

Trial Hearing
Witness: CAR-OTP-PPPP-0015

(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 Judge Kuniko Ozaki
6 Trial Hearing
7 Monday, 13 February 2012
8 (The hearing starts in open session at 9.34 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are
12 in open session.
13 PRESIDING JUDGE STEINER: Good morning. Could, please, court officer call the
14 case.
15 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
16 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
17 PRESIDING JUDGE STEINER: Thank you.
18 Good morning and welcome the Prosecution team, Maître Zarambaud, Defence team,
19 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters, court reporters.
20 We will continue today with testimony of Witness 15. Before I ask court usher to
21 bring the witness in, my question is to Mr Haynes on whether there is any estimation
22 on the length of Defence questioning of the witness?
23 MR HAYNES: Your Honour, as I said last week, I think I'll finish today, whether it's
24 before or after lunch I'll know a little better when we've asked a few questions.
25 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

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1 According to Chamber's decision, the testimony of Witness 15 is taken in full closed
2 session. Therefore I ask, please, court officer to turn into closed session in order for
3 the witness to be taken -- to be brought into the courtroom.

4 *(Closed session at 9.36 a.m.) Reclassified into open session.

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

6 (The witness enters the courtroom)

7 WITNESS: CAR-OTP-PPPP-0015 (On former oath)

8 (The witness speaks French)

9 PRESIDING JUDGE STEINER: Mr Witness, good morning.

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

11 PRESIDING JUDGE STEINER: Welcome back to the courtroom. Are you ready to
12 continue with your testimony?

13 THE WITNESS: (Interpretation) I'm ready, your Honour.

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

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

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

18 MR HAYNES: Thank you, your Honour, and good morning to you and everybody
19 in the courtroom.

20 QUESTIONED BY MR HAYNES: (Continuing)

21 Q. And good morning to you, sir.

22 A. Good morning, Counsel.

23 Q. Sir, when we concluded on Friday afternoon we are talking about the reporting
24 of events in the Congo and the Central African Republic by Radio France

25 Internationale, and I just have one question to conclude that section of my questions

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1 for you and that is did you ever hear on Radio France Internationale or indeed any
2 other radio station allegations of abuses committed by the forces of General Bozizé?

3 A. Counsel, it was more accounts about Miskine's troops who were being criticised
4 more than others. I have a very vague recollection of some specific report by RFI,
5 but there was one particular note regarding the Banyamulengue and the presence of
6 Miskine. As for Bozizé's troops, the tone was not nearly as strong on RFI.

7 Q. Thank you. Now, I want to move away from that and just highlight some
8 evidence you've already given about the response that the MLC took to these reports
9 on RFI, and I'm going to start briefly with what was done about allegations that
10 centred on Ituri and I'm going to ask the court officer, please, if we can have a look at
11 Defence document number (Redacted) to start off with, please.

12 THE COURT OFFICER: Document CAR-DEF-(Redacted) is available on the screens
13 and it's a public document.

14 MR HAYNES:

15 Q. Sir, this is quite a short document. Can you let me know when you've read it
16 through?

17 (Pause in proceedings)

18 Sir, I just wonder if you could tell us what this letter is and place it into the context of
19 events in January 2003?

20 A. I believe, Counsel, that President Bemba sent a letter to the president of Avocats
21 Sans Frontières, Lawyers Without Borders, that is the subject of this correspondence
22 dated 23 January, and in this letter he confirmed that he was in agreement and that
23 Avocats Sans Frontières could provide assistance to both the detainees and the civil
24 parties involved in this lawsuit, or this trial rather, in Gbadolite.

25 At the time there was a representative in Kinshasa, Mr José Endundo it must have

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1 been, and he had been in contact to ensure that these lawyers would be present at the
2 trial in Gbadolite and he wanted to ensure that these lawyers from Kinshasa would be
3 associated with the trial. Their arrival in Kinshasa was obstructed at the time by the
4 person in charge in Kinshasa, who did not want lawyers from the Kinshasa Bar to be
5 going to Gbadolite. As well, the general commissioner responsible for human rights
6 and institutional reform - (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted). So he was the one who was to make the

11 arrangements so that Lawyers Without Borders could take part in the trial that had
12 been organised.

13 You asked me to give you some context. You see, the MLC wanted to ensure
14 transparency regarding the events that had occurred in Ituri and that transparency
15 depended on lawyers from the Kinshasa Bar being present, and the MLC also wanted
16 to engage in the political game, so to speak, because the president of the republic was
17 the supreme magistrate and it would be difficult, you see, to ask for assistance from
18 Kinshasa lawyers given that we did not report to Kinshasa from an administrative
19 point of view. So it was sort of a request for co-operation that was going to put the
20 Kinshasa authorities in an awkward situation, so that was the context of this letter, sir.

21 Q. Thank you. I don't think there is anything else I want to ask you about that.

22 Can we take that document from the screen, please, and have a look at Defence
23 document number 40 next?

24 THE COURT OFFICER: Document (Redacted) is available on the screens
25 and it's a public document.

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1 MR HAYNES:

2 Q. Sir, once again can you read that through to the bottom and indicate when you
3 have finished doing so?

4 (Pause in proceedings)

5 Sir, a letter of 17 February from you to the special representative of the
6 Secretary-General of the United Nations. Can you tell us what that letter is about
7 and place that again into context?

8 A. Well, Counsel, as I said earlier, (Redacted) trial to be covered widely and,
9 (Redacted) complete transparency and that is why (Redacted)
10 (Redacted) that lawyers be assigned to defending the detained
11 people, the accused, and (Redacted) journalists to be able to cover the trial;
12 journalists from Kinshasa. Why? Because media coverage of the alleged acts of
13 violence and abuse, allegations made by the MLC troops, the allegations had been so
14 vivid and the fact that they had been accused even of cannibalism had really affected
15 public opinion, and so it was important to focus particularly on the trial.
16 Consequently, everything was put into place so that lawyers and journalists would be
17 able to come to Gbadolite, and the only means of transportation was the MONUC
18 flights, the flights that were conducted to provide supplies to their forces in Gbadolite.
19 Now, I don't know whether it was us or the lawyers of the government who used this
20 only means of transportation to get to Gbadolite. The lawyers and the journalists
21 had been seen off the plane by the MONUC forces and we were exerting pressure on
22 MONUC to ensure that these lawyers and journalists would be able to come. As I
23 said earlier, there was a bit of trickery -- well, not trickery, but it was a political point.
24 We had scored a point against Kinshasa, because in the meantime, as you know, we
25 had signed all the reunification agreements, but the agreements had not yet been

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1 implemented, and as you can see from this letter - (Redacted) - the free
2 circulation of people throughout the territory, the free circulation of any Congolese
3 citizen, that should have been the rule. I can guess that the authorities in Kinshasa
4 expected that we were going to present them with a fait accompli and as such they
5 would be forced to recognise Jean-Pierre Bemba's reign over the territories controlled
6 by the MLC, but this was a very delicate point for a government to recognise the
7 control - the reign - of a rebel that is opposed to the government. So really it was a
8 political game being played here, quite a subtle one that went far beyond the arrival
9 of lawyers in Gbadolite. It was a way of putting pressure on MONUC. (Redacted)
10 (Redacted). This letter was about
11 prohibiting access to the flights and, you see, it put MONUC in an extremely delicate
12 position, so I think this is what we can gather from this letter (Redacted) for a
13 special flight to be organised as quickly as possible.
14 Now, you asked me about the general context. That was the general context of this
15 letter, (Redacted). The trial was to begin on the 20th or the 21st.
16 MR HAYNES: Thank you, and the Defence will tender that document into evidence.
17 For the record, it is (Redacted). It can be removed from the screen now and,
18 when convenient, it can be replaced with Defence document 25, please.
19 THE COURT OFFICER: Document (Redacted) is available on the screens
20 and it's a public document.
21 MR HAYNES:
22 Q. Sir, this is a slightly shorter letter. Can you look through it, please, and
23 indicate when you have digested it?
24 (Pause in proceedings)
25 Another letter (Redacted).

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1 What is this all about?

2 A. Counsel, as I previously mentioned, pressure was brought to bear on MONUC
3 when its flights were banned and this yielded a number of results or consequences.
4 The letter of (Redacted), which we read a short while ago, received a reply - a prompt
5 reply - from the representative of the Secretary-General (Redacted). (Redacted)
6 (Redacted). In any event, all points
7 to the fact that MONUC as a result of all these things was bound to publish a press
8 release indicating its neutrality as a result of the pressure that had been brought to
9 bear upon it.

10 Secondly, our action also put the Kinshasa authorities in a difficult position, at least in
11 the public eye, to the extent that it forced them to release those lawyers in order to
12 come across as not obstructing matters of transparency and the Inter-Congolese
13 dialogue, so the idea that we sought to achieve was to indicate that they were not in
14 the way of these processes and so that is why it was necessary for the authorities in
15 Kinshasa to respond to this issue of not releasing the lawyers. So we felt that it was
16 a dictatorship that we were fighting against, whereby the lawyers were denied the
17 possibility of travelling by plane. We denounced that fact and in so doing MONUC
18 was bound to again confirm its impartiality, and we placed this matter in the public
19 eye; namely, that it was not the rebellion that was not acting in total transparency and
20 that it is -- it was not the position of the rebellion not to operate according to the rule
21 of law and that it was Kinshasa itself which was in the way. So this is the position
22 that the MLC had taken at that time.

23 MR HAYNES: Thank you very much, and the Defence will tender that document
24 into evidence. For the record, it is (Redacted). It can be removed from the
25 screen now, please, and replaced with Defence document (Redacted).

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1 PRESIDING JUDGE STEINER: Mr Haynes, just for make it sure, you are tendering
2 the documents, or you will tender the documents, just for the sake of clarity?

3 MR HAYNES: I am tendering them as I use them, because this is a very long list and
4 so to be clear I will tender them as I use them.

5 THE COURT OFFICER: Document (Redacted) is available on the screens
6 and it's a public document.

7 MR HAYNES:

8 Q. (Redacted)

9 A. (Redacted)

10 (Redacted)

11 Q. (Redacted)

12 (Redacted)

13 A. (Redacted).

14 Q. (Redacted) can we go to

15 the last page of the document, please? Would that be right that it was drafted or
16 produced on (Redacted)

17 A. Yes, Counsel, you are right when you take it that it was (Redacted)
18 (Redacted)

19 (Redacted) the representative of the Secretary-General of the
20 United Nations in which we stated the situation prevailing at the time. You've
21 always -- you've always asked me to provide a context and so I would provide it now;
22 namely, that we were seeking maximum transparency in the handling of this file
23 because we felt that this was crucial in preserving the credibility of the MLC,
24 particularly regarding the national public opinion as well as the credibility of the
25 MLC in the eyes of all the parties involved in the Inter-Congolese dialogue, including

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1 the facilitators' office and MONUC. It is for these reasons, and in answer to your
2 question, that I believe that (Redacted).

3 Q. Thank you. Just a couple of questions about the trials themselves and this
4 report. I think you've told us the trials were public. About how many people
5 attended them on a daily basis, do you recall?

6 A. Counsel, (Redacted). However, President Jean-Pierre
7 Bemba (Redacted) refurbish a room in the only hotel in Gbadolite at the
8 time. MLC resources were used to refurbish that hall so that it could then be used as
9 a courtroom in which the public would be able to attend. However, I don't have the
10 numbers of persons who may have attended, but there was a desire for the press and
11 the media to be present. But, you see, it was such a rare event that one can only
12 think that it was very highly attended, so to speak, in Gbadolite.

13 Q. Thank you. And do you recall to whom (Redacted) was made available?

14 A. I really cannot say, Counsel. This document was drafted. It was a public
15 document accessible to all and sundry. Let me remind you that we had decided to
16 use all possible resources to clear the name of the MLC, particularly in view of the
17 image that its enemies and other opponents wanted to project of it, (Redacted)
18 (Redacted)
19 (Redacted) to send it to the necessary quarters.

20 I am not in a position today to tell you (Redacted) the document specifically to.
21 However, the document does exist. I know that it was also summarised and sent
22 either to the Secretary-General of the United Nations or to the representative of the
23 Secretary-General of the United Nations. In any event, what (Redacted)
24 (Redacted) does exist and the idea was to clear the name of
25 the MLC in view of the charges that were brought against the movement at the time.

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1 MR HAYNES: Thank you very much, sir. And despite the fact the list of
2 documents indicates "No," I would like to tender that document, please, into evidence.
3 It is (Redacted) and it can be removed from the screen now. Thank you.

4 Q. Sir, now the events we have been talking about, (Redacted)
5 (Redacted) we have been talking about, took place in late January and February of
6 2003 at (Redacted); is that correct?

7 A. That is correct, Counsel.

8 Q. (Redacted)

9 A. (Redacted).

10 Q. (Redacted)

11 (Redacted)

12 A. (Redacted).

13 Q. (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. Thank you very much. Do you know, or were you familiar with, a man called
19 Colonel Raymond Mondonga?

20 A. I was not familiar with the officers but, yes indeed, I met Colonel Mondonga
21 without having any special relations with him.

22 Q. When you say you met him, was he somebody you met just once, or you met on
23 several occasions around Gbadolite?

24 A. Counsel, Gbadolite is not a very big place. Colonel Mondonga, clearly I must
25 have met him on several occasions, but he was not one of the officers (Redacted)

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1 (Redacted) so I don't have any recollections of him as such. In any event, I know him
2 to have been a member of the MLC.

3 MR HAYNES: Well, I'm going to put a document on the screen (Redacted)
4 (Redacted). It's Defence document (Redacted) -- I'm sorry, (Redacted)

5 THE COURT OFFICER: Document CAR-DEF-(Redacted) is available on the screens
6 and it's a public document.

7 MR HAYNES:

8 Q. Sir, it shouldn't take you very long to read this. This is just the front sheet.

9 (Pause in proceedings)

10 Did you ever hear the name Lieutenant Willy Bomengo?

11 A. No, Counsel. He was not one of the people whom I knew.

12 Q. And did you ever hear anything about an operation called "Open Skies" in
13 Bangui?

14 A. No, Counsel. This is the first time I am hearing the name -- the code-name of
15 such an operation.

16 Q. (Redacted)

17 (Redacted)

18 A. (Redacted).

19 MR HAYNES: Thank you very much. Can we now remove that document from
20 the screen, please, and go to Defence document (Redacted), please?

21 THE COURT OFFICER: Document CAR-DEF-(Redacted) is available on the screens
22 and it's a public document.

23 MR HAYNES:

24 Q. Sir, this is a two page document. It may take you a little longer to read it, but
25 would you follow the usual procedure and ask for the page to be moved over when

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1 you've read that and then tell me when you've finished reading it? I think the
2 witness is looking for some assistance of some description.

3 (Pause in proceedings)

4 Sir, are you familiar with the organisation, the Fédération internationale des droits de
5 l'Homme?

6 A. Yes, the IFHR, or FIDH, in French, was one of our main accusers at the time,
7 particularly because its president had made a statement at the time over RFI in
8 particular and I know that the FIDH was given a lot of coverage as it attempted to be
9 the voice of the Central African victims.

10 Q. And so to place that into context, do you understand why Mr Bemba would
11 address this letter to the president of that organisation?

12 A. President Bemba thought it would be useful to have a discussion with the
13 president of the IFHR, a telephone conversation, and I believe that that telephone
14 conversation did occur as is mentioned in this letter. It's also clear that the presence
15 (Redacted)

16 (Redacted), considerably helped President Bemba, helped him find the right terms to
17 deal with these accusations from the IFHR, and for the MLC (Redacted) it was
18 important for President Bemba to demonstrate that he had not remained indifferent to
19 the accusations of -- well, the events in Bangui and he needed to show that he had
20 responded as soon as he had learned of these accusations, and so (Redacted)
21 were of the opinion that it was important to respond and that a response had to be
22 given to these people who were accusing the MLC of acts of violence and abuse.

23 And I think you'll note that this letter was drafted on 20 February. It sets out the
24 entire background of what occurred in the Central African Republic and on
25 20 January, and probably the date that coincides with the trial of the -- regarding the

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1 events in Ituri, in Sibut. So, you see, they wanted to use every means at their
2 disposal to show -- correction, (Redacted) to use every tool at our disposal to prove
3 that we were being transparent. And so this letter was sent to the president of the
4 FIDH and this was at a time when people were becoming much more aware of the
5 danger that the MLC was running by remaining indifferent or not providing any sort
6 of reaction to the two situations, the one in Ituri and the other in the Central African
7 Republic.

8 Q. And what in particular by way of assistance did the MLC want from FIDH?

9 A. The FIDH was becoming a stakeholder and was starting to act on behalf of the
10 victims of the acts of violence and abuse, and the MLC was looking for co-operation
11 with the FIDH. As you can see in this letter here President Bemba wanted the truth
12 to be revealed about what had happened in Bangui, and so this was in addition to the
13 request that was made to the representative of the United Nations, that document that
14 we looked at earlier. So the provisions, well, the -- were prepared by (Redacted)
15 (Redacted) for President Bemba, and I would remind you that (Redacted)
16 (Redacted) very careful to provide proper guidance to
17 President Bemba to warn him of the danger and the need to be extremely careful,
18 meticulous, when providing responses to those who were accusing the MLC. So this
19 is what this letter is all about and this is the reason for this request to the FIDH.

20 MR HAYNES: Thank you very much. We no longer need to look at that document,
21 but can we please have a look at the next document in sequence, Defence document
22 number (Redacted)?

23 THE COURT OFFICER: Document CAR-DEF-(Redacted) is available on the screens
24 and it's a public document.

25 MR HAYNES:

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1 Q. Sir, you know the drill. Read it through and let me know when you've
2 finished.

3 (Pause in proceedings)

4 Sir, just a couple of questions about this document. Firstly, we see it's dated
5 26 February 2003 and appears to have come from an unspecified address in Paris.

6 What do you know about the Fédération internationale des ligues des droits de
7 l'Homme about, as it were, who is responsible for funding it, for example?

8 A. I don't have information, nor do I have any specific information about the FIDH,
9 or any information about its funding, but I would point out the last paragraph in
10 which the FIDH informs President Bemba of the reasons why the matter was brought
11 to the attention of the International Criminal Court. Specifically, I really don't have
12 any specific answer to your question.

13 Q. Well, you may have answered my next question, which was how would you
14 characterise the response of the FIDH to Mr Bemba's request for assistance?

15 A. Counsel, this is a refusal on the part of the FIDH which can be easily understood.
16 It would be difficult for an institution or an organisation that is intended to promote
17 human rights to co-operate with a rebellion. That would be quite a precedent,
18 wouldn't it, in the history of rebellions? So one can understand why this refusal was
19 given by the FIDH which asked the ICC to look into this matter and encouraged the
20 MLC not to deal with it, but rather to deal with the ICC. So I think this is how we
21 can see the answer and we can also see that the FIDH had doubts about the MLC's
22 abilities to ensure justice and to provide restitution for the acts that were committed.
23 So, you see, really, this is a refusal on the part of the FIDH, Counsel.

24 Q. Thank you. I just want to draw together the strands of what we have been
25 talking about. Do we understand from your evidence that Mr Bemba's responses to

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1 the news reports on RFI about events in the Central African Republic were things
2 about which he received advice from politicians and lawyers within the MLC?

3 A. Of course, Counsel. I am saying that President Bemba did receive advice from
4 the men he trusted within the MLC and he was very concerned. In particular, he
5 was concerned about the fact that the ICC was being made aware of these events.
6 This was one of the topics of (Redacted) their
7 conversations with President Bemba.

8 Q. And within the context of that advice (Redacted)
9 (Redacted) that an investigation was ordered in November, that the United Nations
10 were written to in January and the FIDH were written to in February. Were they all
11 things that were discussed and it was decided he should do?

12 A. Well, that is the meaning that we see here in this long account. This is not a
13 banal or pointless piece of correspondence. It was prepared with the assistance of
14 (Redacted).

15 Q. And these steps were considered to be an appropriate and a commensurate
16 response to the accusations that appeared on the radio, weren't they?

17 A. Well, that response was very subjective. Was it sufficient? I would say, just
18 like the Ituri report, these replies did exist and so they were out there. Were they
19 sufficient? Well, that's a difficult question to answer.

20 Q. Thank you very much. We're now going to leave this topic and move on to
21 something quite different. Sir, I want to talk to you now about ranks within the
22 MLC army. I want to see if you agree with me that the question of the ranks which
23 were given to soldiers at all levels within the MLC movement was intrinsically linked
24 to the negotiation process and the unification of the various movements in the
25 Congo?

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1 A. Counsel, once again the context is important. The awarding of those ranks was
2 done in light of the integrated army headquarters that was being negotiated and this
3 was one of the provisions to be found in this agreement signed, and to my mind these
4 ranks meant two things. First of all, they were a form of gratitude, a way of saying
5 "Thank you," a way of President Bemba to thank his officers. He was thanking them
6 with these promotions. Secondly, these promotions also meant that they would
7 have a career ahead of them within a unified army, so these were, these ranks, these
8 promotions rather, were a way of thanking the officers.

9 Q. Thank you, but I just want to clarify part of your answer. When the new
10 Congolese army was formed, soldiers from the MLC would have been at a
11 disadvantage, wouldn't they, because they had no ranks?

12 A. Counsel, I don't know whether they would have been at a disadvantage. They
13 would have been at an even greater disadvantage if they had not received these
14 higher ranks. It was a way of stemming the unease of these officers. It was before
15 the formal, official reunification of the armies that had fought.

16 Q. Well, I'm going to try and create a time-line with you. We've done it in part
17 already. There were two processes of negotiation. The first was Sun City 1, which
18 was concluded in April 2002. That's right, isn't it?

19 A. That's right, Counsel.

20 Q. And I think as we've already agreed, there were only two parties to that
21 negotiation process: The government of the Democratic Republic of Congo and the
22 MLC?

23 A. Yes, Counsel.

24 Q. It probably doesn't matter in the context of this trial, but why was it that the
25 RCD played no part in the first Sun City negotiations?

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1 A. Counsel, the RCD played an important role. In this initial phase, which was a
2 very long one, this initial phase of Sun City, all parties were present, and the
3 Inter-Congolese negotiations lasted more than 50 days, which was quite long. At the
4 same time, these negotiations had to end somewhere. The government in Kinshasa
5 was negotiating with the MLC, but at night and on a parallel track they were also
6 negotiating with the RCD, and so the agreement with the MLC followed along,
7 followed the discussions. There was nothing official. (Redacted)
8 (Redacted) but the advantage of negotiating and finding an agreement with
9 the MLC was -- well, this was very much in keeping with the strong sentiment within
10 the minds of the Congolese people, because it really was more in keeping with a
11 nationalist outlook, whereas the RCD was seen more as -- in the eyes of public
12 opinion, the RCD was seen as being much more subject to a foreign power. From a
13 political point of view, the government in Kinshasa certainly scored points with this
14 partial agreement. It didn't achieve the full reunification of the Congo with the MLC,
15 which at the time was well-known and perceived as a much more nationalistic
16 movement in comparison with the other armed movements. That is why there was
17 that -- these discussions that led to that agreement, the implementation of which
18 failed in the following weeks.

19 Q. (Redacted)

20 (Redacted)

21 (Redacted)

22 A. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. I mean, just to pick an example that you've referred to earlier, one
2 administration had to respect the orders made by the other after reunification, didn't
3 it? For example, a judicial sentence or an administrative licence?

4 A. Yes, Counsel. That was amongst the provisions within the agreement. The
5 measures taken by the belligerents, the administrative measures had to tally, had to
6 be recognised by the institutions of the transition.

7 Q. And just before we break, coming back to where I started, one of the specific
8 areas where respect had to be accorded was ranks in the army?

9 A. Yes, Counsel, that was one of the topics, but it was not the topic that these
10 negotiations with the government failed for. It was very simple. Who amongst the
11 president of the republic and the prime minister could commit military troops? That
12 was the issue. It wasn't about ranks, or administrative matters. The negotiations
13 regarding the reunification, these negotiations between the government and the MLC
14 failed.

15 MR HAYNES: Sir, thank you. We are making very good progress and I am
16 confident we'll finish your questioning today.

17 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

18 Mr Witness, we'll have our half-an-hour break for a cup of coffee or tea. It's
19 11 o'clock. We'll be back at 11.30.

20 I ask, please, court usher to accompany the witness outside the courtroom.

21 (The witness stands down)

22 THE COURT OFFICER: All rise.

23 (Recess taken at 10.59 a.m.)

24 *(Upon resuming in closed session at 11.33 a.m.) Reclassified into open session.

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

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- 1 PRESIDING JUDGE STEINER: Please, court usher, bring the witness in.
- 2 (The witness enters the courtroom)
- 3 PRESIDING JUDGE STEINER: Mr Witness, welcome back.
- 4 THE WITNESS: (Interpretation) Thank you, Madam President.
- 5 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony?
- 6 THE WITNESS: (Interpretation) Yes, I am, your Honour.
- 7 PRESIDING JUDGE STEINER: Mr Haynes.
- 8 MR HAYNES: Thank you, your Honour.
- 9 Q. And welcome back, sir.
- 10 A. Good morning, Counsel.
- 11 Q. We were talking just before the break about the appointment of MLC soldiers to
- 12 certain ranks, and I want to go straightaway, please, to Defence document (Redacted),
- 13 if that can be placed on the screen?
- 14 THE COURT OFFICER: Document CAR-D04-(Redacted) is available on the screens
- 15 and it's a public document.
- 16 MR HAYNES:
- 17 Q. Sir, do you remember last week we were looking at a copy of a newspaper
- 18 called Le Phare?
- 19 A. Yes, Counsel, I do remember.
- 20 Q. And that newspaper reported upon the award of certain ranks to officers in the
- 21 MLC on 14 July 2002?
- 22 A. Yes, that is correct, Counsel.
- 23 Q. Now, in fact on 14 July rather more orders were made appointing soldiers to
- 24 certain ranks, because an order was issued appointing soldiers to lower ranks. Do
- 25 you recall that?

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1 A. I did not get any interpretation.

2 Q. Okay, okay. Well, I won't put the question again. I'll go to the next one to
3 save some time. Can we go to the second page of this document? Sir, do you recall
4 (Redacted) at which 57 men were
5 appointed to the rank of captain?

6 A. I do not remember, Counsel. As I previously mentioned, those deliberations
7 involved lengthy preparations by the General Staff, by the headquarters, and
8 highlighting the fact that there was an opinion expressed by the Political and Military
9 Council was simply a matter of formality, because in reality there was no input, so to
10 speak, or sanction, or approval by the committee, because it simply endorsed the
11 decisions that were made. So this was simply an official procedure because, as I
12 have said, this committee was more of a rubber stamp than a decision-making body.
13 You see, I have said that the political and military committee was more of a rubber
14 stamp and these provisions were simply made along the lines of the provisions of the
15 constitution of the MLC.

16 Q. Thank you. I just want to complete the picture. If we have a look at page 5 of
17 this document, briefly, and then page 14. Can we go to page 14 now and then we
18 can summarise the document. Yes, thank you very much. (Redacted)
19 (Redacted) the appointment of 57 men to
20 the rank of captain, 164 to the rank of lieutenant and 419 to the rank of sub-lieutenant?

21 A. Counsel, (Redacted)
22 (Redacted). However, what I can say and
23 confirm here that the formula used was a set formula and I do understand that the
24 Political and Military Council may have had the possibility of intervening, but I am
25 not aware that at any time whatsoever it was the decision-making body in military

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1 matters for the MLC. Otherwise, any such statement will be a travesty of justice. It
2 was simply a rubber stamp which, as I said, met very infrequently.

3 Your question is to find out from me whether (Redacted)

4 (Redacted)

5 (Redacted). Now, whether it approved the raising of the

6 ranks, maybe. Was it of a significant scope? I don't know. (Redacted)

7 (Redacted) that's my answer, Counsel.

8 Q. Okay, I think you may have already told us this, but who would have provided
9 the lists of names of 419 men to be made sub-lieutenants, 164 to be made lieutenants
10 and 57 to be made captains?

11 A. This decision should have been taken by the General Staff, or the military
12 headquarters. The structures within the General Staff were such that they could
13 make proposals to the Chief of Staff and that is what would have obtained in an army
14 which is well-disciplined and whose troops were all well-known.

15 Q. Okay, I just wanted that clarification. So it was the opinions of the General
16 Staff that the conseil politico-militaire rubber stamped, wasn't it?

17 A. Yes, Counsel. The MLC army was not a small army and civilians did not have
18 the information or have access to the information on troops working within the army
19 and, therefore, that information was available within the General Staff.

20 Q. Thank you very much. Why were orders made raising soldiers to certain ranks
21 in July of 2002?

22 A. Counsel, I have already spoken about the fact that between the political branch,
23 which was mainly involved in the Sun City agreement negotiations and whose
24 members also went to Kinshasa for the implementation of this agreement which
25 unfortunately did not happen, and on the other hand the military wing, following the

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1 failure in the discussions with the Kinshasa government what I can say is that it was
2 only proper for the ALC to be organised properly without any secondary thoughts or
3 without any division with the political wing, which by the way had made so much
4 progress, and so there was no need for the ALC to be seen to be lagging behind.
5 That's an important point.

6 Secondly, raising the ranks of the troops to my mind was a psychological stimulus for
7 the troops, who over a period of three years had been part of the ALC, and the time
8 was right for that type of morale boosting of the troops to take place.

9 You may want to know also that, following the Lusaka ceasefire agreements, there
10 was no more fighting at the front lines and I think, therefore, that within that context
11 we can understand why that decision was taken at that time just after the failure of
12 Sun City 1 and prior to the commencement of discussions that would build up to the
13 Sun City 2 negotiations and the one plus four. So I think that this is the way one can
14 interpret this situation. (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. Well, I'll put one question to you and then we'll move on. (Redacted)

18 (Redacted)

19 (Redacted)

20 A. Recognition of MLC decisions, as well as decisions from other rebel movements
21 or other movements, was contained in the Inter-Congolese dialogue final statements.
22 Therefore, clearly the ranks had to be recognised. In any event, a team had been set
23 up to develop the integrated General Staff and I believe it started to work on that file
24 in 2003, March or April 2003, because it was a central concern. It was one of
25 President Jean-Pierre Bemba's main concerns.

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1 Q. Well, perhaps you can help us as to this? If these ranks were awarded in
2 July 2002, why were the soldiers in fact not decorated until much later in 2003?

3 A. I no longer recall what time-frames were involved, Counsel, but all I know is
4 that President Bemba was very keen on seeing all the ranks and the stripes and the
5 stars and the uniforms properly in place. Maybe it is for that reason that it took that
6 much time, but I don't have -- I don't have a recollection of the reasons for which it
7 took that time.

8 Q. Okay. Well let me see if placing it into context will help you. (Redacted)

9 (Redacted)

10 (Redacted)

11 A. Yes, Counsel, and to be specific - to be very specific - (Redacted)

12 (Redacted)

13 (Redacted). During those negotiations, the other parties to

14 the Inter-Congolese negotiations, that is the belligerent parties, agreed to continue

15 discussions leading up to an agreement, and at that time the MLC was marginalised

16 simply because it tried or attempted to conduct one-on-one negotiations with the

17 Kinshasa government, but failed. So the other movements blacklisted the MLC and

18 went on to work with their respective allies, Uganda and Rwanda, to enter into

19 agreements with the government of Kinshasa. (Redacted).

20 So the one plus three and one plus four formula was now coming on as a topic of

21 discussion, so there were contacts (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 So this is the chronology which one can provide in this connection.

2 Now, you have asked me why did this happen in July and I have provided you an
3 answer with the discussions that were going on among and between the parties in
4 order to seek some kind of agreement at that time.

5 Q. Thank you. That's a very full answer. Can you remember precisely when it
6 was that the RCD indicated that it wanted to take part in the Inter-Congolese
7 negotiations officially?

8 A. Resumption of discussions with the RCD took place through direct contacts
9 between the authorities in Kinshasa and Kigali. (Redacted)
10 (Redacted). You see, as I have already stated,
11 the MLC was being blacklisted of having broken ranks with the other movements in
12 its attempts to enter into an agreement with the Kinshasa government, so my answer
13 is that I do not -- I no longer recall the exact date.

14 Q. Okay. Following the Pretoria negotiations, did the RCD also appoint soldiers
15 to certain ranks?

16 A. Counsel, I did not follow the arrangements made by the other movements and I
17 am therefore not in a position to answer your question.

18 Q. Well, wasn't that (Redacted) that the RCD soldiers, like the
19 government soldiers and the soldiers of the MLC, should have ranks commensurate
20 with their experience and training?

21 A. Counsel, the principle that was applied entailed setting up a structure that
22 would develop an integrated General Staff, so there was a distinction to be made
23 there and the negotiators agreed in principle to recognise administrative decisions
24 from the movements and the structuring of the army. So regarding the armies in
25 particular, the various officers met to draw up their -- the structures of their General

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1 Staff individually and then a structure for the integration and this also included the
2 police, may I say, and you may recall that we saw a document in which the general
3 inspector of the police called for the training of new police officers in order to increase
4 the size of the MLC police and provide proper training for them to meet the standards
5 of the other movements in Kinshasa. So that was the general state of mind, Counsel,
6 within the context of this effort to reunify the various armed forces and police forces
7 of the various belligerent forces.

8 Q. Thank you, sir. That's very, very helpful. Now, within the context of the
9 integrated General Staff set up after the negotiations at Pretoria, what was the conseil
10 supérieur de la défense?

11 A. Well, generally speaking, politics trumps military matters, so the High Defence
12 Council was a form where the highest-ranking political people met to decide about
13 the future and the composition of the Congolese army.

14 Q. Thank you. And who sat on it?

15 A. Counsel, I did not read the by-laws or the founding documents of that council
16 so I really could not tell you.

17 Q. Well, I'll try and remind you. If you don't remember say so, but if you do you
18 might agree with me. It was President Kabila, President Bemba and the then
19 president of the RCD, a man called Adolphe Onusumba, so the three heads of the
20 factions sat on the Superior Military Council. Do you agree with that?

21 A. That's what I said. I said that it was the high-ranking political officers who had
22 precedence over the military. I didn't know whether it was the president himself, or
23 whether it was a representative, but indeed this organisation was the body with the
24 greatest authority over the military.

25 Q. Sir, before the Inter-Congolese negotiations, did President Kabila hold a military

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1 rank?

2 A. Yes, certainly. Now, what was it? Perhaps major-general, unless I'm
3 mistaken.

4 Q. The same rank that the conseil politico-militaire awarded to Mr Bemba?

5 A. It must have been following the usual terminology. It all depended on the
6 Anglo-Saxon view, or the Latin view, of a military structure, so it must have been
7 something equivalent because it was indicated that as the leader of one of the main
8 movements President Bemba would be at the same rank as President Kabila.

9 Q. And just to complete the picture, was Mr Adolphe Onusumba also appointed
10 major-general by the RCD?

11 A. Well, it wasn't the Superior Military Council that gave that rank, Counsel. It
12 was up to each warring force to make an assessment within its operations, within its
13 internal operations. Now, I don't think that Adolphe Onusumba was raised to that
14 particular rank. Although he did have military training, I don't think that as
15 president of the RCD he received such a rank for a very simple reason. He didn't
16 have the authority over his movement, not like President Bemba had authority over
17 the MLC or President Kabila over the forces in Kinshasa. So his situation was quite
18 different, different to that of Mr Jean-Pierre Bemba.

19 Q. Well, I'll leave that there, but the point's this: Mr Bemba's rank was anticipated
20 by the Inter-Congolese negotiations, wasn't it?

21 A. No, Counsel, not exactly. That organisation -- it was this internal organisation
22 of the MLC and, Counsel, I would like to tell you that, once the negotiations of Sun
23 City 1 failed, nothing could allow one to say that later negotiations would lead to an
24 agreement. So that period of time was one when a moral rearmament of the troops
25 was necessary. Given the failure of Sun City 1 could be seen as the resumption of a

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1 conflict, in that context it was also -- it was within that context that the ranks were
2 raised. The Inter-Congolese dialogue led to a failure, after discussions were broken
3 off with the government in Kinshasa, so it wasn't provided for in the provisions of the
4 first or second phase of the Inter-Congolese dialogue for a rank to be given to
5 Mr Jean-Pierre Bemba.

6 Q. I've just got two or three more questions about this. You were looking at some
7 photographs of a military parade in which the honours were handed out. Do you
8 recall that?

9 A. Yes, Counsel.

10 Q. I'm going to put something to you to see if you can agree with it. That parade
11 in fact took place in May of 2003, not March. Do you agree, disagree, or can't you
12 remember?

13 A. I don't remember, Counsel.

14 Q. And that was when the ranks were taken up that were discussed way back in
15 July 2002. Do you agree with that?

16 A. Not the negotiations in 2002. It was within the MLC. It was not the result of
17 negotiations with other parties.

18 Q. It's my mistake. I meant the order of the president on the advice of the conseil
19 politico-militaire as to ranks within the MLC. That occurred in July 2002, but it
20 wasn't until after the Pretoria negotiations and I suggest after the final act was signed
21 that the ranks were in fact awarded. Do you recall or not?

22 A. That could be, Counsel.

23 Q. And one final question. When the transitional government was set up in
24 Kinshasa and Mr Bemba became a vice-president, what happened to his military
25 rank?

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1 A. I really didn't follow, but I think that the rank should follow for President
2 Bemba. (Redacted). He wasn't entitled to a particular salary from the
3 army.

4 Q. Well, I'll see if I can jog your constitutional knowledge, but is it possible to hold
5 the rank of vice-president and a military rank at the same time within the constitution
6 of the DRC?

7 A. No, he could have been called "general." He certainly could have been called
8 general. It is a term or a title that he never used, but, yes, the functions are entirely
9 incompatible, unless it were some sort of honorific. Instead of being referred to as
10 "Vice-President Bemba" he could have been referred to as "General Bemba," but I
11 don't think he ever wanted that.

12 Q. Well, we'll leave that there. I want to come back to something you told us
13 happened in 1999 and that is the military action at Basankusu. Do you remember
14 that?

15 A. I have a vague recollection of that. That was an action -- well, it had to do with
16 the capture of an aircraft that was flying in Basankusu. It had been sent by the
17 troops in Kinshasa and so it was like -- well, it was quite an exceptional situation.

18 Q. Thank you, you've anticipated a number of my questions. Who was the
19 commander at Basankusu at that time?

20 A. It was Major Alongaboni, unless I am mistaken, Counsel.

21 Q. I don't think you are. What did either he or one of his subordinate officers do
22 when they saw this aeroplane in the sky?

23 A. Well -- well, the aeroplane was not in the sky. It was unloading some materials,
24 and so while these materials, this equipment, was being unloaded, it was for the
25 Kinshasa troops based in Basankusu, the members of the crew were surprised when

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1 MLC troops came upon the scene, and so the aircraft was captured. The aircraft had
2 been leased. It belonged -- it belonged to a private company in Kinshasa and that
3 was at the Basankusu airport. That is where the MLC troops led by Alongaboni
4 captured that aircraft.

5 Q. Who communicated with President Bemba at that point and what did they tell
6 him, if you know?

7 A. Well, I think that President Bemba was in contact with Major Alongaboni. I
8 really can't give you a specific answer. I can't tell you exactly who was
9 communicating with him, but this operation was led by Major Alongaboni, who
10 reported to President Bemba. What I can tell you is that very quickly President
11 Bemba decided that he wanted to go to Basankusu and the areas surrounding that
12 place had not yet been secured and yet President Bemba wanted to go to that locality
13 and he led operations to bring the aircraft and the crew back to Gbadolite.

14 Q. You've said it was a very unusual event. It was a unique event, wasn't it? It
15 was the only time (Redacted) that the MLC captured an
16 enemy aircraft?

17 A. That's right, Counsel.

18 Q. And if the answer to this is "No", please say so, but did you ever hear that
19 President Bemba had to stop the local commander shooting it down?

20 A. That is possible. I didn't see that, but the MLC soldiers being very close to
21 Basankusu, they weren't in the actual town but had the aircraft already landed or was
22 it about to land and did they wait for the rear bay to be opened up to take out the
23 matériel and then take the aircraft? It's quite possible that President Bemba may
24 have asked for that to let the aircraft land so as to capture both the aircraft and the
25 crew, plus the equipment. Perhaps that may have been within the order of things,

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1 Counsel, but I wasn't -- I wasn't there.

2 Q. Okay, but that was the only example you gave us during your evidence of
3 Mr Bemba having direct contact with commanders on the ground. Can we take it
4 you can't give us another one?

5 A. President Bemba was in regular contact with his men in the field. His
6 communications devices equipment were in his living room, right by the armchair
7 where he usually sat, so it wasn't unusual to hear him speaking to officers using this
8 telecommunications equipment, the phonie, and I explained that his communications
9 using this device were heard by the people in Kinshasa. They were able to tune in
10 and that caused the shelling of Gbadolite. So it wasn't unusual to hear President
11 Bemba speaking to his officers.

12 Now, why did I remember the events of Basankusu? Well, because that was in 1999
13 and those events really impressed me at the time. Generally speaking, President
14 Jean-Pierre Bemba had a pretty good command of geographical locations and maps
15 and he was familiar with his troops' movements. He would look at the maps of the
16 various localities where the troops were operating and it was quite impressive really
17 to see President Bemba's ability to implement these movements using these maps that
18 he had at home in his house.

19 Q. (Redacted)

20 (Redacted)

21 A. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 Q. (Redacted)
- 4 (Redacted)
- 5 A. (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 Q. (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 A. (Redacted).
- 14 Q. (Redacted)
- 15 (Redacted)
- 16 (Redacted) would there be any truth in
- 17 that either?
- 18 A. It is possible that such a meeting was held. (Redacted)
- 19 (Redacted). I don't know whether (Redacted) was
- 20 associated with that meeting, but it would be possible. You see, with all the letters
- 21 and all the events that -- and facts that President Bemba would mention in all the
- 22 letters and correspondence, he would need the support (Redacted)
- 23 (Redacted) would have been possible.
- 24 Q. Could it have happened in (Redacted)
- 25 A. No, Counsel, I don't think it was in (Redacted) if my memory serves me.

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1 Q. (Redacted)

2 (Redacted)

3 A. Counsel, I told you earlier that (Redacted)

4 (Redacted) were very concerned

5 about our ability to avoid exposure and (Redacted) it was important to us to show

6 our willingness to respond to any kind of accusation.

7 Now, Counsel, this was a very complex period of time. There was the operation

8 called "Effacer le tableau" in Ituri; there was the operation going on in Bangui and at

9 the same time (Redacted)

10 (Redacted) about media exposure, the MLC's exposure within the

11 media in light of the acts of violence and abuse in Ituri and in the Central African

12 Republic. I do remember (Redacted) also concerned about the

13 consequences that a lack of a response by the MLC could lead to. So there you have

14 it, Counsel.

15 Q. Thank you. Now, (Redacted) in daily contact

16 with Mr Bemba?

17 A. Yes, Counsel, (Redacted). I would say that as

18 well, President Bemba is a person who is very close to officials in terms of

19 communications, (Redacted) quite frequent conversations.

20 Q. Thank you. And (Redacted) when

21 he was in Bangui?

22 A. No, Counsel. I think at the time President Bemba went on a quick tour to

23 Libreville or maybe Brazzaville and we were very concerned (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. Okay. And during the many times that (Redacted)

5 (Redacted) he had been to Bangui?

6 A. Counsel, I have no such recollection, not at all, but I believe that he travelled to

7 Libreville and also to Brazzaville, or maybe to Oyo, the birthplace of President Sassou

8 Nguesso of the -- the president of the Republic of the Congo. Now, at that time

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted). So I do not know whether he went to Bangui, but I

18 can tell you that he travelled to Gabon and to Congo-Brazzaville.

19 Q. (Redacted)

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. During the (Redacted), did Mr Bemba to your
2 knowledge ever visit the Central African Republic?

3 A. No, Counsel, not that I am aware of.

4 Q. And so far as you were aware, did Mustapha ever visit Gbadolite during the
5 conflict in the Central African Republic?

6 A. As far as I know, yes, I think he did a round-trip to Gbadolite at least once, but I
7 do not have the exact date. I did not note it down or as an important event, but
8 I think he must have done one -- at least one round-trip to Gbadolite.

9 Q. After the (Redacted)
10 (Redacted) there to discuss the setting up of the joint
11 General Staff?

12 A. Counsel, those discussions took place (Redacted)
13 (Redacted). What I think is that (Redacted)
14 (Redacted) and the negotiations and waited to be reconvened
15 (Redacted) for the final signature. It is after that signature that discussions
16 then went on with the setting up of a monitoring committee for the political wing and
17 then a committee for a joint General Staff for the military matters.

18 Q. Thank you. I'm coming on now to your knowledge of what happened in the
19 Central African Republic. Were you aware of the involvement of other forces in the
20 Central African Republic; for example, the forces of CEN-SAD, or Libyan forces?

21 A. No, Counsel. The only forces that I was able to note and from what I heard
22 were the forces of President Bozizé, the forces of one rebel known as Miskine, and of
23 course the MLC forces and, by the way, those of the regular army of the Central
24 African Republic. Now, I am not aware of the involvement of the force you have
25 mentioned.

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1 Q. You never heard, for example, that the Libyans were providing to President
2 Patassé a degree of air support?

3 A. It was common knowledge, Counsel, that President Qadhafi supported
4 President Patassé, but I never heard that the Libyan air force was deployed to the
5 Central African Republic. However, it may have been possible that through that
6 support experts and equipment may have been provided and that, Counsel, would
7 only be in the normal order of things, wouldn't it?

8 Q. Did you ever understand how the various forces were co-ordinated to defend
9 President Patassé?

10 A. No, Counsel, I have no knowledge on that issue or that matter.

11 Q. (Redacted)

12 (Redacted)

13 A. (Redacted)

14 (Redacted)

15 (Redacted).

16 Q. But did you understand such officers to exist in the Central African Republic?

17 A. The regular Central African Republic army must have had such officers, but
18 these were not linked to the armed wing of the MLC and (Redacted)

19 (Redacted). It is possible that resistance would have been -- or their existence
20 would have been possible, but as (Redacted), no, Counsel. No.

21 Q. Sir, I understand (Redacted). Can I just see whether the names ring
22 a bell with you? Did you ever hear of anybody called Bombayake, or Mazi?

23 A. The name Mazi somehow rings a bell, but Bombayake, no. Maybe I've already
24 heard mention of Mazi (Redacted). He

25 was more familiar with Bangui. He had spent a lot of time in Bangui as the person

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1 (Redacted). He had contacts with several services within the Central
2 African administration and he spent several weeks in Bangui before 2000
3 and -- before the event of October 2002 and even earlier; that is even in 2001. So
4 (Redacted) the name Mazi may have
5 been mentioned, but I don't know him otherwise and I would like to say also that I do
6 not know the other person whose name you mentioned.

7 Q. That's perfectly okay, sir, but what services was (Redacted) in touch with that
8 you can recall?

9 A. Counsel, at some point when it became clear that collaboration with President
10 Patassé had become unavoidable for reasons relating to our mutual security, that is
11 between Bangui and the MLC, it was agreed that a permanent officer be stationed in
12 Bangui who would deal with issues like taxation and taxes to be paid by coffee
13 exporters, cross-check the transit of that produce through the Central African
14 Republic and deal with issues of logistics and procurement. (Redacted)
15 (Redacted) and that
16 points to the nature and quality of the relations between the MLC and President
17 Patassé at the time.

18 Q. Thank you. Sir, did you become aware of what intelligence was available
19 about the strength and position of Mr Bozizé's troops within the Central African
20 Republic to the MLC forces?

21 A. No, Counsel. I do not and I did not have any information on that topic,
22 Counsel.

23 Q. And I'm sorry if the answer to this question is "No" as well, but did you
24 understand what communications systems existed between the Central Africans, the
25 Libyans, the MLC and the paramilitary groups on the ground?

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1 A. I have no idea, Counsel. The only means of communication that President
2 Bemba used normally was the satellite telephone, but as for operations proper within
3 the Central African Republic I have no idea, Counsel.

4 Q. Thank you. You've pre-empted my next question, which is did you know how
5 tactical operations within the Central African Republic were directed?

6 A. No, Counsel, no idea.

7 Q. How the troops in the Central African Republic were resupplied?

8 A. No, Counsel. All matters relating to operations and military tactics I really
9 have no idea.

10 Q. Do you have any idea in late 2002/early 2003 how many satellite telephones the
11 MLC had?

12 A. Unfortunately, Counsel, the bills for those telephones were settled by President
13 Bemba, but for any of those sets, satellite telephones, I don't have an exact idea of the
14 number of such units that were available to the MLC at the time.

15 Q. But other than Mustapha, were you aware directly or indirectly of Mr Bemba
16 communicating with any other MLC officer in the Central African Republic?

17 A. I don't know, Counsel, no idea.

18 Q. And do you know what Mustapha reported to Mr Bemba?

19 A. Counsel, apart from the anecdote on the setting up of a foreign legion, (Redacted).
20 (Redacted)

21 Other than that, I don't have any idea of the content of any other conversations he
22 may have had with Colonel Mustapha.

23 Q. Did you understand (Redacted) that President Patassé was in direct
24 contact with Mustapha?

25 A. That obviously was the first conclusion I came to following that information

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1 (Redacted), but otherwise at the time we took it to be an anecdote more
2 than anything else.

3 Q. So can I take it you didn't have any knowledge of the extent or the substance of
4 the contact between President Patassé and Mustapha?

5 A. That is absolutely correct, Counsel. I have no idea of the frequency or of the
6 nature of their discussions.

7 Q. And you do not know whether any other Central African political or military
8 leader was in direct contact with Mustapha?

9 A. I do not know either, Counsel.

10 Q. Now, the communications after 16 January 2003 are or would have been about
11 the safe withdrawal of the troops. Do you agree?

12 A. The decision had been taken and it was a matter of a properly organised
13 withdrawal of the troops. I have already stated here that we were surprised by the
14 MLC last-minute offensive against President Bozizé's troops, whereas a commitment
15 had been made on our withdrawal. Now, to answer your question whether the
16 communication was in relation to withdrawal, I don't know, but maybe some may
17 have wanted to push back President Bozizé as far away from Bangui as possible
18 before such a withdrawal.

19 PRESIDING JUDGE STEINER: Mr Haynes, sorry. Turning back to your last
20 question, "The communication after 16 January 2003 are or would have been about
21 the safe withdrawal of the troops. Do you agree?" Which communications?
22 Between whom you are talking about?

23 MR HAYNES: I think we have been talking about communications between
24 Mr Bemba and Mustapha. I'm sorry if it wasn't clear, but it seems from the answer
25 that the witness --

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1 PRESIDING JUDGE STEINER: The previous question was "between President
2 Patassé and Mustapha." That is why I was a little bit confused.

3 MR HAYNES: Okay. Well, in mitigation of my lack of clarity, I think the witness
4 from the answer understood the question, but I can clarify that with him, if you want?

5 PRESIDING JUDGE STEINER: I would appreciate.

6 MR HAYNES: Of course, your Honour.

7 Q. Sir, did you understand that my last question about communications after
8 16 January 2003 was a question about communications between Mr Bemba and
9 Mustapha?

10 A. Yes, that was my understanding, Counsel.

11 MR HAYNES: I hate to do this. I'm really at the end of my questioning of this
12 witness, but I would like the opportunity briefly to take some instructions before I
13 finally stop. Now, I'm in your Honours' hands as to what that mean, whether we
14 take the lunch-break, or whether we see if the answer is "No," probably the
15 lunch-break would be safer.

16 PRESIDING JUDGE STEINER: I think the lunch-break is safer. You have the time
17 you need to consult with your client and we can give our interpreters, court reporters
18 and the witness some rest.

19 So, Mr Witness, we are going to our lunch-break. It's 1 o'clock. We'll be back at
20 2.30.

21 Court usher, please accompany the witness outside the courtroom.

22 (The witness stands down)

23 THE COURT OFFICER: All rise.

24 (Recess taken at 12.57 p.m.)

25 *(Upon resuming in closed session at 2.34 p.m.) Reclassified into open session.

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- 1 THE COURT USHER: All rise. Please be seated.
- 2 PRESIDING JUDGE STEINER: Good afternoon and welcome back.
- 3 I ask, please, court usher to bring the witness in.
- 4 (The witness enters the courtroom)
- 5 PRESIDING JUDGE STEINER: Mr Witness, welcome back.
- 6 THE WITNESS: (Interpretation) Good afternoon, your Honour.
- 7 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?
- 8 THE WITNESS: (Interpretation) I'm ready, your Honour.
- 9 PRESIDING JUDGE STEINER: Mr Haynes.
- 10 MR HAYNES: Thank you, your Honour, and good afternoon.
- 11 Q. And good afternoon, sir, to you, for the last time.
- 12 A. Good afternoon, Counsel.
- 13 Q. Sir, I only have a handful of questions left for you, quite literally. What sort of
- 14 vehicles did President Patassé give to the MLC and, to the best of your knowledge,
- 15 how many vehicles were there?
- 16 A. President Patassé gave Toyota pick-up vehicles and these pick-up vehicles were
- 17 white in colour. Regarding the precise number I may be mistaken, but I would say
- 18 three or four. In any case, five at the most.
- 19 Q. Thank you very much. The vehicles which you saw in Gbadolite after
- 20 March 2003, which had come from the Central African Republic, were they similar?
- 21 A. Counsel, if I'm not mistaken, these vehicles had been given in 2001 and not 2003.
- 22 Q. Okay, but I think you were telling us about some vehicles that came back to
- 23 Gbadolite after the action in Bangui. Were they also white Toyota pick-up type
- 24 vehicles?
- 25 A. The Toyota pick-ups were new vehicles which had been bought in 2001. There

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1 were no other new vehicles circulating in Gbadolite.

2 Q. Okay. Well, I'll leave the matter there. At the end of the conflict in the
3 Central African Republic, a man flew from Bangui to Gbadolite in a light aircraft and
4 asked for Mr Bemba's help. Do you remember the name of that man?

5 A. Counsel, I no longer remember the full name of the person. I remember only
6 the first name, which I believe was Loic, or something like that.

7 Q. Thank you. And to whom did the aeroplane belong to as far as you
8 understand?

9 A. The light aircraft belonged to the Central African Republic authorities, but I do
10 not know whether it belonged to the presidency or to the Central African Republic
11 army, but the vehicle belonged to the Central African Republic authorities and they
12 asked for it for several weeks, but I do not know who specifically owned it.

13 Q. Okay, and was it given back to them?

14 A. Yes, indeed. That light aircraft was handed back to them. I no longer know
15 exactly when, but it was after the month of March 2003, and it was indeed a light
16 aircraft, not a vehicle. There had been pressure exerted by amongst other people the
17 Minister of Foreign Affairs of the Central African Republic at the time, who insisted
18 that the plane be returned.

19 Q. Thank you. (Redacted)
20 (Redacted)

21 A. I don't have any recollection of a formal administrative instrument. However,
22 generally speaking (Redacted)
23 (Redacted)
24 (Redacted)

25 Q. Thank you. And the last question: After the MLC forces left the Central

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1 African Republic in March of 2003, did you continue to hear reports of abuses in the
2 Central African Republic?

3 A. Counsel, do you mean that the communication campaign continued after the
4 withdrawal of the MLC from the Central African Republic?

5 Q. I mean did you continue to hear on RFI, for example, stories of abuses being
6 carried out in the Central African Republic after March 15, 2003?

7 A. I really was no longer focusing my interest on the Central African Republic, so I
8 really did not follow up to find out whether after the arrival of President Bozizé
9 abuses continued in the Central African Republic.

10 MR HAYNES: Sir, thank you very much for answering my questions. That's all I
11 want to ask you.

12 (Trial Chamber confers)

13 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. Mr Haynes, just for the
14 sake of the record and for clarity, could you please repeat the ERN numbers of the
15 documents that you intend to tender into evidence?

16 MR HAYNES: I doubt I can do that immediately and all together, but if you give me
17 a few moments I can probably do that when the witness has left us.

18 PRESIDING JUDGE STEINER: Yes, just I appreciate, Mr Haynes, because there are
19 some documents that you were explicit saying that you were tendering and others
20 you referred to, but you didn't say anything. So I don't know whether it was just --

21 MR HAYNES: It wasn't an accident. Those which I didn't refer to I do not propose
22 to tender through this witness because it didn't seem to me he was an appropriate
23 witness to tender them through.

24 PRESIDING JUDGE STEINER: But in any case for the record I think we should
25 confirm which ones the Defence intends to tender into the evidence.

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- 1 MR HAYNES: Certainly.
- 2 PRESIDING JUDGE STEINER: Ms Kneuer, does the Prosecution intend to re-direct?
- 3 MS KNEUER: No, thank you, Madam President.
- 4 JUDGE ALUOCH: Mr Witness, there's a portion of your statement that is not quite
5 clear and I would like you to clarify, please. I have the English translation,
6 CAR-OTP-(Redacted). This is the answer you gave. I'll have to read a little portion
7 of it to put it into context. This was your answer: "There was a trial and there was
8 punishment." I know quite a lot of evidence has been given about these trials, so I
9 want to quote this part so that I can seek the clarification from you, if you don't mind?
10 "There was trial and there was punishment. Was it a sham? Either way, there was
11 a desire to clear our name at all costs. The desire to clear our names was clear-cut.
12 The trial was loosely organised. The punishment might seem light compared to the
13 seriousness of the crimes." (Redacted) "With hindsight, was
14 Bemba responsible?" (Redacted): "I don't think that
15 Bemba incurred responsibility through formally telling the soldiers to commit abuses,
16 yet I don't see how he could have kept the troops in check because they weren't paid
17 and some of the officers weren't nice at all. Was he aware of it? I do not know.
18 He knew he was answerable for his troops, because he was their supreme commander
19 and he wielded sole authority over them. There was a chain of command and he
20 chose the commanders that he sent out into the field."
21 Mr Witness, the portion of your statement that I have just read, would this be your
22 answer still today as you gave it in this part of your statement, or would you like to
23 clarify it or modify it or does it remain as it is? That is the clarification I want from
24 you. Thank you.
- 25 THE WITNESS: (Interpretation) If I understand correctly this deals with

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1 responsibility, so I stand by my answer. So I was explicit in saying that President
2 Bemba was not on the ground himself, but I stand by what I said to the effect that I
3 cannot imagine President Bemba issuing orders for people to commit atrocities.
4 Also, he was the commander-in-chief, the supreme leader of the MLC, so he had
5 discretionary powers to appoint the commanders that he wanted for any operation.
6 So, in a nutshell, I stand by my statement.

7 JUDGE ALUOCH: Thank you.

8 PRESIDING JUDGE STEINER: Mr Haynes?

9 MR HAYNES: No, thank you.

10 PRESIDING JUDGE STEINER: And no news about the documents as well?

11 MR HAYNES: I thought you'd say "Goodbye" to the witness first.

12 PRESIDING JUDGE STEINER: If you would prefer, no problem at all.

13 Mr Witness, we now conclude with your testimony. You'll be allowed to leave the
14 Court and to go back to your country.

15 I want, as with all other witnesses in this case, to thank you very much, to say that
16 you leave the Court with the thanks of the Court, of the Judges, for the time and
17 trouble you have taken to come to this country and to give evidence in this trial.

18 Mr Witness, in order for the Judges to find the truth, it is crucial that witnesses such
19 as yourself are prepared to give evidence to assist us on the relevant issues of the case.

20 We are aware that this must certainly have been inconvenient for you. (Redacted)

21 (Redacted). One more

22 reason, Mr Witness, to thank you for your availability to come and give testimony
23 before this Chamber.

24 Before you leave us, Mr Witness, I would like to ask whether there is anything that
25 you would like to address to the Chamber? This is your opportunity and, if you so

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1 wish, you have the floor.

2 THE WITNESS: (Interpretation) Your Honour, I really have nothing further to add.

3 I believe my answers to all the questions were comprehensive.

4 PRESIDING JUDGE STEINER: I ask, please, the court usher to take the witness
5 outside the courtroom.

6 (The witness is excused)

7 PRESIDING JUDGE STEINER: I ask, please, court officer to turn into open session.

8 (Open session at 2.54 p.m.)

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

10 PRESIDING JUDGE STEINER: Thank you very much, court officer.

11 We come to the end of the testimony of Witness 15. We still have pending the
12 information from the Defence on the documents Defence intends to tender into
13 evidence. Mr Haynes?

14 MR HAYNES: Your Honour, thank you very much. I'll give the document
15 numbers according to the schedule, but also the ERN numbers, and I'm referring to
16 the documents I used today, rather than on Friday. The first one is document
17 number (Redacted), which is (Redacted). The second is document (Redacted), which
18 is (Redacted). The third is document (Redacted), which is (Redacted). The fourth is
19 document (Redacted), which is (Redacted). The fifth is document (Redacted),
20 (Redacted). The sixth is document (Redacted). The seventh
21 is document (Redacted), and the eighth and last is document (Redacted),
22 (Redacted).

23 PRESIDING JUDGE STEINER: I'm just checking, Mr Haynes, because in relation to
24 document 38 I don't have any indication at least in my appointments that Defence
25 made reference to it, so I need just to make it sure that it's my mistake.

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1 MR HAYNES: Your Honour is quite correct. In fact, documents (Redacted)and
2 (Redacted) are identical. I used (Redacted), not (Redacted).

3 PRESIDING JUDGE STEINER: Thank you very much for the clarification,
4 Mr Haynes. It's interesting that they have two different ERN numbers, but in any
5 case it is the same document.

6 Ms Kneuer, do you have any say on the documents the Defence is tendering into
7 evidence?

8 MS KNEUER: No objections, Madam President.

9 PRESIDING JUDGE STEINER: Thank you.

10 So we thank very much the Prosecution team, legal representatives. I hope, Maître
11 Zarambaud, if in contact with Maître Douzima, send her our considerations. Thank
12 you very much, Defence team, Mr Jean-Pierre Bemba Gombo. Thank you very much
13 our interpreters and court reporters.

14 We will adjourn for today. We will resume on Monday 20 February, at 9.30 in the
15 morning, to start with the testimony of the last Prosecution witness, which will be by
16 way of a video link. So 9.30 in this very same courtroom we will resume.

17 I wish all the parties a nice rest during the remaining days of this week. We will
18 therefore adjourn and resume on Monday morning. Thank you very much.

19 THE COURT USHER: All rise.

20 (The hearing ends in open session at 3.01 p.m.)

21 RECLASSIFICATION REPORT

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

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