

Trial Hearing  
Witness: CAR-D04-PPPP-0045

(Open Session)

ICC-01/05-01/08

1 International Criminal Court  
2 Trial Chamber III - Courtroom 1  
3 Situation: Central African Republic  
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08  
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki  
6 Trial Hearing  
7 Wednesday, 20 March 2013  
8 (The hearing starts in open session at 9.10 a.m.)  
9 THE COURT USHER: All rise.  
10 The International Criminal Court is now in session.  
11 Please be seated.  
12 PRESIDING JUDGE STEINER: Good morning.  
13 Could, please, court officer call the case.  
14 THE COURT OFFICER: Thank you, Madam President. Situation in the Central  
15 African Republic, in the case of The Prosecutor versus Jean-Pierre Bemba Gombo,  
16 ICC-01/05-01/08.  
17 PRESIDING JUDGE STEINER: For some reason, I'm having the French translation  
18 in the channel 1.  
19 THE INTERPRETER: Test, test, test. This is English translation, usually on channel  
20 1.  
21 PRESIDING JUDGE STEINER: Yes, it was in French in the beginning. Thank you  
22 very much.  
23 Good morning. I welcome the Prosecution team, the legal representatives of victims,  
24 the Defence team, Mr Jean-Pierre Bemba Gombo. Good morning our interpreters,  
25 our court reporters.

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1 We will continue today with the testimony of Defence Witness 45.

2 Good morning, Mr Rojas.

3 THE COURT OFFICER (Redacted): (Interpretation) Good morning, your Honour.

4 PRESIDING JUDGE STEINER: Before the witness is brought into the courtroom, the

5 Chamber needs to issue an oral decision on the Defence's proposed witness schedule

6 for the period between 8 April and 10 May 2013.

7 On 1 March 2013, the Chamber approved the order of appearance of witnesses

8 proposed by the Defence and decided to hear Witness D04-21 following

9 Witness D04-45 between 18 and 20 March 2013.

10 On 11 March 2013, the Defence filed its confidential "Defence motion for

11 authorisation to hear the testimony of Witness D04-21 via video link," filing

12 2528-Conf, in which it requested that the testimony of the witness be heard via video

13 link.

14 By oral decision of 13 March 2013, the Chamber approved the Defence's proposal for

15 the order of witnesses to be called after the spring recess. In this context, the

16 Chamber noted that the dates of appearance suggested by the Defence might lead to

17 gaps in the Defence's presentation of evidence. Accordingly, in order to ensure the

18 efficient presentation of evidence by the Defence and the expeditiousness of the trial

19 proceedings, the Chamber instructed the Defence, when preparing its next monthly

20 witness schedule in co-ordination with the VWU, to do its utmost to avoid any delays

21 and ensure the efficient use of time.

22 On 15 March 2013, due to scheduling constraints and delays in the testimony of

23 Witness D04-45, the Chamber: (a) decided to postpone the commencement of

24 D04-21's testimony; (b) deferred its decision on the Defence's request to hear

25 Witness 21 via video link; and (c) ordered the Victims and Witnesses Unit to provide

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1 the Chamber, by no later than 8 April 2013, with an update on the Witness D04-21's  
2 ability to appear in person at the seat of the Court.

3 By email of 19 March 2013, the Defence circulated its proposed witness schedule for  
4 the period between 8 April and 10 May 2013. In this context, the Defence proposes  
5 the following order of witnesses:

6 Witness D04-21 as of 8 April; Witness D04-39 as of 12 April; Witness D04-46 as of  
7 18 April; Witness D04-56 as of 24 April; Witness D04-40 as of 29 April; and Witness  
8 D04-18 as of 7 May 2013.

9 The Chamber is of the view that the proposed schedule is appropriate to ensure an  
10 efficient presentation of evidence by the Defence. Therefore, pursuant to Article 64(2)  
11 of the Statute and Regulation 43 of the Regulations of the Court, the Chamber hereby  
12 approves the proposed schedule. In this context, the Chamber further approves the  
13 Defence's request for two hours of additional questioning time in relation to  
14 Witness D04-21 as requested by email of 15 March 2013.

15 Finally, in view of the fact that Witness D04-21 is now scheduled to start his  
16 testimony on 8 April 2013, the Chamber directs the VWU to submit its update on the  
17 witness's ability to appear in person at the seat of the Court by no later than  
18 25 March 2013.

19 Now, court officer, do we need to go into closed session for the witness to be brought  
20 into the courtroom, or no?

21 THE COURT OFFICER: No, Madam President, we don't need to go into closed  
22 session.

23 PRESIDING JUDGE STEINER: Witness 45 is under protective measures, with image  
24 and voice distortion, so I ask please Mr Rojas to bring the witness into the video link  
25 room.

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1 (The witness enters the video link room)

2 WITNESS: CAR-D04-PPPP-0045 (On former oath)

3 (The witness speaks Lingala)

4 (The witness gives evidence via video link)

5 PRESIDING JUDGE STEINER: Good morning, Mr Witness.

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

7 PRESIDING JUDGE STEINER: Mr Witness, are you feeling well and ready to  
8 continue with your testimony?

9 THE WITNESS: (Interpretation) Yes, your Honour, I am in fine form and ready to  
10 continue with my testimony.

11 PRESIDING JUDGE STEINER: Mr Witness, I need to remind you that you are still  
12 under oath; do you understand that, sir?

13 THE WITNESS: (Interpretation) Yes, your Honour, I realise that I am still under  
14 oath.

15 PRESIDING JUDGE STEINER: Then I'll give back the floor to the Prosecution,  
16 Mr Witness. Mr Iverson will continue questioning you.

17 Mr Iverson, you have the floor.

18 MR IVERSON: Thank you, Madam President. Good morning, your Honours.

19 QUESTIONED BY MR IVERSON: (Continuing)

20 Q. Good morning, sir. How are you doing this morning?

21 A. Counsel, I feel fine. I'm in good form.

22 Q. Sir, according to you, there were 75 FACA soldiers mixed in with the 28th  
23 Battalion; is that right?

24 A. Yes, that's right, at first there were 75. Towards the end, we added another 45  
25 soldiers.

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1 Q. And you would have spent a number of months with these soldiers; is that  
2 right?

3 A. That's right. During all the time that we spent in that country, we worked  
4 alongside them, with them.

5 Q. What type of unit did these soldiers come from within the FACA?

6 A. Really, it wasn't important for me to know which unit they came from. At first,  
7 when we were still at Camp Béal, the deputy to the operations commander, the  
8 person in charge of administration, had come with an entire battalion of FACA staff.  
9 They came so that we could merge the two groups and work together. I wasn't in a  
10 position to ask where this unit came from since that decision to organise the work  
11 had been taken by the FACA authorities, so I really couldn't ask such a question.

12 Q. So military units generally have names or nomenclatures, numbers, for instance,  
13 28th Battalion. What unit did these FACA soldiers purportedly come from?

14 A. They came from a unit that was led by Ouragan - Hurricane - but I didn't know  
15 the full name of that unit, but before leaving Bossembélé to get to Bossangoa, the 45  
16 staff members who were added to the group came from the Special Presidential Unit,  
17 the USP, and regarding those 45 people, I -- I knew where they came from. They  
18 were soldiers who were led under the command of Hurricane.

19 Q. Hurricane, is this the same person that was purportedly the deputy commander,  
20 the deputy of General Mazi?

21 A. During the meeting with him, I knew he was the deputy to Mazi, responsible  
22 for administration, logistics.

23 Q. So you're saying that he was the deputy of General Mazi, responsible for  
24 administration and logistics, and also at the same time the commander of this USP  
25 unit; is that right, sir?

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1 A. I saw him standing in front of the troops, the FACA troops, before the two  
2 groups were merged, and that was -- I don't know whether that was the unit that he  
3 led in that country. However, I can say that he was the one who was the  
4 commander responsible for merging the groups, mixing his soldiers in with my  
5 soldiers when we went there to the Central African Republic.

6 Q. Sir, a few moments ago, you quite clearly stated that "they were soldiers who  
7 were led under the command of Hurricane," and the answer you just gave you're  
8 seeming to back-track from that. Can you explain to the Chamber exactly what  
9 you're talking about?

10 A. With all due respect, Mr Prosecutor, this is what I wanted to say: I did not  
11 know what position Ouragan held in this country. The day on which we had to start  
12 working, Ouragan arrived with a certain number of Central African soldiers to merge  
13 with our group and work together. As far as I was concerned, I considered him as  
14 their commander at that time; that is if we are looking at their organisation. He was  
15 taken to be the deputy operations commander in charge of administration and  
16 logistics.

17 The person in charge of operations took some Central African soldiers and merged  
18 them with the ALC to work together. That is what I remember.

19 Q. And what was the specialty of these soldiers? Were they infantry soldiers?  
20 Were they quartermasters? What type of soldier were they?

21 A. The soldiers who were placed under the command of the commander of the  
22 28th Battalion were infantry soldiers. When we on the road from PK12 to  
23 Bossembélé, the commander also received an operator and some intelligence officers.  
24 If I remember correctly, these were infantry soldiers and a few intelligence officers  
25 and operators.

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1 Q. And did they all come from the same unit, sir?

2 A. Mr Prosecutor, I was not in the Central African Republic before that. I realised  
3 that my Central African colleagues left from where they were, and there were ALC  
4 soldiers also who arrived, and we merged, so I'm not in a position to tell you from  
5 which unit those soldiers came.

6 MR IVERSON: Madam President, may I ask to go into private session briefly.?

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

8 (Private session at 9.35 a.m.) \* Reclassified as Open session

9 THE COURT OFFICER: We're in private session, Madam President.

10 MR IVERSON:

11 Q. (Redacted)

12 (Redacted)

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 A. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 A. (Redacted)

5 (Redacted)

6 (Redacted)

7 MR IVERSON: Madam President, I'd like to request to go back into open session,  
8 please.

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

10 (Open session at 9.41 a.m.)

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

12 MR IVERSON:

13 Q. Sir, the Poudrier B Battalion, they arrived in the Central African Republic on or  
14 about 29 and 30 October 2002; is that right?

15 A. I did not quite understand your question. We arrived the Central African  
16 Republic on the 29th, and this was the 28th Battalion. The Prosecutor is talking  
17 about a battalion which arrived with the brigade commander on the 30th.

18 Q. Okay. So the 28th Battalion arrived before Poudrier B; right?

19 A. Yes. When the battalion arrived, they were based at the same location at Camp  
20 Béal. They were waiting for the arrival of the brigade commander.

21 Q. So when the 28th Battalion was at PK12, the Poudrier B Battalion arrived to  
22 PK12 later; is that right?

23 A. Mr Prosecutor, that is not correct. The 28th Battalion crossed over and went to  
24 Camp Béal to await the arrival of the brigade commander. The brigade commander  
25 arrived on the 30th. He crossed over with another battalion, and this is how we



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1 merged with the other FACA soldiers and that is how we started work.

2 Q. Okay. And once both battalions were at PK12, both the 28th and Poudrier B,  
3 Poudrier B moved up to PK20 and PK22 on the road towards Damara; is that right?

4 A. This is an event that happened afterwards, when another battalion had already  
5 started on the way to Bossembélé.

6 Q. And I'm talking about prior to the 28th Battalion going to Bossembélé. I'm  
7 talking around 31 October/1 November, Poudrier B moved up to PK22 and then came  
8 back to PK12 to listen to Mr Bemba when he gave his talk at PK12; is that right?

9 A. Mr Prosecutor, in any case I'm not aware of that.

10 Q. And, sir, are you aware that Poudrier B Battalion entered Damara on  
11 7 December 2002?

12 A. How is it possible for me to know that? The work was hard and my colleagues  
13 were also at work, but I was not aware of their activities. I did not know what they  
14 were doing.

15 Q. Sir, I'd like to now go through a number of documents, contemporaneous  
16 documents of the time, a judicial dossier, some media reports, so I just ask for your  
17 patience because we're going to be reading quite a few documents. And I just want  
18 to ask you, before we go through the documents, if the documents trigger your  
19 memory and you realise that you're mistaken about a date or an event are you going  
20 to be willing to admit that you were mistaken, or are you going to stick to your guns,  
21 sir?

22 A. Mr Prosecutor, I have not yet seen those documents. I cannot make any  
23 comment regarding a document that I have not yet seen.

24 MR IVERSON: Okay, well let's take a look.

25 Could I ask the court officer to please display CAR-D04-0002-1514, number 3 on the

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1 Defence list of documents, and it's a public document.

2 THE COURT OFFICER (Redacted): (Interpretation) Mr Iverson, can you repeat the  
3 number of the document on the list of documents? I think you said number 3?

4 MR IVERSON: It's number 3.

5 PRESIDING JUDGE STEINER: It's number 3 of the Defence list, Mr Rojas.

6 THE COURT OFFICER (Redacted): (Interpretation) Document CAR-D04-0002-1514 is  
7 being shown to the witness. Can you specify the page, please?

8 MR IVERSON: Could you please show page 1628.

9 THE COURT OFFICER (Redacted): (Interpretation) Page 1629 (sic) is being shown to  
10 the witness now.

11 MR IVERSON: And could you show 1628, please. I see that the correct page is on  
12 the screen.

13 Q. Sir, are you able to see what's on your screen there?

14 A. Yes, I can see it.

15 Q. And do you recognise what this is, sir?

16 A. I can see the document. How is it possible for me to recognise the document?  
17 I cannot see any signature. This message is not even addressed to me. I can see the  
18 message, but I cannot see the subject.

19 MR IVERSON: Could I ask the court officer to zoom in on the message in the upper  
20 left quadrant of the page.

21 PRESIDING JUDGE STEINER: Left, are you sure?

22 MR IVERSON:

23 Q. Sir, this is a message from Colonel Moustapha to General Amuli, with info to  
24 Mr Bemba. Could I have you read out the main body text of the message?

25 A. "Number 208/General Staff Command/Bde/2002. I have the honour to inform

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1 you - Stop - for better conduct of the work and to avoid certain conflicts within my  
2 unit I am proposing the posting or transfers of officers as follows: Deputy  
3 Commander Poudrier A, Captain Mweli Papy, becomes Commander S3, Bde E, and  
4 Jules Masimo becomes Deputy Commander Poudrier A. I would be grateful for  
5 your action."

6 Q. Sir, this message signifies that there's something going on in the brigade; right?  
7 There's some succession management going on. Doesn't it indicate that?

8 A. Mr Prosecutor, regarding this issue, and in all frankness, this was before the  
9 soldiers crossed over. This was under the authority of the brigade commander.  
10 Before that was done, my unit was not involved. It was not concerned. Since he  
11 was the commander, he had asked his superiors. He could not ask, or make this  
12 request, to someone who was under his orders.

13 Q. Sir, would you agree that, when a brigade commander is ordered to leave his  
14 headquarters and go to a different area, that one of the tasks that he would have to  
15 perform would be succession management; plan for what's going to happen at the  
16 headquarters in his absence?

17 A. With all due respect, Mr Prosecutor, all this was a matter for the brigade  
18 commander. I have no idea about all this.

19 MR IVERSON: Court officer, could you please display the upper right-hand corner  
20 quadrant now.

21 Q. Sir, and this is a message from Colonel Moustapha to Mr Bemba, info to General  
22 Amuli. Could I have you read out the main text in this message?

23 A. "I am honoured to extend greetings and inform you of the following: I make  
24 reference to your chat. I believe that if the boat could come and take my troops in  
25 Imese, the operations will be pointless. In this regard, send troops to Dongo.

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1 Request 100 litres gas be made available to me for their continued progression, so that  
2 the enemy does not take advantage of our absence while the ALC is in a state of  
3 maximum alert. Would appreciate your decision. In 25 October 2002."

4 Q. Sir, this message shows that Colonel Moustapha is making necessary  
5 movements after he'd received an order to deploy; is that right?

6 A. To deploy where?

7 Q. Sir, in order for you to know that you had to send troops on 26 October 2002 to  
8 Bangui, you had to have received an order to do that; right?

9 A. Mr Prosecutor, with all due respect, I'd like to ask that -- I'd like to ask that this  
10 whole message regarding -- well, this message here, at that time we were not in Imese,  
11 even within all the armies in the world. If the chief receives an order to work with  
12 his superior, I don't see how he's going to ask someone below him in the organisation  
13 to give him advice. So with all due respect, all the messages that were drafted by  
14 my chief, addressed to his superiors, I can't give you an answer about those messages  
15 because I have absolutely no idea what they're all about.

16 If my chief were to send me a letter, or a message, I could give you an answer if you  
17 were to ask me a question about the message sent to me. However, if you show me  
18 a message from my chiefs, I'm really not able to give you any kind of answer  
19 whatsoever.

20 Q. Sir, but -- right. In order for the battalion commander of the 28th Battalion to  
21 know that he would have to send troops on 26 October to Bangui to conduct an  
22 operation, he would have had to have received an order prior to sending them; right?

23 A. He should receive orders from his chief -- not from his chief, but from his  
24 brigade commander.

25 Q. And according to you the battalion commander didn't speak to Colonel

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1 Moustapha until 27 October; is that right?

2 A. There were exchanges regarding the travel from where the commander was  
3 posted to another destination. That is the order that he received from his chief.

4 Q. And any order to deploy coming from the brigade commander to the battalion  
5 commander would have had to have happened prior to the actual movement on  
6 26 October; correct?

7 A. I haven't understood that question. Are you referring to -- well, which  
8 deployment are you referring to? To which destination?

9 Q. Sir, I think you know very well the destination, and I ask, please, that you not  
10 play games with this. You know very well that the questions pertain to the  
11 deployment to Bangui. The battalion commander would have had to have received  
12 an order from the brigade commander prior to that deployment; right?

13 A. Mr Prosecutor, if you want us to talk about the deployment, this mainly has to  
14 do with the operations commander. As for the commander of the 28th Battalion, it  
15 wasn't a matter of a deployment; it was a matter of carrying out an order. The  
16 operations commander was the one who deployed the forces, he was the one, but the  
17 28th Battalion received the order to go and carry out a mission that had been  
18 entrusted to the battalion by the operations commander.

19 Q. Sir, are you claiming that General Mazi ordered the deployment to the Central  
20 African Republic? The Central African Republic citizen, General Mazi, ordered the  
21 ALC to deploy to the CAR; is that your testimony?

22 A. Mr Prosecutor, when you say "deploy," that word really isn't suitable in relation  
23 to the work that we did. If you use the term "deploy" or "deployment," the chief of  
24 operations had the power to deploy people, and since we had to fight, the chief of  
25 operations gave the order to the 28th Battalion to go and fight. That unit never

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1 divided.

2 When we talk about deployment, that means a group in particular, that was in a  
3 particular place, and another goes to another specific place.

4 If you're talking about operations, I can agree with you. He, the operations  
5 commander, deployed the battalion and the battalion went to carry out an order.

6 And since the -- well, when the fighting began, the battalion went to fight.

7 Q. Okay. I just want to try to lay it out in a clear way. Now, the way I  
8 understand it is, on 25 October 2002, pretty early on in the day, if you look at the  
9 times in the situation reports, the decision was made to send ALC to CAR by  
10 Mr Bemba, who talked to Colonel Moustapha and ordered him to deploy.

11 Then someone within the ALC chain of command must have ordered the battalion  
12 commander to send the units, his units that were in Zongo, to the Central African  
13 Republic and they arrived in the early morning hours of 26 October 2002. Am I  
14 wrong about any of that?

15 A. Mr Prosecutor, you didn't say everything that happened. If I put myself in the  
16 shoes of the commander who wrote this message, that is to say the unit of that  
17 commander was made up of two battalions, he didn't want to begin the movement at  
18 that time because in our country the war was still going on. To deploy some of the  
19 troops that the commander requested, this could have consequences on the front lines.  
20 He didn't want the enemy to know that he shifted some troops on the front lines.  
21 It was a matter of moving troops from that place to another place, so that is what I  
22 make of this message. But since I'm going to avoid saying things on behalf of the  
23 person who actually wrote the message, that is why I asked the Prosecutor to ask  
24 questions about the message drafted by the brigade chief to him, to the brigade  
25 commander.

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1 Q. I'm not sure if that responded to the question, but I'm going to move on.

2 Sir, who ordered the battalion commander, either on 25 October 2002 or

3 26 October 2002, to deploy his troops to Bangui?

4 PRESIDING JUDGE STEINER: Mr Iverson, if you allow me.

5 Court officer, please turn into private session.

6 (Private session at 10.18 a.m.) \* Reclassified as Open session

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

8 PRESIDING JUDGE STEINER: Mr Iverson, (Redacted)

9 (Redacted) it's better if we stay for a while in private session, and

10 you can ask the questions more directly, because otherwise we'll be in circles and

11 we're moving nowhere. So continue with your questioning in private session,

12 please.

13 MR IVERSON: Very well. Thank you, Madam President.

14 Q. (Redacted)

15 A. The question from the Prosecutor is not clear, so I can't answer clearly. I was

16 just saying this: If we want to use the word "deployment," he has to ask the question

17 of the operations commander. Only the operations commander was the one who

18 deployed the 28th Battalion. The 28th Battalion never deployed its forces. The 28th

19 worked to -- worked at the same place.

20 PRESIDING JUDGE STEINER: Mr Iverson, the witness had already given a long

21 explanation about the meaning of "deployment," so when you ask "Who ordered to

22 deploy (Redacted)" it's quite confusing as well. Deploy when, from where to

23 where, when? It's too vague. Could you be more precise, please?

24 MR IVERSON: I'm trying my best, Madam President.

25 Q. (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. (Redacted)

4 (Redacted)

5 Q. (Redacted)

6 (Redacted)

7 A. (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 Q. (Redacted)

23 (Redacted)

24 A. (Redacted)

25 (Redacted)



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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE STEINER: Mr Iverson, do you mind if I interrupt you, just to  
13 complete one of the answers the witness just gave?

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 THE WITNESS: (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 PRESIDING JUDGE STEINER: (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 THE WITNESS: (Interpretation) Thank you, your Honour. (Redacted)
- 9 (Redacted)
- 10 PRESIDING JUDGE STEINER: Thank you. (Redacted)
- 11 (Redacted)
- 12 THE WITNESS: (Interpretation) (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 PRESIDING JUDGE STEINER: (Redacted)
- 16 (Redacted)
- 17 THE WITNESS: (Interpretation) (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 PRESIDING JUDGE STEINER: (Redacted)
- 22 (Redacted)
- 23 THE WITNESS: (Interpretation) (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 PRESIDING JUDGE STEINER: (Redacted)

4 (Redacted)

5 THE WITNESS: (Interpretation) (Redacted)

6 (Redacted)

7 PRESIDING JUDGE STEINER: Mr Iverson, I'm sorry for the interruption, but it was  
8 just not to get lost later on. Thank you.

9 MR IVERSON: Thank you, Madam President. Actually, that will relieve me from  
10 asking those questions later on.

11 Q. Sir, could I just ask you were you generally familiar with how the situation  
12 reports in the ALC worked?

13 (Pause in proceedings)

14 PRESIDING JUDGE STEINER: We have to wait for the technicians to find out what  
15 is the problem with the connection. I'm so sorry.

16 (Pause in proceedings)

17 PRESIDING JUDGE STEINER: Yes, Mr Haynes?

18 MR HAYNES: I don't wish to be impertinent in any way, but I note it's 20 minutes  
19 before our usual break. I wonder whether the technicians could work during a  
20 break?

21 PRESIDING JUDGE STEINER: Mr Haynes, it can be a matter of one/two minutes.  
22 Let's wait at least for diagnostic.

23 (Pause in proceedings)

24 PRESIDING JUDGE STEINER: Mr Witness, can you hear us?

25 THE WITNESS: (Interpretation) Yes, your Honour, I can hear you loud and clear.

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Witness: CAR-D04-PPPP-0045

(Private Session)

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1 PRESIDING JUDGE STEINER: Mr Iverson, of course I think you're going to repeat  
2 your last question.

3 MR IVERSON: And I will, Madam President.

4 Q. Sir, are you generally familiar with the format and the information contained in  
5 ALC situation reports?

6 A. Can you please kindly repeat the question? I did not quite understand. The  
7 Prosecutor asked whether I knew how the work was done. Is this the information  
8 he is looking for?

9 Q. Sir, I noticed that in the log-book that we're looking at now, if it is still up on  
10 your screen, contain messages which are referred to as "sitreps," or situation reports.  
11 Are you general familiar with these -- with the format and the information contained  
12 in situation reports of the ALC, (Redacted)

13 A. This is the universal format of reporting for all armies in the world. They were  
14 using the same format.

15 Q. Okay. And do you recall that it was common for each unit in the morning to  
16 call in and conduct what's called a morning sitrep, or a morning situation report?

17 A. (Redacted)

18 Q. And soldiers around the world tend to get up pretty early in the morning. (Redacted)  
19 (Redacted)

20 A. Around the world, wherever there are soldiers, when the chief arrives at his  
21 office, he has to know the situation. He has to find a situation report, to know in  
22 which state his troops are. I mean that these reports are given maybe not that early,  
23 but between 7.30 and 8.30 a.m.

24 Q. Okay. And was that generally the case in the ALC, that morning sitreps were  
25 sent around 7.30 to 8.30 in the morning?

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1 A. The commander of the 28th Battalion sent his report to the brigade commander  
2 at that time.

3 Q. Okay. And was there a procedure in the ALC where a central radio operator  
4 in Gbadolite called around to all units in the morning to get a morning sitrep, and the  
5 units reported back to them?

6 A. Mr Prosecutor, the system that was applicable in the 28th Battalion, well, the  
7 frequency used by the 28th Battalion was the same that was used to connect with the  
8 brigade. The 28th Battalion could not have access to any other network. When it  
9 came to the battalion, the message had to be sent through the brigade, and the  
10 brigade conveyed the message to the General Staff headquarters. This message was  
11 also sent to the sector. (Redacted)

12 Q. Okay. So if we find in the situation reports brigade -- or, excuse me, battalion  
13 commanders reporting directly to Gbadolite, that would be an anomaly, according to  
14 you, an exception, something out of the ordinary?

15 A. That is not the case. If it happens that way, then what would be the job of the  
16 brigade commander? The battalion sends its report to the brigade, and the brigade  
17 collates all the reports, three or four reports from the battalions. They make a  
18 consolidated document, or summary, and sends to the sector, which in turn conveys  
19 the report to the Chief of General Staff of the ALC.

20 MR IVERSON: Could I ask the court officer to display 1629 of the current document,  
21 and it's the upper right-hand quadrant, please.

22 Q. Sir, can you see the document on your screen?

23 A. Yes, I can see the document.

24 Q. So this particular message doesn't have a date, but it's in-between two messages  
25 dated on 25 October 2002, and this message is talking about matériel - weapons - that

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1 have been prepared for Ops Bangui; correct?

2 A. That is not correct.

3 Q. And why isn't it correct, sir?

4 A. The manner in which the commander, or chief, wrote, he is the one who can  
5 explain because, (Redacted) You have

6 60 millimetre mortars. (Redacted) The commander (Redacted) had his. So I do not  
7 know whether it was he himself who prepared this, (Redacted)

8 Q. Okay. (Redacted); I just asked if what I had said

9 about the message, that it was matériel prepared for Ops Bangui, whether that was  
10 correct.

11 So doesn't this message indicate that the decision to go to Bangui, to go to the Central  
12 African Republic, was made before this message was sent on 25 October 2002?

13 A. That is why I am asking the Prosecutor to be more specific about the messages  
14 (Redacted) I cannot give you a correct interpretation of these reports.

15 (Redacted)

16 (Redacted) This is what he proposed for the work that he had to do, but based on what  
17 I can see, these items did not cross. Maybe he crossed over with them himself, (Redacted)

18 (Redacted)

19 MR IVERSON: Sir, it's time for the break.

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

21 (Open session at 10.59 a.m.)

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

23 PRESIDING JUDGE STEINER: Mr Witness, it is now 11 o'clock. It's time for a  
24 short break, a half-an-hour break. We will suspend and resume at 11.30.

25 The hearing is suspended.

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1 THE COURT USHER: All rise.

2 (Recess taken at 11.00 a.m.)

3 (Upon resuming in private session at 11.41 a.m.) \* Reclassified as Open session

4 THE COURT USHER: All rise.

5 Please be seated.

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

7 PRESIDING JUDGE STEINER: Thank you very much and welcome back.

8 Welcome back, Mr Witness.

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

10 PRESIDING JUDGE STEINER: Before I give back the floor to Mr Iverson, the

11 Chamber has a short oral instruction to be issued.

12 During the hearing of 13 March 2013 - and we are talking about transcript 293, page

13 38, line 15, to page 40, line 12 - the Chamber asked the courtroom officer that is in the  
14 field to retain the notes brought by the witness to the location of the testimony.

15 In line with the Chamber's previous practice - and this is on transcript 265, page 10,

16 lines 12, to page 12, line 12 - the Chamber instructs the Registry to provide the

17 Chamber, the parties and participants with a copy of these notes as soon as possible

18 in order to give the parties an opportunity to question the witness on this document if  
19 necessary.

20 We can turn back into open session, please.

21 (Open session at 11.44 a.m.)

22 THE COURT OFFICER: We are in open session, your Honours.

23 PRESIDING JUDGE STEINER: Mr Witness, are you ready to continue with your  
24 testimony?

25 THE WITNESS: (Interpretation) Yes, Madam President, I am ready.

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1 PRESIDING JUDGE STEINER: Mr Iverson, I'll give back the floor to the

2 Prosecution.

3 MR IVERSON: Thank you, Madam President. Can I ask the court officer to please  
4 display CAR-D04-0002-1514 at page 1630.

5 THE COURT OFFICER (Redacted): (No interpretation)

6 PRESIDING JUDGE STEINER: Mr Iverson, I still don't have my transcript. Could  
7 you please repeat? Ah, now I have it. Thank you.

8 MR IVERSON: Could the left half of the page be shown, and it's kind of the bottom  
9 left quadrant I'm looking at that goes up to the upper part of the page, the morning  
10 sitreps.

11 Q. Sir, do you see that these are the morning sitreps of all units on  
12 26 October 2002?

13 A. Yes, I can see that.

14 Q. Sir, and do you recognise that initial that's right over the date, the 26th?

15 A. Whereabouts, please?

16 Q. Do you recognise Mr Bemba's initial on the 26th, on the actual date written on  
17 the page?

18 A. No. No, I don't see anything at all.

19 Q. Okay. And if you look down at the units that reported in on that morning, at  
20 the very top you see "Zongo" and "Libenge," and what was the situation that was  
21 reported on that day, sir?

22 A. I would like to ask the Prosecutor something. Since the commanders of the  
23 28th Battalion had troops in Zongo and in Libenge, when the commanders of the 28th  
24 Battalion had to send out a report they had to say that, for instance, in Zongo there  
25 was nothing in particular that needed to be reported and also report anything



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1 relevant about Libenge. As for the brigade commander, when he compiled all of  
2 these reports, he would repeat the same indications, saying for instance, "In my sector,  
3 in my brigade for Zongo, nothing in particular to report, and in Libenge the same too,  
4 nothing in particular to report," and in other places the same might apply.

5 As I look at this document, as I can infer here, the operator, the sector commander, or  
6 the commander of the General Chief of Staff, was expected to send this report to the  
7 commander to be read by the latter and the operator needed to repeat what was in  
8 the reports that were sent in by the various commanders. That's the procedure.

9 Q. Okay. And if you look down this list of units, do you see your -- excuse me,  
10 do you see -- let me start over with that question. When you look at the list of units,  
11 do you see Echo Brigade listed anywhere, which would have been the parent unit of  
12 the units of Zongo and Libenge?

13 A. Yes, I see written "Echo" below the place where "Libenge" is written down.  
14 Echo was made up of the elements from Zongo, Libenge and Imese. The main staff  
15 of Echo was in Dongo and there there was a whole unit there. I can also see that the  
16 report was made saying that everything was calm.

17 Q. Right, "Calm except for unforeseen," or, "... except for unexpected." Sir, what  
18 I'm seeing in the document in front of me is Alpha brigade, not Echo Brigade. Can  
19 you look again? Do you see Echo Brigade listed anywhere on 26 October 2002?

20 A. Mr Prosecutor, one part where some of the soldiers in the Echo Brigade were  
21 there and some of the others had stayed behind at the main staff of the brigade, and  
22 there was a whole battalion as well. Even among the troops of the 28th Battalion  
23 there were some of them who had crossed over and the others remained behind.  
24 That is why you see on these reports that a reference is made to the troops that stayed  
25 behind. These soldiers sent out reports to the battalion commander and the

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1 battalion commanders in turn took over interim authority for the brigade commander.

2 So as to provide for continuity of administration, the commanders that had stayed

3 behind also took care of the battalion and of all the other sectors such as brigade

4 command from Zongo all the way to the front at Imese.

5 Q. Sir, can I kindly ask you just to repeat back to me the question I asked you,

6 because I don't know if there's a communication problem, an interpretation problem,

7 but what question did you hear when I asked previously?

8 A. Mr Prosecutor, you asked me about whether the list of the places that had sent

9 out reports, whether I saw the Echo Brigade among them, and that is why I answered

10 the following: Even though the brigade commanders had crossed over to the other

11 side, the battalion commanders that had stayed behind at the main staff of the

12 brigade, well, there were other elements who had stayed behind. Some of them

13 belonged -- some of those that belonged to the 28th had crossed over, whereas others

14 remained in Zongo and others stayed in Libenge.

15 Every morning, these commanders would send out their report to the commander at

16 the level of the main staff. The battalion commanders were the ones who took care

17 of the brigade and he was the one to compile all of the reports so as to send them up

18 to the sector commanders and the General Chief of Staff.

19 Q. Sir, I asked -- you have a list in front of you. I am simply asking do you see the

20 words "Echo Brigade" anywhere on that list? It's a very simple question and it

21 requires a very simple response. We're all looking at the document and we all can

22 see that there is no Echo Brigade on this list. Am I right about that?

23 A. Well, I didn't really follow your question.

24 Q. Sir, I kindly ask you just to listen to my questions, answer my questions, and if

25 we can do that then we can get through your testimony. Otherwise, this is going to

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1 take a very long time. I'm just asking you to answer a very simple question, but I  
2 will move on from here.

3 Okay. So Echo Brigade is not on the list, but yet there are communications from  
4 Zongo and Libenge to the headquarters in Gbadolite reporting that the situation is  
5 "Calm, except for unforeseen;" correct?

6 A. This is what I just explained and this is what you can see here. What I was  
7 saying, Mr Prosecutor, was this: The way in which we drafted our reports was as  
8 follows: When the persons from Zongo and Libenge sent out their reports,  
9 they -- those reports must -- contained information that Zongo, everything was calm  
10 at dawn, the same with Libenge, but the commander of the brigade, or the person  
11 appointed by the brigade commander as being the interim to administrate the troops  
12 that had stayed behind, would have to repeat those references or statements as they  
13 were in the report, saying that for instance at Zongo everything was calm, or that at  
14 Libenge everything was peaceful.

15 And when the report was sent out to the sector commander, or to the General Chief  
16 of Main Staff, well, the operator - the operative - would list the same localities  
17 one-by-one so that the chief would be aware of the situation in those various  
18 localities.

19 PRESIDING JUDGE STEINER: Mr Iverson, do you allow me?

20 Mr Witness, you've been testifying now for many days, many hours, and we need to  
21 conclude with your testimony, Mr Witness, and this is only possible if you try to  
22 answer to the questions put to you in a more concise and objective manner.

23 I give you an example: If the Prosecutor asks you whether you can see Brigade A in  
24 the book, in the document shown to you, you can say, "No, I cannot see," or "Yes,  
25 I can see." You don't need to come with a long explanation, Mr Witness. Otherwise,

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1 we're not going to finish with your testimony as expected by Friday. So, please,  
2 Mr Witness, try to be more objective and more concise and just answer to the  
3 questions put to you.

4 I take the opportunity and inform the parties that thanks to the goodwill of our  
5 manager, Madam Charlotte Dahuron, with the agreement of our interpreters and  
6 court reporters, we'll be able to sit this afternoon from 3 to 5 because otherwise the  
7 pace that this testimony is going we are not going to finish on time.

8 So sorry to interrupt, Mr Iverson, but please, Mr Witness, try to be more objective and  
9 concise. We count on you.

10 Mr Iverson.

11 MR IVERSON:

12 Q. Okay, sir. So from what I understand, because -- you're saying because Zongo  
13 and Libenge were included in this morning sitrep that there was no need for Echo  
14 Brigade to report separately; that they'd already reported all their units? Is that a  
15 correct understanding of what you're trying to say?

16 A. That is not correct. That's not correct. The question that was put to me was  
17 not put clearly. Maybe I did not understand the Prosecutor's question. That is why  
18 I was not able to provide the most appropriate answer.

19 The report is sent to the Chief of Staff, to the headquarters, and that's where it is kept.

20 Q. And, sir, what I am saying is that all these units listed reported in on that  
21 morning, and Echo Brigade did not, and I also see that Dongo and Imese are also not  
22 on this list. So these weren't all the units from Echo Brigade.

23 And for this purpose I'd like to look at another page in this document just to make the  
24 point clear, and that would be 1627, the bottom right quadrant of the page.

25 Okay. I can see that the page is on your screen, sir. On this message you see "28th

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1 Battalion Libenge," reporting in "calm. Echo Brigade, calm." Then down the list

2 you see "Zongo, calm."

3 So on that day Echo Brigade did report in; correct?

4 A. That is correct.

5 Q. Okay. So we can agree that Echo Brigade reported in on the 25th, but not on  
6 the 26th; right?

7 A. Correct.

8 Q. And one possible explanation is that they were simply too busy to report in on  
9 that day; right?

10 A. Mr Prosecutor, if the brigade did not report, how would I have known? It is  
11 only from this document that I can know what happened. If the report had been  
12 submitted and maybe a name was not mentioned, or the operator or the commander  
13 decided to forward the document this way, what do you want me to say? I don't  
14 know who drafted this report. I don't know who the report was forwarded to. I  
15 have just seen this document now and I have explained to you how our reports were  
16 drafted and that's all I can do.

17 Q. And I just want to put a simple proposition to you, sir, that some units, even  
18 though they existed, didn't always report in. Sometimes reports were missed.  
19 Even in a well-run army sometimes reports are missed; is that right?

20 A. Mindful of the distances between the various units, there might be a day on  
21 which a particular report is not included; for example if the transmission unit fails.  
22 So what could happen is that if a report is not given on a particular day, the day after  
23 the chief of that unit must report on that day and the day before. That is what I'm  
24 trying to explain to you. That's what I'm trying to explain to the Prosecutor. And  
25 that seems to be our point of contention. We don't seem to be finding agreement on

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1 my -- on this issue.

2 MR IVERSON: Could I ask the court officer to go back to 1630 and look at the same  
3 message in the bottom left-hand quadrant, please.

4 Q. Sir, if you look at the fifth unit from the bottom, "Ops Bangui, calm," so that  
5 means as of the morning of 26 October the unit from the 28th Battalion was already in  
6 Bangui; right?

7 A. On 26 November, on that date the 28th Battalion was already on the other side.  
8 However, many troops of the 28th Battalion had remained. The entire company was  
9 in Zongo. A company-and-a-half had remained in Libenge and the battalion  
10 commander -- in fact, when the Defence was questioning me on the strength of the  
11 battalion, the commander of the 28th Battalion indicated the number of troops that  
12 had crossed over and those who had remained behind.

13 So it is normal that those who remained behind were still under the command of the  
14 brigade commander who was the interim officer in charge and who was at the  
15 headquarters. Therefore, those who had remained behind had to send their reports  
16 to the interim commander.

17 Q. Sir, we will get to the size of the element. All I'm asking about now is that the  
18 elements from the 28th Battalion were obviously present in Bangui in order to send  
19 this message, and it came on the morning of the 26th, and if you look at the next  
20 message it had to have come in before 0945 in the morning; correct?

21 THE COURT OFFICER (Redacted): (Interpretation) Mr Iverson, should I show  
22 anything else to the witness apart from this left side of the page?

23 MR IVERSON: I apologise. I thought that the date from the next message was  
24 visible. Could you just position the screen so that the bottom portion of the next  
25 message in line is shown and the date/time/group of the inbox at the bottom of the

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1 message is shown to the witness?

2 THE COURT OFFICER (Redacted): (Interpretation) Done.

3 (Pause in proceedings)

4 PRESIDING JUDGE STEINER: Mr Iverson, could you repeat the question please.

5 MR IVERSON: I'll try to ask it in another way, Madam President.

6 Q. Sir, you previously mentioned that most of these morning sitreps, at least

7 coming from the 28th Battalion, were sent around 7.30 or 8.30 in the morning.

8 Would these messages have been sent around the same time?

9 A. Mr Prosecutor, the commander of the 28th Battalion told us that he sent his  
10 messages to the brigade commander between 7.30 and 8.30.

11 Q. Well, situation reports in a log-book such as this generally are written down at  
12 the same time that they come in, correct, so they're in chronological order? Is that  
13 right, sir?

14 A. The operator of the brigade, or of the sector, or even of the headquarters, the  
15 operator could receive messages from various units and would be the only one who  
16 would be able to draft the messages properly in order to facilitate the reading of such  
17 messages by his superior.

18 MR IVERSON: I'm not sure if that responds to my question, but I'd like to move on.  
19 Could I ask the court officer to please display the next page, which is 1631, of the  
20 same document, and we'll be looking at the middle message on the left-hand side of  
21 the page.

22 Q. Now, sir, this message is from the commander of the Gemena Zongo sector to  
23 General Amuli, with info to Mr Bemba. Could I have you read out the text in this  
24 message, and I do -- I understand that there's a little bit of bleed-through from the  
25 page behind it, so just take your time and do the best you can, sir.

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1 A. Yes. "From: General Staff/South Ubangi Sector/2002.

2 Honour to transmit situation of 26 October 2002. Cross over to Bangui under  
3 command of Captain René Abango. Soldiers meeting required conditions for  
4 combat. Wish unable to fight. Morale and authority company PNC and Zongo are  
5 mobilised and in good confidence to carry out security and patrols. Order and  
6 various situations nothing to mention. Troop morale good, very good, in  
7 26 October 2002."

8 PRESIDING JUDGE STEINER: May I ask the witness to read again the beginning of  
9 the message, because it appears that there is something missing. Please, Mr Witness,  
10 read it again. À partir vous "honneur vous transmettre."

11 THE WITNESS: (Interpretation) "Honour to transmit to you situation of  
12 26 October 2002 - Stop - Calm except for unforeseen. Military situation, one  
13 company of 151 soldiers cross over coast Bangui under the command of Captain René  
14 Abango. Soldiers have met."

15 PRESIDING JUDGE STEINER: It's fine, Mr Witness. Thank you.

16 MR IVERSON:

17 Q. Sir, now this message is quite different in terms of numbers of soldiers than the  
18 story that you've told to this Chamber; is that right?

19 A. Mr Prosecutor, the difference arises from the fact that I provided you with the  
20 number of soldiers who did not cross over with René, and this is what I told you. I  
21 gave him the figures relating to officers, and the captain had taken some soldiers with  
22 him for purposes of providing protection and security for his team; the team with  
23 which he went over. They did not spend the night there, so when the officers  
24 finished their assignment they came back along with the soldiers who had  
25 accompanied them.



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1 Q. Sir, I know you keep on emphasising that, according to you, they did not spend  
2 the night there, but that's not what I'm asking about. Does this number of a  
3 company of soldiers from the 28th Battalion of 151 soldiers, is that number correct?

4 A. Yes, it is correct. Now, when I said that he took some soldiers with him, it was  
5 for purposes of security and protection for the team where they had gone. I did not  
6 deem it necessary at the time to give you the number of soldiers that he had taken  
7 with him.

8 Q. Sir, this message doesn't mention anything about a mission to conduct  
9 reconnaissance, does it?

10 A. Mr Prosecutor, the person who drafted this message is a sector commander and  
11 this would be along the lines of the message received from the brigade commander,  
12 whose content I don't know. But as for this message, I do know that on the 26th,  
13 Captain René, the deputy commander of the battalion, had crossed over to make  
14 contact with the authorities on the other side with a view to analysing the prevailing  
15 situation. So they crossed over with a few soldiers who were to provide security for  
16 them.

17 Q. Okay. I'm going to refer to your testimony during direct examination, and it's  
18 transcript 293, on page 51, lines 1 through 9, and the testimony was given in private  
19 session. That said, I don't see anything in the portion that I intend to read out that  
20 would warrant private session, so I'd like to stay in open session.

21 So the question from Defence counsel was: "Okay, when you talk about a team of  
22 scouts, how many men are you referring to?" And your answer: "It was  
23 approximately one section, a little less, I mean, (Redacted) in company  
24 of his two guards. The S2 also had his two agents and a number of senior officials  
25 who accompanied them." Another question by Defence counsel: "Okay, can you

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1 give us an approximate number in total?"

2 And your answer: "I cannot remember the precise number, because there was  
3 another service that had been used for the commander and they needed an  
4 interpreter in order to facilitate communication. This is why I am talking about at  
5 least one section comprising seven to ten individuals."

6 Sir, the numbers that you give --

7 PRESIDING JUDGE STEINER: Yes, Mr Haynes?

8 MR HAYNES: Can we please go into private session?

9 PRESIDING JUDGE STEINER: Court officer, please.

10 (Private session at 12.30 p.m.) \* Reclassified as Open session

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

12 MR HAYNES: (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE STEINER: (Redacted), Mr Haynes.

16 Court officer, please turn back into open session.

17 (Open session at 12.31 p.m.)

18 THE COURT OFFICER: We are in open session, your Honours.

19 PRESIDING JUDGE STEINER: Mr Iverson, I know that you have to repeat the  
20 question. Before that it's just to inform that our court officer just received the copy  
21 of the document mentioned in the beginning of this session and will proceed to  
22 distribute to parties and participants and to the Chamber, please.

23 You can continue, Mr Iverson.

24 MR IVERSON: Thank you, Madam President, and thank you, Mr Haynes. My  
25 oversight.

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1 Q. Sir, in your testimony you're talking about seven to ten individuals.

2 Compared with 151 soldiers, that number is wildly off the mark, isn't it?

3 A. The number I gave, well, one section comprised a number of officers of the  
4 General Staff, in the General Staff, including the commander's deputy, the battalion  
5 commander's deputy, and there were a number of individuals with him. I didn't  
6 specify the number and he went over with them until he came back with them.

7 Q. Sir, the -- in this message it appears that the sender of the message says that the  
8 soldiers are ready to do battle. Is that -- is that wrong?

9 A. Thank you very much for your question. The battalion commander's deputy  
10 was in Zongo. The information they had were that the enemy had already entered  
11 and was around the residence of the head and it was his duty to seek out soldiers so  
12 as to go and make an evaluation, together with the Central African authorities. I  
13 believe that anyone could go with the youngsters and would have to protect them in  
14 the event of any hazard or danger presenting itself.

15 Q. But they're not saying in this message that they're there to be bodyguards; right?  
16 They say they are ready to do battle. They are ready to go into combat; right?

17 A. The spirit of this message is to say that they are ready to fight, but they don't list  
18 the equipment with which they went across. They were going there to protect the  
19 officers that were going across to make contact and evaluate the situation in the field.

20 MR IVERSON: Could I ask the court officer to show on the same page the bottom  
21 right-hand side quadrant, morning sitreps.

22 Q. So here it's the next day, 27 October 2002, and we know because you've said  
23 many times that the 28th Battalion or elements of the 28th Battalion went to Bangui  
24 and then came back on the same day, not spending too much time there.

25 So this message is split. The first part of it is on this page and I'd like to show the

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1 very next page, 1632. Sir, do you see in the upper left-hand quadrant, if you could  
2 focus in on that, please. There we go. Do you see "Zongo, calm," and then at the  
3 very bottom "Ops Bangui, calm." Well, wouldn't it be strange if a radio message was  
4 coming from Ops Bangui if they weren't even there, sir?

5 A. Well, here I see the way in which they got the information relating to the 27th  
6 about the situation on the other side. It was the authority of the brigade or up to the  
7 level of sector. Since some of the elements were in a position to go across, there was  
8 a report on the situation in the field even though the troops were not in the field.  
9 The situation of the enemy had not changed at the time the contacts were made. The  
10 naval force unit would go across to report on the situation that held in their country.

11 Q. Sir, and up until this moment you've withheld that information from this  
12 Chamber; is that right?

13 A. I couldn't give this information because the person who received this message  
14 and drafted, well, I don't know where this document comes from. If it was the  
15 brigade commander who drafted this message to send it to the sector commander,  
16 well then he would be in the best position to know about that. As for myself, when  
17 the commander of the 28th Battalion -- well, he did not provide this information on  
18 that date to the people who were on the other side.

19 Q. So, sir, and I'm a bit confused. Now are you saying that you didn't know if  
20 members of the 28th Battalion were on the other side on 27 October 2002? Could  
21 you clarify that?

22 A. On that date, the 27th, no soldier of the 28th Battalion was on the other side.  
23 Very late at night on the 28th they went across. That's when they went across. On  
24 the 27th there was no soldier on the other side of the river.

25 Q. Okay. Well I'm going to leave this here for now, but I'd like to come back to it

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1 with some other documents. At this point I'd like to move on to --

2 PRESIDING JUDGE STEINER: Mr Iverson, can I just put a follow-up question  
3 before you move on?

4 MR IVERSON: Of course, Madam President.

5 PRESIDING JUDGE STEINER: On the 27th, Mr Witness, where were you?

6 THE WITNESS: (Interpretation) On the 27th, in the morning the 28th Battalion  
7 commander was at his main staff preparing for the trip of his soldiers to Zongo.

8 PRESIDING JUDGE STEINER: So then how the commander of the 28th Battalion  
9 knew that there were no soldiers in the other side? How the commander got this  
10 information?

11 THE WITNESS: (Interpretation) I'm sorry, I'm not sure I truly understood your  
12 question.

13 PRESIDING JUDGE STEINER: Mr Witness, you just said that on the 27th, the 28th  
14 Battalion was still in -- how do you say that? In your headquarters. I suppose it is  
15 in Libenge; is that correct? Let's go step-by-step.

16 THE WITNESS: (No audible response)

17 PRESIDING JUDGE STEINER: Did you hear my question, Mr Witness?

18 THE WITNESS: (Interpretation) No, I didn't hear your question, Madam President.  
19 Could you kindly repeat your question, please?

20 PRESIDING JUDGE STEINER: I just want to confirm what you said. On the 27  
21 October, the 28th Battalion was still in Libenge. Is that correct, or not?

22 THE WITNESS: (Interpretation) On the 27th most of the 28th Battalion was still in  
23 Libenge in the morning, but at Zongo there were still soldiers there who had been  
24 deployed and so there were soldiers still in Zongo.

25 PRESIDING JUDGE STEINER: So the second part of my question is: How did you

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1 know on the 27th that there were no soldiers on the other side of the river? Who  
2 gave you that information?

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

4 At the time when my deputy went across, together with a number of other soldiers,  
5 he had fulfilled his task on the 26th actually, and when he came back he brought with  
6 him the S2 and they came by motorbike all the way to Libenge. They arrived at  
7 about 2 in the morning at the headquarters to report on what had happened on the  
8 other side so that we could convey that information to the brigade commander.

9 PRESIDING JUDGE STEINER: Now, I'm a little bit more confused, I must confess.  
10 So that group of scouts went from Zongo to the other side, returned in the same day,  
11 then some of these soldiers went to Libenge to give you the information in the same  
12 day that you were supposed to go back to Zongo? It's a little bit confused, Mr -- the  
13 chronology is a little bit confused, I must confess.

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

15 Now, let me go back to my answer and try to speak very slowly so that we  
16 understand each other better. This is what I am saying: On the date of the 26th, the  
17 battalion commander's deputy, S2 and a number of other officers, together with a  
18 group of soldiers, had crossed over to go and assess the situation, and those officers  
19 that had gone across were to meet with the military authorities of the Central African  
20 Republic so as to conduct an analysis and collect the information for the purpose of  
21 ascertaining what the situation was in the field.

22 They completed that task, Madam President, and the officers, together with the  
23 soldiers, came back to Zongo. When they came back, the battalion commander's  
24 deputy had brought to the S2 the report relating to what the Central African  
25 authorities had provided them with about the position of the rebels and all their ideas

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1 and views and the activities they conducted on the spot. They brought all this  
2 information to make the report to the commander of the 28th Battalion. That's what  
3 happened on the 26th. Nobody stayed back in Bangui.

4 PRESIDING JUDGE STEINER: Mr Iverson.

5 MR IVERSON:

6 Q. Sir, your story as I read it isn't making sense, it's not adding up, but I do want to  
7 move on and I'd like to move to a message sent by Colonel Moustapha on 30 October  
8 and that's on page 1637, in the bottom left-hand quadrant.

9 THE COURT OFFICER (Redacted): (No interpretation)

10 MR IVERSON:

11 Q. Sir, this is a message from the commander of Ops Bangui to General Amuli with  
12 info to Mr Bemba. Could I have you just read out the main text, please?

13 A. "Honour to report to you my arrival in the field at 9. After a co-ordination  
14 meeting with the officers, the operation began at 1300 hours. Balance for enemy:  
15 25 fatalities and three captured. Three Chadians captured. Weaponry: 15 SMGs,  
16 four large vehicles including one full of vehicle tyres and with one large power  
17 generator with two tractors, five pairs of uniforms in poor state, 15 SMG chargers.  
18 On our side, two deaths and one injured. Difficulties in the field. We have been  
19 abandoned by the nationals."

20 MR IVERSON: Could I ask the court officer to display the second part of the  
21 message which is in the upper right-hand quadrant.

22 Q. Sir, could you just continue reading out the rest of the message, please?

23 A. "Of co-ordination with the Libyans. Lack of means of communication for  
24 liaison inter-operations. Lack of medications for first aid. Lack of food. Other  
25 situations will follow."

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1 Q. Okay. So in this message Colonel Moustapha says that the operations started  
2 at 1300 on 30 October. By that does he mean combat started at 1300 on 30 October?

3 A. Yes, at 1300 hours. Battle resumed because the enemy was strengthening its  
4 position and so the position -- well, there was an attempt to take it over and so we  
5 asked the soldiers to take up their positions and the battle started at 1300 hours.

6 Q. And he also mentions a few problems, right, that "We have been abandoned by  
7 the nationals, there's no co-ordination with the Libyans, lack of communications for  
8 inter-ops liaison"? These would all be problems with regard to co-ordination with  
9 other units, right?

10 A. Mr Prosecutor, I have just seen in this message that there was co-ordination  
11 with Libyans, but there were -- there were not enough means because that was the  
12 first day. All this happened on the first day. That is why the chief of the brigade  
13 needed to keep some of the authorities informed and tell them about things that were  
14 important for him, but later on the situation improved and all these problems were  
15 solved.

16 Q. So he was able to work out the problems after the first day, but here he's  
17 sending a message to General Amuli and Mr Bemba. He's not informing Central  
18 African authorities in this message, is he?

19 A. The head of the brigade -- Mr Prosecutor, the head of the brigade was right,  
20 because he couldn't say to his head -- his Chief of General Staff because he was afraid  
21 because it was the very beginning at that point in time and the team of command for  
22 the operations had been set up and the soldiers that had crossed over were reinforced  
23 with a number of other soldiers from the Central African Republic, and so we  
24 combined together and when battle became more intense most of the Central African  
25 soldiers disappeared. They were no longer visible. And since this was practically



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1 the first battle, there were problems and later on measures were taken and we were  
2 able to get to an understanding and everything went smoothly.

3 MR IVERSON: Could I ask the court officer to display a new document now and it  
4 is document 49 on the Prosecution's list, it is public and it is CAR-DEF-0002-0001.

5 THE COURT OFFICER (Redacted): (Interpretation) The first page of the document is  
6 displayed.

7 MR IVERSON: Okay.

8 Q. Sir, do you recognise the document in front of you?

9 A. Yes, I do know and I remember this matter.

10 Q. Okay, do you know what this document contains then, sir? And I don't expect  
11 you to know the details of over a hundred pages, but I am just asking in general if  
12 you know what the document contains?

13 A. To my knowledge, I have never seen this document before. However, Colonel  
14 Mondonga was in charge of liaison. He was the liaison officer. That person in the  
15 co-ordination of the operations was a Central African, and he often went to the  
16 co-ordination centre for operations in Bangui and he would bring back to the  
17 operations commander all the analyses that had been done at that level.

18 Now, when the PK4 battle, which had started from the 30th and went on to the 31st,  
19 during that time the problem relating to Willy Bomengo had been raised with the  
20 commission so that the property or goods that had been abandoned by the enemies  
21 could be recovered. Now, I don't know exactly what happened there, but he was  
22 arrested. He was arrested by some of our Central African brothers. A commission  
23 was set up by General Mazangi to look into the matter.

24 Now, after the battle, I saw Colonel Mondonga at PK12. I saw him and his  
25 commission, as well as some Central Africans. They had come to conduct an

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1 investigation. Their team also included a group of people who came to mop up the  
2 area and they went into all and every neighbourhoods. These were Central African  
3 troops, as well as some of the troops that had crossed over. Their investigations  
4 were to find out whether anybody or any soldier had a bag and they would open up  
5 those bags and if they found any items in the bags that did not have to be there then  
6 they would take the items away and arrest the individual.

7 So this commission came to the location where the commander of the 28th Battalion  
8 was located. They went through all the companies and carried out an audit  
9 resulting in the arrest of those who had to be arrested. That is all what I know  
10 regarding this matter.

11 Q. Sir, I just want to ask a general question just to make sure that we're on the  
12 same sheet of music. Do you -- what is your definition of pillage? When you use  
13 the word "pillage," what is your definition?

14 A. Pillaging means taking or picking up items belonging to someone else without  
15 their permission.

16 Q. Okay. And, sir, what about the term "war booty"? What is your definition of  
17 war booty?

18 A. War booty refers to all that the enemy abandoned or left behind following a  
19 battle; that is everything that the enemy leaves behind.

20 Q. So, according to you, would it be permissible then for the ALC for example to  
21 seize anything that the enemy had left behind, war booty, just to take war booty then?

22 A. All that the enemy used may be abandoned when the enemy flees. It is all  
23 those items together that are referred to as "the war booty." So this idea of war booty  
24 does not refer to items belonging to peaceful citizens, but rather to items belonging to  
25 the enemy.

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1 Q. Okay. And it would be permissible then to take enemy property, what you  
2 call "war booty"? Is that a correct understanding of what you're saying, sir?

3 A. Mr Prosecutor, I do not know whether you were asking me that question in  
4 order to come to that conclusion. You started by asking me the definition of a word.  
5 I provided you with the definition.

6 Now, for everything that transpired, whether it be in relation to what Colonel  
7 Mondonga jotted down on this document, I think all of that is clear. I really do not  
8 know whether if somebody is fighting in Bangui and someone comes from the other  
9 side, what is it that they could have collected from there and taken away?  
10 You see, all those who came from the other side came on foot, so it would be  
11 impossible. The operations commander and the commission, after the crossing over,  
12 when they got there they arrested Central Africans along with people from the other  
13 side.

14 Q. Sir, I'm not asking about that right now. I'm asking simply if, according to you,  
15 your definition of "war booty" is enemy property, is it permissible to take enemy  
16 property?

17 A. That is incorrect. However, if you are talking about military equipment such  
18 as the items mentioned in the message we read previously, including the weapons  
19 that the enemy had abandoned such as magazines and other military items, then, yes,  
20 we could have taken them, or they could have been taken because these are military  
21 items, but not other items. It would not have been proper to take other items.

22 Q. But if one defines war booty as the property of the enemy and if some soldiers  
23 within the ALC considered the enemy to be Chadians - the population - and FACA  
24 themselves, wouldn't that lead to problems? Wouldn't that lead to serious problems,  
25 sir?

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1 A. Thank you, Mr Prosecutor.

2 The ALC soldiers did not take everything that they found. They only took items  
3 that were abandoned by the enemy in flight. That is why General Mazangi and the  
4 commission headed by Colonel Mondonga proceeded to recover all that property and  
5 handed it over to General Mazangi's co-ordination team. No soldier took any items  
6 as such.

7 Now, those who may have made other items were identified, their names were  
8 mentioned and they were arrested. Some of those arrested were Central African  
9 troops. A number of soldiers were there, many soldiers were there, and those who  
10 were involved in this matter were arrested, and you may know that whenever a  
11 soldier commits a crime or an offence that soldier must be arrested.

12 MR IVERSON: Could I ask the court officer to please display the next page of the  
13 same document, 0002.

14 Q. Sir, I'd like to direct your attention to the lines just under "Pro-Justitia." You  
15 have a numbering system for the message, and then it says "Avec quatre prévenus,"  
16 and right under that you have "DA," date of arrest, and that is on 30 October 2002 at  
17 11 o'clock; is that right?

18 A. That is correct.

19 MR IVERSON: Could I ask the court officer to please display the next page, 0003.

20 Q. Sir, I'd like you to just read out loud from question 7, so "Q7," all the way down  
21 to the end of the response for question 8. Could I ask you to do that, please?

22 A. "Question 7: What do you have to say about the date on which the operations  
23 in Bangui began?

24 It was specifically on 25 October 2002, that is one day before my arrival in Bangui.

25 Do you acknowledge having been arrested by our battalion commander on

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1 30 October 2002 in relation to having been arrested for infiltration and pillaging of  
2 property and other items belonging to Central African people in Bangui and this in  
3 spite of the previous remarks?

4 Answer: No. I was taken away from the front line at PK12 and to M'Poko by  
5 driver Dragula who had been sent for that purpose by the brigade commander and  
6 regarding the abandoning of our advance position, or rather who was -- who had  
7 been sent by the brigade commander and regarding the situation of the LS and S2 for  
8 having a troop to command. Regarding the liberation of the four Chadian suspects  
9 that the brigade commander had, and mindful of my functions as S2 and officer for  
10 intelligence in relation to that investigation, there was insufficient inculpatory  
11 evidence. Now, regarding the pillaging, I have no idea. The one who accused me  
12 could not prove his allegations against me. That is what I know in relation to the  
13 orders from the brigade commander and I collected all the property that the soldiers  
14 of the 28th Battalion had pillaged. I transported them in three vehicles in the  
15 presence of the battalion commander and his deputy, as well as the commander of  
16 the brigade of the RCA. Let me specify that these objects were finally handed over  
17 to Colonel Moustapha, who was the then commander of the Echo Brigade. If there's  
18 any doubt, let him prove the contrary. I was abducted -- my abduction was not  
19 related to pillaging and I wonder why today I am being prosecuted for something I  
20 did not do."

21 Q. Okay. Sir, here we have somebody accused of a crime denying that they  
22 committed the crime; right?

23 A. Yes, that is correct.

24 MR IVERSON: Okay. And we will continue to ask questions after the lunch-break,  
25 because it is now time for the lunch-break, sir.

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1 Thank you, Madam President.

2 PRESIDING JUDGE STEINER: Thank you, Mr Iverson.

3 And since we were indulged with two extended hours to sit in the afternoon, we  
4 really hope that Prosecution is able to conclude its questioning. We hope that.

5 MR IVERSON: I will certainly do my best, Madam President. That said, I can't  
6 make any guarantees.

7 PRESIDING JUDGE STEINER: Mr Witness, it's 1.30. It's time for our lunch-break,  
8 for you to have lunch and to take some rest. We will suspend now and be back at  
9 3 o'clock.

10 The hearing is suspended.

11 THE COURT USHER: All rise.

12 (Recess taken at 1.28 p.m.)

13 (Upon resuming in open session at 3.07 p.m.)

14 THE COURT USHER: All rise.

15 Please be seated.

16 PRESIDING JUDGE STEINER: Good afternoon and welcome back.

17 Good afternoon, Mr Witness.

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

19 PRESIDING JUDGE STEINER: Before we continue with your testimony, Mr Witness, I  
20 think Defence wants to address the Chamber and I was told that it should be in private?

21 MR HAYNES: Yes. Both of the previous references, or both of the previous decisions,  
22 have been in private session and this ought to be as well, your Honour.

23 PRESIDING JUDGE STEINER: But simply private session, or without -- without the  
24 presence of the witness?

25 MR HAYNES: I did ask that the witness not be present. Whether you want to effect

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1 that in a more practical way or not, I leave in your hands.

2 PRESIDING JUDGE STEINER: Mr Rojas?

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

4 PRESIDING JUDGE STEINER: The Defence needs to address the Chamber on a  
5 particular issue. I ask you, please, for the time being to cut the sound that goes to the  
6 witness. Is that possible?

7 THE COURT OFFICER (Redacted): (Interpretation) Yes, Madam President. At this  
8 moment in time the sound has been turned off and the witness cannot hear anything, but  
9 on the other hand we can still see what is going on in the courtroom and I can continue to  
10 listen to what is going on in the courtroom through my own headphones, but I can  
11 confirm to you that the witness can no longer hear.

12 PRESIDING JUDGE STEINER: Thank you very much.

13 Mr Haynes?

14 MR HAYNES: Thank you, your Honour.

15 THE COURT OFFICER: Sorry, your Honour. I need to confirm the private session. I  
16 can go?

17 PRESIDING JUDGE STEINER: Yes.

18 THE COURT OFFICER: Sorry, just a minute.

19 (Private session at 3.10 p.m.) \* Reclassified as Open session

20 THE COURT OFFICER: We are now in private session.

21 MR HAYNES: Thank you very much.

22 Your Honour, the Defence would wish to seek some clarification of the decision given  
23 earlier today concerning the disclosure of the notes that the witness handed over last  
24 week on 13 March. I will do so as briefly as I can. I will review the history.

25 Your Honour will recall that the matter was fully litigated before you, at which point after

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1 consulting with your Sister Judges you said, "Mr Witness, it is the understanding of the  
2 Chamber that, as a witness, you should not consult any notes or references prepared  
3 before you came into the video link room in order to start giving your testimony.  
4 Therefore, I would ask you please to hand over these notes to the court officer that is at  
5 your side. These notes will be given back to you at the end of your testimony."  
6 Your Honour will of course recall that Mr Badibanga then sought to persuade you to  
7 reconsider the decision you'd then announced, though what fresh material he provided  
8 I'm not entirely sure, but in any event I accept that at page 40 of the English transcript you  
9 then said, "For the time being, the document - the notes - are to be kept by the court officer.  
10 As I said, in principle the document should be returned to the witness at the end of his  
11 testimony which will take us maybe a week. In the meantime, the Chamber can review  
12 its own decision if it appears that it's necessary to seize the notes prepared by the  
13 witness."  
14 Now, all I'm going to say about the original debate is that the Defence maintains its  
15 position that the process of seizing the witness's notes is inappropriate, possibly even  
16 illegal, and the Defence has further had the opportunity to revisit the events which are  
17 said to be a precedent for this, namely the notes brought into this courtroom by Witness  
18 55, and we find therein a number of significant differences which distinguish it entirely  
19 from the situation here.  
20 We're also driven to note that this witness has been giving evidence now for six full days  
21 and his cross-examination is well into its third day, and the clarifications we would  
22 require at this point in time is that the Chamber state openly for the benefit of the Defence  
23 what circumstances now exist which make it necessary to seize the notes prepared by the  
24 witness, because that was the caveat that your Honour apparently placed upon any  
25 review or reconsideration of your original decision that they should be taken from him



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1 and given back to him.

2 I won't go further than that at this moment in time, although it may well be that I wish to  
3 place something on the record at the moment, should he choose to do so, that Mr Iverson  
4 seeks to use the notes in examination of the witness.

5 But for the time being our request for clarification is to know what it is about today as  
6 opposed to any other day, in particular a day when the Defence was examining the  
7 witness, that necessitates the seizure of these documents and disclosures to the party now.

8 PRESIDING JUDGE STEINER: Before this Chamber very unusual things occur, for  
9 instance again Defence asking the Chamber to explain an order, but in any case before the  
10 Chamber addresses the issue, has Mr Iverson anything to say?

11 MR IVERSON: Thank you, Madam President.

12 I haven't prepared any remarks. I didn't know that Mr Haynes would be talking about  
13 this during this session. I would just reiterate what the Prosecution previously said, and  
14 that is that anything which tends to influence the testimony of a witness should be  
15 memorialised on the record; and here we had a situation where he brought notes, which  
16 he freely admitted tended to influence his testimony, and the Court did the proper thing,  
17 did not let him testify from his notes, and had the court officer take the notes and make  
18 them -- not necessarily part of the record yet, but they've disclosed to the parties.

19 For its part, the Prosecution does intend to explore these issues with the witness.

20 Looking at the documents over the lunch-break, it's clear to me that they strongly suggest  
21 that he knows the material issues in the case, that the information contained in his notes  
22 aren't readily known to anybody outside of this room generally speaking, and we would  
23 like to inquire into the reasons why he in particular wrote down the things that he wrote  
24 down.

25 PRESIDING JUDGE STEINER: Any further comment, Mr Haynes?

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1 MR HAYNES: No, there's nothing about what Mr Iverson says which bears on the  
2 application I make to you, which is that we're asking you for more information as to why  
3 you have rendered the decision you have today.

4 (Pause in proceedings)

5 PRESIDING JUDGE STEINER: Mr Haynes, a document was sent to the parties for the  
6 benefit of the parties before the end of the testimony of the witness, otherwise it would  
7 become moot. The reasons that may have driven the Chamber to decide to disclose this  
8 document before the end of the testimony are part of the deliberations of the Chamber,  
9 and the Chamber is of the view that the Chamber doesn't need to give any explanations  
10 on the issue to the Defence, or to whoever.

11 So if this is what Defence wanted to listen, we can go back and try to advance on the  
12 testimony of this witness.

13 Anything else, Mr Haynes?

14 MR HAYNES: Sorry, I didn't know you were looking at me.

15 PRESIDING JUDGE STEINER: Yes, I was.

16 MR HAYNES: No, no. I don't get up and question your decisions when you make  
17 them.

18 PRESIDING JUDGE STEINER: So, court officer, please turn into open session. And  
19 Mr Rojas, please re-establish the communication or the sound for the witness in the  
20 transmission room.

21 (Open session at 3.19 p.m.)

22 THE COURT OFFICER: We are in open session, your Honour.

23 THE COURT OFFICER (Redacted): (Interpretation) Madam President, the audio link has  
24 been restored.

25 PRESIDING JUDGE STEINER: Mr Witness, are you ready to continue with your

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1 testimony?

2 THE WITNESS: (Interpretation) Yes, Madam President, I am ready.

3 PRESIDING JUDGE STEINER: Mr Iverson.

4 MR IVERSON: Thank you, Madam President.

5 And I would like to pick up where we left off with document CAR-DEF-0002-0001, 49 on  
6 the Prosecution's list, and it's a public document, and if I could ask the court officer just to  
7 go directly to the page 0003.

8 THE COURT OFFICER (Redacted): (Interpretation) Page 3, Mr Witness.

9 MR IVERSON:

10 Q. And I see that it's up on your screen, sir. Now, you've already read this once, so I  
11 do want to ask a number of questions about it. Lieutenant Bomengo mentions that he  
12 was taken from the front line, PK12 near M'Poko, on 30 October 2002. That would  
13 directly contradict your testimony, would it not, sir?

14 A. He is the one who's not telling the truth. He didn't come until there was the  
15 commission there to verify what had been stolen. This took place on the 30th. On the  
16 31st, when people were leaving to go to PK12, that was the time when he was recalled to  
17 do that job. That was on the 31st. On the 30th, well, that was the day of the beginning  
18 of the battle.

19 Q. Okay. So you're saying that Lieutenant Bomengo is lying about his whereabouts; is  
20 that correct, sir?

21 A. He has made a mistake with dates. He was arrested at PK4.

22 Q. Well, then it wouldn't be Lieutenant Bomengo who was mistaken about the dates,  
23 because it's the dossier itself which shows that his date of arrest was 30 October 2002 at 11  
24 a.m., so are you saying that the dossier is wrong, sir?

25 A. You could say that perhaps the person who was in charge of the dossier might be

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1 behind, as he referred to the movement, i.e., the beginning of the battle. That was the  
2 30th at 1300 hours. The battle began then and continued through to the night of the 31st,  
3 and that is why he refers to that particular date. On the 31st, Bomengo was working  
4 with the commission to assemble the belongings that the enemy had left behind and that  
5 is when he was arrested.

6 Q. Okay. And you know, it's probably not out of the ordinary that somebody accused  
7 of a crime could lie, but I was thinking: If Bomengo wanted to lie about this whole thing,  
8 wouldn't your story be much better for him? "I went there on the 26th; came back on the  
9 26th. I have an iron-clad alibi. I wasn't even there. I wasn't even there."

10 Wouldn't that be a much better story for him than the one that he gave?

11 A. Mr Prosecutor, if we take a look at a question that was asked of him, and the answer  
12 that he gave, well, according to him, he was working for the intelligence service, so when  
13 the orders were given on the 25th, that was a preliminary order. I assigned him so that  
14 he could go and meet with the deputy of the 28th Battalion's commander so that on the  
15 26th he could go across.

16 Now, if during his trial he talks about the 27th, in relation to the task that was assigned to  
17 him, well, I cannot see any contradiction there myself.

18 Q. And did the battalion commander have Lieutenant Bomengo investigate these four  
19 Chadian suspects?

20 A. Yes. The 28th Battalion's commander and the commander of the other battalion,  
21 together with the commanders for the operations, well, they were all together, and that is  
22 how they entrusted him with responsibility for trying the four Chadians.

23 MR IVERSON: Could I ask the court officer to please display 0006 of the same  
24 document.

25 Q. Sir, could I have you read out question 3 and answer 3?

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1 A. "Do you acknowledge that you took part in the Bangui operation of 25/10/2002 up  
2 until this date?", and he agreed saying, "Yes."

3 Q. Okay. So this soldier provides a pretty clear answer, "Yes," and doesn't mention  
4 anything more. He participated in the operation. He didn't mention anything about  
5 going back, did he?

6 A. He could say that because he was with Bomengo. He was a soldier who was  
7 helping his officer, so that, you see, they were all together.

8 Q. Well, if it were indeed the truth that they all went back to Zongo, then wouldn't they  
9 have mentioned that to exonerate themselves to say, "There's no way we could have  
10 committed these crimes because we weren't present in Bangui"?

11 A. The way that the officer of the judicial police listened to them, well, was different.  
12 I'm telling you the truth. Bomengo left with his soldiers. They were together. They  
13 could also make arguments before their leader -- correction, they could plead like their  
14 chief.

15 MR IVERSON: Could I ask the court officer to display 0043 of the same document.

16 THE COURT OFFICER (Redacted): (Interpretation) Page 43 -- Mr Iverson, page 43 is being  
17 shown to the witness.

18 MR IVERSON:

19 Q. And just so you're aware, sir, on 0041 it mentions that these proceedings were on 5  
20 December 2002, and I'd like you to -- I'd ask you to read from the top of the page starting  
21 with, "Willy Bomengo appears ...", and read until the -- where it says "INTERVENTION"  
22 about two-thirds down the page.

23 A. I haven't understood your question.

24 Q. Sir, could I just ask you to read out loud the page in front of you, starting at the top  
25 and stopping two-thirds down the page where it says "INTERVENTION" in all capital

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1 letters?

2 A. Heading: "Testimony of Willy Bomengo.

3 Question: Before crossing over to Bangui, did you have money on you? If so, how  
4 much?

5 Answer: I had nothing.

6 Question: Well, why were you found with €60 on you?

7 Answer: I had crossed over to Bangui on Sunday, 26 October 2002, and on the Monday  
8 we continued the attack. As for the money that was found in my possession, after the  
9 looting that occurred at the home of the CAR Minister of Defence many items had been  
10 taken away, because everyone - the local inhabitants, as well as the various soldiers who  
11 were in the field, the commander had asked me to look for all these various items and to  
12 recover them, no matter who may have them. And so I was able to recover many items  
13 that were returned to the CAR authorities of the day, and I received from a certain Tourra  
14 and a certain Ekutsu respectively the amounts of €50 and €10. The battalion commander  
15 suggested that I keep this money as a reward for the work I had done. The next day,  
16 moving towards PK12, I had brought three jeeps back to transport the items that had been  
17 recovered and these items were handed over to the CAR colonel.

18 Regarding the prosecution about the pistol, I think this is misleading because I had had  
19 those two pistols at the front. I did not loot them. Colonel Moustapha is acting out of  
20 bad faith. That is why he took the pistol from me, €60, my CDs and the bottle of cologne.  
21 That is what has caused all these problems, and yet no soldier within his battalion has  
22 these troubles.

23 I am saying that I did not engage in looting, because I was only in Bangui for four days.

24 If you had sat in Zongo, you would hear the truth about the events that occurred in

25 Bangui. Question: Where were you when the residence of the CAR Defence Minister

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1 was looted?

2 Answer: I wasn't there, because our mission was to continue driving out the rebels. It  
3 was only later that I was put in charge of conducting investigations, in order to recover  
4 the goods that had been looted. I am puzzled why am I being prosecuted, whereas the  
5 looters are not having any trouble or difficulty?"

6 Q. Sir, in answer to the second question he says, "I was not there because our mission  
7 was to continue chasing the rebels, or hunting the rebels." It appears here that he was  
8 saying that the battles had already begun with the rebels; is that right?

9 A. Mr Prosecutor, the way Bomengo put it, well, you'll see here that he was  
10 contradicting himself. He had been arrested after committing those crimes. If that was  
11 not the case, he would have been acquitted during the court martial.

12 Q. I'm not claiming by any stretch that Lieutenant Bomengo didn't necessarily commit  
13 the acts that were accused. I'm more interested in some of the words that he uses to  
14 describe the situation that have to do with the first days of the conflict. For instance he  
15 says, "I insist that I did not pillage as I was in Bangui for only four days." Did you see  
16 that part, sir?

17 A. These are two days of service and two days of pension, so that is a -- or boarding,  
18 rather, so a total of four days.

19 Q. Sir, can I ask you to repeat your answer because the -- I am not entirely sure that I  
20 understand what you mean?

21 THE INTERPRETER: Correction from the English booth: The previous reply was,  
22 "Two days of service and two days of detention before crossing over, so he did four days."

23 THE WITNESS: (Interpretation) Which passage are you referring to?

24 MR IVERSON:

25 Q. I think we have it now. I think it was a slight interpretation issue, sir. Okay.

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1 So you're saying that he was in detention in the CAR for two days; meaning that he was  
2 arrested on 28 October?

3 A. I'm going to ask the Prosecutor -- in actual fact, what I'm saying, what I'm saying is  
4 true. He knew just how serious this problem was. Perhaps he wasn't telling the truth,  
5 as it truly is.

6 Q. He appears to be claiming that there was no way he could pillage because he was  
7 only in Bangui for four days. Wouldn't his claim seem much stronger if he were able to  
8 say "I was only in Bangui for a day or two"?

9 A. Bomengo was an intelligence officer of the commander of the 28th Battalion. At the  
10 beginning of the task, the chief of operations asked him to report on the commission that  
11 was in charge of gathering up these goods that the enemy and their ethnic brothers had.  
12 So they were supposed to gather up all these various items, and since he was under the  
13 command of the chief of operations, the commander of the 28th Battalion and his soldiers  
14 were at PK12.

15 What happened at PK4 and in that neighbourhood, they were supposed to gather up all  
16 the various items that had been looted, and they were supposed to bring them to where  
17 General Mazangi had told them, in order to return these items to their owners. Bomengo  
18 and I -- well, in actual fact, the 30th, the 31st, the commander took Bomengo -- we had no  
19 longer contact, the chief had finished.

20 After the chief was at PK12, he said to the officers -- he told them what had happened,  
21 namely he told them that what had happened, and that is when I found out; when he was  
22 detained, when he was arrested.

23 Q. Did the battalion commander advise him to keep the €60?

24 A. He lied. He didn't the even show the battalion commander the €60. What I read  
25 in this document here, I had no idea about that. The commander of operations, when he



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1 searched him, arrested him with those goods. No authority was aware of this story  
2 beforehand and Bomengo told no one about any such thing.

3 Q. Sir, are you saying that Colonel Moustapha arrested Lieutenant Bomengo?

4 A. When he was checking the various services, that is when he reported it to the  
5 commander of operations.

6 Q. But did Colonel Moustapha arrest Lieutenant Bomengo?

7 A. Well, since he had caught him red-handed, he gave orders to the CAR soldiers and  
8 our soldiers instructing that he be arrested.

9 Q. Sir, were you aware that Mr Bemba had given Colonel Moustapha an order to arrest  
10 Bomengo as one of the seven or eight individuals implicated in pillaging?

11 A. I wasn't there when the higher authorities were discussing this and exchanging their  
12 various views. What I'm telling you is that I'm not familiar with the orders that the  
13 commander gave.

14 MR IVERSON: Could I ask the court officer to display document 14 on the list of the  
15 Prosecution, the public document, and the ERN is CAR-OTP-0017-0363.

16 Q. Sir, you see at the top of this document, the MLC letterhead, and it's from the  
17 president, Gbadolite, 4 January 2003?

18 A. Yes, I can see it.

19 MR IVERSON: Could I ask the court officer to go to the next page, 0364.

20 Q. Sir, you see Mr Bemba's signature and his name and the president's stamp at the  
21 bottom of the document?

22 A. Yes, I see the document.

23 Q. Could I have you read the second full paragraph of this document, sir?

24 THE COURT OFFICER (Redacted): (Interpretation) The second paragraph of the first page,  
25 I suppose?

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1 MR IVERSON: Second paragraph of the second page, of the current page.

2 THE WITNESS: (Interpretation) "At the current juncture with the information in my  
3 possession, and unless there is proof to the contrary, I am of the opinion that the public  
4 opinion has been manipulated and disinformation has been put out. All the same, the  
5 MLC can in no way accept behaviour contrary to the military code that governs its troops,  
6 especially when such behaviour could have led to serious human rights violations.  
7 Consequently, I ordered that eight soldiers be arrested and be placed in detention as  
8 preventative measures. Their behaviour in Bangui was contrary to the orders given to  
9 both officers and the rank and file before they left for the Central African Republic."

10 MR IVERSON:

11 Q. Sir, this shows -- is the microphone -- okay, I think I've fixed it. It shows that the  
12 troops in the CAR were subject to Bemba's orders; right?

13 A. That's not right. That's not the case. If you understand, or even if you look at  
14 what the letter is saying, he asked that people who had not respected the Code of Good  
15 Conduct be severely punished.

16 Q. Right, that's another thing he states, but the fact that he says he ordered the arrest of  
17 soldiers in Bangui shows that he has the authority, the power, the control, to make that  
18 order. We know that the order was followed, so we can conclude that he had the  
19 authority to issue orders that were followed in the Central African Republic; right?

20 A. Mr Prosecutor, that's not it. If he had authority over CAR elements, or elements  
21 who were in CAR, he would have not asked for them to be punished. He would have  
22 directly pronounced a sentence against them. If he's asking for them to be punished, it's  
23 because he knew that all these soldiers were under the command of the CAR authorities.  
24 And I would add further, Mr Prosecutor, that this whole letter relates to officers who were  
25 ranked above me. I can't reply on their behalf, because I don't know what was the aim

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1 behind the writing of this letter.

2 Q. But you would agree that his words are pretty clear right here. He doesn't mince  
3 words. He just says, "I order their arrest." It's pretty clear; right?

4 A. That's not what I said, Mr Prosecutor. What I'm saying is that, if he had had any  
5 authority to arrest these people, he would not have asked the CAR authorities to arrest  
6 those who had committed offences. Since these soldiers were under the command of the  
7 Central African authorities, he requested that these soldiers be punished. I would say  
8 that this whole letter relates to my superior officers. I can't comment on it because I don't  
9 know what was the purpose of this letter.

10 MR IVERSON: Okay, I think I'll just move on then. Could I ask the court officer to  
11 please display Prosecution document 56. It is confidential and the ERN is  
12 CAR-OTP-0013-0082.

13 Now, again, this is a media article. I'm not entirely sure that it should be classified as  
14 confidential, but I haven't provided notice to the Chamber, or notice to the Defence. As  
15 far as the Prosecution is concerned this document could be public, but i will leave it in  
16 your hands, Madam President.

17 PRESIDING JUDGE STEINER: Mr Haynes?

18 MR HAYNES: Absolutely agree. It should be a public document and so I've got no  
19 issue with this, but I just wonder before it's introduced to the witness if Mr Iverson would  
20 tell him a little bit more about it, what journal it's from, when it was published, what sort  
21 of circulation it had, if he knows that?

22 MR IVERSON: I'd be happy to.

23 PRESIDING JUDGE STEINER: So the document is reclassified as public. Document  
24 CAR-OTP-0013-0082 is reclassified as public. Mr Iverson?

25 MR IVERSON: Thank you, Madam President.

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1 Q. Sir, this is a Devoir de mémoire, an article from Le Citoyen, a Central African  
2 newspaper, published on Tuesday, 5 November 2002, as you can see at the bottom of the  
3 document, and it gives a --  
4 THE COURT OFFICER (Redacted): (Interpretation) One moment, please, because I can't  
5 find this document on the list in my possession. I only have 55 documents and none of  
6 them link to the reference CAR-OTP-0013-0082. In the file audio and video which I have,  
7 the document is not in there.

8 PRESIDING JUDGE STEINER: The document will be provided through the link, but we  
9 are not sure that it will be easy for the witness to read it, but we will try.

10 MR IVERSON: I am informed that the court officer will have this document sent in an  
11 email days ago, so I think it would probably be better if I just came back to it, rather than  
12 trying to do it via the link, and see if the court officer in the meantime is able to find the  
13 document to display to the witness at the video link location. That's what I would  
14 propose, Madam President.

15 PRESIDING JUDGE STEINER: I'm fine with whatever proposal that makes us advance.

16 MR IVERSON: Could I ask the court officer then to please display document 52. It's a  
17 public document, 52 on the Prosecution list, and the ERN is CAR-OTP-0005-0125.

18 THE COURT OFFICER (Redacted): (Interpretation) This document is shown to the witness.

19 MR IVERSON:

20 Q. Sir, do you see the document on your screen?

21 A. Yes.

22 Q. Okay. And I don't propose to go through this whole document. I just ask you to  
23 read a portion that's related to your testimony about presence of ALC in CAR.

24 Now, this is an RFI article from 27 October 2002, and if I could just ask you to read the last  
25 two sentences of the -- well, I'm going to call it the second paragraph. The paragraph

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1 starts with "C'est entre le nord et le centre de Bangui," if I could just have you read those  
2 last two sentences, sir?

3 A. "It would also appear that combatants from the DRC came to assist the presidential  
4 troops. These could be troops from the Movement for the Liberation of the Congo led by  
5 Jean-Pierre Bemba."

6 MR IVERSON: Okay. And if I could ask the court officer to display document 53,  
7 which is related. It's public and the ERN is CAR-OTP-0005-0127.

8 THE COURT OFFICER (Redacted): (Interpretation) The document is being shown to the  
9 witness.

10 MR IVERSON:

11 Q. Sir, this is another RFI document from 29 October 2002. If I could have you read  
12 the entire paragraph, I'll call it the third paragraph, down starting with "Il se confirme  
13 d'autre part ..."?

14 A. "It has also been confirmed that the counteroffensive launched on Sunday morning  
15 by President Patassé is in fact by his close guard and also primarily by his two main allies:  
16 The hundreds of Libyans present in his entourage who have been there since the last  
17 failed coup and who are equipped with heavy weaponry and some light aircraft and the  
18 Congolese soldiers of Jean-Pierre Bemba's MLC who have once again crossed the Ubangi  
19 to support the regime harassing Ange-Félix Patassé for years. In fact, the diamond traffic  
20 from the Congo controlled by Jean-Pierre Bemba goes exclusively through Bangui thanks  
21 to the complicity of the Central African president."

22 Q. And again a related document, I'm going to --

23 PRESIDING JUDGE STEINER: I'm sorry.

24 Mr Haynes?

25 MR HAYNES: Sorry, just before we leave this document, can we have a look all the way

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1 to the bottom of it to save coming back to it later?

2 PRESIDING JUDGE STEINER: Court officer, please.

3 MR HAYNES: And I wonder if we could know who wrote the handwritten dates on  
4 these documents?

5 PRESIDING JUDGE STEINER: Can you answer to that question, Mr Iverson?

6 MR IVERSON: I believe that the Prosecution has a disclosure forthcoming explaining the  
7 handwritten dates. What I -- and this is before my time and so I don't want to say  
8 something wrong, but I believe what happened was, when the OTP received these  
9 documents, RFI sent along some type of affidavit or an official document explaining why  
10 the dates are written the way they are because -- and this is an assumption of mine. The  
11 assumption is that the dates weren't included in the printout of the document itself, so RFI  
12 provided that information and that disclosure will be forthcoming.

13 MR HAYNES: Well, so that the record currently appears correctly, this document is  
14 dated 21 November 2007 and somebody has written "29 October 2002" on the top of it.  
15 That would seem to me to be a fair description of it.

16 MR IVERSON: Right, and I think that the 2007 date appears to be the date that it was  
17 printed out or accessed.

18 PRESIDING JUDGE STEINER: I think that this discussion can be deferred for future, if  
19 and when the document is tendered as evidence by any of the parties.  
20 Let's continue.

21 MR IVERSON: Could I ask the court officer to display document 54, it's public and it's  
22 ERN CAR-OTP-0005-0129.

23 THE WITNESS: (Interpretation) I have a request that I would like to put to Madam  
24 President?

25 PRESIDING JUDGE STEINER: Yes, Mr Witness?

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1 THE WITNESS: (Interpretation) I am asking you, Madam President, whether you  
2 could together with the Prosecutor see whether he could ask me questions that relate to  
3 me personally, so that I can provide appropriate replies?  
4 If I'm being shown letters and correspondence from my superior officers, or press articles,  
5 I don't need these because I know nothing about this correspondence, the correspondence  
6 of my superiors, or these journalists' articles.

7 PRESIDING JUDGE STEINER: Mr Witness, for the time being the Prosecution is just  
8 asking you to read some excerpts of these documents and I am sure that after that he will  
9 put to you some questions that are relevant to the case. So please be patient.

10 Mr Iverson.

11 MR IVERSON: Thank you, Madam President.

12 Q. Sir, could I have you read the second paragraph, just the first two sentences,  
13 "Certains quartiers nord de Bangui"?

14 A. "Some areas to the north of Bangui have been controlled since the beginning of  
15 Wednesday afternoon by loyalist forces, according to statements given by witnesses to  
16 AFP. The men from the USP - the Presidential Security Unit - and those of Jean-Pierre  
17 Bemba now hold the entire northern sector, stated an inhabitant of these areas confirming  
18 other witness statements. However, it was not possible to know on Wednesday evening  
19 whether the loyalist forces had also been able to regain control of the northern exit of  
20 Bangui from where the rebels had arrived and to clear the access route to the north of the  
21 country.

22 Furthermore, it seemed that the partisans of the former chief, François Bozizé, were still  
23 holding the positions in the northern areas and the centre of the city."

24 Q. And can I have you read the next paragraph as well, sir?

25 A. "This regaining of control took place during an offensive launched on Wednesday

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1 with the support of Libyan soldiers posted around the palace and the presidential  
2 residence. In addition, some 500 Congolese combatants belonging to the MLC, the  
3 Movement for the Liberation of the Congo, led by the head of the rebels, Jean-Pierre  
4 Bemba, progressively arrived in Bangui -- have been arriving in Bangui since Saturday to  
5 assist the government forces."

6 Q. Okay. I don't want to inundate you with information, because I think that's what  
7 we may be doing, so I want to ask: Do you know if this is on 30th October, and the  
8 article at the very top mentions 30 October as well, do you know when Saturday would  
9 have been? What date that would have been?

10 A. I don't remember any more what day of the week 30 October was.

11 Q. Well, it was a Wednesday, which would have made 26 October a Saturday. So if  
12 this article is correct, the ALC or the MLC moved progressively into Bangui since  
13 Saturday, 26 October 2002. That would not be consistent with your testimony, would it,  
14 sir?

15 A. Mr Prosecutor, I have no link to this article of the RFI. The RFI has carried out its  
16 work and that is a matter for the RFI. If the RFI said that the troops crossed on the 26th,  
17 they -- that they crossed on the 26th, then they crossed and then they came back to the  
18 country, I don't know where they got this information from.

19 Q. Well, the article also mentions that the units of Jean-Pierre Bemba hold the entire  
20 northern sector, or at least that's what an inhabitant of the northern sector stated, and that  
21 would have been on 30 October 2002; correct?

22 A. I don't agree with that, because I don't know if Mr Prosecutor wants me to give  
23 another example about the RFI? When the rebels left, they fled in the direction of  
24 Cameroon. When the commander of the operations --

25 THE INTERPRETER: The Lingala cabinet is no longer hearing the witness. There is a



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1 problem. The Lingala cabinet booth would like to ask the witness to repeat, because the  
2 Lingala booth has lost the thread of the argument.

3 THE WITNESS: (No interpretation)

4 PRESIDING JUDGE STEINER: Mr Witness - Mr Witness - please stop. We lost  
5 communication for a while. We could not listen to what you said. You will have to  
6 repeat your answer, please.

7 THE WITNESS: (Interpretation) Thank you, Madam President. I wanted to say this  
8 to Mr Prosecutor. I wanted to say that everything that has been written down here by  
9 the RFI is something I don't recognise, because there were other things that happened  
10 during the battle of Bossembélé. When the troops retook the town of Bossembélé, two or  
11 three days later Radio RFI was saying that there were intensive confrontations in  
12 Bossembélé, but since I'm not a journalist I don't know what they wrote.

13 Q. Don't these reports -- aren't they consistent with the Bomengo dossier, with what is  
14 written in the Bomengo dossier, that we just looked at?

15 A. I don't understand your question, I'm afraid.

16 Q. These news reports tend to confirm what was said in the Bomengo dossier; is that  
17 right?

18 A. I know nothing about that, but I do know that the RFI wrote this and that Bomengo  
19 lied in his dossier.

20 Q. Sir, did -- according to you, did General Mazi give you the order to withdraw?

21 A. Yes, the operations commander did that.

22 Q. And do you know how that came about, if he did actually give you an order? How  
23 was it decided that the ALC would be withdrawn from the CAR?

24 A. How was it that we left? The commander of the 28th Battalion received orders  
25 with a message, or through a message, coming from the commander. A company had

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1 been sent out composed of our friends the FACA, so that they take over from the 28th  
2 Battalion, and from part of the USP soldiers so that they could come back to Bossembélé in  
3 the interim before another order arrived. So during the day he had sent vehicles out and  
4 the 28th Battalion soldiers began to go to Bossembélé, and the same happened with those  
5 who were at PK12.

6 MR IVERSON: Could I ask the court officer to please display Prosecution document 57.  
7 It is confidential, ERN CAR-OTP-0064-0265.

8 THE COURT OFFICER (Redacted): (Interpretation) The same thing applies, Mr Prosecutor.  
9 I don't have this document with me.

10 THE INTERPRETER: Inaudible.

11 THE COURT OFFICER (Redacted): (Interpretation) And they were not sent to me from the  
12 start.

13 MR IVERSON: Okay. I'd like to finish today if possible, but could I ask that that  
14 document be pulled up and we could see if we can read it via the link, if that's possible?

15 THE COURT OFFICER: Yes, it will be now through the link.

16 MR IVERSON: And just for the court officer's information, there was an email sent on  
17 Friday, 15 March at 16:37 that may contain the documents, but for this one I think we'll try  
18 to do it via the link.

19 Could I ask that page 0267 be shown to the witness. Could I have you zoom in really  
20 close on the communiqué du press.

21 Q. Sir, this is from an MLC newsletter from December 2002/January 2003. Are you  
22 able to see the words on the screen well enough to read them, sir?

23 A. No, I cannot see.

24 MR IVERSON: Okay. Well, then I think it's probably best to move on to the next  
25 document. Could I ask the court officer to please display document 41 on the

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1 Prosecution list? It's public and the ERN is CAR-OTP-0010-0471.

2 THE COURT OFFICER (Redacted): (Interpretation) The document has been presented to  
3 the witness.

4 MR IVERSON:

5 Q. Sir, could I -- this is an article from Jeune Afrique and it's an interview with  
6 Jean-Pierre Bemba. Could I have you read the fourth paragraph down beginning with  
7 the Jeune Afrique question, "Pourquoi avez-vous perdu la bataille de Bangui?"?  
8 "Why did you lose the battle of Bangui?" "I didn't lose it. The Chadian troops that  
9 brought François Bozizé to power in the Central African Republic just took advantage of  
10 the withdrawal of my troops. Until the end of February there were 1500 of my men on  
11 the spot, and they were never defeated. Indeed, they defeated the Chadians in the  
12 middle of February but in March, so as to comply with the new constitution of my  
13 country, which entrusts the management of all the Congolese forces to a Superior Council  
14 for Defence I withdrew my men. On 14 March there were only 250 left on the Central  
15 African territory and were ready to move on, and that was the point in time when the  
16 Chadians instigated this cowardly attack by firing a number of rockets, so don't speak to  
17 me about any Chadian military victory."

18 Q. Okay. So here we have the words of Mr Bemba. There are a lot of -- a lot of  
19 information is contained in this paragraph but I wanted to ask you: Firstly, he says, "I  
20 withdrew my men." That indicates that Mr Bemba made the decision to withdraw the  
21 troops; correct?

22 A. I would like to remind the Prosecutor that that is not how it happened; it was simply  
23 to comply with the principle. The soldiers had gone across, they were under the  
24 command of the Central African Republic, so it was in the normal course of things. Even  
25 if the chief had asked the troops to go back, the order could only come from the Central

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1 African authorities for that to be done, for the soldiers to go back, and that is indeed what  
2 happened.

3 Q. Okay. But he quite clearly in the first person says, "I recalled my men." If we  
4 assume that people mean what they say, and say what they mean, then Mr Bemba  
5 recalled his men; right?

6 A. That is not what the Prosecutor believes. He can ask about the procedure. These  
7 soldiers had been put under the authority of the Central African authorities so it was up  
8 to the latter to apply the procedure, and that is indeed what happened, up until the time  
9 that we crossed again.

10 Q. He also seems to know quite a few details of what happened in the Central African  
11 Republic; right?

12 A. The Central African authorities at that point in time were aware of everything that  
13 was going on.

14 Q. Sir, are you pretending that I'm asking about the Central African authorities,  
15 because I'm not? I'm asking about Mr Bemba. He knew what was going on in the  
16 Central African Republic, did he not?

17 A. If my authorities, if my heads -- well, what happened between them and the Central  
18 African authorities, if they were made aware of what was going on, then they could have  
19 been aware, yes, but that is at the level of my superiors and I don't know what was going  
20 on. I received orders from the operations commander, and he asked me to go back and  
21 that is what we did.

22 PRESIDING JUDGE STEINER: Mr Iverson, Judge Aluoch wants a clarification.

23 JUDGE ALUOCH: Perhaps the witness has answered it. I was concerned, Mr Iverson,  
24 when you put what I considered was a rather open-ended question, when you said on  
25 page 86, line 7, when you ask him or you made a statement, "He also seems to know quite

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1 a few details of what happened in the Central African Republic; right?", I would have  
2 expected you, Mr Iverson, to give the details of what you are talking about so that the  
3 witness can give you a straight answer. That's what I think.

4 MR IVERSON: Thank you, your Honour. I can certainly inquire into some of the  
5 details that Mr Bemba provided in this interview.

6 Q. He knows, for example, the approximate number of men that were in place at the  
7 end of February; right?

8 A. He could have known that because the report of our crossing over when we went  
9 back home and there was also the report of the brigade commander that was sent to the  
10 Chief of General Staff. Now, on that basis he could have had information about the  
11 number of men.

12 Q. Sir, do you know the date of that report from the brigade commander?

13 A. The date, well, I've forgotten that but it was when there was the meeting between  
14 the commanders of the battalion and himself, i.e., the commander of the brigade together  
15 with his secretary, and the operator, so we met and each of us made a report. That was  
16 the point in time when he took the decision to merge all the reports that were to be sent to  
17 the Chief of General Staff of the ALC.

18 Q. Well, if Mr Bemba, as you say, transferred authority to the Central African  
19 authorities, he doesn't seem that it's important enough to mention when answering this  
20 journalist's questions, does he?

21 A. At his level, and at that time the high-level policy was at work, and at the time he  
22 was our chief. At the time he gave this interview and explained to the journalist, and  
23 even the documents that concern these movements, me, I, as a soldier where I was far  
24 away from there, I couldn't imagine this. I couldn't see what was being done at the time  
25 my chief was meeting with the journalists.

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1 Q. Well, the first thing that he says is, "I didn't lose." Again, he refers to himself in the  
2 first person. "I didn't lose." Wouldn't that have been a perfect opportunity for him to  
3 explain to the journalist that -- well, "This had nothing to do with me, this was the Central  
4 African authorities."?

5 A. He is in the best position to answer that question.

6 Q. Well, what was Mr Bemba's role, according to you, sir?

7 A. I'm sorry, could you please repeat your question? I didn't hear it properly.

8 Q. Let me be more specific: What was Mr Bemba's role in the CAR operation?

9 A. Myself, when I crossed, I left my chief who was in our country, and when I arrived  
10 in Central African Republic I was under the orders and the command of the authorities of  
11 that country, so I couldn't know what he was doing in relation to this war. So, for me,  
12 there was not a single day where he was giving orders. The commander of the 28th  
13 Battalion couldn't have any conversation with him during the whole period where he  
14 remained in the Central African Republic.

15 PRESIDING JUDGE STEINER: Mr Iverson.

16 MR IVERSON: Sir, I'm almost finished with my examination but it is time for today so  
17 we'll have to finish up tomorrow morning. Thank you, Madam President. Thank you,  
18 sir.

19 PRESIDING JUDGE STEINER: Mr Witness, it has been again a long day. Thanks to  
20 Ms Dahuron and our interpreters we could have these extra hours this afternoon.  
21 Tomorrow we'll sit only during the morning, so we wish you have a very restful evening.  
22 We will adjourn for today and resume tomorrow at 9 o'clock.

23 I thank very much the Prosecution team, legal representatives of victims, the Defence  
24 team, Mr Jean-Pierre Bemba Gombo. Again I thank very much our interpreters and  
25 court reporters and especially Ms Dahuron. Thank you Mr Rojas.

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- 1 THE COURT OFFICER (Redacted): (Interpretation) Thank you, Madam President. You're
- 2 welcome.
- 3 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness, and this hearing is
- 4 adjourned.
- 5 THE COURT USHER: All rise.
- 6 (The hearing ends in open session at 5.00 p.m.)
- 7 RECLASSIFICATION REPORT
- 8 Pursuant to Trial Chamber III 's Orders, ICC-01/05-01/08-2223 and
- 9 ICC-01/05-01/08-3038, the version of the transcript with its redactions becomes Public.