

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open 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
6 Judge Kuniko Ozaki
7 Trial Hearing
8 Thursday, 2 February 2012
9 (The hearing starts in open session at 9.38 a.m.)
10 THE COURT USHER: All rise. The International Criminal Court is now in session.
11 Please be seated.
12 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
13 in open session.
14 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the
15 case.
16 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
17 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
18 PRESIDING JUDGE STEINER: Thank you.
19 Good morning and welcome the Prosecution team, legal representatives of victims,
20 Defence team, Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters,
21 court reporters.
22 We will continue this morning with the questioning of Witness 45, but before I ask the
23 witness to be brought into the courtroom I was informed that the Defence would
24 rise -- would like to raise some issues and I ask Mr Haynes whether in public or
25 private session?

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 MR HAYNES: Public, please.

2 PRESIDING JUDGE STEINER: You have the floor, Mr Haynes.

3 MR HAYNES: Thank you very much. Your Honour, of course as we all know and
4 indeed the public know last Friday there were urgent motions placed before the Court
5 to seek to have the evidence of this witness heard over extended sessions, including
6 indeed an application that he be heard on a Sunday, and one sensed from that that the
7 urgency was not in relation to the current witness but in relation to Witness 44 whose
8 attendance has long been scheduled for 1 February today, or indeed yesterday.

9 He went through a familiarisation process which began I think at 20-to-2 yesterday
10 afternoon, and at 9 minutes past 4 we received an email from the Prosecution
11 suggesting that he had for the first time during that familiarisation process that
12 afternoon told them and the Court that he was not available to give evidence beyond
13 Monday of next week and accordingly the available time span for his evidence is
14 something a little under three days.

15 In response to that the Chamber has issued what I suppose can be called a scheduling
16 order requiring the Registry to respond to various suggestions of the Prosecution by
17 11 a.m. today and the Defence upon receipt of the Registry's response to respond by
18 1 p.m. today, and the first matter I want to raise is that we simply can't do that.
19 11 a.m. is the commencement of our half-hour break and at 11.30 we will be back in
20 Court hearing the evidence of this witness.

21 You know, as it were obliquely, some of the grave difficulties we are suffering at the
22 moment in terms of personnel and what you see is what you get. This is the Defence
23 team in Court at the moment. And if we are in receipt of observations at 11 a.m. this
24 morning, there is simply no way that we can respond during the hearing of a
25 witness's evidence two hours later, one-and-a-half hours of which we will be sitting in

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 Court.

2 And so the first matter I wish to raise this morning is that you reconsider the
3 requirement that has been placed upon us for us to respond to the Registry's
4 observations by 1 p.m. by email, and I'm not in any way seeking to be obstructive.

5 I'm going to propose two alternatives: One is that you give us a further hour to
6 respond by email, namely that you require us to respond by 2 p.m. and that I think
7 we might be able to achieve, indeed we will be able to achieve, and the other option is
8 that the second session of this morning's Court schedule is abbreviated at 12.30 and
9 you give me the opportunity to address you briefly orally, say at about 12.45, and in
10 that way the information would be before the Chamber sooner, but unfortunately we
11 would lose a little bit of time during which we could hear the evidence of the present
12 witness. So that's the first matter I wish to raise.

13 The second has a bearing upon it, because it indeed may very well affect the length of
14 time that we have to spend listening to the current witness giving evidence. Your
15 Honour is doubtless aware that on Monday morning of this week the Defence filed an
16 application for certification for leave to appeal against the decision of 24 January
17 granting the current witness protective measures, and I'll cut to the chase.

18 I do not propose to conclude my questioning of this witness until I have received a
19 decision in relation to that application, not least because the third form of relief
20 prayed for was the disclosure of certain ex parte hearings at which matters were
21 discussed which are absolutely germane to the credibility of this witness and the
22 answers he gave two days ago about his reluctance to keep in touch with the
23 prosecution and his evasion of the OTP and the VWU, and it seems to me that those
24 matters have now become quintessentially relevant to his questioning by the Defence.

25 And so the second matter I wish to raise is that I invite the Chamber before the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 conclusion of his questioning by the Defence to render a decision on the application
2 that was served on Monday and I, as it were, give notice here that I do not propose to
3 close my questioning of him until that is done and in particular until there is a ruling
4 on the disclosure of those ex parte status conference hearings on I think 11 and
5 23 January of this year.

6 Now, I thought given the way matters had developed overnight it was best that I
7 raise that at the first available opportunity, and those are the two matters I wish to
8 raise with the Chamber.

9 PRESIDING JUDGE STEINER: Mr Haynes, in relation to the first topic, I am sure
10 that my colleagues would agree that instead of giving the Defence -- extending the
11 Defence time limit in one hour in order for Defence be able to send its position to the
12 Chamber by 2 o'clock instead of 1 o'clock in the afternoon, I am sure that there will be
13 no problem in relation to that but in any case I would like to confirm with my
14 colleagues that it's fine.

15 In relation to the second topic, I must confess that it is quite unusual that Defence
16 gives to the Chamber a deadline to issue whatever decision. I don't see any -- at least
17 in principle any legal basis for Defence to impose on the Chamber a condition in
18 order to complete its questioning of a witness.

19 As soon as the Chamber realises that the Defence is wasting the Court's time just in
20 order to force the Chamber to issue a decision, I am sure that the Chamber has
21 inherent powers to impose some measures in order to conduct the hearing or conduct
22 the hearings in a proper manner. So the Chamber refuses to interpret - or maybe
23 even to misinterpret, I hope - the wording of the Defence as being a kind of blackmail
24 against the Chamber and the Chamber will never accept this kind of behaviour.

25 That means that when and if the Chamber realises that Defence is extending

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 unnecessarily the questioning of the witness, the Chamber will take the necessary
2 measures in order to impose a proper conduct of the proceedings which according to
3 the Statute and the Rules is the obligation of the Chamber and of the Presiding Judge.
4 One last comment that is just in advance, but the Chamber will come back to this
5 issue after the Chamber receives the response from the Prosecution on the request for
6 leave to appeal which is pending and the Chamber -- I am sorry, it has been recently
7 filed. And one point that the Chamber can advance is that in that request for leave
8 to appeal the Defence is insisting on two ex parte hearings that apparently would
9 have been held by the Chamber and about which the Chamber has no information at
10 all.
11 So the Chamber is still checking whether there is a mistake from the part of the
12 Defence. On 11 January even the Judges were not present at the seat of the Court, so
13 I think it's quite difficult to imagine an ex parte hearing maybe held by video link.
14 In any case, the Defence will have the response from the Chamber or the decision of
15 the Chamber on Defence application in due time and the Chamber will not allow the
16 questioning of the current witness to be extended unnecessarily just because Defence
17 wishes to gain some time.
18 During the break, and we have already wasted half-an-hour from the questioning of
19 the current witness, the Chamber will come back with a formal decision to the request
20 made by Defence.
21 Just for correction of the transcript, the Chamber will not come back with a decision
22 during the break of course, but after the break.
23 I now ask, please, the court officer to turn into closed session for the witness to be
24 brought into the courtroom. I'm sorry. Sorry, Mr Court Officer, please. I
25 apologise. I would like to see whether Prosecution would like to make any

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 observations on the issues raised by Defence?

2 MS BALA-GAYE: We have no observations, Madam President. Thank you.

3 PRESIDING JUDGE STEINER: Legal representatives?

4 MS DOUZIMA-LAWSON: (Interpretation) Thank you, Madam President. We
5 have no remarks and we defer to your wisdom.

6 PRESIDING JUDGE STEINER: Mr Haynes?

7 MR HAYNES: I suppose I ought to formally say that I am deeply offended by the
8 use of the phrase "blackmail." That's a criminal offence. I in no way intended to
9 blackmail anybody. I simply intended to inform the Court that it would be my
10 application that the Defence questioning of this witness be kept open until a decision
11 was rendered on the application of Monday, 29 January, and I will consider the
12 matter with my acting lead counsel in due course to decide whether I leave it there.

13 PRESIDING JUDGE STEINER: Just for the sake of the record, Mr Haynes, of course
14 the use of the phrase "blackmail" here was not in the legal sense of blackmail.
15 Otherwise, the Chamber would advance the intention of taking some disciplinary
16 measures. It was used in a mundane meaning.

17 Court officer, please turn into closed session in order for the witness to be taken into
18 the courtroom.

19 (Closed session at 9.54 a.m.) * Reclassified as Open session

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

21 (The witness enters the courtroom)

22 WITNESS: CAR-OTP-PPPP-0045 (On former oath)

23 (The witness speaks French)

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

25 (Open session at 9.55 a.m.)

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

- 1 THE COURT OFFICER: We are in open session, Madam President.
- 2 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 3 THE WITNESS: (Interpretation) Good morning, Madam President.
- 4 PRESIDING JUDGE STEINER: I hope you had a restful night and that you are ready
5 to continue with your testimony.
- 6 THE WITNESS: (Interpretation) Yes, I am ready.
- 7 PRESIDING JUDGE STEINER: Before I give the floor back to the Defence, I need to
8 remind you that you are still under oath. Do you understand that, sir?
- 9 THE WITNESS: (Interpretation) Yes, I do.
- 10 PRESIDING JUDGE STEINER: And I also wanted to remind you about the
11 protective measures that were granted in order to protect your identity from the
12 public, and therefore please try to avoid making references to your current and past
13 occupation, meetings to which you participated or any other kind of information that
14 could identify you. If need be, we go into private session and then you can speak
15 freely. I'm sure you remember all these instructions given by the Chamber.
- 16 THE WITNESS: (Interpretation) Yes, yes, I do remember all those instructions.
- 17 PRESIDING JUDGE STEINER: Mr Haynes, you have the floor.
- 18 MR HAYNES: Thank you very much, your Honour, and good morning to you.
- 19 QUESTIONED BY MR HAYNES: (Continuing)
- 20 Q. And good morning to you, sir.
- 21 A. Good morning.
- 22 Q. I am fairly confident I will finish questioning you today, and I imagine you're
23 pleased to hear that.
- 24 A. Pleased? Well, I don't know. Happy, unhappy, I don't know. I'm listening
25 to you.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 Q. I want to take you back just a little step to consider your account of your trip to
2 Bangui (Redacted). Are we settled on the fact that that now took place between
3 December 2002 and January 2003?

4 A. Yes, if memory does not fail me.

5 MS BALA-GAYE: Madam President, can we please go into private session if we are
6 asking more questions about this? Thank you.

7 MR HAYNES: My mistake.

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

9 (Private session at 9.59 a.m.) * Reclassified as Open session

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

11 MR HAYNES:

12 Q. Am I right in concluding that before going to Bangui you had heard stories
13 about abuses being committed by MLC troops in the Central African Republic?

14 A. Everyone had heard about those abuses. I did underscore that the media,
15 particularly the international media, at that time dealt with those abuses by the MLC
16 troops. This was also a matter of concern for the authorities in place because it
17 somehow soiled their reputation both of the authorities and of the MLC, so it was an
18 overwhelming situation and everyone was wondering how to solve or deal with it.
19 On the one hand there was a need to minimise the effect of these abuses on the
20 reputation of the MLC which was at risk of being tarnished. Now, wherever you
21 were, internally or externally, the same topic was on the table all the time and it was
22 indeed a matter of concern.

23 Q. By "media" do you mean radio, or other forms of media?

24 A. At that time in Gbadolite we listened more to the radio and sometimes there
25 was also television, but this was not common because one had to have decoders and

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 the necessary parabolic antennae, but the level of the international media radio it was
2 either RFI, BBC, or the Voice of America, and they were reporting on the abuses being
3 perpetrated in Bangui.

4 It was for that reason that when the trial was held, a few journalists of the
5 international media were invited, including RFI, BBC and other stations, and this was
6 quite a long time ago and I no longer remember all the journalists who came. There
7 were even Ugandan journalists present.

8 Q. And the allegations that were made on the radio had been (Redacted)

9 (Redacted)

10 (Redacted). I believe

11 that I've already said that, owing to those concerns, some senior officials had
12 suggested a change of strategy. Instead of continuing to deny the facts and to claim
13 that what was being said in the international media was a vilification and intoxication
14 campaign and that the events were not of such a wide scope, the strategy should be
15 changed.

16 Investigations should be carried out, a trial organised and the international media
17 invited so as to show that the MLC leadership was not covering up abuses in the
18 Central African Republic and that those who were responsible for those abuses were
19 being punished.

20 Q. Thank you. And that meeting, or those meetings, had taken place before you
21 went to Bangui (Redacted)

22 A. Before and even after, because there was the trial that took place afterwards.

23 Q. So far as you were aware, did the accusations in the media name any soldiers
24 who were responsible for alleged abuses?

25 A. Yes, this was an issue of concern, as I have said, and that is because the media

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 identified MLC soldiers. Otherwise, that would not have been of any concern to the
2 MLC if the MLC soldiers had not been accused.

3 Q. I don't mean MLC soldiers. Did it give the names of soldiers who were alleged
4 to have committed crimes?

5 A. You mean actually mentioning the names of the soldiers? If that was your
6 question, then my answer is that the soldiers were not mentioned by name. What
7 was being said is that those abuses were perpetrated by MLC soldiers who had been
8 sent to Bangui to help President Ange-Félix Patassé and his forces to counter the
9 attacks of General Bozizé. It was said that those soldiers were behaving in a
10 reprehensible manner, and they were talking about killings, rapings and looting.
11 This is what was said in the international media, but the names of specific soldiers
12 were not mentioned.

13 Q. Thank you. So they were no more specific than saying "MLC soldiers," is that
14 it?

15 A. Yes. In the international media they denounced the behaviour of the soldiers
16 and this included soldiers and officers, but no names were mentioned.

17 Q. Thank you. And -- sorry, I don't want to interrupt you.

18 THE INTERPRETER: The witness continues.

19 THE WITNESS: (Interpretation) This was in the international media, but in the
20 Central African Republic reference was made to the Banyamulengue, so this was a
21 sort of a generalisation when they referred to them as "Banyamulengue," which was
22 not actually the reality, but because all MLC soldiers were not Banyamulengue.

23 Q. Sir, I know this may be a difficult question, but do you recall how many times
24 you heard such reports on the radio?

25 A. It is not possible for me to recall that, because when you listen to the news

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 practically on a daily basis it is difficult to say how many times, particularly during
2 that period. We had interest in listening to that type of news because it related to the
3 MLC, but it is not possible to say how many times one heard such information.

4 Q. And do you recall whether you heard these news reports at about the same time
5 you went to Bangui, or some weeks or months before you went to Bangui?

6 A. It was before I went to Bangui and during practically the entire period of the
7 intervention. The actions of the MLC in the CAR were reported negatively, so I
8 would say that generally speaking the intervention itself was not viewed in a positive
9 light. This is what finally caused the decision to pull back the troops, and when
10 those troops were withdrawn this led to the immediate fall of President Patassé.

11 Q. Now, can we deal with contacts you had with people in Bangui, please. Did
12 you have conversations with people in Bangui who were Central African citizens, or
13 did you just overhear people talking?

14 A. Let me say this: I have explained to you why I travelled to Bangui during that
15 period. I had conversations with the citizens that I met. After all these years, I can
16 no longer remember names of people with whom I met. (Redacted)
17 (Redacted)

18 (Redacted) I had conversations with people and sometimes when I went to
19 have a haircut I would have conversations with citizens of the Central African
20 Republic who did not appreciate the intervention.

21 This is something we had experienced in Congo ourselves, and so it is rare for any
22 population to accept the intervention of foreign soldiers. So in the Central African
23 Republic in fact it was actually rebel forces that had intervened in their country and
24 so this led to a lot of discontent. Furthermore, there were the abuses. So it was
25 normal for those people to denounce these things.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 Q. Well, it's one thing to denounce the intervention of a foreign force; it's another
2 thing to make allegations of the commission of criminal offences. How many people
3 did you talk to who alleged they knew about the commission of criminal offences?

4 A. I cannot give you the number of people with whom I spoke with during that
5 period. These are events that go back more than seven years ago. I could not have
6 known that I would have to be speaking about these things here today.

7 Otherwise, I would have noted down the names of all the people with whom I spoke.
8 I've told you that I spoke with a certain number of citizens of the Central African
9 Republic and most of them did not approve of that intervention. Others were a bit
10 more reserved, that is true. That is what I can say.

11 Q. In what language did you talk to them?

12 A. In French, because I do not speak Sango. I spoke with them in French.

13 Q. Can you remember one crime which any one of them alleged in any of these
14 conversations?

15 A. Most of those people were mentioning mostly the looting. Regarding the other
16 crimes, perhaps they were a little bit more reserved. I cannot say that they were
17 telling me everything, because they knew that I was Congolese. Some of them even
18 knew that (Redacted) so they could have been a little bit more
19 reserved. However, they talked more about the looting.

20 Q. Did any of them provide you with the name of any alleged criminal?

21 A. Provide the names of alleged criminals to me? No, no one gave me any names.
22 I did not go there to carry out an investigation so I would not have been asking for
23 names, particularly since these were people who naturally would have been
24 distrustful. As you know, the rebel troops - our troops - had intervened in their
25 country, and in their opinion it would not have been easy to mention names because

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 they could not have known whether the people whose names they might have
2 mentioned if they came to hear about it those people might visit them at night and
3 harm them. That has always been the case. When troops arrive in a country and
4 the population considered them as forces of occupation, it is not easy to start
5 mentioning names because you cannot know to whom you are mentioning those
6 names and you cannot know whether those people being denounced by you will not
7 be made aware and be prompted to react. In any case, I did not give the impression
8 that I was coming to investigate. These were simply open conversations and I
9 simply wanted to have an idea of what was happening, rather than asking detailed
10 questions about who was doing what, and sometimes with some of them we
11 discussed other issues, not necessarily that intervention because that was not my
12 objective.

13 MR HAYNES: Your Honour, I think we can pass into open session.

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

15 (Open session at 10.20 a.m.)

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

17 MR HAYNES:

18 Q. Did any of the people you spoke to tell you which unit was responsible for any
19 offence?

20 A. Can you be more specific in your question? You are talking of a unit, because
21 when you talk about a unit, particularly in this case, when that intervention happened
22 it was not a specific unit that was deployed. Soldiers were selected from various
23 units and placed under the command of the commander of operations, and when the
24 population saw the soldiers they would say "These are MLC soldiers." It is like at
25 the time of the AFDL, or the RCD. When they arrived in Congo, (Redacted)

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 and they would say -- they would simply say "The AFDL soldiers have done this and
2 done that." No one would say the soldiers were coming from Rwanda and from
3 which specific units they were coming from. Once again, given that I did not go
4 there to carry out an investigation I could not go into such details and, as I have
5 mentioned, I simply found that the atmosphere was unhealthy and in Bangui at the
6 time Ange-Félix Patassé was not viewed in a positive light in Bangui, so even
7 supporting him was not something that was popular. For several months he had not
8 been paying the salaries of civil servants and the population was rather hostile, and so
9 supporting him was something that was not popular with the Central Africans and
10 when you add to that the abuses then it created a problem. So, as I said a short while
11 ago, I went there for a specific purpose and I could not open an investigation, because
12 it was not the objective of my visit there.

13 Q. Did anybody tell you the town or the village in which any offence had allegedly
14 been committed?

15 A. To begin with there was Bangui and other locations, the names of which I
16 cannot recall because that was a very long time ago, and the purpose of my trip was
17 not to carry out an investigation, but I know that there were problems in Bangui and
18 in other locations. I do not know the Central African Republic very well and I did
19 not spend very long there. It's just like you, Counsel. If you travel to Congo and
20 you spend one or two weeks, if I ask you a question about what you heard there and
21 six years later I might ask you whether you know Isangi or Aketi, you will have
22 difficulty remembering. If I had stayed longer, or if I had gone to carry out a specific
23 mission, maybe I would have remembered names. Once again, that was not the
24 objective of my visit there.

25 Q. Just one last thing about detail. Did anybody give you any even approximate

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 date of any offence?

2 A. Approximate dates? If I remember correctly, the allegations started barely a
3 few days after the MLC troops were deployed to the Central African Republic.
4 Shortly after that, the issues were being raised in the media. The abuses had started,
5 and each time the MLC troops advanced and captured a particular area there were
6 always allegations of looting, murders and rapes. So this was practically from the
7 very beginning of the intervention, and as time went on those allegations multiplied.
8 It was for that reason that the senior leadership of the MLC finally decided, after
9 consultation with some senior officials, that something had to be done to preserve the
10 image of the MLC which had been tarnished and also to demonstrate that the MLC
11 leadership was not responsible and that is why there was a trial to try to demonstrate
12 that to the international community.

13 Q. Tell me, sir, did you learn anything from your conversations that you didn't
14 already know from the media?

15 A. Can you kindly repeat your question, please?

16 Q. Yes. I don't want to mention the location, but we're talking about
17 conversations you had. Did you learn anything from any of those conversations you
18 didn't already know from what you'd heard on the radio?

19 A. Let me say that in the media and over the radio those reports were made, but
20 there is always a difference between the information that you hear over the radio and
21 the atmosphere, the way things are when you are actually on the ground. As I said,
22 beyond the information that I heard over the radio and what other people were
23 saying, there was this unhealthy climate/atmosphere which indicated that that
24 intervention was not popular at all with the citizens of the Central African Republic
25 and they wanted the MLC troops to withdraw from their country.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 Q. Well, let me put it another way. Did you learn any fact about the commission
2 of alleged offences that you couldn't already have known from the radio?

3 A. I think I have already answered that question. I did not go there to conduct
4 any investigations. My purpose on going there was different. What was said over
5 the radio, in the media, yes, I became aware of it, but maybe if I had gone there for an
6 investigation I may have found out many more things. You see, when you conduct
7 an investigation on the ground you ask questions, you go into issues in depth and
8 you learn about things that may not be spoken or discussed spontaneously during an
9 ordinary conversation. You see, in the course of an ordinary conversation you do
10 not explore matters in depth. You simply touch on issues in a general manner.
11 That is why, after my return, I heard different opinions on the events that had taken
12 place, or that were taking place in the CAR, and most senior officials were in favour
13 of a withdrawal of the troops because for the MLC the presence in Bangui was more
14 of a bad thing than a good thing.

15 Q. Tell me, sir, what exactly did you tell Mr Bemba about what you had heard?

16 A. What I told Mr Bemba simply is that we had a problem in the CAR. The
17 intervention was not very welcome by the people, the population, but he was already
18 fully aware of the situation. I would even say that the weight or burden and
19 pressure of all what was being said in the media was already quite heavy and it was
20 not a good time for making too many comments on the issue. What really mattered
21 was how to find a way out of the situation. What I had heard there he was also
22 aware of it either through the media, or otherwise, and so the time had come for a
23 solution to be sought. His opinion was that he had been targeted by some plotters or
24 that he was the target of a plot and that things were being blown out of proportion.
25 That was his position, that it was a plot against him.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 Q. So how long after you got back did you have the meeting with Mr Bemba?

2 A. As soon as I returned I was expected to indicate that I had returned, and so I
3 went to see him (Redacted). So whenever we returned from a mission
4 we needed to indicate that we had returned, so how soon did I do that? Well, it was
5 shortly after I came back, because I needed to indicate that I was back to duty station.
6 So it was not too long after that, a few days after I returned, I had to meet him to tell
7 him that I had come back, the idea being that being present I could be called to attend
8 meetings or that if any other assignments were to come up he should know that I was
9 available.

10 Q. So a few days after January 8, 2003; is that right?

11 A. Counsel, let me be specific. The MLC intervention in the Central African
12 Republic was as a result of Mr Bemba's decision. That is a fact. What happened on
13 the ground was covered in the international media, and of course the facts could have
14 been interpreted differently by different parties. All the senior staff of the MLC
15 discussed the issue, because everyone was aware of what was happening there, or
16 had learned about what was happening there. All I know is that when I returned I
17 met with him and I told him that there was an issue of hostility in Bangui and I can
18 tell you, therefore, that when I returned I met with him and I talked about this. That
19 is what I can tell you now.

20 As I said last time, the events took place a long time ago, several years ago, and once
21 again I may be mistaken as to dates, but I am able to explain to you my own
22 experience and reading of the facts.

23 Q. Sir, you've told us that you weren't in Gbadolite for New Year 2002. Do you
24 stand by that?

25 A. Yes, that is what I told you, but maybe you have another date? Would you

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 please kindly tell me? Maybe I'm mistaken? If I am mistaken, if you have another
2 date please kindly tell me.

3 Q. I have it in my mind, and I am sure I can find the transcript reference, that you
4 told us you returned to Gbadolite on 8 January 2003. Does that ring a bell with you?

5 A. I already told you that I went to Bangui and I came back. Now, as for the dates,
6 I told you that if my memory is correct -- and once again it is not always easy to
7 remember the dates, given the rapid succession of events, and it is in that context that
8 I told you that it may be possible that I went back at that time, or during that period.

9 Q. Well, tell us this. At the time you met Mr Bemba, had the trial of the seven
10 men accused of crimes in Bangui already started?

11 A. The trial? Let me start by telling you that I did not need to meet Mr Bemba
12 only when the trial was on, or not. Whenever I wanted to meet with him, I asked to
13 do so and I saw him on several occasions. Whenever he wanted to see me, he would
14 call for me and I would go to see him. So our meetings did not depend on whether
15 there was an ongoing trial, or not. All I know is that we met and we talked about
16 those issues.

17 Q. And during your meeting did Mr Bemba mention the trial, or the investigation?

18 A. We had a discussion, but I do not remember the entire conversation. What I
19 remember is that he said that there was a campaign to destabilise him and he also
20 said that the intervention in the CAR was contrary to France's interests, because
21 according to him France did not want President Patassé to remain in power and so
22 supporting President Patassé was contrary to French interests and that is why RFI
23 started this campaign to demonise him. That was his position. So I told him that
24 what really mattered was that the problem was being raised quite seriously at the
25 international level and that the way out would be to hold a trial which will absolve

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 him of all responsibility, so it would be seen then that investigations were conducted
2 and that as a chief he would have done his duty by punishing those who may have
3 been involved in any abuses. That was my suggestion and, as I said previously, this
4 was the position I conveyed to him. I told you already that sending troops to the
5 CAR was already a mistake to the extent that there was no proper guidance provided
6 for the troops either in Bangui or in Mambasa. There was a lack of supervision and
7 guidance, because if you have troops in the jungle or in the forest for two to three
8 years and you throw them in there without any moral preparation, without proper
9 supervision and guidance, you take them into this situation and from the areas where
10 they are going to the capital city of the Central African Republic was exposing the
11 whole situation to all manner of slippages. That is why, looking at the overall
12 situation, it would then seem that the idea was to seek to clear one's image at the
13 international level against the charges or the claims that were being made against the
14 soldiers. So the idea then was to conduct this trial and show that some medication
15 may have been stolen, that some five or ten litres of fuel may have been stolen and so
16 on and so forth, to sort of show that the grievous charges that were being brought
17 against or the serious charges that were being levelled against him were not a
18 reflection of the truth in those circumstances.

19 Furthermore, when soldiers are further sentenced to very light terms of prison, this
20 matter should not have been handled in a martial court, because those are matters
21 that could have been settled by the commanders. When a soldier, for example, steals
22 a few flip-flops here and a few aspirins here and there, these are disciplinary matters
23 that can be handled by the commander and that -- and do not need to go to a martial
24 court.

25 So all of these things point to the fact that there was a serious problem at hand, and so

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 the trial - the trial - was not convincing at all, it was not, because people may have
2 thought or could not understand that, mindful of all that had actually transpired in
3 the Central African Republic, the whole trial would only end up pointing to minor
4 misdemeanours here and there, as was the case.

5 Q. So the holding of a trial was your idea, was it?

6 A. The holding of the trial was not my idea, as such, but what I said if I remember
7 correctly is that the proposal for the trial came from (Redacted)
8 (Redacted) They are
9 the ones who moved that proposal.

10 We looked into it and said that, "Yes, a trial could be held to shed light on the matter,"
11 but unfortunately the charges that were ultimately brought forward were not of a
12 manner to convince the international community. You see, even after the rebellion,
13 after the setting up of the transitional government, this issue of Bangui continued to
14 trail us because there was need for investigation into the whole matter. That simply
15 means that the Bangui trials were not satisfactory to all parties.

16 Q. So when in relation to your meeting with Mr Bemba did the trials commence?

17 A. What is your question again?

18 Q. How long after your meeting with Mr Bemba in January 2003 did the trial
19 begin?

20 A. Two things, to begin with: When I returned from Bangui, I had a conversation
21 with Mr Bemba. That is one thing, but there was a meeting which we had before to
22 look at the situation because all these claims of abuses had begun to be mentioned
23 even from the very beginning when the MLC troops entered the Central African
24 Republic. So when you say when did we have a meeting to look into that proposal,
25 well, it must have been before. It must have been before, before the trial.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 Q. Well, I'm going to remind you of something you said in your interview now, so
2 if we could place on screen, please, for the witness CAR-OTP-0034-0544, and for those
3 of us following in English the last four numbers of the ERN are 0495 and this is a
4 confidential document.

5 JUDGE ALUOCH: Mr Haynes, what number is it in your list, please? The Defence
6 list, what number is it?

7 MR HAYNES: Would you bear with me just a second? I'm pretty sure it's
8 document 4 in English.

9 THE COURT OFFICER: Madam President, if I may? Counsel, could you please
10 precise the first page of the document that needs to be displayed again? I am sorry,
11 but I don't manage to have the first page of the document in French, I suppose.

12 MR HAYNES: 0509.

13 THE COURT OFFICER: Document CAR-OTP-0034-0509, second redacted version at
14 page 0554, is available on the screens and it's a confidential document. It will only
15 be broadcasted inside this courtroom.

16 MR HAYNES: It should be 0544, I'm sorry.

17 THE COURT OFFICER: The document is available on the screens. It is 0 -- ending
18 in page 0544, second redacted version, confidential document.

19 MR HAYNES:

20 Q. Sir, do you agree you only spoke to Mr Bemba once about the things you had
21 heard in Bangui?

22 A. Face-to-face with him, yes, but we had other meetings with (Redacted)
23 and I do remember that I had a one-on-one meeting with him at which we discussed
24 this matter, but the issue was also discussed at other meetings with (Redacted)
25 that is a meeting involving many more people.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

- 1 Q. You accept that in the page we are looking at you are talking about your
2 meeting with Mr Bemba with which you've describe as taking place in January 2003?
- 3 A. It is my testimony that upon my return I had a discussion with Mr Bemba, and
4 that is a fact. I conveyed to him my impressions of what was happening in Bangui.
5 Yes, I did.
- 6 Q. We can all see everything that was said, but I just want to invite your comment
7 on one question and answer. The question is, "On the basis of what you told Bemba
8 with regard to the reprehensible acts that you mentioned to him, do you know if
9 Bemba besides saying that it was magnified by some people took any measures
10 against these reprehensible acts?" And your response was, "The only thing I know is
11 that long after, when we felt that the threat was really becoming more precise upon
12 him, he had to face a dilemma: Either keep on denying at the risk of being
13 accomplice to the acts committed in the field or punishing the military, which was
14 difficult for him to imagine because in his opinion the military did a good job in the
15 field and he didn't see how to punish them. And so he found what I call from his
16 point of view as the middle way. In order to clear his responsibility, he organised a
17 fake trial where five or six or seven lower ranked soldiers would be tried in a quickly
18 organised trial. He invited a few journalists from the international media to attend
19 the trial."
- 20 Sir, why did you tell the interviewers from the Office of the Prosecutor that Mr Bemba
21 decided to organise fake trials long after your meeting with him in January 2003?
- 22 A. This is what I meant. You see, the questions that I was answering were
23 couched in broad terms. You see, the trials and a number of documents show the
24 sentences that were meted out for the alleged offences dealt with at the trial. You see,
25 when you have a trial where no victim of the abuses was present, or was contacted,

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 where there were no witnesses to any of the facts in attendance, how can you
2 understand when at the end the conclusion is that it is only very ordinary simple
3 crimes that were committed as was the case in that trial? Extortion of a few
4 medications, theft of a few books and so on and so forth, I'm sure you would agree
5 with me that this was a very difficult thing to understand. I say so, because when a
6 proper trial is conducted for persons suspected of committing crimes, at least the
7 victims should be seen, at least witnesses should appear and at least there should be a
8 record of the judgment that is drawn up according to the proper legal norms.
9 You see, what you showed last time was simply a letter to Mr Jean-Pierre Bemba
10 indicating that such-and-such a citizen had been convicted. Where was the
11 judgment? Where were the records of the trial? I thought maybe you would show
12 us any such records. So, regardless of what I may or may not have told him, the
13 facts speak for themselves. We need to be able to look at the facts.
14 Now, yes, (Redacted). That is correct. Was I aware of what was
15 going on? The answer is "Yes." Were there any serious allegations against the MLC
16 troops in the Central African Republic? The answer again is "Yes." Now, is it
17 possible for a martial court proceedings to be held against soldiers for stealing a few
18 aspirins or five or ten litres of fuel? Well, that simply amounts to somehow asserting
19 that nothing happened in the Central African Republic. But if we are to say that
20 something really happened in the Central African Republic then the matter had to be
21 dealt with with some measure of seriousness, but the manner in which this was
22 conducted was so light-handed and my only position is that this could not really be
23 referred to as a trial and that is the problem.
24 I see that you are raising a question about my reference to a fake trial. Maybe you
25 would find a more appropriate word, but when you look at small offences that could

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 have been handled by a commander as a disciplinary matter, such as taking away
2 somebody's batteries and what have you, little offences of that nature, yes, we can
3 understand, but why organise a trial and invite the international press to deal with
4 issues such as stealing a few aspirins and what have you? I don't know what other
5 word to use, apart from a "fake" trial. Maybe you have another expression for that?
6 This is exactly what I meant and that is the crux of the matter.

7 What happened in the Central African Republic, that is the question. If nothing
8 happened in the Central African Republic, then one can conclude that a few cases of
9 minor theft or misdemeanours may have taken place and then that would be it, but if
10 something did happen, whether it was magnified or not, I think in any event during
11 that intervention I don't believe that all that happened was that some aspirin was
12 stolen and a few litres of fuel were stolen as well. We must at least show some
13 respect for the Central African Republic people.

14 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

15 Mr Witness, it's time for our short break. We have a half-an-hour break. It's
16 5-past-11. We will resume at 11.35.

17 I ask, please, court officer to turn into closed session for the witness to be taken
18 outside the courtroom.

19 (Closed session at 11.06 a.m.) * Reclassified as Open session

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

21 (The witness stands down)

22 THE COURT OFFICER: All rise.

23 (Recess taken at 11.06 a.m.)

24 (Upon resuming in closed session at 11.42 a.m.) * Reclassified as Open session

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

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 PRESIDING JUDGE STEINER: Welcome back. As promised, for the record, a very
2 short oral decision. Court officer, please first turn into open session.

3 (Open session at 11.43 a.m.)

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

5 PRESIDING JUDGE STEINER: Thank you.

6 A short oral decision on the request of the Defence for extension of time limit.

7 At the beginning of the hearing this morning, Mr Peter Haynes on behalf of the
8 Defence requested an extension of one hour to the time limit to respond to the
9 Prosecution's request for extended sitting time hours in order to hear the testimony of
10 Witness 44.

11 The request was made yesterday by the Prosecution via email to the legal officer of
12 the Chamber at 4.09 p.m. At 4.52 p.m., also via email, given the urgency of the
13 matter, the Chamber instructed the Registry to provide observations to the
14 Prosecution's request no later than 11 a.m. today, 2 February 2012. The Defence and
15 legal representatives were requested to respond by 1 p.m.

16 The Defence team alleges that it is not possible for them to comply with the
17 Chamber's order since, and I quote, "If we are in receipt of observations at 11 a.m. this
18 morning, there is simply no way that we can respond during the hearing of a
19 witness's evidence two hours later, one-and-a-half hours of which we will be sitting in
20 Court," and I end the quotation here.

21 The Chamber notes, however, that the observations from the Registry were received
22 via email sent to the Chamber, parties and participants, the full Defence team among
23 them, at 5-and-a-quarter p.m. yesterday. The Chamber, nevertheless, believes that
24 the Defence has shown good cause pursuant to Regulation 35(2) of the Regulations of
25 the Court and grants the Defence's request to respond to the Prosecution's request for

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 extended sitting hours until 2 p.m. today. This extension is granted as well to legal
2 representatives of victims.

3 We are now turning into closed session in order for the witness to be brought into the
4 courtroom.

5 (Closed session at 11.47 a.m.) * Reclassified as Open session

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

7 (The witness enters the courtroom)

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

9 (Open session at 11.48 a.m.)

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

11 PRESIDING JUDGE STEINER: Mr Witness, welcome back.

12 THE WITNESS: (Interpretation) Good morning once again, your Honour.

13 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?

14 THE WITNESS: (Interpretation) I'm ready.

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

16 MR HAYNES: Thank you, your Honour.

17 Q. And welcome back, sir.

18 A. Good morning once again.

19 Q. Sir, I only have a couple more questions on this topic and I hope we can deal
20 with them quite quickly. When did you leave Gbadolite in January 2003?

21 (Redacted)

22 (Redacted)

23 A. January 2003? Maybe you mean January 2002, or are you actually referring to
24 January 2003?

25 Q. Well, let's work it backwards, shall we? (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 weren't you?

2 A. Yes, (Redacted)

3 MR HAYNES: Well, I didn't want you to tell us why you were there, but we better
4 go into private session now then with Her Honour's leave.

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

6 (Private session at 11.50 a.m.) * Reclassified as Open session

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

8 MR HAYNES:

9 Q. And I think you were (Redacted)

10 (Redacted). That's right, isn't it?

11 A. (Redacted)

12 (Redacted)

13 Q. And before you were (Redacted) for a couple of

14 months. That's right, isn't it?

15 A. Before I went (Redacted) Well, listen, like I said

16 some time ago and also this morning, it is true that certain events took place. It is

17 also true that it is quite difficult to remember exactly where I was after these many

18 years. Unfortunately time is not on our side, but I could have thought about it and

19 drawn up the timetable that I followed during that period.

20 If I had known that I would have to draw up an exhaustive timetable of the events

21 and indicate every place that I visited I would have done so before, but I thought I

22 understood that I came here to testify about the structural organisation of the MLC as

23 well as about what I know about the events that took place in Bangui.

24 Now, if you are asking me to tell you where I was at all times, for example when you

25 are asking me (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 (Redacted) But if you want to know where I was, I have given prior
2 statements, but with the passage of time it is difficult to remember every precise detail.
3 Maybe you can tell me where I was and then I would be able to give you an answer
4 and also try to understand whether that has any relationship with the events that took
5 place in Bangui.

6 When it came to the (Redacted) the important aspect was the
7 establishment of the transitional institutions, and these were events that did not have
8 any direct correlation with what was happening in Bangui. Those were separate
9 events. We were within a specific context trying to establish the transitional
10 institutions in which all the political forces of the country were supposed to
11 participate in order to prepare the democratisation of our country after the
12 transitional period. That is what I can say.

13 Q. Well, I'll try and help you in a minute, but before we go there who was it that
14 gave you to understand you were here to give evidence about the structural
15 organisation of the MLC and the events you knew about in Bangui?

16 A. (Redacted) so that is quite
17 normal. If I'm called to talk about events that happened during that period, I believe
18 that we would definitely have to talk about the organisation because this was a
19 framework -- this is within the framework of what was there at the beginning of the
20 MLC.

21 Moreover, the ongoing trial relates to the events that took place in the Central African
22 Republic. That is something that is known to everyone. I do not think that anyone
23 is unaware that in this particular trial they're dealing we events that happened in the
24 CAR and the fact that the MLC, and particularly its armed wing, was involved. I do
25 not know whether it is absolutely necessary for me to be told, (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 (Redacted)

2 regarding what happened in Bangui."

3 Q. Thank you for that. Well, let me see if I can help you with your memory as to
4 dates. Can we have a look, please, at I think it's Defence document number 5 in the
5 French. It's certainly in any event CAR-OTP-0034-0442, at page 0462. For those of
6 us following in English, it's Defence document number 1 and the last four numbers of
7 the ERN are 0422.

8 THE COURT OFFICER: Document CAR-OTP-0034-0442, second redacted version,
9 at page 0462 is available on the screens only inside this courtroom and it's a
10 confidential document.

11 MR HAYNES:

12 Q. Sir, we are in private session. Would you take the trouble to read that page for
13 me and you may when you've got to the bottom of the page like to say so and I'll ask
14 if the next page can be shown to you?

15 A. I am done. I have read it.

16 MR HAYNES: Can the witness please be shown the following page?

17 Q. Sir, do you now recall that you (Redacted)

18 (Redacted)

19 A. I have already stated and repeated the following: I believe that (Redacted)

20 (Redacted) I have already underscored that point. Then thereafter, that

21 (Redacted) as I have said consistently, a lot was happening at the time, several

22 activities, and I may have been confused by the meeting of the General Staff and it is

23 in that context that the dates may have been confused. Now, let me again state that

24 apart from the dates and apart from any comments that may be made about our dates,

25 the facts remain and the facts are as follows: (Redacted) I

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted) Some of these meetings may have overlapped and that is probably
6 why there might have been some problems in the chronology of events narrated.
7 You see, if I had known that I had to -- I was going to talk about all my activities at
8 some point, then I may have had to keep a record of the events in order to be able to
9 speak coherently (Redacted). In any event, as far as I am concerned what really
10 matters is what I know about what happened and what I am testifying to. In terms
11 of what happened in Bangui in the Central African Republic, what our reactions were
12 to those events - when I say (Redacted)
13 (Redacted) - and what was the impact of these events (Redacted)
14 (Redacted) and I'm also talking about the manner in which the higher
15 leadership of the MLC dealt with these matters which was in this case particularly a
16 military matter and how we came to the situation in which we found ourselves, so my
17 testimony is about my thoughts and impressions about these things.
18 Now, when you ask me "Where were you? What were the dates?", I find a problem
19 with that. I may not be able to deal with that consistently. So these events took
20 place a long time ago. I was a busy man, but it is true that some events may have
21 stood out because of their political or emotional nature and for those reasons it was
22 necessary for us to think about those events, to look for ways out, to deal with such
23 events that had a profound impact on the destiny of the MLC, and ultimately on the
24 destiny of the leader of the MLC. So in my capacity as a witness I have come to this
25 Court to shed some light on these issues.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 Now, when you ask me about dates, where I was, what happened and so on and so
2 forth and whether this has a direct bearing on the events, clearly, yes, but, you see, (Redacted)
3 (Redacted) I had a view or an understanding
4 of the events within the framework of the MLC. We conducted our analysis, we
5 interpreted the events and we discussed the manner in which to bring these events to
6 an end. So I can provide clarifications on the developments and the events, but quite
7 humanly speaking I may make a number of mistakes as to the dates. So I have come
8 here to provide clarification to the Court on the way events unfolded.

9 Q. Sir, please listen to this question and see if you can answer it shortly. For
10 about (Redacted)
11 (Redacted)

12 A. Well, maybe that's what was said, (Redacted) would be an exaggeration.
13 Too much. When I stated that (Redacted), it would probably be that during
14 that time we may have (Redacted) as already mentioned,
15 but there was also another (Redacted) and I must confess
16 that I do not clearly remember, but I see here that there must be a problem of dates in
17 relation to (Redacted) and it is true that I attended the meeting of the (Redacted)
18 (Redacted) - and I was also present when the final act was signed. That is what I can
19 say.

20 That, however, does not mean that I was not aware of what was going on in my
21 (Redacted) I was aware of
22 what was happening in Bangui and I was aware of the perceptions of the armed wing
23 of the MLC by the international community. (Redacted)
24 (Redacted)

25 Q. I am going to ask the Judge to go into open session now, which means that

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 when we get there please don't tell us about what your positions were or any
2 documents you had to sign or any function you had to fulfil. Are you clear about
3 that?

4 A. Very well.

5 PRESIDING JUDGE STEINER: Mr Witness, in case you need to refer to these

6 (Redacted)

7 (Redacted)

8 (Redacted) Then maybe we can stay for longer in open session.

9 Is that fine with you, sir?

10 THE WITNESS: (Interpretation) Thank you, your Honour, but counsel also has to

11 be mindful when putting his questions in open session. When he says "What did

12 you do? Where were you?", such questions are directed at me personally and then

13 when such a question is put I might tend to forget that we are in open session because

14 I will be answering maybe inadvertently questions that have been put directly to me.

15 So maybe counsel should also be asked to be cautious about the way in which he

16 couches the questions so that he shouldn't put questions that would force me to talk

17 about myself.

18 PRESIDING JUDGE STEINER: I am sure that Mr Haynes is aware that sometimes it

19 is really difficult to avoid such situations and the Chamber is providing redactions to

20 the transcripts.

21 We may go into open session, court officer.

22 (Open session at 12.11 p.m.)

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

24 MR HAYNES:

25 Q. Sir, we are in open session, so I'm really only asking you for an approximate

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 date or an approximate time. There is no need for you to refer to your identity or
2 your function at all, so please listen to this question carefully. If your meeting with
3 President Bemba was in early to mid-January 2003, what is your best estimate as to
4 when it was that you attended the trial of the seven accused from Bangui?

5 PRESIDING JUDGE STEINER: Ms Bala-Gaye?

6 MS BALA-GAYE: Madam President, we have been mindful of your Honour's
7 guidance regarding objections and we have thus far refrained from objecting or
8 interrupting Mr Haynes. We note that despite what the witness has said from the
9 very beginning regarding dates and placing himself in a particular location and after
10 Madam President's intervention yesterday the witness gave another chronology
11 about where he was, when certain things happened including this same question that
12 has been asked, and the witness has been clear regarding that, Madam President, so
13 this is again another question that has been asked and answered and we are going
14 around in circles regarding dates and events that the witness has time and time again
15 tried to give us a chronology to the best that he can, and it really is repetitive, Madam
16 President. Thank you. I can provide the reference where he again provided a
17 chronology. The French transcript from yesterday, it's between page 52, line 22, to
18 page 54, line 15, and the English transcript he provided a chronology as well from for
19 example line 11 to page 50, line 19. Thank you.

20 PRESIDING JUDGE STEINER: I think Mr Haynes I'll give you the floor to respond
21 if you want?

22 MR HAYNES: Your Honour, it's a perfectly fair question to test the reliability and
23 credibility of this witness to see whether he can tell us in relation to an event he is
24 sure of when he says he attended trials which he observed and his observations of
25 which are at the very heart of his evidence. To deny the Defence the opportunity to

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 put him on the spot as to that is to deny them any opportunity effectively to test him
2 at all. The objection is nonsensical.

3 PRESIDING JUDGE STEINER: Mr Haynes, I think I understand why you're turning
4 back to this point, because apparently there is a discrepancy in dates, although the
5 witness has said many times that he has difficulties in giving precise dates. I will
6 allow the question and I hope we don't need to come back to the very same question
7 again, but you can put the question to the witness.

8 MR HAYNES: I am very much obliged.

9 Q. Sir, I'll repeat the question and I will also repeat my warning to you. We are in
10 open session. So, please, it's a simple question; it only requires you to give us an
11 approximate date or an approximate time-span. It doesn't require you to give us a
12 long speech about who you are and what you did, okay?

13 A. I am listening to you.

14 Q. Okay. If your meeting with Mr Bemba was some time in early to
15 mid-January 2003, what is your best estimate as to when it was that you attended the
16 trials of the seven men accused of crimes in the Central African Republic?

17 A. Once again I will provide an approximation, while insisting on the fact that I
18 was involved in multiple activities at that time and that several years after it is indeed
19 difficult to remember all the dates. So I have told you that I was a busy man, I took
20 part in many activities.

21 Now, if you believe that I was not in a position or I am not in a position to talk about
22 such-and-such an event, then what you're saying is that I do not represent much.
23 You have said that you are looking at matters of credibility, but when one talks about
24 tension, tension that existed at the time, what is the credibility issue in it?

25 You are insisting on dates. Well, I have already told you that even when I have

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 referred to dates I may be mistaken. Now, according to you, you are trying to
2 establish the credibility of my statements based on dates. I don't have the same
3 understanding of events, or rather of issues, because as I have said I may have made
4 some mistakes in the dates. So maybe by putting questions to me you might jog my
5 memory and enable me to remember some events which I would gladly talk about.

6 Q. Well, forgive me, but your one meeting with Mr Bemba about the information
7 you had was a singular event. The trials of the seven accused from the Central
8 African Republic was a singular event in your life. They were linked to one another.
9 You told the interviewers that the trials took place long after your conversation with
10 Mr Bemba. How long after?

11 A. Once again, I must insist that I have provided a chronology of events but during
12 that time there might have been specific events, but they may not have been of such
13 importance as the issue of problems in Bangui particularly when it was generally
14 known that there were problems in Bangui, and this may I say did not unsettle too
15 many things, so to speak.

16 So what I said, and I continue to say, is that I was in the habit of meeting with him. I
17 met him and we talked about these issues. So I have a problem with the dates, and I
18 do agree that there might be some inconsistencies in the dates, and that's why I am
19 suggesting that if you want to deal with a specific event you may help me by pointing
20 out the aspects of that event that you want to deal with and it can help me to provide
21 you with the information.

22 I have already stated honestly that there is a problem with dates. I have said that I
23 may not be very certain about the dates that I have talked about, because among other
24 things I was involved quite often in several events at the same time. That's my
25 answer.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 Q. Do you agree you only spoke to Mr Bemba once about this information, and
2 you know what I'm talking about?

3 A. I know that we met. In fact, I went on a private trip, as I have already
4 mentioned, but I also told him of my impressions about the unhealthy atmosphere
5 that I observed to be prevailing in Bangui, so I told him about that clearly. We had
6 other meetings with (Redacted) and you know that in the course of such
7 meetings you may have things that vary from one-on-one meetings to meetings with
8 (Redacted)

9 Now, if you're looking at this as a matter of credibility, then it must mean that you
10 think that it was not possible (Redacted) to have a meeting with Mr Bemba, or
11 that you feel that there were no meetings between (Redacted) and himself. That
12 is a mistake. That is a mistake because we met, we met from time to time, sometimes
13 on a regular basis and depending on circumstances. That is the answer I can
14 provide.

15 Q. Well, let's try another route, shall we? Can we have a look at Defence
16 document number 23?

17 PRESIDING JUDGE STEINER: Sorry, Mr Haynes, can you repeat which document,
18 because I don't have it in my transcript?

19 MR HAYNES: Defence document 23.

20 PRESIDING JUDGE STEINER: Thank you, it just came.

21 MR HAYNES: I probably muttered.

22 THE COURT OFFICER: Document 23 of the list corresponds to CAR-DEF-0001-0076.
23 It's available on the screens. It's a public document.

24 MR HAYNES:

25 Q. Sir, once again I'm going to give you the chance to read this through to yourself

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 so that you understand what it is and when you get to the bottom of the screen tell
2 the court officer that you've done so and he'll show you a bit more until you've read it
3 all. Would you like to see the rest of it, sir, or have you seen it all now?
4 A. Yes. I have just read through the document.
5 Q. Thank you. And just so that we're clear, do you understand what that
6 document is?
7 A. Yes, I do and I am listening to your question.
8 Q. Well, perhaps you would just tell us what you understand that document to be?
9 A. As far as I am concerned, what I think about the document is the following: If
10 you look at the first page -- can we scroll back up to the first page? The LMC (sic)
11 troops intervened in this country as from 27 October to protect the institutions
12 threatened by destabilisation from an attempted coup d'état and so on and so forth.
13 The first observation is as follows: Who mandated the MLC to protect the
14 institutions threatened with destabilisation? In any case, I know that in the MLC
15 programme it was stated that the MLC struggle had as objective the institution of
16 democratic institutions in the Democratic Republic of the Congo. It was never stated
17 there that the MLC had a mandate to protect foreign institutions threatened with
18 destabilisation or by a coup d'état. In addition, it is also mentioned here, "It is not
19 through a spirit of adventure or for purposes of greed that the MLC troops went to
20 the Central African Republic. The MLC strongly condemns any foreign intervention
21 in an African country and its army will never play the role of mercenaries who have
22 caused so much suffering." There he's saying something and it's contrary. It is
23 stated that "MLC condemns all foreign intervention and yet the MLC had just sent
24 troops into an African country." It is also stated that the MLC will never play the
25 role of an army of mercenaries. It was not the first time that the MLC was

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 intervening in the Central African Republic. It was the second time and it is as if the
2 MLC had become the gendarmes of the Central African Republic, because nothing
3 could justify two interventions in the Central African Republic.
4 Could we now please move on to the second page? Mention is made of
5 manipulation of information and public opinion that the MLC cannot in any way
6 approve behaviour that is contrary to the military code governing its troops when
7 such behaviour leads to grave violations of human rights and so I ordered the arrest
8 of eight soldiers whose behaviour in Bangui was contrary to the instructions given to
9 the officers and to the troops before their departure to the Central African Republic.
10 It is said that they were arrested and it is said that the MLC could not approve or
11 tolerate behaviour that turned out to be contrary to the instructions. I have been
12 listening to some of the lawyers of Mr Jean-Pierre Bemba say that as soon as he was
13 informed he imposed severe sanctions on those soldiers, but when you look at the
14 sanctions that were imposed, first of all the charges included theft of tablets of aspirin
15 and a few litres of fuel.
16 Now, in light of the events when related to the rigorous statements here, as well as
17 the ideal of pan-Africanism which requires that one should not intervene unjustifiably
18 because that could be viewed as acting as mercenaries. Now, when you intervene
19 twice in a country, how is this to be viewed? And when you are a movement of
20 rebels and you claim that you want to save a democratically elected government, I do
21 not know what legitimacy you would have had for such an intervention. At one
22 point it is stated that the CRC had authorised some of the lawyers, the Defence
23 lawyers said that, but I am saying that I never saw any document indicating that the
24 CRC authorised the intervention because it was never authorised by the UN, never by
25 the African Union, or the CRC, or even by the manifesto of the MLC. So I believe

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 that in light of the events this is a letter that appears to be innocent and elegant with
2 good principles and ideals, but what happened on the ground was quite something
3 else altogether. That is my observation.

4 Q. Well, let's just deal with a few basics. Who's the letter from and who is it to?

5 A. The letter is from Jean-Pierre Bemba and it is addressed to Mr Cissé, I believe,
6 who was the special representative of the Secretary-General of the UN.

7 Q. And do you agree it's dated 4 January 2003?

8 A. Yes, it is dated 4 January 2003.

9 Q. And do you accept that it is signed and stamped?

10 A. It is signed and stamped, but I would like to make one clarification. The first
11 page, please. It is stated here --

12 Q. Please, I don't want the contents of the document. Just do you agree that it is
13 signed and stamped and do you see an initial on the first page?

14 A. Yes. Contrary to the two letters that you produced yesterday, which were
15 neither signed nor stamped, at least this letter is signed and stamped.

16 Q. Well, we'll come on to that in due course. Do you agree that it refers to the
17 arrest of eight people in Bangui?

18 A. Yes. The arrest of eight people in Bangui, yes.

19 Q. And, broadly speaking, it addresses the issue of allegations made against MLC
20 troops in the Central African Republic?

21 A. It alludes to allegations, but for the purpose of denying those allegations in
22 advance, that is meaning that those are unfounded allegations, and yet they insisted
23 on arresting those eight men and prosecuting them, but when you look at the verdicts
24 and the sentences you realise that the purpose was simply to demonstrate that the
25 allegations were unfounded and that the troops on the ground had really not done

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 anything serious because they took away only a few tablets or a few litres of fuel.

2 This clearly demonstrates that nothing was done on the field, because the allegations
3 were unfounded. This is what the intention is.

4 Q. Now, when you went to Mr Bemba's office some time after 8 January 2003, you
5 were concerned, weren't you, that the events in the Central African Republic were
6 damaging the image of the MLC?

7 A. Naturally, I was concerned because to begin with everybody was wondering
8 why the intervention and, as I have underscored, there were two interventions that
9 were really inappropriate. There was first of all an intervention in the east, around
10 Mambasa. (Redacted)

11 (Redacted) I had told the president not to send troops there.

12 Since we are advancing towards an agreement to put an end to the war and unify the
13 country, there is no point in attacking Mr Mbusa Nyamwisi because he was the one
14 who was the president of RCD-K/ML controlling Mambasa, Beni and so on, but he
15 did not listen to me and look at what is happening now.

16 Then there was the second intervention. There was what happened in the Central
17 African Republic. So these two wars for the MLC would constitute what I can refer
18 to as a psychological Waterloo, or a diplomatic Verdun. These were events that
19 tarnished the image of the MLC and it was normal for the officials to be concerned by
20 the scope of developments in these two areas I have mentioned.

21 Q. So, in your meeting with Mr Bemba, did he mention that he had written to
22 General Cissé?

23 A. Did he mention having written to General Cissé? I believe that indeed at one
24 point that was mentioned, not in the course of that particular meeting. I believe that
25 this was done during a meeting (Redacted). He had announced

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 that he was going to write to the special representative asking him to carry out an
2 investigation. This was simply to demonstrate his good faith, because the objective
3 was to provide guarantees to the international community in order to see how he was
4 going to extricate himself from that trap.

5 Q. Now answer my question. At your meeting alone with him some time after
6 8 January, a few days after the date of this letter, when you were expressing your
7 concern about the damage to the MLC's international image did he say to you, "I have
8 written to the United Nations"?

9 A. Did he say, "I have written to the United Nations?" I do not know, but I know
10 that he did write to the United Nations because he had said he intended to do so and
11 he did it, so it was not important for him to repeat it because we were aware that he
12 had written to the United Nations and we knew why he had written to the United
13 Nations.
14 We knew the purpose of that letter which obviously was to provide guarantees to the
15 international community to say, "Look, I am transparent. I have arrested the soldiers
16 and you should also assist me in carrying out investigations so as to shed light on the
17 situation."

18 Q. Sir, do you still maintain that at your meeting with Mr Bemba you suggested
19 that he ought to hold trials in the future?

20 A. I beg your pardon?

21 Q. Yes. Do you suggest that at your meeting with Mr Bemba you told him that
22 your advice was that he should hold trials of people accused of crimes?

23 A. Listen: Well, I do not know, but I know that the idea of a trial had already
24 been mooted. He himself was convinced that a trial had to be held to clear his name.
25 That is a fact. It is possible that I could have repeated that that trial should take

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 place, but that is not the issue, whether I talked about a trial or not.
2 First of all, regarding the principle of a meeting, it was not rare or impossible for (Redacted)
3 (Redacted) to meet with the leader of the movement. I do not know why it should
4 be accorded such importance. It is as if it was not possible for us to meet for
5 someone to be saying, "Look, did you really meet with him?" How can anyone
6 imagine even for one instant that there would not be meetings between him, the
7 president of the MLC and (Redacted) Why should this be questioned as if
8 you are doubting the possibility of meeting and possibly talking about that issue? I
9 do not understand your insistence on this matter.

10 Q. Well, I'll explain it to you. This Trial Chamber is going to have to determine
11 whether it believes you had a meeting with Mr Bemba, or not, and that might depend
12 on the sort of detail you can provide about that meeting. There was only one
13 between you and him alone. Did he tell you in that meeting that there had already
14 been an investigation, there had already been arrests and there had already been
15 trials?

16 A. The trial had already started. On 4 January he sent a letter to the special
17 representative, but in that letter he did not say that the trial had already started. He
18 said, "I have carried out the arrest." He did not say that the trial had already started,
19 and in this letter that I have just read he never also said that the trial had ended. He
20 does not state anywhere that the trial has started or has ended. He simply says that,
21 "I have carried out the arrest." The letter is very clear. If you wish, we can read it
22 together once again specifically that excerpt.

23 PRESIDING JUDGE STEINER: Mr Haynes, if you allow me, I think just for helping
24 the Chamber, I would like the witness to read from this document the paragraph
25 starting by "Je vous adresse la présente pour solliciter," because once you are reading

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 we will receive the translation of this paragraph that I think it's important for the
2 Chamber's understanding of this contentious point. Could you please, Mr Witness,
3 read this paragraph?

4 THE INTERPRETER: From the interpreters: Could the witness be reminded to
5 read slowly, because he were reading very fast in the past?

6 PRESIDING JUDGE STEINER: Court officer, it is in the second page of the
7 document on page CAR-DEF-0001-0077. And please, Mr Witness, the interpreters
8 are asking you please to read very slowly in order to allow them to provide the Bench
9 with a proper translation.

10 THE WITNESS: (Interpretation) Thank you, your Honour. I believe -- I think it is
11 the second paragraph?

12 PRESIDING JUDGE STEINER: Mr Witness, I would like you to read -- to read it for
13 the Chamber in order for the translation to be provided. So I am asking you please
14 to read very slowly.

15 THE WITNESS: (Interpretation) Thank you, your Honour. This was on
16 4 January 2003, and it is stated as follows: "In light of the information currently in
17 my possession, and except there is information to the contrary, I believe ..."

18 PRESIDING JUDGE STEINER: Mr Witness, thank you, but you can go to the next
19 paragraph, the paragraph starting by "Je vous adresse la présente."

20 THE WITNESS: (Interpretation) "I am sending you this letter to request your
21 assistance for the investigations to be carried out both amongst the population
22 concerned, religious communities and credible non-governmental organisations, so as
23 to shed light on what really happened on the ground. The results of this
24 investigation, which I hope will be totally transparent, will make it possible for me to
25 prosecute the accused soldiers in a court-martial which is functioning for that purpose

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 and put an end once and for all to the unacceptable behaviour for people who are
2 supposed to constitute the core of a republican army which is disciplined and
3 responsible for ensuring respect for human rights wherever it is called upon to
4 intervene."

5 PRESIDING JUDGE STEINER: Thank you very much.

6 Mr Haynes, unless you have a very short question, it's time for us to suspend.

7 MR HAYNES: Very well, thank you.

8 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. We'll have to
9 go now into our lunch-break. It's 1 o'clock. We'll be back at 2.30.

10 I will ask, please, the court officer to turn into closed session for the witness to be
11 taken outside the courtroom. In the meantime, we will suspend to resume at 2.30.

12 Court officer, please.

13 (Closed session at 12.58 p.m.) * Reclassified as Open session

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

15 (The witness stands down)

16 THE COURT OFFICER: All rise.

17 (Recess taken at 12.59 p.m.)

18 (Upon resuming in closed session at 2.42 p.m.) * Reclassified as Open session

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

20 PRESIDING JUDGE STEINER: Good afternoon and welcome back. Before we ask
21 the witness to come in, I ask please court officer to turn into open session.

22 (Open session at 2.43 p.m.)

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

24 PRESIDING JUDGE STEINER: Thank you very much. The Chamber has the
25 summary of the decision on the request for leave to appeal the decision on in-court

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 protective measures for Witness 45.

2 On 24 January 2012 the Chamber issued a confidential decision granting limited

3 in-court protective measures to Witness 45. It is filing 263-Conf.

4 On 30 January 2012 the Defence filed a request for leave to appeal the decision. It's

5 filing 282-Conf. In the request, the Defence urges the Chamber to grant the request

6 for leave to appeal, to postpone the hearing of Witness 45's evidence until resolution

7 of the request and to order the disclosure of the transcripts of the ex parte hearings

8 allegedly held on 11 and 23 January 2012.

9 On 31 January 2012, pursuant to Chamber's instructions, the Chamber filed the

10 Prosecution's response to the Defence application for leave to appeal the decision on

11 in-court protective measures for witness CAR-OTP-PPPP-0045, submitting that the

12 Defence's application should be rejected (filing 2089-Conf).

13 Having considered the submissions of the parties, the Chamber has decided pursuant

14 to Article 82 (1)(d) of the Rome Statute and Rule 155 of the Rules of Procedure and

15 Evidence to deny the request. This decision is based inter alia on the Chamber's

16 conclusion that any of the requirements under Article 82(1)(d) for leave to appeal to

17 be granted are met.

18 With regard to the Defence's claim to be granted access to the transcripts of ex parte

19 hearings allegedly held on 11 and 23 January 2012, the Chamber clarifies that no ex

20 parte hearings have been held since the beginning of January 2012. As reflected in

21 the Court management system records, the first hearing that was held in 2012 by this

22 Chamber corresponds to the first day of the hearing of Witness 45. Accordingly, the

23 Defence's request to be granted access to ex parte transcripts is rejected in limine.

24 In light of the Defence's request that the decision be issued on an urgent basis as

25 reflected in today's transcript, and before the conclusion of the testimony of

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 Witness 45, the Chamber is issuing the summary of its decision by way of this oral
2 decision. Written reasoning of the Chamber's decision will follow in due course.
3 In these circumstances, the Chamber hereby decides that, first, the request for leave to
4 appeal is denied. Second, the request for a postponement of the hearing of
5 Witness 45's evidence is declared moot. Third, the request for disclosure of the
6 transcripts of the alleged ex parte hearings is rejected in limine.

7 Now we go, please, court officer to closed session in order for the witness to be taken
8 inside the courtroom.

9 (Closed session at 2.48 p.m.) * Reclassified as Open session

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

11 PRESIDING JUDGE STEINER: Court officer, in the meantime, a correction on the
12 transcript, please. In the decision, in the summary of the decision just issued, on
13 page 55, line 2, the Chamber meant "Chamber's conclusion that none of the
14 requirements under Article 82(1)(d) for leave to appeal to be granted are met."

15 So I apologise for the mistake. Ratification, thanks to Judge Aluoch, has just been
16 made.

17 (The witness enters the courtroom)

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

19 (Open session at 2.50 p.m.)

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

21 PRESIDING JUDGE STEINER: Mr Witness, welcome back.

22 THE WITNESS: (Interpretation) Good afternoon, Madam President.

23 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?

24 THE WITNESS: (Interpretation) I am ready.

25 PRESIDING JUDGE STEINER: Mr Haynes, before I give you back the floor, just an

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

- 1 observation from the Chamber. The Chamber is informed that Defence has already
2 used around eight hours for its questioning of the witness. The Defence did not
3 make any specific request for additional time for questioning the witness. However,
4 the Chamber will allow the continuation of the questioning subject to Regulation 43
5 of the Regulations of the Court according to which the Presiding Judge in
6 consultation with the members of the Chamber shall determine the mode and order
7 of questioning witnesses in presenting evidence so as to make the questioning of
8 witnesses and the presentation of evidence fair and effective for the determination of
9 the truth and to avoid delays and ensure the effective use of time.
- 10 So what the Chamber is kindly ask Defence is to make an effective use of time
11 because the Chamber intends -- it is the Chamber's intention that the questioning of
12 the current witness is finished by the end of today's session.
- 13 You have the floor, Mr Haynes.
- 14 MR HAYNES: Thank you, your Honour.
- 15 Q. Good afternoon, sir.
- 16 A. Good afternoon.
- 17 Q. There was another court-martial in Gbadolite which related to accused from
18 Ituri or Mambasa; that's right, isn't it?
- 19 A. What I know is that the court-martial was for the two cases, almost
20 simultaneously. You see, when the judgment was rendered, and if memory doesn't
21 fail me, the court-martial in Mambasa rendered its judgment and then went on
22 immediately to look into the cases of the Central African Republic. You see, the
23 detainees were all present. The detainees from Mambasa and those from the Central
24 African Republic were brought in almost at about the same time.
- 25 Q. Thank you. Did you observe the trial of the accused from Mambasa?

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 A. Yes.

2 Q. And how long did that take?

3 A. Are you referring specifically to the Mambasa trials or to the two trials?

4 Q. Sir, so that we are clear, let's put to one side now and forget the trials relating to
5 the Central African Republic. We're only talking about the Mambasa trial. You
6 now say you saw that trial, you watched that trial. How long did it take?

7 A. The Mambasa trial, these are things that happened more than six years ago.
8 That trial I think may have lasted, and I speak off-the-cuff here, five to six days, so it
9 is just an approximation that I offer.

10 Q. Okay. Well -- and it's your recollection, is it, that the Mambasa trial started
11 first and then the Bangui trial followed on from that; is that right?

12 A. Yes.

13 MR HAYNES: I wonder if we could have a look, please, at Defence document 51.
14 THE COURT OFFICER: Madam President, if I may. Mr Haynes, could you please
15 provide the ERN reference of the document you wish to be published, because I don't
16 have document 51 in the list that I have.

17 MR HAYNES: You're right. My tab comes before the document, not after it. It's
18 Defence document 50.

19 THE COURT OFFICER: Document DRC-OTP-0098-0005 will be published. I have
20 here that it is a public document, and it will be published unless otherwise instructed.

21 MR HAYNES: Well, I certainly have no reason not to have it published. I don't
22 know whether any other party does.

23 PRESIDING JUDGE STEINER: Prosecution, any objection that this document is
24 reclassified as public?

25 MS BALA-GAYE: No objection, Madam President.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 PRESIDING JUDGE STEINER: Therefore, the document DRC-0098-0005 is
2 reclassified as public and can be displayed from Defence request.

3 THE COURT OFFICER: Thank you, Madam President. The document is available
4 on the screens.

5 MR HAYNES: Thank you.

6 Q. You can see that this is a report on the trials of those accused from the army -- of
7 the ALC of offences in Ituri, can't you? Do you agree with that?

8 A. With what?

9 Q. That it's a report of the trial you say you watched.

10 A. I can see here that it is a report on the trial. I can see the title itself.

11 Q. Can we go to the third page of the document, please.

12 Can you see that that records that the trial started on 18 February 2003?

13 A. Yes, I can see that the trial started on 18 February 2003. But if my memory
14 serves me correctly, the trial commenced and was held at virtually the same time as
15 the Bangui trials, because the Mambasa events were previous or prior to the events in
16 Bangui. So I see this date of February 2003, but in my recollection the suspects were
17 there at virtually the same time and, in principle, this was a trial which had
18 commenced at the same time. I can see this is a document, this is a report, but it
19 might have been a better idea for the actual judgment or transcript of the judgment so
20 that we could all agree on what we are reading. I'm not sure whether the dates
21 which are written here were respected; all I do know is that this was a trial that was
22 held virtually simultaneously with the other trial.

23 So were there at least a written version of the judgment, or a record of the judgment,
24 it would be better because I don't always trust reports. One can write anything one
25 wants in a report.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 Q. Do you trust what you told the Office of the Prosecutor in your interviews?

2 A. What do you mean precisely? As to what I said? Can you remind me of
3 what I said?

4 Q. Yes. I'm just going to put it to you so that we'll move on quickly. You
5 weren't in Gbadolite in February 2003, were you?

6 A. I said as follows: With regard to the trial, well, the date of 18 February 2003 is
7 indicated here, and that's why I was wondering as to whether this date was correct or
8 not.

9 Q. Why would it not be?

10 A. I would like to know, because you seem to be belabouring the point, maybe you
11 could tell me where I was when this occurred. I might have said that I wasn't there.
12 I said that when the judgment was handed down, I do remember Ngalimu, in
13 particular. I believe, I don't know whether my memory fails me when he was
14 convicted, I believe that he received a five-year sentence. I might be wrong. I do
15 remember that fact. There we are. And here we can see the date of 18 February.
16 As I said to you, there's a problem with the dates. I believe that I did attend this trial.
17 I might like further clarification as to the date. Were there to be -- were we to have a
18 record of the judgment, that would help and this would provide us with
19 authentication that the judgment was handed down on such-and-such a date because
20 the -- were the Court to have access, were we to have access to all the references of
21 that Court and that document would then be authentic.

22 Q. Sir, I'm not going to belabour the point, to use your word, but what do you
23 mean you believe you were at this trial? Were you or weren't you?

24 A. I said the following: I said that I was in attendance. I remember well
25 that -- of course, these events do date back somewhat, but I remember that during the

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 trial I believe a five-year sentence was served on Freddie Ngalimu. I remember that,
2 but of course these events date back quite some time.

3 Q. I'm just going to give you one chance to clear this up for us. Were you at this
4 trial or did somebody tell you what happened at this trial?

5 A. I was present during the trial, because I remember when the trial commenced
6 I was in Gbadolite.

7 MR HAYNES: Thank you very much. Now, I'm just going to put a couple of
8 questions, please, in private session, with your Honour's leave.

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

10 (Private session at 3.09 p.m.) * Reclassified as Open session

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

12 MR HAYNES:

13 Q. Sir, we have dealt with this before but I just want to ask it as a foundational
14 question. (Redacted)

15 A. Yes, indeed, it was on (Redacted)

16 Q. So help us, (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 because as I told you I moved around a lot. Had there been an event which occurred
2 in March 2003 you might be able to shed light on the matter for me.

3 Q. Well, I'll come to the event in a minute, but what you told the Office of the
4 Prosecutor in your interviews was that in (Redacted)
5 Does that ring any bells?

6 A. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. I'm not --

18 JUDGE ALUOCH: Mr Haynes, sorry. Mr Haynes, I wanted you to clarify a
19 question that you posed to the witness. I think it's line 16 of page 66. Thus, when
20 you said, sir, it's not the month of March -- (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 (Redacted)

2 JUDGE ALUOCH: Okay. Then the record, the transcript is not correct, the English
3 transcript.

4 MR HAYNES: (Redacted)

5 (Redacted)

6 Q. Sir, let's clarify it.

7 PRESIDING JUDGE STEINER: Before that, Ms Bala-Gaye.

8 MS BALA-GAYE: Sorry, Madam President, can we have the reference where

9 Mr Haynes asks the witness, says to the witness that he told the Office of the
10 Prosecutor in interviews that in (Redacted) Can we
11 just have the reference for that? It's page 66.

12 MR HAYNES: I know it off the top of my head. It's Defence document number 1,
13 last four numbers of the ERN 0423 in English, 0462-3in French.

14 Q. Sir, where were you when General Bozizé took Bangui?

15 A. Could you please repeat your question?

16 Q. Why do you need that question repeated? It's a very simple question. Where
17 were you when General Bozizé took Bangui?

18 A. Well, listen, as I said - and I underscore this - well, as to where I was when
19 General Bozizé took Bangui, I do not know whether I can provide you with a precise
20 reference as to where I was precisely when General Bozizé took Bangui, but as I said,
21 I moved around a lot and, at this juncture, I cannot provide you with an answer
22 unless there was a specific event or a reference, reference point, that you can provide
23 me with saying he took me -- he took Bangui and then -- so that I can find the
24 reference to this. For the time being, I can't provide you with any clarification.
25 Maybe when he took (Redacted). It is possible.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

- 1 MR HAYNES: Thank you. I'm going to try to go into public session now please,
2 your Honour.
- 3 PRESIDING JUDGE STEINER: Court officer, please turn into open session.
4 (Open session at 3.18 p.m.)
- 5 THE COURT OFFICER: We are in open session, Madam President.
- 6 MR HAYNES:
- 7 Q. Sir, General Bozizé took power in Bangui - I think we're all agreed - on
8 15 March 2003, which I make a little over two weeks before the signing of the final act
9 in Sun City. You were not in Gbadolite, were you, two to three weeks before
10 2 April 2003, and please bear in mind we are in open session.
- 11 A. This does, indeed, give a matter for reflection because I'm somewhat hesitant to
12 state precisely where I was at the time because on 15 April I remember only too well
13 that when Bangui was taken, and I'm glad you refreshed my memory, a short time
14 afterwards our people in Bangui fled towards Zongo with a view to going to
15 Gbadolite. And (Redacted) whom I talked about previously, left Bangui for
16 Gbadolite before going on to Kampala.
- 17 So I do believe that I might be mistaken, because these are events that occurred a long
18 time ago and when recalling an event then, of course, one has a reference point in
19 time. But I do think that at that specific moment, when (Redacted) arrived in
20 Gbadolite before going on to Kampala, I am under the impression that I was in
21 Gbadolite, contrary to what I stated, because (Redacted) arrived in Gbadolite
22 before going to Bangui. This is an event that I recall now, because of course it dates
23 back quite some time and there were many successive events. It might have meant
24 that I was mistaken as to whether I was there on location or whether I was travelling,
25 because (Redacted) et cetera.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 And I do believe that at that moment when (Redacted) arrived, I believe that I saw
2 him in Gbadolite.

3 Q. Sir, I'm simply going to suggest to you that when General Bozizé took Bangui
4 you were thousands of miles away from Gbadolite. Do you agree with that or
5 disagree?

6 A. Well, I'd like to repeat myself again, counsel: During that period there was an
7 accelerated number of events and, for that reason - for this specific event - I might be
8 mistaken, but I told you that this reminded me of an event, notably that when
9 General Bozizé took Bangui there was a friend who was seeking medical treatment,
10 who had left Bangui in an emergency, in order to go back to Gbadolite. And that's
11 why I'm trying to -- well, I think that he found me in Gbadolite, or maybe coming
12 back from (Redacted) I found him in Gbadolite.

13 So, you know, I did move around a lot and it is difficult to know and to ascertain
14 precisely where I was when General Bozizé took Bangui. Was I in Gbadolite (Redacted)
15 (Redacted) And I do not see the importance, the particular importance of this, as
16 to where I was precisely when General Bozizé took Bangui because -- well, as to
17 whether I was in Gbadolite (Redacted), it doesn't mean to say that General Bozizé
18 was not in a position to take Bangui and I do not see what influence I would have had
19 upon the fact that he took Bangui on such-and-such a date or on another date. I
20 might have been in Gbadolite, or I might have been in (Redacted). All that I do know
21 is that (Redacted) which is what I remember only too correctly,
22 and I do remember that when there was the trial I was in attendance. I recall that,
23 but as to what -- when -- what was happening when Bozizé took Bangui, well, it's a
24 long time ago. I might have been a long way away or I might have been there, but
25 this is an event that we were aware of and we knew that only too well that from one

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 moment to the next the troops might withdraw because the situation was untenable.
2 Everyone was aware of that, unless of course you could clarify and tell me what
3 impact my distance were I to have been somewhere very distant would have had
4 upon the taking of Bangui.

5 THE INTERPRETER: Message from the English interpreter: Could the witness
6 please be requested to slow down. Thank you.

7 MR HAYNES:

8 Q. Sir, I wanted to ask you about the arrival of motor vehicles in Gbadolite. Did
9 you see any motor vehicles arrive in Gbadolite from the Central African Republic?

10 A. Arriving from Bangui, yes, I did see the vehicles arriving from Bangui in
11 Gbadolite.

12 Q. And when was that?

13 PRESIDING JUDGE STEINER: Mr Witness, I'm sorry to interrupt your answer.
14 The interpreters are asking you, please, to slow down a little bit. Thank you. I
15 interrupted your answer. You can continue.

16 THE WITNESS: (Interpretation) Yes, indeed, the vehicles which came from Bangui
17 and went to Gbadolite, well, I did see them because one of the vehicles had been
18 given to the General Staff. Another vehicle was taken to Gbadolite by (Redacted)
19 (Redacted) And when (Redacted) -- well, I don't know. In view of the fact that
20 we are in open session, could this be prejudicial in any way?

21 PRESIDING JUDGE STEINER: We can go into private session, if you feel more
22 comfortable with that. Court officer, please.

23 (Private session at 3.27 p.m.) * Reclassified as Open session

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

25 PRESIDING JUDGE STEINER: You can continue, Mr Witness.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 THE WITNESS: (Interpretation) Because Mr (Redacted) who was national
2 secretary in charge of finance, was in Zongo at one moment in time, living in Zongo.
3 That is opposite Bangui. And during that period the MLC troops were present in
4 the Central African Republic, and he was supervising virtually all of the customs
5 operations during this period between Bangui and Zongo, because Zongo is in DRC
6 opposite Bangui.
7 So he had also acquired a vehicle, this was a dual cabin vehicle, and the vehicle also
8 came to Gbadolite. As I said previously, Mr (Redacted) also went to
9 Bangui within part of the security operation and had returned with a small jeep.
10 So all of these vehicles had come from Bangui according to the information that we
11 received from the person in charge of the internal security office, and they were
12 obtained in virtually the same conditions. So these vehicles arrived in Gbadolite, yes,
13 they did, and we saw those vehicles which were there because as Gbadolite is a small
14 town one can easily see the vehicles, because many people did not have a vehicle in
15 Gbadolite.

16 PRESIDING JUDGE STEINER: Mr Haynes, can we come back into open session,
17 or --

18 MR HAYNES: I think we can, yes.

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

20 (Open session at 3.31 p.m.)

21 MR HAYNES:

22 Q. Sir, when did you see those vehicles? I'm very sorry. I've got too much of an
23 eye on the clock this afternoon.

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

25 MR HAYNES:

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 Q. When did you see those vehicles?

2 A. Well, I can't provide you with a precise date because the events that occurred
3 date back seven or eight years now. And when one moves around Gbadolite, or
4 when I moved around Gbadolite, I would come back to Gbadolite again. And when
5 those vehicles arrived in Gbadolite everybody - including myself - could see them.
6 It was during a certain period. And when (Redacted) arrived with his vehicle,
7 of course I'm still giving you names, I apologise, and when certain senior officials
8 arrived he arrived with his vehicle. He was virtually the last to arrive. Another
9 individual who left in the context of the security also came with his vehicle, and
10 another person came to serve as an escort, as I said last time.

11 When I was -- when I am asked when, well, then I have reservations in stating things
12 because, of course, these are events that occurred many a year ago and when one has
13 a position of multiple responsibility one moves around a lot and one does not pay
14 attention as to whether such-and-such a vehicle arrived on such-and-such a date.
15 We just saw the vehicles. It was not our main concern. And now, with the passing
16 of time, we are talking about this with hindsight.

17 Q. Sir, I'll use your term of phrase, "these senior officials." Did either of these
18 senior officials say to you "I stole this vehicle"?

19 A. Well, no one could have said "I stole a vehicle." What I have said is that there
20 was (Redacted) and I saw and I saw, and I told him
21 I had seen a group or a set of vehicles that had come in. And he said, yes, those are
22 the spoils of war and we have received them in Gbadolite -- we have seen them in
23 Gbadolite. I didn't say that any of them had said that they had stolen them.

24 Q. Thank you very much. Did you see any banks being robbed in the Central
25 African Republic?

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 A. I never testified or said that I saw any banks being robbed. What I said is that
2 some intermediaries -- that there were some intermediaries, and this information by
3 the way came from (Redacted) whereby it was said that some
4 money had been brought in by such-and-such a person, and this wasn't done openly.
5 So that is how we got to learn that such a transaction or an operation involving
6 money had taken place. I think I have just answered your question, and I have said
7 clearly - since we are in open session - that (Redacted) had said
8 that some banks had been robbed and that funds had been brought in. I did not say
9 that I saw this with my own eyes; I am simply telling you what I was told by the
10 (Redacted) He was the one who was aware and informed about
11 many things that were taking place.

12 Q. Did he say he had seen it with his own eyes?

13 A. With his own eyes? Well, he gave me the information and I didn't ask him
14 whether he saw it with his own eyes. What I am telling you is what he told me. He
15 was the (Redacted) he had his sources, and
16 clearly he must have been in touch with the person who brought in the funds. And
17 such a person, may I say, had been dispatched within the context of a security
18 operation and they must have shared that information within their security circles.
19 So I cannot say that he saw it with his own eyes, but I can say that he met the person
20 who had brought in the funds.

21 Q. Or he said he did?

22 A. What did you say?

23 Q. He said he had met the person who brought in the funds?

24 A. Yes, most naturally. Yes, when he came back to Gbadolite, yes, they met.

25 MR HAYNES: Thank you. Can we go into private session, please.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

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

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

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

4 MR HAYNES:

5 Q. Who is the (Redacted) talking about?

6 A. Are you asking about the person who brought in the funds or the one who gave
7 me the information?

8 Q. Well, I think you've mentioned three incidents in which an (Redacted)
9 was part of the information chain; somebody who told you about the cars, somebody
10 who told you about the banks --

11 A. Yes, yes, the person who talked to me about the vehicles, (Redacted).

12 Q. And the person who told you about the banks?

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. (Redacted)

17 (Redacted)

18 (Redacted)

19 A. Regarding the vehicles, I told you that I saw the vehicles with my own eyes.

20 Now, as for the information relating to the spoils of war, he actually did confirm it to
21 me. (Redacted) also confirmed the information, because he went -- he, too, had
22 been in Zongo and it is through Zongo that all that property was brought in. As for
23 the banks, as I have already told you, I have mentioned the name of the person who
24 gave me that information. It has never been my testimony that I ever saw those
25 banks being robbed. I have been consistent in saying that I obtained the information

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 about the banks being robbed from someone else.

2 Q. Sir, I want to move on now to the other -- other source of money you mentioned.

3 Were you yourself involved in the transfer of money from the Central African
4 Republic to the Democratic Republic of Congo?

5 A. No.

6 Q. Did you ever see any transfer of money taking place?

7 A. I have already answered that question. Now you are repeating the same
8 questions over and over. I have told you that I never said that I saw the money
9 being brought in. You asked me for the source; I have given you the source. Now,
10 why do you keep repeating the same question, have you seen, have you seen? I
11 have already told you that I did not see with my own eyes.

12 Q. Did the person who actually did transport the money tell you about it?

13 A. I have already answered that question.

14 Q. And the answer's "No," isn't it?

15 A. Regarding the Central African Republic? I have already told you that (Redacted)
16 (Redacted) talked to me about it.

17 Q. But didn't (Redacted) talk to you about it, too?

18 A. About what?

19 Q. About the bringing of money from the Central African Republic?

20 A. I do not remember whether he talked to me about it, but he talked more about
21 other items, other property, that came in from Bangui. (Redacted)
22 (Redacted)
23 (Redacted)

24 Q. Did you believe what he said about other people bringing property in?

25 A. Did I believe him? Well, he was in Zongo and he saw those things come

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 through, or go through, and there was no reason for me not to believe him.

2 Q. Well, I just want to have a look again at something you told the Office of the
3 Prosecutor during the course of your interview, and it's CAR-OTP-0034-0538 for the
4 witness and for those of us following in English 0490.

5 JUDGE ALUOCH: What number, please, of the document in your list?

6 MR HAYNES: Three, I think.

7 JUDGE ALUOCH: Thank you.

8 THE COURT OFFICER: Document CAR-OTP-0034-0509, second redacted version,
9 at page 0538, is available on the screens and it's a confidential document.

10 MR HAYNES:

11 Q. Sir, just take the opportunity to read that page, would you?

12 (Pause in proceedings)

13 A. I am done.

14 Q. Let me see if I can summarise the position, so far as money being brought to the
15 Democratic Republic of Congo is concerned. You never asked (Redacted)
16 whether he'd done any such a thing, did you?

17 A. I don't believe that I asked him whether -- or that I asked Bokolombe whether
18 he did -- he ever did any such a thing. By the way, I was not very close or that close
19 to him to be able to put such a question to him. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) Last time I was also indicating that these events

25 happened a long time ago. (Redacted) and he saw many things.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 (Redacted) also saw many things, but I have insisted on what I heard from
2 (Redacted) because he is the one who talked to me more about the traffic between Bangui
3 and Gbadolite. (Redacted) also shared some information with me about that,
4 although I focused in my statement more (Redacted).
5 In any event, the bottom line is that the shuttling between the two cities was a matter
6 that (Redacted) as well, although I have made more
7 reference to (Redacted). I know that at some point (Redacted)
8 that he did not have a hand in this thing, that he did not touch the money - the
9 money - but maybe when answering that question at that time I did not make that
10 very clear and involved him personally or directly.

11 Q. Unless I've got this wrong, other people suggested (Redacted) was
12 ferrying money and (Redacted) was ferrying money
13 and you never (Redacted) about it; is that it?

14 A. You are saying that other people suggested that (Redacted) had -- what are you
15 saying?

16 Q. Some people thought (Redacted) was bringing money back from the Central
17 African Republic; is that right?

18 A. Yes, that is what some people thought (Redacted) was not
19 involved in bringing back the money. What he said was that he simply (Redacted)
20 (Redacted) that is what (Redacted) but that those who were involved in the
21 ferrying or shuttling of money were -- the name that came up most often was that of
22 (Redacted)

23 Q. And the fact that his name came up most often is enough for you to tell this
24 Court that he was doing that, is it?

25 A. Enough? Well, what I'm doing is simply telling the Court what I learnt. Now,

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 whether it is sufficient or not is a matter for the Court to determine. So I have told
2 you that this is how I came by this information. (Redacted)
3 (Redacted) well, unfortunately we are talking about
4 people's names and when you ask these types of questions then we need to go into
5 further detail. It is true that I talked here more about (Redacted) but as we delve
6 deeper into the issue, and as I remember, as we discuss, then I can go on to say that
7 (Redacted) also talked to me about these things.

8 Now your question is whether this is enough. Well, I don't know. That's a matter
9 for determination. You are asking for a value judgment. All I can do is provide
10 you with the information. Maybe some day these people will be called to appear
11 before this Court and they will be in a position, by themselves, to provide further
12 information which may confirm or not the things that I am saying.

13 Now, when you ask me whether this is sufficient or whether it is enough, well, I don't
14 know. If I were the one who were involved in carting in this money, I would
15 probably have been in a better position to say, okay, yes, that is enough. But what
16 happened, in fact, is that I learnt about these things from people who had some
17 measure of responsibility and authority and who gave me the information. So when
18 questions were put to me in that regard, I was able to answer accordingly.

19 Q. Did it ever occur to you to say, "I just don't know whether money was being
20 brought back from the Central African Republic"?

21 A. That's not it at all. Now you are making an assessment. Now, when you say
22 that it occurred to you that you could say -- well, that's a value judgment, but what
23 I am telling you is simply what I learned, what I found out about. You see, you need
24 to know that, as I said before, ours was a political and military movement whose
25 purpose was to participate in the exercise of power within the context of the

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Private Session)

ICC-01/05-01/08

1 Inter-Congolese dialogue and talks.

2 So what we needed to do, which we did, was supposed to be centred and focused on
3 the DRC but we were surprised that twice - on two occasions - interventions were
4 conducted in a foreign country outside of the DRC. Was this an altruistic pursuit?

5 I don't know. Why were these soldiers put at so much risk without any
6 corresponding purpose that one may only imagine to have been an operation that
7 was conducted in the CAR outside the scope of our political agenda and our political
8 programme which was actually geared towards the setting up of institutions within
9 the Democratic Republic of the Congo through consensus? That is why I think that
10 there must be some truth in what was being said, because we were surprised that
11 such interventions should have been undertaken. What were we doing in Bangui?
12 What were we doing in the Central African Republic? The deep reasons for the
13 intervention were not given to us. I am not sure that it was only for a totally
14 altruistic purpose that those interventions took place.

15 Q. Well, I'm going to come on to that because you made that particular speech a
16 number of times, but just let me ask this: How do you think (Redacted) would
17 react if he knew you were suggesting these things about him?

18 PRESIDING JUDGE STEINER: Yes, Ms Bala-Gaye?

19 MS BALA-GAYE: Madam President, we object to that because it is calling into
20 speculation what another witness would say about this witness's testimony. We
21 think it's inappropriate.

22 PRESIDING JUDGE STEINER: Sustained.

23 MR HAYNES:

24 Q. Where were you when the intervention took place in 2001?

25 A. I think you put that question to me yesterday. (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 MR HAYNES: Can we go into public session, please.

2 PRESIDING JUDGE STEINER: Court officer, please.

3 THE WITNESS: (Interpretation) I do believe we are in private session.

4 PRESIDING JUDGE STEINER: We are going to open session, Mr Witness.

5 (Open session at 4.01 p.m.)

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

7 MR HAYNES:

8 Q. Do you know in what month it took place, the intervention in 2001?

9 A. Well, I don't think I can say precisely because I had (Redacted) as I told
10 you previously, in the month of February 2001. I returned on the first occasion to
11 Gbadolite in the month of September 2001, and when those events occurred I was in
12 (Redacted) I don't think I can say precisely when, but of course these events did occur,
13 yes.

14 Q. Do you know how long the operation lasted for?

15 A. This operation did not last very long. Comparison -- in comparison to the
16 second operation, the operation in 2001 did not last very long. As to how long --

17 THE INTERPRETER: The witness's answer trails off.

18 MR HAYNES:

19 Q. Do you know who commanded the operation?

20 A. (Redacted) when the first operation occurred. As to who commanded it, I
21 do not know precisely who commanded that operation. What I do know is that
22 (Redacted) commanded the second operation.

23 Q. I'm coming on to the second operation in a minute. Do you know what size of
24 force was used to intervene?

25 A. Once again, and I shall repeat myself, (Redacted) and I really do not see the

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 relevance of this question in attempting to ascertain the size. What relevance would
2 the size have to me? I know that there was an operation, I was not directly involved
3 in that operation, all I do know is that the MLC soldiers intervened in Bangui in order
4 to save President Patassé against the coup d'état that had been led by General
5 Kolingba and the troops remained behind for some time and came back once General
6 Kolingba's troops had fled. As to the precise size, I do not know.

7 Q. And do you know to what extent that intervention was the subject of political
8 and military discussion within the MLC before the force was deployed?

9 A. Political discussions within the MLC? Well, I did not get wind of any such
10 discussions with relevance to the first operation. All I do know is that President
11 Patassé had strengthened relations with the president of the MLC and that the
12 president of the MLC had decided that this intervention would occur, because of
13 course subsequently (Redacted) and the others and I was told that
14 a political discussion had occurred on the subject and also on the subject of the
15 second intervention, as well.

16 Now, in view of the fact that (Redacted) if you have any documents that I might
17 not have had access to relevant to the discussions and deliberations of the executive
18 committee of the MLC on the subject of that intervention, you might be able to
19 present them to me and then I would be in a position to say to you that there was
20 such-and-such soldiers or there were such-and-such facts that could render those
21 documents authentic or not.

22 Q. No, thank you, I think that's a sufficient answer to the question. In relation to
23 the second operation - that's the operation you say took place in July 2002 - were you
24 aware of the extent to which the staff planned the operation to deploy an MLC unit in
25 the Central African Republic?

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 A. The extent of the staff, well, I didn't take part in planning the operation. I
2 wasn't part of the chain of command. I merely know that for the second operation it
3 was far wider in scope than the first. If we were to conjecture, maybe we can move
4 on. I do not know whether it was a battalion or larger. It might have been between
5 700 or 1,000 soldiers, because I know that at the time President Patassé had hardly
6 any soldiers himself. I'm just saying this, but I didn't take part in the planning of
7 this operation and nor did I take part or was I any link within the chain of command.
8 I might be able to give you a few figures, but of course these should also always be
9 looked at carefully because what I do know is that this second operation was far
10 larger than the first.

11 Q. So, according to you, were there planning meetings involving the staff and the
12 political wing of the MLC before the second deployment, or not, or do you not know
13 either way?

14 A. As to whether there were any meetings before the deployment, well, during a
15 military operation the person in charge would decide. Of course he doesn't do
16 everything, he can give instructions to his colleagues during the implementation
17 phase, but the decision was taken and it wasn't a concerted decision, I believe. It
18 was not a concerted decision. What I mean is that there was no meeting where
19 the -- it wasn't the type of meeting where the person in charge says to his co-workers,
20 "Do you think we should intervene or do you not?"
21 No, the person in charge had decided, had made a decision, and if you read the book
22 written by the president of the MLC entitled "Le choix et liberté" "Choice and
23 Freedom," it is clearly indicated that President Patassé had called him in order to say
24 that he had come under threat and he asked for his support and he decided to
25 support him.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 So the decision to intervene came from him and, quite naturally, when implementing
2 such a decision he had people working with him who received instructions, orders,
3 for the movement of troops because General Amuli was complaining. He said,
4 "There are certain things that are going on, and I am not being consulted," and he
5 complained about the Mambasa operation to which he was very clearly opposed, but
6 it still went ahead without him, and the same applies to Bangui. He had no choice in
7 the matter; the decision had already been taken.

8 Q. Sir, I'll be more explicit with you: We've received certain information during
9 the course of this trial that a series of such meetings did take place involving the staff
10 of the ALC and its senior political figures. Do you say that information is wrong,
11 that information is right, or do you not know?

12 A. I do not know what your sources are, because you say that you heard this fact
13 from -- based on the facts that you have involving senior political figures and senior
14 General Staff members. I'm saying that I never took part in a meeting within the
15 political framework and never did I -- and nor did I hear a senior political figure
16 saying that any meetings were held during which a decision would have been taken
17 to send troops into the Central African Republic. If you have any information to the
18 contrary, you might have your sources, maybe you have names to give, names of
19 officers who took part in military wing meetings. You might also have the names of
20 officers who took part in the political wing meetings, and then you would be in a
21 position to put that very question to them as to whether they took part in a meeting in
22 which I was not in attendance, but I was never aware of any meetings that occurred
23 in order to decide whether to send troops there or not.

24 As I said, and I shall repeat myself, your client in his book "Le choix de la liberté,"
25 "The Choice of Freedom," says he was called by the president of the CAR who asked

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 him to intervene to support him and that, subsequently, he took the decision to
2 intervene. As to whether there were any meetings subsequently at the military or
3 maybe political level, well, some senior officials might have taken part but I do doubt
4 it.

5 PRESIDING JUDGE STEINER: Mr Haynes, if you'll allow me. Mr Witness, we are
6 making an effort - the Defence is also making an effort - for your testimony to be
7 concluded today, but for that we need that you help us and give short and direct
8 answers to the questions put to you; otherwise, we will not be able to conclude as we
9 want. So I just, please, ask you to make an effort to be quite concise and direct in
10 your answers and then you will be helping us and yourself, too, to finish to conclude
11 your questioning today. Thank you. Mr Haynes.

12 MR HAYNES: Thank you, your Honour.

13 Q. Sir, did you have any knowledge of the other forces deployed in the Central
14 African Republic at that time to assist President Patassé?

15 A. There were Libyan forces.

16 Q. Did you have any knowledge or understanding of how the various forces sent
17 to the Central African Republic were co-ordinated?

18 A. I know that towards the end there was the CEMAC forces, the CEMAC forces
19 that came with the aim of replacing the MLC troops, of course with the exception of
20 the Libyan forces.

21 Q. Did you have any knowledge or understanding of the command structure in
22 place in relation to these various forces in the Central African Republic?

23 A. To my knowledge, the Libyan forces had come -- and, of course, I do apologise
24 to Madam President because these are questions that do require clarification. To my
25 knowledge, the Libyan forces intervened with a view to ensuring, or guaranteeing,

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 the personal and physical security of President Patassé.

2 Now, in order to repel Bozizé's forces out of Bangui, out of the CAR, the MLC forces

3 were then brought in. On an international level there had been recriminations

4 against the MLC forces. So the MLC had to withdraw, and President Patassé had

5 requested that CEMAC help him. However, this did not come off because as soon as

6 the MLC forces left Bozizé's forces took the capital. That is the clarification I can

7 provide in this regard.

8 Q. Sir, I have to say I thank you very much for that. Do you have any knowledge

9 of how the various forces in the Central African Republic were resupplied there

10 during the course of the operation?

11 A. I know that the MLC forces were supplied, for the most part, by Libya. To my

12 knowledge Colonel Qadhafi, who was the Libyan Head of State at the time who held

13 very good relations with Mr Jean-Pierre Bemba, intervened in order to send troops

14 and he had guaranteed that he would send both weapons and ammunition.

15 Now, as I said, the CEMAC came a lot later, virtually towards the end, when the

16 MLC were readying themselves to leave the CAR hurriedly. As for the supply of the

17 troops, I would not be in a position to give you much information.

18 Q. Okay. Just two more, if we can quickly deal with that in two or three minutes.

19 Did you have any knowledge of what communications centre was set up in relation

20 to the forces defending President Patassé?

21 A. Communication centre? Well, I do know that, as I said, when the Libyan

22 forces arrived they were very few in number and it was really to guarantee the

23 personal safety of President Patassé, first and foremost, with air cover, and then

24 the -- really the bulk of the troops was the MLC, after which this CEMAC arrived

25 later.

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 As for communication between the forces, well, the CEMAC was deployed when the
2 MLC troops were withdrawing. There might have been a connection between the
3 Libyan forces, who were guaranteeing the president's security, President Patassé, and
4 the MLC forces who were repelling the attacks from the Bozizé -- from Bozizé's
5 troops, maybe.

6 Q. And, lastly, do you have any understanding of what intelligence was provided
7 to the MLC troops as to the positions and state of the enemies of President Patassé?

8 A. I know that the MLC intervention at the time was benefiting from the military,
9 logistical and communications support of Colonel Qadhafi. Apart from that you
10 might have further information to provide, but I'm telling you what I know.

11 MR HAYNES: Thank you, sir, and at just before half-past-4 I'll stop.

12 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. The Chamber appreciates
13 that you were able to conclude your questioning of the witness, but we need,
14 Mr Haynes, to put to you a question.

15 In the list of evidence the Defence pointed out its intention to submit into evidence
16 items 20, 27, 48 that were used yesterday and documents 23 and 50 used in today's
17 hearing, so I want to confirm whether the Defence intends to tender these documents
18 into evidence?

19 MR HAYNES: Your Honour, yes. Any document we used with the witness in
20 questioning him, we do intend to tender into evidence. If not used, we don't.

21 PRESIDING JUDGE STEINER: I suppose the Prosecution has no objection, since no
22 objection was raised at the beginning of the hearing?

23 MS BALA-GAYE: Sorry, just 30 seconds, Madam President, so we can confer.
24 (Pause in proceedings)

25 PRESIDING JUDGE STEINER: So while the Prosecution is conferring -- ah,

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 Ms Bala-Gaye.

2 MS BALA-GAYE: Madam President, can we on an exceptional basis return to this
3 question perhaps tomorrow morning, if that's agreeable with the Chamber? We
4 need to look at one or two documents in a bit more detail.

5 PRESIDING JUDGE STEINER: Ms Bala-Gaye, the purpose of the filing of the list of
6 evidence in advance is exactly to give to the parties opportunity to raise objections at
7 the beginning of the hearing.

8 I ask whether Mr Haynes agrees with, as an exception, that if any objection comes it
9 can come by way of email, or later on?

10 MR HAYNES: Your Honour, when you conclude an examination of a witness at
11 28-minutes-past-4, I'm not going to insist that the Prosecution be forced to make their
12 position plain now and a notification in writing in due course in these circumstances
13 will suffice.

14 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. And just for clarity, you
15 mentioned that you would ask for tendering into evidence any documents used in the
16 questioning of the witness. May I include -- may I understand that you are
17 including the statements as well, or not?

18 MR HAYNES: No.

19 PRESIDING JUDGE STEINER: Okay. Just for clarity.

20 Mr Witness, thank you very much. Your testimony before this Court has been
21 concluded, but before you leave the Court the Chamber would like to express its
22 thanks for the time and trouble you had to come to this country and give evidence at
23 this trial.

24 In order for the Judges of the Court to find the truth, it's crucial that witnesses - like
25 yourself - are prepared to give evidence and to assist us in the relevant issues in the

Trial Hearing
Witness: CAR-OTP-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 case. We are aware that this must certainly have been very inconvenient for you,
2 due to your professional and family obligations.

3 You, therefore, leave us with our thanks, the thanks of the International Criminal
4 Court, in order to go home and the wishes of the Chamber are that you have a safe
5 journey back to your country.

6 Before we adjourn this session, we still have two or three minutes that we would like
7 to ask you whether you have something, or anything, that you would like to address
8 to the Chamber. You have the floor.

9 THE WITNESS: (Interpretation) Thank you, Madam President. I don't know
10 whether you want me to speak now. Here, now, or later? You say anything
11 I would like to discuss with the Chamber.

12 PRESIDING JUDGE STEINER: I'm asking whether now, at this moment, before we
13 adjourn you would like to address any issue to the Chamber.

14 THE WITNESS: (Interpretation) Thank you, Madam President, for the very kind
15 words extended to me. I have concluded my testimony. Allow me to tender my
16 apologies and excuses if on any events or any points I was not able to provide the
17 requisite clarification.

18 These things happened many years ago, in quick and rapid succession, and one is
19 want to forget. That can happen. Issues may be mixed up or confused. The
20 chronology of events might not be very clear, particularly regarding dates. I do
21 acknowledge that I struggle with dates. I cannot remember all dates relating to the
22 rapid sequence of events. I may recall events much more easily than I do recall
23 dates but, in any event, I have done any level best to provide the explanations that
24 I could. Thank you, Madam President.

25 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. I always want

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0045

1 to thank the Prosecution team, legal representatives of victims, the Defence team,
2 Mr Jean-Pierre Bemba Gombo. I would like to thank very much interpreters and
3 court reporters, that not only gave us extra sitting hours but are very indulgent with
4 this small delay in the conclusion of this hearing.

5 I inform the parties and participants that we will resume tomorrow morning at 9.30 to
6 start with the testimony of Witness 44.

7 I will ask, please, court officer to turn into closed session in order for the witness to be
8 taken outside the courtroom. In the meantime, we will adjourn and resume
9 tomorrow morning at 9.30.

10 Court officer, please.

11 (Closed session at 4.34 p.m.) * Reclassified as Open session

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

13 (The witness is excused)

14 THE COURT OFFICER: All rise.

15 (The hearing ends in closed session at 4.35 p.m.) * Reclassified as Open session

16 RECLASSIFICATION REPORT

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

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