



Case No. SCSL-2003-01-T

THE PROSECUTOR OF  
THE SPECIAL COURT  
V.  
CHARLES GHANKAY TAYLOR

WEDNESDAY, 9 MARCH 2011  
9.00 A.M.  
HEARING

TRIAL CHAMBER II

Before the Judges:

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

For Chambers:

Mr Simon Meisenberg  
Ms Erica Bussey  
Ms Doreen Kiggundu

For the Registry:

Ms Fidelma Donlon  
Ms Rachel Irura  
Mr Alhassan Fornah  
Mr Dereque Davies

For the Prosecution:

Ms Brenda J Hollis  
Mr Nicholas Koumjian  
Mr Mohamed A Bangura  
Ms Maja Dimitrova

For the Accused Charles Ghankay  
Taylor:

Mr Courtenay Griffiths QC  
Mr Terry Munyard  
Mr Morris Anyah  
Mr Silas Chekera  
Ms Salla Moilanen

1 Wednesday, 09 March 2011

2 [Open session]

3 [In the presence of the accused]

4 [Upon commencing at 9.00 a.m.]

09:01:50 5 PRESIDING JUDGE: Good morning. I'll take appearances,  
6 please.

7 MS HOLLIS: Good morning, Madam President, your Honours,  
8 opposing counsel. This morning for the Prosecution,  
9 Nicholas Koumjian, Mohamed A Bangura, our case manager,  
09:02:13 10 Maja Dimitrova and myself Brenda J Hollis.

11 PRESIDING JUDGE: Thank you. Mr Griffiths?

12 MR GRIFFITHS: Good morning, Madam President, your Honours,  
13 counsel opposite. For the Defence today, myself, Courtenay  
14 Griffiths, with me Mr Terry Munyard of counsel, Mr Morris Anyah  
09:02:30 15 of counsel, also our case manager, Mrs Salla Moilanen, legal  
16 assistant Kimberley Punt, our office manager, James Kamara, our  
17 legal assistant, Szilvia Csevar and also our intern,  
18 Peter Katonene.

19 PRESIDING JUDGE: Do I understand this is Mr Katonene's  
09:03:01 20 first appearance in the court?

21 MR GRIFFITHS: I was told he had appeared before,  
22 Madam President, on Monday.

23 PRESIDING JUDGE: I do recall reading the transcript.  
24 You're quite right, thank you.

09:03:05 25 Ms Hollis, I understand the Prosecution will be addressing.

26 MS HOLLIS: That is correct, Madam President. And making  
27 the presentations for the Prosecution this morning will be  
28 Mr Bangura and Mr Koumjian.

29 PRESIDING JUDGE: Thank you. Please proceed, Mr Bangura.

1 MR BANGURA: Thank you, Madam President, your Honours. I  
2 will be addressing this Court on the corrected Defence final  
3 trial brief, and I will be covering a range of topics, but  
4 principally, I'll refer to the paragraphs in that brief, and then  
09:04:00 5 we'll discuss the issues that we will be submitting on.

6 First I'll refer to paragraphs 809 to 812, and that - those  
7 paragraphs deal with the subject of invasion of Sierra Leone,  
8 planning of the March 1991 attack on Sierra Leone.

9 Defence allege that Prosecution evidence relating to the  
09:04:38 10 planning at Voinjama is inconsistent. This evidence is clear and  
11 very consistent in the Prosecution's view. And for the following  
12 reasons: A protected witness testified on 25 January 2008 that  
13 he joined Foday Sankoh, who was in a convoy heading towards  
14 Voinjama at night and Sankoh said to him that he would discuss  
09:05:17 15 the operational plan for the invasion the next morning. Next  
16 morning, the operational plan meeting took place.

17 JUDGE SEBUTINDE: Mr Bangura, could you give us the  
18 TF1-number for this witness.

19 MR BANGURA: Your Honour, this is a protected witness.

09:05:43 20 JUDGE SEBUTINDE: TFI number? Oh, okay. I understand.  
21 I understand.

22 MR BANGURA: Thank you. This witness had a meeting,  
23 Foday Sankoh and Charles Taylor had a meeting with others,  
24 together with this witness, the next morning. Another witness,  
09:06:03 25 523 - 532, TF1-532, he testified on 10 March 2008, and he, at  
26 pages 5669 to 5674, he states that the - there was a convoy of  
27 trucks and vehicles heading for Voinjama and Foday Sankoh was  
28 among those in that convoy and they - he was also in the convoy  
29 and they arrived at night in Voinjama and this witness said that

1 he met Charles Taylor that same night, and the witness said that  
2 Taylor told him that he had a mission for him, another mission  
3 for him. And they had a meeting that night, and Taylor explained  
4 that he was to go to fight in Sierra Leone. Now, this we submit  
09:07:04 5 is not inconsistent at all with what the previous witness said,  
6 whose meeting with Taylor and Sankoh was the following morning,  
7 after their arrival at Voinjama.

8 Another protected witness also testified that - in fact, he  
9 is cited by the Defence and his testimony is that he had been  
09:07:32 10 sent to Freetown on a reconnaissance mission and, on return, he  
11 found that the attack in fact had taken place. Now, the Defence  
12 cite this witness as having made - as having given evidence which  
13 is inconsistent with those of the other two witnesses that I have  
14 already cited. The fact is that this witness was not present at  
09:07:58 15 all when the attack took place, he had just returned from  
16 Freetown on a reconnaissance mission, and when he arrived, he  
17 said that those meetings and the attack itself had taken place  
18 already.

19 So this witness, the second of the protected witnesses I've  
09:08:20 20 just mentioned, he was not present in the convoy and he was not  
21 there in Kailahun District when the initial attack took place.  
22 He was also not there when the attack took place at  
23 Pujehun District. He described the attack as accidental. He  
24 said that the attack on Bomaru occurred on the first day of the  
09:08:49 25 reconnaissance mission that had been sent there and it just  
26 happened that that attack - that incident occurred, and that  
27 speeded up the plans for actually attacking Sierra Leone.

28 PRESIDING JUDGE: Mr Bangura, you're referring to an  
29 incident. You haven't specified which incident. Is this an

1 incident we've heard evidence of concerning soldiers?

2 MR BANGURA: This is an incident that occurred at Bomaru,  
3 an incident where it is - it was testified in this Court that  
4 there was a misunderstanding amongst soldiers from both sides  
09:09:39 5 over a deal, and then that sparked off some fighting.

6 PRESIDING JUDGE: I do recall that evidence. Thank you for  
7 the clarification.

8 MR BANGURA: Thank you.

9 So, in fact, as a result of that accidental incident,  
09:10:02 10 Charles Taylor decided straight away to start the war and not to  
11 wait. And so this witness was not there at all. He came back  
12 from reconnaissance mission and found that the attack had already  
13 taken place.

14 Now, what the Defence seek to do is to conflate the issue  
09:10:22 15 of strategic plan with that of tactical plan. They say that, in  
16 fact, at that meeting, it was not possible to have had planning,  
17 to attack Sierra Leone at that meeting, and that did not occur.  
18 But the position is that even before they had a meeting in  
19 Voinjama, there had been a bigger strategic plan to attack  
09:10:52 20 Sierra Leone. The tactical plan was simply to implement that  
21 strategic plan and that tactical plan was what was discussed in  
22 Voinjama.

23 Now, to support this, the testimony of 532, this witness  
24 said he met Charles Taylor - this witness said that the plan to  
09:11:41 25 attack Pujehun and Liberia, a two-pronged plan, had already been  
26 planned from Camp Naama and it was not at a meeting in Voinjama  
27 that the plan to attack was made. That means the strategic plan  
28 itself had already been laid out right all the way from Naama.

29 Next I refer to paragraphs 815 and 818.

1           PRESIDING JUDGE: Mr Bangura, before you move on paragraphs  
2 809 to 812, there are five propositions put by the Defence to  
3 support the arguments in paragraph 809. Can you refer us to the  
4 evidence relating to those five propositions?

09:12:40 5           MR BANGURA: Your Honours -

6           PRESIDING JUDGE: The Prosecution - the Defence, excuse me,  
7 say if certain things are alleged, then Mr Taylor would have kept  
8 the training secret, he would not have provided adequately for  
9 the RUF, et cetera. I'm asking if there was evidence adduced to  
09:12:59 10 show he tried to keep it secret, he should not provide  
11 adequately, et cetera.

12           MR BANGURA: Your Honour, I'm sorry, to get to the right  
13 paragraph -

14           PRESIDING JUDGE: Possibly, the problem is mine. I may  
09:13:24 15 have the out-of-date brief. So I will not pursue that.

16           MR BANGURA: Your Honour, with this evidence that there had  
17 been the training at Camp Naama and there is a place called  
18 Sokoto where this -- Foday Sankoh and his fighters were trained,  
19 and the - this witness, 532, referring to a plan having been made  
09:14:12 20 in Camp Naama was obviously referring to that period that the --  
21 Sankoh and his men were in Sokoto. But before that there is also  
22 a wider strategic plan that had been laid even before Sokoto, and  
23 even before Naama, and there is evidence before this Court that,  
24 in fact, as far back as Burkina Faso and Libya, there had been a  
09:14:41 25 wider strategic plan to attack Sierra Leone. First Liberia, and  
26 then eventually Sierra Leone. So basically what happened in  
27 Voinjama was simply a plan to implement that strategic,  
28 overarching plan.

29           I move to paragraphs 815 and 818. The Defence incorrectly

1 characterise the early skirmish which occurred in Sierra Leone as  
2 the timing of the attack. They say that this was an early  
3 skirmish, that this was not an unplanned attack, basically, they  
4 were saying. The Defence state that there is no evidence that an  
09:15:37 5 attack on Sierra Leone in March 1991 was a spontaneous one.

6 The evidence before this Court is that this was an  
7 accidental attack and as I've already pointed out, this was a  
8 trade deal that went wrong and as a result of that, there was  
9 this skirmish and at that point in time, the Taylor/Sankoh  
09:16:08 10 decided that this was - there was no reason to wait to launch the  
11 attack.

12 An unnamed witness, a protected witness, supports this and  
13 this is a witness who testified on 21st of January 2009. He  
14 stated that after the skirmish, it was quickly decided to start  
09:16:29 15 the war proper. Also, another protected witness, he is cited -  
16 he testified on 20th August 2008, at page 14097 to 102, this  
17 witness is cited by the Defence as having said that the attack  
18 was not planned, but this is not the case and in fact this is a  
19 wrong citation and it's an incorrect representation of the  
09:17:04 20 evidence. What this witness said was that, in fact, the two axis  
21 attack, that is the one on Kailahun and the one on  
22 Pujehun District were already in place by the time they were at  
23 Camp Naama.

24 Next, I move to paragraph 841, Operation Stop Election.  
09:17:34 25 The Defence does not dispute that this operation took place but  
26 relying on a protected witness, they again misstate the evidence.  
27 They say that this witness's testimony - in this witness's  
28 testimony he had said that Foday Sankoh did not give orders to  
29 commit atrocities during the operation, but, in fact, what this

1 witness told this Court is that he, in fact, learned about the  
2 operation from Base Marine and that - he also told the Court that  
3 Foday Sankoh gave instructions to disrupt the elections but he  
4 was not aware - and that's the distinction - he was not aware of  
09:18:26 5 Foday Sankoh telling people to cut hands. Basically, what the  
6 Defence have said is that this witness testified that  
7 Foday Sankoh ordered his fighters not to commit these atrocities.  
8 That is not the case.

9 Also, regarding Operation Stop Elections, paragraph 842, to  
09:18:53 10 843, the Defence state that it was striking, "striking, that  
11 Charles Taylor just happened to call". That is when Foday Sankoh  
12 was having a meeting, planning the operations to stop the  
13 elections, but this is not the case. In fact, there had been  
14 ongoing communications between Foday Sankoh and Charles Taylor,  
09:19:22 15 and it was definitely not striking that such a call came.

16 Paragraph - at paragraph 842 of the brief, that is the  
17 Defence brief, the witness - sorry, the Defence go on to make the  
18 point that, in fact, all of this was not true, the call, the fact  
19 that Taylor called Sankoh, but we have a witness who testified on  
09:20:13 20 10th of March 2008, and he was at Zogoda and this is a protected  
21 witness - I'm sorry, this is TF1-532, he was at Zogoda when  
22 Foday Sankoh called a meeting, sorry, TF1-532 was at Zogoda, but  
23 a protected witness said that he was not at Zogoda and he's the  
24 one who is cited by the Defence as having said that, in fact,  
09:20:48 25 Foday Sankoh did not order the - his fighters to commit these  
26 atrocities but this witness said that he was not at Zogoda, he  
27 was in the jungle before the plan was discussed.

28 And this witness did also not say as alleged by the Defence  
29 that this was the first call that Charles Taylor had made since



1 the border was cut off. This witness never said that. As a  
2 matter of fact, there had been ongoing communications between  
3 Taylor and Sankoh.

09:21:55 4 Invasion of Sierra Leone. Paragraph 866. The Defence  
5 asserts that Ibrahim Bah had an independent relationship with the  
6 RUF predating the Sierra Leone war. They cite TF1-338 at pages  
7 15294 to 95. And they also cite DCT-172, that is the evidence of  
8 these witnesses. The paragraph gives other cites regarding Bah's  
9 association with the RUF. However, these cites do not show that  
09:22:30 10 Bah had an independent association with the RUF, except what  
11 DCT-172 testified to and we know that that witness's testimony is  
12 extremely unreliable to say the least.

13 In regard to 338, who is cited by the Defence, regarding  
14 this - the relationship that Bah allegedly had with the - with  
09:23:16 15 the RUF, which they say was independent, there is no reference to  
16 an independent relationship that they gave.

17 Now, the witness TF1-338 said that he knew Bah went back in  
18 to negotiate with JPK in Freetown, and that was - went back in to  
19 negotiate about arms for the AFRC when the AFRC was in power.

09:24:14 20 JUDGE LUSSICK: Mr Bangura, are you still on paragraph 866  
21 or have you moved on?

22 MR BANGURA: I'm on paragraph 866. Also, regarding the  
23 same paragraph, 866, that is dealing with the alleged independent  
24 relationship that the Defence say Ibrahim Bah had with the RUF, a  
09:24:47 25 protected witness stated that when - that Foday Sankoh and Bah  
26 became friends in Liberia during the Liberian civil war, and that  
27 they were both assisting the NPFL, and this witness also goes on  
28 to say that during the first half of 1997, Bah told him that he,  
29 Bah, was an adviser to the - to Foday Sankoh and that he was also

1 or he had also been one of Charles Taylor's military advisers.  
2 So it is not really true that the -- Ibrahim Bah had an  
3 independent relationship with the RUF. His relationship with the  
4 RUF was based on his relationship with Charles Taylor, which had  
09:25:39 5 started long before.

6 Also, still on paragraph 866, regarding Bah doubling as a  
7 member of the external delegation, that is the Defence make  
8 reference to that at page 2438 of this witness's testimony, the  
9 witness said that at the time Bah still acted as a liaison for  
09:26:13 10 Charles Taylor. This was during the Lome Accord - Lome peace  
11 meeting, and the witness further said that at one time Bah left  
12 Lome for Monrovia and came back with Memunata Deen. He came back  
13 with a sum of \$20,000 from Taylor for Sankoh, in fact this was  
14 money that, according to this evidence, Taylor - sorry, Sankoh  
09:26:41 15 was completely unhappy about. He said it was small money, it was  
16 peanuts and compared to diamonds that he had been sending to  
17 Charles Taylor.

18 I'll move on to arms and ammunition shipments. The  
19 Defence, in this area, their evidence mirrors most of the other  
09:27:12 20 sections in the brief. What they seek to do is cite certain  
21 portions of the evidence in part and then they omit other parts  
22 and then they make erroneous conclusions based on only that part  
23 which they cite.

24 I give an example. In paragraphs 1076 to 1069 [sic], they  
09:27:40 25 try to describe the period, that is February 1998 to January 1999  
26 when they say the RUF - the AFRC/RUF, they tried to identify the  
27 sources of arms and ammunition shipments to the AFRC/RUF and this  
28 is what they give. At paragraph 10 - your Honours, just ask your  
29 indulgence a moment, the paragraphs I'm about to quote were from

1 the previous brief and we've had to reconcile them with the new  
2 renumbering of paragraphs. The paragraphs I was referring to, by  
3 way of example, is paragraph - is paragraph 169 - it's 1069 and  
4 it's numbered 1 to 4, the Defence lists as sources of - for arms  
09:29:12 5 and ammunition supplied to the RUF - AFRC/RUF as follows: One,  
6 overall - stockpiles of arms and ammunition held by the junta  
7 government. They said that was one source. Also, arms and  
8 ammunition captured from ECOMOG soldiers. They also mention arms  
9 and ammunition from countries in the region, and arms and  
09:29:44 10 ammunition from Liberia, that the AFRC/RUF junta had acquired  
11 through trade with ULIMO. And finally they mention arms came  
12 directly from Liberia, which they say was not from Taylor, but  
13 from intermediaries.

14 Now, these listings of sources obviously does not fully  
09:30:17 15 reflect the position in terms of the proper sources of arms and  
16 ammunition that the AFRC/RUF had during the - during the period  
17 that we are referring to, that is to say, February 1998 to  
18 January 1999. A proper and true reflection of the evidence  
19 points to the following sources: One, the stockpiles held by the  
09:30:48 20 junta government; 2, captured arms and ammunition from ECOMOG  
21 soldiers; 3, arms and ammunition from countries in the region,  
22 notably Burkina Faso, by the arrangement and coordination of  
23 Charles Taylor; 4, stockpiles of arms and ammunition from  
24 Monrovia through - from - through intermediaries working under  
09:31:17 25 Charles Taylor; and also finally, arms and ammunition that came  
26 from ULIMO fighters, through the arrangement and coordination of  
27 Charles Taylor.

28 Now, if you looked at the sources as listed by the Defence,  
29 they clearly and inaccurately present a picture which the

1 evidence does not support.

2 Further on, I move to paragraph 1068 to 1115. And this is  
3 still to do with arms and ammunition shipments.

4 This paragraph is a great illustration of the common tactic  
09:32:04 5 which the Defence have used and they have applied what I would  
6 describe as the straw-man argument. In referring to the 1998  
7 arms shipment, the Defence characterise the Prosecution evidence  
8 as a variety of accounts with differing information. In terms of  
9 the source of arms and ammunition related to the shipment, the  
09:32:32 10 brief states, and I read from this paragraph:

11 "In some accounts the arms and ammunition were given to  
12 Bockarie by Taylor. Rashid Foday and Isaac Mongor. DAF they  
13 support by the evidence - DAF testified that he was also told" --

14 JUDGE SEBUTINDE: Sorry, Mr Bangura, what paragraph are you  
09:33:03 15 reading from?

16 MR BANGURA: Your Honour, may I - I just realised an error  
17 in mentioning information which should be private - which should  
18 not be in open - in the open. I won't worsen the problem by  
19 saying much more but there is information that - information that  
09:33:38 20 I've given out which ought not to have come out openly.

21 PRESIDING JUDGE: I'm looking at the transcript on my font  
22 at page 15, lines 9 to 11, as -

23 MR BANGURA: That's right. Where I started reading and  
24 quoting, and referring to -

09:34:05 25 PRESIDING JUDGE: So what are you seeking the Court to do,  
26 Mr Bangura?

27 MR BANGURA: I'm asking that the - respectfully that the  
28 part of the record where this evidence falls should be redacted.

29 JUDGE SEBUTINDE: In other words, the quotation be

1 redacted. But apart from that, could you refer us to the  
2 paragraph in any event of the confidential brief?

3 MR BANGURA: I was referring to paragraph 1068 to 115.  
4 I'll find the particular paragraph where this specific quote  
09:34:46 5 falls. I'll come to that in a moment.

6 PRESIDING JUDGE: Just pause, Mr Bangura, while I deal with  
7 that application. Have you any comment on this application,  
8 Mr Griffiths?

9 MR GRIFFITHS: Madam President, no.

09:35:11 10 PRESIDING JUDGE: Thank you. We will order that the lines  
11 that I've already cited, 9 to 11 of what is page 15 be redacted.

12 MR BANGURA: Thank you.

13 PRESIDING JUDGE: Mr Bangura, you proceed whilst  
14 Madam Court Manager deals with that particular order.

09:36:34 15 MR BANGURA: Thank you, your Honour. Your Honour asked a  
16 short while ago about the paragraph - Justice Sebutinde asked  
17 about which paragraph I was reading this quote from. It's  
18 paragraph 1081, 1081. It actually does not fall within the range  
19 of paragraphs that I had earlier referred to that I'm dealing  
09:36:57 20 with now. I'm sorry, it does, it does. 1081. Because wide  
21 ranges - I'm dealing with paragraphs 1068 to 1115. And so this  
22 one falls within.

23 Now, the cite in that paragraph, perhaps I might just -  
24 instead of reading -- I'll read the quote again. "In some  
09:37:34 25 accounts, the arms and ammunition were given by Bockarie to - to  
26 Bockarie by Taylor. DAF testified that he was told the  
27 ammunition came from Monrovia." The brief cites Abu Keita in  
28 support of that. "On other accounts, the arms and ammunition  
29 came from either Burkina Faso or Libya. That is what DAF

1 stated." Anybody reading this is left with the impression that  
2 all of the witnesses underlying these assertions were  
3 inconsistent. And the truth is that these assertions are  
4 basically mischaracterisations, and to some degree, it affects  
09:38:20 5 the overall testimony of - testimonies of these witnesses.  
6 I mean the mischaracterisation.

7 Now, if we look at just that quote, what we have there, a  
8 number of assertions. Assertion 1 -

9 PRESIDING JUDGE: Please proceed, Mr Bangura.

09:39:31 10 MR BANGURA: If we look at the quote that I just read, it  
11 contains a number of assertions. First, the Defence say that in  
12 some accounts, that's in quote: "In some accounts, the arms and  
13 ammunitions were given to Charles Taylor - to Taylor by  
14 Bockarie."

09:39:49 15 Actually, in every account of this shipment Taylor was  
16 involved and was overseeing provision of the material to  
17 Bockarie.

18 The second assertion is that DAF testified he was told the  
19 ammunition came from Monrovia. But this assertion is really so  
09:40:13 20 strange that it deserves some attention. The brief cites Daf as  
21 the source of the testimony and then it cites Abu Keita. But Daf  
22 actually testified that going on this trip - he testified that  
23 going on this trip and he says that the material was originally  
24 supposed to be obtained from Libya and that this was changed to  
09:40:49 25 Burkina Faso. It is clear that none of the witnesses cited  
26 purportedly give different accounts at all.

27 The third assertion is that on other accounts, the arms and  
28 ammunition came from either Burkina Faso or Libya, and they also  
29 cite Daf. Again, this is just a blatant misrepresentation.

1 Daf's testimony is that he never testified as he has already - as  
2 we've already seen, Daf never testified as such, and it is clear  
3 that the Defence are seeking to invent an inconsistency which  
4 does not exist.

09:41:42 5 And obviously, they try to achieve this by omitting parts  
6 of some of the witnesses' testimony and presenting parts of -  
7 parts that would seek to suggest that there is some  
8 inconsistency.

9 I move to paragraph 1093, also on shipment of arms. The  
09:42:11 10 Defence cites the UN panel report, exhibit P-18, in relation to  
11 General Diendere, who signed the end user certificate for  
12 shipment of arms to Burkina Faso in February 1999. They say that  
13 this document demonstrates that the arms shipment could have been  
14 obtained independently by the RUF without any support or any  
09:42:54 15 assistance by Taylor. But the report, in describing the end user  
16 certificate was clearly demonstrating that this certificate and  
17 the associated arms were intended actually to be delivered to  
18 Taylor, and this is contrary to the Defence assertion. They,  
19 basically, are saying that this certificate, the exhibit, points  
09:43:18 20 out that the certificate, which shows that the shipment was to  
21 Burkina Faso establishes that the RUF could have independently  
22 obtained arms without Taylor's support but this is not what this  
23 evidence says.

24 I move on to radio communications. As a matter of - as a  
09:43:49 25 general matter, the Defence brief concerning communication does  
26 not refute the overall evidence of the Prosecution concerning  
27 the - concerning communications between the accused and the  
28 AFRC/RUF during the indictment period. In fact, in particular,  
29 the communication links between Taylor's station in Monrovia and

1 Yeaten's compound in the Executive Mansion with Sam Bockarie's  
2 station in Buedu are not - evidence regarding that is not  
3 affected at all.

09:44:29 4 Rather, the Defence picks certain portions of the  
5 testimonies of various radio operators and then they assert that  
6 these pieces are not credible. Many of these assertions rest  
7 upon taking certain evidence out of context, just as I've  
8 explained before.

09:45:00 9 Paragraph - at paragraph 986, the Defence say that Lansana,  
10 TF1-275, C0 Nya, testified that, "He did not have the skills to  
11 operate the radio system." In fact, the witness did not testify  
12 to this. First of all, a prior statement was put to this witness  
13 and he never actually was asked whether it was true or not.

09:45:40 14 Furthermore, the prior statement which is referred to is  
15 mischaracterised. The actual statement referring to here is a  
16 statement dated 16th of January 2007, ERN 00037719.

09:46:11 17 JUDGE SEBUTINDE: Mr Bangura, you can't be referring to  
18 paragraph 986. Could you please check this. I do not seem to  
19 see what it is you're referring to in that paragraph. Please  
20 do - do refer to the brief that the Court admitted, not to any  
21 other document.

22 MR BANGURA: I take the point. All right. Your Honour, I  
23 am informed that, in fact, the paragraph I'm referring to is the  
24 correct paragraph in the corrected Defence final trial brief.

09:47:02 25 JUDGE SEBUTINDE: Because you quoted something, you said  
26 the beginning of the quote, the end of the quote, and we are  
27 looking for the quote. Refer to the quotes in that paragraph to  
28 us.

29 MR BANGURA: Thank you, your Honour, I get the point. The



1 quote is actually in paragraph 984, 984, and this is about eight  
2 lines, line 8 in paragraph 984.

3 May I proceed, your Honour?

4 PRESIDING JUDGE: Yes, Mr Bangura, please proceed.

09:48:10 5 MR BANGURA: I think I had finished with that actually.  
6 I move on to paragraph 986, and here the Defence assert that the  
7 probationary period for Foday Lansana, that's the same witness  
8 I just earlier referred to, relates to absconding from the NPFL  
9 and they cite his testimony of the 8th of February 2008, at page  
09:48:38 10 4661, to support this proposition. But when examining the actual  
11 transcript for this date, there is no support that the witness  
12 said he was on probation for absconding. The witness does speak  
13 about probationary period for new operators. The witness just -  
14 does speak about probationary period for new operators but the  
09:49:09 15 evidence does not support it at all, that he - support the  
16 evidence about absconding. This is simply a mischaracterisation.

17 JUDGE SEBUTINDE: Again, you cannot be referring to  
18 paragraph 986. What paragraph are you referring to?

19 MR BANGURA: Your Honour, it's 984 again, 984, I'm sorry,  
09:49:41 20 it's a continuation of the same paragraph that I have dealt with.

21 I move on to paragraph 994 but, your Honour, may I just be  
22 sure that I'm dealing - these are very late additions to my  
23 argument and there is a little bit of a problem confirming. It's  
24 just about two paragraphs, actually. 994. Correct. I'm citing  
09:50:28 25 the correct paragraph. Paragraph 994.

26 The heart of the Prosecution's evidence concerning radio  
27 operators was the evidence adduced by seven radio operators, all  
28 of which corroborates lines of communication between Taylor and  
29 Sam Bockarie in Buedu from February 1998 through December 1999.

1 The Defence brief does not address or refute the Prosecution's  
2 evidence on this larger point. Paragraphs 1002 to 1004, and 1008  
3 to 1009 touch on certain details of this time period which  
4 largely focus on certain - on some details. In some instances  
09:51:24 5 they corroborate some of the evidence. In some other instances  
6 they attempt to discredit some of the details provided by the  
7 Prosecution's radio operators.

8 Command responsibility. I refer to paragraphs 1224 to  
9 1225. Defence argue that Foday Sankoh was an equal to  
09:51:57 10 Charles Taylor, not a subordinate as Prosecution evidence shows.  
11 They rely on TF1-548's testimony which stated that  
12 Charles Taylor, Foday Sankoh and Dr Manneh were three equals,  
13 three equal principals, who, before the start of the war, had sat  
14 together and - they were just basically three equal principals.

09:52:33 15 The Defence also argue that there is a gap between Charles Taylor  
16 being merely subservient to - sorry, Foday Sankoh being merely  
17 subservient to Charles Taylor and that they were basically  
18 equals.

19 The Prosecution refutes this, and the Prosecution provides  
09:53:03 20 evidence to support that, in fact, there is sufficient evidence  
21 already in the Prosecution trial brief to support the fact that  
22 Taylor - Sankoh was subservient.

23 JUDGE SEBUTINDE: Could you give us the correct reference,  
24 please? It's not 1225.

09:53:41 25 MR BANGURA: Your Honours, I can - I don't know whether it  
26 makes sense to - give you the correct -

27 PRESIDING JUDGE: The paragraphs you're referring to talk  
28 about meetings and are subheaded other inconsistencies in more  
29 general whereas you're being quite specific. So there must be a

1 specific reference.

2 JUDGE SEBUTINDE: Mr Bangura, I, for one, am trying to put  
3 your comments into the Defence brief as we go along, for ease of  
4 reference. So it's important that you quote the paragraphs of  
09:54:17 5 the Defence brief as accepted by the Trial Chamber correctly.

6 MR BANGURA: Your Honour, the actual paragraph is 1238,  
7 paragraph 1238. It's 1238 to 1239, paragraphs 1238 to 1239. I'm  
8 sorry, your Honour, there has been a little bit of confusion  
9 about the renumbering of paragraphs.

09:55:13 10 Your Honour, regarding this point, the - there is  
11 absolutely no aspect of TF1-548's testimony as cited by the  
12 Defence that Charles Taylor, Foday Sankoh and Dr Manneh were  
13 three equal principals. Basically this is the language of the  
14 Defence, that these were three equal principals, there is nothing  
09:55:37 15 in the testimony of 548 to suggest this. What this witness says  
16 is that at a meeting in Ouagadougou in Burkina Faso between  
17 Taylor, Sankoh and Dr Manneh, the three agreed that they would  
18 assist Taylor to fight his war first in Liberia and then Taylor  
19 would in turn assist the others, and the witness goes on to say  
09:56:08 20 that this was, "Because at the time we were very powerless." And  
21 he continues again, because, "We were people who were powerless  
22 at that time in terms of human resources, in terms of money, we  
23 were not very powerful."

24 Your Honours, this sums up the inequality in the positions  
09:56:37 25 between Charles Taylor at the time Foday Sankoh and Dr Manneh,  
26 they were definitely not three equal principals.

27 Paragraph 1227 was originally 1241. Still 1241. Paragraph  
28 1241. The Defence lay out what they consider to be the primary  
29 distinction between the parties in this case. They say that

1 Taylor's involvement or his role in the invasion in Sierra Leone  
2 in 1991 - I mean, they basically lay out what they say was basic  
3 distinction, the difference between the parties and they state  
4 that what is in dispute is the - is the basis of the  
09:57:39 5 participation of - alleged participation of Taylor, the timing  
6 and to some extent the duration of his participation in the  
7 dispute in Sierra Leone, and what they have said is that relying  
8 on the testimony of - relying on Taylor's testimony, they say  
9 that the Defence - the - Taylor sent Liberians into Sierra Leone  
09:58:15 10 and this was only after - it was after the invasion and not  
11 before. And that this was pursuant to a mutual defence pact, but  
12 the Prosecution - the Prosecution position is that this is not  
13 true. They even relied on the testimony of Moses Blah where he  
14 says at a point where he meets Charles Taylor - Foday Sankoh  
09:58:45 15 after the attack, he calls - he says Foday Sankoh is not a small  
16 boy any more, referring to the title that he used to call  
17 Foday Sankoh in Libya.

18 Now, just the reference to small boy in itself is evidence  
19 that at some point in time, Foday Sankoh was in a lower position,  
09:59:14 20 a subservient position to Liberians, including Charles Taylor and  
21 Moses Blah.

22 I move on to a number of distortions in the evidence.

23 I'll start with a few and my colleague, Mr Koumjian, will  
24 continue with the rest but just one. The Defence - I'm referring  
10:00:13 25 to paragraph 808 of the brief. The Defence state that the NPFL  
26 trainers at Camp Naama, according to the evidence that the  
27 Prosecution led, were Mekunagbe, Anthony Mekunagbe and  
28 Oliver Varney, but this is not true. Both Prosecution and  
29 Defence witnesses who testified before this Court named at least

1 five Liberian NPFL who were trainers at Camp Naama. Among the  
2 names that these witnesses give, we've got PI, we've got Gonkanu,  
3 we have got Sam Draper, we have got Sylvester Miller, we have got  
4 Patrick Draper [phon] and the Prosecution's final trial brief in  
10:01:11 5 paragraph 30, in fact, lays out this evidence. No, it's not  
6 definitely true that there were only two Liberian NPFL trainers  
7 at Camp Naama.

8 JUDGE LUSSICK: Is that the correct paragraph, 808?

9 MR BANGURA: It's 808, your Honour, let me confirm that we  
10:01:32 10 have 808. It was originally 810. It's still 810. Your Honours,  
11 I thank you for the opportunity of addressing you this morning.  
12 My colleague, Mr Koumjian will take over.

13 PRESIDING JUDGE: Thank you, Mr Bangura. Please proceed,  
14 Mr Koumjian.

10:02:05 15 MR KOUMJIAN: Thank you. Good morning, Madam President,  
16 your Honours and counsel opposite. I want to probably spend most  
17 of my time this morning addressing the beginning of the Defence  
18 final trial brief. All good advocates, and certainly we believe  
19 the Defence team has many good advocates, know that you put your  
10:02:31 20 best arguments forward in the beginning because that, especially  
21 in a brief as long as this, is where they will get the attention  
22 of the Court and the other audience to which they are directed.

23 The Defence brief begins by stating that this case, what  
24 they call the political context of this case. They say that the  
10:02:58 25 Prosecution is politically motivated and the evidence that they  
26 cite to that, they rely heavily, in the very beginning of their  
27 brief, on an incident in page - excuse me, paragraph 10 of the  
28 Defence final brief where they say the Prosecutor at the time had  
29 told the United States Congress in 2006 that copies of the

1 indictment against Taylor were given to senior US government  
2 officials two months before the indictment was ordered unsealed  
3 by the Court in June of 2003. Your Honours know from the Court  
4 record in this case, the indictment was signed in March, 7 March,  
10:03:49 5 2003. So two months before June would be April. So the  
6 indictment was signed in March and according to what the  
7 Prosecutor told the US congress, the indictment was given to the  
8 US government in April.

9 The Defence then states in the next sentence:

10:04:07 10 "Such conduct, the disclosure and transfer of a sealed  
11 indictment, without order of court, is prima facie unethical and  
12 virtually unheard of by any Prosecutor."

13 That, of course, is a very serious allegation, and  
14 your Honours will hear from the Defence, after I finish, they  
10:04:31 15 will have six hours following this and another two hours later,  
16 and I would ask that they explain to you, because there is no  
17 footnote, what is their basis for saying that this is prima facie  
18 unethical, and I suggest that their statement that this is  
19 virtually unheard of simply reflects perhaps an unfamiliarity  
10:04:53 20 with how international criminal justice works. An indictment is  
21 sealed for a simple reason: In order to prevent the flight of an  
22 accused, in order to capture a fugitive. It is not the case that  
23 giving a sealed indictment to a government is unheard of. It is  
24 standard procedure. All international tribunals, including this  
10:05:21 25 one, have no police powers. The tribunals do not have the  
26 ability to arrest individuals. In order to effect an arrest,  
27 they need the cooperation of governments. So, contrary to what  
28 the Defence says, this transferring or notifying governments of  
29 sealed indictments has taken place regularly in international

1 criminal law. At the ICTY and the ICTR, for example, in three  
2 cases that I personally was involved in, General Momir Talic was  
3 arrested when he went to a conference in Vienna by the Austrian  
4 government, he was arrested on a sealed indictment. The  
10:06:09 5 indictment had been given to the government. Milomir Stakic,  
6 another accused, was attempted to be arrested in Prijedor, two  
7 people were arrested, Dr Kovacevic, and Simo Drljaca died during  
8 an attempted arrest - he shot at the SFOR troops. SFOR, the  
9 forces and their governments in Bosnia were given the indictment  
10:06:35 10 in order to effect the arrest. Darko Mrdja was arrested by SFOR  
11 when governments were given the indictment to effect his arrest.  
12 In this Court, the accused that were arrested, Issa Sesay and  
13 others, were arrested when the indictment was given to the  
14 Government of Sierra Leone, to effect the arrest.

10:06:49 15 Now, it's possible that, of course, someone may not have  
16 that experience, but the allegation also fails by just looking at  
17 the actual orders in this case. So I'd ask if the Court could  
18 have on its screen, the filing in this case, from the 7th of  
19 March, it's the third filing, 003, the decision approving the  
10:07:15 20 indictment and order for non-disclosure. I hope that's on your  
21 screens.

22 Thank you.

23 You see, your Honours, that it's dated the 7th of March.  
24 And then looking at the next page, it states that:

10:07:41 25 "Being satisfied" - this is signed by Judge Thompson -  
26 "being satisfied with the material tendered by the Prosecutor  
27 that there is sufficient evidence to provide reasonable grounds  
28 for believing that the suspect has committed crimes within the  
29 jurisdiction of the Court," et cetera. "Hereby approves the

1 indictment submitted by the Prosecutor against Charles Ghankay  
2 Taylor in respect to each and every count."

3 And then it states, "Takes note of the Prosecutor's request  
4 that an arrest and transfer for detention be issued."

10:08:18 5 And then it states, it orders, "pursuant to rule 53 and  
6 after consultation with the Prosecutor that there be no public  
7 disclosure of the indictment until further order of the Special  
8 Court."

9 So what is sealed on the indictment is that it cannot be  
10:08:38 10 publicly disclosed, but rule 53 of the rules of evidence provides  
11 in paragraph B that, "When approving an indictment, the  
12 designated judge may, on application of the Prosecutor order that  
13 there be no public disclosure of the indictment until it is  
14 served on the accused."

10:08:59 15 If we look at another order issued the same day, and that  
16 is 004, if that could please be put on the screen. When we get  
17 away for a few days, I forget the buttons but I'm pushing  
18 "evidence". Is that what I should push in courtroom? Thank you.

19 So this is the order issued the same day. If we look at it  
10:09:36 20 on the first page, we will see just below where it says, the  
21 first - please go up again, please, where it says, "Warrant of  
22 arrest and order for transfer and detention," it's addressed just  
23 below that, to go down, to governments of all states. So, of  
24 course to arrest an accused, the Special Court, the judge, when  
10:10:02 25 he signs this indictment, is addressing this warrant to  
26 governments. The Prosecutor has it within his discretion to  
27 disclose this in order to effect the arrest, to governments. It  
28 would do no good to anyone to seal an indictment and for the  
29 Prosecutor to sit there with an indictment that cannot be



1 effected because no government that has police power could then  
2 effect the arrest or put pressure on other governments to effect  
3 the arrest.

4 If we look -

10:10:34 5 PRESIDING JUDGE: Mr Koumjian, the examples you gave from  
6 the bar table, which were verging on evidence from the bar table,  
7 referred to governments of countries in which the prospective  
8 arrestees were either resident or visiting. Are you saying by  
9 implication that the accused in this case was within the control  
10:11:00 10 or possible control of senior US government officials?

11 MR KOUMJIAN: No, your Honour.

12 PRESIDING JUDGE: At the relevant time?

13 MR KOUMJIAN: Your Honour, that is not the case, that only  
14 the governments where accused resides are informed about an  
10:11:14 15 arrest, because governments can put pressure on other  
16 governments. Governments also can provide information about the  
17 whereabouts of the accused. Governments - you also have to have  
18 some notice so that if someone then does travel to that country,  
19 they can be arrested. They want to know that information. A  
10:11:35 20 person doesn't - shows up at an airport if there is a warrant of  
21 arrest they need - the government wants to know that. Or a  
22 person applying for a visa they need to know if there is a  
23 warrant out for that person. So it is the practice in my - in my  
24 submission, because I'm responding to a Defence submission that's  
10:11:53 25 not footnoted that says that this is unheard of in any - by any  
26 Prosecutor, I'm saying that is simply untrue. And it doesn't  
27 make sense, practically, given that there is no police power in  
28 any international tribunal.

29 We see that on the next page of this same document. 004,

1 the filing 004. It says that the judge, Thompson, "hereby orders  
2 the Registrar of the Special Court to address this warrant of  
3 arrest, decision approving the indictment, the approval of the  
4 indictment of the accused and a statement of rights of the  
10:12:32 5 accused to the national authorities of such states or to the  
6 relevant international body, including INTERPOL, as may be  
7 indicated by the Prosecutor, in accordance with rule 56."

8 So the Prosecutor disclosing the sealed indictment against  
9 Charles Taylor to governments was completely proper and within  
10:12:56 10 his powers and in accordance with the order of Judge Thompson.  
11 There is no basis for the Defence submission that this indicates  
12 some kind of political misconduct by the Prosecutor or  
13 interference by a government.

14 The Defence goes on to argue, in the beginning of their  
10:13:25 15 brief, they discuss the Celibici standard for improper - I'm  
16 forgetting the word, for a prosecution that's - where is my mind?  
17 Target against an individual improperly. Selective prosecution.  
18 Thank you.

19 And they indicate that, in this case, Blaise Compaoré and  
10:14:06 20 Muammar Gaddafi could have been indicted. Of course, a  
21 Prosecutor has an obligation to only indict those that they can  
22 prove the case beyond a reasonable doubt, and we welcome the fact  
23 that the Defence, from the evidence that's been heard in this  
24 case, believes that the involvement of Muammar Gaddafi and Blaise  
10:14:30 25 Compaoré has been proven, because as your Honours know, having  
26 heard all the evidence, certainly there is evidence that these  
27 individuals or the governments that they headed aided the RUF.  
28 But that evidence is less than a tenth of the evidence involving  
29 Charles Taylor's assistance to the RUF, and the evidence further

1 shows that the great majority of that aid went through  
2 Charles Taylor directly. Or directly, for example, through his  
3 airport, Roberts International Airport.

4 The fact is the Celebici standard for selective prosecution  
10:15:10 5 concerns - it has to be established that the persons are  
6 similarly situated. Well, we submit that in this case, no one is  
7 similarly situated to Charles Taylor in regards to the role he  
8 played in the war in Sierra Leone. Others may have aided the  
9 RUF. We do not contest that. Our evidence shows that. But

10:15:39 10 uniquely Charles Taylor created the RUF on his territory.  
11 Charles Taylor armed the RUF. His forces led the RUF into  
12 Sierra Leone, in the invasion of Sierra Leone, in March 1991. It  
13 was Charles Taylor who direct - who dealt directly and regularly  
14 with Sam Bockarie, Issa Sesay, and other leaders and

10:16:08 15 representatives of the RUF in the early days with Foday Sankoh.  
16 The RUF, the evidence shows, overwhelmingly in our view, was a  
17 proxy army of Charles Taylor. The RUF didn't fight for Blaise  
18 Compaoré. It didn't fight, as far as we know, hopefully not now,  
19 for Muammar Gaddafi. But the evidence is overwhelming that

10:16:37 20 Charles Taylor used them, not just in Sierra Leone, he used his  
21 proxy RUF army in Liberia to fight against his enemies there; he  
22 used them in Guinea, to fight against his enemies and forces in  
23 Guinea, to invade that country; he sent them to the Ivory Coast  
24 and had them fight for him, Sam Bockarie and others in the Ivory  
10:17:01 25 Coast.

26 Uniquely, the RUF was a proxy army under one person,  
27 Charles Taylor. Charles Taylor held no formal title in the RUF,  
28 but witnesses have given various references to names he was  
29 called and have basically said he was called and he was

1 considered the godfather of the RUF. This lack of a formal title  
2 remind me of recent statements by Muammar Gaddafi where he says  
3 I can't resign my authority because I don't have any. I don't  
4 have any authority to resign. I don't have a title. The absence  
10:17:40 5 of a *de jure* title does not mean a person does not have *de facto*  
6 control and the evidence in this case shows that the person who  
7 is uniquely situated, no one is similarly situated, to  
8 Charles Taylor, as the godfather of the RUF, who created them,  
9 who armed them, who directed them, and who profited from the wars  
10:18:06 10 and the crimes that they committed.

11 One interesting statement by the Defence in paragraph 1087  
12 of the corrected brief, I believe, the Defence states in a  
13 sentence in that paragraph that the Defence submits that the RUF  
14 was able to arrange the supply of arms and ammunition from  
10:18:30 15 Burkina Faso completely independently of Taylor. Well, your  
16 Honours, we only have to look at a map to question how the  
17 Defence - perhaps they can answer this in their oral arguments -  
18 how can the RUF, independently of Charles Taylor, deal and obtain  
19 arms from Burkina Faso? There is no border between them.

10:18:59 20 Sierra Leone borders two countries, Guinea and Liberia, and  
21 Guinea throughout this time period, particularly of the major  
22 arms shipments in 1998, in March 1999 from Burkina Faso, we have  
23 evidence, including one person who was along on the trip in March  
24 1999 and persons who were waiting for the shipment when  
10:19:21 25 Sam Bockarie came back in late November or early December 1998,  
26 the only way to get those large arms shipments to the RUF was  
27 through Roberts International Airport, Charles Taylor's main  
28 airport in Liberia. And that is exactly what was done.

29 The Defence also, in its arguments regarding the political

1 context of this case, argues that this case serves US interests,  
2 and that it's the United States that's out to get Charles Taylor.  
3 But my question is: How does this fit in with Charles Taylor's  
4 testimony? There is no question that the United States

10:20:18 5 government and others believe Charles Taylor is dangerous.  
6 That's not evidence in this case, it's not relevant to whether  
7 he's guilty or not. It doesn't prove he's guilty and it  
8 certainly does not prove he's not guilty, but why would the  
9 United States be against Charles Taylor given all of his evidence  
10:20:37 10 of the friendship and relations he had with the American  
11 government, including with the intelligence agencies of the  
12 American government?

13 Unless, perhaps, the fact is that he was, in truth,  
14 destabilising four countries, committing human rights abuses not  
10:20:56 15 only in Liberia, but in Sierra Leone, the Ivory Coast and Guinea.  
16 It's very interesting that in the Defence brief, the Defence says  
17 at one point that Charles Taylor was very reticent to discuss  
18 details about his escape from the United States. You will recall  
19 that Taylor testified, and this is in the Defence brief, that it  
10:21:35 20 was the CIA that was assisted - assisted him in his escape.

21 Although Taylor's details don't add up, because he told us in  
22 July, when he first testified, that he remembered distinctly that  
23 Quiwonkpa was killed just two days, I believe he said two or  
24 three days, after his escape when he briefly went to New York  
10:22:07 25 before travelling on to eventually to Mexico and then to Africa.

26 That's what he said in July. And the Defence brief, in  
27 footnote 614 - and I hope I have it from the current version -  
28 says that, "Contrary to what the Prosecution alleged, Taylor  
29 maintained that he did not escape prison in September 1985 but in

1 November 1985 as he was still in the United States when Quiwonkpa  
2 was executed."

3 Actually that is what he said on direct, but the Defence  
4 apparently has forgotten what Mr Taylor said on

10:22:48 5 cross-examination. Between the direct and cross-examinations of  
6 course, certain documents that the Prosecution was prepared to  
7 use in cross-examination were disclosed to Mr Taylor. So after  
8 the disclosures, on the 11th of January 2010, page 33127,  
9 Mr Taylor, and it goes on to 128, Mr Taylor was asked:

10:23:15 10 "Now, Mr Taylor, do you accept that two months from the  
11 time of your escape to travel to Africa," excuse me, "do you  
12 accept then that you had two months from the time of your escape  
13 to travel to Africa to take part in the coup? Do you accept  
14 that?"

10:23:32 15 And Mr Taylor said, "Well, not exactly two months but I had  
16 some time. I think the escape occurred, if I recall, in  
17 September."

18 And the coup occurred in November.

19 So my question is - and perhaps the Defence can answer  
10:23:50 20 this - why is Mr Taylor, if he believes the CIA is out to get him  
21 and the United States government, reticent to tell the truth to  
22 this Court about his escape? Who is he protecting, or is this  
23 entire story fabricated?

24 Now, clearly, the dates of his escape was fabricated by  
10:24:11 25 Mr Taylor. He didn't escape in November. And the question  
26 arises in my mind, did he do that because Mr Taylor had informed  
27 people about the plan, the Quiwonkpa coup? He told us he knew  
28 about it and he knew the coup was doomed, he himself wanted to  
29 avoid being torn to pieces on the streets as General Quiwonkpa

1 was. Is that the case or is it simply the case that he didn't  
2 want to be there at the front line? Because Charles Taylor has  
3 told us he never goes to the front line. In fact, the evidence  
4 shows even with the invasion of Liberia, he sent forces over the  
10:24:57 5 border, Mr Taylor couldn't get the date right until his counsel  
6 gave it to him over and over again, but in 1989, in December when  
7 he sent his forces over the border he wasn't with them, and did  
8 not enter Liberia, he says, and the evidence corroborates this  
9 from other witnesses, for four months, until April.

10:25:18 10 And we also know that when there was what is believed to  
11 be, or Mr Taylor characterises as, an attempted assassination,  
12 where one of his aids, Mr Jackson, was killed at the Executive  
13 Mansion on 30 October 1996 when Taylor was part of the Council of  
14 State, he immediately went back to Gbarnga, retreated to Gbarnga,  
10:25:51 15 and that was the testimony of his own witness, Yanks Smythe.

16 The next major area that the Defence addresses in its  
17 motion - in its final trial brief is to complain about evidence  
18 that was admitted in this case outside of the temporal or  
19 geographic scope of the indictment. Your Honours, so basically  
10:26:21 20 the Defence is asking the Court now, in 2011, to exclude evidence  
21 that came in over the last three years in this trial and I would  
22 point out that logically, obviously, this is in one of two  
23 situations. Either the Defence objected and that objection was  
24 overruled, in which case the Defence is now asking for - during  
10:26:50 25 the final arguments or final trial brief, for the Court to  
26 reconsider its decisions, or the Defence did not object, and, in  
27 fact, that, of course, is the case in the great majority of the  
28 evidence because there were very few objections from the Defence  
29 about evidence being outside the scope of the indictment.

1           So in that case, legally, they have waived it, because we  
2   are being asked, the Prosecution, to respond to very specific  
3   issues, very specific evidence, and they haven't identified what  
4   exactly the evidence is that they are seeking to have suppressed  
10:27:27 5   now, three years later.

6           Certainly, evidence was admitted in this case because it  
7   was relevant and it was relevant for a whole host of reasons,  
8   evidence that was outside of the indictment. One of those the  
9   Defence talks about, which is pattern evidence, but the rules do  
10:27:45 10   not limit relevant evidence only to pattern evidence. For  
11   example, the evidence all about Camp Naama, the creation of the  
12   RUF, this evidence clearly shows why Charles Taylor is the  
13   godfather of the RUF. It shows why he still had control of the  
14   RUF at the time period of the indictment. He was its creator.

10:28:12 15   The evidence also is important about how the NPFL acted and how  
16   the RUF was created with NPFL trainers and NPFL territory and in  
17   an NPFL training camp, because what we have argued consistently  
18   is that the RUF was made in the image of the NPFL. Taylor was  
19   the godfather. It even borrowed the terminologies of the NPFL  
10:28:37 20   such as both the use of child soldiers and even the term that the  
21   NPFL used for child soldiers, small boys' units.

22           And on that same issue, that also, of course, would be  
23   relevant now for credibility because Charles Taylor made the  
24   laughable claim to your Honours that no one under 17 was allowed  
10:29:01 25   into the NPFL, despite all the evidence including from his own  
26   witnesses and his own documents about the notorious use of child  
27   soldiers in Liberia.

28           We put on evidence of killings of certain individuals  
29   outside of the geographic scope of the indictment because they



1 were efforts by Charles Taylor, they clearly show his efforts to  
2 suppress the evidence of his role and control of the RUF and role  
3 in the crimes. So the killings of Sam Bockarie and Jungle,  
4 Daniel Tamba, Superman and Johnny Paul are all clearly relevant  
10:29:41 5 to Charles Taylor's consciousness of guilt. And other attempts  
6 to suppress evidence even in Liberia such as the arrest of  
7 Sorious Samura, the killing of Sam Bockarie's girlfriend, that  
8 TF1-539 talked about who they feared would reveal Taylor's link  
9 to the RUF and the arrest of Hassan Bility after his trips and  
10:30:03 10 articles about Sierra Leone and trip to Sierra Leone.

11 Also, the Defence, I believe, does not concede that  
12 Charles Taylor had the intent to create terror in Sierra Leone.  
13 So we, the Prosecution, put on evidence, some of it from Liberia,  
14 about Charles Taylor's intent. One very probative piece of  
10:30:25 15 evidence about that was how Charles Taylor treated TF1-590, the  
16 Sierra Leone man who was a refugee in Liberia and came here and  
17 talked about his horrendous experiences in Liberia where he  
18 watched his friend's head being cut off with a knife, and how he  
19 was tortured by Charles Taylor's son and the demon forces. And  
10:30:52 20 he talked to you, this man, that he was accused by  
21 Charles Taylor, he was brought to Charles Taylor himself, he was  
22 brought naked, tie-bayed [phon] after being tortured, to  
23 Charles Taylor who accused him of being a Kamajor and threatened  
24 to have him killed.

10:31:13 25 So is it any surprise to anyone that Charles Taylor  
26 intended that Sierra Leonean civilians be treated the way the RUF  
27 treated them? He treated TF1-590 exactly consistent with what  
28 the RUF did, consistent with how Sam Bockarie, for example,  
29 treated people during the Kailahun massacre. They might be

1 against us, these civilians, so let's kill them.

2 Charles Taylor revealed his intent in his treatment of  
3 TF1-590.

4 The Defence also complains about evidence about crimes that  
10:31:51 5 are outside of locations named in the indictment, but, recall,  
6 first of all, the Defence has not, up to today, conceded or  
7 stipulated that there was a widespread and systematic attack on  
8 civilians in Sierra Leone which is a chapeau element of many of  
9 the charges in this case. Furthermore, and perhaps the Defence  
10:32:17 10 can clarify this in their arguments, to date, as far as we know,  
11 the Defence is still denying that the RUF was on a campaign of  
12 terror, dispute all the evidence of hands being chopped off,  
13 heads being put on sticks, children, one child whose hands were  
14 chopped off and thrown in the sewer, women being raped and  
10:32:46 15 gang-raped, women having to hear their children killed and having  
16 to carry the heads of the children in bags. Despite all that,  
17 the Defence, as we understand it, does not concede that there was  
18 a campaign of terror, and the Defence argues that the RUF was a  
19 legitimate revolutionary organisation. They place great reliance  
10:33:09 20 on two documents. First, Footpaths to Democracy. It's in  
21 evidence and your Honours know it's a propaganda tract and we  
22 learned through the evidence that it was put together with the  
23 help of Ade Sebo, Charles Taylor's former friend and publicist.  
24 And that Charles Taylor congratulated the RUF on its publication  
10:33:36 25 and gave them money, 50 million CFA, after the publication of  
26 Footpaths to Democracy. The Defence also has placed great  
27 reliance on saying, Oh, there could be no campaign of terror  
28 because Foday Sankoh and Charles Taylor and the Gambians,  
29 Koukoie Samba Sanyang, were all trained together in Libya under

1 the guidance of Muammar Gaddafi. This was so important, if you  
2 recall, there was a document that the Defence read into evidence  
3 which was a speech of about 27 pages by Muammar Gaddafi, even  
4 though the Prosecution was willing to stipulate that it come into  
10:34:24 5 evidence, it was so important to the Defence that they chose to  
6 read it, word for word, into the record.

7 Well, perhaps there is one thing we can agree on with the  
8 Defence. We would agree that Charles Taylor as likely to use  
9 terror against civilians as Muammar Gaddafi. That, we believe,  
10:34:47 10 is established. We believe both of them would use terror.  
11 Charles Taylor consistently used terror when it was to his  
12 benefit to preserve his power or to enrich himself.

13 The other person that the Defence put on evidence about  
14 were the first two witnesses after Taylor were Gambians trained  
10:35:09 15 in Libya and they were both members of a group led by Dr Manneh,  
16 Koukoie Samba Sanyang, but what did we learn about Dr Manneh? We  
17 learned, even from the first of these witnesses, Yanks Smythe, in  
18 his own little coup, what he did is he took the wife and children  
19 of the President of Gambia, Jawara, hostage and threatened them.

10:35:37 20 So, if that is not an act of terrorism, what is? This is the  
21 kind of ideology, the real practice, despite what might be put  
22 into the green book or might be put into Footpaths to Democracy,  
23 what speaks much louder to all of the foot soldiers is what they  
24 see their leaders actually do. So Issa Sesay may say, for  
10:35:59 25 example, the RUF was against rape, but we know he raped  
26 Johnny Paul Koroma's wife. And Dr Koukoie Samba Sanyang takes  
27 children hostage and threatens the lives of children in order to  
28 get what he wants.

29 The very training at Camp Naama about treating civilians

1 well, well, the people who were being trained we heard from many  
2 of them, many of them were Defence witnesses, they told us they  
3 were there as hostages. They had been - most of them.  
4 Issa Sesay says he was tricked and he was forced to stay in Naama  
10:36:36 5 because he was told someone tried to escape and he was killed.  
6 Someone escaped while they were at Cuttington University in NPFL  
7 territory and he was killed. And we heard from Sam Kolleh about  
8 how he was captured and forced to go to Camp Naama.

9 We heard from DCT-292 how he was captured with others, I  
10:37:03 10 believe an individual was killed, they were threatened with death  
11 and they were basically told you have a choice of dying or going  
12 with Foday Sankoh, and so he went with Foday Sankoh. So despite  
13 whatever ideology or words might have been mouthed to the  
14 recruits at Naama, what undoubtedly influenced their behaviour  
10:37:22 15 much more was the reality of how they themselves, originally  
16 civilians, were treated. And there is evidence that, in fact, a  
17 former NPFL officer, Isaac Mongor, who Defence witnesses  
18 Isatu Kallon and John Vincent confirmed was NPFL, although other  
19 Defence witnesses tried to deny that, Isaac Mongor taught the  
10:37:46 20 recruits the NPFL way. When you go into a village kill a group  
21 of civilians, that way the rest of them will obey you.

22 The next area that the Defence brief addresses, and they  
23 address it in length, is the joint criminal enterprise pleading  
24 of the indictment and case summary. These, as your Honours know,  
10:38:23 25 are issues that have already been decided, the pleading of the  
26 joint criminal enterprise. The Defence lost the decision in the  
27 trial before your Honours, at the Trial Chamber level, they were  
28 allowed to appeal it and they lost the decision in the Appeals  
29 Chamber so why now, in the final brief, in the beginning of their

1 brief, does the Defence need to revisit this issue? We submit  
2 it's because the evidence is so clear that this joint criminal  
3 enterprise took place, because the evidence, factual evidence,  
4 that Charles Taylor worked together with the RUF and contributed  
10:39:04 5 to a campaign of terror against the civilian population of  
6 Sierra Leone is so strong that the Defence wants to try to argue  
7 the law, even though it's already been decided. It's old  
8 lawyers' saying if the facts are against you, argue the law. The  
9 facts of the joint criminal enterprise are overwhelmingly against  
10:39:26 10 the Defence so they argue about two decisions that were already  
11 decided, they complain that the decision took - was late in  
12 coming. They don't take responsibility for the fact that the  
13 motion was filed, I believe it was 14th of December, the last day  
14 before the judicial recess when right after the recess the first  
10:39:48 15 witness was scheduled to testify, as the Defence correctly points  
16 out, motions on the form of the indictment should be made at an  
17 early point.

18 But anyway, their complaint about the late decision does  
19 not make sense when the decision of both the Trial Chamber and  
10:40:08 20 the Appeal Chamber was that the indictment, the long-existing  
21 indictment, correctly pled a joint criminal enterprise in which  
22 the means used to obtain the objectives was a crime within the  
23 statute and jurisdiction of the Court and that is the crime of  
24 terrorism. That was the decision both by the Trial Chamber and  
10:40:31 25 by the Appeals Chamber, that the indictment pled that, that the  
26 Defence had been properly put on notice by the indictment. So it  
27 doesn't make sense to say, Oh, we just found out late that we  
28 were - that the indictment told us what the means of the joint  
29 criminal enterprise were. It was written in the indictment.

1 This is already been decided by both your Honours, the  
2 Trial Chamber, and the Appeal chamber, and in this Trial Chamber  
3 of course there was a dissent by Justice Lussick. Even  
4 Justice Lussick's dissent though stated that he would have  
10:41:05 5 ordered the indictment rewritten but he noted that, in fact, the  
6 Defence was on notice. The Defence was on notice because the use  
7 of a campaign of terror to obtain the objectives of the joint  
8 criminal enterprise was clearly laid out. It was laid out in the  
9 case summary which was filed, basically, approximately the day  
10:41:23 10 that this team took over for the Defence, I think it was the 2nd  
11 of August, early August, in paragraph 42, where it discusses a  
12 common plan design or purpose to carry out a criminal campaign of  
13 terror as charged in the indictment. And the international case  
14 law is clear that these terms "common plan," "common design,"  
10:41:43 15 "common purpose" and "joint criminal enterprise" are  
16 interchangeable. The Defence correctly points out that there is  
17 some decisions that say it's preferable now to use the term  
18 "joint criminal enterprise," but those decisions say it's  
19 preferable. There is no other meaning to the terms "common  
10:42:00 20 plan," "common design," "common purpose" and "joint criminal  
21 enterprise". In the original Tadic decision you'll see that the  
22 terms are just used interchangeably.

23 Also, in the pre-trial brief, paragraph 28 - at paragraph  
24 7, it's stated that the common plan amounted to or involved the  
10:42:23 25 commission of crimes. These criminal means involved the campaign  
26 of terror waged against the civilian population of Sierra Leone.  
27 And also, in the opening statement, in June 2007, as your Honours  
28 know, six, seven months before the evidence actually began, the  
29 testimony began, the Prosecutor said from its inception, page 31,

1 I'm not sure of the transcript page number, Prosecutor said:

2 "From its inception the accused and other participants in  
3 the common plan used criminal means to achieve and hold political  
4 power and physical control of the - over the civilian population  
10:43:03 5 of Sierra Leone. These criminal means involved the campaign of  
6 terror waged against the population of Sierra Leone."

7 Those are the arguments at the beginning of the Defence  
8 brief, but the Defence brief of course goes on. One of the  
9 arguments that's made in depth during the brief, and made early  
10:43:34 10 and in depth, is that Charles Taylor was a peacemaker. We know  
11 this is the Defence - has been the Defence argument and was the  
12 focus of much of his direct examination. Well, of course, the  
13 Prosecution in its own evidence had talked about how

14 Charles Taylor was a false peacemaker. How he advised for  
10:43:59 15 example, Foday Sankoh, to use the Abidjan Accord to re-arm, about  
16 how, when he met with various heads of state and Issa Sesay,  
17 after saying one thing publicly in front of the other heads of  
18 state, he told Issa Sesay in private, "Don't listen to them.

19 Those are all British-controlled people." How the evidence was  
10:44:21 20 put on through many witnesses about how Charles Taylor urged  
21 Foday Sankoh - Issa Sesay not to disarm, instructed him not to  
22 disarm, was upset when he did disarm. Witnesses like TF1-375,  
23 399, many other witnesses talk about Taylor urging that the RUF  
24 use Lome, which of course benefited Charles Taylor, because it  
10:44:48 25 left the RUF in control of the diamond regions of Sierra Leone,  
26 but that they not disarm.

27 The Defence talks about the documents that they have that  
28 show that Charles Taylor was a peacemaker. Well, there is no  
29 question that Charles Taylor tried to portray himself publicly as

1 a peacemaker. Justice Doherty asked a question about the Defence  
2 brief, one of those was why, in the Defence brief they say, why  
3 did they keep the training at Naama secret? Because  
4 Charles Taylor throughout has tried to deny his link to his  
10:45:33 5 surrogate army, the RUF. He's tried to portray it as an  
6 independent force. He's tried to hide his links by, if  
7 necessary, killing people, arresting journalists, whatever was  
8 necessary.

9 And when it comes to Charles Taylor's documents, what is so  
10:45:45 10 probative, what is so overwhelming is what is not in there.

11 Because, and we have said this in our final trial brief, we also  
12 put it to Charles Taylor during his testimony. Taylor has  
13 admitted to meeting Sam Bockarie three occasions, I believe on  
14 three trips, in September, October and late November 1998. This

10:46:12 15 time period, as the RUF was building up for the major offensive  
16 in December of 1998 including meeting Sam Bockarie on his way to  
17 Burkina Faso, that the evidence shows, and the Defence concedes  
18 this in some parts of their brief, he came back with war

19 materials from that. That was the war material that allowed the  
10:46:33 20 RUF to launch the December offensive. Issa Sesay says that they  
21 were out of ammunition until Bockarie came back from Liberia.

22 That's the ammunition he used to attack Kono and thanks to it, he  
23 also captured in Kono, allowed him to go on to Makeni all the way  
24 down to Waterloo.

10:46:52 25 So Charles Taylor claims repeatedly that these three  
26 meetings -- actually there were more than three because at least  
27 in September he met twice, I believe in September and October he  
28 says he met him twice, that these were open, that everyone knew  
29 about it. But Sam Bockarie was on the United Nations travel ban



1 as a member of the junta, and that had been passed in 1997.  
2 There is no exemption from the UN travel ban for Sam Bockarie to  
3 travel to see Charles Taylor or to go to Burkina Faso. It  
4 doesn't exist. We can't produce it because it doesn't exist and  
10:47:28 5 the Defence has not produced it, although they said they had  
6 access to UN documents, not only those from Downes-Thomas but  
7 there was testimony that they received others from the  
8 United Nations, that their investigators received them.

9 Furthermore, in these meetings with Sam Bockarie, we've  
10:47:47 10 asked, where is there any document about these meetings? Aside  
11 from the UN travel exemption, where there is a correspondence  
12 with President Kabbah or with ECOWAS, with the Committee of Five?  
13 Where is there some report to someone that I'm going to meet  
14 Sam Bockarie or I met Sam Bockarie? If you meet somebody and  
10:48:11 15 you're acting as a mediator it doesn't do much good unless you  
16 communicate that position to somebody else. There is not a  
17 single letter, not a single communication. There's not even an  
18 internal document that the Defence has. Well, they have the next  
19 two or three days to produce one, if they have one. They don't.  
10:48:33 20 There is not a single document that shows that Charles Taylor met  
21 with Sam Bockarie in September, October or November 1998. There  
22 is not a photograph. The presidential papers is full of all the  
23 activities of Charles Taylor. We have in there for example  
24 documented his meeting with Sepp Blatter. We have there  
10:48:46 25 documented his meeting with Naomi Campbell in South Africa, but  
26 we don't have any mention of his meetings with Sam Bockarie. Why  
27 is that? That's because these were meetings planning war. They  
28 were clandestine meetings where Charles Taylor was meeting his  
29 commander of his proxy army, planning the attacks on

1 Sierra Leone. That's why there is not a single photograph, press  
2 release, internal aide-memoire, correspondence to ECOWAS, to the  
3 United Nations, to President Kabbah, to anyone, a UN travel  
4 exemption, about any of these multiple meetings with  
10:49:30 5 Sam Bockarie. Because they were clandestine meetings, and as  
6 Prosecution evidence showed, they were about supplying the RUF  
7 with the ammunition and the plan to attack Kono and go on to  
8 Freetown. That's why the Defence doesn't have a single document  
9 about those meetings.

10:49:46 10 If we could look at some documents that are in evidence,  
11 and that would be at the presidential papers, D-141, if we could  
12 go to page 298, please. This is a joint communique of a meeting  
13 hosted by the chairman of ECOWAS, and the Head of State of  
14 Nigeria, attended by President Kabbah and Taylor, on 2 July 1998.

10:50:42 15 Looking at paragraph 3, it says, "The heads of state, they  
16 strongly condemned rebel activities in Sierra Leone as well as  
17 the horrendous atrocities that had been committed there."

18 So here there is nothing in here about Charles Taylor  
19 should meet with these rebels that were committing these  
10:51:04 20 horrendous atrocities, this is in July of 1998.

21 Now let's look at page 293 of the same presidential papers.  
22 This is very interesting because it is a policy statement. As  
23 it's coming up, I'll begin reading the heading, "Policy statement  
24 by the government of the Republic of Liberia on allegations  
10:51:33 25 against Liberia for involvement in the Sierra Leone crisis." And  
26 it's dated the 29th of December 1998.

27 So we know this is in the midst of the rebel offensive just  
28 on the eve, a week before, the invasion of Freetown, after the  
29 fall of Kono, after the fall of Makeni, Lunsar, and several other

1 locations, Magburaka. If we look at that, and if you go through  
2 the entire document, there is nothing in here about Sam - about  
3 Charles Taylor meeting with the RUF, Sam Bockarie or any  
4 representatives of the RUF. If you go to paragraph 10, page 293,  
10:52:28 5 it states, "Actions taken by the Government of Liberia.

6 Maintained an open line of contact and direct dialogue" - page  
7 293, please, sorry, and then if you go to the bottom left, thank  
8 you. The Government of Liberia writes that they maintained an  
9 open line of contact and direct dialogue with

10:52:57 10 President Ahmad Tejan Kabbah aimed at building confidence between  
11 Liberia and Sierra Leone. And then the next paragraph - they say  
12 they dispatched four high level presidential delegations to  
13 Freetown to hold talks with Kabbah and Sierra Leone. The next  
14 paragraph 12, hosted Kabbah in Monrovia.

10:53:18 15 Where is there anything about meeting Sam Bockarie? These  
16 are supposed to be the activities of Liberia to solve the crisis  
17 in Sierra Leone. And it talks about meeting with the Government  
18 of Sierra Leone, but nothing about meeting with the RUF.

19 So perhaps the Defence can - in their closing arguments -  
10:53:51 20 explain why there is not a single document that shows  
21 Charles Taylor met in September, October and November of 1998  
22 with Sam Bockarie, because the answer, the only logical  
23 conclusion is, it was clandestine meetings to plan war.

24 Charles Taylor's role - I think I better skip ahead because  
10:54:19 25 I'm running out of time.

26 I'll mention a few things quickly. If we could have  
27 D-104B, please, put on the screen - sorry, P-28 put on the  
28 screen. Excuse me, sorry, let me stick to the original order,  
29 D-7. This is a document the Defence brief, in paragraph 1287,

1 and elsewhere, places great emphasis on and this is the letter  
2 from Tiagen Wantee, the ambassador to Guinea, saying that  
3 reporting a meeting with Eddie Kanneh at the Liberian embassy  
4 there. The Defence brief, paragraph 1287, says, "Sam Bockarie  
10:55:13 5 would not have gone to the trouble of sending Eddie Kanneh to the  
6 Liberian embassy to try to establish contact with the Liberian  
7 government as exhibit D-7 clearly shows."

8 By the way, one slight aside, in paragraph 522 of the  
9 original brief, now it's 520, it included this rather bizarre  
10:55:39 10 statement which apparently has been taken out. The original  
11 brief, and it is a substantive change, in paragraph 522, they had  
12 said, they said, "Kanneh, having eaten human liver with the  
13 President... "

14 There is no evidence from any witness, Prosecution or  
10:55:58 15 Defence, that Eddie Kanneh ate human liver with the President.

16 Going back to D-7, this is a document the Defence tries  
17 desperately to twist the plain meaning of, because what the  
18 document does show in fact is that Sam Bockarie was known to  
19 Charles Taylor prior to August 12th, 1998, consistent with the  
10:56:17 20 Prosecution evidence. And not that he was sending Eddie Kanneh  
21 all the way to Conakry to try to make contact with Charles  
22 Taylor. That makes no sense. If you go down the list of the  
23 names, the last paragraph, thank you, it says:

24 "Meanwhile Major Kanneh, who remains a strong advocate of  
10:56:42 25 the RUF, reiterated his plan of travelling to Liberia, along with  
26 six other members of his organisation and would cross into  
27 Sierra Leone to join their men after meeting with the leader.  
28 And he named Sidi Ki Janneh, Brigadier Mosquito, both Sierra Leone  
29 nationals, including Mr Sherif, assistant director of the SSS."

1 Well, we submit that it's very likely that Sidiki Janneh is  
2 actually Sidiki Kanneh [phon]. If you look at the testimony of  
3 Varmuyan Sherif from 9 January, page 817, Varmuyan Sherif said  
4 one of his orderlies was Sidiki Kanneh.

10:57:27 5 So what this - clearly, what this paragraph is saying is  
6 that Eddie Kanneh is coming with six people and he's giving  
7 references of people who can tell Charles Taylor, people Taylor  
8 knows, that can tell Charles Taylor, this guy is all right, he's  
9 one of us. And who are those people? Well, it's Varmuyan  
10:57:47 10 Sherif, the assistant director of the SSS and his assistant,  
11 Sidiki Kanneh and it's Sam Bockarie. Sam Bockarie clearly is not  
12 one of the six people who is travelling; Sam Bockarie is one of  
13 the references to Charles Taylor to vouch for Eddie Kanneh. So  
14 the only reasonable explanation in the reading of this document,  
10:58:07 15 it supports that prior to August of 1998, as Varmuyan Sherif and  
16 other witnesses testified, Charles Taylor already had made  
17 contact with Sam Bockarie, and the Defence attempt to read it as  
18 saying that Sam Bockarie was trying to make contact, makes  
19 absolutely no sense. Perhaps the Defence can explain why would  
10:58:29 20 you send someone through Guinea, where Isatu Kallon and others  
21 had been arrested, to the embassy in Conakry, an enemy capital,  
22 Guinea, when the evidence from the Defence is that the RUF  
23 travelled freely to Monrovia when they wanted to. Issa Sesay  
24 says in April he went there with diamonds and stayed a week, and  
10:58:51 25 when he lost the diamonds, Sam Bockarie sent someone else to  
26 investigate. Issa Sesay and others, Sam Vincent said Jungle  
27 travelled back and forth from Monrovia, Sesay says to get rice  
28 and medicine, Sam Vincent said bringing ammunition. DCT-008 says  
29 Jungle used to travel back and forth from Monrovia. We also know

1 that the RUF has contacts in the Ivory Coast with Musa Cisse.  
2 They have a radio, they can contact Monrovia by radio, with or  
3 without a code, you can speak on the radio. They knew people in  
4 Lofa County, they could just cross Lofa County and speak to the  
10:59:23 5 NPFL. So what possible sense would it make to send a delegation  
6 through Guinea, through Conakry, to try to make contact with  
7 Charles Taylor when the RUF, repeatedly we've seen, can drive  
8 across the border to the capital of Monrovia. It makes  
9 absolutely no sense.

10:59:41 10 In the minute that I have left could I show P-28 again,  
11 please?

12 One thing the Defence tries to make out, quotes Issa Sesay,  
13 if we go down the page, Issa Sesay trying to deny his signature,  
14 if you recall on direct, he was shown this by counsel and he  
11:00:05 15 said, This is not the way I sign. However, when he was given a  
16 little test with the various signatures on a piece of paper he  
17 recognised this as his signature. And then he said, Well, maybe  
18 it was forged. But he said different than what he said before,  
19 that it was not the way he signed. This is his signature.

11:00:22 20 Benjamin Yeaten's signature also appears. Remember, Issa Sesay  
21 tried to say the RUF doesn't give written orders. Well, this is  
22 not an RUF document. This is a document from Benjamin Yeaten,  
23 he's the commander when the RUF is in Lofa. It's an NPFL AFL  
24 document and if you look down, we see the signature of

11:00:42 25 Benjamin Yeaten, just keep that in your mind and now if we can  
26 show the back of Yanks Smythe's ID card, that's D-104B. What  
27 your Honours will see is it's exactly the same signature. This  
28 document Issa Sesay and the Defence have tried desperately to  
29 deny, because it's so clearly shows what the Prosecution case,

1 through all of its evidence has shown, that from its creation in  
2 Naama, up through fighting in Guinea and Lofa County, the RUF was  
3 just an extension of Charles Taylor's armies, it was one of his  
4 militias, it was his proxy force. He was the true commander.

11:01:36 5 And it was Charles Taylor who directed the campaign of terror  
6 against the civilian population of Sierra Leone. Thank you.

7 PRESIDING JUDGE: Thank you, Mr Koumjian. As it's now 11  
8 o'clock, we will adjourn and resume at 11.30. Please adjourn the  
9 Court to 11.30.

11:02:08 10 [Recess taken at 11.01 a.m.]

11 [Upon resuming at 11.31 a.m.]

12 PRESIDING JUDGE: Mr Griffiths, please proceed.

13 MR GRIFFITHS: Can I first of all announce a change in  
14 representation, please, Madam President? Mr Munyard and  
11:33:43 15 Ms Kimberley Punt are no longer with us and we've been joined by  
16 our two legal assistants, Michael Hertz and Kathryn Hovington.  
17 Your Honours --

18 PRESIDING JUDGE: It's Mr Chekera I see beside you.

19 MR GRIFFITHS: Also Mr Chekera. I think he's so close, I  
11:34:07 20 missed him. Now, bearing in mind the orders made by your Honours  
21 on Monday, we have divided our address into the following  
22 sections. I will address you today and at this point in time,  
23 I'm unsure as to how long I will be. Mr Munyard will address you  
24 tomorrow. And Friday's presentation will be taken by Mr Anyah.

11:34:35 25 Now, may I start with an apology? I apologise to Madam case  
26 manager for not providing her with an electronic list of exhibits  
27 to be used in my closing address. It is entirely my fault, in  
28 part because of certain travel difficulties in getting here for  
29 today's hearing, but I think the difficulty has now been

1 addressed and we are ready to proceed.

2 Now, I don't know how your Honours would like me to  
3 proceed. I would much prefer that our address to the Court is  
4 interactive. We bear in mind the volume of material to be  
11:35:20 5 assessed, so consequently we may not always be in a position to  
6 provide an immediate answer, but nonetheless, we prefer that we,  
7 in effect, have a discussion, so that any issue as to our case or  
8 your perception of the Prosecution case can be discussed before  
9 your final decision. We want to avoid a state of bewilderment.

11:35:52 10 If you, the judges, make a decision or a finding of fact which we  
11 cannot understand, and thus are unable to explain to our client,  
12 consequently, if at any stage your Honours have a question,  
13 please feel free to interrupt. We, the Defence, think we can be  
14 of greater service to your Honours if we adopt this course.

11:36:16 15 So may it please your Honours, we adopt the observation  
16 made by the Appeals Chamber in our most recent appeal, that the  
17 purpose of oral submissions is to highlight important aspects of  
18 the Defence case. That we will seek to do. In particular, I  
19 will seek to focus on what we say are some of the most important  
11:36:51 20 documents produced in this case, and we say the vast majority of  
21 the most important documents were overwhelmingly produced by the  
22 Defence.

23 Now, Charles Taylor is the first-ever African leader to be  
24 put on trial. His trial has been trumpeted by the Prosecution as  
11:37:16 25 demonstrating an end to impunity. We agree. Indeed, his trial  
26 is of importance to Africa and this evolving concept of  
27 international justice, to which we are, as a Defence,  
28 unswervingly committed. Yet we note that currently, everyone  
29 being tried or awaiting trial at the International Criminal Court



1 are from, guess where, Africa. We are disturbed by this. We are  
2 disturbed by that fact but nonetheless maintain our commitment to  
3 this concept of international justice, because we are anxious to  
4 play our part in establishing such a system, which maintains,  
11:38:12 5 which should be its starting point, that whether you are princess  
6 or prostitute, whether you are the President of the United States  
7 or the President of Liberia, the law is above you. That should  
8 be the guiding principle. That is the essence, we submit, of the  
9 rule of law. Whether that, however, currently is the case is a  
11:38:38 10 matter of debate. Yet, interestingly, despite the importance of  
11 this trial, the fact is that no one took any notice of it until a  
12 supermodel, with her agent, and the Hollywood actress turned up  
13 at this Court and the minute they departed, we returned to  
14 obscurity.

11:39:07 15 And we note that it is when the public at large are kept  
16 uninformed and in the dark, that an accused's rights can  
17 sometimes be put out. Because we submit that it's important for  
18 the public that they should be in a position to follow these  
19 proceedings, particularly the people in Africa. For, if indeed  
11:39:35 20 the Taylor trial is to set an important precedent, then it was  
21 important that he be prosecuted fairly and transparently, as  
22 promised by Stephen Rapp when he opened the Prosecution case as  
23 long ago as the 4th of June 2007, and I quote, "The Prosecution  
24 will seek at all times to ensure that it embodies the fundamental  
11:40:04 25 principles of fairness, due process and justice."

26 We submit that it's to the shame of this Prosecution that  
27 it has besmirched the lofty ideals of international criminal law  
28 by turning this case into a 21st century form of neocolonialism,  
29 and I'm not apologising for saying that. For this Prosecution

1 has been selective. This was a court, ostensibly and publicly,  
2 set up, we are told, to try those who bear the greatest  
3 responsibility. So why is Colonel Muammar Gaddafi not in the  
4 dock? Have you not heard of the recent utterances from  
11:40:54 5 David Crane? Have you not heard that this Court would have been  
6 refused funding by the British government had they attempted to  
7 indict Gaddafi because the then British government led by  
8 Tony Blair were anxious to pursue their economic interests in  
9 that country? Have you not heard that? What about  
11:41:17 10 Blaise Compaore? What about Tejan Kabbah, the defence minister  
11 who allowed his deputy to carry the can and end his days in  
12 custody?

13 Now, way back in mid-2002, Charles Taylor gave an interview  
14 to New African magazine. This was before he would have known  
11:41:44 15 that an indictment would be unveiled against him, so it cannot  
16 credibly be claimed that he was then seeking to establish a  
17 defence.

18 So what he had to say to them was said without a criminal  
19 prosecution in mind. Could I ask Madam Court Manager to put up,  
11:42:10 20 please, the document which we have behind divider one in our  
21 bundle, exhibit D-334? Now, in this interview with  
22 Charles Taylor, and you will see from the bottom of the page,  
23 it's dated July/August 2002, he said this: "Liberia's  
24 President," and I'm looking at the first page of the interview,  
11:43:03 25 "Charles Taylor, is sure that quote unquote, 'some powerful  
26 countries' are out to get him. But he does not want to name  
27 them. 'Because they punish you the more if you do.' Yet the  
28 names are all over in the streets of Liberia, the USA and  
29 Britain. One freelance photographer told me letting the name

1 roll off his tongue like sweet apple" -- can we go over the page?

2 JUDGE SEBUTINDE: Please, can you shift the exhibit so we  
3 can read what counsel is referring to?

4 MR GRIFFITHS: Can I inquire whether the problem has been  
11:43:53 5 solved, your Honour?

6 JUDGE SEBUTINDE: No. We've lost the document altogether.

7 MR GRIFFITHS: Ah, here we are.

8 JUDGE SEBUTINDE: What we are interested in is not the  
9 photo but the text.

11:44:07 10 MR GRIFFITHS: It's the first paragraph on the left,  
11 your Honour, and for your Honour's assistance I'll repeat it:

12 "Liberia's President Charles Ghankay Taylor is sure that  
13 'some powerful countries' are out to get him but he does not want  
14 to name them 'because they punish you the more if you do.' Yet

11:44:26 15 the names are all over in the streets of Liberia, USA and  
16 Britain. One freelance photographer told me letting the names  
17 roll off his tongue like sweet apple."

18 Can we go over the page, please?

19 Second paragraph on the left:

11:44:47 20 "The problem has been compounded by the rebel war which is  
21 now in its fourth year. President Taylor firmly believes the war  
22 is the work of the powerful countries he would not name.

23 Interestingly, the rebels first struck in August 1999, three  
24 weeks after the United Nations that supervised the demobilisation  
11:45:13 25 of Taylor's former NPFL fighters, and the public burning of their  
26 guns. Now the war is three years old and still going on."

27 Pausing there, it will be recalled that we provided ample  
28 documentary proof of the disarmament process in Liberia and the  
29 destruction of the arms which took place, and your Honours will

1 also be aware of the coincidental timing of the first LURD attack  
2 with that destruction.

3 Before we leave this document, though, can I invite your  
4 Honours' attention to the next page? And I begin with the fourth  
11:46:04 5 paragraph to the left of that page, please.

6 "Next month, July, will be three years since we have been  
7 engulfed in a renewed state of crisis, where terrorists continue  
8 to attack us from neighbouring countries, fully financed and  
9 equipped by powerful states. I'm using powerful states here  
11:46:30 10 because I don't want to get into calling of names because each  
11 time you present them face to face with the facts, they punish  
12 you even the more. So little countries are frightened even when  
13 they do wrong to you, you are frightened to talk about their  
14 wrongs."

11:46:51 15 Skip a line. "It's not, but that's the reality of the  
16 world now. It's like when powerful nations begin to plant  
17 propaganda, lies and disinformation about you. Every other  
18 little country begins to scramble for cover because you become a  
19 target, and so you are left out there, hard and dry, to suffer.  
11:47:15 20 It is very terrible. Even against the point where the  
21 United Nations, that you hope you could go to for mediation and  
22 solace, becomes your whipping rod."

23 Now, we have suggested and we can leave that exhibit now,  
24 from the very outset that this Prosecution, and I repeat it  
11:47:40 25 despite Mr Koumjian's comments this morning, is politically  
26 motivated. Now, almost a decade after that interview, we say the  
27 truth has emerged. In December of last year, The Guardian  
28 Newspaper in London published two code cables, one from the US  
29 ambassador to Monrovia. Could we look, please, behind divider 2?

1 It's exhibit D-481.

2 We see that this is a code cable from Ambassador Linda  
3 Thomas-Greenfield, and we see the date is the 10th of March 2009.  
4 I do not intend to read all of this. But if we look at the  
11:48:52 5 paragraph numbered 1 on that page, beginning about halfway down  
6 the page:

7 "Should Taylor be acquitted in The Hague or given a light  
8 sentence, his return to Liberia could tip the balance in a  
9 fragile peace. The international community must consider steps,  
11:49:15 10 should Taylor not be sent to prison for a long time. We should  
11 look at the possibility of trying Taylor in the United States."

12 Can we now go to the penultimate paragraph on that page,  
13 please, numbered 6? And I'm beginning, I'm taking up the  
14 narrative about halfway through that paragraph.

11:49:41 15 "Taylor remains popular within many rural communities,  
16 especially in Bong, Lofa and Nimba counties, and is seen as  
17 someone who is able to unite Liberia's different ethnic groups.  
18 We also suspect there is some sympathy within the  
19 Americo-Liberian population who saw him as their deliverance from  
11:50:10 20 their losses following the 1979 coup. While we do not suggest  
21 they would want Taylor to return, we are sure that they do not -  
22 they do not want too many rocks to be turned over."

23 Now, can I pause there for a moment? And we need really to  
24 examine the full import of this. Remember, as was repeated by  
11:50:43 25 Mr Koumjian this morning, one of the reasons why this Prosecution  
26 adduced so much evidence as to what happened in Liberia, and you  
27 will recall mention of an individual who was tortured and we are  
28 told taken before Mr Taylor in Liberia, all evidence of his  
29 intent to terrorise the civilian population, an intent which he

1 carried over into Sierra Leone. Now, hold on a minute. If this  
2 man had been terrorising the civilian population of Liberia, how  
3 is it that the US ambassador can now be saying he still remains  
4 popular within many rural communities? The very communities he  
11:51:30 5 was supposed to have terrorised? How is that? And let us pause  
6 for a moment now and go to paragraph 405 of the Prosecution's  
7 closing brief. This is at page 202 of the Prosecution's  
8 corrected final brief. Do your Honours have it?

9 "The evidence shows the terror tactics utilised by the RUF  
11:52:17 10 and NPFL forces in Sierra Leone had been used by Taylor in  
11 Liberia. Liberia laid the groundwork for the perpetration of the  
12 indictment crimes in Sierra Leone. Taylor's tactics in Liberia  
13 demonstrate his willingness to employ terror to achieve his aims  
14 and from this evidence his intent to commit the indictment crimes  
11:52:48 15 can be inferred."

16 I ask that your Honours please, kindly, when looking at  
17 that paragraph, bear in mind the words of the US ambassador as  
18 recently as 2009. I ask that your Honours please, when  
19 considering this allegation of terrorism, bear in mind this, what  
11:53:11 20 we say, is an important paragraph.

21 Can I return now, please, to exhibit D-481?

22 Can we go to the second page of that document, please? And  
23 I'm looking at the paragraph numbered 8. And I'm picking this up  
24 now on the third line of that paragraph.

11:53:47 25 "To be sure, the disarmament of the factions following the  
26 CPA has been extremely successful, and we have thus far been  
27 unable to confirm the existence of any large weapons caches,  
28 despite the persistent rumours, but the reintegration of the  
29 ex-combatants is far from complete."

1 I apologise for jumping around in this way but can I now  
2 invite your Honours' attention to paragraph 210, please, of the  
3 Prosecution's closing brief, which your Honours will find at  
4 page 109? Yes. Sorry, 108.

11:54:50 5 "During his presidency, Taylor also received arms and  
6 ammunition through concessionaries such as Leonid Minin, of  
7 Exotic and Tropical Timber Enterprises, aka ETTE, and  
8 Guus Kouwenhoven of Oriental Timber Company, aka OTC. And as he  
9 never truly disarmed the NPFL, contrary to the lies he told the  
11:55:21 10 Court, Taylor also had use of those hidden materials. This was a  
11 disarmament that did not happen, leaving the NPFL and other  
12 factions with caches of arms and ammunition. Even the programme  
13 for the destruction of the material that was turned in was  
14 described as a mess. Taylor also had the use of material he was  
11:55:51 15 able to induce ex-ULIMO fighters to hand over, either to him or  
16 the RUF, AFRC/RUF forces in Sierra Leone."

17 So let's contrast and compare, shall we? He never truly  
18 disarmed, lies he told in court, this was a disarmament that did  
19 not happen. Now, we look at what the US ambassador is saying:  
11:56:25 20 "The disarmament of the factions following the CPA had been  
21 extremely successful."

22 Which of those two are we to believe?

23 Can we now go, please, to paragraph 10 in exhibit 481?

24 Yes. It's the second page. Paragraph 11:

11:57:10 25 "The threat of the return of Taylor strengthens their hand  
26 and for now they see no need to give in at all. However, if  
27 Taylor is put away for a long time, the government may feel a bit  
28 bolder in recovering assets and bringing Taylor backers who  
29 committed war crimes to justice."

1 Paragraph 13, please: "However, the best we can do for  
2 Liberia is to see to it that Taylor is put away for a long time.  
3 And we cannot delay for the results of the present trial to  
4 consider next steps. All legal options should be studied to  
11:57:56 5 ensure that Taylor cannot return to destabilise Liberia.  
6 Building a case in the United States against Taylor for financial  
7 crimes such as wire fraud would probably be the best route.  
8 There may be other options, such as applying the new law  
9 criminalising the use of child soldiers or terrorism statutes."

11:58:25 10 Now, this, we submit, should be a matter of concern for  
11 anyone truly interested in justice, because that paragraph  
12 suggests that this is not a trial at all, but the abuse of legal  
13 forms to achieve a predetermined end: The conviction of the  
14 accused and his incarceration for a long time.

11:58:59 15 Now, we submit, bearing that paragraph in mind, the  
16 tribunals which are but an instrument of diplomacy in the hands  
17 of powerful states are, in fact, not administering law at all  
18 but, instead, providing spurious cover for their paymasters,  
19 thereby prostituting the legal process.

11:59:23 20 PRESIDING JUDGE: Mr Griffiths, what tribunals are you  
21 referring to?

22 MR GRIFFITHS: Any tribunal, Madam President.

23 PRESIDING JUDGE: Are you suggesting that the judges are in  
24 the pay of some government?

11:59:34 25 MR GRIFFITHS: I have never suggested that. I am speaking  
26 from the vantage point of that man on the Clapham omnibus, that  
27 phrase much used in English common law, the independent observer  
28 looking on from the outside, recalling, of course, that justice  
29 should not only be done, it should be seen to be done, and that



1 is why we are addressing these concerns. But in any event,  
2 Madam President, as highlighted by Mr Koumjian this morning, we  
3 have dealt with these issues in the opening paragraphs of our  
4 closing brief, and so consequently do not see the need to repeat  
12:00:19 5 all of those arguments here, because we submit that they've been  
6 comprehensively set out in our closing brief.

7 But returning to our theme, Madam President, which is that  
8 this Prosecution is political, we also submit, so far as this  
9 Prosecution is concerned, that they have acted dishonestly in  
12:00:48 10 paying witnesses, some of them extravagantly, out of a fund  
11 obtained by the first Chief Prosecutor, David Crane, from the  
12 Government of the United States. No similar fund was ever  
13 provided or requested by the Defence, and despite repeated  
14 requests by a number of bodies, the Prosecution have never come  
12:01:13 15 clean as to how these monies were acquired and, indeed, how they  
16 were spent. Again, we will deal with that issue and have dealt  
17 with it in our final brief, and I anticipate that Mr Munyard  
18 tomorrow will be turning to it in a little bit more detail, so  
19 I'm merely highlighting that fact now.

12:01:36 20 Now, having introduced my topic, Madam President, can I now  
21 turn to the evidence in this case?

22 We have never denied that serious crimes were committed in  
23 Sierra Leone. We've never denied that. And neither were those  
24 crimes committed solely by the RUF, the AFRC or indeed the CDF.

12:02:15 25 I would like us to remind ourselves, please, of a clip from a  
26 film shown in closed session, so it's confidential, taken from  
27 exhibit D-5A.

28 PRESIDING JUDGE: Are we going to view it, Mr Griffiths?  
29 And do we have to do it in closed session in the light of what

1 I said.

2 MR GRIFFITHS: Very well. That's why I mentioned the fact,  
3 Madam President.

4 PRESIDING JUDGE: This is a part that must be seen in  
12:02:51 5 closed session. You know what you're showing. We do not.

6 MR GRIFFITHS: Well, the whole exhibit is confidential,  
7 Madam President. Although the film from which it's taken is  
8 available for public consumption. But in any event, out of an  
9 excess of caution, bearing in mind the rules, it seems to us that  
12:03:12 10 it ought to be played in closed session.

11 PRESIDING JUDGE: Madam Court Manager, please put the Court  
12 in closed session.

13 I think a private session would be appropriate. I know we  
14 have been referring in our exchange to closed.

15 [At this point in the proceedings, a portion of  
16 the transcript, page 49399, was  
17 extracted and sealed under separate cover, as  
18 the proceeding was heard in private session.]

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1 [Open session]

2 MS IRURA: Your Honour, we are in open session.

3 PRESIDING JUDGE: Thank you. Please proceed.

4 MR GRIFFITHS: Now it's quite clear, Madam President, that  
12:07:11 5 those terrorising that individual in the clip were ECOMOG  
6 soldiers. And is it to be said that ECOMOG weren't also  
7 intending terror when they went into Sierra Leone? And indeed  
8 perhaps Liberia? Again, what springs to mind is the idea of  
9 selective prosecution.

12:07:43 10 Now, as I say, we have never, and still do not, deny that  
11 grievous crimes were committed in Sierra Leone. From the start,  
12 the sole issue boiled down to: Does Charles Taylor bear the  
13 greatest responsibility for the crimes committed in that country?  
14 That is the sole issue in our submission.

12:08:17 15 And we say that it remains the sole issue despite various  
16 distractions. First of all, the fact that for much of his  
17 cross-examination, something like two-thirds of his  
18 cross-examination, Mr Taylor wasn't asked about events in  
19 Sierra Leone. I'm sure it did not escape your Honours' attention  
12:08:48 20 that for the most part his cross-examination concentrated on  
21 events in Liberia. We say that is a total distraction.

22 Likewise, there was an even greater distraction, although  
23 it attracted the greatest publicity, and that is the appearance  
24 of Naomi Campbell, her agent, and also Mia Farrow. Why that  
12:09:20 25 evidence was called I'm still at a loss because the question is:  
26 How does a gift of diamonds to a beautiful woman, diamonds being  
27 of course a girl's best friend, in South Africa, link  
28 Charles Taylor to the purchase of arms which, on one floated  
29 theory, arrived in Magburaka at some later stage in 1997?

1 I don't see it. In our submission, the calling of Naomi Campbell  
2 was a complete disaster for the Prosecution. My learned friend,  
3 Ms Hollis, was left looking at a bleeding hole in her foot and a  
4 smoking gun in her hand asking, "I didn't know it was loaded."

12:10:21 5 Because they ended up, first of all, seeking to impeach their own  
6 witness, then when that didn't work, trying to abandon her. Oh,  
7 she's not a Prosecution witness after all. Well, who obtained a  
8 subpoena to call her? Why was she called by the Prosecution if  
9 she is not a Prosecution witness? But in any event, that we say  
12:10:47 10 was a total distraction.

11 Turning now to another topic. Despite spending four and a  
12 half years in preparation, a further 13 months in presenting  
13 their case, and calling some 30 or so linkage witnesses, it is  
14 somewhat surprising that there is very little direct evidence to  
12:11:19 15 link the accused to the crimes alleged. For the most part, this  
16 Prosecution's attempt to link the accused to the alleged crimes  
17 has largely focused on hearsay, circumstantial evidence and broad  
18 assumptions. There were very few examples of direct personal  
19 knowledge of the accused commanding or assisting the RUF or the  
12:11:56 20 AFRC. One exception was Alimamy Bobson Sesay, upon whose  
21 testimony much reliance was placed by your Honours at the time of  
22 our rule 98 submissions. What I would like you to bear in mind  
23 when assessing his testimony what Mr Munyard will have to say  
24 tomorrow morning about his credibility.

12:12:29 25 Now, this glaring deficiency in the Prosecution case, this  
26 absence of direct proof, is reflected in their final brief, on  
27 more than one occasion. But let me give you an example. Can we  
28 turn, please, to paragraph 214 in the Prosecution's final brief?  
29 I'm not going to read out the whole of that paragraph. Can

1 we begin, please, five lines from the bottom?

2 "In addition, it is reasonable to conclude that Taylor was  
3 able to bribe ECOMOG to allow or facilitate the movement of  
4 material through whatever checkpoints ECOMOG had been able to  
12:13:44 5 establish, given that his NPFL had been able to bribe ECOMOG to  
6 sell material to it and that ECOMOG had also apparently sold or  
7 bartered other supplies as well."

8 Now, "reasonable to conclude"? Now, I can't really recall  
9 any evidence, in our submission, from which such a conclusion  
12:14:17 10 could be reached. This is where we say the Prosecution are  
11 making assumptions in the absence of proof. That in effect, put  
12 bluntly, when no proof is available, let's make it up.

13 Because we submit that in their final brief, rather than  
14 point you judges to their evidence, they are asking you

12:14:57 15 repeatedly to draw far-fetched inferences. For example, on the  
16 critical issue of joint criminal enterprise, we submit that's  
17 what they are doing. Now, this absence of proof, in our  
18 submission, had been noted as long ago as June 2000, by an  
19 independent individual who was in a position to know. Now, in

12:15:35 20 their final submissions to your Honour, the Prosecution have  
21 sought to malign the United Nations Secretary-General's  
22 representative in Liberia. They have in effect claimed that  
23 Mr Taylor co-opted the representative of the Secretary-General  
24 very early on. And he, Mr Felix Downes-Thomas, in effect, became  
12:16:06 25 Mr Taylor's agent and his mouthpiece to the United Nations.

26 Because of this relationship, Downes-Thomas gave Mr Taylor these  
27 code cables which were internal cables for the United Nations.  
28 On none of these cables, they assert, was Mr Taylor named as a  
29 recipient or as someone who should legitimately have access to

1       them.

2               Now, one can understand why this Prosecution are concerned  
3       to malign Mr Felix Downes-Thomas in this way because many of the  
4       code cables he provided, provide inconvenient proof for the  
12:16:55 5       theory they have been floating from the outset. Let us examine  
6       why this Prosecution would seek to impugn this evidence, but  
7       perhaps I should pause and make a distinction. It's one thing  
8       impugning Downes-Thomas. It's another thing to try and impugn  
9       the contents of those code cables. Whatever they might want to  
12:17:21 10       say about Downes-Thomas, there we have in black and white  
11       contemporaneous documents, made at the time when no one could  
12       have anticipated a criminal prosecution. And thus, judges, such  
13       evidence, contemporaneous, made without criminal trial in mind,  
14       to that kind of evidence should attach a great deal of weight.  
12:17:49 15       And that's the kind of evidence we've produced consistently  
16       before this Court.

17               But I also ought to remind you of some of the history  
18       surrounding those code cables, because your Honours will recall  
19       that they emerged from Mr Taylor's archives. Now a little  
12:18:14 20       history. When way back, it seems such a long time ago now, in  
21       the summer of 2007, we came before your Honours to seek an  
22       adjournment of these proceedings so that we could get up to speed  
23       with the facts, we made mention of the fact, or I did, that I'd  
24       recently returned from Liberia where I'd been given a large  
12:18:40 25       volume of documentation which had hitherto been in Mr Taylor's  
26       archives. That struck fear into the heart of this Prosecution,  
27       which is why they went to the extent of filing a wholly  
28       unmeritorious motion seeking the disclosure of those Defence  
29       documents. Because they knew those archives might well contain

1 potent evidence and that proved to be the case.

2 So the point as to how they came to be in Mr Taylor's  
3 hands, in our submission, is totally irrelevant. They can malign  
4 Felix Downes-Thomas till the cows come home, but the fact of the  
12:19:44 5 matter is, what he wrote in those documents cannot be gainsaid.

6 And I bear in mind that some of your Honours come from a common  
7 law tradition and you will recall that famous case of Regina v.  
8 Sang in the House of Lords, irrespective of the sort of evidence,  
9 so long as it's relevant to an issue, it's admissible. So as

12:20:08 10 I say, they can malign him as much as they want. And we need to  
11 bear in mind, from what this evidence derives its potency. First  
12 of all, it's correspondence between individuals, persons who have  
13 no reason not to tell the truth. It's between Downes-Thomas and  
14 his bosses in New York or vice versa. They have no motive

12:20:42 15 whatsoever to lie about to each other, none whatsoever. As I've  
16 also mentioned, these documents are contemporaneous. They are  
17 not created with criminal proceedings in mind. We submit that  
18 some of the most powerful evidence admitted in this case is  
19 contained in those code cables, coming, as it does, from an  
12:21:11 20 untainted, independent source.

21 So can I now take your Honours to one such code cable,  
22 please? It's exhibit D-255. And, remember, I am drawing  
23 your Honours' attention to this document bearing in mind the  
24 point we are making about the absence of direct proof. And could  
12:21:51 25 we go, please, to page 10 in the top right-hand corner? I'm  
26 sorry, Madam Court Manager, could we just go back to the front  
27 page so that we can - we can see for ourselves the date of the  
28 document. We see that it's dated the 19th of June of 2000. It's  
29 from the maligned Downes-Thomas in Monrovia, to Prendergast, his

1 boss in New York. Now let's go to page 10.

2 "There is no denial about President Taylor's association  
3 with Foday Sankoh and with the RUF. President Taylor himself has  
4 gone public, and on record, to confirm that Liberians are

12:23:05 5 involved and actively so in the Sierra Leone crisis. How such a  
6 situation developed, as well as its various ramifications has  
7 been the subject of communications from UNO to HQ. What appears  
8 to be the crucial aspect of this omnibus allegation is that, 1,  
9 the Government of Liberia and/or President Taylor currently

12:23:31 10 provides arms, ammunition, training and personnel to the RUF. 2,  
11 the Government of Liberia and/or President Taylor, is able to  
12 assist in this manner because the RUF supplies illicitly mined  
13 diamonds to the Government of Liberia or President Taylor, who  
14 not only sells the gems but takes a huge percentage of it for  
12:24:02 15 personal and other purposes as such. Thirdly, President Taylor  
16 has a vested interest in the continuation of the crisis in  
17 Sierra Leone or in the maintenance of a status quo that promises  
18 the continuation of one and two above."

19 Pause. That in a nutshell is the Prosecution allegation.

12:24:26 20 He continues: "The basis and evidence for this crucial  
21 aspect of the allegation continues to remain unavailable to UNO.  
22 Since headquarters has yet to convey such a basis or knowledge of  
23 the evidence, it must be presumed that it also remains  
24 unavailable to it."

12:24:54 25 So what Mr Downes-Thomas is saying, "Look I'm your man on  
26 the ground. I've got no evidence of it. Likewise, you in New  
27 York, my boss, with all the resources available to you, you  
28 haven't told me about anything like that, so where is the  
29 evidence? Where is the beef?"



1 "Both the British newspaper, the Guardian, and the American  
2 Washington Post have carried stories on this matter and have  
3 provided generalised snippets of related information which only  
4 whets the appetite but offers nothing truly substantive. It  
12:25:36 5 would be most useful for all concerned, as well as for their  
6 reputations, to have the basis and evidence for this crucial  
7 aspect of the allegation made public. And let the chips fall  
8 where they may. One of the major arguments for publicising the  
9 evidence is that in so doing the opportunity will be offered to  
12:26:01 10 devise ways and means to effectively put an end to the alleged  
11 trafficking in a manner that will not visit hardship on innocent  
12 citizens."

13 So we have this situation, way back in June of 2000,  
14 Mr Downes-Thomas is asking the question which over a decade later  
12:26:30 15 we still ask on behalf of Charles Taylor: Where is the evidence,  
16 the direct proof? Where is it?

17 Now, again, in this regard, in opening the case for the  
18 Prosecution, we were told by the then chief Prosecutor, Stephen  
19 Rapp, and Madam case manager, can I invite our attention behind  
12:27:07 20 divider 3, 3B, which is an excerpt from testimony dated the 4th  
21 of June 2007. Now, Mr Rapp, way back then, said this, and I pick  
22 it up at line 8:

23 "In 1988, or 1989, with the military training in North  
24 Africa of Charles Taylor and Foday Sankoh and other people who  
12:27:45 25 later became leaders of the RUF and NPFL, a plan was there  
26 formulated by the accused and others to take over political and  
27 physical control of Sierra Leone in order to exploit its abundant  
28 natural resources and to establish a friendly or subordinate  
29 government there to permit, to facilitate, this exploitation.

1 This was part of a larger strategy that included helping others  
2 militarily in their respective revolutions to take over their  
3 respective countries and the first one was to be Liberia. For  
4 that, there was created the National Patriotic Front of Liberia,  
12:28:37 5 the NPFL, and then of course there was the RUF, the Revolutionary  
6 United Front, created for Sierra Leone. The argument made - the  
7 agreement made by the accused and Sankoh was to begin, as I say,  
8 in Liberia with the help of Sankoh's forces, and Liberia would  
9 then be used as a base from which to move into Sierra Leone with  
12:29:03 10 the help of the forces of the accused. As we have indicated many  
11 times, access to Sierra Leone's abundant resources was a primary  
12 objective, but Sierra Leone would also be a source of manpower."

13 I pause there. This was Mr Rapp lucidly setting out what  
14 he claims was the plan. Now, first of all, we should note, where  
12:29:36 15 was that agreement reached? In Libya. What were the terms of  
16 that agreement? The exploitation of Sierra Leone. By what means  
17 was that to be achieved? By the creation of two organisations,  
18 the NPFL and the RUF. So this, then, should be the golden thread  
19 running throughout this Prosecution. So when then we come to  
12:30:03 20 look at various stages along the road to this Prosecution, we  
21 need to pause on occasions and we will, and ask ourselves how  
22 consistent is this piece of evidence with that overall plan? But  
23 I mention this opening for this reason. Because, remember, this  
24 is the plan which is supposed to underlay not only what happened  
12:30:33 25 in Sierra Leone but also what happened in Liberia. It is the  
26 foundation-stone of this whole Prosecution, this plan.

27 Now, almost four years later, your Honours may have noticed  
28 that this plan has been quietly jettisoned from the Prosecution's  
29 final brief. I ask you, please, to peruse that document with

1 care, line by line, not missing a definite or an indefinite  
2 article, and see where there is mention now, four years later, of  
3 that plan, fashioned in Libya which we were told was the  
4 foundation of this Prosecution. Now, Mr Anyah will deal in due  
12:31:28 5 course with that suggestion made by Mr Rapp in opening in a  
6 little more detail. I merely highlight it here.

7 And also, can I commend to your Honours paragraph 738 to  
8 979 of our written closing submissions, researched and written by  
9 Mr Silas Chekera, which in our submission totally destroys any  
12:32:04 10 notion of joint criminal enterprise from an evidential point of  
11 view.

12 Now, your Honours, can I now mention another aspect of this  
13 Prosecution which is still of abiding concern to us? Of the  
14 linkage witnesses called, the so-called insider witnesses, and  
12:32:38 15 remember some 30 or so were called, 14 gave evidence in either  
16 closed session, that is behind closed doors, so that the public  
17 cannot see or hear, or with pseudonyms. And even now this  
18 morning we had an example of my learned friend, Mr Bangura, being  
19 unwilling to mention the name of a protected witness, even the  
12:33:05 20 TF1 number of that witness. So that we submit that much of the  
21 Prosecution has been.

22 JUDGE LUSSICK: Excuse me, Mr Griffiths, I'm having  
23 problems with my Lotus Notes, and I use the notes to underline  
24 important submissions, so -

12:33:27 25 MR GRIFFITHS: I'll pause there, your Honour, until it's  
26 fixed.

27 PRESIDING JUDGE: Thank you, Mr Griffiths, please proceed.

28 MR GRIFFITHS: So as I was saying, so the fact remains that  
29 much of the Prosecution's case, the crucial part of its case, has

1     been in large measure shrouded in secrecy. The public will never  
2     know the content of that important testimony. It's a matter of  
3     some concern.

4             Now, let me turn, then, to the factual matrix of this  
12:36:01 5     indictment. Now, we do not dwell overlong on the factual  
6     background because, again, these are set out fully in our final  
7     brief, but we submit that the following factual propositions are  
8     true. Firstly, the recruitment of trainees, their training and  
9     Camp Naama, Sokoto, and the planning of the invasion of  
12:36:41 10    Sierra Leone, was without the accused's knowledge. It was, we  
11    submit, the result of a conspiracy between Sankoh and certain  
12    senior NPFL officers whom Sankoh met and befriended in Libya.  
13    Men such as Sam Tuah, Oliver Varney, Charles Timba, Sam Lahto  
14    [phon], Francis Mewon [phon], Dopoe Menkarzon, Anthony Mekunagbe  
12:37:25 15    and General Degbon.

16             Now, your Honours will recall not many minutes ago  
17    I mentioned this golden thread running through the Prosecution's  
18    case. Can I pause now to look at what undoubtedly has to be an  
19    anomaly in light of that foundational part of the Prosecution  
12:37:48 20    case? Camp Naama. Why did not one single Prosecution witness  
21    claim to have met Charles Taylor at Camp Naama? Not one. There  
22    is no evidence before this case that Charles Taylor ever set foot  
23    in Camp Naama and met any RUF trainees. The question has to be  
24    why not? He is the godfather, to quote Mr Koumjian. He's the  
12:38:35 25    God father. Even a godfather meets his foot soldiers. So why  
26    not Charles Taylor? Bearing in mind that design fashioned way  
27    back in Libya. Surely, as the overall commander, this is his  
28    proxy army, he'd want to pop along now and then to find out how  
29    they are getting on. How have they taken to the training? Are

1 they properly being trained in the arts of terrorism? Why didn't  
2 he turn up to find out?

3 And likewise, where is the evidence of any of agents, like  
4 Mr Mongor, going back to report to him? Guess what, chief? This  
12:39:26 5 is what's going on down in Camp Naama. Why not? He has to be in  
6 strategic control. It's basic military understanding that you  
7 need to be on the ground to see what's going on. So why isn't he  
8 there?

9 A second question your Honours might want to ask yourself  
12:39:58 10 is this: Bearing in mind, of course, the golden thread, going to  
11 take over Liberia then we are going to do the same in  
12 Sierra Leone, why were the RUF training separately from the NPFL?  
13 Every witness who has come to this Court has told your Honours  
14 that there was a division between the RUF trainees and the NPFL  
12:40:27 15 trainees. They are in different parts of the camp and never the  
16 twain shall meet. Why? Because this design established in  
17 Libya, surely the overall commander, Charles Taylor, would want  
18 to coordinate the training. It makes strategic and tactical  
19 sense, from a military point of view. So why are they being  
12:40:54 20 trained separately? It just does not make sense. It doesn't add  
21 up.

22 A third question: Why were the RUF recruits at Camp Naama  
23 not properly supplied with arms? There is ample evidence that  
24 only certain members of the RUF at Camp Naama had access to  
12:41:27 25 AK-47s. The vast majority of the recruits only saw them when it  
26 came to being taught how to dismantle and use them. For the most  
27 part they were carrying sticks. So why was Taylor doing that?  
28 If it's part of this overall design, one would have thought they  
29 would be properly supplied. Not only with arms but also with

1 food. And we are told that that too was in short supply. Why?  
2 We submit that these are important questions. We submit that  
3 these aren't questions which can be conveniently brushed under  
4 the carpet and forgotten. They go to the very heart of the  
12:42:21 5 Prosecution case, and unless you judges can find an answer to  
6 those substantive questions, we submit that the only verdicts  
7 that are possible are verdicts of not guilty, because we would  
8 have totally undermined an important aspect of the Prosecution  
9 case.

12:42:42 10 Now, I'm helpfully assisted by Mr Chekera and before it  
11 slips my mind, can I correct something if I gave the wrong  
12 impression. Sam Tuah and Charles Timba were not trained in  
13 Libya.

14 Now, the second point that I'd like to make, moving on from  
12:43:13 15 Camp Naama - well, not moving on from Camp Naama, but dealing  
16 with an aspect of Camp Naama, could I first of all, please,  
17 invite your Honours' attention to paragraph 406 of our closing  
18 final brief? This, your Honours will find at page - yes - no,  
19 sorry, 139, paragraph 405, please. Do your Honours have it?

12:44:02 20 PRESIDING JUDGE: Yes.

21 MR GRIFFITHS: Now, your Honours will see that at paragraph  
22 405 and 406, 7 and 8, we deal with ideology training at  
23 Camp Naama. If I could just give your Honours a moment to cast  
24 your eye quickly over that, to get the import of what we are  
12:44:49 25 suggesting in those paragraphs. Now the points we are making,  
26 Madam President, and it's an important point from our point of  
27 view, looking at paragraph 406, and because I am there quoting  
28 the words of a protected witness, and your Honours will see from  
29 the first line who that person is, bearing in mind the role that

1 person played at Camp Naama, and I was the person who  
2 cross-examined that witness, I would have asked him this simple  
3 question: Did you teach the recruits at Camp Naama to terrorise  
4 the civilian population? What would his answer have been? It  
12:46:06 5 would surely have been in the negative. In fact, there is ample  
6 evidence, from Issa Sesay, others, there is also a publication  
7 before your Honours created by a protected witness, which  
8 underlines the fact that amongst the several trainers at  
9 Camp Naama, the only person who on any occasion made any  
12:46:41 10 suggestion about terrorising the civilian population was  
11 Isaac Mongor. And you will recall that, both in that publication  
12 and in testimony from Issa Sesay, there is clear evidence that  
13 Mr Mongor was ridiculed for having made that suggestion, even  
14 though later he himself did put that, what he suggested, into  
12:47:06 15 practice. So what is quite clear then is this: Firstly,  
16 terrorising the civilian population did not form part of the  
17 founding ideology of the RUF. Neither was it being taught as a  
18 military tactic at Camp Naama, save for that aberration,  
19 Isaac Mongor.

12:47:35 20 Secondly, had we known that this was the purpose of the  
21 JCE, the stock question this Defence would have asked of every  
22 single witness was: Were you taught to terrorise the civilian  
23 population of Sierra Leone? Two, did Foday Sankoh tell you to  
24 terrorise the civilian population of Sierra Leone? Three, did  
12:48:11 25 any other commander, apart from various aberrations like  
26 Sam Bockarie, command you and indeed on one occasion,  
27 Foday Sankoh, Operation Stop Elections, apart from that instance,  
28 routinely order you to terrorise the civilian population?  
29 Now, it's easy for the Prosecution to point at instances

1 and from that seek to draw some general conclusion, well, we know  
2 that they are good at drawing such assumptions. Well, instances  
3 did occur but what we are looking for is a pattern of behaviour  
4 of some long standing, of some geographical scope, and in our  
12:48:50 5 submission, dating from Camp Naama, this theory of terrorism did  
6 not form one of the founding principles of the RUF. It didn't.  
7 And I say quite bluntly, we have been disadvantaged and  
8 prejudiced by not knowing from the outset that that was the  
9 supposed purpose of this JCE, as opposed to the other multiple  
12:49:18 10 purposes replete in the Prosecution's opening and their case  
11 summary.

12 Third proposition, moving on from Camp Naama, once ULIMO  
13 was formed in Sierra Leone, funded and supported by the  
14 Sierra Leonean and Guinean government to fight against the NPFL  
12:49:46 15 and deny them the gains of the Liberian revolution,  
16 Charles Taylor formed a strategic alliance with the RUF to  
17 protect his flank. And this alliance remained in place for just  
18 over a year, before Taylor withdrew his support. The support  
19 provided during this period was limited. And I will now seek to  
12:50:21 20 provide some examples of evidence to show that such support  
21 during that period was limited.

22 Could I invite your attention, please, to exhibit P-65,  
23 Madam Court Manager, behind our divider 4?

24 Yes, we have it.

12:51:19 25 Your Honour will see P-65 is a document we've seen before.  
26 It's dated the 5th of May 1992. And it's from, we see from the  
27 seal at the bottom of the page, the Revolutionary United Front of  
28 Sierra Leone. It's from Foday Sankoh, we know, written to  
29 Charles Taylor.



1 "I am thanking you very much for the brotherly help you are  
2 rendering me in my liberation struggle." Now, hold on a second.  
3 Let's go back to the golden thread. What's he doing talking  
4 about this as "my liberation struggle"? It's Taylor's liberation  
12:52:12 5 struggle. So how do we explain the effrontery of this underling?  
6 Taylor is supposed to be the big boss. The RUF is his private  
7 army. How dare Sankoh refer to this struggle as being his?

8 Then it goes on, "This struggle itself has reached a  
9 crucial and something stage, where I cannot afford to give up.

12:53:03 10 Moreover there is no urgent need to sit and discourse on the  
11 current developments in Sierra Leone and also on the deployment  
12 of ECOMOG at the borders. These events are crucial and we need  
13 to address ourselves to them. I am therefore requesting an  
14 audience with you before I leave. I appreciate the five boxes of

12:53:33 15 AK-47 rifle ammunition and the 10 boxes of RPG gun rockets which  
16 I should receive from you today. But I've just received a radio  
17 message from General that asks - that our men have encircled the  
18 Daru Barracks and they are waiting materials to do the final  
19 assault. I believe that what you have forwarded is not enough to

12:54:09 20 carry out the operation against Daru. So I'm making, I'm asking  
21 you, in the name of the Almighty God, to kindly increase the  
22 number of boxes of AK-47 ammunition up to 20 and that of the RPG  
23 rockets to 12, plus some Beretta rounds. This will sustain us  
24 for some time while awaiting the long term supply that you have  
12:54:43 25 promised me. Moreover, it will boost the morale of my fighters  
26 who are in top form to advance in" - well, "to advance." I'll  
27 leave it at that. The general sense is quite clear.

28 And then the last two lines, well, before that he goes on  
29 to talk about him not having a vehicle and begging Taylor for a

1 vehicle, and then he concludes in this way: "While anticipating  
2 your usual consideration, I would be grateful to you for your  
3 continued support in my struggle to liberate my people."

12:55:38 4 Now, there are a number of important questions which, in  
5 our submission, your Honours should properly ask about this  
6 letter. First of all, why is Sankoh writing in such begging  
7 terms to someone with whom he made a pact as long ago as Libya to  
8 provide mutual assistance to each other? The tone of the letter  
9 belies such an agreement. He shouldn't be begging. This is part  
12:56:10 10 of a plan. If Taylor has got it and he's wanting to achieve this  
11 plan, why is he not providing them with adequate supplies?  
12 Because the simple question is this: Given that the joint  
13 objective of gaining political control of Sierra Leone is to  
14 exploit its abundant natural resources, why hasn't Taylor given  
12:56:41 15 him the wherewithal to complete the job in as quick a time as  
16 possible, and as effectively as possible? Yet, here we have him  
17 begging. Why?

18 But I jump forward to come back because it is our  
19 submission that consistently, at this time as reflected in the  
12:57:10 20 letter, and indeed at any time during the indictment period,  
21 whatever materials were going over that border from Liberia to  
22 Sierra Leone, was for the most part a trickle. Now, why do  
23 I jump forward? I jump forward to 1998, so we are talking about  
24 six years after this letter, when the military attache at the US  
12:57:42 25 embassy in Monrovia conducted an investigation into alleged  
26 Liberian involvement in the Sierra Leone conflict. The accused,  
27 Mr Taylor, referred to this and other matters when he made a  
28 policy statement on the 29th of December 1998.

29 Can I refer your Honours please to exhibit D-141? And to

1 page 292 of that exhibit, which Madam Court Manager, we find  
2 behind divider 5. Could we go - we see first of all on the first  
3 page, policy statement by the government of the Republic of  
4 Liberia on allegations against Liberia for involvement in the  
12:58:48 5 Sierra Leone crisis, Monrovia, Liberia, December the 29th, 1998.  
6 Let's go to page 293 at the bottom, please. And we are looking  
7 at the two middle paragraphs on the left. Thank you, Madam Court  
8 Manager.

9 "The Liberian government wishes to draw attention to the  
12:59:11 10 statement of the United States deputy assistant Secretary of  
11 State for Africa, ambassador Vicki Huddleston, that there is no  
12 evidence that the Liberian government is involved in aiding the  
13 war in Sierra Leone. The government wishes to also point to the  
14 results of an independent investigation conducted by Colonel  
12:59:39 15 Dempsey, military attache at the US embassy in Monrovia which  
16 found no evidence of the alleged involvement of the Liberian  
17 government in the Sierra Leonean conflict."

18 Now, it's important to bear in mind - can we go back to the  
19 first page, please? I ask your Honours to bear in mind two  
13:00:07 20 things: Firstly, the source of the two comments to which -  
21 referred to in this policy statement. Secondly, the timing.  
22 This is the 29th of December. So this is what, just about a week  
23 before what, the Freetown invasion. And at that time, this  
24 defendant was able to call upon evidence of this nature, from the  
13:00:47 25 United States deputy assistant Secretary of State for Africa, and  
26 the military attache at the US embassy in Monrovia. A week  
27 before the Freetown invasion.

28 Now, Mr Taylor referred to this also in his testimony.  
29 This was testimony given by Mr Taylor on the 10th of August 2009.

1 It's page 26277 of the trial transcript. Can we pick it up,  
2 please, at line 21?

3 "Q. And what was the information available to your  
4 government then as to United States research regarding the supply  
13:01:48 5 of arms?

6 A. Well, we had had, at our disposal, a report that had  
7 been done jointly by the United States, represented by a  
8 situation that came before us here, Colonel Dempsey, along with  
9 the United Nations and ECOMOG, that had stated in fact that there  
13:02:13 10 was some evidence of a little amount of arms going across the  
11 border, but it was not - that it was not an official transaction  
12 because it was just the trickle amount of arms going across the  
13 border. To see this same arms issue festering" - I'm going over  
14 the page - "I mean, we had to raise it here because it just

13:02:36 15 seemed not to go away. I thought it had gone away after a senior  
16 army officer representing the American government at the embassy  
17 had gone there and had written a report saying, 'Look we haven't  
18 seen any evidence of this. The United Nations personnel had gone  
19 there and said we see no evidence of this. ECOMOG personnel had  
13:02:59 20 been there and said there is no evidence.' So to see this same  
21 thing festering and festering, I'm shocked by it."

22 So can we pause and take stock as to where we are? 5th of  
23 May 1992. Prima facie, Sankoh's begging letter suggests only  
24 small amounts of assistance being given, even at that time.

13:03:37 25 1998, six years later, again, evidence to the same effect. June  
26 2000, the Prendergast code cable, 19th of June 2000 to which  
27 I earlier referred, asking, in effect, that if there is the  
28 evidence, show it. So we have consistently, throughout this  
29 period, 1992, 1998, 2000, documentary evidence suggesting that

1 whatever assistance, whatever was going over that border, wasn't  
2 up to the job. So we go back to the golden thread: Why not?  
3 That was the design they agreed to, which they became party to,  
4 way back in Libya, so why not?

13:04:34 5 And one has to, I'm helpfully reminded, compare this  
6 untainted evidence, contemporaneous, written without criminal  
7 prosecution in mind, most of it - and I leave the Sankoh letter  
8 out of it for this purpose - from untainted sources. Compare  
9 this evidence to the hearsay upon which for the most part the  
13:05:10 10 Prosecution relies. We say the two just do not compare, in terms  
11 of value as evidence, as proof of guilt. Because when one looks  
12 at that evidence, the same theme is consistently present. It's  
13 the same theme. Independent of who was sending it, let's just  
14 put Mr Taylor to one side for the moment, whether it was coming  
13:05:45 15 from him, whether it was coming from ULIMO, whatever, the same  
16 theme consistently: Small amounts.

17 Moving on, point number 4: In or about May or June of  
18 1992, Charles Taylor withdrew his support for the RUF. He sent a  
19 message and withdrew his men. This is accepted by the  
13:06:28 20 Prosecution.

21 Can we go, please, to paragraph 84 of the Prosecution's  
22 final brief? It's at page 51. "Taylor's forces remained in  
23 Sierra Leone, directing and participating in the fighting and the  
24 crimes committed against civilians until around June 1992. At  
13:07:07 25 that time, after Sankoh had complained about the extent of the  
26 crimes being committed against civilians by Taylor's fighters and  
27 after NPFL and RUF brother fought brother, the accused became  
28 angry and withdrew most of them."

29 So we are - both parties appear to be ad idem on that

1 facts. They were withdrawn in or about June of 1992.

2 Now, the weight of the evidence we have heard is to this  
3 effect: That after that withdrawal, the NPFL fighters, having  
4 taken the bulk of the weaponry and ammunition, the RUF were left  
13:07:56 5 bereft of the wherewithal to prosecute the war and were pushed  
6 almost to extinction by the NPRC government aided by the  
7 mercenary group, Executive Outcomes, who had been brought in in  
8 return for diamond concessions. Furthermore, at or about the  
9 same time, ULIMO was increasing its grip on the

13:08:31 10 Sierra Leone/Liberia border until towards the end of 1992, the  
11 beginning of 1993, the border was completely in their hands and  
12 was to remain so until, we would submit, the general elections in  
13 Liberia in June 1997. Why do we submit that?

14 It has to be recalled that the highest ranking member of  
13:09:03 15 the Taylor government who came to give evidence was none other  
16 than the Vice-President, Moses Blah. Now, I'm grateful to  
17 Mr Blah for assisting us with this: Although we say in one major  
18 respect he is a liar, that he only found out about his elevation  
19 to the presidency of the country on the day, he just happens to  
13:09:31 20 turn up at the Executive Mansion, suited and booted, and all of a  
21 sudden Taylor has a word in his ear, guess what Moses, you're  
22 going to be made President today. What utter nonsense. But in  
23 any event, let's have a look at what he had to say about the  
24 closure of the border. It's the testimony of Moses Blah dated  
13:09:54 25 the 19th of May 2008. Page 10191 of the transcript, line 26 on  
26 that page, please.

27 "Q. Now, it is at around this time, specifically in June  
28 1991, that a completely different player appears on the scene,  
29 ULIMO, that is right, isn't it?

1 A. Yes, ULIMO."

2 Over the page:

3 "Q. Standing for United Liberation Movement for Democracy  
4 in Liberia?

13:10:42 5 A. You are correct.

6 Q. And they came out of Sierra Leone, didn't they?

7 A. You are correct.

8 Q. Who supported them?

9 A. Roosevelt Johnson.

13:10:54 10 Q. Who provided them with arms and ammunition to invade  
11 Liberia?

12 A. They were joined by ECOMOG.

13 Q. No, no, no. Which country provided the support for  
14 ULIMO?

13:11:06 15 A. Yes, I have got you now. It was Sierra Leone.

16 Q. So just so we understand the picture, in June 1991,  
17 while there was this uneasy truce in Liberia, the Sierra Leonean  
18 government, the neighbouring state, funded a group to invade  
19 Liberia, that is right, isn't it?

13:11:25 20 A. You are correct.

21 Q. Now, ULIMO immediately decided to attack the NPFL,  
22 didn't it?

23 A. You are correct.

24 Q. And there were fierce battles between ULIMO and the  
13:11:39 25 NPFL, particularly in Lofa County?

26 A. You are correct.

27 Q. Now that fighting with ULIMO continued for some  
28 considerable period of time, didn't it?

29 A. You are correct.

1 Q. And effectively it resulted in ULIMO gaining large  
2 portions of the western region bordering Sierra Leone?

3 A. You are correct."

4 Over the page, please.

13:12:06 5 "Q. Now the ULIMO forces former President was mostly made  
6 up of former Doe supporters and ex-army, Liberian army soldiers  
7 isn't that right?

8 A. You are correct.

9 Q. Now, one consequence of ULIMO's offensive was to  
13:12:22 10 effectively cut off the border between Sierra Leone and Liberia,  
11 that is right, isn't it?

12 A. You are correct.

13 Q. And the border between Sierra Leone and Liberia was  
14 effectively controlled by ULIMO from 1992 until the elections in  
13:12:44 15 June 1997, that is right, isn't it?

16 A. You are correct. You are correct."

17 That's Moses Blah, Vice-President of Liberia, consequently  
18 someone who was in a position to know, if ever there was an  
19 insider witness, that was him, and yet that's what that star  
13:13:14 20 Prosecution witness told this Court.

21 Now, what we do know is this. What we do know is this.  
22 I'm told that I wrongly suggested that the elections were in June  
23 1997. They were in July 1997. I think at an earlier stage,  
24 Madam President, and I just want to correct that for the record's  
13:13:48 25 sake.

26 I don't know where the transcript reference is, but if  
27 I could just say it for the record.

28 Now, so, there is a lot for us to pause and digest here.  
29 There is the withdrawal of the NPFL. There is the closure of the



1 border by ULIMO. Now, so far as the withdrawal of the NPFL, it  
2 is quite clear that Corporal Foday Sankoh was upset and bitter at  
3 Charles Taylor as a result of this. And it's possible to  
4 postulate one or two reasons why Foday Sankoh might feel that  
13:14:49 5 way. And we mention this in light again of that golden thread.  
6 Now, one, you could understand him being bitter. You're not  
7 giving me a great deal of support, and I'm having to beg you.  
8 You can understand him being bitter, two, look how your NPFL  
9 soldiers have behaved in my country in relation to my revolution.  
13:15:19 10 And then, three, you can understand him being bitter because  
11 you've withdrawn all your support, left us with insufficient  
12 means to protect ourselves, and look what's happened to us now.  
13 We've had to go into the jungle, to create those jungles. So if  
14 we look at that critical point when the NPFL withdraw on Taylor's  
13:15:46 15 instructions and the border is closed, if we look at it from the  
16 vantage point of a Foday Sankoh, one could easily conclude that  
17 this was not a man who was very happy with Charles Taylor.

18 And we would submit that there is clear evidence to the  
19 effect that Foday Sankoh remained bitter against Charles Taylor  
13:16:25 20 as a result.

21 Now, Madam President, could I give your Honours a page  
22 reference? This is evidence given by a protected witness, and so  
23 we cannot display the transcripts publicly, but I think it would  
24 be helpful to your Honours if we could - perhaps we would need to  
13:17:01 25 go into a private session in order to deal with this matter.

26 PRESIDING JUDGE: Are you going to be reading extracts,  
27 Mr Griffiths?

28 MR GRIFFITHS: Yes, please.

29 PRESIDING JUDGE: In that case, I think - let me consult.

1           Yes, in the circumstances, we will put the Court in private  
2 session. For those members of the public, you will be able to  
3 see but not hear what is happening and this is for the protection  
4 of a witness.

5                           [At this point in the proceedings, a portion of  
6 the transcript, pages 49424 to 49426, was  
7 extracted and sealed under separate cover, as  
8 the proceeding was heard in private session.]

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1 [Open session]

2 MS IRURA: Your Honour, we are in open session.

3 MR GRIFFITHS: Now, your Honours, what can we properly  
4 conclude from the evidence we've just considered? What does that  
13:22:38 5 withdrawal, what does that testimony we have just referred to  
6 tell us about what had happened to the relationship between  
7 Taylor and Sankoh in or about June of 1992 at the time of the  
8 withdrawal? It tells us that the golden thread was broken. It  
9 tells us that the JCE, allegedly created in Libya, had come to an  
13:23:09 10 end. That's what it tells us.

11 If any such JCE had been formed, that is.

12 And we submit that thereafter, following that breach,  
13 Sankoh and Taylor did not have any contact again until August  
14 1999, after the signing of the Lome agreement.

13:23:45 15 In our submission, from those years, 1992 or so, down to  
16 1999, August, there is no evidence of Taylor and Sankoh meeting.  
17 I appreciate that the Prosecution would have this Court believe  
18 that there was radio contact between the two during that  
19 intervening period. We submit that is a lie. We submit there  
13:24:21 20 was no such radio or telephonic contact during that period. We  
21 submit there was a breach in or about June of 1999 - 1992, which  
22 was never healed. That was the end of any contact between the  
23 two.

24 How can we test that proposition? I ask your Honours to  
13:24:56 25 consider this: We know that sometime in or about 1996, Sankoh  
26 went to Cote d'Ivoire, to borrow a phrase from Mr Koumjian, look  
27 at a map. Cote d'Ivoire shares a fairly lengthy border with  
28 Liberia. Now, you would have thought, given the golden thread,  
29 what should Mr Sankoh do once he gets to the safety of

1 Cote d'Ivoire? He no longer has ULIMO to block him from going to  
2 see his boss. You'd expect him to nip over the border, hey boss,  
3 we are in difficulties back in Sierra Leone, you know. RUF are  
4 in jungles, NPRC governments has given us a hard time, what can  
13:25:50 5 you do to help?

6 We know at no stage during that period spent by Sankoh in  
7 Cote d'Ivoire did he cross the border and enter Liberia. There  
8 is no evidence. And the obvious question is: Why not? We know  
9 he was travelling to other places because, guess where he got  
13:26:15 10 arrested? Nigeria. Why is he going to Nigeria when his boss is  
11 just next door? Why? In our submission, this absence of contact  
12 over a significant period is significant. It is inexplicable  
13 given the nature of the Prosecution's case. So from the start of  
14 the indictment period, the two main co-conspirators, going back

13:26:59 15 to Libya, don't have any contact, even when they have the  
16 opportunity. Why not? And in that context, can I mention  
17 something to which I will return as I promised this afternoon?  
18 During that period, why is he writing to Mohammed Talibi in Accra  
19 rather than to Taylor? Why not? And, remember, he's got his  
13:27:35 20 writer in Cote d'Ivoire because we know who wrote the

21 Mohammed Talibi letters so he's got his scribe there. Whilst  
22 he's getting his scribe to write off to Mohammed Talibi, why  
23 doesn't he say to him, "Drop a line to our friend Charlie over  
24 the border?" Why not? Why not? This is totally inexplicable  
13:28:05 25 given the nature of this allegation. It just does not make

26 sense. It's another of those instances where we say, unless  
27 credible answers can be given to those questions, then the  
28 Prosecution have a problem in reaching that high standard of  
29 satisfying you so that you are sure, otherwise known as proof

1 beyond a reasonable doubt. Can't happen.

2 Proposition number 5. Once the NPFL had been withdrawn,  
3 Foday Sankoh was undoubtedly in straitened circumstances and he  
4 was forced as a result to change the tactics of the RUF. We know  
13:29:06 5 that it was at or about this time that the decision was made to  
6 resort to jungle warfare, surviving on captured weapons. We've  
7 had much evidence of that. Also we know that it was during this  
8 period, the salute reports which have been placed before this  
9 Court consistently record contact being made with ULIMO. At  
13:29:43 10 whose suggestion? Not Charles Taylor. At Sankoh's suggestion.  
11 Using money given to Bockarie by Sankoh to trade with ULIMO.  
12 There are repeated references to that.

13 And so that's how the RUF were surviving.

14 Madam President, I note the time and sadly for a brief  
13:30:25 15 moment, we have to go again into private session to refer to some  
16 testimony.

17 PRESIDING JUDGE: There seems to be about a minute or two  
18 left. Will you be able to do it in that short time,  
19 Mr Griffiths?

13:30:36 20 MR GRIFFITHS: I can't do it in that short time.

21 PRESIDING JUDGE: Well, in the circumstances it might be  
22 more practical to take the lunchtime adjournment now and  
23 recommence with that private session. We will now adjourn to  
24 2.30. Please adjourn the Court.

13:31:10 25 [Proceedings adjourned for lunch at 1.30 p.m.]

26 [Upon resuming at 2.30 p.m.]

27 PRESIDING JUDGE: Mr Griffiths, please proceed.

28 MR GRIFFITHS: May it please your Honour, before we  
29 adjourned, I was dealing with our fifth proposition, describing

1 the straitened conditions in which Foday Sankoh found himself  
2 following the breach between he and Charles Taylor.

3 And on that topic, had noted that at that critical stage,  
4 because of a lack of the wherewithal to pursue the war, Sankoh  
14:31:45 5 was forced to change tactics and adopt jungle warfare, and the  
6 RUF were surviving on captured weapons, weapons traded for farm  
7 produce in Guinea, and also at Foday Sankoh - note  
8 Foday Sankoh's - suggestion, trading with ULIMO.

9 Now, on this critical issue, the condition of the RUF at  
14:32:19 10 this point, we are greatly assisted by some testimony given by a  
11 protected witness, and you will recall, Madam President, that  
12 I inquired whether we could have a brief private session just  
13 before the luncheon adjournment. So could we deal with that  
14 topic now?

14:32:38 15 PRESIDING JUDGE: For purposes of the public and record, we  
16 are going to have a private session. That means to members of  
17 the public will be able to see but not able to hear what is going  
18 on. This is for the security and protection of a witness.

19 Madam Court Manager, if you could please put the Court into  
14:32:57 20 private session.

21 [At this point in the proceedings, a portion of  
22 the transcript, pages 49431 to 49433, was  
23 extracted and sealed under separate cover, as  
24 the proceeding was heard in private session.]

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1 [Open session]

2 MS IRURA: Your Honour, we are in open session.

3 MR GRIFFITHS: Now, at this point, at this point of  
4 weakness, when the RUF were at a low ebb, the more intelligent  
14:38:57 5 members of the movement realised by 1995 that the movement had  
6 reached a stalemate and decided to bring their message to the  
7 wider international community. An external delegation was formed  
8 which based itself in the Ivory Coast. In due course,  
9 Foday Sankoh was to leave his jungle stronghold, Camp Zogoda, and  
14:39:28 10 join them. The Government of the Ivory Coast assisted the  
11 delegation with housing, subsistence, and communication, all of  
12 which, when later provided by the Liberian government to the RUF,  
13 in order to assist the peace process in Sierra Leone, is  
14 condemned by the Prosecution as damning evidence of Taylor's  
14:39:59 15 control of that movement. Yet, there had been this precedent set  
16 by the Government of Cote d'Ivoire. Yet no complaint is made of  
17 that by the Prosecution. Only when Charles Taylor, the demon,  
18 does the same in Liberia does it attract the kind of opprobrium  
19 we've heard in this Court. Meanwhile, the external delegation  
14:40:30 20 negotiated a peace settlement, the Abidjan Accord, signed on the  
21 30th of November 1996, the beginning of the indictment period.  
22 Now, it's clear that Sankoh was not committed to this agreement,  
23 for even whilst he was negotiating, he was seeking assistance  
24 from the Libyans to carry on the war. Now, at this point  
14:41:00 25 I wonder if we are in a position to put a document up on the  
26 screen.

27 Well, let me set the context of the document we are going  
28 to look at. Your Honours will recall.

29 JUDGE SEBUTINDE: In the meantime, please tell us what it

1 is so we can attempt to find alternative ways.

2 MR GRIFFITHS: Okay. I will do. Your Honour, it is  
3 exhibit D-15. Do your Honours have that document?

4 JUDGE SEBUTINDE: We will in a few moments but you can  
14:41:49 5 proceed with the background.

6 MR GRIFFITHS: Yes. The background is this. We know that  
7 following the signing of the Abidjan Peace Accord, Sankoh  
8 supposedly for the purpose of, in effect, selling the agreement  
9 to the troops on the ground, was allowed to return to  
14:42:09 10 Sierra Leone by helicopter and visited a couple of the jungles  
11 which had been set up in the interim period. We all recall that  
12 evidence.

13 Now, unknown to those who were providing Sankoh with that  
14 assistance, and it goes again to demonstrate the extent of  
14:42:34 15 Sankoh's duplicity because I want your Honours to be clear. I am  
16 not here to defend Foday Sankoh, and it's clear from much of the  
17 evidence we've heard that man was capable of great deceit, even  
18 with members of his own movement. That is a fact. That is  
19 established by the evidence. And it's in that context, then,  
14:42:58 20 that I invite your attention to this exhibit. Do your Honours  
21 now have it?

22 PRESIDING JUDGE: Yes.

23 MR GRIFFITHS: Now, your Honours will see it's a  
24 handwritten letter headed, "Revolutionary United Front of  
14:43:12 25 Sierra Leone," and it's dated the 26th of June 1996. We see that  
26 it's from the leader, Foday S Sankoh. Now, let's just pause  
27 again there for a moment. Now, remember the Prosecution theory,  
28 Taylor is the boss of the RUF. So why Sankoh here in this letter  
29 styling himself as the leader? But in any event, let's put that



1 to one side. We see that this is a letter addressed to brother  
2 Mohammed Talibi, Libyan Arab People's Jamahiriya, Accra, Ghana,  
3 subject, follow-up request.

14:44:07 4 "I want to thank you and the other brothers back home  
5 again, very much, for the half million United States dollars  
6 which I received through you for the purchase of needed material  
7 to pursue the military mission. However, I wish to let you all  
8 be informed that my business partners for these materials are  
9 here with me and we have had extensive discussions on this  
14:44:34 10 subject. Attached to this letter you will find a list of  
11 materials, arms and ammunition, and their costs for your serious  
12 and urgent attention. I now need one and a half million United  
13 States dollars in order to purchase twice the listed materials  
14 for effective and smooth operation."

14:45:04 15 He then goes on to mention that he's sending someone in  
16 order to further explain, and then over the page, please:

17 "The airlifting of these materials through our controlled  
18 territory will be done before any payment for this mission is  
19 done by me. This is why I am urgently appealing to you and the  
14:45:25 20 other brothers back home for your usual cooperation in providing  
21 this time the one and a half million United States dollars to be  
22 at hand with me so that my business partners and my  
23 representatives can proceed for these materials very quickly for  
24 fast and smooth operation."

14:45:46 25 Let's just put this letter, because we consider this to be  
26 of some significance, in its context, its proper context. This  
27 is June 1996. So it's five months before the signing of the  
28 Abidjan Peace Accord. It means, then, that whilst the  
29 negotiations were going on, this duplicitous man was making other

1 plans. And it's quite clear that Sankoh had no intention to  
2 abide by the terms of the Abidjan Peace Accord, and we have to  
3 ask in due course and will, whether, in fact, he had any  
4 intention of abiding by the terms of the Lome agreement.

14:46:44 5 Secondly, why is there no mention of Taylor in this letter?  
6 Recalling, of course, that golden thread, fashioned in Libya,  
7 including among its operatives, Gaddafi, a person who will have  
8 to loosen the purse strings for this one and a half million, and  
9 Burkina Faso. So why no mention of the other pillar of that  
14:47:18 10 triumvirate, Charles Taylor, why not?

11 Thirdly, who are these business representatives? Now,  
12 remember the theory is Taylor is there to provide for the RUF's  
13 needs, so who are these unidentified business representatives?  
14 It means, then, of course, that Sankoh and hence the RUF had  
14:47:50 15 access through other sources, other than Charles Taylor, to  
16 obtaining war materials. That is clear. And when we come in due  
17 course to think about the Magburaka shipment, which we will, and  
18 also the shipment which came into Sierra Leone at the back end of  
19 1998, we need to bear this important point in mind: Sankoh had  
14:48:20 20 his own sources. It is a fact.

21 Now, you will recall, Madam President, your Honours, that  
22 there was a second Mohammed Talibi letter. That is  
23 exhibit P-272. And Madam Court Manager, I hope that everything  
24 is up and running now. Are we still experiencing difficulties?

14:49:05 25 MS IRURA: Your Honour, the problem had been rectified, but  
26 I seem to be experiencing grave problems with my computer again.

27 MR GRIFFITHS: Very well, can we adopt the same procedure  
28 as the last time, then, your Honours?

29 PRESIDING JUDGE: I think we have it here, Mr Griffiths.

1 MR GRIFFITHS: I'm grateful. It's exhibit P-272. And,  
2 again, we would submit that this is an exhibit which bears  
3 fruitful, detailed analysis. Again, we see it's a handwritten  
4 letter dated the 4th of December. Pause there. 4th of December  
14:49:51 5 would be just after the signing of the Abidjan Peace Accord, and  
6 as we will see in due course, it's after Sankoh had made the  
7 helicopter trip to Sierra Leone. It's from - and remember, this  
8 we were told, this letter was written in the Cote d'Ivoire, and  
9 I've already mentioned the absence of any suggestion or evidence  
14:50:23 10 that whilst in the Cote d'Ivoire Sankoh met with Taylor. We then  
11 see this. It's from Corporal Foday Sankoh, leader of the RUF SL  
12 Abidjan, La Cote d'Ivoire, to brother Mohammed Talibi, People's  
13 Bureau of Libyan Arab People's Jamahiriya, Accra, Ghana.  
14 Subject: Urgent information.

14:50:54 15 "I received the \$29,000 United States through  
16 Mr Daniel Kallon."

17 Pause. In our final brief, we have set out the important  
18 and critical role played by this Daniel Kallon and his wife,  
19 Isatu Kallon, Mamie I. We see here mention of him and we would  
14:51:23 20 submit confirmation of his role, because let's just pause and  
21 think about it for a moment. If you're Foday Sankoh, you would  
22 really have to trust someone to allow them to take safe passage  
23 of \$29,000 US. That gives us a reflection of what - how  
24 important the role was played by this Daniel Kallon, "for which I  
14:52:00 25 am really very grateful to you and the other brothers back home.  
26 We have signed the peace accord on November the 29th, 1996, just  
27 so as to relieve our movement of the enormous pressure from the  
28 international community while I will use this opportunity to  
29 transact my business in getting our fighting materials freely and

1 easily."

2 I've mentioned the use of that word "my" before. We see it  
3 here repeated. Why? But more than that, remember, round about  
4 this time, late 1996, the RUF were under serious pressure.

14:52:47 5 Camp Zogoda having fallen, and so on and so forth.

6 "I have already finished negotiations with my business  
7 partners" - there we have that reference again - "my business  
8 partners. And I have so far paid \$300,000 US. Our agreement is  
9 that they should receive \$700,000 US from me in Sierra Leone upon  
10 their arrival with the material into my controlled territory."

14:53:16

11 I pause again. Now, where did that \$300,000 US paid by  
12 Sankoh come from? Bearing in mind, I repeat myself, he's just  
13 over the border from Charles Taylor, so where did it come from?  
14 And hold on a minute. Why have we not heard from a single  
15 witness about Charles Taylor handing over what in these terms is  
16 an enormous sum to Foday Sankoh whilst he's in Cote d'Ivoire?  
17 Why not? Why is there this absence of proof on such a critical  
18 matter?

14:53:47

19 But it continues: "The total cost of the material is \$2  
20 million US. The balance amount will be paid when the operation  
21 is completed. I am therefore asking you and your brothers to  
22 urgently provide the needed \$700,000 US so that I will be in a  
23 position to live up to my commitment to my business partners who  
24 will be coming very soon with these materials -- coming very soon  
25 with these materials. As I have always learned from you people,  
26 there is some money with the Burkinabe government, for the  
27 provision of our needed materials, but as you might have known by  
28 now, that government have really not shown any keen interest in  
29 assisting us as a movement."

14:54:42

1           Pause again. That's another prong of the triumvirate,  
2 Blaise Compaore in Burkina Faso. And remember, this is an aspect  
3 of the golden thread. So what is Sankoh doing saying this?  
4 "They really have not shown any keen interest in assisting us as  
14:55:30 5 a movement. I even had conversation with Commandant Diendere  
6 these few days but with no positive results. I would therefore  
7 suggest that you prepare a letter for me to meet  
8 President Compaore on this issue, as we never received anything  
9 from them, and even my delegates at Ouagadougou have returned  
14:56:01 10 ever since to my location here. Please advise on this issue."

11           Pause again. What Sankoh is saying there is, I'm going to  
12 approach Blaise Compaore for assistance, but hold on a minute,  
13 why not approach your main benefactor, Charles Taylor? Why is  
14 there no mention at this point in the letter, and also, guess  
14:56:27 15 what, I'm going to go to Charles Taylor as well and see what  
16 assistance he can provide to us? No mention of it. Nothing  
17 whatsoever. Why?

18           "When I went in last week" - now, this is a reference to  
19 the helicopter trip - "when I went in last week I was able to  
14:56:54 20 organise serious mining operations in precious minerals which I  
21 believe will help us to generate the needed foreign exchange for  
22 our mission."

23           Now, recall evidence to the effect that in the early part  
24 of the invasion of Sierra Leone, today Sankoh was dead against  
14:57:21 25 the idea of the RUF being involved in diamond mining. There is  
26 evidence before this Court of diamonds being captured but the  
27 evidence, the preponderance of the evidence, we would suggest, is  
28 to the effect that organised diamond mining within the RUF took  
29 place after this date. So this is December 1996.

1 And on that note, why is he saying, "When I went in last  
2 week, I was able to organise serious mining operations"? Why  
3 isn't he saying, "Well, my brother, Charles Taylor, has already  
4 been involved in diamond mining and so I've decided, given his  
14:58:23 5 lead, given that, I have to look to Charles Taylor in Liberia as  
6 the blueprint for everything I do. Why doesn't he say in the  
7 letter, well my brother Charles Taylor has been involved in  
8 diamond mining before, and I'm just getting involved now myself?  
9 Why not?"

14:58:42 10 "For now, I am highly in need of this US \$700,000 in order  
11 to go in and be waiting for the arrival of my business partners.  
12 Please help me in this great hour of need and I promise not to  
13 let you down." And then he gives the name of someone, "who will  
14 give you the rest of my message. My best regards to you and your  
14:59:13 15 family."

16 Now, I said to your Honours that this letter is of some  
17 significance. What it shows is this: At the - sometimes towards  
18 the end of 1996, Foday Sankoh, on behalf of the RUF, was busy  
19 seeking funding from the Libyans to finalise the purchase of a  
14:59:53 20 large quantity of arms. It would appear on the face of these two  
21 letters that he was doing it independently of Charles Taylor,  
22 using his own business contacts.

23 Now, recall that between nine to perhaps 11 months later,  
24 what happens? We have the Magburaka shipment. And remember the  
15:00:30 25 evidence from Issa Sesay that that shipment had been organised by  
26 Foday Sankoh before his arrest, and it had been waiting in  
27 Burkina Faso, the country named in the letter, to be delivered.  
28 Do you remember that evidence? Now, putting all of that  
29 together, who purchased the arms which arrive in Magburaka? Who

1 did? I'm going to come back to that shipment later but we would  
2 submit, clearly on the face of these two letters, Foday Sankoh  
3 was engineering this for himself without any assistance, without  
4 any collaboration from Charles Taylor.

15:01:32 5 Now, before I leave this particular topic, unfortunately,  
6 Madam President, I'm just going to have to inconvenience the  
7 public gallery for a very short time, some evidence from a  
8 protected witness which I think would be best given in private  
9 session. It's a fairly short passage. It shouldn't last more  
15:01:58 10 than three to four minutes.

11 PRESIDING JUDGE: Again, for the information of the public  
12 and for record, we are again going into a very brief private  
13 session to adduce evidence of a protected witness. This is for  
14 the security and protection of a witness.

15:02:20 15 Madam Court Officer, please put the Court in private  
16 session.

17 [At this point in the proceedings, a portion of  
18 the transcript, pages 49443 to 49444, was  
19 extracted and sealed under separate cover, as  
15:02:25 20 the proceeding was heard in private session.]

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1 [Open session]

2 MS IRURA: Your Honour, we are in open session.

3 MR GRIFFITHS: Now, moving on, Madam President, and this is  
4 my sixth proposition, the RUF were to stay in the jungle until  
15:06:35 5 the AFRC coup on the 25th of May 1997.

6 We submit that there can be no credible suggestion that  
7 Charles Taylor had a hand in the coup, nor that the former  
8 members of the Sierra Leonean army, who had in the early 1990s  
9 been fighting against the NPFL, that suddenly, on them taking  
15:07:20 10 power, they decided to become Charles Taylor's lackeys, because,  
11 remember, that's the theory: Taylor rose from commanding just  
12 the RUF to also commanding the AFRC. Just thinking about the  
13 logic, the psychology, of it, that this was a coup engineered by  
14 former members of the SLA, who had seen their comrades killed in  
15:07:57 15 combat with Liberians, and then all of a sudden now, they are  
16 going to appoint Charles Taylor their leader. It's nonsense.

17 Because let us just remind ourselves of some of the  
18 evidence promoted by this Prosecution in order to support this  
19 theory. Do you remember that evidence, that shortly after the  
15:08:30 20 AFRC coup, Charles Taylor's telephone number was sent to  
21 Johnny Paul Koroma and they were busy speaking to each other over  
22 the phone? This at a time, 25th of May 1997, remember, let's  
23 just jump across the border for a minute and consider what's  
24 happening in Liberia at the time of the coup. Taylor is in the  
15:09:05 25 middle of fighting an election. After fighting an almost  
26 ten-year bloody civil war, power is almost in his grasp. You can  
27 imagine the amount of electioneering he would have been involved  
28 in at that time. The difficulties of traversing a Liberia where  
29 the infrastructure had been virtually destroyed and having to



1 campaign in such circumstances, and, yet, according to this body  
2 of evidence, at this time, when he's not even President, without  
3 access to the armouries of Liberia, he's busy on the phone to  
4 Johnny Paul Koroma giving him orders, running the AFRC. That's  
15:10:04 5 why we do not apologise for saying this is nonsense. And staying  
6 on the same topic, staying on the same topic, I don't refer your  
7 Honours to the particular document but I'm sure your Honours will  
8 recall it. You will recall the begging letter sent by  
9 Johnny Paul Koroma, as leader of the AFRC, in the autumn of 1997  
15:10:36 10 to Charles Taylor. Two things. Why send the letter when you can  
11 telephone him? You've got his number. So why write that letter?  
12 Bearing in mind, of course, if you, Charles Taylor, the man who  
13 the Prosecution claim plays one game with his colleagues in  
14 ECOWAS, plays another game behind closed doors, such a man, you  
15:11:15 15 would have thought, if he's involved in this nefarious  
16 connection, that's better conducted by phone, by radio, rather  
17 than putting in down on paper in black and white. Why the letter  
18 from Johnny Paul Koroma?

19 And on the same topic, point number 3. Why the delegation  
15:11:45 20 sent to Liberia by the AFRC? Why? And Taylor didn't even bother  
21 to see them. And one can understand why not, given what steps  
22 were being taken by ECOMOG at that time to unseat that  
23 government. And let's just pause for a minute. Forget the  
24 evidence and just think about the politics of that moment. This  
15:12:25 25 is autumn 1997, he's just come to power. Shortly after he's put  
26 on the Committee of Five, an elevation, is he really going to  
27 jeopardise that? Can you understand now why in those  
28 circumstances, newly admitted to the Presidents' club, why would  
29 he want to jeopardise that by meeting with this delegation from

1 Johnny Paul Koroma. Sometimes we need to step outside the  
2 confines of the courtroom and inject into it the reality of the  
3 real world in order to properly understand the testimony being  
4 placed before this tribunal.

15:13:06 5 Now, equally what is clear is that the AFRC/RUF alliance  
6 was fractious from the very beginning. Now, the Prosecution  
7 alleges that that alliance was strategic in that the AFRC needed  
8 the RUF for its connections to Taylor, as well as to help ward  
9 off ECOMOG and Kamajor attacks. That argument, in our  
15:13:46 10 submission, deliberately overlooks a number of important factors,  
11 which would otherwise falsify that claim.

12 First, when the AFRC came to power and immediately called  
13 on the RUF to join in forming a government, they had not yet  
14 faced any military resistance from either ECOMOG or the Kamajors.  
15:14:14 15 According to TF1-597, the Prosecution's main witness on AFRC  
16 affairs, the AFRC called the RUF within a week or so of the coup.  
17 So that's in late May, early June, 1997. Taylor is not president  
18 yet. Secondly, Taylor, as I suggest, only became president more  
19 than two months later. And we would submit that there is no  
15:14:55 20 credible evidence of any contact between Taylor and the AFRC at  
21 or about the time of the coup or, indeed, thereafter. Because  
22 the reality is this: The AFRC coup was an unplanned act by  
23 disgruntled members of the Sierra Leonean army, who felt that  
24 their President, Ahmad Tejan Kabbah, was sidelining them in  
15:15:30 25 favour of the CDF. That's the reality. And it was they, the  
26 AFRC, who called on the RUF to join the government in order to  
27 foster peace, and no doubt, thereby gain a spurious legitimacy  
28 for their regime.

29 Again, pause to understand the politics. You're

1 Johnny Paul Koroma, you've just overthrown a democratically  
2 elected President. You want recognition from the world because  
3 you're suffering from an arms embargo. What would be one of the  
4 preconditions for that kind of recognition? If I can establish  
15:16:15 5 peace in Sierra Leone. It adds a greater legitimacy to my  
6 regime. So one can understand, without the intervention of a  
7 Charles Taylor, why a Johnny Paul Koroma in that circumstance,  
8 for purely political reasons, would want to establish this  
9 alliance. He had much to gain and much to lose from a  
15:16:38 10 continuation of hostilities.

11 And the Prosecution also claim, I think at paragraph 440,  
12 that after the two groups came together, they functioned  
13 effectively as a team. Now, we address that in our final brief,  
14 but the fact is there was no effective functioning of that  
15:17:09 15 alliance. From the beginning, that marriage was fractious and  
16 clearly heading for divorce. Because you will recall that it was  
17 said that Bockarie at one time described the marriage, and  
18 I quote, "As the marriage of uneven and unequal partners."  
19 That's in exhibit D-9.

15:17:51 20 Indeed, as Prosecution witness TF1-568 confirmed, in  
21 cross-examination, it was natural that the AFRC and the RUF, as  
22 former enemies, and I quote, "There must arise a power struggle  
23 among us." So it would appear from the testimony of that witness  
24 that he too knew that this marriage was doomed.

15:18:26 25 Even TF1-274, who throughout his testimony in chief  
26 endeavoured to fill the many gaps in the theory of the  
27 Prosecution case, when pushed in cross-examination admitted that  
28 the relations between the RUF and the AFRC had not been perfectly  
29 cordial during the time of the junta government. Indeed, rather

1 than functioning effectively and cordially, there is overwhelming  
2 evidence that the RUF was largely marginalised. Furthermore,  
3 there is even evidence of serious tension between the two groups.  
4 There is, for instance, overwhelming evidence across the  
15:19:28 5 Prosecution/Defence divide, of a plot instigated by Foday Sankoh  
6 for Gibril Massaquoi and Steve Bio to overthrow  
7 Johnny Paul Koroma and take charge of the AFRC. So there is a  
8 whole body of evidence here which points to the nature of that  
9 relationship. Why have I spent a little time dealing with that?  
15:19:58 10 Firstly, because Taylor is alleged to have assumed, in some  
11 mysterious way, control of the AFRC. How he managed it is yet to  
12 be explained. Point number 2, however, is this: Bearing in mind  
13 this concept of superior responsibility, how is Taylor, from  
14 Monrovia, going to coordinate the activities of such a fractious  
15:20:35 15 relationship? Surely that is relevant to that mode of liability.  
16 How is he going to do it, when one hand isn't listening to the  
17 other in this alliance? How is he going to do it? Now, the fact  
18 is that this coup ushered in the most violent phase of the civil  
19 war in Sierra Leone. The 18 month or so period from the AFRC  
15:21:17 20 coup up until the Freetown invasion was the high point of the  
21 violence in Sierra Leone, culminating, as I've mentioned, in the  
22 notorious Freetown invasion. Those 18 months are, in effect, the  
23 crux of this Prosecution. That's what this case is about. This  
24 was the period when the signature atrocity of the Sierra Leone  
15:21:52 25 conflict really brought the horrors of this war to the eyes of  
26 the international community. Yes, I agree, there is evidence of  
27 amputations before then, as in Operation Stop Election. But the  
28 preponderance of the evidence is that grave offence really took  
29 off and really attracted attention during that 18-month period.

1 And I pause to make this point: It will be noted that  
2 amputation was never a feature of the conflict in Liberia. Yet,  
3 remember, and I say it again, the Prosecution case is Liberia,  
4 Taylor and the NPFL provided the template for the activities of  
15:22:52 5 the RUF. So why didn't amputations become a part of the backdrop  
6 to the blood-letting in that country? Why not? And why did  
7 Charles Taylor suddenly decide, Oh, well I'm not going to let the  
8 NPFL amputate here but you guys over the border, I want you to go  
9 off, and you know, cut off a few limbs? This is nonsense.

15:23:28 10 Now, I'm not going to go into the detail of the events  
11 during that 18-month period because we submit that they are  
12 adequately covered in our final closing brief. But I would end  
13 by saying this, this particular chapter: From the period from  
14 January 1999 onwards, the focus, in terms of violence, shifts to  
15:24:04 15 Liberia, with the emergence in 1999 of LURD, later MODEL and  
16 clear attempts by outside powers to oust Taylor. Now, we are not  
17 going to go into the history of that period in any great detail  
18 because we submit it is a distraction at one level and we want to  
19 concentrate on what is important, that is the indictment.

15:24:37 20 Because after the Freetown invasion, speaking in broad terms,  
21 what's happening in Sierra Leone of note? We have  
22 demobilisation, disarmament, proceeding unevenly but proceeding  
23 nonetheless, made possible by the commitment of that young man  
24 serving 50-odd years in custody in a prison in Rwanda, now  
15:25:10 25 convicted of serious crimes, even though at the time many  
26 important people in the sub-region were commending him, that  
27 young man, for what he had done, Issa Sesay, to bring about peace  
28 in Sierra Leone.

29 But in any event, the only issues in reality in

1 Sierra Leone which your Honours will have to consider in that  
2 period after the Freetown invasion is the capture of the UNAMSIL  
3 peacekeepers, of the peacekeepers by the RUF, and also the road  
4 to Lome. I mention that again briefly in due course but not a  
15:26:03 5 great deal is happening, we would submit, in Sierra Leone after  
6 that point, save for that abiding issue about diamond mining and  
7 diamonds going over the border channeled through Charles Taylor.  
8 You will have noted, Madam President, that I've said very little  
9 to date about diamonds, and, frankly, I don't intend to say much.  
15:26:29 10 What I would invite your Honours to do is take a little time to  
11 examine that report prepared by the Belgian authorities about  
12 diamonds. In our submission, it will - you will benefit from  
13 careful perusal of that document because what in our submission  
14 it clearly shows, particularly when allied with the  
15:26:59 15 Mohammed Talibi letters, particularly allied with - do you  
16 remember the Charles letter about the Belgian man called Charles?  
17 When we put all of that together, the picture which emerges is,  
18 yes, the RUF were involved in diamond mining, yes, there was  
19 smuggling out of Sierra Leone, yes, it was going through  
15:27:23 20 Monrovia, but it always been thus, even before the war, because  
21 Liberia then used US dollars for currency and from way back in  
22 time, Monrovia being the route.  
23 Think about another practical thing. If you're the RUF and  
24 you're mining diamonds up in Kono, how do you get them out of the  
15:27:47 25 country? You can't go through Lungi airport, a bit difficult  
26 that. So how are you going to get them out the country? And so,  
27 yes, diamonds might have been going through Monrovia but we  
28 submit the only concrete, independent evidence, which is  
29 available suggests that this was being done independently, either

1 independent - they were doing it independently of Charles Taylor,  
2 and bear in mind, of course, we accept it couldn't have been  
3 going on without the complicity of certain people in his  
4 government. Couldn't have.

15:28:44 5 But what we ask your Honours to examine is how credible is  
6 that evidence which suggests that he was the conduit and  
7 beneficiary of that - of that behaviour.

8 Before I move from that topic, can I make one point? And  
9 it's this: In the indictment, the Prosecution does not make the  
15:29:18 10 allegation of pillage in relation to diamonds under the charge of  
11 pillage. They don't. It is limited to the civilian population.  
12 In our submission, that is a matter of some importance. So we  
13 have - so we have, then, traversed the key phases of the conflict  
14 in Sierra Leone.

15:29:54 15 Now, I promised that I would return to the Magburaka  
16 shipment. And I do. Now, Madam President, we would submit that  
17 this passage in our closing brief rewards careful analysis. It  
18 begins at paragraph 594 of our closing brief. And can I just  
19 deal with the matter in this way with some bullet points?

15:30:45 20 Point number 1: Where did the Magburaka shipment come  
21 from? Was it Burkina Faso? That's the evidence of TF1-597. Was  
22 it the Ukraine? TF1-338. Was it South Africa? The footnote  
23 from that book in ECOMOG put to Mr Taylor in cross-examination  
24 linked to the Naomi Campbell evidence. And according to that  
15:31:55 25 footnote, the arms came from South Africa by boat, landed in the  
26 free port in Monrovia. So which of those are we to accept?  
27 Burkina Faso, Ukraine, South Africa? Which is right? Let's ask  
28 another question. How was the shipment paid for? One witness,  
29 TF1-597, it was paid for with diamonds. Note the plural,

1 diamonds. Because another witness, TF1-371, said that it was  
2 paid for with a 90-carat diamond and \$90,000 from the Bank of  
3 Sierra Leone. Issa Sesay then said a third version, that it was  
4 paid for with \$90,000 from the Bank of Sierra Leone. Again,  
15:33:28 5 which is right? And before we leave that topic of how it was  
6 paid for, remember, according to the Prosecution, Taylor's in  
7 possession of the diamonds in South Africa.

8 I apologise. Issa Sesay said the 90,000 was to pay for the  
9 transport, the shipment having already paid for - been paid for  
15:34:04 10 by Foday Sankoh. And I remind your Honours of the  
11 Mohammed Talibi letters.

12 A third area of inconsistency: Who facilitated this?  
13 According to TF1-597, there was a conversation between  
14 Johnny Paul Koroma and Taylor about arms, following which a  
15:34:37 15 delegation, which included Bockarie and Ibrahim Bah, went to  
16 Liberia. Two weeks later, a plane arrived at Magburaka. That's  
17 version 1.

18 Version 2: TF1-371. Ibrahim Bah had come from Taylor to  
19 help the junta obtain arms, and he requested the junta raise a  
15:35:08 20 90-carat diamond for the arms and 90,000 for the flight.  
21 Johnny Paul Koroma handed diamonds and money to Bockarie who  
22 passed them on to Bah. Bah went to Monrovia, then came back on  
23 the shipment flight.

24 Version number 3: TF1-334. Fonti Kanu had gone ahead to  
15:35:40 25 facilitate it.

26 Version number 5 - 4: Issa Sesay testified that  
27 Johnny Paul Koroma gave 90,000 to Ibrahim Bah to went with  
28 Fonti Kanu and one Arnold Bangura. Koroma paid for the flight  
29 and Sankoh paid for the shipment with the money he had received



1 from Libya.

2 There is a fourth area of inconsistency regarding this  
3 shipment: Who went to pick it up?

4 TF1-597 testified that he was present along with

15:36:32 5 Fonti Kanu, TF1-371 and a Burkinabe soldier called Musa were on  
6 board the flight. TF1-338 gives us a different version. He went  
7 with Issa Sesay and Morris Kallon. TF1-371 gives us a third  
8 account, that he, Morris Kallon, and SO Williams went to  
9 Magburaka to pick it up. TF1-334 gives yet another account. He  
15:37:23 10 went with SO Williams and Akim Turay as well as Fonti Kanu. We  
11 then have Issa Sesay's account. He went with SO Williams, to  
12 Magburaka by helicopter, and Fonti Kanu and Ibrahim Bah were on  
13 the plane.

14 Again, and perhaps I've laboured this point too much and  
15:37:55 15 torn a passion to tatters but, again, there are inconsistencies  
16 as to when this shipment comes - came in. There are also  
17 inconsistencies about what the shipment included. It's all set  
18 out in our final brief. But the point is this: A criminal trial  
19 is not a lucky dip. It's not a question of throwing inconsistent  
15:38:26 20 pieces of evidence before your Honours and in effect saying,  
21 "Take your pick." That's not how it works. And of course, given  
22 the length of time which has elapsed between these events and the  
23 testimony of witnesses, one would expect such inconsistencies to  
24 occur; it is natural and human, but not to this extent. And when  
15:38:53 25 evidence is replete with inconsistencies and contradictions like  
26 this, there is only one thing to do with it: Throw it in the  
27 bin. That is what we submit the Court should do with this body  
28 of evidence: Get rid of it. We submit it's garbage.

29 Bearing in mind, of course, I'm helpfully reminded that

1 Issa Sesay's version as to the source and the form of payment,  
2 that is, by Foday Sankoh, was confirmed by Isaac Mongor in a  
3 prior statement which he tried to disown when he arrived at this  
4 Court to give evidence, and also bear in mind that Issa Sesay's  
15:39:46 5 version appears on the face of it to be confirmed by those two  
6 Mohammed Talibi letters. So if your Honours are not minded to  
7 accept my invitation to get rid of this garbage, then  
8 your Honours might want to consider whose account does the  
9 independent evidence support? We submit the account it supports  
15:40:15 10 is that of Issa Sesay. And we submit that is the account which  
11 your Honours should accept.

12 Now, before I leave this Magburaka shipment, I really can't  
13 avoid responding to a comment made by my learned friend,  
14 Mr Koumjian, this morning. How can the RUF, we were asked,  
15:40:57 15 contact Burkina Faso? Look at the map. They share no border.  
16 Well, funnily enough, airplanes fly over borders. Funnily enough  
17 it appears here this an aircraft did fly over the border from  
18 Burkina Faso and dropped off this shipment. It's quite clear.  
19 We also recall evidence of efforts to build an airstrip in Buedu.  
15:41:32 20 And bear this in mind before I finally depart this topic: If, as  
21 we submit, bearing in mind the Mohammed Talibi letter, and the  
22 other evidence in support, if it is the case that Foday Sankoh  
23 arranged and paid for that shipment, what it means is this: A  
24 precedent had been set, for the events of December 1998, when  
15:42:05 25 quite clearly following a visit by Bockarie to Blaise Compaore, a  
26 further shipment came in. Sankoh set the precedent. He was the  
27 one who made the contacts, we submit through Ibrahim Bah, who was  
28 not sent by Charles Taylor, and that was the precedent.

29 And in reality, the evidence appears to confirm that only

1 two large shipments of arms ever entered Liberia - Sierra Leone  
2 during the indictment period. Magburaka and December 1998. Now  
3 we can all understand why despite the internally and externally  
4 contradictory nature of the evidence surrounding Magburaka, the  
15:43:10 5 Prosecution have still stuck by their guns. They can't afford to  
6 do otherwise. Because if the general evidence is that it's only  
7 a trickle going across the border, and I don't repeat that point,  
8 they need this. It is vital to their concept of the case, which  
9 is why they have struggled uphill from day one to try and  
15:43:39 10 establish the unestablishable.

11 So there I conclude my submissions regarding the various  
12 phases of the war in Sierra Leone.

13 Now I want to move to another related but slightly  
14 different topic. Following Sankoh's arrest in March 1997 in  
15:44:14 15 Nigeria, Bockarie became the acting leader of the RUF on the  
16 ground in Sierra Leone. The Prosecution case is that from the  
17 beginning, Bockarie was Taylor's boy. Furthermore, the  
18 Prosecution alleged - alleged - that there had been no break in  
19 communication between Sankoh and Taylor but, rather, there had  
15:44:42 20 been a seamless and continuous relationship from the outset.  
21 This blatant attempt to rewrite history in order to force the  
22 facts to fit their theory cannot, we submit, be countenanced by  
23 this Court. No theory can be a substitute for the reality of  
24 events.

15:45:07 25 There is a document to which I will come in a moment which,  
26 in our submission, completely cuts away the ground upon which  
27 that assertion is based. But before I come to that, let me say  
28 this: Your Honours, the evidence is quite clear, Sam Bockarie  
29 was at times an evil and vicious man who carried out some very

1 inhumane actions, such as the massacre in Kailahun. A number of  
2 witnesses called by both Prosecution and Defence have described  
3 him in the most unflattering terms. Of course, some of those  
4 witnesses had good cause to feel that way about him, and to an  
15:46:15 5 extent, Issa Sesay. Imagine being kept in a hole in the ground  
6 or living in a goat shed for months, after the sacrifices you had  
7 made in order to bring about the Abidjan Peace Accord. And you  
8 know who I'm talking about. Imagine that. And then to be  
9 treated in that way. How do you think such a witness would feel  
10 about his captor? The man responsible for that treatment over so  
11 many months, how would they feel? So there is a level at which  
12 we need to exercise some caution when we approach the evidence of  
13 those witnesses. They don't come to the topic of Bockarie with  
14 completely clean hands, because there is a hinterland of pain and  
15:47:07 15 suffering which might well be colouring their testimony in this  
16 Court. So we need to bear that in mind.

17 But what is the document I'm talking about, which in our  
18 submission cuts the ground away from under this assertion of  
19 seamless contact between the RUF and - between the RUF and the -  
15:47:32 20 and Mr Taylor? And even Mr Taylor's appointment of Bockarie as  
21 leader, following a phone call from Foday Sankoh? I'm not going  
22 to go into the detail of that. Remember all the business about  
23 you must now take orders from the man over the border? I'm not  
24 going to go into that. But let's just have a look at a document.  
15:47:57 25 It's exhibit D-7. And Madam Court Manager, it's behind divider  
26 11. Do we have it? We do, I'm grateful.

27 It's the Tiagen Wantee letter to which my learned friend  
28 Mr Koumjian referred this morning. I'm sure it's my fault but  
29 I still have difficulty understanding the point that Mr Koumjian

1 was seeking to make. Now, the only way the Prosecution can get  
2 around the significance and importance of this letter is to say  
3 it's a forgery. They haven't made that suggestion but it's the  
4 only way they can explain it. Now, do you recall Mr Koumjian  
15:49:28 5 drawing your Honours attention to a meeting of ECOWAS leaders in  
6 July 1998, attended by Mr Taylor, referred to in the presidential  
7 papers? So let's just get the sequence. Taylor attends that  
8 meeting in July. This letter arrives in August 1998 from the  
9 Liberian ambassador in Guinea.

15:49:59 10 "One Major Eddie P Kanneh, former secretary of state of the  
11 defunct military junta RUF of Sierra Leone on August 8 1998 called  
12 on me and provides some confidential information, that they were  
13 doing everything possible to overthrow President Charles Ghankay  
14 Taylor. He emphasised his strong desire of meeting with the  
15:50:23 15 Liberian leader in order to have him informed about the  
16 situation."

17 Then goes on to give his mobile number.

18 "He then requested the issuance of a Liberian travel  
19 document to facilitate his travel to Monrovia, which we  
15:50:45 20 considered illegal until proper contacts and proper arrangements  
21 were made with the appropriate authorities. Meanwhile  
22 Major Kanneh, who remains a strong advocate of the RUF Junta  
23 forces, reiterated his plan of travelling to Liberia along with  
24 six other members of his organisation and would cross into  
15:51:10 25 Sierra Leone to join their men after his meeting with the  
26 Liberian leader. He named one Mr Side Janneh and  
27 Brigadier Bockarie, both Sierra Leonean nationals, including one  
28 Mr Sheriff, assistant director of Special Security Service of  
29 Liberia, as contact persons in the country."

1 Now, the spin that Mr Koumjian is trying to put on this is  
2 this: That that last sentence means Bockarie was already in  
3 Liberia. Does that make sense? I'm sorry, I'm sure I'm missing  
4 something here. But does that make sense? In our submission, it  
15:52:05 5 does not.

6 Now, Madam President, there are a number of questions we  
7 must ask in light of this letter. If there had been this  
8 seamless, continuous communication between Sankoh and Taylor,  
9 between Sankoh and Bockarie, why would Eddie Kanneh have to use  
15:52:34 10 this circuitous route to get in touch with Charles Taylor? Hold  
11 on a minute: Wasn't Taylor supposed to be in regular radio  
12 contact with his minions across the border? Wasn't Taylor  
13 supposed to be the controlling influence of the AFRC? So why is  
14 Major Kanneh, who remains a strong advocate of the RUF junta, why  
15:53:10 15 does he have to go to these lengths to meet Taylor? It doesn't  
16 make sense.

17 Further, mention is made of Varmuyan Sherif, assistant  
18 director of the Special Security Service. Now, remember,  
19 Mr Sherif is, apart from Moses Blah, the former Vice-President,  
15:53:34 20 the most senior member of the Liberian state apparatus to be  
21 called by the Prosecution to give evidence. Interestingly, a  
22 former general in ULIMO, guess who had been selling arms to the  
23 RUF? Oh, dear. It's ULIMO. As is supported by a number of  
24 entries in those salute reports. And it is the same  
15:54:12 25 Varmuyan Sherif who is being mentioned here. Let's look at it  
26 from the other side of the border for a moment now. Given what  
27 Mr Sherif said was going on, he was regularly transporting arms  
28 over the border to the RUF, again, why does Eddie Kanneh have to  
29 write this letter? Look what Varmuyan Sherif's role is. What

1 would be the easiest way of facilitating this? Walk up the steps  
2 in the Executive Mansion, go to see Mr Taylor, and say,  
3 "Eddie Kanneh wants to come in." It's as simple as that, so why  
4 do we need this letter?

15:55:05 5 Now, remember also the Prosecution claim that Taylor had  
6 been in contact with Bockarie from the previous year, 1997. So  
7 if that be right, again, I'm sounding like a stuck record now,  
8 why do we need this letter? Bockarie could facilitate it.  
9 Again, Taylor has been in telephone contact with  
15:55:41 10 Johnny Paul Koroma right from the outset, we are told. If that's  
11 right, why do we need the letter? In our submission, that's the  
12 significance of this letter, and that is why the Prosecution felt  
13 the need, the keenly felt need, to try and deal with it, and in  
14 our submission, Mr Koumjian has singularly failed to provide any  
15:56:18 15 adequate or acceptable answer.

16 Now, Mr Taylor accepts that he received this letter and  
17 that he did make contact with Bockarie. He gave evidence that he  
18 met with Bockarie in the autumn of 1998 for the first time.  
19 I don't go into the details of that because Mr Koumjian dealt  
15:56:46 20 with it this morning as to the number, frequency and so on, of  
21 the meetings. I am sure that your Honours have all of that  
22 evidence well in mind. But interestingly this: At the time that  
23 these meetings with Bockarie were taking place, there is an  
24 interesting code cable. Yes, could we put up, please, D-170? Do  
15:57:44 25 we have it?

26 PRESIDING JUDGE: Not yet, Mr Griffiths, but just give us a  
27 moment. Oh, it's come on the screen now.

28 MR GRIFFITHS: I'm grateful. Page 1, 15th of October 1998,  
29 at or about the time of contact with Bockarie by Charles Taylor,

1 following the letter so we get the sequence, ECOWAS meeting July;  
2 Tiagen Wantee letter, 12 August; meeting Bockarie, this is now  
3 15th of October so we are in the same time frame. Paragraph 3,  
4 bottom of that paragraph: "He maintained that it was  
15:58:33 5 inconceivable that the President would address and dispatch 5,000  
6 fighters to Sierra Leone in the presence of the press."

7 Let's go to page 3, please. And this is the observation of  
8 Felix Downes-Thomas, the maligned Mr Thomas, way back in 1998  
9 when an indictment wasn't even a twinkle in Mr Crane's eye.

15:59:07 10 Paragraph 6, "It does not seem that the immediate preoccupations  
11 of President Taylor would permit him to engage at this time in  
12 the type of reckless adventurism which the allegations from  
13 Sierra Leone suggest. As he himself observed, since the defence  
14 of Sierra Leone is being guaranteed by ECOMOG, it would be  
15:59:34 15 foolhardy on his part to even contemplate sending troops into  
16 Sierra Leone that would in effect be fighting against ECOWAS,  
17 Nigeria, Guinea and Ghana, especially just before the forthcoming  
18 ECOWAS summit when he would be seeking support for the lifting of  
19 the arms embargo on Liberia."

16:00:03 20 And if we look at the first sentence at paragraph 8, and  
21 remember this is his opinion, "In the light of the above, it does  
22 not surprise us that President Taylor is extremely confident that  
23 the various forms of fact-finding missions that he's proposing  
24 would prove his contentions right."

16:00:24 25 Again, Madam President, let's look at the politics of this.  
26 Taylor is busy trying to get the arms embargo in Liberia lifted.  
27 And yet we are being told that at the same time, he's playing  
28 this double game. He's supplying arms to the RUF over the  
29 border, massing a force of 5,000 fighters to go into



1 Sierra Leone. Is that the activities of a man? Because let's be  
2 frank, men like him, when they get to power, like to keep hold of  
3 it. And in order to keep hold of it, you need to act politic.  
4 You need to take into account the consequences of your actions.

16:01:22 5 What was his primary goal here? To get the embargo lifted.  
6 Would he be behaving in this time period in the way submitted by  
7 the Prosecution? We submit it doesn't make sense. Because we  
8 submit that the context of that code cable is logical and totally  
9 in tune with the situation inherited by Taylor upon his

16:01:50 10 ascendancy to the presidency, a ruined country, broken  
11 infrastructure, mass unemployment, an empty treasury, and an army  
12 of footloose young men whose only experience for the last decade  
13 or so had been war, wandering the country, looking for the next  
14 fight. In a country whose borders are porous so that when a

16:02:26 15 Liberian appears in Sierra Leone, Charles Taylor must have sent  
16 him. Look at this in the context of the time. What was there  
17 for these young men to do, these demobbed members of the NPFL,  
18 unemployed, perhaps even unemployable?

19 In any event, in late 1998, as we know, we have the

16:02:58 20 incidents leading up to the Freetown invasion. Mr Munyard will  
21 deal with that in more detail tomorrow morning. However, we have  
22 another important document to place before your Honours for your  
23 Honours' immediate attention before we leave this topic. This  
24 document is dated the 5th of February 1999. So it is immediately

16:03:31 25 after the Freetown invasion. It is written by a senior UN  
26 official, and interestingly, it's not written by  
27 MM Downes-Thomas, the MM standing for the much-maligned  
28 Downes-Thomas. It's written by someone even senior to him.  
29 Could we look, please, at exhibit D-182? Behind divider 13.

1 Do we have it?

2 MS IRURA: Yes, thank you.

3 MR GRIFFITHS: Your Honours will see from page 1 of the  
4 document that this is not from Downes-Thomas. He's just been  
16:04:40 5 copied in. It's from Miyet of the United Nations in New York.  
6 Now, I don't know whether in due course it's going to be  
7 suggested that Miyet was another agent of Mr Taylor. I know not.  
8 But event, Mr Miyet sets out some rather inconvenient truths for  
9 the Prosecution here. Putting the passage that I want to draw  
16:05:11 10 your attention to in context, look at paragraph 2 on that page.

11 "The initiatives you have taken in conceiving the  
12 five-point plan and securing support for it among the leaders of  
13 the sub-region are highly commendable. You have kept the  
14 United Nations at the centre of the diplomatic process while  
16:05:36 15 helping to avert a split amongst the members of ECOWAS. We fully  
16 concur in all your actions."

17 Why do I mention that? The UN are at the centre. So one  
18 would expect them to know what they are talking about. Over the  
19 page, please.

16:05:57 20 "You may wish to make the following points. Bullet point  
21 number 4, in the case of Liberia, the United Nations, though  
22 aware of allegations of Government of Liberia involvement with  
23 the rebels, have no direct evidence of such involvement. The  
24 United Nations welcomes reports that the Liberian senate is  
16:06:25 25 considering investigating allegations of Government of Liberia  
26 involvement. The United Nations would also welcome the exercise  
27 of any influence President Charles Taylor could bring to bear on  
28 the rebels to reach an accommodation with the Government of  
29 Sierra Leone, including a ceasefire which would permit the

1 delivery of humanitarian assistance and provide a basis for  
2 further discussions in his 9th of July 1998 report."

3 Last two lines: "The United Nations would welcome further  
4 face to face meetings between President Taylor and  
16:07:07 5 President Kabbah."

6 Now, when Mr Taylor turns around and says, "I was asked by  
7 the Committee of Five to be the point person on peace in  
8 Sierra Leone," that is pooh-poohed by the Prosecution. No, you  
9 weren't. And even if you were, you were playing a double game.

16:07:26 10 Seems according to this that it wasn't just the ECOWAS Committee  
11 of Five which was making that request. The United Nations were  
12 also asking him to get involved, why? To bring about peace. An  
13 inconvenient truth. And help us. Look at the date. This is a  
14 month after the Freetown invasion. 5th of February 1999. Why is

16:08:01 15 the United Nations, who were at the centre of diplomatic efforts  
16 to bring about peace saying, yes, there are allegations but no  
17 direct evidence? Why not? Hold on a second. You would have  
18 thought that at least one local foreign minister or president  
19 might have had a word in the ear of the UN representative, "You  
16:08:31 20 might not know, you know, but we know, Taylor was the one behind  
21 the Freetown invasion." How come he's saying this a month later?  
22 It doesn't make sense.

23 Now, Mr Taylor's role in the facilitation of the talks in  
24 Lome are amply supported by documentary proof, and I invite your  
16:08:58 25 Honours' attention, I don't refer to it because I note the time,  
26 exhibit D-193A, 193G, 193J, and 193K. They document the movement  
27 of RUF representatives through Monrovia for airlifting to Lome,  
28 and the other steps taken by Mr Taylor to facilitate that  
29 process. Because we say that ever since he became President,

1 Charles Taylor had been asked to get involved in resolving the  
2 conflict in Sierra Leone, and he did so because it was in his own  
3 interest. The development of Liberia could not take place whilst  
4 the conflict was still raging in Sierra Leone. Now, the  
16:09:55 5 Prosecution have sought to gainsay his good intention. He was  
6 playing a double game. His role was to get the best deal for the  
7 RUF at Lome. He, Charles Taylor, single handedly, in the company  
8 of all those other West African Presidents, he managed to get the  
9 best deal for the RUF, pulling the wool over everybody else's  
16:10:25 10 eyes. You will recall the cross-examination about the Lome  
11 agreement. Didn't you, Mr Taylor, set out to get the best deal  
12 for the RUF? Remember it? How did he manage that? We've seen  
13 the photographs. They are sitting in a bedroom in Lome, all of  
14 them, with Foday Sankoh there. How did Taylor pull that one off  
16:10:52 15 with all the eyes focused on him? How did he manage it? This  
16 man is a magician. And yet, interestingly, whereas he's there  
17 securing the best deal for the RUF, guess what? He doesn't  
18 manage to include his other proxy in Sierra Leone, the AFRC.  
19 They weren't represented in Lome, which is why they kicked off in  
16:11:22 20 Okra hills. They had been sidelined. So why didn't he involve  
21 them as well, if he's in control? Does it make sense?  
22 And, you know, this whole idea that Taylor has changed  
23 tack - sorry, this whole idea that Taylor was playing a double  
24 game, one game in public, one game in private, look carefully.  
16:11:54 25 This wasn't how this Prosecution was originally put. They were  
26 forced to run this double-game argument because of what?  
27 Documentary proof, inconvenient documentary proof. That's why.  
28 And I don't even mention, because again I'm looking at the  
29 clock, the various minutes of the meetings from ECOWAS leaders.

1 We ask you, Mr Taylor, to get directly involved. It's all there  
2 in the minutes. However, by December 1999, peace in Sierra Leone  
3 was threatened and a decision was made to extract Sam Bockarie,  
4 the main threat to peace. Now, the Prosecution sought to  
16:12:51 5 insinuate, initially, that this was further proof of  
6 Charles Taylor's control of Bockarie, his boy. They were  
7 obviously unaware of the proof we would be able to place before  
8 this Court, divider 14, please, Madam Court Manager,  
9 exhibit D-228. Do we have it?

16:13:40 10 MS IRURA: Yes.

11 MR GRIFFITHS: This is dated the 22nd of December 1999.  
12 Third line, paragraph 1: "Talks between President Taylor and  
13 Obasanjo during President Obasanjo's stopover at the Roberts  
14 International Airport on Monday, the 21st of December 1999, the  
16:14:04 15 minister indicated that the talks centred on the question of the  
16 implementation of the Lome Peace Accord in Sierra Leone.

17 First bullet point under the subheading Sierra Leone: "On  
18 the issue of the peace process in Sierra Leone, President Taylor  
19 informed his guest that he had been engaged in resolving the  
16:14:24 20 problem between Foday Sankoh and Sam Bockarie. It was his  
21 assessment that Sam Bockarie was defying the orders of the leader  
22 of his movement."

23 Skip a couple of lines: Arrangements should be made to  
24 ensure that Sam Bockarie and his immediate followers stay out of  
16:14:43 25 Sierra Leone until the end of the disarmament process. He  
26 therefore appealed to President Obasanjo and other leaders in the  
27 region to assist this country in meeting this challenge.  
28 President Obasanjo welcomed President Taylor's initiative and  
29 promised to approach other colleagues in the region so as to

1 solicit their support for such a worthy project.

2 Over the page, please. Last paragraph on the page: "The  
3 minister underscored the risks that Liberia was taking by  
4 according Sam Bockarie and his immediate followers some sort of  
16:15:26 5 temporary asylum. He noted the decision was reached primarily  
6 because it would not be possible to solve the problem by merely  
7 granting temporary asylum to Bockarie alone as one of his  
8 officers in the field could assume the role of a field commander.  
9 In any case, the plan is to ensure that he lives in Monrovia and  
16:15:45 10 not in the hinterland, so that the government can keep an eye on  
11 his movements."

12 Does that look like something that was being done  
13 clandestinely. Is it not clear that Mr Taylor was speaking to  
14 other leaders about the movement of Bockarie? Is it not clear  
16:16:07 15 that the United Nations were perfectly aware that Bockarie was to  
16 be moved to Monrovia? Where in this is there evidence to support  
17 the thesis that this is further evidence of Taylor's control?  
18 Where?

19 Now, I am coming close to conclude but before I do, I say  
16:16:45 20 this: We say the documents we have highlighted provide a useful  
21 road map to the truth. Unless answers can be provided to the  
22 many questions raised by these documents, we submit no reasonable  
23 tribunal can be satisfied so that they are sure, that is proof  
24 beyond a reasonable doubt. But there is another aspect to the  
16:17:24 25 behaviour of the Prosecution which it would be remiss of me if  
26 I did not highlight it.

27 I do believe this to be the case, that the Prosecution in  
28 this Court is an indivisible entity. So as such, this  
29 Prosecution, when acting in the CDF trial, in the AFRC trial, in

1 this trial, have to act and behave consistently, because  
2 prosecutors are ministers of justice. It is their job not to go  
3 all out for a conviction but to place the relevant evidence  
4 before the Court, which is why they have disclosure obligations  
16:18:30 5 such as under rule 68. So they need to be consistent. Now, we  
6 say they haven't been. Let's take, for example, the shifting  
7 theory of JCE. Let's compare the Prosecution's opening statement  
8 of the creation of JCE on the 4th of June 2007, at page 282 of  
9 the transcript.

16:19:02 10 "It was supposed to have begun in Libya. The execution of  
11 this plan, and it really begins," I quote Mr Rapp, "as we  
12 indicated before 1991, before 1996, in 1988 or 1989 with the  
13 military training in north Africa of Charles Taylor and  
14 Foday Sankoh and other people who later became leaders of the RUF  
16:19:30 15 and NPFL. A plan was there formulated by the accused and others  
16 to take over political and physical control.

17 Do you know what's become of that now? Paragraph 51, page  
18 35 of the Prosecution's brief: "Soon after Foday Sankoh arrived  
19 in Libya, he made it clear that he wanted to be recognised as  
16:19:55 20 leader of the group of Sierra Leoneans who were there, that he  
21 wanted to begin the struggle in Sierra Leone. Foday Sankoh also  
22 made clear that his vision, including collaborating from the  
23 Liberians and using Liberian territory as a springboard into  
24 Sierra Leone. Prior to the invasion of Liberia, Charles Taylor  
16:20:16 25 and Foday Sankoh formed common cause."

26 That's what it's become.

27 So that in effect, we submit that the Prosecution have not  
28 proved when, where or between whom, either a strategic plan or a  
29 tactical plan was formed.

1 Now, another matter of concern, and bear in mind I'm  
2 talking here about the Prosecution acting consistently. In the  
3 Sam Bockarie indictment, dated 2003, implicates Charles Taylor in  
4 only two ways: In respect of JCE and through the provision of  
16:21:27 5 guidance and direction to Sankoh. Now, the relevant part of that  
6 indictment, are paragraphs 19, and I'll come to another  
7 paragraph. It reads as follows:

8 "Foday Saybana Sankoh was incarcerated and subjected to  
9 restrictions on his movement in Nigeria and in Sierra Leone from  
16:21:50 10 about March 1997 to about April 1999. During this period, by  
11 order of Foday Saybana Sankoh, the accused," that's Sam Bockarie,  
12 "directed all RUF operations in Sierra Leone. Also during this  
13 time, by virtue of the authority given him by Foday Sankoh, the  
14 accused worked directly and in consort with Charles Taylor, also  
16:22:18 15 known as Charles Ghankay Macarthur Dankpannah Taylor. In  
16 addition, by order of or with the acquiescence of Foday Sankoh,  
17 the accused also received," note the words, "guidance and  
18 direction from Charles Taylor."

19 And then paragraph 24 of that indictment: "At all  
16:22:42 20 relevant - at all times relevant to this indictment, the accused,  
21 by virtue of his position within and continued affiliation with  
22 the RUF, and the authority given him by Foday Sankoh, acted in  
23 concert with Charles Ghankay Taylor."

24 Paragraph 20. "As battlefield commander, the accused was  
16:23:06 25 subordinate in command only to the leader of the RUF,  
26 Foday Sankoh, and the leader of the AFRC, Johnny Paul Koroma."

27 They are supposed to be consistent, aren't they? And if  
28 Taylor was the controlling influence, one would have expected  
29 this indivisible Prosecution to consistently state their case.



1 Not so, it would appear.

2 I do now come to conclude, Madam President. The fact is a  
3 criminal trial is not a beauty contest. We are not asking this  
4 Court to like Charles Taylor, no. However, when a fact-finder  
16:24:01 5 comes to decide upon evidence it is a useful guide to such a  
6 person to consider how you would want another fact-finder to  
7 approach the evidence if the situation were different and it was  
8 a member of your family, a friend, or a colleague, who was on  
9 trial. What standards would you expect such a fact-finder to  
16:24:32 10 apply? We submit that this man, however he has been painted in  
11 the public, deserves nothing less than that, and we submit that  
12 when this indictment is approached in that independent,  
13 reasonable, unemotional way, there can only be one verdict on all  
14 these counts, and that is a verdict - and those are verdicts of  
16:25:06 15 not guilty. Thank you for listening so intently.

16 PRESIDING JUDGE: I recall you mentioned Mr Anyah would be  
17 addressing tomorrow; is that correct?

18 MR GRIFFITHS: No, Mr Munyard.

19 PRESIDING JUDGE: Mr Munyard. It's the other way around.  
16:25:25 20 Actually, I didn't note that when we resumed that Mr Anyah was  
21 not with you.

22 MR GRIFFITHS: Oh, I failed to mention that. I apologise.

23 PRESIDING JUDGE: If there is no other matters, just pause  
24 a moment, please. We will adjourn the Court until tomorrow  
16:25:45 25 morning at 9. Thank you. Please adjourn the Court.

26 Whereupon the hearing adjourned at 4.26 p.m.,  
27 to be reconvened on Thursday, the 10th day of  
28 March, 2011, at 9.00 a.m.

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