

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 Friday, 10 February 2012
8 (The hearing starts in open session at 9.37 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are in
12 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 very much.
18 Good morning and welcome Prosecution team, Maître Zarambaud, Defence team,
19 Mr Jean-Pierre Bemba Gombo. Good morning to our interpreters and court reporters.
20 We will continue today with the testimony of Witness 15 and, as decided by the Chamber,
21 the testimony will be given in full closed session. Therefore, I ask, please, court officer to
22 turn into closed session in order for the witness to be brought into the courtroom.
23 *(Closed session at 9.40 a.m.) Reclassified into open session
24 THE COURT OFFICER: We are in closed session, Madam President.
25 (The witness enters the courtroom)

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- 1 WITNESS: CAR-OTP-PPPP-0015 (On former oath)
- 2 (The witness speaks French)
- 3 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 4 THE WITNESS: (Interpretation) Good morning, your Honour.
- 5 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony, sir?
- 6 THE WITNESS: (Interpretation) Yes, I am, your Honour.
- 7 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still under
- 8 oath. Do you understand that, sir?
- 9 THE WITNESS: (Interpretation) Yes, I do understand, your Honour.
- 10 PRESIDING JUDGE STEINER: Ms Kneuer, you have the floor.
- 11 MS KNEUER: Thank you, Madam President. Good morning, your Honours.
- 12 QUESTIONED BY MS KNEUER: (Continuing)
- 13 Q. Good morning, Mr Witness. Yesterday, we left off with you explaining to the
- 14 Court the expression that you used, "freedom of expression and line of thinking." When
- 15 you provided yesterday the information (Redacted) mentioned twice
- 16 the temperament of Mr Bemba, and I am referring to transcript 209, real-time, (Redacted)
- 17 (Redacted). Can you please further elaborate on that topic?
- 18 A. Counsel, could you repeat exactly what I said so that I can be in the context properly
- 19 so I can understand what you're asking me?
- 20 Q. Absolutely, Mr Witness. I will start reading from the real-time transcript 209, page
- 21 (Redacted) "Most of the members of the (Redacted) of
- 22 the MLC always -- had always considered that President Jean-Pierre Bemba had more
- 23 capacity and temperament in leading the Democratic Republic of Congo and that is the
- 24 reason why in (Redacted) there was respect for the decision of the president of the
- 25 MLC and a very large amount of discipline."

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1 The second quotation starts at page (Redacted) of that same real-time transcript,
2 and I quote, "Counsel, (Redacted)-- if one was opposed to Bemba on essential politic
3 aspects, if one was diametrically opposed, well, this was the real question. So with
4 regards to the temperament and perhaps beyond, that the customs within this party as
5 there are in any company, there is a company culture."

6 A. Well, Counsel, in the explication that I gave regarding his temperament, regarding
7 the temperament of Jean-Pierre Bemba, well, he is a man of authority and -- and he is able
8 to impose his authority. We were in a particular context. It wasn't as if we were
9 engaging in politics. We were within a political military movement. And so when I
10 spoke about his temperament, I just wanted to say that President Bemba had authority
11 and his authority was not challenged and his character was one of a man who imposes his
12 authority. He was authoritative. That is what I was trying to say.

13 Q. Thank you. That's clear now, sir. The second quotation I read to you a minute
14 ago, (Redacted) in that quotation raised the question about opposing
15 Mr Bemba on essential political aspects. How would (Redacted)
16 meaning what happened if someone opposed Mr Bemba on essential political aspects?

17 A. During the time of the political/military movement, Counsel, no one opposed
18 Mr Bemba in terms of essential political matters. It was in the interest of the movement
19 of the MLC and beyond that it was a question of the movement's survival. The context
20 was as follows: Not only was there the government in Kinshasa to contend with, there
21 were other liberation movements and we shared a certain community of destiny in
22 Équateur province, which was the poorest province amongst all the areas experiencing
23 conflict, so it was essential not to oppose or challenge the authority of President Bemba, or
24 the decisions that he made. Consequently, we never opposed him when it came to
25 essential matters.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 And when the movement turned into a political party, then the opposition within the
13 political party, when opposition was expressed, it really was a sign that a dividing line
14 had been drawn. Those who were no longer in agreement left the MLC, but within the
15 MLC there never was any kind of democratic centralising force. There was a leader,
16 decisions were taken and these decisions were not to be challenged.

17 Now, the methods for decision-making, they were -- and I would say there was not a lot
18 of debate. Decisions were taken within very restrictive circles, so that is how the
19 movement progressed and that is how opposition was dealt with. (Redacted)
20 (Redacted)

21 Q. Mr Witness, when you explained to us yesterday the circumstances of (Redacted)
22 (Redacted) you made a reference to the creation of another political party, and this can be
23 found in transcript 209, real-time, page 52, line 5 onwards, and for your recollection I will
24 read it out, (Redacted), it was
25 essentially to protect (Redacted)

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- 1 within a line of thinking and thereafter in (Redacted)
- 2 quotation end.
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 A. (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 Q. You mentioned that others who were no longer in agreement with the MLC - and
- 22 that can be found on page 5, lines 18 to 19 - left the MLC. Can you provide the name of
- 23 some of the others who also left the MLC?
- 24 A. Counsel, two days ago we went through a series of photographs and we looked at
- 25 them. In particular we saw some photographs of the parade that had been organised in

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1 March, and all the civilians on the photograph left the MLC; (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted). It's a very

5 long list. Those were the main people I could mention.

6 Q. These other members of the MLC who left, (Redacted)

7 (Redacted)?

8 A. (Redacted)

9 (Redacted). I'm referring, for example, to (Redacted)

10 (Redacted). The MLC of President Jean-Pierre Bemba, as we know it today, is in no regard

11 similar to the MLC that we knew it to be at the time it was a political and military

12 movement. President Jean-Pierre Bemba is surrounded today by an entirely different

13 team.

14 Q. Mr Witness, you have described to the Court that and (Redacted)

15 (Redacted)

16 (Redacted) political or military members of the MLC who

17 have been expelled, dismissed or replaced?

18 A. Counsel, we must say that each case was quite specific and related to the particular

19 individual. (Redacted)

20 (Redacted)

21 (Redacted)

22 However, what I must underscore is that (Redacted) any public criticism of President

23 Jean-Pierre Bemba. (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted). So, as far as I can recall, there has never been any media
2 criticism or any criticism over any other channels openly about the criticisms (Redacted)
3 (Redacted) against Jean-Pierre Bemba, but the reverse has not always been true, to the
4 extent that those who left were always verbally attacked, should I say, by the new
5 collaborators of President Bemba.
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted).
10 Q. (Redacted)
11 A. (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 Then, Counsel, one must acknowledge that (Redacted)
24 experienced some serious disappointments, two of which I must say were quite obvious;
25 namely, one that he was not chosen by President Jean-Pierre Bemba to (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted). That did not happen, because throughout the term of that

5 legislative period no one was appointed (Redacted). You see,

6 everybody was waiting for President Jean-Pierre Bemba to make up his mind on that

7 appointment.

8 Now, the second disappointment -- and I have no evidence of this, but I can say that it is

9 the nomination of the MLC candidate to the presidential elections that have just taken

10 place in the DRC. I believe that (Redacted) expected to run in that

11 competition with President Jean-Pierre Bemba's support, so I think that this is part of the

12 disillusionment that he must have experienced which led to the split.

13 Q. Who replaced (Redacted)

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. (Redacted)

18 PRESIDING JUDGE STEINER: Yes, Mr Haynes?

19 MR HAYNES: Your Honour, by my calculation we are now dealing with political

20 decisions in the MLC in the year 2011 and we have been dealing with this sort of

21 information now for the best part of two hours and I am beginning to wonder what part

22 of any judgment you will give in this case it can possibly form? What is the relevance of

23 this line of questioning to the charges that you have to deal with? I think it's very

24 interesting, but it's eight years after the event.

25 PRESIDING JUDGE STEINER: Ms Kneuer, do you want to respond?

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1 MS KNEUER: Madam President, I suggest that this could have an impact on sentencing
2 to the extent Mr Bemba's interests to regain power of his political party, which he
3 obviously still runs, and to recommit crimes. So your Honours, if finding the accused
4 guilty, issuing decision, issuing a sentence, may want to consider how to protect the
5 society and to not recall this witness for sentencing purposes I am asking these questions.

6 PRESIDING JUDGE STEINER: Ms Kneuer, maybe the relevance is not so clear or so
7 explicit. Maybe Prosecution could finalise the questioning of the witness, or turn back to
8 events closer to the events analysed in the case file.

9 MS KNEUER: Certainly, Madam President.

10 Q. Mr Witness, how was and is (Redacted)

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. Sir, what motivated you to co-operate with the Court and to testify before this

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1 Chamber?

2 A. Counsel, the quest for the truth probably and certainly. Also I think the time to
3 draw the line on this matter had come, while shedding light on it as much as possible. It
4 is for those reasons that I decided to collaborate. (Redacted)

5 (Redacted)

6 (Redacted). As we seek to find the truth and to turn a new leaf, these
7 must be considered to be the basis for my agreeing to testify.

8 MS KNEUER: Thank you very much, Mr Witness, for your time, patience and having
9 co-operated with the Prosecution during this examination.

10 Madam President, your Honours, this concludes the questioning of Witness 15. The
11 Prosecution had tendered throughout the examination 18 photographs, five documents,
12 one audio recording plus transcription and translation. The Prosecution further used the
13 map, which I also wish to tender. It's CAR-ICC-0001-0079. This map was annotated by
14 the witness. Thank you very much.

15 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer.

16 Before I give the floor to Maître Zarambaud, I would like to come back to yesterday's
17 transcript and ask a few more clarifications from the witness (Redacted)
18 (Redacted).

19 In yesterday's transcript, on page (Redacted) and onwards, the witness finally admitted
20 that, and I quote, (Redacted). Then
21 on page (Redacted) onwards, the witness finally said, (Redacted)
22 (Redacted)

23 I would like to obtain from the witness more details about this so-called (Redacted)
24 (Redacted). When did it take place, who were the persons, members of the MLC
25 (Redacted), with whom (Redacted) and most important the subject matter

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1 discussed (Redacted) Could you please, Mr Witness, give more information in
2 that respect?

3 THE WITNESS: (Interpretation) Well, your Honour, I tried to recollect the -- as many
4 of the memories (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 raise a number of questions with Mr Jean-Pierre Bemba on the Central African Republic
- 2 relating to the excesses and acts of violence committed by the MLC. (Redacted)
- 3 (Redacted)
- 4 I do not have any recollections of Mr Jean-Pierre Bemba talking about any discussion with
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 PRESIDING JUDGE STEINER: (Redacted)
- 12 (Redacted)?
- 13 THE WITNESS: (Interpretation) Madam President, that practically (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 PRESIDING JUDGE STEINER: And you don't have any recollection of this (Redacted)
- 22 (Redacted) and nor the subject
- 23 of the conversation? You don't have any recollection at all?
- 24 THE WITNESS: (Interpretation) No, your Honour. Unfortunately, I don't remember.
- 25 I'm very sorry.

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1 PRESIDING JUDGE STEINER: If need be we will come back later to this issue.

2 Mr Zarambaud, you have the floor.

3 MR ZARAMBAUD: (Interpretation) Thank you, your Honour, your Honours.

4 QUESTIONED BY MR ZARAMBAUD: (Interpretation)

5 Q. Good morning, Witness.

6 A. Good morning, Counsel.

7 Q. I will introduce myself once again. I am Mr Zarambaud and I am a member of the
8 Central African Republic Bar. Here I am serving as one of the legal representatives of
9 victims, along with my colleague, Ms Marie-Edith Douzima-Lawson, who had to go to
10 Bangui to attend the funeral of her father, and for that reason the Chamber has authorised
11 me to ask my own questions, which have been provided to the Chamber for review, and
12 also the questions prepared by my colleague, Marie-Edith Douzima-Lawson, and so I will
13 begin by asking a number of questions prepared by my distinguished colleague.

14 The first question from Marie-Edith Douzima-Lawson is based on a particular reference,
15 (Redacted) at page (Redacted) and at that point you said, and I quote, "But in actual
16 fact they ...", that is the MLC, or rather it, the MLC, "... was created at the initiative of
17 Mr Bemba, by Bemba for Bemba." So my question, or the question is as follows: Could
18 you explain exactly why you said that the MLC had been created for Mr Bemba?

19 A. Well, Counsel, a few moments ago I mentioned one particular characteristic of the
20 MLC and the way power was organised within the MLC. It was very much an
21 organisation with a very distinct line of authority. There was a leader. The leader had
22 the authority. The actual organisation of the movement was very much in keeping with
23 the will of the president, Mr Bemba. It was a machine that was both military and
24 political in nature; a machine aligned with the president, Mr Bemba. There was no one
25 else who was more visible than Mr Bemba. That is what I meant when I said that.

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1 Q. Thank you, Witness. The second question is based on the following reference,
2 (Redacted)

3 (Redacted) Mr Bemba that the MLC troops be withdrawn from Bangui, and the question
4 from my learned colleague is (Redacted) that suggestion to Mr Bemba?

5 A. Counsel, I made mention of that earlier. It was because of the very strong pressure
6 exerted by the administration (Redacted) and their message was quite
7 unambiguous. It was quite clear that they wanted the MLC to leave the CAR, and a few
8 moments ago I reminded the Presiding Judge that this position was also supported by the
9 (Redacted) had said that. So

10 taking these things into account, considering this absolute necessity (Redacted)
11 (Redacted) to convince President Bemba. If he was not already convinced of that, he had
12 to be convinced, and (Redacted)
13 (Redacted).

14 Q. Thank you very much, Witness. Now, the third question is based on the following
15 point you made, reference (Redacted), at page (Redacted). You stated the following:
16 You said that, "No one was paid within the MLC. People only received the absolute
17 minimum: Food, some care, transportation." So the first question is as follows: Was
18 this strict minimum received, did it take the form of money, or was it some kind of
19 payment in kind?

20 A. Counsel, when it came to the rank and file and the people from Gbadolite or from
21 Équateur province, or people residing there, it was just rations. Whether you were a
22 soldier, or a civilian, you received rations and often the payment was in kind.
23 Sometimes afterwards, when funds permitted, when there was money, there was some
24 financing so to speak, but really just the very minimum to ensure the livelihood, or rather
25 to support the family. If families were abroad, Jean-Pierre Bemba would help them to

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1 ensure that no one would be in a precarious situation, so that is how things operated
2 within the MLC.

3 Q. Thank you, Witness. I think you've anticipated the next question and it's once
4 again the same reference. How did people provide for their families? I think you've
5 answered that, so I really won't ask that question.

6 Now, the next question has to do with the following reference, (Redacted), at
7 page (Redacted). You stated that the MLC troops travelled to Bangui by crossing over at
8 Zongo by boat. How did you know that that was the case, because at that particular
9 moment in time (Redacted)?

10 A. Counsel, I merely deduced that. You see, you have to be from the Central African
11 Republic, or have lived, well, in Bangui. You have to realise that there's no flight.
12 There's no plane between Zongo and Bangui. The statement that I made was a mere
13 deduction.

14 Q. Thank you. And now the last question from my learned friend, and this is based
15 on reference (Redacted), at page (Redacted). You stated that the only army that was
16 available to the Central African Republic was the army led by Mustapha. The question is
17 as follows: Had you not heard about the presence of other troops, such as the troops of
18 Abdoulaye Miskine, or the troops of the SCPC, or Karako's troops?

19 A. Certainly, Counsel. When I said that there was only one army, you see, the MLC
20 had based its approach on having troops and following the standards of a regular army.
21 The other forces were armed groups, or armed bands of people. Often one particular
22 word or name was often seen in the press, namely the name of Mr Miskine, and, you see,
23 there were armed groups in that area. There was Miskine's group in that area, the forces
24 of President Bozizé at the time, there were MLC troops, and we were careful to never say
25 "armed group" of the MLC because we had agreed that we wanted to bring up the troops

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1 to a certain level, to have a certain standard, to have a head of battalion, to have a proper
2 hierarchy, military hierarchy. So in response to your question, yes, the press - the
3 media - did say that in Bangui and in the Central African Republic there were several
4 forces present at the same time.

5 Q. Thank you.

6 PRESIDING JUDGE STEINER: Maybe it's a translation problem. I did not understand
7 the difference the witness made in -- between groupes armée and the MLC. MLC was an
8 armed group, so maybe there is a translation problem. Could you clarify, please?

9 THE WITNESS: (Interpretation) The way the DRC saw it at the time, and during the
10 negotiations, there were belligerents; that is to say the troops of the government in
11 Kinshasa, the armed soldiers of the DRC-Goma (sic) supported by Rwanda, the armed
12 forces of the RCD-K/ML supported by Uganda, and then the MLC supported by Uganda
13 as well. So the most ordinary thing about these forces was that they were created
14 subsequent to conventional military training, whereas an armed group, the way that it
15 was seen during negotiations, those were armed gangs of people, or in the Congo they
16 were also referred to as negative forces, just to draw a parallel between the Democratic
17 Republic of the Congo and the situation in the Central African Republic. Miskine would
18 have been likened in the DRC to an armed group, to an armed gang, and would not have
19 been considered as a belligerent. That is what I have been trying to say.

20 PRESIDING JUDGE STEINER: Thank you very much.

21 Maître Zarambaud, I am sorry for the interruption.

22 MR ZARAMBAUD: (Interpretation)

23 Q. Thank you. I will now move on to my own questions that have been approved by
24 the Chamber. Now, I made reference to a number of quotes to refresh your memory and,
25 as I've done with other witnesses, I will take into account the observations of the Chamber,

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1 as well as observations from the Defence. It has been put to me that excessively long
2 quotations tend to confuse witnesses more than anything else, so really I will just give the
3 references and then move directly to the question.

4 Now, for my first series of questions I will go directly to the actual question, without
5 reminding you of the reference and the quote. The first question is as follows: Do you
6 know if there ever was a written agreement regarding the sending of troops to
7 the ML -- of the MLC to the Central African Republic?

8 A. No, Counsel, I am not aware of any written agreement, and (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. Thank you. You stated throughout your testimony that the sending of MLC troops
13 to the Central African Republic (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted), were you surprised that at that particular time troops were sent to the
17 Central African Republic to wage war?

18 A. Yes, Counsel, (Redacted), particularly since we learned of this

19 over the radio; that is to say we learned that from Radio France Internationale. That
20 really heightened the surprise, indeed.

21 Q. Thank you. My second question is as follows: What was the international status
22 of the part of the Congo that came under the control of the MLC at the time when the
23 movement decided to send troops to the Central African Republic?

24 A. The status of the territory stemmed from the Lusaka ceasefire agreement, which
25 recognised that for each party to the agreement they would have the capacity to

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1 administer the territory, and the Lusaka agreement delineated the boundaries of that
2 territory and contemplated the deployment at those borders of UN troops.
3 Consequently, our status was comparable to that of a government. That was the basis of
4 the ceasefire agreement signed in Lusaka.
5 You said the international status. Lusaka brought together the belligerents from the
6 Congo, as well as a number of governments whose troops were deployed to the DRC, and
7 the Lusaka agreement was the trigger for all the other negotiations. In Lusaka we signed
8 another agreement, one month later, which reaffirmed the first one and also declared that
9 under no circumstances were we to depart from its provisions. So that was what we
10 based ourselves on for governing that territory at that time.

11 Q. Thank you. Could you remind us of the dates of these two agreements signed in
12 Lusaka?

13 A. The Lusaka agreement was signed early in July 1999. President Bemba signed it a
14 few weeks later, in August 1999. The second agreement relating to the principles came
15 in the course of the year 2000, but I no longer recall the exact date. It was a logical
16 progression, or follow-up. The first one was early in July, 3 or 4 July 1999, so that was
17 the general time-frame. That is when the agreement was signed.

18 Now, to go back to that agreement, if you don't mind, and to explain the importance
19 thereof, the provision that is now found in the Congolese constitution regarding
20 Congolese nationality, those provisions were taken directly from the 1999 Lusaka
21 agreement, just to show you how essential that agreement was, and really from a
22 historical perspective it is an essential agreement for all stakeholders within the Congo.

23 Q. Thank you. Now, I believe I have time for one more question before the break.
24 Now, this question relates to (Redacted), page (Redacted), paragraphs (Redacted). You
25 said that, "The MLC was managed like a company and really everything was decided by

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1 the president." You also stated that, "There was no sort of legal niceties and decisions
2 really were taken by the president, and so under all these circumstances were decisions
3 taken in light of a particular status? But, you see, really the leader was running the show
4 and everything else was an artifice," end of quote. This is a reference that is somewhat in
5 keeping with the question prepared by my learned colleague earlier.

6 And now I would like to ask you this. The fact that there were no legal niceties, so to
7 speak, and that the by-laws of the movement were of little importance, what can you tell
8 us about the actual text?

9 A. Counsel, even though one doesn't necessarily make a lot of legal distinctions within
10 a political/military movement, it was quite unusual for us as a movement at that time to
11 have an administration and that the territory would be run or managed. It was better to
12 have some sort of text, but we really were not prisoners of any text because there was no
13 deliberative assembly to adopt text. There was no separation of powers that would
14 allow us to have secret text, so to speak. Really, there was just the executive branch that
15 took action. So there were really no legal distinctions, no legal niceties, and really there
16 were no by-laws, no text adopted after debate or discussion.

17 MR ZARAMBAUD: (Interpretation) Well, I think we could now have our break now
18 and then I will ask my following questions later.

19 PRESIDING JUDGE STEINER: Thank you, Maître Zarambaud.

20 Mr Witness, it's 11 o'clock. We will have half-an-hour break. We will resume at 11.30.
21 I ask, please, court usher to take the witness outside the courtroom.

22 (The witness stands down)

23 THE COURT OFFICER: All rise.

24 (Recess taken at 11.00 a.m.)

25 *(Upon resuming in closed session at 11.36 a.m.) Reclassified into open session

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- 1 THE COURT USHER: All rise. Please be seated.
- 2 PRESIDING JUDGE STEINER: Could, please, court usher bring the witness in.
- 3 (The witness enters the courtroom)
- 4 PRESIDING JUDGE STEINER: Mr Witness, welcome back.
- 5 THE WITNESS: (Interpretation) Good morning, Madam President.
- 6 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?
- 7 THE WITNESS: (Interpretation) Yes, I am, your Honour.
- 8 PRESIDING JUDGE STEINER: Thank you very much.
- 9 Maître Zarambaud, you have the floor.
- 10 MR ZARAMBAUD: (Interpretation) Thank you, Madam President.
- 11 Q. Witness, just before the break we were talking about Bemba's authority over the
- 12 MLC as an entire movement, and on page 26, lines 20 to 26, you said that there was no
- 13 juridism and that there were no instruments and that there was no separation of powers
- 14 which would then legitimise all the instruments.
- 15 Now, although we are not dealing with a State, in the conventional meaning of a State,
- 16 there are however instruments that somehow set up the power structure within an
- 17 association or a movement such as the MLC. My question then is within the MLC was
- 18 there a constitution? Was there any structural set-up within an instrument for the
- 19 organisation, for example whereby powers were attributed to such-and-such an entity?
- 20 A. Of course, Counsel. The MLC had a constitution, which outlined or defined the
- 21 various structures of the movement.
- 22 Q. Thank you. My next series of questions deals with the recording of military and
- 23 other documents within the MLC, reference (Redacted), page (Redacted), last
- 24 paragraph. In that excerpt you talked about the recording of messages that had been
- 25 transmitted to the MLC from various structures of the organisation, and you talked about

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1 issues such as accounting and log-books having been reported to him on a daily basis and
2 annotated accordingly. Could you please provide the Court with additional information
3 as to how messages from the army, for example, which was in the Central African
4 Republic, how such messages were recorded within the MLC and then conveyed to
5 Mr Bemba?

6 A. Counsel, we have already talked about the means of communication, the phonie and
7 its operators and how any such information was recorded in a register. The daily
8 expenditure of the MLC was recorded in a book, but as for the Bangui operations we were
9 (Redacted) I am not in a position to tell you whether
10 communication links were established over the phonie, but what I know is that satellite
11 communication was in place between Gbadolite and Commander Mustapha and so I
12 cannot answer your question specifically in relation to Bangui.

13 Q. Thank you, Witness. My next series of questions deals with the command
14 structure within the MLC, and there are several references which I will be referring to and
15 for the purpose of the transcript I will just give the references without reading them out:
16 (Redacted), paragraph 6; (Redacted), page (Redacted), paragraph (Redacted),
17 last paragraph; (Redacted), paragraphs (Redacted). I want to state for the record
18 that the first page of these references is (Redacted).

19 Now, talking about the command structure, you mentioned at (Redacted), paragraph (Redacted),
20 the following: "The structure of the army in that case, all things being equal, Amuli did
21 not have full control over all the plans, or all military aspects, or all operational matters.
22 Therefore, Bemba was able to go through him and give instructions to people in the field,
23 or could also work directly with people on the field without going through Amuli.
24 Colonel Amuli, who later became a general, could have been surprised by Bemba, who
25 did not always work through him in matters relating to all these instructions."

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1 Now, I am not going to quote the other paragraphs on this point, but my question is the
2 following: How did or how was it possible for Bemba to deal directly with his troops on
3 the ground without going through Amuli, who was often surprised by that kind of
4 arrangement?

5 A. Well, Counsel, President Bemba had direct communication contacts, or channels,
6 and it was up to him to decide to give instructions directly to anyone, because he was in
7 charge without having to go necessarily through the General Chief of Staff, or the Chief of
8 General Staff.

9 The question was put to me as to how I became aware of this since I was not a member of
10 the ALC. Now, in a number of operations, such as the capture of Basankusu, there were
11 cases of frustration (Redacted)
12 (Redacted), about the manner in which he operated. So in hindsight, if this were not done
13 before a decision was taken, Colonel Amuli would be informed after orders and decisions
14 were already transmitted. This was a matter that was within the appreciation or purview
15 of the president of the MLC.

16 Q. Thank you. My next series of questions will deal with the conditions in which the
17 MLC agreed to send troops to the Central African Republic. The reference is
18 (Redacted), page (Redacted), paragraph -- page (Redacted), rather, paragraph (Redacted),
19 and this is (Redacted) was also aware of this information; that is the information relating
20 to the \$200,000 that were allegedly given to Mr Bemba. He got that information therefore
21 from Mustapha, who told him that before taking these positions he instructed Bemba and
22 Bemba set out a number of conditions for such operations relating to the payments and
23 that is what (Redacted)
24 (Redacted)"

25 Now, what do you mean by, "... before taking certain positions there was a requirement

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1 for such payments to be made"? Are you talking about positions on the field, or what are
2 you talking about?

3 A. Of course, Counsel, there was an ongoing operation involving troops, but (Redacted)
4 became aware of this information (Redacted) about them and it is for
5 that person to vouch for their veracity. (Redacted) contacted by President
6 Jean-Pierre Bemba regarding remuneration, or payment, or any manner of bills and
7 vouchers relating to services having been provided by the MLC. (Redacted)
8 (Redacted)

9 Q. Following up on this matter, and I'm referring to CAR-OTP with the same first page
10 for that document which I mentioned earlier. Now, turning to page (Redacted),
11 paragraph (Redacted), you stated that, "The decision to deploy once made, and as I have
12 said in relation to its execution he, Mr Bemba, may or may not have talked about such a
13 decision to Amuli, but could have talked about it to Mustapha. For example, 'Go
14 through this river,' or 'Do not move,'" end of quote.

15 Question: Was the situation such that Bemba was able, (Redacted)
16 (Redacted), was it possible for Bemba to tell a

17 commander on the ground to go by such a river, or to stay put? Was that possible?

18 A. Counsel, the only confirmation I can refer to is the withdrawal operation; the
19 operation to withdraw MLC troops from -- or ALC troops, rather, from the Central
20 African Republic. At that time, President Jean-Pierre Bemba monitored the withdrawal
21 of the MLC troops closely, very closely. I can therefore infer that parallelly he was able
22 to follow, or rather that at the same time he was -- or in similar manner he was able to
23 monitor his troops. I wasn't there, that is true, but because we know that he monitored
24 the withdrawal, we can also assume that he was able to monitor troop movement on the
25 field. We could also imagine that the commander on the field may have been in direct

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1 contact with President Jean-Pierre Bemba without having to report directly to the Chief of
2 General Staff.

3 Q. Thank you, Mr Witness. And still along the same lines I want to refer to
4 (Redacted), page (Redacted), paragraphs (Redacted), as well as reference CAR -- well,
5 the last page, rather, should be 0301, paragraphs 1 and 2 and then the penultimate
6 paragraph, as well as reference number 0549, paragraph 8. You talked about a foreign
7 legion that former President Patassé wanted to create and to have Mr Mustapha head it
8 up. Then you also talked about, or you testified as follows: "Mustapha was the
9 commander of the Central African chief, or Central African army, to the extent that there
10 was no longer an army in the Central African Republic. I do not know and I did not
11 know the state of the troops that crossed over. It was the only army available to Patassé
12 in the Central African Republic at that time," end of quote. Can you please provide
13 further information on the idea, or the point, that Patassé no longer had an army and the
14 only operational army on the ground at the time was the ALC army?

15 A. Counsel, when we learned of the deployment of the MLC troops to Bangui (Redacted)
16 (Redacted)

17 (Redacted) what the reasons for that deployment were;
18 that is the deployment to the Central African Republic. In the course of that conversation,
19 (Redacted) That President Patassé had
20 called him, or had called on him, for assistance to rescue him, because he was devoid of
21 any army, or any forces, that he barely had a few troops guarding him to safeguard his
22 physical integrity, that is for himself and his family, so he no longer had an army. It was
23 therefore in answer to that urgent call and request that President Bemba had decided to
24 deploy MLC troops to the rescue of President Patassé. (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted).

3 Now, please, I'm not sure that I recall your exact question, but I have provided you with
4 the reasons and the context within which the deployment was carried out.

5 Q. I thank you, and for the record to be clear it was indeed Mr Jean-Pierre Bemba who
6 (Redacted) Patassé no longer had an army; is that the case?

7 A. Yes, it is (Redacted).

8 Q. Thank you. Flowing from that situation, let me refer to (Redacted), page (Redacted),
9 paragraphs (Redacted), and reference (Redacted), page (Redacted), paragraph (Redacted),
10 last paragraph, as well as reference (Redacted), page (Redacted), paragraphs (Redacted).

11 This is what you said in substance. I will quote maybe one or two excerpts of your
12 testimony. The question was put to you as to whether throughout the conflict Patassé
13 had any authority on Mustapha and the troops. Could he have taken any measures
14 against his -- the troops? They, that is the MLC soldiers, could they have accepted to come
15 under his authority? This was your answer, I quote you, "Patassé had no authority over
16 Mustapha. As far as I know, Patassé had no way of taking any sanctions because he had
17 no army. Mustapha was under the authority of his boss; namely, Jean-Pierre Bemba."

18 My question then is the following: Could you tell this Court how it is, according to you,
19 that Patassé was not able to take any sanctions against MLC soldiers?

20 A. President Patassé was not in any way similar to a general commanding any
21 operations. He actually knew nothing about military matters. Now, the only thing that
22 can be said about the request he made to Colonel Mustapha to set up a foreign legion, and
23 which would be placed under his command, is in fact an anecdote that actually proves the
24 nature of the discussions and relations between -- relationship between the two people, so
25 these are not the type of discussions that you would find in a situation of hierarchy.

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1 And then the fact that Mustapha reported on those discussions to his own hierarchy also
2 reveals the fact that Mustapha was always under the orders of President Jean-Pierre
3 Bemba, to the extent that he reported to him exhaustively on the content of that
4 conversation. If he had at all been under President Patassé's orders for operational
5 reasons he clearly, that is Mustapha, would have spared himself the trouble of making
6 such a statement, and that to me clearly points to the fact that Colonel Mustapha received
7 orders from his hierarchy, from the MLC.

8 Q. Thank you. I would like to hark back to this whole issue of legal distinctions within
9 the MLC, (Redacted), page (Redacted), paragraph (Redacted) and paragraph (Redacted).
10 You were asked what the role of a political/military Council was when it came to military
11 operations, and you answered and I quote, "The council had no role to play when it came
12 to operations. It was really just something that Bemba had put in place," end of quote,
13 and you gave an example. You said that at one particular time Bemba tried to replace
14 Patassé by his Minister of Defence of the day, Mr Demafouth, and I'd like to ask you one
15 or two questions about this point.

16 Now, the first thing is if, considering the circumstances, it was not necessary, the
17 constitution that had been written, why are you saying that it was a bit of a sham?

18 A. The political/military council -- and really I've said this. The council took two
19 kinds of decisions: First of all sanctions against high-ranking people, that was quite
20 exceptional, and then secondly decisions regarding ranks. What's more, these decisions
21 were quite rare because, when you look at the number of decisions actually taken by this
22 council, I think you might find five decisions were taken over the course of one year. It
23 was more of a rubber stamp committee. It really wasn't a body that made decisions.
24 That's what I meant when I said that it was a bit of a sham. It really was more of a
25 rubber stamp.

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1 Q. Thank you. Could you tell the Chamber more about the attempted --

2 THE INTERPRETER: Inaudible.

3 MR ZARAMBAUD: (Interpretation)

4 Q. The attempt to have President Patassé replaced by his former Defence Minister,
5 Mr Demafouth, could you tell the Chamber whether Demafouth agreed to this scheme?

6 A. Counsel, well, this is in relation to the first intervention by the MLC in Bangui in
7 2001, and amongst the various political stakeholders in the Central African Republic
8 every -- all of them were looking for Mr Bemba's support; first and foremost General
9 Kolingba himself, and you see he was representing one of the important communities, the
10 Yakoma community in the northern part of Équateur province, and as such he could ask
11 for the support of the MLC to take power by way of a -- by overthrowing the government.
12 Secondly, President Patassé, knowing the strength of Jean-Pierre Bemba in 1999, when the
13 MLC captured the town of Gbadolite and headed towards Zongo, the Central African
14 Republic authorities were told that if they intended to maintain a relationship with the
15 Kinshasa government, or to assist the Kinshasa government, to threaten the MLC, we said
16 that at any time from Zongo we could keep any airport -- aircraft from landing at the
17 Bangui airport. President Patassé was aware of the power structure here, and in 2001,
18 when there was the attempt to overthrow General Kolingba, it was normal for him to be
19 the one asking for support from President Bemba, and Minister Demafouth also was
20 seeking support. What's more, Radio France Internationale reported on telephone
21 conversations. (Redacted)

22 So, in 2001, in actual fact President Jean-Pierre Bemba was really running the show. He
23 was the one who was making the decisions, who -- particularly when it came to all these
24 ambitions from the various players in the game.

25 Q. Thank you. I understand. I won't ask you any further questions in this regard,

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1 because this does allow us to understand the situation in 2001.

2 I'd now like to move on to the acts of violence and abuse that allegedly occurred in the

3 Central African Republic, and then I will ask you a few questions about punishment, or

4 sanctions, that may have been meted out. The reference is as follows:

5 (Redacted), paragraph -- page (Redacted) and also at page (Redacted). You made mention

6 of a sense of impunity when it came to the various troops that had been sent to the Central

7 African Republic, and you also stated that after seeing, or after reminding us that the

8 troops were not paid, you said that the MLC troops were not paid and that as a result, and

9 I quote, "The army became an army that had to live off the land, so to speak."

10 Now, my question is as follows -- or an army that had to fend for itself. Now, during this

11 period of time, October 2002 to March 2003, how did this situation play out, this army that

12 had to fend for itself?

13 A. Counsel, I've made a number of deductions in relation to events that were reported

14 on by RFI, and indeed one of the things that I deduced -- and I've been asked to explain

15 the situation. It was said that the MLC army had a reputation for being based on a

16 conventional model. It was like a conventional army and, other than the events in Ituri

17 that occurred at the same time, that the MLC had remained relatively disciplined.

18 And so I made a number of assumptions, or I guessed at things that were quite easy to

19 guess at, and I do know that (Redacted)

20 (Redacted) they were extremely

21 concerned not so much by the events, but more by the fact that there had been no reaction

22 on the part of the MLC and, if I remember correctly, that is one of the reasons for the

23 request to conduct an investigation. Well, co-operation was requested of the United

24 Nations, the representative of the secretary-general in Bangui, and it was important to

25 demonstrate that the movement did not just remain indifferent or do nothing in response

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1 to any possible acts of violence or abuse.

2 That is the reason why (Redacted) the trial of Mambasa, the Ituri situation, that
3 trial was stepped up and the opportunity was taken; namely the presence of the
4 journalists. We took that opportunity, the journalists were there, the RFI correspondent
5 was there, to send this mission to Sibut.

6 Consequently, acts of violence and abuse may have occurred. We did not witness them,
7 (Redacted) but the press campaign that was being
8 actively led at the time was such that there needed to be a reaction, and the reaction was
9 what we looked -- the reaction was what we have been looking at over the past few days.

10 Q. Thank you. I would now like to make reference to document (Redacted)
11 page (Redacted), paragraphs (Redacted) and following, as
12 well as page (Redacted) first paragraph. Regarding looting, you stated in relation to
13 looting and I quote, "The looted goods were for the most part taken back to the Congo and
14 it was impossible not to know about that because everything went through Zongo,
15 (Redacted)." With regard to the vehicles looted you stated, "These various vehicles, there
16 were a few. Some were used by the leaders, and Bemba took no measures against these
17 leaders and so a feeling of impunity emerged."

18 So I would like to ask you this. In your opinion, what did you see exactly amongst the
19 looted goods that were taken from Bangui to Zongo, and above all in particular the
20 vehicles that were used by leaders? Could you tell us more information about this?
21 Could you give the Chamber more information about these looted goods?

22 A. Well, Counsel, as I've been saying, the two people who allegedly reported on
23 equipment and goods that were taken across the river were (Redacted) and (Redacted) so
24 I really can't say anything about the equipment or the other goods that were taken across
25 the river.

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1 Now, in each particular case, well, there was that possibility; namely, what really was
2 taken across the river? As far as the vehicles are concerned, I was told that one or two
3 vehicles in Gbadolite had come from the Central African Republic, and I really wouldn't
4 ask any more questions about how those vehicles were taken from the Central African
5 Republic and brought to Gbadolite. Were those vehicles taken after some form of
6 violence? Was there some kind of transaction, or deal? They came from the Central
7 African Republic, but I really didn't ask exactly how it came to be that the vehicles were
8 there, or how they had been acquired.

9 So in answer -- to answer your question, (Redacted) that I've mentioned are really in
10 the best position to give you a more specific answer, because their services were assigned
11 to that task of ensuring safety within the territory; within the boundaries of the territory.

12 Q. Thank you, Witness. I'd now like to move on to some questions that have to do
13 with the possible judgment of the people who may have been involved in acts of violence
14 and abuse during the operation in Bangui. You stated, reference (Redacted)
15 page (Redacted), paragraphs (Redacted) -- after reminding us what occurred in Ituri, you
16 said that, on the other hand, when it came to the Bangui operations, you said the
17 following and I quote, "No, no. In any event, well, if those measures are taken ..." --

18 THE INTERPRETER: Inaudible.

19 MR ZARAMBAUD: (Interpretation)

20 Q. "... this will be -- this will remain a matter between soldiers, but I don't remember
21 any sanctions or punishment imposed upon the people regarding events in Bangui," end
22 of quote. Is that still your position regarding sanctions, or punishment, that may or may
23 not have been imposed on those responsible for acts of violence and abuse during events?

24 A. Well, Counsel, we did look at a message in which the president of the MLC
25 confirmed that eight people - eight soldiers - were arrested, so that message is dated

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1 4 January (Redacted) I wasn't aware of those arrests. All the media attention
2 about the trial in Ituri really overshadowed news about the arrest of armed members of
3 the MLC in Bangui at the time, and so that is why I said that I don't remember. I don't
4 remember the names of the soldiers who were arrested, nor do I remember sentences that
5 may have been handed down, nor do I remember anything about the court-martial,
6 because that really was something that had to do with soldiers, not with the civilians. If
7 at the time we could make a comparison, I would say that we were far more involved in
8 the trial of the soldiers relating to Ituri, the Ituri situation. That is why I said specifically
9 that, first of all, I really didn't have the training, I didn't have the recollection and, thirdly,
10 I was not aware. I didn't know the men. I was not aware of any sentences that were
11 imposed upon them for things that they may have done.

12 Q. Thank you. Now, you've just stated that this really was a case that had to do with
13 military staff, not with civilians. Does that mean within the MLC civilians do not have
14 authority over military staff; that the military people were entirely independent of
15 civilians?

16 A. Of course, Counsel. (Redacted)
17 (Redacted). The secretary-general, who was the number one man within the political wing,
18 never had any military rank, or did any military tasks or functions, a senior-ranking
19 officer of the MLC. There was a clear division, or a dividing line, between the army of
20 the MLC and the political wing.

21 MR ZARAMBAUD: (Interpretation) Thank you, Witness. I think you've said quite a
22 bit already, but I do want to ask you one particular question and this has to do with
23 military authority being subject to civilians.

24 But, in any event, I have concluded your Honours and I thank you very much.

25 PRESIDING JUDGE STEINER: Thank you, Maître Zarambaud.

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1 Mr Haynes, are you ready?

2 MR HAYNES: I would hope so, your Honour.

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

4 QUESTIONED BY MR HAYNES:

5 Q. Well, good afternoon to you, sir.

6 A. Good afternoon, Counsel.

7 Q. As a starting point, are you comfortable if I call you "sir," or would you like me to
8 address you in some other way?

9 A. That is just fine by me, Counsel.

10 Q. Okay. I'm going to introduce myself, just very briefly. My name is Peter Haynes,
11 I'm from the United Kingdom and I'm one of the counsel who represent Mr Jean-Pierre
12 Bemba.

13 I have been listening to your evidence now for three-and-a-half days and you're probably
14 pleased to hear that, given the considerable number of questions you've already answered
15 and the considerable amount of evidence you've already given, the number of questions I
16 have remaining for you has been substantially reduced.

17 Okay, let's begin. Do I understand the position to be that in (Redacted)

18 (Redacted)

19 A. (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. You may have already dealt with this briefly, but what was it that attracted you to
23 join the organisation of Mr Jean-Pierre Bemba (Redacted)

24 A. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. (Redacted)

8 (Redacted)

9 A. I said, Counsel, I thought that the cause defended by President Bemba and his
10 movement, that the cause and the movement were noble and that Mr Bemba had the
11 ability to lead the Congo (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted). So that was one assurance that I had and a conviction that I held very
18 closely, very deeply.

19 Q. Sir, throughout the period (Redacted)

20 (Redacted)

21 A. Counsel, the MLC did not pay out any salaries. However, President Bemba was
22 careful enough to take care of families. If it happened that there were any emergencies,
23 we would explain the matter to him. In any event he covered travel expenses, so one
24 cannot therefore refer to this as a salary, which is payment for work done. That was not
25 the arrangement within the MLC.

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1 Q. You've probably dealt with the following question, but was that the position with
2 (Redacted)

3 A. Counsel, the relations all fell within the discretionary powers of President
4 Jean-Pierre Bemba. We were many of us (Redacted)
5 (Redacted), their own

6 specific needs as known to Jean-Pierre Bemba and with their own individual wealth, as
7 the case may be. So it was truly within the MLC's purview to freely determine what to
8 do. I did not ask anyone how much or what they got from the president to meet the
9 needs of their families.

10 Q. Thank you. Can we move on briefly to the soldiers in the MLC army. Did they
11 expect to be paid?

12 A. I do not think that they expected to be paid. Most of them were young recruits and
13 some of them were members of other families which had been victims of the military
14 experience in Kinshasa, and so their commitment to the MLC was in view of liberating the
15 DRC and so it may be the reason for which it was necessary to take charge of them, to take
16 responsibility for their rations, rather than anything else.

17 But your question was specific: Were salaries paid out? And let me answer by telling
18 you the following anecdote, as it were: In 1999, a number of young senior staff, or senior
19 officers should I say, officials, wanted to join President Bemba in Gbadolite and set a
20 salary which would have enabled them to come and join him. So when they were told
21 that the MLC did not pay any salaries, they went back to the United States. So this rule
22 was understood by soldiers and by civilians alike. It would not have been justifiable to
23 have the soldiers making sacrifices on the one hand and have civilians being paid on the
24 other, being paid a salary.

25 Q. Thank you for that. In terms of the soldiers, what was their ultimate expectation or

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1 objective in joining the ALC?

2 A. Counsel, the objective was to get to Kinshasa to liberate the Democratic Republic of
3 the Congo of the regime that had occupied Kinshasa from 1997. For some, the idea was
4 to join the army. For others, they were satisfied with involvement in the freedom fight,
5 or freedom struggle. So within the movement we had political commissioners, and over
6 time it became necessary to provide a political attire to the military activity and more and
7 more that political attire was being worked upon and improved upon, as following the
8 Lusaka agreement the military option was becoming more and more secondary. That is
9 why it was necessary to give civilians and soldiers alike a more or a greater political
10 vision.

11 Q. Thank you again. And are many of those soldiers now soldiers in the Congolese
12 army?

13 A. Counsel, I do not have the figures. The armed forces of the Democratic Republic of
14 the Congo are a composite force that is made up of several components. Recently it is
15 made up of 52 armed groups, or former belligerents. Now, the exact number of MLC
16 troops that were integrated into the army I do not know. There are a number of officers
17 of the former MLC forces who now sit on the General Staff, but I don't have an exact
18 number for you, Counsel.

19 Q. Thank you. But the MLC officers and soldiers that have been integrated into the
20 army, do they now receive a salary from the Kinshasa government?

21 A. Of course, Counsel. They are now soldiers of a regular army and in that capacity
22 do receive a salary.

23 Q. Thank you. Sir, did you join the MLC because it was -- I'm sorry, I'm going to start
24 that question again. (Redacted)

25 (Redacted)

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1 A. There was an armed wing of the MLC made up of young people, or including
2 young people, who had received training involving military assignments, as well as
3 political duties, so these young people were trained to serve as political commissioners.
4 I'm thinking about (Redacted), for example, (Redacted)
5 (Redacted). And so those young people did not necessarily have major administrative or
6 political and even diplomatic skills, and that is why these talents had to be built up when
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)

12 Q. Thank you. What was the function of a political commissaire?

13 A. The godfather of the MLC was Uganda, Counsel, and the Ugandan authorities
14 wanted to disseminate the benefits of pan-Africanism. They were very mindful of the
15 need for civilians to be closely linked to the life of a military movement and they were
16 successful on that score in their own country. That is the model of political
17 commissioners that had been used in Uganda that was used to train the young people and
18 during that training they were able to meet SPLA political commissioners from South
19 Sudan. This was a prevailing practice in the pan-African movement and in the liberation
20 armies across the continent.

21 Q. Thank you. Did this mean, therefore, that the political commissaires worked both
22 with the troops and with the population?

23 A. Yes, that is correct. They wore military uniforms, and they underwent a lengthy
24 and a very challenging training period which they said was extremely different from the
25 short-term training that was offered to the military branch at that time.

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1 Q. What work did the political commissaires do with the armed forces?

2 A. The basic link actually was that they cannot be a liberation army that focuses
3 exclusively only on arms while civilians do not have any interest in the destiny of the
4 soldiers, so there was a clear desire to put in place an ideology for the army, and you
5 know that the army generally speaking is apolitical in these liberation struggles but, in
6 any event, it was necessary for the troops to have connections, political connections, so
7 that the ideals of the movement could become common to all.

8 Q. And in your assessment were the political commissaires successful in the work that
9 they did with the armed forces?

10 A. I -- I don't know what criteria you would use to determine success, so I can't answer
11 your question.

12 Q. How did the armed forces and the civilian population relate to each other during the
13 time you were a member of the MLC?

14 A. What was peculiar about the MLC is the strong identity and attachment to the
15 territory under its control. Most of the troops or members of the MLC, or at least a vast
16 majority of them were people from the Équateur province, so the answer to your question
17 is that it was only but natural for some good measure of complicity and support to exist
18 within the population and the young people of the territory who, one may say, were all
19 natives to that area and it is for that reason that one could say that the MLC, as compared
20 to the other movements, the territory of the -- under the control of the MLC remained
21 relatively quite free of different types of violence and pressure from the military on the
22 population because most of the soldiers were members of the same population, the same
23 community, and so the identity of the MLC, of its membership, was very closely linked to
24 the territory under its control.

25 Q. Thank you. I'm sure we all know, but just for the record, when you refer to the

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1 "other" groups, who were you referring to?

2 A. I am referring to the RCD-Goma, RCD-K/ML.

3 Q. Thank you. Now, can we come, just quickly before lunch, to October 2002. Three
4 events happened concurrently in October 2002. (Redacted)
5 (Redacted)

6 A. (Redacted).

7 Q. And we'll come back to them in a little more detail but can you just for the benefit of
8 the Chamber remind us who were the parties to those negotiations?

9 A. The parties to the Pretoria negotiations included the Kinshasa government,
10 RCD-Goma, RCD-K/ML, RCD-National, civil society in its various components and then
11 the political opposition. Those were the major parties involved in the Pretoria
12 negotiations.

13 Q. And again, we will come on to this in a little more detail, but the difference between
14 the Pretoria negotiations in October and the concluded Sun City 1 agreement is that the
15 RCD were not involved in the Sun City 1 agreement, were they?

16 A. The Sun City 1 agreement was referred to as a partial agreement. Yes, the
17 RCD-Goma was not involved in the Sun City 1 agreement.

18 Q. Thanks. Now, concurrent to the commencement of the Pretoria negotiations, a
19 military attack was commenced in Ituri against the MLC, wasn't it?

20 A. That is correct, Counsel. The RCD-K/ML, an ally of Uganda, took a hostile
21 position against the MLC. One of its spokespersons actually fanned the antagonism into
22 flames by stating that the RCD-K/ML was going to dislodge the MLC from the Équateur
23 province and so an offensive against the MLC was launched by the RCD-K/ML. It is
24 public knowledge that the RCD-K/ML, in spite of the support from the same godfather,
25 the same godfather for the MLC, namely, Uganda, developed close ties with Kinshasa,

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1 and so you're correct, Counsel, when you say that the RCD-K/ML did launch an offensive
2 against the MLC.

3 Q. The spokesperson you're talking about, was that a man called Kadima?

4 A. Yes, that is correct, Counsel. Mr Kadima made a statement which smacked of a
5 declaration that the RCD-K/ML was going to spend Christmas in Gbadolite, which simply
6 interpreted means that they were going to dislodge the MLC from its positions.

7 Q. Thank you very much. Now, I understand (Redacted)

8 (Redacted), did the MLC have any alternative but to defend the military action being
9 brought against it in Ituri by the RCD?

10 A. Going by the provisions of the Lusaka agreement, and the agreement on the Lusaka
11 principles, the MLC was entitled to react, to defend the integrity of its territory which, by
12 the way, under the agreements signed by the parties had been recognised as territory
13 belonging to the MLC.

14 Q. And just to complete the picture, the attack was an attack behind the front lines,
15 wasn't it?

16 A. Counsel, there was no front line as such because we were all connected to the same
17 ancestor, the same godfather, and so Counsel, you need to understand that from 16
18 January 2001, to early June, we were linked or related to the RCD-K/ML pursuant to a
19 convention setting up the Congolese Liberation Front. So the RCD and the Congolese
20 Liberation Army were deployed on all the territory of the RCD. So there was profound
21 disagreement and misunderstanding as to the management of resources, and that is how
22 the RCD-K/ML attempted a putsch against President Bemba, a putsch which was
23 unsuccessful but which led to a split between the two groups and that is how the MLC
24 withdrew to its original territory by the end of the first half of 2001. There was great
25 rivalry between, a very strong rivalry between the leaders of the two movements that

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1 happened to be sponsored or supported by Uganda. In any event, there was no reason
2 to think that the RCD-K/ML was going to conduct a military operation against the MLC.

3 Q. Just to complete the picture before we break for lunch, concurrently to that, General
4 Bozizé launched an attack on Bangui, didn't he?

5 A. Yes, that's quite right, Counsel.

6 MR HAYNES: Thank you very much.

7 PRESIDING JUDGE STEINER: Mr Witness, we will go now into our lunch-break. It's
8 1 o'clock, almost 5 past 1. We will resume at 2.35. Please, court usher, accompany the
9 witness outside the courtroom.

10 (The witness stands down)

11 THE COURT OFFICER: All rise.

12 (Recess taken at 1.02 p.m.)

13 *(Upon resuming in closed session at 2.36 p.m.) Reclassified into open session

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

15 PRESIDING JUDGE STEINER: Good afternoon and welcome back, and I ask, please,
16 court usher to bring the witness in.

17 (The witness enters the courtroom)

18 PRESIDING JUDGE STEINER: Mr Witness, good afternoon and welcome back.

19 THE WITNESS: (Interpretation) Thank you, Madam President.

20 PRESIDING JUDGE STEINER: Are you ready to continue with your testimony?

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

22 PRESIDING JUDGE STEINER: Thank you very much.

23 Mr Haynes, you have the floor.

24 MR HAYNES: Good afternoon, your Honour.

25 Q. And good afternoon to you, sir.

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1 A. Good afternoon, Counsel.

2 Q. Sir, for your information and indeed for everybody else's, we've got about
3 80 minutes this afternoon and unfortunately you're going to have to spend the
4 weekend in the frozen Hague, but I'm confident that I will finish my questioning of
5 you on Monday so that those who have to make arrangements for you can proceed on
6 that basis, okay?

7 Now, just before lunch we had got to talking about the military action conducted by
8 General Bozizé in Bangui, and I know this sort of detail is very difficult to remember
9 ten years later, or nearly ten years later, but do you recall whether you heard about
10 General Bozizé's coup d'état, or attempted coup d'état, before you heard about the
11 insertion of MLC troops?

12 A. Counsel, there were collaborators of General Bozizé who were in contact with
13 (Redacted). I cannot indicate to you the specific period in time, but it
14 appeared that General Bozizé had certain close political collaborators (Redacted).
15 (Redacted)
16 (Redacted), so he had contacts with certain collaborators of
17 General Bozizé. He mentioned this to President Jean-Pierre Bemba, but I no longer
18 remember the specific time. I know that there were contacts, there were meetings, at
19 least one meeting, and I know that (Redacted) reported this to the president of
20 the MLC.

21 Q. Okay. That was probably my fault, sir. It was a complicated question.
22 What I was trying to found out was whether (Redacted) that General
23 Bozizé was attacking Bangui before you heard about MLC troops going to the aid of
24 President Patassé?

25 A. I have no recollection of that, Counsel, (Redacted)

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1 (Redacted)

2 (Redacted). In fact, this was really not a very

3 important issue until the MLC troops were deployed to Bangui. That is when we

4 really started paying attention. Otherwise, we were not paying very much heed to

5 what was going on in the Central African Republic.

6 Q. Thank you very much. I want to, as it were, change topics just briefly and discuss

7 with you some matters about discipline of troops, and to that end I wonder whether

8 the court officer could display on your screen Defence document (Redacted), please?

9 THE COURT OFFICER: Document (Redacted) is available on the screens

10 and it's a public document.

11 MR HAYNES:

12 Q. Sir, you know the procedure now. Can you read that document as far as you

13 can and then perhaps indicate when you need it to be scrolled down, or indeed when

14 you need to look at the second page?

15 (Pause in proceedings)

16 And if we could just go back to the top of the document now that the witness has read

17 it? That document is dated (Redacted), do you agree?

18 A. Yes, indeed, Counsel.

19 Q. And it appears to have been (Redacted)

20 (Redacted)

21 A. I do not recall, Counsel. I believe that what is written here, (Redacted)

22 (Redacted) Counsel.

23 Q. I take it (Redacted)?

24 A. (Redacted)

25 (Redacted)

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1 Q. Well, just for our interest, can you tell from the initials on that document who
2 did in fact draft it?

3 A. Counsel, it is the president of the MLC, but the question is as follows: Did he
4 actually draft the document? Was it be -- was it prepared by someone else and he
5 simply signed? But, in any case, the document does not come (Redacted)
6 (Redacted)

7 Q. Okay. Just so that it appears on the record, what is the effect of the instruction
8 in that document?

9 A. Counsel, just like you I have read that it mentions the enforcement of the death
10 sentence upon approval of the president and the senior leadership of the MLC. The
11 formula "President High Command of the MLC," was not what was used in normal
12 practice. It was "Commander-in-chief of the ALC," or "President of the Congolese
13 Liberation Movement," but I can see that there are penalties or sanctions that are
14 provided for based on the code of conduct for all the crimes that are referred to in this
15 document.

16 Q. Thank you. Are you able to help us as to what the significance of that
17 document being sent out on (Redacted)

18 A. Counsel, I really do not have an answer to your question, because I am simply
19 seeing this document now and I cannot really place it in any particular context. Let
20 me point out once again that (Redacted) of this document.

21 Q. Very well, but can you help us what -- with what President Bemba's attitude
22 was to soldiers who committed offences of rape or murder, or such offences as are
23 listed in this document?

24 A. Counsel, President Bemba's attitude was extremely clear. He did not tolerate
25 any such abuses. I had heard that in the past, before I joined the MLC, one of the

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1 MLC elements had been arrested, I really do not remember for what, whether it was a
2 rape or murder, and President Bemba had demanded the death penalty for this
3 person and it was the members of the population themselves who had been invited to
4 witness the execution who asked President Bemba for clemency after the soldier who
5 was to be executed started crying, and I believe that President Bemba actually granted
6 that clemency.

7 Generally speaking, as it has been mentioned, discipline was crucial and there were
8 no excesses or aggravated criminal behaviour in the territories controlled by the MLC.

9 In any case, we did not hear about those. The serious allegations were pointed out
10 in Ituri, but before that we had not been informed of any acts of violence perpetrated
11 by MLC soldiers against the population. It is important to know, Counsel, that
12 President Laurent Kabila's troops had perpetrated acts of violence - several acts of
13 violence - before the MLC took over control of the Équateur province, and the
14 population felt more secure under the control of the MLC than under the control of
15 any other force and I said before that these crimes were first mentioned in the second
16 semester of 2002 in Ituri.

17 Q. Thank you. I was going to deal with this at another time, but since you've
18 mentioned it I'll deal with it now. What were the most notorious abuses carried out
19 by President Laurent Kabila's troops in Équateur?

20 A. When Laurent Kabila's troops progressed through the Équateur province, that is
21 when they moved between Bangui and Zongo and attacked the MLC, the Kinshasa
22 troops perpetrated murders along the villages between the road from Zongo to
23 Gemena. As a result there was a mission which was commissioned, including
24 amongst other things the officer responsible for media communication in the MLC,
25 and all along this road he reported that there had been crimes or acts of violence

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1 perpetrated by Laurent Kabila's troops and the population had been traumatised and
2 distressed by those acts of violence. There were other sites, or locations, that were
3 already identified -- also identified in the territories under the control of the MLC,
4 and before the arrival of the MLC the Kinshasa troops had committed acts of violence
5 there. I no longer remember those locations, but at that time we had collected all the
6 available evidence, and the testimonies and the photographs relating to those acts of
7 violence.

8 MR HAYNES: Thank you very much. Your Honour, I'll adopt the practice of
9 Ms Kneuer and I will tender into evidence, please, this document,
10 (Redacted) and it can now be removed from the screen.

11 PRESIDING JUDGE STEINER: Mr Haynes, the only difference is that Ms Kneuer,
12 the Prosecution, had informed in its list of documents to be used of the intention to
13 tender the document into evidence, which appears not to be the case in relation to this
14 specific document, number 53 in the Defence list of evidence.

15 MR HAYNES: Your Honour is quite right. In that case, I will defer my application
16 until the Prosecution have had an opportunity to consider their response to it.

17 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

18 MR HAYNES: And can the document please be replaced on the screen by Defence
19 document (Redacted)

20 PRESIDING JUDGE STEINER: Yes, Ms Kneuer?

21 MS KNEUER: Madam President, to expedite things a little bit, we don't object.

22 PRESIDING JUDGE STEINER: Thank you, Ms Kneuer.

23 MR HAYNES: That's very helpful.

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

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1 MR HAYNES:

2 Q. This is quite a long document, so I'm not going to show all of it to you and I
3 don't think you need to read all of it, but did you ever see a document like this
4 recording the offences and the disciplinary measures imposed upon soldiers in the
5 MLC?

6 A. No, Counsel. This is from the army headquarters, (Redacted)
7 (Redacted). This document is a
8 document that was internal to the army.

9 Q. Were you aware that the army kept such statistics?

10 A. No, we weren't aware of that, Counsel. It was to the advantage of the army to
11 set up such a system for keeping statistics.

12 Q. Thank you. Well, I'm going to move on a little bit now. We have been
13 dealing with the punishment of soldiers, but were there also occasions after you
14 joined the MLC when officers and officials were punished for wrongdoing?

15 A. I do remember one specific case, Counsel. It had to do with Commander Papy
16 Kabonge, who was part -- he was amongst the first soldiers who went with President
17 Bemba from the very beginning of the MLC when it was created in 1998. He was
18 arrested, imprisoned, because he was intimidating traders in Bumba, and so he was
19 subject to punishment because of this infraction and, you see, he was serving as a
20 political commissioner at the time, that was his function, and I think this was quite a
21 revealing example because we saw that these punishments could also apply to
22 members of the political/military leadership.

23 Q. Sir, you have anticipated my next question, which was was there within the
24 MLC in your view any culture of impunity even for high-ranking officials?

25 A. No, Counsel, there was no culture of impunity.

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1 THE INTERPRETER: Interpreter's correction: In the previous reply, the witness
2 mentioned extortion of traders. Extortion.

3 MR HAYNES: Thank you. Just two or three more questions on this topic. Can this
4 document be removed from the screen - I don't need to tender it into evidence, it
5 already has an EVD number - and can it be replaced with document (Redacted) please?

6 Q. Again, sir, can you read this document through and indicate to me when you
7 have done so?

8 THE COURT OFFICER: For the record of the case, this document corresponds to
9 reference (Redacted).

10 MR HAYNES:

11 Q. Can you help us as to what this document is that we're looking at on this
12 screen?

13 A. Counsel, I don't remember this document, so it would be difficult for me to help
14 you. Now, the circumstances, this document seems to be signed at the order of the
15 Minister of Justice, who wasn't there at the time. I really do wonder now why would
16 the Supreme War Council be meeting? The facts don't -- or the events don't seem to
17 be based on this text.

18 Now, who was the national secretary and what exactly was the role being played by
19 that person? (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. Sir, I'm not showing you this document in any way (Redacted), but as
5 you say this is an order (Redacted)

6 A. Quite so. If the date that we see here is the true date, yes, that would have
7 been a few days before (Redacted).

8 Q. And forgetting whether (Redacted)
9 (Redacted), what is it an order for?

10 A. I'd like to have another look at the first part of the document. This document
11 has to do with the (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. And I'm not going to dwell on this for any longer, but what is the Higher War
16 Council?

17 A. (Redacted) the trial of the troops involved in the events in Ituri. You see,
18 there was this trial, so a Higher War Council was set up and I believe Ms Ebenga
19 belonged to that group, but then once again these were quite specific provisions,
20 specific to the Congolese Liberation Army, the ALC, so a certain number of people
21 were needed to sit (Redacted) had to consider the
22 rights of the defence and of course the rights of the prosecution as well.

23 Q. Okay, and that body was still being administered (Redacted)
24 (Redacted)

25 A. As I told you a few moments ago, I really no longer recall in any way, shape or

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1 form whether a document was drafted to set up such a military tribunal just a few
2 days (Redacted).

3 Q. Okay. Well, we'll leave that behind us and that document can be removed
4 from the screen. Thank you very much. Sir, can we go back, as it were, to
5 October 2002. Given what you knew about the training and education and
6 discipline within the MLC, were you at all concerned that MLC units were being
7 deployed in Ituri?

8 A. Counsel, in terms of military concerns, so if you think that there were some
9 doubts about our military capacities, well, there were no doubts about our military
10 capacity, so there really was no reason for us to be concerned. If the term "concern"
11 is what you're using, if you're asking whether we doubted the effectiveness of the
12 soldiers, we never doubted the effectiveness of the MLC troops, Counsel.

13 Q. What I'm really asking you is, given what you knew about their training and
14 disciplinary history, were you worried that those troops when deployed might
15 commit abuses against the civilian population?

16 A. No, Counsel, we had no such doubts, particularly since -- well, we didn't know
17 exactly who was being deployed, exactly who the commanders were. That was a
18 military matter and we entirely trusted the commanders of the army and the Chief of
19 General Staff. We had no reason to imagine that there might be excesses.

20 Q. And was the same true of the deployment in Bangui?

21 A. Counsel, the deployment in Bangui surprised us. (Redacted)
22 (Redacted) I say up until the time of those events the MLC army had a reputation for
23 being a disciplined army and members engaged. (Redacted)
24 (Redacted)
25 (Redacted) within the MLC there

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1 was an army, an army that was recognised as being strong and disciplined, and that
2 allowed throughout the entire course of the negotiations, despite the fact that the
3 MLC was thought of as the weakest movement, it didn't have financial resources, it
4 did not control major towns or cities within the DRC, it was located in the poorest
5 part of the republic, and yet it did have one advantage. It had an army with a good
6 reputation, a disciplined army that could fight, (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. Thank you.

10 PRESIDING JUDGE STEINER: Mr Haynes, if you don't mind, may I interrupt you
11 just for Defence's information? The previous document that you asked for the
12 witness to read the content is CAR-DEF-(Redacted). You said that you were not
13 asking or the document to be admitted into evidence because it was already admitted.
14 I received information that this document was not submitted into evidence, so it's not
15 evidence yet. It has an EVD number from pre-trial phase.

16 MR HAYNES: Your Honour is quite correct now I look again at the third -- the
17 fourth column of my schedule and I do ask to tender that document into evidence
18 notwithstanding the "no" in the final column and I daresay Ms Kneuer has already
19 indicated that she is content with that.

20 PRESIDING JUDGE STEINER: This document was a "yes," it was not a "no".

21 MR HAYNES: Well, thank you very much.

22 MS KNEUER: For the record, no objection.

23 MR HAYNES: Thank you very much, Ms Kneuer.

24 Q. Sir, we're moving on now. A short while after the deployment of troops in
25 Ituri and in Bangui, it's right, isn't it, that reports began to emerge in the media about

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1 the behaviour, or the alleged behaviour, of those troops?

2 A. Yes, that's right, Counsel.

3 Q. And were those reports principally carried by Radio France Internationale?

4 A. Yes, it was indeed Radio France Internationale.

5 Q. Do you know whether at that time the BBC had its own reporters in Bangui, or
6 in Ituri?

7 A. I don't know, Counsel. We were rather in the habit of listening to Radio France
8 Internationale.

9 Q. What about Voice of America? Do you know whether they had reporters in
10 Bangui, or Ituri?

11 A. Counsel, I don't believe that there were correspondents. The correspondents
12 were based in Kampala. Of course, there were the local newspapers, the press
13 agencies, and the major correspondent was Gabriel Kahn from RFI when it came to
14 Kampala, so it was on that -- it was on that basis or rather it was from Kampala that
15 the reports started to emerge.

16 Q. Thank you very much. And do you know how Radio France Internationale
17 syndicated its news stories?

18 A. No, Counsel, I don't know.

19 Q. Do you know what the Agence France Presse is?

20 A. Yes, Counsel, but often the radio service relays some of the dispatches from the
21 agency, but I don't particularly remember the person who was reading out the news
22 from that agency, be it a person from Kampala or Bangui.

23 Q. Okay, but in any event you only ever listened to Radio France Internationale?

24 A. Yes, Counsel, that was the radio service that for the most part was -- it was the
25 radio that set public opinion.

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1 Q. Now, I want to come on to, please, the broadcasts by Radio France

2 Internationale. At the time (Redacted)

3 (Redacted) did you regard the Radio France Internationale broadcasts

4 about the behaviour of MLC troops as credible and reliable?

5 A. Personally, I've always thought that the media like sensationalism and often

6 they enjoy exaggerating things. Even though their code of ethics requires them to

7 have several sources there's always a way of depicting events, but generally speaking

8 RFI's coverage was often excessive. It went too far.

9 Q. What do you mean by that?

10 A. As you know, if for several years you have been close to a leader, whether that

11 leader is a civilian or a soldier, and the army is reputed to be made up of disciplined

12 soldiers, it seems to you to be difficult and unimaginable to hear that MLC soldiers

13 have resorted for example to acts of cannibalism, so this appeared to us to be totally

14 incomprehensible and excessive.

15 Q. Well, shall we start with the cannibalism? Were the accusations of cannibalism

16 ever investigated?

17 A. I did not hear about any investigations; that is if they ever took place or what

18 the outcome was. On the other hand, regarding the murders in Mambasa, I believe

19 the United Nations deployed a mission to investigate. However, regarding

20 cannibalism with the pygmies as the victims, I do not believe that there was ever any

21 investigation and if there had been an investigation then the results must not have

22 been widely published.

23 Q. Well, let me see if I can jog your memory. The Congo Room of the Grand

24 Hotel, Kinshasa, does that ring any bells?

25 A. No, Counsel. Maybe you can help me with that?

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1 Q. Well, weren't the men who were alleged to have been eaten produced alive and
2 well in that place to prove that the allegations of cannibalism were false?

3 A. Yes, indeed. I believe that subsequently I do vaguely remember that the
4 allegations were so grotesque that we really did not pay too much attention to them,
5 because these were the results of manipulation of certain people in the east of the
6 Congo and particularly in the Nande area. This was manipulation on their part and
7 this was specifically the leaders of the RCD-K/ML. You are correct, Counsel.

8 Q. I'm sorry, what do you mean by "manipulation"? Can you help us?

9 A. The acts alleged to have been perpetrated by MLC soldiers were never proven
10 by any tangible facts, or evidence. The only facts or acts for which the MLC soldiers
11 were denounced happened in Mambasa, and of course the other allegations made
12 against the MLC by members of the public came from civilian refugees who were
13 fleeing Ituri and seeking refuge in North Kivu. Those were the most tangible
14 elements, or allegations, made against the MLC troops. However, the radio stations
15 had to report on spectacular events to the public and, given that cannibalism is
16 something that is quite spectacular, they drew attention to that aspect. The
17 RCD-K/ML basically used the media, and you have to remember that at the time the
18 agreement in principle signed in Lusaka could not tolerate that any of the groups
19 involved should be eliminated from the political -- from the political situation, so the
20 positions were fixed. So when the RCD-K/ML attacked the MLC, on behalf of the
21 Kinshasa government, they were violating that Lusaka agreement and so the rapid
22 progress of the MLC towards North Kivu and the headquarters of the RCD-K/ML
23 also violated that agreement, the Lusaka agreement. So the offensive had to be
24 stopped and, considering that the RCD-K/ML did not have the military might to end
25 that offensive, they resorted to media.

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1 Q. Thank you. Now, I'm going to, just before we finish this afternoon, deal with
2 the RFI reports about the military action in the Central African Republic. You have
3 told us already about allegations relating to two towns, Sibut and Mongoumba. Do
4 you remember that?

5 A. Yes, Counsel. I remember Sibut very well, and in Mongoumba there was the
6 exercise of yesterday and the RFI reports which jogged my memory regarding the
7 radio report on Mongoumba.

8 Q. Leaving to one side Sibut and Mongoumba, was there any specificity -- I'm
9 sorry, did the RFI reports ever specify where any alleged abuses had taken place, or
10 what units were involved in them?

11 A. Counsel, I do not have any recollection of any specific reports, but the tone of
12 the reports always focused on their -- on the Banyamulengue and their activism in
13 Bangui. Other reports mentioned members of the population who had taken refuge
14 in the north of the Central African Republic and practically in Chad. However, the
15 main reports put out by the RFI radio station criticised the MLC troops, which were
16 referred to as "the Banyamulengue".

17 Q. Do you recall how long after the RFI report about Sibut the mission to Sibut
18 took place?

19 A. No, Counsel, I cannot remember the dates.

20 Q. But you do remember what RFI broadcast about Sibut, do you?

21 A. I know that there were reports of massacres in Sibut and these reports were
22 broadcast over the RFI, but I really do not know, Counsel, whether I listened to RFI
23 broadcasts on those allegations, but I heard about those allegations of massacres, but I
24 cannot remember the exact date. However it is clear that, after the events in Ituri,
25 there was always a reason to have some reservations with regard to the reports

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1 broadcast over the radio stations. That was the reflex that we had, but at the same
2 time we were aware that the situation was quite delicate because the MLC troops
3 were in the Central African Republic and this was not for the -- for purposes of the
4 liberation of Congo, so when they were in a foreign country they actually needed to
5 be more cautious, to be more careful.

6 Q. Thank you. How many journalists travelled to Sibut in the helicopter?

7 A. Counsel, I no longer remember the name, but at least I know that there was
8 Gabriel Kahn and I believe a photographer from a Ugandan press agency. I believe
9 that there was a clear opportunity to use these, or to use the presence of those
10 journalists to report on the trial of those responsible for what had happened in Ituri,
11 so I believe Gabriel Kahn was present in that Sibut mission and he went there
12 personally with Thomas Luhaka and Senga.

13 Q. (Redacted)

14 (Redacted)

15 A. Yes, of course, Counsel, and this is also why (Redacted) needed to receive the
16 members of that mission (Redacted) to Gbadolite. The Chief of General
17 Staff and I believe President Jean-Pierre Bemba actually went to the airport to receive
18 the members of that mission.

19 Q. And do you know if the mission was recorded, for example by video and/or
20 audiotape?

21 A. I believe it was recorded both on audio and video, because Gabriel Kahn
22 prepared a report on that mission. There were photographs also that were produced
23 during that mission, so there must be audio and video recordings.

24 Q. And did the mission discover any credible evidence of a massacre, or massacres,
25 in Sibut?

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1 A. No, Counsel. The mission did not discover that there had been any such
2 abuses, to such an extent that the results were not used in a safe positive manner as
3 the allegations had been made, so it is always easier to make allegations rather than to
4 denounce the fact that the massacres had not actually been perpetrated.

5 Q. Thank you. Just one thing: (Redacted) about
6 what he had seen on this mission?

7 A. No, Counsel, (Redacted)
8 (Redacted), and what I remember (Redacted) relates to the technical
9 difficulties that the mission faced upon their return. Regarding what really
10 happened on the ground, (Redacted) on the -- on
11 what the allegations had turned out to be, but what (Redacted) their
12 arrival, the difficult conditions of their arrival in the middle of a storm and their
13 welcome back upon their return. That is what I remember about that mission to
14 Sibut.

15 Q. Okay. Now, I'm not going to (Redacted) to you again, you obviously
16 remember it from yesterday, but do you (Redacted)
17 (Redacted)
18 (Redacted)

19 A. No, Counsel, I really do not remember the dates very well, or even the fact that
20 (Redacted). As you should know, if you have not personally experienced
21 something and you are asked to provide a report on it ten years later, you really have
22 to have a very, very good memory to report on something that you did not witness.
23 Regarding the (Redacted) that information from the relevant
24 persons in order to (Redacted).

25 Q. And what were (Redacted)

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1 A. Counsel, if you are asking me about the (Redacted) what
2 they mean? Is that what you're asking me?

3 Q. Well, as I say, with five minutes to go I don't want to (Redacted) to you
4 again, but in summary (Redacted) allegations of pillaging by MLC soldiers.
5 When you asked the relevant persons what they knew about it, what did they tell
6 you?

7 A. Counsel, according to what we saw yesterday, (Redacted) testifying through the
8 voice of a local authority reporting that the MLC soldiers had become notorious for
9 the looting of electronics and houses and their ransacking of certain localities. It was
10 also said that they fled with their loot, and the Central African Republic forces also
11 seized the loot from the initial looters and fled themselves, so this is some of the
12 information that (Redacted) the commander-in-chief of the MLC, President
13 Jean-Pierre Bemba, so (Redacted)
14 (Redacted). Counsel, it is easy to report of situations of pillaging by MLC soldiers,
15 (Redacted) a response and that response was both structured and credible. (Redacted),
16 (Redacted) but the explanation that was given was supposed
17 to be published or broadcast for the intention of the same listeners of RFI, (Redacted)
18 (Redacted).

19 Q. And just two quick questions before we finish. Do you know where Mr Bemba
20 got the information from (Redacted)

21 A. Counsel, the commander-in-chief of the ALC was very careful about anything
22 that related to the funding or finances of the movement, the finances of the ALC and
23 the logistics of the troops, so if a boat had been chartered to carry boots and uniforms
24 to Imese, President Bemba would have been the first person to have been informed.
25 According to the modus operandi of the MLC, such information was necessarily

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1 made available to President Bemba who cross-checked everything that related to
2 finances and logistics.

3 Q. And according to what cross-checking he had done, where the allegations
4 broadcast by RFI about looting in Mongoumba by MLC troops true, or false?

5 A. I cannot tell you that, Counsel. It would have been necessary for us to be
6 eyewitnesses, but I believe that in my opinion the president of the MLC was more
7 credible than the reports of the RFI, * so I could more easily imagine the looting of
8 boots, uniforms and military rations, than the looting of TV sets and fridges, so in my
9 opinion the explanation he had given was the truth.

10 MR HAYNES: Thank you, sir, and try and enjoy your weekend.

11 PRESIDING JUDGE STEINER: Mr Witness, it's 4 o'clock. It's enough for today. It
12 has been a very, very busy week. We will now adjourn and resume on Monday at
13 9.30 in the morning.

14 I thank very much the Prosecution team, Maître Zarambaud, the Defence team,
15 Mr Jean-Pierre Bemba Gombo, the legal -- the interpreters, court reporters, wishing
16 you all a very nice weekend. We adjourn and resume on Monday morning.

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

18 (The witness stands down)

19 THE COURT OFFICER: All rise.

20 *(The hearing ends in closed session at 4.00 p.m.) Reclassified into open session

21 CORRECTION REPORT:

22 The Court Interpretation and Translation Section has made the following corrections in
23 the transcript:

24 *Page 58 lines 7 to 9

25 " so when they talked about looting electronics and all the other things, so in my opinion

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- 1 what he said was more credible ”
- 2 Is corrected by
- 3 ” so I could more easily imagine the looting of boots, uniforms and military rations, than
- 4 the looting of TV sets and fridges, so in my opinion the explanation he had given was the
- 5 truth.”
- 6 RECLASSIFICATION REPORT
- 7 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 8 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public.