

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-16-T
TRIAL CHAMBER I

THE PROSECUTOR
OF THE SPECIAL COURT
V.
ALEX TAMBA BRIMA
BRIMA KAMARA
SANTIGIE KANU

TUESDAY, 1 MARCH 2005
9.15 A.M.
STATUS CONFERENCE

Before the Judges:

Teresa Doherty, Presiding

For Chambers:

Ms Caitlin Reiger
Mr Simon Meisenberg

For the Registry:

Ms Maureen Edmonds

For the Prosecution:

Mr Luc Cote
Ms Boi-Tia Stevens
Ms Jennifer Beckley
Mr Mark Wallbridge (Case Manager)

For the Principal Defender:

Ms Simone Monasebian

For the accused Alex Tamba Brima:

Mr Kevin Metzeger
Ms Glenna Thompson

For the accused Brima Kamara:

Mr Mohamed Pa-Momo Fofanah
Mr Wilbert Harris

For the accused Santigie Kanu:

Mr Geert-Jan Alexander Knoops
Ms Carry J Knoops-Hamburger
Ms Karlijn Van Der Voort

1 [TB010305A - JM]
2 Tuesday, 1 March 2005
3 [Open session]
4 [The accused not present]
5 [On commencing at 9.15 a.m.]
6 PRESIDING JUDGE: Good morning, counsel.
7 Thank you. Appearances, please, counsel.
8 MS STEVENS: Good morning, Your Honour. The Prosecution this
9 morning is represented by my learned senior, Mr Luc Cote;
10 Ms Jennifer Beckley. Mark Wallsbridge is our case
11 manager, and I am Boi-Tia Stevens.
12 PRESIDING JUDGE: Thank you. It would appear there are no
13 accused present in Court. Has anybody heard any reason
14 why? Madam registrar.
15 MS EDMONDS: Mr Wallace is outside, My Lady. Apparently they
16 don't intend to come over today.
17 PRESIDING JUDGE: Is Mr Wallace available to give us an
18 explanation?
19 MS EDMONDS: Yes, I'll get him.
20 PRESIDING JUDGE: I also notice there appears to be no Defence
21 counsel present. Has anybody heard any explanation for
22 that?
23 Ms Stevens, we'll proceed. Yes, Ms Stevens, please
24 proceed. I see Mr Wallace is here. Please take a seat.
25 Mr Wallace, I'm informed that you have an
26 explanation as to the nonappearance of the accused.
27 MR WALLACE: That is correct, Your Honour.
28 PRESIDING JUDGE: Please advise me what the situation is.
29 MR WALLACE: The accused were advised yesterday evening that

1 they were required for Court this morning. When my staff
2 went to advise them this morning to be ready for ten to
3 9.00 a.m. for transport, they said they had no clothes
4 because they hadn't been given enough time to prepare for
5 the Court today.

6 PRESIDING JUDGE: They were actually standing naked, were
7 they, Mr Wallace?

8 MR WALLACE: Sorry, Your Honour. Could you repeat that,
9 please.

10 PRESIDING JUDGE: I'm saying were they actually standing
11 naked?

12 MR WALLACE: No, that is not correct, Your Honour, no. They
13 do have clothing.

14 PRESIDING JUDGE: Thank you, Mr Wallace. So I will note that
15 they have voluntarily absented themselves. Thank you.

16 MR WALLACE: Thank you, Your Honour.

17 PRESIDING JUDGE: It would appear we have some Defence
18 counsel.

19 MR METZGER: I rise, Your Honour. I appear for Brima. I do
20 apologise for our tardy attendance this morning, and I
21 feel perhaps in the course of the day, when we've had the
22 opportunity to speak with our client --

23 PRESIDING JUDGE: Sorry, I didn't get your name.

24 MR METZGER: Kevin Metzger, counsel for Brima.

25 PRESIDING JUDGE: Thank you, Mr Metzger.

26 MR METZGER: I think all teams are duly represented. I'm
27 appearing this morning with Ms Glenna Thompson. Mr Osman
28 Kamara, Mr Knoops is here. And Mr Fofanah for Kamara.

29 PRESIDING JUDGE: Mr Knoops is for Kanu. Isn't that correct?

- 1 MR KNOOPS: Yes, Your Honour. I'm appearing for Mr Kanu.
- 2 PRESIDING JUDGE: Who is with you?
- 3 MR KNOOPS: With me is Ms Carrie Knoops-Hamburger and our
4 legal assistant, Ms Karlijn Van der Voort.
- 5 PRESIDING JUDGE: Mr Knoops, I can only see one female counsel
6 at the bar. So who is with you?
- 7 MR KNOOPS: Currently, nobody.
- 8 PRESIDING JUDGE: Thank you.
- 9 MR FOFANAH: Your Honours, Mohamed Pa-Momo Fofanah appears for
10 Kamara as co-counsel.
- 11 PRESIDING JUDGE: Counsel for the Defence is aware that the
12 accused have voluntarily absented themselves? Are you
13 aware of this?
- 14 MR METZGER: Bear with me just one moment, Your Honour.
- 15 PRESIDING JUDGE: Mr Knoops, are you aware that your client
16 has voluntarily absented himself this morning?
- 17 MR KNOOPS: I am aware, Your Honour, yes.
- 18 MR FOFANAH: I'm aware, Your Honour.
- 19 MR KNOOPS: Your Honour --
- 20 [Trial Chamber and Registrar confer]
- 21 PRESIDING JUDGE: It would appear that the three detainees, I
22 am informed, wish to come to court. This court is run as
23 a court; it is not for when and where detainees feel like
24 it they are at liberty to come in.
- 25 Mr Wallace, you may arrange for them to come in, but
26 there's going to be no adjournment. In future, they will
27 come when they're supposed to.
- 28 MR METZGER: Will Your Honour hear me on the point?
- 29 PRESIDING JUDGE: Which point is that? There are three of you

1 on your feet. Mr Metzeger, is it you who wishes --

2 MR METZEGER: It's Metzeger, yes.

3 PRESIDING JUDGE: Thank you, Mr Metzeger. Please proceed.

4 MR METZEGER: I arrived in the early hours of this morning. I
5 haven't had the opportunity of speaking with my lay
6 client. We had a pre-status conference meeting this
7 morning at which point in time I was informed that there
8 was a certain reluctance on behalf of certainly my lay
9 client to come to Court because he was concerned about
10 proceedings that were purported he says to have issued on
11 him. That would, of course, refer to the further
12 consolidated amended indictment.

13 And of course, certainly my lay client has operated
14 under the laws of Sierra Leone for a while. Sometimes it
15 takes a little explanation. I don't think at this
16 particular point in time we are looking at an unwilling
17 participant in this process. He is anxious for his side
18 of the story to be told in this process and, I believe,
19 will cooperate. I do crave the Court's indulgence,
20 certainly in the beginning, not, perhaps, to be too
21 stringent so that we can work from this time forth in a
22 cooperative manner. Because it will assist all parties
23 if we were able to achieve the cooperation of our lay
24 clients.

25 PRESIDING JUDGE: Thank you, Mr Metzeger. As it happens, I
26 directed that the consolidated amended indictment be
27 served on each of the accused in accordance with the
28 Rules. And I think I went a little beyond what is the
29 tolerance level of our interpretation section by ordering

1 that they both be read out, written, and put on cassette.
2 I think they got more than enough notice. But I will
3 note your late arrival and the need to take instructions.
4 And I will bear that in mind in the course of this status
5 conference.

6 MR METZGER: I'm, of course, as always much obliged,
7 Your Honour.

8 PRESIDING JUDGE: Thank you. I had in the absence of Defence
9 counsel invited the Prosecution to proceed. However, now
10 that Defence counsel are here present, I will first
11 clarify one issue. I have yesterday received a piece of
12 paper which appears to have been sent to my Chambers by
13 counsel for Kanu; which counsel, I do not know. There's
14 no cover sheet. There's no backing sheet. It's not
15 signed, and I do not know the status of this piece of
16 paper.

17 Mr Knoops, could you please advise me what this is
18 all about.

19 MR KNOOPS: Your Honour, could you perhaps refer to the
20 specificities of the document.

21 PRESIDING JUDGE: I wish I could, Mr Knoops. It is headed as
22 follows: On the side at the right it says, "Prosecutor
23 and Santigie Borbor Kanu, issues to be dealt with at the
24 status conference, 1st of March, Trial Chamber II." It's
25 not dated. It's not signed. It doesn't have a backing
26 sheet, and it doesn't have a front cover. What exactly
27 is it? That appears to be it. It has not been filed in
28 the Court Management and, therefore, has not been served
29 on the Prosecution.

1 MR KNOOPS: Your Honour, this document was filed by our
2 Defence team to the Defence office in order to inform the
3 Honourable Trial Chamber with the potential issues to be
4 put on the agenda of the status conference. As
5 Your Honour is aware of, we were asked to file the issues
6 before the 18th of February. So this is probably an
7 attachment of the email we sent to the Defence office in
8 order to present it to the Trial Chamber.

9 PRESIDING JUDGE: Mr Knoops, an order was made in this Court
10 on the 20th of January setting a date for filing of any
11 submissions or any precedents and authorities. That time
12 limit was the 18th of February, a month almost. I got
13 this yesterday morning. It was filed on Friday
14 afternoon. That is well outside the time limit.

15 Secondly, it's headed, number 1, "pending motions".
16 One of those motions was dealt with and a decision made
17 on the 7th of February and the other on the 15th of
18 February. Those two motions are not pending.

19 Thirdly, I don't understand the reference to an
20 obligation imposed on the Prosecutor on the 3rd of
21 February 2004. We have no record of such a matter. And
22 you were asked to cite authorities that you intended to
23 rely on. I have not -- do not know Rashid case (UK).
24 And as a matter of interest, I've gone and tried to find
25 Rashid case, Rashid and the UK. There are, in fact, nine
26 cases with the name Rashid in them in the All England Law
27 Reports. Only one of them is a criminal case, and it's
28 nothing to do with an international court; it's to do
29 with a larceny act. So, I do not know the status of this

1 piece of paper. And in future, if you intend to put
2 things before this Court, they will be put in a proper
3 manner and at the proper time.

4 Is there any reason why I should consider this
5 document?

6 MR KNOOPS: Not any more, Your Honour, because the issues have
7 been dealt with.

8 PRESIDING JUDGE: Thank you. Ms Stevens, I'll again invite
9 you to -- we prepared a brief agenda -- sorry,
10 Mr Metzeger.

11 MR METZGER: May I also address you in relation to the
12 question of the Defence provision of issues and motions,
13 as it were, pre-trial because you will, of course, have
14 received no documentation from us.

15 PRESIDING JUDGE: That is correct.

16 MR METZGER: Yes. I apologise wholeheartedly and, again,
17 shall be craving the indulgence of the Court. It has
18 been professionally almost impossible for some of my team
19 to schedule themselves here. Now, I understand that this
20 process has been going on for a long time. But my
21 current team as assembled, with one member now missing at
22 this point in time, has only been together in rough form
23 since about August or September of last year. It has
24 met --

25 PRESIDING JUDGE: [Microphone not activated]

26 MR METZGER: I will seek the Court's indulgence. We do have
27 and have drafted in draft form some preliminary motions
28 which it appears to me would be of great assistance to
29 the Court if -- well, to all concerned if we could

1 clarify certain matters in relation to the current
2 Prosecution. One of those things, I only say it
3 generally at this point, accepting, of course, that the
4 Court has not given me the indulgence, but so that you
5 have the flavour of that which it is that we hope to try
6 and clarify. Even the -- I pause for a moment because
7 Your Honour has noticed a gentleman come into Court.
8 That would be Mr Wilbert Harris.

9 PRESIDING JUDGE: Mr Wilbert Harris, you're 14 minutes late.

10 MR HARRIS: Yes, ma'am. [Microphone not activated]

11 THE INTERPRETER: My Lord, could counsel switch on his mic.

12 PRESIDING JUDGE: Mr Metzger, if you have motions to file in
13 this Court, you're at liberty to file them. The Rules
14 are clear. However, they are to be served on the
15 Prosecution in the proper manner and to be dealt with in
16 the proper manner. I can indicate to you that you have
17 been ably represented by Ms Thompson in your absence, and
18 I have no doubt that counsel of her experience would have
19 put anything that was required to be put before this
20 Court.

21 MR METZGER: There were certain issues that needed to be
22 dealt with, and I thought -- but in terms, what I am
23 proposing is that any outstanding motions we have will be
24 filed today, and we will seek the indulgence of the
25 Court.

26 PRESIDING JUDGE: Mr Metzger - I'll get it right - perhaps it
27 would be easier if I just referred and said "counsel".
28 Counsel, this case will start on the 7th of March.

29 MR METZGER: I intend for that to be the case. I merely

1 crave the Court's indulgence to deal with matters which,
2 in my respectful submission, as far as the further
3 consolidated indictment is concerned leaves a little
4 cause for concern as to particularity.

5 PRESIDING JUDGE: Ms Stevens, have you had notice of these
6 motions?

7 MS STEVENS: Not yet, Your Honour.

8 PRESIDING JUDGE: They are not before the Court.

9 MR METZGER: Do I, therefore, have permission to file those
10 proceedings? This is really what I am seeking.

11 PRESIDING JUDGE: The Rules are the rules. You conform with
12 the Rules. If you've motions, file them. But bear in
13 mind there is a period of notice for the Prosecution to
14 file a reply, unless there's some application to expedite
15 which I will have to hear separately, and for your reply
16 to that response.

17 MR METZGER: The Court is, of course, able to, as I say,
18 expedite matters, and it needn't stop the trial. I'm
19 sure that there are sessions which are set out for any
20 arguments that arise. I hope that it will be something
21 that will assist rather than detract from the process.

22 PRESIDING JUDGE: So do I.

23 Ms Stevens. I had prepared a brief agenda. It's
24 not intended to be biblical. It's just to assist us all
25 to know where we stand. Unless counsel agree
26 differently, I'll just go through the items as they are
27 listed. I've had the names given of Defence teams, but
28 it would be helpful if I had them printed out. Could
29 that be done so that I have the names.

1 MR KNOOPS: Your Honour.

2 MS KNOOPS-HAMBURGER: I apologise, too, for being late in your
3 Court due to an unfortunate matter that I had to deal
4 with. And I would like to introduce myself. I am the
5 co-counsel of Mr Kanu, the defendant Mr Kanu, and my name
6 is Carry Knoops-Hamburger.

7 PRESIDING JUDGE: Thank you, Ms. Knoops-Hamburger.

8 Yes, counsel.

9 MS MONASEBIAN: Yes, Your Honour. My name is
10 Simone Monasebian, and I'm the Principal Defender of the
11 Special Court. I just wanted to clarify something as a
12 point of information if I may, Your Honour.

13 PRESIDING JUDGE: Thank you.

14 MS MONASEBIAN: First, the Defence office will provide within
15 the next hour the particulars Your Honour seeks with
16 regard to the composition of the Defence teams. I
17 suppose it would be easier for us to do that in one fell
18 swoop than to receive separate submissions.

19 Secondly, I completely agree, of course, with
20 Your Honour's expectation that counsel arrives on time.
21 And I would just like to say in this instance, it was
22 indeed the Transport Section that was notified last night
23 of the proceedings this morning. And not to cast
24 aspersion on them - they have a lot of difficulties with
25 the limited resources they have - but counsel did
26 endeavour, all of them, to appear on time today. And I'm
27 sure that I will have a discussion with Transport as to
28 the importance of these proceedings and to make this the
29 priority in picking up counsel rather than other matters

1 related to the Court.

2 And the only third matter I would like to bring to
3 Your Honour's attention is that with regard to the
4 submission of Professor Knoops in the Kanu matter, I'm
5 sure Professor Knoops understands about the manner in
6 which things ought to be filed and appreciates that.
7 What I can say is just from reviews of emails that I've
8 seen, that somebody in Chambers was good enough and wise
9 enough to on behalf of Your Honour forward that to the
10 Prosecution, so they've had notice in that respect,
11 although I agree with Your Honour, of course, that it
12 should have been simultaneous to begin with.

13 Thank you, Your Honour.

14 PRESIDING JUDGE: Yes, we did arrange to have that done.

15 MS MONASEBIAN: Thank you.

16 PRESIDING JUDGE: Thank you, Ms Monasebian. So I now have
17 counsel's undertaking to file the Defence names.

18 Ms Stevens, your team?

19 MS STEVENS: Boi-Tia Stevens, Your Honour.

20 PRESIDING JUDGE: Ms Boi-Tia Stevens. I can foresee long
21 weeks of struggling with these names. The first one that
22 pronounces my name right will get a prize, too. Yes.

23 MS STEVENS: The Prosecution team is composed of other members
24 who are not currently present in Court, but we would also
25 file the names in due course. But I wish to apprise the
26 Court that the same attorneys handling the AFRC case are
27 also handling the RUF case. Therefore, the attorneys
28 would be appearing in this Court on a rotational basis.

29 And as to the state of readiness of the

1 Prosecution's case, the Prosecution is ready to go.
2 PRESIDING JUDGE: I've had one indication of the need of
3 motions of yourself, Mr Metzeger.
4 MR METZEGER: That is correct.
5 PRESIDING JUDGE: What about other Defence counsel? Are there
6 any outstanding issues? Or are you ready to go?
7 MR KNOOPS: No, thank you, Your Honour.
8 PRESIDING JUDGE: So Kanu's team is ready to go.
9 MR HARRIS: [Microphone not activated]
10 PRESIDING JUDGE: Very good. That's for Mr Kamara, is it?
11 MR HARRIS: Yes.
12 PRESIDING JUDGE: On that point, I note that there appears not
13 to have been a pre-trial brief filed by Mr Kamara. Is
14 that correct?
15 MR HARRIS: [Microphone not activated]
16 PRESIDING JUDGE: Which year was that, please, Mr Harris?
17 MR HARRIS: 2005, ma'am.
18 PRESIDING JUDGE: Thank you. I'll clarify that in due course.
19 I have noted that. Thank you.
20 Item number 2, any outstanding issues, Ms Stevens.
21 MS STEVENS: None, Your Honour.
22 PRESIDING JUDGE: Counsel for the Defence?
23 MR METZEGER: Save that which has already been indicated.
24 PRESIDING JUDGE: Any other Defence counsel? Any other
25 issues?
26 MR KNOOPS: Thank you, Your Honour.
27 PRESIDING JUDGE: Mr Harris?
28 MR HARRIS: [Microphone not activated]
29 PRESIDING JUDGE: Outstanding motions. Ms Stevens, I have one

1 outstanding motion, isn't that correct?

2 MS STEVENS: Yes, that's correct.

3 PRESIDING JUDGE: I can indicate to the counsel, both counsel,
4 that the Trial Chamber II is aware of that motion. We
5 are very keen to dispose of it, and we have discussed it
6 at some length. However, there is an appeal pending on
7 the same issues in the Court of Appeal, and we've come to
8 the decision that it is proper to await the ruling of the
9 Court of Appeal on the issues prior to making a decision
10 on ourselves. We are, of course, conscious of the need
11 for both Prosecution and Defence to have a ruling on
12 that, and we are actively following it up.

13 The witnesses -- Ms Stevens, you have, in fact,
14 given us a revised list of witnesses?

15 MS STEVENS: Yes, Your Honour. There's a list of 63 core
16 witnesses, and 196 backup witnesses.

17 PRESIDING JUDGE: Any other issues I've listed under
18 paragraph 4, Ms Stevens, that you wish to address Court
19 on?

20 MS STEVENS: Yes, Your Honour. Paragraph 4.2, Rule 92 bis
21 evidence, the Prosecution has given consideration to the
22 introduction of evidence under this rule. In particular
23 we're considering evidence of witnesses in the RUF trial.
24 At the appropriate time, we may come before Your Honour
25 requesting admission of their transcripts, transcripts of
26 the testimonies given in Court.

27 PRESIDING JUDGE: Will that application be made on a
28 one-by-one witness basis, Ms Stevens?

29 MS STEVENS: At this point in time, Your Honour, it is

1 difficult to state because we don't know yet what the
2 pace is and how the two trials are going to work
3 together. So we will give due consideration when the
4 appropriate time comes.

5 And as to paragraph 4.3, at this point in time, it
6 is not our intention to call -- or to seek the admission
7 of the evidence of any expert witness under Rule 92 bis.
8 All evidence from expert witnesses will come under
9 Rule 94 bis.

10 PRESIDING JUDGE: Thank you, Ms Stevens. I will not invite
11 Defence to comment on the matter concerning the admission
12 of transcripts because it will have to be dealt with on a
13 legal and procedural basis when it arises from time to
14 time. It's a little premature to seek your views on it
15 when it's an unknown.

16 MR METZEGER: In any event, I would be happy to give my view
17 on it, and I think Your Honour knows what it is.

18 PRESIDING JUDGE: In light of Mr Knoops's piece of paper, I
19 can only guess. And possibly, the Defence counsels may
20 be at variance.

21 MR METZEGER: It may or may not.

22 PRESIDING JUDGE: Has counsel for the Defence any matters to
23 raise under paragraph 4 in light of Ms Stevens'
24 submission?

25 MR KNOOPS: Just, Your Honour, that indeed the reference to
26 the Rashid case may be at least some -- have some
27 anticipatory value for this case.

28 PRESIDING JUDGE: Not the one to do with the Larceny Act, it
29 won't. Incidentally, we are still looking for a proper

1 citation, Mr Knoops, on that case.

2 MR KNOOPS: We will make sure when the time comes.

3 PRESIDING JUDGE: I added in handwriting a 4.6, to clarify one
4 point in the light of the protective measures motion that
5 came before the Court earlier. If there's going to be
6 any variation of the protective measures already provided
7 to witnesses in Trial Court Number I when they are called
8 in this Court, you may recall that followed from your
9 motion and the fact that there has been variations in
10 relation to witnesses in Trial Chamber Number I,
11 Ms Stevens. Will there be any variation in protective
12 measures?

13 MS STEVENS: At this point, Your Honour, we don't envisage
14 any. But then again, sometimes when witnesses come,
15 things change. And if that should happen, we will
16 address the matter at that time.

17 PRESIDING JUDGE: I have noted that, Ms Stevens. I would
18 again stress the duty on the Prosecution to inform the
19 Defence. I will be quite emphatic on that. They must
20 have given as much notice as possible.

21 MS STEVENS: We'll certainly do that, Your Honour.

22 PRESIDING JUDGE: Number 5, I have seen some exhibits matters
23 filed. Have they been served?

24 MS STEVENS: When the Prosecution filed the materials which it
25 was ordered to file in connection with the witness
26 statements, a list was provided to the Defence. As to
27 the actual exhibits, that has not been disclosed to the
28 Defence. But they do have a list of exhibits.

29 PRESIDING JUDGE: I see.

1 Defence, anything on the exhibits?

2 MR METZEGER: In due course, once we've seen the exhibits, we
3 might be in a better position to address Your Honour. I
4 have had the opportunity, I suppose, of looking at
5 something that appears to be a list of references to
6 articles, things written by people generally, and
7 reports. And of course, we would take the initial view
8 that insofar as it assists the speedy jurisprudence, we
9 would not be opposing anything. However, in relation to
10 any matters, opinions, or otherwise which go to the
11 ultimate issue, of course by necessity we would seek to
12 either argue their relevance or admissibility.

13 MR KNOOPS: No comments, Your Honour. Thank you.

14 MR HARRIS: Ma'am, I agree.

15 PRESIDING JUDGE: I put in paragraph 6, agreed facts. I know
16 it's not the terminology we use in the Rules; it's just a
17 common terminology that has built up. It would
18 appear -- maybe this is where I mixed up one of
19 Mr Kamara's documents, Mr Harris. I couldn't find his
20 reply to the notice to admit. That's what I couldn't
21 find. I've misled you inadvertently. I apologise.

22 MR HARRIS: All right, I understand. I'll pay some attention
23 to that as soon as we rise.

24 PRESIDING JUDGE: Yes. The others were filed last year. It's
25 Kamara's notice to admit.

26 I haven't seen any indication of either matters to
27 be agreed of fact or law. Is that still the situation,
28 Ms Stevens?

29 MS STEVENS: Yes, Your Honour.

1 MR METZGER: We will have a document ready for the Court by
2 the close of business today. And of course, my learned
3 friends for the Prosecution.

4 PRESIDING JUDGE: This is of agreed law or agreed fact, or
5 both, Mr Metzger?

6 MR METZGER: Certainly, in relation to agreed fact, the
7 matters that we believe we can admit without let or
8 hindrance.

9 PRESIDING JUDGE: Thank you. Mr Knoops.

10 MR KNOOPS: Your Honour, as the Honourable Trial Chamber may
11 have seen, we tried to make a start with the disputed
12 facts in our Section III of our pre-trial brief --

13 PRESIDING JUDGE: Yes, I've read that.

14 MR KNOOPS: -- which was filed last year. We are, of course,
15 conscious that it's far from complete, so we will
16 endeavour also to file an additional list.

17 PRESIDING JUDGE: Yes. On my reading of that, Mr Knoops, it
18 would appear that some of the bulk of it related to
19 indictments which have now been withdrawn by the
20 Prosecution.

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

22 PRESIDING JUDGE: So there would appear to be still issues of
23 identification, but a lot of -- some of it now is no
24 longer necessary. Is that correct?

25 MR KNOOPS: That's correct. So we'll file an updated version.

26 PRESIDING JUDGE: Very well. Again, I would remind counsel of
27 the need to let the Prosecution know.

28 MR KNOOPS: Yes, Your Honour. Thank you.

29 MR HARRIS: Your Honour, on the issue of agreed facts, I find

1 difficulty in understanding why it is we can't reach a
2 consensus, save to say that the Prosecution seem to
3 approach the matter in a way which suggests that we must
4 agree matters of substance, which is a question for the
5 Tribunal. I would endeavour to discuss a basis upon
6 which one -- so far as the Defence team is concerned, one
7 which we could submit to the Prosecution for their
8 consideration. I take on board the observations made by
9 my learned friend, Mr Metzger, about the issue relating
10 to what the -- what are matters at issue before the Trial
11 Court or Chamber.

12 There is a difference between matters of real issue
13 which determine the question of guilt or innocence and
14 other surrounding issues. I see no difficulty, so far as
15 I'm concerned, in arriving at a happy medium relating to
16 those issues, but the real issue of, for example,
17 identification, participation, and being in the hierarchy
18 are matters which we won't agree. But I shall endeavour
19 to do something.

20 PRESIDING JUDGE: I wish to assure all counsel it's not the
21 intention of this Court to force any agreed facts upon
22 them. The issues are always at large. It's a matter
23 more of expeditious hearing.

24 If there's no other issues under that subheading, I
25 will move on to the next one, which is trial preparation.
26 Ms Stevens, how are you on your trial preparation?

27 MS STEVENS: Your Honour, my learned senior, Mr Luc Cote, will
28 address you on this issue.

29 MR COTE: Your Honour, I think basically point 7.2 and 7.3, we

1 are ready to proceed with the opening on the 7th of
2 March. We would like to put everyone on notice that as
3 in the previous trial, we would like to separate the
4 opening statement in two parts. One part will be given
5 by the Prosecutor, David Crane. The second part will be
6 done by my colleague, Ms Stevens. It should all
7 together, I think both of them together, should last less
8 than two hours. So it should be completed, the two parts
9 should be completed in two hours.

10 As to the matter of the estimate of length of time
11 we will require to present our case, of course it depends
12 also on my colleagues from the Defence and the length of
13 cross-examination. But it's always difficult to give a
14 precise estimation, but let's say that we are very
15 hopeful and we believe that this -- the Prosecution case
16 will be finished before summer recess.

17 PRESIDING JUDGE: Thank you, Mr Cote. I am assuming that
18 Defence will want to hear the Prosecution case before
19 they make any commitment. But if any Defence counsel has
20 a comment on that, I'm quite happy to listen.

21 MR METZGER: I'm grateful for my learned friend's optimism
22 because it seems to me that I understand the difficulties
23 when one is presenting a case in trying to estimate time,
24 particularly when you've got, I think, 63 core witnesses
25 and 196 backup. Once the Prosecution are able to decide
26 exactly how many witnesses they intend to call, then
27 there will be more of an air of, shall we say, accuracy
28 about any estimates that we are likely to have.

29 PRESIDING JUDGE: Mr Metzger, never seen an accurate estimate

1 of a length of a trial in my life.

2 MR METZEGER: Your Honour hasn't been in the Court I have been
3 in.

4 PRESIDING JUDGE: Possibly.

5 MR METZEGER: However, there is one thing that I know if my
6 lay client were here he would like me to say: I have had
7 the opportunity of hearing some of and seeing some of the
8 words used in the opening in the RUF trial. Something
9 which caused a little bit of perhaps furor is putting it
10 highly, but certainly an emotionally charged - what is
11 the phrase - "boxed and ready" for media attention.

12 We are dealing with serious issues in this case, and
13 we lay our concerns on the table, as it were, now in the
14 hope that the Prosecution will open the case, of course,
15 as they wish to, but perhaps leaving out too many
16 allegorical statements. Otherwise, we shall have to then
17 make our objections after the opening, and we shall lose
18 time. Not a lot, but we will obliged, almost indeed
19 forced, to do that. It needn't be as emotive as some of
20 the statements we've seen in prior openings.

21 PRESIDING JUDGE: Thank you, Mr Metzeger.

22 Mr Knoops.

23 Are they here? Bring them in, please.

24 [The accused Kanu and Kamara entered court]

25 PRESIDING JUDGE: I see two. Is there a third?

26 MR METZEGER: It would appear that my lay client isn't here.

27 Obviously, I don't have his instructions. I don't know
28 what the situation is. It would ill benefit us to ask --

29 PRESIDING JUDGE: It wouldn't be proper. I will therefore

1 proceed, knowing that there are two accused in the Court.

2 Now, Mr Metzeger. Mr Knoops -- sorry, did you wish to
3 say something else?

4 MR METZEGER: You did say "Mr Metzeger," and I rose to your
5 bidding.

6 PRESIDING JUDGE: I was going to say Mr Metzeger has addressed
7 on the issue, and I was going to invite other counsel --
8 i was going to ask whether there's anything else you wish
9 to say, Mr Metzeger.

10 MR METZEGER: I think I've occupied the Court's time enough
11 this morning.

12 PRESIDING JUDGE: Thank you.

13 Yes, Mr Knoops, any matters you wish to raise?

14 MR KNOOPS: Thank you, Your Honour. Only that we share the
15 same concern as my learned colleague Mr Metzeger just
16 explained to the Honourable Trial Chamber.

17 MR HARRIS: Ma'am, it's quite clear that the Prosecution have
18 applied their mind to their opening. There's absolutely
19 no reason why they can't disclose their opening to us.
20 They can give us a transcript, a copy of the -- of their
21 opening. And we can see what they have to say. It's not
22 unusual in courts for the Prosecution opening to be
23 served on the Defence. I'm not asking for time. They
24 obviously have it in their system. Print a copy off.

25 PRESIDING JUDGE: Mr Harris, off the top of my head, is there
26 a rule that empowers me to make a directive?

27 MR HARRIS: No, no, I'm not asking you to make a directive.
28 I'm simply discussing the issue. If we are looking at
29 the way in which this could be expedited, there's

1 absolutely no reason why we can't see what they have to
2 say about those we represent.

3 PRESIDING JUDGE: Thank you, Mr Harris.

4 Mr Cote, there's two matters that arise from Defence
5 responses. One is to say I do not think I have a power
6 to direct you to serve an opening statement, and
7 therefore I will merely leave Mr Harris's comments on the
8 table for Prosecution to act as they see fit and within
9 their own prerogative.

10 And secondly, on the question as to -- you've heard
11 Mr Metzger's "boxed and ready," he said. And merely just
12 to refer counsel to the provisions of Rule 84 of the
13 Rules which provide that an opening statement is confined
14 to the evidence he intends to present in support of his
15 case. I will merely allude to that, and I will say
16 nothing further on the point.

17 MR COTE: Mm-hmm.

18 PRESIDING JUDGE: And I will leave it up to counsel. If
19 there's an agreement reached, well be it. If there is
20 not, I can do nothing about it.

21 MR COTE: Thank you, Your Honour.

22 PRESIDING JUDGE: Well, counsel, that's the list I had. Has
23 counsel any other issues they wish to bring to the
24 attention of the Court? Any problems, other than, as
25 Ms Monasebian, the transport, which we will do our best
26 to control? I've been even known to be caught in traffic
27 myself.

28 Anything else?

29 MS STEVENS: Nothing further, Your Honour.

1 PRESIDING JUDGE: Thank you, Ms Stevens.

2 Counsel for the Defence?

3 MR METZEGER: At this particular point in time, we will
4 endeavour to live up to that which we have promised this
5 morning.

6 PRESIDING JUDGE: Mr Knoops.

7 MR KNOOPS: Nothing further, Your Honour. Thank you.

8 PRESIDING JUDGE: Mr Harris.

9 MR HARRIS: Nothing further.

10 PRESIDING JUDGE: If there's no other matters, we'll adjourn
11 the Court until the 7th of March. Madam Registrar,
12 please adjourn the Court.

13 [Whereupon the hearing adjourned at 9.59 a.m., to be
14 reconvened on Tuesday, the 7th day of March, 2005]

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