



Case No. SCSL-2003-01-T

THE PROSECUTOR OF  
THE SPECIAL COURT  
V.  
CHARLES GHANKAY TAYLOR

TUESDAY, 20 JANUARY 2009  
9.30 A.M.  
TRIAL

TRIAL CHAMBER II

---

**Before the Judges:**

Justice Richard Lussick, Presiding  
Justice Teresa Doherty  
Justice Julia Sebutinde  
Justice Al Hadji Malick Sow, Alternate

**For Chambers:**

Mr William Romans  
Ms Doreen Kiggundu

**For the Registry:**

Ms Rachel Irura  
Mr Momodu Tarrawali

**For the Prosecution:**

Mr Stephen Rapp  
Ms Brenda J Hollis  
Mr Nicholas Koumjian  
Ms Maja Dimitrova

**For the accused Charles Ghankay Taylor:**

Mr Courtenay Griffiths QC  
Mr Terry Munyard  
Mr Morris Anyah

**For the Office of the Principal Defender:**

Mr Silas Chekera

1 Tuesday, 20 January 2009

2 [Open session]

3 [The accused present]

4 [Upon commencing at 9.30 a.m.]

09:30:20 5 PRESIDING JUDGE: We'll take the appearances first.

6 MR RAPP: Good morning, Mr President, your Honours, I learned  
7 counsel. Appearing today for the Prosecutor is the Prosecutor  
8 Stephen Rapp, Nicholas Koumjian and Maja Dimitrova.

9 PRESIDING JUDGE: Thank you.

09:30:45 10 MR MUNYARD: Good morning, Mr President, your Honours,  
11 counsel opposite. For the Defence this morning myself Terry  
12 Munyard, Morris Anyah, Silas Chekera and Jessica Feinstein.

13 PRESIDING JUDGE: Yes, thank you, Mr Munyard.

14 MR MUNYARD: Can I before we start thank Ms Dimitrova in  
09:31:10 15 particular for supplying me with the documents yesterday in good  
16 time that I asked for. I'm very grateful.

17 PRESIDING JUDGE: Thank you. Mr Malik, your  
18 examination-in-chief is about to recommence. I'll just remind  
19 you that you took an oath to tell the truth yesterday and you are  
09:31:30 20 still bound by that oath. Is that clear?

21 THE WITNESS: Yes, your Honour, I understand. Thank you.

22 WITNESS: TARIQ MALIK [On former oath]

23 EXAMINATION-IN-CHIEF BY MR RAPP: [Continued]

24 Q. Good morning, witness.

09:31:48 25 A. Good morning.

26 Q. I believe yesterday when we left off we had looked at tab  
27 37 and we had marked for identification number 22, MFI-22, if I'm  
28 not mistaken. If we could now ask the Registry to place before  
29 you the binder, binder 2, and the document from that binder, the

1 document following tab 38. Now, yesterday, witness, you spoke of  
2 documents relating to the civil war in Liberia. I think you  
3 specifically talked about a deployment report to Charles Taylor  
4 Junior listed as an ATU commander. Would you take a look at this  
09:32:52 5 document that was behind tab 38 and describe that document for us  
6 and tell us if that's the document you had mentioned and then  
7 tell us what you know about it.

8 A. Your Honours, this is one of the three documents I  
9 mentioned in relation to the documents relating to civil war in  
09:33:11 10 Liberia. This is a document from the ATU which I understand was  
11 Anti-Terrorist Unit. It's addressed to Charles G Taylor Junior  
12 and the title subject is deployment report. It is dated 6 May  
13 1999. This is one of the documents that I have recently reviewed  
14 and learned that this was obtained by Ms Ruth Mary Hackler on 28  
09:33:46 15 February 2007 and it was made available to her by Sheriff Fofie  
16 Kamara and we understand from his declaration that this document  
17 was among those seized on 5 March 2004 at White Flower. The ERN  
18 on this document is 00029215.

19 MR RAPP: Thank you very much, witness. At this point, and  
09:34:16 20 here we have something that I'll leave it to the Trial Chamber to  
21 decide. The document that actually appears in the evidence unit  
22 as printed from the system is not a very legible copy. With our  
23 motion we had attached and in the binder we have attached, as is  
24 clear, an identical copy of the document albeit without the ERN  
09:34:48 25 and those were CMS 22588 and CMS 22589 and we would, I think, ask  
26 that the second of those documents, the one that is more legible,  
27 be marked for identification as MFI-23.

28 PRESIDING JUDGE: Yes. The legible copy, that's the one  
29 without the ERN number, will be marked MFI-23.

1 MR RAPP: Yes, unfortunately:

2 Q. Then, witness, you had mentioned some - a handwritten  
3 document making reference to a possible immunity for acts  
4 committed during the civil war from '89 to 2003. I would ask the  
09:35:52 5 Registry to place before you the document that follows tab 39 and  
6 ask you if that is the document you mentioned and then to tell us  
7 what you know about that document.

8 A. Your Honours, this is the document that I referred to  
9 yesterday. It's a one page handwritten note. It does not appear  
09:36:21 10 to have a date. It lists - it talks about immunity. It says:

11 "Immunity is hereby granted from both civil and criminal  
12 proceedings against all persons, officials, representatives,  
13 warring factions and combatants within the jurisdiction of  
14 Liberia from all acts and/or crimes committed by them during the  
09:36:53 15 years of civil war in the period December 1989 to August 2003."

16 I wasn't able to clearly read some of the words. This is a  
17 document that I have seen recently. It has a number of - it has  
18 a list of names at the bottom and about seven names are listed.  
19 This is one of the documents that I have reviewed as part of the  
09:37:22 20 exercise in relation to this testimony. I have learned that this  
21 is a document that was copied by Ms Ruth Mary Hackler on 28  
22 February 2007.

23 PRESIDING JUDGE: Mr Witness, I'm sorry, I'll have to  
24 interrupt you there. Just so that Justice Sebutinde can follow  
09:37:42 25 this evidence, I'm wondering if there's a spare copy. There was  
26 not one included in the folder that was given to her.

27 Yes, go ahead, Mr Malik.

28 THE WITNESS: Thank you, your Honours. As I was saying,  
29 this is one of the documents that I have recently reviewed and

1 I learned that this is a document obtained by Ms Ruth Mary Hackler  
2 on 28 February 2007 from the collection maintained by Sheriff  
3 Fofie Kamara, according to whose declaration this document was  
4 seized at White Flower on 5 March 2004. It's a one page document  
09:38:52 5 and bears the ERN 00028939.

6 MR RAPP: With that testimony, your Honours, we would then  
7 ask that the document after tab 39 be marked for identification  
8 as MFI-24.

9 PRESIDING JUDGE: Yes, that document is marked MFI-24.

09:39:14 10 MR RAPP: And it bears the CMS number 22648:

11 Q. Now, witness, you mentioned documents that relate to  
12 external activities by the Liberian presidency. What do those  
13 documents look like?

14 A. There are six documents which I have placed in that  
09:39:35 15 category. One is an identification card, an ID card, issued by  
16 Burkina Faso. It bears the name Sore Jean Michel. It has  
17 Mr Charles Taylor's picture on it. The second document is a  
18 letterhead, a piece of stationery which says "Combined junta/RUF  
19 forces". It is merely a letterhead, there is no text below. A  
09:40:19 20 third document is a letter written by President Kabbah of Sierra  
21 Leone to Charles Taylor, President of Liberia, in relation to a  
22 couple of matters, specifically and mostly about handing over of  
23 Sam Bockarie to Sierra Leone. This document has a cover letter  
24 from the mission, Sierra Leone mission in New York, who  
09:40:45 25 apparently transmitted or forwarded this letter to Monrovia.

26 There are three other documents in this category and those  
27 three relate to presidential travel. One is a list of entourage  
28 that is to accompany President Taylor on one of the travels.  
29 Another document is a list of persons assigned to protect him

1 during this travel who would escort him during the trip abroad.

2 The third document appears to be a set of instructions to finance  
3 minister asking him to make certain monies available, including  
4 per diem for the members of the entourage and there are figures  
09:41:38 5 of, I believe, 40,000 and then another one of 10,000 mentioned in  
6 the document. So these would be the six documents that I would  
7 place in this category.

8 MR MUNYARD: Mr President, before the witness continues, I  
9 note the way in which my learned friend Mr Rapp categorised these  
09:41:55 10 and I don't know if this is actually an accurate categorisation  
11 by the witness. Mr Rapp described them as relating to external  
12 activities by the Liberian presidency. The document - two at  
13 least of the documents - clearly date from the 1990s and in one -  
14 sorry, one from the 1990s and one from 1989. They cannot  
09:42:21 15 possibly therefore all be described as relating to external  
16 activities by the Liberian presidency. I know the witness is  
17 only summarising the category here but for those listening to or  
18 watching this evidence it would be wrong to miscategorise any of  
19 these documents at any stage.

09:42:43 20 PRESIDING JUDGE: Yes, Mr Rapp?

21 MR RAPP: Well, I believe that the error is mine. If we  
22 could take a look at yesterday's transcript, yesterday in the  
23 transcript, and I am referring now to the formal transcript at  
24 page 23002, line 5 - well, the question, let's go to line 3.

09:43:38 25 "Q. Can you describe the kind of documents that are within  
26 this group?

27 A. I've divided these 11 documents into three categories.  
28 One I have called documents relating to civil war in  
29 Liberia and there are three documents in that. Another

1 would be Charles Taylor's external activities and then  
2 Lastly there are a couple of notebooks or more specifically  
3 I think there's one notebook and one entry from another  
4 notebook, so that would make it 11."

09:44:09 5 So I misspoke when I referred to the presidency. What the  
6 witness had talked about was Charles Taylor's external activities  
7 and I think that's frankly descriptive of six documents that the  
8 witness has mentioned today in this group.

9 PRESIDING JUDGE: I think the precise nature of the  
09:44:22 10 documents will come out in the witness's evidence in any event.

11 MR RAPP: Thank you very much:

12 Q. Witness, let me - do we have, have we placed the document  
13 after tab 40 before the witness, if we could do that. Witness,  
14 you mentioned an ID card and rather than describing it any  
09:45:00 15 further in my question, is this what you were referring to?

16 A. Yes, your Honours, this is the ID card that I've recently  
17 reviewed or an image of it, I have reviewed an image of it, and  
18 it's the ID card I referred to just a short while ago. It has a  
19 front and a back image. It appears to be in French and is issued  
09:45:30 20 by Burkina Faso authorities. It apparently is valid from 13  
21 January 1989 to 12 January 1990. It has Mr Taylor's picture on  
22 it and there is also a stamp. The two ERNs on the front has the  
23 ERN 00028795 and the red 00028796. This is the among the  
24 documents that Ruth Mary Hackler copied on 28 February 2007 in  
09:46:06 25 Monrovia and it was made available to her by Fofie Kamara, the  
26 sheriff, according to whose declaration this is among the  
27 exhibits seized at White Flower on 5 March 2004.

28 JUDGE SEBUTINDE: Mr Rapp, is there an original of this  
29 document available, or this is - or where is the original?

1 THE WITNESS: Your Honours, I believe the original is in  
2 Monrovia and we were allowed merely to photograph it. So there  
3 is a photograph - a coloured photograph which may be slightly  
4 easier to look at and read.

09:46:43 5 JUDGE SEBUTINDE: Meaning in your custody?

6 THE WITNESS: The usher has just shown me one and there may  
7 be other copies. I'm not sure.

8 MR RAPP: This indeed is the one that we will seek to mark  
9 for identification as 40. What's in the binder is for our use in  
09:47:05 10 reference in the courtroom.

11 THE WITNESS: Although, your Honours, there only seems to  
12 be the front side of this in colour. I'm not sure if the rear is  
13 also available.

14 PRESIDING JUDGE: That's why I think we should mark all  
09:47:23 15 three of those documents behind that particular number.

16 MR RAPP: With that, your Honours, we would ask that these  
17 pages that we have - obviously just to make sure what the witness  
18 has in front of him:

19 Q. You have the image of the rather large - of the colour  
09:47:42 20 photograph and then do you have two other pages with sort of a  
21 Xerox copy?

22 A. I do. I have the originals processed by the evidence unit,  
23 two pages, front and back, in black and white, and I also have an  
24 unERN'd coloured photograph which shows the front of the  
09:48:07 25 photograph only. Front of the card only.

26 MR RAPP: So, your Honours, we would ask that presumably  
27 this would be MFI-25 and then that the two ERN'd copies, as we  
28 call it, your ERN'd copies 28795, 28736 be given MFI-25A and B  
29 and the larger image of the front be given MFI-25C.



1           PRESIDING JUDGE: Yes. The two black and white documents  
2 with the ERN numbers on them just mentioned by Mr Rapp will be  
3 marked for identification MFI-25A and B and the enlarged coloured  
4 copy of the front of the ID will be marked MFI-25C.

09:49:11 5           MR RAPP: Your Honours, each of those three pages was  
6 included in the filing with CMS, so the CMS numbers are 22573,  
7 22574 and 22575:

8 Q. Now, witness, you mentioned a letter from President Kabbah  
9 to Charles Taylor. I would ask the Registry now to place before  
09:49:39 10 you the document behind tab 41 in the second binder.

11           PRESIDING JUDGE: There's actually two documents behind  
12 that tab.

13           MR RAPP: I would place the three pages that I believe are  
14 behind that tab:

09:50:22 15 Q. Witness, could you tell me what this document is or what  
16 these pages represent if it's more than one document?

17 A. Your Honours, this is the letter from President Kabbah to  
18 President Taylor that I mentioned a short time ago. It is  
19 accompanied by a cover letter which I also referred to in my  
09:50:45 20 summary. The letter is sent to Monrovia, apparently from the  
21 Sierra Leone permanent mission in - at United Nations. President  
22 Kabbah's letter to President Taylor refers to Sam Bockarie and  
23 his presence in Liberia and Sierra Leone's request that he be  
24 handed over to Sierra Leone.

09:51:11 25           This is among the documents that I have recently reviewed  
26 and I understand that this is a document photocopied by Ms Ruth  
27 Mary Hackler on 28 February 2007 in Monrovia and it was made  
28 available to her by Sheriff Fofie Kamara according to whose  
29 declaration - this was among the exhibits seized at White Flower

1 on 5 March 2004. The dates - there are various dates on this.  
2 The cover letter has the date 30 January 2001 which I understand  
3 is the most recent date. The ERN on the first page is 00028775  
4 and the ERN on the last and the third page is 00028777.

09:52:14 5 MR RAPP: Your Honours, you having noted that there are  
6 really two letters in this group, with the Court's permission we  
7 would propose that the first page, the cover letter, the apparent  
8 letter from Ambassador Rowe to minister Jonathan Taylor be  
9 MFI-26A and then that the two pages of the letter from President  
09:52:45 10 Kabbah to President Taylor be 26B.

11 PRESIDING JUDGE: Yes. The cover letter from Ambassador  
12 Rowe will be marked MFI-26A and the letter from President Kabbah  
13 will be marked MFI-26B.

14 MR RAPP: For the record, the CMS number for 26A is 22639  
09:53:16 15 and the CMS numbers for 26B are obviously two numbers, 22640 and  
16 22641 :

17 Q. Witness, you indicated that one of the documents you had  
18 included in this group was a blank piece of stationery in regard  
19 to groups in Sierra Leone. I would ask the Court Usher to place  
09:53:46 20 before you the document that follows tab 42.

21 A. Your Honours, this is the letterhead that I referred to a  
22 short while ago. It reads "Combined junta and RUF forces of the  
23 Republic of Sierra Leone" and it gives an address below that. It  
24 says "Randall Street, Zone 2". There is no text below it. It  
09:54:30 25 has the ERN stamped 00028837 and this is a one page document. I  
26 recognise this as one of the documents I have recently reviewed  
27 and I have learned that it was among the documents Ms Ruth Mary  
28 Hackler obtained from Fofie Kamara. On 28 February she was  
29 allowed to make a photocopy of this document, which is what we

1 have with us. From Sheriff Fofie Kamara's declaration I  
2 understand that this is one of the exhibits seized at White  
3 Flower on 5 March 2004.

09:55:20 4 MR RAPP: Thank you very much, witness. We would ask that  
5 this document be marked for identification as MFI-27.

6 PRESIDING JUDGE: That document is marked MFI-27.

7 MR RAPP: And for the record the CMS number associated with  
8 that document is 22571:

09:55:40 9 Q. Now, witness, you mentioned that there were a number of  
10 documents relating to travels abroad of President Taylor and we  
11 have a document that I would like to have - I'm not sure if the  
12 tab has 43A and 43B on it, but I would ask that the Court Usher  
13 place the items after 43A and B, or 43 if that's the way the  
14 binder is set, before the witness. Now, witness, looking at the  
09:56:38 15 first document in front of you, could you describe that document  
16 and tell me if it's one of those that you mentioned and then tell  
17 me what you know about it?

18 A. Your Honours, this is the document that I called or I  
19 referred to when I spoke of a list of persons who were included  
09:56:57 20 in President Taylor's entourage during one of his travels. It's  
21 a document which says on the top "Republic of Liberia, Ministry  
22 of Foreign Affairs, Monrovia, Liberia", and then it says  
23 "Officials of government accompanying their excellencies the  
24 President of the Republic of Liberia and Mrs Taylor on their  
09:57:19 25 official visit to the republic of France, September 28 thru  
26 October 1, 1998". It's a two page document and I understand from  
27 the yellow sticker that this would be 43A. It has the ERN  
28 00029301 on the front page and 00029302 on the second and last  
29 page. It is one of the documents that I have recently looked at.

1 It is among the documents that Ms Ruth Mary Hackler photocopied,  
2 or photographed, on 28 February 2007 in the presence of Captain  
3 Sumo after having being given access to this by Sheriff Fofie  
4 Kamara, according to whose declaration this was among the  
09:58:12 5 exhibits seized at White Flower on 5 March 2004.

6 Q. Now, witness, I'm just checking in the documents that have  
7 been provided you was there a second copy of it before you that  
8 appears to be identical?

9 A. Yes, there is a second unERN'd copy and that is there is a  
09:58:32 10 lighter copy without the ERNs.

11 Q. Thank you. Before we proceed to move for identification of  
12 this particular document, I'd like to ask you to take a look at  
13 the document that is behind the tab 43B and ask you if that's a  
14 document that you've also described?

09:58:59 15 A. Yes, this is the document which contains a list of people  
16 who were to escort President Taylor and it's from U-50 - sorry,  
17 it is addressed to U-50, U for uniform, from U-52 and dated --

18 MR MUNYARD: Well I'm sorry, but I don't know how this  
19 witness can say that the U stands for uniform. As I understood  
09:59:29 20 it, he can only talk about the provenance and not the contents.

21 JUDGE SEBUTINDE: He is just spelling, I would imagine.

22 MR MUNYARD: Oh, I see.

23 THE WITNESS: That is right, your Honours.

24 MR MUNYARD: Sorry, that is an overreaction by me. I will  
09:59:44 25 say no more.

26 THE WITNESS: U as in umbrella, or U as in uncle. This is  
27 a - it has a list of 13 persons and they're listed by name. It's  
28 a one page document and it bears the ERN 00029303 and it also has  
29 a yellow sticker, the copy I'm looking at, which says 43B which I

1 guess is the tab number. This is among the documents that I have  
2 recently seen. It was a document obtained by Ms Ruth Mary  
3 Hackler on 28 February 2007 from Sheriff Fofie Kamara, according  
4 to whose declaration this is among the exhibits that were seized  
10:00:35 5 at White Flower on 5 March 2004.

6 MR RAPP:

7 Q. And, witness, behind this document in the tab I see another  
8 page. Do you have that before you?

9 A. Yes, that is an unERN'd more legible copy. It's lighter  
10:00:55 10 than the ERN'd copy.

11 Q. Witness, just by way of understanding here, the ERN'd  
12 copies or the ERNs in this sequence are 22580 - excuse, me I  
13 misspoke. The ERNs are 29301 and 302 and then I see that the  
14 next thing is 303. So these A and B are part of a single

10:01:25 15 document, or --

16 A. Yes, originally they were part of a single document. They  
17 were given to us as part of a single document and I could be  
18 wrong but I believe it went from 29298 to 29307, perhaps. I  
19 could stand to be corrected. But, anyway, the Prosecution has  
10:01:46 20 chosen to submit these - list these as two separate exhibits. I  
21 believe originally when it was given to the OTP I think it was a  
22 set of three documents which - it was given to us to be processed  
23 as one document, so for evidence unit purposes both these A and B  
24 parts come from the same document. In my database they would be  
10:02:11 25 listed all as part of one document.

26 MR RAPP: Your Honours, with the Court's permission,  
27 although I know we like using ERN documents but I believe it's  
28 clear on its face that the better copy of the first document is  
29 the unERN'd copy, two pages following with the heading "Ministry

1 of Foreign Affairs" and continuing on to a second page with  
2 numbering leading up finally to 28/32 I think is the last  
3 numbering of the delegation on that page. We would ask that  
4 those first two pages be marked for identification as MFI-28A.

10:03:00 5 PRESIDING JUDGE: That's the clear copy that doesn't have  
6 an ERN number?

7 MR RAPP: Yes, exactly, your Honour.

8 PRESIDING JUDGE: Yes, all right. Well, that copy is  
9 marked MFI-28A.

10:03:10 10 JUDGE SEBUTINDE: Mr Rapp, I don't wish to be pedantic, but  
11 considering the witness's testimony that this was given to them  
12 as a single document I'm looking at the date on MFI-28A. The  
13 date is 28th, or rather September through 28 October 1998, and  
14 the date on this other document is 12 April 1999. I don't know  
10:03:40 15 how this can be the same document from two different years?

16 MR RAPP: If that can be posed, or consider it posed to the  
17 witness, that question.

18 THE WITNESS: Your Honours, the way the evidence is  
19 submitted is that it is the discretion of the person bringing the  
10:04:00 20 evidence to the evidence unit as to how they group the evidence  
21 that's being submitted. In fact, as you quite rightly said,  
22 sometimes different documents get bunched together as in this  
23 case. In fact, it is our preference that the document be split  
24 into as many discrete parts as possible. However, sometimes for  
10:04:24 25 reasons of time and convenience and strategy the Prosecution, or  
26 the investigators who submit the evidence to us, may choose to  
27 lump different documents together and instruct us to then list  
28 them together as part of one document.

29 What we call a document does not have any - does not confer

1 any sort of qualities, or any further sort of organisation, on  
2 the document. It is merely processed in one go, we list it with  
3 that particular range and if the Prosecution chooses to they can  
4 split that document and use only parts of it, as in fact they  
10:05:08 5 have done right now.

6 So, as I said earlier, in fact these were three different  
7 documents which the Prosecution chose to submit as one document  
8 for the purposes of record keeping within the evidence unit and  
9 so that - I hope that explains how the process worked.

10:05:31 10 MR RAPP: Thank you, witness. I will leave it to your  
11 Honours. Obviously from the face of it the first of these  
12 documents relates to the entourage for a trip to France and the  
13 second of them appears to be a trip to South Africa and Libya,  
14 but they are all about entourage for official visits by the  
10:05:52 15 President of Liberia and so we would propose the A and B system  
16 for these unless the Court wishes to give a separate MFI without  
17 an A and B. We propose to put those first two pages in, the ones  
18 regarding the visit to France, as MFI-28A.

19 PRESIDING JUDGE: Yes, that document just described  
10:06:23 20 relating to the visit to France is marked MFI-28A. I note  
21 there's the ERN copy and then there's a clear copy.

22 MR RAPP: Yes.

23 PRESIDING JUDGE: What one are you planning to eventually  
24 tender?

10:06:38 25 MR RAPP: What I was suggesting is simply that the document  
26 that is the clear copy, because it's apparent to your Honours I  
27 think that they are identical and that the clear copy be the one  
28 that's marked for identification, unless you wish to have it all  
29 in?

1           PRESIDING JUDGE: Yes, all right. Well, then the clear  
2 copy is the one marked for identification. Which one has a CMS  
3 number on it?

4           MR RAPP: They both have CMS numbers, but the better one  
10:07:13 5 has CMS number 22582 and 22583. So we can nail it down with  
6 those two CMS numbers as reflecting the clearer copy.

7           Then the witness having identified and given his answer  
8 regarding the source of the second document after this one, being  
9 after tab 43B, we would ask that the clearer copy, the second  
10:07:54 10 page, a document to U-50 from U-52, a list of 13 names eventually  
11 ending with the word "Regards" and then a comma, that that  
12 document - the clear copy - be MFI-28B. For reference, your  
13 Honour, that clear copy bears the CMS number 22586.

14           PRESIDING JUDGE: All right. Well, that clear copy just  
10:08:31 15 described will be marked for identification MFI-28B.

16           MR RAPP: Thank you very much:

17 Q. Let me then ask the Registry to place before you the  
18 document after tab 44. Witness, you mentioned a document  
19 regarding per diem allowances for an official visit and I'd ask  
10:09:01 20 you to take a look at the document and tell me if that's the  
21 document that you mentioned and then tell us what you know about  
22 that document?

23 A. Your Honours, this is the document I referred to when I  
24 spoke of set of instructions for minister of finance and this  
10:09:24 25 comprises four pages and has more than one date on it. The first  
26 page has - is addressed to minister of finance from minister of  
27 state for presidential affairs and refers to - is an agreement  
28 for the amount of up to 6 million United States dollars between  
29 governments of Libya and Liberia and then the next page is dated



1 26 February 2001 and again it is addressed to minister of finance  
2 from minister of state/chief of staff. This refers to the  
3 President's travel to Libya and mentions a sum of \$40,000 to be  
4 made available as his incidental allowance. That's 40,000 US  
10:10:26 5 dollars, United States dollars. Also has a figure of \$10,000.

6 Then behind that is a list and it says "Officials of  
7 Government Accompanying His Excellency Dahkpanah Dr  
8 Charles Ghankay Taylor, President of the Republic of Liberia, to  
9 the 5th Extra-ordinary Session of the Assembly of Heads of State  
10:10:53 10 and Government in Serte, Socialist Peoples Libyan Arab Jamahiriya  
11 28 February to 3 March 2001 and has 21 specific entries below  
12 that.

13 Your Honours, this is one of the documents I have recently  
14 seen. It was obtained by Ms Hackler on 27 - 28 February 2007  
10:11:23 15 from Sheriff Fofie Kamara and photocopied in the presence of  
16 Captain Sumo. I understand from Sheriff Kamara's declaration  
17 that this is one of the exhibits seized from White Flower on 5  
18 March 2004. This document has an ERN on the first page, 00028786  
19 and the ERN on the last page is 00028789.

10:11:56 20 Q. Witness, before we proceed, just to be clear, you referred  
21 to an ERN that ends with 28786 as the first page and that first  
22 page is which letter?

23 A. This is the letter written by Jonathan C Taylor, minister  
24 of state for presidential affairs and chairman of the cabinet to  
10:12:18 25 the minister of finance and this relates to - it says:

26 "By directive of the President you are hereby authorised to  
27 sign the financial agreement for the amount of up to 6 million  
28 United States dollars between the governments of Libya and  
29 Liberia."

1 This is dated 2 March 2001.

2 Q. And then the document that indicates to the minister of  
3 finance regarding the amounts of per diem allowances, that  
4 document is at what ERN?

10:12:50 5 A. That has ERN 00028787.

6 Q. And the list of people to go on the mission?

7 A. That starts from 00028788 and goes on to the next page  
8 which has the ERN 00028789.

9 MR RAPP: Your Honours, while these may all relate to the  
10:13:17 10 same mission, we would I think perhaps be the preference to split  
11 this into three parts and ask that the first letter, the one that  
12 has the ERN 28786, a letter of 2 March from the minister of state  
13 for presidential affairs, that that be marked for identification  
14 as 29A.

10:13:54 15 PRESIDING JUDGE: Is that - I'm just querying the  
16 expediency of marking it as 29A. Does it bear any relation to  
17 the following document? Is it a part - are they all part of the  
18 one transaction or is it a separate document on its own? The  
19 reason I ask that is if the answer to my second question is yes,  
10:14:22 20 then it might be more sensible to just give it a separate MFI  
21 number.

22 MR RAPP: The reason that it's included together, as is  
23 evident from the second page of this group of four, there's a  
24 mission by the President to Libya between 28 February and 2 March  
10:14:49 25 2001. The document on page 1 refers to an agreement to be signed  
26 between Libya and Liberia and that's dated 2 March 2001 which  
27 would have been during the course of this mission.

28 PRESIDING JUDGE: I see, Mr Rapp. Yes, all right. That  
29 first document, which is the letter from Jonathan Taylor, will be

1 marked MFI -29A.

2 MR RAPP: And then the second document, the one that  
3 carries the last five digits ERN 28787, then again from Mr Taylor  
4 this time called minister of state/chief of staff, a letter of 26  
10:15:31 5 February 2001, we'd ask that that be marked for identification as  
6 29B.

7 PRESIDING JUDGE: Yes. That document is marked MFI -29B.

8 MR RAPP: And finally, the two pages with the last digits  
9 of ERN 28788 and 28789, officials of government accompany His  
10:15:56 10 Excellency President Taylor, that that two page document be  
11 marked as 29C.

12 PRESIDING JUDGE: Yes. The last document described by  
13 Mr Rapp is marked for identification 29C.

14 MR RAPP: Then for the record, your Honours, the MFI -29A is  
10:16:18 15 reflected by CMS 22643, 29B by 22644 and 29C by 22645 and 22646:

16 Q. Let me then turn to another subgroup of documents that you  
17 mentioned in your answer a few moments ago in regard to -  
18 actually it was yesterday and that was the - you mentioned  
19 notebooks. One a notebook and another an entry in a notebook.

10:16:56 20 I'd ask the Court Attendant to place before you the document that  
21 follows tab 45 in the binder. Witness, could you tell me if this  
22 is the document that you mentioned and then tell us what you know  
23 about this document?

24 A. Your Honours, this is one of the two references to  
10:17:38 25 notebooks I made yesterday, steno notebooks. This is the first  
26 one. This is a photocopy of an entire steno notebook or a  
27 substantial part of it certainly. It says on the front "Gregg  
28 ruled green tint steno book" and in longhand it says "Colonel  
29 Beer" and under that name it says "chief for highway patrol".

1 This document has an ERN starting from 00029059 on the front page  
2 and the ERN on the last page is 00029098. This is one of the  
3 documents I mentioned yesterday. I've reviewed it recently.  
4 This was photocopied and/or photographed by Ms Ruth Mary Hackler  
10:18:45 5 on 28 February 2007. She obtained it from Sheriff Kamara  
6 according to whose declaration this was among the exhibits seized  
7 at White Flower on 5 March 2004.

8 MR RAPP: Your Honour, with that testimony we would ask  
9 that the document after tab 45 be marked for identification as  
10:19:11 10 MFI-30.

11 PRESIDING JUDGE: That document just described by the  
12 witness will be marked for identification MFI-30.

13 MR RAPP: And for the record that bears the CMS numbers  
14 22598 through 22637:

10:19:36 15 Q. Then, witness, you mentioned also a single page entry from  
16 a notebook and we would ask the Court Attendant to place before  
17 you the one page document that follows tab 46. First, is that  
18 the document you mentioned and I'm asking a compound question as  
19 I've done before but then could you tell us what you know about  
10:20:19 20 that document?

21 A. Your Honours, this is a one page document and it is a  
22 photocopy or a photograph from a notebook, a steno notebook, one  
23 page of that notebook. It says on the top "Calls/messages", it  
24 has the date 7 February 2000 on the top. At the bottom half of  
10:20:42 25 the page there is - again it says "Calls/messages" and there the  
26 date given is 5 February 2000 and it says below that, "Johnny  
27 Paul Koroma's wife is here. Wishes to say goodbye to chief.  
28 They leave by 12 noon today". This is a one page document with  
29 the ERN 00029106. I recognise this as being among the documents

1 I have looked at as part of my recent exercise in relation to  
2 this testimony. This document was obtained by Ms Ruth Mary  
3 Hackler on 28 February 2007 from Sheriff Kamara according to  
4 whose declaration this was among the exhibits seized at White  
10:21:33 5 Flower on 5 March 2004.

6 MR RAPP: Thank you very much, witness. We would then ask  
7 that the document after tab 46 be marked for identification as  
8 MFI-31.

9 PRESIDING JUDGE: That document is marked MFI-31.

10:21:52 10 MR RAPP: And for the record that document bears the CMS  
11 number 22592:

12 Q. I believe that concludes the documents in the third  
13 subgroup and/or group of documents among the 55 that you've  
14 discussed. I'd like you to then focus on the fourth group of  
10:22:14 15 documents for which you, I think, for purposes of reference,  
16 referred to as Justice and Peace Commission documents. How many  
17 documents in this group?

18 A. Nine.

19 Q. And first, what kind of information, if any, did you access  
10:22:36 20 to answer the request from the Prosecution team as to the source  
21 of this group of documents?

22 A. Your Honours, I looked at the records that I have in my  
23 unit in relation to these documents and I also spoke to Ms Ruth  
24 Mary Hackler who actually obtained these documents, together with  
10:22:57 25 other OTP investigators, and that is the source of my information  
26 which I will be presenting today.

27 Q. And as far as any specific investigators that you spoke to?

28 A. This information actually has two sources. This is - there  
29 is one document in this collection which was obtained by other

1 OTP investigators in 2005. The rest of the documents were  
2 obtained by Ms Ruth Mary Hackler in company of another  
3 investigator, Mr Magnus Lamin. I have not spoken to Mr Magnus  
4 Lamin in relation to this but I'm aware that he accompanied  
10:23:49 5 Ms Hackler when she obtained these documents.

6 Q. You've referred to them as Justice and Peace Commission  
7 documents, but what kind of documents are they?

8 A. Your Honours, all of these are media reports. These are  
9 the total of nine media reports. They are photographs of

10:24:04 10 newspapers which are held in this collection at Justice and Peace  
11 Commission.

12 Q. Let me be precise just so - you mentioned there were two  
13 specific times that the documents were obtained from that Justice  
14 and Peace Commission. Specifically, when and by whom and how

10:24:31 15 many documents on each occasion? How many documents of this  
16 group, I should say?

17 A. There were a total of nine documents and one document was  
18 obtained in September 2005 by OTP investigators. The other eight  
19 documents were obtained at various times in March 2007 and that  
10:24:54 20 was done by Ms Ruth Mary Hackler together with Mr Magnus Lamin,  
21 who is an investigator.

22 Q. And when you refer to documents being obtained, how are  
23 they obtained?

24 A. This is a set of - if I could explain a little further.

10:25:12 25 The Justice and Peace Commission organisation, it is a  
26 non-governmental organisation and it maintains a collection of  
27 newspapers at its office. Ms Hackler in 2007 and other OTP  
28 investigators in 2005 went to this office and they were allowed  
29 to photograph or copy the newspapers that were held by the

1 Justice and Peace Commission, so what we have received are not  
2 original newspapers. They are merely images of them.

3 Q. And personally have you done anything with the documents  
4 since they were stamped into your evidence unit?

10:25:56 5 A. Yes, I have reviewed them as required by the Prosecution in  
6 relation to this particular exercise. I've looked at my records  
7 and I have sought to familiarise myself with the appearance of  
8 these documents, as we call them.

9 Q. As far as the appearance of these documents, is there any  
10:26:21 10 way in which you classified them yourself during that exercise?

11 A. Yes, your Honours, all of these documents are about civil  
12 war. I've categorised them in two separate categories. In the  
13 first category I list the documents relate to - which are all of  
14 course media reports that, as I've said, relate to civil war in  
10:26:47 15 Liberia and I've placed four documents in this category. The  
16 other five documents are in the category of civil war in Sierra  
17 Leone. So all nine documents relate to civil war in Liberia and  
18 Sierra Leone, four relate to Liberia and the other five relate to  
19 Sierra Leone.

10:27:03 20 JUDGE SEBUTINDE: Mr Rapp, this Justice and Peace  
21 Commission is located where exactly?

22 MR RAPP:

23 Q. Witness, we would ask that you respond to Her Honour's  
24 question. Where is it located?

10:27:16 25 A. Your Honours, the Justice and Peace Commission as I said is  
26 an NGO and has its office at the Catholic Archdiocesan  
27 Secretariat, which is located in Monrovia, Liberia.

28 Q. Thank you, witness. At this point I would ask the Registry  
29 to place before you a document that is already in evidence, I

1 believe coming in during Mr Blah's testimony. That is P-126.

2 A. Your Honours, may I say something? I just realised that

3 perhaps I did not fully understand the Prosecutor's question

4 asked a few moments ago. The pattern that he has followed in

10:28:12 5 relation to all the other groups is that he has asked me the

6 question what kinds of documents they were and I think when he

7 recently asked me this question in relation to this group I

8 thought that he was referring to as to how the documents had been

9 obtained, whether they were copies or photographs, et cetera. I

10:28:29 10 now realise that in fact he wanted me to describe specifically

11 what was contained, or how they're labelled, how I remember them,

12 and so if your Honours may give me the opportunity I may briefly

13 describe what kinds of media reports these are.

14 PRESIDING JUDGE: Is that what you want, Mr Rapp?

10:28:48 15 MR RAPP: I'm not sure that it's strictly speaking

16 necessary with media reports:

17 Q. But, witness, if you could describe first your recollection

18 of the media reports regarding the civil war in Liberia?

19 A. Your Honours, there are four such reports. One report

10:29:05 20 says "NPFL Burns 200 Alive", something to that effect. There is

21 another media report which says "Three Civilians Killed. Chinese

22 Feared Dead". Then there is one report which has the headline

23 "Charles Taylor's Aide-De-Camp Surrenders", and the fourth and

24 the final report I believe has the title, or the headline,

10:29:38 25 "Charles Taylor's Generals Lay Down Arms", or something to that

26 effect - "Drop Arms", I believe. Yes, "Charles Taylor's Generals

27 Drop Arms". So these are the four reports in the Liberian

28 category.

29 In the Sierra Leone civil war category there is a report



1 which says "52 Burned Alive - Junta On Rampage", there is another  
2 report which says "Ceasefire Fails" and then a third report which  
3 says "Three AFL soldiers Captured In Sierra Leone". The fourth  
4 one is "Thousands Trapped In Freetown, Today Sankoh Flown To  
10:30:26 5 Guinea", I believe, and then the last media report relating to  
6 the civil war in Sierra Leone is a statement issued by the  
7 Nigerian government which is published in the press. So those  
8 would be the five documents which relate to the Sierra Leone  
9 civil war.

10:30:43 10 Q. Thank you very much for that, witness. Then I would ask  
11 the Registry to place before you P-126 and ask if that's the  
12 first of the documents that you just described regarding the  
13 victims burned alive.

14 A. Your Honours, this is one of the media reports I described.  
10:31:17 15 It says - it has various headlines on it. This is Monrovia Daily  
16 News. It's an image of the newspaper Monrovia Daily News. It is  
17 dated 3 March 1994. It has various headlines on it, but the way  
18 that I have described it the label that I took in order for me to  
19 remember it and describe it relates to the headline in the middle  
10:31:40 20 of the page, "In Rivercess County: NPFL Burns 200 alive". It's  
21 a two page report, or document. The first page has the ERN  
22 00031374 and the second page has the ERN 00031375. This is among  
23 the images taken by Ms Ruth Mary Hackler together with  
24 investigator Magnus Lamin in March 2007 at the JPC, Justice and  
10:32:13 25 Peace Commission, facility in Monrovia, Liberia.

26 Q. Just to be clear, the documents appear to be page 1 and  
27 perhaps page 6 of the newspaper. Why are these particular pages  
28 put together in this exhibit?

29 A. Because the stories begin on the first page and then they

1 continue on the second page which is attached here with the  
2 document.

3 MR RAPP: Your Honours, this document is already in  
4 evidence as P-126. I would note for the Court's information that  
10:32:48 5 we actually did admit the second item - the second part of it  
6 that's shown in the binder which is a more legible version and  
7 not the ERN number, but that is already in evidence as P-126:  
8 Q. Then we would ask the Court Attendant to place before you  
9 the document after binder tab 48.

10:33:32 10 MS IRURA: Your Honour, is that an admitted document?

11 MR RAPP: Yes, that is. My apologies to the Registry.  
12 That is in fact P-127 that I wish to have placed before - the  
13 actual admitted exhibit.

14 MS IRURA: Much obliged.

10:33:46 15 MR RAPP: Thank you for pointing that out. For everyone  
16 else the copy is after tab 48, the copy of the document:

17 Q. Witness, I believe you referred to a document in the  
18 Liberian civil war group that referenced the death of or the  
19 killing of three civilians. First of all is this the document  
10:34:19 20 you mentioned and, secondly, could you tell us what you know  
21 about the document?

22 A. Your Honours, this is a report from The Inquirer and it has  
23 the headline "Three Civilians Killed, Others Wounded In Ambush -  
24 Chinese Feared Dead". This was one of the documents I referred  
10:34:42 25 to recently. It is among the documents copied or photographed by  
26 Ms Ruth Mary Hackler at JPC, or Justice and Peace Commission,  
27 facility in Monrovia, Liberia, in March 2007. I believe the date  
28 is 14 January 1994, although the image is faint and not very  
29 clear. This document has the ERN 00031378 and then the second

1 page has ERN 00031379. This document - the stories begin on the  
2 first page and continue on the second page. I'm familiar with  
3 this document. This document was processed by the evidence unit  
4 after it was submitted to us by Ms Ruth Mary Hackler.

10:35:38 5 MR RAPP: Your Honours, this document is already in  
6 evidence as P-127 and again it is not the ERN'd version that is  
7 in front of the Court as the exhibit, but a slightly better copy  
8 that does indeed show legibly the date of the article:

9 Q. We would then ask that the Registry remove that document  
10 from in front of you and then place before you the document after  
11 tab 49 in the second binder. Witness, you referred to an article  
12 regarding the surrender of Taylor's aide-de-camp. Let me ask you  
13 to take a look at the document that is after tab 49 and tell us  
14 if that's the document you mentioned and then provide us with  
10:36:44 15 what information you have about the source of that document.

16 THE WITNESS: Yes, your Honours, this is another media  
17 report from The Inquirer. It's dated 20 March 1995 and it has  
18 the headline "Taylor's Aide-De-Camp, Others Surrender". It is  
19 one of the documents I recently mentioned. It was obtained by  
10:37:06 20 Ms Ruth Mary Hackler from the Justice and Peace Commission  
21 collection and it was submitted to the evidence unit in 2007 - in  
22 May 2007. We processed it and I'm familiar with this document.  
23 I looked at it as part of this exercise and it has the ERN  
24 00031404 and the stories go on to the next page, or another page,  
10:37:34 25 which has the ERN 00031405.

26 Q. And I see behind these two pages two other pages in my tab.  
27 Have those been provided to you?

28 A. Yes, they're here and they are black and white and perhaps  
29 they read better. I'm not personally sure. I actually think the

1 ERN'd copy is clearer, but anyway they're here as well.

2 MR RAPP: Well, let me just ask the Court. Obviously we  
3 have a question here of which is the better copy here to mark for  
4 identification. The witness I think is correct that there really  
10:38:34 5 is not a lot to choose from between the two documents and under  
6 those circumstances I think we'd prefer the ERN'd document as the  
7 document stamped in to the evidence unit and therefore we would  
8 offer the document with the ERN 31404 and 31405 as - well not  
9 offering, excuse me. We would ask the Court to mark it for  
10:38:59 10 identification at this time as MFI-32.

11 PRESIDING JUDGE: Yes, the ERN copy is marked for  
12 identification MFI-32.

13 MR RAPP: And the CMS number of those particular pages, the  
14 ERN version of this article, is 22500 and 22501:

10:39:24 15 Q. Then, witness, you mentioned a final document in this group  
16 relating to the Liberian civil war and that related to a  
17 ceasefire potentially failing and that is - we'd like the Court  
18 Attendant to place before you the document which appears after  
19 tab 50.

10:39:49 20 A. Your Honours, I think there is perhaps an error. I think  
21 the document that I referred to, the final document, was  
22 "Taylor's Generals Lay Down Arms", or something to that effect.  
23 The document that you just have mentioned in fact relates to the  
24 Sierra Leone civil war and so perhaps there is a mistake.

10:40:16 25 Q. Well, witness, let me ask before I --

26 A. I'm happy to look at the document if you like.

27 Q. Okay. Would you take a look at this document and tell me  
28 if it's one of the documents in either group that you mentioned?

29 JUDGE SEBUTINDE: Which tab are we looking at?

1 MR RAPP: After tab 50, your Honour.

2 THE WITNESS: Your Honours, indeed this is a document that  
3 I mentioned but I would personally place it in the second  
4 category. I have said this is a document that relates to the  
10:40:51 5 civil war in Sierra Leone. It's a report from The News, 20  
6 January 1999, Monrovia, Liberia, and towards the bottom of the  
7 page, at the bottom of the page, there's a big headline that says  
8 "Ceasefire fails" and on top of that it says "As fighting rages  
9 on in Sierra Leone: Catholic Bishop, Nuns, Others Taken Hostage"  
10:41:16 10 and the story reads:

11 "Despite pronouncements last week by President Taylor that  
12 he had secured a ceasefire in Sierra Leone and a subsequent  
13 confirmation by rebel spokesman Sam Bockarie that his RUF would  
14 observe a unilateral truce as of Monday the 18th, reports from  
10:41:33 15 Sierra Leone say fighting is still raging in that sisterly state,  
16 clearly indicating that the ceasefire has failed to hold."

17 It is indeed one of the documents I have looked at. It is  
18 a document that was copied or photographed by Ms Ruth Mary  
19 Hackler in March 2007 at Justice and Peace Commission archives.  
10:41:55 20 As I said, we processed this document in May 20007 and it bears  
21 the ERN 00031429 and then the stories continue on to another page  
22 and that one bears the ERN 00031430. So it is one of the nine  
23 documents which I have looked at and placed in the JPC documents  
24 category as part of this exercise.

10:42:27 25 MR RAPP: With that, your Honours, we would ask that this  
26 document be marked for identification as MFI-33.

27 PRESIDING JUDGE: That document is marked MFI-33.

28 MR RAPP:

29 Q. Now, witness, you mentioned this document that you

1 indicated had something to do with Taylor's generals and dropping  
2 arms that you had --

3 MR MUNYARD: I'm sorry, do we have a CMS number for the  
4 previous document?

10:42:57 5 MR RAPP: Thank you very much, counsel. The CMS number for  
6 MFI-33 is 22520, 22521:

7 Q. Witness, then we would ask that the Registry to place  
8 before you the document after tab 51 and then ask you about your  
9 mention of a document that you placed within a Liberian civil war  
10:43:25 10 category regarding Taylor's generals and dropping arms and ask  
11 you if that is the document you mentioned and then tell us what  
12 you know about that document?

13 A. Your Honours, this is one of the documents I referred to  
14 just a few moments ago. This is the fourth and final document in  
10:43:55 15 the subcategory of documents relating to Liberian civil war.

16 It's a report by the New Democrat Weekly and the date given is  
17 Tuesday 30 November to 5 December 1995. It has the headline  
18 "Taylor's Generals Drop Arms. Claim Ritualistic Killings,  
19 Deception. List includes 16 Generals, 14 Special Forces  
10:44:26 20 Commandos." It's one of the documents that Ms Ruth Mary Hackler  
21 photographed at the Justice and Peace Commission holdings in  
22 Monrovia, Liberia, in March 2007. It was obtained in 2007 but  
23 processed only in 2008, in November 2008. I'm familiar with  
24 this. I've looked at this document as part of the recent  
10:44:54 25 exercise in relation to this testimony. It's a three page  
26 document and the ERN on the first page is 00101965 and the ERN on  
27 the last page, the third and the last page is 00101967.

28 MR RAPP: Your Honours, then we would ask that this  
29 document in three pages be marked for identification as MFI-34.

1 PRESIDING JUDGE: Yes. That document is marked MFI-34.

2 MR RAPP: For the record, the CMS associated numbers are  
3 22505 through 22507:

4 Q. Witness, you had mentioned several documents regarding the  
10:45:47 5 Sierra Leone civil war and I believe I've made a reference to a  
6 document regarding certain individuals burned alive. I would ask  
7 the Registry to place before you the document following tab 52.  
8 Witness, is this the document that you mentioned and then could  
9 you tell us what you know about the source of this document?

10:46:42 10 A. Your Honours, this is one of the five documents I mentioned  
11 in relation to civil war in Sierra Leone. It's an image of a  
12 newspaper Daily Times. The date given is 20 February 1998,  
13 Monrovia, Liberia. It was a document that was photographed in  
14 September 2005 by OTP investigators and it was submitted to the  
10:47:12 15 evidence unit in March 2007. It has the headline "In S/Leone 52  
16 Burned Alive as Junta Goes on Rampage".

17 I've looked at this document and I'm familiar with it.  
18 It's one of the documents included by the Prosecution in its list  
19 of 55 documents that I was asked to provide information on. The  
10:47:41 20 ERN on the first page is 00028277. The ERN on the last page -  
21 second and last page is 00028278. The ERN on the last page is  
22 00028278. I also have been given a copy which perhaps is more  
23 legible than the ERN'd copy.

24 Q. Let me just ask you about that. The third and fourth pages  
10:48:10 25 that follow the tab don't look to be exactly in the same format  
26 or cover exactly the same part of the page as the ERN numbers.  
27 Could you then relate what's on the first two pages, the ERN  
28 numbers, with what's on these third and fourth pages?

29 A. The ERN'd copy, the one with the ERNs, is not zoomed in on

1 the particular story that's of interest to the Prosecution.  
2 Judging by the unERN'd copy attached the Prosecution wants to  
3 focus on the story "In Sierra Leone 52 burned alive as junta goes  
4 on rampage". The ERN'd copy has the entire page photographed and  
10:48:59 5 therefore the print appears smaller in the photograph and is more  
6 difficult to read. What has been provided with that, the unERN'd  
7 version contains all of the story "52 burned alive" as it's  
8 presented on the first page, and then also contains the remaining  
9 portion which has been placed on another page and has the heading  
10:49:39 10 "52". So I believe that the copy that's the unERN'd copy  
11 contains all of the contents of the story "52 burned alive" both  
12 from the first page, as well as the remainder of the story from  
13 the following page.

14 MR RAPP: Your Honour, as we're prepared to have these both  
10:50:05 15 marked for identification. However, it's not our desire to put  
16 before the Court information that's extraneous or to overweigh  
17 the evidence file, so it would frankly be our preference simply  
18 to have the third and fourth pages here, the unERN'd version that  
19 actually contains the actual story which we wish to assert is  
10:50:30 20 relevant when we make our offer, and we would then ask that those  
21 last two pages, which also bear the separate CMS number 22658 and  
22 22659 be marked for identification. I believe we're ready for  
23 MFI-35.

24 PRESIDING JUDGE: Yes. The two pages just described by  
10:50:54 25 Mr Rapp that do not bear any ERN numbers will be marked for  
26 identification MFI-35.

27 Mr Witness, just as a matter of curiosity, I remember that  
28 you said yesterday that you would get some assistance from having  
29 some blank sheets of paper before you so that you could make



1 notes as you go along of the evidence you've given. Are those -  
2 you have some pages before you at the moment. Is that correct?

3 THE WITNESS: Yes, your Honours, I do.

10:51:32

4 PRESIDING JUDGE: Are they still blank or do they bear any  
5 writing?

6 THE WITNESS: Your Honours, the pages that I used - the  
7 pages yesterday to make some notes, things as I remember them,  
8 and I've not brought them with me today. I've again brought only  
9 clean sheets and I've again made some notes, some writings on  
10 them.

10:51:49

11 PRESIDING JUDGE: I see. You've made the notes as you go  
12 along from the evidence you give?

13 THE WITNESS: As I go along, evidence I give and things  
14 that I'm remembering as I talk about them, things which I may be  
15 asked about as I go over the information that I am to present  
16 today.

10:52:00

17 JUDGE SEBUTINDE: Can I have a look, or could we have a  
18 look, at that piece of paper please?

19 PRESIDING JUDGE: All right. Well thank you, Mr Malik.  
20 Just to clear things up, these notes were made by you yesterday.  
21 Is that correct?

10:54:19

22 THE WITNESS: No, your Honours. Those were different  
23 notes. I have those available as well, if you like? These notes  
24 were made today, this morning, in the courtroom after my  
25 testimony began.

10:54:33

26 PRESIDING JUDGE: I don't know if the Defence wants to see  
27 these notes?

28 MR MUNYARD: I would be grateful, yes, please.

29 Thank you, your Honour.

1 MR RAPP: May I have a look at the document as well?

2 PRESIDING JUDGE: I take it, Mr Munyard, you have nothing  
3 to say about those notes?

10:56:39

4 MR MUNYARD: Insofar as I could read them, I've nothing to  
5 say about them.

6 PRESIDING JUDGE: Yes, Mr Rapp.

7 MR RAPP:

10:57:01

8 Q. Witness, I think we had just marked for identification, or  
9 your Honours had just marked for identification, MFI-35. You had  
10 described several other news reports that were in this collection  
11 regarding events in Sierra Leone. If I'm not mistaken, my  
12 recollection is there was one about soldiers captured in Sierra  
13 Leone. If the Registry could then place before you the document  
14 after tab 53. Witness, is this the document or one of the  
15 documents that you mentioned and then could you tell us what you  
16 know about its source?

10:57:51

17 A. Your Honours, this is one of the five documents which I've  
18 placed in the category of documents relating to civil war in  
19 Sierra Leone. It's an image of The News newspaper. It's  
20 difficult to read the date. It's not clear. The story at the  
21 very bottom of the page has the headline "Three AFL Soldiers  
22 Captured In Sierra Leone" and says it's a story by a journalist  
23 Sheriff Adams and it says "Cont'd on page 3". Most of the text  
24 is on page 3.

10:58:22

10:58:48

25 I'm familiar with this document. This is one of the images  
26 taken by Ruth Mary Hackler and Magnus Lamin in March 2007. It  
27 was submitted to the evidence unit in May 2007. We processed it  
28 and stamped it and this is one of the documents included in the  
29 Prosecution's list of 55 documents regarding which they wish me

1 to speak as to the source of these documents. So this is one of  
2 the Justice and Peace Commission documents.

3 MR RAPP: Your Honour, with that we would ask that this  
4 document in two pages be marked for identification as MFI-36.

10:59:40 5 PRESIDING JUDGE: That document is marked MFI-36.

6 MR RAPP: And for the record it contains the CMS or it is  
7 associated with the pages CMS numbers 22525 and 22526:

8 Q. Then, witness, you had described a document regarding  
9 people trapped in Freetown, or a news article in regard to that,  
10 and I'd ask the Court Attendant to place before you the document  
11 that follows tab 54 in the second binder. Witness, is this one  
12 of the documents you mentioned and for the record would you state  
13 what you know about its source?

14 A. Your Honours, I referred to this a few moments ago. This  
11:00:58 15 is the document with the headline "Thousands Trapped In Freetown.  
16 Foday Sankoh Flown to Guinea; Rebels Still Burning Buildings".  
17 It's a report by The Inquirer and it's dated Wednesday, 13  
18 January 1999. It also says "JPC" in longhand on top of that - on  
19 top of the image.

11:01:18 20 This was one of the documents that was brought to the OTP  
21 by Ms Ruth Mary Hackler after having photographed it at JPC, or  
22 Justice and Peace Commission, newspaper archives in Monrovia,  
23 Liberia, in March 2007. It's one of the documents that I've  
24 included in the JPC collection; one of the nine documents I've  
11:01:49 25 categorised as having come from Justice and Peace Commission.

26 It's a two page document. The first page bears ERN 31391.  
27 The second - the story continues on another page and that page  
28 bears the ERN 00031392. I've also been given an unERN'd version  
29 - non-ERN'd version - which is black and white. Perhaps it's

1 easier to read. The first page I think is easier to read in the  
2 ERN'd version and perhaps the second page is easier to read in  
3 the unERN'd version, but in any case I think the quality is  
4 similar.

11:02:45 5 MR RAPP: Your Honours, just looking at it, it does appear  
6 that the unERN'd version may be slightly easier to read. It is  
7 rather fuzzy on the first, so we would ask that the unERN'd  
8 version, the third and fourth pages behind the binder, that deal  
9 with the - from The Inquirer "Thousands Trapped In Freetown" and  
11:03:13 10 contains the jumped page, page 6, that has the "Thousands  
11 Trapped" in the middle of the page, we would ask that that be  
12 marked for identification as MFI-37 and we note that those two  
13 pages have been given - the two pages, the unERN'd version, have  
14 been given CMS numbers 22514 and 22515.

11:03:37 15 PRESIDING JUDGE: Yes, that document just described by  
16 Mr Rapp will be marked MFI-37.

17 MR RAPP:

18 Q. Finally, witness, you had mentioned a newspaper article  
19 that had reported on a statement from the embassy of Nigeria and  
11:04:01 20 I would ask the Court Attendant of the Registry to place before  
21 you the document behind tab 55 and ask you whether that document  
22 is the document you mentioned and then ask you to tell us what  
23 you know about its source.

24 A. Your Honours, this is the document I spoke of when I  
11:04:28 25 referred to a statement by the embassy of Nigeria on the  
26 situation in Sierra Leone. This was published in The News  
27 newspaper on Tuesday, 19 January 1999 in Monrovia, Liberia.  
28 Ms Hackler, together with Mr Magnus Lamin, obtained this at  
29 Justice and Peace Commission archives.

1 It's a photograph, or appears to be a photograph of a  
2 newspaper. It was submitted to the evidence unit in 2008 and  
3 processed accordingly. It is one of the documents I've reviewed  
4 as part of this exercise and it has - it bears the ERN 00101964.

11:05:22 5 There are two copies: one is ERN'd and the other copy I've been  
6 given is unERN'd. I think the ERN'd copy reads fine and I think  
7 everything is legible in the ERN'd copy, even if the unERN'd copy  
8 is slightly better.

9 MR RAPP: With that, your Honours, we would ask that the  
11:05:44 10 ERN'd copy that bears the ERN number 00101964 be marked for  
11 identification as MFI-38.

12 JUDGE LUSSICK: That document is marked MFI-38.

13 MR RAPP: And that ERN'd version carries the CMS number  
14 22518.

11:06:07 15 Your Honours, that will conclude our direct examination -  
16 our examination-in-chief. I do want to indicate to the Court  
17 that at the conclusion of this witness's testimony we will ask  
18 for the right to reserve recalling the witness later in the  
19 presentation of the Prosecution evidence depending on decisions  
11:06:28 20 on pending motions and the pending interlocutory appeal as to  
21 other documents. As he has indicated he has some knowledge of UN  
22 documents and other government documents and it may be possible  
23 to examine him about those if those matters are not resolved  
24 otherwise, but we wouldn't proceed with that today and at this  
11:06:50 25 point I'd conclude my direct examination.

26 PRESIDING JUDGE: Thank you, Mr Rapp.

27 JUDGE SEBUTINDE: Mr Rapp, with regard to this latest MFI,  
28 what is the date indicated? It's not very clear, at least not on  
29 the copy that you MFI'd.

1 MR MUNYARD: Your Honour, on the second version of it it's  
2 clearly 19 January 1999.

3 JUDGE SEBUTINDE: The reason I asked is because only one of  
4 the copies was tendered - the unclear one.

11:07:21 5 MR MUNYARD: Well, all I would say is if one looks at the  
6 one that wasn't tendered it does help to clarify a rather poor  
7 photocopy.

8 MR RAPP: I believe for the record, your Honours, rather  
9 than going back, that the document here would reflect the fact  
11:07:40 10 that the date of this issue of The News is Tuesday, 19 January  
11 1999, Monrovia, Liberia. That's quite clear on the second  
12 version and almost clear other than I think the year on the --

13 JUDGE SEBUTINDE: Even the fact of the newspaper being  
14 called The News is illegible on the copy that you've tendered,  
11:08:08 15 but legible on the copy that you haven't tendered.

16 MR RAPP: Okay. Well then, your Honours, with the Court's  
17 indulgence we would ask that what we have just put in as MFI-38  
18 be withdrawn and instead that the unERN'd copy that bears the CMS  
19 number 22517 would be the document marked for identification as  
11:08:36 20 MFI-38.

21 PRESIDING JUDGE: Yes, I'll simply change that marking to  
22 the unERN'd copy. That is now the document identified as MFI-38.

23 MR RAPP: Thank you very much, your Honours.

24 PRESIDING JUDGE: Mr Munyard.

11:08:58 25 CROSS-EXAMINATION BY MR MUNYARD:

26 Q. Good morning, Mr Malik.

27 A. Good morning.

28 Q. I think we still are in morning. Can I ask you about one  
29 discrete area of your evidence yesterday before I go into the

1 bulk of what you had to tell us which is based on documents, and  
2 that is the evidence that you gave us yesterday about Sam  
3 Bockarie's body. In yesterday's transcript it appears on page  
4 22920, starting at line 4. You said:

11:09:42 5 "I was asked to organise the arrangements in relation to  
6 the receipt of Sam Bockarie's body from Monrovia, Liberia, and in  
7 line with the work that I'd done with mass graves in Bosnia I was  
8 asked to obtain DNA samples through qualified professionals and  
9 then tried to ascertain the identity of the body."

11:10:04 10 Were you able to ascertain the identity of the body that  
11 was sent from Monrovia, Liberia.

12 A. Yes, we were.

13 Q. And whose body was it?

14 A. Sam Bockarie.

11:10:22 15 Q. Thank you. Right, putting that on one side, I now turn to  
16 the bulk of your evidence and I think that you would agree with  
17 me that in relation to the documents that you have produced, all  
18 the MFIs and the exhibited - already exhibited documents, that  
19 your evidence constitutes multiple hearsay?

11:10:45 20 A. I have relied for this exercise --

21 MR RAPP: Your Honours, with all due respect, I mean  
22 "hearsay" may be a term in common parlance but this is a legal  
23 objection, and of course there is no hearsay rule here but it's  
24 asking the witness essentially to characterise something by a  
11:11:01 25 legal term. He's not a qualified attorney to answer that  
26 question.

27 PRESIDING JUDGE: The other thing also, Mr Munyard, is that  
28 a lot of his evidence was direct evidence of the recording system  
29 of the OTP. So I think you're going to have to be specific if

1 you mention the hearsay that you're referring to.

2 MR MUNYARD: I can put it in another way, your Honour:

3 Q. None of these documents were retrieved originally by you,  
4 were they?

11:11:31 5 A. That is correct.

6 Q. You were not present when any of these documents were  
7 retrieved originally by any other person?

8 A. That is correct.

9 Q. And is it right that you have been able to speak directly  
11:11:45 10 only to a small number of those who were involved in the original  
11 retrieval of these documents?

12 A. I am not sure what a small number is. That would be too  
13 imprecise for me to comment on. I've spoken to a number of  
14 people who have been engaged directly in collecting this  
11:12:07 15 evidence, but I could agree with you that I haven't spoken to  
16 everyone certainly.

17 Q. All right. Who have you spoken to who was themselves  
18 directly involved in the retrieval of the evidence, and we  
19 needn't deal with Ms Hackler because it's obvious that you've  
11:12:22 20 spoken to her about the documents that she retrieved from the  
21 Justice and Peace Commission and also the documents that were  
22 photographed or photocopied in her presence in Liberia.

23 A. I have spoken to people or read information provided by  
24 people who actually handled the documents before they came into  
11:12:45 25 the possession of the OTP. So in that regard I would mention,  
26 Mr Sesay, Alfred Sesay, Mr Thomas Lahun.

27 Q. Right.

28 A. And you said we shouldn't include Ms Hackler but she has  
29 been involved in handling documents in two of the four



1 categories.

2 Q. I'm sorry, I'm putting her aside because she's an obvious  
3 person that you've spoken to, I didn't need to go into that.

4 A. Right.

11:13:10 5 Q. But of course neither Mr Lahun nor Mr Alfred Sesay  
6 themselves retrieved the documents from the place where they were  
7 found, did they?

8 A. That's true.

9 Q. Thank you. Now, can I ask you a little bit about the  
11:13:30 10 system for recording documents. You yourself have told us - I'm  
11 sorry, would you bear with me a second. Let me get the right  
12 folder. Thank you. You've told us that you yourself came into  
13 the Office of the Prosecutor in this Court in April 2003. I  
14 think it was 28 April 2003.

11:14:04 15 A. [Microphone not activated].

16 Q. Prior to that you'd had a number of years experience, first  
17 of all in the police service in Pakistan and then more recently  
18 in the International Criminal Tribunal for Yugoslavia?

19 A. That is correct.

11:15:14 20 Q. Mr Malik, you started your employment with the Office of  
21 the Prosecutor on 28 April 2003. Is that correct?

22 A. That is correct, your Honours.

23 Q. Let us start at the beginning of your relevant experience  
24 in terms of your work in relation to evidence gathering and  
11:15:37 25 evidence storing. I think that you worked in the Pakistani  
26 police service, going in at rank of assistant superintendent. Is  
27 that correct?

28 A. That's correct.

29 Q. And when did you begin your service with the police force

1 in Pakistan?

2 A. 1992.

3 Q. So you went in at quite a high rank, is that right?

4 A. That is correct.

11:16:07 5 Q. And did that mean that you were not personally involved in  
6 the retrieval of evidence at that rank and then subsequently in  
7 your higher rank as superintendent?

8 A. That's generally true, but at the beginning of the career,  
9 in order to train, one is often asked to participate in cases and  
11:16:33 10 in visiting scenes of crime which one does not do later on.

11 Q. Right.

12 A. So I did have on occasion the opportunity to actually  
13 gather evidence myself but that was not my main responsibility.

14 Q. Right, but in the course of that early experience of yours,  
11:16:52 15 which was in effect a part of your training, were you trained  
16 then in the retrieval, storage and documentation of evidence?

17 A. Yes. We had a system whereby materials had to be packaged  
18 when they were collected; documents had to be prepared as to  
19 where they had been seized from; seizure memos had to be prepared  
11:17:26 20 and signatures of witnesses obtained, et cetera. So we went  
21 through that training and practised it when the opportunity  
22 arose.

23 Q. And so would you expect that from your training in your  
24 police force in Pakistan, would you expect that when items are  
11:17:48 25 retrieved from a particular location the documentation that is  
26 prepared specifies where they were retrieved from and what they  
27 consist of. In other words, an inventory of the items that had  
28 been retrieved?

29 A. Ordinarily, yes.

1 Q. Yes. When you say "ordinarily, yes", you mean in  
2 exceptional circumstances that might not be done, but the norm is  
3 that it would be done?

4 A. I would agree with that.

11:18:21 5 Q. Thank you. And when you went to work then for the  
6 International Criminal Tribunal for the Former Yugoslavia you  
7 were involved then, I think, as an investigator but would an  
8 investigator him or herself be involved in preparing  
9 documentation of the sort we've just been discussing in relation  
10 to any exhibits seized by him or he?

11 A. Yes, they would be.

12 Q. Thank you. Now, you haven't actually, as I understand it,  
13 worked for the Sierra Leone police force yourself?

14 A. That is correct. I have not.

11:19:01 15 Q. In your work from late April 2003 onwards with this Court,  
16 have you become familiar with the Sierra Leone police force  
17 practices or, rather, protocols in relation to the documentation  
18 and storage of seized exhibits?

19 A. No, I would not say so.

11:19:28 20 Q. Right. Are you aware that there is a system of logging in  
21 exhibits seized into an evidence log at the police station to  
22 which the exhibits are taken, within the Sierra Leone police  
23 force?

24 A. I have no direct knowledge of that but that sounds  
11:19:49 25 reasonable to me but I cannot say that I'm personally aware of  
26 such a system which is in place in Sierra Leone.

27 Q. Right. Well, you spoke to Mr Alfred Sesay about the  
28 documents - I'm concerning myself now with the documents seized  
29 from or said to have been seized from Foday Sankoh's home -

1 you've spoken to him. Did you ask him what systems were supposed  
2 to be operated when exhibits were brought to a police station?

3 A. No, I did not.

4 Q. Well, wouldn't that be the starting point for your  
11:20:24 5 investigation as to establishing the provenance and then the  
6 integrity of transmission of the exhibits that you were concerned  
7 with?

8 A. Your Honours, when I said I spoke to Mr Alfred Sesay and  
9 also Mr Lahun, that was in context - that would be in the period  
11:20:46 10 2005 and that transpired through informal conversations during  
11 day-to-day interaction. That wasn't meant to record or to lead  
12 to a formal investigation of what had taken place at the time.

13 In relation to this particular exercise with which I have  
14 been now charged I have not spoken to Mr Sesay. Mr Sesay has  
11:21:15 15 been away from the Special Court since early 2007 and I have not  
16 been in touch with him since. Nor have I spoken to Mr Lahun in  
17 this respect. I have relied on the information available within  
18 the Office of the Prosecutor, mostly in form of affidavits given  
19 by Mr Sesay and Mr Lahun, and statements taken from other persons  
11:21:35 20 involved in obtaining these documents.

21 Q. Right. What I want to ask you about in particular is the  
22 way in which the items said to have come from Foday Sankoh's  
23 house were stored and/or documented when they came to the police  
24 station - the CID police station - and were put into what you  
11:22:03 25 understand to be Mr Alfred Sesay's personal custody and control.

26 A. Your Honours, police station is a formal term which  
27 connotes certain powers on that body. I'm not sure CID  
28 headquarters, which is what I've referred to, would constitute a  
29 CID police station.

1 Q. Well, I'm not concerned with the nature of the building.  
2 If it is police premises and he is given documents that he is  
3 supposed to have sole custody of, and important documents, you  
4 would expect him, would you not, to have entered them into an  
11:22:44 5 exhibit log?

6 A. I'm not familiar with the procedures followed by CID and  
7 what his instructions were. I have read an affidavit from  
8 Mr Lahun, who was said to be his superior at the time, and  
9 Mr Lahun expresses no dissatisfaction with how Mr Sesay handled  
11:23:02 10 those exhibits.

11 Q. Were you aware that Mr Sesay gave evidence in what I will  
12 call the RUF trial in June 2006 about the way in which he dealt  
13 with these very exhibits?

14 A. Yes, I am aware of that.

11:23:18 15 Q. Right. And were you aware that he testified in that trial  
16 that the documents that he was handed, said to be from  
17 Mr Sankoh's home, were not checked by him or recorded by him when  
18 they were given to him? Were you aware of that?

19 A. I believe that is correct.

11:23:42 20 Q. Likewise, that he testified that the documents were not  
21 entered into the exhibit log which is against standard protocol?

22 A. Well, I'm not aware of the standard protocol of Sierra  
23 Leone police, so I cannot agree with you on that but --

24 Q. No, I'm sorry, I've got to interrupt you there. I'm not  
11:24:01 25 asking if you're aware of it. Are you aware that he testified  
26 that he had not entered them into the exhibit log and by doing  
27 that he had gone against standard protocol?

28 A. I don't precisely recall that.

29 Q. Were you present when he gave evidence in 2006 in that

1 trial?

2 A. I worked for the Court at the time, but I wasn't present in  
3 the courtroom.

4 Q. So you didn't actually follow his testimony?

11:24:26 5 A. I have read his testimony, I've read a transcript of it,  
6 but I don't recall precisely what you have just put to me. I'm  
7 not denying it, but I just don't recall it. But perhaps you can  
8 present me with the transcript and I'll be happy to look at it  
9 and assist you further.

11:24:43 10 Q. I can certainly do that in due course. For the benefit of  
11 your Honours, I'm going at the moment from a short summary that  
12 appears in the Defence response to one of the Prosecution's  
13 motions dealing with these documents. This summary of Mr Sesay's  
14 evidence I don't believe has been disputed as such by the  
11:24:59 15 Prosecution and so for the sake of brevity I'm relying solely on  
16 the, as far as I understand it, undisputed summary of his  
17 evidence.

18 He also gave evidence that he had no knowledge about  
19 whether these were all of the documents retrieved from Foday  
11:25:22 20 Sankoh's premises. Do you recall that?

21 A. Yes, I do. If I may clarify my answer, I think it was put  
22 to him whether he could say with certainty whether these were all  
23 the documents that had been obtained from Foday Sankoh's house  
24 and he said yes, he could not say with certainty.

11:25:51 25 Q. Yes, well, I don't think there's any dispute between us on  
26 that.

27 A. All right. Fine.

28 Q. Thank you. So if he was supposed to record these documents  
29 in the exhibit log and didn't, and never did do, that is a

1 serious defect in establishing with certainty the provenance of  
2 each and every one of those documents, isn't it?

3 A. I cannot agree with that.

11:26:36

4 Q. All right. Well, turning to what he said in his solemn  
5 declaration - I don't know if I've got time for one question on  
6 this, your Honour?

7 PRESIDING JUDGE: Yes, you do, Mr Munyard.

8 MR MUNYARD: Right. Thank you:

11:26:49

9 Q. It's right, isn't it, that in the declaration that he made  
10 on 7 July 2005, all Mr Alfred Sesay was able to say was that he  
11 was given a carton containing materials which were stored in a  
12 big cupboard under lock and key at the CID headquarters, and that  
13 since he was given them on 9 May 2000 several people came and  
14 either looked at or made copies of those documents, but he's

11:27:27

15 never suggested in that affidavit that he was present and  
16 documented what the various visitors were doing with the various  
17 documents, has he?

18 A. Well, I would have to look at the affidavit. If it's  
19 placed before me then I can assist you further. I do recall that  
20 in his testimony he did clarify that he was always present when  
21 the documents were either examined or copied.

11:27:48

22 Q. Well, if I can, one short follow up.

23 PRESIDING JUDGE: If it's short.

24 MR MUNYARD: Yes, it's very short:

11:28:03

25 Q. In the solemn declaration what he says is:

26 "United Nations representatives came, inspected the  
27 documents for several hours and did not take possession of any of  
28 the documents. I am uncertain if they made copies of any of the  
29 documents."

1 Do you agree?

2 A. That's what he said in the affidavit, that's right, but it  
3 does not mean that he ever did not have possession of them.

11:28:37

4 Q. No, I'm not suggesting that. I'm just saying in terms of  
5 how he would be able to identify these documents with absolute  
6 certainty - with any certainty - is highly speculative, would you  
7 agree?

11:28:52

8 A. I apologise, your Honours, I don't follow the connection  
9 between what you said earlier and the conclusion that you draw.  
10 Perhaps you could clarify it.

11 Q. I'll have to do that after the break.

12 PRESIDING JUDGE: Yes, we are out of tape now. We will  
13 have an adjournment until 12 o'clock.

11:29:08

14 MR MUNYARD: Your Honours, I'm happy for this document to  
15 be copied and given to the witness to look at over the break,  
16 which is Mr Sesay's solemn declaration, if that will speed things  
17 up.

18 PRESIDING JUDGE: I gather there are further questions  
19 following from it?

11:29:19

20 MR MUNYARD: Yes.

21 MR RAPP: Given the nature of this document we have no  
22 objection to it being given to him.

23 MR MUNYARD: Thank you.

24 [Break taken at 11.30 a.m.]

11:53:22

25 [Upon resuming at 12.00 p.m.]

26 PRESIDING JUDGE: Yes, Mr Munyard.

27 MR MUNYARD:

28 Q. Mr Malik, have you had an opportunity over the break to  
29 have a look at the solemn declaration of Mr Alfred Sesay?



1 A. Yes, I have looked at it, thank you.

2 Q. Would you agree that he has never at any time suggested  
3 that he made any inventory of the contents of the box of  
4 documents said to come from Foday Sankoh's house?

12:02:19 5 A. That is correct.

6 Q. Thank you. Nor did he make any inventory of which  
7 documents were taken by either OTP staff or any other people who  
8 came to look at and possibly take away any documents from that  
9 box?

12:02:35 10 A. That is correct.

11 Q. So - nor indeed has he said that he has ever himself,  
12 regardless of making an inventory, he has never himself actually  
13 gone through and looked at each and every item in that box?

14 A. No, that is not correct. I believe his evidence is that he  
12:02:57 15 did look through the documents and therefore he was familiar with  
16 it.

17 Q. In the solemn declaration?

18 A. Not just from declaration but I am aware of what he has  
19 said at other times including in the RUF trials.

12:03:11 20 Q. I don't want to labour this point but if there is somewhere  
21 in the solemn declaration where it makes clear that he  
22 familiarised himself with each and every document in the box,  
23 please draw it to our attention.

24 A. Yeah, I do not believe he referred to that, but I am in  
12:03:35 25 possession of that evidence and just to complete the picture he  
26 has said at other times that he did review all the documents.

27 Q. And when do you say he said that?

28 A. I believe in the RUF testimony he said he went through the  
29 documents and therefore he was familiar with them. He was --

1 Q. How often and when did he say he went through the  
2 documents?

3 A. He said it was the same year, in the year 2000, when he  
4 came into possession of these documents and the year when these  
12:04:12 5 documents were examined by various people. He said he was - he  
6 thought that these documents might be important and may be  
7 relevant to the business of the state. Of course I am  
8 paraphrasing here right now, but anyway, he thought these  
9 documents needed to be looked at and so he did.

12:04:34 10 Q. Yes, all the more surprising that he made no inventory of  
11 them then, would you agree?

12 A. I cannot explain why he made it or why he did not make it.

13 Q. Very well. In any event, can you just help us with this:  
14 Are all the documents that you have now produced, and that we  
12:04:54 15 have looked at some of them already exhibited and some of them  
16 marked for identification, are they the entire contents of the  
17 box that was brought on 9 May 2000 to the CID headquarters?

18 A. Well, the documents that we have discussed as part of my  
19 testimony are a subgroup of the documents which were shown to  
12:05:19 20 Mr Sesay and it appears to me that what has been given to the  
21 OTP, what is in the possession of the OTP, was a part of what was  
22 in the possession of CID.

23 Q. Right.

24 A. So, my understanding is that OTP does not have everything  
12:05:33 25 that was collected from Foday Sankoh's house on 8 May - 9 May  
26 year 2000.

27 Q. And you would not be in a position to say, therefore, what  
28 proportion of the contents of the box the OTP has, correct?

29 A. No, I would not be able to do that.

1 Q. Thank you. And, therefore, we simply don't know whether  
2 you have got the majority, a half, or a quarter?

3 A. I cannot say that with any certainty.

4 Q. No. And so it follows, does it not, that we therefore  
12:06:08 5 don't know how it is possible for Mr Sesay to say "I can remember  
6 these specific documents as having been in that box amongst all  
7 the other material that was in that box"?

8 A. Well, these documents were obviously important, which is  
9 why OTP in the end wanted these documents, so I am not surprised  
12:06:27 10 that these documents would have attracted Mr Sesay's attention.

11 Q. Well, it is not Mr Sesay who decided to supply them to the  
12 OTP, is it? It is people from the Office of the Prosecution who  
13 come along and take some of these documents. That is how they  
14 end up in the hands of the OTP, correct?

12:06:47 15 A. But those are the documents that Mr Sesay identified so he  
16 has not been - every other document which - that let us say in  
17 contradistinction to these documents may be uninteresting, not  
18 everything was put to him. Only those documents which were in  
19 the possession of the OTP, or perhaps a part of those documents  
12:07:06 20 were put to him and those were the documents that, if I can use  
21 the phrase maybe jumped at the Prosecution because they seemed  
22 interesting, so I would imagine that Mr Sesay, anyone in Mr  
23 Sesay's position would also find those documents interesting and  
24 perhaps memorable.

12:07:21 25 Q. All I am suggesting, Mr Malik, is that in the light of the  
26 complete lack of documentation by him, or anybody else for that  
27 matter, there must be some doubt, must there not, as to his  
28 ability to remember that each and every one of these documents  
29 were documents that he had seen in that box?

1 A. Mr Sesay was a very experienced police officer. He had  
2 been in this business for a long time. I worked with him for a  
3 number of years. I found him to be very conscientious, very  
4 punctilious, if I can say. I have no reason to believe that he  
12:08:00 5 did not recall these documents. He in fact recalled 37  
6 documents. I have been able to recall 55-odd documents more or  
7 less for the purpose of this exercise, so I don't find it - I  
8 have no doubts that as to why he was able to recall all the  
9 documents.

12:08:21 10 Q. Well, the exercise that you have been embarked upon is a  
11 very different one from the exercise he was embarked upon during  
12 the years when people were coming and taking out different  
13 documents from the box?

14 A. Well, he had them for a number of years. He got possession  
12:08:35 15 of them in early 2000 and then did not have to part with them I  
16 understand until 2003, except for the documents which were taken  
17 away. So he had possession of these documents for a long time.  
18 In fact, every time somebody would come and examine those  
19 documents I take that to be an additional opportunity when he  
12:08:56 20 would have another look at those documents. So given the amount  
21 of interest in these documents expressed by various parties  
22 including the Attorney General's office, the United Nations, the  
23 Special Court, it is quite understandable that he was very  
24 familiar with them.

12:09:12 25 Q. Very well. Just one other question, please, about the  
26 people who had dealings with those documents. You mentioned in  
27 your evidence that during 2002 to 2004 documents were brought to  
28 the OTP first by Mr Lahun, then by Ms Dufka, and then another  
29 investigator, Mandy Caldwell, in 2004, obtained some of the

1 documents. Do you remember telling us that?

2 A. That is correct. It would be Cordwell, C-O-R-D-W-E-L-L.

3 Q. Cordwell, not Caldwell. Thank you. Now, you have made a  
4 declaration of your own about the various people who handled

12:10:04 5 these documents and Ms Cordwell is not mentioned in that

6 declaration of yours. Is there any particular reason why she is  
7 not mentioned?

8 A. No, I am not sure I needed to mention that so --

9 Q. Well, you were being asked about who had had anything to do  
10 with these documents since they were put into the custody of

12:10:29 11 Mr Sesay, weren't you?

12 A. That is right.

13 Q. And indeed, when you gave us evidence, you were being asked  
14 exactly the same thing, but in your declaration you have omitted

12:10:45 15 Ms Cordwell. Do you know which documents it was that she took to  
16 the OTP and were any of those ever shown to Mr Sesay for him to  
17 identify?

18 A. Yes, they were. I believe there are - among the 14 that we  
19 have here I believe there are two documents that were brought in  
20 by Ms Cordwell and I believe I limited my discussion to Mr Sesay  
21 and Mr Lahun because those were the people who had handled the  
22 documents before they came into possession of the OTP. I have  
23 sought no declaration in this regard from any of the OTP

12:11:04 24 investigators who have brought in evidence, either Ms Dufka or Ms  
12:11:30 25 Mandy Cordwell.

26 Q. No, I am not suggesting that. I am simply wondering why  
27 when you have mentioned Mr Lahun and Ms Dufka, why you didn't  
28 mention Ms Cordwell in your declaration; is it simply that you  
29 forgot about her?

1 A. No, I did not forget about her, but I just thought her  
2 involvement was relatively limited. Ms Dufka had brought in a  
3 lot of the documents that I'd mentioned in my affidavit.  
4 Mr Lahun and Mr Sesay had personally handled the documents when  
12:11:59 5 they were at CID so my discussion necessarily was limited to the  
6 principal actors.

7 Q. Right. When they were brought to the OTP by people like  
8 Ms Dufka and indeed like Ms Cordwell, were they then immediately  
9 documented and logged and individually categorised?

12:12:27 10 A. Your Honours, as I have explained, the way the process  
11 works in the OTP is that evidence is brought in by attorneys,  
12 investigators and then it is reviewed for evidentiary relevance.  
13 So the materials were brought to the OTP and remained within -  
14 remained in custody of investigators and attorneys for some time  
12:12:44 15 before they were brought to the OTP. The first time that I  
16 became aware of these documents was in 2004 when they were  
17 brought to the evidence unit. I am not aware of any other  
18 inventory or list et cetera which may or may not have been  
19 prepared prior to that.

12:13:01 20 JUDGE SEBUTINDE: So the precise answer is no?

21 THE WITNESS: Yes, your Honours, the answer is no.

22 MR MUNYARD:

23 Q. Very well. I would like to look, please, at some of these.  
24 Now I appreciate, Mr Malik, that you are not able to comment on  
12:13:26 25 the content. You are here to establish provenance. But I would  
26 just like to go through a few of them. Now, I think the first -  
27 I am sorry, the first batch of documents that you dealt with  
28 included at least two notebooks. Are you aware whether or not  
29 there were any other notebooks in the box that was taken to the

1 CID headquarters on 9 May 2000?

2 A. Well, within these - this box of 14 there are I believe  
3 three notebooks. I meant this group of 14 documents which I have  
4 discussed, there are at least three notebooks.

12:14:51 5 Q. Yes.

6 A. So that would be more than two.

7 Q. Sorry, I have misstated. I was looking at the way they are  
8 categorised. You are quite right. The third one - there are two  
9 that are logbooks or used as logbooks and one is used as a mining

12:15:09 10 record book. Are you aware if there are any more notebooks  
11 within the box of documents?

12 A. One, I am not aware of the contents of that box. There may  
13 be other notebooks in OTP's possession which came from that box  
14 which came from CID. However, for the purposes of this exercise

12:15:29 15 I have only looked at the list of 55 documents that was given to  
16 me by the Prosecution.

17 Q. Thank you. Can we turn, please, to tab 4. It is a minor  
18 point but it is analogous to a point that was taken up earlier I  
19 think by my learned friend, Mr Rapp. On here --

12:15:57 20 MS IRURA: If counsel could please indicate the MFI number?

21 MR MUNYARD: What I am looking at at the moment is  
22 Prosecution exhibit number 84 in tab 4:

23 Q. Now, you see that - and I make it absolutely clear that  
24 this is a minor point of recording - on the what I will call the  
12:16:29 25 exhibit page, which is the first page in tab 4, it says "Letter  
26 from a Black Guard commander to The Leader". It is a one page  
27 document that follows and it's to the leader - the heading on  
28 that document is "To The Leader RUF/SL from the Black commander",  
29 in other words, the word "Guard" is not included in the title. I

1 make it clear, your Honours, I had spotted that as we were going  
2 through and realised I hadn't mentioned it on the way, but  
3 clearly the cover page of that exhibit will need to be amended to  
4 accurately reflect the document itself.

12:17:36 5 Now, you may or may not be able to answer this, Mr Malik.  
6 We have seen a number of documents that refer to Black Guards  
7 and, indeed, if one looks at tab 6, which is MFI-1, on the first  
8 page of that, four lines down, it says "Black Guard commander".  
9 Do you see that? Sorry --

12:18:09 10 A. I have not been given the exhibit yet.

11 Q. It will be shown to you in a moment.

12 A. I do.

13 Q. You see where it says "Black Guard commander" four lines  
14 down there? Four lines from the top? Have you got the right  
12:18:42 15 exhibit there, or sorry, the right document?

16 A. This bears the ERN 00025545. Is this the one you are  
17 referring to?

18 Q. No, I am looking at one - I will miss out the zeros - 9489.  
19 It is behind tab 6, which is MFI-1, I believe. I have got it as  
12:19:03 20 MFI-1. If I am wrong about that then - no.

21 A. Yes, I have the exhibit in front of me now.

22 Q. Thank you. I am sorry, Mr Court Attendant, but I am going  
23 to have to ask you to bring MFI-2 and MFI, sorry MFI-2 and P-67  
24 as well, in order to make the point. If we look at MFI-2 now,  
12:19:54 25 which is behind tab 7, do you have that, Mr Malik?

26 A. I do.

27 Q. This is to the leader of the revolution from the Black  
28 Guard. Do you see that?

29 A. I do.



1 Q. If you put that on one side and then turn to P-67, behind  
2 tab 8 for those who are using the tabs, I just want you to look  
3 at the first page of that, please. This is addressed to the  
4 leader and it is from the Black Revolutionary Guard?

12:20:45 5 A. That is correct.

6 Q. Have you in any of your review of these documents seen any  
7 other reference to something called the Black Revolutionary  
8 Guard?

9 A. I cannot say with certainty. As I have explained, I was  
12:21:03 10 not paying any attention to the content. It was merely a way to  
11 be able to identify any given document so that I can speak as to  
12 the source of that document.

13 Q. Yes.

14 A. So I would not be able to answer either yes or no.

12:21:19 15 Q. All right, thank you. And can you just confirm, please,  
16 that those two documents that you are looking at, the one that is  
17 MFI-2, has a signature at the bottom - the bottom of the second  
18 page of the document?

19 A. At 7737, 0007737.

12:21:52 20 Q. Yes, that is right.

21 A. Yes, it does have a signature. It is an original document  
22 and it has a signature.

23 Q. Whereas P-67 does not have any name on it at all, the name  
24 of the person submitting the document, either at the top on page  
12:22:10 25 9672 or at the bottom on page 9681 on the last page of that  
26 document?

27 A. That's correct.

28 Q. For the sake of completeness I'm sorry I am going to have  
29 to ask you to go back to MFI-2, a one page document which was the

1 first one. This is said to be from the Black commander. Do you  
2 have it there still, Mr Court Attendant? It is P-84. I think  
3 you may have taken it back. Thank you.

12:23:23 4 The document you are looking at, page 9485, it's not clear  
5 whether that is the first page of a number of pages of that  
6 particular letter or report, is it?

7 A. I am not sure why you believe that's not clear. It does  
8 seem to have a header and --

12:23:55 9 Q. It has a heading. There is no signature at the bottom or  
10 anything of that sort as we have seen in other such documents.  
11 Other documents purporting to come from the Black commander, the  
12 Black Guard commander, or for that matter the Black Revolutionary  
13 Guard, always have something at the bottom at the end of the  
14 document, albeit the Black Revolutionary Guard document doesn't  
12:24:21 15 have any name of the sender. This one that we are looking at  
16 now, P-84, we can't be sure whether this is the complete document  
17 or whether there were other pages that were not photocopied, can  
18 we?

12:24:44 19 A. Yes, that's possible, but perhaps there is one obvious  
20 explanation why there is no signature block at the bottom because  
21 they ran out of space. And given that that information was  
22 already available at the top perhaps this is all there is to it.  
23 But, anyway, one could not be sure.

12:25:05 24 Q. Precisely. And what you are looking at, the original in  
25 your hand, is itself a photocopy, isn't it?

26 A. It is.

27 Q. And so we don't know for that matter whether - if there had  
28 been a signature and it was at the very bottom of the page,  
29 whether it has simply not been photocopied?

1 A. Sorry, could you repeat the question, please.

2 Q. Yes. We can't tell, because we are looking at a photocopy  
3 of a page - we can't tell whether there was more at the very foot  
4 of the page, such as a signature, because clearly what we are  
12:25:51 5 looking at is not the entire page itself because there appears to  
6 be a fax number at the top of it. Would you agree?

7 A. Well, there is a fax number at the top, but, I'm sorry,  
8 it's not clear to me why you say these are not the entire  
9 contents of the page because --

12:26:14 10 Q. Because the document we are looking at to the leader of the  
11 RUF/SL starts below the fax number, suggesting that the document  
12 that was being faxed may have gone further than the remainder of  
13 this A4 sheet of paper as very often happens with faxed  
14 documents?

12:26:41 15 A. I don't see any reason to believe that. I mean, I guess  
16 you could say in theory one could be unsure, but unless there is  
17 any other reason to believe that there was something that  
18 followed I would not draw that conclusion. And in the absence of  
19 any other information I would take this to be a complete  
12:27:08 20 document.

21 Q. But you simply can't say, can you?

22 A. Well, it appears to be a one page document. It has - I  
23 don't see a run on at the bottom. Sometimes - if this had half a  
24 sentence on the last line then one could reasonably conclude that  
12:27:25 25 there was text that followed it either on this page or the next.

26 Q. Well, clearly.

27 A. But given that the sentence is complete and in fact  
28 somebody has actually written it in hand, it seems to me perhaps  
29 that this was the last word left on this and they have completed

1 this document. So unless other information was presented to me I  
2 would take this to be a complete document in itself.

3 Q. All right. MFI-4, please, which is behind tab 10. You  
4 have referred to it as the nominal roll. Now it is right, isn't  
12:28:27 5 it, that you have no idea who prepared this document?

6 A. That is correct.

7 Q. But you have looked at the document itself, haven't you?

8 A. Only in a very superficial way just to know what it is.

9 Q. All right. Well, I am just going to see if you can help us  
12:28:45 10 with a couple of the matters that are on it. You will see on the  
11 first page, 7802, underneath "Nominal roll of trained RUF  
12 personnel", there is a box giving rank, name, base trained, name  
13 of training commandant, year trained and where and when captured  
14 and then remarks. Are you able to help us at all as to captured  
12:29:20 15 by who?

16 A. No, I would not be able to do that.

17 Q. All right, thank you. On the second page, 7803, we see a  
18 list of the same 30 names, starting number one Captain JT Bayoh,  
19 or Bio, and ending, number 30, Private Sahr Lamin. Do you know  
12:30:01 20 if this is purporting to be just a part photocopy of the first  
21 page, or is it a different document?

22 A. I cannot say that. I received this together and it appears  
23 to have been stapled together, looking at the original, so I  
24 would not be able to comment on that.

12:30:29 25 Q. Right.

26 A. But to me it appears to be - it was given to me as one  
27 document, so therefore we stamped it, we kept it as one document  
28 and that's how we processed it.

29 Q. Right. In fact, scrutiny of the second page suggests that

1 it's not simply a photocopy of part of the first page for the  
2 simple reason that in that box that I drew your attention to on  
3 the first page if you look at the box on the second page it gives  
4 rank, name and then base, but not the word trained and then  
12:31:07 5 instead of name of training commandant, year trained, it just  
6 gives year. So they appear to be two different documents?

7 A. I apologise. I misunderstood your question. Anyway, now I  
8 understand what your question was and, yes, it couldn't be a  
9 photocopy because it is in a different format so obviously it's  
12:31:27 10 not a photocopy, but it may repeat some or part of the  
11 information on the first page.

12 Q. Yes, yes. If you turn to the third page, please, you will  
13 see - this is page 7804. This is another Revolutionary United  
14 Front of Sierra Leone nominal roll of RUF personnel classified as  
12:32:00 15 prisoners of war by ECOMOG who were released on 14 August 1999.

16 If we just take the first name on there, Private Hassan Gbla, and  
17 then go across the page from left to right, when and where  
18 captured, Boajubu in 1993, escaped and recaptured in 1999,  
19 classed as prisoner of war, Amnesty. And below that the next  
12:32:37 20 person is said to have been released on 14 August by Amnesty.

21 Can you help us at all with this, Mr Malik? Where that refers to  
22 Amnesty, is it referring to an amnesty given to people or is it  
23 referring to the organisation Amnesty International acting as  
24 some kind of medium - some kind of player in the resolution of  
12:33:11 25 the conflict?

26 A. Your Honours, I would not be able to assist the counsel on  
27 this point. I have no information either way.

28 Q. Very well, thank you. Now would you go, please, to the  
29 fifth page in that bundle, page 7806. This document is headed

1 "Revolutionary United Front Sierra Leone, trained RUF/AFRC/SLA  
2 child combatants at Lungi" and there on the right-hand side it  
3 gives an indication of in which organisation these particular  
4 individuals were trained. Do you see that? There is a column  
12:34:37 5 marked - sorry, there is a column and the entries all have  
6 "Trained" and then a dash and a reference to the organisation?

7 A. I do.

8 Q. Thank you. And I am not going to ask you to do the  
9 exercise, I have done it myself, but if one counts up the  
12:34:54 10 different individuals by organisation it appears that 11 of  
11 those, if they were child combatants, or others in any event, 11  
12 of them were trained by the SLA, one is untrained, that is number  
13 10, and five trained by the RUF. Will you accept those figures?

14 A. I do. I have counted them as you spoke and I agree with  
12:35:24 15 you.

16 PRESIDING JUDGE: Well, what are you accepting; that that  
17 is what the document says or that they were in fact trained?

18 THE WITNESS: No, your Honours. I understood the question  
19 to be that in that column it states these are the numbers  
12:35:39 20 assigned - attached to each particular organisation. 11 are said  
21 to be trained by SLA and five by RUF. That is what the document  
22 says. I have no information as to whether that's actually true,  
23 whether they were actually trained by any of these organisations  
24 or not.

12:35:55 25 MR MUNYARD: Thank you. Can I make it clear, your Honour,  
26 I wasn't asking anything other than that:

27 Q. Tab 11, which is exhibit P-100, in our copy on page 7671  
28 and 7672 there are items blacked out. That is the first and the  
29 second page of the document. Now what you said to us in

1 evidence, Mr Malik, was: "This is different from the one I have  
2 examined recently. Some items or some matters have been blacked  
3 out". Can you remember what it was that has now been blacked out  
4 in this different copy?

12:37:24 5 A. Well, the first page has letters Ex.A which have been  
6 blacked out here. There are some other - there are other bits of  
7 writing as well which I cannot recall, but that is what is  
8 different from this document to what I looked at for this  
9 exercise.

12:37:47 10 Q. Right. And does Ex.A have any significance at all to you?

11 A. It could be an exhibit, exhibit A.

12 Q. Right.

13 A. Though I don't know that for sure, but it could be one. It  
14 could be example A or it could be exercise A.

12:38:07 15 Q. But you have seen a - what I will call a clean copy of this  
16 document, is that right?

17 A. That is right.

18 Q. And can you think of any reason why we shouldn't be  
19 supplied with a clean copy?

12:38:21 20 MR RAPP: Your Honours, I believe that when this item was  
21 originally exhibited in Court it was a copy without the black-out  
22 and that was made on the instructions of your Honours. We will  
23 check the record in that regard.

24 MR MUNYARD: In that case I will move on from that:

12:38:49 25 Q. I am now going to turn, if I may, to the documents said to  
26 have come from the RUF office in Kono. If your Honours will bear  
27 with me for just a moment while I reorganise myself. I want to  
28 ask you about the way in which these documents came ultimately  
29 into the possession of the OTP. You told us about special branch

1 officers going to Kono and to a particular office in a place  
2 called Koakoyima and collecting a rice bag of documents, yes?

3 A. Well, special branch representative was already present in  
4 Kono District and had these documents in his possession. Then

12:39:49 5 other officers from the special branch office in Freetown went to  
6 Kono and one of them brought the bag back to Freetown.

7 Q. Yes, I mean, the man - and it was a man - who was there  
8 already obviously claims that he went to the RUF mining office  
9 there and collected these documents?

12:40:10 10 A. That is correct.

11 Q. His colleagues then came and brought them back to -  
12 ultimately to Freetown, yes?

13 A. That is correct.

14 Q. In a rice sack?

12:40:21 15 A. That is correct.

16 Q. And are you able to help us: Were all the documents in  
17 that rice sack the documents that we have now been looking at, or  
18 have we been looking at simply a selection but not all of them?

19 A. As part of my testimony, your Honours, I have only  
12:40:44 20 discussed a part of those documents.

21 Q. Right. And are you able to tell us what - roughly what  
22 proportion of the total of the documents in that rice sack we  
23 have looked at?

24 A. I could not be sure of that, but it would be a part of that  
12:41:00 25 - a fraction of that.

26 Q. So there may be many more documents that were in that rice  
27 sack?

28 A. Yes. I believe the documents - the total number of  
29 documents is much larger than the 22 documents which I have



1 discussed as part of my testimony.

2 Q. And when the expression "rice sack" is used it may be that  
3 others have better knowledge than me, but is there one standard  
4 size of rice sack, or are there different sizes of rice sack?

12:41:36 5 A. I believe there are different sizes of rice sacks.

6 Q. Right. And it is correct, isn't it, that the gentleman at  
7 the Special Court who first took possession of them - I just want  
8 to make sure I pronounce his name correctly - Mr Poraj-Wilczynski  
9 - described receiving the documents from the Sierra Leone police  
10 in two rice sacks?

12:42:05

11 A. That is correct.

12 Q. So the document - all other people who say they handled  
13 these documents up to that point say they were in one rice sack,  
14 correct?

12:42:21

15 A. That is correct.

16 Q. By the time they get to Mr Poraj-Wilczynski they have now  
17 gone into two rice sacks, yes?

18 A. That is correct.

12:42:37

19 Q. And is there any explanation given by anyone as to these  
20 documents being divided, or someone having made a mistake in the  
21 first place about there just being one rice sack when in fact  
22 there were two sacks of documents?

12:42:56

23 A. There isn't any, but given how these things - how this  
24 information is transmitted I believe it is one of those two  
25 things that happened: That either people were not precise when  
26 they were describing how many rice bags, or perhaps at some point  
27 it became necessary to transfer the materials which were  
28 originally in one bag into two new bags, either for ease of  
29 transport or because perhaps the first bag might have been

1 damaged, et cetera, et cetera. There could be any number of  
2 explanations, but I am not aware why there is this discrepancy.

3 Q. Thank you. Right, if I can take you now, please, to some  
4 of those documents. Would your Honours give me a moment? I  
12:44:12 5 think I can probably speed up if I have a moment now, rather than  
6 go through all of these. Yes. Could you turn, please, it is  
7 behind tab 20, which is MFI-9. Mr Malik, can you confirm is this  
8 document also either a photocopy or a carbon copy and not the  
9 original?

12:45:50 10 A. Your Honours, it does appear to be a photocopy or a  
11 facsimile of some sort.

12 Q. Or possibly a photocopy of a carbon copy; in other words, a  
13 copy of a copy?

14 A. Possibly, but I couldn't be sure.

12:46:07 15 Q. And I just want to have you draw our attention to something  
16 in the third numbered paragraph there, please. This is a minutes  
17 of a forum held with the RUF/SL administrative board on 4  
18 December 1998. In paragraph 3, there are a number of points made  
19 to correct administrative mistakes and the second bullet point  
12:46:36 20 there reads as follows: "Most commanders are illiterate" and then  
21 it says "Adjutant/clerks must be rectifying their mistakes". Do  
22 you agree that is what appears there at the second bullet point  
23 of paragraph 3?

24 A. That is correct.

12:46:59 25 Q. Thank you. Right, I am now going to move on, please, to  
26 tab 25 which is MFI-11. This is a document - I am not going to  
27 read out the full title - it is a forum held on 12 February 1999  
28 at the Bombali District office of the headquarters, commander of  
29 the 2nd Infantry Brigade, Bombali District, Makeni, and I would

1 I like you please to look at the body of the document. After the  
2 agenda, does it state that "The forum fully commenced later in  
3 the afternoon after thorough advice by the BFC", I presume that  
4 means battlefield commander, "to strike common understanding  
12:48:43 5 amongst us disregarding association with either SLA or RUF"?  
6 Then there is another paragraph making much the same point that  
7 starts with the words, "Lieutenant Colonel Augustine Gbao".  
8 Moving over the next paragraph, the penultimate paragraph on that  
9 page starts:

12:49:08 10 "However, to create atmosphere of better understanding we  
11 suggested every Friday to be holding forums to iron out and  
12 maintain balance in operation. Lieutenant Colonel Titus  
13 deliberating on mutual understanding emphasised to de-associate  
14 from the practice of identifying with a particular force, SLA or  
12:49:31 15 RUF. He contended that we constitute same force with same  
16 ideology fighting for same goal. He strongly advised officers  
17 against inciters who might want to upset operations by their  
18 sabotage methodologies".

19 And so it goes on. You have no doubt had a look through  
12:49:57 20 that document at some point, Mr Malik, and do you agree that it  
21 is dealing to a considerable extent with the concerns that the  
22 two groups, RUF and SLA, should act in unity rather than as  
23 divided separate entities?

24 A. Without being aware of the document - the entire contents  
12:50:30 25 of the document - that does appear to be what the text that you  
26 have read out to be saying so --

27 Q. Thank you. I am now going to ask you to look at another  
28 MFI. Well, before I do that, for the assistance of Mr Court  
29 Attendant, I am going to ask you to bring a few of them to the

1 witness table so that you don't have to go backwards and  
2 forwards. MFI-12, MFI-14 and MFI-16. If we start with MFI-12,  
3 just one matter I want to have you confirm for us. This is a  
4 letter to Charles Taylor, President of the Republic of Liberia,  
12:52:06 5 and it is signed at the bottom Colonel Jonathan - well, I am sure  
6 it is Jonathan. It is slightly misspelled, Kposowa, chief of  
7 admin, it would appear, RUF. Then there is a stamp. Do you see  
8 the stamp there, Mr Malik?

9 A. I do.

12:52:26 10 Q. At the top half of the stamp, reading from the top line, do  
11 you see it says "United Front Party"?

12 A. Yes, I see that.

13 Q. And the date there is 14 November 2000. Have you seen any  
14 such stamp at any time other than on this particular document?

12:52:54 15 A. I think at some point I have seen - I believe I have seen  
16 documents which refer to RUF Party, or Revolutionary United  
17 Party. I could not precisely point to those documents, but I  
18 have seen the use of the word "party" in relation to RUF.

19 Q. Right. If you go then to MFI-14, we can see here I - this  
12:53:44 20 is a Revolutionary United Party of Sierra Leone. The word  
21 "party" is used there in the heading dated 21 January 2001. This  
22 is some kind of pass. And at the bottom of that first page,  
23 25653, it is signed by someone who is special assistant to the AG  
24 chairman, RUF/SL. And over the page another travelling pass on  
12:54:34 25 page 25654. Again we see the same title "Revolutionary United  
26 Front Party of Sierra Leone" and the initials RUF/SL at the bottom  
27 below the signature. Can you simply confirm for us that that  
28 word "party" and the letter "P" appear in those documents?

29 A. That is correct.

1 Q. Thank you. I just have to change bundles for a moment,  
2 your Honours. Now this is a notebook, MFI-16, behind tab 31,  
3 which includes a great deal of different kinds of information,  
4 but it appears essentially to be lists or communications about  
12:56:12 5 materials of one sort or another, would you agree?

6 A. Not having examined the notebook, I cannot say.

7 Q. Let me just give you a very quick flavour. If you turn to  
8 the first handwritten page, which is our page 26049, dated 2  
9 December 2000:

12:56:36 10 "Issues in summary: 1. Colonel Junior wounded soldier  
11 came with problem. He needs the following items to travel to  
12 Kailahun for treatment: (a) dressing materials; (b) drugs; (c)  
13 salt and; (d) Maggi and some finance."

14 Well, I don't need to ask you what Maggi is now, because I  
12:56:59 15 know. That's one list. If you turn to any other page the  
16 chances are that you will find requests for items of one sort or  
17 another. And if you turn for example to page 26053 - and I  
18 emphasise I am doing this entirely at random. Have you got 26053  
19 there?

12:57:22 20 A. I do.

21 Q. In the middle of that page it looks like:

22 "Respond: (a) Corporal Edwin Bockarie was instructed to  
23 organise the following: 1. Fanta Kabba and other" - I can't  
24 read the next word - "2. Filter and truck driver".

12:57:43 25 And then if you turn over to page 26060 there is a long  
26 list on that page dated 5 December 2000, "Items brought by Pa  
27 Demba" and they all appear to be items of a medical nature, would  
28 you agree?

29 A. Personally I am not familiar with what these things are so

1 I cannot testify that these are - some of them obviously like  
2 Panadol, ibuprofen I can see that, but there are other words  
3 which I'm not familiar with, so. But it is a long list, I can  
4 agree to that.

12:58:41 5 Q. Well, I don't know if you know what number 8 Chinese rub  
6 is, but for the most part they are obvious medical supplies,  
7 aren't they?

8 A. There are many references to medical supplies in this list.

9 Q. Thank you. And one more page in that document, please.  
12:59:10 10 Page 26066. This page again is headed "Revolutionary United  
11 Front Party/SL, RUF/SL, headquarters Makeni, 7 December 2000"  
12 and it's some sort of greeting to Lieutenant General Daniel  
13 Opande, the force commander of UNAMSIL, thanking him for his  
14 letter and, over the page, suggesting a face to face meeting and  
12:59:46 15 it's signed by Issa H Sesay, general interim leader RUF/SL. Do  
16 you agree that's the contents of that page.

17 A. I agree with other things you have said, but where it says  
18 "signed" there are no signatures. The space is left blank.

19 Q. You're quite right and I stand corrected. It says "signed"  
13:00:13 20 and then there is a line, but below the line where the signature  
21 is meant to appear somebody has written "Issa H Sesay, General  
22 Interim Leader RUF/SL". So it's either a letter or a draft of a  
23 letter that somebody anticipated Issa Sesay would be signing,  
24 would you agree, on the face of it?

13:00:35 25 A. Yes, that's right, but possibly.

26 Q. Very well, thank you. The next one is I believe, yes,  
27 again I am going to ask Mr Court Attendant to bring a number of  
28 these MFI-documents. The next one is MFI-17, if you could bring  
29 that, please.

1 A. Your Honours, in relation to my last answer I just would  
2 like to make it clear that it could - I am not in a position to  
3 say whether it was meant for Mr Sesay to sign or whether it was a  
4 draft that actually was supposed to be put before him, but I can  
13:01:34 5 agree to the text that you have read, that that's what it says.

6 Q. Yes, all I was saying to you, Mr Malik, is on the face of  
7 it it would appear to be that. I am not asking you to say it  
8 clearly is that. Simply on its face. Just as you said, on its  
9 face a document, a one page document we looked at earlier, to you  
13:01:53 10 on its face it appeared to be a complete document. I am not  
11 suggesting any of us can be sure. Do you follow?

12 A. Yes, I agree.

13 Q. Thank you.

14 A. I cannot attach any conclusions as to what it was meant  
13:02:12 15 for, but it is written as if it was meant to have been signed by  
16 him.

17 Q. Thank you. I think, Mr Court Attendant, have you got  
18 MFI-17 there? I was going to ask you to get another MFI as well,  
19 but we will just deal with this one while it is there. MFI-17,  
13:02:35 20 behind tab 32, this is a one page document, page 25482. It is  
21 said to be information on charges against a Lieutenant Colonel  
22 Gaylay forwarded to the joint security for investigation and I  
23 simply want you to look at the second numbered paragraph in the  
24 middle of the page setting out the disciplinary measures  
13:03:09 25 recommended against this particular individual:

26 "Number 2, to go to the front line for 90 days after mess  
27 arrest.

28 The above disciplinary measures serve as a bright precedent  
29 for all ranks and files. It also serves as an indication that

1 discipline is the main thing to any progressive organisation like  
2 ours."

3 And this one is actually signed by Lieutenant Colonel  
4 Augustine A Gbao and dated 15 February 1999. So I think you  
13:03:46 5 described that as a letter to or a report to General David  
6 Bropleh in your evidence?

7 A. I did not use that characterisation, but I did speak about  
8 this document. I think I mentioned a name - I mentioned that it  
9 was a complaint against Lieutenant Colonel Gaylay. I did not  
13:04:06 10 bring up the name of General Bropleh in this connection.

11 Q. All right. I am grateful for that correction, but this  
12 clearly is an example of a lieutenant colonel being disciplined -  
13 a senior officer, in other words, being disciplined. Do you  
14 agree?

13:04:22 15 A. Yes.

16 Q. Thank you. The next one I would like you to look at - I am  
17 going to try and do this in a batch also - is MFI-20. Well,  
18 actually that will bring me to the end of this particular batch  
19 of documents. So I will only ask for MFI-20. I am going to move  
13:04:57 20 on to provenance issues in relation to the next batch in just a  
21 moment. Thank you. All I want you to try and help us with here  
22 - and I don't know if you are going to be able to - is looking at  
23 the first page of MFI-20, which is again "Revolutionary United  
24 Front Party of Sierra Leone, 2nd Brigade Headquarters, Koakoyima,  
13:05:32 25 Kono District, Particulars of Statement", this is a caution  
26 statement and the date is 1 November 2000 and it is basically a  
27 complaint about a rice bag full of Guinean currency and other  
28 currencies having been handed over and then somebody being  
29 attacked.



1 If you look at the line below the first main paragraph, do  
2 you see there it says: "Because of the foregoing I was attacked  
3 by the bodyguard of the BGC" - I presume that means battle group  
4 commander - "Lieutenant Colonel Trouble", and Lieutenant Colonel  
13:06:25 5 Trouble's name again is repeated. You are not in a position, are  
6 you, Mr Malik, to help us as to whether or not that particular  
7 battle group commander's name is a nickname or the actual name of  
8 the individual?

9 A. No, I don't know that.

13:06:43 10 Q. No, all right, thank you. I am now going to ask you, if I  
11 may, a little about the Liberian documents from Monrovia. Yes,  
12 the position is that in March of 2004 the Prosecutor contacted  
13 the Liberian deputy minister for administration and public safety  
14 at the Ministry of Justice asking him to conduct searches at a  
13:08:04 15 number of locations including Mr Taylor's former residence known  
16 as White Flower and his former offices at the Executive Mansion  
17 also known as the presidential palace. Now, those searches were  
18 carried out on 5 March 2004, weren't they, to your understanding?

19 A. Well, I would state it slightly differently. I do not  
13:08:38 20 believe the Prosecutor asked the minister to carry out searches.  
21 I think what was said was that competent Liberian authorities  
22 conduct lawful searches. So the communication went to the deputy  
23 minister, but he was not asked personally in any capacity to  
24 conduct searches.

13:09:04 25 Q. Mr Malik, I don't doubt that what you say is correct, but I  
26 am going from your solemn declaration. Paragraph 31, under the  
27 heading "Liberian search documents" and I actually attempted to  
28 read it out word for word, but I will now specifically read out  
29 word for word what you have yourself said:

1 "On 1 March 2004 the Prosecutor wrote to Mr Edward K Goba",  
2 G-O-B-A, "then Liberian's deputy minister for administration and  
3 public safety, Ministry of Justice, requesting him to conduct  
4 lawful searches at a number of locations including Charles  
13:09:45 5 Taylor's former residence known as White Flower located in Congo  
6 Town, Monrovia, and at his former offices at the Executive  
7 Mansion also known as the presidential palace."

8 Now, that is what you wrote in your solemn declaration of 1  
9 December last year. Do you agree?

13:10:10 10 A. I agree that that is the language in the affidavit.

11 Q. Thank you.

12 A. But I would take this opportunity, since you bring it up,  
13 to fully inform the Chamber as to exactly what I know about this  
14 and that, I believe that language that you read, which is in fact  
13:10:30 15 what I included in the affidavit, perhaps does not fully explain  
16 the actual request by the Prosecutor and I have taken this  
17 opportunity to apprise the Honourable Court to that effect.

18 Q. Well, I didn't want to waste any time on that. I wasn't  
19 suggesting or intending to suggest that the Prosecutor wanted the  
13:10:49 20 minister himself to go round armed with a sack and collect what  
21 he could find. It is obvious and common sense that the minister  
22 would authorise a competent officer to do so and he did and you  
23 make it clear in later paragraphs in your solemn declaration that  
24 certain - a certain police officer, no doubt with others, went  
13:11:18 25 and seized materials at - was it your understanding that they  
26 received materials from both White Flower and the Executive  
27 Mansion?

28 A. I do not have any definitive information to that effect. I  
29 do believe that searches were conducted at both locations.

1 Q. Yes. What you have said in paragraph 34 - and I will be  
2 careful to read it word for word, "Pursuant to the search warrant  
3 Liberian authorities conducted searches at the two locations on 5  
4 March 2004 and seized a number of documents and other items". Do  
13:12:01 5 you agree that you wrote that?

6 A. Yes.

7 Q. "These seized materials", this is paragraph 35, "have  
8 remained ever since in the custody of the Liberian authorities  
9 and stored at the Temple of Justice in Monrovia. Over the years  
13:12:16 10 the OTP has made efforts for the seized material to be  
11 transferred to the permanent custody of the OTP, but this request  
12 has not been granted so far."

13 36:

14 "The OTP has not received an official inventory of  
13:12:35 15 materials seized as a result of the searches conducted by the  
16 Liberian authorities on 5 March 2004."

17 Pausing there, did you ask for an inventory of all the  
18 materials seized in those searches at those two locations on 5  
19 March 2004?

13:12:57 20 A. I did not personally.

21 Q. No, sorry, when I say "did you", I mean did the OTP?

22 A. I do not know the answer to that question.

23 Q. Well, why was it that you saw fit to say in paragraph 36  
24 that the OTP has not received an official inventory if you hadn't  
13:13:21 25 at least directed your mind to the question: Did we ask for one  
26 and not get it, or have we simply never raised the issue and  
27 perhaps should have done?

28 A. Well, I am aware that the OTP has raised the issue of  
29 transfer of these documents to the Special Court's possession and

1 --

2 Q. I am sorry to interrupt you; I am not talking about  
3 transfer of documents. I am now addressing an official  
4 inventory.

13:13:45 5 A. Yes. To me, inventory is related to the documents and it  
6 would be a source of what was seized.

7 Q. Yes.

8 A. In relation to this, I have not seen an inventory that has  
9 been given to us by the Court and, therefore, I cannot answer  
10 your earlier question as to whether material was seized from both  
11 locations. What I say in my affidavit is that searches were  
12 conducted at both locations and materials were seized. I do not  
13 say that materials were seized at both locations.

14 Q. Quite right, yes.

13:14:23 15 A. And I have gone by in this exercise as to - by what I have  
16 found in Sheriff Kamara's affidavit because that is the only  
17 definitive information I have.

18 Q. Right. And it is right, isn't it, that these materials  
19 were stored in some kind of - well, they were stored in a place  
20 where water access - water penetrated?

21 A. That is correct.

22 Q. And a lot of the documents were completely ruined by the  
23 penetration of water into the storage area?

24 A. I believe some documents, some evidence, some materials  
13:15:11 25 were damaged by water. I don't know how much, or how many.

26 Q. Bear with me for just a moment. Right. Yes, can I take  
27 you, please, to tab 37, MFI-22, and again I will try and organise  
28 a couple of documents at once. Yes, MFI-23 and MFI-24, please.  
29 Mr President, may Mr Taylor be excused for the usual reasons,

1 please? He is content for me to carry on in his absence.

2 PRESIDING JUDGE: Yes, he can be escorted out.

3 MR MUNYARD: Thank you:

13:17:50

4 Q. MFI-22 is headed "Situation report and recommendation", it  
5 is to His Excellency Charles Taylor, it is dated 30 September  
6 1994, and if you look at paragraph 7, which is the last paragraph  
7 on the second page, page 28871 --

8 A. Could you please repeat? I have just been given the  
9 exhibit now.

13:18:39

10 Q. Yes, it might make more sense - well, I think I can deal  
11 with the whole of this by just referring you to paragraph 7, the  
12 last numbered paragraph in the complete document, "Predicated  
13 upon the above mentioned and for the successful recapturing of  
14 the entire Gbarnga city and its environs I humbly request for  
15 sufficient rockets and ammunition to be used within the front  
16 line for the most possible time. Most respectfully submitted  
17 Samuel G Varney, senior military advisor to the armed forces of  
18 the NPFL."

13:19:11

19 So it would appear that this letter or situation report, as  
13:19:28 20 it is called, has been written following the fall of Gbarnga to  
21 the enemy - to the enemy of the NPFL, in other words?

22 A. Yes, that is right.

13:19:28

23 Q. Yes, thank you. The next one I asked you to look at is  
24 MFI-23, which is in tab 38. This is from Jason Weni to Charles G  
13:20:22 25 Taylor Junior, ATU commander. It is dated 6 May 1999 and it  
26 refers to the border patrol team being deployed at various  
27 points: One, St Paul's bridge; two, Jowah and then the next one  
28 is Shankpallah, I think; then Garmue; then Gbawuta and then it  
29 concludes with, "So far so good. These are the deployments that

1 have been made to points previously occupied by Anti-Terrorist  
2 Unit personnel."

3 Now, at that time in May of 1999, were you aware that the  
4 LURD, an armed faction opposing Charles Taylor, had penetrated  
13:21:21 5 into Liberia and were leading an armed insurrection against his  
6 forces?

7 A. I don't know the time line. I know LURD has been involved  
8 in a civil war in Liberia, but as to the time line I could not  
9 assist you any further.

13:21:43 10 Q. All right, thank you. The next MFI is MFI-24, please.  
11 This is a document concerning immunity relating to acts done  
12 during the civil war in Liberia, and I want to draw your  
13 attention first of all to one of the names on this page. Halfway  
14 down the page we see numbers. The first two are - I don't know  
13:22:45 15 if the first one is a 7 or what, but the next one is a 6 and then  
16 below that there is a number 1. Do you see the next number, the  
17 third one down?

18 A. I do.

19 Q. And you see the name V Sherif, deputy - it would appear to  
13:23:05 20 be deputy commander operations?

21 A. That is what it appears to say.

22 Q. Right. Were you aware that a person by the name of  
23 Varmuyan Sherif had been a general in ULIMO, one of the forces  
24 opposing Charles Taylor's NPFL during the Liberian civil war?

13:23:27 25 A. I know the name, but I have no information as to what  
26 position that person held and in which organisation.

27 Q. All right. And were you aware that the Liberian  
28 legislature did indeed pass an immunity law relating to acts done  
29 by various combatants on different sides in the civil war?

1 A. Not specifically. I may have come across this in the news  
2 reports, but I have no information.

3 Q. All right, thank you. I have a feeling that was the batch  
4 of MFI documents that I had asked to be brought over at that  
13:24:18 5 point. I am now going to ask for some more to be brought. It  
6 may be that I should only ask for one at this point. Could you  
7 bring MFI-26, please. I have got a very small point to raise on  
8 this. Mr Malik, on the first page of MFI-26 - well, in fact I  
9 think it is probably 26A, page 28775, there is some handwriting  
13:25:22 10 at the top, "DM" and then "Max", a word I can't decipher and then  
11 something else followed by "2/5". Was that writing on the  
12 document when the OTP received it? Are you able to tell whether  
13 or not it was on the document?

14 A. I cannot be sure. I would have to look at - well, I am  
13:25:55 15 looking at the original, but I would assume that it was there.  
16 Ordinarily any document that we receive is not marked in any way.  
17 That is the standard practice. So I would assume that it was  
18 there, although occasionally before it comes to the office of the  
19 - before it comes to the evidence unit occasionally some people  
13:26:25 20 may have worked on it and may have marked it in some way.

21 Q. Right. Is it right that no-one in your evidence unit  
22 should be writing on exhibits?

23 A. Yes, absolutely. This was not written in the evidence  
24 unit. I can assure you of that.

13:26:46 25 Q. Right.

26 A. But it is possible - your question was with regards to the  
27 OTP, or perhaps you would like to rephrase your question.

28 Q. I am content with it phrased as it is. I think you are  
29 basically just drawing a distinction between the OTP as a whole

1 and the evidence unit as part of that organisation?

2 A. That's correct.

3 Q. And it's your position that none of your staff should write  
4 on any document?

13:27:13 5 A. Absolutely.

6 Q. Is that something that those in the investigation section  
7 of the OTP have been made aware of by your section, the evidence  
8 unit?

9 A. Yes, I remember specifically at our discussion on that  
13:27:29 10 point in 2003 with senior management - I believe they are aware  
11 of it and I am not suggesting by any means that in fact anything  
12 was written on this document within the OTP. I am just  
13 discussing the possibility, because you raised the issue, that  
14 occasionally it is possible that a document may come in and may  
13:27:51 15 be marked in some way within the OTP outside the evidence unit.

16 Once it comes to the evidence unit I can assure you that we never  
17 mark it in any way except with a ERN.

18 Q. Right, but the word has gone out since 2003 that  
19 investigators and other staff should not mark any exhibits  
13:28:09 20 either?

21 A. That is correct.

22 Q. Do you have a system of, as happens in some police forces,  
23 attaching a label to exhibits - items that come in?

24 A. No, our label is the ERN. This is what we use to track it.  
13:28:29 25 This is our handle on it.

26 Q. The ERN and alongside, as it were, the ERN you would have a  
27 description of what that ERN number relates to?

28 A. Yes, we have a database where we store other information  
29 which is related to that document such as the description of the



1 document.

2 Q. To help us, just by way of illustration, we have got an  
3 index at the front of our two volumes of documents and in there  
4 as well as the ERN number is a title of the document. Does that  
13:29:02 5 title, if you - well, I will read out the title that relates to  
6 that particular document, "Cover Letter to Jonathan Taylor  
7 Minister For Presidential Affairs in Monrovia from Ambassador  
8 Sylvester Ekundayo Rowe". Now would that be the full extent of  
9 your database entry describing that exhibit or would your  
13:29:27 10 database entry be longer or, for that matter, shorter?

11 A. The description is provided by the person bringing in the  
12 evidence, because they are deemed to have the best possible  
13 knowledge about that piece of evidence. Sometimes persons within  
14 the evidence unit may elaborate on a description, but that is not  
13:29:48 15 - that is not our responsibility as such. Our job is to  
16 faithfully transfer what we have been told into the database, so  
17 it would depend on the person who brought it. I would imagine  
18 that it would have some reference to the letter which is below  
19 that which is President Kabbah's letter.

13:30:09 20 Q. So there is no set protocol as to what you have got to  
21 include in the database?

22 A. Well, the protocol is to include in the database what the  
23 person submitting the evidence has told us about the document and  
24 it is up to the person who is giving us the document to describe  
13:30:24 25 it to their own satisfaction. And that varies from person to  
26 person. It's not something that can be uniformly enforced. Some  
27 people give longer descriptions, some people give short  
28 descriptions.

29 MR MUNYARD: Thank you, we have run out of time.

1           PRESIDING JUDGE: We will take the lunchtime break now  
2 Madam Court Manager.

3           MR MUNYARD: I don't anticipate being very much longer.

4                           [Lunch break taken at 1.30 p.m.]

14:25:33 5                           [Upon resuming at 2.30 p.m.]

6           PRESIDING JUDGE: Yes, Mr Munyard.

7           MR MUNYARD: Thank you, your Honour. I've been reminded to  
8 indicate a change of appearance on our Bench. We are the same as  
9 before except that Mr Chekera is no longer with us. Now it's  
14:32:06 10 getting really embarrassing. I am reminded by Mr Griffiths that  
11 he is sitting next to me and he wasn't this morning, but his  
12 presence is so overwhelming that even when he is not here  
13 sometimes we imagine that he is.

14           PRESIDING JUDGE: Thank you.

14:32:27 15           MR MUNYARD: I think that's enough of a mixture of  
16 compliments and insults for one session.

17           JUDGE SEBUTINDE: Wasn't Mr Anyah here in the morning  
18 instead of Mr Chekera?

19           MR MUNYARD: They were both here. I wonder, Mr President,  
14:32:44 20 if you would let me strike all of that and start again and say  
21 simply: Our appearances have changed in that Mr Chekera and  
22 Mr Anyah are no longer with us and Mr Courtenay Griffiths Queen's  
23 Counsel is now with us. Thank you, Mr Munyard.

24           PRESIDING JUDGE: Thank you, Mr Munyard that is noted.

14:33:01 25           MR RAPP: Mr President, our appearances are now Steven Rapp  
26 the Prosecutor, Brenda Hollis and Maja Dimitrova and I should  
27 note for the record that Ms Hollis did come in at the beginning  
28 of the second session and I had omitted to rise at that time, I  
29 apologise, but she was present here for the second session and

1 Mr Koumjian who had been present in the first session was not  
2 present after the first session.

3 PRESIDING JUDGE: Thank you, Mr Rapp. The record now  
4 reflects that. Yes, Mr Munyard.

14:33:34 5 MR MUNYARD: Thank you. Sorry, I am slightly thrown by all  
6 that. Now I have to go back to the MFI that I had previously  
7 reached. Would your Honour give me a moment? Again I have  
8 something marked here that I suspect I don't have to deal with,  
9 but I would like a moment just to reconsider that.

14:34:35 10 PRESIDING JUDGE: Yes, go ahead, Mr Munyard.

11 MR MUNYARD: Yes, I think in the light of something the  
12 witness said in his final answers just before we broke for lunch  
13 deals effectively with the point I would have made, so I can pass  
14 over that:

14:35:34 15 Q. I would like you, please, to have a look at - and again I  
16 will try and do it in groups - MFI-30. I see, we are coming to a  
17 different batch anyway, so we will just do MFI-30 for now,  
18 please. It's behind tab 45 for those who are using the tabs. It  
19 is a Gregg Ruled Green Tint Steno Book, notebook. It starts on  
14:36:19 20 page 29059 and just in order to help us with dates, or certainly  
21 to put some kind of time frame on at least part of this, this is  
22 essentially, is it not, a list of supplies that were due to be  
23 given to or had been given to particular individuals?

24 A. I have not examined the contents, so unfortunately I cannot  
14:36:49 25 assist you.

26 Q. Very well. Don't worry. If you would just turn to the  
27 third page, which is 29061, that page starts with some  
28 indications of some sort of counting at the top and then the word  
29 "luncheon meat" and a number that I can't read, then it has a

- 1 list of amounts of cigarettes, mangoes, sardines, tuna fish,  
2 salt, bath soap, Maggi cubes again and towels and then soap. And  
3 if you turn to any page at random you will see lists of amounts  
4 mainly of bags usually with a person's name and a date by them.
- 14:38:02 5 Am I right in summarising if you take any page at random that's  
6 the sort of thing that you will find on that?
- 7 A. I agree with that.
- 8 Q. Thank you. I just ask you to look at one particular page,  
9 please, 29067?
- 14:38:17 10 A. Okay, I have that page in front of me.
- 11 Q. Now, this page hasn't been properly photocopied, has it?
- 12 A. Perhaps the right margins may have been missed.
- 13 Q. I don't think there is any perhaps about it, is there,  
14 Mr Malik?
- 14:38:43 15 A. You are quite right. Some of the writing on the extreme  
16 right-hand side has not come within the image.
- 17 Q. Yes, thank you. If you look three-quarters of the way down  
18 the page, do you see a name "VP Hon M" and then it looks like  
19 "Blas" there and "51 bags 7/17/2". The 2 is obviously I suggest  
14:39:14 20 the beginning of a date, that is to say the year part of a date,  
21 but unfortunately whoever copied this page in the evidence unit  
22 or elsewhere has not properly copied it. Have you heard of  
23 Vice-President the Honourable Moses Blah of Liberia?
- 24 A. I have.
- 14:39:35 25 Q. Do you know when he became Vice-President? I mean in what  
26 year did he become Vice-President?
- 27 A. No, I would not know that.
- 28 Q. So if I suggested that he became Vice-President in the year  
29 2002 - sorry, the year 2000, you wouldn't argue with that, would

1 you?

2 A. Well, I wouldn't be able to say yes or no.

3 Q. Yes, thank you, that is all I want to ask about that  
4 document. Oh, I'm sorry, the next one - I should have asked you  
14:40:35 5 to bring the next one also, which is MFI-31. That is a one page  
6 document here. I just want you to confirm, please, that halfway  
7 down this page, which is 29106, "Calls/messages" and then it  
8 looks like it is the 5th of the 2nd 2000, although of course I  
9 suppose it could be the 2nd of the 5th depending on how you put  
14:41:26 10 the date:

11 "Johnny Paul Koroma's wife is here; wishes to say goodbye  
12 to the chief. They leave by 12 noon today."

13 Is that what is recorded there?

14 A. That's right.

14:41:50 15 Q. Are you able to help us, Mr Malik, with what is written  
16 sideways along that page on the right-hand margin? Don't worry  
17 if you can't.

18 A. I cannot read the first line properly. The second line  
19 reads, "He will be in ...", something, "... until tomorrow".

14:42:29 20 Q. Right, thank you. I think that brings us now to documents  
21 obtained from the Catholic Peace and Justice Commission of  
22 Liberia. Can you help us with this. Do you know if the Peace  
23 and Justice Commission keep copies of every single newspaper  
24 published in Liberia?

14:43:03 25 A. I don't know that.

26 Q. The selection that we have here run from 1994 to I think  
27 the year 1999. I am just checking the last one. Yes. Were you  
28 able to determine from Ms Hackler, who went and obtained these  
29 particular newspapers, just how comprehensive is the Justice and

1 Peace Commission's newspaper archive?

2 A. I did not enquire of her regarding this area. I did not  
3 enquire from her anything in relation to that.

14:43:52

4 Q. Did you enquire of her whether or not she obtained copies  
5 of more newspapers than appear in this bundle?

6 A. I believe that is true.

14:45:00

7 Q. The first one in the bundle dated 3 March 1994, which is  
8 P-126 - well, I wonder if it would make sense for the entire  
9 collection to be brought over by Mr Court Attendant. I am not  
10 saying I am going to deal with every single one, but it will help  
11 him perambulating back and forth across the court.

12 PRESIDING JUDGE: Yes, can you arrange that please.

14:45:30

13 MR MUNYARD: Thank you. I just mean these. I don't mean  
14 all the MFIs and exhibits. I just mean what I will call the  
15 newspaper collection. I was trying to simplify things, but I  
16 suspect I have ended up making them more complicated.

17 MS IRURA: Your Honour, they are put together in order of  
18 MFI or whether they are Prosecution exhibits or Defence exhibits  
19 and so it's not possible to isolate.

14:45:49

20 MR MUNYARD: All right. Well, let's see how we get on:

21 Q. The first one, which is P-126, is a Daily News from  
22 Monrovia dated 3 March 1994.

23 A. Your Honours, I don't have the exhibit before me yet.

14:46:19

24 Q. That is all right, Mr Malik. I'm just going to summarise  
25 it and then you can look at it at your leisure. It contains an  
26 article in which it's alleged that fighters of the National  
27 Patriotic front of Liberia set a town ablaze in Rivercess County.  
28 That is all that that article is about, isn't it?

29 A. I have not read the article.

1 Q. All right. Well if you would like to look at it, feel  
2 free. I should say at the foot of the article, if you look at  
3 the second page 31375, if you look at the final paragraph it  
4 says:

14:47:10 5 "It was also reported that the NPFL was on the rampage in  
6 Yarnee District raping women as well as killing and burning down  
7 towns in the district for what they term supporting LPC."

8 Are you able to help us what LPC means?

9 A. No, I'm afraid I can't.

14:47:32 10 Q. Right, we have to go back to the first page to see what it  
11 refers to. It's at the very end of the first column on the front  
12 page, "The town was reportedly used as one of the bases of the  
13 Liberia Peace Council (LPC's) since it captured Rivercess County  
14 last year". In other words, it was one of the other armed groups  
14:47:55 15 of combatants in Liberia. So that's all that that article deals  
16 with. It doesn't touch in any way on the war in Sierra Leone,  
17 does it?

18 A. Again I've not read the entire news clipping, but --

19 Q. Do feel free to read it, Mr Malik.

14:48:42 20 A. It does not appear to refer to Sierra Leone.

21 Q. No, thank you. The next one is exhibit P-127 behind tab  
22 48. This appears to be dated 14 January 1994 and it's about an  
23 ambush - a reported ambush it says - of several civilians fleeing  
24 No 4 District, Buchanan, in which three were killed and others  
14:49:31 25 were abducted, and it continues to go on to talk about other mass  
26 killings in Rivercess County when it continues on page 6. That  
27 is all about - that is very much again tied in with conflict  
28 between the NPFL and the LPC, if you look particularly at the  
29 last paragraph on the second page. Although in our bundle it

1 follows the first article, the previous one we looked at, in time  
2 it predates the first article by about three months. That's also  
3 nothing to do with the war in Sierra Leone, do you agree?

4 A. It does not appear to refer to Sierra Leone.

14:50:45 5 Q. Thank you.

6 A. Which is not the same thing as saying that it could not  
7 have some connection with Sierra Leone, but the news report  
8 itself does not mention Sierra Leone by name.

9 Q. No. Now, I would like you please to turn to --

14:51:35 10 PRESIDING JUDGE: Mr Munyard, just before you leave that  
11 item, you've placed on record that it's dated 14 January 1994.  
12 It seems to me as though it's dated 24 January 1994.

13 MR MUNYARD: I've been going by the way in which it was  
14 exhibited, your Honour, but I agree that on the slightly clearer  
14:52:14 15 version - is there something within the body of the report, of  
16 the newspaper, that refers to the 24th, or is your Honour looking  
17 at the date at the top?

18 PRESIDING JUDGE: I'm looking at the date at the top of the  
19 clearer version.

14:52:33 20 MR MUNYARD: I agree that does look more like the 24th. We  
21 have got it at the moment as an exhibit. It's said to be  
22 published on 14 January and that's why I have used that date.  
23 Maybe we need to correct that.

24 PRESIDING JUDGE: Well two of the judges think it's the  
14:52:57 25 24th and one thinks it's the 14th, so it's certainly not clear.  
26 It's not clear.

27 MR MUNYARD: You are allowed to reach decisions by  
28 majority. All I can say is the last time this Court - yourselves  
29 - considered this document you had it described as 14 January. I



1 think at this point it is probably safest for me not to get  
2 involved in any argument that might rage amongst you. I will  
3 leave it simply as P whatever it was - P-127 and it's up to  
4 others to decide the proper date.

14:53:40 5 PRESIDING JUDGE: Well, I agree with that. It has been  
6 adequately described and I don't think anything at all turns on  
7 the date.

8 MR MUNYARD: I am now moving on to a different one  
9 altogether. It's tab 53 which is MFI-36:

14:55:18 10 Q. Starting, if we can, with the date, the date on the copy  
11 that I have in my bundle is quite illegible but the article to  
12 which your attention was drawn, Mr Malik, is at the foot of the  
13 page, the front page of this copy of The News headed "Three AFL  
14 soldiers captured in Sierra Leone". Now, if you look at what it  
14:55:52 15 says on the second page - do you see the second page, 31383,  
16 where the article from the front page is continued under the  
17 rubric "Three AFL soldiers captured"? Do you have that,  
18 Mr Malik?

19 A. I do, your Honours.

14:56:21 20 Q. Thank you. It says:

21 "And Private Patrick Kajde. The report furthered that the  
22 three AFL men were captured along with 15 fighters of the  
23 dislodged African Revolutionary Council (AFRC) and RUF who have  
24 been battling against Kamajor fighters in eastern Sierra Leone."

14:56:54 25 So if the AFRC has been dislodged, it suggests that this  
26 newspaper or this news article has been written after February of  
27 1998. Would you agree?

28 A. Yes, I would.

29 Q. It also suggests that the writer of the article doesn't

1 know very much about what the letters AFRC stood for, doesn't it?

2 A. No, it doesn't. No, he didn't.

3 Q. Thank you. But it does make it clear that Liberian  
4 soldiers had been fighting against Kamajors in eastern Sierra  
14:57:43 5 Leone. Eastern Sierra Leone of course would be closer to Liberia  
6 than other parts of Sierra Leone; I think you'd agree with that.  
7 Were you aware that there had been Liberian soldiers fighting  
8 under General David Bropléh for the Sierra Leone government in  
9 the 1990s in a unit called the Special Task Force?

14:58:15 10 A. I'm not aware of the details that you've just mentioned.

11 Q. All right. Well, I won't pursue that with you. Your  
12 Honour, I don't know if anybody wants to make a stab at the date.  
13 I would simply say it would appear to be one of the later months  
14 of the year, just looking at the length of the month, but whether  
14:58:41 15 it's September, October, November or December is pretty  
16 impossible to decipher.

17 PRESIDING JUDGE: Yes, I agree that's indecipherable.

18 MR MUNYARD: But it does appear to be 1998 at any rate.  
19 But my interpretation of the year there is aided by the content  
14:59:04 20 of the article and the fact that the last letter looks more like  
21 an 8 than a 9. However, that is as far as I want to go on that  
22 one:

23 Q. Could you have a look, please, at the next one which is  
24 MFI-37. I am using what was put in as the clearer copy which I  
15:00:06 25 think is the one that has been tendered. Actually, to be  
26 entirely honest, I think the point I want to make about this is  
27 so minimal that I won't spend any time on it and we can put that  
28 away. Thank you.

29 That's all I want to ask you about the bundle of documents

1 that you have been giving evidence about the provenance of. Can  
2 I ask you in more general terms now, Mr Malik, if somebody came  
3 along and supplied the Office of the Prosecutor with an exhibit,  
4 would you normally keep a copy of that exhibit? Sorry, let me  
15:01:11 5 rephrase that. Would you normally keep the original of the  
6 exhibit?

7 A. That would be the preference, but ultimately it would  
8 depend upon the person supplying the evidence whether they were  
9 willing to depart with the original or not.

15:01:25 10 Q. Right. So what would you do if the person brought in, for  
11 example, a document that they wanted to keep but you needed to be  
12 able to copy to show the condition that it was in when they  
13 handed it to you?

14 A. That would depend on the person actually dealing with the  
15:01:48 15 witness. They could photocopy it. They could photograph it if  
16 they wanted to. They could write a memo with it explaining  
17 exactly the circumstances under which they received it from the  
18 person.

19 Q. But normally you would want to keep anything that somebody  
15:02:06 20 provided to you as an exhibit, particularly if they were a  
21 witness in the case?

22 A. Yes, normally.

23 Q. All right.

24 A. Always, in fact.

15:02:15 25 Q. Right. Thank you. I would like you, please, to have a  
26 look at exhibit P-129. Can I just check that the right thing is  
27 going to the witness. In fact, it looks as though the gremlins  
28 have crept in because as soon as I saw the size of that I thought  
29 it might not be what I wanted. Can I have a moment just to check

1 we have got the numbers the right way around. Yes, I suspect I  
2 know what has happened here. I have given advance warning to CMS  
3 about the exhibits I would like them to produce in order to try  
4 to be as efficient as possible, but we've managed to put an extra  
15:03:31 5 digit in that one. It was actually P-29 that we wanted.

6 In the meantime, however, there is another exhibit that I  
7 hope we have asked for correctly which is P-161 and I will just  
8 check that we have asked for the right thing that time around. I  
9 will check all three documents before they go. Yes, thank you  
15:04:13 10 very much.

11 I simply want to ask you this, please, Mr Malik: If you  
12 just have a look at that exhibit which consists of three separate  
13 documents that are all lists of a very similar nature --

14 JUDGE SEBUTINDE: Since we don't have copies of this  
15:05:11 15 readily I am just wondering if it wouldn't be a good idea to put  
16 them on the overhead.

17 MR MUNYARD: Your Honour, I was going to do exactly that  
18 once the witness has seen them himself so that he knows what it  
19 is we are talking about. I can tell your Honours that it is  
15:05:28 20 three handwritten lists of Sierra Leonean members of the ATU in  
21 Liberia, that a witness - I think it was Jabaty Jaward - gave  
22 evidence about in the summer. His evidence was that he hadn't  
23 written these lists himself but he had written similar lists and  
24 he didn't know where these lists had come from and we had no  
15:05:53 25 information forthcoming as to where they had come from and I was  
26 going to ask Mr Malik if he could help us determine where they  
27 had come from:

28 Q. Have you looked at each of those three separate groups of  
29 documents, Mr Malik?

1 A. I am in the process of doing that, your Honours.

2 Q. Have you had an opportunity to look at them now?

3 A. Yes, I have looked at them.

4 Q. I will just ask for the first page of the first one to be  
15:06:59 5 put on the overhead because they are all much the same.

6 A. Well, these are documents that were processed by the  
7 evidence unit but I could not give you any information just  
8 looking at it off the top of my head. There are tens of  
9 thousands of documents and I couldn't possibly assist you with  
15:07:20 10 the source just off the top of my head.

11 Q. I wasn't expecting you to remember where any particular  
12 document came from. What I want to know is, bearing in mind that  
13 these documents have their ERN numbers, it is presumably a very  
14 simple task to determine where these came from, where the OTP  
15:07:46 15 obtained these documents from and how they have been described in  
16 your database, is that correct?

17 A. It depends. If that information was provided to me at the  
18 time these documents were submitted to the evidence unit, then it  
19 would be, quite rightly, a very simple task to find out who had  
15:08:07 20 given them to the OTP, but I cannot tell you whether that  
21 information is with me or not until I look at the database.

22 Q. No. This is simply an exercise that I am effectively  
23 asking to be done. But, so that we know what we can hopefully  
24 expect, there will certainly be a record of who gave it to the  
15:08:28 25 OTP, won't there?

26 A. Well, one would expect there to be a record.  
27 Unfortunately, at times documents come into the OTP and there is  
28 - the linkage is occasionally in some cases lost and by the time  
29 the evidence comes to the evidence unit that information is no

1 longer readily available. It has to do with many factors. As I  
2 have explained, the process is that evidence comes in to  
3 investigations or Prosecution where it is analysed, sometimes  
4 over an extended period of time, and because of the high turnover  
15:09:04 5 at the office sometimes people who had originally received the  
6 evidence leave the office in the meanwhile and therefore the  
7 person who comes to the evidence unit with the evidence is unable  
8 to supply all the relevant details. I am not saying that is the  
9 case in this particular instance, but it's quite possible that I  
15:09:22 10 have the information available in my database.

11 Q. If you were to simply make a note, as indeed you have been  
12 making notes on the paper in front of you, of the ERN numbers of  
13 those three documents that collectively make up that exhibit, can  
14 you provide to us - and I am not asking for you personally to  
15:09:42 15 return to court, but can you provide to us what information is on  
16 the database as to the provenance of those documents?

17 A. I would be happy to assist the Court.

18 Q. Thank you very much.

19 JUDGE SEBUTINDE: Mr Munyard, if I may interrupt.  
15:09:56 20 Mr Malik, are you saying in the statement you've just stated in  
21 relation to the high turnover that there isn't a procedure  
22 requiring every recipient in the OTP, or in the evidence unit,  
23 who receives evidence to actually note somewhere, or enter in a  
24 log or an inventory, that they have received this evidence?  
15:10:21 25 There isn't that requirement, or regulation, or practice within  
26 the OTP?

27 THE WITNESS: Your Honours, there is indeed such a  
28 procedure. Certainly in the evidence unit we have very stringent  
29 procedures and nothing is ever received without recording other

1 attendant information. However, what I was referring to was an  
2 exception to the general rule that everything is recorded and  
3 then passed on and conveyed to the evidence unit with all the  
4 relevant information. However, occasionally - and this is  
15:10:52 5 perhaps more true for the years past - that information would be  
6 received and perhaps by the time it would come to the evidence  
7 unit some of that information would be lost, but that does not  
8 happen very often. It's only very occasionally that one  
9 encounters such problems, but in fact occasionally you do  
15:11:12 10 encounter - you do run into such problems. I believe the vast  
11 majority of evidence that has come into the evidence unit makes  
12 its way to the evidence unit. However, as I've explained in the  
13 past sometimes material is not deemed relevant at the time and  
14 therefore it's not submitted to the evidence unit for some  
15:11:32 15 months, or occasionally for some years. But generally speaking  
16 by and large information about who gave the evidence to the OTP  
17 is available, it is maintained and when the evidence is brought  
18 to the evidence unit or SEAPA we receive that information  
19 together with the evidence itself.

15:11:53 20 MR MUNYARD:

21 Q. Well, if I can pursue that. You are not suggesting, are  
22 you, that there are occasions when there is a document, for  
23 example, that is simply in somebody's office in the OTP with  
24 absolutely no indication of where it's come from?

15:12:12 25 A. Occasionally evidence has been brought to the evidence unit  
26 and the person bringing the evidence has not been able to supply  
27 all relevant information, for example, as to who gave the  
28 evidence to the OTP, when the evidence was received, et cetera.  
29 However, like I have said, that is an exception to the rule and

1 often there may be other ways whereby that information has been  
2 obtained through talking to various people, et cetera. So  
3 generally speaking I am able to supply information as to who gave  
4 the evidence to the OTP, but we are limited by what we are  
15:12:53 5 provided by persons bringing the evidence to the evidence unit.

6 Q. Yes. When you say "persons bringing the evidence to the  
7 evidence unit", I understand you to be saying persons within the  
8 OTP bringing the evidence to the evidence unit. Have I  
9 understood you correctly?

15:13:09 10 A. Yes, you have. That is correct.

11 Q. Right. What I'm more interested about, or more interested  
12 in, is the information as to where that person got - I will limit  
13 myself to a document by way of example. Where that person got  
14 the document from, who they claim produced it, if they know, and  
15:13:34 15 where it was found?

16 A. Yes, we ask for that information. That information - it is  
17 standard protocol to supply that information to the evidence unit  
18 when the evidence is submitted.

19 Q. Well that's what I had understood you to be saying just  
15:13:50 20 before we broke for lunch, that you have a standard protocol that  
21 since 2003 you have issued to am I right in thinking all members  
22 of the OTP staff as to how evidence should be documented once it  
23 reaches the hands of the OTP?

24 A. Certainly that is the standard procedure. However, your  
15:14:12 25 Honours, because of the circumstances in which we operate  
26 occasionally one encounters a situation where not all the  
27 requirements of the protocol are satisfied and I don't think that  
28 is necessarily unique to this institution. Occasionally these  
29 problems with provenance happen at every institution, and



1 certainly because we did not have a fully functioning evidence  
2 unit in the early months of the life of this Court we have had a  
3 situation where a lot of evidence was brought into the OTP and it  
4 took some time to actually process it and properly label it and  
15:14:56 5 put in a system whereby it could be tracked and properly  
6 identified. So we have inherited some of these problems, but by  
7 and large we - well, in fact not by and large. We always seek to  
8 find out such information and in the overwhelming majority of  
9 cases we have this information. Now as to whether we have it in  
15:15:19 10 this particular case, or this particular document that you've  
11 brought up, I will be able to get back to the Court as soon as I  
12 have had a chance to look into this.

13 Q. Well, I am grateful for that. What you are saying, if I've  
14 understood you correctly, is that you might even have some  
15:15:38 15 documents in your evidence unit about which you have no  
16 indication of provenance whatsoever. Is that right?

17 A. That is possible.

18 Q. And so in the case of those documents you can't rule out  
19 forgery, for example?

15:15:55 20 A. Well, it would require - if the need were to arise it would  
21 require perhaps further investigation and one could return to the  
22 source, or the stated source, and verify the validity or veracity  
23 of those documents.

24 Q. If there is a stated source and the stated source still  
15:16:17 25 exists?

26 A. That's right. It would depend on that particular document  
27 and the work required would change from instance to instance, but  
28 if it were important to discover that information in relation to  
29 that particular document then an exercise could always be

1 undertaken in order to ascertain the provenance of that  
2 particular piece of evidence.

3 Q. And it is right, isn't it, that the investigation unit  
4 would be likely to be the people to whom evidence comes in the  
15:17:00 5 first place?

6 A. That's correct.

7 Q. And the investigation unit am I right in thinking it is  
8 staffed, or has been staffed, by either serving or seconded or  
9 former police officers of one sort or another?

15:17:15 10 A. That is correct.

11 Q. In other words, people who one would expect to have been  
12 trained in basic documentation of exhibits?

13 A. That is correct. However, I would say - and this goes  
14 again back across tribunals - these international organisations  
15:17:35 15 have often found it difficult for this mix of people to gel very  
16 easily. People come in with different experiences, different  
17 ways of doing things and every tribunal has to go through some  
18 teething problems. I think we went through that in the first  
19 year or two and I think ICTY certainly went through that in the  
15:17:58 20 mid-'90s, but things have been streamlined over the years and I  
21 can certainly state here before your Honours that this process is  
22 far smoother now in the last several years than it was perhaps in  
23 the first year or two.

24 Q. Mr Malik, I can't put to you I am afraid the exhibit  
15:18:18 25 numbers, because it seems I really have been completely confused  
26 as to the numbering of an exhibit, but let me just ask you a  
27 question about one exhibit whose number I can't put my finger on  
28 at the moment. In the case of someone who is interviewed as a  
29 witness who produces a photograph - not a photograph of

1 themselves, or a member of their family, or anything of that  
2 sort, but just a photograph that they've carried around over  
3 years of the civil war - would you expect that the person  
4 receiving that photograph from them would keep the original and  
15:19:00 5 if the person really wanted one give the witness a copy of it?

6 A. It would depend on the particular situation. OTP always  
7 seeks to have the best possible evidence, so in such a situation  
8 certainly as the evidence custodian I would want to have the  
9 original photograph in the evidence unit.

15:19:22 10 Q. Yes. I'm talking about a photograph of a dead body, no  
11 head visible, we don't know whether the person has been  
12 decapitated or not, a dead body that has been hacked, no  
13 suggestion that it was somebody known to the individual in  
14 possession of the photograph and indeed the person in possession  
15:19:44 15 of the photograph claimed to have carried it around for long  
16 periods of time in his back pocket throughout the years of the  
17 civil war, then shows it to Alfred Sesay, who takes a witness  
18 statement from him in I think 2007, and then hands it back to the  
19 witness - hands the original back to the witness - and simply  
15:20:08 20 takes a photocopy for your unit. Can you think of any good  
21 reason in those circumstances why the original was not kept, so  
22 that we could see the state the original was in, and the witness  
23 given a copy of this gruesome photograph?

24 A. Well, it depends what the witness wanted to do. One cannot  
15:20:34 25 force them to turn over exhibits if they do not wish to do so. I  
26 can think of many such situations where a witness would not want  
27 to part with a photograph, or another original document. I do  
28 believe that on many occasions witnesses have provided materials,  
29 evidence, et cetera to the OTP, to the investigators, but only to

1 the extent that a photocopy could be made and the original  
2 returned to them and so I don't find anything unusual in this  
3 case.

4 Q. Well, there was no suggestion by that particular witness  
15:21:07 5 that he insisted on keeping the photograph. In fact his evidence  
6 was, "They gave it back to me", or rather his evidence was, "I  
7 think they gave it back to me. I've looked for it, but I can't  
8 find it". It was in the investigator's own notes of an interview  
9 with that witness that we discovered that the investigator had  
15:21:31 10 returned the photograph to the witness. There was no evidence  
11 from the witness that he insisted on having the photograph  
12 himself.

13 A. Well, all I can say is general - I can just make a general  
14 comment that ordinarily one would want to have the best possible  
15:21:49 15 evidence. Now, exactly what happened between Mr Sesay and that  
16 particular witness in a meeting I am not privy to that and so I  
17 cannot comment on that situation.

18 Q. I don't want to pursue this any longer than is necessary,  
19 but if the witness did not insist on having the photograph back  
15:22:06 20 then the proper thing for Mr Alfred Sesay to have done would have  
21 been to have kept the original, wouldn't it?

22 A. Well, I don't know what Mr Sesay had in mind and so I would  
23 not try to guess as to why he acted the way he acted. I am  
24 afraid only he can answer that.

15:22:22 25 MR MUNYARD: For the benefit of your Honours and the  
26 parties opposite, the witness - I can't remember whether it was  
27 in private session or not and so I will just give the TF1 number,  
28 which is TF1-539, and I am sure that your Honours will remember  
29 the exhibit in question. I have no other questions of this

1 witness, thank you.

2 PRESIDING JUDGE: Thank you, Mr Munyard. Mr Rapp

3 MR RAPP: Just a few questions in redirect examination,  
4 your Honours.

15:22:53 5 RE-EXAMINATION BY MR RAPP:

6 Q. Witness, you remember being asked - well, first of all you  
7 remember on direct examination you discussed your role in dealing  
8 with the body of Sam Bockarie and mentioned drawing DNA samples.

9 On cross-examination, Mr Munyard asked you - followed up on that

10 and asked you were you able to identify other remains that had

11 come from Liberia as those of Sam Bockarie. The question,

12 however, that wasn't asked on cross-examination that followed was

13 were you able to draw DNA samples from the body sufficient to

14 allow a comparison to be made and identification to be made by

15 way of DNA?  
15:23:38

16 A. Yes, your Honours. Samples were drawn by the pathologist,

17 who did the autopsy, and I was then handed those samples and they

18 were processed for comparative DNA analysis and on the basis of

19 those DNA tests we concluded that that body was that of Sam

20 Bockarie.  
15:24:01

21 Q. So you were able to obtain a comparison from a laboratory  
22 that that was Sam Bockarie?

23 A. That's correct, your Honours.

24 Q. And the other question is you mentioned documents, certain

15:24:14 25 of the first group of 14, that came to the Office of the

26 Prosecutor and to the evidence unit from Ms Cordwell. Do you

27 know which documents those were?

28 A. There are two documents among these 14. I believe they are

29 both logbooks, or both notebooks. The ERN for them is 12914 to

1 917. And the second document has the ERN 12940 to 12942. One of  
2 them is a logbook. I'm not sure about the other one.

3 Q. I just want to be clear because I - do you remember what  
4 tab - if you could repeat those again, I was just getting my list  
15:25:06 5 here?

6 A. Your Honours, I believe the ERN is 00012914 and it goes up  
7 to 00012927.

8 Q. And that's --

9 A. That's one document. And the other one --

15:25:31 10 Q. And that would be the document, if you recall, that was  
11 behind tab 3 which is now D-54. Does that --

12 A. Yes, I believe so. I don't have tab numbers in front of me  
13 but it was the third of the notebooks, the small notebook that  
14 said "RUF mining unit".

15:25:48 15 Q. And the other document?

16 A. The other document had the ERN 12940 - sorry, preceded by  
17 three zeros of course. Then the last ERN on this was 00012942.

18 Q. And that would have been --

19 A. I think that was - I believe it was a letter written by  
15:26:12 20 Johnny Paul Koroma to Charles Taylor on 3 October 1997.

21 Q. Which would have been the item at tab 14 which is in  
22 evidence as D-4?

23 A. That appears to be correct, your Honours.

24 MR RAPP: Your Honours, I would have no other questions of  
15:26:34 25 the witness. Obviously we would be prepared to move forward with  
26 moving MFI-s into evidence when you are prepared for that.

27 PRESIDING JUDGE: Thank you. Well, Mr Rapp, I suppose it's  
28 wise to keep this witness here while you make those applications  
29 for a tender?

1 MR RAPP: I think there is no harm in having the witness  
2 here and there is certainly the possibility that there might be a  
3 reason for him to be present, if there was some information or  
4 some confusion about a document number.

15:27:17 5 PRESIDING JUDGE: All right. Mr Rapp, before we proceed  
6 with your application, there are a few questions from the Bench.

7 JUDGE SEBUTINDE: Mr Witness, you did state variously that  
8 one group of documents was retrieved from the RUF offices in Kono  
9 by persons you described as the special - I think special branch?

15:27:49 10 THE WITNESS: Yes, your Honour, special branch.

11 JUDGE SEBUTINDE: And that these were stored at a place  
12 call Koakoyima.

13 THE WITNESS: Your Honours, Koakoyima would be the place  
14 where the documents were seized.

15:28:02 15 JUDGE SEBUTINDE: Seized.

16 THE WITNESS: That was where the RUF office was, RUF mining  
17 office.

18 JUDGE SEBUTINDE: Now, the question I have actually relates  
19 to the chain of custody. Did you ever see a log or an inventory  
15:28:20 20 by the persons that seized these documents --

21 THE WITNESS: No, your Honour.

22 JUDGE SEBUTINDE: -- listing the documents that this is?

23 THE WITNESS: No, your Honours, I have not seen such a log.

24 JUDGE SEBUTINDE: Now again you've stated that these were  
15:28:35 25 documents, or some of them, some of the documents seized at  
26 Koakoyima were then later handed to one Joe Poraj-Wilczynski.  
27 The question is did you ever at any time see an inventory or log  
28 of the documents actually handed to Mr Wilczynski?

29 THE WITNESS: I believe, your Honours, the OTP did create a

1 log after they had received these documents in 2005. I have not  
2 personally been in possession of that log, but when the documents  
3 were received by the OTP from Mr Poraj -Wilczynski then the OTP  
4 created a table or a log, but that was never considered evidence  
15:29:22 5 so it was never submitted to me.

6 JUDGE SEBUTINDE: But do you know where this log is? Is it  
7 available?

8 THE WITNESS: Your Honours, it might be with the  
9 investigations section. I believe such a log existed in the  
15:29:34 10 past. I don't know where it is right now.

11 JUDGE SEBUTINDE: And, similarly, the documents accessed by  
12 Ms Hackler in Liberia, your testimony was that these were seized  
13 pursuant to a request. They were seized by one Fofie Kamara.  
14 Did you ever learn whether there is available a log or inventory  
15:30:04 15 of those documents seized by Mr Fofie Kamara?

16 THE WITNESS: Your Honours, I'm not aware of any formal  
17 official log. OTP investigators have variously gone there and I  
18 have not seen unified, combined log. In fact, if there were such  
19 an official log made available to the OTP it would greatly assist  
15:30:28 20 in knowing what evidence exists there or existed when the  
21 evidence was seized.

22 JUDGE SEBUTINDE: And of course you were unable to tell the  
23 Court whether OTP officially requested for this log or not.

24 THE WITNESS: Yes, your Honours, I'm unable to say that  
15:30:43 25 precisely.

26 JUDGE SEBUTINDE: Finally, you did state briefly that OTP  
27 has to date not received the originals of the documents that were  
28 seized in Liberia. My question is why - considering the evidence  
29 you gave that the search was conducted pursuant to a formal



1 request by OTP of the Special Court, I'm surprised that your  
2 evidence is that OTP has never received the originals. The  
3 question then would be do you know the reason why?

4 THE WITNESS: Your Honours, it became a contested matter  
15:31:20 5 and I believe this matter has been debated and pursued in the  
6 Liberian courts over a certain period of time. I know the OTP  
7 was represented by a Liberian legal practitioner and I understand  
8 persons representing or - other persons apparently representing  
9 Mr Taylor have contested the OTP's right to either have those  
15:31:53 10 documents or have contested the very searches themselves. I am  
11 unclear as to the details, but the matter has been contested and  
12 despite OTP's efforts we have never received that. I know in the  
13 beginning, certainly 2004, OTP made I believe more than one  
14 effort and OTP was quite keen to receive these materials but it  
15:32:16 15 has never happened.

16 JUDGE SEBUTINDE: Thank you, those would be my questions.

17 PRESIDING JUDGE: Anything arising from those questions  
18 Mr Rapp?

19 MR RAPP: No, nothing.

15:32:25 20 PRESIDING JUDGE: Mr Munyard?

21 MR MUNYARD: No, thank you.

22 PRESIDING JUDGE: Yes, Mr Rapp.

23 MR RAPP: Your Honour, we obviously have 38 MFIs here  
24 including some sub-parts and I want to proceed in the most  
15:32:44 25 expeditious way and of course many of the arguments may be  
26 repetitive but I think we probably have to move through them  
27 individually. We are submitting these based on relevance and I  
28 am prepared to state very specifically the relevance, but I think  
29 it may be wise to find out if there is Defence objection. If

1 there is then I will state relevance and whatever other standards  
2 are relevant or important to motivate their admission. But then  
3 let me just proceed then by my moving that MFI-1 be admitted in  
4 evidence and did I hear that we were at 271, or where are we on?

15:33:23 5 PRESIDING JUDGE: Look, I don't know whether what I am  
6 going to say is going to save some time or not, but, Mr Rapp, am  
7 I correct in assuming that all of these documents - I think there  
8 are 45 of them that you will now be moving to have admitted into  
9 evidence - are they all subject of motions that are currently sub  
15:33:53 10 judice, before this Court awaiting decision?

11 MR RAPP: That's correct, your Honour, but based solely  
12 upon motions predicated on their relevance but without the  
13 assistance of witness testimony, yes.

14 PRESIDING JUDGE: That's right. I think in relation to  
15:34:16 15 some of the issues that go to admissibility there has been an  
16 appeal filed against one of our decisions and that's currently  
17 with the Appeals Chamber. Is that correct?

18 MR RAPP: Keep in mind that that is an item of evidence not  
19 included in this group upon which there are - I mean it basically  
15:34:36 20 goes to a construction of 89(C), but obviously the construction  
21 of that rule is important for determination of the standard for  
22 admissibility.

23 MR MUNYARD: Your Honour, there are 38 MFI documents.

24 PRESIDING JUDGE: I counted 45, but I was dividing them up  
15:35:04 25 into A, B, C.

26 MR MUNYARD: I haven't included the As and the Bs, no.

27 PRESIDING JUDGE: Look, can I ask you this, Mr Munyard:  
28 Are there some that you will consent to or is there going to be a  
29 general objection pending decision by this Court on the motions?

1 MR MUNYARD: Your Honour, yes. The general objection, you  
2 will note that in very broad terms on these motions we have  
3 objected on two grounds. I am not descending into detail now,  
4 but the two broad grounds were no information as to provenance -  
15:35:46 5 well, you have now had that information in the form of this  
6 witness's testimony. But, secondly, no evidence as to their  
7 content and this witness quite properly says he couldn't deal  
8 with aspects of content of these documents.

9 The reason that we have raised that broad general second  
15:36:09 10 objection is that these materials have all been put in at an  
11 extremely late stage in the trial when they have all been  
12 available to the Prosecution since before the trial began. It  
13 would have been fair and just to the Defence to have had an  
14 opportunity to test the contents of these documents by  
15:36:31 15 cross-examining witnesses who could have spoken of them and it's  
16 difficult to see any document in this collection about which a  
17 witness could not have been asked some questions.

18 There may be one or two that can be identified we could  
19 argue about, but the general proposition which runs right through  
15:36:52 20 our response to all four motions currently before this Court is  
21 that until the witness appeared there had been no sufficient  
22 evidence as to provenance and it was too late, in terms of the  
23 fairness to the Defence, to bring in materials about which we  
24 have no opportunity to cross-examine the producer, the producer  
15:37:18 25 being the present witness.

26 That is our argument in a nutshell, but I should say that  
27 you will see in our four responses considerably more detail, some  
28 of which touches individually on some of the documents  
29 themselves.

1           PRESIDING JUDGE: Mr Rapp, you are the one moving the  
2 admission of these documents. What I wanted to avoid is a  
3 repetition of the arguments that have already been formally  
4 placed before us by way of motion and response and of which we  
15:37:55 5 have to decide. I don't have any of those documents before me at  
6 the moment, but some of the issues, from memory, are that there  
7 is an argument on the legal effect of Rule 89(C) and whether it  
8 can be used to adduce documents that go to the acts and conduct  
9 of the accused. As you are aware, Rule 92 bis prohibits that.

15:38:27 10           Then there is another argument - and I trust Mr Munyard  
11 will pull me up if I am incorrect here. There is another  
12 argument that needs to be decided as to whether those documents  
13 go to the ultimate issue and are therefore properly admitted  
14 without the Defence having the opportunity to cross-examine the  
15:38:48 15 makers of the statements.

16           Then, as Mr Munyard has already indicated, there is an  
17 issue as to the unfairness of admitting those documents without  
18 calling a witness to give evidence as to the truth of their  
19 contents and enabling the Defence to cross-examine that witness.

15:39:12 20           Then there is I think the general argument that the  
21 prejudice to the accused of admitting those documents in the  
22 manner sought by the Prosecution far outweighs their probative  
23 value.

24           Now, they are the issues before us at the moment. Am I  
15:39:35 25 correct in that, Mr Munyard?

26           MR MUNYARD: Your Honour, I'm going through one of the four  
27 motions, in fact the one that deals with the first batch that has  
28 been presented, and all the issues that you have mentioned that  
29 the Defence raised are there, together with some more detailed

1 submissions in relation to particular documents. So, yes, you  
2 are quite correct.

3 PRESIDING JUDGE: All right. Well you see my point,  
4 Mr Rapp, that all of those issues are already before us for  
15:40:13 5 decision and we must confess that some of those issues fall to be  
6 decided by the decision of the Appeals Chamber in the matter that  
7 is now before it, some of the general issues of law I am  
8 referring to, and so I don't really see the point of  
9 regurgitating the same arguments orally before this Court when  
15:40:35 10 they are already before the Court by way of formal motion.

11 MR RAPP: Well, your Honours, we are trying to be of  
12 assistance to the Trial Chamber and I should point out that  
13 almost all of these exhibits were included in very early motions  
14 filed even before the commencement of trial and certainly efforts  
15:40:56 15 were made to put many of these exhibits before witnesses and as  
16 is clear in the first group of 14 ten have already been admitted,  
17 many as Defence exhibits.

18 But certainly my analysis in reading the motions indicate  
19 that the motions largely had to deal with this problem of moving  
15:41:19 20 items into evidence without a witness and we had the lex  
21 specialis point that your Honour has cited as well, but now that  
22 we have adopted Rule 92 bis that therefore if you use 92 bis, in  
23 other words no witness present, a declaration going in, or the  
24 witness only being subject to cross-examination, then that  
15:41:45 25 evidence can't go to the acts and conduct of the accused.  
26 However once you do have a witness then of course, as many of  
27 these witnesses that have appeared in support of documents aren't  
28 the makers of them, or have other knowledge of them, those  
29 documents have gone in through a live witness.

1           So basically we removed all of the issues that are at stake  
2 in the motion, other than the simple issue that frankly Rule  
3 89(C) says relevant evidence goes in. Is there an additional  
4 element of reliability that has to be added to that before  
15:42:25 5 something is admissible?

6           Frankly we submit that, even if there were such an element,  
7 this testimony standing alone supplies that. We of course also  
8 submit that under the Fofana Appeals decision, recalling  
9 specifically that the Prosecutor had objected in the Fofana bail  
15:42:45 10 to a document coming in and a particular declaration and saying  
11 that it's not reliable, it should be excluded, the Appeals  
12 Chamber said, "No, reliability is not a condition of admission.  
13 That comes later. It's relevance".

14           So I am prepared today to argue that each of these  
15:43:03 15 documents are relevant, but if it's your Honours' position that  
16 additionally there is the fact of reliability then I think we  
17 meet that. All of these other issues I think are removed by the  
18 presence of a witness and, of course, all evidence is prejudicial  
19 if it's relevant. So we - and I don't see in the various grids  
15:43:24 20 in which the Defence has objected to each of the admissions on  
21 many of them they come down to the exhibit is cumulative, et  
22 cetera. That is their main objection, or that there is no  
23 witness present to give support to it, and we think frankly those  
24 issues can be confronted here today.

15:43:49 25           We are simply trying to go forward with the witness and  
26 save this Court an enormous amount of time, but obviously if your  
27 Honours wish to defer this question of admission I presume that  
28 means that with the witness then we would need to come back and  
29 make a motion at an appropriate time if that is your Honours'

1 deci si on.

2 MR MUNYARD: I wonder if your Honours would just hear me  
3 briefly before you confer because there is a point of law that  
4 arises here?

15:44:25 5 PRESIDING JUDGE: Yes, we will be with you in one moment.  
6 My colleague wants to say something.

7 JUDGE DOHERTY: Mr Munyard, I wish to be clear on the  
8 submission you have made. You said and I have noted, "We  
9 objected on provenance, which has now been dealt with, and the  
10 materials are extremely late. We could have cross-examined  
11 witnesses", and then you repeated, "In response to all four,  
12 there is again no evidence of provenance and it is too late to  
13 bring in the materials for cross-examination". Are you limiting  
14 your objections today to those two points?

15:45:38 15 MR MUNYARD: No, your Honour. Did I say that there was no  
16 evidence of provenance?

17 JUDGE DOHERTY: Yes, you mentioned that and then added that  
18 the witness had been called.

19 MR MUNYARD: Yes, I'm relying on all the grounds that we  
15:45:57 20 relied upon in our submissions in writing in response to the  
21 motions. I was - what I was putting forward was a kind of  
22 compendious approach of two broad prongs. One is that there was  
23 no evidence of provenance. Well, now you have had evidence of  
24 provenance. The second - and I was trying to encapsulate it very  
15:46:19 25 broadly, but in doing so I clearly wasn't comprehensive enough.  
26 Justice Lussick correctly summed-up the grounds on which we have  
27 broadly objected to these documents and I don't think it helps  
28 for me to repeat what he, the President, has said.

29 What I would submit is that, as a practical matter, there

1 is no need for the witness to be here and sit through all of  
2 these. There is no requirement for him to come back. In fact, I  
3 think we have dealt with other MFI tendering in the absence of a  
4 witness.

15:46:54 5 Secondly my learned friend, Mr Rapp, is I would submit  
6 quite wrong in saying that we have dealt with all of these other  
7 outstanding issues. On the contrary it's our submission that all  
8 of these other outstanding issues, apart from provenance, have  
9 yet to be resolved. Simply producing a witness who can't say a  
10 word as to the content, apart from my drawing out certain  
11 features that were there, that is not dealing with the content.  
12 It's simply alerting the Court to some of the content.

13 The issues that we have raised go to - all the outstanding  
14 issues that we have raised go to the question of content and  
15:47:33 15 those are all to be resolved. I would have thought that it would  
16 save the Court time for the motions to be dealt with in the usual  
17 way, rather than for us to laboriously go over those arguments  
18 orally which will take a very considerable time and will go well  
19 into tomorrow, if not the whole of tomorrow, if each of these are  
15:47:55 20 looked at orally.

21 PRESIDING JUDGE: Thank you, Mr Munyard.

22 MR RAPP: If I might be permitted? As I was proceeding  
23 with this I pulled out Annex A to the Defence response and I was  
24 going to go ahead with MFI-1, a letter "To: The Leader" and  
15:48:13 25 "From: Jackson Swaray", and the Defence attached a checklist  
26 where they checked what their objection is. They have a box for  
27 "Already produced". They haven't checked that. They have a box  
28 for "Not sufficiently significant". They haven't checked that.  
29 Their objection is that it's cumulative and then they cite the



1 fact that there is some other evidence in the record already  
2 about this. Then finally their last box is "Anonymous or  
3 hearsay" and in this case they haven't objected to that. So we  
4 are prepared to argue whether it's cumulative or not. Obviously,  
15:48:47 5 the standard is whether it's unduly cumulative. Based on this  
6 objection it seems to me that the document should be admitted.

7 PRESIDING JUDGE: Well, look --

8 MR MUNYARD: I am sorry, there is a problem there. Mr Rapp  
9 is referring to a different document. What we have done in the  
15:49:01 10 motion is we followed the order of the documents set out in the  
11 motion, which is different from the order that the Court has been  
12 looking at them today.

13 MR RAPP: Well, I am referring specifically to the document  
14 which bears the number - we are specifically talking about  
15:49:21 15 letter - we are talking about the particular document that is  
16 MFI-1. That is a document which we've identified here and that  
17 is the document that in Annex A on Court Management Service paper  
18 22435, which you there call 3 in that document, that's what you  
19 had to say about this document in which you filed here in the  
15:49:46 20 Court.

21 PRESIDING JUDGE: But what about all the objections raised  
22 in the four motions before us? Are we now to ignore those?

23 MR RAPP: I am just saying this is one of those four  
24 motions. This is their objection to that one. That is what it  
15:50:01 25 is. That is what they checked off. I mean on page - this is the  
26 annex to their "objection to admission of documents seized from  
27 Foday Sankoh's house through Rule 89(C)". I mean I am quoting  
28 from their own work. I mean we have heard all of these different  
29 arguments thrown up and Mr Munyard adopted the Court's version of

1 what some of the issues might be, but those are not the ones that  
2 are raised.

3 PRESIDING JUDGE: No, no, no, I won't allow that, Mr Rapp.  
4 That's not the Court's version at all. It's the objections taken  
15:50:33 5 from the formal responses to your motions. That is not the  
6 Court's - I was simply citing what the Defence has put on record  
7 as their objections.

8 MR RAPP: Well, your Honour, with due respect, I heard what  
9 Mr Munyard said and Justice Doherty quoted that in regard to this  
15:50:52 10 provenance issue which he cited twice. There are certainly  
11 important issues that need to be resolved and they don't have to  
12 be raised necessarily by counsel and your Honours have identified  
13 important issues that need to be resolved. I am simply saying  
14 that these aren't issues that have been raised by the Defence in  
15:51:10 15 regard certainly to MFI-1.

16 PRESIDING JUDGE: Yes, I take your point.

17 [Trial Chamber conferred]

18 We note that this witness has given some evidence regarding  
19 provenance of the documents, but we are of the opinion that the  
15:57:30 20 other issues that I mentioned earlier are not removed simply by  
21 the presence of this witness. There are other issues of law that  
22 are raised in responses to the motions currently before the  
23 Court.

24 Now, Mr Rapp, we fully appreciate the motive behind  
15:58:00 25 bringing this witness and the documents before the Court. We  
26 realise you are trying to save some time, but we have given the  
27 matter some thought and we think that we would rather rule on the  
28 formal arguments presented by the motions.

29 So the order we are going to make is that we will defer

1 your present application for admission of these documents pending  
2 our rulings on the motions that are presently before us.

3 Now, we can let this witness go - I am not sure whether you  
4 will be recalling him or not, but as far as we are concerned we  
15:58:48 5 will discharge him and leave that aspect to you, Mr Rapp.

6 MR RAPP: As I indicated, he has been allowed to be a  
7 witness in the case and we may wish to recall him now that he is  
8 on the witness list. Just as long as his being discharged  
9 doesn't prevent that, we certainly have no objection.

10 PRESIDING JUDGE: No, of course not. Of course not. That  
11 is a matter within your own judgment whether you need to recall  
12 him or not.

13 MR RAPP: Okay. Thank you very much, your Honour.

14 MR MUNYARD: Your Honour, before the witness goes could I  
15:59:21 15 ask that he follows up the inquiry I raised about exhibit  
16 whatever it was.

17 PRESIDING JUDGE: Yes, I'm aware of that. Mr Malik said he  
18 would follow it up and I take it, Mr Rapp, you would not object  
19 to that at all?

15:59:34 20 MR RAPP: No, we would not object, your Honour.

21 MR MUNYARD: If he could supply us with a short written  
22 document setting out the information in the database that would  
23 be very helpful.

24 PRESIDING JUDGE: Well, you've said you'll do that Mr Malik  
15:59:48 25 and --

26 THE WITNESS: Of course, your Honours. I was not able to  
27 note the ERNs at that time, but I will request our case manager  
28 to liaise with them and obtain the ERNs and I will supply the  
29 information as soon as possible.

1           PRESIDING JUDGE: I am sure if you provide it to the  
2 Prosecution in this case they will forward it on to Mr Munyard.

3           THE WITNESS: I will do so, your Honours.

4           PRESIDING JUDGE: Mr Malik, all that remains is for us to  
16:00:12 5 thank you for coming to Court to give evidence. We are not sure  
6 whether you will be back or not, but we hope you have a safe trip  
7 home. You will be escorted out now.

8           THE WITNESS: Thank you very much, your Honours.

9           MR RAPP: The only other housekeeping matter is there are  
16:00:41 10 four exhibits that are presently in evidence either as  
11 Prosecution or Defence exhibits that are copies. During the  
12 course of this exercise we have been able to locate the original.  
13 I don't know - I was prepared at the conclusion of dealing with  
14 these MFIs to ask the Court how they wanted to proceed on that,  
16:01:02 15 because obviously you may prefer to have the original document  
16 once it can be checked to make sure that it's exactly the same as  
17 the copy so that you have the best document before you. They  
18 have been provided to the Registry and perhaps they can check  
19 them and, if they are, we would certainly move that the original  
16:01:23 20 be substituted if it contains all of the contents as the copies  
21 so that you get the best exhibit before you.

22           PRESIDING JUDGE: Thank you for that, Mr Rapp. Do you have  
23 on hand which exhibits they were?

24           MR RAPP: D-3, D-29 and P-149. And the fourth document -  
16:01:58 25 and they are in folders 3, 15 and 24 of the Registry's folders.  
26 But the question was the first document. We have a true  
27 certified copy from the evidence unit. That's not physically  
28 here. We will bring that one as well. That is on - which  
29 exhibit? In a moment we can provide that.

1           PRESIDING JUDGE: Mr Rapp, just correct me if I am making a  
2 mistake in this order, but you are now in a position to produce  
3 the originals of the documents tendered in D-3, D-29 and P-149.  
4 I think that's correct.

16:04:00 5           MR RAPP: Right. And additionally D-54, I believe. So we  
6 are talking D-3, D-54 - okay. I believe Ms Maja Dimitrova. I  
7 think we are talking about three documents only. Sorry, I can't  
8 offer four. That's correct, your Honour.

9           PRESIDING JUDGE: We are doing pretty good getting three  
16:04:33 10 I'd say, but these are the originals then of D-3, D-29 and P-149.

11           I will make this order and if you think there is  
12 something wrong with it please let me know, but the order we are  
13 going to make is this: The originals, after having been shown to  
14 the Defence, can be compared by Madam Court Manager with the  
16:05:01 15 current exhibits which are copies and then if they are the same  
16 the order is that the originals of those three documents be  
17 substituted as the exhibits and the current documents that are in  
18 evidence as D-3, D-29, P-149, all of which are copies, can be  
19 uplifted and, as I said, the originals substituted.

16:05:40 20           MR RAPP: Thank you.

21           PRESIDING JUDGE: Any objection to that type of order?

22           MR MUNYARD: Not at all.

23           MS IRURA: Your Honour, just to clarify the situation, with  
24 regard to D-3, the original document was already available to the  
16:05:52 25 Registry. The folder highlighted was folder 3 which contains  
26 D-54 and not D-3. I think that may have been the document.

27           MR RAPP: I thank her for that. I think my record was in  
28 folder 3, D-54. Not D-3. So my apologies.

29           PRESIDING JUDGE: All right. We are probably falling into

1 a well of utter confusion here, but I will reiterate that order.  
2 The correct documents referred to are D-29, D-54 and P-149 and  
3 the current D-29, D-54 and P-149, which are copies only, can now  
4 be uplifted by the parties and the originals will be substituted  
16:07:03 5 subject to them being seen by the parties, if required, and being  
6 confirmed by Madam Court Manager as being identical with the  
7 copies.

8 Well, thank you. Does the Prosecution have another witness  
9 ready to call at this stage?

16:07:27 10 MR RAPP: Yes, your Honour, we do have another witness  
11 prepared. This witness, however, is in closed session. This is  
12 TF1-168.

13 MS HOLLIS: Mr President, I will be having carriage of this  
14 witness. I wonder, in light of all the documents and things we  
16:08:01 15 are going to have to move around and the hour, if we could start  
16 with that witness tomorrow morning?

17 PRESIDING JUDGE: What is your attitude to that,  
18 Mr Griffiths?

19 MR GRIFFITHS: We agree.

16:08:22 20 PRESIDING JUDGE: I think that's a pretty sensible  
21 suggestion myself. We will adjourn Court now until 9.30 tomorrow  
22 morning.

23 [Whereupon the hearing adjourned at 4.10 p.m.  
24 to be reconvened on Wednesday, 21 January 2009  
25 at 9.30 a.m.]

26  
27  
28  
29

## I N D E X

### WITNESSES FOR THE PROSECUTION:

TARIQ MALIK	23006
EXAMINATION-IN-CHIEF BY MR RAPP	23006
CROSS-EXAMINATION BY MR MUNYARD	23042
RE-EXAMINATION BY MR RAPP	23105