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THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

3 CASE NO.: ICTR-98-44-T
4 CHAMBER III

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THE PROSECUTOR
OF THE TRIBUNAL
v.
ÉDOUARD KAREMERA
MATHIEU NGIRUMPATSE
JOSEPH NZIRORERA

10 MONDAY, 27 NOVEMBER 2006
11 0907H
12 CONTINUED TRIAL
13

14 Before the Judges:

15 Dennis Byron, Presiding
16 Emile Francis Short
17 Gberdao Gustave Kam
18

19 For the Registry:

20 Ms. Rose-Marie Kouo
21 Mr. Issa Mjui
22

23 For the Prosecution:

24 Mr. Don Webster
25 Mr. Iain Morley
26 Mr. Saidow N'dow
27

28

29 For the Accused Édouard Karemera:

30 Mr. Félix Sow
31

32 For the Accused Mathieu Ngirumpatse:

33 Ms. Chantal Hounkpatin
34

35 For the Accused Joseph Nzirorera:

36 Mr. Peter Robinson
37 Mr. José Patrick Nimy Mayidika Ngimbi

38 Court Reporters:

39 Ms. Donna M. Lewis
40 Ms. Ann Burum
41 Ms. Sherri Knox
42

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1 PROCEEDINGS

2 MR. PRESIDENT:

3 Good morning everybody.

4

5 Madam registrar, could you open the proceedings, please?

6 MS. KOUO:

7 Yes, Mr. President, thank you.

8

9 Trial Chamber III of the International Criminal Tribunal for Rwanda, composed of Judge Dennis Byron,
10 presiding, Judge Emile Francis Short and Judge Gustave Kam, is now sitting in open session, today,
11 Monday, the 27th of November 2006, for the continuation of trial in the matter of the Prosecution versus
12 Karemera et al, Case Number ICTR-98-94-T. Thank you.

13 MR. PRESIDENT:

14 Thank you.

15

16 The appearances are the same.

17

18 Good morning, Mr. Witness.

19 THE WITNESS:

20 Good morning, Your Honour.

21 MR. PRESIDENT:

22 All set to continue this morning?

23 THE WITNESS:

24 Indeed, sir.

25 MR. PRESIDENT:

26 Okay, Mr. Sow will continue with his cross-examination.

27 MR. SOW:

28 Much obliged, Mr. President. Good morning, Mr. President, Your Honours, and good morning to those
29 in the Trial Chamber; and good morning, Colonel.

30 THE WITNESS:

31 Good morning, Mr. Sow.

32

FRANK CLAEYS,

33

CROSS-EXAMINATION (continued)

34 BY MR. SOW:

35 Q. So, we will continue with the cross-examination this morning. And if you recall, we were still talking
36 about Jean-Pierre with the lists that he had talked to you about. Colonel, Jean-Pierre alleged that those
37 lists were being drawn up, did he not?

1 A. Yes, indeed.

2 Q. Colonel, why did you not then ask Jean-Pierre to, at least, provide you with those lists, i.e., the few lists
3 that he referred to, or was it the case that not all of the lists had been compiled at that time?

4 A. We did ask Jean-Pierre to have the lists. And he said the lists were in the process of being made up,
5 whatever process this might have been, and he didn't provide them to us.

6 Q. Were I to put it to you that one of the members of the *Interahamwe* who testified here claimed, since
7 June 1992, when a part of the opposition went to Brussels with a view to clenching a deal with the RPF,
8 and from that date on it had been decided, according to that person, that lists had been drafted; well,
9 what would your comment be to that?

10 A. My comment is very short, has this been cross-checked?

11 Q. Colonel, this is a piece of information similar to that given to you by Jean-Pierre, and this piece of
12 information was provided by a member of the *Interahamwe* who, or so he claimed was very close to
13 Jean-Pierre?

14 A. If this information, apparently, was available in '92, probably other people were able to cross-check that
15 before.

16 Q. Before meeting Jean-Pierre, were you aware of the lists, of the existence of those lists?

17 A. No.

18 Q. Of the 135 firearms that Jean-Pierre referred to when talking to you, only 50, according to what you
19 have said, only 50, according to what Captain Deme said, were actually found. Can you confirm that
20 fact?

21 A. Yes.

22 Q. So, according to what you said, Captain Deme, in the company of Jean-Pierre, saw approximately
23 50 firearms. Now, why did you not immediately seize said firearms, the ones that Deme claims to have
24 seen, or at least take a few specimens of said firearms with you?

25 A. Your Honour, I'm still rewinding the same tape.

26 MR. PRESIDENT:

27 We thought the same thing.

28 THE WITNESS:

29 If that would have been our mission then we would have brought these weapons outside of the MRND
30 storage place. That evening we had been, after the meeting with Jean-Pierre in the headquarters of
31 the *secteur*, allowed by Colonel Marchal to go and visit this place and observe with UNAMIR eyes the
32 effective presence of weapons. There was no reason to offend whatever party; this was not the
33 mission of UNAMIR. The mission was to help Rwanda in its peace process and to convince whatever
34 party to cooperate in this process.

35 BY MR. SOW:

36 Q. Colonel, you declared before this Trial Chamber that that nocturnal visit occurred on the
37 12th of January; is that, indeed, the case?

1 A. To my recollection it was on the 12th, yes.

2 Q. The meeting with the MRND and General Dallaire was also held on the afternoon of the 12th; was it
3 not?

4 A. With hindsight, yes.

5 Q. Could you please explain to the Trial Chamber, therefore, how it is that the meeting that was held in the
6 afternoon that was to inform the MRND of the existence of arms cache was held and that you yourself
7 and Captain Deme went that very evening after the meeting to the caches; is that logical?

8 A. It might look illogical but I suppose also that it would not be the president of the party, neither his first
9 secretary nor his vice president which would take these weapons and remove them whilst Jean-Pierre
10 is going to another meeting. So the only other possibility that there was is that Jean-Pierre would have
11 cancelled his meeting to remove these weapons at that moment. Otherwise, he had no opportunity to
12 do it, and as he was responsible for it, he was not able to do it immediately after this meeting with the
13 president -- with the party's authorities because he had the meeting with us.

14 Q. At an earlier stage, I mentioned a witness who was a member of the *Interahamwe* and who claimed that
15 he was very close to Jean-Pierre. He talked to us of approximately 600 rifles. And he claimed that
16 three quarters, approximately 480 rifles that is, were sold by Jean-Pierre to FRODEBU. Were you
17 aware of that?

18 A. I'm not aware about this information. But I have a question; if he was only a driver, it's very strange
19 then.

20 Q. Of course, Colonel, we are in a world of strange happenings. Everything that happens here is strange
21 and unbelievable as well. So, Colonel, I shall go on. Now, Colonel, we are going to talk about the
22 demonstration of the 8th of January 1994. You claimed that Turatsinze was worried and he said that if
23 he hadn't been able to control that demonstration, there would have been a certain amount of
24 provocation and that the demonstration would have come to an end. Can you confirm that fact?

25 A. This was, indeed, his concern.

26 Q. Did you understand that it was, in fact, thanks to Jean-Pierre that the demonstration went well, the
27 demonstration held on the 8th of January that is?

28 A. I wouldn't say only by his behaviour. There were rules of engagement for the UN forces, and
29 apparently, the demonstration didn't provoke whatever party.

30 Q. Would you agree with me when I say that the UNAMIR forces taking care of security in the capital were
31 placed under the authority of Luc Marchal?

32 A. What the armament UNAMIR forces were concerned, yes?

33 Q. Were you aware that Colonel Luc Marchal discussed the demonstration with General Dallaire?

34 A. At what point in time?

35 Q. I presume that was before the demonstration dated the 8th.

36 A. Yes, probably because he had to prepare this operation.

37

1 MR. SOW:

2 Mr. President, at this juncture I would like for document number 6 to be handed over to the colonel with
3 the help of the registry -- I'm sorry, it is document number 5.

4 THE WITNESS:

5 I have the document in front of me.

6 BY MR. SOW:

7 Q. Thank you, Colonel. Now, the part that we are interested in would be the paragraph to the right-hand
8 side of the page. It is, in fact, an excerpt from the book by Christophe Vincelet entitled, "*The Death of*
9 *the Ten Blue Helmets in Kigali*"?

10 A. I have an extract of the book in French of Luc Marchal.

11 MR. SOW:

12 Counsel, my assistant just told me that it is, indeed, document number 6. And I apologise for that.

13 THE WITNESS:

14 I have document 6 in front of me.

15 BY MR. SOW:

16 Q. So, we are examining the section of the document to the right-hand side of the page. And you have the
17 beginning of the sentence where Colonel Marchal, who is being interviewed by Christophe Vincelet
18 claims the following: "During a demonstration on the 8th of January 1994, I received an order from
19 General Dallaire to interrupt the demonstration. But I thought about the order he gave he somewhat. I
20 decided that it was too dangerous. First of all, the gendarmerie was there in order to maintain order.
21 What is more, we had neither the equipment nor the technique in order to maintain order, and it would
22 have been counterproductive to bring that demonstration to an end. People would have said, well it is
23 the Belgians hitting the Rwandans once again." So that is what Luc Marchal declared on the subject of
24 that demonstration?

25

26 Were you aware of that declaration made by Colonel Luc Marchal?

27 A. At no point in time was I aware about this. And this is the first time I read about it.

28 Q. Now, what comment would that bring to mind on your part?

29 A. I have different comments. I was not in charge of the operations; this makes me understand why I was
30 just to look at weapons and not trying to recover them. And that, anyway, I was not in the complete
31 loop of all what was going on in Rwanda.

32 Q. Colonel, the Belgians never came into any trouble of any sort until the assassination of
33 President Habyarimana, now did they?

34 A. Yes, to my knowledge.

35 Q. With the murder of the president of the republic, Mr. Habyarimana, can you tell us whether during that
36 same period the RPF resumed fighting?

37 A. Only by hearsaying (*sic*). I was not at Kigali during those days.

1 Q. Colonel, according to you what were the consequences of the assassination of the president of the
2 republic, Mr. Habyarimana?

3 A. I don't know if I can give any comment on that. The airplane clashed. And what follows are things we
4 are not in control of.

5 Q. Colonel, you told us that you, indeed, left Rwanda on leave. And that you, subsequently, came back on
6 the 6th of April. It was my understanding that after your leave you were posted elsewhere. You left
7 UNAMIR, and the reasons for that were family reasons; is that correct?

8 A. Firstly, I didn't come back to Kigali as such, I just was in the airplane above Kigali and I didn't land on
9 the 6th of April. The airplane was diverted to Nairobi, and then back to Belgium. And, indeed,
10 somewhere in the administrative system somebody wrote a fax to UNAMIR headquarters making up a
11 family story to explain the reason why I would join the extraction force, and not to join UNAMIR
12 headquarters when landing in Kigali.

13 Q. Was your opinion sought before you were posted elsewhere?

14 A. Appointed to what? And at no point in time, as I said, neither to UNAMIR, neither to the extraction
15 force, was my opinion or my point of view was asked.

16 Q. Colonel, kindly explain to this Court how, really, on the 6th of April when, apparently, the president's
17 plane had to return and it had not yet been brought down, that Belgium decided to evacuate its
18 nationals? Was there, in the background, some expectation regarding the situation which would
19 subsequently unravel?

20 A. This is a wrong interpretation of the timing that -- as I had explained before the airplane had already
21 clashed when the Belgium C130 Hercules was not able to land any more in Kigali, the airport was
22 closed and darkened. And so there were no lights for traffic for airplanes. I flew to Nairobi; spent the
23 night in Nairobi. And then flew back to Belgium where, at that point in time, the Belgium government
24 had stated that they would start an evacuation operation. At that point in time I was appointed to a
25 position within the evacuation force. An evacuation missions follows after a governmental decision in
26 Belgium. So, I wasn't appointed on the 6th of April to an evacuation mission or whatsoever.

27 Q. Colonel, I'm going to rephrase my question because I think that from the way you answered my
28 question, it was not properly construed so I'm going to rephrase it. What I would like to know is this; at
29 the time when you were on the plane, certainly on the 6th, so you were in the skies. The president's
30 plane was shot down around 8:30 p.m. on the 6th. What was the location of your plane? Were you still
31 in Belgium, the plane had not yet taken off? Or had the plane taken off, and you were already
32 airborne? That is what I want to understand.

33 A. That is, indeed, more precise. The airplane was within miles of reaching the airport of Kigali.

34 Q. So, if I understand properly, the evacuation mission had already been decided upon before that plane
35 was brought down? If such was not the case, then explain to us what was the mission of those who
36 were on that plane?

37 A. I will try to be, again, precise. I went on leave on the 29th of March. The end of my leave was planned

1 on the 6th of April. In this airplane were different UNAMIR officers that went on leave together with me.
2 This airplane was approaching Kigali to land at the scheduled time which wasn't made possible due to
3 the plane crash, which we happened not to know, but because also the airport was closed at that time.
4 There was no lighting to make it able to land, and it was no control with the tower. And after half an
5 hour circulating above Kigali, we were diverted to Nairobi. So there was no evacuation mission
6 ongoing; it was a normal travel flight between Brussels and Kigali. There was no armed personnel on
7 board, only people with their luggage coming back to continue their mission. And you can't start an
8 evacuation mission with one airplane.

9 Q. Colonel, thank you for your answer, which, indeed, is very precise. Now, I would like to find out from
10 you, you said in the plane there was no armed personnel. But did that plane have -- or was the plane
11 equipped with anti-missile devices?

12 A. The Belgium technical airplanes from the time, C130, had been equipped with anti-missile flares at that
13 point in time.

14 Q. As far as you know, when the Belgium contingent withdrew from Rwanda, were you aware of what
15 became of the various positions occupied by the Belgium contingent in Rwanda?

16 A. Your Honour, can Mr. Sow be more precise about what type of Belgium contingent, with UNAMIR or in
17 the evacuation contingent?

18 Q. I am referring to UNAMIR?

19 A. I'm not able to respond to that question, I was not there anymore. I left on the 15th or 16th of April, the
20 Belgium troops that left Kigali left four or five days later, to my knowledge.

21 Q. Thank you, Colonel. I will end with a last question; Colonel, on the 23rd of November 2006, while you
22 were being examined before this Court. And you stated, as we have in the draft transcript of Thursday,
23 23rd of November 2006, on page 54, point 12, this is what you said:

24

25 "At the time I would say, no, I did not have any intelligence training, nor did my three colleagues for that
26 matter. We were experiencing a fairly strange situation. I think that all what we were told at that time is
27 what I would refer to as surprising."

28 MR. SOW:

29 Mr. President, this morning I asked my legal assistant to hand to you a transcript of trial in the
30 Bagosora et al matter. And it is transcript for Wednesday 7th of April 2004. I disclosed that transcript in
31 English and French versions. I would also like that the document in question be given to the witness. It
32 is document number 10.

33 THE WITNESS:

34 I have the document in front of me.

35 BY MR. SOW:

36 Q. Thank you, Colonel. There are two documents before you, Colonel, one in English, one in French.
37 What is your preference for our purposes?

1 A. I can follow in both.

2 Q. So --

3 MR. MORLEY:

4 I'm on my feet briefly, it may be of assistance to the Bench and Mr. Sow to establish from the witness in
5 which language he gave this evidence in 2004. I see that Mr. Constant was asking questions, who is a
6 French speaker. And it may be of significance in which language the colonel was responding.

7 BY MR. SOW:

8 Q. Witness, did you hear the question?

9 A. Yes, indeed, I have heard the question. In those days I have answered to questions in French to
10 *Maître* Constant.

11 Q. Thank you, Witness, you have an excellent memory. So I'm going to read the French draft transcript.
12 As I said, it was on the page 38 of the trial transcript of the 7th of April 2004, point 12, wherein you
13 answered as follows -- no, correction, point 16. And you answered, following a question put to you by
14 Mr. Constant, the counsel, regarding what type of training did you have.

15
16 And you said: "Of course, I had just completed in July my training as senior officer candidate at the
17 defence institute in Brussels. And from the 19th of July 2003, I had been posted as intelligence officer
18 in the paracommando brigade, in the headquarters of the paracommando brigade."

19
20 And Mr. Constant said: "I believe it was on the 19th of July 1993?"

21
22 And your answer was: "Yes, '93."

23
24 And in the English version, it is the transcript of the same date on page 38, regarding point 5.

25
26 Colonel, first with this excerpt of your testimony where you acknowledged having been trained as an
27 intelligence officer because, indeed, here you spoke in French and the English translation was
28 "intelligence officer". How come that despite this testimony which you had already given, here in this
29 courtroom you told us the contrary? Can you explain that for us, please?

30 THE WITNESS:

31 Can I answer, sir?

32 MR. PRESIDENT:

33 If you wish, yes.

34 THE WITNESS:

35 The question that was stated by *Maître* Constant was which training have you got to be sent to Kigali.
36 And my answer was that I followed the training course for one year at the higher defence institute to
37 become a superior officer, so that is the ranks starting from major. And that I had been appointed to a

1 post as intelligence officer. At no point in time I have stated that I have followed the training for this
2 position.

3

4 And I might invite this Court to go into my personal files that are not classified and probably available in
5 Brussels to this Court, to see that I finally followed the intelligence course in the year '96, to be
6 reappointed for second time to this position as an intelligence officer. This course lasted 13 weeks, and
7 I followed it in the Netherlands.

8 BY MR. SOW:

9 Q. Thank you, Colonel.

10 MR. SOW:

11 Mr. President, no further questions for this witness. All what remains for me to do before ending is to
12 move to admit into evidence a number of documents which were used during my cross-examination,
13 namely, document number 4 on the bundle which I disclosed, dealing with -- or bearing K number,
14 K0103683 and concerning a testimony giving by Colonel Claeys. So I would like to admit this
15 document into evidence. If the registry could be kind as to give us the exhibit number?

16

17 Also, Mr. President --

18 MR. PRESIDENT:

19 Mr. Sow, hold on, please.

20 MS. KOUCO:

21 D. K11, Your Honour.

22 MR. PRESIDENT:

23 Admitted.

24 *(Exhibit No. D. K11 admitted)*

25 MR. SOW:

26 Thank you, Mr. President. Also I would like to put in the excerpt of the journal, *Diplomat Judiciaire* --
27 or *Diplomatie Judiciaire*, number 83 of March 2002. It is a newspaper article relating to statement given
28 by Mr. Faustin Twagiramungu, prime minister designate, in connection with Jean-Pierre Turatsinze.
29 That document was shown to the witness. So, I would like to put it in also.

30 MR. MORLEY:

31 In respect of the first application, no objection.

32

33 In respect to the second, there is a concern, I'm not entirely sure of what the provenance of this
34 document is. It is an article, not a statement, which piecemeal alleges that it quotes, without the full
35 context being available, certain things that Twagiramungu said. It is my respectful submission that this
36 is not a document which can go into evidence as evidence of the truth of its content.

37

1 MR. SOW:

2 Mr. President, the sources were known, the source was clearly stated regarding that newspaper.
3 Furthermore, I am at pains to understand, given that this document was used during the
4 cross-examination. There was no objection to the document being used, so I do not see how the
5 document is going to pose any difficulties whatsoever, given that it concerns Jean-Pierre and his very
6 reliability.

7

8 So it is up to the Chamber to assess the probative value of the document. That is why I am requesting
9 that the document be tendered as evidence; or if the Prosecutor now wants that the entire document be
10 provided, no problem. In any case, what is at issue here is the reliability of Jean-Pierre Turatsinze as
11 assessed by that important personality who put him in touch with UNAMIR.

12 MR. WEBSTER:

13 Your Honour, when we discussed this document, I did voice an objection, maybe it wasn't formally
14 couched as an objection, but I interrupted Mr. Sow. My concern at that time was that he was only
15 reading bits and pieces of it, and he didn't give the witness an opportunity to comment on the entire
16 document.

17

18 But behind that objection was a concern of whether even Faustin Twagiramungu's words were
19 accurately recorded in this article. When Mr. Sow had put his questions to the witness, you couldn't tell
20 what Twagiramungu was saying from what the journalist was saying. So, this is one of the issues.

21

22 This is an issue that has come before the Chamber on a number of occasions and I think we need to
23 adopt a consistent approach. But as a matter of record, the Court should recall that I did have some
24 concerns about the way this document was being used when it was being put to the witness.

25

26 Let me turn -- allow my colleague to continue with his observations.

27 MR. MORLEY:

28 Not many observations. My learned friend is perfectly entitled to put under the nose of any witness any
29 document. The issue which arises is whether the witness adopts the content of the document. My
30 understanding is that the content of the document was not adopted. It, therefore, floats about the court
31 as an unadopted piece of material which in its present form the accuracy of which cannot be tested,
32 and it does not appear in the form of a statement which might be thought by the Bench to be in a more
33 reliable form.

34

35 Having said all of that, even a statement -- and Your Honours will recall various arguments which have
36 taken place in this trial about what happens to unadopted statements -- even a statement, if not
37 adopted, cannot be put before the Court as evidence of the truth of its contents. It is my respectful

2

1 submission, it is plain from the way Mr. Sow has put the argument, that he wishes Your Honours to
2 read the article as an exhibit, as evidence of the truth of the reliability of Turatsinze. That, I respectfully
3 submit, cannot be right. Your Honour is dealing here with somebody who is before the Court, who has
4 met Turatsinze, who has offered evidence. Your Honour is dealing in a document with the report of a
5 journalist of what is supposed to be a conversation with Twagiramungu about whether or not Turatsinze
6 is or is not reliable. And it is my respectful submission that unless adopted, that document cannot go in
7 evidence as the truth of its contents.

8 MR. SOW:

9 Mr. President, I just wanted to say that it is not the first time that our -- an article from, or and excerpt
10 from a newspaper be entered and admitted as an exhibit. We have here an article from *Invahe*
11 newspaper. And it is not the first time. And I believe that even as a worse case scenario, this
12 document could serve as an ID document. I do not believe that any doubt could be cast as to what
13 Faustin said.

14 MR. WEBSTER:

15 One further comment, Your Honour. My recollection is that when newspaper articles have come into
16 evidence before, they were contemporaneously generated articles. And the witness adopted portions
17 of the content of the article itself. That was the case with several articles that came with Ahmed
18 Mbonyumkiza and other witnesses. This article is in a completely different category. This is something
19 from, I believe it was 2000 -- March 2002. And I simply wanted to bring that to the Court's attention.

20 MR. PRESIDENT:

21 Mr. Sow, on Thursday Mr. Robinson very kindly reminded us of our line of reasoning on these issues.
22 This document we won't admit it through this witness. We will mark it for identification only. The
23 witness can't speak to the document, and he didn't adopt it. So, we will mark it for identification. So if,
24 at some future time, you have a witness who can speak to the document, we will reconsider the
25 application for its admission.

26

27 Madam registrar, identification number, please; identification number?

28 MS. KOUO:

29 Mr. President, I'm sorry, I don't have the last ID number. I will provide it to the Chamber later, as soon
30 as Issa comes back.

31 MR. ROBINSON:

32 Mr. President, this will be ID. K2.

33 MR. PRESIDENT:

34 Thank you, Mr. Robinson. I think we can rely on you, Mr. Robinson, ID. K2 admitted.

35 (*Exhibit No. ID. K2 marked for identification*)

36 MR. SOW:

37 Obligated, Mr. President. I would like also to thank my learned friend, Counsel Robinson.

1 Mr. President, I would also like to have admitted into evidence the excerpt from the book by Colonel
2 Luc Marchal that I used, that is the book entitled (*French spoken*), the French title, page 166. I would
3 like for this document to be admitted into evidence, that is document number 5 on my list,
4 Mr. President.

5 MR. PRESIDENT:

6 Mr. Sow this is the same point, we will mark it for identification. And it will be ID. K3.
7 (*Exhibit No. ID. K3 marked for identification*)

8 MR. SOW:

9 Obligated, Mr. President. I would also have another document that I would like to have marked for
10 identification purposes. That is book by Christophe Vincelet, (*French spoken*), that is *The Death of the*
11 *Ten Blue Helmets in Kigali*. And that is document number 6. And I would like for this to be entered into
12 evidence.

13 MR. PRESIDENT:

14 Yes, marked for identification ID. K4.
15 (*Exhibit No. ID. K4 marked for identification*)

16 MR. SOW:

17 Now, the final exhibit that I would like to have admitted into evidence would be the transcript of the trial,
18 Bagosora et al, dated the 7th of April 2004. And that would be page 38 of said transcript, in both
19 English and French. And in view of the fact that the witness expressed himself in French, the French
20 transcript will be marked A, and the English transcript will be marked as exhibit B. Could the registrar
21 please help us?

22 MS. KOVO:

23 D. K12.

24 MR. PRESIDENT:

25 This will be admitted into evidence, yes as --

26 MS. KOVO:

27 D. K12, D. K12A and B.
28 (*Exhibit No. D. K12A and D. K12B admitted*)

29 MR. SOW:

30 Mr. President, I would like to thank you. I have now come to the end of my cross-examination. I would
31 also like to thank the colonel; thank you.

32 MR. PRESIDENT:

33 Thank you, Mr. Sow.

34
35 Now, Mr. Claeys, you now have to answer questions from counsel representing for
36 Mr. Joseph Nzirorera. And Mr. Robinson will be -- is his lawyer, and he will be cross-examining you
37 now.

1 Mr. Robinson.

2 MR. ROBINSON:

3 Yes, thank you, Mr. President. And I wonder if I can enquire as to the status of the duplication of my
4 exhibits, which I provided at 8 o'clock this morning? If they are ready, we can proceed.

5 MS. KOJU:

6 Yes, Mr. Robinson, I sent the electronic version of all of the exhibits this morning. The hard copies are
7 coming.

8 MR. MORLEY:

9 Insofar as far as Your Honour's assistant is bringing hard copies to court, we don't have any yet, I think
10 Your Honours don't have any yet. We are wondering whether if they are coming to court, as there
11 aren't any to put in front of the witness, it may make sense for us to take the morning break now. It is
12 15 minutes early, but on the other hand, we will then have the document. Unless my learned friend,
13 Mr. Robinson, is not going to be referring to documents for a little bit of time.

14 MR. ROBINSON:

15 Well, Mr. President, I had planned on using the documents right away. There is one other thing we can
16 do. I can revert -- I was going to do it at the very end of this, but I can do it at the beginning, concerning
17 the admission of previously identified UNAMIR documents pursuant to your decision. If you want me to
18 do that now, we can take some time with that now. I have those -- those documents are already in the
19 courtroom. They have previously been marked for identification.

20 MR. PRESIDENT:

21 You can continue, Mr. Robinson.

22 MR. ROBINSON:

23 Thank you, Mr. President. Actually, Mr. President, even before I address the witness, I would like to try
24 to activate paragraph 11 of your decision on the admissibility of UNAMIR documents. In that paragraph
25 you said that the Chamber is also of the view that UNAMIR documents could be admitted without being
26 tendered during the examination of the witness, provided that, "The moving party shows for each
27 document its relevancy and probative value. So, I was going to propose as a matter of saving some
28 time, to go through those documents and indicate the relevance and probative value of them, because I
29 think there are -- that is already established without the necessity of questioning the witness. But if you
30 feel you want to do it another --

31 MR. PRESIDENT:

32 Can you interrupt you? Have you given notice to the Prosecutor of the documents you intended to
33 introduce in this manner?

34 MR. ROBINSON:

35 I haven't given notice as of today, but these are all the ones that were with Witness ALG, that were the
36 subject of your decision. And you noted in your decision that they would come up with Mr. Claeys.

37

1 MR. PRESIDENT:

2 Yes, Mr. Robinson -- Mr. Morley.

3 MR. MORLEY:

4 Very briefly, Your Honour, it may be that the most practical way of dealing with the documents is to put
5 them before the witness and he will, one anticipates, be able to say something about them. I don't
6 know. And then that way the documents will, if he is able to comment on them, and explain to
7 Your Honour their relevance and so on, they would go into evidence in the usual way.

8
9 I'm not quite clear what the consequence of simply admitted into evidence the various documents are,
10 simply by decree, if the witness himself doesn't look at the documents during the course of the
11 cross-examination. My thinking is, as matter of practicality, we have a UNAMIR officer here, let him see
12 those documents that my learned friend wishes to attempt to put into evidence. That is my thought.

13 MR. PRESIDENT:

14 We can do it that way. You see the witness has not been cross-examined on the document. He is just
15 establishing a basis for which they could be admitted into testimony. But you can proceed in that way,
16 Mr. Robinson. I thought that it may have been that if notice had been given that process might have
17 been short-circuited. But in the circumstances, he can proceed through the witness.

18 MR. ROBINSON:

19 Yes, I --

20 MR. WEBSTER:

21 Just one further comment. To me, to my mind it goes beyond just placing the document in front of the
22 witness. When they were tendered with the last witness, that witness was directed to a specific
23 paragraph in each of the documents, and there was a specific meaning that Mr. Robinson wanted to
24 elicit from the witness through the document. So, I would think that the only appropriate way to proceed
25 is to go back to that very issue; the issues that were raised with respect to each document, and to lay
26 the foundation, through this witness, for that portion of the document that was relevant for the Defence
27 case.

28 MR. ROBINSON:

29 Well, Mr. President, what I would like to do is go -- leave this to the end of my cross-examination. I
30 think it is going to take about half a day, or a few hours to do this. So I think I don't want to start it now.

31
32 So I think my exhibits have also arrived, so, perhaps, they could be distributed, and I could just follow
33 my normal way of cross-examination. And if the Prosecution, in the meantime, wants to reconsider
34 whether they would have any objection to the admission of the previously marked documents for
35 identification without the necessity of having this officer lay a foundation, perhaps, they can think about
36 it during the lunch recess and I'll -- otherwise, I will be prepared to go through each document with him,
37 if that is what the parties would like me to do.

1 MR. PRESIDENT:

2 Yeah, Mr. Robinson, after all of that, I think we'd better take the break so that you can start properly
3 after the recess.

4 MR. ROBINSON:

5 Thank you.

6 MR. PRESIDENT:

7 We will take our mid-morning recess now.

8 *(Court recessed at 1020H)*

9 *(Pages 1 to 14 by Donna M. Lewis)*

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1 (Court resumed at 1049H)

2 MR. PRESIDENT:

3 Yes, you can continue now, Mr. Robinson.

4 MR. ROBINSON:

5 Thank you, Mr. President.

6 CROSS-EXAMINATION

7 BY MR. ROBINSON:

8 Q. Colonel Claeys, (*Dutch spoken*).

9

10 I want to, first of all --

11 MR. ROBINSON:

12 I don't see any translation of that. I think maybe Mr. Morley's pupil could translate that, but I guess

13 nobody in the interpreter's booth --

14 THE ENGLISH INTERPRETER:

15 (*Microphones overlapping*)...well, the interpreting booth could, indeed. It means "good morning."

16 MR. ROBINSON:

17 Thank you.

18 MR. MORLEY:

19 Your Honours will observe that Ms. Seymour is fluent in Dutch as well, apparently.

20 MR. ROBINSON:

21 We have very talented people in our language section, that's for sure.

22 BY MR. ROBINSON:

23 Q. So, Colonel Claeys, first of all, I want to thank you for coming to testify for the third time at the Tribunal.

24 I hope it'll be your last, and I want to tell you that there's no doubt, at least on our Defence team, that

25 you have accurately recounted what Turatsinze told you, and the issue for this Trial Chamber will be

26 whether what he told you about a plan to kill Tutsis was true.

27

28 So I want to turn to what exactly he told you, and if you could look at the package that Mr. Morley

29 prepared, and particularly the cable of the 11th of January.

30

31 And turning to paragraph six, which is page 4 of that bundle, it's true, is it not, that Mr. Turatsinze told

32 you, with respect to lists, that he suspects it is for their elimination, correct?

33 A. Yes, it is correct.

34 Q. Now, he had told you that he had direct access to leaders of the MRND, correct?

35 A. Yes, it is correct.

36 Q. And he told you that he was organising the training of *Interahamwe*, correct?

37 A. Yes, indeed.

1 Q. And would you agree that he had apparently never been told explicitly that the Tutsis were to be
2 eliminated?

3 A. Yes.

4 Q. And that he had never been instructed explicitly to train *Interahamwe* to eliminate Tutsis, correct?

5 A. Yes, indeed.

6 Q. And also in paragraph six, he says that they could kill 1,000 Tutsis in 20 minutes, correct?

7 A. Yes, as an example.

8 Q. And he never told you that the *Interahamwe* had been trained to do that, correct?

9 A. Still correct.

10 Q. So he never told you, for example, that they had been trained in how to approach houses in the middle
11 of the night, how to enter locked premises, how to neutralise head of the household, or anything like
12 that, correct?

13 A. Indeed.

14 Q. And, in fact, in all of your meetings with him, he never told you that the MRND leaders had instructed
15 the *Interahamwe* to kill Tutsis, correct?

16 A. He never spoke about that in those words, no.

17 Q. And so what he was expressing to you was only his suspicion, correct?

18 A. Yes, that was his concern. Might -- we might formulate it like a concern.

19 Q. And he presented that concern as the motive for why he had come to UNAMIR, correct?

20 A. Yes.

21 Q. And in paragraph seven it's noted that he disagrees with the anti-Tutsi extermination, and that was the
22 reason he gave for why he had come forward, correct?

23 A. Yes.

24 Q. And I take it that you never became aware of any other motive that he might have had; is that true?

25 A. No, indeed.

26 Q. He never asked for money, he only asked for protection; is that correct?

27 A. Yes.

28 Q. And I take it that you were not aware that he had sold a large number of weapons earmarked for the
29 *Interahamwe* to a Burundian organisation known as FRODEBU and had pocketed the money?

30 A. No. I learned about this for the first time today.

31 Q. Now, I want to ask you some questions about how he came to UNAMIR. He didn't come directly to
32 UNAMIR, but he came through the wing of the MDR party led by Faustin Twagiramungu, correct?

33 A. That's how I perceived it, yes.

34 Q. I'm going to ask that you be shown the document which is number 7 in our list of exhibits that have just
35 been distributed. It's an excerpt from a Radio Rwanda broadcast on the 9th of January 1994.

36
37 Colonel Claeys, I'm directing your attention to the bottom after it says the orator is Anastase Gasana

1 and, in particular, point 1 underneath that. This is in French. And, with the permission of the President,
2 I would like to have my assistant, Leopold Nsengiyumva, read the paragraph out loud.

3 MR. ROBINSON:

4 Is permission granted, Mr. President?

5 MR. PRESIDENT:

6 Sorry. Permission is granted. I didn't realise I had to formally say "yes."

7 MR. NSENGIYUMVA:

8 "The following political parties, MDR, PLD, PDC, and PL, note that, despite his swearing-in on the
9 5th of January 1994, the president of the republic and his party, the MRND, are still questioning the
10 Arusha Accords; that, by engaging once more in the logic of war, our political parties are also informed
11 of the lugubrious plan to physically eliminate the main opponents of the Habyarimana regime, which
12 plan is to be implemented by the 1,700 *Interahamwe*, who are the MRND militia and who have been
13 trained and armed for that purpose. They have just been unleashed in all the neighbourhoods of Kigali
14 city."

15 MR. ROBINSON:

16 Thank you, Mr. Nsengiyumva.

17 BY MR. ROBINSON:

18 Q. Now, Colonel Claeys, the same information that was broadcast on the 9th of January 1994 by the
19 minister of foreign affairs and MDR member, Anastase Gasana, was given to you on the
20 10th of January by Turatsinze, correct?

21 A. And so far correct; that is just a part of this information.

22 Q. But even the number 1700 is the same, and you could even look at -- if you need to refresh your
23 memory, you could look at paragraph five of your -- of the cable of the 11th of January, which -- in
24 which Turatsinze had indicated to you that there were 1700 *Interahamwe* trained in military camps,
25 correct?

26 A. That was what I was referring to as being parts of the information.

27 Q. Can we conclude from that and the fact that you were put in contact with Turatsinze through
28 Prime Minister Twagiramungu of the MR -- of the MDR that Turatsinze had first taken his information
29 not to a body charged with enforcement, such as UNAMIR, but to the political opponents of the MRND?

30 MR. MORLEY:

31 I'm sorry. I'm on my feet. An interesting way of putting the question: "Can we conclude from what we
32 see in the radio broadcast that Turatsinze's taken his information from the broadcast?" Surely my
33 learned friend's question calls for speculation, to use an American term.

34 MR. ROBINSON:

35 Actually, I think Mr. Morley made a good point. It looks like maybe people have missed my point
36 because my point was not that Turatsinze heard this on the radio and then went and repeated it to
37 UNAMIR. My point is that Turatsinze had first given the information to the MDR, who had broadcast it,

1 and then gone to MDR with his information before he went to UNAMIR. And so maybe I can try to ask
2 the question a little bit better.

3 BY MR. ROBINSON:

4 Q. From the way the information came to UNAMIR, and for whatever value we can place on this
5 broadcast, would it be fair to conclude that Turatsinze had first taken his information not to a -- not to a
6 body charged with enforcement, such as UNAMIR, but to the political opponents of the MRND?

7 A. I think there is some confusion because Mr. Robinson used "from the MRND," although he was
8 referring, I think, to MDR.

9 MR. ROBINSON:

10 Okay. I'm sorry about that. Let me ask the question because I -- I sometimes mix up these initials.

11 BY MR. ROBINSON:

12 Q. So, given the fact that Turatsinze came to you through MDR president, Twagiramungu, and from the
13 fact that on the 9th of January, if you accept this as true, that the MDR foreign minister was referring to
14 1700 trained *Interahamwe*, could we conclude that Turatsinze had first taken his information not to a
15 body charged with enforcement, such as UNAMIR, but to the political opponents of the MRND?

16 MR. MORLEY:

17 I'm sorry to interrupt. The concern I have is with the expression "can we conclude that." I respectfully
18 submit any conclusion would be speculation. My learned friend can ask the question in a different way.
19 He could say, for example, "Reflecting on the broadcast, might it be that what may have happened is."
20 But to invite the witness to offer a conclusion is, I respectfully submit, wrong.

21 MR. PRESIDENT:

22 Mr. Morley, that's just playing with words. I mean, the -- the proposed phraseology amounts to the
23 same question. It's just a different way of asking it.

24 MR. MORLEY:

25 Perhaps I'm being oversensitive --

26 MR. PRESIDENT:

27 In the long run, I mean, we are going to have to make our decision on these issues.

28 MR. MORLEY:

29 Your Honour, yes. But it might be thought there's a difference between what may have happened and
30 what has been concluded has certainly happened. Perhaps I'm being oversensitive. It's the word -- the
31 use of the word "conclusion" I'm concerned about.

32 MR. PRESIDENT:

33 Yes, Mr. Robinson.

34 MR. ROBINSON:

35 Well, Mr. President, I'm basically putting a proposition to the witness. I could change the language, but
36 I think the effect is the same.

37

1 BY MR. ROBINSON:

2 Q. So, Colonel Claeys, it appears from this broadcast, from the way in which Turatsinze came to UNAMIR,
3 that he had not gone directly to a body charged with enforcement but had gone first to the political
4 opponents of the MRND. Do you have any comment on that?

5 A. This is a possibility, yes.

6 MR. ROBINSON:

7 Mr. President, at this time I would like to offer the radio broadcast of the 9th of January as
8 Exhibit D. NZ204.

9 MR. PRESIDENT:

10 Mr. Robinson, we think this comes under the same principle that we've been making before. In any
11 event, right, the materiality of this particular exhibit is unnecessary. I mean, you already have the
12 evidence on record, for -- which we are going to have to assess, that it was Twagiramungu who put
13 Turatsinze in touch with General Dallaire --

14 MR. ROBINSON:

15 Yes.

16 MR. PRESIDENT:

17 -- and the inference which you are inviting is really a conclusion for the Chamber to make.

18 MR. ROBINSON:

19 But there's an additional element because we don't know from any other aspect whether or not
20 Turatsinze had revealed to the MDR the content of his allegations. And this proves that he did, that he
21 told them about 1700 trained *Interahamwe*.

22
23 Mr. President, I actually think that we should recess this witness's testimony and have an oral argument
24 on the admissibility of exhibits because I think we're going backwards in the trial. You've admitted over
25 50 exhibits of radio broadcasts that witnesses have not heard of or have not adopted during the course
26 of this trial, and this is in exactly the same situation. This is not a newspaper article. This is not some
27 statement of a witness. This is a radio broadcast transcribed after the tape had been provided by the
28 Rwandan government to the OTP. The OTP transcribed these radio broadcasts, and they disclosed
29 them to the Defence.

30
31 We've talked about this before. It seems like every time we're trying to admit an exhibit, the
32 Trial Chamber is in difficulty in trying to decide what the rules are. And last week Judge -- it was being
33 suggested we should admit statements of Turatsinze's wife. Now, today you're telling me --

34 MR. PRESIDENT:

35 No, no, no. I didn't describe -- you assumed that was the one that I was speaking about.

36 MR. ROBINSON:

37 Well, it was either that or the Belgian senate testimony of Twagiramungu. But, in any event, this --

1 we're really at complete confusion and chaos right now with respect to exhibits. And I think that, rather
2 than every -- I'm going to offer 30-some-odd exhibits during the testimony of this witness, and if we are
3 going to deliberate every time I offer an exhibit and come up with some different result, I don't think
4 anybody knows what to expect here.

5
6 The point is that, if you're going to be consistent -- the Prosecution hasn't offered -- has not objected.
7 The provenance of radio broadcasts is well established. The relevance of this particular broadcast, its
8 probative value is established. And there's absolutely no reason not to admit this exhibit under any of
9 your prior decisions or even your decisions about UNAMIR documents, when you said that what has to
10 be established is relevance and probative value. So -- and that -- and that admission of a document is
11 only -- is you only have to show the beginnings of -- of reliability to have a document admitted.

12
13 So I'm completely stymied here by the Trial Chamber's ruling, and I really think that we need to sort this
14 all out because you're changing completely in midstream.

15 MS. HOUNKPATIN:

16 I'm sorry to interrupt, Mr. President, in the discussions, but I believe that Mr. Robinson is speaking very
17 fast indeed, and the transcript does not seem to be keeping up. And that's why I wanted to ask for us
18 to slow down somewhat so that the interpreters and the court reporters can follow realtime.

19 MR. MORLEY:

20 If I might assist, Mr. Robinson made the astute observation the Prosecution were not objecting. In
21 respect of this document, the witness, having offered the testimony that the proposition put forward is a
22 possibility, namely, Turatsinze may have talked to the MDR and given the same figure of 1700 to the
23 MDR leadership, it being a possibility. On the face of it, the document can be said to have been, in a
24 manner of speaking, adopted by the witness, and we would not object to the document going into
25 evidence.

26
27 I don't, respectfully, agree with Mr. Robinson's observations that all is chaos and confusion and that
28 Your Honours are changing in midstream. I respectfully submit that Your Honours' position has been
29 fairly clear of late that documents don't go in evidence unless the witness is able to speak to them. And
30 in this particular case, the colonel has been able to offer the thought this information is consistent with
31 what he heard and it remains a possibility Turatsinze spoke to the MDR. Whether he did or not, as a
32 fact, proven, as it were, is another matter. But in terms of the document, it may assist Your Honours
33 and Mr. Robinson, that document, as an admissible document, is not argued by the Prosecution.

34 MR. PRESIDENT:

35 Thank you, Mr. Morley.

36 JUDGE SHORT:

37 Mr. Robinson -- Mr. Robinson, I also am not happy with your statement that we are in a chaotic

1 situation. The Chamber has given guidelines for the admission of evidence, and in that decision we
2 have indicated that counsel should follow those guidelines. In most cases it's a question of application
3 of those guidelines. You know, counsel or the Bench may differ on the application of each principle to
4 the facts of a particular case. That doesn't mean we're in a state of chaos. But the rules or the
5 guidelines were set out very clearly in the judgement -- or, in the decision that we gave.

6 MR. ROBINSON:

7 Yes. I -- I believe, pursuant to those guidelines, I could have offered this document without even a
8 witness being present once the relevance was establish and its probative value, even without a
9 witness, under paragraph 11 of your guidelines. I don't -- that's why I don't feel the guidelines are being
10 applied if you refuse the admission of this document. This is a document whose provenance, whose
11 relevance, and probative value have been demonstrated, so I don't understand why it should be
12 refused under your guidelines. I'm sorry.

13 MR. PRESIDENT:

14 We have, in fact, reconsidered our position, and we have admitted it. So it is admitted.

15 *(Exhibit No. D. NZ204 admitted)*

16 MR. ROBINSON:

17 Thank you, Mr. President.

18 MR. SOW:

19 Mr. President, with your leave, I would like to request that Mr. Édouard Karemera go to see Dr. Epée
20 for a few moments, please.

21 MR. PRESIDENT:

22 Yes, permission is granted.

23 MR. SOW:

24 And I thank you.

25 BY MR. ROBINSON:

26 Q. Okay. Colonel Claeys, would you agree that presenting yourself to a political opponent is not the
27 normal way in which a citizen or informant who want to prevent a crime go about informing?

28 A. If we assume that he might also have approached other parties or official authorities, this might have
29 been his next step. We might also assume that this was -- a first party was approaching in a process of
30 trying out other parties or official instances. So it appears to me that it is not -- if he's -- not in
31 accordance with his convictions, that he was using whatever way possible to disclose information which
32 he was aware of.

33 MR. WEBSTER:

34 You know, Your Honour, I'm uncomfortable with these presumptions in Mr. Robinson's question. First
35 of all, Mr. Sow wanted to put in evidence an exhibit where there was a quotation from Twagiramungu
36 where he said he had never met Jean-Pierre. The presumption in Mr. Robinson's question --
37

1 MR. PRESIDENT:

2 Slow down, please, Mr. Webster.

3 MR. WEBSTER:

4 I'm sorry?

5 MR. PRESIDENT:

6 You are speaking too fast.

7 MR. WEBSTER:

8 I'm sorry.

9

10 I'm a bit uncomfortable with the presumptions, both in Mr. Robinson's question and in the witness's
11 response. A few minutes ago the Court was invited to admit an exhibit which was a quotation -- a
12 journalist's interview with Twagiramungu. In that article Twagiramungu said he had never even met
13 Jean-Pierre Turatsinze. There's nothing on the record and nothing coming from the Defence to suggest
14 that Turatsinze met Anastase Gasana or Twagiramungu. And now the witness has been invited to
15 speculate on what the implications are of Turatsinze approaching the opposition. Well, that's not a fact
16 in evidence, and the Court should be aware of that. And Mr. Robinson should be more careful with his
17 questions so that the witness himself is not invited to speculate on questions that contain speculative
18 assumptions.

19 MR. ROBINSON:

20 Well, Mr. President, I think I better clear this up, then, for Mr. Webster's benefit.

21 BY MR. ROBINSON:

22 Q. Colonel Claeys, Turatsinze came to UNAMIR through Faustin Twagiramungu, the president of the MDR
23 party, correct?

24 A. Apparently, yes.

25 Q. There's really no doubt about that, is there?

26 A. Yes.

27 Q. So I'm asking you, then, would you give less reliability to a person who had come through political
28 opponents than you would to a person who had gone directly to law enforcement?

29 A. No.

30 Q. Did the fact that -- well, isn't it true that the fact that Turatsinze had come through the MDR raised the
31 possibility of a trap?

32 A. This was brought to my attention through the analysis of the general, but if I would have met
33 Jean-Pierre alone, I would have brought this information on the same way that I -- as I met Jean-Pierre
34 in those days. It remained a raw information.

35 Q. Yes, I understand that. And that's correct. But in analysing the information, or evaluating the reliability
36 of the informant, General Dallaire noted in this fax at paragraph 11 that there was a possibility of a trap
37 and that he had certain reservations on the suddenness of the change of heart of the informant,

1 correct?

2 A. Yes, that is correct.

3 Q. And then in the cable that came back from New York dated the 10th of January, which is Exhibit P. 39,
4 the UN people at the department of peacekeeping operations noted that there were certain
5 inconsistencies in the information, correct?

6 A. To my recollection, yes.

7 Q. So it's clear that the information from Turatsinze, the raw information, that you were passing on was
8 being treated with caution at all levels, correct?

9 A. Obvious, yes.

10 Q. And I take it also that you later believe from a conversation you had with Colonel Karenzi that
11 Turatsinze may have shopped his information to the RPF as well?

12 A. Yes.

13 Q. Now, I want to ask you some questions about how the weapons came to be at the MRND
14 headquarters. And we have heard that, in fact -- I think -- maybe I better say that again because I think
15 there was a translation problem.

16
17 We've heard the testimony that Captain Deme saw the weapons at the MRND headquarters on the
18 12th of January. Those headquarters were in Kimihurura, correct?

19 A. Yes.

20 Q. I want to ask you some questions about how those weapons may have come to be there on that date.
21 First of all, on the 10th of January, Turatsinze told you that there was a major weapons cache with at
22 least a hundred and thirty-five weapons. And that's at paragraph eight of your cable of the
23 11th of January; is that correct?

24 A. Mm-hmm, yeah.

25 Q. And he offered to take you there that night, correct?

26 A. He was indeed prepared for that, yeah.

27 Q. And he made no mention at that time of those weapons being at the MRND headquarters, correct?

28 A. He didn't earmark any position, indeed.

29 Q. And, in fact, when he took you and Captain Deme to the MRND headquarters on the 12th of January,
30 there were about 50 weapons there, true?

31 A. Yes.

32 Q. And as far as you know, he had not distributed any weapons between the 10th and the 12th of January,
33 correct?

34 A. Correct.

35 Q. So is it a fair conclusion that the place where the hundred and thirty-five weapons were stored was
36 some other place other than the MRND headquarters, perhaps a location near his house which he
37 showed you on the 13th of January?

1 A. This is possible, yes.

2 Q. Now, we know that Turatsinze had the ability to move weapons around Kigali, correct?

3 A. Yes.

4 Q. And, in fact, on the 13th of January, as you've reflected in paragraph two of Exhibit P. 44, your report of
5 your meeting with Turatsinze, he said that he would move some of the weapons that were at his home
6 to the party building to increase the number of weapons there, correct?

7 A. Yes.

8 Q. And he had also said that he was able to order the return of weapons that he had already distributed,
9 correct?

10 A. Yes.

11 Q. Now, your meeting with him was on the evening of the 10th of January, and you didn't go look at any
12 weapons, right?

13 A. Right.

14 THE ENGLISH INTERPRETER:

15 Could counsel please be requested to observe a pause between the question and answer for
16 interpretation purposes. Thank you.

17 MR. ROBINSON:

18 Sorry about that. I got that --

19 THE ENGLISH INTERPRETER:

20 *(Microphones overlapping)*...and also to slow down for the court reporter, please.

21 MR. ROBINSON:

22 Okay.

23 BY MR. ROBINSON:

24 Q. So he -- you had not seen any weapons on the evening of the 10th of January, correct?

25 A. Correct.

26 Q. Now, were you aware that on the 11th of January Turatsinze had issued a communiqué over RTLM,
27 calling for an urgent meeting of the *Interahamwe secteur* leaders to be held at the MRND office in
28 Kimihurura?

29 A. Not aware of that.

30 MR. ROBINSON:

31 If you could be shown number 8 in my package of exhibits, please.

32

33 And, Mr. President, I'm going to once again ask that we call on the services of my legal assistant,
34 Leopold Nsengiyumva, to read a paragraph from this broadcast -- the transcript of this broadcast, which
35 is in the Kinyarwanda language. So I want to place it in front of the witness, but it won't do him much
36 good until he hears Mr. Nsengiyumva read it.

37

1 And we're reading from the fourth paragraph -- or, the second paragraph from the top.

2 MR. NSENGIYUMVA:

3 *(No interpretation)*

4 THE ENGLISH INTERPRETER:

5 Mr. President, the Kinyarwanda interpreters are wondering if the person reading the document could
6 start again.

7 MR. NSENGIYUMVA:

8 Okay. Thank you.

9

10 "The *Interahamwe* chairman for Kigali *préfecture* hereby informs all *Interahamwe* chairpersons for the
11 *secteurs* of Kigali-ville *préfecture*, as well as those of the surrounding areas, that they are invited to
12 attend a meeting this Tuesday, 11th of January 1994 at 4 p.m. at the party headquarters in Kimihurura.
13 They are invited to be all present and to make sure they arrive there on time."

14

15 It is signed by the *Interahamwe* chairman for Kigali-ville *préfecture*, Abubacar Turatsinze.

16 MR. ROBINSON:

17 Mr. President, I would offer this as Exhibit D. NZ205.

18 MR. MORLEY:

19 Not yet, I respectfully submit. You simply read a section. And no doubt my learned friend will now ask
20 the witness some questions, and, depending on what the witness says, the document may become
21 automatically admissible or it may not. But what we want to avoid as a matter of principle, and this is
22 an argument which we've gone round and round on before, is simply reading things into the record as
23 making a document admissible. So my learned friend, I invite, should ask the witness some questions
24 and we see where we get to.

25 MR. ROBINSON:

26 Well, Mr. President, I don't expect the witness is going to have any information because he already said
27 he didn't hear this broadcast. And since he wasn't speaking Kinyarwandan, I don't expect he'll have
28 any information about this. But the document is admissible --

29 MR. PRESIDENT:

30 Hang on. But what is the evidential value of having somebody read something on the record to which
31 the witness says nothing?

32 MR. ROBINSON:

33 No, I'm going to ask him about whether he knew about this and that --

34 MR. PRESIDENT:

35 Yes, but his answers are the evidence.

36 MR. ROBINSON:

37 But the document itself, as a broad -- as transcript of a broadcast that was made on the

1 11th of January 1994 has its own value to the Trial Chamber. And the question is what is that value.

2 It's relevant because it's showing that Turatsinze is secretly --

3 MR. PRESIDENT:

4 *(Microphones overlapping)*...I know, but is it a truthful statement?

5 MR. ROBINSON:

6 Well, that's for you to determine, but it's admissible. Is everything that's admissible truthful on its face?

7 MR. PRESIDENT:

8 Not necessarily, but what -- you have to go through the witness.

9 MR. ROBINSON:

10 Mr. President, if -- I think we have to stop --

11 THE ENGLISH INTERPRETER:

12 *(Microphones overlapping)*...Mr. President, the interpreters need us to apply some speed brakes,
13 please.

14 MR. ROBINSON:

15 Mr. President, this is no different than 50-some-odd other exhibits you already admitted. This -- all
16 right. Let's say this was a United Nations resolution. The witness knew nothing about. Some
17 documents are admissible once the relevance and probative value of the document has been shown.
18 This is a radio broadcast whose provenance has already been established by the admission of all these
19 other exhibits.

20

21 Now, my alternative is I can call the investigator from the OTP, just as they were going to do. We can
22 have him establish where these things came from, how they were kept in the chain of custody, how
23 they were transcribed. And if you would like me to do all that, we can do that at a point during our case.
24 But I thought that we had already gone beyond that when you admitted all these other exhibits and the
25 Prosecution had accepted that material it received from the government of Rwanda, in the form of
26 broadcasts, tapes that they had transcribed, were at least prima facie evidence of what they purported
27 to be. Whether the contents are true or not is a completely other question; whether the speaker was
28 telling the -- the truth, we have no idea. But the fact that it was broadcast is what's important, and there
29 seems to be no dispute about that. And so the conditions for --

30 MR. PRESIDENT:

31 *(Microphones overlapping)*...Mr. Robinson, all that we have heard up to now is that you have a
32 document which you have had one paragraph read onto the record. Is that evidence?

33 MR. ROBINSON:

34 Not until you admit the document.

35 MR. PRESIDENT:

36 Well, if I admit a document, is it evidence?

37

1 MR. ROBINSON:

2 Yes.

3 MR. PRESIDENT:

4 Evidence of what?

5 MR. ROBINSON:

6 Evidence that on the 11th of January 1994 this statement was broadcast over Radio Rwanda, over
7 RTLM. And you can give it whatever weight you decide, but I've at least established that much. And
8 my alternative for establishing that, if you don't believe that that's enough, is to call some investigator
9 who can say how they got it.

10 MR. PRESIDENT:

11 Yes, but it comes as part of this witness's testimony, where not one single question about it has been
12 put to him.

13 MR. ROBINSON:

14 *(Microphones overlapping)*...I --

15 MR. PRESIDENT:

16 *(Microphones overlapping)*...it doesn't seem relevant to his testimony.

17 MR. ROBINSON:

18 *(Microphones overlapping)*...it may not --

19 MR. PRESIDENT:

20 *(Microphones overlapping)*...in this manner. Here you're putting it in as part of his evidence when you
21 don't want to ask him a single question about it.

22 MR. ROBINSON:

23 Yes, I do ask him a single question about it. My question is going to be did you know anything about
24 this --

25 MR. PRESIDENT:

26 *(Microphones overlapping)*...well, you ask him the question.

27 MR. ROBINSON:

28 Okay.

29 BY MR. ROBINSON:

30 Q. Did you know anything about this?

31 A. *(Microphone not activated)*

32 THE ENGLISH INTERPRETER:

33 The witness's microphone is off.

34 THE WITNESS:

35 Excuse me.

36

37 No, I didn't.

1 MR. ROBINSON:

2 Thank you.

3

4 I move to admit the document as Exhibit D. NZ205. It's clearly relevant because it shows that
5 Turatsinze was gathering the *Interahamwe* at the MRND building between the time -- before he was
6 going to show them the weapons. It's clearly probative because it's a Radio Rwanda -- RTLM
7 broadcast, which would advance the proposition that I'm trying to make, that Turatsinze was
8 manipulating the placement of these weapons. It's authentic because of the way it's been obtained and
9 disclosed by the OTP, so I've met all the criteria for admissibility under Rule 89(C).

10 MR. WEBSTER:

11 What I don't quite understand with Mr. Robinson's approach is that he's suggesting that the broadcast
12 does not have to be accepted for its truth and then goes on to say that the -- the broadcast now
13 demonstrates that Turatsinze organised the meeting of the *Interahamwe*, which is not -- you cannot
14 simply read this one paragraph and jump to that conclusion. So this is the danger of using documents
15 in this way. How is the Court or how -- how is the trial supposed to use this particular bit of information
16 at -- for me, I'm still at a loss to -- to -- to understand exactly where we're going with this.

17 JUDGE SHORT:

18 Mr. Robinson, going back to our decision, the witness has not adopted -- adopted the -- the broadcast,
19 nor has he been able to speak to the document -- to the broadcast.

20 MR. ROBINSON:

21 That's -- that's correct, but going back to your decision, in paragraph 11, you said that you were also of
22 the view that certain documents, in that case UNAMIR documents, could be admitted without being
23 tendered during the examination of a witness, providing the moving party shows for each document its
24 relevancy and probative value. And that's what I've just done. I've shown you the relevancy and
25 probative value of the radio broadcast, which I suggest is in a similar category to UNAMIR documents
26 as having some provenance.

27 MR. WEBSTER:

28 Your Honour, I'm still uncomfortable because we had a witness on the stand a week ago who was a
29 member of the *Interahamwe*, who was familiar with Turatsinze, who gave testimony about attending
30 meetings of the sort that are being convened, supposedly, by this communiqué. Why wasn't this exhibit
31 shown to that witness, and then this Court would have had an opportunity to assess its probative
32 value? Because that witness could have spoke to the content of this -- of this communiqué. Here we
33 are with a witness that knows -- I would suggest that Mr. Robinson expected this witness not to know
34 anything about the content of this broadcast.

35

36 So aside from the formal questions of how the documents should be moved before the Court, my
37 concern is the substantive issue. If we're trying to establish the truth of the events, this, to me, does not

1 seem an appropriate way to proceed. How is this one communiqué going to provide this Trial Chamber
2 with an opportunity to conclude -- to find facts in relation to -- to this incident? It should have been put
3 before HH.

4 MR. ROBINSON:

5 Well, Mr. President, HH was not a truthful witness. We already heard how he concocted evidence. I
6 wasn't about to put something to him and try to get a straight answer on this subject.

7
8 But this is the most relevant witness for this proposition to be put to because, in fact, it relates to
9 Turatsinze's placement of weapons at the MRND headquarters on the 12th of January. So it's directly
10 relevant to this witness's testimony and to our defence as it relates to the possession of those weapons.

11
12 Now, again, it seems to me that the real problem is that you don't seem to be willing to accept that a
13 radio broadcast has enough provenance to be admitted, whether the witness adopts it or not. And I
14 don't think that -- that that's a necessity, just like with UNAMIR documents. If -- the probative value and
15 the relevance is shown. To us, it's a document which shows that, *prima facie*, a certain information was
16 broadcast on Radio RTLM on a certain date. That's enough for us. It makes it relevant and probative.

17
18 Now, the Prosecution can argue that well, maybe this wasn't really broadcast on that date and it was an
19 error of transcription, but I don't see what else they could argue besides that. And I think when you
20 balance those things you ought to admit the document and decide in your final deliberations who has
21 the stronger argument on that point.

22 MR. MORLEY:

23 The problem may be this: It's the use to which Mr. Robinson thinks he can put the document if it goes
24 into evidence. It is agreed that, on the face of the document, it shows that there was a radio broadcast.
25 Where my learned friend is demonstrating to Your Honours Your Honours' wisdom in not allowing the
26 document to go into evidence through this witness is when my learned friend describes what he wants
27 to say the document means. My learned friend has said that the document means that Turatsinze was,
28 to quote him, manipulating the *Interahamwe* with regard to the placement of weapons. That isn't what
29 the document says. It might be a comment that the witness could make, but the witness has not made
30 that comment. The document simply records that there is an announcement that Turatsinze wants to
31 convene a meeting of the *Interahamwe*.

32
33 The one thing the document may show is that Turatsinze does seem to have influence over the
34 *Interahamwe*. But for my learned friend to go so far as to say he can put the document into evidence
35 through this witness because it shows manipulation by Turatsinze of weapons placements is,
36 respectfully, wrong, unless the witness says so, and he hasn't. So, yes, it's a broadcast, but, no, the
37 use to which my learned friend intends to put the document is misfounded.

1 MR. ROBINSON:

2 And that's the perfect framing of our arguments during closing arguments after you admitted this
3 document. We can both argue the inferences to be drawn from what's said in this document, but the
4 document needs to be admitted.

5 MR. PRESIDENT:

6 *(Unintelligible)*, Mr. Robinson.

7 MR. ROBINSON:

8 Very well. May the document be marked as ID. NZ55?

9 MR. PRESIDENT:

10 It's marked for identification.

11 *(Exhibit No. ID. NZ55, marked for identification)*

12 MR. ROBINSON:

13 Thank you, Mr. President.

14 BY MR. ROBINSON:

15 Q. So, Colonel Claeys, when you met with Turatsinze on the 12th of January, he didn't tell you that he had
16 issued a communiqué or called a meeting of the MRND *Interahamwe* secteur presidents, did he?

17 A. No, he didn't.

18 Q. Now, on the 10th of January, he had conditioned showing you the arms cache on receiving protection
19 for him and his family, as reflected in paragraph eight of your cable; is that correct?

20 A. That is correct, yes.

21 Q. And as of the 12th of January, you were not able to provide him that protection, correct?

22 A. Correct.

23 Q. But he nevertheless volunteered to show you the weapons at the MRND headquarters on the 12th,
24 correct?

25 A. Correct.

26 Q. And he wanted to do it that night, correct?

27 A. Yes.

28 Q. And UNAMIR did, in fact, see weapons that night at MRND headquarters, correct?

29 A. Can you repeat the question, please.

30 Q. Captain Deme did see weapons on the night of the 12th -- excuse me. I'll start all over.

31

32 Captain Deme did see weapons on the night of the 12th at MRND headquarters, correct?

33 A. Yes, that is correct.

34 Q. And you don't know when they had been put there, correct?

35 A. Jean-Pierre didn't give that information.

36 Q. And, for all you know, they could have been put there earlier that evening, correct?

37 A. This is a possibility.

1 Q. And you don't know how long they remained there, correct?

2 A. Correct.

3 Q. And you never determined that Mr. Ngirumpatse or Mr. Nzirorera were aware of the presence of
4 weapons at MRND headquarters, correct?

5 A. Correct.

6 Q. Now, I want to ask you some questions about the plan to eliminate the Tutsis. We know that after the
7 6th of April many Tutsis were killed in Rwanda, but apart from Turatsinze, during your stay in Rwanda
8 through late March, did you learn of any plan to exterminate Tutsi?

9 A. Formulated in those words, no.

10 Q. And --

11 THE ENGLISH INTERPRETER:

12 Please, Counsel, a pause.

13 BY MR. ROBINSON:

14 Q. And Turatsinze never would show you the lists of Tutsis he claimed he had, even through your
15 meetings at -- up until February -- through February, correct?

16 A. He never showed them, indeed.

17 Q. And you testified in the Ndindiliyimana trial that you asked him for the lists at every meeting and that he
18 always answered with the question, "Where is my security?" Is that correct?

19 A. From my recollection, yes.

20 Q. Now, at this trial we have had testimony from Witness G, one of the officers of the national committee of
21 the *Interahamwe*, who testified as a Prosecution witness. And he testified that he had no knowledge of
22 any plan to exterminate Tutsis, and that's at page 19 of the transcript of the 18th of October 2005.

23
24 And he also testified that he later became aware that Turatsinze had stolen weapons from the MRND
25 and sold them to FRODEBU, and that's also on the 17th of October at pages 53 and 54.

26
27 And he testified that Turatsinze was not paid a hundred and fifty thousand Rwandan francs per month
28 by the MRND, which he said was more than the salary of a minister or even perhaps the president of
29 the republic, and he testified that there were no lists of Tutsis drawn up by the *Interahamwe*, as claimed
30 by Turatsinze, and he was not aware of any training of *Interahamwe* to kill up to a thousand Tutsis in
31 20 minutes. And that's at the -- transcript of the 18th of October 2005 at page 5.

32
33 Do you have any comment on that information that has been received by the Trial Chamber?

34 A. We could comment in this way, that if he sold the weapons, if -- and he made some money out of it, it
35 was also -- could be considered as being part of his motivations to avoid these weapons to be used
36 against his conviction and against the Tutsi. The certain point about training of the *Interahamwe*, as I
37 stated before, I never said he was the trainer, but he was responsible for training. So also this witness

1 was making up different things together.

2

3 That's the only comments I could give on this statement.

4 Q. And if it were true that he had sold the weapons destined for the *Interahamwe* to some other party and
5 pocketed the money, it might also explain why he was looking for protection from UNAMIR, correct?

6 A. Yes, that is also a possibility.

7 Q. And why he didn't need any money from UNAMIR?

8 A. This is an assumption, yes.

9 MR. MORLEY:

10 Your Honour, I'm on my feet very briefly. My learned friend has put to the witness, and the witness
11 clearly understands, that the suggestion is that Turatsinze sold all of the weapons. And my learned
12 friend knows that the evidence is not so. The suggestion was, we may remember from some time ago
13 in this case, that he may have sold half the weapons. So the witness at the moment is under the
14 impression he, the witness, is being told that all of the weapons were sold by Turatsinze, and I assume
15 that the witness would, therefore, think that the weapons seen were sold by Turatsinze. And we recall
16 that the evidence was he got into trouble for selling half the contingent.

17 MR. ROBINSON:

18 Actually, Mr. President, that's not my recollection of the evidence. But I don't think it's pertinent to the
19 question, in any event. But if Mr. Morley feels that he wants to quote from other testimony during his
20 redirect examination on that point, I think that would be most appropriate. But I'm not going to try to
21 explore that any further with this witness.

22 BY MR. ROBINSON:

23 Q. Now, Colonel Claeys, we've also had testimony at this trial from another member of the *Interahamwe*
24 national committee, who testified as a Prosecution witness -- he's labeled as Witness T -- and he
25 testified that he, too, had no knowledge of any plan to exterminate Tutsi and that, in fact, Turatsinze
26 had come to him and asked for a weapon that Turatsinze had distributed to him to be returned, and he
27 later learned that Turatsinze had sold the *Interahamwes* weapons, or part of them, to this group of
28 Burundians.

29

30 And he also testified that he was unaware of any order to register all Tutsis in Kigali or that a thousand
31 Tutsis would be killed in 20 minutes, and he testified that he was unaware of any lists of Tutsis
32 compiled by *Interahamwe*.

33

34 And I wonder if you could comment on the testimony, then, of two officers of the national committee of
35 the *Interahamwe*, which seems to contradict what Turatsinze had told you.

36 A. I would say to these statements that I don't know at what point they learned about the selling of
37 weapons. But this could be of any importance, of course.

2

1 Q. But what about the fact that -- that two officers of the national committee of the *Interahamwe* had no
2 knowledge of the plan to exterminate Tutsis, of compiling of lists, or the idea that a thousand Tutsis
3 could be killed in 20 minutes by the *Interahamwe*? Doesn't that -- learning that information now,
4 doesn't that cause you to have some reservations about the truthfulness of the information you received
5 from Turatsinze back in January of '94?

6 A. It's difficult to comment on that because there are probably also other statements or other testimonies
7 about people which were aware of this.

8 Q. Now, there's been testimony by Faustin Twagiramungu in another trial at this Tribunal, and I'm referring
9 to the trial of Pastor Ntakirutimana. He testified on the 4th of February 2002. And at page 156, he
10 testified that he was not aware of any plan to exterminate Tutsis, and, in fact, he does not believe that
11 any such plan existed.

12

13 Do you have any comment on that?

14 A. I don't know what was told to him by Mr. Booh-Booh and the force commander in this meeting of the
15 11th or 12th, where he was apparently confronted with the information of Jean-Pierre. So if he now
16 states that he is not aware of it, I think it's apparently very awkward.

17 Q. Now, when you -- while it's true that you believed Turatsinze at the time when he was giving you this
18 information, can you allow as how someone now, in 2006, having more information than you did, could
19 come to a different conclusion as to Turatsinze's credibility?

20 A. Can you state that again, please.

21 Q. Yes.

22 MR. MORLEY:

23 Your Honour, I'm on my feet. This is a fascinating line of cross-examination. The witness is being
24 asked to comment on the state of mind of people he doesn't know and whose testimony he hasn't been
25 privy to or had an opportunity to study, and he's essentially being asked for an opinion in a vacuum
26 about how there might be a conflict between what Turatsinze has told him and what Mr. Robinson is
27 telling him.

28

29 He, this witness, is merely a mouthpiece for what it was he learned from Turatsinze, and it's my
30 respectful submission to ask for the witness's opinion on the evidence which may have been heard in
31 other trials or before Your Honours, given that he, this witness, does not have personal knowledge in
32 his mind of what Turatsinze was up to, is evidently vacuous.

33

34 I hope I don't overstate it. It would be a perfectly proper line of cross-examination if the witness was, in
35 fact, Turatsinze, but not where it's a witness reporting what he was told by Turatsinze. I hope the point
36 is well made.

37

1 MR. ROBINSON:

2 Well, Mr. President, I'm now cross-examining on testimony that Colonel Claeys gave that he believed
3 Turatsinze at the time, and I'm simply asking him whether he could allow as to how someone now,
4 having more information than he had, could come to a different conclusion as to Turatsinze's credibility.

5 MR. MORLEY:

6 What does that mean? How does the witness assess the small amount of information he's been
7 handed by Mr. Robinson, which Your Honours will note he has learnt for the first time? As
8 Your Honours will be aware, we don't go around telling witnesses what other witnesses have said. And
9 this witness -- when I say "we," I mean the OTP -- and this witness, given his standing and his absence
10 of knowledge of the personalities involved, simply cannot comment.

11
12 And for him to volunteer an opinion -- and I stress the word "opinion" because it cannot be a fact that he
13 is offering -- is evidentially improper. And I invite Your Honours to say that this line of
14 cross-examination would make sense if the witness was Turatsinze, but it does not make sense, given
15 that it is a person speaking of what Turatsinze told him.

16 MR. PRESIDENT:

17 You see, Mr. Robinson's correct, that you asked the witness whether he believed Turatsinze. So
18 cross-examination on whether he believed Turatsinze is permissible.

19
20 The problem with this question is that he's asking him about people whom he doesn't know. So I don't
21 see how the witness could be able to give a proper answer to the particular question that has been put.
22 And I would have assumed that the witness would have said that simply, if we hadn't had this legal
23 argument.

24 MR. ROBINSON:

25 Yes. Well, maybe I could ask it in a more general way.

26 BY MR. ROBINSON:

27 Q. Colonel Claeys, would you agree that, although you may believe someone when you're first speaking
28 with them, facts can come to light later that could cause you to change that belief?

29 A. I don't understand the question, sorry.

30 Q. Well, let me give you an example. It's something that I think pertains to you. You know, at the two
31 trials that you've come to testify to before this one, you were asked a lot of questions in which the
32 genuineness of the fax that had been sent on the 11th of January was called into question. Do you
33 recall that?

34 A. Yes.

35 Q. And because the fax had shown up at DPKO late, like in November of 1995, caused people to suspect
36 that maybe that wasn't the fax that was sent. Do you remember being asked about that?

37 A. Yes.

1 Q. But since then people have traced how that fax got to the UN, and, at least from this Defence team,
2 have concluded, that based on further information, that the fax that we had been presented with is, in
3 fact, the fax that was sent. And so you haven't been asked any questions about that in this trial
4 because, since the original information was obtained that the fax was lost at DPKO, more information
5 was gathered that caused people to change their evaluation of that situation. Do you understand?

6 A. Mm-hmm --

7 Q. And --

8 A. -- yes.

9 Q. -- can it not also be true, that in the case of Turatsinze, that the information you received on the
10 10th of January, when looked at in light of further information that was obtained since then, might cause
11 someone to conclude differently than you as to whether Turatsinze had, in fact, told you the truth?

12 A. That's on the evaluation of this person. I still believe that this information was correct, up to now.

13 Q. But it's -- it's possible for somebody to receive more information than you had at the time, and maybe
14 that would cause even you or someone else to change their mind, correct? It depends on -- I mean,
15 you don't make an assessment of something and then say that's -- that's a closed question. You're
16 always open to receiving more information and re-evaluating your assessment, correct?

17 A. From this point of view, yes.

18 Q. Okay. Now, I want to ask you some questions about the plan to kill Belgian soldiers. Now, you've told
19 us that on the 10th of January Turatsinze spoke about how Belgian soldiers might be killed, correct?

20 A. Yes.

21 Q. And there was no plan to kill Belgian soldiers, according to Turatsinze, but he was, rather, speculating
22 that, if this happened and then this happened and then this happened, it might occur, correct?

23 A. Yes.

24 Q. And you took no extra precautions to protect Belgian soldiers as a result of this information you
25 received on the 10th of January from Turatsinze, correct?

26 A. UNAMIR didn't take special precautions, no.

27 Q. And Turatsinze later told you that the MRND leaders had changed their attitudes towards the Belgian
28 UNAMIR contingent, correct?

29 A. Yes.

30 Q. And that they now thought that the Belgians were not bad intended, correct?

31 A. Yes, it's what we were told.

32 MR. ROBINSON:

33 Now, if the witness can be shown another document from my list of exhibits, and this is number 12, a
34 cable from Mr. Booh-Booh to Kofi Annan dated the 2nd of February 1994.

35 MR. PRESIDENT:

36 And what initially is the date of the document (*unintelligible*)?

37

1 MR. ROBINSON:

2 It's actually dated the 2nd of February 1993, but I believe that that's an error since it's from
3 Mr. Booh-Booh, who didn't arrive until late 1993.

4 BY MR. ROBINSON:

5 Q. Now, Colonel Claeys, directing your attention to this document, I want to first ask you about the type of
6 document it is. Have you seen outgoing code cables before from UNAMIR to the UN in New York?

7 A. Yes, during my testimony.

8 Q. And were you aware that the UNAMIR in Kigali was communicating with the UNAMIR in New York via
9 code cable?

10 A. Only for important matters, to my assessment. And I knew it for the first time when we sent the fax on
11 the 10th or 11th, depending on the time zone where we are working. Before I didn't know, and I
12 assumed only important or security matters were sent by code cable and the rest by normal cables.

13 Q. Okay. But, in any event, was communication between Kigali and the UN in New York done by some
14 form of cable?

15 A. And telephone.

16 Q. And this particular one is addressed to Annan and Jonah at the United Nations. And do you know what
17 positions those people held?

18 A. To my knowledge, Kofi Annan was head of DPKO, and Jonah, I don't know.

19 Q. And we know that Mr. Booh-Booh was the special representative of the secretary-general in Kigali,
20 correct?

21 A. That's correct.

22 Q. Now, in looking at this memo, in particular paragraph three, you see that Mr. Booh-Booh is reporting
23 that he had met with the president of the republic and had informed him of the illegal distribution of
24 arms and that he had denied knowledge of any illegal arms being distributed and stockpiling and
25 promised to investigate the matter. And, as of this date, he has not reported to us his findings, nor any
26 action he may have taken on this regard.

27

28 And then he also indicates that they had met with the leaders of the political parties, who denied the
29 possession or distribution of any illegal arms to their supporters. And he goes on to say that these
30 party leaders urge UNAMIR to proceed with the recovery of illegal arms throughout the country so as to
31 ensure a peaceful and secure environment.

32

33 Do you see that that is contained in this cable?

34 A. Yes, I've read it.

35 Q. And based on what you now know about the meetings that were held by Mr. Booh-Booh and Dallaire, is
36 this consistent with the information that you have come to learn concerning the discussion of illegal
37 arms that was held after the information was received from Jean-Pierre?

1 A. The information we got from Jean-Pierre was concerning arms in Kigali and the Kigali weapons secure
2 area. As I read this paragraph, it goes over illegal weapons all over the country.

3 Q. But were you aware that Booh-Booh -- or, are you aware that, in fact, the meetings that were described
4 in this paragraph took place, that Booh-Booh met with the president and then he met with MRND
5 leaders after receiving the information from Jean-Pierre?

6 A. I knew this already through other faxes or reports from Booh-Booh and the force commander that has
7 been brought to my attention during my testimony, but not before.

8 Q. Okay. I understand that. And is this as it appears to you -- this cable, as you're looking at it, does it
9 appear to you to be in the format -- or, in -- of a subject that gives you confidence that this is, in fact, a
10 UNAMIR cable and not some kind of a forgery?

11 A. With everything I can find on this fax, I consider this as a -- an official code cable, yes.

12 Q. Thank you.

13 MR. ROBINSON:

14 Mr. President, at this time I would offer this code cable as Exhibit D. NZ205.

15 MR. PRESIDENT:

16 Admitted.

17 *(Exhibit No. D. NZ205 admitted)*

18 MR. ROBINSON:

19 And if the witness could now be shown number 13.

20 BY MR. ROBINSON:

21 Q. Colonel Claeys, what has been placed before is you also entitled an outgoing code cable from Dallaire
22 in Kigali to Baril in New York. I think you've already told us that you were aware that
23 General Maurice Baril was in the military section of the department of peacekeeping operations at the
24 United Nations, correct?

25 A. That's correct.

26 Q. And we also see this is in a format very similar to the code cable that was sent by General Dallaire
27 concerning the information from Turatsinze. So does the document appear to be genuine to you?

28 A. Yes.

29 Q. Now, directing your attention to paragraph -- well, let's start with number one. It talks about a --
30 attached document produced as an assessment of the situation according to the overall environment in
31 Rwanda, but with emphasis on Kigali, parentheses KWSA, as of 31 January 1994. And it goes on to
32 say that since then a significant change of attitude has been noticed on the part of the minister of
33 defence, the army chief of staff, and the minister of interior.

34
35 And then in paragraph three, General Dallaire talks about a lengthy meeting he had with the minister of
36 defence in which the gentleman had expressed urgency in getting a handle on the rapidly deteriorating
37 security situation in Kigali and that the grenade attacks, the banditry, and the illegal but small

1 demonstrations were causing unusual unrest in the capital. And he also felt that the gendarmerie were
2 not pulling its weight.

3

4 And then he goes on to say that he had just finished a meeting with the MRND leadership on the
5 subject of the militias and was planning to do the same with the other parties in order to get a grip on
6 them and that he had set up a meeting between the UNAMIR DFC and the *Interahamwe* militia to
7 facilitate a dialogue -- to initiate a dialogue and develop relations to direct them in more productive
8 efforts for their party and their country.

9

10 And I'll stop there and ask you, who and what was DFC at UNAMIR?

11 A. The DFC stands for deputy force commander and, to my recollection, it was a Ghanaian general,
12 brigadier general, which came into the mission and supported the force commanders in his meetings
13 and gatherings with other parties.

14 Q. Okay.

15 A. And he produced a -- different reports also from these meetings.

16 Q. Okay. And then it goes on to say that -- on paragraph five that at -- "Today, at the invitation of both the
17 minister of defence and the minister of interior, both of the presidents, MRND party, a public open
18 session discussion was organised at the *préfecture* and that we were also invited to attend, in addition
19 to the minister of justice, the *préfet*, seven senior army gendarmerie staff officers and commanders,
20 including the chief of staff, senior civil servants, the media, the *bourgmestres* of the *préfectures*, their
21 *conseillers*, and the public."

22

23 And he goes on to say that positions were stated on the security situation, detailed questions were
24 asked and answered, and clarifications provided, and it was all very open, positive, and aimed at
25 improving the situation.

26

27 And they -- he goes on to say that the minister of defence and the interior requested that the
28 gendarmerie, supported by UNAMIR resources, commence operations to collect illegal arms and
29 ammunitions and that it was high time to stop the indiscriminate banditry that has now even touched the
30 expatriates and the UNAMIR forces.

31

32 And on paragraph eight, finally, Dallaire notes that, although he had developed a healthy skepticism of
33 Rwandese bearing gifts, the fact that all of those involved with security matters have today publicly
34 asked for help from UNAMIR to support their efforts in crushing the violence and banditry in Kigali --
35 and then he asks for -- again, for authority to conduct operations to permit the recovery of illegal arms.

36

37 And so I ask you if you were aware of the improvement or change in attitude of the MRND and its

1 ministers after the meeting that had taken place on the -- the meetings that had taken place in
2 mid-January.

3 A. I can only -- I can only say that this change of attitude was not perceivable from one day to another,
4 and if it was depending on meetings on half of January or at the end of January. But I, as I stated
5 before, have never felt threatened when I was in Kigali.

6 Q. And did you --

7 A. Although this insecurity prevailed during the night.

8 Q. But did General Dallaire ever express to you the optimism that he was expressing to
9 Major General Baril at the beginning of February of 2004 (*sic*)?

10 A. To be honest, no. He expressed always his concern, and he said that he wouldn't believe until this
11 broad-based transition government would start again. And, to put it in his words, he would only start
12 playing golf again in Kigali once this government was put in place. So he might have sent some
13 positive signals to New York, but on the ground he was still not confident.

14 MR. ROBINSON:

15 Mr. President, I would ask that this code cable be admitted as Exhibit D. NZ206.

16 MR. PRESIDENT:

17 Admitted.

18 (*Exhibit No. D. NZ206 admitted*)

19 BY MR. ROBINSON:

20 Q. Now, Colonel Claeys, it's true that -- is it not, that you never learned of any plans to kill Belgian soldiers
21 during your entire stay in Rwanda?

22 A. For using the words "plans," indeed, I have never been aware of plans.

23 Q. And are you aware that the report of the enquiry into the death of the Belgian soldiers, done by the
24 Belgians -- the government, concluded that there was no information that the peacekeepers had faced
25 any direct threat?

26 A. I haven't read these conclusions, to my knowledge. And, if it is the case, then it's not very precise
27 because, to my recollection, at least at one point, the Belgian UNAMIR escort was confronted with an
28 ambush coming back from Mulindi in which one United Nations mission observer was wounded and
29 one RPF -- I'm not sure about the soldier, but at least an RPF member was killed. This was on the road
30 coming back from Mulindi towards the well-known Kadaffi crossroads.

31 Q. And --

32 A. So they have been exposed to some actions, or threatenings.

33 Q. And in the case that you've just referred to, was that by the RPF?

34 A. No, not by the RPF. We never knew who organised the ambush, but it was within the *préfecture* of
35 Kigali, and they were escorting RPF convoys.

36 Q. Now, the Belgian soldiers who were killed on the 7th of April, they were not killed by the *Interahamwe*,
37 were they?

1 A. Probably not because it was within a military camp.

2 Q. Now, from what you know of the Tutsis who were killed after the 6th of April, were they killed by trained
3 *Interahamwe* with firearms invading their houses in the night at the rate of a thousand Tutsis every
4 20 minutes, or were they killed by a combination of youth wing members from several parties, soldiers,
5 and members of the population at roadblocks, in their home, and at places of refuge?

6 A. Probably by the combination as depicted at the end of your proposal.

7 Q. And you've testified before that most of the killings were done using household utensils or garden
8 implements; is that correct?

9 A. From what I could observe from the Kanombe airport, yes.

10 MR. ROBINSON:

11 Now, Mr. President, I'm about to go into a new area. I can start if you'd like, or else we could take our
12 break.

13 MR. PRESIDENT:

14 What's your schedule likely to be?

15 MR. ROBINSON:

16 I actually think I could complete today if we make smooth progress concerning exhibits.

17 MR. PRESIDENT:

18 Okay. We take the luncheon break now under the usual terms.

19 *(Court recessed at 1228H)*

20 *(Pages 15 to 40 by Ann Burum)*

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1 (Court resumed at 1410H)

2 MR. PRESIDENT:

3 Good afternoon.

5 Yes, you can --

7 Yes, Ms. Hounkpatin.

8 MS. HOUNKPATIN:

9 Thank you, Mr. President. I should like to have the opportunity to speak before proceedings proceed,
10 because at one point this morning I pointed out the difficulty we're having with the transcript, and,
11 practically, there has been no transcript since 10:30 -- about 10:30 this morning, at least the French
12 transcript. I discussed this with my colleague, Counsel Robinson, if he could slow things down. I know
13 it's difficult in the course of the arguments -- or questioning to slow down, to break your -- to interrupt
14 the flow of thought, but it is important for us to have a faithful rendition of what is being spoken, so that
15 is my request, and there we have it.

17 To help you, I might invite the registrar to come and see my computer screen, which is the proof of how
18 difficult it is.

19 JUDGE KAM:

20 You don't need to go any further, because I have the same problem. I've got -- it's difficult to see
21 anything on my screen.

22 MS. HOUNKPATIN:

23 Well, Judge Kam, it's good if you suffer the same problem, because then, thanks to your intervention --
24 thank you. I wouldn't have dreamed of opportuning you, but since you can vouch for us, perhaps we
25 can get somewhere.

26 JUDGE KAM:

27 Counsel Hounkpatin, just to inform you that the registrar has taken note of your complaint, and as far as
28 I'm concerned, each time I notice it, I will try to draw the registrar's attention to it. However, the registrar
29 has pointed out to me that indeed the technicians can only intervene during breaks, so very often the
30 difficulty can continue.

31 MS. HOUNKPATIN:

32 Thank you, Your Honour.

33 MR. PRESIDENT:

34 Mr. Robinson, yes, in the meantime, I think you can -- you can proceed.

35 MR. ROBINSON:

36 Yes, I'll try to proceed very slowly. Sorry about that. I apologise to everyone for the speed. It's my first
37 time I've questioned an English speaker, so I'm obviously not doing a very good job.

1 Okay. Well, we can ask the witness to be shown exhibit number 1 in my bundle.

2 BY MR. ROBINSON:

3 Q. And in the meantime, Colonel Claeys, good afternoon.

4 A. Good afternoon, Counsel Robinson.

5 THE ENGLISH INTERPRETER:

6 In Flemish, Netherlands.

7 MR. ROBINSON:

8 You're very versatile, George.

9 THE ENGLISH INTERPRETER:

10 No comment.

11 BY MR. ROBINSON:

12 Q. Colonel Claeys, we're going to step away from Turatsinze for a few minutes and talk about UNAMIR.

13 And I've had a document placed before you, and do you recognise this as the Security Council
14 resolution which established UNAMIR and acted on the 5th of October 1993?

15 A. I have it in front of me, yes.

16 Q. And were you familiar, in the course of your duties, with the resolution which established UNAMIR?

17 A. It was often referred to, yes.

18 Q. And was this -- does this document appear to be the document that was referred to? In looking through
19 it, does this appear to be what was referred to as the Security Council resolution which established
20 UNAMIR?

21 A. I can't comply to the countenance. It was not brought to our attention, this form.

22 Q. Now, just going through the resolution, maybe the quickest thing would be for you to read it to
23 yourself -- take a minute or two to read it yourself and tell me whether the contents of the document
24 that's been placed before you appears to be consistent with your understanding of the resolution as it
25 was adopted.

26 MR. ROBINSON:

27 Alternatively, Mr. President, I would offer this as a self-authenticating document as Exhibit D. NZ207.

28 MR. PRESIDENT:

29 Yes, admitted.

30 *(Exhibit No. D. NZ207 admitted)*

31 BY MR. ROBINSON:

32 Q. Okay, Colonel Claeys, Judge Byron just saved you some reading. So the document has been
33 admitted, and I want to ask you maybe some questions you could answer without specific reference to
34 the document. And the first question is whether it was your understanding that the UNAMIR mission
35 was a chapter VI mission as opposed to a mission under chapter VII of the United Nations Charter.

36 A. To my understanding, it was a mission of assistance, which is, to my understanding, part of chapter VI
37 operations of the UN, yes.

1 Q. And how does that distinguish from other UN operations that might be under chapter VII?

2 A. To my understanding, there are peace-enforcing missions where the UN is mandated with its forces to
3 impose the peace agreement or peace between the parties. Peace monitoring is just observing, and
4 it's mostly not armed -- or not with armed troops. And then an assistance mission is more enhancing
5 the agreements that exist already but where a deployed armed force is still necessary to avoid any
6 armed conflicts between the parties. I think this is a summary of the kind of operations that can be
7 conducted by UN. For an observer mission, of course, these observations can be done both by military
8 and civilians.

9 Q. And was it your understanding that this resolution converted a -- what had previously been an observer
10 mission into a peacekeeping mission?

11 A. To my knowledge, the observation mission that was ongoing between Uganda and Rwanda was still
12 ongoing; it wasn't ended. And a new mission was ordered after a UN resolution, and this was the
13 assistance mission in Rwanda. It happened to be that General Dallaire was involved in both of them,
14 but he changed from the observation mission between Rwanda and Uganda to the -- to be the force
15 commander of the new mission in Rwanda.

16 Q. And you testified at the Ndindiliyimana trial that chapter VI mission of the United Nations Charter
17 prescribes intelligence; is that correct?

18 A. That is correct.

19 Q. So it was your understanding, then, that it was not within the purview of the United Nations -- the
20 UNAMIR mission to have intelligence analysts -- or intelligence analysis within the mission; is that
21 correct?

22 A. Yes, it is correct.

23 Q. And, in fact, the information from Jean-Pierre was never subjected to that kind of rigorous intelligence
24 analysis, correct?

25 A. Not within the mission, yes.

26 MR. ROBINSON:

27 If the witness could now be shown number 2 in my series of documents.

28 BY MR. ROBINSON:

29 Q. Colonel Claeys, were you familiar with the fact that UNAMIR was making what's called sitreps from
30 Kigali to New York on a regular basis during this mission?

31 A. Yes, I was.

32 Q. And do you know who was actually preparing these sitreps?

33 A. The sitreps were produced by the operations branch within the HQ UNAMIR.

34 Q. And was that headed by a Belgian officer named Maggen?

35 A. No, not really. Major Maggen was one of the duty officers of the operations branch because, to my
36 recollection, Bengalese Lieutenant Colonel Nasrule (*phonetic*) was the head of the operations branch.
37 So Major Maggen was just working in a duty shift system.

1 Q. Okay. And do you know how these sitreps were prepared? How -- can you tell us where the
2 information came from that was put into these sitreps?

3 A. To my recollection, the sitreps were based on what was provided by the different contingents deployed
4 within the UNAMIR mission, so not only from the *secteur* Kigali, as such, but also by the UN military
5 observers headquarters in Kigali and later in time, during the mission, by the headquarters Byumba,
6 Ruhengeri, where the different detachments or contingents were deployed.

7 Q. So is it fair to say that the office that was responsible for compiling these sitreps collected information
8 on a regular basis, whether it be daily or weekly, from the various components of UNAMIR and
9 transmitted that information to New York?

10 A. Yes.

11 Q. And they seem -- they to regularly go under the signature of General Dallaire, so as far as you know,
12 was he the one approving and sending these sitreps on a regular basis?

13 A. To my knowledge, they could only leave the headquarters UNAMIR with his approval.

14 Q. And would you believe that it was regular practice of the persons preparing the sitreps to make sure
15 that the information that they were transmitting to New York was as accurate as possible?

16 A. Yes. And if he was not signing them, he would appoint somebody else to sign it, because he took
17 some leave also at a certain period of time, so then somebody else was entitled to do it.

18 Q. Okay. Now, directing your attention to this particular document that's been placed before you, this is a
19 weekly sitrep dated the 9th of November 1993, and I want to call your attention in particular to
20 paragraph 3, A3. And that paragraph reads that "The MRND party held a rally yesterday, but all the
21 rhetoric was aimed at supporting the implementation of the peace process." And then it goes to say,
22 "We have, however, seen more of the youth paramilitary elements of some of the parties driving around
23 the capital in their particular uniforms making noise. No weapons have been seen."
24

25 Now, did you yourself attend that MRND party rally in early November 1993?

26 A. I have never attended any political rally of whatever party.

27 Q. And do you know where UNAMIR would have gotten that information about the rhetoric that was used
28 at the MRND party rally?

29 A. I suppose through the public information office.

30 Q. Public information office of what -- of what entity?

31 A. Of the HQ UNAMIR.

32 Q. And where would they have gotten that information?

33 A. Through the local press. As I said before, there was -- were some Rwandese employed at the second
34 floor of the HQ which were in charge of public information and which would have contacts with
35 international and with local press, receiving and giving accreditation to the press coming into the
36 mission for interviews or other opportunities. So if there was something going on on a political rally, this
37 would appear in the local press and also be related through this office to the attention of the mission

1 ongoing.

2 Q. And do you know whether UNAMIR itself ever sent people to monitor the rallies of political parties?

3 A. Not to my knowledge. The only thing that was done by UNAMIR was assuming some security and
4 monitoring outside the place where this rally would be held.

5 Q. Okay. Now, turning your attention to paragraph 6 of this document, on the -- page 3 of 6, it talks about
6 a meeting between the FC, the COS, and the ADC with President Habyarimana. So we know who the
7 FC is, but can you tell us who is the COS and the ADC?

8 A. COS stands for chief of staff, *chef d'etat major*, and ADC stands for *aide de camp*, which is the aide to
9 the force commander, which I mentioned before was a Dutch captain.

10 Q. And who was the chief of staff at that time in November of 1993, if you remember?

11 A. To my recollection, the chief of staff was also a Bengalese full colonel.

12 Q. Okay, thank you. Now, in the text of this paragraph it indicates that "The force commander had
13 indicated to different ministers over the weekend that after two weeks on the ground it was high time
14 that he be received at the presidential offices and that last night he had received the invitation for this
15 morning and that in the presence of his personal staff and minister of defence, the president expressed
16 his total support," total being underlined, "availability at any time to the force commander and optimism
17 for the future." And they then discussed the arrival of the RPF battalion.

18
19 Now, do you have any reason to believe that this was not an accurate report of the meeting between
20 President Habyarimana and the force commander?

21 A. Yes.

22 Q. You do have such a reason to believe?

23 A. Yeah.

24 Q. And why is that?

25 A. Well, to my opinion, at that point in time, there was still probably this intention of total support, and it
26 was important for the force commander to meet the head of state to feel that there was the support from
27 the top of the country.

28 Q. And when General Dallaire transmitted the statement of total support to New York, was he being
29 accurate in his assessment of that meeting, as far as you would know?

30 A. I don't know. I was not aware about this meeting at that point in time, so I suppose if he was
31 expressing that like that, he must have been confident.

32 Q. Was it your experience with General Dallaire that he accurately conveyed his assessment of the
33 situation on the ground to the superiors in New York?

34 A. Yes, that was my feeling.

35 MR. ROBINSON:

36 Mr. President, at this time, I would ask that the outgoing code cable, the weekly sitrep, which is
37 number 2 in my packet, be admitted as Exhibit D. NZ208.

1 MR. PRESIDENT:

2 Admitted.

3 *(Exhibit No. D. NZ208 admitted)*

4 MR. ROBINSON:

5 Thank you, Mr. President.

6

7 And if the witness can now be shown document number 3 -- sorry, excuse me, document number 4.

8 BY MR. ROBINSON:

9 Q. Colonel Claeys, I have placed in front of you a document which is entitled "Operational Director
10 Number 2, Rules of Engagement, Interim." Have you ever seen that before?

11 A. I suppose, yes.

12 Q. And does it appear to be the rules of engagement for UNAMIR issued by the force commander on the
13 19th of November 1993?

14 A. Yes.

15 MR. ROBINSON:

16 Mr. President, I'd ask that these be admitted as Exhibit D. NZ209.

17 MR. PRESIDENT:

18 Admitted.

19 *(Exhibit No. D. NZ209 admitted)*

20 MR. ROBINSON:

21 Thank you.

22 BY MR. ROBINSON:

23 Q. And if you could just turn to page 7, second heading is entitled "Crimes Against Humanity," and it reads
24 that "There may also be ethnically or politically motivated criminal acts committed during this mandate
25 which will morally and legally require UNAMIR to use all available means to halt them. Examples are
26 executions, attacks of displaced persons or refugees, ethnic rights, attacks on demobilised soldiers,
27 et cetera. During such occasions, UNAMIR military personnel will follow the ROD outlined in this
28 directive in support of UN CIVPOL and local authorities, or in their absence, UNAMIR will take the
29 necessary actions to prevent any crime against humanity."
30

31 Now, to your knowledge, were these rules of engagement in force as of the time you left Rwanda in
32 March of 1994?

33 A. To my knowledge, the rules of engagement have been changing at different points in time during the
34 mission.

35 Q. And was the duty to act to prevent crimes against humanity ever deleted from the rules of engagement,
36 to your knowledge?

37 A. Not to my knowledge.

1 Q. And as far as you're concerned, why didn't the UNAMIR take the necessary action to prevent crimes
2 against humanity after the 6th of April 1994?

3 A. That's difficult to say. I was not on the ground to -- to decide on that. There was a decision to withdraw
4 Belgian troops, both evacuation and UN troops. I think before the end of the month, even the
5 personnel from Bangladesh left the mission, and the complete mission was reduced to less than a
6 thousand men, to my recollection.

7 Q. But we've heard evidence that crimes against humanity began on the morning of the 7th of April and
8 continued during the time that the Belgian troops were there, or even the UNAMIR troops were there.
9 So can you tell us why no action was taken to prevent crimes against humanity that had occurred
10 before the evacuation?

11 MR. MORLEY:

12 Your Honour, I'm on my feet. My learned friend is repeating the same question but in a different guise,
13 putting it in a different time frame. My enquiry is to what issue does an enquiry into whether the rules of
14 engagement, as articulated in the document, could have been or should have been implemented on the
15 6th of April or thereafter by UNAMIR, to what issue does that go? To what extent is that something
16 which is relevant?

17
18 I don't doubt it is very interesting, but is it relevant to the enquiry before the Tribunal? Does it answer
19 the allegations which, in some ways, lie at the feet of the Accused? What I'm anxious to avoid is
20 turning this testimony into an enquiry into UNAMIR rather than a defence of the three defendants.

21 MR. ROBINSON:

22 Mr. President, I think I could answer that by simply stating something that the Prosecutor frequently
23 states when similar objections are made by the Defence, that it's part of the context of what happened
24 in Rwanda. And I think that it's certainly as interesting and relevant to that context as killings in 1991,
25 cooperation between military, civilians, other general evidence that you've allowed in under the
26 umbrella of context. I think I'm entitled to have that question answered.

27 MR. MORLEY:

28 May I make a -- a short contribution? The observation by Mr. Robinson about 1991 killings or
29 relationships between the army and others, as a matter of historical context, they are relevant to show
30 the background within the way that politics developed within Rwanda and arguably the marginalisation
31 of the Tutsi ethnic group. An enquiry into why --

32 MR. PRESIDENT:

33 Mr. Morley, we're not discussing that now.

34 MR. MORLEY:

35 Very well.

36 MR. PRESIDENT:

37 We think the witness can answer the question.

1 BY MR. ROBINSON:

2 Q. Colonel Claeys, do you remember the question or would you like me to restate it?

3 MR. PRESIDENT:

4 Restate or repeat?

5 MR. ROBINSON:

6 Repeat, if I -- if I can, or if he remembers it, it's not necessary.

7 THE WITNESS:

8 If you would refer to this rules of engagements, of course, something could have been done, but due to
9 the situation, as stated starting on the 7th of April, I recall, by readings, that UNAMIR tried to go on with
10 the peace -- or assisting in the peace process and avoiding any chaos that might be starting to appear
11 and calling upon all the parties to contribute to that.

12

13 I would also stress that some of the contingents within UNAMIR, rules of engagement or not, were only
14 concerned by their own security, closing themselves into compounds and even not assisting the UN
15 members, both military and civilian. Some of the contingents were ready to act in a movie, Bruce Willis
16 way, but they obeyed the military orders. I can't give more comment to that.

17 BY MR. ROBINSON:

18 Q. Do you think that given the eruption of violence in Rwanda on the 7th of April, that an assessment
19 might have been made that it would not be possible or feasible to intervene to prevent crimes against
20 humanity at that time?

21 A. On the date of the 7th, probably not. Maybe some days later, but again, it was a political decision to
22 remove some troops. If one recalls the situation some days later, there were -- except from the UN
23 forces on the ground -- more than 2,000 foreign troops on the ground. If there had been a political will,
24 both from UN and the international community, to my assessment, something could have been done.

25 Q. Thank you, Colonel Claeys. If you could now be shown the document number 5, please.

26 A. I have it in front of me.

27 Q. Colonel Claeys, this is a report of the Secretary General on Rwanda, dated the 16th of December 1993,
28 and I want to call your attention to the very last page, which is number 25. And this contains the
29 observations which reports on meetings with the political parties by the Special Representative. And in
30 the beginning -- or in the middle of the paragraph number 1, it's written that "We should, however, note
31 the political goodwill shown by the parties, signatories to the Arusha peace agreement, since the arrival
32 of the Special Representative of the Secretary-General. Indeed, in their statements, as well as in their
33 dealings with UNAMIR, these parties demonstrated their commitment to go forward in the
34 implementation of the peace plan."

35

36 And then at the very bottom, the Secretary General is reporting that "Thus, after Namibia and
37 Cambodia, Rwanda is on the way of becoming another success story of the United Nations

1 peacekeeping operations." And can you tell us if this was the view of people in UNAMIR on the ground
2 as of the 16th of December 1993?

3 A. Yes, I think we can consider this as an observation, yes, that generally people were thinking it was
4 going the right way. I think at that stage the RPF had been brought into Kigali, so -- or was going to be
5 brought into Kigali, so we were going -- or following the timetable as having been depicted in the
6 beginning of the mission.

7 MR. ROBINSON:

8 Mr. President, may the United Nations report of the Secretary General be admitted as
9 Exhibit D. NZ210?

10 MR. PRESIDENT:

11 Admitted.

12 *(Exhibit No. D. NZ210 admitted)*

13 BY MR. ROBINSON:

14 Q. Now, Colonel Claeys, I actually think perhaps I -- you can correct me if I'm wrong, but you've testified
15 earlier, and I think it's true, that the RPF battalion actually arrived in Kigali at the very end of December,
16 the last few days; is that correct?

17 A. Yes, that's the reason why I corrected. It was in the way on coming into Kigali, and the provision was
18 made for.

19 Q. And so this rosy assessment was actually before the RPF battalion arrived in Kigali, correct?

20 A. Yes.

21 Q. Now, I'd like you to be shown document number 6 in my group of exhibits, please.

22
23 This document is a letter from Joseph Nzirorera to General Dallaire, dated the 27th of December 1993,
24 in which he is requesting assistance in being protected, given that his residence was in close proximity
25 to the CND where the RPF battalion was going to be housed. And my first question to you is whether
26 or not you've ever seen this letter before.

27 A. No, at no point in time.

28 Q. And looking at the bottom, there's a stamp. It says, "Received, office of FC, 28/12/1993." Have you
29 seen that stamp before?

30 A. No.

31 Q. Okay. Looking at the handwriting at the top of the page, particularly the handwriting on the left-hand
32 side, do you recognise that handwriting?

33 A. Yes, it is the signature of the force commander of General Dallaire.

34 Q. And he's directing some comments to the chief of staff; is that correct?

35 A. Mm-hmm, yeah.

36 Q. And then do you recognise the signature -- or handwriting on the right-hand side?

37 A. Yes.

1 Q. Whose -- whose handwriting is that?

2 THE ENGLISH INTERPRETER:

3 Please kindly pause between questions and answers. Thank you.

4 MR. ROBINSON:

5 Sorry.

6 THE WITNESS:

7 No idea.

8 BY MR. ROBINSON:

9 Q. And do you see the letters MIO next to the signature?

10 A. Yes.

11 Q. And does that stand for military information office, of which you were a member?

12 A. This was indeed the abbreviation of my -- or of our office.

13 Q. And given the markings and the handwriting on the document, do you have any reason to believe that
14 it's not a genuine record kept by UNAMIR?

15 A. It should have been filed within UNAMIR, but I don't remember having seen this document, at what
16 point in time.

17 MR. ROBINSON:

18 Mr. President, I would offer this as Exhibit D. NZ211.

19 MR. PRESIDENT:

20 Admitted.

21 *(Exhibit No. D. NZ211 admitted)*

22 MR. ROBINSON:

23 Thank you.

24 BY MR. ROBINSON:

25 Q. Now, I want to ask you some questions about the RPF's violation of the rules that were governing the
26 situation in Rwanda, and I'd ask if you could be shown exhibit number 3.

27

28 Colonel Claeys, what's been placed before you is a code cable from Annan at UN New York to General
29 Dallaire, and in this code cable he is basically indicating that "We do not believe that a search for
30 possible RPF weapons caches in Uganda falls within UNOMUR's mandate, and that such activities
31 could create unnecessary political difficulties with RPF in or Uganda." And I think perhaps there was a
32 translation error, so the mandate I was referring to was of UNOMUR, U-N-O-M-U-R.

33

34 Now, were you aware that General Dallaire had requested that possible weapons caches in Uganda be
35 searched by the United Nations?

36 A. Not to my recollection, no.

37 Q. And looking at this code cable, does the format of it and the signature indicate to you that it is likely to

1 be a regularly kept record of the United Nations and a genuine copy of a communication from New York
2 to Kigali?

3 A. I don't recognise the signature, but apparently this is an official document from UNAMIR -- or that
4 reached UNAMIR, yes.

5 MR. ROBINSON:

6 Mr. President, I would ask that this be admitted as D. NZ212.

7 MR. PRESIDENT:

8 Admitted.

9 *(Exhibit No. D. NZ212 admitted)*

10 MR. ROBINSON:

11 Thank you.

12

13 And if the witness could now be shown numbers 9 and 10.

14 BY MR. ROBINSON:

15 Q. And while that's being distributed, maybe I could ask you if you were familiar with a lieutenant of the
16 Belgian brigade known as Mark Nees.

17 A. Yes, I know who he is.

18 Q. And what was his function, as you understand it?

19 A. He was the Belgian battalion S2.

20 Q. And what is S2 again?

21 A. Branch 2 is the branch of security and intelligence within the technical units.

22 Q. Now, directing your attention first to a document that has a --

23 THE ENGLISH INTERPRETER:

24 Counsel, please.

25 THE WITNESS:

26 I have it in front of me.

27 MR. ROBINSON:

28 Sorry about that.

29 BY MR. ROBINSON:

30 Q. Now, the first paragraph indicates that allegedly the FPR are advancing their troops present in the CND
31 building. Their method is to admit persons in civilian dress into the building after checking, but not all
32 civilians then leave the CND building and are allegedly equipped. And my first question to you is
33 whether or not you heard that kind of information when you were in Rwanda.

34 A. Yes, and I think it's also written in some of my reports.

35 Q. And this document that's in front of you, does it appear to be a report to the KITBAT commander from
36 Lieutenant Nees concerning intelligence in Rwanda?

37 A. I don't think it's a document that Lieutenant Nees made or has written. If it was written by

1 Lieutenant Nees, it should have been written in Dutch.

2 Q. Yes, you're correct about that. I believe what I've shown you is a translation. Are you looking at the
3 English?

4 A. Well, I have an English version and I have a French version, but I have no Dutch version.

5 MR. ROBINSON:

6 We also don't have the Dutch version, and I'm wondering if we could ask the Prosecutor at some point
7 if he could check his files to see if there is a Dutch version for this document.

8 BY MR. ROBINSON:

9 Q. But looking through the content of the document, do you have any reason to believe that this is not, in
10 fact, the translation of a report from Lieutenant Nees to the commander?

11 A. When I read the second page, apparently it has been signed by him, so at that point it's probably
12 translation for -- from an original somewhere in Dutch.

13 MR. ROBINSON:

14 Mr. President, at this time, I would offer this as Exhibit D. NZ213, A for the French and B for the
15 English.

16 MR. PRESIDENT:

17 Admitted.

18 *(Exhibit No. D. NZ213A and D. NZ213B admitted)*

19 MR. ROBINSON:

20 Thank you.

21 BY MR. ROBINSON:

22 Q. Now, turning to the next document that's already before you, which has a number 10 on it, we actually
23 do have the Dutch of that document, and I want to direct your attention --

24 A. I have it in front of me, yes.

25 Q. -- to paragraph number 3. In the English it's indicated that "Rumours are growing in Kigali that the FPR
26 have already arrived in Kigali with 3,000 personnel, including 600 officially in CND. In the north there
27 are also 15,000 FPR military awaiting a sign to carry out a coup from Kigali. This explains their
28 patience and their passive attitude toward the institution of the government."
29

30 And it goes on to say that "If they came to power through a coup, they will explain to the outside world
31 that the country was in a state of chaos and that the country would otherwise have risked a return to
32 civil war."
33

34 And my first question to you is whether or not you became aware of this information during your stay in
35 Rwanda.

36 A. No.

37 Q. And from looking at the report, including the Dutch, does it appear to you to be a report that, in fact,

1 Lieutenant Nees made to the commander of the Belgian battalion in January of 1994?

2 A. Yes, that is correct.

3 MR. ROBINSON:

4 Mr. President, at this time, I would like to offer this report as Exhibit D. NZ214, A for the Dutch, B for the
5 French, and C for the English.

6 MR. MORLEY:

7 In relation to this particular document, the witness has not been able to speak to its contents. He can
8 say to Your Honours what Your Honours can see on the face of the document; namely, it appears to be
9 from Nees to his KIBAT commander. But insofar as my learned friend is offering to put the document in
10 as being evidence of the truth of its contents, namely, Nees seems to be alerting KIBAT command to a
11 coup position on the part of the RPF, it's my respectful submission that as this witness has not adopted
12 the contents of the document, in the sense he has said he has no idea about its contents, it's not
13 admissible as an exhibit. It can be marked for identification. My learned friend will no doubt call
14 evidence on the coup proposition.

15 MR. ROBINSON:

16 Mr. President, I know of no rule that requires a regularly kept record shown to have otherwise been --
17 have the provenance of a regularly kept record be adopted by a witness before it can be admitted. And
18 I think this is -- I've laid adequate foundation to show that this is a document generated in the regular
19 course of UNAMIR's duties and that the document bears the signature of Lieutenant Nees and all the
20 trappings of authenticity.

21
22 With respect to the relevance and probative value, I think the relevance is clear. The probative value
23 that you give to this document is simply that -- at least in our position, that these reports were made by
24 Lieutenant Nees to General Dallaire. Whether they're true or not is another matter that other evidence
25 may convince you of, or perhaps not, but at least for the threshold of admissibility, given the
26 provenance of this document and its relevance to the case, I think we've met that threshold. Thank
27 you.

28 MR. PRESIDENT:

29 Mr. Morley, we have decided to admit it as a UNAMIR document. It's not admitted for the truth of its
30 contents, but it's admitted as a UNAMIR document.

31 MR. MORLEY:

32 Very well. Thank you.

33 *(Exhibit No. D. NZ214A, D. NZ214B and D. NZ214C admitted)*

34 MR. ROBINSON:

35 Thank you, Mr. President.

36

37 Now, if the witness could be shown number 11 in the packet of exhibits, please.

1 BY MR. ROBINSON:

2 Q. Colonel Claeys, I've had placed before what is titled an interoffice memorandum of UNAMIR to the
3 SRSG from the FC with information to the DFC, dated the 31st of January 1994, with the subject of the
4 security situation as of 31 January 1994. And directing your attention now to paragraph number 6 on
5 the second page, it's being reported here that "In addition to the deterioration of the present security
6 and media situation, there has also been a noticeable deterioration of the psychological attitude of the
7 RPF security forces in Kigali. This is no doubt due to the claustrophobic condition of being confined to
8 an island fortress. And they are clearly displaying a siege or in-prison mentality. It's noted that they
9 have, on several recent occasions, especially on the 26th and 27th of January 1994 -- "

10 THE ENGLISH INTERPRETER:

11 Slowly, slowly. Sorry.

12 BY MR. ROBINSON:

13 Q. "-- overreacted to situations, i.e., firing an unjustified warning shot from the CND; breaking out or forcing
14 their way out of the complex unescorted through the main gate; firing their weapons in the air while
15 forcing their way through a roadblock, et cetera; have displayed considerable but uncalled for
16 frustration; threatening UNMOs due to a delayed escort, et cetera; have openly and knowingly violated
17 the rules of the KWSA, i.e., entering Kigali sector headquarters with weapons during a joint meeting on
18 27 January 1994; and by their comments to the use of arms, i.e., General Kagame to General Dallaire
19 on 21 January 1994, that if the present political impasse is not settled soon, 'they will have to sort things
20 out once and for all.'"

21

22 And in paragraph 7 it's noted that "The above actions and reactions clearly demonstrate that the RPF is
23 demonstrating a claustrophobic frustration with the present situation and more and more with UNAMIR,
24 i.e., overreaction to Colonel Marchal's radio interview of 27 Jan 1994, and meeting with FC on
25 29 Jan '94 in CND, on several matters as described in notes published on 30 Jan '94, and may return to
26 armed conflict as the means of achieving their political objectives."

27

28 And my first question to you, Colonel Claeys, is whether or not you were aware of these incidents
29 concerning the RPF at the end of January 1994.

30 A. *(Microphone not activated)*

31 THE ENGLISH INTERPRETER:

32 Witness's microphone, please.

33 MR. PRESIDENT:

34 Witness, your microphone.

35 THE WITNESS:

36 I was indeed aware of certain of these incidents concerning the RPF reactions or attitudes at the end of
37 January '94.

1 MR. ROBINSON:

2 Mr. President, I would offer this memorandum as exhibit --

3 THE WITNESS:

4 But I was also aware and informed through the (*unintelligible*) about reinforcing of RGF troops. There
5 was also this incident with this transport of supplies for the RGF forces coming in through charter
6 flights, which is also spoke about in the same document.

7 BY MR. ROBINSON:

8 Q. Yes, that's very correct.

9 MR. ROBINSON:

10 Mr. President, I would like to offer this memorandum as Exhibit D. NZ215.

11 MR. PRESIDENT:

12 Admitted.

13 (*Exhibit No. D. NZ215 admitted*)

14 MR. ROBINSON:

15 Now if the witness could be shown number 14 in my packet of material.

16 BY MR. ROBINSON:

17 Q. Colonel Claeys, what has been placed before you is another outgoing code cable, this one dated the
18 1st of March, from Mr. Booh-Booh to Annan, concerning his report with the RPF -- or his meeting with
19 the RPF in Mulindi on the 1st of March. And I want to direct your attention to paragraph number 4, in
20 which it is stated that "Major General Kagame, head of the military wing of the RPF, said that the
21 country was now in a state of war, since the president had violated the ceasefire agreement by
22 terrorising and killing innocent civilians who are thought to be RPF supporters. He cited instances of
23 the violence perpetrated by the president's supporters, including the ambushing of UNAMIR patrols and
24 the killing of RPF soldiers, as well as the assassination of a prominent political leader. He said that
25 UNAMIR cannot remain silent or passive in such a climate and had to use force against the
26 perpetrators of violence." And then he went on in paragraph 7 --

27 JUDGE SHORT:

28 Mr. Robinson, the translators cannot keep up with your pace.

29 MR. ROBINSON:

30 Thank you, Your Honour. I'm sorry about that.

31 BY MR. ROBINSON:

32 Q. In paragraph 6, Mr. Booh-Booh indicates, "I left the meeting very pessimistic about the present state of
33 mind of the RPF leadership. They appeared to be seriously considering the war option, which I very
34 strongly tried to dissuade them from pursuing." He goes on to say that "I am, however, still hopeful that
35 reason will prevail and the party leadership will seriously reconsider their position and continue finding a
36 peaceful solution to the impasse."
37

1 And my first question to you, Colonel Claeys, is whether or not you became aware, around the
2 beginning of March 1994, of a concern in UNAMIR that the RPF was preparing for a war.

3 A. To my recollection, we were aware about an uncomfortable feeling of the RPF, and I think at a certain
4 point, the RPF political leadership left Kigali because they didn't feel at ease in the CND compound, but
5 I didn't notice that as being, and having still their battalion in Kigali, a road to war.

6 Q. Were you aware around this time that the RPF was smuggling weapons into the CND?

7 A. There was indeed hearsaying that they would be smuggling weapons into Kigali CND compound. We
8 were never able to confirm that.

9 Q. And in paragraph 4, General Kagame had referred to the assassination of a prominent political leader.
10 And do you recall that indeed in late February 1994 a man named Gatabazi was assassinated in
11 Rwanda?

12 A. Yes, I think this happened somewhere in January.

13 Q. Well, in any event, do you recall who was blamed for that assassination?

14 A. To my knowledge, nobody has been accused for this murder as investigations by UN CIVPOL are still
15 ongoing. I have never seen any conclusions in this enquiry.

16 Q. And at the time, shortly after this occurred, was the MRND and its supporters being blamed for this
17 assassination?

18 A. I recall that certain voices were raising, telling that some people within *Interahamwe* would have been
19 involved.

20 Q. And are you aware of statements made by a man named Abdul Ruzibiza, a former RPF soldier, in
21 which he has alleged that it was, in fact, the RPF who assassinated Mr. Gatabazi?

22 MR. WEBSTER:

23 I'm sorry, are we now away from the document? Because there's nothing in this document that
24 indicates that Gatabazi was the prominent political leader that was assassinated. I think we're all aware
25 there were at least three or four significant political figures that were assassinated in early 1994:
26 Martin Bucyana, Emmanuel Gapyisi, Félicien Gatabazi. There are others, but, you know, I'm a bit
27 concerned about the way the questioning is going, because it presumes a number of facts that aren't in
28 the document, and I'm using this as simply one example.

29

30 So, you know, I'd ask Mr. Robinson to clarify if he's talking -- if he's asking a general question of the
31 witness or if he's referring him to the document and making presumptions about what the document
32 contains, because I don't see any reference to Gatabazi in this document.

33 MR. ROBINSON:

34 Well, Mr. President, for Mr. Webster's information, Mr. Gapyisi was killed in 1992. And it's true that on
35 successive in February -- late February 1994 -- actually, it was 1993 that Gapyisi was killed, but in 1994
36 on two successive days there was killing of a minister, Gatabazi, who was believed to be a moderate,
37 and then the next day the killing of the president of the CDR party, Bucyana. And I don't think that -- I

1 think perhaps there was a mistranslation. The party was the CDR of Mr. Bucyana. I don't think it could
2 be fairly thought that Kagame was accusing the MRND or the president's supporters of killing the
3 president of the CDR. Therefore, I think it's a fair inference from this document that the assassination
4 being referred to was that of Gatabazi. And it's true that the witness hasn't confirmed that or doesn't
5 have knowledge of that, but I think my question concerning who was blamed for the assassination of
6 Gatabazi is a fair one, given the context of this letter and the time.

7 MR. PRESIDENT:

8 The witness can answer the question.

9 BY MR. ROBINSON:

10 Q. Colonel Claeys, I was asking you whether or not you were aware that a gentleman named
11 Abdul Ruzibiza, who had been a former RPF soldier, had alleged that it was, in fact, the RPF who had
12 killed this minister, Gatabazi, in February of 1994.

13 A. I'm not aware about this person, but it is true that both versions or possibilities, tracks, were followed
14 that it could have been something put up, made up by RPF, but also that members of the *Interahamwe*
15 and/or, at the same time, *Garde présidentielle* were involved. And as I said, the enquiry was ongoing,
16 and I have never read any conclusions or reports about that. It was in the hands of UN CIVPOL.

17 Q. Thank you very much, Colonel Claeys.

18 MR. ROBINSON:

19 Mr. President, I would like to offer this code cable as Exhibit D. NZ216.

20 MR. MORLEY:

21 And, Your Honour, I offer the thought, as I offered earlier in relation to another document, it's not
22 entirely adopted -- for example, the language of war footing hasn't been adopted by the witness. If
23 Your Honours are minded to say it's admissible as a UNAMIR document but not as evidence of the
24 truth of its contents, I'll sit down.

25 MR. PRESIDENT:

26 Mr. Morley, I think we've made it clear that all the UNAMIR documents are going in on that -- on that
27 basis. Once we have got evidence of the provenance of the document, the information in the document
28 only becomes evidence if a witness adopts it. So the document is not evidence of its truth unless
29 somebody can say that the contents are true.

30 MR. MORLEY:

31 That's helpful, Your Honour. I'm not sure that's going to be helpful to Mr. Robinson as well, because it
32 may be that the position now is a little clearer than it was earlier on today with regard to the UNAMIR
33 documents.

34 MR. WEBSTER:

35 I'm still a bit confused, excuse me, because if the document is only coming in as an indication of where
36 it came from and the contents are not accepted as evidence, what -- how far do we get ahead by
37 marking it in evidence as opposed to marking it for identification? It seems to me we end up in the

1 same place either way, because I would take it, from what the Court is now suggesting, that
2 Mr. Robinson would have to call another witness, who would have to agree with how he has
3 characterised the assassination of Gatabazi, or this political figure, before the Court would accept that
4 as -- as a reliable fact or something that it could use in its fact-finding efforts.

5 MR. PRESIDENT:

6 No evidence has been adduced that the document referred to Gatabazi. No evidence has been
7 adduced of the truthfulness of any statement in the document. This document is a contemporaneous
8 report made by UNAMIR. Its relevance and value to us would be, if other evidence was adduced, if the
9 other evidence is supported by a contemporaneous UNAMIR document.

10 MR. WEBSTER:

11 In other words, for this point, if we could just use this point for purposes of illustration, I would then
12 understand that Mr. Robinson would have to call another witness, who would assert that Gatabazi was
13 assassinated by the RPF in order for the Court to --

14 MR. PRESIDENT:

15 Mr. Webster, what a lawyer says from the bar table is not evidence.

16 MR. WEBSTER:

17 That, I understand, Your Honour. What I'm trying to understand --

18 MR. PRESIDENT:

19 *(Microphones overlapping)*...but there's no evidence about this as yet on the record.

20 MR. WEBSTER:

21 So, in other words, the document itself is not evidence, but --

22 MR. PRESIDENT:

23 It's not evidence of that -- of the truth of that fact. The document doesn't even refer to the killing of
24 Gatabazi directly.

25 MR. WEBSTER:

26 My question then is simply: Why do we mark it in evidence if nothing in content --

27 MR. PRESIDENT:

28 Because the ruling was these documents are being used in various *(unintelligible)* testimony, but they
29 were going to admitted in evidence only when there was somebody who could speak to the fact that
30 they were, in fact, a UNAMIR document. Mr. Claeys, who doesn't know the content or cannot state to
31 the content of the truth of the document, verifies that this is, in fact, a UNAMIR document. And that's
32 the basis on which it has been admitted through his testimony.

33 MR. WEBSTER:

34 There was never any questioning of whether the documents were, in fact, UNAMIR documents or not.
35 We obtained them from -- from the United Nations, so the source of it has to be --

36 MR. PRESIDENT:

37 Mr. Webster, you have objected to documents being entered because they were not -- the witness

1 through whom they were used could not speak to the document. We marked several documents when
2 they were used in this way with witnesses who had no connection with the UNAMIR and could not state
3 what these documents were, and they were marked for identification. So the witness who could verify
4 what these documents were and could speak to them, if possible, would put them in through this
5 witness's testimony.

6 MR. WEBSTER:

7 The objection --

8 MR. PRESIDENT:

9 Colonel Claeys is such a witness. He cannot speak to the content of this document. He has spoken to
10 the content of some documents, and his evidence will be utilised when we are evaluating -- when we
11 are evaluating the case as a whole.

12 MR. WEBSTER:

13 My concern is the only value of the document is the content that is disclosed in the document, so if
14 Mr. Claeys cannot comment on the contents, I'm wondering why we admit it in evidence to begin with.
15 But I simply wanted to raise that issue for the Court so that we do things -- so that we proceed in a way
16 that's really beneficial to the fact-finding process. But I've voiced my concerns, and the Court has
17 answered, so I think we -- I'll conclude with that, Your Honour.

18 MR. ROBINSON:

19 Mr. President, I'm going to have some contributions to this discussion. I think I should put them in
20 writing at the end of the session during our break, because it's an issue that I don't entirely agree with
21 the way this Court has characterised the extent to which these documents could be used. But I'm
22 thankful that they're being admitted, and I'm not going to upset the apple cart at this point, but I would
23 like to make some written submissions concerning the use to which the Trial Chamber might put these
24 documents during its deliberations.

25
26 But, in any event, it's past our time for a break, so would you like to adjourn for a little while?
27

28 And may this document be admitted as Exhibit D. NZ216?

29 MR. PRESIDENT:

30 Are we still on schedule?

31 MR. ROBINSON:

32 It's close, but it depends on how the -- the group of documents that were shown to Witness ALG are
33 treated. If it's necessary to go through one by one, I don't think I'll finish today, but if some way we
34 moved in a group, which I'm going to try to do --

35 MR. PRESIDENT:

36 But has notice been given to the Prosecutor?
37

1 MR. ROBINSON:

2 Yes, the Prosecutor has notice of which document I'm going to seek --

3 MR. PRESIDENT:

4 Have they indicated to which, if any, they're going to object to?

5 MR. ROBINSON:

6 They haven't, but since they just had notice this morning, I'm not necessarily sure it's their fault.

7 MR. PRESIDENT:

8 We'll take the mid-afternoon recess.

9 *(Court recessed at 1537H)*

10 *(Pages 41 to 60 by Sherri Knox)*

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1 (Court resumed at 1600H)

2 MR. PRESIDENT:

3 Yes, Mr. Robinson.

4 MR. ROBINSON:

5 Thank you, Mr. President. I think when we left off I had asked the question --

6 MR. PRESIDENT:

7 Yes, you want to hear the magic word, "admitted."

8 (Exhibit No. D. NZ216 admitted)

9 MR. ROBINSON:

10 Yes, thank you. It is not so much for me, but for the registry, so we don't have any question later
11 whether something was admitted or not, but I am grateful.

12 BY MR. ROBINSON:

13 Q. Okay, Colonel Claeys, I now would ask that you be shown documents 15 and 16 of my packet of
14 exhibits. Colonel Claeys, what has been placed before you are two faxes between UNOMUR,
15 U-N-O-M-U-R, and UNAMIR. And I placed on the top -- the first one is actually the one that appears to
16 be addressed to you concerning information about the NRA; do you see that?

17 A. Yes, I have it in front of me.

18 Q. And do you see your signature on the bottom of that?

19 A. Yes.

20 Q. Now, looking at the next document, number 16, this is the fax dated the 1st of March, which is referred
21 to in the fax that you signed. And in paragraph -- this appears to be a fax from UNOMUR to
22 General Dallaire, and it indicates that they have some sensitive information; that the NRA is effectively
23 supporting the RPF with a large amount of ammunition and weaponry. And can you tell us who the
24 NRA is?

25 A. I don't recall what the letters are standing for, but it must be the Uganda forces.

26 Q. Okay. That is correct, in my belief. And now it goes on to say that "The inventory of weapons and
27 ammunitions include," and then it describes some ammunition weapons. "And it seems that the next
28 consignment is packed and ready to be delivered, but we not sure of the exact date, and we are trying
29 to track and confirm that information as much as possible." And then on the next page is the actual
30 inventory of weapons or -- for the national resistance army; do you see that?

31 A. Yes, I have it in front of me.

32 Q. And do you recall seeing that as part of the fax that was sent to you on the 2nd of March 1990 -- sorry,
33 1994?

34 A. Yes, I think so.

35 Q. And among the weapons that are available for the Ugandan army, do you see a -- one called
36 SAM, SA7; do you see that?

37 A. Yes, I have it.

1 Q. And does that stand for "surface-to-air missile"?

2 A. Yes, that is right.

3 Q. And is that what was used to shoot down the plane of Habyarimana on the 6th of April 1994, a
4 surface-to-air missile?

5 A. It is assumed that something like that would be used, yes.

6 Q. And do these faxes, these two documents, number 15 and 16, do they reflect information that was
7 being received by UNAMIR in March of 1994, from UNOMUR, the observation mission?

8 A. Yes, but the second page is the general inventory of the NRA. It is not this specific shipment which it's
9 concerning.

10 Q. That is correct, but it at least appears from the documents in the way we received them that this was
11 the second page of two to the fax of the 1st of March 1994 where they referred to the inventory of
12 weapons.

13 MR. ROBINSON:

14 I think maybe there was a translation error; I said the -- I hope I said the 1st of March 1994.

15 MR. PRESIDENT:

16 Yes.

17 MR. ROBINSON:

18 Mr. President, at this time I would ask that the first document, number 15, the outgoing fax of the
19 2nd of March to Captain Claeys, be admitted as D. NZ217 and the second document, the outgoing fax
20 to General Dallaire of the 1st of March, be admitted as D. NZ218.

21 MR. PRESIDENT:

22 Admitted.

23 *(Exhibit No. D. NZ217 admitted)*

24 *(Exhibit No. D. NZ218 admitted)*

25 MR. ROBINSON:

26 Thank you, Mr. President.

27

28 And if the witness can now be shown document number 17 in our packet of exhibits?

29 THE WITNESS:

30 I have it in front of me.

31 BY MR. ROBINSON:

32 Q. And is this a report that was sent by General Dallaire to the UN observation mission concerning
33 information that UNAMIR had received regarding RPF weapons?

34 A. Yes.

35 Q. And just to look at paragraph 2, does it indicate that the "unconfirmed and very sketchy information is
36 being forwarded to alert you that UNOMUR can expect the possibility of a major increase in the
37 movement of munitions from Uganda to the RPF in the near term?"

1 A. Yes.

2 Q. And were you yourself informed of the suspicion that the RPF was arming itself in Rwanda from
3 Uganda in March of 1994?

4 A. Yes, I saw this code cable because I signed it on the top.

5 Q. I actually don't see your signature. Where are you referring to?

6 A. MIO, there is a --

7 MR. ROBINSON:

8 Okay.

9 THE WITNESS:

10 9th of March.

11 MR. ROBINSON:

12 Okay, I see it now. Thank you.

13

14 And, Mr. President, may this be admitted as Exhibit D. NZ219?

15 MR. PRESIDENT:

16 Admitted.

17 *(Exhibit No. D. NZ219 admitted)*

18 BY MR. ROBINSON:

19 Q. So, Colonel Claeys, can we assume that, based upon the information that UNAMIR was receiving
20 about the RPF, as well as about the MRND and the RGF, that it is fair to conclude that both sides were
21 violating the KWSA?

22 A. No, I wouldn't put it that way, because K stands for Kigali. And there is no information about the Kigali
23 weapon secure area being violated by these activities by the RPF.

24 Q. What about the information that they were smuggling people and arms into the CND? That would be a
25 violation, would it not?

26 A. The smuggling of persons, not; the smuggling of arms, yes, if it was proven. It hadn't been proven until
27 further notice.

28 Q. Well, maybe I can put my question more broadly. Did it appear to you that the parties in Rwanda were
29 not respecting their obligations with respect to UNAMIR during 1994, all sides?

30 A. That is clear.

31 Q. Okay, thank you. And now I want to turn to another topic, which is the demonstration of the
32 8th of January 1994; and first, if you could be shown document number 18.

33

34 Directing your attention to document 18, it appears to be a code cable from Booh-Booh to Annan in
35 which he sets forth his efforts, both on the 6th and the 7th of January 1993, to ensure the installation of
36 the transitional institutions in Rwanda. And I want to first call your attention to the very top of the first
37 page. And I would ask you if it appears to indicate that this fax was sent on the 7th of January 1994 at

1 1955H.

2 A. 7th of January, 1945 Zulu.

3 Q. 7th of January of -- I was actually saying, 7th of January 1994 at 1955H; is that correct?

4 A. To my understanding by the (*unintelligible*) writing, it is 1945 Zulu when it was sent out. And it was the
5 reply from the fax, electronically, to send -- or to confirm that it arrived in New York at 1955 Zulu.

6 Q. I see. Okay, thank you very much, I think you are right about that. In any event, it was sent in the
7 evening of the 7th of January. And turning your attention to the last page -- or actually the second to
8 last page, concerning the meetings that Mr. Booh-Booh had on the 7th of January, he indicates, first he
9 had had a meeting with the RPF leadership at 10:30 in the morning. At 3:30 he had met with the judge
10 of the transitional court. And then at 4:30 he had met with the prime minister designate at UNAMIR
11 headquarters, who had just come from a meeting with the president of the republic. And that, in
12 addition, and now I'm reading from paragraph 3 on the last page -- or the second to last page, I'm sorry:

13

14 "That in addition to the above face-to-face meetings with several personalities, I have made several
15 calls and received several from interested parties on ways to resolve the impasse, and that tomorrow
16 9:30, I'm scheduled to meet with the prime minister." And then he reproduces a statement he had
17 issued.

18

19 And I would ask you whether or not it is -- the fact that this document written on the 7th of January and
20 sent in the evening to New York makes no mention of any swearing-in ceremonies that had been
21 scheduled for the 8th of January.

22 A. No, I don't see any mention of it.

23 Q. And is -- this code cable appears to be a legitimate code cable sent by Booh-Booh to Annan?

24 A. Except the change of fonts, I don't see any problem with the fax.

25 MR. ROBINSON:

26 Mr. President, I would ask that this be admitted as D. NZ220.

27 MR. MORLEY:

28 There is there no objection, but if it is to be suggested that the absence of a reference to an 8th of
29 January demonstration in that document means either there wasn't such a demonstration --

30 MR. PRESIDENT:

31 Not demonstration, he said the swearing in.

32 MR. MORLEY:

33 I meant --

34 MR. PRESIDENT:

35 But I've noticed the subject heading of the document. I was going to ask about that.

36 MR. MORLEY:

37 Your Honour, yes. Just to conclude, I think Your Honour has my point, if it is to be suggested that the

1 demonstration on the 8th of January could have had nothing to do with arguments over the swearing-in
2 procedures for the other deputies, simply because there is no reference to it in this outgoing cable, this
3 witness cannot speak to that. And the consequence is that, on the face of the document, be it evidence
4 to contradict what it is that he, the witness, was told by Turatsinze.

5 MR. ROBINSON:

6 Mr. President, I don't think that is my point; but in any event, may the document be admitted?

7 MR. PRESIDENT:

8 Admitted.

9 (*Exhibit No. D. NZ220 admitted*)

10 THE ENGLISH INTERPRETER:

11 If the timing is at all important, you might want to repeat that because it was a bit fast, and I'm not sure
12 the court reporters got it all down, but maybe it is unimportant, sorry.

13 MR. ROBINSON:

14 Well, Mr. President, for the record, you have admitted exhibit -- the document as Exhibit D. NZ220.

15 That is my main thing I want to make sure.

16 MR. PRESIDENT:

17 Yes, I think that was the main point.

18 MR. ROBINSON:

19 Thank you.

20

21 If the witness can now be shown number 20 -- excuse me, yes, number 20, which is two pages.

22 BY MR. ROBINSON:

23 Q. Colonel Claeys, this is an excerpt or a page from a book that was written by Mr. Booh-Booh, entitled,
24 *La patron de Dallaire parle*, published in 2005. So, first of all, let me ask you if you have read that
25 book.

26 A. No, I haven't read the book.

27 Q. On page 84, in the first full paragraph, General -- excuse me, Mr. Booh-Booh talks of a meeting that he
28 had with Kavaruganda, president of the constitutional court, on the 7th of January 1994. And on the
29 right-hand side on page 85, he indicates that -- and this is in the middle paragraph: "That the president
30 of the constitutional court was raising the possibility of swearing in the deputies and ministers of the list
31 sent by the prime minister while President Habyarimana was in the Ivory Coast in February of 1994 to
32 attend the funeral of the president there." And then Booh-Booh goes on to say that he said that
33 UNAMIR couldn't do that in the course of its mandate.

34
35 And I was at -- and my question to you was whether or not during the time you were in Rwanda, you
36 ever heard or learned that the president of the constitutional court was proposing to swear in the
37 deputies in February without President Habyarimana.

1 A. No, I was not aware about that during my stay in Rwanda. But this same passage was brought to my
2 attention in a past testimony.

3 Q. And if it is true that they were discussing on the 7th of January the possibility of a swearing-in ceremony
4 in February, would that indicate to you that it was unlikely that such a ceremony had, in fact, been
5 scheduled for the 8th of January, at least, as of the 7th?

6 A. No. But what strikes also my mind is that he would already know on the 7th of January that he would
7 go to funerals in February.

8 Q. Yeah, that also struck my mind. And I'm not sure what the customs are in Ivory Coast or when they
9 had ceremonies. But in any event, it seemed to me that if you were discussing on the 7th of January
10 trying to conduct a swearing in in February, that, perhaps, there was no ceremony scheduled for the
11 next day. Do you have any comment on that?

12 A. No, I leave that open.

13 Q. Okay, thank you.

14 A. I have another comment on the text of the book, because if Kavaruganda was apparently coming to find
15 Mr. Booh-Booh, I'm astonished that he didn't write it correctly in his book how the name was spelt.

16 Q. Okay, perhaps we will bring that to his attention when he comes here.

17 MR. ROBINSON:

18 Mr. President, at this time I would like to ask that this be admitted as ID. NZ56.

19 MR. PRESIDENT:

20 That is marked for identification.

21 MR. ROBINSON:

22 Marked --

23 MR. PRESIDENT:

24 Marked for identification.

25 *(Exhibit No. ID. NZ56 marked for identification)*

26 MR. ROBINSON:

27 Yes, I'm sorry.

28

29 And if the witness can now be shown document number 21, which is in both English and French; it is a
30 rather large document.

31 BY MR. ROBINSON:

32 Q. Colonel Claeys, directing your attention either to the English, which is item 3.3, and the pages aren't
33 numbered, or to the French, which you can find on page 12, or pages 11 and 12, first of all, I want to
34 advise you that what is before you is a tract written by General Augustin Ndindiliyimana, the chief of the
35 gendarmerie in the 13th of October 1999, in which he is responding to some events depicted in the
36 book of Alison Des Forges. And, in particular, he discussed the demonstration of the
37 8th of January 1994.

1
2 And, in fact, he goes on to say that the truth of the demonstration -- the truth of the -- regarding the
3 demonstration, was that it took place on the 8th of January 1994, around the roundabout of the
4 Meridien Hotel and the CND building; and that the demonstrators said they opposed the swearing in of
5 the transitional institutions without the head of state; and that a rumour was that the head of state was
6 not present; and that General Ndindiliyimana phoned the commander of a security company and
7 instructed him to intervene; that he called Colonel Marchal to inform him, and to seek authorisation to
8 use the anti-riot unit; and that that authorisation was granted; and that, having ordered the anti-riot unit
9 to intervene, he went himself to this place where the demonstration was being held and he asked
10 people what was the reason for the demonstration; and when he was informed, he explained to them
11 that it was mere rumours spread by irresponsible people; and, as they could see for themselves, there
12 was no ceremony that day, that the diplomats and authorities did not turn up; and that he asked people
13 to go home; that the head of state, in fact, passed through that road, followed by Mr. Booh-Booh; that
14 an anti-riot unit arrived, but it was not necessary that they be used because the demonstrators had
15 already gone.

16
17 Can you tell us whether or not this account of the demonstration of the 8th of January is in accord with
18 your own understanding of what was going on on that date?

19 A. I would have to read everything, but there was a demonstration. There are -- there was an intention to
20 swear in deputies. Here, it is only stated that not -- they were still not deputies or diplomats at
21 10 o'clock. It was not the views that this ceremony would start at 10 o'clock in the morning, but the
22 demonstrators were in place to avoid it.

23 *(Pages 61 to 67 by Donna M. Lewis)*

1

1 1630H

2 BY MR. ROBINSON:

3 Q. And General Ndindiliyimana indicates that it was rumours that the swearing-in would take place on the
4 8th of January, but it was not, in fact, scheduled to take place.

5 A. Again, if you read the book of Colonel Marchal or General Dallaire, it's obvious that there were
6 demonstrations and that there was a swearing-in ceremony planned, which had to be organised and
7 where the UNAMIR forces were involved to monitor.

8 Q. Well, I don't dispute the fact that there was a demonstration that was held. I think that our -- our
9 position is that some people thought that there was going to be a swearing-in ceremony, and so they
10 organised a demonstration. But, in fact, there had been no swearing-in ceremony scheduled for the
11 8th of January 1994, at least as of the evening of the 7th. Do you have any comment on that?

12 A. No.

13 MR. ROBINSON:

14 Mr. President, if this document from General Ndindiliyimana can be marked as ID. NZ57A for the
15 French, and 57B for the English.

16 MR. PRESIDENT:

17 Marked for identification.

18 *(Exhibit No. ID. NZ57A and ID. NZ57B marked for identification)*

19 MR. ROBINSON:

20 Thank you.

21

22 Now, if the witness can be shown document number 19.

23 BY MR. ROBINSON:

24 Q. Colonel Claeys, this is a document available both in French and English, and it's a press release signed
25 by the director of the cabinet of the president and also the member of the political bureau of the
26 Rwandan Patriotic Front, Seth Sendashonga, and that's spelled S-E-N-D-A-S-H-O-N-G-A.

27

28 And it indicates that on Saturday, the 8th of January 1994, there had been a meeting in the presence of
29 the representative of the facilitator of the Arusha negotiations, the secretary-general of the
30 United Nations, the secretary-general of the Organisation of African Unity in the presence of the
31 prime minister, president of the republic, and the Rwandese Patriotic Front. And the purpose of this
32 meeting was to consider ways and means of trying to pursue and complete the establishment of the
33 transitional institutions.

34

35 So my -- my question to you is whether or not you were aware that, in fact, what occurred on the
36 8th of January 1994 was a meeting amongst the parties, including Mr. Booh-Booh, to try to establish
37 these institutions at some day in the future.

1 A. I can't deny that there might have been another meeting, as stated here in the press release, but there
2 is nowhere indicated where this meeting took place and at what point in time.

3 MR. ROBINSON:

4 Mr. President, at this time I would ask that the press release be marked as Exhibit ID. NZ58 and -- and
5 just marked for identification at this time.

6 MR. PRESIDENT:

7 Marked for identification.

8 (*Exhibit No. ID. NZ58 marked for identification*)

9 BY MR. ROBINSON:

10 Q. Now, turning to the demonstration itself, did you see any *Interahamwe*?

11 A. No, I said before.

12 Q. And the fact is that people weren't wearing uniforms at this demonstration, so you couldn't tell who it
13 was who was demonstrating, correct?

14 A. That is correct.

15 Q. Did you see any VIPs or members of parliament attempting to approach this demonstration?

16 A. No, as I didn't monitor the demonstration myself.

17 Q. Well, was it reported to you that any VIPs or members of parliament had attempted to come to the area
18 where the demonstrators were?

19 A. Not to my recollection.

20 Q. Did you see any weapons that day?

21 A. Not amongst the demonstrators.

22 Q. Now, you've told us that on the 10th of January Turatsinze told you that weapons had been hidden in
23 drains at the roundabout, correct?

24 A. Yes, that is true.

25 Q. Have you ever seen the drains in that area?

26 A. Yes.

27 Q. And they're open and not covered; isn't that correct?

28 A. Yes, and the grass is growing.

29 Q. And he told you that on your -- at your second meeting that the weapons had been hidden in the
30 vegetation, correct?

31 A. Yes.

32 Q. And did you have some understanding that by "vegetation" he meant the grass growing in the drains?

33 A. To my recollection, there was grass or herbs growing in the drains, next to the drains. And if that was
34 not cut down, it was high enough to hide whatever equipment.

35 Q. And did you see any Presidential Guard members in the demonstration that day?

36 A. No, there were no distinctive clothing to mark whatever personnel.

37 Q. And Turatsinze had told you that Presidential Guard members were on covert standby in case there

1 was a confrontation with UNAMIR, and you noted that that was not confirmed by UNAMIR military
2 observers stationed at the Presidential Guard camp, correct?

3 A. Yes, that is correct.

4 Q. So after receiving the information from Turatsinze that Presidential Guard members were on covert
5 standby in case of confrontation with UNAMIR, did you enquire as to whether or not that could be
6 confirmed or corroborated?

7 A. To the Court's understanding, it was not specially necessary to corroborate this information, as the
8 camp of the Presidential Guard, in reference to the roundabout of the Meridien, was a few hundred
9 metres away.

10

11 Having people inside barracks is also a kind of standby. They didn't need to be informed detachments
12 with weapons in their hands to be on standby. As there were, as he explained, some communications
13 available, just using communications would be enough to bring them out of their buildings, barracks, out
14 of the compound and run towards the Meridien traffic circle.

15 Q. Well, in Exhibit P. 42, one of your reports, you specifically noted when he had -- Turatsinze -- you
16 reported that Turatsinze had said that Presidential Guard members were on a covert standby in case
17 there was a confrontation with UNAMIR, and then you wrote that this was not confirmed by UNAMIR
18 military observers stationed at the Presidential Guard camp. So what was the basis for you to write
19 that?

20 A. Because we asked reports from the military observers in the camp, but it was after the fax, after this
21 information came to us. So I don't know how these UN military observers observed this or not, if it
22 wasn't brought to their attention until days later.

23 Q. But you, yourself, thought this was important enough to note that information given to you by Turatsinze
24 was not confirmed, correct?

25 A. Yes, within power channels.

26

27 Sorry. I'm going too fast.

28

29 Because we tried to cross-check this information within the UNAMIR channels.

30 Q. And at least at to this particular allegation, your cross-checking resulted in the fact that you were unable
31 to confirm Turatsinze's allegation, correct?

32 A. At that point we couldn't confirm it, yes.

33 Q. And, in any event, the demonstration was peaceful and under control, correct?

34 A. To my recollection, yes.

35 Q. I want to turn to the meetings with Ngirumpatse and Nzirorera held by UNAMIR personnel. We've
36 seen, as a Prosecution exhibit, the cable from Booh-Booh to Annan dated the 13th of January in which
37 he describes a meeting with MRND officials at 4 o'clock p.m. with himself; his assistant, Kabaya; and

1 General Dallaire. Now, were you aware in 1994 that this meeting had taken place?

2 A. No.

3 Q. And you've testified that, for you, the meeting that you've described on the 13th of January, which you
4 say you tape-recorded, was the first meeting between the MRND officials and UNAMIR, correct?

5 A. According to my knowledge, yes.

6 Q. Now, if you could look at the report of 12 January of your meeting with Turatsinze, which is in the
7 packet that Mr. Morley prepared.

8
9 I'm going to direct your attention to page 17, paragraph number nine. And this is on the
10 12th of January, so that would be the day before the meeting that you say that you attended and
11 tape-recorded. And in paragraph nine you -- it's noted that the informant said that he had been late
12 because he just received a briefing from the MRND party president and that the president had evidently
13 gone to directly brief him after the meeting between the SRSG and the FC had ended and that the party
14 president was -- seemed very scared by the words of the FC at the earlier meeting with him and that
15 the SRSG and the FC had left them with the impression that they were in possession of some proof of
16 MRND having weapons in their possession and that the FC had indicated they should show their
17 goodwill and that the informant demonstrated no adverse reaction to UNAMIR already seemingly using
18 some of his information in his discussions with the relevant persons.

19
20 So do you still maintain that you did not know of the meeting between the UNAMIR officials on the 12th
21 and the party officials of the MRND?

22 A. Yes, I still maintain that I was not aware about this meeting.

23 MR. MORLEY:

24 Your Honour, I'm on my feet. I waited for the answer, but my learned friend put an assumption into the
25 question that he put to the witness, namely, that the witness had prepared the document. He's never
26 said that. As Your Honours see, this is a draft outgoing cable from Dallaire, and it has material within it
27 which Dallaire has received from this witness. But it would be wrong to say that it's a matter of record
28 that the witness has ever said that he, the witness, has prepared this cable.

29 MR. ROBINSON:

30 Yes, Mr. President. I think that's the kind of objection that really coaches the witness, and I don't think
31 it's very fair. It should be done in re-examination. This is a -- something the Prosecution consistently
32 does by making these speaking objections in which they're prompting the witness to adopt their theory
33 of the -- of the matter. But I'll address it with the witness, in any event. But I hope it doesn't occur
34 again.

35
36 And I'm going to ask you to make an order that the Prosecution make its objections more circumspect
37 or make those kind of statements outside of the witness's presence. And I'd like you to deliberate on

1 that motion at some point before we have more of these interruptions.

2 MR. MORLEY:

3 The problem arises because of the way the question was put. It was put to the witness it was his
4 document. That is not the evidence.

5 MR. ROBINSON:

6 Mr. President, I don't believe ever putting to the witness that he wrote this document. But, in any event,
7 I'm asking that you, at some point before we go further tomorrow, make an order that if the Prosecution
8 has a statement to make which can reasonably be assumed could prompt the witness to give a certain
9 answer that that objection be made outside the presence of the witness. I think we need such a rule in
10 this case now because it's just going on repeatedly.

11 BY MR. ROBINSON:

12 Q. But, Colonel Claeys, I'll just direct his attention to -- question to you so that we can clear up this issue.

13
14 Of course you didn't write this. We all know that. But the last sentence indicates that the informant
15 demonstrated no adverse reaction to UNAMIR already seemingly using some of this information in its
16 discussions with the relevant persons.

17
18 And would you agree that there was some discussion with the informant on the 12th of January
19 concerning the fact that his information had been used in discussions by UNAMIR with other parties?

20 A. No, not to my knowledge. As I said, I reported from my meetings with Jean-Pierre, but I was not able to
21 give him any information about an ongoing meeting or a meeting that took place with other personnel.
22 What I said to Jean-Pierre is, "We have informed certain instances, certain authorities in order to get
23 some protection for you."

24 Q. Now, General Dallaire didn't see this informant on the 12th of January, did he?

25 A. No, he never saw the informant.

26 Q. So what would be the basis, then, for him stating that the informant demonstrated no adverse reaction
27 to UNAMIR already seemingly using some of this information in its discussions with the relevant
28 persons? Surely he would have had to have had information from either you or Captain Deme
29 concerning the reaction of the informant about those matters in order to write this, don't you think?

30 A. It's an assumption that "relevant persons" is concerning MRND members or even the president of the
31 republic. To my knowledge, this sentence written by General Dallaire concerned, to my understanding,
32 the embassy authorities that have been met and that have been informed about what he had disclosed.

33 Q. Well, that would be something that the informant expected UNAMIR to do, wouldn't it, since he had
34 asked for that kind of protection? So why would there be any suggestion that he might demonstrate
35 some adverse reaction for UNAMIR going and doing exactly what he asked them to do?

36 A. He was just asking for protection. I have never stated that he was asking us to contact whatever
37 embassy. Even within UNAMIR we had assets to moving out the country with military equipment, or

1 give him even some UN protection within the UN headquarters. So I don't understand why he should
2 understand by this information that we had to contact whatever embassy.

3 Q. Well, when -- looking at the beginning of this paragraph nine, when Turatsinze arrived late, did he give
4 you some kind of explanation that he had met with the MRND party president?

5 A. Yes.

6 Q. And then did he tell you, and I'm looking now to the middle of the paragraph, that the president seemed
7 very scared by the words of the FC at the earlier meeting with him?

8 A. Yes.

9 Q. Okay. So doesn't that imply that there had been a meeting between the president of the MRND and
10 the -- and General Dallaire earlier?

11 A. Yes, but I haven't written that down. I was not supposed to know this. I was not present when this fax
12 was drafted.

13 Q. No, but what is being in this fax is Dallaire saying that the president seemed very scared by the words
14 of the FC at the earlier meeting with him. Now, did General Dallaire make that up or did he base that
15 on information he received from you?

16 A. That was General Dallaire's impression. It was not made up by me. I was not aware of this meeting,
17 as I said before.

18 Q. Well, did Turatsinze tell you that the president seemed very scared by the words of the force
19 commander?

20 A. No. He just said he was late by a meeting with his authorities.

21 Q. Okay. You now know that Dallaire and Booh-Booh had warned the MRND about weapons distribution
22 on the 12th of January at 4:30 in the afternoon, and it was sometime after that that you saw the
23 weapons at the MRND -- or, Captain Deme saw the weapons at the MRND that night, correct?

24 A. Yes.

25 Q. And I take it that UNAMIR didn't want the MRND to know that they had an informant and that they had
26 seen weapons, correct?

27 A. Yes.

28 Q. So what was the purpose of repeating the message the same -- the next day at the meeting that you
29 claim to have attended on the 13th?

30 A. To my understanding, this was the first meeting, and then we said that we had some concrete
31 evidence. And I assumed that in the first meeting there was just this unconfirmed information that was
32 brought forward.

33 Q. Well, I -- I'll represent to you, Colonel Claeys, that there is no mention of this meeting on the
34 13th of January in any UNAMIR documents. There's no mention in General Dallaire's book. You have
35 no notes. We don't have the tape, and our clients actually just recall one meeting. So I don't know that
36 it's necessarily so important, but I -- since it's going to be the subject of their own testimony during the
37 case, I want to ask you if you'd like to comment on that.

1 A. The only comment is have they ever seen me in the office with the general. And, if it's not the case,
2 then it's their word against my word.

3 Q. Well, they don't remember seeing you in particular, but they do agree that they were in the office with
4 the general. But they believe it was on the 12th with Booh-Booh and Kabila -- and Kabaya. And
5 perhaps you were there; perhaps you weren't. But they -- their position is that there was just one
6 meeting.

7

8 So any comment on that?

9 A. I continue to state that there was a meeting and that there was one meeting with them and the force
10 commander and myself.

11 Q. And Booh-Booh was not there?

12 A. Booh-Booh was not there, and Kabaya was not there.

13 Q. Okay. Okay. Now, I want to ask you about some other things that you were told by
14 Jean-Pierre Turatsinze. And it's indicated in Exhibit P. 45 that UNAMIR -- Turatsinze was telling you
15 that UNAMIR had prepared three minibuses to evacuate its Tutsi employees as soon as any raid
16 against the Tutsis would start. Do you remember him providing you with that information?

17 A. If it is in one of my reports, yes.

18 Q. Okay. Well, maybe you could have a look at the report of the 20th -- your meeting with Turatsinze on
19 the 20th of January, and this is -- would be at page 23. And I'm reading now from the third paragraph
20 down from the top: "He spoke about UNAMIR having prepared three minibuses to displace his Tutsi
21 civilian employees as soon as any raid against the Tutsi would start, for example, the 20 January '94.
22 This information should have been given by the headquarter infiltrant. He gave some information on
23 that matter, but it was not sure enough."

24

25 Do you see that where you have written that in your report of your meeting on the 20th of January?

26 A. Yes.

27 Q. And had UNAMIR prepared three minibuses to evacuate its Tutsi employees?

28 A. I was -- or, I have never been aware of that kind of measures being prepared.

29 Q. Now, further down in this report, you indicate that Turatsinze warned that the contractor of the works at
30 the CND, a man named Severa, would be killed soon. Do you see that, the fifth paragraph?

31 A. Yes, I see it.

32 Q. Did you ever take any -- did UNAMIR ever take any steps to protect or warn this individual?

33 A. Not to my knowledge.

34 Q. And, to your knowledge, was he killed while you were in Rwanda?

35 A. I have no idea.

36 Q. And Turatsinze also said during this meeting, and now I'm looking on the second page, that he had
37 been told that a UNAMIR colonel had driven a bus of PL members to the CND on the 5th of January.

1 Now, to your knowledge, was anyone in UNAMIR involved in driving a bus with PL members to the
2 CND on the 5th of January?

3 A. No, I wouldn't know who would done -- would have done this.

4 Q. And on the 5th of January, you, yourself, were at the CND checking vehicles, correct?

5 A. Yes, indeed.

6 Q. And so you didn't see any bus with PL members driven by UNAMIR employees show up, did you?

7 A. Well, I am not sure that he was speaking about the UNAMIR colonel. He just is speaking about a
8 colonel.

9 Q. Well, the next sentence, though, says that they consider that as involvement in the internal affairs of the
10 country by protecting opposition members. Don't you think that that is referring to UNAMIR?

11 A. That's, for me, just an assumption.

12 Q. Would there be anything wrong with a colonel in the army protecting opposition members?

13 A. Maybe for the MRND, but, again, it's just an assumption.

14 Q. Now, turning to page 25 in your report of the meeting on the 10th of February 1994, Turatsinze has --
15 you report that he told you how the chief of staff and himself, the chief of staff of the gendarmerie, had
16 seized -- had secured the return of a weapon seized from *Interahamwe* in Gitikinyoni. Did UNAMIR
17 ever check with the chief of staff of the gendarmerie to determine whether or not he even knew
18 Turatsinze or whether this incident had, in fact, occurred?

19 A. Not to my knowledge.

20 Q. And is it fair to say that the chief of staff of the gendarmerie was someone who UNAMIR interacted with
21 on a very regular basis?

22 A. With the HQ of the *secteur*, indeed, but not with the HQ of the force, to my knowledge.

23 Q. So Colonel Marchal had a lot of contact with General Ndingiyimana, correct?

24 A. This is correct, yes.

25 Q. And then Turatsinze talked about an impending raid on the *communal* office of Butamwa to recover a
26 weapon seized from an *Interahamwe*. To your knowledge, did any such raid ever take place?

27 A. It was never confirmed that this took place, no.

28 Q. And did anyone from UNAMIR warn the *bourgmestre* of Butamwa of such an impending raid?

29 A. No.

30 Q. Now, it also goes on to say in number -- paragraph two that the *Interahamwe*, according to Turatsinze,
31 were trained by Israelis in two forests. Now, Israel is a member of the United Nations, is it not?

32 A. Yes, indeed.

33 Q. And, to your knowledge, have any Israelis ever trained forces of the Rwandan government or any
34 other? Have they ever even been in Rwanda to train anybody, to your knowledge?

35 A. Not that it has been confirmed, no.

36 Q. And did you ever check with the Israelis to determine whether they had ever been in Rwanda for that
37 purpose, military purpose?

1 A. No.

2 Q. Now, turning to your report of the 17th of February, which is on page 27, in paragraph 8 it's indicated
3 that Turatsinze told you that French militaries are suspected to train young Zairian natives in the forest
4 of the Gishwati. Now, did you ever verify that France was training Zairians in Rwanda?

5 A. No.

6 Q. Now, the next document, starting on page 28, is a report from another informant that was received in
7 late February, that the *Interahamwe* had been instructed to no longer wear their uniform. Do you recall
8 that?

9 A. Yes, I recall that.

10 Q. And in your testimony you made the connection to the fact that Turatsinze had said that the
11 *Interahamwe* had not worn their uniform during the demonstration of 8 January, correct?

12 A. Yes, correct.

13 Q. I'm going to ask that you be shown Exhibit D. NZ17, which is a communiqué of the MRND on the
14 1st of February 1994.

15 THE ENGLISH INTERPRETER:

16 Counsel, special request from the French booth: A short pause before the following question,
17 especially for the court reporters.

18 BY MR. ROBINSON:

19 Q. Colonel Claeys, what's been placed before you is a communiqué of the national committee of the
20 *Interahamwe* issued on the 1st of February 1994, and I'm going to direct your attention to
21 paragraph five in which it's indicated that the MRND *Interahamwe* national committee informs every
22 *Interahamwe* that, as from now, especially owing to the insecurity, no one should wear the
23 *Interahamwe* uniform until the situation becomes clearer.

24

25 Do you see that?

26 A. Yes, I see it.

27 Q. So do we agree, then, that there had been an intervening event between the events in January
28 described by Turatsinze in which he said that the MRND were not wearing their uniform -- the
29 *Interahamwe* were not wearing their uniform, and the report that you received from your informant in
30 late February, that intervening event being a public announcement on the radio in Rwanda that the
31 *Interahamwe* were no longer to wear their uniforms?

32 A. If you put it that -- that way, yes.

33 Q. And looking at paragraph four, the *Interahamwe* committee is complaining that people have been
34 making uniforms and other insignia of the MRND *Interahamwe* to tarnish the reputation of the MRND
35 and the youth of the party and they're offering a reward if people can show the criminals who have been
36 doing these things with their uniform.

37

1 So would you agree that, at least as to the publicly expressed reasons for not -- the *Interahamwe* not
2 wearing the uniform, it was based upon the claim that people were impersonating *Interahamwe* and
3 committing criminal acts rather than an instruction that it would be difficult to trace perpetrators if the
4 *Interahamwe* were not wearing their uniforms?

5 A. Yes, this is -- it is put in these words in this text, yeah.

6 Q. Okay. Thank you very much.

7 MR. ROBINSON:

8 Now, Mr. President, we're going to embark on a make-or-break procedure which will determine whether
9 or not we will -- this witness will be back tomorrow. And I'm going to try to do it the simple way, and if
10 that doesn't work, I'll do it the slow way.

11
12 As you know, and you've noted in your order concerning UNAMIR documents, there were a number of
13 documents that were marked for identification with Witness ALG during his testimony, documents from
14 UNAMIR. And I now am going to attempt, pursuant to paragraph 11 of your order, to offer those
15 documents into evidence and, in particular, the document that was marked ID. NZ32, which is an
16 outgoing code cable from Booh-Booh to Annan dated on the 5th of April 1994, the relevance of which is
17 that a report of the arrest of an intruder at Mr. Ngirumpatse's home was noted and the provenance of
18 which is identical to other outgoing code cables which this witness has identified as regularly kept
19 records and regularly created records of UNAMIR. And so at this time I offer Exhibit ID. NZ32 to be
20 admitted as D. NZ221.

21 MR. MORLEY:

22 Your Honour, we are 15 minutes off the end of the day. It's my respectful suggestion that Mr. Robinson
23 and I sit down together now, let Your Honours rise early, and we'll see what we can do.

24 MR. PRESIDENT:

25 Mr. -- Mr. Morley, I'm really disappointed. I think that will have -- that meeting would have taken place
26 already.

27 MR. MORLEY:

28 When? We've been ongoing throughout the day, and the alert that Mr. Robinson was hoping to put
29 these documents in came to our attention just before noon today. Now, he's got quite a few documents
30 to look at, and I can probably get through them fairly quickly with him. But there hasn't been an
31 opportunity to sit down, Mr. Robinson, and I'm inviting that we have it now.

32 MR. ROBINSON:

33 Mr. President, I would point out that, since your decision was issued on the UNAMIR documents, you
34 specifically made reference to these very documents that I was going to be able to offer -- attempt to
35 offer through this witness, Claeys. So I think that the Prosecution has had over a week, at least, to
36 determine whether or not during Mr. Claeys's -- Colonel Claeys's testimony it would be objecting to
37 these documents.

1 MR. MORLEY:

2 We originally had a suggestion that the entire UNAMIR file goes into evidence. That was knocked on
3 the head by the decision of the Tribunal at the time that Claeys began his evidence. The indication by
4 Mr. Robinson that he proposed to go through the marked-for-identification documents with the witness
5 arose today. So that's how we arrive at the present position. And it seems to me that it won't take too
6 long to go through them, but it will take longer to go through them one by one.

7 MR. PRESIDENT:

8 No, I wasn't looking at you for a response, Mr. Morley.

9 MR. MORLEY:

10 I'm aware of that look from Your Honour. It always sends a shiver down my spine.

11 MR. PRESIDENT:

12 Well, in that case, I shall look at Mr. Robinson.

13

14 We think that we should give discussion a chance, and we are going to rise now.

15

16 We take the afternoon adjournment, and we resume tomorrow morning.

17 *(Court adjourned at 1719H)*

18 *(Pages 68 to 78 by Ann Burum)*

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3 CERTIFICATE
4

5 We, Donna M. Lewis, Ann Burum, and Sherri Knox, Official Court Reporters for the International
6 Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled
7 cause were taken at the time and place as stated; that it was taken in shorthand (*stenotype*) and
8 thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of
9 said proceedings to the best of our ability and understanding.
10

11
12 We further certify that we are not of counsel nor related to any of the parties to this cause and that we
13 are in nowise interested in the result of said cause.
14

15
16
17 _____ Donna M. Lewis
18

19
20 _____ Ann Burum
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22
23 _____ Sherri Knox
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