

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 International Criminal Court
2 Trial Chamber III - Courtroom 2
3 Situation: Central African Republic
4 In the case of The Prosecutor v. Jean-Pierre Bemba Gombo - ICC-01/05-01/08
5 Presiding Judge Sylvia Steiner, Judge Joyce Aluoch and Judge Kuniko Ozaki
6 Trial Hearing
7 Tuesday, 7 June 2011
8 (The hearing starts in open session at 9.38 a.m.)
9 THE COURT USHER: All rise. The International Criminal Court is now in session.
10 Please be seated.
11 THE COURT OFFICER: Good morning, your Honours, Madam President. We are in
12 open session.
13 PRESIDING JUDGE STEINER: Good morning, court officer. Could you please call the
14 case.
15 THE COURT OFFICER: Situation in the Central African Republic, in the case of The
16 Prosecutor versus Jean-Pierre Bemba Gombo, case reference ICC-01/05-01/08.
17 THE INTERPRETER: Message from the interpreters: The French booth is having a
18 technical problem and cannot hear the proceedings.
19 PRESIDING JUDGE STEINER: Apparently, we are having a problem with the French
20 booth. Please let me know when the problem is solved.
21 THE COURT OFFICER: Madam President, apparently there is a technical difficulty in
22 the French booth with the equipment. It's going to be resolved very soon, I hope. And
23 I'll keep you informed. Thank you.
24 Madam President, actually, there is no French interpretation because of a problem with
25 the microphone, or the equipment related to the microphones, but it's going to be

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 probably solved in a few minutes. If it will take more than that, then I will inform you as
2 soon as I can.

3 PRESIDING JUDGE STEINER: Mr Haynes, since we don't have translation into French,
4 nor French transcript, it's just a short reminder that you want to address the Bench.

5 MR HAYNES: Yes. I don't want to add to the problems, but we don't appear to have a
6 working I-Transcend system.

7 PRESIDING JUDGE STEINER: And I have mine in French, which is very unusual, so
8 maybe we could try to solve all problems at the same time.

9 THE COURT OFFICER: Madam President, if I may, I am hearing now - there is French
10 interpretation - so that problem is solved and a technician will come into the courtroom to
11 help out Mr Haynes and other members of their team with the transcript problems they
12 have.

13 PRESIDING JUDGE STEINER: All members of the Defence team are having problems
14 with the transcript or only Mr Haynes?

15 MR HAYNES: No, all of us.

16 PRESIDING JUDGE STEINER: It's a conspiracy.

17 MR HAYNES: Your word, not mine.

18 (Pause in proceedings)

19 PRESIDING JUDGE STEINER: I am informed that there is a need to restart the system in
20 order to have the problem fixed. We are going, then, to suspend for ten minutes. I ask,
21 please, the parties and participants to stay around and we hope that in ten minutes we can
22 resume the session.

23 THE COURT OFFICER: All rise.

24 (Recess taken at 9.50 a.m.)

25 (Upon resuming in open session at 10.26 a.m.)

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

- 1 THE COURT USHER: All rise. Please be seated.
- 2 THE COURT OFFICER: Your Honours, we are in open session.
- 3 PRESIDING JUDGE STEINER: So, welcome back. Let's try again. Good morning and
- 4 welcome Prosecution team, legal representatives of victims, Defence team, Mr Jean-Pierre
- 5 Bemba Gombo. I have no transcript. Good morning to our interpreters, court reporters.
- 6 We will continue today with the questioning of Witness 209. Before we bring the witness
- 7 in, I would like to again ask whether Mr Haynes could give us any estimation on the
- 8 length of the questioning, just in order for the Chamber and VWU to organise themselves
- 9 in relation to the next witness.
- 10 MR HAYNES: I don't think it would be wise to inconvenience the next witness by
- 11 bringing him to Court today. I think I will finish today but, just in case, I don't think it
- 12 would be a kindness to him to bring him here.
- 13 PRESIDING JUDGE STEINER: Thank you, Mr Haynes. I will ask, please, court officer
- 14 to turn into closed session in order for the witness to be brought into the courtroom.
- 15 (Closed session at 10.31 a.m.) * Reclassified as Open session
- 16 THE COURT OFFICER: We are in closed session, Madam President.
- 17 (The witness enters the courtroom)
- 18 WITNESS: CAR-OTP-PPPP-0209 (On former oath)
- 19 (The witness speaks Sango)
- 20 PRESIDING JUDGE STEINER: Court officer, please, turn into open session.
- 21 (Open session at 10.32 a.m.)
- 22 THE COURT OFFICER: We are in open session, Madam President.
- 23 PRESIDING JUDGE STEINER: Good morning, Mr Witness.
- 24 THE WITNESS: (Interpretation) Good morning, your Honour.
- 25 PRESIDING JUDGE STEINER: Are you feeling well and ready to continue with your

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 testimony?

2 THE WITNESS: (Interpretation) I am ready to continue giving testimony before the
3 Court.

4 PRESIDING JUDGE STEINER: Thank you, Mr Witness. Before I give the floor to the
5 Defence, I need to remind you that you are still under oath; do you understand that, sir?

6 THE WITNESS: (Interpretation) I fully understand that, your Honour.

7 PRESIDING JUDGE STEINER: And I also want to remind you that you are under
8 protective measures; that the public cannot identify you and therefore you should refrain
9 from giving any information in open session that could lead to your identification. If
10 need be, we go into closed session. Do you understand that, sir?

11 THE WITNESS: (Interpretation) Yes, I understand.

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

13 MR HAYNES: Thank you, your Honour.

14 QUESTIONED BY MR HAYNES: (Continuing)

15 Q. Good morning, Mr Witness.

16 A. Good morning, Counsel.

17 Q. I'm going to do my very best to finish my questioning of you today. I hope that
18 makes you happy.

19 A. It all depends on the intensity of the work that we are about to begin.

20 Q. Very well. Well, shall we begin?

21 A. Yes.

22 Q. And because of what we're going to talk about, I'm going to ask that we go straight
23 into private session so that there's no danger of your identity being revealed to the public.

24 PRESIDING JUDGE STEINER: Court officer, please.

25 (Private session at 10.35 a.m.) * Reclassified as Open session

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

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

2 MR HAYNES: Thank you very much.

3 Q. Mr Witness, do you remember yesterday afternoon, when we finished, we were
4 talking about the (Redacted)?

5 A. Yes, I remember that.

6 Q. Did (Redacted) any of the commanders of Mr Bozizé's
7 forces?

8 A. In my statement yesterday I said that (Redacted)
9 (Redacted) immediately thereafter I fled so I was not in a position to meet
10 with him.

11 Q. Did (Redacted) any of the commanders of Mr Bozizé's
12 forces?

13 A. Let me repeat, Counsel, on the 28th I fled because (Redacted)
14 (Redacted) one of the commanders of Bozizé's
15 men?

16 Q. Well, (Redacted)
17 (Redacted) the commanders of Bozizé's forces?

18 A. Counsel, yesterday I told you that (Redacted)
19 (Redacted)

20 They would have considered (Redacted) to be a supporter of Bozizé. It was difficult for a
21 (Redacted) Bozizé's men; that is very clear.

22 Q. Thank you. When you (Redacted), what made you
23 think that (Redacted)?

24 A. But who sent Mustapha here? It was Mr Patassé who asked him to come to the
25 country. Once -- well, since (Redacted) it was quite normal (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 (Redacted) That was why I wasn't worried when (Redacted)

2 (Redacted)

3 Q. Thank you. Now, I want us to look again at the document we were last looking at
4 yesterday afternoon when we finished.

5 It's document number 4 on the Defence list. The last four digits in the English version
6 are 0115, but in French they are 0065, and it ought to be the French version which is put on
7 the screen for the witness.

8 I think we need to scroll down a little. And could the paragraph which begins, "D'accord.
9 Lorsque je suis sortie" be made as big as possible for Mr Witness.

10 Sir, are you able to read the words on the screen?

11 A. Yes. I can't read and you are asking me questions. How can I read the text and
12 you're asking me questions?

13 Q. Well, I will wait until you have read it, and when you've read it and you are ready
14 for a question, will you please tell me?

15 A. Counsel, you can ask your question.

16 Q. Thank you very much, sir. When you discussed what (Redacted)
17 (Redacted)?

18 A. Counsel, I find that all those proposals are to be found in the text on the screen. It's
19 just a matter of finding a safeguard - of safeguards - to ensure that there was no longer
20 any looting. In actual fact, it was to (Redacted) a way of living together, or coexisting in a
21 peaceful way, so that was the meaning. Correction, that was the reason for (Redacted)

22 Q. But (Redacted) what assistance he wanted from the local
23 population?

24 A. (Redacted) the soldiers that were accompanying were of various origins. He
25 could help (Redacted) but he could not keep control of everyone. Amongst his men there were

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 soldiers lacking in discipline, and he (Redacted) of

2 matters in case things went out of control so that he could intervene.

3 Q. Well, let me put something very specific to you: Was the question of

4 accommodation for officers (Redacted)

5 A. No, (Redacted) about accommodations. (Redacted) about the security of the

6 various goods that the inhabitants still had in their possession, as well as raising the

7 awareness of the people in the bush, encouraging them to leave. (Redacted) about

8 officers' accommodations.

9 Q. Just so that we're clear, I mean places for them to live, was that not (Redacted)

10 A. Counsel, the person that (Redacted) had forces. He was representing the Head

11 of State in the locality, who had given him an agreement to live in the house belonging to

12 the (Redacted) They had full powers. They had power. The population

13 the fled. They had taken over the homes of the residents. No one could drive them out

14 of the homes where they were. (Redacted) about accommodations of officers or of

15 soldiers.

16 Q. Who had given him permission to live in the house of the (Redacted)

17 A. I've told you here, they had weapons. They were sent by the Head of State. They

18 took control of the locality. The population fled. Who could he have asked permission

19 of, to live in one particular house or another? He was able to do what he wanted to at

20 that period of time.

21 Q. Very well. Can we look at item number 4, please. Can you see that on the page

22 on the screen?

23 THE INTERPRETER: Correction from the English booth: In the last reply the witness

24 said, "They did not need permission to obtain what they wanted to get at that time."

25 MR HAYNES:

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 Q. Why (Redacted) that it would create problems if a
2 married woman was raped?

3 A. (Redacted) you see, in our society, if someone sleeps with someone else's
4 wife, that causes problems and misunderstandings in the community. So there you have
5 it. (Redacted) that matter because if the MLC soldiers started to sleep with the
6 wives of the inhabitants, that was going to create problems between the local population
7 and the soldiers. You see, the problem of a wife is very very delicate if one is to -- if one
8 wishes to ensure peaceful coexistence.

9 Q. So what (Redacted) was, "Your soldiers should not sleep with
10 married women." Is that correct?

11 A. No, it wasn't like that. I told you if there are consensual relations between soldiers
12 and unmarried women that's not a problem, but if they were to sleep with married
13 women that would create problems. I said that the soldiers were free to approach
14 unmarried women and to have consensual relations with them, but not married women.

15 MR HAYNES: Thank you very much. I think we can now venture into open session,
16 Madam President.

17 PRESIDING JUDGE STEINER: Court officer, please.

18 (Open session at 10.53 a.m.)

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

20 PRESIDING JUDGE STEINER: Mr Witness, we are now in open session. Be careful
21 with any information that could lead to your identification. Mr Haynes.

22 MR HAYNES: Thank you, your Honour.

23 Q. On 10 December, was there any fighting in the town of Damara?

24 A. What fighting are you talking about, Counsel? I'm not aware of any.

25 Q. Good. I think that answers my question. Were you aware on 10 December of the

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 position of the front line?

2 A. I said that there was no fighting on the 10th when I came back out. So there you
3 have it; that's all I can add.

4 Q. Okay. Where was the front line between 10 December and the end of January?

5 A. What fighting are you talking about? Counsel, I've told you that on the 10th, when
6 I came out, the Banyamulengue had control of the locality. There was no fighting. It
7 was on the 10th that I went, in the company of the notables, to the camp to see Mustapha.
8 Please try to be clear. What are you talking about? On 10 December there was no
9 fighting when I came out.

10 Q. Was the fighting between the loyalist forces and Bozizé's men about 10 kilometres
11 outside Damara?

12 A. Is that what you're talking about? Well, indeed, the Banyamulengue had
13 established a kind of checkpoint on the road to Sibut.

14 Q. And was that about 10 kilometres outside the town of Damara?

15 A. Indeed, it was indeed 10 kilometres away. After taking control of the town of
16 Damara the Banyamulengue moved up to 10 kilometres away, along the road towards
17 Sibut, and that is where they met with the other forces.

18 Q. Thank you. And is that where the Banyamulengue remained throughout most of
19 December and January and part of February?

20 A. No, no, no. Up until January, I believe after they moved, they moved -- when they
21 were attacked around the 31st, around the 31st of December or mid-January, they moved
22 towards the town of Sibut. They did not stay only at that particular point, at that place
23 where they had set up a kind of checkpoint.

24 Q. Did you ever go to the checkpoint?

25 A. During the war, what could I have gotten at that place, at that checkpoint? I'll have

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 to tell you: Now, you see, during these events they had all the power. They had the
2 strength. I had nothing. What could I have done there at the checkpoint?

3 Q. I'll take that as a "no." But did you understand that the majority of the troops were
4 stationed at or near the checkpoint 10 kilometres outside Damara?

5 A. Counsel, when there is a military camp, is the checkpoint just kind of a line of
6 demarcation? They were controlling the locality. The headquarters were the house of
7 the Member of Parliament, Mr Sorongope.

8 MR HAYNES: Thank you, sir. This was a very short session, but I think we have to
9 take a break now.

10 PRESIDING JUDGE STEINER: Thank you, Mr Haynes.

11 Mr Witness, we are going to suspend for half-an-hour. You can have a coffee, take some
12 rest. It's 11 o'clock now. We will resume at 11.30.

13 Please, court officer, turn into closed session in order for the witness to be taken outside
14 the courtroom. And in the meantime, we are going to suspend and resume at 11.30.

15 (Closed session at 11.01 a.m.) * Reclassified as Open session

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

17 (The witness stands down)

18 THE COURT OFFICER: All rise.

19 (Recess taken at 11.01 a.m.)

20 (Upon resuming in closed session at 11.36 a.m.) * Reclassified as Open session

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

22 PRESIDING JUDGE STEINER: Welcome back. Could, please, court usher bring the
23 witness in.

24 (The witness enters the courtroom)

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

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (Open session at 11.38 a.m.)

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

3 PRESIDING JUDGE STEINER: Thank you. Mr Witness, welcome back.

4 THE WITNESS: (Interpretation) Thank you, your Honour.

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

6 THE WITNESS: (Interpretation) Yes, I have no problems, your Honour. I feel a little bit
7 ill with my cold, but I have taken something for it and I feel a bit better at the moment.

8 PRESIDING JUDGE STEINER: So we will continue with the Defence questioning.

9 Mr Haynes, you have the floor.

10 MR HAYNES: Thank you, your Honour.

11 Q. Mr Witness, we are in open session so I'm not going to ask you any questions about
12 who you are or what you do or what you did or people that you may have met. If you
13 think that the answer to any of these questions involves you telling us who you are or
14 what you did or about a conversation with anyone in particular, please stop yourself and
15 ask to go into private session. Do you understand?

16 A. Yes, I understand.

17 Q. Good. Then let's try. How many loyalist troops did you understand had come to
18 Damara?

19 A. Counsel, I believe that I have told you that the document we saw that was written
20 by the press is not truthful. Throughout that whole period from 7 December to
21 mid-February, no loyalist troops were present in Damara. Even if you send an
22 investigating team, nobody will tell you that there were loyalist troops in Damara. There
23 were, of course, policemen and military police who were posted in the locality, but I did
24 not see loyalist forces in Damara.

25 Q. By "loyalist," I mean troops who were fighting on behalf of President Patassé. How

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 many of them were in Damara, to your knowledge?

2 A. Counsel, I don't know what you mean by "loyalist." You are putting together
3 everybody who was fighting to defend President Patassé's regime and the Central African
4 forces. I think it's important to draw a distinction.

5 Q. Well, let's ignore the word "loyalist." How many troops were in Damara, to your
6 knowledge, after 10 December?

7 A. Counsel, I don't understand your question at this point. The forces fighting on
8 behalf of President Patassé in Damara? The forces who were fighting Bozizé's rebels?
9 I'm not too sure what you mean by all of this.

10 Q. Well, it's quite a simple question: How many of them were there?

11 A. But, Counsel, you're asking me how many of them were there, but I'm asking you to
12 clarify what you mean. Are you talking perhaps about the people who had come to help
13 Patassé's regime? They weren't there on the 7th. But I can tell you about the troops
14 from the 10th onwards. Or if you're talking about Bozizé's troops, I know that from the
15 27th onwards I can tell you something but I don't really understand what your question is
16 getting at. So I really don't understand the question.

17 Q. I'm talking about the people who took the town on the 7th, (Redacted)
18 (Redacted) and who were there until the middle of February. Are you clear
19 what I'm talking about?

20 A. Well, yes, now the question is clear. Until now, it really wasn't precise to my mind.
21 To answer a question, it really needs to be a question that is clearly asked and clearly
22 understood.

23 The people you are talking about who came with the intention of repelling Bozizé's rebels,
24 well, I think that after the 30th or the 31st, when the Banyamulengue rebels suffered a loss
25 in Damara, (Redacted) about this but, in this regard, he told me that

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (Redacted) soldiers and, as far as he was concerned, if he put (Redacted)
2 soldiers to fight against the population the damage would have been enormous. So
3 that's the estimated figure, (Redacted)

4 Q. Did you understand there to be MLC troops in other parts of the Central African
5 Republic?

6 A. Yes. I think that it was around three localities. In any case, I know that there were
7 three localities in the province of M'Poko. There were four, in fact. They were in
8 Damara. And there were three others; Boali, Bossembele, Bozoum, as well as Damara.

9 Q. And was that at the same time that they were in Damara?

10 A. Yes, indeed, because their headquarters was in Damara.

11 Q. Now, to your knowledge, who was paying the MLC troops.

12 A. I never tried to find that out. I saw soldiers but, as far as their recruitment goes or
13 their treatment, it is not something that's directly relevant to me. You could ask me the
14 question all day and I don't have a meaningful answer to give you.

15 Q. Nobody told you who was paying them?

16 A. No, I did not go with the aim of finding out about their military organisation. That
17 was not my objective. Not only that, they represented the Head of State in the locality.
18 It would be risky to ask a question of that nature. Of course, in certain discussions they
19 would reveal certain information, but you cannot ask a soldier if he is paid for the work
20 he does.

21 THE INTERPRETER: Interpreter correction, page 16, line 17: "treatment" should be
22 "salary."

23 MR HAYNES:

24 Q. And who, so far as you were aware, was feeding these troops?

25 A. But it's not for me to try and find out who was feeding them. Because they're paid

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 to do this work, you can't ask this kind of question, Counsel. You can't ask a question
2 like this of a soldier. It's their internal organisation. It's of no concern to civilians.
3 This was a conflict situation. I could not take the risk of asking this question of even a
4 single soldier. I couldn't ask them who was providing their food. Counsel, I'll say this
5 again: If you ask me this kind of question from morning through to night, I still couldn't
6 give you the answer.

7 Q. And from whom were the commanders of these troops getting their intelligence and
8 information?

9 A. Counsel, I think that all of this is within the military domain and I cannot answer it.
10 Even if the soldier were your brother, he would never tell you that this or that other
11 person is providing information. That's not the kind of thing that is talked about.

12 Q. The commander that you've mentioned, and I don't want you to mention his name
13 again, to whom was he accountable in the field?

14 A. I haven't understood the question. (Redacted)
15 (Redacted)? Is that the question you're asking me? Because it's important to clarify it;
16 otherwise, I really can't answer.

17 PRESIDING JUDGE STEINER: Court officer, please, let's turn into private session.

18 (Private session at 11.54 a.m.) * Reclassified as Open session

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

20 MR HAYNES:

21 Q. It was Mustapha I was referring to. To whom was he reporting?

22 A. (Redacted)

23 (Redacted)

24 (Redacted)" No. As far as I was concerned, at a certain date (Redacted)

25 was working for Patassé.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (Redacted) "This is not the problem of the (Redacted).

2 This is the Head of State's problem and I meet with the Head of State." Now, sometimes
3 when (Redacted) that kind of information, and so that would be
4 the answer.

5 (Redacted) up to a certain date Mustapha was reporting to President Patassé. It is only
6 afterwards, in one of his -- or on the basis of one of (Redacted) that (Redacted)
7 that's how things were. That's my answer.

8 Q. Thank you. I just want to look briefly at a few of the things you said on this topic
9 during the course of your interviews. And can we start, please, by looking at Defence
10 document number 2. The page for those following in English is 0082. Can the witness
11 please have on the screen the French page, which is 0034.

12 THE INTERPRETER: Interpretation correction, page 18, line 20 of the English transcript:
13 "meet with" should be "report to." Thank you.

14 MR HAYNES:

15 Q. Sir, is that big enough for you to read?

16 A. Yes, I have just read this and it is my statement, but the question that you've just
17 asked doesn't go along the same lines as all of this. This statement was made after
18 13 January 2003. It relates to the period after 13 January 2003, after the property was
19 taken away by plane and the Banyamulengue were hoping to find property or goods in
20 Sibut, but because the inhabitants of Sibut were aware of this situation they had carried
21 away all of their goods and protected their property.

22 On my return, (Redacted)

23 (Redacted) I

24 understood that this was a tactic, because if (Redacted) he would perhaps

25 have understood that (Redacted) with Bozizé because (Redacted)

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (Redacted)

2 This statement was made concerning the period after 13 January, so if you are asking me
3 who was the hierarchical superior, I couldn't say that it was Bemba because I didn't have
4 that information. It is important to provide evidence. In the first instance, Mustapha
5 was acting under the control of Patassé. That's my point of view. But after the 13th,
6 (Redacted) who his boss was. The property was loaded into a plane, and

7 after that they went to Sibut. But it was after the 13th. They didn't find anything there.
8 That is indeed my statement. Even the Prosecutor asked me this question and I gave an
9 answer to it. The legal representatives of the victims, Madam Lawson, asked me the
10 same question. But as your question is phrased, it is not clear. Three billion, well, three
11 billion, if there had been three billion, they wouldn't have been complaining that they had
12 to eat fish every day. When they had nothing, they complained. People came out of the
13 bush when they had nothing.

14 Counsel, may I ask you a question? Ask Mustapha this: Was he in Damara? There
15 you have it. If he was not in Damara, people might think that I had dreamed up all of
16 these answers. I might have made a mistake concerning the date. But if you have any
17 other questions to ask, of course I am at your disposal to answer them.

18 Q. I hadn't actually asked you one, but I will now. Where did you get the information
19 from that Patassé had paid the MLC three billion?

20 A. I got that information from the (Redacted) They went to Sibut
21 on 7 December, gathered all the property and brought it back. By the time they went to
22 Sibut, their intention was to gather the property of the inhabitants, but unfortunately for
23 them, the population had been informed of their arrival and had taken certain measures.
24 They came back empty handed, and they were angry because they hadn't found anything.
25 So there were a number of problems, and then they started killing goats and taking away

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 forcibly all the property of the inhabitants. So when they returned from Sibut there was
2 tension in the air, and the colonel himself did not agree. So I myself could not have
3 dreamed up this amount. (Redacted) president had given their
4 leader, Bemba, three billion, whereas they who were on the ground were only eating fish
5 and beans.

6 So I realised that (Redacted). On the one hand, he had asked for (Redacted)
7 (Redacted), and that to me appeared to be a trap. So all what I have told you is
8 what (Redacted)

9 Q. Thank you. So who did you understand was paying the MLC troops?

10 A. Yes, indeed, Counsel, I was not aware of the three billion francs. I do not know
11 what arrangements Bemba and Patassé had between themselves. (Redacted)
12 (Redacted) who provided me with that information. They did not have enough food
13 and towards the end they were complaining about the need for them to live well, and that
14 is why they had to find food, even at the expense of the population. That is why I was
15 wondering what was happening. It was at that time that tension grew (Redacted)

16 Q. I don't want to be unfair to you, but did you actually say that it was on 7 December
17 that these troops went to Sibut?

18 A. No, no, no. There must be a total confusion somewhere. On 7 December, that is
19 the date on which they occupied Damara town. Up until 13 January 2003 they remained
20 at the Apabara (phon) checkpoint and my testimony has been very clear up until the 15th
21 of January. It was up to the time when the plane took the property back to the DRC that
22 they decided to move on to Sibut, with a view to collecting the property belonging to the
23 inhabitants.

24 THE INTERPRETER: From the Sango booth, once again an appeal for the witness to be
25 asked to slow down. Thank you.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 MR HAYNES:

2 Q. I asked you that question to clear up something that appeared on the Court record.
3 It did appear that you said 7 December, and it may be because you are speaking a bit too
4 quickly for the interpreters to translate what you're saying accurately. So we've cleared
5 that up, but can you just slow down a bit so that we get a proper understanding of what
6 you're saying? Is that okay?

7 A. I have understood you, Counsel.

8 Q. Thank you. I want to look at another passage of your interview. The last four
9 digits of the ERN, for those following in English, is 0131, but for the witness and on the
10 screen, can we have 0083, please.

11 We need to go down a little way, please. And if the paragraph that begins with the word
12 (Redacted)" can be enlarged for the witness, that would be helpful.

13 Sir, can you read the answer you gave, beginning, (Redacted) quand ils etaient
14 arrives a Bangui"?

15 A. I have read that excerpt, Counsel.

16 Q. And (Redacted) when he and his troops arrived in Bangui
17 they received information from the Head of State, Patassé, that the rebels were based in
18 Damara?

19 A. Yes, indeed. The rebels spent two months in Damara. The Banyamulengue took
20 control of the town, and I told you that when they returned from Sibut there was a change
21 in attitude. They took down a barn belonging to one inhabitant and took out all the
22 maize that was in it. (Redacted) that
23 what they were doing was proper. When we arrived in Bangui, it is Patassé himself who
24 received us and told us to be very careful because all the inhabitants of Damara were
25 supporters of the rebels. (Redacted)

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. Thank you very much. And can we move to another passage, please, and that is,
6 for those following in English, 0136; but for those following in French and for the witness
7 on the screen, please, 0088. A little further down, please. Thank you. I don't know if
8 the three paragraphs that begin with "je suis d'abord" can be made any bigger for the
9 witness's benefit. One more paragraph, please. Yes.

10 Sir, can you read those paragraphs?

11 A. You want me to read from the passage which begins with (Redacted)

12 (Redacted) Is that what you want me to read?

13 Q. Please, if you'd be so kind.

14 A. I am done reading the excerpt, but I have realised that my statement was not
15 properly recorded. The investigators appear to have modified what I said. They said I
16 first went to (Redacted), and that it was thereafter that I saw
17 Wabeta's head near the road. Now, with your leave, I can provide an answer or I can
18 take this all over. Counsel, is that okay with you?

19 Q. I wasn't going to ask you about Wabeta's head. What the investigators have
20 recorded -- and, perhaps, we ought to go into this a little bit. This interview, was it, so
21 far as you could see, recorded on an audio device?

22 A. My statement was recorded, but not on an audio device or on a tape. Since this
23 statement is here, somebody must have jotted some points down. But I want to point out
24 that the meaning in this excerpt is not what I intended to convey to the investigators.

25 Q. Okay. Well, I'll ask you about a couple of sentences. Can you see in the fourth

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 paragraph down on your page, it says "They were in CAR territory and, since Bemba was
2 far away in Gbadolite, the person to whom they were accountable in the field was
3 Patassé"? Is that accurately recorded as what you said?

4 A. Yes, indeed.

5 Q. And was that truthful and accurate?

6 A. You see, it is not possible for one to just be by themselves and dream up something
7 to narrate. (Redacted) I cannot just sit down and begin to imagine
8 things and tell you. These things that I'm telling you happened a long time ago and, as a
9 human being, I may have forgotten some aspects of these things. But what I am
10 narrating to you is in connection to things that I saw or things that I heard from other
11 persons.

12 Q. Okay. Well, what I wanted to know was whether it was true and accurate, from
13 your observation, that the MLC troops were accountable in the field to Patassé?

14 A. You asked me whether I was the one who made this statement, and I said yes.
15 Now you ask to know whether it is true. Well, your question was whether I was the one
16 who made the statement, and my answer is, yes, I do acknowledge having made this
17 statement myself.

18 Q. Is the statement true?

19 A. Counsel, you have asked me this question three times already and I have told you
20 that it is the truth. If you put the question to me again a fourth time -- in any event, I will
21 not refuse to answer but, as far as this matter is concerned, they were on Central African
22 territory and Bemba was far away in Gbadolite.

23 And so the person to whom they should have reported was Patassé, because he is the one
24 who asked Bemba to send them in. So I have already told you that I am the one who
25 made this statement; so how is that you're asking this question three times over, Counsel?

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 Q. Thank you. Now, please don't get upset with me, but can you see in the second
2 paragraph the very last sentence reads in French "Ils ne relevaient que de Patassé"?

3 A. What paragraph are you referring to, Counsel?

4 Q. It is the paragraph that begins "Je suis d'abord," and the last sentence - which is only
5 six words - is "Ils ne relevaient que de Patassé", which is translated as "They were only
6 accountable to Patassé."

7 A. Well, (Redacted)

8 THE INTERPRETER: But it would seem that the witness is having difficulty reading the
9 excerpt, if the interpreter has understood what he is saying properly.

10 MR HAYNES:

11 Q. Okay. Well, I'll put the question: Do you confirm that the MLC were only
12 accountable to Patassé in the Central African Republic?

13 A. How do you expect me to confirm that? Patassé was the Head of State of the CAR.
14 There was a foreign army operating on the territory of the country through an
15 arrangement between Patassé and the troops. There was a minister of defence in place.
16 Why was the MLC not accountable to the minister of defence? That is just how things
17 worked out.

18 Normally, the general staff is under the ministry of defence, in normal circumstances; but
19 when you have a non-conventional army operating within a country, the
20 non-conventional army, under those circumstances, is accountable to the Head of State,
21 isn't it? I cannot confirm that, but I hope that I have provided an answer to your
22 question.

23 We cannot strictly say that the MLC was accountable to the Head of State. That is a false
24 problem. The issue is that there was an arrangement. Because, normally, the army is
25 under the minister of defence, but the role of the Head of State only comes in after within

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 the context of those arrangements. So I don't know whether you can establish the
2 contrary for us today, Counsel.

3 MR HAYNES: No, thank you, sir, that was very helpful. I think we can venture into
4 open session.

5 PRESIDING JUDGE STEINER: Court officer, please.

6 (Open session at 12.27 p.m.)

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

8 MR HAYNES: Thank you.

9 Q. Again, sir, please do not give any answer which might indicate who you are by
10 reason of what you do or anybody you might have met with on a specific occasion. And
11 if you feel you have to say that, please warn us. Do you understand?

12 A. I do understand you, Counsel.

13 Q. Now, I want you just briefly to tell us about the various nationalities which
14 comprised the forces in Damara after 10 December. Do you understand?

15 A. Yes, I do. I believe that I already answered that question in one of my statements.

16 And when we met, we realised that they were broken up into groups and sub-groups.

17 There were former soldiers who were all from Congo, former soldiers of Mobutu; then

18 there was a group of Mbaka, those who had lightened their skin. That is the Mbaka

19 group. Then there was a group of Rwandans, including the chief. Then you had the

20 Banyamulengue. They had been conscripted and taught weapons handling in Damara.

21 So they had at least four groups, and for purposes of feeding, they were broken down into

22 those four groups. This is what I observed during the two months that I spent with them.

23 I observed that they were broken down into those four groups, and I believe that I already

24 made this clear in one of my statements.

25 Q. Thank you. Now, I just want to explore whether there were four groups or more

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 than four groups. Were there any of these soldiers who spoke Mandja?

2 A. No, no, no, I didn't talk about Mandja. There aren't any Mandja people in Congo.
3 I told you what the breakdown was. There were the various groups, and I've described
4 them, in response to questions from the Prosecution. I didn't say anything about Mandja
5 people, no.

6 Q. Okay. Well, there may have been a problem there. But you do agree that people
7 who speak Mandja, by definition, do not come from the Congo?

8 A. No, Counsel, I think there has been some misunderstanding. The question that
9 you're asking is not clear. Are you talking about the general population of the locality?
10 You're talking about military groups; you're talking about ethnic groups. In my
11 statement I said that amongst the military groups, there were various groups. I didn't
12 talk about Mandja, but if you're talking about the actual population of Damara, agreed,
13 the population was broke down in that way. There were the Banda, Mbaka, Mandja,
14 Mbaka, but it's a Bantu people so there are various ethnic groups on each side of the
15 border. But I think -- well, I'm confused. Apparently -- well, even your way of putting
16 the question is confusing. I would suggest that you verify your notes carefully.

17 Q. Where do the Mandja people live?

18 A. But the Mandja are part of the population of Damara. It's a minority group that is
19 part of the general population. It has nothing to do with the Democratic Republic of
20 Congo.

21 Q. Thank you. Were there elements of this military force which spoke Swahili?

22 A. How could they not speak that language? Some of them spoke Swahili.

23 Q. And where did they come from?

24 A. No, Counsel, I think this is a slippery slope. I'm sticking to my statement. I think
25 I mentioned four, four different ethnic groups and ask a soldier these questions. The

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 various populations live side by side. When you mentioned Mbaka, well, I surmise that
2 it might be a Mbaka-Mandja from Zaire, and if one speaks of Swahili, well, that is a
3 language that is used that is spoken amongst them. I don't understand it. But when
4 they want to talk about a matter that doesn't concern others, they'll use that language.
5 Well, I wasn't trying to find out where they came from. I can't ask a Mbaka person, "Do
6 you come from Équateur province?" (Redacted)
7 (Redacted). I didn't need to ask such things. I think that it is important to stick with the
8 statement. Apparently, you are trying to push me onto a slippery slope here. I am wise
9 enough; I'm wise to that.

10 Q. Do you speak and understand Swahili yourself?

11 A. I've told you, no. When I was in contact with them, they would speak that
12 language to set themselves apart, to distinguish themselves. They all understood Lingala,
13 but amongst the subgroups, or when they were talking about sharing goods, perhaps,
14 amongst three or four of them, they would use Swahili. And if they were asked, they
15 would say, "No, that language is different." I don't speak Swahili. I don't understand
16 Swahili. Lingala, well, (Redacted) and I can just use the ordinary words
17 or greetings, that sort of thing. In my statement I did not mention anything about
18 Swahili. That is a language that they would use to exclude others from one-third of the
19 conversation. Counsel, I have nothing else to add to that.

20 Q. In what language did you converse with the people who spoke Swahili?

21 A. Counsel, it is important to listen to me. It's nearly noon and I don't think we're
22 entirely clear here. I only spoke to -- I didn't -- I didn't -- (Redacted)
23 (Redacted) and they spoke Swahili amongst themselves, but I didn't understand
24 anything. If they had spoken Lingala, I would have at least recognised that language.
25 If it had been Mbaka, well, I would have recognised that. But the language used was

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 different, and I asked the question. I'm asking -- if I -- if I asked a question of (Redacted)
 2 (Redacted) I would say -- if I said, "Do your soldiers speak a particular
 3 language? What language is that?" They would say, "No, that's Swahili." I don't
 4 understand or speak Swahili. So why would I speak Swahili to a soldier? If you wish
 5 to speak of these things, please take into account my answers. You are a lawyer and I
 6 think it is important to refrain from asking me the same questions over and over again.
 7 You are a lawyer, and you seem to be putting me off track.

8 Q. Without giving us any names, did any of the people who you spoke to speak in
 9 Sango?

10 JUDGE ALUOCH: Mr Haynes, do you mean soldiers, or anybody?

11 MR HAYNES: Thank you, your Honour, that's a sensible clarification.

12 Q. Any of the soldiers you spoke to, did they, any of them, speak Sango?

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 PRESIDING JUDGE STEINER: Let's go into private session, please.

19 (Private session at 12.42 p.m.) * Reclassified as Open session

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

21 MR HAYNES: I'll ask the question again.

22 Q. (Redacted)

23 A. Counsel, I think that you have my statements, the statements I made to the OTP
 24 investigators. The first phase, well, during that phase (Redacted) French. So,
 25 initially, (Redacted) he didn't speak French. In our

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (Redacted) because those people did not speak Sango.

2 Q. (Redacted)

3 A. It's difficult for me to estimate that. After the 13th -- no, after the 30th, the 31st, just
4 after the death of several Banyamulengue, *6 or 7 days after that incident, (Redacted)

5 (Redacted) But on the 10th, and after the 10th, (Redacted)

6 (Redacted) I can tell you that myself,

7 I don't drink alcohol but sometimes (Redacted)

8 (Redacted)

9 And before I went back, well, (Redacted) and I would say that two out of one before
10 they left the town. *It was the beginning of February or mid-February, after the return
11 from Sibut. There were these various difficulties (Redacted) This is the answer I can
12 provide you with.

13 Q. Would that occur once a week, or more or less than once a week?

14 A. I've told you that it was difficult, (Redacted)

15 (Redacted) but to say once a week or something like that, I think you're going
16 too far.

17 These are questions, asking questions like this -- your Honour, I'm feeling tired. Your
18 Honour, I'm feeling somewhat tired, because I've been giving testimony. If he goes
19 outside of the framework, this is putting me onto a slippery slope. He is putting me on a
20 slippery slope.

21 Your Honour, try to see this problem. I've said no and I've been answering his questions.
22 He has to realise that I've given testimony, and he's showing me documents and I'm
23 saying that I confirm these documents, and now he's asking me questions about these
24 documents. So I want to let you know that, because you are the arbitrator here in this
25 trial.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 THE INTERPRETER: Note from the English booth: The witness has switched from
2 Sango into French.

3 PRESIDING JUDGE STEINER: Mr Witness, we understand that you are tired. You've
4 been giving testimony for almost two weeks. I just wanted to explain something to you,
5 to see whether it helps you to understand the system.
6 You gave testimony to the Prosecution. You have written statements that you gave to
7 the Prosecution. The Defence has the right to get some information from your written
8 statements and to check it with you, to see whether you confirm or you can clarify
9 something. Maybe you can change some information.

10 So what the Defence is doing, when the Defence asks you to confirm part of your written
11 statements, this is how it works. So we ask you, please, to be patient.

12 At the same time, of course, the Chamber would like very much to call the attention to
13 Defence counsel in order to avoid repetitive questions or asking the witness details on
14 issues that in accordance with the position of the witness, on the level of education and
15 other specific features, the witness is not able to give the answers and is getting distressed.

16 Mr Witness, whenever you don't know an answer, you just say, "I don't know." Maybe
17 in that way things become easier for you. Is that fine with you, sir?

18 THE WITNESS: (Interpretation) I understand, your Honour. I think you've
19 pinpointed the problem. If he asks me the question in relation to my statement, that
20 would be fine; but questions that go beyond or that don't have anything to do with the
21 statement, you're asking the same question.

22 That is true, I do know. I realise he's trying to establish the truth, but I see that he's
23 taking me down a slippery slope. He's asking me questions that have -- don't have
24 anything to do with my statement, more than four times. I know that he's doing his
25 work, but just imagine a person who has been speaking for 15 days. It's not easy, you

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 must realise.

2 I didn't get worked up. He is trying to mix me up. That is why I am saying that this
3 way of going about things is not proper. I would like him to be clear in his ways of
4 asking questions; but asking me the same question four or five times, in any event, you
5 have to realise that the fifth time, I'm a human being, I can't answer. Other than that, I
6 understand all the advice you are giving me, and I will stick to it.

7 PRESIDING JUDGE STEINER: Thank you very much, Mr Witness. Let's try to proceed,
8 Mr Haynes. And whenever, Mr Witness, you don't know an answer, just say, "I don't
9 know."

10 MR HAYNES: Can we please put Defence document 16, that is CAR-OTP-0035-0176,
11 into eCourt, please.

12 Q. Do you (Redacted) the person in that (Redacted)?

13 A. (Redacted) The events occurred a long time
14 ago. That is a (Redacted) from the MLC, unless I'm mistaken.

15 Q. Defence document 16 -- Defence document 13, please. That's CAR-OTP-0035-0160.
16 Do you (Redacted)?

17 A. (Redacted) that I just saw. It's been more than ten years. I wouldn't
18 be able to (Redacted) The events date back many years. The MLC soldiers
19 were not in the habit of shaving. I don't know the (Redacted) well.

20 Q. So you can't put (Redacted)?

21 A. Counsel, you know these events occurred -- well, if it were two years ago, I would
22 be able to give you a name, but the events go back so many years. So to put (Redacted)
23 (Redacted) that could lead me to tell a lie. If I were in the habit of seeing that (Redacted)
24 (Redacted) and I would be able to give you (Redacted) But to ask me (Redacted)
25 (Redacted) Counsel, I can't. (Inaudible.) I'm not in a position to put (Redacted)

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 (Redacted)

2 MR HAYNES: Could we have a look, please, at Defence document 39. That's

3 CAR-OTP-0035-0291.

4 THE INTERPRETER: Correction from the English booth: The last reply included,

5 "Nine years have gone by since the time of the events."

6 MR HAYNES:

7 Q. Can you see the (Redacted)

8 (Redacted)

9 (Redacted) would always go in front with something in his hands to

10 terrorise the population. (Redacted)

11 (Redacted) were soldiers of the rank and file, and his

12 aide-de-camp (Redacted) It is, indeed, (Redacted)

13 MR HAYNES: And, lastly, can we have a look at Defence document 12; that's

14 CAR-OTP-0035-0159.

15 THE INTERPRETER: Correction from the interpreters: In the previous reply, the

16 witness mentioned "a spear in his hands."

17 MR HAYNES:

18 Q. We'll look at this (Redacted) again later, but do you (Redacted) in that

19 (Redacted)

20 A. I don't (Redacted) -- I don't (Redacted). I am looking at this with some glasses

21 that don't belong to me, so I'm having some trouble seeing. But I can tell you that the

22 (Redacted) isn't clear so I couldn't give you the (Redacted). Now, (Redacted)

23 (Redacted), that was (Redacted), but this (Redacted), no. I wouldn't want to

24 say a lie, so I can't tell you (Redacted)

25 MR HAYNES: Thank you very much. I think you've earned your break.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 PRESIDING JUDGE STEINER: Mr Witness, we'll have now our lunch break. You can
2 have your lunch and take some rest. It's 1 o'clock now. We'll be back at 2.30.
3 I ask, please, court officer to turn into closed session for the witness to be taken outside the
4 courtroom. In the meantime, we will suspend and resume at 2.30.

5 (Closed session at 1.02 p.m.) * Reclassified as Open session

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

7 (Recess taken at 1.03 p.m.)

8 (Upon resuming in closed session at 2.35 p.m.) * Reclassified as Open session

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

10 PRESIDING JUDGE STEINER: Good afternoon. Could, please, court officer turn
11 first into open session.

12 (Open session at 2.36 p.m.)

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

14 PRESIDING JUDGE STEINER: Thank you. Welcome back. Before we continue
15 with the questioning of Witness 209, the Chamber has two oral decisions to be issued.
16 The first one can be issued in open session and it is the decision on the application to
17 question Witness 110 submitted by Maître Zarambaud.

18 On 14 March 2011 Maître Zarambaud filed with the Chamber an application on
19 behalf of the victims he represents to question Witness 110. It's filing 1329-Conf
20 which was rectified on 1 April 2011. The application contains a list of eight sets of
21 questions.

22 Having considered the reasons given by Maître Zarambaud as to why the personal
23 interests of the victims he represents are affected, the Chamber allows his application
24 to question Witness 110.

25 Turning to the proposed questions, the majority of the Chamber, with the Presiding

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Judge dissenting, allows the questions to be asked under the following conditions:

2 One, in relation to the set of questions, number 8, they are not allowed, as they appear
3 to be leading, speculative and irrelevant to the charges brought against the accused.

4 These aforementioned questions are rejected.

5 Second, with regard to the set of questions number 6, they should be rephrased in the

6 following manner: "Did you inform the CAR authorities of the looting of your

7 house? If so, did the CAR authorities take any action?"

8 The Presiding Judge would have allowed all the questions in the way they were set

9 out in the aforementioned filing as she considers them not to be speculative, leading

10 or irrelevant and she would refrain from dictating how counsel should phrase his or

11 her questions.

12 Judge Ozaki has a separate opinion, already discussed in paragraph 13 of her partly

13 dissenting opinion on the order on the procedure relating to the submission of

14 evidence based on the Appeals Judgment issued on 3 May 2011, filing 1386. Judge

15 Ozaki will maintain this position in the future; although, being bound by the

16 majority's views, it will not be repeated insofar as the facts do not justify departing

17 from it.

18 The Chamber needs to issue an oral decision on protective measures for Witness 110,

19 and for that purpose, I ask, please, court officer to turn into private session.

20 (Private session at 2.40 p.m.) * Reclassified as Open session

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

22 PRESIDING JUDGE STEINER: Thank you very much.

23 Oral decision on protective measures for Witness 110:

24 On 17 May 2011 the Prosecution filed an application for protective measures for

25 Witness 110. It's filing 1412-Conf. In its application, the Prosecution requests that

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 the Chamber assign and authorise the continued in-court use of a pseudonym,
2 authorised image and voice distortion, and the use of limited private sessions for
3 parts of the testimony where the witness provides information that would tend to
4 disclose her identity.

5 The Prosecution submits that, in light of the fears expressed by the witness, the
6 requested measures should be granted in order to facilitate the witness's testimony
7 due to her subjective of the risk and in order to enable the witness to provide her
8 testimony freely and to continue living in her current community without the fear of
9 threats or harassment as a result of her testimony.

10 The Prosecution further submits that the request is in accordance with the VWU's
11 recommendations in respect of victims who are in similar circumstances as Witness
12 110. In its response, filing 1459-Conf, the Defence submits that the measures sought
13 are unwarranted and not adequately justified, as the fears expressed by the witness
14 are not further supported by any evidence.

15 Therefore, the Defence requests the Chamber to reject the application or, in the
16 alternative, to permit preliminary examination of the witness in closed session in
17 order to establish whether the threshold criteria for the requested measures are met.

18 Having considered the submissions, and pursuant to the Chamber's obligation under
19 Article 68(1) and (2) of the Statute, Rule 87 of the Rules of Procedure and Evidence
20 and Regulation 94 of the regulations of the Registry, the majority of the Chamber,
21 Judge Kuniko Ozaki dissenting, is of the view that the protective measures requested
22 for Witness 110 are necessary since Witness 110 is a dual status individual and since
23 her fears are considered legitimate.

24 The measures will enable Witness 110 to provide her testimony freely and allow her
25 to continue living in her current community without the fear of possible threats or

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 harassment on herself or members of her family as a result of her testimony before
2 the Court.

3 The majority further considers that the protective measures are reasonable and
4 proportionate. They are provided for in Rule 87(3) of the Rules and are considered
5 as generally non-intrusive measures allowing the Chamber to appropriately balance
6 its duty to respect the principle of publicity with its obligation to protect victims and
7 witnesses.

8 Furthermore, the identity of Witness 110 is already known to the Defence and
9 imposition of the protective measures requested will still enable the Defence to
10 question the witness publicly for the majority of her testimony, save for the parts that
11 would tend to identify her.

12 The majority of the Chamber, therefore, grants the requested in-court protective
13 measures for Witness 110 and authorises the use of image and voice distortion, the
14 assignment and use of a pseudonym, as well as the use of limited private sessions to
15 protect her identity, provided that this is indicated in advance to the parties,
16 participants and the Chamber .

17 Parties and participants should make every effort to question Witness 110 on
18 identifying information at the beginning of her testimony. The Chamber requests
19 the Registry to take all the necessary steps for the implementation of the
20 above-mentioned protective measures.

21 Now I ask, please, the court officer to turn briefly into closed session in order for the
22 witness to be brought inside the courtroom.

23 (Closed session at 2.47 p.m.) * Reclassified as Open session

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

25 (The witness enters the courtroom)

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

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

2 (Open session at 2.49 p.m.)

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

4 PRESIDING JUDGE STEINER: Thank you very much. Good afternoon,

5 Mr Witness.

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

7 PRESIDING JUDGE STEINER: Did you have lunch and manage to rest a little bit?

8 THE WITNESS: (Interpretation) Yes, I had a pleasant rest.

9 PRESIDING JUDGE STEINER: Are you ready to continue giving your testimony,

10 sir?

11 THE WITNESS: (Interpretation) Yes, I am ready. We can continue.

12 PRESIDING JUDGE STEINER: Thank you very much. Mr Haynes, you have the

13 floor.

14 MR HAYNES: Thank you, and good afternoon, Madam President.

15 Q. And good afternoon to you, Mr Witness.

16 A. Good afternoon, Counsel.

17 Q. I want to go back to really where I started with you and ask you some questions

18 about the town of Damara. Okay? But please don't reveal anything about yourself

19 that might identify you whilst I'm asking you these questions. Do you understand?

20 A. I understand. We can continue.

21 Q. The town of Damara stands on national route 3, doesn't it?

22 A. Not only that. The town of Damara is crossed by two national routes, but the

23 tarmacked road is route -- national route 3.

24 Q. Thank you. You've predicted my next question. And where does national

25 route 3 go from and go to?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 A. National route 3 goes through Sibut, and at Sibut it divides into two: One part
2 goes to Kaga-Bandoro and another towards Bambari. So it goes from Bangui to
3 Sibut and Bambari. Those are the three towns.

4 Q. Thank you very much. And is it a busy road in the Damara area?

5 A. Yes, of course. I think that that is the best part of the surfaced road. It's like
6 the kind of road you can see in Europe.

7 Q. Okay. And does traffic travel on that road in both directions all day?

8 A. Are you talking about the section at the level of the crossroads?

9 Q. Yes.

10 A. I think that national route 3 is the busiest road; it is 75 kilometres away from the
11 town. But when you stop at PK12, you're at -- you would have done a total of 63
12 kilometres. But you will encounter buses every few minutes and there are also
13 various localities that you will go through.

14 Q. Thank you very much. And in addition to buses and other vehicles, do people
15 and animals use the road as a route around Damara?

16 A. What animals are you talking about, Counsel? You would need to be more
17 explicit in your question. What type of animals are you talking about?

18 Q. Cows, pigs, goats, how about them?

19 A. But how can you have cattle on the road there? You know, the road is
20 designed for vehicles and for human beings. There is also a road that is designed for
21 cattle so that the cattle don't hamper traffic on the road reserved for human beings.

22 Q. Very well. Can you help us as to how wide the road is as it passes through
23 Damara?

24 A. I am not an expert on roads, so I can't give you the details of how wide the road
25 is. I would ask you to ask this question of an expert in the field who could give you

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 the various dimensions.

2 Q. Well, let me try a different question. Is the road -- is national route 3 as it
3 passes through Damara flat, or does it go up and down?

4 A. Counsel, you are a European citizen. I have told you that the road there is
5 very similar to a European road, but, really, once I've told you, given you that image,
6 how can you ask me a question like that?

7 PRESIDING JUDGE STEINER: Mr Witness -- I'm sorry, Mr Haynes, if I interrupt.
8 I think the question put by counsel could be easily answered by you, because even in
9 Europe we have many flat roads and others that go up and down when you are in a
10 region with hills, mountains. This is what counsel is asking and it's a valid question.
11 Could you please try to answer, to the best of your knowledge, whether it's a flat road
12 or goes up and down hills or mountains. That's the question. Please, sir.

13 THE WITNESS: (Interpretation) Your Honour, when you talk about a road that goes
14 up and down, I don't understand. If I review the statistics, I could compare the
15 Central African roads, particularly the one that we are talking about at the moment,
16 to European roads. If you look at all of the Central African roads, then you could
17 say that most -- the best part of that road system is the road that we are talking about
18 now because this part of the road was built using the same materials that are used in
19 Europe. But what exactly are you talking about? When you talk about the road
20 going up and down, do you mean that it runs through valleys and across hills?
21 What exactly do you mean? Your Honour, I would like the question to be phrased
22 clearly so that I can answer.

23 PRESIDING JUDGE STEINER: This is exactly what I meant. Maybe we are having
24 an interpretation problem. Don't take offence, okay? It's exactly what I meant,
25 whether the road goes up hills or not, or is flat.

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Open Session)

ICC-01/05-01/08

1 THE WITNESS: (Interpretation) Well, that is clearly expressed, your Honour. But
2 the question had not been phrased clearly before. When he asks me -- for example,
3 if he asked me was the road inflated, or swollen, if he was asking me a question about
4 the condition of the road between Bangui and Damara, well, perhaps I could answer
5 that. The land form is not entirely regular, so, yes, it's possible that the road can run
6 over hills. But if that is what counsel is aiming at, then the question need to be
7 phrased clearly so that I can answer it.

8 PRESIDING JUDGE STEINER: Maybe you can phrase it better than I, Mr Haynes.

9 MR HAYNES: I think your Honour has done very well, and I'm going to leave that
10 topic there. Thank you for your help.

11 Q. I'm going to ask you about the lateral straightness of the road now. Is it
12 straight, or does it have bends in it as it passes through Damara?

13 A. We are talking about a tarmac road which is well built, so we cannot have
14 potholes, or holes, on that kind of road. That would be my answer.

15 Q. Well, thank you for that, but what I wanted to know was is it straight like this
16 pen as it passes through Damara, or does it bend to the left and right a little bit?

17 A. I have already answered, telling you that the road is not straight. It goes
18 around hills now and then. It passes by streams, and things like that. That is the
19 answer I gave you.

20 Q. Thank you very much. And particularly, close to Damara, what is at the side
21 of national route 3? What is at the side of the road?

22 A. There are homes along the road. You can see homes along the road, built by
23 inhabitants, of course.

24 Q. Thank you. Would some of those homes be within 10 metres of the side of the
25 road?

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 A. In all countries, there are laws. The ministry for town planning has laws that
2 determine the distance between homes and the road. So when you talk about 10 or
3 15 metres from the road, it is, in fact, the ministry that I have just mentioned which
4 determines those distances. And I believe it is between 10 and 15 metres. And
5 I think that between culverts and homes, the distance also is between 10 and 15
6 metres.

7 Q. Thank you. And where there are no homes, are there trees at the side of the
8 road?

9 A. Quite naturally, Counsel. Our country is not like Europe, and in that area we
10 did not have farms, as such, but there were a number of trees that grew naturally.

11 Q. And are there ditches at the side of the road as well?

12 THE INTERPRETER: The Sango interpreters did not hear the first part of the
13 witness's answer, Madam President.

14 PRESIDING JUDGE STEINER: Could you please repeat the question, Mr Haynes,
15 because the Sango interpreter could not hear the answer.

16 MR HAYNES: Certainly.

17 Q. At the side of the road, are there ditches?

18 A. Yes, there is drainage on both sides of the road to avoid any depreciation of the
19 road, so there are ditches along the road.

20 MR HAYNES: Thank you very much for all your help. Can we pass briefly into
21 private session so that I can seek your Honour's guidance?

22 PRESIDING JUDGE STEINER: Court officer, please.

23 (Private session at 3.08 a.m.) * Reclassified as Open session

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

25 MR HAYNES: Your Honour, I propose to put two exhibits on the screen in due

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 course; but they are confidential exhibits, they are of a sort that we have already seen
2 today. For my part, I don't see the need for the questions based on those exhibits to
3 be heard in private session. The documents will not be broadcast and the questions
4 will be very similar to those I have just asked, which have all been heard in open
5 session. They will just have a visual aid as well, but I will accept your guidance on
6 the topic.

7 PRESIDING JUDGE STEINER: Are you talking about (Redacted)

8 MR HAYNES: Your Honour, yes, I'm sorry to be so elliptical.

9 (Pause in proceedings)

10 PRESIDING JUDGE STEINER: Just in order for the Chamber to be fully aware of
11 which (Redacted) are you tending to show could you please tell us the numbers?

12 MR HAYNES: Yes, I'm very sorry. I should have done that before. The last four
13 digits of each ERN is 0159, 0176 and 0256.

14 PRESIDING JUDGE STEINER: Which you have already shown. No, the two first
15 ones you have already shown.

16 MR HAYNES: Your Honour, yes.

17 PRESIDING JUDGE STEINER: My only doubt would be in relation to the last one,
18 256. Has the Prosecution any concern in relation to (Redacted) 0256?

19 MS KNEUER: The Prosecution would prefer that all (Redacted) are shown in private
20 session.

21 PRESIDING JUDGE STEINER: The questions related to the two first (Redacted) were
22 put in private or in open session in the morning?

23 MR HAYNES: Private.

24 PRESIDING JUDGE STEINER: So we will continue in private.

25 MR HAYNES: Thank you very much. Can we have a look, please, therefore at

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Defence document 16. That's CAR-OTP-0035-0176. Yes, I don't want to concentrate
2 on the (Redacted) I want to concentrate on the road, so can we
3 zoom out.

4 Q. Are you able to identify that section of road as being part of national route 3?

5 A. I can see that it is a tarmac road which does, in fact, (Redacted) that road. (Redacted)

6 (Redacted) I don't know whether this is because of the nature of the

7 (Redacted) I say this because the road itself does not have (Redacted), but

8 from the (Redacted) on the road. I don't know

9 where that (Redacted) comes from. That notwithstanding, the width or breadth of the

10 road is somewhat similar to what (Redacted)

11 Q. Thank you, Mr Witness. You are helping me a great deal this afternoon. Can

12 we, therefore, then just quickly look at (Redacted) 30. That's CAR-OTP-0035-0256.

13 And, again, can you (Redacted) that as a section of national route 3?

14 A. It is the same distance, but I am disturbed by the (Redacted) on the road.

15 I don't know whether this is because of the (Redacted), I don't know, but I would

16 like to say that it is the same distance. I notice that this area is Bagbara (phon),

17 I believe, and it is located some 10 kilometres away from Damara. (Redacted) some

18 (Redacted) along both sides of the road. So this looks like Bagbara.

19 Q. Thank you. But does that (Redacted) give us some idea of how close to the

20 side of the road the (Redacted) are and what (Redacted) where the road ends?

21 A. No, I did not notice that. There is a service which cleans the streets and clears

22 along the roadsides. It is difficult to (Redacted) less than 10 metres

23 away from the main road.

24 MR HAYNES: Your Honour, it's a little after quarter-past-4. I didn't

25 know what -- quarter-past-3, I'm sorry.

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 PRESIDING JUDGE STEINER: Mr Witness, we still have 40 minutes in this
2 afternoon's session, but the Chamber would like to know whether you want to have
3 10-minutes' break or whether we can continue?

4 THE WITNESS: (Interpretation) Counsel, it is not for you to put that question,
5 Counsel, it is for the Presiding Judge to raise the issue. So it is for the Presiding
6 Judge to ask the witness for his opinion and not for the counsel to put that question to
7 me.

8 PRESIDING JUDGE STEINER: Mr Witness, I put the question to you. I will repeat:
9 We still have 40 minutes. Would you like to have a 10-minutes' break or would you
10 prefer to continue?

11 THE WITNESS: (Interpretation) Madam President, I am the one answering the
12 questions and I'm doing my level best. Now I feel a little bit tired and, even if we
13 were to break just for five minutes, it would be proper for us to go by the standards
14 or the norms. I feel tired, I feel mentally weak, and I've been talking since this
15 morning. So even if it were just for two minutes, I think it would be proper to
16 observe the break.

17 PRESIDING JUDGE STEINER: So we are going to have 10-minutes' break in order
18 for you to have a coffee, a glass of water, and then we will have only 30 minutes left.
19 Could, please, court officer first turn into open session.

20 (Open session at 3.21 p.m.)

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

22 PRESIDING JUDGE STEINER: Mr Witness, we respect the fact that you are tired.
23 We are going to have, then, 10-minutes' break. You can have some coffee, some
24 water. We will resume in 10 minutes; meaning, at 3.33, 3.34. Court officer, please
25 turn into closed session in order for the witness to be taken outside the courtroom.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (Closed session at 3.22 p.m.) * Reclassified as Open session

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

3 (The witness stands down)

4 THE COURT OFFICER: All rise.

5 (Recess taken at 3.23 p.m.)

6 (Upon resuming in closed session at 3.37 p.m.)* Reclassified as Open session

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

8 PRESIDING JUDGE STEINER: Welcome back. Can we continue, Mr Haynes, even
9 if you are facing some highlighting problems?

10 MR HAYNES: Yes, we can. Sorry we had to rearrange ourselves when you came
11 in, but the technicians were working on the other desk.

12 PRESIDING JUDGE STEINER: Could, please, court usher bring the witness in.

13 (The witness enters the courtroom)

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

15 (Open session at 15.40 p.m.)

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

17 PRESIDING JUDGE STEINER: Thank you. Mr Witness, did you manage to take
18 some rest?

19 THE WITNESS: (Interpretation) Yes, your Honour, I was able to unwind for a
20 moment.

21 PRESIDING JUDGE STEINER: So we have only 20, 25 minutes. I hope you don't
22 feel too much tired.

23 THE WITNESS: (Interpretation) Let us continue.

24 PRESIDING JUDGE STEINER: Mr Haynes.

25 MR HAYNES: Thank you, your Honour.

Trial Hearing

(Open Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Q. Well, welcome back, sir. I'm going to try --

2 A. Good afternoon again, Counsel.

3 Q. I'm going to try and ask you the last 20 minutes of questions this afternoon in
4 public session, so do you understand everybody can hear what you are saying?

5 Okay.

6 It's important, therefore, that you don't say anything that might identify yourself and,
7 in particular, that you don't talk about anybody you might have been with. Do you
8 understand?

9 A. I understand, Counsel.

10 Q. And so that you understand, I'm going to ask you questions about an aeroplane
11 but it's only what the aeroplane looked like. So I don't want you to tell me who you
12 were with when you saw it, I just want you to tell me what you saw. Do you
13 understand that?

14 A. Counsel, I understand perfectly well. I'm all ears.

15 Q. I'm glad to hear it. Now, you have told us that on 13 January 2003 you saw an
16 aeroplane come in to land on national route 3, the road that we have just been looking
17 at; do you recall that?

18 A. Have you finished, Counsel?

19 Q. I have, yes.

20 A. Counsel, I can't come here and imagine things and say them before the Court.

21 You have asked questions about the various aspects of the road. I know that it was
22 in relation to the landing of the aeroplane. I'll be specific. The aeroplane landed in
23 front of the compound belonging to the member of parliament, that house that was
24 being inhabited by Mustapha. You have that opportunity. One can go here, one
25 can go to Bangui, you can send investigators to Bangui and ask the question in

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 Damara to the inhabitants of Damara,

2 If an aeroplane did not land on 13 January. You know, a mother cannot repudiate
3 her child even if the child is a -- does wrong or is a poacher or a theft. I can't say
4 things, I can't just pull something out of a hat and say it in front of the Court. I am
5 not a child, I am an official.

6 Q. Well, let's start with this: Which direction did the aeroplane land; towards
7 Bangui or towards Sibut?

8 A. Well, that's a good question. When the aeroplane landed, the head was
9 pointing towards Bangui and the end towards Sibut. Counsel, I'm going to ask you
10 a question: All the looted goods taken by the Banyamulengue, how were those
11 goods taken to the Democratic Republic of the Congo? By vehicle or was it by plane?
12 I've told you in one of my statements that I went to see Mustapha about a young child
13 who had been abandoned by the parents during the general chaos, and that was why
14 I tried to go see Mustapha when the aeroplane landed, and I had a witness,
15 Mr Giuliani, an Italian who had come to Damara to give some money to Mustapha so
16 his company could be protected.

17 PRESIDING JUDGE STEINER: Let's go into private session.

18 MS KNEUER: Thank you, Madam President.

19 (Private session at 3.49 p.m.) * Reclassified as Open session

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

21 PRESIDING JUDGE STEINER: Mr Haynes.

22 MR HAYNES:

23 Q. When the aircraft left in which direction did it take off, towards Sibut or
24 towards Bangui?

25 A. I've said here clearly that the head of the aeroplane was pointing at Bangui and

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 the tail was towards Sibut. (Redacted) his
2 leader who I didn't know, three people came out of the aeroplane. When -- now,
3 they were -- when they were loading the goods into the plane, (Redacted)
4 (Redacted), motorcycles, refrigerators, scooters, loading these things into the
5 aeroplane (Redacted), the aeroplane took off (Redacted) and flew over the town
6 because the headquarters, the headquarters of Mustapha, were two kilometres from
7 the centre of the town. After turning, the plane headed in the direction of Oumba,
8 which was the border between Damara and the Democratic Republic of the Congo.

9 Q. Did the aeroplane take off in the same direction it had landed or did it turn
10 around?

11 PRESIDING JUDGE STEINER: Mr Haynes, if I may.

12 Mr Witness, the Defence still has some questions in relation to the aeroplane to put to
13 you. Is that possible for you to answer to these questions without mentioning
14 (Redacted)

15 THE WITNESS (Interpretation) I said that I saw the aeroplane and I saw them
16 loading generators and refrigerators into the plane. (Redacted)

17 (Redacted) It was when the head of the -- when the head of general staff,
18 he saw -- that was in front of the road, in front of the road of -- in front of the house of
19 the (Redacted) and this is the place where the colonel was living. And 30 minutes
20 later, I saw with my own eyes the goods being taken out of the house and loaded into
21 the plane and then, after that, the aeroplane took off, and as it took off, it headed
22 towards Bangui but turned in the air and headed in the direction of the Democratic
23 Republic of Congo. I would like to ask the counsel -- I saw the aircraft head towards
24 the Democratic Republic of the Congo. Can you send -- can you send investigators
25 to ask the people?

Trial Hearing

(Private Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 When the Banyamulengue had taken control of Damara, were there aeroplanes flying
2 over Damara? No. There was only Bombayake's plane and the aeroplane that
3 brought the leader, the chief of Mustapha, and that plane went in the direction of the
4 DRC, flying over Bangui, making a turn and heading towards the DRC. That is
5 what I can tell you, Counsel.

6 PRESIDING JUDGE STEINER: Mr Witness, we are trying again to go into open
7 session. So if you think you need to mention names, inform the Chamber before,
8 then we go into private session. Is that fine with you?

9 THE WITNESS: (Interpretation) Your Honour, if the question is put to me clearly, if
10 the Defence counsel knows that the answer to his question is likely to reveal my
11 identity or requires private session, he'll-- he should say so. So, by asking such a
12 question of me, I -- I'm caught in the crossfire, so to speak, and I can give the answer
13 that may require a private session.

14 PRESIDING JUDGE STEINER: Mr Haynes, let's continue in private session.

15 MR HAYNES:

16 Q. Just remind us, what colour was the plane?

17 A. I told you in my testimony that the aeroplane was green.

18 Q. And by that do you mean completely green, not camouflaged or green and
19 another colour?

20 A. The main colour of the aeroplane was green. I would say 10 per cent of the
21 surface was green. That is why I am saying, in general, the aeroplane was green.
22 Admittedly, there was some white parts; about 30 per cent of the plane was white.

23 Q. And was it a jet plane or a turbo-prop plane?

24 A. Counsel, I'm not a specialist in aviation so I couldn't tell you any more than that.

25 If it were a helicopter, I could say that it was a helicopter. If it was an aeroplane, I

Trial Hearing
Witness: CAR-OTP-PPPP-0209

(Private Session)

ICC-01/05-01/08

1 would say it was an aeroplane. I can't give you any further information about this
2 aircraft. But let me specify that it was not a helicopter.

3 Q. Okay. And how big was it?

4 A. In principle, I am the one who should be asking you such a question. If I tell
5 you that the plane carried refrigerators, motorcycles and other goods, that should
6 indicate to you that it was quite a large aeroplane. I didn't go close to the plane,
7 close enough to determine the tonnage or any other sign of its size.

8 I beg your pardon. The house of the (Redacted) was 50 metres from the
9 main road, and we had been asked to stand aside, at about a distance of 25 metres
10 from the road. There were some mango trees (Redacted) and the place where the
11 aeroplane was. But when the goods were being taken out to be loaded into the
12 plane, I was there and I saw that.

13 I would like you to ask this question: How could it be that this entity was -- how
14 were these entities transported? How were they taken to the Democratic Republic of
15 the Congo?

16 Q. Did the aeroplane have one engine on its front or more than one engine on its
17 wings?

18 A. Counsel, your question is welcomed but I would say that I am not an expert in
19 aviation. All I know is that I can make -- I can distinguish between an ordinary
20 aeroplane and a helicopter. I've told you that it was not a helicopter and I didn't go
21 close enough to the aeroplane to determine what kind of aeroplane it was. All I
22 know is that on 13 January 2003, and I'm being very specific about that, there was an
23 aeroplane that was able to land in Damara and it transported the goods to the
24 Democratic Republic of the Congo.

25 MR HAYNES: Thank you very much, sir.

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 PRESIDING JUDGE STEINER: Mr Haynes, we still have -- I think the interpreters
2 will indulge us with five more minutes.

3 MR HAYNES: I think I'll pass on that, if you don't mind. I'm going to move on to
4 something else. It will involve putting something into eCourt, and I don't think I'll
5 ask many questions this afternoon with another five minutes.

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

7 (Open session at 4.01 p.m.)

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

9 PRESIDING JUDGE STEINER: Mr Witness, it's 4 o'clock. We will adjourn for
10 today. We thank you very much for your efforts. It has been another difficult day,
11 very tiring. Tomorrow will be, for sure, the last day of your questioning. Am I
12 correct, Mr Haynes?

13 MR HAYNES: Your Honour, yes.

14 PRESIDING JUDGE STEINER: So we hope you can take a very, very restful night
15 and tomorrow you will be in this courtroom for the very last time. So we thank you
16 very much, and I thank very much the Prosecution team, the legal representatives of
17 victims, the Defence team, Mr Jean-Pierre Bemba Gombo. I thank very much our
18 interpreters, court reporters, our court officer, court usher.

19 We are going to turn into closed session in order for the witness to be taken outside
20 the courtroom. And, in the meantime, we will adjourn and resume tomorrow
21 morning at 9.30 in this very same courtroom.

22 (Closed session at 4.03 p.m.) * Reclassified as Open session

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

24 (The witness stands down)

25 THE COURT OFFICER: All rise.

Trial Hearing

(Closed Session)

ICC-01/05-01/08

Witness: CAR-OTP-PPPP-0209

1 (The hearing ends at 4.04 p.m.)

2 CORRECTION REPORT

3 The Court Interpretation and Translation Section has made the following corrections
4 in the transcript:

5 *Page 26 line 4

6 "after that incident,"

7 is corrected by

8 "6 or 7 days after that incident,"

9 *Page 26 lines 10

10 "It was beginning of May or mid-May,"

11 is corrected by

12 "It was the beginning of February or mid-February,"

13 RECLASSIFICATION REPORT

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

15 ICC-01/05-01/08-3038 and the instructions in the email dated 20 June 2014, the version

16 of the transcript with its redactions becomes Public.