

Case No. SCSL-2004-14-T  
THE PROSECUTOR OF  
THE SPECIAL COURT  
V.  
SAM HINGA NORMAN  
MOININA FOFANA  
ALLIEU KONDEWA

TUESDAY, 02 MAY 2006  
10.11 A.M.  
STATUS CONFERENCE

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding
For Chambers:	Ms Elena Martin-Salgado Ms Roza Salibekova
For the Registry:	Mr Geoff Walker
For the Prosecution:	Mr Desmond de Silva Mr Joseph Kamara Ms Miatta Samba Ms Bianca Suciu (Case Manager)
For the Principal Defender:	Mr Lansana Dumbuya
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr Aluseine Sesay Ms Claire da Silva (legal assistant) Mr Kingsley Belle (legal assistant)
For the accused Moinina Fofana:	Mr Arrow Bockarie Mr Victor Koppe Mr Andrew Ianuzzi
For the accused Allieu Kondewa:	Mr Ansu Lansana

1 [CDF02MAY06A - CR]  
2 Tuesday, 02 May 2006  
3 [Status conference]  
4 [Open session]  
10:06:54 5 [The accused not present]  
6 [Upon commencing at 10.11 a.m.]  
7 PRESIDING JUDGE: Good morning all. I hope you all had a  
8 restful and peaceful recess for this Easter recess and that you  
9 are all in good shape to take it from there so we can move ahead  
10:11:42 10 now. Can I ask first for representation. Dr Jabbi first.  
11 MR JABBI: Good morning, My Lord. For the first accused,  
12 Dr Bu-Buakei Jabbi, Mr Aluseine Sesay and, with us, the legal  
13 assistant Ms Claire Da Silva.  
14 PRESIDING JUDGE: Thank you. Second accused?  
10:12:24 15 MR KOPPE: For the second accused, Mr Arrow Bockarie,  
16 Mr Andrew Ianuzzi and myself Victor Koppe.  
17 PRESIDING JUDGE: Thank you, Mr Koppe. Third accused?  
18 MR LANSANA: May it please Your Honour, Mr Ansu Lansana for  
19 the third accused.  
10:12:47 20 PRESIDING JUDGE: Thank you. Mr Prosecutor?  
21 MR De SILVA: For the Prosecution there is myself,  
22 Mr Joseph Kamara and Miatta Samba and Ms Bianca Suci.   
23 PRESIDING JUDGE: Thank you very much, Mr de Silva. So we  
24 do have a short agenda today, given the fact that we have had, I  
10:13:13 25 would say, multiple status conferences to try to move ahead with  
26 the preparation for this next phase of the trial and therefore  
27 this morning shall not be too elaborate. But we still need to  
28 clarify some issues and this is why we have this under  
29 consideration this morning.



1           The last status conference in this case, as you know, was  
2 held on 5th April 2006. This was done before the start of the  
3 April recess which was to start on 10th April 2006. The Chamber  
4 then reviewed the materials filed by the Court-appointed counsel  
10:13:58 5 for the first accused and by other parties on 3rd April and these  
6 filings made on 3rd April 2006 for their compliance with the  
7 Chamber's consequential order to the status conference of  
8 22 March 2006. This status conference is held, as usual,  
9 pursuant to Rule 66bis of the Rules of Procedure and Evidence of  
10:14:24 10 the Special Court before the start of the seventh trial session  
11 in this case.

12           The first issue for this status conference is to re-file  
13 the witness list of the first accused. I should underline that,  
14 as I have already mentioned, there has been fairly good progress  
10:14:47 15 accomplished in both producing witness lists and providing  
16 additional information and required information and, therefore, I  
17 can only thank those who have worked to make it happen that way.

18           On 7th April 2006, following the Chamber's observation made  
19 during the last status conference, Court-appointed counsel for  
10:15:07 20 the first accused filed Norman Further Filing Following  
21 Consequential Order to the Status Conference of 22nd March 2006  
22 and the Status Conference of 5 April 2006. This filing contains  
23 a list of 27 core witnesses which includes four witnesses who had  
24 been added to the witness list by the Chamber's decision on the  
10:15:35 25 first accused's Urgent Motion For Leave to File Additional  
26 Witness and Exhibit List of 6th April 2006. It also contains a  
27 list of 46 back-up witnesses and these back-up witnesses are  
28 collectively referred to as witness list of 7th April 2006.

29           The Chamber noted at the last status conference that there



1 was some discrepancies between the witness summaries that had  
2 been submitted by counsel for the first accused on 23rd January  
3 2006 and 14th March 2006 and 3rd April 2006. For instance, in  
4 some cases, information that was deleted from the summary  
10:16:19 5 submitted in January, when they were resubmitted in March had  
6 been restored in to the summary submitted in April. Similarly,  
7 in some cases, information that was added in March has been  
8 dropped in April. Counsel were then asked to look into this  
9 matter to see if this was due to an oversight or a planned  
10:16:39 10 reduction of the scope of the examination for some of these  
11 witnesses. Counsel responded that the reduction was not  
12 intentional, but rather an oversight and promised to take this  
13 into account when re-filing the summaries.

14 Do you have any comments in this respect, Dr Jabbi, as to  
10:17:01 15 this oversight you were to look into? My question is either  
16 directed to you or your assistants.

17 MR JABBI: My Lord, indeed, as we said, they were  
18 oversights and we have tried in the final filed list to include  
19 the summaries as comprehensively as possible. We can now say  
10:17:28 20 that they are as they stand, the respective summaries.

21 PRESIDING JUDGE: So what is there now is what you intend  
22 these summaries to be?

23 MR JABBI: Yes. To be, yes, My Lord.

24 PRESIDING JUDGE: So if there is something that was there  
10:17:44 25 before and it's not there now, it means that this is what you  
26 want these summaries to be.

27 MR JABBI: The final list is what we want both the list and  
28 the summaries to be.

29 PRESIDING JUDGE: Good. So, in other words, all parties -



1 second accused, third accused, as well as the Prosecution - can  
2 rely that this information that you have there, even though it  
3 may not contain the same as you had before, is essentially what  
4 you're trying to --

10:18:05 5 MR JABBI: Yes, My Lord.

6 PRESIDING JUDGE: Very well. Thank you very much. At the  
7 last status conference the Prosecution also addressed the issue  
8 of the comprehensiveness of the witness summaries and that many  
9 of them were still lacking details ordered by the Chamber.

10:18:24 10 Counsel for the first accused do not explicitly state in their  
11 re-filed witness list of 7th April if the witness summaries have  
12 addressed the issue of discrepancies or lack of  
13 comprehensiveness. However, they submitted the list as re-filed,  
14 bearing in mind the issues raised during the status conference of  
10:18:47 15 5th April.

16 Additionally on this matter the Prosecutor requested the  
17 Chamber to include into this agenda the issues of the number of  
18 witnesses yet to be called by the first accused and the  
19 relevance, or irrelevance, of some of their evidence judging by  
10:19:05 20 the summaries of the witness' testimonies as filed in the witness  
21 list of 7th April 2006. Do you have any comment in this respect,  
22 Dr Jabbi? I will come to you after that, Mr de Silva.

23 MR JABBI: Yes, My Lord. My Lord, we did state at the last  
24 conference that for comprehensiveness and cohesiveness we have  
10:19:36 25 had to present the summaries to be as consistent with the  
26 original statements as possible. But that, indeed, when  
27 testimony is being given, we will pay due attention to those  
28 issues of relevance and immediate materiality. Some background  
29 has indeed been included in some cases, but we will not belabour



1 the fact of extraneous material when testimony is being given.

2 PRESIDING JUDGE: On this matter, Dr Jabbi, you are  
3 concerned - and not only the concerns of the Prosecution but the  
4 concern of the Bench as well - about at least repetitiveness of  
10:20:34 5 evidence that is absolutely of no dispute, but I do understand  
6 and appreciate that you need to put the witness in situ as to  
7 where it is where he or she has to start her evidence. But,  
8 given that, obviously matters that are not disputed any more  
9 should be removed or moved ahead very quickly. So that you  
10:20:55 10 allude to these facts is one thing, but to lead evidence in these  
11 matters will only lead to confusion and certainly will not be  
12 conducive to a speedy process. I trust that this is essentially  
13 what you will be aiming at.

14 MR JABBI: Broadly speaking, My Lord, but on the question  
10:21:17 15 of what is no longer in dispute, we probably need more guidance  
16 from admissions of facts that will need to be made. But in the  
17 absence of admissions of facts, we may well find it necessary to  
18 lead evidence which somebody might consider no longer in dispute,  
19 but not knowingly to us.

10:21:47 20 PRESIDING JUDGE: But I will give you an example. The  
21 overthrow of the government of President Kabbah and the  
22 reinstatement of that government, certainly I don't think it is  
23 in dispute, so how it was and so on, and all of these matters  
24 related to that.

10:22:01 25 MR JABBI: On that issue in particular --

26 PRESIDING JUDGE: I'm using that as an example.

27 MR JABBI: As an example and what I am saying applies both  
28 to that issue and certainly other issues of its type in the  
29 general evidence. On such issues, My Lord, it may only be of



1 incidental reference that a witness may mention it as the  
2 historical pointer, but not because he wants to give testimony  
3 proving that so and so and so. But he could say at this time  
4 this happened and, after that, so and so.

10:22:33 5 PRESIDING JUDGE: This is not the problem, as such. As I  
6 say, it is important that your witnesses be situated in time. It  
7 may be that they need to make reference to that, because this is  
8 really a marker for them to say this is after or before. But any  
9 evidence that has to do with the overthrow of the government, I  
10:22:48 10 say at this juncture, is absolutely of no use any more. I don't  
11 think this is a disputed matter. And the same with the  
12 reinstatement of the government.

13 MR JABBI: Indeed. We will always remain aware of that and  
14 proceed accordingly.

10:23:04 15 PRESIDING JUDGE: I'm just informing you and warning you  
16 that we will intervene if we feel that you are overstepping in  
17 that direction. In other words, if the evidence led by the  
18 witness at that time, we feel, is of no use any more -- not that  
19 it's not relevant, but that this matter is not in dispute, we  
10:23:24 20 will tell you right away.

21 MR JABBI: My Lord, that intervention will be very welcome,  
22 but we will endeavour to ensure that it doesn't arise.

23 PRESIDING JUDGE: Very well. Thank you very much. Mr de  
24 Silva?

10:23:43 25 MR De SILVA: My Lord, can I invite Your Lordship to look  
26 at the re-filed summary of witnesses, because we would submit --  
27 has Your Lordship got that re-filed summary?

28 PRESIDING JUDGE: I'm just looking to see if I have it  
29 right here in my binder. I don't have it. You're talking of the



1 document of 7th April 2006?

2 MR De SILVA: My Lord, this is the re-filed summary which  
3 is meant to deal with the concerns of the Prosecution and,  
4 indeed, the concerns expressed by the Court. My Lord, all I wish  
10:25:24 5 to say is this: I propose to take Your Lordship through it, I'm  
6 afraid at a little bit of length, to demonstrate that 60 per cent  
7 or 70 per cent of that which is set out is either irrelevant,  
8 repetitive, or unchallenged and it is plain for all to see. With  
9 regard to the first witness --

10:25:55 10 MR JABBI: My Lord, I'm sorry to interpose at this stage,  
11 with respect. My Lord, I think we have already gone through the  
12 question of issues that are likely to be repetitive and some  
13 general comments and, I should say, commitments and undertakings  
14 have already been broadly indicated in that respect. My Lord, I  
10:26:29 15 think for the time factor on saving the time of the Court, it may  
16 not be necessary to do an illustrative and demonstrative survey  
17 of what is alleged to be such if indication has already been made  
18 that those matters will be duly attended to and evidence given  
19 with that [indiscernible]. Thank you, My Lord.

10:26:56 20 PRESIDING JUDGE: Thank you, but I will still hear what  
21 Mr de Silva has to say on that and we'll see from there.

22 MR De SILVA: My Lord, the first witness we needn't trouble  
23 with, not through any discourtesy, but there is a ruling yet  
24 outstanding in that case.

10:27:13 25 The second witness, Mr Arthur Koroma, who is said to take  
26 five hours. The first matter about which he purports to testify,  
27 going on this comprehensive summary, is how Kamajor initiations  
28 were of two types; for protection and combat. My Lords, we've  
29 already had that evidence from Mr MT Collier and Mr Joe Demby and



1 that evidence is undisputed.

2 If Your Lordship goes to the next matter that the witness  
3 was initiated into the Kamajor society in October 1996 and it  
4 followed Kamajor successes against the rebels in close  
10:28:02 5 co-operation with government soldiers initially, that matter is  
6 wholly undisputed. The next matter that after the AFRC coup of  
7 25th May '97 the witness trekked from Kenema to Bo Waterside,  
8 then Monrovia, got involved in Kamajor exploits and endeavours up  
9 to December 1997, as set out in this summary, those matters are  
10:28:32 10 totally irrelevant. To what issue in the case, on the face of  
11 it, does that summary go?

12 The next matter, sources of logistical support of arms and  
13 ammunition, food and basic necessities of the CDF. The  
14 Prosecution have never disputed that the CDF received arms from  
10:28:56 15 outside sources and ammunition from outside sources. That's  
16 never been disputed. The next matter, the command structure and  
17 administrative structure of the CDF. This evidence has already  
18 been dealt with by Mr Norman, by Chief Norman, and by Joe Demby.

19 The next matter, how General Khobe visited Base Zero  
10:29:26 20 several times to talk with Kamajor officials as set out, wholly  
21 irrelevant. Who cares whether he had talks with Kamajors? It's  
22 a question of what he said and if what he's said is not set out,  
23 then that which is set out is utterly irrelevant. One can't keep  
24 back information to ambush the Prosecution. If there is relevant  
10:29:51 25 material, you can't just say he had talks with people. Talks  
26 about what? He might have been cracking jokes with them. That  
27 doesn't make it relevant.

28 My Lord, the more one looks at this and analyses it, one  
29 realises the extent to which, as we say, there are irrelevant



1 matters, there are repetitive matters, there are unchallenged  
2 matters.

3 PRESIDING JUDGE: I would like to stop you right here,  
4 Mr de Silva. You say it's not disputed, why haven't you filed --  
10:30:21 5 I mean, you have this information, what they are proposing to  
6 say, and if it is not disputed by the Prosecution, why don't you  
7 just file a document to say we admit these facts, it's not  
8 disputed? We will get to some of these admissions because this  
9 is still an ongoing issue. But why don't you -- I mean, you are  
10:30:38 10 telling this Court this morning this matter, logistical support  
11 of arms and so on, is not disputed. That may not be disputed,  
12 but, again, we are in the process of hearing the case for the  
13 Defence. You're saying Chief Norman has talked about that. We  
14 have made no assessment of the credibility of any witness,  
10:30:57 15 whoever it may be, so why would the Defence be deprived of  
16 calling witnesses that may support or corroborate in some respect  
17 the evidence of some other witnesses?

18 MR De SILVA: My Lord, with great respect, when the Defence  
19 calls evidence which the Prosecution do not challenge, that is a  
10:31:17 20 matter no longer in dispute. That applies to either party.

21 PRESIDING JUDGE: Indeed. But you're saying this this  
22 morning. I'm still to see something in writing from the  
23 Prosecution saying this matter is not in dispute.

24 MR De SILVA: My Lord, if the Defence wants us to admit the  
10:31:42 25 CDF received arms, ammunition, food and supplies from outside  
26 sources, they are the ones who would be -- it is in their  
27 interest to put it on paper and the Prosecution will agree. If  
28 they choose not to put it on paper, My Lord, I can't see that the  
29 Prosecution can go any further than if this evidence is given, as



1 it has been given, the Prosecution don't challenge it. It's a  
2 matter of common sense, therefore, that this is no longer an  
3 issue between the parties. The Prosecution cannot be expected at  
4 all times to anticipate that which the Defence wants and agree.  
10:32:27 5 If the Defence comes along with a set of admissions which they  
6 wish the Prosecution to make, we would be more than happy to make  
7 such admissions. But short of that, what we can say is when we  
8 get evidence of this kind is say, "Look, we have not -- we don't  
9 dispute this evidence." I believe I have said I think in my  
10:32:56 10 cross-examination -- certainly at some stage during a  
11 cross-examination of mine that I didn't dispute the CDF received  
12 arms, ammunition and the rest of it. It's on the record. As for  
13 that which is written, it's on the record.

14 The next matter that is dealt with is clearly relevant:  
10:33:18 15 "How witness was appointed part of a delegation and spokesperson  
16 to Lungi for peace talks with coupists at Jui near Freetown under  
17 auspices of Nigerian army personnel in 1997". And witness  
18 staying at Lungi, as to President Kabbah's visit to Lungi from  
19 Guinea in December 1997 to strategise the war and welfare of  
10:33:42 20 Kamajors. Of course, this is relevant to the Defence case as to  
21 command responsibility. I can see that immediately. We don't  
22 agree with it, but I can see the relevance of that piece of  
23 evidence.

24 PRESIDING JUDGE: All I can say to you right on the face of  
10:33:59 25 it too, that Khobe's role in that time frame may be of relevance  
26 as well, as such, whether or not as to the common responsibility,  
27 who controlled what and who did what. So when you say you don't  
28 see the relevancy, as such, the mere fact that they are talking  
29 here of several times to talk with Kamajor officials -- I mean,



1 the mere fact of visits by a person of the status and rank of  
2 Khobe at the time may be a factor that indeed goes to show that  
3 he had some control or whatever.

4 MR De SILVA: My Lord, in that event, the summary should go  
10:34:39 5 on to say, "Had talks in respect of the following matters," or  
6 whatever it is, so that one has some understanding of what it is.  
7 Anyway, on the face of it - I say on the face of it, prima facie,  
8 as it is - it is not relevant. My Lord, one can then go below to  
9 other matters, how Kamajors placed under control or command of  
10:35:12 10 ECOMOG in early 1998 whilst fighting alongside them against  
11 AFRC/RUF. Of course, that is an issue. Of course, ECOMOG came  
12 in in March 1998 and the allegations as to Tongo and Koribundu of  
13 course were prior to the arrival of ECOMOG. So after that,  
14 matters such as how captured rebel soldiers were not killed but  
10:35:39 15 sent to state prisons, that clearly is relevant. Then everything  
16 on that page, the rest of that, apart from the last matter, "How  
17 individual Kamajors misbehaved, got disciplined by Kamajor  
18 organisations or by ECOMOG." One would have thought that was  
19 rather inconsistent with Norman's case, which was there was no  
10:36:03 20 misbehaviour on the part of Kamajors. It's a matter for them.

21 PRESIDING JUDGE: Still, this is clearly relevant  
22 considering the allegations that they are facing.

23 MR De SILVA: That a defendant calls a witness inconsistent  
24 with his own case?

10:36:23 25 PRESIDING JUDGE: Well, I am not there to conduct the case  
26 for the Defence. I'm just talking about relevancy.

27 MR De SILVA: It is a matter of some amusement to those on  
28 this side. But over the page, "How looting allegations were  
29 investigated by the CDF". My Lord, the real issue is how looting



1 allegations were disciplined.

2 The next matter is the witness becoming the Kenema District  
3 administrator of the CDF from 1998 to 2002. We don't dispute  
4 that. I don't know to what issue that goes.

10:37:06 5 The next matter: "How Kamajors sometimes refused to go to  
6 war". That, I can see, is relevant to the defence case and so is  
7 the final matter, that the Kamajor structure was decentralised;  
8 that, I can see. We would have submitted -- I am just looking at  
9 that witness. Certainly about half of that witness's evidence  
10:37:41 10 could be said to be either irrelevant, repetitive or  
11 unchallenged.

12 My Lord, I can do this with each of these witnesses, but it  
13 is, I'm afraid, a painful operation. It's not painful, I hope,  
14 because of the fact that Your Lordship has got to listen to me,  
10:37:59 15 but painful because these matters have been set out in this  
16 interminable and apparently irrelevant detail. But there it is.

17 PRESIDING JUDGE: You said "apparently irrelevant." I can  
18 appreciate this nuance, because it is important that it may not  
19 be apparent as to its relevance, but it may be, in some  
10:38:24 20 respect -- I'm sorry.

21 MR De SILVA: My Lord, if we can take a look at the next  
22 witness. I won't do any other witness. Just the next witness,  
23 who is an important witness.

24 "How witness met Chief Norman in Liberia in 1997, and in  
10:38:36 25 appreciation of the good work he was doing he supported with the  
26 sum of 2,500 Liberian dollars." I can't think that is a fact in  
27 issue and I don't know to which issue in the case it goes.

28 The next matter: "How witness acted as logistics officer  
29 between ECOMOG and the Kamajors." Of course, the timing is not



1 given. When? It is the timing which is a real issue in this  
2 case.

3 The next matter: "How his own security became at stake and  
4 he sought refuge from ECOMOG." That is a non-issue in the case.

10:39:15 5 To what issue does that go?

6 "How the supply chain of arms, ammunition and food was to  
7 supplied to CDF and the role of ECOMOG in training the Kamajors."  
8 That, I can see, has a relevance to the defence case.

9 The next matter: "How Kamajors fought under the command of  
10:39:33 10 ECOMOG in Bo and Kenema." I agree that that has a relevance to  
11 the defence case.

12 The next matter: "How witness met with Chief Norman in  
13 Monrovia in September 1997 and how he joined him at Rick's  
14 Institute in Monrovia." To what issue can that conceivably go?  
10:39:55 15 The witness was a de facto logistics officer. That's not  
16 disputed. We are going to accept that when he gives his  
17 evidence. It's not disputed.

18 The next matter: "How witness was invited to Lungi from  
19 Talia through General Khobe that President Kabbah wanted to meet  
10:40:14 20 with the Kamajors." As stated, there is no dispute that that  
21 meeting took place.

22 Next matter: "How the National Co-ordination Committee was  
23 formed." We've had abundant evidence from Chief Norman, from Joe  
24 Demby as to how the National Co-ordination Committee was formed.

10:40:38 25 Then the final matter: "How certificates and medals were  
26 made to be issued to the Kamajors by the President." There's  
27 never been any dispute that the President was grateful to the  
28 Kamajors for what they did. And this, My Lord, as I understand  
29 it, is outside the period of the indictment, anyway. I think



1 this happened in the year 2000.

2 PRESIDING JUDGE: Yes, it may be have been issued in the  
3 year 2000, but for services rendered during the period of time  
4 that preceded that.

10:41:19 5 MR De SILVA: That is not in dispute and it has never been  
6 challenged that the CDF came to the assistance of the government  
7 and the government were extremely grateful. I remember  
8 cross-examining the former British High Commissioner about that.

9 On analysis, one realises how very little of these  
10:41:48 10 witnesses' evidence really goes to issues in the case. If, in  
11 fact, these witnesses were confined to that which went to an  
12 issue in the case, My Lord, it seems to me we could get through a  
13 rather larger number of witnesses per session than would  
14 otherwise be the case.

10:42:11 15 PRESIDING JUDGE: I hear you. I hope this is what we are  
16 going to be able to accomplish in this session. As you have  
17 noted, this witness has been listed to be a witness for three  
18 hours. This is the expected duration of his evidence, as such.

19 MR De SILVA: Yes.

10:42:34 20 PRESIDING JUDGE: Dr Jabbi has already been warned by  
21 myself, and certainly he's taking note of your comments as  
22 well --

23 MR De SILVA: I don't think he ever listens to me, My Lord.

24 PRESIDING JUDGE: Mr de Silva, I can see some merit in what  
10:42:53 25 you're suggesting. All I can say in this respect is we intend to  
26 scrutinise very carefully how this evidence is led and what  
27 appears to be repetitive, for example, and I use the National  
28 Co-ordinating Committee, as how that was formed. I know we have  
29 heard witness after witness on this issue. I don't think it is



1 in dispute, because counsel for the first accused was asking me  
2 to give an example. I talked about the reinstatement of the  
3 President at the time. This is another issue that is not  
4 disputed, I would suggest. We have ample evidence of that, that  
10:43:29 5 has not been challenged by the Prosecution at all. Therefore,  
6 this is an issue, Dr Jabbi -- this is an example of another issue  
7 we don't want to hear about it any more, except to say that this  
8 witness, for consistency of his evidence, to say he was a member  
9 of the national committee, that's fine. But other than that, we  
10:43:47 10 don't need to hear more of that. This is just to give you  
11 another example to your mention that you want to know what it is  
12 and what is not.

13 MR De SILVA: My Lord, I'm comforted by the fact that Your  
14 Lordship and Your Lordship's brother judges are going to approach  
10:44:12 15 this matter with a certain rigour at this time.

16 PRESIDING JUDGE: Well, this is our intent at this time.

17 MR De SILVA: I'm indebted to Your Lordship. I need to say  
18 no more.

19 PRESIDING JUDGE: Thank you, Mr de Silva. Dr Jabbi, do you  
10:44:24 20 wish to respond?

21 MR JABBI: Just a few points very briefly.

22 PRESIDING JUDGE: Before you do, Dr Jabbi, I know Mr de  
23 Silva has gone through some of them. His intent, from what I  
24 understood his position to be, was to go through all of them. So  
10:44:38 25 I need not to hear from you on all of these matters. It's just  
26 to give you an opportunity to respond. Obviously you may tell  
27 the Court that the reason why you have Koroma to speak about this  
28 particular matter is because, well, if that is the case, what is  
29 clearly not in dispute, as we say, you should be very careful as



1 to how you pose that with these witnesses when you lead their  
2 evidence. That's all I can say at this moment.

3 MR JABBI: My Lord, I have already indicated how we intend  
4 to proceed and in accordance with Your Lordship's initial  
10:45:20 5 observations.

6 My Lord, generally the Prosecutor is concerned about  
7 relevance of this or that, and he determines in advance which  
8 summary is relevant and which is not. My Lord, these are issues  
9 that we submit are ultimately the duty of the Court, and our  
10:45:47 10 responsibility is to adduce what relevant evidence we have in our  
11 possession.

12 My Lord, on the question of repetitiveness, I just want to  
13 give one example. The Prosecutor referred to evidence that has  
14 been given by Dr Demby and evidence by Mr Norman in respect of  
10:46:14 15 certain matters in the Kamajor system. He is surprised why  
16 Arthur Koroma has to give evidence about some of those matters.  
17 My Lord, the person who gives evidence in relation to a certain  
18 matter needs also to be considered in assessing both the  
19 relevance and the weight of that evidence.

10:46:49 20 Both Mr Norman and Dr Demby were not active combatant  
21 Kamajors and they have given evidence about certain things from  
22 their own knowledge. Notwithstanding that such evidence may have  
23 been given, if evidence is given by an active combatant Kamajor  
24 in respect of some of those matters, much greater force is given  
10:47:20 25 to that evidence, indeed.

26 PRESIDING JUDGE: Yes, but I will take this example. I  
27 don't think it is disputed, whether in reality or in perception,  
28 that those who went through initiation, as such, were given some  
29 protection. This is not disputed, not challenged by the



1 Prosecution at all. I don't know how many witnesses have spoken  
2 about that, not only those witnesses you have called, Dr Jabbi,  
3 but in cross-examination of many of the witnesses the Prosecution  
4 has called. I don't think this is a matter that is really  
10:47:52 5 challenged any more; that initiation was part of the process for  
6 the Kamajors and they had to go through this initiation and once  
7 they had been initiated they were protected from bullets and so  
8 on. How many times do we need to hear that to assess that?

9 MR JABBI: My Lord, as Your Lordship indicated earlier,  
10:48:19 10 there are issues in the summaries on which the Prosecution is  
11 entitled to indicate whether they have no objection to it at all.  
12 So we give summaries as comprehensively as possible off the  
13 statements that we have. And I said earlier on that,  
14 notwithstanding that, we will necessarily prune the summaries as  
10:48:44 15 we go along because of our knowledge of evidence that has already  
16 been given. It is there, because if we presented, let's say, a  
17 shorter summary of a long statement that we have, what the  
18 Prosecution has done is say this is an inadequate summary, and  
19 they will, of course, at some stage, request the statement  
10:49:07 20 itself.

21 PRESIDING JUDGE: But even if you had a 25-page statement  
22 and more than half of it contained information that is not  
23 disputed any more, because half of it talks about the structure  
24 of the National Co-ordinating Committee, as such, it's not that  
10:49:22 25 it's not relevant, but at this stage, this is a matter that is  
26 not in dispute any more. We don't need to hear about that any  
27 more. That is basically what the Prosecution is talking about  
28 and that is what this Bench is concerned about. I have given you  
29 the example of the initiation process of Kamajors and through the



1 Kamajors. I don't know how many times we have heard that,  
2 Dr Jabbi, not necessarily as part of your defence case by calling  
3 witnesses, but this has been a standard cross-examination  
4 question from all witnesses who have been coming from the  
10:49:53 5 Prosecution as to how were you initiated, were you aware of the  
6 initiation process. We know of the initiation process now to a  
7 large extent. Unless there is something new, that the Court is  
8 not aware at this time, that you want to bring forward by a  
9 witness, which is possible. That there were two different types  
10:50:14 10 of initiation, prior to Talia and after Talia, as such, I don't  
11 think this is disputed any more.

12 MR JABBI: My Lord, we will give the evidence as we  
13 consider appropriate and in accordance with the observations that  
14 Your Lordship has made, and those issues --

10:50:31 15 PRESIDING JUDGE: This is all I'm asking for.

16 MR JABBI: -- will come up as they arise.

17 PRESIDING JUDGE: Thank you. To complete my comments on  
18 the witness list, we noted at the last status conference that  
19 identifying information was still missing for 10 witnesses out of  
10:51:09 20 27 witnesses on a core list. I'm talking here of your list,  
21 Dr Jabbi. The Chamber ordered counsel for Norman to file  
22 identifying information at least for witness number 3, Mustapha  
23 Lumeh, and number 7, Bobor Brima. The Chamber notes that counsel  
24 for Norman is in compliance with the Chamber's order in respect  
10:51:33 25 of witnesses number 3 and 7, but notes that the identifying  
26 information is still missing for witnesses number 1, 25 and 26  
27 and urges counsel to provide such information to the Prosecution  
28 as soon as it becomes available, but certainly before these  
29 witnesses are to come to testify. I will leave aside witness



1 number 1 for the time being because while the decision has not  
2 been made yet on this application, I understand that it might be  
3 difficult for you to provide any additional information in  
4 respect of that witness. Having said that for witness number 1,  
10:52:16 5 still it remains that number 25 and 26 are still missing some  
6 information. Dr Jabbi, any comment?

7 MR JABBI: My Lord, we concede that and, as you said,  
8 before these witnesses come to give evidence, long before that  
9 indeed, the relevant identifying information will be supplied.

10 PRESIDING JUDGE: You understand that the purpose of that  
11 is not to cause undue hardship on the Defence, but simply to make  
12 sure that the Prosecution has information available for them to  
13 prepare their cross-examination and to investigate, as they may  
14 need to, to make sure that they have the proper reference in that  
10:52:48 15 respect.

16 MR JABBI: Yes, My Lord. In fact, I think in the case of  
17 witness number 1 they have all the relevant information by  
18 themselves.

19 PRESIDING JUDGE: That's why I say number 1, we'll not deal  
10:53:09 20 with that at this particular moment.

21 I would like to deal now with the order of the first  
22 accused's witness appearance list. I would like to clarify with  
23 you, Dr Jabbi, whether witness number 2 on your witness list will  
24 be available to testify as of tomorrow as the decision on witness  
10:53:42 25 number 1 has not been issued yet. We'd like to know if you're  
26 ready to proceed with your next witness on that list tomorrow  
27 morning.

28 MR JABBI: My Lord, witness number 2 is, indeed, available  
29 at the WVS. We had, however, been concerned that the order of



1 witnesses is likely already to begin by being disrupted by the  
2 fact that our witness number 1, whose position in that order we  
3 consider to be quite crucial is, however, unlikely to testify in  
4 that position. We're very concerned about this, My Lord, because  
10:54:36 5 the evidence is of a very foundational nature. Otherwise I  
6 believe we have about 16 out of -- the first 15 witnesses are now  
7 available at the WVS and the stand-by witnesses, anyone who is  
8 giving evidence, will also be available, My Lord.

9 PRESIDING JUDGE: So you're saying you have 16 witnesses  
10:55:09 10 available as we speak now?

11 MR JABBI: Yes, My Lord.

12 PRESIDING JUDGE: Very well. Dr Jabbi, at the last status  
13 conference you indicated there might be two cases, leaving aside  
14 the first witness -- two cases where the change of the order of  
10:55:37 15 witnesses appearance could be anticipated and that you would  
16 communicate this information as soon as possible to the OTP and  
17 other Defence counsel. You also indicated then that there might  
18 be some difficulties in securing the testimony of witness number  
19 21 due to health problems. Any comments in this respect?

10:56:04 20 MR JABBI: My Lord, so far as witness 21 is concerned, we  
21 intend to continue communication with him. We have not given up  
22 the possibility of his availability and at some stage we will  
23 probably send a legal assistant back there. So we are still  
24 hopeful that he will be available. We have put him in late in  
10:56:31 25 the hope that his recovery would have been achieved before he  
26 would be needed. I believe that is the main witness whose  
27 availability is likely to cause a slight bother with the order of  
28 witnesses.

29 My Lord, with respect to witness number 23 who was, in



1 fact, going to be the next witness just before we broke up at the  
2 last session, we have been informed that he will be out of the  
3 country for quite some time, maybe up to even June, and we have,  
4 for the moment, fixed him at 23, hoping that by the time we  
10:57:49 5 arrive there he will be back in the country. If not, we'll take  
6 the necessary action to inform all parties as to any change of  
7 order caused by his absence.

8 PRESIDING JUDGE: So this is Fekai?

9 MR JABBI: Fekai, My Lord, yes. Otherwise, unless, of  
10:58:13 10 course, certain circumstances beyond our control obtain, we  
11 believe that the order will be kept as indicated.

12 PRESIDING JUDGE: Thank you. Do you have stand-by  
13 witnesses ready to testify after the completion of the evidence  
14 by Mr Koroma tomorrow?

10:58:37 15 MR JABBI: We will, My Lord.

16 PRESIDING JUDGE: I just want to remind you that we have  
17 indicated that you should at all times have two stand-by  
18 witnesses as witnesses' evidence may go through much faster than  
19 expected and this is what we hope will happen. So we want to  
10:58:55 20 make sure that there are witnesses available to testify at all  
21 times.

22 MR JABBI: Yes, My Lord.

23 PRESIDING JUDGE: Thank you. A few words on the issue of  
24 exhibits and, again, exhibits here has to do more with making  
10:59:13 25 sure that there is proper understanding and compliance with the  
26 direction that we have issued on the filing of exhibits and the  
27 notification about exhibits. We noted at the last status  
28 conference that not all the witnesses listed on the list of 3rd  
29 April had the references to the exhibits which counsel were



1 intending to tender through a particular witness which was  
2 requested by the Chamber in its order of 23rd March. The Chamber  
3 notes that the re-filed witness list on 7th April -- that in that  
4 list there is no reference to the exhibits -- that no reference  
10:59:55 5 to exhibits is given for witnesses number 3, 11, 17 and 19. The  
6 rest of the witnesses state "none" or indicate any exhibit. Do  
7 counsel still intend to tender exhibits through witnesses 3, 11,  
8 17 and 19?

9 MR JABBI: My Lord, the witnesses through whom exhibits  
11:00:36 10 will be tendered are indicated as on the re-filed list.  
11 Notwithstanding that the word "none" may be absent against the  
12 name of a witness, that may just be a printing error or oversight  
13 and no exhibit is, at present, intended to be tendered through  
14 such witnesses.

11:01:06 15 PRESIDING JUDGE: So witnesses number 3, 11, 17 and 19  
16 which were blank, essentially, it means that you will not be  
17 tendering any exhibit through these witnesses? We should  
18 consider that to be none?

19 MR JABBI: Yes, indeed, My Lord.

11:01:21 20 PRESIDING JUDGE: Thank you. You were as well ordered at  
21 the last status conference, and prior to, to disclose as soon as  
22 possible, or at least two days prior to the commencement of the  
23 testimony of a witness, to the other parties, as the case may be,  
24 a copy of the exhibit which counsel intended to tender through  
11:01:46 25 such witness. At the last status conference the Prosecution  
26 complained that no exhibits had then been disclosed to them by  
27 counsel for the first accused. The Chamber then urged counsel  
28 for the first accused that the Chamber's orders shall be  
29 understood in a way that when counsel are in possession of an



1 exhibit, they shall share the exhibit with the Prosecution as  
2 soon as possible. Otherwise, attempts must be made by the  
3 counsel to disclose such an exhibit at least two days prior to  
4 the commencement of the testimony by a witness to whom counsel  
11:02:20 5 intend to tender such an exhibit.

6 On 1st May 2006, Court-appointed counsel for Norman filed  
7 disclosure of exhibits by Court-appointed counsel for the first  
8 accused whereby counsel submitted the list of 13 exhibits and  
9 their copies which counsel intended to tender. It appears to the  
11:02:39 10 Chamber that 12 out of 13 exhibits originate from the list of  
11 additional exhibits of 3rd April for which leave to add them to  
12 the exhibit list of 5th December 2005 was granted by the Chamber  
13 in its decision of 6th April. The Chamber notes that Exhibit D,  
14 James Kallon and three others, dated 13 September 1998, is  
11:03:06 15 neither listed on the original list of 5th December, nor on the  
16 list of the additional exhibits of 3rd April 2006. It is also  
17 not referenced anywhere in the witness list of 7th April as an  
18 exhibit which counsel intend to tender through a particular  
19 witness. Any explanation regarding this exhibit, counsel for the  
11:03:28 20 first accused?

21 MR JABBI: My Lord, can I just have the numbers again? D  
22 and?

23 PRESIDING JUDGE: Exhibit D, James Kallon and three other  
24 Kamajors, dated 13 September 1998.

11:03:44 25 MR JABBI: Yes and which else, My Lord? Which else, My  
26 Lord? You named, I think, two.

27 PRESIDING JUDGE: Yes, it's --

28 MR JABBI: D and --

29 PRESIDING JUDGE: No, only D.



1 MR JABBI: Only D?

2 PRESIDING JUDGE: Yes.

3 MR JABBI: My Lord, I will ask to be allowed to defer  
4 information on this to a few minutes later on.

11:04:09 5 PRESIDING JUDGE: Yes. Fine. I need to have some  
6 clarification on this issue.

7 MR JABBI: Yes, My Lord.

8 PRESIDING JUDGE: The Chamber notes as well that the first  
9 exhibit appearing on this list, A on the list, being Issue of  
11:04:25 10 Ammo, dated 5th June 1998, in fact refers to the document dated  
11 5th December 1998. Is it a typographical error or have counsel  
12 attached your own document?

13 MR JABBI: My Lord, that one is clearly a typo. If we may  
14 seek leave to correct it accordingly. Just on the list. On the  
11:04:54 15 exhibit itself there is no problem at all.

16 PRESIDING JUDGE: So it should read 5th June?

17 MR JABBI: December, My Lord.

18 PRESIDING JUDGE: 5th December.

19 MR JABBI: Yes.

11:05:14 20 PRESIDING JUDGE: The Chamber also notes that all copies of  
21 the exhibits listed for witness number 2, Arthur Koroma, have  
22 been disclosed by the Defence. However, exhibit number 7 and 12  
23 have not been attached to the counsel for Norman's 1st May  
24 filings. The copy of Exhibit 17 which counsel intend to tender  
11:05:48 25 through witness number 21 has also not been disclosed. Any  
26 explanation in this respect? As I say, with Koroma, the exhibits  
27 intending to be filed with that witness have been disclosed, it  
28 would appear, except for number 7 and number 12.

29 MR JABBI: My Lord, so far as I know -- is the numbering



1 Your Lordship is referring to from the list --

2 PRESIDING JUDGE: From the list of 1st May. These exhibits  
3 were not attached to your filings.

4 MR JABBI: My Lord, if I may also ask leave to defer that  
11:07:00 5 slightly so I can give an explanation later.

6 PRESIDING JUDGE: Fine. Thank you. I want to address now  
7 the issue of common witnesses to clarify some of these matters.  
8 I would like to confirm with Court-appointed counsel for the  
9 second accused whether their position as to common witnesses  
11:07:17 10 between the first and second accused is still the same; that is,  
11 that those witnesses who have been transferred to the back-up  
12 list of the first accused will still be called by the second  
13 accused in case they are never called by the first accused. Do  
14 you understand my question?

11:07:38 15 MR KOPPE: Yes, Your Honour.

16 PRESIDING JUDGE: That's your intent.

17 MR KOPPE: Yes, that is our intent.

18 PRESIDING JUDGE: So these witnesses that appear on your  
19 list that are on the back-up list for the first accused are in  
11:07:47 20 your case part of your core list of witnesses that you intend to  
21 call. Is that the way you understand it?

22 MR KOPPE: Yes, that is correct, Your Honour.

23 PRESIDING JUDGE: Thank you. As to the Court-appointed  
24 counsel for the third accused, the Chamber notes that you  
11:08:05 25 indicated at the last status conference that you are no longer  
26 having any common witness between the first and second and the  
27 third accused. Counsel for Kondewa indicated, therefore, that an  
28 updated witness list would be filed by counsel shortly. No such  
29 updated witness list has been filed by counsel for the third



1 accused as of yesterday. Any comment on that, Mr Lansana?

2 MR LANSANA: Yes, Your Honour. We had intended to file the  
3 updated list, but at the last meeting we had, we were of the  
4 opinion that there might be the likelihood of a shift of ground  
11:08:44 5 again on the part of the first accused and we thought we would be  
6 on terra firma if we had waited a little longer, since we are not  
7 in the spotlight now, until we are of the firm conviction the  
8 list that has been filed by counsel for the first accused would  
9 stand the test of time and then we would file the final list.

11:09:06 10 But if at all the Chamber is of the opinion that we should do  
11 that nonetheless, we will file it pretty soon, soon as possible.

12 PRESIDING JUDGE: You should because it would not appear to  
13 this Chamber that the witness list is as iffy as you appear to  
14 perceive it to be at this particular time. It might not have  
11:09:29 15 been the case a few months ago, but it seems to have been  
16 consolidated now. And I would suggest to you that it might be  
17 the right time to make your own filing.

18 MR LANSANA: As Your Lordship pleases. I am being  
19 increasingly assured.

11:09:44 20 PRESIDING JUDGE: Thank you. Now another issue that is  
21 still in contention is the admission by the parties and statement  
22 of other matters not in dispute which touches upon some of the  
23 matters that you have raised this morning, Mr de Silva. At the  
24 last status conference the Chamber noted that Court-appointed  
11:10:05 25 counsel for the first accused have not filed any admissions by  
26 the parties and a statement of other matters which are not in  
27 dispute. Counsel for the Prosecution promised at that time to  
28 re-open the discussion with the first accused on this matter.  
29 Counsel for the first accused promised to prepare a list of those



1 matters which they consider not to be in dispute and file it as  
2 soon as possible. Up to date, no such filing was received by the  
3 Chamber. I will ask you, Dr Jabbi first, if you have any comment  
4 and I will come to you after that, Mr Prosecutor.

11:10:43 5 MR JABBI: My Lord, we have not yet had any discussions  
6 with the Prosecution on the requested points of possible  
7 admission. I am sure the Prosecution is still hoping to discuss  
8 at least with us. But we have not yet had any such discussions,  
9 My Lord. Nonetheless, however, we are aware of the filings by  
11:11:10 10 other parties in that regard and we are making up our mind on  
11 certain issues.

12 PRESIDING JUDGE: Well, it's getting late, Dr Jabbi. We  
13 are starting now the seventh session and we are moving quite  
14 deeply now in your list of witnesses. It is more than timely  
11:11:27 15 that you meet with the Prosecution now to see if there is any  
16 matter that is not disputed, because it will go a long way to  
17 solve some of the matters that have been raised this morning. I  
18 have given you some examples of issues that are clearly not  
19 disputed. Anything you can do in this respect would facilitate  
11:12:03 20 the work of the Bench as well as save some time on matters that  
21 are, at this stage of the trial, not in dispute any more and  
22 therefore are of no real value -- nothing of value will be added  
23 by hearing more about these matters. It may only cause some  
24 confusion of matters that need not to be confused at this  
11:12:26 25 particular moment. So I can only ask you again to try to reach  
26 out to your friends for the Prosecution, if at all possible this  
27 afternoon, as you will be calling your witness tomorrow morning.  
28 Again, we should be doing this before witnesses are being called.  
29 We'll see what the Prosecution has to say in this respect. Thank



1 you, Dr Jabbi.

2 MR JABBI: My Lord, I am sure our summary will be of some  
3 assistance to the Prosecution in order to identify some of these  
4 issues.

11:13:00 5 MR De SILVA: I've had my say about the summary. Your  
6 Lordship's order that Your Lordship referred to was an order that  
7 the Defence, in this case the Defence on behalf of the first  
8 accused, reduces to writing a list of matters. Now no such list  
9 has come to the Prosecution.

11:13:27 10 My Lord, can I make this position, I hope, abundantly  
11 clear. It is the party seeking to prove something, in this case  
12 the first accused, who must approach the Prosecution and say,  
13 "Will you admit this fact?" It can't be done by a general  
14 discussion. So reaching out I don't think works. There has to  
11:13:49 15 be a document supplied to the Prosecution, "Will you admit the  
16 following facts?" That is the only way it will work, from the  
17 party seeking to prove to the party who is capable of accepting  
18 that fact. So it has to be in writing, quite apart from anything  
19 else, for the avoidance of doubt as to what precisely it is being

11:14:17 20 sought to be proved by way of an admission. My Lord, we would  
21 implore, on behalf of the Prosecution, that those on behalf of  
22 the first accused lets the Prosecution have, at the earliest  
23 opportunity, the written request of matters it is sought to be  
24 proved by admission as indeed was the order of the Court sometime  
11:14:44 25 ago. My Lord, that is our position.

26 PRESIDING JUDGE: Thank you. Dr Jabbi, there seems to be  
27 some confusion between matters that are not disputed, but this is  
28 not necessarily a fact that is -- that the Defence in this case  
29 is seeking to prove. As has been raised by the Prosecution,



1 obviously what we are talking about when we are talking of  
2 admission here is admission of a matter that you intend to prove  
3 through some witnesses, because you are of the opinion that this  
4 is a matter that your client needs to establish at this  
11:15:40 5 particular stage which is not necessarily the same as matters  
6 that are not in dispute which is of a much more general nature,  
7 as such. This admission has to do with facts and matters that  
8 are of import to your case and that you intend to prove through  
9 some witnesses. Can I hear from you on this? That's why when  
11:16:09 10 you say you refer to what your witness list and the summary of  
11 the evidence of these witnesses indicates is not sufficient in  
12 this respect if you are to comply with the order of the Court.  
13 Again, the order of the Court, the last one that was issued was  
14 on 23rd March 2006, which says, "Court-appointed counsel for all  
11:16:37 15 three accused persons shall file with the Court admissions by the  
16 parties and the statement of other matters which are not in  
17 dispute." So we are talking of two different issues here;  
18 admissions by the parties and the statement of other matters not  
19 in dispute. Dr Jabbi?

11:16:54 20 MR JABBI: Yes, My Lord. My Lord, I can only say that we  
21 will endeavour to comply with that order as soon as possible.

22 PRESIDING JUDGE: But as soon as possible, I would remind  
23 you that the order was issued on 23rd May and this was to be done  
24 by 3rd April 2006. We are now at 2nd May 2006.

11:17:18 25 MR JABBI: It was issued on 23rd March.

26 PRESIDING JUDGE: 2006, the order was issued, that's right,  
27 and you were, all parties -- "Court-appointed counsel for all  
28 three accused persons shall file with the Court admissions" and  
29 this should have been done by 3rd April 2006.



1 MR JABBI: My Lord, I cannot gainsay anything that Your  
2 Lordship has said in that regard. I can only say we are sorry we  
3 have not done so so far, but we will do so very soon, My Lord.  
4 We have been very heavily involved in various exercises and,  
11:18:05 5 because of the time factor, we were not able to do that  
6 particular one as soon as we would have wanted to, but we will do  
7 so very soon, My Lord.

8 PRESIDING JUDGE: I think we have tried to be as  
9 accommodating as possible to you and, given the progress which  
11:18:26 10 has been achieved, we agreed to grant you some additional time,  
11 but on this matter I would ask you, Dr Jabbi, that you do that at  
12 the soonest. The soonest has to be by the latest by Friday of  
13 this week, because otherwise we're going to be missing some  
14 issues. So you have to meet with the Prosecution this week to  
11:18:58 15 see what admissions can be made and admissions by the Prosecution  
16 on matters that are of import to your case and, as well,  
17 statement of matters that are not in dispute. So these are two  
18 matters that need to be addressed by you and your team, together  
19 with the Prosecution.

11:19:23 20 MR JABBI: Yes, My Lord. We are very clear about the  
21 distinction and we will endeavour to comply.

22 PRESIDING JUDGE: Thank you. On 23rd April 2006  
23 Court-appointed counsel for the second accused filed what is  
24 called the Public Fofana Admissions of Facts and Statement of  
11:19:39 25 Matters Not in Dispute pursuant to the Chamber's order of  
26 31st March 2006. This filing contains eight admissions of fact  
27 by the second accused listed under paragraphs A to H and  
28 specifies three parts of the indictment which are not in dispute  
29 by the second accused. In their filing, counsel for Fofana



1 specified that the admissions of fact were completed upon  
2 discussion with the Prosecution and review of their proposals  
3 which were submitted informally by the Prosecution to the Defence  
4 and that the admissions of fact by the second accused are  
11:20:27 5 modified versions of the proposals submitted by the Prosecution.

6 On 1st May 2006, the Prosecution filed the Prosecution  
7 Response to Public Fofana Admissions of Fact and Statement of  
8 Matters Not in Dispute. The Prosecution submits that it is in  
9 agreement with the second accused and admits paragraph 2(a), 2(b)  
11:20:47 10 and 2(c) and 2(h) of the list of admissions of fact. However,  
11 the Prosecution does not admit paragraphs 2(d), 2(e), 2(f) and  
12 2(g) of the list of admissions of fact.

13 The Chamber wishes to clarify the position of the  
14 Prosecution as the submission by the Court-appointed counsel for  
11:21:10 15 the second accused clearly states that the list of proposed  
16 admissions of fact was initially prepared by the Prosecution and  
17 was discussed between counsel for the second accused and the  
18 Prosecution and, therefore, it would appear that the list of  
19 admissions of facts filed by the Fofana team contained facts  
11:21:26 20 which were initially agreed to and admitted by the Prosecution.

21 Do you have any comments, Mr Prosecutor, in this respect?

22 Mr Kamara?

23 MR KAMARA: It is not an accurate representation of what  
24 transpired between the Prosecution and the Defence of the second  
11:21:49 25 accused. The paragraphs which the Prosecution have disagreed  
26 with the second accused never formed part of the informal  
27 discussions. If you take a look at paragraph 2(d), "Some Kamajor  
28 members of the society under ECOMOG authority and command  
29 attacked the town of Koribundu sometime in February 1998," that



1 position was never made nor discussed with the Defence of the  
2 second accused, and even the evidence before this Court does not  
3 suggest that. That is why the Prosecution has taken the position  
4 again and restated that paragraphs 2(d), (e), (f) and (g) never  
11:22:48 5 formed part of the initial discussions nor the statement that was  
6 presented to the second accused for consideration.

7 PRESIDING JUDGE: So although these matters were discussed,  
8 these were not the factual representation that was in issue at  
9 the time of your discussion? Am I misquoting you in this  
11:22:59 10 respect, Mr Kamara?

11 MR KAMARA: My Lord, what happened was we presented a  
12 statement to the Defence of the second accused.

13 PRESIDING JUDGE: You did?

14 MR KAMARA: Yes, My Lord, for their attention and  
11:23:10 15 consideration. This is what they brought back to us after  
16 considering that statement. And the paragraphs which we've  
17 denied were not part of that statement which were presented to  
18 the second accused.

19 PRESIDING JUDGE: Okay. Thank you, that clarifies this  
11:23:27 20 issue for me. Mr Koppe or Mr Bockarie, you wish to respond to  
21 that?

22 MR KOPPE: Your Honours, do you agree if I give  
23 Mr Ianuzzi --

24 PRESIDING JUDGE: No, I would like to hear from you, not  
11:23:47 25 Mr Ianuzzi.

26 MR KOPPE: Let me get back to you on this issue then.

27 PRESIDING JUDGE: Very well. In the meantime, I would like  
28 to talk to counsel for the third accused. On 3rd April 2006,  
29 counsel for the third accused filed a statement of admissions and



1 facts not in dispute, listing four facts which are not disputed  
2 by the third accused. At the status conference on 5th April,  
3 counsel for the third accused submitted that meetings with the  
4 Prosecution would take place and depending on the position taken  
11:24:38 5 by the Prosecution, they might be able to file an updated  
6 statement of admissions and matters not in dispute soon. Counsel  
7 for the third accused also submitted that as a result of these  
8 admissions, they might be able to reduce their witness list by  
9 half, but as pointed out earlier, no such updated witness list  
11:24:56 10 has been filed by counsel for the third accused.

11 Mr Lansana, do you have any comments in this respect? This  
12 is two issues. Have you met with the Prosecution? If not --

13 MR LANSANA: The first issue, Your Honour, we have not been  
14 opportune to meet with the Prosecution yet. But as Your Honour  
11:25:17 15 would find from Annex A attached to the submissions by counsel  
16 for the third accused dated 3rd April, and as you rightly pointed  
17 out, we went ahead, nonetheless, based on earlier discussions we  
18 had had with the Prosecution, to put together a number of issues  
19 not in dispute; matters that we admit and are not in dispute,  
11:25:48 20 which are listed, like you rightly said, in four paragraphs.

21 PRESIDING JUDGE: Yes.

22 MR LANSANA: Your Honour, at any given point in time when  
23 the meeting between the Prosecution and counsel for the third  
24 accused materialises, we would immediately file an updated list  
11:26:06 25 of these facts and matters not in dispute. Your Honour, the  
26 situation is that there are certain issues that we need to agree  
27 on with the Prosecution that we would hesitate to unilaterally  
28 file with the Trial Chamber. For obvious reasons that if we  
29 assume that they are matters that are not in dispute and they say



1 they disagree with that, we would not have made any progress. We  
2 would rather we met with them first and they would file a list.

3 PRESIDING JUDGE: That's why I reminded you, I think it was  
4 Mr Margai at the time who said that he intended to meet shortly  
11:26:56 5 with the Prosecution to clarify these matters. I agree with you,  
6 I don't think the Prosecution would take issue with you on this  
7 matter. That is, if you are seeking to establish a fact and the  
8 Prosecution is prepared to make an admission on that, that will  
9 dispense you with having to prove that, but you have to put that  
11:27:15 10 in writing to them. If they don't agree with that issue, then we  
11 are no further ahead even though you produce a document. There  
12 has to be a consensus and agreement between the two sides to  
13 avoid future arguments on that.

14 MR LANSANA: I absolutely agree with you, Your Honour.

11:27:35 15 PRESIDING JUDGE: As clearly pointed out, as well, that has  
16 to be clearly spelled out to avoid any future discussion on that  
17 matter. If it is a fact that it is clearly written down, then  
18 this will clarify the issue and avoid any dispute in the future.  
19 Again, I can only ask you to do the utmost to meet with the  
11:27:58 20 Prosecution soon. As you may have heard from the first accused,  
21 he's taken note of what has been agreed to by the second accused  
22 and, certainly, any progress that can be made by the third  
23 accused on some matters that may be of common interest to the  
24 three accused may serve to further reduce the witness list of all  
11:28:19 25 concerned.

26 MR LANSANA: Absolutely, Your Honour. I will make the  
27 undertaking that we will do that at the latest by Friday of this  
28 week.

29 PRESIDING JUDGE: Thank you very much. Mr Koppe, yes.



1 MR KOPPE: Thank you, Your Honour. I am afraid the  
2 statement of the Prosecution is not quite accurate as to how  
3 things went. As you can see in footnote 2 of our public  
4 admissions of fact -- sorry, footnote 3, there is written down a  
11:28:57 5 chain of events. Our mode of version, the draft of it, was sent  
6 three days before the actual filing by email to the Prosecution  
7 and asking whether they had any comments on our new version of  
8 the submission of facts. We didn't receive any reply, therefore,  
9 assuming they agreed on the modified version.

11:29:20 10 PRESIDING JUDGE: Which part of your admission is this  
11 concerned about, Mr Koppe? You say you have sent --

12 MR KOPPE: We sent a modified version of -- the Prosecution  
13 came first with a list of agreed facts. We modified this list  
14 and then sent it in advance for any comments to the Prosecution  
11:29:47 15 before filing it, of course. We didn't get any comments back  
16 from the Prosecution, assuming they'd agreed with the modified  
17 version. Therefore, filed it. But I would suggest we get back  
18 to the Prosecution again and see if, on very short notice, we can  
19 agree with the agreed facts.

11:30:13 20 PRESIDING JUDGE: Very well. I can only encourage you. As  
21 I say, any movement in that direction that will have us resolve  
22 the diminution of witnesses to be called and will settle matters  
23 that are not really in dispute any more can only be encouraged.  
24 Certainly if you were to meet with the Prosecution this afternoon  
11:30:37 25 to try to clarify it, there might be some matters that could be  
26 resolved by some further discussion. I would think that  
27 Mr Kamara is certainly open to such suggestion.

28 MR KAMARA: Yes, My Lord, we would very much welcome it.  
29 Just one comment with regards to non-response to the note that



1 they sent to the Prosecution. We consider this exercise a very  
2 serious exercise. Some of the points for consideration, we never  
3 bothered to respond, because, honestly, I never believed they  
4 were serious about these issues, because they go to the core of  
11:31:14 5 the case.

6 For example: "Some members of the Kamajor society under  
7 ECOMOG authority and command attacked the town of Koribundu and  
8 Kenema and Bo". It goes to command responsibility here, and for  
9 us to admit and confirm that, it beats my imagination. I never  
11:31:30 10 took them serious on that issue.

11 PRESIDING JUDGE: Still, you have to respond to say that  
12 you disagree with that. There might be part of that that you  
13 might be prepared to admit without admitting that they were under  
14 command and control of.

11:31:47 15 MR KAMARA: That's the point I'm making. It is a very  
16 serious matter and let us address it along those lines. We  
17 invite them.

18 PRESIDING JUDGE: Very well. I can only suggest that you  
19 meet with them this afternoon, again, if possible, and before  
11:32:00 20 Friday, to see if there, maybe not on that particular issue, but  
21 maybe some other issues that are there for further discussion and  
22 see if you can accomplish some further progress.

23 MR KAMARA: Thank you.

24 PRESIDING JUDGE: Thank you very much.

11:32:24 25 My next issue is the issue of expert witnesses. At the  
26 last status conference, counsel for Mr Norman stated he would  
27 discuss the possibility of calling an expert witness on behalf of  
28 the first accused and they would confirm the decision whether or  
29 not to call the expert witness as soon as possible. Anything new



1 to report in this respect, Dr Jabbi?

2 MR JABBI: We have not been able to secure an expert  
3 witness to be called. As of now, we do not intend to call one.

4 PRESIDING JUDGE: Very well. Thank you very much. Counsel  
11:33:03 5 for Mr Fofana submitted they were not yet in a position to  
6 provide expert reports, but they were bringing their experts to  
7 Sierra Leone to conduct and finish the studies in the provinces.  
8 This was the situation at the last status conference. Anything  
9 new to report in this respect, Mr Koppe?

11:33:24 10 MR KOPPE: What news, we have done so in recent weeks with  
11 Mr Hoffman. If everything goes well, he will be prepared to  
12 draft his final version of his report sometime in July/ August  
13 and finish for filing probably just before the next trial  
14 session. In respect of Mr Murphy, there seems to be some  
11:33:53 15 personal problems with Mr Murphy, so it's unclear whether he's  
16 actually going to be expert witness to testify. That is at a too  
17 uncertain stage to give any comments on that now. I'm telling  
18 you already that he might be dropped from the list. That is  
19 uncertain as of this moment.

11:34:13 20 PRESIDING JUDGE: On this issue of that witness, because  
21 this was an expert witness common to your accused and the third  
22 accused, at the last status conference, the third accused said  
23 they were to discuss this issue with you and to see if that  
24 expert was to be called by them as a common witness. I'm not  
11:34:36 25 sure. Has there been any discussion between yourself and the  
26 third accused on this matter, Mr Koppe? Yourself or your team,  
27 with the third accused?

28 MR KOPPE: As I understand counsel for the third accused is  
29 not calling any common witnesses, so there has been no discussion



1 on this matter, Your Honour.

2 MR LANSANA: Yes, Your Honour, that is certainly the  
3 position as of the moment. We intend to let it be as it is. We  
4 are totally dropping the idea of common witnesses altogether.

11:35:13 5 PRESIDING JUDGE: The indication was at the last status  
6 conference on 18 April you were to have a meeting to discuss this  
7 issue of experts and especially that the final decision will be  
8 made as regards the calling of an anthropologist expert. A  
9 decision has been made, you are not calling that expert.

11:35:37 10 MR LANSANA: No, Your Honour, we are calling that expert.  
11 As a matter of fact we had a meeting with him fairly recently.  
12 The defence office has been notified and they are in the process  
13 of concluding the contract with the expert witness.

14 PRESIDING JUDGE: So the only expert you're not  
11:35:58 15 calling is --

16 MR LANSANA: The common expert witness.

17 PRESIDING JUDGE: -- Murphy.

18 MR LANSANA: Yes, Your Honour.

19 PRESIDING JUDGE: But you are still calling the  
11:36:04 20 anthropologist for the third accused?

21 MR LANSANA: Yes, Your Honour. If there is any change of  
22 position, we will inform the Chamber soonest.

23 PRESIDING JUDGE: Thank you. As soon as you have any  
24 information about the report from this particular expert, I would  
11:36:17 25 appreciate that you inform the Court and provide copies as soon  
26 as possible to the parties.

27 MR LANSANA: We certainly would.

28 PRESIDING JUDGE: That concludes my agenda today, except to  
29 look at the list of pending motions. We still have seven pending



1 motions in front of the Chamber that we hope to be able to  
2 dispose of in the coming weeks. This includes, obviously, two  
3 motions having to do with President Kabbah coming as a witness.  
4 This is a motion filed by the Fofana team and the Norman team.

11:37:11 5 There is also the second accused's oral motion to inspect witness  
6 statements in Prosecution's custody pursuant to Rule 66(E)(iii)  
7 and the Principal Defender's motion for review of the Registrar's  
8 decision to install a surveillance camera in the detention  
9 facility. This is a motion that is common to all trials.

11:37:50 10 On that issue, I should say the Chamber has issued a short  
11 decision on 6th April 2006 dismissing the motions on the ground  
12 that the Principal Defender lacks the locus standi to file this  
13 motion and stating that a comprehensive written reasoned decision  
14 will be published in due course. We said so in the RUF trial,  
11:38:04 15 but the same decision applies to this case as well.

16 There is a third accused request for leave to be at liberty  
17 to raise evidentiary objection during the Prosecution's  
18 cross-examination. That has been filed and we have not responded  
19 yet. Also a Fofana request for leave to raise evidentiary  
11:38:27 20 objections filed on 27th February 2006. That is still  
21 outstanding. That concludes the outstanding motions we have at  
22 this moment.

23 I would like to ask the first accused if he has any other  
24 issue that he would like to raise at this particular moment. If  
11:38:42 25 not, then --

26 MR JABBI: Thank you, My Lord. First of all, the  
27 clarifications that we said we might make in connection with the  
28 exhibits. My Lord, insofar as exhibits to be tendered through  
29 our witnesses 1 and 21 are concerned, that is through President



1 Kabbah and Major General Abdu Wan Mohamed, we are still not yet  
2 in possession of those exhibits because of the particular  
3 circumstances of those witnesses as is now well known. But as  
4 soon as we are able to get the exhibits in question and also to  
11:39:57 5 ascertain the availability of witness 1, in fact, both of them to  
6 give evidence, we will do the appropriate thing in respect of the  
7 exhibits in question.

8 With respect to Exhibits D, G and L on the list, we believe  
9 there is a slight mix-up here at the stage of preparation of the  
11:40:31 10 list covering that filing. We will rectify this later today.

11 PRESIDING JUDGE: Very well.

12 MR JABBI: My Lord, although the item says "Any other  
13 issues," I would want, first of all, My Lord, just again to  
14 emphasise the importance of witness 1 to our strategy in  
11:41:05 15 presenting our defence. We really would have appreciated if some  
16 time indication would be made in respect of when the decision in  
17 respect of that witness or potential witness will be made.  
18 Certainly an indication will help us. We arranged certain  
19 matters which depend upon his evidence and the likelihood of  
11:41:46 20 actually getting contact with him in order to discuss his  
21 evidence. As it is, however, such time indication has not yet  
22 been made. We want to urge that the decision be made as soon as  
23 possible now since we are beginning to lead more witnesses.

24 My Lord, apart from those issues there are a few matters  
11:42:10 25 concerning the accused persons and their detention which we want  
26 to bring to the attention of the Chamber. This morning, My Lord,  
27 the accused persons requested to have audience with all three  
28 defence teams in order to highlight some of these points. My  
29 Lord, we are bringing this to the attention of the Court only



1 preliminarily and we may have to resort to a more expanded  
2 written form in respect of them.

3 My Lord, one concerns visitors to the detention centre.  
4 The detainees are quite unhappy about some of the procedures that  
11:43:17 5 have been adopted and the application of some of those procedures  
6 has caused embarrassment and, in one particular case, even  
7 harassment to some of the visitors. Whilst we intend to take up  
8 some of these matters with the chief of detention and the  
9 Registry, we thought this preliminarily notification to the  
11:43:49 10 Chamber is also necessary.

11 My Lord, the next point concerns the telephone line  
12 available to the detainees. Our understanding is that there is  
13 only one set line and because there are so many detainees,  
14 sometimes calls, in fact, have to be aborted because one detainee  
11:44:18 15 may be on the line whilst others are receiving calls from  
16 outside. We believe that there was a slightly better situation  
17 earlier on and that that situation should be reverted to so that  
18 at least they have one line possibly to each team.

19 The next point, My Lord, concerns the diet situation. The  
11:44:57 20 detainees are asking that an increase be made in the content of  
21 the traditional diet, that is rice, that is available to them.  
22 This is not suggested that there should be a reduction in the  
23 other items on the list, but that there should be an increase in  
24 the quantity of rice available on each occasion.

11:45:34 25 Fourthly, My Lord, the detainees wish to have a  
26 clarification on what rate of compensation or labour fee, if one  
27 may call it that, per day, as compared to the international  
28 standard. Their understanding is that they receive 3,000 leones  
29 per day in that regard. That is just under a dollar a day. They



1 think that is cause for very active review and that it should  
2 accordingly be done.

3 My Lord, the fifth matter concerns medical care generally,  
4 and more particularly in connection with the first accused.

11:46:41 5 Generally, My Lord, the detainees are seeking more emergency  
6 care. In the particular case of the first accused, his present  
7 medical condition, I think, is well known, but the availability  
8 of materials or facilities is causing him some problem. For  
9 example, in connection with the availability of the telephone  
11:47:17 10 line, he has to walk long distances every time he has a telephone  
11 call, and in view of the problems with his hip and also his  
12 swollen foot, that is causing a lot of discomfort and it goes to  
13 augment the request for more telephone lines, especially one that  
14 would be easily accessible to him in his present condition.

11:47:53 15 The final point, My Lord, concerns access to a computer.  
16 The detainees are requesting this access so that they can receive  
17 training in respect thereof and also perform certain functions of  
18 that nature.

19 My Lord, in connection with Chief Norman in particular,  
11:48:26 20 there is a general medical situation which we thought should  
21 bring to the attention of the Court. The doctor has recommended  
22 hospitalisation, more particularly in connection with the  
23 replacement of the hip disc. It is still not known what has been  
24 done so far in this regard, but the doctor is of the view that it  
11:49:09 25 is necessary to take a very early decision in this regard.

26 My Lord, as I said earlier on, we intend to go into writing  
27 on these issues and to make representations to both chief of  
28 detention and the Registry and, possibly, in writing to the Court  
29 as well. But because they are of a particularly urgent nature,



1 we thought we would take the opportunity of the status conference  
2 to bring them preliminarily to the attention of the Court. Thank  
3 you very much, My Lord.

4 PRESIDING JUDGE: We thank you very much. I can only ask  
11:49:50 5 you as well, if you wanted to proceed in accordance with the  
6 established procedure, you should bring this, indeed, to the  
7 attention of the chief of detention and then subsequently to the  
8 Registrar. The Court may be involved in this process, but only  
9 as a last resort and only in special circumstances. If you  
11:50:20 10 wouldn't mind to put that in writing, as you have suggested, but  
11 I have certainly taken notes of your concern and the concern more  
12 particularly vis-a-vis in respect of the first accused.

13 Before I complete with you, Dr Jabbi, when you dealt with  
14 the exhibits, you did not respond to my concerns about the two  
11:50:44 15 exhibits that were not filed with list of additional -- lists for  
16 7 and 12. You dealt with the other list of exhibits.  
17 Arthur Koroma is to testify and you will be filing exhibits - at  
18 least that's your indication - including Exhibits 7 and 12 and  
19 these exhibits have not been disclosed at this particular moment.

11:51:26 20 MR JABBI: My Lord, what I said on those issues -- I did  
21 actually say something about them. What I said about them was  
22 there was a slight mix-up which has made them appear on the list  
23 and this will be cleared later today.

24 PRESIDING JUDGE: That's fine, thank you. Mr Koppe, do you  
11:51:44 25 have any comments, any other issues you wish to raise at this  
26 particular moment?

27 MR KOPPE: No, Your Honour, just one more general issue and  
28 that is the time frame. I was wondering whether the Court has  
29 any thoughts or ideas about the time schedule, time frame, of the



1 eighth trial session all in respect of our preparation of our  
2 witnesses. Are you able at this stage to give any indication  
3 whatsoever on the proceedings in the near future?

4 PRESIDING JUDGE: We certainly intend to start again in  
11:52:27 5 September. I don't have the exact dates now, but we should be  
6 issuing that shortly. I mean, either this week or early next  
7 week at least so all concerned will know the schedule up to  
8 Christmas or the end of this year. So, yes, we intend to sit in  
9 September, but the date is yet to be determined more precisely.  
11:52:49 10 And we will have a session in the fall, as usual, with the CDF.

11 MR KOPPE: Another issue in the same line is whether  
12 there's going to be an official position of the Norman team when  
13 they are going to be finished with their witnesses, because it is  
14 difficult to get a complete picture of the finalisation of the  
11:53:11 15 witnesses. Is the Court going to provide any guidance on that  
16 issue? I know it is difficult for you to say anything on that,  
17 but it would help us a great deal if we are a little bit more  
18 certain as to how and when to prepare.

19 PRESIDING JUDGE: As you know, this session is of seven  
11:53:33 20 weeks' duration, as such, which is one week more than we usually  
21 have. We hope that we'll be close to see the end of the list of  
22 witnesses to be called by the first accused in this particular  
23 session. But we will see how we progress. Somewhere I will  
24 invite you to make this request again as we move along. At this  
11:54:01 25 particular stage, it's impossible for me to respond to that. I  
26 will hope that you would be able to call your witnesses in  
27 September. So that's my hope and expectation. So we'll see.  
28 Mr Lansana?

29 MR LANSANA: Your Honour, not anything particularly, but



1 just to say that I totally endorse the representation made by  
2 counsel for the first accused generally on behalf of all three  
3 accused persons in the CDF trial regarding the detention facility  
4 and the attitude of the security personnel, both at the main gate  
11:54:42 5 and the gate for the detention facility. Specifically for the  
6 third accused, I would say that although it is not, like you  
7 rightly said, the purview of the Trial Chamber to look into these  
8 issues, but nonetheless, since this is the forum, we nonetheless  
9 would inform the Chamber about our concerns that the security  
11:55:10 10 personnel show some amount of cultural sensitivity to the  
11 relatives of the third accused. He is a provincial, he is  
12 illiterate. Most of the visitors that come to him speak neither  
13 English, nor Krio, and a lot of times they are treated rather  
14 offhandedly by the security personnel and that is a little  
11:55:36 15 irritating to them and down right embarrassing. Like counsel for  
16 the first accused did say, we would be following this up with the  
17 Registrar and the officials at the detention facility so that the  
18 situation be redressed. That's all I wish to say for now, Your  
19 Honour.

11:55:52 20 PRESIDING JUDGE: I thank you, Mr Lansana. As I say, this  
21 is indeed a status conference, it is a forum to raise issues that  
22 may relate to accused persons with detention problems or health  
23 problems, as such. So if we can be of any assistance, if the  
24 mere fact of discussing and raising these matters can help, so be  
11:56:11 25 it. But I can, at the same time, ask you on behalf of your  
26 client to proceed in accordance with the prescribed procedure to  
27 make sure that you attain what you are trying to achieve.

28 MR LANSANA: Very well, Your Honour, we shall.

29 PRESIDING JUDGE: Thank you. Nothing for you, thank you,



1 Mr de Silva. That concludes this status conference today and we  
2 shall be back in Court with the next witness by the first accused  
3 tomorrow morning at 9.30. Thank you very much.

4 [Whereupon the status conference adjourned at  
11:57:25 5 11.57 a.m.]

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