

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 International Criminal Court

2 Trial Chamber III - Courtroom 2

3 Situation: Central African Republic

4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08

5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and

6 Judge Kuniko Ozaki

7 Trial Hearing

8 Tuesday, 13 September 2011

9 (The hearing starts in open session at 9.33 a.m.)

10 THE COURT USHER: All rise. The International Criminal Court is now in session.

11 Please be seated.

12 THE COURT OFFICER: Good morning, your Honours, Madam President. We are in

13 open session.

14 PRESIDING JUDGE STEINER: Good morning. Could, please, the court officer call the

15 case.

16 THE COURT OFFICER: Situation in the Central African Republic, in the case of The

17 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.

18 PRESIDING JUDGE STEINER: Thank you very much. Good morning and welcome

19 the Prosecution team, Ms Kneuer present today, legal representatives of victims, the

20 Defence team, Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters and

21 court reporters. We will continue with the questioning today of Witness 33.

22 Before we bring the witness into the courtroom, the Chamber received from Maître

23 Badibanga this morning, with copy to the Defence, its response to the Defence request to

24 amend the list of documents to be used for the questioning of Witness 33.

25 So the Prosecution, the views of the Prosecution, only one of the documents pointed

26 13.09.2011

Page 1

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 out by the Defence relates to a document which need -- has arisen from the questioning of
2 the witness. The other five documents from the list, the Defence could have made its
3 judgment from the statement of the witness.

4 So the Chamber would like to ask whether the Defence would like to reply to this
5 Prosecution response?

6 MR HAYNES: It's just been forwarded to me. Can I do it after the first break?

7 PRESIDING JUDGE STEINER: You can do it after the first break, with the condition that
8 you are not going to use these documents before the Chamber comes up with a decision.

9 MR HAYNES: I understand that, of course.

10 PRESIDING JUDGE STEINER: Okay. I ask, please, the court officer to turn into closed
11 session for the witness to be brought into the courtroom.

12 (Closed session at 9.38 a.m.) * Reclassified as Open session

13 THE COURT OFFICER: We are in closed session, Madam President.

14 (The witness enters the courtroom)

15 WITNESS: CAR-OTP-PPPP-0033 (On former oath)

16 (The witness speaks French)

17 PRESIDING JUDGE STEINER: We can turn into open session, please.

18 (Open session at 9.39 a.m.)

19 THE COURT OFFICER: We are in open session, Madam President.

20 PRESIDING JUDGE STEINER: Thank you. Good morning, Mr Witness.

21 THE WITNESS: (Interpretation) Good morning, your Honour.

22 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue giving your
23 testimony?

24 THE WITNESS: (Interpretation) Certainly I am ready.

25 PRESIDING JUDGE STEINER: Mr Witness, before I give the floor to the legal

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 representatives of victims, Maître Zarambaud and Maître Douzima, I need to remind you
2 that you are still under oath. Do you understand that?

3 THE WITNESS: (Interpretation) I understand that, your Honour.

4 PRESIDING JUDGE STEINER: I also want to remind you about the protective measures
5 that were put in place for your protection, for protection of your identity, so I wanted to
6 remind you not to mention in public session any information that could lead to your
7 identification. If need be, you let us know and we go into private session. Is that fine
8 with you, sir?

9 THE WITNESS: (Interpretation) I understand that.

10 PRESIDING JUDGE STEINER: So I give the floor to legal representatives, starting by?
11 Maître Zarambaud, you have the floor.

12 MR ZARAMBAUD: (Interpretation) Thank you, your Honour.

13 QUESTIONED BY MR ZARAMBAUD: (Interpretation)

14 Q. Good morning, Witness.

15 A. Good morning, sir.

16 Q. Unfortunately I was not able to attend a familiarisation session with you, so I would
17 like to introduce myself. I am Maître Zarambaud Assingambi. I am a lawyer with the
18 Courts in the Central African Republic and here I am the legal representative of victims
19 with my fellow lawyer, Marie-Edith Douzima.

20 I shall have some questions to ask you and you will have to comply with the rules which
21 you are already acquainted with; in other words, the five-second rule. When I ask you a
22 question, you will leave a gap of five seconds before answering the question. Similarly,
23 as the President of the Court has just reminded you, you must avoid giving any
24 information which could lead to you being identified. Having said this, I will not have
25 many questions to ask you for some of these questions have already been asked by the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 Prosecutor and your answers were in line with my expectations.

2 Now, the first series of questions will be based on the statement which you made, and this
3 first statement is on the question: Did the troops come to Bangui by the river? This is
4 the reference CAR-OTP-0009-0022 and page 0079, the last paragraph, and your statement
5 was as follows, "The forces simply came across and ended up opposite Bangui in Zongo,
6 in Libenge and Maya."

7 Now, the question I would like to ask - my first question - is whether these soldiers were
8 professional soldiers?

9 A. I would like to understand your question. When you talk about being professional,
10 do you want to know if they were members of military forces?

11 Q. I'm talking about the troops, because you can have professional career soldiers, or
12 you could have people who were just taken in for the circumstances and sent off to do the
13 work of the soldiers, but it wasn't their job, their profession?

14 A. In formal terms, they were members of the military forces. They were members of
15 the units of the Army for the Liberation of the Congo.

16 Q. Thank you. Now, you were able to see them crossing over. How were they
17 dressed? What was their headgear and what were they wearing on their feet?

18 A. I personally was not an eyewitness when they crossed over. To my knowledge the
19 ARC forces, that is the Army for the Liberation of the Congo forces, had some who had
20 been given the outfits of our former ally, Uganda, and others who did not have the outfits
21 available to them had to get by with whatever was there. That meant they could be
22 dressed in what you might call casual gear. They might have say military trousers and
23 then just an ordinary civilian top, or the other way around.

24 Q. Thank you, Witness. My second series of questions is on some of your statements.
25 Now, you made a statement, and this is the reference, CAR-OTP-0009-0022, page 0041,

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 paragraph 10, and you said that, "Bemba was above the army, or in charge, and he was
2 called the Commander-in-Chief. He was the number one for the army." You even said,
3 and this time it is page 0056 in the same document, you said and I am quoting, "Bemba
4 had a radio in his living room and he could establish direct contact with the commanders
5 in the field. He read his book and he said -- or he said in his book, 'I gave orders,' 'I
6 said' and so on and this is what he really did. He gave orders to Amuli and Amuli had
7 to transmit them." And you even said, talking about his code-name, and this is
8 document CAR-OTP-0009-006,3, page 0093, you said that, "Bemba was a general. He had
9 been given the rank of general, the stripes and the stars."

10 My question is as follows: Could you confirm, or deny, the statement you made saying
11 that Bemba had direct communications with commanders in the field?

12 A. I can confirm that. He sometimes had direct communications with commanders in
13 the field, but I must admit there were times when he could respect the chain of command.
14 In other words, he gave orders to the head of general staff for the orders to be carried out.
15 But I can also confirm that he did establish contact and he did this on a regular basis;
16 contact with the commander in the field where the hostilities were taking place.

17 Q. Thank you. My next question is can we know the date, or at least the period, when
18 Bemba was appointed general, as you said, and also who appointed him general?

19 A. His Excellency President Jean-Pierre Bemba was appointed general, if I remember
20 correctly it was July 2002. Then for the question of who appointed him general, there
21 was a commission for giving ranks and it was in the course of that commission meeting
22 that the -- it was decided that he would be given the rank of general.

23 Q. Thank you. The next series of questions - well, it's just one question - is related to
24 your statement, which is the document CAR-OTP-0009-0022, page 0045, paragraph 7, the
25 last paragraph, and on that page you stated and I'm quoting, "Bemba had just left

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 Kisangani to get up to the first group of soldiers we'd bought from the RCD, \$100 per
2 person. There were 144 soldiers. There were even troops from the RCD that joined us,
3 including Romain Mondonga, the commander, and Commander Mustapha, currently
4 general and originally from a Rwandan tribe in the east of the Congo, the Banyamulengue,
5 and he was the commander of operations in the Central African Republic in Bangui."

6 My question is related to the last part of this quote. In your opinion, why were the
7 soldiers which Bemba had sent to Bangui called "Banyamulengue"? Do you consider that
8 that term was the appropriate term for what they really were?

9 A. What I meant was that the brigade which was under the command of Mustapha,
10 currently general, was not a brigade that was completely Banyamulengue ethnic soldiers.
11 They could be soldiers from other provinces, or other parts of the Équateur province, from
12 Bumba, Gemena, and there had been training given there throughout all the time the
13 Army for the Liberation of Congo was there.

14 Then for the question as to why they were called "Banyamulengue," well, it's quite simply
15 linked to their ethnic group, because those soldiers were members of a Congolese ethnic
16 group called "the Banyamulengue," but that ethnic group was originally from Rwanda.

17 Q. Thank you. The next series of questions is related to your statement, when you
18 said you yourself had seen the booty, what had been looted, and I would like to know if
19 Bemba was also informed of this, but I think you answered that sufficiently. You
20 answered questions of the Office of the Prosecutor, so I shan't ask you any questions
21 about that.

22 So the next series of questions is also on your statement, reference -- now, you said that
23 (Redacted) and you gave us a long list of the
24 officers who had got vehicles in Bangui and you gave the brands of the cars. So you gave
25 full information on that and so I shall go on to another point.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 In general, for the punishment given, you said that for Bangui Colonel Mondonga, who
2 was in charge of the investigation, had brought some of these soldiers in, they had been
3 arrested and then a court set up by General Bule was there to judge them in Gbadolite, but
4 that was after all the operations in Bangui and Mombasa. You said that Bemba realised
5 that they had to find a way to get those who had been involved to wash their hands of it,
6 and you said yourself, "I can assure you today that none of the people arrested is now in
7 prison." I forgot to give the reference, CAR-OTP-0009-0022, page 51.

8 Now, I would like to know if proceedings had been started while the operations were still
9 going on in Bangui? Did that happen, or did it happen after the troops had withdrawn,
10 after the MLC troops had withdrawn from Bangui?

11 A. If I remember correctly, I think these trials occurred after the operations in Bangui,
12 after the withdrawal.

13 Q. Thank you, Witness. Now, on the specific point of Commander Mustapha and the
14 question of why Mustapha was not charged when he was the person in charge of the
15 operations out in the field, your answer to that question was, "No, he was never disturbed
16 at all. He gave loyal service to the movement. Perhaps a commander -- losing of a
17 commander like him would have meant losing the backbone of the army. He was out
18 there in the field. Everywhere he was operating, it was victory after victory," and the
19 reference is CAR-OTP-0009-0022, page 0052. Now, in your opinion, given all the things
20 he had done, how did Bozizé get his troops - the troops under Mustapha's
21 command - out?

22 A. You know, in a situation of war, you can't say that when you're out waging war
23 you're going to have nothing but victory. You can always end up one day opposite an
24 opponent who is stronger than you are, who is as well-organised as you are and perhaps
25 has a good strategy or better tactics than you do. That can happen, but that doesn't mean

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 that you consider that a good commander is not a good commander. Losing a battle is
2 just part of standard practice in war. You know, you can be up against an opponent who
3 may not be as strong as you are, but from a strategic point of view you might withdraw.
4 You can then regroup and start a new attack, so withdrawal doesn't necessarily mean that
5 you've lost a war.

6 Q. I thank you, Mr Witness. My following series of questions was due to have a
7 bearing upon the number of planes owned by the MLC during the time that we are
8 concerned with, but I believe that in this regard you have provided us with very clear
9 responses. You told the Office of the Prosecutor and provided confirmation of the
10 number of planes, but I shall put a last series of questions to you and once again I shall
11 base myself on a citation from your statements.
12 Now, if one individual outside of the MLC were to give orders to the troops, that was the
13 question, you said, "No, they did not give direct orders, but they headed up the troops.
14 There was Mustapha, there was the Minister for Defence, and these were the individuals
15 who would define the axes of attacks. The Patassé soldiers were in those areas where
16 there were fewer issues, fewer problems. The MLC troops would intervene in difficult
17 areas." The reference is CAR-OTP-0009-0063, page 0081, paragraphs 8 and 9. You went
18 on to say, and I quote, "When the MLC troops drove the enemy back, the town was still
19 being monitored by Patassé's soldiers. In the meantime our soldiers were pushing back
20 the enemy, pushing it back beyond the confines of the town."

21 I wanted you to give us a little bit of extra information as to the information you provided
22 us on the Patassé's troops in the difficult areas, as you said, and also in these areas that
23 you described as less difficult.

24 A. You know, all the information that I gave as to the distribution of various tasks, this
25 information was not information that I gleaned (Redacted) It was rather

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 information that I gleaned during a conversation with an officer, so I would not be in a
2 position to go into further detail. This is information on a superficial level that I gleaned
3 in such a manner and I would not be able to give you any more specific information.

4 MR ZARAMBAUD: (Interpretation) I thank you, Mr Witness, for having answered my
5 questions.

6 I have no further questions to put to the Witness, Madam President, and I thank you very
7 much.

8 PRESIDING JUDGE STEINER: Thank you very much, Maître Zarambaud. Mr Witness,
9 now Maître Douzima-Lawson will question you as authorised by the Chamber. Maître
10 Douzima, you have the floor.

11 MS DOUZIMA-LAWSON: (Interpretation) Thank you, Madam President.

12 QUESTIONED BY MS DOUZIMA-LAWSON: (Interpretation)

13 Q. Witness, good morning.

14 A. Good morning, madam.

15 Q. I shall introduce myself to you again. My name is Maître Douzima-Lawson. I am
16 a legal representative of the victims, those victims who have been admitted to participate
17 in the proceedings before us, in the same capacity as my learned friend, Maître
18 Zarambaud, who has just put questions to you. In this capacity, we are putting
19 questions to you in regard to the views and preoccupations of those victims that we are
20 representing. We are of the view that those concerns on the part of the victims are to do
21 with the information that you have provided us with.

22 I will not have many questions to put to you, in a sense that a number of my questions
23 have already been put to you not only by the Prosecutor, but also by Maître Zarambaud,
24 and I would like to put a number of questions to you with regard to your statements
25 given to the Office of the Prosecutor and also with regard to your statements made here in

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 the courtroom. I am seeking clarification.

2 PRESIDING JUDGE STEINER: I am sorry to interrupt you, Maître Douzima. Just to
3 remind you to pay attention to the questions that refer to answers given during the
4 hearings that are based on transcripts in relation to their level of confidentiality. Just to
5 remind you.

6 MS DOUZIMA-LAWSON: (Interpretation) Yes, indeed, Madam President.

7 Q. And I would like to avail myself of this opportunity to say to the witness that where
8 there any questions that would require us to go into private session, or where there any
9 responses that require this, please let us know.

10 Mr Witness, I shall start off with one of your statements, one of the statements given to the
11 investigators of the Office of the Prosecutor, bearing the reference - this is the reference for
12 the parties and participants - CAR-OTP-0009-0022, page 41. Mr Witness, at this page you
13 stated that, "The President of the movement, who was called 'The Chairman,' was indeed
14 Mr Bemba." My question to you is I am seeking to ascertain whether there was a
15 category of individual within the movement who was called "Chairman," or was it the
16 entire movement itself who called him "Chairman"?

17 A. I am not an Anglophone. I believe that the word "Chairman" is a term that really
18 means "Leader." I'm not quite sure about that, but the term "Chairman" was not part of
19 the official structure of the movement itself. This is a term that was introduced and often
20 used by our Ugandan allies, those allies being Anglophone, and for my part I am of the
21 opinion that this is a term in English whose equivalent would be "Président."

22 THE INTERPRETER: He says in French.

23 THE WITNESS: (Interpretation) That is what my thought is. So, that was what he
24 was called. This was what any individual who wanted to call him that way would. It
25 did not bother him in the least.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 MS DOUZIMA-LAWSON: (Interpretation)

2 Q. Now, apart from the MLC soldiers, did anybody else call him "Chairman"?

3 A. Yes, indeed.

4 MS DOUZIMA-LAWSON: (Interpretation) Madam President, I would like to be
5 somewhat prudent. I do have a series of questions with regard (Redacted)

6 (Redacted) and I would like, therefore, to go into private session.

7 PRESIDING JUDGE STEINER: Court officer, turn into private session, please.

8 (Private session at 10.10 a.m.) * Reclassified as Open session

9 THE COURT OFFICER: We are in private session, Madam President.

10 MS DOUZIMA-LAWSON: (Interpretation)

11 Q. Mr Witness, I'd like to move on to the following reference now, CAR-OTP-0009-0022,

12 page 54. You stated therein that (Redacted) Bangui. You

13 said that information compiled on Bangui was annexed to that compiled on Zongo, but

14 you said that (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 occasion, when (Redacted) to His Excellency, the

22 President. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted). I think that this is the main reason

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 why (Redacted) in order to avoid for -- to avoid information coming
2 into the hands of any other individuals. That is the reason why, in my opinion.
3 Q. Mr Witness, with regard to this response that you just provided, yesterday, and I'm
4 talking about real-time transcript page 89, lines 2 to 6, you said that -- you said that (Redacted)
5 (Redacted) were made much use of whilst (Redacted) and that Bemba used them in
6 order to glean information. (Redacted) information on individuals who were
7 frustrated, in some regard or another, and he was very sensitive to this.
8 Now, was this before or after he had (Redacted); that is to say after (Redacted)
9 (Redacted)
10 A. I shall be somewhat more specific so that we understand each other correctly.
11 When I talked about the (Redacted) themselves, I was referring to the
12 period of the rebellion. After the rebellion, (Redacted)
13 (Redacted)
14 (Redacted) and in view of the fact that (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted) and during this very period I am not aware
18 whether he (Redacted) or not. I do not know how things
19 worked during that period.
20 These were (Redacted) that (Redacted)
21 (Redacted)
22 (Redacted) and all (Redacted) were numbered and they were done according to certain
23 administrative rules and regulations. This was not the case (Redacted)
24 (Redacted)
25 (Redacted) and I am not able to know whether during that period he

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Private Session)

ICC-01/05-01/08

1 destroyed them or not.

2 Q. Thank you, Mr Witness, for that clarification. During the hearing of 9 September,
3 that is to say last Friday, you stated that Bemba, Mr Bemba, went to Bangui between the
4 period of 2002/2003. The reference is real-time transcript page 24, lines 7 to 13. Now,
5 when Mr Bemba came back from his mission to Bangui, (Redacted) what he
6 did, what he had done in Bangui?

7 PRESIDING JUDGE STEINER: Mr Haynes.

8 MR HAYNES: Have you authorised the asking of this question? I'm not aware that
9 you have.

10 PRESIDING JUDGE STEINER: As far as I understood, this is a question arising from the
11 transcript.

12 MR HAYNES: The transcript last Friday.

13 PRESIDING JUDGE STEINER: Yes.

14 MR HAYNES: And no application has been made under the order for the conduct of
15 proceedings that you made last November, which you suggested or, indeed, ordered that
16 it should. I mean, I am concerned that Rule 91 is simply being circumnavigated by the
17 legal representatives. All they to is they anchor a question in the transcript and then ask
18 a question which hasn't got the leave of the Court.

19 Now, the legal representatives do not have an unfettered right to question witnesses.

20 Their right to question witnesses is anchored in the authority of the Court, and so far as
21 we are aware, this question has no authority from the Court. It could have been notified
22 on Friday evening or yesterday so that we could make observations on it. It hasn't been.
23 It's simply been simply sprung upon us. Now, it may be a perfectly proper question, I
24 simply don't know, but it seems to me this is a practice that you discouraged at the start of
25 proceedings and you ought to discourage in practice.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. Ms Kneuer.

2 MS KNEUER: Thank you, Madam President. I'm quite surprised about this

3 intervention by the Defence Counsel, because, to the best of the Prosecution's recollection,

4 your Honours had ruled several times that if questions arise from the transcript, or the

5 transcripts, the legal representatives are not bound by your Honour's decision on the

6 conduct of procedures, and I believe it's very natural to go by the flow if something arises

7 out of the transcripts. So to that extent, with regard to the procedure, your Honours had

8 already ruled, and there are regulations in place. If it's about the content, then again

9 your Honours had provided guidance that an objection could be raised or not.

10 PRESIDING JUDGE STEINER: Mr Haynes, this is not the first time you raise the very

11 same issue, and if we have time to revisit transcripts, I can show you that, at least two or

12 three times, you have raised the same concerns, and the Chamber has ruled that legal

13 representatives are entitled to ask questions that arise out of the transcripts. They are not

14 under the obligation to notify in advance if a question arises from a transcript, and I agree

15 with the Prosecution that Defence is always allowed to challenge the merits or the content

16 of the question, but legal representatives are allowed to add questions that are purely

17 related to what has been said during the questioning by the Prosecution.

18 So, this is the ruling, and if Defence intends to make a formal challenge to that, the

19 Chamber will analyse properly the challenge, but the Chamber suggests that Defence

20 makes a filing on that respect because we are not going to rule every time on the same

21 issue during the questioning by legal representatives.

22 MR HAYNES: Thank you very much. I simply observe that this is based on a

23 transcript that is three days ago and that there was plenty of time to give everybody notice

24 that this question was going to be asked.

25 PRESIDING JUDGE STEINER: Mr Witness, you were going to make an observation to

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 Maître Douzima in relation to the question she put to you.

2 THE WITNESS: (Interpretation) Yes. Could Counsel please repeat her question
3 because I have lost the line of thought. Thank you.

4 MS DOUZIMA-LAWSON: (Interpretation)

5 Q. Mr Witness, the question was -- well, I was referring to your statement of 9
6 September, page 74, lines 7 to 13, where you said that Mr Bemba went to Bangui in the
7 period 2002 to 2003, and my question was: (Redacted)
8 (Redacted)

9 A. I do not believe that at any point in time I said that President Bemba went to Bangui
10 in this period, 2002 and 2003. I said that he went there, but during that period I did not
11 have any specific information in this regard. I did not know about his travels to Bangui,
12 but previously, previous to that period, he did go. Now, as to whether I need to provide
13 you with an answer about his movements prior to that period or not --

14 Q. I'm not interested in the period before that.

15 THE INTERPRETER: Overlapping of microphones.

16 PRESIDING JUDGE STEINER: -- that he had no information about Mr Bemba going to
17 Bangui during the periods, you are saying that the transcripts say otherwise. Could you
18 please read the relevant part of that transcript that you are referring to?

19 MS DOUZIMA-LAWSON: (Interpretation) As I was saying, it was page 74, lines 7 to
20 13: (Redacted) Do

21 you know how many times Mr Bemba went to Bangui during that period, the period we
22 are interested in; that is to say during the period 2002 to 2003?" Answer, the answer
23 provided: "To be honest, I would not be able to tell you how often he went to Bangui,
24 especially if we are to confine ourselves to the period of time that you have just provided;
25 that is to say, 2002 to 2003."

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Private Session)

ICC-01/05-01/08

1 PRESIDING JUDGE STEINER: Which means that the way you put the question does not
2 reflect correctly what was said by the witness, and that's why the witness was kind of
3 confused before giving you an answer, Maître Douzima. But you go ahead. The
4 witness has already answered.

5 MS DOUZIMA-LAWSON: (Interpretation) Might we move back into open session,
6 please?

7 (Open session at 10.27 a.m.)

8 THE COURT OFFICER: We are in open session, Madam President.

9 MS DOUZIMA-LAWSON: (Interpretation)

10 Q. I am now revisiting your statement provided during the investigation, the reference
11 being CAR-OTP-0009-0022, page 0049. You indicated that the battalion that was
12 deployed in Bangui was the battalion where there was a certain amount of fragility. This
13 battalion was called "Effacer le tableau." What fragility are we talking about here?

14 PRESIDING JUDGE STEINER: Sorry, Mr Witness. Maître Liriss.

15 MR LIRISS: (Interpretation) Madam President, I believe that the question relevant to the
16 "Effacer le tableau" battalion is not relevant, in the sense that it has not been retained by
17 the Confirmation of Charges Chamber. On the contrary, the Confirmation of Charges
18 Chamber quite simply dismissed this question. I shall provided you with the reference,
19 therefore.

20 PRESIDING JUDGE STEINER: We are not discussing here the operation "Effacer le
21 tableau." The question is related to in what consists the fragility in Central African
22 Republic. Furthermore, the question was authorised by the Chamber. So we would
23 very much appreciate if we don't turn back in order to discuss questions that were
24 authorised by the Chamber by way of a formal decision please, Maître Liriss. The
25 witness can answer.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 THE WITNESS: (Interpretation) Once again, I shall revisit the terminology used.

2 The term "Effacer le tableau," officially speaking in the structure of the units within the
3 MLC there was no unit that was officially called "Effacer le tableau".

4 THE INTERPRETER: Correction from the booth: Within the ALC.

5 THE WITNESS: (Interpretation) This term was used by many soldiers, and for the
6 most part it was used within a battalion which I cannot really remember very well. This
7 is an expression that people would use when they went to fight. The soldiers would use
8 it when they were going to fight. Terms of this type meant that when they went to fight
9 they were going to leave nothing behind them, whether it be prisoners of war, et cetera.
10 It meant that they really needed to clean the slate, as it were. Over time this term was
11 then adopted by other units, who would use it willy-nilly, and I am providing you with
12 clarification here by saying that there was never officially a battalion called "Effacer le
13 tableau." This was an expression that was quite simply used by soldiers. This is the
14 clarification I would like to provide you with here.

15 Now, as to whether there was any fragility in Bangui, when I talk of "fragility" I quite
16 simply mean that, with regard to the assistance that the MLC was provided with from the
17 late President Patassé, this meant that we did not manage to have control of the situation.
18 That is what I mean by "fragility"; the fact that they did not manage to have the
19 control -- control over the troops and the fact that they did not manage to push the enemy
20 back. That's what I mean by fragility of the situation.

21 MS DOUZIMA-LAWSON: (Interpretation)

22 Q. Thank you, Witness. On page CAR-OTP-0009-0022, page 0051, you spoke about
23 the establishment of a court in Gbadolite led by General Bule for judgments following
24 military operations in Mombasa and Bangui, and there were people who were not troops
25 who were arrested for these events. This is what you said. How do you explain this?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 A. Well, to be quite frank, I wasn't familiar with the list of all the individuals who had
2 been arrested but, as far as I know, what I can say is that the knowledge I have is fairly
3 superficial because I didn't have this list but, as far as I know, there were subordinate
4 officers, lower-ranking officers, who were more concerned by these convictions. If there
5 were any soldiers, or any troops, who were convicted, if you provided me with such
6 evidence, such proof, that would be additional information for me but, as far as I knew,
7 that was not the case. So there may have been low-ranking troops concerned by these
8 convictions but, as far as I know, that was not the case. Well, if that was done, well, in
9 that case I would be learning something new now. That would be it.

10 Q. Witness, now I'm referring to page CAR-OTP-0009-0022, page 123. A description
11 of a photograph number 2 was provided there, and you showed Mr Bemba who was
12 giving to the members of the political and military council diplomas for merits. This was
13 on 30 June 2003. What was this diploma for merit, in fact?

14 A. These diplomas for merit, I apologise, were given to individuals who had provided
15 loyal services to the movement. It depended on the case. There were certain founding
16 members, there was managerial staff (Redacted)
17 demonstrated their know-how, so it's in accordance with such criteria that at the time
18 managerial staff, the leadership members, obtained these diploma -- diplomas for merit.
19 It depended on the services provided. There you have it.

20 MS DOUZIMA-LAWSON: (Interpretation) Thank you, Witness, for having answered
21 my questions.

22 Your Honour, I have no further questions for the witness.

23 PRESIDING JUDGE STEINER: Thank you, Maître Douzima.

24 I'm asking Mr Haynes whether Mr Haynes intends to start right now?

25 MR HAYNES: I'm in your hands. I'll need a moment or two to set up, so we can do

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 15 minutes or so before the break, or take the break now. It's really a matter for you and
2 the witness, rather than me.

3 PRESIDING JUDGE STEINER: We still have 20 minutes. I think we could benefit from
4 that.

5 MR HAYNES: Absolutely.

6 PRESIDING JUDGE STEINER: So we can wait the few minutes you need.

7 QUESTIONED BY MR HAYNES:

8 Q. Well, good morning, Mr Witness.

9 A. Good morning.

10 Q. Let me introduce myself. My name is Peter Haynes and I'm one of the Counsel
11 who acts on behalf of Jean-Pierre Bemba. Now, we haven't met before, have we?

12 A. No, not at all.

13 Q. I don't know whether anybody told you, but I did come to meet you at what is
14 known as a familiarisation meeting, but I was told that you were not prepared to meet the
15 lawyers of Mr Bemba; is that correct?

16 A. Yes. Yes, that's correct, but I can provide additional information on that, with your
17 leave?

18 Q. Of course.

19 A. I'd like this to be clear. It wasn't done deliberately to say, for example, that I was
20 facing my enemy. No, no, it was just a psychological frame of mind as a result of which I
21 asked to meet, and even yesterday I rephrased that request. I asked for a meeting
22 if -- after my testimony. Actually, I asked whether I could meet the Defence team after
23 my testimony and, if necessary, I asked whether we could have a drink together. So it
24 was just a frame of mind - a psychological state of mind - if you like. That's all.

25 Q. Well, I'm not sure I understand, but I'll move on. Of course you have met

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Private Session)

ICC-01/05-01/08

1 Mr Jean-Jacques Badibanga before, haven't you?

2 A. Yes, of course.

3 Q. Do you mind me asking how many times?

4 A. Well, he was the first person to contact me for my statement, and after that, well, it's
5 now that I have met him again after having given the statement in my country.

6 Q. Well, when you say "met him again now," do you mean in Court, or at some other
7 time?

8 A. No, no, he came with Mr Scaliotti. I think that's his name, the Italian. He came to
9 see me with Mr Scaliotti to greet me.

10 Q. Here in The Hague?

11 A. Yes, obviously here in The Hague, in the waiting room.

12 Q. Very well. Have you recently seen any other officers from the Office of the
13 Prosecutor?

14 A. No, no, no, I haven't.

15 Q. And have the Office of the Prosecutor at any time provided you with any
16 documents?

17 A. Never.

18 MR HAYNES: Thank you very much.

19 Your Honour, we perhaps better go into private session now.

20 PRESIDING JUDGE STEINER: Court officer, please turn into private session.

21 (Private session at 10.43 a.m.) * Reclassified as Open session

22 THE COURT OFFICER: We are in private session, Madam President.

23 MR HAYNES:

24 Q. Now, as I think you have told us, you were born on (Redacted) is that
25 correct?

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Private Session)

ICC-01/05-01/08

1 A. Yes. Yes, affirmative.

2 Q. So, unless my mathematics is wrong, throughout the whole of (Redacted) you were only
3 25 years of age?

4 A. Yes, of course.

5 Q. And, at the age of 25, what qualifications did you actually have?

6 A. Which qualifications are you referring to, sir, professional qualifications?

7 Q. I'm asking you. You told us about a lot of studies that you started and didn't finish,
8 that you subsequently did. At the age of 25, did you have a degree in any subject?

9 A. At the age of 25, I was still pursuing my studies.

10 Q. So is the answer "No"?

11 A. Well, of course I was at university.

12 Q. And when did you leave university?

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. Sir, I'm still not clear: What age were you when you left university?

17 A. In (Redacted), as you have said, I was 25 years old. It was at that age that I abandoned
18 my studies.

19 Q. Thank you. And had you, by the age of 25, done any job?

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. And for how long did you do that?

24 A. Well, I can say that at the time I arrived (Redacted) -- it was from the time I arrived
25 (Redacted) up until the time that I committed myself to work within the MLC, so it may

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Private Session)

ICC-01/05-01/08

1 have been less than a year.

2 MR HAYNES: Thank you. We can now pass back into open session, with your leave,
3 your Honour.

4 PRESIDING JUDGE STEINER: Court officer, please turn into open session.

5 (Open session at 10.48 a.m.)

6 THE COURT OFFICER: We are in open session, Madam President.

7 MR HAYNES: Thank you very much.

8 Q. At the age of 25 what was the view, what was your view of the state of democracy in
9 your country?

10 A. I don't know why we have moved into open session because, yet again, my answer
11 could lead to -- so if we could --

12 PRESIDING JUDGE STEINER: Court officer, please turn into private session.

13 (Private session at 10.49 a.m.) * Reclassified as Open session

14 THE COURT OFFICER: We are in private session, Madam President.

15 THE WITNESS: (Interpretation) Thank you. Well, I'll provide you with some
16 information. At the time I was (Redacted) From
17 that time onwards (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) That would be the situation.

23 PRESIDING JUDGE STEINER: Mr Witness, could you please clarify the Chamber on
24 what (Redacted) means, or is (Redacted)? I'm not sure.

25 THE WITNESS: (Interpretation) (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Private Session)

ICC-01/05-01/08

1 a long time, and exists to this very day.

2 PRESIDING JUDGE STEINER: What is the meaning of (Redacted)? What means, please.

3 THE WITNESS: (Interpretation) (Redacted) means that -- I'm no longer a member or, in

4 fact, I wasn't in the (Redacted) much but I think it means the (Redacted)

5 (Redacted) -- I'd have to remember this, but (Redacted)

6 when (Redacted) but (Redacted)

7 (Redacted)

8 (Redacted)

9 MR LIRISS: (Interpretation) If you like, I can assist the Chamber. (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE STEINER: So it's (Redacted), thank you, Maître. Mr Haynes,

13 I'm sorry for the interruption but --

14 MR HAYNES: No and I suppose to be correct we ought to just confirm that through the

15 evidence.

16 Q. Is that the organisation that (Redacted)?

17 A. I was quite clear. I said that there was a group of students (Redacted)

18 (Redacted) I didn't say that (Redacted)

19 That -- those are two distinct things. It was a group of students and in the university, at

20 the university, (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted) That was never the case. I was a student and throughout the

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 country you can see students who rise up against the order that has been established.

2 They are in groups that aren't necessarily part of certain official structures or official
3 bodies. That is what I mean.

4 Q. I'm sorry if I misunderstood what you said, but just so that it's clear: The name
5 (Redacted) do you recognise that?

6 A. (No interpretation).

7 Q. (Redacted) I could try for a long time. Did you hear the name that
8 Mr Liriss read out as being the leader of (Redacted)

9 A. Yes, of course; (Redacted)

10 Q. Thank you. And did you recognise that name?

11 A. Absolutely. It's the leader, the President of the (Redacted)

12 Q. Thank you very much. Now, in 1998, when you were at university, as you have
13 been describing to us, who was the President of the Democratic Republic of Congo?

14 A. No, in 1998, it was no longer the late President Mobutu who was in power; it was
15 the AFDL that had taken back control after a rebellion that had commenced in the east, so
16 the late President Désiré Kabila, had power.

17 Q. And if I were to ask you what was your view of him, is there any reason you could
18 not answer that publicly?

19 A. Yes, absolutely.

20 Q. I'm sorry, Mr Witness, do you mean you're happy to answer it publicly?

21 A. No, not at all. I'm not.

22 Q. Then we will remain as we are and you can give us your views of him?

23 A. We are in open session?

24 Q. No, we're in private.

25 A. That's okay. Well, at the time in (Redacted), well, that was one of the first parts of the

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 territory, when the AFDL entered, it was one of the first parts of the territory to be
2 occupied by this rebel movement, so there were many things, many acts of violence and
3 abuse, many blunders that were committed against the civilian population, and this was
4 done by the troops that were composed of by Rwandans, by foreigners for the most part.
5 I was in (Redacted) during that period of time, and when they took control of (Redacted),
6 mainly of (Redacted), we were really maltreated. The young people in particular, we were
7 really maltreated. There was a very difficult period we lived through and finally, if there
8 was any esteem for the movement it disappeared. I personally was the victim of an
9 arrest. I was arrested. I was beaten for futile reasons, and so I personally was not able
10 to (Redacted) throughout the period during which they carried out
11 operations up until the point in time when they took power. That would be it.

12 PRESIDING JUDGE STEINER: Mr Haynes.

13 MR HAYNES: Yes, I was dubious about asking even that question but I'll stop now.

14 PRESIDING JUDGE STEINER: Court officer, please turn into open session.

15 (Open session at 11.01 a.m.)

16 THE COURT OFFICER: We are in open session, Madam President.

17 PRESIDING JUDGE STEINER: Mr Witness, we'll have now our half-an-hour break.

18 You can take a coffee or a tea and take some rest. It's 11 o'clock. We will resume at
19 11.30.

20 Court officer, please turn into closed session for the witness to be taken outside the
21 courtroom. In the meantime, we will suspend and resume at 11.30.

22 (Closed session at 11.02 a.m.) * Reclassified as Open session

23 THE COURT OFFICER: We are in closed session, Madam President.

24 (The witness stands down)

25 THE COURT OFFICER: All rise.

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 (Recess taken at 11.02 a.m.)

2 (Upon resuming in closed session at 11.33 a.m.)

3 THE COURT USHER: All rise. Please be seated.

4 PRESIDING JUDGE STEINER: Welcome back. Could, please, the court usher bring the
5 witness in.

6 (The witness enters the courtroom)

7 PRESIDING JUDGE STEINER: Let's turn into open session, please.

8 (Open session at 11.36 a.m.)

9 THE COURT OFFICER: We are in open session, Madam President.

10 PRESIDING JUDGE STEINER: Welcome back, Mr Witness.

11 THE WITNESS: (Interpretation) Thank you.

12 PRESIDING JUDGE STEINER: Before Defence continues with questioning the witness, I
13 ask whether Mr Haynes or Maître Liriss has anything to say about the late -- not late filing,
14 but the late request for inclusion of certain documents into the Defence list of documents,
15 or if you prefer to do it after the lunch break? Maître Liriss.

16 MR LIRISS: (Interpretation) Your Honour, we can answer you. It's a very simple
17 answer. My confrère Badibanga accepts one document as being eligible and he
18 challenges the others. What are we talking about? Documents relating to the
19 administration of justice; in other words, the ordinance of law of the court of justice and
20 the one on the legal jurisdiction.

21 It's true that that question was covered during the interview by the investigators, but I can
22 tell you what was said at the time. It was simply a referral to know whether the state of
23 justice at the time was -- excuse me. Yes, the question was: "What you had just said, i.e.
24 the MLC was playing the role of a State." "Yes, it operated as if it were a State." "As for
25 the judges, you've just mentioned that it was Bemba who took the decisions on legal

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 matters," and he answered: "Yes. Bemba dealt with questions on legal matters,
2 questioning the BRM himself," and there is no reference to judges being appointed by the
3 MLC. This is how we saw that as relevant for producing this document to have evidence
4 to show how the judges were appointed in the Democratic Republic of Congo.
5 For the other documents, the meeting convened (Redacted) -- sorry, are we in closed
6 session? The Secretary-General of the MLC and the documents were indeed produced,
7 but they were only commented on here in the hearing. The pages on the appointments
8 were commented on in the hearing. They were produced without any comment being
9 made on them. It was during the hearing that comments were made and developed, and
10 the question of knowing who was appointed, why did that person make the appointments,
11 was there a prior reunion before the appointments were made, this was developed when
12 evidence was given and so it's only logical for us to produce documents to deal with the
13 statements as made. Thank you, your Honour.

14 (Trial Chamber confers)

15 PRESIDING JUDGE STEINER: The Chamber would like to remind parties and
16 participants that the deadlines set in decision 1023 are not optional. They need to be
17 followed, unless there is good cause for a departure.
18 In the present case the Chamber will accept the inclusion of the documents as requested
19 by the Defence, but these reminders related to the deadlines should be kept in mind of
20 parties and participants in order not to cause disruption in the proceedings and mainly
21 preventing the other party to make timely challenges to the submission of such
22 documents.

23 So on an exceptional basis, and taking into account the explanations given by Maître Liriss,
24 the Chamber allows the added documents to be included in the Defence list of documents,
25 and I'm referring to documents CAR-D04-0002-1481, CAR-D04-0002-1499,

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

- 1 CAR-DEF-0002-0389, CAR-DEF-0002-0453, CAR-DEF-0002-0667 and CAR-DEF-0001-0634,
2 and that's it.
- 3 Mr Haynes, you can continue your questioning, please.
- 4 MR HAYNES: Thank you very much, your Honour.
- 5 Q. And welcome back, Mr Witness.
- 6 A. Thank you.
- 7 Q. Now, forgive me for asking what might seem to you some obvious questions, but
8 you're the first person we have heard from in reality who can tell us about the history of
9 your country in the last ten or 12 years. There were in fact, or have been, two presidents
10 called Kabila, haven't there?
- 11 A. Yes, yes, indeed.
- 12 Q. And what, to your knowledge, is the relationship between them?
- 13 A. There are family links: One is the father and the other the son.
- 14 Q. And when and in what circumstances did the first President Kabila cease to be
15 President?
- 16 A. The first, how can I put it? The father Kabila, he stopped being President after he
17 was assassinated in Kinshasa. That was in 2001, if I remember correctly, in 2001.
- 18 Q. And in your view, did he, that's Kabila the father, have a legitimate right to be
19 President of your country?
- 20 A. After his rebellion, well, AFDL had conquered all the territory, and he was made
21 President of the Republic in the normal way by the authorities that had the power to do so,
22 and therefore I maintain that he was entitled to be President.
- 23 Q. But nonetheless, you were anxious and willing (Redacted);
24 is that correct?
- 25 A. (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. Very well. Explain to us how Kabila, the son, came to be President of your country,
5 if you can?

6 A. Kabila, the son, became President of our country when his father died, his father
7 who was President, so I wouldn't say that it was a legal action but he was put in that
8 position, no doubt by high authorities in his party.

9 Q. Thank you. As far as you were aware, were the institutions of government, the
10 political offices, the judicial offices, the military offices, open to President Kabila's
11 military -- sorry, political opponents?

12 PRESIDING JUDGE STEINER: Sorry, Mr Haynes, you are talking about Kabila, father,
13 or Kabila, son, now?

14 MR HAYNES: We can deal with both, if you like. Firstly, the father.

15 PRESIDING JUDGE STEINER: Just to facilitate the witness to give a proper answer.

16 MR HAYNES: Yes.

17 Q. When Kabila, the father, was President, did he open up the political, military and
18 judicial offices to his political opponents?

19 JUDGE ALUOCH: Sorry, Mr Haynes, what do you mean by this terminology, did he
20 "open up"? What exactly do you mean? Can you make it simpler for the witness,
21 please?

22 MR HAYNES: Yes, certainly.

23 Q. Did he put people who supported him into political, military and judicial offices?

24 A. To my knowledge, no, no, he didn't.

25 Q. What about Kabila, the son?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 A. Kabila, the son, after the discussions with the Congo, wanted to be involved. There
2 were the inter-Congolese negotiations which opened up the doors to the opponents.

3 Q. That was after the transitional phase began. What about before it?

4 A. Before the transition phase, it was quite obviously the continuation of the system
5 which Kabila, father, had.

6 Q. Thank you. Now, I want to -- I want you to read a document for us and see if it
7 accords with your views and beliefs. I think it's a document that will be familiar to you.
8 It's Defence document 92, and we need to start at page 2, please.

9 PRESIDING JUDGE STEINER: Mr Haynes, I just recommend you to be careful with
10 questions that can be put in open session or need to be addressed in private session.

11 MR HAYNES: Your Honour, I'm very alive to that. For the first part, I simply want the
12 witness to read through the preamble.

13 Q. Mr Witness, do you recognise this document?

14 THE COURT OFFICER: Maybe before the witness starts his answer, just for the record
15 of the case, the document shown on your screens is CAR-OTP-0009-0162, first redacted
16 version, showed at page 0163, and it's a public document, unless otherwise instructed.

17 MR HAYNES: Thank you very much.

18 Q. Do you recognise the document, Mr Witness?

19 A. Yes, indeed, I recognise it.

20 Q. Can you tell us what it is?

21 A. It's the preamble which is in the statutes for the Movement for the Liberation of the
22 Congo.

23 Q. And I know you're not very good with dates, but do you recall that that document is
24 dated 5 April 2003?

25 A. Yes, I think this document was indeed dated 5 April 2003. That was the date when

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 the statutes were signed.

2 Q. So at that time, according to you, the government of the Congo would have been
3 under the presidency of Kabila, the son; is that right?

4 A. Yes, indeed.

5 Q. Now, what I'd like you to do, please, is just read out that page for us and the first
6 three paragraphs on the next page, but do so at a steady pace so that the interpreters can
7 interpret your words. Would you be so good as to do that for me?

8 A. Did you say the first paragraph and --

9 Q. No, everything you can see on that page, and when you get to the bottom, the first
10 three paragraphs of the next page; is that clear?

11 A. Okay. Okay, I shall do this reading: "Forty-two years after independence, after
12 having had two republics, the Democratic Republic of the Congo, our country, had
13 another major date with history. Given: That after four decades of conflict and
14 dictatorship, it was time to put an end with autocratic -- put an end to autocratic power
15 which had led the Congo to ruin and poverty, that for this purpose there was need to
16 advocate the establishment of institutional order in our country, institutional order based
17 on respect for the principle of the separation of power and independent legal system, that
18 the resolution of the Congolese crisis required consideration to be given to the greater
19 aspirations of our people to recover national sovereignty and territorial unity, the rule of
20 law, democracy and prosperity; that the establishment of such an undertaking would
21 require the introduction of new leaders, freely chosen by the people, who must stand out
22 for their expertise, their integrity, their respect for promises made and their love of the
23 mother country; that to ensure peace and political stability needed for development, the
24 Congo must help strengthen the political stability of its neighbours; that such
25 development requires the restoration of the financial credibility of the Congo as a prior

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 condition, or prerequisite, to ensure sustainable growth for the country; that the result of
2 such growth must be fairly divided between all regions in the country, for progress is only
3 useful if it is to the benefit of all citizens of the Congo; that in addition the development of
4 the modern world is now -- now features globalisation; and that given it is important to be
5 aware of the opportunities that come with this new situation and of the demands that
6 arise from it, both for the implementation and involvement of the Congo in all sectors and
7 the need to open up the country to the rest of the world, proclaiming our attachment to
8 the universal declaration of human rights and to universal human values, calling on the
9 citizens of the Congo, and in particular our youth, to rally together to continue the
10 struggle against dictatorship, moral decadence, material and spiritual poverty."

11 Q. Thank you very much, Mr Witness. Were those sentiments with which you
12 associated yourself in April 2003?

13 A. Yes, indeed, I was in agreement with this sentiment.

14 Q. And did you think at that time the Congo was under dictatorship and autocratic
15 power?

16 A. Yes, I did firmly believe that because I had committed myself with the entire
17 movement to bringing this power down.

18 Q. Did you think that, when you committed yourself to that movement, there was any
19 possibility that it could be achieved by political means alone?

20 A. When I committed myself to being part of the movement, that is in (Redacted), well, before
21 that date I did not believe that power could be achieved, or conquered, in the way in
22 which you describe, i.e. political. I was absolutely certain that we would wage war and
23 that the military conquest would last until the very end.

24 Q. Thank you. Can you help us understand the various politico-military factions
25 which existed in the Congo in 1998?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 A. In 1998 there were two main rebel factions; notably the RCD, that is the
2 democratic -- Rassemblement pour la Démocratie, and there was also the government of
3 the AFDL.

4 THE INTERPRETER: The interpreter did not grasp the second faction given. Could it
5 be repeated, please?

6 MR HAYNES:

7 Q. Could you repeat the second faction? The interpreters didn't hear what you said.

8 A. The second faction I said was the Mouvement pour la
9 Libération du Congo.

10 Q. Thank you. And remembering that we are in open session at the moment, which of
11 those factions did you think offered the brightest future for the Congo?

12 A. I shall be categorical in my response. In the year (Redacted) I was certain that it was the
13 MLC, the Mouvement pour la Libération du Congo, which offered the qualities you are
14 referring to.

15 Q. Thank you. The RCD, what military support did that faction have?

16 A. At the outset, well before the MLC was created, the RCD benefited from the military
17 support of both Rwanda and Uganda. After the MLC was created, Uganda, which was
18 quite naturally now supporting the MLC, could no longer provide its support for the RCD,
19 the Rassemblement Congolais pour la Démocratie.

20 Q. And what military capability did the government have?

21 A. Could you be more explicit when you talk about "capability"? Are you referring to
22 the size of the army? What are you referring to precisely?

23 Q. Well, firstly, did it have an army?

24 A. Of course, the Congolese army had an army. Yes.

25 Q. And are you aware of the approximate size of it?

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 A. No, I do not have any specific idea.

2 Q. Did it enjoy external military support from other neighbouring countries?

3 A. Absolutely. It benefited from military support from Zimbabwe, from Angola and
4 from Chad.

5 MR HAYNES: Thank you. Now, I think out of an abundance of caution, we better now
6 move into private session.

7 PRESIDING JUDGE STEINER: Court officer, please turn into private session.

8 (Private session at 12.10 p.m.) * Reclassified as Open session

9 THE COURT OFFICER: We are in private session, Madam President.

10 MR HAYNES: Thank you very much.

11 Q. I want to ask you now about (Redacted)

12 Olivier Kamitatu? Do you know where he was from and what his background was?

13 A. I knew when -- that when he joined the movement he hailed from Bandundu
14 province, and that in addition to that he was a very close friend of His Excellency, the
15 President, Jean-Pierre Bemba.

16 Q. When you joined the movement (Redacted) time?

17 A. Not at all. I did not even know whether he was a member of the movement.

18 Q. Thank you very much. (Redacted)?

19 A. The very first time that (Redacted)

20 (Redacted)

21 Q. Thank you. I don't know whether you will be able to help with this, but see if you
22 agree with me. Olivier Kamitatu did not arrive in the Congo until the transitional phase
23 began; do you agree with that?

24 A. If Mr Olivier Kamitatu arrived in Congo during that period, I was not aware of the
25 fact. (Redacted)

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 Q. Thank you. Do you know where he had come from when he arrived in the Congo?

2 A. As His Excellency Jean-Pierre Bemba, the President, Mr Jean-Pierre Bemba, he also
3 took refuge in Belgium and I believe he came from Belgium.

4 Q. Thank you very much. Can we move on quickly please to Valentin Senga. Do
5 you know where he comes from?

6 A. (Redacted)

7 (Redacted) I know that he hails from Orientale

8 province and that he had positions in, or occupied positions in the Orientale province.

9 He also undertook a certain amount of duties within the Migration Directorate General.

10 Q. Thank you.

11 A. The DGM.

12 Q. Thank you very much. François Muamba, what can you tell us about him?

13 A. François Muamba also came from Europe. I do not know quite whence he came
14 from. I believe it was from Belgium, but (Redacted)

15 Q. Thank you, that's very helpful. Samuel Simene?

16 A. (Redacted) about the creation of the MLC. (Redacted)

17 (Redacted)

18 (Redacted) I believe that he was in charge of a communications company called COMCEL,
19 and this company belonged to His Excellency, Mr Jean-Pierre Bemba.

20 Q. Thank you very much. Jean-Pierre Singo?

21 A. (Redacted)

22 (Redacted) He came on the same plane as the President, Jean-Pierre Bemba, and (Redacted)
23 (Redacted) but I heard people speaking

24 about him well before that date because he was the one who had met with His Excellency,

25 Jean-Pierre Bemba, and welcomed him when he arrived in Kisangani.

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Private Session)

ICC-01/05-01/08

1 Q. Thank you. And (Redacted) isn't it?

2 A. Yes, indeed.

3 Q. And together, (Redacted) the authors of the statute, the preamble to which you have
4 just read out for us?

5 A. Yes, indeed, but I would like to specify that (Redacted)
6 (Redacted)

7 Q. But (Redacted) its aims and the manner in which the statute set out to achieve
8 those aims, didn't you?

9 A. (Redacted) that meant that I was
10 indeed in agreement with the statute.

11 Q. Just one thing about you; you're from a (Redacted) aren't you?

12 A. Indeed.

13 Q. I think as were certain other prominent members of the MLC, General Bule,
14 Ramazani. Were you aware of that?

15 A. Well, when I became a member of the MLC, I was no longer (Redacted) As for
16 General Bule and anybody else who might have been (Redacted) well, I don't know; it's
17 their personal choice. Why should that be of interest to me? Why is it my business?

18 Q. The MLC was essentially a Congolese movement, wasn't it? (Redacted)
19 (Redacted)?

20 A. Not at all. Our motto expressed and reflected our belief in God.

21 MR HAYNES: Thank you very much indeed. I think we can now go back into public
22 session, your Honour.

23 PRESIDING JUDGE STEINER: Court officer, please, turn into open session.

24 (Open session at 12.22 p.m.)

25 THE COURT OFFICER: We are in open session, Madam President.

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 MR HAYNES: Thank you very much.

2 Q. Now, before we address the question of how the MLC administration was
3 structured, I want you to help us base your evidence in some practical reality. Are you
4 aware of the size of the area of responsibility of the MLC at the time of the drafting of that
5 statute?

6 A. I do apologise, I do find this question somewhat evasive. Could you be more
7 precise?

8 Q. Your criticism is entirely correct; it was a bad question. The area of the Congo
9 which the MLC controlled was 700,000 square kilometres, wasn't it?

10 A. I would not like to talk about the surface area itself; I would rather talk about the
11 size of the territory that we controlled.

12 Q. Yes. Well, that's really what I'm asking you. You had a knowledge of the size of
13 the territory controlled. I'm suggesting to you it was an area bigger than the Republic of
14 France. Would you agree with that?

15 A. Precisely. But what I meant by what I said earlier was that I could not give you a
16 specific figure. However, we did control a major part of Équateur province and also part
17 of Orientale province.

18 Q. Thank you. The number of people who lived within the area controlled by the
19 MLC was about ten million, wasn't it?

20 A. I do not have any specific details in this regard.

21 Q. Does that sound about right to you?

22 A. I cannot provide you with a response in this regard.

23 Q. And do you know what the total population of the Democratic Republic of Congo is,
24 or was at that time?

25 A. Well, you are quite clearly bringing me back to primary school material here. I am

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 supposed to know the demography of my country at the time, but this is a subject that
2 could lead to discussion because at that moment in time the census was not being
3 conducted in the same manner as it had been before and, in terms of demographics, the
4 figures that we might have learnt at school might have been modified or changed to some
5 degree.

6 Q. Do you not know the figure now?

7 A. I might give you an erroneous figure so I'd rather not.

8 Q. Really? As the inhabitant of a country, you don't know its approximate
9 population?

10 PRESIDING JUDGE STEINER: Is this a question or a commentary on an answer given
11 by the witness, Mr Haynes? He says he doesn't know; that's it.

12 MR HAYNES: Okay. Thank you.

13 Q. Now, the purpose of the MLC's organisation of itself was to provide safety, security,
14 welfare, and quality of life for all the people that lived within the area it controlled; do
15 you agree with that?

16 A. Indeed.

17 Q. And it achieved that through a system of government, didn't it?

18 A. Indeed.

19 Q. You have already mentioned that the national executive was comprised of
20 secretariats, which were like ministries, which dealt with the various areas of government,
21 haven't you?

22 A. Yes, the national executive was part of the general secretariat which, generally
23 speaking, enforced or executed national policy which had been defined by the political
24 and military councils, or committees.

25 MR HAYNES: Thank you. And if we could go back, please, to document number 92

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 and this time to page 13.

2 THE COURT OFFICER: For the record of the case, document CAR-OTP-0009-0162, first
3 redacted version, at page 0174, is available on your screens. It's a public document.

4 MR HAYNES:

5 Q. I wouldn't expect you to remember all the secretariats, but they're set out in Article
6 46 of the Statute, and I wonder if again, Mr Witness, you would be so kind as just to read
7 out Article 46 slowly for the benefit of the interpreters?

8 A. If I may, before I read this out, the answer I provided just a while ago doesn't
9 concern these statutes. In fact I was providing you an answer with regard to the other
10 statute, not this one; the statute in which it quite clearly states the structure of the MLC,
11 the body of the President is referred to, the political and military council and the general
12 secretariat is referred to. So my answer concerned that statute, not this one here. That's
13 what I wanted to clarify.

14 Now I'll read this out for you:

15 "Article 46: The Bureau of the Executive Council consists of, in addition to the President:
16 A general secretary; an executive secretary responsible for the organisation of the party; a
17 deputy executive secretary responsible for the administration and the finances of the party;
18 a deputy executive secretary in charge of mobilisation and party representation; and a
19 deputy secretary responsible for development and strategy; a secretary responsible for
20 legal issues; a secretary responsible for relations with political parties; a secretary
21 responsible for co-ordinating external representations; a secretary responsible for the
22 organisation of women; a secretary responsible for youth; a secretary responsible for
23 humanitarian issues; and a treasurer."

24 Q. Thank you very much. Each of the secretariats had local secretariats that reported
25 to them, didn't they?

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 A. Of course.

2 Q. And so a lot of decisions were taken at a local level, without the need for the
3 national executive to be informed of them?

4 A. Look, I'll say the following in response to that question: The national executive
5 carried out the political -- or the policies that were defined by a higher level body, so it is
6 in that manner that things were executed. The local secretariats would follow that line.
7 The local secretariats would only do what had previously been defined as the general
8 policies of the party.

9 Q. Very well, but if for example a school in Zongo wanted to buy some books for its
10 children, what would be the process that it went through?

11 A. You're talking about a school in the private sense?

12 Q. Were there not government schools?

13 A. Yes, of course, but I never had to do with the management of a school, so I didn't
14 know how schools obtained such material as I was never part of the managerial staff of
15 any school.

16 Q. Well, what about if a policeman wanted to arrest somebody for committing a rape?

17 A. If in the eyes of a policeman a crime had actually been committed, he would then
18 proceed to arrest the perpetrator and then after the police had interviewed the person
19 concerned, if the person who had been accused was to be transferred to the other
20 competent authorities that should then be done. So there would have been a transfer in
21 such a case.

22 Q. And then a trial?

23 A. Absolutely, there would have been a trial.

24 Q. And the decision as to whether the man was guilty or not guilty and the sentence
25 passed would have been in the discretion of the judge trying the case; is that right?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 A. Absolutely.

2 Q. And that's why the statute and the MLC's objective wanted to see the separation of
3 powers, wanted to have secretariats which dealt with such matters as the police and
4 justice and education, so that effective decisions could be taken at a local level; isn't that
5 right?

6 A. The statutes naturally supported the principle of the separation of power. I'm
7 referring to the statutes. There you have it.

8 Q. But in reality that's what happened, isn't it?

9 A. Not always.

10 Q. Well, give us one example where the administration of justice did not go according
11 to the proper separation of powers that you know about.

12 A. Look, I imagine that the prosecutor in the Republic has a certain amount of
13 autonomy in relation to the executive power, although he is under the authority of the
14 Minister of Justice; in this case under the authority of the national secretary. Although he
15 is under the authority of the national secretary, he nevertheless has a certain amount of
16 autonomy, but I previously mentioned the case of the Prosecutor Nyakunya (phon) here,
17 who paid in fact the price because threats were made to him, and that is an example.

18 Q. Very well. Well, we may come back to that a little later. Can we come on to the
19 Conseil Politico-Militaire, please? Do you agree there were three principal branches to
20 the Conseil Politico-Militaire: The President, the Secretary-General and the Chief of Staff
21 of the armed forces?

22 A. The Chief of Staff of the general staff, well, that's not a body. The Political and
23 Military Council was composed of members who came from those three branches.

24 Q. Thank you. And there were nine members?

25 A. Absolutely.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 Q. And the body met once a month?

2 A. That was provided for in the statute. They were to meet once a month.

3 Q. And decisions of the politico-military conseil were taken by a simple majority; is
4 that right?

5 A. Indeed.

6 Q. The Chairman was appointed by those present at the meeting; do you agree with
7 that?

8 A. Are you saying was the President appointed by those who participated at the
9 meeting, or that you say that the Chairman was appointed by those participating at the
10 meeting? I don't understand.

11 Q. It may be that difficulty between the English use of the word "Chairman," but the
12 person who chaired the meeting was appointed by those present at the meeting?

13 A. That's a detail, because when you just say "President" --

14 THE INTERPRETER: As the witness said.

15 THE WITNESS: (Interpretation) -- I might think you are referring to the national
16 President, but now you have added a significant detail. You referred to "the Chairman"
17 and that is in fact the case.

18 Q. Well, we'll leave that there for the moment, but again describe for us what was the
19 function of the Conseil Politico-Militaire.

20 A. The Political and Military Council, the Conseil Politico-Militaire, had to determine
21 the main policies, the main policies of the Movement for the Liberation of Congo, the
22 MLC.

23 Q. Thank you. Now I just want you to walk us through two or three documents, and
24 for that purpose we'll need to go back into private session, please.

25 PRESIDING JUDGE STEINER: Court officer, please.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 (Private session at 12.45 p.m.) * Reclassified as Open session

2 THE COURT OFFICER: We are in private session, Madam President.

3 MR HAYNES: Thank you very much.

4 Q. The first document is document 21, which we'll look at very briefly, Mr Witness.

5 THE COURT OFFICER: Document CAR-OTP-0009-0140 is available on your screens,
6 and it's a confidential document.

7 MR HAYNES:

8 Q. Do you recognise that document, Mr Witness?

9 A. Absolutely, I do recognise it.

10 Q. I'm not going to ask you to read it all out, just tell us what it is.

11 A. This is a notification. It's the minutes of a notification, or a record of notification,
12 rather.

13 Q. A notification of what?

14 A. It concerns the notification of an appointment, a member of the Political and
15 Military Council for Liberation.

16 Q. It appears to be dated (Redacted)
17 (Redacted)

18 A. I believe that I have already answered that question. I said that all founding
19 members were members of the (Redacted) at the time, so I
20 believe that (Redacted)

21 Q. So is it the position that members had to be reappointed from time to time?

22 A. In fact, yes, because this notification, if my memory doesn't fail me, was issued at the
23 time of the restructuring of the (Redacted)

24 Q. Thank you very much. We'll come on to that in a minute. Can we now have a
25 look, please, at document number 22.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 THE COURT OFFICER: Document CAR-OTP-0009-0142 is available on your screens,
2 and it's a confidential document.

3 MR HAYNES:

4 Q. Sir, do you recognise this document?

5 A. Affirmative, Maître, I do recognise it.

6 Q. And can you tell us what it is?

7 A. It's a list of MLC delegates present at the plenary session, when the (Redacted)
8 (Redacted) was being concluded.

9 Q. And what practically did that mean? Where did that happen, when did it take
10 place, and how long did it last?

11 A. The document says itself, the meeting took place on (Redacted). As for the time
12 it took, well, you can't ask me about that. I don't remember.

13 Q. (Redacted)

14 A. Look, I can't remember all the meetings of the (Redacted) that
15 were held, with the presence of all the members, the presence of all the members of all the
16 meetings. Well, to remember all these things is a very difficult exercise for me.

17 MR HAYNES: Very well. I'm coming to the end of this little section. Can we have a
18 look, please, at document 25.

19 THE COURT OFFICER: Document CAR-OTP-0009-0152 is available on your screens,
20 and it's a confidential document.

21 MR HAYNES:

22 Q. Again, briefly, do you recognise this document, Mr Witness?

23 A. Yes, I do. It's (Redacted) a meeting of the Political and Military Council of
24 Liberation.

25 Q. And the purpose of that meeting was what?

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 A. As it says, as the agenda says, it had to do with adopting the statutes of the MLC,
2 the political party. It had to do with evaluating the political situation, having adopted
3 the constitution and the transition, and under 3, it says "miscellaneous."

4 Q. Thank you. And if we see that the date at the top is 4 April 2003, that's the same
5 date that the statute was signed by all the founding members, isn't it?

6 A. That's correct.

7 Q. Now, you've told us this, but the statute of April 2003 was drawn up for a very
8 particular reason, wasn't it?

9 A. Correct.

10 THE INTERPRETER: Interpreter's correction, in his previous answer, the witness said
11 that "Under item 2, item 2 had to do with adopting the transitional constitution."

12 MR HAYNES:

13 Q. After the transitional phase, no political party was permitted by law to have a
14 military aspect. Do you agree with that?

15 A. Indeed.

16 Q. And so all the soldiers who were associated with the MLC had to be removed from
17 the Politico-Military Council, didn't they?

18 A. Affirmative.

19 Q. And that's why it could no longer be called the Political-Military Council, because
20 the word "military" was illegal?

21 A. I fully agree with you.

22 Q. Thank you. And of course, most importantly, no political party could have a leader
23 who was a soldier either, could it?

24 A. Correct.

25 Q. And Mr Jean-Pierre Bemba was not a soldier, was he?

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 A. From the time that the statute, this statute, was adopted, one could say that he was
2 no longer a soldier, but not only from the time of its adoption but also from the time that
3 ranks were recognised as such, military ranks were recognised as such, the ranks of
4 members of the military who were part of the rebel movement. So, from that point in
5 time when ranks were recognised in Kinshasa, so it's from that point in time that one
6 could say that he was no longer a soldier. He could be considered not to be a soldier
7 from that point in time.

8 MR HAYNES: Thank you very much. I note it's three minutes to, but that really is the
9 end of this section, and the next section I can't make a meaningful start on in three
10 minutes.

11 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. Let us turn into open session,
12 please.

13 (Open session at 12.58 p.m.)

14 THE COURT OFFICER: We are in open session, Madam President.

15 PRESIDING JUDGE STEINER: Mr Witness, we'll have now our lunch break. You can
16 have lunch, take some rest. It's almost 1 o'clock. We will resume at 2.30.

17 Court officer, please turn into closed session for the witness to be taken outside the
18 courtroom. In the meantime, we will suspend and resume at 2.30.

19 (Closed session at 13.00 p.m.) * Reclassified as Open session

20 THE COURT OFFICER: We are in closed session, Madam President.

21 (The witness stands down)

22 THE COURT OFFICER: All rise.

23 (Recess taken at 13.00 p.m.)

24 (Upon resuming in closed session at 2.35 p.m.) * Reclassified as Open session

25 THE COURT USHER: All rise. Please be seated.

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

- 1 PRESIDING JUDGE STEINER: Good afternoon and welcome back. I ask, please, the
2 court usher to bring the witness in.
3 (The witness enters the courtroom)
4 PRESIDING JUDGE STEINER: We can turn into open session, please.
5 (Open session at 2.37 p.m.)
6 THE COURT OFFICER: We are in open session, Madam President.
7 PRESIDING JUDGE STEINER: Good afternoon, Mr Witness. Welcome back.
8 THE WITNESS: (Interpretation) Thank you. Good afternoon.
9 PRESIDING JUDGE STEINER: Did you manage to rest a little bit?
10 THE WITNESS: (Interpretation) Yes, of course.
11 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?
12 THE WITNESS: (Interpretation) More than ready.
13 PRESIDING JUDGE STEINER: Thank you very much.
14 Mr Haynes, you have the floor.
15 MR HAYNES: Thank you, your Honour, and good afternoon.
16 Q. And good afternoon to you, sir.
17 A. Good afternoon, Maître.
18 Q. Just before lunch we were discussing the renaming of the Conseil Politico-Militaire
19 in April of 2003. I want to go back in time and ask you about the Conseil
20 Politico-Militaire so-called and see if you can help us as to what consultative functions it
21 had. On what issues, if any, did it advise the President in his decision-making?
22 A. Affirmative, there were such cases.
23 Q. Well, let's cut straight to the chase. I want you to look at a couple of documents
24 and see if you can help us with the process that lies behind them, and the first one is
25 document number 93 on the Defence list.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 PRESIDING JUDGE STEINER: Mr Haynes. Mr Haynes.

2 MR HAYNES: Your Honour.

3 PRESIDING JUDGE STEINER: Just to remind you and the witness that we are in open
4 session.

5 MR HAYNES: Yes, thank you, and I should have done that.

6 THE COURT OFFICER: Document CAR-D04-0002-1481 is available on your screens.

7 It's a public document and therefore it will be broadcast outside, unless otherwise
8 instructed.

9 MR HAYNES: Thank you very much.

10 Q. Now, sir, you heard what Madam President said. When I ask you questions about
11 this document, please don't say anything that might lead to your identification and if have
12 you don't think you can answer the question without giving away such information
13 please say so and we will go into private session. Do you understand? I think you have
14 to answer for the record. I see you nodding.

15 A. I agree.

16 Q. Now, I'm going to ask you to read the document on the screen down to the point
17 where we see a list of names. Do you understand?

18 A. I understand, Maître.

19 Q. Would you be so good as to do so nice and slowly so your words can be interpreted?

20 A. "Decree number 019/Prés/MLC/07/02 of 14 July 2002, appointing subordinate officers
21 in the Army of Liberation of the Congo, ALC.

22 The President of the Movement of the Liberation of the Congo and Commander-in-Chief
23 of the Army of Liberation of the Congo, noting the Statutes of the Movement of the
24 Liberation of Congo and in particular Articles 12, 13 and 16 thereof, noting the necessity to
25 reinforce the organisation of the Army of the Liberation of the Congo, considering ..." it's

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 not quite legible. It's not legible. "Considering the files ..."

2 Q. I think it's "personnel."

3 A. Okay. "Considering the personnel files of the officers of the Army of the Liberation
4 of the Congo and in particular the aspects concerning courage, training, seniority and
5 conduct and pursuant to the opinion of the Political and Military Council of Liberation, it
6 is hereby decreed that Article 1: The following are hereby appointed to the rank of a
7 captain," and the names of the officers follow.

8 Q. Thank you very much, sir. Now, this is the point where you have to be considerate
9 of what information you give in your answers and if you would prefer to go into private
10 session we will do so, but how often were such decrees ordered, or made, if you know?

11 A. I don't think that such decrees were made very frequently in a pre-established
12 fashion.

13 Q. And are you aware of the process or the processes which led to the making of a
14 decree such as this?

15 A. Usually, when it was necessary to proceed and make appointments within the
16 Political and Military Council, this would usually be suggested to all the members present
17 within the Political and Military Council, and therefore, on the basis of the opinion of all
18 the members, as the document says, it was agreed naturally that the decision should be
19 enforced.

20 Q. Thank you very much. Would this involve a discussion about the merits of various
21 individuals at the Politico-Military Council?

22 A. What you say is true, but I can confirm that in the case of this decree (Redacted)
23 (Redacted) where each candidate on
24 this list was discussed, their courage, their training, seniority and conduct.
25 (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Private Session)

ICC-01/05-01/08

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 MR HAYNES: Thank you. Can we now have a look at the next document, which is
9 document 94 on the Defence list.

10 PRESIDING JUDGE STEINER: Court officer, could you please turn briefly into private
11 session.

12 (Private session at 2.50 p.m.) * Reclassified as Open session

13 THE COURT OFFICER: We are in private session, Madam President.

14 PRESIDING JUDGE STEINER: Mr Witness, we have already ordered the redaction of
15 part of your last answer, but just to remind you not to mention that (Redacted)

16 (Redacted) It's been redacted and it will not be broadcast, but just

17 to remind you in case other questions are put by the Defence counsel that lead to this kind
18 of information.

19 We can turn back into open session, please.

20 MR HAYNES: Well, your Honour, shall we just remain in private session so I can ask
21 the one question that I was trying to avoid the witness actually giving us the answer to
22 and we can then move on.

23 PRESIDING JUDGE STEINER: So we continue in private session.

24 MR HAYNES: Thank you.

25 THE COURT OFFICER: Document CAR-D04-0002-1499 is available on your screens.

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Private Session)

ICC-01/05-01/08

1 It's a public document, but it will not be broadcasted outside.

2 MR HAYNES:

3 Q. I don't think it's necessary for you to read this out loud, but can you just read it to
4 yourself, please, and let me know when you've finished reading it.

5 A. I'll read it out now. So, this is "Decree number 017/President/Prés/MLC/07/02 of
6 14 July 2002, appointing generals in the Army of the Liberation of the Congo, ALC.
7 The President of the Movement for the Liberation of the Congo and Commander-in-Chief
8 of the Army for the Liberation of the Congo noting the Statutes of the Movement for the
9 Liberation of the Congo and in particular Articles 12, 13 and 16 thereof, noting the
10 necessity to reinforce the organisation of the Army for the Liberation of the Congo
11 considering the personal files of the officers of the army of the -- Army for the Liberation
12 of the Congo and in particular the aspects concerning their courage, training, seniority
13 and conduct, pursuant to the opinion of the Political and Military Council for liberation it
14 is hereby decreed that --" should I stop there?

15 Q. Yes, thank you very much. Now, we are in private session for this reason: This
16 document relates to the appointment of I think six generals in July of 2002. I assume you
17 recognise some of the names, do you?

18 A. I recognise all of them.

19 Q. And do you recall (Redacted) their
20 appointment?

21 A. Maître, it's a very good and relevant question. You have just refreshed my memory
22 by putting this question to me. As far as the appointment of these officers is concerned,
23 I'll be very precise, and I can say that even the officers who are concerned by this decree
24 could testify to the same effect as I am testifying and I can bet my life on this.

25 When you have to appoint certain individuals to certain ranks, the Political and Military

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 Council never convened for that purpose. A commission was established, and within
2 that commission – well (Redacted) There were people who
3 were outside the Political and Military Council who were part of this commission and I
4 could mention, for example, politicians such as Alexis Thambwe Muamba, José Endundu,
5 who were not part of the Political and Military Council, and within that commission there
6 were also officers, General Amuli in particular, and it was when this commission was
7 established that it was decided what sort of rank the national President should be given,
8 what rank other officers should be given and what rank (Redacted) be given, all those
9 who were concerned by this decision.

10 The Political and Military Council was never involved, but be in accordance with the
11 administrative norms of the decree, it was naturally normal that one should say that it
12 was in accordance with the opinion of the Political and Military Council for liberation.
13 That is what is stated in the decree, but the council never convened for that purpose.
14 Whenever there was a meeting of the Political and Military Council, there was a letter
15 summoning the members which would be sent. So when one should see a letter where it
16 clearly states, where it's clearly visible, that the Political and Military Council was
17 convened and its agenda, on its agenda, there was an item that concerned the
18 appointment of generals. Such a letter should in this case be shown. There you have it.

19 Q. Thank you. Obviously, you were aware of this commission. Did it write reports
20 that (Redacted)

21 A. (Redacted) but
22 everyone knew that there was a commission that had been set up in order to deal with
23 this issue, but it wasn't something that was done in the Political and Military Council, and
24 I am quite categorical about that.

25 MR HAYNES: Thank you. We're now going to go into public session, so can you avoid

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 saying that you were present at meetings and the like, please.

2 PRESIDING JUDGE STEINER: Are you asking to turn into open session, Mr Haynes?

3 MR HAYNES: Your Honour, I am sorry, it didn't sound like a request, did it? I'm very
4 sorry.

5 PRESIDING JUDGE STEINER: No, it didn't sound like that. Court officer, please.

6 (Open session at 3.00 p.m.)

7 THE COURT OFFICER: We are in open session, Madam President.

8 MR HAYNES: Thank you.

9 Q. Can you help us as to what rank of officers were appointed by such decrees?

10 A. The officers concerned for appointments of high rank, you had first the
11 higher-ranking officers and the subordinate officers. The higher-ranking ones, you had
12 generals, colonels, majors, captains, lieutenants and sub-lieutenants.

13 Q. Thank you very much. That's very helpful. I want to leave that topic now and
14 come on to the Secretary-General. Can you explain to us, as concisely as possible, what
15 were the functions and responsibilities of the Secretary-General?

16 A. Well, if I remember correctly, the duty of the Secretary-General was to co-ordinate
17 the activities which were the work for the general secretariat and also for dealing with the
18 administrative matters for the Secretary-General on an everyday basis, and he also had to
19 provide assistance to the President in his duties.

20 Q. Why was it necessary to have a secretary-general?

21 A. The position of secretary-general needed to exist to have someone to run the general
22 secretariat.

23 Q. Would it be an appropriate analogy to say he was like a prime minister?

24 A. Well, I wouldn't say that the structure of the MLC as it's been presented was a
25 carbon copy of the government structure, but it was a structure which had to be set up for

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 the purpose of running the movement, and that's all I can say about it. I can't make a
2 comparison with government structures, official government structures. I saw the
3 Secretary-General and the other bodies as entities that were set up for the purpose of the
4 efficient running of the movement, that's all.

5 Q. Did the Secretary-General have autonomous powers of his own?

6 A. Well, the Secretary-General was in charge of carrying out the options or guidelines
7 which had been decided on, or set down, by either the presidential body or the Political
8 and Military Council. That's all.

9 Q. Did he, to your knowledge, have the power of appointment?

10 A. The Secretary-General could appoint the members of his cabinet.

11 Q. Anything else that you're aware of?

12 A. In terms of the autonomous power of the Secretary-General?

13 Q. Yes, sir.

14 A. I know he could appoint the members of his cabinet, but for the question of national
15 secretaries who were part of the general secretariat, that didn't come under his
16 prerogative.

17 Q. Well, I want to see, if we look at a few documents, whether you can recollect the
18 current events.

19 Can we start with document number 7 on the Defence list, please?

20 THE COURT OFFICER: Document CAR-DEF-0001-0105, it's available on your screens.
21 It's a public document and it will be broadcasted outside.

22 MR HAYNES:

23 Q. Sir, I am going to ask for your help again. Would you be so kind as to read this
24 document out. There's no need to read the heading, but from the title down to the
25 bottom.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

- 1 A. "Decision number 006/SG/MLC/12/2001 on the suspension of a judge.
- 2 The Secretary-General, with reference to the statutes of the MLC, with reference to
- 3 legislation number 82-010 of March 31, 1982 on the status of judges, in the absence of any
- 4 Supreme Council of Magistracy in the territory under the control of the MLC, with reference
- 5 to the code of good conduct of the MLC, decides:
- 6 Article 1: Mr Ilinga Issendja, President of the High Court of Gemena, TGI, is suspended
- 7 from his position and is at the hands of justice;
- 8 Article 2: the Director of Cabinet is responsible for enforcing this ruling, which will be
- 9 enforced on the day of its signing."
- 10 Q. Thank you. That's very kind of you. Do you have any personal recollection of
- 11 this episode?
- 12 A. Yes, yes, indeed. There were times when judges were suspended and there were
- 13 new positions, or changes in position for judges. I remember that.
- 14 Q. But the President of the Court at Gemena in particular, do you remember what
- 15 happened?
- 16 A. Well, this is a story that happened a long time ago. I can't remember the
- 17 suspension of all members of the MLC. No, no, it's very difficult.
- 18 Q. I completely understand, and I don't criticise you. I just wondered if you did. Do
- 19 you -- can you help us as to why this is part of the Secretary-General's function?
- 20 A. Well, earlier I gave you a table which I had with the prerogatives of the
- 21 Secretary-General, to my knowledge, and I think the list that I have just given is in the
- 22 statutes there.
- 23 MR HAYNES: Thank you very much. Can we now have a look, please, at document
- 24 number 11 on the Defence list?
- 25 THE COURT OFFICER: Document CAR-D04-0002-1432 is available on your screens.

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 It's a public document and will be broadcasted outside.

2 MR HAYNES:

3 Q. I'm going to ask for your help again, sir. Starting with the information as to who
4 this document was sent to in the top right-hand corner, would you read the document out
5 for us at the pace you have been doing up 'til now?

6 A. Should I start at the top, where it says "transmis copies"? Transmis: "Forward
7 copies for information to His Excellency, the National President of the MLC in Gbadolite,
8 the national secretaries, all of them, Chief of General Staff of the ALC, directors of the
9 MLC, all.

10 Re notification interim position to Mr François Muamba, National Secretary for External
11 Relations and International Co-operation in Gbadolite.

12 In light of the urgent need to conduct the ongoing management of public matters, on the
13 one hand, and for the purpose of restoring order to the National Secretariat of Finances
14 and Budget, where the head of department has been absent, leaving a vacuum in a
15 position of authority on the other hand, I hereby inform you that from this day on you
16 will hold the interim position as National Secretary for Finance and Budget and shall
17 continue to do so until otherwise advised. The present notification takes effect on the
18 date of its signing."

19 Q. And can we just take the document down to the bottom so that you can complete it.
20 Signed by?

21 A. (No interpretation)

22 Q. Briefly, if you would, describe to us what this document - what the function of this
23 document - is?

24 A. It is the notification of an interim position being taken up.

25 Q. And what level of position is being taken up in -- by this notification?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 A. This notification refers to a position at the level of national secretariat.

2 Q. Is this an example of what you were telling us earlier about the Secretary-General's
3 power to appoint cabinet ministers?

4 A. I think the notification on the interim position is not, but I don't know because now
5 we're playing around with terms. This notification of an interim position is not an
6 appointment. I'm not surprised to see that the notification of an interim position should
7 come under the prerogatives of the Secretary-General, because he is in charge of
8 co-ordinating the activity which is done by the Secretariat General, so he has to organise
9 things and that comes within the scope of organising things as part of the General
10 Secretariat.

11 MR HAYNES: Thank you very much. Can we now have a look at document number
12 16 on the Defence list?

13 THE COURT OFFICER: Document CAR-DEF-0001-0106 is available on your screens and
14 it's a public document.

15 MR HAYNES:

16 Q. Sir, you are doing a lot of work for us this afternoon. Would you mind reading out
17 this document from "arrete" until the end of the text?

18 A. Yes, indeed, you are making me work a great deal.

19 "Ruling number 008/SG/MLC/12/2001 on the appointment of a Prosecutor.

20 The Secretary-General, with reference to the statutes of the MLC with reference to act
21 number 37/Prés/MLC/2001 on the appointment of members of the executive of the MLC
22 with reference to legislation number 82-010 of March 31, 1982, on the status of magistrates,
23 with reference to legislation number 82-020 of March 31, 1982, on the code of organisation
24 with reference to the personnel file of the person concerned with reference to needs.

25 Rules:

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 Article 1: is allocated to the Prosecution of the High Court, the TGI of Lisala, as Prosecutor
2 of the Republic, Mr Honoré Keto.

3 Article 2: The director of the cabinet of staff is responsible for enforcing the present
4 ruling which will be enacted on the date of its signing.

5 Article 3: All prior measures counter to the present ruling are hereby cancelled."

6 Q. Thank you again, sir. Are you familiar with the act on the appointment of the
7 executive?

8 A. Which one?

9 Q. The one that is cited in the second paragraph of the preamble to this order.

10 A. Yes, yes, I recognise it.

11 Q. And do you know what powers it confers and upon whom?

12 A. This act gives prerogatives to the President of the MLC.

13 Q. Just for the sake of completeness, could we just bring the document up a little bit so
14 you can tell us who has issued this order?

15 A. The order was issued by the Secretary-General, Olivier Kamitatu.

16 MR HAYNES: Thank you. And can we now go to document number 15 on the Defence
17 list.

18 Q. Sir, while this document is being brought up, I don't think anybody has said this to
19 you because you're obviously young and strong, but if you do feel tired or unwell, please
20 do say so. I am making you read quite a lot this afternoon and it's a long day, so don't
21 hesitate to say if at any stage you have had enough, will you?

22 A. Can I go ahead with the reading?

23 Q. You know the routine by now.

24 PRESIDING JUDGE STEINER: Mr Witness. Mr Witness, let's first allow the court
25 officer to inform the ERN number of the document.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

- 1 THE COURT OFFICER: Thank you, Madam President. Document CAR-DEF-0001-0167
2 is available on your screens and it's a public document that will be broadcasted outside.
- 3 MR HAYNES: Thank you.
- 4 Q. Now, you can see this is a document from a different department, so would you be
5 so good as to start at the very top of this document?
- 6 A. "Movement for the Liberation of the Congo.
7 National Secretariat for Justice.
8 Order number 006/SNJ/MLC/03/2003 of 26 March 2003, on the requisition of an officer
9 from the public Prosecution."
10 Excuse me.
- 11 "The national secretary for justice, with reference to Statutes of the Movement for the
12 Liberation of the Congo and specifically Article 14 with reference to the code of conduct
13 for the Army for the Liberation of the Congo and specifically points 3.1 and 3.2, with
14 reference to decree number 005/President/Prés/MLC/03/2003 of 3 March 2003, on the
15 appointment of members of the general secretariat of the Movement for the Liberation of
16 the Congo with reference to legislation number 72/060 of 25 September 1972, on the
17 institution -- on the introduction of the code of military justice as amended and completed
18 to the present date with reference to legislation number 82/020 of 31 March 1982, on the
19 code for organising legal jurisdiction, with reference to decree number 035/Prés/MLC/2002
20 on the organisation of jurisdictions of the Army for the Liberation of the Congo, given that
21 it is appropriate to complete the membership of the Supreme War Council, is
22 requisitioned to take on the role of Public Prosecutor to the Supreme Council of War
23 Mr Jean Kamba Tijubikile Prosecutor of the Republic. The present order comes into force
24 on the date of its signing for the national secretary on mission Olivier Kamitatu Etsu,
25 general secretary."

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Open Session)

ICC-01/05-01/08

1 Q. Thank you. That was quite a long document. What is the Conseil de Guerre
2 Supérieur, do you know?

3 A. I am not going to attempt any definition of terms that I have no mastery of, so I will
4 not attempt to do that.

5 Q. But just to be clear, is it something that you have heard of, or something that you
6 have never heard of before?

7 A. Of course I have heard mention of the War Council, as well as of other expressions
8 which I don't fully understand or which I don't fully master.

9 Q. Okay, but what sort of business did that institution do? Was it military, or was it
10 civilian?

11 A. Which institution are you referring to?

12 Q. Sorry, five seconds. The Conseil de Guerre Supérieur?

13 A. Ordinarily, the Supreme War Council should deal with military matters.

14 Q. Thank you. I just have one more document for you to help us with in this section
15 of questions and this is one of the new documents, so it doesn't have a Defence number.

16 It is CAR-DEF-0002-0667.

17 A. I'm not sure that I have understood you, Counsel.

18 Q. That information is for those who control the screens in front of you, not for you.

19 When the document comes on the screen, you and I can talk about it.

20 THE COURT OFFICER: Document CAR-DEF-0002-0667 is available on your screens.

21 It's a public document.

22 MR HAYNES:

23 Q. Sir, now that we know what the document is, would you be so kind as to read it
24 down from "copie pour information"?

25 A. "Copy for information to the national president of the MLC.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 To the national secretaries, all. To all members of the cabinet of the national president.
2 To the chief of general staff of the ALC, to the commander in charge of the BSI, to the
3 commander in charge of BRM Gbadolite.

4 Gentlemen, I have the honour to hereby inform you that an expanded meeting of the MLC
5 executive shall hold on Tuesday, 11 July 2000, at 9 a.m. prompt in the meeting hall of the
6 presidency. All national secretaries and advisers to the President shall prepare a report
7 on their activities and respective departments."

8 Q. I appreciate that -- perhaps we better go into private session.

9 PRESIDING JUDGE STEINER: Court officer, please.

10 (Private session at 3.38 p.m.) * Reclassified as Open session

11 THE COURT OFFICER: We are in private session, Madam President.

12 MR HAYNES:

13 Q. (Redacted) is that correct?

14 A. Yes.

15 Q. (Redacted) the Secretary-General?

16 A. I do remember that from time to time meetings of the expanded or enlarged
17 executive would take place involving members from the other corps.

18 Q. And what business was enacted at such meetings?

19 A. Those meetings generally dealt with the issues of direction and general policies for
20 the movement, and also quite often whenever there was a crisis within the MLC such a
21 meeting of the executive would be convened to enable the national president to bring
22 things under control. At such meetings (Redacted) open discussions about all sorts of topics.

23 Q. Did this body have any particular name, or constitutional origin?

24 A. If one were to refer to an institution or an executive expanded in such a manner, one
25 would not find provision for such a body in the constitution. However, that type of

Trial Hearing
Witness: CAR-OTP-PPPP-0033

(Private Session)

ICC-01/05-01/08

1 meeting did take place.

2 Q. And who chaired these meetings?

3 A. The meetings were chaired by the national president himself.

4 MR HAYNES: Thank you very much. Then we can take that document from the screen
5 and with your Honour's leave go back into public session.

6 PRESIDING JUDGE STEINER: Into open session, court officer, please.

7 (Open session at 3.42 p.m.)

8 THE COURT OFFICER: We are in open session, Madam President.

9 MR HAYNES:

10 Q. What do you know about General Amuli's military experience and history?

11 A. General Amuli used to be the commander of the presidential protection unit under
12 late President Mobutu.

13 Q. So that we have a picture of him, how old would he have been at the time that we're
14 concerned with, that's 2002, do you know?

15 A. He must have been ten years younger than he is today; that is about 40 years old.

16 Q. Thank you. And so that we're clear, what rank did he hold at the age of 40?

17 A. I did not say that he was 40 years old. I said he must have been around 40. So
18 when he joined the movement, his rank was that of colonel.

19 Q. And please say if I'm asking you something you don't know the answer to, but do
20 you know anything about his military education?

21 A. I believe that he was an officer, trained at the Kananga officers' training academy,
22 and if I am not mistaken he also went on professional training in Egypt.

23 Q. Thank you very much. Can you help us, please, as to the reputation he held as a
24 soldier?

25 A. The chief of general staff had the reputation of a loyal soldier who upheld and

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 respected military rules and regulations. He was also known to be a good troop
2 commander.

3 Q. What about his reputation as a military tactician?

4 A. I never participated with him in the preparation of any military operations and I am
5 therefore not in a position to assess his skills, or competences, as a tactician.

6 Q. It's probably my fault. I am aware, from what you have told us, that you are
7 unlikely to have experienced his ability at firsthand. That is why I asked you about his
8 reputation. What did others say about him as a military tactician?

9 A. What others said about his military skills was that he was a fully fledged and a
10 complete soldier.

11 Q. When did he join the movement, to your knowledge?

12 A. Can we go into private session?

13 PRESIDING JUDGE STEINER: Court officer, please turn into private session.

14 (Private session at 3.48 p.m.) * Reclassified as Open session

15 THE COURT OFFICER: We are in private session, Madam President.

16 THE WITNESS: (Interpretation) (Redacted)

17 (Redacted)

18 (Redacted) in 1998 in Kisangani along with the other
19 officers, including General Bitu and General Mongapa.

20 Q. Thank you. Do you have any views as to how important General Amuli was to the
21 military success of the rebellion?

22 A. I believe that General Amuli was one of the pillars of the Army for the Liberation of
23 the Congo. I say so because I did not see him. It would not have been possible for him
24 to keep the position of chief of general staff from the beginning right through to the end
25 without being transferred, or without being dismissed from office. That, to my mind, is

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 evidence of the fact that he was an officer on whom the President relied heavily.

2 MR HAYNES: Thank you. We have only a few minutes left, but I'm going to see if we
3 can deal with those in open session so that the public will be able to hear what you say.
4 If you're in any way uncomfortable with the questions I ask you, please say so and we can
5 go back into private session.

6 PRESIDING JUDGE STEINER: Mr Haynes, are you asking to go into open session?

7 MR HAYNES: Your Honour, I am sorry if the manner of my asking it is not conveying
8 that correctly. I really am sorry, but yes, please, if we could?

9 PRESIDING JUDGE STEINER: Court officer, please.

10 (Open session at 3.51 p.m.)

11 THE COURT OFFICER: We are in open session, Madam President.

12 MR HAYNES:

13 Q. Why was it necessary in the MLC to have a Chief of Staff?

14 A. It was necessary to have a General Chief of Staff within the ALC because all general
15 staffs have an officer in charge of co-ordinating their activities.

16 Q. Could the army have functioned without a Chief of Staff?

17 A. It is internationally known that a general staff or a headquarters must have a Chief
18 of Staff and his deputies, or advisers. How can you have a general staff without a head?
19 That would be a situation where all officers would get together and do whatever seems
20 appropriate for them, and that would not be appropriate indeed.

21 Q. How did Colonel Amuli, as he was at the beginning of the movement, fulfil the role
22 of chief of general staff?

23 A. The chief of general staff, General Amuli, normally would have performed his
24 duties under the specifications outlined in his duties.

25 Q. It's my fault again, sir. A bad question. What I was really asking you was: Was

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

1 he a good chief of general staff, or not?

2 A. I can confirm that, yes, he was.

3 Q. And why was that, in particular? What made him a good chief of general staff?

4 A. He was a good chief of general staff because -- simply because he performed his
5 duties properly.

6 Q. I'm sorry, I heard at the end of that sentence that you said, "Normalement et bien."

7 Did you say, "He performed them well"?

8 A. Yes, that is to be understood from my answer.

9 MR HAYNES: Thank you. I just want to finish today by having a look at one more
10 document. It is document 12 on the Defence list, if that could be placed on the screen,
11 please?

12 THE COURT OFFICER: Document CAR-D04-0002-1399 is available on your screens and
13 it's a public document.

14 MR HAYNES:

15 Q. Sir, we have seen a number of these and so I don't think it is necessary for you to
16 read out the document, but can you just tell us what this document is?

17 A. This is a decree appointing a general of the ALC.

18 Q. Any general in particular?

19 A. Yes, the Général de division, Dieudonné Amuli Bahigwa.

20 Q. And I think you may have already told us this, but the significance of that
21 appointment on 14 July 2002 was what, to your recollection?

22 A. 14 July 2002 was the day on which the officers of the ALC received their ranks.

23 MR HAYNES: Thank you very much. It's a couple of minutes to 4, but if your Honour
24 is content that would be a convenient moment to stop for the day?

25 PRESIDING JUDGE STEINER: Thank you very much, Mr Haynes.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0033

- 1 Mr Witness, it has been a very tiring day for you, so we are going to adjourn for today.
- 2 Tomorrow exceptionally we are sitting only as from 3 o'clock in the afternoon, so we'll
- 3 have enough time to take some rest and to prepare yourself for the continuation of your
- 4 questioning by Defence.
- 5 I thank very much the Prosecution team, legal representatives of victims, the Defence
- 6 team, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters and court
- 7 reporters. We will adjourn for today and resume tomorrow morning at 3 in the
- 8 afternoon.
- 9 I ask, please, the court officer to turn into closed session for the witness to be taken outside
- 10 the courtroom, and in the meantime we will adjourn.
- 11 (Closed session at 4.01 p.m.) * Reclassified as Open session
- 12 THE COURT OFFICER: We are in closed session, Madam President.
- 13 (The witness stands down)
- 14 THE COURT OFFICER: All rise.
- 15 (The hearing ends in closed session at 4.01 p.m.) * Reclassified as Open session
- 16 RECLASSIFICATION REPORT
- 17 Pursuant to Trial Chamber III 's Second Order, ICC-01/05-01/08-2223, dated 4 June
- 18 2012, and the instructions in the email dated 24 September 2013, the version of the
- 19 transcript with its redactions becomes Public