

Trial Hearing
Witness: CAR-D04-PPPP-0019

(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 Wednesday, 13 March 2013
- 8 *(The hearing starts in closed session at 9.07 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 PRESIDING JUDGE STEINER: Good morning.
- 13 Could, please, court officer call the case.
- 14 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
- 15 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
- 16 PRESIDING JUDGE STEINER: Thank you. Good morning.
- 17 I welcome Prosecution team. I notice that the lead counsel is not present?
- 18 MR ZENELI: (Microphone not activated)
- 19 THE INTERPRETER: Microphone, please.
- 20 MR ZENELI: Good morning, your Honour. The lead counsel might join us later.
- 21 PRESIDING JUDGE STEINER: I welcome the legal representatives of victims, Defence
- 22 team, Mr Jean-Pierre Bemba. Good morning our interpreters, our court reporters.
- 23 Good morning, Ms Toumaj.
- 24 THE COURT OFFICER (Redacted): (Interpretation) Good morning, Madam President.
- 25 WITNESS: CAR-D04-PPPP-0019 (On former oath)

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1 (Redacted)

2 (The witness gives evidence via video link)

3 PRESIDING JUDGE STEINER: Good morning, Mr Witness.

4 THE WITNESS: (Interpretation) Good morning, Madam President.

5 PRESIDING JUDGE STEINER: Are you ready to continue and conclude with your
6 testimony, Mr Witness?

7 THE WITNESS: (Interpretation) Yes, I am in your hands. I am ready, Madam
8 President.

9 PRESIDING JUDGE STEINER: Mr Witness, just one more time to remind you that you
10 are still under oath. Do you understand that, sir?

11 THE WITNESS: (Interpretation) Yes, Madam President, I am aware of that.

12 PRESIDING JUDGE STEINER: I'm giving back the floor to Maître Kilolo, who's going to
13 redirect the questioning.

14 QUESTIONED BY MR KILOLO: (Interpretation) (Continuing)

15 Q. Good morning, Witness.

16 A. Good morning, Maître Kilolo.

17 Q. I will not be long with you this morning. All I need is some few clarifications.
18 Allow me, first of all, to refer to transcript T-287-Conf, French version edited, 28
19 February 2013, page 50.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Against that backdrop, I would like to put a few questions to you to seek clarification.

6 First of all, I would like to ask the court officer to make available to you document number

7 45 of the Defence list of documents, page CAR-DEF-0002-0567.

8 Witness, you now have the document before you. Do you remember this report?

9 A. Yes, Maître Kilolo, I remember this report.

10 Q. I will briefly touch on some information in the report for your kind attention. (Redacted)

11 (Redacted)

12 "Our troops were placed entirely under the leadership, guidance and command of the

13 Central African military authorities."

14 Second: "As soon as we arrived, (Redacted) raised the question with the Central African military

15 hierarchy as to who we would be fighting against. The Central African military

16 authorities then showed (Redacted) the following organigram: Chief of General Staff Central

17 Africa, Ernest Betibangui ..." at the top, "... Operations Commander, Brigadier-General

18 Mazi; Operations Co-ordinator, Brigadier-General Bombayake; Commander of the Central

19 African troops, Major Tutu Kuese."

20 Third excerpt: "After (Redacted) shown that organisational chart, the leading team for the

21 operations with the Chief of General Staff at the head (Redacted)

22 (Redacted)

23 And fourth and last excerpt: "I must specify as well that all our daily

24 operations were -- always reported to the Chief of General Staff of the Central African

25 military authorities, who regularly visited the sites of the operations," end of quote.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 A. Yes. When Madam Petra and her team, including Maître Badibanga, put the first
6 series of questions to me, all what you have pointed out to me was communicated to them.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 MR KILOLO: (Interpretation) Witness, I want to cross-check this other item with you.

11 Please, court officer, display document 102, Defence list, CAR-OTP-0027-0731.

12 THE COURT OFFICER (Redacted): (Interpretation) Maître Kilolo, document

13 CAR-OTP-0027-0731 has been shown to the witness.

14 MR KILOLO: (Interpretation) Thank you.

15 Q. Witness, I'm going to read out an excerpt of that document for your attention. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Interpretation) End of quote. I would like to ask the court officer to also display another
25 document, document number 87 on the Defence list, page CAR-OTP-0020-0228.

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- 1 THE COURT OFFICER (Redacted): (Interpretation) Maître Kilolo, document
- 2 CAR-OTP-0020-0215, at page 0228, is now displayed to the witness.
- 3 MR KILOLO: (Interpretation)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 MR KILOLO: (Interpretation) Let me cross-check some further information with you.
- 22 Court officer, please display for the witness document number 86, Defence list, page
- 23 CAR-OTP-0020-0206. I will also be reading an excerpt from the next page, that is page
- 24 0207, but let us begin with page 0206.
- 25 THE COURT OFFICER (Redacted): (Interpretation) Maître Kilolo, document

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1 CAR-OTP-0020-0191, at page 0206, is now being shown to the witness.

2 MR KILOLO: (Interpretation)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. Yes. I do not remember the date, but all what you have said is a reflection of what I
17 told them. I narrated to them those things which I had seen and which you have just
18 read out. I am therefore the author of those statements which were made a long time
19 ago.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 A. Yes, indeed, that is what I said, Maître Kilolo, and that is the truth. That is the way

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1 in which things unfolded, and if you read this statement closely, (Redacted)
2 (Redacted), you will see that what is described
3 therein is identical, and this is the reality because at the time (Redacted)
4 (Redacted) and before you and before God, whom I fear, I did not know that I would
5 be judged (Redacted)
6 (Redacted)

7 MR KILOLO: (Interpretation)

8 Q. I would like to ask the court officer to place at the disposal of the Witness document
9 87 on the Defence list of documents, at page CAR-OTP-0020-0226.

10 THE COURT OFFICER (Redacted): (Interpretation) Maître Kilolo, the document
11 CAR-OTP-0020-0215, at page 0226, is being currently presented to the witness.

12 MR KILOLO: (Interpretation)

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)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted) There's
- 10 no difference between my statement and what has just been read out.
- 11 Q. I would like to verify with you another statement, and I would request that the court
- 12 officer place at the disposal of the witness document number 89 of the Defence of list
- 13 documents at page CAR-OTP-00020-0270, and I will move on to the following page, that is
- 14 to say, 0271.
- 15 THE COURT OFFICER (Redacted): (Interpretation) Maître Kilolo, document
- 16 CAR-OTP-0020-0263 at page 0270 is currently being shown to the witness.
- 17 MR KILOLO: (Interpretation)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Interpretation) I would request that the court officer also place at the disposal of the
4 witness document 90 of the Defence list of documents, CAR-OTP-0020-0286.

5 THE COURT OFFICER (Redacted): (Interpretation) Maître Kilolo, document
6 CAR-OTP-0020-0283, at page 0286, is currently being shown to the witness.

7 MR KILOLO: (Interpretation)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Interpretation) Now, Mr Witness, does this statement indeed reflect the information
17 that you provided to the Office of the Prosecutor during your preliminary statement (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 MR KILOLO: (Interpretation) I would like to ask the court officer, still concerning

9 document 45 of the list of Defence documents, to place at the disposal of the witness

10 document CAR-DEF-0002-0568, and we will be looking at the bottom of the page.

11 THE COURT OFFICER (Redacted): (Interpretation) Maître Kilolo, could you please repeat

12 the ERN number of the document?

13 MR KILOLO: (Interpretation) This is a two-page document. I'm talking about the

14 following page, in fact, CAR-DEF-0002-0568, but we're talking of the forty-fifth document

15 on the list of Defence documents.

16 THE COURT OFFICER (Redacted): (Interpretation) Document CAR-DEF-0002-0567 at page

17 0568 is currently being presented to the witness.

18 MR KILOLO: (Interpretation)

19 Q. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) I know that you have a number of means of conducting investigations.

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. I thank you, Mr Witness.

7 Mr Witness, I would also like to seek further clarification, and I am here referring to the
8 question put to you by the Office of the Prosecutor, and this is transcript 290-Conf version,
9 in the edited French version, dated 6 March 2013, page 48 to page 50.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Do you remember this series of questions put to you by the Office of the Prosecutor?

17 A. Yes, I do remember.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 A. The MLC authorities from Gbadolite did not come and conduct regular control or
25 monitoring activities of the troops in the Central African Republic. As I said to you,

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. And, Mr Witness, to be entirely clear, when the MLC delegation came to PK12, what
12 was the aim of the visit at the time of the meeting with the MLC troops? Can we confirm
13 that they indeed came to monitor how the operations were unfolding in the CAR, (Redacted)
14 (Redacted)

15 A. If they were monitoring the strength of the troops, (Redacted)
16 (Redacted) when they arrived, that is to say Mr Jean-Pierre
17 Bemba and Mr Patassé, they held a discussion. (Redacted)
18 (Redacted)

19 (Redacted) And if you watch television, you can see somebody conducting a visit. For
20 example, the Minister of Defence, who went to Mali.

21 When Mr Bemba arrived, after Mr Patassé had left, well, he went to PK12. And in a
22 space of ten minutes, he expressed himself, talked about courage and conduct, and then
23 he left. He's there, you can put the question to him, but it was not monitoring as such of
24 the MLC troops out in the field.

25 MR KILOLO: (Interpretation) Well, I would like to request the court officer to place at

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1 the disposal of the witness document 88 on the list of Defence documents at page

2 CAR-OTP-0020-0258. 0-2-5-8.

3 THE COURT OFFICER (Redacted): (Interpretation) Maître Kilolo, document CAR-OTP --

4 THE INTERPRETER: Inaudible.

5 THE COURT OFFICER (Redacted): (Interpretation) -- 0239 at page 0258 is currently being

6 presented to the witness.

7 MR KILOLO: (Interpretation)

8 Q. Mr Witness, I would like to read an excerpt for your attention of the statement made

9 by yourself to the Office of the Prosecutor (Redacted), and I quote what you said:

10 (Speaks English) (Redacted)

11 (Redacted)

12 (Redacted)

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) A question -- well, it might be put in a number of different ways, but the answer is

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1 one and the same. (Redacted)

2 Q. Now, on another aspect I am also seeking clarification, and I am referring here to a
3 number or series of questions put to you by the Office of the Prosecutor contained in
4 Transcript 290-Conf in the edited French version, dated 6 March 2013 at page 14.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted) This is transcript 290, confidential, edited French
10 version, dated 6 March 2013, page 18, lines 21 to 28, and also page 19, lines 1 to 4. Do
11 you recall this series of questions?

12 A. Yes, I remember. I remember these questions being put, but my answer is as
13 follows: (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 I remember being asked this question on several occasions, (Redacted)

20 (Redacted)

21 (Redacted)

22 PRESIDING JUDGE STEINER: Yes, Maître Badibanga?

23 MR BADIBANGA: (Interpretation) Your Honour, please excuse me at the start of the
24 hearing. I'm not going to make any comments on the fact that here we're not carrying
25 out a cross-examination. I would just like Mr Kilolo to read the extracts that he has just

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1 given by way of reference. He said to the witness, "Transcript 290, French version, page
2 18, lines 21 to 28," and then he said, "You were asked if you (Redacted)
3 (Redacted) Perhaps he could read exactly what was put as a question to the witness and
4 what was answered?

5 PRESIDING JUDGE STEINER: Maître Kilolo?

6 MR KILOLO: (Interpretation) No problem. Obviously I summarised in order to save
7 time what was submitted to the witness, but the theory of the Office of the Prosecutor is
8 very clear.

9 This is what Mr Badibanga says to the witness, and this is on page 18 of this transcript 290,
10 6 March 2013, French version, and the edited version thereof, (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted) end of quote. This is what is put by Mr Badibanga to

14 the witness, and Mr Badibanga states that this comes from a prior statement which the
15 witness provided him with during their meeting (Redacted).

16 The witness has already replied to this. I just wanted to clarify this issue, whether it is
17 true - correct - to say that when they met (Redacted) the witness confirmed to the Office
18 of the Prosecutor that (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted). This is the clarification that I am

22 trying to get from the witness and I think that he has already answered it. I was just
23 finishing there.

24 PRESIDING JUDGE STEINER: I think just the fact that you added in the summary "The
25 exclusivment can mislead the witness." In any case, the question has been answered.

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1 You can go ahead.

2 MR KILOLO: (Interpretation) To carry this -- clarify this definitively, I would ask the
3 court officer to show the witness document 90 of the Defence list, page
4 CAR-OTP-0020-0292.

5 THE COURT OFFICER (Redacted): (Interpretation) Counsel Kilolo, the document
6 CAR-OTP-0020-0283, page 0292, is being presented to the witness.

7 MR KILOLO: (Interpretation)

8 Q. So, Witness, I would like to read for you an extract of a statement which you gave to
9 the Office of the Prosecutor (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Interpretation) And your answer:

15 (Speaks English) (Redacted)

16 (Redacted)

17 (Redacted)

18 (Interpretation) Witness, with regard to this extract here from the statement that you
19 provided to the Office of the Prosecutor (Redacted), does that correspond to what
20 you meant to have said at that time?

21 A. (Redacted)

22 (Redacted)

23 Q. So, Witness, I would just like to finish with a detail. Do you remember yesterday,
24 when Judge Aluoch put a clarification question to you, you confirmed that when
25 Mr Bemba arrived in PK12 he spoke in Lingala addressing the soldiers; the MLC soldiers?

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1 Do you remember that?

2 A. Yes, I remember having said that when he addressed the troops he spoke in Lingala.
3 Thereafter, taking into account the fact that his speech wasn't long, (Redacted) with Central
4 African soldiers, Mr Bemba he interpreted in French what he had just said in Lingala.
5 That was so that the Central Africans could understand what he had said. I also forgot to
6 say yesterday to the Judge that Mr Bemba interpreted in French his own remarks that he
7 had made in Lingala.

8 MR KILOLO: (Interpretation) Witness, so this is when we now close the examination
9 of the Defence and we would like to thank you for having answered all our questions.

10 PRESIDING JUDGE STEINER: Thank you very much, Maître Kilolo.

11 Mr Witness, this now concludes your testimony. First, I would like to -- sorry, Maître
12 Badibanga?

13 MR BADIBANGA: (Interpretation) Please excuse me, your Honour.

14 We presented the witness a lot of documents and there are documents which we would
15 have liked to be entered into evidence. We are ready to do so if the Chamber wishes, the
16 list is quite long, or perhaps at a later stage, but we do want it to appear very clearly that
17 we have documents which we want to be tendered into evidence and to be admitted as
18 evidence.

19 Thank you very much.

20 PRESIDING JUDGE STEINER: Maître Badibanga, be patient. Let me just first finish
21 with the witness, and then we will turn to the question to be put to the Defence and
22 Prosecutor on the documents to be tendered into evidence.

23 Mr Witness, you've given testimony for more than two weeks. First, I have to turn back
24 to a question that I had put to you on the first or second day of your testimony about
25 whether you have read the declarations that you gave to the Prosecution in three different

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1 occasions. You said, "No," and I ordered VWU to provide you with the transcripts of
2 your interviews in order to give you the opportunity to read those interviews.

3 Have you read those, the transcripts of those interviews, Mr Witness?

4 THE WITNESS: (Interpretation) Your Honour, when I arrived here I was presented
5 with documents that I read. I don't know if they are the documents that you are
6 referring to. I didn't ask these documents to be given to me, but they were given to me.

7 PRESIDING JUDGE STEINER: Mr Witness, the documents that were given to you are
8 the transcripts of the interviews that you gave to the Prosecution (Redacted) are the
9 same documents that during your testimony from the past two weeks, the parties and
10 even the Chamber have read many excerpts for you to confirm whether this was what you
11 said to the Office of the Prosecution.

12 My question is, Mr Witness: The information that you gave to the Office of the
13 Prosecution, and the information that was asked from you during your testimony that
14 refers to those interviews, is that information true and accurate, to the best of your
15 knowledge and belief?

16 THE WITNESS: (Interpretation) Yes, your Honour, I confirm that everything that I
17 said before you is the truth. However, with regard to what I said previously, you know
18 that sometimes when you're asked questions, you might forget something but later, when
19 you remember the details, you can speak about them. So everything that I've said here
20 before you, your Honour, that's the truth, and I swore to tell the truth, the whole truth.

21 PRESIDING JUDGE STEINER: Mr Witness, I'll try to make myself clearer. I'm referring
22 to the declarations that you gave to the Office of the Prosecution, and parts of those
23 declarations were used during your testimony, but I'm asking you more specifically, in
24 relation to the declarations you gave in (Redacted) to the Office of the Prosecutor, are they
25 true and accurate, to the best of your knowledge and belief?

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1 THE WITNESS: (Interpretation) In my conscience, your Honour, I said the truth before
2 you, and with regards to what I said previously, having checked certain documents, I
3 made certain clarifications but I had no intention to tell lies. I wasn't brought up in that
4 manner.

5 PRESIDING JUDGE STEINER: Mr Witness, in case the Defence, the Prosecution or the
6 Chamber, intends to use that information as evidence in the case, do you have any
7 objection?

8 THE WITNESS: (Interpretation) You can use everything. As I've said, you can use
9 everything that I've said during my testimony here is the truth.

10 PRESIDING JUDGE STEINER: Mr Witness, to make myself clear, I'm not talking about
11 your testimony before the Chamber; I'm talking about the previous declarations you made
12 in (Redacted) in which parties and the Chamber -- parties relied upon during your
13 questioning, but I'm talking about those declarations, (Redacted) do you have any
14 objection that those declarations are used as evidence in the present case?

15 THE WITNESS: (Interpretation) Okay. I think that's what I just said, your Honour.
16 When you are interviewed and afterwards you reflect, if there are modifications that need
17 to be made, or amendments, because you remember certain things, you can do that. So if
18 you want to use them, you have to take into account the amendments that I've made in
19 order for the statements to be used; my previous statements, that is.

20 PRESIDING JUDGE STEINER: For sure, Mr Witness, all clarifications and amendments
21 that you made before the Chamber will be taken into account because here you gave your
22 testimony under oath. The Chamber understands that, of course.

23 Mr Witness, the Chamber wants to thank you very much for the time and trouble you
24 have taken to give evidence in the present trial, I repeat, more than two weeks, far from
25 your work, far from your family. We know that that has probably been quite

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1 inconvenient for you but, in order for the Judges to find the truth in any case, it is critical
2 that witnesses such as yourself are prepared to give evidence and to assist us in the
3 relevant issues of the case.

4 The obligation of the Judges is to try and find the truth, and as with all other witnesses of
5 this case, we would like to thank you very much.

6 Before you leave us, Mr Witness, I would like to ask you whether there is anything that
7 you would like to address to the Chamber. If you so wish, you have the floor.

8 THE WITNESS: (Interpretation) Thank you, your Honour. I don't have many things
9 to say. However, there are three points that I'd like to mention: Firstly, I'd like to thank
10 you for having invited me to come and give my testimony, and I would ask you to
11 consider my testimony as being true. You thought of calling me for the Court. You
12 should also consider that I'm an adult and I have no intention to lie, nor to tell lies to
13 anyone at all.

14 The second thing that I wanted to say is that I would like to raise the issue of my security
15 and that of my family. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 When one testifies with regards to acts or crimes that one knows, that's not to testify for
20 someone or against someone but it's to help justice, in order to carry out its work. I
21 cannot invent, but I have to say what I know. Everything that I've said here, your
22 Honour, may it not shock anyone, not surprise anyone, may it not harm anyone, and may
23 I not suffer any consequences today or in the future.

24 You know that any work that is carried out must honour the person who accomplishes it.

25 The International Criminal Court is a major institution which has to honour those who

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1 work for the Court, so, if you wanted what I said to be kept confidential, well, may that be
2 the case, and may it not harm the reputation of the International Criminal Court. So if I
3 have said anything which would have shocked you, your Honour, then I would ask
4 pardon, I apologise for that. Before such a major institution such as yours, one can act
5 under fear, so if I said something which you did not like, I apologise for that.

6 Those are the three points that I wished to put to you, so, your Honour, I wish you all the
7 best in your mission, and may God bless you.

8 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 From the side of the Chamber we can only, once again, remind you not to make any
14 comments on the fact that you testified and on the content of your testimony.

15 Mr Witness, again thank you very much and we hope that you have a safe trip back to
16 your family and to your work.

17 I ask, please, Ms Toumaj to accompany the witness outside the room, the testimony room.

18 Thank you, Mr Witness.

19 THE COURT OFFICER (Redacted): (Interpretation) Yes, Madam President.

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

21 (The witness is excused)

22 PRESIDING JUDGE STEINER: Can we proceed, court officer?

23 THE COURT OFFICER: Yes, Madam President. We are going to cut the link with the
24 field.

25 PRESIDING JUDGE STEINER: Just to advance proceedings we could go into open

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1 session, but in order to avoid the need of changing tapes and wasting time, I just wanted
2 to remind the parties that not always the order on the procedure for the submission as
3 evidence of material used during questioning of witnesses, (Redacted)
4 issued by the Chamber in March last year, has been complied with by the parties; mainly
5 in what respect the need for the parties to orally submit, make submission for the
6 tendering of evidence of documents contained in their list of documents.

7 Of course the parties would not suffer prejudice because, as the Chamber proceeded in
8 previous -- in relation to previous witnesses, the parties will be given, in due time, a time
9 limit to formally submit the evidence, the documents they intend to tender into evidence,
10 with the specific material in accordance with Rule 64(1) of the Rules.

11 In any case, the practice of the parties, as established by the above-mentioned order, that
12 the parties should at the beginning or at the end of a testimony to submit orally the list of
13 evidence or documents that they intend to tender into evidence, should be followed.

14 So I ask whether Defence is prepared to inform the Chamber for the record, without
15 prejudice, I repeat, of any future submissions, whether Defence is prepared to inform
16 which documents used during the questioning of this witness the Defence intends to
17 tender into evidence?

18 MR KILOLO: (Interpretation) Yes, indeed, Madam President. We had already done
19 so on behalf of the Defence, but let me confirm that we would like to ask for document
20 number 45, Defence list, document CAR-DEF-0002-0567, entitled "Report on military
21 operations in Bangui, 29 October 2002 to 15 March 2003," that this report be considered
22 and entered into evidence.

23 We also request that document -- the document which was drawn up (Redacted) bearing
24 (Redacted)
25 (Redacted).

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1 Thank you, your Honour.

2 PRESIDING JUDGE STEINER: Maître Kilolo, the first of the documents you mentioned
3 has already been submitted as evidence and is just waiting for a decision of the Chamber
4 in that respect.

5 Maître Badibanga?

6 MR BADIBANGA: (Interpretation) Thank you, Madam President.

7 On the list of documents the Prosecutor intended to use for examining this witness, the
8 penultimate column to be tendered, we said "yes," regarding the documents that we
9 would like to see admitted in this trial into evidence.

10 With your leave, your Honour, I can list out these documents again. They are
11 documents number 7 on the OTP list. I have 17 documents. Do you want me to the
12 read out the ERN or should I just mention the number on the list?

13 PRESIDING JUDGE STEINER: I think for the sake of the record it's better if you give the
14 ERN number, please.

15 MR BADIBANGA: (Interpretation) So this will be document number 7, OTP list,
16 CAR-OTP-0045-0002. Then document number 8, CAR-OTP-0045-0228. Then there is
17 document number 9, OTP list of documents, CAR-OTP-0056-0444. Document number 10,
18 OTP list, CAR-OTP-0011-0381. This series of documents is a list of annexes to the
19 previous statements by the witness to the OTP.

20 Document number 11 is also an annex, reference CAR-OTP-0011-0382. Document
21 number 12, reference CAR-OTP-0011-0383. Document number 13, reference
22 CAR-OTP-0011-0384. Document number 14, OTP list, reference CAR-OTP-0011-0385.
23 Document number 15 on the OTP list of documents, reference CAR-OTP-0013-0114.
24 Document number 16, OTP list of documents, reference CAR-OTP-0030-0274. Document
25 number 17 on the OTP list of documents, reference CAR-OTP-0042-0235. Document

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1 number 18, OTP list of documents, reference CAR-OTP-0042-0236. Document number 19
2 on the OTP list, reference CAR-OTP-0042-0242. Document number 20 on the OTP list,
3 reference CAR-OTP-0042-0243. Document number 21 on the OTP list, reference
4 CAR-OTP-0042-0246. Next document, document 22 on the OTP list of documents,
5 CAR-OTP-0042-0253. Document 23, OTP list, reference CAR-OTP-0042-0254.
6 Apart from these documents, your Honour, we also have another bundle of 87 documents
7 which we would like to produce. These include the 29 audio recordings of the previous
8 interviews with the witness; those interviews of (Redacted)
9 (Redacted)

10 So we would like to request admission of the audio/video recordings, as well as the
11 English, (Redacted) and French original transcripts of the recordings. And in order to be
12 complete, we also would wish to produce into evidence the translations of those
13 documents.

14 So once again, this is a huge number of documents, 87. I could proceed by simply
15 mentioning the reference of the video items and then we can refer from there to the
16 transcripts or to the translations. Otherwise, I could proceed by giving the references of
17 each of the 87 documents. I'm in the hands of the Court.

18 PRESIDING JUDGE STEINER: Maître Badibanga, unless the Defence has any objection,
19 I think in relation to all these other documents, it is now in the record of the case your
20 intention to tender them into evidence, and I think the description, one-by-one, can be left
21 to the submission that will be requested by the Chamber to both parties in relation to the
22 tendering of evidence of documents related to the first group of Defence witnesses.
23 In any case, the mention is already in the transcript of this hearing, unless Defence has any
24 objection in that we proceed in that way?

25 MR HAYNES: None, your Honour. That seems very sensible to us.

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1 PRESIDING JUDGE STEINER: Thank you very much.

2 MR BADIBANGA: (Interpretation) Thank you, Madam President.

3 PRESIDING JUDGE STEINER: We will then suspend the hearing and in order to give
4 time for the next witness to be brought to the video link premises, we will resume at the
5 regular resuming hours at 11.30, in order -- yes, Mr Haynes?

6 MR HAYNES: I just thought I ought to mention something that might affect scheduling.
7 As your Honour is probably aware, at the end of each witness's evidence, there is a
8 farewell and "thank you" meeting, and I'm aware that such a meeting has been arranged
9 by video link with the witness whose evidence has just finished.

10 I'm not clear, but I imagine it will have to take place through the monitors in the
11 courtroom, and my understanding is that the necessary hour between the two witnesses
12 will run from the moment that, as it were, D-19 is clear of the facility (Redacted).
13 So I thought I'd mention that at this point because it may well be that 11.30 is a little bit
14 optimistic.

15 PRESIDING JUDGE STEINER: I thank you very much for calling the Chamber's
16 attention for that. I had not been informed, so maybe the court officer can ask
17 Ms Toumaj whether the witness is still there waiting for this?

18 THE COURT OFFICER: Madam President, the "thank you" meeting can probably be
19 done during the break and, if that's not the case, then it will be done earlier. I don't have
20 the information at what time exactly it will take place, but if it doesn't take place now it
21 will take place once the hearings are over during the afternoon.

22 The witnesses will be -- I have to liaise with VWU in the field to see whether the "thank
23 you" meeting can be scheduled right after this session and if that is the case it will take no
24 longer than five to ten minutes, and if it's not possible then it will be rescheduled for the
25 afternoon and I will give you individually more precisions as to when we can schedule it.

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- 1 Madam President, I have just been informed that, in order to -- for the other witness to
2 arrive on time, Witness 19 has left the premises and the "thank you" meeting will be done
3 once the session - the second morning session - will be over. So the witness will come
4 back and the "thank you" meeting will take place.
- 5 PRESIDING JUDGE STEINER: I think that is agreeable to Defence but, in order to avoid
6 the witnesses crossing each other in the corridors (Redacted) this is the
7 arrangement that can be done.
- 8 So thank you again very much. We will suspend and resume at 11.30.
- 9 The hearing is suspended.
- 10 THE COURT USHER: All rise.
- 11 (Recess taken at 10.47 a.m.)
- 12 (Upon resuming in open session at 11.39 a.m.)
- 13 THE COURT USHER: All rise.
- 14 Please be seated.
- 15 PRESIDING JUDGE STEINER: Welcome again. We resume today's hearing. For the
16 record, I will ask, please, the court officer to call the case again.
- 17 THE COURT OFFICER: Yes, Madam President. Situation in the Central African
18 Republic, in the case of The Prosecutor versus Jean-Pierre Bemba, case reference
19 ICC-01/05-01/08.
- 20 PRESIDING JUDGE STEINER: Just one clarification from the court officer. We
21 continue with the same transcript as the one in the morning; is that correct?
- 22 THE COURT OFFICER: Yes, Madam President, we continue with the same transcript of
23 this morning, because all the parties and participants that are here have access to all the
24 information that was before. It will be just indicated that there is a change of -- that there
25 is a change of witness --

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- 1 THE COURT OFFICER (Redacted): Madam President, I'm sorry to interrupt you.
- 2 THE COURT OFFICER: (Overlapping microphones)
- 3 THE COURT OFFICER (Redacted): I don't have any French interpretation right now, so I'm
- 4 trying to have that fixed from The Hague. I don't understand what's going on because I
- 5 just hear Lingala.
- 6 PRESIDING JUDGE STEINER: I'm sorry, we had both court officers talking at the same
- 7 time, and I could not understand either of them.
- 8 THE COURT OFFICER: Madam President, I was saying that the transcript will be the
- 9 same, because all the parties and participants that are present here in the courtroom - and
- 10 those who are not - will have access to the confidential version of the transcript, and there
- 11 will be also a public redacted version, which only what is being said in open session will
- 12 appear.
- 13 PRESIDING JUDGE STEINER: Ms Toumaj was saying that she is not receiving
- 14 translation, interpretation. Can you check that, please.
- 15 THE COURT OFFICER (Redacted): Sorry, Madam.
- 16 (Interpretation) Madam President, it would seem that we have a problem with the
- 17 interpretation into French. I cannot connect to --
- 18 THE INTERPRETER: Inaudible.
- 19 THE COURT OFFICER (Redacted): (Interpretation) -- and I believe that we require
- 20 assistance from The Hague. We are not managing to link ourselves up to the French
- 21 interpretation. All we can hear at this end is the Lingala.
- 22 Madam President, I believe that the connection has been re-established.
- 23 PRESIDING JUDGE STEINER: Thank you, Ms Toumaj. So I think we can proceed. In
- 24 any case, Ms Toumaj, now the Chamber is going to issue two oral decisions. In case you
- 25 lose connection, there will be no problem. The problem needs to be fixed before the

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- 1 witness is brought in.
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
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- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 THE COURT OFFICER: Yes, Madam President, the technical problems have been
20 resolved and Ms Toumaj is listening to us at this moment.

21 PRESIDING JUDGE STEINER: So therefore I ask, please, court officer to turn into closed
22 session in order for the witness to be brought into the video link room.

23 *(Closed session at 11.51 a.m.) Reclassified as Open session

24 THE COURT OFFICER: We are in closed session, Madam President, and the witness
25 will be brought in to commence his testimony.

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1 WITNESS: CAR-D04-PPPP-0045

2 (The witness speaks Lingala)

3 (The witness gives evidence via video link)

4 PRESIDING JUDGE STEINER: Court officer, we can turn into private session. Sorry,
5 into open session.

6 (Open session at 11.53 a.m.)

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

8 PRESIDING JUDGE STEINER: Good afternoon, Mr Witness.

9 THE WITNESS: (Interpretation) Thank you very much. Good afternoon.

10 PRESIDING JUDGE STEINER: In accordance with the Chamber's decision of
11 6 March 2013, it's decision 2525, the testimony of Witness D04-45 will be heard by means
12 of video technology. In addition, pursuant to the Chamber's decision of 11 March 2013
13 on in-court protective measures, it's decision 2532-Conf, the Chamber has authorised the
14 continued use of a pseudonym, image and voice distortion, and the use of private or
15 closed session, whenever needed, in order to protect the witness's identity.
16 Mr Witness, before we start, I would like the parties and participants to this hearing to
17 introduce themselves and their teams, starting by the Defence.

18 Maître Kilolo.

19 MR KILOLO: (Interpretation) I thank you, Madam President. The Defence is today
20 represented by Maître Peter Haynes, co-counsel; Maître Jean-Jacques Kabongo Mangenda,
21 case manager; Maître Kate Gibson, legal assistant; and by myself, Maître Aimé Kilolo, lead
22 counsel. However, the examination by the Defence today will be conducted by Mr Peter
23 Haynes.

24 I thank you.

25 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo.

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1 Prosecution team, please.

2 MR IVERSON: Good morning, Madam President. Good morning, your Honours.

3 Today the Office of the Prosecutor is represented by Sanyu Ndagire, legal assistant;

4 Lynette Kiprotich, trial support assistant; Jean-Jacques Badibanga, trial lawyer; and myself,

5 Eric Iverson, trial lawyer, and I will question the witness.

6 PRESIDING JUDGE STEINER: Legal representatives of victims, please.

7 MS DOUZIMA LAWSON: (Interpretation) My name is Marie-Edith Douzima Lawson

8 and I am one of the legal representatives of the victims in this case, and I thank you.

9 MR ZARAMBAUD: (Interpretation) My name is Maître Zarambaud Assingambi, and

10 I am legal representative for victims, and Madam Carine Pineau, case manager, by my

11 side.

12 PRESIDING JUDGE STEINER: Thank you. And for the record, we also register the

13 presence in the courtroom of Mr Jean-Pierre Bemba Gombo.

14 Mr Witness, I hope that somewhere in front of you there is a card on which is printed a

15 solemn undertaking. So could you please read out the words on the card.

16 THE WITNESS: (Interpretation) Yes, I can see the words.

17 "I solemnly declare that I shall speak the truth, the whole truth and nothing but the truth."

18 PRESIDING JUDGE STEINER: Mr Witness, now that you have taken the oath, can you

19 confirm that you understand what the oath means?

20 THE WITNESS: (Interpretation) Yes, I do understand the meaning of this oath.

21 PRESIDING JUDGE STEINER: Do you understand it to mean that you must give

22 answers to questions asked of you that are true and accurate, to the best of your

23 knowledge and belief?

24 THE WITNESS: (Interpretation) Yes, indeed, I shall say or shall speak only the truth.

25 PRESIDING JUDGE STEINER: Mr Witness, as must have been explained to you by

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1 Victims and Witnesses Unit during the familiarisation process, you will be questioned
2 first by the Defence, then by the Prosecution, then by legal representatives of victims and
3 at the end the Defence has the right to question you once again in order to seek any
4 clarifications.

5 As you know, the Chamber has put in place measures to protect your identity from the
6 public. You will therefore be referred to during the course of your testimony as
7 "Mr Witness." Your voice and your image that are broadcast outside the courtroom are
8 being distorted. That means that the public cannot identify you by your image or by
9 your voice.

10 In order to keep your identity concealed from the public, Mr Witness, it is very important
11 that when we are in open session you avoid giving any information that could lead to
12 your identification. For instance, who are you; what position you occupy today or you
13 occupied in the past during the events, if any; where you live; where your family lives;
14 names of colleagues in your work, of your superiors, your boss, close friends or, for
15 instance, if you have participated in a meeting in which only one or two persons were
16 present.

17 All this kind of information could lead to your identification. That means that if you
18 need to give this kind of information when answering any questions put to you, you just
19 let us know and we can go into private session. In private session nobody can hear what
20 you say; only the persons present here in this courtroom. The Chamber and the parties
21 and participants will help you in identifying this kind of information that could not be
22 released in open session.

23 Do you understand the protective measures granted by the Chamber, Mr Witness?

24 THE WITNESS: (Interpretation) Yes, I've understood that very well, your Honour.

25 PRESIDING JUDGE STEINER: Mr Witness, as you must have noticed, we speak

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1 different languages, and because we speak different languages there is interpretation so
2 that we can understand each other. Because of the interpretation, Mr Witness, it is
3 important that you speak slower than normal, as I'm doing right now, in order to allow
4 our interpreters to do their job.

5 It is also important, Mr Witness, that when any of the parties or the Chamber put any
6 question to you, that you wait five seconds before you start giving your answer in order to
7 allow the interpreters to finalise the translation of the question. We call that our
8 five-seconds golden rule.

9 Since all of these rules may seem unnatural it may be that you start speeding up. If that
10 happens, Mr Witness, I will have to interrupt you and to ask you to slow down. Please,
11 Mr Witness, don't take offence. This is purely for practical reasons and should not
12 discourage you from speaking.

13 Is that fine with you, sir?

14 THE WITNESS: (Interpretation) I followed very well what you said, your Honour.

15 PRESIDING JUDGE STEINER: Now I ask, please, court officer to turn into private
16 session.

17 *(Private session at 12.08 p.m.) Reclassified as Open session

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

19 PRESIDING JUDGE STEINER: You see, Mr Witness, now we are in private session.
20 Only the persons present in this courtroom can hear what you say.

21 Mr Witness, the Chamber, the parties and the participants in this trial, have been
22 informed by the Defence, it is filing 2340-Conf, that in giving your testimony you may risk
23 incriminating yourself. For that reason, and in order to ensure that your rights are
24 respected and that you are fully aware and informed of the consequences of potential
25 self-incrimination, and on the protection that will be given to you when answering your

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1 questions before this Chamber, you will have talked with an independent lawyer who
2 should have notified, read out and explained to you the content of Rule 74 of the Rules of
3 Procedure and Evidence.

4 The duty counsel that you were assigned for this specific purpose is Maître Ghislain
5 Mabanga, Registry filing 2338-Conf. On 8 March 2013, Maître Ghislain Mabanga filed a
6 report, filing 2527-Conf, in which he informed the Chamber that he has notified and
7 discussed with you the consequences of potential self-incrimination and the guarantees
8 provided to you by the Court's legal framework.

9 Mr Witness, is that correct, that you have talked to Maître Ghislain Mabanga for the
10 specific purpose of receiving information on the consequences of potential
11 self-incrimination and having the content of Rule 74 and the implications of that rule
12 notified and explained to you?

13 THE WITNESS: (Interpretation) Yes, it's true I've had discussions with Mr Mabanga.
14 He's spoken to me about that.

15 PRESIDING JUDGE STEINER: Mr Witness, in case you have any doubts about the
16 information you received, or the implications of the legal provisions that were notified
17 and explained to you, you are entitled to discuss these issues again with Maître Ghislain
18 Mabanga at any time.

19 It is important for you to know that everything you discussed with Maître Ghislain
20 Mabanga is considered as privileged communication; that is to say, that will and should
21 remain confidential between you and him. Therefore, he will not tell anyone, not even
22 the Chamber, the details of what you have told him.

23 By the same token, you should also avoid mentioning in Court any of the issues you
24 discussed with Maître Ghislain Mabanga.

25 Is that clear, Mr Witness?

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1 THE WITNESS: (Interpretation) I've followed that very well, with all attention, all due
2 attention, to what you've said, your Honour.

3 PRESIDING JUDGE STEINER: Mr Witness, I wanted to assure that, whenever you want
4 to speak again with Maître Ghislain Mabanga about the issue of self-incrimination, you
5 just let us know and we will suspend the hearing for so long as you need to talk to him in
6 order to seek clarification.

7 Is that agreeable for you, Mr Witness?

8 THE WITNESS: (Interpretation) Yes, it's agreeable to me.

9 PRESIDING JUDGE STEINER: Court officer, please can we go back into open session.
10 (Open session at 12.15 p.m.)

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

12 PRESIDING JUDGE STEINER: Mr Witness, we are again in open session, which means
13 that the public can hear what you say, but I want to remind you that your image and your
14 voice that are broadcast outside the courtroom are being distorted so the public cannot
15 identify you.

16 If for any reason, Mr Witness, you need a break, just let us know.

17 Do you have any questions, Mr Witness?

18 THE WITNESS: (Interpretation) At this stage, I have no questions to put to you.

19 PRESIDING JUDGE STEINER: Therefore, Mr Witness, I will give the floor to Mr Haynes
20 that, on behalf of the Defence, will question you.

21 Mr Haynes, you have the floor.

22 MR HAYNES: Thank you, your Honour, and can I take it that the same invitation is
23 extended in relation to this witness that I might remain seated, because it's easier to see his
24 face on the screen?

25 PRESIDING JUDGE STEINER: Please, Mr Haynes, feel at ease.

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1 MR HAYNES: Thank you.

2 PRESIDING JUDGE STEINER: I'm sorry, Mr Haynes.

3 Can we turn, please, for a few seconds into private session.

4 *(Private session at 12.18 p.m.) Reclassified as Open session

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

6 PRESIDING JUDGE STEINER: Mr Witness, the Chamber needs to ask you what sort of
7 papers or notes you have in front of you?

8 THE WITNESS: (Interpretation) The documents that I can see before me are the
9 documents that have the solemn undertaking on them.

10 PRESIDING JUDGE STEINER: But it appears that you brought some papers with you; is
11 that correct?

12 THE WITNESS: (Interpretation) With regard to what I was told, I was asked to bring
13 these documents in order not to go next door for my references.

14 PRESIDING JUDGE STEINER: Can you please explain to the Chamber and to the
15 parties and participants what sort of notes you have in these papers, Mr Witness?

16 THE WITNESS: (Interpretation) If you'd be so kind, we can go into closed session and
17 then I will tell you how I prepared in order to answer you well.

18 PRESIDING JUDGE STEINER: Mr Witness, we are in private session. You can feel free
19 to explain to the Chamber about these papers that you have in front of you.

20 THE WITNESS: (Interpretation) These are reference documents which I've prepared,
21 because I know why I was called and I also know why other colleagues were called and so
22 I mustn't lose sight of the dates. This will help me remember dates so that I can speak
23 about them to the Judges, so it's in order to be able to refer well to something.

24 PRESIDING JUDGE STEINER: So I need to ask the Defence and Prosecution what they
25 think about the witness having notes, such as dates of events, in front of him.

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1 Mr Iverson?

2 MR IVERSON: Madam President, first of all the Prosecution would request that the
3 notes be made part of the record and receive a CAR-ICC number. Second of all, we
4 would submit that it's not proper for a witness to testify with notes to try to trigger his
5 memory, because of the principle of orality.

6 What would be proper is if a witness says they don't remember something and then
7 counsel can refresh their recollection with a document that is part of the Court
8 proceedings. That's our understanding of how the procedure should work, but there
9 shouldn't be kind of an ad hoc witnesses bringing notes into the witness box to aid their
10 testimony without counsel being aware of those notes.

11 So we'd ask that they be made part of the record, that he be prohibited from using those
12 notes and that, if he thinks he may remember a date based on a recollection refreshed, that
13 that procedure be adopted.

14 PRESIDING JUDGE STEINER: Mr Iverson, I will give of course the floor to the Defence,
15 but it appears to me that if he cannot use the notes, he's prohibited to use the notes, the
16 notes will not be part of the case file. There's no logic in that, unless I misunderstood
17 your proposal.

18 MR IVERSON: The reason that I, Madam President -- and I understand what you're
19 saying completely, but the reason that I propose they may be made part of the record is
20 that anything that influences a witness's testimony should be known to the Court - and
21 obviously the witness through his own admission under oath this morning has said that
22 these notes are going to tend to influence his testimony - and so they should be made part
23 of the record.

24 PRESIDING JUDGE STEINER: Mr Haynes?

25 MR HAYNES: Well, I think one has to be realistic here. Giving evidence is not a

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1 memory test, and every witness before they come to court to give evidence is likely to
2 search amongst the material they have available to themselves to check their own
3 recollection so that they can give the best information they can to assist the course of
4 justice.

5 What we find very surprising is that a witness was permitted to walk into this room with
6 notes. The Court's influence over him ends somewhere and, if an ordinary witness sat at
7 home and jotted down some thoughts and then walked to this facility the following
8 morning, there could be no complaint.

9 The only complaint is that somebody in Kinshasa allowed him to walk into this room
10 without saying, "What are those? They must stay outside," and that I submit is the
11 sensible position. Those notes must stay outside and they probably should be destroyed.
12 They're his personal property, they're not part of the case file, but I do agree that a factual
13 witness should not sit giving evidence with notes in front of him.

14 (Trial Chamber confers)

15 PRESIDING JUDGE STEINER: Mr Witness, it is the understanding of the parties and of
16 the Chamber that, as a witness, you should not consult any notes or references that you
17 prepared before you came to the video link room in order to start giving your testimony.
18 Therefore, I would ask you please to hand over these notes to the court officer that is at
19 your side. These notes will be given back to you at the end of your testimony.

20 On the other hand, if you need to take notes during your testimony, the court officer will
21 give you blank sheets of paper in order for you to use it if need be.

22 So I ask you, please, to hand your notes over to the court officer and the court officer will
23 give back to you at the end of your testimony.

24 I ask whether we can proceed, Defence?

25 Maître Badibanga?

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

2 I just wanted to be sure that I'd understood this properly. Should I understand that by
3 the decision you've said that you don't consider our request that these documents be part
4 of the case record?

5 The reason why I would like to insist on this point is that we also have to be attentive to
6 the risk of collusion between witnesses. That's a hypothesis, but it could be the case that
7 these documents were drafted by a third party and were provided to the witness. This
8 issue could be relevant at one time or another if we have to evaluate the credibility of the
9 witness and possible collusion. Why not? So, if the witness could leave with them,
10 perhaps that might compromise this examination.

11 That's the point which I wanted to put to you, your Honour. Thank you.

12 PRESIDING JUDGE STEINER: Mr Haynes, would you like to make any comment?

13 MR HAYNES: I'll reserve my comment as to that. I'm sorry. I'll reserve my comment
14 as to the bulk of that, but these are his personal notes, they belong to him, and unless
15 some power is advanced that you are entitled to seize them from him, I'm not sure what
16 the basis of Mr Badibanga's submission is. It might be one thing if he were referring to
17 them. It might be one thing if he went through the exercise that you have so recently
18 done, asking him whether he minds them becoming part of the evidence. It is quite
19 another suggesting that the Court here, before they've heard a word of his evidence, has
20 the power to demand that he deliver up his personal property.

21 PRESIDING JUDGE STEINER: Yes, Mr Iverson.

22 MR IVERSON: I just want to point out to the Bench that I think that Mr Haynes is
23 possibly making an assumption here, because the witness has never been asked whether
24 or not these are personal notes. We don't know who wrote those notes, if they are from
25 him or they are from someone else, so that's another issue to consider. That hasn't been

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1 explored yet, so right now that's an assumption that Mr Haynes is making.

2 PRESIDING JUDGE STEINER: These notes --

3 MR HAYNES: Your Honour?

4 PRESIDING JUDGE STEINER: Yes. Yes, Mr Haynes.

5 MR HAYNES: Page 47, line 14, these are reference documents which I prepared. The
6 submission I made was based on what he said after taking the oath, and my concern is
7 now that this whole process is becoming unsettling for the witness.

8 PRESIDING JUDGE STEINER: For the time being, the document - the notes - are to be
9 kept by the court officer. As I said, in principle, the document should be returned to the
10 witness at the end of his testimony, which will take us maybe a week. In the meantime,
11 the Chamber can review its own decision if it appears that it's necessary to seize the notes
12 prepared by the witness.

13 This discussion, for the time being, is over.

14 Court officer, please turn back into private session. Sorry, into open session.

15 (Open session at 12.32 p.m.)

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

17 PRESIDING JUDGE STEINER: Mr Haynes, you have one hour to start with your
18 questioning. You have the floor.

19 QUESTIONED BY MR HAYNES:

20 Q. Well, it's now good afternoon, Mr Witness. My name is Peter Haynes, and I'm one
21 of the counsel who represents Jean-Pierre Bemba, and I'm going to start questioning you.
22 So that you can arrange your affairs accordingly, I'm going to ask you questions for about
23 an hour today. I will continue tomorrow and hopefully finish tomorrow, and then you'll
24 be asked questions by the Prosecution and then by the legal representative of victims, but
25 my estimation is that you will have to come back after the weekend for maybe a day or

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1 two.

2 Do you understand?

3 A. Yes, I do understand.

4 Q. Now, it's been a few minutes since you were advised by the Judge, so I will reiterate
5 something. You have been granted protective measures, which mean that nobody
6 should know who you are, and whenever I want to ask you questions about who you are
7 or what you do or what you did, I will ask that we go into private session, which means
8 nobody will hear what we're saying outside this room and the room that you are in. But
9 sometimes I will ask you questions in open session, and I will always warn you of that,
10 that people can hear what you are saying, and then you bear some of the responsibility
11 not to reveal your identity, and if you feel you cannot answer any question without
12 revealing your identity or something about yourself, then you must tell us that you want
13 to answer the question in private session.

14 Do you understand that?

15 A. Yes, I have fully understood you.

16 Q. Okay. Well, the first process of giving evidence is to establish exactly who you are,
17 and so it will not surprise you to hear that I'm going to ask Madam President if we can go
18 into private session for that purpose.

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

20 *(Private session at 12.36 p.m.) Reclassified as Open session

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

22 MR HAYNES:

23 Q. I'll refer to you throughout as "Mr Witness." It's not a discourtesy. It's just the
24 practice we use with witnesses who have protective measures.

25 So, Mr Witness, can you please tell us your full name?

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1 A. My names are (Redacted)

2 (Redacted)

3 Q. And would you mind telling us the names of your parents?

4 A. (Redacted)

5 (Redacted)

6 Q. And when and where were you born?

7 (Redacted)

8 (Redacted)

9 Q. Now, you have already told us that you are a (Redacted).

10 For how long have you been (Redacted)

11 A. (Redacted)

12 Q. According to my reckoning, you would have been 19 years of age then; is that
13 correct?

14 (Redacted)

15 Q. Okay. (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. Could you give us just a brief résumé of your (Redacted) career from (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. Throughout that period, what was the name (Redacted)

4 A. (Redacted)

5 Q. Thank you. Did you at some time (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. And where did you (Redacted)?

10 (Redacted)

11 Q. Thank you. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. I would like to request that we go into private session to enable me to answer this
16 question.

17 Q. Mr Witness, we have been in private session from almost the beginning of your
18 testimony, so do not worry, your answer cannot be heard outside this room and the room
19 that you're in.

20 Do you want me to repeat the question or do you remember it?

21 A. I understood your question. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. Thank you. In October of 2002, what position did you hold?

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1 A. In October 2002 I was already a (Redacted).

2 Q. (Redacted)

3 A. (Redacted)

4 Q. (Redacted) at that date, where was the 28th Battalion deployed?

5 A. That battalion was deployed to Zongo, that is Zongo to Libenge and up to the
6 border between Libenge and Dongo.

7 Q. Thank you, Mr Witness. Now, I'm going to ask you some questions about the size,
8 structure and capability of the 28th Battalion. (Redacted)

9 (Redacted) to answer these questions, so

10 I'm going to ask that we deal with it in open session. But if you feel in any way
11 uncomfortable about that, will you say so?

12 A. I've heard you.

13 MR HAYNES: Then, Madam President, can we go into open session?

14 PRESIDING JUDGE STEINER: Before you go, if you allow me, Mr Haynes?

15 MR HAYNES: Absolutely.

16 PRESIDING JUDGE STEINER: Just a suggestion. Mr Witness, you could try to just
17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 THE WITNESS: (Interpretation) I have heard you.

24 PRESIDING JUDGE STEINER: So let's -- court officer, please turn into open session.

25 (Open session at 12.53 p.m.)

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

2 MR HAYNES: Thank you very much.

3 Q. Now, Mr Witness, I want to ask you about your knowledge of the 28th Battalion of
4 the ALC. Was the 28th Battalion part of a larger unit, a brigade?

5 A. It is true that it was a big unit that was part of our brigade.

6 Q. Okay. Well, I might come back to that. Let's go the other way. How many men
7 were there in the 28th Battalion, approximately?

8 A. The normal strength of a company could be -- of a battalion rather would be around
9 900 men, 925 men.

10 Q. And were those men organised into units that compromised the battalion?

11 A. They were divided up clearly into specific units; four combat companies, one at the
12 General Staff and one support company.

13 Q. Thank you. Where were the combat companies deployed?

14 A. One-and-a-half companies were deployed to Zongo and the others were in Libenge.
15 The other companies of the General Staff were in Libenge.

16 Q. How far is Libenge from Zongo?

17 A. Between Zongo and Libenge there is a distance of 115 kilometres.

18 Q. Thank you. Where was the support company based?

19 A. The support company was based at the headquarters in Libenge.

20 Q. And just briefly, what were the functions of the support company?

21 A. The support company was part of -- was not made up of or had some weapons and
22 a platoon that provided weaponry, and so it also performed -- another company rather
23 did the reconnaissance duties while the support company had to protect the weapons,
24 and the soldiers and their weapons.

25 Q. Okay. Well, we'll come back to that in a minute. I want to deal now with the

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1 command structure of the battalion. How was the General Staff of the battalion
2 structured?

3 A. In brief, there was nothing particular or out of the ordinary. The second person in
4 charge of the battalion and all the service personnel were in Zongo. The head of service
5 had remained at the Libenge General Staff Headquarters in order to undertake
6 administrative tasks.

7 Q. I apologise, it was a clumsy question. What I meant to ask you really was what
8 were the organs of the General Staff of the battalion?

9 A. Could we go into private session again, please?

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

11 *(Private session at 1.01 p.m.) Reclassified as Open session

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

13 MR HAYNES:

14 Q. I don't know if that came through to you, Mr Witness? We're now in private
15 session, so nobody can hear your answer outside the room.

16 I'm going to see if I can cut this short. We've heard a lot of evidence in this case about
17 G1s, G2s, G3s and G4s. Did the staff of the battalion have those officers?

18 A. With reference to the G-ranking these are higher ranks, but if you're putting the
19 question to me as to whether this unit had a structure, it was very well-structured, yes.

20 Q. I apologise. At the battalion level they are S-ranks, aren't they?

21 (Redacted)

22 It was all in place.

23 Q. Did the 28th Battalion have an S1?

24 A. Yes, indeed the battalion did have an S1.

25 Q. And what was his name?

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1 A. His name was Lucien Nzengu (phon).

2 PRESIDING JUDGE STEINER: Mr Haynes, if you could precise the period he's talking
3 about please.

4 MR HAYNES:

5 Q. Was Lucien Nzengu the S1 in October of 2002?

6 A. Yes, he was S1 during this period from 2002 to 2003.

7 Q. And during the same period was there an S2 and, if so, who was that?

8 A. During that period there was an S2 and his name was Lieutenant Bomengo.

9 Q. Thank you. And was there an S3 and where was he -- what was his name?

10 A. There was an S3 by the name of Serugou (phon).

11 Q. Thank you. And, lastly, was there an S4 and what was his name?

12 A. There was an S4 by the name of Mapendo (phon).

13 Q. Thank you. Now, where was the staff of the 28th Battalion situated?

14 A. Within a battalion, one does not talk about the General Staff. The deputy was in
15 Zongo and some of the members of the personnel as well. The commander was in
16 Libenge.

17 Q. The S2 --

18 A. That is where --

19 THE INTERPRETER: Interruption from the interpreter, apologies. "That's where most
20 of the staff was," adds the (Redacted) interpreter.

21 MR HAYNES:

22 Q. Would the S2 have been based at Libenge?

23 A. In 2001 and 2002, the S2 was in Libenge and his deputy was in Zongo.

24 Q. Thank you. Now, in October 2002, what was the combat situation of the 28th
25 Battalion?

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1 A. In October, towards the end, I would say that (Redacted)

2 (Redacted).

3 Q. Thank you. I'm coming on to that, but I wanted to know what the combat situation
4 was within the Democratic Republic of Congo so far as the 28th Battalion was concerned?

5 A. With regard to the war that was being waged in the DRC (Redacted)

6 (Redacted) but as for anything else going on in that

7 war -- well, with regard to the date you've just provided, with regard to the unit in the

8 DRC, (Redacted)

9 Q. Okay, let me put the question a bit more clearly. Prior to going to the other side, (Redacted)

10 (Redacted), was the 28th Battalion engaged in active combat in the Democratic Republic of

11 Congo?

12 A. I would say as follows: (Redacted) when there was no longer any

13 war. (Redacted)

14 involved in the war in the DRC. (Redacted)

15 Q. Okay. I want now to move on to the capability of the 28th Battalion. What sort of

16 weapons did the 28th Battalion have?

17 A. The 28th Battalion's weapons? Well, I don't quite know what period you are

18 referring to, because there were some weapons that were used during the period (Redacted)

19 (Redacted). When there were problems (Redacted) weapons (Redacted) could be

20 supplied, but which period are you referring to precisely?

21 Q. I'm referring to the period before the 28th Battalion went to the Central African

22 Republic. What sort of weapons did they have available to them in Zongo and Libenge

23 before they went to the Central African Republic?

24 A. During that period in the Central African Republic, the battalion did not have heavy

25 weaponry. It had light weaponry.

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1 Q. Just so that we're clear, what do you mean by light weaponry?

2 A. These were weapons such as the AK or the M16, the FAR (phon), and (Redacted)

3 160 mortars -- or 60 mortars, 60 millimetre mortars. (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. Okay. (Redacted)

7 (Redacted)

8 A. Well, I don't know whether we are still in closed session?

9 Q. We are.

10 A. (Redacted)

11 (Redacted)

12 Q. Thank you. (Redacted)

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)

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1 (Redacted)

2 Q. (Redacted)

3 A. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. Now, I just want to clarify a couple of things about that answer. (Redacted)

9 (Redacted) And we are in private

10 session.

11 (Redacted)

12 (Redacted)

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)

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1 Q. Okay. When you talk about a team of scouts, how many men are you referring to?

2 A. It was approximately one section, a little less. (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. Okay. Can you give us an approximate number in total?

6 A. I cannot remember the precise number, because there was another service that had
7 been used for the commander and they needed an interpreter in order to facilitate
8 communication. This is why I am talking about at least one section comprising seven to
9 ten individuals.

10 Q. Okay. And what did that section do?

11 A. At the time when (Redacted), the people on the other side as they
12 had urgent needs had scrambled their commander from the naval forces and he, (Redacted)
13 (Redacted), came. His name was (Redacted), or something like that. He was the
14 person who came to request the authorisation for those people and to take them to the
15 other side, at least to enter into contact with them and know what was going on in the
16 field. He was also due to gather information on the enemy, and this would enable (Redacted) to
17 gather the requisite personnel in order to face up to the situation prevailing in the field.

18 Q. Okay. Did the section go to the other side?

19 A. Yes, indeed, the section did go there, but did not spend the night. I believe that it
20 was on the 26th. They went there, they discussed matters with the others and then came
21 back to their home country.

22 MR HAYNES: Thank you, Mr Witness. That's the last question I'm going to ask you
23 today.

24 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

25 Court officer, turn into open session, please.

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1 (Open session at 1.29 p.m.)

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

3 PRESIDING JUDGE STEINER: Mr Witness, we will adjourn for today. We will

4 continue tomorrow morning, starting at 9 in the morning. We wish you a very restful

5 afternoon and evening. You can take some rest and be ready to continue with your

6 testimony tomorrow morning.

7 I thank very much the Prosecution team, the legal representatives of victims, the

8 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very, very much our interpreters,

9 our court reporters. Ms Toumaj, thank you very much.

10 Mr Witness, thank you very much.

11 This hearing is adjourned.

12 THE COURT USHER: All rise.

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

14 RECLASSIFICATION REPORT

15 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and

16 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public