

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-00-56-T
CHAMBER II

THE PROSECUTOR
OF THE TRIBUNAL

v.

AUGUSTIN NDINDILYIMANA
FRANÇOIS-XAVIER NZUWONEMEYE
INNOCENT SAGAHUTU
AUGUSTIN BIZIMUNGU

MONDAY, 17 OCTOBER 2005
0905H
CONTINUED TRIAL

Before the Judges:

Joseph Asoka de Silva, Presiding
Taghrid Hikmet
Seon Ki Park

For the Registry:

Mr. Roger Kouambo
Mr. Abraham Koshopa

For the Prosecution:

Mr. Ciré Aly Bâ
Ms. Ifeoma Ojemeni Okali
Mr. Moussa Sefon
Mr. Abubacarr Tambadou

For the Accused Augustin Ndindiliyimana:

Mr. Christopher Black

For the Accused François-Xavier Nzuwonemeye:

Mr. Charles Taku

For the Accused Innocent Sagahutu:

Mr. Fabien Segatwa
Mr. Seydou Doumbia

For the Accused Augustin Bizimungu:

Mr. Gilles St-Laurent
Mr. Ronnie MacDonald

Court Reporters:

Ms. Karen Holm
Ms. Verna Butler
Ms. Ann Burum
Mr. Sheriffo Jammeh

I N D E XWITNESSFor the Prosecution:

FRANK CLAEYS

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PROCEEDINGS

MR. PRESIDENT:

Good morning, ladies and gentlemen. The sessions are on. Appearances as before.

Yes, Mr. Black, you can continue.

MR. BLACK:

Thank you, sir.

FRANK CLAEYS,

CROSS-EXAMINATION (continued)

BY MR. BLACK:

Q. Just going back to this briefly, the question about whether this was an international conflict or not, the involvement of Uganda, having been born in Central Africa and raised there, you must know something about the history of the region and how the Tutsis -- the diaspora came to exist outside of Rwanda and the problem of returning refugees. Were you aware of that issue, generally, that there were Tutsis outside the country, and one of the complaints against the regime is that they weren't allowed back, there was no solution to that, at least according to the RPF?

A. Yes. In a general way, I was aware of it.

Q. When you were briefed about the situation in Rwanda before you left, were you told that, in fact, a solution -- despite what the RPF said, there was a solution found in that the -- President Habyarimana, with the assistance of the UNHCR and the organisation of African Unity, established a commission to look into that problem and came up with a solution, which was agreed on around the 30th of July 1990, that the refugees would be allowed to come back to Rwanda, even though they had been coming back individually years before, that the government would make sure that there was an in-place infrastructure to accept them, that the UNHCR would do a census of the number of refugees who wanted to return to Rwanda and that there would be a delegation of refugees coming to Rwanda to speak to the government about arranging all this? Were you aware of that happening? Were you briefed on that event?

A. To the best of my recollection, not clearly. I know that there were plans for the return of the refugees and that the UN was part of that initiative. They talked of the 30th of June, or month of June. I don't know what year exactly that was, but I know there was a plan that refugees should be returned and that there was people in Kigali and elsewhere who were assisted by non-governmental assistance, but no more than that.

Q. And were you also aware that the census was not able to take place because the UNHCR officials were threatened by the RPF if they tried to take the census, and that, just after that, the RPF attacked in their first attack in October and the plan never went through? Is that also your understanding of the sequence of events?

A. I haven't understood your question.

1 MR. BÂ:

2 Mr. President. You referred to events prior to October 1990, and the witness came in October 1993,
3 and in the meantime, the situation had changed. The RPF had conquered part of power and the peace
4 accords were being imposed. Talk to him about the peace accords. That is why he came here. He
5 came to talk about that.

6
7 But with regard to the situation that existed prior to 1990, he wasn't there and the situation changed.
8 There were two warring factions; the RPF had conquered part of power; the peace accords had been
9 signed. And we should start talking from that point onward. But if you want to talk about the situation
10 that existed prior to 1990, why don't you go back to 1959, in which case you have to wait for a witness
11 like Alison Des Forges, a historian, to tender evidence with regard to that period.

12 BY MR. BLACK:

13 Q. Sorry you don't understand; I'll try to put the question in a more simple way. Sorry, Colonel. My
14 understanding is that that plan to return the refugees peacefully to the country never took place
15 because the RPF disrupted the UNHCR census and refused to cooperate, and the delegation of
16 refugees from the Tutsi camp never showed up for the meetings and, shortly afterwards, the RPF
17 attacked the country. Is that also your understanding of what happened, the sequence of events
18 in 1990?

19 A. In what year?

20 MR. BÂ:

21 Specify the year.

22 MR. BLACK:

23 Mr. Bâ, either you're not getting the translation, or you are not paying attention, or you're deliberately
24 trying to disrupt me, because I said "1990" very precisely three times now.

25 THE WITNESS:

26 I am not aware of the attack in 1990. I know there was a war in 1993, during which Belgians
27 participated in an evacuation operation, but with regard to 1990, I was not aware of it. I wasn't following
28 those events.

29 BY MR. BLACK:

30 Q. All right. Well, there was an attack -- so I suppose you're not aware of Museveni stating in regard to
31 that attack in 1990 by NRA troops -- or, the RPF-NRA troops, let's put it that way -- did you hear him
32 say on the radio that, "I doubt very much that the troops that are there can defeat the rebel force.
33 Some of them are our best people"? Are you aware of that statement being --

34 MR. PRESIDENT:

35 Well, Counsel, his position is that he did not follow the 1990 war and that he doesn't know anything
36 about it.

37

1 MR. BLACK:

2 Well, he may have heard that.

3 BY MR. BLACK:

4 Q. Did you hear Museveni in a press release -- press conference say that on the radio? He said that
5 October 10th, 1990, to the press, that the so-called rebel forces couldn't be defeated because "some of
6 are our best people," that is, Ugandans?

7 A. That does not ring a bell.

8 Q. Okay. And when you returned to Kigali after the shoot-down of the plane, did you become aware that
9 the elite Simba battalion of the Ugandan army was fighting alongside the RPF -- Simba standing for
10 "lion" in Swahili, S-I-M-B-A -- and that members of that unit were captured in Kigali?

11 A. No, I was not informed of it.

12 Q. You were not also aware then that the Burundian army invaded from the south in April-May, to assist
13 the RPF as well, at least two battalions? Did you hear reports about that before you left?

14 A. Not in any manner.

15 Q. You're not aware that the Rwandan government made a complaint to the Security Council about the
16 aggression by Uganda in April-May? Did you hear about that from Dallaire or anybody?

17 MR. PRESIDENT:

18 Is it in '94?

19 MR. BLACK:

20 Yes, sir, 1994. The Rwandan ambassador put in a complaint to the Security Council about aggression
21 by Uganda, but the Americans kept it off the agenda.

22 BY MR. BLACK:

23 Q. Did General Dallaire mention that the Rwandan government had made such a complaint to the Security
24 Council, to you?

25 A. I don't know how he could have informed me because I was no longer under him. I was part of a
26 Belgian force and he was in a UN force. If I got wind of it, I believe it would have been through the
27 Belgian press and not through the UN channels.

28 Q. Did you also become aware as military information officer that when you were there in April that
29 alongside the RPF forces were white South African mercenaries also fighting alongside the RPF?

30 A. That doesn't ring a bell.

31 Q. Because we have -- and are you aware that -- you said that the Belgians weren't pro-RPF or
32 anti-government. But I have a radio intercept from the RPF, intercepted by the Rwandan Armed Forces
33 on the 11th of April at 1320 hours, stating -- it's in French, so, if you could just -- one sentence,
34 "Reinforcements will be given to you in the near future and you are called upon to cooperate closely
35 with the NRA in your *secteur*. We intend to design the battalion of the NRA so long as Belgium will not
36 be in a position to provide us with a force that is capable of supporting us against Uganda. The
37 helicopter and the bus have already been sent to us."

1 A. Mr. President, I understand nothing in the sentence, neither in French nor in English. It is
2 incomprehensible.

3 MR. BÂ:

4 Mr. President, I also do not understand anything in French.

5 MR. BLACK:

6 Well, it's quite simple.

7 BY MR. BLACK:

8 Q. I put it to you there are two radio intercepts, one -- well, the radio intercept I have is that the RPF put
9 out a message to their troops, saying that the NRA was supporting them and to work with them in all
10 their *secteurs* and that we have to do this so long as the Belgians are not in a position to help us further
11 in a struggle against Rwanda.

12
13 That's basically the gist of the message. So I put it to you that, in fact, the Belgians were helping the
14 RPF from the shoot-down of the plane on, and that radio message indicates that.

15 A. I am not in a position to answer that question at my level. It was not my duty to go and find political or
16 military officers to answer that question. That was not the impression I had. The impression I had was
17 that everyone was against one party, because they tried to show that the Burundians, the
18 South Africans, the Ugandans, and why not the Congolese who are involved; they were on the other
19 side of Lake Kivu. At my level I was not aware of all that.

20 Q. Okay. Did you see all the outgoing situation reports issued by force headquarters, or were you involved
21 in helping draft them?

22 A. Can you specify the date? Because after March it was certainly not the case, so those reports were
23 probably after the month of March. I was no longer part of the force so I'm not in a position to make any
24 judgement on that issue.

25 Q. I have one on the 18th of April which says that -- something curious, that -- this is a sitrep from
26 Mr. Booh-Booh to Kofi Annan on the 18th, daily situation report, and it says that -- regarding all military
27 activities, it talks about the leaving of the Belgians, the departure of the Belgian force, and it says,
28 "Some heavy armaments and ammo are being left behind by the Belgians." Are you aware that that
29 was done and, if so, can you tell us why that ammunition and heavy armament was left behind?

30 A. First of all, it was a report by Mr. Booh-Booh, so it was a political report regarding interpretation of
31 military materiel, military equipment. It is a generic term. What I can say is that, in fact, the Belgians
32 left behind vehicles which were in a good condition, according to my -- in my opinion, they had not been
33 sabotaged. The Belgians had not had the opportunity to take them along during the air retreat of the
34 Belgian contingent of the UN peacekeeping troops. The only heavy weaponry that one can consider
35 was left behind were caterpillars of the CP -- CVT category. They were reconnaissance vehicles. And
36 there was no ammunition for such vehicles within UNAMIR, so those vehicles were only used for
37 transportation. They were not used for any combat.

1 Q. So, then, you have no idea what they're talking about -- when they're talking about the Belgians leaving
2 heavy armaments, by that I take it to mean heavy artillery pieces of some sort? You have no idea what
3 that means? Or at least heavy --

4 A. No, no. What I'm saying is that equipment was left behind and such equipment, *a priori*, was not
5 offensive. It could not be used for any fighting. It was used for transportation, and the Belgians could
6 not have carried such equipment with us. There were no radio sets, no armaments and no ammunition,
7 but they also abandoned medical equipment since Kanombe military hospital; that is, the hospital of the
8 government forces was equipped and maintained by Belgians, run by Belgians. So it wasn't
9 abandoned as such.

10 Q. That ties in with the testimony of a Colonel Briot. Do you know a Colonel Briot, B-R-I-O-T, or you know
11 of his existence in the Belgian army?

12 A. I know him. He was working at the operational centre in Brussels at the time of the operation in
13 Rwanda.

14 Q. All right. He's asked -- he testified before the senate, the Belgian senate hearings as well, on the 13th
15 of June 1997, and he was asked to explain a problem with the fact that mortar rounds or mortar bombs
16 were in Kigali which were not found on the list of authorised arms the Belgian contingent was supposed
17 to have, and he's asked why the Belgian army sent arms secretly to Kigali. And he says -- I just want
18 you to comment to see if you know anything about this -- he said -- at page 739, his answer is, "In
19 documents relating to the dispatch in early December 1993, dispatch of ammunition, you'll see mention
20 made of mortar bombs. Those ammunition" -- or, "such ammunition indeed left for Kigali, but it was on
21 the basis of an error because no provision was made for such dispatch. As soon as that error was
22 taken note of, the decision was taken to leave them in Kigali, but to treat them with discretion because
23 they had to make sure their presence was not known to the UN, nor to the FAR."

24

25 So I put it to you, sir, that, in fact, again, that the Belgians were leaving heavy armaments and
26 munitions behind for the RPF and had sent in -- at least, in one case -- mortar rounds, delivery of
27 mortar rounds and kept secret from the UN and government forces in order to give that to the RPF. Are
28 you aware of that -- or, can you comment on that, my suggestion?

29 A. What I know with regard to heavy ammunition, I would have to look at Colonel Marchal's statement
30 before the same senate. What I know, that for -- is that the request for heavy ammunition which he filed
31 with regard to mortars, as well as cannons, 20 and 15-millimetre, 76 CVT reconnaissance vehicles, that
32 fax never got to Brussels, so the deliveries were never made. So there is a disparity here, a very clear
33 disparity here, between the statement of the *secteur* commander, Colonel Marchal, and the
34 aforementioned Lieutenant Colonel Briot, who states that ammunition was sent.

35 Q. If I suggest to you that those munitions were actually put in a depot at a place called Rutongo, which
36 was also a depot for food supplies, on the 4th of April, you wouldn't know about that either? Just
37 around Kigali.

1 A. That does not ring a bell. Firstly, I was not there. Secondly, I do not know when that equipment
2 arrived, and thirdly, the only place where I knew that there was ammunition, and when I say
3 ammunition, I mean for guns and rifles, was in a container, a metal container, which was within the
4 RWANDEX compound.

5 Q. After your arrival back in Kigali, did you hear about the -- this is in the KIBAT report -- that -- an incident
6 on the 8th of April in which ten -- hundreds of thousands of refugees around Camp Nyacyonga went to
7 this depot in Rutongo, which was guarded by Belgian troops, in order to get food supplies, but the
8 Belgians refused to give food at first. The crowd became angry. They gave them some food, but not
9 very much, and the crowd became even more angry. And the RPF later came along and drove -- fired
10 into the crowd, killed many people, and drove them away from Rutongo and then took those food
11 supplies and ammunition there; in other words, that the Belgians were deliberately keeping food from
12 these civilian refugees who needed it, in order to give it to the RPF, who needed those depots to keep
13 their forces able to operate. Were you aware of that incident on the 8th of April?

14 A. I'm not aware of this incident, and in order to make an assessment of such an incident, one would have
15 to have an idea of the layout of the area and the situation facing the UNAMIR at that time. I am
16 certainly not aware of it and I can certainly make no -- have no opinion to put forth about that.

17 Q. You speak of Jean-Pierre giving you lists.

18 A. I never received any list from Jean-Pierre.

19 Q. That's true, which indicates to me that he was not that reliable. But were you aware that there were
20 other -- there were lists floating around from the RPF, lists of important government and political figures
21 to be dealt with who resisted the RPF? I'm talking about a list dated January 14th 1994, which appears
22 on a RPF letterhead, and that list includes General Bizimungu here, and it was put in as an exhibit, as
23 P. 40 in the Military I trial?

24 MR. BÂ:

25 Could we see the list?

26 MR. BLACK:

27 Sure.

28 MR. BÂ:

29 If it is the list that I disclosed to you for Witness 006, it was forged. You are the ones who made it up. If
30 it is a list as communicated in January 1990 --

31 THE WITNESS:

32 At any rate, I did not see any list. Jean-Pierre did not give me any list, and I never saw any lists bearing
33 RPF letterhead.

34 MR. BÂ:

35 I am the one who disclosed it to you. It is with regard to Witness 006 and I disclosed it to you because
36 it was a forgery. We gave it to you in connection with Witness 006's testimony.

37

1 MR. BLACK:

2 Well, it's not a forgery. This list, Mr. President, is a letter from the patriotic front to its members in
3 Rwanda and elsewhere, asking for money and support, indicating that there are plans to kill
4 Habyarimana and, in fact, mentioned shooting down his plane. And that they've received a list from
5 Kigali of Hutus opposed to their plans and they say, "We need to know exactly their ethnic group, the
6 number of their families and where they reside." And then there's -- and they say this -- they give a list
7 of names they have, including Augustin Bizimungu here, and many others now in prison at this
8 Tribunal, and it ends, "This list is not exhaustive." And it is signed by Colonel Alexis Kanyarengwe,
9 then chairman of the RPF.

10 BY MR. BLACK:

11 Q. You never became aware of this list, as military information officer, that the RPF was circulating a hit list
12 themselves? And, if so --

13 A. No, I reiterate: This list does not ring a bell. I have never seen it.

14 MR. BÂ:

15 Mr. President, this list was explained by Witness 006 in Military I and he will come and explain it again
16 in this trial, and that is why I disclosed it to you. You will see that he's even unable to write "front"; he
17 wrote "font," "Rwandan Patriotic Font" he wrote, and it is definitely a forgery.

18 MR. BLACK:

19 Well, that -- our position is that it is not, but maybe it is. But then he can come and explain it. Anyway,
20 maybe it could be entered as an exhibit. If 006 is going to talk about it, then we can discuss it with him.

21 BY MR. BLACK:

22 Q. Going to -- you mentioned operation -- the operation to bring into Kigali the RPF contingent to the CND
23 building, and you mentioned that operation to bring them in, but you failed to mention --

24 MR. BLACK:

25 Perhaps, before I go on, my assistant has asked me whether the Bench accepts that this letter from the
26 RPF, forgery or not -- can you accept it as an ID document until their witness gets here to explain it,
27 since it's their witness's letter?

28 MR. BÂ:

29 Wait for 006 to come. I disclosed it to you and it is because 006 was to come and explain it. It was not
30 supposed to be dealt with in connection with this witness's appearance. I gave it to you a month ago
31 because 006 will come and account for that list, and once again I repeat, it is a forgery.

32 MR. BLACK:

33 Well, whether it is or not, we don't know until he gets here. And we're not sure if 006 is going to appear.
34 He's been delayed several times now. So could we put it in as an ID document until he appears?

35 MR. PRESIDENT:

36 Counsel, we cannot accept this because this witness says he has not even seen this. So how can we
37 accept it this through this witness?

1 MR. BLACK:

2 No, I'm not asking you to accept it through this witness. I'm saying, could it be put in as an identification
3 document so 006 can identify it.

4 MR. PRESIDENT:

5 No, I will mention that Prosecution says that 006 will speak about this document. I will put it in the
6 record now.

7

8 Mr. Black moves to mark this document, purported to be written by RPF. Mr. Prosecutor says that this
9 document is a forgery, and this will be explained by Witness 006 when he testifies.

10 MR. BLACK:

11 So will that be an ID number given to it then? My problem is, supposing they don't bring 006. Then I
12 suppose I can't use it anyway, but we might be able to bring somebody to explain it and that's why I'd
13 like it in, if I could. If we can't bring in anybody on either side --

14 MR. PRESIDENT:

15 I think I am going to start with 006 next term.

16 BY MR. BLACK:

17 Q. Going back to this operation, isn't it true that the success of the operation depended also, and heavily,
18 on the assistance of the gendarmerie which escorted that battalion into the CND, Colonel? Sorry,
19 Colonel -- he's not hearing me perhaps.

20 A. I did not understand. Yes, I heard you, but I did not understand the question.

21 Q. All right. You spoke about Operation Clean Corridor in your testimony in-chief, I believe, and you
22 mentioned those that took part, but you failed to mention the fact that the gendarmerie took part in that,
23 in the escort of that column into the CND and were a crucial part of that operation; isn't that true?

24 A. I did not omit to say it. I did not mention it, but it goes without saying they escorted the public transport
25 buses. They were at the front and at the rear, as well -- or, in addition to the UNAMIR security plan that
26 was in place. That's all.

27 Q. All right. And did you see this letter -- I'm going to show you a letter. It's from Colonel Marchal, sector
28 commander for Kigali, to General Ndindiliyimana, on behalf of UNAMIR sector Kigali. I'll just read this.
29 Perhaps I can give it to you now.

30

31 Basically, it's in French, but Colonel Marchal says the operation was a success, an important part of the
32 peace process; it would not have been possible without the perfect cooperation of the
33 *Gendarmerie nationale* and that he appreciated very much the assistance given by the gendarmerie,
34 and that their approach will conduct along the route and that it went to the honour of the gendarmerie,
35 and he wishes to express his deep thanks for that operation. Can you confirm that's basically what the
36 letter says, and did you see that letter?

37 A. This is the first time I am seeing the letter. I can confirm the operation took place and that no incident

took place. Therefore, there is nothing unusual in Colonel Marchal thanking and showing his appreciation to the addressee, and I think that this is the context in which the letter was written.

Q. All right. Thank you, sir.

MR. BLACK:

Mr. President, could I put this in as an ID document until we can get Colonel Marchal here to state that he -- or I can get my client to say that he received it?

MR. PRESIDENT:

Yes, we will accept this one.

MR. BLACK:

Thank you.

MR. BÂ:

You can even tender it.

MR. BLACK:

Oh, as an exhibit? Okay. That's fine. Thank you. In that case, I'm not sure what exhibit number it is next for Defence.

MR. PRESIDENT:

Mr. Black moves to mark a document dated 31st of December 1993, written by Colonel Marchal to UNAMIR.

MR. BLACK:

Actually, it's on his letterhead, but it's addressed at the bottom to Colonel, BEM, Ndindiliyimana.

MR. KOSHOPA:

D. 70.

MR. PRESIDENT:

D. 70, within brackets [Ndindiliyimana].

(Exhibit D. 70 [Ndindiliyimana] admitted)

BY MR. BLACK:

Q. Would you agree, Colonel, that overall, the cooperation of the gendarmerie with UNAMIR was -- was good, and insofar as their resources permitted them, they tried to cooperate as best they could with UNAMIR operations, patrols and so on?

A. Actually, I never noticed any hindrances in the cooperation. There were meetings of liaison officers, coordinating measures to be taken and, earlier on, I indicated that the gendarmes escorting verification missions at roadblocks were conducting themselves or their mission as best they could at their level and there was no problem there.

Q. All right. I understand there were some problems between certain Belgian soldiers and certain people in Kigali, military and gendarmes because of some -- in nightclubs and places like that, where some Belgian soldiers exhibited ill-disciplined behaviour and were sent back to Kigali because of that; isn't that true? But that problem was resolved.

1 A. Indeed, all those who were undisciplined according to the Belgian regulations were dealt with and sent,
2 and there was no delay in awaiting relief by another unit. The very first opportunity, some pilots were
3 sent back to Belgium. The Belgian command structure decided to send back personnel who were not
4 complying with security directives vis-à-vis -- in their interactions with the population or other members
5 of UNAMIR.

6 Q. All right. I have the testimony of a man -- or an officer, named Thierry Tambour, T-A-M-B-O-U-R, made
7 the 30th of May 1994 to the *auditeur militaire* in Brussels concerning the events of the -- he's a
8 corporal -- concerning the events of the 6th, 7th and the shoot-down of the plane. And he says that, in
9 his testimony to them --

10 MR. BÂ:

11 Mr. President, could we have a copy? I understand that you can take us by surprise; that is provided
12 for in the rules and regulations, however, you cannot submit written documents to our witness without
13 first showing them to us. We will never accept this because this runs counter to all the rules and
14 regulations.

15 MR. BLACK:

16 That's fine. That's okay, I'm not going to submit the document to anybody. I'm just going to ask him a
17 question about what this man said.

18 BY MR. BLACK:

19 Q. Anyway, in his testimony, he said that he received orders from a Captain Vandriessch,
20 V-A-N-D-R-I-S-C-H (*sic*), on the night of the 6th or the day of the 6th -- on the night of the 6th, stating
21 that the RPF had left the CND and were making a movement to their positions near the airport --

22 MR. BÂ:

23 Counsel Black. Counsel Black, objection.

24 MR. BLACK:

25 Why?

26 MR. BÂ:

27 Have a copy of the document made and show us.

28 MR. BLACK:

29 I don't need to do that. I can make it in court. I didn't just show you that quote from Colette Braekman's
30 book. You never asked for that. The reason you deny this, Mr. Bâ, is because it destroys your theory
31 that the RPF only attacked on the 8th, ostensibly to stop alleged massacres, and we now know they
32 attacked on the 6th, which you want to stop the world from knowing.

33 MR. PRESIDENT:

34 Well, Counsel, why can't you give him a copy so that --

35 MR. BLACK:

36 I don't have another copy with me, and I'm just going to read it out -- I'm not going to read it out; I'm just
37 paraphrasing, as we've done before, what this man said. This officer can say yes or not --

1 *(Microphones overlapping) ...*

2 MR. BÂ:

3 Wait. It is not for you to determine because you're not the one who buys the paper.

4 MR. BLACK:

5 I'm not the one who buys the paper. What do you mean by that?

6 MR. BÂ:

7 Wait. Let me speak, too. You do not buy the paper, it's the United Nations. Give the document to the
8 registrar and he will make copies for everybody, or I will take it that everything that you're saying is null
9 and void and that has nothing -- because neither the Judge nor your adversaries have been provided
10 with copies of the document. It's a document that we will take it you fabricated before you came to the
11 hearing.

12 MR. BLACK:

13 If you accuse me of fabricating this one more time, Mr. Bâ, I'm going to ask this Court to sanction you
14 and I'm going ask the Court to write a letter to your Bar, asking you be disbarred. That's what I'm going
15 to ask Mr. President to do, Mr. Bâ, if you keep saying I fabricate things.

16 MR. BÂ:

17 I'm a magistrate in Senegal; I'm not a member of a Bar.

18 MR. BLACK:

19 So you're not even a lawyer. So what are you doing here?

20 MR. BÂ:

21 I'm a trial attorney at the court of cassation. I'm more than a lawyer.

22 MR. PRESIDENT:

23 Mr. Black, to be fair to both of you, why don't you make a copy and --

24 MR. BLACK:

25 This comes from him. It's got a K-number, it's K0075370. And I'm not going to depose it. I'm not even
26 going to make it an exhibit; I'm just going to ask him a question. It's just one line.

27 BY MR. BLACK:

28 Q. The man in his testimony in Belgium says that he received orders from Captain Vandriessch, stating in
29 the order that the RPF had left the CND on the night of the 6th. They were going to cross that position
30 to attack Camp Kanombe. That, "We were not to fire them unless they fired on us," and that that
31 movement took place, but they were stopped from attacking Camp Kanombe by the Rwandan army;
32 they were blocked. Did you hear about that order?

33 MR. BÂ:

34 *(Microphone not activated).*

35 THE ENGLISH INTERPRETER:

36 Counsel, microphone. We cannot hear Mr. Bâ.

37

1 MR. PRESIDENT:

2 Slowly, Mr. Bâ.

3 MR. BLACK:

4 Mr. Registrar, you can show it to him.

5 MR. PRESIDENT:

6 Mr. Registrar. It is fair, Mr. Black, to give him a copy so he can follow. We, also, must follow and we,
7 also, must know when was this.

8 MR. BLACK:

9 Sorry. This statement was made on the 30th of May 1995.

10 MR. PRESIDENT:

11 Yes, that is correct, but the order that he received, when was that?

12 MR. BLACK:

13 The night of the 6th of April. So the orders states Captain Vandriessch informed him that the RPF was
14 going to cross their position, not to fire on it, that they were going to attack Camp Kanombe but, in
15 fact -- and they did cross that position, but in fact they were blocked by the FAR forces from attacking
16 Camp Kanombe.

17 BY MR. BLACK:

18 Q. Were you aware, as military information officer, that either that night you were on the plane following
19 the president's plane or when you arrived, that the RPF had in fact attacked -- tried to attack
20 Camp Kanombe on the night of the 6th?

21 A. First of all, I was not on the spot, so it would be difficult for me to have an opinion. However, I am also
22 reluctant to lend credence to this information. Captain Vandriessch was commander of a company at
23 the Kanombe airport. His company HQ was near the hangar where the presidential aircraft was
24 normally based, so that is why if we were to mention -- talk of the CND-based RPF, but I would say that
25 he would not be in a position to take note of that from where he was based, based on my recollection of
26 the incident involving the president. It was brought down after sunset, so that the events that ensued
27 took place under cover of darkness, in the night. We, with the C-130, we were coming from Belgium
28 but were unable to land because Kigali was in the dark. All lights had been switched off. Therefore, I
29 do not know how he could have noticed or talked of such events in the night of the 6th to the 7th of
30 April. That is a personal comment I can make on the corporal's statements.

31 MR. BLACK:

32 Where is that document now? Does Mr. Bâ still have that document?

33 THE WITNESS:

34 I did not see it.

35 MR. BLACK:

36 Show it to the witness, please.

37

1 MR. BÂ:

2 But give me a copy. I need to follow.

3 MR. BLACK:

4 I can't make a copy until you give me back the original, Mr. Bâ.

5 MR. BÂ:

6 Have them make a copy. I need to follow. Oh, this is the original. So make a copy for him. So make a
7 copy for everyone.

8 MR. BLACK:

9 You don't need to do that, Mr. Bâ.

10 MR. BÂ:

11 And then he can follow.

12 MR. BLACK:

13 Give it to the witness. I want the witness to see it.

14 MR. BÂ:

15 I object, Mr. President. I object. The rules of procedure must be complied with in this Court. He cannot
16 introduce this measure --

17 MR. PRESIDENT:

18 Make copies --

19 MR. BÂ:

20 -- or his practice in an opposition to procedure.

21 BY MR. BLACK:

22 Q. When we get that document back, I'll show it to you, but nevertheless we have the statement from this
23 officer -- this NCO, and the problem, of course, Colonel, is that --

24 A. Corporal. He was a corporal, not a non-commissioned officer.

25 Q. Well, a corporal is a non-commissioned officer in any army I'm aware of. But, anyway, we won't argue
26 about that. The problem is that --

27 A. In no army.

28 Q. It's considered so in the Canadian army. Anyway. Anyway. The problem, of course, that raises is that
29 Captain Vandriessch had to have orders prior to that to know how to deal with that situation. For them
30 to know that the RPF was going to attack Camp Kanombe from the CND and to warn his men not to fire
31 on that column passing their position at the airport, they must have been aware that they were going to
32 attack in the first place. So I put it to you that you were also aware that the RPF was going to attack
33 that night because you were a military information officer.

34 A. Once again, I repeat, I was in an aircraft. I had no contact with Kigali. I was a passenger and therefore
35 would not be in a position to be aware of such an order. Secondly, there were rules of engagement
36 which had been adhered to under Chapter 6 of the United Nations. The rules of engagement were
37 limited to use of personal weapons of a calibre not higher than 7.62 NATO and only for self-defence

1 purposes. According to the information you are giving to me, based on somebody's statement,
2 UNAMIR had not been attacked.

3 Q. No, they had not been attacked, but they were warned not to oppose that movement of RPF troops in
4 violation of the Arusha Accords to attack the FAR forces, and they had prior knowledge that the RPF
5 was going to make that move and therefore issued orders to them, to the Belgian contingent at the
6 airport, not to block that move or impede it in any way. I'm suggesting to you that the Belgian
7 contingent of UNAMIR, and I put it to you, you and General Dallaire knew that that movement was
8 going to be made, that the RPF, when the plane was shot down, was going to attack at the same time.
9 The whole thing was part of the offensive.

10 A. Once again, I repeat, how do you expect me to be aware? I was in an aircraft; I was in the air. Do you
11 think that from the aircraft I had contact with General Dallaire? So don't make assumptions. I was not
12 there. I could not make assessments better than those who were on the spot. I arrived in Kigali on the
13 10th of April, three days -- three or four days later, and I did not leave Kanombe airport from that time.
14 So speak to those who made the statements or gave the orders, who possibly authorised such actions
15 and in this chain of command -- this chain of command, rather, included Colonel Marchal. They were
16 all Blue Berets. From the 6th of April onward I was no longer a UN peacekeeper.

17 Q. Well, of course, our suggestion to you is that that plane you were on, that Belgian plane you were on,
18 was not there by coincidence following the president's plane, it was part of the operation and that,
19 therefore, you probably were in contact with the ground and knew what was going on; isn't that true?

20 A. You have already suggested that and I have already answered that you are thereby assuming that
21 Belgians had means that were far advanced of current technology. So if at the time the Belgians had
22 technology that is not yet in existence, well, then I take my hat off to you.

23 Q. Well, I disagree with you on that. But we're not going to go anywhere with that, so let me switch to
24 something else. The death of the --

25 A. You also say that a corporal is an NCO.

26 Q. That's right, a non-commissioned officer.

27 A. A non-commissioned officer. Your military background leaves a lot to be desired.

28 Q. Well, if saying NCO starts at sergeant and up, that's different from my army. We start at corporals up.
29 But, anyway, I'm not going to quibble about that.

30
31 With respect to Lieutenant Lotin, do you have any information about what Lotin's real mission was out
32 near the forest in the airport area that night, what he was doing out there with those men?

33 A. Could you please spell the name? Because I do not remember anybody by the name Lotin.

34 Q. I'm sorry, it's my pronunciation. Lotin, L-O-T-I-N, the Belgian officer in charge of the unit which ended
35 up at Agathe's house, but originally had been out around the airport area when the plane was shot
36 down. I put it to you, you probably knew what his real orders were and what his mission was. Could
37 you tell us what that was?

1 A. Lieutenant Lotin was the head of the *éclairéur* unit. There were three companies of marksmen and a
2 platoon of leaders or *éclairéur*. That platoon was not based at the airport but in a compound close to
3 the prime minister's office. That was the base from which it operated. Lieutenant Lotin's platoon was in
4 charge of escorts because it had light and rapid reconnaissance jeeps; important personalities in Kigali
5 and outside of Kigali were protected by it. It was also his staff or personnel that accompanied convoys
6 to places where meetings were held between the authorities working as part of the process in view of
7 the establishment of the broad-based government. And I don't know how far that was on the road
8 towards Byumba.

9
10 Again, on that night, I wasn't there, so I am therefore not in a position to say what his mission was or
11 what his assignment was. I learned later that on that day he was accompanied by VIPs to
12 Akagera park.

13 Q. Do you know --

14 A. And when he was returning from that assignment, he was given another assignment to go and provide
15 protection at the residence of the prime minister, Agathe. I have no other comments on this regard with
16 respect to the statement that you have just given me. Mr. Tambour, Thierry, with registration number,
17 he had the name -- there was a mention, "soldier", and I don't think he had any other rank, even in your
18 army.

19 Q. I asked you before about the number of Belgians killed and, in fact, the -- I suggest -- I stated to you
20 that the officer -- the Rwandan officer that brought them from Agathe's house to the camp picked up
21 13 white men, plus the Ghanaians and --

22 A. *Treize*. The translation is "13."

23 Q. That's correct. And that the UN military observer saw 13 white men enter Camp Kigali with the
24 Ghanaians, and yet the Belgian government insists there were only 10 Belgians killed, but there were
25 13 white men killed. And I asked you who the three other men were, and you denied any knowledge of
26 them. My information also is that there was a fourteenth man, a fourteenth man with Lieutenant Lotin's
27 group that night. When they left the airport area after the shoot-down of the plane, they -- that
28 fourteenth man left the unit and returned to base separately, and that man is still alive. Can you tell us
29 about that fourteenth man because he's never been interrogated?

30 A. I cannot respond to any of your allegations. Reference was made of 10 people, that there were
31 10 men. That was the situation at the time. As for the thirteenth and the fourteenth, I don't know how
32 you got to that figure. As to how the fourteenth person got into that compound, I am not in a position to
33 know. I have no comment on that subject. Reference was made to 10 people and there were only
34 10 people, and I don't remember any other Belgian soldier who was at that location at the time. But,
35 again, I would like to point out that I wasn't there so I'm not the right person to whom this question
36 should be put.

37 Q. Because the matter was raised before the senate, Belgian Senate, about the fourteenth man and why

1 he was never interrogated as to what happened that night. So, there was a survivor from that group,
2 but nobody's bothered to ask him any questions.

3 A. Was there a question?

4 Q. No, sir, just a comment. No, sir, I'm just looking through my notes, I'm sorry.

5 MR. BLACK:

6 Excuse me, Mr. President. I'm trying to cut down my questions.

7 BY MR. BLACK:

8 Q. Let's go briefly to the events of January 5th. Now, I'm going to put to you as what I understand
9 happened. Well, first of all, were you there on the January 5th, the swearing-in ceremony of the
10 president? Were you there that day at the CND building?

11 A. Yes, I was, absolutely.

12 Q. What was your mission there? What was your assignment there?

13 A. I was at the entrance to the CND and our task was to make sure that vehicles going in were carrying
14 people bearing cards that had been provided the day before at the UNAMIR headquarters as part of
15 preparation for the swearing-in ceremony. Those cards had been distributed in accordance with lists
16 provided by the various parties.

17 Q. Right. And it's my understanding that everybody had been -- those deputies who had been delegated
18 by their own parties to become deputies were the only ones given accreditation to enter the building,
19 correct?

20 A. That is correct.

21 Q. And that on that morning the Liberal Party had not yet at that time established who in their party were
22 going to be given accreditation to be sworn in as deputies because there was a faction fight between
23 two factions in that party: one between Lando's more pro-RPF faction and Mugenzi's faction, which
24 was a bit more distant from the RPF. Would that be correct? It is correct, isn't it, there was that faction
25 fight going on?

26 MR. BÂ:

27 I would like to simply point out that the characterisation that you are doing is from you; you are the only
28 one who thought so. What makes you think the Lando faction was pro-RPF? Why don't you say that
29 the Mugenzi faction was pro-MRND? In any case, on the 8th of April, Mugenzi went to the interim
30 government, and you know what that government did? You assassinated Lando as from the 7th of
31 April.

32 MR. BLACK:

33 Just a minute, Mr. -- Colonel, I'm sorry. Mr. Bâ -- Mr. President, if Mr. Bâ is going to give evidence
34 again, I'm going to put him in the box. I'm going to call him to be put in the box. He's giving evidence
35 again, and I'm objecting to that, and it's false, absolutely false what he's saying.

36 BY MR. BLACK:

37 Q. Okay. So -- because of Mr. Bâ's intervention, let me put the question again, Colonel. I'm sorry to try

1 your patience, but he's trying mine. The fact is, Colonel, that there were these two factions in the
2 Liberal Party. They couldn't agree on delegates as of the morning of the 5th. And you had -- there
3 were orders given to the security people at the CND to only let in people with duly accredited identity
4 cards to attend the ceremony; isn't that correct? And nobody from the Liberal Party had such
5 accreditation because they hadn't told anybody who was going to be on their list of delegates.

6 A. I believe there are two different things here. It is true that some people -- and I was not in a position,
7 either at that time or now, to say who those persons were and what names were on what cards. I didn't
8 know Mr. Lando Ndasingwa and Mr. Mugenzi in order to know whether they had a card or not. If a
9 person had a card, they were entitled to enter. That is the first point.

10
11 The cards had been given after coordination at the UNAMIR headquarters to Major Mpirinya, who was
12 very likely to be the leader concerning local authorities in charge of distributing cards, according to the
13 lists they had. So, at that time, there were clearly established lists, and the number of cards
14 corresponded to the number of names on the various lists.

15
16 At the entrance of the CND, we were therefore only in a position to allow people who had cards to get
17 in, so those were the people who were able to get in. The others could not get in. It was only
18 subsequently that we heard that there had been a mix-up of cards distributed to people whose names
19 were not on the list that had been approved the day before. I was certainly not in a position to know the
20 card did not bear a photograph corresponding to the name on the list so we had practically no means,
21 other than working to ensure that the ceremony would be conducted in as flexible a manner as
22 possible. We could have checked identity cards, but it wasn't possible. We could have done so in
23 cooperation with the directives of the Kigali weapons secure area perhaps on the proposal of the
24 gendarmerie after the event, but we were not able to predict what was going to happen.

25 Q. And it's true that in the morning Lando's factions showed up, the more pro-RPF faction, and tried to
26 force their way into the CND, into the ceremonies, and the security personnel there stopped them, and
27 there was some little problem there and they were forced to leave because they had no accreditation.
28 They were intent on disturbing the ceremonies. Anyway, the point is that they could not enter the
29 building because they didn't have the proper card; isn't that right?

30 A. Mr. President, was that a question? I didn't understand it this way.

31 MR. PRESIDENT:

32 The question was whether Lando came there and whether he was not permitted to enter. If you know
33 whether Lando came, you can say "yes". And whether he was permitted or not, also you can say if you
34 know.

35 THE WITNESS:

36 I am not in a position to say whether he entered or not. I know that only people who had cards could
37 get in. The others couldn't get in. Some people were prevented to get in. Whether Mr. Ndasingwa

1 came in or not, I'm not in a position to say at that time. Subsequently, it would appear there were
2 incidents, but I don't know whether he came to the CND on that day or not.

3 BY MR. BLACK:

4 Q. Actually, neither Mugenzi or Lando personally showed up, but a faction, a group of people from Lando's
5 wing tried to force their way into the CND ceremonies but were prevented from doing so by the security
6 personnel there because they didn't have any cards, and that was the reason people were not allowed
7 to enter, because they did not have the proper accreditation, and I think you've agreed with that.

8 A. That is what I've been trying to explain for the past 10 minutes. Only people with accreditation card
9 were allowed in. If anybody called Lando, Felicien, or known by any other name, if they did not have
10 the card, they did not get in. And I did not put a name on the card. It was someone else who did. So
11 anybody who came in had a card. It was not up to me to decide at my level whether Mr. Felicien or any
12 other person could get in.

13 BY MR. BLACK:

14 Q. But I put it to you that that group from Lando's faction in the Liberal Party tried to enter with the
15 assistance of that Belgian Major Podevijn, P-O-D-E-V-I-J-N, that he came with them and tried to force
16 his -- assist them in forcing their way in, and there was a bit of a problem there at the gate. You were
17 there, I think; you said you were there at the front entrance. Didn't you see that, that this
18 Major Podevijn -- to force his way through with these non-accredited people, and I put it to you, to
19 disrupt the ceremony?

20 A. No knowledge whatsoever. I did not see Major Podevijn in any vehicle accompanying authorities or
21 members of parliament, or anyone else, for that matter. Those who were not entitled to get in, did not
22 get in. A person who could reinforce the position was Major Mpirinya of the Presidential Guards, who
23 was also at that location and who was wearing a grey, bright uniform, to be very precise and to show
24 you that my memory is very clear. He was not in a uniform; he was in civilian attire.

25 Q. And I put it to you that the president was sworn in that morning, but because the RPF wasn't happy
26 about the Lando faction not being allowed in, nobody returned in the afternoon, nobody showed up in
27 the afternoon to continue the swearing-in of the government, which would have been a government not
28 to the liking of the RPF. Nobody showed up to continue the ceremony; isn't that true?

29 A. What happened inside the CND building, I wasn't present. I know the president took an oath of office.
30 If there were discussions, I didn't know who else had discussions. The president left. Since he was no
31 longer there, no one could be sworn in because it had to be done in his presence. Since he wasn't
32 there, that wasn't done.

33 Q. Right, but I suggest to you the reason it wasn't done is because the RPF and its -- the parties which
34 supported the RPF, all the delegates and General Dallaire, Faustin Twagiramungu, the prime
35 minister-designate, Agathe Uwilingiyimana, the prime minister in place, all refused to show up for the
36 ceremony in the afternoon to continue swearing in the deputies and the ministers, therefore stopping
37 the installation of the government as planned, isn't that correct, because the RPF wasn't happy about --

1 MR. PRESIDENT:

2 Well, Counsel, he has just answered, saying that others couldn't swear in because the president was
3 not available, even after his ceremony.

4 MR. BLACK:

5 Pardon me?

6 MR. PRESIDENT:

7 He said the president went after his ceremony and this was the reason why others couldn't swear in.

8 BY MR. BLACK:

9 Q. Well, that's not true, sir, because you know that at lunch time -- the ceremony was continuing in the
10 afternoon, but in the afternoon nobody showed up except the president; nobody else came. And, in
11 fact, I have a letter here from Prime Minister Agathe on that date, stating that the rest of the ceremony
12 is to be cancelled until further notice. She cancelled it, without informing the president.

13 BY MR. BLACK:

14 Q. Have you seen this letter? I can give you a copy of this letter. Maybe you've seen a copy of it. It was
15 addressed to the general commanding of the force of MINUAR, so you might have seen it in your
16 office?

17 MR. PRESIDENT:

18 We will ask him once. Now, Witness, you said that once the president left the ceremony, nobody could
19 take oath. What happened after the president left the CND?

20 THE WITNESS:

21 Slowly, but surely, everyone left the CND to go back to their party headquarters, probably to resume the
22 negotiations. Again, that was done at a political level. There were some well-placed representatives. I
23 believe there were ambassadors and representatives of other nations with members in Kigali, Rwanda.
24 All those people had a time schedule, which could not -- a programme which could not be extended. I
25 was not inside. I don't know who chaired the ceremony, to know that the president has left, let
26 everyone go home, we'll resume later. If Mrs. Agathe sent a letter to General Dallaire, I would be very
27 surprised because General Dallaire was not the political head of the mission. It must have been sent to
28 Mr. Booh-Booh, and Mr. Booh-Booh complains in his book about General Dallaire. It all depends.

29
30 As to my duties at the time, my duty was to be at the entrance, and I fulfilled my duties. I didn't go
31 inside the building. I am sorry, I'm not in a position to answer that question.

32 BY MR. BLACK:

33 Q. Well, the letter is addressed, funnily enough, to the president of the constitutional court, who also
34 refused to come back in the afternoon. It's addressed to the president -- it is addressed to the
35 president, but it's not addressed to Booh-Booh, I can see. It's addressed to Dallaire. I can show you a
36 copy of the letter.

37

1 MR. BLACK:

2 Mr. Clerk -- I mean, Mr. Registrar, can you show it to him and give one to Mr. Bâ and to the Judges?

3 BY MR. BLACK:

4 Q. It has a K-number. I can't read the K-number, actually. It could be K -- I can't read the K-number, I'm
5 sorry. The last number is a 77761, but I can't read the first two digits. My assistant says they're both
6 K0077761. And, again, this is the -- if you can look at this letter, maybe you've seen it -- it's the letter
7 from Agathe to the president of the constitutional court, copying all the people on the left-hand side,
8 including *general commandant de force de MINUAR*, that's General Dallaire. And it was sent on the
9 same day, cancelling the rest of the ceremonies.

10 A. Yes, the letter was also sent to the special representative of the UN Secretary General, so that was
11 Mr. Booh-Booh, although his function is not mentioned, in compliance with the practice at the time. It
12 was not the head of UNAMIR, but the political head of the mission who was informed, but I repeat I
13 have never seen that letter.

14 Q. Did you hear about -- from General Dallaire, that Agathe had sent a letter or informed people that she
15 was cancelling the rest of the ceremonies for that day so the rest of the government could not be sworn
16 in, in the afternoon, that, in fact, she impeded the installation of the broad-based transitional
17 government?

18 A. Mr. President, I know that my mother tongue is not French, but I would like counsel to show me in this
19 letter the part in which reference is made to the afternoon. The programme of the ceremonies provided
20 for today, there was one ceremony; this was the swearing-in of the president. The second ceremony
21 was the swearing-in of members of parliament, and I suppose that at the end of all that everyone would
22 have been happy and there probably would have been a protocol ceremony with some light
23 refreshments. But to infer from this that the afternoon ceremonies were postponed and not cancelled,
24 she was the one in charge at that time, so it's binding only on Mrs. Agathe. I see nothing in the
25 afternoon. The ceremony started at 11 a.m., and after the swearing-in of the president, which took
26 place around midday, so we're already in the afternoon when everyone left.

27 Q. That's right. That's correct. As you say, the ceremonies began, there were various speeches and so
28 on, and swearings-in, considering the president the most important figure because everything then
29 would flow from the president. And then at lunchtime everybody left, in order for the Liberal Party to
30 resolve its differences and come back with some delegates, and the rest of the government was
31 supposed to be sworn-in in the afternoon, but Agathe, in this letter, cancels it. She doesn't say why, but
32 she says, "I have the honour of informing you that after the swearing-in ceremony of the president of
33 the republic this morning, all the other ceremonies which were equally seen for today are now
34 cancelled, on my order." That's what it says in French and translates in English. So she's talking of the
35 swearing-in of the ministers, the deputies to the parliament, and so on. She cancelled it until further
36 notice.

37 A. She alone knows why.

1 Q. Well, she did know, I suppose, you're right. But I'm putting it to you that General Dallaire never showed
2 up in the afternoon. And did you have any conversation with General Dallaire concerning the
3 cancellation by Agathe of the rest of the swearing-in of the government? Because my information is
4 that the president had told everybody to show up again at three o'clock for the continuation of the
5 ceremonies.

6 A. I cannot confirm that by memory. I know everyone left. That was considered as the end of the mission.
7 Everybody left that and returned to their various offices at the headquarters. I have no idea as to
8 whether or not the activities resumed later in the afternoon.

9 Q. Well, my information is that the president showed up in the afternoon to continue the ceremony, and
10 various ambassadors showed up and other guests, and Dallaire showed up in the afternoon, but the
11 RPF and none of the parties supporting the RPF showed up. Agathe didn't show up.
12 Faustin Twagiramungu didn't show up. So nothing could be done. So it was them that blocked the
13 swearing-in of the broad-based transitional government, and you must have been there with Dallaire, so
14 you must have known that they just refused to show up and take part, so everything got -- because of
15 Agathe's letter.

16 A. I do not know. First of all, Mr. Black says that General Dallaire did not come back in the afternoon and
17 then he says that he came back in the afternoon -- unless the problem was an interpretation -- but he's
18 contradicting himself. He said earlier that General Dallaire did not come in the afternoon and now he
19 says he came. Unless I am mistaken or my recollection does not serve me right, we did not return, to
20 the best of my recollection, at the time when all the parties represented by their MPs and ministers left.
21 As far as I was concerned, that was the end of the ceremony on that day. That is the only thing I
22 remember.

23 Q. Why did you think it was the end of the ceremony on that day, when only the president had been sworn
24 in and the whole thing was to swear-in everybody that day? Why didn't you go back then, if the
25 ceremony hadn't been completed? You left for lunch and then you don't go back. Why didn't you go
26 back when it hadn't been completed?

27 A. Mr. President, I believe that when one begins such a ceremony, there is no lunch break provided, and I
28 believe that in Africa we -- usually, everything centres on the lunch hour, so that when plans are made
29 for speeches, rallies in stadiums, if it begins in the morning, one does not break for lunch; it goes on
30 until the end. Therefore, I think I would be correct in saying that if he left, there was a problem.

31

32 I do not know if he left with his escort, whether he was sworn in or not. All I know is that when the
33 authorities began to leave the CND, we were informed that the ceremony was over for that day and that
34 another attempt would be made subsequently. I cannot answer otherwise.

35 Q. Do you remember who informed you that the rest of the ceremony was cancelled?

36 A. I cannot say, but I would not be surprised to hear that it was Major Beardsley who was also at the CND
37 and who came to say that, "Look, there's a problem and it's over for today." I also believe that

1 somebody addressed the audience in attendance at the CND to inform them that it was over. However,
2 I did not know who that person was, but foreign officials were advised so that they would not remain
3 there after 15 hours. But since I was not there, I would not be in a position to say. We did not leave our
4 position where we were posted. We could not do so on our own initiative.

5 Q. All right. So you weren't there then in the afternoon when the rest of the ambassadors and president of
6 the republic showed up again to continue the ceremony? You weren't there at all, so you don't know
7 what happened then? You never went back?

8 A. No. Therefore, I cannot say if others returned or not.

9 Q. You were aware, following the events of the 5th, that Agathe, Prime Minister Agathe Uwilingiyimana,
10 Faustin Twagiramungu, the prime minister-designate, the RPF and the RPF -- pro-RPF parties, tried to
11 arrange a swearing-in ceremony of the rest of the ministers and deputies in the absence of the
12 president, while he was attending a funeral of another head of state in West Africa? Were you aware
13 that the prime minister attempted to have a ceremony without the president being there, that she
14 contacted Mr. Booh-Booh to have him assist and he refused, saying that there was no such -- it wasn't
15 legal and he refused to take part in such a ceremony, so it never took place? Are you aware that she
16 attempted to do that?

17 A. I believe I recall that such measures or steps were taken. I don't know who was contacted, but I know
18 that it took place, there was such an attempt. Again, it happened at a level far above my own.

19 Q. And, in one way, that could be seen as an attempted coup d'état because they would have sworn in
20 pro-RPF deputies only, and given the RPF had almost total power in the parliament, wouldn't you agree
21 that was -- could be considered an attempted coup d'état at that time, which failed because Booh-Booh
22 refused to take part?

23 A. One could see it that way, but I have no opinion. I am not well versed in political or legal measures in
24 application for such events. All I know is that a broad-based transitional government was supposed to
25 be established and that some unfortunate initiatives may have been launched by some people in trying
26 to secure that call.

27 MR. BLACK:

28 At this point, Mr. President, I wonder if I can make this letter from Prime Minister Agathe Uwilingiyimana
29 an ID exhibit, to be identified later by one of the recipients, including General Dallaire --

30 MR. PRESIDENT:

31 Do you have objection to that, Counsel?

32 MR. BLACK:

33 -- or Mr. Booh-Booh, any of the other --

34 MR. PRESIDENT:

35 PM's letter.

36 MR. BLACK:

37 -- including my client received a copy.

1 MR. BÂ:

2 No objection. No objection.

3 MR. BLACK:

4 Thank you. I don't know which number that would be.

5 MR. KOSHOPA:

6 Thirteen.

7 MR. PRESIDENT:

8 Thirteen. Counsel Black moves to mark a letter written -- purported to be written by

9 Madam Agathe Uwilingiyimana, dated --

10 THE WITNESS:

11 It is not dated.

12 MR. BLACK:

13 No, but internally, it refers to it was written on the 5th because it says, "The events of this morning, the
14 5th."

15 MR. PRESIDENT:

16 It refers to events of the 5th of January, which bears K-number K 0077761, as ID. 13.

17 *(Exhibit No. ID. 13 [Ndindiliyimana], for identification)*

18 BY MR. BLACK:

19 Q. Now, the reason I'm going through that is because -- - aside from establishing what the events -- the
20 sequence of events is politically, is that Jean-Pierre's appearance has to be taken in that context,
21 doesn't it, because, the 5th, the president is sworn in; the rest of the government's not sworn in. The
22 8th, there's an attempt by the pro-RPF factions to do it on their own without the president. That fails.
23 Then, on the 10th, Jean-Pierre is introduced to you by one of the parties who tried to do that on the 8th,
24 which is Faustin Twagiramungu. He introduces Jean-Pierre to you. And we've gone through all the
25 problems with Jean-Pierre. Then a series of other events take place --

26 MR. BÂ:

27 Just a small correction, point of correction. As far as I know, Jean-Pierre was introduced on the 8th and
28 not the -- on the 10th and not the 8th. Let us not confuse issues.

29 MR. BLACK:

30 I never said anything about that.

31 BY MR. BLACK:

32 Q. Yes, exactly, on the 10th, Faustin Twagiramungu, one of the parties involved in the attempt on the 8th,
33 which failed, introduces this man, Jean-Pierre, to you and feeds you all this information discrediting the
34 government, basically. Didn't that raise alarm bells as well, the appearance of Jean-Pierre in that
35 political context that Faustin Twagiramungu maybe had another agenda, that because they couldn't get
36 that government installed, they wanted to somehow discredit the one still in place and attack the MRND
37 and discredit it? Looking back on it now, couldn't you see that Jean-Pierre had that role?

1 A. It is hard to make such an assessment. Even now, it is.

2 Q. But other things happened after that. After these political -- attempts politically to put things in favour of
3 the RPF, then a series of events take place which the RPF tried to use to discredit -- and effectively --
4 to discredit the government, including giving you -- feeding you this Jean-Pierre, and the murders of
5 people like politicians like Gatabazi, which the RPF attributed to the government, but which we now
6 know were killed by the RPF. Isn't that the case, that there was a series of events after that which the
7 RPF tried to use to discredit the government, murders, and so on, and which we now know from RPF
8 people and others, that were actually done by the RPF?

9 A. I have no reason to comment on that because I do not know what measures were taken in committing
10 these assassinations by whoever committed them. Therefore, I cannot comment as anything is
11 possible.

12 Q. Yes. Well, there's a Prosecution expert witness named Professor Guichaoua who includes in the report
13 the evidence and, in fact, the members of the team that assassinated Gatabazi -- they're all RPF
14 officers, and it was done to discredit, or to achieve two aims: to get rid of Gatabazi, and also to discredit
15 the government.

16

17 You had no information from General Dallaire or anybody else, any other informants, advising you who
18 really killed Gatabazi at that time?

19 A. No. At the time, or level, I had no idea. This mission was being handled by the UNCIC pool, the civilian
20 police of the United Nations, that were part of the mission and I believe, if I'm not mistaken, they were
21 under the command of an Austrian officer. Therefore, I am not in a position to say what the result of
22 that investigation was. It was a UN investigation mission that was designed to find out who the parties
23 involved in that assassination were. I can therefore not comment on that.

24 Q. But General Dallaire also ordered or had -- was asked to investigate the massacre of about 40 people
25 up north in Ruhengeri on the 17th of November, and witnesses at -- on-site stated that RPF soldiers
26 were seen in the area and they found evidence, such as RPF military gloves, in the area and some
27 other indications it was RPF that had massacred these people, including children and locally-elected
28 MRND members who had been elected in local elections, they had been assassinated. Were you
29 aware of that investigation taking place? Because it caused quite a stir in the country. It was on the
30 17th of November -- of '93, sorry.

31 A. I was indeed aware that a mission had been commissioned in connection with those massacres.
32 Moreover, it was not the only disgusting -- this was the translation provided at the time in French --
33 event perpetrated against the Rwandan population, but from where I was, given that I was not at the
34 site, I think that if any perpetrator proceeds to kill, first of all, they would not leave any indicators of their
35 presence there and, furthermore, if people were to be warned as in a warning attack, I am aware that
36 there were attacks on Red Cross vehicles, children had picked up grenade that were connected to
37 detonators. So all sorts of intrigues were being used, but determining who was responsible was an

1 almost impossible task.

2 Q. Well, I understand that Dallaire's report, which was never released officially, came to the conclusion
3 that the RPF did it and, in fact although -- Major Beardsley, when he testified here in the Military I trial,
4 said -- he agreed that there had been, for instance, a couple of -- or one or two military gloves which
5 were evidently RPF had been found on-site. But General Dallaire, instead of releasing that report,
6 buried that report and stated that it could have been the government or the RPF, and tried to implicate
7 the government or insinuate the government may have done -- killed its own people. Did you have any
8 conversation with General Dallaire about why he would not release that report and the conclusions of
9 that report?

10 MR. BÂ:

11 Where did General Dallaire make such a statement? Are you just making assertions or are you quoting
12 General Dallaire?

13 MR. BLACK:

14 That's what he said.

15 MR. BÂ:

16 Where?

17 MR. BLACK:

18 Sit down, Mr. Bâ. I'm asking the colonel, not you.

19 MR. BÂ:

20 He never said this. This is all made up.

21 THE WITNESS:

22 Mr. President, often in this Court, Mr. -- General Dallaire's book has been quoted. I believe that in his
23 book he talks of measures taken by -- in which his assistant, Major Beardsley, participated. And he,
24 too, had doubts about the perpetrators of this attack. He thinks -- talks of proof that had been planted
25 by one party or another and that on his way back from the place where those children were found, he
26 met a group -- I don't know how big it was -- but it appeared to be students from the commando centre
27 Bigogwe, and he indicates that traces of strangling on the necks of the children who had been killed
28 seemed to coincide -- or, appeared to correspond to marks that could have been left by the cords that
29 are worn by the soldiers around their waists. Therefore, I can say that I did not read any report signed
30 by General Dallaire in which he suspects one or other of the parties to have been responsible.

31 BY MR. BLACK:

32 Q. Yes, that's what Major Beardsley said, that despite the fact that witnesses said they saw RPF soldiers
33 in that area on that date, despite the fact that they saw evidence of RPF equipment there, Dallaire
34 reached some absurd conclusion that because he saw some soldier wearing something, that they could
35 have been involved, against all the hard evidence. He just ignored all the hard evidence. But do you
36 know why General Dallaire took that position of ignoring all the hard, concrete evidence and tried to
37 speculate against the government? Do you know why that --

1 MR. PRESIDENT:

2 Counsel, I heard the witness say "or planted evidence."

3 MR. BLACK:

4 That's right.

5 BY MR. BLACK:

6 Q. Do you know why General Dallaire, against all concrete evidence -- witnesses said it was RPF. Fathers
7 of children who were killed said it was RPF, they saw them. The fathers of the children, these two
8 fathers, said, "I saw them, RPF." They found evidence of RPF equipment on-site, and yet
9 General Dallaire, in order not to blame the RPF -- and he said he refused to continue the investigation
10 because it might embarrass the RPF, why he refused to point the finger at who was really to blame?

11 MR. PRESIDENT:

12 I think we can get the answer from General Dallaire when he comes.

13 BY MR. BLACK:

14 Q. Well, sir, did you have any conversation with General Dallaire about that event in which he indicated
15 why he didn't want to embarrass the RPF, why he was willing to embarrassment the government, but
16 not the RPF?

17 A. As far as I know, he embarrassed no one. As far as I know, the report was not distributed. As far as I
18 know, no statement was made on the matter at the headquarters or outside the headquarters. The first
19 time I read of such -- of that incident was in his book. His main aim was to establish the broad-based
20 transitional government.

21 Q. You were aware that -- this is in regard to protection of VIPs, that General Dallaire ordered or arranged
22 for the reduction -- that originally gendarmes were ordered to protect -- or assigned to protect VIPs, but
23 then General Dallaire arranged for the reduction in the number of gendarmes protecting VIPs and had
24 that -- those escorts replaced by Ghanaians brought down from the north of the country. Were you
25 aware of that happening? You must have been aware that was happening.

26 A. I have no recollection of a Ghanaian contingent being removed from the demilitarised zone to come to
27 Kigali. Therefore, I cannot make the link between that and the events of the 6th April. I know I was not
28 there. I'm aware that the Ghanaian contingent -- battalion, rather, came down to Kigali once the
29 Belgians were no longer there. But as to their assignment as close protection for VIPs, I know nothing
30 of that.

31 MR. BLACK:

32 Mr. President, may we take a break now? I'm going to try to go through my questions, to see what I
33 can cut out and what I can use.

34 MR. PRESIDENT:

35 Yes. Try to give the afternoon to Mr. MacDonald.

36 MR. BLACK:

37 Oh, no problem. I might even finish in an hour or less, depending on what is left.

1 *(Court recessed at 1055H)*
2 *(Pages 1 to 27 by Karen Holm)*
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1 (Court resumed at 1117H)

2 MR. PRESIDENT:

3 Yes, Mr. Black.

4 MR. BLACK:

5 Thank you, Mr. President. Before I forget, there's a housekeeping matter -- because I'm putting in
6 many documents in. I may -- this -- there's letter here from Shaharyar to people in New York
7 concerning a 20th November study to see -- and report to see if there was any warnings of genocide in
8 UNAMIR documents. I think this -- part of that was a letter from -- an attachment from Ms. Isel Rivero.
9 I think it was part of that report, but I'm not sure. I wonder if the registry could check because it was
10 supposed to be part of that document. Could you check, Mr. Registry, to see whether a letter from --
11 dated 20th November from Isel Rivero. I can give it to you -- is part of that document because it was
12 supposed to be -- oh, he had copies. So, if you could just check to see if that was part of that because
13 that was supposed to be put in.

14

15 It's just another letter, stating the same results as before, but it was Isel Rivero's input into that report,
16 and I think it's part of the main report I gave to the registry to be made an exhibit, but I'm not sure. If it's
17 not, it should be part of that. So what I'm attaching is Isel Rivero's note, basically. Apparently in the
18 French channel I mentioned Nzanzuwa. It has nothing to do with Nzanzuwa. I don't know. It's
19 Isel Rivero. That's -- I'll spell that: I-S-E-L, is the first name; the second name, Rivero is R-I-V-E-R-O.
20 This was a note attached to that report. If it's not in that report I filed as an exhibit, it should be. I am
21 not going to ask any questions on it, but I just want it attached as part of that exhibit because we've
22 already asked questions on that.

23 THE WITNESS:

24 Mr. President, I don't know to what report reference is being made.

25 MR. PRESIDENT:

26 It's not a question to you, Witness.

27 MR. BLACK:

28 Actually, maybe the registrar can take that away from the witness. He shouldn't have that.

29 BY MR. BLACK:

30 Q. I'm sorry, Colonel; it's not for you.

31 A. A note of 1995.

32 MR. BLACK:

33 Perhaps we can leave that so the registrar can keep on that and I'll proceed with my question.

34 MR. PRESIDENT:

35 Mr. Bâ, did you get a copy?

36

37 Yes, Mr. Black, you can continue.

1 MR. BLACK:

2 Thank you.

3 BY MR. BLACK:

4 Q. Colonel, let me ask you something else. When this Lieutenant Nees, whose name has come up a
5 couple of times as being another intelligence officer with UNAMIR -- with KIBAT, testified on
6 March 7th, 1997 to the Belgian senate he was asked a question -- he made a statement in that -- at the
7 end of that statement, he says this -- then he's asked a question and he gives a response. I would just
8 like you to listen to this and then I want to ask you a question. So he says: "News" --

9 MR. BLACK:

10 I'm sorry for -- interpreters, just you can do a free interpretation. I'll try and read slowly.

11 BY MR. BLACK:

12 Q. "We also received information to the effect that the *Interahamwe* gave its members military training and
13 taught them how to use firearms. Even some Belgians who were in Rwanda gave us indications
14 regarding arms caches in Kigali. We were not able to verify such information. I, therefore, do not know
15 whether that information was reliable".

16

17 Then one of the senators asked this question: "Who forbade you to look for those arms caches?"

18 "Lieutenant Nees says: "A request for authorisation to carry out such a search" --

19 THE WITNESS:

20 Sorry to interrupt, but part of the text is missing, both in French and English.

21 MR. BLACK:

22 Okay. I'll read it again.

23 MR. PRESIDENT:

24 If you have a copy, you can give it to the witness so that he can follow.

25 MR. BLACK:

26 Maybe I can just paraphrase it. It may be simpler.

27 BY MR. BLACK:

28 Q. Anyway, Lieutenant Nees says -- he says the Belgians had indications there were cache -- arms
29 caches in Kigali. He doesn't say whose -- that, "We didn't verify that" -- or, "We didn't verify it." He's
30 asked, "Who stopped you from looking for these weapons cache?" He then testified that Colonel
31 Marchal asked for permission to proceed to do some searches, but he was refused by
32 General Dallaire." That's the testimony of Lieutenant Nees. So my question is: if that's correct, what
33 Lieutenant Nees says, that General Dallaire refused Marchal -- Colonel Marchal's request, do you know
34 if that was because General Dallaire was afraid of searches discovering, by accident, RPF weapons
35 caches?

36 A. Here, again, this is a corroboration of what I said earlier, that you needed authorisation from the
37 commander, sector commander, as the high-ranking officer, in order to be able carry out searches and

1 seizures of weapons kept in illegal places. Secondly, Lieutenant Nees is providing information
2 regarding arms caches and training which is unfavourable to the MRND. I don't know the date he is
3 referring to, but they are not referring to -- or, alluding to arms caches, and I certainly cannot confirm
4 the allegation that the general had misgivings regarding a search of weapons that could lead to arms
5 caches of the RPF. Thirdly, even in my statements, reference is only made to one location identified as
6 an eventual government location since this is the headquarters -- or, the head office of the MRND. The
7 three other caches were not identified or referred to as arms caches belonging to one party or the other.

8
9 I even believe that in the military equipment and the weaponry belonging to the RPF and the
10 government force -- deal with weapons that came from all sources. It was difficult to determine the
11 origin -- or, the source of those weapons, be it for the one party or the other if those weapons were
12 seized. For instance, the -- a pistol or gun from Belgium could have been used either by the RPF or the
13 gendarmerie or the government forces or the commandos.

14 Q. That's doesn't really answer --

15 MR. KOUAMBO:

16 Mr. President.

17 MR. PRESIDENT:

18 Yes.

19 MR. KOUAMBO:

20 Registry has cross-checked and found out that the document referred to by Mr. Black was not admitted
21 as an exhibit.

22 MR. BLACK:

23 My intention was that it was supposed to be part of that -- attached as part of that report. Could we put
24 it in as part of that report, Mr. President? I don't want to have to go through the routine of asking the
25 question.

26 MR. PRESIDENT:

27 What is the report referring to?

28 MR. BLACK:

29 The report of November 20th from Shaharyar to Gittani (*phonetic*) and Goulding and Hansen in New
30 York, reporting on the fact that they had done a study of the UNAMIR documents and found no
31 indication there was warnings of any plan to commit genocide. I think that was made an exhibit.

32 MR. PRESIDENT:

33 Was it?

34 MR. BLACK:

35 I believe so.

36 MR. PRESIDENT:

37 Yeah.

1 MR. BLACK:

2 Or was it an ID document? I can't remember actually. I thought -- I thought it was made an exhibit
3 because it was going to come from Shaharyar, so it was a UN document, and you accepted it. But
4 maybe it's wrong. In fact, there may be several documents floating around there which have not been
5 marked as ID or exhibits yet. Is that true?

6 MR. KOUAMBO:

7 Mr. President, we have ID 10.

8 MR. BLACK:

9 ID. 10.

10 MR. KOUAMBO:

11 The report on the reconnaissance mission.

12 MR. BLACK:

13 Right. Do you have another one after that from this fellow Shaharyar, dated November 20th? It was
14 quite -- maybe several pages thick.

15 MR. KOUAMBO:

16 It doesn't appear.

17 MR. PRESIDENT:

18 I don't have any recollection of such --

19 MR. BLACK:

20 I handed -- I think I handed it to you at one point. Oh, well, I'll leave that to the end of the questioning.

21 BY MR. BLACK:

22 Q. Going back to this question, Colonel, it doesn't really answer my question. My question was simply
23 this, and you went a long way around before not telling me the answer, which is why Nees says
24 Marchal asked for permission to make searches; Dallaire said no; he refused. I am suggesting to you
25 that Dallaire refused because he was afraid that those searches might find -- discover -- or, uncover by
26 accident, RPF arms caches so he didn't want any searches made. Is that your knowledge of the
27 situation from talking to General Dallaire? Or could you tell us, if no, why Dallaire refused Marchal's
28 request for weapons searches?

29 A. I have no knowledge of him refusing. We did not discuss it, so I don't know what went through his
30 mind. Once again, in the fax he is requesting directives from New York to do so.

31 Q. I don't want to get into that again because it's obviously not the case. That fax is asking -- he is
32 informing New York what he is going to do, not asking permission, except to protect the informant.
33 We've already gone through a discussion about why you didn't need permission from New York to do
34 that, except, I put it to you, your real fax which was actually sent to New York, and through Booh-Booh
35 as well, did ask permission to do a search because the search was going to be outside of the Kigali
36 weapons security area agreement; that is, without the cooperation of the gendarmes and local police.
37 That's why he asked permission. In that document you really did send, they wanted to breach the

1 KWSA agreement, and New York said, "No, you can't do that." But in the fax, you presented as being
2 the original fax, there's no such -- no such request made, sir. So ... anyway, we had that debate last
3 week, so ...

4
5 Just one question: I got a little sketch here; maybe you can help me. Or maybe I don't need a sketch.
6 When Jean-Pierre and you and Captain Deme went to the MRND headquarters to see if Jean-Pierre
7 was telling the truth about the weapons being there, you said only Deme and Jean-Pierre went towards
8 the building, and then came back and reported to you they had actually entered the building and found
9 these weapons. I suggest to you that if you had -- if General Dallaire had wanted to make sure that the
10 weapons stayed there, if they were there, so a search later could be done, you could have placed
11 surveillance on that site to make sure that the weapons weren't moved or that you would record that
12 they had been moved? Isn't that true, that surveillance could have been placed on that building very
13 easily?

14 A. No.

15 Q. And why not? Because -- you were at the main base, UNAMIR base was nearby and Viking group was
16 nearby and somebody could have sat in Kigali nightclub and watched that building from there. I mean,
17 you could have put a car -- somebody could have surveilled that building to make sure weapons weren't
18 moved in or out, pending a search, couldn't you? What was so difficult about doing that, put a watch on
19 the building?

20 A. Firstly, because General Dallaire was commanding troops in Rwandan territory and he would,
21 therefore, have had to give instructions at the sector level, the commander in charge of the sector, who
22 would then have had to take measures. Before conducting such a mission, one has to debrief on what
23 was noted, which would have happened the following day, to the sector commander, General Dallaire,
24 who would also have been present at such a meeting at UNAMIR headquarters, and once that was
25 done, fresh orders or directives are provided by the chain of command to the effect that -- whereby the
26 force commander is in a position to decide -- or, determine who he will give these orders to; therefore,
27 the military information officer would begin by putting in place an observation, security plan, but this
28 would be in conjunction with the local authorities. So if it was not done at the sector level, the person in
29 charge -- or, responsible for that is the sector commander. That is the information you were waiting for.

30 Q. No it's not, because you're just telling me the bureaucracy involved. But it would have been very simple
31 for General Dallaire to delegate somebody to survey that site without even the cooperation of the local
32 police -- the gendarmerie 'cause he could have done it. Somebody, plain clothes, some local -- even
33 Jean-Pierre, himself, could have sat in Kigali nightclub and watched the building for a day until he got
34 permission from Habyarimana to do a search, which was never asked for. So, I just want to put it to
35 you that a surveillance could have been done to make sure those weapons had stayed there, so that
36 Dallaire could have asked Habyarimana for permission to search and it could have been done to
37 confirm Jean-Pierre's story or not, but that was never done. I'm asking you: first of all, it could have

1 been done; (b) -- secondly, why was it not done?

2 A. Mr. President, may I make a suggestion. I think Mr. Black should return to the Canadian army and
3 become a master tactician for the Canadian army because, apparently, he seems to have more
4 experience in covert operations involving surveillance in an area which, it seems, is very familiar to him.
5 General Dallaire did not take a decision. The sector commander, who was responsible for that sector,
6 took no decision. I, personally, was not in a position to impose a tactical procedure because the role
7 we were playing was a policing one, and at that level I certainly could not act.

8 Q. Did you have any discussion with General Dallaire about why -- and in discussing this, and did
9 General Dallaire suggest to you why surveillance was not put on that site to make sure the weapons
10 stayed there until they could do a search? It would have been a very simple matter to put a man on-site
11 there and watch that place for a few hours. It didn't need to go through a lot of bureaucracy to put a
12 man there.

13 MR. PRESIDENT:

14 Well, Counsel, it is a fact that they had not done it, so we will move on.

15 MR. BLACK:

16 All right.

17 BY MR. BLACK:

18 Q. Sir, do you have any -- you were in -- obviously in Rwanda and observed the events progress through
19 time. Do you have any personal -- opinion, professional or personal, about the cause of the killings
20 which took place after April 6?

21 MR. BÂ:

22 That is vague, "after the 6th". Please give a reference from the 6th of July, or are you talking about --
23 2 July, or are you talking about the day that followed the 6th; that is, the 7th? Please be more specific.

24 MR. BLACK:

25 I'm talking about any time after the 6th.

26 THE WITNESS:

27 Yes.

28 BY MR. BLACK:

29 Q. Or if not, I could put to you the opinion of a superior officer and ask if you agree with it. Maybe I can do
30 it that way. As you said, you know Colonel Vincent, Colonel André Vincent -- that's V-I-N-C-E-N-T --
31 testified 7th of March 1997 before the Belgian senate. And at the time he was the chief of intelligence
32 services for the Belgian army, correct?

33 A. Do you mean at the time of the testimony?

34 Q. Yes, in 1997.

35 A. No. He was not chief of intelligence service in the Belgian army. To be specific, Colonel André Vincent,
36 at the time of the incidents in Rwanda, was the head of the technical cooperation together with the
37 government forces in Kigali, and then he was transferred, because that cooperation ended after the

1 events that began on the 6th of April, after four months, during which he was suspended. He joined the
2 intelligence service and -- where he held the title of chief of intelligence.

3 Q. That's right.

4 A. This service -- or, department is headed by a general and he was answerable directly to the minister of
5 defence.

6 Q. Right. I'm talking about when he testified in 1997, he held that position; correct?

7 A. What statement did he make?

8 Q. I just want you to confirm, Colonel. So, it's correct, he held that position in 1997 when he testified? I
9 didn't hear an answer; I'm sorry.

10 A. I confirmed that he was chief of the intelligence service and not chief of intelligence and security.

11 Q. Right. Thank you. Well, he was asked what -- in the Belgian senate, what he thought was the cause of
12 the events -- the killings in Rwanda, and he says the following.

13 MR. BLACK:

14 You'll have to do a free translation; I'm sorry, again, for the interpreters. It's about two paragraphs.

15 BY MR. BLACK:

16 Q. And I just want to read this and see if you -- what your thoughts are on this, whether you agree or not,
17 from your observations in Rwanda. He said, "I never received any indication that could be taken
18 seriously with regard to the genocide."

19 MR. BÂ:

20 Mr. President, I cannot hear a thing he is reading. Could he start again and read from the text?

21 Because I did not understand anything.

22 MR. BLACK:

23 Well, then, please open your ears, Mr. Bâ. It's quite clear to me.

24 BY MR. BLACK:

25 Q. Again, he said, "I never received any indication -- any serious indication."

26 THE WITNESS:

27 I'm sorry, there is an interruption when the interpreter speaks. Would the counsel, please -- Mr. Bâ --
28 when Mr. Bâ spoke there was an interruption of the translation, so if Mr. Bâ could please -- or, Mr. Black
29 observe a pause and wait for the interpreter to finish.

30 MR. PRESIDENT:

31 Yes, Mr. Black, give him a chance; give him a little time.

32 MR. BLACK:

33 I've done that every time, sir. I've waited for the interpreter to finish. I'll do it again.

34 MR. PRESIDENT:

35 Yeah.

36 BY MR. BLACK:

37 Q. "I never received any serious indication with regard to the genocide. I believe that the genocide was a

1 manifestation of the disarray of destabilised people and not a series of factors -- rather, by a whole
2 series of factors. First of all, population pressure resulted in a large part of the population being made
3 to leave -- live in destitution; the prices of tea and coffee shot up -- rather, they fell, and public finances
4 were weakened, and the IMF and World Bank came to impose a structural assistance or adjustment
5 plan; the war led to a lot of suffering and resulted in the displacement of 900,000 people in 1994; there
6 was a famine in the south; and then the democratisation process kicked off, but it was not suited to this
7 type of society as political parties had no foundations, no platforms to stand on and merely reinforced
8 divisions during this period; so-called journalists were unleashed, engaged in mud-slinging and
9 incitement --

10 MR. BÂ:

11 Did you --

12 BY MR. BLACK:

13 Q. -- with regard to the Arusha agreements --

14 MR. BÂ:

15 Did you not skip something because you've read the text? When he refers to so-called journalists,
16 does he name anyone? Did he not mention RTLM and *Kangura*?

17 MR. BLACK:

18 Mr. Bâ, will you sit down so I can finish this? I am reading this exactly. Would you please sit down?

19 MR. BÂ:

20 I will not sit down.

21 MR. BLACK:

22 *(Microphones overlapping) ...*

23 MR. BÂ:

24 We do not think your reading is reliable. Would you present the text?

25 MR. BLACK:

26 Are you calling me a liar? You come over here and call me a liar, sir.

27 MR. PRESIDENT:

28 Yes, Mr. Counsel, I think the best place for all this is not inside. Go outside, and do whatever you want.

29 MR. BLACK:

30 Then, Mr. President, I object to him calling me a liar.

31 MR. PRESIDENT:

32 No, Counsel, I think he -- in the context you are reading, he says that you are not giving the --

33 MR. BLACK:

34 Then I ask him to read it out loud for me.

35 MR. BÂ:

36 Show us the text. Why are you acting illegally? And why are you not being transparent?

37

1 MR. BLACK:

2 Why are you trying to disrupt my cross-examination? You don't want the world to know what really
3 happened there, again.

4 MR. PRESIDENT:

5 Mr. Black, no cross-talk, please.

6 MR. BLACK:

7 Mr. President, I'm only --

8 MR. PRESIDENT:

9 Mister --

10 MR. BLACK:

11 Just if I could proceed with the question.

12 MR. PRESIDENT:

13 Yes, Mr. Registrar.

14

15 Mr. Black (*sic*), shall we wait until he finishes? If he has omitted anything, you can point out later.

16 MR. BLACK:

17 I will give it to him and he can report (*sic*) it out. I'm not --

18 MR. PRESIDENT:

19 Yeah.

20 MR. BLACK:

21 Okay.

22 BY MR. BLACK:

23 Q. "As for the Arusha Accords, all they did was re-enforce the distrust -- a (*unintelligible*) distrust that was
24 accentuated even more by Mr. Ndadaye's assassination -- the assassination of Mr. Ndadaye, the
25 president of Burundi. Finally, the fact that must be, above all, borne in mind is the assassination of
26 Habyarimana. He was respected, was on top of things, which had, indeed, been instrumental in
27 preventing -- or, reducing earlier massacres. His death unleashed genocide, so to speak, because
28 there were massacres of Hutu, as well."

29

30 Then he is asked: "Why did you talk of a pseudo genocide?"

31

32 The response is: "I said large-scale massacres."

33

34 And, finally: "My personal opinion is that there was a general -- or, widespread madness, a veritable
35 explosion."

36

37 That's his view of things from on the ground. He was there and his position is -- he held was chief of

1 army intelligence. Would you agree with what he -- his position?

2 MR. PRESIDENT:

3 Before -- Counsel, before that --

4 THE ENGLISH INTERPRETER:

5 Your Honour's microphone, please.

6 MR. PRESIDENT:

7 Yeah, if you can give that document to him. Yes, mister --

8 MR. BÂ:

9 This is just one document to be shared between the Prosecutor and the witness. Wait --

10 MR. PRESIDENT:

11 Mr. Black -- Mr. Bâ, you will see whether he has missed anything.

12 MR. BLACK:

13 I haven't missed anything. And if anybody accuses me of that again, I'm gonna take action of my own.

14 MR. PRESIDENT:

15 We'll see -- this is just to verify. It's nothing to --

16 MR. BLACK:

17 Well, I resent Mr. Bâ standing up and saying that I'm lying when he has no proof whatsoever that's the
18 case.

19 MR. MACDONALD:

20 And I would suggest -- as far as I'm concerned, Mr. Black is Mr. Integrity himself, and if -- I suggest that

21 Mr. Bâ should apologise to Mr. Black because this is inadmissible in a court of law, for obvious reasons.

22 MR. BÂ:

23 I will not apologise at all. The answer I gave merely flows from his behaviour. He proposed that I
24 suggested he was lying, and I answered. It is his methods that make me rise, because when he
25 presents a document without disclosing it to anybody, we have to take it with reservations -- very strong
26 reservations. And if you claim that your methods are orthodox, I would counter that and I would say
27 that they are unorthodox. I will, therefore, not apologise.

28 BY MR. BLACK:

29 Q. Colonel, will you respond to my question then. This is Colonel Vincent's testimony to the Belgian
30 senate. It was -- the cause of the massacres in Rwanda was because of all these factors and it was
31 really an explosion of -- a collective explosion because of all these factors causing stresses on the
32 populations. Would that accord with your view of the situation on the ground?

33 A. That introductory reading of Colonel Vincent's testimony, certainly there are some things I might not
34 have noticed in Rwanda. There is mention of famine, the famine that began in the southern part of the
35 country in 1994. That is quite -- that is news to me, so that I would say that he, having been there,
36 probably had more information, more than us. And this compatriot of mine was, so to speak, pro-RPF;
37 however, I do agree that in the information we received, it appeared that the president had lost control

1 of the country, and it is also indicated in some of the documentation I have. Therefore, I would agree
2 that owing to a lack of control being exercised that there was a snowball effect, an explosion, that
3 followed, the shooting of the president's aircraft.

4 Q. Thank you, Colonel.

5 THE ENGLISH INTERPRETER:

6 Counsel, microphone.

7 MR. BÂ:

8 Mr. President, to bolster my assertion that he is withholding information, this is what the colonel said on
9 the same page, Colonel Vincent, that is: "As far as -- according to me, the person -- according to me,
10 the person or persons who reported on RTLM, that the Belgians had taken part in killing Habyarimana
11 provoked this massacre."

12
13 Mr. Destexhe asks him a question: "Why was the RTLM created; was it not doing -- carrying out
14 propaganda?"

15
16 Colonel Vincent's answer: "It was set up in the context of -- against an anti-UNAMIR context. It was just
17 a tabloid and not worth the paper it was written on."

18
19 Another question: "Was the RTLM not founded by supporters of Habyarimana?"

20
21 Colonel Vincent's answer: "Some of its founders were moving in the president's circle."

22
23 That is why I said you are making omissions and withholding information. When he talks of so-called
24 journalists, he is clearly referring to the RTLM. But you have withheld that information from the witness.

25
26 Registrar, you can take the document back.

27 MR. BLACK:

28 No, he is not referring to those journalists. He's referring to other journalists, sir. And RTLM has
29 nothing to do with his opinion. I'd like that document back because I have another question on this,
30 please. In fact, I will file this, Mr. Bâ, and then we'll file these transcripts as an exhibit, and the Judges
31 can read the whole transcript for themselves. Thank you.

32 MR. BÂ:

33 No objection.

34 MR. BLACK:

35 Oh, good. Thank you very much.

36 BY MR. BLACK:

37 Q. Colonel Vincent, he's asked this questions. See if you agree with this: "Do you speak the language of

1 the country? Were you in a position to read the editorials, the aggressive editorials?" He says the
2 language is difficult, and goes on to say, "His contacts with Major Podevijn were difficult." And then
3 says this, in seemingly no context: "The chief of the gendarmerie says that it is true, with whom, it is
4 true" -- I'll start again. "The chief of the gendarmerie, with whom, it is true, I had regular contacts, is far
5 from being an extremist." Would you agree with that -- or, did you have enough contact with
6 General Ndindiliyimana to say?

7 A. Mr. President, I do not see the relationship between the difficulty of the language and contact with
8 General Ndindiliyimana. Perhaps I am confused, but those are two different issues. Rwandan
9 language, Kinyarwanda, is a difficult language, but I think that if somebody goes there and is stationed
10 there, he either seeks the services of an interpreter or translator, pays for translation services, in order
11 to keep up with events in the newspapers. So, this is also a part of the freedom of the press and
12 democracy.

13
14 Now, with regard to contacts with the commander of the gendarmerie, this was one of his duties as a
15 defence -- in the position occupied as chief of the technical cooperation mission. Now, as to what
16 relationship he had with General Ndindiliyimana, I cannot comment on that. I was not present. I must
17 admit that this is the first time I am in the same room as General Ndindiliyimana and I can, therefore,
18 make no comment. However, these are two separate issues being talked of in the same paragraph.

19 Q. No, I agree with you, General (*sic*) -- Colonel. I hope you will be a general one day. Did the -- no, it's
20 just thrown out of the blue, out of context. He just throws this in there in response to that question that
21 General Ndindiliyimana's far from being extremist. But, okay. He also said something in response to a
22 question about whether there was planning for the genocide and the question was put: "Wasn't there a
23 KWSA?"

24
25 And his response is the following. This is in regard to arms caches. "Planning should not be linked to
26 the presence of arms caches. There were movements of guerilla -- there was guerilla warfare -- there
27 were guerilla movements in the north, against which the militias created -- were created. Arms were
28 made available solely for the purpose of defence -- or, defending themselves. Rwanda is a big village
29 in which everyone knows one another. There was, therefore, no need for lists for the genocide to be
30 committed."

31
32 Would you agree with his assessment that the presence of arms caches doesn't necessarily lead to
33 anything in connection with genocide, a planned genocide?

34 A. Let me make a short comment, Mr. President. It turned out that arms were not needed for major
35 massacres to be committed, because massacres were committed with the use of hammers, with
36 studded hammers with nails, and that a weapon used by most farmers in Africa, the axe, was used.
37 Those weapons were used for active defence of Kigali town. But at a plan -- and the network for the

1 defence of the town had been invented in order to be in a position to count on certain people to defend
2 the town, and they were not paid for such defence. The lists were not used for defence. They were
3 used for other things. The weapons were not used. They did not use the ammunition for the
4 massacres. They had much simpler methods for doing so."

5 MR. BLACK:

6 Okay. Perhaps, I can make this an exhibit now. The page I read out to you, Mr. President, was at
7 page 127. I've marked it in yellow, but you can read the entire transcripts to satisfy yourselves that I
8 have not been unfair to the transcript.

9 BY MR. BLACK:

10 Q. And, lastly, I want to complete with a series of questions about --

11 MR. BLACK:

12 The exhibit, next -- I think it's the transcription of 3rd of March or 7th of March.

13 MR. PRESIDENT:

14 Transcript of 7th of March is tendered by Counsel Black as an exhibit, marked D. 71. Counsel says that
15 he made specific reference to page 127.

16 MR. BLACK:

17 And the reference to my client not being an extremist is on page 128. The reference to the fact that it
18 was an explosion reflected madness is on page 129, and the RTLM is on page 127, Mr. Bâ.

19 MR. BÂ:

20 With regard to the transcript of the hearing, it's the testimony before the Belgian senate, isn't it? You
21 state that you are filing the part in which Colonel Vincent said your client wasn't an extremist; is that it?

22 MR. BLACK:

23 That's part of it.

24 MR. BÂ:

25 Right.

26 MR. PRESIDENT:

27 You want to have a look at it.

28 MR. BÂ:

29 No, objection, Mr. President.

30 MR. BLACK:

31 Colonel Vincent will come here and confirm that, Mr. Bâ.

32 BY MR. BLACK:

33 Q. Just some last questions about your position --

34 MR. BLACK:

35 I'm sorry, Mr. President.

36 MR. PRESIDENT:

37 How shall we describe this document?

1 THE ENGLISH INTERPRETER:

2 Your microphone, Mr. President.

3 MR. PRESIDENT:

4 How shall we describe this document?

5 MR. BLACK:

6 I say transcript -- Belgian senate, March 7th, 1997, concerning Nees and Vincent. Because

7 Lieutenant Nees's statement is also in there.

8 (*Exhibit No. 71 [Ndindiliyimana] admitted*)

9 BY MR. BLACK:

10 Q. And the last series of questions, I am going to read you something and, again, get your comment. But
11 it's about your position that the Belgians were neutral and were not pro-RPF or anti-government. There
12 was a book written, published in France last year by Honoré Ngbanda Nzambo. The last two names I'll
13 spell. Honoré is a French name, and Ngbanda is N-G-B-A-N-D-A; Nzambo is N-Z-A-M-B-O. The book
14 in French is entitled, *Organised crime in Central Africa: revelations on the Rwandan Western network*.
15 It's published by Duboiris, in Paris, 2004. That's D-U-B-O-I-R-I-S. *Maison d'edition*.

16 MR. BÂ:

17 Counsel Black, I would like us to be sure of one thing. In the re-examination I'm going to do, I hope you
18 will not object to me asking for the witness's opinion on several issues in order that there should be
19 fairness of arms before the parties. I agree that you should seek the witness's opinion on anything you
20 like, but when it is my turn to re-examine the witness, you would allow me to seek his opinion on a
21 certain number of things. I hope you have understood what I'm saying. I believe that there is no
22 provision in Canadian common law that would prevent me from doing so.

23 MR. BLACK:

24 Mr. President, our position on reply is always the same. The Prosecution can ask any questions it
25 wants on matters raised by us in cross-examination, which need clarification by the Prosecution if it's a
26 matter which could not have been raised by them in-chief. If they chose to not discuss certain things
27 with this witness in-chief, they can't do it. They can't split their case, because then we come back and
28 reply again.

29 MR. PRESIDENT:

30 Yes, Counsel, if he has referred to anything in cross-examination, you may clarify those areas.

31 MR. BLACK:

32 If -- if it's a matter which could not be brought up in-chief because they didn't have the information at
33 first. If they had it but decided not to use it, then they can't split their case.

34 MR. PRESIDENT:

35 No --

36 MR. BLACK:

37 That's the rule in the common law.

1 MR. PRESIDENT:

2 No, Counsel, I don't think that -- they can't anticipate what you are going to ask and then --

3 MR. BLACK:

4 No, no. Well, they're supposed to anticipate everything. That's his job. His role as counsel is to
5 anticipate every question that could be possibly asked with the witness that comes here. If they decide
6 not to lead him in-chief on certain areas, that's a decision they make. They can only, in reply,
7 cross-examine on areas that they couldn't possibly have known about or been aware of, that I knew --
8 supposing I got a hidden document they never even heard of, then they can cross-examine on that.
9 They cannot bring, in reply, things they could have brought in-chief and refused to do so because of
10 their own strategic reasons. They can't split their case like that. That's the rule in the common law.

11 MR. PRESIDENT:

12 Well, Counsel --

13 MR. BLACK:

14 Otherwise the case would go on forever. We'd keep going back and forth for the next six months --

15 MR. PRESIDENT:

16 We will make -- we will make an order at the appropriate time. You may continue.

17 MR. BLACK:

18 And Mr. MacDonald and everybody else will agree with me on that.

19 BY MR. BLACK:

20 Q. All right. I just want to -- this book. There was a chapter in this book. The book was written by this
21 man, Nzambo, who had various posts under the Mubutu government in Zaire, including being minister
22 of various types and ambassador at certain times. At the time this -- the events he's talking about took
23 place, he was the chief of security for Mubutu and was present and took notes at the last meeting
24 Mubutu had with President Habyarimana on April 4th, 1994, in Zaire. The background, Mr. President,
25 is that President Habyarimana knew he was gonna be assassinated and went to Mubutu to seek help,
26 and explained to him what the situation was. This man took notes of the meeting and this is what he
27 said --

28 MR. PRESIDENT:

29 Counsel --

30 BY MR. BLACK:

31 Q. -- according to this man's notes.

32 MR. PRESIDENT:

33 Counsel, the rule relating to hearsay doesn't apply here, in this case?

34 MR. BLACK:

35 No, because it's a die -- well, it would be a dying declaration. There's an exception under the common
36 law, of dying declarations. He says he knows he's gonna be a dead man -- he's a dead man. It's just a
37 matter of a day, and he goes to Mubutu to seek help. So it's an exception under the hearsay rule. It's a

1 dying declaration. And Mr. Tambadou knows that. That's why he is laughing. And I'm not putting it in
2 for the truth of the contents, either. I'm putting it in for the fact it was said. I'm not putting it in --

3 MR. PRESIDENT:

4 Well, how does it relate to this case?

5 MR. BLACK:

6 Well, it relates -- when I read it to you, you will see.

7 MR. PRESIDENT:

8 Otherwise, you can read any opinion from everybody written anywhere and ask the opinion of this
9 witness. That is what you have been doing for the morning.

10 MR. BLACK:

11 I think it's important for several reasons: (a), first of all, it's the last -- I'm sorry.

12 THE WITNESS:

13 I was listening to the words of the president.

14 MR. BLACK:

15 First of all, it's the -- and, most importantly, for this Tribunal and the world, it's the last recorded words of
16 President Habyarimana, and his view of the situation in Rwanda and what was going on. So I think it's
17 important for the world to hear these words. It starts off by saying this, "Herman Cohen", who was
18 former under-secretary of state for African affairs for the United States state department. This is in
19 French. "Herman Cohen is the head of a plan aimed at -- aimed at depriving me of all powers in favour
20 of Kigamé. He works with the Belgians because he knows Rwandan politicians enough to facilitate
21 manipulation. The Americans, the British and the Belgians have concentrated all their pressure on me
22 to oblige me to sign the evil Arusha Accords."

23 MR. BÂ:

24 Can you repeat that sentence please?

25 MR. BLACK:

26 Sure. "The Americans, the British and the Belgians have concentrated all their pressure on me in order
27 to oblige me to sign the evil Arusha Accords."

28 MR. BÂ:

29 Do we agree that this is Habyarimana who declared that, who stated that?

30 MR. BLACK:

31 That's correct. "The Belgians supported by Museveni strongly advised and convinced the Americans
32 and the British to never allow me to continue as the leader of Rwanda, right up to democratic elections,
33 even if they were supervised by the international community, because the RPF would never have the
34 slightest chance to win free and democratic elections in Rwanda. To defend their position, the
35 Belgians" --

36 THE ENGLISH INTERPRETER:

37 Counsel, if you don't continue, I won't understand what *évoqué* is referring to.

1 MR. BLACK:

2 Okay. "The Belgians mentioned the case of *communal* elections that were held last year in the north of
3 Rwanda, after the signing of the famous Arusha Accords. The RPF was beaten severely in the --
4 clearly beaten in the demilitarised zone which was, nevertheless, under their control. This test was
5 eloquent, and it must have served as a lesson to Kagamé's protectors. The Americans and the
6 Belgians then organised a vast clandestine campaign to hire my collaborators and Hutu leaders from
7 political opposition parties, to cause them into rallying behind the RPF." He then goes on to say that --

8 MR. PRESIDENT:

9 Counsel, have you finished with that one? There is no anticipation of death in that.

10 MR. BLACK:

11 No. That's it.

12

13 Then he goes on to state that Herman Cohen threatened that unless he gave all power to the RPF,
14 then the Belgians threatened him the same way, that his body would be dragged through the streets of
15 Kigali, and that all the ministers in his government would be brought before an international tribunal. He
16 also says (*microphones overlapping*).

17 MR. BÂ:

18 (*No interpretation*)

19 MR. BLACK:

20 (*Microphones overlapping*) ... confronted Dallaire.

21 MR. BÂ:

22 (*No interpretation*)

23 MR. BLACK:

24 I'd be very happy to read the entire chapter. It's about 40 pages. I'd be here all afternoon, Mr. Bâ, if
25 you want me to do that.

26 MR. BÂ:

27 I mean the passage where Cohen threatened to drag him -- to drag his body on the streets of Kigali.

28 Please read the entire passage.

29 MR. BLACK:

30 This is on page 133 of the book. "They no longer have any respect for me, nor for my duties. As far as
31 I am -- as far as they are concerned, I am no longer president of Rwanda. All the affairs of the republic
32 are discussions with Kagamé in Mulindi. The threat was, first of all, veiled. But they are now open,
33 very open. Do you realise that an ambassador tells you, Mubutu, that if you do not step down from
34 power, you will not be driven out, but your body will be dragged around the streets of Kigali?"

35 Do you want me to keep going?

36 MR. BÂ:

37 That is okay.

1 MR. PRESIDENT:

2 When is he supposed to have said this?

3 MR. BLACK:

4 April 4th, two days before he was killed in Zaire. He goes on to state that --

5 MR. PRESIDENT:

6 But he still anticipated the establishment of the ICTR also?

7 MR. BLACK:

8 Well, that -- that's the whole point why this Tribunal exists, exactly our point. I'd invite you not to step --

9 not to go there, Mr. President. Because that's our position, that this whole Tribunal was set up by the --

10 to be explicit, by Britain and America in order to continue that policy, that the threat was carried out.

11 They killed Habyarimana. Now they're putting the rest of the government, at large, in prison and trying
12 them here. That's our position.

13 MR. PRESIDENT:

14 At the same time they pressurised him to sign the Arusha Accords also --

15 MR. BLACK:

16 That's right because --

17 MR. PRESIDENT:

18 -- allowing him to continue as president.

19 MR. BLACK:

20 Right. And that Arusha Accords gave the RPF time to mobilise for the final offensive --

21 MR. PRESIDENT:

22 Yeah.

23 MR. BLACK:

24 -- with a Trojan horse of several thousand men inside Kigali to do it.

25 MR. PRESIDENT:

26 Yes, Mr. Black --

27 MR. BLACK:

28 If Mr. Bâ wants me to read --

29 MR. PRESIDENT:

30 Mr. Black, I think we will give the afternoon to Mr. MacDonald.

31 MR. BLACK:

32 I'm almost -- are we breaking at 12:30?

33 MR. PRESIDENT:

34 Yes.

35 MR. BLACK:

36 I could maybe just ask this.

37

1 BY MR. BLACK:

2 Q. I'm not gonna read the rest of it, but he also says that Roméo was aware of the plot. He helped
3 arrange the shutdown of one runway so it could make it easy for the plane to come in from one
4 direction and shoot it down, and that he approached Dallaire and said, "I know you know I'm going to be
5 killed because that's what my agents in Mulindi are telling me; you're gonna shoot down my plane, and
6 what are you going to do about it?" And Dallaire says to him, "Nobody's going to believe you."

7
8 So, two questions: first of all, do you agree that the Belgians were, in fact, working with the RPF, the
9 Americans and the British to overthrow Kagamé -- overthrow Habyarimana in favour of Kagamé; and
10 was your boss, General Dallaire, also aware of the plot to kill the president?

11 A. To overthrow Kagamé? Thank you. To avoid confusion, I suppose Counsel Black meant eliminate
12 Habyarimana. Either that interpretation was false or Mr. Black was mistaken. I believe Mr. Black is a
13 military expert because, as far as I am concerned, at Kanombe there was only one runway. To shut
14 down one of the runways implies that there must have been a second, and I know that there's only one
15 runway.

16 Q. Well, there were two, sir, and one axis was closed down. Even General Dallaire admits that in his
17 book. He asked for it to be closed down. The reason he said you wanted it closed down, sir, was the
18 RPF requested it because they didn't want planes flying over the CND, which they considered a threat.
19 That was false. The real reason was to enable only one axis to be open so the plane had to come in
20 from a certain direction, which made it easier for them to know which direction the plane was coming
21 from to shoot it down.

22
23 But, my question is -- I guess you're answering you don't know if General Dallaire was involved in
24 shooting down the plane. But what about the attitude of the Belgians? Isn't it true --

25 A. Show me the plan of Kigali airport. In order be to in a position to -- I'm asking you to show me the plan
26 of Kigali airport, indicating the positions assumed -- or, interpreted to allow such a plan to be executed.
27 It was a jet, a jet plane that could only have used one runway to land --

28 MR. PRESIDENT:

29 Witness --

30 THE WITNESS:

31 So it was not possible to use a second; it was necessary.

32 MR. PRESIDENT:

33 As far as you are concerned, there was only one runway in Kigali. And with regard to the second
34 question, the question is that Belgians were working in tow with the RPF. Do you accept that? That is
35 the suggestion.

36 THE WITNESS:

37 I believe the question was whether they were working with the Americans.

1 MR. PRESIDENT:

2 Yes, to help the --

3 THE WITNESS:

4 -- to help the RPF.

5 MR. PRESIDENT:

6 Yes or no? You have to speak to get into the record.

7 THE WITNESS:

8 To my knowledge, there was no agreement or cooperation between the Americans and the Belgians.

9 I'm aware that mention is made of the power of the Americans and the Belgians, and that raises us to a
10 very high level at global stage now.

11 BY MR. BLACK:

12 Q. You don't know that Bhutros-Bhutros Ghali says that Georges -- the French Judge Brugière told him
13 that the CIA helped shoot down that plane? Are you aware of that statement by Bhutros-Bhutros Ghali,
14 the Secretary General of the United Nations, the former?

15 A. I am not aware of that statement on that subject, and I suppose that the CIA could not have taken the
16 small Belgians into its confidence with regard to such intentions or such plans.

17 Q. But you still don't know whether the other three men were with Lotin's team, do you?

18 A. I don't know who accompanied Lieutenant Lotin, apart from nine people I mentioned, those commandos
19 who were killed in Kigali.

20 Q. And I suppose you don't know why 600 American rangers were stationed in Bujumbura on standby on
21 the night of the 6th; you don't know what 600 rangers were doing in Bujumbura?

22 A. If I had known, I would have been in a position to make a statement, but I'm not aware of it. I do not
23 know why the French were there the next day to evacuate those who had to be evacuated either.

24 MR. BLACK:

25 That's all my questions. Thank you, Mr. President.

26 MR. PRESIDENT:

27 Court is adjourned till 2:00.

28 *(Court recessed from 1230H to 1410H)*

29 MR. PRESIDENT:

30 Yes, Mr. MacDonald, you can start now.

31 MR. MACDONALD:

32 Thank you, Your Honour.

33

34 Now, since the witness has chosen to testify in English, Mr. President -- in French, that is --

35 MR. PRESIDENT:

36 You are free to --

37

1 MR. MACDONALD:

2 If it pleases the Court, I will start in French.

3 MR. PRESIDENT:

4 Go slow.

5 MR. MACDONALD:

6 I will be watching the --

7 MR. PRESIDENT:

8 That's okay with us.

9 MR. MACDONALD:

10 Thank you, Mr. President.

11 CROSS-EXAMINATION

12 BY MR. MACDONALD:

13 Q. Colonel Claeys, can you tell us what is your current position within the Belgian army?

14 A. I did not hear the beginning of the question.

15 Q. Can you tell us -- Colonel, we know your rank in the army. Can you tell us what position or what unit
16 you are posted to, currently?

17 A. I believe commander of a paracommando unit in Flavin.

18 Q. I believe I understood that before you went to Rwanda, you were S-2, an intelligence officer. Does that
19 correspond to an intelligence officer? Can you clarify?

20 A. No, as I said, I was an officer in the paracommando brigade -- at the brigade level. I was carrying out
21 S-2 duties, which include security, intelligence, and now I am the head of corps in a paracommando
22 unit that is independent.

23 Q. Thank you. Now, I will produce for you a document --

24 MR. MACDONALD:

25 If the registrar will oblige.

26 BY MR. MACDONALD:

27 Q. -- which is part of an interview given by Colonel Luc Marchal.

28 MR. MACDONALD:

29 My learned friend has a copy. It is the copy I handed over Mr. Bâ.

30 BY MR. MACDONALD:

31 Q. In the "Africa International Magazine", this was an interview which was given in June 2003. I'd like to
32 draw your attention to a passage on page -- on the second page of the document, page 33 of the
33 magazine. I'm going to read a passage to you.

34 THE ENGLISH INTERPRETER:

35 This is a free translation.

36 BY MR. MACDONALD:

37 Q. It is to the left, right at the top, the paragraph that begins "In mid-1993". Do you follow?

1 A. Yes, I've identified the passage.

2 Q. "In mid-1993, Rwanda was far from" --

3 THE ENGLISH INTERPRETER:

4 Counsel, kindly read slowly because the booth has not been provided with a copy of the text you are
5 reading from.

6 BY MR. MACDONALD:

7 Q. "Far from making the headlines and, indeed, it was more to do with clichés and preconceived ideas
8 than real -- realistic and objective information on what was, in fact, happening, I am quite aware that,
9 like many other people, I was conditioned by this media environment and that I shared in the simplistic
10 view of events prevailing at the time, namely -- that is, that the RPF, the movement representing the
11 minority was, by definition, on the side of the good, whereas the others were, by extension, on the side
12 of the bad guys."

13
14 I think this comment by Colonel Marchal is self-explanatory. And what I want to draw your attention to,
15 first of all, is we are being told, first of all, that there was a sort of vision that was being propagated in
16 Belgium, certainly in 1993, which he describes as simplistic, and that depicted two camps: a vision of
17 Rwanda where there were the good and the bad. The first thing I would like to first ask you,
18 Colonel Claeys is: do you agree with Colonel Marchal's assessment?

19 A. Not at all, because when I read the paragraph at the same time as you did, the first sentence says that
20 Rwanda was not in the headlines world wide so there was no talk of Rwanda -- or very little talk of
21 Rwanda. And then, secondly, he says in the next sentence that he was conditioned by this media
22 environment. So one phrase contradicts the preceding one. Secondly, at that point in time
23 Colonel Marchal was working closely with the defence minister because he was *chef de cabinet* in the
24 ministry of defence, and I think he had very good sources and would, therefore, have known what he
25 was talking about. That is how I understand it.

26 Q. First of all, Colonel Marchal had no privileged information, no more than you did at the time. And you
27 will agree with me, would you not? I do agree with you that Rwanda was not in the headlines in
28 newspapers, be that in Belgium or anywhere else in Europe or any other continent. You know that
29 there was some media attention focus on Rwanda during the events of 1994. I suppose that you,
30 Colonel Claeys, had -- or, apparently read -- read up on the events in Rwanda in 1994 -- as of 1994 and
31 also earlier, 1993. Had you read some newspapers or listened to reports on Rwanda, on -- in 1993?

32 A. No. On the contrary, I was attending defence staff college during the 1992-1993 period. In 1992 I
33 reported for duty when I was appointed as a brigade officer, up to 1993, if my memory serves me right.
34 In fact, it was Burundi that was in the papers that was talked of because there had been a palace
35 revolution, so-called, and therefore we were preparing for an evacuation of our nationals in Burundi
36 and, therefore, at the time we were focusing our attention on Burundi and not Rwanda. I recall that the
37 previous weekend, the weekend preceding my deployment in Kigali -- that is, the 6th of October -- the

preceding weekend, there had been high-level meetings in the Belgian government to prepare a possible evacuation mission for Belgian nationals in Burundi, so that our attention was certainly not focussed on Rwanda; to the contrary.

Q. Just to wrap up on that issue, is the Court to understand that you had read absolutely nothing on what could have happened in Rwanda in 1993? I think you can give a yes-or-no answer to that.

A. If I have to give a one-word answer, it would be no.

Q. All right. When you were requested or assigned to go to Rwanda, I assume some reading material was provided to you. In fact, you said in cross-examination that some information, some documents, were provided to you on the subject of Rwanda.

A. That is correct.

Q. And the vision, as described by Colonel Marchal in the paragraphs we've just read, is it not correct to say that among the documents that were provided to you, such a vision was illustrated, such a stand was taken in the documents that you were provided with?

A. No. As I said, the documents that I had been given the previous week, written -- or, drafted by Mr. Cosemans, I had seen part of those documents: the composition of the armed forces, equipment, maps, distribution -- or, feeding programmes. I don't recall all these documents because I was given this last week. But all these documents did not include a position on the sentiments for or against the issues. There were three ethnic groups. The percentages were given, but it was just the figures that were provided. There was no sentiment expressed for or against any of these groups.

Q. It must have been brought to your attention. Therefore, you must have been informed that Belgian soldiers had intervened in October 1990, October of 1990.

A. That is correct, yes. It was reported in a specific context, that is to say, when we arrived in Kigali after being received by the earlier members of UNAMIR as well as members of Belgian technical cooperation, it was indicated that there was some amnesty or ill-feeling being ventilated in the media with regard to the Belgians who had come in to lend support to their friends in 1990.

Q. Colonel, you must be aware of the fact that President Habyarimana personally went to Belgium on or about the 4th of October 1993 to personally request Belgium to participate in the contingent of UNAMIR that was to usher in the Arusha Accords' implementation. Were you aware that he had personally asked Belgium to intervene?

A. I am not aware of the fact that it was the president, himself, who had come to do this. What I was aware of -- or, what I had been told is that the RPF had felt that if a Western force was to take part in UNAMIR, it should not be France, and so the unit that was based in Kigali was to go -- or, disappear as the accords were being implemented.

Q. So, you were well informed as to the wishes of RPF, but not as to the wishes of the Rwandan Armed Forces, because I've asked if you were aware of the president's trip to Belgium in October 1993 to personally suggest -- or, request Belgian support. And your answer does not cite the wishes of the Rwandan Armed Forces -- or, of the government of Rwanda; rather, you cite what the RPF did not

1 want.

2 A. That is what was reported to us when we went there on recce mission. This information was given to
3 us by the French and, as far as I knew, there was no animosity between the French and the Belgians.
4 This information was in the public domain. We were being made aware of the reasons for a military
5 presence, and one of the first questions we asked the French was: why do you have to leave? We
6 spoke to the French, and the Belgian battalion moved in, installed its headquarters where the French
7 were positioned. So we talked amongst ourselves.

8 Q. And, apparently, there was also no animosity between the Rwandan government, or at least between
9 President Habyarimana and the Belgians. Would you agree with that?

10 A. Indeed, in fact, I think there was always a very good relationship between the Belgian government and
11 the Rwandan government, and the president was always warmly welcomed by our king. Therefore,
12 there was no reason for any animosity to exist.

13 Q. Now, as I went through your testimony, testimony you gave on the 13th of May 1997, to the Belgian
14 senate, you described on page 97 -- I don't want to quote; I just want to draw your attention to page 497
15 of that transcript. And in that report there is mention of certain documents you had perused; namely --
16 or, in particular, a report by a human rights organisation on the killings of 1990, and I am reading this
17 verbatim, as it appears in the commission's documents. Do you remember this?

18 A. I remember the document. I believe it was a blue book by Human Rights Watch which had been
19 provided to the liaison officer -- or by the liaison officer of the government forces, Rwabilinda, at the
20 time I was working at the UNAMIR headquarters.

21 Q. As I read -- or, read the document and went through your testimony, it is not clear if the document was
22 given to you as part of your official duties, as a soldier in the reconnaissance mission in Rwanda, or
23 whether it was provided to you in some other context.

24 A. I was already in my position acting as military information officer at UNAMIR when the liaison officer
25 from the Rwandan government forces obtained the document for me. I can no longer recall the exact
26 circumstances, but it was sometime in the month of November.

27 Q. And this Human Rights Watch document, appeared to blame the Rwandan -- place the blame on the
28 Rwandan government forces -- Rwandan armed forces.

29 A. I cannot say, from memory, if it included the Rwandan Armed Forces, but one ethnic group had
30 perpetrated massacres on another ethnic group, had thrown the bodies into septic tanks, graves -- or,
31 mass graves, but I cannot say if they were involving -- or, implicating the armed forces.

32 Q. Colonel, in -- another document, it was referred to as CLAEFRA-01, dated 2nd of June 1995; you
33 remember the document? Besides you had it in your possession, if I'm not mistaken.

34 A. Yes.

35 Q. On page 3, and the question which is put to you is the following: can a Rwandan be trusted? And to
36 that question, you answered, and I quote, "It was known that what a Rwandan says does not usually
37 reflect what the Rwandan thinks, and this is the opinion that was shown within the force and it was

1 expressed during information meetings before the Belgians left. They were forced to be careful with
2 Rwandans." This is the polite way, and please let me know if I'm mistaken, to say that all Rwandans
3 are liars.

4 *(Pages 28 to 52 by Verna Butler)*

1 1431H

2 THE WITNESS:

3 No, that is a suggestion from you. And it would appear that, even if I quoted that in an interview to the
4 *procureur general* of the military court, I read the book of the special representative of -- to Rwandan,
5 Mr. Jacques-Roger Booh-Booh, and that book was cited previously. He expressed the same feeling.
6 This is a feeling; that is not an assertion. And it is not written anywhere that they are liars. Further, I
7 should draw your attention to the fact that we are talking about Rwandans and not one ethnic group or
8 another.

9 BY MR. MACDONALD:

10 Q. But you are aware, just as I am, that in 1993, if that distinction had to be made ethnically, you know as
11 well as I do that about 80 to 85 percent of Rwandans were Hutus and possibly 1 percent of Twas, and
12 13, 14 percent of Tutsis. Was that your knowledge when you made that statement?

13 A. That's correct. That mathematical distribution was given to us in that manner, and these were people
14 who were in military technical cooperation in Rwanda who gave us that point of view.

15 Q. And still in answer to that question, you go on, still on page 3, and I will draw your attention to the last
16 paragraph, which reads as follows: "Before I left, I personally had organised meetings for staff of the
17 brigade, and one meeting of commanders --" and let me read it as it is -- as it is written now, "-- to insist
18 on the success of Rwandans. I thought I knew this because one of the assistants who had gotten
19 married to a Rwandan lady had repeated that to me on several occasions."

20
21 You also, in the main -- same paragraph, mentioned Commander Pelgrines (*phonetic*) of the --
22 commander of parachuters, who made comments in that regard.

23
24 Now, once again, when you talk about a character trait, what character trait are you referring to? Can
25 we have your answer, a specific answer regarding that?

26 A. The information from people who had lived through what happened on the spot and who were living
27 with the people of the country made us understand that we had to be on our guard, and that was my
28 role as an officer at the brigade, responsible for intelligence and security, as in all operations, to make
29 sure that the staff was on guard. And this is part of the directives of the missions under chapter 6 or 7
30 under the paragraph, "Force Protection."

31
32 So whether we are talking about Kosovo, Afghanistan, or Rwanda, we had to be on guard.

33 Q. All that is fine, but you are on guard against what, violence in Rwanda? Because you are talking about
34 a character trait; we thought that you wanted to make reference to a specific point.

35 A. At the time of the conquest of the West by a power which is now referred to as the United States, the
36 Indians were said that they were speaking with their tongues not -- they're mistaken, actually. So you
37 know when you are talking about the population in Rwanda, it is the same thing. So you are

misspeaking; you are not saying what you intend to. What they were saying was not what they actually thought.

Q. Once again, that may be a lame analogy, but when we write such a character trait, we say the person is a liar, you say the person is lying.

A. Or the person may be concealing information or holding back information. That is quite another thing.

Q. Holding back information. As long as the people -- the person has information or could have information. But now you are referring to the people in general.

A. That is correct. Jean-Pierre, Faustin, Félicien, Prudence, these were all members of the Rwandan population.

Q. Colonel, we are just skirting around. Let's take, for example, you, when you got to Rwanda. And I'm saying it with the greatest respect. I'm not blaming you for anything.

It is not correct -- is it not correct that when you got to Rwanda, the first day when you landed from the plane, in your mind, you were getting into a country where a dictatorship has been existing since 1973? That was the idea you had of Rwanda; is that not correct?

A. Whatever anybody might think about that, if there is anything that one can be sure of, it's that I came with -- as open a mind as one could have. I had lived in Africa for 18 years. I could have come with quite another frame of mind, but that was not the case. I came with an open mind for a mission that was not going to last for more than a week. So there was absolutely no reason to come with a preconceived frame of mind or with any bad intentions.

I -- once I got there, I was then asked to stay on, so either -- people had read in a crystal ball to know that I was going to be an important element in what was going to happen on the 6th of April 1994.

Q. But whatever your frame of mind was, how open it was, and I know the frame of mind in which you came as a member of a reconnaissance team, but you have a right to have an opinion. You can decide to be objective, but you have a right to have an opinion. And is it not correct that one of the opinions you had is, once again, that that country, Rwanda, had been living in a dictatorship since 1973? And that opinion definitely did not stop you from having an objective analysis.

A. In any case, I did not have that opinion, so the answer is no.

Q. Now, did you at any point in time hear that term or read that term in your contacts, I mean, something in lines are going to that -- that Rwanda was a dictatorship since 1973 when --

A. The country where I had come from was in a dictatorship since 1965, but that did not stop me from living there and feeling free. So perhaps people who had that opinion had the opinion, but it was not my role to make any judgement. There were the peace accords that had to be rectified, and that was the only thing I was interested in at the time.

Q. Now, to come back to a question asked earlier regarding the information that you had at the time you were going to Rwanda, is it not correct that you, yourself, gave information to some soldiers?

1 A. Are you talking about before our departure?

2 Q. Yes.

3 A. The only thing we did was to give -- provide a briefing on the known situation in Rwanda to officers from
4 the rank of lieutenant colonel within the paracommando brigade, operational officers of the
5 paracommando brigade, and this was a reflection of information which was available and which
6 probably was taken from the document, the famous document that was given to me last week. And
7 once I got to Rwanda, my role as a military information officer within UNAMIR was also to tell those who
8 had just arrived, Austrians, Russians, Malians, Ghanaians, those who came from all parts of the world
9 and who were members of the UNAMIR mission, my role was to tell them what we had seen and lived
10 through since we arrived in Kigali.

11
12 We also, at the same time, provided them with a map of Rwanda which Belgians had given us, and
13 that's it.

14 Q. Were you aware that Rwanda had been cited as an example by bodies like the World Bank and
15 International Monetary Fund, in particular, during the '80s?

16 A. That means nothing to me.

17 Q. That means absolutely nothing to you?

18 A. But, generally speaking, I should say that I had always been told that life in Rwanda was good and that
19 that country was a small Switzerland of Africa. And so if we extrapolate, we could say that everything
20 was going on fine in that country.

21 Q. Once again, to come back to what you said on the 2nd of June 1985, those whom you consulted, as far
22 as Rwanda was concerned, you talked about one of your assistants who had gotten married to a
23 Rwandan lady. And I suppose that that Rwandan lady was no longer living in the country and that she
24 was domiciled in Belgium; is that correct?

25 A. Yes, indeed.

26 Q. I suppose I might be mistaken again, and if this young lady was not living in Rwanda where life was
27 good, she certainly had a number of things about Rwanda which she did not agree with or which she
28 did not like (*unintelligible*).

29 A. That is not the impression I had. In fact, she traveled regularly. She went back to the country regularly,
30 as is the case in many mixed marriages in Belgium.

31 Q. Now, as part of the information that you heard before you left for Rwanda in the month of October, did
32 you know, for example, that the soldiers and officers of the Rwandan armed forces did not have the
33 right to become members of political parties? Was that information transmitted to you?

34 A. No, I was unaware of that. But I would say in Belgium that is the same thing, so that does not surprise
35 me.

36 Q. While we are on this document, I will move out of the context a little, but I'm referring to an interview of
37 Colonel Marchal. Marchal talks about the KWSA, Kigali Weapons Security Area, program, and I would

1 like to draw your attention on the paragraph in the middle, at the center. And what Marchal said is that,
2 amongst the government forces of the army and gendarmes, a real goodwill existed, and I am
3 paraphrasing. I could read the paragraph if my learned friend fancies, but it looks like, on the other
4 side, there were daggers drawn. And this coincides with the modalities with the KWSA program. And I
5 was asking you if you agreed with what Colonel Marchal said.

6 A. I would -- I would have to read the entire paragraph to be familiar with the content.

7 Q. Go ahead. You can see it right there in the center.

8 A. Yes, it's -- it's correct, as it is said there. In general, the government forces followed the directives. And
9 when the RPF tried not to follow the directive, they were called to order. The best example is that
10 they -- they were coming -- when they come him out (*sic*) -- when they went out, they went out with
11 escorts.

12 Q. Very well. I had a series of questions on -- on the problems which were raised by Mr. Black in his
13 cross-examination on the undiscipline of Belgian soldiers and so on and so on. But I understand this
14 morning -- or, rather, yesterday that you were not in disagreement with what was said, particularly
15 before the senate or parliamentary commission in Belgium on some -- on the conduct of some Belgian
16 soldiers. There was a problem of indiscipline, which was significant at one point in time; is that correct?

17 A. That is correct, and it wasn't limited to soldiers.

18 Q. Now, these problems of indiscipline, I suppose that at some point the effect was to discredit UNAMIR
19 as a whole, and not only the Belgian contingent. Would you agree with that conclusion?

20 A. No, I do not believe that. It could have discredited the Belgian contingent had the military authorities
21 not reacted. But the military authorities reacted; they reacted as far as the abuses and the excesses
22 are concerned to show that there was a will to only have disciplined soldiers at the service of the
23 United Nations and not a group of mercenaries.

24 Q. I believe -- no, I'll stop there.

25
26 Of course, you are entitled to your opinion, and so are others, but after reading Dallaire's book, you
27 know that Dallaire's stand was actually that -- that indiscipline, attitude, or conduct of a number of
28 soldiers, including Belgian soldiers, could end up discrediting UNAMIR, and that exactly was one of
29 Dallaire's complaints.

30 A. Absolutely. And as the various Belgian politicians and authorities visited, that was said. But each time
31 the authorities on the spot reacted to what was brought to their attention. Now, if there are facts which
32 were not brought to their attention, it would be difficult for them to react to those facts.

33
34 That is not the only reason why General Dallaire reacted. At one point in time, he even threatened to
35 send back or dismiss the Belgian officers who were incapable of working in the language of the
36 mission, that is, English. So there were staff members who were part of the mission who were
37 incapable of speaking in English.

1 Q. That doesn't make them undisciplined. That is another problem altogether, which has nothing to do
2 with discipline.

3 A. But it also had to do with the smooth functioning of the mission.

4 Q. There is another comment, which, once again, struck me. And, once again, this is a comment made by
5 Colonel Marchal during his testimony before the parliamentary or senate commission when he
6 mentions the fact that the Belgian soldiers had a tendency to have a superiority complex. And, once
7 again, I'm not talking about you, Colonel Claeys, but let me ask you to comment. First of all, was that
8 comment brought to your attention, what Colonel Marchal said?

9 A. I have no recollection of an attitude or such an interpretation.

10 Q. Now, I'm aware that I'm mixing things up a bit, because I have a set of questions, and I will move on to
11 something else. But these are sort of disparate, and I'd like you to give your opinion on them.

12

13 When you arrived in Kigali to carry out the reconnaissance, were you able to notice that the Rwandan
14 armed forces were very advanced in terms of applying the measures for installation of the transitional
15 government? There were a number of steps that the military were to take. I, therefore, suggest -- put it
16 to you that the Rwandan armed forces were -- had already began the transformation of the armed
17 forces. My question, then, is was this brought to your attention or did you notice it yourself?

18 A. I certainly did not notice it. Now, if I were asked what the situation in Kigali was, whether it transpired
19 that advances had been made, that is quite ambiguous. Because at night we would often hear grenade
20 explosions or of a battalion that was always in a precarious situation. It was the paracommando
21 battalion above the Nyamirambo *commune*. I would not say that this was a stable situation. They were
22 on their guard as well.

23

24 So I'm not saying -- I'm not inferring that preparations had not been -- steps had not been taken, but I
25 cannot say whether steps had been taken towards restoring peace, if I can put it that way.

26 Q. What you are saying raises the issue of security. And the question I was putting to you was more
27 related to the structures, internal structures, of the Rwandan armed forces, whether they were putting in
28 place measures for applying the peace accords. And I want to know if you had noticed anything to that
29 effect.

30 A. Not at all.

31 Q. Now, you were also questioned in your examination-in-chief, as well as cross-examination, on your
32 return to Kigali after the 6th of April, '94. And I know the subject was broached, but I'm going to put the
33 question to you: Did you know if that aircraft, the C130 in which you were traveling, was equipped with
34 a anti-missile system, yes or no?

35 A. All C130 aircraft are equipped with an anti-missile system.

36 Q. And I know that you also dealt with this, although vaguely. I'd like to ask you, can you tell us who was
37 on board the aircraft? You do not have to name them one by one, but can you tell us who was on the

- 1 plane? Was it soldiers, civilians, members of --
- 2 A. As far as I can recall, I was the only soldier returning from leave. And the personnel who was on board
3 were coming to Rwanda for the first time from the engineers unit, who were coming to build
4 *(microphones overlapping)* launch at Kanombe airport, which was to be installed at Kanombe airport.
5 This unit was commanded by Captain Vandriessch. They had come with wooden prefabricated
6 housing units for the Belgian troops stationed at Kanombe airport.
- 7 Q. I suppose that this is what you were told, but I also do not assume that you knew each and every one of
8 those members aboard the aircraft.
- 9 A. Certainly not. There were changes in the crew; therefore, it would be hard to know exactly who was on
10 board.
- 11 Q. Are you in a position to tell us if there was a Rwandan or Rwandans on that aircraft, aboard?
- 12 A. There were no Rwandans aboard.
- 13 Q. Was it a priority for you to check on whether there were Rwandans there? Perhaps you might not
14 recollect this.
- 15 A. I suppose that, with authorisation from the minister of defence, as applicable to any foreign passenger
16 on military -- Belgian military flights, that was possible. It could have been a Canadian or journalist. It
17 was a possibility.
- 18 Q. Now, the aircraft that went up to Kigali left from Brussels?
- 19 A. Brussels.
- 20 Q. Were there any stopovers along the way before arriving in Kigali?
- 21 A. There was a stopover, if I correctly recollect, in Cairo.
- 22 Q. Cairo. And how long did that stopover last?
- 23 A. One hour. It was for refueling; therefore, we did not leave the aircraft.
- 24 Q. And as far as you remember, everyone remained aboard, or everyone was under orders to remain
25 aboard?
- 26 A. Yes, indeed.
- 27 Q. Now, the organizations we referred to as CTM, technical -- military technical cooperation programs, tell
28 me what was your relationship with Colonel Vincent, Major Haque, and Major Podevijn. I think we
29 mentioned -- or, earlier this morning we dealt with Colonel Vincent. Do you have anything else to add
30 on your relationship with Colonel Vincent?
- 31 A. No, I think our relations were quite distant because he was a -- a colonel, a full colonel. I was a captain.
32 He did not know me, and, therefore, this was my first encounter with him.
- 33 Q. What about Major Haque?
- 34 A. Major Haque was not in Rwanda.
- 35 Q. When you arrived even later?
- 36 A. As far as I know, he did not go to Rwanda during the time I was in Rwanda. At no point did he go there.
37 He was a member of the military intelligence in Belgium. He was head of the Africa bureau, so he was

in charge of the analysis team that Belgium had set up to deal with sub-Saharan Africa.

Q. According to you, Haque was never in Rwanda at the same time as you were.

A. Exactly. That does not mean that he had not been there before. Because one of his duties was to engage in missions to members of the technical cooperation, to apprise himself on what was happening on the ground. However, I'm not sure if Captain Haque had previously worked in a technical cooperation mission, if he had been stationed in Burundi or Zaire. I cannot say. But I think he was in one of the Belgian military technical cooperation teams in Africa.

THE ENGLISH INTERPRETER:

Counsel spoke before I had finished, so I did not get the question. Witness says:

THE WITNESS:

And Major Haque came to Rwanda. Major Podevijn came to Rwanda during the time UNAMIR was there. I can place it in December. And in the past he had been a member of the CTM in Rwanda.

BY MR. MACDONALD:

Q. Is it not true that Major Podevijn was in the intelligence department whilst you were deployed in Rwanda? Although he was using another name or term, unofficially he was still operating with the intelligence unit.

A. That is what I've just said. He was Major Haque's deputy when he came to Rwanda. Therefore, he must have come.

And I can add that, when Colonel Vincent was in charge of the military technical mission, say he rarely met Major -- Major Podevijn, it would be surprising for me because he was one of the CTM club members. He would go there every Sunday for pre-dinner drinks. That is a place -- a meeting place for the members of the military technical cooperation.

Q. Do you think Major Podevijn had any role to play, directly or indirectly, within UNAMIR?

A. I think his role was to -- his role was minor, if I can use such a term, because he dealt with mapping of refugee camps and took part in dealings with refugee camps in the office that was assigned to that task. I believe there were four or five UNAMIR officers who were next to Colonel Rwabalinda's office at the -- on the ground floor of the Amahoro Hotel.

Q. Are you able to tell us where the military technical cooperation mission in Rwanda was based?

A. Just the Belgian technical cooperation?

Q. Yes, the technical cooperation from Belgium.

A. And, geographically speaking, the Kanombe camp next to the airport where there was a military hospital. In that area there was a -- a CTM site. There was anaesthetist, surgeon. And on the wing that faced, or was opposite, the hill where the CND was located, there was a plot where various members of the cooperation team lived. And there were some members of the technical cooperation who were working at the Kigali technical school, and also there were some stationed at the embassy. There were one or two or three noncommissioned officers who were working on logistics issues.

1 And the last site, which I would say would -- is the most important, or the largest, was near Bagogwe
2 camp. It was a commando training center for government forces west of Ruhengeri. And these people
3 were housed in a compound, clearly demarcated compound, in Gisenyi on the eastern bank of
4 Lake Kivu. There was also a small port, or jetty -- amphibian port at -- on Lake Kivu.

5 Q. When you arrived in Kigali, did you -- were you aware of a negative perception of Belgians by the
6 Rwandan population?

7 A. What Belgians are you referring to, the incoming Belgians, those who were already on the spot, Belgian
8 soldiers?

9 Q. I mean Belgians who were on the spot, whether they had problems, were you aware of any difficulties
10 relating to the military technical cooperation, so only referring to the soldiers, yes?

11 A. No, I have no knowledge of that.

12 Q. What about the incoming troops during the period of October -- late October, early November?

13 A. Not at all. The only information I received was that, in the media, stories had been made up about the
14 Belgians, but there was no concrete problem.

15 Q. Now, this morning there was mention of the massacres that took place. The date mentioned was
16 17 November -- I -- I, however, would put it to you that it was the 17th or 18th of November -- involving
17 soldiers in Nkumba and Kirambo. Is that the same event?

18
19 "Nkumba" is spelled N-K-U-M-B-A.

20 A. If my memory serves me right, it was Gatabwa. The other two names do not ring a bell.

21 Q. You say "Gabatwa" (*sic*). Please spell it.

22 A. G-A-T-A-B-W-A.

23 Q. Obviously, it is the same incident. I put it to you it is -- is it the same place or not?

24 A. At first I thought it was, but it's -- I've just been told that the name you have given -- place name you
25 have given is in Mutura, which region had also reported massacres in November, the 30th of
26 November.

27 A. Perhaps it should be shown on a map, pointed out on a map.

28 Q. Now, Mutura *commune* -- I have trouble pronouncing it, M-U-T-U-R-A -- that is where there were
29 massacres on the 30th of November and not the 17th or 18th of November. That is possible. I do not
30 remember it.

31 Q. In Gisenyi?

32 A. Yes, but Mutura is also close to Gisenyi. It's between Gisenyi and Ruhengeri, where the killings took
33 place. So it could be two different spots but in that general area.

34 Q. When you -- this morning in your testimony you gave an account of the killings on the 17th of
35 November. Was that in Gatabwa?

36 A. I was referring only to the incident in which children were killed, which resulted in a UNAMIR
37 investigation on the spot at the site of the killings.

1 Q. Now the date -- the massacres I'm referring to are the ones that took place on the 17th and 18th of
2 November, once again, in two places, in Nkumba and Kirambo. Had you heard about those
3 massacres, and did they actually happen not long after your arrival in Rwanda?

4 A. This does not ring a bell, but if I'm to look back on all the evidence -- incidents I encountered from the
5 time I arrived, I remember an attack on a Red Cross vehicle which happened upon a mine, which
6 resulted in the death of some children near the *immondice* depot, and then (*microphones overlapping*)
7 a hundred Rwandan francs in relation to a grenade. But now if I'm to try and -- I cannot remember with
8 exact -- exactly the event that you are describing.

9 Q. Let me try and go through some of the portions. In his book, General Dallaire says -- and you must
10 have realised that, that is on page 171 of the French version, Dallaire mentions the fact that you and
11 D-E-M-E, Deme, were responsible for investigations on the massacres of the 17th and 18th November.
12 Does that ring a bell to you?

13 A. Nothing.

14 Q. And what it says in reference to you -- I'm going to read those two lines -- and it is written
15 unequivocally, and this is what he says, very quickly, "They --" referring to you and to Mr. Deme --
16 "They brought together information about the massacres of the 17th and 18th of November."
17

18 And, finally, if we believe what General Dallaire says, you and your colleague, Deme, were assigned
19 with the responsibility of investigating those massacres. And not only does General Dallaire say that
20 you carried out investigations, but you arrived at certain findings or conclusions. And the information
21 that you --

22 A. (*No interpretation*)

23 Q. -- allegedly provide was the same as to those who had committed the massacres.

24 A. I -- I hope that there is at least a report. There were massacres -- and did massacres take place on the
25 17th and 18th of November?

26 Q. Yes, there were massacres at the places I mentioned, Nkumba and Kirambo.

27 A. Those names do not mean anything to me.

28 Q. You mean you do not remember investigating?

29 A. That was not my role. Why did he send his assistant elsewhere? I would have gone with him too if that
30 were the case.

31 MR. BÂ:

32 Let me bring to your attention the fact that, at the end of his testimony in Military I, General Dallaire
33 accepted that there were a number of things in his book which were not correct, because some of the
34 passages he just took from his memory. And you would also see that there's confusion between the
35 leaders and Gatsinzi, Marcel.

36 MR. MACDONALD:

37 (*Microphones overlapping*)...I can understand if Mr. Bâ wants to provide information. I am completely

1 open for it, but this is not information. He's trying to rectify certain things with respect to Mr. Dallaire,
2 General Dallaire. Now, this witness has read the book, and I want to know what his impressions are
3 because it's -- not only does Dallaire say the "investigator," but Dallaire says they -- they pinpointed the
4 people responsible for these massacres. And he says it -- in French, anyways -- at page 170. I'd like
5 his comments on it.

6 MR. PRESIDENT:

7 *(Microphones overlapping)*...but he says he can't remember investigating into this. And, on top of that,
8 he says there *(unintelligible)* are not necessary for Dallaire to give him to investigate *(unintelligible)*.

9 MR. MACDONALD:

10 I understand, but he's read the book. If I read a book where I'm stated in that book, I mention -- and it's
11 mentioned that I provided information, pinpointing certain persons who have committed murders, if that
12 wasn't true, I'd probably take the phone and call the person up and say listen, you, you made a mistake.
13 That's what I'm trying to --

14 MR. BÂ:

15 But what General Dallaire said is more recent than his book. And when he came here, at the end of his
16 testimony -- I can read the passage to you -- he admitted that he was just putting facts that he
17 remembered, that he went with Major Beardsley, and that, with Major Beardsley, he was going to
18 produce another edition of his book. He said that, and I can read that passage to you.

19 MR. MACDONALD:

20 You see the problem, Your Honour -- and I'm not -- I'm not going to make a lecture, here -- but you see
21 the problem we have with that, General Dallaire comes here, says in a testimony, "Oh, yeah, by the
22 way, I recall -- I may have been mistaken."

23
24 In his book that has been read by millions of people, in his book he says that Mr. -- Colonel Claeys -- at
25 the time Captain Claeys -- and Mr. Deme -- I forget what his rank is, I'm sorry -- they were called to
26 investigate these massacres on -- that happened on the 17th and 18th of November -- and he says,
27 according to -- to their -- to their informations, the -- the killings have -- had been committed by the
28 parachutists of the *camp de Bagogwe*, directing the finger at the -- the Rwandan army, not in general,
29 but he's pinpointing the people that have done that, according to the information he says was delivered
30 by Mr. Claeys and Deme. So General Dallaire comes here and says, "By the way, I've committed a
31 mistake. We'll rectify that sometime."

32
33 Had he not been called to testify here, who knows? The -- the -- the -- the people reading that book --
34 and millions of people have read that book -- will conclude that people responsible for these horrible
35 massacres were people from the French army -- "from the French army" -- from the Rwandan army, the
36 FAR.

1 So this goes to show you the -- the -- the -- the -- the disinformation -- or, misinformation campaigns
2 that were done throughout the -- the -- the -- the -- his mission in -- UNAMIR mission by
3 General Dallaire. But I understand the information that is provided by Mr. Bâ, but I would like to know
4 what this witness thinks about that.

5 *(Pages 53 to 63 by Ann Burum)*

1 1530H

2 MR. PRESIDENT:

3 Before the witness answers, I will say something, that what you said shows that all what is written -- or
4 in all these books are not the truth.

5 MR. MACDONALD:

6 I understand, but what credibility with respect to General Dallaire --

7 MR. PRESIDENT:

8 If Dallaire says that he also made mistakes, there also could have --

9 MR. MACDONALD:

10 A mistake would be --it was under 49th or 50th parallel, as opposed to the 48th parallel, or it took place
11 at this place instead of that place. This is not a mistake.

12 MR. PRESIDENT:

13 Yes, that is why this witness wanted to know whether there is a report. If there is a report submitted by
14 them as indicated there, I think he will admit, but he needed -- you can put that question to him as to
15 what he thinks about that matter.

16 MR. MACDONALD:

17 The problem is that -- the problem -- that's specifically the problem for asking him -- to my knowledge,
18 there's been, and Mr. Black raises this this morning, there's been a commission who've investigated on
19 these different massacres, *commission tripartite*, if I understand it correctly. And I hold the same
20 position as Mr. Black. That report was buried for obvious reasons. We think that it's because the RPF
21 was behind that and that's the reason why they buried the report. But to answer your question, Mr.
22 President, I don't think there is anything -- any written report to that effect, but we have -- we have it in
23 his book where it says that --

24 MR. BÂ:

25 Are you not talking about the same incident? You are talking about 17th and 18th November. There
26 are no names, but Black is talking about another incident where the children were killed. Those are not
27 the same incidents.

28 MR. MACDONALD:

29 If my information is correct, that commission, *commission tripartite* was mandated to investigate all
30 these massacres that took place in November, so we have 17th, 18th of November. There is one that
31 has been related by Mr. -- Colonel Claeys with respect to the ambulances, there's been this one, and
32 the 30th of November. So, this commission was --if, I understand it correctly and I could confirm this to
33 the Bench, but my understanding, the commission was investigating in all of these massacres.

34 MR. PRESIDENT:

35 So the commission consisted of this witness? We can ask him the --

36 MR. MACDONALD:

37 No, he was not; he wasn't. So, again, I would like to have the comments of Mr. Claeys.

1 MR. PRESIDENT:

2 Mr. Claeys, the witness, your attention is drawn to Dallaire's book, page 171, where he says that you
3 were assigned to investigate. What do you have to say about that?

4 THE WITNESS:

5 I did not carry out any investigations on that issue at that place, and I could not have concluded that it is
6 the members of the commando who were trained at Bigogwe by Belgians who were purported to have
7 carried that out.

8 MR. PRESIDENT:

9 Were you interested with any investigation with regard to any massacre during this period, say
10 November to December?

11 THE WITNESS:

12 Never.

13 BY MR. MACDONALD:

14 Q. I am going to come back. In fact, I'll ask your comments immediately. We know that you read
15 General Dallaire's book, *Shake Hands with the Devil*. We are talking about the same book. When you
16 read – and, I presume that when you read a book, you read the book in its entirety, like everybody else.
17 My question is as follows: When you read that passage, I do not know if you read it in English or
18 French, but in French, it is on page 171 where it is clearly written that you and them provided
19 information making it possible to identify those who were responsible for that – those massacres and
20 those responsible, I mentioned who they were, the parachutist commandos of the Bagogwe” --

21 A. Bigogwe.

22 Q. The major areas where soldiers were trained and Dallaire goes even further. Let me read what he goes
23 on to say that: “ This piece of information and the fact that there were arm caches in the president's
24 native town prevented him from sleeping for a number of days.”

25
26 Again, my question is as follows: When you became aware of what was written in this passage, of
27 those assertions made by General Dallaire and of the role that he claims that you played, and the
28 solution or -- should I say, the identification of those responsible, how did you react?

29 A. I was very surprised, and so was I about the passage with the drafting of the telegram or fax which was
30 sent in the morning of the 11th of January, there were inaccuracies in what was said. All I knew was
31 one person who had what -- the famous small book of Colonel Marchal, where every evening he noted
32 his personal ideas of what had happened in the course of the day. I do not know if General Dallaire did
33 the same or if he did not. I suppose that he was able to carry official papers and documents at the time
34 he left the mission, if at the time he already had the intention of writing that book. So, I was very
35 surprised. And, to tell you precisely about that passage, had that information been correct, the Bigogwe
36 camp trained only commandoes. The parachuters were trained in Kanombe, and since I am a
37 paracommando myself, I was clearly in a position to distinguish between the two. Bigogwe is the centre

1 for commando training. So, I would certainly not have said that the paracommandos or the Bigogwe
2 centre were possibly those who were responsible for the massacres. I would have limited myself to the
3 commandoes who were trained in Bigogwe.

4 Q. I do not know if that makes a difference, but in any case in the book, reference is made not to Bigogwe,
5 but to "Bagogwe".

6 A. Again, that is a misspelling. It's Bigogwe and not "Bagogwe", unless, of course, you have other
7 information available to you.

8 Q. But again, that information is not correct because you never conducted investigations on the massacres
9 of the 17th and 18th. You are categorical on that. Now, my question is as follows: Did you try in any
10 way, to get in touch with doctor -- with General Dallaire to say that the Rwandan Armed Forces are
11 being blamed for having committed those cruel massacres? And, the real situation, apart from what
12 Dallaire said, there is nobody who had said anything. So, we are in the dark, as far as the identities of
13 those persons are concerned. That is the worst thing here.

14 A. In fact, when I returned to Rwanda, I tried at different times to get in contact with General Dallaire
15 through the ministry of defence in Canada; through the United Nations, and I never got an answer. This
16 was before the book, and I'm sure he did not need me to prepare the writing of his book and the team
17 that he cited were adult enough to assist him, and he did not ask for information -- for more specific
18 information from people who had a notebook or from people who could have corrected some
19 misspellings. So, I never had any contact with General Dallaire, even if I attempted to do so.

20 Q. But do you agree with the reaction I had a while ago when the president was telling me that an error is
21 an error? Do you agree with me that that is an inadmissible or unpardonable error?

22 MR. BÂ:

23 Objection. I think that you are hastily drawing conclusions. It is one thing to say perhaps, Mr. Claeys
24 was not in that mission, and it's quite another thing to say that information is false. You are jumping
25 directly. Dallaire could have forgotten who gave him that information, but it does not mean that the
26 information is false. He is going to be here. Once again, you have the opportunity to ask him, but he
27 cannot take Dallaire's place to answer in Dallaire's place.

28 MR. MACDONALD:

29 How can you blame my colleague, Mr. Black, of being a liar when you say that? You are very wrong.
30 You know that those who are responsible for those massacres are members of the RPF. Everybody
31 knows that and the investigators know that.

32 MR. BÂ:

33 I know absolutely nothing about that.

34 MR. PRESIDENT:

35 There is one puzzle for me from what you said. If there was a report which blames RPF, I can
36 understand that going underground, but you said that these reports blamed the government armed
37 forces.

1 MR. MACDONALD:

2 But it's more than a report. At least, a report is kept usually confidential. His -- what Dallaire is doing is
3 he is telling the world that these terrible massacres were committed by the *Forces Armées Rwandaises*.
4 That is what he is saying. That's worse than having a report somewhere locked up in some filing
5 cabinet.

6 MR. PRESIDENT:

7 Doesn't he run the risk of being a liar, if some day, some people produce these reports?

8 MR. MACDONALD:

9 Well, if there were reports, we know what's on the report, because the information we have is a
10 hundred percent FPR. There is no doubt about that and this witness -- I would put the question to
11 him --

12 MR. PRESIDENT:

13 Anyway, the --

14 MR. MACDONALD:

15 They buried that report and they buried the other one. It is the one that was made after.

16 MR. PRESIDENT:

17 You may ask those questions to the witness when the time comes.

18 BY MR. MACDONALD:

19 Q. Colonel Claeys, you were examined on the 13th of March 1997, and that on page 481 -- and I
20 understand your position today and your position, Colonel Claeys, in relation to those events, you did
21 not conduct any investigations, and so, you cannot directly or indirectly assert or identify anybody
22 whatsoever, as being responsible for that massacre or those massacres; is that your position?

23 A. Yes, absolutely.

24 Q. The question which was put to you by Mr. Caluwé, is once again on page 481, and one part of the
25 question is as follows: "It was said that RPF was, perhaps, also distributing weapons, and that it was
26 infiltrating into the demilitarised zone. Do you have any information in that regard?" Answer: "The only
27 incident took place in early November. The director of the Dian Fossey Project and myself discovered
28 a camp where there were remains of RPF equipment. This was not far from the village where the
29 massacres had occurred. We wrote a report about that, but those responsible were never found."
30

31 Colonel, do you remember if that question was put to you and you provided the answers I just read?

32 A. It is correct that the question was put; it is also correct that madam -- or, Mr. Pascale Sicotte or Sicotte
33 (phonetic); I do not know the exact pronunciation, who was responsible for the project, came and found
34 me at UNAMIR and came with a glove of the RPF uniform and a goat feet which somebody had found
35 in the area. The exact date of this, I do not recall. I do no longer recall, should I say. The piece of
36 equipment was placed in a cupboard; the part of the goat we did not keep because it was stinking, and
37 on that basis, we did not arrive at any conclusion. It could have a relation just like it might not have any

1 relation. I did not take any sample and I did not have any judicial or police prerogative to be able to
2 conclude if that piece of equipment, as far as we are concerned, came from a demilitarised zone or
3 whatever.

4 Q. Now, where were you when these objects were given to you -- the RPF uniform and the piece of the --
5 the part of the goat?

6 A. I was in UNAMIR or perhaps, at the *Hôtel des Milles Collines*.

7 Q. So, she came with this part of the goat and you said there was uniform -- the glove?

8 A. I think it's not a glove which could be worn on five fingers, but a glove that is just on your thumb, and
9 the rest as part of your camouflage uniform which the RPF people were wearing. I think it came from
10 East Germany.

11 Q. Did she tell you who asked her to bring that to you? Do you know where the order came from?

12 A. No, not at all. She informed me that it was the Rwandans who were working with her in the past, the
13 national guards, the guards of the park, of the project or of the Gorilla Centre or sanctuary -- that is
14 what she called the project -- during an inspection to find the number of gorillas they had. They found
15 that somewhere. I understand the circumstances under which that was found, but my question, I do not
16 know who asked her to bring those directly to me.

17 Q. And you do not know if you were the second, third, fourth person to meet that person?

18 A. No, not at all.

19 Q. Now, following the handing over of these objects and taking into account the fact that there had been
20 massacres around the places where the objects were found, I presume that, at least, you investigated
21 or requested permission to investigate on those elements, that is, go to the scene and find out if you, as
22 information officer, you could not find information which would make it possible to identify those
23 responsible for the massacre?

24 A. I did not ask for any permission to go there. I did not go there at that time. I went there later, in
25 February, for a visit during the weekend, to visit the project. We, probably, made a report on those
26 objects that were brought to us, as we did under other circumstances, to General Dallaire, but since
27 nothing was envisaged, I will not be able to say when she brought them. It could be around the time
28 when the incidents occurred; whether it is during the incidents of the 17th or 18th of November or later,
29 I do not have any idea. I think Major Birtili, when he had his dealings with the tripartite party, team or
30 commission, also found other objects. If there are other objects or the same objects, I am in no
31 situation to say so.

32 Q. On that question, let me draw your attention once more to the phrasing of an answer that you gave.
33 First, as far as the date is concerned, in your answer, you specified that you were asked if you had
34 information to the effect that the RPF was distributing weapons and that it was infiltrating into the
35 demilitarised zone area. That was the question. And your answer: "The only incident as part of that,
36 took place in early November." And you said it the way it is written here: "The director of the
37 Dian Fossey, of the project, and myself had discovered a camp where there were traces of RPF

equipment." It is clear therefore, after reading that passage, that you discovered a camp. So, it clear that you did not receive things in Kigali or Hôtel des Milles Collines; things which were given to you by somebody and you do not know why that person was meeting you. You said that you, yourself, discovered --

A. I said early November. Would you consider the 17th or 18th as early November? It's just -- I'm speaking from my memory. I could have said something else. I was making a statement in Dutch. I could have said they have discovered or it had been discovered, but I was just speaking from my memory. I'm not talking about the date, I am talking about the information. So, I was -- I did not go to the scene to pick up the gloves myself or the part of the goat. These were things that were brought to me in Kigali. So, clearly there is an inaccuracy.

Q. As said in these statements, you picked up those samples, and in reality, you are saying that you did not do so?

A. That would be false in my part to be able to in the middle of the park -- to be able to establish exactly where the demarcation line of the demilitarised zone passed.

Q. And once again I believe you did not take down the name of the person who gave you those objects?

A. Yes.

Q. It's Pascale Sicotte. Yes, he is the one who gave you those objects?

A. Yes, he gave me the objects herself.

Q. Clearly, there had been a massacre. Whether we are talking about the same massacre, that is a question that would have to be answered. Apparently, it is the same massacre. You have information that there is a massacre; things were found; pieces of equipment which you would agree with me indicated -- it's surely not proved beyond any doubt, but you can see that the RPF was responsible. And the question I am asking you: Do you not think that it would have been appropriate to force an investigation? In fact, to begin investigations on the massacres, that is one, and then secondly, on the indicators that you had, since you already had something -- you had some indicators?

A. Now that we have had time to think about it, yes, it might have been proper to do that, but at the time, I think, there were about 400 Belgian soldiers. There was a platoon in Ruhengeri, military observers on the demarcation line, the demilitarised zone. Now, did we have the means to do so?

Q. At the very least, was General Dallaire informed of the discovery of those objects?

A. Yes. Absolutely.

Q. And Colonel, do you remember if that information was transmitted to him orally, verbally, or was there a report that was written to that effect?

A. From my recollection, I think it was an oral report; that when the person left the premises, I, probably, took the carton with those exhibits before throwing away the part of the goat, and I probably went and saw the general or his military assistant.

Q. I agree with you that the part of the goat was not an important thing to take to the general, but at least you gave the general the glove in question. And what was General Dallaire's reaction when you gave

1 him? Did he say maybe we might have to carry out investigations; we have indications that the RPF
2 might be responsible?

3 A. From my recollection, I do not think he gave any directives, and there again, it proves that strange
4 passage in his book that I said that the commandos of Bigogwe were responsible.

5 Q. Finally, did you go back with the glove or did he keep the glove?

6 A. The glove remained in my office.

7 Q. So General Dallaire did not even want to take that glove to subject it to any analysis, he just left you to
8 return with the glove without saying that there was going to be any investigation?

9 A. No, he said nothing. I went back with the glove and I kept it in the office that had been assigned to us.

10 Q. Did General Dallaire ask you to preserve that glove just in case there was going to be any investigation
11 regarding those massacres?

12 A. From my recollection, I do not remember him saying that we should preserve it, but we kept it.

13 MR. MACDONALD:

14 Would you like to break at this point, Mr. President?

15 MR. PRESIDENT:

16 Court is adjourned for ten minutes.

17 *(Court recessed from 1604H to 1617H)*

18 BY MR. MACDONALD:

19 Q. Colonel, we were talking about the famous telegram, and I would like to seek some clarifications on the
20 same -- we were told that General Dallaire met Mr. Twagiramungu, and that Twagiramungu had
21 provided him with information on Jean Pierre. And you said that General Dallaire asked you to meet
22 Twagiramungu?

23 A. That is correct.

24 Q. Indeed, you met the prime minister designate, Twagiramungu. This discussion lasted about five
25 minutes. I believe you said basically what Twagiramungu did was provide you with a telephone number
26 with which you could contact Jean Pierre. This is my question: Did you ask General Dallaire, given
27 that he himself had met Twagiramungu, for what purpose you were meeting Twagiramungu if all that
28 meeting entailed was for Twagiramungu to give you a telephone number? At any point before or after,
29 did you ask General Dallaire why it was so important for you to meet Twagiramungu?

30 A. No, no question was put.

31 Q. Can I also take it that you also had no specific information from Twagiramungu enabling you to
32 determine Jean Pierre's credibility?

33 A. Indeed.

34 Q. Now, when Twagiramungu gave you the telephone number, did he tell you that there was a certain
35 code or password or signal that you were to give to Jean Pierre when approaching him so that he would
36 be able to identify you, as a protective measure?

37 A. There was no code agreed to.

- 1 Q. So, Twagiramungu gives you the number, you called that number and when Jean Pierre picks up the
2 phone, what happened?
- 3 A. He answered. As far as I can remember, he said "*hallo*", as most people do when they answer the
4 telephone, and then I told him that we had been given a telephone number to contact someone and that
5 we wanted to set up a meeting, and the conversation that ensued was establishing that contact.
- 6 Q. I suppose you identified yourself in the course of that telephone conversation.
- 7 A. Yes, I told him who I was; he answered that he was Jean-Pierre.
- 8 Q. At that time did you tell Jean-Pierre that the person who had referred to him was Twagiramungu?
- 9 A. No, I do not think so.
- 10 Q. Did you remain with the impression or did you get the impression that Jean-Pierre had been expecting
11 your call?
- 12 A. I believe -- I remember that Mr. Twagiramungu had said that the person was waiting for our telephone
13 call that day; he did not specify a time.
- 14 Q. Now, before you went to meet Twagiramungu, did General Dallaire tell you that you should be careful;
15 that you should distrust Twagiramungu? Did he directly or indirectly tell you this?
- 16 A. He never wonders against anybody.
- 17 Q. Now, he may not have told you to be on your guard, but did he tell you that Twagiramungu was a
18 politician and that he could be trying to hinder his enemies -- to taint his enemies, and in this case, the
19 president, Habyarimana?
- 20 A. He never made any such insinuation.
- 21 Q. Did General Dallaire tell you that Twagiramungu would do his best to harm Habyarimana?
- 22 A. Did you say "to harm Habyarimana"?
- 23 Q. Yes.
- 24 A. No, he never used such terms or talk of that.
- 25 Q. Colonel, were you aware that Twagiramungu was in opposition to President Habyarimana?
- 26 A. No, I never received that information. I always believe that there had been consensus in designating
27 him; that he was someone who was accepted widely. I never wondered whether he was formally in the
28 opposition or anything to that effect.
- 29 Q. In fact, I have been going through the transcripts -- I have the transcript but I don't have -- there is a
30 part that is missing I would like to refer to. Back to that issue, did General Dallaire tell you or did you
31 have information from another source that an alliance, objective alliance, existed between
32 Twagiramungu and the RPF, so that you were already armed with this information by the time you met
33 Twagiramungu?
- 34 A. That is news to me.
- 35 Q. When you met Twagiramungu, were you aware that although he was prime minister designate to that
36 transitional government, that he himself, Twagiramungu, faced opposition within his own party? Were
37 you aware of this?

1 A. I cannot remember that.

2 Q. And that his legitimacy was questioned within the party by the majority of the party; did you know that?

3 A. No.

4 Q. Further, that Twagiramungu might have been trying to trap you or give you a wrong information in an
5 attempt to rehabilitate his image vis-à-vis his party; vis-à-vis the international community, as a whole?

6 A. Again, no.

7 Q. In answer to the question I put to you, Colonel Claeys, as to whether you knew whether Twagiramungu
8 was notoriously in opposition to President Habyarimana, let me read to you what you said in

9 cross-examination on the 7th of April 2003, page 68. The question was as follows, line 327; Question:

10 "Do you agree, if I correctly understood, that right from the start you were aware of the fact that the
11 informant that had been sent to you came from Faustin Twagiramungu? A. Yes. Q. Who was -- who
12 is the prime minister designate of the broad-based transitional government, and is also known to be in
13 opposition to President Habyarimana." Do we agree on that?" Answer: "We agree; I agree."

14

15 Now, this was just meant to refresh your memory. Did you know that in actual fact Twagiramungu was
16 notoriously opposed to President Habyarimana?

17 A. That is quite a different question from the one you put to me earlier. Initially, you said that he faced
18 opposition within his own party, or was he a member of the president's party? However, it seems a
19 completely different question. I cannot answer to the same question twice.

20 *(Pages 64 to 72 by Sheriffo Jammeh)*

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1 1630H

2 MR. BÂ:

3 I think the question is different in that, initially, you asked him if Twagiramungu was trying to harm
4 Habyarimana. Now, to be in opposition and to be trying to harm, there is a difference between the two.

5 MR. MACDONALD:

6 I'm looking at the transcript here, Your Honours. I recall asking him if he knew that Twagiramungu was
7 *un opposant notoire*, and I had that question here written down. I was expecting that Colonel Claeys
8 would say yes, and so he said no. That's the reason why I've put the contradiction to him.

9 BY MR. MACDONALD:

10 Q. Now, if I put the question to you in the following terms: Were you aware as you met Twagiramungu that
11 Twagiramungu was notoriously in opposition to Habyarimana?

12 A. No. He was in an opposition party, but our intelligence did not indicate that he was notoriously in
13 opposition. And I do not think his intention was to harm -- to use any methods to harm President
14 Habyarimana.

15 Q. Listen, Colonel Claeys, I read the question to you. I also read the answer. So your position today is
16 that you did not know that Twagiramungu was notoriously in opposition to Habyarimana?

17 A. Indeed.

18 Q. Reference was also made to the originals of telegrams. You explained -- I will not come back on
19 everything you explained -- at one point in time there was an original, and when you went to the
20 headquarters to fax that telegram, I understand that there's something that happened to the original.
21 Can you tell us what happened to the telegram in question?

22 A. As is the case with any fax, the original goes in from one side and comes out from the other; that is the
23 document to be scanned. It was signed by General Dallaire. That document had to go back to him.
24 So, as far as I'm concerned, that document remained in the possession of General Dallaire. I have no
25 recollection that he went back to his office to keep it. I think he kept it on him. At the time we returned
26 towards Hotel Meridien and his residence.

27 Q. Now, what is the usual procedure under such circumstances? Is the telegram kept in a specific place,
28 in a file, so to say? Is it locked up? Are you in a position to answer that question?

29 A. In a classical -- or, conventional military situation, it is filed, put in a folder with a number and a
30 reference, that is, the dispatch number, the date of dispatch, and the document is secured. Generally,
31 the subject does not appear in the folder in which it is put. It is only -- it is classified, and the same
32 number would appear and there is a reference in red. That is what is done in the military -- in the
33 Belgian military, written "confidential." That is the normal military procedure, but I do not know if there
34 were any special directives within the United Nations.

35 Q. And, according to you, the document in question, or documents of that nature, originals, are they
36 secured? Are they locked up?

37 A. If we are talking about an office, about a cupboard, yes, probably, but if we are talking about a safe, as

- 1 such, I do not think that UNAMIR had such a safe in its headquarters.
- 2 Q. Now, once the original was classified, should I understand that the only person who actually had access
3 to that document was General Dallaire?
- 4 A. Yes, along with his military assistant, Major Beardsley.
- 5 Q. And in case you wanted to use that document, you would have had to go through General Dallaire, who
6 himself could have transmitted the document to you; is that correct?
- 7 A. Absolutely.
- 8 Q. Did you at any point in time learn or get to know whether that document was given either to you or to
9 your colleague, Deme?
- 10 A. To my knowledge, certainly not to me. And as far as I'm concerned, Captain Deme never saw the final
11 version of that document, either before or after it was dispatched. He was not present.
- 12 Q. That is something I wasn't certain about. What was Deme's rank again?
- 13 A. Captain.
- 14 Q. He was not present when the fax was written?
- 15 A. No.
- 16 Q. All the more so when it was dispatched, he was not there?
- 17 A. No.
- 18 Q. And as far as you, Colonel, you are concerned, you never saw that original again?
- 19 A. Yes, indeed, I never saw the original.
- 20 Q. And is it within your personal knowledge, did you learn from anybody whatsoever that the original of the
21 fax existed, that indeed there was an original?
- 22 A. Certainly there was an original, but I would not have known from whosoever where it was and who had
23 the original at what point in '94, '95, and thereafter.
- 24 Q. Let me address the Chamber, Colonel. You would excuse me. In fact, I would be addressing my
25 learned colleague, Mr. Bâ.
- 26 MR. MACDONALD:
- 27 I know, Your Honours, that we discussed about this original, and I think that -- I would just like to
28 confirm the position, Mr. Bâ's position, or the Prosecutor's position, with respect to this original
29 document. Could we have this original document? Do they have it and -- I was wondering because we
30 don't -- we've never seen -- I know that it was requested by certain lawyers, and the answers that were
31 provided by the United Nations were to the effect that they couldn't find the original. So I would like to
32 know what my friend, Mr. Bâ, has to say on that. It's a motion. It's probably not the best time to make
33 this type of a motion. I just want to know what his position is on that.
- 34 MR. PRESIDENT:
- 35 Yes, Mr. Bâ, do you have any different answer to that now?
- 36 MR. BÂ:
- 37 I don't have to be examined, but I do not think that the United Nations, or anybody whatever, would give

away the originals. The originals should remain there. Third parties can only be given copies. How would you want the -- what would be in their archives if they give you the originals?

MR. MACDONALD:

Merci, Maître Bâ. At this point in time, we will have to take -- we will have to take the defensive position as to what we will do with that. But Mr. Bâ confirms, I believe, the fact that there is an original, and that was also confirmed by *Maître Prosper* in the case of *Akayesu* on February the 13th, 1997, where *Maître Prosper* mentioned, and it's at page 14 -- I could do a copy, Mr. Bâ, for you -- where *Prosper* says, and we have the French version, he says, "*Veillez remettre au Tribunal une copie non caviardée, mais l'original restera confidentiel.*" So I understand my friend's position, and we will have to decide if we file.

MR. BÂ:

I was not here at the time. And I remember that when Dallaire came back to testify in the *Akayesu* case, a request had been made to the United Nations, first that the United Nations should authorise Dallaire to come and testify, and also that the United Nations should provide a number of documents. But all we have with us are copies. And, again, it would surprise me for the United Nations to give away an original. Perhaps the President of the Chamber might want to send an e-mail to Kofi Annan or somebody, but it would be surprising to me for the United Nations to give out originals. They can only give out copies because the United Nations have to keep their own archives.

MR. MACDONALD:

Again, I understand Mr. Bâ was not at the Tribunal at the time, but my position is that the Prosecutor is undividable, "*indivisible*" in French, one Prosecutor can't say this and the other one can't say that. So Mr. Bâ confirms the fact, I think -- as long as he knows -- and I'm not putting his word in doubt in any way -- but as far as he knows, probably there is an original. But *Maître Prosper* went a little further than that. He confirmed the existence of this document. So, again, I'm not going to waste your time. If we have to file for a motion, either a verbal or a written motion, we will take a position.

MR. BÂ:

But when Mr. Prosper says the original will be confidential, it does not mean that he has it in his possession. There is a nuance. Secondly, Mr. Prosper is now a big boss. He's representative of the United States for human rights, or whatever; he has become a big boss. But you can always send him an e-mail, asking him if he was in possession of an original, but I cannot reply on behalf of Prosper, who is no longer a member of the Office of the Prosecutor.

MR. BLACK:

I advise the Chamber that Mr. Jallow, with Judge Møse, met with that fellow just a month ago, so he had conversations with Prosper in conjunction with Judge Møse, after seeing Condoleezza Rice. That's my information, as announced in the ICTR bulletin. So they must still be in contact. To get the original fax, which he denies sending, instead, they placed in its place, this fabricated fax from the British army.

1 MR. PRESIDENT:

2 Leave it.

3 MR. BÂ:

4 I can defend my boss, at least. These are all inventions of Mr. Black. I will not go to respond to them.

5 MR. BLACK:

6 It's not an invention.

7

8 Excuse me, Mr. MacDonald.

9

10 It's not an invention that Judge Møse, along with Mr. Jallow, the Prosecutor, met with

11 Condoleezza Rice and Prosper.

12 MR. PRESIDENT:

13 That is for a different purpose, Counsel. That was also given in that same news site.

14 MR. BLACK:

15 We have no way of knowing what the purpose of that meeting was.

16 MR. PRESIDENT:

17 Yes, Mr. MacDonald, you may continue.

18 MR. MACDONALD:

19 Just one final thing on this. We all know the importance of that document. This is the Prosecutor's
20 theory to the effect that there existed a plan, the so-called genocide plan. So, on my part, I can assure
21 you that we will make a demand for -- to see this original document and have it go through some kind --
22 some kind of expertise to determine whether or not it's authentic.

23 BY MR. MACDONALD:

24 Q. Sorry, Colonel. I'm just trying to screen along.

25

26 Now, Colonel, I dealt with this indirectly a while ago, but I understand that you never, directly or
27 indirectly, attempted to obtain any information whatever from Twagiramungu with the aim of having an
28 idea of the credibility of this Jean-Pierre whom you had never met before.

29 A. Confirmation about credibility was on the basis of information that he provided to us and the activities
30 which UNAMIR was going to undertake in order to cross-check that information.

31 Q. But, once again, given that -- and I will not insist on this -- given that General Dallaire had already met
32 Twagiramungu himself, was it not necessary, according to you, given the fact that you are the MIO, the
33 military information officer, and that you have a certain experience in that area, obviously, do you not
34 think that the aim of the exercise, that is, the fact of meeting Twagiramungu, would have made it
35 possible for you to test the credibility of Jean-Pierre? Or else General Dallaire could himself have given
36 you the telephone number.

37 A. I was not present when the prime minister-designate spoke with General Dallaire. I read a description

in his book of a conversation on the terrors outside. Why it was put off to the next day, there again, I do not know how to answer that. Perhaps General Dallaire also wanted to test his information officers.

Q. Besides, you mention on page 13 -- excuse me -- on page 29 of the cross-examination of the 8th of April 2004, on the thirty-second or thirty-third line, at the time, at least, you were agreeing that you might perhaps have questioned the objectives of the prime minister before contacting Jean-Pierre. Do you still agree with that stand?

A. It is true that, on hindsight, when there are many things that could have been done, it is now normal to hope to have done what was not done.

Q. I understand your answer very well, Colonel, and I understand that you are answering in that fashion because I imagine, I presume, you have learnt that Jean-Pierre was a civilian with no military knowledge. Was that brought to your knowledge?

A. I got to know that following what Mr. Twagiramungu said, so that is certainly not something that we were aware of at the time.

Q. Now, you are saying that on hindsight we realised that we might perhaps have verified something.

A. But at the time, that was probably something that should have been done by the police and not the military.

MR. BÂ:

This information that Jean-Pierre was a civilian and that he did not have any military competence, you seem to take that for granted. But where is that from? Where is that from? It is not -- it cannot be taken for granted at all, as far as we are concerned.

MR. MACDONALD:

I think we will be in a position to substantiate that affirmation, but the question -- I could rephrase the question without taking that for granted, the fact that he was never military, he had no military experience. But whether or not this was brought to Colonel Claeys' attention, whether it is true or not, we could substantiate that in time.

THE WITNESS:

That was not brought to our attention, no, not at that time.

BY MR. MACDONALD:

Q. And since then?

A. As I was saying, solely on the basis of subsequent statements from the prime minister-designate, who said that that's a small fish who is not important, a driver with no experience, that is a deserter, and to be a deserter you must have been in the army, which means that at least he was in the army. So, once again there, there is a contradiction.

MR. BÂ:

And I would like to point out to my colleague and my -- that I have Twagiramungu's statement before the Belgian statement, and I could read the text, if you want.

1 MR. MACDONALD:

2 In any case, as far as we are concerned, and I believe that the questions which were put to
3 Colonel Claeys establish our position as far as Jean-Pierre and Twagiramungu are concerned, and we
4 are not going to conceal the fact. Certainly, we will not conceal the fact that Twagiramungu actually put
5 up this scenario to be able to obtain certain benefits. We are not claiming that Twagiramungu is a
6 credible person, either, but it is at least recognised that Jean-Pierre is a quack.

7 MR. BÂ:

8 It's Twagiramungu who changed in 1994. He was a member of MRND. He was a moderate Hutu in
9 whom the political class had confidence and he was taken as the prime minister-designate. MRND had
10 set up a distant faction within MDR Hutus, and the 7th of April, Twagiramungu was only saved by
11 UNAMIR or else he would have been killed on the 7th, like Lando, Kavaruganda, Nzamurambaho --

12 MR. MACDONALD:

13 Mr. Bâ always takes the occasion to give us a lecture, whenever the opportunity presents itself. It's my
14 fault; I shouldn't have brought this up.

15 MR. BÂ:

16 You said that he was a quack. You have to prove that. He subsequently became a quack, but in 1994
17 he certainly wasn't.

18 MR. MACDONALD:

19 Our position is that Jean-Pierre is a quack.

20 BY MR. MACDONALD:

21 Q. Have you learnt since then that Jean-Pierre was going to be dismissed from the MRND in November
22 1993? Was that information -- did that information reach you at any point in time?

23 A. No, never.

24 Q. And that Jean-Pierre had no access to confidential information which was at the MRND national
25 secretariat in January 1994; he could not give any information whatsoever on the MRND?

26 A. I never had any such information, but apparently he still had free access to the headquarters, unless, of
27 course, this was not the headquarters of the MRND. But as far as I'm concerned, that was the official
28 headquarters, and there is a video which we looked at where he was organising and putting up the
29 political authorities on the steps of the stadium. It would be surprising to me that he did not have any
30 influence whatsoever at that level.

31 Q. I understand your testimony, that when you tell General Dallaire that there's an arms cache by MRND,
32 you are saying that on the basis of the information from Jean-Pierre, but you do not have any -- any
33 other independent confirmation that that was the headquarters of MRND?

34 A. No. In what I have just said, that was an allusion, an interpretation. That could have been
35 misinformation. But we knew where the headquarters of MRND was and we know that that was where
36 it was, and we knew that that was where Colonel Ndindiliyimana was. That place was well known. The
37 flag was flying there by night and by day, so it was a place that was recognised. And there was no

1 problem. That headquarters was there. There are two people who went there and came back with the
2 information.

3 Q. You mentioned earlier that Twagiramungu said that Jean-Pierre was a deserter, but is it not, rather,
4 Major Haque who called him a deserter and not Twagiramungu?

5 A. It is possible, but I don't have any notes to say whether it was Major Haque or it's just in the heat of the
6 questions, the preceding questions or the paragraphs that were read out to me that mention was made
7 of a deserter. But now, if you say it is Major Haque ... in any case, I'm not the one who said that.
8 These are statements that we reported.

9 Q. The information that I have is that it is not Twagiramungu, but Haque who called him a deserter. What
10 Twagiramungu said was that he was an ordinary driver and that he was dismissed by the MRND. And
11 ultimately, he concludes by saying that that type of person is looking for benefits, benefits either for
12 selling information or because the person is telling lies.

13 *(Pages 73 to 79 by Karen Holm)*

1 1700H

2 MR. BÂ:

3 And there, Mr. President, I would be forced to read what Twagiramungu said on the Friday, the
4 30th March. Again, that is the date that I have.

5 MR. MACDONALD:

6 If my friend wants to do it, he can do it in re-examination. But this is the information I have, anyway.

7 MR. BÂ:

8 I'll come back on that in re-examination.

9 BY MR. MACDONALD:

10 Q. Now, did you ask yourself at any point why Twagiramungu had not first communicated with Booh-Booh,
11 before he took those steps?

12 A. No, I never wondered about that. I believe he must have done it somehow. That was not my level. I
13 was not a politician or in charge of political affairs.

14 MR. BÂ:

15 I have to intervene. That is not what Twagiramungu says.

16 MR. PRESIDENT:

17 Yes, Counsel, you can do it later. But before that, I want to put one question to this witness.

18

19 Witness, you said you saw a video recording of Jean-Pierre organising a meeting. Was that given to
20 you after you met Jean-Pierre or before that? Who gave that to you?

21 THE WITNESS:

22 Jean-Pierre, himself, gave us the video after that political rally -- or, meeting was held -- or, organised.
23 And this video was long. We see a number of various activities at political rallies, during which
24 Jean-Pierre, whom we had known for two, three or five days prior to that, walks about in civilian attire
25 with a portable radio, gives instructions, gives an account of vehicles entering the Nyamirambo stadium
26 as they are taking their places in -- along the stands in the stadium. That is also when we noticed that
27 there was a journalist, a European, who was also taking shots during the meeting. It was later
28 discovered that this was the Belgian journalist working for RTL, Mr. Georges Ruggiu, or something
29 like that.

30 BY MR. MACDONALD:

31 Q. On that matter, your position today is that you do not know if Twagiramungu, in fact, communicated with
32 J.R. Booh-Booh?

33 A. My position is that at the time I did not know. It is here, whilst preparing to testify here, that I was
34 provided with my testimony -- or, documents indicating that Mr. Booh-Booh declared that he had had
35 personal contact with Faustin; apparently, though, it was following our meeting with Jean-Pierre. This is
36 as far as I can remember.

37 Q. I'd like to draw your attention to a testimony of 7th April 2000 on page 85, line 4, to page 86, line 3. I

1 don't want to read the whole of the text, but just what follows. You mentioned, "What I would like to say
2 on this issue is that if Mr. Twagiramungu took the trouble at his level, in his capacity as future prime
3 minister of government, and that he had not provided -- or, I hope, if he took the trouble to contact
4 General Dallaire, and I would like to digress here. Why then did he not speak to the special
5 representative of the secretary general because this was a civil matter? If he took the trouble to speak
6 to the general, I would either take it that he acted in bad faith and that all he wanted to do was to put the
7 peace process in disarray, or he considered this information as noteworthy and that it should be further
8 explored." For you, in that testimony on the 7th of April 2004, you seem to be taking it for granted that
9 he did not speak to the SRSG.

10 A. At that time I had no information to the effect that he had spoken to Mr. Booh-Booh. Later, I found out
11 that Mr. Booh-Booh had signed some documents that were sent to New York, in which he mentions a
12 meeting with the prime minister-designate.

13 Q. Still in relation with Jean-Pierre?

14 A. In relation to Jean-Pierre.

15 Q. But who told you that; was it information provided to you by one of the Prosecutors?

16 A. I think it is a fax, one of the faxes that Mr. Booh-Booh sent to New York after General Dallaire's initial
17 faxes.

18 Q. So you got that information from a fax?

19 A. I was shown several faxes.

20 Q. And the fact that he, General Dallaire, did not attempt to communicate with --

21 MR. BÂ:

22 Just to quash any doubt, it is your learned friend Black who showed him that fax in his
23 cross-examination.

24 MR. MACDONALD:

25 We are talking about his position on the 7th of April 2004, to the effect that he did not know.

26 BY MR. MACDONALD:

27 Q. This is the question. The fact that General Dallaire, on the 11th of January 1994, did not try to transmit
28 the information to the special representative, J.R. Booh-Booh, did that not worry you at some point,
29 either before or after sending the fax? Did you not try to find out why it had not been disclosed to
30 Mr. Booh-Booh?

31 A. That was not my concern at the time to know, but I came to know, following information that was
32 provided to me when I testified, that Mr. Booh-Booh had written after the fax had been sent because
33 Mr. Booh-Booh sent another fax following that of the general. So he probably informed him after
34 dropping me at the Meridien, because Mr. Booh-Booh's residence was on the way, to the left of the
35 Meridien hotel. Perhaps he had just one minute to go by car from the entrance to the hotel. It is a dirt
36 path -- and, in turn, Mr. Booh-Booh must have sent a fax to New York. He did not do so before; he did
37 it afterwards. But I did not know of this in 2004. I found out in 2005 when confronted with the

1 document here.

2 Q. That?

3 A. That Dallaire had gone to see Booh-Booh to inform him.

4 Q. That is what I wanted to know, in 2005. But is it not correct that at least you knew -- given the
5 information that he had transmitted to New York, you were aware that this information should first be
6 given to J.R. Booh-Booh?

7 A. No, no, I did not know what was likely at that level.

8 Q. It's not a matter of likelihood. It's a matter of protocol. He was Dallaire's boss. He, himself, rightly
9 says.

10 A. Yes, but I was not aware of the animosity at that level. As far as I was concerned, there was cordial
11 relations between them, and in the end I think he took emergency measures, but given that he was the
12 head of the mission, perhaps he did take the general to task, but I believe he acted -- as he acted, he
13 was doing his duty.

14 Q. You send information to New York during a relatively critical period. You agreed with me. There is a
15 direct attack on the MRND by alleging that the MRND has arms caches. You get that information from
16 an informant.

17 A. I was not aware at the time, I said this last week, that the MRND headquarters was designated as an
18 arms cache on the 13th, not the 10th, 11th or 12th. So at the time we did not know this was an arms
19 cache in the MRND.

20 Q. Did Jean-Pierre not tell you that the arms caches --did he give you the identity of the persons hiding the
21 arms caches?

22 A. No, there is no mention of that in the fax. We talk of arms caches, distribution, training, but there is no
23 mention of the places. The places he gave us later, on the 13th. Once again, General Dallaire, even
24 though he did not send the fax copying it to Mr. Booh-Booh, sent it to the person I initially described as
25 Martin or *Martin*, and who turned out to be Major General Maurice Baril, so he was sending military
26 information to another UN military official working in the peacekeeping department, and then informed
27 Mr. Booh-Booh. Mr. Booh-Booh informed his political hierarchal superior. I, therefore, do not see how,
28 unless there was someone's sensitivities that was tampered with -- if General Dallaire went against
29 protocol in sending the fax the way he did.

30 Q. You have read Mr. Booh-Booh's book?

31 A. Correct.

32 Q. When Mr. Booh-Booh states that General Dallaire went above him -- bypassed him in sending the fax,
33 do you still disagree with my assertion on the issue of protocol and that General Dallaire was acting
34 against this when he sent the fax to New York?

35 A. One would have to look at the UN regulations on protocol, but as far as I know, if a soldier sends a
36 document or fax to another soldier, I do not see how that would cause a protocol problem, unless he hid
37 the fax's existence from Mr. Booh-Booh. I do not know if he did that.

1 Q. If I am to understand your position, and I believe this is important, what you are saying is that when the
2 fax was sent to New York, and, again, you took an active part in drawing up this fax, and when
3 Jean-Pierre spoke to you about an arms cache, you were not at all aware if the weapons were hidden
4 by the RPF or the Rwandan Armed Forces or the *Interahamwe*. You had no idea as to the identity of
5 those holding the arms caches. Is that what --

6 A. That's what appears in the fax.

7 Q. That is not what I'm asking you. That is not what I'm asking you.

8 A. In the fax, dated the 13th -- or, in the report of the 13th of January, and we've all had a look at it, that is
9 the first time the MRND headquarters is mentioned. The first time there was no mention of the MRND
10 as an arms cache. Jean-Pierre said he was ready, prepared to show us where the caches were, but he
11 did not mention who was hiding the weapons, as far as I recall.

12 Q. And am I to understand that you did not ask Jean-Pierre who was hiding the weapons? Jean-Pierre
13 had told you that he was training *Interahamwes*.

14 A. The only thing he mentioned was weapons provided by the Presidential Guard in the trenches or
15 gutters near the Meridien roundabout. He does not talk about the party. He just talks about the origin --
16 or, the providence of the weapons. Now, with regard to the protocol issue, Mr. Booh-Booh also
17 mentions that in his book that General Dallaire had extramarital relations in Kigali. Why did he not
18 intervene if it was so important? Why did he not request the United Nations to relieve General Dallaire
19 of his function if he had extramarital -- or, extracurricular activities -- relations with the Rwanda
20 population during his time there?

21 Q. I'll go back to the issue of the weapons caches later. When you met Jean-Pierre, did -- the first,
22 second, third or fifth meetings, even the tenth meeting with him, given the -- quote, unquote --
23 importance of that contact, based on the information he gave you and also based on the fact that he
24 had been referred to, but none other than the prime minister-designate Twagiramungu, why did you not
25 -- in your capacity as MIO, as a conscientious person, and holding a certain experience, why did you
26 not record Jean-Pierre's statements? Why did you not record them, use some kind of equipment to
27 take recordings?

28 A. In earlier testimony I said that UNAMIR's mission was defined by the United Nations as a low-budget
29 mission. Even the pencils and pens I was using, the maps of Rwanda, I had brought with me. Had I
30 had a chance, in hindsight, I might have come with equipment to take photographs or sound recordings,
31 but I had come with no such equipment. I hope in the future United Nations will ensure that certain
32 personnel is equipped properly; however, I had no such equipment and no one was in a position to
33 equip me.

34 Q. Did you ask for it?

35 A. Yes, I requested.

36 Q. When?

37 A. Right from the start. The only conversation that was recorded using perhaps the general's ADC's

1 equipment, unfortunately, such -- that tape has disappeared, was used in a conversation with the
2 president of the MRND when General Dallaire confronted him to say, "We know you're hiding
3 something." That is the only encounter that I can remember being recorded.

4 Q. In your statement of 24th September 1996, I must point out to you that that interview took place
5 between Dallaire and Ngirumpatse, Nzirorera, that meeting had been recorded by "F.C.". Does that
6 refer to force commander or Frank Claeys?

7 A. I believe -- I suppose it was me using the equipment because I do not see the general placing the
8 recording equipment on the table. I did so discreetly.

9 Q. Therefore, you confirm that this sound-recording equipment existed, that you were in possession of
10 such equipment a few days after, and that in meetings with Jean-Pierre you used -- did you use that.
11 So my question is: why not use that same equipment -- and I understand that you say you did this --
12 without letting those people know that you were recording? You were trying to trap MRND officials, the
13 president and his secretaries -- or, assistants, by recording them without their knowledge? That is what
14 you tell us. And you say that it would have been proper to record Jean-Pierre and yet you did not do
15 so. Earlier on, I did, indeed, or -- you mentioned, rather, that the reason you did do this was owing to
16 budgetary constraints and, yet, you had just told us that you had such equipment. Why did you not
17 record?

18 A. As I said, it was not mine; it belonged to the general's aide-de-camp; I believe he was a Dutch captain
19 and at the time -- on the spur of the moment I said, "Why not record?" At the time we were not using
20 equipment like CDs, MP3; we were using very basic equipment, mini cassettes. I suppose he had
21 brought it and made it available, and that was the only occasion on which it was produced. But with
22 Jean-Pierre, it was not done. I think I earlier indicated that Jean-Pierre had forbidden us from taking
23 notes.

24 Q. And who was in charge of that equipment?

25 A. I have just told you.

26 Q. To whom did the equipment belong?

27 A. I said so; it was Dallaire's aide-de-camp.

28 Q. And what about Beardsley; did you ask if you could use his equipment?

29 A. I said it did not belong to Major Beardsley; it belonged to the Dutch captain, the aide-de-camp. The
30 general has a military assistant -- or, advisor, and what is referred to as the stick bearer or batman, an
31 ADC. I think his family name was De cams (*sic*) or De camp (*sic*). I think he mentions Captain de Kant
32 in his book, that he was from the Netherlands, Holland.

33 Q. And who told you that the equipment belonged to that individual?

34 A. This is what I can recall, that the equipment belonged to him, that he used it to play music quietly,
35 without bothering others.

36 Q. So you do not know who told you whether it was General Dallaire or he himself?

37 A. This is what I can recall.

1 Q. What I put to you is that it appears you recorded the confidential, using equipment –

2 A. That did not belong to me.

3 Q. I understand. Did you take steps? You see, I'm analysing the answers you've given. Let us say you
4 had an opportunity to record Jean-Pierre. So did you take steps to borrow that equipment in order to
5 record Jean-Pierre and have concrete evidence?

6 A. No.

7 Q. I will like to backtrack a little bit, Colonel, to the telegram. You were challenged with a number of
8 statements, including CLAEFRA-06. Mr. Black put questions to you on statements you had provided,
9 especially with regard to what you drafted -- or, typed on General Dallaire's computer. You also said --
10 what we know -- whether it was you or Brent Beardsley who actually typed the fax out, regardless of
11 that, we know that the information contained in that fax is based on your personal notes. And, yet, you
12 say in the statement of 24th September 1996, the one I have referred to just a while ago, talking on the
13 subject of Jean-Pierre, you indicated --

14 MR. MACDONALD:

15 And this appears on page 2, Mr. Bâ, the middle paragraph.

16 BY MR. MACDONALD:

17 Q. "His motivations were against the RPF, but not all the Tutsi." And you say, "He forbade us from taking
18 notes in his presence." Do you remember saying that on 24th of September 1996? Now, my question
19 is as follows: if he did not allow you to take notes in his presence, how were you able to draw up the fax
20 based on the notes you had taken?

21 A. That is correct. But I do not think I mentioned note taking the first meeting. At the first meeting from --
22 as far as I can remember, we did not take notes, but when in subsequent meetings we met in a location
23 that had been provided to us -- for instance, in a car; in an unmarked car, for instance -- in such
24 situations he did not want us to take notes.

25 Q. But why did he radically change his position? He allows you to take notes. He is giving you specific
26 information. Then why in the second, third or fifth meetings does he then forbid you from taking notes?
27 I have a problem seeing what his fears could have been.

28 A. I do not wonder about that, since I was in a position following each meeting to go back to the
29 headquarters to draw up a report. With the memory still fresh in my mind, that was not too much of a
30 problem for me.

31 *(Pages 80 to 85 by Verna Butler)*

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1 1731H

2 BY MR. MACDONALD:

3 Q. So you did not ask yourself why an informant, such a major informant, would that not make you
4 question his credibility, if he's giving you information he considers to be important? Did you at least ask
5 him? You say he allowed you to take notes in some places and not in others. Did you not ask him
6 why? What could have frightened Jean-Pierre?

7 A. I do not know what could have frightened him. But if it was the issue of taking down notes, I do not
8 think there was allusion to very complex names. There were numbers and names, but very few names
9 of places or persons which would have required us to take notes. It was a simple report. I never
10 wondered about it after the fact.

11 Q. I understand that you did not ask yourself the question, but I suppose that you put the question to
12 Jean-Pierre.

13 A. If I don't ask myself the question, I don't see myself asking the question -- putting the question to
14 Jean-Pierre.

15 Q. But then did you not think that at that time the recording equipment was very important? It was done
16 without the knowledge of the chairman of the MRND and the secretariat. Why was that not done with
17 Jean-Pierre? I have difficulties understanding that.

18 A. Yeah. After the fact, it is difficult to understand.

19 Q. And, Colonel, could you tell as from which meeting Jean-Pierre took the decision that he would no
20 longer allow you to take any notes?

21 A. I am not in a position -- initially we met him, and the general authorised us to do so. And once it turned
22 out that the international community did not want to provide him with protection, I continued to meet
23 him -- how do I put it? I was not asked by the general to do so, but he knew that I was doing so, and I
24 believe that it was especially to keep contact for what he could provide us as additional information. So
25 I imagine that that must have happened after the fourth or fifth meeting, or interview. But that is totally
26 from my recollection that I'm giving those figures.

27 Q. Yes, I understand.

28

29 Was Captain Deme in the same situation as you were when he met Jean-Pierre? Did Jean-Pierre stop
30 him from taking notes?

31 A. From my recollection, Captain Deme never met Jean-Pierre in my absence, without me, that is.

32 Q. And while both of you were with him, did you see Captain Deme taking any notes?

33 A. I suppose during the first interviews; thereafter, no.

34 Q. And I understand that General Dallaire left it up to you to meet Jean-Pierre, or not to meet him. That is
35 the official version, at least, that is your version; is that correct?

36 A. Yes.

37 Q. But in spite of that, when you met Jean-Pierre, you had, first of all, to discuss it with General Dallaire

1 and then thereafter provide him with a report?

2 A. Let us say that for my -- or, rather, for our security, we informed General Dallaire that we had an
3 appointment so that he should know, first of all, that we were not available in the office and so that he
4 should at least have an idea of the neighbourhood, or the vicinity, where we were at the time that we
5 had an appointment with Jean-Pierre, or just in case something happened. So, certainly, on our return,
6 he was informed of the content of our interview.

7 Q. And, once again, during the last interviews -- I shouldn't say the last, the fourth, the fifth -- and I'm not
8 going to limit you to those figures; you were just giving an estimate.

9

10 Now, when you report to General Dallaire, you definitely did so orally because, at the time, you did not
11 have any notes; is that correct?

12 A. From my recollection, we reported to say that we had returned, and we gave an account of the various
13 issues we talked about. And, from memory, we wrote a report.

14 Q. Do you say before or after (*microphone not activated*).

15 A. After. First an oral report to tell him that we returned and that there was no problem, and then, after
16 debriefing him orally about the issues we discussed, we normally wrote a report, that is, if it was worth
17 it, if we saw from the interview that it was worth it.

18 Q. I suppose that General Dallaire certainly asked you why the informant (*microphones overlapping*)...had
19 radically changed his method of work with you because he no longer allowed you to take notes. Did
20 Dallaire ask you why, what's happening?

21 A. No, he did not ask.

22 Q. Now, the informant, who was very cooperative with you during the first few meetings, decided at one
23 point that notes should not be taken. You did not ask yourselves any questions about that stand. You
24 did not put any questions to him, and General Dallaire either does not ask you any questions about
25 why, that is -- that is, if I understand correctly.

26 A. Yes.

27 Q. And what about Captain Deme? Did he make any comment whatsoever about that?

28 A. No.

29 Q. To your knowledge?

30 A. No.

31 Q. You were told about the testimony of the general's military assistant, Mr. Beardsley, and his categorical
32 (*sic*) in his stand before the Tribunal, that not only you did not take part in preparing the fax, but you
33 were not even there. I think you even said something about that.

34 MR. BÂ:

35 But be careful. When you say "you were not -- you were not even there," you should -- you should add
36 something. (*Microphones overlapping*) ... "You were not there when the fax was prepared." You should
37 add that.

1 BY MR. MACDONALD:

2 Q. Beardsley says that you were not there. He's categorical. You maintain your stand that you were
3 there?

4 A. Absolutely.

5 Q. And he goes even further in his testimony of the 4th of February, pages 28, 29, following a question
6 from Judge Reddy. He says, "If Claeys said that he never heard anything about the murder of
7 Belgians, that would be a serious conflict, and I would not agree with that."

8

9 The Judge asked that question, that Captain Claeys said that was not the situation.

10 A. That is not correct either. I said that that did not appear in the first fax, and I also said that there was no
11 plan and that I answered specific questions. I said that it was not in the first fax. But then, that, again,
12 was from my recollection.

13 Q. I understand. It is the way the question was put by the Judge and who used the word "never."

14

15 Well, that is good enough as far as that first fax is concerned. Let me ask you this: Do you remember
16 the number of faxes which you took part in preparing, still as far as Jean-Pierre was concerned?

17 A. I participated in the drafting and dispatch of only one fax, and it is the same fax. But in a statement I
18 talk about a number of faxes from my memory. But I am referring to the famous reports that I drafted in
19 English in -- on the 13th of January and later on in the month. And, for me, that was a combination of
20 faxes, messages, and reports. I was talking from my recollection to say that I had interviews, and
21 reports had been made. But I participated in the drafting of one fax, which was sent in the night of the
22 10th to the 11th.

23 Q. Once again, whether it was Brent Beardsley who drafted or -- or prepared it or whether it was you,
24 given the fact that you have said, and you have said on a number of occasions, that the -- on the 10th
25 there was no problem with Jean-Pierre and the Belgians, and I am putting it to you that it could not be
26 the same fax and that, apparently and possibly, you are making a mistake in what you are saying.

27 A. I am -- I am answering your question on the plan. There was no plan. There was an intention. And
28 from my recollection, from my memory, I could not make the exact distinction between the reports that
29 were written as from the 13th and the fax that I wrote on the basis of my notes on the 10th. I did not
30 have anything to refer to, no written memory -- reminder or electronic reminder of what happened in
31 Rwanda after the 6th of April.

32 Q. I stated my position, that you might be mistaken. And I understand your answer, that is, the answer you
33 gave to Counsel Black. But the proof, I would submit to you, respectfully, that that fax -- and the fax as
34 it came out here -- the fact that he had -- it had been done after the event is clearly on page 197 of
35 General Dallaire's book, where the general tells us, on page 197, that Jean-Pierre said that the trap
36 consisted in killing 10 Belgian soldiers. And you don't need to be, as they say in English, a rocket
37 scientist. You can see -- we can see that there had been a plan for quite a while to kill not 9, not 11, but

1 10, because the official position is that 10 Belgians were killed.

2
3 And, once again, when you read this passage written, Colonel, did you try in any way, directly or
4 indirectly, to -- did you ask General Dallaire to, directly or indirectly, make any corrections? Because
5 you -- you knew. You were the resource person, and you communicated with Jean-Pierre. And you
6 knew very well that there was never any issue about 10 Belgians. So what did you do when you read
7 that passage from General Dallaire's book?

8 A. The passage in General Dallaire's book, which contains incorrect passages, I put a question mark
9 beside those passages. And my attention was drawn to the figure 10 also. But, as the fax says, that
10 was an intention to provoke Belgians. But I do not believe that we could have waited for this
11 roundabout or the manifestation for 10 Belgians to be killed before any reaction. So if that intention
12 existed, we would not have waited for the 10 Belgians to react. The first gunshot, or the first victim, in
13 UNAMIR, then authorisation would have been a given for the use of weapons following rules of --
14 regarding the number of forces present within the scope of legitimate defence.

15
16 But, again, here, things are being mixed up, if we can say so, and took the 10 that had been killed later
17 in April and put them in a conversation in early January. He did not contact us to find out information.
18 He did not ask us to read his script. And when we tried to -- we couldn't have contacted him before
19 because we did not know that he intended to -- we didn't know that he intended to write one. The only
20 person, as far as I know, who had written and telephone conversations with him was Colonel Marchal.

21 Q. Colonel Claeys, you are obviously a very intelligent individual. I respect, and I understand your respect
22 for, General Dallaire, and I am not trying to ask you to read General Dallaire's mind. But you realised
23 what General Dallaire's ultimate aim is. In his book he is confirming the plan. Because, once again,
24 the official position is that there were 10 Belgians who were killed. So what he's doing is that he is
25 trying to make certain the fact that those people were deliberately killed and that there was a plan to kill
26 those people and, in fact, Jean-Pierre told you so. So did you have that reflex, rightly or wrongly so?

27 A. I did not have that reflex. But if you are well informed, there were at least 13 Belgians that were killed
28 during that period, because there were those 10 soldiers in Kigali, and I believe there were three
29 cooperation workers, civilians, who were killed around the birthplace of the president. So that figure
30 does not say too much. That is General Dallaire's responsibility. We are talking about Belgians. We
31 are not talking about soldiers. Belgians could have been killed at any point of the day or night, those
32 who went to bars, rightly or wrongly so, bars in Rwanda or in Kigali.

33
34 So -- so there was no plan. There was a possible intention, or plan, later on, which Jean-Pierre told us.
35 If they wanted to do so, it could have taken place. There was no plan. And, I repeat, the word "plan" is
36 totally different, and I did not give any information. Because, to me, it was not Belgians, it was
37 UNAMIR, and it has nothing to do with any total loyalty to my boss or the boss of my unit. That was my

perception as a UNAMIR soldier in a mission in Rwanda, for Rwanda.

Q. So, if I understand your position correctly, you are saying that when you read General Dallaire's book, and in particular the passage which talks about 10 Belgians, where Dallaire said Jean-Pierre told us that the trap consisted in killing 10 Belgians, never, never did anything strike you that he was referring to the 10 Belgians who were killed on the 7th of April? You never had any such reflex?

A. No, not at all. It is no secret that General Dallaire went through a psychological crisis when he returned from Rwanda. He was relieved from the armed forces because he could not reflect and conduct himself as he could. And I think even that state -- frame of mind is reflected in the redaction -- in the -- in the -- in the preparation of his book. So you cannot make him responsible. I do not know the legal term for that.

During that period of the writing of his book, he is the only person responsible, so -- he and his pen and his team. So he did not rely on the information that he received from me and, as far as I know, from others.

Q. So your -- your stand is that either he was wrong or he did not have the right frame of mind to write a book at that point in time?

And I would like to underscore to you that, if you read Dallaire's book, obviously you see that 10 Belgian soldiers were killed. And I would like to tell you, Colonel, that anybody who reads that book -- at least people who read it -- and I know people who read it -- made a link between the number of Belgians -- or, the Belgians who were killed on that day and the number that is purported to have been advanced by Jean-Pierre.

MR. BÂ:

(No interpretation)

THE ENGLISH INTERPRETER:

Counsel's microphone, please.

MR. MACDONALD:

(No interpretation)

BY MR. MACDONALD:

Q. When you say that that General Dallaire was obviously wrong, so I ask you, how do you explain the position of Beardsley, who also says that Jean-Pierre mentioned that plan to kill 10 Belgians? How do you reconcile that with Jean-Pierre -- or, I'm sorry, with Beardsley?

A. I can understand that Major Beardsley, who spent six, eight months in operation with General Dallaire, seems he has remained loyal to him within the Canadian armed forces. And, having been part of the team that wrote the book, at one point in time lost sight of some details in this whole forest of facts that they recounted. That is the only explanation that I have to that effect.

1 MR. MACDONALD:

2 *(No interpretation)*

3 MR. PRESIDENT:

4 *(Microphone not activated)*

5 MR. MACDONALD:

6 *(Microphone not activated)*

7 THE ENGLISH INTERPRETER:

8 Counsel's microphone, please.

9 MR. PRESIDENT:

10 *(Microphone not activated)*...so they might be able to get new witness in the afternoon tomorrow.

11 MR. MACDONALD:

12 No, I doubt it very much. I have at least a half a day, and my friends will also want to put questions to

13 him.

14 MR. PRESIDENT:

15 Yeah. Court is adjourned till 9 tomorrow.

16 *(Court adjourned at 1800H)*

17 *(Pages 86 to 91 by Ann Burum)*

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CERTIFICATE

We, Karen Holm, Verna Butler, Ann Burum and Sheriffo Jammeh, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*stenotype*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

_____ Karen Holm

_____ Verna Butler

_____ Ann Burum

_____ Sheriffo Jammeh