

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

THURSDAY, 19 OCTOBER 2006
9.18 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 Maj a Dimitrova (Case Manager)
For the accused Alex Tamba Brima:	Mr Kojo Graham
For the accused Brima Bazy Kamara:	Mr Mohamed Pa-Momo Fofanah
For the accused Santigie Borbor Kanuu:	Mr Geert-Jan Alexander Knoops

1 [AFRC19OCTA - MD]
2 Thursday, 19 October 2006
3 [Open session]
4 [The accused present]
5 [The witness entered court]
6 [Upon commencing at 9.18 a.m.]
7 WITNESS: WILLEM PRINS [Continued]
8 EXAMINED BY MR KNOOPS:
9 PRESIDING JUDGE: Yes, general, I will remind you you are
10 still on your former oath.
11 THE WITNESS: Your Honour.
12 PRESIDING JUDGE: Yes, Mr Knoops.
13 MR KNOOPS: Thank you, Your Honour. Good morning.
14 Q. Good morning, general.
15 A. Good morning.
16 Q. General, I would like to continue with the third question
17 you researched, addressed by also Colonel Iron. The question:
18 Was there a coherent linkage between strategic, operational and
19 technical level, or levels. First of all, general, could you
20 explain to the Court how you approached this third question in
21 your research?
22 A. I can. What I've done in my report is to go into, very
23 briefly, into doctrine because the things also described by
24 Colonel Iron, the strategic, operational and technical levels are
25 basically described in every doctrine. Maybe some other wording
26 but, in essence, it's all the same. So I addressed doctrine
27 first.
28 Q. Could you tell the Court what type of doctrines you
29 specifically used?

1 A. Basically, I used the NATO doctrine, but also the Dutch
2 doctrine. But if you look at British doctrine, it's basically
3 the same.

4 Q. Could you explain to the Court whether you know what this
5 doctrine learned you about this specific question?

6 A. Are you asking the result of my study or what the doctrine
7 entails?

8 Q. Not a conclusion about this question but what, indeed, the
9 doctrine entails? What the doctrine learned you?

10 A. What I did briefly with the doctrine is going into four
11 aspects. Now, Colonel Iron addresses strategic, operational and
12 technical, and I added one which is even higher than military
13 strategic level, the grand strategy. Now, to make things not too
14 difficult, I have written down basically what these different
15 levels mean.

16 Q. General, first of all, why did you add one level on top of
17 the three levels Colonel Iron described?

18 A. Well, basically, I wanted to make clear that you have to
19 start with a grand strategy. It is something I lectured
20 extensively last year in Uganda, in a leadership course, because
21 the grand strategy is basically the co-ordinated development and
22 use of military means, political means, economic means,
23 diplomatic means, psychological means, a country have, has, to
24 pursue its interests. So the grand strategy basically gives
25 guidance and co-ordination whenever a country enforces power.
26 And since military, as I mentioned military, is part of that
27 grand strategy, I thought it was more clear, I do recall, to add
28 also the grand strategy because the military strategy is not
29 standing on its own. That's the point I wanted to make.

1 Q. General, before we move on to assess the four levels, can
2 you tell the Court whether you found any support in doctrine for
3 this fourth level, namely, grand strategy level?

4 A. Absolutely every doctrine you look into you see the grand
5 strategy as the overall starting point.

6 Q. General, before we go into the four levels, one subquestion
7 to you. You mentioned just a minute ago to the Court that you
8 were involved in a leadership course last year in Uganda?

9 A. That's correct.

10 Q. Are you able to tell the Court what this course entailed?

11 A. It was a course we -- it was a combination of the
12 University of Uganda, together with the Centre of Strategic
13 Studies in The Hague. And it was a course for mid-level to top-
14 level officials from Uganda. The interesting thing was it was
15 not only military but there were people from foreign affairs,
16 economic affairs, police, and the point -- one of the points we
17 wanted to stress in that it was -- was that as a military you are
18 only part of the big process. As a military man, for the
19 military people there, it was a little surprising but, you know,
20 it's a combination of that. So that is what we did. But it was
21 only a part but I emphasise it because that's the topic I
22 lectured.

23 Q. Were you approached to participate in this course?

24 A. I was, by the Centre of Strategic Studies in The Hague.

25 Q. Thank you, general. Now, going back to these four levels,
26 you just explained the grand strategy level. Are you in a
27 position to just very briefly inform the Court what these three
28 other levels specifically are, and perhaps you can indicate per
29 level what your description is of that particular level?

1 A. I certainly can. So I started with this grand strategy and
2 indicated that the military strategic level is an integrated part
3 of the grand strategy so then when you go level -- one level
4 down, that is the level where Colonel Iron started, the military
5 strategic level is the level where the aim is the highest aims
6 and the highest goals of the military are formulated. And
7 according to doctrine, if you look in my report, you see the NATO
8 explanation of military strategy. The important thing is that
9 the military strategy is developed and comes under an overriding
10 political framework. So that's the very highest level, but it's
11 important to emphasise the political framework therein, the
12 political oversight. And then if you go one step lower, after
13 saying that of course the military strategic level has to support
14 the grand strategy, you go to the operational level, which is
15 basically running a military campaign. So you go more into the
16 operations. But the operational level has to support the higher
17 military strategic level. Then you come down to the very lowest
18 point, the technical level, which covers basically the battles,
19 the individual battles coming under the campaign, but the
20 individual battles should always support the operational goals
21 and the military strategic goals. So that, in short, you see, is
22 sort of a hierarchy in these levels, the same as Colonel Iron
23 stated.

24 Q. Thank you, general. Now, in order to speak about a
25 coherent linkage between those four levels, what is necessary for
26 that qualification, in your view?

27 A. Well, of utmost importance is that every military
28 organisation operates under a political guidance, comes under a
29 political mandate. We call it day-to-day political oversight.

1 You can't just act on your own. So, in order to be coherent you
2 need this political guidance in order to call yourself a
3 traditional military organisation so that, in my mind, not in my
4 mind in the doctrinal sense, it's absolutely essential in order
5 to call that coherence. Now, if you look at what Colonel Iron
6 wrote, or I think he stated it in transcript, he said in order to
7 be coherent between these levels, in operations, you need -- and
8 he used the word political mandate -- that's the word he used --
9 and he said that's the way we teach and train people in a regular
10 army. In effect, then, you can say this was not a regular army
11 but he stated for the coherence, and he is right, you need to
12 have a political framework.

13 Q. Do you -- could you tell the Court what the implications
14 are if either one of those four levels would not exist for an
15 army?

16 A. Well, basically, in a regular army, you have all four
17 levels within a country, and under official government you have
18 all four levels. They are required. But you can't reason the
19 other way around, you see. And what I mean with that, you can't
20 have both. If, on the one hand, like Colonel Iron rightly said,
21 you need to have political oversight in order to have coherence,
22 in order to have a regular army, you cannot then fore reason the
23 other way around and state well, I artificially come up with a
24 strategic, operational and technical aim, and therefore, I found
25 proof for a regular or traditional organisation. You can't have
26 both, two.

27 Q. Thank you. Now general, were you able to research the
28 existence of these levels specifically when it concerns the AFRC
29 faction from May 1997 onwards?

1 A. Yes. The conclusion, based on sources, is that of course
2 there was no political oversight. The AFRC was a renegade group
3 when the President Kabbah was reinstated. You know, they were
4 out in the bush, but they didn't have any formal status any more.
5 They didn't come under any grand strategy or other strategy, so
6 it was a renegade group, without political oversight, and that's
7 what I found of course, also what Colonel Iron says, but what you
8 find in all my sources.

9 Q. Speaking about those sources, general, are you able to tell
10 the Court specifically which sources you have in mind when you
11 conclude that a grand strategy level was not present within the
12 AFRC faction?

13 A. Well, of course, if you come to the conclusion that the
14 AFRC was a renegade sort of illegal group, without a political
15 framework, then there is no grand strategy.

16 Q. But I'm asking you specifically about the foundation for
17 your conclusion that there was no political oversight?

18 A. Well, I found foundation, of course, in the TRC report and
19 I found foundation in the book of Dr Keen.

20 Q. Were you able to find any foundation in other sources,
21 apart from those mentioned by you?

22 A. Well, of course, you know, it was stated in my primary
23 sources and, well, it is basically common knowledge.

24 Q. Did you encounter anything about political oversight in the
25 transcripts you were able to read?

26 A. Well, of course. You know, it's what Colonel Iron states.
27 There was no political oversight. There was no political mandate
28 within the AFRC. And, you know, I remember saying -- I remember
29 Colonel Iron expressing the position of, I think he refers to

1 Musa -- and he states, you know, Musa had a great responsibility
2 because without having a political oversight or backing he had to
3 come up with his own sort of military strategy. So also for him,
4 Colonel Iron, it was, in fact, the case that there was no
5 political guidance essential for a military organisation.

6 Q. Well, general, you yesterday, I think, sorry, the day
7 before yesterday, explained to us about the span of command and
8 the chain of command. Are you able to tell the Court at which
9 level the aspect of grand strategy should and could be
10 implemented within a military organisation, in order to run a
11 military organisation at all?

12 A. Well, in fact, you must realise that if you talk about
13 grand strategy, it's not something for the individual soldier,
14 not even let's say the greatest aims of the strategic level, but
15 it's for the commanding officer. He should know all that because
16 he has to plan subsequently all his operations within that
17 framework.

18 Q. And when you speak about in concreto, the level from
19 brigade commander, battalion commander, company commander,
20 platoon commander, just to visualise this for the Court, what is
21 your opinion as to what level a grand strategy should be
22 transferred to?

23 A. In my mind the grand strategy is known at the highest level
24 in an operational formation, so you talk about brigade commander
25 in a traditional way. Brigade commander and battalion
26 commanders, and that's about it.

27 Q. Thank you, general. General, did you find in your research
28 any indication that a grand strategy aim was articulated?

29 A. Again, I'm sorry, I may not have been clear, but there was

1 no grand strategy within the AFRC, with the starting point,
2 because the only one who could have a grand strategy was the
3 State of Sierra Leone and the AFRC was a renegade force. As I
4 stated, what Colonel Iron did, was he, knowing that there was no
5 political oversight, he started describing for -- he had to make
6 some inferences on what on earth were the strategic aims of the
7 AFRC. And he came up with some aims and, again, I stated before,
8 you can't have it all, you can't reason both ways but, anyways,
9 he stated or came up with some strategic aims. But he
10 specifically also stated, although coming up with these aims,
11 military strategic level, they were never articulated, he
12 specifically said, and certainly not on paper. Now, that's a
13 problem.

14 Q. Yes. Well general, with respect to the advance to
15 Freetown, at the end of 1998, Musa restructured, according to the
16 evidence delivered before this Court, the battalions and went on
17 the advance to Freetown. Are you able to tell the Court how you
18 qualify that action within either four of the levels you
19 indicated?

20 MR AGHA: Objection, Your Honour. It's a leading question
21 in the sense that it should be for the witness to comment upon
22 how SAJ Musa structured or otherwise his battalions, rather than
23 being told.

24 MR KNOOPS: Your Honours, I'm not telling the expert how
25 the restructure actually was administered; I'm just putting it to
26 the expert that, according to the evidence of the Prosecution
27 delivered before this Court, there was apparently restructuring
28 of the group at Colonel Eddie Town. I am asking the general
29 specifically how he qualifies the advance to Freetown in terms of

1 either of the four levels.

2 PRESIDING JUDGE: All right. Yes, I will allow that
3 question.

4 MR KNOOPS: Thank you, Your Honour.

5 Q. General, are you in a position to inform the Court how you
6 qualify the advance to Freetown in terms of either of the four
7 levels?

8 A. Yes. In my opinion, based on what I've said before,
9 knowing that there was no grand strategy and no military
10 strategic level, the advance to Freetown, or the decision to
11 Freetown, or to approach Freetown, was at most made at the
12 operational level. And then if you approach or advance to
13 Freetown you may have units who carry out, you know, small
14 encounters and that's at an operational level. So I came -- I
15 may come to that conclusion of that paragraph. I think that at
16 most you can talk about military, strategic, excuse me,
17 operational and technical level.

18 Q. And these are the third and the fourth level in your list?

19 A. These are the lowest levels in my list. I mentioned in my
20 report a technical level but it has to do with individual weapons
21 systems and that I thought was not relevant for the case at hand.

22 Q. Are you able to tell the Court what the reasons are for
23 your conclusion that the advance to Freetown, at the utmost, was
24 to be qualified an operational level or technical level?

25 A. Then I have, again, to summarise what I said previously.
26 One, AFRC was a renegade group, not an official entity of the
27 government of Sierra Leone. There was no grand strategy. There
28 was no political oversight, and so there was no strategic
29 military level as part of the grand strategy and then, then you

1 only can come to the conclusion that there was operational and
2 technical levels. Furthermore, the so-called strategic aims
3 Colonel Iron mentions, in my mind, were inferences because he
4 struggled tremendously with this problem and, of course, he had
5 to come up with a strategic aim. They were never articulated.
6 They were never properly addressed. They were not written on
7 paper. And knowing what I said yesterday about the hierarchy and
8 structure, that even if you have military strategic aim,
9 operational aim and technical, you must tell the troops, within
10 of course their knowledge, but you have to make sure. Now, I
11 can't see any reason how that was done.

12 Q. General, in your opinion, does the level of training of the
13 officers have any relationship with the dissemination of either
14 of the four levels?

15 A. Well, absolutely. You know, the higher you get, when you
16 start in a military organisation, and when you are a young
17 officer, you don't worry about grand strategy and, you know, the
18 highest levels of the organisation but, of course, as you go
19 higher in the organisation, and as you increase in rank, then you
20 get to know all that. For example, if you operate like I did in
21 the Caribbean, you should -- you better know what the aim or what
22 the aim -- I call it aim because we were never in a position that
23 we enforced powers with the Kingdom of The Netherlands, but you
24 better know what the strategic -- what the grand strategy and the
25 military strategic aim is.

26 Q. Thank you, general. Now, arriving at the conclusions of
27 your research into this third question, are you able to tell the
28 Court what your main conclusions are as to the third question,
29 whether there was any coherent linkage between strategic,

1 operational and technical levels within the AFRC faction from May
2 1997 up to the advance to Freetown?

3 A. Again, as stated before, there was no coherent linkage
4 between the military strategic, operational and technical level.
5 At most, you can say that there was a sort of a coherence, at
6 times, between the operational and the technical level and, of
7 course, the main -- my main argument goes back again to no
8 political oversight. And if you then do away with the political
9 oversight which you, in fact, cannot do, there remains the
10 question how you are going to communicate that which, in my mind,
11 was not done.

12 Q. Thank you, general. General, I move on now to the fourth
13 question of your research. The question as to the existence or
14 non-existence of a joint military operational structure between
15 RUF and the AFRC. Now first of all, general, were you able to
16 detect whether this question was researched before, in this case?

17 A. I don't think it was researched. The only thing I know is
18 from reading the report by Colonel Iron is that he mentions -- he
19 makes a remark about the joint military structure or joint
20 operational military structure between RUF and AFRC.

21 Q. And were you able to see whether he went into that matter
22 in specific?

23 A. I didn't see any argumentation or any arguments why he came
24 so quickly to the conclusion, and I have to recall, but he stated
25 that after the AFRC and the RUF fled from Freetown, in February
26 1998, they apparently, and I don't know if it was Makeni or
27 Masiaka, they apparently came into a well-structured military
28 organisation that -- and I remember that apparently worked well.
29 I didn't see any support, neither in transcripts nor in his

1 study, for that analysis.

2 Q. We will come to that back later, general. First of all,
3 before we go into the specificities of the AFRC case, I would
4 like to draw your attention to the following question. Are you
5 able to tell the Court what, in your opinion, the term "joint"
6 means in the context of the joint military operations or
7 structure, in general, without going into the case at hand?

8 A. Yes. Joint, basically, based also on doctrine but joint,
9 basically, will say two formation, two organisations of the same
10 country working together.

11 Q. Do you know whether --

12 A. Sorry, for example, "joint" means, for instance, the
13 British Army operating together with the royal navy. That is
14 what we consider joint.

15 Q. Are you able to tell the Court what is required for such a
16 joint operation in a military sense?

17 A. Based on doctrine, you know, it's a very hard thing to
18 organise. Based on doctrine, jointness requires a lot. In other
19 words, it takes a lot of effort before you can call an
20 organisation, joint. For one, and again it's based on doctrine
21 which is doctrine NATO, doctrine Netherlands but it's generally
22 accepted all over the world, for one, you need trust and
23 confidence. So two parties, two services, need trust and
24 confidence. They need to have the willingness to come up to a
25 joint organisation. And then another thing is you need
26 co-operation and mutual understanding. Now that is, of course, a
27 very important one. Another one is interoperability.
28 Interoperability means that if you bring two organisations
29 together you just cannot say: Okay, chaps, let's go on and go on

1 operation. You have to make sure that, for example, weapon
2 systems are interoperable. Let me give you an example that may
3 work. When we integrated The Netherlands marines and the royal
4 marines the royal marines had different guns. The range of the
5 guns of the royal marines were 12 kilometres while our guns were
6 seven. Now, I don't want to go into military specifics but you
7 have to make sure that within that organisation these weapon
8 systems are made interoperable. Very important is another
9 factor, standard procedures. Another example that may work, when
10 we operated in Iraq, in 2003, we came under British command, and
11 we brought in a battalion under a British two-star. But you just
12 cannot come into theatre and say: Hello general, I am here.
13 Let's get on with it. You need to establish procedures. How is
14 the reporting done? How does he want certain missions to be
15 accomplished? And then, finally, you have to come up with a
16 joint headquarters. You just can't say: Okay, we are here
17 together and we have a nice day. You have to come up with a
18 joint headquarters. So, basically, these are -- you know, you
19 can go at length and in far more detail what you would need. I
20 mean, I simplify it tremendously but that is what you would, you
21 know, in broad terms need.

22 Q. General, could you please explain to the Court what you
23 mean with joint headquarters?

24 A. Well, if you bring headquarters -- two organisations
25 together, you need to make one joint headquarters. I gave the
26 example, I believe the day before yesterday, about the
27 integration of The Netherlands marines into the fleet and you
28 come up with a joint headquarters. And it's just a military term
29 but, in that joint headquarters, and J, you get different staff

1 branches and they are in a joint headquarters called J because
2 it's joined. You also have G headquarters because then it's then
3 general staff but it's a matter of wording but what you need is
4 have one headquarters where the staffs are integrated, combined.

5 Q. Can you mention a few examples of these Js you refer to?

6 A. I mentioned a couple the day before yesterday but in a
7 different sense, like Colonel Iron then explained G, as in
8 general staff, but for example J1 will be personnel. J2 will be
9 intelligence branch. J3 will be the operational branch. Four
10 will be logistics and then you move further down the line into
11 finance and planning and control and, for example, G9 may be
12 civil military co-operation. What I've written in my report, and
13 as stated in NATO doctrine, this is just an example. I mean, you
14 can come up with different numbers but, basically, a joint staff
15 should have similar organisation. So whether you have a G9 or
16 you come to G12, that is further irrelevant. That depends on the
17 joint -- the integration of the two forces.

18 Q. Thank you, general. General, I've counted five items you
19 mentioned; trust and confidence, co-operation, interoperability,
20 procedures and joint headquarters; is that correct? Five?

21 A. That's correct.

22 Q. Is it your view, general, that these five items, or
23 elements, should exist in order to have a joint military
24 structure or can you say you can delete one of them or two of
25 them and you can still have a joint structure in a military
26 sense?

27 A. I would say in essence this is what you need. This is
28 doctrine generally accepted. This is what you need. Now, there
29 may be one or two of less important all of a sudden that you say

1 -- that still, you know, you may say well, the procedures may
2 vary but, in essence, this is what you need, no doubt.

3 Q. In case you would have to make a list of preference, from
4 your professional perspective, what would be at the top of those
5 five?

6 A. On top of my list would be basically the trust and
7 confidence. I also can say the willingness, the willingness you
8 want to integrate because if you don't have, and let's say the
9 trust and confidence in each other, it will never work. You can
10 make orders, and say this is the way it's going to be but if
11 among the participants there is no trust and confidence, and a
12 really wish to make it work, it will never work.

13 Q. Now, general, let us go into the application of this
14 overview you just gave us to the instant case. First of all,
15 were you able to apply this view, this enumeration of criteria,
16 to the instant case?

17 A. I think I did, or I was able to.

18 Q. Are you able to tell the Court how you came to an
19 application of this more general outline to the instant case?

20 A. Do I understand you correctly that you want me to go into,
21 for example, trust and confidence and then explain why I thought
22 that was not the case?

23 Q. Not yet. First, in general. You just indicated, I can, if
24 the Court allows me, just assist the expert where I am trying to
25 draw his attention to, I believe you said that when it concerns
26 integration, you referred to integration of two organisations.
27 Now, the question here is: How were you able to apply those
28 criteria to specifically the RUF and the AFRC? How did you do
29 that?

1 A. Yes. What I did, and that of course was for my report and
2 the argument, was, as I stated before, joint is a combination of
3 two or more services, and I explained before what services are.
4 So, for the report and the argument, I reasoned the AFRC, and the
5 RUF, as services as such, to make the comparison.

6 Q. Okay. Thank you. Now, were you, from that starting point,
7 able to apply those five criteria you just mentioned onto the
8 instant case?

9 A. One more than the other.

10 Q. Can we briefly start first with the first element you
11 mentioned, trust and confidence. Were you able to apply that
12 element on the instant case?

13 A. I was.

14 Q. What was your conclusion as to this first element?

15 A. My conclusion, based on primary and secondary sources, is
16 basically a picture that while the AFRC or the previous -- or the
17 governments before the AFRC had been fighting the RUF, then all
18 of a sudden the RUF came in, after May 1997, and, based on my
19 sources, there was no doubt that I came to the conclusion that
20 although apparently the leaders of both AFRC and RUF indicated,
21 okay, let's work together, my sources indicate that maybe not
22 from day one, but after a very short time, you talk about
23 mid-1997, there was suspicion, there was mistrust, and other
24 reasons why, you know, the trust and confidence you need for it
25 to work together was not established at all.

26 Q. General, in this regard, you referred to primary and
27 secondary sources. Are you able to tell the Court, first, what
28 the primary sources were and after that the secondary?

29 A. Yes. The primary source was, of course, DSK-082 and, as I

1 may indicate the others, like 2 and 3. And then, again, in the
2 secondary sources, the TRC and Keen but even more, and I don't
3 know if I should indicate that as a secondary source, but if you
4 look at the statements, for example, by Mr Massaquoi, I think by
5 that time he was spokesman for the RUF, if I am correct,
6 indicating exactly that. So basically, those were my sources.

7 Q. General, when you refer to statements of Mr Massaquoi could
8 you please indicate to what statements you refer to?

9 A. Again, I have to, you know, sort of remember what is in the
10 report, but I know that Mr Massaquoi, for one, I think he was
11 arrested in that period. I think there was an arrest planned for
12 Issa Sesay, and I don't know if that definitely occurred, I don't
13 think it was, but -- and then I think there were others that made
14 that statement, but I can't recall the numbers, apart from
15 Mr Massaquoi. There were, and again I don't know if it was
16 Mr Massaquoi or some other witness, who described that an
17 official from the RUF stole weapons and ammo, while in Freetown,
18 and took it to RUF territory.

19 Q. Just to make clear, general, when you speak about
20 statements, do you refer to the transcripts or do you refer to
21 other statements?

22 A. I am sorry, I refer to the transcripts.

23 Q. Okay. In this regard, speaking about the element of trust
24 and confidence, you relied on 082. Was there any specific reason
25 to use him as a source, in this regard?

26 A. You mean a source --

27 Q. A primary source?

28 A. Yes, a primary source, but do you mean then in the trust
29 and confidence or in general?

1 Q. In general, with respect to all these items, but we can
2 start with trust and confidence.

3 A. Well, he had, DSK-02 of course had a very good knowledge
4 because of the positions he held, and I can go in more detail
5 about that, if you want, but he was in a position to view how the
6 things run in the time frame 1990 and -- May 1997 until February
7 1998 so he saw what's happening. He also had, let's say, the
8 position to judge that.

9 Q. Do you know exactly his position after August 1998?

10 A. Not by heart, I am afraid, but DSK-082 held six battalion
11 commanders' positions in the Sierra Leone Army and between that
12 he was commanding officer of the barracks. But if you ask me
13 specifically then I have to look at the bio. I can't by heart
14 now say exactly that year what position he had.

15 Q. But, I mean, do you know where his geographical position
16 was after August 1998?

17 A. Okay, I am sorry, if I misunderstood. I was still in the
18 process of 1997 until February 1998. But I can answer your
19 question, where he was after February 1998 because, after
20 February 1998, DSK-082 fled Freetown and stayed in Masiaka, I
21 believe, for a while. He anyhow stated to me he was in the area,
22 Masiaka, Makeni, for four months until May 1998. Subsequently,
23 he fled to Guinea, and he was arrested somewhere in the time
24 frame of July, brought back to Freetown. He was freed by ECOMOG
25 and, from February, sorry, excuse me, to, from August 1998 until
26 the beginning of 1999, DSK-082 worked together with the
27 intelligence branch of ECOMOG and, in that position, frequently
28 went to the forward lines of ECOMOG, I think Makeni and other
29 places.

1 Q. Thank you.

2 A. So basically -- but that is 1998, and in my answer, I
3 was --

4 Q. Correct.

5 A. -- basically still in 1997.

6 Q. Okay. Thank you, sir. Now, the second element, the issue
7 of co-operation; were you able to apply that element to the
8 instant case?

9 A. Well, co-operation, not so much. I didn't -- I didn't find
10 evidence that there was any, any co-operation, so I didn't find
11 specific arguments why that was in place. So, therefore, in my
12 mind, it was not in place. But like in trust and confidence I
13 really found hard, in my opinion, hard motivation for the fact
14 that it was absent. Now, co-operation might have existed a bit,
15 but I have not come across.

16 Q. When you speak about co-operation, are you able to tell the
17 Court what the doctrine in specific says about the element of
18 co-operation?

19 A. Well, you have to come up with joint exercises. You have
20 to train and prepare yourself for a joint organisation. So if
21 you don't do that, unless you train frequently, you will never
22 establish a joint organisation.

23 Q. Now you mentioned thirdly the interoperability. Were you
24 able to apply that to the instant case, based on your primary
25 and/or secondary sources?

26 A. Well, basically, my primary source, DSK-082, indicated that
27 it was from the background, two total different organisations.
28 AFRC was, you know, had a background of SLA. The RUF had a
29 background of guerilla. AFRC was more -- sort of soldiers. The

1 RUF were not soldiers as such. Weaponry was not the same so, you
2 know, that also was stated by Mr Massaquoi in his statement.

3 Q. Thank you, general. As a fourth element you mentioned
4 joint procedures. Were you able to apply that element to the
5 instant case and, if so, how did you do that?

6 A. I basically was not able to establish that. I tried to
7 describe for the Court the -- what joint procedures are. And I
8 gave the example of bringing a Dutch battalion into British
9 force. Then you come up with the same procedures. Now, I have
10 found no, in all my sources, I couldn't come across an indication
11 that there even were procedures, let alone that there were
12 procedures established, similar procedures established between
13 the AFRC and the RUF.

14 Q. Yes. Now, general, the last element, joint headquarters.
15 Were you able to apply that element to the instant case and, if
16 so, what was your conclusion?

17 A. Well, certainly formally a joint headquarters was never
18 established. I mean, I have not come across an organisation like
19 I stated from G1 to G9 but, also, the AFRC, as such, and in my
20 opinion also before that, only for the AFRC or the SLA, there was
21 not a headquarters that can -- could control one force, you know.
22 In my source, I have -- it was stated to me specifically by
23 TRC-01, but also in my secondary sources, it shows a picture that
24 the AFRC or SLA at that stage were not able to control their own
25 organisation. So, I cannot be convinced that if you don't just
26 go to the RUF and say, come on, and join us, that all of a sudden
27 if you don't have an organisation for yourself, that you ask the
28 RUF come in, and then all of a sudden, within a time frame, you
29 have a joint structure. Remember that the example I gave, bring

1 in Netherlands Marine Corps into the fleet, it takes a year. And
2 remember that the Netherlands Marine Corps has been part of the
3 navy and fleet for almost 300 years.

4 Q. So what is your overall conclusion as to the existence of
5 these five elements on this instant case?

6 A. I don't think they were applicable.

7 Q. General, in one of the statements it's mentioned, of the
8 Prosecution evidence, that the relationship between the RUF and
9 the AFRC was cordial. Do you think that that element is relevant
10 within either one of the five criteria you mentioned?

11 A. I also have read the statement but just being cordial is
12 not a prerequisite for a joint structure. You can at times, and
13 I have read in the transcripts, certainly right after May 1997,
14 they may have been cordial towards each other but that was for a
15 very short time. But even if you be cordial, with being cordial,
16 you just cannot establish a joint command structure.

17 Q. General, you have also encountered in the transcripts --
18 JUDGE DOHERTY: Just pause, Mr Knoops. Mr Bri ma what are
19 you throwing around? I beg your pardon?

20 ACCUSED BRI MA: I'm throwing a mint paper.

21 JUDGE DOHERTY: Can you put down your -- well, don't do
22 that [i ndi scerni ble]. Sorry, Mr Knoops, I didn't intend to
23 interrupt.

24 MR KNOOPS: Not a problem, Your Honour. Thank you.

25 Q. General, you have also -- did you encounter in the
26 transcripts you've read the term "G5"?

27 A. Yes, I certainly did.

28 Q. And can you please tell the Court whether the terminology,
29 G5, has any bearing, in your professional opinion, as to the five

1 criteria you mentioned?

2 A. Only the criteria that G5, or J5, it's a matter of wording,
3 is a function that is established in a staff. Now G5 or J5 is
4 established in a joint headquarters but when I was commandant of
5 the marine corps I had a J5 because I had a general staff but
6 again, that is wording, so yes, indeed, if you then look at the
7 criteria I described, and you ask me point blank the question:
8 Did you see J5 somewhere in the transcripts, or in the study by
9 Colonel Iron? The answer is yes.

10 Q. Suppose that you have a G5 in an organisation irrespective
11 whether it's regular or irregular, leave apart that discussion,
12 you have a G5, is that, in your opinion, sufficient to speak
13 about staff structure or joint staff structure?

14 A. Absolutely not. Of course, for -- if -- for a staff
15 structure, or a joint staff structure, you need more than a G5.
16 You need a G1, a 2, a 3, a 4, a 5 and after that, as I indicated
17 relating to NATO, you know, you have -- you may have a G8 and not
18 a G7. For example, you may not have a G9 which relates to civil
19 military co-operation. If you operate in Iraq and you want to
20 rebuild the country you need a G9 who does civil military
21 co-operation with the local population, but if that is not one of
22 your missions you may not have a G9, so back to your question.
23 If you just say there is a G5 it doesn't tell me much.

24 Q. General, the conclusions you've just put before the Court,
25 do they change, in your view, when we speak about the situation
26 when the AFRC was on the advance to Freetown?

27 A. It should not have a relation with your operations, as
28 such. You are still relating to staff structure. You do have a
29 staff structure or you don't. Now, whether you are on the

1 defence, the offence, or in the barracks, it doesn't make any
2 difference. You do have a staff or you don't.

3 Q. Thank you, general. Now, final question about the section.
4 What is your overall conclusion as to the question whether a
5 joint military operational structure existed between the RUF and
6 the AFRC, within the period May 1997 up to the advance, and
7 including the advance to Freetown?

8 A. My conclusion is that there was never a joint operational
9 military structure established between the AFRC and the RUF in
10 that period, in the way I have described it.

11 Q. Thank, you general. General, my final part, I would like
12 to put to you and discuss with you, is your part E in your
13 report, your final conclusions. Are you able, just briefly first
14 of all, to tell the Court what your, in your view, most important
15 conclusions are of your research and, again, shortly the
16 foundation thereof?

17 A. As you can see, in part E, there are quite a number of
18 conclusions. The most important conclusion is, in my mind, the
19 first most important conclusion is the fact that, in my mind, the
20 AFRC was an irregular force. And I have based that on, excuse
21 me, primary sources, DSK-082 and 3. I have also based it on the
22 conversation I had with TRC-01. But, even more importantly so,
23 is that that conclusion is shared by Colonel Iron, as I think
24 that is a secondary source, if you call it that way, because
25 Colonel Iron and I have mentioned it before, stated that the AFRC
26 was a guerrilla force, was not a conventional army, was a
27 non-regular army, so, concerning my most important conclusion,
28 number one, an irregular force, Colonel Iron shared that view.
29 So that is my first important conclusions. Excuse me,

1 conclusion.

2 Q. Is there any other conclusion which you specifically would
3 like to emphasise when it concerns your final part?

4 A. Well, as you have noted, I have described in detail the
5 three questions addressed by Colonel Iron, and we have been
6 through that, at length. And, of course, I didn't think that
7 was -- I didn't agree with him. But we have also addressed
8 hierarchy and structure. Now, I have given numerous reasons why
9 I didn't think there was a hierarchy and structure. But I was,
10 so to speak, happily surprised when I read the transcript from
11 Mr Petrie, who stated specifically, and I think it was October
12 6th 2005, as I recall, on page 19 and page 59, that the AFRC was
13 not a professional military force or military organisation, or a
14 conventional military organisation. And, of course, that was
15 another indication for me that in my analysis, I think I was
16 right, also concerning the hierarchy and structure. And my last
17 conclusion, among all the conclusions is, based on everything
18 I've said and everything I've investigated and written down, I
19 have come to the conclusion that the AFRC was not a traditional
20 military organisation.

21 Q. General, one final question which go to the sources of your
22 report and your overall conclusions. Can you tell the Court how
23 many footnotes your report entail?

24 A. 312.

25 Q. Are you able to tell the Court the division within these
26 footnotes over the respective sources? In other words, can you
27 recall how many footnotes were dedicated to transcripts, to the
28 TRC report, to primary sources, et cetera?

29 A. I cannot answer that question fully because I did a little

1 calculating. Out of the 312, I used 41 footnotes, or the text
2 which goes with it. Out of the transcripts we mentioned, between
3 May and October 2005, transcripts from witnesses from the
4 Prosecutions, Prosecution, 41 supported directly or indirectly my
5 vision. Now, I used -- and so to specify, I only then look at
6 the quotation which really support my vision, not the quotation
7 by a witness saying that he was at one place at one time. I used
8 14 quotations from DSK-082. I used 25 quotations from Keen but,
9 again, in support of my vision of the question I addressed in the
10 report. And, of course, I used numerous statements of the TRC,
11 but that was just as a -- to paint a picture of the situation --
12 but I used seven statements out of the TRC specifically made by
13 very senior officials, military, chief of defence staff, but also
14 President Kabbah, and, as I recall, out of the seven I used two
15 statements coming directly from two soldiers explaining for the
16 TRC their own situation. So it boils down to 41 out of the
17 transcripts from the Prosecution, 25 Keen. 14, DSK-082 and seven
18 specifically concerning statements made before the TRC.

19 Q. You just mentioned the reliance on the statement, amongst
20 others, speaking about those seven TRC statements of President
21 Kabbah. Can you recall what his statement was before the TRC and
22 to which extent you used it in your report?

23 A. As we have discussed at length, in the historical part, I
24 wanted to describe the entire period leading up to 1997, also
25 because how was the situation with the soldiers and their
26 experience and all that. So President Kabbah addresses the
27 period prior to 1991, and he stated that because of neglect, I
28 have to recall, but because of neglect and bad management, by
29 1991, the Sierra Leone -- but specifically the Sierra Leone Army

1 -- was very badly prepared for the operations to be carried out
2 with the RUF. So I used President Kabbah for that period, but
3 that was his statement.

4 Q. Was there any other period covered by that statement, can
5 you recall?

6 A. I can't recall by heart. I think it was specifically up to
7 that period but, again, and I've stated that before, I have
8 quoted chief of defence staffs, from Sierra Leone, and I, of
9 course, can't go into the discussion whether that is a fact or an
10 opinion, that is not my trade, but these senior officials stated
11 the situation as it was developing within the Sierra Leone Army,
12 and that's what I did. So, apart from Kabbah, I stated a couple
13 of senior officials, chief of defence staffs.

14 Q. Which time period did these statements cover?

15 A. Basically, depending who you then asked, we have mentioned
16 Tarawallie before. That was earlier. That was, I think, right
17 at the start of 1991. Now, Maxwell Khobe was a force commander
18 for ECOMOG, and became chief of defence staff after President
19 Kabbah was reinstated, and he was covering more the period of the
20 end of the NPRC towards the, you know, and then the AFRC. I
21 think Tom Carew, but again by heart, Tom Carew, in his statement,
22 covered a broader time frame sort of in half a page indicating
23 the downfall from '85 until 1997.

24 Q. So these statements were mainly used by you in your
25 historical part?

26 A. They were, again, you know, whether -- it's not my trade
27 whether it's fact or opinion -- but I thought that if you would
28 ask me, as commandant of the marine corps, how were the
29 operations by your forces in Cambodia carried out, I can make a

1 statement about that because I have knowledge about that period.
2 I, in my view, someone in a position of chief of defence staff,
3 in any country, as the highest military man, is in a position to
4 explain what his thoughts are on a period or on an event; at
5 least he should.

6 Q. General, one final question as to the sources of your
7 research. Were you able to interview or speak with any
8 politicians in the course of your research here in Sierra Leone?

9 MR AGHA: Leading question, Your Honour. Objection.

10 PRESIDING JUDGE: Do you wish to reply to that?

11 MR KNOOPS: I can rephrase it, but I don't believe it's
12 leading. I think it is just drawing the attention of the general
13 to a specific category. We have spoken about military officials,
14 about other sources. I think the term "politicians" is so broad,
15 I'm not asking him if he spoke with Mr A, Mr B. I'm just asking
16 him to a specific category of potential sources which may not
17 have used or have been used in his report.

18 PRESIDING JUDGE: Well, you said you could rephrase it, so
19 please do.

20 MR KNOOPS: I can rephrase it, Your Honour.

21 Q. General, were you able to speak to any other individuals in
22 Sierra Leone during the course of your research, apart from those
23 you mentioned in your report?

24 A. Well, that's a hard question because I spoke to others but
25 they are mentioned in my report, obviously.

26 Q. General, were you able to speak to other military
27 officials, except for those mentioned in your report?

28 A. That's going to be hard. Other military officials --

29 Q. Apart from those individuals mentioned in your report, did

1 you make any attempt to speak to other individuals?

2 A. Well, I made an attempt, but I was highly unsuccessful.
3 Because when I was here in October, I went to the ministry of
4 defence and had an interview with Mr Joe Blell, who is the deputy
5 defence minister. And I asked his support to speak -- I was
6 telling him what I was doing and I asked his support and he was
7 very friendly. But I specifically asked him the question, over
8 the course of our conversation, I said "Mr Blell, do you think,"
9 I said, "if I am a brigade commander now in the Sierra Leone
10 Army, and if I would have been participating in the AFRC in the
11 bush, do you think I would testify in Court?" And he said, "I
12 don't think you would." And I said, "Why not?" And then he
13 explained me something which he explained, expressed as you will
14 be suffering from witch hunt and of course coming from The
15 Netherlands, I didn't know what a witch hunt was, which he
16 explained that eventually that would have repercussions for me
17 personally or for my family or so. And although the conversation
18 stayed very nicely I asked him "But then aren't you there, sir,
19 to protect me politically?" Well, anyways, I again had a
20 conversation with Mr Blell and I was further with my report and I
21 asked him "Can you please help me, sir, because I want to talk to
22 people now serving in the SLA who were part of the AFRC faction."
23 And again, he was very helpful and he said, "Okay, I bring you in
24 contact with the chief of defence staff Mr Sam Mboma." And I was
25 happy so I had a meeting with Mr Sam Mboma and I said, "General,
26 you, as a chief of defence staff, can you bring me in contact
27 with officers, or senior officers, now serving in your
28 organisation who have been part of the AFRC in the bush?" And he
29 said, "I cannot because there are none." And of course I've been

1 in situations before that I got "no" for an answer but I wasn't
2 eager to take that one on. But anyways, we talked about it for
3 half-an-hour, and he said, "There are no officers in the SLA now
4 who have been part of the AFRC." And much to my regret I could
5 not do anything about it. But I got the feeling, the bad
6 feeling, because if you state that, what are you going to do with
7 your historical part of your armed forces? Or with that period
8 in your history? And if you are not able to speak freely then I
9 think it's a bad starting point for the army as such now. But it
10 gave me, his remark and his opinion gave me an understanding why
11 DSK-082, and number 2 and 3, in the other order around, if I am
12 correct, bailed out and didn't want to testify or only wanted to
13 testify or named under cover. And I was very sorry that I had to
14 make that observation.

15 MR KNOOPS: Thank you, general. Your Honours, that
16 concludes my examination-in-chief.

17 PRESIDING JUDGE: All right. Thank you. This witness is a
18 common witness. Is there anything in chief from any other
19 Defence counsel?

20 MR GRAHAM: Your Honour, no, from the -- from counsel for
21 the first accused, Mr Bri ma. None.

22 PRESIDING JUDGE: Thank you.

23 MR FOFANAH: Just one question for the general.

24 EXAMINED BY MR FOFANAH:

25 Q. General, good morning.

26 A. Good morning.

27 Q. Yes, sir, just on the last bit of your testimony based on
28 your discovery, when you said that the chief of defence staff
29 indicated to you that there were no members of the AFRC in the

1 current army, my question is: Did you find out subsequently if,
2 in fact, there were members of the AFRC in the current army?

3 A. Not only I think it's common knowledge but I found out,
4 because of one of the investigators and former military police
5 members of the Sierra Leone Army, indicated specifically several
6 people who have been part of the AFRC in the bush, in fact, and I
7 didn't do that of course. I could point out an individual
8 working closely to the political top of ministry of defence, in
9 fact, having been with the AFRC in the bush.

10 Q. Since you do not want to name that person, will you want to
11 write the name of that person down for the records?

12 A. I can write down the name, of course.

13 Q. And apart from that person, do you know the name of any
14 other person who served in the AFRC, who is currently in the
15 army?

16 A. No, sir. And I didn't try to investigate that. It was not
17 part of my assignment and I didn't think there was a reason to
18 investigate who was with the AFRC. I only wanted to make the
19 statement towards the chief of defence staff that I was aware
20 that it was the case but, of course, you know, you can't just
21 tell someone upfront.

22 Q. Now general, this person's name whom you are about to write
23 down, do you know his current rank in the army?

24 A. I do.

25 MR FOFANAH: At this stage, Your Honours, may I
26 respectfully request that a blank sheet of paper be given to the
27 general so that he can write down the name of the person to whom
28 he is making reference?

29 THE WITNESS: Now, Your Honour, I don't know if I spell it

1 correctly, but I give it a shot.

2 MR AGHA: Your Honour, I rise at this stage to wonder the
3 relevance of this, bearing in mind if someone didn't choose to
4 give evidence before this tribunal, then the Defence could have
5 subpoenaed that person had they so chosen.

6 PRESIDING JUDGE: Well, the evidence thus far is on the
7 record. Mr Fofanah, so far, has not attempted to tender that
8 piece of paper. Perhaps let's wait and see.

9 MR AGHA: Yes.

10 PRESIDING JUDGE: You can make your objections at the
11 proper time. Yes, Mr Fofanah?

12 MR FOFANAH: Your Honours, respectfully, my intention was
13 to apply that that document be tendered but then, on a second
14 thought, I thought it would have been better to make the
15 application after the report has been tendered, since the
16 inference is that the general relied on interviews conducted
17 during his research. And the name on the sheet of paper, I
18 believe, was one of those persons who was interviewed, or at
19 least from whom information was obtained.

20 PRESIDING JUDGE: Is that correct, general?

21 THE WITNESS: No, Your Honour. I never spoke with the
22 individual I wrote down on the paper. At least I greeted him but
23 I never had a discussion with him.

24 MR FOFANAH: I'm extremely sorry. That's my
25 misinformation. At this stage, because my learned colleague has
26 just indicated that he intends tendering the report but then, as
27 an afterthought, I thought I was going to make an application
28 after that has been done.

29 PRESIDING JUDGE: All right. Well, look, at this stage I

1 will return this piece of paper to you.

2 MR FOFANAH: Yes, Your Honours. May I respectfully at this
3 stage make an application that the document be identified, merely
4 for identification.

5 PRESIDING JUDGE: All right. It can be marked for
6 identification. I don't have an MFI number.

7 MR AGHA: Your Honour, I am wondering what the purpose of
8 marking it for identification is if this gentleman wasn't spoken
9 to?

10 PRESIDING JUDGE: Well, look, it's simply marked as the
11 piece of paper that we will be referring to later in an
12 application to tender it. That's my understanding. If we don't
13 mark it for identification we won't know what piece of paper
14 somewhere down along the line Mr Fofanah is referring to. That's
15 the only reason to mark it.

16 MR AGHA: But is he still proposing to tender it?

17 PRESIDING JUDGE: Well, I'm not a mind reader, Mr Agha. He
18 said he may tender it after the report gets tendered itself.

19 MR AGHA: Thank you, Your Honour.

20 MR FOFANAH: Your Honours, I mean, I will just leave it at
21 that. My application will just be for identification only.

22 PRESIDING JUDGE: If you are not going to tender it I'm not
23 going to waste time marking it. If you are not going to attempt
24 to tender it then it's not the subject of any application before
25 this Court and there is no point marking it for identification.

26 MR FOFANAH: May I seek your indulgence for a moment, Your
27 Honours?

28 [Counsel conferred]

29 MR FOFANAH: I thank you very much for your indulgence. At

1 this stage, Your Honours, I am withdrawing the application for
2 identification.

3 PRESIDING JUDGE: All right. Do you want this paper
4 returned to you, Mr Fofanah?

5 MR FOFANAH: Yes, Your Honours, thank you.

6 PRESIDING JUDGE: Yes. Well, that concludes the
7 evidence-in-chief?

8 MR KNOOPS: Yes, Your Honour. May I address the attention
9 to the Court to the application I filed earlier orally with
10 respect to the tendering of the report. Before I submit --

11 PRESIDING JUDGE: Well, I have to interrupt you here. If
12 you noticed our practice in the past, Mr Knoops, is to allow
13 cross-examination before the report is tendered.

14 MR KNOOPS: Yes. Thank you. Your Honours, before the
15 Prosecution starts cross-examination, I just have a brief remark
16 about the document. Just briefly. I think --

17 PRESIDING JUDGE: Which document? The report or that piece
18 of paper?

19 MR KNOOPS: No, the piece of paper that was just returned.

20 MR AGHA: Your Honour, may the Prosecution also have a
21 right to reply, if my learned friend is making comments on the
22 document?

23 PRESIDING JUDGE: You can. You are now talking about a
24 piece of paper that is not before the Court at all.

25 MR KNOOPS: Okay. Thank you. I have no remarks.

26 PRESIDING JUDGE: All right. We will have a break. We
27 will be back at 5 past 11. You can commence your
28 cross-examination then, Mr Agha. And general, I will remind you
29 again, please don't discuss the evidence with any other person.

1 THE WITNESS: Your Honour.

2 [Break taken at 10.50 a.m.]

3 [Upon resuming at 11.08 a.m.]

4 PRESIDING JUDGE: Go ahead, Mr Agha.

5 CROSS-EXAMINED BY MR AGHA:

6 Q. Good morning, general.

7 A. Good morning.

8 Q. I'm going to ask you a few questions from the side of the
9 Prosecution.

10 A. Yes, sir.

11 Q. Most of them can be answered with a "yes" or a "no," or an
12 "I don't know" answer, and that will be the preferred route. If
13 I require an explanation, then I'll ask you further for that.

14 A. Does that imply, also, that I can't -- if I feel the need
15 to answer, I can't do that? Is that what you state, sir?

16 Q. Well, if I ask you to give a "yes" or "no," I can invite
17 you to explain why, if you see what I mean.

18 A. Yes, sir.

19 Q. And your counsel, in re-examination, can ask you, again,
20 questions to clarify. Now, how many papers have you written on
21 military doctrine?

22 A. I have written numerous papers on doctrine, not related so
23 much to military but, as I explained, doctrine in relation to
24 military and coast guard operations in the Caribbean.

25 Q. Have you made any publications on military doctrine or
26 issues?

27 A. No, sir. I have not.

28 Q. Have you authored any books on any military doctrine or
29 issues?

1 A. No, sir. I have been, in my entire career, in the
2 operational field and was never involved in long term of
3 lecturing. I'm an operational man.

4 Q. Essentially, while in the Caribbean, it was the coast guard
5 doctrine you were establishing?

6 A. It was the coast guard doctrine, and the doctrine on the
7 defence of The Netherlands, Antilles and Aruba.

8 Q. Since your retirement, for about the last 18 months, I
9 believe you've been working at the Centre For Strategic Studies
10 in The Hague; is that right?

11 A. Yes, that's right, sir.

12 Q. You would agree with me, one of your main projects was work
13 on the Dutch intelligence aspect in respect of the 9/11 attack?

14 A. That's right.

15 Q. That project remains unpublished because, essentially, it
16 is more Dutch specific; is that right?

17 A. No, that's not right. The reason why it was not published,
18 or not so to say published, but why it was not further discussed
19 in the political world, or in the political scene had to do with
20 the fact that my proposals, my conclusions, my proposals on how
21 to make things better may not go well in the political world in
22 The Hague, as of this time.

23 Q. So is, essentially, your point of view of the intelligence
24 apparatus?

25 A. It was not so much the view on the intelligence
26 organisations, it more had to do based on how things have
27 developed after 9/11 in the US, but, also, the way the UK has
28 established procedures in order to better have an intelligence
29 flow in the post-terrorism world, or 9/11 world in fighting the

1 terrorism. Now, I believe, or I still believe that the US and UK
2 were fairly right in the way ahead.

3 Q. General, if I may cut in. It was more than, really, about
4 the flow of intelligence between different countries.

5 A. It really only had to do with the flow of intelligence
6 between organisations within The Netherlands, and I took examples
7 in the US and the UK.

8 Q. Would you agree with me, throughout your career, you have
9 been more of a hands-on soldier as opposed to an academic one?

10 A. I have always been in the operations, that's correct.

11 Q. How many operational missions have you personally
12 participated in outside The Netherlands where you were commanding
13 troops in the field?

14 A. It depends how you define missions. Within The
15 Netherlands, in my younger years, was involved in
16 counter-terrorism in the age of the Maloccan [phon] terrorism.

17 Q. Was this outside of The Netherlands?

18 A. This was inside The Netherlands.

19 Q. I'm talking about outside.

20 A. Outside The Netherlands, basically, you can consider my
21 presence in the Caribbean, during four and a half years, a
22 constant being in operations, 24/7.

23 Q. Apart from that operational tour in the Caribbean, which
24 other operational tours did you go on, outside The Netherlands,
25 in your career?

26 A. That's it.

27 Q. Now, when you were in the Caribbean, if I can refer to it
28 as that, you say you were involved in coast guard law
29 enforcement; is that right?

1 A. That's right.

2 Q. And was this mainly in relation to smuggling of narcotics
3 and drugs on the high seas?

4 A. No, because, basically, coast guard is limited to the
5 territorial waters, unless it is, and I don't know how to put it
6 in a judicial way, or legal way, unless it is trying to import or
7 export drugs out of your own territory. Then you can go on the
8 high seas. It was not only smuggling, it was also fishery
9 inspection, it was also Custom Law enforcement.

10 Q. And that was within the territorial waters of your area of
11 responsibility?

12 A. Like I said, unless you have someone who is trying to sail
13 through your areas and proceed, but, of course, in the other hat,
14 as I explained, I covered the high seas.

15 Q. Now, for 18 months you say you were an Appeals Court judge
16 in the Caribbean; is that right?

17 A. That's correct.

18 Q. And was this your full-time job, or did you also have other
19 assignments at that time?

20 A. During that time, I was Chief of Staff of my boss, who had,
21 as I explained before, three hats, so I was Chief of Staff of
22 someone who had three hats. But, in that job, I was in the
23 Court, but that was on a part-time basis, because it only was the
24 case when there were cases that had an appeal, criminal law, for
25 military personnel.

26 Q. So how often would these appeals have been that you sat on?

27 A. In that 18 months, I had two serious cases. What I
28 consider, as a military man, serious; rape by military men. And
29 then I had about two or three minor ones. So, a total of five

1 cases, but, again, it was on a part-time base.

2 Q. So you wouldn't regard this as a particularly significant
3 or one of the larger parts of your military career, this role you
4 played?

5 A. Oh, you're correct in that assessment, sir.

6 Q. Now, you also said that you were involved in some outward
7 bounds training; is that right?

8 A. What I tried to explain, sir, I don't know if the term
9 outward bounds means something to you, but what I tried to
10 explain is the outward bounds school trained youngsters in
11 challenging in hardship. And, within the training of militia,
12 local population, Curacao and Aruba, I trained them more in
13 hardship in adventure than in military skills and drills. That's
14 what I meant to say.

15 Q. So you're really training them, let's say, in practical
16 skills to enable them to get jobs in the outside world; would
17 that be a fair assessment?

18 A. That's correct.

19 Q. And it didn't really involve many aspects of military
20 training then?

21 A. When I joined, for the militia, again, the local population
22 of Curacao and Aruba, it was more based on military, and within
23 the prospect of their future. I emphasised later more on skills
24 for their future in civil life, because it was conscripts.

25 Q. Right. Apparently you also mentioned you were involved for
26 about six weeks in some form of guerilla training; is that right?

27 A. No, sir. What I did, on request of The Netherlands, was
28 setting up semi-permanent jungle training in Suriname. As I
29 explained, we later had to move to Belize and I personally

1 observed the jungle training in Belize for about ten days.

2 Q. Okay. So that was your experience of the observations of
3 the jungle training, that ten-day period in Belize?

4 A. [No audible response].

5 Q. Now, you would agree with me that the British and Dutch
6 armies are some of the best-trained armies in the world.

7 A. Yes, sir.

8 Q. You would also agree with me that they are amongst some of
9 the most professional armies in the world.

10 A. I can agree with that.

11 Q. Would you also agree with me it would be unfair to judge
12 African armies with western armies in terms of their training and
13 professionalism in terms of the budget they receive?

14 A. In general, I cannot say that, because I have not made a
15 thorough analysis on the way the African armies operate.

16 Q. So you wouldn't know, really?

17 A. Well, if you say western armies --

18 Q. Let us take the British and Dutch, which I think you have
19 some familiarity with.

20 A. Yes.

21 Q. If you were to compare them with, let's say, the armies
22 operating in Africa, as a whole, would you say that the degree of
23 professionalism and training is higher in the Dutch and British
24 army than in most African armies, or are you unable to comment?

25 A. It would be a feeling, but not more than a feeling.

26 Q. And what would your feeling be?

27 A. But it's not based on -- as I said, I never made analysis
28 on West African armies, as such, in a broad way. I didn't go
29 through Africa and say, "How's your army"? In general, if you

1 say Dutch marines and royal marines are about the best in the
2 world, and you compare that to other ones, including armies in
3 Africa, I think we come up first.

4 Q. Now, you started your career flying helicopters and
5 frigates; is that right?

6 A. No, sir. I started my career flying fixed-wing aircraft in
7 The Netherlands, Antilles and, subsequently, I started flying
8 helicopters. And, at one point of time, I was requested to fly
9 on board of helicopters with a WASP, familiar in the royal navy.
10 Because it was so difficult, one needed second-tour flyers, so I
11 did that for about two years.

12 Q. So you're quite an experienced naval aviator, if you like?

13 A. I was, sir.

14 Q. You then worked with integrating British and Dutch marines
15 into a landing force; is that right?

16 A. That's correct.

17 Q. And the British marines are part of the British Navy,
18 aren't they?

19 A. That's correct.

20 Q. In 1987, you became the adjutant for the supreme allied
21 commander in NATO until 1989; is that about right?

22 A. That's correct.

23 Q. In this role, you were responsible for the entire sea area
24 of NATO as a commander's aide-de-camp; is that right?

25 A. I have to rephrase that, sir. My boss, having then -- I
26 then was a major, later to be promoted to lieutenant-colonel --
27 and my boss was a four-star admiral, so he was responsible for
28 the sea area, while I was making sure that his work was -- the
29 preparation for his work was done well, but I was his

1 ai de-de-camp.

2 Q. But it was largely involved in the sea area in which your
3 boss was dealing?

4 A. Yes, that's correct.

5 Q. You carried out large-scale exercises off the coast of
6 Spain and, later, the Mediterranean; is that right?

7 A. If you're referring to my time as colonel, as deputy
8 brigade commander, I had that job for about three and a half
9 years, and I spent literally a month with the royal marines in
10 Norway. I did numerous exercises in the Mediterranean, as such.

11 Q. Were these, in essence, amphibious landing exercises from
12 sea to land?

13 A. Well, initially. Of course, the role of the royal marines
14 is amphibious, but, of course, that's only the beginning, and we
15 carried out land operations for weeks with the royal marines.

16 Q. Now, as a Dutch and royal marine, would you agree with me
17 they largely are amphibious in nature?

18 A. Well, you see their background is amphibious, but, to give
19 you an example, one and a half years in Cambodia with the
20 Netherlands Marine Corps has nothing to do with amphibious.

21 Iraq, two successive periods under command of an army two-star,
22 didn't have anything to do with amphibious; it had to do with
23 land operations. But, in essence, the royal marines, if you see
24 the attack on Iraq, were involved in an amphibious operations,
25 but then were on land for the rest of their campaign.

26 Q. But, essentially, the historical background of marines,
27 let's say Dutch or British, is amphibious?

28 A. Well, the historical background goes when we fought each
29 other in the second English war, and we were both on ships and

1 fired at each other.

2 Q. I'm coming now to Iraq. I'm just running briefly through
3 some of the points of your career, and I am trying to keep it in
4 chronological order. I'm sorry if I step ahead. I will step
5 back. Now, in Iraq, battalions you prepared was more for a
6 peacekeeping role; is that right?

7 A. It was a peacekeeping mission, that is correct.

8 Q. And the Dutch Marine Corps is a part of the Dutch Navy; is
9 that right?

10 A. It is.

11 Q. So you would agree with me that many of your assignments
12 had been naval related, wouldn't you?

13 A. Only in a sense that it was organisation-wise that I had a
14 boss who was a three-star admiral. But, predominantly in my
15 career, while it was company commander, while it was deputy
16 brigade commander, or commanding officer of all the marine units
17 in The Netherlands, it was land-based. And one should not forget
18 that I also was responsible for the counter-terrorist units
19 established after Munich, which only was a land base.

20 Q. Was it a naval chain of command, essentially?

21 A. I have served in the naval chain of command, yes.

22 Q. Right. I now want to come to a period after you retired.
23 After retirement, you also acted as an expert in a case of a
24 soldier who suffered post-traumatic stress syndrome as a result
25 of Srebrenica; is that right?

26 A. That's correct.

27 Q. Correct me if I am wrong, as you have been as we've been
28 going along, basically, you were asked to look at the
29 decision-making process of the Dutch government regarding

1 Srebrenica; is that about right?

2 A. Sir, that really was only the starting point of my
3 analysis. My analysis had to deal with the decision-making, had
4 to deal with the equipment, the tasking, the organisation, the
5 weapons systems, the air support, the way they operated the
6 blocking positions in relation to the Serb threat, and the
7 problems relating to logistical support while they were
8 surrounded by the Serbs. My analysis, which is some hundred
9 pages, covers, indeed the decision-making, but further on, it
10 goes right into the heart of the mission, including the way the
11 men were treated after they got back from the mission in
12 Srebrenica.

13 Q. Now, when you were preparing this report about Srebrenica,
14 were you able to speak to those directly involved?

15 A. I was.

16 Q. So, generally speaking, when you were able to write your
17 report, if you wanted to speak to a person involved in, let's
18 say, the equipment aspect, as you mentioned, or the treatment of
19 the soldiers when they came home aspect, as you mentioned, you
20 were able to directly speak to those involved?

21 A. Yes, but that was, basically, very limited. Of course I
22 had the report written -- read by the guy for whom I wrote the
23 report, but you have to be aware, about Srebrenica, there was a
24 six-year study done by a national institute. I think it covers
25 3,000 pages. Then, afterwards, there was a parliamentary
26 inquiry, and that's what I studied mainly for my analysis.

27 Q. Did you speak to any of the people directly involved?

28 A. I spoke to the man whom it concerned.

29 Q. Did you have access to any documents regarding these

1 matters?

2 A. That's what I tried to explain, sir. Over the years, this
3 inquiry after Srebrenica is immense. I think a team of 200 men
4 worked about six years, covering volumes like that, and then the
5 parliamentary inquiry followed. And, based on that, I had to go
6 right to the heart of that problem.

7 Q. Did you have access to, let's say, operational orders and
8 radio communications and things of this sort?

9 A. I did.

10 Q. Would you agree with me that the large part of your
11 Srebrenica report was based on first-hand information?

12 A. No, I don't think so.

13 Q. It wasn't particularly involved with people who were
14 involved in the task you were looking into?

15 A. That has been done over the last ten years.

16 Q. It was more a situation of reviewing the extensive
17 materials which had already been in place?

18 A. That's correct.

19 Q. Thank you. Now, I actually want to look at your own
20 research methods now for conducting your expert report into this
21 particular case. Now, you would agree with me, wouldn't you, in
22 order to write your report, you did have to carry out extensive
23 research?

24 A. Yes, sir.

25 Q. And, indeed, you carried out that research?

26 A. Yes, sir.

27 Q. That extensive research included reviewing the TRC report
28 and reading Keen's book on Conflict and Collusion in Sierra
29 Leone, didn't it?

1 A. Amongst others, yes.

2 Q. Apart from these two sources, you also looked at many other
3 books, papers, documents and other information which could help
4 you with your report?

5 A. Absolutely, sir.

6 Q. Presumably, that extensive research would have involved
7 reviewing statements of those affected?

8 A. I don't know if I understand correctly statements, as such.
9 Statements as in transcripts?

10 Q. Well, one source would be the transcripts, that is to say,
11 of some of the witnesses who gave evidence in this trial, but,
12 let's just say, going around, as you did, gathering your own
13 statement of witnesses?

14 A. Yes.

15 Q. Okay. You'd agree with me, this research would have
16 focused, amongst other things, on the AFRC and SLAs who were
17 forced to the jungle following intervention, wouldn't you?

18 A. It covered, apart from, of course, the historical part, it
19 covered mainly what happened or how it evolved after May 1997
20 until, basically, the period Iron covered, ending February 1999.

21 Q. You would have come across, in your extensive research,
22 information about the advancement from Colonel Eddie Town to
23 Freetown?

24 A. Yes, sir.

25 Q. And you would also come across, in your extensive research,
26 information about the actual attack and withdrawal from Freetown
27 by the AFRC faction in January '99, wouldn't you?

28 A. Yes.

29 Q. Now, I notice in your report, and even in your oral

1 evidence, that you emphasise importance of understanding history;
2 is that right?

3 A. That's correct.

4 Q. So you also studied the political and military history of
5 the Sierra Leone Army, didn't you?

6 A. Yes, sir.

7 Q. And this would also encompass the NPRC period?

8 A. In broad terms.

9 Q. I now want to look at some of the basic information which
10 you ought to have come across during the course of your research,
11 to see the extensive nature of it. Now, through your research,
12 did you learn who carried out the coup, which removed the SLPP
13 government in May 1997?

14 A. I may have come across, but you have to be aware that I
15 focused on history, only for one purpose, and the purpose was:
16 What was the starting point -- again, referring to my task I was
17 given by the Principal Defender -- the starting point of the men,
18 military-speaking-wise, 1997 and onwards. So I may have come
19 across that, but I focused on, in contrary to Colonel Iron, who
20 wanted to start on a blank sheet of paper, I wanted to emphasise
21 what is your background, as a unit, as your professionals, as
22 your men, you leave for the bush. That's what I did. I may have
23 come across coup and names, but it was not the focus of my
24 attention.

25 Q. Are you aware, and did you come across Alex Tamba Brima,
26 the first accused in this case, as one of the persons who carried
27 out the coup?

28 MR KNOOPS: Your Honour, I object. This is a matter which
29 goes to the ultimate issue of the case; namely, the indictment.

1 The indictment, Your Honours, says in paragraph 12 onwards to 15,
2 goes into the factual issue of the Supreme Council and its
3 alleged members, whilst in the paragraphs 23 onwards, the
4 Prosecution tends to relate the alleged members of the council to
5 the three accused.

6 Now, I've indicated in my examination-in-chief that it is
7 my view that the expert witness has no competence, whatsoever, to
8 go into any ultimate issue. That was established, also, during
9 the interview explanation of Colonel Iron. It is my submission
10 that not only this falls outside the scope of the investigation
11 research of the expert, he clearly looked only at the historical
12 part as far as the army as an overall institution concerns.
13 Secondly, by asking the witness now about names and about
14 organisations and issues which directly go to the proof of the
15 indictment, this clearly violates the ultimate issue.

16 So I strongly object and I don't think that the Prosecution
17 is allowed to ask any questions about either the three individual
18 accused or any other issue outside the questions which were put
19 to the expert. I may recall, the Honourable Chamber, that the
20 Defence objected to the report of Colonel Iron, not only on the
21 basis that his fourth question went into the ultimate issue;
22 namely, whether there was effective command and control, but
23 moreover, there was enumeration given by the Defence of all the
24 issues in his report which went into crimes.

25 Now, it's established by the ICTY case law in the Kordic
26 and Cerkez case, which are already mentioned in the
27 cross-examination, or the examination-in-chief of Mr Colonel
28 Iron, that the ICTY Trial Chamber has prevented an examination of
29 an expert witness, and also the admissibility of a report when it

1 goes into specific crimes and positions of the accused at hand;
2 ie, responsibilities, whatsoever.

3 I think the Prosecution, at this time of the
4 cross-examination, should not be allowed to continue with this
5 line of questioning. This is not a witness of fact, this is an
6 expert witness. We have clearly limited our examination-in-chief
7 to the question. I know that, in cross-examination, the
8 Prosecution is allowed to go outside the scope of the
9 examination-in-chief, but that is prevented when it comes down to
10 the indictment and the ultimate issue. Thank you.

11 PRESIDING JUDGE: What's your reply, Mr Agha?

12 MR AGHA: Yes, Your Honour. The expert witness, in giving
13 his expert evidence, would have had to conduct research into this
14 area to be in a position to compile his report. In one of the
15 ways of asking these questions, I am testing his knowledge in
16 respect of his research, bearing in mind that he extensively, in
17 his report, covers the importance of history and the political
18 background, and has researched them.

19 As regards the question of the ultimate issue, the
20 Prosecution does not believe that it's the ultimate issue who
21 carried out the coup. The accused are not charged on the
22 indictment with carrying out the coup. This is an historical
23 fact which any witness of fact is capable of answering, as many
24 witnesses have in fact done just by listening through the radio.
25 It is more going to the truthfulness, let us say, of certain
26 witness who have given evidence before this Court. But if one is
27 to study the indictment, there is no charge that any of the three
28 accused carried out the coup and are therefore punishable under
29 international of law, and I believe this Court doesn't have the

1 jurisdiction to punish anyone for carrying out the coup.

2 MR KNOOPS: Your Honours, if I may, we are strongly
3 objecting to these observations, because paragraph 3 of the
4 indictment clearly set out Alex Tamba Brima was a member of the
5 group who staged the coup and ousted of government of President
6 Kabbah; the same counts for the other two.

7 Based on that paragraph, which is framed under the heading,
8 "Individual Criminal Responsibility" in the indictment, the whole
9 issue of superior responsibility is based, as a starting point of
10 the individual responsibility. It is clearly the case the
11 Prosecution is building its case upon the alleged involvement of
12 the three accused in the coup, and based on that alleged
13 involvement, they are trying to establish superior
14 responsibility.

15 I take note of the fact the Prosecution now says that is
16 not in the indictment and that is not the intention. But the
17 indictment is clear. I think that is the guiding document for
18 the Court. It's clearly not correct what the Prosecution is
19 stating and I think it is in violation of every rule which
20 pertains to the admissibility of expert evidence before this
21 Court.

22 PRESIDING JUDGE: That's your second reply, Mr Knoops. We
23 only usually allow one right of reply. You've had two and that
24 will be your last. Do you want to reply to that?

25 MR AGHA: Just in short, Your Honour. In regarding the
26 indictment, looking at the actual charges within the indictment,
27 and there are no charges of overthrowing the government in the
28 indictment; it is part of the factual basis. If my learned
29 friend's argument were to prevail, then it would follow that the

1 Prosecution would be precluded from asking any witness these
2 questions, so we could not get to our case at all.

3 If we can ask these questions of fact to a factual witness,
4 we ought to be able to ask them to an expert witness who indeed
5 ought to have studied many facts and materials to reach his
6 conclusions.

7 [The Trial Chamber conferred]

8 JUDGE SEBUTINDE: This is the oral ruling of the Chamber on
9 the Defence objection to the question raised by Mr Agha, the
10 Prosecutor. The objection was to the question as to whether the
11 witness ever established that the first accused, Alex Tamba
12 Brima, participated in the coup, was one of those who
13 participated in the coup.

14 Now, we are of the view, on the Bench, and it's a unanimous
15 view that, firstly, the expert on the stand now wrote a report
16 regarding the AFRC period, May 1997, basically up to
17 around February 1999. But, in this report, the expert also
18 emphasises the importance of an historical background or history
19 to this period, and we're of the view that the events surrounding
20 the coup in Sierra Leone, of May 1997, are an integral part of
21 that history.

22 Now, the question asked by Mr Agha, in our view, does not
23 go to the ultimate issue, the ultimate issue being, as Mr Knoop
24 rightly observed, being the individual criminal responsibility of
25 the three accused persons, or each of the three accused persons.
26 The question asked goes to whether the witness knows whether one
27 of the accused participated in the coup. Now, participation in
28 the coup, per se, is not one of the offences charged in the
29 indictment and, in this regard, we agree with the submissions of

1 Mr Agha. Therefore, we do not think that that question goes to
2 the ultimate issue in the indictment.

3 Additionally, we also believe, and it is our view, that an
4 expert witness may, indeed, be asked questions and may attest to
5 factual situations, not necessarily just opinions, but factual
6 situations that are within his knowledge. Ultimately, this
7 question is asked with a view to eliciting, in our opinion, or
8 testing the knowledge and research capability, or span of
9 research of this particular expert. So we will overrule the
10 objection and ask Mr Agha to repeat his question. Ask the
11 witness to answer.

12 MR AGHA: Your Honour, could I perhaps be reminded of the
13 actual question.

14 JUDGE SEBUTINDE: The question was whether, in his
15 research, in the course of the witness's research, he came across
16 the fact that Alex Tamba Brima, the first accused, participated
17 in the coup.

18 MR AGHA:

19 Q. And if you could answer that with either a yes or no,
20 witness, that would be helpful.

21 A. Yes.

22 Q. Did you also learn, through the course of your research,
23 that the first accused, Alex Tamba Brima, was referred to as
24 Gullit?

25 A. Yes.

26 Q. Through the course of your research, did you learn that
27 Ibrahim Bazy Kamara, the second accused in this case, was one of
28 the persons who carried out the coup?

29 A. No.

1 Q. Did you learn, through your research, that the third
2 accused in this case, Santigie Kanu, aka Five-Five, was one of
3 the persons who carried out the coup?

4 A. No.

5 Q. Now, who else did you learn carried out the coup of May
6 1997, from your research?

7 A. Well, you know --

8 Q. If you could just name those you can remember. If you
9 can't remember any, fine.

10 A. No, because it was not the focus of my study.

11 Q. Okay. That's fine.

12 A. So I read some of them, many, many names. I can't recall,
13 at all.

14 Q. So you delved greatly into your report into the historical
15 background of the Sierra Leone Army, but you didn't particularly
16 look into who, in the Sierra Leone Army, carried out the coup in
17 May 1997; is that right?

18 JUDGE DOHERTY: Mr Agha, the witness said, "I read many,
19 many names, but I don't recall." I'm not sure that's a very fair
20 question arising.

21 MR AGHA: I can rephrase that.

22 Q. Did you read of the name Zagalo as being involved in the
23 coup?

24 A. No. I might have come across, but, as I stated, I read a
25 lot of names and a lot of issues, but it was not the focus of my
26 historical analysis. That was not -- you know, I explained, I'm
27 a pragmatic man. The question was raised by the Principal
28 Defender, and I read the history with the glasses on of the
29 military man who wants to get an answer on the military level,

1 experience, morale, training before they went into the bush. I
2 got a lot of side information, but I deleted it because it was
3 not part of my analysis question research.

4 Q. So it's more of an overview of the history that you got
5 from your research?

6 A. Again, sir, if you read my history, it is the leading --
7 how do you say, the leading line -- the focus is only, only, on
8 what sort of soldiers', officers' organisation was there at the
9 moment, the period described; what is their background. The only
10 thing I'm saying is you can only understand the royal marines
11 because of their fantastic history and background. So, I read
12 through history from '61 with that in mind and sort of deleted
13 the things I came across.

14 Q. That's fair enough, witness. I'll continue. Now, in your
15 evidence-in-chief, correct me if I am wrong, you also, I believe,
16 opined that there was no chain of command or hierarchy in the
17 AFRC period in government; is that right?

18 A. That is right.

19 Q. You would have had to study that area in order to come to
20 that conclusion, wouldn't you?

21 A. Specifically the area of was there a good line of command,
22 or established headquarters that could carry out missions, yes.

23 Q. And with regard to the grand strategy, whether there was
24 any political organisation in power, presumably, as well?

25 A. Of course, I did not address the grand strategy then,
26 because the question came up when I analysed the Iron report
27 relating operations.

28 Q. Is it fair to say you cannot comment on whether a grand
29 strategy existed or not, within the AFRC government period?

1 A. No. Again, that was not the focus of my attention. The
2 focus of my attention was whether there was coherence in carrying
3 out operations while the AFRC was in the bush.

4 Q. So, in essence, you are not in a position to say whether
5 there was a grand strategy during the AFRC junta period; yes or
6 no?

7 A. No.

8 Q. Thank you. Now, you did say that you discussed the
9 hierarchy in your evidence-in-chief. Now, did you come across a
10 term "honourable" when you were carrying out your research?

11 A. Yes.

12 Q. And did you learn that honourables were those members who
13 allegedly carried out the May 1997 coup?

14 A. Yes.

15 Q. And did you learn that Alex Tamba Brima was referred to as
16 an honourable?

17 A. No, I can't recall that.

18 Q. And can you recall whether Ibrahim Bassy Kamara was
19 referred to as an honourable?

20 A. No.

21 Q. Can you recall whether Santigie Kanu, aka Five-Five, was
22 referred to as an honourable?

23 A. No, no.

24 Q. Through your research, did you find out whether these
25 honourables were a part of the AFRC government?

26 A. I don't know that, because, again, how that operated, I
27 didn't pay attention to it.

28 Q. Okay. Did you pay attention to the fact that the AFRC
29 government was a combination between the RUF and SLA?

1 A. I was aware of that.

2 Q. And did you learn that Johnny Paul Koroma headed the AFRC
3 government?

4 A. Yes.

5 Q. Are you aware that, within the AFRC government, there was a
6 Supreme Council?

7 A. Maybe. I can't recall that.

8 Q. What about your reading of the NPRC period? Do you
9 remember there was a Supreme Council in the NPRC period?

10 A. I don't know. I know the name of the chairman, but that's
11 it.

12 Q. Who was the chairman of the NPRC period?

13 A. Strasser was.

14 Q. Can you tell us how the NPRC government was set up and how
15 its chain of command worked during that time, in terms of the
16 military?

17 A. Again, no, because it was not the focus of my analysis and
18 question.

19 Q. Did you ever learn or hear that Alex Tamba Brima was a
20 member of the Supreme Council of the AFRC government?

21 A. I don't know that.

22 Q. And did you ever come across, during your research, that
23 Ibrahim Bazzy Kamara was a member of the Supreme Council of the
24 AFRC government?

25 A. Again, sir, I did not look into the structure of the
26 supreme bodies, so then I had to analyse, then the question would
27 have been different and I would have had to ask: How was the
28 Supreme Council set up.

29 Q. That's fine. I'm not critical of you in your report, you

1 answered your mandate. I'm asking you about your knowledge.

2 A. I tried to bring across the line I took in the historical
3 part.

4 Q. Now, did you find out that the Supreme Council existed
5 within the AFRC junta?

6 A. I may have read it.

7 Q. Are you aware of any role which it plays, vis-a-vis the
8 military high command?

9 A. No, I did not.

10 Q. Did you learn that there were PLOs in the AFRC junta
11 period?

12 MR FOFANAH: Respectfully, Your Honours, I rise to object.
13 The witness has categorically told the Court he did not apply the
14 last bit of his methodology which, I rightly recall, was the
15 grand strategy. That strategy more or less dealt with the
16 political and other issues within his analysis. Now it seems my
17 learned colleague is going to town with the AFRC government,
18 which is merely a political structure, and the witness has
19 categorically stated that he did not apply that bit of his
20 methodology to --

21 PRESIDING JUDGE: What's your reply to that, Mr Agha?

22 MR AGHA: Your Honour, the witness has come as an expert
23 witness, and to be an expert witness in this area, to apply his
24 expertise, he would have needed to have done extensive research.
25 Indeed, his report categorically spends a lot of time discussing
26 the history, and the politics, and the military of the SLA and
27 Sierra Leone throughout this period.

28 Now, I am testing the witness's knowledge of the extent and
29 depth of that research and so, therefore, the reliability on which

1 his conclusions can be based.

2 PRESIDING JUDGE: The witness is doing all right by
3 himself. He's quite capable of answering the question I don't
4 know, or no, or yes. I overrule that objection. I will allow
5 that question, Mr Agha.

6 MR AGHA: Sorry, this is more legalese.

7 Q. Did you hear whether any PLOs existed in the AFRC
8 government?

9 A. I've heard the abbreviation, but that's it.

10 Q. Did you know what the abbreviation stood for?

11 A. It has something to do with liaison officer, or something
12 like that.

13 Q. Do you know what the role of the PLO was in the AFRC?

14 A. Didn't look into that, sir.

15 Q. Talking about the NPRC government, you mentioned that
16 Strasser was the chairman. Did you also, through your research,
17 find out that SAJ Musa was a member of the NPRC government?

18 A. I can't recall.

19 Q. If you looked at the NPRC government, which is covered in
20 your report, through a Supreme Council and PLOs, would it also be
21 similar to your research regarding AFRC government structure and
22 Supreme Council, PLOs, or are you not able to comment?

23 A. Again, I think that if I would have had to give an answer
24 on all those, then I needed to have a different asking, and then
25 the question would have been write a report historically also on
26 the political implications of the structures, and I didn't do
27 that. So I can't tell you, sir.

28 Q. As an overview, you are aware that, within the NPRC
29 government, there was a Supreme Council and there were PLOs.

1 A. More importantly --

2 Q. Answer the question, please. If you could confine yourself
3 to the question, witness.

4 A. Yes, but I didn't look into the area, sir.

5 Q. Okay. Likewise with the AFRC government, you didn't look
6 into that area either; is that right?

7 A. Only military-wise.

8 Q. Okay. So you wouldn't know whether the AFRC government had
9 anything at all to do with the working of the military?

10 A. I think Johnny Paul Koroma had to do with the military as
11 the big man, but, again, that relation was not part of my
12 research.

13 Q. And Johnny Paul Koroma was chairman of the AFRC government;
14 did you learn that?

15 A. That's what I learned, yes.

16 Q. Okay. Now, through your research, after the intervention,
17 did you learn that the AFRC government fled Freetown?

18 A. I didn't learn the AFRC government. I learned that the
19 majority of the AFRC or People's Army, how you call it, fled.

20 Q. So that would be the SLAs and RUFs who were --

21 A. A combination of the whole lot.

22 Q. And did you learn through your research that, after they
23 had fled and went into the jungle - I believe the AFRC faction,
24 as you call them - that SAJ Musa was a senior commander?

25 A. I came across that. Yes, of course.

26 Q. And did you learn that the first accused, Alex Tamba Brima,
27 was also a commander, during the AFRC faction, whilst they were
28 in the jungle?

29 A. I don't know that. I've read the transcript where it was

1 stated, but I don't have an opinion on that.

2 Q. Otherwise you didn't come across it in any of your other
3 independent research by talking to TRC-01, for example, or
4 others?

5 A. Certainly not TRC-01, no. One, two and three, if I can
6 name them, so 02 and 03, no.

7 Q. So you never came across that as apart of your research at
8 all?

9 A. Of course, I came across it. When you read -- you know, I
10 went through thousands of transcripts. Of course, then you come
11 across, numerous things. But again, then I can read it and read
12 it again, but, again, whether that is right or wrong, it's not up
13 to me, and I was, again, back to the military question.

14 Q. Some of those would have been in the Prosecution's
15 transcripts, references to Alex Tamba Brima being a commander,
16 wouldn't they?

17 A. I read it.

18 Q. But those same transcripts, you also relied upon in your
19 report, haven't you?

20 A. Of course, I have relied on those transcripts. But the
21 question for me is not who is in what position, when and how.
22 The question was whether it was a traditional military
23 organisation, and I didn't deal with people or events. So I'm --

24 Q. But you're not questioning -- if you're referring to the
25 transcripts, and quoting from them in your report, making use of
26 lines from the transcripts, you're not suggesting that those
27 transcripts are incorrect, are you?

28 A. Whether they are --

29 MR KNOOPS: Your Honour, I object. I think now the

1 Prosecution is trying to cross the thin line of asking the expert
2 to give an opinion on the evidence. The expert gave a view, from
3 a specific military question -- actually, three questions of
4 Colonel Iron -- and transformed that on to the transcripts of the
5 Prosecution evidence, from that perspective. He has no knowledge
6 or competence to test the reliability of the transcripts. He
7 just merely took them as they were. I think the Prosecution is
8 trying to get this expert's, and that was what I predicted,
9 gradually into the area of the ultimate issue.

10 I again repeat my objection that, if you look into
11 paragraph 31 of the indictment, it clearly said, "In their
12 respective positions" et cetera, et cetera.

13 PRESIDING JUDGE: What are you addressing us on now; the
14 question at issue, or you're going into something deeper?

15 MR KNOOPS: No --

16 PRESIDING JUDGE: He was simply being asked about the
17 transcripts, and you're going back to the indictment.

18 MR KNOOPS: I think, Your Honour, the Prosecution has no
19 question to be put to the expert about the trustworthiness,
20 veracity, or whatever, trustworthiness, reliability about the
21 contents of the transcript, as such. That's, I think, for the
22 Court to decide. It's not for a military expert to give an
23 opinion about the reliability of the transcript. Then we can
24 also ask the general to give his opinion about a military
25 judgment he gave, or he encountered in the previous years before.

26 PRESIDING JUDGE: What's your reply to that objection,
27 Mr Agha?

28 MR AGHA: My reply to the objection, Your Honour, I'm
29 referring to a later part of the cross-examination, although

1 we've arrived at a little earlier, I'm looking at the sources
2 which the general has quoted in his report, and he re-quotes from
3 those transcripts of Prosecution witnesses. Now, if he's using
4 citations and quotations in his report, then my question to him
5 is: Did he regard them as reliable, because if he didn't, what
6 are they doing in his report. I think that's quite a reasonable
7 question.

8 PRESIDING JUDGE: I don't think that was the exact question
9 you asked. I think you asked a question to the effect that the
10 witness had no reason to think that those transcripts were wrong.

11 MR AGHA: That's essentially it.

12 PRESIDING JUDGE: I agree with Mr Knoops. Whether the
13 transcripts are to be believed or not is a question for the
14 Court. You can ask that question in a different way. I won't
15 allow it in the present form.

16 MR AGHA: Thank you, Your Honour.

17 Q. Now, some of these transcripts of the Prosecution, you
18 relied upon in your reports, didn't you?

19 A. I did.

20 Q. And you relied on some of those transcripts in helping you
21 to reach some of your conclusions, didn't you?

22 A. Some were supportive in my military view on the questions I
23 was asked.

24 Q. Now, coming back to your research, did you learn that
25 Ibrahim Bazzy Kamara was a commander of the AFRC faction after
26 the intervention?

27 A. Again, I read it in the transcripts.

28 Q. Bar the transcripts, you didn't hear?

29 A. I may have, but, again, reading so many transcripts and so

1 many witness statements, I think there I came across.

2 Q. And did you learn, through your research, that Santigie
3 Kanu, aka Five-Five, was a commander of an SLA faction, whilst in
4 the jungle?

5 A. No.

6 Q. Did you hear that he held any command position in the AFRC
7 faction after the intervention?

8 A. I read about it.

9 Q. Now, through your learning and your research, did you learn
10 that Alex Tamba Brima was ever referred to as a colonel or a
11 brigadier after the intervention?

12 A. I think Colonel Iron states him in one of his --

13 Q. Bar Iron's report and the transcripts you've read, from the
14 people you interviewed and the notes you took and your extensive
15 reading and research, did you ever come across --

16 A. Then the answer is no.

17 Q. What about Ibrahim Bazzy Kamara?

18 A. Same thing, no.

19 Q. You didn't hear about him being referred to as a brigadier,
20 after the intervention, or colonel?

21 A. Colonel or brigadier, no. I can't answer that, no.

22 Q. You don't remember reading about it?

23 A. Well, you specifically state not in the transcripts. Well,
24 certainly not in the TRC, certainly not in Keen, and certainly
25 not in my primary sources one to three and the active duty
26 officers.

27 Q. But did you learn, from your research, that it was the AFRC
28 faction which attacked Freetown in January 1999?

29 A. Yes.

1 Q. And did you learn, through your research, that Alex Tamba
2 Brima was a part of the AFRC faction which attacked Freetown
3 in January 1999?

4 A. My answer will be the same, sir, but I should bar Iron.
5 That's why I read it. Again, the transcripts, which I also
6 should bar. In the other numerous documents, that specific
7 question or fact, I have not come across.

8 Q. Okay. Did you learn that Ibrahim Bazzy Kamara was a part
9 of the Freetown invasion in January 1999.

10 A. If it's in line with your previous question, the answer is
11 no, sir.

12 Q. And what about Santigie Kanu, aka Five-Five?

13 A. The same thing.

14 Q. Who did you learn was a commander of the attack on Freetown
15 in February 1999?

16 A. I can only state that, if you mention February 1999 --

17 Q. I beg your pardon. I meant January 1999, the attack.

18 A. Yes, sorry. If you state January 1999, several names, I
19 came across. And I also came across statements that people said
20 it was chaos and it wasn't clear.

21 Q. But which names did you come across as leading the attack
22 on Freetown?

23 A. The most -- but, again, it was not an issue for me, but the
24 question I came across, after Musa died, and referring to -- Tom
25 Carew said it was chaos and there was no leadership at all, any
26 more, and that was stated also by DSK-0 --

27 Q. Witness, the question is: Did you learn? You don't have
28 to name the individual. That's all I need to know.

29 MR FOFANAH: Objection, Your Honours. It appears my

1 learned colleague is now changing his question. The question, as
2 it was initially phrased, assumed that the colonel knew that
3 there were names of commanders who came to Freetown. Now he's
4 changing it by posing another question, whether he learned that
5 people came. So we would like to know which question he's
6 putting to the witness. Initially he said, "What were the names
7 of the commanders who came to Freetown?" Now he's saying, "Did
8 you learn?"

9 PRESIDING JUDGE: Do you want to reply to that, Mr Agha?

10 MR AGHA: I thought I asked him in the specific sense
11 whether he heard the three accused came to Freetown. He said he
12 didn't hear of that. Then I thought I asked him, well, who did
13 he hear was the person who commanded the attack on Freetown.

14 PRESIDING JUDGE: All right. We overrule the objection.
15 Could you answer that question?

16 THE WITNESS: I'm sorry, Your Honour, I'm a little long in
17 my answer. The name that came across was FAT Sesay, who
18 succeeded. Then, again, I immediately deleted that and,
19 referring to your previous remark, I only want to state that --
20 did you come across those names, you specifically stated leave
21 out the transcripts and leave out Colonel Iron, and then my
22 answer was no.

23 MR AGHA:

24 Q. Okay, bar the transcripts and Iron, you didn't come across
25 anyone?

26 A. Your question was three times about bar Iron, bar the
27 transcripts, and then I look at TRC, I look at Keen, and I look
28 at my primary sources. And then, you know, that was not a
29 discussion, and it never came across to me. So that was my

1 answer.

2 Q. So you don't know?

3 A. No, the first question you asked in a role, the answer was
4 no, with the limitation of transcripts and Iron. And the name
5 you asked is a name that came up, I think, in DSK-082, who
6 mentioned FAT Sesay.

7 Q. And he mentioned he was in Freetown?

8 A. Excuse me, he mentioned that, after Musa's death, he,
9 apparently, took command, but, again --

10 Q. Well, we'll come to DSK-082 later. But that is his
11 opinion, essentially?

12 A. Apparently, yes.

13 Q. Thank you. Now, did you learn, through your research, that
14 after the SLAs were forced to retreat from Freetown by ECOMOG,
15 in January 1999, innocent civilians were killed?

16 A. Basically, I don't, because I -- my analysis really stopped
17 there where Iron stopped.

18 Q. Okay. So where actually does your analysis end; when they
19 get into Freetown?

20 A. When there is a total, apparently, collapse and then the
21 questions Iron posed, those answers were really -- those
22 questions were really answered by me, and then I didn't carry on.

23 Q. Essentially, anything else which Iron says in his report
24 about the withdrawal, you haven't commented upon?

25 A. No. Because the questions were answered.

26 Q. Okay. But did you read anything about the withdrawal?

27 A. I read a report by Iron and a bit in the transcripts.

28 Q. What about Keen? He covers it extensively; chapter 13, I
29 believe.

1 A. That's true, but Keen covered so many more areas than only
2 the military paragraph. He goes into diamond and illegal trade
3 and, you know, it's quite extensive.

4 Q. Yes, but bearing in mind the focus of your research, I
5 would have thought his chapter dealing with the attack on
6 Freetown would have been of far more interest to you than, say,
7 diamond mining or the political history, wouldn't it?

8 A. I covered Keen; thereby he covered the period
9 until February 1999. Then the questions were answered, and I was
10 done.

11 Q. But Keen also covers the attack on Freetown.

12 A. That's what I mean. But the attack ends, I think,
13 6 January 1999, so until then, my observation comes.

14 Q. But didn't you read in Keen about the crimes that were
15 carried out in Freetown during the attack and occupation?

16 A. I did.

17 Q. What kind of crimes did you read were carried out?

18 A. Keen gives a broad description of the effects of the attack
19 on Freetown, and that covers a lot of things.

20 Q. Does it cover burning of buildings?

21 A. It does.

22 Q. Does it cover rape of civilians?

23 A. I don't know if Keen is specific on that.

24 Q. Does it cover abduction of civilians?

25 A. I don't know if Keen states that.

26 Q. Does it cover killing of civilians?

27 A. I have to speculate, then I have to go back to Keen to see
28 exactly what Keen describes about the things you ask, because --

29 Q. Does it spring to mind -- this is obviously one of your

1 main sources.

2 A. Yes, he's a main source, but he's not a main source in the
3 things you're asking. He's a main source for me whether and to
4 what extent it was a traditional military organisation, and not a
5 source in how did the things evolve in Freetown, during and after
6 the attack.

7 Q. We'll come to Keen later, general. I will carry on from
8 here. I now actually want to look in more detail at the
9 particular research which you did carry out in order to reach
10 your conclusions. How many trips did you make to Sierra Leone in
11 order to assist you in writing your report? Could you just
12 remind me of that?

13 A. Three, including this one.

14 Q. The first trip, how many days was that?

15 A. Fourteen, approximately.

16 Q. And the second trip?

17 A. Sixteen days.

18 Q. This third one, were you able to carry out -- well, your
19 report had presumably been written, so you didn't --

20 A. It was, yes.

21 Q. In relation to these two quite extensive periods of time, I
22 think 14 and 16, it's about four weeks; is that right?

23 A. Yeah.

24 Q. In total. What scenes in relation to the content of
25 Colonel Iron's report did you visit?

26 A. In the countryside, you mean?

27 Q. For example, did you visit Koidu Town?

28 A. No. As I explained before the Court, I didn't do that
29 because I didn't see a need to do that.

1 Q. Did you go to Masingbi Road in Koidu Town, for example?

2 A. No. Again, I stated that I didn't go --

3 Q. That's fine, you can --

4 A. -- out of Freetown.

5 Q. Just yes or no. Oh, so you didn't go to Kailahun Town?

6 A. No.

7 MR FOFANAH: Objection. The question has been answered.

8 PRESIDING JUDGE: It's also been answered again,

9 Mr Fofanah. You can move on. He answered that question.

10 MR AGHA:

11 Q. Essentially, you did not go outside of Freetown, for the
12 purposes of writing your report; is that right?

13 A. That's right. There was no need for.

14 Q. Let me clarify this. You never went to Camp Rosos?

15 A. No.

16 Q. You never went to Colonel Eddie Town?

17 A. No.

18 Q. So you wouldn't know the distances where the various
19 defensive positions were based?

20 A. I know that defence position from ECOMOG was about 47 miles
21 from here when the advance --

22 Q. No, what I'm talking about is, let us say, for example, you
23 have to, in your report, address structures, command, control,
24 hierarchy. So if he were to take, let's say, Colonel Eddie Town,
25 you would have the headquarters and then you would have various
26 units based in defensive positions. So you wouldn't know how far
27 away those headquarters were from those various defensive
28 positions, would you?

29 A. I would. Out of the transcripts, I would.

- 1 Q. Out of the transcripts. What distances do they give?
- 2 A. From the headquarters to subordinate units, it varied from
3 two to five kilometres.
- 4 Q. According to all the information about distances you need
5 is covered in the transcripts?
- 6 A. No. You specifically asked me the question how was the
7 distance between the headquarters and the subunits. Now, in a
8 normal battalion structure, that would be the distance --
- 9 Q. No, I'm not talking about normal. I'm talking about in
10 this situation.
- 11 A. Yes, and, in this situation, it was stated by -- in the
12 transcript that it was covering that amount of kilometres.
- 13 Q. Okay. So, essentially, all units were within about a
14 five-kilometre range in Colonel Eddie Town, and would that be the
15 same in Camp Rosos?
- 16 A. I can't tell.
- 17 Q. Did you go to any of the scenes where the battles were
18 actually fought?
- 19 A. I did not.
- 20 Q. Did you walk the invasion route from -- coming into
21 Freetown?
- 22 A. No, I did not.
- 23 Q. What about the retreat? Did you cover the route taken
24 during the retreat?
- 25 A. I didn't physically travel that route.
- 26 Q. You would agree with me that you carried out hardly any
27 research in the field about the battles or the places which
28 Colonel Iron refers to in his report?
- 29 A. Yes, because I thought there is, and was, no need in

1 answering the questions that were posed to me.

2 Q. That's fine. You don't have to explain. Thank you. Now,
3 if we could look at the particular sources which you address, and
4 which form the basis of your report. Firstly, I want to look at
5 your primary sources. Would you agree with me that the primary
6 sources for your report are DSK-082?

7 A. Yes.

8 Q. The interview with number two and three on Exhibit D34?

9 A. Numerous interviews.

10 Q. Yes, and TRC-01?

11 A. Yes.

12 Q. And General Sam, correct me if I am wrong, Mboma.

13 A. That's correct.

14 Q. Now, before we come to those, I want to ask you about
15 statements. Now, how many statements did you personally take of
16 those involved in the conflict?

17 A. Can you rephrase who were involved in the conflict? Are
18 you referring to one, two and three?

19 Q. No, let us say from your sources. From any of your
20 sources, how many statements did you take? For example, you meet
21 with, let's say, TRC-01 and you take a note of what he's saying,
22 and then you meet, maybe, with Mr X.

23 A. Oh, yes. I understand. Well, I took numerous notes on the
24 several occasions in October and in March, April time frame with
25 one and two, extensively, and three, a couple of times.

26 Q. But roughly how many?

27 A. You know, DSK-082, it is more than ten that I, in the
28 period, met him, talked to him and took notes.

29 Q. Just pause there a minute. So would you say, of these

- 1 primary sources, DSK-082 is probably the one you used the most?
- 2 A. It was a combination, you see. DSK-082 and number two and,
3 also -- after my discussions with these two, they went to three
4 and talked to three. And I personally talked to three
5 extensively, as I recall, twice.
- 6 Q. Now, of those, in your footnotes to your report, you only
7 actually rely on DSK-082, don't you?
- 8 A. I do.
- 9 Q. Right. Now, of these statements, which you were taking as
10 you were doing your own research, how many of these were from
11 AFRC faction who were serving in the jungle with SAJ Musa after
12 the intervention?
- 13 A. They were not with SAJ Musa, but covered the
14 period February/May in the bush.
- 15 Q. But did you take a single statement from a member of the
16 SLA who formed a part of the AFRC faction with SAJ Musa in the
17 bush?
- 18 A. No.
- 19 Q. Okay. Following the intervention, DSK-082 did not retreat
20 further to Masiaka; is that right?
- 21 A. He stayed, indeed, in Masiaka.
- 22 Q. And he remained there for a few weeks, didn't he?
- 23 A. No, he stayed there for, as I recall correctly, four
24 months. I stated May, I think, he was leaving for Guinea.
- 25 Q. I suggest to you that he stayed there only for about a
26 couple of weeks; how would you reply to that?
- 27 A. We're still talking about 082?
- 28 Q. 082.
- 29 A. Yeah. No, 082 stayed in Masiaka area and an area a little

1 bit north, but basically stayed there from February till May
2 1998.

3 Q. You see, most of the AFRC faction who had left Freetown had
4 already left that area, so what was he doing there?

5 A. He didn't elaborate on that, to me.

6 Q. So presumably he was hiding, perhaps?

7 A. [No audible response].

8 Q. Okay. Essentially DSK-082 would not have any knowledge
9 about the AFRC faction in the jungle personally; would you agree
10 with that?

11 A. I don't -- personally, it depends how you describe
12 personally.

13 Q. What I'm saying to you: Was he with them, the AFRC faction
14 in the jungle?

15 A. No, he was not. No, he was not.

16 Q. So he could not personally observe how they were operating,
17 could he?

18 A. No, I don't agree with that.

19 Q. Well, if he wasn't there, how could he observe that?

20 A. Well, I explained earlier that DSK-082 moved to Guinea,
21 subsequently came back to Sierra Leone, and operated within the
22 Intel branch of ECOMOG. Now, I tell you that, if you do that,
23 military-wise, you do have information, or you must have
24 information about how the enemy, in that case the AFRC faction,
25 or other factions operate. If you operate in the intelligence
26 branch in Afghanistan, you better know how the Taliban is
27 operating. So, in my mind, no question about -- especially if
28 you can travel to the line where the forces are, sort of, coming
29 together, and you work in an Intel branch, you should know that.

1 Q. What happens if the intelligence is wrong?

2 A. Well, if the intelligence is wrong, then you may be wrong.

3 What I'm saying is --

4 Q. What I'm essentially saying to you, he wasn't personally in
5 a position to observe and see how the AFRC faction were operating
6 in the jungle; yes or no?

7 A. No. But you don't need that in order to establish your
8 view on how they operate.

9 Q. That's fine. Now, the notes of DSK-082, which you relied
10 on, can you remember some of those? I believe some of those we
11 -- tried to be admitted into the Court on the questions. Do you
12 realise that they were nearly all based on his opinions?

13 A. No, I don't agree with that.

14 Q. So if you reviewed those notes, you think he has factual
15 matters which he saw and observed with the AFRC faction?

16 A. I'm absolutely sure about that.

17 Q. I suggest to you that those notes were largely opinions
18 because he wasn't there at the time.

19 A. Then again, sir, going back to his position he held in the
20 intelligence branch, now, if you state that the AFRC faction was
21 not using radios, because of the fear of being discovered by
22 ECOMOG, DSK-082, in my mind, is in a perfectly good position to
23 know that.

24 Q. How would he know that? Was he asking them? Was he
25 communicating with them? Was he with the troops and say, "Guys,
26 let's not use the radio, because we could be found out." He
27 couldn't know that, could he?

28 A. He absolutely could.

29 Q. How? He wasn't there.

1 A. If you're working for ECOMOG and you listen in on
2 frequencies and radio transmissions, and there are none, because
3 out of fear of detection, you would come to the conclusion, in a
4 military sense, that they don't use the radios out of fear of
5 detection. That's what I want to say, and that's why he had the
6 knowledge.

7 Q. Okay. We'll come to the radio equipment later. Do you
8 regard DSK-082 as a reliable source?

9 A. I do.

10 Q. Do you realise he was investigated, pursuant to accusations
11 that he helped Johnny Paul Koroma escape from this country?

12 A. I don't know that.

13 Q. I suggest to you that DSK-082 is not a very reliable source
14 of information; how would you respond?

15 A. It's not my opinion, sir.

16 Q. Now, with regard to your source, number 2, and these are
17 your primary sources -- I'm not going to name his name, he's on
18 the exhibit, number 2 -- are you aware he was not with the AFRC
19 faction in the jungle after the intervention?

20 A. I was.

21 Q. Again, I would suggest to you that he has no personal
22 knowledge of how the AFRC faction operated, because he wasn't
23 with them?

24 A. I have a different opinion on that.

25 Q. How would he know what they were doing, how they operated,
26 if he wasn't with them?

27 A. Well, if you all go to the jungle, and you all stay there
28 at separate locations, you're all under the same conditions, and
29 you're all -- realise -- and you all come across the problems you

1 have to face in operating there. So I think you must have a
2 fairly good idea of what's going on.

3 Q. Yes, but it might not necessarily be an accurate idea,
4 might it?

5 A. No, but I think accurate enough, if you're all under the
6 same boat.

7 Q. Now, you mentioned number three, witness number three. He
8 was the other primary source. He had his own faction in the AFRC
9 group in the jungle after the intervention.

10 A. He did.

11 Q. Do you recall that? Now, do you know that number three's
12 group was not with SAJ Musa's group?

13 A. Yes, he had his own group.

14 Q. So he would not have any knowledge about how SAJ Musa's
15 group operated, would he?

16 A. My answer, sir, would be the same as number two.

17 Q. Now, another primary source is TRC-01, isn't it?

18 A. He is.

19 Q. Are you aware that a few days ago he gave sworn evidence
20 before this Court which contradicts almost wholly your
21 conclusions regarding the state of the SLA up until mid-1996?

22 A. I was. But I'd like to comment on that.

23 Q. I'm sure you will be given plenty of opportunity to comment
24 on that. I will actually deal with that witness later. Now, are
25 you aware that TRC-01 was never in the jungle with the AFRC
26 faction after the intervention?

27 A. I was.

28 Q. He, because he was not personally with them, could not tell
29 you how they operated in the jungle, could he?

1 A. I don't agree with that. Based on my previous remarks that
2 a man, and I'd like to make, if I am allowed, to make a later
3 comment on your previous statement, but --

4 Q. All these things you want to clear up or elaborate, my
5 learned friend will with you. You'll get your chance, don't
6 worry. So, anyway --

7 A. No, what I'm saying is, sir, that, honestly, in my military
8 belief, you know, in the legal sense, you may not have factual --
9 you may not be aware of the real effect, but a man as TRC-01, in
10 his position, his background, and the way, over the years, that
11 they have been talking to the men he is now serving with, it is,
12 in my mind, no doubt, no doubt, that he must have a good -- but
13 probably it's an opinion, but that's a legal issue, he has
14 knowledge of what's going on, of what went on.

15 Q. Even of a group which he's not with?

16 A. I gave the example in my own situation. Certainly people
17 at certain levels, and the information they have when they talk,
18 over the years, to their subordinates and colleagues, how was it,
19 how was it, how was the situation then, how do you describe it,
20 and, again, it may not be a fact in your court, but it is
21 knowledge a military man has. That's what I'm saying.

22 Q. Yes. So it's his opinion on what others have told him?
23 Others have told him things --

24 A. Yes, it's the difference between opinion and fact, you're
25 right. I hope I make myself clear.

26 Q. I understand in the military context. Thank you. Your
27 other primary source is General Sam Mboma. I have difficulty
28 with that name. You realise he was also not with the AFRC
29 faction after the intervention?

1 A. I do, sir.

2 Q. So, again, I'd suggest to you that he couldn't have any
3 personal knowledge about how the AFRC faction actually operated
4 in the jungle.

5 A. No, we have to do the discussion of my last over again.

6 Q. It's sufficient if you say the same answer.

7 A. Yes, same answer.

8 Q. And that would certainly apply to the general who you
9 provided your report to.

10 A. I don't understand that one, sir.

11 Q. I believe, when you finished your report, you passed it to
12 a Dutch general, just for him to have a look at; do you recall
13 that?

14 A. Yes, Frank Van Kappen, yes.

15 Q. He wouldn't have the personal knowledge?

16 A. No, not the personal knowledge.

17 Q. So you'd agree with me then that all, or none, of your
18 primary sources were actually with the AFRC faction in the
19 jungle, wouldn't you?

20 A. I agree with that.

21 Q. Okay. So you'd agree with me that none of them actually
22 had firsthand knowledge of what the AFRC faction was actually
23 doing in the jungle?

24 A. No, sir, I don't agree with that, and I can elaborate again
25 about DSK-082. But I hope I have made clear that, in my true
26 belief, he has been in a position to know -- to have known what
27 was going on.

28 Q. Even when he was in Guinea?

29 A. No, I'm referring to the period -- remember, the

1 period August 1997 onwards until the attack on Freetown, he was
2 operating on the ECOMOG side in the intelligence branch. From
3 that on, he must have information, whether you call it firsthand
4 information, but he was in a position to make comments on the
5 AFRC faction, no doubt.

6 Q. But would you regard the ECOMOG intelligence as being quite
7 good during this conflict?

8 A. At least the information I got, they were good enough, that
9 the AFRC faction tried desperately to stay out of their reach.

10 Q. So if their intelligence was that good, how was it, with
11 their superior forces, they were unable to estop the SLAs from
12 advancing from Colonel Eddie Town, which started in the end
13 of November, believe, all the way into Freetown, January 6, where
14 the SLAs were carrying out hit-and-run operations?

15 A. Now, the intelligence may be good, but that doesn't say
16 that the troops carrying out the orders on ECOMOG side are
17 handling the situation well.

18 Q. Or it may be, on the other hand, that the intelligence was
19 bad, mightn't it?

20 A. I can't comment on that.

21 Q. But it may be the case.

22 A. I don't know that. Maybe, yes.

23 Q. So you don't really know whether it was good or bad, do
24 you?

25 A. No, but what I'm saying is that if the information 082 is
26 supportive to what other primary sources say, who have been in
27 the same situation, and then you operate on the intelligence
28 side, the only thing I'm saying is that you know very well what's
29 going on.

1 Q. But if they knew so very well what was going on and they
2 had intelligence, how can you explain they were unable to stop
3 the SLA advance into Freetown, from Colonel Eddie Town? They had
4 jets, they had surveillance.

5 A. There may have been other reasons. I don't know.

6 Q. I suggest to you that the ECOMOG intelligence was not very
7 accurate and was not very reliable.

8 A. I don't agree with that.

9 Q. Now, you said during your evidence that you preferred to
10 speak to senior officers because lower ranks tend to exaggerate;
11 is that right?

12 A. No, sir, that's not what I said.

13 Q. But you had a preference for speaking to senior officers.
14 I thought you said they tended to take incidents out of context,
15 like when the media spoke to a marine in Iraq, you talk about
16 missions. Didn't you say that?

17 A. What I said is that the soldiers are often asked by media
18 to answer questions which are not within their scope, not within
19 their training, their background, and then often have the
20 tendency to speculate. That's what I said. I said that you need
21 to ask officers at the certain level about their -- well, how do
22 you say, certain difficult questions, you have to -- you
23 shouldn't ask a soldier, but you should ask the competent
24 officers.

25 Q. I believe you actually said you wanted the view of a
26 commander on the scene.

27 A. No, I used the command role scene in the court case we had
28 with one of my non-commissioned officers.

29 Q. So why did you choose to speak to senior officers in this

1 case?

2 A. Because if you talk about the fact whether some forces,
3 regular or irregular, with all the characteristics, whether you
4 talk about the questions Colonel Iron addressed, you should not
5 ask that, you should not ask hierarchy and structure to a lower
6 rank be. You should ask a battalion commander or a brigade
7 commander about that.

8 Q. But what use is that to you in describing the AFRC faction,
9 if none of these senior officers were actually a part of the AFRC
10 faction?

11 A. Can you rephrase that, please?

12 Q. None of the officers you spoke to were actually a part of
13 the AFRC faction in the jungle; is that right?

14 A. That's right.

15 Q. So what use would their views be on the structure and
16 hierarchy of the AFRC in the jungle if they weren't there?

17 A. Well, because I think two of them -- the last one, number
18 three, was in the same position.

19 Q. But he was never with SAJ Musa, was he?

20 A. That may be so, but he was in the same sort of position
21 SAJ Musa was in.

22 Q. But he had a different set-up than SAJ Musa, didn't you
23 know that?

24 PRESIDING JUDGE: Just let him finish, Mr Agha.

25 MR AGHA: I apologise.

26 THE WITNESS: Well, he may have had a different set-up, but
27 he can argue whether, and to what extent an organisation is
28 possible. Now, number one can clearly state from his knowledge,
29 in my mind, that it is unrealistic to set up certain

1 organisations while you're in a defensive position or while
2 you're in a guerilla.

3 Q. That's his assumptions and speculations and opinions, isn't
4 it?

5 A. Indeed.

6 PRESIDING JUDGE: All right, Mr Agha.

7 MR AGHA: Just one more question, before I can perhaps
8 move --

9 PRESIDING JUDGE: Is this on the same topic or something
10 different, otherwise we'll have lunch now.

11 MR AGHA: It is a final question on this topic, then we can
12 move on.

13 PRESIDING JUDGE: Go ahead.

14 MR AGHA:

15 Q. I have really just one more question you can give a yes or
16 no to. I suggest to you, therefore, your report, and the
17 conclusions in it are largely based on the assumptions and
18 opinions of others, who, with regard to the AFRC faction in the
19 jungle, were not personally with them at the time; would you
20 agree with that?

21 A. Not personally, but they had the position --

22 Q. It was based on their assumptions and opinions, wasn't it?

23 A. Yeah, but they had -- they were in a position to know,
24 and --

25 Q. But they were their assumptions and opinions; yes or no?

26 A. Well, their opinions.

27 Q. Thank you.

28 A. Except, and I keep rephrasing that, except for 082, because
29 I can go over it and over it.

1 Q. Certainly. We'll come to 082 after lunch.

2 A. Okay.

3 MR AGHA: Sorry, Your Honour.

4 PRESIDING JUDGE: We'll adjourn to 2.15. Once again,
5 general, you're not permitted to discuss the evidence with
6 anybody.

7 THE WITNESS: Yes, Your Honour.

8 [Luncheon recess taken at 12.47 p.m.]

9 [AFRC19OCT06C - MD]

10 [Upon resuming at 2.15 p.m.]

11 PRESIDING JUDGE: Yes, go ahead, Mr Agha.

12 MR KNOOPS: Your Honours.

13 PRESIDING JUDGE: Yes, Mr Knoops.

14 MR KNOOPS: I am sorry, before we continue, I would like to
15 make two objections as to the line of questioning by my learned
16 colleague on the basis of, first, that the last two questions,
17 and it may be proper to raise it at this moment were, in our
18 humble submission, for the expert and also in all fairness to
19 him, misleading and vague and one of the last questions was not,
20 I think, put in all fairness correctly to the expert because it
21 assumes non-facts which are actually in evidence.

22 Let me briefly explain this, Your Honour.

23 PRESIDING JUDGE: Well, just you go on, the questions have
24 been asked and answered. It's a little bit late to object to
25 them now.

26 MR KNOOPS: Your Honours, I'm trying to object but I can
27 also wait until the proper moment arises, if the Prosecution
28 continues, but, with respect to the last question, the
29 Prosecution have asked the expert whether or not his report was

1 based on assumptions or opinions. And I think in all fairness
2 the question should be rephrased and should be specified over the
3 primary and secondary sources, because I think it's not fair to
4 say that doctrines and transcripts, as such, can be qualified as
5 merely assumptions and conclusions.

6 JUDGE DOHERTY: Mr Knoops, I just want to make sure I
7 understand what you are saying. My note of that last question
8 was, based on an opinion, et cetera, not personally at the jungle
9 at the time. It was limited to that one aspect.

10 MR KNOOPS: Yes, that is exactly, Your Honour, what I mean,
11 because this is not what the evidence reflects.

12 JUDGE SEBUTINDE: Yes, but surely, Mr Knoops, the last five
13 questions involved certain individuals who were primary sources.

14 MR KNOOPS: Correct.

15 JUDGE SEBUTINDE: And this last question must be taken in
16 the context in which it was given. Meaning it referred, it
17 related to the last -- to the primary sources, those individuals
18 that had all the pseudonyms, remember? Those individuals, that
19 question related to those individuals. And, in any event, it was
20 asked and I think the witness understood it in that context and
21 answered it in that context.

22 MR KNOOPS: Your Honour, if I briefly may remark that the
23 Prosecution put it to the expert that number 3 was never with SAJ
24 Musa's group. And that is not a fair way to put it to the expert
25 because there is evidence before this Court which reflects
26 otherwise. That is what I'm trying to say. And you may say that
27 we should have objected at the proper moment, but I merely want
28 to draw the attention of the Court to the fact that some of the
29 questions were not put in an accurate form to the expert. And

1 the expert I think should be properly informed when it concerns
2 the factual background which is put to him. Thank you.

3 JUDGE SEBUTINDE: In any event, these were questions asked
4 and answered.

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

6 JUDGE SEBUTINDE: There is nothing we can really do that
7 now to change.

8 JUDGE DOHERTY: And, Mr Knoops, you have a right to
9 re-examine.

10 MR KNOOPS: Thank you, Your Honour. I apologise for the
11 interruption.

12 PRESIDING JUDGE: Go ahead, Mr Agha.

13 MR AGHA:

14 Q. General, just before we broke for lunch we were looking at
15 the primary sources of your report so I would now like to look at
16 each of your secondary sources in turn. Now, I will firstly deal
17 with transcripts. Now, you say that you've read a large number
18 of transcripts of Prosecution witnesses; is that right?

19 A. That's correct.

20 Q. Roughly how many transcripts was this?

21 A. This is a rough estimate but I think I read close to 20 or
22 more transcripts over the period May till October 2005.

23 Q. And in your report you refer to four transcripts as
24 footnoted. I don't know if you can recall but we have TF-334 --

25 A. Yes.

26 Q. -- 184; 167; and 033. Now, would you agree with me that
27 out of all the other transcripts these were the only ones which
28 dealt with the AFRC faction whilst it was in the jungle?

29 A. I honestly don't know. The amount was immense, so I really

1 can't answer that one for sure.

2 Q. Well, I would suggest to you that those were the only four
3 transcripts which had people actually operating within the AFRC
4 faction during the jungle period; what would you respond to that?

5 A. It could be true, yes.

6 Q. Now, which other Prosecution witnesses did you read? Well,
7 essentially, those were the only ones you read who were in the
8 jungle at the time. Okay. Thank you. Now, are you aware that
9 since the Defence aspect of this trial has started that perhaps
10 around 12 other, either serving or former serving members of the
11 SLA, who were with the AFRC faction in the jungle, have given
12 evidence at this trial?

13 A. No, I'm not aware of that.

14 Q. And you haven't been provided with any of those
15 transcripts?

16 A. Well, you see, I had to file the report, or I had to submit
17 my report at a certain date, and then I didn't look into any
18 other transcripts any more.

19 Q. But the first accused, who was a serving member of the SLA
20 and is, in fact, accused of being one of the leaders in this
21 faction gave evidence in June of this year before your report was
22 submitted.

23 A. I didn't read it.

24 Q. And would you agree with me that it would have been helpful
25 for you to had the opportunity to read those transcripts of the
26 Defence witness before you compiled your report?

27 A. I really can't say, you see, because I was absolutely
28 assured with the information I had that I had enough to base my
29 report on.

1 Q. But, if, let us say, some of the evidence under oath of
2 these 10 to 12 former SLAs, who were with the AFRC faction, had
3 given evidence against some of your conclusions, you would agree
4 with me that it would have been helpful to have been privy to
5 that information?

6 MR FOFANAH: Objection. Counsel is requiring the witness
7 to conjecture. He prefaced the question with "if."

8 PRESIDING JUDGE: What is your reply to that?

9 MR AGHA: I'm just suggesting if he had had the other
10 relevant information available, in all fairness to the expert,
11 I'm suggesting his opinions might have differed.

12 PRESIDING JUDGE: Yes. And my recollection is that a party
13 is allowed to ask an expert a hypothetical question. I overrule
14 the objection. You go ahead.

15 MR AGHA:

16 Q. So I accept that your report was based on the information
17 which you had available at that time when you wrote it; okay?

18 A. The information that was available to me until the time,
19 roughly, I submitted it.

20 Q. And would you agree with me that if you had been provided
21 with other information, which also would have dealt with the
22 areas which were covered in your report, that may have led you to
23 change or modify some of your conclusions?

24 A. Well, never say never, but I was also convinced because
25 Colonel Iron supported my vision in many ways. So it may have,
26 but I doubt it.

27 Q. Okay. Now, of these witnesses, former SLAs who gave
28 evidence in this trial, who were with the AFRC faction in the
29 jungle, were you ever invited to meet with them and take their

1 views, regarding the faction, by the Defence?

2 A. No.

3 Q. So, they were not made available to you?

4 A. Well, again, I thought that I had enough information on
5 these transcripts, whereby I must say that it was not only the
6 AFRC, but also the RUF, sort of, otherwise we're limited to only
7 the four and, as I recall, there were a couple more, but I found
8 that, after such lengthy statements, I thought I had a good
9 picture, and it was enough for me.

10 Q. Okay. But didn't you consider it important to speak to
11 members of the AFRC faction in the jungle with SAJ Musa yourself
12 to get your own independent view of events?

13 A. Well, it didn't occur to me since they and the people you
14 referred to already had given their complete statement in Court.

15 Q. But, you see, these were Prosecution witnesses, so that
16 statement may have been slanted in a particular way. Did you not
17 consider it important that you should go and speak some of the
18 other people personally involved in the faction to see what their
19 perspective would be?

20 A. I really didn't know that that was a possibility for me.

21 Q. Because, in an adversarial proceedings, witnesses who come
22 from the other side may very well have different information
23 regarding witnesses who come from the Prosecution side; did you
24 know that?

25 A. Yes, but I was not aware about the possibility, for me, to
26 sort of call, by myself, all the witnesses from the Prosecution
27 and do my own investigation. I didn't know that.

28 Q. But the person who instructed you to compile your report,
29 he didn't suggest to you that there are these members of the SLA

1 you may be interested in speaking to to assist you in coming to
2 your conclusions in your report?

3 A. It didn't -- it didn't -- it wasn't an issue.

4 Q. And it didn't --

5 A. It didn't occur.

6 Q. But it didn't cross your mind to ask, either?

7 A. Again, I thought -- you know, not being aware of all the
8 procedures in the Court, I thought, well, these are witnesses for
9 the Prosecution, and don't touch them.

10 Q. Okay. Now, I believe you said that it is important to
11 speak to people who were actually in -- or did you consider it
12 important to speak to people who were actually in the AFRC
13 faction so that you could form an opinion of their modus operandi
14 on the ground?

15 A. Well, absolutely. And that was the reason why I went to
16 Joe Blow.

17 Q. But he wasn't a part of the AFRC faction?

18 A. No, he wasn't, but then I was further referred to Major
19 General Sam Mboma, and I asked him specifically, and I'm in the
20 opinion that it would not have taken him long to line up
21 lieutenant-colonels, colonels who would have been in the AFRC,
22 even stronger, who would have been with SAJ Musa. And, as I
23 stated before, to my great disappointment but also amazement, he
24 said there's none available in the current SLA.

25 Q. But the people who instructed you to write your report
26 could have made ten to 12 people, couldn't they?

27 A. I beg your pardon, sir?

28 Q. The lawyers who instructed you to prepare your report, if
29 they had wanted to, could have made ten or 12 former members of

1 the SLA faction available to you, couldn't they?

2 A. Well, I can't answer that. What I was looking for, really,
3 was to talk to some people who now have positions in the SLA who
4 could tell me, "I was there," and tell you from firsthand how it
5 was. Now, I could have talked to ranks, probably, but I was
6 looking for the --

7 Q. I am sorry to interrupt you here, general, but the people
8 you spoke to weren't there as part of the AFRC faction, were
9 they?

10 A. Well, the primary sources we have been dealing with, I
11 think.

12 Q. Yes. So, then, as they weren't there, would you not have
13 thought it instructive to at least get the opinion or statement
14 of fact from those people who were with the AFRC faction to find
15 out from them how the modus operandi worked firsthand?

16 A. But then, again, it would have given me not the answers I
17 was looking for in the things I described in my report. You
18 know, I would have gone down to maybe little nitty-gritty soldier
19 information I was not looking for.

20 Q. And I may be wrong, but I believe that the study of
21 organisations, this is what you say, modus operandi and the way
22 it performs on the ground, is one of the best ways to evaluate
23 it, isn't it?

24 A. Yes, but that doesn't relate to the people I wanted to talk
25 to. I had enough information, in my mind.

26 Q. But don't you think it would have been more important, as
27 you say, to study the modus operandi to speak to those people
28 involved in that modus operandi?

29 A. Well, you know, I may have come across someone in the

1 office here and there, but, again, we have to realise that,
2 concerning the modus operandi, Colonel Iron and I agreed. And I
3 got information, so, you know, for me, that case was closed.

4 Q. So, according to you, just by -- well, actually by not
5 speaking personally to anybody who was a part of the AFRC faction
6 in the jungle, you were able to build up an accurate picture of
7 their modus operandi?

8 MR KNOOPS: Objection, Your Honour. The general has stated
9 that number 3 was part of the AFRC faction is a misleading
10 question.

11 PRESIDING JUDGE: What do you say to that, Mr Agha?

12 MR AGHA: I can very easily rephrase it.

13 Q. So if you spoke to no one with SAJ Musa's group as part of
14 the AFRC faction, would you agree with me it would be very
15 difficult for you to build up an accurate picture of how the AFRC
16 faction under SAJ Musa operated by way of modus operandi?

17 A. No, not in the least.

18 Q. And that is quite possible to do without speaking to anyone
19 who is part of that group?

20 A. Absolutely.

21 Q. And what about if those people who are giving you their
22 information about the group were incorrect, because they weren't
23 there?

24 A. But then again, I was supported by the view of
25 Colonel Iron.

26 Q. I am asking you personally, because it's your report.

27 A. Yes.

28 Q. And obviously these are your opinions which you are
29 adhering to.

1 A. Yes.

2 Q. Based on the facts which you found out.

3 A. Yes.

4 Q. So how would it be possible for you to build up, yourself,
5 an accurate picture of how a group operated if you didn't
6 actually speak to any of the members of that group yourself,
7 during the operations?

8 A. Well, one of the ways to do it was reading through the TRC
9 for example.

10 Q. But if the TRC was, and we will come to that later, based
11 on opinions, then if those opinions were wrong, then any finding
12 would be inaccurate, wouldn't it?

13 A. I can't say that, but that's what I based it on, among
14 others.

15 Q. Right. Now, we'll come to the TRC report, which is your
16 next secondary source; is that right? It is at least one of
17 them?

18 A. Okay.

19 Q. Now, your report relies quite extensively on the TRC
20 report, doesn't it?

21 A. In parts, it does. In parts, it does not at all.

22 Q. But you would say, roughly, 200 footnotes out of 300 is
23 quite a large part?

24 A. Yes, but not if you take into consideration the question I
25 asked relating to questions in the report.

26 Q. Okay.

27 A. It is a lot of background information, not necessarily
28 relating to the questions I posed.

29 Q. Okay. Now, at page 5 in your report, paragraph 6, I quote

1 that, because perhaps it might jog your memory, you even state
2 that the TRC report merits special attention, don't you?

3 A. Yes.

4 Q. And according to you, the TRC report draws on 7,706
5 statements, doesn't it?

6 A. Yes.

7 Q. Now out of these 7,706 statements, the number given by
8 members of the AFRC faction of the SLA remained low, didn't it?

9 A. I quoted a lot of senior military officers.

10 Q. But my question to you is out of this 7,706 statements
11 given by members of the AFRC faction, in the jungle, remained
12 low?

13 A. No, I cannot say that because there are numerous, numerous
14 statements made in the TRC, which I can't directly relate to AFRC
15 one faction or another faction.

16 Q. So you wouldn't even be able to tell whether a particular
17 statement related to RUF, AFRC or any particular faction at all?

18 A. Well, sometimes it's -- when it's about the general way
19 things happened in the bush, then it may be broad, yes.

20 Q. You see, because your report is concentrating on the
21 activities, by and large, of the AFRC faction in the jungle after
22 the intervention, structures and hierarchies, et cetera. Now,
23 I'm suggesting to you that hardly anybody gave testimony in the
24 TRC Commission who was a part of that faction?

25 A. I don't know that.

26 Q. I would suggest to you the number was absolutely minute.
27 Would you have any comment on that, or you just --

28 A. No, I don't know.

29 Q. Those statements, which were given before the TRC, how were

1 they conducted and what were the proceedings?

2 A. Well, I can't recall. I don't have any recollection how
3 the TRC operated, other than a lot of the statements I have seen
4 and quoted were statements directly given in special sessions
5 before the TRC. Now, how that worked, I don't know.

6 Q. So you don't know whether it was just a question and then
7 an answer, a question and then an answer?

8 A. There were testimonies I have seen in question and answer,
9 but there were also many testimonies, especially the more senior
10 people, who gave testimony as a statement. They gave their
11 statement. I think they were given the opportunity to give a
12 statement and then there may have been questions and answer
13 afterwards.

14 Q. But usually they would have been specific questions. For
15 example, Brigadier Kelly Conteh spoke about the 1972, I believe,
16 trials and executions; is that right?

17 A. Well, he may have. But I quote Kelly Conteh more in the
18 later periods in the 1991, 1997 time frame, but I can't look.

19 Q. But, essentially, he was writing a paper, wasn't he, or
20 presenting a paper?

21 A. Well, the way I have seen it in the TRC is that, initially,
22 the people like, for example, Tom Carew was invited to give a
23 presentation for the TRC and then subsequently people were able
24 to ask, or the commission was able to ask him questions.

25 Q. So the information actually obtained from a person who
26 appeared before the TRC will be based on the questions he was
27 asked; would you agree?

28 A. I can't -- I can't answer that.

29 Q. Well, let's put it hypothetically. If those who were asked

1 to speak before the TRC were hardly asked any questions about the
2 activities of the AFRC faction in the jungle, after the
3 intervention, the TRC report wouldn't cover this area, would it?

4 A. Well, they covered --

5 Q. It's more a simple -- it either would or wouldn't, if these
6 people were not asked those questions?

7 A. Well, if they weren't asked the questions they obviously
8 didn't answer it.

9 Q. So the TRC report then couldn't make any comment on that?

10 A. Well, I don't know. That may be a conclusion. I don't
11 know.

12 Q. If that was the case, I'm saying.

13 A. Yeah.

14 Q. Now, these statements given before the TRC were not given
15 under oath, like you are giving evidence today, were they?

16 A. I don't think they were.

17 Q. And they weren't tested by cross-examination, like I'm
18 asking you questions today, were they?

19 A. They may have been asked, but not in a setting like today.

20 Q. Now, a number of those statements contained the opinions of
21 those who made them, didn't they?

22 A. Yes, but also, a number made statements about the actual
23 way of the way they have experienced things.

24 Q. But you would agree with me that some of those who gave
25 statements may have been given inaccurate statements in order to,
26 perhaps, blame others for their own shortcomings?

27 A. Not likely in the issues I was looking for. That may be
28 the case in individual things the TRC discussed, but I was not
29 looking for that. I was looking at the modus operandi, so I

1 don't see a relation in my blaming other ones.

2 Q. But you can't, let us say, put it this way, necessarily say
3 that those statements were accurate, can you?

4 A. You know, I have reason to believe that the statements made
5 by the very senior people, or the people who actually stated what
6 they have experienced themselves were right. I can't.

7 Q. I will just, by way of example, read one of these, which is
8 incorporated in your report. If I may just read it, and it's
9 on page 47 of your report, or number 18930. It's paragraph 86.

10 We are talking about tactics deployed. This is one of the
11 quotations, and I have a citation from here from the TRC report.

12 I will read it for you, slowly:

13 "Tactics deployed by the AFRC troops, which
14 included the removal of the ballastic controls
15 on their personal weapons to amplify the "bang"
16 upon firing a bullet, played a major part in
17 instilling a sense of fear into their
18 adversaries and in convincing any group they
19 encountered, whether civilian or military, that
20 their fighting forces were more formidable and
21 of greater combat prowess than actually was the
22 case. Moreover, their numerical strengths was
23 bolstered by the addition of thousands of
24 abductees to their ranks as they advanced to
25 Freetown. The eventual size of the entourage
26 that descended upon the city from the
27 surrounding hills has been estimated at up to
28 10,000 persons - among them were captive senior
29 citizens, women, children and newborn babies,

1 who in normal circumstances could not
2 conceivably pose any threat to a professional
3 peacekeeping force like the Nigerian ECOMOG
4 deployment, but who in the prevailing confusion
5 and panic of the moment constituted a deluge of
6 hostile bodies onto the city they were supposed
7 to be protecting. Several accounts from both
8 combatants and non-combatant civilian captives
9 attest that key strategic positions on the path
10 into Freetown were left exposed or abandoned by
11 ECOMOG soldiers. The most poignant example
12 seems to have been the desertion of the long,
13 narrow bridge at Waterloo, which as a river
14 crossing with very little prospect of cover
15 from attack had been foreseen by many members
16 of the entourage as a probable point of ambush
17 to thwart the advance into the city in its
18 final stretch. However, as testimony before
19 the Commission indicates, there was apparently
20 no resistance whatsoever to the attackers'
21 march over the bridge, which suggests either a
22 failure to acquaint with the topographical
23 features of the route into the city, or an
24 ill-fated miscalculation on the part of ECOMOG.
25 ECOMOG reports indicate that a pull back became
26 imperative following the massive numbers of
27 civilians accompany the attacking forces.
28 There would have been too many civilian
29 casualties had ECOMOG attempted to forcefully

1 halt the invaders."

2 Now, that is at footnote 185, which is a citation from the
3 TRC report. I also now read you a number of extracts of Defence
4 witnesses given under oath in this trial, relating to the above
5 statement. In particular, regarding this massive deluge of
6 bodies that were descending on Freetown. This was given by
7 witness code named DBK-037, pages 33 to 34. It starts at line 9
8 on page 33, and it proceeds to line 11 on page 34. The date is
9 4 October 2006. He is being questioned about the advance to
10 Freetown. This is what he says.

11 "Q. Thank you. Can you tell whether these
12 people, these aunts, sisters, brothers,
13 mothers, whether there were few or many?

14 "A. There were many, there were many.

15 "Q. Yes. When you were moving to Freetown,
16 where were these people, civilians?

17 "A. The civilians were at the back, rear, at
18 the headquarter. The headquarter took care of
19 them.

20 "Q. Mr Witness, was there any time when you
21 put the civilians in front of you when you were
22 going on any attack?

23 "A. No, sir.

24 "Q. I want to ask you specifically after Jui
25 Junction. Did your troops put the civilians
26 ahead of the -- let me go back again. You said
27 that the troops that were attacking were led by
28 who?"

29 Then it carries on a little bit I pick up at line 28.

1 "Q. Thank you. When you were coming in that
2 way, where were the civilians?

3 This is on page 34.

4 "A. The civilians -- each time we moved, the
5 civilians were at the rear; about three or four
6 miles away from us.

7 "Q. Specifically, when you were coming into
8 Freetown, did you put the civilians ahead of
9 you from Hastings coming into Freetown? Did
10 you put them ahead of you when you were going
11 to attack ECOMOG?

12 "A. It never happened.

13 "Q. Did you mix the civilians amongst the
14 troops when you were going to attack?

15 "A. We never mixed civilians with armed
16 soldiers because it was a purely military
17 operation."

18 Now that is one member of the AFRC faction who was
19 describing before this Court the attack on Freetown and there are
20 numerous examples and obviously these are witnesses you haven't
21 had the opportunity to read the testimony of. And I will now
22 read you one more. And this is witness DBK- 012, page 79 and 80
23 and it's 6 October 2006. And I will read from line 8 on page 79.
24 Through to line 13 on page 80. And this witness was again one of
25 the AFRC faction advancing to Freetown.

26 "Q. At that time, the time when you said you
27 divided yourselves into two groups, one went by
28 the Old Road and one went by the New Road,
29 where were the civilians that were with the

1 headquarters group?

2 "A. Well, when we were coming into the city we
3 left the civilians up on the Lion Mountain. We
4 were trying to secure them because we knew we
5 were advancing into an area, the city area,
6 that was built up. We didn't want any
7 civilians to die through these arms, because as
8 soldiers, we have signed for lives, civilian
9 lives and properties and our intention, that we
10 were coming with, was to reinstate the national
11 army. So we left the civilians, the ones that
12 were with us, behind in the Lion Mountain and
13 we came into the city and we launch an
14 offensive attack.

15 "Q. All right. Thank you, Mr Witness.
16 Mr Witness, is it true that after the area you
17 refer to as SLPMB, you put the civilians in
18 front of you to march into Freetown?

19 "A. No, sir, it wasn't like that, sir. The
20 civilians were at the back. The fighting
21 forces were in front.

22 "Q. Do you know what is referred to as a human
23 shield?

24 "A. Well, I've a little understanding over it.
25 I do not have a very deep understanding in
26 that.

27 "Q. What do you understand? Tell the Court.
28 Let me not put it to you.

29 "A. Well, I what I understand is that we were

1 using the civilians in the front and we are
2 behind and we pushed them to the enemies.
3 That's the idea that I have and that doesn't
4 mean that we did that.
5 "Q. Thank you. You say you did not do that?
6 "PRESIDING JUDGE: I didn't hear your question,
7 what was your question?
8 "MR MANLY-SPAIN: My question now: Are you
9 saying that you did not do that?
10 "PRESIDING JUDGE: His answer was 'not at all.'
11 "THE WITNESS: No."

12 Now, these are just two examples that witnesses have given
13 since you've actually given your report, and they have been given
14 in this Court under oath. Now, would you agree with me that, if
15 those witnesses were to be believed, this version of 10,000 or so
16 civilians descending on Freetown, as quoted by the TRC, may well
17 be inaccurate?

18 A. It may have been. However, it would not have changed my
19 position on command and control and difficulties I was addressing
20 in the study.

21 Q. No, that really wasn't my question.

22 A. No.

23 Q. What I'm suggesting to you is it may very well be an
24 inaccurate statement, mightn't it? Yes?

25 A. Well, when there are two versions, and they differ, then I
26 cannot say.

27 Q. One version, I suggest to you, is by people who were a part
28 of the group and, the other version, I believe, was by -- I have
29 to look up what the source for that is -- but I would actually

1 say to you that it was from an SLPP government apologist or a
2 member of ECOMOG for their failure to defend the city.

3 MR KNOOPS: Your Honour, I object to the question. The
4 Prosecution again is trying to elicit an answer from this expert
5 on the credibility of either witnesses presented before this
6 Court, or evidence presented before the TRC.

7 PRESIDING JUDGE: Do you want to reply?

8 MR FOFANAH: Respectfully, Your Honours, just before he
9 replies, in addition to that, I also object on behalf of the
10 second accused on the grounds that there is nothing to suggest
11 that the 10,000 or so reference made in the TRC report, the
12 person who made that statement, or the group of people who made
13 the statement were not, in fact, members of the AFRC faction.
14 That has not come clear. We don't know who the statement-makers
15 were. My learned colleague is merely inferring that whoever made
16 that statement may not have been an AFRC faction, but he has not
17 laid any foundation for that.

18 PRESIDING JUDGE: Do you want to reply, Mr Agha?

19 MR AGHA: I am not sure that I have to lay any foundation,
20 necessarily.

21 PRESIDING JUDGE: No. The comment I would make is the
22 examples you have given are already sworn evidence. They are
23 there for the Court to either reject or accept. If the Court,
24 for instance, accepts them, then it must logically follow that
25 the TRC evidence can't be accurate. On the other hand, if the
26 Court rejects them, then the possibility remains that the TRC
27 evidence is accurate. But I really can't see how questioning
28 this witness as to those available options takes the position any
29 further.

1 MR AGHA: It's just a suggestion, Your Honour, that the
2 actual document he is relying on, which forms a large part of his
3 report, may not be entirely accurate.

4 PRESIDING JUDGE: That's just what I said.

5 MR KNOOPS: Isn't that a matter of speculation which the
6 Prosecution is asking for and from this expert? And this expert
7 is not here to speculate on the accuracy of either the TRC report
8 or the credibility of Defence witnesses. It is for this witness
9 the starting point of his report and he has no judgement call
10 about the question whether this is the ultimate truth. So in my
11 humble submission the Prosecution should be prevented from asking
12 this witness any further comments on examples given by witnesses
13 before this Court vis-a-vis statement before the TRC.

14 PRESIDING JUDGE: Well, seeing Mr Knoops has had two bites
15 of the cherry, you may as well have another reply yourself but
16 this will be the last one.

17 MR AGHA: Okay, Your Honour. With regard to the expert
18 witness, he studied a number of Prosecution statements, and that
19 was all that was available to him. Now, part of the purpose of
20 the cross-examination is to show that what he has relied on may
21 not be entirely accurate, which vis-a-vis his sources, but
22 another purpose is also by reading the new evidence which the
23 witness did not have a chance to digest, to suggest to him that
24 had he been aware of such new evidence would it have changed his
25 opinion?

26 PRESIDING JUDGE: I think that is a perfectly valid
27 question. If that is the question you are putting to him then I
28 will overrule the objection.

29 MR AGHA:

1 Q. So, Mr Witness, if you would have heard or had the
2 advantage of reading those couple of transcripts would that have
3 changed your opinion at all about the manner in which Freetown
4 was attacked?

5 A. It would not have changed my position on the hierarchy and
6 structure issue, and that's what it relates to. I can't look at
7 it but it has to relate, but how do you control a force? No
8 matter whether the men, elderly women and children are at the
9 back, at the front, I am happy to hear that they were not at the
10 front, but the only thing I want to say is that if you do that,
11 if you accompany civilians with you, it's in my military view
12 impossible to command the force, and that is the point I was
13 going to make. So I can't again say who is right or wrong but if
14 you take civilians and youngsters and elderly along, no, that
15 wouldn't change the question I tried to answer, sir.

16 Q. But wouldn't it suggest that there was at least some attack
17 at structuring the movement so that the fighting forces went
18 ahead and civilians remained behind so they would be protected?

19 A. Yes, but even then said, that is not going to make your
20 handling of a force easier when you have to continuously take
21 care or keep in your mind all the people who are accompanying the
22 force, even if they are at the back, so --

23 Q. No, no, this comes back to span of command and chain of
24 command --

25 A. Yes.

26 Q. -- which we will address later.

27 A. Yes.

28 Q. But this is just one example. I am going to go through
29 your report to you, to say that had you had the hindsight of some

1 of the evidence which has come out, whether or not one chooses to
2 believe it, you may have reached a different conclusion. I mean,
3 this is just one aspect and, as we go along, other aspects will
4 come out and then we will see at the end whether it may not
5 change your conclusion, perhaps modified those conclusions?

6 A. Yes, sir.

7 Q. Okay. Now you refer to various excerpts of statements
8 quoted in the TRC report as well, don't you?

9 A. Excerpts, in the --

10 Q. Excerpts, not the full statement but --

11 A. Yes, I did.

12 Q. Now, did you read the entirety of all the statements whose
13 excerpts you quote?

14 A. Yes. I, when I came to a certain topic I read through it
15 all.

16 Q. But, you see, there is a footnote which would say it was
17 from this source, this statement.

18 A. Yes.

19 Q. Did you then go and find that statement and read it in its
20 entirety?

21 A. At times I did, but not all the statements were available
22 in the electronic version. Now you can go, I think to, I don't
23 know the archives, but apparently that is a mission impossible.

24 Q. So would you agree with me that in statements where you
25 took excerpts, but where you were unable to read the whole
26 statement, later on in the statement it may have actually
27 contradicted the excerpts which you relied upon?

28 A. I doubt it.

29 Q. But you wouldn't know, would you?

1 A. No.

2 Q. Now I want to turn now to another source, I am not sure of
3 the order, but it's David Keen and it's Conflict and Collusion in
4 Sierra Leone. And this was another secondary source; right?

5 A. Yes, sir, it was.

6 Q. Now you also rely on extracts from David Keen's book
7 Conflicts in Sierra Leone. Now, have you read the book entirety?

8 A. I think I had to read it three times.

9 Q. Okay. But David Keen is not a military expert, is he?

10 A. No, not a military expert.

11 Q. And David Keen's writings are more concerned with human
12 rights violations during conflict, aren't they?

13 A. And economical affairs, I guess.

14 Q. Yes. So would you agree with me that David Keen's book is
15 primarily a study of violence and economical affairs during the
16 conflict?

17 A. In general, that's a correct statement, I guess.

18 Q. And did you have occasion to speak to David Keen to discuss
19 his book before you prepared the report?

20 A. No, sir.

21 Q. And on page 6 of Keen's book he refers to the sources on
22 which he based his book. I will read a few of these sources for
23 you. These are found at page 6, number 2. Okay, these are the
24 sources on which Keen relied upon in order to write his book.

25 "Part of the purpose of this book is to
26 contribute to the process of documenting and
27 understanding human rights abuses in this war.
28 The study is based on grey literature, local
29 newspapers, published books and journals and

1 extensive interviews with diplomats, donors,
2 aid workers, civil defence representatives,
3 soldiers, RUF fighters and abductees, civil
4 servants, students, businessmen, human rights
5 activists and Sierra Leoneans from many other
6 walks of life. Many were interviewed after
7 they were forcibly displaced."

8 Now, did you have a chance yourself to review any of these
9 sources which David Keen relied upon?

10 A. You mean the sources that were provided to David Keen?

11 Q. Yes.

12 A. No, sir.

13 Q. Okay. Now you'd agree with me, then, that you were not
14 able to check the accuracy of Keen's sources?

15 A. No. Formally, no.

16 Q. And I believe Keen even himself admits that not everyone he
17 spoke to was telling the truth or even remembered events
18 accurately; is that right?

19 A. Well, I can imagine that statement because it's sort of in
20 line of the statement I made in my report, why not assessing the
21 campaign, because you cannot reconstruct after so many years all
22 the events that took place. So I can imagine that Keen makes a
23 remark, you cannot, even if you talk to so many people, you
24 cannot always come back to how it really happened.

25 Q. What he actually says is that, and this is in his book at
26 page 6, I believe, it is:

27 "Interviewees described their own experiences
28 of the war and offered their perceptions of its
29 dynamics. Clearly not everyone was telling the

1 truth, or even remembering events accurately,
2 but my intention has been to listen carefully
3 to them to try to understand events from their
4 point of view. To contextualise what people
5 have said and to give as accurate a picture as
6 I can through the accumulation of stories and
7 detail. All this certainly does not add up to
8 a complete explanation of the war. A different
9 set of people would yield a different story. I
10 have tried to use common sense in the
11 presentation and interpretation of accounts,
12 corroboration through accumulation of accounts
13 and cross-checking, but in what Paul Richards
14 has called the Fog of War, a book like this is
15 a record of perceptions, interpretations and
16 obfuscations as much as it is about facts."

17 So, looking at that, would you agree with me that many of
18 the actual findings, in Keen's book, may not be entirely
19 accurate, depending on the truth or not of his sources?

20 A. I think in general that's fair to state. He cannot be 100
21 per cent correct in all the things he is saying.

22 Q. And if you are relying on Keen's book, and some of his
23 sources, this would, in turn, make your report less reliable if
24 Keen's sources were not entirely accurate, wouldn't it?

25 A. I wouldn't say that because, you know, there again I have
26 to see exactly where I quote Keen. Now, if I quote Keen for the
27 historical part, that is one thing. If I quote Keen for the way
28 the campaign was running, it's another thing. But the question
29 is only answerable if I look into directly the footnote, or the

1 text from Keen, into the question at hand. And, otherwise, I may
2 have used some of his information which is correct or not correct
3 but then I have to see whether it relates to the question at
4 hand.

5 Q. Right. And according to Keen the SLAs and RUF had been
6 collaborating much before the coup in May 1997, hadn't they?

7 A. That's what I've read.

8 Q. So according to Keen, the AFRC government was continuation
9 of the collaboration between the RUF and the SLAs which had been
10 going on before the coup, wasn't it?

11 A. If he states it then it's his opinion.

12 Q. Right.

13 A. And I recall that I read it.

14 Q. Right. Now, with regard to your report, as I've mentioned,
15 I just -- I know and appreciate you only worked on the material
16 you had available to you, so when we look at the report, I will
17 be trying to put before you evidence which wasn't available to
18 you at that time, and to see whether or not that would have any
19 bearing on your report.

20 A. Yes, sir.

21 Q. So the first part of your report I want to look at is the
22 history and developments. This is a period prior to the May 1997
23 coup. Now, firstly, I turn to paragraph 19 on page 9, or 18892,
24 where you quote from Major General Tom Carew, who states that
25 over a period of time, the Sierra Leone military lost all
26 semblance of command and control; do you recall that?

27 A. Yes, sir, I do.

28 Q. Now this is only Major General Tom Carew's personal
29 opinion, isn't it?

1 A. Yes.

2 Q. And do you know that Tom Carew is not an expert before this
3 Court so his opinion is not admissible?

4 A. You are asking me a legal sort of question but --

5 MR KNOOPS: Your Honour, I object. I think the Prosecution
6 cannot decide before the Court whether or not an opinion of Tom
7 Carew provided to the expert in his report is admissible or not.

8 PRESIDING JUDGE: Well also, I think it's an inappropriate
9 question to put to this witness, Mr Agha.

10 MR AGHA:

11 Q. But you would agree with me that others may hold different
12 opinions to Tom Carew?

13 A. In life, there always will be different opinions. Why the
14 statement of Tom Carew made an impression on me, or why I took it
15 seriously is because I know what a chief of defence staff -- the
16 job he has, and responsibility, and I validate highly the
17 opinions by chief of defence staff. And I think if you look at
18 the countries all around the world, and you talk to the chief of
19 defence staff, that's a person, I don't know whether again it's
20 fact or opinion, but it is based on his great knowledge of what
21 has happened.

22 Q. But he is suggesting that the Sierra Leone military had
23 lost all semblances of command and control. I would suggest to
24 you that was not the case when the war with RUF broke out in
25 1991?

26 A. It is my full belief that he is right.

27 Q. Well, again, you haven't had the benefit of hearing some of
28 the former SLAs who came before this Court and I thought I would
29 just read you a couple of their transcripts to see whether or not

1 this may change your perception.

2 MR KNOOPS: If the Prosecution, in all fairness, wishes to
3 emphasise the ranks when putting this to the general.

4 PRESIDING JUDGE: Yes, Mr Agha?

5 MR AGHA: These will be by and large from all other ranked
6 soldiers.

7 MR KNOOPS: Sorry, is the second accused able to use the
8 bathroom?

9 PRESIDING JUDGE: Yes, Mr Kamara can leave the Court.
10 Perhaps, you've got a few examples there, Mr Agha, but it may or
11 may not be sufficient simply to put one to the general and with
12 the understanding that you have other examples that are very
13 similar and then put your question to him.

14 MR AGHA: Yes. I think that might be a better way to go
15 about it. Perhaps I will put one or two examples and say there
16 are many -- well, there are other examples.

17 PRESIDING JUDGE: Well, I was thinking more like one
18 example and saying that there are others.

19 MR AGHA: It then will be a question of picking the best
20 examples.

21 PRESIDING JUDGE: Well, if the general is left in any doubt
22 after reading that one example as to what you are asking then of
23 course you will need to come in with some more examples.

24 MR AGHA: Okay.

25 Q. I will just start with the first example from the passage I
26 have. It's from the first accused himself. And it's dated 28
27 June 2006, page 19. And it's really from let's just say line 16
28 to 21, and this is during the training period. He is asked a
29 question. This is a question:

1 "Q. But you learnt that if a corporal gave an
2 order to a private, the private had to follow
3 that order, didn't he?

4 "A. Yes.

5 "Q. And you were taught that junior ranks had
6 to follow the orders of more senior ranks,
7 weren't you?

8 "A. Yes."

9 Now, there are numerous examples of these other ranks
10 coming before this Court saying that during their training they
11 were taught about command and control. And now, that is what
12 they were taught, and they said they knew that. Then of course
13 another question is did they do it? And I will just read an
14 example of another witness. This is DAB-018 on 7 September 2006,
15 at page 51, and he is actually asked this while he is in active
16 combat against the RUF. And the question is:

17 "Q. No. In 1992, to 1995, you were fighting
18 with the SLA against the RUF; right?

19 "A. Yes, sir.

20 "Q. Now, while you were fighting with the SLA
21 against the RUF, did you follow the orders of
22 your commanders?

23 "A. Yes, sir.

24 "Q. And did the other SLA troops amongst you
25 follow the orders of their commanders as well?

26 "A. Yes, sir."

27 So we have numerous witnesses who, in training, are taught
28 about following orders and during combat have also said they
29 followed those orders. And I think there's one other witness who

1 I think, in all fairness, I should also read to you because this
2 is one of your primary sources. It's TRC-01 and it is dated 16
3 October 2006. It's at page 110, and it's at line 12 and it goes
4 to line 24. Now, this soldier, as you know, was a commander. At
5 the time he said he was a battlefield commander and this is
6 during the war with the RUF between 1992 and 1996. And this is
7 the question:

8 "Q. Now, you say that you also went to the
9 front from time to time between 1992 and 1996?

10 "A. Yes, Your Honour.

11 "Q. Now, there was ammunition for the troops
12 during that period, wasn't there?

13 "A. Yes, Your Honour.

14 "Q. And there was also medical treatment
15 available for the troops during that period,
16 wasn't there?

17 "A. Yes, Your Honour.

18 "Q. And adequate command and control existed
19 for the troops during that period, didn't it?

20 "A. To a very large extent, yes."

21 So, essentially, this is evidence which you've been unaware
22 of, and I would suggest to you that on the basis of that evidence
23 there was at least a semblance of command and control in place in
24 the Sierra Leone Army?

25 MR KNOOPS: I am sorry to object but I think, with all due
26 respect, the Prosecution uses two examples which relates to
27 following of orders, on the one hand, and the third example
28 relates to command and control. And on the basis of these three
29 examples, he cannot put simply to the expert one general question

1 because the two first examples, they relate to whether orders
2 were followed. They don't say anything about command and
3 control. Only the third example. So it's my suggestion that, in
4 all fairness to the expert, these questions should be split
5 because following orders is something different than the
6 existence of command and control.

7 PRESIDING JUDGE: What is your reply to that, Mr Agha?

8 MR AGHA: Well, I can do that if that is of assistance, but
9 I would have thought the general would be able to have made the
10 differentiation of the comment for himself.

11 PRESIDING JUDGE: Look, if the general has any difficulty
12 answering that question, then we might consider changing the
13 shape of the question but I will overrule the objection. Go
14 ahead, Mr Agha.

15 MR AGHA:

16 Q. So, having heard, and these are just isolated statements,
17 there are many others -- when I say many I mean maybe up to ten
18 because, in fact, it's most of the former SLA factions who have
19 come before the Court who have asked these question -- they've
20 said that they were taught to follow orders when they were
21 trained. They said that when they were at the front they did
22 follow orders during combat, and they were the other ranks, and a
23 senior officer, who was one of your primary sources, has also
24 confirmed that there was adequate command and control at the
25 front during the war with the RUF. So if that information was
26 available to you, and like the Prosecution transcripts were
27 believable, would you agree that there was at least a semblance
28 of command and control?

29 MR FOFANAH: Objection, Your Honours. I mean, my objection

1 relates to the last bit regarding the testimony of the senior
2 Sierra Leone Army officer. Given that this witness wasn't
3 present when that army witness testified, I would implore my
4 learned colleague to give at least a complete picture because the
5 same army officer indicated that the AFRC period and, for that
6 matter, the faction under cross-examination, was one of a ragtag
7 army. And then to suggest that a ragtag army had a semblance of
8 command and control would be, in my humble opinion, untruthful of
9 what the witness told the Court.

10 PRESIDING JUDGE: My understanding is that the question
11 Mr Agha is asking only goes up to 1996; is that correct?

12 MR AGHA: That's correct, Your Honour.

13 MR FOFANAH: Respectfully, Your Honours, I mean, the same
14 witness, because the general was not present when that witness
15 testified before this Court. He did not confine himself under
16 cross-examination to 1996, and the question which my learned
17 colleague is now putting to the witness is about the AFRC faction
18 which runs beyond 1996, and that witness gave general opinion
19 about the AFRC faction, especially in times of regarding that
20 faction as a ragtag army.

21 PRESIDING JUDGE: Do you want to reply to that, Mr Agha?

22 MR AGHA: I think I will take it step-by-step so I hope I
23 don't get ahead of myself here. The witness TR, the one we are
24 talking about in case, in cross-examination, spoke about a period
25 after 1997. The questions which I am addressing the general
26 relate up to mid-1996, before the SLA faction was formed, because
27 the person he is quoting, Tom Carew, is talking about the state
28 of the army up to that period. So I am seeking to find out
29 whether the witness's opinion would have changed of the Sierra

1 Leone Army before the coup of 1997. I am not talking about the
2 AFRC faction. And I thought that was clear.

3 MR FOFANAH: If that is the case then I withdraw my
4 objection. I thought he persistently mentioned the words AFRC
5 faction to the witness. If he is clarifying that then I withdraw
6 the objection.

7 PRESIDING JUDGE: All right. Thank you. Yes, go ahead,
8 Mr Agha.

9 MR AGHA:

10 Q. So, I am not sure if you can -- hopefully you can remember
11 some of those readings, but had you have had the benefit of some
12 of those -- let's say testimonies and equally like the
13 Prosecution testimonies you relied upon them -- would you agree
14 with me that there was at least a semblance of command and
15 control within the Sierra Leone Army before May 1996?

16 A. I hope --

17 PRESIDING JUDGE: You mean May 1997 or May 1996?

18 MR AGHA: May 1997, I apologise.

19 THE WITNESS: I hope I can leave TRC-01 out in my initial
20 response, or I can give it immediately, because I have a slightly
21 different view about him. But you have to realise that Tom
22 Carew, if you asked a question of Tom Carew, about command and
23 control, or you asked a question to an individual soldier about
24 following orders, they reason from a different perspective.

25 MR AGHA:

26 Q. But they were following the orders?

27 A. But, if I may, to continue, like Colonel Iron says, command
28 has, in itself, leadership, decision and control. Now, you can
29 control and say, okay, give an order and the order is executed.

1 That is nice. But Tom Carew, if he talks about command and
2 control, he talks about the broader picture of whether
3 subordinate commanders at the higher levels, battalion
4 commanders, region commanders follow orders. I am not in the
5 least surprised that in an initial training people are taught how
6 to follow orders and I'm not surprised that if you are in a
7 combat zone, and if you are in an isolated team or in a company,
8 that you may sort of follow orders. But Tom Carew is talking
9 about general, the command and control as such in the SLA, so I
10 think it's comparing different levels.

11 Q. But what about TRC-01? He was at the front line with these
12 troops.

13 A. But it gives me an opportunity to go into TRC-01, who read
14 my report who -- with whom and, I know after his testimony this
15 is now irrelevant -- who read my report, with whom I discussed my
16 report, who said "I agree with you 95 per cent about the report"
17 and I am not in the least surprised that TRC-01, I don't know if
18 you are aware of that, is on the fast track in the Sierra Leone
19 Army. He is coming up, in my information, to become the chief of
20 defence staff, Sierra Leone Army, it's not too harsh on his
21 verdict, when giving the testimony, and I don't want to be
22 impolite or rude, but I just say it the way it is. And when I
23 talked to TRC-01 at length and I said give me upfront your view
24 then I was, to say the least, highly surprised. But, after all,
25 and that's another aspect, and I am happy to see that, that
26 notwithstanding the disasters that happened in the Sierra Leone
27 Army, there is that little bit sense of pride, that you don't,
28 and certainly not that you don't degrade too much, like in the
29 case of TRC-01, get hard on your colleagues, especially not if

1 you are coming up to the chief of defence staff. So, in essence,
2 only based on these three --

3 Q. I would look for you, -TRC-01 gave his evidence under oath?

4 A. I know, sir. That's why I said I can't change things in
5 life. I only say that, you know, in my view it's either this or
6 that, and I'm afraid that I had a different, let's say,
7 discussion with him but I can't do anything about that.

8 Q. But what I'm saying to you is based on what he has said in
9 this Court under oath, you would agree with me that there was a
10 semblance of command and control?

11 A. I would agree that at the level he observed, you say
12 battlefield commander, he could never be a battlefield commander.
13 He would have been -- I think he was a major, by that time he
14 would be company commander so, within a normal company, he would
15 have 120. Now, maybe within a battalion there may have been that
16 people followed orders, that is the good news but that is a
17 different perspective than Tom Carew, and not only Tom Carew but
18 also --

19 Q. Sorry to cut in, general, but Tom Carew hasn't given
20 evidence here.

21 A. No.

22 Q. He hasn't been subject to cross-examination and you are
23 relying on an opinion also of maybe an officer who may have
24 various axes to grind and we haven't put that to him in
25 cross-examination.

26 A. Yes, sir.

27 Q. I am afraid we can only go on the evidence which we have
28 and which you also had to rely on at the time.

29 A. Yes, sir.

1 Q. And also with TRC-01, he and his evidence, and I will come
2 to that part, actually sets out the structure and it was a
3 slightly higher level and span of command from which you just
4 perhaps thought was the case but at any rate, we will come to
5 that. But bearing in mind what he has said here under oath would
6 you agree that that indicates that there was a semblance of
7 command and control by May 1997 in the SLA?

8 A. Based on what he said at the lower level, yes.

9 Q. Now, I'm going to carry on by now -- we have this situation
10 where at least you said the lower level there is some command and
11 control, and this is up to the May 1997 coup. Now, a Defence
12 witness has also given evidence that when he and 3,000 other
13 surrendered SLAs, that is, those who didn't go into the jungle
14 with SAJ Musa, were held at Lungi garrison in around November,
15 December 1998, and that those 3,000 would follow the orders of
16 their senior officers, those surrendered troops. So would that
17 not suggest to you that the training was such that even up to
18 December 1998 there was command and control within let's say the
19 former SLA?

20 A. You know, I really can't comment on that. And I, you know,
21 you have to look into the specific situation therein.

22 Q. But it's possible?

23 A. Well, yes, everything is possible, but, you know, based on
24 these statements, you know, I can't -- I can't immediately come
25 to that conclusion.

26 Q. Now, if we are to look at paragraph 19, and that is page 10
27 of your report?

28 PRESIDING JUDGE: General, would it be of assistance to you
29 if you had your report in front of you to refer to the same

1 paragraph that counsel is referring to?

2 THE WITNESS: Yes, Your Honours.

3 MR AGHA: Yes, that would be a good idea, Your Honour.

4 PRESIDING JUDGE: Yes, Mr Knoops? You have the report
5 there, do you? You have the report before you?

6 THE WITNESS: Well, I had it sealed and closed, Your
7 Honour, all the time but I have it here, sir.

8 PRESIDING JUDGE: I see. Yes, all right. I am sorry,
9 Mr Knoops, I didn't realise the general had the report in front
10 of him. Yes, well, please feel free to refer to it.

11 MR AGHA:

12 Q. I am at page 10, this is page 10, and it's paragraph 19,
13 and it is the final three lines and I will read -- and perhaps
14 you can follow with me -- it says: "The TRC then concludes it is
15 therefore in the manipulation of the army by politicians that the
16 routes of the terrible violations committed by the army during
17 the conflict could be found." Now, you'd agree with me that's a
18 conclusion of the TRC, isn't it?

19 A. Yes, sir.

20 Q. Okay. So it's not your conclusion, is it?

21 A. No, I was not here, sir.

22 Q. Okay. Now, we look at now paragraph 20 on page 10. That
23 is just one down and you will see, I think about ten lines down,
24 four from the bottom. This is again a quote from the TRC
25 statement, I believe. It's -- and I will read it. "They became
26 merchant generals more interested in material acquisitions from
27 the politicians than in a professional armed service. Therefore,
28 when the war came, there was no officer corps to handle it."
29 Now, this is a statement from Major Abu Noah?

1 A. Yes.

2 Q. Now, that is just his opinion, isn't it?

3 A. It is.

4 Q. Yes. Now, you would agree with me that others might also
5 have a different opinion to Major Noah on that matter?

6 A. But, on the other hand, I find so much support for the
7 vision that he may be right in his opinion.

8 Q. But most of your support is coming from the TRC report and
9 Keen and untested sources, isn't it?

10 A. Well, yes, but, based on that, I find support in the thing
11 that Major Noah says.

12 Q. Now, his opinion that the Sierra Leone military and officer
13 corps couldn't handle the war. Now at the time when the war came
14 Johnny Paul Koroma was an officer. Strasser, who later became
15 chairman of the NPRC, was an officer. TRC-01 was an officer.
16 Brigadier Kelly Conteh was an officer. I believe Tom Carew was
17 an officer. In fact, there were many officers. So, I -- would
18 you agree with me that there was an officer corps?

19 A. I don't think I ever stated there was not an officer corps
20 as such in the Sierra Leone Army. If you relate to that
21 sentence, again, I know now what an opinion means but it, in
22 fact, states that there were a lot of high officials, senior
23 officers on the take. And taking positions up in turn for
24 favours, et cetera.

25 Q. But there was an officer corps?

26 A. Yes, I think there was an officer corps in the SLA.

27 Q. Now, if we turn to paragraph 23 of your report, which is on
28 page 12, and this is -- I read three-and-a-half lines down -- and
29 this is again a quote from the TRC report and it says: "The

1 Commission heard numerous testimonies regarding deficiencies in
2 the conventional state security at the outbreak of the war. In
3 their totality these accounts paint a picture of grave
4 abandonment of the basics needs of the RSLMF under the APC. To
5 the extent that the country was devoid of an operational army
6 when it needed one most in 1991." Now, again, that's just the
7 view of the TRC, isn't it?

8 A. Sorry, I missed you a bit but it ends at 22 at the bottom,
9 right? At page 12 on top?

10 Q. It's page 12, paragraph 23, and it just starts at
11 three-and-a-half lines down "The Commission heard"?

12 A. Now I see it. Yes, that's correct.

13 Q. Okay. So again, that's just an opinion of the Commission,
14 isn't it?

15 A. It is.

16 Q. Now, if we go back at, sorry to have skipped ahead,
17 paragraph 21 on page 11, again there is a quotation from the TRC
18 report, and I read a part of it. You see at 21: "Further
19 marginalisation of the army continued in the 70s and 80s as noted
20 in the TRC report. By commencement of the conflict the army did
21 not have movable vehicles, communication facilities were
22 non-existent and most of the soldiers were not combat ready."
23 Now, again, this is something from the TRC report, isn't it?

24 A. It is.

25 Q. And this is at the start of the conflict. Now, according
26 to the evidence of TRC-01, movable vehicles were available during
27 the conflict, so it may be that this statement by the TRC again
28 is not entirely accurate?

29 A. Well, I think that they are referring to different

1 timeframes, to start with.

2 Q. So at least we can say then, even well past this timeframe
3 they had movable vehicles?

4 A. I have not been aware of that but I know it was stated by
5 TRC-01.

6 Q. Okay. Now, the report also mentions that by the time the
7 war came, the army was not combat ready. This is 21, page 11.
8 Again, I apologise for not -- "and most of the soldiers were not
9 combat ready." Do you see that in the first three lines?

10 A. Yes, I see it, yes.

11 Q. Now, are you aware that in 1989 that major military
12 exercises were carried out in preparation for conflict?

13 A. No. In fact, the research I've done, that I've come across
14 was, in fact, by that timeframe the SLA was more a ceremonial
15 army, where people have not been to the combat ranges for months
16 or even years.

17 Q. Right. I would actually suggest that is 1961 because
18 according to retired Brigadier Kelly H Conteh in 1989 he
19 organised two exercises involving the army in preparation for the
20 guerrilla war against the RUF. Now, if that is to be believed
21 that would be an indication that the army was to a degree combat
22 ready, wouldn't it?

23 A. I -- I couldn't possibly take on that conclusion because
24 you can state or say that you carry out exercise but that doesn't
25 make you combat ready. Moreover, the chief of defence staff in
26 1991, and again that is a person I think is the one who should
27 know, states that he was caught so to speak with his pants down
28 when the war started, so I have no reason to believe that.

29 Q. But then he is only answering specific questions put to him

1 and what does he mean by caught with his pants down? That
2 doesn't mean he is not combat ready, does it?

3 A. Well, sir, if anyone in my entire career would have said to
4 me, now, you are caught with your pants down because you are --
5 then I know exactly what they mean. They mean that you, in all
6 aspects for the war, you are not, or for any operation, you are
7 not prepared. That is my understanding.

8 Q. Now, paragraph 24 on page 13, we have this finding, I think
9 we have already dealt with this, that the TRC, to the extent the
10 country was devoid of an operational army, when it needed one
11 most in 1991. Do you see that? I think it's three lines down.
12 I think we may have looked at this?

13 A. Yes.

14 Q. Now again, that is just the view of the TRC, isn't it?

15 A. Well, this specific quote, it is.

16 Q. And if we go on further, I think it says, in terms of
17 communications, I think we have paragraph 24, and this is at the
18 final part, is that most of the units deployed along the first
19 line of defence without any form of modern communication
20 equipment?

21 A. Yes, sir, I see it.

22 Q. If we turn over the TRC report, it says, "With vision when
23 it is stated by the commencement of conflict, communication
24 facilities were non-existent?"

25 A. I see that, sir, yes.

26 Q. Now, if you had runners available, that would be a form of
27 communication, wouldn't it?

28 A. Well, if you may recall, the reason why I quoted one of the
29 characteristics of Colonel Iron concerning --

1 Q. We will come to that.

2 A. I want you to explain that. We addressed that and I said,
3 if you only use runners, then, you know, if you are very
4 friendly, then you may come to the conclusion there is some form
5 of communication. How reliable, how unreliable that may be.

6 Q. But each battalion had communication equipment, didn't it?

7 A. Not according to what I have read.

8 Q. Okay. And each militia garrison at Daru, Makeni had
9 communication equipment?

10 A. Again, I went by this statement and then tried to link it
11 to my further questions later on in the conflict.

12 Q. But clearly this statement "communication facilities were
13 not existent" isn't right, is it? It's not entirely accurate,
14 let's put it that way.

15 A. Well, if you say communication was available because we
16 used runners, runners is not a communication equipment. You use
17 radios, batteries.

18 Q. And the radio communication equipment was with each
19 battalion and with each garrison?

20 A. Again, I have stated, it's somewhere in my report, that a
21 senior officer, brigadier level, states how, in the front units
22 in the RUF, the units had to rely on runners only, and that was a
23 great danger, because there was no communication equipment
24 available.

25 Q. We are not talking about the RUF general.

26 A. No, I am sorry. I may have said it wrongly. I was saying
27 that, and I don't know where it is but it's somewhere in my
28 report, that a very senior officer talks about the fact that the
29 frontline units fighting the RUF, were deprived of communication

1 equipment and therefore had to use runners, and that's what I
2 relied on.

3 Q. But had you been aware of other sources of information that
4 had indicated that communication equipment was available, you may
5 have changed your view?

6 MR FOFANAH: Objection, objection. Your Honours, counsel
7 has, in fact, read out two pieces of statements from the TRC
8 report. One of them clearly indicated there may have been a form
9 of communication equipment, albeit that they were not modern.
10 Now I see he is moving away from that and kind of restricting the
11 witness only to the latter part of what he read. He read both
12 statements out to the witness, starting from paragraph 24, the
13 last sentence, on to page 13. And now he is merely confining him
14 to page 13, the first two lines at the top.

15 MR KNOOPS: Furthermore, my objection would be that the
16 Prosecution is putting the expert -- the statement of Kelly
17 Conteh before the TRC in order to establish that things were, in
18 view of the Prosecution, different. So the Prosecution uses that
19 report in order to sustain a certain Prosecution position while,
20 in this question, in all fairness to the Prosecution, the same
21 individual, the same brigadier has testified about communication
22 in a different manner than the Prosecution mentions and put it to
23 the expert. That is on page 46, footnote 180. So, in all
24 fairness to the expert, the Prosecution is foreign shopping
25 between the statements given before the TRC once it's in their
26 advantage and, when they come to another question, they not quote
27 the same statement before the TRC in order to put something
28 different to the expert.

29 So my objection is that if the Prosecution is going to put

1 a statement, for instance, of Kelly Conteh to the expert, it
2 should be in the correct context, and it cannot be just a portion
3 from that statement in their advantage while, on the other hand,
4 when it comes to communication, this individual has never said,
5 before the TRC, that the communication system was in place. And
6 now putting to the expert that there was no communication system,
7 according to the TRC, I think this is misleading the expert.

8 PRESIDING JUDGE: All right. We have just had two
9 objections in a row. Can you remember the first one, Mr Agha?

10 MR AGHA: Not really, Your Honour.

11 PRESIDING JUDGE: You see, we should deal with objections
12 one at a time. It's not fair to Mr Agha to be hit by two
13 objections at once and expect him to be able to answer seriatum
14 each one.

15 MR KNOOPS: I would apologise.

16 MR AGHA: I would comment in respect generally, Your
17 Honour. This is in cross-examination and we are putting various
18 parts of the TRC report and part of the cross-examination is to
19 show that the TRC report, in the view of the Prosecution, is not
20 to be relied upon, and is not a sufficiently accurate source to
21 be used as a large part of the report. So, of course, indeed, as
22 my learned friend Mr Knoops has said, there are parts which
23 support the case, there are parts which don't support the case,
24 there are parts which are entirely inaccurate, entirely untrue.
25 But this is a document which was relied upon, and we are looking
26 at other pieces of evidence that have come to light, say, since,
27 I think, maybe the TRC was concluded four, five years ago, I am
28 not sure, to see whether these conclusions are entirely fair and
29 balanced, as reached by the TRC, and should be relied upon, as

1 such.

2 PRESIDING JUDGE: Well, in relation to the two objections,
3 I must confess I have forgotten the first one myself. I would
4 point this out, and I think this is what Mr Fofanah was saying,
5 that the general is not aligning with the TRC opinion. The
6 general has never said that communication facilities were
7 non-existent. The general, in fact, has said that the SLA hardly
8 had any modern communications equipment, but he does not use the
9 word "non-existent." Is that what you were saying, Mr Fofanah?
10 And you were saying that the question possibly confused the
11 sources of either statement.

12 MR FOFANAH: Yes, Your Honour. Given that it was counsel
13 himself who read both statements out to the witness. But then,
14 when he was asking his question, he merely confined him to the
15 latter bit of the statement and then made the categorical
16 inference that, in fact, there was no communication equipment.

17 PRESIDING JUDGE: All right. Well, what is your answer to
18 that, Mr Agha?

19 MR AGHA: Well, actually, the first part that I read it
20 says, "The first line of defence was without any form of modern
21 communication equipment." The second part, which I also read, is
22 communication facilities were non-existent, so they both amount
23 to the same thing, I think.

24 PRESIDING JUDGE: No, I don't think they do. Non-existent
25 is not the same as hardly had any. Hardly had any acknowledges
26 the existence of something.

27 MR AGHA: The first line is "were without any form of
28 modern communication equipment." That is the first line "without
29 any form," so there is none. The second one --

1 PRESIDING JUDGE: No, no. Sorry, I think there is some
2 confusion here. I think what Mr Fofanah is referring to, to the
3 general statement.

4 MR AGHA: Right.

5 PRESIDING JUDGE: You just quoted from the TRC.

6 MR AGHA: Both of them.

7 PRESIDING JUDGE: If you go back a sentence, the general
8 says, "The SLA hardly had any modern communication," and then the
9 general goes on to quote Brigadier Kelly Conteh.

10 MR AGHA: Right.

11 PRESIDING JUDGE: Who goes further than what the general
12 said. Brigadier Conteh goes further by saying that communication
13 equipment was, in fact, non-existent.

14 MR AGHA: Okay.

15 PRESIDING JUDGE: I think Mr Fofanah is saying that you are
16 attributing that statement to the general's opinion.

17 MR AGHA: Right. That wasn't meant to by my intention.

18 PRESIDING JUDGE: Is that correct, Mr Fofanah?

19 MR FOFANAH: Respectfully, Your Honours, if I may clarify,
20 I was saying my learned colleague read out what I considered to
21 be the two statements. The first one was by Brigadier Kelly
22 Conteh, which stopped at modern communication equipment. In
23 other words, he was saying that most of the units deployed along
24 the first line of defence, in 1991, were without any form of
25 modern communication equipment. That is the first statement.
26 Then he went further and quoted from the TRC that communication
27 facilities were non-existent. Then, when putting questions to
28 the witness, he merely confined him to the TRC inference and then
29 categorically stated that there were, in fact, no form of

1 communication equipment. I was saying that the two statements,
2 as I understood them, were, in fact, contradictory, because Kelly
3 Conteh was not saying that there was no form of communication
4 equipment. He was just saying there was no modern form of
5 communication equipment. So, in all fairness to the witness, my
6 learned colleague should not confine him to the categorical
7 inference that there was no form of communication equipment when
8 he had, in fact, put to him the earlier statement of Kelly
9 Conteh.

10 PRESIDING JUDGE: Well, I must say --

11 MR AGHA: They are both TRC statements, I would say.

12 PRESIDING JUDGE: But Kelly Conteh's statement is, in fact,
13 supported by the general.

14 MR FOFANAH: Yes.

15 PRESIDING JUDGE: The general says that Kelly Conteh's
16 statement is in fact supported by the TRC, when the TRC mentions
17 communications facilities were non-existent. That's what the
18 general says himself.

19 MR FOFANAH: But, respectfully, Your Honours, it's not one
20 and the same as saying they were without any form of modern
21 communication equipment. I am saying that to merely say that
22 there was no form of communication equipment, reading from that
23 statement, without any form of modern -- probably this should be
24 my emphasis, on the word "modern." It suggests there may have
25 been communication equipment, but then albeit that they were not
26 modern.

27 JUDGE SEBUTINDE: Could I say something hear, as I sit here
28 listening to this debate across the aisle. We are discussing a
29 document, the author of which is seated in front of us as the

1 expert on the subject. Major Prins is sitting here. He now has
2 the advantage of -- sorry, General Prins is sitting here in front
3 of us. He has the advantage of actually reading and referring to
4 his report. Now, I have followed the questions by Mr Agha and
5 every time he quotes an excerpt from that report, he follows it
6 with a question as to whether this is a quotation from the TRC
7 report or it's a quotation from a statement of a TRC witness, or
8 whether this is the opinion of General Prins himself, and this
9 distinction has consistently been made.

10 Now, whenever the Defence rises up to object on the grounds
11 that the witness may be confused by the question, or the witness
12 has been referred to only part of the report and not the other
13 paragraph in the report, I'm just wondering if it's not -- if you
14 are not being unduly concerned, because this is the author of the
15 document. It is General Prins' own document, and he is aware
16 that in paragraph 19 he said one thing, and probably in paragraph
17 46 he said something completely different. He is able to speak
18 for himself on this and I think there is no need every now and
19 then to object, in cross-examination, to the manner in which
20 counsel is reading out of this report or not reading other
21 things. General Prins is not an ordinary witness. He is an
22 expert, and he is the expert on this subject, probably more than
23 any of us know, on this subject. And I am sure if he doesn't
24 understand the question, he is able to answer or to even say he
25 doesn't understand the question and ask for clarification. That
26 is the way I see it. I see absolutely nothing wrong in the
27 manner, in the way, in which Mr Agha is proceeding to ask these
28 questions.

29 MR FOFANAH: Respectfully, Your Honours, I am totally in

1 harmony with what you have just said, suffice to say that the
2 transcripts and the record will show that when Mr Agha was
3 putting questions to the witness, at one point, he, I will humbly
4 say, was trying to mislead him from the inference that he drew
5 from the quotations he made from the report.

6 In that context, since he was merely asking for a direct
7 answer from the witness, to say, "yes" or "no," it will have been
8 difficult for him to draw that inference without the aid of
9 counsel. Because what I understood Mr Agha to have done, was to
10 have quoted the two statements and then just make an inference,
11 and the two statements are not one and the same. I mean, I was
12 trying to ensure that he doesn't mislead the witness by putting
13 things that are not correct. That is all I was trying to do and
14 I think the transcripts will reflect that. But if that is the
15 direction of the Bench, then I will rest my case.

16 PRESIDING JUDGE: We will allow the questions to be put to
17 General Prins and, if he doesn't understand what is being put to
18 him, then both Mr Knoops and Mr Fofanah can renew their
19 objections at that stage. But let's hear what the general has to
20 say first. Go ahead, Mr Agha.

21 MR AGHA: I must say I am not trying to mislead the
22 general.

23 PRESIDING JUDGE: No, I don't think that either, but renew
24 your question.

25 MR AGHA:

26 Q. So what I'm suggesting to you, general, is there was some
27 communication ability available at the time of the start of the
28 war with the RUF in 1991; would you agree with that?

29 A. Now, I hope I still understand it all, but based on my

1 findings, the answer would be no. And, of course, then the
2 statement will be made by TRC-01, and I understand that. But by
3 merely saying we had communications, you know, it's such a
4 difficult topic. Are you talking about radio equipment? Are you
5 talking about trained personnel? Are you talking about spare
6 parts; about communication plans, and all that? It's a very
7 difficult issue. So, by only stating, which I have to respect,
8 of course, someone's says, "Well, we had communication," you know
9 that, from a military point of view, doesn't convince me. If I
10 get now statements about diagrams and frequency charts and, you
11 know, all that and it works, and there are spare parts and good
12 equipment that works in the bush and, et cetera, then you might
13 come to the conclusion. I am afraid just -- if you put it to me
14 like that, then it wouldn't convince me at this stage.

15 Q. But if you had more information before you, that there was
16 radio equipment with battalions at the front and at the various
17 garrisons, would that convince you that there was communication
18 facilities?

19 A. It would, if I then would make a study of looking at a
20 battalion, go in detail on how the battalion was organised in the
21 RUF, fighting the RUF; what equipment did they have; how were the
22 communication plans; what sort of radio equipment did they have,
23 et cetera; how was the training level. But then you have to go
24 in that in detail. It's a difficult type of sport. And only
25 saying, "Yeah, we had good equipment," or "good communication,"
26 as such, from a military perspective, doesn't convince me at this
27 point.

28 Q. But all the detail you've just referred to, let's say the
29 charts and the communication systems, and how it was working,

1 none of that information has been made available to you, has it?

2 A. No. What has been made available, and that was of course
3 the discussion, the fact that senior officers expressed their
4 view of the hardly existence or non-existence, or what have you,
5 of communication equipment.

6 Q. So that was really their opinion of the situation?

7 A. Yes.

8 Q. Now, I'd like to go away from radio communication for a
9 moment.

10 PRESIDING JUDGE: Well, that might be an appropriate time
11 to adjourn for the day, Mr Agha. General, we are going to
12 adjourn until 9.15 tomorrow morning, and I will renew my caution
13 to you about not speaking about the evidence with anyone.

14 THE WITNESS: Your Honour.

15 PRESIDING JUDGE: I don't know if there are any persons who
16 don't already know this, but there was an announcement today from
17 the Registrar, confirming that next Monday, 23 October, is a
18 Special Court holiday. So obviously the Court will not be
19 sitting on Monday. Right. We will adjourn.

20 [Whereupon the hearing adjourned at 4.00 p.m. to be
21 reconvened on Friday, the 20th day of October 2006
22 at 9.15 p.m.]

23

24

25

26

27

28

29

WITNESSES FOR THE DEFENCE:

WITNESS: WILLEM PRINS	2
EXAMINED BY MR KNOOPS	2
EXAMINED BY MR FOFANAH	30
CROSS-EXAMINED BY MR AGHA	35