Mr Bourgon, one slight comment from my
23 part. During the Prosecution case, you were a great opponent against leading
24 questions. This question, in my view, was very close to the definition of leading
25 question. Nevertheless, I think the Chamber will adjudicate the answer in light of

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1 that. Please proceed.

2 MR BOURGON: [16:06:35] (Interpretation) Thank you, your Honour. No, I
3 agree. I have been directive in the way I've put my question, but it's based on the
4 document, and as the witness witnessed the events, I think he can speak of his views.
5 But thank you, your Honour.

6 Q. [16:07:01] Witness, I'd like to put a new document to you, and this one is
7 DRC-OTP-0005-0271. And that is item 825 on our list. This document is also public
8 but we should also treat it in the same fashion as the preceding documents. I would
9 ask that the first page of the document be displayed, and I would ask that we zoom in
10 on the first or the upper half of that page, paragraph 3.

11 Now, Mr Ntaganda, you might see here in English, "Bunia Military Daily
12 Report 22 July 03". Now I'm going to read paragraph 3(i) in English and I'll read:
13 (Speaks English) "Significant events on the Period covering 220800hrs-221800hrs.
14 (1) A patrol was dispatched to escort human rights representatives to investigate the
15 recent killings in Solenyama, Ika barriere and Nitzi localities, they reported a total
16 of 18 persons killed in two separate incidents. 16 people were killed in the general
17 area of Nitzi at 201100hrs while the others two in areas of Kisima near Solenyama, the
18 killings were reportedly instigated by the combined force of Lendus and the FAPC
19 combatants of Comd Jermone."

20 (Interpretation) Mr Ntaganda, the events described in this document of 22 July 2003,
21 do they reflect events of which you were aware in 2003?

22 A. [16:10:04] Yes. As regards Nizi, I've already made a statement. So, yes, this
23 is referring to that attack and I was located in Centrale at that time.

24 Q. [16:10:21] Mr Ntaganda, were you aware of measures taken by the Artémis
25 international force following that attack?

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1 A. [16:10:49] It was later that I heard that there was fighting near Bambu, when
2 those who had attacked the population of Nizi had been driven out.

3 MR BOURGON: [16:10:59] (Interpretation) Your Honour, I would like the
4 section of this document which is paragraph 3(i)(1) be admitted as Defence evidence,
5 please.

6 PRESIDING JUDGE FREMR: [16:11:15] Prosecution.

7 MS SAMSON: [16:11:16] No objection, your Honour. The Prosecution notes,
8 however, that some of the information contained in the document was -- the witness
9 could only confirm it after having read the document itself. Thank you.

10 PRESIDING JUDGE FREMR: [16:11:30] All right. So this part of the document
11 specified by Mr Bourgon is admitted into evidence as a further Defence exhibit. You
12 want to MFI it? Sorry. No, no. That's fine. Okay.

13 And, Mr Bourgon, probably I will just ask you to finish at this moment because
14 I would like to devote the last time to some procedural issues.

15 So if you don't mind, let's break now your examination and we will continue
16 tomorrow, because we have still three minutes.

17 MR BOURGON: [16:12:10] (Interpretation) Yes, thank you, your Honour.
18 (Trial Chamber confers)

19 PRESIDING JUDGE FREMR: [16:12:32] So just for your information, Mr Bourgon,
20 so far, according my information, you as a Defence have used 48 hours and
21 45 minutes. So still if you would meet your expectation or your estimation, you
22 should still have for you more than six hours, which then means that you probably
23 won't be able to complete the examination of Mr Ntaganda by Tuesday.
24 How is your expectation or your estimation, Mr Bourgon, just mainly to give chance
25 for -- to Prosecution to be ready for cross in right time?

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1 MR BOURGON: [16:13:23] (Interpretation) I will stick to the estimate which I
2 made. I think that I will need the six hours and 15 minutes which remain to
3 complete. That means that I should complete my examination-in-chief by the end of
4 the first session of Wednesday morning.

5 PRESIDING JUDGE FREMR: [16:13:48] All right. It was mainly intended to
6 inform Prosecution, so Prosecution seems to be ready on Wednesday. It's also in fact
7 information for Ms Pellet. Ms Pellet, we didn't forget about your request, but the
8 Chamber decided to in fact change order compared to Prosecution case because we
9 believed there could be some overlappings, and in order to avoid those overlappings,
10 better to start with Prosecution and then you even will see whether some topics have
11 been already dealt by the Prosecution.
12 So it's for today and tomorrow, we will continue in the same time regime like today.
13 So we will start at 9.45 and we will hold three sessions, 90 minutes each.
14 That's it for today and Court is -- Mr Bourgon, please.

15 MR BOURGON: [16:14:44] (Interpretation) I've just been reminded that I forgot
16 to ask you to admit in evidence the video abstract which we saw today together with
17 the transcript and translation. Thank you, your Honour.

18 PRESIDING JUDGE FREMR: [16:15:02] Yes, Ms Samson, your opposition?

19 MS SAMSON: [16:15:04] No objection to the admission of the extract, your Honour,
20 with the submission that the transcript itself should be marked for identification
21 pending verification of the accuracy.

22 PRESIDING JUDGE FREMR: [16:15:17] All right. So for the moment the only
23 piece which is admitted into evidence is the video itself, and the corresponding
24 transcript and translations are for the moment marked for identification.
25 So that's it and now we adjourn.

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- 1 THE COURT USHER: [16:15:36] All rise.
- 2 (The hearing ends in open session at 4.15 p.m.)