

Case No. SCSL-2004-15-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ISSA SESAY
MORRIS KALLON
AUGUSTINE GBAO

16 MAY 2008
9.43 A.M.
TRIAL

TRIAL CHAMBER I

Presiding

Before the Judges:

Benjamin Mutanga Itoe,
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Peace Malleni
Mr Felix Nkongho
Ms Priyanka Chirimar

For the Registry:

Ms Advera Kamuzora

For the Prosecution:

Mr Peter Harrison
Mr Vincent Wagona
Mr Joseph Kamara

For the accused Issa Sesay:

Mr Wayne Jordash
Ms Sareta Ashraph
Mr Jared Kneitel
Mr Paul Clark
Mr Rowland Wright

For the accused Morris Kallon:

Mr Charles Taku
Mr Kennedy Ogeto
Ms Tanoo Mylvaganam
Ms Lois Mbafor

For the accused Augustine Gbao:

Mr John Cammegh
Mr Scott Martin

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1 [RUF17APR08A-BP]

2 Friday, 16 May 2008

3 [Open session]

4 [The accused present]

09:07:03 5 [Upon commencing at 9.43 a.m.]

6 PRESIDING JUDGE: Good morning, learned counsel. Good
7 morning, everyone. We're resuming the session and when we
8 adjourned yesterday, we did indicate that we were going to
take

9 the testimony of ex-President Kabbah today at 9.30. Mr
Jordash,

09:43:40 10 he is your witness. Your witness for your client. Where are
we
11 this morning.

12 MR JORDASH: Where we're at is this: Former President
13 Kabbah is waiting in the witness waiting room. He has made a
14 request which I would invite Your Honours to consider which is
09:44:02 15 that his personal lawyer, Mr Rowland Wright be permitted to
16 attend in the Chamber during the testimony of the witness.

The
17 witness has also requested that Mr Wright be permitted at the
18 end
19 of the testimony to ask some questions if the need arose
concerning issues for clarification. That's the request, and

I

09:44:47 20 put it before Your Honours. I would in addition to that,
invite
21 Your Honours to hear from Mr Wright, who wishes to address the
22 Chamber on the matter. I certainly from the calling party's
23 position, if I can put it like that, would support Mr Kabbah's
24 request that he be permitted at least to have his lawyer
present
09:45:20 25 in the Chamber. I would respectfully submit it's not unusual
for
26 prominent witnesses or witnesses who require legal counsel or
27 belief they require legal counsel, to have their counsel
present
28 in -- certainly in domestic jurisdictions and I don't think
it's
29 unheard of in international jurisdictions either for figures
such

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1 as the former President Kabbah. So I would first of all urge
2 Your Honours to accept the request and furthermore, if
necessary,
3 to hear from Mr Wright on the subject. That's my application.
4 PRESIDING JUDGE: His lawyer being present in Court,
I'll
09:46:24 5 leave that assigned. But if he has to address the Court in
what

the 6 capacity. What is his locus standi in this case to address
7 Court within the context of the Rules and the regulations that
8 bind our proceedings, that regulate our proceedings.

9 MR JORDASH: Well, I think Your Honours, as Your Honours
09:46:45 10 are aware, have an extremely wide discretion concerning how
you 11 regulate these proceedings in the interests of fairness and
12 Your Honours could take the view, and this is the view I would
13 urge upon you, that there is nothing in the Rules which would
14 prohibit a witness having legal counsel present.

09:47:12 15 PRESIDING JUDGE: There is nothing in the Rules either,
16 would you also admit, that allows a counsel in these
17 circumstances to address the Court.

18 MR JORDASH: Well, there's nothing in the Rules which
deal 19 with a huge range of subjects which we deal with on a daily
09:47:31 20 basis, but this is one of those things which isn't in the
Rules.

21 But it is within Your Honour's discretion.

22 PRESIDING JUDGE: Do you want us to fall in the trap of
the 23 accusations made against judges that they legislate to fill
24 certain vacuums and they assume the mantle, you know, of
09:47:51 25 legislators to bring in provisions that are not envisioned by
the 26 rulings and regulations.

27 MR JORDASH: I would say less an accusation and more a
28 sensible power which Your Honours use on a regular basis to
29 ensure that we don't fall into that vacuum.

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1 JUDGE THOMPSON: But do you agree also that Courts are
2 creatures of Statute.

3 MR JORDASH: Of course.

4 JUDGE THOMPSON: I say nothing more.

09:48:24 5 MR JORDASH: And there is nothing in the Statute which
6 would suggest that the proposed course, if it could enhance
the
7 proceedings and the fairness of the proceedings, should not be
8 permitted.

9 JUDGE THOMPSON: The powers are regulated by Statute.

09:48:41 10 MR JORDASH: Yes. And put into practice by the Rules
and
11 when the Rules don't appear to specifically deal with a
subject
12 then it's left to the wisdom of Your Honours.

13 JUDGE BOUTET: Mr Jordash is your submission that he be
14 present in Court and address the Court? Is it your submission
09:49:01 15 that he should be allowed now to come and address the Court on
16 some issues.

17 MR JORDASH: I think if Your Honours were not minded on
my
18 application to allow him to come into Court and remain in
Court
19 during the testimony, then Mr Wright would like the
opportunity

09:49:16 20 to address you to fill in any gaps or ask any questions as to
his

21 proposed role.

22 PRESIDING JUDGE: If we are prepared to go that far.

23 MR JORDASH: Exactly. But if you're not prepared -- if
24 your minded not to, then I would invite Your Honours to hear
from

09:49:31 25 Mr Wright because he may be able to explain his function
better

26 than I or his proposed function better than I.

27 PRESIDING JUDGE: Explaining already, you know, is
granting

28 him an audience here, you know, and that's the crux of the

29 problem. If we allow him to explain anything at all it means

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1 that we are giving him a right of audience here. The question
is

2 does he have the right of audience before this Court? That's
the

3 question. That's the crucial question.

4 MR JORDASH: Well I recall from previous hearings in the
09:50:04 5 CDF case that the attorney-general was permitted but that's --

6 PRESIDING JUDGE: Yes, the attorney-general was
permitted

7 here, Mr Jordash, you know that at that time Mr Kabbah was
8 subpoenaed when he was a sitting president of this country.

9 MR JORDASH: Yes but --

09:50:19 10 PRESIDING JUDGE: And he had an attorney-general who
came

11 and represented him as a sitting President of the country and
he

12 came to put in an appearance for him and the Court granted
this

13 because Mr Kabbah was then a sitting in President.

14 MR JORDASH: But --

09:50:35 15 PRESIDING JUDGE: And the attorney-general was -- was
16 appearing for a sitting in President and of course you know
that

17 under the Ratification Act, and even under the Statute and the

18 agreement that created this Court, the attorney-general is the

19 contact between the United Nations and the government of this

09:50:57 20 country. So, if in that capacity he has a role, in fact, if I

21 may remind you, the agreement that instituted this Court was

22 signed by the United Nations, an official of the United
Nations,

23 and by the then attorney-general Mr Berewa on behalf of the

24 Sierra Leonean government. He was a plenipotentiary of the

09:51:26 25 Sierra Leonean government at the time. So, you see, he had
the

26 interest there, you know, to appear for Mr Kabbah, who was
then

27 the sitting in head of state.

28 MR JORDASH: Well, my point was a simple one: That it's
29 not in the Rules but Your Honours decided it was in the
interests

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1 of justice. Your Honours, I put the application --

that

2 PRESIDING JUDGE: Well, I just wanted to let you know

is

3 it is not in the Rules but it is in the Rules indirectly. It

Statute

4 there because the status of the AG is recognised by the

09:51:55

5 and by the Special Court Ratification Act which was enacted by

6 the supreme Parliament, you know, of this country. So --

feel

7 MR JORDASH: Well, Your Honours, I put the application

8 before you. It's President -- former President Kabbah would

9 more comfortable. His evidence would be, in my submission,

09:52:17 10
present

enhanced if he was able to feel as though his counsel was

find

11 and I leave it to Your Honours to decide whether that would

12 favour with you.

the

13 PRESIDING JUDGE: Yes, Mr Jordash. The Chamber, within

fairness

14 context of its respect for the doctrine of fundamental

09:53:57 15
may

and justice, has deliberated and rules that Mr Rowland Wright

16 come into the courtroom and sit in to watch and observe the

17 proceedings and, in that process, he may communicate with you.

18 But, but, Mr Wright has no right of audience at any stage in
19 these proceedings. He may come in, but he has no right of
09:54:38 20 audience.

21 MR JORDASH: Thank you, Your Honours.

22 PRESIDING JUDGE: That's it.

23 MR JORDASH: Perhaps my co-counsel could communicate
that
24 with him.

09:54:47 25 PRESIDING JUDGE: Yes.

26 MR JORDASH: Perhaps my co-counsel could communicate
that
27 to him before the President, former President is brought in
and
28 then they can both come in together, with Your Honours' leave.

29 PRESIDING JUDGE: That's fine. We are here. We are

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1 waiting.

2 MR JORDASH: I think we might need to bring in an extra
3 chair at the back if we can, please.

4 PRESIDING JUDGE: Mr Jordash, is he sufficiently close
to
09:57:46 5 you?

6 MR JORDASH: I think I might have to ask him. I think
he

7 is close enough now, thank you.

8 PRESIDING JUDGE: Okay.

9 [The witness entered Court]

09:59:17 10 WITNESS: AHMAD TEJAN KABBAH [Sworn]

11 EXAMINED BY MR JORDASH:

12 MR JORDASH: Your Honours, this is our last Defence
witness

13 who will be testifying in English and, as Your Honours are
aware,

14 is the former President, Mr Kabbah.

10:00:23 15 PRESIDING JUDGE: We welcome him to the Court, and we

16 welcome the evidence that the former President will proffer to

17 assist the Court in arriving at a proper and just
determination

18 of this case. You're welcome, Mr President.

19 THE WITNESS: Thank you.

10:00:43 20 MR JORDASH:

21 Q. As I'm sure as a former lawyer --

22 A. I'm still a lawyer.

23 Q. I beg your pardon, sorry. As a lawyer yourself, you
know

24 how this procedure works, but I'm going to ask some questions
on

10:00:58 25 behalf of Mr Sesay.

26 PRESIDING JUDGE: He is very familiar with the judicial
27 process and that is why I am sure the President has decided to
be

28 here this morning.

29 MR JORDASH:

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1 Q. Then lawyers for Mr Kallon and then Mr Gbao may ask you
2 some questions, followed by my learned friend for the
Prosecution 3 to your left. Please, could you give your full name to the
4 Court?
10:01:26 5 A. Ahmad Tejan Kabbah.
6 Q. When were you born?
7 A. 16 February 1932.
8 Q. And it's right that you're a Muslim?
9 A. Yes.
10:01:50 10 Q. Is it also right that from 1996 --
11 PRESIDING JUDGE: Mr President, you were born where?
12 THE WITNESS: Pendembu, Sierra Leone.
13 MR JORDASH:
14 Q. And you live currently in Freetown; is that right?
10:02:14 15 A. That's correct.
16 Q. And from 1996 until 2007 you were President of the
Republic 17 of Sierra Leone?
18 A. That's correct.
19 Q. And were you also the head of the Commonwealth Observer
10:02:34 20 Mission for the December 2007 Kenyan election?
21 A. That's correct.

22 Q. And also the head of the African Unions Observer Mission
23 for the March 2008 Zimbabwe election?

24 A. That's correct.

10:02:50 25 Q. And as you told us, a lawyer by trade, a Bencher, is
this
26 right of Gray's Inn, London?

27 A. I'm Honorary Bencher of Gray's Inn, Inns of Court,
England.

28 Q. I want to take you to July 1999. Did you attend Lome?

29 A. No. Yes, yes, I did. Lome.

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1 Q. And the reason for that was?

2 A. Well, to discuss the peace -- peace agreement between
us,
3 Sierra Leone, and the RUF.

4 Q. Just briefly, who else attended that meeting?

10:03:53 5 A. It was a crowded gathering. Almost all the heads of
states
6 of the subregion, that is members of the Organisation of West
7 African States, their heads of state were there, and
8 representatives of the United Nations, representatives from
9 friendly governments that were interested and concerned about
10:04:27 10 peace in Sierra Leone.

11 Q. And was an agreement signed?

12 A. Yes.

13 Q. And in that agreement were certain conditions brought
about

14 concerning the end of the conflict?

10:04:45 15 A. Yes.

16 Q. In relation to the RUF, it's right, isn't it, that the
RUF

17 were party to the agreement? Were they promised anything as
part

18 of the agreement?

19 A. Oh, yes.

10:05:01 20 Q. Just very briefly, in terms of governmental positions,
were

21 they promised some positions?

22 A. Yes, they were promised some positions.

23 Q. In relation to the top positions they were promised,
could

24 you outline what they were to the Court, please?

10:05:26 25 A. Well, the leader of the RUF, Foday Sankoh, was promised
to

26 be chairman of the Strategic Mineral Resources Commission and

27 also it was agreed that we shall offer them, that is the RUF,

28 four ministerial.

29 Positions.

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1 Q. Did -- were those positions filled?

2 A. Yes, we offered the position of Strategic Mineral
Resources
3 Commission to Foday Sankoh and then we offered the four people
4 that he named as ministers. They were appointed as ministers.
10:06:29 5 In fact, they sat in my cabinet meetings.

6 Q. You just mentioned that they named. Could you just
7 elaborate on that, how it worked?

8 A. Well, Foday Sankoh had to make some recommendations to
me
9 as to who should be appointed as ministers and I appointed
those
10:06:55 10 ministers.

11 Q. Can you recall whether Foday Sankoh made mention of
xxxxxxx

13 A. Yes, xxxxxx was one of the people that he recommended.

14 Q. Do you recall the position that Foday Sankoh recommended
he
10:07:13 15 take?

16 A. xxxxxx was minister of trade.

17 Q. After attending Lome, did you return to Freetown?

18 A. Yes. Yes.

19 Q. Did you return to begin the process of implementing
Lome?

10:07:46 20 A. Yes, indeed.

21 Q. Are you able to give a brief insight into the way in
which
22 Foday Sankoh approach the implementation of Lome after July
1999?

23 A. You will have to excuse me that I -- in case there is a
24 problem of details, but I've got so much to think about that I

10:08:16 25 may omit one or two points. Foday Sankoh -- we signed the
26 agreement and we came and we were prepared to deliver on what
we
27 had agreed in Lome. And he started to stall about when he was
to
28 come back to Sierra Leone and this took quite a lot of work
with
29 the governments concerned where he was and with the ECOWAS

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then 1 states, and finally he arrived and so we welcomed him. And
question 2 I remember on one occasion, we sat down to discuss the
3 of how he should perform his role as chairman of the Strategic
4 Mineral Resources Commission. You know, in the first place I
10:09:35 5 must recall this, that I was responsible for -- well, I regard
we 6 this as my brain child, this Court, and in the agreement which
7 discussed with Ralph Zacklin of the -- undersecretary of the
UN, 8 office of the undersecretary general of legal affairs in the
9 a very brilliant lawyer, the agreement was that we were to
apply
10:10:09 10 two laws: One international law; and second one local laws.
And

11 in the local laws I think I had to -- and I'm still going to
be
12 taking note of the Official Secrets Act under which I was
13 operating. But what happened on one Saturday, Foday Sankoh
came
14 to my office together with -- we had a meeting there, himself,
10:10:50 15 myself, the then attorney-general of Sierra Leone, and he came
16 with two of his own people. And he wanted to have details of
his
17 position, and we gave it to him. And the details are that
when
18 you have a commission appointed, there is a minister who has
to
19 responds -- who has to report to the cabinet and the
government
10:11:21 20 and Parliament on issues affecting his ministry. So
therefore,
21 Foday Sankoh, being chairman of the Strategic Mineral
Resources
22 Commission, was obliged to report through a minister, and I
must
23 say this, that he was shocked at this. He thought he was
going
24 to be completely in charge everything to do with mineral
10:11:49 25 resources of the country, he was to decide on that, and nobody
26 else was to get involved. He said well: I thought the
agreement
27 was that I should be given a position similar to that of the
28 vice-president, and I told him, I said: Well, if somebody
says
29 you look like your mother, that doesn't mean that you are your

1 mother. So we laughed over that and then he accepted it and
we
2 moved on. But I think I noticed that he was stalling from
there
3 on as if he was not as fully committed as we had expected him
to
4 be.

10:12:51 5 Q. Were you able in the weeks and months after the signing
of
6 Lome, to observe how he was regarded by the rank and file in
the
7 RUF?

8 A. Well, I only will go by way of reports that I received,
9 mainly intelligence reports, which is that he was regarded
like a
10:13:23 10 little god as far as the rebels were concerned and so -- but I
11 was not really very familiar with the day-to-day things, but I
12 knew that they were scared of him.

13 PRESIDING JUDGE: Mr Witness, you say he was regarded as
a
14 little god not as a god himself.

10:13:49 15 THE WITNESS: My Lord --

16 PRESIDING JUDGE: To the movement.

17 THE WITNESS: Well I, being somebody who is a believer
and
18 I have a religion, I do not subscribe to somebody who regards
19 himself as god to be god. So for that reason I --

10:14:11 20 PRESIDING JUDGE: You prefer to be measured in the

21 expression.

22 THE WITNESS: That's it.

23 PRESIDING JUDGE: Thank you.

24 MR JORDASH:

10:14:25 25 Q. This initial impression of Foday Sankoh and his, shall
we

26 say, lack of commitment, did that stay the same in the weeks
and

27 months ahead, or did it alter?

28 A. I'm afraid so, yes. He was -- he and some of his main

29 people who accompanied him to Freetown -- in fact, they didn't

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1 hide it. They held press conferences and made statements,
scary

2 statements, made threats against the people and the
government.

3 Q. Did you come across a man called xxxxxx xxxxxxxx?

4 A. Yes, I think I met him once. Once, xxxxxx xxxxxxxx.

10:15:31 5 Q. Yes, that's the name.

6 A. He was Foday Sankoh's spokesman.

7 Q. How did he come across to you?

8 A. He was a very ambitious fellow and he -- I don't know
where

9 he is, but I formed the impression that he was not totally
10:15:50 10 committed to the peace process.

11 Q. Could I ask the same question about xxxxx xxxxx, please,
12 your impressions of him?

13 A. xxxxxx xxxxxx started off like any other RUF, but he
14 volunteered at one time to travel to Lunsar and Makeni where
the
10:16:20 15 AFRC soldiers were brutalising our people and he said he was
16 going there to see if he could talk to them to really calm
them
17 down, and I think he got as far as Lunsar, somewhere between
18 Freetown and Makeni he got to the place and he found these
guys
19 there and they dug a huge hole, put him there, and just left
his
10:16:58 20 head up and each time they went by somebody will kick his head
or
21 they will excuse me -- they will urinate on his head and go
by.
22 And so I felt so bad about this that a human being could be
23 treated that way, and when he came back, because he was
minister
24 of trade, there was a meeting in the United States to which we
10:17:30 25 had been invited. So I asked that he should go and I arranged
26 for our embassy in the United States to take him to a doctor
to
27 see how -- whether there has been anything wrong with him, and
28 came back. But he didn't quite get out of that rebel
position,
29 even after that visit. He still remained a rebel.

by 1 Q. When you say he still remained a rebel, what do you mean
2 that?

illegally, 3 A. Well he was doing things that rebels usually do
4 not following the rules and plotting and planning and so on.

10:18:18 5 Q. So would you assess him as committed or not committed to
6 the peace process?

7 A. I gained the distinct impression that he was not totally
8 committed to the peace process.

amongst 9 Q. Was there any reaction as you were able to observe
10:18:39 10 the ECOWAS leaders to the lack of commitment being shown by
Lamin 11 and Sankoh and others close to them?

-- 12 A. Yes, when we had our ECOWAS meetings, we discussed them
13 these issues fully and -- because they were our partners in
the 14 peace process.

10:19:11 15 Q. Was Charles Taylor a member of ECOWAS at that time?

16 A. Yes, Charles Taylor was.

point, 17 Q. Can I take you forward to May of 2000, and, at that
18 were you in Freetown?

19 A. I don't remember.

10:19:51 20 Q. Perhaps I can jog your memory. May of 2000 was the time

21 when an incident occurred between the RUF and UNAMSIL in the
22 Makeni region. Do you recall where you were at that time?

23 A. No. No, I was so busy moving around, and I don't want
to
24 mislead anybody.

10:20:23 25 Q. Fair enough. Were you aware of Sankoh's location at
that
26 time?

27 A. As I said at the beginning, Sankoh, you know, really
28 hesitated about coming home after Lome, but, after
considerable

29 pressure in order to get the peace process moving, we were
able

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1 to get him here and he came and he was in Freetown.

2 Q. Were you, or did you become aware --

3 PRESIDING JUDGE: Mr Witness, are you saying that he was
in
4 Freetown in May 2000?

10:21:34 5 THE WITNESS: My Lord, the point is, I do not want --
all

6 my documents and everything, they belong to the government, to
7 the State, and they are in the security -- in the hands of
8 security people.

9 PRESIDING JUDGE: We understand. We understand.

10:21:54 10 THE WITNESS: Now, and I did not want to say for certain
11 that I was in a particular place at that particular time.

12 PRESIDING JUDGE: No, I'm referring to Sankoh.

13 THE WITNESS: Oh, Sankoh, yes.

14 PRESIDING JUDGE: Was he in Freetown in May 2000?

10:22:08 15 THE WITNESS: I think he was.

16 PRESIDING JUDGE: Do you remember? As far as your
17 recollection can take you.

18 THE WITNESS: Yes, I think he probably was, but I'm not
19 categorically.

10:22:26 20 MR JORDASH:

21 Q. I think I can lead on this. Were you aware of Sankoh
being
22 arrested around that time?

23 A. Oh, yes.

24 Q. Do you recall how you became aware of his arrest?

10:22:50 25 A. Well, there was some problem. I think, again, Sankoh
and
26 others, and his followers, had created some scene around Juba
27 Hill area, and some people got injured or killed and he
himself,
28 he was arrested and detained.

29 Q. And do you recall where he was detained?

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1 A. Initially, he was at Pademba Road, but we decided to
move
2 him from there because I've always taken the position that
that
3 Pademba Road Prisons is not a good place to keep prisoners
4 because of so many homes and houses around the place, and so -
-
10:23:59 5 and whenever there had been -- earlier on, when we had
problems,
6 the rebels would go straight to Pademba Road and attempt to
break
7 open the prison and let loose the inmates, so that they can go
8 and commit some very serious offences. So, for this reason,
we
9 decided to take Sankoh to a half-completed building around
10:24:26 10 Aberdeen and provided very good security for him there.
11 Q. Had Foday Sankoh been held at Pademba previous to 2000?
12 A. Oh, yes. Much earlier, before ever, even before I
became
13 President, he had committed some offences where he was
14 incarcerated there and, during my own time too, when he came,
he
10:25:14 15 was there for a short while.
16 Q. Do you recall where he was on 6 January 1999, the time
when
17 Freetown was invaded?
18 A. Yes. Again, on that occasion when Freetown was invaded,
I
19 was in bed at about 2.30 a.m. and the ECOWAS generals came to
my
10:25:45 20 house and woke me up and said: Look, we must leave your place

21 here. We must take you somewhere else. And so -- but I said:
22 Well, what about Foday Sankoh? They said: Well, Foday
Sankoh,
23 they were not too sure about his sincerity to the peace
process,
24 so they suggested that perhaps he should be taken and kept in
a
10:26:22 25 Nigerian warship, which was then anchored on the border
between
26 Sierra Leone and Guinea, and so I was told that I had to go
with
27 them to Government Wharf. There was a boat there which we
were
28 to join and move on, and I picked up the vice-president at
that
29 time, Dr Demby, and my own children as well, and we went to

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--
1 Government Wharf, boarded this boat and found out that it was
2 it didn't contain enough fuel. So we sat there fuelling the
boat
3 and by somehow it seems that some -- God was with us because,
as
4 soon as we finished fuelling, as we moved out, then the rebels
10:27:38 5 moved into Government Wharf and started killing and
destroying,

6 killing people and destroying things there. So I would have
been
7 dead. But then we moved on, continued, and got to this
warship;
8 got to this warship, and it was really an ordeal for me. The
9 generals remained in the boat. I had to go upstairs in this
10:28:07 10 warship to meet Foday Sankoh. Now, there was no provision, no
11 jetty on it, so they sent a rope from the warship down for me
to
12 hang on and they pulled me up, and the sea was really rough --
13 very, very rough. If at all there had been any accident
there, I
14 had really sort of dropped off that rope, then I would have
been
10:28:33 15 squeezed by the two boats and that would have been the end of
me.
16 But thank God I landed safely inside. When Sankoh saw me, he
17 said: Oh, please, please forgive me, forgive me, forgive me,
18 forgive me. I'm sorry. I'm so ashamed. Then he whispered,
he
19 said: Are my boys in Freetown? And I said: Not quite. And
I
10:29:08 20 said that I had gone there to talk to him so that he and I can
21 record some message to the people of Sierra Leone, that we
were
22 destroying our country; that we should do everything to end
23 this -- that violence and the very bad name that the country
was
24 getting internationally. And, at that point he said to me, he
10:29:39 25 said: Well, I need some time to talk to God. So please give
me
26 one hour. Let me go and talk to God." And then that meant I
had
27 to go back again into the boat, that dangerous thing, and I
sat

process

28 in there, waited. After one hour I went through the same

try

29 into the boat, and I went and so he said: All right. We'll

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said:

1 and do something. He said: We'll try and do something, he

the

2 But I don't have any tape-recorder here. Then the captain of

Then

3 war boat, of the warship, went and brought a tape-recorder.

write

4 Sankoh said: Well, I don't know what to say. You better

10:30:51

5 it for me so that I can read it. And I wrote this appeal, and

to

6 then we came back. He remained in the warship and I came back

7 Freetown.

8 PRESIDING JUDGE: When you wrote the appeal, Mr Witness,

9 what happened? What happened to the --

10:31:11

10 THE WITNESS: Well, he read it. He read it.

11 PRESIDING JUDGE: He read it?

12 THE WITNESS: Yes. I was going to have it broadcast.

13 PRESIDING JUDGE: And it was recorded?

back

14 THE WITNESS: It was recorded. And then, when I came

10:31:24 15 to Freetown, the place had quietened down. It was under
control
16 of ECOMOG had really moved to various strategic areas, and
they
17 took me to my residence, and then two foreign ministers from
18 ECOWAS came in to see me. The Ivorian foreign minister, and
the
19 Togolese foreign minister, they asked that please, they wanted
to
10:32:00 20 talk to Sankoh themselves. Could I please arrange to release
him
21 from the warship, so that he could go to Guinea so that they
will
22 talk to him there.
23 PRESIDING JUDGE: Yes, Mr Witness, before you continue,
was
24 this message that was recorded published?
10:32:17 25 THE WITNESS: It was on the radio.
26 PRESIDING JUDGE: It was on the radio?
27 THE WITNESS: Yes.
28 PRESIDING JUDGE: Thank you.
29 THE WITNESS: And then we -- so with this, they said
they

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1 really wanted to really talk to him again, so that he will
keep

given
Conakry.
10:33:03
not
BBC
back
10:33:36

2 to the peace agreement, and I agreed, and instructions were
3 for some helicopter to pick him from the warship on to
4 As soon as he got to Conakry he contacted one of his men,
5 Lieutenant Sam Bockarie, and told Sam Bockarie that I put him
6 under pressure to make that statement, and that statement was
7 really -- he didn't mean it -- and Sam Bockarie went on the
8 and made a -- made a statement to that effect. So we were
9 almost on square one. But these people help prevailed and we
10 were able to come back together.

11 MR JORDASH:

12 Q. Do you recall what the message said, in broad term?

13 A. Yes. Well, I drafted it. I said that he was to say
that
Lome
10:33:54
and
16

14 we both met, and we have agreed that we should keep to the
15 Peace Agreement, that we should stop all these hostilities,
16 that we should try and bring peace back to our country.

17 Q. Thank you. Could I take you back for a moment to when
he
18 had been in Pademba. Was he able to communicate from Pademba
19 Road? I'm talking about before January 1999, before you went
10:34:29
20

20 into the warship?

21 A. Yes. Now, you asked me that question before, and I
22 provided an answer to you. The answer is this: That Sankoh
was
23 in the military before and, while he was in the ministry,
24 military, he was in the communications section and, therefore,
he

10:34:53 25 was an expert in communication and so, for example, during the
26 war, he gave all these instructions to his people by radio
27 communication, which he installed secretly. And so, being in
28 Pademba Road, didn't really prevent him from communicating to
his
29 people.

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1 Q. And what about when, moving forward to 2000, he was
2 detained in this half-completed building in Aberdeen; did he
have
3 a means by which he could communicate there?

4 A. That one was -- he had one problem with that one because
10:35:42 5 number one, he did not know where he was staying. That was
kept
6 as a top secret. There was -- we then had British Inspector
7 General of Police Keith Bidwell and himself and our senior
police
8 officers were the ones who designed that particular thing and
9 he -- they saw for the first time that Sankoh looked a little
10:36:06 10 uneasy because he couldn't make easy contact with people and
he
11 didn't know the people that were really on guard with him
there.

12 His security people there looking after him, he didn't know
them, 13 and he couldn't speak to them properly, so he was very are
14 uneasy.

10:36:35 15 Q. And how long was he held in those conditions.

16 A. Again, I'm sorry it's a question of matters of details.

17 Q. It's a long --

18 A. Yes, I don't have my notes with me. But I know he was
19 there and I know we moved him from there when Presidents
Obasanjo
10:36:59 20 and Konare came with a letter following a meeting in Monrovia
to
21 him -- to deliver to him. And -- so we had to -- he was moved
22 there very early on the morning of that day to Hastings and
then
23 from there he was flown to Lungi and so he was kept there for
--
24 so that he could meet the two visiting presidents. Even when
10:37:35 25 they came, they suggested that I should not take part in the
26 meeting so I was in another part of the building and then they
27 went and spoke to him. And basically what he was -- what
these
28 people came to do was to hand over a letter from Issa Sesay
who
29 by then had been elected or -- elected by the other commanders
to

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that
these
the
of
--
they

1 be the interim leader of the RUF. This followed a meeting
2 took place of about five ECOWAS presidents in Monrovia itself
3 plus Charles Taylor, where they really read the riot act on
4 people -- to these people, that if they didn't cooperate with
10:38:38 5 peace process, one of them in particular, President Obasanjo
6 Nigeria, said if they didn't, he would come with all the might
7 military might of Nigeria to really destroy all of them. So
8 came to an agreement that they will have an interim leader.
9 Because these people said that ECOWAS and the Government Of
10:39:04 10 Sierra Leone, we were fed up with Sankoh. He was no longer
11 credible and nobody was going to really negotiate with him any
12 more. So because of that they wanted a temporary leader who
13 would really -- that they can talk to and negotiate with.

14 JUDGE BOUTET: Mr Witness, who made that statement to --
10:39:29 15 that they would not negotiate with Sankoh.

my

16 THE WITNESS: It was -- I was not present in the -- in
17 Liberian meeting but it was a decision taken bu ECOWAS, the
18 Economic Community of West African States. There is 11
19 presidents in the subregion.

10:39:50 20 JUDGE BOUTET: It's that committee that made comment to.

21 THE WITNESS: That committee was mandated to meet the
22 commanders in Liberia and Charles Taylor was host of both the
23 commanders and the presidents that arrived there.

the 24 JUDGE BOUTET: So based on the information you had at
10:40:08 25 time and your recollection, RUF commanders, whoever they were
--
26 THE WITNESS: Yes.
27 JUDGE BOUTET: -- they did attend that meeting.
28 THE WITNESS: Yes.
29 JUDGE BOUTET: Many of them.

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1 THE WITNESS: Yes.
2 JUDGE BOUTET: Do you have any idea as to how many of
these 3 commanders might have attended.
4 THE WITNESS: No, I don't.
10:40:23 5 JUDGE BOUTET: You don't.
6 THE WITNESS: No, I don't.
7 JUDGE BOUTET: Thank you, Mr Witness.
8 THE WITNESS: That's okay.
9 MR JORDASH:
10:40:37 10 Q. Was there a reason why you as an ECOWAS leader did not
11 attend that meeting?
12 A. Well, I was a party, I mean these people who had just
13 assisted me to bring about peace to my country and so the RUF

were 14 leaders were on one side; I was on another side. My people
10:40:56 15 being killed. Our limited infrastructure being destroyed.
The 16 schools, hospitals, even churches and all these things and
17 mosques and so all being burnt and destroyed. So they -- we
18 wanted an impartial body to mediate in and they mediated, they
19 went in and they put the case very strongly across to the --
the 20 commanders that were present and they amongst themselves
10:41:32 21 that Issa Sesay was to be their leader -- temporary leader.
decided 22 that was the -- and then they faxed a copy of that letter to
So 23 and then when I read the letter I found it -- I thought it was
me 24 important that Sankoh's reply should be very, very clear. So
so 25 decided that I was going to draft Sankoh's reply myself and
I 26 it over to the two visiting presidents so that they can
10:42:05 27 it with Sankoh for him to sign it as his reply to Issa Sesay's
hand 28 letter. But when they went in to see him, I think he must
negotiate 29 come to the realisation that we were at the end of the whole -
have
-

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the
1 at the end of the road, because as soon as they walked into
2 room where he was kept --

heads
3 PRESIDING JUDGE: [Indiscernible] these are the two
4 of state.

10:42:54 5 THE WITNESS: Two heads of state, Obasanjo and Konare.

6 PRESIDING JUDGE: Yes.

7 THE WITNESS: As soon as they walked in, when Sankoh saw
8 them he started crying and said: Please, please, I've given
up.

9 I don't want to fight any more. And I want you people to
please

10:43:14 10 take me out of this place. I would like to spend the rest of
my

11 life either in Nigeria or in Mali. Then at that point they
said:

12 Sorry, it's too late. We're not here for that. We want you
to

13 read Issa Sesay's letter and we want you to reply to it. And
the

14 draft which I had prepared which should have been Sankoh's
draft,

10:43:45 15 that was given -- that draft was handed over to Sankoh. He
sign

16 looked at it. He said: Mmm. He read it. He said: If I
style

17 this, the guys will say it's not my writing. It's not my
to

18 of writing. He said: Please, leave it to me. Let me write
to

19 them in the language that they will understand.
10:44:11 20 PRESIDING JUDGE: Mr Witness, what did you say in that

21 draft which you wrote.

22 THE WITNESS: Basically, the letter that came from Issa
was
23 that they had had a meeting with the ECOWAS leaders, the
24 presidents, and they had come to the conclusion that there was
a
10:44:32 25 need to have a temporary leader because these people say that
26 ECOWAS will not have any business to do with Charles Taylor --
27 with Foday Sankoh again. And so instead of creating that
vacuum,
28 that he had accepted to be the interim leader. So that was
the
29 thing that was the thing and that -- so Issa was saying --

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1 explaining that to Sankoh and saying that they were willing to
bring 2 work along these lines to work with the government and to
3 about peace.

4 MR JORDASH:

10:45:14 5 Q. And did you -- was it your understanding that the
reference 6 to the meeting with ECOWAS in that draft -- or in that letter
7 from Issa Sesay was referring to a meeting, a specific
meeting?

ECOWAS

8 A. Yes, it was a specific meeting. It was convened by

9 with these heads of state to --

10:45:41 10 Q. The one that you've referred to that you didn't attend?

11 A. That's right.

12 Q. Do you know what was said by the ECOWAS leaders in that
13 meeting concerning who should be the interim leader?

14 A. No, no. They, they -- my -- what my colleagues told me

10:46:02 15 then was that they said that these -- the commanders that were

for 16 there were asked to choose who should be the interim leader

17 them. And that what was in that letter was their own choice.

18 Q. Do you know if any of the ECOWAS leaders made any
proposals

19 besides that?

10:46:34 20 A. No.

21 Q. So you don't know or they didn't make any proposals?

22 A. As far as I know, not. Yes.

23 Q. Let me just take you back for a moment to Sankoh's

24 period --

10:46:53 25 PRESIDING JUDGE: Mr Jordash, before you do take him
back I

he 26 would like to take the witness back to the draft which he said

my 27 gave to Sankoh and he said Sankoh said that no, if I sign this

handwriting, 28 people will know from the style, you know, from the

this 29 know that I'm the one sending this letter to them. What was

1 letter, Mr Witness.

--
2 THE WITNESS: I think I -- I think said it, that when I
3 these people when they met, Sesay wrote a letter to Foday
Sankoh.

4 PRESIDING JUDGE: [Overlapping speakers] wrote a letter
to
10:47:41 5 Foday Sankoh. It was brought by the two presidents.

6 THE WITNESS: It was brought by them.

7 PRESIDING JUDGE: Yes.

8 THE WITNESS: Now, there was a question of a reply.

9 PRESIDING JUDGE: A reply, that's right.

10:47:55 10 THE WITNESS: Now I, I took the position -- I took the
view
11 that --

12 PRESIDING JUDGE: Who was to reply. Sankoh was to
reply.

13 THE WITNESS: Sankoh was to reply.

14 PRESIDING JUDGE: Yes.

10:47:58 15 THE WITNESS: But then I said to myself, well, let me
draft
16 a reply for him.

17 PRESIDING JUDGE: We got you up to then. Yes, yes. You
18 drafted it --

19 THE WITNESS: I drafted it.

10:48:06 20 PRESIDING JUDGE: And you gave it to him.

to 21 THE WITNESS: No, no, I gave it to these two Presidents
22 give to him.
23 PRESIDING JUDGE: Okay. Yes.
it 24 THE WITNESS: And then when they gave it to him he read
10:48:14 25 and then he said: Mmm mmm, these guys will think that it's
26 somebody else who has done this.
27 PRESIDING JUDGE: Yes.
28 THE WITNESS: So let me do it my own way.
29 PRESIDING JUDGE: And how did he do it his own way.

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letter 1 THE WITNESS: He wrote something else. He wrote a
2 and -- saying that he accepted Issa Sesay as the interim
leader 3 and that they should try and cooperate to get the peace
process 4 forward.

10:48:44 5 PRESIDING JUDGE: In your draft which you gave to the
heads 6 of state what was there.

7 THE WITNESS: That was destroyed.

8 PRESIDING JUDGE: I mean I'm wanting to know what was in

9 that letter that was destroyed which you drafted yourself.

10:48:51 10
draft

THE WITNESS: Oh, my letter which I was in that -- my

11 was to say that I, Issa Sesay -- sorry, I Foday Sankoh.

12 PRESIDING JUDGE: Foday Sankoh, yes.

13 THE WITNESS: Have received your letter so and so and so
14 and that I accept you as the interim leader and I hope you
people

10:49:12 15 will work together.

16 PRESIDING JUDGE: I accept you.

17 THE WITNESS: Issa Sesay.

18 PRESIDING JUDGE: Issa Sesay as interim leader.

19 THE WITNESS: Yes.

10:49:19 20 PRESIDING JUDGE: Thank you.

21 MR CAMMEGH: Mr Gbao apologises for interrupting the
22 evidence but might he leave the room for the bathroom for one
23 moment, please.

24 PRESIDING JUDGE: He may, please.

10:49:31 25 MR JORDASH:

26 Q. I just want to make sure something is clear. You gave
27 evidence that Foday Sankoh was taken to the half-completed
28 building in Aberdeen, held there before being taken at some
stage
29 to Hastings and then to Lungi, and this was I think you said,

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1 after Issa Sesay had become interim leader.

2 A. Well, it depends on what you mean "after." After the
3 Monrovia meeting, when these people, it was -- they were
4 bringing -- they came, these people came. Issa -- Sankoh went

to

10:50:20 5 Lungi to take the letter from Issa Sesay, which these two
6 presidents brought.

7 Q. Right. If we start from the point that Sankoh is held

in a

8 half-completed building in Aberdeen in May, when do you think

it

9 was he went to Lungi?

10:50:44 10 A. Again, I will just be guessing.

11 Q. Was it in 2000 or 2001?

12 A. Please don't hold me on to dates. Really, I mean, I
13 could -- it's roughly about that, but I cannot say "yes" one

way

14 or the other.

10:51:03 15 Q. Okay. Was it the rainy season or the dry season?

16 A. Oh, my God.

17 Q. Sorry to press you, but --

18 A. No. Well, you see, the thing is that you should have

been

19 in my position as president of a country that was --

10:51:22 20 PRESIDING JUDGE: In turmoil.

21 THE WITNESS: -- in turmoil and for me to be remembering

22 what day, what happens today, tomorrow and then for me to just

23 store it up here, particularly -- I don't think people of my

age,

24 76 years of age, are very good at keeping some of those
details.

10:51:46 25 MR JORDASH:

26 Q. I think you are better than some of us younger ones.
Where

27 did Sankoh go after the meeting in Lungi?

28 A. We brought him back.

29 Q. To Aberdeen?

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1 A. Yes.

2 Q. And how long -- do you recall when he left detention in

3 Aberdeen? Or at least do you recall where he went after

4 Aberdeen?

10:52:11 5 A. Where he --

6 Q. Well, he stayed in detention in Aberdeen?

7 A. Yes.

8 Q. Where did he go from there?

9 A. No, from there, we, you know, because we had made up
things

10:52:22 10 and so on, Foday, he was given an apartment when we decided to

11 implement the Lome peace agreement properly, we gave him a
house

him a

12 just off Spur Road, one of the best areas in town, and gave
13 whole house there. That's where he was. He was free to move
14 around. There was no problem.

10:53:00 15 same

15 Q. I want to make sure that we're both talking about the
16 period. Were you aware at some stage that Sankoh was detained
17 pursuant to the jurisdiction of the Special Court?

18 A. I, frankly, I know Sankoh was detained.

19 Q. Yes.

10:53:37 20 Road,

20 A. And I've told you that he was at one time at Pademba
21 at another time at Aberdeen, and then afterwards he was moved

on

22 to -- to -- he moved. He was given a house at Spur View, and

I

23 also know that when things were very, very bad, when we had

I

24 curfew here from 6 p.m., I think, to 7 o'clock in the morning,

10:54:18 25

25 had to leave my house at 9 o'clock every night to go to the
26 military barracks where he was kept, so that we can talk about
27 how to bring about peace.

you

28 Q. Let me, before we move from this subject, could I ask

want

29 to -- I know you're going to feel pressed by this but I just

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in 1 to try once more in a different way. Are you able to estimate
2 days, weeks or months or years, how long it was Sankoh was
3 detained in Aberdeen? Just --

4 A. Let me say this: I can help you in this way. If you
must

10:55:13 5 get this information, ask for the police to come and --
because

6 he was in their custody -- and they were the ones who made the
7 arrangements for that Aberdeen arrangement. I just approved

of 8 it. So they will tell you, give you the full details. If
that's

9 so crucial to your case, certainly, the police will give you
10:55:40 10 because they must have a record of it there. But I don't have
it
11 up there.

12 Q. You cannot estimate between days, weeks or months?

13 A. I think probably about a month or two. I'm not sure.

14 Q. Okay. Let me take you on. You've referred to a meeting
10:56:06 15 held by ECOWAS, in which the RUF who attended then went away
and

16 came back with Sesay's name as the proposed interim leader;
was
17 there a second meeting shortly after that?

18 A. I don't know. The only meeting I know of is that, you
19 know, obviously RUF will not tell me about their meetings, and
10:56:42 20 also I know that my colleagues that went to Monrovia, they
21 decided that these two presidents should come and see me and
22 debrief -- and brief me on that meeting and to convey the

letter

23 from Issa.

24 Q. But, just so that we're clear: I'm referring to -- I'm
10:57:03 25 asking about another ECOWAS meeting?

26 A. In Monrovia?

27 Q. Yes. Do you recall that? Or in Liberia?

28 A. In Liberia? I don't, no, I don't remember.

29 Q. Okay. Do you recall how it was that Mr Sesay acted as

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1 interim leader in relation to his - in relation to the
2 implementation of the Lome agreement?

3 A. Now, this is an important point. There was a time when,
in

4 the north, particularly Bombali District and Tonkolili
District,

10:58:10 5 there was a lot of violence there, and I think Issa was then
the

6 commander in that area, and there was a massive movement of

7 people from Lunsar, Makeni, and Bombali and into Mile 91. And
I

8 remember this clearly because it was so bad nobody could go
from

9 Freetown beyond up to the south or east because of what was

10:58:51 10 happening, and there was this huge movement of displaced
people

11 into Mile 91. So I decided, it was a very risky flight, but I
12 decided to fly over the Atlantic by helicopter to Moyamba, and
13 then down to Mile 91, to see for myself what was ongoing. And
14 the reports I got from the people about the violence that was
10:59:27 15 taking place there, that they had cordoned off the whole of
16 Tonkolili, and particularly Magburaka Town and Makeni, and
people
17 couldn't get in and out, so I --

18 PRESIDING JUDGE: That who had cordoned off?

19 THE WITNESS: RUF; RUF had cordoned off. And I decided
I

10:59:56 20 was going there to see for myself what needs to be done. I
say
21 it was dangerous because, although we tried to fly over the
sea
22 up to that point, as soon as we turned in, then there was fire
on
23 this helicopter and we had to land in a -- on a farm and the
24 engineer was able to put out the fire and did whatever
emergency
11:00:30 25 repair was needed and then we moved on, and so we got there.
26 Now, that's the type of situation that existed in the place at
27 that time.

28 MR JORDASH:

29 Q. Could I, sorry to interrupt you, could I just ask you
one

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1 question?

2 A. But can I continue with this, something?

3 Q. I beg your pardon.

4 A. Now, that was the setting there. And then Paramount
Chief

11:00:54 5 Bai Kurr of Tonkolili District, and also the Fullah tribal
head

6 man in Port Loko area, they came and saw me and told me that
they

7 knew Issa and his people, his family members, his father, his
8 mother, his sisters and brothers, and that if they could put
me

9 in touch with him, so that I can talk to them -- to him -- so
11:01:27 10 that he -- that I can talk to them so that they will take,
convey

11 my message to Issa so that he would cooperate in the
12 implementation of the peace agreement. I did. I said: Yes,
13 please, go and bring them. They brought them on a Friday,
like

14 today, and since they were Muslims, I invited them for Muslim
11:01:51 15 prayers. We prayed and then I spoke to them about the need
for

16 us to have peace, the need for us to stop all the violence,
and

17 all the bad things that were going on, and that please, if
they

18 could take this message from me to Issa, who was then a very -
-

19 you know, the acting leader -- I said I will be very grateful.
11:02:13 20 They did that. And, as a result, when it came to the
Issa

21 disarmament, when it came to the disarmament process itself,

22 was very cooperative. He was very, very cooperative. Yes.

23 Q. Sorry to interrupt you.

24 A. That's okay.

11:02:37 25 Q. Let me just ask briefly about --

26 JUDGE BOUTET: Before you get there, Mr Jordash, if I
may

27 just clarify an issue with the witness. Mr Witness, do you
have

28 any recollection about the timing of this meeting when you
went

29 and met with this paramount chief and you discussed the
message

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1 to be conveyed to Sesay?

2 THE WITNESS: Yes. Th, I think the chief told me that

3 there was a man who knew the family, Issa's family, and that
he

4 will bring them, now, and that the other man was going to
bring

11:03:17 5 the rest of the family, the mother, the father, the sisters
and

6 brothers, and they all came to my house, my lodging, on a
Friday,

7 about 10 o'clock in the morning, and they stayed there until

8 after 2.30, and they told me they were going -- sending people

9 around to go and track him down, so as to convince him on
this.

11:03:46 10 JUDGE BOUTET: But this meeting you had with these
people

11 is after Sesay had been appointed as the interim leading?

12 THE WITNESS: Yes.

13 JUDGE BOUTET: So I'm just trying to find out with you
the

14 timelines that we're talking about. Is it months after the
11:04:02 15 ECOWAS meetings in Monrovia or -- you follow me on this,

16 Mr Witness?

17 THE WITNESS: I follow you, yes. I follow you. It's a
18 sequential thing.

19 JUDGE BOUTET: Yes, yes.

11:04:13 20 THE WITNESS: Yes, that's right. Now, to be -- yes, I
21 think it was after the meeting.

22 MR JORDASH:

23 Q. In terms of this violence, and where it was occurring,
do

24 you know at that time where the West Side Boys were?

11:04:58 25 A. The West Side Boys were between, after Waterloo going
up,

26 right up to about Lunsar and Makeni and Magburaka, those
areas.

27 Q. And those were the areas where the violence was coming
28 from?

29 A. Yes.

1 Q. Thank you.

2 PRESIDING JUDGE: Mr Witness, I know you were -- you
were

3 airborne. You have told the Tribunal that your helicopter was
4 shot down and you made an emergency landing on a farm. Then
you

11:05:50 5 took off after some repairs. Are you able to know who may
have

6 targeted your helicopter? Did you get to know anything about
7 that?

8 THE WITNESS: No, I didn't say we were bombed. I said
that
9 it was that accident. Now, what happened was that it was a
11:06:05 10 mechanical problem.

11 PRESIDING JUDGE: Oh, I thought it was a shot.

12 THE WITNESS: No, no, it was mechanical problem.

13 PRESIDING JUDGE: All right. Okay. Okay.

14 MR JORDASH:

11:06:21 15 Q. And so after the meetings you've told the Court about,
you
16 noted that Issa Sesay had become very cooperative. Did you
meet
17 him at some stage in 2001?

18 A. Yes. I met Issa when we went to -- it was some burning
of
19 the weapons, you know, announced to our people, that the war
had

11:06:59 20 come to an end so the first such meeting was where we invited

and
21 international people and ECOWAS leaders was at Lungi Airport
22 I think he was there. And, from there, I went with a group to
there
23 Makeni, Bo, Kenema, and back. I'm not sure whether he was
24 or not. And if I'm -- if I should be around, I wouldn't even
11:07:26 25 recognise him now, because it was very brief meeting on those
26 occasions.
27 Q. Compared to Foday Sankoh, how did Issa Sesay strike you?
28 A. No, I -- well, he proved to be credible because he
agreed
29 to do something and he did it.

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1 Q. Was there a time when you met him in Kono?
2 A. Yes. Yes.
3 PRESIDING JUDGE: He agreed to do something and he did
it.
4 THE WITNESS: To cooperate with us in the disarmament
11:08:04 5 process.
6 MR JORDASH:
7 Q. Can you recall the circumstances which led you to meet
him
8 in Kono?
9 A. Yes. The two -- it was that I remember, because I got

11:08:20 10 drenched in that rain; it was pouring heavily on that day.
11 President Obasanjo and President Konare came, and I was also
at
12 the airport to meet them and, from there, we flew straight on
to
13 Kono. And before we went to the general meeting to talk to
all
14 the combatants, and all the people in Kono area, we had a
private
11:08:54 15 meeting with Issa and the others, and I remember clearly
16 President Obasanjo saying to Issa, he said: You, you, you are
17 the one who answers when people call you General? He said:
Yes,
18 sir. He said: Well, look, don't you ever answer to that name
19 any more. You don't see me I'm a general myself. I was head
of
11:09:24 20 the Nigerian army and I don't want people to denigrate my
21 profession in that way. You understand? He said: Yes, sir.
So
22 from that time on I think he stopped doing this, but it was a
23 good psychological thing, and then we had some little pep talk
24 and so that was also helpful.
11:09:50 25 Q. And Issa Sesay's responses to President Obasanjo, how
26 did --
27 A. His what?
28 Q. His response; I don't mean his specific response but his
29 general demeanour?

1 A. Yes. No, no, he was very -- he was obedient. He was --
2 that's what Obasanjo wanted and he achieved it.

3 Q. And did you speak to Mr Sesay on the --

4 A. Yes, we greeted each other and so on.

11:10:20 5 Q. Was there a general view of Issa Sesay at that meeting,
6 amongst the ECOWAS leaders?

7 A. Not that I know.

8 Q. At that stage was there any impression concerning
Sesay's
9 commitment to disarmament?

11:10:51 10 A. I was -- he looked really harmless young man and, again,
11 someone the way he responded to Obasanjo, I saw the tendency for
12 who would want to be obedient.

13 Q. Do you recall if xxxxxx xxxxx was at the meeting?

14 A. I'm not sure I know him, but, I don't know whether he
was
11:11:21 15 in that meeting; I don't recollect.

16 Q. Did you give any speech yourself at that meeting?

17 A. You mean in Kono?

18 Q. Yes.

19 A. Oh, yes, I did. I did. It was just to -- the people
were
11:11:44 20 jubilant that they were expecting that some peace was on the
way,

21 and I was trying to reassure them, and I also gave Issa and
22 others some advice that this is our country. This is the only

and 23 place, country they can regard as -- call their own country
24 that we should not destroy it.
11:12:13 25 Q. Do you know if this meeting took place before or after
26 disarmament in Kono?
27 A. In Kono?
28 Q. Yes.
29 A. No. It was -- it was after we had deployed UNAMSIL and

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1 then it was -- the security situation had improved
considerably;
2 that's why we went there.
3 Q. Do you know if there had been any concern amongst ECOWAS
or
4 the Government of Sierra Leone concerning disarmament of Kono?
11:12:50 5 A. Very much. There was a time when, in fact, Generals
6 [indiscernible] and Opande and others went up there and --
7 because the Civil Defence people were really up in arms, and
that
8 they were not going to be cooperative, and there was a lot of
9 fighting that went on. But towards the end, before we went
11:13:20 10 there, things had calmed down because UNAMSIL had done a
11 fantastic job, particularly the Pakistani contingent.

12 Q. And following that meeting, did disarmament continue?
13 A. Um-hmm.
14 Q. And did -- was disarmament -- did disarmament continue
to
11:13:48 15 be led by Issa Sesay, from the RUF perspective?
16 A. Yes. Yes.
17 MR JORDASH: Can I just have a moment, please?
18 PRESIDING JUDGE: You may, please.
19 MR JORDASH: I'm coming to a close. I'm just making
sure
11:14:40 20 I've covered everything.
21 PRESIDING JUDGE: The witness is not running out of his
22 strength. He still looks equal to the task and the challenge
you
23 are putting across to him.
24 MR JORDASH:
11:14:50 25 Q. Did Issa Sesay ever make any demands concerning his
26 commitment to the disarmament process, as far as you're aware?
27 A. No, I don't know. I'm not aware of any demands from
him.
28 Q. And, during this process, do you know if Sankoh was
29 detained or not?

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1 A. During the disarmament process?

2 Q. Yes, the period of the Kono meeting and so forth?

3 A. Yes, I think Sankoh was under detention, yes.

4 Q. And maybe you've covered it with your last answer: Do
you
11:15:37 5 know if Mr Sesay made any demands about Foday Sankoh?

6 A. No. Foday -- Issa Sesay and I, we didn't really talk,
as
7 such. The people that I spoke to, I spoke to his people, his
8 father, mother and brothers and sisters. With him it was just
9 courtesies, you know. That was all we exchanged; very brief.

11:16:02 10 Q. He didn't make any to you but did you hear if he made
any
11 to anybody else?

12 A. No, not that I know.

13 Q. Thank you. Did you have any contact over this period
with
14 the SRSG Adeniji?

11:16:38 15 A. Adeniji, oh, I knew him since in the 1960s; he was a
very
16 good friend of a long time. For a long time. In fact, we
were
17 together in Kenya recently.

18 Q. But do you recall whether he made comment about his
19 impressions of Issa Sesay's commitment?

11:17:03 20 A. Frankly, we never discussed Issa Sesay.

21 Q. Okay. Do you recall associating with General Opande any
22 stage during this disarmament process?

23 A. I know General Opande. I know he did a fantastic job
here.
24 He was a very brave soldier, but again, his relationship with
11:17:36 25 Issa Sesay, I don't know.

Sankoh

26 Q. Do you know anything about Issa Sesay meeting Foday

27 in the Choithram's Hospital at any stage?

was

28 A. I don't know. I heard that -- I think it was Issa who

he

29 at the hospital -- and I suppose if Foday Sankoh was there and

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1 was [indiscernible] they were colleagues so he -- maybe he

2 visited him, but I don't know.

look

3 MR JORDASH: Okay. I would like to ask the witness to

to

4 at an exhibit. It hasn't been exhibited yet, but I would like

11:18:20
obviously

5 exhibit it, if I may, through this witness. It hasn't

The

6 been filed with this witness, but I would like to, if I may.

I

7 Prosecution have a copy. It's been served on the Prosecution,

8 think previously.

well?

9 PRESIDING JUDGE: And to the other Defence teams as

11:18:41 10

MR JORDASH: Yes.

11

PRESIDING JUDGE: Well, show it to him.

done, 12 THE WITNESS: Thank you. Yes. [Indiscernible] done
13 that was my statement I made at the opening at -- yes.
14 MR JORDASH:
11:19:24 15 Q. Now a very famous statement.
16 A. Thank you.
do 17 Q. Do you recall, as I'm sure you must, this ceremony and
18 you recall speaking at the ceremony?
19 A. Yes.
11:19:40 20 Q. Do you recall whether SRSG Adeniji was present?
Olo 21 A. Somebody from the UN must have been there and, in fact,
22 was here, yes, at the time for the thing, so he must have been
23 there.
24 Q. Yes. Can you see the photograph -- I think it's on
second 25 page.
11:19:57 26 A. Oh, yes. There he is, yes.
27 Q. And do you recall the moment when the three of you, Issa
28 Sesay, SRSG Adeniji and yourself put the hands together?
29 A. Um-hmm.

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point?

1 Q. And do you recall the words that were spoken at that

2 I know it's a while ago?

3 A. Well, done done.

Was

4 Q. Was anything said when the three hands went together?

11:20:35

5 there a reason for putting the hands together?

try

6 A. This is just saying: Please, make this peace. Let us

7 and keep it up that way.

8 Q. All right.

hands

9 A. Both of us shaking hands and then Adeniji holding our

11:20:52

10 on it. So that's the only meaning.

11 Q. Thank you. Two last subjects: One is just if you could

12 briefly assess the importance or otherwise --

this

13 PRESIDING JUDGE: Mr Jordash, what are you doing with

14 document?

11:21:11
it

15 MR JORDASH: I beg your pardon. I would like to tender

16 to be exhibited, please.

17 PRESIDING JUDGE: Is there any objection?

18 MR HARRISON: No, thank you.

19 PRESIDING JUDGE: Mr Taku? Or Ms Mylvaganam?

11:21:34

20 MS MYLVAGANAM: No objection, My Lord.

21 PRESIDING JUDGE: Mr Cammegh?

22 MR CAMMEGH: No, thank you.

and

23 PRESIDING JUDGE: The document is admitted in evidence

24 is marked as Exhibit 374.

11:22:09

25 MS KAMUZORA: Yes, My Lord.

26 PRESIDING JUDGE: Would that be 374.
27 MS KAMUZORA: Yes, My Lords, it's 374.
28 [Exhibit No. 374 was admitted]
29 PRESIDING JUDGE: Yes, you may proceed, Mr Jordash.

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1 MR JORDASH: Thank you.
2 Q. I just wanted, if you would, for you to briefly comment
on
3 Mr Sesay's importance or otherwise in the disarmament process?
4 A. Well, I think I said it already, that Sesay was very
11:22:42 5 helpful.
6 PRESIDING JUDGE: Can you take the question again,
please,
7 Mr Jordash. Sorry, I didn't get it.
8 MR JORDASH: Whether His Excellency would comment on the
9 importance or otherwise of Mr Sesay's contribution to
11:22:57 10 disarmament?
11 PRESIDING JUDGE: Right. Yes.
12 THE WITNESS: I feel that he -- his contribution was
13 important and he kept to his word, and that is clearly
14 demonstrated in this tripartite shaking of hands.
11:23:17 15 MR JORDASH:

ask
your
I
what
11:23:46
itself.
when
11:24:21
this
which
to

16 Q. Thank you. And the last -- the last subject I want to
17 you about is really to give you an opportunity to deal with
18 subpoena to the Trial Chamber. I know you were concerned and
19 just wanted to make sure you had an opportunity to express
20 you wanted to say about that?
21 A. Okay. Well, I thank you for that question, because it
22 gives me an opportunity to say something about the Court
23 This Court is something that I believe in very strongly and
24 a former colleague of mine came here, Ralph Zacklin, and we
25 discussed it and the vision is that I had at that time for
26 Court is that Sierra Leone should be a legacy after the war
27 we shall share with other countries in the subregion, and so I
28 still believe that and that's perhaps the reason why I
29 deliberately kept away from the Court. I've never been near

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1 it. And -- but I think this is not a criticism it is just,
2 My Lord, it's just some suggestion that I'm making to further

3 reinforce the importance of the Court. We have some type of
4 journalism in this country which can lead to chaos and can
also
11:25:19 5 lead perhaps, unintentionally maybe, to some frictions in the
6 country. About two weeks ago I left here and before I left,
this
7 was a long-standing invitation that I had received from the
8 President of Guinea and the prime minister, and on that day I
was
9 leaving I had to address ministers and members of Parliament
and
11:25:52 10 some international figures that had arrived. I had to address
11 them on international peace in Parliament building. And I
made
12 it very clear that I was just going to deliver my speech and I
13 will take off for Guinea in response to this invitation. Now,
I
14 was there on my way back. I heard on the BBC and it was in
the
11:26:18 15 newspapers here that I was running away from subpoena which
had
16 been issued by this Court. And then the next one that
happened
17 was you -- from the papers that I received it was such that I
18 thought I was going to discuss with the -- with the Defence
19 representative and thereafter we were going to decide on a
11:27:03 20 statement that was to be presented to you. And, in fact, you
21 even told me that it had been cleared by the Defence. And
that
22 so there was no need --

23 PRESIDING JUDGE: By the Prosecution.

24 THE WITNESS: By the Prosecution, that's right.

11:27:19 25 PRESIDING JUDGE: Yes.

Now,

26 THE WITNESS: And there was no need for me to come.
27 because I didn't come that again led -- gave way to the usual
28 rumours in Freetown and what I call the politics of lies in
our
29 country. And then you -- yesterday I couldn't come because of

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to

to

that's

11:28:18
very

that

didn't

11:28:43
that

1 the assurance you gave me that because the statement had been
2 cleared by the -- by the Prosecution there was no need for me
3 be here. Now, my concern and worry on that is that I belong
4 one -- just one political party and that's the one that --
5 the only political party I've belonged to in this country and
6 I -- but in the last election I was not a candidate. That's
7 well-known to everybody. I thought that I had taken oath,
8 according to our constitution we have only two terms and I had
9 come to the end of my second term and that was it. So I
10 take part in the selection but people went -- I voted as a
11 citizen and there was a big rumour around that I voted for the
12 opposition then, which is now the present government. Now,

13 I found very difficult to swallow. Now, why -- why should I
be
14 concerned if you had heard some of the radio, text messages on
11:29:22 15 the radios and so on, people are suggesting that I was trying
to
16 evade coming. As I say, I'm very proud of this Special Court
and
17 it will be just my pleasure at any time to come and do it.

18 PRESIDING JUDGE: But haven't you proven them wrong,
19 Mr Witness.

11:29:47 20 THE WITNESS: Well, that's one thing, yes. But it is
the
21 fact that -- the thing that I'm worried about and what
concerned
22 me was that the -- you see, during the war with all these
23 atrocities committed, the civil society people -- or rather
the
24 Civil Defence Forces, those were the ones that really provided
11:30:12 25 the only reliable type of resistance to the onslaught of the
26 rebels. Now -- and some of them were saying on the radio
27 yesterday that I refused to come and give evidence in their
28 favour and I'm here to give evidence in favour of the rebels.
29 Now, these are people, some of them decent people and
everything

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and
1 but they may have some of them that may be a little hotheaded
2 so I have to think of my safety and so on. That's number one.
3 Number two, I think the credibility of the -- of the Court
4 itself, if we really are to leave a legacy that is worth
11:31:11 5 emulating, I think we must always try and see to it that we do
6 things in the proper way and you, judges and others, I think
7 you've acquitted yourselves in an exemplary manner. I have no
8 problem with this. But please, if somebody can control a
little
9 bit the dissemination of information to see to it that this
type
11:31:42 10 of misinformation stops at some stage, because it will -- I
11 believe it will negatively affect the image of the -- not of
you,
12 the judges and others, but clearly of the Court as an
13 institution. And it is this that I'm appealing to you about.
14 Thank you.

11:32:12 15 MR JORDASH: Thank you very much. I've got no further
16 questions.

17 PRESIDING JUDGE: Do you think that this Court in its
18 judicial role can inhibit the press in these circumstances.

19 THE WITNESS: I am not saying --

11:32:29 20 PRESIDING JUDGE: In its judicial role. My words are
very
21 guarded.

22 THE WITNESS: I know.

23 PRESIDING JUDGE: Yes.

24 THE WITNESS: I'm not saying they should. That's why I
11:32:38 25 didn't make an appeal to the judges to the judicial role
aspect.

26 I was thinking in terms of the dissemination of information.
27 This will just be a little thing calling together those who
28 disseminate information on your behalf to say please, this is
the
is
29 thing we have decided and this is what's going on. And this

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1 so and so. But for the image of the Court for people to be
2 reading different stories of one situation, I really am
concerned
3 that -- I'm not saying you should use your judicial function
to
4 do it but it's just administratively that it can be done.
There
11:33:26 5 are closer links between your information people and the
people
6 who disseminate information. Just talking to them I think
will
7 help.

8 PRESIDING JUDGE: Mr Witness, thank you.

9 JUDGE THOMPSON: Let me, for the enlightenment of the
11:47:45 10 witness, address specifically an issue that you alluded to in
admission
11 your advice to the Court, and that is in respect of the

of 12 in evidence of your statement, your written statement, in lieu
13 oral testimony and, of course, I address this to you since in
14 your evidence-in-chief you indicated, and quite rightly, and I
11:47:46 15 acknowledge that you are yourself a lawyer. Rule 92bis, under
16 which your statement was sought to be admitted in evidence in
17 lieu of oral testimony, stipulates certain legal criteria to
be 18 satisfied before the statement or information is received in
19 evidence and this Court, consistent with its Statute and the
11:47:46 20 Rules of Procedure and Evidence, by which it is guided, and of
21 which you were one of the leading architects, put the
statement, 22 the proposed statement, through that test and decided,
applying 23 the law, that in fact the statement did not measure up to that
24 test. It is my opinion, considered opinion, that indeed in
that 11:47:46 25 regard the Judges performed their duty in accordance with the
26 requirements of legality to which I know you've always been
27 committed and I am sure remain committed.
28 THE WITNESS: May I --
29 PRESIDING JUDGE: Let me -- yes, yes, you may, Mr
Witness,

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1 you may.

2 THE WITNESS: I just want to thank the learned Judge for
3 that statement, but just one correction: That my statement
was
4 as a result -- I wouldn't disown it at the moment because non
est
11:47:47 5 factum I cannot sign something --

6 JUDGE THOMPSON: Non est factum.

7 THE WITNESS: Exactly, so I'm not denying it, but the
8 Defence counsel's handiwork I just -- I trusted him, believed
in
9 him and just signed it, so that's the situation.

11:47:47 10 PRESIDING JUDGE: Yes. I was just going to say that you
11 were supposed to be in Court yesterday. You never -- you did
not
12 come here. The Court does not blame you for that at all
because
13 from the way we watched the proceedings, the impression may
have
14 been given to you that your statement would be admitted here.

11:47:49 15 Let me say one thing: There may be agreement between
the
16 Prosecution and the Defence, but it is for the Court to
determine
17 whether to accept that agreement or not, and whether it is in
18 conformity with the law, and that is what happened. Even
though
19 there was agreement between the two parties, we did not accept
11:47:49 20 that statement in evidence. So I hope that that clarifies the
21 situation and that is why, you know, you are here today.

22 THE WITNESS: Thank you. Thank you.

23 PRESIDING JUDGE: Thank you. Yes. Ms Mylvaganam, do
you

24 have any questions for the witness?

11:47:49 25
given

MS MYLVAGANAM: My Lord, I wonder whether I would be

26
friends

an opportunity to consult with Mr Kallon and my learned

27 to determine if, in fact, there are issues that need to be

28 canvassed with the witness.

29 PRESIDING JUDGE: Well, yes, you may.

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1 MS MYLVAGANAM: I see it's time, My Lord, for what is

2 usually --

3 PRESIDING JUDGE: It's 11.30. Okay.

4 MR JORDASH: I should perhaps be candid with the Court

11:47:50 5

that, in relation to yesterday, I specifically said to former

6 President Kabbah's lawyer that he should not attend Court

7 tomorrow -- yesterday -- because we were making applications

turned

8 which would have been rendered nugatory if, indeed, he had

9 up to Court, so it was --

11:47:51 10
President

PRESIDING JUDGE: That is why we don't blame ex-

11 Kabbah for not appearing yesterday.

12 MR JORDASH: I'm happy to accept the blame.

13 PRESIDING JUDGE: That's right. Yes.
14 JUDGE THOMPSON: And I make no reflection on you,
counsel.
11:47:51 15 MR JORDASH: Thank you.
16 PRESIDING JUDGE: Yes. Mr Witness, normally in this
Court,
17 you know, we take a tea break at 11.30. It's 11.40 now and I
18 think as you have another hub to go through, we would stand
down
19 your continued testimony, where you'll be cross-examined, and
11:47:51 20 we'll resume in the next couple of minutes so that we dispose
of
21 your evidence today, if we may.
22 THE WITNESS: Thank you.
23 PRESIDING JUDGE: Thank you. The Chamber will rise,
24 please.
11:47:51 25 [Break taken at 11.40 a.m.]
26 [RUF16MAY08B-BP]
27 [Upon resuming at 12.11 p.m.]
28 PRESIDING JUDGE: Learned counsel, we are resuming the
29 proceedings and, Ms Mylvaganam, do you have any questions in

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1 cross-examination for the witness, please?

2 MS MYLVAGANAM: My Lord, just a few.

3 PRESIDING JUDGE: Just a few.

4 MS MYLVAGANAM: If you will bear with me.

12:11:08 5 PRESIDING JUDGE: Right.

6 CROSS-EXAMINED BY MS MYLVAGANAM:

7 MS MYLVAGANAM:

8 Q. Sir, Mr Witness, ex-President Kabbah, I wonder if you
can

9 just help me with a few matters that you've raised in your
12:11:17 10 testimony. You told us about the Lome Peace Accord, which was

11 the final agreement was July '99. Now, you were a party to
that

12 agreement, as you've told us, and is this correct: That the
13 essential spirit of Lome was power sharing; is that fair?

14 A. One of the spirits of the agreement was, yes, to
12:11:56 15 accommodate the RUF.

16 PRESIDING JUDGE: Counsel is specific with the choice of
17 her words; she has said "power sharing."

18 THE WITNESS: It's the same thing we're talking about.
19 Power sharing, it was not -- that was not the main objective.

12:12:19 20 The main objective of the agreement was to stop the war, to
bring
21 it to an end.

22 PRESIDING JUDGE: But one of objectives also was power
23 sharing?

24 THE WITNESS: No, it was not an objective, as such. It
was

12:12:35 25 a condition for the agreement, and that's my own reading of
it.

26 We are going to get this agreement; we are going to enter into
27 peace and that's the main objective. Now, but in order to do

28 this, that and the other, then you'll accommodate them in this
29 way, that way and the other; that's what I understand from it.

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1 MS MYLVAGANAM:

2 Q. Thank you, sir. But is this the position: There had
been
3 a ceasefire from about May '99; do you accept that?

4 A. I, you are asking me again, as they did this morning, to
12:13:27 5 give timeframes within which certain -- dates within which
6 certain events took place. Now, there was a ceasefire, yes.

7 Q. Thank you. And do you agree this: That in fact in
order
8 to reach peace -- peace being the objective -- that there are
two

9 options: Either a military solution or a peaceful negotiated
12:13:55 10 settlement; do you agree there are two options always
available
11 to the protagonists?

12 A. Yes.

13 Q. And do you agree this: That in fact Lome was the
14 manifestation of the regional political will, certainly
amongst

12:14:11 15 the leaders of West Africa, and indeed yourself included, to

16 bring peace to your country; is that fair?

17 A. That's fair, yes.

18 Q. And when I say the political will of the regional
leaders,

19 you've mentioned President Obasanjo, and indeed all those

12:14:36 20 involved in the signing of Lome -- I think there was some 17

21 heads of state; do you agree?

22 A. Mmm.

23 Q. Who were anxious for peace in your country; do you
agree?

24 A. Yes.

12:14:55 25 Q. And sir, do you agree this: That the --

26 PRESIDING JUDGE: Ms Mylvaganam, did you say there were
how

27 many -- there were 17 heads of state who signed Lome?

28 MS MYLVAGANAM: Seventeen.

29 PRESIDING JUDGE: Mr Witness, how many heads of state
were

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1 party to Lome?

2 THE WITNESS: My recollection on the exact number of --

3 PRESIDING JUDGE: Were there signatories or they were
just

4 --

12:15:23 5 THE WITNESS: No. In fact the signatories were only
myself
6 and Foday Sankoh and about -- and witnesses, Charles Taylor
7 Compaore and President Yadema. There was about five of us who
8 signed it.

9 MS MYLVAGANAM: My Lord, I believe before the Court is
12:15:46 10 Exhibit 304, which was a document elicited through General
matter 11 Opande, which has all the signatories so in due course the
12 can be fully clarified. If I'm wrong by saying 17 were
13 signatories, then I apologise. But there is a document, the
14 final communiqué of Lome, which has a number of signatures
from 15 recollection.

16 Q. I think, sir, you agree with me?
17 A. Again, there's a question of time having been involved
in 18 this because, really, these are matters of details that I
19 didn't pay my attention to. My attention was we should have a peace
12:16:40 20 agreement which should be signed and valid and the question as
to 21 how many people signed it, who they were, I think it's just a
22 side issue.

23 Q. Yes, you're right. The identities of who signed are a
24 minor detail save for this: The political will of the
regional 25 leaders for peace is a significant feature; do you agree?

12:17:06 26 A. It's a significant feature and it was demonstrated by
their 27 presence there; that's all. Everybody, it was packed full.
Not

28 only from the subregion but also from our countries outside of
29 Africa.

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1 Q. Absolutely. Because the Lome agreement had not only the
2 ECOWAS peace and security committee's support, but it had the
3 international community's support; is that right?

4 A. Well, there is one aspect, which I remember vividly,
that

12:17:47 5 is the UN representative that was there refused to sign to it
6 because of certain clauses in it which he did not accept.

7 Q. And who was that, please?

8 A. Mr O'Kelo, he was the UN representative here. He was
with
9 us there.

12:18:15 10 Q. But in any event, as far as you were concerned, at the
end

11 of Lome, that was the colours under which you and your
government
12 were flying; would that be fair?

13 A. Which -- which government?

14 Q. After the Lome agreement, those were the terms of
reference

12:18:33 15 that you were seeking to bring peace to your people?

16 A. Oh, yes. Oh, yes.

that, 17 Q. And to the country of Sierra Leone. We're agreed on
18 I hope?
19 A. My government, yes.
12:18:44 20 Q. Your government. And you didn't like the term "power
21 sharing." Of course that was one aspect of it. But basically
a
22 negotiated peaceful settlement means some degree of power
23 sharing?
24 A. You see, this was an element that we took into
12:19:09 25 consideration in arriving at a peace process, but it was not
the
26 thing. But in any case, in any case, whatever was in that
27 agreement, we, as a government, tried to keep to it fully.
28 Q. Now, thank you for that. Because of course, without the
29 political will to abide by the terms of the Lome peace
agreement,

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1 it would be very difficult for peace to ensue. Political will
2 must underline any agreement; do you agree with that?
3 A. Absolutely and that was fully demonstrated by the
4 government. But we had problems with the RUF.
12:20:04 5 PRESIDING JUDGE: Mr Witness, if I may put a question to

6 you at this stage: Would the RUF have signed the agreement if
7 there was no provision for power sharing.

8 THE WITNESS: When we arrived at that somewhere midway
in
9 the negotiations. I was not involved in the actual
negotiations

12:20:30 10 myself. I was just consulted by telephone. But I believe
that

11 they had made an earlier exaggerated demand which we did not
12 accept, and then --

13 PRESIDING JUDGE: But finally you accepted with, I mean
to
14 give them four portfolios.

12:20:53 15 THE WITNESS: We did and we did not renege on that.

16 PRESIDING JUDGE: If you did not accept to give them
these
17 four portfolios would they have come on board to sign the
18 agreement.

19 THE WITNESS: Now, this is what -- we had agreed so it
12:21:05 20 doesn't -- it's not a question. It's a hypothetical at this
21 stage.

22 PRESIDING JUDGE: Yes.

23 THE WITNESS: Because the thing is that we agreed --
there
24 was a provision in the agreement that we will give them four
12:21:18 25 positions. We delivered on that. They reneged later on.
That's

26 my point.

27 PRESIDING JUDGE: My question is still not really
answered,

28 you know. And that is what counsel, you know, is insisting
on.

29 If you did not accept to give them the four cabinet positions,

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1 you never reneged on that, you know, you gave them the four
2 cabinet positions and they were sitting with you in cabinet.
3 That is what -- that is your evidence.

4 THE WITNESS: That is true.

12:21:55 5 PRESIDING JUDGE: If you did not, would they have signed
6 Lome.

7 THE WITNESS: That is hypothetical and you expect me,
it's 8 hypothetical.

9 PRESIDING JUDGE: Mr -- Mr Witness, I don't think it is
12:22:04 10 hypothetical. I think it is a reality. I mean it is not
11 hypothetical because it was a fundamental clause, you know, in
12 Lome, you know. Would they have signed Lome if that
fundamental 13 clause were not part of the agreement.

14 THE WITNESS: Now, the point is that I say that -- you
say 15 that if the fact that is that we will give to them four
16 positions.

17 PRESIDING JUDGE: Yes.

18 THE WITNESS: Now, you are saying supposing we did not.

19 PRESIDING JUDGE: Yes, would they have signed.
12:22:33 20 THE WITNESS: That makes it hypothetical with respect.
21 Because we gave them and because we gave them it could have
been
22 that they [indiscernible] I don't remember.
23 PRESIDING JUDGE: Did you -- did you Mr Witness, is it
on
24 your own accord that you gave them those positions or it was
they
12:22:50 25 who asked for the position.
26 THE WITNESS: They asked for the positions.
27 PRESIDING JUDGE: They asked for the positions.
28 THE WITNESS: Yes.
29 PRESIDING JUDGE: Which of course means, you know, that

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- I
1 they made it a condition, you know, to sign -- to sign the
2 agreement so it is to me -- well, it's a matter for
3 consideration, you know, later on but I wanted it to be very -
4 wanted it to be very clear on this as to what their position
12:23:09 5 would have been to signing that accord if they were not given
the
6 positions they asked for.
7 THE WITNESS: I'm sorry I cannot guess --

8 PRESIDING JUDGE: You cannot guess.

9 THE WITNESS: -- what their position was going to be.

12:23:18 10 PRESIDING JUDGE: Thank you Mr Witness. Yes, you may
11 continue, please.

12 MS MYLVAGANAM: Thank you, My Lord.

13 Q. Now, sir, you told us about a meeting that you had one
14 Saturday morning when you called Foday Sankoh to meet you and

he

12:23:36 15 came at your request; is that right?

16 A. We agreed, yes, to meet.

17 Q. And this was after Lome?

18 A. Um-hmm.

19 Q. And he was asked about his position that had been
accorded

12:23:53 20 him under Lome; is that right?

21 A. Um-hmm.

22 Q. And he was told he would have to be accountable to a
23 minister; is that right?

24 A. He was told, yes, he was told what his position was.
That

12:24:13 25 was chairman of the Strategic Mineral Resources Commission and
on

26 the basis of that he said well, everything about mineral
27 resources in this country was to be presented to him. Then we
28 explained -- that's when I explain that no, that was not the
29 understanding.

1 Q. So can I ask you this: Are you able now, and I know
it's
2 difficult some years later, but are you able now to tell us
the
3 name of that minister to whom he was to be accountable?
4 A. No, there was no -- at that time we were talking --
we're
12:24:52 5 not talking about individuals and we had not even appointed
6 ministers who were to work with whom. So there was no
question
7 of individuals come into it. It was the principle of how to
8 implement it.
9 Q. So can we agree this, that this meeting that was set up
by
12:25:12 10 you and to which Foday Sankoh came, was a meeting to implement
11 the terms of Lome; is that fair enough?
12 A. Yes.
13 Q. And at the end of that meeting, there was, as far as
you've
14 told us so far, a belief by Mr Sankoh that he was being sold
12:25:36 15 short; would that be fair?
16 A. It would be fair to say that, yes.
17 Q. And that he believed, whatever your perceptions were of
18 that meeting, that he believed that the terms of the agreement
of
19 Lome were being abrogated by what was being proposed to him at
12:25:54 20 this meeting you've described; would that be fair?
21 A. I think he -- he was a bit disappointed, yes, at that

22 point.

Lome 23 Q. And he was disappointed because he had understood that

24 represented a genuine peace agreement made between parties

12:26:16 25 committed to the peace process?

view 26 A. Well, yeah, but I also looked at it from the point of

27 that he misunderstood it.

28 Q. What did he misunderstand specifically?

29 A. As to what his exact functions were to be.

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Lome 1 Q. But his function had been defined, had it not, in the

2 agreement?

Commission, 3 A. As chairman of the Strategic Mineral Resources

4 not as the sole owner and proprietor of the Strategic Mineral

12:26:58 5 Resources Commission.

6 Q. Indeed, he was specifically named in the Lome --

7 A. Oh, yes.

8 Q. -- agreement?

9 A. We had no problem with that.

12:27:14 10 Q. He was answerable to whom?

the 11 A. Well, he would have been answerable perhaps to me or to
12 minister Of Mineral Resources.

13 Q. When you say or perhaps to the minister of mineral
14 resources, it suggests that the role minister of mineral
12:27:35 15 resources was something that perhaps had not been reflected in
16 the agreement of Lome; do you agree?

and 17 A. You see, the question of somebody running a government
18 somebody --

19 PRESIDING JUDGE: But the role of a minister of mineral
12:27:54 20 resources would not be reflected in Lome. That is a matter
for 21 the internal sovereignty of the state.

22 THE WITNESS: Absolutely.

23 PRESIDING JUDGE: It's a matter for the internal
24 sovereignty of the state so it is the President of the
Republic

12:28:07 25 who determines the roles and attributions and functions of the
26 various ministers and ministries, it's not Lome.

but 27 MS MYLVAGANAM: My Lord, I do of course I accept that
and 28 of course we're talking about what happens subsequent to Lome
but 29 if I may -- and I know it's some time ago, President Kabbah,

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1 the particular article --

you

2 PRESIDING JUDGE: Does the witness have a copy of what
3 want to read to him? Has he been given.

12:28:50
of

4 MS MYLVAGANAM: My Lord, I believe Court Management have
5 the documents and I wonder whether you could go to Article 5
6 the Lome accord.

send

7 PRESIDING JUDGE: He doesn't have it as yet so don't
8 him there yet.

12:29:40

9 MS MYLVAGANAM:
10 Q. Have you got it, sir?

11 A. Yes.

12 Q. Now would you look, please?

13 PRESIDING JUDGE: Ms Mylvaganam, you say it's Exhibit 30
14 what?

12:29:48

15 MS MYLVAGANAM: 4, My Lord.

16 PRESIDING JUDGE: Yes, thank you.

evidence.

17 MS MYLVAGANAM: Exhibited during General Opande's

pardon.

18 Q. President Kabbah -- ex-President Kabbah, I beg your

12:30:08

19 Article 5, paragraph 2, the chairmanship of the board of the
20 commission for management of strategic resources national
21 reconstruction and development as provided for in Article 6 of
22 the present agreement --

23 JUDGE BOUTET: 7.

24 MS MYLVAGANAM: 7, I beg your pardon, of the present
12:30:27 25 agreement shall be offered to the leader of the RUF/SL
Corporal

26 Foday Sankoh. For this purpose, he shall enjoy the status of
27 vice-president and shall therefore be answerable only to the
28 President of Sierra Leone.

29 THE WITNESS: Yes.

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1 Q. So his role, you see, as defined by the peace agreement,
2 was stated there in that comprehensive peace agreement?

3 A. Um-hmm.

4 Q. And there was nothing there about a minister for mining;
do
12:31:11 5 you follow?

6 A. I follow.

7 Q. So this was a new development which you were bringing to
8 the table subsequent to Lome?

9 A. No, no, no. No, no, no. You see, the point is that I
12:31:22 10 appoint ministers. I assign them responsibilities. Now, for
11 example, just before I left office, I was not only president,
but
12 I was also minister of defence of this country. So that

but 13 particular reference to minister of mines could have been me

14 at the time we were talking it was something different.

12:31:54 15 Q. You agreed with my question to you earlier that he
at 16 perceived that you were really moving away from the agreement
to 17 the end of that meeting. You agreed with that question I put
18 you, didn't you?

19 A. I understood that from his reaction that he didn't quite
12:32:09 20 understand what it was, so that got him into his original
21 position.

22 Q. And who subsequently became the minister of mining under
23 your government post Lome?

24 A. I don't remember now. It's a long time.

12:32:27 25 PRESIDING JUDGE: Can you think, Mr Witness? Can you
political 26 reflect on that? I am sure, you know, you have these
27 resources in your brains that.

28 THE WITNESS: No, but let me see. The one just before
the 29 end.

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something 1 PRESIDING JUDGE: Appointing a government is not

2 you do by accident.

end 3 THE WITNESS: Let me tell you, the one just before the

minister 4 of the -- of my term, the minister, was definitely not a

12:32:56 5 at that time. At that time I think maybe Mr -- Dr Harding or

6 somebody like that was who subsequently became minister of

7 transport and [overlapping speakers].

8 PRESIDING JUDGE: Post Lome.

9 THE WITNESS: Yes.

12:33:13 10 PRESIDING JUDGE: I mean she is talking about post Lome.

11 THE WITNESS: That's what I'm talking about.

12 PRESIDING JUDGE: It could have been Harding.

13 THE WITNESS: Yes.

14 MS MYLVAGANAM:

12:33:20 15 Q. Did you have occupy that position?

16 A. No.

17 Q. But in any event, you agree that the term "vice-
president"

18 is clearly stated?

19 PRESIDING JUDGE: What's Mr Harding's other name,
please.

12:33:39 20 THE WITNESS: Charles.

21 PRESIDING JUDGE: Thank you.

22 MS MYLVAGANAM:

23 Q. And is this right, whoever was -- whoever occupied that

24 sensitive role would be the person who would determine which

12:33:52 25 interests -- which multinational, which private individual,
would

26 have access to the resources of Sierra Leone?

27 A. Well, again, let me tell you how our system works. When
28 there is a major investment, then the ministry -- the
29 responsibility is to really prepare the groundwork, prepare
the

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1 documentation, look at all the professional aspects that have
to
2 be looked at, and then prepare what we call a cabinet paper.
And
3 that cabinet paper goes to the cabinet secretariat and to the
4 National Policy Advisory Committee which I set up and that
12:34:46 5 particular National Policy Advisory Committee will scrutinise
6 that cabinet paper and then come out with a reply -- with some
7 comment on it -- and those comments may be different and
8 recommendations may be different from the ministry's position
9 and, when the thing is considered in cabinet, of which I was
the
12:35:16 10 chairman, with all the other ministers participating, then
11 whatever comes out of it, that's what the actual decision is
and
12 it is not just because somebody is chairman or somebody is
13 minister that what he says is what's going to happen. We
wanted

do 14 to have something that will be transparent and that's how we
12:35:36 15 it.
course 16 Q. Thank you, sir. But is the answer essentially, of
17 leaving aside the model that you've described which may or may
18 not work in a perfect world, is in reality the answer to my
19 question: Yes, that is in fact a significant position? Is
there 20 some difficulty in giving that answer?
12:36:00 21 A. To be minister of --
22 Q. Of mining in Sierra Leone is a significant position I
23 suggest?
24 A. Yes, of course. Of course. Calm down. Calm down.
Yes, 12:36:18 25 of course.
26 Q. Thank you.
27 A. That's okay.
28 Q. Thank you so much. And would you say that that is, in
29 fact, equivalent to the position of a Vice-Presidency?

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1 A. No, no, not -- no, no.
2 Q. But it was described as that in the Lome agreement?

3 A. No. We said similar to that.

4 Q. I see.

12:36:34 5 A. And, in fact, in particular what we were doing there was
6 that we give him some privileges. That was the intention

7 They will give you some privileges but when it -- that the --
8 that the President -- the Vice-President enjoys, but, because
of

9 this we give that to him, or we are going to give that to him,
12:37:03 10 but he was to report to somebody. And if he -- if he had
11 cooperated fully all the way -- if he had cooperated fully
12 without creating the problems that he created at that time

after

13 the Lome, then who knows, maybe I would have said yes.

14 PRESIDING JUDGE: Could it be that he created the
problems

12:37:26 15 because he was not given the privileges?

16 THE WITNESS: No, not really. From the very -- from
right

17 there it was because of tremendous pressure that was brought
on

18 him; that's why he cooperated. But as I told you earlier on
in

19 my evidence, main evidence, that after Lome we had to go
through

12:37:47 20 a lot of trouble to get him to come back home; he didn't come
21 home. He went to other places. And when he came, I made a
very

22 big reception to receive him here, to be part of it, so that
he

23 can feel comfortable.

24 MS MYLVAGANAM:

12:38:06 25 Q. So -- he felt he was being short-changed whatever your

being

26 professed good intentions were at this stage he felt he was
27 short-changed; we agree on that?
28 A. Yes, I think he gave that impression that he was
29 disappointed.

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it?

at

shall

12:38:44

end

12:38:54

1 Q. Maintaining trust in the process at this stage was
2 essential for the progression of this peace process, wasn't

3 A. Of course. This is why we went out, reached out to him
4 that stage and tried to tell him to cooperate and then we
5 work this all out.

6 Q. I see. Thank you, sir.

7 PRESIDING JUDGE: Is that all?

8 MS MYLVAGANAM: Thank you, My Lord.

9 PRESIDING JUDGE: You should inform us that that is the

10 of your cross-examination.

11 MS MYLVAGANAM: I'm so sorry, I'm responding to my
12 instructions.

13 PRESIDING JUDGE: Good. That's the end of your
14 cross-examination, Ms Mylvaganam?

12:39:04 15 MS MYLVAGANAM: Thank you, My Lord.

16 PRESIDING JUDGE: Mr Cammegh, it's your witness.

17 CROSS-EXAMINED BY MR CAMMEGH:

18 MR CAMMEGH: Thank you, Your Honour.

19 Q. Mr Witness, good afternoon. I don't have any many
12:39:39 20 questions for you but there are one or two issues I would like
21 you to help me with, if you can. I represent Mr Augustine
Gbao,
22 who is the defendant sitting furthest away from you in the
dock.

23 A. Can he stand? Let me see him. I've never seen him
before.

24 Q. I understand you've never been introduced. I just want
to
12:39:58 25 refer back to some of the comments that you made during your
26 evidence-in-chief in which you indicated on various occasions
27 that you were not aware of day-to-day events going on within
this
28 country during the years of the war. I think in particular
29 between the years of '97 and 2001; would that be fair?

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1 A. Did I say that?

2 Q. It might have been my impression rather than what you
said.

3 If so, forgive me.

4 JUDGE BOUTET: I don't think the witness testified that
he
12:40:32 5 was not aware.

6 PRESIDING JUDGE: The witness didn't say that.

7 JUDGE BOUTET: He said he may not recall the dates but
he
8 didn't say he was not aware.

9 MR CAMMEGH: Yes.

10 Q. Well, can I put the question in this way then: Is it
your
11 evidence that day-to-day events within Sierra Leone,
particularly
12 within the areas where the conflict was raging, did not
13 necessarily come to your attention?

14 A. No. As -- I as President, and commander-in-chief of the
12:41:05 15 armed forces, which includes -- and also as the chief security
16 officer of the State, particularly that type of war that we
had
17 here, I had to know day and night. Sometimes they will wake
me
18 up to tell me what's happening somewhere.

19 Q. Were you ever made aware of Kamajor atrocities between
'97
12:41:29 20 and the end of '99 anywhere in the country?

21 A. Well, I was --

22 PRESIDING JUDGE: Mr Cammegh, I wonder if the witness
has
23 provided the answer to your question, you know, whether he was
24 following the day-to-day events, you know, in areas of the
12:41:48 25 conflict. I didn't clearly get his response to this. He only
26 stated and said, you know, that as President and

your

27 commander-in-chief, and also the chief security officer of the
28 State, you know, I didn't follow that he had really answered
29 question very well. So may you please take him there.

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like?

from

12:42:28
and

been

will

up,

1 MR CAMMEGH:

2 Q. Mr Witness, you're invited to expand on that, if you

3 A. Well, I will. Now, I was fully briefed about every
4 movement of the rebels. Now, they will say they are moving

5 -- they briefed me that they are moving from here to there,

6 what do we do? They will brief me that so many people have

7 killed somewhere there and so on; what do we do? And they

8 give me this type of information.

9 Q. Right.

12:42:45 10 A. But not the names of the people who will be involved in
11 these atrocities, and that's why I asked for Mr Gbao to stand

12 because I heard his name around, but I never met him.

13 Q. Yes.

14 A. And I never heard anything directly to do with him as an

12:43:10 15 individual.

16 Q. No, I think that's agreed. I understand what you just
17 said, which is that you were informed of the movements on a
18 regular basis of rebel forces. Of course, and I hope this is
not
19 controversial, it's certainly true following the intervention
12:43:34 20 into Freetown in, February of 1998, that ECOMOG and Kamajor
21 forces, in league with the CDF, were on the move themselves;
were
22 you aware of that?

23 A. Yes, I'm aware that they were.

24 Q. And I don't think it's the time or place to go into
close
12:43:55 25 specifics, but I hope this is not controversial either, that
26 there came a time --

27 PRESIDING JUDGE: Yes, Mr Cammegh, when you say the
ECOMOG
28 and the Kamajors were on the move themselves, what was this
move?
29 MR CAMMEGH: I'm coming to that, Your Honour.

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1 PRESIDING JUDGE: Yes.

2 MR CAMMEGH: I'm trying to do that now.

3 PRESIDING JUDGE: Right.

4 MR CAMMEGH:

12:44:12 5 Q. As I was about to say, I don't think it's controversial
6 that sometime in let's say late February of 1998 Kamajor and
7 ECOMOG forces had reached Kenema; were you aware of that?

8 A. Yes, they were around Kenema, yes. And, Mr Gbao, are
you
9 from Segbwema?

12:44:35 10 ACCUSED GBAO: Yes.

11 THE WITNESS: You are from Kenema, so that's his own
area.

12 MR CAMMEGH:

13 Q. I just wondered whether you'd -- or any information as
you
14 say you were in constant touch with intelligence forces and
what

12:44:51 15 have you -- I wondered whether you were made aware of events
16 taking place in Kenema Town when the Kamajors entered that
17 location, around the end of February?

18 MR HARRISON: Objection. The Prosecution takes the
19 position that the issues for trial before this Court do not
12:45:10 20 involve acts or alleged acts of Kamajors in Kenema or any
other
21 location in this Republic of Sierra Leone.

22 PRESIDING JUDGE: Yes. But what if, what if those acts
of
23 Kamajors impacted on the acts for which these accused persons
are
24 prosecuted; what will be your response to that, Mr Harrison?

12:45:34 25 MR HARRISON: If the Court was satisfied that there was
26 evidence before you demonstrating already that the acts of
27 Kamajors in some way shaped either motives or conduct of the

28 accused, then it may be relevant, but, absent the evidence
29 already being before the Court, then it is not relevant.

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1 PRESIDING JUDGE: Yes, Mr Cammegh.

2 MR CAMMEGH: Shall I respond to the objection?

3
this

3 PRESIDING JUDGE: We don't want to multiply issues at

4
to

4 stage, you know, with the Kamajors; we want to limit the trial

12:47:25
has

5 the purport, you know, of the testimony of this witness who

6
that's

6 been called here by one person, and one person only, and

7
RUF

7 Mr Issa Sesay who is being prosecuted on the etiquette of the

8 and the [indiscernible] of the RUF so --

9
in

9 MR CAMMEGH: Your Honour, there's great public interest

12:47:51
was

10 these events, and I'm just anxious that I'm allowed to explore

11
daily

11 what the honourable witness said in chief, which is that he

12
often

12 -- well, he has just told me which he was made aware on a

13 basis of rebel movements. Given that rebel movements were

forces, 14 consonant and contemporaneous with those of the defence
12:48:17 15 and I think we all know that there's a lot of evidence before
the 16 Court that what happened at Kenema indirectly led to a lot of
17 events in Kailahun in the following month or so, there may be
a 18 public interest in knowing just how much the former President
19 knew about movements of pro-defence or pro-CDF forces at that
12:48:37 20 time. Lest one perhaps gains the impression that although the
21 witness is being allowed to testify in relation to one side of
22 the conflict, he's being prevented from talking about the
other. 23 That would be an unfortunate conclusion for the gallery to
draw, 24 I submit.
12:48:52 25 PRESIDING JUDGE: Well, let the gallery draw the
26 conclusion. We are not going there.
27 MR CAMMEGH: Very well.
28 PRESIDING JUDGE: We are not going there.
29 JUDGE BOUTET: What is important is what's relevant for

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1 this trial.

2 PRESIDING JUDGE: We're not playing to the gallery. We

3 don't have to play to the gallery. We are not playing to the
4 gallery. We will take decisions the way we want to take them,
so

12:49:10 5 that is it.

6 MR CAMMEGH:

7 Q. Well, very well, Mr Witness. I won't ask you about your
8 knowledge of any pro-government forces during this time. Can
I

9 just movement forward in time to 2001. You've told the Court
12:49:36 10 today that you believe greatly in the Special Court of

11 Sierra Leone and, indeed, I think you -- you said that this
was

12 in fact your brainchild: I think you told us that earlier on
13 today. Clearly, it's something you are very proud of and it's
14 something that, given your words towards the end of Mr
Jordash's

12:49:59 15 examination, it's something that you wish to place into some
form

16 of legacy. It's a legacy for the subregion, in your words.
My

17 learned friend for Mr Kallon has already touched on some
aspects

18 of the Lome Peace Accord, and I very briefly just wanted to
ask

19 you a couple of questions about Article IX of that document
which

12:50:32 20 comes under the heading "Pardon and Amnesty."

21 PRESIDING JUDGE: Article IX.

22 MR CAMMEGH: Article IX, yes. It's on page 13, if one
23 looks at the top right-hand corner.

24 PRESIDING JUDGE: "Pardon and Amnesty", yes, we are
there.

12:50:52 25 MR CAMMEGH: Yes.

26 Q. Now, in fact, if one goes over the page, Mr Witness, I
27 just -- if the Court will forgive me, I'm going to read out
these
28 two paragraphs aloud so that everyone is aware of what I'm
asking
29 you about, and that nothing can be confused. Paragraph 2 of

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1 Article IX reads as follows.
2 "After the signing of the present Agreement, the
Government
3 of Sierra Leone shall also grant absolute and free
pardon
4 and reprieve to all combatants and collaborators in
respect
12:51:26 5 of anything done by them in pursuit of their objectives,
up
6 to the time of the signing of the present Agreement."
7 Paragraph 3:
8 "To consolidate the peace and promote the cause of
national
9 reconciliation, the Government of Sierra Leone shall
ensure
12:51:42 10 that no official or judicial action is taken against any
11 member of the RUF/SL, ex-AFRC, ex-SLA or CDF in respect
of
12 anything done by them, in pursuit of their objectives as

13 members of those organisations, since March 1991, up to
the
14 time of the signing of the present Agreement. In
addition,
12:52:06 15 legislative and other measures necessary to guarantee
16 immunity to former combatants, exiles and other persons,
17 currently outside the country for reasons related to the
18 armed conflict shall be adopted ensuring the full
exercise
19 of their civil and political rights, with a view to
their
12:52:24 20 reintegration within a framework of full legality."
21 The question that I would like to pose at this point,
22 Mr Witness, given your professed belief and, indeed, your
efforts
23 towards the inception of this institution, is what was it that
24 changed your mind, that validated or justified in your mind
the
12:52:53 25 setting up of this Court and the trial of various individuals,
26 notwithstanding the implementation of this Article about two
27 years previously?
28 A. Now, there is something I want to tell you why we had to
go
29 ahead and -- because after signing this agreement, within days

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1 after signing this agreement Foday Sankoh repudiated this
2 agreement by refusing to come and work here. As I've said
3 earlier on, we had to go around again the subregion talking to
4 people, getting them to come mediate and so on. He left Lome.
12:53:47 5 He went to Abidjan. Then he went to Liberia where everything
was
6 cooked up and then it was with considerable pressure that he
came
7 here. Now, these agreements and these -- and then when he
came,
8 we received him extremely well, both himself and another rebel
9 leader, Johnny Paul Koroma, at Hill -- my Hill Station
12:54:18 10 residence -- invited people, diplomatic corps and so on. We
even
11 set up what we call a committee comprising, not only myself
and
12 my government, my ministers, but ambassadors from the UK, the
13 United States and others, and then set up a committee that we
14 called the NCDDR, and then we had another committee we called
--
12:54:53 15 and I appointed a former vice-president specifically to be in
community
16 charge of trying to reintegrate these people into the
17 so that we will work together as a team and they, during that
18 time, they kept on doing -- committing atrocities. They
didn't
19 cooperate and where we got the patience from to continue doing
12:55:18 20 this, I just don't know.
21 Q. So you're saying --
22 A. So, how -- therefore, as far as from that time we
thought
23 that by their actions they had repudiated this agreement.

24 Q. So you say that the RUF continued to commit atrocities
12:55:35 25 after July of 1999?

26 A. That's correct.

27 Q. And do you think that events around Makeni in May of
2000 28 may have had some bearing as to whether or not this Court was
29 going to be set up?

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and 1 A. The Court, we had decided that we were going to do it,
2 I personally spoke to the Secretary-General, and he sent a
3 Mr Ralph Zacklin, being somebody that I knew beforehand.

4 Q. Right.

12:56:11 5 A. He was assistant secretary-general and he came, looked
at 6 this agreement, and then came with an agreement which we
ironed 7 out and spoke about very, very carefully --

8 Q. Yes.

9 A. -- before we decided to put this up. And then, as I
say,

12:56:27 10 it was not only that but we were able to mobilise funding for
11 these ex-combatants to resettle them in their communities.

12 Q. Yes.

13 A. And I appointed some people, headed by a former
14 vice-president, to go to those areas and beg the people to
please
12:56:49 15 embrace them and get them back. But no, they were continuing
16 business as usual so, therefore, we, this one, as far as we
were
17 concerned, it was passe.
18 Q. So you've said that it was, so far as you were
concerned,
19 the RUF continued -- or continued to repudiate Lome after July
12:57:14 20 '99 by committing further atrocities?
21 A. Let me tell you one thing: The way they did it. Now,
22 believe me, you go and ask anybody they will tell you, we
first
23 signed -- the first agreement was signed in Abidjan. I went
24 there myself for us to sign the agreement in Abidjan, Cote
12:57:44 25 d'Ivoire, and then as we were signing the agreement, as soon
as
26 we finished signing it, Foday Sankoh sent a message to
27 Sam Bockarie telling him that he signed it, it was just to
keep
28 the international communities quiet. He didn't mean it. Now
29 that's the same thing that was applied to this.

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that
Or
12:58:21
was
the
12:58:58
the
was
12:59:16
if
in

1 Q. So you would disagree, would you, if I were to suggest
2 Foday Sankoh disarmed themselves, Segbwema and Fadugu between
3 November '99 and March 2000? Would you disagree with that?
4 would you say that was just a sop to try and maintain the
5 appearance of cooperation?
6 A. No, in Segbwema there was something that happened there.
7 The Indian commander of the UN troops was almost beaten up by
8 Foday Sankoh.
9 Q. Right.
10 A. And himself and that Indian general, they armed, there
11 almost a fist fight. People had to separate them in Segbwema.
12 From that on, he left and went back home.
13 Q. I hear what you say. Your generic use of the word
14 "atrocities" continued by the RUF but of course it's not just
15 RUF who were tried at the Special Court, was it? It was also
16 CDF. What have they done post-Lome that warranted their
17 indictment at this Tribunal, insofar as you were concerned?
18 A. Well --
19 MR HARRISON: Objection. That's solely a question that
20 in the purview of the Prosecution to make a determination who,
21 anyone, should be put on trial.
22 PRESIDING JUDGE: Mr Cammegh, that question is not the
23 question we would expect the witness to answer, because the
24 privilege of preferring an indictment against, like they did

13:02:06 25 this case, is not the witness's prerogative. If he created
the
26 Court he, it's not said, and we don't have it on record, that
he
27 is the one who was recommending, you know, who should be
charged.
28 It's the privilege of the Prosecution and they decided to
29 exercise that privilege which is a statutory privilege and
that

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1 is it.
2 MR CAMMEGH: Your Honour --
3 PRESIDING JUDGE: It would be unfair to subject this
4 witness, you know, to answering, you know, why they were
charged.
13:02:35 5 MR CAMMEGH: Your Honour, again I'm not playing to the
6 public gallery, I hope I'm advancing public interest, but I
7 respect Your Honour's ruling.
8 PRESIDING JUDGE: We are not saying that you are playing
to
9 the public gallery. It is because you are caught by your own
13:02:47 10 words because you said that it would be unfair to the gallery
if
11 the Judges, you know --
12 MR CAMMEGH: [Overlapping speakers]/

13 PRESIDING JUDGE: -- so you brought in the public
gallery.

14 MR CAMMEGH: Yes.

13:02:58 15 PRESIDING JUDGE: It's not the Chamber, and we're not
16 saying that you're playing to the gallery.

17 MR CAMMEGH: No, no, I'm certainly not doing that. I'm
18 playing to public interest. It's my fault for using that
loose
19 language, and maybe I should have known better.

13:03:07 20 Q. But I'll move on from that then, Mr Witness, and I can
21 promise you we're very nearly finished, and I suppose it's in
the
22 spirit of public interest that I ask or move on to this topic.
23 You, with respect, have demonstrated a commitment and a belief
in
24 this institution which has been here since, I think, 2002, the
13:03:32 25 Special Court of Sierra Leone, and you have told this Court
26 today, and you've repeated it, that can I suggest you feel
this
27 is your legacy to the region, the introduction of
international
28 justice into this part of the continent, and not before time.
29 You referred, during your address towards the end of Mr
Jordash's

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of
think
You
13:04:25
the
commitment
13:05:00

1 examination-in-chief, to what you referred to as the politics
2 lies by rumours being peddled and things like that, and I
3 we're all aware that journalism here can be a bit creative.
4 referred to the fact that you've been accused of coming to
5 support the RUF but not appearing to want to testify during
6 CDF trial; you made that point. Can I ask you if your
7 to this institution is, as you say it is, why it was that when
8 you were requested to attend the CDF trial you sent the
9 attorney-general here to resist the subpoena that was laid
10 against you?

11 MR HARRISON: Objection.

12 PRESIDING JUDGE: No, no, no.

13 MR HARRISON: Objection.

14 PRESIDING JUDGE: No, we would not ask the witness to
15 answer this question.

16 MR CAMMEGH: Very well.

that
17 PRESIDING JUDGE: Even without the objection. I rule
18 out.

19 MR CAMMEGH: That's all right.

13:05:06
because
20 PRESIDING JUDGE: Before we started this trial I did say
21 what I said, and I don't think I want to go back to that,
22 if the attorney-general appeared here it was for a very valid
23 motive; it was for a very valid reason. This witness was a
24 sitting in head of state and the attorney-general was his

13:05:26 25 plenipotentiary in the signatory of the agreement, you know,
26 which brought this Court here and he is a medium of
communication
27 between this Court and the Government of the Sierra Leone.
28 MR CAMMEGH: Yes.
29 PRESIDING JUDGE: If the President has an attorney-
general,

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for
general
1 and he has a legal issue before this Court, it was only right
2 him at that time -- at that time -- to send his attorney-
3 to come and defend his interests as far as a subpoena was
4 concerned and we did, you know, grant that request which we
13:05:55 5 thought was legal.

CDF
6 MR CAMMEGH: I'm not going to argue with Your Honour's
7 ruling. I just, in support of the question I just posed, and
8 perhaps in support of the other two questions linked to the
9 that I posed --

13:06:04 10 PRESIDING JUDGE: Yes.

respect
11 MR CAMMEGH: -- I just want to make this point with
12 and I did indicate to Your Honour's yesterday I've been

13 instructed to ask a series of questions.

14 PRESIDING JUDGE: Yes. A series of acceptable
questions.

13:06:17 15 MR CAMMEGH: Well, that was as I indicated yesterday, it
is

16 for you to determine.

17 PRESIDING JUDGE: That was what we said.

18 JUDGE BOUTET: And you recognised yourself yesterday
that

19 it may not be acceptable -- I don't remember the language you
13:06:27 20 used but you had doubts.

21 MR CAMMEGH: I recognised that they might be worthy of
22 debate, yes. Of course, Mr Gbao didn't tender this trial for
a

23 very long time due to professed principles which he espoused
on

24 day one of this trial, and Your Honour, it's with that in mind
--

13:06:49 25 and I don't want to go into a political --

26 PRESIDING JUDGE: Which was his principle? Let's come
out,

27 you know. What was his principle that made him to -- not to
come

28 to this Tribunal. What was his stand?

29 MR CAMMEGH: In brief, what he felt was a violation of
the

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1 peace accord and there's no need to --

2 PRESIDING JUDGE: A violation in what sense?

3 MR CAMMEGH: A violation of Article IX.

4 PRESIDING JUDGE: Of Article IX?

13:07:09 5 MR CAMMEGH: Yes.

6 PRESIDING JUDGE: Was that issue not put to rest by the
7 Appeals Chamber in this particular immunities and so on and so
8 forth, was that not put to rest by a decision of the Appeals
9 Chamber of this Court, which arose from a challenge of the

13:07:28 10 jurisdiction of this Court, you know, based on the Lome
accords

11 and we fast-tracked it to the Appeals Chamber, and there was a
12 decision. Should we visit that issue now, Mr Cammegh?

13 MR CAMMEGH: Your Honour, we're all cognisant of that
14 decision.

13:07:45 15 PRESIDING JUDGE: Yes.

16 MR CAMMEGH: But my client is, I was going to say he sat
17 here for four years, that's not strictly correct, but he sat

18 for a long time in good faith having reconciled his mind to
the

19 position that he found himself in. And, as I announced

13:08:04 20 yesterday, I find myself in the position where I'm instructed
to

21 ask some questions which are designed to meet his fears.

22 PRESIDING JUDGE: But, but, Mr Cammegh, may I say this
to

23 you; may I say this to you. We accept that your client is
bound

24 to give you instructions.

13:08:22 25 MR CAMMEGH: Yes.
26 PRESIDING JUDGE: But it is for you as well to inform
your
27 client, and to advise him, as his legal adviser, on the
legality
28 of the questions which you are supposed -- which he is urging
you
29 to put to this Court. And I think your role as counsel in
this

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1 Tribunal is to assume a professional role and to tell your
2 client, in whatever circumstances that, you know, this
question
3 is not proper or the line of action you are asking me to take
is
4 not proper. I think that is the -- that is the -- what binds
the
13:09:05 5 contract you have, the professional contract you have, you
know,
6 vis-à-vis this Court and vis-à-vis your Chamber.

7 MR CAMMEGH: Can I just come in there.

8 PRESIDING JUDGE: Yes.

9 MR CAMMEGH: It's obviously not within my purview to
13:09:15 10 announce to this Court what I may or may not advise my client.
I

who 11 think it was generous of me, if I might say so, I don't know

12 is causing this feedback, I hope it's not me.

13 PRESIDING JUDGE: The technical hitches, as usual.

think I 14 MR CAMMEGH: It was out of candour yesterday that I

13:09:32 15 foreshadowed that there might have been some debate. I've
asked

16 questions which Your Honours have overruled. I'm not going to

17 seek to argue against your ruling, or go behind it, or advance

what 18 those questions or those topics in any other way. I've done

as 19 I have been instructed to do, and that's an end to it, as far

13:09:53 20 I'm concerned.

found 21 But I hope the Court recognises the position that I

very 22 myself in, particularly when presented with a client who has

them 23 deeply held principles which I can't deny his right to have

24 aired one last time after such a long trial, surely.

13:10:15 25 Your Honours have ruled, I say no more and I'll leave it
there.

26 PRESIDING JUDGE: I think there is -- there should be an

27 end to litigation, and I think your client should admit that,

28 that we can't keep going and coming back to similar issues.

29 MR CAMMEGH: As always --

1 PRESIDING JUDGE: Otherwise there will be no end to
2 litigation and that's it. We are all familiar with this
3 principle and I think we should apply it and Mr -- your client
4 should learn to live with even those decisions which are not
13:10:45 5 pleasant to him.

6 MR CAMMEGH: Well, I've asked the questions. They have
7 been overruled. I'll leave it there and, Mr Witness, thank
you
8 very much for your time. That's all I have.

9 PRESIDING JUDGE: Thank you, Mr Cammegh. Mr Harrison.

13:11:51 10 MR HARRISON: Yes.

11 PRESIDING JUDGE: As you would appreciate, it's your
turn
12 to cross-examine the witness, if you so desire. If you so
desire
13 I'm afraid we'll have to -- to rise for the lunch break and
14 resume the proceedings at 2.30.

13:12:07 15 MR HARRISON: Yes. I'm sorry, Mr Ogeto wished to
address
16 you first. I see he is not wanting to. To be as complete in
our
17 response as I can be, we would like to question the witness,
and
18 we would put an estimate of approximately 90 minutes.

19 PRESIDING JUDGE: 90?

13:12:27 20 MR HARRISON: Nine zero.

21 PRESIDING JUDGE: 90 minutes?

22 MR HARRISON: Yes, sir.

23 PRESIDING JUDGE: Yes, Mr Ogeto.

wanted 24 MR OGETO: My Lords, that is the indication that I

13:12:39 25 to get from the Prosecution.

afraid 26 PRESIDING JUDGE: Yes, fine. So it means that we're

27 your witness has to go home.

28 MR OGETO: Yes, My Lords.

29 PRESIDING JUDGE: And we'll take him on Monday. That is

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1 what it means.

2 MR OGETO: That is the direction.

3 PRESIDING JUDGE: That's the reality. We're sorry about
4 this but we have no other alternative, Mr Ogeto. And tell the

13:12:56 5 witness we are aware of the fact that he is sick but that
there

6 are certain imperatives. The calendar is full and there is
7 nothing we can do about it.

8 MR OGETO: I'll convey the message.

9 PRESIDING JUDGE: Let him bear with you. Yes, please.

13:14:50 10 Learned counsel, Mr Witness, we -- you've heard from the
11 Prosecution and it seems you will still have some time to
spend

12 with us here this afternoon. We are adjourning. We are
13 adjourning the proceedings you know to 3 o'clock because we
are

14 rising at 1.15 and beyond, so we would rise and resume the
13:15:24 15 session at 3 p.m. for you to face the cross-examination of
16 Mr Harrison. The Chamber will rise, please.

17 [Luncheon recess taken at 1.17 p.m.]

18 [RUF16MAY08C-BP]

19 [Upon resuming at 3.08 p.m.]

15:07:41 20 PRESIDING JUDGE: Good afternoon, learned counsel. Good
21 afternoon everybody. Mr Witness, good afternoon. Thank you.
22 Can you put your microphone on, please. Yes, thank you. Yes,
23 Mr Harrison, your witness.

24 MR HARRISON: I'll try to be briefer than the estimate I
15:08:06 25 gave before the lunch break.

26 CROSS-EXAMINED BY MR HARRISON:

27 PRESIDING JUDGE: We're in your hands because I was
28 frightened at the 90 minutes.

29 MR HARRISON: Yes, I noticed that.

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1 PRESIDING JUDGE: Yes.

2 MR HARRISON:

3 Q. I would like to start out by asking you some questions
4 about the Abidjan accord, and I'm going to give you a date and

15:08:39 5 I'm going to say that it was agreed to on 30 November 1996,
and

6 also that you were one of the persons who were a signatory to
7 that agreement; is everything I've said so far correct?

8 A. Yes.

9 Q. Now, what I want to ask you is: Are you aware if any
party
15:09:03 10 did anything to breach that agreement?

11 A. Oh, yes. Oh, yes. The day after we signed the
agreement

12 in Abidjan Foday -- no, the same day, Foday Sankoh sent a
message

13 to Sam Bockarie saying that he merely signed that agreement

14 because of the pressure from the international community, but
he

15:09:37 15 was really not committed to it.

16 Q. Now, we're still talking about the time period, this is
30

17 November, so if we're thinking about the end of November,

18 December of '96, maybe even the early part of '97, were there
any

19 acts of violence that you're aware of that would have been

15:10:04 20 breaches of the agreement?

21 A. In the first place, in communicating to his people in
the

22 field here, he told them to go on the offensive and not
relent.

23 Q. And I'm asking you these questions in the context of

24 intelligence reports that may have been passed on to you.
We're

15:10:30 25 all aware that you would not have been an eyewitness to any of

26 these events. But I'm going to suggest to you that there may
27 have been intelligence reports passed on to you, again in the
28 same time period, of breaches of the Abidjan accord taking
place
29 in Sierra Leone?

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1 A. That's correct.
2 Q. Are you able to assist the Trial Chamber as to any
specific
3 events or locations where you recall breaches taking place?

4 MR JORDASH: I'm sorry to leap up, but I have an
objection.

15:11:31 5 PRESIDING JUDGE: Yes.

6 MR JORDASH: The objection is essentially this: That
7 Your Honours ruled before the lunch break that we ought to be
8 careful about multiplying the issues, and that was on the
basis
9 of my learned friend Mr Cammegh's questions concerning --

15:11:31 10 PRESIDING JUDGE: The Kamajors.

11 MR JORDASH: -- the Kamajor activity.

12 PRESIDING JUDGE: Yes.

13 MR JORDASH: In the Kenema region, and Your Honours
decided

that 14 that that was impermissible and multiplying the issues, and
15:11:49 15 question asked by Mr Cammegh was in relation to the indictment
16 period. And now what we have is my learned friend asking
17 questions about -- which are focused on RUF activity --
18 intelligence reports received by the witness at the Abidjan
Peace
19 Accord period which, on the basis of Your Honour's previous
15:12:20 20 ruling, would appear to be again multiplying the issues much
21 beyond the issues which have been dealt with in the statement
22 which Your Honours have seen and which this witness gave this
23 week. It follows --
24 PRESIDING JUDGE: Are we still guided by the statement?
15:12:37 25 The statement is not before us in evidence.
26 MR JORDASH: Well, I'm only picking up on what Your
Honour
27 said concerning multiplying the issues --
28 PRESIDING JUDGE: I'm just replying to as far as the
29 statement is concerned.

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it 1 MR JORDASH: Yes. Well, Your Honour made reference to
2 when saying that the issues were being multiplied by my
learned

3 friend's questions. It's my submission that if, indeed,
4 questions about Kamajor activities and Kamajor crimes are
15:13:04 5 multiplying the issues, then so it follows RUF crimes or
6 activities way outside the issues which were dealt with in
chief
7 by this witness, I can see myself no distinction that can be
8 properly made between behaviour by the RUF, or behaviour by
the
9 Kamajors, especially in light of our defence.

15:13:37 10 Certainly the Defence, by the first accused, which is
that
11 the activities of both groups are interrelated and the
activities
12 of the Kamajors form the absolute foundation of our defence.
So
13 if we cannot discuss the Kamajor activities and atrocities,
then,
14 in my submission, we cannot travel down the same road with the
15:14:02 15 RUF.

16 MR CAMMEGH: Your Honour, may I just add something?

17 PRESIDING JUDGE: Yes, Mr Cammegh.

18 MR CAMMEGH: If I may.

19 PRESIDING JUDGE: Yes, Mr Cammegh, yes, you may please.

15:14:13 20 MR CAMMEGH: I appreciate that Mr Kabbah is not my
witness.

21 PRESIDING JUDGE: No, no, no. It's okay. You may.

22 MR CAMMEGH: There are -- well, initially, I wonder if
in
23 the interests of propriety it might be with respect wise for
the
24 witness to leave the room during this argument. I don't know
if
15:14:29 25 that would be proper.

26 PRESIDING JUDGE: Do you intend to explore this argument
27 further?

relates

28 MR CAMMEGH: Well, I don't think what I have to say
29 to that request; it's just in the interests of good practice,

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this:

examination

may

the

15:15:00

River

15:15:21

1 though it's a matter for you. All I would like to say is
2 Bearing in mind Your Honour's ruling during my cross-
3 of Mr Kabbah, I must hasten to add that whereas Mr Harrison
4 ask Mr Kabbah questions about alleged RUF breaches following
5 Abidjan Peace Accord, it was a feature of several of my
6 cross-examinations, as I hope you recall, that there were CDF
7 breaches at that same time and I listed the locations. I
8 remember Peyama Jungle was one; another was in Giema, and the
9 most notable one of all that you might remember was the Moa
10 crossing in which many people allegedly died at the hands of
11 Kamajors. I don't want to go into that in detail but I think
12 it's only fair that if Mr Harrison is to be allowed to explore
13 this line of cross-examination --

should 14 PRESIDING JUDGE: Then you too should be allowed --
15:15:34 15 have been allowed to explore --
has 16 MR CAMMEGH: The horse has already bolted. Your Honour
17 already ruled --
18 PRESIDING JUDGE: No, no, no, it's okay.
19 MR CAMMEGH: I just ask really that with respect --
15:15:44 20 PRESIDING JUDGE: I'm just drawing a logical conclusion
21 from your argument.
22 MR CAMMEGH: Aligning myself to Mr Jordash, I would also
asking 23 like to add that, by the same token, I was prevented from
frame 24 Mr Kabbah about events that took place during the same time
15:16:02 25 which concerned breaches by the other side, and it would be
26 wrong, in my submission, and unfair to the defendants, all
three 27 of them, were Mr Harrison allowed to extract information about
28 partial breaches during that period, rather than the whole
29 picture.

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Harrison, 1 PRESIDING JUDGE: Thank you, Mr Cammegh. Yes, Mr

2 do you have any response to this, please?

3 MR HARRISON: Yes. We think it's wrong in principle,
the
4 suggestions that are being offered by the Defence. The
principle

15:16:24 5 is that evidence is relevant until such time as the Trial
Chamber
6 deems it's either irrelevant or it's in some way unfair --

7 PRESIDING JUDGE: They are saying -- they are saying,
you
8 know, that if they were not allowed to talk about Kamajor
9 breaches of the accord at that time you should not be allowed
to

15:16:49 10 talk about the breaches -- the breaches of the RUFs, you know,
at
11 that particular, you know, during that particular time frame
and
12 that it would be unfair to give you that advantage over the
13 Defence.

14 MR HARRISON: The difference is it's the RUF that's on
15:17:08 15 trial; it's not the CDF. The CDF issue --

16 PRESIDING JUDGE: Yes, I know.

17 MR HARRISON: -- whether there were breaches or not by
18 them, and I just hasten to add that I don't think the question
19 put to the witness by counsel for the third accused was
relevant

15:17:24 20 to the issue of breaches at this time period. The question
was
21 about the area of Kenema. I'm asking about a time period
which
22 is probably 16 months prior to that, still within the time
period
23 of the indictment because it's subsequent to Abidjan, 30
November

witnesses. 24 1996, and Defence evidence has been called by previous

15:17:52 25 Now, the Prosecution is entitled to cross-examine
Defence

26 witnesses on previous Defence evidence. Defence evidence has
27 breached,
been called to the effect that the Abidjan accord was

28 but breached by forces aligned to the government or the
29 government itself.

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Abidjan 1 PRESIDING JUDGE: Yes, that is their defence, that
2 was breached by the Kamajors and others who were fighting on
3 behalf of government.

evidence 4 MR HARRISON: And if they are allowed to call that

15:18:31 5 then the Prosecution suggests it is clear that it ought to be
6 able to ask Defence witnesses on that very same point.

today 7 PRESIDING JUDGE: But when they wanted to explore it
8 through the same witness they were --

9 MR HARRISON: No, I'm suggesting --

15:18:55 10 PRESIDING JUDGE: -- they were sort of inhibited by the
11 Tribunal.

They 12 MR HARRISON: Yes, but it's not the same time period.
13 were asking questions about Kenema. Those events are
of 14 post-intervention. That's February, March, maybe into April
15:19:16 15 '98. I'm asking about December -- sorry, end of November,
16 December, January of '96 and '97.
17 MS MYLVAGANAM: My Lord, I wonder whether I could, with
18 Your Lordship's leave --
19 PRESIDING JUDGE: Ms Mylvaganam, please, you wanted to
say 20 something?
15:22:54 21 MS MYLVAGANAM: I'm grateful, My Lord. Only this, and
I'm 22 sorry I didn't join in the objections at the relevant time,
but 23 it occurs --
24 PRESIDING JUDGE: Are you joining in the objection now?
15:23:05 25 MS MYLVAGANAM: My Lord, I am in this way: That what
the 26 Prosecution are seeking to do is found their cross-examination
on 27 intelligence reports which are not evidential material before
the 28 Court and, of course, after the whole issue of weapons of mass
a 29 destruction, there's an issue about intelligence reports being

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1 reliable source on which to found any sort of questions.

2 PRESIDING JUDGE: We don't want to tread those grounds.

3 They are delicate grounds.

4 MS MYLVAGANAM: Yes. Yes. But the point is the witness
in

15:23:41 5 his statement before The Truth And Reconciliation Commission
has

6 specifically stated --

7 PRESIDING JUDGE: Because we don't want to go to Iraq.

8 MS MYLVAGANAM: No. But the point is the witness in his
9 statement before The Truth and Reconciliation Committee has

15:23:57 10 specifically stated that there was no reliable intelligence in
11 certain instances and, on that basis, I really query whether
it's

12 appropriate for the Prosecution, in the circumstances, to
found

13 cross-examination on intelligence reports which actually are
not

14 evidential material before the Court.

15:24:18 15 JUDGE BOUTET: I'm not certain that we accept it, that
it

16 was based on hearsay. We don't have the evidence in front of
the

17 Court. I mean, it's been the standard procedure for this

18 Tribunal. I mean, if the witness says for that evidence that
he

19 had intelligence report, I mean, we have to accept his word
for

15:24:34 20 that at this particular moment. How much weight we're going
to

21 give to that is for the Tribunal to decide, so the question of

22 admissibility, it's quite different.

is 23 MS MYLVAGANAM: My Lord, I take the point. My concern
24 based on the fact that intelligence material --

15:24:48 25 JUDGE BOUTET: But we have accepted that. Some of your
as 26 colleagues have asked questions based on intelligence reports
27 well, so, I mean, there is no difference between this one and
28 others. The witness has consistently stated that he was not
29 there all the time. He was the President of the Republic of

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of 1 Sierra Leone. He was the commander-in-chief and had all sorts
he 2 reports coming to him. This is based on that information that
3 is giving evidence; whether it's intelligence or other
4 information.

15:25:13 5 MS MYLVAGANAM: My Lord, I understand that but, in a
could 6 document where reference has been made to the fact that he
7 not rely on intelligence reports --

not 8 JUDGE BOUTET: It may be for a certain period he could
the 9 rely. That's not the question. What your objection is that

15:25:25 10 question could not be asked because he is being asked if he
had
11 intelligence report. The answer is "yes" he had intelligence
12 report. That's where we are.
13 MS MYLVAGANAM: So be it.
14 PRESIDING JUDGE: Yes, Mr Jordash.
15:25:40 15 MR JORDASH: I wondered if I might briefly respond to --
16 PRESIDING JUDGE: Yes, yes, you may, please.
17 MR JORDASH: Simply in this way: That my learned friend
is
18 right that evidence has been adduced previously which deals
with
19 this point, but what my learned friend's argument fails to
15:26:00 20 acknowledge is that evidence had also been adduced concerning
21 Kamajor activity in Kenema at the relevant time that Mr
Cammegh
22 was trying to deal with. So Your Honour's ruling simply
excluded
23 questions on that subject. And what we're asking for is, in
24 light of that, that Your Honours do the same in relation to
other
15:26:22 25 subjects which have, yes, been properly the subject of the
trial
26 but initial fairness arises.
27 JUDGE THOMPSON: In other words, we're not -- the issue
is
28 not whether it was at a particular time frame or not; it's the
29 subject matter, that's the one that we said, if we allowed,
might

1 result in a multiplication of the issues, is as I understand.

2 MR JORDASH: Exactly. That's my point, Your Honour,
yes,
3 and I'll leave my objection at that.

4 JUDGE THOMPSON: Right.

15:27:05 5 PRESIDING JUDGE: Well, learned counsel, we'll retire
for a

6 couple of minutes to deliberate on this issue and return with
our
7 verdict.

8 [Break taken at 3.29 p.m.]

9 [Upon resuming at 3.45 p.m.]

15:44:27 10 PRESIDING JUDGE: Learned counsel, the ruling of the
11 Chamber is that, in conformity with the doctrine of
fundamental
12 fairness, and guided by the ruling and the decision we made
this
13 morning in similar circumstances, Mr Harrison's question on
this
14 issue is overruled, and the objection by Mr Jordash is upheld.

15:45:27 15 May we continue, please, Mr Harrison.

16 MR HARRISON:

17 Q. Witness, let me try and take you a little bit forward in
18 time. We all know that on 25 May 1997, that was the day of
the
19 coup in Freetown, and do you remember that?

15:45:58 20 A. (Witness nods).

were 21 Q. And my understanding is that shortly after 25 May you

22 forced to leave the country; is that correct?

23 A. Um-hmm.

receiving 24 Q. And after 25 May 1997, you still would have been

15:46:23 25 information about events in Sierra Leone?

26 A. Oh, yes.

on a 27 Q. And the information you received, would that have been

28 regular basis?

29 A. Well, not really; not as regular as when I was home.

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being 1 Q. In the months of June, July, August of 1997, were you

2 provided with information about events taking place in

3 Sierra Leone?

4 A. I was getting information, yes.

15:47:11 5 Q. And were you being given information about what appeared
to

6 be, to you, to be crimes committed by the RUF in Sierra Leone?

7 A. Frankly, the information was more dealing with the

8 coupists, and how they were working in collaboration with the

9 RUF.

15:47:47 10 Q. And what was that information you were getting about how
11 the coupists were working in collaboration with the RUF?
12 A. Well, about their movements, about some their activities
13 and atrocities being committed; that type of thing.
14 Q. Are you able to recall any of the atrocities that you
may
15:48:15 15 have --
16 MR JORDASH: Objection. We're exactly in the same
17 territory, in my submission. If I can deal with my objection
in
18 this way: This morning Mr Cammegh was stopped; he was not
19 permitted to ask about Kamajor atrocities. It is our defence
and
15:48:38 20 has been our defence that Kamajor atrocities underpinned, in
21 large part, some of the RUF activities in Kailahun. In
Kailahun,
22 throughout the whole indictment period, and in relation to
23 Mr Cammegh's questions this morning, particularly activities
24 which occurred at the point of the intervention. Let me put
that
15:49:22 25 more specifically: We have said, and a number of times, and
we
26 have led evidence for the first accused to show that Kamajor
27 activities in the Kenema District caused civilians to seek
refuge
28 with the RUF in Kailahun. A direct defence to a number of the
29 counts on the indictment, not least of which are counts
dealing

1 with unlawful killing, counts dealing with sexual violence,
2 counts dealing with forced labour, counts dealing with
abduction.

3 If it's right that it is not fair that Mr Cammegh be allowed
to

4 develop that Defence further through this witness, it is not
fair

15:50:07 5 that my learned friend is able to advance the Prosecution's
case

6 through this witness.

7 It follows, as sure as night follows day, if we cannot
8 adduce evidence supportive of the Defence, Mr Harrison cannot
9 adduce evidence supportive of the Prosecution case on those
same

15:50:28 10 counts. And just to buttress that, I refer Your Honours to 9

11 November 2007, DIS-281, who dealt with Kamajor atrocities
which

12 led to civilians fleeing with the RUF during the February 1998

13 intervention, DIS-069, 22 October 2007, which dealt with
exactly

14 the same subject. This has been and always has been a large
part

15:51:00 15 of our defence. Those are my submissions.

16 MR CAMMEGH: If I may very briefly add to that,
17 Your Honour. By the same token I'm adopting what Mr Jordash
just

18 said. It's very important I put on the record this: One's

19 purpose in making reference to the grisly incidents that are
been

15:51:21 20 rehearsed in Kenema Town in February of 1998 followed in due
21 course by ECOMOG jet bombing raids on civilians in Kailahun
22 thereafter, is very relevant to me or to Mr Gbao because they
23 foreshadow the events of the killing of the Kamajors which is
24 perhaps the most serious offence with which Mr Gbao is
charged.

15:51:43 25 There can be no denying after four years of hearing evidence
in
Kenema, 26 this Court that there is a nexus between what happened in
27 the fleeing from Kenema, the internship of suspected Kamajors
in
and 28 Kailahun and the horrible killing of 65 of them afterwards,
say 29 on those grounds I concur entirely with Mr Jordash and simply

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one 1 this: With all respect, it is not fair that there should be
how 2 rule for one-party and one rule for the other because that is
3 it might appear were Mr Harrison allowed to continue on this
4 course, bearing in mind Your Honours' ruling this morning
which I 5 sought not to undermine and nor do I now.

15:52:22

6 PRESIDING JUDGE: Thank you, Mr Cammegh. Ms Mylvaganam.

7 MS MYLVAGANAM: My Lord, only to say it does seem to be
8 part and parcel of the earlier ruling that Your Lordships
made.

9 PRESIDING JUDGE: Thank you. Mr Harrison, do you want
to
15:53:09 10 make a quick response before we deliberate on this issue?

11 MR HARRISON: The first point is that the witness used
the
12 word atrocities in the preceding answer and he had actually
used
13 the word atrocities having been committed during the original
14 examination and cross-examination by I think the third
accused.

15:53:27 15 And I was simply asking the witness to tell the Court about
those
16 atrocities of which he was aware. The relevance of that is
that
17 any evidence that touches upon crimes committed by persons who
18 may be affiliated to the three accused would be relevant
19 evidence. It would be evidence of crimes committed, either in

15:53:54 20 concert with or potentially by one of the accused. The notion
21 that a CDF bit of evidence was ruled inadmissible, it was
ruled

22 inadmissible because it was not relevant to the issues. You
have
23 to decide whether or not this witness can tell you that crimes
or
24 certain acts and conduct of which he knows were committed by
the

15:54:23 25 RUF, that would clearly be relevant to all of the issues
before

26 you. It's also known well to the Court that the defence of
27 Tukoki is not a defence. You can't simply say he did it too
and

in
or

28 expect that to be a defence. It's not. It's not recognised
29 international law. So that's why the evidence about the acts

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not

15:55:15
raise

other

witness

preceding

There

15:55:45
gives

the

1 alleged acts of members of the CDF is of even less relevance,
2 because what happened by them you've ruled is not relevant but
3 the legal issue is already decided for you. It's known in
4 international criminal law. To simply say he did it too does
5 provide you with a defence. The only other point I wish to
6 is that what we propose to do is to ask this witness of any
7 criminal acts of which he is aware, and we would say this
8 is certainly allowed to give that evidence as have the
9 approximately 140-odd witnesses who have come before you.
10 is no reason to prevent this witness from giving what could be
11 helpful, certainly relevant, and perhaps of a nature that
12 the Court a clear understanding or a clearer understanding of
13 facts -- of the acts that took place.

14 PRESIDING JUDGE: Yes, Mr Jordash. Right of reply. You
15:56:18 15 raised the objection.

16 MR JORDASH: I'll be very brief. It's got nothing to do
17 with Tukoki and my learned friend knows that having sat
through
18 the evidence at length. Counts 3 to 5 allege unlawful
killings
19 in Kenema between 25 May and 19 February 1998. The
Prosecution
15:56:38 20 say the RUF killed civilians in Kenema. The Defence say at
the
21 point of intervention it was the Kamajors killing civilians.
22 Mr Cammegh was trying to seek evidence in support of that this
23 morning. In relation to the sexual violence count, it is the
24 Prosecution case that women were abducted and sexually
assaulted
15:57:00 25 by the RUF in Kenema. It's the Defence case that at the
26 intervention, the RUF -- the women who went with the RUF, went
27 for protection from the Kamajors. In relation to the
abductions
28 and forced labour, the same point again. The Defence is as it
29 always has been in Kenema that it was the Kamajors who were

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1 committing those crimes, especially at the point of the

neither 2 intervention. So if that evidence is not permitted then
3 is, in our submission, the evidence of atrocities which my
4 learned friend is trying to adduce. Whether the witness
mentions 15:57:43 5 the word atrocity or not, the point is one of fairness. I
6 concede this. Both subjects are relevant, but in light of
7 Your Honours' ruling that one side cannot adduce that
evidence, 8 it follows that the other side cannot adduce it. It's simply
not 9 fair to allow one side to adduce and not allow the other side
to 10 defend it. Those are my submissions.

11 PRESIDING JUDGE: Well, learned counsel, again the
12 objection by Mr Jordash is upheld and the question by Mr
Harrison 13 is overruled. It's ruled out because again on the ruling that
we 14 made this morning, a few minutes ago, we are reiterating it
here 15 now. May we proceed, please.

16 MR HARRISON:
17 Q. Again talking about the same time period, so we're in
June, 18 July, August of 1997, were you getting any information about
arms 19 and ammunition going to the RUF?

16:01:32 20 A. That's the time that we were in Conakry, is that it?
21 Q. Yes, I think that would have been right. Because the
coup 22 is 25 May '97 and I was thinking of the approximate three
months 23 after the actual coup?

24 A. Yes. Well, really as I said earlier on, the bulk of the

16:01:56 25 reports had to do with the activities of the -- of the
soldiers.

26 PRESIDING JUDGE: [Indiscernible] of the SLA.

27 THE WITNESS: Not.

28 PRESIDING JUDGE: AFRC.

29 THE WITNESS: The AFRC.

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1 PRESIDING JUDGE: The AFRC.

2 THE WITNESS: Yes.

3 MR HARRISON:

4 Q. And you were aware though that the RUF joined?

16:02:18 5 A. Oh, yes. Yes.

6 Q. And what information did you get about the RUF joining
with

7 the coupist?

8 A. Well, they were invited by the coupists to come and join

9 them so they can work as one and so that they will remain for

16:02:39 10 good.

11 Q. And what information did you get about their activities?

12 A. Well, again it was -- they started off with -- by moving

13 people into the airport area in Freetown and bringing them
down

14 to other areas of the capital city, and this led to some
conflict

16:03:03 15 also there.

16 Q. And when you say it led to some conflict, what are you
17 talking about?

18 A. Well, between themselves and the civilians that were
19 remaining.

16:03:15 20 Q. And did you get information about the nature of that
21 conflict with the civilians?

22 A. No, I was just told that there was severe fighting
because
23 of the influx of the RUF to join the AFRC.

24 Q. Now, what about later on in time. Did you ever get any
16:03:36 25 information about arms and ammunition going to the RUF?

26 A. No, I didn't get that, no.

27 Q. Did you get any information about child soldiers at any
28 time?

29 A. Yes, child soldiers came in together with the regular

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1 fighters when they were invited to join the AFRC.

2 Q. And what about over the length of time of the -- of the
3 war, and let's just say from 1997 up until the end of 2000 or

the

4 middle of 2000, what can you say about --

16:04:24 5
we're

MR JORDASH: Sorry I might be being premature but if

6
indictment

going to continue along the line of crimes within the

7 then my objection remains the same. I do not understand the

8 distinction my learned friend is seeking to draw. My learned

9 friend who raised the initial objection to Mr Cammegh's

16:04:45 10

questions. It was my learned friend who raised this spectre

11 which has now descended over the Court and this witness's

12 evidence, and we simply ask the Trial Chamber to make the same

13
for

ruling on the same basis. What's good for the goose is good

14 the gander.

16:05:05 15

MR CAMMEGH: I think the phrase is what's sauce for the

16
friend

goose is sauce for the gander and I adopt what my learned

17 said subject to that correction.

18
wouldn't

PRESIDING JUDGE: Mr Harrison, I think we've -- we

19 be coming back to these objections always. You know when we -

-

16:05:31 20

from the three rulings we have made -- you will know where we

21 would go if you put certain questions to this witness. So can

22 you please very carefully avoid, you know, certain questions

23 which you know will be contentious and would bring us to --

24
please.

within the context of the rulings that we have made here,

16:05:55 25

We want to move along. And I want -- I think we are

26
he

desirous, you know, to see that this witness leaves and that

27 doesn't feature on our agenda on Monday, so we would like to

along
as

28 proceed that way and you may go along, please. Let's move
29 and avoid areas of contention which we know are already tagged

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what

1 contentious areas.

2 MR HARRISON: I would just like to advise the Court of

3 the Prosecution understands to be the ruling: The ruling was

4 that certain evidence was not admissible because it was not

16:06:39

5 relevant. The Prosecution disagrees very much with any

with

6 suggestion that evidence that this witness may have, to deal

respect

7 crimes alleged in the indictment, and particularly with

8 to the last question about child soldiers, any suggestion that

that

9 that is not relevant is unfounded, and the Prosecution says

16:07:02

10 it's entitled to put that question to the witness and asks the

11 Court for the opportunity to do so.

the

12 JUDGE THOMPSON: I never understood at law school that

13 principle that all relevant evidence must be admitted. All

that's

14 relevant evidence must be admitted. There can be evidence

16:07:23 15 relevant that's not -- it's not admissible -- on grounds of
16 fundamental fairness, on grounds of prejudice or something. I
17 mean, even the Rules say "may" be admitted. May be. So if
your
18 thinking is that every evidence that's relevant is
automatically
19 admissible, that's not how I understand the law. There are
times
16:07:51 20 when evidence may be relevant, but its prejudicial effect
21 outweighs its probative value, out it goes, if the Court so
22 decides. The times when evidence may be relevant, but if its
23 admissibility or admission, or recidivity may bring the
24 administration of justice into disrepute, out it goes.

16:08:11 25 MR HARRISON: Yes, I accept that distinction, but the
26 Prosecution would advance the suggestion to the Court that
asking
27 a witness if he is aware of child soldiers, during the time
frame
28 of the indictment, could not in any way bring the
administration
29 of justice into disrepute. In fact, there may be a suggestion

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1 that failing to put such questions to a witness, who may have
2 relevant evidence to give on that topic, would be if not

3 careless, certainly an act of negligence.

4 JUDGE THOMPSON: It may be, just as we have ruled, that
16:08:47 5 perhaps given the context of the -- where the questions have
been
6 asked and the issues in controversy between the parties and
the
7 fact that this Court has ruled that some of these questions
are
8 designed to elicit answers to questions that merely amount to
9 multiplying the issues -- the Court has a discretion to say
that,

16:09:12 10 indeed, such questions must be impermissible because we think
it
11 does not conform to even-handed justice, and that's what we've
12 been saying. We've made a ruling here in respect of one side,
13 and the question is why should we now overrule ourselves
because
14 of this relevancy -- relevancy rule.

16:09:47 15 MR HARRISON: I think the answer --

16 PRESIDING JUDGE: If I may ask: Is it this witness who
17 we're waiting for, in order to prove or to disprove the issue
of
18 the presence of child soldiers in this case, which has lasted
--
19 on which we have heard so many witnesses? Is it this witness
we
16:10:09 20 were waiting for?

21 MR HARRISON: I think the answer to the question is this
22 witness may have relevant evidence to give.

23 PRESIDING JUDGE: Yes.

24 MR HARRISON: He is called by one of the Defence
parties.

16:10:22 25 To suggest that the Prosecution cannot put questions to a
Defence

26 witness, on matters that are squarely within the words of the
27 indictment, and squarely within an abundance of evidence that
has
28 been put before this Court on this issue, by all of the
parties,
29 and to cutoff that evidence today in the Prosecution
suggestion

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1 is not consistent with the notion of admissible evidence that
has
2 been adhered to in the past by the Trial Chamber. And we're
3 suggesting that this witness can be asked the questions. If
he
4 doesn't know any information that would be the end of it. If
he
16:11:04 5 does have relevant information on crimes alleged in the
6 indictment, he should be allowed to answer.

7 PRESIDING JUDGE: The question is: Why should you be
8 exploring it when we did not allow them to explore their
grounds
9 as well on which they wanted to base their defence. This is
16:11:20 10 where the doctrine of fundamental fairness comes in.

11 MR HARRISON: Because you may --

12 PRESIDING JUDGE: Why should you be allowed to explore

13 those grounds when they were not allowed to explore the
grounds?

14 Why?

16:11:31 15 MR HARRISON: Because the ruling was that that evidence
was

16 not relevant. That evidence was about crimes committed by
other

17 persons not on trial here. The evidence that's -- or the

18 questions that are being put to this witness are about
matters,

19 acts, conduct which the Prosecution says are committed by
either

16:11:54 20 these accused, or persons associated with them, and that is
the

21 reason why we're here today, to hear evidence about acts,

22 conduct, possible crimes committed by the RUF.

23 PRESIDING JUDGE: Mr Jordash, your objection, was it

24 premised on the presence of child soldiers? Because learned

16:15:43 25 counsel for the Prosecution, Mr Harrison, did put the question
to

26 the witness as to whether he saw -- he had information about

27 child soldiers.

28 MR JORDASH: Yes.

29 PRESIDING JUDGE: And the witness answered the question.

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1 MR JORDASH: Yes.

2 PRESIDING JUDGE: Is that what you are objecting to?

3 MR JORDASH: I'm objecting to the Prosecution being able
to

4 go outside the context or the parameters or the general
16:16:19 5 parameters set by the Trial Chamber this morning, which I

6 understood to be that a consideration of the general
parameters
7 of this witness's --

8 PRESIDING JUDGE: Our ruling on this was not supposed to
9 pre-empt the Prosecution to go through the [indiscernible] of
its

16:16:46 10 privileges, you know, in terms of its cross-examination, no.

11 That was not our ruling.

12 MR JORDASH: No, no, I'm not suggesting that's the case.

13 PRESIDING JUDGE: And what we are saying here, you know,
is

14 that the question on child soldiers, in any event, has already
16:17:02 15 been answered by the witness.

16 MR JORDASH: Yes. And I think --

17 PRESIDING JUDGE: And if it relates to that, then the
18 objection is belatedly taken, and we have the response on the
19 record already, and in any event, the issue of child soldiers
is

16:17:25 20 not a new phenomenon in this case. Evidence has been adduced.

21 It has been contradicted by the opposing parties, and so on
and

22 so forth, and the witness has already proffered a response to
23 this and it is on the record already.

24 MR JORDASH: That's why I --

16:17:40 25 JUDGE BOUTET: If I may, Mr Presiding Judge, to make
sure

to
26 that there is no misunderstanding, our ruling this morning had
27 do with a very discrete issue which had to do with the Abidjan
28 accord and THE violations of the Abidjan accord by some of the
29 parties, and that's what it revolved around as such. And we
are

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1 no more in the Abidjan accord, and these kind of scenarios, so
2 that's what the objection was at the time that violations of
the
3 -- these were the questions that were being asked of the
witness.
4 He was aware of breaches by the Kamajors of -- in violation of
16:18:13 5 the Abidjan accord -- that's what gave rise to these issues
and
6 these discussions. So, at least that's my recollection, so,
if
7 I'm wrong, then I could be corrected but that's my
recollection
8 of the facts that give rise to this objection and our ruling.
9 And I never -- certainly it was not intended to be as broad as
16:18:32 10 you think it is.

11 MR JORDASH: No. It, well, may I deal with that in this
12 way: That as far as I recall Mr Cammegh didn't mention the

13 Abidjan accord. He mentioned --

14 JUDGE BOUTET: Breaches.

16:18:44 15 MR JORDASH: Yes, I don't think he was discussing the
16 breaches of the Abidjan Peace Accord; he was discussing events
in
17 Kenema in February of 1998, two years after the Abidjan Peace
18 Accord, and he was seeking to elicit, as I've said on a number
of
19 occasions this afternoon, evidence in support of his client's
and
16:19:05 20 my client's case --

21 JUDGE BOUTET: Anyhow, you've heard my views on this.
I'm
22 not prepared to say that it's as broad as you think it is.

23 MR JORDASH: Well, no. I'm simply suggesting that it is
24 logical that if Your Honours rule out through a witness
questions
16:19:20 25 which support an accused --

26 JUDGE BOUTET: We have supported some of your objections
up
27 to now, Mr Jordash, I do not deny that, and it was a unanimous
28 decision of the Bench.

29 MR JORDASH: Well, I'm simply saying that if Your
Honours

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1 rule out evidence which supports a defence, but then allow the
2 Prosecution to pursue evidence which supports the Prosecution,
3 it's obviously unfair and there --

Prosecution

16:19:52
its

ruling?

4 PRESIDING JUDGE: Are you suggesting that the
5 cannot put questions to this witness, you know, to buttress
6 case, given those issues which have been affected by our
7 Are you suggesting that they cannot pursue their case in
8 cross-examination in terms of their indictment that they have
9 proffered against your client?

16:20:16
were

10 MR JORDASH: They can in relation to the issues which
11 dealt with by this witness in chief. As a consequence of
12 Your Honours' ruling that the Defence are prevented --

13 PRESIDING JUDGE: By this witness in chief, but he is in
14 cross-examination.

16:20:31

15 MR JORDASH: Yes. But -- and I also was surprised --

16 PRESIDING JUDGE: He is in cross-examination.

17 MR JORDASH: Yes, as was Mr Cammegh.

18 PRESIDING JUDGE: And he can visit -- yes. There, you
19 know, we took the stand we did.

16:20:44

20 MR CAMMEGH: Yes.

you

21 PRESIDING JUDGE: But what I'm saying is, you know, are
22 suggesting, you know, that he cannot, you know, because of the
23 Kamajor issue, and what we have disposed of now, Mr Harrison
24 the Prosecution, cannot pursue his cross-examination?

for

16:21:03

25 MR JORDASH: Well Your Honours, Mr Cammegh asked about

26 intelligence reports received by the witness in relation to
27 crimes by the opposing party which form the bulwark of our
28 Defence, Mr Harrison is asking about intelligence reports of
29 crimes committed by -- allegedly by the RUF and the accused
and

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1 apparently he can, and that in my submission, is demonstrably
2 unfair. And I can, in my submission, see no distinction
except
3 that what will happen is the Prosecution get to adduce
evidence
4 in support of the indictment. We do not get to adduce
evidence
16:21:43 5 in support of the Defence except that which was adduced in the
6 narrow remit of this witness's evidence-in-chief.

7 JUDGE BOUTET: So that's what you are saying, you are
8 allowed to lead evidence through this witness in support of
your
9 position but the Prosecution is not allowed to challenge this
16:21:58 10 evidence and that the normal rules of cross-examination do not
11 apply, and therefore they must limit their cross-examination
12 solely on what you have raised in examination-in-chief.
That's
13 what you're saying.

14 MR JORDASH: If that's the rule applied to the Defence.
16:22:12 15 JUDGE BOUTET: Isn't it what you are saying.
16 MR JORDASH: If that's the rule Your Honours applied to
the
17 Defence.
18 JUDGE BOUTET: No, I'm asking you a question Mr Jordash,
19 answer my question.
16:22:19 20 MR JORDASH: I'm answering you. If that's the rule
21 Your Honours applied to the Defence then it's the rule
22 Your Honours apply to the Prosecution because we are parties
to a
23 fair proceeding.
24 PRESIDING JUDGE: Right, in any event the objection on
this
16:22:41 25 was belatedly taken. It is not considered. It is overruled.
26 Mr Harrison you may continue and let's see how we go.
27 MR HARRISON: I understand from the Trial Chamber that
an
28 answer was given about child soldiers?
29 PRESIDING JUDGE: It was given, he answered it. He did

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1 answer it.

2 MR HARRISON:

3 Q. I'm just asking if you could tell the Court, again using
4 the time frame that I've given to you which I think was from
1997
16:23:12 5 up to about mid 2000, what can you tell the Court about the
use
6 of child soldiers? How common was it? What sort of numbers
did
7 you know about?
8 MR JORDASH: I'm objecting before the question is
answered.
9 On the same basis, exactly the same basis. Parity, equality.
16:23:33 10 Fairness --
11 PRESIDING JUDGE: Objection is overruled. Mr Harrison,
12 please put the question.
13 MR HARRISON:
14 Q. The question again is about child soldiers and I'm
wanting
16:23:47 15 you to tell the Court what you can to assist it in what you
knew
16 about the use of child soldiers by the RUF?
17 A. Well, the RUF from the inception to the end of the war
used
18 child soldiers extensively and this was such a problem that as
a
19 government, we decided to put up some building in Bo as a
second
16:24:19 20 city to Freetown where we will take care of those child
soldiers
21 who had lost their parents or were afraid to go to their
homes.
22 And so it was a common thing, and there is a video which was
23 shown on the SLBS TV once where a child -- I was deeply
touched.
24 This was a soldier now doing their thing during the AFRC time.
16:25:06 25 Some people were arrested. They were taken and -- to some

26 cemetery and they dug up the graves and --

that

27 PRESIDING JUDGE: Are you able, Mr Witness, to produce

28 documentary? Because I wouldn't want to receive evidence on a

29 documentary that we cannot see. It would be -- it would be

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1 unfair.

speakers].

2 JUDGE THOMPSON: I think the SLBS [overlapping

comment

3 PRESIDING JUDGE: To comment on that documentary by the

4 SLBS. Mr Harrison, it would be unfair for the witness to

16:25:40
him

5 on that documentary by the SLBS. If he can produce it, let

6 produce it. Or if you can produce it, you produce it and let

7 everybody take the benefit of what the document contains.

8 MR HARRISON: All right. We'll produce it. And do you

9 have any other information about child soldiers and in

16:26:03
indicated

10 particular, information that may have come to you that

11 that there were children under the age of 15 involved with the

12 RUF in combat.

was

13 THE WITNESS: I didn't -- as I've said it already, this

14 a common thing and people saw them holding -- you know
16:26:24 15 whenever -- even in Freetown when people were running around
when
16 the rebels came in, they saw children, people of that age,
17 carrying weapons. It's simple.
18 Q. And you returned to Sierra Leone in March of 1998, I
think,
19 from Guinea?
16:26:43 20 A. Um-hmm.
21 Q. And when you came back in March of 1998, did you have
22 occasion to yourself see child soldiers of the RUF?
23 A. I will have problems in looking at -- thinking of it in
24 that specific area, because when I came back there was so much
to
16:27:10 25 be done and I hardly went out, and it's when you go out or
when
26 you are in the real conflict areas that you see this type of
27 thing -- evidence of it.
28 Q. After you had come back to Freetown in March of 1998,
were
29 you getting reports indicating any numbers of children under
the

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1 age of 15 who were combatants with the RUF?

2 A. As I said already, it was a common thing and therefore
3 reports of combat activities going on didn't really identify
or
4 separate children as such.

16:28:03 5 Q. Now, there was a mention -- or it was actually a
question
6 that came from Mr Cammegh. That was the last -- the lawyer
for
7 Mr Gbao. He had asked you a question and you had told him
about
8 an incident in Shegbwema where an Indian general was beaten
up.
9 What was the context there? What was taking place?

16:28:31 10 A. Simple. The man went to talk to the people about
11 disarmament, and he was attacked by the RUF there.

12 Q. And can you say approximately when this was?

13 A. Again, please forgive me, I don't want to be specific
about
14 dates but I remember the events and it was, in fact, Foday
Sankoh

16:28:58 15 almost hit the man and kicked him and it was very unfortunate.

16 Q. And did you develop an understanding as to --

17 PRESIDING JUDGE: He almost hit him. He did not hit
him.

18 Mr Witness, you say he almost hit him but he did not hit him.

19 THE WITNESS: That's correct, yes. He went for him and

16:29:19 20 then he was stopped by people.

21 MR HARRISON:

22 Q. Did you get any information as to what the -- the
reasons
23 for these acts? Was there some conflict that you're aware of
24 that was taking place?

16:29:34 25
discuss

could

to

A. No, this man was a peacekeeper. He went there to
arrangements about disarmament. And Sankoh was a man that
be temperamental and he was talking to the man and he was not
polite and he moved to go and really hit him, and somebody had
intervene.

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you

16:30:32 5
16:31:01 10

1 Q. And are you aware of any other incidents that may show
2 animosity of members of the RUF towards disarmament in 1999 or
3 2000?

4 A. Well, I said it in my main statement that before Issa
5 became acting leader of the RUF, it was difficult. But when
6 came -- became leader and when we had problems we consulted
7 and he was helpful.

8 Q. Are you able to think of any events or any incidents in,
9 this is after Lome, so after July of 1999, which indicated to
10 that the RUF were not committed to disarmament?

11 A. Oh, many. Again I said in my main evidence today that
12 number one, Sankoh himself was reluctant.

The 13 PRESIDING JUDGE: I think that question is answered.
14 question is answered, Mr Witness.
16:31:20 15 MR HARRISON:
and 16 Q. I was actually asking about any particular incidents,
17 is there anything that comes to mind --
18 A. No. No.
19 Q. All right. And let me ask you again about a slightly
16:31:37 20 different time period from what I asked you earlier. I had
asked
21 you a question about arms and ammunition and I had confined it
to
22 roughly June, July, August of 1997. Did you later get, this
is
23 much later in time, could be '98, '99, did you get information
24 about how the RUF were getting arms and ammunition?
16:32:07 25 A. Well, we received some information that even though we
had
26 gone through the disarmament process, that they took some arms
27 and ammunition across the River Moa into Liberia and dug some
pit
28 there where they kept them so that they can be used sometime.
29 Now, I cannot verify that, but that was brought to my
attention

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an
1 and we agreed that people -- our security people should keep
2 eye on that situation.

any
3 Q. And during the latter half of '97 and 1998, did you get
4 information about any arms coming into Sierra Leone for the
RUF?

16:32:57 5 A. Not -- no.

1998
6 Q. Now, during the latter -- say the last half of '97 and
7 again, did you get reports of who the RUF were communicating
8 with?

9 A. Here or overseas?

16:33:25 10 Q. Let's start overseas.

11 A. Charles Taylor and Burkina Faso.

12 Q. And what were those reports? What was the information -

13 PRESIDING JUDGE: Charles Taylor and is there a name

14 Mr Witness, that we know as Burkina Faso.

16:33:42 15 THE WITNESS: The President Compaore.

16 PRESIDING JUDGE: Yes. You said they were communicating
17 with -- the RUF were communicating with Charles Taylor and.

but
18 MR HARRISON: The first words he used were Burkina Faso
19 as Your Lordship pointed out he then identified -- the witness

16:34:01 20 identified the name of Blaise Campaore.

Israeli
21 THE WITNESS: And there is also something that comes to
22 mind and that is that during the disarmament process an
23 was arrested by the ECOMOG soldiers and he was kept at the

24 Pademba Road Prisons. He was charged and he made a statement
to
16:34:34 25 the police and later on he escaped from the prison and found
his
26 way out of the country. But he had left this statement to the
27 police which was brought to my attention. And in that
28 statement --
29 PRESIDING JUDGE: No, it's not fair for us to visit that

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1 statement. It is not fair.
2 MR HARRISON: With respect, Your Honour, the Prosecution
3 says until you know what the information is and the context it
4 may well be fair. You have the Court --
16:35:16 5 PRESIDING JUDGE: It is overruled Mr Harrison. It is
not
6 fair. I've said it. You move to the next question, please.
We
7 have to move. It's not fair.
8 MR HARRISON:
9 Q. You've started out your answer by saying there was
16:35:39 10 communication with Charles Taylor and Blaise Campaore and this
is
11 communication between the RUF and those two individuals, can
you

12 tell the Court as to the content of the communication?

13 A. Well his Lordship has ruled that I shouldn't go into.

14 PRESIDING JUDGE: No, you were referring to a statement.

16:35:59 15 You were referring to a statement, you know, which -- which
was

16 made by the Israeli. That's the --

17 THE WITNESS: Yes, that's the one you are asking me
about,

18 not so, to give some information on that?

19 MR HARRISON:

16:36:13 20 Q. Yes. If I've misunderstood your answer then of course
you

21 are right in adhering to the ruling of the learned Presiding

22 Judge. But the question I had asked you was intended to be

23 slightly more general, and that was a question: Were you
aware

24 of any communication from sources, and let me be specific,

16:36:40 25 sources other than this Israeli statement indicating

26 communication between the RUF and Charles Taylor or Blaise

27 Compaore?

28 A. That's the only one that I have referred to but that's -
- I

29 cannot explain that now, because of the ruling.

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1 PRESIDING JUDGE: No, no, I didn't -- we didn't rule on
2 that. In fact, we -- we heard about communications between
the
3 RUF and Charles Taylor and Burkina Faso. Then I came in and
4 said: Is there any name like Burkina Faso? You said: No,
no,
16:37:19 5 it's Compaore, you know. So, but we didn't go any further
than
6 that. And if you are, in your capacity then as the head of
7 state, aware, you know, of any communications, you know,
between
8 that hierarchy there to which all of you belonged, I do not
9 inhibit you from releasing that information.

16:37:51 10 THE WITNESS: You see, the only details I can give are
the
11 movement of ammunition that I know of.

12 PRESIDING JUDGE: Yes.

13 THE WITNESS: And I was involved in trying to
investigate
14 that, and that's the one that was contained in this police
16:38:13 15 interview with this Israeli where he said specifically --

16 PRESIDING JUDGE: No, no, no. We have --

17 THE WITNESS: I should not say that.

18 PRESIDING JUDGE: Yes. We don't -- I thought there was
19 information that came to you through your conversations with
16:38:28 20 them.

21 THE WITNESS: No, no, no.

22 PRESIDING JUDGE: Yes. So if it goes to that statement,
23 you know, by the Israeli who fled from Pademba, you know, I
don't
24 think I want to go there.

16:38:38 25 THE WITNESS: Okay.

26 MR HARRISON:

27 Q. Again, staying again with a similar time period, that's
28 about after May 25, '97 and through '98, were you getting reports
29 mining taking place in Sierra Leone?

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1 A. Yes. Yes. When Foday Sankoh was here, I received
2 reports through that some foreigners came in and they came to the country
3 were Liberia, and they were engaged in mining, and these people
4 apprehended and deported from the country.

16:39:22 5 Q. And now, I'm going to suggest to you that you may have
6 to gotten reports about forced mining, where civilians are forced
7 mine in, for example, Tongo Fields. Again you would know; you
8 can either accept that or deny the suggestion --

9 MR JORDASH: Objection.

16:39:44 10 JUDGE BOUTET: For what period of time?

11 MR HARRISON: It was from after the May 25 -- after the
12 junta '97 through '98.

13 MR JORDASH: Objection. We're dealing with exactly the

14 same period, in exactly the same location as that Mr Cammegh
16:40:07 15 tried to deal with this morning, and I would simply remind
16 Your Honours that the Defence for the first accused has
adduced,
17 through its witnesses, evidence that in fact it was the
Kamajors
18 forcing people to mine, and the civilians of Tongo were in
fact
19 relieved when the RUF came into Tongo because then they were
able
16:40:35 20 to mine on a two-pile system, so we are directly in the
evidence
21 -- in the evidential field that Mr Cammegh tried to deal with
22 this morning.
23 PRESIDING JUDGE: Mr Harrison, in reply to the
objection?
24 MR HARRISON: Yes. Again, we suggest that there's a
16:41:00 25 problem of first principles here, and we think that problem is
to
26 this: The Prosecution is entitled to ask questions relevant
27 the indictment. It's alleged in the indictment that there was
28 forced mining in various locations within the Republic of
Sierra
29 Leone. One of those locations covers Tongo Fields. If logic

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elements

that.

which

RUF.

one

was

logic

hands

1 prevails, then the Prosecution is entitled to prove the
2 alleged in the indictment; there can be no prohibition on
3 That is the essence of the trial. And, if that's wrong, then
4 there is a dilemma of what to do with all of the previous
16:42:20 5 evidence heard in this trial alleging forced mining in Tongo
6 Fields. That was all admissible. On this date in May of 2008
7 Defence witness comes forward who may have evidence to give on
8 this and he should be permitted to answer those questions
9 are relevant to the indictment.

16:42:52 10 MR JORDASH: But, I mean, I don't want to -- I mean, we
11 keep going around in circles. I mean, no one can dispute that
12 we've heard evidence of forced mining in Tongo by AFRC and
13 No one can dispute it's part of the Prosecution case. But no
14 can also dispute that we've heard evidence of Kamajors forcing
16:43:20 15 civilians to mine in Kenema, and no one can dispute that it's
16 part of the Defence case in answer to the charges that that
17 going on.

18 And I again remind the Court that it was Mr Harrison who
19 raised the objection to the evidence this morning and, if
20 prevails, then perhaps the Prosecution can explain why they
21 sought to argue at that point that that evidence was not
22 relevant. They can't have it both ways. It's not relevant in
23 the hands of one party but relevant -- not relevant in the
24 of another.

16:46:47 25 PRESIDING JUDGE: By two to one verdict, the question by
26 Mr Harrison on this is overruled, and the objection by
27 Mr Harrison is sustained.
28 JUDGE BOUTET: Jordash.
29 PRESIDING JUDGE: I'm sorry, Mr Jordash.

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1 MR HARRISON: Well --
2 PRESIDING JUDGE: Given the circumstances of this
question
3 which links the question to the activities of the Kamajors,
who
4 they were not allowed to explore during their time on your
16:48:09 5 objection, but I say it's a two to one. It's a two to one
6 decision.
7 MR HARRISON: I don't want to take advantage of the
Court's
8 ruling, but, and I don't want to prolong this: If the Court's
9 guidance to the Prosecution is that it's not permissible to
ask
16:48:30 10 questions that seek to elicit evidence relevant to the
11 indictment, then we won't ask questions.
12 PRESIDING JUDGE: We will treat all questions on a
13 case-by-case basis. We don't want to pre-empt you from asking

14 your questions. We will treat them on a case-by-case basis.
16:48:57 15 It's your objection this morning, you know, that brought us to
16 this, you know, so we have to manage it and make sure that we
--
17 we give our decisions and are preeminently guided by the
doctrine
18 of fundamental fairness in this. We're trying to see what we
can
19 do to be fair to all the parties.
16:49:22 20 MR HARRISON: Yes, but the Prosecution wishes to respond
to
21 that comment, because we see it as being, first of all, not
fair
22 and, secondly, inaccurate.
23 PRESIDING JUDGE: We say it is fair, Mr Harrison, and
you
24 cannot challenge the fairness of the Court. Do you mind? I'm
16:49:34 25 sorry, you cannot say so. You cannot say so as prosecuting
26 counsel.
27 MR HARRISON: Well, what the Prosecution can do is to
28 advise the Court that its recollection is that the ruling was
29 based upon a question being irrelevant. The Prosecution is
now

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say, 1 advancing questions which it says are relevant and that, we
correct, 2 is the crucial distinction. And if that distinction is
3 then we would be, the Prosecution suggests, entitled to ask
4 questions that are relevant with the allegations contained in
16:50:14 5 the --

6 JUDGE THOMPSON: Let's concede for the sake of argument
7 that our recollection here may be hazy; what was precisely
your 8 position this morning? You can assist us.

9 MR HARRISON: The Prosecution objected to questions
being 10 advanced as to -- there was a question advanced as to whether
or 11 not the Prosecutor -- sorry, it was -- whether this witness

12 involved or had a view on the indictment being proffered
13 the CDF and the Prosecution objected, saying that was a matter
14 within the sole purview of the Prosecution and ought not to be
16:50:52 15 allowed to be put to the witness. There was a second question
--

16 there was three questions. The third one escapes me. I think
17 the first one in order was a question to do with events in
18 Kenema. I took it to mean Kenema Town as opposed to Kenema
19 District but I think the only word used was Kenema. And my
16:51:13 20 recollection is that the question was asking the witness about

21 [overlapping speakers].
22 JUDGE THOMPSON: Kamajor activity. Joint Kamajor
activity.

23 MR HARRISON: It may have been activities. It may have
24 been crimes.

16:51:28 25 JUDGE THOMPSON: Kamajor activities, yes.
26 MR HARRISON: In I think Kenema.
27 JUDGE THOMPSON: And your response to that was.
28 MR HARRISON: The Prosecution responded saying that's an
29 irrelevant question.

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1 JUDGE THOMPSON: On the grounds.
2 MR HARRISON: Because whether or not members of the CDF
or
3 Kamajors committed crimes, it's not relevant to the issues
before
4 this Court. This Court is solely concerned with the
indictment
16:51:50 5 in the RUF trial and those frame the relevant issues. That
was
6 the basis of the objection.
7 JUDGE THOMPSON: Yes and, in fact, I think that idea of
the
8 question of -- or your submission that the CDF or the Kamajors
9 are not on trial before this Court, seemed to have predicated
a
16:52:10 10 ruling that indeed any attempt to bring issues relating to the
11 CDF and the Kamajors would, in fact, amount to multiplying the
12 issues given the premises that you had advanced by way of --
as

13 the objection. And I think it was from that position that we
14 agreed with you that indeed the question was impermissible.
And
16:52:39 15 for you to do, by some clever ingenious legal doctrine of
CDF 16 severance to separate the -- that the Kamajor aspect or the
seems 17 aspect now from that and to anchor yourself upon relevance,
the 18 to me not logical because I think we came out with the use of
19 term multiplying the issues, and of course when issues are
16:53:11 20 multiplied it means that if some of the issues are not
relevant
between 21 and they are brought to relate to issues in controversy
that 22 the parties, then we end up multiplying the issues. I think
to 23 was the thrust of our position this morning. And now you seek
now 24 narrow it down to just relevance. If I remember correctly,
16:53:38 25 that you've, in fact, given us your own recollection of it, I
impermissible 26 think we're not just saying that the question was
27 on grounds of relevance. I think because we were bringing the
28 whole issue of the Kamajors and the activities into a trial
29 relating to the RUFs.

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1 MR HARRISON: But the Prosecution's position is that
2 not multiplying the issues by asking a question seeking to
3 evidence whether or not the RUF were involved in forced labour
4 Tongo Fields in the course of mining. We don't see how that
16:54:17 5 multiplies issues.

6 JUDGE THOMPSON: Okay.

7 MR HARRISON: Because that is an allegation contained in
8 the indictment and of course, as you'll recall, there has been
9 evidence heard on that issue. We say this witness is no
16:54:30 10 different from others. If he has relevant evidence to give on
11 that topic, he is entitled to do so and the Prosecution is
12 entitled to ask questions seeking to do that.

think
but I

13 PRESIDING JUDGE: Now that the objection is upheld, I
14 we stand by that. And we will rise for a couple of minutes
15 do not know for how long -- how much longer you intend to go
in
16 your cross-examination, Mr Harrison.

would
the
the

17 MR HARRISON: Yes I'll reflect on it and if the Court
18 give me another 15 minutes. If you would consider not taking
19 break I could try to finish within 15 minutes to convenience
20 Court and the witness.

21 PRESIDING JUDGE: That's all right. We will retire and
22 resume here in the next 15 minutes. And I just wanted to say,

Monday.
23 you know, that we would like to conclude the testimony of this
24 witness today. There is no question of taking it on to

25 The Chamber will recess, please.

26 [Break taken at 4.57 p.m.]

27 [RUF16MAY08D-BP].

28 [Upon resuming at 5.16 p.m.]

29 PRESIDING JUDGE: We're resuming the proceedings. Yes,

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1 Mr Harrison, you may continue with your cross-examination.

2 MR HARRISON:

3 Q. I'm going to ask you about Kono District, and I'm going
to

4 ask you about the time frame from the middle of February '98.
So

17:16:21 5 this would be slightly before you returned to Freetown from
6 Guinea, up until January of 2000, so quite a long time period.

7 And I'm going to ask if you received any information, any
reports

8 about civilians being forced to mine for the RUF?

9 A. Yes, I did.

17:16:45 10 Q. And can you tell the Court about those -- that
information

11 you received?

12 A. Well, we were told -- I was told -- that the RUF had
taken
13 over Kono, but not only Kono, but also Tongo Field, which is
next
14 door, and a lot of beating up of people, killing people was
17:17:17 15 taking place, and also children were being seized and taken on
16 as -- as rebel fighters and -- but then, later on, the Konos
17 themselves founded some civil society group to try and resist
18 this. In the case, though, of Tongo Field, which is just next
19 door, there was a lot of destruction of the mining machines
that
17:18:00 20 were there, and burning of offices and so on, as well as the
21 killing of people.

22 Q. And let me take you to Kailahun District. From the time
23 that you returned to Freetown, roughly March of '98, up until,
24 let's say, the latter part of 1999, did you receive any
17:18:39 25 information about civilians in Kailahun District being
26 mistreated?

27 A. Yes. Yes, we did. I myself went just towards the very
end
28 and I was shown around some of the destruction and some of the
29 victims of the war brought to my attention and -- but at that

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1 time things had cooled off a little bit to the extent that I
2 remember distinctly that about three RUF fighters came and
3 apologised to me for what had been going on and they -- in a
big
4 meeting that was organised -- they spoke there and asked for
17:19:59 5 people to live together in peace and harmony.

6 Q. And let me ask you about Koinadugu District, and again,
let
7 me be a little bit shorter on the time period this time. I'm
8 asking you about the time period from February '98 until
9 approximately the end of September 1998. Did you receive any
17:20:34 10 informing about the treatment of civilians in Koinadugu
District
11 during that time period?

12 A. Yes, I did. There was a notorious rebel, I don't
remember
13 his name now, but I gathered that he mobilised a lot of rebels
to
14 that particular place and one particular village that they
17:20:59 15 visited and destructed many lives and burnt down the homes,
and
16 this was where two generals -- I still remember -- they really
17 acquitted themselves well in helping the people there. That's
18 one of them General Opande and the other one general -- he's a
19 Nigerian -- he is now in Sudan. And they were very brave. I
17:21:30 20 thought they were very brave because people were afraid to go
21 there and they went by themselves and they were able to get
22 things under control.

23 Q. And let me just ask you a general question: Sometimes
I've
24 heard you use the word "rebels." When you use the word
"rebels,"

17:21:51 25 are you meaning --
26 A. RUF. RUF.
27 Q. Sorry?
28 A. RUF [indiscernible].
29 Q. And with regard to Bombali District, and the time frame

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November 1 would be from the beginning of May '98 until the end of
2 1998, did you get any information about mistreatment of
civilians 3 or crimes against civilians committed by the RUF?
4 A. Yes, I did.

17:22:26 5 Q. Could you tell the Court what it is you recall, as best
you 6 can?

7 PRESIDING JUDGE: In what location?

8 MR HARRISON: It's Bombali District.

9 THE WITNESS: Bombali District, particularly the
District

17:22:41 10 Headquarters Makeni, there was a lot of violence there as well
11 and the RUF people went and took over the homes of the people
12 there and this is one of the reasons why I was trying to get

Issa

13 Sesay to be on board, so that they can really go easy on our
14 people there. And also it's from Makeni Town to a place
called

17:23:11 15 Kamakwie, they used to use that road to go on to Kambia
District.

16 And again, quite a lot of burning of people's homes,
destruction
17 of farms and killing of people.

18 MR HARRISON:

19 Q. And with respect to Port Loko District, I'm interested
in

17:23:46 20 you assisting the Court as much as you can with respect to the
21 time period of February 1999. So this would be in context a
22 month after the January 6, 1999 attack on Freetown. So the
23 following month in February, are you aware of any mistreatment
or

24 crimes committed by the RUF in Port Loko District?

17:24:21 25 A. Yes, similar to what happened in Port Loko District.

26 And --

27 Q. I'm sorry, I asked you about Port Loko District. You
mean

28 similar to --

29 A. Sorry, sorry, Bombali District.

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1 Q. Similar to Bombali?

2 A. Yes. And to the extent that we deployed some soldiers
3 there, our own troops, and it was a bit difficult for them.
And
4 then the Malians decided to send I think three battalions or
so
17:25:06 5 and they were attacked severely and some of them were killed.
6 And subsequently, later on, we deployed Pakistani troops there
7 that did well to get the place moving.

8 Q. Thank you. I think that concludes the questions that we
9 have for you.

17:25:28 10 A. Thank you.

11 PRESIDING JUDGE: Yes, Mr Jordash, any re-examination?

12 MR JORDASH: Yes, please, if I may. I won't detain you
--
13 PRESIDING JUDGE: If you may indeed.

14 MR JORDASH: Indeed. I won't detain you for much
longer.

17:26:13 15 Q. But you've been asked questions about RUF atrocities and
16 obviously the RUF was a huge organisation at one point and so
we
17 can clarify, if you're able to: Were you aware if there were
any
18 factions within the RUF in the areas you've been discussing in
19 terms of atrocities?

17:26:42 20 A. Not that -- not that I know.

21 Q. You don't know of the factions?

22 A. No. No.

23 Q. So you can -- when you say the RUF atrocities which
we're
24 hearing about -- are you able to be more specific or is it
just
17:27:00 25 the RUF?

what 26 A. I think the RUF -- much later we had the soldiers --
27 we called the West Side Boys, that I mean, particularly in
28 Makeni.
29 Q. Right.

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in 1 A. Yes.
2 Q. When you were asked questions in relation to atrocities
3 Port Loko and Makeni and so on, were you referring to the West
4 Side Boys or --

17:27:29 5 A. No, in Makeni, yes, the West Side Boys were there, but
6 definitely in Port Loko and Makeni I think the RUF had a very
7 strong presence there.

8 Q. Okay. In relation to Kailahun, there's been a number of
9 witnesses in the courtroom, civilians, who have given evidence
17:28:00 10 about government jets causing damage in Kailahun, bombing
11 civilian areas, and those civilians have said that basically
the 12 damage to Kailahun was caused in large part by the jets. Do
you 13 know anything about that?

14 A. Well, I know we had some aircrafts that were used and --

17:28:26 15 but those aircrafts, their mandates were basically -- mainly
to

16 destroy ammunition dumps.

17 Q. All right.

18 A. Because Kailahun, being next to Liberia, and that was a
19 source of getting in ammunition from across the border.

17:28:47 20 Q. And did you receive reports about when those jets were
21 operating?

22 JUDGE BOUTET: Aren't we getting outside the scope of
23 proper re-examination here?

24 MR JORDASH: Well, I'm going --

17:29:03 25 JUDGE BOUTET: I have no recollection that there's been
any

26 examination about jets in Kailahun.

27 MR JORDASH: No, about damage to Kailahun, and so I
thought
28 it was legitimate to then discuss how that damage might have
been
29 caused by other factors. Other than the RUF. But I'm guided
by

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1 you. I'll leave it there. Thank you, Mr Witness.

2 THE WITNESS: Thank you.

end 3 PRESIDING JUDGE: Well, Mr Witness, we have come to the
able 4 of your testimony, and we are very gratified that you were
17:30:10 5 to enjoy good health to be able to be before us today
following 6 the subpoena that was issued for you to appear at the behest
of 7 the first accused person.

8 We are thankful for the evidence that you have given to
the 9 Tribunal and I think we've benefited from this evidence in
terms 10 of its assisting us in arriving at a just determination of
17:30:39 11 case. And I would make one comment: It is not out of place
at 12 all. If we had ended up with only receiving your statement,
13 which you signed in evidence, I do not think that we would
have 14 had the benefit of the clarifications that we have heard from
17:31:10 15 you, and I do not think the Prosecution would even have had
any 16 claim to 90 minutes which they said they needed to cross-
examine 17 you, if we ended up with just your statement because that
would 18 have been the end of it all. So we're very grateful for your
19 testimony and we've taken note of your concerns.

17:31:36 20 But you will agree with me that, as a statesman, you are
your 21 the target of everybody. You have your friends and you have
to 22 enemies, and there is nothing you can do about that. You have
very 23 live with that and just pray, you know, to your God, who you

24 much believe in, that he keeps you intact from all your
17:32:05 25 detractors. That is public life; there is nothing you can do
26 about it. And we are happy in any event, that you were able
to
27 come here and we wish you a very happy and successful pursuit
of
28 your post-presidential career, which we are seeing already on
29 record, with your movements around the world, for very useful

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what 1 peacekeeping operations in terms of monitoring elections and
you, 2 have you, and I think Africa still has a lot to benefit from
3 and I think also that your country, Sierra Leone, has a lot to
4 benefit from you notwithstanding the fact that you have left
17:32:50 5 office. We thank you and we wish you the very best.

6 THE WITNESS: Well, am I allowed to just say something?

7 PRESIDING JUDGE: You may, if you wish.

the 8 THE WITNESS: Just to thank you and my colleagues here,
have 9 barristers, for the professional way that really -- that you
17:33:16 10 discharged your responsibilities here today. I'm very highly
11 impressed, and I hope that my compatriots will learn from
this.

12 And so that we can be proud of this institution continuing to
13 provide assistance to other countries indeed, not only in the
14 subregion, but the whole of the African continent.

17:33:47 15 With regard to my people, my brothers and sisters, yes,
we

16 have problems. I, and particularly in relation to the
comments

17 you made, I have always said that in Sierra Leone when you

18 succeed in life you win many false friends and true enemies.
And

19 that happens. But I think it is a challenge to some of us to
try

17:34:24 20 and change that attitude. Thank you very much. It's been
worth

21 coming here.

22 PRESIDING JUDGE: Thank you for coming to pay us a
visit.

23 This time in another capacity.

24 THE WITNESS: Indeed.

17:34:36 25 PRESIDING JUDGE: Thank you. Thank you very much.
Well,

26 learned counsel, I think after a hard day's job, it's been a
very

27 hard day but a very, very constructive day. We want to
register

28 our appreciation for the contributions of the Bar to what we
have

29 been able to achieve today, to the Defence teams, to the

1 Prosecution, and again I think we have been very fair to the
2 ex-president and, as a colleague in the Bar, and above all as
the
3 ex-president, after all, it isn't too many people who get to
that
4 position anyway.

17:36:05 5 So we would rise and resume the session on Monday at
9.30.

6 We will rise, please.

7 [Whereupon the hearing adjourned at 5.37
p.m.

8 to be reconvened on Monday, 19 May 2008 at
9.30
9 a.m.]

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EXHIBITS:

Exhibit No. 374

39

WITNESSES FOR THE DEFENCE:

WITNESS: AHMAD TEJAN KABBAH

7

EXAMINED BY MR JORDASH

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CROSS-EXAMINED BY MS MYLVAGANAM

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CROSS-EXAMINED BY MR CAMMEGH

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CROSS-EXAMINED BY MR HARRISON

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