

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

TUESDAY, 11 OCTOBER 2005
0910H
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
Mr. Alphonse Van
Ms. Ifeoma Ojemeni Okali
Mr. Segun Jegede
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. Sithembiso Moyo
Ms. Regina Limula
Ms. Verna Butler
Ms. Karen Holm

I N D E XWITNESSFor the Prosecution:

FRANK CLAEYS

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MR. PRESIDENT:

Good morning, ladies and gentlemen. The session is now on. The appearances are as before.

Yes, Mr. Prosecutor, you can lead your next witness.

Yes, Counsel.

MR. ST-LAURENT:

I am sorry, Mr. President. Just before the witness comes on, I have a small -- a rather minor application to make with regard to yesterday's witness, LBC. Would you allow me to make the short application?

MR. PRESIDENT:

Yes.

MR. ST-LAURENT:

Mr. President, Your Honours, my application will definitely take into consideration Witness LBC, who was heard yesterday, and my application is that you dismiss her testimony. Very briefly, I will give you the reasons for my application. You are well aware, as I am, that all the investigators of the Tribunal, in executing their duties, seek evidence as contained in the statements given by witnesses which may be used in the Prosecution case. In the case of Witness LBC, we had none other than Mr. Segun Jegede as an investigator. These testimonies are put on in writing, Mr. President, and I reread to the witness so that the witness would confirm that they contain the truth.

The written statements by the witnesses also bear the signature not only of the witness, but also of the investigators who took the statement. In addition, the translator, this is Ms. Gaudence Mukatigeli, certifies -- orally translated the statement from the English language into a Kinyarwanda language in the presence of the witness will show me that she had heard and understood my translation of her statement. The translator's certification also indicates that the witness -- the facts and matters set out in her statement as translated by me, reflects the most faithfully possible what she had seen and what she had heard concerning the matter at hand, and has accordingly appended her signature where indicated.

Based on this pre-trial statement collected by investigators of the Tribunal as certified by them, and also the translator and the witness herself, given that they are a reflection of what she said and heard, that the Prosecutor then draws up his indictment and briefs. This statement is also provided to the Accused as the Prosecutor is compelled to divulge his evidence -- to disclose it, and this would allow the Accused to take note of what accusations are levelled by the witness, so that he can prepare his cross-examination of the witness. The witness's out-of-court statement is therefore a very important document. And, unfortunately, this seems to run counter to the impression we get in this Court.

1 Although we are aware that the witness does not testify based on his statement but rather on his
2 testimony before you, Your Honours, we submit that such testimony cannot be examined without taking
3 into account what the witness has already declared and attested to before the investigators and the
4 Court assigned interpreter. This is a very important part of the Prosecutor's duty.

5
6 We would like the Judges of this Court to be aware of the contradictions, omissions, the implausibility,
7 the discrepancies between the witness's testimony and the statement given to this Court, and this
8 should be taken in light of your need to examine the credibility of her testimony, but we submit that
9 there is much more than this at stake. What is at stake is the probative value of a pre-trial statement
10 made by the witness through representatives of the Prosecutor's office. If the statements were merely
11 intended to enable us to assess the credibility of the testimony, we must ensure that such a statement
12 must be a faithful reflection of the witness's remarks, vis-à-vis all the personnel involved in taking that
13 statement. There is no assurance that the witness will testify based on what his previous statement
14 contained. Then why use the statements in preparing the cross-examination?

15
16 As a matter of fact, we wonder whether it would not be best for the Defence counsel to be made aware,
17 first of all, of the content of the examination-in-chief so that he will therefore be in a better position to
18 prepare himself between the end of the cross-examination-in-chief (sic) and the beginning of the
19 cross-examination.

20
21 Mr. President, it is important for the Defence of the Accused to take note of what the witness has said,
22 the events and fact she has related in her statement, and given that these are incompatible with the
23 testimony she provides in Court, we feel that this places -- or, rather, places some doubt on the content
24 of the witness's remarks in Court. We, the Defence of the Accused, have a right to be made aware,
25 provided with all elements to be used in examination-in-chief of the witness for use in
26 cross-examination.

27
28 Now LBC told you -- first of all, at some point that the investigators had made additions, then she made
29 statements in contradiction to elements of her written statement, or she puts in new facts which are not
30 to be found in her statement, or she reveals that some statements she had made in her written
31 statement actually amounted to deductions on her part.

32
33 My learned friend the Prosecutor had reread her statement to the witness during their preparatory
34 meeting, but this, she said, did not correspond to the text I was reading from when quoting her
35 statement. As a matter of fact, Mr. President, Witness LBC merely came to tell you that you should not
36 really consider what she had declared to the investigators of the Tribunal. However, if we were to
37 sanction such a situation or appear to be sanctioning such a situation, would that not send a message

1 to the international community; that it would not send a negative image of the administration and the
2 process of the justice being dispensed here?

3
4 Mr. President, we trust in you – we trust that you will ensure that justice prevails, that there is also the
5 appearance of justice prevailing for justice to be rendered. We are therefore convinced that your ruling
6 in this matter will be favourable to us. It appears though, Mr. President, that we should not just ensure
7 that a witness comes to testify and throwing a black beret and attests that a reprehensible act was --
8 could be attributed to the superior responsibility of our Accused. But we should also ensure that when
9 a witness comes to confirm that he gave a truthful account to representatives of the Prosecutor's office,
10 we should also ensure that when a witness confirms his statement to investigators of the Tribunal, that
11 he should not thereafter be allowed to deny such statement without the Tribunal intervening. This is not
12 just about the credibility of the witness, Mr. President; it was also about the credibility of the Tribunal.

13
14 Now these remarks necessarily entail that we should dismiss the testimony of LBC, and that is the
15 ruling I am asking you to make now. Thank you.

16 MR. PRESIDENT:

17 I think, Counsel, you made this application yesterday and we gave a ruling on this. So why are you
18 relaying that again, Counsel?

19
20 Counsel, Mr. St-Laurent, you made this application at the beginning even before the witness was heard.

21 MR. ST-LAURENT:

22 Mr. President, you are now in possession of the witness's testimony, and, therefore, you are in a better
23 position to consider the elements I have presented to you.

24 MR. PRESIDENT:

25 And then if we adopt that procedure, every witness, when they come, we have to take a decision and
26 then finally there would be nothing for us to consider at the end. So we will take note of all what you
27 have said and assess the evidence at the appropriate time.

28 MR. TAMBADOU:

29 As Your Lordships please. My Lord, it was just for the record, but if My Lord deems it unnecessary for
30 me to reply, then I will not. As Your Lordship pleases.

31 MR. PRESIDENT:

32 Yes, we will -- as I told you yesterday that the witness statement is not evidence; that is why you are
33 there to test her evidence here, otherwise we can collect the statements given by them and --
34 *(unintelligible)*

35 THE ENGLISH INTERPRETER:

36 Please --

37

1 MR. PRESIDENT:

2 So this is a set procedure adopted by the International Court. I don't know of any other procedure that
3 we should adopt, but these are the standard ways of leading evidence.

4 MR. TAMBADOU:

5 And, My Lord, if I may just make one comment which I had alluded to yesterday. My Lord, this is the
6 danger, exactly this is the danger of allowing counsel to cross-examine a witness from a previous
7 statement line by line irrespective of whether that witness has testified on that matter before this Court.

8
9 My Lord, the whole purpose of bringing a witness before this Court is to enable the witness to testify all
10 before this Court on matters that should only be the subject of cross-examination on those facts. If not,
11 My Lord, then we might as well bring our witnesses, give them the statements and then they start from
12 the statements line by line, because they are going to cover the whole statement, anyway. And what --
13 the basis of his arguments is on questions that he had asked the witness which were not raised during
14 examination-in-chief; that is the danger. That is what they do, and they are insignificant matters, as I
15 pointed out yesterday about the witness's whereabouts, where she went, what day was it? Those are
16 insignificant matters. My learned friend did not show any facts on the substantive charges of where and
17 killings to which the witness said anything inconsistent with what is contained in her statement; nothing
18 absolutely. As Your Lordship pleases.

19 MR. PRESIDENT:

20 Yes, Counsel, the other danger is this: The Prosecution is not asking this Court to accept the statement
21 to corroborate the witness, and that is not permitted. The confirmation that you are seeking from this
22 witness with regard to the statement comes from your side, and you say that that is the truthful
23 statement. The statement is never marked to corroborate the evidence given by her in here.

24 MR. ST-LAURENT:

25 By your leave, briefly, Mr. President, just two or three things. The object of a pre-trial statement is
26 what -- to present or allow the witness who has made a statement, several years earlier, to refresh his
27 memory on what he said, is that not? That is the main aim and, therefore, if the witness comes to make
28 a statement -- and I do agree that it is his testimony which is the real evidence. However, if the witness
29 comes to testify on major events which may initially appear to be minor, reference, for example, to a
30 difference in dates, the 15th or the 17th of April, these two have a significance for us. So if there is real
31 discrepancy on major events, I submit that you, as President and Judge on this Bench must be in a
32 position to certify that she was telling the investigators the truth. And it appears to me, most
33 respectfully, that you cannot tolerate such a situation as if the statement had never existed. And I think
34 that in a very positive way, this is one of the main tasks you have before you. You have a pre-trial
35 statement that was made to you and then another story is spun for you, how would you react to a
36 pre-trial statement which was made before agents of -- representatives of the Tribunal, something that
37 she has sworn to uphold, how would you then react, Mr. President? Would you agree to accept such a

1 statement?

2 I close, Mr. President, therefore, in this vein, it is important to render impartial justice, but also to be
3 seen to be rendering such impartial justice. And I think that if we were to sanction or accept or fail to
4 react to such a situation may endanger or therefore cast aspersion on the justice that is being
5 dispensed in this Tribunal. Therefore, you need this to determine the credibility you have got to see --
6 first of all, you have to ensure that the witness does respect the Court.

7 MR. BÂ:

8 Two inaccuracies. First of all, to say that the investigators of the Tribunal are not officers of the Court,
9 they are officers of the Office of the Prosecutor. They are a party to the trial. They are acting on behalf
10 of the party to the trial. Just as you can have your investigators, we assign the way that you want to
11 assign to the statement. We can manipulate it. We can tell -- we can get the witness to say just
12 anything and put it into evidence and that would have been dangerous. The procedure here is not
13 written; it is oral. What is the important thing is that the witness should come here and tell -- and testify
14 before the Court, and the witness's credibility is tested in relation to what he said earlier on. These are
15 not officers of the Court. They have not taken an oath before anybody, and I don't understand what you
16 are saying, because we could manipulate if we want, to get the witness to say anything on
17 well-prepared statement and put them into evidence, but that is not how it happens here, and
18 fortunately that is not the way it happens.

19 MR. ST-LAURENT:

20 This one -- Mr. President, this is not a submission; it's just a conclusion, a subsidiary conclusion. When
21 the Prosecutor observes as was in the case of Witness LBC that there are changes, there are
22 inaccuracies -- inaccuracies in the prior statement, it is for the Prosecutor to give us a will-say, or to
23 give information that will correct the previous statement of the witness. That is my subsidiary
24 conclusion, Mr. President. Thank you.

25 MR. PRESIDENT:

26 And there was another mistake you made, Counsel. I think you said that the statements are sworn
27 statements. These statements given to the investigators are not sworn statements. They are just going
28 in recording what the witnesses have to say. That is why they have been brought here to test whether
29 what they say here is correct basing on the statement given by them earlier. So it is not a sworn
30 statement by them.

31 MR. MACDONALD:

32 So is the position of the Court to the effect that they are entitled to lie to the investigators, but not here.

33 MR. PRESIDENT:

34 If they lie and if you prove that they have lied, then we will reject their evidence.

35 MR. MACDONALD:

36 But as my colleague mentioned, first and above, these statements are made by the witnesses in order
37 to help these witnesses four, five, six, seven years later when they come to Court to refresh their

1 memories. So how could the Court not react when the witness makes a statement one or two years
2 after the alleged events and comes here eight, nine or 10 years later and says, "Well, what I said a year
3 after these events does not count. Now I am here, I am testifying and we should discard completely
4 this statement." It doesn't make any sense with all due respect, Your Honour.

5 MR. PRESIDENT:

6 What, Counsel, if a witness comes here without giving a statement and he gives evidence? What is the
7 point in giving a previous statement? Can't a witness come to this Court and say that, "Well, I want to
8 give evidence today, but I was not present there?"

9 MR. MACDONALD:

10 They are not -- the Prosecutor's team are not providing us with any gift when they are giving us the
11 statement. They have to give us the statement because the witness made a statement, and the reason
12 why these witnesses make statements and as mentioned by Mr. St-Laurent, are for two purposes. First
13 of all, the Prosecutor needs these statements to build their indictment. These are facts on which these
14 indictments are based on. The Prosecutor can't go around Rwanda and meeting all the witnesses; the
15 investigators have to do that work, and with these statements that is how they -- from these statements
16 that's when the indictment is built; that is the first reason. The second reason is that, we are assuming
17 that that witness who is providing a statement eventually will come in and testify, so we will have to use
18 that statements to refresh her memory, that's the purposes of it. So it's nonsense. It doesn't make any
19 sense for a witness to come here eight, nine, 10 years later and say, "Well, what I said in that statement
20 doesn't count. The investigators fabricated that." And I think that's one --

21 MR. PRESIDENT:

22 So the moment the witness says the investigators fabricated that, his testimony will be rejected.

23 MR. MACDONALD:

24 Well, that's what they say, but under Canadian law, we are entitled to bring these investigators while
25 that witness is still on the stand to prove the contrary. And it is a case -- and eventually, I will be asking
26 the Court the next time probably that this problem arises, that we split this witness's testimony in order
27 to have the investigators come in and testify exactly on what the witness is alleging.

28 MR. PRESIDENT:

29 We will take into account the submissions that we -- and reconsider all this evidence. So we will get on
30 with our case now.

31

32 Call the next witness. It is enough now. Get the next witness.

33 MR. BÂ:

34 Just one sentence, because Counsel MacDonald is saying that if the witness comes here, let's overlook
35 everything. I said earlier on and let's go on. That is not what happened. Additions are always
36 possible. The witness is a human being. He can forget. He can even voluntarily omit to say something
37 and add it on later on. It is possible, these are human beings who come here to testify; they are not

1 robots.

2 And let me refer to *Niyitegeka* Appeal judgement, the witness whose statement -- previous statement
3 did not exist -- does not exist can be called to testify, even a witness who did not make a statement
4 earlier could be called to testify. Refer to *Niyitegeka's* Appeal judgment 2004.

5 MR. SEGATWA:

6 Just a moment, Mr. President.

7 MR. PRESIDENT:

8 *(Unintelligible)*

9 MR. SEGATWA:

10 It is for another issue not on this issue, Mr. President.

11

12 Before the witness is called, I wish to make an oral application for a document presented -- produced by
13 the Prosecutor to be rejected. In October 2005, the Prosecutor gave us additional documents on the
14 basis of which the witness may be heard, and in that pack of documents there was the document with a
15 K-number, K0283343 and Registry number 7118 *bis*, and that document goes all the way to K-number,
16 K0283352, and Registry number up to 7109 *bis*. This document does not indicate any source; it is not
17 signed and it is not dated. We consider that such a document cannot be presented to the Defence
18 because the Defence cannot defend itself in relation to this kind of document except if the Prosecutor
19 proves to us that this document will be recognised by the witness, in which case we will agree that it
20 may be admitted. If it is a document which is not recognised by anybody, I think that document should
21 be withdrawn.

22 MR. PRESIDENT:

23 Yes. Counsel, I think from what I heard from you, I think your application is a premature, because we
24 don't know whether these documents are going to be used by them or not. So at the appropriate stage
25 you may -- if they try to introduce it, you may raise the objection. *(Unintelligible)*. We don't know
26 whether there are -- they are not before us, they are not before the Court, so what is not before the
27 Court, we can reject. So at the appropriate stage you may raise it, if they try to use it.

28 MR. SEGATWA:

29 Thank you, Mr. President, for your understanding. I am doing this in good time so that I am not told
30 later on that I am doing it belatedly. But I would like to thank you very much for your understanding.

31 MR. BLACK:

32 Mr. President, before Mr. Bâ speaks, I just want to advise you that I believe they are intending to
33 introduce certain documents with this witness, and when they try to do that, I am going to ask that the
34 witness leave the room so we can discuss this, and I will be objecting to this. So I just wanted to advise
35 you on that beforehand.

36 MR. PRESIDENT:

37 Yes, Counsel.

1 MR. BÂ:

2 That the witness leaves courtroom, why would he have to leave the courtroom?

3 MR. BLACK:

4 What I have to discuss, I don't want the witness to hear.

5 MR. BÂ:

6 Mr. President, the Prosecution would like to call Witness Frank Claeys.

7 MR. PRESIDENT:

8 Mr. Registrar, please swear in the witness.

9 *(Declaration made by Frank Claeys in French)*

10 FRANK CLAEYS,
11 first having been duly sworn,
12 testified as follows:

13 EXAMINATION-IN-CHIEF

14 BY MR. BÂ:

15 Q. Colonel Claeys, good morning.

16 A. Good morning, Mr. President.

17 MR. BÂ:

18 With the assistance of the registry I would like this document containing confidential information to be
19 presented to the witness.

20 BY MR. BÂ:

21 Q. Colonel Claeys, do you have the document with you?

22 MR. SEGATWA:

23 Mr. President, I would like to have a clarification. Is he a protected witness or not?

24 MR. BÂ:

25 I will put those questions to him later on but he is not protected, but we, nonetheless, intend to
26 introduce this document -- to produce this document.

27 BY MR. BÂ:

28 Q. Do you have before you a document titled "Protected Information?"

29 A. Yes, I have them.

30 Q. Have you had time to go through it?

31 A. Yes, I have gone through it.

32 Q. Does the information contained in there refer to you?

33 A. Yes, it does.

34 Q. There is a signature at the bottom of that document. Do you recognise that signature?

35 A. I do.

36 Q. Is that your signature?

37 A. It is my signature.

1 Q. Thank you, Witness.

2 MR. BÂ:

3 Registry, I would like to have the document back.

4
5 As has been the practice thus far, Mr. President, I would like to produce this document as an exhibit,
6 Prosecution Exhibit No. P. 66, I believe.

7 MR. PRESIDENT:

8 P. 66, that should be kept under seal.

9 MR. BLACK:

10 Mr. President, I object to that because he is not a protected witness, there is nothing to protect. There
11 is no need for it to be sealed.

12 MR. PRESIDENT:

13 Okay. Counsel Black says that witness is not a protected witness, therefore, it should not be kept
14 under seal; it is open to the public.

15 MR. BÂ:

16 Very well, Mr. President.

17 *(Exhibit No. P. 66 admitted)*

18 MR. PRESIDENT:

19 Mr. Bâ, now it is the other way, so you have to go slow. We have to get all that.

20 MR. BÂ:

21 I would like to make the same recommendation to the witness not to speak too fast because there is an
22 interpretation system in place here, and when you finish your answer, I would try to pause before I ask
23 the next question so that the interpretation can be done properly.

24 BY MR. BÂ:

25 Q. Witness Frank Claeys, in which country were you born?

26 A. I was born in Kinshasa, capital of the Democratic Republic of Congo in 1957.

27 Q. Did you then live in Congo?

28 A. I was born and grew up and left Zaire in 1977 to continue with my studies in Belgium.

29 Q. Which region of Belgium are you a native of?

30 A. My parents live in the Gantwazi region and I currently live in a small village in the north of Brussels, but
31 actually, I do not have roots -- my root in Belgium.

32 Q. May we know your mother tongue? What is your preferred language, French, Flemish, English?

33 A. In everyday life I use the Flemish, the Netherlands Flemish, that's my language, Flemish.

34 Q. You did say that you left Zaire at some point in time for further studies in Belgium -- to undertake further
35 studies in Belgium. What training did you undergo in Belgium as part of your studies?

36 A. When I went back to Belgium, I started my studies in the military academy and did that for five years.

37 And then I started my military career in Germany, and that for ten years before coming back in Belgium

- 1 to take a study in higher defence studies, I was promoted to a higher rank later on.
- 2 Q. Very well. You were in Germany for ten years; in which programme was that? Which was it? Was it
3 the NATO?
- 4 A. Belgium is part of the NATO forces which remained in Germany after the peace accord, at the end of
5 the Second World War. So I was part of the Belgian unit in Germany which was -- which represented
6 the Belgium sub sector in the region that was assigned to us.
- 7 Q. Colonel Claeys, in the course of your military career, did you ever have to go to Rwanda?
- 8 A. I went to Rwanda the first time in 1993.
- 9 Q. When? Do you recall the exact date?
- 10 A. I got to Rwanda, Kigali on 26th October 1993.
- 11 Q. What was the purpose of this visit? What was the reason for this trip?
- 12 A. I was part of a Recce team sent by the defence headquarters to enter into contact with Kigali as part of
13 Belgian's contribution to the UNAMIR troops.
- 14 Q. You made reference to reconnaissance mission. What does that reconnaissance mission involve?
15 Reconnaissance in what sense, and reconnaissance in relation to what?
- 16 A. The purpose of such a mission was to have a situation report of the place, to know the condition of the
17 troops, to know what infrastructure the forces to be deployed would require and what reinforcements in
18 equipment they need to bring so as to be able to operate properly.
- 19 Q. Now, if I understood you, this was a mission which preceded the arrival of the Belgian troops?
- 20 A. That is correct.
- 21 Q. Very well. What was your rank then?
- 22 A. At the time I was a captain.
- 23 Q. And which call did you belong to, marine, infantry, which call did you belong to?
- 24 A. The call in which I was assigned was the infantry with specialisation -- with paracommando
25 specialisation.
- 26 Q. Very well. How long did this reconnaissance mission last?
- 27 A. The reconnaissance mission was intended to last a maximum of two weeks. So we were expected to
28 go back home in early days of November.
- 29 Q. At the end of this mission, did you go back to Belgium?
- 30 A. At the end of that mission, following instructions of the defence staff from Brussels, it was decided that
31 some officers and some radio operators be maintained there so as to continue studying the situation as
32 part of the mission that was entrusted to us from the 26th of October. So, a portion of the
33 reconnaissance mission went back to Brussels and some of us had to stay behind to give further
34 information.
- 35 Q. Now, you, personally, did you go back to Belgium or you stayed in Rwanda?
- 36 A. I was appointed to be among those who were to stay in Belgium (*sic*), so it was done on the spot. I
37 didn't have the opportunity to go back to Belgium.

- 1 Q. At that stage were new tasks assigned to you since the reconnaissance mission was over?
- 2 A. At the outset, as I said earlier on, it was a continuation of the first mission which, as time went by, new
3 instructions came from Brussels to change the nature of the mission, and with the advent of the forces
4 that came in the first month of November and established at Amahoro hotel, and I was given the duties
5 of a military information officer.
- 6 Q. When you refer to the defence staff of the forces, which force are you referring to? Which forces are
7 you referring to?
- 8 A. This was the defence staff of the UNAMIR force.
- 9 Q. Who was heading this defence staff?
- 10 A. Already at that time, General Dallaire was commander. General Dallaire was the force commander of
11 the UNAMIR.
- 12 Q. Are you able to tell the Court the title that was given to you?
- 13 A. My title was military information officer.
- 14 Q. Who were you answerable to?
- 15 A. My immediate supervisor was General Dallaire.
- 16 Q. Was it to him that you used to report?
- 17 A. That is correct. I would report on missions assigned to me to him.
- 18 Q. Very well. Am I to understand that you were completely detached from the other Belgian military units,
19 or were you in some kind of ambivalent situation?
- 20 A. For administrative purposes, I still had a link with the Belgian personnel who were part of the mission. I
21 had contact with Belgian officers who were also members of the defence staff of the force. And as I
22 said, at the *secteur* level -- at the *secteur* level, there was a Belgian officer. So in every day operations
23 I had contacts with the Belgian defence staff, so I was not completely cut off, but these were purely
24 working or administrative relations.
- 25 Q. Now, that was in November 1993, early in November, I believe. Was the UNAMIR forces already in
26 place?
- 27 A. The forces that were intended to constitute the UNAMIR were not all in place, so the personnel already
28 in place were the personnel of the defence staff who were trickling in; they were the soldiers who were
29 members of the military observer team which was already partially deployed or who had been
30 transferred from another mission, from the observation mission between Rwanda and Uganda were
31 also in Kigali, and the first contingent worthy of that name to arrive was a paracommando Belgian
32 battalion which arrived in mid-November.
- 33 Q. When those UNAMIR forces were fully in place, was that in November or December? If I understood
34 you, the Belgian battalion arrived in mid-November. When did the other contingents arrive?
- 35 A. I have no clear memory of the exact dates, but I know that with time there were contingents that arrived
36 from Bangladesh; another battalion which took position in Kigali; another battalion -- engineering
37 battalion which took position in Byumba. There was a medical team that was in the Fizzer hospital in

- 1 Kigali, and later on a Ghanaian battalion arrived and took position in the northern portion of Ruhengeri.
- 2 Q. The Belgian battalion, where did it take position?
- 3 A. As soon as the Belgian battalion arrived, they first settled in the Amahoro stadium -- within the Amahoro
4 stadium, and then later on moved on because of infrastructural problems in various places spread out
5 in Kigali town so as to allow the Bangladesh battalion to be settled in the Amahoro stadium. The
6 Belgian battalion was divided into companies. Among others, there was a company that was located at
7 the Kanombe airport; another one in town. The third company took position in the Dombosko school.
- 8 Q. Was it that battalion that was referred to as the KIBATI?
- 9 A. Meanwhile in the organisational structure the battalions were given some acronyms and the Belgian
10 battalion was the KIBATI.
- 11 Q. Who was the commanding officer of this KIBATI battalion?
- 12 A. The first battalion was commanded by Colonel Laurent.
- 13 Q. When you say the first battalion, that does mean that necessarily there was a second battalion.
- 14 A. At the end of the first four months of the mission, this battalion was replaced by a second battalion
15 which was commanded by Colonel Dowez.
- 16 Q. Very well. Are you able to spell that name, Dowez?
- 17 A. Dowez, D-O-W-E-Z, Dowez.
- 18 Q. Was there an overall superior officer who was in charge of the Belgian troops in the structure for the
19 deployment of Belgian forces outside?
- 20 A. There was always a commander of the Belgian troops who is referred to as the national contingent
21 commander and that position was held by Colonel Marchal, who was the highest ranking Belgian officer
22 in the UNAMIR. He was also the person who was the Kigali *secteur* commanding officer.
- 23 Q. That is Colonel Marchal?
- 24 A. Yes, that is correct.
- 25 Q. Did he have a second in command, an officer who was his second in command?
- 26 A. Colonel Marchal had deputies who had to assist him as a *secteur* commander, but he did not have an
27 assistant in his function of commander of the Belgian contingent.
- 28 Q. Very well. Colonel Claeys, you said a while ago that you were given the assignment as military
29 information officer, if I recollect rightly. Did you do any intelligence work before then?
- 30 A. To be precise, the military information officer relates to information -- informing the military personnel on
31 the country or the region where the UN troops have been deployed. So it is not a position of
32 intelligence. It is not an intelligence position on the face of it. At the time I was appointed to fill in this
33 position, I was in paracommando brigade in Belgium, the officer in charge of intelligence services, and I
34 have taken courses in intelligence in my previous courses to be able to take up that position in a
35 defence staff in the Belgian army.
- 36 Q. So you are telling us that you received training to that effect?
- 37 A. That is correct.

1 Q. As an intelligence officer, were you working alone or as part of a team? I am referring to period from
2 November 1993 to March 1994, were you working alone or were you working as part of a team?

3 A. I was working in a team with a Senegalese captain, who had been assigned to my office as well,
4 Captain Amadou Deme. Previously, he had been part of the UN neutral mission, so he was a military
5 officer, but before he was assigned to work in my office.

6 Q. So you were part of the same team with Captain Amadou Deme?

7 A. That is correct.

8 Q. Witness, can you tell us whether there was a framework for UNAMIR operations, the UN Security
9 Council, has it specified the legal framework for your mission?

10 A. The Security Council had set out the terms of reference for UNAMIR under Chapter 6 regarding
11 peace-keeping operations that had to do with peace keeping in Rwanda.

12 Q. Chapter 6 of the UN Charter; is that it?

13 A. That is it.

14 Q. Peace keeping is opposed to what?

15 A. In place of peace keeping recognised under Chapter 6, reference is also made to reinforcement and
16 imposition of peace under Chapter 7, peace enforcement under Chapter 7.

17 Q. So you were acting under Chapter 6?

18 A. That is correct.

19 Q. What did that require? Could you use coercion or could you do things in self-defence? What were your
20 prerogatives under Chapter 6?

21 A. According to the terms of reference of the mission, reference was made either to Chapter 6 or
22 Chapter 7. There were also rules of engagement which were approved at the level of the
23 United Nations to justify whether or not, force could be used, whatever the case, the minimum required
24 was always legitimate defence.

25 Q. And while UNAMIR was in place in Rwanda, how was it structured? Was there only a military structure,
26 or was there a political structure? Were there two concurrent structures or just a military structure?

27 A. UNAMIR, like any other mission of the United Nations had military structure and an administrative
28 structure. The administrative setup was there to provide the necessary support to the military mission,
29 and the administrative setup -- we also had political functions, negotiations and political activities within
30 the country concerned.

31 Q. Now, that political aspect -- that political structure, if it existed, who was the head of that structure?

32 Was there a representative of the United Nations Secretary General in Rwanda?

33 A. In fact, Mr. Booh-Booh had been appointed to assume that function. He arrived after the departure of
34 the mission in Rwanda to assume those functions.

35 THE ENGLISH INTERPRETER:

36 Booh-Booh is spelt as follows: B-O-O--B-O-O (*sic*)

37

1 BY MR. BÂ:

2 Q. Colonel Claeys, what characterised the military situation when you arrived in Rwanda in October 1993?

3 A. At the time of our arrival in Kigali, we were aware that peace accords had been signed and that a zone
4 had been recognised and referred to as the demilitarised zone. In the north were the RPF positions
5 and below that zone were the Rwandan Armed Forces. At that time there were no longer any incidents
6 referred to as military or any fighting, because this was a demilitarised zone and outside of that zone
7 everyone was monitored by military observers.

8 Q. So there had been ceasefire agreements and ceasefire was in force when you arrived?

9 A. Absolutely, ceasefire was in force.

10 Q. Can you remind us where the warring factions were located structurally?

11 A. There was a zone occupied by the RPA movement, that was from the west to the north of Ruhengeri,
12 the centre and the south of Byumba; and then one from the north of Akagera Park, there was another
13 zone. There was a demilitarised zone which stretched over more than 30 kilometres and south of that
14 demarcation zone were Rwandan government forces in positions or neighbourhoods established when
15 the peace keeping – or, the peace accords were signed, I beg your pardon.

16 Q. At one time or the other during that period from November 1993 to March 1994, was the RPF present in
17 Kigali?

18 A. Yes, there were representatives of the RPF already very early in November. These were liaison
19 officers who had been appointed to be part of the UNAMIR general staff, same as liaison officers
20 representing the government forces. Provision was also made in the peace accords that at a certain
21 time an RPF battalion would be quartered in Kigali. That mission was achieved; that objective was
22 achieved before the new year. On the 28th of December an RPF battalion was escorted from Mulindi
23 to Kigali to settle in that neighbourhood in the annex to the CND.

24 Q. Who escorted that RPF battalion?

25 A. It was the Kigali *secteur* that was in charge of that operation and Colonel Marchal was in charge. And
26 the military units that escorted the battalion were the Belgian battalion, that is KIBATI, as well as the
27 Tunisians who were in charge of security at the CND base.

28 Q. How many members were in that RPF battalion that was quartered in the annex to the CND?

29 A. The figure that was accepted, that is, the figure representing the number of people in RPF was 600,
30 600 men.

31 Q. Still during that period from November 1993 to March 1994, were there any agreements regarding
32 movements of weapons? Could people carry arms, or were there any agreements regulating
33 movement of arms -- of weapons?

34 A. The first phase in the establishment of the broad-based transitional government had already been
35 fulfilled. The first phase consisted in establishing a weapons secure area in Kigali. That was also one
36 of the conditions that had to be fulfilled before the RPF battalion could be brought to Kigali. That zone
37 was well known under the abbreviation KWSA, Kigali Weapons Secure Area. So to that --

- 1 Q. Excuse me. What do you mean when you say weapons secure area or zone?
- 2 A. That zone was supposed to be established on the basis of inventories of weapons of the forces in
3 Kigali, that is, the government forces in Kigali. So they had to draw up an inventory of weapons stored
4 at armouries in Kigali and those were controlled by United Nations observers. And movements
5 between the neighbourhoods could involve only weapons that had been declared earlier or weapons
6 carried by military experts or political or military officers. Other than that, no one could carry weapons
7 without prior authorisation, the same applied to ammunition at that location.
- 8 Q. That KWSA accord, that is, that is how you pronounce it, Kigali Weapons Secure Area, who was
9 supposed to implement that agreement? Who was in charge of its implementation?
- 10 A. Again, since it had to do with Kigali, it was the commander of the Kigali *secteur* who was in charge.
11 And by virtue of the authority he had over the units in that area, he had to discharge those duties. The
12 battalions in Kigali were the Bengali battalion, the Belgian battalion. These were the battalions in
13 charge of controlling the movements of weapons, whereas the military observers who were appointed
14 to operate in the various military areas were in charge of making sure those weapons were controlled
15 as provided for in the agreement.
- 16 Q. Regarding the controls or movements of weapons, did the UN troops operate alone or did they do so in
17 cooperation with National Rwandan Armed Forces?
- 18 A. To establish those secure or weapons secure areas in Kigali, agreements had been signed with the
19 Rwandan gendarmerie to enlist their support during road controls, road checks. The procedures for
20 control of convoys and movements involved use of check points and mobile parades with fixed check
21 points on the roads and vehicles were stopped at those check points. And since this involved mostly
22 Rwandans in their private vehicles crossing those roadblocks, those vehicles had to be controlled, they
23 had to be checked and searched by the national gendarmerie.
- 24 Q. Right. We will return to that. Let us leave this military aspect for now. At the political plain, at the
25 institutional plain, were -- did the Arusha Accords make any provisions from the structural standpoint for
26 such controls?
- 27 A. The objective was to make sure the broad-based transitional government was instituted with a
28 designated prime minister and the various parties had to send their representatives who had to take an
29 oath of office after the president of that new government had been sworn in. That was the framework
30 within which they had to operate, and the dates for that was the beginning of 1994, so January 1994
31 was the deadline for the swearing-in.
- 32 Q. Do you know whether those transitional institutions were able to be put in place in early 1994?
- 33 A. I can say that the Rwandan president was sworn in on the 5th of January and the delegates of the
34 various parties had to be sworn in, but that ceremony did not take place either on that day or on
35 subsequent days.
- 36 Q. We will return to that. Let us backtrack a little. Did the Arusha Accords provide for integration of
37 government forces with those of the RPF? Was there any provision for such integration? If you are

1 aware of that, what were the modalities for such integration, as far as you know?

2 A. It is true that the Arusha Accords provided for an integrated army in which both government forces and
3 the RPF forces had to participate. To the best of my recollection, I believe both parties recognised that
4 there would be integration of government forces to the tune of 100 percent and those of the RPF to the
5 tune of 40 percent. It could have been 50-50, but I am not quite sure.

6 Q. Do you know whether there was specification of duties at the higher echelons of the general staff? If
7 you do not know – it's not serious, we have the Arusha Accords and we can refer to them.

8 A. To the best of my recollection, I recall that the chief of staff of the Rwandan army was someone who
9 was supposed to be from the government forces; and the chief of staff of the gendarmerie was
10 supposed to be someone from the RPF forces.

11 Q. One last question on this subject. That integration, did it require reduction of forces, or soldiers, or all
12 the forces were supposed to be merged?

13 A. It was provided that there would be a reduction, a significant reduction of the forces, which meant that
14 most of the armed forces were supposed to be retired in one way or the other.

15 Q. Yes. Thank you. Let us now go into the heart of the matter. We were just laying the ground work for
16 the substantive questioning.

17
18 You said you were an officer of the forces. I would like to know who were your informants. Who were
19 the sources of your information? Who were you talking to?

20 A. Initially, when I arrived in Rwanda I discovered Rwanda myself as a country. I had contacts with the
21 international community through visits or meetings held on various occasions. That is how I was able to
22 draw up a small agenda of people who contacted me or people I contacted during visits or meetings.
23 This involved even members of non-governmental organisations, NGOs, or members of the Red Cross.
24 I had contacts with the various embassies in Kigali. And at the level of the UNAMIR general staff, there
25 were regular visitors who came to see us, to talk to us about the situation in Kigali or in Rwanda.

26 Q. Right. How did you gather information? Let me be more specific. Did you pay your informants?

27 A. I did not have a budget at any time in order to raise funds or to pay anybody whatsoever. So I never
28 paid any informant whatsoever.

29 Q. Yes. Still talking on this same subject, did you have recording devices which you used for the
30 information gathering with the informants? Were your interviews recorded?

31 A. I had no device for that purpose.

32 Q. Yes. Colonel Claeys, did you keep records of the interviews you had with the various informants?

33 A. I had no means of keeping archives or records whatever the origin following my interviews with people
34 who came to provide us with information.

35 Q. I will ask you now to engage in a difficult exercise. From November 1993 to March 1994, can you tell
36 us approximately how many informants you met, approximately, if you are able to do so?

37 A. Regarding informants, I can only refer to one person because the others, as far as I am concerned,

- 1 were not informants. They were people who came to tell us things in order to give us a bird's eye view
2 of the situation, the state of affairs and the atmosphere in Rwanda.
- 3 Q. Right. From November 1993 to March 1994, were you in contact at any point in time with political or
4 government authorities in Rwanda? When I say you, I am referring to the team you trained with
5 Captain Amadou Deme.
- 6 A. Yes, we were in contact with a political representative who was the designated prime minister,
7 Mr. Faustin Twagiramungu.
- 8 Q. When you say prime minister designate, who do you mean? What do you mean? Was he the
9 prime minister in force or he was the prime minister designate?
- 10 A. The designated prime minister at the time was Mrs. Agathe Uwilingiyimana. So during the Accords,
11 provision was made for the prime minister who would assume duties during the establishment of the
12 broad-based government; that was the prime minister at the time.
- 13 Q. How did you come to see the prime minister designate, Mr. Faustin Twagiramungu? How was the
14 contact between you arranged?
- 15 A. On the 10th of January we were convened -- we were summoned Amadou Deme and myself to the
16 office of General Dallaire where he informed us of the message he had received from the
17 prime minister designate to the effect that there was someone who wanted to bring to her knowledge
18 certain things that were in the pipeline in Kigali, in Rwanda. So we took an appointment with the
19 prime minister designate whose facilities and office was at the hotel in Kacyiru in the zone of the
20 ministries. We went to that location and he spoke to us, giving us a telephone number and asking us to
21 contact that person whose first name was Jean-Pierre.
- 22 Q. Right. On what day was that? You said it was the 10th of January 1994?
- 23 A. That is correct, it was the 10th of January 1994.
- 24 Q. Did you follow up the information that the prime minister designate gave you?
- 25 A. Indeed, we went back to our offices at the Amahoro hotel and telephoned the number we had been
26 given, to prepare a meeting with a person whom we had been asked to contact.
- 27 Q. That meeting, for what date did you set it?
- 28 A. That same day in the evening we made contact and the meeting place proposed was the parking lot of
29 Kigali Night. In the meantime we got in touch with the *secteur* commander, Colonel Marchal, to request
30 the use of his offices to conduct the meeting with the person in question. He agreed and he also took
31 part in the meeting.
- 32 Q. So you set the date for a meeting with this Jean-Pierre in the evening, and when you went there, what
33 did you do? When you went to Kigali Night, what did you do thereafter?
- 34 A. So we used a vehicle from the UN headquarters, but it did not bear any insignia of the mission for
35 reasons of discretion. So given at that altitude in that part of Africa, night falls by 6 p.m., we therefore
36 met. He climbed into the vehicle we had come with and we headed to the headquarters of the Kigali
37 *secteur* to the offices of Colonel Marchal. And in that place, in the basement meeting room our meeting

1 began.

2 Q. And who attended that meeting?

3 A. My colleague, Captain Deme, who had escorted me to receive Jean-Pierre; also in the room was
4 Colonel Marchal, *secteur* commander, his operation officer, Major Kesteloot.

5 Q. Would you kindly spell that name, Kesteloot, Major Kesteloot? Oh, it is number 14 on our spelling list.
6 Number 14 on our spelling list, Kesteloot.

7
8 So you were there, Captain Deme was there, Colonel Luke Marchal, Major Kesteloot and the
9 informant?

10 A. Correct.

11 Q. You say it was held where, at the headquarters?

12 A. The meeting took place in the bungalow that was used by the Kigali *secteur* as the headquarters, that is
13 Luc Marchal. Therefore, there was a room that served as a meeting room; there was a table with chairs
14 and everyone sat down around that table.

15 Q. Did you have all necessary facilities in that room?

16 A. The room was adequately equipped, but for reasons of description, we did not use electrical lighting; we
17 held the meeting by candlelight.

18 Q. How did the meeting begin?

19 A. The first two things that Jean-Pierre did at the start of the meeting once he had taken his seat, he
20 removed his identity card. He also placed a handgun which he had in his pocket on the table.

21 Q. But I assume that -- first of all; let us talk about his identity card. Did he ask you to keep it, to look at it,
22 rather?

23 A. Indeed, we saw the Rwandan identity card which gave his first name, family name, as well as his
24 ethnicity which was indicated on Rwandan identity card at the time.

25 Q. What were his names, first and family names?

26 A. His first name was Jean-Pierre. His family name was Turatsinze and he was a Hutu.

27 Q. Turatsinze is number 28 on the spelling list. I assume that he was your guest, you must have taken the
28 floor first, or was it he who began to take the floor first? How did it go?

29 A. Since Colonel Marchal was present in his capacity as *secteur* commander, he presided over the
30 meeting and, therefore, the first remarks were meant to establish what were the informants' motivations
31 in coming to address UNAMIR and providing information.

32 Q. That was the first question that was put to him?

33 A. I think -- I remember that was the first question that was put to him.

34 Q. And how did he answer to that question?

35 A. He explained to us that in spite of his Hutu ethnicity, his mother was a Tutsi, and he was primarily
36 motivated by the fact that he had been asked to take part in a defence plan for Kigali. However, it had
37 become apparent to him that this defence plan was in actual fact the foundation for an extermination of

1 the Tutsis and he did not wish to participate in it.

2 Q. I assume the meeting continued. What else did Jean-Pierre say?

3 A. He told us about his position in charge of the training of militiamen, that he had easy access -- that he
4 could easily access the presidency and he was in a position to meet with them; that he received a
5 salary 100,000 Rwandan francs; that he was responsible for maintaining order during demonstrations.
6 He spoke about demonstrations that had taken place in early January at the roundabout next to
7 Meridien hotel.

8 Q. Who was Jean-Pierre working for?

9 THE ENGLISH INTERPRETER:

10 Correction by the interpreter, there was no reference to salary at this stage.

11 THE WITNESS:

12 So what he said is he belonged to the MRND party.

13 MR. BLACK:

14 We heard that Mr. Bâ asked him whether he had a salary and Colonel Claeys stated a salary of
15 100,000 Rwanda francs. The interpreter just said clarification just now, there was no reference to
16 salary. How does that come about?

17 THE ENGLISH INTERPRETER:

18 He did not give the figure.

19 MR. BLACK:

20 How, why was it said? How did the booth come up with that figure?

21 THE ENGLISH INTERPRETER:

22 Mistake on the part of the interpreter in the English booth.

23 MR. BÂ:

24 I never spoke about salary. I asked him who he was working for. I never used the word salary, not for
25 now.

26 MR. BLACK:

27 The interpreters said a salary of 100,000 Rwandan francs, how does that come up that just disappears
28 now?

29 MR. BÂ:

30 It is perhaps the witness who said it in his response.

31 MR. BLACK:

32 I wonder how they translated, put in something that was never said which is actually correct, because
33 that is the information we have that he received that kind of salary.

34 THE ENGLISH INTERPRETER:

35 The interpreter anticipated that answer.

36 MR. BLACK:

37 How do you know the answer in advance? How does she know the answer in advance? What does

1 she know that we don't know?

2 MR. BÂ:

3 The booth has documents. The documents that we gave to you, we also gave to the interpreters so
4 that they can follow. Perhaps the interpreter went a little faster than the discussion. She may have
5 anticipated the discussion, but they have been provided the same documents because they also have
6 to work. However, I never talked of salary and I did not hear him mention salary for the time being.

7 MR. BLACK:

8 Mr. President, there is a serious problem. If the translator -- if the interpreters are reading from
9 documents we are not aware of, and how often does this happen with other witnesses where they said
10 things which they are reading from which the witness never said? And why did she have a document to
11 read from when this man is not talking from a script; he is talking from his -- out of his head? For what
12 can she read if we don't -- if she has a statement that this man has made that Mr. Bâ is using, why don't
13 we have it?

14 MR. BÂ:

15 Please wait. It would appear that the interpreter said the witness was receiving a salary, but he did not
16 give a figure, while he gave a figure. Actually, Mr. President, this is what happened. We are going
17 backwards. In any case, these are facts that will come in either now or later.

18 THE ENGLISH INTERPRETER:

19 Mr. President, the interpreters would just like to explain what happened.

20 MR. BÂ:

21 But the interpreters have to work on the basis of the documents which they have at their disposal. We
22 also provided them with the documents so that they could follow. Mr. President --

23 MR. BLACK:

24 I have a complaint with Mr. Prosecution. If they are referring to a document which relates to what he is
25 giving in testimony here, that if they are following a script -- a testimony he set out beforehand and they
26 are following along that, why don't we have it? We don't have that; they have it, that's the problem. If
27 she's got ahead of the game as she's referred to something that you haven't referred to yet, they have
28 script in front of them they are following.

29 MR. PRESIDENT:

30 Mr. Black, we will ask them to tell us what happened.

31 MR. BLACK:

32 Well, the interpreter said she's got something she is looking at; that's what she said. And I don't blame
33 her.

34 MR. PRESIDENT:

35 But I was informed that the question was put. Mr. Bâ --

36 MR. BÂ:

37 The matter would be clarified.

1 MR. PRESIDENT:

2 The question was put with regard to the salary, but the witness never said the amount.

3 MR. BLACK:

4 Yes, she did. The interpreter said it, and he might as well correct the exact amount.

5 MR. BÂ:

6 Well, listen.

7 MR. BLACK:

8 She could not know the figure is 100,000 Rwandan francs, that is the correct figure, unless she has got
9 a document which said so. She must be reading from something which she has been given by the
10 Prosecution to follow along his testimony. We haven't got that document.

11 MR. BÂ:

12 Mr. President, could we just explain what happened?

13

14 Mr. President, this is what happened. When the questions were being put to the witness, the
15 interpreters, of course, were reading.

16 *(Pages 1 to 21 by Sithembiso Moyo)*

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1 1045H

2 THE ENGLISH INTERPRETER:

3 Mr. President, the booth would like to explain what happened. When the questions were being put
4 forward to the witness, the interpreters, of course, were reading the transcripts -- actually the
5 documents provided to us by the Prosecutor, and anticipating that the witness was going to talk about
6 the salary which was clearly indicated in those documents. That is --

7 MR. PRESIDENT:

8 But you have been provided this transcript by them and they anticipated what the witness will say.

9 MR. BLACK:

10 No, no, no, that is not what it is, because she would not know where to go to. She must have been in
11 line, in front of her anticipating what he is going to discuss, and she is reading from that document all
12 along and she has gotten ahead of the game, and that is why she -- luckily we found out that she has
13 got something that we don't have. She has got a document we don't have. Why do you keep cutting
14 me off? She is following a story. We haven't got that -- what is that?

15 MR. MACDONALD:

16 Now, we want to see the document that is in front of her.

17 MR. BLACK:

18 *(Microphones overlapping).*

19 MR. BÂ:

20 You have it since a long time.

21 MR. BLACK:

22 Then we don't know what she is using. We would to see that as well, Mr. Kouambo, at the same time.

23

24 I know what they are referring to now, Mr. President; they are referring to one of Colonel Claeys's
25 statements. The problem remains; how often this has occurred where the interpreters have been given
26 statements of previous witnesses, and have said things in answer to questions which was never, as she
27 said, by the witness. It throws into doubt the integrity of the entire translation process.

28 MR. PRESIDENT:

29 I don't think that it happened earlier, Counsel, because the way you have detected it today is the way
30 you would have detected it.

31 MR. BLACK:

32 We only detected it today because she got ahead of the game. She said something in anticipation
33 which was never said. That is the only reason we discovered it now. Has this thing been going on for
34 over a year?

35 MR. PRESIDENT:

36 Well, if it had been, if the translators had given something in anticipation, I think you would have -- you
37 are alert enough to detect that.

1 MR. BLACK:

2 I don't know, maybe we would or maybe we wouldn't. We have discovered it today.

3 MR. PRESIDENT:

4 Translators, please, don't translate what has not been spoken by the witness, don't go ahead of the
5 witness even if you have the document. You must listen to the answer and the question and then
6 translate.

7

8 So, we will go on ahead, now

9 MR. MACDONALD:

10 I just want to -- Your Honour, I was listening to the French version, and if it hadn't been for Mr. Black, I
11 would never have known that. I think Mr. Black is right. There must be some sort of investigation done
12 now, and I am not putting the blame on anyone, whether it be Mr. Bâ or the interpreters. We've
13 probably been using these statements before and we don't know what came out -- we don't know what
14 information you got that the witness never said. So, for the sake of the -- to preserve the appearance of
15 fair justice --

16 MR. PRESIDENT:

17 Yes, I will direct the Registry to look into it and report the matter to us.

18

19 Yes, interpreters, please, now, because of this, you have created a problem, please listen to the
20 question and answer, then, and try to give the correct translation.

21

22 Yes, now, get on -- we will take a break now and come back later.

23 *(Court recessed from 1100 to 1110H)*

24 MR. BLACK:

25 Mr. President, Mr. MacDonald and I would like to raise --expound on this problem a little bit more before
26 it becomes staggering. It is our suspicion, but events indicate that it might be that the translators, the
27 interpreters are given documents with certain portions marked as expected answers of witness. We
28 suspect that if witnesses give answers which the Prosecution does not want, that they have been
29 instructed to give the answers that were expected, which happened in this case.

30 MR. PRESIDENT:

31 Counsel, even in this case, the record is kept in both languages. So, if it was -- by mistake if the
32 English translator has given the salary, it is not in the French one. So, this is a mistake that can --

33 MR. BLACK:

34 Sh sh --

35 MR. PRESIDENT:

36 It can happen.

37

1 MR. BLACK:

2 We don't think that is a mistake, because why -- for what reason does the Prosecution give them
3 documents to read from. The only way -- the only proper way the interpreters can have any documents
4 to read from is if you direct that they be given a document so they can translate or quote a citation, or if
5 we are asked to give them that. There is no reason that the document should follow them, unless we
6 are told that they do and what are they -- and you are told what they are.

7 MR. PRESIDENT:

8 Yes, I think that is it, they may not be given the documents without any direction from the Court.

9 MR. BLACK:

10 And, we also ask that the investigations not be done by the registry, but by the Bench.

11 MR. PRESIDENT:

12 Yes.

13 MR. BLACK:

14 They should be called in this Court, including the interpreters and the Prosecution, so we can
15 cross-examine them on what is going on here.

16 MR. PRESIDENT:

17 I think that has happened because I think today, it is the first day that the witness is giving evidence in
18 French. And all this time when the evidence was given in English, both of -- all of us were following it.
19 So, to my knowledge, I think nothing serious happened to the interpretation with regard to the evidence.
20 However, since you have brought this to the notice, it is on record and I will direct the Registrar also to
21 see in the past also whether they had been given documents and whether they had resulted into that --
22 *(microphones overlapping)*.

23 MR. BLACK:

24 Sorry. Well, we are not satisfied with that,

25 Mr. President. We would like an investigation conducted by the Bench and have witnesses called into
26 the box and sworn.

27 MR. PRESIDENT:

28 So, what is the investigations that we can carry on?

29 MR. BLACK:

30 Well, then we can ask, A) the Prosecution, why they did this. We can ask if the interpreters -- how they
31 got these documents; what their instructions were, and how they used them, and how many times it has
32 happened before in the past.

33 MR. PRESIDENT:

34 I think the answer to the second question is obvious, because the Prosecutor had given them this
35 document -- to interpret. The translators have no power --

36 MR. BLACK:

37 *(Microphones overlapping)*.

1 MR. BÂ:

2 Mr. President, just a slight -- a little explanation. Allow me to explain. These are rules of the
3 profession. These people are doing a very difficult job. They could be lawyers, they may not be
4 lawyers. But to be able to interpret what we are saying, and as accurately as possible, it is for the
5 purposes of proper administration of justice, there is not ill intention. I can now ask them to give you all
6 the documents that were given to them, and you will see if there are passages that have been marked.
7 There is none. What we have given them are prior statements of Witness Claeys, and the documents
8 that we intend to use in the course of the proceedings, and that is to assist you. When we give them
9 witness statements, it is to assist you, because you, in your cross-examination are going very often to
10 refer to this witness's statements. And the interpreters do need to have this before them to be able to,
11 as accurately as possible, interpret. That is the only purpose. No other purpose. You can move into
12 the booth and check documents or they can bring them to you, or if there is anything marked or
13 suggested, you will see. There is none. It is just to enable them to follow.

14 MR. PRESIDENT:

15 For clearing any doubts, Mr. MacDonald and Mr. Black, you are permitted to go to the booths now and
16 see whether there is anything.

17 MR. BLACK:

18 I am surprised by Mr. Bâ's statement because he has no idea what type of procedure works or not. He
19 can't give to the interpreters documents that he hasn't advised us he is doing or you; and he can't give
20 them in advance --

21 MR. PRESIDENT:

22 Yes, Mr. Black --

23 MR. BLACK:

24 No, let me finish. He is saying that they are not interpreting what the witness is saying, they are reading
25 from the document, which takes the entire integrity of the translation process here. If they are not
26 actually translating what the witness says, just what they are expecting to say; what he should say;
27 what he may say, then there is no translation taking place here. And you think my client thinks he is
28 getting a fair trial now that we have just found out this? It is not just a matter to be wiped away, and you
29 know, like some dust off a table. This is a serious matter. My client wants a fair trial. He wants to
30 know the translations are what the witness said, not what the translators thinks she should say or
31 expect him to say or were told by the Prosecutor she should say. And we want an investigation by the
32 Bench of everybody involved so we can cross-examine them on what is actually taking place here. We
33 have every right.

34 MR. PRESIDENT:

35 Mr. Prosecutor, listen; hereafter don't give any documents without informing us in an open court. Yes,
36 even to them too, I know that you said that the purpose is to get the translators to familiarise with the
37 terms that have been used. But even for that, I think it would be better if you can do it openly. So tell

1 them, and to inform them that I am using this document so that the matter will be handled.

2

3 Yes, you may continue now.

4 MR. BÂ:

5 Mr. President, we could, if you so wish withdraw everything we have given them, and we will give it to
6 them when they do need them. That is possible. I did that for the purpose of efficiency so that I would
7 know ahead of time which documents refers to what, so that at the appropriate time when a document
8 is sent to them, they are able to follow what parties are saying. That was the only purpose. If you so
9 wish, we will withdraw. All the documents and give it to them whenever they need them. I have no
10 preference. It was simply for reasons of efficiency.

11 MR. KOUAMBO:

12 Mr. President, I would like to say, all the same, that interpreters do need a certain support to be able to
13 do their work. Otherwise, if they have nothing with them, it will be very difficult for them to do their work
14 for proper administration of justice, and I think we need to arrive at a compromise that will enable them
15 to do their work properly. Let me further say that these are interpreters who are sworn before this Court
16 and certain credibility ought to be accorded them in the performance of their duties, and I wish that they
17 are given the best conditions to work for the good of all.

18 MR. PRESIDENT:

19 Even, but what I say is that the Court must be informed that these document are given to them.

20 THE ENGLISH INTERPRETER:

21 Respectfully, Your Honour, if the interpreters may put in a word? Your Honour, I think the problem is
22 that the interpreters, for a very long time, have allowed the practice where we work without the
23 documents. Standard practice, everywhere interpretation is used, when a document is used, it has to
24 be made available to the interpreters. For a long time we allowed the practice where we worked
25 without documents. Documents are our working tools, and we need them for the performance of our
26 duty.

27 MR. PRESIDENT:

28 Yes, we don't deprive you of the documents, but what I say is that --

29 THE ENGLISH INTERPRETER:

30 And well ahead of time, Your Honour.

31 MR. PRESIDENT:

32 And when the document is given to you, what I say is that it must be brought to the notice of the Court
33 and the Defendants first.

34

35 Yes, Mr. Bâ, you can continue.

36 MR. MACDONALD:

37 If, following the interpreters' comments; yes, we are all under oath, and that oath, the reason they do

1 that, is because they swear to translate what the witness says, not what the document says. That is
2 why the oath is taken by the translators. Now, our suggestion is made for the further, but the problem is
3 that you can't unring the bell. I mean, we have had over 40 witness that have been heard so far, and
4 there, as mentioned by Mr. Black, the complete -- the whole record is tainted, so what are we going to
5 do for the past?

6 MR. PRESIDENT:

7 For the past, nothing transpired because this is the first time that the witness is giving the evidence in
8 French. That is where the problem arose.

9 MR. MACDONALD:

10 I distinctively recall on a few occasions where we were working, taking notes, and you think the witness
11 said something, but perhaps maybe you heard -- you didn't hear correctly. So, how many instances did
12 that happen?

13 MR. PRESIDENT:

14 That is where we put the question back to the witness to get the proper answer -- for a clarification.

15 MR. MACDONALD:

16 Your Honour, I am going to reiterate.

17 MR. PRESIDENT:

18 Your protest is recorded.

19 MR. MACDONALD:

20 With respect to the investigation, Your Honour, this is not an administrative problem. It is much more
21 than that, and the only persons authorised to investigate something like this is the Bench as yourself.
22 You have to find out what happened in the past. How many documents were given to the interpreters
23 before, and, again, we are not blaming anybody, but counsel expect (*Microphones overlapping*)

24 MR. PRESIDENT:

25 Counsel, I believe you are looking to a place on that record about the results of our investigations.

26

27 Yes, Mr. Bâ, please continue.

28 MR. BÂ:

29 Thank you, Mr. President.

30 BY MR. BÂ:

31 Q. Witness Claeys, when we were leaving there was a slight confusion, and I would like to back-track a bit,
32 so as to clarify the discussions. The question I was putting to you is that in the course of that interview
33 which was held on 10th January 1994, what the informer told -- your informant, Jean Pierre, told you. I
34 would like to take it slowly, so that you tell the Court point by point what the informant Jean Pierre told
35 you?

36 A. The issues Jean-Pierre spoke about referred to -- dealt with his motivation since he was of Hutu
37 ethnicity, but it was said that his mother was a Tutsi, he was ready to participate in a Defence plan in

- 1 Kigali, but he did not agree that this Defence plan be used to wipe out the Tutsi ethnic group.
- 2 Q. At that stage, for whom was he working?
- 3 A. He said he was working for the MRND party, but that he was receiving a salary, and the amount of the
4 salary, from memory, was 150,000 Rwandan francs.
- 5 Q. In the past, what had been his activities? What was his background?
- 6 A. He was a soldier. He was part of the presidential guard or presidential protection. He had undergone
7 training in Egypt, and then he was in charge of training and maintenance of order during
8 demonstrations.
- 9 Q. Who was he training -- he was in charge of training for who?
- 10 A. He told us he was in charge of training of persons who were members of the party, and who constituted
11 the group that was referred to as the *Interahamwe*, that is, the militia of the MRND party.
- 12 Q. For purposes of the training of -- to be able to carry out a task that had been assigned to him, did he
13 have weapons?
- 14 A. He told us that for training as such, he did not have weapons, but that during crowd-control, during
15 demonstrations, he could get support from the presidential guard. The battalion that was -- that had
16 taken position -- that was lodged in a roundabout near the Meridien Hotel.
- 17 Q. What kind of support was this?
- 18 A. As he told us, the support involved communication equipment, which were normally referred to as
19 Motorola radios. And also, he told us that in the trenches around the roundabouts, weapons had been
20 hidden in the bushes that were growing there, so that if the demonstrations should degenerate, they
21 could be used.
- 22 Q. Did he tell you whether within the *Interahamwe* movement they had weapons?
- 23 A. As he told us, he was in charge of the distribution of weapons in the various *cellules* within Kigali.
24 These weapons were stored to be used subsequently, and up until that point, he told us that weapons
25 and ammunitions were separated -- were never kept in the same place.
- 26 Q. Those weapons, those ammunitions, where did they come from?
- 27 A. He was in a position to receive weapons from units that were in Kigali with the authorisation of the local
28 military authorities. He was supplied with weapons from various cache weapons based in Kigali.
- 29 Q. Which armed forces did these weapons come from? From the RPF, the Rwandan Armed Forces, Zaire
30 -- where did they come from?
- 31 A. What he always said was that the weapons came from the government army. He made no distinction
32 between the army or the other components of the Rwandan armed forces.
- 33 Q. Among the MRND leadership, with whom did he have contact? Did he tell you?
- 34 A. The two names or the two persons he mentioned were, chairman of the party, Mr. Ngurumpatsé, and
35 his secretary. I cannot recall the name now.
- 36 Q. Ngirumpatsi is No. 22. Ngirumpatsi, Mathew. Among the military authorities, did he have any links
37 with the military authorities? Did he speak to you about this?

- 1 A. From memory, I don't remember him mentioning him. He always mentioned commanding officer of
2 other units who gave him authorisation to take weapons from the stocks that was stored in the various
3 areas.
- 4 Q. From what you know, at that time, the fact of civilians or militia men carrying weapons; was it allowed,
5 particularly under the Arusha Accords?
- 6 A. It is clear that this was not allowed, because the directive in the free area of Kigali provided that
7 weapons should not be kept anywhere else apart from armed depots designated and authorised -- and
8 supervised by the UNAMIR, and people were not allowed to carry weapons.
- 9 Q. You did say that Jean-Pierre told you that he was against the RPF; that he was in favour of the defence
10 plan for the city and the country, and that he was not in favour of the extermination of the Tutsis. Did he
11 tell you how this extermination of the Tutsis ought to be carried out?
- 12 A. The plan he explained to us was based on the division of Kigali town into various *cellules*, from
13 memory, I remember about 20, and within those *cellules*, there was an established organisation that
14 made it possible to kill a thousand persons every twenty minutes. That's the figure that he gave.
- 15 Q. All right. And how was one to know who was Tutsi and who was not, because, apparently, it's not
16 written on people's forehead.
- 17 A. Clearly, for us it is more difficulty to make the distinction, but since the plan was based on the initial
18 Kigali defence plan, an inventory had been established by the neighbourhood or *cellules* and to see
19 who would be noted for Defence of the city, and, therefore, who would not be likely to defend the city
20 among those enumerated on the inventory. The areas were mixed. There was no ghetto reserved for
21 one ethnic group. People lived together, and, therefore, it was easy for a neighbour to determine what
22 his neighbour's ethnic origin was and provide intelligence to be put on the list.
- 23 Q. What list are you referring to?
- 24 A. We are talking about an inventory that was drafted for the Kigali defence plan to know who Tutsi was so
25 that it would be possible to determine who could not be counted on for the defence of Kigali.
- 26 Q. Did they do it from memory or did they have list drawn up for that purpose?
- 27 A. He always told us that -- asserted that written lists had been established, and that they were to be found
28 at the MRND headquarters, and that he was in a position to provide them to us.
- 29 Q. All right. Did you ask him to provide you guarantees -- some sort of proof of his good faith to back up
30 his allegations?
- 31 A. As a matter of fact, to obtain some form of proof, we asked him to get his hands on the list, and at the
32 same time to find out where the weapons cache were to be found and what weapons composed those
33 armed caches.
- 34 Q. And what did he answer?
- 35 A. He was prepared to show us the armed caches, to show them to us. He was ready to slow down the
36 distribution process so that he could show them to us; submit the lists together with the inventory of the
37 Tutsi population in Kigali. He only wanted to do that once we had provided definite protection or some

1 sort of asylum status for himself and his family.

2 Q. Indeed, what was he asking for in exchange for the information he was giving you? What was he
3 asking for in return?

4 A. The return he mentioned was to have assurance that nothing would happen to his family or himself, that
5 is, that the international community would provide asylum or protection to him outside the country.

6 Q. All right. We know that you were tasked by General Dallaire, to meet the informant Jean-Pierre. After
7 the account, the proposal or the offer he made to you, did you go and report to your superior? How did
8 you -- let's jump that first question; I would like to find out how you separated on that day with
9 Jean-Pierre?

10 A. After the interview, since Jean-Pierre had been brought to the *secteur* headquarters in one of our
11 vehicles, we escorted him back to the place where he had boarded.

12 Q. What day and what time are we talking about when -- at what point in time?

13 A. It was still the 10th of January, but late in the evening since the meeting had begun around 1900 hours.
14 I, therefore, supposed that it was well after 2200 hours of that same day.

15 Q. And after this, what did you do? Did you go and report to your superior, General Dallaire, who had
16 tasked you to go and meet this person?

17 A. That is correct. For those who know the layout of Kigali from the parking lot of Kigali Night Club, there
18 was a very short distance. So, together with Captain Deme, we went to report at the General's
19 residence on our meeting with Jean-Pierre.

20 Q. After this report, what did General Dallaire say or do, that made you assume he said or did something?

21 A. Given the importance of the information we had gathered that evening, General Dallaire decided to
22 have a fax drafted which was to be sent that same night to New York, and bearing in mind the time
23 difference between New York and Kigali, we were in the middle of the night. However, the day -- or the
24 working day had begun, it was afternoon in New York.

25 Q. So, he decided to send a fax to New York, giving a report; is that it?

26 A. That is correct.

27 Q. How was the fax drafted and who drafted it?

28 A. During the meeting with Jean-Pierre, I had taken notes in a notebook, which made it possible for me to
29 put down in writing, and giving figures -- first of all, to give a report to the General, and secondly, to take
30 part in the drafting of the fax together with the military assistant to the General, Major Beardsley. And,
31 therefore, as we drew up, based on notes -- paragraphs, we came up with the fax.

32 Q. All right. General Dallaire's assistant Beardsley, would that be Brent Beardsley?

33 A. That is correct.

34 MR. BÂ:

35 Brent Beardsley is spelt twice on our list, at No. 3 and No. 5, but I think No. 3. Is the correct spelling.

36 BY MR. BÂ:

37 Q. How, exactly, did that happen? You say you cooperated with Major Beardsley; how exactly did it

1 happen?

2 A. General Dallaire had a laptop computer which he kept at home. Major Beardsley, whose mother
3 tongue is English, therefore, begun to type the fax out. I was next to him. You can imagine the screen
4 in the General's sitting room. And this was still the festive period, Christmas festive period, so we had
5 some maple syrup; we had biscuits -- items that his family had sent him from Canada. So, that was the
6 context in which we drew up the text. And since Major Beardsley had a better command of the English
7 language, he drew up the text which had to go to New York in English, and then General Dallaire
8 refined the content of the text and ended it with a French phrase, which was a kind of motto for his units
9 to finish up the fax.

10 Q. What day was this now, when you finished drawing up the fax?

11 A. I think it was almost midnight by the time we finished the fax.

12 Q. Did you read the text -- the contents of fax once it had been drawn up?

13 A. Yes, of course, right from the start, the first words, paragraph by paragraph. I went through the text
14 from top to bottom, paragraph by paragraph, I was involved in its drafting, right from the start.

15 Q. The fax, what did you do after drafting the fax?

16 A. Since it was quite important, I had to work in a secure manner. General Dallaire did not have
17 communication equipment of that sort in his house. We, therefore, went to the UNAMIR headquarters,
18 together with his service vehicle and his driver and military assistant. We first went to wake up the
19 civilian personnel responsible for the communication in the mission and their residence was behind the
20 Meridien Hotel. Once we had woken him up and explained what it was about, in two vehicles, we went
21 to the headquarters, and the fax was sent after it had been printed since we had not yet done that.
22 Printed and signed by General Dallaire.

23 Q. Okay. What day and what time are we talking about, by the time the fax was sent?

24 A. Since we had finished the fax around midnight, and since we had to wake up the communications
25 personnel and gone to the UNAMIR headquarters, it must have been about 1:00 a.m.

26 Q. What sort of fax was it? Was it coded -- cabled? I have no knowledge of the matter, so if you could
27 explain to me how it was done?

28 A. In military terms we would call it a secured fax. The English terminology would be code-cable, the fax
29 goes through a machine and there is no cable between the fax that is being sent and the receiving fax
30 in New York. So, we were using a satellite signal which sent it to a receiver in New York. And, in order
31 to receive it on the other end, since it is coded, you need to have a device that decodes the cable. So,
32 it has nothing to do with a cable as such as we would normally refer to it. It is a military terminology that
33 applies in that instance.

34 Q. Earlier on you told us you read the fax before it was sent or while it was being drafted?

35 A. That is right.

36 Q. Since General Dallaire and Major Beardsley were not in touch with the informant, Jean-Pierre, and you
37 were on the other hand, can you tell us if the contents of the fax in question is a complete reflection of

1 your conversation with Jean-Pierre, or was it a summary of those talks?

2 A. Since a meeting had lasted for more than two hours, the fax was mainly a summary of what had been
3 said. However, it broached all the issues discussed during that meeting.

4 Q. Very well.

5 MR. BÂ:

6 At this point, Mr. President, I would like the registry to show documents – why.

7 MR. BLACK:

8 Because it is not the document.

9
10 Mr. President, we rise at this point, I would like the witness to leave this room at this point, then it will
11 become evident why -- when I point out the problem.

12 MR. PRESIDENT:

13 Yes, Witness, you may leave the room for 10 minutes, there is an objection for discussion at this point.

14

15 Yes, Mr. Black, what is it?

16 MR. BLACK:

17 The fax that the Prosecution disclosed to us is not the fax that they have in New York, it has been
18 doctored. It has been changed, manipulated, and there are certain reasons why they have done that.
19 I don't know who has done that. But between here and New York, somebody has changed the facts
20 they want to put in evidence here. I have the original fax from New York, and it is totally different. If
21 anyone wants to use a fax, they can use this one. I can give you copies of a letter sent to me. It is a
22 letter sent to me, it is a letter written in 2004 enclosing the copy of the fax they have in
23 New York, and you will see why we object to them using what they say is the fax. I can give it to you to
24 show you.

25 MR. PRESIDENT:

26 Yes, isn't the witness the best person to know what is original and what is not?

27 MR. BLACK:

28 No, you will see why when I point out the problem. I will put it this way. There was no evidence of a fax
29 existing of this nature in New York.

30 MR. PRESIDENT:

31 And what are you having?

32 MR. BLACK:

33 Let me finish, it is a story. Okay?

34

35 There is no evidence anywhere until November 28, 1995 this fax existed. General Dallaire doesn't talk
36 about it; this man doesn't talk about it in these terms; not a fax of this nature. Ms. Alison Des Forges in
37 Military Trial I testified that a fax was sent that night, and that that fax then goes missing for several

1 months in late 1994/95. Something is taken out of the file in New York, another fax is then put in the file.
2 She says she thinks by an NGO. Now, I have that fax, they don't. What they want to put in is another
3 copy which had the information which New York have taken off, and there is a reason why they have
4 taken off that information. So, if they want to use the fax, perhaps to use what the legal officer has
5 sent to me from New York -- has sent to me as being the fax. What they have taken off is -- I can read
6 it to you. They are going to show you this fax in this format, which is exactly -- the contents of the fax is
7 exactly the same, okay. The contents are exactly the same. The problem is that there are fax numbers
8 on the top of the fax, the words "Received from," that have been removed by somebody in the
9 Prosecutor's office somewhere between and New York. Also a stamp has been typed on here, which
10 has been removed, which says the following: "This cable was not found in DPKO files. The present
11 copy was placed on the files on November 28th 1995 and signed by Lamin Sise, 28th November 1995.
12 He is a very high official in the UN. Certainly some writings and markings and notes have been taken
13 off on the fax that they want you to have. At the top of the page there were two sentences which have
14 been removed. On the second page of the fax, its more clear the origin of the fax, and it's says from
15 Connaughton, Camberley, Surrey, and it's the fax and telephone number and the date and time
16 received. That's the origin of the fax. Colonel Connaughton, spelt C-O-N-N-A-U-G-H-T-O-N, is Colonel
17 Connaughton in the British army. Colonel Connaughton, is based at the rural military centre in
18 Sandhurst, Camberley, Surrey. Camberley Surrey is one of the modern major British army bases,
19 contains, among others things, British, the rural military colleges, Sandhurst, several defence
20 intelligence research defence establishments, and several other British military think tanks. This fax,
21 the only fax we have that General Dallaire says he sent is this fax, and it came from the British army,
22 Colonel Connaughton, and he confirms that he sent it. Where that came from is not a problem.

23
24 Now, what they are trying to purport to give you is this fax from the file with these additions -- with these
25 things taken off. So, somebody doctored the fax they want to give to you, and it is important, because
26 our position is that this fax never existed until November 28th 1995, and it will become inevitable when I
27 cross-examine the witness why. That is why I want him out of the room. Our position is he is lying.
28 There was a fax sent that night, it was only about arms caches, it had nothing to do with killing Belgians
29 or committing genocide or anything else. That is being done after this fax. So, our position is that this
30 fax, the same so-called is fabricated after the fact .

31 MR. PRESIDENT:

32 Mr. Black, killing the Belgian would come in the meeting that he says he had on the 10th.

33 MR. BLACK:

34 That is right. It mentions that also in this fax. So, there is no evidence, in fact, we have reports from
35 the UN -- UNAMIR did a study -- Shu Khan (*phonetic*), she was also a very high official at the UN and
36 was asked to do us a report on whether in November 1995, whether there was any indication in UN
37 files that UNAMIR had any indication that there might be a plan of genocide or something like that going

1 to take place. Because the UN at that was being heavily criticised for not doing enough to stop the
2 so-called genocide. They delegated several officers of the UNANMIR to do that study, they examined
3 all the code cables sent out of Kigali and received back and forth from New York. They found nothing.
4 This fax is never mentioned. They listed faxes; this one is not mentioned. I have a summary from the
5 Prosecution of all code cables sent from New York, there is no response to this fax from New York,
6 which indicates, again, it wasn't sent. This man's previous testimony will indicate that he never sent
7 such a fax to New York. He sent another fax. The actions taken by the Belgians afterwards indicate
8 that there was no such fax sent. So, at the time that the UN was heavily criticised for not stopping this
9 so-called genocide, on November 28th, the UN comes out with a report saying there is no fax, no
10 indication of a genocide, no documentary evidence whatsoever. A copy is sent in Rwanda in the same
11 month November the 5th, chaired by Paul Kagame indicating they were going to try and find genocidal
12 evidence, they could not find any. Then this fax mysteriously appear November 28, this witness is
13 called in Belgian to be questioned on November 28, and then suddenly says he sent a fax that exists
14 now, before that he said no. So, the whole point of this is if they can't --

15 THE ENGLISH INTERPRETER:

16 Could counsel for the Defence slow down a bit, please?

17 MR. BLACK:

18 The point is we object to him using this fax unless they prove the providence of where they got the fax
19 from. I got the providence from my fax. I can show you the letter now. My assistant can give you the
20 letter -- give my friends a letter. This letter I asked was information on several things to the UN, there
21 were reference to the page and the first three paragraph s--

22 MR. PRESIDENT:

23 If I understood you correctly, you say that some portion from the top and the bottom are missing, but
24 the title is exactly the same?

25 MR. BLACK:

26 The content is exactly the same. So we can use the fax for the same purposes, what I am complaining
27 about is where the fax came from. The original of this fax, so we are saying it was fabricated by -- we
28 think by British military intelligence among other people, well they can include major -- General Dallaire
29 and his officers.

30 MR. BÂ:

31 Can Mr. Black--

32 MR. BLACK:

33 Can the President read the document first, Mr. Bâ? So, this is the first page the first paragraph, then
34 you go to -- next two pages do not concern us in this matter, then you go into the fax itself and you can
35 follow the fax page four -- sorry, it was attached, and the same fax number from the office of legal
36 counsel.

37

1 MR. PRESIDENT:

2 Yes, Mr. Black. Have you seen it, Mr. Bâ? Have you seen this one?

3 MR. BÂ:

4 This is a letter addressed to Black, which he gives me two minutes to be read. He could at least have
5 disclosed it to me yesterday or this morning. Can he give me just two minutes to read and I will
6 respond to his submissions?

7 MR. BLACK:

8 I have no rush. For the record, I would like to read into the record what Mr. Zackin says. The letter
9 goes --

10 MR. BÂ:

11 If you want it read out, please provide a copy for reading.

12 MR. PRESIDENT:

13 You can file this.

14 MR. BLACK:

15 Yes, I can file it, then that is fine.

16 MR. PRESIDENT:

17 I think for you to be fair, I will read the document relating to this fax. All the documents relating to this
18 fax are already before the Court, so that everybody can read it.

19 MR. BLACK:

20 I have no objection for it to be on record.

21 MR. PRESIDENT:

22 Mr. Bâ, I will give you little more time. I will adjourn for lunch now and come back so you can have time
23 to study the letter.

24 MR. BLACK:

25 I will ask Mr. Bâ this question when he comes back. We would like to know where he got his facts from.
26 What is the providence of this fax -- where does that come from.

27 MR. BÂ

28 I will respond to you, do not be worried.

29 MR. BLACK:

30 This fax, which we are unaware of, we would like them to tell us whose it is, or they got the same fax
31 that I have in their offices and they have doctored it. If that is the case, there is obstruction of justice
32 and somebody should be criminally charged.. Someone in their office should be criminally charged,
33 and I would say Mr. Jallow, because he is in charge there. It's not a laughing matter when you send the
34 Court fabricated document like this in a fax --

35 MR. BÂ:

36 We will respond, please, give us time to do so.

37

1 MR. PRESIDENT:

2 We will adjourn for lunch. We will come back at 2:00. Court is adjourned until 2:00.

3 (*Court recessed at 1200H*)

4 (*Pages 22 to 36 by Regina Limula*)

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1 (*Court resumed at 1410H*)

2 MR. BLACK:

3 Mr. President, I see the witness is in the room, and I don't know if Mr. Bâ wishes to continue this
4 discussion, but -- however, he shouldn't be in the room while we are discussing this matter.

5 MR. PRESIDENT:

6 Can you wait out for five minutes? We will -- yeah, take the witness out for five minutes.

7

8 Witness, you can wait out for five minutes till I resolve this.

9 (*Witness stood aside*)

10 MR. PRESIDENT:

11 Yes, Mr. Bâ, what's your response to this letter?

12 MR. BÂ:

13 Thank you, Mr. President. I believe I have taken note of the fact that this document brings in nothing
14 new. It is the fax that was received in New York, and what we disclosed to you is the fax sent from
15 Kigali. It is absolutely the same text. When it was received in New York, it was marked "Received". It
16 was a cable code. It was decoded, and it's the same text, the same paragraphing, the same figures.
17 There is not one iota of difference. But in New York, on the copy you received from them, it bears
18 some notes, annotations, made by the personnel in New York. Other than that, it is the exactly the
19 same text, and I think in this sense you are actually helping us out.

20

21 Secondly, if you take Ralph Zacklin's letter -- that is, the acting legal officer -- he says that if he was not
22 in a position to confirm that it is the same fax, it's because you submitted the fax as produced in Arusha
23 in another trial.

24

25 We have not seen the document produced at trial -- on RZ4 "not in a position to confirm its receipt." If
26 they're not in a position to confirm receipt, it's because he does not know what document was produced
27 in trial in Arusha. You did not give him anything to compare it to. But if you look at it yourself, you will
28 notice that it is the exactly the same fax, the fax as went and the fax as received. He goes on to say,
29 "The united nation (*sic*) has not been able to locate the original of this document".

30

31 But, you know, the United Nations is a gigantic organisation and it works throughout the world and
32 receives the hundreds of thousands of faxes. If they didn't correctly file the fax or if they stored it in a
33 different -- various places, he cannot answer for that. And I'd like to add one thing: you are aware that
34 the DPKO was questioned when this genocide took place, because they were told, "Look, you were
35 given timely notice, but you took no measures." Perhaps some people had an interest in making the
36 document disappear, but I know nothing about that. All I can say is that anything is possible.

37

1 But what your letter confirms is the fact that the fax was sent and that there is at least a copy of it in
2 New York. It is the same text; the same date; the same signature; the same sender; the same
3 addressee; the same number of paragraphs; the same content; the same everything. Not even a
4 comma was changed. Now, it is improper for you to seek to introduce this text since we are the ones
5 who are conducting our examination with it. You can await your turn and we can assure you that we
6 will not object to you producing the receipt fax or Mr. Zacklin's letter. I see it -- the way I see it, you are
7 working for our benefit. The document that we disclosed to you was tendered in Military I three times:
8 once by Ntabakuze's Defence; twice by the Prosecutor. And this document bears a K-number -- a
9 Prosecution exhibit number, 70 -- 170.

10
11 In closing, Mr. President, I'd like to say one thing. The fact that certain remarks have been made to
12 slander us by the Defence, and as a professional who prides -- and I pride myself on my intellectual
13 honesty, I would rather you back up your statements, that is, if you are interested in ethics, although I
14 do not think that is the case.

15 MR. BLACK:

16 I'll back up my statement. Mr. Bâ's response is no response at all, because he hasn't got a letter from
17 Mr. Zacklin saying that the copy he's trying to put in as an exhibit here is the one they have in
18 New York. I do. He has no proof whatsoever that the copy he has was sent by anybody to anywhere
19 because there's no fax number on that copy. You will note, Mr. President, that the copy -- if you have a
20 copy that -- they want to put in as an exhibit here. It has no fax number from Kigali -- that it was sent
21 from Kigali. Nothing on the heading, zero. You can't prove it was sent from Kigali. The only proof we
22 have that this was sent to New York is my copy from the head -- the legal counsel to the UN in
23 New York, stating it was sent in from Colonel Connaughton in Britain, the British army, on
24 November 28th, 1995. There's nothing on yours indicating it was sent from Kigali. If it was sent from
25 Kigali, there would be a fax date and time stamp on there. It doesn't exist.

26 MR. PRESIDENT:

27 Yes, Mr. Black.

28 MR. BLACK:

29 So -- and if -- I agree with you, the contents are exactly the same. I have no problem with you using
30 mine 'cause I've provenance. I got a chain of custody, Mr. President. And it comes -- this is the one
31 they have in the New York -- the DPKO files, the only one they have. I got a letter stating this is the
32 only copy they have. Therefore, they should use this one 'cause they cannot prove a custody with
33 theirs. And you are right. What's the problem? It's exactly the same text. I don't deny that. I got no
34 problem with that. You can work with the same text. But what they want to do, Mr. President, is hide
35 the fact that this was sent from the British military, not from General Dallaire. That's quite evident, and
36 we can do it one of two ways. I think the proper way is that the one that should be used is the one that
37 New York says is in files. If they want to call Mr. Zacklin to say something else, they can call

1 Mr. Zacklin. But they should accept this one and then -- or, we can have both filed.

2 MR. PRESIDENT:

3 Yeah, I will accept both. I think --

4 MR. BLACK:

5 I think that will muddy the record, but we can do that.

6 MR. PRESIDENT:

7 Yeah, I will do that. But I want to just mention one thing, Counsel. In your letter to the United Nations
8 paragraph (A), you're asking for a copy of a fax sent by General Dallaire to Kofi Annan, but there is
9 nothing to say that Kofi Annan received anything.

10 MR. BLACK:

11 No, I said to general -- to Kofi Annan and others -- actually, it was a mistake. My original -- I said, "and
12 others -- any others", because we didn't know exactly at that point who sent -- who it was sent to.

13 MR. PRESIDENT:

14 Yeah, so when --

15 MR. BLACK:

16 This officer --

17 MR. PRESIDENT:

18 So when you say "any others", how many employees are there?

19 MR. BLACK:

20 Well, this officer in his first statement said it was sent to a man named Martin. Now he will say it was
21 sent to General Baril.

22 MR. PRESIDENT:

23 Yes.

24 MR. BLACK:

25 Right. So, we didn't know who it was actually sent to, so I covered everybody by saying "Kofi Annan or
26 others", and they happen to say this is the only fax corresponding to that.

27 MR. PRESIDENT:

28 Yes, so, too, I will accept both, and we will continue with that.

29

30 Yes.

31 MR. BÂ:

32 Mr. President.

33 MR. PRESIDENT:

34 Mr. Bâ give --

35 MR. BÂ:

36 Mr. President.

37

1 MR. JEGEDE:

2 Call the witness.

3 MR. BLACK:

4 Can we -- before the witness comes in, then, can we make this an exhibit right now --

5 MR. BÂ:

6 No, no.

7 MR. PRESIDENT:

8 No.

9 MR. BLACK:

10 -- or are we gonna present both to the witness?

11 MR. BÂ:

12 No, no, no.

13 THE ENGLISH INTERPRETER:

14 Your Honour's microphone, please.

15 MR. PRESIDENT:

16 When you touch on it, I will accept that also. We will allow you to mark it; you can mark it. I will accept
17 not only that; even your letter to the United Nations, I will accept.

18 MR. BLACK:

19 All right. So -- okay, that's on the record. It's gonna be made a Defence exhibit when I cross-examine.

20 MR. PRESIDENT:

21 Yes, yes.

22 MR. BLACK:

23 No problem; no attacks; no changes of mind later on? We're not gonna change our position --

24 MR. PRESIDENT:

25 No, no --

26 MR. BLACK:

27 -- a day from --

28 MR. PRESIDENT:

29 I have given you the assurance, so I will accept it.

30 MR. BLACK:

31 All right. Thank you very much.

32 *(Witness entered courtroom)*

33 MR. PRESIDENT:

34 Yes, Mr. Bâ, you can continue.

35 MR. BÂ:

36 Thank you, Mr. President.

37

1 BY MR. BÂ:

2 Q. Witness Claeys, when we broke this morning, I was planning to show you a document. First of all, of
3 course I had to show it to the Bench and the various Defence teams to show them what document it
4 was, and so that they could follow our conversation.

5 MR. BÂ:

6 Therefore, I would like to request the registry to circulate the document, show it first to the Honourable
7 Bench and then to the various Defence teams, and, finally, show it to the witness. This document is
8 partly in English. It also has a French translation.

9 BY MR. BÂ:

10 Q. I'd just like you to take a minute to go through the document, or, if you need more time, take it.

11

12 Have you gone through it?

13 A. Yes, thank you.

14 Q. Witness, do you know this document?

15 A. Yes, it is the fax we sent in the night of the 10th to 11th January 1994, from the UNAMIR force
16 headquarters.

17 Q. When was the first time you saw this document?

18 A. The first time was when we drew it up in the night of the 10th to 11th January 1994 -- 1994.

19 Q. Could you peruse the document carefully and tell us if, indeed, its contents match the one that you read
20 in the night of the 10th of (*sic*) 11th of January. I would like you to confirm this for us. It could be yes; it
21 could be no.

22 A. Yes, it is the document.

23 Q. Does this document bear a date?

24 A. The document is dated 11th January 1994, on the first page, next to the word "Date" column.

25 Q. Where does it come from?

26 A. The document comes from one Dallaire, UNAMIR, Kigali, and there is a signature by General Dallaire
27 over the name, so it includes General Dallaire's signature.

28 Q. And who is it addressed to?

29 A. It is addressed to Baril in the Department of Peacekeeping Operations of the United Nations, DPKO,
30 United Nations, New York, attention Major General Baril, in room 2052.

31 Q. Does the fax have a number?

32 A. Yes, it has a number that was given by the communications personnel. If you allow me, I will read the
33 number in: Mike, India, Romeo, C7, then 68, which is written in longhand on top of the table.

34 Q. And is this information also included in the code cable that you saw in the night of the 10th to 11th of
35 January?

36 A. That is correct. It does require to be numbered before it can be registered in a logbook which has the
37 purpose of entering incoming and outgoing correspondence.

1 Q. Earlier on, you told us that this document is a summary of your meetings with the informant named
2 Jean-Pierre; is that correct?

3 A. That is correct.

4 Q. I will, therefore, ask you to put the document aside. I will refer to certain parts of it and you will tell me if
5 that is, indeed, what Jean-Pierre said, and in case you have comments to make, feel free to do so. I'd
6 like you to refer to paragraph 2 of the document. This is it. Does the document have the reference in
7 both English and French, given that it is in both versions? I will read.

8
9 Paragraph 2 reads as follows: "He informed us he was in charge of last Saturday's demonstrations
10 which aims were to target deputies of opposition parties coming to ceremonies, and Belgian soldiers."
11 Further on, the last sentence of this paragraph 2 reads: "Belgian troops were to be provoked, and if
12 Belgian soldiers resorted to force, a number of them were to be killed and thus guarantee Belgian
13 withdrawal from Rwanda." What I would like to know is: exactly what did the informant tell you?
14 Because you were part of the discussions.

15 A. Indeed, he spoke about the demonstrations which took place the previous Saturday at that meeting
16 and, if my memory serves me right, that was 5th of January after the establishment of the broad-based
17 government. There was a demonstration, very robust demonstration at the Meridien roundabout, which
18 disturbed traffic from town in the direction of the CND. The RPF battalion was at that time within the
19 CND because that is the portion they had been assigned, such that it was impossible for some
20 members of parliament to get to the CND for the swearing-in ceremony.

21
22 He said that that was to provoke the RPF battalion and this act would have been able to provoke them.
23 If others, possibly, who were within the CND, came out and were not able to be sworn in, I (*sic*) could
24 have been killed, and since the only contingent at the time that was on patrol to control and possibly
25 open -- make an opening towards the CND was the KIBAT Belgian soldiers, they were in the front line.
26 In the event that the demonstration -- the contact with the demonstration would have escalated. That is
27 when he told us that the weapons put at his disposal were hidden in the trenches which were around
28 the roundabout, weapons which came from the Presidential Guard battalion which was based in the
29 neighbourhood.

30 Q. So on that day there was a swearing-in ceremony?

31 A. That is correct.

32 Q. Those who had to be sworn in, were they, in fact, able to do so?

33 A. The only person that was sworn in on that day was President Habyarimana. And this was after there
34 was confusion in the list that was distributed and which did not tally with the original lists, for which
35 reason the ceremony was cancelled -- because this did not tally with what was agreed on before the
36 ceremony.

37 Q. Were you there, or you are only relying on what Jean-Pierre told you?

- 1 A. On that day I, myself, was at the entrance of the CND, so I was not inside the building and, therefore,
2 what is recounted in this paragraph is a summary of what we were told, so I relied on what he told us
3 about the intention of the demonstrators.
- 4 Q. On that day, was entrance -- entry into CND based on invitation, or was it open to everyone? Anyone
5 could come and watch the ceremony? How was it planned?
- 6 A. The previous day, on the basis of a list that was agreed upon with the government, the then
7 government, the representatives, the members of parliament, there were cards that were distributed to
8 the various parties, entry cards, that would allow you to enter into the premises and the building to
9 assist -- to watch the swearing-in ceremony. These cards were distributed on the basis of names which
10 were recognised or taken from the lists of the various parties who were going to form the broad-based
11 transitional government. On that day some people were not allowed into the premises even on the
12 basis -- even with the cards that were distributed to them because there was an arrangement under the
13 control of Major Mpirinya, which was operating at that level.
- 14 Q. You said that some people were refused entry. Who are these persons, if you remember -- if you
15 remember them, those persons who were refused entry? Do you know some of them?
- 16 A. I have no memory of the names, but these were members of the Liberal Party.
- 17 Q. Very well. Very well. Let's now move on to paragraph 3. This is what paragraph 3 says: "Informant
18 confirmed 48 RGF paracommando CDO and a few members of the gendarmerie participated in
19 demonstrations in plain clothes." First of all, which demonstration are you referring to?
- 20 A. The same demonstration which took place on Saturday previous to our meeting -- the Saturday prior to
21 our meeting.
- 22 Q. And the informant told you that?
- 23 A. That is true. It confirms -- he confirmed the figures, based on notes taken.
- 24 Q. And this informant, himself, where was he at the time? All these things he is recounting, did he
25 experience them; did he see them? Where was he, if he told you?
- 26 A. Explanations which were given to us show that he was in charge of the -- this arrangement for the
27 coordination of that demonstration, so he was present himself.
- 28 Q. Let's move on to the last sentence of that paragraph: "RGF and *Interahamwe* provided radio
29 communications." Exactly what did he tell you in that regard?
- 30 A. I think here the translation is not correct because in English it says "provided". In English it says
31 "provided" and the French says "supplied".
- 32 Q. They provided what?
- 33 A. The radio communication, equipment -- that is, the Motorola make -- to coordinate movement and
34 activities of the demonstrators.
- 35 Q. And who were using these radios, the Motorola radios?
- 36 A. Since this was equipment that was used within the government forces, one would believe that these
37 were soldiers or civilians who were able to use that kind of equipment.

1 Q. Very well.

2 MR. BÂ:

3 Mr. President, I will request that you be a bit patient with me. The exercise is going to be a bit
4 extensive.

5 BY MR. BÂ:

6 Q. So we move on to paragraph 4. Paragraph 4 says as follows: "Informant is a former security member
7 of the president". Did he tell you that, that he's a former security member of the president?

8 A. Yes, that is correct.

9 Q. Very well. I move on to the last sentence of that paragraph. "Direct link is to the chief of staff RGF and
10 president of the MRND for financial and materiel support." Exactly what did he tell you?

11 A. He had a direct link to the chief of staff of the government forces and to the president of the
12 MRND party for purposes of materiel and financial support for the training and the coordination
13 activities that he was in charge of.

14 Q. Do you have any recollection of the name he gave you as being the person who was chief of staff at the
15 time, any recollection of that?

16 A. I don't think he mentioned a name at the time.

17 Q. Very well. We proceed. Let's move on to paragraph 5, which reads as follows: "*Interahamwe* has
18 trained thousand 700 men in RGF military camps outside the capital. The thousand 700 are scattered
19 in groups of 40 throughout Kigali." Did the informant tell you that?

20 A. It is correct. The figures are correct here, as I took note of them during the discussions.

21 Q. Very well. Paragraph 6, which reads as follows: "Principal aim of the *Interahamwe* in the past was to
22 protect Kigali from RPF. Since UNAMIR mandate, it has been ordered" -- he, I believe, refers to the
23 informant -- "he has been ordered to register all Tutsis in Kigali. He suspects it is for their
24 extermination, something quite monstrous." Are you sure he told you this?

25 A. Absolutely certain.

26 Q. And the sentence ends as follows: "Example he gave was that in 20 minutes his personnel could kill up
27 to a thousand Tutsi." How, according to him, could his personnel kill a thousand Tutsis? Exactly how,
28 did he tell you?

29 A. The figures as mentioned in this fax are also the figures that he gave and, as he explained, the fact of
30 having registered the houses of the Tutsis with trained personnel, you might have calculated that with
31 thousand 700 -- and in 20 minutes going into the houses of people, it was easy to kill a thousand Tutsi
32 in 20 minutes.

33 Q. In any event, that is what he told you, that is what he claimed, that is how he put it?

34 A. *(No interpretation)*

35 Q. Very well. Paragraph 7 then: "Informant states he disagrees with anti-Tutsi extermination. He supports
36 opposition to RPF, but cannot support killing of innocent persons. He also stated that he believes the
37 president does not have full control over all elements of his old party." Did he say this?

1 A. Yes, indeed, that is what he said and that is what I noted.

2 Q. How is it that the president does not have full control over elements of his old party?

3 A. When the peace accords were signed, those involved in the peace accords signed, but not everybody.

4 I am referring to the former regime, if we could refer to it that way. Those who signed the accord in

5 Arusha -- and there was a movement that wanted to return to the situation as it was before.

6 Q. So, according to his analysis, there were people of the old party who wanted -- who wanted to be

7 attached to the status -- the previous situation so --

8 A. *(No interpretation)*

9 Q. Very well. Let's move on to paragraph 8. "Informant is prepared to provide location of a major

10 weapons cache with at least 135 weapons. Let me read the last sentence.

11 THE ENGLISH INTERPRETER:

12 Sorry, we are not with counsel. We still do not know exactly where he is reading from.

13 MR. BÂ:

14 Let me go over, if I'm going too fast.

15 BY MR. BÂ:

16 Q. The last sentence, he requests -- he speaks about protection for his family, his wife and his four

17 children.

18 THE ENGLISH INTERPRETER:

19 But we didn't get the exact portion that counsel read from.

20 BY MR. BÂ:

21 Q. So was he ready on that night from the 10th to the 11th -- one or several caches of weapon?

22 A. Indeed, he was the one who made the offer.

23 Q. *(No interpretation)*

24 A. He made the offer to take us through that. He made the offer that very night.

25 Q. The first night you met him.

26 A. Yes, the first night.

27 Q. But from what I see, there was a condition; that is, if we gave him the guarantee. Did that come from

28 his mouth?

29 A. Yes, he wanted to have some level of guarantee and we were not in a position to give him -- to give him

30 that guarantee on the spot. For that reason, we needed, first of all, to consult with your superiors

31 because -- and that was beyond our purview as soldiers.

32 Q. Very well. We move on to paragraph 10. We will be through in a moment. Paragraph 10, it appears to

33 be a recommendation from the person who wrote this document, and it reads as follows: "It is

34 recommended the informant be granted protection and evacuated out of Rwanda, and the current

35 commander" -- I presume that is Dallaire -- "this HQ does not have previous UN experience in such

36 matters and urgently requests guidance." Did that sentence appear in the document that you -- that

37 you saw and which you participated in sending in the early hours of the 11th?

1 A. Yes, absolutely. In the translation it says the "commander", but, here, it says UN experience, that is,
2 you -- UN experience.

3 Q. So if I understood you clearly, General Dallaire was asking for advice from New York and how to
4 conduct himself.

5 A. Yes, that is correct.

6 Q. Very well. Paragraph 11, and that will be the last one. The second sentence of that paragraph says as
7 follows: "Force commander does have certain reservations on the suddenness of the change of heart of
8 the informant to come clean with this information."

9 THE ENGLISH INTERPRETER:

10 Sorry, we're lost. We can't follow counsel.

11 BY MR. BÂ:

12 Q. The last sentence --

13 THE ENGLISH INTERPRETER:

14 Says counsel.

15

16 There again, we are lost. We can't follow counsel.

17 MR. BÂ:

18 I'm sorry.

19 THE ENGLISH INTERPRETER:

20 Says counsel.

21 MR. PRESIDENT:

22 Refer to the portion that you are referring to, Mr. Bâ.

23 BY MR. BÂ:

24 Q. It's paragraph 11, from the second -- starting from the second sentence. "Force commander does have
25 certain reservations." Let me go over --

26 THE ENGLISH INTERPRETER:

27 Says counsel.

28 BY MR. BÂ:

29 Q. -- for purposes of the transcript. "Force commander does have certain reservation on the suddenness
30 of the change of heart of the informant to come clean with this information." (*No interpretation*) ...
31 "recce of armed cache and detailed planning of raid to go on late tomorrow."

32

33 And the last sentence: "Possibility of a trap not fully excluded as this may be a set-up against a very,
34 very, important, political person." Do you confirm that sentence appeared in the fax?

35 A. I'm certain that this appeared in the fax message. And, again, in the translation, there are certain things
36 that are not very accurate. When you make reference to recce of armed cache, it is not an inspection,
37 but it is a reconnaissance of the area. A raid is an armed operation; it is not a swoop. A swoop is a

1 police action and the other one is a military tactis (*sic*), to be very accurate.

2 Q. Now, the fax that you sent on the 11th January, was it in English or French?

3 A. It was drafted in English.

4

5 Let me say to Mr. President that the mission was an English-style mission and not a French-style, so all
6 official correspondence was drafted in English. And the network -- communication network in UNAMIR
7 operated in English.

8 Q. So there might have been some distortions in the translation into French. Anyway, which ones are
9 these reservations that are referred to in paragraph 11, "Force commander does have certain
10 reservations"? Dallaire was the author, but are you able to say if you were privy to the secret? Do you
11 have any information on these reservations that are mentioned? What does it mean?

12 A. The reservation that is being referred to here is that, when somebody contacts you for the first time to
13 divulge some information, he needs to be checked to see to what extent what he is saying is the truth,
14 or whether the information could be corroborated. So, Jean Paul -- Jean-Pierre came with information,
15 which we could not directly cross-check on the field without the ministry authorisation, and that, to be
16 certain, we needed to check -- but that the authorisation and the orders to that effect had to come from
17 a higher level -- political level, United Nations level, to Kigali to enable us to do that. The mandate was
18 under Chapter 6 of the United Nations which did not authorise offensive actions.

19 Q. Chapter 6 did not authorise offensive action, but does it preclude surveillance activities, particularly in
20 regard to the KWSA actions that you referred to this morning?

21 A. Surveillance activities were allowed but, there again, in agreement with -- that has to be in agreement
22 with the local authorities. And let me refer to this example. For all roadblocks, normally referred to as
23 checkpoints, which had to be organised within the -- within 24 hours, a coordination was carried out
24 between UNAMIR and the gendarmerie. So the gendarmerie was informed 24 hours ahead of time of
25 the positions where the checkpoints were to be located.

26 Q. Now let me read the next sentence. "Recce of armed cache and detailed planning of raid" -- well, you
27 say the French version is not very correct -- "to go on late tomorrow." Did you -- from the discussion,
28 did you envisage anything for the following day in terms of reconnaissance activities?

29 A. Definitely not yet -- as at then, because it was not for the force commander to command a team -- a
30 platoon, a company. He has to give orders which have to go all the way down to the lowest levels.

31 Q. And, finally, a brief comment on the last sentence: "A possibility of a trap not fully excluded as this may
32 be a set-up against a very, very important, political person." First of all, who is this very, very important,
33 political person that was referred to?

34 A. My reading then as -- and now is this was a trap set up against the president of the republic.

35 Q. Very well. You can understand it that way. We can understand it differently, but let us proceed,
36 Witness, please.

37

1 MR. BÂ:

2 I have finished with this document and I'd like to inform the Chamber that at end of my
3 examination-in-chief I will produce this document, and I would like to proceed now with my
4 examination-in-chief. I should be through in a moment.

5

6 Registry, can I have this document back?

7 BY MR. BÂ:

8 Q. Witness Claeys, after the first fax was drafted and transmitted -- that is, the fax of the 11th January -- do
9 you know whether New York -- or the peacekeeping -- Department of Peacekeeping Operations,
10 headed by Kofi Annan -- did you know whether they reacted to it?

11 A. While I was in the field, I got to know about a response from New York orally, and the response was
12 that we cannot do anything; the broad-based transitional government should be established first. It's
13 only after that that we will be able to react.

14 Q. Let us move on to something else. After that fax of the 11th of January 1994 was drafted and
15 transmitted to the superiors and Generals Dallaire and Marchal, did you carry out any other missions
16 with Jean-Pierre?

17 A. It was, in particular, General Dallaire who assigned me to remain in contact, but I could not provide any
18 protection whatsoever to that person. So I continued to meet Jean-Pierre and to submit reports directly
19 to General Dallaire. I also informed him -- prior to any contacts with Amadou Deme I informed him that
20 I had a particular contact with the person concerned.

21 Q. New York told you what you have just told us, that, "We cannot do anything before the broad-based
22 transitional government shall have been instituted", but you, nevertheless, continued having the
23 contacts.

24 A. That remained my major concern, remaining in contact with what is called intelligence of ambience. So
25 I remained in contact. I continued to follow what was going -- the unfolding situation, what was
26 happening.

27 Q. Witness Claeys, at this stage I will present to you three documents. These are the three last documents
28 I want to put before you.

29 MR. BÂ:

30 And, of course, I would like the registry to show the Judges and the Defence counsel. For the
31 interpreters, it is the document that is highlighted, Nos 16, 18 and 24, Nos 16, 18 and 24 -- highlighted
32 in dark. And the cover page of this series of documents is entitled, "*Collection de sept documents de la*
33 *MINUAR*", "Collection of seven documents of UNAMIR".

34 THE ENGLISH INTERPRETER:

35 Your microphone, Counsel.

36 BY MR. BÂ:

37 Q. I would request you to, first of all, go through those documents quickly.

1 MR. SEGATWA:

2 Mr. President, with your leave, I would request the Prosecutor to give us the pages containing the
3 French translations of the documents he has given us, if those translations do exist.

4 MR. BÂ:

5 They have not been translated. They exist only in English.

6 MR. SEGATWA:

7 Mr. President, don't you realise that the rights of the Defence are being prejudiced insofar as our team
8 speaks French, and French is the -- one of the working languages of the Tribunal? Are we not entitled
9 to be able to follow the deliberations and defend our client fully? What I'm saying is that the documents
10 of the Prosecutor are in a language the Defence doesn't understand.

11 MR. BÂ:

12 The jurisprudence of this Tribunal is well settled. No -- only last week I saw a document -- a decision in
13 Ngirumpatse et al, denying a request by a Defence team -- and dealing with a Senegalese, I know very
14 well -- and had to do with an amended indictment. And the decision requested that -- ordered the
15 Defence to make sure their team is mixed so that they should be able to handle both languages, and
16 you speak -- and I know you can speak both languages. You speak English better than me, Counsel.

17 MR. SEGATWA:

18 Mr. President, the rules clearly state that the working languages of the Tribunal are French and English.
19 This, therefore, supposes that a team that speaks only French is entitled to defend their client before
20 this Tribunal. So I am of the opinion that if there is a decision of -- this decision to the effect, cited by
21 the Prosecutor, it is against the rules and it's against the rights of the Defence. We cannot suppose
22 that the detainee is obliged to speak English.

23 MR. PRESIDENT:

24 Are you in a position to, at least, provide them with translations tomorrow?

25 MR. KOUAMBA:

26 I do not have the document with me so I don't know the volume of work involved.

27 THE ENGLISH INTERPRETER:

28 Your microphone, Counsel.

29 MR. BÂ:

30 There are three documents, each of which is two pages long, so we are dealing with six pages, in all.

31 MR. PRESIDENT:

32 I understand that. So is it possible? Yes.

33

34 Yes, Mr. Segatwa, we will try to give you a document which you will understand in your language.

35 MR. SEGATWA:

36 Thank you, Mr. President. But having said this -- but in this case, we cannot present the document to
37 the witness for discussion. Because if you give it to me only after the witness has given his testimony, it

1 will be of no use. I think we should, therefore, put off till tomorrow the presentation of this document to
2 the witness so that we should be able to follow normally.

3 MR. PRESIDENT:

4 Counsel, I think you must have the document to cross-examine the witness. I think it will facilitate you if
5 the witness has given the evidence today. When you study the document, you will know how the
6 questions should be put to the witness in cross-examination. So we will go on with the case now, and
7 we will try to assist you by giving you the translations.

8 MR. SEGATWA:

9 I will yield to your wisdom.

10 BY MR. BÂ:

11 Q. Colonel Claeys -- Witness Claeys, have you gone through this document?

12 A. I have not had time to go through it.

13 Q. Do you know this document?

14 A. I know the document. This is a document -- or, these are documents I drafted myself.

15 Q. What do those documents deal with?

16 A. These are confidential documents I drafted at the end of an interview I had with a person called
17 Jean-Pierre, and the dates are indicated at the top of the documents.

18 MR. PRESIDENT:

19 You can give it to him. He can start attending to it now.

20 MR. MACDONALD:

21 Mr. President, before these documents be given to the Witness, may I -- may I ask what the purpose of
22 that exercise is? Is it for the witness to refresh his memory, or is it to corroborate whatever he's going
23 to tell us? I mean, what's the purpose of that?

24 MR. BÂ:

25 He has told you that he is the author of those documents -- he is a person who drafted those
26 documents, following subsequent meetings -- or, conversations he had with Jean-Pierre. We were all
27 not there, and I would like him to expand on some passages.

28 MR. MACDONALD:

29 He can only testify from his memory. I mean, if this document is to -- I don't understand the use they
30 want to do with that document, Your Honour. The witness cannot be corroborated from this document.

31 MR. PRESIDENT:

32 It is not a question of corroborating. He is the author of the document.

33 MR. MACDONALD:

34 Yes.

35 MR. PRESIDENT:

36 So he says that he had a discussion with this document (*sic*) and he reduced that discussion into
37 writing.

1 MR. MACDONALD:

2 I understand, but is the purpose to establish that whatever he's going to say happened with
3 Jean-Pierre, happened -- and that document is the proof of what happened? Because in normal
4 circumstances we can't -- a witness cannot testify this way. You can't use a document to -- he can
5 use -- he can refresh his memory before testifying by reading that document, but what is the aim, what
6 is the purpose? Is it to produce that document to show that whatever he said in the box in his testimony
7 is true? Because I don't understand. You can't do it under normal circumstances. Why should you be
8 able to do it because he's dealing with an informant? That doesn't change anything.

9 MR. BLACK:

10 Just a minute, Mr. Bâ. I support --

11 MR. BÂ:

12 *Nous vous --*

13 MR. BLACK:

14 -- my -- Mr. MacDonald's correct. Before -- Mr. Bâ -- you can reply to both of us, Mr. Bâ.
15 Mr. MacDonald is totally correct. These are just typed versions of his notes. So the notes can only be
16 used to refresh his memory. Otherwise, he cannot use them. They cannot be made an exhibit. He just
17 gives his testimony, what he remembers the meetings to have been about and what the contents of the
18 meeting were. If he needs to refresh his memory by using those notes, that's the only purpose for
19 which he can use them. They can't be used for exhibits. They can't be relied on in any other way.

20 MR. BÂ:

21 Mr. President, it is particularly for the integrity of the proceedings. We know it is a report. It is a
22 summary. And one -- the statements of a person are interpreted, no interpretation -- no reproduction
23 can be as faithful as possible. All the philosophers will say so. He had conversations with that person,
24 and I suppose it lasted hours and hours. They were prepared for his superiors in three, four
25 paragraphs. I will ask him what his informant told him exactly, and he may confirm what is in the
26 document. If he said more, he'll say so. If he said less, he will say so. I do not see how it is -- can be
27 viewed as a way in which we are coaching him.

28 MR. BLACK:

29 He -- you can ask him questions about what the contents of meeting were -- meetings were, and he can
30 tell you. If he needs to refresh his memory, he can look at those documents to refresh his memory.
31 There's nothing wrong with that. The only objection we have is you can't make them exhibits because
32 they are not evidence. He can only use them to refresh his memory, say, "I don't actually remember. If
33 you let me look at the notes; ah, yeah, he said this and this." He can do that. But you can't make it an
34 exhibit. Only his testimony is an exhibit -- I mean, is evidence; not the piece of paper.

35 MR. BÂ:

36 I have specific questions to put it to him on that document.

37

1 MR. BLACK:

2 No, you can ask him -- again, Mr. President -- what happened in that meeting, what was said. If he tells
3 you, "I can't really remember without looking at my notes", fine. He can look at his notes and tell you.

4 You can ask him the same question. The only thing is they can't be made exhibits.

5 MR. PRESIDENT:

6 Well, Mr. Black.

7 MR. MACDONALD:

8 We have to know what derives from his memory and what derives from this document.

9 MR. PRESIDENT:

10 Mr. Black's real objection is these documents coming into the case as exhibits. So if you can extract
11 whatever that is there in the document, I think that can be reflected in the record.

12 MR. BÂ:

13 Okay.

14 MR. PRESIDENT:

15 Yes.

16 THE ENGLISH INTERPRETER:

17 Your microphone, Counsel.

18 MR. BÂ:

19 Yes, I'll ask for nothing more.

20 BY MR. BÂ:

21 Q. Witness Claeys, you told us you are the author of these documents?

22 A. That is correct.

23 Q. Right.

24 A. On document 18, you can see part of my writing, a seal and my signature, as well as on document 24.

25 Q. We have questions to put to you on those documents. It won't take very long. Let us start with
26 document No. 16, in black ink.

27 MR. BLACK:

28 No, we are doing it again. Mr. Bâ -- Mr. President, what Mr. Bâ can do is -- can say, "Colonel Claeys,
29 can you tell us what was said in that meeting?" He can tell everything. And he can even refer to those
30 documents to help him do that, but Mr. Bâ can't use them as a reference point by saying, "In your
31 document you said this and this; correct? You said this and this; correct?" He can't do that 'cause then
32 he's giving the witness the answers, telling him what to say.

33 MR. BÂ:

34 It is not his statement. These are UNAMIR documents and we want him to comment on them.

35 MR. MACDONALD:

36 It is a statement, no matter what --

37

1 MR. BÂ:

2 *Non.*

3 MR. MACDONALD:

4 -- the title on top is. It's a statement. He wrote it down. You have to be in a position, Mr. President, to
5 know what -- when he testifies what derives from his memory and what derives from his notes. This is
6 a very important element. Does he remember such-and-such an element, or such-and-such event, or
7 does he read it from his report? Because he could, technically, be in a situation where he doesn't
8 remember anything from his memory, but his only point of reference is this document. So you will
9 assess the credibility of witness, accordingly.

10 MR. PRESIDENT:

11 Yeah. But if the witness says, "Well, I wrote it down, a contemporaneous note, and submitted to them
12 at that stage; I can't remember what I wrote now, but it is in the document. I want to produce that
13 document."

14 MR. BLACK:

15 No.

16 MR. MACDONALD:

17 That exercise hasn't been done so far. We don't know -- we don't know that. Has anyone heard that?

18 MR. BÂ:

19 I will ask him.

20 MR. MACDONALD:

21 Because, and we said this morning, what matters is his testimony --

22 MR. PRESIDENT:

23 Yes, yes.

24 MR. MACDONALD:

25 -- in the box --

26 MR. PRESIDENT:

27 That is --

28 MR. MACDONALD:

29 So it doesn't change anything from another witness. This man is a witness.

30 MR. PRESIDENT:

31 So his testimony is that he prepared this summary.

32 MR. MACDONALD:

33 That's right, and he could refer to --

34 MR. PRESIDENT:

35 It is not --

36 MR. MACDONALD:

37 -- refresh his memory.

1 MR. PRESIDENT:

2 -- like a statement recorded by some other person. This is his own document.

3 MR. MACDONALD:

4 It's the same thing, as far as I am concerned, because when a witness gives a statement and that
5 statement is read back to the witness, and that witness says, under oath or otherwise, that, "This is
6 exactly what I've said", it doesn't change anything as to in comparison with the person who writes down
7 his own statement. There is no difference here. But you have to be, again, in a position to know what
8 he says derives from his memory and what he says derives from this document.

9 MR. BÂ:

10 Mr. President, is he in a position to remember what he wrote in his findings 10, 11 years ago? The
11 witness has stated that he did not keep any records for that period. I am presenting these documents
12 to him, and I will ask him specific questions regarding certain sentences and in that document. I'll say,
13 "Would you know what was written in your own conclusions six months ago?"

14 MR. MACDONALD:

15 That's not the question. If I have -- if he's asking me a question as to what I did 12 years ago, and if I
16 have a document, I can testify as to what I did 12 years ago, but you have to know what derives from
17 my memory and what derives from the document, my statement. It's as simple as that. I'm not -- we're
18 not contesting the --

19 MR. PRESIDENT:

20 It is clear --

21 MR. MACDONALD:

22 -- fact that he could refer to it.

23 MR. PRESIDENT:

24 Isn't it a little different in this instance? These are documents that he prepared for someone else -- that
25 "he" prepared for someone else.

26 MR. BLACK:

27 Mr. President, no, there's no difference whatsoever. And the other problem is that Mr. Bâ intends to
28 say, "You -- you got a statement here in this document stating this, and I'm gonna ask you about that."
29 That gives the witness the testimony he's supposed to give. It's coming from counsel, not from him.
30 What he can do is like any police officer in your jurisdiction the same way. Police officer shows up,
31 asks about a crime that happened five years ago. He says, "I don't remember it. Can I use my notes?"
32 "Yes." And we can see the notes, make sure they are actually his notes, haven't been changed. Then
33 the officer just looks at his notes, says, "Well, okay, this has happened." He can ask in the same way.
34 He can ask this officer, "What happened in meeting; what were the contents of the conversation?" He
35 can tell us. That's all he can ask him. And then, if he says, "I can't remember 11 years ago; I have to
36 refer to what my notes are", that's fine. But Mr. Bâ can't use those notes to ask him questions, because
37 then he's giving the witness the answers before he asks the question.

1 MR. BÂ:

2 *Je vais --*

3 MR. BLACK:

4 So it doesn't become -- the evidence is not from the witness --

5 MR. BÂ:

6 *(No interpretation)*

7 MR. BLACK:

8 The evidence is not from the witness; it's from Mr. Bâ.

9 MR. PRESIDENT:

10 One second, one second. One person at a time.

11 MR. BÂ:

12 *(No interpretation)*

13 MR. PRESIDENT:

14 Mr. Black, how can he ask -- get the answers from this witness without asking questions?

15 MR. BLACK:

16 He can ask the question we all ask in these cases: did you have a meeting with Jean-Pierre on a
17 certain date? "Yes." "Could you tell us what transpired there, what was said?" "I can tell you this much,
18 but I can't remember the rest. Can I refer to my notes?" "Yes, you can." He looks at them and says,
19 "Then he said this; then he said this; then he said this." Then Mr. Bâ can go into detail and say, "Ah,
20 you said he said that. Can you give me more on that?" That's how it should be done. Mr. Bâ wants --
21 what he wants to do is tell the witness what he said and then ask him about it. Mr. Bâ can't give
22 evidence.

23 MR. BÂ:

24 I will follow your suggestion. I'll proceed in the manner you have advised me to.

25 MR. PRESIDENT:

26 Yeah, if you are going to do it the way -- yeah, you can continue. Yeah, I think you can achieve your
27 purpose. You want the record to be reflected as to what transpired at the meeting. So let him say that.

28 MR. BÂ:

29 Yes, Mr. President.

30 MR. PRESIDENT:

31 If you want to break, I can give a break.

32 MR. BÂ:

33 No, we should perhaps press on.

34 BY MR. BÂ:

35 Q. Witness Claeys, after that meeting of the 11th January -- that is, the meeting held the night of the 10th
36 to the 11th of January -- did you subsequently meet the informant Jean-Pierre?

37 A. Yes, I again met him shortly thereafter.

1 *(Pages 37 to 56 by Verna Butler)*

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1 1530H

2 BY MR. BÂ:

3 Q. How many times did you meet him, to the best of your recollection?

4 A. If I remember correctly, I would say that I met him at least 10 times up to late February, early March.

5 Q. Right. Do you remember the dates on which you met him?

6 A. I do not remember the exact figures. Those figures can be found in my notes, and for that I need to
7 look at my notes, the documents presented to me, whatever the case.

8 MR. PRESIDENT:

9 You can look at the notes.

10 MR. BÂ:

11 I granted Counsel Black's request -- or, wish, but we are still at the same impasse.

12 BY MR. BÂ:

13 Q. Do you remember meeting him two or three days after the meeting of the night of the 10th to the 11th?

14 A. Absolutely, because we had to answer his question regarding his protection. Since he had requested
15 that the senior authorities should possibly protect him and his family in exchange for more concrete
16 details, so we had to meet him to provide him with information.

17 Q. And that meeting, do you remember when it might have been held, approximately?

18 A. If I go by the documents before me, there was a meeting held on the 13th of January.

19 Q. Is that document No. 16?

20 A. That is correct.

21 Q. But I can see on this document, "meeting on 13 January '93."

22 A. I believe that for most of us --

23 MR. BLACK:

24 To assist my friend, without attacking the credibility of his own witness, he doesn't need to do that. He
25 just needs to ask when the meeting took place.

26

27 You don't need to bring out, Mr. Bâ, the mistakes in his own document. I'll do that, but thanks very
28 much.

29 MR. BÂ:

30 No, I'm just asking him what '93 means, or signifies. That's all.

31 MR. BLACK:

32 But that's not his evidence. He hasn't given you a date. He said '94; that's his evidence. Why are you
33 attacking his credibility?

34 MR. BÂ:

35 He did. He mentioned two days after the 11th of January, 1994.

36 MR. BLACK:

37 That's right.

1 MR. BÂ:

2 Two days after the 11th of January 1993 can only be the 13th -- cannot be the 13th of January 1993, so
3 I'm asking him to explain that.

4 MR. BLACK:

5 But he hasn't said that, you did.

6

7 I mean, Mr. President, what we risk doing is -- if Mr. Bâ is going to start cross-examining his own
8 witness on the document, he's going to get himself in trouble.

9 MR. PRESIDENT:

10 Mr. Bâ, that can be clarified later. I think Mr. Black will do that.

11 MR. BÂ:

12 All right. Perfect, Mr. President, because he would not want me to reduce his workload.

13 BY MR. BÂ:

14 Q. Witness, kindly refer to paragraph 2 of this document. I will read an extract of the same. First of all,
15 paragraph 1 begins, "The informant gave us some more details" --

16 MR. BLACK:

17 Excuse me, Mr. President, he can't do this.

18 MR. PRESIDENT:

19 Mr. Bâ, that is what he objected to. You can ask him what transpired on the 13th. Let him say that.

20 MR. BLACK:

21 The witness can say these things; you can't.

22 MR. PRESIDENT:

23 The witness can say what transpired on the 13th when he met the witness for the second time. Let him
24 say it.

25 BY MR. BÂ:

26 Q. Witness Claeys, what happened during that meeting on the 13th?

27 A. Mr. President, I suppose that I can refer to my notes to provide an answer.

28 MR. MACDONALD:

29 We just want to make sure that he has -- he has no independent recollection of these events. If we
30 take that for granted, then, of course, he's entitled to consult his notes.

31 MR. PRESIDENT:

32 Yes.

33 MR. MACDONALD:

34 But that has to be on record.

35 MR. PRESIDENT:

36 So if you say that, without looking at the report, that you can't recollect what happened, you say that --
37 that, "I cannot remember everything without -- in order to remember, I have to look into the record."

1 Thereafter, you read it and give the answer.

2 MR. BÂ:

3 Mr. President, I myself will conduct this.

4 BY MR. BÂ:

5 Q. During that meeting --

6 MR. PRESIDENT:

7 No, Mr. Bâ, I think we will have a cup of tea. That will give time for the witness to read the documents,
8 also.

9

10 Court is adjourned for 10 minutes.

11 MR. BÂ:

12 That is if he can go through his notes.

13 *(Court recessed from 1533H to 1547H)*

14 MR. PRESIDENT:

15 Yes, Counsel.

16 MR. BÂ:

17 I will try and practise more as a common law lawyer.

18 BY MR. BÂ:

19 Q. So put away the document and I will ask you some questions. Witness Claeys, during the subsequent
20 meetings --

21 MR. PRESIDENT:

22 Mr. Bâ, the witness is entitled to look at the documents.

23 MR. BÂ:

24 He's entitled. Okay. Perfect.

25 MR. PRESIDENT:

26 You put questions; he will answer.

27 BY MR. BÂ:

28 Q. Witness Claeys, during the meeting you held with the informant on the 13th -- or, at the least, a few
29 days after the first meeting, did he do as he had promised; that is, did he show you the weapons
30 cache?

31 A. In fact, it was following that meeting that we went through the city of Kigali, Captain Deme, Jean-Pierre
32 and myself so that he could point out to us the places that were designated as weapons caches, and
33 each time he would give the number of weapons stocked in a particular place. In one place, the MRND
34 headquarters, Captain Deme and Jean-Pierre entered the compound and went to visit the place where
35 about a hundred Kalashnikov, AK-47s and G3 weapons were held.

36 Q. So, if I understood you correctly, at the MRND headquarters, did you enter the premises yourself,
37 Colonel Claeys?

1 A. Mr. President, for obvious reasons, I did not enter personally into the MRND headquarters. It was in
2 the evening, certainly well after 1900 hours, and a white man would have attracted suspicion with the
3 guards, and since my colleague, Captain Deme, was Senegalese, it was he who accompanied
4 Jean-Pierre to see for himself the weapons that were held there.

5 Q. And how did you travel to the MRND headquarters? Did you go aboard a United Nations vehicle, a
6 white vehicle with the UN insignia? How did you go there?

7 A. Once again, for the sake of discretion and since the general was aware of our -- of how we were
8 proceeding, we borrowed a vehicle, a vehicle that did not belong to the United Nations; it was a rented
9 vehicle, a blue Japanese vehicle, a pickup, so that we sat three in the front: I was driving, Jean-Pierre
10 was in the middle and Captain Deme was on the far right. It was a left-hand drive vehicle. That was
11 how we went around the town.

12 Q. And when you arrived at the MRND headquarters, where did you park the vehicle?

13 A. The entrance to the compound is after a corner, so after going up, we passed by the compound
14 entrance. I parked near a gutter and the two others left through the right-hand door to go and visit the
15 site and return. I remained in the vehicle, and I had radio contact with my colleague.

16 Q. All right. And is this the only place you visited on that day? Is this the only weapons depot or cache
17 that you visited on that night?

18 A. The other places, we passed through them and he pointed to them, saying that there were weapons
19 caches in various parts of the Kigali. Near the Meridien, that was the furthest point; however, we did
20 not enter, given the presence of persons. These were either in bars or residences, residences or bars
21 that were presumed to be a cache. The following day, we drew up a map which we called "cache map"
22 and we held a briefing with UNAMIR elements to brief them and update them on this information.

23 Q. Yes. At that point or at some other time, did Jean-Pierre mention positions of the MRND, the MRND's
24 stance on the political transition that was unfolding in the country? Did he talk to you about that?

25 A. He did, indeed.

26 MR. SEGATWA:

27 I apologise to Mr. Bâ on the other side. My client is requesting to be allowed to go to the clinic.

28 MR. PRESIDENT:

29 Yes.

30 BY MR. BÂ:

31 Q. Since you are allowed to refer to your notes, I would ask you to refer to paragraph 2 of document 16.

32 Would you have a look at it?

33 MR. BÂ:

34 Is it allowed or not?

35 MR. BLACK:

36 Mr. President, Mr. Bâ can ask his question and then Colonel Claeys can find the correct passage to
37 give the answer. That's quite simple. He can't tell him to, "Look at this answer and then parrot it back

1 for me."

2 MR. BÂ:

3 I perhaps was not schooled as you were. You may have your rules, but we don't have that burden, as I
4 would call it. Then tell me what is allowed and I will conform to it.

5 MR. PRESIDENT:

6 No, you put the question. If he can't remember, he will read it and give the answer. You don't have to
7 refer to the paragraph because the witness is the one who is going to testify. So, if he can't remember,
8 he will look into the document.

9 MR. BÂ:

10 Right. Very well. Very well.

11 BY MR. BÂ:

12 Q. During that meeting or other meetings, did Jean-Pierre brief you on his party's stance, the party being
13 the MRND, as to the evolution or unfolding of the political transition, the transition that was being
14 determined in Rwanda at the time?

15 A. He did shed light on the problem of the opposition to the *Parti libéral* which had undergone a split: a
16 more moderate wing vis-à-vis a more hard-line wing.

17 Q. More hard-line, what do you mean?

18 A. They did not have the same penchant toward the evolution, in ushering in a new administration. They
19 were clinging steadfast to the Hutu domination of government, rather than the idea of the broad-based
20 transitional government which would be inclusive of the Tutsi. So this applied also to the MDR, the
21 *Parti Libéral*, which would be referred -- could be referred to as slight discord. But some of these splits
22 were much more defined in their opposition to the Tutsis. There was a movement referred to as Hutu
23 Power that was very much against the integration of Tutsis or moderate Hutus into the broad-based
24 transitional government.

25 Q. Hutu Power. Hutu Power, what is your understanding of that term?

26 A. "Power" is an English word, which is surprising for the government in power then because it was a
27 francophone -- French-speaking government. So this was a word to indicate that power was in the
28 hands of the Hutu and not the Tutsis who might find their way into the new government, knowing that
29 that was going to be done eventually through force.

30 Q. And with whom was the MRND in coalition, was it the moderate faction or the Power factions?

31 A. What we realised was that MRND had a tendency to associate themselves with the non-moderate
32 factions.

33 Q. Yes, go on.

34 A. And that list, that is representative of the moderate factions which, each time, would give origins to
35 discussions and for which everyone was fighting between the Hutu Power and the other factions. So
36 there was always discussion within the Liberal Party and the MDR for the moderate faction to be
37 removed from the list.

1 Q. From what you are saying, this type of radicalisation, did it affect or did it constitute an obstacle to the
2 implementation of the Arusha Accord?

3 A. That is correct, because during October-November, because at that time this split was not referred to
4 most -- very often, but reference was made often to the establishment of the new government.

5 Q. Very well. Beside the armed cache -- weapons cache, did Jean-Paul show you any -- Jean-Pierre give
6 you any other indication of his membership of the MRND or his membership of the intelligence
7 network? Did he give you any other proof?

8 A. Yes. Later on, in other meetings, he brought us a video cassette which was recorded during a political
9 rally at the Nyamirambo stadium, where it appeared that he was in charge of directing and coordinating
10 security, and that he was in charge because he was the one putting in place the political authorities, the
11 MRND political party. He was installing them on the stands, on the chairs, the armchairs which were on
12 the stands, according to a certain order of protocol

13 Q. You said that, later on, "He showed us a video cassette." Did you watch this video cassette?

14 A. When he gave us that tape, that video cassette, I mentioned it to General Dallaire and, as I said earlier
15 on, we did not have any electronic means in the UNAMIR HQ to enable us to view the tape, so we went
16 to view it in the general's house. So we watched it for the first time in the presence of the general and
17 his assistant, Beardsley.

18 Q. Approximately, how many days after your meeting with Jean-Pierre, this meeting during which he took
19 you around Kigali, approximately how many days after that?

20 A. I recall that we met -- we used to meet at least once a week, so it must have been the week after. So
21 we must have promised to give him back the tape.

22 Q. Now, on the tape, when you watched the tape, how did Jean-Pierre come out? What did you see him
23 doing during that political rally? You talked about he giving -- welcoming the political leaders.

24 A. It was clear that he was not someone receiving orders, but rather the one giving orders and welcoming
25 the political authorities, and also, as I said earlier on, he had Motorola communication equipment,
26 seemed to be integrated in the intelligence network for the proper -- proper proceedings at the meeting.

27 Q. Did you say he had a Motorola-type equipment?

28 THE ENGLISH INTERPRETER:

29 Your Honour, can counsel and witness slow down, please?

30 BY MR. BÂ:

31 Q. Was it this kind of radio that everybody can have?

32 MR. PRESIDENT:

33 Slow, slow.

34 MR. BÂ:

35 Okay.

36 THE WITNESS:

37 In military coordination we normally talk about military radios. I mention their make depending on the

1 capacity of their frequencies. Here we are talking about a portable communication radio which makes it
2 possible to communicate. They do not have military colours. They are a civilian type of equipment,
3 making it possible to communicate within a shorter range on VHF frequencies.

4 BY MR. BÂ:

5 Q. Did he tell you where he bought this radio? Did he buy it on the open market? Did he tell you where he
6 got it from?

7 A. Well, obviously, we did not ask him the question at the time, but since he had told us in discussions
8 previously, he told us that he had logistic facilities, and in this case, communications equipment put at
9 his disposal by government forces, so, for us, that was a confirmation of what he told us in earlier
10 meetings.

11 Q. Very well. Now, the weapons he has to distribute, you said earlier on that he had distributed some. Did
12 you see at any point in time an *Interahamwe* carrying a weapon, or did you hear -- did you hear of any
13 arrests or any identification of an *Interahamwe* carrying a weapon at any point in time?

14 A. It's while going through the notes that I realised that we spoke about an *Interahamwe* who was seen
15 with his weapon, drunk -- in a state of drunkenness, and that the weapon was taken away from him, for
16 obvious reasons, and that through the intervention of some authorities, the weapon was given back --
17 or, put back into circulation. But I must say that, in general, one of the major frustrations of the
18 battalions in charge of the checkpoints within -- within the Kigali secured area; that is, security against
19 the carrying of weapons -- the frustration is that on each time -- on each occasion -- and I can't say that
20 it was quite often -- that they saw a weapon in a vehicle of a person who was not authorised to carry a
21 weapon, and at the very latest, the following day, there was an intervention of soldiers from the highest
22 level for this weapon to be given back.

23 Q. In this specific case that he referred to, did he mention -- did he say who was this military authority who
24 ordered the weapon to be given back?

25 MR. TAKU:

26 I'm sorry, Mr. Bâ, to interrupt. I really wonder whether the witness is giving his opinion or giving
27 evidence about what he saw and did, or he's giving evidence of what he got from Jean-Pierre. The
28 distinction -- the way he is answering these questions, it's not clear.

29 MR. PRESIDENT:

30 I think, from the answers, he's trying to give what he observed, as well as the information collected from
31 the informant.

32 BY MR. BÂ:

33 Q. You said that, in a general manner, the frustration of the UNAMIR troops who were in charge of
34 carrying out the KWSA operation is that each time a person was found wrongfully carrying a weapon,
35 the following day there was an intervention from the highest military officers for the weapon to be
36 handed back. Did you get to know any high military officer for weapons that had been seized to be
37 returned to the --

1 MR. BLACK:

2 That's an incorrect characterisation of what he said. He just said that one *Interahamwe* had been found
3 drunk with a weapon. The weapon was seized. The weapon was later returned due to the intervention
4 of somebody; he didn't say military, political, police or anybody. You said that. You can ask him who
5 intervened. I don't remember him saying that – or, it wasn't very clear what he said, so maybe you can
6 ask him again who.

7 MR. BÂ:

8 Very well. I'll try and please you once again.

9 BY MR. BÂ:

10 Q. This incident that you are recounting, who seized the weapon?

11 A. Seizing the weapon, I cannot tell you from memory who seized the weapon, but in the report that I
12 made to General Dallaire, Jean-Pierre told us that it was the chief of staff of the gendarmerie who
13 intervened in this specific case for the weapon to be handed back to the *Interahamwe* or, in any event,
14 to an authority who can forward it on.

15 Q. We shall conclude. Witness Claey's, Colonel Claey's, do you know what became of Jean-Pierre?

16 A. I never saw Jean-Pierre again after the events of the -- when the events of the 6th April started
17 unfolding. I know he tried to evacuate his family, wife and children, to Tanzania because he was
18 trading. He was engaged in trading activities with Tanzania, and that he was killed -- either he was
19 killed in the incidents that unfolded after the 6th of April or he joined his family in Tanzania. I have no
20 evidence of either.

21 Q. Did you believe in Jean-Pierre – or, did you believe Jean-Pierre?

22 A. I dare say that he convinced me and that the facts that he brought to our notice were important enough
23 for us to pay attention, and I think, subsequently, history proved that what he was saying was true.

24 MR. MACDONALD:

25 I strongly object to that opinion from the witness.

26 MR. PRESIDENT:

27 Why can't he say that he believed him?

28 MR. MACDONALD:

29 No, he can say he believed, but the last part -- they want him to -- they wanted him to put in the last
30 part, where he's saying, well, the facts -- what happened afterwards confirmed whatever he said --

31 MR. BÂ:

32 *(Microphones overlapping)* ... that was not my intention. That was not my intention. My intention is
33 that, after he told me that he believed him, the natural follow-up was:

34 BY MR. BÂ:

35 Q. What proof did he produce for you to believe him? Why did you believe him?

36 A. In general, my experience with informants at that time was quite limited, but I knew that, generally, an
37 informant will divulge valid, truthful information against financial considerations. Jean-Pierre never

1 asked for money. Jean-Pierre continued giving us information without we even giving him any
2 guarantee for his security, his safety. It was probably a personal decision. That is all I can say.

3 Q. Very well. Were you in Rwanda on the 6th April 1994?

4 A. If we can take the air space as belonging to the Rwandan territory, yes. If that could be the second
5 dimension, that is, with my feet on earth, no. I got to Kigali on the 6th of April, after
6 President Habyarimana's plane was shot. So we were not able to land that night. We came -- we were
7 re-directed to Nairobi. We came later on with the evacuation contingent.

8 Q. Am I to understand that you left Rwanda at one point in time before the 6th of April?

9 A. That is correct. One week prior to that I had to leave with a chartered plane of the Belgian -- Belgian
10 army to see my family in Belgium.

11 Q. Do you recall the date on which you left Rwanda for Belgium?

12 A. It must have been the 23rd or the 26th of March, if I recollect rightly.

13 Q. And you say that you came back on the 6th?

14 A. That was the intention.

15 Q. But that you were not able to land. I understood you?

16 A. Yes, that is correct.

17 Q. Very well. Did you come back to Rwanda subsequently?

18 A. After that abortive attempt of the 6th, yes. Going back to Belgium, the paracommando officer who was
19 in charge of evacuation of expatriates who wanted to leave Rwandan territory, they entrusted me with
20 the function of intelligence officer who was more familiar with the Silver Back operation. So I landed in
21 Kigali around the 10th of April, and I was involved in the evacuation operations of expatriates.

22 Q. And when did you leave Rwanda following the Silver Back operation, if you have any recollection of
23 that?

24 A. The evacuation operation went until the 15th of April and we withdrew to Nairobi. We redeployed to
25 Nairobi to prepare the withdrawal of the Belgian battalion from the UN operations.

26 Q. Witness Frank Claeys, thank you very much indeed.

27 MR. BÂ:

28 Mr. President, no further questions for this witness.

29

30 Registry, can you please collect those three documents for me?

31

32 Mr. President, we would like to produce the cable -- the coded cable. That probably would be
33 Prosecution Exhibit 67, in its French and English versions.

34 MR. PRESIDENT:

35 Yes, the fax message is marked as P. 67 and is accepted.

36

37 Anybody? You are starting.

1 (Exhibit No. P. 67 admitted)

2 MR. BLACK:

3 Does the Registrar have a copy of Mr. Zacklin's letter on the fax?

4 MR. PRESIDENT:

5 No. At this stage -- are you marking both now or you --

6 MR. BLACK:

7 I just want him to identify it. Well, we can mark it now. I'm not sure whether we should make that a
8 companion exhibit, for easy reference, rather than have it floating around as two pieces; combine them
9 together as one combined Prosecution and Defence exhibit. I know it's not been before. Or do you
10 want to make it -- or, mark them A and B?

11 MR. PRESIDENT:

12 It should come from you now.

13 MR. BLACK:

14 True.

15 MR. PRESIDENT:

16 Yes.

17

CROSS-EXAMINATION

18 BY MR. BLACK:

19 Q. Colonel, you have that? This is a letter, Colonel, to me from New York, enclosing that fax. If you look
20 at the fourth page. Do you have that before you, Colonel? It's addressed to me, myself, Black, and
21 attached to that is the fax. I just want you to confirm that is the same fax that Mr. Bâ showed you and
22 that all the paragraphs are the same. It's the same fax, aside from the annotations on the form,
23 correct? It's exactly the same contents, the same fax?

24 A. On the face of it, yes, I had the same fax.

25 MR. BLACK:

26 If that could be made the next Defence exhibit.

27

28 I'll get back to that later, Colonel. I'll leave that for now.

29

30 If that could be made the next Defence exhibit now, I would appreciate that.

31 MR. PRESIDENT:

32 At this stage, Mr. Black tenders to Court a letter he had received from UN --

33 MR. BLACK:

34 From Ralph Zacklin, who's a --

35 MR. PRESIDENT:

36 From a gentleman by the name of Ralph Zacklin, and the copy of the fax that he has received along
37 with that. These documents are marked as Defence Exhibit --

1 MR. KOSHOPA:

2 D. 67.

3 MR. PRESIDENT:

4 D. 67 [Ndindiliyimana], D. 67A and D. 67B.

5 MR. BLACK:

6 Thank you. So the letter is D. 67A and the fax itself is D. 67B?

7 MR. PRESIDENT:

8 Yes.

9 (*Exhibit No. D. 67A [Ndindiliyimana] and D. 67B [Ndindiliyimana] admitted*)

10 BY MR. BLACK:

11 Q. Sir, just some preliminary questions. Can you tell us what was your role in Germany with the NATO
12 forces there? Were you also an intelligence officer or did you have another function during that period?

13 A. I think I might have to take you through a history lesson to explain all that, because at the end of the
14 Second World War, Germany was divided into various sections -- sectors, under the responsibility of
15 American, British, Canadian, French, Belgian troops. The Belgian sector, which was from Belgium all
16 the way to Weser, which was a large river which was the border between east and western Germany,
17 was divided into various *sous-secteurs*, subsectors. It's the same terminology that is used in
18 administrative divisions in Rwanda.

19
20 So at the beginning of my career as an officer of the infantry division, I occupied functions of chief of
21 platoon, second-in-command of an armed -- armoured infantry division, commander -- commanding
22 officer of armoured infantry unit. So I was transferred to infantry division which was part of a fourth
23 battalion which was in charge of a *sous-secteur* located at about 60 kilometres from the border between
24 the two Germanys. When it is said that I'm part of the NATO force, yes, all the units in Germany were
25 part of the NATO forces, and I was in that unit until 1992 before going back to Germany and starting my
26 training at the higher institute of defence and passed out and became a major -- candidate major.

27 Q. So you had no intelligence functions, per se, during that part of your career? There were no officers to
28 do with intelligence, but you weren't an intelligence officer, per se?

29 A. The title of intelligence officer within the unit is an exclusive function, it is true, but each unit, infantry
30 unit, depending on its tactics, would go in search of intelligence. We carry out reconnaissance patrol to
31 gather information on the parties so as to be able to prepare a tactical plan so as to ensure our
32 superiority on the battlefield.

33 Q. And then you took -- you say you took training to become an intelligence officer. How long did that
34 take? Was that a year, or more, some months, you took that training?

35 A. During the course of candidate major at the institute of military training, there's a course given to each
36 student in the field of intelligence, which is a course which I cannot say from memory how many hours it
37 took, but it covered an entire academic year and it was on issues that you needed to defend yourself

- 1 and in which you are tested at the end of the year. For obvious reasons, at the end I was appointed as
2 intelligence officer in a brigade.
- 3 Q. And I understand you were designated the intelligence officer for the paracommando battalion or
4 regiment in Belgium at some point. No? Did I make that note wrong?
- 5 A. That is not correct. Once again, let me explain military -- an aspect of military organisation. The
6 paracommando brigade is a large corps under which there were four paracommando battalions at the
7 two training centres: There was the first battalion of parachutists; the second commando; the third
8 paracommando battalion; the third parachutists and the parachute training centre. So I was in charge
9 as a candidate of senior officer of -- information officer in a brigade, but not in a battalion.
- 10 Q. All right. And I made a note that you had trained as an intelligence officer for the general staff. Is that
11 what you've already told us, but in other words, or is that some other -- is that different in some way?
- 12 A. I don't understand your question.
- 13 Q. I made a note that you were trained as an intelligence officer for the general staff. Is that something
14 you've already told us in other words, or was that a separate function or separate training, from what
15 you've already told us?
- 16 A. This training that I underwent as a candidate, senior officer, which determines whether that person is
17 able to act as an intelligence officer within the defence staff in a brigade, that has nothing to do with
18 intelligence officers because those persons are part of the intelligence set-up of a country.
- 19 Q. Thank you. Now, you said that on October 26 you took part in a reconnaissance team in order to make
20 your forces aware of the situation in Rwanda so they could prepare for the mission in Rwanda; is that
21 correct?
- 22 A. That is true, except that in the terminology "reconnaissance," if translated into English, it is "fact-finding
23 mission"; that is to go and do an inventory, a situation report, as if you were going to move into a house
24 and you want to know whether there is tap water and electricity and a roof. That was part of a recce
25 mission, as part of preparation in a major unit.
- 26
- 27 In a reconnaissance mission it is provided that there should be an intelligence officer and an operations
28 officer.
- 29 Q. All right. And before you departed for that mission, I take it it was in October, some -- I think you said
30 October 26 or something. Was it the end of October or the beginning of October, to your memory?
- 31 A. It was the 26th of October 1993. That is when I arrived in Kigali. I remember the date exactly.
- 32 Q. Before you left, I'm sure that you and the others accompanying you were provided with the other
33 information from your own general intelligence services, as well as the report of the reconnaissance
34 mission made by General Dallaire in August as part of your background information.
- 35 A. It is partly true. We did not receive any information from the service of General Dallaire before we
36 arrived there, but it is true that the intelligence service, as part of preparation of a mission, made
37 provision for studies on the countries we were going to. It also provides information on the history and

1 the geography, as well as the forces present.

2 Q. Right. And you received the report made by General Dallaire and others, including Major DelPort from
3 Belgium, about their reconnaissance mission made in August, between August 19th and August 31st,
4 1993, correct, as part of your background information?

5 A. No. I repeat, that we received no information from General Dallaire before we arrived -- or, we landed
6 in Kigali.

7 Q. And why was -- why did you not receive any information from the UN reconnaissance mission which
8 had the express purpose of scouting out what was going on in Rwanda for the mission to be
9 successful? Do you know why you didn't receive that?

10 A. I believe that, first of all, General Dallaire himself did not have the time to provide the necessary reports
11 to the United Nations, so when we arrived on the ground, the reception committee took us to
12 Mille Collines hotel, where General Dallaire was going to install his office, and that was where we had
13 the first briefing given to us by his team on the situation of the peace accords and what had already
14 been achieved by then as part of preparation for the UNAMIR mission. I also believe that the name of
15 the mission was agreed upon only two days previously.

16 Q. Well, there was -- for your information, there was a report made by General Dallaire, and I have it in my
17 hands. It's almost 60 pages long, including annexes, maps, logistics, units required, and so on and so
18 forth. Maybe I can show you this and see if it refreshes your memory, if you've never seen this
19 document. And I think I've got a clean copy. I've got notes on mine.

20 MR. BLACK:

21 I'll provide my friends with a copy and -- Mr. President, this report was made by General Dallaire and a
22 series of other personages, including a Belgian officer named Major DelPort, and they made their report
23 between -- the mission was August 19th until August 31st. The reason I'm referring to it, Mr. President
24 and Colonel, is that General Dallaire and the others made some findings of fact in the report, or at least
25 observations of the situation on the ground there and I would like to ask you whether it accords with
26 what you observed when you went on your reconnaissance mission.

27 MR. BÂ:

28 What is your question? Are you asking him to read the entire document? I suppose not.

29 MR. BLACK:

30 No, no, no, no, no, no. He could read it very quickly, I'm sure. But I'm going to put to him certain
31 passages and ask him if what General Dallaire said about his observations of the situation in the
32 country reflects his observations.

33 BY MR. BLACK:

34 Q. If you go to -- sorry, I'll count the pages.

35 A. Mr. President, in any case, the reconnaissance that had been carried out by General Dallaire and his
36 team, it included Major DelPorte, not "Delaporte" as counsel refers to. He was not aware of that. Even
37 at that time General Dallaire had not yet been appointed commander of UNAMIR and Belgium had not

1 yet undertaken to take part in that mission. That -- the decision to settle the mission was in October.
2 That was hurriedly decided. There were consultations between the Belgium government, the
3 United Nations and the Rwandan government, with a view to speeding up the process for deploying the
4 UNAMIR forces, whatever they may have been. So that was an official document that was probably
5 disseminated at a political level and not at a tactical level. There is a big difference here.

6 MR. PRESIDENT:

7 Witness, when was the -- when was General Dallaire appointed to go to -- do you know the date -- to
8 Rwanda?

9 THE WITNESS:

10 If I remember correctly, I think it was in mid-October, about the 15th of October, no earlier than that.

11 MR. PRESIDENT:

12 I ask that question because I heard Mr. Black say that this refers to August.

13 MR. BLACK:

14 That's right, sir. It was conducted between August the 19th and August 31st, this mission.

15 BY MR. BLACK:

16 Q. At that point the mission was called -- the proposed UN assistance in Rwanda had the name -- they
17 gave it another name at that point; it was called the Neutral International Force, for lack of a proper
18 name, at that time. There was no acronym given except that, Neutral International Force or NIF. I'll
19 just read to you. It says, "The mandate of the mission. The mission arrived at Kigali on 19th August
20 '93, stayed in Rwanda until 31st August 1993. During that period the mission discussed with the parties
21 the tasks envisaged for the Neutral International Force by the Arusha peace agreement in an attempt
22 to determine those which could be realistically performed," and it carried out an assessment of the
23 essential requirements for that mission. And that's the paragraph -- it's on the fifth page, headed,
24 "Report on Reconnaissance Mission, Political Aspects", paragraph B, under the title, "Mandate of the
25 Mission". In any event, that's just background.

26
27 What I want to ask you is 16 pages in. You count in 16 pages because the numbering system of this
28 report is a bit confusing.

29 THE ENGLISH INTERPRETER:

30 Mr. President, the English interpreters would also like to have a copy of that report.

31 MR. PRESIDENT:

32 Do you have an extra copy?

33 MR. BLACK:

34 I think so. No? Unless one of the Judges could provide theirs. Sorry, sir. We thought we had enough,
35 but I guess we're missing one.

36

37 My assistant's found an extra copy. He could give it to Judge Park.

1 MR. BLACK:

2 So there's several introductory pages, it looks like. Then it starts -- then there's some redacted pages
3 about meetings with them, various ambassadors. Then it gets into peacekeeping. So about 16 pages
4 in, if you count that in, you get to about page 4, numbered page 4 at the bottom. Otherwise, it has a UN
5 document UND00005486 at the bottom of the page. Is everybody with me there?

6 MR. PRESIDENT:

7 What are the numbers?

8 MR. BÂ:

9 Not me.

10 MR. BLACK:

11 Count about 16 pages in and that includes -- because they're double-sided, and counting -- I'm counting
12 pieces of paper, 16 pages in. You get to a page, a thing named -- page 4, and there's a paragraph 18.
13 I'm referring to the top of the page, called "Monitoring of the Transition Security Situation". Does
14 everybody have that page?

15 BY MR. BLACK:

16 Q. Colonel, do you have that page?

17

18 He's indicating "yes" by a nod of his head.

19 A. Yes, I have found it.

20 MR. BLACK:

21 Do the Judges have that page? If you count 16 pages in, Mr. President, physical pages.

22 MR. PRESIDENT:

23 Yes, but 16 is -- number is given there.

24 MR. BLACK:

25 No, it's not page 16. I want you to count in from the front, 16 pages. Go through a list of -- three pages
26 of contents. Then you get report on reconnaissance mission, political aspects; you go through several
27 pages of that. Then you get some redacted pages. You go through those. Then you get some notes
28 again, starting at page 11, and then keep going until you get to another page 4 at the bottom. It's about
29 16 physical pages into the document. And I apologise for the confusion of numbering. I don't know
30 why they numbered it that way.

31 MR. PRESIDENT:

32 Counsel, I am a little confused with regard to the authorship of this. Who is the author?

33 MR. BLACK:

34 Oh, that's contained at the -- if you count backwards -- in an annex, if I can find it again. They list the
35 people who took part in the mission.

36 MR. PRESIDENT:

37 I heard you saying it's General Dallaire, was it?

1 MR. BLACK:

2 That's right. Annex number 1, which I can just give you separately -- annex number 1, which is many
3 pages in; it's UND00005591. So if you can find page 60, the last page of that report, the next page
4 after that is the composition of the team. Annex 1, composition of the team, and it reads:

5 Brigadier General Roméo Dallaire, or R. Dallaire, team leader, UNOMUR, U-N-O-M-U-R,
6 Madam F. Baririllon-Pomes, DPA, Colonel I. Tikoca, DPKO, Brigadier P. Blagden, B-L-A-G-D-E-N,
7 DPKO, Mr. D. Tshitundui, T-S-H-I-T-U-N-D-U-I, UNHCR, Miss I. Rivero, DPKO, Mr. K. Kuroda, DHA --
8 you know what that means -- Mr. M. Savard, FOD, Mr. H. Thompson, FOD, Mr. T. Burke, B-U-R-K-E,
9 DAM, Ms. M. Meimari, FOD, Major B. Beardsley, DPKO, (UNOMUR), Major M. Martin, DKO,
10 Mr. K. Doherty, UNHCR, Mr. E. DelPorte, DPKO, (MINURSO), Mr. C. Rodriguez, UNHCR,
11 Madam M. Moran, DPA, and, finally, Ms. E. Louise, DPO, and again it's just after page 60.

12
13 Perhaps I'll just give you my copy -- it might be easier -- if you're having trouble finding it, I'm sorry. I
14 apologise for that, Mr. President. Maybe I should have numbered it my way, but I don't intend to go
15 much into the report, that's why I didn't number it.

16 MR. PRESIDENT:

17 We've got it.

18 MR. BLACK:

19 All right. Thank you very much, sir. So those were the members of the team.

20 BY MR. BLACK:

21 Q. At page 4, paragraph 18, it states the following. I just want you to tell me if you agree with this or not.
22 Under the title of the "Monitoring of the Transition Security Situation", it reads, "The state of
23 ineffectiveness in the police and judicial systems throughout the country has created a significant level
24 of tension and uncertainty in the population. The leadership of the country is also concerned with the
25 large number of weapons and unauthorised paramilitary groups that may destabilise the countryside for
26 personal and possibly political gains."

27
28 Would you agree that that's an accurate assessment of the situation, from your observations?

29 A. Yes.

30 Q. Now, if you go to page 7, three pages over, we have, under the title "Government Forces", under
31 paragraph 33, "Composition of Strength", paragraph sub 8, "Composition", something struck me. The
32 last sentence says in that paragraph, "The military academy and staff college have not operated since
33 the war commenced." Is that correct, to your information, to your knowledge, that the staff colleges
34 were non-operational as staff colleges?

35 THE ENGLISH INTERPRETER:

36 Counsel, could you go a little more slowly because the French are having difficulty? The French
37 interpreters are having difficulty.

1 MR. BLACK:

2 I'm sorry, I'll say that sentence again.

3 BY MR. BLACK:

4 Q. The sentence reads, "The military academy and staff college have not operated since the war
5 commenced." Is that correct?

6 MR. BÂ:

7 Point of order: This report deals with an observation period in August. He came in October -- in
8 October -- so he was not able to observe that at a time when he wasn't there. How do you expect him
9 to have taken note of that? How do you expect him to agree with an observation that was made when
10 he had not yet arrived in Rwanda? Question him on the period after the 26th of October when he got to
11 Rwanda, otherwise, General Dallaire will appear before this Chamber and you can put any questions
12 on a report he prepared. Mr. Claeys cannot answer your question this afternoon.

13 MR. BLACK:

14 That's not my question, Mr. Bâ. I'm asking whether that assessment by General Dallaire's team
15 accords with his observations when he was on the ground.

16 BY MR. BLACK:

17 Q. Was that your observation, as well, when you were there, that the staff colleges were not operational, if
18 you have knowledge of that or not?

19 MR. PRESIDENT:

20 Yes, if you have not observed, you can say that you did not observe.

21 THE WITNESS:

22 I can answer the question. At the time of the reconnaissance mission by General Dallaire in August, it
23 was, in any case, a time when the school year was suspended because it was the summer holiday. So,
24 in any case, the school wasn't open at that time.

25

26 I also believe, and I think it is certain, that the Belgian technical military mission had been in Rwanda for
27 years and there were Belgian officers who were members of the ESM, the senior military academy, and
28 they worked to operate that school. So the information in this report is not correct because it confirms
29 the need for tactical medical military missions and not strategic military missions as was the case at that
30 time.

31 BY MR. BLACK:

32 Q. You don't agree with General Dallaire's statement that the colleges had not operated since the war
33 commenced, not because of summer break, but since the war commenced in 1990? And you're right,
34 we're going to have -- well, let me ask you that. You don't think that's correct?

35 A. The war had already ended at a specific point in time. The peace accords had already been signed
36 before the reconnaissance mission by General Dallaire. And Belgian officers, who were part of the
37 Belgian technical military mission as well as that of the French mission, were not there idling about.

1 Otherwise, Belgium would have withdrawn.

2 Q. Well, we'll have Colonel Vincent here. You know Colonel Vincent? Do you know
3 Colonel André Vincent?

4 A. I know Colonel Vincent. At that time he was the chief of military technical cooperation on the ground,
5 and I can assert that I know Lieutenant Colonel Van Nees, who was commander and instructor at the
6 military academy.

7 Q. And Colonel Vincent at that time was head of the military cooperation mission with Belgium, between
8 Belgium and Rwanda, correct? He was the chief of that mission?

9 A. That is correct.

10 Q. We can ask him when he comes here as well. Now, if you go to page 8 --

11 A. He had been on the ground already for more than two years.

12 Q. Can you go to page 8 now? I just want to ask you something else. In paragraph 41, it says this. It says
13 under the title "Paramilitary forces/gendarmerie" -- it says, "The RGF, the Rwandan government forces,
14 are supported by approximately 6,000 gendarmes. While employed in an internal security role before
15 the conflict they, too, experienced rapid expansion without a training base and in fact were employed as
16 infantry during the conflict."

17

18 Does that accord with what you observed, or knew?

19 A. That is correct. We had that information in our possession as well.

20 Q. Paragraph 43, "Assessment of Capability", two things there. It says, "The capability of the RGF is
21 assessed as medium to low due to poor morale, lack of training, poor equipment, limited services
22 support, lack of finances and war fatigue. The organisation must be rebuilt. A large number of
23 weapons were stolen or lost during the war."

24

25 Would that accord also with your observations and information?

26 A. Not quite.

27 Q. Can you tell me what you agree with and what you don't agree with?

28 A. I would put it in another way. If I recollect correctly, I remember that government forces were
29 demotivated by the two bottles of Primus, that is, the local beer, that was provided every day. Their
30 morale was very low. Besides that, the demobilisation had not yet taken place, so there could not
31 have -- it could not have had a lot of influence on the morale of the troops. So, the arms that were
32 proliferated among the population and used by groups of armed bandits, that would surprise me.

33

34 All the weapons that were distributed were distributed to soldiers, and at a certain moment in time, it
35 was clear that the soldiers went home with their weapons and ammunition. If at that time they became
36 bandits, I could do nothing about that. But they were not distributed to the population in that manner. I
37 would add, and this is clear, that during the offensive launched by the RPF, the government forces had

1 acquired grenades because the war that they had to wage on all hills in Rwanda was such that it was
2 difficult to shoot at the adversary directly because they hid behind corners, houses, and using grenades
3 facilitated the war at the time. After the war -- or, after the ceasefire, grenades became common
4 weapons, or commonly used to pay prostitutes. That is the real situation regarding the distribution of
5 arms and ammunition among members of the population.

6 *(Pages 57 to 75 by Karen Holm)*

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1 1700H

2 BY MR. BLACK:

3 Q. Paragraph 46, let me ask this: It says there are government police forces background.

4 General Dallaire says throughout our reconnaissance mission, we received the full cooperation of the
5 commander and the headquarters staff of the Rwandan gendarmerie. Meetings and talks were held in
6 a frank and cordial atmosphere; no restrictions whatsoever were placed on us, and we were completely
7 free to choose which gendarme unit we wanted to -- turn the page, to visit. Within the gendarme
8 barracks we enjoyed total freedom of movement. We could speak to whomsoever we wished."

9

10 Does that reflect what your observations were, if you had contact with the gendarmerie at that level?

11 MR. PRESIDENT:

12 Counsel, this is what -- this is the personal reception they got from their visit there.

13 BY MR. BLACK:

14 Q. That's right. But I want to know if Colonel and Captain Claeys had any contact with the headquarters
15 staff and if he -- his observations and experience was the same as General Dallaire's, that they got
16 received with full cooperation or cooperation --

17 MR. BÂ:

18 If you want to know whether he shares the same opinion, you can ask him directly. You don't have to
19 read out the comments of other people, comments made at another time during another period. Ask
20 him the question directly and his response will go into the record.

21 BY MR. BLACK:

22 Q. Did you have experience with the chief -- the headquarters staff of the gendarmerie, and did that reflect
23 your experience when you had those meetings, if any?

24 A. I never met senior officials at that time having the rank of captain. There were senior officers to do that,
25 but I must say that during visits to the military quarters, we never met with any opposition and, in fact,
26 we were very well received.

27 Q. Thank you. Now paragraph 47, just under the heading General: It says the police forces in Rwanda
28 were organised in the same manner as the French or Belgian police and their functions in times of
29 peace and war are similar. At present Rwandese gendarmerie can be considered to be on a war
30 footing, which means that their various missions are to be seen as military security missions. The
31 greater part of the Rwandese gendarmerie is deployed on the front line or is involved in ensuring the
32 security of key points such as the headquarters, various government ministries, power stations,
33 communication stations, prisons, banks, et cetera, and they should be considered military security
34 units. Would that also reflect your observation and information and the experience you were involved in
35 with them?

36 A. I must say that this description is not even complete because there is no mention of military police and
37 there was such a battalion in Kigali whose duties included --

1 Q. I am just restricting this comment to the gendarmerie. I know there was a military police as well, I am
2 not asking you about that. But I am just talking about the gendarmerie at this point.

3 MR. BÂ:

4 Again, why do you want him to make the same comment on a different period. When he came in
5 October, by that time there was no more war, it was the ceasefire, so he could not have been in any
6 front or in the midst of any combat because there was none of that.

7 BY MR. BLACK:

8 Q. Does that description -- is that in accordance with your observations and information, experience when
9 you got there, at the time you were there? That the gendarmerie was essentially committed to military
10 security missions because of the security situation.

11 A. My observation did not allow me to distinguish between the various roles or functions of the *communal*
12 police vis-à-vis the gendarmerie or any other security forces in providing security.

13 Q. All right. Under the gendarmerie heading in paragraph 48 --

14 MR. BLACK:

15 I won't go through paragraph 48, so I am not going to bother you too much, but there's something I
16 want to cover.

17 BY MR. BLACK:

18 Q. Paragraph 48 says: "Prior to the October 1990 war, the gendarmerie had a strength of 2,000 men, all
19 of whom were sent to the front when the war broke out. To cope with internal conflict and banditry in
20 Rwanda and especially around Kigali, the government recruited a further 4,000 new gendarmes for
21 security tasks in the country. And then it goes on to state that they had only received a 15-day basic
22 course.

23
24 In paragraph 49, they say out of a total strength of the 6,000, excluding the logistics units -- units
25 deployed in the front and 2,000 gendarmes currently being trained, there were only 400 gendarmes
26 performing a real peacetime police role. Is that what you found when you got there? And the name of
27 the company is 170 men for security company, 180 men routine security company and the research
28 unit 50 men, or 50 people.

29 A. I did not have that information, this is new to me, although I would like to make a remark or comment,
30 Mr. President, in documents that are sometimes translated, you do have additions or omissions from
31 time to time.

32 Q. So you can't comment one way or the other on General Dallaire's assessment. Okay. Can we go to --
33 and paragraph 58 -- I will repeat this for --

34 MR. PRESIDENT:

35 Mr. Black, in the same paragraph they say that 2,000 are currently being trained.

36 MR. BLACK:

37 Correct. I included that. That is why I said if you take out the logistics unit, units deployed in the front

1 and 2,000 gendarmes being trained -- you are right there was a short period of training, but at that time
2 when you found the gendarmes -- (*inaudible*) ... so there has to be another --

3
4 You are right, Mr. President, the other gendarmes were joining, and some leaving, so we can ask
5 General Dallaire about that when he comes.

6 BY MR. BLACK:

7 Q. Just go to paragraph 52. Well, paragraph 51 under discipline, it says: "In terms of discipline and
8 professional competency, the gendarmes are a very low level. This is due to an acute shortage of good
9 instructors of skilled officers and seasoned NCOs. Furthermore, in a haste to recruit 4,000 new
10 gendarmerie" -- I am sorry.

11 A. The seasoned officers.

12 Q. The ecclesiastical procedures were ignored and many of the new recruits were not of a very high
13 standard. Is that also in accordance with what you knew about the gendarmerie? Is that correct?

14 A. Four thousand.

15 Q. I am talking about the -- not the numbers per se. Would you agree that --

16 MR. BÂ:

17 Mr. President, there are some regulations governing cross-examination. I do understand your
18 concerns, but cross-examination must be based on what comes out of examination-in-chief, or if you
19 have reasons to test the witness's credibility, you should give your reasons to the Chamber and the
20 Chamber would then allow you to deviate from the examination-in-chief, but you cannot base your
21 cross-examination on this document.

22 MR. PRESIDENT:

23 When Dallaire comes, you can ask him about this.

24 MR. BLACK:

25 Well, I would like to get it in front of you now from this officer. He is also here and maybe there are
26 different views than General Dallaire. And I would like to -- I mean, I am entitled to present my
27 Defence, and part of my Defence is get out of witnesses -- also if in favour of my client. If this officer
28 can help us do that, he's only going to be here one time and I think I have the right to do that.

29 MR. PRESIDENT:

30 But you are only getting his opinion vis-à-vis Dallaire's opinion.

31 MR. BLACK:

32 But he has agreed with me on some and not agreed on others. When he agrees with me it helps me,
33 so why am I not allowed to do that. I can't understand why the Prosecution doesn't want the world to
34 know what the situation was as early as possible. I don't understand that.

35 BY MR. BLACK:

36 Q. Let me ask you, sir. Would you agree, sir, that discipline was --

37

1 MR. BÂ:

2 As for your problem -- the problem is, he did not come to testify on this. He did not testify on this. This
3 is not why we brought him here. If now you seek to deviate from the subject dealt with in
4 examination-in-chief and test his credibility, you can do that or you can link this to what he said or did,
5 but I do not see how this would allow you to test his credibility. So you are seeking to make your
6 Defence case with this witness, but then you should sit him down rather and expand on your theory
7 which has nothing to do with the content of what he has disclosed.

8

9 I know I am not of the common law system, but I know that this is not how it happens. This is not the
10 purpose of cross-examination, to deal with, or treat a completely different area and launch into a
11 completely different cross-examination which has nothing to do with the examination-in-chief. That is
12 not the purpose.

13 MR. BLACK:

14 In reply, Mr. President, he testified in-chief that he conducted his own reconnaissance mission. I am
15 now asking him about that mission and whether he recalled there was another mission by the UN.
16 They led it -- they opened it up in-chief. They can't now say I can't ask him questions about his
17 reconnaissance mission, or what he observed when he got there. They can't do that. Mr. Bâ raised it.
18 He has opened it up. Now, he is here saying that -- what's going on here, he is saying he doesn't want
19 the world to know. And maybe this officer wants to help us do that and I am sure the Judges won't help
20 us do that, but Mr. Bâ' doesn't -- (*microphones overlapping*).

21 MR. BÂ:

22 The missions did not have the same purposes. He had come to see how the Belgian force could settle,
23 what lodging they would have and so on. It was not the same thing as determining the feasibility of the
24 UNAMIR mission. And the General had come to investigate as to the possibility of establishing a
25 mission. It is not the same purpose, not the same context. You could bring your own witnesses or try
26 to call others or wait for this one.

27 MR. TAKU:

28 May it please Your Lordships.

29 THE ENGLISH INTERPRETER:

30 Counsel's microphone, please.

31 MR. TAKU:

32 This subject interests me in particular because I intend to cross-examine this witness as well. I think
33 the cross-examination of Mr. Black is relevant and I would refer Your Lordships to Rule 90(G), which
34 says, with your permission. Cross-examination -- yes, that's testimony of witnesses.

35 "Cross-examination shall be limited to the subject matter of the evidence-in-chief and matters affecting
36 the credibility of the witness, and where the witness is able to give evidence relevant to the case for the
37 cross-examining party on the subject matter of the case. Mr. Black has said that the cross-examination

1 is relevant to the subject matter of his case. He is the examining party, and I think he is actually in
2 order to claim in this matter.

3
4 Furthermore, Your Honours, the witness had testified about the security situation in Rwanda, about the
5 Arusha Accords, and I think about the proliferation of weapons, and I think Mr. Black is entirely in order,
6 Your Honour, to purport to tie his hands on matters as right as this, so pertinent to the case as to the
7 indictment – issues in the indictment and the opening statement of the Prosecutor, I think, will not do
8 justice to the course. That is my humble contribution.

9 MR. BLACK:

10 *(Microphones overlapping).*

11 MR. BÂ:

12 So you are cross-examining not just on his testimony, but on some of the charges. Go ahead if you
13 think you can do it.

14 MR. BLACK:

15 I know that Mr. Bâ -- I could have finished by now if we hadn't had an intervention. I am not going to --

16 MR. PRESIDENT:

17 We may limit his opinion with regard to this and then get to the main subject.

18 MR. BLACK:

19 To me this is the main subject. It is a complete defence to my client, Mr. President. I think it is
20 important here and the world here.

21 BY MR. BLACK:

22 Q. So in response, would you agree with your experience and knowledge when you were there, when your
23 reconnaissance mission that -- what you were told, what you learned that the discipline level of the
24 gendarmerie was at a very low level because of the reasons given in that paragraph? Would you agree
25 that you had discipline?

26 A. In my humble opinion, there was not a discipline problem. So the word "discipline" is misplaced in this
27 context, perhaps there was a problem in terms of professional competence given the hasty recruitment,
28 but during the time UNAMIR was deployed, the gendarmerie was or had a chance to take part in
29 monitoring missions that were organised and managed by UNAMIR, and the gendarmerie had access
30 to transport as well as the knowledge in the possession of the Belgian and the Bangladesh contingents.
31 So there was not a discipline problem. The gendarmes would escort the UNAMIR missions personally
32 during their missions and they would carry out the missions. Now professional competency depended
33 on their goodwill.

34 MR. PRESIDENT:

35 Mr. Black, at this point I will make one observation. It is -- I think your client was appointed as the head
36 of the gendarmerie in 1992?

37

1 MR. BLACK:

2 That's correct.

3 MR. PRESIDENT:

4 So if there was a lack of discipline or deterioration, that wouldn't speak well of him.

5 MR. BLACK:

6 No, that's not true. He -- we will get to another paragraph. It has nothing to do with the competence of
7 the commanding officer; it has to do with the resources, training and rapid expansion of the
8 gendarmerie, and that is not true at all, Mr. President.

9 MR. BÂ:

10 Discipline is something that you consent to, even in your own home you must impose discipline on your
11 own children. And it was this soldier's duty to impose discipline on his troops. There is nothing better
12 than freedom, but one does have to comply and bend to discipline and that is one of the duties of a
13 chief.

14 MR. BLACK:

15 You see, Mr. President, that the Prosecution does not like at all what they are hearing and they are
16 trying to stop us from getting it out. Well, it reflects their whole purpose here.

17

18 Mr. President, your comment is not well taken because General Dallaire's opinion is not yours. His
19 opinion is that the lack of discipline for the --

20 MR. PRESIDENT:

21 I am only referring to the dates and saying that if Dallaire says that discipline had gone down by that
22 time, that will speak very --

23 MR. BLACK:

24 That is exactly why I disagree with you, Mr. President. Because General Dallaire doesn't describe any
25 of the -- he doesn't describe the lack of competency of the commanding officer of the gendarmerie to
26 the lack of discipline in the UN. He has stated other reasons which I have just read: Acute shortage of
27 good instructors, skilled officers and seasoned NCOs and the rapid expansion of the force. That's the
28 reasons he gives to the lack of discipline not the lack of competency of the chief of staff or its
29 headquarters staff. That is what General Dallaire's opinion is.

30 BY MR. BLACK:

31 Q. Let's get rapidly to paragraph 52. General Dallaire's secondary equipment. The gendarmerie are
32 equipped more like a military force than a police force. In fact, they are very poorly equipped for
33 whatever role they are tasked to perform. Each group or a unit between 300 to 400 men has only three
34 vehicles. And in the last sentence: Only special units are equipped with crowd control riot gear. Was
35 that also your information?

36 A. We were aware and this is nothing new. There was a meeting going on the spot to know that there was
37 very -- a scarcity of equipment. As for vehicles, I cannot comment but I know that intelligence was

1 given to the relevant authorities so that the mixed, or joint patrols would be adequately equipped for
2 their daily missions. They were not to use their own vehicles or their own trucks.

3 Q. Are you -- in relation to that, are you aware that General Ndindiliyimana, in the month of March spent
4 several weeks in Belgium and France, and in Belgium, he saw people like General (*inaudible*) and other
5 senior officers, and generals in France trying to obtain crowd control gear. They didn't even have
6 teargas, batons, shields. And that General Ndindiliyimana spent several weeks in March trying to
7 obtain that equipment?

8 MR. PRESIDENT:

9 Of which year?

10 MR. BLACK:

11 In 1994.

12 BY MR. BLACK:

13 Q. Were you aware that General Ndindiliyimana went to Brussels and then went to Paris in order to try and
14 obtain riot control -- crowd control gear, so that his force could be more effective? Were you aware of
15 his trip?

16 A. This is new to me.

17 Q. You say that you have no knowledge that he met with General (*inaudible*) -- for instance? You weren't
18 told that by anybody in the Belgian chain command?

19 A. I wish you would rephrase the question because you are compromising me. My role was as an officer
20 who had sworn, and I had sworn to testify here as a witness. I was not in the Belgian chain of
21 command. I was an officer serving with the United Nations. I was not supposed to be in the military
22 chain that goes from the NCC, National Contingent Commander, as I defined this morning, who deals
23 directly with political strategic matters. I was a United Nations officer, and I will not accept any more
24 remarks like this.

25 Q. But, sir, you had --

26 MR. BÂ:

27 Mr. Black, if it is the indictment you wish to challenge, we have never claimed that the Belgian
28 gendarmerie was having double dealings. We have never sought to point out their negative aspects.
29 The same thing applies in any poor country. In Senegal, my country, they don't have enough vehicles;
30 they don't have enough teargas, it is the same for any under developed country, in Rwanda, in my
31 country, perhaps in the Gambia where Tambadou comes from or Burundi where Segatwa comes from.

32 BY MR. BLACK:

33 Q. Anyway, Colonel Claeys, so when you had contact with Colonel Marchal on the Belgian officers or your
34 own countrymen in Kigali, you never became aware of this trip by General Ndindiliyimana?

35 MR. PRESIDENT:

36 He has already answered that he doesn't know.

37

1 BY MR. BLACK:

2 Q. Well, are you telling me that Colonel Marchal never mentioned it to you, unless you are or you --

3 A. That is correct.

4 Q. Lastly, also paragraph 56 under justice department, it says the justice department does not work
5 efficiently. The prisons are overcrowded, many of the prisoners have already escaped. The public
6 prosecution department does not exist, and as a result of that the legal system is completely paralysed.
7 Would that also accord with your observations, sir, when you were there?

8 A. I went to visit Kigali prison and, in fact, it was overcrowded, but I think that that is the image of what
9 applies to most prisons, all prisons in Africa.

10 MR. PRESIDENT:

11 Counsel, if the legal system is not working, how can the prisons get overcrowded?

12 MR. BLACK:

13 Well, we don't know how long prisoners -- if prisoners were kept under that regime the same length of
14 time they were kept under the RPF regime without being charged for years, you may understand how
15 that may have taken place. We can ask Mr. Nsanzuwera when he comes to testify, why his department
16 was totally paralysed under his control. Mr. Nsanzuwera, of course, works with the Prosecution, yes, I
17 am sure that is why they are paralysed.

18 BY MR. BLACK:

19 Q. Over to paragraph -- to page 14, two pages over, at paragraph 78, and I will be finished almost. Under
20 internal security situation, I'll just raise this point again. Paragraph 78 deals with security threats within
21 Rwanda and they relate to a -- of tensions. Then paragraph B, armed banditry currently carried out by
22 deserters from the Rwandese army and the gendarmerie, and then E, the easy availability of weapons.
23 Would those two paragraphs accord with your observations that most armed banditry was carried out
24 by deserters and there was an easy availability of weapons?

25 A. That is not my observation. I went around Kigali during the day and at night, never armed, and I never
26 had a problem at any point in time. I went about in uniform, in sporting gear. I boarded local public
27 transport without encountering any problem whatsoever. Therefore, I did not make those observations.

28 Q. And the easy availability of weapons because -- with respect to that, let me draw your attention to page
29 60, paragraph 93, you can turn the page. And paragraph 93 under the easy availability of weapons,
30 General Dallaire's report says, "According to many sources in Kigali the good price for a hand grenade
31 in Kigali, it is as little as three dollars, and the *Scolastica* (*sic*) of rifles is just as easily obtainable. Years
32 of conflict in Rwanda/Uganda war, the turmoil in Burundi and Zaire has led to a plethora of military
33 hardware being easily and cheaply available. Would that also accord with your observations and
34 experience?

35 A. The only weapons I observed through the UN forces or through my colleague Amadou Deme are the
36 weapons that were seen at roadblocks, road checks, at the MRND headquarters, and rumour had it
37 because I, myself, never actually saw the weapons that were available on the market. Basically such

1 instances were very limited and rare and the first people to see such weapons circulating were normally
2 the Rwandan Armed Forces, if not senior officers of that army. I did not have KIBATI report to that
3 effect, but I think they can be easily traced in the UN archives.

4 Q. Just two last questions and I will leave this report. Next page, at page 17, paragraph 97, it is under the
5 title "The availability of the security forces to cope with the situation it serves. And General Dallaire
6 says, meetings held with the high command of the gendarmerie and inspection of several barracks and
7 Kigali prison confirmed the opinion that even with the best will in the world, the gendarmerie are totally
8 inadequate to effectively combat crime in Rwanda and preserve law and order. Would you agree with
9 that?

10 A. If you extrapolate -- if recruitment is done at low level and hastily, and if the personnel has no
11 equipment for communication or transport, certainly that will have an impact on the efficiency.
12 However, UNAMIR was never asked to provide reinforcements, never received any direct requests to
13 help counter this scarcity of resources.

14 MR. BÂ:

15 One must believe that General Dallaire changed his mind because this is not what he says here.

16 MR. BLACK:

17 When you bring General Dallaire, I would have to ask him about his discrep -- his changes of his
18 testimony. I would be very happy to do that.

19 BY MR. BLACK:

20 Q. Paragraph 99, I think goes to that. It says: It is due to the total inability of the gendarmerie to respond
21 to emergency calls from UN staff members, that the UNDP feels security officer has organised night
22 patrols with gendarmes in UN vehicles, so they even had -- they couldn't even respond to UN calls. Is
23 that also your observation and experience?

24 A. I was not aware of that. Once again, this is new to me.

25 *(Pages 76 to 84 by Sithembiso Moyo)*
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1 1730H

2 BY MR. BLACK:

3 Q. Paragraph 100, the mission visited the largest gendarmerie barracks in Rwanda, Kacyiro and inspected
4 the vehicle workshops, the armory and stores. Stores check-lists of inventory were months out of date
5 and the impression gained was that the gendarmerie were only barely able to function, but that also
6 accorded the view of your impression of the situation.

7 A. Again, if you extrapolate, this could be true, but I was not able to make the same observations.

8 Q. Go back to page 15 for a minute. It is something not to do with the gendarmerie, because you talked
9 about the gendarmerie, I want to ask you this: Page 15, paragraph 81, page 30, "There are currently
10 17 political parties in Rwanda, many of whom have formed their own paramilitary militias, complete with
11 uniforms and weapons." Then on page 2, they say: "Five of the political parties have organised militias;
12 the MRND, the CDR, the Liberal party, the PSD, Social Democrats, and the CDR Christian Democrats,
13 all had, according to General Dallaire, well organised militias. Is that also your observation --
14 information?"

15 A. Yes, it is obvious, they all had uniforms, insignia, flags, and they have distinctive insignia. So, each
16 time they demonstrated, they were in their uniform -- in the local wax material, which clearly
17 distinguished them as members of the movement they belonged to.

18 Q. Did you receive any information? I put it to you that my information is that, although I wasn't there and
19 you were -- is that the MRND pro-government parties raised their militia response to the creation of
20 organised armed militia, by more or less the pro-RPF parties, like the PL, PSD and CD; is that correct?
21 That is my information. There is a reaction to their creation of militias at first.

22 A. No, not at all. I don't recall which para-military movement or militia the RPF had, because I never got to
23 know that, and I never observed it too.

24 Q. I am talking about the RPF itself. I am talking about the parties considered close to the RPF; the PD,
25 PL, PSD and the CD. Either you do or you don't have knowledge about that?

26 A. I think the mistake was in the interpretation, because on two occasions I heard, "RPF", but I did not
27 hear whether there were movements in reaction to other movements that had been created. They were
28 there before we arrived. They existed at that time.

29 Q. Thank you.

30 MR. BLACK:

31 Mr. President, I am finished with this document now, and I ask that it be taken away from the witness.

32

33 I would ask that it be marked as an exhibit for identification when General Dallaire comes to testify so
34 we can have a copy handy and we can cross-examine him.

35 MR. PRESIDENT:

36 Do you have any objection to have it ID marked?

37

1 Mr. Black, I think the first paragraph, "Term of the mission," gives the reason why it has been prepared.

2 MR. BLACK:

3 That is right.

4 MR. PRESIDENT:

5 You read that?

6 MR. BLACK:

7 I read that, but any way, I am well aware and if General Dallaire comes here and says bad things about
8 us, that is okay.

9 MR. PRESIDENT:

10 Mr. Black has invited this Court to mark this document or this report of the commission for "Mission of
11 the political aspect," as identification document, that is, ID. 10 of Ndindilyimana.

12 *(Exhibit No. ID. 10 [Ndindilyimana], for identification)*

13 BY MR. BLACK:

14 Q. When you were tasked with the mission to go to Rwanda in 1993, who did you, receive those orders
15 from?

16 A. The appointment of staff who took part in the fact finding mission and the general defence staff is done
17 by the units involved. So, in that group of fact finding mission, there were people coming from general
18 staff headquarters, as well as units that were present, or units that were intended to be deployed soon.
19 So, my appointment was the commander of the brigade, and further up was the commander-in-chief,
20 the chief of defence staff.

21 Q. And were you selected because you were an officer with African experience, because you were raised
22 in central Africa?

23 A. None of the two reasons is valid. I was selected because within the Defence staff, it is provided for
24 that. An officer of intelligence and an officer of the operations unit should be part of the fact finding
25 mission.

26 Q. Okay. Now, on June 2nd 1995, you gave a statement, a pro justitia statement, to the prosecutor
27 general of the military court, correct? And you were cross-examined on this in the Military Trial I, as
28 well?

29 A. I have no recollection of the date of the testimony, but I have been examined on several occasions.
30 So, if you have information on that, that I will admit.

31 MR. BÂ:

32 Can counsel let the interpreter finish, please?

33 MR. BLACK:

34 I didn't realise that I had said anything.

35 MR. PRESIDENT:

36 No, I think the translation takes a little time, so slow down.

37

1 MR. BLACK:

2 I am sorry, Interpreters. I am trying to listen to them.

3 MR. BÂ:

4 My suggestion was that if you want to cross-examine him on a document, then you should present the
5 document to him so he can have the document in front of him. Wouldn't you think that is a better
6 procedure, so he will know what you are talking about?

7 MR BLACK:

8 Mr. President, that is disclosure from the Prosecution. They should provide the document. It is his
9 statement. I am not making copies of his statement.

10 MR. PRESIDENT:

11 What Mr. Bâ said is that when you refer him to any document, it is better to educate the witness on that
12 and then question him.

13 MR. BLACK:

14 No, I don't want to give him the document, I was just going to read it. I want to question him on the
15 document.

16 BY MR. BLACK:

17 Q. So, Major, I will refresh your memory. I have a statement you made to the prosecution court system
18 entitled, CLAEFRA-1, CLAEFRA dash one, page K0102077, June 2nd 1995; the captain commander's
19 crisis statement to the military prosecutor general in Belgian, in which you were asked about your
20 reconnaissance assignment on October 26th. Do you remember that interview? That will refresh your
21 memory about the reconnaissance assignment that you had. And the questions begins: "What did the
22 reconnaissance assignment entail?" Do you remember that interview -- because I think you were
23 asked that in cross-examination in April last year.

24 A. I am not able to confirm the date, because there have been so many dates of interviews and
25 examinations. If the issue is to know what I said at that time, the mission as I saw it then was a fact
26 finding mission, to see -- to take stock of the situation on the ground. Either parties on the ground to
27 gather information on the field so as to inform the units that were to be deployed. It was a task
28 assigned to an officer of the brigade, to prepare a briefing which would assist the brigades and
29 battalions that would be deployed so as to prepare themselves against the climate, the field, the forces
30 in presence development of the situation, agreed -- peace agreements and so on and so forth.

31

32 Does that answer your question?

33 Q. Yes. And under Charter 6 of the charter of the United Nations, the peace keeping operations requires
34 that the members of the peace keeping forces be considered neutral. They are actually neutral forces
35 within that peace-keeping role, correct, *vis-à-vis* the parties in the conflict?

36 A. As far as I am concerned, I played a role of neutrality. I was an officer within the United Nations,
37 I worked for the United Nations, and I came there for a country that needed us, and the United Nations

1 committed it self to oversea the implementation of the agreement of the Arusha accords. I had not
2 taken sides for whichever ethnic group.

3 Q. In that statement of June 1995, the question was asked: "What did your reconnaissance assignment
4 entail?" And your answer was: "With Major Constant and some professional military, based on
5 intelligence provided to us by SJIL, intelligence services, we had to confirm this information. For
6 example, by getting an idea of the numerical strength of the opponents, and the position --

7 THE ENGLISH INTERPRETER:

8 The French booth is requesting counsel to go over it again.

9 BY MR. BLACK:

10 Q. "Answer: With Major Constant and some professional military, based on intelligence provided to us by
11 SJIL, we had to confirm this information. for example, by getting an idea of the numerical strength of the
12 opponents, and the position of the major military operations, number of troops, weapons available to
13 them, *et cetera*. And then through the questions, you were asked about how the opponent forces
14 distributed their arms, you talked only about the Rwandan government forces. You never mentioned
15 the RPF. The entire report covers only the FAR as the adversary. If you perceived the Belgians and
16 yourselves having a neutral war, why would the FAR be the opponents and adversary and not the RPF,
17 and why do you need their military capacity to be determined?

18 A. In military practice, peace keeping operations or peace enforcements come under another practice as
19 against classical military practice. In intelligence, you always try to assess the forces in presence, and
20 generally, the opponents, and that is what led to the terminology adversary or opponent. It is obvious
21 during those interviews or this statement, I made reference to opponents in the term that is used
22 normally. I gave this interview in Netherlands language. The interview lasted a period of one week.
23 We had to move to Mulundi, to assess the RPF forces at that time was impossible, and to my
24 knowledge, except if you have any other information, there was no RPF unit in Kigali, because that is
25 what we tried to prevent during the war. So the forces on the ground, could be referred to, loosely, as
26 opponents, and those were the forces present in Kigali, and that time it was also indented that KIBAT,
27 the Belgian battalion, should take position in Kigali. So, the only forces we were interested in at that
28 time -- I am not talking about later on -- were the government forces, whatever they were.

29

30 Does that answer your question?

31 Q. No, it doesn't, because if that was the case, then your report could say, "We could not assess the
32 opponent forces," that is, the RPF, if they were considered the opponents, "I can only assess one
33 opponent in that war." But you don't refer to them in that way in your statement. When you were asked
34 how were the opponent forces or adversary forces being distributed with arms, you talk only about the
35 FAR, the Rwandan government forces. It's apparent to me or anybody reading this statement that your
36 are talking about the government forces of Rwanda being opponent to you, to your forces. That is how
37 it reads, sir?

1 MR. BÂ:

2 Mr. President, we need to be specific and correct. This paragraph that you are reading, the FAR,
3 Rwandan armed forces are not mentioned anywhere, confirm -- getting an idea of the numerical
4 strength of the opponents and the positions of the major military installation, the Rwandan armed forces
5 are not mentioned anywhere. He made reference to the opponent, if the RPF were present in Kigali,
6 that is, the two parties that they came to supervise.

7 MR. BLACK:

8 Mr. Bâ is totally incorrect, Mr. President. I did not want to waste your time reading this, but the last
9 minutes I will spend reading it, because Mr. Bâ misinformed you.

10 MR. BÂ:

11 Show me where the Rwandan armed forces RAF is indicated?

12 MR. BLACK:

13 Let me continue, Mr. Bâ, I will show you.

14

15 Page K0102078; question put to you, Colonel: "How were the opponent forces" -- in English. In French
16 it is adversary -- in English it says, "How were the opponent forces distributed and armed?" "Answer: I
17 cannot estimate the number of *Interahamwe* personnel, because there were many of them distributed
18 over 20 *secteurs* in Kigali. Each *secteur* had an average of 100 men. Similarly, I cannot estimate the
19 number of FAR," that is, government forces. "There were several battalions in Kigali, including at least
20 two which were well-trained." Is that enough for you, Mr. Bâ? The second question, that is, the last
21 paragraph: "What was the relationship between the Belgian numerical strength and the opponents on
22 the night of the 6th and 7th, April 1994? Answer: When considering any intervention, the numbers were
23 disproportionate, in my opinion. Even if the Belgians had a total of 450 men, it should not be forgotten
24 that a number of them held staff for support functions, hence the number of combatants was limited to
25 300. And he goes on to discuss the relationship of forces between the Belgian forces there and the
26 FAR forces.

27 BY MR. BLACK:

28 Q. It is quite apparent Colonel, that you are talking about the Rwandan government forces as being the
29 adversary or opponents, and I am asking you why your government took that position?

30 MR. BÂ:

31 There, it is someone else asking the question and asking what was the relationship between the
32 Belgian numerical strength and the opponent of the night of 6th to the 7th of April. It is another person
33 who is asking this question and using this terminology of opponent.

34 BY MR. BLACK:

35 Q. Colonel, can you answer my question. Why did your government take the position that the FAR forces
36 -- the advance of the -- the entering into the country were, in fact, the opponents of the Belgian forces
37 entering the country.

1 A. I would like to read the original document, which -- where I spoke Danish -- Dutch, maybe the
2 translation was not correct and I was not there to evaluate a potential enemy as I am being made to
3 believe, but we should -- the military personnel that had to be deployed needed to be informed, and
4 those troops had to be deployed in Kigali and there were no RPF troops present then. Besides, I
5 needed to go further, because I needed the stock of the militiamen on whom the intelligence service in
6 Rwanda itself had no information.

7 Q. Okay. I can show you the statement, it is here, if you want to look at it.

8 A. Yes, I want to look at it.

9 Q. I have only got one copy, unless my friend has a copy?

10 MR. BÂ:

11 The fine version is in Dutch. French and English are translations.

12 MR. BLACK:

13 Yes, you can give it to him.

14

15 No, this talks about the interview. I got that it is not the same interview. I am sorry, sir. I have only got
16 one document in Dutch or Flemish. No, I don't have that. You gave it to my friend, but not to us.

17 MR. BÂ:

18 We disclosed it to you. Are you not referring to the prejudicial of 2nd June 1995 or is it another
19 document?

20 MR. BLACK:

21 Yes -- it is just me. Yes, I do have it. Okay.

22 BY MR. BÂ:

23 Q. But, Mr. Claeys, is that the correct document that has been handed over to you?

24 A. It is correct. It is the correct -- the right document. It does not talk about adversary or opponent, but
25 opposing parties.

26 Q. Then why does it discuss on the FAR as in relation to Belgian forces which are there apparently,
27 opposing parties?

28 A. Because at that moment, it was the RECCE party at the moment where only FAR government forces
29 were in Kigali. If you had been there, it could have been the same. We couldn't go to Mulindi at that
30 moment, the time was not available. There were no forces deployed. So if you want to derive (*sic*)
31 information about those forces, we had to go to Mulindi, I am not able within the RECCE party of one
32 week. In Kigali -- which is about 50 -- which deployed a lot of forces, I think General Dallaire was there
33 for a fortnight to do the inventory, and I was not able to go there at that moment. Is that enough for
34 you?

35 Q. No, sir, because it doesn't explain the next question which was, as I have it in English and in French,
36 which was: "What was the relationship between the Belgians in numerical strength, and the opponents,
37 on the night of the 6th and the 7th of April 1994 when the RPF was definitely in Kigali -- in strength, and

1 you only, again, about the FAR in your answer.

2 A. Let me read it first. I am sorry, sir, it is not speaking about the FAR, but the two places where we talk
3 about it, it is about the Belgian forces.

4 Q. Mr. Claeys, can you continue in French?

5 A. Yes. So, the question on the relationship between the numerical strength of the forces, this makes no
6 reference to governmental forces, but gives an account of the situation -- situation report of a Belgian
7 battalion. These are 450 Belgian men -- troops, reduced to the number of 300. Because the others
8 were in support and general staff services. I have the details of the various companies distributed in
9 the various compounds, i.e., the Don Bosco complex. The Rwandex logistical base, the airport, and the
10 headquarters of the *secteur* battalion which was at the Meridien hotel. I do not see anywhere in this
11 document, reference to either government forces or the RPF, I am sorry.

12 Q. Yes. I put it to you again, sir, that question is placed in context of the first question. The first question
13 was: "How were the opponent forces distributed with arms?" You then give an answer, talking only
14 about the FAR.

15 A. Yes, so I didn't answer that.

16 Q. The second question is: "What was the relationship between the Belgian numerical strength and the
17 opponents on the night of the 6th and 7th April 1994?" And you give the numerical strength of the
18 Belgians.

19 A. I did not answer the question. I did not answer the question of the person interviewing.

20 Q. He did not ask you a follow-up question, asking you to clarify, did he? So I put it to you that you did
21 answer the question, and the answer is quite clear, that you were talking about the relationship between
22 the FAR and the Belgian forces. It is quite clear into anybody reading this, sir.

23 A. I would like you to translate the Dutch statement in the correct French then.

24 MR. BÂ:

25 Mr. Black, this statement was made after more than a year after the 6th April 1994, and he was not the
26 one giving the statement of what you want to know. The issue here is the person who was asking the
27 question -- it is the person who was asking the questions who wanted to know how the 10 Belgian
28 troops -- the UN troops were killed.

29 BY MR. BLACK:

30 Q. Let me ask you this before we break for the evening: Why is it the Belgian government insist there
31 were only 10 white men killed at Camp Kigali when there were 13 white men arrested? Who were the
32 other three, because the UN military observer at Camp Kigali, Captain Upedo, says 13 white men were
33 taken in, and the men that brought them in said there were 13 white men detained at the guards
34 house -- Belgians, in uniform. Do you happen to know who the other men were, if they were not
35 Belgians?

36 A. I was not in Kigali on the 6th nor the 7th of April. So, I am not able to say what happened, neither at the
37 prime minister's residence nor at Camp Kigali. The observation of the Togolese officer, and if there

1 were three officers -- non commissioned officers or other ranks in Belgian uniform, I am not able to give
2 any further information on that.

3 Q. You had no knowledge whatsoever of Lieutenant Upedo's mission and who the men with him were that
4 night, you have never learnt that since that day, in uniform?

5 A. The mission of Lieutenant Upedo was clear. He had vehicles at his disposal, and the number of
6 personnel in that vehicle -- in those vehicles, was clearly, 10. No more, no less. There was, therefore,
7 no reason to see other Belgians appear.

8 Q. I am sorry, why do you say they could only be 10 or there were only 10 -- I am sorry. If you could
9 repeat the last part of your answer?

10 A. The figure 10 was determined on the basis of the vehicles that were available to them. That is, the
11 three vehicles which could carry the 10 persons.

12 Q. So, you have no idea why at camp -- at the mortuary later that day, General Dallaire with General
13 Ndindiliyimana and the Belgian officer counted 11 white men, and General Dallaire asked them why he
14 was missing two more men? You don't know what that means?

15 A. I know that at the tactical level, General Dallaire should not have been aware of the number of soldiers
16 who were involved in the protection mission of the prime minister.

17 MR. BÂ:

18 If you have serious information that these were 11 blue helmets, we can change the figure in our
19 indictment and change the figure to 11. If you have solid information, we can change that.

20 MR. BLACK:

21 Read Captain Upedo's statement; read the Ghanaian statement; read Colonel Ntuyahaga's statement,
22 read general -- the KIBAT report which says there were 11 bodies that day. It is all there, Mr. Bâ. You
23 just have to read it.

24

25 Thank you, Mr. President, I think we will continue tomorrow.

26 MR. PRESIDENT:

27 Tomorrow, I think we will be sitting only from 9:00 to 1:00 p.m., maybe 1:15. Tomorrow and the day
28 after, the courtroom will be used by others.

29 MR. MACDONALD:

30 Mr. President, are we sitting on Friday or we are not sitting on Friday?

31 MR. PRESIDENT:

32 Friday, I don't think we can sit, because sometimes the other court might use the video link. I think one
33 judge has indicated to me they might use this court also.

34 *(Court adjourned at 1805H)*

35 *(Pages 85 to 92 by Regina Limula)*

36

37

CERTIFICATE

We, Sithembiso Moyo, Regina Limula, Karen Holm and Verna Butler, 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 or related to any of parties to this cause and that we are nowise interested in the result of said cause.

_____ Sithembiso Moyo

_____ Regina Limula

_____ Karen Holm

_____ Verna Butler