

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Wednesday, 8 June 2011
8 (The hearing starts in open session at 9.37 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
12 in open session.
13 PRESIDING JUDGE STEINER: Good morning. Court officer, could you please call
14 the case.
15 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
16 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you very much. Good morning and
18 welcome to the Prosecution team, the legal representatives of victims, the Defence
19 team, Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters and court
20 reporters.
21 We will continue this morning with the questioning of Witness 209 by Defence. I ask,
22 please, the court officer to turn into closed session in order for the witness to be
23 brought into the courtroom.
24 (Closed session at 9.40 a.m.) * Reclassified as Open session
25 THE COURT OFFICER: We are in closed session, Madam President.

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1 (The witness enters the courtroom)

2 WITNESS: CAR-OTP-PPPP-0209 (On former oath)

3 (The witness speaks Sango)

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

5 (Open session at 9.41 a.m.)

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

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

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

9 PRESIDING JUDGE STEINER: Did you have a good night's sleeping?

10 THE WITNESS: (Interpretation) Yes, I was able to get some rest.

11 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony?

12 THE WITNESS: (Interpretation) Yes, I am.

13 PRESIDING JUDGE STEINER: Thank you, Mr Witness. Before I give the floor to
14 the Defence, I need to remind you that you are still under oath. Do you understand
15 that, sir?

16 THE WITNESS: (Interpretation) Yes, I understand you very well.

17 PRESIDING JUDGE STEINER: I also want to remind you that you are under
18 protective measures, that your image and voice broadcast outside the courtroom are
19 being distorted so that the public cannot identify you. So please, Mr Witness, when
20 we are in open session, don't give any information that could lead to your
21 identification. If you need to mention any names, people you met, your past or
22 present activities, position, we can go into private session. Try not to make these
23 references in open session. And finally, Mr Witness, if you feel tired, or distressed,
24 or for any reason you need a break, just let me know. Do you understand that, sir?

25 THE WITNESS: (Interpretation) Yes, I have understood you very well, your

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1 Honour.

2 PRESIDING JUDGE STEINER: Thank you, sir. Mr Haynes, you have the floor.

3 MR HAYNES: Thank you, and good morning, your Honour.

4 QUESTIONED BY MR HAYNES: (Continuing)

5 Q. Good morning to you, Mr Witness.

6 A. Good morning, Counsel.

7 Q. I hope that is the last time I'm going to say that. I think I should finish my
8 questions of you this morning, but that's -- let's see how we go. If you listen to the
9 questions carefully and try and answer them as concisely as possible, we will finish
10 all the quicker. Do you understand?

11 A. I have understood you very well, Counsel.

12 Q. Good. I just want to clarify something you said at the very end of yesterday's
13 proceedings, about the colour of the plane, because I think it might have been
14 wrongly translated into English. What proportion of the plane was green?

15 A. I told you, Counsel, that 65 per cent of the plane was green. I was some 50
16 metres away from the plane, and the head of the plane was green. So 65 per cent of
17 the plane was green, while the head of the plane was white. That is what I saw.

18 Q. Thank you very much. I'm going to ask you some questions now about what
19 you were doing on 13 January, and I think for that purpose we'd better go into private
20 session.

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

22 (Private session at 9.47 a.m.) * Reclassified as Open session

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

24 MR HAYNES: Thank you.

25 Q. Sir, we're in private session so feel free to talk about people you were with on

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1 that day and your function, or job, because nobody can hear you. Where were you
2 before the arrival of the plane?

3 A. When the plane landed, (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Then, shortly thereafter, (Redacted) arrived. One -- he is

9 one of those people (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 You may want to know that one of (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Then, shortly thereafter, around 11 a.m., we heard the sound of an aeroplane and then

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 So the plane landed on the road to Sibut and then he went to the location (Redacted)

25 (Redacted). Mustapha then went to the foot of the plane to

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1 receive the passengers and then to lead them to the house.

2 Q. How long had (Redacted) before you heard the plane?

3 A. I believe that it must have been one hour, 30 minutes, because (Redacted) at 9.30,

4 early in the morning, and then (Redacted) came in 30 minutes thereafter. And

5 shortly thereafter we heard the sound of the aeroplane around 10.30 to 11 a.m. So it

6 was in the morning. It was in the morning.

7 Q. And how (Redacted) travelled to the base?

8 A. Counsel, I have told you that there was a slight (Redacted)

9 (Redacted) You see, on the 7th, when

10 he took control of the town, what actually happened was that the mother of that child

11 had died but the relatives were still at the burial when the soldiers arrived. So the

12 parents -- or the relatives fled and, in so doing, abandoned the child.

13 (Redacted)

14 (Redacted). So you may want to

15 know that the relatives of the child (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. Sir, I don't know if my question was badly translated, but really all I wanted to

22 know was (Redacted) walk to the base along national route 3?

23 A. Well, during the events, there were no available means of transportation. They

24 had confiscated and forcibly taken away all means of transportation, mopeds,

25 motorcycles and what have you. So (Redacted) on foot.

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1 Q. On national route 3?

2 A. Well, the Banyamulengue base was located along national road number 3.

3 Q. So can we take it that (Redacted) on that road?

4 A. Counsel, am I speaking to myself here, or what? I have already told you that (Redacted)

5 (Redacted) because there was no available means of transportation since they had

6 confiscated everything. Throughout their stay in Damara, (Redacted)

7 (Redacted) Counsel.

8 Q. Very well. Before you heard the sound of the plane, did (Redacted)

9 (Redacted)

10 A. No, he (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. And (Redacted) at the time you could hear the plane arriving?

17 A. We could hear the droning of the car -- of the plane, rather, at that time, but we

18 thought that it was simply going to overfly the town. At that moment, (Redacted)

19 (Redacted) and it is at that time that I

20 could already hear the sound of the plane, which must have been some 10 kilometres

21 away. But the droning of the plane increased as it came (Redacted).

22 Q. How far was this base from the front line at that time?

23 A. I said that the front, the battlefield, was 13 kilometres away. They had set up

24 their base 10 kilometres away in Kpabara village. Then the battlefield was a little

25 further on at Kpabara 3. You see, there are three Kpabararas. Kpabara 1 is 10

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1 kilometres away while Kpabara 3 is 13 kilometres away. The command office of the
2 unit was at Kpabara 1, which was ten kilometres away and it is from that location that
3 the soldiers went to the battle front which was at Kpabara 3, 13 kilometres away.

4 Q. Thank you. And according to you, for how long was the plane on the ground?

5 A. Counsel, it is not possible for me to give you a specific time-frame. I know that
6 the plane came in around 11 a.m., 12 noon, and I did not have a wristwatch to take
7 note of the amount of time spent on the ground. All I can tell you is that the plane
8 landed around 11 a.m. or noon. Then those who were in the plane came out of the
9 plane, went to the (Redacted) house, spent about 30 minutes there, and
10 thereafter I saw property being taken out of the house and loaded onto the plane and
11 (Redacted)
12 (Redacted) away from the main road.

13 So there were some mango trees between us and the house. The plane took off
14 around -- well, what I can say is that they spent some reasonable time within the
15 house, and the plane must have taken off around 3 p.m. And at that time (Redacted)
16 (Redacted) were still at that location. Although I had wanted to go away, leaving
17 (Redacted)
18 (Redacted)
19 (Redacted) then it would not be a good thing.

20 So, you see, this was the first time (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. Thank you. So the plane was on the ground for about four hours, 13

25 kilometres from the frontline; is that right?

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1 A. No. I didn't say that the aeroplane landed 13 kilometres away. You asked me
2 how the aeroplane landed, and I told you that before the landing of the plane, the
3 plane was flying over the town and we could hear the sound of the engine, and we
4 thought it was just going to fly over the town. And somewhat later (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 I didn't say anything about the aeroplane landing at 13 kilometres away. You were
10 talking about the roadblock and I said the roadblock was located at Kpabara 1, 2 and

11 3. The person in charge of the roadblock, the front lines, was 10 kilometres away.

12 They established the line, the roadblock, at a distance of 13 kilometres. So other than
13 that frontline away, other, between there and that line, it was a war zone. Bozizé's

14 men were on the other side. They were at Libi and the Banyamulengue were

15 13 -- were at 13 kilometres. That's what I told you, Counsel.

16 Q. Thank you for the clarification. Where had (Redacted) come from?

17 A. Sir, (Redacted) is the head of (Redacted)

18 (Redacted) in Damara, 25 kilometres from Damara, on the

19 Bangui road. Now, if you leave national road 3, you have to go 7 kilometres before

20 you get to the company's headquarters. (Redacted) lives in Bangui behind the

21 (Redacted)

22 Q. And he had driven to the base that morning, had he?

23 A. Could someone come from Bangui all the way to Damara by foot?

24 Q. That doesn't really answer my question. Had he driven to the base that

25 morning in a motor car?

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1 A. Yes, he came in his vehicle. He parked the vehicle there at the place where the
2 soldiers had parked their pickups, their white pickups, and those soldiers' pickups
3 were being used to go back and forth between Damara and the front line, to
4 determine whether things were going well.

5 There was a duty vehicle that would go back and forth between the headquarters and
6 the various front lines and (Redacted) parked his car behind -- beside that
7 vehicle.

8 Q. Thank you. And were the pickups going back and forth on national route 3
9 that morning?

10 A. Counsel, you're asking me some questions that are purely military in nature. (Redacted)
11 (Redacted) How am I to know whether the pickup went in the
12 morning and then came back? From the headquarters, to go the Bogandolo (phon)
13 road there is a shortcut that leads to the front line that goes by way of the
14 subprefecture. Now, if the pickup takes that particular shortcut, how could I have
15 known whether the pickup was coming and going that morning? I am not God.
16 How am I to know such things?

17 Q. Well, you could have heard it or saw it leaving and coming back, couldn't you?

18 A. Counsel, you -- when you ask me questions, you have to refer to what I said at
19 the beginning. You asked me how many kilometres it was where the base was, how
20 many kilometres away. And I answered. I think you should make reference to the
21 question and then the answer that I gave you so that you can have a reply to this
22 current question.

23 Q. Was (Redacted) alone?

24 A. I asked you a question and you haven't provided an answer yet, and then you
25 move on to another question. Let's try to understand one another properly before

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1 we continue any further.

2 PRESIDING JUDGE STEINER: Mr Haynes, please. Mr Witness, let's try to move
3 on with this questioning, in order for us to finish with your testimony today. As a
4 matter of fact, Mr Haynes is the one that is questioning you. It's not appropriate for
5 you to put questions to Mr Haynes. Let's try to understand each other. He put to
6 you a valid question, and please just answer the question. Is that fine with you, sir?

7 THE WITNESS: (Interpretation) Your Honour, I think that I've already answered
8 some of those questions. At the beginning, when he began his cross-examination, he
9 asked me where the Banyamulengue's base was located in relation to the main road,
10 and I said it was about two kilometres. And now he is asking me, he wants to know
11 whether from two kilometres I could hear the noise, the noise of the vehicles. But,
12 no, he's asking me whether I saw the command vehicle of the soldiers going back and
13 forth.

14 THE INTERPRETER: The Sango booth would like to ask if the witness could please
15 slow down and pause between ideas.

16 PRESIDING JUDGE STEINER: Mr Witness, please. You are going too fast. The
17 Sango booth cannot interpret what you are saying, and maybe you are not paying
18 attention to the Defence question. If the Defence asks you whether you heard noises
19 of pickups going back and forth, you can just say, "No." You don't need to be upset
20 with the Defence if they ask this kind of question. It's a valid question. Speak
21 slowly.

22 THE WITNESS: (Interpretation) I've understood you, your Honour. I just want to
23 specify one thing. I had said that the military base was two kilometres from (Redacted)
24 (Redacted), but I couldn't hear the noise of the vehicles that were going by. (Redacted)
25 (Redacted)

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1 (Redacted) I saw the vehicle parked. I wasn't in a position to know whether it had
2 been shuttling back and forth in the morning before it had been parked there.

3 PRESIDING JUDGE STEINER: Thank you, Mr Witness. Now we could
4 understand your answer. Thank you very much. Mr Haynes --

5 MR HAYNES: Thank you.

6 PRESIDING JUDGE STEINER: -- I need to remind you about the five-second rule,
7 because you are also violating the five-second rule.

8 MR HAYNES: I'm very sorry.

9 Q. Sir, the last question I asked you was whether (Redacted) was alone?

10 A. I told you in one of my statements that (Redacted)

11 (Redacted) That means that there were four of them in total.

12 MR HAYNES: Thank you. Now, I'd like to go back to the plane a little bit and if
13 we could put into eCourt Defence document 73.

14 THE COURT OFFICER: Document CAR-D04-0002-0817 is available on your screens.

15 You can push the button "PC1" to see it. Could you please, Counsel, confirm the
16 level of confidentiality of this document?

17 MR HAYNES: This is a public document, but it's the wrong document. The
18 document I wanted was CAR-D04-0002-1377.

19 PRESIDING JUDGE STEINER: This is document 75 of the list.

20 MR HAYNES: It must be a typo.

21 THE COURT OFFICER: Document CAR-D04-0002-1377 is available on your screens,
22 and this document is classified as public, unless otherwise instructed.

23 MR HAYNES: We could, in fact, go into open session.

24 PRESIDING JUDGE STEINER: Let's try. Court officer, please, open session.

25 (Open session at 10.20 a.m.)

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

2 MR HAYNES:

3 Q. Sir, can you see the aeroplane in that (Redacted)?

4 A. Yes, I can see it.

5 Q. Now, I know that you are not an expert in models of aircraft, but is that the sort
6 of size and shape of aircraft that you say you saw on January, the 13th?

7 A. It's the same kind, but it's not the same colour. It's the kind of aeroplane, but
8 the colour is different.

9 Q. Thank you, that's very helpful. And seeing that (Redacted), are you reminded
10 that it was an aircraft that had two propellers, one on each wing?

11 A. Counsel, I'm telling you that it is exactly the kind of aeroplane in question, but
12 the difference is the colour. The aeroplane that landed was not this colour.

13 Q. Thank you. It had that sort of wing span, did it, the plane that you say landed?

14 A. Counsel, I answered telling you that the aeroplane was really the same kind as
15 the one we see here, but the colour was different. I told you yesterday that I can
16 distinguish between a helicopter and an aeroplane, and I told you that it was the same
17 kind of aeroplane, the same shape, but the colour is different.

18 Q. Do you know how large a distance 30 metres is?

19 A. Counsel, if I speak of a distance of 30 metres, well, in actual fact I told you that
20 the member of parliament's house was 50 metres away. That was just an estimate.

21 I didn't measure the actual distance. When I speak of 50 metres, that doesn't mean
22 that I used some kind of measuring device to measure the actual distance. It was an
23 approximate distance. If I say 30 metres, it might be actually 25 metres. To have an
24 exact measurement of a particular distance you have to use some kind of measuring
25 device, so the distance that I told you was an approximate distance between 25 and 30

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1 metres. You asked me a question and I've answered, saying that the member of
2 parliament's house was about 50 metres away. Counsel, you know very well that I
3 did not use some kind of measuring device.

4 Q. I understand that, but the wing span of the aircraft in that (Redacted) is 30
5 metres. That's why I asked you if you understood, or knew, how big a distance that
6 was.

7 Now, I'm going to move on to something else. We are in open session and so, if you
8 want to mention the names of anybody who you were with on the day you say you
9 saw the aircraft, please do not do so without telling us we need to go into private
10 session.

11 How do you say goods were loaded on to this aircraft that you saw?

12 A. You asked me a question that I was supposed to -- well, you -- I was supposed
13 to answer a question and now you're asking me another one. You wanted to know
14 whether it was the same kind of airplane. I said, "Yes." You asked me whether the
15 size might have been 30 metres, and I told you that I didn't measure with some kind
16 of measuring device and so I can't tell you exactly whether this aeroplane is 30 metres
17 or not. Now you're asking me how the goods were loaded into the plane. I've told
18 you that, when the goods were taken out of the house, the soldiers were the ones who
19 were doing that. The soldiers were the ones who were loading the goods into the
20 aeroplane: Motorcycles, refrigerators, electrical generators. They were the ones
21 who were loading these goods into the plane. Admittedly there was a distance
22 between me and them, but I was able to see. I observed the soldiers loading the
23 goods from the side of the road into the plane.

24 MR HAYNES: (Overlapping microphones)

25 THE WITNESS: (Interpretation)

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- 1 I think that when -- when you bring goods to the side of a vehicle, if you're not at a
2 good distance you can't see exactly how the goods are being placed on the aeroplane.
3 Myself, all I know is that it was looted goods, and I even told you that I spent many
4 nights sleeping on a mat in the bush. Please, now are we in open session? Your
5 Honour, are we in open session? Yes, I'll continue.
6 I was saying that the goods were taken and put into the plane, loaded onto the plane,
7 but I wasn't able to see exactly how they were loaded onto the plane.
8 Counsel, you should realise as well that the supreme commander, I wasn't able to
9 look at him in his eyes. I was at a certain distance and I couldn't really identify him.
10 He was wearing a hat, and amongst the spectators there was a white man. So they
11 were doing everything to ensure that the white man did not see the leader.
12 And people, the people were carrying the various goods in front of us, and we saw
13 them, motorcycles and the other items. But what I can tell you is that, indeed, an
14 airplane landed and then goods were loaded onto it.
15 PRESIDING JUDGE STEINER: Mr Haynes, I think we had a problem with the
16 microphones here. The question that witness started answering on line 5, the
17 question is not there; it's only the answer. Could you please repeat your last
18 question, please.
19 MR HAYNES: Yes, I can. I was alerted to the fact that the question hadn't made it
20 into French, as it were. So probably not into Sango, either.
21 PRESIDING JUDGE STEINER: And not into -- no, into Sango? The witness
22 answered. I think it's not in the transcript.
23 MR HAYNES: I'm also a little concerned that we probably ought to be in private
24 session.
25 PRESIDING JUDGE STEINER: Court officer, please, turn into private session.

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1 (Private session at 10.31 a.m.) * Reclassified as Open session

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

3 MR HAYNES:

4 Q. Sir, you have answered this question but I'm going to ask it again so that the
5 question is on the record of the Court. Do you understand?

6 A. Yes, I understand. I told you that the distance between me and the
7 plane -- well, in fact, you know that when you transport goods in order to load them
8 onto a vehicle, if you don't see those goods afterwards that means that those goods
9 were in fact loaded on to the vehicle. What I would like to tell you is that the
10 distance between me and the plane did not permit me to see how the goods were
11 loaded; I only saw the goods coming out of the house. And, you know, after the
12 plane departed, there were no more goods on the side of the road so where did those
13 goods go?

14 Q. The question I asked you, which did not appear on the transcript, was in what
15 part of the plane were the goods loaded? Okay?

16 A. But this is the answer that I have just given you, Counsel. I did understand. I
17 understand that this is not a new question. I have understood and I have answered
18 that question.

19 MR HAYNES: Thank you. You don't need to answer it again.

20 JUDGE ALUOCH: Mr Haynes, can I just find out from the witness how long did
21 this exercise go on, this exercise of removing goods from the house, loading into the
22 vehicle? Did it go on for half-an-hour, maybe about an hour or for a long time?

23 THE WITNESS: (Interpretation) Your Honour, if you estimate that there was
24 (Redacted) if you take that into account, I could say that

25 towards 1 o'clock or 1.30 the loading was taking -- or took place. I think that the

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1 loading took something like an hour, an hour-and-a-half, if I'm not mistaken.

2 I say this because the (Redacted)

3 (Redacted) So after the plane left, (Redacted) were still

4 there. (Redacted)

5 (Redacted)

6 (Redacted)

7 JUDGE ALUOCH: Thank you for answering, giving me the estimation of time.

8 Thank you.

9 MR HAYNES:

10 Q. And could you see whether any machine was used to load stuff onto the plane?

11 A. There was no machine by the roadside, beside the plane. I think that there
12 was -- I saw a second vehicle come near the plane. Did they, first of all, transfer the
13 goods into the vehicle before putting them on the plane? This I do not know because
14 there was a *mango tree there blocking our view.

15 I told you that after the plane took off, I did not see any goods on the ground along
16 the roadside and I did not see those goods go back to the house. So I have no way of
17 knowing whether they brought the vehicle to the plane in order to transfer the goods.
18 Did they use rope? I really cannot know this. I do assert that the goods came out of
19 the (Redacted) house, heading towards the plane. The goods were
20 piled up next to the plane, and after that the goods disappeared. I did not see them
21 anymore.

22 THE INTERPRETER: Interpreter correction: Page 19, line 23, it should read
23 "1 million," not "millions."

24 MR HAYNES:

25 Q. Could you see any door open on the plane, and if so where was it?

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1 A. Counsel, I did not go close to the plane in order to see whether the doors -- the
2 cargo doors were on the left or on the right. I told you that there was a certain
3 distance between (Redacted).

4 Now, if I had stood up to try and see better, perhaps (Redacted)
5 (Redacted) So I behaved well.

6 I told you that this is looted goods, this is property that was lost by inhabitants of the
7 village. (Redacted) I saw the goods leave the (Redacted)
8 (Redacted) house, heading towards the plane, and they were no doubt loaded onto
9 the plane and after that the plane took off.

10 Q. Just remind us how far you were from the plane.

11 A. I told you that (Redacted) house was about 50 metres away from the road.

12 (Redacted) and the

13 road, there were mango trees. The (Redacted) had planted mango trees
14 in front of his house.

15 The plane took off from a flat field. So you had the distance separating the military
16 base which was about two kilometres. For a plane to take off properly, it needs
17 enough room so they brought the plane up to the level of the mango trees. (Redacted)
18 (Redacted) were not in a position to see how they loaded the goods onto the plane. (Redacted)
19 (Redacted)

20 We could see the plane clearly, but there were the mango trees which had leafy
21 branches that were blocking our vision. They used a shortcut, a pathway, to get to
22 the plane. They did not take the main road from the (Redacted) house
23 to go to the plane. That road was at about 70 metres away. They preferred to use a
24 small laneway that went by their improvised prison, and they took that shortcut to
25 get to the plane.

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1 Q. Sorry, from where did the plane take off?

2 A. I said that the plane landed on the Sibut road, facing Bangui. When it took off,
3 the plane rolled along the tarmac before it took off and then it flew over the town
4 before -- at least it flew over the town for about 2 kilometres before taking the
5 direction of Oumba in the Democratic Republic of the Congo.

6 Q. Did it use the road to take off or a field?

7 A. Counsel, you have (Redacted) yesterday. There were electricity
8 poles along the road. There were about 50 such electricity poles. The plane took off
9 from the tarmac. From where we were, when the plane began to manoeuvre, the
10 plane was heading away from us but of course we could still hear the drone of the
11 engine.

12 When the plane took off, the plane flew over a part of the town heading towards
13 Kpabara before heading towards the Congo. I said that when the plane landed, the
14 tail was pointing towards Sibut and the head towards Bangui. When the plane took
15 off, it took off like that. There is a street that links Kpabara or that led from Kpabara
16 directly to the river which is on the border with the Democratic Republic of the
17 Congo.

18 Q. Now I just wanted to clarify something with you because page 21, line 15, you
19 told us today the plane took off from a flat field. And what I want to know is, did it
20 take off from a flat field or did it take off from national route 3; which is it?

21 A. This question reminds me of your question yesterday. The pilot no doubt
22 calculated that he was going to have difficulties if he was confronted with a gust of
23 wind. There was an undulating part on the road, on national route number 3, but he
24 landed on a flat piece of ground directly. I didn't talk about a field or any other
25 place. This flat piece of ground that I am talking about was on national route

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1 number 3. The plane landed on national route number 3 with the head facing
2 towards Bangui, and that is how it took off, flew over the military base and flew over
3 Kpabara before it finally went away.

4 Q. And did you see it take off?

5 A. The plane was at a certain distance (Redacted), but it was only the mango
6 trees that separated -- that blocked our view. The plane began to taxi, to roll along
7 the tarmac like a vehicle, and after that we began to hear the noise of the engines. At
8 that time the plane was heading away from (Redacted), and then the plane took
9 off, but I couldn't see the plane as it was taking off.

10 Counsel, during these events (Redacted). I couldn't
11 stand up and look at what was happening. That would have been to risk my life,
12 Counsel. What place would I have had to stand up, to look at how the plane was
13 rolling and taking off?

14 Q. Could you not even estimate for us how far it travelled along the road before it
15 got into the air?

16 A. Counsel, I know that you're just trying to do your job, but I don't know. That
17 day, do you think that I had a notebook in my hand, to take notes? Unless I was an
18 investigator, unless I was the investigator for the Prosecution, I wouldn't have had the
19 means. You know, the events date back a long time now. It's nine years. Counsel,
20 you could contact investigators, you could send investigators out into the field to
21 check what I'm telling you.

22 Q. Well, forgive me, sir, but you know that the base is two kilometres outside
23 Damara. Could you tell whether the plane was in the air before it got to the centre of
24 Damara?

25 A. I haven't understood your question very clearly, Counsel. Would you please

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1 rephrase it for me?

2 Q. Yes, I'll break it down. You know that the centre of Damara was two
3 kilometres from the base, don't you?

4 A. That's right.

5 Q. And you told us that you saw the plane fly over Damara, didn't you?

6 A. I said that the plane left the base, taxied on the road. The (Redacted)
7 (Redacted) house was slightly set back in the bush, and the plane landed before -- or
8 in front of the concession. When the plane began to taxi, when it began to move
9 forward, at a certain level it was taxiing on the flat ground and I could only hear the
10 engine noise and then at a certain point the plane took off and then it flew overhead.
11 I imagine it reached the level of the centre of town before turning back to fly over the
12 base, taking the direction from which it had originally arrived. And then the plane
13 continued towards the roadblock. That's what I saw. I didn't have the means or the
14 opportunity, or the time or the interest, to record the time it took for the plane to taxi
15 and take off.

16 Q. So was it airborne before it got to the town of Damara, or not?

17 A. But the plane arrived from the air, and when it left again, the plane took off and
18 rose into the sky and it flew over the Kpabara sector, heading towards the direction
19 from which it had come. If this plane had not arrived from the air, how did it get
20 there, Counsel?

21 Q. This plane managed to land and take off without any accident, according to
22 what you say; is that correct?

23 A. If there was a problem, perhaps the plane would have crashed with all of the
24 property on board.

25 Q. But it didn't, its wings did not get ripped off by the trees on the side of the road?

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1 A. Counsel, what do you mean by that? Do you mean that national route number
2 3 is not wide enough, not wide enough to allow a plane to land on it? The
3 (Redacted) that was given to you, Counsel, must have made the width of the road
4 look narrower. Imagine, Counsel, that as (Redacted) -- I don't find this very proper.
5 I understand that you are defending the accused person. I understand that you're
6 doing your work; I accept that. But I would encourage you to contact investigators
7 who can go out into the field and check for you what I'm saying.

8 Q. We can look at the (Redacted) again, if you like, but tell us if you can remember
9 whether the wheels of this plane were under its wings?

10 THE INTERPRETER: The French interpreter didn't understand the English question,
11 or did not hear it. Could it be repeated, please?

12 MR HAYNES: Certainly.

13 Q. Sir, do you remember whether the wheels on the plane were under its wings?

14 JUDGE ALUOCH: At what stage, Mr Haynes, please?

15 MR HAYNES: When it was standing on the ground.

16 JUDGE ALUOCH: Okay.

17 THE WITNESS: (Interpretation) How do you mean next to the wings, Counsel?

18 You showed me a (Redacted). The plane's wheels were exactly like the wheels on
19 the (Redacted) that was presented to me. We saw this. You asked me whether the
20 plane that I saw on the (Redacted) was the same plane and I said, well, it was a plane
21 that was exactly the same in form; the only difference was in the colour. So have a
22 look at the plane on that (Redacted) and look at the position of the wheels on that
23 (Redacted). I don't have anything more to say about the wheels of the plane.

24 MR HAYNES:

25 Q. Well, thank you, we'll do that. Can we have a look at document 75 again,

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1 please. The near propeller, can you see the propeller that is nearest to you?

2 A. Yes, I can see.

3 Q. And can you see that at the back of that propeller there is a stanchion coming
4 down behind the truck?

5 A. I can see all of that. Counsel, I've told you that it was the same type of plane;
6 the difference was in the colour.

7 Q. And just to clarify the position, can you see the propeller on the far side of the
8 plane and underneath that is its other wheel?

9 A. Yes.

10 Q. And that's where the wheels were on the plane you saw?

11 A. Well, what did I tell you? I told you that it was the same type. Of course,
12 there was a certain distance, but I can tell you that the wheels were disposed in the
13 same way as the ones I saw. The difference was in the colour. I repeat that.

14 Q. Just one more thing: Where were the lights on the side of the road at national
15 route 3?

16 A. The lampposts that the Enerca agents set up on either side of the road were at
17 100 metres from the house. There were posts of that kind and there were also trees
18 planted there. The plane that landed did not even come close to those posts. We
19 thought that this plane might prevent traffic circulation, but in fact there was no
20 traffic because the vehicles could not move around, and so that was understandable.

21 MR HAYNES: Thank you.

22 PRESIDING JUDGE STEINER: Let's go into open session, please.

23 (Open session at 11.02 a.m.)

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

25 PRESIDING JUDGE STEINER: Mr Witness, it's 11 o'clock. We are having a break

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1 now, in order for you to have a coffee or to take some rest. We'll have a 30-minutes'
2 break. We'll resume at 11.30.

3 Could, please, court officer turn into closed session in order for the witness to be
4 taken outside the courtroom, and in the meantime we are going to suspend for
5 half-an-hour.

6 (Closed session at 11.03 a.m.) * Reclassified as Open session

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

8 (The witness stands down)

9 THE COURT OFFICER: All rise.

10 (Recess taken at 11.05 a.m.)

11 (Upon resuming in closed session at 11.41 a.m.) Reclassified as Open session

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

13 PRESIDING JUDGE STEINER: Welcome back. Before the witness is brought into

14 the courtroom, the Chamber would like to once again remind the parties and

15 participants that the list of documents to be used during the questioning of each

16 witness must be submitted within the time limit set in the decision on direction for

17 the conduct of proceedings, Decision 1023 of 19 November 2010, paragraph 16.

18 Further, as specifically recalled in the oral decision of Wednesday, 1 June 2011,

19 transcript 121 English edited, page 48, lines 5 and 6, the three-day deadline for the

20 Defence to provide its list of documents must be calculated on the basis of the

21 Prosecution's weekly witness schedule. In accordance with the weekly schedule sent

22 by the Prosecution last Wednesday, 1 June, the Defence is scheduled to begin its

23 questioning of Witness 110 on Friday, 10 June. The Defence should have circulated

24 its list yesterday, 7 June, but the Chamber has yet to receive it. The Defence is

25 therefore instructed to distribute its list of the material it intends to use in the

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- 1 questioning of Witness 110 by today at 4 o'clock at the latest.
- 2 Could, please, the court usher bring the witness in.
- 3 (The witness enters the courtroom)
- 4 PRESIDING JUDGE STEINER: Can we go, please, into open session.
- 5 (Open session at 11.45 a.m.)
- 6 THE COURT OFFICER: We are in open session, Madam President.
- 7 PRESIDING JUDGE STEINER: Thank you. Welcome back, Mr Witness.
- 8 THE WITNESS: (Interpretation) Thank you, your Honour.
- 9 PRESIDING JUDGE STEINER: Did you manage to rest a little bit?
- 10 THE WITNESS: (Interpretation) Yes, I did, your Honour.
- 11 PRESIDING JUDGE STEINER: Can we then continue with your questioning, sir?
- 12 THE INTERPRETER: There appears to be a technical problem, Madam President.
- 13 We are not getting the relay from the Sango booth.
- 14 THE WITNESS: (Interpretation) Yes, Madam President.
- 15 PRESIDING JUDGE STEINER: So, Mr Haynes, you have the floor, Mr Haynes.
- 16 MR HAYNES: Thank you, your Honour.
- 17 Q. Sir, I'm confident this is the last time I will welcome you to the Court, so
- 18 welcome back.
- 19 A. Good afternoon, Counsel -- or good morning, Counsel, once again.
- 20 Q. Thank you very much. Just before the break, you were telling us about street
- 21 lighting. Earlier this morning, at page 22, lines 11 to 12 of the English real-time
- 22 transcript, you told us about 50 electricity poles. Is that the same as the streetlights,
- 23 or are they other things that are on the side of the road?
- 24 A. I was referring to the public streetlights, because it would appear that you were
- 25 asking me about the breadth or width of the road and I was telling you that the road

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1 was some 50 metres away from the member of parliament's house. So what I was
2 talking about was actually the streetlights - public streetlights.

3 Q. That's all right. I just thought I better clear that up. The arrival of the plane,
4 did it cause a crowd of people to gather?

5 A. In one of my statements I indicated that the town was occupied by soldiers, so
6 who could have gone through the roadblocks to look at the plane arriving? No one.
7 The entire area was considered to be a military zone, so when the inhabitants
8 withdrew into the bush, the soldiers took over their homes. Therefore, when the
9 plane arrived, there was no one there. (Redacted)
10 We were the only civilians at that location, along with the soldiers.

11 Q. Where were the roadblocks?

12 A. On national road number 3, the road leading to the camp, that small area which
13 was occupied by the soldiers had checkpoints at their entrances. Whoever went
14 there as a visitor was checked, where was he or she coming from, and so someone
15 always came out to check these persons and then consult with the person whom they
16 intended to visit before they were let through the checkpoints.

17 Q. And were they actually on the road?

18 A. Counsel, I have already told you that on national highway number 3, that is
19 when you leave downtown and you're going to that area, there is a junction from the
20 subprefectural office going towards the main road. There was a checkpoint there
21 with soldiers, and before anyone was let through they were checked, *they had to
22 show their papers, because there was a military camp beyond that point, that is some
23 60 metres away, and thereafter there is a road leading to the colonel's house. There
24 was a make shift prison, followed by the other houses which were occupied by the
25 other officers. And then the only other checkpoints would have been the checkpoint

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1 at Kpabara. So no one was able to easily go through those checkpoints.

2 Q. Thank you. Sir, do you have any understanding of how much distance a cargo
3 plane like this requires to come to a halt when it lands?

4 A. I am not in a position to estimate the distance that such a craft would need. I
5 am not an expert in matters relating to aircraft.

6 Q. Similarly, therefore, I don't suppose you have any knowledge of how much
7 runway it requires before it can get into the air?

8 A. It is only an expert who can answer that question.

9 Q. Well, I'm going to suggest to you what an expert might say, and that is that a
10 plane like this requires two kilometres to come to a halt when it lands and, similarly,
11 two kilometres to get off the ground.

12 PRESIDING JUDGE STEINER: Are you testifying, Mr Haynes?

13 MR HAYNES: No, I'm putting my case.

14 PRESIDING JUDGE STEINER: Ms Kneuer?

15 MS KNEUER: I suggest that we first hear this expert witness testimony before we
16 put it to the witness.

17 MR HAYNES: Well, that will require bringing him back. It's far more convenient if
18 he can comment on it now and far less trouble for him.

19 PRESIDING JUDGE STEINER: Are we starting a debate here without the Presiding
20 Judge given the floor?

21 MR HAYNES: I apologise.

22 PRESIDING JUDGE STEINER: Ms Kneuer?

23 MS KNEUER: I think that certain procedural rules should be observed, and to put
24 any random idea of whatever expert witness may testify seems to be a little bit
25 speculative, and to have this witness, who already said that he has no knowledge

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1 about these issues, it's quite difficult. And even if we have an assumption of the
2 Defence what an expert may say, how is this witness in a position to comment on this
3 very speculative observation?

4 PRESIDING JUDGE STEINER: I suggest, Mr Haynes, that he doesn't ask the witness
5 to comment on what a hypothetical expert would have said if asked the same
6 question. Judge Aluoch.

7 JUDGE ALUOCH: But, Mr Haynes, maybe you can put a proposition to the witness.

8 MR HAYNES: Certainly.

9 JUDGE ALUOCH: Yes.

10 MR HAYNES:

11 Q. Sir, is it your evidence that this aeroplane travelled in a straight line along
12 national route 3 for up to four kilometres without having to negotiate a bend, without
13 colliding with vehicular traffic, without hitting a tree, without hitting an electricity
14 pole, or without its wheels going into the ditch?

15 A. Counsel, I think I have already told you several times over that you are doing
16 your job when you ask me questions, but the answer I can give you is that I am not an
17 expert. What is clear, however, is that a plane landed at the headquarters of the
18 Banyamulengue, took away some goods, and I was present. The plane landed, as I
19 have already described, in Sibut, and took off towards Bangui. I was 50 metres away,
20 at the end of the road, around the member of parliament's house, so I cannot estimate
21 the distances.

22 You have made reference to 400/500 metres, and I am not an expert to say anything
23 about that. All I know is that a plane landed at the headquarters, took some goods,
24 took off, overflew the town and then went back towards the river along the borders
25 with the Democratic Republic of Congo. If there are any other details to be

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1 considered, then you may want to call a witness. I am not an expert and I am not
2 able to deal with that question.

3 Q. Is there an airfield at Damara?

4 A. Since 1975, or from 1975 to this day, the Damara airport has been occupied.

5 There are houses, but there have been two planes and the planes could land either at

6 the municipal stadium or on the highway. But I heard you say that the plane may

7 have taxied without hitting any poles or vehicles. What vehicles were there in

8 Damara at the time? The only vehicle in the town at the time was (Redacted),

9 so all your assumptions about the road and about all these other items, what I can

10 simply tell you is that there was no airfield in the town, there were no vehicles in

11 the town and the plane landed on the highway.

12 There were experts who would secure the highway whenever any plane had to land.

13 Police officers would secure the highway and would communicate with the pilot,

14 enabling any planes to land on the highway. So I cannot tell you what distance the

15 plane had to travel before landing on the highway.

16 Q. Had a plane landed on the highway before?

17 A. I've told you here that there are NGOs that, instead of providing donations to

18 the State -- well, you see, those NGOs rent aircraft and the aircraft land on the main

19 road. The American NGOs do this. These planes were rented, or leased, because

20 the donors wanted to provide the goods directly to the local population and the

21 population would be notified two or three days before the aircraft land. The police

22 officers would ensure that the sector was safe and then the aircraft would land.

23 Q. Have you seen that happen?

24 A. Well, if I hadn't seen it, I wouldn't have said anything about it. If I've said

25 something, it's because I saw. If I wasn't there and if I hadn't seen a plane land, I

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1 wouldn't have said so. Why would I have done such a thing? How would that
2 have served my interests?

3 Q. How many times?

4 A. What landed how many times?

5 Q. How many times have you seen a plane land on the road?

6 A. After all, (Redacted). There were landings; I couldn't tell you how many
7 times. There were some emergencies. Once a white person was in charge of a
8 project, and this person had an accident between Bokangolo and Damara and he had
9 a brain injury. He was still alive, and an aircraft landed not far from Bangui. An
10 ambulance took him to national road 3. The aircraft landed. He was evacuated to
11 Bangui and then on to Europe. That's happened several times.
12 Another example was of a French hunter, who was in Mbaye and who was attacked
13 by a buffalo. The ambulance took him back because he couldn't be evacuated to
14 Bangui by ambulance, but an aircraft landed and evacuated this French hunter. I can
15 give you several other such examples.

16 Q. Which NGOs have used the road as a runway?

17 A. Counsel, what I am telling you -- well, you know, there are some problems that
18 really don't come within the responsibility of the State. For example, people who
19 have been victims of natural catastrophes, floodings. And, you see, people from the
20 French Red Cross would take care of these people. So they would take all the
21 various goods and material in the plane, land and distribute it -- distribute the various
22 goods to the population directly, and that is how it was done. Various items would
23 be distributed in this way.

24 I wasn't necessarily there personally, but I have to tell you about this. The Red Cross
25 did this sort of thing; they distributed medications when the town experienced an

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1 epidemic. The medications were sent by aeroplane.

2 Q. What sort of aircraft was used to airlift an injured white man?

3 A. Don't ask me the question about the type of aircraft or the model. I'm not an
4 expert. I don't know. Was it a DC4, a DC8? I really didn't take any interest in that,
5 but I do know that it was a plane. You asked me how many times aircraft landed in
6 Damara and I said that it happened several times, at various points in time, when the
7 population was the victim of a catastrophe.

8 For example, medication would be sent by aeroplane or in the case of various natural
9 disasters. I can tell you that they were large aeroplanes. In several cases, within
10 these aeroplanes there might be doctors, nurses who would transport the wounded
11 and take them back to Bangui. But as for the actual model of the aircraft, I'm really
12 not in a position to tell you at all but I do know that aircraft have landed.

13 Then -- I'm not asking you a question, but I'll specify one point. At the time of the
14 election, the voter registration cards -- during the time of the election, the voter
15 registration cards were sent by plane, not by vehicles, and also some of the pamphlets
16 of the political candidates were sent by aeroplane and the gendarmerie was in charge
17 of receiving these various items. The CENI was also in charge of ensuring the safety
18 of all these various items. That is what I can tell you.

19 MR HAYNES: Thank you. I think we will need to go into private session now,
20 your Honour.

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

22 (Private session at 12.12 p.m.) * Reclassified as Open session

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

24 THE INTERPRETER: Correction from the English booth: In the last reply, the
25 witness made mention of CENI, C-E-N-I, which is the national electoral commission.

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1 MR HAYNES:

2 Q. Did you, yourself, on that day see Mr Bemba?

3 A. I saw three people who came out of the aeroplane and they were received by
4 Mustapha, greeted by Mustapha. He received them in his house and -- well, I didn't
5 say in my statement that I met Bemba. (Redacted)

6 (Redacted)

7 (Redacted)

8 After his departure, (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) that his boss was to come. Now, who was

13 (Redacted) boss?

14 Q. So that we're clear, (Redacted) never actually said it was Mr Bemba. He only
15 used the words (Redacted); is that right?

16 A. No. First of all he said (Redacted)

17 Bemba, but after his departure (Redacted). That

18 is the distinction that I can make here and that is found in my testimony.

19 To be honest with you, I saw three people who went into the house of Mustapha.

20 (Redacted) and the plane was loaded up. (Redacted)

21 (Redacted) that it was the President of

22 the MLC who had come. He gave the name of the MLC, so there are some

23 corrections to be made here. Officers were to come in, they made some mistakes, so

24 there you have it. That is what (Redacted) said.

25 Q. And what did he look like, Mr Bemba?

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1 A. (Redacted). I didn't know him before. I saw three people but I

2 saw -- (Redacted)

3 (Redacted) I was able to see three people going into the house, but I

4 didn't -- (Redacted)

5 who mistakes that soldiers and some officers had committed against the people of the

6 Central African Republic, and so there you have it. Counsel, if you make use of an

7 investigatory body, I think (Redacted) could be called to respond and to give testimony.

8 THE INTERPRETER: The English interpreter points out that the witness is testifying

9 in a mixture of Sango and French.

10 MR HAYNES:

11 Q. So did you speak to Mr Bemba?

12 A. How could I speak to Bemba? (Redacted)

13 (Redacted) that it was his leader and he received him inside the

14 house, and then I saw various goods that were being loaded. (Redacted)

15 (Redacted)

16 Q. I just want to be absolutely clear: Did he speak to you, Mr Bemba?

17 A. (Redacted), Counsel. How could he speak to me? Let me

18 insist on this point. It was only after the departure of Mr Bemba that (Redacted)

19 it was that person who had come, who had come for a problem or another one. (Redacted)

20 (Redacted)

21 MR HAYNES: Well, I wonder, therefore, if we could have a look in eCourt at

22 Defence document 4, I think. No, in fact 5. And the ERN number for the English is

23 CAR-OTP-0057, and for those following in French it's 0095, and that ought to be what

24 the witness sees on the screen, please.

25 THE COURT OFFICER: The document CAR-OTP-0058-0079 redacted version 1, at

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1 page 0095, it's available on your screens. This is the French translation of document
2 CAR-OTP-0057-0128 redacted version number 1. The document is marked as
3 confidential. Actually, both documents are.

4 MR HAYNES: Can we go down a little bit, just to make sure? In fact, up.

5 Q. Would you do us a favour, Mr Witness? Would you just read out slowly in
6 French the first response there, beginning "Non, je ne connaissais pas Bemba"?

7 PRESIDING JUDGE STEINER: First, I think we need to check whether the witness
8 can read, because yesterday the witness said that he had difficulties in reading the
9 screen. Can you read, Mr Witness, the sentence that the Defence asked you to read?

10 THE WITNESS: (Interpretation) That is my statement. If someone could read. I
11 can't read, your Honour. He can do it himself, or someone else could do it, and if it
12 is my statement I can confirm it, but I can't read.

13 MR HAYNES:

14 Q. Thank you. Then I will read it slowly in English. You said, "No, I did not
15 know Bemba before. (Redacted)

16 (Redacted)?

17 PRESIDING JUDGE STEINER: Mr Haynes, if you don't mind, I would ask whether
18 Maître Kilolo would do us a favour and read the same sentence in French in order for
19 the witness to heard from the source, not a translation.

20 MR KILOLO: (Interpretation) I shall read it out. Witness statement, and I quote,
21 "No, I didn't know Bemba before that time. (Redacted)

22 (Redacted)" end of

23 quote.

24 PRESIDING JUDGE STEINER: Thank you, Maître Kilolo. Mr Haynes?

25 MR HAYNES:

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1 Q. Do you agree that that is what you told the investigators of the ICC?

2 A. I think that this excerpt, when the Prosecution asked me the question, I said -- I
3 never said that. I said, "I didn't know Bemba before and it was only when he came
4 to Damara, as of 13 January, and (Redacted)
5 (Redacted)," but this excerpt, I had to repudiate it when I read my statement. Only after
6 I learned -- it was only after that I learned it was Mr Bemba. He was amongst the
7 people and -- but that's -- you see, that is not what is transcribed here. That is not
8 what we see here.

9 Q. Do you agree that you said, "It was when (Redacted)
10 (Redacted)"?

11 A. I said here that when the Prosecutor read this excerpt out to me, this passage, I
12 read it when -- you see, it was when I was reviewing my statement and I repudiated it.
13 I said, "I didn't know that person. It was after -- after loading the goods into the
14 aeroplane, then (Redacted) it was Bemba who had come. He came to
15 look into the situation in the field and to scold people for the -- scold the -- chew out
16 the soldiers for the acts of violence and abuse," and this was mentioned on the
17 airwaves and some soldiers were to be taken back. He was wearing a
18 wide-brimmed hat. That was Mr Bemba, but this excerpt, I do not stand by it. It
19 was not my statement.

20 Q. What precisely was mentioned on the airwaves?

21 A. Yes, people were talking about the acts of violence and abuse, rape, looting.
22 On RFA -- RFI and other media they were always reporting on these acts of violence
23 and abuse. Members of parliament even called upon him. Now, (Redacted) in
24 relation to the information that was being broadcast over the airwaves, (Redacted)
25 (Redacted)

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1 MR HAYNES: Can we just scroll down to the bottom of the page in French, please?
2 In fact, can we go over one page and those following in English need to do the same,
3 to go to page 0143. Yes, and I am going to follow the same procedure and I am
4 going to get Mr Kilolo to read a passage to the witness.

5 MR KILOLO: (Interpretation) I will read the passage. "Investigator: What did
6 Bemba do on his arrival in Damara? Witness: Bemba came to his fief. He was on
7 visit. He was welcomed by his General Chief of Staff and other officers. Then
8 discreetly he moved in the (Redacted) house, where (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted). Then I saw the troops loading the plane with the fridges,
14 motorbikes and generators taken away from the population in the CAR, the Central
15 African Republic."

16 MR HAYNES:

17 Q. Is it true that Mr Bemba (Redacted)?

18 A. No, no, no, no, no, that is not true. That was read back to me, but it does not
19 reflect my statement. I said that Bemba visited his troops in the field. At the
20 beginning, I did not know Mr Bemba. They went into the house. He landed, they
21 went into the house, they talked, the goods that were loaded, and when he came out,
22 Mustapha was there, as well as Bemba's bodyguard. There were also certain officers
23 coming out. (Redacted)

24 (Redacted) that

25 this was war, and if people were not prepared to get along with each other, then the

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1 consequence was war. But I never said that (Redacted). I even
2 believe that when I arrived here, the Prosecutor asked me questions concerning this
3 and I answered, "That does not reflect my statement."
4 Bemba never met me. (Redacted)
5 (Redacted) That was not my
6 statement. The true statement that I make is the statement that I'm making here. I
7 only learnt of Bemba's existence after he had left, and it was (Redacted)
8 (Redacted) said that it was Mr Bemba who had
9 come to visit his troops in the field. By that he wanted to (Redacted) know that among
10 the three people who had gone into that house, Bemba was that person in particular,
11 but this passage does not reflect my statement at all. I have sworn an oath, and what
12 is stated here is completely confused.
13 Q. Did Mr Bemba speak to you?
14 A. (Redacted). I repeat this: (Redacted). I never had
15 occasion to meet Mr Bemba. I did not know him beforehand. I cannot see how (Redacted)
16 (Redacted), Mr Bemba could have spoken to me. I told you, Counsel, that
17 this was not my statement. I never made this statement to the Prosecutors. It may
18 be that it is a translation problem. I said to the investigators that I did not know
19 Mr Bemba beforehand.
20 The person who went into the house, those people loaded the goods on to the plane
21 and I only saw them (Redacted) It is only afterwards, only
22 later, that (Redacted)
23 (Redacted)" He reported what that man said. He said, (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 MR HAYNES: Can we please go to the last-but-one page of this document. The
4 English is 0147. I don't have a reference in French, but it is the penultimate page of
5 the document.

6 In fact, we're going to have to look at the English version, which is
7 CAR-OTP-0057-0147.

8 Q. Sir, can you see your signature on that page?

9 A. Yes, that is my signature.

10 Q. And what it says above that is, "This statement has been read over to me in the
11 French language and is true, to the best of my knowledge and recollection. I have
12 given this statement voluntarily and I am aware that it may be used in legal
13 proceedings before the International Criminal Court and that I may be called to give
14 evidence in public before the International Criminal Court." Was that statement read
15 over to you on 16 December 2009?

16 A. Yes, this was read to me. After I arrived here, I was not in possession of this
17 document. When I re-read it, when I re-read these two passages, and when the
18 Prosecutor asked me questions here, I stated clearly that I had doubts about certain
19 passages that did not reflect my original statement.

20 Q. Why did you sign that acknowledgement on 16 December? What did you
21 think it signified?

22 A. But this was read back to me, but there are passages that may be read in French
23 and perhaps I did not pay close attention, but I was present, and I am reasonably
24 educated, but in certain passages, those passages do not reflect what I stated, and I
25 repeat this to you, Counsel.

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1 In this witness box, the Prosecution asked me this question during their questioning
2 and I stated clearly that certain passages did not reflect my original statement. I said
3 this before we even came in here. I took an oath and then, two days later, I re-read
4 the document during a period of two or three hours. I identified these passages and
5 pointed them out to the Prosecution. I was clear. I stated that these passages did
6 not reflect what I had said.

7 Q. When you began your evidence on 26 May, transcript page 6, lines 13 to 18, the
8 President of this Court asked you, "Is the information you provided in your
9 statements true and accurate, to the best of your knowledge and understanding?"
10 And you replied, "I have nothing to add and I have nothing to take away from my
11 statements. Everything I told the Office of the Prosecutor, everything was events
12 that I experienced, that I lived through." Why did you say that?

13 A. Counsel, I think that all of these questions that have been asked, if you ask me if
14 I confirm my statement, I would say, "Yes." If I recognise that it is something I said, I
15 confirm it. When the Presiding Judge asked me a question, I said I had nothing to
16 add. Indeed, I re-read the document. During the questioning by the Prosecution, I
17 said that in certain passages I did not recognise what I had said.

18 Q. You would agree, wouldn't you, that if anybody knows whether Mr Bemba
19 visited Damara it would be Mustapha?

20 A. But, Counsel, I told you that on the 13th (Redacted) when
21 the plane landed. I did not know that it was Bemba. (Redacted)" It
22 was only after these people's visit that (Redacted)
23 I said that (Redacted) came out of the house to confirm that it was indeed the
24 President of the MLC who had come because of the numerous atrocities committed
25 by his men in the field, but among (Redacted) officers some were going back to the

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1 democratic Republic of the Congo. I did not know Bemba before that point.

2 MR HAYNES: This is a reference for the Chamber and the other parties.

3 PRESIDING JUDGE STEINER: Mr Haynes. Ms Kneuer, please.

4 MS KNEUER: Madam President, I would like to start with an apology for my late

5 intervention, but I would like to go back to the former question that Defence counsel

6 put to the witness.

7 Defence counsel was quoting from a transcript, in particular when the Presiding

8 Judge asked the witness at the beginning of his testimony about his statement, and

9 Defence counsel quoted from that transcript, and I'm referring to page 48, line 5

10 onwards, until 10, line 10, and then Defence counsel is asking the witness the question,

11 "Why did you say that?"

12 I just would like to have in the record that on -- in the same transcript, 117, English

13 corrected version, page 6, line 19 onwards, the Presiding Judge asked, "Mr Witness, in

14 case the parties or the Chamber intend to have your statement or statements as

15 evidence in this case, do you have any objection?" And the witness responded, "The

16 statements made to investigators, after I re-read them, I noticed a few nuances in

17 terms of form but I do wish the information to be placed on the file because I gave the

18 information voluntarily."

19 So already at that time the witness indicated that he may want to emphasise some

20 nuances. And also with regard to questions that my colleague asked him, he made

21 corrections. So I think that it was a quite unfair question to the witness.

22 PRESIDING JUDGE STEINER: Maître Liriss.

23 MR LIRISS: (Interpretation) Thank you, your Honour. I suppose that the

24 Chamber itself may decide what we mean by a "nuance" with regard to what the

25 witness has said.

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1 PRESIDING JUDGE STEINER: Very timely intervention, Maître Liriss. Of course,
2 it will be for the Chamber to decide the meaning of "nuance" and to decide what
3 different versions in the same statement have any consequences on the whole of the
4 statement. It will be for the Chamber to decide upon that.

5 Mr Haynes, you can proceed.

6 MR HAYNES: Thank you very much. This is a reference for the Chamber and the
7 parties, not for display. It is CAR-OTP-0064-0447.

8 Q. Mr Witness, we have information that Mustapha never met Mr Bemba in
9 Damara. Does that affect your evidence before this Court?

10 A. Counsel, I have asked you to contact an investigation service to go and conduct
11 investigations in the field. I did not tell you that I went up to Bemba to say "hello" to
12 him. (Redacted) to give me that information. Well before
13 the plane arrived, (Redacted) a chief was to come; and when the plane landed, three
14 people got out of the plane and went to the house where he was living.
15 Some time later, (Redacted) observed that they were having goods taken out of the house to
16 have them loaded onto the plane. It was only afterwards, when (Redacted)
17 (Redacted) it was the President of the
18 MLC who was coming through and (Redacted) it was Jean-Pierre Bemba.
19 I have told you to contact an investigation service to go and make enquiries of the
20 inhabitants. Did Mustapha take these goods to send them to another unknown
21 destination and (Redacted)? Well, go and
22 make enquiries. I have nothing more to tell you on this subject.

23 MR HAYNES: And I have no more questions for you. Thank you very much.

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

25 THE WITNESS: (Interpretation) Thank you.

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1 (Open session at 12.52 p.m.)

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

3 PRESIDING JUDGE STEINER: Thank you. I ask the Prosecution whether the
4 Prosecution intends to re-direct?

5 MR SCALIOTTI: Madam President, the Prosecution does not intend to ask any
6 further question to re-direct the witness. Thank you.

7 PRESIDING JUDGE STEINER: Mr Witness, after three weeks, we are finally going
8 to release you from your duties as a witness. We want to say thank you very much,
9 Mr Witness, for coming here to The Hague before this Court to give your testimony.
10 Before you leave the Court, the Chamber wants to express the thanks for the time and
11 trouble that you have taken to come here, to stay here for so long and to give evidence
12 in this trial. In order for the Judges to find the truth in this case, it is critical that
13 witnesses such as yourself are prepared to give evidence and to assist us on the
14 relevant issues in the case.

15 We are aware that this will certainly have been inconvenient for you and possibly it
16 may have involved even some personal risk.

17 You, therefore, leave us now in order to go home with our thanks; but before you
18 leave the courtroom, Mr Witness, the Chamber would like to ask whether you have
19 anything you would like to address to the Bench. Feel free to say anything, if you so
20 wish.

21 THE WITNESS: (Interpretation) I would like to thank you, your Honour. As you
22 have just said, I thank you in turn because you have helped me a great deal. The
23 climate has not been kind to me so, for that reason, I fell ill a few times.
24 I came here. In the universal interests of the people, I did not come to try and gain
25 anything at all. I have spent more than 15 days here. I have sacrificed my family.

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1 Please remember that (Redacted) If anything relates
2 to the interests of the civilian population, then it is my duty to defend them.
3 I must say, your Honour, that I am a little concerned (Redacted)
4 (Redacted). I am a little afraid for my safety after my
5 testimony, because many people are afraid to testify before the Court. I believe it is
6 for you to understand that.
7 Where I live, (Redacted), as
8 you have heard, and it is my responsibility to ensure my own safety, but then it is also
9 for you perhaps to assist in that endeavour. But I would like to say that in turn I
10 would like to thank you, your Honour, for this opportunity that you have given me.
11 PRESIDING JUDGE STEINER: Mr Witness, the competent organ of the Court called
12 "Victims and Witnesses Unit" will give you all the information and the assistance you
13 need in order for you not to be concerned about anything. As soon as you leave this
14 courtroom, VWU will be in contact with you.
15 So, once again, thank you very much for coming and testifying before this Court, and
16 we wish you a good, calm and safe journey back to your home country.
17 Court officer, please turn into closed session in order for the witness to be taken
18 outside the courtroom.

19 (Closed session at 1.00 p.m.) * Reclassified as Open session

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

21 (The witness is excused)

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

23 (Open session at 1.01 p.m.)

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

25 PRESIDING JUDGE STEINER: Thank you very much. The Chamber has just

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1 received a message from VWU saying that, because of the extraction of a tooth,
2 Witness 110 did not sleep well and has a lot of difficulties to speak. Therefore she
3 cannot testify today, but tomorrow will be probably able to testify, meaning that we
4 are going to adjourn for today and with the hope that the witness will feel better and
5 that we can start with Witness 110 tomorrow at 9.30 in this courtroom.

6 I want to thank very much the Prosecution team, legal representatives of victims,
7 Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much our interpreters,
8 our court reporters, our court officer, court usher. We will, therefore, adjourn and
9 resume tomorrow morning at 9.30 in the morning. This hearing is adjourned.

10 THE COURT USHER: All rise.

11 (The hearing ends at 1.03 p.m.)

12 CORRECTIONS REPORT

13 The Court Interpretation and Translation Section has made the following corrections
14 in the transcript:

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

26 (Redacted)

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1 (Redacted)

2 (Redacted)

3 SECOND CORRECTION REPORT

4 The Court Interpretation and Translation Section has made the following correction in
5 the transcript:

6 (Redacted)

7 (Redacted)

8 RECLASSIFICATION REPORT

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

10 ICC-01/05-01/08-3038 and the instructions in the email dated 20 June 2014, the version
11 of the transcript with its redactions becomes Public.