



Case No. SCSL-2004-16-T  
THE PROSECUTOR OF  
THE SPECIAL COURT  
V.  
ALEX TAMBA BRIMA  
BRIMA BAZZY KAMARA  
SANTI GIE BORBOR KANU

TUESDAY, 17 OCTOBER 2006  
9.15 A.M.  
TRIAL

TRIAL CHAMBER II

Before the Judges:

**Richard Lussick, Presiding**  
**Teresa Doherty**  
**Julia Sebutinde**

For Chambers:

**Mr Simon Meisenberg**

For the Registry:

**Ms Advera Kamuzora**

For the Prosecution:

**Mr Karim Agha**  
**Ms Maja Dimitrova (Case Manager)**

For the accused Alex Tamba  
Brima:

**Ms Glenna Thompson**

For the accused Brima Bazy  
Kamara:

**Mr Mohamed Pa-Momo Fofanah**

For the accused Santigie Borbor  
Kanu:

**Mr Geert-Jan Alexander Knoops**

1 [AFRC17OCT06A - MD]

2 Tuesday, 17 October 2006

3 [Open session]

4 [The accused present]

09:08:22 5 [The witness entered court]

6 [Upon commencing at 9.15 a.m.]

7 PRESIDING JUDGE: Good morning, Mr Knoops. This is your  
8 expert witness; is that correct?

9 MR KNOOPS: Yes, Your Honour. This is Major General Prins.

09:19:25 10 PRESIDING JUDGE: He is a common witness?

11 MR KNOOPS: He is a common expert witness testifying in  
12 open session without any protective measures. Just to inform the  
13 Court, unfortunately, TRC-03 was not available for this morning,  
14 so we would like to reserve our decision whether or not to call  
09:19:44 15 him later and, in order to move on with the trial, we decided to  
16 now interpose General Prins.

17 PRESIDING JUDGE: All right. Well, the witness should be  
18 sworn.

19 WITNESS: WILLEM PRINS [Sworn]

09:20:38 20 PRESIDING JUDGE: Yes, go ahead, Mr Knoops.

21 MR KNOOPS: Thank you, Your Honour.

22 EXAMINED BY MR KNOOPS:

23 Q. Good morning, general.

24 A. Good morning.

09:20:50 25 Q. General, before we would like to take you through your  
26 statement and your testimony of today, let us first turn to the  
27 first question. That is the question how you were approached for  
28 this task to appear as a military expert for the Defence case?

29 A. I was approached in October of last year, by you, on the

1 request to look into military matters concerning the case and,  
2 later on, I was assigned by the Principal Defender, and that was  
3 March 26, I believe, this year.

09:21:52 4 Q. Could you please indicate to the Court what the assignment  
5 given to you by the Principal Defender of the Special Court for  
6 Sierra Leone entailed, in short?

7 A. It was a broadly formulated assignment to look into the  
8 military aspects of the SLA, and the AFRC and following on to go  
9 into the way the AFRC operated and, lastly, to give an opinion on  
09:22:23 10 an analysis on the report by Colonel Iron.

11 Q. Thank you, sir. General, let us move now to your  
12 professional background, education background, training, et  
13 cetera. General, you were born in 1948 in The Netherlands, you  
14 are married and you have one son?

09:22:47 15 A. Correct.

16 Q. You graduated in 1970 from the Royal Netherlands Naval  
17 Academy and you were commissioned as a second lieutenant in the  
18 Royal Netherlands Marine Corps?

19 A. Correct.

09:23:05 20 Q. In the course of your career, you became a naval aviator  
21 flying helicopters in counter-terrorism missions and you operated  
22 two years on board of frigates?

23 A. I became a fixed wing pilot first and later specialised  
24 helicopters and indeed flew counter-terrorism missions and on  
09:23:38 25 board ships; that's correct.

26 Q. In the course of this same career, you became a specialist  
27 in mountain and arctic warfare and you completed the special  
28 forces training?

29 A. Correct.

1 Q. Can you recall the year when you completed the special  
2 forces training, general?

3 A. I was sent to the special forces course in the year 1975.

09:24:15 4 Q. You attended the Marine Corps Amphibious Warfare School in  
5 Quantico Virginia, United States of America?

6 A. Correct.

7 Q. And you also served in the periods 1980, 1982, as a company  
8 commander within The Netherlands Marine Corps together with the  
9 British Royal Marines?

09:24:33 10 A. That's correct.

11 Q. And at that time you were part of the so-called United  
12 Kingdom Netherlands Landing Force?

13 A. Yes, that's correct. That was an organisation that started  
14 in 1973 so, by that time, we were so full swing integrated;

09:24:54 15 that's correct.

16 Q. Could you please explain shortly to the Court what the main  
17 purpose of this force was? You mentioned the word integrated but  
18 could you explain to the Court what the United Kingdom  
19 Netherlands Landing Force actually aimed for?

09:25:14 20 A. Well, the United Kingdom and The Netherlands was the Royal  
21 Marines on the British side, then the Dutch marines on The  
22 Netherlands side, decided in 1973 that it was important to  
23 integrate both forces, so you would have a highly readily  
24 available landing force and that was the main purpose.

09:25:42 25 Q. Thank you, sir. General, in 1987, you became the adjutant  
26 to the Supreme Allied Commander Atlantic, so-called Saclant in  
27 Norfolk, Virginia and you were assigned as adjutant for the  
28 Supreme Allied Commander Atlantic until 1989; is that correct?

29 A. That is correct.

1 Q. Are you able to tell the Court what the Supreme Allied  
2 Commander Atlantic stands for?

3 A. The Supreme Allied Command Atlantic, it was the Atlantic  
4 area in NATO. By that time, NATO had three major NATO  
09:26:27 5 commanders, and one was a US four-star admiral, who was  
6 responsible for the entire sea area of NATO, and so I worked for  
7 him two years as an aide-de-camp.

8 Q. Thank you, sir. General, after graduation from the Royal  
9 Netherlands Navy Staff College, you were assigned as head of the  
09:26:55 10 personnel department of the headquarters of the Royal Netherlands  
11 Marine Corps; is that correct?

12 A. Correct.

13 Q. Can you recall the year when you were assigned as head of  
14 the personnel department?

09:27:09 15 A. The year was 1991.

16 Q. Thank you. General, in 1992 you were promoted to the rank  
17 of full colonel, within the Royal Netherlands Marine Corps, and  
18 you assumed command of operation maritime units in The  
19 Netherlands. Could you explain to the Court what this function  
09:27:45 20 precisely meant?

21 A. The function I got in that year was that I was commanding  
22 officer of all operational marine units in The Netherlands.

23 Q. And just for our indication, general, how much marines are  
24 we speaking about?

09:28:05 25 A. 2,000.

26 Q. How many battalions are we speaking about?

27 A. We had four battalions.

28 Q. General, in that capacity as commanding officer over all  
29 operational marine units in The Netherlands, you also served as a

1 deputy brigade commander of the United Kingdom Netherlands

2 Landing Force; is that correct?

3 A. That's correct.

4 Q. And is it correct to say, sir, that this landing force was  
09:28:40 5 a combined force of Dutch and British marines?

6 A. That is correct.

7 Q. And, sir, is it correct to say that this landing force was  
8 based on a total integration of the British and Dutch marines?

9 A. It was a total integration, and the integration also went  
09:29:06 10 that far that my boss at that time was a one-star brigadier from  
11 the Royal Marines and I was his number two as deputy brigade  
12 commander.

13 Q. Yes. General, in that capacity as a deputy brigade  
14 commander of this combined force, United Kingdom Netherlands  
09:29:29 15 Landing Force, did you serve in that period as acting brigade  
16 commander of that same landing force?

17 MR AGHA: Objection, Your Honour, as to leading the  
18 witness.

19 PRESIDING JUDGE: I will allow it. Go ahead, Mr Knoops.

09:29:43 20 MR KNOOPS:

21 Q. Thank you.

22 A. Yes, there was one point in time that the commanding  
23 officer of the United Kingdom Netherlands Landing Force decided  
24 to send me on a large-scale exercise in which he could not  
09:29:58 25 participate so he asked me to do that so, in effect, I was acting  
26 brigade commander with the British, Dutch staff.

27 Q. Can you recall, general, which year this happened?

28 A. Not exactly, no.

29 Q. Can you recall the location of the exercise or the events

1 you operated as acting brigade commander?

2 A. Indeed, I can. It was a large-scale exercise off the coast  
3 of Spain, which was the first stage of this exercise, amphibious  
4 exercise, and then later on we moved into the Mediterranean and  
09:30:43 5 there my boss, so to speak, lined up again with me.

6 Q. And just, general, for our indication, how many marines  
7 we're speaking about over of which you had command during this  
8 event, speaking about both the British and the Dutch marines, who  
9 were part of this landing force?

09:31:05 10 A. Well, normally the UK and ours is about 6,500 but not the  
11 entire force participated, so an estimate is about 3,000 men that  
12 participated in the exercise.

13 Q. General, can you recall whether you were part of this  
14 United Kingdom Netherlands Landing Force involved in any other  
09:31:33 15 missions during that year or the year after?

16 A. I didn't carry out real-time missions, to my regret, with  
17 the UK landing force. However, during a time we were in the  
18 preparation of an operation in Bosnia. However, that was never  
19 implemented.

09:32:01 20 Q. But you were involved in the preparation of that mission;  
21 is that your evidence?

22 A. That is correct, yes.

23 Q. And, general, just to come back to your position in 1992,  
24 as a commanding officer of the whole operational marine units in  
09:32:23 25 The Netherlands, could you please explain to the Court what your  
26 responsibility entails in that function, as the commanding  
27 officer of all the operational marines units in The Netherlands?

28 A. Well of course, being the commanding officer, I was mainly  
29 responsible to prepare the battalions for missions they had to

1 carry out.

2 Q. And what do you mean with preparation; preparing the  
3 battalions?

4 A. During the time I was in command we participated in three  
09:32:58 5 years, or a year-and-a-half, in Cambodia and, of course, we had  
6 to send out, prepare and send out battalion groups for that  
7 mission. Also in that time we took the responsibility of a  
8 mission in Haiti with one company. So, in fact, we had to -- I  
9 had to prepare the battalions for those missions.

09:33:29 10 Q. General, can you explain to the Court what type of missions  
11 we are speaking about when you refer to the mission Cambodia and  
12 Haiti?

13 A. As well Cambodia as Haiti were peacekeeping operations.

14 Q. Thank you, sir. General, in 1998, July 1998, you were  
09:33:51 15 promoted to brigadier general, and you assumed command of The  
16 Netherlands forces in the Caribbean while at the same time being  
17 responsible for a combined US/Netherlands task group. Could you  
18 explain to the Court -- first of all, is that correct?

19 A. It is correct.

09:34:16 20 Q. Are you in position, general, to briefly indicate what your  
21 task as brigadier general having command of The Netherlands  
22 forces in the Caribbean entailed?

23 A. Well, to keep it short and simple, that job had, in effect,  
24 three hats. One, flag officer Netherlands forces in the  
09:34:47 25 Caribbean. And in that position I also was a subordinate  
26 commander in a counter-drug organisation led by the US out of Key  
27 West. That was the second hat. And my third hat was commandant  
28 of the coast guard, Netherlands Antilles and Aruba and in that  
29 position I was a law enforcer.

1 Q. General, the area of the Caribbean, could you explain to  
2 the Court what territory this entailed?

3 A. I was based on the island of Curacao, just north of  
4 Venezuela and, of course, the Kingdom of The Netherlands covers  
09:35:39 5 another five islands. But basically, as subordinate commander in  
6 the US counter-drug organisations, I had a huge area of  
7 responsibility that extended from Colombia into Puerto Rico and  
8 eastwards towards Martinique and further down to Suriname so it  
9 was a huge area in which I had the co-ordination of counter-drug  
09:36:05 10 operations.

11 Q. You just mentioned that you were also acting as a law  
12 enforcer. Could you give us a short account of what you mean  
13 with law enforcer?

14 A. As in the third hat I mentioned, which was commandant of  
09:36:29 15 the coast guard, basically, I had to perform the coast guard  
16 duties within the territorial waters. So it's search and rescue,  
17 fishery inspection, but also predominantly the counter-drug  
18 operations and, of course, in order to be able to carry out that  
19 job you need law enforcement, let me say that, possibilities. So  
09:37:01 20 I was sworn in by the minister of justice from The Netherlands  
21 Antilles Aruba as a law enforcer.

22 Q. Did you, in this regard, gain any experience with the  
23 doctrines on law enforcement?

24 A. I did because, basically, when I was in Curacao, we had  
09:37:33 25 just set up the coast guard, so all sort of doctrines, modus  
26 operandi, et cetera, how to operate within the coast guard, we  
27 had to set up and create, that's correct.

28 Q. General, with respect to the other element of one of the  
29 tasks in the Antilles, you referred to commander of the combined

1 US Netherlands task group, working with the United States. Could  
2 you please explain to the Court what this function actually  
3 meant?

09:38:19 4 A. Well, I may not have been clear in my previous answer, but  
5 what I meant was the huge sea area to Puerto Rico was mainly the  
6 subordinate hat in the combined task group. I was commanding  
7 officer of a task group within that organisation. And, once  
8 again, as stated, on the high seas, whenever there was a drug  
9 transport, and it was picked up, I had the responsibility of  
09:38:49 10 co-ordinating this intercept. So, all ships and planes, whether  
11 they were from the US or from The Netherlands, they came under my  
12 command to execute that task.

13 Q. Are you able to say to the Court how much personnel were  
14 under your command in your function as commanding officer of the  
09:39:18 15 royal -- of the forces in the Antilles?

16 A. In all three hats, I had 1,200 men, including planes and  
17 ships and all that, and another 1,300 dependants, of course, came  
18 also under my responsibility.

19 Q. Were you involved, at that time, general, in the setting up  
09:39:41 20 of any military doctrines?

21 A. No, I was not in setting up military doctrine. I was  
22 involved in, as I said, in setting up doctrine for coast guard  
23 operations.

24 Q. General, before you assumed the position as commanding  
09:40:07 25 officer of The Netherlands forces in the Caribbean you became, in  
26 1995, 1996, just before you went to that position, you were the  
27 chief of staff to the flak officer Netherlands forces in the  
28 Caribbean and, during this period, you were appointed as a  
29 magistrate within the appeal court of the Dutch Antilles as a

1 permanent member; is that correct?

2 A. That is correct. However, the timings were different. I  
3 was sent out to the Caribbean at the beginning of 1997 and, for a  
4 year-and-a-half, I was chief of staff. So I was then assigned  
09:41:00 5 commanding officer in 1998, but it's correct, for a  
6 year-and-a-half, I was in that position, as chief of staff.

7 Q. You mean the position --

8 A. And that also was the combination with the magistrate.

9 Q. Can you explain to the Court in which division you operated  
09:41:21 10 within the Bench of the Appeal Court in the Court of Appeal of  
11 the Dutch Antilles?

12 A. Criminal division.

13 Q. Criminal division. You actually worked on criminal cases  
14 as a judge?

09:41:36 15 A. I did.

16 Q. You mentioned the period one year-and-a-half. You, at a  
17 certain moment, stopped with your work as a permanent judge?

18 A. That is correct.

19 Q. Can you please explain to the Court what the reason was  
09:41:59 20 that you did not continue in that capacity?

21 A. I was asked by the Court to stay on in that capacity.  
22 However, I got good advice from the Governor-General from The  
23 Netherlands Antilles who advised me that the combination of being  
24 in the Court, and being commanding officer of all the forces,  
09:42:21 25 might have a conflict of interest so, with a certain regret, I  
26 had to step out of Court.

27 Q. Thank you, sir. General, whilst being commander of The  
28 Netherlands forces in the Caribbean, you participated in the  
29 preparation, setting up, of jungle warfare courses in Suriname

1 and Belize in 1998, 2001?

2 A. That's correct.

3 Q. Could you please shortly explain to the Court what these  
4 jungle warfare courses actually meant?

09:43:03 5 A. The Netherlands marines needed to have experience in jungle  
6 warfare, how to operate in the jungle environment. And so,  
7 initially, we started on with Suriname but, due to several  
8 political reasons and a relationship between Suriname and The  
9 Netherlands, we had to cancel it for the time being. Then we  
09:43:28 10 continued these trainings in Belize until we could go back to  
11 Suriname again. Basically, it was a six-week period in which the  
12 marines were trained how to survive, how to operate and how to  
13 fight in a jungle environment.

14 Q. And, general, you actually yourself participated in these  
09:43:50 15 events?

16 A. In Belize I stayed for a while to observe the training over  
17 there.

18 Q. Was this training related to the Dutch marines or were  
19 there other marines involved from other countries?

09:44:14 20 A. No. Initially it was for the Dutch Marine corps. However,  
21 later on, the Dutch army also participated.

22 Q. And general, whilst in the Caribbean, as the commanding  
23 officer of The Netherlands forces there you, in 1998 until 2001,  
24 were involved in the training of militia; is that correct?

09:44:39 25 A. That's correct.

26 Q. Are you able to say to the Court what this training of  
27 militia actually meant?

28 MR AGHA: Your Honour, I object to all the leading  
29 questions that are actually being put to the witness.

1           PRESIDING JUDGE: Why?

2           MR AGHA: Why? Because I think it is a witness who can be  
3 led in the ordinary as to, example, what kind of missions were  
4 you involved in? What kind of work did this entail? Rather than  
09:45:05 5 you were doing X or Y. That is my objection, Your Honour.

6           PRESIDING JUDGE: What's your reply to that, Mr Knoops?

7           MR KNOOPS: Your Honour, I'm happy to rephrase the question  
8 but it's my understanding that it was a common practice -- it  
9 became a common practice before this Court that the witness could  
09:45:21 10 be led, just by way of efficiency, to go through his bio but I am  
11 happy to ask the general any other -- the question in another  
12 form but it's just a matter of, I think, expediency to pose the  
13 question.

14           PRESIDING JUDGE: Well, I am sure the witness is very  
09:45:37 15 familiar with his bio anyway. It's just a matter of you  
16 directing his attention to the area that you want him to testify  
17 on.

18           MR KNOOPS: Okay. I am happy to rephrase that question.

19           MR AGHA: And, Your Honour, the point is some of these  
09:45:50 20 areas are not in his bio, which is more important.

21           PRESIDING JUDGE: Well, if that's the case, Mr Knoops, it's  
22 all the more reason that you don't lead if they are not disclosed  
23 in the bio.

24           MR KNOOPS: Okay.

09:46:04 25 Q. General, you heard the objection of the Prosecution. We  
26 have to rephrase the questions, unfortunately. General, are you  
27 in a position to tell the Court what you -- whether you had any  
28 specific assignments in the year 1998, 2001, whilst you were at  
29 Curaçao, within your position as a commanding officer at that

1 time brigadier general?

2 A. Well, basically, my assignment was, in that capacity, the  
3 defence of The Netherlands Antilles and Aruba. And for that I  
4 had at my disposal several marine formations and ships and planes  
09:46:55 5 and all that. And, indeed, there was still on Curaçao and Aruba  
6 conscript service by that time and so the conscripts from Curaçao  
7 and -- or from The Netherlands Antilles, I must say, and Aruba --  
8 did a national service and so one of my responsibilities was to  
9 train, let's say, the local youngsters for their conscript  
09:47:20 10 service.

11 Q. And when you speak about training, are you able to specify  
12 more in detail what this training meant at that time?

13 A. I can. The training had changed over the years.  
14 Initially, the conscripts were trained in a way we should train  
09:47:46 15 regular marines or soldiers. However, we noted that due to the  
16 background, their schooling and so on, and also the environment  
17 they lived in Curaçao, we thought it more important to train  
18 them, let's say, in a way -- give them a hardship course instead  
19 of giving them all the military skills and drills that didn't  
09:48:18 20 serve a purpose. So what we did, we trained them for half a  
21 year, let's say in a sort of outward bound school challenging  
22 environment, and the last half year we trained them in skill  
23 civilian labour, a carpenter, a painter and so on, so they could  
24 immediately go into society with a job.

09:48:43 25 Q. Thank you, general. General, we move on to the year 2001  
26 and, for the record, it's in the bio of the general on page  
27 18970. General, you were promoted on 26 September 2001 to the  
28 rank of major general and appointed as the commandant of the  
29 Royal Netherlands Marine Corps. Now, are you able to tell the

1 Court what your -- the area of your responsibility was?

2 A. As commandant of the marine corp, I was responsible for the  
3 entire marine corps in The Netherlands covering 3,500 men. In  
4 the capacity of marine corps commandant I was also member of the  
09:49:32 5 Supreme Board of the Royal Netherlands Navy and, in my capacity,  
6 I was ultimately, in this capacity I was ultimately responsible  
7 for the marine units also in preparing them for missions.

8 Q. General, can you recall any missions in which you were  
9 involved as far as preparation concerns?

09:49:56 10 A. Yes. I was involved in the preparation of two battalion  
11 groups to Iraq and an operation off the coast of Liberia.

12 Q. And general, what type of operations we speak here when you  
13 refer to mission Iraq and Liberia?

14 A. Liberia was basically an amphibious ship off the coast of  
09:50:24 15 Liberia, with marine forces embarked in support operations, in  
16 Liberia, and Iraq was after the war, of course, under British  
17 command to establish peace and security in the southern region of  
18 Iraq, and we carried out that mission for eight months.

19 Q. Thank you, general. General, when you speak about  
09:50:53 20 preparation of two battalion groups, or battalion groups as such,  
21 in this regard could you tell the Court what you mean with  
22 preparation of battalion groups?

23 A. What I mean is that if you're sent out to, for example,  
24 Iraq, depending on the mission, you have to make sure that the  
09:51:13 25 men are trained properly. Now of course you have your  
26 subordinate commanders to do that. However, it was my ultimate  
27 responsibility to make sure it was done, to make sure they had  
28 the right personnel, which was my direct responsibility and my  
29 staff to make sure they had the right equipment. So training

1 equipment personnel.

2 Q. Thank you, general. Whilst you were the commandant of the  
3 Royal Netherlands Marine Corps, you were ultimately responsible  
4 also for the integration of the marine corps into The Netherlands  
09:51:51 5 fleet organisation in that year?

6 A. That's correct.

7 Q. Are you able to tell the Court what this integration  
8 actually meant of these two forces, organisations?

9 A. I can. Basically, the marine corps and the fleet were,

09:52:11 10 when I started as commandant, two separate organisations.

11 However, due to enormous reorganisations within the defence of  
12 The Netherlands we had to integrate the marine corps staff, my  
13 headquarters, with the fleet headquarters and basically, from the  
14 marine side, or from my headquarters, the plan came how to do  
09:52:39 15 that.

16 Q. And can you tell the Court how much personnel was involved  
17 in this integration of these two organisations?

18 A. If you ask me about personnel then I have to relate only to  
19 the staff because it didn't change anything for marine battalion  
09:52:59 20 but my headquarters was approximately 120 men strong and the  
21 fleet headquarters was about 300 strong so in total well over 400  
22 staff officers had to -- had to integrate in the staff, in the  
23 combined staff.

24 Q. But when we speak about the strength of The Netherlands  
09:53:20 25 Marine Corps and The Netherlands Fleet Organisation, about how  
26 much servicemen or women we speak, in total?

27 A. I think by the time, when I left the navy marine corps was  
28 a -- had a total strength of about 16,000.

29 Q. Thank you. Are you able to tell the Court how much time it

1 took you, or the staff you were responsible for, to undertake  
2 this integration of these two organisations?

3 A. I can partly answer the question because the -- the  
4 planning, how to do it, we could do that in about four months,  
09:54:04 5 but the actual integration so how -- how do you combine the two  
6 staffs together, how are you making the procedures, etcetera,  
7 that started right after I left the marine corps and the time set  
8 for that and needed, as I was told, was about a year.

9 Q. And general, in that period, were you involved in the  
09:54:28 10 setting up of any other organisations or reintegrations, apart  
11 from the one you just mentioned?

12 A. No.

13 Q. General, in September 2004, you retired from active  
14 service?

09:54:50 15 A. Correct.

16 Q. Are you able to tell the Court what position you assumed  
17 after being retired?

18 A. Well, I decided it was not the time to pick up a permanent  
19 position. However, I was asked to, on a part-time basis, to join  
09:55:14 20 the centre for strategic studies, in The Hague, again on a -- on  
21 a part-time basis.

22 Q. That's in The Netherlands?

23 A. That's in The Netherlands.

24 Q. And what is the overall purpose or aim of this centre for  
09:55:30 25 strategic studies The Hague?

26 A. The area they cover is extremely wide. All sort of studies  
27 are carried out, whether it's how to deal with counter-terrorism,  
28 how to judge plans within the Defence, so it's an advisory group,  
29 so, but it's extremely wide.

1 Q. Were you approached to become a member of this centre?

2 A. I was.

3 Q. Was there -- is there a specific area of or discipline you  
4 are involved in within that centre?

09:56:11 5 A. Again, on a -- on a part-time basis, I was involved heavily  
6 in -- in dealing with intelligence structures after 9/11. In  
7 other words, after 9/11, looking carefully in The Netherlands are  
8 we doing business well, dealing with sharing information and I  
9 carried out that -- that study, together with others for quite a  
09:56:39 10 while.

11 Q. Was this study published within the centre?

12 A. It was published only within the centre.

13 Q. Was there a specific reason for that?

14 A. I think the specific reason not to -- to bring it outside  
09:57:01 15 the centre was because the proposals were within the context of  
16 The Netherlands and political world in The Netherlands, a little  
17 far.

18 Q. Thank you, general. General, at the end of your active  
19 military career, but I think also before, according to your bio,  
09:57:24 20 you were decorated with the Officers Cross of Oranja Nassau by  
21 Her Majesty, the Queen of Beatrix, of The Netherlands?

22 A. Correct.

23 Q. Can you please explain to the Court why you were decorated  
24 with this officers cross?

09:57:44 25 A. It's not always totally known to the one who receives the  
26 decoration but it was basically for my performance in The  
27 Netherlands Antilles.

28 Q. And general, is it also correct to say that the appointment  
29 to you as a permanent judge, in the Antilles, in the years

1 before, was actually issued by Her Majesty, the Queen Beatrix of  
2 The Netherlands?

3 A. That's correct.

09:58:21 4 Q. And general, in 2001 you were awarded with the Legion or  
5 Merit. Are you able to tell the Court what the Legion of Merit  
6 means?

7 A. The Legion or Merit is a decoration from the United States  
8 of America, and it has different degrees, and I was awarded the  
9 highest degree commander for, basically for my work as commandant  
09:58:44 10 of the coast guard and subordinate commander of a US organisation  
11 in the counter-drug organisation in the Caribbean.

12 Q. Actually, with the latter, you referred to your position as  
13 the commander of the task group of the -- in the  
14 counter-terrorism enforcement?

09:59:05 15 A. That's correct.

16 Q. General, after being retired, were you appointed in any  
17 other case as a military expert?

18 A. I was.

09:59:26 19 Q. Could you please inform the Court when you were appointed  
20 as military expert and in what case?

21 A. I was appointed as a military expert last July by a union  
22 for professional military personnel, and the case had to do with  
23 the liability of the state of The Netherlands in a case of a  
24 Dutch soldier who served in Srebrenica and who got post-traumatic  
09:59:57 25 stress syndrome. So, in fact, for the union, whose member got  
26 post-traumatic syndrome, I wrote a military expert report.

27 Q. And, general, were you asked to be military expert in this  
28 capacity based on the operational aspects which pertain to the  
29 Srebrenica case?

1 MR AGHA: Objection, Your Honour. It's the leading nature  
2 of that question.

3 PRESIDING JUDGE: What do you say, Mr Knoops?

4 MR KNOOPS: I'm happy to rephrase it, Your Honour.

10:00:38 5 Q. General, are you in a position to briefly indicate what  
6 areas of expertise were asked from you becoming military expert?

7 A. Of course, I have not served in Srebrenica, but I was asked  
8 to look into basically the decision-making process by the Dutch  
9 government in all the phases of Srebrenica, and basically also  
10:01:08 10 the question if the Dutch government took care of the battalions  
11 and their men properly.

12 Q. Thank you, general. Did you prepare a report in this case?

13 A. I did. I filed my report to the union at the end of  
14 September.

10:01:32 15 Q. And was your report filed with the Court?

16 A. It was.

17 Q. Thank you, general. That concludes the first part of my  
18 examination and, general, let us now turn to what you actually  
19 researched and what your research specifically entailed. Are you  
10:02:01 20 in a position, general, to inform the Court, shortly, what the  
21 composition of your report is? In other words, how your research  
22 for the FC case was set up?

23 A. Yes, I can. Based on the broad assignment, I wrote a  
24 report of five let's say paragraphs or chapters. After an  
10:02:34 25 introduction, I addressed an historical analysis in part B and  
26 then in part C I went to describe based on -- on a little bit of  
27 doctrine the types of conflict that exist, normally, and then the  
28 character of the operation of the AFRC and then, in the next  
29 chapter, I analysed in detail the report written by Colonel Iron,

1 and of course, I had to address the three question, initially  
2 for, as you know, the three questions posed by Colonel Iron,  
3 whether it was hierarchy and structure, the characteristics of  
4 the AFRC, whether there was coherence between strategic  
10:03:35 5 operational and technical level and, in addition to that, a  
6 fourth question was posed to me whether and to what -- whether  
7 and to what extent, let's say a joint military structure had  
8 existed between the AFRC and the RUF. So that's basically the  
9 Iron report and then my last part is conclusions.

10:04:13 10 Q. Thank you, general. I will now turn to the question how  
11 you undertook this research. And perhaps, general, you are in a  
12 position to inform the Court first about your starting point.  
13 Can you explain to the Court what was your starting point when  
14 you assumed this assignment?

10:04:41 15 A. My starting point was the report written by Colonel Iron  
16 which -- who had then just had delivered his report, I think it  
17 was in October last year.

18 Q. General, are you able to tell the Court whether you made  
19 use of any primary and/or secondary sources?

10:05:06 20 A. I did.

21 Q. You did both?

22 A. Sorry, yes, both.

23 Q. Thank you. General, let us first start with the primary  
24 sources of your report. Can you tell the Court what type of  
10:05:24 25 primary sources you used to come to your report?

26 A. The primary source were interviews with senior officers,  
27 retired, and still on active duty.

28 Q. Thank you. Are you able to tell us the names of the  
29 retired senior officers?

1 A. I'm afraid I can't. I cannot. I can write them down  
2 because I know for one has a specific number, and the other two,  
3 indicated that they were in no position to have their names  
4 revealed, so, but the retired officers are concerned, I cannot do  
10:06:24 5 that. I can write them down but I cannot mention their names.

6 MR KNOOPS: Your Honours, if the Court allows the general  
7 to write down the names of the retired senior officers he  
8 interviewed?

9 PRESIDING JUDGE: Yes. Court attendant, if you will  
10 assist.

11 MR KNOOPS:

12 Q. And, general, whilst you are doing that, perhaps you could  
13 number them so we could, in the course of my examination, refer  
14 to the numbers of the retired officers you are going to write  
10:06:52 15 down for us. I am grateful for that.

16 A. Excuse me, only the retired officers, is that correct?

17 Q. Yes. Let's start with retired officers, sir.

18 MR AGHA: Your Honours, at this stage, could the  
19 Prosecution make an observation, that the witness seems to have  
10:08:04 20 with him some papers other than what he's writing on, and the  
21 Prosecution is wondering whether it's proper that he should have  
22 those other documents there in front of him while he's giving his  
23 evidence.

24 MR KNOOPS: Your Honour, perhaps the general can first  
10:08:21 25 indicate what papers he has on his desk.

26 THE WITNESS: I can. What I have here is my report, the  
27 report by Colonel Iron and some notes of one of the retired  
28 officers.

29 PRESIDING JUDGE: Yes, all right. I haven't seen the

1 witness refer to any of those notes.

2 MR KNOOPS: I would, Your Honour, ask the Court's  
3 permission that the witness, that the expert, excuse me, would be  
4 permitted to at least have the notes available of one of the  
10:09:08 5 senior officers because these notes are, first of all, disclosed  
6 to the Prosecution.

7 PRESIDING JUDGE: Well, look, Mr Knoops, let's do it in the  
8 context of some questions. You are talking in the abstract at  
9 the moment. I'm not sure in connection with what questions you  
10:09:23 10 want the notes there. So let's go through it in the form of  
11 evidence.

12 MR KNOOPS: Thank you, Your Honour.

13 JUDGE SEBUTINDE: Mr Knoops, while we are still on the  
14 issue of this sheet of paper that is going around, you asked the  
10:09:41 15 witness questions which elicited the answer: These were retired  
16 officers. Now, I presume that they were retired officers of the  
17 Sierra Leone Army; is that correct?

18 MR KNOOPS: That's correct, Your Honour.

19 PRESIDING JUDGE: Yes, Mr Knoops. Do you want this  
10:11:07 20 document back or what do you wish to do with it?

21 MR KNOOPS: I would like to have it tendered as a  
22 confidential document, Your Honour.

23 PRESIDING JUDGE: Right. Mr Agha, any objection?

24 MR AGHA: We have no objection, Your Honour.

10:11:26 25 PRESIDING JUDGE: Yes, this piece of paper on which the  
26 witness has written the names of three retired officers, will be  
27 admitted into evidence as Exhibit D34.

28 [Exhibit No. D34 was admitted]

29 MR KNOOPS: Thank you, Your Honour.

1 Q. General, do you know whether there was a specific reason  
2 for these three officers?

3 PRESIDING JUDGE: I am sorry to interrupt, Mr Knoops, but I  
4 have done it again. I should have ordered that that last  
10:12:30 5 exhibit, D34, be marked confidential. I will make that order  
6 now.

7 MR KNOOPS: Thank you, Your Honour.

8 Q. General, do you know whether there was a specific reason  
9 for these three officers not to have their names revealed?

10:12:50 10 A. Basically, they, all three, indicated that, by revealing  
11 their names, they were afraid of repercussions from the  
12 government, which is a broad sort of thing to state. But, from  
13 the government, they were afraid of having repercussions.

14 Q. During which periods you were able to interview them?

10:13:26 15 A. Different time frames. All of them, I interviewed in the  
16 October time frame, month of October, last year, and also in the  
17 period which is from March, I believe, 26 or 24, this year, until  
18 4 or 6 April.

19 Q. Can you indicate approximately how many interviews you  
10:14:06 20 conducted with the three seniors, starting with number one?

21 A. Number one, I met in October several times -- I can't  
22 indicate how many, exactly. But, even more so, I met number one  
23 in the period in October, excuse me, in March/April, at least  
24 five times.

10:14:41 25 Q. Did, general, number one, at a certain moment, provide you  
26 with written notes?

27 A. Yes, he did. Initially, I took the notes, interviews, and  
28 went back to The Netherlands. However, during my research, I had  
29 additional questions which -- which I -- I asked number one and

1 then he came up, which was a necessity, he came up with the  
2 written notes and sent them to The Netherlands.

3 Q. General, are you able to identify these written notes?

4 A. I am

10:15:30 5 Q. When I would give you a document with notes, would you be  
6 able to say whether these are the notes you refer to?

7 A. I am

8 MR KNOOPS: Your Honour, at this point, I would like the  
9 Court's permission to provide the expert with some notes I have  
10:15:58 10 here, and ask the witness whether he recognises the notes as  
11 being the notes of officer number one.

12 PRESIDING JUDGE: Yes. You want him to identify the notes?

13 MR KNOOPS: Yes.

14 PRESIDING JUDGE: Go ahead.

10:16:14 15 THE WITNESS: I recognise the notes.

16 MR KNOOPS: Thank you. Your Honour, at this stage, we  
17 would like to have the record reflect that the general clarified  
18 the notes the Defence provided him with, and we would like to  
19 tender these notes as a confidential Defence exhibit, D35.

10:17:13 20 PRESIDING JUDGE: Yes, Mr Agha?

21 MR AGHA: Depending on the nature of the notes, the  
22 Prosecution may have an objection. If these notes are the actual  
23 written notes which the colonel -- I beg your pardon, which the  
24 expert took from the witness himself, whilst in this country,  
10:17:31 25 then the Prosecution would have no objection, provided the  
26 Prosecution is also provided with a copy of those documents. If,  
27 on the other hand, they are notes by someone else, which were  
28 sent to him, then the Prosecution would suggest that those notes  
29 be marked for identification only, and that the person who then

1 gave those notes can come and identify them, if need be.

2 PRESIDING JUDGE: Well, weren't you filed with a copy of  
3 some notes on the -- weren't you served with a copy of some notes  
4 on 13th October?

10:18:10 5 MR AGHA: We requested all the notes, Your Honour, and we  
6 were only provided with the notes in respect of witness DSK-082  
7 who, as yet, hasn't been put on the list with Mr Knoops. So we  
8 are not dealing with that witness, Your Honour.

9 MR KNOOPS: Your Honour, just for, of course,  
10:18:36 10 clarification, we are dealing about the same notes.

11 PRESIDING JUDGE: They are the same notes that were served;  
12 is that correct?

13 MR KNOOPS: That's correct, Your Honour.

14 MR AGHA: But they were served to us under the heading of  
10:18:49 15 DSK-082, not under the heading of these other gentlemen. Is the  
16 learned Defence counsel saying that all their set of notes are a  
17 mismatch of all of those people who sent him the notes?

18 PRESIDING JUDGE: No. It was served on you as the written  
19 notes of DSK-082 as an annexure to the military expert report.

10:19:16 20 MR KNOOPS: And, Your Honour, to be clear, the person  
21 number one on the list of D34, is the same person as DSK-082.  
22 And we are not suggesting that these notes are a compilation  
23 written by the three officers, one, two, three. We are just  
24 speaking about officer number one.

10:19:48 25 MR AGHA: In that case, Your Honour, it's clear to me now  
26 because where I have number one, I only had the second name, the  
27 surname, and there could have been numerous surnames in respect  
28 of that name. Even so, the Prosecution starts, now that has been  
29 clarified, that the notes should be marked for identification

1 rather than exhibited, so that the witness himself, who indeed  
2 was on the Defence list, can come, if need be, to authenticate  
3 them or indeed give live evidence.

4 PRESIDING JUDGE: Are these notes that the witness took or  
10:20:22 5 they are notes that were posted to him by the person he spoke to?

6 MR KNOOPS: Your Honour, these are the notes written by  
7 number one, based on the questions the general referred to, based  
8 on the initial interviews. So these are handwritten notes of  
9 number one himself. And I don't see any reason why this could

10:20:51 10 not be admitted as an annexure to the report, because it  
11 clarifies some of the primary sources of the expert. Secondly,  
12 the expert has indicated the reason why the person itself is not  
13 able or willing to testify. But, apart from that, we are  
14 speaking about the foundation of the report. And, thirdly, I

10:21:16 15 recall that the Prosecution expert, Mr Iron, relied on interviews  
16 without making any notes, without being asked to reveal any notes  
17 which he took from his sources.

18 So I would think it's unfair, when the Prosecution now  
19 requires from the Defence, original notes from witnesses or  
10:21:42 20 sources on which an expert relies. There is no jurisprudential  
21 foundation for that, whilst the Prosecution expert is able to  
22 give evidence live in Court, relying on interviews he took from  
23 several Prosecution witnesses, without revealing any notes.

24 PRESIDING JUDGE: Well, correct me if I am wrong, but these  
10:22:14 25 notes are the foundation for certain observations made by the  
26 expert in his report.

27 MR KNOOPS: That's totally correct, Your Honour.

28 PRESIDING JUDGE: And these notes are produced for the  
29 purpose of establishing that he had material on which to come to

1 his conclusions?

2 MR KNOOPS: Exactly, Your Honour. I'm just laying the  
3 foundation for the primary sources. I'm not yet here for the  
4 secondary sources, so I am trying to establish the primary  
10:22:38 5 sources on which the expert relied, and I would say if the expert  
6 is able to produce original notes from one of his sources, that  
7 may even be far more clear than derivative notes which he took  
8 from the source, one of the primary sources. So I would say the  
9 Prosecution should perhaps be happy that we, as Defence, were  
10:23:04 10 able and willing to produce these notes because there is no legal  
11 obligation for us to provide any of the confidential notes and  
12 expert takes from his sources.

13 JUDGE DOHERTY: Mr Knoops, can I clarify: These were not  
14 notes taken in a face-to-face interview, as I understand your  
10:23:24 15 submission. Did they arrive in the post as a result of questions  
16 posed by the expert?

17 MR KNOOPS: It's my understanding, but the general has to  
18 correct me if I am wrong, that these notes were provided to the  
19 general, in person, by number one after being extensively  
10:23:48 20 interviewed and, on the basis of these interviews, the general  
21 has posed additional questions on paper to number one, which he  
22 has answered in this piece of paper, 21 pages, which go into the  
23 substance of the report or at least the live substance of the  
24 report. And the general was in the position to verify whether  
10:24:17 25 these notes were indeed produced by number one.

26 Q. General, now you should correct me if I summarise this not  
27 correctly but --

28 A. Yes, I'm afraid I have to correct you on this. The way it  
29 happened was that I talked extensively to number one, or 082, in

1 the time-frame March, April. And by writing my report I needed  
2 some clarification on certain issues. So by the time I left for  
3 The Netherlands, I handed number one or 082, additional questions  
4 and they came in, and the answers came in by email.

10:25:15 5 Q. General, we are speaking about the handwritten notes?

6 A. That's correct.

7 Q. So you are saying they came in through email. Were you  
8 able to verify the handwriting of number one with other materials  
9 you had from him?

10:25:30 10 A. Not other than that while I was here I got notes from him,  
11 and then they had the same handwriting.

12 Q. And you were able to speak with him about these notes?

13 A. Oh, absolutely.

14 Q. And he never said to you that "I didn't give you any  
10:25:51 15 notes"?

16 A. Oh no, no, no, no. They, we, by the time I left I asked  
17 him specifically: Can you give me answers on these items I want  
18 to know.

19 PRESIDING JUDGE: Mr Agha, it's not necessary for two  
10:26:08 20 counsel to be on their feet at the one time.

21 MR KNOOPS: Your Honours, one final question for the  
22 general in this regard.

23 Q. General, were these, you say they were sent to you via  
24 email. Was it sent -- were they scanned to you?

10:26:27 25 A. Well, my technical knowledge doesn't go that far. I opened  
26 my computer and that was on.

27 PRESIDING JUDGE: Well, I notice another objection,  
28 possible objection that hasn't been specifically put, is that  
29 these notes don't comply with Rule 94bis because under that rule

1 the full, I emphasise full report of the expert must be filed  
2 within not later than 21 days from his testimony, and these would  
3 seem to be part of the expert's report that were never served  
4 within that timeframe.

10:27:14 5 MR KNOOPS: Your Honour, with all due respect, I  
6 respectfully disagree with your opinion because there is no rule  
7 saying that the expert was obliged to file the primary sources.  
8 This is just the foundation of one of the primary sources and  
9 we --

10:27:30 10 PRESIDING JUDGE: No. No, I will interrupt you there.  
11 What do you think the meaning of the words "full statement of any  
12 expert witness" means?

13 MR KNOOPS: Your Honour, that refers to the statement of  
14 the experts himself; the full report of the expert. We are not  
10:27:51 15 speaking about the primary or secondary sources. Now, I also  
16 recall that the Prosecution expert, Colonel Iron, was not obliged  
17 to reveal his primary or secondary sources as well.

18 JUDGE SEBUTINDE: But, Mr Knoops, you are confusing two  
19 issues here. Nobody is obliging the Defence to disclose anything  
10:28:14 20 at this stage. It is you who are seeking to tender this document  
21 that is now in issue. So, please, don't draw in the Prosecution  
22 comparison. It's two different -- it's a different kettle of  
23 fish, if you like. But the issue here, let's stick with the  
24 issue, which is the status of this document that you seek to now  
10:28:34 25 tender. It was filed as an annex to the report. Now, in your  
26 understanding, is an annex to the report part of the report or  
27 not?

28 MR KNOOPS: It's not part of the full statement of any  
29 expert witness within the meaning of Rule 94 *bis* (A), Your

1 Honour. That is my standpoint. And if we are going into an  
2 interpretation of the word "annex" I am happy to delete that word  
3 "annexure." We can also mention it, refer to it as a disclosure  
4 of one of the primary sources of the expert, but it's not part  
10:29:16 5 and parcel of the statement of the expert itself. And notes  
6 taken, again, form not part and parcel of the full statement of  
7 the expert witness. It doesn't say the full statement of the  
8 expert witness and his underlying sources. It is the statement  
9 of the expert himself. So the statement of General Prins is  
10:29:43 10 revealed, this close in time. And, actually, there is no  
11 foundation for such interpretation within the case law of the  
12 ICTY.

13 PRESIDING JUDGE: Well, that may be because it has never  
14 been adjudicated before. But when you say statement, are you  
10:30:01 15 saying to us that anything in General Prins' report that is not a  
16 direct statement from him is inadmissible, because most of the  
17 report is based on statements of other people? So is that what  
18 you are saying, Mr Knoops?

19 MR KNOOPS: Could you please recall -- rephrase your  
10:30:17 20 question, sorry, I am --

21 PRESIDING JUDGE: Well, you can't have it both ways. You  
22 are saying that this document that you now wish to tender, which  
23 you formerly called an annexure, is not part of the general  
24 statement and therefore it's not part of his report but, if you  
10:30:33 25 look at his report, a lot of that information is also not the  
26 general's statement. He is quoting other people's statements.  
27 So are you saying that those parts of the report are not  
28 admissible because they are not his statement?

29 MR KNOOPS: But then, Your Honour, I have to say that the

1 general did reveal the full statement, including the statement of  
2 witness number one, the source number one. If the Court --

3 PRESIDING JUDGE: Yes, but look, you have got a double  
4 standard here, Mr Knoops. For the purpose of getting this  
10:31:10 5 annexure in you say it's not his statement, it's not the expert's  
6 statement, for the purpose of getting this annexure in but for  
7 the purpose of getting in other people's statements in the  
8 general's report you are saying they are his statements, not the  
9 other people's.

10:31:31 10 MR KNOOPS: But, with all due respect, Your Honour, it's --  
11 we are not saying that this is the statement of the expert. What  
12 we are trying to do with this document is that --

13 PRESIDING JUDGE: I know what you are trying to do. I am  
14 just getting you to answer the requirements of 94bis and I think  
10:31:47 15 I have heard your submissions on those, Mr Knoops. That is only  
16 one of the objections that the Prosecution have against the  
17 admission of this material that is described as written notes of  
18 DSK-082.

19 MR KNOOPS: But, Your Honour, with all due respect, if you  
10:32:07 20 are speaking about the timeframe of 21 days and, in your view,  
21 it's not potentially complying with Rule 94bis, I think we cannot  
22 ignore the fact that the expert --

23 PRESIDING JUDGE: Just a minute, just a minute. I will  
24 correct you there. We haven't formed any view yet.

10:32:25 25 MR KNOOPS: No, no. I said potentially.

26 PRESIDING JUDGE: I am just drawing your attention to the  
27 requirements of 94bis to hear your submissions on it.

28 MR KNOOPS: Well, my submission, Your Honour, and then I  
29 conclude my argumentation, that it did fulfil the requirement

1 because the report of the general quotes, cites, the interviews  
2 with this first witness, this first source. So the Prosecution  
3 was put on notice, timely, way before the 21 days, about the  
4 so-called statement of primary source number one. So it's not a  
10:33:05 5 matter of -- that the Defence, last Friday, for the first time  
6 revealed his statement from one of the sources, because it's  
7 already in the report and, as Your Honours rightly observed, the  
8 general, indeed, cited from the interviews with, for instance,  
9 number one. So, in my view, he, this report fully complies with  
10:33:28 10 Rule 94bis, in various -- in all its various aspects. Thank you.

11 PRESIDING JUDGE: All right. Well, look, in fairness to  
12 Mr Agha, we haven't given him a chance, if he wishes to, to  
13 address on 94bis. We have noted your other objections, Mr Agha.  
14 Did you want to say anything on 94bis?

10:33:47 15 MR AGHA: Just generally, on 94bis, my submission would  
16 essentially be that all parts of the report have to be filed and,  
17 in the case of DSK-082, my learned friend is correct. It is  
18 referred to in the report, and we requested that statement so  
19 that it could form a part of the report and that was the reason  
10:34:11 20 why we requested it. Initially, it was denied and then, very  
21 lately, at the last moment, in fact, Friday, we have now received  
22 it which is clearly outside the 21-day period and I suspect it  
23 has been given to us at the last minute for the purposes of its  
24 use today. So I would say that its attempted filing in as an  
10:34:32 25 annexure is in breach of Rule 94, Your Honour.

26 PRESIDING JUDGE: All right. Well, look, we will take the  
27 morning break a little early and we will come back with a  
28 decision. We will come back at say 11 a.m. with a ruling on  
29 this. We will adjourn until then.

1 [Break taken at 10.35 a.m.]

2 [Upon resuming at 11.17 a.m.]

3 PRESIDING JUDGE: This is a decision on the objection to  
4 the tender of certain notes produced by the expert. The  
11:18:00 5 Prosecution objects to the tender by the Defence of handwritten  
6 notes made by a person with the pseudonym of DSK-082, who is  
7 described in the military expert report as a primary source of  
8 information.

9 The Prosecution objection is that since the notes were not  
11:18:27 10 made by the expert, but by someone else, the notes should be  
11 marked for identification so that the person who made those notes  
12 can come to Court to identify them.

13 The Prosecution also objects on the basis that the Defence  
14 is in breach of Rule 94 *bis* (A), in that the notes are part of  
11:18:50 15 the expert's report, but were not filed with the Trial Chamber at  
16 least 21 days prior to the date on which the expert was expected  
17 to testify.

18 We note that the Prosecution, by email sent to the Defence  
19 on 10 October 2006, specifically requested that it be provided  
11:19:16 20 with the said notes. Instead, the Defence chose to file the  
21 notes in a formal Court document entitled "Confidential Joint  
22 Defence Disclosure of Confidential Handwritten Notes of DSK-082  
23 as an Annexure to the Military Expert Report."

24 Being an annexure the notes thus became part of the  
11:19:48 25 expert's report. Since the notes were filed on 13 October 2006  
26 we hold that they were filed in contravention of Rule 94 *bis* (A).  
27 We of course have jurisdiction to disregard strict compliance  
28 with that rule. However, there is no reason to do so in the  
29 present case because we hold that the notes are otherwise

1 inadmissible. The notes are said to have been received by email  
2 by the expert. The notes are unsigned, and the expert is not  
3 able to identify the handwriting, although he did say that the  
4 notes were sent in answer to certain questions which he had asked  
11:20:43 5 before he left Sierra Leone.

6 Since the notes are statements of the opinion of the maker  
7 of the notes, on various issues, and since the maker has not been  
8 qualified as an expert witness, we rule that the notes are  
9 inadmissible and we reject the tender.

11:21:06 10 Yes, Mr Knoops.

11 MR KNOOPS: Thank you, Your Honour.

12 Q. General, thank you for your patience. General, do you know  
13 whether the three individuals which you mentioned in your  
14 handwritten document just provided with the Court, exhibited D34,  
11:21:41 15 whether they were present on the territory of Sierra Leone during  
16 the conflict, in specific, the period of May 1997 till the end of  
17 1998?

18 A. Of course then I have to specify one-by-one, which I will  
19 do. Number one was on the territory of Sierra Leone in the  
11:22:15 20 period you mentioned, let's say from the start of May '97  
21 onwards, and when he left Freetown, February of 1998, he fled  
22 into the so-called bush and he stayed in the bush or in -- on the  
23 territory of Sierra Leone approximately until May 1998.

24 Subsequently, he left the territory of Sierra Leone and, in  
11:22:55 25 August, but then I have to reflect to the curriculum vitae to be  
26 precise but, in August, he returned to Sierra Leone. Now, for  
27 the number two and three --

28 Q. Excuse me, general, before you continue, excuse me, sir.  
29 You were provided, do I understand you correctly, you were

1 provided with his CV?

2 A. Correct.

3 Q. Were you able to observe what his position was after May  
4 1998, in terms of his presence during the conflict?

11:23:45 5 A. After May 1998, as I recall correctly, he fled to Guinea,  
6 returned to Sierra Leone in August, and started working for  
7 ECOMOG.

8 Q. And do you know whether in that capacity he was into the  
9 area where the conflict involved?

11:24:07 10 A. As I understood, number one was in Freetown, and also in  
11 the countryside but again working for ECOMOG.

12 Q. Yes. Thank you, sir. What about number two?

13 A. For sure, I know that number two was on the territory of  
14 Sierra Leone for about four months after February 1998. After  
11:24:39 15 that, I believe he fled to Guinea, but then I didn't have any  
16 data on that.

17 Q. Do you know, general, whether number two himself was  
18 involved in the conflict as a soldier in -- after May 1997?

19 MR AGHA: Objection; it's a leading question.

11:25:05 20 MR KNOOPS: I'm asking whether the general knows, has  
21 knowledge about this issue.

22 PRESIDING JUDGE: Well, I don't think that's the objection.  
23 I think the objection is that the form you put the question in is  
24 leading.

11:25:21 25 MR KNOOPS:

26 Q. General, do you know whether number two was present here,  
27 in Sierra Leone, after May 1997?

28 A. Well, he certainly was present in Sierra Leone during the  
29 year 1997 and, subsequently, he left Freetown, February 1998, and

1 for sure I know that then he stayed on the territory of Sierra  
2 Leone for a couple of months and, after that, I don't have any  
3 recollection.

4 Q. Can you recall on how many occasions you were able to speak  
11:26:09 5 with number two?

6 A. I spoke with number two three times in the October 2005  
7 timeframe, and I met him also again in the March, April,  
8 timeframe this year, and that was only one time.

9 Q. Do you know, general, what his position was during the  
11:26:41 10 month after May 1997, without disclosing his exact rank?

11 A. Are we still talking about number two now?

12 Q. Yes, number two. What -- do you know whether he held any  
13 specific position after May 1997?

14 A. No, I know his rank, which I've indicated on the paper, but  
11:27:03 15 I -- I don't know which position he then held.

16 Q. Thank you. What about number three?

17 A. Number three, as I understood from him, was basically on  
18 the territory of Sierra Leone the entire period you mentioned, so  
19 also including the year 1998.

11:27:40 20 Q. Do you know where exactly within the territory he was over  
21 that period?

22 A. That, I don't know. He is mentioned in my report, but I  
23 don't know. I can't identify specifically in which city he was.  
24 He was somewhere in north-western part but that's all I know  
11:28:09 25 about him.

26 Q. Do you know, general, whether number three, himself, was  
27 actively involved in the conflict?

28 A. From -- from the sources I read and studied, and also from  
29 my interview with him, he was leading, if I may call it that way,

1 one of the factions, the AFRC factions.

2 Q. Are you at liberty, general, to mention that faction in  
3 public?

4 A. Well, as I state in my report, after 1998, upon departure  
11:29:05 5 of so many groups leaving Freetown, I noticed that, and  
6 discovered in the notes, and from my interviews, that several  
7 groups, if I may call them so, AFRC, spread out in the country,  
8 and he was leading one of the groups.

9 Q. Did you, in this regard, encounter whether there was any  
11:29:42 10 relationship between those groups?

11 A. No. Not in the sense that I came across the fact that  
12 there was communication between the several factions. There may  
13 have been, but I don't know if that existed formally or  
14 informally.

11:30:03 15 Q. And, general, when you speak about different groups, how  
16 many of those groups you encountered in your research, without  
17 mentioning names of the various --

18 A. I mentioned in my report, if I am, if I can recall, I  
19 mention a few -- I think four or five factions I was aware of --  
11:30:30 20 or I came across.

21 Q. Thank you, general. General, we just spoke about the  
22 primary sources of your report in terms of the three retired  
23 senior officers. You also mentioned in your testimony before  
24 that you were able to speak with two acting senior officers?

11:31:02 25 A. That's correct.

26 Q. Are you able to mention their names before this Court?

27 A. Well, one of the names I cannot mention because he got a  
28 code, a TRC, a one, if I am correct. Correct? And I think the  
29 other one, I don't see a reason why I can't name his name.

1 Q. Would you mention his name, general?

2 A. Yeah, the man I talked to was a chief of defence staff of  
3 the Sierra Leone Army, Major General Sam Mboma.

4 JUDGE SEBUTINDE: I am sorry, could we have a spelling of  
11:31:49 5 that surname, please?

6 MR KNOOPS: Yes, Your Honour. Sorry, Your Honour. That's  
7 Sam, S-A-M, Mboya M-B-O-Y-A. Sam Mboya. Correction, Your  
8 Honours. It's Sam, S-A-M, Mboma, M-B-O-M-A. Mboma.

9 JUDGE SEBUTINDE: He is the chief of --

11:32:30 10 MR KNOOPS: Defence staff of the army.

11 Q. General, just to make sure: He is the acting defence,  
12 chief of defence staff?

13 A. I'm sure he was the acting chief of defence staff when I  
14 visited him but that was only a couple of months ago. He -- I  
11:32:45 15 think he still is.

16 Q. And to make sure: He is the chief of defence staff of the  
17 whole Sierra Leone Army at this moment?

18 A. Well, if I talk about chief of defence staff, you talk  
19 about the overall commander. I didn't ask him specifically  
11:33:03 20 whether he was chief of the army. In my recollection he was the  
21 chief of defence staff of the entire, may I call it that way,  
22 Sierra Leone Armed Forces.

23 Q. Just to make sure, general, are you able and willing to  
24 write down the name on the piece of paper of the person you refer  
11:33:23 25 to as the person with the code TRC-01?

26 A. Yeah, I can do that.

27 MR KNOOPS: Your Honours, may the witness, please, put down  
28 that name? We would like to seek for tendering of this document  
29 as Defence Exhibit D35.

1           PRESIDING JUDGE: Any objection?

2           MR AGHA: We have no objection, Your Honour. Perhaps we  
3 could just mark on it that he is actually TRC-01 that person he  
4 is talking to because I think it is just a surname that's been  
11:35:13 5 put there which could be many people. It may be helpful.

6           PRESIDING JUDGE: Well, yes, I will read it onto the record  
7 actually, or do you want to get the witness to write something  
8 else on there as well, Mr Knoops?

9           MR KNOOPS: If the general is able to also put down the  
11:35:30 10 first name, to make sure that we are speaking about the same  
11 person. By the way it's TRC-01. Perhaps the general is able  
12 to --

13           PRESIDING JUDGE: All right. Well, we will hand the paper  
14 back to the general.

11:35:56 15           THE WITNESS: If I may, I don't recall his first name but I  
16 can write down his function, his present position.

17           MR KNOOPS:

18 Q. And rank, please.

19           PRESIDING JUDGE: Yes, all right. You are tendering that,  
11:37:33 20 are you, Mr Knoops?

21           MR KNOOPS: Yes, Your Honour, please.

22           PRESIDING JUDGE: There's no objection from the  
23 Prosecution?

24           MR AGHA: No objection, Your Honour.

11:37:39 25           PRESIDING JUDGE: All right. Well, the witness has just --

26           COURT ATTENDANT: Your Honour, it will be Exhibit D35.

27           PRESIDING JUDGE: Thank you. The witness has just written  
28 on a piece of paper the name of the person with the pseudonym  
29 TRC-01. And also the position held by that person. That will be

1 admitted into evidence as Exhibit D35.

2 [Exhibit No. D35 was admitted]

3 PRESIDING JUDGE: And it will be marked confidential.

4 MR KNOOPS: Yes, please. Thank you, Your Honour.

11:38:23 5 Grateful.

6 Q. General, in the course of my further examination, I will  
7 refer to the person you just indicated on the Exhibit D35 as  
8 TRC-01; is that all right with you?

9 A. Yes, sir.

11:38:46 10 Q. General, on how many occasions you were able to speak with  
11 TRC-01?

12 A. Excuse me. I talked to TRC-01 twice. One in the timeframe  
13 March, April this year and very recently a couple of days ago.

14 Q. Did TRC-01 provide you with any written documentation?

11:39:14 15 A. He did.

16 Q. Could you please indicate to the Court what document you  
17 were provided with by TRC-01?

18 A. TRC-01 provided me with a couple of notes. One, stating  
19 his position or his view he had about the state of the army, in  
11:39:39 20 the timeframe of the AFRC, so after May 1997, and he also  
21 provided me with notes about my written report.

22 Q. So it's my understanding that he was able to read through  
23 your report; is that correct?

24 A. That's correct.

11:40:07 25 Q. Could you inform the Court what his -- no, let me think.  
26 Were you able to speak with him about the contents of your  
27 report?

28 A. In general terms, yes.

29 Q. And do you know whether TRC-01 did give you any comment on

1 your report?

2 MR AGHA: Objection, Your Honour. TRC-01, as I believe he  
3 is referred to, has already been ruled that he is not an expert  
4 so any comment or opinion which TRC-01 gave on this expert's  
11:40:47 5 report would have no relevance before this learned Court.

6 PRESIDING JUDGE: Yes. Do you wish to reply to that  
7 objection, Mr Knoops?

8 MR KNOOPS: Yes. Your Honour, I am not asking about any  
9 opinions of TRC-01 but my question is, and I can specify that  
11:41:02 10 whether, when it concerns the factual observations put in the  
11 report of the expert, whether any comments were received in --  
12 were received on the factual part of the report. So I'm not  
13 asking any qualifications through this expert from TRC-01.

14 MR AGHA: And, Your Honour, if I may, I think it's quite  
11:41:28 15 important that we learned through TRC-01 the periods of time in  
16 which he was in and out of the country. So he would therefore  
17 have no personal knowledge or be in a position to comment upon  
18 anything beyond -- I think he spent August '97 in the country.

19 PRESIDING JUDGE: Well, let's not object in advance. Let's  
11:41:48 20 hear what timeframe Mr Knoops is referring to.

21 MR KNOOPS: Your Honour, I am very grateful but, in all  
22 honesty, the Prosecution has extensively cross-examined TRC-01  
23 about the timeframe he was not in. And now the Prosecution is  
24 trying to object against the same time period about which they  
11:42:09 25 have cross-examined TRC-01?

26 MR AGHA: No, we didn't cross-examine him --

27 MR KNOOPS: You did cross-examine him.

28 MR AGHA: -- after the period in which he was there. We  
29 simply asked a couple of questions on commanders. Our questions

1 related to whilst he was there and fighting with the forces.

2 PRESIDING JUDGE: All right. Look, ask the question.

3 MR KNOOPS: The Prosecution questioned TRC-01 extensively  
4 about what happened at the coup and after the coup of May 1997.

11:42:31 5 PRESIDING JUDGE: Well, so what? What is your point?

6 MR KNOOPS: That the objection of the Prosecution, that we  
7 could not ask the expert anything what TRC told him about the --

8 PRESIDING JUDGE: Well, look --

9 MR KNOOPS: -- factual part of the report.

11:42:42 10 PRESIDING JUDGE: -- my point was --

11 MR KNOOPS: You see my point?

12 PRESIDING JUDGE: -- my point, Mr Knoops, is will you  
13 please ask the question first before we deal with whether it's  
14 admissible or not.

11:42:53 15 MR KNOOPS: Okay.

16 Q. General, do you know whether TRC-01 gave you any comment  
17 when it concerns the factual part of your report over the period  
18 1992, 1996? And I can specify it further, when it concerns your  
19 description of the state of the army, in that period?

11:43:21 20 MR AGHA: Again, I object to that question, Your Honour.

21 TRC-01 has given sworn evidence under oath about what he  
22 considered to be the state of the army, and that was a witness  
23 called by the Defence, so any evidence elicited from this witness  
24 would be in direct confrontation of their witness which was not  
11:43:38 25 declared hostile.

26 MR KNOOPS: Your Honour, we are mixing things here. This  
27 is --

28 PRESIDING JUDGE: Look, this is getting very -- we are  
29 talking about two different things here.

1 MR KNOOPS: This is still about the foundation of the  
2 report of General Prins. I am not -- we are not challenging  
3 TRC-01 in any way. We are simply putting --

4 PRESIDING JUDGE: Yes, all right. I overrule the  
5 objection. Can you answer that question, general?

6 THE WITNESS: Your Honour, it's getting a little difficult  
7 for me but --

8 PRESIDING JUDGE: I don't blame you at all. Would you like  
9 the question asked again?

10 MR KNOOPS:

11 Q. General, shall I rephrase or recall the question for you?

12 A. Yes, please.

13 Q. General, you testified that you had two interviews or  
14 conversations with TRC-01. During one of the conversations your  
15 report was discussed with him. Did you receive, from TRC-01, any  
16 factual comments, I am not speaking about conclusions or opinions  
17 from him, but any factual information on the state of the army  
18 over the period 1992, 1996?

19 A. I don't believe so. If I understand correctly the factual,  
20 not the general comment about the report.

21 Q. Specifically, the historical part of your report?

22 A. Yeah, I don't know if I then go into correct answer, but he  
23 generally stated that my report he supported for 95 percent.

24 MR AGHA: I object to that. It's his opinion.

25 PRESIDING JUDGE: Yes, yes.

26 MR AGHA: That's exactly what we've been talking about  
27 here, Your Honour.

28 PRESIDING JUDGE: Well, I thought the answer was going to  
29 be based on a commentary on the factual content.

1 MR KNOOPS: Correct.

2 Q. General, I'm asking you just to say whether you received  
3 any written comments about your report when it concerns the  
4 factual part. You can answer "yes," "no," or "I don't know"?

11:45:59 5 A. Look, the question is very hard for me. He gave me notes  
6 about my report but, as I recall, no facts in the period '92,  
7 '96.

8 Q. Okay. Thank you. General, apart from the two officers you  
9 just mentioned acting within the army, did you consult anyone  
11:46:42 10 else, apart from the three senior officers retired, the two  
11 acting senior officers, apart from those, did you consult anyone  
12 else in making your report in the context of the primary source?

13 A. Well, I didn't consult -- I consulted someone in The  
14 Netherlands but I don't know if you -- is that the primary  
11:47:17 15 source? That I don't know. But I consulted someone in The  
16 Netherlands after writing my report.

17 Q. And what was the reason for you to do so?

18 A. The reason to do so was that I had my report read by Major  
19 General Frank Van Kappen and Major General Frank Van Kappen was,  
11:47:47 20 during the time of the conflict, he was military adviser to Mr  
21 Kofi Annan, and I thought from his experience, general  
22 experience, but also about his general knowledge about Africa,  
23 and also about the conflict in Rwanda and in Sierra Leone, I  
24 thought it wise to ask his general opinion.

11:48:13 25 Q. And are you able to, general, to share his opinion --

26 MR AGHA: Objection, Your Honour, we are not talking about  
27 the opinions here.

28 MR KNOOPS: I'll rephrase, rephrase.

29 MR AGHA: Or even comment on this. This report was given

1 to this gentleman. Now the comment of that person on that  
2 report, the Prosecution submits, is an opinion.

3 PRESIDING JUDGE: Yes, all right. We note your objection.  
4 What is your reply to that objection?

11:48:37 5 MR KNOOPS: First of all, Your Honour, I think that the  
6 general is still in the context of speaking about his primary  
7 sources, so I can ask him whether there were any -- was there --

8 JUDGE SEBUTINDE: But, Mr Knoops, when someone reads one's  
9 document and comments on that document, can you technically  
11:48:59 10 describe that as a primary source for a report? Can you describe  
11 that person's comments as a source, a primary source?

12 MR KNOOPS: In my humble submission, Your Honour, it could  
13 be a primary source if it's pertaining to an interview or an  
14 exchange of professional thoughts with a person who has direct  
11:49:25 15 knowledge on the issue at hand, such as the source mentioned by  
16 the expert; that could fall within the ambit of the primary  
17 source. It's clearly not literature, it's clearly -- it's  
18 clearly not any treatise. It's clearly not any documentation or  
19 documentary evidence. And an expert, who is able to verify  
11:49:53 20 certain information with other potential experts, or in this  
21 event, senior military officers, who were in charge of an overall  
22 operation, or have direct knowledge on an international, internal  
23 armed conflict, I would say that that could be primary source.

24 PRESIDING JUDGE: But what you are laying down to us as a  
11:50:20 25 primary source is you want this witness to say that he showed his  
26 report to another witness who said that his report is correct.

27 MR KNOOPS: No.

28 PRESIDING JUDGE: Who gave an opinion on his report.

29 MR KNOOPS: No. My question is, to this expert, whether he

1 was able to receive factual information from that source, which  
2 he used in reaching his conclusions.

3 PRESIDING JUDGE: Well, your question did mention opinion.

4 MR KNOOPS: That's correct. And I directly after that

11:50:54 5 corrected myself but then I was interrupted by my learned friend.

6 PRESIDING JUDGE: Let's have an -- why don't you rephrase  
7 the question?

8 MR KNOOPS: Thank you, Your Honour.

9 Q. General, did you receive from that source, apart from being  
11:51:10 10 the primary or secondary source, factual information from that  
11 specific individual you mentioned which you implemented in your  
12 report in arriving at any of your conclusions?

13 A. I did not.

14 Q. Thank you. General, now we return to the secondary sources  
11:51:33 15 of your report. Could you -- did you use -- you already stated  
16 that you used secondary sources. Are you able to tell the Court  
17 which ones, secondary sources, you were able to use in arriving  
18 at your conclusions?

19 A. Yes, I can. After -- do you want me just to mention them  
11:52:00 20 or explain about them?

21 Q. Perhaps first mention them in general and I'll -- we'll go  
22 back to each of them separately.

23 A. The first one is the report made up by the Truth and  
24 Reconciliation Committee, or commission; TRC. Then I studied  
11:52:21 25 extensively the book written by Dr David Keen, Conflict and  
26 Conclusion in Sierra Leone. And I also studied doctrine and  
27 literature, articles, and last but not least, I can't recall the  
28 amount of pages but I think I went through thousands of  
29 transcripts.

1 Q. Referring to which transcripts?

2 A. Mainly the transcripts that came from the Prosecution, if I  
3 explain that correctly, and the transcript of course by, given  
4 by, or the testimony given by Colonel Iron.

11:53:17 5 Q. Thank you. Now, let us return to the first secondary  
6 source, the TRC report. I assume you refer to the TRC report of  
7 the Sierra Leonean Truth and Reconciliation Commission?

8 A. That's correct.

9 Q. Yes. What was your approach in digesting this report?

11:53:47 10 A. My view was, and is, that after reading the report by  
11 Colonel Iron, I needed to know about -- I needed to know more  
12 about the background of the conflict. And, as I stated somewhere  
13 in my report, you cannot understand the present if you don't look  
14 in history. It's something in the military, you always look at  
11:54:11 15 what history tells you. And so, my source I came across with  
16 was, of course, this extensive report of -- I can't recall how  
17 many pages -- and I went through that, initially to establish my  
18 thought on history, how did it all come this way, so that's what  
19 I did. And, by reading through the history, I found a lot of  
11:54:46 20 information because, apparently, that was also the mandate of the  
21 TRC about military aspects of the conflict. And that's why, of  
22 course, if you say this extensive report, did I all digest it,  
23 the answer is no, but I went through it, watching the history and  
24 the military aspects.

11:55:17 25 Q. General, do you know whether that report, as you have read  
26 it, enhanced any military aspects? Did you encounter them?

27 A. Yes. Like, like I said, but probably not clear, while my  
28 initial approach was looking into history, general history, on  
29 the conflict in Sierra Leone, I found immense, quite extensively

1 description about military aspects in the conflict as well, let's  
2 say from the start of the war, in 1991, until the period I  
3 described in my report.

11:56:04 4 Q. To what sources you refer to when you say there were  
5 sources in the report about military aspects?

6 A. Well, we may come back to history, of course, but the  
7 sources I found in my review on the history, and then especially  
8 what did the history do to the Sierra Leone Army, I came across  
9 numerous testimonies, if that is the right word, of very senior  
11:56:38 10 officers and by studying the report further on I came across many  
11 remarks or statements about the modus operandi which was later  
12 part of my report.

13 Q. General, can you recall any of the names of those senior  
14 officers you came across in that study?

11:57:03 15 A. I came across -- there is a list in my report of officers  
16 named in the TRC, but the ones that really come back to my mind  
17 are the remarks made by the chief of defence staff. Now, the  
18 chief of defence staff in any country is the highest military  
19 person in the organisation, and especially the statement of Tom  
11:57:35 20 Carew, and I think he was chief of defence staff in 2003, I am  
21 not sure, I have to look into the report, but also the statement  
22 made by the very well-respected Maxwell Khobe, who was ECOMOG  
23 commander, I believe, and later on became chief of defence staff  
24 under President Kabbah.

11:58:06 25 Q. General, just pause, please.

26 MR KNOOPS: Spellings, Your Honours, are Tom Carew. T-O-M,  
27 C-A-R-E-W, and Maxwell Khobe, M-A-X-W-E-L-L, Maxwell Khobe,  
28 K-H-O-B-E. Khobe.

29 Q. Sorry, general, for the interruption. Please continue.

1 A. There are numerous statements. There is one other chief of  
2 defence staff, but I don't know if I pronounce his name right.  
3 Tarawally, or something like that, who was chief of defence staff  
4 in 1991 I believe, but, following that, numerous statements,  
11:59:04 5 numerous statements by Brigadier General Kally Conteh. Well, you  
6 know, I have to go back to my report, but quite extensively.

7 Q. Thank you, general.

8 MR KNOOPS: The name, Tarawally, Your Honours, is  
9 T-A-R-A-W-A-L-L-Y, Tarawally, and Kally Conteh, K-A-L-L-Y.  
11:59:35 10 C-O-N-T-E-H, Conteh.

11 Q. Now, general, let us turn to the second, secondary source.  
12 You mentioned the study of Dr Keen. Can you first explain to us  
13 why you made use of his study?

14 A. I can. While I was at the Centre of Strategic Studies, in  
12:00:09 15 The Hague, I asked someone who was working in that area of the  
16 study centre about latest publications which give -- which could  
17 give me background knowledge on the conflict. And he said, well,  
18 the book you have to read is the book I mentioned by Dr David  
19 Keen, and that's what I did.

12:00:36 20 Q. Do you know who David Keen is?

21 A. Yes. Well, I know that David Keen has doctorate from  
22 Oxford and has numerous -- he is a researcher, researcher and  
23 adviser, but he's mainly, as I see his list of books which I  
24 don't -- I have his bio but I can't recall it now -- is numerous,  
12:01:04 25 so mainly a writer.

26 Q. Do you know, general, whether David Keen implemented any  
27 statements from witnesses who were present during the conflict  
28 after 1997, in Sierra Leone, in his research?

29 A. Yes, and I have to correct a mistake in a sense that I

1 previously said that Maxwell Khobe was stated by, in the TRC, but  
2 without my notes, now I recall Maxwell Khobe was specifically  
3 stated by Dr Keen, if I'm correct. But, apart from that, Dr  
4 David Keen named a lot of people in his book, or referred to  
12:01:59 5 other people in his book.

6 Q. Do you know whether he referred to, apart from Maxwell  
7 Khobe, to other individuals who were not part, sorry, during the  
8 conflict of the Sierra Leone Army? Excuse me.

9 A. I'm afraid now you ask a question which, without referring  
12:02:23 10 to the numerous statements and notes, there are so many names  
11 that I am afraid I can't answer that one.

12 Q. Thank you, general. Now let's go to the third, secondary  
13 source. I believe you mentioned the doctrines and literature.  
14 Are you able to tell the Court which doctrines you refer to?

12:02:57 15 A. In certain areas of my report I refer to NATO, NATO  
16 doctrine. I refer to British doctrine and I refer to The  
17 Netherlands defence doctrine.

18 Q. And what kind or what type of doctrines you refer to when  
19 you speak about doctrines?

12:03:28 20 A. Can you specify that?

21 Q. Well, I could imagine that the words "military doctrines"  
22 is quite general. Are there any specific doctrines you refer to?

23 A. Well, I thought that to make my report more clear, for  
24 people who don't have a military background, that certain areas  
12:03:49 25 of my report, you can basically only read when you have a limited  
26 amount of knowledge on background. For example, if you talk  
27 about regular and irregular forces, to name an example, you have  
28 to come to a certain basis. And that's why I used "limited"  
29 because it's not a doctrine book but limited, I used doctrine.

1 Q. General, are you in a position to tell the Court why you  
2 were referring to NATO doctrine?

3 A. I was referring to NATO doctrine at certain places because  
4 NATO, like the US, realise that you have to come up with a sort  
12:04:45 5 of hierarchy in doctrine, otherwise everybody has his own  
6 doctrine. So the NATO established, a couple of years ago, a  
7 hierarchy in doctrine. Now, the NATO doctrine have been ratified  
8 by NATO members. So whenever a NATO country then writes doctrine  
9 it should be not contradictory to NATO doctrine. So I started  
12:05:15 10 with NATO doctrine at certain areas and then I used, you know,  
11 British doctrine, when I thought it was very clear, but they  
12 don't fight each other, the doctrines, but one doctrine says it a  
13 little clear than other doctrine. That is why I did.

14 Q. Thank you. General, are you in a position to tell the  
12:05:35 15 Court why you specifically used the Dutch military doctrine?

16 A. Yes, I did, because at one area of my report I thought the  
17 Dutch doctrine was -- which was brand new as I recall in 1990 or  
18 2005 -- and an area I researched that doctrine was very, very  
19 clear.

12:06:08 20 Q. Did you use that doctrine for specific areas of your  
21 research?

22 A. Yes, I did.

23 Q. Could you tell the Court which areas you -- you used  
24 actually the Dutch doctrine?

12:06:20 25 A. I used the Dutch doctrine in the area where I, in my  
26 report, go into the different types of conflict. Again, very  
27 limited. But where I addressed it, the different types of  
28 conflict, and then move over to the way the AFRC faction, in my  
29 mind, operated. That's why -- where I used the Dutch doctrine.

1 Q. General, are you in a position to tell the Court whether  
2 this doctrine, this Dutch doctrine, is relying on any foundation,  
3 military foundation, I mean?

4 A. Well, what I'm saying is that of course every country  
12:07:01 5 writes his own doctrine, but by ratifying NATO doctrine you can  
6 put actions or emphasis in your own doctrine but it should never  
7 contradict the NATO doctrine as long as you are a NATO member.

8 Q. You just testified that this doctrine was ratified in 2005?

9 A. I have to go to the notes.

12:07:28 10 Q. Yes.

11 A. But I think I mentioned 2005.

12 Q. Do you know, general, whether this was based on any  
13 practical experience within the Dutch army, this doctrine?

14 A. Absolutely, because The Netherlands armed forces, over the  
12:07:53 15 recent years, have come into the top league of army and navy and  
16 marine corps providers for nations, to name a few, Iraq but now  
17 at this time we operate in Afghanistan, in Orisghan [sic] under a  
18 high threat environment. So the Dutch military have acquired a  
19 great deal of professionalism and, of course, then it's also time  
12:08:25 20 that you reflect on your doctrine.

21 Q. General, when you refer to Afghanistan, do you know which  
22 spectrum within the use of force the Dutch forces operate there?

23 A. Well, no doubt that The Netherlands forces, but also the  
24 British forces are operating, and the US, they're operating in a  
12:08:48 25 high threat environment and a lot of force is used.

26 Q. Thank you, general. Now, lastly, you referred to the  
27 transcripts, and I believe that you already indicated to the  
28 Court that you went through thousands of pages of transcripts.  
29 Can you recall the time span within which you read these

1 transcripts? In other words, can you recall which time span  
2 these transcripts covered?

3 A. Yes, I can. If I recall correctly, but again, I read so  
4 many, I think the first transcripts I started to read was May  
12:09:44 5 2005 timeframe, up to October 2005, in that period roughly, I  
6 read most of the transcripts.

7 Q. Were you able to digest also the transcripts based upon the  
8 testimony of the Prosecution expert, Colonel Iron?

9 A. Yes, I read it fully.

12:10:12 10 Q. Thank you. General, in order to conclude the part on the  
11 sources, I would ask you two final questions: First of all, did  
12 you visit any sites in Sierra Leone during your research and your  
13 time spent here in Sierra Leone?

14 A. I did not, in that the time available to me, and the task  
12:10:53 15 given to me, the questions posed to me by the Principal Defender,  
16 I don't think it was necessary to go into the country and to  
17 reconstruct a campaign, and to go into all sort of details where,  
18 when, how. More importantly, for what I've read, were other  
19 questions but not so much the campaign as such.

12:11:23 20 Q. Was there any specific reason for you to make that  
21 decision, other than time and your reflection just a minute ago?

22 A. Well, yes, because if you write about, you know, the  
23 paragraphs or the topics I've written in my report, then you can  
24 see from there that that doesn't relate to technical manoeuvres,  
12:11:49 25 or the campaign as such. It has to deal with other questions.

26 That's why I didn't think it was necessary. Moreover, if, even  
27 if you would do that, in my mind, it's absolutely impossible, so  
28 many years after the conflict, to reconstruct and even the  
29 smallest campaign you can't reconstruct that, so, too many

1 people, too many visions, so that's not what I did.

12:12:38 2 Q. Thank you, general. The final question in this regard is:  
3 We noticed whilst you gave this summary of your primary and  
4 secondary sources that you didn't include any interviews with  
5 junior ranks, other ranks?

6 A. That's correct.

7 Q. Was there a specific reason? Let me first ask you: Did  
8 you encounter any junior other ranks during your investigation,  
9 during your research?

12:12:58 10 A. What do you mean by did I encounter?

11 Q. Did you meet them?

12 A. Well, I know that during my stay I came across juniors,  
13 without specifically knowing what position they had, but I met a  
14 couple of them, yes, I did.

12:13:16 15 Q. Thank you. Now, you didn't include any information or  
16 interviews with them in your report. Was there any specific  
17 reason for you to make that decision?

18 A. There was a good reason for that. And, again, if you read  
19 my report and see the topics I cover, those are not the topics  
12:13:43 20 you should cover with junior ranks. What I mean is the things I  
21 describe, and coming to the conclusions, those are the items you  
22 should address with seniors, with people who can understand the  
23 problem. It's not all that difficult. However, it's -- you must  
24 have a sort of a basis to understand that, and the other reason  
12:14:15 25 is that my long experience in the armed forces is that when you  
26 ask junior ranks about their opinion -- no, let me rephrase that.  
27 In my experience you should ask a junior rank only within his  
28 limitation of his job. Let me give an example. You ask a  
29 soldier the range of his rifle and you ask a soldier the fields

1 of his fire and his comrade. But you don't ask a soldier what  
2 the purpose of the mission is. So, if you ask a soldier a  
3 specific question, which is over his scope, or is that the right  
4 word, over his -- well, over his vision, he starts speculating.

12:15:14

5 Q. And general, do you have, yourself, based on your  
6 biography, any direct experiences with what you are saying? In  
7 other words, is this based on any direct experience you have?

12:15:42

8 A. The experience is extensive. Whenever you are on a mission  
9 there is always press and press is a nightmare. The press will  
10 ask the individual soldier, for example, in Northern Iraq, in  
11 1991, "Marine, what is your mission here in Iraq?" Don't ask him  
12 because he doesn't know. He may have a good idea, some idea, but  
13 you have to ask his battalion commander or brigade commander what  
14 the mission is. And in the legal world one of my men, a sergeant

12:16:12

15 major, fired two warning shots in Iraq, on an Iraqi mob, and he  
16 was prosecuted for murder and manslaughter, I believe, and in the  
17 appeal court in The Netherlands, and rightly so, it was stated  
18 while the question was asked to a marine who was also present,

12:16:42

19 "What would you have done if you would have been the sergeant  
20 major?" Don't ask him the question because he is not the  
21 sergeant major, and I think it's the right word, the appeal court  
22 in The Netherlands ruled that you have to have a commander on  
23 scene view, or a mission analysis. You must have a view on what  
24 is happening. So, it's a little bit of a long story, but my view  
25 is that ask someone within the scope of his knowledge.

12:17:06

26 Q. General, do you know when this case occurred you referred  
27 to lastly?

28 A. Yeah, indeed. It happened, the shots were fired, I believe  
29 the last day of, or one of the last days of 2003, and then the

1 court case developed over a period of a year-and-a-half.

12:17:58 2 Q. Thank you, general. General, that concludes my section  
3 about the sources and how you came to your conclusions. And I  
4 would like you to turn now to your conclusions themselves, and  
5 the basis for that, starting with the historical part of your  
6 analysis. Are you, general, in a position to tell the Court,  
7 shortly, how you actually approached the historical part of your  
8 research?

12:18:26 9 A. Yes, of course I can. What I did is, reading the history  
10 and knowing about the independence of Sierra Leone, in 1961, I  
11 then followed up briefly over, I don't know, 15 or so pages,  
12 about the question what happened to the military from the moment  
13 that, from the military only, what happened to the military after  
14 the British -- they were not under the British command anymore?

12:18:58 15 So a little bit extensive but, in big steps, I went through all  
16 the way the history towards the moment, basically, February 1998.

17 Q. And general, are you able to tell the Court, in short, at  
18 what conclusions did you arrive as to the history, and I would  
19 not ask you to go from 1961, but I will ask you specifically  
12:19:31 20 about the period 1992 up to 1997?

21 A. Well, of course that period but, and of course very brief,  
22 in general, my view was quite shocking over the entire period,  
23 and we don't go into that, but over the entire period, I had  
24 never seen, in my military career, descriptions so bad as I've  
12:20:09 25 seen in the armed force of Sierra Leone and, of course, I can't  
26 look at the notes and my -- but also, before the '92 timeframe,  
27 and I can't all recall by heart all the different aspects why I  
28 was so shocked but, basically, I thought that -- and then back to  
29 the 1992 timeframe, when the NPRC came into power, I believe, you

1 know, you can't read it so bad as it was and there was at that  
2 time also a tremendous increase in manpower with no solid  
3 training, mismanagement. You know, I don't know really where to  
4 start to explain how bad it was.

12:21:08 5 Q. Let us start, general, with, for instance, the level of  
6 training and discipline over the period 1992, 1996, based on your  
7 review.

8 MR AGHA: Your Honour, if I may, at this time the  
9 Prosecution has an objection on the basis of the relevance of the  
12:21:30 10 material on which this review is founded. If it is based on the  
11 TRC report then that is just a bundle of secondhand statements,  
12 so coming to any conclusions which is based on a document the TRC  
13 report, which has its own conclusions, I don't see how they can  
14 be of any value.

12:21:54 15 PRESIDING JUDGE: What is your reply to that, Mr Knoops?

16 MR KNOOPS: I think it's proper just to answer, to ask the  
17 question of the general and ask him about his foundation. And I  
18 believe that the general never has said, in answer to this  
19 question, that he relied only on the TRC report, so I think it's  
12:22:13 20 quite presumptuous to say that the general is not in a position  
21 to comment on the historical part, let alone on which basis he  
22 came to that conclusion.

23 PRESIDING JUDGE: Yes, I don't think he has reached that  
24 stage in his evidence on this point as yet. Yes, I will overrule  
12:22:34 25 the objection. Go ahead.

26 MR KNOOPS: Thank you, Your Honour.

27 Q. General, and I will anticipate the Prosecution in this  
28 regard, before I ask you anything further about the set questions  
29 I have in mind for you, in terms of the level of training and

1 discipline, recruitment, et cetera, could you please tell the  
2 Court what is the basis of your conclusion, or conclusions is, or  
3 are, when we are speaking about just the part, the historical  
4 part you refer to in your testimony?

12:23:18 5 A. Absolutely. If I leave the TRC completely out, I come to  
6 the same conclusion, based on the extensive report by Dr Keen.  
7 Then I come to the exact conclusion that how can it be so bad?

8 Q. And can you indicate to the Court, just to avoid any  
9 further objections, whether you find support in this, in arriving  
12:23:56 10 at this conclusion, in your primary sources?

11 A. I can. There were -- it relates to the latter part of the  
12 historical chapter, because I didn't go into, let's say, the  
13 period before 1992 but, indeed, I became convinced, from the  
14 interviews I had, that also what Keen and TRC wrote came, it was  
12:24:37 15 clear to me.

16 Q. Thank you.

17 MR KNOOPS: At this point I would ask the Court or the  
18 Prosecution whether there is any further clarification needed  
19 from the expert before I am further interrupted by other  
12:24:50 20 objections?

21 JUDGE SEBUTINDE: Except, Mr Knoops, I am not quite sure  
22 that I understand the witness when he says there were very  
23 shocking descriptions. I am not sure that I understand that  
24 term; descriptions of what? Are you going to go into details to  
12:25:10 25 elucidate?

26 MR KNOOPS: Yes, but in terms of efficiency, I thought I  
27 would ask the foundation first before I ask the general to go  
28 into how, what he means with the word "shocking," et cetera.

29 PRESIDING JUDGE: Well, I think it's very difficult to ask

1 Mr Agha, at this point in time, to state what objections he might  
2 have in the future.

3 MR KNOOPS: Well, I invite the Prosecutor now to object or  
4 not.

12:25:39 5 JUDGE SEBUTINDE: Please do not invite objections; just  
6 proceed.

7 MR KNOOPS: Thank you, Your Honour.

8 Q. General, the Honourable Judge rightly indicated that you  
9 used the qualification shocking. First of all, can you indicate  
12:26:00 10 what you mean with the word shocking, in a more precise manner?  
11 And after that, I will ask you to go into the set questions. So,  
12 first, could you please sort of define the word shocking, from  
13 your expertise?

14 A. I now realise that it's a very -- that it's not a very good  
12:26:20 15 term, shocking. What I mean is that I have been brought up in  
16 military tradition, like we know in the western armies, and  
17 marine corps, and many things that I read in many sources showed  
18 a picture that -- which came across shocking to me, how can you  
19 treat an army so bad? Or how can you treat soldiers so bad by  
12:27:04 20 senior officers? And the examples, you know, are in my report,  
21 and I have so many notes and statements, giving examples based on  
22 Keen, well, like I said, if you leave TRC out, Keen has the same  
23 conclusion. That is why I thought I was shocked, reading as a  
24 professional military officer, the way the -- it is described,  
12:27:37 25 the development or the degeneration of the armed forces of Sierra  
26 Leone up till 1997.

27 MR AGHA: And this is the objection of the Prosecution,  
28 Your Honour, in that even leaving out the TRC report he is  
29 relying on a book by Keen. Now Keen himself is not an expert

1 before this Court. He doesn't have any particular military  
2 expertise and a reading of that book will show he is relying on  
3 statements which he has gathered from other people of untested  
4 evidence. And if one is to look carefully at the footnotes of  
12:28:11 5 the military expert's report, in the large part it is from TRC  
6 excerpts. It is from Keen and it is from DSK-082. They are not  
7 his own conclusions and that is the main bone of contention the  
8 Prosecution has. They are conclusions reached by other people.

9 PRESIDING JUDGE: Well, aren't you a bit premature here,  
12:28:33 10 Mr Agha? I think Mr Knoops is just asking him what is the  
11 foundation for the material in his report.

12 MR KNOOPS: Your Honour, if I may reply to this objection.  
13 I think it's ultimately to this Court to decide about the weight  
14 of the report of General Prins, vis-a-vis the report of Colonel  
12:28:54 15 Iron. When we speak about foundation, I can speak for an hour  
16 about the foundation of Colonel Iron's report, when it comes to  
17 footnotes. It is the nature of research, it is the nature of  
18 research, that a researcher, a proper researcher uses primary and  
19 secondary sources, and on the commendation of these sources he  
12:29:19 20 comes to his conclusions based on his practical experience and  
21 professional backgrounds. That is what an expert should do and  
22 that is what this expert has done. And I think if the  
23 Prosecution is not challenging the sources of this expert then I  
24 think we should start by challenging the sources of the expert of  
12:29:42 25 the Prosecution.

26 Now, I think, in my humble submission, that it's ultimately  
27 up for the Court, it's a matter of probative value and it not a  
28 matter of admissibility, when an expert like General Prins is  
29 able to rely on both primary and secondary sources.

1 I also recall this Prosecutor, that the expert of the  
2 Prosecution, Mrs Bangura, testifying about forced marriage,  
3 didn't use any sources at all. She was qualified to give  
4 evidence before this Court.

12:30:23 5 PRESIDING JUDGE: Look, this is a wasted discussion and a  
6 waste of time. What Mr Agha is saying is more properly put when  
7 you offer to tender the statement, not at this stage. There is  
8 nothing for us to decide at this stage. I'm overruling the  
9 objection. You go ahead, Mr Knoops.

12:30:43 10 MR KNOOPS: Thank you, Your Honour.

11 Q. General, excuse me, I was brought in some confusion by my  
12 learned friend. I believe that we were speaking about your  
13 definition about shocking and I believe you expressed it from  
14 your military background. Now, let us go into more detail and go  
12:31:16 15 into, for instance, the level of training and discipline within  
16 the Sierra Leone Army over that period of 1992, 1996, and I ask  
17 you what, to what conclusion did you arrive within your research,  
18 based on the sources you indicated or a combination of those  
19 sources?

12:31:39 20 A. Well, you know, if you talk about that timeframe and  
21 recruiting, then there was a plan developed to increase the army  
22 in size. So what you got, and what was stated in my sources, was  
23 that the level of people brought in were -- was very poor. What  
24 you brought in were people, you know, on the lower side of  
12:32:15 25 society and you had -- they had -- the amounts of recruits had to  
26 be made. So what you got, which I also read in, by the way, the  
27 transcripts, is that training, which should be for a recruit, if  
28 you see The Netherlands marine corps, the initial training is six  
29 months. It is only the initial training where you follow on

1 other training, the training is specified by many, many witnesses  
2 in the transcripts as three months, six weeks. The training went  
3 down and it was -- there was no capacity in the training centres  
4 to probably, properly transform the many recruits from the lower  
12:33:05 5 side of society into proper military soldiers. And so I came,  
6 concerning that, to the conclusion my sources, that one, the  
7 training was substandard, and, two, that the level of people  
8 coming in from society, was also I can't count of all the  
9 recruits but if you want to make these amounts then the level was  
12:33:30 10 very poor.

11 Q. Yes. Also, here, general, perhaps could you indicate what  
12 you mean with the lower level of society; it's quite a general  
13 term?

14 A. Yeah, it is, and how do I make myself clear? But, from the  
12:33:48 15 sources I read, you know, people with a crime record, people with  
16 drug abuse records, and, you know, numerous offences came in and  
17 basically sources say well, the only thing you gave them was a  
18 weapon instead of a knife. So what I mean is, the lower end of  
19 society is that not with the proper schooling and the proper  
12:34:16 20 background and, even then, if you have people come in then, if  
21 you have a system, and the time to train them, and to transform  
22 them into proper soldiers, then that is something else.

23 Q. General, do you know whether this had any impact, if any at  
24 all, on the salary and/or promotion system in those days?

12:34:46 25 A. You know, it's a hard question because my historical  
26 analysis had so many notes and sources but, if you ask the  
27 question about salary, I recall that sources indicate that forces  
28 operating on campaigns, in the eastern part of Sierra Leone, are  
29 fighting the RUF, did not get paid at all for months. So didn't

1 get a salary at all. What it did with promotions, the only  
2 thing, but again I do it by heart, of course, is that a lot of  
3 promotions were unmerited but were the result of who knows who,  
4 and et cetera.

12:35:44 5 Q. General, speaking about that issue of salary, did you  
6 conclude whether that existed within all ranks of the army, in  
7 those days, 1992, 1996?

8 A. Well, for me, as a professional soldier, retired, I found  
9 that the people who were suffering from this, again based on my  
12:36:23 10 sources, the people who were suffering from this were the lower  
11 ranks or the juniors, the junior officers, and the people who  
12 benefitted highly, in general, were the senior officers. And  
13 that in my mind, you know, is beyond belief but again, then I  
14 have to go into specifics about my report, where I state all  
12:36:50 15 this, so I can answer it only in sort of broad terms.

16 Q. We will come back to that later, general. I would like you  
17 to go to another aspect of that historical part, the specific  
18 level of training in the period 1992, 1997. Are you able to say  
19 what, from your professional background, the level of training  
12:37:28 20 was based on your sources?

21 A. Based on my sources but then I also regard sources as  
22 transcripts.

23 Q. General, just when you refer to transcripts, you refer to  
24 the fourth secondary source; is that correct?

12:37:47 25 A. Yeah, the transcript, yes.

26 Q. Of the Court?

27 A. Yes. I mean, the Court transcripts, yes.

28 Q. Okay. Please continue, sorry.

29 A. Now where was I?

1 Q. The level of training you were saying relying on --

2 A. Yes. Also when you read the transcripts your question was,  
3 what was the training and I think the training, in general, was  
4 substandard because on, in many instances it's written that you  
12:38:19 5 were trained how to fire a rifle, how to move in a formation and  
6 the rest was left over to your own survival instinct, and you had  
7 to carry out a job. And knowing and having been involved in  
8 training, you know, it takes a long time to train a recruit in  
9 all aspects, like I mentioned in the marine corps and I know that  
12:38:51 10 in the royal marines they have a similar training systems as we  
11 have, so.

12 Q. Thank you, general. You just stated that, with respect to  
13 the reimbursement system, the senior ranks benefitted from the  
14 situation you described. Do you know whether this had any impact  
12:39:18 15 on the junior ranks, according to your research?

16 A. According to my research, no doubt. Because the seniors  
17 were living the good life, with courses outside the country, good  
18 housing, et cetera and so I think, I don't think -- I found in my  
19 sources that the junior ranks were suffering from that. It has  
12:39:53 20 to do with motivation. You get depressed. It -- I tried to find  
21 another word but it's for the morale of the men who sees that,  
22 it's devastating.

23 Q. General, do you know whether this had any impact on the  
24 leadership structure within the Sierra Leone Army in those days,  
12:40:21 25 according to your research?

26 A. Well, leadership, of course leadership is a broad thing and  
27 I name, in my report, according to doctrine, what is good  
28 leadership. Now, notwithstanding the doctrine, in my mind,  
29 leadership is setting the example by senior officers, or by

1 superiors. Now, you have leadership at the top but you also have  
2 what we have in our armed forces junior leadership. Junior  
3 leadership is the leadership by a sergeant over his men. It does  
4 make a difference. Leadership boils down to the fact that you  
12:41:06 5 have impeccable behaviour, that you set the example and last, but  
6 not least, that you always take care of your men and I have not  
7 seen any of that in my sources.

8 Q. And could you please specify for the Court, when you say "I  
9 didn't see anything in my sources," to which period you refer to?

12:41:31 10 A. Basically, a big area but basically it started from the end  
11 of the 70s onwards.

12 Q. And can you specifically comment on the situation of the  
13 army in May 1997?

14 A. Well, in my mind, in my conclusion, the May 1997 was a sort  
12:41:59 15 of, on the one hand an end period of a devastating treatment of  
16 the troops but again, then, it was a new time of the junior ranks  
17 taking, coming into power, you see. But then things didn't  
18 improve.

19 Q. General, were you able to, let's put it differently. Do  
12:42:23 20 you know whether, general, this whole situation you've just  
21 described had any impact on the command structure, within the  
22 army, at May 1997?

23 A. The sources indicate that there was not a proper command  
24 structure, or let me rephrase it, the military leadership was not  
12:42:54 25 able to set up a proper command structure before May 1997, and no  
26 doubt in my mind, afterwards, even if there was some sort of a  
27 command structure, totally collapsed.

28 MR KNOOPS: Thank you, general. Your Honour, in light of  
29 the time, I've now concluded the historical part of the

1 examination. And I'm moving now to another part of the report of  
2 the general, so --

3 PRESIDING JUDGE: Yes, I think it's an appropriate time to  
4 take the break, Mr Knoops.

12:43:35 5 MR KNOOPS: Thank you.

6 PRESIDING JUDGE: General, we are going to have a break  
7 until 2.15. You are probably familiar with this but please, we  
8 are just cautioning you that don't discuss your evidence or the  
9 case in the meantime.

14:43:48 10 THE WITNESS: Yes, Your Honour.

11 PRESIDING JUDGE: Well, we will adjourn the Court until  
12 2.15.

13 [Luncheon recess taken at 12.45 p.m.]

14 [AFRC17OCT06B - MD].

14:14:50 15 [Upon resuming at 2.15 p.m.]

16 PRESIDING JUDGE: Yes, go ahead, Mr Knoops.

17 MR KNOOPS: Thank you, Your Honour. Good afternoon.

18 Q. Good afternoon, general.

19 A. Good afternoon.

14:18:21 20 Q. General, before the break, we indicated that we would turn  
21 now to the second part of your research. Do you know what you  
22 researched in that third part C?

23 A. Yes, sir, I do.

24 PRESIDING JUDGE: You said the second part?

14:18:42 25 MR KNOOPS: Sorry, the second part, yes. Sorry.

26 Q. The second part. Could you please shortly indicate to the  
27 Court what you researched in that second part?

28 A. You mean, part C now, don't you?

29 Q. Part C of your report?

1 A. Yes. What I researched was, I wanted to go in the types of  
2 conflict, briefly, as a sort of doctrinal background and then  
3 give my opinion on the way the AFRC operated or carried out  
4 operations. That's basically what I researched.

14:19:29 5 Q. To what conclusions did you arrive in that second part?

6 A. I came to the conclusion that the AFRC was carrying out  
7 operations in an irregular way. In other words, the AFRC has to  
8 be considered as an irregular force.

9 Q. Before, general, we go into the specificities of your  
14:20:04 10 answer and the foundation, you just mentioned that you looked  
11 into the way the AFRC operated?

12 A. Yes. What for me was important was for me, as a military  
13 man important, is how operations are carried out more than how  
14 you structure it, or whatever. How do you perform? How do you  
14:20:30 15 behave and what are the correct characteristics of your  
16 behaviour? That's, in essence, the modus operandi while carrying  
17 out operations.

18 Q. Do you know, general, whether there are other approaches to  
19 answer the question as to the regularity of a force?

14:20:52 20 A. Can you rephrase that question, please?

21 Q. Do you know, sir, whether there are other approaches to  
22 investigate the question whether a force is regular?

23 A. Not really. I think you can identify different way of  
24 addressing a conflict, but that's something else than the  
14:21:16 25 difference between regular and irregular. For example, excuse  
26 me.

27 Q. No, go ahead, sorry.

28 A. Well, for example, if you want to address a conflict you  
29 can look at the parties involved, who is fighting who, or you can

1 address the issue what weapons are used, conventional or  
2 non-conventional weapons, but, when you look at the way a force  
3 operates, then you look into whether they do that regular, in a  
4 regular way or an irregular way.

14:22:00 5 Q. You just used the word *modus operandi*. Just for clarity,  
6 could you state to the Court what you mean with the word *modus*  
7 *operandi*?

8 A. What I mean is, basically, how do you fight a war; how do  
9 you carry out operations? That is what I mean, instead of you  
14:22:24 10 also can look in how is an organisation structured, you know, how  
11 many battalions and so on. Primarily, I looked firstly into the  
12 question because, in my mind, that is essential: How does an  
13 organisation or a force operate? In what way and that's what I  
14 mean, I hope I am clear, but that is what I mean by *modus*  
14:22:45 15 *operandi*.

16 Q. General, did you -- can you indicate to the Court what your  
17 foundation is of using this criterion, *modus operandi*?

18 A. Dutch doctrine.

19 Q. Can you specify what that doctrine actually says?

14:23:07 20 A. Well, to basically make it very simple, the doctrine  
21 indicates that if you operate in a regular way, you operate in an  
22 open, structured way with fixed formations, according to doctrine  
23 and, on the other hand, if you operate in an irregular way, it  
24 can best be described as guerrilla warfare or rebels and there  
14:23:42 25 are numerous terminology for that.

26 Q. General, can you, before we go into the *modus operandi* in  
27 the instant case, please explain to the Court what you understand  
28 to be a regular force?

29 A. Well, I am afraid I have done not being clear. That's what

1 I basically meant with my previous explanation. Regular means  
2 open, structured formations, according to doctrine and fixed  
3 procedures. In other words, the United Kingdom Netherlands  
4 Landing Force would operate in a regular way.

14:24:41 5 Q. Okay, thank you. What is, in your view, the *modus operandi*  
6 of an irregular force?

7 A. Well, let me first say that the difference between regular  
8 and irregular, like in so many things, it's not totally black and  
9 white. However, irregular, like I indicated, rebels, guerrilla,  
14:25:14 10 have the tendency to operate in an irregular way and I, in my  
11 report, I listed about 14 or so many points which indicate an  
12 irregular force. But let me give some examples. Normally, an  
13 irregular force would not operate in uniforms; are not  
14 distinguishable. An irregular force do not have established  
14:25:43 15 rules of engagement. An irregular force has the tendency to  
16 operate out of a defensive posture, sometimes where they have --  
17 where they are in defence but against a larger force, and  
18 sometimes they attack positions when they have more force  
19 available to them. So, you know, I can sort of -- they operate  
14:26:15 20 at night under cover; stay out of big confrontations; that's what  
21 I mean with irregular.

22 Q. General, you just used the word "rules of engagement."  
23 Could you please, are you in a position to tell the Court what  
24 you mean with rules of engagement?

14:26:33 25 A. Rules of engagement in the, let's say in military  
26 organisations, are established at the highest level. For  
27 example, in The Netherlands, the rules of engagement are  
28 established at the level of minister of Defence. And they give  
29 an authorisation, or a limitation, in the use of force. So, for

1 the men, for the units, it's an indication on when can you use  
2 that force, in what instance. So it's a basic set of rules which  
3 allows you to use force but also limits your use of force.

14:27:27 4 Q. General, you just stated to the Court that you arrived at  
5 the conclusion that the AFRC operated as an irregular force. Can  
6 you tell the Court the foundation for that conclusion?

7 A. You mean foundation as in sources?

8 Q. Yes.

14:27:55 9 A. Well, I found a foundation for it in what you call  
10 secondary sources, the publications in TRC but, also, Colonel  
11 Iron and I shared the same opinion as far as this is concerned,  
12 which I found in his report, as well as in the transcripts.

13 Q. Could you please, sir, go into that issue: What do you  
14 mean with Colonel Iron and I shared the same view?

14:28:25 15 A. Well, Colonel Iron, and I think rightly so, came to the  
16 conclusion that the AFRC had to be considered as a guerrilla  
17 force rather than a conventional army. In his transcript but  
18 again I -- it's from the top of my head -- in the transcript he  
19 says somewhere, it's in my report, he states that the AFRC had to  
14:28:57 20 be considered as a non-regular army. Now whether you call it  
21 irregular, non-regular, that's a matter of wording, I think, but  
22 we, both of us, Colonel Iron and I, came to the conclusion that  
23 at least the way Colonel Iron didn't explain the modus operandi  
24 like I did but he said they operated like a guerrilla force, you  
14:29:22 25 see, so we came both to that conclusion about the way they  
26 operated.

27 Q. Apart from the sources you mentioned, did you encounter  
28 anything specific in this regard in your fourth secondary source?

29 A. Yes, I did, because very important in my mind is the fact,

1 as I explained, an irregular force has the tendency to operate in  
2 civilian clothes or in a half sort of uniform but is not  
3 recognisable. Now it's very clear that in the transcript, among  
4 others, in the transcripts from Mr Massaquoi, he indicates that  
14:30:10 5 there was absolutely no way you could distinguish the RUF and the  
6 AFRC. There are numerous examples elsewhere, I found, that you  
7 couldn't distinguish. That is only one example. Now, in the  
8 report, there are more examples not relating to the uniforms but,  
9 for example, relating to their posture. I said an irregular  
14:30:36 10 force has the tendency to be on the defensive, in hiding, in the  
11 bush, staying under cover. Colonel Iron mentioned that they  
12 have -- that the AFRC at least in the first, the majority of the  
13 1998, was on a defensive posture. So there are other things but  
14 I found proof in the transcript.

14:31:06 15 Q. General, were you able to find support for this conclusion  
16 in any of your primary sources?

17 A. Yes, absolutely. Number one, which is --

18 Q. Don't mention the name, sir.

19 A. No, I don't. It's 082 indicated likewise.

14:31:37 20 Q. Can you recall any examples he gave you about --

21 A. He emphasised on the fact that, basically, the AFRC had to  
22 be considered as a survival organisation. The main purpose no  
23 doubt --

24 MR AGHA: Objection, Your Honour.

14:31:58 25 PRESIDING JUDGE: Why is that?

26 MR AGHA: This is opinion evidence of DSK-082 and I don't  
27 see that the opinion evidence of a layman is relevant in this  
28 context.

29 PRESIDING JUDGE: What do you say to that objection?

1 MR KNOOPS: Your Honour, it's never been alleged that this  
2 was opinion. It's never been alleged by the defence that this is  
3 an opinion of, or it has never been alleged by the expert that  
4 this information was based on opinion. It's an assumption of the  
14:32:30 5 Prosecution that it is an opinion but there is a foundation that  
6 this person was actually in the field; he was there throughout  
7 four months and after that he returned with ECOMOG. So it's, I  
8 think, quite presumptuous to say that DSK-082 gave the expert  
9 just an opinion.

14:32:54 10 MR AGHA: I would say at this point, Your Honour, that  
11 there hasn't been a foundation to say that DSK-082 was operating  
12 in the jungle with the AFRC faction after the intervention.

13 PRESIDING JUDGE: No, I agree with that, Mr Knoops. You  
14 haven't made it clear whether in fact it is an opinion or actual  
14:33:11 15 experience.

16 MR KNOOPS:  
17 Q. General, when the number one gave that information to you,  
18 were you able to -- do you know whether this was a direct  
19 knowledge? Did he tell you that it was his experience or was it  
14:33:36 20 just his opinion?

21 A. Well, in my mind it had to be his experience because after  
22 the intervention, when everybody sort of fled into the bush, he  
23 was part of that. I think he stayed for a long time in Masiaka  
24 and he observed of course that, you know, the only way to survive  
14:34:00 25 was to stay and hide and that is what he explained to me.

26 Q. And with respect to his stay with ECOMOG, later on I  
27 believe you testified about August 1998, he returned with ECOMOG.  
28 Do you know from your recollection whether he actually went into  
29 the bush with ECOMOG at that time?

1 A. It was stated that on occasions he went into the bush but I  
2 thought it was extremely interesting to note that someone first  
3 is on the one side, so to speak, in the bush and then all of a  
4 sudden after so many -- then he is on the other and no doubt, no  
14:34:43 5 doubt, ECOMOG knew the way the AFRC in general operated.

6 Q. Okay. Now what about, general, number three. You  
7 indicated to the Court that number three was, you call him a  
8 leader of one of the AFRC groups. Did number three provide you  
9 any information which enabled you to come to this conclusion you  
14:35:15 10 just stated?

11 A. Number three, and he stayed, as far as I know, the entire  
12 period in the bush, so that the only way he could, the only way  
13 he could perform was to survive and stay in hiding.

14 Q. And do you know whether he was speaking for himself or for  
14:35:42 15 his entire group he was leading at that time?

16 A. I can't answer that question. He was saying that as an  
17 alleged boss, or commanding officer, I don't know how you call  
18 that, of his group, so when I speak as a commander, commanding  
19 officer, I speak for the entire force. So, but that was an  
14:36:04 20 assumption on my side that he of course as leader spoke for the  
21 entire group.

22 Q. And, general, you just informed the Court about your fourth  
23 secondary source, the transcripts of the Prosecution evidence,  
24 and you mentioned Mr Massaquoi. Can you recall any other  
14:36:22 25 examples from the transcripts which enabled you to arrive at this  
26 conclusion?

27 A. I mentioned Massaquoi because Massaquoi indicated that you  
28 couldn't distinguish between the two groups and I'm afraid it can  
29 be that it's in my report but among the many, many examples, I

1 don't know if I can recall another one at this point of time, I  
2 think. I don't -- I don't know.

3 Q. General, were you, during your research, been brought into  
4 a position to arrive at the conclusion what the main purpose of  
14:37:08 5 the AFRC was in military terms, after May 1997?

6 A. After May 1997, I don't know. They were here. I mean,  
7 here, as in Freetown and I know what their purpose was after  
8 February 1998.

9 Q. One final question, general, with respect to this part.

14:38:21 10 Assuming, general, you have a force which has an official  
11 structure, let's call it organisation, but in its modus operandi  
12 it's irregular, according to the criteria you applied to the  
13 instant case, what is in your view the outcome of the question  
14 whether we are dealing with a regular or an irregular force?

14:39:00 15 A. With my operational background I think the only relevance  
16 is how you perform, operate, behave during the operations. Now,  
17 how you are structured is another matter but I think that if you  
18 operate, or have all the characteristics or many of the  
19 characteristics of an irregular force, Your Honour, or an  
14:39:33 20 irregular action, you are an irregular force or, like Colonel  
21 Iron says, you are non-conventional or you are non-regular or you  
22 are a guerrilla force.

23 Q. Yes. Thank you, general. General, that concludes my  
24 questions with respect to part C and I would like you to go to  
14:39:57 25 your third part D where you addressed the three questions of  
26 Colonel Iron. First, what is your conclusion as to the  
27 pre-condition Colonel Iron stated with respect to the  
28 availability of recognisable groups?

29 A. Colonel Iron stated in his report that, if I recall

1 correctly, he stated something in the wording like military  
2 organisations exist when there is a conflict or fighting between  
3 recognisable forces. Otherwise, he stated, but again it's here  
4 in the head, he stated it's mere -- merely chaos. I think that's  
14:40:56 5 about the wording he used.

6 Q. Thank you, general. Now, let us turn to the first question  
7 which was researched by Colonel Iron and researched by you,  
8 namely, did the AFRC faction have a recognisable military  
9 hierarchy and structure? First of all, at what conclusion did  
14:41:20 10 you arrive with respect to that question, in your research?

11 A. The conclusion was they didn't have a recognisable  
12 hierarchy and structure.

13 Q. Can you please explain to the Court how you came to that  
14 conclusion?

14:41:43 15 MR AGHA: Your Honour, I would object at this stage on the  
16 basis that, if I recall rightly, and I may be wrong, do not such  
17 responses go to the ultimate issue in this case?

18 PRESIDING JUDGE: In what way?

19 MR AGHA: In we are talking about command responsibility  
14:42:02 20 under 6.3 and the question of hierarchy and if the conclusion is  
21 there was no hierarchy and no structure then that would directly  
22 affect a judgement, based on fact, which this Court needs to find  
23 on its own.

24 PRESIDING JUDGE: You want to reply to that objection,  
14:42:18 25 Mr Knoops?

26 MR KNOOPS: Yes, Your Honour, I am happy to. I don't agree  
27 with my learned friend. First of all, it's not a matter of the  
28 ultimate issue. As the Court knows, the report of Colonel Iron  
29 was challenged by the Defence in its entirety on the basis of the

1 ultimate issue and, specifically, the fourth question was there  
2 effective command and control. Now, this is directly indeed  
3 related to the indictment and, I think rightfully, the Court  
4 excluded that question from the examination by Colonel Iron.

14:42:53 5 Secondly, the issue of the existence of a recognisable  
6 military structure was repeatedly addressed by the Prosecution to  
7 witnesses of fact, not experts, and that doesn't go to the  
8 indictment as such, whilst it has nothing to do with the  
9 existence of effective command and control, as such, merely  
14:43:24 10 whether command and control, as such, existed without giving a  
11 judgement call on the effectiveness of there. And based on the  
12 jurisprudence of the ICTY it's predominantly the term, the  
13 effectiveness of command and control which is the ultimate issue,  
14 not the question whether command and control existed from the  
14:43:51 15 opinion of a military expert.

16 So, in my humble submission, this is not a valid objection  
17 but if the Court would sustain that objection, then actually,  
18 what we have done is establishing the foundation that the whole  
19 report, I am sorry to say that, of Colonel Iron, and his  
14:44:12 20 testimony, should be excluded because he went into this question.  
21 And then of course we could be probably finishing soon because  
22 then there is no question to be answered to any of the experts  
23 anymore.

24 JUDGE DOHERTY: Mr Knoops, your question was: Was there a  
14:48:32 25 recognisable hierarchy and structure? Hierarchy and structure to  
26 me do not appear to be the same. Are you asking two questions or  
27 are you equating those, two hierarchy and structure, as one?

28 MR KNOOPS: Thank you for this question. I think it's,  
29 from a military perspective, a very interesting question. When

1 you ask me personally I would say there could be a difference  
2 between hierarchy and structure, although it may be a question of  
3 wording, and perhaps it's up to the expert to ask whether there  
4 is, from his perspective, a difference between a hierarchy and a  
14:49:17 5 structure because if there is a structure there is, in essence, a  
6 hierarchy or vice versa. Well, the question actually is adopted  
7 from the question which was put to Colonel Iron in his report and  
8 if we, as Defence, would have rephrased questions for the experts  
9 we may have done it differently but, in all fairness, also to the  
14:49:47 10 Prosecution, we thought it viable to use the same questions as  
11 were put to Colonel Iron but I agree with you, Your Honour, that  
12 you can discuss about the question whether they can be equated or  
13 not. I would say if the Court has not a problem with that that  
14 we could ask the expert whether he thinks that hierarchy and  
14:50:13 15 structure can be divided or they are actually the same.

16 JUDGE DOHERTY: Well, perhaps then, Mr Knoops, in light of  
17 what you say, we should rule on this objection that is already  
18 before us.

19 MR KNOOPS: Yes. And may I just briefly indicate, Your  
14:50:29 20 Honour, that what is being asked is whether or not that structure  
21 was recognisable. We are not asking any judgement call on the  
22 judicial qualification of that structure. So it's merely, I  
23 think, a judgement from a military perspective, whether such a  
24 structure was visible, recognisable, and that's, in my view,  
14:50:55 25 something different than when you qualify it from a legal  
26 perspective, so it doesn't go to the ultimate issue.

27 PRESIDING JUDGE: You are not talking about effective  
28 command and control?

29 MR KNOOPS: Not at all.

1           PRESIDING JUDGE: You are just talking about a structure  
2 that can be recognised as such?

3           MR KNOOPS: That is quite right, and, Your Honours, what I  
4 have noticed that we expressly made sure that the whole  
14:51:16 5 terminology which was put by Colonel Iron in his report, and  
6 which was included, is not being put and will not be put to this  
7 expert.

8           PRESIDING JUDGE: Well, yes, we note that, Mr Knoops. In  
9 fact, you probably will recall that in the Prosecution case the  
14:51:34 10 Defence did make an objection along those lines.

11           MR KNOOPS: Correct. But Your Honour, that was regarding  
12 the fourth question in the report of Colonel Iron: Was there  
13 effective command and control? That goes directly to the  
14 indictment and goes also to the ultimate issue and therefore we  
14:51:57 15 objected only to the fourth question, and Your Honours ruled on  
16 that saying indeed the fourth question cannot be put to Colonel  
17 Iron, although his report was ultimately tendered, his document  
18 as a whole, and that's why we opted for not asking anything to  
19 this expert about the effectiveness of the organisation, or the  
14:52:24 20 command and control issue; we are merely asking the expert was  
21 there a recognisable structure or hierarchy, and then we followed  
22 the two other questions which also were put to Colonel Iron: Had  
23 it the characteristics of traditional military organisation?  
24 That's the second question. And the third question relates to  
14:52:56 25 was there any linkage between strategic operational technical  
26 levels. That question was also put to Colonel Iron and answered  
27 by him; he also were in explanation in chief.

28           PRESIDING JUDGE: Yes. Mr Knoops, now that you've  
29 explained the parameters of your questions we overrule the

1 objection. We will allow the question.

2 MR KNOOPS: Thank you, Your Honour.

3 Q. General, my apologies for the intervention. Just to go  
4 back, I believe my question to you was, sir, whether you were

14:54:04

5 able to come to the -- to any conclusion as to the first

6 question, which was also put to Colonel Iron and, just for

7 clarity, I rephrase the question: Did the AFRC faction have a

8 recognisable military hierarchy and structure? And I emphasise

9 that we are not asking you to comment on the issue of the

14:54:33

10 effectiveness of the organisation but merely whether, as an

11 observation, as a mere fact, the recognisable structure existed

12 in your view. And we, more precisely, we are speaking about the

13 timeframe of May 1997, till the end of 1998, before the advance

14 to Freetown started. I hope I am now really precise for you.

14:55:15

15 A. As indicated, I completely followed the methodology of

16 Colonel Iron in the questions raised by him. And, in response to

17 your question, I could not agree with Colonel Iron that the AFRC

18 had a recognisable hierarchy and a structure as he described.

19 Q. And are you in a position to tell the Court on what

14:55:48

20 foundation you came to that conclusion?

21 A. I can.

22 Q. Could you please do, and please indicate also directly your

23 sources?

24 MR AGHA: Your Honour, at this stage I would point out that

14:56:05

25 the witness does seem to be writing and referring to notes and

26 I'm not sure if that's entirely proper.

27 PRESIDING JUDGE: What is your witness doing, Mr Knoops?

28 MR KNOOPS:

29 Q. General, I see you have a notebook there?

1 A. Your Honour, while the question is posed to me, and I can't  
2 refer to my notes, I make notes what my response will be.

3 PRESIDING JUDGE: Well, anything wrong with that, Mr Agha?

4 MR AGHA: I think as long as he then turns the page so that  
14:56:42 5 he can't use it as an aide-memoire, I wouldn't object to that,  
6 Your Honour.

7 MR KNOOPS: I can also mention that whilst there are  
8 objections that the general wants to have some memories, some  
9 guidance as to the questions that were put to him but it's not in  
14:56:59 10 general -- it's not like blank papers?

11 THE WITNESS: No, I only write as the question is posed, is  
12 there a clear hierarchy and structure, I know that it concerns  
13 chain of command, chain of command and staff structure, so I  
14 write those down to make sure that I address them accordingly.

14:57:21 15 MR AGHA: That is objectionable, Your Honour, in the view  
16 of the Prosecution.

17 PRESIDING JUDGE: Well, what's objectionable about it?

18 MR AGHA: Writing the question is one thing as an  
19 aide-memoire but taking down a note as to how you are going to  
14:57:34 20 answer that question, and you can refer to that note, the  
21 Prosecution would suggest is objectionable.

22 MR KNOOPS: Your Honour, the reports of General Prins  
23 comprises 86 pages with 300 footnotes, as opposed to the report  
24 of Colonel Iron. Now, I cannot imagine that an expert witness is  
14:57:53 25 able to recall everything which is in his report and I can really  
26 imagine --

27 PRESIDING JUDGE: Well, to be fair to Mr Agha, who has  
28 objected, by one question the witness is not being asked to  
29 recall everything in his report. He is just being asked to reply

1 to one question at a time.

2 MR KNOOPS: Okay.

3 Q. General, are you willing to put down the notebook, sir?

4 Thank you.

14:58:23 5 PRESIDING JUDGE: No, but that is what you are being asked  
6 to address. It's just the fact that he is writing down the  
7 answer before he speaks it.

8 MR KNOOPS: Well, it's my understanding, Your Honour, that  
9 the general is just, whilst the question is being put, he  
10 remembers of course certain things from his reports.

11 PRESIDING JUDGE: Yes.

12 MR KNOOPS: And he is writing those key words down to have  
13 his answer fluently for the Court and, based on those key words,  
14 like span of command, which is an important topic, one of the  
14:58:56 15 characteristics in his reports which deals only with ten pages  
16 that's my understanding that -- how the general operates, but --

17 PRESIDING JUDGE: No, I see that, Mr Knoops. He, the  
18 general, is simply writing down --

19 MR KNOOPS: Key words.

14:59:11 20 PRESIDING JUDGE: -- something he is about to say. He is  
21 not using any extraneous material to -- as a basis for what he  
22 writes down. It's just coming from his mind. We don't see  
23 anything wrong with that. So go ahead.

24 MR KNOOPS: Thank you.

14:59:30 25 Q. Sir, I am about to ask that you come to help me with the  
26 question I've put to you. I believe --

27 JUDGE DOHERTY: Mr Knoops, you were asking the witness  
28 about the foundations for his conclusions.

29 MR KNOOPS: Yes, Your Honour. Thank you very much.

1 Q. General, are you able to indicate the foundation of your  
2 conclusion and it could be helpful to the Court, when you specify  
3 directly, your primary and/or secondary sources?

4 A. Now, that is the hardest question of the day because it's  
15:00:11 5 such an enormous broad area which I tried to simplify for the  
6 Court, if possible. So probably I can take it step-by-step and  
7 if I'm too long then well hopefully you can --

8 Q. Yes. And general, maybe you can help the Court and also my  
9 learned friends on the opposite side and myself by, you used the  
15:00:37 10 word span of command and we notice in your report certain  
11 criteria you use that you take it per criteria, just to keep it  
12 simple for us.

13 A. All right. Let me give it a try. Colonel Iron, in his  
14 report, asked the question: Was there a recognisable hierarchy  
15:01:00 15 and structure? And in order to answer that question he had three  
16 criteria; one, span of command; two, chain of command; three,  
17 staff structure. And so he addressed all these three in order to  
18 come to his conclusion. That's what he did. And to make things  
19 easy I followed precisely the same methodology or the same  
15:01:34 20 parameters as Colonel Iron did. I didn't feel -- I didn't see  
21 any good reason why I should come up with different criteria.

22 So, the first question Colonel Iron posed was: Was there a span  
23 of command? Now, Colonel Iron states in his report, rightly so,  
24 that span of command has to do with how many people can you  
15:02:10 25 actually control, and Colonel Iron comes to the conclusion it's  
26 about three to five you can actually control. So if you were the  
27 boss, you can control three to five subordinates in a chaotic  
28 situation, and he says you can have some more if the situation is  
29 stable. And I fully agree with Colonel Iron. So, in my mind, to

1 deal with the span of command, the organisation of the AFRC, and  
2 I don't want to make things difficult but hopefully I can  
3 clarify, the AFRC had also, according to Iron, one boss, that was  
4 SAJ Musa, and he was called himself the brigade commander, or  
15:03:13 5 earlier he was called the battalion commander, but then in a  
6 latter stage he called himself the brigade commander. Now,  
7 that's wording, so I don't fight Colonel Iron on that, it's just  
8 wording. So, under Musa, there were a couple of battalions, and  
9 these battalions varied in strength between 80 and 150. Now,  
15:03:48 10 normally, and also Colonel Iron agrees, that a battalion in  
11 western armies is 700 but it's only for the wording. So Musa was  
12 the boss as battalion or as brigade commander and he had a couple  
13 of battalions under him; assume it was four. Later it was stated  
14 by Colonel Iron, six or eight. Now, Musa then had span of  
15:04:17 15 command over his battalions because Musa could direct six, three,  
16 six, eight people max. So the span of command was established  
17 one level. Now, in a normal organisation, in an organisation  
18 Colonel Iron and I are familiar with, you have a battalion, a  
19 brigade commander with several battalion commanders, and every  
15:05:00 20 battalion commander has companies, and every company commander  
21 has platoons, and every platoon commander has squads in order to  
22 maintain the span of command with eight subordinates. And in my  
23 findings I have -- I agree that there was probably one level of  
24 span of command from the brigade commander to the battalion  
15:05:37 25 commander but now the problem is here. The problem is that the  
26 battalions, as stated previously, had a strength of about 80 to  
27 120. Transcripts vary in strength. But in my entire research I  
28 have not come across the fact that these battalions of, keep it  
29 simple, 100 men --

1 Q. Each?

2 A. -- each, were further broken down into companies, platoons  
3 and squads. So my conclusion is that the span of command was  
4 only established for one level. Now, Colonel Iron introduces  
15:06:38 5 another -- another thing, chain of command. What he means with  
6 chain of command is what I've just described. You have a brigade  
7 commander, who has under him battalion commanders, and each of  
8 these battalion commanders have company commanders, and each of  
9 these company commanders have platoon commanders, and each of the  
15:07:01 10 platoon commanders have section commanders. That is what Colonel  
11 Iron describes as chain of command. Now, in my view, that was  
12 not established.

13 Q. Why not?

14 A. I have never, I have not seen any transcript that indicates  
15:07:28 15 the existence of companies, platoons, and squads. It was not so  
16 surprising because the AFRC consisted merely of junior ranks and  
17 no trained officers. So there were not men to fulfil the jobs.  
18 So then you come to the conclusion that one man is taking care of  
19 direct 80 to 120. Now, I've been company commander for, I guess,  
15:08:09 20 three years and the company was 120 men, equal to what the AFRC  
21 called a battalion -- I don't want to confuse the Court but equal  
22 to a battalion. Now, I have platoon commanders and section  
23 commanders and, with 120 men, the moment you say forward march,  
24 with 120 men you can't stop them without having a proper span of  
15:08:42 25 command and chain of command and the communications with it. So  
26 I hope I have not been too -- that my answer is understandable,  
27 that I agree with Colonel Iron that there was one level  
28 established but that is just not good enough because then one man  
29 has to control 80 up to 120. So Colonel Iron uses the

1 combination span of command, chain of command simultaneously to  
2 tackle this problem, so that was not established, in my  
3 view. Now, Colonel Iron had a third criteria, criterion, which  
4 was staff structure, and he is right because that is another  
15:09:44 5 criteria for an organisation. Now, I don't disagree with Colonel  
6 Iron that there was some form of staff structure. You can  
7 deliberate about what sort of structure. Colonel Iron mentions  
8 one staff structure, 082 mentions another, you know, don't go  
9 into the detail which staff structure they had. So I agree with  
15:10:24 10 Colonel Iron that there was some form of staff structure but,  
11 then again, they didn't have, the AFRC, they didn't have the  
12 level of trained officers to carry out the staff jobs. Neither  
13 did they have the proper officers or non-commissioned officers to  
14 carry out the jobs in the chain of command.

15:10:54 15 So, in short, with numerous examples, and based on mainly  
16 the transcripts concerning span of command and chain of command,  
17 I came to the conclusion that the structure and hierarchy was  
18 there merely on paper. It -- there was some form of structure,  
19 but it was just not good enough. So basically, in short, that is  
15:11:32 20 why I came to the conclusion that there was only one level.

21 Q. Thank you, general, for your answer. Let us breakdown your  
22 answer in various subquestions. First of all, general, in your  
23 opinion, how many levels do you exactly need to have a span of  
24 command?

15:12:04 25 A. If we can combine the two, like Colonel Iron did, span of  
26 command, chain of command, because it relates to each other but,  
27 you know, from the brigade to the battalion is one; from the  
28 battalion to the company is two; from the company to the platoon  
29 is three; from the platoon to the squad is four, so you must have

1 four levels.

2 Q. As to the level of the subordinates, did you come to any  
3 specific conclusions?

4 A. Well, of course, from my secondary sources, the force that  
15:12:49 5 sort of fled out of Freetown, in February 1998, were the, so to  
6 speak, most of them were junior ranks, so the AFRC faction, as I  
7 described, didn't have trained staff officers. There were, I  
8 think, one or two, as I came across, who were trained officers,  
9 regular officers, and the rest was former soldiers.

10 Q. Can you mention, by the way, those two names?  
15:13:20

11 A. Well, FAT Sesay was one. There's another one, I don't know  
12 if it's King, but there was another one who was a trained staff  
13 officer but, you know, that on a force of 800 is just not -- with  
14 that you can't run a force.

15 Q. Are you in a position to tell the Court how exactly this,  
16 the absence of trained officers, except of those two you have in  
17 mind, interrelates to the span of command, the chain of command?  
18 How should we -- could you visualise that for the Court?

19 A. Well, assume you have a correct span of command and chain  
15:14:18 20 of command then at all these levels you need trained officers and  
21 in your staff you need trained staff officers, so at all these  
22 levels you need trained, trained officers.

23 Q. General, did you come across, while reading the transcripts  
24 of the Prosecution witnesses, the words "battalion supervisor"?

15:14:48 25 A. I came across battalion supervisor because it was named in  
26 the report by Colonel Iron. It's also named in one of the  
27 transcripts. I understood from my interviews with primary  
28 sources that those were not functions used in the Sierra Leone  
29 Army. They were unknown. But I know that, apparently, Musa

1 established those functions in order to see what the subunits  
2 were doing.

3 Q. In your professional opinion, did the existence of  
4 battalion supervisor change your conclusion you just mentioned to  
15:15:37 5 the Court?

6 A. No, it didn't, because with a battalion supervisor you can  
7 merely supervise what the subordinate commander, the battalion  
8 commander, is doing. But the commander -- the battalion  
9 commander can't -- cannot oversee the 80 to the 120 men.

15:15:59 10 Q. Did you come across, in the transcripts, the term  
11 "battlefield inspectors"?

12 A. It was a similar -- similar -- I don't know if it's  
13 described exactly the same way but I think it had the same  
14 purpose. But also that didn't solve your problem of the span of  
15:16:18 15 command and chain of command.

16 Q. Now, general, I just asked you specifically about the  
17 period May 1997 till the end of 1998, before the advance to  
18 Freetown. What is your conclusion as to the existence of a  
19 recognisable structure, or hierarchy, when we would deal with the  
15:16:52 20 periods that the faction left Colonel Eddie Town and was on the  
21 advance to Freetown?

22 A. The period you indicate, you indicate then that SAJ Musa  
23 was in command; is that right?

24 Q. Yes.

15:17:12 25 A. Well, then, again, that period I examined. I came to the  
26 conclusion that the situation I described previously, that was  
27 the case, in that period.

28 Q. And let us assume that Musa was able to restructure the  
29 whole, let's call it organisation, in Colonel Eddie Town, as

1 stated in the transcripts which you saw. What is your view as to  
2 the existence of a structure after that restructuring? Does it  
3 change your conclusion?

4 A. It doesn't because at one point in time, and I don't know  
15:18:01 5 precisely when, Musa restructured and came up with an  
6 organisation of him, the boss, and subordinate commanders. And I  
7 have no reason not to agree with that; neither does Colonel Iron;  
8 neither do my primary sources. But it remains the fact that  
9 under that, nothing was established.

15:18:28 10 Q. Well, general, you just spoke about the third criterion,  
11 the staff structure, and you explained for the Court your opinion  
12 as to the existence or non-existence of a staff structure. Could  
13 you please tell the Court how, what you need to set up in staff  
14 structure, from your professional experience?

15:18:54 15 A. From, let's say the professional background of Colonel Iron  
16 and I, you come up with a structure which he names G1, 2, 3, 4 so  
17 it deals with personnel, intelligence, operations and logistics  
18 and you can go on further until G9, or what have you. In order  
19 to carry out these functions you, number one, need an officer,  
15:19:24 20 for example. Who is trained in logistics or an officer who is  
21 trained in operations. Now, that is an officer who has gone to  
22 officer candidate school, who preferably joins a staff college,  
23 and has a lot of experience in the field he operates in. So, for  
24 example, in our forces, in the British forces, if you are a sort  
15:19:56 25 of in a logistic line you will stay in a sort of a logistic line  
26 because that is where you gain the experience. So that is what  
27 you need and you just cannot pick someone and make him the head  
28 of a personnel staff branch.

29 Q. Thank you, general. General, the second question you dealt

1 with --

2 A. Sorry, may I add something to it?

3 Q. Go ahead.

4 A. What I found, which I think was very important, also

15:20:33 5 dealing with the staff structure and hierarchy, I mentioned it

6 briefly, was the level of subordinate commanders. So when Musa

7 was commander, commanding officer, and he had battalion

8 commanders, I want to emphasise that the level of command,

9 subordinate commanders, among others, I don't know if I can call

15:21:00 10 his name, 167, or 176, I forget, he was a battalion commander but

11 I was astonished to read in all the transcripts that the man

12 didn't have any level, any training, to carry out his being a

13 subordinate commander. He didn't have the training. He didn't

14 have the military experience and, even more important is the fact

15:21:32 15 that out of, I think his transcripts, I read that he didn't want

16 to take any responsibility while carrying out the job of a

17 subordinate commander. Now, in my mind, that's another factor

18 because I emphasise these three but, in my report, I go more into

19 detail into these aspects. You cannot run a military

15:22:04 20 organisation if your subordinates don't take responsibility for

21 their actions, so if I am a brigade commander my battalion

22 commanders carry out orders and they are responsible themselves

23 to make sure these orders are carried out. And, you know, I read

24 in several occasions that, you know, the specific 176, or 67

15:22:37 25 said, you know, I didn't give orders, the orders came from the

26 top. I only was there and then later he was, also in the view of

27 Iron, he was assigned that battle group commander. He said:

28 "Well, I didn't give orders to my battle group, I was just there.

29 The orders came from the top." So I just want to emphasise that

1 you don't have the structure, but if you don't have the men, who  
2 take the responsibility, you can't run the force. I just wanted  
3 to add that.

4 Q. Yes.

15:23:14 5 A. That came into my mind.

6 Q. So, just to conclude this point, general, what is your  
7 overall conclusion as to the question: Did the AFRC faction have  
8 a recognisable hierarchy or structure?

9 A. Based on the parameters, as stated by Colonel Iron, I  
15:23:41 10 cannot agree. They didn't have that.

11 Q. Thank you, general. I would like to move on, general, to  
12 the second question addressed by Colonel Iron, and also by you,  
13 namely, the question: Did the AFRC faction exhibit the  
14 characteristics of a traditional military organisation? You did  
15:24:03 15 research that question, sir?

16 A. I did.

17 Q. Could you please first describe to the Court how you  
18 approached this question from your professional view?

19 A. Again, I followed in the footsteps of Colonel Iron. Now,  
15:24:26 20 he addressed 13 characteristics and I didn't have any reason to  
21 doubt his knowledge. You can come up with 15 or 11 but that's  
22 basically not so relevant. So, what I did is, to analyse any of  
23 the 13 and answer the question: How, how was that established?  
24 Was that, in fact, in place? And I came to the conclusion that  
15:24:55 25 it was different.

26 Q. And, general, we will come back to the conclusion and the  
27 way you arrived at the conclusion but what was for you the  
28 foundation to arrive at the conclusion you made in this regard?

29 A. Well, it basically varied. With some of the

1 characteristics, I went back to the history of the armed forces  
2 and the procurement of equipment, and then I tried to find  
3 evidence, so to speak, if that was in place; for example,  
4 communications. In other instances I relied on Iron himself,  
15:25:46 5 what was Iron's view and if they -- if Colonel Iron came to the  
6 conclusion that they were not there then that was fairly easy for  
7 me to -- well, I agreed with him, but I looked at whether he was  
8 right or wrong. And then in the many, many transcripts you, for  
9 example, you come to the aspect of discipline, but then you have  
15:26:10 10 to find a basis that discipline really was established in the  
11 force. And so I went through, I think what that is concerned to  
12 the transcripts, and I sort of tried to find where do I find the  
13 answer to whether, and to what extent, discipline was a character  
14 of that organisation, you see. So it was basically a mixture  
15:26:40 15 where I tried to --

16 Q. And, general, to be clear, the transcripts, these were the  
17 transcripts of the Prosecution witnesses over the period May,  
18 October, of last year, you researched?

19 A. Exactly.

15:26:56 20 Q. Thank you. Were there any other sources, apart from the  
21 history and transcripts, which enabled you to come to any  
22 conclusion as to this second question; either primary or  
23 secondary?

24 A. Primary, certainly. I certainly got interviews in which,  
15:27:32 25 and to what extent it was stated, whether a characteristic was in  
26 place.

27 Q. And, general, in this regard, you are referring to the,  
28 when you speak about the primary sources, can you please specify  
29 whether any of these numbers you mentioned were under those

1 interviews referred to?

2 A. Yes. Predominantly, number one.

3 Q. Apart from number one?

4 A. It may have come across in my, you know, as I indicated, I  
15:28:18 5 talked with the senior officers retired over a period of time  
6 and, in fact, number two, my first sort of inquiry was a  
7 combination of one and two; that's correct. And afterwards, it  
8 was only one, in the timeframe in May, April, sorry, March,  
9 April, 2006.

15:28:49 10 Q. And specifically, with respect to number two, did, what you  
11 call him the leader of one of the groups, the AFRC groups, did he  
12 provide you with any specific factual information which enabled  
13 you to come to any conclusions as to this second question?

14 A. Well, that's hard because it was so many characteristics  
15:29:17 15 and so many -- I find it hard now to say yes, that was a specific  
16 fact where he based himself on.

17 Q. Okay. Thank you, general. Going back to the 13  
18 characteristics you adopted from Colonel Iron's research. What  
19 was -- were you able to come to any conclusion on the existence  
15:29:45 20 of these 13 characteristics?

21 A. I was.

22 Q. Can you first tell the Court the overall outcome of that  
23 research and then we go into the specificities of the various  
24 characteristics?

15:30:00 25 A. If I can recall correctly, because it's in my report, a  
26 list, out of the 13, I think, I am sure that seven were not  
27 applicable in the AFRC faction. Three were limited. There was a  
28 limited availability of that characteristic. Two, it was very  
29 limited, in my mind, and one was only applicable at the start of

1 a planning and orders process, if I can recall correctly.

2 Q. Now, I'm not going to rehearse you today about which  
3 criteria exactly but we may come to that in a later stage. Now,  
4 let us start with the first criterion of Colonel Iron, the  
15:31:19 5 intelligence process. What was your conclusion as to the non, or  
6 availability of that criterion, that characteristic, within the  
7 AFRC faction after May 1997?

8 A. Well, I didn't want to be too harsh in my verdict so, as I  
9 recall correctly, the intelligence I stated as limited available.

15:32:03 10 Q. With respect to the second characteristic mentioned by  
11 Colonel Iron, the communication system, what was your conclusion  
12 as to the existence or non-existence of that characteristic  
13 within the AFRC faction?

14 A. The same applies for communications limited, and again I  
15:32:28 15 didn't want to be too harsh, and that was based, basically, on  
16 the short availability of communication after the attack on  
17 Lunsar, and the use of runners, which also Colonel Iron states.  
18 So my conclusion was communication limited.

19 Q. General, can you recall any specific transcripts in this  
15:32:57 20 regard, which enabled you to arrive at this conclusion?

21 A. You are asking specifically transcripts or general sources?

22 Q. No, specifically whether you found support for your  
23 conclusion in one of the Prosecution witness statements in the  
24 transcripts?

15:33:28 25 A. Yes, because in the several transcripts my first finding  
26 was that witnesses had a tendency to talk about communication  
27 equipment while they didn't have the slightest idea what they  
28 were talking about. They couldn't identify what sort of  
29 equipment, neither could they explain how much. And then, again,

1 I didn't find any documentation on the question on maintenance of  
2 equipment, training, batteries, generators, because it was not  
3 available in the bush, at least according to my opinion.

15:34:25 4 Q. In this regard, general, can you please tell the Court what  
5 the duration is of a battery of a VHS radio or another radio,  
6 mobile radio, used by the military?

7 A. Well, it depends, you see. VHF is very high frequent. And  
8 the battalion commanders' witnesses talk about VHS which I have  
9 never heard about. It depends on several factors. It depends on  
15:34:54 10 how much, how long you use the radio. Whether you operate in  
11 Norway, in the extreme cold, a battery is down in five hours.  
12 Now a battery may go 24 hours, depending on the use. So there  
13 are a lot of factors which dictate the batteries but a battery,  
14 if you use a radio, then the battery won't, if you use a radio  
15:35:16 15 permanently, the battery will be down in, let's say 24 hours, and  
16 then you have to recharge it so --

17 Q. Well, you testified before that you have experience in  
18 jungle warfare. What is your estimation as to the duration of a  
19 battery under the conditions in the jungle?

15:35:40 20 A. I couldn't answer that, really. I don't have that  
21 knowledge. It would be a guess. The only thing I am saying is  
22 that in warm temperatures batteries have the tendency to last  
23 longer than in colder temperatures, and the fact is that you need  
24 to have spare batteries and then you have to have a system where  
15:36:04 25 you recharge your batteries, like you and I would do in normal  
26 circumstances.

27 Q. Did you come across any of such equipment in the  
28 transcripts you read?

29 A. No, absolutely not.

1 Q. Thank you, general. Let's go to the third characteristic,  
2 the planning and orders process. I believe you've just stated  
3 that it only existed, in your view, at the start of the -- what  
4 you call the process. What is your view as to the availability  
15:36:38 5 of a planning and orders process within the AFRC?

6 A. I have the tendency to agree with Colonel Iron that written  
7 orders were not used. Colonel Iron said there were no written  
8 orders in, within the AFRC faction, so the only sort of orders  
9 you would have is the order by way of getting your subordinates  
15:37:05 10 together and brief on what you are going to do. But, then again,  
11 there is an old saying in the military that, I think it's from  
12 Maltke, who stated that -- an old Prussian general -- stated that  
13 the first enemy contact does -- the best operation plan doesn't  
14 survive the first enemy contact. What I'm saying is that you can  
15:37:40 15 order, you can brief and order your subordinate commanders and  
16 then they go away and the operation starts. But immediately, as  
17 soon as you go on the move, or on the offensive, or what have  
18 you, things change instantly and then you didn't have the option  
19 of directing your subordinates. So, like in traditional military  
15:38:10 20 organisations like our forces and the royal marines, you have the  
21 equipment to immediately, if a situation changes, to direct your  
22 subordinates how to act. So, in my view, the only other thing  
23 they could do was use runners. Now, the use of runners was  
24 extremely dangerous because they might fall in the hands of  
15:38:34 25 enemy. And the other thing is if you use a runner, and you tell  
26 the runner go and tell Mr So-and-So this message, by the time he  
27 is with Mr So-and-So he lost half the message. So what I was  
28 saying was that also based on the transcripts, I have in my  
29 report examples of planning groups. I have examples of that at

1 one stage the force was briefed and about 3,000 men, this is in  
2 the transcript, were briefed without a [indiscernible] Taylor I  
3 think by SAJ Musa. Well, anyway, so I believe -- I agree with  
4 Colonel Iron when he states, you know, that order groups were  
15:39:27 5 held, could be, but then that is only the start. And that is why  
6 I came to the conclusion that the planning and orders process  
7 must have existed at the start of an operation but not during the  
8 operation, you have to adapt the plans.

9 Q. Colonel, sorry, I am not trying to mix you up with Colonel  
15:39:48 10 Iron. General, sorry. You indicated at introduction the word  
11 rules of engagement and explained to the Court what rules of  
12 engagements are. Are normally, in your world, the military  
13 world, rules of engagement, been issued by way of written orders  
14 or documents?

15:40:16 15 MR AGHA: Objection to leading, Your Honour.

16 MR KNOOPS: We will rephrase it.

17 Q. General, are you able to say how rules of engagement are  
18 being issued and distributed amongst the forces?

19 A. In the military organisations Colonel Iron and I know, or I  
15:40:42 20 know, rules of engagements are always written.

21 Q. Why is that?

22 A. Well, because the rules of engagement are often very  
23 difficult, very sort of difficult way phrased, and are a mixture  
24 of operational, judicial and political aspects. So you cannot  
15:41:17 25 just simply hand out rules of engagement to the men. You can  
26 hand out rules of engagement to a battalion commander, or to  
27 senior non-commissioned officers, but what you then need to do is  
28 rephrase, in a simple way, the rules of engagement for the  
29 troops, for a card they can put in their pocket, which gives

1 them, based on the rules of engagement, a way they have to handle  
2 but they are always written.

3 Q. What do you mean, general, with judicial? You used the  
4 word judicial?

15:41:58 5 A. When, I don't know if judicial is the right word then.  
6 What I mean is the rules of engagement have a part in it where  
7 judicial wording issues like, is that correct, subsidiarity and  
8 proportionality, and so on. So those aspects are always in a  
9 rule of engagement. And then again rules of engagement are also  
10 based on political wishes and operational requirements. There is  
11 always a fight between the politicians and the military; military  
12 want more rules of engagement and the politicians have the  
13 tendency to take it on easy on them. So it's a compromise.

14 Q. General, based on your research in the transcripts of the  
15 Prosecution witnesses, did you encounter any sort of document  
16 which could be qualified as rules of engagement?

17 A. No.

18 Q. Thank you. General. Let's move on to the fourth --

19 PRESIDING JUDGE: The fifth.

15:43:10 20 MR KNOOPS: Sorry.

21 PRESIDING JUDGE: It's the fifth.

22 MR KNOOPS: Already? Sorry. Sorry, Your Honour. The  
23 fifth.

24 Q. The fifth criterion, general, relates to lessons learnt  
15:43:26 25 system and doctrine development and dissemination. I'm just now  
26 rephrasing the characteristic put forward by Colonel Iron. What  
27 conclusion did you arrive when it concerns this fifth  
28 characteristic, sir?

29 A. Again, if I remember correctly, I stated very limited. I

1 don't know if it's correct but I think I stated very limited.

2 Q. I can --

3 A. Because again, I didn't want to be too harsh in my verdict,  
4 and agreed to a certain extent with Colonel Iron that there was  
15:44:12 5 no formal system of lessons learned. You have to realise that in  
6 normal military organisations, whenever you carry out an  
7 operation, you have lessons learned and a database. Now within  
8 future exercises these lessons learned are applied. Now nothing  
9 existed like that. But it probably has to be said that the AFRC  
15:44:42 10 learned how to operate as a guerrilla force on the job. I think  
11 they learned on the job. I think I have also stated that in my  
12 report and therefore I think I came to the conclusion very  
13 limited.

14 Q. And general, for that conclusion, was there any foundation  
15:45:02 15 discovered by you in the sources?

16 A. Well, in effect, that I didn't see any, in all my sources,  
17 whether it were the transcripts or other documentation, I never  
18 saw this characteristic. So, in that respect, I followed Colonel  
19 Iron. I, you know, I didn't have a reason to say, well, because  
15:45:29 20 they only learn on the job it is not available but you can argue  
21 about it but I don't think that is all too relevant.

22 Q. Thank you, sir. Six. The disciplinary system. What was  
23 your conclusion about the disciplinary system?

24 A. I didn't think there was a disciplinary system.

15:45:53 25 Q. Could you please tell the Court why you think there was no  
26 disciplinary system in place?

27 A. Well, first of all, as I've written in my report, to  
28 establish disciplinary system I named a couple of factors. One,  
29 you have to train the man in discipline. You have to make

1 disciplined troops. Secondly, you need to have commanding  
2 officers who enforce discipline but also are themselves operating  
3 in a disciplined manner and then, thirdly, when you have a  
4 disciplinary system -- or certainly you need to have a  
15:46:36 5 disciplinary system. Now, Colonel Iron describes the way it is  
6 set up in the British forces, that's not the way it's set up in  
7 the Dutch forces but, either way, you need to have a system in  
8 place. How to enforce discipline? For example, if someone  
9 commits a crime in The Netherlands forces, it is the military  
10 police working for the minister of justice and I think in the  
11 British forces you have a provost marshal. If it's less than a  
12 crime then you need to have a system that someone, what we call  
13 reports you. You are too late to show up for work and a corporal  
14 sees the soldier too late for his work, so he writes a report to  
15:47:30 15 his boss. And then you need to have a system where the boss  
16 looks at it and punishes or, in the criminal world, you need to  
17 have a system set up how it's done and I'm afraid that I have not  
18 come across that at all.

19 Q. Did you, general, come across anything referring to some  
15:47:59 20 kind of disciplinary system in the transcripts which you studied?

21 A. You know, I have -- I have come across in the transcripts  
22 wording like the order was placed no rape, no killing, or words  
23 to that extent. It's not a disciplinary system. In the  
24 transcripts I have come across the fact that one of the  
15:48:34 25 witnesses, without any training, and without any military  
26 background, other than -- sorry, without -- only with the  
27 background of a soldier, goes through the rank in a heart beat  
28 and I believe, you know, gets a position as a provost marshal,  
29 so -- and then I never see, I never saw a system where actually

1 there was a method of punishment or law enforcing.

2 Q. Thank you. General, the seventh criterion, the  
3 recruitment, recruiting and training; what was your conclusion as  
4 to this element, sir?

15:49:20 5 A. Now, I think that I said very limited. Based on my primary  
6 source, I could have said not available because my primary source  
7 said: Well, you know, the people serving with the AFRC were  
8 former SLA and they didn't need training. Colonel Iron stated:  
9 Well, they needed to have sort of replacement troops but came up  
10 with a minor figure -- it was either 30 or 70 trained troops.  
11 Now you can argue one way or the other. If it was available it  
12 was very limited.

13 Q. Now we arrive at the element of the system for promotions  
14 and appointments within the AFRC faction, in terms of non or  
15 availability. What was your conclusion in this regard, sir?

16 A. I came to the conclusion that it was not available.

17 Q. And what was the foundation for this conclusion?

18 A. Well, you see, that a system for promotion, and I'm sure  
19 that it has been discussed here before, but a system for  
15:50:51 20 promotion deals with merit, experience, age, so on. A formal  
21 announcement by someone, who is entitled to give you that rank,  
22 now, within the AFRC faction, and based on numerous transcripts,  
23 you know, people were just assigned ranks, assigned ranks to fill  
24 in the post of battalion commander. Now, we have come to the  
15:51:20 25 conclusion that Musa had a couple of battalion commanders, so  
26 whenever somebody needed to fill that job he became  
27 lieutenant-colonel, or colonel, or something like that. But that  
28 was not a system. And, of course, that is how you look at it. I  
29 think Colonel Iron states that it was, in fact, the case, because

1 he said: Well, they got ranks. They didn't get rank insignia.  
2 There were no rank insignia. There were no uniforms. So you  
3 just tell a man, okay, you are now lieutenant-colonel. He goes  
4 around the troops and says: Hey, by the way, I am now Lieutenant  
15:52:02 5 Colonel. That's a difference of opinion. I don't agree with  
6 that opinion so I came, based on that and on the transcripts, the  
7 way people were promoted that it was not available.

8 Q. Thank you, general. What about logistics supply including  
9 arms procurement? What was your overall conclusion as to this  
15:52:23 10 ninth characteristic?

11 A. Not available.

12 Q. And did you find specific support for this conclusion in  
13 any of your sources, specifically the transcripts?

14 A. Well, first of all, Colonel Iron stated, I think literally,  
15:52:44 15 that logistics were the Achilles heel. There were no logistics.  
16 There was nothing available in the bush. There were no supply  
17 lines like in a normal organisation. People had their rifle and  
18 their bullets, but that was about it. So I have not, like Iron,  
19 we have not come to a conclusion that there was a logistics

15:53:11 20 system at all. And, if there was, you know, people in the AFRC  
21 needed something then you had to steal it. Now, there is a  
22 debate between my primary source and the fact that it was stated  
23 that if you needed something you would just steal it with ECOMOG.  
24 The question, of course, is one that was not so very smart to do  
15:53:35 25 because, as I have concluded, it was a survival force. So by way  
26 of attacking ECOMOG you would expose your positions. But,  
27 secondly, ECOMOG had different equipment. So you can steal  
28 something but it may not work. And if you steal spare parts, who  
29 is going to repair your kit? Who has the experience to repair

1 something you have in your inventory? So I came to the  
2 conclusion, also based on the transcripts and the Iron study,  
3 that it was not available.

15:54:16 4 Q. Thank you, general. The tenth element of the list of  
5 Colonel Iron, the repair and maintenance of equipment, which  
6 probably intertwines with the foregoing element but, apart from  
7 that, what is your conclusion as to the non or availability of  
8 that element?

9 A. Not available.

15:54:34 10 Q. And just to make clear, general, when you say "not  
11 available," you are speaking about the -- which timeframe?

12 A. Well, basically, I speak about the timeframe from the  
13 moment of February 1998 till, well, name a date; 6 January 1999.

15:55:08 14 Q. Can you, in this regard, recall any examples you  
15 encountered in one of the transcripts, when speaking about  
16 repair, maintenance of equipment?

17 A. I think, if I can recall correctly, I base it on my primary  
18 source and in the transcripts. I cannot recall a specific  
19 witness addressing the repair element except for Colonel Iron,  
15:55:36 20 who says: Well, if you needed something you just steal it.

21 Q. Okay. The next criterion, the medical system. What was  
22 your conclusion as to the existence or non-existence of a medical  
23 system within the AFRC?

15:56:04 24 A. Very limited. I had the tendency to say not available but  
25 it was stated in many, I think transcripts, but also primary  
26 source, that there was a sort of minimal first aid. Now, a  
27 normal medical system, even if you are in an outpost, you would  
28 have a trained -- not a trained doctor but a trained personnel  
29 and good equipment. What I understood was that if something

1 occurred to someone there was limited -- in other words, nothing  
2 available; there was no blood, no infusion, no medicine but maybe  
3 local herbs were administered, so I came to the conclusion very  
4 limited available.

15:56:52 5 Q. What about fundraising and finance, the next criterion of  
6 Colonel Iron; what was your overall conclusion?

7 A. Not available.

8 Q. And what was the basis for that conclusion?

9 A. Well, the basis was that the AFRC, as a survival  
15:57:10 10 organisation, was complete locked, sealed off from the outside  
11 world. There was no money flow and I have not come across  
12 statements that there were salaries paid and so on. You know,  
13 there was no -- there was Operation Pay Yourself, as I recall,  
14 pay yourself in some sort of mission.

15:57:38 15 Q. Thank you, general. That relates actually to the next  
16 criterion, the pay and reward system for soldiers. What is the  
17 conclusion as to the availability or non-availability of this  
18 criterion in your report?

19 A. Non-available.

15:57:52 20 Q. And perhaps just to be clear, what is the foundation of  
21 that conclusion?

22 A. You know, again, my primary source, and the fact that there  
23 was no money flow in the organisation.

24 Q. Thank you, general. Lastly, the religious welfare system;  
15:58:16 25 what was your conclusion in your research?

26 A. Not available.

27 Q. And the foundation for that?

28 A. Well, the foundation for that was, like in the report of  
29 Colonel Iron, when from a traditional background you talk about

1 that characteristic, you talk more about taking care of the  
2 morale of the troops, having a system to cope with difficulties  
3 and so on. Now, my primary source says that there were prayers  
4 but that is not what we mean by a system like that.

15:58:58 5 Q. Yes, general. General, I mean, while you enumerated the  
6 criterion, and gave your answer, I counted and, in my view, you  
7 came to the conclusion, and you have to correct me if I am wrong,  
8 that seven functions criteria were not applicable, three  
9 functions were only applicable to a certain extent, and two  
15:59:34 10 functions were only applicable to a very limited extent, whilst  
11 one function, the planning and order process, was only applicable  
12 at the outset of the process. You think that's a correct  
13 summarisation of the characteristics?

14 A. That indeed is a correct way of saying it, yes.

15:59:51 15 Q. And when we now return to the overall question of this  
16 second part, namely, whether the AFRC exhibited the  
17 characteristics of a traditional military organisation, what is  
18 your overall conclusion based upon this assessment?

19 A. No.

16:00:11 20 Q. Thank you, general.

21 MR KNOOPS: In light of the time, I would suggest perhaps  
22 to conclude here before I go into the third question.

23 PRESIDING JUDGE: Yes. We will adjourn now, Mr Knoops.

24 Before we do, tomorrow there are two witnesses scheduled to be  
16:00:46 25 cross-examined in the morning and, as you know, we won't be  
26 sitting in the afternoon. So what is your way ahead tomorrow?

27 MR KNOOPS: Your Honour, of course I cannot speak for the  
28 expert and for my colleagues, but I wouldn't have a problem when  
29 I continue tomorrow afternoon with the expert.

1           PRESIDING JUDGE: That is what I just said, we don't sit on  
2 Wednesday afternoons, we attend to --

3           MR KNOOPS: I know, Your Honour, but in order to  
4 accommodate the Court, if the Court appreciates the continuation  
16:01:20 5 I wouldn't have. Otherwise, I would suggest to continue with the  
6 expert on Thursday morning, but I'm not sure whether there is any  
7 other cross-examination planned.

8           To inform the Court, after the military expert, and it's my  
9 estimation that I may need one morning to finish the  
16:01:44 10 examination-in-chief, of course depending on the length of the  
11 cross-examination, I'm bringing in this weekend the expert from  
12 Sweden, Dr Thorsen, on the issue of arranged marriage and we  
13 actually tried to have her flight scheduled earlier, so she would  
14 be here in the weekend, instead of Monday, and then she could  
16:02:11 15 only start on the Tuesday. So I'm trying to arrange that she is  
16 here available in the weekend so we could start Monday with  
17 Dr Thorsen. I have also available Dr Gbla, the expert on child  
18 soldiers, and he will be prepared tomorrow afternoon, by me, and  
19 I could start, if the Prosecution has no objection, despite the

16:02:36 20 21 day rules with him before the weekend. If not, I suggest that  
21 Dr Gbla will be scheduled after Dr Thorsen. But it was my  
22 estimation that we could perhaps continue Thursday with Major  
23 General Prins and I could conclude the examination-in-chief in  
24 the morning and the Prosecution could probably start in the  
16:03:05 25 afternoon with the cross-examination.

26           PRESIDING JUDGE: Well, tomorrow we have scheduled DBK-012  
27 and DBK-129. They are both scheduled for cross-examination.

28           MR KNOOPS: Yes, Your Honour.

29           PRESIDING JUDGE: I don't know whether you are doing both

1 of those, Mr Agha?

2 MR AGHA: I certainly hope not, Your Honour, but I can say  
3 that there will be people ready and prepared to take both the  
4 witnesses should -- well, when they do arrive tomorrow morning.

16:03:36

5 PRESIDING JUDGE: Thank you. The problem with that,  
6 Mr Knoops, is we can't say how long the cross-examination will  
7 take tomorrow. If it's short, we might find that unless you have  
8 the general ready to continue, we end up with some spare time in  
9 the morning.

16:04:01

10 MR KNOOPS: That's okay with me, Your Honour. Your Honour,  
11 just to be complete, Mr Chekera, our legal assistant, just  
12 informed me that there are problems with the flights on the  
13 weekend, so it may not be so that Dr Thorsen is here in the  
14 weekend and probably only arrive on Monday, or Sunday night,  
15 Monday. That could just give us some leeway to perhaps schedule  
16 Dr Gbla for Monday and Dr Thorsen for Tuesday.

16:04:20

17 PRESIDING JUDGE: All right. Thank you. Well, we will see  
18 how things work out. Well, we are going to adjourn until 9.15  
19 and, general, I'll remind you of that caution again: Please  
20 don't discuss the evidence with anybody.

16:04:42

21 THE WITNESS: Yes, Your Honour.

22 MR KNOOPS: Your Honour, sorry to interrupt. In all  
23 honesty, I have to tell the Court, and also for my learned  
24 friend, that I'm staying in the same hotel as Major General  
25 Prins. Actually, we travel together to Freetown, and I see no  
26 way in asking the general to go to a different hotel or that I  
27 book out. But I think you can trust our professionalism, and  
28 also the Prosecution, that apart from sharing perhaps a cup of  
29 tomato soup with the general tonight, I will not speak with him

16:04:56

1 about his statement. But, in all fairness, I must say to the  
2 Court that we travel together and we are staying in the same  
3 hotel.

4 PRESIDING JUDGE: Yes.

16:05:37 5 MR AGHA: The only suggestion I make, Your Honour, is I  
6 think it's fine that they stay in the hotel and out of  
7 professionalism that perhaps they should forego their tomato soup  
8 until the evidence-in-chief and cross-examination is completed.

9 PRESIDING JUDGE: Yes. I have been in the same situation  
16:05:54 10 myself many a time, Mr Knoops, and I think the emphasis is on  
11 studiously avoiding one another.

12 MR KNOOPS: Your Honour, you can trust the general in this  
13 regard and hopefully also myself, that we will in no way of  
14 course influencing his testimony and not discussing. I am sure  
16:06:12 15 after this long day the general wants to hear something else than  
16 speaking about all kinds of characteristics in this case.

17 PRESIDING JUDGE: No, we -- certainly we weren't forming  
18 any adverse inferences there, Mr Knoops, whatsoever.

19 MR KNOOPS: Thank you, Your Honour. Very grateful.

16:06:29 20 PRESIDING JUDGE: Thank you. Well, we will adjourn until  
21 9. 15.

22 [Whereupon the hearing adjourned at 4.08 p.m.,  
23 to be reconvened on Wednesday, the 18th day of  
24 October 2006, at 9.15 a.m.]

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**EXHIBITS:**

**Exhibit No. D34** **23**

**Exhibit No. D35** **41**

**WITNESSES FOR THE DEFENCE:**

**WITNESS: WILLEM PRINS** **2**

**EXAMINED BY MR KNOOPS** **2**