

Trial Hearing
Witness: CAR-D04-PPPP-0049

(Closed Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 1
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 Judge Kuniko Ozaki
6 Trial Hearing
7 Tuesday, 20 November 2012
8 *(The hearing starts in closed session at 9.06 a.m.) Reclassified as Open session
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
13 in closed session.
14 PRESIDING JUDGE STEINER: Good morning.
15 Could, please, court officer call the 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. Good morning, and welcome
19 Prosecution team, legal representatives of victims, Defence team, Mr Jean-Pierre
20 Bemba Gombo. Good morning our interpreters, court reporters.
21 We will continue today with the questioning of Defence Witness 49, and I ask, please,
22 court usher to bring the witness in.
23 (The witness enters the courtroom)
24 WITNESS: CAR-D04-PPPP-0049 (On former oath)
25 (The witness speaks French)

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

2 (Open session at 9.09 a.m.)

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

4 PRESIDING JUDGE STEINER: Good morning Mr Witness, and welcome back.

5 THE WITNESS: (Interpretation) Thank you very much, your Honour.

6 PRESIDING JUDGE STEINER: We hope you are feeling well and ready to continue
7 giving your testimony?

8 THE WITNESS: (Interpretation) Yes, your Honour.

9 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still
10 under oath. Do you understand that, sir?

11 THE WITNESS: (Interpretation) Yes, your Honour.

12 PRESIDING JUDGE STEINER: I also need to remind you on our ground rules,
13 meaning that you are expected to speak slower than normal and to give the five
14 seconds after a question is put to you before you start giving your answer, in order to
15 facilitate our interpreters' and court reporters' work. Is that fine with you, sir?

16 THE WITNESS: (Interpretation) Yes, thank you, your Honour.

17 PRESIDING JUDGE STEINER: Mr Witness, finally I wanted to remind you that you
18 are under protective measures, that your image and voice, your voice that are
19 broadcast outside the courtroom, are being distorted so that the public cannot identify
20 you by your image or by your voice. But in order to help us to keep the protection of
21 your identity, it is very important that when we are in open session, you don't reveal
22 any information that could lead to your identification; mainly information related to
23 your current or previous position, functions, your contacts with certain persons that
24 could identify you, et cetera. If you need to review this information, you just let us
25 know in advance and we go into private session, and in private session you can speak

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1 freely because the public cannot listen to what you say.

2 Is that agreeable to you, Mr Witness?

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

4 PRESIDING JUDGE STEINER: The Chamber was also informed that you may need
5 some breaks during your testimony, so please do not hesitate and ask for a break if
6 need be.

7 I will give back the floor to Defence, Mr Haynes, who is in charge of questioning you.

8 You have the floor, Mr Haynes.

9 MR HAYNES: Thank you, your Honour, and good morning to you. Good
10 morning to everybody in and around the courtroom. QUESTIONED BY

11 MR HAYNES: (Continuing)

12 Q. And good morning to you, sir. Sir, do you remember yesterday when we
13 finished at about 1.30, we were talking about the departure of the MLC troops to the
14 Central African Republic?

15 A. Yes, Counsel, I remember.

16 Q. And you were telling us the dates on which the main body of the force crossed
17 over the river, and what dates were they?

18 A. 29 and 30 October 2002.

19 Q. And I'd just like you to look at a document; it's one we've seen before. It's
20 Defence document 36, and the full ERN of the first page of that document is
21 CAR-D04-0002-1514, and I'd like to look at page 1637. That's the last four numbers
22 of the ERN number. So if you don't just mind waiting for the document to come up
23 onto the screen, and we'll need to start in the bottom left-hand corner, please.

24 Can you see everything that's in the bottom left-hand corner there, sir?

25 A. Yes, Counsel, I can see.

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1 Q. When you've finished reading that, would you tell us so that we can go up to
2 the top right-hand corner and you can see the whole of that message?

3 A. Yes, Counsel.

4 Q. Can we now -- can we now go up to the top right-hand corner, please. Okay?

5 A. Yes, I'm ready, Counsel.

6 Q. Thank you. Firstly, what's the date of that message?

7 A. Well, here I see, "In 30 October 2002 at 1520 hours, time band Alpha."

8 Q. And do you know what "time band Alpha" means?

9 A. I see "1520 hours Western Hour." It means one hour ahead of GMT. That's
10 what it means.

11 Q. Okay. And who is that message from, and who is it to? If you need to, we
12 can go back to the bottom left-hand corner for you to see those details?

13 A. Well, it was drafted by the Bangui operations commander, by the head of
14 operations in Bangui, and the message is intended to the Head of General Staff. And
15 for information purposes, a copy has been provided to Mr Bemba, the chairman.

16 Q. And what information is being passed from the head of operations in Bangui?

17 A. Generally speaking, General Moustapha in Bangui would send -- in addition to
18 this information, he'd send certain information about the morale of the troops, some
19 details. For example, he mentioned a lack of medications, so there were no
20 medicines. That sort of thing, that sort of information. That's what we see here.

21 Q. But what does he say about the time of his arrival in Bangui?

22 A. Here it says in the message, given the content here, he says -- he mentions a
23 co-ordination meeting, that he had arrived in order to plan with the CAR officers and
24 the operation began at 1300 hours. He gave an account of the enemy toll, 25 deaths,
25 three Chadians are captured. That's -- the message is there, it's clear. I don't know

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1 whether you want me to comment, but it's here. He goes on, for example, "four large
2 vehicles." He mentions something about tyres. He gives a number of details.

3 Q. Okay. At the time that General Moustapha arrived, how many troops would
4 have been in Bangui by then?

5 A. Counsel, as I said yesterday, it was a tactical march, and a tactical march, well,
6 you set some parameters. You say you are going to arrive at this time, at this place,
7 at this location, and the main part, namely the people who are capable, who can walk.
8 Well, you see, there was the advance party. They arrived. The company crosses
9 over, and the second company crosses over and the third company crosses over. So,
10 you see, there were 1,500 men sent to Bangui. I believe it was 1,500 men.

11 MR HAYNES: Okay. Just to complete this, can we just go down the page a little bit
12 where we are there at the -- in the bottom left-hand corner.

13 THE COURT OFFICER: Mr Haynes, that's as far as it can get. It was scanned that
14 way.

15 MR HAYNES: Okay. Well, we may have to look at this in another way.

16 Q. I want you to have a look at another document, please. So we'll remove this
17 document from the screen, and I'd like you to look at Defence document number 5,
18 and that's CAR-DEF-0001-0076. Read down as far as you can, sir, and then we'll
19 move the letter up a little bit more so you can read all of it.

20 A. Yes, Counsel.

21 MR HAYNES: So can we -- can we just push it up a little bit, so he can see the
22 bottom of the letter?

23 Q. I'm not going to show you the whole of this letter. I just want to ask you this:
24 On 27 October 2002, how many troops, how many MLC troops if any, were in
25 Bangui?

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1 A. None.

2 Q. What was the state of the operation on 27 October?

3 A. On 27 October we were planning, as I explained yesterday, and when one takes,
4 for example, the date of 27 October and when -- in the mind of the person who
5 drafted this letter to the special representative, you can see this is quite allowable.

6 You see, on the 27th we had learned that -- you see, contacts had been made at his
7 level, and so on the 27th there were informal meetings between the -- or within the
8 General Staff, the G2, the G3, the operations unit, the -- there were these meetings
9 going on with the Head of General Staff, and so considering on the 27th (Redacted)

10 (Redacted)

11 with Jean-Pierre Bemba, we can think of that time as the time at which full operations
12 began. So that you can look at it this way: There was a short time frame and a long
13 time frame. This is what we learned at military academy.

14 Q. Thank you. I'm finished with that document now. Thank you, that can be
15 removed from the screen.

16 Did the events in Bangui have any strategic importance for the MLC itself?

17 A. Counsel, pursuant to the Lusaka Agreements, I said this yesterday, we were a
18 State. We had the prerogatives recognised by the international community, just like
19 our friends in the former government in Kinshasa and our friends with the
20 RCD-Goma. We had, in actual fact, the right to come.

21 THE INTERPRETER: Correction: The right to rule.

22 THE WITNESS: (Interpretation) So what happened in a neighbouring country, a
23 sovereign country, a democratic country, because the president there had been elected,
24 and what's more, at the request. So the request was made. So it was a strategic
25 response, yes.

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1 MR HAYNES:

2 Q. Thank you. I'd just like you to look briefly at a couple of other documents.

3 The next document is document number 7. That's CAR-DEF-0001-0096.

4 THE INTERPRETER: Interpreter correction: In the previous reply the witness
5 mentioned the right to look over, or to keep an eye on, not the right to rule.

6 MR HAYNES:

7 Q. Again, if you can read down as far as you can and then tell us when you'd like
8 to read a little more. I'm not going to ask you about the detail of the document.

9 Sir, do you know what CEEAC is? Sorry, C-E-E-A-C for you?

10 A. Yes, Counsel.

11 Q. And can you tell us what it is, or was?

12 A. The Community of Central African States.

13 Q. Was it a significant organisation for the MLC in 2002?

14 A. Yes, Counsel.

15 Q. And what was its purpose?

16 A. It is a subregional organisation.

17 Q. Okay. Are you familiar with its aims and who was -- who were the members
18 of CEEAC?

19 A. The goals, yes. It is a Community of States, including Gabon, Central African
20 Republic and us as a State, that is the Congo, being on our part the DRC and
21 Congo-Brazzaville and all those States together. The economic goals included free
22 movement of goods between those countries, and later on issues like tariff or customs
23 tariffs were also included in those arrangements.

24 Q. Thank you. I'm going to ask you now to look at document number 8, which is
25 CAR-DEF-0001-0102.

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1 Sir, do you know what CEN-SAD is?

2 A. Yes, Counsel.

3 Q. And would you appreciate the opportunity to read this document before I ask
4 you any further questions?

5 A. Thank you, Counsel. I'm done.

6 MR HAYNES: Can we just go to the next page, please, so that the witness can see
7 what's there?

8 PRESIDING JUDGE STEINER: Mr Haynes, if you allow, please, Judge Aluoch
9 wants a clarification.

10 MR HAYNES: Certainly.

11 JUDGE ALUOCH: Just before you go to the next topic, Mr Haynes, I'm looking at
12 the transcript, the English version, where you pose the question to the witness on
13 page 8, line 2, "Did the events in Bangui have any strategic importance for the MLC
14 itself?" The witness's answer was, "Counsel, pursuant to the Lusaka Agreements, I
15 said this yesterday, we were a State. We had the prerogative recognised by the
16 international community, just like our friends in the former government in Kinshasa
17 and our friends with the RCD-Goma. We had in fact the right to rule."

18 The clarification I want to seek from the witness is when you say --

19 MR HAYNES: Well, I don't wish to intervene, but certainly "rule" doesn't appear in
20 mine.

21 JUDGE ALUOCH: It was corrected to read "the right to rule."

22 MR HAYNES: Ah, okay.

23 JUDGE ALUOCH: Yes, look at the line below.

24 MR HAYNES: Yes, thank you.

25 JUDGE ALUOCH: The clarification I wish to seek from the witness is when you said,

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1 "We had the right to rule," you mean MLC, you had the right to rule a part of the
2 Congo, or just what did you mean by, "We had the right to rule"? That's the
3 clarification I'm seeking from you, Mr Witness, just so that I'm clear in my mind.

4 Yes.

5 THE INTERPRETER: Your Honour, from the interpreters --

6 THE WITNESS: (Interpretation) Thank you, your Honour. When I say that we
7 had that prerogative, those prerogatives that were recognised under a number of
8 different agreements that were ratified by the MLC, you may want to recall that
9 during that conflict our opponent was the Government of Kinshasa who -- we also
10 had on the other side facilitator - the facilitator - and the negotiations were going on
11 between Kinshasa, Gbadolite and Goma. So initially all the parts that were under
12 the control of any movement had come under a cease-fire, but each of those groups
13 had control over the territory that they occupied. So under the Lusaka Agreements
14 we were all equal parties, RCD, Kinshasa government and us, and each of these
15 parties was sovereign and was recognised as a State. That's what I meant.

16 JUDGE ALUOCH: Thank you.

17 MR HAYNES: If I can help, Judge Aluoch, I believe later on, at page 8, lines 17 to 19,
18 the matter was already clarified by the interpreters.

19 JUDGE ALUOCH: The witness's explanation is much clearer now.

20 MR HAYNES: Thank you. Okay.

21 THE WITNESS: (Interpretation) Thank you.

22 MR HAYNES:

23 Q. Can we therefore go back to the second page of the document on your screen,
24 the CEN-SAD document. The document may have helped you, but what was your
25 understanding of the organisation CEN-SAD?

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1 A. Counsel, the fact of the matter is that this is a strategic issue and it falls under
2 operations and it's entirely political and it's really way out of my reach.

3 Q. Okay. Well, we'll leave it there. Did you understand that there were forces
4 other than Central African forces and MLC forces in the Central African Republic
5 fighting in support of President Patassé?

6 A. Yes, Counsel.

7 Q. And where did they come from?

8 A. There were units: A detachment from Libya - a Libyan detachment - which
9 provided protection for the president and his residence, as far as I can recall.

10 Q. Do you know how they arrived in Bangui, the Libyan detachment?

11 A. Counsel, truly, no, I don't.

12 Q. Okay, I'll ask the question anyway. Do you know when they arrived in
13 Bangui?

14 A. In fact, Counsel, no.

15 Q. Okay. Do you know how they were supplied?

16 A. Counsel, I believe that from the time our detachment or brigade or soldiers
17 intervened in Bangui, from that time, yes, I have an idea but before then I have no
18 idea.

19 Q. Okay. Well, let's deal with the period that you know about. How were they
20 supplied after the MLC units arrived in Bangui?

21 A. Thank you. If I remember correctly, when our troops arrived in Bangui
22 between 29 and 30 October 2002, at that time Bangui was almost in the hands of the
23 rebels. According to some reports only part of the port and the president's residence
24 were -- President Patassé's residence were still under the control. Camp Béal and
25 part of the port were still under the control of the Central African authorities.

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1 Now, given that the Bangui airport, from a logical point of view, had fallen or was
2 under threat because the rebels were able to strike aircraft that were landing at the
3 Bangui airport to bring supplies to the Libyans, I do recall that some Libyan flights
4 actually landed in Gbadolite and their equipment was taken to Zongo and then across
5 the river. So the Libyans were getting supplies through their planes but some of
6 them, every now and then, had to land in our area and then their equipment will be
7 taken to Zongo, and Zongo is a -- had a small airport, and then they would get
8 supplies to their troops from Zongo that way.

9 Q. Thank you. Do you know how long that went on for?

10 A. Maybe if the person in charge of logistics were here, he would be able to answer
11 that question more appropriately. What I know, however, is that when the rebels
12 were warded off and driven out of Bangui, the idea then was that the flights no longer
13 came to our area since they weren't within the reach of the weapons of the rebels, so
14 the flights went directly to Bangui. But I have no details which I can tell you as
15 being the truth.

16 Q. Okay. Thank you. Now I want to discuss with you the size of the unit that
17 was sent to the Central African Republic. Can you help us as to why only one
18 brigade was sent?

19 A. Thank you. Thank you, Counsel. Quite logically, we had a goal. We had a
20 goal; namely, that goal which was being pursued by the ALC, even within the Congo
21 itself. Our enemy was the Government of Kinshasa, and at that time the government
22 was still fighting or engaged in fighting with us. The Basankusu front, battle-front,
23 was still active in the areas whose names I have now forgotten, since this happened a
24 long time ago. Then there was a front at the road along the river in Makanza to the
25 south, so there were activities, military activities that were ongoing and it was not

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1 possible for us to give up all our fronts for the benefit of Bangui. So the tactical
2 assessment that led to the drafting of the operational directives were such that we
3 came to the conclusion that what needed to be sent was one brigade to support in any
4 event the Central African forces which we believed were still faithful to President
5 Patassé. I think that is what it was.

6 Q. When that brigade was sent, how extensive an operation did you imagine the
7 intervention in Bangui was going to be?

8 A. Counsel, well, the scope of our operation was that we were there to support the
9 forces of a State; that is the FACA. Scope, the scope, well, we did not know that
10 FACA would be in such a position that they were not able to defend their
11 democratically-elected institutions. It is when we got there that we realised that
12 Bozizé and Patassé were one and the same person, namely, from the north, and then
13 they were pitted against each other, whereas Bozizé had been Patassé's Chief of
14 General Staff and that they were both brothers. Now, that infighting must have
15 pointed to the fact that there was division within the clan, the tribe, and within the
16 army, and it is only subsequently while we were on the ground that we became aware
17 of these difficulties, so we were thrust into that very complex difficulty. Maybe
18 that's it.

19 Q. I don't mean in any great detail but just in general terms, are you familiar with
20 the size and the terrain of the Central African Republic?

21 A. Yes, Counsel.

22 Q. And you've told us a good deal about yourself that I won't refer to, but was a
23 unit of 1,500 men sufficient to take and secure the whole of the Central African
24 Republic?

25 A. The truth, Counsel, is that no, no. You see, from a tactical point of view a

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1 brigade, physically speaking, can only occupy a certain amount of space, both in
2 terms of depth and scope, so a brigade can only control a physical area of about five
3 kilometres in breadth and about two or three kilometres in depth.

4 Q. Before the unit was sent, what was your understanding of the size and
5 capability of the Central African forces?

6 A. Counsel, I know nothing about the Central African Republic. We really were
7 not interested in that because -- in fact, the answer is that I don't know FACA.
8 I don't know. That -- let me say that the Central African Republic was a
9 neighbouring country and therefore, from a military point of view, one had to check
10 and watch the neighbour. When you have a neighbour, you have to keep an eye on
11 that neighbour in order to know what's happening in the neighbour's country, and
12 those types of things may end up having an impact on your own side. So to that
13 extent, yes, but I have no knowledge of the capacity of the FACA as such, no, I don't.

14 Q. Okay. I'm going to ask this question in general terms, to start off with, but we
15 may have to go into private session.

16 Have you ever been to Bangui?

17 A. Never, not once.

18 Q. Okay. Do you know what arrangements were made for the provision of
19 logistics to the MLC troops in the Central African Republic?

20 A. Yes, Counsel.

21 Q. Can you help us as to what they were?

22 A. It is the Central Africans who provided them with weapons, ammunitions,
23 logistics, uniforms. You see, their uniforms were different from ours so we wore
24 their -- the uniforms that were provided to us by our ally to the north-east were green
25 in colour.

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1 Q. And by your ally to the north-east, you mean whom?

2 A. Uganda, of course.

3 Q. Do you know where, how and when the MLC troops were provided with
4 weapons and uniforms by the Central African authorities?

5 A. Counsel, I may not be able to -- well, I may disappoint you if I attempt to
6 answer any questions relating to logistics with specifics. What I know, however, is
7 that the CCOP was at Camp Béal and there was a meeting there, and when such a
8 meeting takes place the commander -- or issues relating to logistics, class 2 uniforms,
9 4 and 5 ammunitions and weapons, then you have transmission or communications,
10 radio transmissions signalling and transportation, all those issues are dealt with when
11 such meetings are convened.

12 So when reference is made to a co-ordination meeting, or co-ordination, I do
13 understand that it means that when they arrived Central African authorities
14 organised a working session, a co-ordination meeting, using maps and other support
15 material to explain to the arriving commanders what the situation on the ground was,
16 what the logistics would be, what the attendant logistics would be, and what would
17 be required to be given to that unit in order to do the job that the Central African
18 authorities expected of them.

19 Now, the message from the commander does refer to these ideas, I think.

20 Q. Do you mean the message that we read this morning of 30 October 2002?

21 A. Yes, Counsel. The message, when it spoke about co-ordination, well, when
22 speaking to any soldier about co-ordination, the soldier will know that we're talking
23 about logistics, about support logistics, and about any support activities.

24 Q. What did you, or do you know about the CCOP?

25 A. The CCO? Is that what you're talking about?

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1 Q. Yes.

2 A. The Centre for Co-ordination of Operations, yes, Counsel, well, if I might
3 continue. The Centre for Co-ordination of Operations -- in principle, in view of the
4 fact that the Central African Republic used to receive their operational orders from
5 their Congolese peers, from an organisational and tactical standpoint, well, there are
6 two General Staffs. There is the Congolese General Staff and the CAR General Staff,
7 with General Moustapha in charge, and of course they had to reach an agreement on
8 certain principles. They had to set up the Centre for the Co-ordination of Operations,
9 and they spoke the same language as a result. They had to talk about what could be
10 expected out there. That was the principle they operated upon.

11 Q. Do you know where the CCO was situated?

12 A. I believe that it was located at Camp Béal.

13 Q. And do you know who was in charge of the CCO?

14 A. I believe that it was General Bombayake.

15 Q. And do you know who was in charge of overall operations in the Central
16 African Republic?

17 A. The Chief of General Staff for the CAR was there. I do not know this about this
18 in any detail. General Moustapha was present, and as for who was in charge, well,
19 maybe he could give you details on the matter as to what came under the orders of
20 the Central African Republic precisely.

21 MR HAYNES: Okay. I think we are going to have to go into private session
22 because I want to ask you about your particular area.

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

24 *(Private session at 10.06 a.m.) Reclassified as Open session

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

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1 MR HAYNES:

2 Q. Within the brigade that went to the Central African Republic, were there S2
3 intelligence officers?

4 A. Yes, Counsel.

5 Q. And does that apply also to the lower units, the battalions? Were there S2 or
6 T2 officers in those units?

7 A. Counsel, within the organisation of a given unit, I would say to you that the
8 brigade that crossed over was an organic brigade. It had its commander and this
9 member of -- and it was taken as such, it was taken over, it crossed over with its
10 commander, its S1, its S2, its S3, its S4, and the entire force left, yes.

11 (Redacted)

12 (Redacted)

13 A. Counsel, as I said to you yesterday, contact in formal terms between the
14 commander and any other member of staff was not undertaken directly as such. It
15 was not undertaken in such a manner and is not in any other army.

16 (Redacted)

17 (Redacted)

18 (Redacted) So, of course, he will draft a report to his commander first and
19 foremost for operational reasons in order to provide information upon which his
20 commander can make a decision. Subsequently, one -- well, they'll then be able to
21 ascertain how those outside of the area can be informed, (Redacted)

22 (Redacted) will be the commander, his

23 commander.

24 Now, (Redacted), will then

25 inform their T2 via the commander. The commander will then sign the report in the

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1 form of a telegram that we commented upon yesterday, and this is then sent to the
2 sector commander, who will then send the same telegram on to the Chief of General
3 Staff, who will receive the information and send it to the relevant office. (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. I understand the general situation, (Redacted)

7 (Redacted)

8 A. Yes, Counsel. We had (Redacted), and as I said yesterday,

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 You will probably ask me (Redacted). They might be

13 recruited in ideological terms. It might be an individual who gives you a piece of

14 information in quite an uninterested manner, off-the-cuff, if you like. And so these

15 sources in one way or another, well, (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. Well, let's be absolutely specific. Who directed intelligence during the

19 operation of the ALC in the Central African Republic?

20 A. It might be Willy Bomengo, the S2. I've forgotten the name. It's a lieutenant

21 who was in Bangui.

22 Q. Very well. I think we can go into open session now. But perhaps before we

23 do, who directed intelligence at the level above Willy Bomengo?

24 A. The S2? He was the S2.

25 Q. Very well. And who was at the intelligence level above S2 in the Central

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(Private Session)

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1 African Republic?

2 A. The information is provided and handed over to the commander, who then
3 shares this information with the Central African Republic via the CCO in order to find
4 a solution to the situation at hand. I believe that is the sense. Because, of course,
5 the problem is of a tactical sort. The enemy is 10 kilometres afield, and he might be
6 lurking behind a building. The S2 is aware of this fact. And information of this
7 type, well, should he then send it to Gbadolite a thousand kilometres away, (Redacted)
8 (Redacted)

9 He gathers this information and then he passes it on to his commander, who uses the
10 information and ascertains whether he shall share it with the S2, or the S3, or the S4,
11 or he might say to himself that the information could be of interest to the allies over
12 the other side. The commander is the boss, if you like, Counsel.

13 MR HAYNES: Okay, thank you. I think we can now go into open session. Thank
14 you, your Honour.

15 PRESIDING JUDGE STEINER: Just to make it sure that I understood this last part of
16 the testimony, when the question put to you on page 21, line 16, "Who directed
17 intelligence during the operation of the ALC in Central African Republic?", and your
18 answer is that, "It might be Willy Bomengo, the S2. I've forgotten the name. It's a
19 lieutenant who was in Bangui." Then you repeated on page -- on line 24, "The S2, he
20 was. Willy Bomengo was an S2. He was in charge of intelligence." He was the S2
21 in charge of intelligence in Bangui?

22 THE WITNESS: (Interpretation) Yes, your Honour. I do not recall, but I do
23 believe that it must have been Willy Bomengo who was S2. He was S2 in Bangui. I
24 do believe that it was him.

25 PRESIDING JUDGE STEINER: Okay, let's turn back into open session please.

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(Open Session)

ICC-01/05-01/08

1 (Open session at 10.17 a.m.)

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

3 MR HAYNES:

4 Q. Did you ever get to hear of allegations that MLC soldiers had committed crimes
5 in the Central African Republic?

6 A. The truth be told, Counsel, I did hear rumours, yes, but not specifically.

7 Q. Where did you hear the rumours?

8 A. Some of my sources informed me of the matter. I also heard it over Radio
9 France, and of course in view of the fact that this is an open source of information and
10 no specific information was provided, well, of course, one cannot know whether this
11 was true or not, these rumours.

12 Q. Did you do anything to look into the rumours?

13 A. I believe that I was not only -- the only person who was privy to this rumour. I
14 think that other members of the General Staff reported to Mr Jean-Pierre Bemba on
15 the matter. I believe that Mr Paul Musafiri, who was National Secretary for Justice,
16 or I believe it might have been Mr Thomas Luhaka, who was Deputy Secretary for
17 Defence, I believe they were requested to travel and ascertain what was going on.
18 Also, Colonel Mondonga became involved and conducted an investigation with the
19 Central African Republic into the matter. I believe that Mondonga's commission
20 went there. There were no specific facts or events reported, but it was known that
21 some war booty had been brought back and General Moustapha sent the information
22 to the Central African Republic. I believe also that the S2 was arrested and
23 extradited to Gbadolite, where he underwent trial and was sentenced, I believe.
24 Q. So did any information come to you of specific crimes committed by specific
25 soldiers?

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1 A. No, Counsel. I might add that I remember that, when Colonel Mondonga left,
2 he conducted an investigation of this type for the commission and the report itself
3 was not conclusive. I believe that some of the looted property was returned to
4 their -- to its rightful owners and the looters were arrested I believe, and I think that
5 strategically speaking Mr Jean-Pierre Bemba wrote requesting for a investigation to be
6 conducted into these allegations; these allegations that were becoming more and more
7 pressing and that we were hearing on a regular basis.

8 Q. Do you know over what period of time you heard these allegations?

9 A. Counsel, I do not recall, but it was in 2002. It was still in 2002, but as for the
10 precise date? It was in 2002.

11 Q. Okay. Can you help us as to the reasons for the departure of the MLC troops
12 from the Central African Republic?

13 A. I believe that in the negotiations with the CEEAC the CEEAC had decided that
14 we should leave and, if I recall correctly, yes, the CEEAC at a strategic level had
15 requested that the MLC leave.

16 Q. Do you remember, even approximately, how long before the MLC left that a
17 decision was taken that they should withdraw?

18 A. I believe that the first wave of departure, well, it comprised the commander
19 himself, and the second wave came under attack, if I recall correctly. Bangui fell into
20 the hands of the Bozizé forces and a large part of our forces remained at their position
21 to the north, and when Bangui fell the commander withdrew, but then the others
22 followed willy-nilly. I believe that is how things unfolded. Some crossed
23 over - they crossed over in canoes - and the troops were then reorganised on the other
24 side. The troops were gathered together once again. They were grouped together,
25 you know, ten here, five here and five there. People were gathered together.

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1 Q. And do you recall how long the withdrawal took?

2 A. The withdrawal as such did not take very long. Well, it just took the time for
3 me to cross over and to come home, if you like, because not everybody crossed over
4 from the same distance. Some people were 75 kilometres afield, some further away.
5 When you say that the enemy is everywhere, well, of course, they are scattered
6 everywhere and it takes time.

7 Q. Okay.

8 PRESIDING JUDGE STEINER: Mr Haynes, I'm sorry to interrupt you. A
9 clarification that, when you say that the troops were more to the north and they didn't
10 cross everyone at the same time, they -- "... because not everybody crossed over from
11 the same distance," this is on page 25, lines 23 and 24, do you mean that the
12 troops - the MLC troops - crossed back to DRC from different points and arrived in
13 different points in DRC before they reunited?

14 THE WITNESS: (Interpretation) Yes, your Honour. What I mean by that is that
15 the first group - the commander's group - upon receiving the order to cross over, well,
16 that is when Bangui was taken. He crossed over in the company of his soldiers, but
17 those other soldiers who were isolated further afield, if you like, remained where they
18 were and they heard that Bangui had fallen and that they had to return home, and
19 this is how they came to come home in waves under the command of their company.
20 So, for example, one company would cross at a certain location. Another company
21 would cross at another location, et cetera.

22 PRESIDING JUDGE STEINER: So for those soldiers who were in Bangui, they
23 crossed the river and arrived in Zongo; is that correct?

24 THE WITNESS: (Interpretation) Yes, your Honour.

25 PRESIDING JUDGE STEINER: And other places in the north, they crossed the river

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1 and arrived in which points in DRC, if you know?

2 THE WITNESS: (Interpretation) Not on the same day. Others

3 came over -- crossed over at further down, towards Bandu or towards Libenge, and

4 they crossed there in order to avoid Bangui, which had already fallen.

5 PRESIDING JUDGE STEINER: Thank you for the clarification. Sorry for the

6 interruption, Mr Haynes.

7 MR HAYNES: Absolutely not, your Honour.

8 Q. And do you know how these people crossed the river, the ones who didn't cross
9 at Bangui?

10 A. Counsel, the conditions were difficult. Some people used canoes that they had
11 taken from some fishermen, that sort of thing.

12 Q. When you say the conditions were difficult, why were they difficult?

13 A. What reason? Why they crossed in territory that was occupied by the enemy,
14 that they had been fighting against and there were Chadians around, even Central
15 Africans were around there too. So you can see there was no way safe, no safe way
16 to cross over, so tactically speaking, we had the RTL, a light tactical radio, to facilitate
17 the crossing over of a company that was in enemy territory. But if you didn't have
18 that and the enemy was right there and chasing you, pursuing you, others died, were
19 drowned. I remember that. It was a real shame.

20 Q. Thank you. Out of an abundance of caution, I think we had better go into
21 private session.

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

23 THE INTERPRETER: Interpreter correction, the RTL referred to in the previous
24 reply was "light tactical raft."

25 *(Private session at 10.33 a.m.) Reclassified as Open session

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(Private Session)

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

2 MR HAYNES:

3 Q. Sir, what sort of contact did you have with Mr Jean-Pierre Bemba in Gbadolite?

4 A. In working terms, well, he was our boss. He was our leader.

5 Q. And how often would you see him, on average?

6 A. Well, when the Chief of General Staff was there, well, perhaps sometimes at
7 meetings that he chaired, we would meet then from time to time, but not always.

8 Q. Did you ever go to his home?

9 A. His office?

10 Q. No, his home. (Redacted)

11 A. (Redacted)

12 Q. Were you aware of the sort of communication devices he had at his home?

13 A. He had a telephone. He had a telephone on a table, on a table. He had a
14 walkie-talkie. (Redacted), and the Chief of General Staff and the head of the BC,
15 the head of the BCF, had one as well.

16 Q. (Redacted)

17 A. But the commanders weren't linked to the telephone. They didn't have those
18 telephones. A commander who was in the -- who is in the middle of the river, in a
19 canoe, he doesn't have a telephone.

20 Q. What level of commander, if any, did have a telephone?

21 A. Counsel, are you talking about a Thuraya telephone? Is that it?

22 Q. Yes.

23 A. Some sectoral commanders had a Thuraya, if I remember. Some sector
24 commanders had one.

25 Q. Do you know, or don't you know, whether Mr Bemba spoke to sector

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1 commanders or brigade commanders by telephone or radio? And it doesn't matter if
2 you don't know.

3 A. By radio, no. Since the radio, when you talk -- you see, I have to tune in to the
4 same frequency and listen to what you're saying. (Redacted)

5 (Redacted) You see,

6 we had to respect the hierarchy. (Redacted)

7 (Redacted)

8 Q. What sort of communication equipment would a battalion commander have?

9 A. Battalion commanders, with their PC, they had radio equipment, a phonie,
10 radio equipment that would transmit and receive signals.

11 Q. What's the sort of distance over which a phonie could transmit and receive
12 signals?

13 A. From our headquarters, we would send messages beyond --

14 THE INTERPRETER: Inaudible.

15 THE WITNESS: (Interpretation) -- more than a thousand kilometres would be
16 enough. It would be enough to call, to call the same frequency, and you would reach
17 the other party.

18 MR HAYNES:

19 Q. Okay. I'm going to come on to something very different now, and I think we'd
20 better remain in private session. Do you mind me asking you why you have come (Redacted)
21 (Redacted) to give evidence?

22 A. Counsel, I came in order to say what I know. In actual fact, I am -- I am -- (Redacted)
23 (Redacted)

24 (Redacted) Perhaps a lot of time has gone by and my memory has faded,
25 but I've come to tell you what I know about the truth so that the truth can be brought

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1 out right here at the Court. That's why.

2 Q. And I just want to explore with you a little the process by which you got here.

3 When did you first have contact with any of the lawyers representing Jean-Pierre

4 Bemba?

5 A. It was in April 2012. I was asked by my other function, perhaps this hasn't

6 been mentioned, (Redacted)

7 (Redacted), to do some work, some work relating to what is going on in the country, and (Redacted)

8 (Redacted) I'm an expert in that. And I

9 was asked to come to an informal meeting, and apparently the commanders wanted

10 to know what this was all about. So I got to Kinshasa and then Mr Kilolo made

11 contact with me over the telephone. That's what I remember.

12 Q. And did you meet Mr Kilolo?

13 A. Yes, I did meet him in Kinshasa, and *a lady, Mrs Kate Gibson, at a hotel on

14 Avenue Prince de Liège, I believe it was.

15 Q. And was that the only time you meant Mr Bemba's lawyers or was there

16 another time?

17 A. The second time I met Mr Kilolo in Kisangani with you.

18 Q. Any other meetings?

19 A. No. We met twice, the meeting in Kinshasa and the meeting in Kisangani with

20 you at the hotel; hotel, yes.

21 Q. Has anybody told you what to say in evidence?

22 A. They asked me questions, just like you're doing now. They asked me

23 questions, with Miss Kate who also took notes, and you too, you asked me questions

24 and then we went our respective ways, and I knew that -- I didn't trust anyone. I

25 was worried, afraid, so I took precautions when I went, when I went back the two

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1 times that we met. That's all.

2 Q. Just remind us what position you hold (Redacted).

3 A. (Redacted)

4 Q. And where are your family?

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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11 (Redacted)

12 (Redacted)

13 (Redacted)

14 And shortly thereafter -- well, I don't know whether I can continue with this account,
15 your Honour.

16 PRESIDING JUDGE STEINER: Mr Witness, you will continue to tell your story, but
17 we'll have to go to the break now.

18 So with the agreement of the parties, it's better if we suspend now, and you continue
19 as from where you just stopped, telling the rest of the story.

20 Just a side comment, that part -- at (Redacted)

21 (Redacted)

22 (Redacted)

23 Court officer, please turn into open session.

24 (Open session at 10.59 a.m.)

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

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(Open Session)

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- 1 PRESIDING JUDGE STEINER: Thank you very much. Mr Witness, we have our
2 half-an-hour break. You are entitled to have a cup of coffee or tea and take some rest.
3 We also need to give a break to our interpreters and court reporters.
4 We will suspend now and resume at 11.30.
5 I ask, please, the court officer to turn into closed session for the witness to be taken
6 outside the courtroom. In the meantime, we will suspend and resume at 11.30.
7 *(Closed session at 11.02 a.m.) Reclassified as Open session
8 THE COURT OFFICER: We are in closed session, Madam President.
9 (The witness stands down)
10 THE COURT OFFICER: All rise.
11 (Recess taken at 11.02 a.m.)
12 *(Upon resuming in closed session at 11.36 a.m.) Reclassified as Open session
13 THE COURT USHER: All rise.
14 Please be seated.
15 PRESIDING JUDGE STEINER: Welcome back.
16 Could, please, court usher bring the witness in.
17 (The witness enters the courtroom)
18 PRESIDING JUDGE STEINER: We can turn into open session, please.
19 (Open session at 11.38 a.m.)
20 THE COURT OFFICER: We are in open session, Madam President.
21 PRESIDING JUDGE STEINER: Thank you.
22 Mr Witness, welcome back.
23 THE WITNESS: (Interpretation) Good morning, Madam President.
24 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?
25 THE WITNESS: (Interpretation) Yes.

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1 PRESIDING JUDGE STEINER: Mr Haynes, you have the floor.

2 MR HAYNES: Thank you, and can we go immediately into private session?

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

4 *(Private session at 11.38 a.m.) Reclassified as Open session

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

6 MR HAYNES:

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 PRESIDING JUDGE STEINER: Sorry to interrupt, Mr Witness. Just to refresh our

22 minds, (Redacted)

23 THE WITNESS: (Interpretation) (Redacted)

24 (Redacted)

25 (Redacted)

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12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted) So that's what happened.

17 MR HAYNES:

18 Q. Just to clear up a few things so that we have it in the record, what is (Redacted)?

19 A. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted) so to speak.

24 Q. Thank you. And when you said at the end of your description of events, "(Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted) what do you mean by you "(Redacted)
- 3 (Redacted)
- 4 A. (Redacted) and I know it. I am based in
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted) That is our
- 12 world, yes.
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted) That is it.

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9 (Redacted)

10 MR HAYNES: Thank you very much. I have no further questions for you.

11 PRESIDING JUDGE STEINER: Mr Witness, one clarification here: In relation to

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 THE WITNESS: (Interpretation) I thank you, Madam President. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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

25 (Open session at 12.06 p.m.)

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

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

3 Mr Witness, Defence has concluded your questioning, and now therefore I'll give the
4 floor to the Prosecution. Maître Badibanga will question you by -- on behalf of the
5 Prosecution.

6 Maître Badibanga, you have the floor.

7 MR BADIBANGA: (Interpretation) Thank you, Madam President. Thank you,
8 your Honours.

9 QUESTIONED BY MR BADIBANGA: (Interpretation)

10 Q. Good morning, Witness, or good afternoon in fact.

11 A. Good afternoon.

12 Q. We met briefly last week, and I introduced myself to you. My name is
13 Jean-Jacques Badibanga, and as I indicated to you I have the privilege of putting
14 questions to you for the Office of the Prosecutor?

15 A. Yes, thank you, Counsel.

16 Q. This is how the trial unfolds, and when you come to offer testimony before the
17 Court, each party will put questions to you with a view to establishing the truth.

18 Now, you might have noted that I am trying to speak slowly. There is a
19 recommendation that I would also make to you with a view to making life easier for
20 the interpreters but also for the court reporters. We will both need to speak at a slow
21 pace and more particularly because we are both speaking French, we are both
22 speaking the same language, and as a result our answers might follow on from each
23 other in such a manner that the teams working to support us might find life difficult.
24 Now, we need to go slowly as a result, and as Madam President recalled on a number
25 of occasions we need to respect the famous five-second rule which means to say that

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1 when I have finished putting a question to you, you need to wait for five seconds in
2 order -- before you start to answer me, and I need to do likewise when putting a
3 question to you. Is that clear to you, Mr Witness?

4 A. Yes, that is clear, Counsel.

5 Q. Now, while we are still in open session, I shall broach a number of issues which
6 will not require us to go into private session and, as was previously recalled, if on any
7 occasion you have any concerns with regard to the protection of your identity, then
8 please request that we move into private session which we shall do immediately.

9 A. Thank you.

10 Q. Mr Witness, I would like to talk about means of communication at the disposal
11 of the MLC. Was there in fact a communication centre based in Gbadolite?

12 A. The radio transmission centre was indeed based there, yes.

13 Q. Do you know the equipment that was at the centre? Could you briefly
14 describe it to us?

15 A. Yes, Counsel. There was a radio phonie which I described at an earlier stage, it
16 was an emitter/receiver, and there was also a Motorola base that was a walkie-talkie
17 system which was based there. There was -- I apologise. There was a repairs unit
18 nearby, just next door in fact. That's how it was -- that's how it was organised.

19 Q. Were there any other emitters/receivers, and receivers in Gbadolite apart from
20 at the communication centre?

21 A. The internal security office had its own transmission centre, so that was the
22 internal security office.

23 Q. Did the military intelligence office also have an emitter/receiver system?

24 A. (Redacted) the only emitter/receiver equipment which was at the Charlie Tango
25 Romeo centre that is to be found near or within the residence of General Amuli.

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1 That is the one we use.

2 Q. How far was Mr Bemba's residence from this centre of -- this communications
3 centre?

4 A. They were next door to each other. Mr Jean-Pierre Bemba and the Chief of
5 General Staffs were next to each other.

6 Q. I did not take down the precise reference, but I believe that when we put the
7 question to you on the subject of this transmission centre, you said of your own
8 accord that it was next door to the general's residence. And my question to you now
9 is to -- that it is -- that it is also located next door to Mr Jean-Pierre Bemba's residence;
10 is that right?

11 A. Yes, it is -- the compound is adjoining to -- adjoins -- is adjoining to
12 Mr Jean-Pierre Bemba's residence. His residence has a fence around it, as does the
13 neighbouring residence.

14 Q. Is there any reason why you did not indicate the presence of Mr Jean-Pierre's
15 residence -- Jean-Pierre Bemba's residence next to the transmission centre and only
16 mentioned the other residence?

17 A. I do not believe so, because the radio transmission centre, well, the commander
18 was the Chief of General Staff, so it had no link as such with Mr Jean-Pierre Bemba.
19 His centre is also ours.

20 Q. Did Mr Bemba have any specific statue -- status with regard to the MLC?
21 What was his role?

22 A. He was the commander-in-chief. He was the commander-in-chief, politically
23 speaking. He was the president of the movement.

24 Q. Well, you are saying two things here, Mr Witness. I read, "He ..." -- I read, "He
25 is the commander-in-chief. He was the commander-in-chief and politically speaking

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1 he is the president of the movement," end of quote. I believe we are talking about
2 two things?

3 A. Yes, of course. Military speaking, he is the one we refer to as "the
4 commander-in-chief of the army."

5 THE INTERPRETER: Message from the interpreter: Could the speakers be
6 requested not to overlap, please?

7 MR BADIBANGA: (Interpretation)

8 Q. I have been requested to observe the five-second rule, we both need to do that,
9 and of course when you finish speaking then the interpreters are still interpreting
10 what you're saying and the court reporters are also keeping up. So maybe we could
11 count even six seconds?

12 As you just said, Mr Bemba was the commander-in-chief, but two or three minutes
13 ago, when I put to you the question as to why you did not indicate that his residence
14 was located next to the transmission centre, you said, and I quote, "I do not believe so,
15 because the radio transmission centre is the -- is the weapon of the commander. He
16 was the commander of the armed forces. That had nothing to do with
17 Mr Jean-Pierre Bemba."

18 Are you then saying that this had nothing to do with the commander-in-chief of the
19 ALC?

20 A. Well, Counsel, what does this mean precisely? The commander-in-chief is not
21 the Chief of General Staff, who was General Amuli. What I am saying is that the
22 commander-in-chief does not manage the day-to-day workings of the army, which
23 falls under the Chief of General Staff. That is General Amuli. So he was in charge
24 of the army. The person who was in charge of the army was the Chief of General
25 Staff, and so the Chief of General Staff needed to report to the commander-in-chief on

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1 the situation and the commander-in-chief is not a military person. He is a civilian.

2 Q. We shall return to the role of Mr Bemba in extenso with regard to the armed
3 branch or wing of the MLC. Now, was there also an emitter/receiver at Mr Bemba's
4 residence?

5 A. No, I did not see that he had a two-way communication equipment system; a
6 Charlie Tango Romeo system.

7 Q. Are you sure about your reply?

8 A. Yes, Counsel.

9 Q. Would it come as a surprise to you if I told you that there is -- there are video
10 images of Mr Bemba using a two-way communication system in his residence?

11 A. Well, I wouldn't be surprised because during the period that I was there I did
12 not see it as such, but it could be that the equipment was removed and replaced when
13 he needed to use it. I do not know.

14 MR BADIBANGA: (Interpretation) Madam President, as you know, the Office of the
15 Prosecutor is coming up against a few difficulties in the cross-examination here of
16 Defence witnesses in view of the very limited resources that have been provided to us
17 by the Defence.

18 Now, the extensive preparation has not allowed us to be ready for this question to be
19 challenged and, in keeping with your recommendation, we did try to reduce our list
20 of documents. So I would request particularly to be granted the permission of the
21 Chamber -- and we will do so in writing at the end of the day. I would request that
22 we be allowed to add an additional supporting document in the form of a video that
23 has already been presented to the document when the expert military witness
24 testified. This would enable the witness to shed light on the matter.

25 I would also underscore the fact that the Defence did bring up such last minute

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1 requests when Prosecution witnesses were being heard, and we would be very
2 grateful if you would grant this request.

3 PRESIDING JUDGE STEINER: Would the Defence like to make observations now,
4 or wait for the formal request?

5 MR HAYNES: I don't want to interrupt the process of the witness giving evidence,
6 so we'll deal with it as and when.

7 PRESIDING JUDGE STEINER: So, Maître Badibanga, I just ask you then to make
8 the proper request as soon as possible in order to give or to allow Defence to respond
9 before the end of the day.

10 MR BADIBANGA: (Interpretation) I thank you, Madam President.

11 Q. Mr Witness, would it be true to say that the first MLC soldiers to arrive in
12 Bangui made the crossing on 26 October? I apologise, 26 October 2002? I should be
13 more specific.

14 A. Counsel, I did already answer such a question and I remember having said
15 yesterday that on 25 October 2002 we learnt --

16 Q. I would remind you, Mr Witness, that we are in open session. So the dates
17 when the troops arrived can be broached in open session, but be mindful of any
18 information that might identify you as to your presence in certain locations and in the
19 company of certain individuals.

20 A. Yes, Counsel. I said yesterday that on 25 October 2002 we learnt this fact, and
21 on the 26th, the next day, in view of the urgency of the situation a company made the
22 crossing in Bangui and then returned upon the order of General Amuli.

23 Now, on the 27th we came together in a co-ordination meeting with the Minister of
24 Defence, et cetera, and on the 29th and to the 30th the brigade, whose mission it was
25 to support the Central Africans, started the crossing. That's what I said. I recall

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1 having said that.

2 Q. Yes, I do recall that, Mr Witness. Now, maybe with a view to putting you at
3 your ease, I believe that Madam President has already explained this to you, I might
4 give you one or two details that will help you to understand.

5 For a number of months now - in fact, for two years - this trial has been ongoing
6 within these walls, and it has been said in open session that Mr Bemba held or
7 occupied the position that he had, that he had General Amuli and that it was General
8 Moustapha - Colonel Moustapha - who was at the head of operations and that it was
9 Mr Kamitatu who headed up the movement.

10 Now, all this information was given in public session here in the courtroom. There
11 is no issue with quoting those figures of authority within such-and-such a branch or
12 wing of the MLC, or appointed to such-and-such a position, but what is important is
13 that you say or that you refrain from saying that you occupied or were appointed to a
14 certain position because -- and also if you say that you were alone in a room with
15 such-and-such a person, because when that person's name is taken away then of
16 course you will be identified.

17 THE INTERPRETER: Request from the interpreter: The speaker is going very fast.

18 THE WITNESS: (Interpretation) Thank you, Counsel.

19 MR BADIBANGA: (Interpretation) Now, with your leave, Madam President, I
20 would like to call up on the screen document CAR-DEF-002-0001 (sic), and I shall
21 immediately provide you -- if I'm not mistaken, this is document 41 on the list of
22 Defence documents. This is a public document. It has been classified public by the
23 Defence.

24 Q. Witness, do you remember this document which was shown yesterday?

25 A. Well, I didn't see this document yesterday. This is the first time.

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1 MR HAYNES: It wasn't shown yesterday.

2 MR BADIBANGA: (Interpretation) I do apologise. It's my fault.

3 Q. Now, Mr Witness, seeing it up on the screen now, do you recognise this
4 document? Does it ring a bell?

5 A. (No interpretation)

6 THE INTERPRETER: Message from the interpreter: Apologies, my microphone
7 was not on.

8 MR BADIBANGA: (Interpretation)

9 Q. I have been told that there was a problem with the English interpreting.
10 Would we need to repeat the question and the answer?

11 Witness, I'd like to ask you to repeat your answer, and I was asking you: Do you
12 recognise this document here up on the screen?

13 A. Yes, Counsel, I do recognise the document, and I would even add -- I would
14 even add that I recognise the name of Jean Romain Mondonga, who I was mentioning
15 earlier. He had been sent to Bangui on mission, to look into these allegations of
16 looting by our soldiers, the looting of goods, war booty, so to speak, that the Chadians,
17 the people from the CAR, the civilians.

18 Q. Now, on the right we see a date. Could you tell us what date this was?

19 A. The 27th, 27 November 2002.

20 Q. Does that correspond to what you remember? It was that -- approximately the
21 period of time during which Mondonga conducted his mission?

22 A. I do think so, Counsel, but you know, it was a long time ago, and my
23 memory -- but I do think so. I do think so.

24 Q. I beg your pardon, I should have waited. Just out of curiosity, what is OPS
25 Ciel Ouvert all about? It's on the left here.

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1 A. It is the name of the code of the operation. Often, operations were given these
2 code-names.

3 Q. So the code-name for the operations in the CAR was Operation Open Sky, is
4 that correct?

5 A. Yes, Counsel.

6 MR BADIBANGA: (Interpretation) Could the court officer please display the
7 following page, CAR-DEF-0002-0002, and if you don't mind, I will just give the last
8 four figures for these reference numbers, if you don't mind.

9 Q. Have you been able to glance at this, Witness?

10 A. Yes, Counsel, I've looked at it. I've read it.

11 Q. Witness, fairly high up, just after "Pro-Justitia," we see just below the line, it says,
12 "With four accused persons. DA: 30 November 2002 at about 11 in the morning."
13 Do you know what "DA" stands for?

14 A. No. I can see the number T2, operational sector, but I don't know.

15 Q. Do you mean what that -- you can't see, or you don't know what "DA" stands
16 for? I haven't quite understood.

17 A. I mean, Counsel, I don't know what this "DA" is and I haven't seen this before.
18 (Redacted) and this -- I don't -- I don't recognise this document. I'm not familiar
19 with this document.

20 MR BADIBANGA: (Interpretation) Your Honour, could we briefly go into private
21 session?

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

23 *(Private session at 12.37 p.m.) Reclassified as Open session

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

25 MR BADIBANGA: (Interpretation)

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1 Q. Witness, I just asked for us to go into private session because I wanted to say to
2 you, (Redacted) and you hadn't seen the document, but (Redacted)
3 (Redacted), but I reassure you it will be erased from the
4 record, both the tape and the transcript, and plus, you see, we have a 30-minute lag
5 and during the 30-minute lag we correct such errors, but you must be very careful, all
6 the same, when it comes to this sort of thing.

7 We are going to go back into open session and I'll be asking you about these
8 proceedings. I will not be asking you about you yourself. We will be going back
9 into open session; is that all right? Have you understood?

10 A. Yes, I have understand, thank you.

11 MR BADIBANGA: (Interpretation) Could we go back into open session, your
12 Honour?

13 PRESIDING JUDGE STEINER: Court officer, please turn into open session.
14 (Open session at 12.38 p.m.)

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

16 MR BADIBANGA: (Interpretation)

17 Q. I'll spare you some time. Now, another witness here said that DA stood for
18 "date of arrest." I think that will help make things clearer.
19 Could you be so kind as to read the phrase just after "Knowledge of Events"?

20 A. "Subsequent to rumours of looting in Bangui, in the Central African Republic,
21 during the Bangui operations, by a number of officers and soldiers of the 28th
22 Battalion Zongo, an order has been issued to us, namely, to take statements from
23 parties involved with a view to verifying the acts that may have been committed at
24 that location."

25 Q. After "DA 30 October," it says, "8 in the morning, the year 2002, the 17th day of

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1 November," and then there is sort of a stock phrase, and this is from a legal police
2 officer. Do you agree with me that this is dated 17 November 2002 and it
3 was drawn -- rather, the questioning was done at 8 in the morning? Do you agree
4 with me on that particular point?

5 A. Counsel, I don't know. This document, it might be -- it might have been the
6 commission that worked on this. It's addressed to the General Staff, but I don't
7 know. I don't remember, I'm sorry.

8 Q. Once again, please don't give any items of information that might identify you.
9 Please just tell us whether you know the person, this Willy Bomengo who was
10 questioned. Do you know that person?

11 A. Yes, Counsel. I mentioned him earlier. He was a lieutenant and he had been
12 the S2, unless I'm mistaken, in Bangui; the S2.

13 Q. Indeed. Now, if the courtroom officer could be so kind as to scroll down so
14 that we can see the second part or the lower part of this document.

15 We will be getting back to that point in a moment, Witness. So, Witness, I think you
16 can see the last line and, actually, could I ask you to read out this last line, beside R5,
17 line R5.

18 A. Yes, I can see. Yes, Counsel, I read that and I can confirm. It was a long time
19 ago. Many things have happened since then.

20 Q. Could you read this out to us and help us understand what the two letters
21 between brackets mean, the "IO"?

22 A. No, it's not "IO." Yes, it -- "intelligence officer." It says, "I am S2 head" --
23 THE INTERPRETER: Inaudible.

24 MR BADIBANGA: (Interpretation)

25 Q. Now, Witness, on the basis of this first page, we have gleaned three items of

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1 information, and I would like to ask you if you could analyse them. First of all, the
2 date of arrest was 30 October 2002, at around 11 in the morning.

3 The second item of information is that the statement was drawn up about two weeks
4 later, on 17 November, and the third item of information is this: We are told that this
5 was subsequent to rumours of looting in Bangui, in the CAR, by certain officers of the
6 28th Battalion.

7 My question is this: If the troops arrived on the 26th, and they immediately went
8 back, when did the accused Willy Bomengo have an opportunity to commit the
9 crimes that he was accused of? To conduct looting, if he was arrested on the 30th, he
10 would have had to be in the CAR before that date, don't you agree?

11 A. Counsel, the person who drew up this statement was not myself. You are a
12 lawyer, and a statement -- well, depending on the format or the way it's -- or the
13 person it's intended for, it may also depend on the level of the person. This
14 document can be criticised in many ways, Counsel. The officer from the judicial
15 police who did this investigation, who noted that date, had nothing to do with what
16 we did.

17 Q. Could the courtroom officer move on to the next page. That would be
18 0002-0003, the next page.

19 Witness, could you read out the first two questions, and the two answers that go with
20 them? You can see a Q, question 6 here, "Q6," and then "R6" means reply number 6.
21 Would you be so kind as to read out question 6 and answer 6, question 7 and answer
22 7?

23 A. Question number 6: "As a soldier and the S2 leader -- or as the chief S2, 28th
24 Battalion, do you acknowledge that you were designated to go along with the 28th
25 Battalion to the Bangui operation and if so what was the exact date that the operation

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1 began on?

2 Answer: No, I don't acknowledge being designated to go along with the troops to
3 Bangui. It was the two battalion -- it was the two, the battalion commander and his
4 deputy who crossed over with the soldiers on the 28th Battalion. Myself, I joined up
5 with them after 2400 hours.

6 Question: What do you have to say about the date on which the operations began in
7 Bangui?

8 Answer: It was exactly on 25 October 2002; namely, one day before I arrived in
9 Bangui.

10 Question 8: Do you recognise --"

11 Oh, I see. Thank you.

12 Q. If we look at too much information we will lose our way. Now, I understand
13 that you are not familiar with this document, you did not prepare this statement; but
14 all the same, you mention the dates on which the troops arrived, the dates that the
15 operation began. That is why I am showing you this statement, a statement that was
16 actually disclosed by the Defence, in which we find information, information that
17 allows us to have this dialogue with you regarding your statements.

18 So, considering these first two lines, can we say that this supports what you said?
19 You talked about 26 October. Ten years have gone by. Mr Willy Bomengo, 15 days
20 after the events, said that it was the 25th, that he arrived on the 26th. So could we
21 say that we are taking the same approach here?

22 A. Thank you for your question, Counsel. One observation, if you don't mind, so
23 that you can understand: I said earlier that the planning of operations was done at
24 the General Staff, and this gentleman -- this gentleman is saying -- he is saying here
25 the date that he -- that -- well, he was giving -- he gave a statement after he had been

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1 arrested, and he is making a statement before the officer from the judicial police.

2 I can't deliberately attest to what he's saying, because myself, what I know, I know
3 that we did the planning, but this I don't recognise. This is what he says, but he
4 might be saying just anything. He could be spouting nonsense. He might have
5 been saying something to be cleared of the charges.

6 Q. That is a possibility, Witness, but not all accused people lie. Sometimes they
7 say the truth, and perhaps in this case the gentleman was just telling the truth. Let's
8 continue looking at this document, but I -- it doesn't seem to me that this date would
9 have much to do with this gentleman being cleared of the charges or not. Could you
10 read out question number 8 and the answer, answer number 8, and I'll stop you at
11 one particular point during the reply because it's quite a long one?

12 A. Question 8: "Do you acknowledge that you were arrested by your battalion
13 commander on 30 October 2002 for infiltration and flagrant looting of goods
14 belonging to the people of the Central African Republic in Bangui, despite the
15 instructions given?

16 Answer: No, I was removed from the front, from the front lines, PK12, around
17 M'Poko, by the driver, Tragila, who was sent for that purpose by the brigade
18 commander. Regarding the abandoning of the advanced position, I do not know.
19 Other than the intelligence staff, can the S2 have troops to command? As for the
20 liberation of the four Chadian suspects that the battalion commander had entrusted to
21 me, because I was the S2 intelligence officer, that ..."

22 Q. I'll stop you at this point. We'll resume a bit later.

23 So this time here, Witness, the accused person is saying that he was removed from the
24 front, the front line, PK12, around M'Poko. He's mentioning his arrest on 30 October.
25 He mentions the location, namely PK12, and he explains the circumstances. Do

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1 you -- could you explain to us what "Brigade E" means?

2 A. That is the name of the brigade that was commanded by Moustapha, that was
3 operating in Bangui. That's the name of the brigade.

4 Q. Do you also know what the letter E stands for?

5 A. There was Brigade Alpha at the Basankusu front. There was -- no. Rather,
6 the riverfront, around Makanza. Then there was the Bravo Brigade in Rwenga,
7 around Basankusu. There was Brigade C, General Widi on the road. I've forgotten.
8 And this -- and then Brigade D, General Moustapha, if I recall correctly. And we
9 had a system of using letters to designate the brigades, so Brigade Alpha, Bravo,
10 Charlie, Delta, and so on and so forth.

11 Q. So Brigade E, the letter E --

12 A. Echo. It stood for "Echo."

13 Q. Once again, Witness, don't say anything that could allow you to be identified.
14 Did you hear any talk about this whole story of two suspects from Chad?

15 THE INTERPRETER: Correction: Four suspects from Chad.

16 THE WITNESS: (Interpretation) No. The whole conduct of the operations, that
17 was in Bangui and it came under the people responsible for the Bangui operations.
18 Oh, I beg your pardon. You see, perhaps solutions needed to be found at that
19 location and we didn't know -- need to know the details.

20 So how are military operations conducted? You are given a mission, Counsel, and
21 you are told, for example, that you must conquer position A, position alpha, and the
22 name or the process whereby -- there are a number of intermediary targets, so to
23 speak, so you may not necessarily report back and say, "Oh, this person's to my left,"
24 or that sort of thing. This is about the conduct of operations and that's the business
25 of the commanders, so I guess perhaps these were foreign troops.

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1 Q. The person who was being questioned said, "Regarding the abandoning of the
2 advanced position ..." Could you tell us what an advanced position is?

3 A. Well, that's part of the technique of moving ahead towards a given target.

4 When you have a whole brigade moving forward, moving towards -- well, it's not the
5 whole brigade. Within the brigade you have the battalion, and one particular
6 battalion, for instance the 28th Battalion, is the advance party. They go first.

7 And there are companies, three companies, and not all companies will be at the very
8 front. Within the company you might have one particular company at the very, very
9 front, and within the company it's not necessarily the whole company. There are
10 three platoons, and within the platoon -- you have one platoon, the advance force, the
11 sharp point. And within the squad you might have an extreme advanced squad, and
12 so on and so forth. So the advanced unit is -- if you analyse it carefully, he's talking
13 about an advanced group.

14 Q. Could you please read the rest of answer number 8, right up until the point that
15 reads, "Brigade E"?

16 A. Answer 8, "I ..." --

17 Q. You had ended with a sentence that talked about insufficient evidence. I'm
18 talking about the sentence that begins "And then ..." Can you see where we are in
19 this particular document?

20 A. Counsel, could you help me out?

21 Q. The seventh line, answer 8.

22 A. Thank you. "As for the liberation of four Chadian suspects that the battalion
23 commander had entrusted to me because of my duties as S2, an intelligence officer,
24 entrusted to me for investigation, they were released because there was not enough
25 evidence against them, and then they had said that they were students and they had a

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1 known residence in Bangui. I freed them and I report ..." --

2 THE INTERPRETER: Overlapping speakers.

3 THE WITNESS: (Interpretation) "Regarding the pillaging, I have no idea. It is
4 for the person who accused me to provide evidence. Do I acknowledge -- what I
5 acknowledge is that under the orders of commander -- of the commander of Brigade
6 E, I took all the goods that the soldiers of Battalion 28 had pillaged. I transported
7 them by three vehicles in the presence of the battalion commander and his deputy
8 and colonel -- and the colonel of the Central African Republic. Let me add that these
9 objects were finally handed over to Colonel Moustapha, who was the then
10 commander of Brigade E."

11 MR BADIBANGA: (Interpretation)

12 Q. Witness, here Mr Bomengo is talking about goods that were taken away from
13 the soldiers of the 28th Battalion and which were subsequently handed over to
14 Colonel Moustapha. Is that your understanding of the segment?

15 A. Yes.

16 Q. Is it then still your testimony that soldiers of the MLC arrived on the 26th, went
17 back on the same day and then came back on between the 29th and the 30th? Is that
18 still your testimony?

19 A. Let me repeat: Mindful of the urgent situation, and following orders from the
20 Chief of General Staff, a company crossed over to look into problems relating to the
21 crossing over and settle them. That company came back in the evening.
22 Deployment of the brigade that operated effectively only started from the 29th
23 through to the 30th.

24 Q. If we look at what appears in this interview report of Mr Bomengo, what
25 emerges is that either on the 26th during the few hours that they spent in Bangui he

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1 was involved in pillaging and had time to conduct an investigation on the four
2 Chadians, to take their statements and to come to the conclusion that they were
3 innocent, that he had time to collect the goods that were pillaged by the soldiers of the
4 28th Battalion, to hand such goods to Colonel Moustapha and to be arrested on 30
5 October at 11 a.m. So he may either have done all these things outside of the time of
6 arrest, that is on the 26th, or he may have done so on the 29th at the time of his arrival
7 between that time and 30 October. Should that be our understanding of your
8 statement?

9 A. Thank you, Counsel. This is not what I said. The person whose name -- that
10 lieutenant whose name is mentioned, you see, an intelligence officer who's involved
11 in pillaging and who is also being questioned or interviewed, who provides these
12 types of answers, don't you think that he's looking for a way out for himself to
13 absolve himself? That is my understanding.
14 Yes, what I see is that he says he is SD of a company. Which unit is he talking about?
15 There is no SD in a company. You only have intelligence staff in a company. So on
16 the 26th this man was not in Bangui, so it is only after the 29th and the 30th that he
17 crossed over, and it is in relation to that period that he can make this statement, but
18 they may have predated the event or back-dated the events for their own reasons. I
19 don't know why, and I think the only way to find out is to ask the person who
20 conducted the investigations or the interview.

21 Q. Could it be that this document was back-dated? It appears to be a legal
22 document, a court document, a pro justitia. Is it possible that there might be
23 something wrong with the date?

24 A. Yes, Counsel. Willy Bomengo was arrested by -- clearly he was tried by a court
25 martial and convicted, so I don't know. When Colonel Mondonga conducted his

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1 investigation I do not remember that he crossed over with a commission, but from
2 what I read here now it would appear that the sector commander who was on the
3 other side, who drafted this report or who had his officer draft it, is saying many
4 things in this document. If you analyse it carefully, what I -- there are several
5 incompatibilities in it, many things that you cannot understand.

6 Q. One could then imagine that to absolve himself Mr Bomengo would claim that
7 he did not commit any pillaging, but I don't see why he would argue that it was on
8 the 25th, whereas it was on the 29th or the 26th or whereas it was the 30th, because I
9 am interested in the dates that you mentioned here. That's what I want to find out.

10 A. Yet -- yet it was proper, or it is true, that it is between the 29th and the 30th that
11 our troops crossed over and those who came late continued to cross over after the
12 30th. On the 26th I insist that the company that was sent out was to establish contact
13 with the Central African troops, and it did a round trip and that was it. Now, this
14 document refers to those dates and I'm not sure about its authenticity.

15 MR BADIBANGA: (Interpretation) Court officer, please turn to page 0005.

16 Q. Witness, would you please kindly read question 3; question 3 only?

17 A. "Do you acknowledge having participated in the Bangui operation of 25
18 October 2002 along with Lieutenant Willy Bomengo, the then S2, 28th Battalion,
19 Libenge?"

20 Q. In this case it is the judicial police officer who states that the operation took
21 place on 25 October 2002 and not the accused person?

22 A. Who is the officer who drew up this report? That is another issue. The
23 operation did not take place on that date.

24 Q. I just want to avoid switching pages and I hope you can trust me. On the page
25 which we saw "002 DA: 30 October," this is what is written, "Appearing before us

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1 Tobanganga Malaka Oscar, intelligence officer and judicial police officer with general
2 jurisdiction, resident in Zongo and conducting a mission in Zongo in relation to the
3 Bangui operations, hereby certify as follows ...", and then the body of the text follows.
4 So these are judicial police officers and intelligence officers who actually conducted
5 the interview, or took down the statements of the accused, who are talking about this
6 date of 25 October 2002?

7 A. He claims to be an intelligence officer. Well, I don't know about that, Counsel.
8 He also alleges to have been on a mission and, well, Counsel, if you look at this
9 mission, or this report critically, you must wonder what mission he was talking about?
10 What is the context in which this pro justitia -- this so-called pro justitia took place?
11 We know - we know - that on that date no MLC soldier had yet arrived in Bangui, so
12 this is rather confusing. Now, this transcript and the date mentioned, were all these
13 not altered? I don't know.

14 Q. Well, Mr Witness, I know nothing of it, but it would appear that this is a
15 document provided by the Defence, arriving from the MLC, and it would seem that
16 some MLC persons were involved. At the top of the page the header is, "Democratic
17 Republic of Congo, ALC, Operational Sector S/UB ...", which is South Ubangi, "...
18 General Staff T2." This is the letterhead we have and I can only go by that. Maybe
19 you know a little more than I do on this matter?

20 A. No, Counsel, if I knew any better or any more, I would have told you because,
21 you see, when someone claims to be an intelligence officer, he would work within the
22 T2 office, and he is not the T2. So I do not know what motivations may have been
23 behind the drafting of this report, or transcript. What was the context? What was
24 the intention? I don't know. I think all that needs to be clarified. Where is he
25 today? I don't know. I have no idea.

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1 MR BADIBANGA: (Interpretation) Court officer, would you please scroll down
2 for the Witness to read answer number 7 on the same page?

3 THE WITNESS: (Interpretation) Question 7: "Do you have anything else to say?"
4 Answer 7: "Yes, we were arrested along with the troops of Brigade E, but they were
5 released, and the objects, the pillaged objects, were also taken away. Signed
6 accordingly."

7 MR BADIBANGA: (Interpretation)

8 Q. If I went on the assumption that this is a good faith document, if we assume that
9 it is a good and authentic document, this last sentence would therefore mean that on
10 30 October, when this person was arrested, then Mr Ikwa Tonton, being the person,
11 on that date, troops of the Echo Brigade were already on the ground, because he says
12 that they were arrested alongside elements of the Echo Brigade, and goes on to say
13 that those persons were liberated, along with the pillaged objects.

14 MR HAYNES: I think Mr Badibanga is placing a very liberal interpretation and his
15 own interpretation of this document. In fact, even if one looks only at this page, this
16 particular accused says he was not with Willy Bomengo, and if we look back to the
17 second page, the section where Willy Bomengo is interviewed, he in fact says no,
18 when he's asked if he confirms he was arrested on 30 October. So whatever
19 interpretation another witness may have put on the first page of this document, Willy
20 Bomengo never confirmed he was arrested on 30 October. This witness says he
21 wasn't with Willy Bomengo, and so the assertion that this can all be premised on
22 people being arrested on 30 October is all misplaced, and it's again an exercise in
23 placing a spin on the evidence that is entirely from counsel's own mind and entirely
24 unmerited, and it's not a fair question to the witness.

25 PRESIDING JUDGE STEINER: Maître Badibanga?

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1 MR BADIBANGA: (Interpretation) Your Honour, this touches on what I raised a
2 short while ago. If Mr Haynes is asserting that the document submitted by Defence
3 referring to an MLC proceeding is a fake document containing incorrect information,
4 maybe that should be made clear. We can rely on this information before us. But
5 when four people are interviewed by judicial police officers who say that they were
6 arrested on 30 October, at 11 a.m, we can only go by that information. So this is
7 what I can say. Otherwise, the information will be contradicting his own very
8 evidence.

9 PRESIDING JUDGE STEINER: You may continue, Maître Badibanga.

10 MR BADIBANGA: (Interpretation) Thank you, your Honour.

11 Would court officer please go to page 26, CAR-DEF-0002-0026.

12 PRESIDING JUDGE STEINER: Maître Badibanga, sorry, just to tell you that we
13 would like you to finish in about five minutes, because before we adjourn the
14 Chamber needs to issue an oral decision, so it means maybe the two final minutes for
15 that purpose.

16 MR BADIBANGA: (Interpretation) No problem. I'll be done well ahead of the five
17 minutes.

18 Q. Witness, there is no number to the questions. We only have question and
19 answer indicated, but let me tell you that this is what I understood of this document,
20 which is a transcript by a court officer, the legal adviser to the Chief of Staff G2, and
21 the name of the officer is Carl Lubuele Mpueta, and he is interviewing Willy
22 Bomengo in this instance. Could you please read out for us question and answer,
23 the question and answer under the investigator's notes?
24 So I'm going to ask the court officer to scroll down so that we can see the question and
25 the answer that I'm referring to. There is a little stroke in the margin which points to

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1 the answer that I'm talking about, the question and the answer.

2 A. "Question: Do you acknowledge that you found in the hands of soldiers of
3 your unit property that they had pillaged from the Central African people? If so,
4 what was the nature of the goods and what was their destination?

5 Answer: It was a lot of goods; television sets, radios, cartons of cigarettes and what
6 have you. I could not keep an exhaustive list of all, but I put all of them in a pick-up
7 vehicle, a Toyota Land Cruiser. It was on Wednesday, 29 October 2002, around 4
8 p.m. I don't know where they were taken. I handed them over to Colonel
9 Moustapha, in the presence of Commander of the 2nd battalion, Colonel of the
10 Central African Army, and they were pillaged goods taken by soldiers of the 28th
11 Battalion."

12 Q. Well, Witness, we will continue scrutinising this document tomorrow, but note
13 that this witness has provided clearer information, pointing out that he did something
14 on 29 October 2002, around 4 p.m., a date on which you claim that he was in the DRC.
15 Maybe this would help you review your ideas and review your testimony about the
16 presence of the troops.

17 A. Counsel, I repeat that on that date, the 29th and the 30th, yes, our troops began
18 to cross over to start the operations, but before that date I also said that a company
19 had crossed over, made contact in order to make the necessary arrangements for the
20 larger part of the group to cross over. This is my testimony and I stand by it.

21 Q. Last question: You have never seen this document. Is this the first time that
22 you are seeing this document?

23 A. I don't -- I do not remember, but I see the name here of (Redacted)
24 (Redacted) but I do not remember. I do not have a
25 clear recollection of the specifics that are provided by Willy Bomengo in this

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1 document and, in any event, it wouldn't be in this format, if I were to remember.

2 MR BADIBANGA: (Interpretation) Thank you, your Honour.

3 PRESIDING JUDGE STEINER: Thank you very much.

4 Mr Witness, for today it's enough. We will release you from your duties. You can
5 take some rest. We will continue tomorrow morning at 9 in the morning.

6 THE WITNESS: (Interpretation) Thank you.

7 PRESIDING JUDGE STEINER: I ask, please, court officer to turn into closed session
8 for the witness to be taken outside the courtroom.

9 *(Closed session at 1.26 p.m.) Reclassified as Open session

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

11 (The witness stands down)

12 PRESIDING JUDGE STEINER: We can go back into open session, please.

13 (Open session at 1.27 p.m.)

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

15 PRESIDING JUDGE STEINER: Thank you. It's a very short oral decision on the
16 amended witness schedule for the time period between 18 November and 13
17 December 2012.

18 By oral decision of 8 November 2012, the Chamber approved the Defence's proposed
19 witness schedule for the time period between 19 November and 13 December 2012.
20 According to that schedule, witnesses were to be called in the following order: D49,
21 D17, D13, D12, D16.

22 By email of 16 November 2012, the Defence informed the Chamber that
23 witnesses - whose numbers I will omit - may not be in a position to travel as
24 scheduled. In order to avoid any gaps in the hearing, and on the basis of the most
25 recent information from VWU as regards the witnesses' availability and ability to

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1 travel, the Defence proposed the following alternative schedule for the Chamber's
2 consideration: D49, D16, D18, D66.

3 The Defence further submitted that this amended schedule may enable a
4 witness - whose number I will omit - to testify before the recess.

5 The Chamber notes that the testimony of the five witnesses proposed to be called
6 according to this schedule would take approximately 12 hearing days. However,
7 since the Court's schedule provides for 19 available hearing days during the relevant
8 time period, the Chamber is of the view that it would be desirable to call, at a
9 minimum, one additional witness before the recess.

10 Accordingly, in order to ensure the efficient presentation of evidence and
11 expeditiousness of the trial proceedings, in accordance with Article 64(2) of the
12 Statute and Regulation 43 of the Regulations of the Court, the Chamber approves the
13 newly proposed order of appearance of witnesses and instructs the Defence to
14 explore, together with VWU, the possibility of bringing at least one additional witness
15 before the winter recess and to inform the Chamber and the parties and participants
16 accordingly. The information should be transmitted by way of an email when
17 sending the upcoming monthly witness schedule.

18 I thank very much the Prosecution team, the legal representatives of victims, the
19 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters
20 and court reporters. We will adjourn for today and resume tomorrow morning at 9
21 with the continuation of the questioning of Witness D-49. The hearing is adjourned.

22 THE COURT USHER: All rise.

23 (The hearing ends in open session at 1.31 p.m.)

24 CORRECTION REPORT

25 The Court Interpretation and Translation Section has made the following correction

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- 1 in the transcript:
- 2 *Page 25 line 13
- 3 "... and another lady, Mrs Kate,..." Is corrected by "... and a lady, Mrs Kate
- 4 Gibson,..."
- 5 RECLASSIFICATION REPORT
- 6 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 7 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public