

594)

SCSL-04-15-T
(24042-24071)

24042

SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
Freetown – Sierra Leone

Before: Hon. Justice Bankole Thompson, Presiding
Hon. Justice Benjamin Itoe
Hon. Justice Pierre Boutet

Registrar: Mr. Lovemore G. Munlo SC

Date filed: 11 July 2006

THE PROSECUTOR

Against

Issa Hassan Sesay
Morris Kallon
Augustine Gbao

Case No. SCSL-2004-15-T

PUBLIC

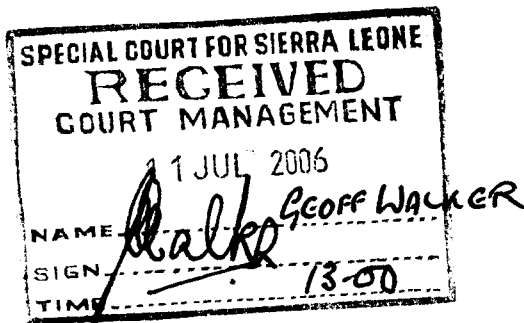
**PROSECUTION MOTION TO ADMIT INTO EVIDENCE A DOCUMENT
REFERRED TO IN CROSS-EXAMINATION**

Office of the Prosecutor:
Mr. Christopher Staker
Mr. James C. Johnson
Mr. Peter Harrison

Defense Counsel for Issa Hassan Sesay
Mr. Wayne Jordash
Ms. Sareta Ashraph

Defense Counsel for Morris Kallon
Mr. Shekou Touray
Mr. Charles Taku
Mr. Melron Nicol-Wilson

Defense Counsel for Augustine Gbao
Mr. Andreas O'Shea
Mr. John Cammegh



I. The Motion

1. During the cross-examination of Major Jaganathan¹ questions were put to him by counsel for the accused Gbao regarding a Board of Inquiry Report. The Report was not shown to the witness or to the Trial Chamber. To ensure that the Trial Chamber is provided with a complete understanding of the issues and evidence referred to, the Prosecution applies to admit into evidence the document titled “Report of UNAMSIL Headquarters Board of Inquiry No. 00/19”.² The Board of Inquiry was formed “For the Purpose of Investigating Case No. 00/19 on the loss of Contingent-Owned property and equipment as well as personal effects by the Kenyan Battalion (Kenbatt 5) and the Kenyan Sector Headquarters during the course of hostilities which broke out with the RUF in early May 2000”.³ The Report is attached as Appendix A to this Motion.

2. The application is made pursuant to Rule 89(C) which states that a chamber may admit any relevant evidence. The cross-examining party put the following to the witness:

Q. Also in answer to Mr Jordash’s questions, when he asked you if you were aware of a board of inquiry report into the May 1st incident, you said you were not.⁴

A. Yes, Your Honour.

Q. I would just like to explore that a moment, because to some extent it’s a surprising answer. You wrote a book about your experiences in Sierra Leone.

A. Yes, Your Honour.

Q. When you wrote that book, apart from relying on your own experiences, which were, of course, extensive, did you also speak to colleagues and look into other things that you hadn’t known at the time?

A. Yes, Your Honour. In fact, I was doing some research to complete my book.

Q. During the course of those inquiries, you never heard of a board of inquiry report into the alleged hostage taking incident?

A. The question posed by the defence counsel earlier was about the inquiry

¹ The witness testified on 20 and 21 June 2006.

² The document was disclosed to the defence and filed with Court Management as Court Management page numbers 20629 – 20653.

³ “Report of UNAMSIL Headquarters Board of Inquiry No. 00/19”, Court Management p. 20629.

⁴ This question refers to the cross-examination on 20 June 2006 by Mr. Jordash, see RUF Transcript 20 June 2006, p. 70, lines 14-20.

report, but I had already left Sierra Leone on July 27th, Your Honour.

Q. Yes.

A. The report came out very much later. I was not here when the report came out.

Q. So you are aware of the existence of a report?

A. Of course. As I said, after I left this country I did some research and I was aware of this report later.

...

Q. Can I put it to you that when Colonel Ngondi gave evidence before this board of inquiry, he had indicated that in his view further negotiations were necessary before the disarmament proceeded?

A. I disagree, your Honour. I would like to quote one incident.

Q. Do you disagree that he had made that statement to the board of inquiry?

A. I am not sure what he meant, because I gave my statement. What he gave in his statement, I would not know, Your Honour.⁵

3. The witness was asked questions about the content of the Report and the document is relevant and admissible under Rule 89(C).

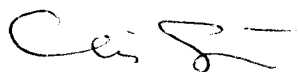
II. Relief Sought

4. The Prosecution asks that the Report of UNAMSIL Headquarters Board of Inquiry No. 00/19 be admitted as an exhibit in the trial.

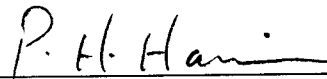
Filed in Freetown,

11 July 2006

For the Prosecution,



Christopher Staker



Peter Harrison

⁵ *Prosecutor v. Sesay Kallon Gbao*, Transcript, 20 June 2006, p. 106-108.

Index of Authorities

Transcripts

Prosecutor v. Sesay, Kallon, Gbao, SCSL-04-15-T, 20 June 2006, p. 70, 106-108.

Appendix A

REPORT

R0003294

~~20629~~

24047

**OF UNAMSIL HEADQUARTERS BOARD OF INQUIRY
NO. 00/19**

**WHICH CONDUCTED ITS PROCEEDINGS
FROM 17 AUGUST 2000
TO 20 SEPTEMBER 2000**

**BY ORDER OF MR. OLUYEMI ADENIJI
SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL**

FOR THE PURPOSE OF INVESTIGATING CASE NO. 00/19 on the loss of Contingent-Owned property and equipment as well as personal effects by the Kenyan Battalion (KENBATT 5) and the Kenyan Sector Headquarters during the course of hostilities which broke out with the RUF in early May 2000.

CHAIRPERSON: Mr. Michael Ononaiye

MEMBERS: Mr. Florent Coutu

Major Mirza MD Ashraful Haque

SECRETARY: Mr. Brady John Kershaw

SUBMITTED THIS DAY, 20 SEPTEMBER 2000

**REPORT OF UNAMSIL
HEADQUARTERS BOARD OF INQUIRY**

NO. 00/019

A. CONSTITUTION

1. In accordance with the provisions of Chapter 16, Section IV of the Field Administration Manual and pursuant to paragraph 1 of the Convening Order and Amendment, dated 11 August 2000, 16 August 2000 and 17 August 2000, respectively, a UNAMSIL Headquarters Board of Inquiry was convened to investigate and report on Case No. SIL 00/019.
(Refer Convening Order attached, Annex A).

2. The Board received an initial briefing from Mr. Harold Ross, Acting Legal Officer, on 19 August 2000, on the applicable rules and procedures.

B. DESCRIPTION OF THE INCIDENT

1. Kenbatt 5 was the first UNAMSIL contingent to arrive in Sierra Leone with the Kenyan troops arriving between 29 November 1999 to early December 1999. Kenbatt 5 was subsequently deployed to the AORs of Makeni and Magburaka from 04 January 2000.
2. Within Kenbatt 5's AOR the sub-units were deployed as follows:
 - i) Battalion HQ, Coy HQ and A & D Coys - Various locations in Makeni
- Makeni DDR Camp Makump
 - ii) B Coy - Magburaka Islamic Centre
 - iii) C Coy - Magburaka Water Works
3. Lt. Col. L. Ngondi arrived in-country on 24 February 2000 to take command of Kenbatt 5 with effect from 26 February 2000 and he continues to command Kenbatt 5, which is presently stationed at Lungi Loi.
4. The Kenyan Sector Headquarters and the Kenyan Contingent Commander, Brigadier General J. Mulinge arrived in Lungi, Sierra Leone with the Zambian main body on 26 April 2000.
5. Although the DDR Programme was slated to commence in Makeni and Magburaka on 17 April 2000 there were increasing concerns by the local RUF commanders in these areas with regard to a number of issues related to the implementation of the Lome Accord.
6. The local RUF commanders had stated to CO Kenbatt and MILOBs teams that until these issues were addressed they would not allow any of their combatants to participate in the DDR Programme.
7. From the commencement of the DDR Programme, on 17 April 2000, it was apparent to the DDR teams that many RUF combatants were willing to participate in the programme even though they were prevented from doing so through fear or intimidation by their RUF local commanders.

R0003297

20632

THURSDAY, 27 APRIL 2000:

8. On 27 April 2000, the MILOBs team in Makeni was approached by two (2) RUF combatants who disarmed secretly.

FRIDAY, 28 APRIL 2000:

9. On 28 April 2000, the same MILOBs Makeni team secretly disarmed another eight (8) RUF combatants bringing the total number for the DDR process to ten (10).

SUNDAY, 30 APRIL 2000:

10. CO Kenbatt 5, in his BOI interview, indicated that he was hesitant to proceed with the DDR Programme for the ten (10) RUF combatants, given the security implications as follows:
- i) it was believed that the RUF command was not aware that ten (10) of their number had disarmed to UNAMSIL, and
 - ii) that the RUF local leaders warnings to UNAMSIL, not to commence with the DDR process, would look to be ignored.

MONDAY, 01 MAY 2000:

11. Nevertheless, despite the doubts, Force HQs decided to proceed with the programme and eight of the RUF combatants were brought to the DDR camp around 10:00a.m on 01 May 2000, for the demobilisation process. As a precautionary measure the CO of Kenbatt 5 instructed the 1st Platoon from C Coy, based in Magburaka, to re-enforce A Coy at the Makeni DDR Camp in case of any problems.
12. By noon the RUF local commanders had been made aware that a number of their men were disarming to UNAMSIL at the Makeni DDR camp. A series of visits and provocative demonstrations were staged by the RUF demanding the release of the eight combatants and the return of their weapons. As the day progressed and there was no sign that UNAMSIL intended to comply, the actions of the RUF became increasing hostile and more RUF re-enforcements began arriving at the scene.
13. At about 1400 hrs a RUF commander known as Brig. Kalon, arrived at the Makeni DDR camp with a sizable number of combatants estimated at over 30, in two trucks and assorted vehicles. UNAMSIL personnel attempted to discuss the situation but Brig. Kalon began shooting at the feet of the OC of A Coy. At this point the Brig. Kalon attempted to destroy parts of the DDR camp and finally laid hands on one MILOB, Maj. Ganish, and began pulling him towards one of the RUF vehicles.

14. The RUF commander Brig. Kalon, then forced the MILOB, Major Ganish, into his vehicle and as he was about to leave the camp, the OC of A Coy, Major Maroa, approached the RUF commander in an attempt to negotiate the release of the MILOB. Both UNAMSIL personnel were taken hostages by the RUF and driven away.
15. As the tension increased, Kenbatt 5 units began establishing a defensive perimeter around the DDR camp and their respective positions, in Makeni. Armed RUF combatants continued to arrive by truck and vehicles and the Kenbatt units guarding the Makeni DDR Camp were now experiencing continuous physical harassment with many of the RUF combatants attempting to push their way into the DDR camp.
16. At different stages during the afternoon of 01 May 2000 RUF combatants fired 'warning' shots in and around the Makeni DDR camp. No one was injured and Kenbatt units refrained from returning the fire. However, tension continued to run high throughout the evening and that night.
17. Meanwhile, during the afternoon of 01 May 2000 both the RUF and Kenbatt 5 units in Magburaka became aware of the escalating situation in Makeni and consequently the RUF began a build up of combatants around the Magburaka DDR camp and Kenbatt 5 positions.
18. Force HQs was up-dated by CO Kenbatt 5 on developments and it was, decided on 01 May 2000, to reinforce Makeni in an attempt to stabilise the situation.
19. A Warning Order was issued at around 1700 hrs to Brigadier General J. Mulinge, Commander of Sector HQ, by the Force Commander, Major General Jetley UYSM, instructing Zambatt 1 (less 1 Coy) under the command of Lt. Col. E. Kasoma, and the Kenyan Sector HQs, to move their units in a single convoy from Lungi Transit camp at 0800 hrs on 02 May 2000 to Makeni. (*Refer FHQ Warning Orders to Zambatt dated 01 May 2000, Annex: B*).

TUESDAY, 02 MAY 2000:

20. By 02 May 2000, the situation in both Makeni and Magburaka had deteriorated to such an extent that exchanges of fire had started occurring between the RUF and Kenbatt 5.

21. Between 08:00 and 09:00 hrs, Kenbatt 5 units (comprising two platoons and elements of A Coy) at Makeni DDR camp, were again physically harassed and attempts were again made by the RUF combatants to disarm the Kenyan troops. In the process a Kenyan soldier, Private Yunnis Khamisi, was shot and killed drawing both sides into an immediate firefight.
22. Given the volatile situation, the CO Kenbatt 5 intended to withdraw from the Makump DDR Camp, at Makeni, using their vehicles, having already packed and loaded into the vehicles all of their equipment. Unfortunately, due to the fire-fight, the unit's vehicle tyres had been deflated and another had a leaking fuel tank. At 11:00 hrs, the units (two platoons and elements of A Coy) at Makeni DDR camp withdrew by foot to Mile 91, leaving behind the one dead Kenyan soldier and one seriously wounded Kenyan soldier, Corporal Robert Wamyana, along with six (6) vehicles with all of their personal belongings.
23. Kenbatt 5 A Coy units from Makump arrived safely in Mile 91 at approximately 15:30 hrs on 03 May 2000, having spent the night of 02 May 2000 in the village of Mahuga.
24. Meanwhile, at around 09:00 hrs, on 02 May 2000, in Magburaka Major. F. Kiprof, OC B Coy, visited the RUF Local Commander General Issa's headquarters, in an attempt to continue the dialogue between the two parties. Almost immediately upon arriving Major Kiprof and four of his men, along with their vehicle, were seized by the RUF.
25. With the worsening situation in and around Magburaka, the Kenbatt Platoon securing the DDR camp at Mabai (06 kilometres from the Magburaka Islamic Centre), was instructed at 10:00 hrs, 02 May 2000, to pull back from the DDR camp and join Kenbatt 5 HQ at Magburaka Islamic College.
26. By 14:00 hrs the two Kenyan Platoons had dismantled the camp at Mabai. However, the RUF were fully aware of the Kenyan's intentions and proceeded to block the only exit out of the camp. As the two Kenyan Platoons began moving out, the convoy of four (4) vehicles came under fire about 500 metres from the exit of the camp.
27. The Kenyans returned fire and the lead vehicle, an APC, managed to force its way through the blockade. The second, a FFR Land Rover with four (4) passengers, failed to penetrate the blockade. The remaining two (2) vehicles, taking advantage of the confusion created by the vehicle being seized, managed to advance through the blockade and rejoin the leading vehicle. The vehicle and the four Kenyans were captured by the RUF.

28. At approximately 14:30 hrs Kenbatt 5 units at Bn HQ (Magburaka Islamic College) began to engage RUF combatants who had forced their way into the camp and fired a RPG at a UNIMOG armoured vehicle.
29. The majority of the two Kenyan Platoons which had withdrawn from Mabai DDR camp in the three (3) remaining vehicles, managed to enter Coy HQ compound safely despite the fighting. The engagement at Magburaka Islamic College continued until 10:00 hrs the following morning, 03 May 2000, at which point the RUF withdrew.

WEDNESDAY, 03 MAY 2000:

30. During the night of 02 May 2000, having arrived there at around 17:00 hrs, the Zambatt and Kenyan Sector Headquarters convoy from Lungi camped at Lunsar. On receiving an up-date on the security situation from Kenbatt 5, the Sector Commander, Brigadier General L. Mulinge, advised the CO, Lt. Col. E. Kasoma, that the convoy should be re-organised and placed on an operational readiness basis for the remainder of the journey to Makeni on 03 May 2000.
31. At approximately 08:30 hrs on 03 May 2000 the convoy of 64 vehicles left Lunsar for the direction of Makeni. The scaling down to combat readiness resulted in leaving behind, with the Nigerian contingent in Lunsar, 17 vehicles, logistical and administration supplies, stores and non-essential personnel of Zambatt 1 and the Kenyan Sector HQs.
32. During the course of the advance, the convoy was preceded by a forward recce party. On its approach the recce party encountered two road blocks which were deserted. However, about 20 km from Lunsar, a third roadblock was found to be manned by the RUF and the recce party was obliged to negotiate with the RUF combatants.
33. By 12:00 hrs the main body of the convoy had reached the advance recce party's location at the third roadblock. Armed RUF combatants began appearing at the front and rear of the main convoy and, for a few hours, mixed freely with the Zambian and Kenyan soldiers.
34. The CO of the convoy, Lt. Col. Kasoma, was politely requested by the RUF to meet with RUF local commanders further down the road. The CO Zambatt agreed to the RUF request and with fifteen (15) men in two (2) vehicles travelled a distance of approximately four (4) km ahead of the main body for the purpose of entering into negotiations.

35. Upon arriving at the meeting point, the CO Zambatt and his men were met by overwhelming numbers of RUF combatants and compelled to surrender their vehicles and weapons. The Zambians were disarmed and all of their personal belongings were stripped from them. An attempt was also made by the RUF Local Commander to force the CO Zambatt to write a letter to his men urging the main body of the convoy to join his group.
36. After numerous attempts by the CO Zambatt to write a coded message of instructions in his native language to the units waiting behind at the roadblock, he was finally forced to sign a letter written in English by the RUF Local Commander to send additional vehicles to 'assist in the negotiations'. Although this message was sent back by the RUF to the main convoy, the CO Zambatt's 2IC was suspicious and refused to comply with the written instructions.
37. The main body of the convoy remained at the roadblock until late afternoon and upon receiving clearance from the RUF began moving forward. However, after the convoy had progressed only a few kilometres it was again halted by the RUF. At this point darkness was enveloping the convoy and the RUF rebels demanded that only a few vehicles at a time be allowed to proceed to Makeni.
38. By 20:00 hrs the RUF combatants had continued to increase in number and the convoy was quickly surrounded. The fading daylight made it difficult to recognise 'friend from foe'. At this point, the RUF combatants began forcing, at gunpoint, the Zambian and Kenyan troops from their vehicles, seizing their weapons while stripping them of their personal effects.
39. The hostages taken by the RUF totalled 427 Zambians and eight (8) Kenyans; at gunpoint they were made to hand over their vehicles to the RUF combatants and were driven, during the course of the night, to various locations within the districts of Makeni and Magburaka.
40. Prior to the arrival from Freetown, of the Indian Quick Reaction Company (QRC) at Magburaka Islamic College around 10:30 hrs, on 03 May 2000, only minor skirmishes between Kenbatt 5 units and the RUF had occurred.
41. The arrival of the QRC stabilised the position of B Coy in Magburaka. However, the Kenbatt 5 units were still surrounded in various locations in both Makeni and Magburaka impeding the ability of the Kenyan Battalion to operate in an effective manner. Kenbatt 5 difficulties were further compounded by inadequate supplies of ammunition, food and water.

R0003302

SUNDAY, 07 MAY 2000:

42. After repeated requests by CO Kenbatt 5 for supplies of stores and ammunition on 07 May 2000, a UNAMSIL helicopter landed in Magburaka. This helicopter brought food provisions for the QRC, which were also distributed to Kenbatt. However, there was unfortunately, no re-supply of ammunition for Kenbatt 5.
43. Later the same day the UNAMSIL helicopter airlifted two (2) Kenbatt casualties out of Magburaka, but whilst attempting to aid Kenbatt 5 units in Makeni, the helicopter was shot at and forced to make an emergency landing 10km from Makeni. However, a relief flight from Freetown managed to retrieve all of the military personnel including the MILOBs and the two Kenyan wounded soldiers from A Coy.

MONDAY, 08 MAY 2000:

44. The CO Kenbatt 5 communicated with Force HQs and requested that the Kenbatt 5 units coordinate a tactical withdrawal from the region with the assistance of the QRC based in Magburaka. It was anticipated that this manoeuvre would entail the Kenbatt 5 units in Makeni withdrawing to Magburaka on 10 May 2000 so that all units of Kenbatt 5 and the QRC could withdraw together to safety from Magburaka to safety then to Mile 91.

TUESDAY, 09 MAY 2000:

45. The Warning Order, sent by CO Kenbatt 5 in Makeni to the Force HQ, on 09 May 2000, stated that Kenbatt 5 units in Makeni were to withdraw and consolidate with the QRC in Magburaka, prior to all units withdrawing to Mile 91. (*Refer Kenbatt Warning Order to Force HQ Annex: C*).
46. At 12:09 hrs the Warning Order from CO Kenbatt 5 was circulated to the Kenbatt 5 units and the QRC in Magburaka. However, at 12:30 hrs, the QRC received separate instructions from Force HQs at 12:30 hrs on the same day ordering the QRC to move immediately from Magburaka to Mile 91. The CO Kenbatt 5 sent a further communique to Force HQ requesting that QRC assistance be maintained in Magburaka; however, the decision to redeploy the QRC to Mile 91 had already been made. (*Refer Kenbatt fax to FHQ, Annex: D*).

47. Upon the CO Kenbatt 5 being informed that the QRC intended to withdraw immediately, the original plan for 10 May 2000 appeared unrealistic as Kenbatt 5 would not have had the crucial support of the QRC. Consequently, the CO Kenbatt decided to prepare his remaining units for a simultaneous withdrawal with the QRC.
48. At Magburaka, B Coy requested permission, and received approval, from the CO Kenbatt 5 to deploy with the QRC to Mile 91. At 13:28 hrs the QRC and B Coy left Magburaka at 13:28 hrs for Mile 91 during which one APC vehicle (containing military stores and personal effects) was abandoned along the road due to RUF attacks.
49. Meanwhile at approximately the same time, C Coy, which was based at the Magburaka Water Works, was ordered by CO Kenbatt 5 to break out north to the SLA- held town of Bumbuna. During the course of their evacuation, one APC lost control and plunged off a bridge into the Rokel River, killing two Kenyan soldiers. Two (2) other Kenyan soldiers escaped from the vehicle and five (5) more were taken hostage by the RUF.
50. At Makeni, CO Kenbatt 5 instructed Coy HQs, HQ A and D Coys to move northwards to the SLA- held town of Kabala. The units deployed late in the day of 09 May 2000. During the course of their deployment, nineteen (19) vehicles were abandoned when the convoy was ambushed by the RUF. (*Refer Kenbatt fax dated 03 September 2000 with details of Kenbatt's Order of March, Annex: E*)

MAY - JUNE 2000.

51. Upon arrival at the SLA strongholds of Kabala and Bumbuna in the north-east of Sierra Leone, Kenbatt 5 units were able to consolidate and await further instructions from Force HQs. By June the security situation had improved but it was still considered unwise to attempt to send the Kenbatt 5 units by road to Freetown.
52. Consequently Force HQs decided to airlift all Kenbatt 5 equipment and personnel out of Kabala and Bumbuna by helicopter.
53. However ten (10) vehicles were left behind as their weight and / or configuration could not be supported by the UNAMSIL rescue helicopters. Nine (9) vehicles were signed over to the SLA 2nd Battalion in Kabala and one (1) to the SLA 1st Battalion in Bumbuna. The Kenyan contingent-owned equipment was signed over to the SLA in the two (2) locations. Pending a favourable security environment all ten (10) vehicles were to be driven into neighbouring Guinea by Kenbatt 5 troops. (*Refer Documentation on the hand over of Kenbatt 5 COE to SLA Annex: F*).

SUMMARY:

51.

During the hostilities in early May a total of twenty six (26) Kenyan personnel were taken prisoner by the RUF as follows: a) the capture of the Zambatt convoy in which Kenyan Sector HQ was travelling resulted in eight (8) Kenyans being taken hostage (3 officers and 5 of other ranks), b) eighteen (18) more Kenbatt personnel from Kenbatt 5 were taken prisoner during the course of hostilities in Makeni and Magburaka (6 officers and 12 of other ranks).

52.

The total number of Kenbatt peacekeepers killed during the May 2000 crisis stands at four (4).

53.

Upon submission of the major COE lost by or stolen from Kenbatt 5 to the UNAMSIL COE Inspection Unit a thorough reconciliation of vehicles and weapons was completed. The summaries set out in paragraphs 54, 55 and 56 reflect the final reported and confirmed losses by Kenbatt 5 and Kenyan Sector Headquarters.

54.

The vehicles which were confiscated by the RUF prior to Kenbatt 5's withdrawal from Makeni and Magburaka, including the Kenyan SHQ vehicles, are as follows; (*Annex: E*):

<u>DATE:</u>	<u>NO:</u>	<u>VEHICLE ITEM:</u>	<u>LOCATION:</u>	<u>UNIT:</u>
02 May 2000	One (1) Three (3) Two (2)	Land Rover FFR 5 Ton TCV Water Trailer	Makeni DDR Camp at Makump	A Coy
02 May 2000	One (1)	-Land Rover FFR	Magburaka	OC B Coy
02 May 2000	One (1)	Land Rover FFR	Magburaka, Mabai DDR Camp	B Coy
02 May 2000	Two (2)	Land Rover FFR	Makeni	
03 May 2000	Two (2)	Land Rover FFR	Lunsar - Makeni (Zambatt Convoy)	Sector HQ
TOTAL:	Twelve (12)			

55.

On 09 May 2000, during the course of Kenbatt 5's withdrawal from Makeni and Magburaka, the following vehicles were abandoned and or taken by the RUF:

<u>DATE:</u>	<u>NO:</u>	<u>VEHICLE ITEM:</u>	<u>LOCATION:</u>	<u>UNIT:</u>
09 May 2000	Thirteen (13)	6 x Land Rovers 1 x Ambulance 2 x APC 2 x Trucks 2 x Motorbikes (loaded on one of the above trucks)	Makeni - Kabala	Coy HQ
09 May 2000	Seven (7)	4 x APC 3 x Trucks	Makeni - Kabala	A Coy
09 May 2000	One (1)	1 x APC	Makeni - Mile 91	B Coy
09 May 2000	Two (2)	2 x APC	Mag. - Bumbuna	C Coy
TOTAL:	Twenty three (23)			

56.

A summary of the Kenyan (both Kenbatt 5 and Kenyan Sector HQ) losses by vehicle category is as follows.

1.	Land Rover FFR	9
2.	Land Rover GS	4
3.	Nissan Ambulance	1
4.	Mercedes Benz Truck (5 Ton)	8
5.	APC	9
6.	Water Trailers	2
7.	Motor Bikes	<u>2</u>
	TOTAL:	<u>35</u>

57.

During the May hostilities a total of seven (7) crew served machine guns (up to 10mm) were also lost by / stolen from Kenbatt 5. (Refer Facsimile from Kenbatt Logistics Officer dated 14 September 2000, as to the locations. Annex: G)

C. DELIBERATIONS

In the course of its deliberations, the Board reviewed the case materials of the Kenyan Contingent BOI, dated 03 July 2000, (*Refer Annex: H*), and the UNAMSIL Headquarters BOI Force HQ BOI which examined the causes of conflict and actions which resulted in the May 2000 hostilities, dated 23 July 2000, (*Refer Annex: I*).

As the Kenyan Sector HQ was part of the Zambatt convoy to Makeni which was overrun and the military personnel taken prisoner on 03 May 2000, the Board also reviewed the UNAMSIL Headquarters BOI case on the loss of Zambian equipment, Case No: 00/21, submitted on 15 September 2000. (*Annex: J*).

In order to seek further clarification on the circumstances surrounding the incident which arose on 03 May 2000 with regard to the Kenyan Sector HQ, the Board resolved to interview Brigadier General L. Mulinge, the CO of the Kenyan Contingent in Sierra Leone, who at the time of the incident was the OC of Kenyan Sector Headquarters and was being escorted by the Zambian convoy to Makeni on the same day, 03 May 2000. (*Annex: K*).

Lt. Colonel Ngondi, the Commanding Officer of Kenbatt 5, who was stationed in Makeni at the time of the hostilities, was also requested to be present at HQ BOI to elaborate on the circumstances leading up to the outbreak of hostilities, the actions during the course of the fighting and eventual 'breakout' by Kenbatt 5 units and the QRC. (*Annex: L*).

Further, the Board resolved to interview from UNAMSIL Force Headquarters the Chief of Operations, Lt. Colonel S. Vaze, (*Annex: M*) to obtain clarification as to the Force HQ's role in the deployment of UNAMSIL units and whether any "post conflict" reports were generated regarding the circumstances leading up to the incidents involving Kenbatt 5 units in Makeni and Magburaka.

In addition, the Board resolved to interview the staff members of the Contingent-Owned Equipment (COE) unit, Mr. Tony Singleton and Mr. David Gratwick, who constituted the UNAMSIL COE team (*Annex: N*) which conducted the original inspection of Kenbatt COE upon arrival in Sierra Leone. They were also interviewed with regard to the Post Conflict Operational Readiness Inspection Report and the reconciliation of lost and stolen major equipment with Kenbatt and the office of UNAMSIL's Chief of Logistical Operations at Force Headquarters, (*Annex: O and P*).

The final reconciled list of major COE lost or stolen from Kenbatt 5 and the Kenyan Sector HQ, during the May 2000 hostilities is reflected in (*Annex: Q*).

1.0 KENYAN SECTOR HEADQUARTERS LOSS / STOLEN EQUIPMENT ON 03 MAY 2000

The Kenyan Sector Headquarters, under the Command of Brigadier General Mulinge, was at the time of the incident, under the escort of Zambatt. Throughout the course of the negotiations with the RUF on 03 May 2000, it was only the Zambian officers who were dealing directly with the RUF.

In reaching its conclusions, the Board reviewed the available testimony and concurred with the findings of the HQ BOI on Zambatt's loss of COE, 03 May 2000, as follows:

(i)

No detailed maps were provided to Zambatt or the Kenyan SHQ to facilitate travel on the road into Makeni. In addition, no detailed briefings were provided by the Force HQs as to the hazards along the road, the approximate number of RUF combatants and the possibility of bush tracks or secondary roads which could have been utilised in case of emergency contingency plans being required, as supported by the following statements:

- a) UNAMSIL Headquarters BOI interview with Brigadier General J. Mulinge, dated 23 August 2000, in answer to Question 15, (*Annex: K*).

"... As for Zambatt and the Kenyan Sector Headquarters unit, we had only spent one week in Sierra Leone with little or no orientation or induction of the country, terrain or RUF tactics. Our Warning Orders were brief and the convoy was ordered to mobilise its units within 12 hours of receiving these orders, including the fuelling and maintenance of vehicles and the unpacking of stores and equipment."

- b) UNAMSIL Headquarters BOI interview with Lt. Colonel E. Kasoma, CO Zambatt, dated 19 August 2000, in answer to Question 21, (*Refer HQ BOI on Zambatt losses - Case No: 00/21. Submitted 15 September 2000*).

" Considering that the main force of Zambatt had only arrived in the country of Sierra Leone on 24 -27the April 2000, I was concerned that we had no detailed maps of where we were to be redeployed in Makeni.

Neither Zambatt nor the Kenyan SHQ for Makeni were afforded the opportunity to carry out the most basic 'recce' of the roads or deployment sites, nor was there any formal detailed briefing of the deployment.

We, as a unit, had little or no understanding of how to deal with the RUF rebels nor what to expect in our deployment from Lungi to Makeni.

Upon receiving the warning orders' at approximately 18:00 hrs, on 01 May 2000, for the redeployment for 02 May 2000 there was no detailed explanation or accompanying information provided."

ii)

Although the warning order stipulated that the UNAMSIL convoy had the authority "to invoke Chapter VII if their movements is interfered with", the Peacekeepers had no previous experience with the RUF nor had they received military briefings by Force HQ on the RUF's likely mode of operation and tactics. Consequently, when the Zambians and Kenyan SHQ were confronted at an RUF road block manned by armed RUF combatants, their actions (negotiations throughout the day, rather than military engagement) were somewhat influenced by the 'passive' or non-violent nature of the RUF, as supported by the following statements:

- a) Zambatt's Captain C. Miyanda's minuted interview conducted by the CBOI. (*Refer Zambatt CBOI, submitted 15 June 2000*)

*" A few minutes later I saw rebels amassing 400m behind the convoy.....
..... The rebels started coming towards the convoy without firing any weapon.
I talked to someone among the rebels who looked to be a leader"; and*

- b) Captain Miyanda's response to the UNAMSIL HQ Board's question 2,

" Although there were a number of RUF rebels building up in and around the convoy their manner was not threatening, they were relaxed, although some appeared high on drugs, and engaged many of us in conversation "

iii)

The actual disarming of the Zambian and Kenyan soldiers occurred at dusk when the RUF combatants were estimated to be over 200 in number as they widely inter-mingled with the Zambian and Kenyans. With daylight fading, the UNAMSIL troops were in no defensible position to tactically engage in combat, the RUF.

2.0 KENBATT 5 LOSS / STOLEN EQUIPMENT DURING HOSTILITIES IN
MAKENI AND MAGBURAKA FROM 02 - 10 MAY 2000

A. **Circumstances and events leading up to the hostilities of May 2000**

The Board noted that:

(a)

Both the CO Kenbatt 5 and the MILOBs teams had been advised by the command elements of the RUF that they would not allow any RUF rebels to disarm. It was also the impression of the CO Kenbatt 5, Lt Col. Ngondi, that further negotiations would be needed to resolve many of the concerns raised by the RUF Leadership as indicated in his response to Question 12, of the HQ BOI (*Refer Annex: L*), in regard to whether or not the circumstances leading up to the hostilities may have been preventable:

"Into the commencement of the DDR programme in Makeni and Magburaka on the 17 April 2000 the representatives of the RUF in these areas were, in my opinion, deeply suspicious about the process and the role of UNAMSIL as possibly being not neutral and impartial.

RUF concerns over 'double dealing' with regards to the Lome Peace Accord and the fact that the SLA was not being demobilised along with other factions appeared to cause much of the suspicion towards the DDR process.

Under these circumstances UNAMSIL should have taken more time to resolve these suspicions both at the political level with the concerned faction representatives and most importantly at the grass root level with the combatants and their immediate leaders in Makeni and Magburaka."

(b)

Prior to the commencement of the DDR process in both Makeni and Magburaka the UNAMSIL teams in these areas had informed Force HQ about the concerns of their local RUF leadership on the demobilisation of RUF combatants. As stated by Lt. Col. Ngondi in his interview with the HQ BOI, in response to Question 2, (*Annex L*):

"I discussed regularly my concerns with MILOBs personnel stationed alongside Kenbatt 5 and it is my understanding these concerns were being relayed back to FHQ. Furthermore in various sitreps, specifically Kenbatt 5 security assessment letter, dated 23 April 2000, I reiterated my concerns over how the UNAMSIL DDR process was being perceived in Makeni and Magburaka."

(c)

The majority of these concerns centred around the RUF leadership harbouring suspicions against UNAMSIL, and with regard to the peace plan claiming that the Lome Peace Accord was not being properly implemented. This was recognised within the Force HQ 'MILOBS' BOI (*Annex: I*) in which one of the findings indicated that:

" the Board found that the situation had been tense in the days prior to 01 May because of RUF resistance to the opening of the Makeni Reception Centre and DDR Camp which had taken place on 17 April. On that day RUF had surrounded the Reception Centre with armed fighters and staged a demonstration of their strength by mobilising combatants in the area of Makeni town. Subsequently the RUF leadership had made it clear that they were not going to disarm because they were dissatisfied with the way in which LPA had been implemented."

2.0

Given the concerns expressed by the RUF Leadership from the commencement of the DDR process and their resistance towards any of their faction joining the DDR process, the Board expressed some concern as to why the UNAMSIL DDR teams decided to proceed to secretly demobilise ten (10) RUF combatants in Makeni on 01 May 2000.

Within the framework of the DDR process it was the understanding of the Board that UNAMSIL should have, at all times, attempted to remain and should have been perceived as being impartial. The DDR teams in Makeni were aware of the RUF leaderships' opinion of the DDR process and that by attempting to secretly disarm RUF combatants, the Board was of the opinion that such actions could have only created more distrust between the RUF and UNAMSIL.

It was the understanding of the Board that the inception of the ten RUF combatants into the DDR process caused an escalation of the tension between the RUF and UNAMSIL and that the resulting hostilities, commencing on 01 May 2000, were a direct result of the RUF attempting to 'repatriate' their RUF members who were being held by UNAMSIL.

The actions of the RUF were noted by the Force HQ 'MILOBS' BOI, submitted on 23 July 2000, in which the BOI stated in its conclusions (paragraph 15, *refer Annex: I*) as follows:

"The Board concluded that the fighting in the MAKENI area was initiated by the RUF when they attacked and abducted MILOBS and KENBATT peacekeepers at MAKENI on 01 May. The attacks were carried out by the RUF, after 10 RUF combatants were demobilised at MAKENI DDR Camp. The object of the RUF attack was to stop the disarmament programme and to destroy the camp."

- B. Issues discussed by the Board pertaining to open hostilities on 02 May 2000 and the eventual breakout by UNAMISL forces from Makeni and Magburaka on 09 May 2000.

The Board noted that:

1.0

The AOR of Kenbatt 5 covered a sizable area entailing the securing of the DDR Camps in Makeni and Magburaka (being strongholds of the RUF) as well as patrolling large areas of Northern and Eastern parts of Seirra Leone, including Koidu and Kabala, in order to ensure a highly visible UNAMSIL military presence.

It was determined that the UNAMSIL contingent was too thinly spread out to provide effective DDR Camp Security nor could the UNAMSIL contingent provide an effective deterrent against open hostilities since it could not realistically resist an attack by the RUF without obtaining reinforcements.

Compounding the situation for Kenbatt 5 was the CO Kenbatt that the majority of the sites where Kenbatt 5's concern was stationed were of a non-tactical nature. At the time of the outbreak of hostilities Kenbatt 5 had only managed to move one of its Coys to a more tactically advantageous site. The rest of the sites were still under consideration. (*Refer HQ BOI interview, Annex: L*).

2.0

An additional concern of the Board was the ability of the Contingent to adequately defend and sustain itself.

There were little or no defence stores provisioned at any of the Kenbatt Contingent's sites. Furthermore, Kenbatt 5 units did not have sufficient supplies of ammunition within the Mission to either mount an offensive or, more importantly, maintain a prolonged defensive position. Upon engaging the RUF, on the 02 May 2000, Kenbatt 5 was running low on ammunition, within a matter of 24 hours.

Upon requesting Force HQ to re-supply Kenbatt 5 with ammunition, the Chief Operations Officer, Lt. Col. Vaze, stated in his interview with the HQ BOI that Kenbatt 5 was in possession of all of its ammunition and the Force HQ was searching for compatible ammunition to supply to them. However, the rapidity of the events overcame the requirement. (*Refer HQ BOI interview, Annex: M*).

3.0

Although communication links between the CO Kenbatt at Makeni and Force HQ in Freetown were unaffected by the hostilities during early May 2000, the Board found that, on 09 May 2000, there appeared to be a lack of understanding between UNAMSIL Force HQ and the CO Kenbatt 5 in regard to the re-deployment of the QRC .

The COO, Lt Col. Vaze, indicated to the Board that the Force HQ, on 03 May 2000, had decided to deploy the QRC to Magburaka, on 03 May 2000, to stabilise the situation. Once this goal had been achieved and as Force HQ had yet to receive from the CO Kenbatt 5 a withdrawal plan as requested, it was decided, on 09 May 2000, by Force HQ to redeploy the QRC to Mile 91.

Further to the QRC's redeployment to Mile 91, Lt. Col. Vaze in answer to the Board's questions as to why the QRC was redeployed, stated as follows: (*Refer HQ BOI with Lt. Col. Vaze, Question 4, Annex: M*);

"The Force HQ had requested detailed plans from the CO Kenbatt 5 prior to approval of the joint 'breakout' from Magburaka. Whilst waiting for the CO Kenbatt 5 response hostilities had escalated in both Masiaka and Mile 91. Guinbatt had withdrawn from Masiaka to Bo, and the Guinbatt Coy on Mile 91 was believed to be the next location to be threatened by the RUF.

Consequently in having no immediate response from the CO Kenbatt 5 and as the situation in Magburaka had stabilised it was the Force HQ intention to redeploy the QRC to support the Guinbatt Coy at Mile 91.

The CO Kenbatt's detailed plan unfortunately arrived at Force HQ after the QRC had already mobilised."

Even with the escalation of hostilities in other UNAMSIL deployed areas, the Board was of the opinion that the immediate withdrawal of the QRC on 09 May 2000 provided the Kenbatt 5 units few alternatives other than to withdraw immediately from their defensive positions in Makeni and Magburaka.

This conclusion is supported by the response given by Lt. Col. Ngondi, CO Kenbatt 5, to the Board's question 10, as to the exact time he decided to evacuate his troops:

"Upon being notified on 09 May 2000 that the QRC was leaving immediately and upon contacting the COS at Force HQ to request, unsuccessfully, to delay the QRC deployment till 10 May 2000. Upon the QRC withdrawing I realised that the RUF would make another attempt and force us to surrender and given low stores of food, water and ammunition it was imperative that all Kenbatt 5 units launch a coordinated withdrawal on the back of the QRC movement"

R0003313

20648
24066

Although acknowledging that the situation across Sierra Leone was deteriorating and that the QRC was to be redeployed to Mile 91, the Board was concerned that no attempt was made by the Force HQ to inform the CO Kenbatt 5 earlier of the proposed redeployment on 09 May 2000.

END OF DELIBERATION

D. FINDINGS**FINDINGS REQUIRED CONCERNED LOSS OF PROPERTY**

- i. **Date that the loss occurred;**
Kenyan Sector Headquarters 03 May 2000
Kenbatt 5 02 - 10 May 2000
- ii. **To whom, by whom, and when the loss was reported;**
- iii. **Who was responsible for custody of the equipment (s);**
Kenyan Sector Headquarters: Brigadier General L. Mulinge
Kenbatt 5: CO, Lt. Colonel M. Ngondi
- iv. **The value of missing article (s);**
- | | |
|---|-----------------|
| Category A: Major Contingent Owned Equipment lost or stolen | <i>Annex: Q</i> |
| Category B: Self-sustainment and related items lost or stolen | <i>Annex: H</i> |
| Category C: Personal effects of Kenyan Troops lost or stolen.
CBOI findings on the scale and value | <i>Annex: H</i> |
- v. **Name and address of insurer, if any;**
N/A
- vi. **Whether theft is suspected and whether police authorities were notified (if so, identify police force).**
Attack by Revolutionary United Front (RUF), against Kenbatt 5 positions in Makeni and Magburka, Sierra Leone.
No police action. UNAMSIL Force Headquarters and Kenyan Government Notified.

E. SUMMARY CONCLUSION

Based on the information gathered during the interviews and from the documentation available, the Board concludes that:

- A. **The Kenyan Sector Headquarters losses incurred whilst on route to Makeni, with the Zambatt Contingent on 03 May 2000;**
- 1.0 During the Kenyan Sector Headquarters stay in the Lungu Transit Camp the Contingent personnel was not properly briefed by the Force HQ on their AOR and on the rebels activities and mode of operation;
 - 2.0 The losses incurred by the Kenyan Sector Headquarters Unit during their deployment to Makeni on 03 May 2000 were not the fault of the Kenyans nor the Zambian Contingent who were escorting them;
 - 3.0 The loss of Kenyan equipment could have been prevented or minimised had the Contingent personnel been properly briefed by the Force HQ immediately upon their arrival in the Mission area in order to allow the senior personnel to take appropriate action when confronted by rebels at road blocks or in other potentially hostile circumstances.

B. In the case of the losses and stolen equipment incurred by Kenbatt 5 in the Makeni / Magburaka regions between 02 -10 May 2000;

- 1.0 The Board is of the opinion that the Commanding Officer of Kenbatt 5 did his utmost to minimise losses of material and personnel.
- 2.0 The Board is further of the opinion that had the Force HQ taken into consideration the advice of the OC Kenbatt 5 to delay the implementation of the DDR program as well as to allow Kenbatt 5 unit to depart with the escort of the QRC from the area, that Kenbatt 5 units might not have sustained the level of losses it occurred.
- 3.0 The Board is of the opinion that had the communication between the CO Kenbatt 5 and Force HQ been more effective in conveying their respective needs, especially with regard to the QRC, there might have been a possibility that some losses could have been minimized.
- 4.0 The Board is of the opinion that Kenbatt 5 was too thinly dispersed and could not withstand repeated attacks by the RUF and that the early withdrawal of the QRC contributed to the number of the losses incurred by Kenbatt 5.
- 5.0 The Board believes that the CO Kenbatt 5 took appropriate action to save lives and equipment and therefore the Government of Kenya should not be held liable for their Contingent losses.

F. RECOMMENDATIONS

- A. **It is recommended that with regard to the Kenyan Sector Headquarters losses incurred whilst on route to Makeni, with the Zambatt Contingent on 03 May 2000;**
- 1.0 The Kenyan Government should not be held responsible for the losses incurred to its Sector Headquarters Contingent-Owned Equipment, on 03 May 2000, while deploying from Lungi Transit Camp to Makeni within the Zambian convoy;
 - 2.0 The Government of Kenya be reimbursed for losses incurred during the attack by the RUF on 03 May 2000;
 - 3.0 Force Headquarters should thoroughly brief contingents immediately upon their arrival as to the military and political situation in the Mission area, including the activities, tactics and philosophy of the belligerent parties;
 - 4.0 Standard Military procedures should be applied when deploying a military unit.
- B. **It is recommended that with regard to the case of the losses and stolen equipment incurred by Kenbatt 5 in Makeni / Magburaka regions between 02 -10 May 2000;**
- 1.0 It is recommended that the Government of Kenya not be held responsible for the losses of its equipment;
 - 2.0 It is further recommended that the Force HQ take into consideration the advice of the Contingent Commanders and/ or the CO's of units deployed in the field in the planning of their operations.

Note from the Chairman:

It is to be noted that the RUF has started to return some of the equipment captured. The condition of the equipment is not determined at the time of the BOI. It is further to be noted that Kenbatt 5 had to leave ten (10) heavy vehicles with the SLA in Kabala and Bumbuna when relocating to Lungi. There is a possibility that some or all of that equipment may be lost depending on the hostilities in that area. The Mission will provide further details as soon as they become available.

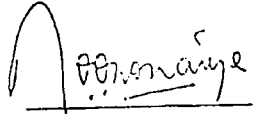
20653

R0003318 24071

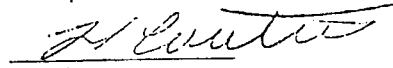
G. SIGNATURES

THE BOARD:

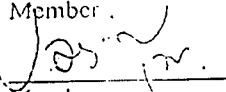
Mr. Michael Ononaiye


Chairperson

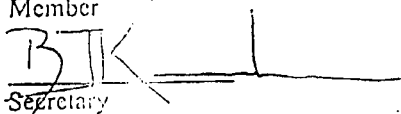
Mr. Vincent Couta


Member

Major Mirza MD Ashrafal Haque


Member

Mr. Brady John Hershaw


Secretary

Date: 22 SEPT 00