

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
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
8 Thursday, 11 February 2016
9 (The hearing starts in open session at 9.47 a.m.)
10 THE COURT USHER: All rise.
11 International Criminal Court is now in session.
12 PRESIDING JUDGE FREMR: Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 We are in open session.
18 PRESIDING JUDGE FREMR: Thank you.
19 Now appearances starting with Prosecution
20 MR IVERSON: Good morning, your Honours. Appearing today on behalf of the
21 Office of the Prosecutor are Laura Morris, assistant trial lawyer; Nicole Samson, senior
22 trial lawyer; Rens Van der Werf, assistant trial lawyer; James Pace, assistant trial lawyer;
23 Selam Yirgou, case manager; and myself, Eric Iverson, trial lawyer.
24 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.
25 Defence, please.

1 MR BOURGON: (Interpretation) Good morning, your Honour, your Honours, and to
2 all persons present in the courtroom. Representing Bosco Ntaganda, who's present this
3 morning in the courtroom, Elisa Binon, intern; Isabelle Martineau, consultant and legal
4 assistant on a temporary basis; and myself, Stéphane Bourgon. Thank you very much,
5 your Honour.

6 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

7 Legal Representatives of Victims now.

8 MS PELLET: (Interpretation) Thank you, your Honour. The former child soldiers
9 are represented by Mohamed Abdou and myself, Sarah Pellet, within the Office of Public
10 Counsel for Victims. Thank you.

11 MR SUPRUN: (Interpretation) Good morning, your Honour, your Honours. The
12 victims of the attacks are represented by the Office of Public Counsel for Victims, Anne
13 Grabowski, legal assistant, and myself, Dmytro Suprun, counsel.

14 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.

15 And now duty counsel, please.

16 MS DOUCERAIN: (Interpretation) Good morning, your Honour, your Honours.

17 Karin Doucerain, duty counsel for P-290.

18 PRESIDING JUDGE FREMR: Thank you very much, Ms Doucerain.

19 Before we start with testimony, I would like to address four procedural issues. First
20 one, the Chamber acknowledges receipt by way of email yesterday evening on an ex
21 parte basis of certain further information from the Defence regarding his preparations
22 for cross-examination.

23 In order that the Defence can prepare accordingly, the Chamber wishes to note that this
24 additional information has not changed its intention that the Defence should commence
25 its cross-examination once the Prosecution finishes, which we accept maybe tomorrow

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1 afternoon.

2 The second issue is in fact clarification just to ensure the accuracy of the record, the
3 Chamber wishes to clarify that in deciding to admit document DRC-OTP-2057-0281, it
4 took into consideration, amongst other relevant factors, the fact that the witness declared
5 having annotated the document himself, not whether he has or hasn't written the
6 entirety of the original document himself.

7 The third issue concerns objections made yesterday. And several times we face
8 situation when parties, it was mainly Defence yesterday, ask to make their objection in
9 the absence of the witness and because of that witness has been repeatedly escorted out
10 of the courtroom.

11 In the Chamber's view, it's, you know, something that could really disturb this testimony,
12 so we would like to minimize this situation. So if objections should be made, it's
13 message to both parties, please really consider very thoroughly whether it is really
14 impossible to make this objection in the presence of the witness. And if really it's such
15 case, then I would ask you, it is mainly -- mainly request to Defence because normally
16 Defence use French, but if Mr Bourgon you could, in such a case, use to submit your
17 objection English, it would allow us just to ask Mr Witness to take his headphones off
18 and not to escort him out of the courtroom which also should, I think, speed up our trial.
19 So I guess it will be no problem for Mr Iverson because he used English.

20 Mr Bourgon, would it be fine, just make objection, not all your submissions, just make
21 objections in such a case in English.

22 MR BOURGON: Thank you, Mr President. I will gladly do so. If the Chamber
23 recalls, I made myself that suggestion at the beginning of the trial, which was turned
24 down by the Chamber. Thank you, Mr President.

25 PRESIDING JUDGE FREMR: Thank you very much, Mr Bourgon, it's really

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1 appreciated.

2 And then the last issue is our schedule. I think it's known to all of you that we get to
3 some time pressure because as we already indicated, compared to original reserved days,
4 we have just one day buffer, which is February 29, if I'm not wrong, so since we would
5 like still cover as much as possible, so it probably will force us to sit in extended hours.
6 So we will then inform you tomorrow what is our intention, but at least for today we
7 would like to copy yesterday time schedule, which means that we will sit today the first
8 session until 11 o'clock, then from half past 11 until 1 p.m., and the afternoon session
9 should start a little bit earlier, quarter past 2, and should take until quarter past 4.

10 I know that this is a bit inconvenient, but I think you all understand that circumstances
11 are really extraordinary and we simply have to compensate some loss we got in previous
12 days.

13 So if there are no requests for the floor, we can now continue with Mr witness testimony.

14 Mr Witness, good morning. Are you feeling well today?

15 WITNESS: DRC-OTP-P-0290 (On former oath)

16 (The witness speaks French)

17 THE WITNESS: (Interpretation) Good morning, your Honour. I feel well.

18 PRESIDING JUDGE FREMR: So once more I would like to thank you that yesterday
19 you perfectly observed the Chamber's guidance, how to listen to questions, how to
20 respond, so please keep this style also today.

21 And now, Mr Iverson, you have the floor. Do you want to start in open or in private
22 session?

23 MR IVERSON: This morning I'll be going over some confidential documents with the
24 witness, so I would ask that we go into private session, your Honour.

25 PRESIDING JUDGE FREMR: All right.

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1 Then, court officer, let's move into private session.

2 (Private session at 9.57 a.m.) *(Reclassified partially in public)

3 THE COURT OFFICER: We are in private session. And I'm sorry but the court
4 reporter from the English booth needs 30 seconds to fix a technical issue. I'm sorry
5 about that.

6 PRESIDING JUDGE FREMR: So, please, Mr Iverson, yes, you sat down, which is right.
7 You will have to wait until we've got indication that everything is okay with English
8 transcript, which is vital for us at the moment.

9 (Pause in proceedings)

10 PRESIDING JUDGE FREMR: So I got message that we are ready.

11 Mr Iverson, you may proceed.

12 MR IVERSON: Thank you, your Honour.

13 QUESTIONED BY MR IVERSON: (Continuing)

14 Q. Good morning, sir. How are you doing?

15 A. Good morning. Good morning. I'm fine.

16 MR IVERSON: I'm sorry, can I just verify that we are in private session.

17 PRESIDING JUDGE FREMR: I can see the sign, but maybe, court officer, could you
18 kindly confirm that.

19 THE COURT OFFICER: We are indeed in private session.

20 PRESIDING JUDGE FREMR: All right.

21 MR IVERSON: Thank you very much.

22 Q. Yesterday at the end of the day I asked the court usher to show you a number of
23 documents, if you recall. And I would just like to ask one additional question about a
24 set of those documents.

25 And for that purpose I would ask the court usher to show the witness again the original

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1 exhibit, which is number 1 on the Prosecution's list (Redacted)

2 (Redacted)

3 PRESIDING JUDGE FREMR: For the record, so this exhibit is being shown to the
4 witness in hard copy.

5 MR IVERSON:

6 Q. And yesterday on page 99, lines 4 through 6, you confirmed (Redacted)

7 (Redacted). I just ask if you take a look at (Redacted) and

8 then look up at me when you're finished, then I have one additional question.

9 A. You'd like me to check these?

10 Q. Yes, please, sir. Please open up the document and look at every single page just

11 to confirm whether or not every single page (Redacted) and then I have an

12 additional question.

13 Sir, is this exhibit -- are all the pages (Redacted)?

14 A. No. In some places (Redacted)

15 MR IVERSON: Could I ask the court officer to place the document on the Elmo so that

16 the Court can see which pages he's referring to.

17 THE COURT OFFICER: The document placed on the Elmo will be available on the

18 evidence 2 channel.

19 MR IVERSON: And for the record we're looking at (Redacted)

20 (Redacted)

21 Q. So, sir, these three pages that you've identified, do they contain (Redacted)

22 (Redacted)?

23 A. The three documents have (Redacted)

24 (Redacted)

25 Q. And as you look at those three pages, (Redacted) anywhere on any

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1 part of the -- those three pages?

2 So we're looking at page 0013, the witness has identified that the top portion of the
3 (Redacted).

4 Is that correct, sir?

5 A. Yes, that's correct.

6 Q. Can you identify where (Redacted) and where (Redacted)
7 (Redacted) on that page?

8 A. (Redacted)

9 PRESIDING JUDGE FREMR: Mr Iverson, Mr Iverson, just a proposal, I don't want to
10 guide you, but wouldn't it be maybe helpful just to ask Mr Witness to, for example, to
11 put a circle using a marker or something like that just to put a circle what is -- I don't
12 want what prevails whether (Redacted), but simply the -- just to
13 indicate by marker what is the part you are interested in? Because if you would just ask
14 him by questions (Redacted), it seems to
15 me not an easy exercise, but it's up to you.

16 MR IVERSON: Well, to me it seemed clear that (Redacted)
17 (Redacted) which I can see and I think everyone in the
18 courtroom is able to see.

19 PRESIDING JUDGE FREMR: All right.

20 MR IVERSON: And I just wanted to clarify that point.

21 Q. Sir, is there any other page on which (Redacted)
22 other than this page?

23 A. Yes, (Redacted) other pages.

24 Q. Let me ask it in a different way: These three pages, are they the only pages on
25 which (Redacted)?

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1 A. Yes, from what I've seen (Redacted).

2 MR IVERSON: Court usher, could I ask you to display page 0004 on the Elmo, please.

3 Q. Sir, can you confirm that that -- (Redacted)

4 (Redacted)

5 (Redacted)

6 MR IVERSON: And could I ask the court usher to display page 0022, please.

7 Q. And the same question, can you confirm that (Redacted)?

8 (Redacted)

9 Q. All right. Thank you very much.

10 MR IVERSON: The exhibit can be removed from the Elmo and taken back to the court
11 usher's seat.

12 Your Honours, the reason I did this is just to clarify the issue and also to clarify that the
13 Prosecution will not seek to admit Prosecution exhibit 6 on the list of documents,
14 (Redacted), because the purpose for that document was to show (Redacted)
15 (Redacted), he's done that in court, so there's no need at this point.

16 PRESIDING JUDGE FREMR: All right. Well noted.

17 MR IVERSON: Could I ask the court officer to please display the first document, the
18 original document we just saw, but display it on the computer screens,
19 (Redacted)

20 Q. Sir, are you able to see that document clearly on your screen?

21 Sir, are you able to see document on your screen?

22 Okay, I see that the witness is nodding his head yes.

23 Sir, what can you tell the Chamber about (Redacted)

24 (Redacted)

25 (Redacted)

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1 meetings of radio operators. When they are in contact they relay verbally the situation.

2 (Redacted)

3 (Redacted)

4 Q. (Redacted)

5 (Redacted)

6 A. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. (Redacted)

16 A. (Redacted)

17 (Redacted)

18 Q. (Redacted)

19 A. (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. (Redacted)

23 (Redacted)

24 A. (Redacted)

25 (Redacted)

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5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. Thank you.

9 Could I ask the court officer just to scroll up so we can see the number at the top of the
10 document. Yeah, right there. Thank you.

11 Sir, at the top of the document I can see a number and then later on in the document a
12 similar number in a similar format. Could you explain to the Chamber what this
13 number and letter is?

14 A. (Redacted)

15 (Redacted)

16 Q. (Redacted)

17 A. (Redacted)

18 (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 A. (Redacted)

22 (Redacted)

23 Q. (Redacted)

24 A. (Redacted)

25 (Redacted)

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1 Q. (Redacted)

2 (Redacted) What is SMG?

3 A. That's the abbreviation for the weapon, the personal or individual weapon.

4 Q. When you say "personal weapon," can you tell the Chamber what you mean by
5 that?

6 A. So personal weapon is a weapon that one single person uses, even in vehicles. If
7 you want to point out that the person carrying the weapon cannot get on to that vehicle,
8 you always provide that SMG weapon.

9 Q. And what type of weapon is an SMG?

10 A. It's a weapon, as I said, that a single soldier uses. Not two, but one single soldier.

11 And it is used in vehicles to say that the person in that vehicle they can't get into it.

12 *Usually we draw that weapon. It's an SMG.

13 Q. Is it a rifle? Is it a machete? Is it a grenade launcher? What type of weapon is
14 it?

15 A. It's a rifle. A rifle.

16 Q. (Redacted)

17 (Redacted)

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 A. (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 A. (Redacted)

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1 Q. And what is a Tata truck?

2 A. Tata truck. Well, this is a truck that weighs a lot of tonnes. It's a very large truck
3 of the -- from Tata. That's a trademark, like Peugeot, like BMW, like Mercedes. This is
4 a truck by -- of the Tata brand company.

5 Q. (Redacted)

6 (Redacted)

7 A. (Redacted)

8 Q. (Redacted)

9 (Redacted)

10 So I see the SMG again, and then it says "SMG 150." What does that mean?

11 A. It's a rifle. The rifles, SMGs, and the number. The number 150, that's what was
12 written.

13 Q. Do you know what that number represents, 150?

14 A. The figure of 150, perhaps it represents the number of rifles that were asked for
15 because at the start it speaks about the difficulty is the weapon, the SMG 150. So
16 perhaps it's the quantity that the commander asked for.

17 Q. And I'm not asking you to guess. If you know, you know. If you don't know,
18 you don't know.

19 Then I see at the bottom also "G2." What is G2 in this context?

20 A. G2 that's a weapon that two soldiers can use and the trademark, the G2, that's the
21 type of weapon.

22 Q. And RPG?

23 A. RPG too, that's a weapon, a support weapon. A rifle to support a section. It's a
24 rifle.

25 Q. All right. Within the -- I'd like to ask the court officer to go back to the previous

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1 (Redacted)

2 Sir, are you able to see that document on your screen?

3 A. Yes, I can see the document.

4 Q. Looking at the very top I see the date. What does the date at the top mean?

5 A. That's the day, the day of the month of the year 2002.

6 Q. (Redacted)

7 A. (Redacted)

8 (Redacted)

9 Q. (Redacted)

10 A. (Redacted)

11 Q. (Redacted)

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. (Redacted)

17 (Redacted)

18 (Redacted)

19 A. (Redacted)

20 Q. (Redacted)

21 THE INTERPRETER: (Redacted)

22 MR IVERSON: (Redacted)

23 (Redacted)

24 Q. (Redacted)

25 A. (Redacted)

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10 Q. (Redacted)

11 (Redacted)

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. (Redacted)

16 (Redacted)

17 A. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. In the body of the text I see the words Motorola, Thuraya and phonie. Could you
22 tell the Chamber what those three things are?

23 A. Motorola, Thuraya and phonie, these are equipment that is used for
24 communication.

25 Q. I'll start with phonie. What is a phonie, specifically if you can.

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1 A. Phonie, that's equipment. It's a transmitter/receiver used for communications,
2 long distance communications and with a mobile station.

3 Q. Is that different or the same as the HF radio?

4 A. Well, the phonie is the HF radio.

5 Q. So it's just another term for HF radio; is that right?

6 A. Yes. It's the HF radio.

7 Q. And I know you described the Motorola yesterday, so I won't ask you that, but
8 what about the Thuraya. What is the Thuraya?

9 A. Thuraya, it's also communications equipment, transceiver/receiver long distance,
10 but it's also portable. It's not mobile.

11 MR IVERSON: (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. (Redacted)

18 A. (Redacted)

19 Q. (Redacted)

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 MR IVERSON: (Redacted)

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8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. Thank you, sir.

16 MR IVERSON: I notice that it's 11 o'clock and it's time for the break. Thank you,
17 your Honours.

18 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.

19 So we break now and we will reconvene at half past 11.

20 THE COURT USHER: All rise.

21 (Recess taken at 11.01 a.m.)

22 (Upon resuming in open session at 11.34 a.m.)

23 THE COURT USHER: All rise.

24 Please be seated.

25 PRESIDING JUDGE FREMR: So we will continue with the testimony.

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1 Mr Iverson, we are in open session at the moment. I guess you prefer to move into
2 private?

3 MR IVERSON: Yes. Thank you, your Honour.

4 PRESIDING JUDGE FREMR: All right.

5 Court officer, please let's move into private session, and then I see Mr Bourgon on his
6 feet.

7 (Private session at 11.35 a.m.) *(Reclassified partially in public)

8 THE COURT OFFICER: We are in private session, Mr President.

9 PRESIDING JUDGE FREMR: Mr Bourgon.

10 MR BOURGON: Thank you, Mr President. I note for the record that many portions of
11 the testimony of the witness this morning could have taken place in public session. We
12 don't know how to react, whether the Chamber wants us to react every time we believe
13 this is the situation or if it's for the Chamber to react, or if it's only for the responsibility
14 of the Prosecution. We'd like to have some guidance in this area, Mr President. Thank
15 you.

16 PRESIDING JUDGE FREMR: Mr Bourgon, please feel free to indicate that in your
17 opinion the testimony should move into open session. It's your right and I fully
18 understand your interest to keep as much as possible the testimony in public session.
19 In fact, the interest of the Chamber is the same, but at the same time we have to respect
20 the need to protect this witness, especially as concerns any information that could reveal
21 his identity. I agree that it could be different opinion on what kind of information, or
22 maybe to what extent such information is specific that it may disclose the identity of the
23 witness. But as I said, please feel free to indicate that you are not satisfied with the
24 current regime of the testimony.

25 Mr Iverson, you have the floor.

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1 MR IVERSON: And of course if I identify any moment we can go into open session
2 obviously that is our preference as well, and it's easy after the fact to state that something
3 could have been done in open session. I'm gauging my recommendation to the
4 Chamber based on the risk of what we're doing here, which is showing the witness a
5 (Redacted)
6 (Redacted). So that -- just so it's
7 clear that that's the Prosecution's intent to try to keep it in open session as we can.

8 PRESIDING JUDGE FREMR: Mr Iverson, just to comment from my part, so far we
9 haven't seen any problem with this issue. And as I said, as soon the Chamber or myself
10 see the possibility to move into public session, even ourselves we can, or we will request
11 to do so.

12 But now please proceed.

13 MR IVERSON:

14 Q. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. (Redacted)

19 (Redacted)

20 Q. (Redacted)

21 A. (Redacted)

22 Q. (Redacted)

23 (Redacted)

24 A. (Redacted)

25 (Redacted)

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5 A. (Redacted)

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9 Q. (Redacted)

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11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 MR IVERSON: Can I have the court officer please display -- it is now another exhibit.

22 It is exhibit 3 on the Prosecution's list -- I'm sorry, 2 on the Prosecution's list,

23 (Redacted)

24 (Redacted)

25 Q. (Redacted)

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6 Q. (Redacted)

7 A. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. (Redacted)

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE FREMR: Even if I don't share your opinion, it's on the record.

20 Mr Iverson, you may proceed.

21 MR IVERSON: I'd like to ask that the French translation of this message --

22 PRESIDING JUDGE FREMR: Mr Bourgon.

23 MR BOURGON: Mr President, you just issued a ruling saying that you do not agree

24 with my objection. I realize this, but I did say that the question he was never -- he

25 didn't -- the witness never said that (Redacted)

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1 (Redacted)

2 (Redacted)

3 PRESIDING JUDGE FREMR: No, no, my -- I understood your objection was that this
4 question is leading.

5 MR BOURGON: Well, the question is leading, but he was given -- he was put a
6 question that was not something that he said previously.

7 PRESIDING JUDGE FREMR: Mr Bourgon, I didn't consider this question leading. I
8 also quoted what I understood as a leading question. There were not the only
9 possibility -- it was just question asking whether (Redacted)

10 (Redacted). I did not consider this question leading and I don't want to discuss it any
11 more, this issue.

12 Mr Iverson.

13 MR IVERSON: (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. (Redacted)

17 A. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 (Redacted) who is Sierra Alpha?

6 A. Sierra Alpha, as I said, may his soul rest in peace, is Commander Salumu's call sign
7 or abbreviation.

8 Q. (Redacted)

9 (Redacted)

10 A. (Redacted)

11 (Redacted)

12 Q. (Redacted)

13 A. (Redacted)

14 Q. (Redacted)

15 A. I just told you that each commander had a call sign which was made up of either
16 two letters or three letters or an agreed upon name. Now, Mr Salumu had his own
17 code name, Sierra Alpha. Mr Ntaganda's call sign was Tango Romeo, which is the TR.

18 MR IVERSON: (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. (Redacted)

23 A. (Redacted)

24 Q. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 MR IVERSON: Your Honours, I see that it's 1 o'clock.

11 PRESIDING JUDGE FREMR: All right.

12 So we will break now.

13 Court officer, please take Mr Witness out of the courtroom and after that I would like
14 respond to procedural issue briefly.

15 (The witness stands down)

16 PRESIDING JUDGE FREMR: I would like to make inquiry that would have impact on
17 our further planning timing.

18 Mr Iverson, according to my information, in fact so far you exhausted roughly half of the
19 time allotted originally to you, but still I believe that maybe you made some progress
20 that would allow you to finish earlier. So how do you see the situation?

21 MR IVERSON: Well, I think it's possible that I could finish earlier than 10 hours, but I
22 don't want to give the Chamber any guarantees.

23 I can say (Redacted) I'm about 70 percent finished and then I have

24 some additional questioning after that. When I started this morning I thought, well,

25 maybe it could be possible to finish today. I no longer think so because it's taken longer

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1 than I anticipated with (Redacted).

2 So I do expect that I'll go into tomorrow morning and probably finish tomorrow

3 morning during the first session. But again, I don't want to make any guarantees that

4 that is going to happen.

5 PRESIDING JUDGE FREMR: Okay. Please try. And I will ask for you for update at

6 the end of the afternoon session because it will have impact for our planning for Friday

7 because, as I indicated, we are thinking about sitting in extended hours and it will

8 depend what extent we will have to take. Thank you.

9 And Mr Bourgon, one issue concerning you, because also for us it will be important to

10 know whether you are insisting or whether you are ready to change your position

11 concerning possible examination of this witness. I will ask you also at the end of the

12 afternoon session, so please consider or maybe reconsider all factors, including the

13 current testimony.

14 And I'm sure that you would do it anyway, but it's even my legal duty to remind you *of

15 the possible legal consequences of giving up cross-examination, mainly the fact that

16 there is no 100 percent guarantee that the Chamber will call this witness again, it will

17 depend on circumstances that are not, I think, certain at the moment.

18 So please consider this.

19 And I will then ask you at the end of the afternoon session about your final position

20 because we will have to make arrangement, if any, after the afternoon session, I mean

21 arrangement concerning timing for Friday.

22 Now we break and, as I indicated, we have to reconvene a bit earlier than normally,

23 which means quarter past 2.

24 THE COURT USHER: All rise.

25 (Recess taken at 1.04 p.m.)

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(Private Session)

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1 (Upon resuming in open session at 2.19 p.m.)

2 THE COURT USHER: All rise.

3 Please be seated.

4 PRESIDING JUDGE FREMR: Good afternoon, everybody.

5 Good afternoon, Mr Witness. We will continue with your testimony.

6 Mr Iverson, we are in the open session at the moment, so I guess, you would like to

7 continue in private, subject to character of your questions?

8 MR IVERSON: Yes, I would, your Honour.

9 PRESIDING JUDGE FREMR: All right.

10 Court officer, let's move into private session.

11 And, as I said, we will sit today till quarter past 4.

12 MR IVERSON:

13 Q. I'd like to continue with a few of the --

14 THE COURT OFFICER: Mr Iverson, please.

15 PRESIDING JUDGE FREMR: Hold on, hold on. We are not in private.

16 (Private session at 2.20 p.m.) *(Reclassified partially in public)

17 THE COURT OFFICER: We are now in private session.

18 PRESIDING JUDGE FREMR: Now you may proceed.

19 MR IVERSON: My apologies.

20 (Redacted)

21 (Redacted)

22 Q. (Redacted)

23 (Redacted)

24 A. (Redacted)

25 Q. (Redacted)

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1 A. (Redacted)

2 MR IVERSON: (Redacted)

3 (Redacted)

4 Q. (Redacted)

5 (Redacted)

6 A. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. (Redacted)

11 A. (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 A. (Redacted)

15 PRESIDING JUDGE FREMR: Mr Bourgon.

16 MR BOURGON: Thank you, Mr President. I don't believe that the witness is qualified
17 to offer an opinion as to whether a message constitutes an order, especially given the
18 wording of the order which is "I inform you" and I think it's an opinion question that
19 should not be asked of this witness. Thank you, Mr President.

20 PRESIDING JUDGE FREMR: Objection sustained.

21 MR IVERSON: May I be heard on that issue, your Honour?

22 PRESIDING JUDGE FREMR: Please. Sorry, I omit that, sorry.

23 MR IVERSON: I'm not asking the question in the context of an expert opinion. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 PRESIDING JUDGE FREMR: Mr Bourgon, I think no need for further intervention

7 because I am insisting on my previous decision. And still the question as was put to the

8 witness in my view was purely obviously asking for his opinion. It is not asking what

9 he had seen, what he heard, but what he thinks about something, or how he qualifies

10 something. He's not an expert in. So please move on, Mr Iverson.

11 MR IVERSON:

12 Q. What was Mr Ntaganda's relationship to command Tiger One if you know? Was

13 he a superior or a subordinate?

14 A. Tiger One was a subordinate. Mr Ntaganda was his superior.

15 Q. And what is he -- what is Mr Ntaganda telling his subordinate commander to do

16 here?

17 PRESIDING JUDGE FREMR: Mr Bourgon.

18 MR BOURGON: Mr President, we are entering into the exact same thing. All the

19 witness can do is (Redacted)

20 (Redacted) so we are not proceeding any further with this question. Thank you,

21 Mr President.

22 PRESIDING JUDGE FREMR: Mr Iverson.

23 MR IVERSON: Well, I'm asking the witness if he can clarify what Mr Ntaganda is

24 telling his subordinate commander to do here. It depends on what the witness's answer

25 is whether or not I can ask follow-up questions about his knowledge of (Redacted) and

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1 what it means. And this is primarily why we've called this witness, to allow him to tell
2 the Chamber what he knows (Redacted).

3 PRESIDING JUDGE FREMR: Mr Iverson, I think that the first thing should be, okay, he
4 (Redacted)
5 (Redacted)
6 (Redacted) -- or what is the purpose of this question?

7 MR IVERSON: Well, I'm not asking him to interpret, your Honour. Previously, I've
8 asked, for example, (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)

12 PRESIDING JUDGE FREMR: Okay, then please target not just the message as a whole,
13 but single terms within that, please.

14 MR IVERSON:

15 Q. (Redacted)

16 PRESIDING JUDGE FREMR: Mr Bourgon.

17 MR BOURGON: (Redacted)

18 (Redacted)

19 (Redacted)

20 PRESIDING JUDGE FREMR: Mr Iverson, could you rephrase because I think really to
21 ask him why is not proper. It is, again, you know, asking for some --

22 MR IVERSON: Well, I understand what my colleague is saying. I just think had I
23 asked (Redacted), I would not have received
24 that objection, or why was that term used, and he's objecting in this instance because he
25 doesn't want to hear potentially the answer of the witness. But I can rephrase. What

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1 I'm getting at is otherwise innocent-sounding terms there's been no objections, but on

2 this term which is readily --

3 PRESIDING JUDGE FREMR: Okay, I will solve this issue. I will put the question

4 myself.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 PRESIDING JUDGE FREMR: Thank you.

10 Mr Iverson, you may proceed.

11 MR IVERSON:

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE FREMR: Mr Bourgon, I guess that you could remain silent because

16 I guess your objection would be the same like in the previous cases, or is there any new

17 objection?

18 MR BOURGON: Well, Mr President, I think it would be appropriate for the witness to

19 remove his earphones, please.

20 PRESIDING JUDGE FREMR: Yes.

21 (Microphone not activated)

22 THE INTERPRETER: Microphone, Mr President.

23 PRESIDING JUDGE FREMR: (Microphone not activated)

24 THE INTERPRETER: The President's microphone, please.

25 PRESIDING JUDGE FREMR: Sorry, I will repeat it. I didn't switch my -- Mr Witness,

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1 we want to make you comfortable, so we don't want to take you out of the courtroom,
2 just please for a while take your headphones out of your head. The court officer will
3 assist you.

4 And now, Mr Bourgon, you may proceed.

5 MR BOURGON: Thank you, Mr President. The first issue in this regard is, first of all,
6 there is quite plain language here that the Trial Chamber is able to read and understand
7 for itself and does not require any assistance. If the Chamber -- if the Trial Chamber did
8 require assistance because there was some (Redacted)
9 (Redacted) then maybe we can add -- we could ask the witness.
10 Then the second issue comes is what is the qualification of this witness to answer and to
11 provide and assist the Trial Chamber?

12 (Redacted)

13 (Redacted)

14 So contrary to what my colleague is saying, it is not that I don't want to hear the answer,
15 it is because I want to save some court time and let's proceed and move on with relevant
16 questions where we can do and get on with this witness. Thank you, Mr President.

17 PRESIDING JUDGE FREMR: Mr Iverson, do you want to add anything? (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted) -- I think our position, I think position of the Chamber is clear,

22 so please try to follow this.

23 MR IVERSON: I will move on, your Honour. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 PRESIDING JUDGE FREMR: But probably it is not for this witness to give us this
6 explanation.

7 Please provide Mr Witness with headphones and we can continue.

8 Mr Iverson, you have the floor.

9 MR IVERSON: I'd just ask for one small moment, your Honour.

10 (Counsel confers)

11 MR IVERSON: (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. (Redacted)

16 A. (Redacted)

17 Q. (Redacted)

18 A. (Redacted)

19 Q. (Redacted)

20 A. (Redacted)

21 (Redacted)

22 Q. (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE FREMR: Mr Witness.

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1 THE WITNESS: (Interpretation) Mr President, I have not understood the question.

2 PRESIDING JUDGE FREMR: So, Mr Iverson, please try to clarify it to the witness.

3 MR IVERSON:

4 Q. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. (Redacted)

17 A. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 A. (Redacted)

23 THE INTERPRETER: (Redacted)

24 MR IVERSON:

25 Q. (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE FREMR: Mr Bourgon, shouldn't we ask Mr Witness -- I guess this
13 objection concerns the question put?

14 MR BOURGON: Well, I would just like to -- if we can show the witness so he can
15 understand what we're talking about to make it clear for him to -- in all fairness to him,
16 he should get the information (Redacted). I
17 would like if my colleague would just show it to him what is at the end, what is in the
18 beginning and then he'll be able to give us a better answer I believe.

19 PRESIDING JUDGE FREMR: Mr Iverson, maybe it could really assist. What do you
20 think?

21 MR IVERSON: It might assist. I will ask the witness.

22 Q. (Redacted)

23 A. Here I don't see anything.

24 MR IVERSON: Could I ask that just (Redacted)

25 (Redacted)

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1 PRESIDING JUDGE FREMR: Now, for the record, (Redacted) had been put by
2 the court usher in front of the witness.

3 Mr Iverson, you may proceed.

4 MR IVERSON:

5 Q. Could you just open to the first page, please. And then the next page. All right.

6 As you can see and as the Court can see it says "in" right there. My understanding is
7 that (Redacted)

8 PRESIDING JUDGE FREMR: Mr Bourgon.

9 MR BOURGON: Thank you, Mr President. Is it possible to have the screen behind the
10 witness? Because we see on the screen the pages, but the screen -- I see the screen is off
11 and I'm not sure if that is because of the private session or -- usually we see the witness
12 on the screen and it's of assistance to see what he's doing.

13 PRESIDING JUDGE FREMR: Give us some time. I guess the court officer will solve it.
14 Mr Iverson.

15 MR IVERSON:

16 Q. So again I'll ask my question: My understanding is (Redacted)
17 (Redacted) Is that a correct
18 understanding?

19 A. (Redacted)

20 (Redacted)

21 Q. And could I have you turn to the last page, please.

22 And then back. And once again. All right.

23 (Redacted)

24 A. (Redacted)

25 MR IVERSON: And court usher could I just see the evidence tag so I can say what -- for

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1 the record, I can say what page we're looking at. (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 A. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 (Redacted)

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 MR IVERSON: All right. I think that's sufficient. I no longer need the exhibit on the

19 Elmo. Thank you.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. (Redacted)

24 PRESIDING JUDGE FREMR: Mr Bourgon.

25 MR BOURGON: Thank you, Mr President. We're going to be asking the witness to

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1 (Redacted)

2 (Redacted)

3 PRESIDING JUDGE FREMR: I think we will see. Let's move.

4 MR IVERSON:

5 Q. (Redacted)

6 A. (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 (Redacted)

10 PRESIDING JUDGE FREMR: Mr Bourgon.

11 MR BOURGON: The question was asked, he was asked (Redacted)

12 (Redacted), so I

13 think this was asked and answered, Mr President.

14 PRESIDING JUDGE FREMR: Mr Iverson.

15 MR IVERSON: Well, it occurred to me that (Redacted)

16 (Redacted)

17 PRESIDING JUDGE FREMR: Then objection is overruled and you may proceed.

18 MR IVERSON:

19 Q. So, sir, can you comment on what type (Redacted)?

20 A. (Redacted)

21 Q. (Redacted)

22 PRESIDING JUDGE FREMR: Mr Bourgon.

23 MR BOURGON: Thank you, Mr President. The question that was asked to the

24 witness and on the French transcript, at page 52, line 25 and 26:

25 (Interpretation) (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted) I think we can move on,
- 5 Mr President.
- 6 PRESIDING JUDGE FREMR: Mr Iverson, do you have anything on that?
- 7 MR IVERSON: No, your Honour, (Redacted).
- 8 PRESIDING JUDGE FREMR: Please.
- 9 Thank you, Mr Bourgon.
- 10 MR IVERSON: (Redacted)
- 11 (Redacted)
- 12 Q. (Redacted)
- 13 A. (Redacted)
- 14 Q. (Redacted)
- 15 A. (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 Q. (Redacted)
- 19 A. (Redacted)
- 20 (Redacted)
- 21 Q. (Redacted)
- 22 A. (Redacted)
- 23 Q. (Redacted)
- 24 A. (Redacted)
- 25 (Redacted)

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1 Q. (Redacted)

2 (Redacted)

3 A. (Redacted)

4 Q. (Redacted)

5 (Redacted)

6 (Redacted)

7 A. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. Sir, during your time with the UPC, did you ever know of any commanders who
12 refused orders?

13 A. No. I never saw. No.

14 PRESIDING JUDGE FREMR: Mr Bourgon.

15 MR BOURGON: Mr President, the witness of course is able to answer this question,
16 but we'd like to have at least some kind of a foundation as to what period we are talking
17 about and in what capacity he -- this answer applies to. Thank you.

18 PRESIDING JUDGE FREMR: Perhaps next time, but at least for this case Mr Witness
19 said no, which covers any time.

20 MR IVERSON: Just one moment if you will indulge me, your Honour.

21 PRESIDING JUDGE FREMR: No problem.

22 (Counsel confers)

23 MR IVERSON: (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. (Redacted)

2 A. (Redacted)

3 Q. (Redacted)

4 A. (Redacted)

5 Q. (Redacted)

6 (Redacted)

7 A. (Redacted)

8 Q. (Redacted)

9 A. (Redacted)

10 Q. (Redacted)

11 A. (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 A. (Redacted)

15 Q. (Redacted)

16 (Redacted)

17 (Redacted)

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 (Redacted)

23 A. Your Honour, I haven't understood the question well.

24 Q. I'll --

25 PRESIDING JUDGE FREMR: Mr Iverson, please try to rephrase.

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1 MR IVERSON: I'll try to rephrase.

2 Q. Do you remember what was happening in the UPC in and around Bunia and Ituri
3 during this time period, around 19 February 2003? Do you remember the events?

4 PRESIDING JUDGE FREMR: Mr Bourgon.

5 MR BOURGON: Thank you, Mr President. If the witness could remove his earphones,
6 please.

7 PRESIDING JUDGE FREMR: Court officer, please.

8 Mr Bourgon.

9 MR BOURGON: Thank you, Mr President. I understand my colleague's interested in
10 getting the context (Redacted)

11 (Redacted). However, before he asks, before the witness is

12 asked what was happening in February of 2003 I think due to the scope of the expected
13 testimony of this witness we must begin first by establishing any knowledge he has of

14 (Redacted)

15 (Redacted)

16 (Redacted) And not just say what was happening in February of 2003 because

17 then this is a much too vague question and this is not the purpose of the testimony of

18 this witness. So in order to assist the Court, at least we start with (Redacted)

19 (Redacted), and then maybe he can

20 assist, if this is related to any events ongoing at the time. But if not, then that later -- the

21 latter question should be prohibited also. Thank you.

22 PRESIDING JUDGE FREMR: Mr Iverson.

23 MR IVERSON: Well, there was nothing fair, leading or inappropriate about my

24 question. Mr Bourgon is welcome to ask the questions he wants to on

25 cross-examination. I'm asking the witness simply if he remembers the events generally

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1 around that date. If he says yes, I'll inquire further. If he says no, then I will not.

2 PRESIDING JUDGE FREMR: But I think my position may be in the middle of two of
3 you because even to me it seems that your question is really of the rather too general
4 nature and it's a big jump (Redacted). So maybe you should
5 please at least to connect it a little bit closer by two further questions and then to get to
6 this.

7 So I'm not fully sharing Mr Bourgon's view, but at the same time I'm not really satisfied
8 with this question, which is absolutely general. Do you take my point?

9 MR IVERSON: I do, your Honour. It's kind of a -- when questioning a witness it's a
10 chicken or the egg scenario. If you're too specific, then you might miss the information,
11 so I find it helpful to go from the general to the specific. That's what my intent was in
12 asking the question that way. But I will try to ask a few additional questions.

13 PRESIDING JUDGE FREMR: It was fine, but maybe my problem was maybe even to
14 me it is too general maybe just to ask anything on 19th.

15 MR IVERSON: Very well.

16 Q. (Redacted)

17 A. (Redacted)

18 Q. (Redacted)

19 (Redacted)

20 PRESIDING JUDGE FREMR: Mr Bourgon.

21 MR BOURGON: Mr President, now we are entering the field of leading questions.

22 What events he remembers is very different from asking: Do you remember an
23 operation about to begin or already begun? This is very different in terms of triggering
24 the -- what the witness will answer. Thank you, Mr President.

25 PRESIDING JUDGE FREMR: Mr Iverson, your position to this objection?

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1 MR IVERSON: Well, I don't think it's leading. I'm not suggesting an answer in any
2 way. I'm asking if he recalls. If he answers that yes, he does recall, then I'll inquire
3 into that information. If he does not recall, then he doesn't recall.

4 PRESIDING JUDGE FREMR: All right. Objection overruled.

5 MR IVERSON:

6 Q. So, sir, again, can you tell the Chamber if you remember whether the UPC were
7 engaged in operations or about to be engaged in operations around that date, 19
8 February 2003?

9 A. I remember the operations as referred to here in the text, here Lipri is cited. There
10 are people who came and threatened those areas, people coming from the bush. There
11 were also UPC soldiers who were dispatched to come to the aid of the people in those
12 areas. Those people were armed *who would come and threaten the population and
13 there were operations taking place in those areas.

14 PRESIDING JUDGE FREMR: Sorry I have to interrupt.

15 And, Mr Witness, how did you get knowledge of this information? You gave us a
16 description of the context, but why did you get this information?

17 THE WITNESS: (Interpretation) (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 PRESIDING JUDGE FREMR: Thank you, Mr Witness, for this clarification.

22 Mr Iverson.

23 MR IVERSON: Thank you, your Honour.

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 MR IVERSON: (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. (Redacted)

13 A. (Redacted)

14 PRESIDING JUDGE FREMR: Mr Bourgon.

15 MR BOURGON: It's okay, Mr President. The difference between the French and the

16 English was just corrected before my eyes. Thank you.

17 PRESIDING JUDGE FREMR: You may proceed, Mr Iverson.

18 MR IVERSON:

19 Q. (Redacted)

20 A. (Redacted)

21 Q. (Redacted)

22 A. (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 A. (Redacted)

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1 (Redacted)

2 Q. (Redacted)

3 A. (Redacted)

4 Q. (Redacted)

5 A. (Redacted)

6 (Redacted)

7 Q. (Redacted)

8 (Redacted) Is that the abbreviation for battalion, sir?

9 A. Yes. The abbreviation BN stands for battalion. As you can see (Redacted),

10 BDA would stand for brigade. So everybody knows that BN stands for battalion.

11 Q. And the letters CMD you read as command. Is that yet another abbreviation for
12 command, sir?

13 A. (No interpretation)

14 Q. Excuse me, commander.

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 A. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 MR IVERSON: (Redacted)

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2 (Redacted)

3 MR IVERSON: (Redacted)

4 (Redacted)

5 PRESIDING JUDGE FREMR: (Redacted)

6 MR IVERSON: (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 A. (Redacted)

10 MR IVERSON: (Redacted)

11 (Redacted)

12 Q. (Redacted)

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. (Redacted)

17 A. (Redacted)

18 (Redacted)

19 Q. All right. Well, those are all the questions I have for today. Thank you, sir, for
20 being patient. I know that this is sometimes a tedious process, so I appreciate your
21 paying attention and your energy.

22 MR IVERSON: And thank you to the Chamber as well.

23 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.

24 Mr Witness, I have to join Mr Iverson in thanking you because really you are doing very
25 well.

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1 Now you can take some rest and we will continue with your testimony tomorrow
2 morning.

3 So now please court officer take Mr Witness out of the courtroom, and then I will
4 address some procedural issues briefly.

5 (The witness stands down)

6 PRESIDING JUDGE FREMR: First of all, I would like to appreciate one aspect of the
7 way how Mr Iverson conducted his questioning and this fact that he was referring
8 always and precisely to full ERN number together with short ERN number concerning
9 exhibits used with this witness.

10 I think we, and even thanks to flawless assistance of our court ushers, in my view, really
11 import significantly expedited our proceedings. So I would like to encourage parties to
12 follow this practice in future.

13 Second issue. Mr Iverson, according my information, you should still have slightly
14 more than 3 hours for tomorrow. Do you think you will need all those 3 hours?

15 MR IVERSON: I think not. I don't think I'll require all 3 hours. Probably more like
16 an hour and a half to 2 hours.

17 PRESIDING JUDGE FREMR: We would strongly encourage you to go and try to
18 streamline the rest of your examination. So thank you for this promise.

19 MR IVERSON: I'll do my best to keep it that way.

20 PRESIDING JUDGE FREMR: Yes. It is not binding obviously.

21 Now, another inquiry to Defence. As I indicated for us it is really determinative your
22 position concerning cross-examination of this witness. So Mr Bourgon I'm asking you
23 on that.

24 MR BOURGON: Thank you, Mr President. I have consulted with Mr Ntaganda as
25 judiciously advised by the Chamber. We stand by the position that we have -- that we

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1 have put forward on Tuesday, and I will be able to say more on this issue tomorrow.

2 Thank you, Mr President.

3 PRESIDING JUDGE FREMR: Okay. So because we, in fact, will anyway will have
4 probably to amend a bit our schedule because, I guess, maybe, it will depend, we also we
5 are still waiting for a response from Defence concerning the possible amended plan, but
6 it's still some possibility to amend our plan. And we originally also were ready to sit
7 even 6 hours, which means three sessions, 2 hours each, in order to still finish by
8 February 29th, which is our deadline. And we simply can't afford to go further because
9 of other cases that will need the courtroom.

10 And also in order to give some, as we in fact granted in our previous decision, to give to
11 Defence some time for preparation of cross-examination to upcoming witnesses, so we
12 will have to consider all those factors, and, I guess, we will be able to provide you with
13 new schedule tomorrow morning, but it seems if the Defence is not intending to
14 cross-examine this witness that we can start at least for tomorrow 9, 9.30. Sorry?
15 So it was my misunderstanding, sorry, so we will have to start tomorrow 9 o'clock, and
16 so please be ready for this extended -- so, give me a second, I am completely now
17 confused.

18 (Pause in proceedings)

19 PRESIDING JUDGE FREMR: So we have to be flexible, but anyway we will start
20 tomorrow 9.30, and then we will wait for the final word from Defence, and then we will
21 adjust our further plan, our further schedule accordingly.

22 So now Court is adjourned.

23 THE COURT USHER: All rise.

24 (The hearing ends in private session at 4.26 p.m.)

25 RECLASSIFICATION REPORT

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- 1 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 2 the public reclassified and lesser redacted version of this transcript is filed in the case.