



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

MONDAY, 7 JANUARY 2008
9.08 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:

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

For Chambers:

Mr William Romans
Ms Sidney Thompson

For the Registry:

Mr Michael Adenuga
Ms Rosette Muzigo-Morrison
Ms Rachel Arura
Mr Vincent Tishakwa

For the Prosecution:

Ms Brenda Hollis
Mr Nicholas Koumjian
Mr Mohamed A Bangura
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 Vincent Nmeielle

1 Monday, 7 January 2008

2 [Open session]

3 [The accused present]

4 [Upon commencing at 9.08 a.m.]

09:03:32 5 MS IRURA: All rise. The Special Court for Sierra Leone is
6 sitting for the resumption of the trial in the case of the
7 Prosecutor verses Charles Ghankay Taylor. Justice Julia
8 Sebutinde presiding.

09:07:08 9 PRESIDING JUDGE: Good morning. Before we begin with the
10 trial I'd like to apologise for the court starting 10 minutes
11 late. This was due to security downstairs insisting on checking
12 everything that came in and we had quite a lot to bring inside.
13 We apologise and we hope that this will not happen again because
14 we intend to start at 9 o'clock promptly every day.

09:07:33 15 Secondly, there was a request by a news reporter from
16 Reuters and the request is for permission to take photographs at
17 the beginning of this hearing. I thereby wish to issue this oral
18 order granting the request.

09:08:04 19 Trial Chamber II of the Special Court for Sierra Leone
20 considering the request of the Press and Public Affairs Office of
21 the Special Court for Sierra Leone for a pool photographer to
22 enter the courtroom in order to take photographs before the
23 hearing today, Monday 7 January 2008, considering further that
24 Mr Michael Koreen from Reuters news agency has been accredited to
09:08:31 25 cover the court proceedings in this trial and that his agency
26 fully accepts the conditions governing the taking of photographs
27 of court sessions and undertakes to share all photographs so
28 taken with the Special Court and the international press,
29 pursuant to Rule 81(D) of the Rules of Procedure and Evidence we

1 order as follows:

2 That Mr Michael Koreen of Reuters is authorised to be
3 present in the courtroom today, that he be allocated a position
4 in the courtroom 15 minutes before the start of the court
09:09:06 5 proceedings, and I hope that this is the case. He is granted
6 permission to photograph from the inside of the courtroom
7 immediately - for a period of one minute immediately after I've
8 delivered this order. He is to ensure that the dignity of the
9 proceedings is preserved and that, as the only photographer that
09:09:27 10 will access the courtroom, he makes available the photographs
11 taken to the press in Sierra Leone and the international press
12 and that he supplies the Press and Public Affairs Office of the
13 Special Court with all the pictures taken for internal use.

14 I will pause for a minute to permit this gentleman ---

09:11:11 15 I will now call upon Court Management to present the
16 interpreters that must be sworn before the evidence begins. I
17 beg your pardon. Let's have the appearances first. The
18 Prosecution, please.

19 MS HOLLIS: Good morning Madam President, your Honours,
09:11:35 20 Brenda J Hollis, Nicholas Koumjian and Maja Dimitrova appear
21 today for the Prosecution.

22 PRESIDING JUDGE: Thank you, Ms Hollis. Defence, please.

23 MR GRIFFITHS: Your Honour, Courtenay Griffiths, Terry
24 Munyard and Morris Anyah appear for the accused Charles Taylor
09:11:56 25 today.

26 PRESIDING JUDGE: Thank you Mr Griffiths. Now the
27 interpreters may be sworn. I beg your pardon. I just wanted to
28 recognise Mr Vincent Nmehele, the Principal Defender. Sorry, I
29 couldn't see you from where I'm sitting.

1 MR NMEHIELLE: Thank you, Your Honour. No fault of yours.

2 [Interpreters sworn]

3 PRESIDING JUDGE: Is that all? Thank you very much.

4 Please take your seats. So this case comes up for a continuation

09:13:37 5 of the Prosecution case and we expect to hear evidence today.

6 MR KOUMJIAN: Yes, Your Honour, we're prepared with our

7 first witness who is Mr Ian Smillie.

8 Perhaps, Your Honour, just to take advantage of the time I

9 would ask for Your Honour's guidance on how we mark and move to

09:16:18 10 admit exhibits. The first exhibit which I intend to mark was -

11 I'd ask for Your Honour's guidance on how we mark and admit

12 exhibits in the trial in the procedure. The first exhibit that I

13 intend to mark would be the report that Mr Smillie prepared for

14 this court and if the procedure is satisfactory to your Honours I

09:16:48 15 propose to wait until the end of his examination to move to admit

16 that into evidence

17 PRESIDING JUDGE: First of all on procedure, definitely the

18 right procedure is that you first give the evidence - allow the

19 witness to give his evidence, at the end of which you then apply

09:17:06 20 to tender whatever exhibit you wish to and allow the other side

21 to comment on whether they agree or not. You don't tender it

22 upfront before the evidence.

23 But on the numbering of the exhibits, it was the

24 understanding of the judges that the parties had a meeting, a

09:17:25 25 trial management meeting, earlier, sometime late last year, I

26 think that meeting was chaired by the Court Management section,

27 in which we understand you agreed on the numbering of the

28 exhibits. Am I wrong? Unfortunately I think none of the court

29 managers are sitting in court currently.

1 MS HOLLIS: I'm sorry, your Honour. Yes, we did have such
2 a meeting and it was agreed, to my recollection, that the
3 Prosecution exhibits would be marked as a PE with a number for ID
4 and then when they were admitted the for ID would be struck off.

09:18:10 5 So as far as the Prosecution exhibits were concerned that's my
6 understanding of how it would be marked and it was my
7 understanding the Defence exhibits similarly would be DE and the
8 number. So there was an agreement as to that.

9 PRESIDING JUDGE: But, Ms Hollis, it's not always to admit
09:18:26 10 an exhibit in two phases, first for identification and then as an
11 exhibit. It's not always necessary to do that.

12 MS HOLLIS: No, your Honour, the purpose of marking it for
13 identification would be to use it as you have said, before it is
14 formally moved for admission. It may be that an exhibit is moved
09:18:43 15 for admission and is not admitted and then it would remain as for
16 identification.

17 PRESIDING JUDGE: But the important thing is the parties
18 did agree --

19 MS HOLLIS: Yes, your Honour.

09:18:52 20 PRESIDING JUDGE: -- with the court manager as to how to
21 number.

22 MS HOLLIS: Yes, your Honour.

23 PRESIDING JUDGE: So we will go with the numbers that the
24 court manager advises the Bench. Thanks.

09:19:02 25 MS HOLLIS: Thank you, your Honour.

26 WITNESS: IAN SMILLIE [Sworn]

27 EXAMINATION-IN-CHIEF BY MR KOUMJIAN:

28 Q. Mr Smillie, did you prepare for this case at the request of
29 the Prosecution a report entitled Diamonds, the RUF and the

1 Liberian Connection?

2 A. Yes.

3 MR KOUMJIAN: Madam Court Officer, the Prosecution would
4 like to mark that exhibit for identification. So that would be
09:21:12 5 tab 1 --

6 PRESIDING JUDGE: Excuse me, counsellor. We don't know
7 anything about this witness. You don't just jump into his
8 testimony. Who is he?

9 MR KOUMJIAN: Okay, your Honour.

09:21:25 10 PRESIDING JUDGE: I beg your pardon, sir. It's not your
11 fault, but the Prosecutor needs to introduce you to the Court.

12 MR KOUMJIAN:

13 Q. Sir, in the report you discuss your finishing university
14 and first job. Can you tell the Court what your first job was
09:21:42 15 after university?

16 A. I joined a voluntary organisation called Canadian
17 University Service Overseas, CUSO, and I went to Sierra Leone to
18 teach secondary school in Koidu, a town upcountry in Sierra
19 Leone.

09:22:01 20 MR KOUMJIAN: I would ask the usher then to take the
21 document 11, tab 11, and mark that next for identification and
22 show that to the witness, please. My case manager informs me we
23 also have a larger size map for your Honours if you'd like to use
24 that. This is in your binders under tab 11. Is that on the
09:22:38 25 screen now?

26 MR GRIFFITHS: Your Honour, I apologise for interrupting,
27 but I have a difficulty with my LiveNote screen and I wonder if
28 one of the technical experts could assist me in putting it back
29 up, please.

1 PRESIDING JUDGE: Court manager, what is happening? Nobody
2 has LiveNote on their screen actually. Does anybody have
3 LiveNote on their screen?

4 MR MUNYARD: Madam President, I have it on my screen.

09:23:18 5 PRESIDING JUDGE: We certainly don't have it on the Bench.

6 MR KOUMJIAN: I do have it, your Honour, the LiveNote.

7 MS MUZIGO-MORRISON: Your Honour, the reason your Honours
8 do not have LiveNote is because they haven't been configured. We
9 are hoping it can be done during the break

09:23:38 10 PRESIDING JUDGE: What about counsel who is complaining
11 that he doesn't have it?

12 MS MUZIGO-MORRISON: The technician will come in and assist
13 counsel. Thank you.

14 PRESIDING JUDGE: Does the Prosecution have LiveNote on
09:23:55 15 their --

16 MR KOUMJIAN: I do, your Honour, yes.

17 PRESIDING JUDGE: So why does Mr Griffiths not have
18 LiveNote?

19 MR TISHEKWA: Madam President, if I may assist the Chamber,
09:24:07 20 the difficulty is that the LiveNote has to be individually
21 configured and some members of the different parties could not
22 attend the session last Friday when the configuration was done.
23 It is expected that it will be done in the course of the day.

24 PRESIDING JUDGE: Mr Griffiths, I think there is nothing we
09:24:25 25 can do at this stage, but what I would request as a way forward
26 is that we take our notes for now, we take handwritten notes. I
27 will ask the Prosecutor to go a little slowly to enable people to
28 record until such a time as your computer and ours can be
29 configured to accommodate us as far as LiveNote is concerned.

1 Please proceed.

2 MR KOUMJIAN: I would ask that the map in document number
3 11 be on the screens represented in front of your Honours. I was
4 hoping that the witness could then indicate on that map where
09:25:07 5 Koidu where he was teaching school in his first job after
6 university, but I believe the witness would have to go to the
7 ELMO to do that. I don't know if the usher could assist him.
8 I'm not sure, for the record, if we have given this a number. I
9 assume it is PE-2.

09:25:49 10 MS IRURA: It's exhibit P-5.

11 PRESIDING JUDGE: It cannot yet be an exhibit because it
12 has not been admitted. I think counsel is tendering it for
13 identification purposes only. So what is the number for
14 identification purposes?

09:26:10 15 MS IRURA: Marked for identification P-1.

16 PRESIDING JUDGE: MFI P-1, that is the map of Sierra Leone.
17 That can be found in our folders under flyer 11.

18 MR KOUMJIAN: Your Honour, I was informed by the case
19 manager that this is one of the handful of documents that was
09:26:34 20 admitted pursuant to the pre-trial motion on findings of 92 *bis*
21 documents. So this was marked in the Court order, I believe,
22 exhibit 5 and that's P-5.

23 PRESIDING JUDGE: Is that correct?

24 MS IRURA: That is correct, your Honour.

09:26:50 25 PRESIDING JUDGE: Then let the record show that what is
26 before the witness is actually exhibit P-5. Is that correct? Is
27 that the right exhibit number?

28 MS IRURA: Yes, your Honour.

29 PRESIDING JUDGE: Exhibit P-5 is now shown to the witness.

1 Please continue.

2 MR KOUMJIAN: Is it possible to put this on the screen so
3 that everyone can view what the witness is pointing to? I'm not
4 sure how I get that on my screen.

09:27:22 5 MS IRURA: Please press the button Document Cam Witness.

6 THE WITNESS: The name of the place as marked on this map
7 is Koidu-Sefadu.

8 MR KOUMJIAN:

9 Q. Thank you. Just to avoid any confusion there is another
09:27:49 10 town with a similar name called Koindu with an N; is that
11 correct?

12 A. That's correct.

13 Q. But you were in Koidu. In which district is that in Sierra
14 Leone?

09:28:01 15 A. Koidu is the district headquarters for Kono District.

16 Q. What was it that you were doing there?

17 A. I taught secondary school. I taught English, French and
18 history.

19 PRESIDING JUDGE: Counsellor this is not satisfactory. In
09:28:17 20 view of the fact that the map has not come up on the screen and
21 you're asking the witness to actually point out, I would rather
22 that he took a pen and marked the town and passed it over to
23 counsel opposite and to the Bench so that we're on the same page
24 about this.

09:28:33 25 MR KOUMJIAN: Thank you. Apparently it was on the screen.
26 I had some difficulty getting it, but you need to push the
27 Document Cam Witness button next to our screens.

28 PRESIDING JUDGE: It was not on the judges' screen and it
29 ought to be and we're the ones taking the evidence.

1 MR KOUMJIAN: Sorry for the procedural questions, your
2 Honour. Is it an issue if he marks this exhibit if it's already
3 been admitted?

4 PRESIDING JUDGE: We need to know if we're talking about
09:29:10 5 the same place. We need to agree on what place it is he was at.

6 MR KOUMJIAN: We can hand you another copy of the same map
7 if you'd like and even mark that if you'd like.

8 PRESIDING JUDGE: Now we've got the copies of the map on
9 all our screens on the Bench. Could the witness please point
09:29:27 10 again.

11 MR MUNYARD: Your Honour, I'm sorry to interrupt. We don't
12 have it on our screens and we don't appear to have the button.

13 The button is external to the machine. Nobody told us
14 about that. Thank you.

09:29:57 15 PRESIDING JUDGE: Court manager, could you please ensure
16 that you ask the witness to point again, to indicate.

17 THE WITNESS: The town that I lived in and taught school at
18 was on this map marked Koi du-Sefadu [indicated]. Would you like
19 me to mark it on this map or not?

09:30:26 20 PRESIDING JUDGE: As long as you've indicated I think all
21 the parties involved have seen the indication. It's not
22 necessary to mark it. Please proceed.

23 MR KOUMJIAN:

24 Q. Sir, how long did you teach there at Koi du?

09:30:43 25 A. I taught for one school year.

26 Q. While you were living in that area did you observe any
27 economic activities going on, any mining?

28 A. Koi du was the centre of the diamond mining area in Sierra
29 Leone. It was very volatile. It was almost like a Wild West

1 town. It was similar, I suppose, to a gold rush town. There
2 were thousands of illicit diamond diggers. You had to have a
3 pass to live in Kono District if you were not a Kono speaker, but
4 there were thousands of people who had come into the area to dig
09:31:28 5 diamonds. So it was a bustling town. The diamond pits were
6 everywhere. It was all about diamonds.

7 Q. When you finished that year of teaching school there in
8 Sierra Leone what did you do next?

9 A. I was asked if I would take up a field staff job for
09:31:48 10 Canadian University Service Overseas, CUSO, in Nigeria and I went
11 to work in Nigeria and I lived there for another three years.

12 Q. What years were those that you were in Nigeria?

13 A. From 1968 to 1971.

14 Q. Can you then tell us - go through the jobs that you've had
09:32:11 15 in your professional career up to the present time?

16 A. After I returned to Canada from Nigeria I worked for a year
17 in the CUSO headquarters in Ottawa. Then I took a job with CARE,
18 the relief organisation, in Bangladesh. I worked for two years
19 in the immediate post-war period in Bangladesh on a relief and
09:32:37 20 development project for CARE.

21 Following that I worked for a year with the Office of
22 International Education at the University of Western Ontario in
23 London, Ontario and then I was involved in starting a Canadian
24 non-governmental organisation called Inter Pares and I managed
09:33:00 25 Inter Pares for four years and then I was asked if I would
26 consider going back to CUSO as executive director. At that time
27 CUSO was Canada's largest NGO. I did that and I held that job
28 for four years.

29 My wife had taken a job at the Commonwealth Secretariat in

1 London and so I left CUSO in 1983 to go and live in London and I
2 had always wanted to do some writing so I thought this would be
3 an opportunity to begin to exercise that ambition, which I did,
4 but I discovered that you don't actually earn a great deal of
09:33:43 5 money from writing about development subjects and so I took
6 consulting jobs, short-term consulting jobs.

7 Between 1983 and 1999 I worked as a self-employed
8 consultant doing work on development issues in Canada, Europe and
9 in developing countries. I worked for the Canadian government,
09:34:09 10 UN agencies, NGOs, European NGOs, African and Asian NGOs and I
11 continue to do that, I still work as an independent consultant,
12 but starting in 1999 I began to work on a part-time basis with
13 Partnership Africa Canada in connection with the war in Sierra
14 Leone and the diamond issue.

09:34:39 15 Q. Sir, are you familiar with a video, a documentary, called
16 Blood Diamonds?

17 A. Yes.

18 Q. And that has a slightly different title than the Hollywood
19 movie; is that correct?

09:34:54 20 A. The Hollywood movie was called Blood Diamond singular. The
21 History Channel film was called Blood Diamonds.

22 Q. Can you tell us, do you know who made that film Blood
23 Diamonds?

24 A. It was made by a company called Bill Brummel Productions.

09:35:11 25 I think they're based in California.

26 Q. And where was that presented and when, do you know?

27 A. It was first shown in the United States on the History
28 Channel at the end of 2006. I think it was December 30. I'm not
29 exactly sure of the date, but I think it was December 30, 2006.

1 It has since shown on television in Ireland, in London in Britain
2 and in South Africa and elsewhere.

3 Q. Did you have any association with that film?

09:35:54

4 A. The producers called me I think some time in the spring of
5 2006 and started asking me questions about diamonds and Sierra
6 Leone, Angola, the conflict and that kind of thing and then they
7 asked me if I would be prepared to be interviewed on camera for
8 the film and I agreed to do that. They flew me, they paid for my
9 ticket to New York and I was interviewed in New York, I think it
10 was the beginning of July 2006.

09:36:22

11 Q. Do you know what kind of reception the film got?

12 A. I think the film was very well received. I know it was
13 nominated for an Emmy Award which is the equivalent in the United
14 States of an Academy Award for television productions.

09:36:41

15 MR KOUMJIAN: Your Honours, at this time I would like to
16 show one very short clip from the film and have the witness
17 comment. That would be clip number 1 that we've identified
18 previously to the audio visual booth. Can the usher please make
19 sure the witness has that on his screen? There is an unofficial
20 transcript also available on tab 12 for your Honours and for
21 counsel.

09:37:22

22 PRESIDING JUDGE: Is there a narrative that goes with this
23 and if so --

09:38:03

24 MR KOUMJIAN: As I mentioned, your Honour, there is an
25 unofficial transcript under tab 12. If we could start it from
26 the beginning for everyone's convenience, please. If the booth
27 could start the film from the beginning. Thank you.

28 [Video played to the Courtroom]

29 MR KOUMJIAN: Thank you. Apparently the sound and video

1 were not exactly coordinated.

2 Q. Sir, at the last part of that clip that was shown you
3 commented on the quality and the price of Sierra Leone diamonds.
4 Is this a subject you've studied --

09:39:49 5 PRESIDING JUDGE: Counsel, we don't have evidence that the
6 voice belongs to Mr Ian Smillie yet.

7 MR KOUMJIAN: Okay.

8 Q. Sir, did you recognise yourself and your voice on that
9 video?

09:39:59 10 A. Yes, I did.

11 Q. Thank you. In the film you commented in the clip that was
12 shown on the quality of Sierra Leone diamonds. Can you tell us
13 when you became interested in this subject and what you've done
14 to --

09:40:13 15 JUDGE DOHERTY: Mr Koumjian, you've asked two questions in
16 one and that's the third time this morning.

17 MR KOUMJIAN:

18 Q. Sir, when did you become interested in diamonds?

19 A. Well, I suppose I became interested when I first lived in
09:40:29 20 Sierra Leone although I didn't think at that time it would lead
21 to anything. I mean you couldn't live and work in Koidu and not
22 take notice of diamonds.

23 Q. Can you tell us what efforts you've made to study diamonds?

24 A. At the end of 1998 and the beginning of 1999 there was a
09:40:49 25 group of individuals living in Ottawa, people like myself who had
26 worked in Sierra Leone or Sierra Leonean Canadians, people who
27 had emigrated from Sierra Leone who were very concerned about the
28 war and what was going on in Sierra Leone. We were concerned
29 that the United Nations wasn't involved. We were concerned that

1 the relief effort was mixed and fairly pale in comparison to what
2 was going on in other emergency situations. We raised some money
3 for relief efforts. I think we raised money for a clinic in Bo
4 and it was burned down not long after it was constructed and we
09:41:32 5 began to see that some of what we were doing was fairly futile.

6 One of the Sierra Leoneans in the group said, "This is
7 really all about diamonds and until somebody does something about
8 the diamonds this war will never be over." I've done a lot of
9 writing, I've done a lot of research, I've written seven books,
09:41:55 10 I've co-authored other books, I've written many, many chapters
11 for books. My time was my own. I thought why don't we start to
12 look into this, why don't we try to understand whether or not
13 this does have something to do with diamonds. And we did. We
14 spent a year, most of 1999, working on this. There was a team of
09:42:15 15 three of us, myself and two others, and we studied the issue in
16 some depth. We not together but individually paid visits to
17 Belgium, to London, to Sierra Leone. We talked to people in the
18 industry and others to try and get an understanding of what this
19 was all about. So that's where it began.

09:42:39 20 Q. Since your interest began can you tell us if you've written
21 on the diamond industry?

22 A. Yes, I've written - well, as I told your Honours, I work on
23 a part-time basis for Partnership Africa Canada. We produced a
24 first report on this which I co-authored called Sierra Leone
09:43:03 25 Diamonds and Human Security. The head title was The Heart of the
26 Matter, the subtitle was Sierra Leone Diamonds and Human
27 Security.

28 Since then Partnership Africa Canada has produced 17
29 different occasional papers on the subject of diamonds. These

1 papers have looked into the issue of diamonds in Canada, India,
2 Guinea, Liberia, Sierra Leone, southern Africa, Brazil, Venezuela
3 and a number of other countries, all of course tied to the issue
4 of conflict diamonds or to the workings of the Kimberley Process
09:43:44 5 which came later. I've been author of some of those papers. I'm
6 the editor-in-chief at Partnership Africa Canada so I've edited
7 those papers. We produced a number of other papers on the
8 subject of diamonds at Partnership Africa Canada as well and I've
9 written chapters for books on the subject of conflict diamonds.
09:44:03 10 I think I've written chapters for five different books,
11 collections of articles about either how commodities are used to
12 fuel war or about how NGOs work on campaigns of this sort and
13 that kind of thing.

14 Q. Are you familiar with the Kimberley Process?

09:44:27 15 A. Yes.

16 Q. Can you tell us what your involvement has been with the
17 Kimberley Process?

18 A. The Kimberley Process was an effort to try to come to grips
19 with this issue of conflict diamonds. By the middle of 2000
09:44:45 20 there was a great deal of concern in the diamond industry and
21 among the governments of countries that depend on diamonds that
22 the issue of conflict diamonds was getting out of control. There
23 was the war in Sierra Leone, there was major problems/war in
24 Angola, in the Democratic Republic of Congo. It was clear that
09:45:05 25 this was a very large issue and the future of the diamond
26 industry was at stake.

27 In May of 2000 the Government of South Africa called a
28 meeting to try to bring together some of the NGOs that had been
29 working on this issue, ourselves at Partnership Africa Canada,

1 Global Witness from England and a number of others along with
2 industry leaders and other governments that were concerned about
3 this, Botswana, Namibia, Canada, Belgium. The first meeting was
4 held in the town of Kimberley in South Africa where South African
09:45:41 5 diamonds had been discovered in the 1860s. That first meeting led
6 to a number of other meetings and that became known as the
7 Kimberley Process. Partnership Africa Canada and I in particular
8 were involved in all of those meetings, both formal meetings and
9 informal meetings that led to the creation of the Kimberley
09:46:02 10 Process Certification Scheme which came on stream in 2003.

11 Q. That is a scheme - can you explain what that scheme is, the
12 Kimberley certification scheme?

13 A. The Kimberley Process basically requires that all rough
14 diamonds being traded internationally must be accompanied by a
09:46:22 15 government certificate. The government certificate has to say
16 that the diamonds are clean. It has to say that - it indicates
17 that the government issuing the certificate knows where the
18 diamonds came from. That has to be backed by a system of
19 internal controls in each country.

09:46:41 20 Now it's different for a producing country like Russia or
21 South Africa. It's different there from what it is in a country
22 like Belgium where diamonds are not produced, but Belgium imports
23 a lot of diamonds and exports diamonds. So when it's exporting
24 rough diamonds it has to issue a Kimberley certificate as well
09:47:04 25 saying it knows where these diamonds have come from. They have
26 to be able to trace the diamonds back to the point of import. Or
27 in the case of a mining country you have to be able to trace the
28 diamonds back to the mine that they originate from.

29 Q. I will just remind you to speak a bit slowly for the

1 interpretation. Sir, you used the term rough diamonds. Can you
2 explain what that means?

3 A. Rough diamonds means uncut, untreated.

09:47:35

4 Q. That means the status of the diamonds when they would be
5 found in the ground before being treated; is that correct?

6 A. Yes, yes.

7 MR KOUMJIAN: Your Honours, I would now request that
8 document tab 2 be given a number by the Court officer. That is
9 the curriculum vitae of Mr Ian Smillie.

09:48:04

10 PRESIDING JUDGE: Court manager, is this for identification
11 purposes?

12 MR KOUMJIAN: I would move it into evidence at this time
13 also, your Honour. Actually, I'm sorry, your Honour. If your
14 Honour is satisfied with this procedure what I would prefer is I
15 will move all the exhibits that I intend to move at the end of my
16 examination.

09:48:25

17 PRESIDING JUDGE: Counsellor, the procedure is in any court
18 of law, this one included, before you tender any exhibit in for
19 admission you must examine your witness so that he attests to the
20 contents of the document. You don't first tender it in and then
21 examine the witness upon the document. Now you're talking about
22 a curriculum vitae of Mr Smillie. We have a tab, we have a text
23 of it here and there's contents in it that he hasn't spoken to in
24 his evidence.

09:48:43

25 MR KOUMJIAN: Right. And, your Honour, I wouldn't request
26 him to read it or go over all of it, but I will ask him to
27 recognise it. If your Honours like I can have him go over all of
28 it. But the procedure I'm requesting is I will move all of the
29 exhibits I intend to move in at the end of my examination. I

09:49:06

1 will examine him about each document, but just to --

2 PRESIDING JUDGE: So are you asking the Court to mark this
3 for identification?

4 MR KOUJIAN: Yes, your Honour.

09:49:36 5 PRESIDING JUDGE: Madam Court Manager, what is the number?

6 MS IRURA: MFI-1, your Honour.

7 [MFI-1 admitted]

8 MR KOUJIAN:

9 Q. Sir, do you recognise this document MFI-1?

09:50:02 10 A. Yes.

11 Q. And did you prepare this document?

12 A. Yes, I did.

13 Q. Is it accurate in describing and summarising your
14 professional background?

09:50:13 15 A. Yes. I see one small mistake in it, but it's generally -
16 yes, it's correct.

17 Q. Okay, would you please point out the small mistake?

18 A. The small mistake is under Awards on the first page,
19 Queen's Silver Jubilee Medal 2002, it should be Queen's Golden
09:50:31 20 Jubilee Medal.

21 PRESIDING JUDGE: What paragraph is that again, please?

22 THE WITNESS: It's on the first page under Awards.

23 PRESIDING JUDGE: What should the correction read like?

24 THE WITNESS: Instead of Queen's Silver Jubilee Medal it
09:50:57 25 should be Queen's Golden Jubilee Medal.

26 MR KOUJIAN:

27 Q. Sir, can you explain these three awards, what they are?

28 A. The jubilee medal was awarded to - in Canada it was awarded
29 to Canadians who had, I guess, exemplary community or national

1 service. The Canadian Policy Research Award had to do with the
2 research that I'd conducted on the issue of conflict diamonds.
3 The Order of Canada is Canada's highest civilian award. It's
4 given to no more than 5,000 Canadians at a time and it's for a
09:51:44 5 body of work.

6 Q. And is this document up to date?

7 A. Well, it's dated at the end. It's dated April 2007. There
8 are obviously some other things that have happened since then, I
9 have a few other publications, but generally speaking it's fairly
09:52:08 10 up to date.

11 Q. And what is your present occupation?

12 A. I work about between 50 and 75 per cent of my time with
13 Partnership Africa Canada as research coordinator which means
14 mainly working on the diamonds and human security project that we
09:52:25 15 have and the rest of my time I work as an independent consultant
16 and writer. I'm currently writing a book about Bangladesh.

17 Q. Have you ever testified before?

18 A. I've never testified in a court of law. I've testified
19 before Canadian parliamentary committees.

09:52:49 20 Q. The subject of your report for the Court deals with Sierra
21 Leone. Since you left from teaching school, I think you
22 mentioned in Koidu, can you tell us what connections, what
23 contacts you have had with Sierra Leone and the people of Sierra
24 Leone?

09:53:03 25 A. Well, I've kept in contact with several of my students over
26 the years so there's been an ongoing connection with the school
27 that I taught at and some of the students who were there and one
28 or two of the teachers as well. I went back to Sierra Leone -
29 when I lived in Nigeria I went back once for a personal visit, a

1 holiday. When I was executive director of CUSO I went on a
2 formal visit to visit - to see our program in Sierra Leone in
3 1983. I met at that time with President Siaka Stevens and other
4 senior government officials and travelled around the country. I
09:53:44 5 didn't visit Sierra Leone again until 1996. I was asked by CARE,
6 the large development and relief organisation, to go to Sierra
7 Leone and to do a study on basically the development and strength
8 of civil society in Sierra Leone. A lot of the relief work that
9 was going on at that time during the war was being handled by
09:54:06 10 international agencies and CARE was interested in finding out
11 what the capacities were of local civil society organisations.

12 I went back to Sierra Leone again I think once before I
13 joined the United Nations Security Council expert panel. I don't
14 recall the date. Since then, since 2000 when I was a member of
09:54:33 15 the panel, I've been back to Sierra Leone several times. I was
16 part of a Canadian government mission in 2001, the Department of
17 Foreign Affairs, the Canadian foreign minister sent a delegation
18 to Sierra Leone and Guinea and Liberia to better inform Canada
19 about what was happening, the war was still on. Then I was asked
09:54:55 20 by the Government of Ireland to take part in a mission in 2003 to
21 look into the possibility of creating an Irish aid program in
22 Sierra Leone.

23 In 2005 I visited again in connection with Tufts
24 University. Tufts University had a project for 10 years called
09:55:16 25 the humanitarianism and war project and I was involved in that
26 over a 10 year period and that took me to Sierra Leone in 2005 to
27 look into security issues, human security issues and perceptions
28 of security. In addition to those visits I've been to Sierra
29 Leone three, four times, maybe five times, for Partnership Africa

1 Canada.

2 MR KOUMJIAN: I'd now like to play clip number 4. Again
3 the transcript is under your Honours' tab 12. It is clip number
4 4 we're now playing. Do we need to mark this as a separate
09:56:20 5 exhibit? Can I get a number please for this then?

6 PRESIDING JUDGE: Are you inquiring about the MFI number?

7 MR KOUMJIAN: Yes.

8 PRESIDING JUDGE: Madam Court Manager?

9 MS IRURA: Marked for identification 2.

10 [MFI-2 admitted]

11 PRESIDING JUDGE: This is clip 4 on the video.

12 [Video played to the Courtroom]

13 MR KOUMJIAN:

14 Q. Mr Smillie, did you recognise yourself appearing on this
10:01:00 15 clip?

16 A. Yes I did.

17 Q. In the history, the brief history of Sierra Leone that was
18 given on the clip, from your knowledge of the country and its
19 history is that accurate?

10:01:12 20 A. Yes.

21 MR MUNYARD: Madam President, I'm very concerned about this
22 line of questioning and the way in which this evidence is being
23 introduced. Mr Smillie can talk about Mr Smillie's own
24 experience. I haven't objected hitherto, but we've now been
10:01:33 25 treated to two clips containing anonymous individuals giving, I
26 suppose it will be claimed by the Prosecution, evidence about the
27 history of Sierra Leone, about what went on there at different
28 times, about the role of President Siaka Stevens and all sorts of
29 other matters and I am extremely concerned that the Prosecution

1 are introducing this material in this way.

2 Mr Smillie has not purported to be a historian, he cannot
3 give expert evidence about the history of the country unless the
4 foundation is properly laid and I would ask that no more clips of
10:02:09 5 this nature be played until a proper foundation for putting them
6 into evidence is established.

7 PRESIDING JUDGE: Mr Prosecutor, what is your response?

8 MR KOUJIAN: Your Honour, the information that was given
9 was very general information about the history. It's certainly
10:02:25 10 something that anyone with the background of Mr Smillie who has
11 lived and studied Sierra Leone would know and so I think it's -
12 first I don't think any of this information is in dispute.

13 Counsel may correct me if I'm wrong. Secondly I think Mr Smillie
14 is certainly qualified to give this very general history. The
10:02:45 15 purpose of his testimony is not this general history, but it sets
16 a background.

17 MR MUNYARD: Madam President, I was asked if any of it is
18 in dispute. Some of it certainly is in dispute. Mr Smillie is
19 in no better position than a first year student at university to
10:03:13 20 give evidence of this sort, and that's no disrespect to him, but
21 it is not the proper way of introducing evidence of the history
22 of a nation into a court of law.

23 PRESIDING JUDGE: I uphold the Defence objection. The
24 right procedure should be that any evidence that is led in this
10:03:32 25 Court must have a firm foundation. You must show the foundation.
26 Mr Ian Smillie is not called here as a historian. He has not
27 come here to give his testimony as a historian. So you cannot
28 ask questions that allude to the history. And I do agree with
29 the Defence that you cannot play clips with anonymous speakers

1 and hope to tender in that kind of evidence through Mr Smillie
2 unless you lay a proper foundation for it.

3 MR KOUMJIAN: Your Honour, the speakers I believe are
4 identified on the clips and on the transcripts and of course
10:04:10 5 your Honours control the proceedings, but the rules --

6 PRESIDING JUDGE: Not when you asked Mr Smillie his opinion
7 about these people and their comments.

8 MR KOUMJIAN:

9 Q. Sir, let me ask you about one of your comments on that
10:04:23 10 clip. You said in the clip - and I'm referring to approximately
11 between time 33:03 and 34:33, your Honours. You said, "When I
12 lived there in the 1960s Sierra Leone Selection Trust had an army
13 of 500 men. They had two helicopters, they had trucks and their
14 whole business was to round up illicit diggers." Can you explain
10:04:55 15 that comment, how you learned that information and what - well,
16 first let me ask you that?

17 A. Well, because Kono District was regulated and because you
18 had to have a pass to live there if you were not a native Kono
19 speaker everybody was aware of the diamond business. Living in a
10:05:16 20 town like Koidu, which I said earlier was a bit like living in
21 the Wild West, it was an incredibly busy town. It was also a
22 very dangerous town. There were fights, there were murders at
23 night, there were large numbers of the Lebanese business people
24 there who had shops where all of their wares were covered in
10:05:39 25 dust, they actually weren't there for the retail trade that they
26 purported to be there for, they were obviously there for
27 something else, and the Sierra Leone Selection Trust, I mean
28 their presence and their attempts to control the illicit diamond
29 mining was evident. Practically every day you would hear the

1 helicopters going over, the police would arrive in trucks and
2 occasionally conduct raids in town. The diggers would run
3 whenever the helicopters came or when the trucks arrived and
4 occasionally they would swarm out over our school which was on
10:06:18 5 the edge of town. I remember one occasion where there was a big
6 raid in the town and hundreds of illicit diggers invaded the
7 school. Several actually came and sat in the classroom to
8 pretend to be students in case the police arrived on the school
9 compound. The police did arrive and they all ran away. We saw
10:06:38 10 this almost on a daily basis. It was a regular feature of life.

11 PRESIDING JUDGE: Mr Smillie, if you'll excuse me, did you
12 say this testimony that you're giving, you were aware of these
13 facts in the year 1960 something?

14 THE WITNESS: Yes, when I lived in Koidu. I'm describing
10:06:59 15 the --

16 PRESIDING JUDGE: What is the time frame you're describing?

17 THE WITNESS: 1967, 1968.

18 PRESIDING JUDGE: Mr Prosecutor, then I may ask where is
19 this line of questioning leading? Is this in any way related to
10:07:17 20 the time frame in the indictment.

21 MR KOUMJIAN: Your Honour, it's very much related to
22 diamonds, the significance of how diamonds are mined. It's
23 significant to why you need to control an area and the population
24 in order to exploit the diamonds in an area and I believe my next
10:07:31 25 question will make that clearer.

26 PRESIDING JUDGE: Well, please be mindful of the time frame
27 in the indictment and of the evidence that you're leading in this
28 Court. Don't take us too far out of the line of the indictment,
29 please.

1 MR KOUMJIAN:

2 Q. Sir, you talked about the - in the quotation about the army
3 of 500 men. What was the reason to round up illicit diggers?
4 How does that help the company that was exporting the diamonds?

10:08:04 5 A. The company, the Sierra Leone Selection Trust had a lease
6 area and it included kimberlite pipes, and I can explain
7 something about how diamonds are mined if you'd like, but it
8 included some deep shaft mines as well as alluvial diamond
9 mining. Alluvial diamond mining is basically diamonds - you're
10:08:27 10 mining diamonds that are very close to the surface of the earth.

11 These alluvial diamonds can be mined in many cases - well, almost
12 a hundred per cent of the time they can be mined by individuals
13 with little more than a shovel and a sieve. The diamonds are
14 very close to the surface. Obviously the Selection Trust didn't
10:08:52 15 want to lose its diamonds to illicit diggers so the police - the
16 purpose of having a large police force was to try and round up
17 people who were in the district illegally and also people who
18 were there legally but digging illegally.

19 Q. In your preparation for your writings and testimony before
10:09:11 20 parliamentary committees on diamonds in Sierra Leone have you
21 studied the history of the diamond industry in Sierra Leone?

22 A. Yes, I have.

23 Q. You mentioned when discussing your background in diamonds
24 your appointment to a panel of experts for the United Nations.

10:09:37 25 Can you tell us about that?

26 A. Yes. At the Partnership Africa Canada we had issued a
27 report on diamonds in Sierra Leone in January of 2000. There had
28 been an earlier report on diamonds in Angola written by Global
29 Witness and in March of 2000 the Angolan sanctions committee of

1 the Security Council had come out with a report talking about the
2 problem of diamonds in fuelling the war in Angola. It
3 corroborated a lot of what Global Witness had said, it
4 corroborated a lot of what we had said generically about the
10:10:19 5 diamond industry and I was approached by the Security Council
6 office at the United Nations and asked if I would let my name
7 stand for possible membership in this new panel that was going to
8 be created to deal with Sierra Leone. The names on the panel
9 would be submitted to the Secretary-General and he would make a
10:10:41 10 decision. So I said, yes, I would let my name stand. Some weeks
11 later I was called back and told that the Secretary-General had
12 made the choice and I was to be on the panel.

13 MR KOUMJIAN: Your Honour, I'd like to ask to have marked
14 for identification UN Security Council resolution 1306. It's
10:11:00 15 document 3 on the tabs and I ask the Court Officer for an
16 identification number.

17 MS IRURA: The number is marked for identification 3.

18 PRESIDING JUDGE: That will be MFI-3.

19 [MFI-3 admitted]

10:11:21 20 MR KOUMJIAN: May that please be shown to the witness.

21 Q. Sir, do you recognise this document MFI-3 as a resolution
22 of the Security Council of the United Nations?

23 A. Yes, I do.

24 Q. Reading beginning at A is it correct that - does this
10:12:01 25 paragraph indicate part of the concern for setting up this panel?
26 Perhaps you could read it out loud and comment on it?

27 A. The first paragraph under A?

28 Q. Yes.

29 A. "Expressing its concern at the role played by the illicit

1 trade in diamonds in fuelling the conflict in Sierra Leone, and
2 at reports that such diamonds transit neighbouring countries,
3 including the territory of Liberia."

10:12:35 4 Q. Thank you. Going to paragraph 19 on the page that's marked
5 with the evidence number 4316, does this paragraph refer to the
6 request of the Security Council that the Secretary-General
7 appoint a panel of experts?

8 A. Yes. Paragraphs A and B were the mandate that we were
9 given.

10:13:01 10 Q. The paragraph 19 indicates that the Secretary-General in
11 consultation with the committee should establish a panel of
12 experts. What committee is being referred to?

13 A. This is the United Nations Security Council Sanctions
14 Committee on Sierra Leone. There are sanctions committees on
10:13:20 15 different countries at different times and there was a sanctions
16 committee at that time on Sierra Leone.

17 Q. Paragraph 19(a) calls upon this panel to report - to
18 collect information on possible violations of the measures
19 imposed by Security Council resolution 1171 paragraph 2 of 1998.
10:13:45 20 What was that prohibition?

21 A. I'd have to look at the report that we wrote, but I believe
22 that is the embargo on arms shipments to Sierra Leone.

23 Q. Perhaps just to make sure that you verify that I believe
24 it's around paragraph 51 or 52 of the panel report. May the
10:14:10 25 witness refer to his report, your Honour, to the panel report?

26 PRESIDING JUDGE: Which panel report are you referring to?
27 Is that before the Court?

28 MR KOUMJIAN: No.

29 PRESIDING JUDGE: Then how can he refer to it?

1 MR KOUMJIAN: Well, may the panel report be marked next for
2 identification. That is document number 4 in the tab. It's a
3 report of the panel of experts appointed pursuant to Security
4 Council resolution 1306.

10:14:43 5 MS IRURA: This document is marked for identification 4.
6 [MFI-4 admitted]

7 PRESIDING JUDGE: What tab is that on our files? Tab 4?

8 MR KOUMJIAN: Tab 4, your Honour.

9 PRESIDING JUDGE: There are a number of documents under tab
10:15:29 10 4. There is a note by the President of the Security Council,
11 there's a letter dated 14 December and then there's a report
12 attached.

13 MR KOUMJIAN: Yes, the report was attached to the letter
14 and it's the report and I would specifically ask the witness if I
10:15:46 15 may direct his attention to paragraph 52 on page 14 of that
16 report.

17 Q. Sir, does that refresh your recollection as to the
18 paragraph 2 of resolution 1171 of 1998?

19 A. Yes. We were asked to collect information on possible
10:16:13 20 violations of the measures imposed by paragraph 2 of 1171 and
21 that's in paragraph 2 of the other document and it's about the
22 arms embargo on Sierra Leone.

23 Q. Sir, who actually named you then to the panel of experts?

24 A. The Secretary-General of the UN, Kofi Annan.

10:16:47 25 Q. Who were the other members of the panel?

26 A. The chairman of the panel was Martin Chungong Ayafor, a
27 Cameroonian diplomat. We had a Senegalese air traffic control
28 expert, Atabou Bodian. We had a senior Indian police officer
29 from Interpol, Harjit Sandhu and we had an arms expert from

1 Belgium Johan Pelman.

2 Q. You have indicated that among these experts was someone
3 from a civil aviation organisation, an expert in arms and a
4 police officer. Did you have a particular expertise or area that
10:17:31 5 you were mandated to concentrate on or to cover?

6 A. Yes, I was appointed for my knowledge of the diamond
7 industry.

8 Q. What was the time period that the panel worked?

9 A. We were appointed in August - I mean the panel was mandated
10:17:54 10 in July, but we were appointed in August of 2000 and we worked
11 through until January of 2001.

12 Q. What was the method of work of the panel in collecting
13 information and preparing the report?

14 A. We travelled extensively. We visited more than 20
10:18:15 15 countries, countries in West Africa, but other countries that
16 were associated in some way or another with diamonds or weapons.
17 Included South Africa, Israel, several European countries, North
18 America, obviously, and others. More than 20, more than 20
19 countries. We spoke to government officials. In some cases it
10:18:39 20 was ministries of foreign affairs, in other cases it was economic
21 ministries, customs officials.

22 We spoke to people in the industry. We spoke extensively
23 to people in the diamond industry and we spoke to industry bodies
24 such as the World Diamond Council or the International Diamond
10:19:03 25 Manufacturers Association, but we spoke to individual companies
26 as well, large ones like De Beers, and we spoke to individual
27 diamond dealers and people who had been diggers on the ground in
28 places like Sierra Leone and other West African countries. We
29 spoke to traders, diamond exporters. So we spoke to the industry

1 at length and from top to bottom.

2 We spoke to a lot of military people. We spoke to people
3 in the military in Sierra Leone. We spoke to the minister of
4 defence in Liberia. We spoke to UNAMSIL officials in Sierra
10:19:41 5 Leone. We spoke to intelligence agencies. We spoke to a number
6 of intelligence agencies in the United States, in the United
7 Kingdom, to the French in Sierra Leone and elsewhere.

8 We spoke to the media. We found that the media often had
9 very good leads on stories. Sometimes it was large international
10:20:05 10 - prominent international media outlets or individuals. In other
11 cases it was people who were stringers or reporters in Sierra
12 Leone or Liberia. In some cases people spoke to us - took very
13 great risks in speaking to us.

14 We spoke to aid agencies, multilateral, bilateral aid
10:20:26 15 agencies and diplomats in African countries. We spoke to civil
16 society organisations in Sierra Leone, in Liberia. We looked at
17 a lot of material, a lot of written material. We were shown
18 material that had been found in Foday Sankoh's house in Sierra
19 Leone after it was - after he was arrested. We were shown
10:20:56 20 material from the Sierra Leone police. We were given material by
21 journalists. We visited air traffic control operations in
22 several countries and saw flight logs of aircraft movement.

23 I'm trying to think whether I've left something out. We
24 spoke probably - we probably did three or four hundred individual
10:21:19 25 interviews but many of those interviews contained - I mean they
26 were with many people. For example, I spoke to a number of
27 Lebanese diamond dealers in Kenema that would probably account in
28 our logs for one meeting, but there was something like 35 or 40
29 diamond dealers there and I met with them for more than two

1 hours. So I certainly got more than one view. The same thing
2 with church leaders. We met with church leaders in Liberia.

3 We met with a group of Kono chiefs. Because the war was -
4 because the situation in Kono District was so terrible during the
10:21:56 5 war and while we were there many of the leaders had fled and were
6 in Freetown or in other parts of the country. We interviewed
7 chiefs not one by one but as a group and they often had detailed
8 information about what was going on in their areas. People would
9 be arriving with information on a fairly regular basis. So we
10:22:20 10 spoke to a very wide cross-section of people at very high levels.
11 We spoke to the President of Sierra Leone, we spoke to the
12 President of Liberia, we spoke to ministers in several
13 governments in several countries.

14 Q. Going back then to the panel of experts report MFI-4, first
10:22:41 15 do you recognise this document as being the report that the panel
16 presented to the Security Council?

17 A. Yes.

18 Q. You talked about your meetings. I'd like you perhaps to
19 just direct your attention to annex 2 of that report. I believe
10:22:56 20 it's on pages 51 to 59. Does this annex list some of the
21 meetings that the panel held?

22 A. Yes. It doesn't list all of the meetings because there
23 were some individuals who spoke to us on condition of anonymity.
24 The war was still very, very hot at that time and some people
10:23:30 25 were very, very nervous about speaking to us on the record or for
26 attribution.

27 MR KOUMJIAN: Your Honours, I now request to play a clip we
28 have labelled clip 3.

29 MR MUNYARD: Madam President, as far as I can see from the

1 unofficial transcript of this clip Mr Smillie doesn't appear to
2 be on this, if we're talking about the television program that
3 we've already seen two extracts from. On that basis I can't see
4 how this can possibly be admitted - even purportedly admitted
10:24:46 5 into evidence via this witness.

6 PRESIDING JUDGE: Could the Prosecutor please refer us to
7 the tab in our folders where the unofficial transcript occurs?

8 MR KOUMJIAN: It's on tab 12, your Honour. If you'd
9 like --

10 PRESIDING JUDGE: And what is your comment in response to
11 defence counsel's objection?

12 MR KOUMJIAN: Your Honour, the rules of the Special Court
13 allow the Court to consider any relevant documents. In fact this
14 is very relevant. This witness will be able to comment - this is
10:25:16 15 a very general clip about the diamond industry that illustrates
16 some basic facts about the industry and this witness will be able
17 to tell us if that is accurate. The weight of any exhibit, as
18 your Honours know, is a matter for your Honours to decide or any
19 opinion that's expressed, but this is not a court that has a
10:25:34 20 hearsay rule. This is a court where your Honours decide what
21 weight to give to evidence that's admitted and it can be in a
22 form other than live testimony.

23 PRESIDING JUDGE: Yes, but if Mr Ian Smillie comes as an
24 expert on diamond mining why can't he do exactly that and give
10:25:52 25 his own testimony and opinions? Why does he have to comment on
26 some anonymous speaker on a clip?

27 MR KOUMJIAN: Most of the speakers are not anonymous, but
28 the clip simply illustrates in a visual fashion for your Honours,
29 for everyone, the testimony. We think it would be helpful. We

1 hope your Honours think so, but if not we will do without it.
2 But the clip allows - has images of diamond digging, for example,
3 that your Honours can see that this witness can comment upon
4 whether that is the way diamonds are dug. Some of the clips have
10:26:26 5 that. How diamonds are polished, what diamonds look like in the
6 rough, how diamonds are formed. It's an illustration the same as
7 if I came here with a drawing of kimberlite pipes that this
8 witness is talking about, it's just in the form of a video as
9 opposed to being a photograph or a diagram.

10:26:51 10 PRESIDING JUDGE: Would you like the Bench to mark it for
11 identification, this clip?

12 MR KOUJIAN: Please.

13 PRESIDING JUDGE: Because we haven't yet admitted it in
14 evidence and when the application is made to admit this clip in
10:26:59 15 evidence we will then give due consideration to the objections of
16 counsel opposite as to whether or not it's admissible, relevant
17 and admissible. So for now we will mark it for identification
18 MFI-5. Is that correct?

19 MS IRURA: Yes, your Honour.

10:27:18 20 PRESIDING JUDGE: Right. The clip 3 is marked as MFI-5.

21 [MFI-5 admitted]

22 MR MUNYARD: Madam President, if I can just pursue my
23 objection. One only has to look at the unofficial transcript to
24 see what is contained in this particular clip and I would submit
10:27:32 25 that it is of such a general nature --

26 PRESIDING JUDGE: Counsel, I have ruled on the issue. I
27 have said we will mark this clip for identification purposes only
28 at this stage.

29 MR MUNYARD: Madam President, I accept that. I was

1 trying to --

2 PRESIDING JUDGE: The Prosecutor has not applied to tender
3 it in evidence yet. When he does you can then stand up and make
4 your objections after everybody has had a chance to see it.

10:28:01 5 MR MUNYARD: Well, I was simply trying to propose a more
6 efficient way --

7 PRESIDING JUDGE: Not after the Bench has ruled, I'm
8 afraid. You would be out of order.

9 MR MUNYARD: I was simply hoping to re-open the matter
10:28:09 10 before your Honour, but I will --

11 PRESIDING JUDGE: You can't do that.

12 MR MUNYARD: I will leave my objection until the time
13 you've indicated.

14 PRESIDING JUDGE: Exactly, thank you. Please play the
10:28:23 15 clip.

16 [Video played to the Courtroom]

17 MR KOUMJIAN:

18 Q. Mr Smillie, first of all you've talked about your
19 background in diamonds. Have you spoken to people in the diamond
10:32:07 20 industry?

21 A. Yes, extensively.

22 Q. And what part of the industry are they in? Producers,
23 retailers, resellers?

24 A. All levels from mining through to retail.

10:32:21 25 Q. What is the World Diamond Council?

26 A. The World Diamond Council was created by the diamond
27 industry to be the interface between the diamond industry and the
28 Kimberley Process. It is made up of a wide range of companies
29 from the mining firms through to retail. So, for example,

1 De Beers is a member, BHP Billiton is a member, Rio Tinto,
2 they're all members, but at the retail end you have Jewellers of
3 America and a number of other bodies. So the World Diamond
4 Council was created to deal with the issue of conflict diamonds
10:33:01 5 by the industry at large and to be the representative of the
6 industry in creating the Kimberley Process.

7 Q. Have you had contact with the World Diamond Council?

8 A. Yes, extensively.

9 Q. Can you explain those contacts?

10:33:20 10 A. Well, at the beginning of the Kimberley Process
11 negotiations - I should say we met with them right through the
12 Kimberley Process negotiations from the beginning through to
13 today. The Kimberley Process came on stream in 2003, but the
14 meetings still continue. There are two annual meetings of the
10:33:39 15 Kimberley Process to make sure that its conditions are being met
16 and to deal with problems. We meet with World Diamond Council -
17 the head of the World Diamond Council and with members of the
18 World Diamond Council regularly. In the Kimberley Process there
19 are working groups. There's a working group on monitoring,
10:34:02 20 there's one on statistics, there's one on membership, there are a
21 variety of technical groups and I'm a member of three of those.
22 So again we meet regularly with representatives of the industry
23 in those meetings.

24 Q. In the clip did you recognise any of the individuals that
10:34:18 25 were depicted?

26 A. Matthew Hart, the fellow with white hair, is a writer who
27 wrote a book about four or five years ago call Diamond, The Heart
28 of an Obsession.

29 Q. There was an individual who was identified in the clip as

1 Sol Goldberg who was talking about a 250 carat piece of rough
2 that turned into to a 100 carat, \$15 million diamond. Do you
3 know him?

10:34:58

4 A. I don't know him, but the Goldberg Company is a very well
5 respected and well known New York diamond company.

6 MR KOUMJIAN: If your Honour could just give me some
7 guidance as to when you want to take the break.

10:35:19

8 PRESIDING JUDGE: Yes, indeed. We should be breaking just
9 about now if this is a convenient time to break. We will make a
10 25 minute break. It's now 25 to 11, so we will reconvene at
11 11.00 exactly.

12 [Break taken at 10.35 a.m.]

13 [Upon resuming at 11.00 a.m.]

14 PRESIDING JUDGE: Mr Prosecutor, please continue.

10:59:24

15 MR KOUMJIAN: Thank you, your Honour.

16 Q. Mr Smillie, I have just been asked to ask you to please
17 speak a little bit more slowly for the transcription and
18 interpretation. Just going back and clarifying a few things we
19 may have gone over quickly, you have mentioned several times CUSO
20 which I believe was the organisation you first worked for in
21 Koidu and then later were executive director of. Can you explain
22 what that organisation is?

10:59:50

23 A. CUSO, the acronym was Canadian University Service Overseas.
24 It was the equivalent of the British VSO, or the American Peace
25 Corps. It was designed to send young people overseas to fill
26 jobs in countries shortly after independence. In the early days
27 of the post-independence movement, some of those organisations
28 were very large. They have since grown smaller, but CUSO when I
29 went was quite a large Canadian organisation. It was a

11:00:12

1 non-governmental organisation.

2 Q. Thank you. I have also been informed that - my fault - we
3 failed to mark for identification the first clip and the Court
4 Officer has informed me that that should be marked as MFI-6.

11:00:56 5 PRESIDING JUDGE: That was clip 1?

6 MR KOUMJIAN: Yes, your Honour.

7 PRESIDING JUDGE: Clip 1 is marked MFI-6.

8 [MFI-6 admitted]

9 MR KOUMJIAN:

11:01:10 10 Q. Sir, in the video that we played just before the break,
11 clip 3, there was some very brief description of the diamond
12 industry from production to retail. Based on the discussions you
13 have told us and studies you have told us about with the diamond
14 industry, was that information accurate?

11:01:27 15 A. Yes. It was very sketchy, but accurate.

16 Q. There was some discussion about the value of a diamond and
17 I want to ask you about the relationship between the weight of a
18 diamond, the number of carats, and the quantity - the number of
19 diamonds. My question is is that relationship geometric, linear,
11:01:54 20 or is it exponential. In other words does 200 two carat
21 diamonds, will they have approximately the same value as one 400
22 carat diamond?

23 A. No, no, not at all. Smaller diamonds - I mean the value of
24 diamonds increases exponentially with size. There are other
11:02:16 25 factors as well: the clarity, the colour and obviously the
26 weight.

27 Q. Is there anything else you want to add about how the value
28 of a diamond is determined and please speak a little bit slower?

29 A. Well, an industrial diamond - industrial diamonds can be

1 worth as little as five or ten dollars a carat. A good one carat
2 diamond could be worth several hundred dollars, but if you had a
3 five carat diamond it would be worth considerably more than five
4 times a one carat diamond. In other words, the value of a
11:02:53 5 diamond depends to a large extent on the colour and the clarity;
6 in other words, does it have inclusions. Not all diamonds are
7 clear. What you see in the jewellery store looks like a clear
8 diamond, but they can actually have small imperfections and that
9 would affect the value. And then, of course, the size. In the
11:03:11 10 diamond industry they call this the four Cs: clarity, colour,
11 carats and --

12 Q. Cut.

13 A. And cut. The cut is the shape of the diamond after it has
14 been cut, so that would not have any effect on rough diamonds.
11:03:33 15 It would have an effect if you could see that the diamond you are
16 looking at would not yield a good cut.

17 Q. You mentioned the term "industrial diamonds". Can you tell
18 us what that means?

19 A. Industrial diamonds are essentially - I mean if you see a
11:03:51 20 pile of industrial diamonds it might look like melted glass,
21 black or brown. It wouldn't have any use as a gem diamond, but
22 industrial diamonds are widely used in cutting industries, in
23 drill bits and in the diamond industry itself in polishing gem
24 diamonds. They are as hard as gem diamonds and so they have an
11:04:13 25 industrial use, but not as a gem diamond.

26 Q. So, just to be clear, you have used now the words now "gem
27 diamonds" and "industrial diamonds". Are those the two
28 categories?

29 A. Yes.

1 Q. Are there general categories of how diamonds are originally
2 produced, or mined?

3 A. All diamonds are produced in the same way. I mean they are
4 all produced by volcanic action - the right combination of heat
11:04:47 5 and pressure and rock - and you get those pipes as we saw in the
6 clip. It is a small volcano that pushes rock and gravel and what
7 is known as kimberlite to the surface. These are small almost
8 carrot-like volcanoes. They are not mountains. They can be very
9 small. The surface could be - the surface of a kimberlite with
11:05:17 10 diamonds could be half the size of this room. The biggest ones
11 that have diamonds are probably no more than half a kilometre
12 across. So, all diamonds are formed in that way.

13 When you are prospecting for diamonds, you may find a
14 kimberlite pipe intact - this is what happened in Canada, it is
11:05:39 15 what you find in Botswana and some of the Russian mines - and in
16 that case you simply put a fence around the mine and you dig down
17 into the pipe, you bring up the rock, the gravel, you sort out
18 the diamonds and basically that is how the mining is done.

19 But diamonds were all formed more than 50 million years,
11:06:04 20 ago, in some cases much, much farther back than that, and in some
21 places the tops of these kimberlite pipes have been worn away.
22 50 million rainy seasons wearing away the top of a diamond pipe
23 will scatter the diamonds that were included in it far and wide.
24 The pipe itself may still be there, but the top ten, or 15, or 20
11:06:26 25 feet may be gone.

26 Those diamonds are called alluvial diamonds; meaning river.
27 They come - they are washed away by rivers in some cases down
28 towards the sea. In many cases, the rivers no longer exist.
29 They are not easy to trace in some cases. In other cases, as in

1 Namibia, almost all of the alluvial diamonds have actually worn
2 right out into the ocean and so all of the might is done
3 offshore. They have ships that basically Hoover up the diamonds
4 from the ocean floor.

11:07:09 5 The issue with many alluvial diamonds - and this is what
6 you have in Sierra Leone, in many places in the Congo and parts
7 of Angola, in Liberia and Guinea - the kimberlite pipes remain in
8 some cases, but there are diamonds scattered over hundreds of
9 square miles. These are alluvial diamonds and they may be
11:07:31 10 anywhere from within an inch below the surface. They sometimes
11 are even spotted on the surface. They could be as much as ten or
12 15 feet below and you may need to dig down quite far to get them,
13 but you don't need a lot of heavy equipment as in the case of a
14 kimberlite mine.

11:07:47 15 Q. You mentioned in discussing kimberlites that they have a
16 carrot form. Is that carat with two Rs, or one R?

17 A. Carrot with two Rs and shaped with the wide part at the
18 surface.

19 Q. How long ago were those kimberlites formed and these
11:08:06 20 diamonds originally come to the surface?

21 A. A lot of them are formed in the Jurassic period. I think
22 the most recent are not more recent than 50 million years. They
23 go back a long way.

24 PRESIDING JUDGE: Mr Prosecutor, I have listened with
11:08:21 25 interest to your line of questioning, but with the greatest
26 respect this sounds like a history lesson. We are now into the
27 Jurassic period. Does any of this relate to the Indictment?

28 MR KOUMJIAN: Yes, your Honour. The way that the diamonds
29 are --

1 PRESIDING JUDGE: Because thus far I do not see how it
2 relates to the Indictment.

3 MR KOUMJIAN: Well, your Honour, there are kimberlites in
4 Sierra Leone, and for your Honours - for the record and for your
11:08:45 5 Honours to understand what those are and how the diamonds can be
6 spread out from that kimberlite and how they can be mined, where
7 they are, what kind of procedures and equipment are required, I
8 believe it is relevant to know that these diamonds were formed
9 many millions of years ago.

11:09:01 10 PRESIDING JUDGE: Yes, but how is all this related to the
11 Indictment?

12 MR KOUMJIAN: It is related to the Indictment, your Honour,
13 because the Prosecution will show that there was a campaign of
14 terror carried out in these districts and, because these diamonds
11:09:14 15 were on the surface, Mr Smillie testified earlier that when he
16 was living just after university in Koidu there were over 50,000
17 illicit diggers picking up diamonds. It is very relevant to
18 understand why people that wished to exploit the diamonds would
19 then terrorise a population to understand where these diamonds
11:09:37 20 can be found in Sierra Leone and how they are spread out from the
21 kimberlite pipe.

22 PRESIDING JUDGE: Mr Prosecutor, do proceed, but be mindful
23 not to wander off.

24 MR KOUMJIAN: Thank you.

11:09:48 25 Q. Okay. Very briefly, sir, can you explain how diamonds go
26 from production to world markets and retail?

27 A. In a legal situation in most countries the miner has a
28 licence, and this could be a very small miner digging alluvial
29 diamonds like I have just described, or it could be a very big

1 company with a deep shaft mine. The mining company has a
2 licence. They may export directly if it is a large company, but
3 in Sierra Leone, in West Africa, in Congo and Angola, you have a
4 lot of small miners - very small miners. They have a licence to
11:10:43 5 mine, if they are doing it legally. They will sell probably to a
6 dealer, who will consolidate the diamonds and sell those diamonds
7 to an exporter. In Sierra Leone you have a distinction between a
8 mining licence, a dealer's licence and an exporting licence. The
9 exporter will consolidate what the dealers bring and will export
11:11:07 10 them. They will then go to one of the major international
11 trading centres. They might go to Antwerp. Most go to Antwerp.
12 It is the biggest trading centre in the world. Some might go to
13 Israel. Some might go to India. Some might go to the United
14 States, or another centre where diamonds are traded, or cut and
11:11:25 15 polished.

16 Q. What is the role of Belgium in the world diamond trade?

17 A. At one time Belgium was the premier cutting and polishing
18 centre in the world, but that has changed. Belgium very polishes
19 very few diamonds now, but it is still the major trading centre
11:11:45 20 for diamonds in the world. Something between 75 and 90 per cent
21 of all rough diamonds as well as a significant portion of
22 polished diamonds are traded through Antwerp. The biggest
23 cutting and polishing centre today is India. Although India is
24 no longer mining diamonds, diamonds are India's - polished
11:12:06 25 diamonds are their biggest export.

26 Q. You have studied and written about diamonds' role in
27 conflict. Can you tell us is there anything about the
28 characteristics of diamonds that gives them a role in conflicts?

29 A. Well, diamonds are the most concentrated form of wealth on

1 earth. You could put five million dollars' worth of diamonds in
2 your pocket and it wouldn't show. It wouldn't show up on a metal
3 detector going through airport security. It would show up on
4 an x-ray machine, but very few airports have x-ray machines. So
11:12:47 5 they are very small, they are high value, they are easy to move,
6 they hold their price, historically they have held their price
7 very well, and so they have become - not so much today, but in
8 the 1990s, the period that were talking about, they were an
9 alternative to hard currency in countries where there was no hard
11:13:05 10 currency, or where people wanted to hide the movement of money.

11 Q. You have discussed kimberlite pipes. Can you tell us what
12 kimberlite dikes are?

13 A. In some cases when those volcanic eruptions happened, they
14 didn't actually get to the surface. They would get almost to the
11:13:26 15 surface and then they would be sidetracked and so you would get a
16 drainage off to the side. You would get a long line of
17 diamondiferous material; by diamondiferous I mean containing
18 diamonds. Many kimberlites and many kimberlite pipes don't have
19 diamonds.

11:13:43 20 Q. Are there any kimberlite pipes or kimberlite dikes in
21 Sierra Leone?

22 A. Yes, both.

23 Q. Where are they and how many, if you know? Excuse me, where
24 are they?

11:13:56 25 A. The kimberlite pipes, the ones that are economic and have
26 been mined and are being mined, are in Kono district, and the
27 dikes are in Tongo Field which is in the Kenema area.

28 Q. What is a kimberlite fissure?

29 A. It is like a dike. It is the same sort of thing. It is

1 something much less economically viable than a kimberlite pipe,
2 if it is diamondiferous.

3 Q. Can you tell us how diamond mining has taken place in
4 Sierra Leone?

11:14:37 5 A. Diamonds were first discovered in Sierra Leone in the 1930s
6 and the Sierra Leone Selection Trust, a company which was part of
7 the Selection Trust - Selection Trust was a very large, one of
8 the largest, international mining firms of the day. It was taken
9 over eventually by BP, but Selection Trust owned the Sierra Leone

11:15:02 10 Selection Trust. At the beginning, Sierra Leone Selection Trust
11 had a lease on the entire territory of Sierra Leone. In other
12 words, they had the sole right to do all mining in Sierra Leone.
13 It became fairly clear by the 1950s that this was not viable.

14 They could not manage the entire country and there was a lot of
11:15:22 15 illicit behaviour as well, and so their lease was contracted to
16 an area around - well, an area in Kono District and an area
17 around Tongo Field. In the 1950s, the government allowed
18 licensing of artisanal diamond miners and so there was small
19 scale mining as well as large scale mining. And on top of that -
11:15:50 20 that is all the legal side of things. On top of that there was a
21 great deal of illicit digging as well.

22 Q. You have used the word "artisanal" diamond mining. Can you
23 explain what that is?

24 A. Artisanal means that it is done by artisans. It is
11:16:06 25 basically done by hand. There would be no serious equipment
26 beyond a shovel and a sieve and gangs of men just basically
27 shovelling the earth and sifting it.

28 Q. We saw some clips, some scenes in the videos that we have
29 seen, of people standing in water with what looked like a sieve.

1 Is that, based on your experience, an accurate depiction of how
2 that type of mining took place?

3 A. Yes, that is the way they did it and still do it.

4 Q. What other types of mining besides artisanal are there?

11:16:40 5 A. Well, as I said, there is industrial mining, where you have
6 a large kimberlite pipe and you have to - I mean, the investment
7 required to actually bring those diamonds up is quite serious. I
8 think BHP Billiton invested I think 400 billion dollars in the
9 infrastructure required to get diamonds out of the Ekati mine in
11:17:01 10 Canada. So the industrial - the capital investment in some kinds
11 of mining can be very serious, and then at the other end you have
12 artisanal mining. In-between you can have semi-industrial
13 mining. For example, you may know that the diamonds are down ten
14 feet or twelve feet and you would use some heavy equipment to get
11:17:25 15 that up, bulldozers and drag lines and pumps and that kind of
16 thing, but it would not be - you know, the capital investment
17 would not be tremendous. So you have got industrial,
18 semi-industrial and artisanal.

19 Q. What are tailings?

11:17:47 20 A. Tailings are the gravel that is left over after mining has
21 taken place, so you will have large gravel dumps and those are
22 called tailings.

23 Q. Are there any tailings in Sierra Leone?

24 A. Yes, there are significant tailings. The Sierra Leone
11:18:11 25 Selection Trust, SLST, produced diamonds for many years and these
26 tailings were piled in various places in Kono District. They are
27 now a significant source of diamonds because, when the Sierra
28 Leone Selection Trust was working, they ignored diamonds below a
29 certain size and their equipment for some reason did not pick out

1 diamonds above a certain size. So, these tailings are known to
2 contain a good deal of diamonds and the government has leased
3 these out for re-mining and so people will pay money to get
4 access to these tailings.

11:18:51 5 Q. Thank you. I would like to now play Clip No. 2.

6 PRESIDING JUDGE: Do we mark this for identification as
7 well?

8 MR KOUJIAN: Please, your Honour.

9 PRESIDING JUDGE: That would be MFI-7. MFI-7?

11:19:24 10 MS IRURA: That is correct, your Honour.

11 [MFI-7 admitted.]

12 PRESIDING JUDGE: And what is the equivalent tab of the
13 narrative?

14 MR KOUJIAN: It will be tab 12. It will be the clip 2.

11:19:33 15 PRESIDING JUDGE: Thank you.

16 MS IRURA: Please switch to PC2.

17 [Video played to the Courtroom]

18 MR KOUJIAN:

19 Q. Sir, first of all in your work for the United Nations panel
11:24:25 20 of experts and in your other contacts with Sierra Leone, have you
21 heard stories of atrocities committed in the conflict?

22 A. Yes, many.

23 Q. And what were the sources of these stories, or these
24 accounts?

11:24:43 25 A. You know, I think there are very few Sierra Leoneans who
26 don't have a direct experience of some of these atrocities. If
27 it didn't happen to them directly, it happened to - it happened
28 to members of their family.

29 I can give you the example of one of my students. She was

1 13 or 14, when I taught her at Koidu secondary school. When I
2 was in Sierra Leone about four years ago I had lost touch with
3 her, but she heard from a mutual acquaintance that I was coming
4 and she wanted to see me and she came and she told me her story.
11:25:17 5 Now she is, you know, in her late 40s. She was from Kono and her
6 husband - she had married, she had two children. They were in
7 the diamond business, her husband had land and mined diamonds,
8 and they were I guess fairly well off. They had a house and a
9 Land Rover. She said that if the rebels came - they were in Kono
11:25:41 10 District and they knew that there was a chance that the rebels
11 would come. She said if they came they had made a plan. They
12 would go out the back way and they would run. They would run
13 through the woods and across the border to --

14 MR GRIFFITHS: Your Honour, I hesitate to interrupt,
11:25:56 15 because it was our intention that Mr Munyard would deal with this
16 aspect of the evidence, but I am becoming increasingly concerned
17 at the way in which this witness is being examined. The last
18 clip that was shown showed images of mutilated individuals.
19 There is nothing to suggest that this witness knew that
11:26:16 20 individual personally such to be able to make comment on that
21 clip. Now he is being asked to repeat evidence that he has
22 heard, or comments he has heard, from other people. He should
23 not be here being used as a conduit for gossip, rumour, accounts
24 given by other individuals. He is here as an expert on diamonds.
11:26:40 25 Can we restrict his testimony, please, to that topic and stop
26 using this witness as a conduit for this kind of prejudicial
27 material about which he has no expertise whatsoever.

28 PRESIDING JUDGE: Mr Prosecutor, your comment?

29 MR KOUMJIAN: Your Honour, the witness is an expert on

1 diamonds and their role in this conflict, and key to this
2 conflict and key to this case is the horrendous crimes that were
3 committed; motivated as that double amputee in the video said by
4 the desire for diamonds and fuelled by diamonds. This witness is
11:27:17 5 now telling us about that this clip is typical of stories that he
6 heard - accounts that he heard - from victims, from persons he
7 personally knew, and is recounting one of those.

8 In this case, the Defence made a point in the first
9 appearance - I believe it was in August - "Please don't bring
11:27:35 10 these amputees here. The issue of the victims is not at issue
11 that crimes were committed". But of course in this Court I think
12 it is very relevant to this case that crimes were committed and
13 the victims should have an opportunity - we should have an
14 opportunity to hear their accounts. The clip was a matter --

11:27:56 15 PRESIDING JUDGE: Yes, but Mr Prosecutor, the point you are
16 losing sight of is this. You have just played a clip before the
17 Court depicting certain personalities and those personalities said
18 certain things. Now logically we would expect this, your
19 witness, to relate to this clip. He has not done that and I am
11:28:18 20 just wondering what is the point of the clip in the first place,
21 because Mr Smillie could go ahead to give the evidence he has
22 just given a minute ago without the clip. Now, unless you can
23 justify to me the point of showing us clip upon clip upon clip
24 over which the witness has absolutely no comment, I will have to
11:28:39 25 make a ruling in favour of the Defence.

26 MR KOUMJIAN: Your Honour, I plan to present a total of six
27 clips. I believe this is the fourth. They total just under 19
28 minutes. Three of those totalling less than nine minutes, eight
29 minutes and 53 seconds, include accounts of victims of this

1 conflict. I think this Court has an obligation even to hear
2 these victims and have their voices heard. We are making every
3 effort in our case to concentrate on - not on the crime base, but
4 on links, but we want and we ask for the opportunity to present
11:29:13 5 this evidence.

6 PRESIDING JUDGE: Mr Prosecutor, evidence is evidence. We
7 are not here to watch movies, or videos. You have to make a
8 foundation for the evidence that you lead before the Court. The
9 whole point of this objection was that the evidence, the clips
11:29:29 10 you are showing, there is no foundation laid for them as far as
11 this witness is concerned.

12 MR KOUMJIAN: Well, this witness has just raised --

13 PRESIDING JUDGE: So, I do uphold the objection of Defence
14 counsel. I think you must lay a foundation for the evidence that
11:29:43 15 you lead. If you are going to show the Bench and the public a
16 video clip, help us to see the relevance of it in light of the
17 witness that you have called and that is the way it will be. So,
18 I do uphold the objection. Don't pursue that line of questioning
19 again.

11:30:02 20 MR KOUMJIAN: Which line of questioning should I - I just
21 could use a little bit of guidance?

22 PRESIDING JUDGE: A line that is acceptable with the
23 procedures that we have agreed upon so far, whereby you lay a
24 foundation before you make statements to the witness.

11:30:24 25 MR KOUMJIAN:

26 Q. Sir, you were in the midst of telling us that you have
27 heard many accounts of atrocities committed in the war. Is that
28 correct?

29 A. Yes.

1 Q. And I believe you were talking about one particular
2 student?

3 A. Yes, I was recounting what she told me that they had made a
4 plan to escape if the rebels ever arrived in Kono where they
11:30:49 5 lived. When the rebels did come --

6 PRESIDING JUDGE: Are we not back to - have I not just
7 ruled that kind of question out of order?

8 MR KOU MJIAN: I am sorry, but then I didn't understand.

9 PRESIDING JUDGE: That was precisely what Defence counsel
11:31:03 10 objected to; that kind of hearsay where we don't know the name of
11 this student and we don't - you know, how are we going to confirm
12 this?

13 MR KOU MJIAN: Well, your Honour, hearsay in my
14 understanding is admissible. It goes to weight. We can bring
11:31:15 15 thousands of victims to the Court. My understanding was from
16 Defence Counsel that they didn't want us to do that.

17 PRESIDING JUDGE: Mr Prosecutor, this witness is
18 essentially an expert in diamond mining. Restrict his evidence
19 to that, please.

11:31:28 20 MR KOU MJIAN: He is an expert in diamonds and their role in
21 conflict, just to correct what our position is.

22 Q. Sir, just one moment and I will gather my - I will move on
23 to another area. Sir, did you receive some information from your
24 work with the panel of experts and your other contacts with
11:32:02 25 Sierra Leone about how mining took place during the war?

26 A. Yes.

27 Q. And what type of mining was that generally?

28 A. The industrial mining licences went into abeyance, there
29 was a declaration of forced measure because of the war, and all

1 of the international diamond miners pulled out very early in the
2 war. After that all of the mining was artisanal alluvial diamond
3 mining.

4 MR KOUJIAN: Your Honour, I would now like to play --

11:32:39 5 PRESIDING JUDGE: What war are we talking about?

6 MR KOUJIAN:

7 Q. Sir, which war are you speaking of?

8 A. I am speaking about the conflict in Sierra Leone.

9 Q. Can you be more precise about the approximate years you are
11:32:49 10 talking about?

11 A. Well, I am talking about the period 1991 to 2001/2002.

12 MR KOUJIAN: I would now request that Clip No. 5 be
13 played. Again, that is in - tab 12 is the transcript.

14 PRESIDING JUDGE: Clip No. 5 is marked for identification
11:33:21 15 as MFI --

16 MS IRURA: MFI-8, your Honour.

17 [MFI-8 admitted]

18 [Video commenced]

19 MR MUNYARD: Madam President --

11:34:00 20 PRESIDING JUDGE: Could you please stop the clip. Pause
21 the clip a bit.

22 [Video paused]

23 MR MUNYARD: Madam President, exactly the same objection
24 applies here. I am going from the transcript that the Court has
11:34:12 25 before it.

26 PRESIDING JUDGE: What is the nature of your objection?

27 MR MUNYARD: That this is - how is this witness able to say
28 what these witnesses who are interviewed in this clip whether
29 they are accurate, who they are? Again, it is pure hearsay.

1 PRESIDING JUDGE: Counsellor, first of all this clip has
2 been marked for identification. Secondly we haven't even seen
3 the clip, let alone the witness being asked any question, and so
4 do you not think your objection is premature?

11:34:47 5 MR MUNYARD: Well, Madam President, the difficulty is going
6 on the transcript it does not seem to us that the Court should
7 see the clip at this stage. If the Court wishes to see it then
8 it just spends more time looking at material which it may then
9 well decide is not appropriate, as happened in the case of the
11:35:03 10 last clip.

11 PRESIDING JUDGE: Counsellor, if anything goes on the
12 transcript it is not what is important. What is important is
13 what is admitted in evidence and the weight we ultimately give to
14 it.

11:35:14 15 MR MUNYARD: Yes, I accept that.

16 PRESIDING JUDGE: So, I will overrule your objection.
17 Please proceed. Please proceed with showing the clip.

18 [Video played to the Courtroom]

19 MR KOUMJIAN: Your Honour, I would like to mark for
11:38:05 20 identification now the report of Mr Smillie that was submitted by
21 the Prosecution in this case entitled "Diamonds, the RUF and the
22 Liberian connection". For identification only, may that be
23 marked the next in order for identification at this point?

24 PRESIDING JUDGE: We have just marked for identification
11:38:30 25 clip 5 that we have just watched.

26 MR KOUMJIAN: Yes.

27 PRESIDING JUDGE: What was the purpose of that clip?

28 MR KOUMJIAN: Well, I am about to work on the foundation,
29 your Honour, by referring to the report. I want to start working

1 on the foundation of that and I would ask the witness to refer to
2 his report for something on that.

3 PRESIDING JUDGE: So, the report is under tab 9?

4 MR KOU MJIAN: It is tab 1, your Honour.

11:38:51 5 PRESIDING JUDGE: Tab 1. Right, this report is marked as
6 MFI-9.

7 [MFI-9 admitted]

8 MR KOU MJIAN: Thank you.

9 Q. Mr Smillie, I would like you to turn to annex 3 of that
11:39:11 10 report. It is on page 28 of the report. Can you explain this
11 annex?

12 A. Essentially, it describes the periods during which the RUF
13 controlled the two major diamond areas in Kono District and Tongo
14 Field during the war.

11:39:47 15 Q. Did you obtain any information in your work on Sierra Leone
16 about how the RUF took advantage of control of these areas?

17 A. Yes.

18 Q. Was mining going on during the times that RUF controlled
19 these areas?

11:40:04 20 A. Yes, very definitely.

21 Q. What type of mining?

22 A. As far as I know, it was all artisanal mining. I don't
23 believe they had any heavy equipment.

24 Q. Did you - you watched the video clip that we just played
11:40:18 25 which was marked TFI-8(sic). Did you receive information -
26 after watching that clip, is the account of the young man in that
27 clip consistent with other information you received about how
28 that mining took place?

29 A. I think that is fairly typical. We interviewed many people

1 who had been miners. As I said earlier, we interviewed people -
2 Kono chiefs - who described what was going on in the diamond
3 mining areas while the panel was operating. The panel was
4 operating during the war and this - the diamond mining areas were
11:40:53 5 certainly in Kono District held at that time by the RUF so we
6 couldn't go there, but there were many, many descriptions that
7 were very similar to what we saw in the film.

8 Q. Sir, you talked about the various qualities and prices per
9 carat of diamonds. What is the condition of diamonds mined from
11:41:22 10 Sierra Leone? The characteristics?

11 A. Sierra Leone diamonds are quite special in the diamond
12 world. The diamond dealers will tell you that they are special.
13 They have special characteristics of light and colour and so on.
14 But I think the main characteristic of Leonean diamonds is the
11:41:42 15 high run of mine value. Run of mine means average - the average
16 value. The average value of diamonds mined in Canada, in a
17 Canadian mine, might be 100 or 125 dollars a carat. In the Congo
18 it is only 25 dollars/26 dollars a carat on average. In Sierra
19 Leone it has been consistently over 200 dollars a carat. So, you
11:42:03 20 have got consistently very high value diamonds coming from Sierra
21 Leone.

22 Q. Thank you. I would now ask that the document in tab 18 be
23 marked next for identification and for the record that appears to
24 be a letter from Sam Bockarie - an appointments letter.

11:42:37 25 PRESIDING JUDGE: The document that appears under tab 18 is
26 marked for identification as MFI-10.

27 MS IRURA: That is correct, your Honour.

28 [MFI-10 admitted]

29 MR KOUMJIAN: Thank you, your Honour. Now, I believe that

1 there is one copy that really is more legible - the original.
2 Does the Usher have the original? Yes. I would actually ask
3 that - okay, at a subsequent point I would ask that to be passed
4 to your Honours because there are some things on that that you
11:43:04 5 cannot see in the copy. Just the date.

6 PRESIDING JUDGE: Is the witness being shown the original,
7 or what?

8 MS IRURA: Yes.

9 PRESIDING JUDGE: Is this a copy?

11:43:14 10 MR KOUMJIAN:

11 Q. Sir, do you recognise the document in front of you?

12 A. Yes, I do.

13 Q. And who - what is that document?

14 A. It is a fax and the address of the fax machine is from Fyad
11:43:27 15 Hijazi Company. There is a phone number and a date. It is a
16 letter, "To whom it may concern", allegedly I guess from Sam
17 Bockarie, giving Mr Hijazi the rights to diamond mining and
18 dealing in Sierra Leone over a certain period of time.

19 Q. And is that paper that it is on appear to be fax paper?

11:43:54 20 A. Yes.

21 Q. Did you bring this with you to The Hague?

22 A. I did.

23 Q. Where did you obtain it from?

24 A. The panel received documents from a wide variety of
11:44:06 25 sources. In some cases we received copies of documents from the
26 Police. We received documents from journalists. There were
27 people who had access to Foday Sankoh's house after it was
28 looted, either before or after the Police, and they picked up
29 material as well and gave it to us. To be very honest I don't

1 remember where we got this paper, but we certainly didn't get it
2 from the Police because they wouldn't have given us a direct - a
3 direct fax. They would have given us a copy.

4 Q. Did Mr Bockarie indicate a title below his signature?

11:44:43 5 A. Yes, there is - as part of the letterhead it says "Major
6 General Sam Bockarie, Chief of Defence Staff Revolutionary United
7 Front Sierra Leone".

8 Q. Now, we only have copies. Is there a date on the fax at
9 the top legible to you?

11:44:58 10 A. Yes, October 8 1999, 2.44 p.m.

11 MR KOU MJIAN: Your Honour, could the usher show that to the
12 Defence counsel and then perhaps to your Honours?

13 PRESIDING JUDGE: Counsellor, we are trying with great
14 difficulty to read this rather illegible document. We don't know
11:48:33 15 what it is that you want the Bench to take note of; whether it is
16 the phone number appearing thereon, or the date - a date
17 appearing? As for the content of the document, half of it is
18 totally illegible.

19 MR KOU MJIAN: Perhaps I could have the witness read the
11:48:50 20 letter - read the document? I understand it is difficult to
21 read, but I believe --

22 PRESIDING JUDGE: Yes, if we can't read it, how can he read
23 it?

24 MR KOU MJIAN: Well, perhaps he can. Your Honours cannot
11:49:02 25 read the document?

26 PRESIDING JUDGE: Even with my glasses on I cannot read
27 this document. It is illegible.

28 MR KOU MJIAN: In some ways the --

29 MR MUNYARD: Your Honour, may I enquire if the Prosecution

1 are proposing to prove that that is actually Sam Bockarie's
2 signature and came from him? Whether or not we can read it, it
3 seems to us that that is the fundamental purpose of them
4 producing this illegible document.

11:49:27 5 PRESIDING JUDGE: Mr Prosecutor?

6 MR KOUMJIAN: Well, your Honour, in International Courts we
7 don't have to - well, my understanding is that we do not have to
8 lay that type of foundation. In fact we have other documents
9 which we will present subsequently that have the identical
10 signature, but that will come at a subsequent time.

11 PRESIDING JUDGE: That is correct. [Microphone not
12 activated], but of course you have every right --

13 MR MUNYARD: I don't think Madam President's microphone is
14 on.

11:49:58 15 PRESIDING JUDGE: You have every right to cross-examine
16 this witness in that direction. If he is making such certain
17 statements pertaining to the contents of this document, you have
18 every right to cross-examine him when the time comes.

19 MR MUNYARD: Of course, but you were asking questions about
11:50:15 20 the document. I thought it appropriate to perhaps raise that
21 issue, which seems fundamental at this stage.

22 PRESIDING JUDGE: I was alluding to the legibility of the
23 document, not the authenticity. Just the legibility. As far as
24 we on the Bench are concerned, half the document is illegible.
11:50:31 25 We could not read it. Whatever the value you want to attach,
26 please go ahead and illustrate this value.

27 MR KOUMJIAN: Okay.

28 Q. Sir, does the document reference diamonds?

29 A. Yes.

1 Q. Just setting the scene for this a little bit, you said that
2 the fax date at the top left was October 1999. Are you familiar
3 with the July 1999 Lome Peace Accord?

4 A. Yes.

11:50:58 5 Q. Did the Lome Peace Accord discuss at all the RUF and the
6 mineral resources of Sierra Leone?

7 A. I don't recall that it discussed the RUF and mineral
8 resources. It appointed Foday Sankoh chairman of a commission
9 that would manage mineral resources in Sierra Leone.

11:51:15 10 Q. And for the record, because you are the first witness, who
11 is Foday Sankoh?

12 A. Foday Sankoh was the leader of the Revolutionary United
13 Front.

14 MR KOUMJIAN: Your Honour, I would just suggest if your
11:51:29 15 Honours - I have what looks to me to be a better copy. It is a
16 photocopy of this. Apparently your Honours have it, but if your
17 Honour want to indulge me I could read this and we could see
18 whether we all agree that this is the text? It is rather short,
19 but it is up to you.

11:51:44 20 PRESIDING JUDGE: You are not the witness, Counsellor.

21 MR KOUMJIAN: No, the document speaks for itself. I am
22 just saying what ---

23 PRESIDING JUDGE: You are not the witness. The witness
24 that you wish to tender this document through is sitting right
11:51:55 25 there.

26 MR KOUMJIAN: Okay.

27 Q. Sir, can you read the fax? Is it legible to you?

28 A. It is. It is in fact a scan that I made myself and sent
29 and so it is - it shows up. When you photocopy this original it

1 shows up the stain. There is a stain on it. It shows that up
2 and it shows the wording out much more clearly.

3 Q. Well understanding that it is ultimately for your Honours
4 to decide, could you read what you understand from the letter?

11:52:20

5 A. It says:

6 "To whom it may concern,

7 Mr Mohammed Hijazi has been mining and dealing diamonds in
8 Sierra Leone for over 15 years. During this period he has been
9 found to be honest and trustworthy. The RUF has therefore

11:52:33

10 appointed him as their agent to negotiate with any person or
11 company within or outside Sierra Leone for the prospecting,
12 mining, buying and selling of diamonds. Anyone dealing or
13 contracting with the said Mr Mohammed Hijazi will have to comply
14 with the mining laws and all other laws in force in Sierra Leone.

11:52:51

15 This letter of introduction will expire on the fifth day of
16 January 2000. We wish him well", and then the signature.

17 Q. Okay, I would like to move now to a different topic - a
18 slightly different topic - and that is your knowledge of Liberian
19 diamond production. Can you tell us first of all are there any
20 diamonds present or mined from Liberia?

11:53:15

21 A. Yes.

22 Q. What is the quantity and quality of these diamonds?

23 A. This is a complicated question, because many diamonds have
24 been smuggled through Liberia for many years and so sorting out
25 which diamonds were Liberian and which diamonds might have been
26 from Sierra Leone or some other place has always been
27 historically difficult from the 1950s on, but mining companies
28 have worked in - international mining companies have worked in
29 Liberia and I think it worked on the assumption that the

1 prospects were better than they were and most have not stayed.
2 De Beers for a time was there. There have been other companies.
3 Generally speaking, Liberia has a reputation for low quality
4 diamonds. They have all been - I should not say all, but mainly
11:54:16 5 artisanally produced. The average run of mine value of Liberian
6 diamonds is between 25 and 30 dollars a carat; historically
7 significantly lower than Sierra Leone.

8 MS MUZIGO-MORRISON: Your Honour, could the witness please
9 slow down for interpretation and transcribing? It is becoming
11:54:36 10 difficult to do that. Thank you.

11 THE WITNESS: I am sorry.

12 MR KOUJIAN: I might suggest also, Mr Smillie, you just
13 give a little pause after a few sentences. You mentioned the
14 price of Liberian diamonds being about 25 to 30 dollars per
11:54:52 15 carat. What again is the price of Sierra Leone diamonds on
16 average per carat?

17 A. During the 1990s they were around 200 dollars a carat.
18 Today they are a bit higher than that.

19 Q. One question. When an expert looks at a diamond - a rough
11:55:10 20 diamond, uncut, unpolished - can you determine, can the expert
21 determine, the place of origin of that rough diamond?

22 A. Most diamond dealers, they refer to themselves as
23 diamondaires. Most diamond dealers - international diamond
24 dealers - will tell you that if they receive a parcel of diamonds
11:55:32 25 from Sierra Leone, only Sierra Leonean diamonds, they would
26 probably be able to identify it as such. If they received a
27 parcel of diamonds from Namibia they would probably be able to -
28 they would probably be able to identify it as such, but once the
29 diamonds are mixed - once any mixing takes place - they lose

1 track of it. They can't pick a diamond out of a mixed parcel and
2 say, "This one came from Sierra Leone", or that it came from
3 Namibia, or South Africa. It might be similar to diamonds that
4 came from one of those locations, but they can't really say with
11:56:09 5 any assurance. There are a number of experiments and
6 technologies that are being investigated that could better
7 identify the origin of diamonds, but a professional diamond
8 dealer in most cases cannot tell you where the diamonds in a
9 mixed parcel came from.

11:56:31 10 Q. Sir, can you tell us - and if you need to refer to a
11 document please let me know - what the production was, production
12 totals, from Liberia from 1987? In 1987?

13 A. I am going to look at my report that I wrote for the Court.

14 MR KOUJIAN: For your Honours, I direct your Honours to --

11:56:54 15 PRESIDING JUDGE: Is that MFI-9?

16 MR KOUJIAN: Yes, your Honour, and particularly page 9,
17 table 1.

18 A. The figures that I put in the report, there are three sets
19 of figures. There were the figures from the US geological
11:57:15 20 survey, which indicate that between 100 and 150,000 carats were
21 being mined a year. The second set of columns were figures
22 provided by the Liberian government, which are similar in nature,
23 slightly higher in some cases, and only for the years that I have
24 shown. There were no official exports during the war. And then
11:57:40 25 the third set of columns is the figures from Belgian customs
26 authorities showing what had been imported into Belgium. I think
27 generally speaking geologists and diamond people knowledgeable
28 about Liberia will tell you that the lower figures, 150/200,000
29 carats per annum, are fairly typical.

1 Q. What do these statistics from the Liberian government
2 indicate as the year where the highest amount of diamonds in
3 terms of total carats was produced?

4 A. 1987 was the highest year: 295,000 carats, with an average
11:58:23 5 per carat value of 37 dollars and nine cents.

6 Q. And just to clarify perhaps my own mistake in that
7 question, is that production or export?

8 A. Those would be export figures, because I think governments
9 even today have a hard time figuring out how much is actually
11:58:41 10 mined and so they base their statistics on what is exported.

11 Q. Looking at this table - excuse me. You have also mentioned
12 the Belgian import figures. Can you explain how these figures
13 are collected?

14 A. These figures are collected by Belgian authorities. These
11:59:19 15 are the official import figures for Belgian rough diamonds during
16 these years in question.

17 Q. When someone takes diamonds - a large quantity of diamonds
18 - to Belgium, what kind of procedures are there in order to
19 record that import?

11:59:37 20 A. If they are imported legally - and all of these would have
21 been imported legally because they have been recorded by customs
22 - they would have to present invoices showing the value of the
23 diamonds and where they got them. All of the diamonds going into
24 Belgium are checked. In other words, the parcels are opened and
11:59:58 25 inspected to make sure that - I mean, you know, they don't go
26 over each and every diamond, but they want to make sure that the
27 diamonds in the parcel are roughly what is stated on the invoice
28 and on the import documents.

29 Q. To summarise this table, does it show that Belgium was

1 recording much higher imports coming from Liberia than Liberia
2 was recording exports?

3 A. Yes.

12:00:28

4 Q. Did you actually see any of these documents that were
5 presented at the import into Belgium?

6 A. Yes. I went to the Ministry of Economic Affairs in
7 Antwerp, that handles these figures for the Belgian government,
8 and I asked to see a selection of invoices for different years so
9 that I could understand where and how these diamonds were being
10 traced back to Liberia. So, I saw eight sets of invoices.

12:00:49

11 Q. Did you record the names of the companies that were
12 exporting these diamonds from Liberia to Belgium?

13 A. Yes.

14 Q. Did you check on those companies in any way?

12:01:07

15 A. What we did was we visited a couple of the companies in
16 Antwerp to talk to them about this and we traced back each one of
17 those eight invoices to the street addresses in Monrovia that
18 purported to be the origin - the company in Liberia that was
19 exporting these diamonds. So, we actually made a physical check
20 on the address of the companies in question.

12:01:32

21 Q. So just to clarify and make sure I understand your answer,
22 you visited importers in Belgium and they gave you documents
23 showing which company in Liberia had exported the diamonds?

24 A. No, no. We visited companies in Liberia - I am sorry, in
25 Antwerp, to discuss with them what these diamonds were; where
26 they came from. The invoices were received from the Ministry of
27 Economic Affairs in Belgium and those were the ones that we
28 checked directly ourselves on the ground in Liberia.

12:01:51

29 Q. So, those invoices which you found in Belgium in government

1 offices contained the names and addresses of Liberian companies?

2 A. Yes.

3 Q. And did you make any attempt to verify those addresses, or
4 those companies?

12:02:23 5 A. Yes, we did.

6 Q. What happened?

7 A. In all cases we found that the addresses simply didn't
8 exist, or in a couple of cases there might have been a name plate
9 on a door but there was nothing more than that. Courier

12:02:39 10 companies had been instructed if there was any mail coming for
11 these companies they were - the mail was to be redirected to the
12 Liberian International Shipping and Corporate Registry, or its
13 predecessors before it was formed.

14 Q. I would like to now turn to annex 4 of your report. Again,
12:03:10 15 that is MFI-9 I believe. It shows a map.

16 PRESIDING JUDGE: Just quickly, what page of the report
17 would that be please?

18 MR KOUJIAN: Page 29 of MFI-9 of the report.

19 Q. Can you just explain - and we all have that map I believe
12:03:37 20 in front of us, but perhaps if your Honour would like for the
21 audience we could put it on the ELMO?

22 PRESIDING JUDGE: You want this page displayed on the --

23 MR KOUJIAN: Perhaps, yes.

24 PRESIDING JUDGE: Can that be done, Madam Court Manager?
12:03:54 25 Page 29 is a map. Could that be put on the screen, please?

26 MS IRURA: It is possible, yes, if they can guide me as to
27 which of the large maps it is.

28 MR KOUJIAN: I don't believe it is. It is just page 29 of
29 MFI-9, if we put that on the ELMO if it would show. It is tab 1,

1 page 29. Tab 1, page 29.

2 Q. Mr Smillie, perhaps you can go to the ELMO and stand by
3 that to answer these questions?

4 MS IRURA: Please switch to document cam witness.

12:05:06 5 MR KOUMJIAN: First, do you have a pen or something to
6 point with there, please?

7 A. Yes.

8 Q. Can you first show us where the Liberian border is depicted
9 in this map? The Liberian/Sierra Leone border?

12:05:22 10 A. This is the Liberian/Sierra Leone border along here.

11 Q. Can you show us where Buedu is?

12 A. Buedu is here.

13 Q. And you have identified this as the RUF headquarters, is
14 that correct? Did you have information to that?

12:05:38 15 A. Yes. Not throughout the war, but in the latter years their
16 headquarters was at Buedu.

17 Q. Can you then also just show us again where the diamond
18 areas are in Sierra Leone?

19 A. The major area is around Koidu up here. This whole area,
12:06:00 20 Kono district, is where the largest concentration of diamonds
21 are. The second largest concentration is around Tongo Field,
22 which is here. That airstrip was a Tongo Field airstrip that was
23 built by Sierra Leone Selection Trust many years ago.

24 Q. Thank you. Can you give us an approximation of the
12:06:23 25 distance, or travelling time, from Kono to Buedu?

26 A. Well, distance and travelling time are two completely
27 different concepts in Sierra Leone. The mileage from Buedu to
28 Tongo Field is in the neighbourhood of 80 kilometres. The
29 distance from Buedu to Kono by road is about 125 kilometres, but

1 it really depends on the conditions of the roads the amount of
2 time it would take you to get there.

12:07:13 3 Q. Thank you. I am finished with that document, thank you,
4 Madam Usher. Sir, since you submitted your report to the Court,
5 have you subsequently obtained some figures of diamond production
6 in Sierra Leone post-war in the last few years?

7 A. Yes, there are some figures in my report and I have some
8 more up-to-date figures as well. I have figures in the report
9 for 2004 and 2005 and I also have figures for 2006 and 2007.

12:07:40 10 Q. Is that for all of 2007?

11 A. No, as part of the Kimberley process all countries that are
12 members have to submit semi-annual production statistics and
13 quarterly trade statistics and they have to do it within two
14 months of the end of the reference period. So the full figures
12:08:01 15 for 2007 are not yet available, but I have figures for the first
16 three quarters of 2007.

17 Q. What are the figures for 2006?

18 A. Your Honour, I have to refer to my notes.

19 MR KOUMJIAN: May the witness refer to some notes that he
12:08:17 20 has?

21 PRESIDING JUDGE: What notes? Is that in the report?

22 MR KOUMJIAN: No, this is information he obtained
23 subsequent to writing the report.

24 PRESIDING JUDGE: If the Defence have no objection, yes, he
12:08:29 25 may.

26 MR MUNYARD: Well, he has done an update to the report at
27 the end of the report which updated certain of the facts of the
28 report, but if he has done an update in writing on the basis of
29 some notes it is surprising that we haven't been supplied with

1 them even in the last few days.

2 PRESIDING JUDGE: Mr Prosecutor, what is your comment on
3 this?

4 MR KOUMJIAN: Your Honour, the witness has explained to me
12:08:54 5 over the weekend that as part of his work in the Kimberley
6 process he has obtained these figures for 2006 and 2007. I asked
7 him if he had them and he said - and he was able to ---

8 PRESIDING JUDGE: The question is have these been disclosed
9 to the - these notes been disclosed to the Defence?

10 MR KOUMJIAN: No, because I obtained them this weekend.
12:09:10

11 MR MUNYARD: Well, we have all - several members of both
12 teams have been in the office this weekend, as is obvious from
13 the names on the register that you have to enter, and the office
14 of the Prosecutor would know that several of us, including
12:09:31 15 myself, were there both on Saturday and Sunday.

16 PRESIDING JUDGE: Mr Prosecutor, if there is an update I
17 would imagine it is one of the tabs here. Is it necessary to
18 refer to these side notes?

19 MR KOUMJIAN: Your Honour, it is not necessary because it
12:09:47 20 is so recent, but it is not in the tabs either because it was
21 only this weekend we prepared the tabs for your Honours two weeks
22 ago.

23 PRESIDING JUDGE: So, it is not necessary to refer to these
24 then.

12:09:57 25 MR KOUMJIAN: I can live without it, your Honour, thank
26 you. I will move on.

27 PRESIDING JUDGE: Then please proceed and live without it.

28 MR KOUMJIAN: Thank you. Thank you.

29 Q. I want to switch then, sir, to a different subject, which

1 is armed shipments referred to in the panel of expert report that
2 you and the rest of the panel presented to the Security Council.
3 First can you remind us how the panel, or explain to us how the
4 panel, worked? Did you all work together on each subject and
12:10:24 5 each visit, or how was that done?

6 A. We worked together as a team, all five of us, on some
7 things, and on some visits in other cases we worked
8 independently, although in most cases we tried to make sure that
9 there were at least two panel members present for any particular
12:10:41 10 interview.

11 Q. And how was the report written?

12 A. We kept notes as we went along. I was the only native
13 English speaker on the team and so I did a lot of the drafting,
14 but it was based - it was based on a team effort. So, you know,
12:11:05 15 my particular expertise was in the diamond area. Others had
16 expertise in air traffic control. So they would either present
17 notes, or we would discuss it, I would write sections of the
18 report and the team would vet it.

19 Q. Are you familiar with the situation at the time that the
12:11:28 20 panel was named regarding United Nations arms embargoes affecting
21 Sierra Leone and Liberia?

22 A. Yes.

23 Q. And what was that situation?

24 A. There was a complete arms embargo on Liberia. The arms
12:11:45 25 embargo on Sierra Leone was an embargo on any arms to any party,
26 or any - well, I guess any party except the government of Sierra
27 Leone.

28 Q. Thank you. In the report you mention an individual by the
29 name of Leonid Minin, is that correct?

1 A. Yes.

2 Q. Can you tell us what information you obtained about who
3 this individual is?

4 A. Leonid Minin is an arms salesman and many other things
12:12:34 5 combined. He imported weapons to Liberia. He had a plane - an
6 aircraft - that he used and brought to Liberia and flew to
7 various parts of the region. He has subsequently to all of this
8 been arrested several times and been charged with various crimes,
9 including passport fraud and a number of other things - drugs.

12:12:58 10 PRESIDING JUDGE: Could we have the spelling of this
11 individual's name, please, or at least a reference in the report
12 to this name?

13 MR KOU MJIAN: First would you spell the name, sir?

14 A. Leonid, L-e-o-n-i-d. Minin, M-i-n-i-n.

12:13:15 15 MR KOU MJIAN: I would now direct your Honours and the
16 witness to the MFI-4. That is the panel of expert report which
17 is on tab 4. It is tab 4 in paragraph 208 and the following
18 paragraphs beginning on Page 36.

19 THE WITNESS: Should I have a copy of this?

12:13:45 20 MR KOU MJIAN: Yes, if the Usher could give the MFI-4 on tab
21 4 to the witness, please, page 36.

22 PRESIDING JUDGE: Yes, indeed, the witness should be able
23 to refer to MFI-4. Do you have a copy, sir?

24 THE WITNESS: No. Well I have my own copy, but I don't
12:14:06 25 have the --

26 PRESIDING JUDGE: Court management, please.

27 MS IRURA: Could Counsel guide as to which tab?

28 MR KOU MJIAN: Tab 4 and it is MFI-4.

29 PRESIDING JUDGE: That will be page 36 of tab 4.

1 MR KOUMJIAN: Yes, thank you, your Honour.

2 PRESIDING JUDGE: Page 36, please.

3 MR KOUMJIAN:

4 Q. Now do you have it in front of you, Mr Witness?

12:14:59 5 A. I do, yes.

6 Q. Thank you. Now in paragraph 209 you discuss - in some of
7 the other paragraphs, but particularly 209 you discuss the
8 various flights of this aircraft, a BAC111, owned by Minin. Can
9 you tell us what the source of your information was to the extent
10 that you can disclose it?

12:15:19

11 A. There were two sources. We were put on to this plane and
12 this individual and this set of arms by the Angola expert panel,
13 which had recorded the fact that a large shipment of arms had
14 gone to Burkina Faso. That was already known when our panel
15 began to investigate this, but we wanted to find out what
16 actually happened to the weapons. It was not only that weapons
17 had arrived in Burkina Faso. Until we got into it, it was only
18 an allegation that they had moved further into Liberia.

12:15:46

19 Basically our air traffic control expert went to Spain and
20 reviewed flight logs. Where Spanish dates are mentioned he had
21 been to Spain and viewed the flight logs for this particular
22 aircraft. Where the flight logs - where the airport is Bobo
23 Dioulasso, or Ouagadougou, again he saw the flight records in
24 those places. There were no flight - there was no flight data,
25 no flight logs whatsoever available to the panel in Liberia, but
26 we saw the details on these flights from the other countries.

12:16:11

27 Q. Did you have any other source of information regarding
28 these flights and what they were used for?

12:16:40

29 A. Yes, we spoke to one of the crew members.

1 Q. In the report and in paragraph 208 you talk about a 68
2 tonne shipment of weapons or ammunition that went to Ouagadougou
3 with Burkina Faso end user certificate, is that correct?

4 A. Yes.

12:17:22 5 Q. Were you able to document flights that then carried those
6 weapons, or parts of them - weapons and ammunition to Liberia?

7 A. Yes.

8 Q. How many flights did you document that plane making in
9 March of 1999 from Burkina Faso to Liberia?

12:17:42 10 A. In paragraph 209 we say that on March 15th the plane flew
11 from Monrovia to Ouagadougou:

12 "On 16 March the plane was loaded with weapons and flew
13 back to Liberia. On the 17th, it returned to Ouagadougou. After
14 a flight to Abidjan in the Ivory Coast, the plane flew again from
15 Ouagadougou to Liberia with weapons on the 19th." That is two
16 flights. "On the 25th the plane flew again from Liberia to
17 Ouagadougou and returned on the same day with weapons." That is
18 three. "On the 27th the plane flew again to Ouagadougou and --"

12:18:01 19 MS IRURA: The witness is requested to please slow down for
12:18:20 20 the sake of the record.

21 THE WITNESS: I am sorry:

22 "On the 25th the plane flew again from Liberia to
23 Ouagadougou and returned on the same day with weapons. On the
24 27th the plane flew again to Ouagadougou and from there to Bobo
12:18:38 25 Dioulasso for the weapons that had been trucked there. The
26 aircraft made three flights over the next three days between Bobo
27 Dioulasso and Liberia. On 31 March the plane flew back to
28 Spain." I believe that is six flights.

29 Q. In March 1999?

1 A. Yes.

2 Q. Did you obtain any photographs of that plane and the cargo
3 it was carrying during these flights?

4 A. Yes.

12:19:06 5 Q. Did you bring those photographs to The Hague with you?

6 A. I did.

7 MR KOUMJIAN: Court Officer, these are on tab - your
8 Honours' copies are on tab 19, the last tab. Madam Court
9 Officer, perhaps since these appear to be original photographs if
10 they can be shown first to the Defence before being shown to the
11 witness. Would your Honours like to see them before or after
12 they are shown to the witness?

12:19:40

13 PRESIDING JUDGE: It is always after. Mr Prosecutor, would
14 you like these photographs marked for identification?

12:20:50

15 MR KOUMJIAN: Yes, thank you.

16 PRESIDING JUDGE: Or are you going to tender them into
17 evidence directly?

18 MR KOUMJIAN: Perhaps first we will mark them for
19 identification and there are four of them, your Honour. I will
20 describe each one so that they get a separate number and
21 description. My suggestion is that we mark them next in order I
22 believe that is 10, but 10A, B - 11, excuse me. 11A, B, C and D.

12:21:01

23 PRESIDING JUDGE: Are these the same photographs that
24 appear under the tab 19?

12:21:30

25 MR KOUMJIAN: Yes, your Honour.

26 PRESIDING JUDGE: Because these are not all photographs of
27 an aircraft. Some of them appear to be photographs of a
28 building, or buildings.

29 MR KOUMJIAN: I think your Honour is correct. Just the

1 wing of the aircraft is visible in the last photograph at the
2 top.

3 PRESIDING JUDGE: What about the third photograph? It is a
4 photograph of a building.

12:21:50 5 MR KOUMJIAN: I have a photograph of an interior of an
6 aircraft. The fourth photograph is a photograph of the air - of
7 a building, where the wing of the aircraft is visible at the top.
8 These are the photographs that were given to the witness.

9 PRESIDING JUDGE: So, the photographs under the tab 19 are
12:22:15 10 marked for identification as MFI --

11 MS IRURA: MFI-11, your Honour, A, B, C and D.

12 PRESIDING JUDGE: Yes, A, B, C and D respectively.

13 [MFI-11A to D admitted]

14 MS IRURA: Could counsel please indicate which is A and the
12:22:31 15 order?

16 MR KOUMJIAN: A is the photograph of what appears to be the
17 back of an airplane where the entire aircraft is visible.

18 PRESIDING JUDGE: Could I suggest that the order in which
19 they appear in our folders is the order in which we will number
12:22:46 20 them.

21 MR KOUMJIAN: Yes, that is what I was doing. Thank you.

22 PRESIDING JUDGE: The first photograph I don't know what it
23 is, it looks like a number of seats or the interior of something,
24 will be A. It is followed by a photograph of the exterior of a
12:23:01 25 plane - a reddish plane - and that will be B. Then the next
26 photograph is predominantly a building, but with the underbelly
27 of what appears to be an aircraft. That will be C. Then the last
28 photograph, I am afraid I can't work out what it is, will be D.

29 MR MUNYARD: Your Honour, we have two interiors of the

1 plane and I wonder which one is your A and which one is your D?
2 I had already taken them out of my plastic folder when you
3 started numbering them and so I don't know.

12:24:08

4 PRESIDING JUDGE: Let me refer to these pages by the
5 official Court Management page numbers.

6 MR MUNYARD: Certainly, thank you.

7 PRESIDING JUDGE: Number A is page 0001171. That is number
8 A. Then 1172 is number B, 1173 is number C and 1174 is number D.
9 Please proceed, Mr Prosecutor.

12:24:42

10 MR KOUMJIAN: Thank you.

11 Q. Mr Smillie, can you please go through each of these
12 photographs and - well, first can you tell me where the panel
13 obtained these photographs to the extent you can disclose that
14 information?

12:24:58

15 A. We obtained them from one of the crew members of the plane.

16 Q. By the way, this plane that we are talking about, did it
17 have any association with the Accused in this case, Charles
18 Taylor, from the information you received?

12:25:21

19 A. Yes. The aircraft you can see on the one showing the full
20 aircraft, 1172, you can see the call letters of the plane on the
21 side. It is more clear in the original photographs. "VPCLM",
22 those are the call letters of the aircraft. The aircraft is
23 registered in the Cayman Islands. Ironically, the symbol on the
24 tail of the plane is from the Seattle Supersonics. It was used
25 by the baseball team - by the basketball team for sometime before
26 it found its way to West Africa. Mr Taylor told us when we
27 interviewed him, when the panel interviewed him, that --

12:25:46

28 PRESIDING JUDGE: Could you please display one photograph
29 at a time. The photograph the witness was referring to is 1172.

1 If you could enlarge it and make sure that we can see. Remove
2 that bright light, whatever it is.

3 THE WITNESS: It is reflecting off the plastic. So this
4 photograph shows the body of the aircraft, and here on the engine
12:27:20 5 you will see the call letters of the aircraft: "VPCLM". As I
6 said, that was a plane registered in the Cayman Islands and
7 leased to Leonid Minin, or leased or owned by Leonid Minin. Mr
8 Taylor told us that Leonid Minin had come to Liberia with this
9 aircraft wanting to sell it as a Presidential jet, but that the
12:27:47 10 cost was too high for Liberia. He had taken a few trips on it,
11 but basically Minin had taken it back. Would you like me to move
12 on to the --

13 MR KOUMJIAN: Let me just ask if your Honours would like to
14 take go through these photographs, or take the break now,
12:28:11 15 whichever is most convenient for your Honours?

16 PRESIDING JUDGE: There is no break until one o'clock.

17 MR KOUMJIAN: I am sorry, I thought it was 12.30. Thank
18 you.

19 Q. Please continue, sir.

12:28:19 20 A. If there are more questions about this picture, I am happy
21 to answer them.

22 Q. No, please go to the next photograph.

23 PRESIDING JUDGE: Is the witness going to take us through
24 each picture?

12:28:36 25 MR KOUMJIAN: Yes.

26 PRESIDING JUDGE: Because then he might as well start with
27 the first picture, number A. MFI-11A.

28 THE WITNESS: The BAC111, that is the type of aircraft this
29 is, does not have a huge cargo capacity. It is essentially an

1 executive jet and we were told that it could not possibly carry
2 any weapons. It could not be used for weapons transfers. In
3 fact, the reason that the plane required so many trips was
4 precisely that, it didn't have a heavy lifting capacity, but
12:29:17 5 these pictures show that there are crates on the seats and under
6 the seats and what I think are boxes of ammunition on the seats
7 as well. This is essentially how the cargo was transferred from
8 Burkina Faso to Liberia.

9 MR KOUMJIAN: As far as what is in the crates and the items
12:29:42 10 with the plastic around them that are on the seats in this
11 photograph, did you receive any information from the crew about
12 what that contained?

13 A. We were told that it was ammunition and weapons.

14 Q. Can you go to the next photograph. Following the order
12:30:00 15 that would be the photograph of the runway and - well, the
16 building that is depicted.

17 A. As I said earlier, some of the flights were from
18 Ouagadougou and some were from Bobo Dioulasso. Some of the
19 weapons had been trucked to Bobo Dioulasso. We understood that
12:30:28 20 they were all to have been shipped there so that it wouldn't be
21 so easy to trace them, but only half of them had actually been
22 moved there. So, all of these photographs that we are looking at
23 now were actually taken at Bobo Dioulasso airport. That is a
24 picture of the wing of the aircraft overhead of the name of the
12:30:49 25 airport building there.

26 Q. And again the person that gave you - the crew member that
27 gave you - these photographs, did he indicate that this is the
28 same aircraft?

29 A. The same aircraft and these flights during March 1999.

1 Q. Going to the last photograph ---

2 PRESIDING JUDGE: I am sorry, Mr Prosecutor. Did I hear
3 the witness say that all four photographs were taken at Bobo
4 Dioulasso airport?

12:31:15 5 A. That is what we were told.

6 Q. Told by who?

7 A. By the crew member of the aircraft who took the pictures.

8 Q. So, the panel didn't take the pictures?

9 A. No, Madam.

12:31:29 10 MR KOUMJIAN: And again these are - we are talking about
11 March 1999, is that correct?

12 A. Yes.

13 Q. Approximately a year-and-a-half before your panel was
14 working?

12:31:43 15 A. Yes.

16 Q. Going to the last photograph, can you just describe that?
17 The one that ends in the ERN number "P0001174"

18 A. Well, again, these are wooden crates that are strapped down
19 with seat belts onto the seats of this aircraft. There is
12:32:03 20 Cyrillic lettering visible on some of the boxes and we were told
21 that these were weapons.

22 Q. For the record, Bobo Dioulasso is in which country?

23 A. It is in Burkina Faso.

24 Q. Did you receive any information from individuals in Burkina
12:32:21 25 Faso about these flights, or their cargo?

26 A. We received the flight details. All of the flight details
27 that I referred to earlier and the ones that are in our report
28 were - if they were flights from Burkina Faso, we received them
29 from the air traffic authorities in Burkina Faso.

1 Q. Thank you. I am done with the photographs and perhaps
2 these originally obtained photographs can be shown to your
3 Honours now.

4 PRESIDING JUDGE: Thank you. Please proceed.

12:35:09 5 MR KOUMJIAN: Sir, did you receive any information about
6 this shipment from the country of Ukraine?

7 A. As I said earlier, the shipment had been identified by the
8 Angola panel of experts. Members of our panel did go to Ukraine
9 to verify what had been - what had been reported by the Angola
10 panel, so we did receive information from the government of
11 Ukraine as well.

12 Q. Did the government of Ukraine indicate what the either
13 weight or value of those weapons was?

14 A. I don't think they told us anything about the value, I
12:35:54 15 don't recall that, but the weight was 68 tonnes and the end user
16 certificate was for Burkina Faso.

17 MR KOUMJIAN: I would now like to refer and direct your
18 Honours to paragraph 211 of tab 4, again page 36, and this is
19 MFI-4.

12:36:31 20 Q. Sir, did the panel also document a shipment of weapons in
21 December 1998?

22 A. Yes.

23 Q. What was the route of those weapons?

24 A. Those moved from Niamey to Liberia.

12:36:54 25 Q. And Niamey is in which country?

26 A. It is the capital of Niger.

27 Q. Did you determine when in 1998 these weapons came to
28 Liberia?

29 A. In our report we said that there were two trips in December

1 1998.

2 Q. And what date were those trips on?

3 A. Both flights took place on December 22nd 1998.

4 Q. Are you familiar with the invasion of Freetown in January
12:37:31 5 1999?

6 A. I know of it, yes.

7 Q. Do you know the date that rebel forces entered Freetown?

8 A. I think it was - was it January, 9th? 6th, or 9th.

9 Q. Okay, thank you. Your report also mentions - I will now

12:37:57 10 direct everyone's attention to paragraph 233 of the same
11 document, which is on page 39. Did the report discuss an
12 individual by the name of Victor Bout?

13 A. Yes, it is usually pronounced Boot. Victor Boot.

14 Q. Thank you. Who is Victor Bout, or what information did you
12:38:24 15 have about him?

16 A. Victor Bout is a fairly well-known arms dealer of Russian
17 origin. According to our information he was born in Tajikistan,
18 but certainly born in the former Soviet Union. He built up a
19 very large air cargo capacity in the 1990s, had many companies
12:38:48 20 registered in various places and was known to be moving weapons
21 to a wide number of conflict areas. He was widely reported and
22 documented in the Angola expert panel report.

23 Q. Did you document any connection between Mr bout and this
24 shipment in December 1998?

12:39:16 25 A. There is a lot of sort of interconnections between a number
26 of airlines owned by him and their registry under the Liberian
27 Air Registry Authority. In paragraph 233 we talk about arms
28 deliveries from Europe to Liberia; four shipments on an Antonov
29 aircraft that was either owned or leased to him.

1 Q. Did you document any connection between Mr Bout and an
2 individual by the name of Mr Ruprah?

3 A. Yes, the connections between a lot of these people were I
4 suppose in a sense anecdotal. You have to remember that we were
12:40:19 5 working --

6 PRESIDING JUDGE: I would like to ask the Prosecutor to
7 spell that name that you just said, please.

8 MR KOUMJIAN: R-u-p-r-a-h and the first name is Sanjivan:
9 S-a-n-j-i-v-a-n.

12:40:45 10 PRESIDING JUDGE: Please proceed with your testimony, Mr
11 Smillie.

12 THE WITNESS: Yes, the information we had came from a
13 variety of sources. You will recall that the war was ongoing at
14 this time and the situation was very dangerous for some of our
12:41:00 15 informants. When we spoke to people in Liberia obviously there
16 was some hostility towards us, or some great fear of speaking
17 openly to us about things.

18 We have documented, I think, some connections between
19 Victor Bout and Sanjivan Ruprah. Sanjivan Ruprah travelled on a
12:41:29 20 Liberian passport under another name entirely, Samir Nasr. The
21 information that we based our findings on came from a variety of
22 sources for this. In some cases it came from intelligence
23 sources. In other cases it came from people who were in the
24 aircraft business.

12:41:51 25 MR KOUMJIAN: Did you find any connection - you mentioned
26 in paragraph 234 regarding these transactions an individual by
27 the name of Gus Kouwenhoven and perhaps I will try to spell that
28 using the spelling at least in the panel report,
29 K-o-u-w-e-n-h-o-v-e-n. Who was Mr Kouwenhoven?

1 A. Mr Kouwenhoven was a hotelier. He had a hotel in Monrovia
2 and other businesses. He was very involved in the timber export
3 business and we understood that he was directly involved in arms
4 shipments as well. Mr Kouwenhoven has since been tried for war
12:42:41 5 crimes and is now --

6 Q. Well, sir, let us leave that - those other proceedings.
7 Sir, going back to Mr Kouwenhoven, you mentioned Mr Minin. Did
8 Mr Kouwenhoven own a hotel?

9 A. He operated a hotel. I don't know whether he owned it, or
12:42:57 10 not, but he was the manager of it.

11 Q. Which hotel was that?

12 A. I am sorry, I don't recall the name. I think it was the
13 Hotel Africa.

14 Q. Where is that?

12:43:05 15 A. In Monrovia.

16 Q. Do you know where Mr. Minin stayed when he was in Monrovia?

17 A. As far as I know, he stayed there.

18 Q. Sir, I would now like to move - I am finished with this
19 document for the time being. I would now like to move to the
12:43:38 20 panel's trip to Liberia. Did you go to Liberia?

21 A. Yes, we did.

22 Q. What was the dates of your trip to Liberia?

23 A. October 4th, 5th and 6th 2000.

24 Q. And were you yourself part of the group that went to
12:43:53 25 Monrovia?

26 A. Yes, I was.

27 Q. By the way, when you arrived in Monrovia who did you speak
28 to?

29 A. Most of our visit was organised by the United Nations

1 representative in Monrovia based on our requests for meetings.

2 Q. Did --

3 A. And we were met at the aircraft, at the airport, by the
4 United Nations.

12:44:24 5 Q. Who did you meet with in Liberia? What types of officials,
6 or other persons?

7 A. We met with several cabinet ministers. We met with
8 President Taylor at the end of our visit, but we met with several
9 cabinet ministers. We met with the air traffic control

12:44:41 10 authority. We met with church leaders. We met with Lebanese
11 community leaders and diamond dealers. We met with diplomats
12 based in Monrovia - there weren't very many, but we met a couple
13 - NGOs and a couple of Liberian journalists. I think that is it.

14 Q. When the panel arrived, had there been any coverage in the
12:45:15 15 media about your trip?

16 A. Yes, it was widely covered. It was covered by the Liberian
17 press and it was also covered internationally. I recall being in
18 a jeep hearing the BBC World Service telling us that we were on
19 our way to a certain meeting.

12:45:34 20 Q. Where were you listening to that broadcast?

21 A. In a jeep, on the shortwave radio.

22 Q. You were in which country at that time?

23 A. In Liberia. In Monrovia.

24 Q. Do you recall any other media reports, or newspaper
12:45:48 25 articles, that were memorable from when you arrived in Monrovia?

26 A. There were a couple. One was an article which accused - I
27 think there might have been more than one, but there was at least
28 one that accused the panel of being there to concoct facts, that
29 we were there to impose sanctions on Liberia and that the whole

1 thing was a done deal. I recall another newspaper article that
2 struck me as interesting at the time and that reported that Sam
3 Bockarie, who was kind of I guess a celebrity in Monrovia, had
4 been seen boarding a helicopter on its way to Foya. He was
12:46:35 5 hitching a ride, I think they said, on a helicopter going to Foya
6 in the northwest of Liberia.

7 Q. Now you mentioned that you had a meeting with the Accused,
8 President Taylor, is that correct?

9 A. Yes.

12:46:48 10 Q. Where did that meeting take place?

11 A. In his office at the Presidential mansion.

12 Q. Who was present for the meeting?

13 A. There were the five panel members, the United Nations
14 resident representative, Mr Taylor and I don't recall who else
12:47:07 15 was there. There may have been two or three other people who
16 were not introduced to us. When we went in there were some media
17 there, but they left before the substantive discussions began.

18 Q. Did you take some notes of that meeting?

19 A. I did.

12:47:24 20 Q. Did you subsequently type those notes up?

21 A. I did.

22 Q. Did you include the typed-up notes in the annex to your
23 report to the Court in this case?

24 A. Yes, I did.

12:47:37 25 MR KOUMJIAN: Your Honour, I was referring to MFI-9, which
26 is tab 1. It is found - annex 2 is found on page 25.

27 PRESIDING JUDGE: I am sorry, what is the annex number?

28 MR KOUMJIAN: It is tab 1, but page 25 is called annex 2.

29 Page 25 of the report.

1 PRESIDING JUDGE: That would be Annex 2, is that the one
2 you are referring to?

3 MR KOUMJIAN: Yes, your Honour.

4 PRESIDING JUDGE: Annex 2 to the report of Mr Smillie?

12:48:48 5 MR KOUMJIAN: That is correct.

6 PRESIDING JUDGE: Please proceed.

7 MR KOUMJIAN: Thank you.

8 Q. Can you tell us generally about the tone of the meeting
9 that you had with the Accused?

12:48:57 10 A. It was formal, but it was not unfriendly.

11 Q. Were any of his aids or other persons besides the panel
12 members present?

13 A. There were other people in the room, but we sat in a row of
14 chairs facing the President and there were people behind us who
12:49:17 15 were not introduced and so I don't know how many were there, or
16 who they were.

17 Q. Was there any media at any point in the meeting?

18 A. The media were there when we entered the room and when we
19 shook hands and were introduced, and then they left before we
12:49:33 20 started any discussion.

21 Q. And just to be clear did you arrange for the media, the
22 panel, or --

23 A. No.

24 Q. Now in your notes you discuss a question that was asked to
12:49:44 25 President Taylor about a meeting he had with the US Under
26 Secretary of State, Thomas Pickering, is that correct?

27 A. Yes.

28 Q. Had you received some information about that meeting?

29 A. We had been told in a previous visit with the United States

1 ambassador to Liberia that the US Under Secretary of State for
2 Africa, Thomas Pickering, had met with Taylor on July, 17th and
3 told - and he had told Mr Taylor that he had seen evidence that
4 Mr Taylor was trafficking in stolen diamonds. We raised this
12:50:29 5 issue and Mr Taylor said that this was blatantly untrue. It was
6 not clear to me whether it was blatantly untrue that he was
7 trafficking in diamonds, or untrue that this is what had been
8 raised by Mr Pickering.

9 Q. Did you ask, or one of the members of the panel ask, a
12:50:47 10 question to the Accused about the Liberian import figures for
11 imports of diamonds from Sierra Leone which exceeded Sierra Leone
12 - excuse me, from Liberia which exceeded Liberia's production
13 capacity?

14 A. Do you mean the Belgian figures?

12:51:06 15 Q. Yes, sorry.

16 A. Yes, I asked the question. I asked Mr Taylor what he made
17 of these very large import figures of diamonds from Liberia into
18 Belgium.

19 Q. And what was his response?

12:51:19 20 A. He said, "You tell me". He said that was our job. He said
21 he didn't know what to make of it. Liberia's name was being
22 misused. He said that it was possible - highly probable is what
23 he said - that there were RUF diamonds coming through Liberia,
24 but he did not know anything about it.

12:51:41 25 Q. Sir, could you please speak a little bit more slowly.

26 A. Sorry.

27 Q. You indicated that he referred to the RUF diamonds. Can
28 you repeat what he said about that?

29 A. He said that it was possible, or highly probable is what he

1 said, that the RUF were dealing in diamonds and that some of them
2 might be coming through Liberia, but he said this was not
3 official and he didn't know anything about it. He said the
4 borders were very porous and he had no control over this. He
12:52:08 5 suggested that some of the diamonds that might be coming through
6 Liberia could have been Russian diamonds.

7 Q. By the way, based on your expertise is that true; that some
8 of the diamonds going through Liberia could have been Russian
9 diamonds?

12:52:22 10 A. Yes, we discussed this at length in the panel report.

11 Q. Just to explain to your Honours, what motive would there be
12 to route these diamonds through other countries?

13 A. This is a fairly complicated - a fairly complicated -
14 business. De Beers had an arrangement, a contract, with Alrosa,
12:52:54 15 the Russian diamond - the big Russian diamond mining and
16 exporting company, at this time to buy all of their diamonds.

17 What the Russian government was doing was allocating a
18 significant portion of their production to Russian cutters and
19 polishers for use in Russia. Some of these diamonds were being
12:53:15 20 smuggled out of Russia and they were making their way into the
21 world market. The reason companies wanted to hide the fact that
22 these were Russian diamonds was that if De Beers - if they had a
23 contract with De Beers for their above board diamonds and De
24 Beers discovered that they were buying Russian diamonds under the
12:53:36 25 table, then they might lose their De Beers contract. So, this
26 was a way of obscuring the origin of Russian diamonds.

27 PRESIDING JUDGE: Excuse me, sir. Are you saying that
28 Russian diamonds were being passed off as Liberian originating?
29 Is that what you are saying?

1 A. I am saying that - I am saying that it was possible. There
2 were other sources of these diamonds as well undoubtedly. They
3 certainly did not all come from Sierra Leone.

4 MR KOUMJIAN: Did he indicate anything about Liberia's
12:54:14 5 production capacity in answering this question about the high
6 number of diamonds purportedly exported by Liberia through
7 Belgium?

8 A. Well, he said that Liberia had more diamonds than Sierra
9 Leone and he said that four kimberlites had been identified. I
12:54:31 10 thought that was odd because, although there may well be several
11 kimberlites in Liberia, they are not known to be diamondiferous
12 and Liberia has no record of exporting high quality diamonds of
13 its own.

14 Q. Again, based on your knowledge of the production capacities
12:54:51 15 and geological characteristics of Liberia and Sierra Leone, what
16 is the comparison in production capacity for diamonds of the two
17 countries?

18 A. Well, I think the historical volume coming out of Liberia
19 was 100/150 possibly 300,000 carats a year. 300,000 is probably
12:55:15 20 stretching it. Sierra Leone in its best years was exporting two
21 million carats a year.

22 Q. Would the figures regarding the value of those diamonds be
23 consistent, or how would they be in relation to the volume
24 comparing Sierra Leone and Liberia?

12:55:34 25 A. Well the Sierra Leone diamonds, as I said earlier, would be
26 worth on average - run of mine average is about 200 dollars a
27 carat. Liberia diamonds are worth about 25 to 35 dollars a
28 carat. 25 to 30. If you look at the Belgian import figures,
29 they bounce all over the place. There are high numbers, low

1 numbers. They could be anything.

2 Q. During the panel's visit to Liberia, was any evidence
3 presented to you about Liberia's production capacity for
4 diamonds?

12:56:11 5 A. No, we met at length with the Minister of Mineral Resources
6 and he indicated that there was almost no production - no legal
7 production - going on. He said that there was undoubtedly some
8 mining going on and that the diamonds were probably being
9 smuggled out.

12:56:31 10 Q. Did they take you to any area where production was supposed
11 to be going on?

12 A. Yes, not very long before our visit there was reported to
13 have been a discovery of diamonds at a place called Paynesville,
14 not far from Monrovia, and the Minister of Mines was very keen to
12:56:50 15 have us see this. In fact, he drove one of the vehicles. I sat
16 in the front seat and he drove and we went to Paynesville from
17 his office to have a look at the site.

18 Q. Could I remind you to speak slowly. What was the name of
19 the individual who was the Minister of Mines?

12:57:07 20 A. His name was Jenkins Dunbar, D-u-n-b-a-r.

21 Q. When you went to the site, what did you see?

22 A. We saw a site of about 100 acres all dug up. Clearly about
23 100 acres had been mined by hand. There were pits and holes and
24 so on and all the greenery had been taken away.

12:57:31 25 Q. What else did you notice about that site?

26 A. Well, what was noticeable was that there was nobody digging
27 at all. When we arrived a few people came to see us and showed
28 us some very small diamonds, you know, in the palms of their
29 hands, to indicate that they had found these diamonds on this

1 site, but if there were diamonds on that site I can't imagine
2 that there would be no diggers. The only reason that there would
3 not have been any diggers present would be (1) there were no
4 diamonds or (2) there was a lot of security to keep the diggers
12:58:09 5 away. There was no evidence of any security.

6 PRESIDING JUDGE: Mr Prosecutor, in view of the time I
7 would urge you to somehow wrap up this area in the evidence and
8 we will then adjourn.

9 MR KOU MJIAN: I can break now. That is fine, your Honour.
10 Thank you.

11 PRESIDING JUDGE: So, Court will adjourn to 2.30 in the
12 afternoon for continuation of this witness.

13 [Lunch break taken at 12.59 p.m.]

14 [Upon resuming at 2.30 p.m.]

14:29:42 15 PRESIDING JUDGE: Good afternoon. We will continue with
16 the testimony of Mr Ian Smillie. Mr Smillie, if I may remind
17 you, you are still under oath and your testimony will be given in
18 that regard. Thank you.

19 MR KOU MJIAN: Thank you, your Honour. Before beginning may
14:30:16 20 I simply note for the record the presence, having joined the
21 Prosecution team, of Mr Mohamed A Bangura. He has been with us
22 for the second session this afternoon.

23 PRESIDING JUDGE: So noted.

24 MR KOU MJIAN: Thank you.

14:30:30 25 Q. Mr Smillie, you mentioned this trip to Paynesville when the
26 panel was in Liberia and what you saw regarding a field where
27 supposedly diamond mining was going on. Is alluvial diamond
28 mining labour intensive, or can you comment upon how labour or
29 capital intensive alluvial mining is?

1 A. Well, it is very labour intensive and I guess it would
2 depend to a certain extent on how deep you are digging. If you
3 are just clearing off the surface that would be one level of
4 endeavour. If you have to go down five or 10 feet it would be
14:31:14 5 significantly more, but certainly it is very labour intensive.

6 Q. Now you mentioned that you remarked that you were surprised
7 at the low number of individuals that were present at this site.
8 What is it, in your experience, that made you think that had
9 significant diamonds been present at this site in Liberia more
14:31:37 10 persons would have been present?

11 A. Well, what had been reported was a diamond rush and when
12 you have a diamond rush, there have been diamond rushes since in
13 Liberia and elsewhere, you get thousands of people swarming into
14 the area. There was a big one in Zimbabwe recently where I think
14:31:57 15 the government had to expel something like 20,000 diggers. I saw
16 one something like that in Koidu when I was teaching there. On
17 New Year's day 1968 somebody found a fairly large diamond at the
18 lakeside. In the town there was a small lake. Somebody found
19 a diamond and pretty soon there were thousands of people swarming
14:32:22 20 all over the edges of the lake, taxis, buses, trucks pulling up,
21 dirt being shoveled into them, being driven away to some place
22 for sifting later. I remember one fellow told that me he'd had
23 20 taxi loads of dirt. He'd hired a taxi and they had filled the
24 trunk and they had filled the back seat and carted all the gravel
14:32:46 25 away to sort out later and he found nothing. In fact, often one
26 diamond doesn't necessarily mean anything but it can attract
27 a huge rush of people.

28 Q. Now in the present time in Sierra Leone where they are now
29 at peace do you know if there are a significant number of

1 individuals engaged in mining in Sierra Leone now? Can you give
2 us a idea what in peace time there would be?

3 A. The government of Sierra Leone estimates that there are
4 about 120,000 artisanal diamond diggers at present.

14:33:24 5 Q. Thank you. We were discussing your meeting with the
6 accused. During that meeting did the panel question the accused
7 about his knowledge of Mr Ruprah?

8 A. Yes, we asked if he knew Sanjivan Ruprah and he said no, he
9 didn't.

14:33:48 10 Q. Now, had the panel discovered any information about
11 Mr Ruprah and any connections to Liberia?

12 A. Mr Ruprah was a senior official in the aircraft registry of
13 Liberia and he was travelling using a Liberian passport under an
14 assumed name.

14:34:13 15 Q. A different name; correct?

16 A. A different name, yes.

17 Q. Was the accused asked about Mr Minin?

18 A. Yes.

19 Q. I believe you told us earlier, when you discussed
14:34:29 20 Mr Minin's weapons, the accused's response?

21 A. He said that Minin was trying to sell an aircraft as
22 a presidential jet and that the accused had taken some flights on
23 it in the region, but that it was too expensive and he couldn't
24 afford it and basically it was dismissed. That's what he told
14:34:51 25 us.

26 Q. Was the topic ever raised by anyone at this meeting about
27 holding people to account - about justice to hold people to
28 account for crimes committed in the conflicts in Sierra Leone and
29 Liberia?

1 A. At the end of the discussion he said something about trials
2 and how trials would scare away armed and dangerous men, that
3 trials were not the way to go, there should be a large
4 peacekeeping force more independent of Britain and the United
14:35:29 5 States, that he was very concerned about them, but he did refer
6 to trials, he brought it up, we didn't, and said that if there
7 were trials it would only dissuade armed and dangerous men from
8 laying down their arms.

9 Q. Thank you. Madam Court Officer, your Honours, I would like
14:35:50 10 now for the witness to be shown a document, it's on tab 14. It
11 is Security Council resolution 1343.

12 PRESIDING JUDGE: What you refer to us, is that a flag in
13 the folders?

14 MR KOUMJIAN: Yes, it is tab 14.

14:36:11 15 PRESIDING JUDGE: Tab 14. Has the witness found this
16 document?

17 MS IRURA: Your Honour, this would be marked for
18 identification 12.

19 [MFI-12 admitted]

14:37:13 20 MR KOUMJIAN:

21 Q. Sir, do you recognise this as a resolution of the United
22 Nations Security Council adopted on 7 March 2001 after they
23 received your report?

24 A. Yes.

14:37:27 25 Q. When was your report submitted to the Security Council?

26 A. It was submitted in January of 2001.

27 Q. Did you ever appear in front of the Security Council, you
28 or other members of the panel?

29 A. The entire panel was present in the Security Council when

1 the report, our report, was discussed, but we didn't make any
2 presentation. We made a presentation to the Sanctions Committee
3 earlier, but we didn't speak in the Security Council.

14:38:00

4 Q. Do you know when the debate of the Security Council or the
5 discussion regarding your report took place?

6 A. That was in January 2001.

14:38:20

7 Q. Referring now to this document, the first page of the
8 resolution, I want to direct your attention to the fourth
9 paragraph and perhaps it would be easiest if you first would read
10 that out loud and then I will ask you a question about it.

14:38:46

11 A. "Taking note of the findings of the panel of experts that
12 diamonds represent a major and primary source of income for the
13 Revolutionary United Front (RUF), that the bulk of RUF diamonds
14 leave Sierra Leone through Liberia and that such illicit trade
15 cannot be conducted without the permission and involvement of
16 Liberian government officials at the highest level and expressing
17 its deep concern at the unequivocal and overwhelming evidence
18 presented by the report of the panel of experts that the
19 Government of Liberia is actively supporting the RUF at all
20 levels."

14:39:04

21 Q. Mr Smillie, do you believe that this is a fair summary of
22 the conclusions of the United Nations panel of experts on which
23 you served?

24 A. Yes.

14:39:16

25 Q. Does this remain your opinion today?

26 A. Yes.

27 Q. Turning to paragraph 2 of this on the next page, under (b),
28 did the Security Council adopt various measures directed at the
29 Government of Liberia?

1 A. Yes.

2 Q. What were those measures?

3 A. It required the Government of Liberia to stop all of its
4 military assistance to armed rebel groups. It replaced

14:40:03 5 a previous embargo on weapons to Liberia with a new embargo. It
6 banned the export of diamonds from Liberia with a two-month grace
7 period. It sought to freeze funds that were in any way
8 supporting the RUF. It grounded all Liberian registry aircraft.

9 I think that's it. There was also a list of - a travel ban for
14:40:48 10 several senior members of the Taylor government.

11 Q. I am directing your attention to paragraph 2(a) on this
12 page, the second page of the resolution. Did the Security
13 Council also direct the Government of Liberia to expel all RUF
14 members from its territory and to cease - prohibit all RUF

14:41:18 15 activities on its territory?

16 A. Yes.

17 Q. And did it also direct - going to paragraph (c), I don't
18 believe you covered this, did it address Liberia importing
19 diamonds from Sierra Leone?

14:41:37 20 A. Yes, I'm sorry. It said that no Sierra Leone diamonds
21 should be imported into Liberia unless they were controlled
22 through a certificate of origin regime from the Government of
23 Sierra Leone.

24 Q. Then to clarify another matter, what did this Security
14:41:59 25 Council do regarding the ongoing or prior ban on weapons to
26 Liberia? I am directing your attention to paragraph 1 and
27 paragraph 5. Paragraph 1 appears on the second page, it is very
28 short, and then paragraph 5 on the third page.

29 A. Paragraph 1 terminated the earlier prohibitions on weapons

1 shipments to Liberia and replaced it with another one which is
2 described in paragraph 5:

3 "That all States shall take the necessary measures to
4 prevent the sale or supply to Liberia by their nationals, or from
14:42:48 5 their territories, or using their flag vessels, or aircraft of
6 arms and related materials of all types, including weapons and
7 ammunition, military vehicles and equipment, paramilitary
8 equipment and spare parts whether or not originating in their
9 territories."

14:43:09 10 MR KOUMJIAN: I have finished with this document. I would
11 ask then to have marked for identification the next document
12 which appears on tab 16. I would ask for that to be marked for
13 identification and provided to the witness.

14 PRESIDING JUDGE: Tab 16 would be marked for identification
14:43:34 15 as MFI-13?

16 MS IRURA: That is correct, your Honour.

17 [MFI-13 admitted]

18 MR KOUMJIAN: Perhaps just to make it easier for those
19 searching the record, maybe quite a while from now, this is
14:43:50 20 referring to a letter dated 24 January 2001 to the permanent
21 representative of Liberia to the UN and addressed to the
22 Secretary-General and it is signed by Dr Charles G Taylor. Does
23 the witness have that?

24 THE WITNESS: Yes.

14:44:17 25 MR KOUMJIAN:

26 Q. Sir, you have had a chance to read this over at another
27 time; is that correct?

28 A. Yes.

29 Q. I am directing your attention to page 3. I believe it's

1 the first full - excuse me, the second full sentence:

2 "Our contact with RUF is an expected response to successive
3 Sierra Leone governments' active support and arming of Liberian
4 dissident groups resident in Sierra Leone."

14:44:51 5 Is this consistent with the information, or the
6 affirmations - what the government people in Liberia were telling
7 you about their support for Sierra Leone, for the RUF?

8 A. We were told by all of the official government sources in
9 Liberia that they were not supporting the RUF and that included
14:45:15 10 President Taylor.

11 Q. So during your meetings in Liberia did you ever receive
12 this kind of explanation that these contacts with the RUF were in
13 response to what Liberia perceived as Sierra Leone support for
14 Liberian dissidents?

14:45:34 15 A. No.

16 MR KOUJIAN: I would now like marked for identification
17 and shown to the witness a document that appears on tab 13 and
18 for the record this is a letter dated 18 May 2001 from the Charge
19 d'affaires at the permanent mission of Liberia to the United
14:46:07 20 Nations, addressed to the President of the Security Council.

21 PRESIDING JUDGE: This document will be marked for
22 identification as MFI-14.

23 [MFI-14 admitted]

24 MR KOUJIAN:

14:46:27 25 Q. Sir, the letter refers to a list of RUF members; is that
26 correct?

27 A. Yes, and others.

28 Q. And these were - turning then to the page that is actually
29 the third page of the document that's entitled Enclosure, is this

1 the list that we are talking about, "Enclosure, list of RUF
2 members designated by the committee as being subject to paragraph
3 2(a) of Security Council resolution 1343"?

4 A. Yes.

14:47:02 5 Q. Again is paragraph 2(a) the one we looked at two documents
6 ago from the Security Council resolution that directs the
7 Government of Liberia to expel all RUF members and stop all RUF
8 activities on its territory?

9 A. Yes.

14:47:20 10 Q. I am not going to ask you to read the letter, it speaks for
11 itself, but in the letter certain individuals are acknowledged as
12 being known to the Government of Liberia; is that correct?

13 A. Yes.

14 Q. I am just going to ask you about a few of the individuals
14:47:36 15 on the enclosure list, those being the second name Eddie Kanneh,
16 the fourth name Short Bai Bureh and then the third from last name
17 Dennis Mingo, Brigadier Compass or Superman. Does the letter
18 from the foreign minister of Liberia, Monie Captan, indicate that
19 the Government of Liberia doesn't know who these people are?

14:48:15 20 A. I understand that to be the case. That seems to be what
21 he's saying, yes.

22 MR KOUMJIAN: Your Honour, I am very close to the end of my
23 examination. I was hoping, and I would hope, to be able to play
24 clip number 6 at this time and I would like it marked for
14:48:43 25 identification and if your Honour would like I could give you my
26 reasons for believing it is relevant to this testimony and to
27 this case.

28 PRESIDING JUDGE: Clip number 6?

29 MR KOUMJIAN: Yes, your Honour, tab 12.

1 PRESIDING JUDGE: Clip number 6 would be marked for
2 identification as MFI-15.

3 MS IRURA: That's correct, your Honour.

4 [MF1-15 admitted]

14:49:40 5 MR KOUMJIAN: May that be played? There appears to be no
6 sound. Can we try that again? There appears to be no sound.
7 Perhaps the video booth can try it again.

8 PRESIDING JUDGE: The people in the video booth, could you
9 do something about the audio?

14:50:31 10 [Video played to court]

11 MR KOUMJIAN:

12 Q. Sir, there was - the first speaker other than the narrator
13 in that clip gave a estimate of the amount of money that the RUF
14 made from diamonds in Sierra Leone per year during the conflict
14:54:19 15 years. First, did you recognise that individual?

16 A. Yes, I did.

17 Q. Who was that?

18 A. His name is Alex Yearsley. He works for the British NGO
19 called Global Witness.

14:54:31 20 Q. Now do you have a opinion, based upon your work with the
21 panel and your independent work on conflict diamonds and Sierra
22 Leone, as to the amount of money that the RUF was making on
23 diamonds in the period from November 30 1996 to the end of the
24 conflict?

14:54:51 25 A. In our report we used the figure something between 25
26 million and \$125 million. That was a guesstimate at the time,
27 but I can explain the basis for it. First we spoke to diamond
28 experts and someone in De Beers who knew Sierra Leone very well
29 said that his estimation was probably around \$70 million a year.

1 We were trying to base our numbers on what we thought it was
2 possible to mine at that time. It was fairly difficult because
3 there had been no reliable mining statistics for many years in
4 Sierra Leone, a lot of the diamonds had simply been smuggled out
14:55:37 5 so there were no reliable official figures, but since the war and
6 since the advent of the Kimberley Process we now see what Sierra
7 Leone is capable of mining and on average over the last three to
8 four years they have been mining between 6 and 700,000 carats
9 worth of diamonds per annum. So our estimate wasn't wrong. Even
14:56:02 10 if you took half of that number, or a significant fraction of
11 that number, as being what the RUF might have mined it would
12 still come in the neighbourhood of 30, 40, 50, 60 million dollars
13 worth of diamonds a year given the periods that they actually
14 controlled the diamond fields. So our original numbers were
14:56:26 15 certainly within the ballpark and the De Beers number was
16 probably quite accurate.

17 Q. Perhaps, just to do a little math, you gave some various
18 figures. I understand you say post-war production averaged
19 approximately 600,000 carats in Sierra Leone and earlier you said
14:56:44 20 the price per carat was \$200 or more?

21 A. Yes.

22 Q. And 600,000 times 200 would be \$120 million?

23 A. Yes, the precise numbers for 2004 and 2005 are in my report
24 and I can give you the numbers for 2006 and for the first three
14:57:06 25 quarters of 2007. They are all of an average. On average each
26 year Sierra Leone has been producing 6 to 700,000 dollars -
27 sorry, 6 to 700,000 carats per year at slightly over \$200
28 a carat.

29 Q. Mr Smillie, in that video and several of the videos that we

1 have seen we have heard accounts of horrible atrocities; forced
2 labour, amputations, sexual assault and killings.

3 MR MUNYARD: Madam President, again we are straying into
4 the territory that you ruled against before in relation to this
14:57:49 5 witness.

6 MR KOUMJIAN: I haven't finished my question.

7 MR MUNYARD: The question is clearly going in one
8 particular direction. Before the witness is asked to answer it
9 I don't mind my learned friend spelling it out in full.

14:58:00 10 PRESIDING JUDGE: Thank you. We haven't heard the
11 question, but I think the point is, Mr Prosecutor, you have
12 alluded to forced labour, but I don't recall seeing that in the
13 clip that we just saw.

14 MR KOUMJIAN: No.

14:58:34 15 PRESIDING JUDGE: So please don't make suggestions.

16 MR KOUMJIAN: I have been referring, your Honour, to clip
17 5. I mentioned all of the clips we saw today. I am sorry, but I
18 was --

19 PRESIDING JUDGE: Why do we keep jumping up and down? We
14:58:46 20 thought you were now leading evidence relating to clip 6.

21 MR KOUMJIAN: I'm sorry, this question is summarising all
22 of the clips, all of the evidence.

23 PRESIDING JUDGE: If you are going to refer to a clip which
24 has been marked for identification, refer to it by number, the
14:59:01 25 number we have given it. That is the way the evidence should go.

26 MR KOUMJIAN: Okay. I am referring in this question to
27 clip 2 which is MFI-7, clip 5, MFI-8, and the last clip, clip 6,
28 which is MFI-15. Would your Honour like to hear --

29 PRESIDING JUDGE: What is the question relating to these

1 clips?

2 MR KOUMJIAN:

14:59:43

3 Q. The question, Mr Smillie, is based upon your knowledge of
4 Sierra Leone, of diamonds and the role of diamonds in a conflict,
5 is there any logical explanation for efforts to inflict extreme
6 fear through these types of crimes on a population in order to
7 exploit diamonds?

15:00:06

8 MR MUNYARD: Again, Madam President, I object to that
9 question. How can this diamond expert possibly give evidence
10 which is about matters relating to the conduct of a war.

15:00:27

11 PRESIDING JUDGE: I am inclined to allow this question and
12 to overrule the objection on the grounds that we are interested
13 in hearing what Mr Smillie has to answer, but also with the
14 possibility of the Defence being able to cross-examine him around
15 this area. You can ask him any question you want in
16 cross-examination relating to his answer. So the objection is
17 overruled.

15:00:45

18 THE WITNESS: I think the - you know the diamond areas
19 cover several hundred square miles so in order to control them
20 you either need a very large police force, or you need to be able
21 to frighten people away from them. I think part of the tactic in
22 chopping hands and so on was to create such a fear of the RUF
23 that the areas would be cleared for them to do whatever they
24 wanted, including diamond mining and foraging for supplies.

15:01:09

25 MR KOUMJIAN:

26 Q. If you have a situation such as you have normally in peace
27 time where there is not this fear in a population and diamonds
28 are known, alluvial diamonds, to be present, what is the result?

29 A. As I told you, there are an estimated 120,000 diamond

1 diggers, by the government's estimate, digging diamonds in Sierra
2 Leone and most of those people would be in Kono District, or in
3 Tongo Field, in the areas that were of greatest interest to the
4 RUF. So there would be huge numbers of people in peace time and
15:01:40 5 there are right now.

6 Q. Did you receive any evidence that this number of civilians
7 were not present during the war during the periods of time that
8 RUF controlled the diamond mining areas?

9 A. Yes, I mean the RUF had people that it had captured and
15:02:00 10 were forcing to mine diamonds. We understood that they were
11 doing some direct mining themselves, some of their own troops
12 were involved in mining, but generally speaking the populous had
13 cleared out because it was so frightening to be near them.

14 MR KOUMJIAN: Thank you. Your Honours, I thank your
15:02:22 15 Honours very much for your indulgence and I have completed my
16 direct examination. I would at this time move the documents that
17 have been marked for identification into evidence, all of them.
18 That's MFI-1 through MFI-15.

19 PRESIDING JUDGE: Mr Griffiths, could I hear from you -
15:03:49 20 there is an application to tender into evidence all the documents
21 that have been marked for identification. What is the view of
22 the Defence?

23 MR GRIFFITHS: Your Honour, you will have noted that in
24 relation to several of the clips we objected to their
15:04:07 25 admissibility. Your Honour, you will have noted that in relation
26 to a number of the clips, and indeed in relation to all of them,
27 we were concerned that they referred to material outside the
28 expertise of this particular witness. Now insofar as those clips
29 refer to diamonds, as for example you will have noted that in the

1 last clip shown there was a single reference to diamond
2 production, whereas that was surrounded by lengthy references to
3 amputations and the like.

4 Now to the extent that those clips refer to materials
15:04:49 5 within the expertise of this witness we have no objection to that
6 material going before this Court, but all other material we would
7 submit should be ruled at this stage inadmissible until such time
8 as the Prosecution are able to produce the witnesses who are able
9 to speak to those matters directly.

15:05:16 10 PRESIDING JUDGE: Yes, Mr Prosecutor, what is your reply?

11 MR KOUMJIAN: Your Honour, the rules of the Special Court,
12 unlike many domestic jurisdictions, do not have a limitation on
13 hearsay and in fact, because of the magnitude of these crimes, of
14 course it is not possible and efficient for us to bring the tens
15:05:39 15 of thousands of victims of what happened in Sierra Leone here
16 today. The very short clips regarding the victims of crimes that
17 were shown, which total under nine minutes, illustrate a campaign
18 of terror that took place in Sierra Leone. It's relevant
19 certainly to this case. It's part of the crimes that are
15:06:02 20 charged. It's also very relevant to the testimony of this
21 witness because this witness has explained to us how that
22 campaign of terror makes sense with those trying to exploit
23 alluvial diamonds which are spread out in a large area.

24 Further, your Honour, in - I also appeal to the purpose of
15:06:22 25 this Court and this tribunal being set up. Although they are not
26 present here, the victims of course are part of our proceedings
27 and they have a right to be heard. These very, very short
28 references to the crimes that happened - I don't believe the
29 Defence are disputing these crimes happened and I think it is

1 good for all of us to be reminded that that's what this case is
2 about.

3 MR GRIFFITHS: Your Honour --

15:06:50

4 PRESIDING JUDGE: Mr Griffiths, I don't think you have a
5 right to address us after the reply, not automatically.

6 MR GRIFFITHS: Very well.

15:09:35

7 PRESIDING JUDGE: The practice of this Court has been that
8 when we get a witness like Mr Smillie who comes in an expert
9 capacity and he is testifying with regard to a number of

10 documents, as he has done, the practice is that we will first go
11 through the cross-examination of the witness and during re-exam,
12 or maybe at the end of the re-exam, the Prosecutor then applies
13 to tender in the exhibits. At that time we have had the benefit
14 of hearing the testimony in cross-examination and in thereby

15:09:59

15 deciding - being able to decide better whether or not to admit
16 the individual exhibits. If that's okay with the Prosecutor we
17 will defer this application until we have exhausted the
18 cross-examination of Mr Smillie upon his testimony. It seems
19 that the Prosecutor agrees with me, so I will invite --

15:10:26

20 MR GRIFFITHS: I certainly agree.

21 PRESIDING JUDGE: I will invite Mr Griffiths, on behalf of
22 the Defence, to commence your cross-examination.

23 MR MUNYARD: Madam President, it is me who is going to
24 cross-examine this witness.

15:10:42

25 PRESIDING JUDGE: I do beg your pardon. Please proceed
26 with the cross-examination.

27 CROSS-EXAMINATION BY MR MUNYARD:

28 MR MUNYARD:

29 Q. Mr Smillie, can I start, please, by asking you a little

1 more about your background, your qualifications and your
2 expertise. You were born in 1944 and you graduated in 19 --

3 A. 1967.

4 Q. Thank you. And you graduated in economics?

15:11:21 5 A. That's right.

6 Q. Did you have any particular specialisation within economics
7 in the course of your bachelor degree?

8 A. No.

9 Q. Your first job after graduation, in fact, was to be
10 a teacher in Sierra Leone on a volunteer program, if I understood
11 you correctly.

12 A. That's right.

13 Q. So you went from the field of academic study of economics
14 into teaching across a range of subjects?

15:11:51 15 A. That's right.

16 Q. And you spent somewhat less than a year in Koidu in Sierra
17 Leone?

18 A. That's correct.

19 Q. And in the course of that time did you work for any other
20 organisation when you were in Sierra Leone apart from the
21 educational authority under whose auspices you acted as
22 a teacher?

23 A. No.

24 Q. Had you ever been to Sierra Leone before 1967?

15:12:22 25 A. No.

26 Q. You left in 1968, June of 1968, and you then went back to
27 Canada, is that correct, or did you go to Nigeria?

28 A. I went to Nigeria directly.

29 Q. Working for a Canadian organisation?

1 A. That's right.

2 Q. And you were in Nigeria for some three years?

3 A. Yes.

4 Q. And in the course of your time in Nigeria did you develop
15:12:51 5 any expertise whatsoever in any other field?

6 A. Well, our postings were in health, in education at all
7 levels, secondary education, tertiary education. We had
8 agricultural postings. So I had to familiarise myself with the
9 Nigerian requests that we were getting and the kinds of
15:13:18 10 situations that Canadians would go into.

11 Q. Yes, you were essentially an administrator, weren't you?

12 A. Yes.

13 Q. You were responsible in that role for making sure that the
14 Canadian volunteers were being directed to the areas that the
15:13:35 15 organisation had selected as suitable for them to work in with
16 a view to assisting the development of Nigeria and Nigerian
17 society?

18 A. Well, the requests were made by the Nigerian government and
19 we were vetting the requests. We didn't select the posts, the
15:13:54 20 government did, but we acceded to their requests if we could.

21 Q. Right and then you went back to Canada for a year within
22 the same organisation again as an administrator?

23 A. Yes.

24 Q. Then between 1972 and 1974 you worked for the organisation
15:14:22 25 CARE, an Irish charitable organisation; is that correct?

26 A. No, CARE is an international NGO. At that time the
27 headquarters was in New York. It is essentially an American
28 organisation.

29 Q. Essentially American, but I think it has quite a strong

1 Irish contingent, is that correct?

2 A. No, I think you are thinking of Concern.

3 Q. Well, in any event, you were doing the same kind of work
4 for them, were you not?

15:14:46 5 A. Yes.

6 Q. As an administrator?

7 A. It was a little different. I mean, CUSO was a personnel
8 program. With CARE it was a housing construction development
9 operation. We were building low cost housing, setting up

15:15:02 10 cooperatives and revolving loan funds for villages who had either
11 suffered in the liberation war or from the cyclone that had
12 preceded my arrival there.

13 Q. Yes and you were administering that particular project?

14 A. Yes.

15:15:18 15 Q. Then you spent a year back in Canada at the University of
16 Western Ontario in London, Ontario?

17 A. Yes.

18 Q. Again as an administrator?

19 A. The office of international education was to link the

15:15:31 20 different departments of the university to government programs
21 and other international work.

22 Q. Yes, but you were still acting as an administrator, weren't
23 you?

24 A. Yes.

15:15:45 25 Q. To be fair to you I think there was a limited amount of
26 teaching involved in that also?

27 A. Yes.

28 Q. But essentially still an administrator?

29 A. Yes.

1 Q. Then between June of 1975 and October 1979 you were running
2 the organisation that you founded, Inter Pares, which again was
3 a charitable development organisation?

4 A. That's correct.

15:16:11 5 Q. Did you yourself have to travel to any of the countries
6 that Inter Pares was working in?

7 A. Yes, I did.

8 Q. Were any of those countries - did that involve going to
9 Sierra Leone at all?

15:16:24 10 A. No.

11 Q. Or Liberia?

12 A. No.

13 Q. And in your work for Inter Pares did you ever have any
14 contact at all with the diamond industry?

15:16:37 15 A. No.

16 Q. That brings us almost to the end of the 1970s. You went
17 back, I think, then to Canada, late 1979?

18 A. No.

19 Q. October 1979?

15:16:53 20 A. No, my work with Inter Pares and the University of Western
21 Ontario were in Canada.

22 Q. Based in Canada, I beg your pardon, but you then became
23 executive director of CUSO in 1979?

24 A. That's right, yes

15:17:07 25 Q. And that had a very large program of Canadian volunteers in
26 various parts of the world?

27 A. Yes.

28 Q. And you were administering that program?

29 A. Yes.

1 Q. You were the chief executive officer in effect, weren't
2 you?

3 A. I was.

4 Q. That took you to 1983 when you became more of a freelance?

15:17:29 5 A. Yes.

6 Q. A freelance writer and consultant?

7 A. That's correct.

8 Q. And as far as your consultancy work was concerned, have you
9 been doing that for the past 24 years?

15:17:47 10 A. I was doing that full-time until Partnership Africa Canada
11 began its work on the diamond issue.

12 Q. Which was in 19 --

13 A. We started at the end of 1998. We started working
14 full-time on that in 1999, at the beginning of 1999.

15:18:06 15 Q. So from 1983 to the end of 1988, beginning of 1999, you
16 were essentially a consultant?

17 A. And writer. I wrote a number of books at that time.

18 Q. Were you earning your living from writing, or from your
19 consultancy work?

15:18:23 20 A. As I said earlier, you don't earn a great deal of money
21 from development writing. You really have to supplement it from
22 something, so most of my income was certainly from consulting
23 work.

24 Q. And consulting work effectively in the development field;
15:18:39 25 is that right?

26 A. Yes.

27 Q. Were you effectively evaluating projects for various
28 organisations?

29 A. I was doing a variety of things, including feasibility

1 studies, the development of programs, project proposals and
2 evaluations.

3 Q. Did any of that work take you to Sierra Leone?

4 A. Yes.

15:19:01 5 Q. For what sort of length of time, how long?

6 A. I was asked by CARE to go to Sierra Leone in 1996. I think
7 I was there for about a month and it was to look at the capacity
8 of local civil society organisations, local NGOs, to carry out
9 more development work than had been the case up to then.

15:19:25 10 Q. Now that's in the middle of the civil war?

11 A. Yes.

12 Q. Whereabouts were you in Sierra Leone for that month?

13 A. I was in Freetown and I went to Kenema.

14 Q. And did you experience any difficulty in getting from

15:19:40 15 Freetown to Kenema?

16 A. This was about a month after the Kabbah Government had been
17 elected so it was during a lull in the storm. It was technically
18 a peace time.

19 Q. March/April 1996?

15:19:54 20 A. Yes.

21 Q. During that time did you have any involvement with the
22 diamond industry?

23 A. No.

24 Q. And that, I think, was the only time that you were in

15:20:07 25 Sierra Leone in the mid-1990s?

26 A. That's correct.

27 Q. That brings us then to your work with Partnership Africa
28 Canada, PAC. Who set up Partnership Africa Canada?

29 A. It was established by a number of Canadian NGOs and the

1 Canadian International Development Agency following the Ethiopian
2 famine to better administer and channel funding to emergency
3 areas in Africa.

15:20:53 4 Q. Had the Partnership Africa Canada had any involvement,
5 prior to your work in the late 1990s, in the diamond industry?

6 A. No.

7 Q. You have no training in geology, do you?

8 A. No, I don't.

15:21:14 9 Q. Apart from your bachelors degree that you completed in
10 1967, do you have any training in statistics?

11 A. No.

12 Q. Do you, in fact, have any additional training in economics
13 since your degree?

14 A. Formal training, no.

15:21:31 15 Q. Right. Until your work for Partnership Africa Canada,
16 beginning really in the beginning of 1999, you had been back to
17 Sierra Leone for the month in '96 and I think you told us you had
18 been there occasionally on holiday from Nigeria?

15:21:58 19 A. And when I was director of CUSO in 1983 I went back on an
20 official visit.

21 Q. On an official visit in 1983 lasting how long?

22 A. I think probably two and a half weeks.

23 Q. Prior to your going to Liberia as part of the United
24 Nations panel in October 2000, had you ever been to Liberia
15:22:15 25 before?

26 A. Yes, very briefly I was in Liberia. When I left Sierra
27 Leone to go to Nigeria I travelled by ship and in those days the
28 Elder Dempster line put in at different ports along the coast and
29 there was a half day stop in Monrovia.

1 Q. So apart from a half day stop in Monrovia all those years
2 ago, you'd never been to Liberia prior to your trip there as
3 a member of the United Nations panel?

4 A. That's correct.

15:22:44 5 Q. When you went for three days?

6 A. That's correct.

7 Q. And have you been to Liberia since October of 2000?

8 A. No.

9 Q. I want to ask you a little more then, please, about the PAC
15:23:05 10 report that you wrote that was titled Heart of The Matter,
11 a title that you took from Graham Greene's novel set in West
12 Africa; is that right?

13 A. That's right.

14 Q. That was the point of the reference for the title of the
15:23:24 15 book?

16 A. Yes.

17 Q. When you started work for PAC in the beginning of 1999 what
18 was the focus of the work, what were you actually asked to do?

19 A. There were three of us who agreed to work on this project.
15:23:42 20 Until the project actually began none of us worked for

21 Partnership Africa Canada. We had been meeting on a voluntary
22 basis with a number of Sierra Leonean Canadians and people like
23 myself who had worked in Sierra Leone and who were concerned
24 about the war and about how little was being done to stop it.

15:24:02 25 When the idea arose that some of the fuel for this war might be
26 coming from diamonds we decided that we would try to put together
27 a bit of money to do a research project. We asked 15 Canadian
28 NGOs if they would contribute \$2,000 each and then we went to the
29 government for a matching grant. They all said yes and we went

1 to the government for a matching grant so we raised \$60,000 and
2 we used that money during 1999 to write and research the report.
3 That paid for everything.

15:24:41

4 Q. And from who did the idea come that diamonds were playing
5 a role in the war?

15:25:01

6 A. One of the Sierra Leoneans in the group said - none of us
7 had actually thought of this. We were more concerned about the
8 relief situation. One of the Sierra Leoneans in the group said
9 after a particularly frustrating incident where a clinic that we
10 had raised money for was burned down, he said, "This is about
11 diamonds and until we do something about diamonds - or until
12 something is done about diamonds this thing will never be over."

13 Q. So you are telling us the civil war had been running since
14 1991, yes?

15:25:17

15 A. Yes.

16 Q. And in late 1998 when you are having these discussions that
17 lead to the setting up of this particular project, that until
18 then nobody had come up with the idea that diamonds were playing
19 such a significant role in the civil war?

15:25:34

20 A. Well, I wouldn't say nobody had come up with that idea. We
21 were a voluntary group that was meeting on a voluntary basis in
22 the evenings to raise money for victims of the war and we hadn't
23 discussed causes or how we might actually influence them.

15:25:53

24 Q. Right, but since you came together as a group and in the
25 light of all the work that you have done since and the research
26 you have done and the papers and books that you have read, are
27 you saying that it wasn't until one of your group came up with
28 this idea in a evening discussion that the idea that diamonds
29 were at the heart of this war had not come to light before?

1 A. We had not been studying diamonds or the war or the
2 economies of it. We were a relief group, a group of volunteers
3 trying to raise money for victims of the war.

4 Q. With respect I asked you since your work on this area and
15:26:27 5 in the light of all that you have read, your research while you
6 were doing the project and everything you have looked at since
7 the late 1990s, are you saying that it was not until a member of
8 your informal group came up with this idea that nobody had come
9 up with the notion that diamonds were at the heart of this civil
15:26:50 10 war?

11 A. Yes, that's true. It was something - like for me it was
12 like a light going on because I had lived in the diamond area,
13 I had seen how chaotic it was even in peace time and I realised
14 the minute he said it that it had a lot to do with diamonds.

15:27:11 15 Q. And who was this person?

16 A. You want his name?

17 Q. Yes.

18 A. His name was Adrian Labor.

19 Q. Has he written or done or published anything at all on this
15:27:25 20 subject?

21 A. Not that I'm aware of.

22 Q. Was he part of the trio who wrote Heart of the Matter, your
23 report?

24 A. No, he wasn't.

15:27:39 25 Q. Where were you based when you wrote the report?

26 A. Well, I was based in Ottawa, Ottawa is my home.

27 Q. And the other two people who wrote the report with you?

28 A. Ralph Hazleton, Dr Ralph Hazleton also lives in Ottawa.

29 And Dr Lansana Gberie, a Sierra Leonean journalist. I mean he

1 has a journalism background in Sierra Leone. He was at the
2 University of Toronto.

3 Q. So all three of you were based in Canada?

4 A. Yes.

15:28:15 5 Q. And you did the research and wrote the report over the
6 period of something less than a year; is that right?

7 A. A little less than a year.

8 Q. How often did you go to Sierra Leone during the - all three
9 of you, during the period of time that you were doing the
10 research and coming up with the report?

15:28:31 11 A. I did not go to Sierra Leone at that time and I don't think
12 Ralph Hazleton went. I think it was done by - I think the trip
13 to Sierra Leone was done by Lansana Gberie.

14 Q. How long did he spend in Sierra Leone doing his research
15:28:55 15 towards this report?

16 A. I think probably about six weeks.

17 Q. I just want to ask in global terms, I am going to come back
18 to it in detail in due course, where is it that you got the
19 statistics from that feature in your report about Sierra Leone
15:29:20 20 diamond production, Liberian diamond production, the periods of
21 time during which the RUF held the diamond fields or didn't hold
22 the diamond fields, where did you get that information from?

23 A. All of the statistical data, the historical data was
24 a matter of record. The statistical data was all open sources
15:29:43 25 either it had been published in government documents, trade
26 documents, trade statistics, that sort of thing. The Belgian
27 statistics were all available online. They subsequently removed
28 them because they were so damaging to Belgium, but at the time
29 they were online.

1 Q. We will come back to the Belgian statistics, but that
2 brings us really to the diamond industry in general. It's fair
3 to say, isn't it, that in the 1990s and all the decades preceding
4 that the diamond industry had been patently dishonest about the
15:30:25 5 country of origin of a large number of the world's rough
6 diamonds?

7 A. Well, I don't know about the industry as a whole.
8 Certainly there was a lot of confusion and a great deal of
9 illicit behaviour in the diamond industry.

15:30:39 10 Q. What do you mean by confusion, Mr Smillie?

11 A. Confusion over the origin of diamonds versus the provenance
12 of diamonds. Provenance meaning where they came from last,
13 original meaning where they were mined.

14 Q. All right. Can we just set the scene in a little more
15:30:58 15 detail. As far as Sierra Leone is concerned the diamond industry
16 there goes back decades?

17 A. Yes.

18 Q. What do you know about the Liberian diamond industry? When
19 did that start up?

15:31:14 20 A. Diamonds were discovered in Liberia not long after they
21 were discovered in Sierra Leone, but there was no exploitation of
22 diamonds I think seriously until the 1950s.

23 Q. And that was done by who?

24 A. There were a number of companies went to Liberia and set up
15:31:31 25 operations. There was an Anglo Dutch company. De Beers for
26 a time had a operation there. There were several very small
27 companies.

28 Q. De Beers in fact had buying offices in Liberia right up
29 until the year 2000, didn't they?

1 A. In fact we put that in our report and I explained in my
2 report for this Court why we had reported that although it was
3 not actually correct. The Polestar company --

4 Q. Polestar being part of De Beers?

15:32:03 5 A. Polestar was listed in the De Beers annual report of 1998.
6 I think that was the most recent one we had. Polestar was listed
7 as a De Beers company in Monrovia. They subsequently told us
8 that it had been closed for years.

9 Q. Right. Although they still had it in their annual report
15:32:23 10 in the late 1990s they told you that that shouldn't have been in
11 their annual report?

12 A. Yes.

13 Q. So that was just a oversight on the part of the world's
14 largest diamond company? Is that what you are saying?

15:32:35 15 A. That's what they were saying.

16 Q. All right. So there is diamond mining going on in Sierra
17 Leone, from the 30s onwards, certainly reaching a peak in the 60s
18 and 70s; yes?

19 A. Yes.

15:32:51 20 Q. Diamond mining going on in neighbouring Liberia?

21 A. Yes.

22 Q. Also in Guinea?

23 A. Yes.

24 Q. Other countries in Africa, in particular in Angola?

15:33:02 25 A. Yes.

26 Q. And South Africa obviously?

27 A. Yes.

28 Q. Other countries in Africa actually exporting diamonds even
29 though in the case of some of them no diamonds being mined there,

1 for example the Gambia?

2 A. That's correct.

3 Q. How would a country like the Gambia become a diamond
4 exporter if they had no diamond production in their territory?

15:33:31 5 A. Well, if they were doing it legally they would import the
6 diamonds from another producing country, from a producing country
7 and they would then re-export them. If it was illegal the
8 diamonds would be smuggled in and smuggled out.

9 Q. What would be the point of a diamond producing country
15:33:52 10 sending its own diamonds legally to another country which didn't
11 mine its own diamonds for them to sell on?

12 A. Well, it would be a variety of reasons. For example,
13 a great many diamonds were shipped through Switzerland from
14 Africa and once they left Switzerland they were labelled as Swiss
15:34:15 15 diamonds, you couldn't tell where they were from. Part of
16 a reason for that was it was a way to minimise VAT tax, value
17 added tax, in some European jurisdictions.

18 There would be a lot of other reasons why individuals, not
19 necessarily governments, but why individuals would want to
15:34:35 20 obscure where diamonds came from. In some cases it would be for
21 tax evasion, in some cases it might be because the diamonds were
22 stolen or because they were used by rebel movements to buy
23 weapons.

24 Q. One country that we haven't mentioned so far is Russia.
15:34:53 25 Initially the Soviet Union and then latterly the Russian
26 Federation. That is a very big diamond producing country, isn't
27 it?

28 A. It is. I did discuss that this morning.

29 Q. Yes, I am saying in our exchange now we haven't touched on

1 Russi a?

2 A. Yes.

3 Q. Which also is another very big di amond producer. Mauriti us
4 also sells di amonds, doesn't it?

15:35:17 5 A. Mauriti us doesn't produce any di amonds. They only cut and
6 pol ish di amonds.

7 Q. But Mauriti us is a di amond selling country, isn't it? It's
8 part of the di amond industry?

9 A. It is. They pol ish di amonds and re-export them.

15:35:33 10 Q. How does a country like Mauriti us come to be part of the
11 di amond industry when they have no di amond resources of their
12 own?

13 A. The same way the United States would be part of the di amond
14 industry and have no di amond resources of their own. They simply
15:35:50 15 import the di amonds, process them and re-export them.

16 Q. Now the whole process of importing di amonds, it can be
17 legal or it can be illegal?

18 A. Yes.

19 Q. Is it the case that it's generally believed that about
15:36:03 20 20 per cent of the world's di amond production is illegally
21 exported?

22 A. This was a figure that we calculated for the period before
23 the Kimberley Process came on stream. Particularly the period
24 during the height of the wars in Sierra Leone, the Congo and
15:36:23 25 Angola. We calculated that it was between 20 and 25 per cent
26 illicit. That's not the case today.

27 Q. Historically there's always been a smuggling trade of
28 di amonds between Sierra Leone and Liberia, hasn't there?

29 A. I don't know about always, but certainly since the 1950s.

1 Q. Well, that's really when the Liberian diamond industry got
2 going and it's before the peak in the Sierra Leone diamond
3 production, isn't it?

4 A. That's correct.

15:36:50 5 Q. So the practice of smuggling diamonds out of Sierra Leone
6 into Liberia and onwards has been a practice that long pre-dated
7 the appearance of Mr Taylor?

8 A. Yes.

9 Q. Equally diamonds in conflict zones. Probably the most well
15:37:16 10 known one is Angola. Diamonds were a feature of the Angolan
11 civil war a long time ago, weren't they, in the 80s?

12 A. They didn't really become a feature in the Angolan civil
13 war until the cold war ended and the government and the rebels
14 lost their cold war patrons. It was really after that that

15:37:40 15 diamonds really started to come to the fore.

16 Q. UNITA who were the rebel movement in Angola were exporting
17 vast amounts of Angolan diamonds, weren't they?

18 A. Yes they were.

19 Q. When I say vast amounts, we are talking of up to 80 million
15:38:02 20 pounds worth a year and maybe a lot more?

21 A. Yes. I would have to consult the statistics, but they were
22 very large numbers.

23 Q. It was well known that those diamonds were being exported
24 illegally from Angola by UNITA, wasn't it?

15:38:18 25 A. Yes.

26 Q. Security for those smuggled diamonds was being provided by
27 international firms such as Brinks Matt. I think you would be
28 aware of that, wouldn't you?

29 A. I'm not an expert on Angola, I don't know the details of the

1 UNITA diamond movement, but if you're moving large amounts of
2 diamonds you would have to have some kind of security, but
3 I don't know how they did it.

15:38:48

4 Q. And diamonds - that sort of scale of wealth has to be
5 insured usually, doesn't it?

6 A. Not if you're a thief.

7 Q. Well, if you're illicit. You used the word illicit
8 earlier. Are you seeking to draw a distinction between people
9 who are openly thieves and people who are turning a blind eye?

15:39:06

10 Is that why you used the expression illicit?

11 A. No, I think as I understood what you were getting at,
12 illicit, the UNITA diamonds would have been illicit, I don't
13 think --

14 Q. In what sense?

15:39:18

15 A. That UNITA was not a legal government in Angola.

16 Q. It was a terrorist organisation?

17 A. Exactly and I'm not sure that UNITA would, as a terrorist
18 organisation, have had access to Brinks or to any kind of
19 insurance company.

15:39:35

20 Q. I see. I am suggesting Lloyds of London acting as insurers
21 for millions of pounds worth of diamonds smuggled out of Angola,
22 to give you one example of one country?

23 A. I'm sorry, I don't know about that.

24 Q. You know nothing about that. Is that not something that is
25 ever discussed at the Kimberley Process meetings?

15:39:54

26 A. The Kimberley Process - I think one of the reasons that it
27 was successful - decided to look forward and not to look
28 backwards, not to look back at what all had happened. What we
29 needed to do was to end these wars, not to get into a slanging

1 match over who was most guilty in the business. I think there
2 was a general recognition and acknowledgement that there were
3 a lot of things that needed to be fixed, but there was no going
4 back and pointing fingers.

15:40:27 5 Q. I see. Well, I'm going to ask you to go back, please,
6 based on your knowledge and expertise, if it stretches that far.
7 The diamond trade, as you have already told us, was conducted to
8 a very large extent through Belgium?

9 A. Yes.

15:40:44 10 Q. Antwerp being the centre of the diamond industry in Europe?

11 A. Yes.

12 Q. Switzerland obviously played some part and, if Israel is to
13 be regarded as a European country, also Israel. But Antwerp was
14 the centre of the European diamond trade; yes?

15:41:01 15 A. Yes.

16 Q. And Belgian law is very clear or was very clear in the
17 1990s, wasn't it, that in order to import diamonds into Belgium
18 you had to certify the country of origin?

19 A. You didn't have to certify the country of origin. You had
15:41:20 20 to show documentary evidence of where you had bought the
21 diamonds. You had to show invoices.

22 Q. I'm suggesting to you that Belgian law said that you had to
23 show the country of origin. Do you not agree with that?

24 A. Yes.

15:41:33 25 Q. You do agree?

26 A. I do agree with you.

27 Q. The fact is that what people were doing, they were showing
28 invoices demonstrating the provenance of the diamonds, weren't
29 they?

1 A. Yes, that's correct.

2 Q. Where they had last come from?

3 A. Yes.

15:41:53

4 Q. And those invoices, everybody in the diamond industry in
5 Belgium knew in many cases were not worth the paper they were
6 written on because they didn't actually show where the country of
7 origin was?

15:42:11

8 A. They should have known that, but until we pointed it out it
9 had never been acknowledged by anybody. In Our Partnership
10 Africa Canada report, I think the most significant part of it was
11 the exposure of those Belgian statistics.

12 Q. Can I just take you, please, to your report for this Court
13 to the figures that you give for Liberian diamonds?

15:42:37

14 PRESIDING JUDGE: Counsel, it would be helpful if you can
15 mention the document by the MFI number if you remember it.

16 MR MUNYARD: I think it's MFI-1 in fact. It's the first
17 tab.

18 MS IRURA: MFI-1 is a video clip.

15:43:00

19 MR MUNYARD: Thank you. It's the first tab. It's
20 Mr Smillie's report.

21 JUDGE DOHERTY: Is that the one named Diamonds, The RUF and
22 the Liberian Connection?

23 PRESIDING JUDGE: That is MFI-9. Please continue.

24 MR MUNYARD: Thank you.

15:43:14

25 Q. Page 9 of your report.

26 A. Your Honour, could I have a copy of the report?

27 MR MUNYARD: Certainly. Your Honour do you wish me to
28 refer to the page of the report or to the court pagination at the
29 top? The court pagination at the top is rather unwieldily given

1 the size of the numbers. If you are content --

2 PRESIDING JUDGE: I think we are content with your
3 reference to the actual page of the report rather than the Court
4 Management number.

15:43:44 5 MR MUNYARD: Thank you.

6 Q. Mr Smillie, have you got page 9?

7 A. Yes.

8 Q. I am going to come back to look at the report in more
9 detail in due course, but I just want to take an example from that
10 page. You have got statistics there of Liberian diamond exports
11 and Belgian imports?

15:43:59

12 A. Yes.

13 Q. I think you say in the paragraph immediately above that
14 that there are - that these are based on estimates supplied by
15 the US geological survey and the Liberian ministry of lands,
16 mines and energy. That's the Liberian side, the left-hand side
17 of the chart; is that right?

15:44:22

18 A. I think the Liberian government figures are their actual
19 figures. The US geological figures are just estimates.

15:44:42

20 Q. The way you have written it, it says two estimates are
21 available. The first by the US geological survey and the second,
22 figures supplied by the Liberian ministry. Are you saying that
23 your report is inaccurate, that the second is not an estimate?

24 MR KOUMJIAN: Objection, because that's his interpretation
25 of the language. The report says figures supplied.

15:45:00

26 PRESIDING JUDGE: Counsel, the witness is quite capable of
27 explaining his own report. Please let the witness answer the
28 question.

29 THE WITNESS: As I said, the figures were supplied by the

1 Liberian ministry of lands mines and energy.

2 MR MUNYARD:

3 Q. We understand that, but the way you have described them are
4 estimates, two estimates, your words, your report. The first by
15:45:27 5 the US geological survey, the second are figures supplied by the
6 Liberian ministry. Are they an estimate or aren't they?

7 A. The first ones are estimates. The second ones are the
8 Liberian government figures so I assume they are not estimates.

9 Q. Have you any idea how accurate the Liberian ministry
15:45:46 10 records are likely to be for the period 1985 to 1999?

11 A. No.

12 Q. I'd like you to look, please, at the right-hand side
13 column, the Belgian diamond imports from Liberia, and take the -
14 go up from the bottom and go up five columns. We have in - it
15:46:12 15 says it's 1994, but I think you might find --

16 A. That's a typo.

17 Q. -- it's 95.

18 A. That's a typo.

19 Q. So if we all correct the second 1994 and turn that into 95.
15:46:27 20 10,678 carats worth --

21 A. That's 10 million. Excuse me. That's 10 million carats.

22 Q. I'm so sorry. Yes, it's in thousands of carats. You tell
23 us how much it's worth?

24 A. \$358 million.

15:46:47 25 Q. That's a increase on the previous year of 3 million carats
26 worth how many million?

27 A. 392 million.

28 Q. Then the following year, 1996, there is a increase to
29 12,692,000 carats worth, getting on for double the previous year,

1 \$616 million?

2 A. Correct.

3 Q. That's what went into Belgium under the heading "Liberian
4 diamonds" imported into Belgium?

15:47:32 5 A. Correct.

6 Q. Are you suggesting that it was only when Partnership Africa
7 Canada, the three of you, came up with your report that people in
8 Belgium realised that Liberia - these certificates saying that
9 these diamonds came from Liberia, it only dawned on the Belgians
10 then that there might be something illicit about all of these
11 diamonds coming into their country?

15:47:52

12 A. Yes, I'm saying exactly that.

13 Q. You're not seriously suggesting that, are you, Mr Smillie,
14 that the Belgians were not aware that this huge influx in 1995
15 and 1996 had to have something, to say the least, fishy about it?

15:48:12

16 A. Well, let me explain what I mean. First, there is nobody
17 in the diamond industry who knows anything about West Africa,
18 particularly Liberia or Sierra Leone, who would for a minute
19 believe these statistics. These statistics, however, were
20 recorded by the Belgian Ministry of Economic Affairs through
21 their customs department. So these were the official figures.
22 So you're right, there was a very serious problem going on, but
23 it had never been exposed, it had never been addressed and it had
24 certainly never been made public. When our Partnership Canada
25 Africa report came out it caused a great deal of stir in Belgium,
26 a great deal of media attention.

15:48:32

15:48:54

27 Q. Yes. What you'd done is you'd lifted the lid publicly on
28 what everyone in the diamond industry in Belgium and round the
29 world already knew; that it was preposterous to suggest that

1 there was this amount of Liberian diamond production going into
2 Europe, into Antwerp.

3 A. If they didn't know it they should have.

15:49:21

4 Q. It is stretching credibility beyond breaking point, isn't
5 it, to suggest they didn't know it but should have?

6 A. That was the point we made in our report.

15:49:42

7 Q. There was a huge amount of illicit practice going on in the
8 diamond industry starting with illegal alluvial diggers in Sierra
9 Leone selling to people who would then smuggle their diamonds
10 into Liberia and diamonds going out of Liberia as Liberian.

11 That's one way in which illicit trade was going on; yes?

12 A. Yes.

15:50:05

13 Q. Secondly, a very large volume of diamonds going out of -
14 sorry, going into world markets in places such as Tel Aviv and
15 Antwerp, certificated as Liberian, diamonds that had never even
16 entered the territory of Liberia. That's correct, isn't it?

15:50:29

17 A. We don't know how many diamonds went into Liberia. The
18 same thing can be said for the Gambia. Huge volumes, as you
19 mentioned, were coming out of the Gambia as well. We don't know
20 how many diamonds actually moved under the umbrella of these huge
21 numbers.

22 Q. Exactly. The importers in Israel, to take that country for
23 example, didn't require details of country of origin either by
24 law or by practice, did they?

15:50:45

25 A. In Israel you do have to supply, or you did have to supply
26 invoices, but Israel did not publish its statistics so we didn't
27 have access to - there was no open source for statistics the way
28 there was in Belgium.

29 Q. But it is possible to talk to people in the industry

1 without having to go to statistics, isn't it, Mr Smillie?

2 A. Yes of course.

3 Q. And did you?

4 A. Yes.

15:51:10 5 Q. And did what I suggest turn out to be correct, that Israel
6 had no law or practice that required you to state country of
7 origin as opposed to provenance of the diamonds?

8 A. There was a great deal of confusion around this issue of
9 country of provenance and country of origin. It was only when
15:51:36 10 our report came out that countries began to require clarification
11 on this. I can tell you about the case of Switzerland, for
12 example, which caused enormous amounts of confusion in the
13 industry until the industry started to settle on proper
14 definitions for these two words.

15:51:49 15 Q. You don't need a proper definition of country of origin, do
16 you? Country of origin means what it says: Where the thing
17 originated from. That's simple English, isn't it?

18 A. Unfortunately it's not that simple where customs
19 authorities are concerned and where the diamond industry is
15:52:07 20 concerned. It had to be clarified during the course of the
21 creation of the Kimberley Process.

22 Q. Can I ask you a little more about Russia, please. The
23 Russian diamond corporation, the state diamond corporation,
24 eventually its name was reduced to the acronym Alrosa?

15:52:34 25 A. That's correct.

26 Q. That's an abbreviation of three much longer Russian words
27 that I don't pretend to be able to pronounce. Alrosa you told
28 the Court earlier had a contract with De Beers?

29 A. Yes.

1 Q. De Beers has a body called the Central Selling
2 Organisation, doesn't it, the CSO?

3 A. In those days it was called the CSO. It's not called that
4 anymore.

15:53:04 5 Q. No, well, we are talking about those days. If you
6 contracted with De Beers Central Selling Organisation normally
7 that was an exclusive contract, wasn't it?

8 A. Yes.

9 Q. That you had to sell only to De Beers?

15:53:17 10 A. Yes.

11 Q. In some cases De Beers allowed you what's called a window?

12 A. Yes.

13 Q. And the window was - I think you described or you referred
14 to it earlier. You didn't refer to it by that name, but you said

15:53:32 15 that Alrosa was allowed to sell to a small number of other
16 people?

17 A. It was allowed to sell domestically, for domestic use.
18 That was the ostensible window.

19 Q. Yes. Thank you. And the word ostensible is very important
15:53:52 20 here, isn't it?

21 A. Yes.

22 Q. And the window - no one actually knows how much the
23 Russians sold to persons other than the Central Selling
24 Organisation of De Beers, do they?

15:54:04 25 A. That's correct.

26 Q. And during the 1990s after the fall of communism in 1989
27 the Russian economy, as anybody knows, went into a complete nose
28 dive, didn't it?

29 A. Yes.

1 Q. Apart from the handful of oligarchs who got their grips on
2 the state industries. But the economy collapsed, that's right,
3 isn't it?

4 A. Yes.

15:54:30 5 Q. And Alrosa as an arm of the State, or a State corporation
6 as it became under the new dispensation - Alrosa was well known
7 to be selling way beyond the margin it had been allowed by
8 De Beers Central Selling Organisation, wasn't it?

9 A. Yes and we made this report - we made this point in the PAC
15:54:57 10 report and in the Security Council report.

11 Q. The problem with all of these statistics and figures is
12 nobody actually knows how much or how many diamonds either in
13 carat weight or in value that were being described as Liberian
14 when they're imported into Belgium or any other country are
15:55:22 15 actually Liberian, or Sierra Leonean, or Russian or Angolan, or
16 Congolese or from anywhere else, do they?

17 A. No, but the connection in Belgium always went back, through
18 all those invoices, back to Liberia. And the ones we checked
19 were connected to the Liberian international and shipping and
15:55:47 20 corporate registry. So there was a direct Liberian connection
21 whether the diamonds were Liberian or from the Congo or anywhere
22 else.

23 Q. You checked, if I understood you correctly, only eight
24 invoices or sets of invoices. Was it eight invoices or eight
15:56:03 25 sets of invoices?

26 A. Eight invoices.

27 Q. Eight invoices out of how many?

28 A. Well, I suppose there would have been hundreds if not
29 thousands.

1 Q. Yes, I am going to come back to the eight invoices and what
2 you call the direct connection to Liberia in a moment. Can we
3 stick with the general point first, please. There is absolutely
4 no way of determining how many - and I will take those two years
15:56:32 5 1995 and 1996 - so-called Liberian diamonds going into Belgium
6 were actually Liberian or what their real country of origin was.
7 There is no way of knowing, is there?

8 A. That's correct.

9 Q. The figures, in other words, are pretty well worthless?

15:56:55 10 A. The Belgian figures are worthless. Not our estimates. Our
11 estimates I don't think are worthless. I think they are pretty
12 accurate.

13 Q. We will come onto your estimates in due course, but the
14 Belgian figures you agree are pretty well worthless?

15:57:11 15 A. As a indication of diamonds mined in Liberia or Sierra
16 Leone, yes.

17 Q. Now back to De Beers, if I may. De Beers had something
18 close to a monopoly certainly in Liberia for a while, didn't
19 they?

15:57:27 20 A. Not in recent years.

21 Q. You tell us when?

22 A. By the late 1990s De Beers' control which had once been as
23 high in the global diamond world as 90 per cent of the world
24 market, by the late 1990s they were down around 65, maybe
15:57:50 25 70 per cent.

26 Q. But they had a large number of buying offices in Liberia,
27 didn't they?

28 A. Not in recent years they didn't have buying offices in
29 Liberia.

1 Q. Putting aside what they told you about their Polestar
2 office when do you agree that they had a large number of buying
3 offices in Liberia?

4 A. I don't think since the 1980s at least. That's when they
15:58:13 5 closed their buying offices in Sierra Leone as well.

6 Q. Right. De Beers also had a policy of exclusive contracts
7 with purchasers, didn't they, site holders?

8 A. Yes.

9 Q. Would you explain what site holders are?

15:58:36 10 A. De Beers sells only to companies that - selected companies
11 and these are called site holders. You can't buy a De Beers
12 diamond on the open market. Today you can, they have a limited
13 retail operation, but in the 1990s they only sold to special
14 companies who pass some kind of a test as far as they were
15:59:03 15 concerned. They were looking for companies that in their terms
16 added value to diamonds. So companies that would advertise
17 diamonds and add to the kind of advertising that De Beers was
18 doing itself. So they had about 120 companies that they sold to
19 in those days. Those were called site holders.

15:59:27 20 Q. But there was always a problem, wasn't there, that De Beers
21 acknowledged, even if only informally, that other people were
22 buying diamonds in the diamond producing countries, not just
23 their site holders?

24 A. Well, their site holders were not prevented from buying
15:59:51 25 from others. If you are coming around to the Russian question
26 again, I mean the Russians were not supposed to be selling
27 outside of their relationship with De Beers, but there was no
28 reason that a site holder, a De Beers site holder, in New York
29 couldn't buy diamonds on the open market.

1 Q. What does the word leakage mean to you in the context of
2 the diamond industry?

3 A. Well, I think it means the same sort of thing as in the
4 relief business when you are shipping food and some of it leaks
16:00:29 5 out through corruption into the open market.

6 Q. Yes. It's accepted, isn't it, within the diamond industry
7 that there was a very considerable degree of leakage, that
8 legally produced diamonds that were being processed for export
9 often fell into illegal hands and were spirited out of the
16:00:52 10 country of origin in that way?

11 A. Yes. It depends on the nature of the mining and it depends
12 on the nature of the control and of the government. Certainly
13 diamonds have always been stolen. They have always been
14 smuggled. They have always been used for other things besides
16:01:13 15 jewellery.

16 Q. Now the Sierra Leone diamond industry you have told us
17 about. I want to ask you, please, about the Liberian diamond
18 industry. Where is the Liberian diamond industry based within
19 that country?

16:01:28 20 A. You mean where does the mining take place?

21 Q. Yes, what are the diamond producing areas in Liberia?

22 A. Mainly along the Lofa River running parallel to the Sierra
23 Leone border.

24 Q. Anywhere else?

16:01:46 25 A. There has been a recent discovery in the south eastern part
26 of the country.

27 Q. What part is that?

28 A. I'm sorry, I can't tell you. I have forgotten the name of
29 the area. It was about four years ago, there was a fairly large

1 di scovery.

2 Q. Who di scovered that?

3 A. I don't know. There is a lot of exploration going on in
4 Liberia now. There are a number of companies exploring for
16:02:19 5 di amonds.

6 Q. What about Nimba County? Are you familiar with about any
7 di amond production in Nimba County in Liberia?

8 A. I don't know a lot about di amond production in Liberia.

9 Q. Do you know anything about kimberlites being found in
16:02:44 10 Li beria?

11 A. Yes, there are several kimberlites in Liberia but most of
12 them are not di amondi ferous, or if they are they are not
13 economical for mi ni ng purposes.

14 Q. You told the Court earlier about a meeting that you'd had
16:02:58 15 in October 2000 with President Taylor and he talked to you in
16 that meeting about four new kimberlites having been di scovered
17 and you said I think in this Court that you thought that was
18 rather odd?

19 A. Not odd that there were four kimberlites. There are four
16:03:18 20 kimberlites. There could be 24 kimberlites. The point that he
21 made that was odd was he said Liberia had more di amonds than
22 Si erra Leone.

23 Q. I see. When he told you also that four new kimberlites had
24 been di scovered did you believe him?

16:03:35 25 A. We had no reason to believe or di sbelieve him, except that
26 in the state of war that was going on in Liberia and had gone on
27 for the previous four years it was unlikely that there was
28 a great deal of serious prospecting going on.

29 Q. Did you ask him where those kimberlites had been

1 discovered?

2 A. We didn't. We had an hour with him and we had to cover
3 a lot of territory. We had a brief discussion about the diamonds
4 and then we moved on to other things.

16:04:05 5 Q. How is it that diamond mining companies would be drawn to
6 start to look for kimberlites in a territory in the first place?
7 What would be the likely reason for them starting prospecting
8 initially?

9 A. There are thousands of junior mining companies, junior
16:04:26 10 exploration companies looking for diamonds. There are many
11 operating in Sierra Leone today. Some people believe that the
12 main kimberlite in Sierra Leone has not yet been found. Others
13 say that's completely false, that the diamonds are - the source
14 of diamonds has been found and diamonds are actually being played
16:04:52 15 out. But if you look at India there's a lot of exploration going
16 on in India. In Biblical times the only source of diamonds in
17 the world was India. They were all alluvial diamonds. No
18 kimberlite has ever been found in India and so people are still
19 searching. De Beers spent hundreds of millions of dollars a year

16:05:15 20 looking for diamonds in Canada and never found any. It was
21 a very small geology of firms that actually found them. So
22 there's a great many people out there looking for diamonds and if
23 there are already diamonds in the area more will come.

24 Q. Did you when you were preparing your report, either your
16:05:29 25 PAC report or your report for this Court, did you investigate the
26 current state at the time of writing the reports of the diamond
27 industry in Liberia in any serious way?

28 A. What do you mean by any serious way?

29 Q. Did you make inquiries as to where diamond mining was

1 taking place either alluvial or in any sense industrial?

2 A. Yes. Yes, we did, both in Sierra Leone and in Liberia and,
3 as I said earlier, the minister for mines in Liberia was very
4 keen to show us a place where he thought there was a new diamond
16:06:07 5 find.

6 Q. Yes, you talked about the Paynesville incident, but that
7 was separate from the suggestion that was made to you by
8 President Taylor that four new kimberlites had been found. Did
9 you explore that at all?

16:06:22 10 A. No, we didn't.

11 Q. I don't mean with him, I mean at any later stage?

12 A. No, his meeting was the last one we had. We didn't meet
13 with anyone else after we met with President Taylor.

14 Q. So would you agree that your knowledge of the Liberian
16:06:37 15 diamond industry is nothing like as thorough as your knowledge of
16 the Sierra Leone diamond industry?

17 A. Yes, that's correct. We did ask Mr Dunbar for reports on
18 --

19 Q. The minister?

16:06:49 20 A. Yes, minister Jenkins Dunbar. We did ask him for reports
21 on the geological surveys. We understood that there had been
22 surveys done and he said that there were but he couldn't lay his
23 hands on them so we never got any at that time.

24 Q. Are you aware of any continuing diamond prospecting being
16:07:08 25 done by companies along the Mano River area?

26 A. Yes. In fact now I have remembered where the diamond rush
27 was, it's in Greensborough, but there are a number of companies
28 in Liberia currently undertaking exploration. There always have
29 been.

1 Q. In your report, and I am looking at page 9 again, the top
2 of page 9 of your report, MFI-9, you say that, "Liberian diamonds
3 are generally known to be small, low quality goods" mostly "small
4 industrials and poor quality gems" and you cite an authority
16:07:57 5 Mr Greenhalgh there for that?

6 A. Yes.

7 Q. And when was Greenhalgh writing?

8 A. I think his book was published in 1985, but that's only one
9 source. I mean I could provide you with many others. I mean
16:08:12 10 this is well known in the diamond industry that Liberia is not
11 a significant producer of quality diamonds.

12 Q. Then you gave a historical average value during the 1960
13 and 70s of 25 to \$30 per carat?

14 A. Yes.

16:08:31 15 Q. Where did you get that from?

16 A. I think we got that from industry sources.

17 Q. I see. The carat value was measured in pounds sterling
18 until the 1980s, wasn't it, Mr Smillie?

19 A. All the statistics that I have used right from the
16:08:48 20 beginning of our work are always in dollars per carat.

21 Q. US dollars?

22 A. US dollars.

23 Q. Are you aware that the practice until the 1980s was to give
24 the carat value in pound sterling?

16:09:02 25 A. I have never seen any figures given in pound sterling.

26 Q. I see. So are you saying that the value of 25 to \$30 per
27 carat was the price in the 60s and 70s?

28 A. Yes.

29 Q. And so translating that to current values that would work

1 out at something, and I'm talking in very broad terms now,
2 something closer to 190 to 200 US dollars at current value,
3 wouldn't it?

16:09:37 4 A. Well, I am not sure you can say that because it really
5 depends on the market for low quality goods. I think you'd have
6 to consult a diamond dealer to get the exact value of those
7 goods.

8 Q. We will come to that in due course. The carat value - you
9 have given an average carat value for Sierra Leonean diamonds of
16:10:02 10 something in the region of was it 230?

11 A. Last year the average per carat value of Sierra Leonean
12 diamonds was in the neighbourhood of \$230.

13 Q. Right. The average carat value though will vary from time
14 to time depending on a whole host of factors, won't it?

16:10:23 15 A. That's correct.

16 Q. Including production levels at particular mines?

17 A. Yes.

18 Q. A mine might start to run out of its diamond source?

19 A. Yes.

16:10:34 20 Q. Including in particular where we're dealing with alluvial
21 diamond mining, the nature of the rainy season?

22 A. Yes, there's a seasonal issue.

23 Q. Also another factor that would affect the carat value, the
24 amount produced and the quality produced, would be who controls
16:10:54 25 the alluvial miners because many of the people who are working as
26 alluvial miners are actually supplied with their tools and their
27 equipment and their location by those who run the area?

28 A. These figures are all - and traditionally the figures that
29 are used for a country are the export figures, not the figures

1 that a miner would actually get at the mine site.

2 Q. But those export figures are also affected by all the
3 factors I've talked about and many more, aren't they?

4 A. Yes.

16:11:29 5 Q. And you admitted fairly that you couldn't say how accurate
6 the Liberian ministry export figures were?

7 A. We can only take them at their word.

8 Q. Yes. You have also accepted that the Belgian figures that
9 we have seen quoted there as far as Liberian diamonds are
16:11:49 10 concerned are pretty well worthless?

11 A. But --

12 Q. In the attributing them to actual Liberian production?

13 A. Yes.

14 Q. And there's no real way of assessing the accuracy of
16:12:07 15 figures until we come to the Kimberley Process, is there?

16 A. Well, it depends on the country involved. I think if
17 you're --

18 Q. I am concerned with these countries in particular?

19 A. Yes, I think that's true.

16:12:20 20 Q. So can I ask you a little about the Kimberley Process.

21 That was a process that was started by a number of organisations,
22 NGOs, the industry and countries as well; is that right?

23 A. Yes.

24 Q. I think that one of the countries involved was the United
16:12:40 25 Kingdom?

26 A. Yes.

27 Q. From which countries were the original group who set up the
28 Kimberley Process drawn?

29 A. The invitation to the first Kimberley meeting came from the

1 Government of South Africa and it was supported by Botswana and
2 Namibia. Botswana and Namibia and South Africa were the primary
3 leaders at the beginning. As it came along Britain and Canada
4 became quite prominent in it.

16:13:09 5 Q. And it would also be right to say, wouldn't it, that it
6 wasn't only you in the Partnership Africa Canada, the PAC group,
7 but other NGOs and other governments were raising the whole
8 question of the origin of so-called Blood Diamonds in the 1990s
9 and the early years of this century?

16:13:34 10 A. The first report on Blood Diamonds, and it didn't use that
11 expression, but on what came to be known as conflict diamonds the
12 first report that I'm aware of was the report done by Global
13 Witness on Angola. That report came out in December 1998. I'm
14 not aware of any other reports until ours came out 12, 13 months
16:13:57 15 later.

16 Q. The following year?

17 A. The following year. The coalition of NGOs that gradually
18 developed was led by Global Witness and Partnership Africa
19 Canada. It included a number of - in fact we had over 200 NGOs
16:14:12 20 involved in the campaign at one stage. The first Kimberley
21 meeting was relatively small, but as the meetings progressed and
22 as we started to negotiate what should be in this Kimberley
23 agreement the number of governments increased, the number of NGOs
24 increased, the diamond industry became more engaged on the
16:14:32 25 subject.

26 Q. Yes. The United Kingdom foreign and Commonwealth office
27 had several individuals dedicated to this issue, didn't it, who
28 were working on this issue full-time?

29 A. Several? There could have been three or four if that's

1 several, yes. So did other governments. The bulk of the work on
2 the Kimberley Process in the first three years leading up to the
3 agreement was done by South Africa.

4 Q. And the Kimberley Process really came into effect in 2003?

16:15:11 5 A. It technically came online January 1, 2003 but there were
6 a lot of glitches in the system and I don't think it really
7 became - it didn't start to become effective until about mid-way
8 through 2003.

9 Q. In the meantime you have the United Nations resolutions
16:15:30 10 that you showed us today, the Security Council resolutions, that
11 imposed a ban on Liberian diamonds amongst other things?

12 A. Yes.

13 Q. And the panel that you were a member of and the Liberian
14 government under President Taylor was making efforts to ensure
16:15:49 15 that a scheme similar to the - or a scheme along the lines of the
16 Kimberley Process was put into effect in Liberia, were they not?

17 A. I'm not aware of that. There was - a representative of the
18 Liberian government came to one of the Kimberley meetings. He
19 was a minister. His name was Samuel - it will come to me in
16:16:18 20 a moment. Same name as the actor. Samuel - I'm sorry, but
21 Mr Taylor will know the name. He came to one of the Kimberley
22 meetings and minister Dunbar came to another meeting as well.

23 Both tried to persuade the Kimberley Process that Liberia should
24 be admitted. I think the general consensus was that under the
16:16:43 25 circumstances Liberia was seriously problematic and should not be
26 admitted. Samuel Jackson is the name.

27 Q. But they were nevertheless seeking admission to the
28 Kimberley Process and they also attended all the meetings at the
29 World Diamond Council, didn't they, the Government of Liberia?

1 A. I wouldn't say they attended all of the meetings of the
2 World Diamond Council. In order to attend those meetings you
3 have to be invited. They may have attended some.

4 Q. Right. Seeking to put a regime in force in their own
16:17:15 5 country to guarantee the genuineness of the country of origin
6 certificates for their diamonds?

7 A. I remember Samuel Jackson saying at the meeting that he
8 attended, the Kimberley meeting that he attended in South Africa,
9 he said, "What do we have to do to convince you that we're
16:17:32 10 serious? We'll do whatever you say."

11 Q. Yes. Now can I go back to the eight invoices that you
12 looked at and the whole question of Liberian - I will call them
13 certificates of convenience. Liberia is known as a country that
14 issues flags of convenience for shipping?

16:17:58 15 A. Yes.

16 Q. That was a process that began in the course of the Second
17 World War, wasn't it?

18 A. As far as I know, yes.

19 Q. In order to ensure the safe passage of merchant shipping
16:18:12 20 under allied flags, that's to say United Kingdom, United States
21 and other countries that were fighting the war against Hitler, in
22 order to ensure the safe passage of their shipping across the
23 Atlantic?

24 A. I'm not aware of that.

16:18:27 25 Q. But you are aware that the process started in the Second
26 World War?

27 A. As far as I know, yes.

28 Q. And are you saying you're not aware of the --

29 A. Purpose.

1 Q. -- obviously benign purpose behind it. The system is run
2 by an organisation that appears to be a State organisation, the
3 Liberian maritime organisation?

4 A. Yes.

16:18:47 5 Q. Are you aware that that organisation is completely
6 contracted out, or certainly by the 1990s it was completely
7 contracted out and in effect in practice it was run by an
8 American company?

9 A. We were told that by the company itself, the LISCR,
16:19:10 10 Liberian International Ship & Corporate Registry, but we were
11 also told then and later that the Liberian government had strong
12 influence over it.

13 Q. The Liberian government obviously received a share of the
14 revenue. You presumably knew that?

16:19:23 15 A. Yes.

16 Q. But effectively the system was run by an American private
17 enterprise?

18 A. I'm not entirely sure who was running it. I'm not entirely
19 sure who was on the board of directors.

16:19:38 20 Q. As far as diamond certificates are concerned, a similar -
21 in fact an even vaguer system operated, didn't it? You have
22 already told us about the eight invoices. The eight invoices
23 were registered - were they registered to an address in Broad
24 Street, Monrovia?

16:19:59 25 A. Somewhere in Broad Street somewhere and other addresses.

26 Q. None of them were found to exist. At best there was
27 a forwarding address facility at some of the addresses that you
28 visited to find these companies who were trading in Liberian
29 diamonds?

1 A. That's correct.

2 Q. And although you said to the Court this afternoon that that
3 showed a direct link between those diamonds and Liberia, in
4 practice it showed no such direct link at all, did it?

16:20:31 5 A. No, what I said was that the invoices that we checked and
6 we couldn't - our purpose was not to check every Belgian
7 statistic and every Liberian statistic. Our mandate was to try
8 and find links between weapons, diamonds and the war in Sierra
9 Leone. So when we pulled eight invoices for fairly large
16:20:56 10 shipments of diamonds we then checked them back to Liberia and
11 there definitely was a Liberian connection. We never said that
12 those diamonds came - were mined in Liberia, we didn't say they
13 were mined in Sierra Leone either. What we said was there was
14 a broad umbrella of subterfuge and illicit behaviour in Liberia
16:21:18 15 and in Belgium that covered what was actually going on where the
16 diamonds were concerned.

17 Q. Mr Smillie, if the addresses in some cases didn't even
18 exist then there was no direct Liberian connection, was there?

19 A. As I understand it, all of the addresses were known to
16:21:37 20 courier companies. Mail was going to those addresses through
21 courier companies. So they had some existence in fact whether
22 there was actually an office or not.

23 Q. So that's the best you can do by way of saying there was
24 a direct connection with Liberia; a forwarding post office
16:22:00 25 address that didn't even indicate whether the company was based
26 in Liberia?

27 A. Yes.

28 MR MUNYARD: Your Honour, I'm about to move to a different
29 area now. It's going to take me more than seven minutes to

1 cover. I'm quite happy to start if you wish me to, but it may be
2 that it would be better to have the whole of it heard in one
3 session. I'm in the Court's hands.

16:22:31 4 PRESIDING JUDGE: Yes. I am not sure, counsel, how much
5 longer you would be, whether this cross-examination will take
6 hours or a day, just by way of projection?

7 MR MUNYARD: It will take certainly more than an hour.
8 I can't give anything other than a barristerial estimate which
9 are notoriously unreliable. They are as unreliable as Liberian
16:22:59 10 diamond certificates, I'm afraid.

11 PRESIDING JUDGE: Thank you, counsellor. We are scheduled
12 to adjourn at 4.30. It is now nearly 25 past four and so I think
13 this is a good time to adjourn.

14 Mr Smillie, I want to thank you for your testimony so far
16:23:19 15 today. Your testimony continues tomorrow and I am obligated to
16 remind you not to discuss your testimony for as long as you are
17 in the witness stand until you have actually finished your
18 testimony whenever that will be.

19 THE WITNESS: I understand.

16:23:35 20 PRESIDING JUDGE: Thank you. Now court will adjourn to
21 tomorrow at exactly 9 o'clock in the morning for continuation of
22 this testimony.

23 [Whereupon the hearing adjourned at 4.25 p.m.
24 to be reconvened on Tuesday 8 January 2008 at
16:24:00 25 9.00 a.m.]

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I N D E X

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