

ANNEX A

Public Redacted Version of ICC-02/05-03/09-549-Conf- AnxA

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
Article 25(3)(b)		
“Orders, solicits or induces the commission of such a crime”	<p>PTC findings on Banda’s position of authority, which shows that he was in a position to issue orders:</p> <p>141. [...] the Chamber is satisfied that there are substantial grounds to believe that at the time of the attack to the MGS Haskanita on 29 September 2007, Abdallah Banda <i>had control over some vehicles - among 4 to 12 vehicles</i> according to the witnesses - ammunition and troops, [fn omitted] <i>which recognised him as their military commander</i>. Most significantly, one witness states that Abdallah Banda was "the commander in chief of the mission to attack the AU compound".[fn omitted]</p>	
	<p>PTC finding of Banda’s leading of the attack, which shows his position of authority and leadership over the troops and vehicles participating in the attack, and therefore his ability to issue orders to them:</p> <p>146. [...] The evidence presented by the Prosecutor supports the finding that there are substantial grounds to believe that both Abdallah Banda [fn omitted] and Saleh Jerbo [fn omitted] <i>personally participated as leaders</i> of their respective troops <i>in the actual attack</i> on the MGS Haskanita. [fn omitted] [...]</p> <p>148. On the basis of the evidence submitted, the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo together with troops of the JEM Splinter Group, the SLA-Unity and the SLA-Abdul Safie, led by them and other commanders, personally participated in the attack</i> on the MGS</p>	<p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>22. [REDACTED]</p> <p>23. <i>The attackers</i> [REDACTED] <i>overran the MGS Haskanita</i>. During the course of the attack <i>these attackers shot and killed 10 AMIS peacekeepers</i>. Two other peacekeepers later died from injuries sustained during the attack. The attackers killed the following AU personnel: Major Gaolatine Tiro (Botswana), Bala Mohammed (Nigeria), Duniya Audu (Nigeria), Samuel Orokpo (Nigeria), John Dogara (Nigeria), Tayo Alawo (Nigeria), Usman Saleh (Nigeria), Danjuma Madaki (Nigeria), Martin Matthias (Nigeria), Haruna Peter (Nigeria), Mayo Kebe (Senegal) and Ibrahim Diagne (Mali).</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>Haskanita during and in the context of which the crimes charged by the Prosecutor in the DCC were committed. [...]</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] as well as <i>personally participating and leading the attack</i> [...].</p>	
	<p>PTC findings on Banda's ordering and providing troops, equipment and materials necessary to carry out the attack on MGS Haskanita:</p> <p>132. [...] several indirect witnesses confirm that immediately after the meeting the rest of commanders and troops <i>were told to go on a "mission" to attack</i> the MGS Haskanita compound. [fn omitted]</p> <p>143. [...] after the common plan was agreed, the commanders <i>ordered</i> their respective troops to attack the MGS Haskanita.[fn omitted] The Chamber is therefore satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo, together with other commanders, contributed to the common plan <i>by ordering the troops under their control</i> at the time to commit the attack. Based on the evidence submitted, the Chamber is further satisfied that there are substantial grounds to believe that the vehicles, ammunition and troops referred to above formed the forces of <i>the JEM Splinter Group, SLA-Unity and SLA-Abdul Shafie</i> that <i>were provided by Abdallah Banda and Saleh Jerbo</i> to launch the attack on</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] <i>ordering and providing the necessary troops, equipment and materials</i> [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	
“a crime which in fact occurs”	<p>See PTC findings on individual crimes in paras 88-109¹; paras 59-87;² paras 110-123.³</p>	<p>23. <i>The attackers [REDACTED] overran the MGS Haskanita. During the course of the attack these attackers shot and killed 10 AMIS peacekeepers. Two other peacekeepers later died from injuries sustained during the attack. The attackers killed the following AU personnel: Major Gaolatine Tiro (Botswana), Bala Mohammed (Nigeria), Duniya Audu (Nigeria), Samuel Orokpo (Nigeria), John Dogara (Nigeria), Tayo Alawo (Nigeria), Usman Saleh (Nigeria), Danjuma Madaki (Nigeria), Martin Matthias (Nigeria), Haruna Peter (Nigeria), Mayoro Kebe (Senegal) and Ibrahim Diagne (Mali).</i></p> <p>25. <i>The attackers, [REDACTED] appropriated items belonging to AMIS and some personal property of AMIS personnel, [REDACTED].</i></p>

¹ PTC findings of violence to life as a war crime (Count 1).

² PTC findings on intentionally directing attacks against personnel, installations, material, units and vehicles involved in a peacekeeping mission in accordance with the UN Charter as a war crime (Count 2).

³ PTC findings on pillaging as a war crime (Count 3).

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
		26. The attackers also <i>damaged or destroyed AMIS armoured personnel carriers and other AMIS equipment and property</i> in the course of the attack. [REDACTED]
“a crime which [...] is attempted”	<p>PTC findings on the attempted commission of violence to life:</p> <p>95. On the basis of the evidence, the Chamber is satisfied that there are substantial grounds to believe that the relevant eight AMIS personnel in question <i>did indeed sustain serious injuries</i> during and in the context of the attack. [...]</p> <p>100. On the basis of the above reasoning, the Chamber is also satisfied that there are substantial grounds to believe that [REDACTED] <i>sustained injuries during the attack</i> which were so severe as to qualify <i>the conduct causing such injuries as "attempted murder"</i> within the meaning of articles 8(2)(c)(i) and 25(3)(f) of the Statute.</p>	24. During the course of the attack the attackers also <i>severely injured about eight AU personnel</i> , including [REDACTED].
Article 25(3)(c)		
“For the purpose of facilitating the commission of such a crime”	<p>PTC finding on Banda’s participation in a planning meeting prior to the attack and his sharing of the common plan, which shows Banda’s intent to facilitate commission of the crimes that occurred:</p> <p>132. The evidence presented by the Prosecutor provides substantial grounds to believe that, during the aforementioned meeting, the commanders, including <i>Abdallah Banda</i> and <i>Saleh Jerbo</i>, <i>came to the agreement to attack the MGS Haskanita</i>. [...]</p> <p>135. Based on the evidence presented by the Prosecutor,</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and SLA-Unity, <i>participated in a meeting on 29 September 2007, at which the attack against the MGS Haskanita compound was decided and planned</i>. The Chamber is also satisfied that there are substantial grounds to believe that at least some of the troops that eventually participated in the attack shared with their commanders the common plan to attack the MGS Haskanita compound.</p> <p>139. As indicated in paragraph 135 above, based on the evidence submitted by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and the SLA-Unity, <i>designed and planned the attack</i> against the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>were part of a common plan</i> to attack the MGS Haskanita compound and made essential contributions in a coordinated manner - namely <i>designing and planning the attack</i>, [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	
	<p>PTC finding that Banda meant to engage in the attack on the MGS Haskanita:</p> <p>154. [...] the Chamber recalls its earlier findings that there</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>are substantial grounds to believe that Abdallah Banda and Saleh Jerbo issued orders to their respective troops to attack the MGS Haskanita,[fn omitted] personally participated in the attack and led their troops during the attack. [fn omitted] In view of these findings, the Chamber finds that there is sufficient evidence to establish substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>meant to engage in the attack</i> on the MGS Haskanita. [...]</p> <p>157. The Chamber finds, on this basis, that there is sufficient evidence to establish substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, <i>meant to engage in the attack on the MGS Haskanita</i> and, although they did not necessarily mean to cause as a consequence the crime proscribed in article 8(2)(c)(i) of the Statute, they <i>were at least aware that in the ordinary course of events, violence to life in the form of murder would occur in the course of such attack</i>. The Chamber further recalls its finding that there is sufficient evidence to establish substantial grounds to believe that both Abdallah Banda and Saleh Jerbo were aware of the factual circumstances that established the AMIS peacekeeping personnel's status of persons taking no active part in hostilities at the time of the attack. [fn omitted]</p> <p>158. [...] The Chamber is thus satisfied that there is sufficient evidence to establish substantial grounds that Abdallah Banda and Saleh Jerbo <i>meant to engage in the pillaging</i> of vehicles, fuel and goods belonging to the AMIS personnel, and <i>knew that their actions would bring</i></p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p><i>about the consequence of the crime</i> proscribed in article 8(2)(e)(v) of the Statute. Furthermore, the Chamber recalls its finding that there are substantial grounds to believe that both Abdallah Banda and Saleh Jerbo intended to deprive the owners of their property and appropriated the looted items for their personal use. [fn omitted]</p>	
	<p>PTC finding that: i) Banda and other members of the common plan were mutually aware and mutually accepted that implementing the common plan would result in the realisation of the objective elements of the crime; and ii) Banda, along with other co-perpetrators, was aware of the factual circumstances enabling him to jointly control the crimes:</p> <p>159. Turning to the second subjective element required to establish responsibility as a co-perpetrator, the Chamber again recalls its findings regarding the participation of Abdallah Banda and Saleh Jerbo in the meeting at which the attack on the MGS Haskanita was decided and planned, [fn omitted] and their leadership and participation in the attack together with other commanders and troops. [fn omitted] in view of these findings and the foregoing discussion of the subjective elements of the crimes committed in the course of the attack, the Chamber is satisfied that there is sufficient evidence to establish substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo were mutually aware that the implementation of the common plan would result (with respect to murder in the ordinary course of events) in the realisation of the objective elements of the crimes</i> charged by the</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>Prosecutor.</p> <p>161. The Chamber recalls its findings regarding the suspects' positions as leaders of the troops involved in the attack on the MGS Haskanita, [fn omitted] the suspects' essential contributions to the plan and execution of the attack[fn omitted] and their personal participation in the attack. [fn omitted] Having regard to their prominent role in the attack, the Chamber finds that there is sufficient evidence to establish substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>were aware both that their role in the commission of the crimes charged was essential</i>, and that any of them could frustrate the implementation of the common plan, in the way the crime was committed, by refusing to perform the tasks assigned to them in the attack on the MGS Haskanita.</p>	
<p>“aids, abets or otherwise assists [...], including providing the means”</p>	<p>PTC findings on Banda’s provision of troops, equipment and materials necessary to carry out the attack:</p> <p>143. [...] Based on the evidence submitted, the Chamber is further satisfied that there are substantial grounds to believe that the vehicles, ammunition and troops referred to above formed the forces of <i>the JEM Splinter Group</i>, SLA-Unity and SLA-Abdul Shafie that <i>were provided by Abdallah Banda</i> and Saleh Jerbo to launch the attack on the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo [...] made essential contributions in a</p>	<p>18. [REDACTED] <i>Mr Banda agreed</i>, [REDACTED], <i>to participate in the attack</i> [REDACTED].</p> <p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] <i>attack the MGS Haskanita pursuant to the plan that was agreed upon between Mr. Jerbo, [REDACTED], Mr. Banda [REDACTED].</i></p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	coordinated manner-namely [...] <i>providing the necessary troops, equipment and materials</i> [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.	
	<p>PTC findings on Banda's ordering the troops to attack MGS Haskanita:</p> <p>132. [...] several indirect witnesses confirm that immediately after the meeting the rest of commanders and troops <i>were told to go on a "mission" to attack</i> the MGS Haskanita compound. [fn omitted]</p> <p>143. [...] after the common plan was agreed, the commanders <i>ordered</i> their respective troops to attack the MGS Haskanita.[fn omitted] The Chamber is therefore satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo, together with other commanders, contributed to the common plan <i>by ordering the troops under their control</i> at the time to commit the attack. [...]</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] <i>ordering</i> [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	<p>22. [REDACTED]</p> <p>23. <i>The attackers</i> [REDACTED] <i>overran the MGS Haskanita</i>. During the course of the attack <i>these attackers shot and killed</i> 10 AMIS peacekeepers. Two other peacekeepers later died from injuries sustained during the attack. The attackers killed the following AU personnel: Major Gaolatine Tiro (Botswana), Bala Mohammed (Nigeria), Duniya Audu (Nigeria), Samuel Orokpo (Nigeria), John Dogara (Nigeria), Tayo Alawo (Nigeria), Usman Saleh (Nigeria), Danjuma Madaki (Nigeria), Martin Matthias (Nigeria), Haruna Peter (Nigeria), Mayoro Kebe (Senegal) and Ibrahim Diagne (Mali).</p> <p>24. During the course of the attack the attackers also <i>severely injured about eight AU personnel</i>, including [REDACTED].</p>
	<p>PTC findings on Banda's leading of, and participating in, the attack on the MGS Haskanita:</p> <p>146. [...] The evidence presented by the Prosecutor</p>	<p>25. <i>The attackers</i>, [REDACTED] <i>appropriated items belonging to AMIS and some personal property of AMIS personnel</i>, [REDACTED].</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>supports the finding that there are substantial grounds to believe that both Abdallah Banda [fn omitted] and Saleh Jerbo [fn omitted] <i>personally participated as leaders</i> of their respective troops <i>in the actual attack</i> on the MGS Haskanita. [fn omitted] [...]</p> <p>148. On the basis of the evidence submitted, the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo together with troops of the JEM Splinter Group, the SLA-Unity and the SLA-Abdul Safie, led by them and other commanders, personally participated in the attack</i> on the MGS Haskanita during and in the context of which the crimes charged by the Prosecutor in the DCC were committed. [...]</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] as well as <i>personally participating and leading the attack</i> [...].</p>	<p>26. <i>The attackers also damaged or destroyed AMIS armoured personnel carriers and other AMIS equipment and property</i> in the course of the attack. [REDACTED]</p>
	<p>PTC findings on Banda's participation in the designing and planning of the attack:</p> <p>132. The evidence presented by the Prosecutor provides substantial grounds to believe that, during the aforementioned meeting, the commanders, including <i>Abdallah Banda and Saleh Jerbo, came to the agreement to attack the MGS Haskanita.</i> [...]</p>	<p>18. [REDACTED] <i>Mr Banda agreed, [REDACTED], to participate in the attack</i> [REDACTED].</p> <p>22. [REDACTED]</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>135. Based on the evidence presented by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and SLA-Unity, <i>participated in a meeting on 29 September 2007, at which the attack against the MGS Haskanita compound was decided and planned.</i> The Chamber is also satisfied that there are substantial grounds to believe that at least some of the troops that eventually participated in the attack shared with their commanders the common plan to attack the MGS Haskanita compound.</p> <p>139. As indicated in paragraph 135 above, based on the evidence submitted by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and the SLA-Unity, <i>designed and planned the attack</i> against the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>were part of a common plan</i> to attack the MGS Haskanita compound and made essential contributions in a coordinated manner - namely <i>designing and planning the attack</i>, [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
“commission of such a crime”, “in its commission or its attempted commission”	<i>See PTC findings on individual crimes in paras 88-109;⁴ paras 59-87;⁵ paras 110-123.⁶</i>	<p>23. <i>The attackers [REDACTED] overran the MGS Haskanita. During the course of the attack these attackers shot and killed 10 AMIS peacekeepers. Two other peacekeepers later died from injuries sustained during the attack. The attackers killed the following AU personnel: Major Gaolatine Tiro (Botswana), Bala Mohammed (Nigeria), Duniya Audu (Nigeria), Samuel Orokpo (Nigeria), John Dogara (Nigeria), Tayo Alawo (Nigeria), Usman Saleh (Nigeria), Danjuma Madaki (Nigeria), Martin Matthias (Nigeria), Haruna Peter (Nigeria), Mayoro Kebe (Senegal) and Ibrahim Diagne (Mali).</i></p> <p>24. <i>During the course of the attack the attackers also severely injured about eight AU personnel, including [REDACTED].</i></p> <p>25. <i>The attackers, [REDACTED] appropriated items belonging to AMIS and some personal property of AMIS personnel, [REDACTED].</i></p> <p>26. <i>The attackers also damaged or destroyed AMIS armoured personnel carriers and other AMIS equipment and property in the course of the attack. [REDACTED]</i></p>
Article 25(3)(d)		
“In any other way contributes”	PTC findings on Banda’s participation in the designing and planning of the attack on the MGS	18. <i>[REDACTED] Mr Banda agreed, [REDACTED], to participate in the attack [REDACTED].</i>

⁴ PTC findings of violence to life as a war crime (Count 1).

⁵ PTC findings on intentionally directing attacks against personnel, installations, material, units and vehicles involved in a peacekeeping mission in accordance with the UN Charter as a war crime (Count 2).

⁶ PTC findings on pillaging as a war crime (Count 3).

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>Haskanita:</p> <p>132. The evidence presented by the Prosecutor provides substantial grounds to believe that, during the aforementioned meeting, the commanders, including <i>Abdallah Banda</i> and Saleh Jerbo, <i>came to the agreement to attack the MGS Haskanita</i>. [...]</p> <p>135. Based on the evidence presented by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and SLA-Unity, <i>participated in a meeting on 29 September 2007, at which the attack against the MGS Haskanita compound was decided and planned</i>. The Chamber is also satisfied that there are substantial grounds to believe that at least some of the troops that eventually participated in the attack shared with their commanders the common plan to attack the MGS Haskanita compound.</p> <p>139. As indicated in paragraph 135 above, based on the evidence submitted by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and the SLA-Unity, <i>designed and planned the attack</i> against the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>were part of a common plan</i> to attack the</p>	<p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] <i>attack the MGS Haskanita</i> [...].</p> <p>22. [REDACTED]</p> <p>23. <i>The attackers</i> [REDACTED] <i>overran the MGS Haskanita</i>. During the course of the attack <i>these attackers shot and killed 10 AMIS peacekeepers</i>. [...]</p> <p>25. <i>The attackers</i>, [REDACTED] <i>appropriated items belonging to AMIS and some personal property of AMIS personnel</i>, [REDACTED] [...].</p> <p>26. <i>The attackers also damaged or destroyed AMIS armoured personnel carriers and other AMIS equipment and property</i> in the course of the attack. [REDACTED]</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>MGS Haskanita compound and made essential contributions in a coordinated manner - namely <i>designing and planning the attack</i>, [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	
	<p>PTC findings on Banda's ordering and providing troops, equipment and materials necessary to carry out the attack on the MGS Haskanita:</p> <p>132. [...] several indirect witnesses confirm that immediately after the meeting the rest of commanders and troops <i>were told to go on a "mission" to attack</i> the MGS Haskanita compound. [fn omitted]</p> <p>143. [...] after the common plan was agreed, the commanders <i>ordered</i> their respective troops to attack the MGS Haskanita.[fn omitted] The Chamber is therefore satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo, together with other commanders, contributed to the common plan <i>by ordering the troops under their control</i> at the time to commit the attack. Based on the evidence submitted, the Chamber is further satisfied that there are substantial grounds to believe that the vehicles, ammunition and troops referred to above formed the forces of <i>the JEM Splinter Group, SLA-Unity and SLA-Abdul Shafie that were provided by Abdallah Banda and Saleh Jerbo</i> to launch the attack on the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and</p>	<p>18. [REDACTED] <i>Mr Banda agreed</i>, [REDACTED], <i>to participate in the attack</i> [REDACTED].</p> <p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] <i>attack the MGS Haskanita</i> pursuant to the plan that was agreed upon between Mr. Jerbo, [REDACTED], Mr. Banda [REDACTED].</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] <i>ordering and providing the necessary troops, equipment and materials</i> [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	
	<p>PTC findings on Banda's leading of, and participating in, the attack on the MGS Haskanita:</p> <p>146. [...] The evidence presented by the Prosecutor supports the finding that there are substantial grounds to believe that both Abdallah Banda [fn omitted] and Saleh Jerbo [fn omitted] <i>personally participated as leaders</i> of their respective troops <i>in the actual attack</i> on the MGS Haskanita. [fn omitted] [...]</p> <p>148. On the basis of the evidence submitted, the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo together with troops of the JEM Splinter Group, the SLA-Unity and the SLA-Abdul Safie, led by them and other commanders, personally participated in the attack</i> on the MGS Haskanita during and in the context of which the crimes charged by the Prosecutor in the DCC were committed. [...]</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] as well as <i>personally participating and leading the attack</i> [...].</p>	<p>22. [REDACTED]</p> <p>23. <i>The attackers</i> [REDACTED] <i>overran the MGS Haskanita</i>. During the course of the attack <i>these attackers shot and killed 10 AMIS peacekeepers</i>. Two other peacekeepers later died from injuries sustained during the attack. [...]</p> <p>25. <i>The attackers</i>, [REDACTED] <i>appropriated items belonging to AMIS and some personal property of AMIS personnel</i>, [REDACTED].</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
“commission [...] of such a crime”	<p>See PTC findings on individual crimes in paras 88-109;⁷ paras 59-87;⁸ paras 110-123.⁹</p>	<p>23. <i>The attackers [REDACTED] overran the MGS Haskanita. During the course of the attack these attackers shot and killed 10 AMIS peacekeepers. Two other peacekeepers later died from injuries sustained during the attack. The attackers killed the following AU personnel: Major Gaolatine Tiro (Botswana), Bala Mohammed (Nigeria), Duniya Audu (Nigeria), Samuel Orokpo (Nigeria), John Dogara (Nigeria), Tayo Alawo (Nigeria), Usman Saleh (Nigeria), Danjuma Madaki (Nigeria), Martin Matthias (Nigeria), Haruna Peter (Nigeria), Mayoro Kebe (Senegal) and Ibrahim Diagne (Mali).</i></p> <p>25. <i>The attackers, [REDACTED] appropriated items belonging to AMIS and some personal property of AMIS personnel, [REDACTED].</i></p> <p>26. <i>The attackers also damaged or destroyed AMIS armoured personnel carriers and other AMIS equipment and property in the course of the attack. [REDACTED]</i></p>
“attempted commission of such a crime”	<p>PTC findings on the attempted commission of violence to life:</p> <p>95. On the basis of the evidence, the Chamber is satisfied that there are substantial grounds to believe that the relevant eight AMIS personnel in question <i>did indeed sustain serious injuries</i> during and in the context of the</p>	<p>24. During the course of the attack the attackers <i>also severely injured about eight AU personnel, including [REDACTED].</i></p>

⁷ PTC findings of violence to life as a war crime (Count 1).

⁸ PTC findings on intentionally directing attacks against personnel, installations, material, units and vehicles involved in a peacekeeping mission in accordance with the UN Charter as a war crime (Count 2).

⁹ PTC findings on pillaging as a war crime (Count 3).

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>attack. [...]</p> <p>100. On the basis of the above reasoning, the Chamber is also satisfied that there are substantial grounds to believe that [REDACTED] sustained injuries during the attack which were so severe as to qualify <i>the conduct causing such injuries as "attempted murder"</i> within the meaning of articles 8(2)(c)(i) and 25(3)(f) of the Statute.</p>	
<p>“a group of persons acting with a common purpose”</p>	<p>132. The evidence presented by the Prosecutor provides substantial grounds to believe that, during the aforementioned meeting, the commanders, including <i>Abdallah Banda</i> and Saleh Jerbo, <i>came to the agreement to attack the MGS Haskanita</i>. [...]</p> <p>135. Based on the evidence presented by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and SLA-Unity, <i>participated in a meeting on 29 September 2007, at which the attack against the MGS Haskanita compound was decided and planned</i>. The Chamber is also satisfied that there are substantial grounds to believe that at least some of the troops that eventually participated in the attack shared with their commanders the common plan to attack the MGS Haskanita compound.</p> <p>139. As indicated in paragraph 135 above, based on the evidence submitted by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and the SLA-</p>	<p>16. [REDACTED]</p> <p>18. [REDACTED] <i>Mr Banda agreed, [REDACTED] to participate in the attack [REDACTED]</i>.</p> <p>19. [REDACTED]</p> <p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita [REDACTED]</i>.</p> <p>21. Mr. Jerbo [REDACTED] attack the MGS Haskanita pursuant to the plan that was agreed upon between Mr. Jerbo, [REDACTED] Mr. Banda [REDACTED].</p> <p>22. [REDACTED]</p> <p>23. <i>The attackers [REDACTED] overran the MGS Haskanita</i>. During the course of the attack <i>these attackers shot and killed 10 AMIS peacekeepers</i>. Two other peacekeepers later died from injuries sustained during the attack. The attackers killed the following AU personnel: Major Gaolatine Tiro (Botswana), Bala Mohammed</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>Unity, <i>designed and planned the attack</i> against the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>were part of a common plan</i> to attack the MGS Haskanita compound and made essential contributions in a coordinated manner - <i>namely designing and planning the attack</i>, [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	<p>(Nigeria), Duniya Audu (Nigeria), Samuel Orokpo (Nigeria), John Dogara (Nigeria), Tayo Alawo (Nigeria), Usman Saleh (Nigeria), Danjuma Madaki (Nigeria), Martin Matthias (Nigeria), Haruna Peter (Nigeria), Mayoro Kebe (Senegal) and Ibrahim Diagne (Mali).</p> <p>24. During the course of the attack the attackers also <i>severely injured about eight AU personnel</i>, including [REDACTED].</p> <p>25. <i>The attackers</i>, [REDACTED], <i>appropriated items belonging to AMIS and some personal property of AMIS personnel</i>, [REDACTED].</p> <p>26. <i>The attackers also damaged or destroyed AMIS armoured personnel carriers and other AMIS equipment and property</i> in the course of the attack. [REDACTED]</p>
“Such contribution shall be intentional”	<p>PTC findings on Banda’s participation in a planning meeting prior to the attack and his sharing of the common plan:</p> <p>132. The evidence presented by the Prosecutor provides substantial grounds to believe that, during the aforementioned meeting, the commanders, <i>including Abdallah Banda</i> and Saleh Jerbo, <i>came to the agreement to attack the MGS Haskanita</i>. [...]</p> <p>135. Based on the evidence presented by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter</p>	<p>18. [REDACTED] <i>Mr Banda agreed</i>, [REDACTED], <i>to participate in the attack</i> [REDACTED].</p> <p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] <i>attack the MGS Haskanita</i> pursuant to the plan that was agreed upon between Mr. Jerbo, [REDACTED], Mr. Banda [REDACTED].</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>Group and SLA-Unity, <i>participated in a meeting on 29 September 2007, at which the attack against the MGS Haskanita compound was decided and planned.</i> The Chamber is also satisfied that there are substantial grounds to believe that at least some of the troops that eventually participated in the attack shared with their commanders the common plan to attack the MGS Haskanita compound.</p> <p>139. As indicated in paragraph 135 above, based on the evidence submitted by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and the SLA-Unity, <i>designed and planned the attack</i> against the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>were part of a common plan</i> to attack the MGS Haskanita compound and made essential contributions in a coordinated manner - namely <i>designing and planning the attack</i>, [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>PTC finding on Banda's participation in the attack, including by ordering and leading the troops into the attack, which shows that he meant to be engaged in conduct that contributed to the crime:</p> <p>132. [...] several indirect witnesses confirm that immediately after the meeting the rest of commanders and troops <i>were told to go on a "mission" to attack</i> the MGS Haskanita compound. [fn omitted]</p> <p>143. [...] after the common plan was agreed, the commanders <i>ordered</i> their respective troops to attack the MGS Haskanita.[fn omitted] The Chamber is therefore satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo, together with other commanders, contributed to the common plan <i>by ordering the troops under their control</i> at the time to commit the attack. [...]</p> <p>146. [...] The evidence presented by the Prosecutor supports the finding that there are substantial grounds to believe that both Abdallah Banda [fn omitted] and Saleh Jerbo [fn omitted] <i>personally participated as leaders</i> of their respective troops <i>in the actual attack</i> on the MGS Haskanita. [fn omitted] [...]</p> <p>148. On the basis of the evidence submitted, the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo together with troops of the JEM Splinter Group, the SLA-Unity and the SLA-Abdul Safie, led by them</i> and other commanders,</p>	<p>22. [REDACTED]</p> <p>23. <i>The attackers</i> [REDACTED] <i>overran the MGS Haskanita</i>. During the course of the attack <i>these attackers shot and killed 10 AMIS peacekeepers</i>. Two other peacekeepers later died from injuries sustained during the attack. [...]</p> <p>25. <i>The attackers</i>, [REDACTED] <i>appropriated items belonging to AMIS and some personal property of AMIS personnel</i>, [REDACTED].</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p><i>personally participated in the attack</i> on the MGS Haskanita during and in the context of which the crimes charged by the Prosecutor in the DCC were committed. [...]</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] <i>ordering</i> and <i>providing the necessary troops, equipment and materials</i> as well as <i>personally participating and leading the attack</i> [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	
	<p>PTC finding that Banda meant to engage in the attack on the MGS Haskanita:</p> <p>154. [...] the Chamber recalls its earlier findings that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo issued orders to their respective troops to attack the MGS Haskanita,[fn omitted] personally participated in the attack and led their troops during the attack. [fn omitted] In view of these findings, the Chamber finds that there is sufficient evidence to establish substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>meant to engage in the attack</i> on the MGS Haskanita. [...]</p> <p>157. The Chamber finds, on this basis, that there is sufficient evidence to establish substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, <i>meant to engage in the attack on the MGS Haskanita</i> and,</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>although they did not necessarily mean to cause as a consequence the crime proscribed in article 8(2)(c)(i) of the Statute, they <i>were at least aware that in the ordinary course of events, violence to life in the form of murder would occur in the course of such attack</i>. The Chamber further recalls its finding that there is sufficient evidence to establish substantial grounds to believe that both Abdallah Banda and Saleh Jerbo were aware of the factual circumstances that established the AMIS peacekeeping personnel's status of persons taking no active part in hostilities at the time of the attack. [fn omitted]</p> <p>158. [...] The Chamber is thus satisfied that there is sufficient evidence to establish substantial grounds that Abdallah Banda and Saleh Jerbo <i>meant to engage in the pillaging</i> of vehicles, fuel and goods belonging to the AMIS personnel, and <i>knew that their actions would bring about the consequence of the crime</i> proscribed in article 8(2)(e)(v) of the Statute. Furthermore, the Chamber recalls its finding that there are substantial grounds to believe that both Abdallah Banda and Saleh Jerbo intended to deprive the owners of their property and appropriated the looted items for their personal use. [fn omitted]</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>PTC finding that: i) Banda and other members of the common plan were mutually aware and mutually accepted that implementing the common plan would result in the realisation of the objective elements of the crime; and ii) Banda, along with other co-perpetrators was aware of the factual circumstances enabling him to jointly control the crimes:</p> <p>159. Turning to the second subjective element required to establish responsibility as a co-perpetrator, the Chamber again recalls its findings regarding the participation of Abdallah Banda and Saleh Jerbo in the meeting at which the attack on the MGS Haskanita was decided and planned, [fn omitted] and their leadership and participation in the attack together with other commanders and troops. [fn omitted] in view of these findings and the foregoing discussion of the subjective elements of the crimes committed in the course of the attack, the Chamber is satisfied that there is sufficient evidence to establish substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo were mutually aware that the implementation of the common plan would result (with respect to murder in the ordinary course of events) in the realisation of the objective elements of the crimes</i> charged by the Prosecutor.</p> <p>161. The Chamber recalls its findings regarding the suspects' positions as leaders of the troops involved in the attack on the MGS Haskanita, [fn omitted] the suspects' essential contributions to the plan and execution of the attack[fn omitted] and their personal participation in the</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>attack. [fn omitted] Having regard to their prominent role in the attack, the Chamber finds that there is sufficient evidence to establish substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>were aware both that their role in the commission of the crimes charged was essential</i>, and that any of them could frustrate the implementation of the common plan, in the way the crime was committed, by refusing to perform the tasks assigned to them in the attack on the MGS Haskanita.</p>	
<p>“Such contribution [...] shall either (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or (ii) Be made in the knowledge of the intention of the group to commit the crime”</p>	<p>PTC findings i) on Banda’s participation in planning the attack in paras 132, 135, 139, 149; and ii) Banda’s acts immediately following the creation of the plan (paras 132, 143 and 149 on ordering and providing troops, equipment and materials), which demonstrate Banda’s agreement/intent to contribute to the criminal activity/purpose.</p> <p>i) Banda’s participation in planning the attack:</p> <p>132. The evidence presented by the Prosecutor provides substantial grounds to believe that, during the aforementioned meeting, the commanders, including <i>Abdallah Banda</i> and Saleh Jerbo, <i>came to the agreement to attack the MGS Haskanita.</i> [...]</p> <p>135. Based on the evidence presented by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and SLA-Unity, <i>participated in a meeting on 29 September 2007, at which the attack against the MGS Haskanita compound was decided and planned.</i> The</p>	<p>18. [REDACTED] <i>Mr Banda agreed</i>, [REDACTED], <i>to participate in the attack</i> [REDACTED].</p> <p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] <i>attack the MGS Haskanita pursuant to the plan that was agreed upon between Mr. Jerbo, [REDACTED], Mr. Banda [REDACTED].</i></p> <p>22. [REDACTED]</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>Chamber is also satisfied that there are substantial grounds to believe that at least some of the troops that eventually participated in the attack shared with their commanders the common plan to attack the MGS Haskanita compound.</p> <p>139. As indicated in paragraph 135 above, based on the evidence submitted by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and the SLA-Unity, <i>designed and planned the attack</i> against the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>were part of a common plan</i> to attack the MGS Haskanita compound and made essential contributions in a coordinated manner - <i>namely designing and planning the attack</i>, [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p> <p>ii) Banda's acts immediately following the creation of the plan:</p> <p>132. [...] several indirect witnesses confirm that immediately after the meeting the rest of commanders and troops <i>were told to go on a "mission" to attack</i> the MGS Haskanita compound. [fn omitted]</p> <p>143. [...] after the common plan was agreed, the commanders <i>ordered</i> their respective troops to attack the</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>MGS Haskanita.[fn omitted] The Chamber is therefore satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo, together with other commanders, contributed to the common plan <i>by ordering the troops under their control</i> at the time to commit the attack. [...]</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] <i>ordering and providing the necessary troops, equipment and materials</i> as well as <i>personally participating and leading the attack</i> [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	
	<p>PTC finding that Banda meant to engage in the attack on the MGS Haskanita:</p> <p>154. [...] the Chamber recalls its earlier findings that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo issued orders to their respective troops to attack the MGS Haskanita,[fn omitted] personally participated in the attack and led their troops during the attack. [fn omitted] In view of these findings, the Chamber finds that there is sufficient evidence to establish substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo meant to engage in the attack</i> on the MGS Haskanita. [...]</p> <p>157. The Chamber finds, on this basis, that there is sufficient evidence to establish substantial grounds to</p>	<p>22. [REDACTED]</p> <p>23. <i>The attackers [REDACTED] overran the MGS Haskanita. During the course of the attack these attackers shot and killed 10 AMIS peacekeepers. Two other peacekeepers later died from injuries sustained during the attack. [...]</i></p> <p>25. <i>The attackers, [REDACTED] appropriated items belonging to AMIS and some personal property of AMIS personnel, [REDACTED].</i></p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>believe that both <i>Abdallah Banda</i> and Saleh Jerbo, <i>meant to engage in the attack on the MGS Haskanita</i> and, although they did not necessarily mean to cause as a consequence the crime proscribed in article 8(2)(c)(i) of the Statute, they <i>were at least aware that in the ordinary course of events, violence to life in the form of murder would occur in the course of such attack</i>. The Chamber further recalls its finding that there is sufficient evidence to establish substantial grounds to believe that both Abdallah Banda and Saleh Jerbo were aware of the factual circumstances that established the AMIS peacekeeping personnel's status of persons taking no active part in hostilities at the time of the attack. [fn omitted]</p> <p>158. [...] The Chamber is thus satisfied that there is sufficient evidence to establish substantial grounds that Abdallah Banda and Saleh Jerbo <i>meant to engage in the pillaging</i> of vehicles, fuel and goods belonging to the AMIS personnel, and <i>knew that their actions would bring about the consequence of the crime</i> proscribed in article 8(2)(e)(v) of the Statute. Furthermore, the Chamber recalls its finding that there are substantial grounds to believe that both Abdallah Banda and Saleh Jerbo intended to deprive the owners of their property and appropriated the looted items for their personal use. [fn omitted]</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>PTC finding that: i) Banda and other members of the common plan were mutually aware and mutually accepted that implementing the common plan would result in the realisation of the objective elements of the crime; and ii) Banda, along with other co-perpetrators was aware of the factual circumstances enabling him to jointly control the crimes:</p> <p>159. Turning to the second subjective element required to establish responsibility as a co-perpetrator, the Chamber again recalls its findings regarding the participation of Abdallah Banda and Saleh Jerbo in the meeting at which the attack on the MGS Haskanita was decided and planned, [fn omitted] and their leadership and participation in the attack together with other commanders and troops. [fn omitted] in view of these findings and the foregoing discussion of the subjective elements of the crimes committed in the course of the attack, the Chamber is satisfied that there is sufficient evidence to establish substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo were mutually aware that the implementation of the common plan would result (with respect to murder in the ordinary course of events) in the realisation of the objective elements of the crimes</i> charged by the Prosecutor.</p> <p>161. The Chamber recalls its findings regarding the suspects' positions as leaders of the troops involved in the attack on the MGS Haskanita, [fn omitted] the suspects' essential contributions to the plan and execution of the attack[fn omitted] and their personal participation in the</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>attack. [fn omitted] Having regard to their prominent role in the attack, the Chamber finds that there is sufficient evidence to establish substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>were aware both that their role in the commission of the crimes charged was essential</i>, and that any of them could frustrate the implementation of the common plan, in the way the crime was committed, by refusing to perform the tasks assigned to them in the attack on the MGS Haskanita.</p>	
Article 28(a)		
<p>“A military commander or person effectively acting as a military commander”</p>	<p>PTC findings on Banda’s position of authority:</p> <p>141. [...] the Chamber is satisfied that there are substantial grounds to believe that at the time of the attack to the MGS Haskanita on 29 September 2007, Abdallah Banda <i>had control over some vehicles - among 4 to 12 vehicles according to the witnesses - ammunition and troops, [fn omitted] which recognised him as their military commander</i>. Most significantly, one witness states that Abdallah Banda was "the commander in chief of the mission to attack the AU compound".[fn omitted]</p>	<p>18. [REDACTED] <i>Mr Banda agreed, [REDACTED], to participate in the attack [REDACTED]</i>.</p> <p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita [REDACTED]</i>.</p> <p>22. [REDACTED]</p> <p>23. <i>The attackers [REDACTED] overran the MGS Haskanita. During the course of the attack these attackers shot and killed 10 AMIS peacekeepers. Two other peacekeepers later died from injuries sustained during the attack. The attackers killed the following AU personnel: Major Gaolatine Tiro (Botswana), Bala Mohammed (Nigeria), Duniya Audu (Nigeria), Samuel Orokpo (Nigeria), John Dogara (Nigeria), Tayo Alawo (Nigeria), Usman Saleh (Nigeria), Danjuma Madaki (Nigeria), Martin Matthias (Nigeria), Haruna Peter (Nigeria), Mayoro Kebe (Senegal) and Ibrahim Diagne (Mali).</i></p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
		25. <i>The attackers, [REDACTED] appropriated items belonging to AMIS and some personal property of AMIS personnel, [REDACTED].</i>
“crimes within the jurisdiction of the Court committed”	See PTC findings on individual crimes in paras 88-109;¹⁰ paras 59-87;¹¹ paras 110-123.¹²	<p>23. <i>The attackers [REDACTED] overran the MGS Haskanita. During the course of the attack these attackers shot and killed 10 AMIS peacekeepers. Two other peacekeepers later died from injuries sustained during the attack. The attackers killed the following AU personnel: Major Gaolatine Tiro (Botswana), Bala Mohammed (Nigeria), Duniya Audu (Nigeria), Samuel Orokpo (Nigeria), John Dogara (Nigeria), Tayo Alawo (Nigeria), Usman Saleh (Nigeria), Danjuma Madaki (Nigeria), Martin Matthias (Nigeria), Haruna Peter (Nigeria), Mayoro Kebe (Senegal) and Ibrahim Diagne (Mali).</i></p> <p>24. <i>During the course of the attack the attackers also severely injured about eight AU personnel, including [REDACTED].</i></p> <p>25. <i>The attackers, [REDACTED] appropriated items belonging to AMIS and some personal property of AMIS personnel, [REDACTED].</i></p> <p>26. <i>The attackers also damaged or destroyed AMIS armoured personnel carriers and other AMIS equipment</i></p>

¹⁰ PTC findings of violence to life as a war crime (Count 1)

¹¹ PTC findings on intentionally directing attacks against personnel, installations, material, units and vehicles involved in a peacekeeping mission in accordance with the UN Charter as a war crime (Count 2)

¹² PTC findings on pillaging as a war crime (Count 3).

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
<p>“committed by forces under his or her effective command and control, or effective authority and control as the case may be”</p>	<p>PTC findings on Banda’s contribution by ordering and providing troops, equipment and materials necessary to carry out the attack, which show Banda’s effective command and control, or his effective authority and control, over the troops participating in the attack:</p> <p>132. [...] several indirect witnesses confirm that immediately after the meeting the rest of commanders and troops <i>were told to go on a "mission" to attack</i> the MGS Haskanita compound. [fn omitted]</p> <p>143. [...] after the common plan was agreed, the commanders <i>ordered</i> their respective troops to attack the MGS Haskanita.[fn omitted] The Chamber is therefore satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo, together with other commanders, contributed to the common plan <i>by ordering the troops under their control</i> at the time to commit the attack. Based on the evidence submitted, the Chamber is further satisfied that there are substantial grounds to believe that the vehicles, ammunition and troops referred to above formed the forces of <i>the JEM Splinter Group, SLA-Unity and SLA-Abdul Shafie that were provided by Abdallah Banda and Saleh Jerbo</i> to launch the attack on the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] <i>ordering and providing</i></p>	<p><i>and property</i> in the course of the attack. [REDACTED]</p> <p>18. [REDACTED] <i>Mr Banda agreed</i>, [REDACTED], <i>to participate in the attack</i> [REDACTED].</p> <p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] <i>attack the MGS Haskanita</i> [...].</p> <p>22. [REDACTED]</p> <p>23. <i>The attackers</i> [REDACTED] <i>overran the MGS Haskanita</i>. During the course of the attack <i>these attackers shot and killed 10 AMIS peacekeepers</i>. [...]</p> <p>25. <i>The attackers</i>, [REDACTED] <i>appropriated items belonging to AMIS and some personal property of AMIS personnel</i>, [REDACTED] [...].</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p><i>the necessary troops, equipment and materials [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</i></p>	
	<p>PTC finding of Banda’s leading of the attack, which shows his position of authority, leadership and effective command and control, or his effective authority and control, over the troops participating in the attack:</p> <p>146. [...] The evidence presented by the Prosecutor supports the finding that there are substantial grounds to believe that both Abdallah Banda [fn omitted] and Saleh Jerbo [fn omitted] <i>personally participated as leaders</i> of their respective troops <i>in the actual attack</i> on the MGS Haskanita. [fn omitted] [...]</p> <p>148. On the basis of the evidence submitted, the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>together with troops of the JEM Splinter Group, the SLA-Unity and the SLA-Abdul Safie, led by them</i> and other commanders, <i>personally participated in the attack</i> on the MGS Haskanita during and in the context of which the crimes charged by the Prosecutor in the DCC were committed. [...]</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	coordinated manner-namely [...] as well as <i>personally participating and leading the attack</i> [...].	
“as a result of his or her failure to exercise control properly over such forces”	<p>PTC findings on Banda’s ordering and leading the troops into the attack on MGS Haskanita:</p> <p>132. [...] several indirect witnesses confirm that immediately after the meeting the rest of commanders and troops <i>were told to go on a "mission" to attack</i> the MGS Haskanita compound. [fn omitted]</p> <p>143. [...] after the common plan was agreed, the commanders <i>ordered</i> their respective troops to attack the MGS Haskanita.[fn omitted] The Chamber is therefore satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo, together with other commanders, contributed to the common plan <i>by ordering the troops under their control</i> at the time to commit the attack. [...]</p> <p>146. [...] The evidence presented by the Prosecutor supports the finding that there are substantial grounds to believe that both Abdallah Banda [fn omitted] and Saleh Jerbo [fn omitted] <i>personally participated as leaders</i> of their respective troops <i>in the actual attack</i> on the MGS Haskanita. [fn omitted] [...]</p> <p>148. On the basis of the evidence submitted, the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo together with troops of the JEM Splinter Group, the SLA-Unity and the SLA-Abdul Safie, led by them</i> and other commanders,</p>	<p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] <i>attack the MGS Haskanita</i> [...].</p> <p>22. [REDACTED]</p> <p>23. <i>The attackers</i> [REDACTED] <i>overran the MGS Haskanita</i>. During the course of the attack <i>these attackers shot and killed 10 AMIS peacekeepers</i>. [...]</p> <p>25. <i>The attackers, [REDACTED] appropriated items belonging to AMIS and some personal property of AMIS personnel, [REDACTED]</i> [...].</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p><i>personally participated in the attack</i> on the MGS Haskanita during and in the context of which the crimes charged by the Prosecutor in the DCC were committed. [...]</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] <i>ordering and providing the necessary troops, equipment and materials</i> as well as <i>personally participating and leading the attack</i> [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	
<p>“That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes”</p>	<p>PTC findings on Banda’s participation in, and leading of, the attack on the MGS Haskanita, which show that Banda knew or had reason to know that the forces under his effective command and control, or his effective authority and control, were committing crimes:</p> <p>146. [...] The evidence presented by the Prosecutor supports the finding that there are substantial grounds to believe that both Abdallah Banda [fn omitted] and Saleh Jerbo [fn omitted] <i>personally participated as leaders</i> of their respective troops <i>in the actual attack</i> on the MGS Haskanita. [fn omitted] [...]</p> <p>148. On the basis of the evidence submitted, the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo together with troops of the JEM Splinter Group, the SLA-Unity and the SLA-</i></p>	<p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] attack the MGS Haskanita [...].</p> <p>22. [REDACTED]</p> <p>23. <i>The attackers</i> [REDACTED] overran the MGS Haskanita. During the course of the attack <i>these attackers shot and killed</i> 10 AMIS peacekeepers. [...]</p> <p>25. <i>The attackers, [REDACTED] appropriated items belonging to AMIS and some personal property of AMIS personnel, [REDACTED]</i> [...].</p> <p>5. [...] Mr. Banda made his way to Haskanita in late</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>Abdul Safie, <i>led by them</i> and other commanders, <i>personally participated in the attack</i> on the MGS Haskanita during and in the context of which the crimes charged by the Prosecutor in the DCC were committed. [...]</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] as well as <i>personally participating and leading the attack</i> [...].</p>	<p>September 2007, arriving in the Haskanita area early on the morning of 29 September 2007.</p> <p>6. Whereas the purpose of coming to Haskanita had been to meet Dr. Ibrahim and discuss the conflict between him and Mr. Banda, upon arrival it became apparent that Dr. Ibrahim had in fact left the area a few days before.</p> <p>14. [REDACTED] this battle which lasted from about 9am to 1pm. After that time, rebel forces continued being bombed by a GoS Antonov aircraft until about 4pm.</p> <p>15. Mr. Banda arrived in the Haskanita area on the morning of 29 September 2007 [REDACTED]. [REDACTED] came to meet Mr. Banda about 10 km north of Haskanita. Mr. Banda had remained outside Haskanita village as he did not know whether GoS forces were in the village and because a GoS Antonov was circling overhead. As they were talking, they heard shelling which presaged the battle of Dalil Babikir.</p>
	<p>PTC findings on Banda's participation in a planning meeting prior to the attack and his sharing of the common plan, which show that Banda knew or had reason to know that the forces under his effective command and control, or his effective authority and control, were about to commit crimes:</p> <p>132. The evidence presented by the Prosecutor provides substantial grounds to believe that, during the aforementioned meeting, the commanders, including</p>	<p>18. [REDACTED] <i>Mr Banda agreed</i>, [REDACTED], <i>to participate in the attack</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] attack the MGS Haskanita pursuant to the plan that was agreed upon between Mr. Jerbo, [REDACTED], Mr. Banda [REDACTED].</p> <p>22. [REDACTED]</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p><i>Abdallah Banda</i> and Saleh Jerbo, came to the agreement to attack the MGS Haskanita. [...]</p> <p>135. Based on the evidence presented by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and SLA-Unity, <i>participated in a meeting on 29 September 2007, at which the attack against the MGS Haskanita compound was decided and planned.</i> The Chamber is also satisfied that there are substantial grounds to believe that at least some of the troops that eventually participated in the attack shared with their commanders the common plan to attack the MGS Haskanita compound.</p> <p>139. As indicated in paragraph 135 above, based on the evidence submitted by the Prosecutor, the Chamber is satisfied that there are substantial grounds to believe that both <i>Abdallah Banda</i> and Saleh Jerbo, together with other commanders of the JEM Splinter Group and the SLA-Unity, <i>designed and planned the attack</i> against the MGS Haskanita.</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>were part of a common plan</i> to attack the MGS Haskanita compound and made essential contributions in a coordinated manner - namely <i>designing and planning the attack</i>, [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>PTC findings on Banda's ordering and leading the troops into the attack on MGS Haskanita, which show that Banda knew or had reason to know that the forces under his effective command and control, or his effective authority and control, were about to commit crimes:</p> <p>132. [...] several indirect witnesses confirm that immediately after the meeting the rest of commanders and troops <i>were told to go on a "mission" to attack</i> the MGS Haskanita compound. [fn omitted]</p> <p>143. [...] after the common plan was agreed, the commanders <i>ordered</i> their respective troops to attack the MGS Haskanita.[fn omitted] The Chamber is therefore satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo, together with other commanders, contributed to the common plan <i>by ordering the troops under their control</i> at the time to commit the attack. [...]</p> <p>146. [...] The evidence presented by the Prosecutor supports the finding that there are substantial grounds to believe that both Abdallah Banda [fn omitted] and Saleh Jerbo [fn omitted] <i>personally participated as leaders</i> of their respective troops <i>in the actual attack</i> on the MGS Haskanita. [fn omitted] [...]</p> <p>148. On the basis of the evidence submitted, the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda and Saleh Jerbo together with troops</i></p>	<p>20. At around 7pm the [REDACTED] rebel forces – [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] attack the MGS Haskanita pursuant to the plan that was agreed upon between Mr. Jerbo, [REDACTED], Mr. Banda [REDACTED].</p> <p>22. [REDACTED]</p> <p>23. <i>The attackers</i> [REDACTED] <i>overran the MGS Haskanita</i>. During the course of the attack <i>these attackers shot and killed</i> 10 AMIS peacekeepers. Two other peacekeepers later died from injuries sustained during the attack. [...]</p> <p>25. <i>The attackers</i>, [REDACTED] <i>appropriated items belonging to AMIS and some personal property of AMIS personnel</i>, [REDACTED].</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p><i>of the JEM Splinter Group, the SLA-Unity and the SLA-Abdul Safie, led by them and other commanders, personally participated in the attack on the MGS Haskanita during and in the context of which the crimes charged by the Prosecutor in the DCC were committed. [...]</i></p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] <i>ordering and providing the necessary troops, equipment and materials</i> as well as <i>personally participating and leading the attack</i> [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	
<p>“That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.”</p>	<p>PTC findings demonstrating that Banda in fact led the forces under his effective command and control, or his effective authority and control, into the attack – instead of taking all necessary and reasonable measures within his power to prevent or repress commission of crimes by those forces:</p> <p>132. [...] several indirect witnesses confirm that immediately after the meeting the rest of commanders and troops <i>were told to go on a "mission" to attack</i> the MGS Haskanita compound. [fn omitted]</p> <p>143. [...] after the common plan was agreed, the commanders <i>ordered</i> their respective troops to attack the MGS Haskanita.[fn omitted] The Chamber is therefore</p>	<p>20. At around 7pm the [REDACTED] rebel forces [REDACTED] <i>attacked the MGS Haskanita</i> [REDACTED].</p> <p>21. Mr. Jerbo [REDACTED] attack the MGS Haskanita pursuant to the plan that was agreed upon between Mr. Jerbo, [REDACTED], Mr. Banda [REDACTED].</p> <p>22. [REDACTED]</p> <p>23. The attackers [REDACTED] overran the MGS Haskanita. During the course of the attack these attackers shot and killed 10 AMIS peacekeepers. Two other peacekeepers later died from injuries sustained during the attack. [...]</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo, together with other commanders, contributed to the common plan <i>by ordering the troops under their control</i> at the time to commit the attack. [...]</p> <p>146. [...] The evidence presented by the Prosecutor supports the finding that there are substantial grounds to believe that both Abdallah Banda [fn omitted] and Saleh Jerbo [fn omitted] <i>personally participated as leaders</i> of their respective troops <i>in the actual attack</i> on the MGS Haskanita. [fn omitted] [...]</p> <p>148. On the basis of the evidence submitted, the Chamber is satisfied that there are substantial grounds to believe that <i>Abdallah Banda</i> and Saleh Jerbo <i>together with troops of the JEM Splinter Group</i>, the SLA-Unity and the SLA-Abdul Safie, <i>led by them</i> and other commanders, <i>personally participated in the attack</i> on the MGS Haskanita during and in the context of which the crimes charged by the Prosecutor in the DCC were committed. [...]</p> <p>149. [...] the Chamber is satisfied that there are substantial grounds to believe that Abdallah Banda and Saleh Jerbo [...] made essential contributions in a coordinated manner-namely [...] <i>ordering</i> and <i>providing the necessary troops, equipment and materials</i> as well as <i>personally participating and leading the attack</i> [...] - which resulted in the fulfilment of the material elements of the crimes charged by the Prosecutor in the DCC.</p>	<p>25. <i>The attackers</i>, [REDACTED] <i>appropriated items belonging to AMIS and some personal property of AMIS personnel</i>, [REDACTED].</p>

FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	EXCERPTS OF THE CONFIRMATION DECISION AND/OR THE JOINT SUBMISSION ON AGREED FACTS SUPPORTING THE FORM OF INDIVIDUAL CRIMINAL RESPONSIBILITY	
	Excerpt from the Confirmation Decision	Excerpt from the Agreed facts
	<p>PTC findings demonstrating that Banda in fact participated in the distribution of pillaged property after the attack on the MGS Haskanita - instead of taking all necessary and reasonable measures within his power to: i) repress crimes committed by the forces under his effective command and control, or his effective authority and control, or ii) submit the matter to the competent authorities for investigation and prosecution:</p> <p>116. A significant degree of consistency also exists among the various statements which refer to the gathering and distribution of vehicles and other loot taking place among the commanders after the attack. [fn omitted] [...] Some witnesses allege that <i>Abdallah Banda "took about 8 vehicles as a share"</i>. [fn omitted] [...]</p> <p>158. [...] The Chamber further recalls that it emerges from the witness statements that <i>after the attack the commanders gathered and distributed the loot</i>. [fn omitted] [...]</p>	