

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-98-41-T
CHAMBER I

THE PROSECUTOR
OF THE TRIBUNAL
v.
THÉONESTE BAGOSORA
GRATIEN KABILIGI
ALOYS NTABAKUZE
ANATOLE NSENGIYUMVA

22 JANUARY 2004
0850H
CONTINUED TRIAL

Before the Judges:

Erik Møse, Presiding
Jai Ram Reddy
Sergey A. Egorov

For the Registry:

Mr. Nouhou Diallo
Ms. Marianne Ben Salimo
Mr. Edward E. Matemanga

For the Prosecution:

Ms. Barbara Mulvaney
Mr. Drew White
Ms. Christine Graham
Mr. Rashid Rashid

For General Roméo Dallaire:

Mr. Harvey Yarosky

For the Government of Canada:

Col. Kenneth Watkin

For the Accused Théoneste Bagosora:

Mr. Raphaël Constant
Mr. Paul Skolnik

For the Accused Gratien Kabiligi:

Mr. Jean-Yaovi Degli

For the Accused Aloys Ntabakuze:

Mr. Peter Erlinder
Mr. André Tremblay

For the Accused Anatole Nsengiyumva:

Mr. Kennedy Ogetto
Mr. Gershom Otachi Bw'omanwa

Court Reporters:

Ms. Shannon Eboe-Osuji
Ms. Diane Hermann
Mr. Rex Lear
Mr. Trevor Gerbes

I N D E X

WITNESS

For the Prosecution:

ROMÉO DALLAIRE

Cross-examination by Mr. Constant (*continued*)..... 4

EXHIBITS

Defence Exhibit D. B61A and D. B61B 10

Defence Exhibit D. B62A and D. B62B 30

Defence Exhibit D. B63 30

Defence Exhibit D. B64 33

1 MR. MATEMANGA:

2 Yes, D. B61.

3 MR. PRESIDENT:

4 Okay. 61A for the French, B for the English.

5 *(Exhibit No. D. B61A and D. B61B admitted)*

6 BY MR. CONSTANT:

7 Q. It seems reasonable for me to move on to the person referred to as Jean-Pierre. Generally speaking,
8 don't you think that the Jean-Pierre issue is also a manipulation?

9 A. According to the information at my disposal, we did what we call an assessment of the situation. In
10 other words, we looked at all the existing factors, we analysed those factors, and after that in our
11 analysis we checked the truth in order to establish the priority of those factors. After that, on the basis
12 of the factors, we looked at our option for action. We look at the advantages and disadvantages. The
13 most plausible option is selected, and after that we move to action.

14

15 In the context of Jean-Pierre, in my letter of 11th of January, that is my fax, I said that there was a risk
16 that this could be a well-planned trap so that UNAMIR is pushed into opening fire or being involved
17 and being seen in a negative light. So there was a certain risk on the part of UNAMIR, and under
18 such circumstances, it would have been almost impossible for us to continue.

19

20 In my analysis, for quite some time UNAMIR had been a target, and at that time we were being
21 targeted more aggressively by the RTLM. UNAMIR was identified as an entity which lacked
22 transparency and which was biased for RPF. So in my analysis, I took serious risk, offered by that
23 opportunity, however. So we wanted to solve -- or look at all the information at my disposal, but which
24 did not give me a clear answer regarding the reality of the action carried out by subversive elements
25 or forces.

26

27 So taking into consideration this situation, which was becoming increasingly precarious, both
28 politically and as far as security is concerned, I took the risk with the life of my soldiers to move
29 forward.

30

31 In the document which I gave to the Court, I state that we had the opportunity to prove the veracity at
32 a level which I considered to be reasonable which would allow us to take into account Jean-Pierre's
33 information. But never, we never could be -- could anticipate things for fear that things would go
34 wrong.

35

36 So in that context, Counsel, I also found, to the best of my memory, a document which should have
37 been part of the whole, and that document was a written report on the 12th providing further

1 information given to us by Jean-Pierre. And what I was able to determine -- from what I know, the
2 Court has not yet seen this document.

3 Q. Do you think that that document has the same status as the other documents and that through your
4 counsel and the counsel of the Canadian government you could submit the document to the Court
5 and to us?

6 A. Yes.

7 Q. Thank you. May I move on?

8

9 General, before going into details regarding Jean-Pierre, in the atmosphere which existed in
10 December and January, don't you think that -- that sending letters was a destabilising factor,
11 especially when these letters talked about certain things which could be destabilising in the same
12 manner as people who came to tell you that RPF carried out the massacres? Weren't you faced with
13 such a situation?

14 A. If I understand you well, you are asking me --

15 Q. Let me repeat my question.

16 A. You are asking me to give you an analysis of the situation.

17 Q. No, no, I'm not asking about your credibility or analysis. I'll go into detail of Jean-Pierre with regard to
18 his credibility, but I'm asking you -- and in the climate of uncertainty which existed and which you
19 talked about, the fact that anonymous letters were sent to UNAMIR, something which was done by
20 the opposition -- I assume Jean-Pierre was sent to you by the opposition -- don't you think such
21 activities were destabilising, just like Bizimana going on the radio and saying that RPF carried out the
22 massacres of the 17th and 18th November?

23 A. I suppose my answer to that would be, I was exceptionally unsatisfied by both sides, that is the RPF
24 and the government side.

25

26 You also have to recall that the Rwandan media at that time was writing -- I mean, both the print
27 media and the radio were trying precisely to create the impression that we did not want RPF in the
28 government, we did not want to move the peace process forward. Even at that time the issue of
29 ethnicity was being talked about. They were talking about a president with too much power. So I had
30 a lot of information which was freely given to me by the media, more than by letters, some few letters
31 sent to me. And the thing is that the letters were not as subversive as that, and they were not trying to
32 create subversive ness on the part of the population. But the letters also were quite strong in their
33 perception of things.

34

35 So there was no atmosphere at that time which gave me the feeling that the movement, which we
36 started viewing as hard-line, to prove itself to be not hard-liner. But as we move forward, the
37 information corroborated each other, pointing that increasingly the hard-liners did not want to know

1 anything, did not want anything to do with power sharing with the RPF. So, Counsel, I had
2 information.

3 Q. General, what I noted is that at the beginning of what you said, you said that you were not satisfied by
4 both sides, but you tend to incriminate the people whom you call hard-liners. You think that what
5 RTLM was saying was not positive and was destabilising?

6 A. No, what you asked me, whether I was a target of ploys which would orient me towards an anti-
7 government philosophy or anti-MRND philosophy, and so on and so forth. What I told you in answer
8 to your question, I had ample examples which could have affected that. But what is worse, I had
9 nothing coming from those people which would show that they were moving towards objectivity and
10 that they were moving towards defusing the tense atmosphere.

11
12 But even on the side of the RPF I had problems too. On several occasions, with Radio Muhabura, I
13 spent time with RPF in order to ask them to close the radio station because the radio station also,
14 Muhabura, also spoke negatively about elements which were trying to create subversive action
15 against the process. I told you that most information -- and here we have to recall that at that time we
16 started having more scenarios of insecurity, there were talks of weapons caches, and most of these
17 things were coming from the other side.

18 Q. Now, with regard to the telegram on Jean-Pierre, if I understand you well, on the 10th of January, a
19 very senior personality, as you describe in your telegram, wanted to introduce you to someone; is that
20 correct?

21 A. Yes, and I said that the person was Faustin Twagiramungu, whom I saw the next day in order to
22 discuss with him the validity of the content, and he stood by that.

23 Q. I'm going to come to the Faustin issue. I'm trying to see the pattern of everything here. If I
24 understand you well, you oriented that person to Luc Marchal, Claeys, (*interpretation unintelligible*),
25 and those people met him on the 10th. And if I understood you well, subsequently, your three
26 subordinates reported to you what the informant told them. It was under those circumstances that you
27 drafted the telegram of the 11th, right?

28 A. Yes, that is correct.

29 Q. Now, my question is regarding a technical aspect. When you drew up the telegram of the 11th, what
30 had you already verified as being credible in what the informant said?

31 A. I tried to explain that the analytical and decisional process regarding information, I look at the
32 information, I look at the prevailing situation with a number of other factors. We had serious problems
33 having cooperation. When Marchal reported about the meeting, together with the other people under
34 me, I reviewed it, and I said that the risk that UNAMIR would be totally -- be oriented by an act or
35 carried out by a movement -- we did not want to move the peace process forward is there, but we
36 need to countercheck and take action regarding what Jean-Pierre had said.

37

1 So it was a very military decision arising from my personal analysis, and I was ready to take a serious
2 risk in order to see whether on the morning of the 13th the weapons mentioned would be found.

3
4 The positive point that I saw is that finally we made a breakthrough regarding all those elements
5 which did not want to see the peace process move forward and destabilise the operation. So I would
6 seize the initiative regarding what was happening on the ground because I had already lost that
7 initiative after the 17th-18th massacres. If I could find those weapons and if I could apprehend the
8 people involved, then, bang, at that point the subversive side would see their plan dashed and that
9 would allow the peace process to be moved forward, and that would make me be in a position of
10 having control or at least a certain amount of control.

11 Q. General, we talked about the massacres. We read a passage from your book. You did not deny it,
12 and you said you were in an impossible position because you said if it was the RPF, then it would be
13 very bad, but if you couldn't prove it was the RPF, again, it would be bad for your credibility. And you
14 said something to the effect that you hesitated going too far. But when it comes to the people whom
15 you describe as hard-liners, you are ready to move forward. Don't you think that in your reasoning
16 there was a certain discrepancy?

17 A. Counsel, the situation changes. I had to change with the situation, and obviously on the 17th and
18 18th I had been hardly three weeks in the field. I was still in the learning process, so to speak, trying
19 to understand factors and aspects, and I was surprised to -- you see, there was insecurity. I was
20 surprised. At the end of January, a lot of that had gone under the bridge, and therefore at that point
21 the advantages which could emerge from all this, from that operation, was significant because it could
22 show/not show that such a group was against the Arusha Accord, but it would have been actually a
23 positive factor in crushing such a plan to destabilise the peace process, and it would have been a
24 movement forward in dashing the Machiavellian plan.

25 Q. General, do you agree with me that there was a passing of time, but still you had two different
26 reactions, and the two reactions arise from the fact that the two targets were different, that is the
27 presidential side and the RPF?

28 A. No, absolutely not. What I wrote in the book is what I saw. It's not -- it's an observation. It's not a
29 final answer. We went to the ground; we were in a situation.

30
31 But on the 19th, I told the media that I was going to set up a commission of inquiry to have an in-
32 depth look of who was involved between the two sides.

33 Q. Now, in your book, when you talk about Jean-Pierre, you say -- I'm going to read out two passages.
34 In French, this is page 96. In English -- you don't have the book?

35 THE ENGLISH INTERPRETER:

36 The General says he had left his book at the witness box.

37

1 THE WITNESS:

2 What page did you say?

3 BY MR. CONSTANT:

4 Q. In the English version, 142-143. This is the last line of page 142 in English.

5
6 The French version is, "I was silent, hurt by the depth and reality of this information. It was as if the
7 informant Jean-Pierre had opened the floodgates of the hidden world of the extremist's third force
8 which, until this point, had been a presence we could sense but could not grasp."

9
10 Second quote is on page 144. In French it's 198. In English -- in French it's 198; in English it's 144.
11 Paragraph 3 which starts with, "When Luc." And in this paragraph there is a sentence where you say,
12 "It seemed possible to identify the third force and neutralise it after months of frustration of being
13 forced to act after the fact. We had the chance to seize the initiative."

14
15 This matches what you just said earlier?

16 A. Yes, that is correct.

17 Q. Now, let's go to the 10th and look at the information which you had. If I understand you, you had an
18 individual who came to see you and who told you that he had been an officer of the Presidential
19 Guard and that he had been an officer in the paracommando battalion or that he had been trained as
20 a paracommando.

21 A. No, he never said that he was an officer of the Presidential Guard; rather, he was a member of the
22 presidential close protection. When I look at my notes, these are the specific words that I used.

23 Q. But in your book, it says an officer in the paracommando and the Presidential Guard. This is in page
24 175, so in the English version it should be 141 or 142.

25
26 Luc describes his meeting where the informant, whom we codename Jean-Pierre -- and he said that
27 he had been an officer in the paracommando battalion and Presidential Guard.

28 A. What I simply said is that he had been a member of those two bodies, the fact that specifically he had
29 been an officer.

30 Q. I'm just summarising the information you gave. And said that he was paid 150,000 French francs?

31 MR. PRESIDENT:

32 Before we proceed there, did you say that the English version was the language in which the book
33 was originally written?

34 THE WITNESS:

35 Yes, sir.

36 MR. PRESIDENT:

37 Now, in that, here the sentence is, "He had been an officer in the commandos and the Presidential

1 Guard." The word there is "commandos." What I heard in the courtroom is "paracommandos." Is
2 that the same or two different concepts?

3 THE WITNESS:

4 There was what was called the commandos, paracommandos. Some have the qualification of
5 jumping. What was called in the north the commando camp was essentially the essence of this elite
6 unit. And then there was a paracommando battalion, which essentially had that added qualification of
7 being a light parachute battalion.

8 MR. PRESIDENT:

9 Yes. And in this case we have heard a lot about the paracommando battalion.

10 THE WITNESS:

11 Yes, sir.

12 MR. PRESIDENT:

13 We know a lot about that one.

14 THE WITNESS:

15 Yes, sir.

16 MR. PRESIDENT:

17 What I want to know now, following the exchange between you and Defence counsel, is whether it is
18 your view that this person had been a member of the paracommando battalion.

19 THE WITNESS:

20 Yes, sir.

21 MR. PRESIDENT:

22 Okay. Thank you.

23 MR. CONSTANT:

24 Thank you, Mr. President.

25 BY MR. CONSTANT:

26 Q. You also tell us that on that day you were told that he was being paid 150,000 Rwanda francs per
27 month. You agree that is a significant amount?

28 A. Yes, that is correct.

29 Q. And he told you since 1993 he had been training *Interahamwes* and that he had trained 1,700 people,
30 right?

31 A. Yes, in that structure -- I'm not saying he, as a person; I'm talking about the organisation which trained
32 the *Interahamwes*.

33 Q. He also told you that there was a plan which allegedly had been established to kill Belgian soldiers,
34 right?

35 A. Yes, that is correct.

36 Q. He also told you that in Kigali there were weapons caches, and lastly, that lists of Tutsis were being
37 drawn up, and that the structures being set up were capable of killing a thousand Tutsis in twenty

1 minutes, right?

2 A. Yes, that is correct.

3 Q. What amazes me, General, is that you did not countercheck any information before sending the
4 telegram on the 11th.

5 A. Counsel, when I took the risk of setting up the clean corridor, I took a risk which could be considered
6 by my colleagues as being out of proportion. I was successful. Some people said I was lucky, but I
7 considered that it was not luck. Things worked well. Things could have worked out negatively.

8
9 Now, the idea -- we've got Jean-Pierre. There was a desire to take action because you could say that
10 it was a rapid reaction on information which had not yet been corroborated. But at the time of the
11 analysis, I did not have anywhere -- as far as security was concerned, I did not have anything. I could
12 not accomplish my mission. There were internal problems regarding force and at the United Nations,
13 which limited my action. And, furthermore, I did not have any capacity to exercise operational power
14 in order to establish a secure atmosphere, which was my mandate. So I took a decision, which in all
15 professions is described as instinctive.

16
17 We have spent our lives being trained at the various levels in order to accomplish our missions, and
18 I've spent 40 years in the army without fighting a war. And you can be two years in a war situation
19 where you are obliged to take life-and-death decisions instinctively because you don't necessarily
20 have the time to think things out. So using my mental analysis of the situation, and knowing fully that I
21 was placing at risk the entire mission, it was worth taking the risk which could reasonably have a
22 positive outcome.

23
24 In any event, this was an excellent exercise in order to prove whether Jean-Pierre had been accurate
25 in his information or otherwise.

26
27 You can go and see I don't know how many generals in how many countries and ask them whether
28 their analyses were cautious and all of them will tell you no. A risk analysis, they'll tell you my action
29 was risky, but they'll tell you that the outcome was worth taking the risk for.

30 Q. I agree that you could weigh the benefits and decide that they made it worthwhile, but what was the
31 reaction of the people in the extremist movement?

32 A. I didn't have any connections with them at all. I didn't develop any friendships, close friendships,
33 either on one side or the other, for that matter. But what I was trying to do, preserve a balance and
34 analyse all the information I was getting on the basis of analysis. And I must say that from the
35 extremist side, I was receiving much more information that was strengthening my own analysis than
36 on the RPF side.

37 Q. We agree, General. We agreed yesterday. You told us you had no relations with the hard-liners who

1 didn't come to see you, that it was impossible to talk with you, that their position was closed, but the
2 moderates came to see you, such as Faustin, et cetera, and you also had contacts with Lando. So I
3 don't think it's a social-type of friendship, but it is obvious that you are in a position where you have
4 more contacts with the moderates, those who you call the moderates, than with the hard-liners.
5 That's what you told us yesterday, if I understood.

6 A. Yes, but I also told you that the hard-liners never came, never offered the opportunity. I went to see
7 the Minister of Interior, I went -- I made formal reports on all sorts of varieties of subjects, but there
8 was never any desire to communicate even informally on that side. Even the special representative,
9 when he arrived on the 21st, in his report of 16 December, which was a midway report, the only
10 person he had seen was the president, apart from the meeting on the 10th, Mrs. Agathe, Faustin, the
11 president of the constitutional court and all the others who are not on the list, because it was a
12 problem of communication or, rather, non-communication. What was the cause? Even if they are
13 responsive, if you are in contact with some people and not others, it's not your fault, but still that is the
14 situation.

15 Q. Now, Jean-Pierre, at the moment he comes to speak to you, you decide to go ahead even if you
16 haven't checked. Don't you think, for example, that since you consider that there were moderates
17 among the military, for example, did you not think, as you had already contact with Rusatira, whether
18 you couldn't check whether that individual had been an officer in the Presidential Guard or in the
19 paracommandos?

20 A. It must be said that his antecedents was only one factor. I had based my analysis on the information
21 he was giving me and the possibility offered to me thereby to act. So, yes, there was that information
22 on his background in the first meeting. Okay, he's in the inner circles of decision-makers, security-
23 wise, but what counted most for me was the possibility to take an offensive -- take the offensive
24 against all these subversive initiatives that we were suffering from and through which we were losing
25 credibility in the eyes of the authority and those members of the population who were aware of our
26 existence. The challenge was considerable.

27
28 And, militarily, it was justified to take a risk. If someone told me if there had been RPF arms caches
29 throughout the town, I could then -- I would have just as energetically pursued that opportunity to get
30 into the interventioning of the RPF.

31 Q. Well, we're not dealing with hypothesis. But through the period 10th January to February there was a
32 certain number of checks after the telegram of the 11th of January by your people. You went to see
33 one arms cache. Do you confirm that?

34 A. Yes, but we saw four others. I think that in the documents I have provided you can find four others.

35 Q. In the documentation, Claeys says that you drove around town with Jean-Pierre, who showed him
36 four places. He didn't see four arms caches, but four places. And then on a map you requested of
37 Kigali town, you indicated nine other places, but you did not see four or nine arms caches.

1 A. What I remember is that my Senegalese officers and from Congo, Brazzaville, were busy checking, in
2 civilian clothes, sites to continue to weigh the credibility of Jean-Pierre's information. Now, if the
3 report says that it was just to view, I can tell you that we continued -- we even used some of our own
4 money, but we continued with our searches. But, unfortunately -- but in my memory, we confirmed
5 four other sites.

6 Q. Well, you can confirm this or not, but in all the documentation that was given us -- but it is true I
7 haven't studied it all thoroughly -- only one arms cache was seen. It was Captain Claeys who went
8 with a Senegalese named Timmy (*phonetic*) and Jean-Pierre, and they went to the MRND premises.
9 And Timmy, I've never seen any document by Timmy. But what Claeys says is that Timmy went in
10 because he was African, black, and that Claeys couldn't go in. That Timmy went in with Jean-Pierre,
11 and on the way out they said they had seen 130 sacks of weaponry, of arms.

12 A. I think there were 50 and others with grenades and things like that. But I must tell you that if my
13 memory serves me right, there were other sustained verifications, proven verifications. Not only that,
14 but others. In the president's village, all the heavy weaponry. But as Jean-Pierre specifically, from
15 memory -- there were other verifications. I had several briefings from Claeys, under me, either
16 together or individually, but mainly together. I knew that one day the paperwork would count.

17 Q. I understand that you don't like paperwork, General. But normally -- Claeys is due to testify, so don't
18 worry too much about that.

19
20 But what strikes me, on the basis of the information we have, that you hold that Jean-Pierre's
21 information is credible, although you've only seen one arms cache. And, furthermore, it would seem
22 that UNAMIR officers went to see -- either went to see or -- and filmed a demonstration -- we have a
23 date, the 16 January -- an MRND demonstration to check whether it was true whether Jean-Pierre
24 was there. Were you informed of that verification?

25 A. No, I must admit, I don't recall.

26 Q. So then I am helping -- excuse me, but it emerges from the documents we have and also from what is
27 said in Colonel Marchal's book that you went to see whether Jean-Pierre really was an authority in the
28 *Interahamwe*, and they went and saw him, that he was indeed amongst the people controlling the
29 security there.

30 A. He told us he was going to the demonstration. He said it was going to be a peaceful demonstration,
31 that he was an authority, that there was 100 or 150 people under him to ensure safety and calm at
32 that demonstration, and that's the way it happened.

33 Q. Agreed. But what I'm asking you, in the assessment of what we have, do you agree -- would you
34 agree to admit that of all Jean-Pierre said and what you checked, there is quite a gap, only two
35 checks, two verifications from what I have seen in the document, and yet you consider credible all that
36 he has said. Don't you think there is a problem, apart from the fact that you are in a time there in
37 January where Jean-Pierre comes as a sort of divine surprise?

1 A. Yes. There's also the fact that he fully reports to me discussions that I had, and also the SRSG, with
2 the president of MRND, and reported that there were informants within UNAMIR, which we already
3 suspected. And he also reported to us that there was a French-speaking African in the political
4 structure of the mission who was passing information to someone in the MRND on the activities and
5 decisions, and that that information -- it was a corroboration with what was going on within the
6 mission.

7
8 It was my full desire to go on with checking, with verification, to take action on the basis of information
9 we received. But there was a letter, a message, and followed by several others from HQ in New York,
10 who, as of the 11th, received my fax in the morning of the 11th, or in the evening, or later because of
11 the time difference. I received a fax telling me not only did I not have the authority to undertake those
12 investigations, but also to cease considering any offensive operational capacity, to continue on the
13 basis of information, whether the information is correct or not.

14
15 And I must admit that the context in which I had that response from my superiors reflected also a
16 context of great fear by the people. The countries providing me troops in view of what happened to
17 the Americans in Somalia, where they were trapped, and no one else wanted to take any risks that we
18 might be trapped. And the basis of that fear, anxiety and the Chapter 6 letter, I could not continue
19 with any operations. Moreover, the SRSG, when I told everything to him and told him here were sites
20 that really required to be checked and action to be taken, including the president's home village, he
21 clearly ordered me to stop those operations or consider undertaking them.

22
23 And, plus, there was another element at that time, but it will come back to me.

24
25 So you are quite right. My God, it -- think that I should go on accepting information from him without
26 being able to verify, but I can tell you other people who were telling us about arms caches.

27 Q. No, I understand fully. You are speaking of New York's reply. The paradox is that in this case, we've
28 never seen New York's response. Do you have a physical copy of that response?

29 A. That is a confidential document that I am not empowered to show you, at least at the present time.

30 Q. Well, if I have correctly understood, New York says, "We cannot allow you to go ahead." But they
31 don't ask you to stop your relations with Jean-Pierre. They don't ask you to stop checking. That is my
32 problem. My surprise is your enthusiasm for Jean-Pierre when there was so little actual verification.

33 A. There was such action, and on my side there was a continuity of information coming in. There was
34 information from Jean-Pierre but also from other people and my observers. All that was a body of
35 information either regarding arms caches or subversive activities.

36
37 But the order I received was to stop acting in that respect. My analysis of the order was, okay, they

1 haven't told me to stop listening to Jean-Pierre but not in any way to act in that regard because it
2 wasn't part of my mandate. And we must come back to the basic concept of our presence. We were
3 there because the two sides wanted a referee, because both sides had said that they would do all
4 they could to move the peace progress forward -- the peace accord forward. And what I witnessed
5 was continuous action of showing bad faith. And the burden of evidence was therefore on me, and I
6 took initiatives which, according to the official documents, was without my mandate. And as much as
7 I discussed with both sides to solve problems, as much as no action was taken, and I had to repeat
8 myself, and I didn't have sufficient solid information to disperse all that and bring people back to the
9 straight and narrow. And it was up to the Rwandan government to prove that action had been taken
10 that was against their stated desire to ensure peace and to act in entire transparency with our
11 presence to solve that.

12
13 The problem was that those in authority should have done that, did not reflect or only rarely reflected
14 the desire to stop all these scenarios, which only created tension and problems in order to move
15 forward.

16 Q. Your answer in respect of problems, that I wish to discuss later, but I don't want to waste the
17 Trial Chamber's time.

18
19 So let me say I've understood clearly what you told us yesterday and the day before, that you
20 revolted, that your hands were tied. I understand that very well. But the problem I want to raise now,
21 you have an individual who comes, who tells you a whole series of things, that only two of them are
22 checked, verified, and you seem to take for granted everything he said. Did you try subsequently, not
23 in January but later, because still we have a month and a half, to check whether really he was in the
24 Presidential Guard? Was he really in the paracommandos? Did he really have a standard of living
25 that made it possible to earn 150,000 Rwandan francs per month? Was all that checked?

26 A. To my knowledge, no. But in your introduction to your question, the preamble to your question, you
27 seem to be saying that all the information Jean-Pierre gave us was taken as pure truth to me. That is
28 not the case. It was information that was a whole part of a body of information that I have relayed to
29 New York as regards some things, less others, because it was only more grist to the mill of all the
30 information that I was receiving, and thereby I did not have the means to check a whole series of
31 things, including this 23rd of December.

32
33 So we took all this information. We had a certain level of trust in the information, and we acted
34 accordingly within the limits imposed by New York, which were too restrictive.

35 Q. Jean-Pierre said that there is -- a list of Tutsis has been drafted. Do you agree that he never showed
36 either yourself or your officers a list of Tutsi? If you don't remember, we can check with
37 Mr. Claeys.

1 A. No. Claeys was an actor, and Claeys took information to Marchal, but that was the appropriate chain
2 of communication and command. No, I don't remember. But on the 7th of April, the Presidential
3 Guard was going around town, list in hand.

4 Q. Yes, we'll come to that. From what Claeys has said, or Marchal's book, he was asked to give further
5 information. He refused to do so. He even refused that notes be taken during that discussion.

6
7 Now, in general terms, you told us that you saw Faustin again afterwards and you informed him of all
8 that?

9 A. Yes, yes, we did. It was the next day we discussed the contents.

10 Q. And what was his reaction? What did he tell you?

11 A. He told me that that information should be considered as trustworthy and to continue to work with
12 Jean-Pierre. But my main responsibility, which I stated, that his -- we should take steps to ensure that
13 we don't endanger him by allowing the information to do the full circle and thereby reveal the source.
14 We should continue ensuring his protection.

15 Q. This is a statement by Frank Claeys. CLAEFRA-06 in French and in English and the -- an extract of
16 the Belgian -- the report to the Belgian Senate by the Belgian Senate's investigatory committee on the
17 Rwandan situation.

18 MR. PRESIDENT:

19 Are there any questions you can ask while we are waiting for these documents to be distributed,
20 Mr. Constant? You may have some introductory questions.

21 BY MR. CONSTANT:

22 Q. Did you have any contacts with Major Hock of Belgium, H-O-C-K (*sic*), Hock?

23 A. I don't particularly remember the name. It might come back to me.

24 Q. Apparently he was someone in the Belgian battalion who was taking care of --

25 A. Oh, he was a lieutenant at the time. In any case, he didn't stay there throughout the period.

26 Q. Do you know if he was aware of Jean-Pierre?

27 A. The intelligence he provided went to the battalion, to Luc, and Colonel Marchal ascribed very little
28 credibility to that officer's actions, who went far beyond his duties as intelligence officer of the
29 battalion. He even called him a sort of James Bond. That's what I knew about that individual.

30 (*Pages 1 to 21 by S. Eboe-Osuji*)

31

32

33

34

35

36

37

1 1030H

2 BY MR. CONSTANT:

3 Q. Well, to gain time while the documents are being distributed, are you not surprised that since 1994
4 there has been no news of Jean-Pierre, what happened to him, what -- either in the paracommandos
5 or in the Presidential Guard? Did you say perhaps he'd been assassinated? No. Even, I'm saying, if
6 he was assassinated, because apparently we have no trace of him, we agree; since February 1994,
7 no one has met Jean-Pierre?

8 A. Well, in a report I prepared, I showed that Jean-Pierre might, quite simply, have decided to return to
9 his job in the *Interahamwe* and perhaps participate in activities during the war. So, I mean, any
10 hypothesis is possible.

11 Q. Well, don't you find it surprising that today, ten years later, we have nothing to tell us, either as to the
12 reality -- well, I mean you did meet him, he was real, but was he really what he said he was?

13 A. I myself don't know of any investigators, academicians or even a trial chamber to determine his future,
14 but for -- as far as I'm concerned, he was part of the time, and after he is a memory, but that I have
15 never taken any steps to find out exactly who Jean-Pierre was, as indeed, as several other people
16 have disappeared.

17 Q. Well, I'm not reproaching you for that, but don't you find it a bit surprising that the Rwandan
18 authorities, since 1994, have not provided any information to prove that Jean-Pierre really was an
19 officer in the Presidential Guard or really was an officer in the paracommando battalion?

20 A. Well, to tell you the truth, the authorities in government who won the war in Rwanda, as they have
21 won, I don't know whether it's a priority for them to delve into the history of Jean-Pierre. It's simply
22 one item among a whole body that led to the genocide. It might be interesting for someone to try and
23 research that. My goodness, people research so many things. Well, why not Belgian, French or
24 some other academician could write a thesis on Jean-Pierre? But as far as I'm concerned, I don't
25 know.

26 Q. Well, Colonel Bagosora's Defence team has sought at length any information on Jean-Pierre, and
27 we've found nothing. But when you say -- you mention Rwandan authorities, they would -- there is
28 interest in them for determining who planned the genocide and, therefore, whether Jean-Pierre did
29 exercise the responsibilities he said he did.

30 A. Well, there's other information, in particular, one person whom I know has worked at length on the
31 documents of the time is Mrs. Melvern, who wrote a book on that specific subject.

32 Q. Apparently we will have the pleasure of hearing her, so we'll also ask her about Jean-Pierre.

33

34 You have a first document, which is CLAEFRA-06, which is in English and French. That is a
35 statement, with a translation available in French and English -- because he answered the questions in
36 Flemish -- of Mr. Frank Claeys, who was interviewed specifically on Jean-Pierre. I wonder whether
37 you have that document?

- 1 A. I have it.
- 2 Q. There are a number of things I'm going to ask you details on because I have problems understanding
3 the situation. Frank Claeys says that he's the one who drafted the cable of 11th of January. Do you
4 agree?
- 5 A. What cable?
- 6 Q. The one you sent to New York, the, the cable -- the message that you sent to New York on the 11th of
7 January which summarises Jean-Pierre's story and raises suspicions.
- 8 A. No. What happened is that the cable was drafted by Major Beardsley, and it would appear to me that
9 Claeys had notes, and it was Claeys who went with him to complete the draft and then finalise it later.
- 10 Q. Very well. When he was asked the question as it appears in the version of the cable, as it was
11 disclosed by the Prosecutor, on the issue of whether the cable included elements on a plan to attack
12 the Belgians in UNAMIR, he answered that question -- question number two, answer number two -- "I
13 do not believe that information was contained in it. Jean-Pierre never informed us of the existence of
14 such a plan."
- 15 A. No. The information -- if I recall correctly, in that piece of information it was said that on the 8th of
16 January the demonstrations had a number of objectives, one of them to create a scenario in which the
17 Belgians would be compelled to respond or take action. And in case they used weapons -- they had
18 radio sets, weapons that they were hiding which they could use to begin fighting.
- 19 Q. What I'm telling you is that Claeys is saying that he is not at all aware of a plan by Jean-Pierre talking
20 about provoking the Belgians so that they could be killed and be forced to leave Rwanda. That is
21 what he says.
- 22 A. Is it in the cable of the 11th? I would have to cross-check that.
- 23 Q. If you want the cable of the 11th, I think you could be given the P. 32 or P. 74.
- 24 MR. CONSTANT:
25 If that could be given to the General.
- 26 MR. WHITE:
27 I believe it's tab 4 of P. 171.
- 28 MR. CONSTANT:
29 Thank you.
- 30 MR. PRESIDENT:
31 Is the issue now whether there is an explicit reference to the killing of Belgians in the cable of 11th
32 January? Is that what you're putting to the witness?
- 33 MR. CONSTANT:
34 It's the General who wanted to see the cable, the telegram. My problem is that Claeys is saying that
35 he has never, it would appear, heard, when talking about Jean-Pierre, that there was a plan intended
36 to kill the Belgians so that they should leave Rwanda.
- 37

1 MR. PRESIDENT:

2 Yes, and the question is -- and that's why I'm asking this question. Question two: Did the telegram
3 contain the information that the plotters were planning to kill Belgian soldiers to force the withdrawal of
4 the UNAMIR Belgian battalion? So that is the question. It's the same -- yes, can we agree that that is
5 the question?

6 MR. CONSTANT:

7 Absolutely. And Claeys responds that he does not believe that the information was contained in it,
8 and he said, "Jean-Pierre never informed us of the existence of such a plan."

9 BY MR. CONSTANT:

10 Q. General, if you want to be assisted, I will tell you that reference is made to these at the end of
11 paragraph 2 of what was disclosed to us as a telegram dated January 11th.

12 A. Very well. He says that there is no information of that sort.

13 Q. That's it?

14 A. That is what Claeys says. I would not start -- get into a discussion about Claeys' memory. The
15 information which is written was not fabricated.

16
17 There was also -- and, Mr. President, with your leave -- in the second report on the informant dated
18 January 12th, mention is once again made of the desire to get the Belgians to act so that they can be
19 forced to respond, use their weapons. And because of that, 60 or so weapons were hidden. There
20 were young *Interahamwe* who were going to use it to test their own power. I remember information
21 which told me that the objective at that time was to attempt to kill ten Belgian soldiers -- I remember
22 that figure -- in order to provoke the withdrawal of the Belgians and the elimination of UNAMIR, as the
23 Somalians did to the Americans.

24
25 I have this other report here which continues to deal with the matter, and it's a report which also
26 includes another interview with Jean-Pierre.

27 MR. PRESIDENT:

28 Did you now refer to the 12th of January or --

29 THE WITNESS:

30 Yes, sir.

31 MR. PRESIDENT:

32 -- 13th of January?

33 THE WITNESS:

34 I was referring to the 12th, sir. In the 13th --

35 THE ENGLISH INTERPRETER:

36 Counsel's microphone was not on, is still not on, and the interpreter cannot interpret what he is
37 saying.

1 MR. PRESIDENT:

2 Can you repeat what you just said, Mr. Constant? It didn't get to the record.

3
4 Before Mr. Erlinder intervenes, we want to hear what Mr. Constant said. I think it was to assist us.

5 Would you please repeat what you just said before Mr. Erlinder, whatever he wants to do back there?

6 MR. CONSTANT:

7 The General was talking about a report which -- a copy of which we have not received, and I was
8 trying to raise the issue of the transmission of that document. That's what I was talking (*sic*).

9 BY MR. CONSTANT:

10 Q. General, what I was going to tell you, it is true in your book you talk about ten blue helmets, which
11 was surprising, because at one point in time you said that on the evening, the evening of 7th April,
12 you, you remembered -- you remembered what Jean-Pierre said; but the problem is that in the
13 documents of the time, of January, there is no trace. And what I'm trying to get you to understand
14 about Claeys is that Claeys says that he did not hear anything about such a plan. That is what I want
15 you to, to realise. I think you don't have any answer about the contradiction. This might be a memory
16 problem.

17 A. I'm sorry, it's not that I don't have any recollection of it. I am talking about -- I talk about it. It is written
18 in the report which was sent. The issue remains, was that piece of information part of Jean-Pierre's
19 debriefing or did I have this information previously? I would have to dig into my memory, but it would
20 appear to me that what is written in the report of the 11th is almost verbatim, and it is what Colonel
21 Marchal and the group told me about and which was produced subsequently. And it happened again
22 the day before.

23 Q. What I understand is that Claeys tells us in this statement, on the third line of response or answer
24 number one -- that is in the French version -- that he is the one who drafted the telegram of the 11th.
25 In question number two, he said he had no information concerning the Belgian plan. When you read
26 the documents from the Prosecutor, there's reference to that.

27
28 Now, you are saying that you finalised it. Are you the one who added that piece of information,
29 because Claeys is saying that he doesn't know anything about it?

30 A. I find that extraordinary because in my report of the 11th, if I am not mistaken, I am -- I talk about the
31 blue helmets in paragraph 2.

32 Q. When you talk about the report, you're referring to the fax, right?

33 A. Yes, sorry. In the fax of the 11th, I think it is in the second paragraph that I talk about the Belgians,
34 and if that were a correction or an addition to what is written, according to the procedure of the
35 headquarters, it would have been at the end and not at the very beginning.

36
37 I am telling you this: I do not remember Claeys, I don't remember his presence, but I concede that

- 1 Major Beardsley took part in the drafting, and it was simply normal. I think Claeys must have
2 participated if he took down notes, because the detail was important enough.
- 3 Q. Perfect. When you take the last page of CLAEFRA's statement, at one point in time he said that there
4 was not only one arms cache which was verified. That is the anti-penultimate paragraph.
- 5 A. I do not know which one you're referring to.
- 6 Q. He says at one point in time that he regularly met Jean-Pierre with your blessing, "And at one point I
7 went to the headquarters of MRND with the Senegalese officer, Amadou Deme, and Jean-Pierre,
8 where he showed the Senegalese officer weapons. We saw at least 50 weapons, G3 and AK47
9 stored in burlap bags."
10
- 11 I just wanted to point out to you that it would appear that Claeys says that only one arms cache was
12 visited.
- 13 A. Apparently, yes, but not a few days later, but it was done immediately. It's said here, I'll see if it was --
14 at one point in time, if I'm not mistaken, this was on the second or, at most, the third day.
- 15 Q. But what I'm pointing out, he was interviewed a long time later, and he only referred to the verification
16 to one arms cache?
- 17 A. I don't have any information to give you, and I'm not going to reprimand any of my subordinates about
18 the work that they did. I will leave the answer as it is.
- 19 Q. Let me propose that you take the second document, which is --
- 20 MR. PRESIDENT:
- 21 Before, before we move on to the second document. Is it undisputed on which date this interview was
22 given by Major Claeys? I can't see it. There is a date handwritten on the front page there, but I'm not
23 sure that's the date of the interview. So when was this information received originally in Dutch; do we
24 know?
- 25 MR. CONSTANT:
- 26 I would like to -- I would have to cross-check the Flemish version. I do not know if that information is
27 contained in the English version. I know that it was in 1995, but the exact date I do not know because
28 these are translations of the Flemish version.
29
- 30 Mr. President, I propose that I should cross-check this and come back to you later this afternoon.
- 31 MR. PRESIDENT:
- 32 Please do. You wanted to proceed with the next document?
- 33 MR. CONSTANT:
- 34 Yes. I wanted to talk about the following document, which was an extract of the report of the ad hoc
35 committee, the parliamentary committee of the Belgian senate. These are excerpts, as I say.
- 36 BY MR. CONSTANT:
- 37 Q. Could you go to 253?

1 A. Yes, page 253.

2 Q. Yes, I'm sorry. To explain the general situation to you, it so happens that the Belgian committee --
3 there were two, but we are talking about this one -- listened to different personalities, asked them
4 questions on the events that took place in Rwanda. Amongst others, Faustin Twagiramungu was
5 interviewed by this committee, and on this page there is an extract, which I'm going to read, of what
6 Faustin said concerning Jean-Pierre. That is the last paragraph of -- the penultimate paragraph of the
7 page.

8

9 "Faustin Twagiramungu, who had introduced the informant at the time, mentioned during the meeting
10 of 30th May the importance of Jean-Pierre. Jean-Pierre was a driver." That is an extract of the
11 statement of Faustin Twagiramungu. "Jean-Pierre was a driver. He worked in that capacity with the
12 MRND. He was fired by the MRND, but he remained a member of the *Interahamwe*, unless you're
13 referring to another Jean-Pierre. This type of person is trying to derive benefits which are accorded
14 either for the sale of information or to tell lies. He's trying to boast of bravery that he doesn't possess.
15 He was a Tutsi. He was working with the *Interahamwe*, even if he did not take any decisions."

16

17 What do you think about this statement by Faustin Twagiramungu?

18 A. Not much.

19 Q. Because it would appear that the information that he provides here, that we didn't have to deal with a
20 former soldier of the Presidential Guard or paracommando, he's talking about a driver. Do you have
21 any information about this?

22 A. The only thing I can say is that Mr. Twagiramungu has two different stories on the same subject.

23 Q. You are saying that when Faustin Twagiramungu saw you after the 11th of January, he told you that it
24 was indeed an officer of the Presidential Guard?

25 A. I do not remember all that. What I remember is that when we communicated with him, he told me that
26 it -- he was an important source and that my priority should be his safety or security, because in my
27 notes, and I'll say it in English, "If he's found out, he is a dead duck." And that was in the conversation
28 with Mr. Twagiramungu.

29

30 If I could add, with your permission, when I received the order to bring all the information we had to
31 the presidency --

32 Q. You can just hold on. We'll come to that. I just want to finish up with Faustin.

33

34 What surprises me -- what is surprising is that on the one hand, Faustin Twagiramungu, at least
35 today, is trying to say that Jean-Pierre could not have all that information and that he is himself a
36 Tutsi; and, on the other hand, this is what we have as the situation in January 2000, not January
37 1994, and they seem to be different.

- 1 A. Now, I would like to know which of the reports of the Belgian senate this is referring to.
- 2 Q. Not the report of the ad hoc commission. If you want, it's a 700-page or so document, several-
- 3 hundred-pages document, not the small one. It is in that report.
- 4 A. Very well.
- 5 Q. Does it not confirm the fact that on the -- in January 1994, you were saying somebody was trying to
- 6 manipulate UNAMIR?
- 7 A. As I have had occasion to say, Jean-Pierre's cases had never been closed, as such. Unfortunately, I
- 8 could -- did not take any action to confirm the information, that is, take any action in the field. So
- 9 ultimately Jean-Pierre's information, which was pertinent, I took. And in my mind, I considered it
- 10 reasonable. Besides, seeing that this was part of Faustin's recommendation, and at the time he was
- 11 prime minister designate and he was not a hard-liner, and I had a good level of respect for his
- 12 credibility, and all these affected my decision. So this was information which I considered useful.
- 13 Q. Do you know that Faustin today says that nobody informed him of the existence of a plan or of an
- 14 extermination or genocide plan, not even government services, not UNAMIR? I think if you want
- 15 references, I could give you, but are you aware of that?
- 16 A. Could you state that again?
- 17 Q. I am asking you whether you know that today, Faustin Twagiramungu holds that nobody informed him
- 18 about the existence of a plan, a plan to kill the Tutsis. So he was not available -- not aware of what
- 19 Jean-Pierre said in January 1994.
- 20 A. I am telling you again that Faustin specifically told me about the content of the information which
- 21 Jean-Pierre had.
- 22 Q. Very well. Now, to conclude with this document, as far as Jean-Pierre is concerned, you realise that
- 23 after the passage of Faustin Twagiramungu there is an extract of his statement of the 30th of May,
- 24 1997. There is another extract that talks about General Verschoore. Do you know that person?
- 25 A. I would have to verify exactly who was the person who came to Rwanda in the month of February in
- 26 the company of Minister Claes to talk about the problematic situation of the Belgian battalion. I do not
- 27 think I have any memory.
- 28 Q. General, he states that he knew that the information Jean-Pierre provided was considered to be very
- 29 reliable. And if you turn over the page and you get to page 254, you will see that they talk about the
- 30 person you say was called James Bond, Major Hock. And Major Hock says that, "He was an
- 31 informant of UNAMIR, and if you examined his personality more closely, you realise that he initially
- 32 belonged to the president security services, which had a deplorable reputation. Jean-Pierre was a
- 33 deserter and could therefore not enjoy any trust. Anything he says should be cross-checked."
- 34
- 35 And that was what he said in March 1997. It would appear you have a negative opinion about Major
- 36 Hock. I won't want to insist on that, but what do you think about it?
- 37 A. If that's information he gives here, very well, but that analysis did not come up when he was in

1 Rwanda, neither to the major or to myself, to say that his battalion was aware of this. So if his
2 expression at the time, or four or five years later, does not -- if he's saying four or five years later that
3 he was aware of this, I would question his credibility and his military professionalism.

4 Q. Are you saying that you were not aware that Jean-Pierre was a deserter?

5 A. No, not at all. I do not remember that piece of information at all. And I concede that I could have
6 been informed, and I think that tends to -- reinforces my opinion on the individual.

7 Q. To conclude on Jean-Pierre, with all this information, that is the relativisation that is made today by
8 Faustin, whereas he was the source because he took you there, don't you really think that there's not
9 much credibility in what Jean-Pierre said in January 1994, in any case, in respect of the planning of
10 the genocide against Tutsis?

11 A. I think in 1997 -- this is when the interview took -- I don't think that Faustin Twagiramungu was being
12 protected by the Belgian government. He was not an asylum seeker.

13 Q. Yes, I can check that. But I know that at one point in time he left Rwanda because his life was in
14 danger and he had -- he sought refuge in Belgium. I think that at that time he was also a refugee in
15 Belgium.

16 A. Now, in order to make analysis of the credibility of that content at that time, Counsel, you are giving
17 me information which are contrary to the information that we had on the ground. And in the case of
18 Faustin, that is totally contra, because in the case of Major Hock, he did not at all talk about
19 responsibility as a soldier. The information that you are giving me now, poring here, I can say that
20 does not change anything in my opinion or my action.

21 Q. I'm sorry, I just want to understand you well. Why would you think that the fact that Twagiramungu left
22 Rwanda has a link with what was said?

23 A. This is simply what I thought.

24 MR. CONSTANT:

25 Mr. President, I've finished with Jean-Pierre, and I take note that we have come to the break time.

26 MR. PRESIDENT:

27 Do you want any of these documents tendered?

28 MR. CONSTANT:

29 What I'd like to suggest, Mr. President, is that I'm going to countercheck the date of the CLAEFRA
30 document before tendering it. And with regard to the report of the Belgian senate, there are excerpts
31 which I'm going to use. The Belgian senate's report is about 700, 800 pages. Does the Chamber
32 desire that I tender it in its entirety or I tender just excerpts of the report?

33 MR. PRESIDENT:

34 At least I think it would be useful, because I can see that we jump into Jean-Pierre here on page 253,
35 and that's obviously a continuation of something about Jean-Pierre in that document, so I think we
36 should have at this juncture all the pages relevant to Jean-Pierre in front of us.

37

1 How much is going to be used about this Belgian report in this case? We do not need 700 pages if
2 you're not going to use them.

3 MR. CONSTANT:

4 Yes. We're going to use the report of the Belgian committee. We used it when Mrs. Des Forges was
5 examined. Here, we're going to take an excerpt concerning Jean-Pierre and other problems which --
6 regarding which I'm going to ask questions to General Dallaire, including the issue of the
7 peacekeepers.

8

9 I can tender this excerpt. In this case, I would like to suggest that I will tender it, and what I'll do is I'm
10 going to quote the pages of the Belgian senate report which I'm going to use.

11

12 Yesterday, Mr. President, I think that it was the Prosecutor who expressed the wish that the entire
13 document following the signature of the 20th of December, 1993, regarding the operational procedure
14 for the establishment of the KWSA, be tendered in its entirety, and here is this document, which I'm
15 going to give to Mr. Matemanga.

16 MR. PRESIDENT:

17 All right. But for the time being, the Claeys interview is tendered as D. B62, A in English and B in
18 French, and then you can supplement it with the dates and whatever you need to make it complete
19 later on. That's D. B62, the interview.

20

21 And then we have, then, this D. B63, the senate, and you can come back and inform us how much of
22 it you need to tender after reflection, but this is provisionally the decisions in relation to those exhibit
23 numbers.

24 *(Exhibit No. D. B62A and D. B62B admitted)*

25 *(Exhibit No. D. B63 admitted)*

26 MR. PRESIDENT:

27 That brings us to the break. We'll have about a 20 minutes break.

28 *(Court recessed from 1105H to 1136H)*

29 MR. PRESIDENT:

30 Please proceed.

31 MR. CONSTANT:

32 First of all, Mr. President, CLAEFRA-06 is dated 25th of November, 1995, I think he said -- 28th of
33 November, 1995. That's the first thing I wanted to say.

34

35 And the second thing is, I won't do it now, but I will come back later quite quickly to Faustin
36 Twagiramungu, because my team has pointed out to me that we have another statement from him
37 concerning Jean-Pierre, another statement from him concerning Jean-Pierre.

1 My colleague Mr. Erlinder wants to say something.

2 MR. ERLINDER:

3 Thank you. Mr. President, during the examination this morning we heard about two documents that
4 have not been made available to the Defence at this point, and we'd be making an oral motion that
5 those documents be disclosed. In particular, General Dallaire referred to a United Nations document
6 that was a response to his January 11th telegram. I thought he indicated that he has it with him. He
7 mentioned it was confidential at one time. Since it's a UN document, of course, it's up to the UN to
8 decide whether it's confidential or not. So we'd be moving the disclosure of that.

9
10 In addition, he referred in his testimony this morning to a January 12th document that I guess was a
11 report of some kind. Now, we had requested the reports related to Jean-Pierre and the January 11th
12 telegram earlier this week, and we thought we had them all, but I did notice in reviewing the book that
13 General Dallaire said that Luc Marchal had a lot of notes from January 10th, which I guess were
14 reduced to a report, perhaps not, but then there is this matter of the report that he referred to on the
15 12th that was not part of the disclosure. So we need some clarification on what that document is and
16 why it hasn't been disclosed so far.

17 MR. PRESIDENT:

18 We will deal with that later today at the end, but if you, Mr. Erlinder, since you are very interested in
19 this, could get in touch with other persons in the courtroom that may know something about it, maybe
20 this could be sorted out in an informal way instead of using courtroom time, and maybe at the end
21 there will be no need for a motion.

22 MR. ERLINDER:

23 Mr. President, I'll work on that. If that turns out that it's unavailing, however, we'll be filing a written
24 motion.

25 MR. PRESIDENT:

26 Yeah, thank you.

27

28 Mr. Constant.

29 MR. CONSTANT:

30 Fortunately the documents referred to are here, so we can finish with this.

31

32 Mr. Matemanga, could you distribute, please.

33

34 I'm sorry, but it was on the list. It's the interview -- I've got the English version -- of Mr. Twagiramungu
35 on the 5th of February, 2001, in ICTR-96-10-T, that you were presiding over, Mr. President, with
36 Judges Pillay and Vaz. I should like to submit to the witness a very brief extract.

37

1 MR. PRESIDENT:

2 So what you are receiving now, General, are excerpts of transcripts from the hearing in the
3 *Ntakirutimana* case.

4 MR. CONSTANT:

5 For the record, I suggest that my co-counsel read the extract because it's in English, knowing my
6 capacities in that regard. Page 6.

7 MR. SKOLNIK:

8 It's starting at page 6, and it's line 15. The testimony is:

9

10 "Second, I have to add to this: There has been a famous information, or informer, who sent
11 messages -- and I have read newspapers about the famous fax sent by Dallaire. And, as a matter of
12 fact, it is mentioned in all documents, a VIP has been informed. The people who did inform us were
13 from MRND. They never talked about a plan. They talked about arms hidden.

14 Question: But my issue to you and my question to you, sir, is that you had no official position that
15 would have enabled you to know about a plan of genocide by extremist Hutus. You were not part of
16 them, were you?

17 Answer: You are wrong, because I was prime minister designate officially, and the document of
18 appointment was signed on the 5th of August, 1993. Therefore, I was entitled to all privileges,
19 including being informed about government matters."

20 BY MR. CONSTANT:

21 Q. To finish with this, it would seem that Faustin Twagiramungu is saying that he was not informed about
22 this famous plan but only about arms caches. What would you like to say to that? When I speak of
23 the plan, I'm talking of the plan to exterminate the Tutsi.

24 A. I don't personally remember having spoken to him specifically about the genocide plan, firstly,
25 because it was not a term we used at the time; and secondly, unless he was outside the country, I find
26 it practically impossible to believe that he wasn't at least aware of the rumours that were circulating
27 more and more widely that there was a plan by the extremists to eliminate the RPF in one dimension,
28 but specifically the Tutsi, and more particularly, the Tutsi in Kigali.

29

30 It was on Muhabura radio. RTLM was broadcasting more and more often its antagonistic comments,
31 comments antagonistic to the Tutsi, and certainly in the months and weeks that followed. I don't
32 understand at all how he can -- he could not have been at least informed of the rumour that was
33 circulating in March. It's beyond me. Maybe it's his memory or what, I don't know.

34 Q. Agreed. But General -- I understand what you're saying, even if I don't agree with you -- but he said,
35 "We were controlling, through the prime minister, the MDR's intelligence services. We do not have
36 that information." But more particularly, the question of a thousand Tutsi being killed every 20
37 minutes, he says he never heard about it. So, you confirm that you might not have told him about

1 that?

2 A. Not me specifically. I don't remember that on that morning we discussed a great deal of the contents.
3 My recollection and what I wrote is that it was more bearing on the validity of the informer and that we
4 must do whatever we can to protect him, because if -- to protect his identity, because otherwise he
5 would be killed.

6 MR. CONSTANT:

7 Can we tender this document, Mr. President?

8 MR. PRESIDENT:

9 D. B63, then -- 64, 64.

10 MR. CONSTANT:

11 Sixty-four.

12 *(Exhibit No. D. B64 admitted)*

13 THE ENGLISH INTERPRETER:

14 Sorry.

15 MR. CONSTANT:

16 I would like to clear up a few points with you.

17 THE ENGLISH INTERPRETER:

18 I'm sorry, I think he'd better repeat the question. My microphone was off. Sorry, sorry.

19 MR. PRESIDENT:

20 Mr. Constant, the mike in the interpreter's booth was not on. Can you repeat your introduction,
21 please.

22 MR. CONSTANT:

23 Yes, Mr. President.

24 BY MR. CONSTANT:

25 Q. Can you confirm that on the 13th of February, the SRSG, Mr. Booh-Booh, held a meeting where he
26 proposed a solution for establishing the broad-based transitional government, and that it was refused
27 by those who you call the moderates in the RPF?

28 A. There were several meetings. There were initiatives taken on the part of the SRSG on a few
29 occasions. To remember specifically the 13th of February, I must admit that I would need parameters
30 to confirm exactly, because the 13th of February --

31 Q. Well, what I propose, therefore, is to make a small quotation from page 237 of the French version,
32 and page 178 and 179 of the English. And there is a paragraph which begins in the French words,
33 "During the general --" the last paragraph on page 178.

34
35 "During the general discussion, an idea came up, which I had also been mulling over, why didn't we
36 swear in those deputies and ministers on whom everyone had agreed, set up the transitional
37 government, leaving the few positions that were so contentious unfilled, and let the new government