



Case No. SCSL-2003-01-T

THE PROSECUTOR OF  
THE SPECIAL COURT  
V.  
CHARLES GHANKAY TAYLOR

THURSDAY, 9 APRIL 2009  
9.30 A.M.  
TRIAL

TRIAL CHAMBER II

---

Before the Judges:

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

For Chambers:

Mr Simon Meisenberg  
Ms Sidney Thompson

For the Registry:

Ms Rachel Irura

For the Prosecution:

Ms Brenda J Hollis  
Mr James Johnson  
Ms Kathryn Howarth.  
Ms Ula Nathai-Lutchman  
Ms Maja Dimitrova

For the accused Charles Ghankay  
Taylor:

Mr Morris Anyah  
Mr Silas Chekera  
Ms Salla Moilanen

1 Thursday, 9 April 2009

2 [Open session]

3 [The accused present]

4 [Upon commencing at 9.30 a.m.]

09:17:12 5 PRESIDING JUDGE: Good morning. We will take appearances  
6 first, please.

7 MS HOLLIS: Good morning, Mr President, your Honours,  
8 opposing counsel. This morning for the Prosecution James  
9 Johnson, Kathryn Howarth, Maja Dimitrova, Ula Nathai-Lutchman and  
09:31:23 10 myself Brenda J Hollis.

11 PRESIDING JUDGE: Thank you, Ms Hollis. Yes, Mr Anyah.

12 MR ANYAH: Yes, good morning Mr President, good morning  
13 your Honours, good morning counsel opposite. Appearing for  
14 Defence this morning are myself Morris Anyah, Mr Silas Chekera  
09:31:39 15 and we are joined by our case manager Ms Salla Moilanen.

16 PRESIDING JUDGE: Thank you, Mr Anyah. Well, as we all  
17 know today has been fixed for the Prosecution response to the  
18 Defence Rule 98 motion. Yes, Ms Hollis.

19 MS HOLLIS: Thank you, Mr President. May it please the  
09:32:03 20 Court. The Defence counsel initially spoke and made arguments  
21 concerning the crime base in this case and so the Prosecution  
22 will begin addressing those points.

23 In relation to the crime base, the Defence counsel's  
24 arguments included a request to your Honours to strike certain  
09:32:28 25 locations; some of them apparently because of differences in  
26 spelling between the indictment and evidence given. The  
27 locations that were set out for you by the Defence relating to  
28 Counts 1 burning, were Goderich, Kent and Grafton for which it  
29 was said there was no evidence. As to Tumbo there was an

1 argument there was no evidence for Counts 1, 2 and 3. However,  
2 that argument seemed to be premised on a difference in spelling  
3 in that the evidence was T-O-M-B-O instead of T-U-M-B-O.

09:33:17 4 The same held true for Wendedu as to Count 1 burnings, the  
5 apparent argument being that on the record the location was  
6 spelled W-E-N-D-A-D-U. For Bomboa fuidu, Counts 2 and 3, there  
7 was an argument that there was no evidence presented. The  
8 Defence also referenced Kayima spelled two different ways and  
9 Counts 7 and 8 and this argument apparently also was based on  
09:33:44 10 spelling defences in that the Defence counsel asked you to strike  
11 one of the spellings K-A-I-M-A.

12 The Defence submissions relating to these locations, both  
13 as to the lack of evidence and spelling differences, must fail  
14 because spelling differences are not dispositive and the argument  
09:34:08 15 there is no evidence does not take into account the language of  
16 the rule which speaks of dealing with counts only and not  
17 particulars.

18 As to spelling differences, your Honours have addressed  
19 this issue in your Rule 98 decision in the AFRC case at paragraph  
09:34:29 20 25 where you found it inappropriate to strike out locations based  
21 on spelling, finding that due to vernacular languages and  
22 dialects names were pronounced or spelled differently and also  
23 that sometimes witnesses were not literate and therefore phonetic  
24 spellings were used. That same rationale should apply here today  
09:34:59 25 and should defeat that basis of objection.

26 Regarding the argument there is no evidence for these  
27 locations, as I mentioned, that ignores first and foremost the  
28 language of Rule 98 which requires the Trial Chamber to determine  
29 only whether there is no evidence capable of supporting a

1 conviction on one or more counts of the indictment.

2 As we are looking at counts, it is not necessary for the  
3 Trial Chamber to enquire into the sufficiency of the evidence in  
4 relation to each paragraph of the indictment, or break the count  
09:35:35 5 down to its particulars supplied in the indictment, and your  
6 Honours discussed that at paragraph 21 of your Rule 98 decision.

7 You also went on in paragraph 21 to indicate that indeed  
8 the Trial Chamber is not empowered by Rule 98 to break the count  
9 down into its particulars and to enter a judgment of acquittal in  
09:35:59 10 relation to any particular which has not been proved, nor would  
11 it be practical to do so.

12 We suggest that is the approach that should be taken in  
13 relation to this Defence argument as well.

14 Be that as it may, the Prosecution indeed has presented  
09:36:17 15 evidence on all of these locations and should your Honours  
16 request it, despite the discussion that I have just engaged in,  
17 we are prepared to provide you the specific evidence which  
18 supports the locations. That is really a matter for your  
19 Honours. Our position is that --

09:36:40 20 PRESIDING JUDGE: Well, when you say "provide it", do you  
21 mean refer us to evidence?

22 MS HOLLIS: That is correct.

23 PRESIDING JUDGE: Those references perhaps may be saving of  
24 some time to us, so if you can give us those references.

09:37:18 25 MS HOLLIS: Most certainly, Mr President. As to Count 1,  
26 burning, relating to Goderich, Kent, Grafton and Tumbo itself, we  
27 would refer the Trial Chamber to confidential exhibit P284, to  
28 the evidence of TF1-360 at page 3213 to 3214; TF1-334 at page  
29 8328, 8332; TF1-585 at pages 15725 to 15730. In addition for

1 Tumbo, TF1-097 gave evidence of burning and killing at page 18560  
2 to 18561 and 18563 to 18567.

3 In relation to Wenedu Counts 1, 2 and 3, we would refer  
4 you to TF1-015 at pages 722 to 723 and 736 and we would also  
09:38:33 5 refer you to TF1-217 at page 19398 to 19399. In terms of Bomboa  
6 fuidu, Counts 2 and 3, we would refer you to TF1-192 at pages  
7 3963 to 3969 and Prosecution exhibit 202, prior transcript pages  
8 19670, 19679 to 19681. In relation to Kaima or Kayima, Counts 7  
9 and 8, we would refer you to Prosecution exhibit 191 at pages  
09:39:24 10 18552 to 18559 of the prior transcript and to exhibit P-192 and  
11 confidential exhibit P-193.

12 PRESIDING JUDGE: Yes, proceed. Thank you, Ms Hollis.

13 MS HOLLIS: Thank you. Now, in various iterations  
14 throughout the submission by the Defence, Defence counsel also  
09:39:53 15 basically asked you to engage in examining contradictions and  
16 inconsistencies in the evidence. It is inappropriate at this  
17 stage to engage in such. The evidence is whether there is - the  
18 test is whether there is evidence which could possibly support a  
19 conviction on one or more counts. Evidence on which the Trial  
09:40:17 20 Chamber could convict, not ultimately would convict, and your  
21 Honours discussed this at paragraph 38 of your Rule 98 decision.

22 In that, in paragraph 8 of that decision, you indicated  
23 that if one possible view of the facts might support a conviction  
24 the Trial Chamber cannot enter a judgment of acquittal.

09:40:37 25 Also at paragraph 38 in your general findings you referred  
26 to Defence submissions that some of the Prosecution witnesses  
27 were contradictory or unreliable, and you reiterated that the  
28 object of the enquiry at this stage is not to make determinations  
29 relating to credibility or reliability but rather to determine

1 whether the evidence, assuming it is true, could not possibly  
2 sustain a conviction.

3 We also suggest that it is inappropriate at this time, and  
4 you are not required certainly to look at all the evidence in the  
09:41:14 5 case; rather, whether there is evidence - some evidence - which  
6 could support a conviction on each or all counts. So we suggest  
7 it would be inappropriate at this point to consider  
8 contradictions - alleged contradictions - or inconsistencies.

9 Now, turning to the substantive crime based arguments,  
09:41:41 10 Defence counsel argued relating to Count 1, acts of terror, and  
11 focused on the element of primary purpose that the act or threat  
12 of violence against people or property must be carried out with  
13 the primary purpose of spreading terror. We therefore shall  
14 focus on primary purpose as well.

09:42:04 15 Firstly, it is a requirement to show the primary purpose  
16 was such, not the motivation for which this primary purpose was  
17 engaged in.

18 Secondly, terror may also mean or include extreme fear.  
19 That is at Galic Trial Chamber judgment paragraph 137. How do  
09:42:28 20 you determine this was the primary purpose? In making this  
21 determination, as in making the determination relating to other  
22 elements of offences as well as individual criminal  
23 responsibility, you can certainly look to evidence outside the  
24 temporal and territorial jurisdiction of the Court if it is  
09:42:52 25 relevant to establish this primary purpose element. Nothing  
26 prohibits the use of such evidence and it should be used if it is  
27 relevant.

28 You would also look not only at the actions taken against  
29 the people, but the circumstances in which these actions were

1 taken. Two examples in the evidence before you are illustrative  
2 of this.

3 Firstly, you had TF1-189 testify about the rebels  
4 systematically raping and burning in a village and the killing of  
09:43:26 5 a man in horrific circumstances; all this while the other  
6 inhabitants of the village were forced to hear or watch what was  
7 happening, and that is at pages 16492 to 16498, 16504 to 16507.

8 TF1-064, at pages 17648 to 17657, testified about hearing  
9 children in her village screaming as they were killed by the

09:44:01 10 rebels and that after the killings the witness was made to look  
11 among the dead bodies for her relatives and found her children  
12 among them. She also testified that the people captured were  
13 taken from this village to Tombodu and that one of the things  
14 that she had to do was to carry a bag of heads, the bag dripping

09:44:28 15 blood, and that the rebels made her laugh about this. She  
16 further testified that in Tombodu when the bag was emptied she  
17 saw the heads of her children in the bag and that the heads of  
18 the victims were thrown into a pit.

19 So not only do we have this conduct, but the circumstances  
09:44:49 20 in which this conduct is carried out that give rise to showing  
21 the primary purpose was that of terror.

22 Also at pages 4027, 4036 to 4037 and 4172 to 4173, you've  
23 heard that relating to the period of the Freetown attack the  
24 rebel attacks included the element of instilling great fear in  
09:45:17 25 people and that one can certainly say that the rebel campaign did  
26 instill a vast degree of terror across entire communities.

27 You also heard that the campaign of terror waged by the RUF  
28 and the AFRC involved the systematic laceration, mutilation or  
29 severing of limbs of non-combatants including children and the

1 elderly and that the killing of civilians during the attack on  
2 Freetown looked not like chaos, but like terrorisation such as  
3 was identified in so many other attacks in Sierra Leone.

09:46:09 4 TF1-588 also told you, at pages 16962 to 16964, while  
5 referring to exhibit D-62 which was an Africa Confidential  
6 article, a chronology, in April of 1998, and he looked at the  
7 second paragraph on page 1 of that article where it said that in  
8 April 1991 the RUF used brutal tactics to terrorise civilians,  
9 often mutilating and amputating their limbs and the witness said  
09:46:43 10 he saw and experienced idioms of this sort of terror in Liberia  
11 and he said the terror was the common denominator between Liberia  
12 and Sierra Leone.

13 Now, in addition to evidence of this type, in this case you  
14 also have evidence of linkage witnesses to show that the primary  
09:47:03 15 purpose of this conduct toward people and property was to spread  
16 terror. TF1-045 testified on 12 November that Charles Taylor in  
17 1994 gave advice to Foday Sankoh that Foday Sankoh should attack  
18 Sierra Rutile and terrorise the area starting with the civilians  
19 in the towns and he testified that indeed they carried this out.

09:47:42 20 TF1-532, at pages 5689 to 5693, told you that in 1996  
21 before the elections Foday Sankoh communicated with Charles  
22 Taylor and conveyed to Charles Taylor a plan Sankoh had to  
23 disrupt these elections and that he told Charles Taylor that the  
24 offensive would be to make people fearful and anybody who was  
09:48:12 25 captured would be amputated and they would ask the person to take  
26 his hands off the election and that in response to this  
27 information Charles Taylor indicated that the plan was not a bad  
28 one and that Foday Sankoh then communicated to his commanders  
29 that he had explained this plan to Charles Taylor and Charles

1 Taylor said it was not a bad plan at all; that the plan was  
2 carried out, various targets were attacked, some successes in  
3 some places including amputations and carving "RUF" on the chest  
4 of civilians.

09:48:58 5 Now, TF1-532 also told you, at 6223 to 6224, that during  
6 the Operation Spare No Soul in Njai ma Nimi koro civilians were  
7 killed and amputated as part of making the area fearful, meaning  
8 they should kill and burn down houses so that people living in  
9 the areas and even the enemies they were fighting against would  
09:49:29 10 be afraid, and the witness told you that the RUF created terror  
11 in civilians by marking "RUF" on their chest and on their backs.

12 TF1-334 at page 7978 told you about capturing civilians and  
13 then amputating them in Kono and said that SBUs did this in order  
14 to send a message to other civilians to fear the rebels and that  
09:49:59 15 this happened in March or April of 1998.

16 The witness also told you that corpses were displayed in  
17 the streets of Sewafe in Kono District and human heads were put  
18 on guard posts; that corpses and human heads were displayed to  
19 make the area fearful for civilians and ECOMOG at Bumpe and this  
09:50:22 20 was during this same time period.

21 This same witness, at 7952 and 7955, also told you in  
22 mid-March 1998 Johnny Paul Koroma said Kono should be a no-go  
23 zone for civilians and they should accept only able bodied  
24 civilians; the rest should be executed. And that pursuant to  
09:50:50 25 that the witness and others, together with the RUF, executed a  
26 group of civilians at Yardu Road in Koidu Town and then displayed  
27 their bodies at various junctions to create fear so others would  
28 not come to Koidu Town.

29 TF1-360, at 3103, told you of Sam Bockarie's orders to Issa

1 Sesay for the troops to make Kono District fearful, meaning the  
2 destruction of life and property including the burning of houses,  
3 and that Morris Kallon then gave orders to make Kono fearsome,  
4 meaning the same sorts of things, that there were orders on the  
09:51:32 5 radio to burn down Kono and then Kono was completely burned down.

6 The witness also told you, at page 3150 to 3151, about the  
7 planning of the 1998 Bumpe mission at Superman ground and that  
8 Sam Bockarie sent a message to try to make Kono District fearful  
9 and that Bockarie also sent ammunition for this mission and that  
09:52:03 10 the fighters went into Bumpe town, the town was burned down and  
11 they killed all the civilians they met there.

12 TF1-375, at 12511 to 12512, also talked about the attack on  
13 Bumpe saying houses were burned, some civilians were decapitated,  
14 their heads were put on checkpoints and the reason for targeting  
09:52:29 15 civilians was to create fear in the community and make the area  
16 fearful.

17 TF1-367 also told you, at page 14165, that Issa Sesay came  
18 to Guinea Highway and gave orders to Rambo's troops and in  
19 carrying out the mission Operation Free Foday Sankoh they should  
09:52:51 20 make the operation fearful.

21 Now, TF1-399 told you, at page 5862 to 5864, that the NPFL  
22 in Liberia, from Tapeta to Grand Bassa, would mount human heads  
23 on car bumpers and hang human intestines across checkpoints and  
24 this was used as a tactic to create fear in civilians and that  
09:53:20 25 Charles Taylor drove through such checkpoints. And of course,  
26 TF1-532, at pages 5689 to 5690, told you that Sam Bockarie and  
27 Charles Taylor planned an operation to capture Kono, Makeni and  
28 then advance to Freetown. That Charles Taylor gave ammunition  
29 for the plan and Charles Taylor said that in order to save

1 ammunition they should make the Freetown attack more fearful than  
2 any other in order to take Freetown and hold onto power.

3         There is evidence that could support a finding that the  
4 acts or threats of violence against the civilian population of  
09:54:10 5 Sierra Leone was for the primary purpose of spreading terror.  
6 Now much of this evidence is also relevant to supporting a  
7 conviction based on at least one of the various forms of  
8 liability alleged in this case.

9         Just one additional point before turning to the evidence to  
09:54:26 10 support at least one form of criminal liability. The reason the  
11 counts alleged in the indictment allege crimes occurring from  
12 about 30 November 1996 and not before is because 30 November 1996  
13 is the commencement of the temporal jurisdiction of the Court.  
14 However, evidence before that time, as I mentioned earlier, is  
09:54:50 15 certainly relevant to other determinations relating to elements  
16 of both offences' contextual elements and individual criminal  
17 responsibility.

18         Of course an armed conflict or an attack against a civilian  
19 population, a joint criminal enterprise, planning or instigation  
09:55:10 20 may occur before the crimes themselves and outside the country in  
21 which the alleged crimes are committed. Evidence of such conduct  
22 is relevant to establish the various elements.

23         Turning now to evidence related to the accused's individual  
24 criminal responsibility. Individual criminal responsibility is  
09:55:30 25 not strictly speaking a count under the indictment so the  
26 approach the Prosecution suggest should be that as long as there  
27 is evidence which could support conviction on the basis of any  
28 one of the various modes of liability alleged no judgment of  
29 acquittal should be entered. If there is evidence which could

1 support a conviction on the basis of one of the alleged forms of  
2 liability, there is no need to examine the other forms of  
3 liability in relation to the Rule 98 exercise.

09:56:13 4 In relation to the point that there need only be sufficient  
5 evidence to have a basis of one of the alleged forms of  
6 liability, we would refer to several cases in the ICTY after  
7 their Rule 98 bis was changed to reflect an assessment of whether  
8 there was any evidence that could support a conviction on any  
9 count.

09:56:39 10 In the decision on the Rule 98 bis in the case of  
11 Prosecutor v Martić, which is found at the 3 July 2006 transcript  
12 of that case, that Trial Chamber followed the approach that was  
13 set out by the case of Prosecutor v Mrksić and in Mrksić the  
14 Trial Chamber stated that all it need do is be satisfied there is  
09:57:02 15 evidence to the requisite standard with respect to at least one  
16 mode of liability as regards each count. This approach was also  
17 followed in the Prosecutor v Milutinović case and that can be  
18 found at the trial transcript at 18 May 2007, pages 12772 and  
19 12773.

09:57:30 20 And the same approach was followed in Prosecutor v Prlić  
21 and that can be found at the transcript in that case at page  
22 27207.

23 Now, with that approach in mind, let us examine the  
24 evidence capable of supporting a conviction on all counts of the  
09:57:52 25 indictment based on the accused's participation in a common plan,  
26 design or purpose, the mode of liability also referred to as  
27 joint criminal enterprise.

28 First, we have to look at the evidence that would support  
29 the existence of a common plan, design or purpose which amounts

1 to or involves the commission of a crime provided for in the  
2 statute. The existence of this common plan may be established by  
3 either direct or circumstantial evidence, relying here on the  
4 Furundzija appeal judgment at paragraph 119. Virtually all the  
09:58:30 5 evidence in this case is relevant to the existence of JCE as a  
6 form of liability in this case.

7 Now, before looking at the actual elements, one point  
8 because it has some bearing on the proof of JCE. Defence counsel  
9 raised the question of what Foday Sankoh did to contribute to the  
09:58:53 10 common cause made between himself and Charles Taylor to assist  
11 each other in taking power in their respective countries. Of  
12 course there is no requirement to show that this assistance was a  
13 two-way street, but in this instance it was and the fact that it  
14 was a two-way street is relevant to the existence of the common  
09:59:16 15 plan, design or purpose and the nature of the relationship  
16 between the RUF and later the AFRC/RUF alliance and the accused.

17 Now, you have evidence that early on Foday Sankoh, Rashid  
18 Mansaray and Mohamed Tarawalli were part of the accused's NPFL.  
19 You were told that at page 23135 to 23138 and page 23153.

09:59:44 20 Several witnesses have also told you that in 1993 Foday Sankoh  
21 sent men to assist Charles Taylor to a fight against ULIMO in  
22 Liberia, including TF1-567 at pages 13074 to 13087.

23 Several witnesses also told you that starting in 1999 the  
24 RUF were sent to fight in Liberia and Guinea against the LURD and  
10:00:11 25 against the Guinean government at the direction of Charles  
26 Taylor. For example, TF1-276 testified about such operations at  
27 2045 to 2055, including a 1999 operation against Mosquito Spray  
28 where Sam Bockarie got the instruction from Charles Taylor to  
29 move against Mosquito Spray and sent RUF into Liberia to fight

1 them. The witness told you also of all of the different units  
2 that were involved, the RUF and all of the units working for  
3 Charles Taylor, including the Armed Forces of Liberia, the  
4 police, the anti-terrorist unit and he told you that the overall  
10:00:58 5 commander of all these troops was Benjamin Yeaten.

6 He also talked about attacks in 2000, one attack on Guinea,  
7 because Charles Taylor told Issa Sesay that he, Sesay, should  
8 give Taylor grounds in Guinea so that when it came time to disarm  
9 in Sierra Leone some of the arms could be taken to Guinea for  
10:01:23 10 safekeeping. He also talked about 2001 attack on Guinea from  
11 Liberia in which the RUF also participated; Benjamin Yeaten again  
12 the commander of this attack.

13 And, of course, as we will discuss further below, multiple  
14 witnesses testified that Foday Sankoh, Sam Bockarie and Issa  
10:01:49 15 Sesay, as well as Johnny Paul Koroma, gave Charles Taylor  
16 diamonds from Sierra Leone. Those are some of the ways that  
17 Foday Sankoh and his designees, as well as the AFRC, assisted  
18 Charles Taylor and there is also from that evidence indication of  
19 the particular nature of Charles Taylor's relationship with these  
10:02:14 20 groups.

21 Now, that would lead us to the existence of the common  
22 plan, design or purpose as it relates to Sierra Leone. A  
23 criminal means of a campaign of terror, encompassing multiple  
24 crimes to forcibly control the territory and population of Sierra  
10:02:34 25 Leone and pillage the natural resources, in particular diamonds.

26 First, let's look at the evidence relating to the forcible  
27 control of the population. Virtually all the evidence in this  
28 case was a manifestation of these attempts and successes in part  
29 to control the population and territory of Sierra Leone. At page

1 5670, TF1-532 told you about a meeting in Voinjama where the  
2 accused said that he was sending the witness and other NPFL to  
3 Sierra Leone to take over power and keep the ball rolling.

4 TF1-399, at page 5865 to 5866, told you of a forum in Liberia  
10:03:25 5 attended by special forces where it was agreed that Foday Sankoh  
6 would go to Freetown and take over the government.

7 At pages 4804 and 4806 you were told that when Foday Sankoh  
8 and Charles Taylor introduced themselves to trainees, on this  
9 instance Foday Sankoh said he and Charles Taylor were bound  
10:03:47 10 together to fight, fighting for Liberia and then for Sierra Leone  
11 and that they were fighting for the same goals.

12 The efforts to forcibly control the people and territory of  
13 Sierra Leone continued during the junta. You have agreed fact 30  
14 showing that the RUF joined with the AFRC shortly after the coup  
10:04:10 15 and that together they governed the country during the time the  
16 junta was in power and we will speak more about that alliance in  
17 a moment when we talk about plurality and also the accused's  
18 participation in the joint criminal enterprise.

19 After the junta were forced from power on about 14 February  
10:04:32 20 1998 the aim of forcibly controlling the population and territory  
21 continued and it manifested itself most dramatically in the  
22 multi-faceted operation culminating in the attack on Freetown in  
23 January of 1999. Now, the motivation that drove particular  
24 individuals to be involved in this attack is really not relevant.  
10:04:56 25 The aim was to take Freetown to control the people and territory  
26 of Sierra Leone.

27 Now of course control over the people and territory of  
28 Sierra Leone, amongst other things, facilitated the pillage of  
29 the natural resources of Sierra Leone, in particular the

1 diamonds. Firstly, pillage of natural resources of a country, be  
2 they considered government property or private property, is a  
3 crime within the statute of the Court, Article 3 (f) of the  
4 statute, and your Honours also addressed this issue in the AFRC  
10:05:33 5 judgment at paragraph 751 and 755.

6 A multitude of witnesses have testified about this aspect  
7 of the common plan, design or purpose, an aspect that manifested  
8 itself early in the conflict in Sierra Leone. Once forces,  
9 Charles Taylor's forces primarily, had moved into Pujehun  
10:05:59 10 District and taken Pujehun District they went to the diamond  
11 mining areas, took the diamonds and those diamonds were taken to  
12 Charles Taylor. You were told that at pages 23481 to 23486.

13 At pages 12853 to 12856 TF1-567 told you about the RUF  
14 taking Kono, that is Koidu, in late 1992, and he told you that  
10:06:28 15 Foday Sankoh said his brother Charles Taylor had arranged arms  
16 and ammunition in order to capture Kono because it was a diamond  
17 mining area and that arms and ammunition were received - a large  
18 number of arms and ammunition.

19 The witness told you that as soon as Foday Sankoh went to  
10:06:47 20 Koidu he got an urgent message to go see Charles Taylor. Foday  
21 Sankoh did that. He took the diamonds and gave them - that he  
22 received in Koidu - and gave them to Charles Taylor and we have  
23 that at pages 13074 to 13087.

24 During the junta period this part of the aim of the common  
10:07:14 25 plan, design or purpose continued. Among others TF1-532, at  
26 pages 6191 to 6192, told you about the diamond mining by the AFRC  
27 and the RUF in Kono and Tongo Field, and at pages 5719 to 5721 he  
28 told you that Gullit was in charge in Kono and that Gullit  
29 brought diamonds to Johnny Paul Koroma. You also learned that at

1 pages 2340 to 2341.

2 TF1-532, at pages 5719 to 5721, told you about Johnny Paul  
3 Koroma sending diamonds to Charles Taylor during the junta for  
4 arms and ammunition.

10:08:06 5 TF1-045, TF1-571 and TF1-567 also told you about government  
6 mining during the junta and that Sam Bockarie was also sending  
7 diamonds to Charles Taylor during the junta by means of Jungle,  
8 also known as Daniel Tamba, and you find this at pages 20146 to  
9 20149, 9380 to 9384 and 12884 to 12889.

10:08:44 10 The AFRC and the RUF were working together during the junta  
11 and they were concentrating on controlling territory and taking  
12 the diamond resources in particular of Sierra Leone.

13 After the junta was forced from power you are told, at  
14 pages 11055 to 11056, and pages 11060 and 11075 you are told by  
10:09:17 15 TF1-577 about a secret meeting in 1998 after the intervention.  
16 That the meeting was attended by Sam Bockarie and others  
17 including Ibrahim Bah and Jungle and that these two were sent by  
18 Charles Taylor with messages and what were the messages? That  
19 Charles Taylor recognised the AFRC/RUF relationship, that they  
10:09:44 20 were to work hand-in-glove and that they should try and get hold  
21 over Kono since it was where they will get their resources,  
22 meaning diamonds, and also they should try to construct an  
23 airstrip behind Buedu. So once the junta is pushed out of power,  
24 Charles Taylor very quickly remains involved to ensure that the  
10:10:09 25 alliance continues and in particular that they worked to get Kono  
26 where the rich diamond resources are found.

27 During the period after the junta was forced from Freetown,  
28 many witnesses also told you that Sam Bockarie and Issa Sesay  
29 sent diamonds to Charles Taylor, large amounts of diamonds, and

1 usually after these diamonds were taken to Charles Taylor the  
2 AFRC and the RUF would receive arms and ammunition and other  
3 supplies. Those witnesses included TF1-567, at pages 12902 to  
4 12903, TF1-338 at pages 15156 to 15163. You were also told that  
10:10:57 5 at page 13000 to 13007, 13201 to 13202.

6 Some of these witnesses also told you that the diamonds  
7 were taken to Charles Taylor supposedly for safekeeping, but to  
8 their knowledge neither Foday Sankoh, Sam Bockarie or Issa Sesay  
9 were ever given these diamonds by Charles Taylor. For example,  
10:11:22 10 TF1-567, at pages 13201 to 13202, speaks of that.

11 At page 7164 to 7172, TF1-516 told you about communications  
12 involving the RUF taking diamonds to Charles Taylor, also known  
13 as the chief, from about 1999 to late 2001, and he explained that  
14 messages would be sent to Charles Taylor or Benjamin Yeaten, who  
10:11:57 15 was Charles Taylor's subordinate, telling them that Eddie Kanneh  
16 was coming with diamonds to meet Charles Taylor; that  
17 Sam Bockarie also said he took diamonds to Charles Taylor and  
18 that Eddie Kanneh sent messages saying he was bringing parcels to  
19 Charles Taylor.

10:12:16 20 TF1-360, at pages 3045 to 3047 and 3147, also told you  
21 about diamonds being taken to Charles Taylor, both in the early  
22 period and after the junta was forced from Freetown. The witness  
23 also told you that when they were pushed out of Freetown Charles  
24 Taylor told Sam Bockarie to stand by in Kono and encourage them,  
10:12:44 25 stating that once they had Kono they could take over the rest of  
26 Sierra Leone, since Kono was the centre for diamond mining and  
27 profit.

28 And, of course, you cannot forget that the accused himself  
29 said that the war in Sierra Leone was about diamonds, although he

1 disagreed as to who wanted those diamonds. You can find that at  
2 Prosecution exhibit 33B.

3 So we have evidence to support a finding of the existence  
4 of this common plan, design or purpose. The criminal means by  
10:13:23 5 which it was carried out are crimes within the statute, the  
6 pillage, which was one of the aims if you will, is a crime within  
7 the statute.

8 We also have to look at the evidence that supports that a  
9 plurality of persons participated in the realisation of this  
10:13:40 10 common plan, design or purpose. The Defence seems to target  
11 primarily the membership of the AFRC component in the common plan  
12 design or purpose, in particular after the junta was forced from  
13 power. There is ample evidence to show this alliance remained in  
14 place after the intervention. Of course the evidence already

10:14:00 15 discussed is relevant to this element as well. Additional  
16 evidence relating to the AFRC's membership and participation in  
17 this common plan, design or purpose would include the following:

18 Firstly, Defence exhibit 34. This is a document dated 26  
19 January 1999 and it is the response by the Government of Liberia,  
10:14:29 20 of which Charles Taylor was the President, by his ministry of  
21 information, a response to allegations of Liberian involvement in  
22 the Sierra Leone war. And when you look at that document you  
23 will see that throughout that document the accused's own  
24 representative refers to the AFRC/RUF, AFRC/RUF rebels, AFRC/RUF  
10:14:55 25 officials, indicating the accused himself is of the mind that  
26 there is this alliance in these parties.

27 You were also told in relation to the junta period that at  
28 page 12880 that Foday Sankoh passed instructions to the RUF not  
29 just to join their brothers, the AFRC, but also to work together

1 with them. TF1-567 indicates that.

2 You also can look at Prosecution exhibit 58, a gazette,  
3 with a list of Supreme Council members including RUF; Prosecution  
4 exhibit 59 and 60, command charts during the junta period showing  
10:15:42 5 both components; Prosecution exhibit 61, minutes of an emergency  
6 council meeting showing AFRC and RUF present.

7 Also the evidence of TF1-532, at pages 5702 to 5703 and  
8 5722 to 5723 that the RUF and the SLA fought together at Hastings  
9 against ECOMOG during the junta and that during the junta  
10:16:12 10 relations between the AFRC and the AFRC were nice; they fought  
11 together, they worked together, they used arms together, they  
12 were mixed up, SLA and RUF. There wasn't one separate place for  
13 RUF and one separate place for AFRC. They were all together and  
14 fighting together and that this witness himself had SLA Special  
10:16:30 15 Task Force and RUF among his men.

16 He also told you at pages 5704 to 5705, and 5716 to 5717,  
17 that the Supreme Council was where you had authorities like  
18 Johnny Paul Koroma who used to plan the war and that there were  
19 RUF and SLA or AFRC members of the Supreme Council.

10:16:58 20 This evidence indicates the relationship and the  
21 participation of the AFRC in the joint criminal enterprise during  
22 the junta. The alliance continued after the junta was forced  
23 from Freetown.

24 At page 5732 to 5735 and 5771 TF1-532 told you that when  
10:17:22 25 the junta was forced from Freetown the AFRC, the RUF and the  
26 Special Task Force all fled together, and he told you that the  
27 People's Army was comprised of the AFRC and the RUF and was  
28 headquartered at Buedu in 1998.

29 At page 1258 to 1260 TF1-114 told you about AFRC and RUF

1 commanders in Buedu after the intervention. At page 1970 to 1972  
2 and 2001 to 2004 TF1-276, who was sent by Charles Taylor to join  
3 Sam Bockarie in Buedu in 1998, told you that the SLA and the RUF  
4 combined were the People's Army and that there were SLAs, that is  
10:18:21 5 AFRC, RUF in the chain of command when he arrived in Buedu and  
6 that the RUF and the SLAs were working together.

7 TF1-532, at pages 5740 to 5741, sheds further light on this  
8 relationship, testifying that the command chain after the  
9 intervention was that if you had an RUF commander then you had an  
10:18:45 10 AFRC deputy and vice-versa, and that Sam Bockarie was the overall  
11 commander over all fighters and there were other commanders like  
12 Akim Turay, Leather Boot, Banya who were SLA or AFRC as well as  
13 Issa Sesay and Morris Kallon, and at pages 5817 to 5818 the  
14 witness told you that Gullit was in Buedu with Sam Bockarie after  
10:19:13 15 the intervention and that Gullit and Sam Bockarie had a cordial  
16 relationship.

17 The witness also told you at pages 5742 to 5744 that  
18 Superman was the commander for the entire Kono District, those  
19 portions that the alliance held, and that there were SLAs there  
10:19:32 20 with him as well including Leather Boot and Five-Five and that  
21 there were lots of AFRC men in Kailahun District and that also  
22 there were RUF men in the north in Koinadugu with SAJ Musa,  
23 including people like King Perry, Alfred Brown, commanders and  
24 fighters.

10:19:51 25 TF1-334 told you at pages 8304 to 8307 that prior to the  
26 Freetown invasion in January 1999 some RUF and SLA were based in  
27 Kailahun, Kono and Daru areas. He also told you about using the  
28 RUF and SLA troops based in the various parts of the country as  
29 part of a plan to weaken the ECOMOG forces so ECOMOG would be

1 unable to reinforce their troops in Freetown.

2 There is additional evidence about the alliance in the  
3 north. TF1-143 testified at pages 8970 to 8985 that in September  
4 1998 he was captured in Koinadugu District. He was 12 years old  
10:20:44 5 at the time. Others were captured, including boys and girls.

6 And that after they were captured they were marked by their  
7 captors and that the first one who was marked was marked with an  
8 "AFRC" on his forehead and "RUF" on his chest and that this  
9 witness was marked with an "RUF" on his chest and they were told

10:21:05 10 that now they were captives and they were now members of the  
11 group. The witness testified that those that captured him were  
12 under SAJ Musa and they were mixed AFRC and RUF and that Superman  
13 was also there with the group.

14 TF1-028 at pages 9205 to 9210 testified about the command  
10:21:26 15 structure at Eddie Town in Bombali District, including Colonel  
16 Eddie, Five-Five, Gullit and others and also Mohamed, indicating  
17 that is an RUF person, Mohamed's third group for Superman and  
18 that Superman was sending reinforcements to this group with a  
19 good amount of ammunition for the Freetown mission. He says  
10:21:50 20 there were more - there were about 100 and more RUF sent as  
21 reinforcements and that everyone was happy about this because now  
22 they had enough ammunition to go to Freetown.

23 Now the move on to Freetown, the attack on Freetown, this  
24 multi-faceted approach, there is also evidence of the alliance  
10:22:10 25 in place, both for the group that moved from the north to  
26 Freetown and the group that moved through Kono, Makeni on to the  
27 Freetown area.

28 There is ample evidence that RUF forces were among those  
29 who actually entered Freetown, in addition to the RUF who were

1 released from Pademba Road and joined the forces in Freetown.  
2 TF1-275 testified at pages 4548 to 4552 about this RUF and AFRC  
3 plan for the coordinated attack. He testified he was in the  
4 north and after he and his group had received information that  
10:22:52 5 Foday Sankoh was condemned in Freetown that Sam Bockarie gave  
6 instructions to Superman to march on Freetown. He told Superman  
7 to get ready to go to Makeni and from there to Freetown.

8 Sam Bockarie also said that he had been in communication  
9 with Gullit and Gullit would move on Freetown and Sam Bockarie  
10:23:13 10 had prepared Issa Sesay and Morris Kallon to move on Koidu Town  
11 and then on to Makeni.

12 The witness said that based on these instructions from Sam  
13 Bockarie Superman organised troops, went to Makeni and there on  
14 instructions of Sam Bockarie attacked Makeni, and he explained  
10:23:31 15 that the group that captured Makeni included Superman's group and  
16 another group headed by Boston Flomo, that is Rambo as he was  
17 otherwise known, and he said that there were communications  
18 between Issa Sesay and Morris Kallon's group in Kono,  
19 communications with Superman, there were communications from the  
10:23:51 20 group at Rosos to Superman, the communications were flowing back  
21 and forth.

22 TF1-584 testified at pages 12277 to 12278 that on 7 January  
23 1999 she received a radio message in Lunsar from Sam Bockarie to  
24 Superman and RUF Rambo to join the men who had entered Freetown  
10:24:17 25 and captured State House and that they left for Freetown with 200  
26 combatants and ammunition arriving in Hastings on 9 January but  
27 then retreated to Yams Farm.

28 TF1-375 testified at pages 12608 and 12611 that at Waterloo  
29 Superman, Issa Sesay, Komba Gbundema and other senior officers

1 distributed the troops and that Colonel Babay and other  
2 commanders went to Benguema Barracks while RUF Rambo, and Rambo  
3 Red Goat and other commanders successfully cleared Hastings but  
4 got stuck at Jui. Issa Sesay then sent an order to RUF Rambo to  
10:25:07 5 send Rambo Red Goat's group to Freetown to meet up with their  
6 brothers there while the rest of the group tried to clear the  
7 main road. Rambo Red Goat's group, which consisted of about 60  
8 to 65 men from the RUF, the SLA and the Special Task Force  
9 successfully crossed into Freetown.

10:25:27 10 TF1-375 testified at page 12610 that the men in Rambo Red  
11 Goat's group were armed from their own commanders so the RUF in  
12 the group were armed from Issa Sesay and Superman and again  
13 reiterates that this group crossed successfully into Freetown.

10:25:59 14 TF1-360, an RUF member, testified at pages 3185 to 3186,  
15 3213 and 3221, that he travelled with the group from Rosos - to  
16 Rosos from Koinadugu and that in the group were AFRC members,  
17 about 60 RUF members and Special Task Force members and that the  
18 RUF fighters were divided into the Red Lions, the big umbrella  
19 unit of the RUF, and a Cobra battalion. And the witness told you  
10:26:24 20 this was part of the planning for the joint military operation to  
21 attack Freetown and that he and his group were part of the group  
22 that entered Freetown on 6 January and he worked communications  
23 after he entered.

24 At page 8288 and 8298 TF1-334 told you there were RUF among  
10:26:45 25 those in Freetown and NPFL men as well, which we will discuss in  
26 a moment, and he told you of the radio broadcast of FAT Sesay  
27 that the AFRC and the RUF had taken over the State House.  
28 Prosecution exhibit 262 is that broadcast.

29 Now, in argument Defence counsel, at page 24080, discussed

1 with you a citation for a witness saying that the witness had  
2 testified that none of the senior RUF commanders were involved in  
3 the 6 January 1999 invasion of Freetown. If you look at page  
4 2813, you will find that the witness was asked that question,  
10:27:32 5 whether any senior RUF commanders were involved in this invasion,  
6 but the witness's answer was that "involved" is vague. Involved  
7 in what sense? And then the witness clarified that as  
8 combatants, as fighters firing, none of the senior RUF commanders  
9 entered Freetown.

10:27:56 10 TF1-516 at pages 6943 and 6947 testified that Sam Bockarie  
11 gave instruction and strategy to those in Freetown during this  
12 Freetown operation and that when commanders were given ammunition  
13 for the operation of Freetown the AFRC and RUF were all mixed up  
14 together.

10:28:25 15 Now, in terms of the SLA's involvement in Freetown, TF1-334  
16 at pages 8503 to 8516 talked about a meeting after Lome, a  
17 meeting where former SLA delegation including himself went to  
18 talk to Charles Taylor at Charles Taylor's request and that they  
19 met with Charles Taylor and Charles Taylor said - now this is  
10:29:04 20 post-Lome - that he wanted to end the division between the RUF  
21 and the AFRC. He said he had been assisting the movement and he  
22 had mobilised most of the SLA who came to Liberia and sent them  
23 to Sam Bockarie in Kailahun so they could assist and reinforce  
24 the 6 January 1999 invasion. He said he was assisting both  
10:29:23 25 groups and he said he was assisting them so they can remove the  
26 government in Freetown and the focus should be on putting the  
27 AFRC and the RUF in the seat of power, not on disputes. So  
28 Charles Taylor is telling this witness that he has SLA in Liberia  
29 and he is sending them to Sam Bockarie. The alliance is alive

1 and well.

2 Now, there was a question, and it is a legitimate question,  
3 why would Charles Taylor meddle, if you will, at this point? It  
4 is post-Lome. Why would he meddle? If we look at the situation  
10:30:01 5 post-Lome it is quite easy to understand in the context of the  
6 JCE why he would "meddle". Post-Lome there was a general  
7 amnesty. The RUF had positions in the government, including  
8 Foday Sankoh as the chairman of strategic resources, and the RUF  
9 had control of the diamond areas, so Charles Taylor benefited  
10:30:23 10 that there be no overt disruption of Lome, although there is  
11 indications that we will talk about later that they were covert  
12 efforts related to Lome.

13 Now, Defence Counsel also spoke about the SAJ Musa invasion  
14 of Freetown and, of course, that is not correct because SAJ Musa  
10:30:48 15 was killed prior to the invasion of Freetown and after SAJ Musa  
16 was conveniently killed Gullit took over and it was Gullit who  
17 was in command on the ground when those forces entered Freetown  
18 and when Gullit was in command he recommenced communications with  
19 Sam Bockarie and he followed the instructions of Sam Bockarie  
10:31:09 20 during the Freetown invasion. TF1-274 told you that at page  
21 21726 to 21728, 22255.

22 We also have evidence of the large body of RUF who moved to  
23 Freetown to reinforce those who were fighting in Freetown and  
24 TF1-567, at page 12910 to 12911 and 12918, talks about that body.  
10:31:47 25 Prosecution exhibits 93 and 149 also talk about that body of  
26 fighters and the efforts to join up with the fighters in  
27 Freetown.

28 At page 6162 to 6163, TF1-532 told you that Rambo's forces  
29 fighting ECOMOG in Hastings - in the Hastings area - that was

1 important because eventually it allowed the men, when they  
2 retreated from Freetown, to use the forest to come towards their  
3 colleagues at Waterloo and he also told you that during this time  
4 the AFRC and the RUF had a cordial relationship. They had an  
10:32:25 5 understanding. They were together as one. There were no  
6 problems.

7 In relation to the overall situation between the AFRC and  
8 the RUF after the junta was pushed out, Prosecution exhibit D-85  
9 is also of assistance to you. This is a comprehensive report to  
10:32:43 10 Foday Sankoh from Major Francis Musa, and at page 00009766 the  
11 report indicates that the consultation, coordination and  
12 cooperation among senior officers and other ranks brought about  
13 the recapture of Joru Jungle, Kono, Makeni, Magburaka, Segbwema,  
14 Tongo Field, Western Jungle and Freetown and many other places  
10:33:12 15 from the end of 1998 to early 1999, and at page 9767 he told you  
16 that about 95 per cent of the SLA brothers, including Akim Turay,  
17 Soriba, Dumbuya, Bakarr, Leather Boot and many others are loyal  
18 to the movement.

19 So the RUF and the AFRC, this evidence shows, continued to  
10:33:38 20 work together to regain control of the country after the junta  
21 were forced out. Both were involved in the movements to Freetown  
22 from the various axes were part of the group that entered  
23 Freetown, but even if it were not true that RUF were actually  
24 among those who entered Freetown, liability would still lie for  
10:33:57 25 the crimes committed in Freetown because of the continuing  
26 existence of the alliance of the participants in this joint  
27 criminal enterprise including AFRC and the RUF.

28 Now, this plurality also included people who were more  
29 directly subordinate to Charles Taylor and it included those from

1 the very beginning. Now, in terms of who was the leader of the  
2 NPFL, there is a lot of evidence about that, but perhaps we  
3 should look at the evidence of TF1-561 at pages 9804 to 9807,  
4 9814 to 9815.

10:34:43 5 This witness told you that Charles Taylor, by his own  
6 words, made it very clear he was the leader of the NPFL and he  
7 talked about first seeing Charles Taylor in Libya, that there was  
8 a meeting Charles Taylor introduced himself and said, "I am  
9 Charles Taylor. This is my organisation." He said he was the  
10:35:03 10 biggest man in the organisation. He was the only one that they  
11 would report to. Nobody else. And the organisation is named the  
12 National Patriotic Front of Liberia and he told you no-one would  
13 have questioned Charles Taylor's authority because the NPFL was a  
14 military organisation and you don't query authority. Everyone  
10:35:26 15 called him chief.

16 Confidential exhibit P277 at page 14 shows that most of the  
17 initial fighters who went to Sierra Leone were Liberians,  
18 including hard core Charles Taylor fighters.

19 And now at page 4806 to 4807 you were also told about  
10:35:57 20 Charles Taylor's initial involvement. That he arrested Sierra  
21 Leoneans, gave them over to Foday Sankoh, that he gave NPFL to  
22 Foday Sankoh for use in Sierra Leone and to train Sierra  
23 Leoneans, that he gave facilities and materials and supplies for  
24 training.

10:36:16 25 P54, the command chart, also shows the involvement of the  
26 NPFL early on.

27 At page 5669 TF1-532 told you that he was given to Foday  
28 Sankoh by Charles Taylor not just to go to Sierra Leone to fight,  
29 but also to train at Camp Naama.

1 Now, as noted above, both TF1-045 and TF1-567 told you  
2 about Jungle coming to Sierra Leone during the junta to bring the  
3 arms and ammunition; that he got diamonds. TF1-274 at pages  
4 21491 and TF1-579 at page 19832 told you that Jungle was an NPFL  
10:37:06 5 and that later he was a member of the Special Security Services  
6 under Benjamin Yeaten.

7 Others told you about Jungle, Joseph Marzah, Sampson Weah  
8 and other Liberians coming to Sierra Leone with arms and  
9 ammunition after the intervention and this includes TF1-567 at  
10:37:28 10 pages 12903 to 12906, TF1-516 at pages 6999 to 7001 and 7012 told  
11 you that Joseph Marzah, Jungle, Sampson Weah and others brought  
12 materiel under the command of Benjamin Yeaten.

13 He also told you that General Dopoe, who had been one of  
14 those in command in Sierra Leone at the beginning when atrocities  
10:37:58 15 were committed, was also one of those who travelled to Sierra  
16 Leone to bring materiel; that he was General Dopoe when the  
17 atrocities were committed and he was General Dopoe when he  
18 returned to bring materiel.

19 Charles Taylor's involvement with his own direct  
10:38:18 20 subordinates in providing assistance to the alliance in Sierra  
21 Leone, to providing assistance to the RUF, evidence is sufficient  
22 to show the plurality of this joint criminal enterprise.

23 Now, if we look at the accused's participation in the  
24 common design, first of all participation in the common plan need  
10:38:43 25 not involve the commission of a specific crime but can be in the  
26 form of assistance or contribution to the execution of the common  
27 plan. Nor is it necessary to prove the substantial or  
28 significant nature of the contribution. It is sufficient to have  
29 committed an act or an omission which contributes to the common

1 criminal purpose, citing Kvočka et al Appeals Chamber judgment  
2 paragraph 421, and at that same paragraph they observed, rather,  
3 at paragraph 97 of that decision they observed that in practice  
4 the significance of the accused's contribution would be relevant  
10:39:23 5 to demonstrating that the accused shared the intent to pursue the  
6 common purpose.

7 The use of tools as actual perpetrators, persons who may  
8 not be members of the joint criminal enterprise, we rely on the  
9 CDF Trial Chamber judgment at paragraph 216 adopting the approach  
10:39:46 10 of the Brđjani Appeals Chamber at the ICTY.

11 The Martić judgment gives us additional assistance on that.  
12 That Appeals judgment is 8 October 2008, especially at paragraphs  
13 169 and 171 and in discussing this issue they approved the  
14 approach of the Appeal and Trial Chambers in the case of Stakić  
10:40:11 15 in which the Appeals Chamber upheld the Trial Chamber finding  
16 that the crimes at issue were in fact committed by forces under  
17 the control of JCE members in circumstances where the plurality  
18 of persons involved in the JCE included leaders of political  
19 bodies, the army and police.

10:40:31 20 Now, this accused's actual participation took many forms.  
21 We have discussed some of that in the comments that I have made  
22 previously. For purposes of Rule 98, dealing with counts, we  
23 suggest that it is sufficient if there is evidence to support a  
24 finding of participation via one of these forms, that there is no  
10:40:53 25 need to show participation including all the forms.

26 Now certainly we would have to have additional commentary  
27 about the assistance, the contribution that the accused made to  
28 the RUF and later the AFRC and RUF by providing arms, ammunition  
29 and other associated materiel. This was at the beginning and it

1 continued throughout. We have discussed some of the support  
2 given at the beginning and in addition TF1-367, at pages 14098 to  
3 14099, said that all the materiel and supplies for the attack on  
4 Sierra Leone came from the accused.

10:41:38 5 Others told you about trips to Gbarnga for arms and  
6 ammunition and other supplies; TF1-567, at pages 12844 to 12851,  
7 13068 to 13073, and 12828 to 12829. What is the relevance of  
8 this early support? Some of it is continuing. Some of it is  
9 continuing in the form of weapons that are not lost, in the form  
10:42:09 10 of supplying trainers, in the form of supplying personnel, some  
11 of those who remained with the RUF.

12 The participation continued during the junta. For example,  
13 we have discussed the provision of arms and ammunition in  
14 exchange for diamonds. TF1-532 testified at pages 5713 and 5715  
10:42:37 15 that after the junta took over there was a meeting attended by  
16 Ibrahim Bah and that he brought a message from Charles Taylor  
17 asking the RUF to work with the AFRC and that he would help with  
18 ammunition support. Again, manifesting his intention that this  
19 alliance work together. This is the best way to ensure control  
10:43:00 20 of territory and access to these resources, including diamonds.

21 You were told at page 2300 to 2301, and 2303 to 2309, how  
22 the Magburaka shipment was arranged with Charles Taylor, that the  
23 shipment was organised by Johnny Paul Koroma and Ibrahim Bah in  
24 concert with Charles Taylor.

10:43:25 25 TF1-532, at pages 5724 to 5728, 5733 to 5734, also told you  
26 that Johnny Paul Koroma said the Magburaka shipment was arranged  
27 by Charles Taylor. It included anti-aircraft guns and general  
28 machine-gun rounds.

29 You were also told at pages 2823 to 2824, and 2979 to 2980,

1 that this shipment was distributed to Sam Bockarie in Kenema, at  
2 least parts of it, and other parts were stored in stores held by  
3 Johnny Paul Koroma; evidence to support the continuing  
4 participation in this mode during the junta. After the junta a  
10:44:16 5 great deal of evidence to show that Charles Taylor continued to  
6 send arms and ammunition to this alliance.

7 The interesting aspect of this, TF1-406 told you at pages  
8 851 to 856, and at 1016 to 1017, and 1013 [sic] and 1136, told  
9 you that after Charles Taylor was President, Charles Taylor had  
10:44:45 10 this witness get arms and ammunition from ULIMO in Lofa County  
11 and that he delivered some of those arms and ammunition to the  
12 RUF. And further, that Charles Taylor told him he should let  
13 ULIMO know that it was okay to deal arms and ammunition with the  
14 RUF, that there should be open border, and he told you that  
10:45:06 15 Charles Taylor had informed him that he, Charles Taylor, had  
16 given Sam Bockarie money to buy arms.

17 TF1-274 said that Charles Taylor gave Sam Bockarie US  
18 dollars almost every trip Bockarie made to Monrovia, sometimes 10  
19 to 20,000 dollars and that Sam Bockarie used those dollars to buy  
10:45:28 20 ammunition from Liberian commanders.

21 TF1-367 at page 14144 to 14150 testified about being sent  
22 to Lofa County with money to buy arms and ammunition from ULIMO  
23 and he said that in doing this he worked with the NPFL there and  
24 he used the NPFL communications equipment to be able to talk back  
10:45:55 25 to those in charge in Sierra Leone.

26 Now TF1-334 further told you, at pages 8009 to 8011, that  
27 he heard about the call from Sam Bockarie to Superman telling  
28 Superman to hold and maintain Kono with arms and ammunition  
29 received from Charles Taylor. Sam Bockarie said that Charles

1 Taylor had sent those arms and ammunition and TF1-334 told you  
2 that they received the ammunition and arms and they used the  
3 ammunition to attack villages and towns in Bombali District.

10:46:42 4 Significant evidence also about Charles Taylor providing  
5 materials for the operation that culminated in the attack on  
6 Freetown.

7 TF1-388 told you that in 1998 supplies coming from Liberia  
8 got larger, increased numbers of boxes of ammunition. That is at  
9 page 14035 to 14036. TF1-567 testified at pages 12912 to 12914  
10:47:11 10 that in October to November 1998 Sam Bockarie went to Monrovia to  
11 meet with Charles Taylor about retaking Koidu and he came back  
12 with a lot of ammunition and guns. He said it was from Charles  
13 Taylor to capture Kono.

14 TF1-276 at page 1993 also talks about Sam Bockarie coming  
10:47:30 15 back with a large amount of ammunition and men and Sam Bockarie  
16 saying he had been to Burkina Faso.

17 At page 2702 to 2703 you were also told that Sam Bockarie  
18 came back with a large shipment of arms and ammunition from  
19 Ouagadougou that was sent to White Flower and then Charles Taylor  
10:47:51 20 gave part of it to the RUF.

21 TF1-360 testified at pages 3163 to 3164, and 3169 to 3179,  
22 that he went to a meeting in April or May in Dawa where  
23 Sam Bockarie told of Charles Taylor's very big plan to take over  
24 the country by attacking Koidu, heading towards Makeni and then  
10:48:17 25 on to Waterloo with the main focus to get to Freetown. Taylor  
26 said he would send ammunition later for the big mission and that  
27 later Bockarie returned from Liberia, sent for the troops to come  
28 to Buedu to collect the ammunition for the big plan, and that  
29 ammunition for this plan was also received by Superman.

1 TF1-334 testified at pages 8397 to 8201 that O-Five's group  
2 included NPFL and armed forces of Liberia fighters and that it  
3 was explained that Superman had brought these fighters as  
4 reinforcements and that these fighters were well-armed with  
10:49:14 5 submachine guns, 60 mm mortars and several types of rifles.  
6 TF1-334 said that the former NPFL fighters who came in as  
7 reinforcements were part of 150 fighters who attacked Kingtom in  
8 January 1999.

9 You also have evidence at page 2703 that in February or  
10:49:37 10 March of 1999, after the Freetown invasion, Sam Bockarie went to  
11 Liberia and came back with even more ammunition and TF1-567 tells  
12 you at pages 12965 to 12967, and 12991 to 12999, about arms and  
13 ammunition coming to Buedu after or when the witness is in Buedu  
14 and it is around the time of the Lome peace talks.

10:50:18 15 TF1-338 at pages 15156 to 15166 talks about ammunition  
16 coming to Issa Sesay from Charles Taylor in 2000 and 2001. So,  
17 clear evidence for this form of liability.

18 Also the provision of communications equipment, operators  
19 and training, very important. TF1-275 testified at pages 4366 to  
10:50:50 20 4367 and 4389 that he was a member of the NPFL and was sent to  
21 train RUF radio operators and to set up the radio communications  
22 system and that he was given NPFL radios to do this.

23 In addition, other personnel were sent. TF1-276 at pages  
24 1962 to 1971 tells you about the circumstances under which he was  
10:51:18 25 sent to Sierra Leone to Sam Bockarie, and TF1-045, at pages 20223  
26 to 20224, tells you that 276 took part in the Segbwema access  
27 part of the multi-faceted plan to attack Freetown.

28 TF1-584 testified that Superman's group went to Koinadugu  
29 and there they met a Special Task Force person Senegalese and his

1 30 men and they had arms. Senegalese said they were sent to  
2 Sam Bockarie by Charles Taylor and that Bockarie then had sent  
3 them on to Superman. TF1-334 testified at pages 8197 to 8201  
4 that O-Five's group had about 30 Liberian STF and 20 former NPFL,  
10:52:16 5 and we have discussed the fact that they were brought for  
6 reinforcements, and they were part of the fighters who attacked  
7 Kingtom in January 1999, and you recall the other evidence from  
8 TF1-334 discussed earlier saying there were NPFL fighters in  
9 Freetown.

10:52:39 10 So the accused participated also in providing personnel,  
11 personnel who were involved in operations in Sierra Leone,  
12 personnel without whom it is questionable that the initial  
13 conflict could have begun or could have been sustained.

14 The accused also participated by providing advice,  
10:52:59 15 encouragement and moral support. We have also discussed his  
16 endorsement of the Operation Stop Elections in 1996. TF1-516 at  
17 pages 6860 to 6868 and 6869 told you that when Foday Sankoh was  
18 preparing to go to Ivory Coast Charles Taylor told him to take  
19 advantage of the peace accord he was supposed to attend to move  
10:53:29 20 outside and get more dancing materials, that is ammunition and  
21 other combat-related material.

22 TF1-360 said in 1994 Charles Taylor advised Foday Sankoh to  
23 avoid towns, live in the bush and concentrate on ambushes. Foday  
24 Sankoh did that. That is at page 3050 to 3052. The witness also  
10:53:58 25 said that Foday Sankoh and Charles Taylor were in radio contact  
26 frequently, that Foday Sankoh always got advice from Charles  
27 Taylor. 3052 to 3053.

28 TF1-597 talked about Charles Taylor's encouragement and  
29 advice to Johnny Paul Koroma after the intervention, encouraging

1 them to go back to try to capture Kono, putting pressure on them  
2 to capture Kono. They did move forward and finally captured  
3 Kono. This at page 10496 to 10498.

4 Now, these are many of the ways that the accused  
10:54:46 5 participated, contributed, in this JCE. He also provided bases  
6 and safe havens from the beginning. TF1-367 testifies about that  
7 at pages 14103 to 14104. TF1-571 at pages 9332 to 9335 and  
8 TF1-045 at 20078 to 20082. They talk about being able to move  
9 back into Liberia when they were being pressured by the  
10:55:21 10 government forces in Sierra Leone and they talked about bases  
11 that they had in Liberia.

12 The accused also assisted the RUF in relation to diamond  
13 dealing, and TF1-338 told you about diamond deals in Monrovia  
14 during the period Issa Sesay was in control. You find this at  
10:55:49 15 pages 15167 to 15171, 172, 15193 to 15198, 15234 to 15236, but he  
16 also provided mining assistance and equipment. TF1-360 told you  
17 that Charles Taylor sent two white men to take pictures of mining  
18 equipment and write down what was needed. This was at pages 3262  
19 to 3264. TF1-367 said that if mining machines would break down  
10:56:26 20 or need repair that this would come from Liberia; petrol and fuel  
21 were also provided. This at 14198 to 14203.

22 Warnings of impending strikes by ECOMOG jets. TF1-585 told  
23 you that Alpha Jet warnings were received from RIA from Sky 1,  
24 who was one of Charles Taylor's fighters working at RIA. She  
10:56:51 25 told you this at 15887 to 15892 to 15893.

26 These are many of the ways, but not the exhaustive list of  
27 the ways, in which this accused participated and his  
28 participation contributed to the commission of the offences in  
29 Sierra Leone.

1           When you look at the evidence you really could not have  
2 started this conflict in Sierra Leone without his involvement.  
3 He provided the means, he provided the men, many of the men, he  
4 provided commanders early on. Many of his initial contributions  
10:57:37 5 were lasting contributions; the radio equipment, the training the  
6 operators ensured efficient use of very limited resources in  
7 Sierra Leone, that commanders could communicate reports to each  
8 other, they could keep their leadership informed, they could move  
9 resources where they were most needed. That was a continuing  
10:57:55 10 contribution. The training they received, these people who  
11 continued, and many of them became senior leaders in the RUF,  
12 that was a significant contribution as well.

13           And you have heard testimony about the use of materials  
14 that were sent, materials that were used in the initial attacks,  
10:58:13 15 materials that were used during the junta period, materials that  
16 were used in the post-junta period. The provision of manpower  
17 that augmented the RUF and later the AFRC and RUF forces  
18 contributed to the ability of these forces to continue to engage  
19 in the campaign of terror. A continuing strategic and tactical  
10:58:36 20 advice, direction and encouragement provided by the accused  
21 enabled them to efficiently and effectively achieve their  
22 strategic objectives and the additional assistance also enabled  
23 them to sustain and maintain a campaign of terror in Sierra  
24 Leone.

10:58:55 25           Now, we need to move to the mens rea and of course the mens  
26 rea for joint criminal enterprise differs according to the  
27 category of the joint criminal enterprise under consideration.  
28 When we look at the mens rea, motive is immaterial. Whatever  
29 motivated the individuals to act is immaterial. The mens rea is

1 what we look at.

2 If we look at the basic form of joint criminal enterprise,  
3 then the accused must intend to commit the crimes and intend to  
4 participate in the common plan whose object was the commission of  
10:59:37 5 the crimes. Now, the Prosecution does allege the basic form of  
6 joint criminal enterprise and that all of the crimes that were  
7 committed, all the crimes that are charged, all the counts, were  
8 intended.

9 What manifestations of that intent do we have in the  
10:59:55 10 evidence before you? We have already discussed some evidence  
11 relating to the accused's intent when we discussed the crime of  
12 acts of terror and the element of primary purpose.

13 TF1-532 at 5659 to 5664 told you about receiving a new  
14 assignment from Charles Taylor to go and train the Sierra  
11:00:24 15 Leoneans and to fight in Sierra Leone, but he told you that  
16 Charles Taylor had warned over BBC, he had warned that Sierra  
17 Leone would taste the bitterness of war. He also told you that  
18 Charles Taylor had ordered his command to kill Sierra Leoneans  
19 and Nigerians, a manifestation of intent towards civilians.

11:00:45 20 You have also heard evidence of massacres by the NPFL  
21 relevant because of manifestations of intent of conduct towards  
22 civilians, so TF1-399 at page 5919, at page 5920, told you about  
23 NPFL massacres at Carter Camp and Dupont Road involving the  
24 killing of many civilians.

11:01:16 25 TF1-367 told you at page 14080 that in Kakata Mandingos  
26 were hunted and killed by the NPFL.

27 At page 23594 to 23596 you were told that the NPFL targeted  
28 and killed Mandingos and Krahn, manifestations of intent towards  
29 civilians.

1 TF1-399 told you that Charles Taylor did not punish the  
2 NPFL who committed atrocities, that the same instruction from  
3 Charles Taylor extended within the RUF as well and that Charles  
4 Taylor took no steps to curb ill-disciplined behaviour of  
11:01:56 5 fighters. The only action the witness saw him take was that  
6 anybody who did not follow his instructions was executed and if  
7 you did things without his instruction people would be executed.

8 TF1-561 at pages 9861 to 9866 also gave you very clear  
9 evidence of the accused's intention, this in regard to the  
11:02:24 10 civilian population of Sierra Leone. The witness told you that  
11 Foday Sankoh complained to Charles Taylor that the NPFL soldiers  
12 were raping women, killing people and looting in Sierra Leone and  
13 then later Charles Taylor had a conversation with the witness and  
14 said, "Look, your man Foday Sankoh is here and he is saying that  
11:02:46 15 the people are destroying his people, looting his property" and  
16 then the accused said, "When you talk about a guerrilla war it is  
17 destruction and this type of thing must happen if you are  
18 fighting a war. You are not eating bread and butter. You are  
19 fighting."

11:03:05 20 TF1-399 also told you that Foday Sankoh complained about  
21 the crimes the NPFL were committing against civilians. TF1-399  
22 passed this on to Charles Taylor and Charles Taylor's response  
23 was that Foday Sankoh would get used to it, and that is at pages  
24 5868 to 5869, and we have discussed the advice that Foday Sankoh  
11:03:32 25 was given by Charles Taylor to attack Sierra Rutile and terrorise  
26 the area, starting with the civilians.

27 TF1-532 at page 6785 also told you that there was pattern  
28 in the RUF to kill civilians who were in an area that had been  
29 occupied by the enemies, or were coming from the direction which

1 enemies had fled or in which enemies were based, and he said this  
2 conduct had happened in the NPFL even before it came over to the  
3 RUF.

4 And, of course, we have the evidence about the plan to  
11:04:12 5 attack the locations including Freetown where to save ammunition  
6 Charles Taylor said they should make this operation, the attack  
7 on Freetown, more fearful than any other operation.

8 And of course at P33B, in that document Charles Taylor  
9 acknowledged that he knew the RUF had committed atrocities and  
11:04:37 10 someone would have to pay. Now, that is a 2000 interview. It  
11 doesn't mean that his knowledge is limited to 2000, but in  
12 fairness that is a 2000 interview, but he acknowledges at that  
13 time that he knew these things were going on.

14 TF1-532 at page 5655 testified that Charles Taylor used  
11:05:03 15 SBUs as part of guards and fighters, so he himself used them.  
16 The witness also testified at page 5649 that Charles Taylor  
17 ordered the capture of civilians to be forcibly trained and that  
18 included women, men and children.

19 TF1-360 at page 3116, and also page 3105, testified that  
11:05:34 20 Charles Taylor sent messages to Sam Bockarie to reorganise and to  
21 prepare an airfield in Buedu for the diamond industry and to use  
22 civilians in the work.

23 The manifestations of intent are sufficient to support this  
24 mens rea for the joint criminal enterprise.

11:05:57 25 The alternative is that crimes are reasonably foreseeable  
26 and for this mens rea to prevail, this extended category, then  
27 the evidence must indicate that the accused intended to  
28 participate in and contribute to the common criminal purpose and,  
29 in addition, to be held responsible for crimes that were not part

1 of the common plan but were a natural and foreseeable consequence  
2 the evidence needs to show that the accused knew such a crime  
3 might be perpetrated by a member of the group and willingly took  
4 the risk that the crime might occur by continuing or joining in  
11:06:42 5 the enterprise.

6 Now, we have discussed the direct form of intent and that  
7 the Prosecution has alleged that. We have also alleged in the  
8 alternative this secondary form of intent that Counts 2, 3, 4, 5,  
9 6, 7 and 8 were foreseeable consequences of the crimes that were  
11:07:08 10 agreed upon in the common plan.

11 Now, what evidence do we have to show this reasonable  
12 foreseeability? Well, of course you can rely on the evidence we  
13 talked about in terms of direct intention as well. We also have  
14 evidence of TF1-045 at pages 20109 to 20111, that when Foday  
11:07:38 15 Sankoh was in Zogoda he communicated by radio and would brief  
16 Charles Taylor on all that was happening in the areas, the areas  
17 that were attacked, the weapons that were captured.

18 TF1-360 also talks about the area at the time 1994 and  
19 testified that Foday Sankoh spoke with Charles Taylor every two  
11:07:58 20 or three days and that messages went back and forth and this is  
21 at 3049 to 3050. TF1-561 told you, at pages 9868 to 9874, that  
22 from the beginning in Gbarnga, throughout his presidency, Charles  
23 Taylor constantly listened to BBC news and watched CNN on  
24 satellite television, listened to satellite radio. That he  
11:08:26 25 listened to Focus on Africa and Network Africa and most  
26 international networks. He had a ministry for reporting events  
27 so he could keep up on what was happening inside and out of  
28 Liberia. Information about the situation in Sierra Leone was in  
29 newspapers as well. A lot of accusations about Liberians

1 attacking and killing people in Sierra Leone. Human rights  
2 groups were saying things about Charles Taylor's involvement and  
3 killing people. He said they were very well-informed.

11:09:05 4 TF1-567, at pages 12889 to 12890, testified about hearing  
5 over the radio that RUF and Kamajors were amputating hands and  
6 feet, this is before the coup in Sierra Leone in 1997.

7 P69, which is a United Nations Security Council Resolution  
8 of October 1997 called on the junta to end all acts of violence  
9 in Sierra Leone. P70, a United Nations Security Council

11:09:34 10 Resolution dated 5 June 1998, called on the rebels to put an end  
11 to the atrocities. P125, a newspaper article in a Liberian  
12 newspaper, The Daily Times, dated 24/07,98 indicated that rebels  
13 captured in Bo, members of the ousted AFRC/RUF military junta,  
14 and these captured rebels said that they were carrying out the  
11:10:03 15 gruesome atrocities to put pressure for Sankoh's release.

16 P130, which is a United Nations Security Council fifth  
17 report, dated 09/06/98 also gives notice of crimes being  
18 committed. As for the Freetown invasion, TF1-516 said that  
19 interviews on BBC were given during the invasion discussing the  
11:10:29 20 atrocities, and that during the attack Sam Bockarie made numerous  
21 calls to Base 1 and sometimes to 020 and evidence is there that  
22 Base 1 was Benjamin Yeaten, 020 Charles Taylor.

23 D-62, the April 1998 article, the chronology, is filled  
24 with indications of the terror being inflicted on the population  
11:10:55 25 by the RUF. It refers to the junta as a brutal regime.

26 Sufficient evidence to support a conviction on all counts  
27 based on common plan, design or purpose or JCE mode of liability.  
28 No need for the Trial Chamber to consider other modes of  
29 liability at this stage.

1 Now, if we do move to aiding and abetting, then of course  
2 we have to look at the requirement that there be some evidence  
3 which could support the finding that the accused gave practical  
4 assistance, encouragement or moral support which had a  
11:11:35 5 substantial effect on the perpetration of the crime. Practical  
6 assistance, encouragement or moral support. Now, aiding and  
7 abetting may be constituted by contribution to the planning,  
8 preparation or execution of a finally completed crime as well.

9 Acts of aiding and abetting may occur before, during or  
11:12:00 10 after the principal crime has been perpetrated and the location  
11 at which the actus reus takes place may be removed from the  
12 location of the principal crime. This at the AFRC Appeals  
13 Chamber judgment paragraph 71 citing the ICTY Appeals Chamber  
14 decision in Blaskic.

11:12:21 15 Now, we have talked about the practical assistance that was  
16 provided by the accused. There is no need to go back over that  
17 again. This assistance also, this aiding and abetting also took  
18 the form of encouragement and moral support, which indeed may  
19 constitute the actus reus of aiding and abetting, and you find  
11:12:42 20 that at the CDF appeal judgment at paragraph 71 to 78, wherein  
21 the Appeals chamber specifically upheld the conviction of Kondewa  
22 for aiding and abetting through his blessings and speech at the  
23 first passing out parade, finding that that speech substantially  
24 contributed to the contribution or contributed to the preparation  
11:13:00 25 of crimes in Tongo Field, and the Appeals chamber was satisfied  
26 it was reasonable for the Trial Chamber to conclude that Kondewa  
27 by his words of encouragement aided and abetted the commission of  
28 criminal acts ordered by Norman in Tongo.

29 The ICTY Appeals Chamber has confirmed that the actus reus

1 of aiding and abetting may be satisfied by a commander permitting  
2 the use of resources under his or her control including personnel  
3 to facilitate the perpetration of a crime. This is the Krstic  
4 appeal judgment at paragraphs 137, 138 and 144. Also the  
11:13:43 5 Blagojevic and Jokic appeal judgement at paragraph 127.

6 Now, in looking at the second element, that the support of  
7 the aider and abetter must have a substantial effect on the  
8 perpetration of the crime, it is not necessary to prove a  
9 cause/effect relationship existed between the conduct of the  
11:14:11 10 aider and abetter and the commission of the crime, or that such  
11 conduct served as a condition precedent to the commission of the  
12 crime. This is referring to the Blaskic appeal judgment,  
13 paragraph 48.

14 Now, the Prosecution has also dealt with the substantial  
11:14:36 15 contribution of this accused to the crimes that occurred in  
16 Sierra Leone when we made that discussion of his participation in  
17 the joint criminal enterprise and the evidence is sufficient to  
18 meet the standard for this aiding and abetting element as well.

19 The third element, the mens rea. The accused either knew  
11:14:57 20 the acts would assist the commission of the crime or was aware of  
21 the substantial likelihood his acts would assist the commission  
22 of the crime. The specificity of the crime aided and abetted, it  
23 is not necessary the aider and abetter had knowledge of the  
24 precise crime that was intended and which was actually committed  
11:15:16 25 as long as he was aware that one of the crimes would probably be  
26 committed, including the one actually committed. That is the  
27 AFRC Appeals Chamber judgment paragraph 242 and 243 confirming  
28 the approach of the Trial Chamber in the AFRC trial judgment.

29 Now, the evidence that we have discussed previously is also

1 capable of supporting this element. Evidence of the intent of  
2 the accused, of the forms of notice provided to him, are  
3 sufficient to support this element vis-a-vis knowledge of the  
4 mens rea as well - of the mens rea of the perpetrators as well.

11:16:05 5 Now, again, should your Honours feel it necessary to  
6 consider more than one form of liability or find the others, the  
7 evidence is insufficient, we would move to planning. Now again  
8 in the discussion of planning, planning must be a factor that  
9 substantially contributed to the commission of the crime.

11:16:28 10 However, there is no but for requirement. You do not need to  
11 show that but for the accused's action and the crime or the  
12 accused's planning the crime would not have occurred. It is  
13 sufficient to demonstrate the planning was a factor substantially  
14 contributing to the criminal conduct.

11:16:46 15 As for the mens rea, again we have an issue that the  
16 accused acted with direct intention in relation to his or her own  
17 planning or with the awareness of the substantial likelihood that  
18 a crime would be committed in the execution of that plan.  
19 Planning with such awareness has to be regarded as accepting that  
11:17:04 20 crime and here we are referring to the AFRC trial judgment at  
21 paragraph 237.

22 Now, what evidence do we have that the accused alone or  
23 with others contemplated designing or designed the commission of  
24 a crime at both the preparatory and execution phases? We have  
11:17:33 25 already talked about some of that planning; we talked about  
26 Freetown. We also have evidence from TF1-360, at pages 3164 to  
27 3166, that in about April or May of 1998 Charles Taylor sent a  
28 plan that was to be explained by Sam Bockarie and he was to  
29 explain it to the others. And the plan was there was to be this

1 movement, this attack, Kono to Makeni to Masiaka, to Waterloo and  
2 he also sent orders for that mission and he sent herbalists who  
3 took part in the planning. He says the orders were for the  
4 Fitti-Fatta mission to recapture Kono.

11:18:30 5 Now, several witnesses have also told you about the plan to  
6 take Kono. This appears to be the overall - the overarching plan  
7 from the time the junta was pushed out of Freetown, to move back  
8 through Kono, capturing Kono and moving on, and this planning  
9 begins early in 1998 and culminates in the plan brought back by  
11:19:03 10 Sam Bockarie in which 532 tells you Charles Taylor said to use  
11 the ammunition efficiently to save ammunition, make the operation  
12 more fearful than any other.

13 You are also told at page 2412 to 2414 that Sam Bockarie  
14 had a phone conversation with Charles Taylor about Operation No  
11:19:25 15 Living Thing, and then he came back to a meeting with a small  
16 group of commanders and he announced Operation No Living Thing,  
17 that nothing should stand in the way of the operation. Anything  
18 that stands in the way should be eliminated. Now, he says that  
19 those crimes were implied. They were told that nothing should  
11:19:43 20 stand in the way of the success of the operation.

21 TF1-571 told you at pages 9397 to 9398, 9423 to 9424 and  
22 9430, that Sam Bockarie held a meeting, explained the plan for  
23 Operation Free the Leader designed by Charles Taylor in Monrovia.  
24 The plan was to retake Kono, go to Freetown, free Foday Sankoh,  
11:20:14 25 take over power and that after the meeting Sam Bockarie spoke to  
26 Charles Taylor on the satellite phone, briefed him on the outcome  
27 of the meeting and assured him the plan would be followed.

28 So if we focus on the post-junta period the plan  
29 Fitti-Fatta, the plan to take and hold Kono, we have to put that

1 in the context of the crimes that were being committed in the  
2 Kono area and throughout the country at that time.

3 Now, the planning must be a factor that substantially  
4 contributed to the commission of the offence. The planning  
11:20:57 5 ensured the efficient use of resources, coordinated effort and  
6 further set the framework for the crimes that would be committed  
7 and the plan came from someone who had tremendous influence and  
8 authority over the RUF and the AFRC and RUF.

9 Now, as for the mens rea, the accused acted with direct  
11:21:22 10 intention in relation to his or her own planning or with the  
11 awareness that the substantial likelihood that a crime would be  
12 committed and the execution of that plan.

13 We would suggest to you that certainly the plan he devised  
14 with Sam Bockarie, the plan that would begin with Kono and move  
11:21:38 15 and take Freetown, was a direct intention plan because they were  
16 told save ammunition, make it fearful. We know what it means to  
17 make it fearful; it means to commit crimes against civilians.

18 What about the plan about retaking Koidu, holding Kono? On  
19 its face that may not be a criminal plan. However, based on all  
11:22:01 20 of the evidence we have discussed with you, the accused had an  
21 awareness of the very substantial likelihood that in carrying out  
22 that plan crimes would be committed so that the second element of  
23 the mens rea would certainly apply to that plan, and if your  
24 Honours disagreed with the direct intention regarding the  
11:22:21 25 Freetown operation certainly the second prong would apply to that  
26 as well.

27 Now, for instigating, for the first element prompting. We  
28 have had the evidence of TF1-577 about the secret meeting where  
29 Jungle and Bah were sent by Charles Taylor, about trying to get

1 hold over Kono and to construct an airstrip. On its face a  
2 criminal plan, criminal instigation? No. You also have the  
3 evidence of TF1-597 about Taylor saying they should try to  
4 capture Kono again pressuring them to capture Kono and that they  
11:23:20 5 agreed and moved on that. On its face criminal instigation? No.

6 The evidence of TF1-360 again relating to Kono, encouraging  
7 them, telling them to stand by Kono. Criminal instigation on its  
8 face? No. But now we do of course have the evidence that there  
9 were orders involved in these requests or telling them to take  
11:23:57 10 Kono; we have the order on Fitti-Fatta. Now the instigation was  
11 a factor that substantially contributed to the commission of the  
12 crime by others. The law requires there be a causal link between  
13 the accused's act of instigation and the perpetrator's commission  
14 of the crime. The nexus between the instigation and the

11:24:22 15 perpetration, it is not necessary to prove the crime would not  
16 have been perpetrated without the accused's involvement. It is  
17 sufficient to prove the instigation was a factor clearly  
18 contributing to the conduct of other persons and from that we are  
19 referring to the Brdjanin trial judgment at paragraph 269 from  
11:24:43 20 the ICTY and the Bagilishema trial judgment from the ICTR at  
21 paragraph 30.

22 Now, we have talked about much of the evidence that shows  
23 this instigation by this accused would be a substantial - a  
24 factor contributing substantially to the commission of the crimes  
11:25:06 25 by others. His unique position with the RUF, the fact that he  
26 was the supplier of all the crucial materiel and support to them,  
27 is a position of authority over them in our submission. All of  
28 these things indicate that when he prompted or suggested it was  
29 taken as more than a mere request but as something that they

1 would act on and in fact on these instigations he did act.

2 Excuse me, the RUF and later the AFRC and RUF did act.

3 We also have the evidence from TF1-571, at 9353 to 9359,  
4 that late in 1996 Foday Sankoh said the RUF had to take orders  
11:26:05 5 from Sam Bockarie while Foday Sankoh was travelling and that  
6 Sam Bockarie was to take orders from Charles Taylor. He also  
7 said at that time that Foday Sankoh introduced Jungle as Charles  
8 Taylor's representative and eyes.

9 TF1-406 told you at page 925 to 926 that Charles Taylor was  
11:26:31 10 the father of the RUF. Sam Bockarie made that clear to him.

11 TF1-532 at pages 6226 to 6227, 6228 to 6229 said that  
12 Charles Taylor and Sam Bockarie were like father and son, that  
13 Sam Bockarie described Charles Taylor as his father, that the RUF  
14 referred to Charles Taylor as the CIC; that meant that Charles  
11:27:00 15 Taylor had command over the RUF. The RUF belonged to him.

16 Of course this is relevant for ordering and for superior  
17 authority, these factors that were just discussed. However, they  
18 are also relevant for this instigation to show the import of this  
19 instigation.

11:27:20 20 Now, the mens rea requirement for instigation. The accused  
21 acted with direct intent or with the awareness of the substantial  
22 likelihood a crime would be committed in the execution of that  
23 instigation.

24 Now, we suggest that in the circumstances the evidence  
11:27:40 25 would certainly support this second prong of the mens rea and we  
26 suggest, when you look at the evidence about him suggesting  
27 holding Kono in the context of the order for the Fitti-Fatta  
28 operation, that you could also determine there was a direct  
29 intention for crimes.

1           You can determine that by this point in time, after all of  
2 these years of crimes against civilians in Sierra Leone, that for  
3 this accused to instigate holding an area, taking an area, that  
4 it must be a direct intention, that the awareness of the  
11:28:23 5 substantial likelihood to commit a crime by now has transformed  
6 itself in direct intent because he is aware of what the RUF and  
7 the AFRC and RUF do. We suggest he intended it, but he is  
8 certainly aware of it, and with that awareness he continues to  
9 tell them to hold areas, to take areas, to carry out operations.

11:28:48 10           Now, as I said, we have discussed the evidence that  
11 supports this mens rea. There is no additional evidence that I  
12 would suggest would need to be looked at for the mens rea and  
13 now, your Honour, we would be moving to ordering so --

14           PRESIDING JUDGE: Yes, I was about to ask is that a  
11:29:05 15 convenient time to take the morning break? We are just about out  
16 of tape at the moment.

17           MS HOLLIS: It is.

18           PRESIDING JUDGE: Yes, all right, thank you. We will  
19 adjourn until 12 o'clock.

11:29:18 20                               [Break taken at 11.30 a.m.]

21                               [Upon resuming at 12.00 p.m.]

22           PRESIDING JUDGE: Yes, continue, please, Ms Hollis.

23           MS HOLLIS: Thank you, Mr President. Now, if we could turn  
24 to ordering and, again, the evidence we have discussed  
12:02:13 25 previously, much of that evidence will be relevant to this form  
26 of liability as well.

27           First of all we have to look at the evidence that the  
28 accused was a person in a position of authority. We already have  
29 much evidence on that. I have mentioned the evidence of TF1-561,

1 about Charles Taylor's identification of himself as the head of  
2 the NPFL, that no-one would have questioned his authority. In  
3 addition to that, TF1-561 also said that Charles Taylor was the  
4 only boss they the NPFL had. He was the only one making  
12:02:59 5 decisions in the group. And he testified about Gambian and  
6 Sierra Leonean groups there in Libya, the Sierra Leonean group  
7 headed by Foday Sankoh. He said that Foday Sankoh called Charles  
8 Taylor chief and that the other groups did that as well and that  
9 Charles Taylor was considered the head of the group there in  
12:03:18 10 Libya. In addition to my previous cites, we also have the cite  
11 at page 9810 to 9815 and 9816.

12 If we look at confidential exhibit P-27 [sic] at page 12,  
13 2.2, you are told that Foday Sankoh and Rashid Mansaray left  
14 Libya under the auspices of Charles Taylor as their mentor and at  
12:03:51 15 page 3 of that document you are told that Charles Taylor was in  
16 control of the war and involved in every facet of what happened  
17 in Sierra Leone. You can also look at P-54, which is the NPFL  
18 command chart, that was significant for the command structure for  
19 the commencement of the war.

12:04:14 20 TF1-338 testified at pages 15103 to 15106 that at the end  
21 of 1991 there were NPFL front line commanders including one  
22 Gambian who was an NPFL person called Mon Ami.

23 Of course you have the evidence of 571 that I have  
24 mentioned, that in late 1996 Foday Sankoh said Sam Bockarie would  
12:04:53 25 be in charge on the ground in Sierra Leone, and that Sam Bockarie  
26 was to take instructions from Charles Taylor and introduced  
27 Jungle as Pa Taylor's eyes on the movement.

28 You have the testimony of TF1-338, at pages 15114 to 15116,  
29 wherein the witness testified that after Foday Sankoh was

1 arrested in Nigeria Jungle communicated a message to Sam Bockarie  
2 from Charles Taylor, and that message said that Foday Sankoh had  
3 ordered that Sam Bockarie was to take direct commands from  
4 Charles Taylor until Foday Sankoh returned.

12:05:46 5 You had the testimony of TF1-516 at page 6854 to 6856  
6 saying that all senior RUF referred to Charles Taylor as chief.

7 The testimony alluded to earlier from TF1-597, at pages  
8 10444 to 10447, and then 10448 to 10452, that when Johnny Paul  
9 Koroma called Charles Taylor for recognition of the junta Charles  
12:06:25 10 Taylor told Johnny Paul Koroma if he had any problems with the  
11 RUF to call him, and that when the Iranian embassy was looted and  
12 Issa Sesay resisted arrest, Johnny Paul Koroma called Charles  
13 Taylor about that. Why? Because Charles Taylor was the  
14 Godfather of the RUF so you had to call him and let him know what  
12:06:48 15 was going on.

16 TF1-274, at pages 21512 to 21516, told you that after the  
17 junta was forced from power Sam Bockarie got instructions from  
18 Charles Taylor to go to Monrovia for briefings and that he went.  
19 He also told you, at page 21516 to 21522, about a trip to  
12:07:27 20 Monrovia he says took place in mid-1998 and he said Sam Bockarie,  
21 Benjamin Yeaten, Rashid Shabado and others went to meet Charles  
22 Taylor as CIC.

23 You also learned, at pages 2955 to 2956, that in 1997 to  
24 1999, in that time frame, during that time frame, Sam Bockarie  
12:07:56 25 was going back and forth to Monrovia to meet with Charles Taylor  
26 and coming back with instructions from Charles Taylor, evidence  
27 which could support a finding that Charles Taylor was a person in  
28 a position of authority over the RUF and the AFRC, and certainly  
29 taken in conjunction with all the other evidence that has been

1 discussed.

2 Well, then we have to look at evidence relating to the  
3 person in the position of authority using that authority to  
4 instruct another to commit an offence. Judgments from the ICTY  
12:08:40 5 indicate that using that position to convince or persuade another  
6 to commit an offence would also be an instance of ordering when  
7 it comes from a person in a position of superior authority. On  
8 that we refer to the Blaskic appeal judgment at paragraph 42, the  
9 Kordic and Cerkez [indiscernible] appeal judgment at paragraph  
12:09:08 10 30, the Musema trial judgment at paragraph 121 of the ICTR, the  
11 Rutaganda trial judgment, at paragraph 39 from the ICTR.

12 Also the order need not be given directly to the  
13 perpetrator of the offence, and on that we rely on the AFRC trial  
14 judgment at paragraph 772 which refers to the Brdjanin trial  
12:09:37 15 judgment and the Blaskic trial judgment.

16 That is to say, the accused need not be the immediate  
17 superior of the perpetrator. It is not required that the order  
18 be in any particular form and there we make the same reference.  
19 It can be explicit or implicit and there we rely on the Blaskic  
12:10:03 20 trial judgment at paragraph 281.

21 The existence of the order may be proven through  
22 circumstantial evidence. We refer there to the Blaskic trial  
23 judgment at paragraph 281, the Akayesu trial judgment at  
24 paragraph 480, and the Galic trial judgment at paragraph 171.

12:10:31 25 Now, what is the evidence here that the accused used his  
26 authority to instruct another to commit an offence? We have  
27 already heard some of the evidence of that. In the later years  
28 certainly, the order relating to the attack that culminated in  
29 the attack on Freetown we suggest was clearly an order that

1 directly indicated committing an offence. You also have evidence  
2 at page 2291 to 2292 that in 1998 Sam Bockarie had contact with  
3 Charles Taylor and Charles Taylor instructed Sam Bockarie to hold  
4 Kono and we have talked about instructions to hold about Kono.

12:11:20 5 And we have the evidence of TF1-360 referred to before at  
6 3164 to 3166 about the order for the Fitti-Fatta mission.

7 We have the evidence of TF1-360 at page 3105 indicating  
8 that Charles Taylor and Sam Bockarie both gave orders regarding  
9 attacks and that Charles Taylor ordered Sam Bockarie to prepare  
10 an airstrip to be built for the diamond industry and that  
11 civilians should be used for the work. We suggest that on its  
12 face that would be a criminal order. If not, then we would look  
13 at the other form of mens rea.

14 TF1-274 gave an indication of an order as well as superior  
12:12:25 15 authority at pages 21541 to 21552 discussing Sam Bockarie  
16 travelling to meet with Charles Taylor in Monrovia; that  
17 Sam Bockarie had originally planned to go to Libya to get arms  
18 and ammunition, but in Monrovia there was a change of plans by  
19 the CIC, Charles Taylor's instruction, and instead Sam Bockarie  
12:12:55 20 now went to Burkina Faso and that on his return Sam Bockarie,  
21 Benjamin Yeaten discussed targets to hit in the plan and that the  
22 first targets to be hit were Kono and Tongo.

23 Now, we suggest that the accused's orders here relating to  
24 how to get the arms and ammunition that were later used for the  
12:13:19 25 various attacks culminating in the attack on Freetown would, of  
26 itself, be a criminal order. If not, the second form of mens rea  
27 would certainly apply.

28 Now in relation to Operation Free the Leader that TF1-571  
29 talked to you about, that it was designed by Charles Taylor,

1 TF1-045 testified to you, at pages 20514, 20220 and 20222, that  
2 Operation Spare No Soul was the same as Operation No Living Thing  
3 and also was called Operation Free the Leader, these were the  
4 same operation, and that Sam Bockarie instructed for these  
12:14:17 5 operations that nothing was to stand in the way. They were to  
6 kill civilians who ran, they were to burn and they did this.

7 We would suggest to you that when you combine that with  
8 Charles Taylor's order that this operation should be more fearful  
9 than any other that these operations that were on his plan, and  
12:14:40 10 we suggest his instruction, were criminal in nature.

11 We suggest that the evidence before you would be sufficient  
12 for the next two elements of this form of liability as well, that  
13 the order was a factor substantially contributing to the  
14 commission of a crime by others. Again, we would point out that  
12:15:08 15 the causal link need not be such as to show the offence would not  
16 have been perpetrated in the absence of the order.

17 And that the accused acted with the direct intention in  
18 relation to his own ordering or with the awareness of the  
19 substantial likelihood that a crime would be committed in the  
12:15:34 20 execution of that order, and in discussion of the mens rea for  
21 other forms of liability we have discussed why this mens rea is  
22 met either because on its face the order intends a crime, or  
23 because in the circumstances that prevailed the accused was aware  
24 of the substantial likelihood that in acting on that order crimes  
12:15:57 25 within the jurisdiction of this Court would be committed.

26 Now, finally, we would wish to turn to the mode of  
27 liability of superior authority and the first element that we  
28 would look at would again be the existence of a superior  
29 subordinate relationship between the accused as the superior and

1 the perpetrator of the crime. Now, this component under 6.3,  
2 under this theory of superior authority, also encompasses a test  
3 of effective control; that is the material ability of an accused  
4 to prevent or punish criminal conduct.

12:16:45 5 In terms of the existence of a superior subordinate  
6 relationship, the evidence that is before you and has previously  
7 been discussed, would be sufficient for that. Now it is  
8 important to realise in the context of superior authority that it  
9 is not required to identify the principal perpetrator by name.  
12:17:10 10 It is sufficient to identify the subordinates as belonging to a  
11 unit or group controlled by the superior, and in that regard we  
12 refer to the AFRC trial judgment paragraph 790.

13 Also, concurrent command does not vitiate the individual  
14 responsibility of any of the commanders, and we refer to the AFRC  
12:17:34 15 appeal judgment paragraph 262. So if we look at what would  
16 constitute effective control we have already discussed much of  
17 that in the other evidence before you, but in addition we would  
18 ask that you pay particular attention to or additional attention  
19 to the evidence of TF1-561, that you only orders from the  
12:18:09 20 commander-in-chief, Charles Taylor. Nobody disobeyed an order  
21 from Charles Taylor. He would be punished severely, including  
22 561, who could not disobey his orders. That is at 9814 to 9815  
23 and 9849.

24 The evidence of TF1-567 that has been cited earlier, that  
12:18:33 25 when Charles Taylor called for Foday Sankoh to come to meet with  
26 him after they had taken Kono and got diamonds, Foday Sankoh went  
27 and he took diamonds and gave them to Charles Taylor. The  
28 testimony of TF1-567, which has been referred to previously at  
29 13074 to 13087, that when Charles Taylor said he needed men to

1 open the route between the NPFL and the RUF in 1993, those men  
2 were sent.

3 The evidence of TF1-360, it has been discussed earlier,  
4 that when Charles Taylor "advised" Foday Sankoh to avoid towns,  
12:19:22 5 live in the bush and concentrate on ambushes, that is what Foday  
6 Sankoh did.

7 TF1-516 at 6835 also gives you evidence of the compliance  
8 with that "advice".

9 The evidence from TF1-274, that Sam Bockarie got  
12:19:46 10 instructions from Charles Taylor to go to Monrovia for briefings,  
11 and he went.

12 TF1-334 told you, at pages 8503 to 8516, discussing a  
13 meeting that they had with Charles Taylor, when they went to see  
14 him in Monrovia after Lome, Charles Taylor told them at that time  
12:20:12 15 that he had been having some problems with Mosquito Spray so he  
16 instructed Sam Bockarie to come to Voinjama to repel them and we  
17 have cited the evidence that in fact Sam Bockarie did just that.

18 TF1-276 at pages 2027 to 2029 talks about the capture of  
19 Nigerian ECOMOG in Kono, that they were held in Buedu and that  
12:20:37 20 Sam Bockarie said it is an order from Charles Taylor to release  
21 the peacekeepers, so Sam Bockarie released them to Benjamin  
22 Yeaten and Joe Tuah in Foya.

23 TF1-561 told you at pages 9950 to 9962 he discussed Charles  
24 Taylor's control over the RUF and he talked about a meeting  
12:21:04 25 between Johnny Paul Koroma, Foday Sankoh, Sam Bockarie in Liberia  
26 with the chief, referring to Charles Taylor, after the junta  
27 period and he said that Charles Taylor made the ultimate decision  
28 about the dispute between the leaders.

29 TF1-276 at pages 2029 to 2032 talked about the 500

1 peacekeepers that were taken by the RUF in 2000, and he told you  
2 that Issa Sesay went to Liberia with Joseph Mazhar and Jungle and  
3 when he came back he had a satellite phone and 50 boxes of  
4 ammunition. He then called a meeting and said that Charles  
12:21:50 5 Taylor said we should release the peacekeepers over to him in  
6 Liberia and now he never had any alternative but to release them  
7 and he handed them over.

8 TF1-337 at pages 5337 to 5340 told you that Issa Sesay  
9 informed his men that Charles Taylor had given him a mission to  
12:22:18 10 launch an attack against Lansana Conteh in Guinea, and they did  
11 it.

12 TF1-561 at page 9967 to 9969 told you that ECOWAS asked  
13 Charles Taylor to intervene and ensure the release of  
14 peacekeepers, that Charles Taylor did that and they were  
12:22:44 15 released.

16 Now, there was some discussion about the difficult position  
17 that Charles Taylor was in when people came to him and asked him  
18 to intervene with the RUF. What we suggest to you is that  
19 difficult position or not, those people came to him because they  
12:22:57 20 knew he was the man who had the authority to make it happen.

21 Now, you also have to look at whether the accused knew or  
22 had reason to know that the crime was about to be or had been  
23 committed and when you do that you can look at actual knowledge  
24 or constructive knowledge and constructive knowledge, whether the  
12:23:19 25 superior had reason to know, can be established where the  
26 superior had information available to him which would put him on  
27 notice of offences committed or about to be committed by his  
28 subordinates, would be such as to alert him to the need for  
29 additional investigation, for showing that the superior had some

1 general information in his possession which would put him on  
2 notice of possible unlawful acts by his subordinates is  
3 sufficient to prove that the superior had reason to know. There  
4 we are citing the Krnojelac appeal judgment at paragraph 154.

12:24:01 5 The information does not need to provide specific  
6 information about the unlawful acts committed or about to be  
7 committed. There we refer to the Delalic appeals judgment  
8 paragraph 238, and the Krnojelac appeals judgment paragraphs 154  
9 and 155.

12:24:29 10 All the evidence that we have discussed relating to the  
11 notice to the accused, references to his particular intention and  
12 state of mind when it came to how to treat civilians, the  
13 testimony that Jungle was his eyes on the movement, and the  
14 testimony about Jungle's frequent trips, all of the public  
12:24:50 15 evidence, the testimony from TF1-561 of Charles Taylor's  
16 familiarity with the media and that they were well-informed, all  
17 of this evidence makes it clear that this accused had the  
18 knowledge, he knew or he certainly had reason to know about these  
19 crimes that were continuing in Sierra Leone from the very  
12:25:12 20 beginning of this conflict, continuing right through to the end.

21 Now, finally, you have to look at the factor that the  
22 accused failed to take necessary and reasonable measures to  
23 prevent the crime or punish the perpetrators thereof. Now of  
24 course it is a twofold duty to prevent as well as to punish, so  
12:25:43 25 if you later punish but failed to prevent when you could do so,  
26 then that does not relieve you of liability and on that we refer  
27 to the Halilovic trial judgment 16 November 2005 at paragraph 72.

28 Of course we understand that necessary measures are  
29 measures appropriate for the superior to discharge his obligation

1 and reasonable measures are those reasonably falling within the  
2 material powers of the superior. What we suggest to you is that  
3 this accused was the ultimate superior and that all of the powers  
4 lay with him, and if at some point he shared those powers with  
12:26:28 5 Foday Sankoh, recall that concurrent authority does not relieve  
6 him of responsibility.

7 The evidence before you would also support a finding that  
8 this element is met, including the evidence of TF1-399 that  
9 Charles Taylor did not punish the NPFL who committed atrocities,  
12:26:53 10 that he punished people who didn't obey his orders or who acted  
11 outside of his orders.

12 The evidence of TF1-561, that when there were complaints  
13 early on about the crimes that were being committed against the  
14 civilians in Sierra Leone, Charles Taylor's response was when you  
12:27:15 15 are in a guerrilla war destruction of people, that happens.

16 Also we have the evidence that after the attack on  
17 Freetown, the prior years of all of the crimes and all of the  
18 notice of those crimes, the notice of the atrocities that were  
19 committed in Freetown, Charles Taylor called Sam Bockarie to come  
12:27:42 20 to Monrovia and when Sam Bockarie returned he had not been  
21 punished. In fact, he had been promoted. He promoted him to a  
22 two-star general after the Freetown attack for an accomplished  
23 mission, and that is at pages 2430 to 2431.

24 The evidence that you have before you is that this accused  
12:28:15 25 with knowledge, direct knowledge or having information before him  
26 sufficient to put him on notice never punished, never prevented  
27 and why was that? Because what was happening in Sierra Leone was  
28 intended by him. It was within his overall plan. It was the way  
29 to achieve the purposes of the joint criminal enterprise.

1           There is evidence capable of sustaining a conviction on all  
2 counts of the indictment on the basis of the accused's  
3 participation in a common plan, purpose or design. All the  
4 counts which set out the crimes within the statute of this Court.

12:28:59 5           We have also discussed the evidence to support all the  
6 other modes of liability, although if you find that (1) there is  
7 evidence to support a finding as to one mode of liability then  
8 you need not consider the others. And where the modes of  
9 liability, such as joint criminal enterprise, or aiding and  
12:29:20 10 abetting, envision various ways in which the accused participates  
11 or contributes to the crimes, you need only consider if there is  
12 evidence that would support a conviction based on that mode of  
13 liability for that one particular form of contribution or  
14 participation. You need not find that all of the forms which  
12:29:41 15 were discussed, all of the forms of participation, or support,  
16 were supported by the evidence, but indeed only one of those  
17 forms. But we suggest that all of them are supported. We  
18 suggest that all of the forms of liability are supported and we  
19 suggest that there is no basis upon which the Trial Chamber  
12:30:04 20 should enter a judgment of acquittal for any of the counts.

21           Thank you.

22           PRESIDING JUDGE: Thank you, Ms Hollis. Mr Anyah, the  
23 issues are clear, but did you have anything you wanted to reply  
24 to?

12:30:24 25           MR ANYAH: Mr President, may I have a moment to consult  
26 with our client?

27           PRESIDING JUDGE: Yes.

28           MR ANYAH: Thank you. Thank you, Mr President. We are  
29 grateful for the time given to consult. We have nothing further

1 at this point. We will just submit the issues before the Court.

2 PRESIDING JUDGE: Yes, thank you, Mr Anyah. Well, the next  
3 step obviously is for the Court to deliver its decision on the  
4 Defence's Rule 98 motion. We have given some thought to an  
12:33:09 5 appropriate date for delivery of that decision and that date is  
6 influenced by two considerations: Firstly, as you know, tomorrow  
7 is the beginning of Easter and the Trial Chamber is taking an  
8 Easter recess up to and including 24 April, so our first day back  
9 will be 27 April.

12:33:40 10 Now, the other consideration is that before the Trial  
11 Chamber can decide the issues raised by the parties it is  
12 important that we have the Appeals Chamber's decision on the  
13 Defence appeal of the Trial Chamber's majority decision on the  
14 pleading of joint criminal enterprise. Now, we anticipate that  
12:34:10 15 that will probably be delivered by the Appeals Chamber in the  
16 near future but, nevertheless, it is something that must be  
17 considered before we reach our decision on the Rule 98 motion.

18 Now, taking those factors into account, we have decided  
19 that we will need a week after resuming duties on 27 April so  
12:34:42 20 that we will deliver our decision on the Defence's motion  
21 pursuant to Rule 98 on Monday, 4 May at 9.30 a.m.

22 Now, upon delivery of that decision, the Trial Chamber, if  
23 appropriate and after hearing the parties, will fix a date for  
24 the commencement of the Defence case.

12:35:20 25 Unless there are any other matters, we will adjourn until 4  
26 May.

27 Madam Court Officer, adjourn the Court, please.

28 [Whereupon the hearing adjourned at 12.35 p.m.  
29 to be reconvened on Monday, 4 May 2009 at 9.30

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29

a. m. ]