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[RUF10MAR08A-DG]

Monday, 10 February 2008

[Open session]

[The accused present]

[Upon commencing at 9.48 a.m.]

[The witness entered Court]

WITNESS: DIS-091 [Continued]

[The witness answered through interpreter]

PRESIDING JUDGE: Good morning, learned counsel. We are resuming the session. Yes, Mr Jordash, I notice that your client is not in Court this morning.

MR JORDASH: Excuse me. Your Honour, no.

PRESIDING JUDGE: We're wondering whether you have a waiver which we asked for.

MR JORDASH: There's a written waiver for today. There's some misunderstanding or and the detention office, and a waiver for Friday is now being prepared. So that should be with us shortly.

PRESIDING JUDGE: I see.

MR JORDASH: The waiver for today and so that the Court is informed, applies except as regards the evidence of General Opande and Mr Sesay wants to be present and also in relation to

1 General Hassan, Mr Sesay has indicated he owes them his presence
2 in Court, is how he puts it. And so the waiver will be subject
3 to those two ons.

4 PRESIDING JUDGE: It's -- it's -- it's your call, Mr -- I
5 mean, if he wants to be present, I mean, that is what it should
6 n for his absence is that, he has to talk with his lawyer.

7 MR JORDASH: Yes, I think that --

8 PRESIDING JUDGE: He's waived his right all right to be
9 present, then for the following reasons. The following reasons
10 for his absence. He has to talk with his lawyer. No particular
11 reason is stated there.

12 MR JORDASH: No, that's curious statement. I spoke to him
13 over the weekend and I'm satisfied he'd made his mind up at that
14 stage. So I'm not sure what that indication is, but I'm
15 satisfied that his mind was made up and this is what he was
16 going to do. So that might be some miscommunication with the
17 detention staff, but as far as I'm concerned, he's --

18 PRESIDING JUDGE: Let me put it this way. It is my
19 understanding that he does not even need to give us valid reason
20 to be present. All he needs to do is to say that he doesn't
21 want to be present and that's it, you know, and if he can
22 indicate that you know here, you know, I think if something can
23 be drawn up and he just indicates that he doesn't want to be
24 present, you know, that's fine.

25 JUDGE BOUTET: Reasons apply really if he's sick or these

1 kind of scenarios, well I --

2 PRESIDING JUDGE: But for any reason which he doesn't want
3 to explain, he does not wish to be present he could easily say,
4 you know, that I don't just feel like attending Court today.
5 It's as simple as that. You can go on in my absence, my lawyer
6 is there. That's-- it's as simple as that.

7 JUDGE BOUTET: Don't just say I waive my right to be
8 present in Court period, that's it speak.

9 PRESIDING JUDGE: For the reasons, you know, he says, it's
10 just that I don't feel like attending Court today.

11 MR JORDASH: For the avoidance of doubt I wasn't present
12 when that was said. So I don't understand that any more than
13 Your Honours.

14 PRESIDING JUDGE: I know. I know. Court management can
15 you take this please. That's it behind you, here. So it would
16 be corrected, you know, properly filled, then maybe, we can deal
17 with those two documents later in the day.

18 MR JORDASH: Certainly, Your Honour.

19 PRESIDING JUDGE: Right.

20 MR JORDASH: There are a number of other subjects I'd like
21 to raise quite quickly, the second subject is that of
22 time-tabling. I think time is running out rapidly and what I'd
23 request is the possibility of sitting either extended hours and
24 or Wednesday afternoon, so as to be able to complete the
25 remaining witnesses by the close of play, on Thursday. If I

1 could indicate to Your Honours that there is a potential of six
2 witnesses left, four definites, those are Opande, General
3 Opande, General Hassan, DIS-129 and DIS-170. DIS-083 and
4 DIS-095 have only just arrived and we'll make final assessment
5 by the end of the day we hope. But in the event that the two
6 witnesses I've just mentioned are to be called it does make the
7 remaining time somewhat short. So I would request those
8 extended sitting times if possible. The third point I'd like to
9 raise is related to that request for additional time. And it's
10 based on a legal argument which I feel as though I am duty bound
11 to raise. And it concerns comments or directions made by Your
12 Honours, concerning the decision of the 5 March 2008, concerning
13 the written decision on the Sesay Defence application for a
14 weeks adjournment and concerns comments or directions made by
15 Your Honours, on Friday, concerning the effect of character
16 evidence and at some stage and I'm in Your Honours hands, I wish
17 to raise a legal argument in relation to those. I'm calling
18 them comments or directions because strictly speaking they are
19 not a decision or a ruling. Especially, those remarks made in
20 the written decision which strictly speaking are overturned.

21 But the legal argument I feel duty bound to raise concerns
22 Rule 93 of the rules and procedure in evidence. Which is
23 evidence of consistent pattern of conduct. And the -- if I
24 could simply say at this stage, that Your Honours comments and
25 directions would appear to suggest that Your Honours have

1 decided not to apply that Rule and particularly, I'm referring
2 to Paragraph 45 of the written decision of the 5 March, wherein
3 Your Honours state that events pre-30 November 1996, have a
4 connection only one in a historical sense, then even that only
5 to a limited extent. And I would seek to argue before the close
6 of our case, that that is a misapplication of the law and in
7 particular, complete subversion of Rule 93, which requires Your
8 Honours to consider evidence of a consistent pattern of conduct.
9 And when I say evidence of a consistent pattern of conduct, I'm
10 including in that all of the evidence which we've led pre1996
11 but also the evidence which Your Honours have categorized as
12 character evidence which falls within the indictment period. I
13 feel duty bound to raise it before the close of our case because
14 if Your Honours ruling in the way suggested in the written
15 decision and in the way suggested on Friday during oral argument
16 then it places our Defence in a difficult situation.

17 JUDGE BOUTET: But are you arguing now? Or--

18 MR JORDASH: No. I'm laying it out so Your Honours could
19 decide when this argument should be heard. The reason I --

20 JUDGE BOUTET: Are you intending to appeal our decision on
21 the 5 March. That's one way, if you dont agree with it. That`s
22 one way of dealing with it and the Appeals Chamber may look into
23 this matter.

24 PRESIDING JUDGE: I also wanted to say, you know, whether
25 we did say in that decision that the evidence of character or

1 whatever which you have adduced is irrelevant. I do not know.
2 I'm not aware that we said that. That, that was mentioned in
3 that decisions.

4 MR JORDASH: No. But the point is this about this decision
5 which is why I'm referring to the contents of it.

6 PRESIDING JUDGE: You see because, if we had said, that the
7 evidence of character is irrelevant in that decision then I
8 would see why you are coming in but I don't think that --
9 besides talking about the repetitiveness, repetitiveness, you
10 know, of certain portions of evidence, of certain facts in the
11 evidence, we never ever in that decision say that the evidence
12 you have adduced so far in those circumstances is irrelevant.

13 MR JORDASH: Well, if I can put it this way. If I can
14 answer Justice Boutet's remarks that it is not possible to
15 appeal this decision against a decision which on it's ratio is
16 in our favour. The adjournment was granted. So that's why I
17 referred to the overturn.

18 PRESIDING JUDGE: Even if it is in your favour partially,
19 you can appeal against those portions which you do not agree
20 with, it's possible. Why not.

21 MR JORDASH: In that case, what I would appreciate is, and
22 that is why I raise it, is a clarification with respect from
23 Your Honours, as to exactly what Your Honours meant. If Your
24 Honours are saying that --

25 JUDGE BOUTET: Mr Jordash, I 'm speaking for myself on this

1 issue. I don't think you can expect from the Bench, that the
2 Bench would give additional clarification on what is the meaning
3 of a decision that has been rendered as such. To me, the
4 decision speaks for itself. You give it whatever interpretation
5 you think is appropriate. I don't think we should as a court go
6 back to this decision and trying to further explain what we had
7 said, and to say that when we said this is what we meant and we
8 never meant to say this. At least this is not my understanding
9 of what Court ruling are all about, and I don't think that we
10 should go and explain what we meant when we said that decision,
11 but I spoke for myself, I didn't discuss with -- we didn't
12 discuss that this morning.

13 PRESIDING JUDGE: I conquer with what my learned brother
14 has stated there. I don't want to get there myself. I have
15 gotten there already, by raising the issue, you know, of whether
16 we did say, you know, that the evidence was irrelevant, which we
17 did not anyway. So it means that we never -- we never said you
18 know that character evidence which you are leading which has
19 something to do with -- which according to you has a nexus with
20 the provisions of Rule 93 is irrelevant. We never got there.

21 JUDGE THOMPSON: Yes, and I would like to say straight away
22 and that would be again subject to what an appellate Tribunal
23 will tell me as a matter of law, that Rule 93 would not apply to
24 the Defence case. That would be my own interpretation of the
25 law, as a matter of law subject to correction from an appellate

1 Chamber that Rule 93 is restrictive and the focus is on the
2 Prosecution's case. In other words, the analogy here, is to
3 similar fact evidence in the national system which a Prosecution
4 cannot lead to prove the crimes or the charges before the Court.
5 Generally, as a general Rule, similar fact evidence is not
6 admissible in the context of the national system to prove that
7 an accused person committed a crime, because there are
8 exceptional cases in the national system. And I think what Rule
9 92 -- 93, here is doing, is virtually reproducing some kind of
10 an analogous Rule which is applied in a municipal system for the
11 purposes of international criminal justice. Virtually saying
12 that similar fact evidence may be admissible in the interest of
13 justice and my own interpretation of the law, subject to
14 correction by an appellate Tribunal, would say that it doesn't
15 apply to the Defence case. That's would be my interpretation of
16 the law.

17 JUDGE BOUTET: Further buttressed by 93(b) Because, when
18 you read 93(b) it says has standing to show such a pattern
19 conduct shall, shall be disclose by the Prosecution, not by the
20 Defence. So I mean.

21 JUDGE THOMPSON: In other words, the Prosecution is not
22 allowed to produce evidence of similar fact to prove the
23 indictment, as a general Rule in the national system but here
24 there is an exception made to that. And so I don't see why the
25 Defence should complain, that the concept of character evidence

1 that you're leading in support of your clients case is governed
2 by Rule 93 as a matter of law.

3 MR JORDASH: Well --

4 JUDGE THOMPSON: That would be my own interpretation of the
5 law, besides subject to appellate --

6 PRESIDING JUDGE: I think to close this chapter, Mr
7 Jordash, I think granted, you say, that at least that decision
8 in a way it was favourable to you. It is that -- we don't to
9 want to delve into the merits of what you're talking about. We
10 do not want to carry out a postmortem or diagnosis of our own
11 decision. And the legal avenue out of this is, if you so wish
12 to appeal against that decision and just like any other party
13 can appeal against it and we'll close it and pursue the taking
14 of the next witness, because like you've confessed, like you've
15 put it yourself, you know, we don't have much time to get into
16 these arguments. Because I don't see us getting into this, you
17 know.

18 MR JORDASH: The difficulty I have is this: One, it has
19 always been my understanding that a decision cannot be appealed
20 unless it is against the party but having said that.

21 PRESIDING JUDGE: A decision has many compartments it has
22 many compartments. It has many compartments, I mean you could
23 -- it's a question of whether the entire decision, you know
24 satisfies your needs or it goes against the law, in one way or
25 the other. If it does go against the law or the interest, you

1 know, of your clients, then you could appeal against that issue.
2 It is possible.

3 MR JORDASH: Well, that's never been my understanding but
4 in any event what I would seek to appeal is the Courts ruling
5 today, that Rule 93 does not apply.

6 PRESIDING JUDGE: Where have we even made such a ruling --
7 we have not had any arguments on this. This is why we don't
8 want to get into this --

9 JUDGE THOMPSON: It's my view.

10 PRESIDING JUDGE: Into this issue. What my colleague was
11 saying.

12 JUDGE THOMPSON: I wasn't speaking for the Bench at all.

13 MR JORDASH: But I want to make an legal application to say
14 Rule 93 does apply.

15 JUDGE BOUTET: You want to make it now? Well, do you want
16 to make it now? That's why I ask you, are you making your
17 application now, Mr Jordash? Or are you just giving us
18 notification that you are like -- that are likely to -- that's
19 why I put it to you. If you are doing it now, fine, we'll
20 listen to you and we'll try to dispose of it.

21 MR JORDASH: What I'm trying to do is set out the
22 time-tabling as we see it. And I'm inviting Your Honours to
23 look at the remaining time sit -- extended hours and part of the
24 reason for sitting extended hours is to hear argument concerning
25 Rule 93. And the reason -- the reason that's important to do

1 it, I would submit, before the close of our case is because
2 depending on what Your Honours ruling is on Rule 93, may well
3 depend upon whether I request that our case remains open in
4 order to reconsider the evidence which might need to be called
5 if Your Honours are considering all evidence pre-1996 as
6 marginally relevant as historical context. And or whether Your
7 Honours are considering character of the witness simply as was
8 indicated on Friday, relevant to the sentencing stage rather
9 than the liability stage..

10 JUDGE BOUTET: I don't think that's what we said, but
11 anyhow I would -- maybe that's what you got from what the
12 comments were from the Bench, Mr Jordash, but if that's what you
13 got that's not what we intended to say. Yes, character evidence
14 is important and is certainly relevant for sentencing, but we
15 never said, to my knowledge, that it is relevant only for that
16 purpose. I don't think we said that.

17 MR JORDASH: Well, this is the reason why I'm raising these
18 points, because I am requesting of the Bench that Your Honours
19 clarify the position on this so that we might be guided as to
20 what it is we are presenting as evidence, and what is likely to
21 be the Bench's overall approach to that evidence. Because it's
22 important not simply for us but also for the other teams. But I
23 speak on my behalf that the --

24 JUDGE BOUTET: Can I suggest Mr Jordash on this or so we
25 could move ahead. We will ask for the transcript what we said

1 in Court on Friday, look at it, and then hear what you may have
2 to say. As I say it's not my recollection that this is what we
3 said. If that's the way it came out, certainly speaking for
4 myself on this issue, I don't think it was ever intended to be
5 that limited, but I don't have the transcript in front of me.
6 It's very difficult to say "yes" or "no" and "maybe" and these
7 were really not decisions from the Court. These were response
8 to the questions you were putting to the Court at that time.
9 But if this is what the transcript said, maybe when we said that
10 at the time when -- in a direction that we didn't intend. But
11 rather than speak on this issue without having a transcript, Mr
12 Jordash, it's difficult to say you're right or we're wrong or
13 whatever it is.

14 MR JORDASH: If I can --

15 JUDGE THOMPSON: May I say something that I'm not being
16 judicially apologetic about this. I raised a fundamental issue
17 as far as my knowledge of the basic criminal process is, that
18 usually there is a dichotomy a bifurcation between the liability
19 phase of a trial and the sentencing phase, that in the national
20 systems evidence relating to character is usually reserved for
21 the sentencing phase. I made that as my own understanding of
22 the law, but I wasn't in fact discounting the possibility when
23 you came out with what I thought was a very attractive legal
24 argument, that you may in fact say that it's possible that you
25 can use character evidence at the liability stage to say that

1 your client did not commit crimes. I found this very creative
2 and novel, but I was basing my own knowledge on what at law
3 school I was taught, that usually character evidence is not
4 brought in to argue the liability or otherwise of the client, of
5 the accused person. That is what I understood the law and that
6 was my own thinking. But it was put there for argument and I
7 wasn't binding my two brother judges on this issue, but nor was
8 I stating it as the Court's position.

9 MR JORDASH: Well, I apologise for misreading what your
10 Your Honour's comments were, but this highlights the uncertainty
11 of --

12 PRESIDING JUDGE: And I would confirm that Justice
13 Thompson, at a certain stage in the proceedings, did say that he
14 cannot discount character evidence, you know, being used at the
15 liability stage, the liability-determination stage of the
16 proceedings. Even though he said what he said, he did mention
17 that in the course of his comments on Friday.

18 MR JORDASH: Well, absolutely no criticism was intended,
19 absolutely not.

20 JUDGE THOMPSON: I can assure that it's not taken that way.

21 MR JORDASH: Thank you, Your Honour.

22 JUDGE THOMPSON: But just to put the argument in focus, it
23 was a debate.

24 MR JORDASH: What I'm seeking is -- as Your Honours know
25 we've led a lot of evidence about which on one view could be

1 character, on another view, our view, is the acts and conduct of
2 the accused which reflect a consistent pattern of behavior from
3 the beginning of the war. We put a lot of weight on it because
4 we say it's important in terms of the liabilities expressed
5 within the indictment, especially the joint criminal enterprise
6 especially command responsibility. So to hear or to read a
7 decision or to hear remarks we suggest that that evidence is
8 going to be, or quite probably will be -

9 PRESIDING JUDGE: Probably. Don't say probably. Talk
10 categorically. Not probably. We want you to really say what
11 our decisions said. How have you read it?

12 MR JORDASH: Well, the decision says that pre-1996 is
13 historical --

14 PRESIDING JUDGE: Yes.

15 MR JORDASH: -- and only -- let me see the words spoken.
16 To a limited extent relevant.

17 PRESIDING JUDGE: Yes. Yes.

18 MR JORDASH: That's the issue.

19 PRESIDING JUDGE: Yes.

20 JUDGE BOUTET: To a limited extent.

21 PRESIDING JUDGE: That is it to a limited extent. What is
22 wrong with that? It speaks for itself.

23 MR JORDASH: The point is this: That we would take Rule 93
24 -- we could save these arguments until the closing, but in my
25 submission we ought to be as a Defence, entitled to look at what

1 approach Your Honours are taking and ask Your Honours --

2 PRESIDING JUDGE: We have taken our approach.

3 MR JORDASH: But we haven't argued --

4 PRESIDING JUDGE: We have taken our approach on this. I
5 think we better wrap up this argument. We have taken our
6 position on this and as I was saying on Friday, you know, a
7 judicial decision is not supposed to please all parties or even
8 a particular party in all it's compartments. We have taken our
9 time to analyze the situation, you know, and we were very, very
10 very, careful in analysing the entire situation. And at no
11 stage did we say -- did we say, you know, that the preindictment
12 historical period is not relevant. At no stage did we say, you
13 know, that character is not relevant. So this --

14 MR JORDASH: The question that -- I'm sorry, Your Honour.

15 PRESIDING JUDGE: Yes, no, go ahead, yes.

16 MR JORDASH: The question that remains, and this is what
17 I'm asking Your Honours to consider, and Your Honours haven't
18 considered submissions on this. That's why I say that the issue
19 --

20 JUDGE BOUTET: On 93?

21 MR JORDASH: Well, on the relevance of pre-1996 as relates
22 to Rule 93, and Your Honours haven't considered submissions on
23 it. And Your Honours, in my respectful submission, should
24 before the Defence are obliged to close their case.

25 JUDGE BOUTET: But why? Why? The rules are there. They

1 speak for themselves. I mean, obviously, I mean as you say, I'm
2 a bit at a loss to understand what you are saying this morning
3 in this respect, Mr Jordash. As you said you are about to close
4 your case and at this particular moment now you're asking the
5 Court to give a ruling, so you know if you're going to turn
6 right or turn left. I mean I'm a bit surprised of this
7 application now.

8 MR JORDASH: Well, because --

9 JUDGE BOUTET: If you had made an application I don't know
10 a year and a half ago, I would have understood. But at this
11 stage.

12 MR JORDASH: But there was nothing from Your Honours to
13 suggest that Your Honours was going to look at --

14 JUDGE BOUTET: Yeah, but your whole, your whole Defence, or
15 the majority of your Defence or the approach taken in the
16 strategic approach taken by you and your client is to say it
17 relies heavily on this particular aspect. Am I right?

18 MR JORDASH: No. It relies heavily on all aspects but
19 obviously the starting point of his conduct was the beginning --

20 JUDGE BOUTET: I'm not saying "solely and only," but yet
21 you rely heavily on that aspect of your Defence.

22 MR JORDASH: On a consistent pattern of conduct from --

23 JUDGE BOUTET: That's what I mean. The pattern of conduct
24 of the accused throughout is such that. So that's basically the
25 underlying strategic approach that you have taken in this

1 respect. That's what I'm saying.

2 MR JORDASH: But Your Honour's decision appears to suggest
3 well, in fact it's not a consistent part of conduct, it's simply
4 historical --

5 JUDGE THOMPSON: Let me intervene, respectfully. And we
6 didn't investigate that aspect, and we could not at that, this
7 point in time because that's the kind of argument or perception
8 that one would want to hear submissions on at the close of the
9 case, of the trial. And I would say in fact that what I just
10 said about Rule 93 is a judicial viewpoint that I hold unless
11 I'm persuaded by argument otherwise that it has an extended
12 application, and prepared to say as a matter of law and as a
13 judge I'm entitled to do that, unless I'm corrected by the
14 appellate Chamber or persuaded by Mr Jordash, that in fact, it
15 goes beyond Prosecution's evidence and it applies with equal
16 force to Defence evidence. These are all matters in the air. I
17 ask the question: Why would not this be a real issue that one
18 can articulate some solid closing arguments on, and try to
19 persuade the Court that even if the Court had indicated perhaps
20 in some interlocutory decision that it was going this way, a
21 different way. Yet when it comes to the final evaluation of the
22 case, these are matters that should be factored into the entire
23 process. That would be my thinking. That would be the kind of
24 exercise that I'd be prepared for.

25 MR JORDASH: Well, if Your Honour's view is shared by the

1 remainder of the honourable Bench then my concerns are
2 completely alleviated. What I'd wanted to achieve was the
3 possibility of addressing Your Honours on the probative value of
4 those acts and conduct throughout the conflict, pursuant to Rule
5 93. Or if not Rule 93 then an equal but opposite rule of
6 principal. And if that's the case, then I won't need to proceed
7 with the ruling. But if we were being shuttered out at this
8 stage then that was my concern.

9 PRESIDING JUDGE: I don't think any issue -- I mean there
10 is any issue that is a taboo, you know, to raise when you are
11 making your final closing brief in this case. I mean, these are
12 things which are -- I mean, the decision itself, I mean, we
13 cannot, we cannot tell you, you know you should move this way or
14 that way. And we have not stated, we have not taken a position
15 that the evidence you've led on character or on the pre-1996
16 issues, you know, is irrelevant. All we were saying, you know,
17 was that it was getting repetitive. Repetitive. That is all we
18 were talking about. And you don't need, you don't need to make
19 the point -- and that is where, why we went into the practice in
20 international criminal tribunals, which says that you can prove
21 an issue or a fact, you know, with just one witness, and that is
22 it. And we went further to say that even though that is the
23 law, it might be necessary in certain circumstances to have some
24 collaborative evidence which I am sure we've heard in this
25 particular case to make the point on repetitiveness. And if you

1 want to visit them or these issues which you want to raise now,
2 during your final brief at the close of the case for the
3 Defence, nothing precludes you from doing that. Nothing,
4 absolutely nothing.

5 JUDGE BOUTET: I am not prepared to commit myself one way
6 or the other on this issue. We'll deal with that when it comes.
7 To me the decision is clear, it speak for itself. And you can
8 draw whatever inference you want from that decision. I'm not
9 prepared to comment on that decision. So you proceed the way
10 you want to proceed. We have spoken on that decision on the
11 issue that was in front of us. But other than that I'm not
12 prepared to commit myself one way or the other.

13 PRESIDING JUDGE: Maybe if you want a clearer or more
14 authoritative voice on that decision, the suggestion is nothing
15 prevails, nothing precludes you from appealing against it so
16 that you have what the position of the appeals Chamber would be
17 on what this Chamber has had to say in that decision.

18 MR JORDASH: Well, I take Your Honours comments today and I
19 shall leave it at that, and leave it to the closing submissions.
20 The final point to --

21 PRESIDING JUDGE: And on your request for extended hearings
22 and so on and so forth. We will look at it as a Chamber and we
23 will see how we proceed today and we'll determine what attitude
24 to adopt to extended sittings and so on before you close your
25 case.

1 MR JORDASH: Certainly. And for the purposes --

2 PRESIDING JUDGE: Yes. We cannot say anything about
3 that now. We can't say 'no', we cannot say 'yes'.

4 MR JORDASH: Yes.

5 PRESIDING JUDGE: We will let you know as time goes
6 on.

7 MR JORDASH: Thank you. For the purposes of that
8 deliberation, would Your Honours take into account that we lost
9 a morning for the residual issues.

10 PRESIDING JUDGE: Which morning?

11 MR JORDASH: I think it was a Thursday morning. Or
12 certainly we lost several hours that day. Mr Cammegh will know.

13 PRESIDING JUDGE: Mr Cammegh?

14 MR JORDASH: But Your Honours recall the --

15 JUDGE BOUTET: You mean to say we lost court time, morning?

16 MR JORDASH: Yes. Yes. We lost court time.

17 PRESIDING JUDGE: We lost court time, yes.

18 MR JORDASH: But the final issue --

19 PRESIDING JUDGE: Mr Cammegh lost more court time, so maybe
20 it should reflect on his pay.

21 MR JORDASH: It might. The final issue, and I'm sorry to
22 delay the Court so much, is that of General Opande. We're
23 trying to find out -- there's been some miscommunication
24 concerning when he's leaving the country, or when he wishes to
25 leave the country.

1 PRESIDING JUDGE: When he wishes to leave Sierra Leone?

2 MR JORDASH: Yes. Well, I'm being told it's Tuesday, but
3 the information we had was that it was Friday. So could I just
4 take quick instructions? There does seem to be some confusion.
5 WVS think Friday, the Kallon team think Tuesday. And the point
6 is, if he has to leave on Tuesday we'd like to make the
7 application at some point to perhaps interpose him to get him on
8 earlier today. He's the next witness after the present one.
9 But if it turns out that he has to leave on Tuesday we would be
10 inviting the Court to interpose him with the present witness so
11 that he may finish by the end of the day. But I think we could
12 let you know in terms of --

13 MS MYLVAGANAM: My Lord --

14 PRESIDING JUDGE: Mr Jordash -- yes?

15 MS MYLVAGANAM: My Lord I wonder if I could briefly address
16 the Court on this matter.

17 PRESIDING JUDGE: Yes, yes.

18 MS MYLVAGANAM: I'm fairly clear that General Opande is
19 anxious to leave on Tuesday. Maybe, there's been some
20 miscommunication through other channels --

21 PRESIDING JUDGE: May we find the solution? We're prepared
22 to take him on now.

23 MS MYLVAGANAM: I'm grateful. I wonder whether the Court
24 --

25 PRESIDING JUDGE: We're prepared to take him on now. Mr

1 Prosecution, would you -- I don't know, but.

2 MR HARDAWAY: This is Mr Harrison's witness, Your Honour.

3 PRESIDING JUDGE: Yes.

4 MR HARDAWAY: So I would need to communicate with him.

5 PRESIDING JUDGE: Please you know because we are getting to
6 the close of the case of the Prosecution and -- rather of the
7 Defence --

8 MR HARDAWAY: And Your Honour while --

9 PRESIDING JUDGE: -- and the first defendant. And the
10 Prosecution should be ready at all times. We are not going to
11 use hard rules of procedure and practice, you know to --

12 MR HARDAWAY: No. I understand that, Your Honour. This
13 was just brought up to us about a [indiscernible] position. I'm
14 sure with a phone call I can be able to speak to Mr Harrison.

15 PRESIDING JUDGE: Good. That's fine.

16 MR HARDAWAY: But as it also relates --

17 MR JORDASH: If I may say so. My learned friend --

18 PRESIDING JUDGE: Pardon me?

19 JUDGE BOUTET: We don't hear.

20 MR JORDASH: Well, it may be that it is not necessary. I
21 think there is a lack of clarity on this issue. I know my
22 learned friend is certain, but every information we've received,
23 and I think before we interpose him, I would respectfully ask
24 that we clarify through him.

25 PRESIDING JUDGE: No. No. No. Look --

1 MR JORDASH: He may not even be at Court at the moment.

2 PRESIDING JUDGE: Yes, may we know? Can you please consult
3 with your colleague, Ms Mylvaganam and see where we move from
4 here. Because a lot of pressure is being put on the Court. And
5 we understand and we are prepared to cope with that pressure to
6 take on witnesses, you know, who we think we should take
7 following the preferences of the Defence.

8 MR JORDASH: Your Honour, could --

9 PRESIDING JUDGE: So we want to know where we stand in
10 this. We don't want to impose a solution on you. Let us know
11 where we stand. And mark you, Mr Harrison, who is not here
12 although we can stand down the matter and maybe ask him to come.

13 MR JORDASH: And the General may well not be here at Court
14 either. Ms Ashraph has just gone out of Court. She's going to
15 check with WVS and check with the General, what is the actual
16 situation because we could speculate forever and a day. In the
17 meantime what I would respectfully request is, I know this
18 witness is desperate to get away too --

19 PRESIDING JUDGE: Every witness is desperate to get away.
20 Mr Jordash, we cannot, we cannot, the Court will not work on the
21 calendar of witnesses who are desperate to get away. When they
22 come here to testify on your behalf they must adjust themselves
23 to the timetable of Court. Every witness who comes wants to get
24 away and so on and so forth, and not more than one of them can
25 testify at any given time.

1 MR JORDASH: The point I was making was in my respectful
2 view every witness is as important as the other and their
3 concerns are equally valid. So that's my position. And if we
4 can get this witness done, I'd like that to be done.

5 PRESIDING JUDGE: Ms Mylvaganam, what's your position on
6 this, please?

7 MS MYLVAGANAM: Well, My Lord, I didn't really mean to
8 interfere. My concern was that understanding that General
9 Opande, who's been here for some days was expecting to fly out
10 on Tuesday. I was just hoping that the interest of the Court
11 and --

12 PRESIDING JUDGE: And you spoke to him Ms Mylvaganam?

13 MS MYLVAGANAM: I did, yes.

14 PRESIDING JUDGE: Yes.

15 MS MYLVAGANAM: And in fact both my understanding and Mr
16 Ogeto's understanding is that he was anticipating leaving
17 tomorrow. In fact Mr Ogeto currently is also trying to make
18 contact with him. And we thought it may be more sensible if he
19 was interposed. But certainly we don't want to interfere with
20 anybody else's case. We --

21 PRESIDING JUDGE: Yes, yes, finish what you have to say.

22 MS MYLVAGANAM: We don't want to interfere with the first
23 defendant's case unnecessarily, so I think perhaps the less said
24 by me at the moment, the better.

25 PRESIDING JUDGE: Right. Thank you, yes.

1 JUDGE THOMPSON: What is "anticipating to fly out." What
2 does that mean, tomorrow?

3 MS MYLVAGANAM: My understanding is, I believe there's a
4 Kenyan air-flight on Tuesday which goes via Accra. So that is
5 --

6 JUDGE THOMPSON: That is his final position, that he wants
7 to fly out tomorrow?

8 MS MYLVAGANAM: My Lord, Mr Ogeto is currently absolutely
9 clarifying the position because it was very clear from my
10 understanding of his position that he anticipated his testimony
11 concluding today. Now it's not likely to be long, but all the
12 same, you know, if he starts at 3.00 the chances are that it may
13 not finish. That's my anxiety.

14 JUDGE BOUTET: Yeah, but the flight is tomorrow evening,
15 it's not in the afternoon.

16 MS MYLVAGANAM: I'm not aware of exactly when.

17 JUDGE BOUTET: Kenyan Airlines fly in the afternoon. They
18 leave Lungi sometime in the evening.

19 PRESIDING JUDGE: I don't have a mastery of their calendar.

20 JUDGE BOUTET: But there's no flight from Lungi by Kenyan
21 Airlines in the afternoon. It's evening time. So maybe seven
22 or eight, I'm not sure, but certainly not in the day.

23 MS MYLVAGANAM: Well, I'm probably worrying unnecessarily.

24 JUDGE BOUTET: I think so, but I had one question for you.
25 Based on your comments, can I assume that he's a common witness.

1 I know nothing about that. So I assume because of your
2 intervention that you have some interest in General Opande. I
3 don't know.

4 MS MYLVAGANAM: Yes, I believe he's been filed as a common
5 witness. I believe there's been notification to that effect.

6 JUDGE BOUTET: Where and when?

7 PRESIDING JUDGE: I'm not aware of that, you know, up to
8 now. Maybe it has not yet been virtually put on the table of
9 the judges. I don't know.

10 MS MYLVAGANAM: My Lord, perhaps I could investigate that
11 at some appropriate time.

12 PRESIDING JUDGE: Please do and let us have some evidence
13 of that fact, you know, of the filing which remains to this
14 effect. So the solution now is that we take on this witness. A
15 witness who is on now. Mr Jordash, is that the solution?

16 MR JORDASH: Yes, please.

17 PRESIDING JUDGE: Can the witness be brought in now please,
18 and please can the Prosecution get on the line with Mr Harrison
19 to inform him that we may take General Opande --

20 MR HARDAWAY: That has already been done, Your Honour.

21 PRESIDING JUDGE: -- sometime in the course of today.

22 MR HARDAWAY: It was anticipated that General Opande would
23 be today, Your Honour, and Mr Harrison has been informed of that
24 during the break. A call has been made.

25 [The witness entered court].

1 PRESIDING JUDGE: Okay. Now that Ms Ashraph is coming in,
2 I hope that she may have some information, you know, to relate
3 to us. Yes, Ms Ashraph has brought some good news or some bad
4 news?

5 MR JORDASH: It's in between news.

6 PRESIDING JUDGE: She has never brought bad news to us
7 anyway.

8 MR JORDASH: Maybe not to Your Honours.

9 PRESIDING JUDGE: Yes.

10 MR JORDASH: The news is that General Opande does want to
11 go tomorrow.

12 PRESIDING JUDGE: Yes.

13 MR JORDASH: He has only just informed WVS. So WVS do not
14 have or doubt whether he could get on the flight tomorrow. And
15 in any event, he's not in court; by the time he's brought, the
16 earliest he could go on is after lunch is the anticipated time
17 tabling. So I think this is why I say in between news. There's
18 a hope that he will leave tomorrow as Your Honour rightly
19 observes the flight is in the evening. I can indicate that I
20 will not be more than an hour with him in direct. And I don't
21 anticipate that if he were to start after this witness, that he
22 would not catch his flight tomorrow.

23 PRESIDING JUDGE: Everything should be done to enable him
24 to catch the flight. The flights are very -- at times very
25 difficult. Once you miss your flight, you have to stay here for

1 more days.

2 MR JORDASH: Yes, he could be here for the morning session
3 tomorrow with the flight schedule as we anticipated with Kenyan
4 Airlines.

5 PRESIDING JUDGE: He can be here tomorrow morning?

6 MR JORDASH: If I make it clearer, if he were to start
7 today and finish tomorrow morning, I think he would still catch
8 his flight, if he's on the flight.

9 PRESIDING JUDGE: So let's try and finish with this
10 witness.

11 MR JORDASH: Thank you.

12 PRESIDING JUDGE: I hope we shall before lunchtime.

13 WITNESS: DIS-091

14 DIRECT EXAMINATION MR JORDASH:

15

16 MR JORDASH:

17 Q. Good morning, Mr Witness.

18 A. Good morning, sir.

19 Q. Sorry to keep you waiting.

20 A. No problem, sir.

21 Q. What I'd like to do is to get around --

22 PRESIDING JUDGE: This is DIS-

23 MR JORDASH: 091.

24 PRESIDING JUDGE: And he is your forty-ninth or 50 --

25 JUDGE BOUTET: He's already testified.

1 PRESIDING JUDGE: Okay. Okay. Okay. We started on
2 Friday. That`s right. Okay. Okay. I remember now. I got it.
3 I thought it`s a new one.

4 MR JORDASH:

5 Q. Mr Witness I want to try to get around the
6 difficulties we were having on Friday?

7 A. Yes, sir.

8 Q. And I want to request the assistance of the WVS and
9 would you mind whispering to the WVS representative what your
10 exact title was within the mining unit with Your Honours, leave
11 could that be done? It saves us going into a closed session?

12 PRESIDING JUDGE: Or Court Management is here.

13 MR JORDASH: Or Court Management.

14 PRESIDING JUDGE: The witness unit which ever I mean it
15 doesn't matter. Witness unit, yes.

16 MR JORDASH: Do you follow what I want you to do, Mr
17 Witness?

18 A. No, sir.

19 Q. The man who's coming over to you, please whisper to
20 him in Krio what your --

21 A. Yes, sir.

22 Q. What your official title was within the mining unit;
23 do you understand? Switch off your microphone?

24 A. Yes, sir.

25 Q. Switch off your microphone though. Please tell the

1 man. Whisper.

2 JUDGE BOUTET: That's aloud whisper.

3 MR JORDASH: It's a shout I think.

4 PRESIDING JUDGE: Can you write it on a piece of paper for
5 us please. Take e from here. Take on from
6 here.

7 MR JORDASH:

8 Q. Let me just see if we can clarify this. You told us
9 on Friday -- sorry -- I'll keep the paper for a moment if I may.
10 There might be some lack of clarity. Hit your microphone. You
11 told us on Friday that Kennedy was the mining commander when you
12 arrived in Koakoyima; is that correct or not.

13 A. Yes, sir. But when I ask what was my occupation in
14 that time but when we go to Koidu the commander changed to
15 Kennedy that is what I meant.

16 Q. What I'm asking you is: When you arrived --

17 A. Yes, sir.

18 Q. And Kennedy was the commander, and you started working
19 in the mining unit, what was your official title? Can you --
20 can you whisper that to the man? Do you understand my question?

21 A. Yes, sir, I understand the question.

22 Q. Can we try that again.

23 A. Okay. Let the man come and I will tell him.

24 JUDGE BOUTET: Maybe it would be easier if the Court
25 officer.

1 MR JORDASH: The lady from the Court Management could come
2 and do it on a piece of paper. Do you understand what I want
3 you to do?

4 PRESIDING JUDGE: Mr Jordash, you're tendering this.

5 MR JORDASH: Yes, please.

6 PRESIDING JUDGE: Mr Hardaway, I suppose you have no
7 objection to this.

8 MR HARDAWAY: No objection.

9 PRESIDING JUDGE: This documents is containing the
10 functions that DIS-091 was performing, it is admitted and marked
11 confidentially as Exhibit 303.

12 Yes, My Lord.

13 [Exhibit No.303 was admitted]

14 PRESIDING JUDGE: Please indicate the pseudonym of the
15 witness on this exhibit, so that we can trace it to him. Yes,
16 Mr Jordash, you may --

17 MR JORDASH: Thank you.

18 Q. You told us on Friday, Mr Witness, that civilians were
19 mining; is that right, from the mining unit?

20 A. Yes, sir, among the mining units there were civilians
21 who were mining.

22 Q. And do you know the number --

23 JUDGE BOUTET: Mr Jordash, this is early '99, December '98
24 time frame end December, early '99 that's what we're talking
25 about here or have you moved to another time.

1 MR JORDASH: Early 1999.

2 JUDGE BOUTET: Early '99.

3 MR JORDASH: Within a month after Koidu Town was
4 recaptured.

5 JUDGE BOUTET: Yes, yes.

6 MR JORDASH:

7 Q. So civilians in the mining unit were mining, how many
8 were mining after your arrival?

9 A. According to Commander Kennedy, he said could only get
10 manpower up to 50.

11 Q. And what was the daily schedule for the mining unit
12 and the civilians working in the mining unit. Do you understand
13 my question?

14 A. You mean -- that is what I want to ask. You mean the
15 time or the work.

16 Q. What I want you to do is explain how the mining unit
17 worked. What would happen in the morning and take us through
18 how it was organised. Would you start work in the morning.

19 A. Yes, sir, we start work in the morning.

20 Q. Would everyone start in the morning?

21 A. Well, the work that starts in the morning has no time
22 limit. It depends on the group that was appointed to do the
23 work. They all start off together at nine, until nine maybe
24 they were assembled. That was when they started working.

25 Q. So where were they assembled?

1 A. Well, there was a place where we pray every morning
2 both Christian and English. After that, you go to get -- try to
3 get food. After that you try to assemble to go.

4 Q. Who would go and get food or try and get food?

5 A. Well, the commander would request for food from other
6 high commands around him saying we don't have food and they'd
7 bring it.

8 Q. And who would the food be given to?

9 A. First, Mr Kallon helped greatly to give civilian food
10 for the mining.

11 Q. And how often would food be given?

12 A. Well, food -- when food comes they share it maybe for
13 a week. If it's finished it depends how it comes weekly or
14 every two weeks.

15 Q. Mr Witness, I think they are requesting that you sit
16 further back. Sit a bit further back. Yes, that's fine. So
17 food would be given in the morning, after prayers, then what
18 would happen.

19 A. Well, anybody would find his own group, so they would
20 assemble them go to work.

21 Q. And how many people in a group?

22 A. Well, the group will be according to the scale of the
23 work. Sometime the group would be in five, it depends on the
24 nature of the job. That is how they share them into groups.

25 Q. And when you arrived and the immediate time afterward,

1 where was mining taking place under the mining unit.

2 A. At Congo Bridge, palm oil swamp.

3 PRESIDING JUDGE: What swamp, palm oil swamp.

4 THE WITNESS: Yes, sir. Yes, sir.

5 MR JORDASH:

6 Q. Where is palm oil swamp, where was that?

7 A. Just around Koakoyima.

8 Q. Anywhere else it was taking place at that time?

9 A. Train Seven.

10 Q. 20 -- 7

11 A. Train Seven

12 Q. Train seven? Where was train seven?

13 A. Just around there.

14 Q. Around where?

15 A. Koakoyima. You be in the town and see all these

16 places I'm talking about.

17 Q. Anywhere else?

18 A. Well, the ones that were deployed in that area, these

19 are the ones I could remember for now.

20 Q. Where was -- do you know a place called Benz?

21 A. Benz Garage.

22 Q. Yes, Benz Garage?

23 A. Benz Garage, that was a place for construction, Train

24 Seven and Congo Bridge surrounds Benz Garage.

25 Q. Did the number of civilian miners remain at 50 after

1 your arrival?

2 A. No.

3 Q. What happened?

4 A. Before I came, Sam Bockarie had given an order to the
5 other target commander to inform them that I am coming to Kono.
6 So all the people who knew about mining should move together
7 with their families to join me. Should come and meet at the
8 village. The village's name has escaped me a bit but it's by
9 the river to cross.

10 Q. Okay. So did they come with you?

11 A. Yes. The number of miners were among -- the number of
12 miners were among the group as I came with is about 70.

13 Q. 70 miners or the group in total was 70?

14 A. No. Apart from the 50 that I met the ones I came with
15 were 70.

16 Q. And how big was your total group that you went with?

17 A. Well, it was a large number but when I entered the
18 families, the miners family that had joined us when we took all
19 of them the man power, the 70 and 50, we had a total of 300 men
20 and women.

21 Q. So let me understand this. There were miners in that
22 300, yes?

23 A. All of them inclusive. Inclusive.

24 Q. There was miners families?

25 A. Yes.

1 Q. Was there anyone else in the --

2 A. Yes. Some miners maybe will have two wives, three or
3 four children. Then some men were older men but they too was
4 based in Kono so they came and we took them to be people who
5 lead in prayers, Muslims. When we are praying they will lead us
6 in prayers. Then we also had Christians, they were based in
7 Kono too. We took them to the -- they led prayers in the
8 Christian way.

9 Q. Were any of the group native to Kono?

10 A. Yes, there were plenty Kono people, there were many
11 among us.

12 Q. Where had they been in Kailahun, do you know?

13 A. I didn't quite get your question.

14 Q. The natives of Kono who were in the 300, had they been
15 living in Kailahun, if so, why?

16 A. I have still not understood the question well.

17 Q. I will try and break it down. There are Kono natives
18 in the 300; am I correct?

19 A. Yes, sir, they were there.

20 Q. Had they been living in Kailahun prior to going to
21 Kono?

22 A. Yes, sir they were there.

23 Q. Why had they been living in Kailahun?

24 A. Well, some of them, it was in the first attack, so
25 they decided to join the rebels called freedom fighters. They

1 took them along. Some of them went with their entire families
2 and they were with them.

3 Q. Why did they return to Kono at this time; do you know
4 that?

5 A. Well, I can't tell because --

6 Q. Because?

7 A. An order came from the commander that Kono is now
8 safe. So they should go back to Kono.

9 Q. Who said that Kono was safe, which commander?

10 A. Sam Bockarie. He said people should come back.

11 Q. And these civilians who came back, these natives of
12 Kono, had they been living in one place in Kailahun or different
13 places?

14 A. They were not in one place that was why Sam Bockarie
15 sent message to all the targets that people were staying, to
16 civilians saying that they must come to Kono as Kono was now
17 safe.

18 Q. And when you arrived in Koakoyima, was Koakoyima
19 safe -- was Kono safe from what you observed?

20 A. Yes, at that time when we got I think about a week
21 when we experience that the jet was coming but it did not come
22 from that time everybody relaxed.

23 Q. And before we go back to mining, were there civilians
24 in Koakoyima when you arrived besides those in the mining unit?

25 A. We saw other civilians around, the township and the

1 towns around Koakoyima.

2 Q. What were they doing?

3 A. Well, that time, I saw them brushing their -- around
4 their houses, some planting corns, some were brushing so they
5 could plough rice.

6 Q. Now, just back to mining?

7 A. Yes, sir.

8 Q. Who did you report to?

9 A. Talking about Koakoyima.

10 Q. I'm talking about when you first arrive you become
11 what you told us on the piece of paper you were and I'm asking
12 --

13 A. Hmm. Hmm.

14 Q. When you took that job, who did you report to?

15 A. To Kennedy.

16 Q. And on a day-to-day basis, what were you doing?
17 Describe a typical day?

18 A. Okay. If I make sure if somebody was sick I should
19 know about it and then send for medical treatment for that
20 person and if the working tools are not complete among other
21 people, they could ask me then I would ask those who were
22 responsible for that to give them supplies like shovels,
23 shakers, or bucket.

24 Q. And where did the civilian miners live?

25 A. We were living in Koakoyima, in the same house. We

1 shared the same house.

2 Q. Sorry. Who shared the same house?

3 A. The civilians, all of the civilians. They will decide
4 to sleep in the room outside of the house or in the house.
5 Anywhere that was convenient for them was where they lived.

6 Q. This isn't coming across very clearly. On the one
7 hand we've heard the same house on the other hand we've heard
8 wherever was convenient. What does this mean?

9 A. We and the civilians had no barrier that they
10 shouldn't go this way or shouldn't go that way. Some houses,
11 before going there you would have met civilians there who have
12 cleaned around the house. You would then ask them. Which room
13 have you taken. Then you would say, I have taken this room for
14 me and my relations. Then you ask him which one was empty.
15 That one I am not ready to occupy so you could occupy that.

16 Q. And are we talking one house or many houses?

17 A. All the abandoned houses in Koakoyima when we came we
18 occupied all of those houses.

19 Q. Right. What were the houses like? What was the state
20 of the houses where the civilians lived?

21 A. Just like how they were, the way we left them some
22 houses had beds, there were mattresses they were very much like
23 that when we returned.

24 Q. Right. Were the houses the same or different to other
25 civilians in Koakoyima who were not in the mining unit?

1 A. Yes, because when we returned there were no civilians.
2 There were only houses. When we returned, we told people
3 whoever wanted to occupy a place should look for a place.

4 Q. Right. Okay I think that's relatively clear. What
5 did the civilians receive, if anything, for the mining?

6 MR HARDAWAY: Objection.

7 PRESIDING JUDGE: Yes.

8 MR HARDAWAY: Your Honour, the basis of this objection is
9 going to be in two parts. The first part is that the
10 Prosecution will submit that this is repetitive testimony and in
11 support the Prosecution would rely upon Chamber's decision of 5
12 March on the application for a weeks adjournment.

13 PRESIDING JUDGE: Yes. How do we determine as to whether
14 the testimony is repetitive. When we don't have the response to
15 the question. He may have another response which might be
16 different from what --

17 MR HARDAWAY: Perhaps I was a bit premature, Your Honour,
18 I'll wait.

19 PRESIDING JUDGE: Yes. Yes, Mr Jordash, you understand the
20 thrust of his objection.

21 MR JORDASH: I barely dare moved. I know Mr Hardaway is up
22 again very shortly.

23 Q. Did the civilian miners receive anything?

24 A. Well, like -- like what?

25 Q. Well, you tell me. You were there?

1 PRESIDING JUDGE: For the work they did.

2 THE WITNESS: Okay. Let me say they were not -- they were
3 not getting money for the work they were doing, but they were
4 promised. I think Foday Sankoh told them they were fighting the
5 war that he had no money and being Sierra Leoneans they saw what
6 was happening in the country and things were difficult that they
7 should all come together and give a helping hand. Then they all
8 consented to help.

9 MR JORDASH:

10 Q. But did they -- you told us that they received food?

11 PRESIDING JUDGE: Mr Hardaway is that response, you know,
12 different from what --

13 MR HARDAWAY: It is, Your Honour. I'm happy with that
14 response.

15 PRESIDING JUDGE: It is. Right. Thank you.

16 MR JORDASH:

17 Q. Food and you talk about medical treatment, was this --
18 did the civilians pay for this?

19 A. After they had -- after they were told, the civilians
20 asked what about food affaires. And they were told they were
21 going to be given food and clothes. Then they would be given
22 medicine. That was happening.

23 Q. And how were the miners treated?

24 A. When you felt sick, you would go and report to any
25 other person you met in the -- at the hospital. He would check

1 you, if they found out that you were to be admitted you would be
2 admitted. If you were to be given medicine and for you to
3 return home and given medicine. After you have in a good state
4 then you go back to work.

5 Q. At what times were food -- are sorry. At what times
6 were clothes given?

7 A. That one -- except by the will of God they will send
8 for junks but it was not -- it was not from month to month. It
9 would take quite sometime. Sometimes the commander would
10 decide, this time around let us send for those people, for the
11 miners and they would send it. It was not frequent.

12 Q. If a civilian found a diamond, what would happen?
13 Would anything happen?

14 A. Yes, sir.

15 Q. What would happen?

16 A. Civilians, they too had their own commander. They
17 would give it to that person.

18 Q. Would they receive anything in return?

19 A. Sometimes, if they had a good thing they would come
20 happily and they say: "Commander we have come oh, we want you
21 to boost our morals". Sometimes we give them drinks, cigarettes
22 or any other thing he could afford. Even money. We would give
23 to them.

24 Q. And did you observe whether the civilians were willing
25 or unwilling to work?

1 A. Well, to what I saw they were willing, because no one
2 complained. Sometimes in the morning they would ask where are
3 we going today?

4 PRESIDING JUDGE: That's okay. We heard all that evidence.
5 Let's move on.

6 MR JORDASH:

7 Q. Who was the -- was there an official or commander
8 within the mining unit, who the diamonds were given to?

9 A. Yes, sir.

10 Q. Who is that?

11 A. When they got diamonds would bring it to Alpha Turay
12 who was operational commander, then who bring to Kennedy who was
13 the commander. Kennedy would call me, call the other
14 authorities, sit together they'd weigh it, after weighing it,
15 then they write the person who took the diamond to them, the
16 dates on which the colour of the diamond would be written, the
17 weight of the diamond would be written, the percentage as well.
18 Then they would give it to Kennedy, who would keep it.

19 Q. Where would Kennedy keep it?

20 A. In his house. He kept it in his house.

21 Q. What would Kennedy do with it?

22 A. Well, sometimes I'll be in my house, he will call me
23 saying: "Mosquito has sent -- saying materials have finished".
24 If there is anything we should send it. Since I don't read and
25 write he just showed me the papers. Most times I'll be near the

1 radio site and hear him talking but most times it was on paper.

2 Q. Did Kennedy have a radio set?

3 A. Yes.

4 Q. Where was it --

5 A. Yes, sir.

6 THE INTERPRETER: Learned counsel, it seems as if the
7 witness is not listening to the interpretation he's listening to
8 you. Can you please be advised.

9 MR JORDASH:

10 Q. Wait for the translation, Mr Witness?

11 A. Okay, sir.

12 Q. Don't listen --

13 A. Okay, sir.

14 Q. You said the radio set was at Kennedy's house; is that
15 correct?

16 A. Yes, sir.

17 Q. Do you know who Kennedy would report to?

18 A. Yes, he told me. Most time I would hear the voice on
19 the radio.

20 Q. Who did he report to?

21 A. Mosquito.

22 Q. What happened to the diamonds after they'd gone to
23 Kennedy's house?

24 A. If he's ready to send them, the diamonds to Mosquito,
25 he would call civilians, the commanders who were their leaders,

1 he would call the joint security and tell them that Mosquito
2 says we should send the diamond. Let's come and see and have a
3 look at these ones we have. We come and then check it and check
4 it against the registrations, to see if they are correct. Then
5 the unit will select people, the joint security would select
6 people. Kennedy who was the commander will give the bodyguards
7 and they will take the diamonds to Mosquito.

8 Q. Which named persons would take the diamonds to
9 Mosquito?

10 A. Well, okay Mr Michael Kumba could go with them,
11 Mohammed Kamara could take diamonds to Mosquito, Pa Saidu
12 Bangura could take diamonds to Mosquito or even the Operational
13 Commander, Alpha Turay. He too could take diamonds to him.

14 Q. Just so that we're clear, how do you know this?

15 A. Where we were called upon to sit down to sort out
16 these things. Where all the arrangements would be done in front
17 of us. The person who would be taking diamonds would sign in a
18 book to show that he's taking such quantities.

19 Q. As far as you're aware did Kennedy ever report to Issa
20 Sesay?

21 A. No, I did not see that happening.

22 Q. As far as you're aware did any of these men who you've
23 just named, Kumba, Turay and so on, take diamonds to Mr Sesay?

24 A. Well, I don't know. Maybe, if we gave it to them.
25 But if somebody was given a diamond he takes it direct to

1 Mosquito.

2 Q. Did you know anyone referred to as PC?

3 A. Yes, sir.

4 Q. Who was he?

5 A. When I came, I met he was appointed mining supervisor.

6 Q. Can you just describe him, briefly, for us please?

7 A. He's tall, if I can -- his complexion looks like that
8 man who is sitting over there who makes his hands like this.
9 That man who is over there who's looking at me. That is the
10 complexion of that men. That man by the black something.

11 Q. So the lighter skinned security guard there between --
12 between the two?

13 A. After the one with the glasses, the one you meet next
14 that's his completion.

15 Q. So lighter skin, black, do you agree with that? Not
16 quite as light as him?

17 A. Yes.

18 Q. Thank you.

19 A. Yes, sir.

20 Q. Did the mining continue on this system for some time?
21 Did there come a point when it stopped or not?

22 A. Yes, they changed the mining policy.

23 Q. Are you able to say when it changed?

24 A. I can't tell the exact time but the time it was at the
25 time when Foday Sankoh went to sign the Lome Peace Accord. When

1 he went, he held a meeting with us. Three days after he changed
2 the mining policy.

3 Q. So how long after the signing of the Peace Accord
4 approximately, was it when the mining system changed?

5 A. Well, when he got to Freetown we heard he was in
6 Freetown. It was about three weeks before he went to us.

7 Q. So three weeks after you think you heard of the Peace
8 Accord?

9 A. No, sir. When he got to Freetown after the signing
10 when he got there in three weeks time he went to us.

11 Q. Was this in -- which year was this?

12 A. I don't know the year.

13 Q. Well, if this agreement was signed -- it was signed in
14 July 1999, okay, you could take that from me. It was signed in
15 July 1999. How long after that, do you think, when the mining
16 system changed?

17 A. I don't know the time they signed. I don't know the
18 time he got here, but three weeks when we heard that they've
19 signed. Then he went to Kono. That was the first visit. I
20 think that was the first time he went there. He had never been
21 there.

22 Q. Okay. I think that's clear. I think that's clear.
23 And how did it change and why?

24 A. Well, Foday Sankoh went, he asked the commanders and
25 the civilians, saying how are you mining it? Since you came to

1 Kono, what is the mining system you are using. Then we said we
2 are just using the system you ask us to use. It is the same
3 systems that we are still using.

4 Q. Go on.

5 A. Then he said but now he shouldn't be so any longer.
6 He said it is -- he asked how was NPRC mining in Kono when they
7 took over. Then the people said two-pile system. How was the
8 AFRC mining when they took power. They said two-pile. They
9 said now, since we've captured Kono, we should use the two-pile
10 system. Then the civilians came together and said those who
11 were in that mining unit, they should be supported. They should
12 open a diamond office so that when they have diamonds, they
13 could go and sell it there. Then Foday Sankoh said I am going
14 to open a diamond office but implement the two-pile system
15 first. So from that time the two-pile system came in to
16 existence again.

17 Q. Thank you. Just -- we're nearly there. Just I want
18 to clear up a few last remaining subjects. Before the mining
19 turned to two-pile, were there armed men with the civilians with
20 the civilian miners?

21 MR HARDAWAY: Objection.

22 PRESIDING JUDGE: Yes, Mr --

23 MR HARDAWAY: Again, Your Honour, this is based on
24 repetitiveness. That many witnesses have been led by the
25 Defence as related to --

1 PRESIDING JUDGE: To say that -- what have they said.

2 MR HARDAWAY: There are no armed men with the civilians in
3 terms of mining.

4 PRESIDING JUDGE: This man is saying, 'yes'. This man is
5 saying 'yes'.

6 MR JORDASH: I'm happy to leave the subject.

7 MR HARDAWAY: All right.

8 MR JORDASH: If Mr Hardaway doesn't want me to lead that
9 then.

10 MR HARDAWAY: Be my guest.

11 MR JORDASH:

12 Q. Did you say yes there was armed men. What were they
13 armed for?

14 A. We, our own group of civilians, we had armed men who
15 would help to go and find food. They would escort us. Even the
16 civilians had their own.

17 Q. Did you know Porte Fillet?

18 A. I know him. He's one of the commanders and he had arm
19 -- he had weapons too.

20 PRESIDING JUDGE: Who is this.

21 MR JORDASH: Porte Fillet.

22 PRESIDING JUDGE: Huh.

23 THE WITNESS: It was a mining commander Porte Fillet.

24 PRESIDING JUDGE: Porte Fillet.

25 THE WITNESS: Yes, sir.

1 MR JORDASH:

2 Q. Was there anywhere in Koakoyima for civilians to
3 report complaints to?

4 A. Yes, sir.

5 Q. Who was that?

6 A. We have the G5. If anything went wrong, even among
7 the mining units there were G5s. If anything happened they will
8 go there, they were with the joint security.

9 Q. You say even amongst their mining unit there were G5.
10 Are you saying G5 were in the mining unit or G5 is outside the
11 mining unit?

12 A. What I mean to say because they were not part of the
13 mining unit, but for them to see what was going on among the
14 soldiers and the civilians they would go there to see what was
15 going on.

16 Q. Did you observe if there were any dance troops in
17 Koakoyima at this time?

18 PRESIDING JUDGE: If there were any.

19 MR JORDASH: Dance troops.

20 THE WITNESS: Yes, sir. We had a dance troop there which
21 we all supported.

22 MR JORDASH:

23 Q. This have anything to do with the mining unit?

24 A. Yes. Yes. Because that was where we went to
25 socialize. People would dance, everybody had to feel good.

1 Q. When you say we, who are you referring to?

2 A. The mining commander, the civilian miners, when this
3 thing was happening, we feel good.

4 Q. After the mining turned to two-pile, did the mining
5 unit continue to exist in the same way?

6 A. That time when the two-pile came in to -- came in to
7 existence, everybody was mining for himself. Even the civilians
8 who had no machines, nobody asked them to -- they too said it
9 was their own pay.

10 Q. Was there a mining office?

11 A. From then the mining office was created.

12 Q. What did the mining office do from them?

13 A. Okay. It was said at that time the soldiers were
14 mining for themselves. When you got your diamond you would take
15 it to the office to sell.

16 Q. Did the mining office do anything else?

17 PRESIDING JUDGE: Are you saying that it is only the
18 soldiers who sold the diamonds in the mining office. Since they
19 were mining for themselves.

20 THE WITNESS: Well, it was requested that when they got
21 their diamonds they would have no opportunity to go to Kenema or
22 Bo but there is an office around when they receive diamond, get
23 diamonds, they would sell it to the office.

24 MR JORDASH:

25 Q. What about civilians?

1 A. The civilians, if they too wanted, they would sell it
2 to the office.

3 Q. If they didn't want to sell it to the office, was
4 there anywhere else they could sell it?

5 A. Traders were coming in who were buying diamonds. They
6 were coming in from all over.

7 Q. Finally, Mr Witness, did you hear about anything
8 happening to Kennedy concerning the joint security unit?

9 A. Yes, sir. I know about that one, sir.

10 Q. Could you tell us briefly what that was all about?

11 A. Yes, sir.

12 Q. Go ahead.

13 A. Sometimes, I cannot recall the date, the diamond was
14 brought to the Operational Commander, Alpha Turay. I was called
15 to go and weigh the diamond. I cannot again recall the
16 percentage. I gave it to them. After having given them, I
17 returned home, but those diamonds that were registered any time
18 they are ready to do them, they will recheck it. After that
19 checking, it was noticed that some other diamonds were missing.
20 So it was found out that that particular diamond I weighed had
21 got missing. At that time it was a small quarrel between the
22 operational manager and the-- so he said he had given to you.
23 This one said, 'no' you have not given it to me. That continued
24 --

25 PRESIDING JUDGE: That was a quarrel between Turay and

1 Kennedy.

2 THE WITNESS: Yes, sir. So the report went onto the
3 Brigade commander Peter Vandí. Vandí was told --

4 MR JORDASH:

5 Q. Go ahead.

6 A. Peter Vandí said, he said how can you two just with
7 your -- two of you -- how can you just be responsible for the
8 misplace of the diamond. He said go and explain yourself at the
9 office.

10 Q. Which office?

11 A. At the MP office at Koakoyima. Peter Vandí sent to
12 the MP that the people should be investigated, but still, this
13 one said no, this one said no. So they were punished. Later
14 Kennedy admitted that Alpha Turay had given him the diamond but
15 he didn't know where he had placed the diamond. So they were
16 released. Then he came to my house. He came to me and asked
17 that we should go and apologise to Alpha Turay. That was how it
18 happened.

19 Q. Just picking up on something you said, why was the
20 report made to Peter Vandí?

21 A. He was the brigade commander. There was no other
22 person other than his operation.

23 Q. Who did as concerns mining issues the joint security
24 unit report to? Who did, you told us about the MPs getting
25 involved here. Who did the joint security report to at this

1 time?

2 A. At that time it was to Mosquito.

3 Q. So did this incident, involving Kennedy, the MPs,
4 Peter Vandt, have anything to do with Issa Sesay?

5 A. No. He had no hands in it.

6 Q. Why not as far as you're concerned?

7 A. I didn't know that --

8 PRESIDING JUDGE: Has Issa Sesay been in that area, at that
9 time.

10 THE WITNESS: I cannot remember.

11 PRESIDING JUDGE: You do not remember. You do not remember
12 whether Issa Sesay was there or not?

13 THE WITNESS: He was not there.

14 MR JORDASH:

15 Q. Did he come -- are you aware whether he came to Kono
16 at all around 1999 before the mining turned to two-pile?

17 A. When the mining office had been open it was shortly
18 after I saw him at Koakoyima.

19 Q. And this incident with Kennedy, did this happen before
20 the opening of the office or after?

21 A. It was later.

22 Q. Was it before --

23 PRESIDING JUDGE: You mean the incident occurred before or
24 after the opening of the mining office? What's the response.

25 MR JORDASH: That's what wasn't clear.

1 THE WITNESS: This incident had taken place well before the
2 office was established.

3 MR JORDASH: I think that's what the witness said the first
4 time as well. That is what I heard, but it wasn't translated
5 like that. So -- I've got no further questions. Thank you.
6 Thank you very much, Mr Witness.

7 PRESIDING JUDGE: Thank you.

8 THE WITNESS: Yes, sir.

9 PRESIDING JUDGE: Ms Mylvaganam, do you have any questions?

10 MS MYLVAGANAM: No, thank you, My Lord. No questions.

11 PRESIDING JUDGE: No questions. Thank you. Mr Cammegh.

12 MR CAMMEGH: I'm in the process of taking instructions. I
13 might have one or two questions. I notice the time though.

14 PRESIDING JUDGE: No. We wanted to wrap it up before going
15 on break. We are begging for time now. If you say it's one or
16 two questions, that's fine. We'll take it. We'll take them.

17 MR CAMMEGH: I need to take instructions first, if you
18 don't mind. Thank you.

19 PRESIDING JUDGE: Right.

20 MR CAMMEGH: I'm in Mr Gbao's hands. Thank you. I will be
21 very brief, Mr Witness.

22 CROSS-EXAMINED BY MR CAMMEGH:

23 MR CAMMEGH:

24 Q. Did you ever become aware of Augustin Gbao?

25 A. Yes, I know him.

1 Q. You told us about your knowledge of Kennedy, did you
2 ever become aware of an incident where Augustin Gbao had
3 attempted to report Kennedy for harassment?

4 A. Well, I don't know about that.

5 Q. Let me see if I could jog your memory. Were you aware
6 of an MP office in the town of Giema in Kailahun District?

7 A. Yes, sir.

8 Q. Did you ever become aware of an incident in late 1996,
9 where Sam Bockarie abused and molested Augustin Gbao outside
10 that MP office in Giema?

11 A. Yes, they were bosses. When such things occur, we
12 don't know where it happens.

13 Q. I'm sorry. You said -- I didn't quite get the
14 translation. It sounded like there were bosses, but I'm sure it
15 wasn't that. Could the translator repeat the answer please?

16 A. Sometimes on occasions where they meet themselves,
17 somethings will happen, and we don't know what happens between
18 them.

19 PRESIDING JUDGE: So you don't know if there was an
20 incident like that?

21 THE WITNESS: Nothing at all.

22 MR CAMMEGH:

23 Q. I'll try and be specific. If you don't know the
24 answer, then I'll leave it, but specifically, I'm asking you
25 this: Did you become aware of an incident where Sam Bockarie

1 molested Augustin Gbao for trying to report Kennedy for
2 harassment. And that incident took place at the Giema MP office
3 in late 1996. Did you ever become aware of that incident?

4 A. I don't remember that.

5 MR CAMMEGH: All right. I'll accept your answer, Mr
6 Witness. Thank you very much. There's no further questions.

7 PRESIDING JUDGE: Learned counsel, the Chamber will recess
8 for a couple of minutes, and we'll resume to continue the
9 proceedings with cross-examination by Mr Hardaway for the
10 Prosecution. We will rise, please.

11 [A recess was taken at 11.40.]

12 [RUF10MAR08B_LK]

13 [Upon resuming at 12.10 p.m.]

14

15 PRESIDING JUDGE: Yes, we are resuming the session. Mr
16 Hardaway, you may proceed, please.

17 MR HARDAWAY: Thank you, your Honour.

18 Q. Good morning, Mr witness.

19 A. Good morning sir.

20 Q. I have a few questions for you, all right?

21 A. All right, sir.

22 Q. If there is anything you don't understand, please ask
23 me to repeat it again, okay?

24 A. Yes, sir.

25 Q. Now you had mentioned that when the civilians went out

1 to search for food there would be armed guards with you; is that
2 correct?

3 A. Yes, it happened.

4 Q. Okay. Now, it would be also correct to say that while
5 the civilians were mining at Koakoyima, there were also armed
6 guards at the mining sites; isn't that true?

7 A. At mining site, guns could not go there.

8 Q. I put it to you Mr Witness, that at the mining sites
9 at Koakoyima and throughout Kono, that there were armed guards
10 at the mining sites. How do you respond?

11 A. Well, the miners where we were, who were operating on
12 RUF guns, were not there.

13 Q. Now, Mr Witness you had testified that it was an
14 all-volunteer effort for mining in the beginning, is that
15 correct? And by beginning I mean, after Sam Bockarie mentioned
16 that it was a volunteer effort; is that correct?

17 PRESIDING JUDGE: It is Bockarie who mentioned that?

18 MR HARDAWAY: I'm trying to find out that, Your Honour.

19 PRESIDING JUDGE: It's not Bockarie who said so.

20 MR HARDAWAY:

21 Q. Who, Mr Witness, said that the mining should be
22 volunteer?

23 A. I don't understand the question you are asking me.

24 Q. Remember, in your evidence, sir, when you mentioned
25 that the civilians did not receive money for mining, and that

1 they were asked to volunteer to mine for the RUF. Do you
2 remember that?

3 A. I said that.

4 Q. Who was it that said that the mining should be
5 volunteer?

6 A. It started with Foday Sankoh, then to Sam Bockarie.

7 Q. Okay. Mr Witness, I put it to you that the mining in
8 Koakoyima was not to volunteer, that in fact the civilians were
9 forced to mine by the RUF. How do you respond?

10 A. It did not happen. That did not happen at all.

11 Q. Now, Mr Witness, when you arrived Kennedy was the
12 mining commander, correct?

13 A. Yes, sir, in Kono.

14 Q. And the mining under Kennedy was RUF mining; isn't
15 that also correct?

16 A. Where Kennedy was, it was for RUF.

17 Q. Forgive me, Mr Witness, I need to backtrack for a
18 little bit. I put it to you Mr Witness that civilians were
19 forced to mine for the RUF, otherwise they would be beaten or
20 killed. How do you respond?

21 A. Well, they were not forcing anybody. I don't feel
22 like that. I did not experience that.

23 Q. Now, Mr Witness, you said that when you arrived you
24 came with 70 miners and their families, is that also correct?

25 A. True.

1 Q. And this was done under the instruction of Sam
2 Bockarie, is that also correct?

3 A. Yes, sir.

4 Q. I put it to you Mr Witness that these miners and their
5 families were forced to go with you to Koakoyima. How do you
6 respond?

7 A. I don't believe they were forced at all.

8 Q. Now, when you travelled to Koakoyima with these miners
9 and their families, there were armed guards with you; isn't that
10 correct?

11 A. The civilians who had guns did not travel. They had
12 guns to protect themselves from the Kamajors.

13 Q. The RUF had armed guards with your group; is that
14 correct?

15 A. Which group?

16 Q. The group that you brought to Koakoyima. There were
17 RUF fighters with guns in your group?

18 A. We had units armed which only would go with us when we
19 were going to search for food or we were going on a trip.

20 Q. So would the answer be Yes, there were guard units
21 with you when you brought the miners and their families to
22 Koakoyima?

23 A. Yes. I had a gun.

24 MR HARDAWAY: I'm not asking you --

25 PRESIDING JUDGE: Mr Witness, answer the question, please.

1 Answer the question. Put the question to him --

2 THE WITNESS: Yes, sir.

3

4 THE WITNESS: Yes, sir. Yes, sir.

5 PRESIDING JUDGE: It's not whether you had a gun or not.

6 THE WITNESS: Yes, sir. Yes, sir.

7 PRESIDING JUDGE: Put the question to him, please.

8 MR HARDAWAY:

9 Q. Mr Witness, there were armed RUF fighters in your
10 group when you travelled to Koakoyima with the miners and their
11 families. That's correct, isn't it?

12 A. I was the only person who had a gun in that group.

13 MR HARDAWAY: So --

14 PRESIDING JUDGE: Excuse me, there were no armed RUF
15 personnel?

16 MR HARDAWAY:

17 Q. And would it be correct to say that when you combined
18 the miners and their families, you travelled with approximately
19 --

20 PRESIDING JUDGE: So in that group of 70 that went with
21 you, you were the only one who had a gun?

22 THE WITNESS: I had AK rifle, the civilians, the civilians
23 had single barrels.

24 MR HARDAWAY:

25 Q. How many civilians had guns?

1 A. Well, I can't tell the number now that had guns, but
2 there were civilians who had guns.

3 Q. Can you guess? Was it many? Was it a few?

4 A. If even they were small, it would be up to ten.

5 Q. Okay. Now, Mr Witness, when you and your group
6 arrived at Koakoyima, the civilians who had guns, what happened
7 to them?

8 A. The single barrel guns, they gave it to them, if they
9 were going somewhere, if they saw any animal that they would
10 kill to eat, they could do that.

11 Q. So is it your evidence that when you and the miners
12 and their families arrived in Koakoyima, those civilians who had
13 guns kept them? Sir, there's no reason to look over to the
14 other side, I'm the one asking you the questions. Shall I
15 repeat the question?

16 A. Ask it.

17 Q. It is -- is it your evidence that when you arrived
18 with the miners and their families in Koakoyima, that those
19 civilians who had guns were allowed to keep them?

20 A. It is theirs. They gave it to them.

21 PRESIDING JUDGE: Were they allowed to keep them, Mr
22 Witness?

23 THE WITNESS: Yes, sir. Yes, sir.

24 PRESIDING JUDGE: Please.

25 THE WITNESS: Yes, sir. Yes, sir.

1 MR HARDAWAY:

2 Q. I put it to you Mr Witness, that no civilians were
3 allowed to carry firearms while they were with the RUF. How do
4 you respond?

5 A. They allowed them.

6 Q. Now, at the time you were travelling, you were a
7 member of the RUF; is that correct?

8 A. Yes, sir.

9 Q. And that's why you were allowed to carry an Ak-47,
10 because you were a member of RUF, correct?

11 A. Yes, sir.

12 Q. Mr Witness, I put it to you that there were armed
13 guards travelling with you and the miners on trip to Koakoyima.
14 How do you respond?

15 A. It was only me and the civilian men who had arms.

16 Q. I put it to you, Mr Witness, that those armed guards
17 of the RUF were there to keep the civilians from escaping. How
18 do you respond?

19 A. That did not happen.

20 Q. Now, Mr Witness, moving on to Koakoyima, it's true
21 that the civilians who were mining for the RUF at Koakoyima
22 lived in the civilian camps at Koakoyima, isn't that the case?

23 A. Well, we had no civilian camps in Koakoyima.

24 Q. I put it to you, Mr Witness, that there were indeed
25 civilian camps at Koakoyima. How do you respond?

1 A. We did not live in camps, we lived in the town.

2 Q. I put it -- well, hold on. When the civilian went to
3 mine in Koakoyima, they were escorted by armed guards back and
4 forth, were they not?

5 A. Those civilians as I had told you, they had single
6 barrel guns, it was possible their commander would go with them,
7 but not RUF, not RUF fighters.

8 PRESIDING JUDGE: Which commander? Those armed civilians
9 who had single barrel guns, they had a commander.

10 THE WITNESS: Hmm -- the miners were ten in a group, and
11 among the ten there was a commander. And the one commander is a
12 civilian. He had a single barrel among them.

13 MR HARDAWAY:

14 Q. So the commander with the single barrel would go to
15 the civilians, go with the civilians when they went to the
16 mining site? That's correct, isn't it?

17 A. He wouldn't go with them with the gun.

18 Q. I put it to you Mr Witness, that in Koakoyima and
19 through out Kono, civilians were escorted to the mining sites by
20 armed men. How do you respond?

21 A. I did not hear or see it.

22 Q. I put it to you Mr Witness that many of the civilians
23 including the ones you brought with you and their families had
24 been captured by the RUF and forced to mine for them. How do
25 you respond?

1 A. RUF did not force any civilian to go and mine for him.

2 Q. Now, Mr Witness you would agree with me that part of
3 the job to the mining commander was to ensure that the mining
4 work got done, right?

5 A. I don't understand the question.

6 Q. Part of the job of the mining commander would be to
7 make sure that the mining work was accomplished; is that
8 correct?

9 A. Yes.

10 Q. About also that when the diamonds were found, those
11 diamonds would be reported to the mining commander. Also
12 correct, isn't it?

13 A. Yes, when they got it.

14 Q. And also part of the job of the mining commander was
15 to make sure that the civilian workers did not steal the
16 diamonds, isn't that also true?

17 A. They too did not want anybody to tell them any
18 stories, something.

19 PRESIDING JUDGE: Mr Witness, answer the question, please.

20 MR HARDAWAY:

21 Q. Shall I repeat the question?

22 A. Repeat the question.

23 Q. It was also part of the job of the mining commander to
24 make sure that the civilian workers did not steal the diamonds,
25 correct?

1 A. Yes.

2 Q. And to ensure that the civilian workers did not steal
3 the diamonds, there were guards at the mining site to oversee
4 the civilians; isn't that correct?

5 A. Yes. In mining you'll watch me, I'll watch you. It
6 happened. So soldiers will watch and the civilians would watch
7 soldiers.

8 Q. So there were guards at the mining site watching the
9 civilians to make sure they did not steal, is that correct?

10 A. Yes.

11 Q. These guards were armed, weren't they?

12 A. No. They had no guns.

13 Q. Part of the job of these guards was to ensure
14 discipline among the civilian workers; isn't that correct?

15 A. I don't understand the question.

16 Q. I'll ask a different one and move back. Part of the
17 job of the guards was to make sure that the mining work was done
18 by the civilians. That's correct, isn't it?

19 A. Yes, to their commanders.

20 Q. Part of it, part of their job was also to make sure
21 that the civilians would not run away or escape. Isn't that
22 also true?

23 A. We wouldn't think about civilians running away at all.

24 Q. Mr Witness --

25 A. Yes, sir.

1 Q. -- part of the job was to make sure civilians would
2 not escape?

3 MR JORDASH: Objection. The witness has answered the
4 question. They did not think --

5 PRESIDING JUDGE: He did not answer the question, he did
6 not answer the question. I was going to say he should answer
7 the question. He did not answer the question. And let him
8 answer the questions, please.

9 MR HARDAWAY: Shall I repeat?

10 PRESIDING JUDGE: Please put the question to him.

11 MR HARDAWAY:

12 Q. Mr Witness?

13 A. Yes, sir.

14 Q. Part of the job of the armed guards was to make sure
15 that the civilians did not escape, is that correct?

16 A. That's not true.

17 Q. Okay. And I put it to you again, Mr Witness that
18 these guards at the mining pits were in fact armed. How do you
19 respond?

20 PRESIDING JUDGE: He has said they were not armed.

21 MR HARDAWAY: I'll move on, Your Honour.

22 PRESIDING JUDGE: Yes.

23 MR HARDAWAY:

24 Q. During the time you were in Kono did you learn that
25 senior RUF commanders had been engaged in private diamond

1 mining?

2 A. I don't understand that.

3 Q. Did you see or hear of RUF big men engaged in diamond
4 mining for themselves?

5 A. I don't understand that.

6 Q. Did you hear or see that Issa Sesay was diamond mining
7 in

8 Kono?

9 A. He was not part of our unit.

10 Q. That's not the question.

11 A. I did not see that.

12 Q. Did you see or hear of Issa Sesay diamond mining in
13 Kono for himself?

14 A. No.

15 Q. Did you see or hear of Morris Kallon engaged in
16 diamond mining in Kono for himself?

17 A. No.

18 Q. I put it to you Mr Witness, that senior RUF commanders
19 including Issa Sesay and Morris Kallon were engaged in private
20 mining in Kono. How do you respond?

21 A. Well, I do not know about the private work, I know
22 about the mining units and their work.

23 Q. So if I put it to you that senior RUF commanders such
24 as Issa Sesay and Morris Kallon forced civilians to mine for
25 them, you would have no knowledge of that; is that correct?

1 A. I did not hear or see that.

2 MR HARDAWAY: Let me have a moment, your Honour.

3 PRESIDING JUDGE: Yes, you may.

4 MR HARDAWAY: Thank you, Your Honours.

5 Q. Mr Witness, you had stated --

6 A. Yes, sir.

7 Q. -- that when a diamond was found and it went to
8 Kennedy, there would be a joint security unit who would take the
9 diamond to Sam Bockarie, is that correct?

10 A. They would provide security, they are not the ones who
11 take the diamond. The miners would take the diamond. The joint
12 security would be there to give them security until they get it
13 to him.

14 Q. Let me, backtrack, Mr Witness. I apologise.

15 A. Okay, no problem.

16 Q. Who did Kennedy report to?

17 A. Sam Bockarie, Mosquito.

18 Q. He reported to Mosquito directly; is that your
19 evidence?

20 A. Yes, sir.

21 Q. I put it to you, Mr Witness, that in fact Kennedy
22 reported to Issa Sesay. How do you respond?

23 A. By what I understand, all the diamonds went to
24 Mosquito.

25 PRESIDING JUDGE: Your response is that Issa -- or rather

1 Kennedy never reported to Issa.

2 THE WITNESS: In my presence, not at all.

3 MR HARDAWAY:

4 Q. Did you hear of Kennedy reporting to Issa Sesay?

5 A. This is what -- this is the place I heard that. I
6 have never heard it from that end.

7 Q. I put it to you, Mr Witness, that Kennedy would hand
8 the diamonds over to Issa Sesay, who would then forward the
9 diamonds on to Mosquito. How do you respond?

10 A. I don't know what transpired between them, I don't
11 know about that.

12 Q. Now, Mr Witness, you said in the beginning that armed
13 men when with civilians -- when they went on food-finding
14 missions, correct?

15 A. Yes, it happened sometimes.

16 Q. Those armed men were there to make sure that the
17 civilians didn't run away, isn't that correct?

18 A. It's not correct.

19 Q. Now, Mr Witness, you said that after you heard of the
20 Lome Peace Accord that the mining system changed into a two-pile
21 system, is that correct?

22 A. The question you are asking me I will not answer it
23 because I don't understand it.

24 Q. Okay. After you heard of the Lome Peace Accord, Foday
25 Sankoh said there would now be a two-pile system in Kono. Is

1 that your evidence?

2 A. I did not hear Foday Sankoh went to Kono, I saw him
3 facially and then he passed other than this is what we will
4 operate now.

5 Q. All right. Now, who was the mining commander at that
6 time?

7 A. At that time Kennedy had left. Michael Kumba, was the
8 commander.

9 Q. And this would still be considered RUF government
10 mining, isn't that correct?

11 A. That's it.

12 Q. I put it to you, Mr Witness, that there was no
13 two-pile system in Kono ever. That any diamond found would go
14 straight to the RUF and the civilians got nothing. How do you
15 respond?

16 A. Two-pile was there. The two-pile started when Foday
17 Sankoh came. That was what was going on.

18 Q. So you disagree with me when I put it to you that
19 there was no two-pile system?

20 A. I disagree. There was a two-pile system.

21 MR HARDAWAY: Let me have a moment, your Honour.

22 PRESIDING JUDGE: Yes, please.

23 MR HARDAWAY: Thank you, Your Honours.

24 Q. I only have a few more questions for you, Mr Witness.

25 A. Yes, sir.

1 Q. Now you had mentioned the G5 in your evidence, right?

2 A. Yes, sir.

3 Q. At any point in your dealings -- let me rephrase that.

4 At any point, did you tell anyone that you were a member of the
5 G5?

6 A. I don't understand the question.

7 Q. Did you speak to people who were representing Issa
8 Sesay before you came to testify here at the Special Court?

9 A. Well, I don't know them, the ones you are talking
10 about.

11 Q. Did you speak to people from the Special Court before
12 you came here to give your evidence?

13 A. I just saw people with who took statements from me,
14 they said they are working here.

15 Q. Okay. The people who took statements from you, did
16 you tell them that you were a member of the G5?

17 A. They remove me from the G5 and send me to the mining
18 unit.

19 Q. Did you tell -- were you a member of the G5?

20 A. I was not a member any longer.

21 PRESIDING JUDGE: Were you? Were you? Were you ever a
22 member of the G5? Before they removed you from there. Were you
23 ever?

24 THE WITNESS: I have never joined. I never joined the G5
25 unit.

1 MR HARDAWAY:

2 Q. Did you tell the people who took your statements that
3 you were in fact a member of the G5?

4 A. I can't say so. G5 you should be educated and I'm not
5 educated so.

6 Q. So this is a very simple question, Mr Witness: Did
7 you tell the people who took your statement that you were a
8 member of the G5?

9 A. I was not a G5, and I did not tell anybody that I was
10 a G5.

11 JUDGE BOUTET: I think that there seems to be some
12 confusion here. The witness inserts that he was not a G5.
13 You're asking if he was a member of the G5 unit.

14 MR HARDAWAY: Okay, I'll clarify, Your Honour. I
15 apologise.

16 JUDGE BOUTET: But that may be why we are getting into this
17 difficulty.

18 MR HARDAWAY:

19 Q. If I've confused you, Mr Witness, I apologise. I will
20 take it step-by-step. Were you a member of the G5?

21 A. I was not a G5 member from the starting to the end.

22 Q. And did you tell the people who took your statements
23 that you were ever a member of the G5?

24 A. I have answered this question, saying I was not a G5
25 until now.

1 Q. Mr Witness, did you tell the people who took your
2 statement that you were a member of the G5?

3 PRESIDING JUDGE: The witness has answered that question.

4 MR HARDAWAY: Very well, your Honour.

5 PRESIDING JUDGE: Yes, he has answered that question. He
6 had said, I did not tell anybody that I was a G5.

7 MR HARDAWAY: Very well, your Honour. If I may have one
8 last moment.

9 PRESIDING JUDGE: Yes, you may.

10 MR HARDAWAY: Thank you, Your Honours.

11 Q. Mr Witness, I have no further questions of you.

12 MR WITNESS: Yes, sir.

13 MR HARDAWAY: Thank you for your time.

14 MR HARDAWAY: Your Honours, I have completed my
15 cross-examination.

16 PRESIDING JUDGE: Thank you. Mr Jordash, any
17 re-examination please?

18 MR JORDASH: No, thank you.

19 PRESIDING JUDGE: Thank you. Well, Mr Witness, we are --

20 THE WITNESS: Yes, sir.

21 PRESIDING JUDGE: We are through. We thank you very much
22 for coming to testify before us, and to share your knowledge of
23 these events you know with the Tribal. Again we thank you very
24 much for coming and we wish you the very best in the pursuit of
25 your daily occupations. And above all a safe journey back to

1 your place of abode. Thank you.

2 THE WITNESS: Thank you, sir.

3 PRESIDING JUDGE: Can the witness get assisted out of Court
4 please.

5 MR JORDASH: May I pop out of Court, just for one minute to
6 speak to the next witness, please.

7 PRESIDING JUDGE: Yes, you may. You may please. We will
8 wait for you here.

9 [The witness withdrew 12.45 p.m]

10 PRESIDING JUDGE: Mr Ogeto, yes.

11 MR OGETO: Good afternoon, My Lords.

12 PRESIDING JUDGE: I just want to take advantage of these
13 few minutes and address the issue of, the issue that we raised
14 this morning about common witness.

15 PRESIDING JUDGE: Yes.

16 MR OGETO: Whether the next witness is a common witness and
17 I just want to remind the Chamber that I have addressed this
18 issue previously, and indicated that there were certain
19 witnesses who were common to the Sesay and Kallon defence. And
20 I did give the pseudonyms of those witnesses, and Mr Opande's
21 pseudonym is one of those that I provided on the 28th of
22 February, 2008. The Prosecution is aware of this.

23 PRESIDING JUDGE: But, not as expressly as you did for
24 DIS-310 and DMK-147

25 MR OGETO: No. It was the same day, My Lords.

1 PRESIDING JUDGE: The same day?

2 MR OGETO: Yes, the same day for the three of them.

3 PRESIDING JUDGE: For the three of them?

4 MR OGETO: For the three of them, yes, My Lords.

5 JUDGE BOUTET: Who's the third, if I may ask again, Mr
6 Ogeto?

7 MR OGETO: Okay, My Lords.

8 JUDGE BOUTET: Opande and what's number three?

9 MR OGETO: Number three is Hassan.

10 JUDGE BOUTET: The other witness that Mr Jordash is
11 calling?

12 MR OGETO: Yes, My Lords.

13 JUDGE BOUTET: These two witnesses are common to you and Mr
14 Jordash?

15 MR OGETO: Yes, My Lords.

16 JUDGE BOUTET: Okay.

17 MR OGETO: And I indicated this in the transcripts on 28th
18 of February 2008.

19 PRESIDING JUDGE: I see, okay.

20 MR OGETO: At Page 130.

21 JUDGE BOUTET: I'm sorry you said Page 130? You are
22 quoting from the transcript.

23 PRESIDING JUDGE: It's in the same filing as 310 and
24 DMK-147.

25 MR OGETO: Yes, My Lords.

1 PRESIDING JUDGE: Yes.

2 MR OGETO: It's Pages 126 there was a fairly detailed
3 discussion of this issue from Page 126 to Page 131. So the
4 issue comes up quite clearly.

5 JUDGE BOUTET: Thank you.

6 PRESIDING JUDGE: Yes, Mr Hardaway still on this issue?

7 MR HARDAWAY: Yes, just to note, that was the understanding
8 of the Prosecution as well. And while I'm on my feet, I didn't
9 -- I never had a chance to respond to Mr Jordash's first motion
10 as it related to asking for an extension of the seating hours
11 and there would be no objection from the Prosecution as related
12 to that in terms of presenting evidence.

13 PRESIDING JUDGE: That's okay. We've noted that.

14 MR JORDASH: Hmm -- I --

15 PRESIDING JUDGE: Yes, Mr Jordash.

16 MR JORDASH: As Your Honours are aware the next witness is
17 General Opande and I note that his screen is still there and the
18 curtains are still there, so I thought I'd better bring that to
19 Your Honour's attention, that the witness has foregone any claim
20 or application for protective measures and they have been
21 rescinded.

22 PRESIDING JUDGE: But he had been beneficiary through your
23 application of some protective measures or so --

24 MR JORDASH: From the, I think the November 2006
25 application, yes.

1 PRESIDING JUDGE: That's right, yes. Now you want these
2 Orders, you know, to be lifted.

3 MR JORDASH: Well, I think Your Honours --

4 PRESIDING JUDGE: At his request?

5 MR JORDASH: No, Your Honours have already lifted them.

6 PRESIDING JUDGE: From the application that we have granted
7 for the Prosecution? Right, okay, we've done that already.
8 That's okay. In fact what I was expecting was that maybe you
9 were rising to ask for a reinstatement of those measures.

10 MR JORDASH: No. No, thank you.

11 PRESIDING JUDGE: Right. Okay. And can the screen be
12 removed, please. I'm not asking Mr Hardaway to remove the
13 screens.

14 MR JORDASH: I'm wondering, Your Honour, if there might be
15 a sort of delay in removing the screens that by the time the
16 witness would be in it would be lunch. I'm wondering if it
17 would be more economical to --

18 PRESIDING JUDGE: We want to have him in, swear him in, you
19 know, and then we will do some preliminaries, and we want to
20 gain some time as to.

21 MR JORDASH: While this is happening, I was expecting Mr
22 Sesay to be in Court, so I don't know if --

23 PRESIDING JUDGE: No. We have to go on, please. He will
24 come. I'm sure we are just going to finish the preliminaries
25 then he can come in the afternoon.

1 MR JORDASH: Certainly.

2 PRESIDING JUDGE: The count of witnesses, Mr Jordash, this
3 would be --

4 MR JORDASH: I think the 49th.

5 JUDGE BOUTET: 50.

6 MR JORDASH: Oh, 50.

7 JUDGE BOUTET: 50 by my account.

8 MR JORDASH: Thank you. I should have said the language is
9 English.

10 PRESIDING JUDGE: Right. Can you swear the witness in,
11 please? Mr Jordash, this is DIS?

12 MR JORDASH: 249, Your Honour.

13 MR OGETO: It is also DMK-147, My Lord.

14 PRESIDING JUDGE: Okay. Just a minute. 147?

15 MR OGETO: Yes, My Lord.

16 PRESIDING JUDGE: What was DMK 13 -- what was DIS --

17 MR OGETO: I'm sorry, My Lords. I'm sorry.

18 PRESIDING JUDGE: Yes.

19 MR OGETO: This is DMK-130.

20 PRESIDING JUDGE: 130.

21 MR OGETO: Yes, My Lords. DMK-130.

22 PRESIDING JUDGE: 130.

23 MR OGETO: 130. My apologies.

24 PRESIDING JUDGE: Yes.

25 [DIS-249 sworn].

1 PRESIDING JUDGE: Yes, Mr Jordash you may proceed with
2 your examination-in-chief.

3 MR JORDASH: Thank you.

4 [EXAMINED BY MR JORDASH]

5 MR JORDASH: Good afternoon.

6 THE WITNESS: Good afternoon, Wayne.

7 MR JORDASH: As you know I represent Issa Sesay. As you
8 know I'll be asking you questions first and then followed by
9 others including lawyers for Mr Kallon, and the Prosecution to
10 your left. Could I ask you first for your full name, please.

11 A. My name is Daniel Ishmael Opande.

12 PRESIDING JUDGE: Daniel?

13 THE WITNESS: Ishmael Opande.

14 MR JORDASH:

15 Q. And just a few more details if I may. Date of birth,
16 please?

17 A. Mr Jordash, whoever is translating is interfering with
18 you, so I can't really get you. So if he can wait until you
19 have address me, so that I can get you correctly.

20 PRESIDING JUDGE: I hope the translation booth is getting
21 that comment.

22 INTERPRETER: Your Honours, we are getting his comment but the
23 Court should assist with the channel from that point. That is
24 why he is getting the interpretation from here. The channel
25 should be changed to English.

1 MR JORDASH: Thank you very much for indicating that.

2 Q. Let me ask the question again, and obviously indicate
3 if there still is a problem. Could I ask you your date of
4 birth, please?

5 A. My date of birth is 18 August 1943.

6 Q. Does that make you 64?

7 A. I think so.

8 Q. And where were you born?

9 A. I was born in Southnyanza district of Kenya. This is
10 western Kenya.

11 Q. And where do you currently reside?

12 A. The country, I currently reside in Eldoret Kenya, but
13 I sometimes stay in Nairobi.

14 Q. And your current occupation, please?

15 A. I'm retired. Very much so.

16 Q. Let me take you through your previous occupations.

17 Were you once in the armed forces of Kenya?

18 A. Yes, I was.

19 Q. How long did you serve in the armed forces of Kenya?

20 A. I served for over 42 years. Forty-two years and a
21 bit.

22 Q. And what rank did you reach in the armed forces of
23 Kenya?

24 A. I was able to complete -- oh, I was able to get to a
25 lieutenant general.

1 Q. Does that mean the appropriate address is general?

2 A. Yes.

3 Q. Thank you. And during your time with the armed forces
4 of Kenya, did you have cause to serve with the United Nations?

5 A. Yes, I did on several occasions.

6 Q. Could I start you in 1989? What was your employment
7 at that time?

8 A. I was inducted into the UN peace keeping in early 1980
9 -- hmm-- 9, in Namibia, as deputy force commander.

10 Q. And from 1989 to 1990, did you also have another
11 occupation or post?

12 A. Yes, after Namibia, I was sent to Mozambique as a
13 facilitator between Renamo and the then Frediani government in
14 trying to come up with an agreeable solution to their problems
15 in their country.

16 Q. And Renamo, what does that stand for?

17 A. Renamo was a rebel group which was opposed to the
18 government, the then government of Mozambique.

19 Q. And you occupied that particular post until when?

20 A. I occupied it until late 1993, when finally a peace
21 accord was signed.

22 Q. After at what appears to have been a successful
23 process there, where did you then go?

24 A. After that I was picked by the then secretary-general
25 to go to Liberia and head the newly formed UN observer mission

1 in Liberia.

2 Q. Which year did you take up that position and how long
3 did it last?

4 PRESIDING JUDGE: It is to head the mission general?

5 THE WITNESS: Not really. I was heading the military
6 observer mission. There was a head of the mission who was a
7 civilian, but I was like number two.

8 MR JORDASH:

9 Q. Does it follow that you were the top military --

10 A. Yes, I was.

11 Q. -- personnel. Thank you? And that started in which
12 year and was on-going until when?

13 A. That was late 1993 and up to 1995 when I left and went
14 back home.

15 Q. When you say you went back home, you mean back to the
16 armed forces of Kenya?

17 A. Yes, back to the armed forces of Kenya.

18 Q. When was your next mission with the United Nations?

19 A. My next mission came in--

20 PRESIDING JUDGE: General did you say 1993 to 1995?

21 THE WITNESS: Yes, 1995. Middle of 1995.

22 PRESIDING JUDGE: Okay. Yes, your next mission?

23 THE WITNESS: My next mission was the year 2000 when I came
24 to Sierra Leone to head the military contingent of UNAMSIL.

25 MR JORDASH:

1 Q. And --

2 PRESIDING JUDGE: You were sent here to do what, was it to
3 head --

4 THE WITNESS: To head the military contingent, the force
5 commander of UNAMSIL, Your Honour.

6 MR JORDASH:

7 Q. And just briefly. Obviously we'll go through some of
8 what that entailed but the post was?

9 A. The first commander.

10 Q. And the remit of the post? What were you asked to do?

11 A. I was to head the military contingent. In other words
12 the force commander commanding the entire UN peacekeeping
13 military component.

14 Q. Thank you. And how long did you occupy that post?

15 A. I stayed on the job from late 2000 until when I left
16 here in late 2003.

17 Q. And where did you go from Sierra Leone?

18 A. I was appointed straightaway from this mission to head
19 to Liberia once more to head again the UN military contingent in
20 Liberia, which was known as UNMIL.

21 Q. And how long did you continue in that post?

22 A. I continued for I think exactly one year and a bit.
23 Just a year and a bit.

24 PRESIDING JUDGE: So we may stop here now, if we may.

25 General, you said you were there for slightly over a year --

1 THE WITNESS: Yes, sir.

2 PRESIDING JUDGE: Well, learned counsel the Chamber will
3 recess for lunch and we will resume the session at 2.30. We
4 will rise, please.

5 [Luncheon recess taken at 1.02 p.m]

6 PRESIDING JUDGE: Good afternoon, learned counsel, we'll
7 resume the proceedings. Mr Witness, good afternoon.

8 THE WITNESS: Good afternoon, sir.

9 MR JORDASH: Your Honour.

10 PRESIDING JUDGE: Yes.

11 MR JORDASH: May I indicate for the record upon arrival
12 back after lunch, we were served approximately 60 pages of
13 UNAMSIL press briefings by the Prosecution with no prior notice
14 of this material. I'm not exactly sure what their intentions
15 are, but this is what the situation is. The witness hasn't as
16 yet seen this material. We have only just in the Defence seen
17 this material. I haven't had an opportunity to discuss it with
18 my client. I have quickly read it in the time that's been
19 allowed but I put that on the record at this point.

20 PRESIDING JUDGE: I think it's fair to put it on the
21 record. It's not good for you to be taken unawares. 60 page
22 document even if you were to look at it for one hour. It's not
23 enough. I don't know for what purpose the Prosecution is going
24 to use it, but I think it would have been fair, you know, if
25 there was any anticipation that the Defence would have to see it

1 for it to have been disclosed before now.

2 MR CAMMEGH: Your Honour, can I add my voice to those
3 comments. I'm about halfway through this document. All I would
4 say is this: If the Prosecution's intention is to introduce
5 this as an Exhibit as evidence of the contents or the truth of
6 the contents by way of the flexible admissibility rule that we
7 heard so much about last week, I appreciate this is not my
8 witness, but it certainly in terms of joint criminal enterprise
9 and individual --

10 PRESIDING JUDGE: Whose press releases are these.

11 MR CAMMEGH: Well, Your Honour, it's rather sort of
12 amorphously set out, its briefings press, releases from Sierra
13 Leone UNAMSIL, a United Nations document. It entirely hearsay,
14 in terms of its commentary and Your Honour, I would say in terms
15 of, you know, if we could use that doctrine of fundamental
16 fairness for want of anything else evidentially worthless but I
17 am very concerned about the purpose to which the Prosecution
18 seek to refer to this material.

19 PRESIDING JUDGE: Let's see how far we go. Let's see how
20 far we go.

21 MR CAMMEGH: I should say and I'm sorry to spend more time.

22 PRESIDING JUDGE:

23 MR CAMMEGH: I am halfway through it and that's skim
24 reading it, there's an awful lot of material here. I think to
25 say, we feel ambushed just to put it lightly.

1 PRESIDING JUDGE: Yes, Ms Mylvaganam, I'm sure you have the
2 same comments.

3 MS MYLVAGANAM: My Lord, may I just emphasise one
4 difficulty not only do we have this material to assimilate it is
5 unclear whether this represents the entirety of the press
6 briefings for 2001, but in addition, there is no material that
7 relates to 2002, and I can tell Your Lordships that attempt that
8 we have made to obtain that material have not been fruitful
9 because they are archived in New York. So the Prosecution do
10 not have it, seems the entirety of the picture available to
11 them. The Defence have now material the Prosecution seek to
12 rely by virtue of that category of material. It's unclear
13 whether that's the entirety of the material even for that year.
14 So I'm just putting that on the record, so My Lord, you
15 understand that the Defence are really perhaps not in the best
16 position to rebuttal, deal with this material.

17 PRESIDING JUDGE: Thank you. Maybe we should hear from Mr
18 Harrison.

19 MR HARRISON: I explained to Ms Mylvaganam that they were
20 located on a website. The website is well-known to the Court
21 it's called Sierra Leone web and all of the documents were taken
22 from that public website and I explained I think to Ms
23 Mylvaganam that I saw on that website releases from 2003, 2002,
24 2001 and I think I saw from 2000 and perhaps from 1999 but at
25 any rate, it's a public website which everyone has access to.

1 PRESIDING JUDGE: It will depend on -- in any event it will
2 depend on what you want to do with that material, you know, that
3 we are not here -- we not there yet. Yes, Mr Jordash, I think
4 you may continue with the General and see how we move from
5 there.

6 MR JORDASH: Certainly.

7 PRESIDING JUDGE: All right.

8 MR JORDASH:

9 Q. Good afternoon, General. I'm sorry we've kept you
10 waiting.

11 A. It's okay.

12 Q. Let me take you to the year 2000. Can you recall when
13 it was you first came to Sierra Leone?

14 A. I actually came to Sierra Leone much earlier than the
15 year 2000 when I was in Liberia the 90 --

16 PRESIDING JUDGE: Maybe the -- maybe counsel is wanting to
17 know when you came to Sierra Leone in 2000. You had been here
18 before I suppose.

19 THE WITNESS: Yeah.

20 MR JORDASH: That I didn't know.

21 Q. Let me ask you, when you came before 2000, was that
22 concerning the UNAMSIL mission of 2000 or was that on a separate
23 unrelated --

24 A. Not at all. That was the time when Sierra Leone was
25 under, I think, captain Strasser and I was sent here to come and

1 make contacts with them because I was then the chief military
2 observer in Liberia.

3 Q. Right. Can I take you then to 2000. Was 2000 the
4 time you came for the second time?

5 A. Yes, 2000, I think it was in May, immediately after
6 the May eighth or fifth I can't remember, you know, when peace
7 keepers were taken hostage in the north of the county. I came
8 with delegation of the Kenyan parliamentarians to--

9 Q. And the purpose of the visit?

10 A. It was a fact-finding mission. Back at home there was
11 a lot of unhappiness about the way in which our soldiers had
12 been taken hostages, some had been killed and the such. The
13 population had a right to, you know, find out whether we
14 deployed our troops here with proper protection and a mandate
15 that would protect them in peace keeping.

16 Q. And who was the leader of the delegation?

17 A. It was the minister for defence.

18 Q. And your position within it?

19 A. I was the most senior military officer there. They
20 assumed that I was the second in commander. That's what I was
21 told.

22 Q. And apart from the observational role you were coming
23 to play, did you have as a delegation, any other role as regards
24 to the hostages?

25 A. Yes, we had another role of talking to President

1 Taylor who, you know, we assumed and we believed had some
2 influence over the RUF. Hence, he could facilitate the release
3 of the hostages and also the bodies of our soldiers who, until
4 that time, were somewhere in the north of this country and we
5 did not know where they were and we wanted those bodies to be
6 repatriated back home.

7 Q. At that stage, had any of the hostages been released?

8 A. Yes, some had already been released and there were
9 others who were still in transit between Sierra Leone, Liberia,
10 and here, back here.

11 Q. Did you hear of one General Mulinge?

12 A. Yes, I knew him very well.

13 Q. And were you informed as to his situation?

14 A. Yes, I was.

15 Q. And what was it?

16 A. His situation was that he was taken hostage, but by
17 that time he had decided although he could have been released
18 because I remember when we talked to Charles Taylor, he made us
19 understand that Mulinge was ready to be released but Mulinge had
20 decided he would be the last one to be released.

21 Q. And were you informed as to the whereabouts of Foday
22 Sankoh?

23 A. Yes. We were told that he was in Pademba Road prison.

24 Q. Were you informed as to whose custody he was under?

25 A. Yes, we were told he was under the custody of the

1 Sierra Leonean government.

2 Q. Did you have any contact with him?

3 A. Yes, we did. We requested President Kabbah that we
4 wanted to go and meet with him in the prison in his cell which
5 was allowed.

6 Q. Did you meet with President Kabbah personally on that
7 issue?

8 A. Yes, we did.

9 Q. Can you recall President Kabbah's response to it.

10 A. He said yes, arrangements would be made for you
11 and it was made, if I remember well, the same day?

12 Q. And did you attend at Pademba Road prison?

13 A. Yes, I did.

14 Q. Can you explain what happened there?

15 A. We got into the cell, which was very dark, and Foday
16 Sankoh was lying on a mat on the floor, but as the door was
17 opened he got up. Actually he got up and sat and then as it
18 became a little clearer, lighter because even us as we went in
19 this room was very dark. We couldn't really see very well but
20 us, we did, and we introduced ourselves. Who we were, what our
21 mission was and we had a conversation with him.

22 Q. And can you recall the substance or detail of the
23 conversation?

24 A. Yes, the leader of our delegation which was the
25 minister for our Defence put it very clear to him the reason why

1 we wanted to see him or meet with him. The first one was of
2 course we expressed our disgust or he expressed our governments
3 disgust at the way in which our troops were treated by the RUF,
4 taken hostage, peace keepers, some had been killed. We don't
5 even know where the bodies are and the second one was asking him
6 whether he was still in control of the RUF and if he was, we
7 wanted him to order the release of the peace keepers. We did
8 not only ask for the release of Kenyan peace keepers if I
9 remember very well the minister stated that all peace keepers
10 should be released.

11 Q. Can you recall Foday Sankoh's response?

12 A. He indicated that he was still the leader of RUF but
13 as we could see he was no longer in control because he's
14 incarcerated in his cell, and his freedom is in the hand of
15 President Kabbah and if we could talk to President Kabbah to
16 release him he would get in touch with his commanders on the
17 ground to make sure that all peace keepers are released.

18 Q. Did you form an impression as to his sincerity?

19 A. I was a little amazed at his reactions and I don't
20 know whether because he had been in this dark cell for so long
21 but he didn't look to me as if he would probably go through with
22 what he was indicating that he would do. I may be wrong, but
23 that was my impression of him.

24 Q. Thank you.

25 PRESIDING JUDGE: That he would not -- you mean that he

1 would not fulfill his engagement to have the hostages released.

2 THE WITNESS: That was my fear.

3 PRESIDING JUDGE: You had that impression.

4 THE WITNESS: That was my fear. That was my fear, Your
5 Lordship. Maybe he would, maybe he wouldn't. I don't know.
6 That was my fear. I wasn't sure. It could only be tested if he
7 was released and he made it possible for them to be released or
8 not.

9 PRESIDING JUDGE: Thank you.

10 MR JORDASH:

11 Q. On this same trip was there any further contact or
12 communication with President Kabbah by the delegation?

13 A. Yes, after that we went back and saw President Kabbah
14 and thanked him for facilitating our mission because we were
15 here for I think about ten days we were, you know, here for
16 about ten days. So now our final day we went back and thanked
17 him and we wished him well.

18 Q. Was there any -- if you recall -- further conversation
19 with President Kabbah as to the continued incarceration of Foday
20 Sankoh?

21 A. No. Because we were not going to plead for Foday
22 Sankoh to be released. Ours was if we wanted our hostages to be
23 released. That's it.

24 Q. Thank you. During this same trip to Sierra Leone, did
25 you come across General Jetly?

1 A. Yes, in fact General Jetly was the first one we met if
2 I remember and he briefed us at the Mammy Yoko headquarters, of
3 UNAMSIL on the happenings during the hostage taking and there
4 after.

5 Q. Did you receive any information on this trip
6 concerning General Jetly's relationship with Foday Sankoh or the
7 RUF?

8 A. Yes, I did. First of all, during General Jetly's
9 briefing to us, it was clear to us that he had a rather strain
10 relationship with Foday Sankoh because he stated that Foday
11 Sankoh was a liar and had caused all the problems which brought
12 the debunk and subsequent hostage taking, he believed. That's
13 what he told us and then we also had another meeting with the
14 SRSG because our briefing by Jetly was Jetly alone and the
15 briefing by the SRSG Adeniji was also with and Adeniji alone and
16 I think there may have been one or two of his own political
17 staff there but I remember. So again, during our discussions
18 with the SRSG, the SRSG more or less confirmed a strange
19 relationship between the force commander and the leadership of
20 the RUF.

21 Q. Thank you. Now following the completion of this
22 mission, when was it that you next came to Sierra Leone --

23 A. I came back and I hope I'm not mixing the two
24 Liberia and here but I came back late 2000 when I had now been
25 named the next force commander of UNAMSIL.

1 Q. And can you recall the purpose of that particular
2 trip?

3 A. I think the first time was the like a reki [sic] a
4 very quick reki. After I had reported to New York to be briefed
5 in New York about my next assignment which was to be the force
6 commander.

7

8 Q. After this trip did you return again?

9 A. Yes. I returned to come over, to take over my duties
10 of the force commander.

11 Q. Would this be late 2000?

12 A. Yes. Yes. November, I think, November.

13 Q. Upon arrival did you receive or undertake any
14 briefings?

15 A. Yes, when I arrived, of course, I wanted a full
16 briefing. I requested for a full briefing by the acting force
17 commander, my Chief of staff and my chief military observer and
18 of course the SRSG. Those were the key people I wanted to have
19 a briefing from so that I would be in the picture of -- as the
20 status of peace process and what had happened since I was last
21 here.

22 Q. The briefing took place in which location?

23 A. The briefing took place in Mammy Yoko UNAMSIL
24 headquarters. Most of them were done in the briefing room and I
25 think all of them were done in the briefing room in Mammy Yoko.

1 Q. In that first week did you travel outside to Freetown?

2 A. Yes. I arrived here, if I remember well on a Saturday
3 and the following day I went out, you know, to begin what
4 transpired as a two-week familiarisation visit of my own, to
5 visit to all my troops wherever they were deployed throughout
6 Sierra Leone.

7 Q. Were you in contact with the RUF leadership when you
8 first arrived?

9 A. No.

10 Q. Was there a reason for that?

11 A. Because UNAMSIL after that time, I learned they had
12 cut any direct communication with RUF after the May 2000
13 activities.

14 Q. Do you know if that had been advertent or inadvertent?

15 A. I think it was a decision which was taken at the
16 UNAMSIL's leadership.

17 Q. Were you able to ascertain the reasons for that.

18 A. No, I didn't. But I think nobody wanted to get in
19 touch with the RUF. Because I asked reasons why but nobody
20 really gave me any good reasons.

21 Q. Was this something that concerned you?

22 A. Yes, it did concern me as a peace keeper especially as
23 coming here to be the force commander, I felt it was my duty to
24 make contact with all the parties to the conflict which included
25 CDF, RUF and SLA and also the government, so that I would know

1 where we are and where we are going as far as this peace keeping
2 is concerned.

3 Q. Concerning your objectives did you identify any
4 immediate priorities?

5 A. Yes, I did. My immediate priorities which I then
6 discussed with my boss The SRSG, was that the first thing we
7 need to do is re-establish contact with the RUF and the CDF. It
8 was felt that with the CDF we had no problem because they were
9 under the government controlled area, supposed to be government
10 controlled areas, so we had no problem, but the RUF, we did not
11 have contact and they were in the north part of the country. So
12 I said this is the first priority for us to do, so that we know
13 what the RUF is doing out there. If we are going to eventually
14 reunify the country because that was our major priority to
15 reunify the country under the government leadership. Then we
16 have to get the RUF on board. That was my first priority. The
17 second priority was of course to deploy -- deploy my troops you
18 know throughout Sierra Leone but prior to that I had to
19 restructure my force because my force at that time when I came
20 on board it was a force which was disjointed. A large number of
21 the troops were going back, two contingents -- very large
22 contingents were going back to their country.

23 Q. Did you receive any information about Issa Sesay at
24 this time?

25 A. Yes, I was told that the RUF -- when I told the SRSG

1 that I believe that the first priority for is to get -- for me
2 is to open the channel of communication between the RUF. There
3 is a leader an interim leader actually the SRSG said the leader,
4 leader of the RUF was Issa Sesay.

5 Q. Did the SRSG provide any information as to how it was
6 Issa Sesay became the leader?

7 A. Yes. He told me that Issa Sesay was actually hand
8 picked by the ECOWAS leaders, after special meeting had taken
9 place in Abuja. Since the ECOWAS had decided that Foday Sankoh
10 was no longer reliable and could not be entrusted again with the
11 leadership of RUF.

12 Q. Was anything said about why Issa Sesay had been hand
13 picked?

14 A. Yes. They said that looking through the leaders after
15 Foday Sankoh of the RUF senior leaders of the RUF they felt that
16 Issa Sesay met their criteria of being a moderate and somebody
17 who they could count on to cooperate in the peace process and
18 also I think that was also their key, that since he had been, I
19 think, the field commander, he would be able to ensure
20 disarmament and bring the combatants to disarmament.

21 Q. Was anything said at that time or information provided
22 concerning Issa Sesay and civilians?

23 A. His what?

24 Q. Issa Sesay and civilians? Issa Sesay's attitude?

25 A. I think what they said was that he was a moderate. I

1 didn't get that specific you know him and civilians.

2 Q. Were you briefed about any other commanders?

3 A. No, not really. Not really. Because the SRSG didn't
4 have much information about the command structure. I think he
5 wanted me to go and find out for myself.

6 JUDGE BOUTET: Mr Jordash, would you mind repeating your
7 last question. I didn't get the -- neither the question or the
8 answer. I apologise for that. Sorry.

9 MR JORDASH: Certainly the question was did the general
10 receive any briefings about other commanders.

11 THE WITNESS: The RUF commanders, no.

12 MR JORDASH:

13 Q. Was any contact made with Issa Sesay?

14 A. Yes.

15 Q. Do you know how that came about?

16 A. I -- after my briefings, getting all my briefings and
17 getting the nod or the go ahead by the SRSG that I should, we
18 should re-establish communication between us and the RUF, I
19 directed my chief military observer, General Chizuzi, to get on
20 with it and to make sure that he arranges for a meeting between
21 me and Issa Sesay as soon as possible.

22 Q. Did a meeting take place.

23 A. Yes, a meeting took place. In fact two. One after
24 the other.

25 Q. Could I ask the witness please to be given copies of

1 Defence Exhibits 167, Your Honours, pages 2,4,6,17 and
2 DIS-Exhibit 195. These have been served into the Court
3 Management several days ago.

4 JUDGE BOUTET: Pardon, what were the last ones?

5 MR JORDASH: DIS-Exhibit 167, Your Honours, page 2,4,6,17.
6 And DIS-Exhibit 195, Exhibit page 2,4,6,23.

7 PRESIDING JUDGE: Yes, please. Can we be given --

8 MR JORDASH: If there's a problem I'll hand my exhibits to
9 the General and the General can look at them and talk us through
10 them I think.

11 MS KAMUZORA: My Lord, I'm trying to find them on the
12 record.

13 MR HARRISON: Just so that there's no duplication of
14 effort, 195 is already an Exhibit in the trial and it's Exhibit
15 in the Trial Number 210.

16 MR JORDASH: I'm grateful, that's right. I'll just stay
17 with that exhibit for the moment and ask the General to have a
18 look at that.

19 PRESIDING JUDGE: What does the witness have before him is
20 it Exhibit 210?

21 MR JORDASH: Your Honour, yes.

22 PRESIDING JUDGE: Yes.

23 MR JORDASH:

24 Q. Do you recognise -- does that bring back --

25 A. Yes, it brings back.

1 Q. Did you receive that?

2 A. Yes, I did.

3 Q. And did that precede the meeting?

4 A. Yes.

5 PRESIDING JUDGE: Did that do what, Mr Jordash?

6 MR JORDASH: Precede, precede the meeting.

7 PRESIDING JUDGE: You mean Exhibit 210.

8 MR JORDASH: Yes.

9 PRESIDING JUDGE: Preceded the meeting.

10 MR JORDASH: Yes.

11 JUDGE BOUTET: Would it be possible to have a copy of it
12 because my binders, I just check it just to see if I've got it
13 there as well. It's not -- we don't have it. 210 is not there.

14 MR JORDASH: Certainly. Could I ask that the copy that the
15 witness has be handed to Your Honours. Does Your Honour have a
16 copy?

17 JUDGE BOUTET: Yes, we do.

18 MR JORDASH: May I also ask that the witness be given copy
19 of DIS-Exhibit 196 and looking at it, it may well have been
20 exhibited as well. If anyone could assist me on that.

21 PRESIDING JUDGE: You are referring to three documents now.

22 MR JORDASH: No.

23 PRESIDING JUDGE: There is 167, DIS-Exhibit 167;
24 DIS-Exhibit 195 which is a Court Exhibit 210.

25 MR JORDASH: Court Exhibit 210.

1 PRESIDING JUDGE: Is 195.

2 MR JORDASH: Yes. And then --

3 PRESIDING JUDGE: You are now adding 196.

4 MR JORDASH: 196.

5 PRESIDING JUDGE: As Defence Exhibit 196.

6 MR JORDASH: Yes.

7 Q. Before we get to Defendant's Exhibit 196, could you
8 just explain briefly what happened at the meeting?

9 A. I arrived at the place of meeting, which was not built
10 up area. And Issa Sesay and his colleagues accompanied by what
11 I thought was protection party, his own protection party came,
12 and we met for the first time. I introduced myself, who I was
13 and what my purpose was in Sierra Leone, I explained to him my
14 job as a force commander. I also explained to him that my
15 responsibility as the force commander would be to ensure that
16 our troops, once I have sufficient number of troops, to deploy
17 throughout the country which included the so-called RUF area of
18 control and the CDF area of control or government area of
19 control throughout the ground. In other words, to reunify in
20 the country, and I gave him a quick brief on how I intended to
21 do this. I remember explaining to him that it may not be
22 tomorrow, the deployment will not be tomorrow. It will take a
23 little bit of time until I have a sufficient number of troops,
24 and once I deploy, it was going to be his responsibility to
25 ensure that he withdraws all his troops because I knew that

1 through my own information that they had their own combatants
2 manning key areas and key roads. So I explained to him that
3 once we deploy, we take over all those areas and we will be in
4 charge, in control, of all those areas and his combatants will
5 no longer man roads, or roadblocks or protect facilities. We
6 will do that. And then after that, I asked him whether he
7 understood what I was saying and he said he did. I asked him
8 whether he was the RUF leader, he said he was interim leader,
9 yes. I asked him whether the RUF was committed to the peace
10 process, the implementation of the accord which was signed in
11 Lome and he said, yes, the RUF was committed they were all
12 committed for, you know, peace. And he stated that before I
13 deploy, he asked me that, before you deploy your troops, I would
14 request you to give me time, so that I can go around all the RUF
15 controlled areas and sensitize the -- his commanders and his
16 combatants on the necessity for them to cooperate with us in
17 carrying out our mandates. And I said, yes, you could go ahead,
18 and I said when you are ready let me know.

19 Q. Was it clear then or did it become clear later why it
20 was he requested such a period of time to sensitize?

21 A. Yes, it became clear to me that perhaps there was
22 dissenting views amongst his own leadership or command,
23 commanders, that was one thing and secondly, I think that as a
24 result of what happened in May, Issa was concerned that he
25 didn't want to -- a situation to arise again with an UNAMSIL or

1 the UN, and he wanted this time around for us to start on an
2 even footing because I also explained to him that this time
3 around and I remember telling him this time around when I deploy
4 my troops, I will deploy troops who will not be taken hostages.
5 And you better tell your men and women that we mean business.
6 If you are interested in peace as you say you are interested in
7 peace, make sure that this message goes loud and clear and he
8 was quite happy with that.

9 Q. At this time or soon there after, was anything
10 mentioned about Foday Sankoh's incarceration?

11 A. Yes. I remember not only soon after but it went on
12 and on and on every now and then we would meet with various
13 leadership of the RUF. They would ask for a -- for us to
14 facilitate or the government to facilitate the release of their
15 leader, and this eventually appeared to me as if it was coming
16 from not each and everyone of them, but some factions within the
17 RUF because I later learn that really RUF was not one entity.

18 Q. Perhaps you could just give a brief explanation as to
19 what you mean by that?

20 A. There were faction -- it was an organisation which was
21 a very loose organisation. Although, it was RUF and people
22 thought RUF was one whole organisation, but I think after the
23 going away of Foday Sankoh, in other words, incarceration of
24 Foday Sankoh, it splintered into various groups. There were
25 those who supported Foday Sankoh, they are those who did not

1 want to hear of anything other than Foday Sankoh. They would
2 only go with what Foday Sankoh stated or said or wanted, but
3 there was another group, and I believe this was the group that
4 Issa Sesay aligned himself with, which was for peace. Although,
5 even Issa Sesay himself did not literally said Foday Sankoh is
6 no more, and I remember him asking me, you know, me on one or
7 two other occasions, you know, that they would want to see Foday
8 Sankoh eventually released, but he was on one side, the side
9 that wanted the peace process to move on.

10 Q. Could I ask for you to have a look at a document.
11 It's Defence Exhibit 196. Your Honours, page 2,4,6, 26. Again,
12 the General could have my copy.

13 PRESIDING JUDGE: That's Defence Exhibit 196.

14 MR JORDASH: Yes, I'm grateful to one --

15 PRESIDING JUDGE: Is it -- is it already a court Exhibit?

16 MR JORDASH: It is Court Exhibit 211.

17 PRESIDING JUDGE: Court Exhibit 291?

18 MR JORDASH: 211.

19 PRESIDING JUDGE: 211. Sorry.

20 MR JORDASH: Yes.

21 Q. I'm not sure if you've seen that recently or not,
22 General?

23 A. Yes, I saw it.

24 Q. Yes.

25 A. Yeah.

1 Q. Are you able to offer any explanation concerning what
2 Issa Sesay was informing you about concerning the website?

3 A. Yeah, if I remember well, there was information which
4 came out through the website or press or something like that
5 which stated that -- which implied that the RUF, despite what
6 they had stated earlier on, was not going to move on in and tell
7 them with what they had agreed between us until when -- until
8 Foday Sankoh is released. And I think this is what this was
9 trying to clarify that, that was not the case.

10 Q. Thank you. After that first meeting, when was your
11 next contact with Mr Sesay; do you recall?

12 A. After that meeting, I made it clear to my chief
13 military observer and also Issa Sesay, that I would like us to
14 continue to be in constant touch through telephonic
15 communication as and when necessary me and him or my chief
16 military observer General Chizuzi and him through his
17 headquarters, his staff. So there were several such contacts
18 and also meetings arranged thereafter to plan and agree on
19 deployment so we had several meetings thereafter or contacts.

20 Q. I should have probably asked you this: Did you come
21 across someone called Muckson Sesay?

22 A. The name rings a bell but I can't very well remember,
23 you know.

24 Q. Okay. Did you have personal contact?

25 PRESIDING JUDGE: What Sesay?

1 MR JORDASH: Muckson. M U C K S O N.

2 PRESIDING JUDGE: And the General says he doesn't remember.

3 MR JORDASH: Yes.

4 Q. Did you have -- were you after this first meeting, in
5 direct contact with Mr Sesay?

6 A. Yes. He gave me his cell -- it was not cell phone I
7 think it was satellite phone number and I also gave him my
8 contact, you know, number. So as and when I wanted to talk to
9 him I would call him or he would call me, yes.

10 Q. Could I just -- you may have answered this but I want
11 to be clear on the record, as far as you're aware, this the
12 first time anyone had direct communication with Sesay from
13 UNAMSIL since UNAMSIL abduction?

14 A. I believe so because during my briefings just before I
15 took over command it was made quite clear to me that we were not
16 in contact with that headquarters.

17 Q. Thank you. In these early meetings and communications
18 did you form an impression about Mr Sesay?

19 A. Yes, I did.

20 Q. Could you share with us?

21 A. Yes, I formed an opinion that here was a young man who
22 was propelled into leadership both political and military
23 leadership with perhaps very little experience in political
24 leadership. He may have been excellent, I don't know, or a good
25 field commander, but in my view, he didn't have very much

1 political acumen. He was -- he looked to me as a very honest,
2 he knew what he wanted to do and when I talked to him he showed
3 respect to me as an elder. And I told him that I would also
4 reciprocate if he did what I expected him to do, which was to
5 cooperate with us in the peace process right up to the end of
6 it.

7 Q. And in these -- this early meeting and the --
8 thereafter communications was the issue of civilians discussed?

9 A. Yes. In fact, even in the first meeting when I asked
10 Issa Sesay whether he had any questions, you know, to ask me
11 pose to me, one of them was his concern for the plight of the
12 civilian population in the RUF controlled area. He complained
13 that the civilians in the CDF controlled areas or government
14 controlled areas had access to humanitarian assistance yet the
15 civilians in RUF controlled areas were denied such access and he
16 was concerned that the UN should do something about it.

17 Q. Do you know if that came to pass, that the UN did
18 something?

19 A. Exactly. I promised him that as and when I get back
20 to Freetown, I will pass this information to my boss the SRSG
21 and humanitarian, you know, agencies, but I cautioned him that
22 unless they cooperate and open the roads leading into those
23 areas then of course, it might be difficult for the civilians,
24 you know, to be given access to humanitarian or relief goods
25 which he said as soon as we are ready to deploy he will be

1 willing to let the relief agencies come back.

2 Q. And after you made it clear that cooperation was
3 necessary in order to achieve those aims, did you obtain
4 cooperation from Mr Sesay?

5 A. Yes, we did.

6 Q. You mentioned the RUF not being -- I'm paraphrasing
7 but not being a unified whole?

8 A. Yeah.

9 Q. Did you come across Gibril Massaquoi?

10 A. Yes, I did.

11 Q. Were you in these early days into 2001, able to meet
12 or receive information about him?

13 A. Yes, we met -- I met with him several occasions.

14 Q. What was your impression about him?

15 A. Gibril Massaquoi in my own opinion was claiming and
16 that not only Gibril but several of the RUF leadership that he
17 was a military man, but he played more of a politician role in
18 the RUF.

19 Q. And did you meet him?

20 A. I did.

21 Q. And did he express any views concerning Issa Sesay and
22 what he was trying to do?

23 A. He expressed two distinct views, one about Foday
24 Sankoh and it looked to me or it appeared to me and I was
25 convinced that it was his view that he was one of those who are

1 very, very strong on the RUF will not cooperate with us until
2 the leader is released Foday Sankoh because he stated that to
3 me. And the second one, he also showed sometimes even direct
4 defiance of any instructions that Issa Sesay gave to his to
5 organisation which would facilitate to our own deployment for
6 example, our military observers, redeploying our military
7 observers and our own troops and even when the time for
8 disarmament, you know, kicked off, he was not very happy with
9 the disarmament because it was going to be undertaken without
10 the release of Foday Sankoh.

11 Q. Excuse me a moment. Did you come across Mike Lamin?

12 A. Yes, I did.

13 Q. What kind of attitude were you able to discern from
14 him?

15 A. Mike Lamin was the same, like Massaquoi. Very hard
16 liner, I would say.

17 Q. Were you able to discern Mike Lamin's view of Mr
18 Sesay?

19 A. I don't think he got on very well with Issa Sesay, and
20 that I, myself, noted for example, when we had a meeting when he
21 was there and Issa Sesay was there and I could see, you know,
22 the way he treated Issa Sesay. He did not respect his
23 leadership.

24 Q. Thank you. Can I take you now to 2001 and April 2001.
25 Did you receive a call from a -- or any information from

1 Brigadier General Allie Hassan?

2 A. Yes, I did.

3 Q. Can you recall what that was about at that time?

4 A. Yes, he called me. I don't want to use the word
5 excited but he was concerned that he had received instructions
6 or information from Issa Sesay who was --

7 PRESIDING JUDGE: Who called you. Who was General Allie
8 Hassan.

9 A. General Allie Hassan was my sector commander in
10 Magburaka, and he was the one who had more troops under his
11 command deployed in RUF controlled areas, at that time.

12 PRESIDING JUDGE: Thank you. General I just wanted to know
13 who he was.

14 THE WITNESS: Yes, and he stated that Issa Sesay told him
15 that CDF contingent, large contingent of CDF had crossed the
16 border from Guinea and they were heading to Kono with a view of
17 course, you know, throwing out the RUF from Kono and as they
18 were doing this they were displacing or there was a large
19 displacement of civilians in there way coming home into Kono
20 from all directions.

21 Q. And was Issa Sesay involved in this in any sense?

22 A. He was already there in Kono himself, trying to read
23 or decide on what to do.

24 Q. And did Issa Sesay make any requests from --

25 A. He did and he asked me to deploy the UN or UNAMSIL

1 troops now. He was ready to hand over Kono to the UN to avoid a
2 blood bath between CDF and the RUF.

3 Q. Did Mr Sesay at that time state any fears concerning
4 civilians?

5 A. Yes, he said that already as the CDF were converging
6 on to Kono there was a large number of civilians who had been
7 killed, some had been, you know, displaced and they were heading
8 -- they were heading to the town which is Kono and they were not
9 able to, you know, be able to protect all of those people or
10 give them accommodation and food and whatever.

11 Q. At any time in this period was there any contact
12 between you and Foday Sankoh?

13 A. I did have one or two contacts with Foday Sankoh
14 thereafter. Especially, you know, as -- before disarmament,
15 before disarmament began I think when he was transferred into
16 our hospital Choithram Hospital which was under our you know
17 control. It was a military hospital mand by our medical --
18 military medical team.

19 Q. Were you able to speak to him?

20 A. I did speak to him.

21 Q. Was he able to respond in any way?

22 A. Yeah.

23 Q. In most cases whenever I went to see, you know, not
24 only him, I used to go and visit the hospital to see our own
25 military personnel, who were sick in the hospital. I would go

1 and see Foday Sankoh, also. He would respond to me. He knew
2 who I was.

3 Q. Did he comment on disarmament at any time?

4 A. He wasn't happy about disarmament. He wasn't happy
5 about disarmament.

6 Q. Are you able, just briefly, to describe what the Abuja
7 Agreement or meetings were about?

8 A. I think the Abuja Agreement, the basic tenet of the
9 Abuja Agreement was to re-- as I think Ambassador Adeniji had
10 stated to re-- bring the RUF back on to the fold, the RUF
11 leadership back on to the fold as a partner to implement the
12 Peace Accord, the original peace accord and also to set out the
13 time frame for disarmament and demobilization.

14 Q. Do you recall when that direct Abuja process began?

15 A. I think Abuja was in December, if I remember, I think
16 it was in December 2000.

17 PRESIDING JUDGE: General, if I may know, when was some
18 evidence that Sankoh was detained in Abuja was that at --

19 THE WITNESS: I was not here.

20 PRESIDING JUDGE: You were not here yet.

21 THE WITNESS: I was not here yet, Your Lordship.

22 PRESIDING JUDGE: Thank you.

23 THE WITNESS: Yeah.

24 PRESIDING JUDGE: Nothing in your records, you know, gave
25 you a clue as to why he was detained.

1 THE WITNESS: I saw some of those records then because some
2 of my readings was to look back what had happened I saw some of
3 those. I think his incarceration there was to send a signal to
4 him, that he better cooperate with ECOWAS.

5 Q. And following the Abuja Agreements, were there
6 meetings arranged? Tri-parti meetings?

7 A. Yes, in fact, immediately after the Abuja Tri-parti
8 meetings were arranged between UNAMSIL, RUF and the government
9 of Sierra Leone.

10 Q. And during this whole process of the Abuja and the
11 consequential meetings, were you in contact with Mr Sesay?

12 A. Oh, yes, I was.

13 Q. How was he conducting himself in relation to the
14 commitments made?

15 A. He was amenable to the agreement in Abuja because I
16 believe he attended the Abuja meeting. I did not, but I
17 arranged for them to go there but he was amenable to the Abuja
18 Agreement and he stated that he was committed to the peace
19 process and the organisation which he was leading which was RUF
20 would deliver on the agreement.

21 Q. And let me take you forward to September 2001, was
22 anything happening around this time in Kono concerning
23 disarmament?

24 A. Yes, that is as a result of the movement which the CDF
25 made from Guinea towards Kono and in order to avert a potential

1 danger for the entire peace process and disarmament, we decided
2 three, you know, groups decided we would then disarm Kono
3 immediately after that, or do a symbolic disarmament of those
4 CDF troops who had come into Kono while we were waiting for, the
5 major disarmament to take place. So I attended that meeting and
6 of course it was agreed, Issa was there and I think even the
7 late chief Hinga Norman was there.

8 PRESIDING JUDGE: Where was the meeting, General.

9 THE WITNESS: In Kono.

10 PRESIDING JUDGE: In Kono.

11 THE WITNESS: In Kono. Then it was followed by another
12 meeting which I think the heads of state, ECOWAS heads of state,
13 you know, attended in Kono.

14 MR JORDASH:

15 Q. Were you present when Kono was finally disarmed?

16 A. The disarmament of Kono. No, I don't think so. I
17 don't think so. I think I was there when the initial
18 disarmament took place I was there.

19 Q. Sorry. That's my confusion. That's what I was
20 referring to?

21 A. Yeah, I was there. I was there.

22 Q. Who else was there?

23 A. My deputy Mattin Naguay was there, Issa Sesay was
24 there, I think even the late chief Norman Hinga was there, there
25 were several other dignitaries, and the paramount chiefs were

1 there.

2 Q. Was Mr Sesay there?

3 A. Yes, Sesay was there. I think -- I can't remember
4 whether Morris Kallon was also there but there was several
5 dignitaries or people from there -- the RUF side because it was
6 a big thing.

7 Q. Do you recall approximately when this was?

8 A. That could have been in September.

9 Q. Of 2001?

10 A. Yeah, yeah.

11 Q. Did Mr Sesay speak at the?

12 A. Oh, yes, he did.

13 Q. What kind of speech did he give?

14 A. Sesay made a very strong impassioned speech stating
15 their commitment to the entire peace process and that's why they
16 were going to ensure that Kono is disarmed because until that
17 time very few people believed that Kono will ever be disarmed.
18 In other words, the RUF would let go Kono. It was in the press.
19 I myself was challenged, by people that I was not going to be
20 able to make the RUF or, you know, disarm in Kono. So Issa
21 reiterated their commitment to this and showed, you know, told,
22 you know, his combatants to ensure that they all disarm in Kono
23 and throughout the country.

24 Q. And if you were asked as I'm asking to assess the
25 importance of Issa Sesay to this process what would you say?

1 A. It was Sesay is what? Could you repeat it.

2 Q. Yes. Could you assess Mr Sesay's role in the
3 importance or otherwise of that role to this process?

4 A. I think he was key to the process right through. I
5 think he was.

6 Q. Now, after this stage of disarmament, were there any
7 visits by leaders to Kono?

8 A. Yes, I think that's the one I alluded to earlier on.

9 Q. The ECOWAS leaders?

10 A. The ECOWAS leadership in December, I think, because I
11 was away on leave. I remember that.

12 Q. And were you briefed on the meeting?

13 A. Yes, I was briefed when I came back by my deputy
14 General --

15 PRESIDING JUDGE: December 2001.

16 THE WITNESS: Yes, sir. General Martin Naquay. He briefed
17 me on what transpired.

18 MR JORDASH:

19 Q. And briefly what did he brief you, can you recollect?

20 A. He briefed me that the ECOWAS leaders, reiterated, you
21 know, their commitment to ensuring that the peace process was,
22 you know, which was in their view up to that time was moving in
23 the right direction would be completed in, you know, as was
24 envisaged. They reiterated their commitment and satisfaction in
25 the leadership, then leadership of RUF. They, I think -- not I

1 think. They congratulated Issa for doing what he had done up to
2 that time to ensure that Kono was disarmed and being handed back
3 to the government would be handed back to the government.

4 Q. Thank you. Your Honours, I noticed the time. I'm
5 happy to continue. I'm about to deal with a different subject,
6 but I'm happy to continue.

7 PRESIDING JUDGE: The Chamber will recess for a few minutes
8 and we'll resume to continue with the examination-in-chief of
9 the General. We will rise, please.

10 [Break taken at 4.36 p.m.]

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[RUF10FEB08D_LK]

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PRESIDING JUDGE: Yes, Mr Harrison.

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MR HARRISON: I'm sorry to interrupt. The Prosecution has
noticed that before the questioning began the General was
looking at some documents, and again during the break, just
before the Trial Chamber came in, he was again looking at some
documents. And I realize they maybe personal documents or
completely unrelated but, if they are related to the trial and
particularly his statements the Prosecution is very concerned
that during the testimony notes are being looked at.

1 PRESIDING JUDGE: Yes, Mr Jordash.

2 MR JORDASH: I don't know what the General is looking at,
3 I'm presuming his own personal notes but I don't know.

4 PRESIDING JUDGE: Yes, general?

5 THE WITNESS: My Lord, this is my personal notes to remind
6 me of a particular date or something like that.

7 JUDGE BOUTET: Yeah, but, are they notes that you're using
8 to give evidence today?

9 THE WITNESS: No.

10 JUDGE BOUTET: Have you looked at them this morning or
11 today?

12 THE WITNESS: This one?

13 JUDGE BOUTET: I don't know, the notes that you have. You
14 say these are my personal notes.

15 THE WITNESS: Yes.

16 JUDGE BOUTET: I use them to look at some dates and so on,
17 these are the documents you have in front of you.

18 THE WITNESS: Yeah, these notes.

19 JUDGE BOUTET: So my question to you was have you been
20 using them today to give evidence.

21 THE WITNESS: No. Those are the notes that I produce or
22 with the --

23 JUDGE BOUTET: With the Defence.

24 THE WITNESS: Answers of what I have actually given.

25 JUDGE BOUTET: Those are the notes of interviews that you

1 have had with Defence counsel over time.

2 MR HARRISON: The Prosecution says we are entitled to them
3 now. During the course of testimony the witness has been
4 refreshing his mind by looking at his interview notes, as a
5 consequence of that, they ought to be disclosed and a copy
6 provided to the Prosecution.

7 MR JORDASH: Sorry, I'm not aware of that authority that my
8 learned friend is relying upon but, if there is an authority
9 then I obviously then want to consider that authority but, I'm
10 not aware of an authority which says that.

11 PRESIDING JUDGE: Yes, general. What, what do you have to
12 say about this?

13 THE WITNESS: They are not anything different from what I
14 have stated, nothing different from what I have stated. Nothing
15 at all.

16 MR JORDASH: Well, --

17 THE WITNESS: I can give them if you want.

18 MR JORDASH: I think, to avoid any suggestions of foulplay,
19 I'm content with the Prosecution having the statement, if it
20 satisfies their desires. There is no -- there is nothing hidden
21 here.

22 JUDGE BOUTET: I don't think there was any allegation of
23 foul play. The question was if the witness is using notes to
24 assist him when he gives evidence. It's normal that this be
25 available to parties. This is known to me as a fairly

1 fundamental notion as such, and I don't think there was any
2 allegation here of foul play. If it is a statement well, that
3 is the case.

4 MR JORDASH: I simply said to avoid any, I wasn't
5 suggesting there had been but, to avoid any suggestion. I'm not
6 aware of the authority but, I'm happy to alleviate any concerns
7 and have the statement disclosed.

8 PRESIDING JUDGE: In any event I don't think we need to
9 have a debate on this. If the General in his disposition wants
10 to -- thinks he can surrender the statements without any
11 difficulties to the Prosecution and Mr Jordash is also of that
12 opinion, why not? If there is a copy we can give it to the
13 Prosecution and that's it.

14 MR JORDASH: Your Honour, there is one sentence in it which
15 is internal memorandum which is Ms Ashraph's comment to me and I
16 would like to remove that because that's privileged. But apart
17 from that, the whole of the statement is --

18 JUDGE BOUTET: Yeah, but you have to make sure that what
19 the witness has in his hands is the very same thing that you are
20 talking about, I don't know.

21 PRESIDING JUDGE: Can we have a look at what --

22 MR JORDASH: Yeah. Yes, it's the same with a few of the
23 General's own notes on it. What I could do, if it satisfies
24 Your Honour, is to like I say remove that one statement,
25 sentence which is an internal memorandum.

1 JUDGE BOUTET: No. I think they should be entitled to the
2 very notes the General has been using to testify with. The hand
3 written notes that the General has put on them, if any.

4 MR JORDASH: Well, there is internal memorandum on it.

5 JUDGE BOUTET: On the one that the General has been using
6 as well.

7 MR JORDASH: Yes, it's a typed comment which I'm happy to
8 show.

9 JUDGE BOUTET: If that is what it is I don't have any
10 problem with that but, if the General has added a few notes of
11 his own notes as such, well this, Mr Jordash, the issue is
12 simply what the witness has been using, what he has in front of
13 him, that is what it is. But the internal memorandum between
14 you and Ms Ashraph, I don't have any problem with that. I'm not
15 sure if that's what the Prosecution is after either.

16 MR JORDASH: Well, if I may, I know this isn't a perfect
17 solution but, fortunately that comment is at the bottom of the
18 page. I can rip it off now, and simply, I think the remainder
19 of that is with the General and so that it's transparent I can
20 hand it over.

21 MR CAMMEGH: While that's happening Your Honour, I don't
22 know if it's just me but it's insufferably hot in this part of
23 the room and it doesn't feel like the air-conditioning is coming
24 through at all. And if I'm right about that, I wonder if
25 something could be done, because it's extremely uncomfortable.

1 JUDGE BOUTET: We don't have that feeling here, but you may
2 be right, I don't know. At times we freeze over here but not
3 down there.

4 PRESIDING JUDGE: We hope that something can be done, the
5 technicians must be listening to us.

6 MS KAMUZORA: My Lord, I'll send them an email instantly.

7 PRESIDING JUDGE: Okay, no worry. Yes, Mr Harrison. Just
8 a minute. Mr Harrison, yes?

9 MR HARRISON: The follow-on point or comment is that I
10 think some direction perhaps should be offered to the General by
11 the Trial Chamber that during the course of his testimony it is
12 not normally acceptable to be reading their notes.

13 PRESIDING JUDGE: The General was not reading, I don't
14 think he was reading.

15 MR HARRISON: Well, Mr Wagona and I were observing --

16 PRESIDING JUDGE: He has admitted that he was refreshing
17 his memory. Let's not take this too far. Have the documents
18 and let's leave that matter at that, you know.

19 MR HARRISON: No. The Prosecution's point is that if the
20 General has been reading it before testimony, some guidance
21 ought to be given to the witness with respect to his practice
22 and conduct in future. That is it is not appropriate for the
23 General to be reviewing his interview notes while he's
24 testifying.

25 PRESIDING JUDGE: He has no papers in front of him anymore

1 so that is it. I don't think he referred to any. If he wants
2 to refer to any he should seek the leave of the Courts maybe.

3 MS MYLVAGANAM: My Lord I wonder if I could just add some
4 observations if they may be of assistance.

5 PRESIDING JUDGE: Yes please you may.

6 MS MYLVAGANAM: And this is a professional in his own
7 right. Not a professional witness, but a witness of some
8 standing. He has made it very clear he wasn't reading from
9 notes, he had a statement provided by Mr Jordash's legal team.
10 Mr Jordash is willing to have that statement given to the
11 Prosecution. Whatever personal comments he may have written on
12 the statement, I really wonder in fact the Prosecution should be
13 entitled to such material? In my respectful submission really
14 not very much damage has been done, maybe there was a bit of
15 inadvertence that the witness statement was there, he refreshed
16 his memory from some dates. He has a fairly clear recollection
17 of most of these matters, and really with sufficient respect
18 with -- to respect to my learned friend ought to be afforded to
19 this witness. And to snatch from him documents that are in
20 front of him with his personal writings on them is just not
21 necessary in my submission, my respectful submission, My Lord.

22 JUDGE BOUTET: Well, I disagree with your perception. A
23 witness is a witness. I mean if he is assisting himself with
24 notes in front of him that's not acceptable unless permitted to
25 do so by the Court. So with all due respect for the witness and

1 his professional activities he is no more entitled then any
2 other witness to this, so this is quite a fundamental rule in
3 trials as such and it is not to put blame on the witness as
4 such. He had not been told, he did not know, I accept that.
5 This is -- it should have been observed before but it was not,
6 so that's fine.

7 MS MYLVAGANAM: I think My Lord mistakes the fact that the
8 document he used which was his own personal note, has his own
9 personal --

10 JUDGE BOUTET: You have heard my comments, I don't want to
11 discuss with you, you heard my comments, you heard what I said.
12 I don't think he was entitled to it.

13 MS MYLVAGANAM: My Lord my point with respect is he is
14 entitled to his own degree of privacy as he attends n this
15 court, and to snatch from him documents and his own personal
16 scribblings in which he has committed no wrong is just not
17 appropriate in my respectful submission.

18 JUDGE THOMPSON: Ms Mylvaganam, we -- suppose the situation
19 were put this way, that if the witness is assisting himself in
20 his testimony from the witness stand there, by [Indiscernible]
21 to some material which would have been material prepared out of
22 court, summarising what he may have told the, his, the
23 investigators or his counsel, would it be proper under the rules
24 of examination in chief for a witness to refer to some document
25 which reproduces whether in note form or in an expanded form

1 material that are consistent with the testimony that he's given
2 here. Would that be permissible as a matter of law?

3 MS MYLVAGANAM: My Lord --

4 JUDGE THOMPSON: Generally, as a general rule.

5 MS MYLVAGANAM: Can I answer it in this way?

6 JUDGE THOMPSON: Very well, try -- try --

7 MS MYLVAGANAM: It would depend upon the degree to which
8 reliance was placed on any document, because of course all
9 testimony, and going back eight years, the witness is going back
10 eight years in terms of these matters and in normal
11 circumstances between the Prosecution and the Defence there
12 would be an agreed set of facts on relevant dates, we don't have
13 the benefits of that here, and therefore leading witness over
14 specific dates and so on unnecessarily may take up time. Of
15 course I'm not suggesting that a witness should ever have a
16 script and read from the script in the witness box, but there's
17 --

18 JUDGE THOMPSON: Otherwise perhaps it would not even be
19 necessary to have the witness testify but merely to submit his
20 script.

21 MS MYLVAGANAM: My Lord I totally agree with Your Lordship,
22 but of course there's no suggestion that that has happened here.

23 JUDGE THOMPSON: Well, I'm not prepared to the matter
24 further. I'm satisfied.

25 PRESIDING JUDGE: Yes, Mr Jordash? Yes please.

1 MR JORDASH: If Your Honours agree, I ought to hand over
2 the statement. There is -- um, I don't see the General having a
3 problem with it, and --

4 PRESIDING JUDGE: He has no problem. You can hand it over
5 to the --

6 MR JORDASH: I'm -- I accept what my learned friend has
7 said to a degree and but I think the way out of the impasse from
8 my respect --

9
10 PRESIDING JUDGE: But one thing is very certain. I have
11 been observing the General here and I do not have a perception
12 that he has been reading any memorandum in testifying before us
13 here.

14 MR JORDASH: And I agree completely --

15 PRESIDING JUDGE: I mean, if he has been refreshing his
16 memory on those facts, that is another matter, so since we have
17 resolved the issue this way, let us, let the notes which he has
18 be handed over to, to the Prosecution who have asked for it and
19 you have extracted that portion, that portion which was an
20 internal memorandum to your Defence team.

21 MR JORDASH: Yes. And I think --

22 PRESIDING JUDGE: Yes. Can the Court Management please
23 retrieve that document from Mr Jordash and hand it over to Mr
24 Harrison please.

25 MS KAMUZORA: Yes My Lord,

1 MR JORDASH: I think the notes may have more to do with the
2 team's lack of grammar than they do any substantive comments.

3 PRESIDING JUDGE: May we proceed please.

4 MR JORDASH: Yes, thank you.

5 Q. Mr Witness, I'll go as quickly as I can with the
6 remaining subjects. I want to ask you about a tripartite
7 meeting in Makeni. Did something happen in relation to that?

8 A. Yes. We had a tripartite meeting which was scheduled
9 to take place in Makeni, and when we all assembled for the
10 meeting, the RUF delegation was not there.

11 Q. And did you later learn why?

12 A. Yes. I later learned that Issa Sesay had ordered his
13 delegation to attend but the delegation did not attend, having
14 been directed or misled by Gibril Massaquoi that they should
15 not attend.

16 Q. And was Mr Sesay there on time?

17 A. Issa Sesay was not there on time. He was heading from
18 Kono, coming for the meeting but, he had had -- that's what he
19 told me, he had had an accident and as such he was late for the
20 meeting. But he eventually you know, came.

21 Q. Just to be clear what kind of accident?

22 A. He had a vehicle accident.

23 Q. And what was Mr Sesay's response to this?

24 A. He was very upset that his delegation did not attend
25 and especially not attending because one of his own sabotaged

1 his instructions.

2 PRESIDING JUDGE: Did you mention the name of Gibril
3 Massaquoi?

4 THE WITNESS: Yeah, Gibril Massaquoi.

5 PRESIDING JUDGE: He did not attend?

6 THE WITNESS: He's the one who --

7 PRESIDING JUDGE: Who was supposed to have been delegated
8 to attend.

9 THE WITNESS: He was one who was supposed to attend.

10 PRESIDING JUDGE: Yes.

11 THE WITNESS: And he sabotaged the whole group from
12 attending, in other words. The delegation did not attend until
13 Issa Sesay came.

14 MR JORDASH:

15 Q. Just so we are clear, we understand sabotage, what
16 does it mean in this context?

17 A. He disagreed with the instruction that was given to
18 them by Issa Sesay to attend as a delegation, as a result of
19 which he ensured the delegation including himself did not come
20 for the meeting.

21 Q. Thank you. Can I ask you about disarmament in Tongo.
22 Did anything happen in relation to that?

23 A. In Tongo, when the time came for us to plan and effect
24 disarmament there was a --

25 PRESIDING JUDGE: Excuse me, let's get this clear. When

1 Issa came did this tripartite meeting take place?

2 THE WITNESS: It was rescheduled because Issa Sesay was
3 very upset and we are were also upset that the meeting did not
4 take place. But it was rescheduled and eventually took place on
5 another date.

6 MR JORDASH:

7 Q. Was there any problem with disarmament in Tongo?

8 A. Yes, there was a problem whereby the combatants and
9 the commanders were not willing to disarm in Tongo, despite the
10 fact that Issa Sesay had issued instructions for them to disarm
11 on a particular day. And he through his own -- that is Issa
12 Sesay he through his own means found out that this again was
13 being sabotaged by Gibril Massaquoi and one or two other of his
14 you know commanders and he told me this. He then ordered I
15 think it was his number two Morris Kallon, to go himself and
16 then ensure that the instruction, his instruction, that is
17 Issa's instruction is carried forward, but at the same time
18 arrest the two ring leaders there and bring them back to Makeni.
19 And they asked me to provide transport.

20 Q. And who were the two ring leaders; do you recall?

21 A. I can't remember their names but you know that's a
22 long time ago, if you can jog my memory but there were two.
23 Peppy something, Peppy something like that. I can't remember.

24 Q. Did Gibril Massaquoi have anything to do with this?

25 A. Yeah, Gibril Massaquoi was the one who was in

1 collusion with these two commanders on the ground.

2 Q. Do you remember a man called OG?

3 A. OG, yeah, you know the problem with RUF during that
4 time they had all sorts of names. But these names were Digwua.
5 In French you call them Digwua. Not real names, not real names.
6 People would come up with not real names.

7 Q. And let me try to jog your memory. OG was a tall man,
8 a large man?

9 A. Very tall.

10 Q. With teeth which juttred out. Do you remember?

11 A. Yes, he's the man, the man you are talking about.

12 Q. And so what kind of transport did you provide?

13 A. I provided, if I remember, I provided the helicopter
14 to take Issa Sesay's man to Tongo. But, I think when we came
15 back he brought these people through their own means or
16 something like that.

17 Q. And do you know where they were taken, these --

18 A. My interest was to ensure that Tongo is disarmed.
19 Once they were brought back to Makeni, I was not interested in
20 knowing where Issa Sesay took them to but once they were
21 arrested and gotten out of the way it resolved the issue of
22 disarmament and disarmament took place.

23 Q. Thank you. And Kailahun: Any problems with Kailahun
24 disarmament?

25 A. We had a similar problem, more or less a similar

1 problem whereby the instructions of Issa Sesay, written
2 instruction which were shared by our military observers, were
3 not being followed by the commanders on the ground.

4 Q. Do you remember a commander called Martin George?

5 A. Yes, Martin George, I remember him very well.

6 Q. About what was his attitude?

7 A. He's the one who, one of those who were not willing to
8 accept the instructions of Issa Sesay coming from Makeni to
9 disarm. He was not cooperating with our military observers,
10 even our own commanders on ground for disarmament. He was not
11 for disarmament.

12 Q. Thank you. Let me take you to the final disarmament
13 ceremony. Did that take place at Lungi?

14 A. Yes. There was a symbolic disarmament in Lungi.
15 Actually it was a burning of weapons that had been collected
16 throughout to the disarmament period to symbol the end of the
17 war and that took place at Lungi.

18 Q. And was Mr Sesay present?

19 A. Mr Sesay was present.

20 Q. Did he speak?

21 A. Yes, he spoke. The SRSV spoke and President Kabbah
22 spoke.

23 Q. And after the disarmament ceremony, did Mr Sesay go
24 anywhere?

25 A. Yes. There was an agreement that there will really be

1 one final disarmament in Makeni and also I think after that is
2 when we organised for Issa Sesay to go to Abuja or I can't
3 remember but, out of the country I think.

4 Q. And let me ask you this: Did Mr Sesay as far as you
5 were aware meet Foday Sankoh after the --

6 A. Yes, you just got it. Yeah, on the same day
7 immediately after disarmament, Mr Sesay asked, and with his
8 other colleagues who were with him, the senior colleagues, that
9 they want to go and see Foday Sankoh who was in the hospital.

10 PRESIDING JUDGE: After the burning of the arms or so?

11 THE WITNESS: Yes.

12 PRESIDING JUDGE: Was this after the disarmament, the
13 symbolic burning of arms at Lungi.

14 THE WITNESS: Exactly, exactly Your Honour, yes. To go to
15 the hospital to see Foday Sankoh.

16 MR JORDASH:

17 Q. Had there been requests before from commanders to see
18 Foday Sankoh?

19 A. Yes, there had been several requests which was passed
20 either directly to me or somehow passed through the SSRG, they
21 wanted to go and allay the fears and rumours that was abound
22 that Foday Sankoh was either already dead or was dying and they
23 wanted to go see him in the hospital. All these were not
24 approved until on that final day.

25 Q. Who were the requests made to when they were made?

1 A. The requests would either be made to me and I would go
2 and discuss with the SRSG and tell the SRSG this is what you
3 leadership, RUF leadership would want us to facilitate and the
4 SRSG would go to the government, Sierra Leone government, and
5 request for those authorities. He would come back to me and
6 tell me this is not been approved.

7 Q. Do you know who in the government he saw?

8 A. I'm quite sure he went right up to the top, the top
9 leadership.

10 Q. I'm sorry, who was that?

11 A. I'm sure he went to the president, President Kabbah.

12 PRESIDING JUDGE: Who went to the president?

13 THE WITNESS: The SRSG .

14 MR JORDASH:

15 Q. And so on this occasion was it different?

16 A. It was different. It was agreed that they could go
17 and see Foday Sankoh.

18 Q. And do you know what happened?

19 A. I personally flew with Issa Sesay and I think three or
20 four of his colleagues from Lungi in a helicopter to Jui and
21 conducted them into the room where Foday Sankoh was, and they
22 had a meeting with Foday Sankoh. I was there myself. But then
23 I excused myself after a few words were exchanged and let, left
24 the RUF to talk to Foday Sankoh on their own.

25 Q. And did you find out what Foday Sankoh's attitude to

1 Issa Sesay had been?

2 A. He sneered at him, and when Issa Sesay went to say
3 Popay, you know Poppay, tried to talk to him, he told him he's a
4 sell out, that he didn't want to see him.

5 Q. Do you know if Mike Lamin was there?

6 A. Mike Lamin was there.

7 Q. Do you know if Gibril Massaquoi was there?

8 A. Gibril Massaquoi was there.

9 Q. Do you know what Foday Sankoh's attitude to them was?

10 A. He was a little, he was a little amenable to them,
11 those two. But he didn't, he didn't like to see Issa Sesay. He
12 was not very happy with Issa Sesay.

13 Q. And finally, did you have anything to do with -- I say
14 finally on this subject there is some more. Do you know who
15 disarmed Issa Sesay?

16 A. I did. In Makeni. He handed over his weapon to me.

17 Q. And were others present?

18 A. Yes. SRSU was there, President Kabbah was there.

19 Q. And were any civilians there?

20 A. Yes, there were lots of civilians. It was a big, big
21 day in Makeni when Issa Sesay and his top commanders finally
22 disarmed to us.

23 Q. And did the civilian population react to Mr Sesay?

24 A. They were very happy.

25 Q. And did they express their happiness in any way?

1 A. Yes, they did. They expressed that finally they, we
2 thought the war was over.

3 Q. Now I just want to pick up on a few miscellaneous
4 topics, but I'm almost through. Did you encounter the West Side
5 Boys in your --

6 A. Yes. When I first came here early in May, I met
7 Johnny Paul Koroma who was I believe then the leading member of
8 the West Side Boys and with a lot of his combatants around. But
9 that was the time when it was very -- Freetown was really very
10 insure and he had this large group of men around him. When I
11 came back again now to take over the command, I met him. This
12 time around I think he was already a member of some
13 organisation, support, he was supporting the government. And he
14 still had a few of his West Side Boys, you know around his
15 building, his house, and whenever he moved he had this security
16 you know around him.

17 Q. The first time you saw him with the West Side Boys, do
18 you recall roughly when that was?

19 A. It was in May when we came here during the, during the
20 parliamentary meeting, in fact we also had a meeting with him.
21 He was one of those personages that we met with when I came with
22 a parliamentary group meeting from Kenya.

23 Q. And do you know that stage or thereafter what the
24 relationship was between the West Side Boys and the RUF?

25 A. It didn't look to me, especially witness I came back

1 to take over the command, that they really had any relationship,
2 direct relationship. There was no love lost between the two.
3 Johnny Paul Koroma was not enthusiastic about the group, the RUF
4 group. Neither was RUF enthusiastic about West Side Boys.

5 Q. Final subjects. Did you see Issa Sesay interacting
6 with civilians during this whole process?

7 A. In many occasions because when I went to the so-called
8 RUF controlled areas even before completion of disarmament, even
9 before completion of our total deployment in those areas I would
10 go with Issa Sesay or we would meet with Issa Sesay and we will
11 address the local population together.

12 Q. And can you explain what you observed in terms of his
13 relationship with them?

14 A. I thought his relationship with the local population
15 was good. He cared about his people or what he called his
16 people. And I remember when I was very, you know, upset with
17 him because once in a while I would get information that the RUF
18 were not treating civilians well, and I would go and you know be
19 very firm with Issa Sesay that this is what I've heard that you
20 are doing to the civilians. And he would be very you know upset
21 and hurt and he would say these are our people. If we were, you
22 know, if I was mistreating them they would not be here now.

23 PRESIDING JUDGE: So what, is it that you received reports
24 of mistreatment.

25 THE WITNESS: Yes, I would receive from the NGO's --

1 PRESIDING JUDGE: Of civilians?

2 THE WITNESS: Yeah NGO's, especially back here in Freetown
3 it was in the press, the NGO's would say Oh the people in
4 RUF-controlled areas are being employed by force to mine, dig
5 mine for the RUF. This kind of the thing.

6 PRESIDING JUDGE: Yes.

7 THE WITNESS: And I would go and you know, very firmly put
8 the same message to Issa Sesay, this is what we have this is the
9 information we have. You must not do this if you are doing it.
10 And he would defend himself.

11 MR JORDASH:

12 Q. Do you know if he took action?

13 A. In occasions whereby we had direct information that
14 any of his commanders or combatants had violated civilians human
15 rights and we reported to Issa Sesay he would take action.

16 Q. Thank you.

17 A. And there are occasions whereby he actually removed
18 commanders from certain areas who were known to be prying on
19 civilians in those areas.

20 Q. How would you characterize his efforts in that regard?

21 A. I think he showed concerns for you know the people,
22 and was forceful in dealing with those who were under his
23 command, who may have violated human rights of people, of his
24 people.

25 Q. And how would you categorise the hierarchy of the RUF

1 as you found it?

2 A. It was believed that after the Abuja or the ECOWAS
3 leaders removed, I want to say removed Foday Sankoh from the
4 scene that Issa Sesay and his other colleagues were actually in
5 control of the RUF. But I found that it was a disjointed you
6 know sort of the leadership whereby even those who pretended
7 that they were part and parcel of the leadership had a different
8 agenda.

9 Q. Did any of the RUF --

10 PRESIDING JUDGE: Mr Jordash this witness was from your own
11 words to take one hour. You are getting to more than two hours
12 but you may proceed. I just wanted to remind you because most
13 of what he is talking about is getting repetitive.

14 JUDGE BOUTET: Yes.

15 MR JORDASH:

16 Q. Sorry to be repetitive Mr Witness but one last issue,
17 if I may. Did you receive any information -- let me ask this
18 question first. Did you have anything to do with diamonds, you
19 personally?

20 MR HARRISON: Objection. Prosecution wishes to make this
21 objection in the absence of witness.

22 PRESIDING JUDGE: Yes, may the witness be assisted out of
23 Court please.

24 [The witness stood down]

25 PRESIDING JUDGE: Yes, Mr Harrison.

1 MR HARRISON: The objection is that this is a clear example
2 where the application of the collateral evidence rule must be
3 applied. The Prosecution has not lead any evidence to suggest
4 that this witness or those close to him were involved in dealing
5 in diamonds. The Defence did put questions to a Prosecution
6 witness regarding an exchange of diamonds for arms. Having put
7 the question on a collateral issue, the questioner is bound to
8 accept the response. And there can be no further inquiry
9 because the purpose of the collateral evidence rule is to
10 prevent a list of issues going off into infinity on where a
11 matter is denied, a witness is called to give contradicting
12 evidence. The issue could then go on further to another
13 witness, to another issue, all of which is collateral to the
14 trial matters. The Prosecution is not and has not lead any
15 evidence and is not part of the Prosecution case of anyone in UN
16 dealing in diamonds. And that's the basis of the objection.

17 MR JORDASH: I --

18 JUDGE THOMPSON: Let me ask one question. Is this the
19 finality rule?

20 MR HARRISON: I know it as the collateral evidence but --

21 JUDGE THOMPSON: Yes it's also called the finality rule.

22 MR HARRISON: Or the collateral fact rule. And the rule as
23 stated by Barron I think and the attorney general in Hitchcock
24 is, if it's a collateral issue, you ask a question on the
25 collateral issue --

1 JUDGE THOMPSON: Correct.

2 MR HARRISON: -- and the answer may well be that I did not
3 go to the store. You cannot then call subsequent witnesses to
4 say that person did go to the store, if the issues before the
5 Trial Chamber are to do with the sale of some shares to some
6 company. It's a completely collateral issue and you simply
7 cannot go off in *ad finitum* on various issues.

8 JUDGE THOMPSON: But they are recognized exceptions to the
9 collateral rule.

10 MR HARRISON: There are exceptions but here --

11 JUDGE THOMPSON: It doesn't apply.

12 MR HARRISON: They do not apply.

13 JUDGE THOMPSON: All right.

14 MR JORDASH: I'm not sure I follow the objection, but if I
15 can indicate what we were -- what I was dealing with.

16 TR-1366 -- -I don't have the exact reference here -- claimed
17 that general Opande was sellings arms and ammunition to Mr Sesay
18 in exchange for diamonds. I'm not sure how that's an issue of
19 credit. That's a specific allegation made against Mr Sesay
20 concerning his role with diamonds, his role with arms and
21 ammunition, his role with the subverting the disarmament
22 process. It's only fair in my respectful submission that
23 General Opande, having his name tarnished in that way, in the
24 courtroom and TF-1366 having put his credibility at issue --

25 PRESIDING JUDGE: TF-1 --

1 MR JORDASH: 366 -- Your Honours deserve in my submission
2 to know what General Opande has to say about that. If he says I
3 was I'll leave it. If he says I wasn't, I'll leave it there.

4 JUDGE THOMPSON: In other words you are saying that you are
5 entitled to bring evidence to contradict that.

6 MR JORDASH: Well,, this is supposed to be -- TF-1366
7 supposed to be a witness of truth. He made a very serious
8 allegation against Mr Sesay and against General Opande. It's
9 only correct in my submission that --

10 JUDGE THOMPSON: You should bring that against a
11 contradict.

12 MR JORDASH: Your Honour, yes. I really do not understand
13 how this goes to credit and who's credit it goes to except
14 insofar as it deals with the Prosecution allegations.

15 JUDGE BOUTET: Were these Prosecution's allegation through
16 that particular witness in-chief or in cross-examination? That
17 I understand to be the objection that this is a question that
18 was -- this is evidence that was elicited from that witness in
19 cross-examination and therefore you have to live with that
20 answer because you solicited that answer. You cannot now bring
21 evidence to contradict this. This is in essence what I
22 understand the Prosecution to be. In other words they're saying
23 this evidence about what you are saying was, that was said in
24 Court never came out through examination-in-chief and it is not
25 evidence from the Prosecution but rather questions that you --

1 pardon me -- information or evidence that came out through your
2 cross-examination of that witness. I do not have the transcript
3 in front of me, I cannot say yes or no about that but I'm just
4 telling you this is what I understand to be the Prosecution
5 position. That is, that was not their case, they never lead
6 that evidence. But that evidence came out through you in
7 cross-examining that witness.

8 MR JORDASH: Well,, from my best recollection, I didn't,
9 and I couldn't possibly conceive that I would put to Prosecution
10 witness: Was Mr Sesay dealing in diamond with General Opande?

11 JUDGE BOUTET: No. But this is the answer not necessarily
12 that that question was put by you in that way to that witness.
13 But as a result of it, one of your question, that witness,
14 eventually gave that answer to you in cross -- examination not
15 in-chief.

16 MR JORDASH: But, well, again -- -

17 JUDGE BOUTET: But this is not their evidence. What they
18 are saying essentially this is their evidence. This is evidence
19 that you cross-examined, that you allowed in cross-examination.
20 And therefore in cross-examination you have limited ability to
21 try to contradict evidence that you have elicited in
22 cross-examination. That's basically the position of the
23 Prosecution on the collateral matter.

24 MR JORDASH: Well,,, I know of no rule which says that if
25 the witness, a Prosecution witness during cross-examination,

1 suddenly alleges that for example, Mr Sesay killed a hundred
2 people in Kailahun that the Defence have to live with that
3 simply because it came out in cross-examination. I've never
4 heard of such a rule.

5 JUDGE BOUTET: Mr Jordash the rule is about collateral
6 matters as such and answers that you have obtained in
7 cross-examination. How far and how much we can accept of you
8 calling of evidence to rebut information or evidence that you
9 obtain in cross-examination. This is only collateral matter.
10 This is the matter that has been raised here.

11 MR JORDASH: But it's not -- it's not a collateral matter.
12 It's a matter --

13 JUDGE THOMPSON: At far as I understand when the finality
14 rule applies, the preliminary determination as a matter of law
15 is to determine whether the issue is collateral or not.

16 MR JORDASH: It's not --

17 PRESIDING JUDGE: And it is in this regard you know that I
18 think I would like us to have a printout of the transcript
19 because the allegation, if it was made at all, I would like us
20 to verify when it was made, and whether it was indeed said and
21 what context you know that the witness said it.

22 MR HARRISON: I could tell you the page in the -- I could
23 read it out but I will tell you the page first if I could, and
24 the date. It's the 10th of November, 2005. Mr Jordash is
25 right. It is to do with TF-1366.

1 PRESIDING JUDGE: Tenth of what?

2 MR HARRISON: November.

3 PRESIDING JUDGE: Yes.

4 MR HARRISON: 2005.

5 PRESIDING JUDGE: Yes.

6 MR HARRISON: And it's from page 69 to --

7 JUDGE BOUTET: What's the name? What's the pseudonym of
8 the witness again?

9 MR HARRISON: It was TF-1366.

10 JUDGE BOUTET: TF-1366.

11 PRESIDING JUDGE: Page 69 to?

12 MR HARRISON: Through to, and including 71. And I think
13 the Trial Chamber will see its clearly part of the
14 cross-examination.

15 PRESIDING JUDGE: That was, that evidence came out in
16 cross-examination?

17 MR HARRISON: Yes.

18 PRESIDING JUDGE: What you are saying is in
19 examination-in-chief you never associated, you never elicited
20 evidence from this witness --

21 MR HARRISON: Correct.

22 PRESIDING JUDGE: -- that General Opande was involved in
23 any, in any diamond deals with Mr Sesay.

24 MR HARRISON: Let me just make it clearer.

25 PRESIDING JUDGE: Yes.

1 MR HARRISON: Not from that witness, TF1366, and not from
2 any witness.

3 PRESIDING JUDGE: Not from that witness and not from any
4 witness. But it surfaced in this witness's testimony under
5 cross-examination.

6 MR HARRISON: Yes, at the pages I've indicated.

7 PRESIDING JUDGE: Yes. May we have a reading of that,
8 please.

9 MR HARRISON: Of the -- if I could start at Page 69 and
10 I'll start at Line 3.

11 MR JORDASH: It's the proofing notes of August of 2005 and
12 it's paragraph 36, 13710.

13 Q. I suggest to you, Mr witness, that you are so
14 determined to lie and get Mr Sesay in trouble that you don't
15 mind who else you lie about; am I right? Could I be right?

16 A. That will not happen. He introduced me in this war.
17 He gave me life. I will not lie on him. And what is the truth
18 is what I will say here.

19 Q. Okay, we'll see. I'm going to read you part of
20 your -- the notes which were taken by Mr Alain in August of 2005
21 and ask you some questions. "After the capturing of the UN
22 soldiers I saw Issa Sesay giving diamonds to General Opande" --

23 THE INTERPRETER: Can the learned counsel please take
24 it slowly for the interpreter to interpret?

25 MR JORDASH: Sorry.

1 Q. I'll start again, Mr Witness. I'm reading from the
2 notes taken by Mr Alain.

3 "After the capturing of the UN soldiers I saw Issa
4 Sesay giving diamonds to General Opande of ECOMOG one time at
5 Mile 91 and one time at Magburaka in return for ammunition,
6 including RPG bombs."

7 You told Mr Alain that you saw Mr Sesay giving
8 diamonds to General Opande in exchange for weapons, did you not?

9 A. He gave diamonds to General Opande and then he, in
10 turn, gave arms and ammunition to Issa.

11 Q. So you are alleging --

12 THE INTERPRETER: It was not Opande himself who gave
13 the guns to him but Chikumbi.

14 MR JORDASH:

15 Q. Who's Chikumbi?

16 A. The UN Commander that was at Tongo.

17 Q. So let me understand this, if I can. You were
18 suggesting that Issa Sesay was trading diamonds with the force
19 commander of the peacekeeping mission in exchange for weapons
20 for the RUF. Is that what you're suggesting?

21 A. Yes, it did happen in my presence. It didn't
22 happen in my absence. It happened in my presence.

23 Q. So you were there at the side of Mr Sesay as he
24 handed diamonds over to General Opande. Is that what you're
25 saying?

1 A. Yes, in fact, the diamonds, we brought them from
2 Number 11.

3 Q. I'm going to ask you this -- well, let me say
4 this: I suggest that's a lie and it indicates your willingness
5 to lie and blacken the character of anybody in order to get Mr
6 Sesay into trouble. Am I right?

7 A. I am not lying on that man. I am not lying on
8 Issa Sesay. I brought the diamond to Issa Sesay. I gave him
9 that diamond. It happened in my presence.

10 Q. Well, if I told you, Mr Witness, that General
11 Opande will come and give evidence for Mr Sesay would that
12 affect your answer? Would you still say General Opande received
13 diamonds in exchange for weapons knowing he will come here to
14 give evidence to the judges?

15 A. I would not change it. Whatever thing I say in
16 this Court, even if we leave this place and go anywhere else, I
17 will not change it.

18 Q. Okay. When was it that you saw diamonds handed
19 over to General Opande?

20 A. The first peace meeting we went for in '91.

21 THE INTERPRETER: Your Honours, can the witness repeat
22 the last bit of his answer?

23 MR JORDASH:

24 Q. Repeat the last bit of your answer, please, Mr
25 Witness.

1 A. Where we started the peace meeting for us to be
2 united with the UN.

3 Q. Was that after the arrest of Foday Sankoh in
4 Freetown in 2000?

5 A. Yes.

6 Q. So disarmament had begun at this time?

7 A. By then the disarmament had not started yet. They
8 only said we should come together. They were organising the
9 disarmament and the deployment of UN.

10 Q. So it was just beginning when this happened?

11 A. Yes.

12 Q. I want to ask you about something else.

13 PRESIDING JUDGE: Thank you, Mr Harrison.

14 MR JORDASH: If I can shorten matters. If it's an issue of
15 credit and it's an issue of credit relating to TF1-366 then I
16 leave it in Your Honours' hands, as to the truth or otherwise of
17 that allegation. Your Honours, have this witness, Your Honours
18 have TF1-366. I'm happy to leave it to Your Honours'
19 deliberations as to whether TF1-366 --

20 PRESIDING JUDGE: Yes. We will have to deliberate on this,
21 you know -- We will have to deliberate on this in order to know
22 where we move with admissibility of that question, you know, to
23 this question. This a witness in examination-in-chief at this
24 stage, given the background, you know --

25 MR JORDASH: What I'm saying is Your Honour, is I'm happy

1 to abandon the question, I'm happy to leave it in Your Honours'
2 hands as to whether you accept or not TF1-366's allegation that
3 General Opande was dealing in diamonds with Mr Sesay. I'll
4 leave it at that.

5 JUDGE BOUTET: I think it's probably the best way, and
6 safest.

7 MR JORDASH: Yes.

8 PRESIDING JUDGE: Well, my colleagues say, yes. I don't
9 share that view. But we'll move ahead you know with that,
10 because the allegation is so I mean I thought that, you know, we
11 would look at it, you know, and see how it goes. The allegation
12 has been made, collaterals and tangentials and so on and so
13 forth. It's a grave allegation and I thought that we could look
14 at it but, if my colleagues say no. Well, we will leave it at
15 that. And since you are withdrawing it, that is fine. If you
16 want us to leave with the credibility of the witness who
17 testified in your cross-examination, that's fine.

18 JUDGE THOMPSON: And if he was withdrawing it, that's okay
19 because I wanted to ask whether in fact the entire exercise is
20 to impeach the credibility of witness 31 -- 366. And that's
21 precisely the context in which the collateral rule of finality
22 applies.

23 MR JORDASH: Yes, but --

24 JUDGE THOMPSON: In other words what Mr Harrison was saying
25 that the answers that he's given are conclusive and therefore

1 you shouldn't go further. That's what he's saying. And that's
2 what I understand the finality rule to be about.

3 MR JORDASH: Well, I'm content to -- I've received
4 instructions to ask the question, so I renew the application.

5 JUDGE BOUTET: [Indiscernible]

6 PRESIDING JUDGE: Yes, yes, Mr Harrison.

7 MR HARRISON: I wasn't sure if the Trial Chamber wished to
8 give me an opportunity to reply.

9 PRESIDING JUDGE: Yes, let's listen to him. Yes.

10 MR HARRISON: The logic of the rule is that if the matter
11 is collateral, it's not necessary for determination. And it is
12 a rule that is, has its origins in a policy of trying to create
13 fairness as well as efficiency within the Courts. And this is
14 an example of where the Prosecution never advanced any evidence
15 in support of a certain proposition.

16 PRESIDING JUDGE: If I may ask, is it -- or it is not part
17 of the Prosecution's case that Sesay was involved in diamond
18 mining and that the Kennedy was you know one of his lieutenants?

19 MR HARRISON: Oh, yes.

20 PRESIDING JUDGE: It is.

21 MR HARRISON: Oh yes. But it's certainly not part of the
22 Prosecution case that there is anything going on between the RUF
23 and UNAMSIL.

24 PRESIDING JUDGE: It is also part of the Prosecution's case
25 that these diamonds were marketed, you know, to persons for

1 purposes of obtaining arms. Charles Taylor for instance, that
2 is part of Prosecution's case.

3 MR HARRISON: Certainly it is.

4 PRESIDING JUDGE: Yes. And then there was this allegation,
5 there was -- I mean there is this evidence -- I mean that's my
6 worry about this. It has a diamond connection. There is the
7 allegation that believe Bockarie, you know, got the diamonds,
8 and sent them to Liberia. Sesay went to Liberia in order to
9 obtain arms. And he, he's alleged to have lost diamonds in
10 Liberia for which there is an allegation that he was punished.

11 And then in cross-examination, of TF1-366 he says, you
12 know, that Oh this man also gave diamonds to receive arms from
13 Opande. Where do we stand? That's my worry about this.

14 MR HARRISON: Where we stand is there's no Prosecution
15 allegation or case whatsoever, no evidence whatsoever of an
16 attempt to suggest a trade of diamonds for arms between the RUF
17 and UNAMSIL. If the Trial Chamber takes the view that this
18 evidence can be put, or those questions can be put to the
19 witness, then the Prosecution all of a sudden has a rebuttal
20 case it must call in which it must go out and investigate and
21 obtain statements.

22 PRESIDING JUDGE: This case must -- this case must come to
23 an end. We have to bring it to an end. There has to be some
24 finality somewhere. We won't keep investigating and
25 investigating. As I said I've asked the relevant questions

1 which I thought I should ask and to establish the diamond
2 connection of Sesay's activities, not only with the diamond
3 market as we know it in this case with Charles Taylor and
4 others, but also with this witness.

5 MR HARRISON: Yes. But the Prosecution's position is if
6 the Trial Chamber takes that view and various --

7 PRESIDING JUDGE: It is my view. It is my view.

8 MR HARRISON: There is then going to be a request by the
9 Prosecution to call a very large rebuttal case. Because such
10 issues that the Prosecution deem to be wholly collateral and
11 irrelevant to all of the issues put forward in the indictment
12 and through the evidence called by the Prosecution, are now
13 being expanded through cross-examination. And Prosecution has
14 no opportunity except for a rebuttal.

15 PRESIDING JUDGE: Are you suggesting that's all the
16 evidence the Prosecution called to prove its case, that all the
17 evidence which we admitted here was relevant?

18 MR HARRISON: Am I suggesting it?

19 PRESIDING JUDGE: I mean are you suggesting that all the
20 evidence which was called through the Prosecution witness that
21 all of it was relevant and that you know there was no
22 irrelevance in some of the testimony of the witnesses who
23 testified even though you know it is on the record.

24 MR HARRISON: The Prosecution's position is that it would
25 be relevant, yes.

1 PRESIDING JUDGE: I'll end there.

2 MR JORDASH: Well,,, if --

3 PRESIDING JUDGE: Mr Harrison hadn't finished. I was just
4 putting some questions to Mr Harrison. I stopped him midstream
5 you know, his submissions. And I thought that he should
6 continue. I wanted to make certain inquiries and he has given
7 them to me.

8 MR JORDASH: Apologies.

9 PRESIDING JUDGE: And I think he can continue.

10 MR HARRISON: And if I can just remind you that the origins
11 from Attorney General and Hitchcock are very clear and it's been
12 held throughout to the common law and throughout a number of
13 countries and this tribunal itself has on numerous occasions said:
14 That's a collateral issue, we don't want to hear any further
15 evidence on it. And this is exactly the same scenario. We have
16 an attempt to use evidence adduced through cross-examination
17 being put to another witness so that he can rebut it on what is
18 clearly a collateral issue. Thank you.

19 PRESIDING JUDGE: Thank you, Mr Harrison. Yes, Mr Jordash?

20 MR JORDASH: I'd simply say that, this that TF1-366 from
21 memory alleged that he had travelled to Liberia during the
22 process of disarmament with Mr Sesay to exchange diamonds, I
23 think the implication was to exchange diamonds with -- for arms,
24 and so a suggestion by TF-1366 that this was occurring at around
25 the same time with General Opande would appear to be actually in

1 light of the joint criminal enterprise alledged which
2 effectively accuses Mr Sesay of exchanging diamonds with people
3 outside of Sierra Leone. This would appear to be a little more
4 then a collateral issue according to the General thrust of the
5 Prosecution case.

6 JUDGE BOUTET: Yeah, but Mr Jordash you have heard the
7 Prosecution. This is not their case, this is not part of their
8 case. You are the first one to complain about the Prosecution
9 trying to change the allegations of the time that they and they
10 are trying to adjust their case. They are telling you very
11 clearly this is not their case. They have never put that case
12 forward that there was any diamond transaction and diamond
13 transaction between Mr Sesay and the General that's not their
14 case. They have never lead any evidence of that nature. This
15 is not their case. You should be satisfied with that. This is
16 not something that you had to defend against. It's not their
17 case.

18 JUDGE THOMPSON: And really that's what makes it
19 collateral. They're virtually saying that your attempt to seek
20 to impeach the credit of witness TF1-366 cannot be allowed on a
21 rule that says that where the impeachment relates to a
22 collateral issue, the answers given already should be conclusive
23 and the Counsel must not be allowed to seek to take the issue
24 beyond the conclusiveness and definitiveness of the answers
25 already given. In other words 366 answered the questions in a

1 conclusive manner.

2 MR JORDASH: Well,, I made my submissions, I won't belabour
3 them.

4 JUDGE BOUTET: Yeah, but this is a question, I'm sorry,
5 this is a question by Mr Jordash, the witness. This is not a
6 question by you, we'll dispose of the question by Mr Jordash in
7 objection. It is not for the second accused, I regret. This is
8 not your issue.

9 MS MYLVAGANAM: Well, My Lord, 366 affects the defendant
10 that we represent and whilst one accepts that there are rules
11 about how significant and probative -- My Lord, may I address
12 the bench with your leave, please--

13 PRESIDING JUDGE: We are allowed to consult as well on
14 certain issues which may affect you, we consult, you know, from
15 time to time in the bench, and when you see us consulting maybe
16 you may just have to stop and then you resume, you know, from
17 where you stopped. You're addressing us does not preempt or
18 prevent us from consulting, Madam. Yes, please.

19 MS MYLVAGANAM: My Lord, just very briefly.

20 PRESIDING JUDGE: Yes, please.

21 MS MYLVAGANAM: 366 is a witness who affects the accused,
22 we represent. One accepts there are collateral issues which
23 maybe of periferal relevance, but credibility is indivisible and
24 in the determination, ultimately, as to whether or not 366 is a
25 witness of truth, how the bench to approach their function.

1 Those matters which the Prosecution say, well, we won't worry
2 about those because they are already collateral but the things
3 that the Defence seek to rely on are fundamental. My Lords,
4 that would not be affair approach. Credibility is indivisible
5 and that is a fundamental evidential principle, and so if we
6 seek to rely on credible evidence of contradiction in order to
7 undermine and impeach the overall credibility and believability
8 of 366, that must be relevant in my submission.

9 JUDGE BOUTET: The question would be how far should you be
10 allowed to do that? How far it is permissible in law to seek to
11 impeach the credibility of this witness in the light of
12 conclusive and definitive answers on the issue because I
13 indicated earlier on that the question, of course, for
14 preliminary determination is whether the issue is a collateral
15 one or not a collateral one. Once we settled that issue, then
16 we can determine whether, indeed, the finality of collateral
17 applies.

18 MS MYLVAGANAM: My Lord, is absolutely right. The issue
19 is: Can it properly be ring-fenced into a collateral issue. In
20 my submission, credibility cannot be ring-fenced, because if
21 there are issues that go to the heart of believability issue,
22 and this may be such a matter, then the Court is entitled to
23 look at the widest picture in order to determine can we rely on
24 this person as a witness of the truth, because if they were
25 prepared to lie, exaggerate or confabulate on this issue, how

1 can we rely on their testimony as to the central matter?

2 JUDGE THOMPSON: But the Prosecution is saying that this is
3 not an issue in controversy between the parties because they
4 have not come here with any allegation as to the possible
5 collusion between the first accused and General Opande in terms
6 of diamond exchange for arms. Does that not put the issue in a
7 circumscribe context and take it outside the question of whether
8 it's an issue in controversy in between the parties. Isn't that
9 one perspective of it?

10 MS MYLVAGANAM: Well, My Lord, the Prosecution rightly say
11 we don't rely on X, that which our witness said, but regrettably
12 for the Prosecution, the witness went out of remit and showed
13 its true colours as to its reliability and credibility and it
14 may well effect the overall integrity of that witness's account

15 JUDGE THOMPSON: I restrain myself.

16 JUDGE BOUTET: Yeah, this is something that you will be
17 welcome to argue forcefully at the end of the trial as to
18 credibility of the witnesses, that's fine. That's what we are
19 saying, this is a question of credibility. I do not deny
20 anything that you have said about credibility, yes, but
21 credibility has to be seen in the context of where it is. I'm,
22 in other words, saying when it goes certainly to credibility
23 that there's got to be an end to it. Otherwise, you could call
24 25 witnesses to show this one said this. This is for the Court
25 to appreciate, as we have said, we've seen the General Opande

1 here on the witness box. We can assess him and see how it is
2 compared to this other witness, and that's the Court -- that's
3 the proper determination we are going to make and we say to you
4 this is probably the best one.

5 MS MYLVAGANAM: Thank you.

6 PRESIDING JUDGE: We will rise. The Chamber will rise for
7 today and we are -- yes, Mr --

8 MR HARRISON: I'm very sorry to interrupt.

9 PRESIDING JUDGE: Yes, Mr Harrison, please.

10 MR HARRISON: Just so the Prosecution doesn't create any
11 delay. I understand there is some misunderstanding as to who
12 the next witness might be. Is Mr Jordash able to give us some
13 advice?

14 MR JORDASH: Yes, General Hassan.

15 PRESIDING JUDGE: General Hassan?

16 MR JORDASH: General -- Major Hassan.

17 PRESIDING JUDGE: Major Hassan?

18 MR JORDASH: Yes.

19 JUDGE BOUTET: Major General Hassan.

20 MR JORDASH: Sorry. Major General Hassan.

21 JUDGE BOUTET: Yeah, it's not quite the same.

22 MR JORDASH: No, and don't tell him I said so.

23 JUDGE BOUTET: I would advise you not to call him Major, if
24 he is a Major General. So it may help your case.

25 MR JORDASH: I was wondering if for the -- sorry to jump

1 up. I was wondering for the sake of the witness's ease of mind
2 whether the parties could indicate approximate length of
3 examination. So that --

4 PRESIDING JUDGE: No, you did not indicate your own length
5 of examination or cross-examination. You went beyond and beyond
6 so we are not going to call that question. I won't ask the
7 Kallon Defence team to limit its cross-examination. If the
8 General would have to miss his flight tomorrow, fine. Oh, yes,
9 that is the stand, you know, we will take on this because I'm
10 not prepared to rush anybody. You had the full bite, you know,
11 of the cake. And we should allow other parties, you know, too.
12 The Chamber will rise. Yes, Mr Jordash.

13 MR JORDASH: Only to say I wasn't seeking to rush anyone.
14 I was seeking to alleviate or assist the witness if he had any
15 concerns.

16 PRESIDING JUDGE: No. No. No. No. The witness is not
17 our concern now. When he has to leave is not my concern, is not
18 the concern of this chamber anymore, given the length of his
19 examination-in-chief. We would have to do justice to the other
20 parties as well. So if he cannot finish tomorrow, well, that's
21 it. We hope that it will not get to that. We will advise
22 ourselves, you know, on the issue that has been raised, the
23 objection that has been raised by Mr Harrison as to whether the
24 question put by Mr Jordash on the General's involvement in
25 diamond exchanges with Sesay, you know, we would advise

1 ourselves on that, and we will come out with a ruling tomorrow
2 morning at 9.30 before we proceed. The Chamber will rise,
3 please.

4 [The proceedings concluded at 6.20 p.m.]

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EXHIBITS:

WITNESSES FOR THE DEFENCE:

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