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THE SPECIAL COURT FOR SIERRA LEONE

Trial Chamber II

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

Registrar: Ms. Binta Mansaray

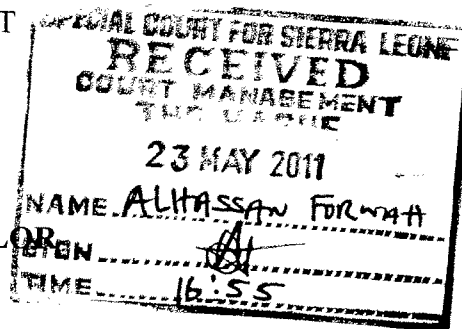
Date: 23 May 2011

Case No.: SCSL-03-01-T

THE PROSECUTOR

-v-

CHARLES GHANKAY TAYLOR



PUBLIC VERSION

DEFENCE FINAL TRIAL BRIEF

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INTRODUCTION

Political Context

1. The prosecution of Charles Taylor before the Special Court for Sierra Leone has been irregular, selective, and vindictive from its inception. Examined from any vantage point imaginable, the case against Taylor has at its core political roots and motives, and the inexorable determination of the United States and Great Britain to have Taylor removed and kept out of Liberia at any cost. Indeed, this case directly raises the question of whether the judicial process can be fashioned into a political tool for use by powerful nations to remove democratically-elected leaders of other nations that refuse to serve as their handmaidens and footstools. The evidentiary record now before this Court leaves reasonable minds asking why and how this Accused ended up before this Court. The case against Taylor cannot be sustained or revived in the face of that evidentiary record and simply put – Taylor should be set free forthwith.
2. The political context in which this case arose is a necessary precondition to understanding why and how Taylor ended up on trial. The record now before this Court demonstrates that Taylor went from being a friend and ally of the United States¹ in the early 1990s to being viewed as a threat to U.S. national security by the late 1990s, resulting in a 2001 Executive Order by President George W. Bush which characterised Taylor's government as contributing to an "unusual and extraordinary threat" against U.S. foreign policy.² This was in addition to several diplomatic, economic, and other measures undertaken at the behest of the United States and/ or Great Britain within the international community to isolate and ostracise Taylor's administration, and ultimately to force him out of office.³

¹ TT, Taylor, 24 Aug. 2009, p. 27496 (the CIA provided the NPFL with intelligence and "very high-powered technical radios"). That was done in return for NPFL protection of American installations in Liberia. Ibid., p. 27498. See, also, Exh. D-301, p. 133, Herman J. Cohen, former U.S. Assistant Secretary of State for African Affairs ("By the end of March 1990, security had deteriorated so much that the need to protect our expensive and irreplaceable facilities led us toward a dialogue with Taylor...") TT, Taylor, 24 Aug. 2009, p. 27477.

² Exh. D-310, Executive Order 13213, 22 May 2001. TT, Taylor, 27 August 2009, pp. 27932-39, esp. p. 27938-39 (Taylor took the Executive Order as a declaration of war and the policy of regime change by the United State against him). See, also, Exh. D-307, p. 2 ("Taylor's decision to run for the presidency of Liberia, following the cessation of hostilities, must have upset the Grand Design of erstwhile friends in Washington D.C. at the time who might have wanted to install[] a hand-picked leader for Liberia"); and TT, Taylor, 27 Aug. 2009, pp. 27872: 8-11, 27870 and 27908.

³ See, e.g., Exh. D-307 and Exh. D-308 (TT, Taylor, 27 Aug. 2009, pp. 27910-21). TT, Taylor, 5 Aug. 2009, pp. 25991-92 ("I see the USS Chinook come into the waters... For me, I see trouble..." "I trained immediately on the British and American activities in the area at the time and how these accusations were coming. Immediately I knew that it was coming from either both or from one of them that a decision had

3. As recently as December 2010, there emerged in the public domain previously confidential diplomatic cables that disclosed in no uncertain terms the position of the United States government (USG) vis-à-vis Charles Taylor: the U.S. Ambassador to Liberia, Linda Thomas-Greenfield, states in a cable dated 10 March 2009 that "...the best we can do for Liberia is to see to it that Taylor is put away for a long time and we cannot delay for the results of the present trial to consider next steps. All legal options should be studied to ensure that Taylor cannot return to destabilize Liberia."⁴ A second cable, dated 15 April 2009, revealed that sensitive information about this trial was leaked to the United States Embassy in The Hague by unnamed contacts in the Trial Chamber, the Office of the Prosecutor (OTP) and the Registry.⁵
4. Three of the Special Court's four prosecutors (David M. Crane, Stephen Rapp, and Brenda J. Hollis) have been Americans who have been employed by the USG prior and/ or subsequent to their respective tenures as Prosecutor.⁶ Indeed, the harbinger of the nefarious intentions and stealth actions that the leaked cables disclose were the actions and statements of David M. Crane, the first Prosecutor of the Special Court.
5. Crane told the United States Congress on 8 February 2006 that copies of the Indictment against Taylor were given to senior U.S. Government officials two months before the Indictment was ordered unsealed by the Court in June of 2003.⁷ (Such

been taken to destabilise my government."); TT, Taylor, 24 Aug. 2009, pp. 27471-74 and 27464 (Britain and the U.S. were putting pressure on Ian Smillie and had, in effect, already prejudged the results of the United Nations panel of experts appointed in 2000 to look into the conflict in Sierra Leone). In addition, they also pressured another member of the panel of experts, Harjit Singh Sandhu. Ibid., p. 27476. See, also, Exh. P-18, Panel of Experts Report.

⁴ See Exh. D-481; Annex A to *Prosecutor v. Taylor*, SCSL-03-01-T-1143, Urgent and Public with Annexes A-N Defence Motion for Disclosure and/or Investigation of United States Government Sources within the Trial Chamber, the Prosecution and the Registry based on Leaked USG Cables, 10 January 2011 [Cables Motion]. Reference by Ms. Thomas-Greenfield to the results of "the present trial" were to the outcome of the trial at bar. No reference was made by Ms. Thomas-Greenfield to Taylor's guilt or innocence regarding any alleged crimes in Sierra Leone.

⁵ See Exh. D-482; Cables Motion, Annex B.

⁶ Crane worked in the United States Department of Defence for 30 years (see, Annex F, Cables Motion). Stephen Rapp, the Special Court's third Prosecutor, was previously a U.S. Attorney and left the Court after he was appointed U.S. Ambassador-at-Large for War Crimes Issues (see, Annex G, Cables Motion). Brenda J. Hollis, the Special Court's fourth and current Prosecutor served in the United States Air Force as an intelligence officer and Judge Advocate before being seconded by the U.S. Government to the ICTY and starting her career in international criminal law (see Annex H, Cables Motion).

⁷ Exh. D-404, p. 79, fn. 10. Then U.S. Assistant Secretary of State for Africa, Walter Kansteiner, was personally given a copy of the Indictment at a breakfast meeting in April of 2003 with the U.S. Ambassador, Peter Chavez, in Freetown, Sierra Leone. Another copy was given to the then U.S. Ambassador-at-Large for War Crimes Issues, Pierre Prosper. Crane was addressing the Subcommittee on Africa, Global Human Rights and International Operations of the United States House of Representatives' Committee on International Relations when he confirmed as much.

conduct – the disclosure and transfer of a sealed indictment without order of court⁸ -- is *prima facie* unethical and virtually unheard of by any prosecutor.) Crane also declared that the USG has been the biggest financial contributor to the Special Court⁹ and confirmed that the USG had given undisclosed sums of money directly to the OTP,¹⁰ separate and apart from its contributions to the Court as a whole. Crane further explained that the United States and the United Kingdom “induced” then Nigerian president, Olusegun Obasanjo, into allowing Taylor to go into exile in Calabar, Nigeria.¹¹ Indeed, the same congressional committee before which Crane appeared mandated that no U.S. funding be made available to the Nigerian Government if a strategy was not developed to ensure that Taylor would be handed over to the Special Court for trial.¹²

6. Crane’s remarks before the U.S. Congress, coupled with other actions and pronouncements by USG officials, provide clear evidence of the USG’s intention to convict Mr. Taylor through the auspices of the Special Court in order to keep him out of Liberia, using whatever monetary and political pressure that is necessary. Accordingly, any attempt to divorce this case from the broader political prism through which it must be viewed and to reduce it merely to a legal affair would, consequently, be misguided and disingenuous.
7. The foregoing suggests that the Charles Taylor trial is pursuing “war by other means,” thus corrupting international law and justice in pursuit of a particular state’s enemy. As a consequence, this tribunal itself is on trial and whatever the verdict, if it is not seen to have been fair, it will have failed.

Legal Context and Abuse of Process

8. Even when viewed in the context of legal proceedings, the overall manner in which the case was put together and pursued by the OTP has brought the administration of justice into serious disrepute. The impartiality and detached independence expected

⁸ The Indictment was ordered unsealed on 12 June 2003 by *Prosecutor v. Taylor*, SCSL-03-01-I-006, Order for the Disclosure of the Indictment, the Warrant of Arrest and Order for Transfer and Detention and the Decision Approving the Indictment and Order for Non-Disclosure, 12 June 2003.

⁹ Exh. D-404, p. 74.

¹⁰ Exh. D-404, p. 77, fn. 3 (Crane stated “...the dedicated and professional staff of the House International Relations Committee was very effective in sustaining political *and financial backing for the Office of the Prosecutor* throughout my tenure in Freetown”) (emphasis added).

¹¹ Ex D-404, p. 79, fn. 14. The inducement was with the “concurrence of United Nations Secretary General, Kofi Annan,” according to Crane.

¹² Exh. D-404, p. 53.

historically of prosecutor offices has never obtained since the inception of this case. The prosecution of Taylor has been corrupted from start to finish by the unethical conduct and irresponsible comments of prosecutor Crane before and after the first Indictment was unsealed in 2003,¹³ coupled with the legally impermissible and underhanded methods and means which has characterised the *modus operandi* of the OTP ever since. Those legally impermissible methods and means have included threats to prospective witnesses, improper monetary and other inducements to witnesses (such as promised relocation overseas), intimidation of prospective witnesses, and other forms of interference with the administration of justice.¹⁴

Selective Prosecution

9. The prosecution of Taylor has also from the outset been selective and vindictive in nature. Remarks made by Crane to the U.S. Congress with then OTP Chief of Investigations, Dr. Alan White, by his side¹⁵ convey some of the apparent vindictiveness: "The unsealing of the indictment against Charles Taylor on the day he arrived in Accra, Ghana for the peace talks in June of 2003 was a calculated move on my part to publicly strip, in front of the world, this warlord of his power by my signature on the indictment... My intent was to humble and humiliate him before his peers, the leaders of Africa... His indictment paved the way for the eventual election of Ellen Johnson Sirleaf as the first fairly elected President of Liberia."¹⁶ Beyond vindictiveness is the issue of selectivity and the Defence submits that in indicting Taylor, Crane acted in contravention of relevant statutory provisions and case law by

¹³ See, e.g., Exh. D-404, p. 79, fn. 10 (improper disclosure of a sealed indictment to USG officials) and p. 81, fn. 26 (the remarkable and arguably racist remark by Crane to the U.S. Congress that "Believe me, the trick to getting a West African leader's attention is cash, plain and simple.")

¹⁴ See, e.g., *Prosecutor v. Taylor*, SCSL-03-01-T-1134, Notice of Appeal and Submissions regarding the Decision on the Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 10 December 2010; *Prosecutor v. Taylor* SCSL-03-01-T-1089, Public, with Confidential Annexes A-J and Public Annexes K-O Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecution and its Investigators, 24 September 2010, and *Prosecutor v. Taylor*, SCSL-03-01-T-1090, Public, with Confidential Annexes A-J and Public Annexes K-O Corrigendum to Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecution and its Investigators, 27 September 2010 [Contempt Motion]; and *Prosecutor v. Taylor*, SCSL-03-01-T-1142, Public with Annexes A-H and Confidential Annexes I-J Defence Motion to Recall Four Prosecution Witnesses and to Hear Evidence from the Chief of WVS regarding Relocation of Prosecution Witnesses, 17 December 2010 [Motion to Recall].

¹⁵ See Exh. D-404, p. 74, confirming the presence of White at the Congressional hearing with Crane.

¹⁶ Exh. D-404, p. 79, fn. 10. More is said below regarding the free and fair nature of the 1997 presidential elections in Liberia that Taylor won. Several international organizations with hundreds of staff were present in Liberia to monitor and report on those elections (see, TT, 23 July 2009, p. 25158-59, and Exh. D-388, p. 2) and the Carter Center reported at their conclusion that they were fair. See, Exh. D-126, p. 8.

singling Taylor out for prosecution on the basis of improper political motives and by failing to prosecute other individuals that are similarly-situated to Taylor.

10. Whereas the record is replete with evidence of alleged assistance given before and during the indictment period (30 November 1996 through 18 January 2002) to members of the Revolutionary United Front of Sierra Leone (RUF) by other African leaders (notably Muammar al-Gaddafi of Libya and Blaise Compaoré of Burkina Faso),¹⁷ only Charles Taylor stands charged for allegedly assisting the RUF.
11. Indeed, Crane spoke in these terms about Taylor, Gaddafi, and Compaoré before the U.S. Congress: "I do want to highlight that Charles Taylor has been a catalyst of most of the human tragedy and political instability in the region, backed by his compatriots, Colonel Muammar Qaddafi of Libya and President Blaise Compaoré of Burkina Faso, among other criminal elements. That relationship with these two heads of state and the resultant political instability still remains."¹⁸ Furthermore, and in a presentation given by Crane in 2010 at SUNY Buffalo Law School, U.S.A., titled "The Triumph of Good Over Evil... The Investigation, Indictment, and Arrest of Charles Taylor: A Regional Approach to Justice,"¹⁹ Crane there indicated that the destruction of Sierra Leone and Liberia was "[s]ustained by a joint criminal enterprise backed by three heads of state... Libya, Liberia, and Burkina Faso."²⁰ He added that the motive was "geopolitical influence and personal greed and avarice."
12. That being the case, the obvious question that begs for an answer is why Crane did not indict either Gaddafi or Compaoré as participants with Taylor in a joint criminal enterprise.²¹ The answer lies perhaps in convenience and certainly in vindictiveness, but most of all in selective prosecution and that much is clear in these remarks to the U.S. Congress by Crane:

¹⁷ TT, TF1-168, 26 Jan. 09, p.23585 (Foday Sankoh trained in Libya along with Rashid Mansaray and Mohamed Tarawallie); TT, Issa Sesay, DCT-172, 9 Jul. 10, pp. 44125-29 (Sam Bockarie, Ibrahim Bah, SYB Rogers and Eddie Kanneh traveled to Libya to meet with Gaddafi, who provided \$50,000 in assistance to the RUF); TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44092-6 (Ibrahim Bah was a friend of Sankoh and helped the RUF in business transactions; he was based in Ouagadougou); TT, Samuel Kargbo, TF1-597, pp. 10714-5, 10455-9, and 10720-4 (allegation that the Magburaka arms shipment came from Burkina Faso because there was a Burkinabe soldier named Musa onboard the flight); TT, Issa Sesay, DCT-172, 7 July 10, p. 43875 (the Magburaka arms shipment came from Burkina Faso); TT, Karmoh S. Kanneh, TF1-571, 8 May 08, p. 9397 (allegation that Taylor linked Bockarie with Compaoré in order to secure materials to clear ECOMOG and reach Freetown).

¹⁸ See Exh. D-404, pp. 75 and 79.

¹⁹ Contempt Motion, Annex O.

²⁰ Contempt Motion, Annex O, CMS pp. 30439 – 30440 (also at pp. 30594 – 30595).

²¹ See, also, Defence Opening Statement, questioning why former Sierra Leonean President, Ahmed Tejan Kabbah, was not indicted despite his role as defence minister in the Sierra Leonean government throughout the formation and deployment of the Civil Defence Forces. TT, 13 Jul. 2009, p. 24321.

According to close sources who acted as lead witnesses during our investigation of Taylor and those involved in the joint criminal enterprise that destroyed two countries and threatened a third, the Ivory Coast; Taylor, Foday Sankoh, Campore, and Qadhafi, apparently sat down and developed a secret plan to undermine the current governments within West Africa and then replace them with surrogates, such as Taylor, who were beholden to Qadhafi. This plan remains in place to this day. I chose not to indict Qadhafi and Campore only because of evidentiary issues and the practical reality of indicting two more heads of state within West Africa which would have politically undermined the work of the tribunal. However, I did choose to name Qadhafi within the Taylor indictment as a key member of the joint criminal enterprise. Within the American criminal system Qadhafi would have been what we call an un-indicted co-conspirator. He remains a threat to West Africa.²²

13. The Defence submits that it was improper for Taylor to have been prosecuted despite the fact that others (Gaddafi and Compaoré) who Crane alleged were similarly-situated and equally bear the same level of responsibility, were not prosecuted. That Taylor was singled-out for prosecution on the basis of political motives was always clear and has been made clearer by the recently leaked U.S. diplomatic code cables.²³
14. United Nations Security Council Resolution 1315 (2000), which called for the creation of the Special Court, emphasized “the importance of ensuring the impartiality, independence and credibility of the process, in particular with regard to the status of the judges and the prosecutors.” The Prosecutor has the power to formally charge and bring a suspect to justice before the Court.²⁴ In exercising that power, the Prosecutor enjoys full autonomy²⁵ and very broad discretion,²⁶ but it is important that the Prosecutor conduct herself in a manner that is consistent with the public trust accorded her. This consequently requires that the Prosecutor act with the utmost integrity and professionalism.²⁷
15. Furthermore, Article 15(1) of the Statute states that: “The Prosecutor shall act independently as a separate organ of the Special Court. He or she shall not seek or receive instructions from any Government or from any other source.”²⁸ Trial Chamber

²² Exh. D-404, p. 79, fn. 11.

²³ Exhs. D-481 and D-482.

²⁴ Rules, Rule 47(B) and (C).

²⁵ Article 15(1) of the Statute.

²⁶ *Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. “Pavo”, Hazim Delić and Esad Landžo, a.k.a. “Zenga,”* Case No. IT-96-21-A, Judgement, 20 February 2001 [Čelebići Appeals Judgement], para. 602; and *Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-A, Appeals Judgment, 1 June 2001. [Akayesu Appeal Judgment], para. 94.

²⁷ Thus, under Article 15(5) of the Statute, the Prosecutor shall, *inter alia*, be a person of high moral character and possess the highest level of professional competence.

²⁸ Similar language is found in Article 3(3) of the SCSL Establishment Agreement (stating “The Prosecutor and the Deputy Prosecutor shall be independent in the performance of their functions and shall not accept or seek instructions from any Government or any other source”).

I has opined that “Article 15(1) reinforces, in unambiguous terms, an internationally accepted norm governing the exercise of prosecutorial authority, in International Criminal Tribunals, namely autonomy and Independence.”²⁹

16. The seminal case on selective prosecution is the Čelebići Appeals Judgement.³⁰ The Čelebići Court adopted a two-pronged test that forms the basis of the selective prosecution assessment in international criminal law. A party alleging selective prosecution must establish (i) an unlawful or improper (including discriminatory) motive for the prosecution and (ii) that other similarly-situated persons were not prosecuted.”³¹ Regarding the first prong, the Chamber noted that while the Prosecutor enjoys a wide margin of discretion, such discretion is limited by such statutory obligations as the imperative of avoiding government influence as well as by relevant human rights standards.³² The Čelebići Chamber also noted that “unless all potential indictees who are similarly situated are brought to justice, there should be no justice done in relation to a person who had been indicted and brought to trial.”³³
17. With respect to the Čelebići standard, the Defence submits that it has made out without question, the second prong of failure to prosecute others similarly-situated to Taylor. Those “others” are Gaddafi and Compaoré, and Crane’s often-repeated words about their alleged participation with Taylor in the same JCE undoubtedly satisfy the Čelebići standard.³⁴ Indeed, it is in the rare instance that an accused has direct information from the Prosecutor herself (as is present in this case), explicating the thought processes that gave rise to the selective prosecution.
18. With regard to the first prong of the Čelebići standard – unlawful or improper motive for prosecution – the Defence submits that it has likewise met that test by establishing

²⁹ *Prosecutor v. Sesay et al*, SCSL-04-15-T, Decision on Sesay – Motion Seeking Disclosure of the Relationship Between Governmental Agencies of the United States of America and the Office of the Prosecutor, 2 May 2005, para. 22.

³⁰ Čelebići Appeals Judgement.

³¹ Čelebići Appeals Judgement, para. 611.

³² Čelebići Appeals Judgement, para. 602, stating in relevant part: “It is also clear that a discretion of this nature is not unlimited. A number of limitations on the discretion entrusted to the Prosecutor are evident in the Tribunal’s Statute and Rules of Procedure and Evidence,” and para. 604, stating, in relevant part: “The discretion of the Prosecutor at all times is circumscribed in a more general way by the nature of her position as an official vested with specific duties imposed by the Statute of the Tribunal. The Prosecutor is committed to discharge those duties with full respect of the law. In this regard, the Secretary-General’s Report stressed that the Tribunal, which encompasses all of its organs, including the Office of the Prosecutor, must abide by the recognised principles of human rights.”

³³ Čelebići Appeals Judgement, para. 618. See, also, Akayesu Appeal Judgment, para. 93 – 97.

³⁴ Exh. D-404, p. 79, fn. 11; Contempt Motion, Annex O, CMS pp. 30439 – 30440 (also at pp. 30594 – 30595); and Exh. D-404, pp. 75 and 79.

the improper and discriminatory political motives behind Taylor's prosecution.³⁵ Crane was in bed with the USG long before the Indictment was ever put together and his extended statements to the U.S. Congress make it exceedingly clear that he was beholden to the United States Government (financially and otherwise) when Taylor was indicted.³⁶ The inescapable conclusion that Crane and fellow U.S. Department of Defence³⁷ alumni, Alan White, were on a mission to get Taylor at all costs is entirely reasonable on the face of this record.

19. It is appropriate at this point to recall certain words that accompanied Taylor's interview with Baffour Ankomah in the New African magazine of July – August 2002,³⁸ starting with the caption beneath Taylor's photograph on the cover page which read -- "Charles Taylor: Powerful countries want me out."
20. The first paragraph of the interview reads:

Liberia's president, Charles Ghankay Taylor, is sure that "some powerful countries" are out to get him. But he does not want to name them, "because they punish you the more if you do." Yet, the names are all over in the streets of Liberia – 'USA and Britain', one freelance photographer told me, letting the names roll off his tongue like sweet apple.³⁹
21. Later in the interview, Taylor observed that "The nature of the world now is such that if certain powerful countries want you to live, you live. If they want you to die, you die."⁴⁰
22. Taylor was singled out and prosecuted on the basis of USG political motives and interests. Hard evidence for this assertion is available in several forms, including Crane's comments to the U.S. Congress and the leaked U.S. Embassy cables. Further evidence can be found in Crane's failure to prosecute two others (Gaddafi and Compaoré) that, in Crane's view, were similarly-situated to Taylor and were part of the JCE which undergirds the Indictment. These facts create a prosecutorial situation that stands in direct contravention of statutory provisions and decisional law aimed at ensuring the impartiality, independence, and credibility of the Court. Accordingly, a finding of selective prosecution should be made by this Chamber in the context of its

³⁵ See, Introduction Section and sub-sections entitled "Political Context" and "Legal Context and Abuse of Process" within this Brief.

³⁶ Ibid.

³⁷ Annex F, Cables Motion, confirms that White, like Crane, was a long-serving employee of the U.S. Department of Defence before he took up his position as the first Chief of Investigations under Crane at the Special Court.

³⁸ Exh. D-334.

³⁹ Exh. D-334, p. 2.

⁴⁰ Exh. D-334, p. 15.

deliberations for judgment in this important trial and all charges against Taylor be dismissed as a consequence thereof.

Discretionary Payments and other Inducements to Witnesses by the Prosecution

23. Not much changed in the OTP's approach to the investigation and prosecution of Taylor after Crane's departure and during the respective tenures of all successor prosecutors up to the current one. This Court will recall the Defence's request for disclosure and an accounting by the OTP of payments made in cash and kind (allegedly totaling \$30,000 United States Dollars) to prospective witness, DCT-097.⁴¹ In noting that seventeen Money Gram receipts provided by the Defence linked the Prosecution to the payments made to the witness, the Court observed that, "The payments do not appear to have been made by the Witness and Victims Service of the Special Court (WVS) and on the face of it, appear to be beyond that which is reasonably required for the management of witnesses or victims."⁴² The Court found that evidence of the payments was exculpatory material which the Defence had demonstrated the Prosecution failed to disclose⁴³; it went on to hold that the payments should have been disclosed by the Prosecution as evidence which may affect the credibility of Prosecution evidence under Rule 68(B).⁴⁴
24. The Defence took exception in its Contempt Motion to inducements (monetary bribes, offers of relocation, etc.) that were offered and/ or provided to potential witnesses and sources by the Prosecution's Witness Management Unit (WMU) in exchange for cooperation and testimony.⁴⁵ The payments were independent of, and distinct from, those made to both Prosecution and Defence witnesses by the Court's Witnesses and Victims Section (WVS). The Defence argued and provided supporting documentation to demonstrate that the WMU payments/ inducements (i) were contrary to the letter

⁴¹ See, *Prosecutor v. Taylor*, SCSL-03-01-T-1039, Public, with Public Annex F and Confidential Annexes A, B, C, D, E, G, H, I, Defence Motion for Disclosure of Statement and Prosecution Payments Made to DCT-097, 4 August 2010 and *Prosecutor v. Taylor*, SCSL-03-01-T-1084, Decision on Defence Motion for Disclosure of Statement and Prosecution Payments Made to DCT-097, 23 September 2010 [DCT-097 Payments Decision], paras 17 to 20. The witness was, in the first instance, a prospective Prosecution witness known by the pseudonym, TF1-354. See, para. 10, DCT-097 Payments Decision. The payments were made between 8 April 2004 and 19 June 2006. See, para. 22, DCT-097 Payments Decision.

⁴² DCT-097 Payments Decision, para. 22.

⁴³ DCT-097 Payments Decision, para. 22.

⁴⁴ DCT-097 Payments Decision, para. 22. See, also, *Rules of Procedure and Evidence of the Special Court for Sierra Leone*, as amended on 28 May 2010 [Rules], Rule 68(B).

⁴⁵ Contempt Motion, paras 19 – 28 and related annexes, K, L and N.

and/ or spirit of Rule 39(ii),⁴⁶ in that some were impermissible under that Rule, while those that were permissible were demonstrably exorbitant and irregular (ii), were duplicative and supplemental to payments made by WVS, (iii) occurred pre-trial and throughout the life of the trial, and (iv) were deliberate and designed to influence the cooperation and evidence of potential witnesses, witnesses, suspects or sources, and to otherwise interfere with the administration of justice.⁴⁷

25. In its Decision on the Contempt Motion, this Court observed that the “question of discretionary payments and a possible abuse of that discretion under Rule 39(ii) in that the payments might not have been necessary for the safety, support or assistance of the potential witnesses and sources...” would “only be considered at the stage of final deliberations, taking into account the evidence adduced and the cross-examination of the witnesses in question”⁴⁸ Accordingly, and bearing in mind the proximity of those deliberations and the finality of these submissions, the Defence renews with vigor, all averments and arguments made on this issue in the Contempt Motion and incorporates the same herein by reference, as if set out in full below.⁴⁹ Additionally, and as and when appropriate below, the Defence addresses the contaminating impact that these payments/ inducements had on the reliability and credibility of specific Prosecution witnesses and on the Prosecution’s case as a whole. At a minimum, an adverse inference (if not presumption) should be drawn *vis-à-vis* the reliability and credibility of Prosecution evidence in those instances where the payments/ inducements to particular witnesses are objectively unreasonable and/ or excessive. In appropriate circumstances of egregious and unmitigated abuse of discretionary payments/ inducements by the Prosecution, the Court should exclude the evidence of the applicable witnesses in their entirety.
26. To be sure, a clear and regrettable case of prosecutorial abuse of process has consequently been made out⁵⁰ with one inescapable consequence being the deprivation of a fair trial to the Accused at bar.

⁴⁶ Rule 39(ii) indicates that a Prosecutor may, in the conduct of an investigation, “[t]ake all measures deemed necessary for the purpose of the investigation, including the taking of any special measures to provide for the safety, the support and the assistance of potential witnesses and sources.”

⁴⁷ Ibid.

⁴⁸ *Prosecutor v. Taylor*, SCSL-03-01-T-1118, Decision on Public with Confidential Annexes A-J and Public Annexes K-O Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, dated 11 November 2010, filed 12 November 2010 [Contempt Decision], para. 40.

⁴⁹ Contempt Motion, paras 19 – 28 and related annexes, K, L and N.

⁵⁰ See, for example, Contempt Motion, Motion to Recall, and DCT-097 Payments Decision.

Presumption of Innocence; Burden and Standard of Proof

27. The starting points for consideration of the guilt or innocence of any accused are the presumption of innocence and the burden on the Prosecution to prove the accused's guilt beyond a reasonable doubt. These fundamental tenets of due process are applicable to this Court and to the Accused at bar. The presumption of innocence is enshrined in Article 17(3) of the Statute (“[t]he accused shall be presumed innocent until proved guilty”)⁵¹ and it places on the Prosecution, the burden to prove the guilt of the Accused.⁵² Furthermore, Rule 87(A) confirms that “A finding of guilty may be reached only when a majority of the Trial Chamber is satisfied that guilt has been proved beyond reasonable doubt.” The “reasonable doubt” standard of proof is applicable to each and every count of the Indictment, every element of each alleged crime, and the criminal responsibility of the Accused⁵³; the burden to prove each count, as such, remains on the Prosecution throughout the entire trial.⁵⁴ In the face of the evidentiary record now before this Court, the Defence submits that not only has the Prosecution failed to prove the guilt of the Accused beyond reasonable doubt, Taylor's innocence has been convincingly demonstrated by adduced evidence.

Evidence Outside the Temporal and/ or Geographical Scope of the Indictment

28. The Defence filed, on 24 September 2010, a motion seeking to exclude from consideration by the Trial Chamber, evidence falling outside the temporal and/ or geographical scope of the Indictment, or the jurisdiction of the Special Court.⁵⁵ The motion was dismissed by the Court as being “premature at [that] stage of the trial”; the Court further found that the issues raised by the motion are “more appropriately

⁵¹ *Statute of the Special Court for Sierra Leone, annexed to the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*, 16 January 2002 [Statute], Art. 17(3).

⁵² *Prosecutor v. Brima et al.*, SCSL-04-16-T-628, *Judgement*, dated 20 June 2007, filed 21 June 2007, refiled 20 July 2007, pursuant to *Prosecutor v. Brima, et al.*, SCSL-04-16-T, *Corrigendum to Judgement filed on 21 June 2007*, dated 19 July 2007, filed 20 July 2007 [AFRC Trial Judgement], para. 97.

⁵³ AFRC Trial Judgement, para. 98.

⁵⁴ AFRC Trial Judgement, para. 97; see, also, TT, 4 May 2009 [Rule 98 Decision], p.24203 (“In order to secure a conviction, the Prosecution must prove the underlying offences, the general requirements of crimes against humanity or war crimes - sometimes referred to as the chapeau requirements - and the accused's individual responsibility”).

⁵⁵ *Prosecutor v. Taylor*, SCSL-03-01-T-1086, “Defence Motion to Exclude Evidence Falling Outside the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone”, 24 September 2010 [Rule 93 Motion]. All references to the “Indictment” are to *Prosecutor v. Taylor*, SCSL-03-01-PT-263, “Prosecution's Second Amended Indictment,” 29 May 2007.

addressed by the parties in the final trial Briefs and/ or closing arguments.”⁵⁶ That being the case, the Defence raises the matter now and incorporates by reference as if set out below herein, all arguments and averments that were advanced in the motion and the Defence’s Reply.⁵⁷

29. The geographic jurisdiction of the Special Court is limited to crimes committed in the territory of Sierra Leone and only those committed from 30 November 1996 onwards fall within its temporal jurisdiction.⁵⁸ The Indictment naturally follows the Statute in both respects and no crime alleged therein extends in temporal scope beyond 18 January 2002.⁵⁹ In assessing the admissibility of evidence which falls outside these boundaries, the following provisions of the Rules are significant:
 - a. Rule 89(C) provides that “A Chamber may admit any relevant evidence.”⁶⁰
 - b. Rule 93 provides that “Evidence of a consistent pattern of conduct relevant to serious violations of international humanitarian law under the Statute may be admissible in the interests of justice.”⁶¹
 - c. Rule 95 provides that “No evidence shall be admitted if its admission would bring the administration of justice into serious disrepute.”⁶²
30. Decisional law is also important and confirms that evidence must be relevant and not adversely prejudicial to be admissible.⁶³ “Relevant evidence” has been understood to mean “any evidence that could have a bearing on the guilt or innocence of the Accused for the crimes charged under the Indictment.”⁶⁴ Such relevant evidence may include evidence which falls outside the scope of the Indictment.⁶⁵ Indeed, this Court considered evidence relating to events that began prior to the Indictment period in

⁵⁶ *Prosecutor v. Taylor*, SCSL-03-01-T-1101, “Decision on Defence Motion to Exclude Evidence Falling Outside the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone”, 6 October 2010 [Rule 93 Decision] p. 3.

⁵⁷ *Prosecutor v. Taylor*, SCSL-03-01-T-1100, Defence Reply to Prosecution Response to Defence Motion to Exclude Evidence Falling Outside the Scope of the Indictment and/ or the Jurisdiction of the Special Court for Sierra Leone, 5 October 2010.

⁵⁸ Statute, Article 1(1).

⁵⁹ See “Particulars” of all eleven counts of the Indictment. See, also, *Prosecutor v. Taylor*, SCSL-03-01-T-327, *Prosecution Notification of Filing of Amended Case Summary* [Notification], with “Case Summary Accompanying the Second Amended Indictment” as Annex, 3 August 2007 [Amended Case Summary], para. 6 (a state of armed conflict existed within Sierra Leone between 30 November 1996 and about 18 January 2002).

⁶⁰ Rule 89(C) of the Rules.

⁶¹ Rules, Rule 93(A).

⁶² Rules, Rule 95.

⁶³ *Prosecutor v. Ngeze and Nahimana*, ICTR-96-11-AR72, “Decision on the Interlocutory Appeals – Separate Opinion of Judge Shahabuddeen,” 5 September 2000, para. 19; *Prosecutor v. Bagosora et al.*, ICTR-98-41-T, “Decision on Admissibility of Proposed Testimony of Witness DBY,” 18 September 2003.

⁶⁴ *Prosecutor v. Sesay et al.*, SCSL-04-15-T, Judgement, 2 March 2009 ([RUF Trial Judgement], para. 474).

⁶⁵ RUF Trial Judgement, para. 482.

arriving at its Rule 98 Decision.⁶⁶ Similarly, and in the RUF case, Trial Chamber I considered evidence which occurred prior to the Indictment period and continued into the Indictment period as demonstrating a “consistent pattern of conduct.”⁶⁷ The Court also noted that:

[e]vidence which may go to proving an un-pleaded allegation remains admissible if it is relevant under Rule 89(C) to the proof of other allegations in the Indictment or to facts at issue in the proceedings; to the proof of the chapeau requirements for crimes against humanity or the existence of a consistent pattern of conduct relevant to serious violations of international humanitarian law; or, where it provides the Chamber with useful background or contextual information.⁶⁸

31. The foregoing notwithstanding, there are limits to when evidence not coming within the Indictment period may be considered by a Trial Chamber. For example, the RUF Trial Chamber noted that “evidence was adduced of rapes in Kono District without sufficient precision as to the time frame.”⁶⁹ Consequently, the Chamber limited its “Legal Findings” to incidents that it was satisfied “occurred during the Indictment period.”⁷⁰ Likewise, this Chamber ruled in the AFRC case that evidence given by two witnesses about diamond mining in the Tombodu area concerned the AFRC government period and thus fell outside the Indictment period for Kono District vis-à-vis Count 13.⁷¹
32. Regarding events occurring in locations not charged in the Indictment, it was noted in the AFRC case that the Prosecution led “a considerable amount of evidence with respect to killings, sexual violence, physical violence, enslavement and pillage which occurred in locations not charged in the indictment.”⁷² In concluding that it would “not make any finding on crimes perpetrated in locations not specifically pleaded in the Indictment,”⁷³ the AFRC Chamber observed that, “While such evidence may support proof of the existence of an armed conflict or a widespread or systematic attack on a civilian population, no finding of guilt for those crimes may be made in respect of such locations not mentioned in the indictment.”⁷⁴

⁶⁶ Rule 98 Decision, pp. 24207 – 10.

⁶⁷ RUF Trial Judgement, para. 1615 (regarding the use of child soldiers in the RUF).

⁶⁸ *Prosecutor v. Sesay et al.*, SCSL-04-15-T, Decision on Kallon Motion to Exclude Evidence Outside the Scope of the Indictment, 26 June 2008, para. 16

⁶⁹ RUF Trial Judgement, para. 1283.

⁷⁰ RUF Trial Judgement, para. 1283; see, also, para. 1458 regarding the killing of one Dr. Kamara (“As this killing was committed outside of the Indictment period for unlawful killings in Kailahun District, the Chamber finds that no liability can be attributed to the Accused for this incident”).

⁷¹ AFRC Trial Judgement, para. 1323.

⁷² AFRC Trial Judgement, para. 37.

⁷³ AFRC Trial Judgement, para. 38.

⁷⁴ AFRC Trial Judgement, para. 37.

33. Turning to the case at bar, the Prosecution has adduced a considerable amount of evidence that falls outside the temporal and geographical scope of the Indictment.”⁷⁵ The Defence has objected previously to such evidence,⁷⁶ including in its Pre-trial Brief which contained a specific section urging “the Trial Chamber to be vigilant in ensuring there is no expansion of the territorial or temporal jurisdiction of the Court via the back door.”⁷⁷ However, the use of ex-temporal and ex-territorial evidence by the Prosecution was so widespread that it proved impractical for the Defence to raise the same objection at every turn.
34. The Defence submits that much of that evidence is irrelevant to the Indictment, contrary to the interests of justice and, in any event, adversely prejudicial to the Accused such that it contravenes both Rule 95 and Article 17. Accordingly, such evidence should be excluded from the Trial Chamber’s deliberations. Support for these averments are decisional law that have highlighted the need to take into account the probative value and prejudicial effect of the evidence in question. The ICTR Appeals Chamber held in *Bagosora et al.* that:
- Rule 93 does not create an exception to Rule 89(C), but rather is illustrative of a specific type of evidence which may be admitted by a Trial Chamber. Rule 93 must be read in conjunction with Rule 89(C), which permits a Trial Chamber to admit any relevant evidence which it deems to have probative value. Even where pattern evidence is relevant and deemed probative, the Trial Chamber may still decide to exclude the evidence in the interests of justice when its admission could lead to unfairness in the trial proceedings, such as when the probative value of the proposed evidence is outweighed by its prejudicial effect...⁷⁸
35. It remains true that Rule 89(C) differs from that of the ICTR and ICTY, in that Rule 89(C) does not explicitly provide for the probative value and prejudicial effect of the evidence in question to be considered; but there is still the requirement to do so where the effect of the evidence would infringe Rule 95.⁷⁹ One must also, of course, consider

⁷⁵ “Ex-temporal evidence” and “ex-territorial evidence.”

⁷⁶ See, e.g., TT, 18 Apr. 2008, p. 8054 (Defence objection during the testimony of TF1-334 to evidence of crimes perpetrated on civilians in Koinadugu District on the basis that such crimes are not alleged in the Indictment). See, also, TT, 21 Apr. 2008, p. 8077; TT, 7 May 2008, p. 9148; and TT, 5 Nov. 2008, p. 19798.

⁷⁷ *Prosecutor v. Taylor*, SCSL-03-01-PT-229, “Rule 73bis Taylor Defence Pre-trial Brief,” 26 April 2007 [Defence Pre-trial Brief], paras 9-23. See, also, *Prosecutor v. Taylor*, SCSL-03-01-PT-243, Corrigendum to Rule 73bis Taylor Defence Pre-Trial Brief, 18 May 2007.

⁷⁸ *Prosecutor v. Bagosora et al.*, ICTR-98-41-AR93.2, “Decision on Prosecutor’s Interlocutory Appeals Regarding Exclusion of Evidence”, 19 December 2003, para. 13. See, also, *Prosecutor v. Bizimungu et al.*, ICTR-99-50-AR73.2, Decision on Prosecution’s Interlocutory Appeals against Decision of the Trial Chamber on Exclusion of Evidence, 25 June 2004, para. 18 (“The fact that the evidence may have been admissible pursuant to Rule 89 does not show any error on the part of the Trial Chamber in concluding that in the interests of ensuring the fairness of the trial it should be excluded”).

⁷⁹ *Prosecutor v. Sesay et al.*, SCSL-04-15-T, “Ruling on Gbao Application to Exclude Evidence of Prosecution Witness Mr. Koker,” 23 May 2005, para. 6.

the fair trial rights of the Accused guaranteed under Article 17 of the Statute, as well as the requirement under Article 20(3)⁸⁰ to follow, where necessary, the guidance provided by the Appeals Chambers of the ICTR and ICTY.

36. There is a fine line between relevance for context and the danger that the evidence serves as the basis for a conviction, especially when one is faced with a mass of “contextual” evidence as in this case. Indeed, and as noted previously, the Trial Chamber has already based some findings in its Rule 98 Decision on such “contextual” evidence.⁸¹ The Defence submits that there is so much evidence outside the scope of the Indictment, it amounts to prejudice of such a nature which far outweighs any probative value to such evidence. In that sense, it contravenes both Rule 95 and Article 17 and should consequently be excluded.⁸²
37. To be sure, the exception being taken to such evidence includes the use of Rule 89(C) and Rule 93 by the Prosecution to incorporate ex-temporal and ex-territorial evidence into its case as if it were one with evidence adduced to prove the crimes alleged in the Indictment. In this regard, the Defence particularly has in mind evidence regarding alleged crimes in Liberia and countries other than Sierra Leone (in the geographical sense) and crimes which pre-date 30 November 1996 (in the temporal sense).

Joint Criminal Enterprise: Evidence falling outside the Temporal Scope of the Indictment

38. The Defence particularly draws attention to problems associated with the mode of liability -- JCE. In its Amended Case Summary, the Prosecution made reference to a common plan between the Accused and Foday Sankoh which originated in the late 1980s, which is not merely contextual, but is a crucial element of the alleged JCE.⁸³ The Trial Chamber will have to determine guilt based on events which occurred up to ten years before the commencement of the Indictment period. The Defence submits that this is not within the Special Court’s jurisdiction to decide.
39. Indeed, even were the Trial Chamber merely to consider and not rule on such evidence, the Defence submits that there must be a limit to the extent to which ex-temporal and ex-territorial evidence can be taken into consideration by the Trial Chamber in assessing the guilt of the Accused. Otherwise, there is a real danger that

⁸⁰ Statute, Article 20(3).

⁸¹ Rule 98 Decision, pp. 24209-24210.

⁸² Rules, Rule 95; Statute, Article 17(2).

⁸³ Amended Case Summary, paras 1-3, 42 and 44.

such a sheer mass of evidence will have an impact on the Trial Chamber's findings. Indeed, it becomes so prejudicial to the Accused, that such evidence violates Rule 95 and infringes on fair trial rights guaranteed the Accused under Article 17.

**Evidence of Atrocities in Liberia and Elsewhere beyond Sierra Leone:
Evidence falling outside the Geographic Scope of the Indictment**

40. Evidence adduced by the Prosecution regarding the Accused's alleged involvement in atrocities in Liberia has little relevance or probative force other than to blacken the Accused's character with the Trial Chamber; indeed, it clearly has nothing to do with the charges the Accused faces in respect of Sierra Leone.⁸⁴ The same holds true for evidence of the Accused's alleged role in conflicts, arms-dealing and diamond-dealing throughout the African continent. Such evidence was admitted via the back door that is Rule 93 throughout the trial, despite the warning given by the Trial Chamber in *Kupreškić* that Rule 93 cannot be used to simply show the bad character of an accused.⁸⁵ The Defence submits that such evidence is contrary to Rule 95, Article 17, and the jurisprudence of the international tribunals.
41. Rule 93 does not provide an unregulated or unrestricted route for the admission of evidence demonstrating a consistent pattern of conduct; rather, such evidence may only be admitted where it is in the interests of justice to do so. This point was raised by defence counsel on 21 April 2008.⁸⁶ Nevertheless, the Trial Chamber has on at least one occasion refused to assess the probative value of the evidence in question, despite the fact that an assessment of the interests of justice must invariably include an assessment of the probative value of the evidence against its prejudicial effect.⁸⁷

**Evidence which could fall inside the Geographic Scope of the Indictment but
which does not**

42. The Prosecution has led evidence on the commission of crimes in certain districts of Sierra Leone which form no part of Indictment, but which nevertheless could have

⁸⁴ See, e.g., the evidence of TF1-399: TT, 12 March 2008, pp. 5913-5919.

⁸⁵ *Prosecutor v. Kupreškić et al.*, IT-95-16-T, "Decision on Evidence of Good Character of the Accused and the Defence of Tu Quoque", 17 February 1999, para. 31.

⁸⁶ TT, 21 Apr. 2008, pp. 8079-8080.

⁸⁷ *Prosecutor v. Taylor*, SCSL-03-01-T, Trial Transcript, 5 November 2008, p. 19800.

been pleaded within the Indictment.⁸⁸ The Defence submits that these locations should have been pleaded in the Indictment. Such evidence is not merely background information since there is nothing to differentiate it from evidence adduced to prove crimes occurring within districts that were expressly pleaded in the Indictment; its prejudicial effect is the same.

43. It is axiomatic that the Prosecution cannot circumvent the requirements of the Indictment by adding layer after layer of alternative locations in which crimes were committed, without formally charging the Accused with those crimes; evidence of such ex-territorial crimes provide so little probative value and are so prejudicial that they contravene both Rule 95 and Article 17(2).
44. To view such evidence in any other way would result in a serious danger that, uniquely among international courts, the Special Court would be seen as having permitted a Prosecutor to charge an accused with as few particulars as possible, while having held back the particulars into which the bulk of the evidence falls for admission via the back door at trial under the guise of “relevant” evidence. This may be strategic for a prosecutor, but should not be countenanced by any reasonable tribunal.
45. The exception taken herein is directed squarely at ex-temporal and ex-territorial evidence led by the Prosecution during its case-in-chief. While the Defence may also have led such evidence during the Defence’s case, the necessity for doing so often was directly related to rebutting Prosecution evidence. Bearing in mind that the Defence has no burden of proof and never has an obligation to put forth a case, whether or not the Defence has led such evidence is immaterial and of no consequence to the relief being sought herein vis-à-vis Prosecution evidence.
46. Accordingly, the Defence requests the exclusion of Prosecution evidence which falls outside the temporal or geographic scope of the Indictment,⁸⁹ or the imposition of strict limits on the degree to which such evidence may be taken into consideration by the Court during deliberations.

⁸⁸ See, e.g., TF1-334’s testimony regarding events in Koinadugu District. TT, 18 Apr. 2008, p.8054 and TF1-150’s evidence regarding atrocities in and around Kabala. TT, 18 Feb. 2008, pp. 4020-22, 4093, 4055, and 4140.

⁸⁹ This, of course, includes evidence of crimes committed in locations within Sierra Leone not pleaded in the Indictment.

Joint Criminal Enterprise (JCE)

47. This section of the Brief traces the procedural history of the JCE allegations in this case, the Defence's challenge to the Prosecution's pleading of JCE, and the consequences for the Accused of the 13-month delay before the Trial Chamber ruled on that challenge, all the while examining how these compounded legal errors impacted the Accused's fair trial rights. The legal requirements (*actus reus* and *mens rea*) for JCE in its various manifestations are discussed elsewhere in this Brief, as is the insufficiency of proof in the record to establish beyond reasonable doubt that there was a JCE in which the Accused participated, consistent with the Trial and Appeals Chambers' formulation of JCE in this case.
48. In sum, the Defence submits that several procedural irregularities surrounding the pleading and adjudication of JCE-related issues in this case have collectively, or in combination with other matters raised in this Brief, affected the Accused's substantive rights to such a degree that he has been denied a fair trial.
49. The Defence challenged the sufficiency of the pleading of JCE in the Indictment on several grounds, the most notable of which was the legal and factual ambiguities surrounding the alleged common purpose of the JCE.⁹⁰ The Trial Chamber orally ruled on the issue on 19 February 2009,⁹¹ followed by the issuance of a written Decision with reasons for its ruling on 27 February 2009.⁹² With Justice Lussick dissenting,⁹³ the Majority held that paragraphs 5, 9, 14, 22, 23, 28, 33 and 34 of the

⁹⁰ See, *Prosecutor v. Taylor*, SCSL-03-01-T-378, Public Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 14 December 2007 [JCE Motion]; *Prosecutor v. Taylor*, SCSL-03-01-T-388, Public Defence Reply to 'Prosecution Response to Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE,' 14 January 2008 [JCE Reply]; *Prosecutor v. Taylor*, SCSL-03-01-T-446, Consequential Submission in Support of Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 31 March 2008 [Consequential JCE Motion]; *Prosecutor v. Taylor*, SCSL-03-01-T-754, Defence Application for Leave to Appeal the Decision on Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 2 March 2009 [JCE Leave Application]; *Prosecutor v. Taylor*, SCSL-03-01-T-767, Defence Notice of Appeal and Submissions regarding the Majority Decision concerning the Pleading of JCE in the Second Amended Indictment, 26 March 2009 [Defence JCE Appeal]; and *Prosecutor v. Taylor*, SCSL-03-01-T-769, Corrigendum to Defence Notice of Appeal and Submissions regarding the Majority Decision concerning the Pleading of JCE in the Second Amended Indictment, 30 March 2009.

⁹¹ See, TT, 19 February 2009, pp. 24052 (line 26) - 24053 (line 3) [Oral JCE Decision].

⁹² *Prosecutor v. Taylor*, SCSL-03-01-T-752, Decision on Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 27 February 2009 [JCE Trial Decision].

⁹³ *Prosecutor v. Taylor*, SCSL-03-01-T-751, Decision on Public Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE – Dissenting Opinion of Justice Richard Lussick, 27 February 2009 [Dissenting Opinion of J. Lussick]; and *Prosecutor v. Taylor*, SCSL-03-01-T-761, Corrigendum: Decision on Public Urgent Defence Motion regarding a Fatal

- Indictment, when taken together, “fulfil the requirements for pleading JCE and serve to put the Defence on notice that the Prosecution intended to charge the Accused with having participated in a [JCE].”⁹⁴ The Majority further found that “‘a campaign to terrorize the civilian population of the Republic of Sierra Leone,’” as alleged in paragraph 5 (when read in conjunction with paragraph 33) of the Indictment was the “common purpose” of the JCE and “the crimes charged in counts 2 through 11 were part of the ‘campaign of terror’ or were a reasonably foreseeable consequence thereof.”⁹⁵
50. Justice Lussick disagreed that paragraph 5 specifies the common purpose was “to terrorize the civilian population of the Republic of Sierra Leone,” adding that “there is no more reason for reading paragraph 33 together with paragraph 5 than there is for reading paragraph 33 together with any other paragraph of the Indictment.”⁹⁶ Furthermore, he observed that “the Accused should not be required to undergo the brain-twisting exercise of reading together paragraphs 5, 9, 14, 22, 23, 28, 33 and 34 of the Indictment in order to fathom what liability facts are most likely to form the basis for his alleged [JCE].”⁹⁷
51. The Appeals Chamber upheld the Majority’s findings on 1 May 2009,⁹⁸ holding that the “common purpose” of the JCE was the commission of the crimes referred to in Articles 2, 3, and 4 of the Statute and the JCE encompasses all crimes charged in the Indictment.⁹⁹ The reviewing Court added that the common purpose comprises both the objective of the JCE and the means that are contemplated to achieve that objective.¹⁰⁰ Furthermore, and because the Indictment made clear the alleged criminality of the enterprise, notice to the Accused does not require that the objective

Defect in the Prosecution’s Second Amended Indictment relating to the Pleading of JCE – Dissenting Opinion of Justice Richard Lussick, 12 March 2009.

⁹⁴ JCE Trial Decision, para. 70. Justice Lussick took the view that the plain language of those paragraphs do not support the Majority’s finding that the Indictment sufficiently fulfils the pleading requirements for JCE. See, Dissenting Opinion of J. Lussick, paras 9-11.

⁹⁵ JCE Trial Decision, para. 71.

⁹⁶ See, Dissenting Opinion of J. Lussick, para. 11.

⁹⁷ *Ibid.*, para. 15.

⁹⁸ *Prosecutor v. Taylor*, SCSL-03-01-T-775, Decision on *Defence Notice of Appeal and Submissions regarding the Majority Decision concerning the Pleading of JCE in the Second Amended Indictment*, 1 May 2009 [JCE Appeals Decision].

⁹⁹ JCE Appeals Decision, para. 21.

¹⁰⁰ JCE Appeals Decision, paras 15 and 25, citing *Prosecutor v. Brima, et al.*, SCSL-04-16-A-675, Judgment, dated 22 February 2008, filed 3 March 2008 [AFRC Appeals Judgement], para. 76. (Cf. *Prosecutor v. Brima, et al.*, SCSL-04-16-A-676, Corrigendum to Judgment Dated 22 February 2008, 17 October 2008.)

of the JCE and the means to achieve it be pleaded separately.¹⁰¹ It also upheld the Trial Chamber's reliance on paragraph 34 of the Indictment in determining the nature of the Accused's participation in the JCE.¹⁰²

Prejudicial Delay of Thirteen Months and Fourteen Days before the Trial Chamber Ruled on the Defence's Challenge to the Pleading of JCE

52. The Defence does not now seek to revisit issues that were resolved by the JCE Appeals Decision. Some of those issues are, nonetheless, still of legal significance to the extent that the uncertainty surrounding the JCE allegations in this case have had a prejudicial and irremediable impact on the Accused's fair trial rights. In particular, it took the Trial Chamber 13 months and 14 days from the date on which pleadings on the JCE Motion were closed (i.e., 14 January 2008) to render a decision on the matter.¹⁰³ The Defence submits, in light of the procedural history of the case, that the amount of time in question was inordinate and unreasonable, and it resulted in irremediable prejudice to the Accused's fair trial rights.
53. It will be recalled that the trial commenced with the Prosecution's Opening Statement on 4 June 2007.¹⁰⁴ The evidentiary phase started on 7 January 2008 with the testimony of Ian Smillie, the first Prosecution witness.¹⁰⁵ The Prosecution called 91 *viva voce* witnesses before resting its case on 27 February 2009,¹⁰⁶ but leave was granted the Prosecution to re-open its case in the middle of the Defence case in order to call three additional witnesses.¹⁰⁷ It was on the very day that the Prosecution rested its case that the JCE Trial Decision was issued.
54. The prejudice to the Accused arising from such delay cannot be overstated. Decisional law from international criminal tribunals evidence a uniform preference for the resolution of any ambiguity in an Indictment as soon as it emerges, and in any

¹⁰¹ JCE Appeals Decision, paras 22 and 23.

¹⁰² *Ibid.*, paras 22-23.

¹⁰³ The JCE Motion was filed on 14 December 2007 and pleadings closed on 14 January 2008 with the filing of *Prosecutor v. Taylor*, SCSL-03-01-T-388, Public Defence Reply to *Prosecution Response to Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE*, 14 January 2008. The JCE Trial Decision was issued on 27 February 2009.

¹⁰⁴ TT, 4 June 2007, pp. 265 – 331 [Prosecution Opening Statement]. The transcripts of proceedings for 4 June 2007 have been published in at least two versions, identical in substance, but with different pagination. The Prosecution's Opening Statement appears on pages 26 – 90 in the second version of the transcripts.

¹⁰⁵ TT, 7 Jan. 2008, p. 484.

¹⁰⁶ TT, 27 Feb. 2009, p. 24057.

¹⁰⁷ The three additional witnesses were Naomi Campbell, Mia Farrow, and Carole White. See, *Prosecutor v. Taylor*, SCSL-03-01-T-993, Decision on Public with Confidential Annexes A and B Prosecution Motion to Call Three Additional Witnesses, 29 June 2010.

event, pre-trial. Thus, the ICTY Appeals Chamber held in *Krnojelac* that where ambiguity arises, “the Prosecution must identify precisely the form or forms of liability alleged for each count as soon as possible and, in any event, before the start of the trial.”¹⁰⁸ Similarly, the ICTR Appeals Chamber has noted that should the Defence be denied the material facts of an accused’s alleged criminal activity “until the Prosecution files its pre-trial brief or until the trial itself, it will be difficult for the Defence to conduct a meaningful investigation prior to the commencement of the trial. The Trial Chamber must consider whether proceeding to trial in such circumstances is fair to the accused.”¹⁰⁹

55. In this case, the prejudice that inured to the Accused due to the unreasonable delay in resolving the JCE issues is irremediable, inasmuch as the evidentiary phase of the trial had commenced, the cross-examination of all *viva voce* Prosecution witnesses been completed, and only on the day when the Prosecution rested its case (27 February 2009¹¹⁰) was the JCE Trial Decision was issued. That prejudice manifested itself in various forms, notably these: (i) the Accused could not conduct meaningful pre-trial investigation into the alleged common purpose of the JCE and the nature of the Accused’s participation in it, (ii) effective cross-examination of Prosecution witnesses regarding the common purpose of the JCE and the Accused’s participation in it was severely undermined and hindered by the unresolved legal ambiguities surrounding the Indictment, (iii) preparation for the Defence case during the currency of the Prosecution’s case was fractured and impossible to progress due to uncertainty regarding what JCE allegations to defend, and (iv) the very fact of a Majority opinion on the JCE Motion serves to confirm that reasonable minds, including those of the Justices, differed in their understanding of what the common purpose of the alleged JCE was as they processed evidence being presented during the Prosecution’s case.
56. The prejudice to the Accused could not be cured during the Defence’s case alone, for the obvious reason that all 91 *viva voce* Prosecution witnesses could not be recalled to testify anew regarding the alleged common purpose of the JCE and/ or the nature of the Accused’s participation in it. The Defence submits that the clock cannot be turned

¹⁰⁸ *Prosecutor v. Krnojelac*, Case No.: IT-97-25-A, Judgement, 17 September 2003 [Krnojelac Appeal Judgement], para. 138.

¹⁰⁹ *Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-A, Judgement, 9 July 2004 [Niyitegeka Appeal Judgement], para. 194. See, also, *Prosecutor v. Kvočka, et al.*, Case No. IT-98-30/1-A, Judgement, 28 February 2005 [Kvočka Appeals Judgement], para. 28.

¹¹⁰ TT, 27 Feb. 2009, p. 24057.

back to remedy these manifestations of prejudice and collectively, or in combination with other errors lodged in this Brief, they have denied the Accused a fair trial.

57. As this Chamber noted in its disposition of the AFRC case, the judges are not precluded from reviewing at the final judgement stage “whether shortcomings in the form of the Indictment have actually resulted in prejudice to the rights of the Accused.”¹¹¹ Indeed, it was settled by this Chamber that it is within its judicial discretion to reconsider a decision previously made if a clear error of reasoning has been demonstrated or if doing so is necessary to prevent an injustice¹¹² (and that we submit can be even done *proprio motu*). Such is the case in relation to the alleged JCE in this trial.
58. In addition to the strict fair trial requirements imposed by Article 17 of the Statute, Rule 26bis affirms that it is ultimately the responsibility of the Trial Chamber to “ensure that a trial is fair and expeditious and that proceedings before the Special Court are conducted in accordance with the Agreement, the Statute and the Rules, with full respect for the rights of the accused [...]”
59. Considering the context discussed above, the Defence submits that the history of the JCE as a mode of liability in this case is so tainted and so discredited that it cannot form the basis of a credible conviction in this case. Accordingly, the Defence requests that the Chamber exercise its discretion, in the interests of justice, in declining to consider JCE as a mode of criminal responsibility against the Accused.

¹¹¹ See, *AFRC Trial Judgement*, para. 24. As this Chamber has observed, there is ample precedent to show that the form of an indictment may be considered at the judgement stage. In this regard, see *Prosecutor v. Laurent Semanza*, Case No. ICTR-97-20-T, Judgement, 15 May 2003 [*Semanza Trial Judgement*], paras 41-62; *Prosecutor v. Jean Mpambara*, Case No. ICTR-01-65-T, Judgement, 11 September 2006 [*Mpambara Trial Judgement*], paras 28-35; *Prosecutor v. André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe*, Case No. ICTR-99-46-T, Judgement, 25 February 2004 [*Cyangugu Trial Judgement*], paras 28-70; *Emmanuel Nindabahizi*, Case No. ICTR-2001-71-T, Judgement, 15 July 2004 [*Ndindabahizi Trial Judgement*], paras 28-29; *Prosecutor v. Ntakirutimana and Ntakirutimana*, Case No. ICTR-96-10 and ICTR-96-17-T, Judgement, 21 February 2003 [*Ntakirutimana Trial Judgement*], paras 49-63; see also *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-PT, Transcript 25 October 2006, p. 8 (Oral Decision on Motion for Judgement of Acquittal).

¹¹² *Prosecutor v. Taylor*, SCSL-03-01-T-1132, Decision on Public with Annex A Defence Motion for Reconsideration of Decision on the Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 3 December 2010, page. 3. See, also, *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-AR73, Decision on Application by Prosecution for Leave to Appeal, 14 December 2001, para. 13; *Kajelijeli v. The Prosecutor*, Case No. ICTR-98-44A-A, Judgement, 23 May 2005 [*Kajelijeli Appeal Judgement*], paras 203 and 204; and *Prosecutor v. André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe*, Case No. ICTR-99-46-A, Judgement, 7 July 2006 [*Cyangugu Appeal Judgement*], para. 55.

What is the Legal Import or Significance of the JCE Appeals Decision?

60. The Defence's position is that the Accused was prejudiced and consequently denied a fair trial because of the ambiguity surrounding the JCE allegations at bar and the unreasonable delay by the Trial Chamber in clarifying the ambiguity. Given that the Indictment was upheld by the JCE Appeals Decision, relevant questions that necessarily arise include, (i) what is the legal import or significance of the JCE Appeals Decision? and (ii) did it operate *nunc pro tunc* to the commencement of the case to put the Accused on notice of the case he was to defend even though it was rendered on 1 May 2009?
61. In respect of the first question thus posed, the Defence submits that the JCE Appeals Decision resolved what issues were raised in the JCE Motion and subsequent pleadings. Those issues had at their core the sufficiency of the pleading of JCE in respect of both the common purpose and the nature of the Accused's participation in the JCE, insofar as the alleged insufficiency of both was said to deny the Accused sufficient notice of the case to be defended.¹¹³ Those issues are qualitatively distinct and different from the issues now being raised regarding denial of a fair trial on the basis of unreasonable delay and the concomitantly adverse effects on the Accused's ability to defend against the JCE charges.
62. Regarding the question of retroactivity and the curative effect (if any) of the JCE Appeals Decision vis-à-vis the sufficiency of notice given to the Accused, it will be recalled that even the Trial Chamber was divided on the issues raised by the JCE Motion at a time when the Prosecution had rested its case. Indeed, the Trial Chamber found on 18 March 2009 that, "a continuous erroneous reading of the Indictment on the issue of [JCE] as a form of liability, could result in irreparable prejudice to the Accused who is entitled to know the nature of the case against him as enshrined in Article 17(4)(a) of the Statute and that the complex nature of the case where pleading of a joint criminal enterprise is a central issue, constitute exceptional circumstances,"¹¹⁴ warranting leave to appeal the JCE Trial Decision.
63. The Defence submits that the JCE Appeals Decision did not serve to cure the irreparable prejudice that has been suffered by the Accused as a consequence of the

¹¹³ Defence JCE Appeal, paras 20 and 7; Consequential JCE Motion, para. 12 and Conclusion; JCE Motion, paras 7, 8, and 9; JCE Reply, paras 7 and 12; JCE Trial Decision, para. 20.

¹¹⁴ *Prosecutor v. Taylor*, SCSL-03-01-T-764, Decision on Defence Application for Leave to Appeal The Decision on Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, dated 18 March 2009, filed 19 March 2009 [Decision Granting Leave], page 4.

Trial Chamber's delay in issuing the JCE Trial Decision. Reasonable minds did disagree on the import of the supposed JCE allegations in the Indictment from the commencement of the case through conclusion of the Prosecution's case and beyond, and no legal fiction or legal fiat can deem the Accused to have been reasonably placed to understand the JCE case against him.

Was the Ambiguity in the Indictment Clarified by Timely, Clear, and Consistent Information regarding the Alleged JCE?

64. The Appeals Chamber has ruled that, in some circumstances, a defect in an indictment *may* be cured if an accused is provided timely, clear, and consistent information regarding the factual basis underpinning the charges, thereby placing the accused in a reasonable position to understand the charges.¹¹⁵ While the JCE Appeals Decision may be read as upholding the specificity of the Indictment, the ambiguity surrounding the pleading of JCE was objectively reasonable as is evidenced by a pleading regime that was at the floor (far from the ceiling) of what is legally advisable and desirable.
65. Indeed, the right of the Accused to information on the nature and cause of the charges against him under Article 17(4)(a) of the Statute and Rule 47(C) requires that the Prosecution not only know its case before it proceeds to trial, but that it puts the Accused on notice so that he may properly defend himself. Omitting as material a fact such as JCE from the allegations in the Indictment leads one to the reasonable conclusion that the objective was to mould the case against the Accused even as the evidence unfolded. The fair trial rights of the Accused make this simply unacceptable.
66. The Prosecution's gross failure to plead JCE in a clear and unequivocal manner set up the Accused for "prejudicial surprise." For example, the Prosecution deleted the phrase "joint criminal enterprise" from the Original Indictment¹¹⁶ with the filing of the Amended Indictment¹¹⁷ on 17 March 2006. While the Appeals Chamber has stated that the omission of those words does not, in and of itself, serve as proof of a defect, this was predicated on the condition that the Prosecution's intention to use the

¹¹⁵ JCE Appeals Decision, para. 16. See, also, *Prosecutor v. Kupreškić, et al.*, Case No. IT-95-16-A, Appeal Judgement, 23 October 2001 [Kupreškić Appeal Judgement], para. 114; Kvočka Appeals Judgement, para. 33; Niyitegeka Appeal Judgement, para. 220.

¹¹⁶ *Prosecutor v. Taylor*, SCSL-03-01-I-001, *Indictment*, signed 3 March 2003, filed 7 March 2003 [Original Indictment]. The phrase "joint criminal enterprise" appeared in paragraphs 23, 24, 25 and 26 of the Original Indictment.

¹¹⁷ *Prosecutor v. Taylor*, SCSL-03-01-I-75, *Amended Indictment*, signed 16 March 2006, filed 17 March 2006 [Amended Indictment], with "Case Summary Accompanying the Amended Indictment," as Annex [Case Summary].

doctrine is otherwise clear and meaningfully communicated to the Accused. It is such difficulties that has led (for example) the ICTR Appeals Chamber's to demand in *Gacumbitsi* that "because today ICTY and ICTR cases routinely employ the phrase 'joint criminal enterprise', that phrase should for the sake of maximum clarity preferably be included in future indictments where JCE is being charged."¹¹⁸ It is submitted that the same logic should apply to the SCSL cases. Indeed, the ICTY Appeals Chamber in *Krnojelac* also "consider[ed] that it is preferable for an indictment alleging the accused's responsibility as a participant in a joint criminal enterprise also to refer to the particular form (basic or extended) of joint criminal enterprise envisaged."¹¹⁹ The Indictment is in this regard again wanting.

67. A question consequently arises regarding whether, despite the ambiguity in the Indictment, other information provided the Defence by the Prosecution adequately notified the Accused of the nature of the JCE charge he was to defend. The Defence submits that the contrary occurred: namely, that the secondary accusatory instruments and other pronouncements of the Prosecution regarding the nature of the JCE allegations were far from clear and consistent and, if anything, evidence a pleading regime of the "common purpose" of the JCE that was fluid, ever-evolving, and far from consistent. Indeed, that much was acknowledged in the Dissenting Opinion of J. Lussick.¹²⁰
68. Neither the Original Indictment of 2003 nor the Case Summary of 2006 mention terrorizing the civilian population of Sierra Leone as either an overriding objective or primary means of the alleged JCE.¹²¹ Instead, both list a common purpose to "gain and exercise political power and control over the territory of Sierra Leone, in particular the diamond mining areas."¹²² The same holds true for the Prosecution's Pre-Trial Brief¹²³ and the Opening Statement.¹²⁴ As far back as then, an alarm was

¹¹⁸ *Gacumbitsi v. The Prosecutor*, ICTR-2001-64-A, Judgement, 7 July 2006 [Gacumbitsi Appeals Judgement], f.n., 380.

¹¹⁹ *Krnojelac* Appeal Judgement, para. 138.

¹²⁰ See, Dissenting Opinion, para. 16, "the objective of [the JCE] was not always expressed in the same way" and para. 23, "there are some obvious differences in the way the various materials describe the common purpose."

¹²¹ Original Indictment and Case Summary.

¹²² Original Indictment, paras 23, 23-25. Case Summary, paras 42-44.

¹²³ *Prosecutor v. Taylor*, SCSL-03-01-PT-218, *Rule 73bis Pre-Trial Conference Materials Pre-Trial Brief*, 4 April 2007 ([Prosecution Pre-Trial Brief], para. 6 (the Accused "participated in a common plan, design or purpose to gain and maintain political power and physical control over the territory of Sierra Leone, in particular the diamond mining areas, in order to exploit the natural resources of the country"). See, also, para. 143 ("A common plan to control a country by any means necessary, including criminal means, in order to exploit the natural resources of that country may be considered to amount to[emphasis in the

sounded in the Defence Pre-Trial Brief regarding the pleading of JCE in this case.¹²⁵

The Defence there stated:

A notable feature of the Amended Indictment was the deliberate decision to drop the allegation, present in the original indictment, that Mr. Taylor was part of a Joint Criminal Enterprise ('JCE')... The decision to drop it from the Amended indictment in the case of Mr. Taylor cannot be taken to have been accidental. Nor can the Prosecution escape its consequences.¹²⁶ What is impermissible is for the Prosecution to decide to no longer specifically plead JCE and yet to rely upon its elements via the backdoor.¹²⁷ Charging of the forms of liability, in informing those accused in sufficient detail the nature of the charge, so as the defence can be prepared, pursuant to the rights to a fair trial, are material facts that must be pleaded in the indictment.¹²⁸

There was thus from the pre-trial phase of the case, clear ambiguity regarding whether JCE had been pleaded as a mode of liability.

69. Mention was first made of a "campaign of terror" in relation to a "common plan, design or purpose" in the Prosecution Pre-Trial Brief,¹²⁹ and again during the Opening Statement.¹³⁰ But between the 4 April 2007 Prosecution Pre-Trial Brief and the 4 June 2007 Opening Statement, the Prosecution filed the Indictment on 29 May 2007 and, as was the case with the Amended Indictment of 2006, reference to the goal of taking over political power or control had been deleted. Furthermore, and following the AFRC Trial Judgement and the finding that the Prosecution there defectively pleaded JCE, the Prosecution in this case filed an Amended Case Summary on 3 August 2007,¹³¹ purportedly to further articulate the common plan, design or purpose alleged

original] the commission of crimes within the jurisdiction of the Court"). See, also, *Prosecutor v. Taylor*, SCSL-03-01-PT-219, Prosecution Corrigendum & Motion for Leave to Substitute Pages of the Prosecution Rule 73bis Pre-Trial Conference Materials, 17 April 2007, and *Prosecutor v. Taylor*, SCSL-03-01-PT-224, Decision on Prosecution Motion for Leave to Substitute Pages of the Prosecution Rule 73bis Pre-Trial Conference Materials, 23 April 2007.

¹²⁴ TT, 4 June 2007, p. 271: 9-15 ("...The accused is responsible for the development and execution of a plan that caused the death and destruction in Sierra Leone. That plan, formulated by the accused and others, was to take political and physical control of Sierra Leone in order to exploit its abundant natural resources and to establish a friendly or subordinate government there to facilitate that exploitation") and p. 282: 12-19 ("A plan was there formulated by the accused and others to take over political and physical control of Sierra Leone in order to exploit its abundant natural resources and to establish a friendly or subordinate government there to permit – to facilitate this exploitation. This was part of a larger strategy that included helping others militarily in their respective revolutions to take over their respective countries, and the first one was to be Liberia").

¹²⁵ Defence Pre-Trial Brief, paras 45-47.

¹²⁶ *Ibid.*, para. 45.

¹²⁷ *Ibid.*, para. 46.

¹²⁸ *Ibid.*

¹²⁹ Prosecution Pre-Trial Brief, para. 7.

¹³⁰ Opening Statement, p. 273:12-24.

¹³¹ *Prosecutor v. Taylor*, SCSL-03-01-T-327, Prosecution Notification of Filing of Amended Case Summary [Notification], with "Case Summary Accompanying the Second Amended Indictment," as Annex, 3 August 2007 [Amended Case Summary].

against the Accused. The Amended Case Summary further shifted the language with regards to the “common purpose” of JCE by alleging that the common plan was “to *pillage* the resources of Sierra Leone, in particular the diamonds, and to forcibly control the population of Sierra Leone” [emphasis added].¹³² In addition, the same Amended Case Summary retained language from the 2006 Case Summary, to the effect that the Accused and Foday Sankoh, in the late 1980s, made common cause to assist each other “in taking power in their respective countries.”¹³³

70. This procedural history demonstrates without question, the inconsistent articulation of the “common purpose” in the secondary accusatory instruments and other pronouncements of the Prosecution. They served to obfuscate rather than clarify the nature of the JCE charges against the Accused, thereby denying him adequate notice of what charges to defend. Taken together, they did not provide timely, clear, and consistent information detailing the factual basis underpinning any alleged JCE charges against the Accused. Indeed, the record demonstrates that the Prosecution disregarded all jurisprudential exhortations regarding the proper pleading of JCE to the disadvantage of the Accused. The consequences of this for the Accused have been dire; the deleterious impact on the Accused’s fair trial rights hard to overstate.
71. The Defence submits that the Accused has been denied a fair trial due to the irremediable prejudice that derived from the ambiguity surrounding the JCE allegations and the unreasonable delay by the Trial Chamber in clarifying the ambiguity. Given that actual prejudice has resulted to the Accused, the Defence requests that the Trial Chamber remedy that prejudice by declining to consider JCE as a mode of liability against the Accused at the judgement stage of this case, in the exercise of its judicial discretion.

Factual Imperatives Warranting an Acquittal

72. The Defence maintains that certain facts which have been established by both Prosecution and Defence evidence necessitate the acquittal of Charles Taylor. When these facts are considered carefully and contextually vis-à-vis other proof amassed during the case and the allegations in the Indictment, no reasonable trier of fact could, in the Defence’s view, find that the case against Taylor has been established beyond reasonable doubt.

¹³² Amended Case Summary, para. 42.

¹³³ Amended Case Summary, para. 1; Case Summary, para. 1.

Preliminary Observations regarding the Absence of Proof

73. Charles Taylor never set foot in Sierra Leone during the indictment period. No evidence to the contrary appears in the record. Similarly, the Prosecution never produced any video or audio recording, purporting to capture a conversation between Charles Taylor and Foday Sankoh or any RUF or ARFC member. No evidence of intercepted telephone calls¹³⁴ pertaining to Taylor – recording or verbatim transcript – was presented to this Court. Neither were records of cellular, satellite, or land telephone call logs pertaining to Taylor presented by the Prosecution. Furthermore, and despite calling several witnesses who claimed to be former radio operators in RUF with extensive knowledge of the contents, methods and means of radio communications within the RUF,¹³⁵ not a single recording of Taylor talking on an RUF or AFRC radio (or any non-commercial/ public radio broadcast)¹³⁶ was played or produced for the Court.
74. The Prosecution also did not produce a single photograph depicting Taylor and Sankoh together during the fourteen-year period from 1988 to 2002. This is against a backdrop of allegations asserting that in the late 1980s in Libya, Taylor and Sankoh “made common cause to assist each other in taking power in their respective countries.”¹³⁷ In fact, the Prosecution did not produce any photograph depicting Taylor with Sankoh at any time whatsoever. The only photographs depicting Taylor and Sankoh together were introduced by the Defence¹³⁸ and they were taken in Lomé, Togo, during the July 1999 talks that resulted in the Lomé Peace Agreement.¹³⁹ But not one of those photographs show Taylor and Sankoh alone together: almost all of the photographs depict Taylor in the company of four other West African heads of state (presidents Olusegun Obasanjo of Nigeria, Tejan Kabbah of Sierra Leone, Gnassingbé Eyadéma of Togo, and Blaise Compaoré of Burkina Faso) with Sankoh

¹³⁴ Whether cellular, satellite, or land telephone calls.

¹³⁵ E.g., Dauda Aruna Fornie (TF1-274); Foday Lansana (TF1-275); Mohammed Kabbah (TF1-568); Alice Pyne (TF1-584); Perry Kamara (TF1-360); TF1-516; and TF1-585.

¹³⁶ Recordings pertaining to interviews given by Taylor to the BBC on the radio, such as exhibits P-416A and B (Mary Harper interview) and P-415 (BBC interview of Taylor in Gbarnga) have been introduced into evidence by the Prosecution as compared with the absence of non-public or commercial radio recordings. For evidence demonstrating that Taylor never communicated on non-commercial or public radio, see, e.g., TT, Taylor, 23 July 09, p. 25543-4; 16 Sep 09, p. 28994-5; DCT-179, 22 Feb 10, p. 35652-3; DCT-172, 8 July 10, p. 44033-4.

¹³⁷ Amended Case Summary, para 1.

¹³⁸ See, Exhibits: D-198AC, AD, AG, AH, AI, AJ, AK, AM; and Exhibits D-198-I, J, Q, R, S and T.

¹³⁹ Agreed Fact 32 (“On 7 July 1999, the Government of Sierra Leone signed a peace agreement with the RUF in Lomé, Togo (Lomé Peace Agreement).”)

somewhere in the periphery. That Taylor was in Lomé as a facilitator of peace in Sierra Leone in the context of an ECOWAS mandate is indisputable and is discussed below in this section and elsewhere in this Brief.

75. Furthermore, not a single officer or official of ECOMOG was called by the Prosecution as a witness, despite the extended presence and extensive mandate of ECOMOG in Liberia and Sierra Leone during the 1990s¹⁴⁰ and the plethora of references to ECOMOG and “Alpha jets”¹⁴¹ in the record. In this regard, it is noteworthy that it was the Defence that introduced into evidence the statement of Alpha Konaré, President of ECOWAS from 1999 to 2000 and President of the Republic of Mali from 1992 to 2002.¹⁴²
76. The same holds true for UN officials and military personnel who were deployed in the theatre of war in Liberia and Sierra Leone during times relevant to the Indictment: with the exception of TF1-150,¹⁴³ no such official or personnel testified as a Prosecution witness. Indeed, it was the Defence that introduced into evidence, the statement of Lt. General Daniel Opande, the Chief Military Observer of UNOMIL in Liberia from 1993 to 1995 and Force Commander of UNAMSIL in Sierra Leone from November 2000 to September 2003.¹⁴⁴ The Defence also introduced the statement of Oluyemi Adeniji, the Special Representative of the UN Secretary-General (“SRSG”) to Sierra Leone from December 1999 to early 2003,¹⁴⁵ in addition to over 45 code cables by the SRSG to Liberia, Felix Downes-Thomas, that were introduced into evidence by the Defence.¹⁴⁶

¹⁴⁰ ECOMOG was established by ECOWAS on 7 August 1990 and deployed in Liberia on 24 August 1990. See, Exh. D-346, p. 8, Exh. D-181, p. 3, and TT, Taylor, 20 July 2009, p. 24729. ECOMOG remained in Liberia until January 1999. See, Exh. D-181. As of March 1996, ECOMOG still had approximately 7500 troops in Liberia. See, Exh. P-426, p. 187. The mandate and scope of ECOMOG activity was extended in August 1997 to cover Sierra Leone. See, Exh. D-346, p. 8 and D-347, p. 2. See, also, Exhs. D-177 and D-348.

¹⁴¹ See, e.g., TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10491; TT, Issa Sesay, DCT-172, 12 Aug. 2010, p. 46085 and 7 Jul. 2010, pp. 43863 and 43866; TT, Dauda Aruna Fornie, TF1-274, 3 Dec. 2008, pp. 21566 – 67; TT, Martin George, DCT-062, 22 Apr. 2010, p. 39704; TT, Charles Ngebeh, DCT-146, 23 Mar. 2010, pp. 37886 – 87; TT, Foday Lansana, TF1-275, 25 Feb. 2008, p. 4694; TT, TF1-539, 10 June 2008, p. 11398; and TT, TF1-371, 30 Jan. 2008, p. 2575.

¹⁴² See Exh. D-441A.

¹⁴³ Regarding TF1-150’s employment history with the UN, see TT, 18 Feb. 2008, pp. 4005 – 06.

¹⁴⁴ See Exh. D-441C.

¹⁴⁵ See Exh. D-441B.

¹⁴⁶ See, e.g., Exhibits D-163, D170, D181 – D183, D192, D193A – D193D, D193G, D193J, D193K, D197, D200, D206, D207, D209, D210, D211, D213, D222, D226, D227, D228, D232, D235, D236A, D236B, D238, D239A – D239C, D255, D265, D270, D272, D279, D350, D351, D352, D354, D357, D358, D362, and D367. See, also, TT, Taylor, 30 Jul. 2009, p. 25721.

77. In addition, and despite Prosecution questions to Taylor aimed at showing that the NPFL used child soldiers during the conflicts in Liberia,¹⁴⁷ not a single “child soldier” from the Liberian conflict was called by the Prosecution as a witness, ignoring for a moment the questionable centrality and relevance of such evidence to Count 9 of the Indictment. Additionally, there is also no evidence on record to suggest that amputations of civilians was a feature of the Liberian civil wars between 1989 and 2003. That is to be compared with evidence led in relation to such atrocities during the war in Sierra Leone.¹⁴⁸
78. The absence of Prosecution evidence in these various regards explicates the selectivity and limitations of the Prosecution’s evidence. Selected snapshots of events behind some of the allegations have been presented to the exclusion of other snapshots which paint a fuller and more accurate picture, one that the Prosecution apparently does not want the Chamber to know about. As such, the entire Prosecution evidence necessarily should be viewed with a healthy dose of skepticism and caution.

Hearsay Evidence and the Absence of Proof

79. Other noteworthy matters regarding the absence of proof in this case include the Prosecution’s failure to call Ibrahim Bah, Benjamin Yeaten, and Eddie Kanneh as witnesses. Chief Prosecutor Stephen Rapp referred to Yeaten during the Opening Statement as “the right-hand man of the accused”¹⁴⁹ and “the principal liaison officer between the accused and his forces in Sierra Leone.”¹⁵⁰ Ibrahim Bah was said to be “part of the accused’s trusted inner circle”¹⁵¹ and he “played a central role in directly setting up most of the arms and diamond transactions for the accused involving Sierra Leone.”¹⁵² It was Bah who “created ties” with the RUF and Sankoh between 1991 - 1992 on behalf of the accused and “started to organize and set up arms shipments for the RUF from third countries.”¹⁵³ Eddie Kanneh was described by the Chief

¹⁴⁷ TT, Taylor, 2 Dec, 2009, pp. 32852-53.

¹⁴⁸ See, e.g., evidence about one “Adama Cut Hand” and amputations ordered or carried out by her during the war in Sierra Leone. TT, Mustapha “Marvin” Mansaray, TF1-337, 5 Mar. 2008, p. 5313; TT, Alimamy Bobson Sesay, TF1-334, 23 Apr. 2008, p. 8336; TT, TF1-143, 6 May 2008, p. 9081; TT, TF1-158, 21 Oct. 2008, pp. 18819 and 18817; and TT, John Vincent, DCT-215, 25 Mar. 2010, p. 38065.

¹⁴⁹ Opening Statement, p. 277: 25-26.

¹⁵⁰ Ibid., p. 278: 1-2.

¹⁵¹ Ibid., p. 278: 7.

¹⁵² Ibid., p. 278: 8-10.

¹⁵³ Ibid., 286: 16-20.

Prosecutor as “a main diamond man for the alliance in dealings with the accused, especially from 1998 onwards.”¹⁵⁴

80. The Chief Prosecutor went on to emphasise that:

“Your Honours have heard the names Sam Bockarie, Mosquito; Ibrahim Bah; Benjamin Yeaten; Colonel Jungle; and Issa Sesay. Your Honours, I ask you to remember these names which will echo in these chambers throughout this trial. The accused may not have set foot in Sierra Leone during the time period, but he stamped his mark indelibly on the whole country.”¹⁵⁵

And yet, the Prosecution failed to call Yeaten, Bah, Kanneh or Issa Sesay as witnesses. No explanation was provided for the failure to hear first-hand from these principal names in the most important of cases, rather than the second and often third or fourth-hand hearsay accounts regarding their actions that was provided by so-called Prosecution linkage witnesses. Indeed, it was the Defence who called Sesay as a witness in support of Taylor’s innocence.¹⁵⁶ This is someone that Prosecutor Rapp described as the “interim leader of the RUF in 2000, continuing into 2001,” and “a central link between the accused and the AFRC/RUF alliance.”¹⁵⁷

81. The failure of the Prosecution to call these key individuals as witnesses against Taylor illustrates, among other things, a systemic weakness in the Prosecution’s case involving substantial reliance on hearsay evidence to a degree that effectively renders such evidence the norm and not the exception. While it is legally permissible to base a conviction on hearsay evidence,¹⁵⁸ caution is warranted under such circumstances¹⁵⁹ and establishing the reliability of hearsay evidence is of paramount importance.¹⁶⁰ The Defence submits that significant reliance by the Prosecution on second and third-hand hearsay accounts call into question the reliability of the Prosecution’s case and necessitates great caution and vigilance on the part of the Trial Chamber when assessing and evaluating the credibility and reliability of Prosecution witnesses.

The Prosecution’s Cross-Examination of Charles Taylor

82. Charles Taylor availed himself of the opportunity to appear as a witness in his own defence, pursuant to Rule 85(C).¹⁶¹ Taylor commenced testifying on 14 July 2009¹⁶²

¹⁵⁴ Ibid., p. 281: 11-12.

¹⁵⁵ Opening Statement, P. 299: 10-16.

¹⁵⁶ TT, 5 Jul. 2010, p. 43583, Issa Sesay.

¹⁵⁷ Ibid., p. 280: 9-10.

¹⁵⁸ *Prosecutor v. Fofana, et al.*, Case No. SCSL-04-14-A, Appeal Judgement, 28 May 2008 (CDF Appeal Judgement), para. 198; *Gacumbitsi Appeals Judgement*, para. 115; and *Prosecutor v. Muvunyi*, ICTR-2000-55A-A, Appeals Judgement, 29 August 2008 (Muvunyi Appeals Judgement), paras 70 and 81.

¹⁵⁹ *Muvunyi Appeals Judgement*, paras 70 and 81.

¹⁶⁰ CDF Appeal Judgement, para. 198.

¹⁶¹ Rules, Rule 85(C).

¹⁶² TT, Taylor, 14 Jul. 2009, p. 24324.

and concluded on 18 February 2010.¹⁶³ The Prosecution's cross-examination of Taylor started on 10 November 2009¹⁶⁴ and ended on 5 February 2010.¹⁶⁵ Consequently, both parties and the Court had ample opportunity to question Taylor regarding any and all matters pertaining to the charges in this case. However, and in the approximately 2 months of cross-examination by the Prosecution, not once were the specific paragraphs and allegations of the Indictment put directly to Taylor for admission or denial. Instead, the Prosecution spent a significant amount of time cross-examining Taylor on matters that are wholly irrelevant to the charges at bar. An illustrative example are the several days spent canvassing documents aimed at showing alleged financial irregularities on Taylor's part during his tenure as President of Liberia.

83. Several days¹⁶⁶ were spent questioning Taylor about barely legible statement of accounts from the Liberian Bank for Development and Investment (LBDI)¹⁶⁷ and a few documents from Citibank, N.A.¹⁶⁸ This was after the Prosecution had caused Liberian government officials to obtain a search warrant and undertake searches of Taylor's Congo Town residence, Whiteflower, and four banks in Liberia, following which nothing irregular or criminal was discovered.¹⁶⁹ Additionally, the Prosecution did not link any of the questions regarding bank accounts and alleged financial impropriety to any allegation of providing arms to rebels in Sierra Leone, alleged diamond transactions with the RUF or AFRC, or any of the charges in the Indictment. Even counsel for the Prosecution acknowledged the irrelevance of the entire area of inquiry to the charges in open court,¹⁷⁰ adding that, "The mere fact that Mr[.] Taylor

¹⁶³ TT, Taylor, 18 Feb. 2010, p. 35446.

¹⁶⁴ TT, Taylor, 10 Nov. 2009, p. 31566.

¹⁶⁵ TT, Taylor, 5 Feb. 2010, p. 34859-60.

¹⁶⁶ See, e.g., TT, Taylor, 7 Dec. 2009, pp. 33035 through 33118; TT, Taylor, 2 Dec. 2009, pp. 32905 to 32906; TT, Taylor, 26 Nov. 2009, pp. 32656 to 32664; TT, Taylor, 1 Dec. 2009, pp. 32795 to 32819; TT, Taylor, 28 Jan. 2010, pp. 34321 to 34387; TT, Taylor, 27 Jan. 2010, pp. 34223 to 34227.

¹⁶⁷ See, Exhs. P-402, P-403A, P-403B, P-404, P-405, P-408, P-409, P-410, and P-411. See, TT, Taylor, 7 Dec. 2009, p. 33043: 12, Prosecution counsel's acknowledgement about Exh. P-403B that, "It's a very poor quality." See, also, TT, Taylor, 7 Dec. 2009, p. 33044: 19 – 22, the Presiding Judge's remarks regarding what ultimately became exhibits P-403B and P-403A, respectively, "We'll mark the first document referred to which is a fairly illegible copy of an LBDI chequing account signature card, that will be MFI-306A and the second document that's just been referred to is MFI-306B."

¹⁶⁸ See Exh. P-407.

¹⁶⁹ TT, Taylor, 10 Nov. 2009, pp. 31545 – 31547.

¹⁷⁰ See, TT, Taylor, 2 Dec. 2009, p. 32908: 1-9 (Prosecution counsel stated that, "In and of itself, Mr Taylor's wealth does not prove any of the charges. He is not charged with corruption in Liberia. He is not charged with being wealthy. None of the evidence I'm presenting here goes directly to any of the charges, any of the evidence. I do not have before the Court evidence that the funds came from Sierra Leone or the

- has money is irrelevant, unless we can tie that money directly to Sierra Leone. So, yes, we are only offering this for credibility.”¹⁷¹
84. Had the Prosecution really been minded to ascertain the truth about the LBDI account that was at the centre of most of its questions, it would have called the co-signator of the account, Ms. Kaddieyatu Darrah,¹⁷² as a witness. But there was in that regard the same absence of proof that has become the hallmark of the Prosecution’s case.
 85. More irrelevant questions occupied court time during cross-examination of Taylor, with another example being the issue of the traditional title “Dankpannah.”¹⁷³ The Prosecution challenged Taylor regarding the holder of the title, suggesting that it was never duly conferred upon Taylor but was instead conveniently appropriated by him when he became President.¹⁷⁴ But here again, the Prosecution did not call the person it was alleged was the rightful holder of the “Dankpannah” title, Chief Jallah Loon,¹⁷⁵ as a witness and chose to rely instead on a purported news article by Star Radio, Liberia.¹⁷⁶ The Defence subsequently introduced an Affidavit by Chief Loon which states in paragraph 7: “That he (Chief Jallah Loon) was Dah Kpannah before he turned the title over to former President Charles Ghankay Taylor and that being Dah Kpannah is a lifetime appointment.”¹⁷⁷
 86. On the face of such a record, the Defence submits that the Prosecution’s cross-examination of Taylor was unfocused, disjointed, and generally ineffective vis-à-vis discrediting his evidence in-chief and demonstrating his alleged responsibility for the alleged crimes in Sierra Leone.

Taylor’s Role as Peace-Maker

87. A central and recurring theme during the Defence case has been the role played by Charles Taylor in fostering peace between the warring factions in Sierra Leone. That role was not unilateral or accidental: it arose from a combination of factors and

sale of resources stolen from Sierra Leone. I’m simply rebutting his position that he had no money and no bank accounts with significant money.”

¹⁷¹ TT, Taylor, 2 Dec. 2009, p. 32908: 27 – 29.

¹⁷² TT, Taylor, 7 Dec. 2009, pp. 33043 to 33044; See, also, Exh. P-403A.

¹⁷³ The spelling that appears in the trial transcripts is “Dankpannah,” while Exh. D-421 has the spelling as “Dah Kpannah” and Exh. P-401 indicates a spelling of “Darkpanah.”

¹⁷⁴ TT, Taylor, 2 Dec. 2009, pp. 32927 – 32930; TT, Taylor, 2 Dec. 2009, p. 32952 - 32955. See, also, Exh. P-401.

¹⁷⁵ The trial transcripts spell the name as “Lone” while the witness’ Affidavit gives his name as “Loon.” Compare TT, Taylor, 2 Dec. 2009, p. 32952 with Exh. D-421.

¹⁷⁶ Exh. P-401; TT, Taylor, 2 Dec. 2009, p. 32952 - 32955.

¹⁷⁷ Exh. D-421, para. 7. See, also, *Prosecutor v. Taylor*, SCSL-03-01-T-978, Decision on Defence Application for Admission of Affidavit by DCT-118 pursuant to Rule 92bis, 11 June 2010.

contextually has its roots in Liberia's membership of the ECOWAS Committee of Five on Sierra Leone and Taylor's experience as a revolutionary in Liberia. As Taylor put it, ECOWAS had been dealing with the Sierra Leonean problem under the Committee of Four before his election as President of Liberia in 1997.¹⁷⁸ Almost immediately after his election, the Committee of Five came into existence with Liberia becoming a member.¹⁷⁹ Taylor acquiesced in Liberia's membership on the Committee because he thought that he could help: "I thought that I could be of some help because I realised that unless peace returned to Sierra Leone there was no way that Liberia could make it. Absolutely no way."¹⁸⁰

88. The ECOWAS leadership seized on Taylor's willingness to assist and in jest¹⁸¹ (but with all seriousness) said to Taylor that since he was an "old rebel,"¹⁸² he knew "how to deal with rebels" and was thus being brought onto the Committee to help bring peace to Sierra Leone.¹⁸³ Indeed, not only was Taylor asked to get involved, he was placed "on the front line"¹⁸⁴ and made "in charge of the Sierra Leonean issue"¹⁸⁵ by his colleagues in ECOWAS.
89. To be sure, Taylor was not the only West African leader that was engaged in fostering peace and security in Sierra Leone during periods relevant to the Indictment. Others, such as, presidents Olusegun Obasanjo¹⁸⁶ of Nigeria, Tejan Kabbah¹⁸⁷ of Sierra Leone, Gnassingbé Eyadéma¹⁸⁸ of Togo, Blaise Compaoré¹⁸⁹ of Burkina Faso, and Alpha Konaré¹⁹⁰ of Mali were also involved in that process.¹⁹¹ For example, Sam Bockarie is said to have travelled from Sierra Leone in late November 1998 with a delegation that included Eddie Kanneh and SYB Rogers to, among other places, Burkina Faso, where they discussed the Abidjan Peace Accord and the peace process in Sierra Leone with President Blaise Compaoré, who was Chairman of the O.A.U. at

¹⁷⁸ TT, Taylor, 14 Jul. 2009, p. 24331: 21 - 23.

¹⁷⁹ TT, Taylor, 14 Jul. 2009, p. 24335: 5 - 7, and p. 24331: 21 - 23.

¹⁸⁰ TT, Taylor, 14 Jul. 2009, p. 24335: 8 - 13.

¹⁸¹ See reference to "jokingly" in TT, Taylor, 14 Jul. 2009, p. 24331: 23 - 24 and p. 24335: 9.

¹⁸² TT, Taylor, 14 Jul. 2009, pp. 24331: 25 - 2 and 24337: 10 - 14.

¹⁸³ TT, Taylor, 14 Jul. 2009, p. 24332: 2 - 4.

¹⁸⁴ TT, Taylor, 14 Jul. 2009, p. 24336: 14 - 15 and 27.

¹⁸⁵ TT, Taylor, 14 Jul. 2009, p. 24336: 14 - 22, 27 - 28; p. 24331: 21 - 28; and p. 24337: 10 - 16.

¹⁸⁶ Exhs. D-362, D-228, D-195, and D-221.

¹⁸⁷ See Exhs. D-441E and D-439C.

¹⁸⁸ Exh. D-214, page 2.

¹⁸⁹ Exhibit P-63; TT, Issa Sesay, DCT-172, 9 Jul. 2010, pp. 44125-29; TT, TF1-371, 31 Jan. 2008, p. 2750; TT, Taylor, 6 Aug. 2009, p. 26129, 10 Aug. 2009, p. 26391-92;

¹⁹⁰ See Exh. D-441A.

¹⁹¹ See, Exhibits: D-197; D-198AC, AD, AG, AH, AI, AJ, AK, AM; and Exhs. D-198-I, J, Q, R, S and T.

the time.¹⁹² Nevertheless, Taylor's contribution to the peace process was significant and it was initially occasioned by the prodding of fellow West African leaders in ECOWAS and eventually took the form of an outright mandate to serve as ECOWAS' point president for peace in Sierra Leone.

90. The Prosecution has sought to use Taylor's contribution in this regard to his disadvantage by offering a competing theory to the effect that Taylor exploited his unique position within ECOWAS and was, in effect, double-handed in his dealings with the ECOWAS leadership.¹⁹³ The Prosecution's view has been that while Taylor claimed and acted publicly as if he was keen on seeing peace in Sierra Leone, behind the scenes he was the *de facto* leader of the RUF and/ or AFRC and he exploited his position within the inner circles of the ECOWAS leadership to "advance the criminal interest of the AFRC and RUF in Sierra Leone"¹⁹⁴ and his "own criminal interest,"¹⁹⁵ and to give him "plausible deniability."¹⁹⁶
91. It is interesting to note that this theory by the Prosecution only came into existence *after* Taylor testified and the Defence presented a significant amount of documentary evidence showing that the release of the UNAMSIL peace-keepers was spear-headed by Taylor in full view of the UN, ECOWAS, and the international community. The Opening Statement illustrates the original interpretation that the Prosecution attached to Taylor's actions in facilitating the release of the UNAMSIL peace-keepers: namely, that Taylor essentially ordered his subordinates in the RUF (Issa Sesay and others) to release the hostages and they immediately complied with his orders, without there being any sustained negotiation for their release or any transparency in Taylor's actions. These excerpts from the Opening Statement are illustrative of that view:

Then in May 2000, there's the abduction of the peacekeepers by RUF folks -- by RUF forces, by RUF troops. There's a demonstration in Freetown outside Sankoh's house and 25 civilians are killed. Sankoh is arrested some days later with many of his RUF commanders. The ECOWAS appoints the accused to ensure that the RUF complies with the terms of the Lomé Agreement, and in that role he negotiates or orders the release of the UN peacekeepers. The UNAMSIL hostages in mid-2000 are sent by the RUF not into neutral territory in Sierra Leone for their liberation but to Monrovia, to be released there by the accused.¹⁹⁷

¹⁹² Exhibit P-63; TT, Issa Sesay, DCT-172, 9 Jul. 2010, pp. 44125-29; TT, TF1-371, 31 Jan. 2008, p. 2750; TT, Taylor, 6 Aug. 2009, p. 26129, 10 Aug. 2009, p. 26391-92.

¹⁹³ TT, Taylor, 5 Feb. 2010, p. 34846: 15 -29 through p. 34847: 1 – 5. See, e.g., allegations that while Taylor purported to pursue peace, he was on the other hand discouraging the RUF from disarming. TT, TF1-338, 2 Sep. 2008, p. 15149-50: also see p. 15174-6.

¹⁹⁴ TT, Taylor, 5 Feb. 2010, p. 34846: 26 -27.

¹⁹⁵ TT, Taylor, 5 Feb. 2010, p. 34846: 23 -24.

¹⁹⁶ TT, Taylor, 5 Feb. 2010, p. 34847: 4 – 5.

¹⁹⁷ Opening Statement, p. 293: 18-27.

When the accused ordered senior level leaders of these groups to travel to Liberia to meet with him, they did so.¹⁹⁸

92. Unfortunately for the Prosecution, incontrovertible evidence independent of Taylor's testimony bear out Taylor's role as a peace-maker vis-à-vis the conflict in Sierra Leone, confirming not only Taylor's evidence but at the same time dealing a fatal blow to the entire Prosecution case and its shifting theories.
93. It will be recalled that Taylor said the following regarding corroboration of his role as ECOWAS' key president for peace in Sierra Leone: "let me just add for the judges this is contained in resolutions of ECOWAS that will be presented to this Court, communiques on the approval of ECOWAS stating exactly what I'm saying, asking me to get personally involved on the front line in helping to resolve the issue in Sierra Leone."¹⁹⁹ Some of the evidence which was being alluded to include these:

During a meeting held in Bamako, Mali, in March 2000, with the Chairman of ECOWAS, Alpha Konaré, and Mano River Union presidents Kabbah of Sierra Leone, Lansana Conte of Guinea, the SRS to Sierra Leone, a representative of the Secretary General of the O.A.U., and Taylor in attendance,²⁰⁰ Taylor was asked '*to get personally involved in solving the issues which hamper the peace process in Sierra Leone and to seek adequate solutions in consultation with the other heads of state.*'²⁰¹ [emphasis added].

During a Summit of ECOWAS Heads of State held on 9 May 2000 in Abuja, Nigeria, in the presence of seven West African presidents (including Kabbah of Sierra Leone),²⁰² the leadership of ECOWAS 'approved the mandate given by the current ECOWAS Chairman and by the Heads of State of the Mano River Union to the President of the Republic of Liberia, His Excellency Dahkpanah Dr Charles Ghank[a]y Taylor to *involve himself personally* to ensure the liberation of the hostages and the resumption of the application of the Lomé Peace Agreement [emphasis added].'²⁰³

During the 23rd Summit of the Authority of Heads of State and Governments of ECOWAS in Abuja, Nigeria, 28 - 29 May 2000, and regarding hundreds of

¹⁹⁸ Opening Statement, p. 327: 22-23.

¹⁹⁹ TT, Taylor, 14 July 2009, p. 24336: 29 through p. 24337: 1 - 4.

²⁰⁰ Exh. D-237, p. 2.

²⁰¹ Exh. D-237, para. 11.

²⁰² Exh. D-248, pp. 1 - 2.

²⁰³ Exh. D-248, para. 5. Interestingly, Taylor left Liberia for Abuja on 8 May 2000 to attend the summit which commenced on 9 May 2000 (see, Exh. D-248, confirming Taylor's attendance and TT, Taylor, 14 Sept. 2009, pp. 28822-24) and yet, Prosecution witness TF1-567 testified that [REDACTED] (Taylor) was angry at Foday Sankoh for basing himself in Freetown and not Kailahun. The witness added that [REDACTED] heard about Sankoh being involved in the incident at Spur Road in May 2000. See, TT, TF1-567, 7 July 2008, p. 13021: 8-20. Other evidence before the Court clearly establishes that the incident at Foday Sankoh's house on Spur Road in Freetown took place on 8 May 2000 (see, e.g., TT, Alice Pyne, TF1-584, 19 Jun. 2008, p. 12291 and TT, Tariq Malik, 19 Jan. 2009, p. 22940), making it clear that Taylor could not have been meeting RUF rebels [REDACTED] at time when he was travelling to attend the ECOWAS summit in Abuja.

UNAMSIL personnel that had been taken hostage by the RUF, the heads of state congratulated Taylor 'on the speed and effectiveness of his actions in the execution of the *mandate* given to him by his colleagues. They expressed their gratitude to... Taylor for sparing no effort in securing the release of a large number of the hostages, and *renewed his mandate* to use his good offices in obtaining the release of the remaining hostages and the recovery of the arms seized [emphasis added].'²⁰⁴

94. The mandate given Taylor by the ECOWAS leadership was carried-out transparently and with the full knowledge of ECOWAS and UN officials at all stages of the peace process. For example, Taylor's GOL was instrumental in transporting RUF members from Sierra Leone to Lomé to attend the peace talks.²⁰⁵ Those transported included Foday Sankoh, who was the first to travel to Lomé in mid-April 1999.²⁰⁶ Others who were transported included Omrie Golley and Ibrahim Bah, both of whom travelled through Roberts International Airport.²⁰⁷ Several official UN documents evidence the GOL's involvement in the transportation process²⁰⁸ and those RUF members that transited through Liberia were lodged at the "RUF guesthouse" which was provided by Taylor's GOL with security and facilities for the use of RUF members, including Sam Bockarie,²⁰⁹ in furtherance of the peace process. The guesthouse was an official address to which diplomats, NGOs, and all those interested in the peace process in Sierra Leone could go.²¹⁰ Its existence was known even to the SRSg to Liberia.²¹¹
95. It will be recalled that in a diplomatic code cable dated 6 July 1999, the SRSg in Liberia, Mr. Downes-Thomas, advised U.N. officials Prendergast and Miyet in New York, that "President Taylor left Monrovia today for Lomé, Togo, to attend an emergency summit of West African leaders."²¹² "According to a... press release issued on July 5... the President is to join President Olusegun Obasanjo of Nigeria and Current Chairman, President Blaise Compaore of Burkina Faso, among other

²⁰⁴ Exh. D-252, para. 21. TT, Taylor, 18 Aug. 2009, p. 27040-45.

²⁰⁵ See, Exhs. D-193A-K.

²⁰⁶ See, Exhs. D-355B and D-355C (both confirming that Sankoh arrived in Lomé on or about 18 April 1999); and TT, Charles Taylor, 11 Aug 2009, 26500-01.

²⁰⁷ TT, Taylor, 11 Aug 2009, pp. 26503-04 and 26527; TT, Taylor, 11 Aug 2009, 26527. Exh. D-193D, D-193G, and D-193H.

²⁰⁸ See, Exhs. D-193A-K.

²⁰⁹ Exh. D-193J and TT, Taylor, 18 Aug. 2009, p. 26530 and 11 Nov 2009, p. 31610.

²¹⁰ TT, Charles Taylor, 13 Aug. 2009, p. 26796; Exh. D-217 (reference to "Official Guest House, Congo Town").

²¹¹ Exh. D-193J; TT, Charles Taylor, 13 Aug. 2009, pp. 26796-9; Exh. D-217 (reference to "Official Guest House, Congo Town").

²¹² Exh. D-197. Taylor went to Lomé with a delegation of Government of Liberia [GOL] dignitaries, including Foreign Minister Monie Caplan, the President Pro-Tempore of the Senate, Keikura Kpoto, Information Minister Joe Mulbah, the Director-General of the Institute for Strategic Studies, Ernest Eastman, the Deputy Minister for Public Affairs and Press Secretary to the President, Reginald Goodridge, and the Director-General of the Institute of Public Administration, Dr. James Teah Tarpeh. Ibid.

leaders to discuss regional issues, including the crisis in Sierra Leone.”²¹³ “The summit comes in the wake of misgivings expressed by the RUF about the draft peace agreement. The summit is expected to break any related stalemate.”²¹⁴ Taylor’s attendance at the Lomé peace talks was part of his continuing involvement and efforts as ECOWAS’ point president for peace in Sierra Leone, in order to “break any... stalemate” in negotiations between the Government of Sierra Leone (“GOSL”) and the RUF. That much was achieved in Lomé by Taylor and the other presidents.

96. Besides facilitating the release of UN hostages and the travel of RUF members to Lomé, Taylor undertook several other initiatives for the sake of peace in Sierra Leone. As the point person on the Committee of Six after the Okra Hill incident, Taylor met Johnny Paul Koroma (JPK) for the first time in August 1999, after having negotiated for the release of JPK who had been held hostage by the RUF.²¹⁵ Taylor then hosted mediation meetings between Sankoh and JPK in Monrovia between 28 and 30 September 1999, with the full knowledge of ECOWAS, the O.A.U., and the UN.²¹⁶ The BBC reported on Taylor’s mediation efforts on 1 October 1999²¹⁷ and President Obasanjo sent a presidential aircraft²¹⁸ that was used to transport Sankoh, Koroma and other diplomats back to Freetown. (The GOL chartered a second aircraft that took the rest of the delegation and family members of Koroma to Freetown.)²¹⁹
97. Taylor’s efforts for peace also necessitated contact with Bockarie²²⁰ and Issa Sesay.²²¹ Indeed, Taylor provided Bockarie with a satellite telephone in October 1998 for use in speaking to Taylor, other African heads of state and journalists.²²² Similarly, Taylor gave a satellite telephone to Issa Sesay sometime in 2000,²²³ having established contact with Sesay for the first time in May 2000 during the UNAMSIL hostage incident.²²⁴ The gift of both satellite telephones by Taylor was neither unusual nor

²¹³ Ibid., and See, Exhs. D-198AC, AD, AG, AH, AI, AJ, AK, AM; and Exhibits D-198-I, J, Q, R, S and T.

²¹⁴ Exh. D-197.

²¹⁵ TT, Taylor, 28 Jul. 2009, pp. 25436:23 - 25437:10; and TT, 12 Aug. 2009, pp. 26666:03 - 26669:28.

²¹⁶ Exhs. D-217, D-22, D-218, and D-220.

²¹⁷ Exh. D-23.

²¹⁸ Exh. D-221.

²¹⁹ TT, Charles Taylor, 13 Aug. 2009, p. 26814-5; see, also, Exh. D-222 (SRSG’s report regarding the 3 October 1999 departure of Sankoh and Koroma from Monrovia, and their return to Freetown).

²²⁰ TT, Taylor, 14 Jul. 2009, p. 24337.

²²¹ TT, Taylor, 2 Nov. 2009, pp. 30865-66.

²²² TT, Taylor, 23 Sept. 2009, pp. 29591-92; TT, Taylor, 17 Sept. 2009, pp. 29282-83; TT, Taylor, 26 Oct. 2009, pp. 30268-71; and TT, Taylor, 6 Aug 09, p. 26225.

²²³ TT, Taylor, 22 Sept. 2009, pp. 29391-2.

²²⁴ TT, Issa Sesay, DCT-172, 14 Jul. 2010, pp. 44503:21 - 44522:7; and TT, Taylor, 2 Nov. 2009, pp. 30865:15 -30866:23.

clandestine as far as the ECOWAS leadership was concerned in the search for peace in Sierra Leone.²²⁵

98. Taylor also provided Sesay with Five Thousand U.S. Dollars (\$ 5, 000.00) for fuel to transport the UNAMSIL hostages to Foya, Liberia.²²⁶ Additionally, and when problems arose between Sankoh and Bockarie during the latter part of 1999, Taylor intervened for the sake of peace and held meetings with both men, ultimately facilitating the relocation of Bockarie from Sierra Leone to Liberia to keep the peace.²²⁷ President Obasanjo joined Taylor at Roberts International Airport ("RIA") for one of those meetings with Bockarie²²⁸ and the matter was communicated to the U.N.²²⁹ It was then that Bockarie was given the option of relocating to Liberia.²³⁰ President Kabbah was also aware of Bockarie's relocation to Liberia.²³¹ Not only was President Kabbah aware, he was consulted about the matter, as were the UN Secretary-General, leaders in the West African Sub-Region and the United States Government.²³²
99. Commendation and praise for Taylor's efforts in fostering peace in Sierra Leone were forthcoming from near and far alike. Bismarck Myrick, then U.S. Ambassador to Liberia, stated that "...[Taylor's] efforts to secure the release of the United Nations personnel being held by the RUF are to be applauded. We note with appreciation their continuing success."²³³ The Reverend Jesse Jackson applauded Taylor's efforts in securing the release of the UN personnel held by the RUF and hoped that Taylor would succeed in securing the release of all those that were detained.²³⁴ Then U.S. Secretary of State, Madeleine Albright, thanked Taylor²³⁵ for his support for regional peace and recognised his work in promoting dialogue among key players and persuading the rebel leaders to return to Freetown as an important contribution towards the implementation of the Lomé Accord. She extended her appreciation and

²²⁵ See, e.g., Exh. D-467 which is a letter sent by Gibril Massaquoi to President Obasanjo reminding him (Obasanjo) of his promise to provide Massaquoi and Issa Sesay satellite phones so that they could be in touch with Obasanjo and other ECOWAS leaders.

²²⁶ TT, Issa Sesay, DCT-172, 14 Jul. 2010, pp. 44503:21 - 44522:7.

²²⁷ See, Exhs. D-228, D-227, and D-232; TT, Taylor, 17 Aug. 2009, pp. 26843-47.

²²⁸ Exh. D-227; TT, Taylor, 17 Aug. 2009, pp. 26853-4 and 26857.

²²⁹ TT, Taylor, 17 Aug. 09, p. 26843-64; Exhs. D-227 and D-226.

²³⁰ Indeed, Bockarie was "extracted" from Sierra Leone, in the sense that his departure from Sierra Leone was not voluntary. See, TT, Taylor, 17 Aug. 2009, p. 26859; and Exh. D-253, p. 2 (the move to Liberia was "against his will").

²³¹ TT, Taylor, 17 Aug. 09, p. 26908; Exhs. D-231 and D-227.

²³² Exh. D-253, p. 2.

²³³ Exh. D-251, p. 1.

²³⁴ Exh. D-251, p.1; Exh. D-156.

²³⁵ In a letter dated 13 October 1999, see Exh. D-223.

gratitude to Taylor for the “critical role” he recently played in supporting the peace process in Sierra Leone. Albright encouraged Taylor to continue positive efforts in the process of national reconciliation and reconstruction in Sierra Leone.²³⁶

100. In a Government Statement, dated 23 May 2000, and addressed to the SRS to Sierra Leone, President Kabbah said, “It should be recalled that the ECOWAS Heads of State and indeed the entire international community at large had indicated that there should be no pre-condition for the release of the UN peace keepers who are to be released without delay. This global position was indeed endorsed by President Charles Taylor at a recent ECOWAS Summit in Abuja.” “The Government of Sierra Leone wishes to acknowledge the positive role which President Charles Taylor of Liberia has already played in securing the release of some of the UNAMSIL hostages.”²³⁷
101. In the face of this extraordinary body of independent documentary evidence concerning Taylor’s commitment and achievements in furtherance of peace in Sierra Leone, the Prosecution relied on the oral testimony of a few so-called “insiders” whose credibility were found wanting under cross-examination in suggesting that Taylor was duplicitous and criminal. The broad scope of Taylor’s peace-related efforts and the time and energy that they objectively must have required and consumed are matters which either escape or are of little concern to the Prosecution. It is appropriate at this juncture to recall the following question that was put to Taylor on 14 July 2009 and his answer in response: “Did you plan or order or in any other way participate in the invasion of Freetown on 6 January 1999?”²³⁸ Taylor answered, in part, as follows:

... [M]y entire period was spent between trying to fix war torn Liberia that had gone through a terrible seven year civil war, while at the same time helping my colleagues to bring peace to Sierra Leone. Now within this period of time one would have to be almost a Superman to be... trying to rebuild his country, his economy that is torn and having to deal with being a part of planning and ordering some invasion of Freetown on 6 January 1999... [I]t is just incredible that on the one hand I'm trying to work with Liberia²³⁹ with all of my own difficulties, working with my colleagues trying to bring peace and at the same

²³⁶ Exh. D-223.

²³⁷ Exh. D-250, p. 3. See, also, Exh. D-77, pp. 1 – 2 (President Kabbah wrote Taylor on 27 October 1999, stating that disarmament was slow because Sankoh and [Johnny Paul] did not trust each other and indicating that whatever Taylor could do from his end to build confidence between Sankoh and Koroma would be appreciated. Kabbah also asked Taylor to try to disarm former RUF and SLA combatants who wanted to return home to Sierra Leone from Liberia to take part in the DDR programme and intended to go through Kailahun. Kabbah thanked Taylor for his usual cooperation).

²³⁸ TT, Taylor, 14 Jul. 2009, p. 24332:6-7.

²³⁹ TT, Taylor, 14 Jul. 2009, p. 24332: lines 12-20 and 28-29.

time getting involved in trying to order, plan or execute some action in Sierra Leone on 6 January. Impossible.²⁴⁰

102. The Defence submits that the documentary and testimonial evidence before this Court bears out, without question, that Taylor could not be all things at the same time – President of Liberia and peacemaker by day and leader of the RUF/ AFRC by night. Accordingly, the Prosecution’s theory that Taylor abused his mandate of trust within ECOWAS and was duplicitous vis-à-vis the conflict in Sierra Leone – i.e., professing peace in public while orchestrating criminality and fostering further conflict in private -- is exceedingly misguided and devoid of merit. The Defence requests the acquittal of Taylor on all charges, in view of the foregoing.

Functioning Liberian Government

103. Further support for the proposition that Taylor could not have simultaneously served as President of Liberia and leader of the RUF/ AFRC, as alleged, derives from the nature of governing and the functionality of government during his presidency. There was too much work to be done in rebuilding Liberia after seven years of civil war immediately preceding Taylor’s presidency that it would have been factually impossible for Taylor to wear so many hats simultaneously. Moreover, and significantly, Taylor was the head of a government that was fully functional and engaged in functions domestic and diplomatic, economic and social, all for the betterment of the Liberian people. That much is borne out in the record before the Court in no uncertain terms.
104. The Liberian economy was “virtually wrecked”²⁴¹ and “things had gone far down the drain”²⁴² during the years of former President, Samuel Doe. After seven years of civil war “everything was destroyed”²⁴³ and Liberia was “torn apart.”²⁴⁴ Consequently, the Liberian economy “was in shambles” when Taylor was inaugurated as President.²⁴⁵ The Central Bank of Liberia had under \$20,000 and Liberia had an external debt of “3 Billion plus.”²⁴⁶ Roads were bad²⁴⁷ and both airports that serviced Monrovia were in a

²⁴⁰ TT, Taylor, 14 Jul. 2009, p. 24333:1-4.

²⁴¹ TT, Taylor, 14 Jul. 2009, p. 24334:15.

²⁴² TT, Taylor, 14 Jul. 2009, p. 24334:15.

²⁴³ TT, Taylor, 14 Jul. 2009, p. 24334:5.

²⁴⁴ TT, Taylor, 14 Jul. 2009, p. 24334:4.

²⁴⁵ TT, Taylor, 27 Jul. 2009, p. 25209:10.

²⁴⁶ TT, Taylor, 27 Jul. 2009, pp. 25208 - 25209.

²⁴⁷ TT, Taylor, 14 Jul. 2009, p. 24334:5.

poor state:²⁴⁸ ECOMOG had been using RIA since 1994 and the airport was not open to commercial traffic as of November 1997;²⁴⁹ the James Spriggs-Payne (JSPA) Airport remained operational, but was seriously damaged during the clash with Roosevelt Johnson in April 1996.²⁵⁰ Thousands of young men were left unemployed after the war and it was becoming a very serious problem, as they were turning to crime and returning to fighting.²⁵¹

105. Taylor's "principal preoccupation"²⁵² upon assuming office was to rebuild the war torn nation, starting by securing international assistance to rebuild the country.²⁵³ Indeed, countries were looking to help Liberia in capacity building, including the Republic of China, the European Union, and the U.S.²⁵⁴ Priorities in the Liberian budget under Taylor were development, property renovation, and education; defence was sixth in order of priorities.²⁵⁵ Also, it was important for Taylor to follow the progress of various bills through the legislature²⁵⁶ and to encourage refugees to return home and rebuild (TT, Taylor.²⁵⁷ As such, Taylor was pre-occupied with Liberia and not Sierra Leone²⁵⁸ and it took years (in some instances) to rebuild certain industries, such as the timber industry.²⁵⁹
106. Despite the dire fiscal and social conditions which Taylor inherited, his administration from its first year went to work making improvements. Almost immediately after assuming the presidency, Taylor pushed for the repeal of "PRC Decree No. 88-A": a decree from the Doe era which had been aimed at protecting the public against "the spread of 'rumours, lies and disinformation'" by making it a felony to accuse a government or judicial official of a crime.²⁶⁰ Taylor used the legislative process to repeal the decree because it was contrary to the "rule of law"²⁶¹ and restrictive of

²⁴⁸ TT, Taylor, 29 July 2009, p. 25512. See, also, Exh. D-142, especially pp. 5 – 22 (a Briefing Paper regarding the rehabilitation of RIA and JSPA).

²⁴⁹ TT, Taylor, 29 Jul. 2009, pp. 25507-25510. Even by the time Taylor left Liberia finally, repairs to RIA had not been completed. TT, Taylor, 29 July 2009, p. 25512.

²⁵⁰ TT, Taylor, 29 July 2009, p. 25510.

²⁵¹ TT, Taylor, 29 July 2009, pp. 25503-04.

²⁵² TT, Taylor, 14 Jul. 2009, p. 24334:10.

²⁵³ TT, Taylor, 14 Jul. 2009, p. 24334:12-13.

²⁵⁴ TT, Taylor, 29 July 2009, p. 25502.

²⁵⁵ TT, Taylor, 29 July 2009, pp. 25546-47.

²⁵⁶ TT, Taylor, 29 July 2009, p. 25551.

²⁵⁷ TT, Taylor, 29 July 2009, p. 25552.

²⁵⁸ TT, Taylor, 14 Jul. 2009, p. 24335:1-4.

²⁵⁹ TT, Taylor, 14 Jul. 2009, p. 24334:21-29.

²⁶⁰ See, Exh. D-335; TT, Taylor, 7 Sept. 2009, p. 28183 and TT, Taylor, 2 Nov. 2009, pp. 30909-10.

²⁶¹ TT, Taylor, 7 Sept. 2009, p. 28183.

freedom of the press.²⁶² Taylor was not only in favour of freedom of the press -- he encouraged it²⁶³ and even promoted and participated in a radio talk show during which he took calls from members of the public.²⁶⁴ Taylor also facilitated the repeal of another act that barred political activities within Liberia.²⁶⁵

107. On the international front, Taylor traveled to France in September 1998 and engaged in discussions about the economy and exploitation of oil.²⁶⁶ He also visited Mauritania²⁶⁷ and returned to France in November 1998²⁶⁸ to give a speech at the Africa summit on peace and security.²⁶⁹ The speech was about modernising Africa while trying to retain traditional African values.²⁷⁰
108. These are but small snippets of the varied and extensive activities of the presidency of Liberia with Taylor at the helm. A cursory review of Taylor's "Presidential Papers" for the period, 2 August 1997 to 31 December 1998,²⁷¹ discloses the all-consuming range of activities and efforts undertaken by Taylor during the first two years of his presidency. Those activities and others which followed in the subsequent years are, *per se*, not related to the charges at bar, except in one significant sense: documentary evidence that is before this Court in support of Taylor's initiatives as President which also serve to unequivocally demonstrate that (i) government functioned properly under Taylor and there was accountability and transparency, and (ii) it was virtually impossible that one person could undertake such significant initiatives at home while at the same time participating in (indeed heading) a joint criminal enterprise involving Sierra Leone.
109. The Presidential Papers tell the story of a regular and properly functioning GOL under Taylor. Support for what they disclose is also available from other documents in evidence. For example, regular cabinet meetings were held under Taylor;²⁷² photo identification cards were issued to Special Security Service ("SSS") personnel,²⁷³ as

²⁶² TT, Taylor, 8 Sept. 2009, p. 28271; TT, Taylor, 2 Nov. 2009, pp. 30909-10. Taylor also succeeded in getting Decree No. 2A repealed by the legislature for similar reasons. See, TT, Taylor, 8 Sept. 2009, p. 28271.

²⁶³ TT, Taylor, 29 July 2009, p. 25567.

²⁶⁴ TT, Taylor, 8 Sept. 2009, p. 28271.

²⁶⁵ TT, Taylor, 7 Sept. 2009, p. 28183.

²⁶⁶ TT, Taylor, 3 Aug. 2009, p. 25828.

²⁶⁷ TT, Taylor, 3 Aug. 2009, p. 25834.

²⁶⁸ See, Exh. D-109.

²⁶⁹ TT, Taylor, 3 Aug. 2009, p. 25836.

²⁷⁰ Ibid.

²⁷¹ See, Exh. D-141 [Presidential Papers].

²⁷² See, Exh. D-143.

²⁷³ Exh. D-104A.

were uniforms;²⁷⁴ invoices and vouchers made the rounds for signatures throughout various departments/ sections of government before being processed and paid by the Comptroller's Office within the Ministry of Finance;²⁷⁵ Official Delegation lists were prepared whenever Taylor traveled, sometimes by the Ministry of State for Presidential Affairs;²⁷⁶ press releases were issued frequently for any number of reasons, including to announce appointments that were made within the various sections of the GOL;²⁷⁷ formal swearing in ceremonies (with oaths administered) were held for those appointed;²⁷⁸ commemorative stamps were launched;²⁷⁹ letters of credence were received from foreign ambassadors accredited near Monrovia²⁸⁰; and the Liberian Revised Code was published in bound volume set(s).²⁸¹

110. It is submitted that these are the hallmarks of a properly functioning executive branch of government – something that is far from irregular, corrupt, dysfunctional and, in essence, rogue. The Prosecution's efforts to suggest that the contrary was true of Taylor's regime flies in the face of this record. These facts firmly illustrate and corroborate Taylor's position that he was too busy getting on with the job of rebuilding Liberia to afford the distraction of intermeddling in the affairs of Sierra Leone, much less spearheading and micromanaging RUF and/ or AFRC activities during the eleven-year war in Sierra Leone. These facts impel (in combination with others both factual and legal) the acquittal of Charles Taylor.

²⁷⁴ Exh. D-106A.

²⁷⁵ Exhs. D-105A and B.

²⁷⁶ Exhs. D-109 and D-242.

²⁷⁷ Exhs. D-111, D-298; D299 and D-244.

²⁷⁸ Exh. D-112C.

²⁷⁹ Exh. D-142, p. 23.

²⁸⁰ Exh. D-144 (photograph of the Ambassador of India presenting his letters of credence) . TT, Taylor, 29 Jul. 2009, pp. 25581-82. See, also, Presidential Papers, Chapter V, starting at p. 88. For example, p. 97 concerns the presentation of the letters of credence by His Excellency Farouk Ghoneim, Ambassador of Egypt to Liberia on 22 January 1998 (discussed at TT, Taylor, 29 Jul. 2009, pp. 25555-58), and p. 93 pertains to the presentation of letters of credence by the Taiwanese Ambassador to Liberia.

²⁸¹ Exh. P-129, p. (iv), indicating that the Revised Code was first published in 1998.

THE LAW ON INDIVIDUAL CRIMINAL RESPONSIBILITY

Direct Responsibility Pursuant to Article 6(1) of the SCSL Statute

111. Article 6.1 of the Statute reads:

A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 4 of the present Statute shall be individually responsible for the crime.

112. That provision was incorporated into paragraph 33 of the Indictment, which alleges that:

The **ACCUSED**, by his acts or omissions, is individually criminally responsible pursuant to Article 6.1. of the Statute for the crimes referred to in Articles 2, 3 and 4 of the Statute as alleged in this Amended Indictment, which crimes the **ACCUSED** planned, instigated, ordered, committed, or in whose planning, preparation or execution the **ACCUSED** otherwise aided and abetted, or which crimes amounted to or were involved within a common plan, design or purpose in which the **ACCUSED** participated, or were a reasonably foreseeable consequence of such common plan, design or purpose.

Planning

113. The notion “Planning envisions one or more persons formulating a method of design or action, procedure, or arrangement for the accomplishment of a particular crime.”²⁸²

As explained by Trial Chamber II of the SCSL, planning “implies that one or several persons contemplate designing the commission of a crime at both the preparatory and execution phases.”²⁸³

114. The *actus reus* of planning a crime requires that the Accused, either individually or with others, designed the criminal conduct constituting one or more crimes listed in the Statute.²⁸⁴ In order to incur responsibility, the level of participation by the Accused in planning to commit such crimes must be substantial.²⁸⁵

²⁸² See *Semanza* Trial Judgement, para. 380.

²⁸³ *RUF* Trial Judgement, para. 268; *AFRC* Trial Judgment, para. 765; *AFRC* Appeal Judgement, para. 301; *CDF* Trial Judgement, para. 221; see also *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Trial Judgment, para. 480 (2 September 1998) [*Akayesu* Trial Judgement]; *Prosecutor v. Limaj et al.*, Case No. IT-03-66, Trial Judgment, para. 513 (30 November 2005) [*Limaj* Trial Judgement]; *Prosecutor v. Brjdanin*, Case No. IT-99-36-T, Trial Judgment, para. 268 (1 September 2004) [*Brjdanin* Trial Judgement]; *Prosecutor v. Stakić*, Case No. IT-97-24-T, Trial Judgement, para. 443 (31 July 2003) [*Stakić* Trial Judgment]; *Prosecutor v. Kristić*, Case No. IT-98-33-T, Trial Judgement, para. 601 (2 August 2001) [*Kristić* Trial Judgement].

²⁸⁴ *RUF* Trial Judgement, para. 268; *AFRC* Appeal Judgement, para. 301; *AFRC* Trial Judgement, para. 766; see also *Prosecutor v. Kordić and Cerkez*, Case No. IT-95-14/2-A Appeal Judgement, para. 26 (17 December 2004) [*Kordić and Cerkez* Appeal Judgment].

²⁸⁵ *AFRC* Trial Judgement, para. 765; see also *Prosecutor v. Bagilishema*, Case No. ICTR-95-1A-T, Trial Judgement, para. 30 (7 June 2001) [*Bagilishema* Trial Judgement].

115. According to the ICTR, substantial participation includes actually formulating a criminal plan or endorsing a plan proposed by another.²⁸⁶ The plan itself must be a factor substantially contributing to the alleged criminal conduct.²⁸⁷ In our submission, by logic, it maybe deduced that a merely minor, secondary or inconsequential involvement or contribution to the planning of a crime within the jurisdiction of the Court will, or rather should, not result in criminal liability.
116. The *mens rea* of planning requires that the Prosecutor prove that the Accused acted with the direct intent that a crime be committed in relation to his own planning, or at a bare minimum, with the awareness of the substantial likelihood that a crime would be the result of the execution of the plan.²⁸⁸
117. Circumstantial evidence, that is, “evidence surrounding an event from which a fact at issue may be reasonably inferred,”²⁸⁹ may provide proof of the existence of a plan. However, it is settled that this must be the *only reasonable inference* that can be drawn from the totality of the evidence. In other words, where it is possible to draw *other reasonable* inferences from the Prosecution evidence regarding the material elements of the alleged planning, whether based on Defence submissions or not, the circumstantial evidence would be insufficient to constitute proof of criminal responsibility under this mode of liability.
118. If an Accused is found guilty of having *committed* a crime, he cannot also be convicted of having *planned* that same crime.²⁹⁰ As a matter of judicial discretion, however, involvement in the planning *may* be considered an aggravating factor.²⁹¹

Instigating

119. Instigation has been described by the ICTY as “prompting”²⁹² and by the ICTR as “urging or encouraging”²⁹³ another to commit a crime. At the SCSL, instigating has also been defined identically.

²⁸⁶ See *Prosecutor v. Kajelijeli*, Case No. ICTR-98-44A-T, Trial Judgement, para. 761 (1 December 2003) [*Kajelijeli* Trial Judgment]; *Bagilishema* Trial Judgement, para. 30.

²⁸⁷ *AFRC* Appeal Judgement, para. 301; *AFRC* Trial Judgement, para. 766; *RUF* Trial Judgement, para. 268; see also *Kordić and Cerkez* Appeal Judgement, para. 26; *CDF* Trial Judgement, para. 221.

²⁸⁸ *RUF* Trial Judgement, para. 268; *AFRC* Appeals Judgement, para. 301; *AFRC* Trial Judgement, para. 766; see also *Kordić* Appeal Judgement, paragraphs 29, 31.

²⁸⁹ *AFRC* Trial Judgement, para. 101; *AFRC* Appeal Judgement, para. 301.

²⁹⁰ *RUF* Trial Judgement, para. 269.

²⁹¹ *AFRC* Trial Judgement, para. 767.

²⁹² *Prosecutor v. Blaškić*, Case No. IT-95-14-T, Trial Judgement, para. 280 (3 March 2000) [*Blaškić* Trial Judgement].

²⁹³ *Bagilishema*, Appeal Judgement, para. 30; *RUF* Trial Judgement, para. 268.

120. The *actus reus* for *instigating* requires that the Accused urges, encourages²⁹⁴ or prompts another to commit an offence.²⁹⁵ This requires the Prosecution to prove that the Accused instigated the perpetrator to commit the crime, instead of merely facilitated its commission.²⁹⁶
121. These include acts or omissions involving the Accused's implied or express conduct.²⁹⁷ The Accused's conduct must be a factor substantially contributing to the conduct of the perpetrator.²⁹⁸ Further, for "instigating," unlike aiding and abetting (a different mode of liability discussed below), there must be a causal link or relationship between the Accused's act of instigation and the perpetrator's commission of the crime.²⁹⁹ However, there is no need to prove that the Accused's conduct was a necessary precedent for the crime.³⁰⁰ The standard of substantial contribution to the conduct of the person committing the crime is strictly applied, and must be demonstrated with credible and reliable evidence.³⁰¹
122. The *mens rea* for *instigating* is that the Accused acted with "direct intent or with the awareness of the substantial likelihood that a crime would be committed in the execution of that instigation."³⁰² It must be shown that the Accused "intended to provoke or induce the commission of the crime, or had reasonable knowledge that a crime would likely be committed as a result."³⁰³ The instigator's ambiguous words or

²⁹⁴ CDF Trial Judgement, para. 223.

²⁹⁵ AFRC Trial Judgement, para. 769 citing *Akayesu* Trial Judgement, para. 482.

²⁹⁶ *Kordić and Čerkez* Appeal Judgement, para. 27.

²⁹⁷ CDF Trial Judgement, para. 223, citing *Brđanin* Trial Judgement, para. 269, *Blaškić* Trial Judgement, para. 280, *Limaj* Trial Judgement, para. 514 and *Prosecutor v. Gacumbitsi*, Case No. ICTR-2001-64-A, Appeal Judgement, para. 129 (7 July 2006) [*Gacumbitsi* Appeal Judgment].

²⁹⁸ AFRC Trial Judgement, para. 770 and CDF Trial Judgement, para. 223 both citing *Kordić and Čerkez* Appeal Judgement, para. 27. The CDF Trial Chamber additionally cited para. 129 *Gacumbitsi* Appeal Judgement, and para. 514 *Limaj* Trial Judgement.

²⁹⁹ CDF Appeal Judgement, para. 54. The Appeals Chamber noted this as a key difference with aiding and abetting. This upheld the CDF Trial Judgement, at para. 223 citing *Kordić* Appeal Judgement, para. 27, *Limaj* Trial Judgement, para. 515, *Brđanin* Trial Judgement, para. 269 and *Bagilishema* Trial Judgement, para. 30.

³⁰⁰ CDF Trial Judgement, para. 223 citing the above cases (note 6), in particular see *Kordić* Appeal Judgement: "While it is not necessary to prove that the crime would not have been perpetrated without the involvement of the accused, it is sufficient to demonstrate that the instigation was a factor substantially contributing to the conduct of another person committing the crime" at para. 27.

³⁰¹ CDF Appeal Judgement, para. 55. Note the distinction between influencing crimes and military action: on the facts the Chamber held that there was insufficient evidence to show that Fofana's speech at the First Passing Out Parade influenced the crimes that later occurred in Tongo Fields, observing: "Fofana's speech may have substantially contributed to the military effort, but not to the crimes as such." Note by virtue of his speech Fofana was still liable for aiding and abetting, as his speech had a substantial effect on the preparation of criminal acts (see para. 53).

³⁰² AFRC Trial Judgement, para. 770, citing *Kordić and Čerkez* Appeal Judgement, para. 29 and 32 and *Orić* Trial Judgement, para. 279.

³⁰³ CDF Trial Judgement, para. 223 (no citation of authority).

acts that are susceptible to more than one interpretation are not sufficient proof of a guilty mind.³⁰⁴

Ordering

123. "Ordering" involves a person in a position of authority using that position to compel another to commit an offence.³⁰⁵
124. The *actus reus* of ordering requires that a person in a position of *de jure* or *de facto* authority instructs a subordinate to commit an offence.³⁰⁶ A formal superior-subordinate relationship between the Accused and the perpetrator maybe indicative of the existence of authority, but is not required.³⁰⁷ What is required is that, at the material time, the Accused possessed the authority to order or held a position of authority such as would have compelled another to commit a crime in compliance with his order, command or direction.³⁰⁸
125. Furthermore, a "*casual link between the act of ordering and the physical perpetration of a crime [...] also needs to be demonstrated as part of the actus reus of ordering.*"³⁰⁹ Authorities appear to be divided on the exact level of causality that must be shown. In the ICTR and the ICTY, it has been held that the Prosecution bears the burden of establishing that the relevant offence will not have been committed "but for" the order given by the Accused.³¹⁰ On the other hand, according to the SCSL Appeals Chamber, which departs from the practice of the ICTY and ICTR on this point, "*this link need not be such as to show that the offence would not have been perpetrated in the*

³⁰⁴ CDF Trial Judgement, para. 56.

³⁰⁵ RUF Trial Judgement, para. 273; AFRC Trial Judgement, para. 772; *Prosecutor v. Brima et al.*, Case No. SCSL-2004-16-A469, Decision on Defence Motions for Acquittal Pursuant to Rule 98, 31 March 2006, [AFRC Rule 98 Decision], para. 295; *Brđanin* Trial Judgement, para. 270; *Krstić* Trial Judgement, para. 601; *Blaškić* Trial Judgement, para. 281; *Akayesu* Trial Judgement, para. 483.

³⁰⁶ RUF Appeal Judgement, para. 164; CDF Trial Judgement, para. 225; *Limaj et al.* Trial Judgement, para. 515; *Kordić and Čerkez* Appeal Judgement, para. 28.

³⁰⁷ CDF Trial Judgement, para. 225; RUF Appeal Judgement, para. 164; AFRC Trial Judgement, para. 772; *Semanza* Appeal Judgement, para. 361; *Kordić and Čerkez* Appeal Judgement, para. 28.

³⁰⁸ CDF Trial Judgement, para. 225; RUF Trial Judgement, para. 273; *Gacumbitsi* Appeal Judgement, paragraphs. 181–82; *Semanza* Appeal Judgement, para. 361; *Kordić and Čerkez* Trial Judgement, para. 388.

³⁰⁹ *Prosecutor v. Strugar*, Case No. IT-01-42-T, Trial Judgement, para. 332 (31 January 2005) [*Strugar* Trial Judgement], cited in RUF Trial Judgement, para. 273 and CDF Trial Judgement, para. 225.

³¹⁰ *Strugar* Trial Judgement, para. 332; *Prosecutor v. Nahimana et al.*, ICTR-99-52-T, Trial Judgement, para. 481 (3 December 2003) [*Nahimana et al.* Trial Judgement]. *Contra* CDF Appeal Judgement, para. 255.

absence of the order”;³¹¹ rather, it is only necessary that the Accused’s order “*have a direct and substantial effect on the commission of the illegal act.*”³¹²

126. In our view, the presumption of innocence guaranteed to the Accused under Article 17(3) of the SCSL Statute demands that there be an unequivocal link between the act of ordering a particular crime by this particular Accused and the physical perpetration of an offence within the jurisdiction of the SCSL by someone else. As a matter of law, in particular Art. 20(3) of the Statute, the judges of the SCSL Appeals Chamber “shall be guided” by the decisions of their colleagues in the ICTY and ICTR. It is submitted that adopting the interpretation of those other ad hoc tribunals on this point is not inconsistent with the letter and spirit of the SCSL Statute. The Prosecution must, in any event, prove the link between the Accused and the alleged illegal order(s) through direct and compelling evidence that satisfies the burden of proof beyond a reasonable doubt.
127. In this vein, the Defence submits that while the existence of an order may be proven through circumstantial evidence, where this is the only reasonable inference, the Prosecution must furnish direct evidence establishing that, at the material time, the Accused held the required position of authority. While the Trial Chambers in the *AFRC*, *CDF* and *RUF* cases have held that the Accused’s position of authority can be reasonably “*inferred*”³¹³ or “*implied*,”³¹⁴ these legal findings are based on a misreading of the cited authorities. The cases of *Strugar*³¹⁵ and *Kordić*³¹⁶ cited by Trial Chamber II in the *AFRC* case state that the **existence of an order** may be proven through circumstantial evidence. The case of *Brđanin*, cited by the Trial Chambers in the *AFRC*, *CDF* and *RUF* cases, provides that “*authority can be reasonably implied*”³¹⁷ but unfortunately bases this on the reasoning in *Kordić*³¹⁸ (above) and

³¹¹ *Strugar* Trial Judgement, para. 332, cited in *RUF* Trial Judgement, para. 273 and *CDF* Trial Judgement, para. 225.

³¹² *Prosecutor v. Kamuhanda*, Case No. ICTR-95-54A-T, Trial Judgment para. 75 (22 January 2004) [*Kamuhanda* Trial Judgement]; see also *Prosecutor v. Kayishema and Ruzindana*, Case No. ICTR-95-1-A, Appeal Judgement, para. 186, (1 June 2001) [*Kayishema and Ruzindana* Appeal Judgement], *Prosecutor v. Delalic et al.*, Case No IT-96-21-T, Trial Judgement, para. 326 (16 November 1998) [*Čelebići* Trial Judgement], *Akayesu* Trial Judgement, para. 477, *Prosecutor v. Tadić*, Case No. IT-96-23-T & IT-96-23/1-T, Trial Judgement, paragraphs. 674, 689, 692. (7 May 1997)[*Tadić* Trial Judgement].

³¹³ *AFRC* Trial Judgement, para. 772.

³¹⁴ *CDF* Trial Judgement, para. 225; *RUF* Trial Judgement, para. 273.

³¹⁵ *Strugar* Trial Judgement, para. 331.

³¹⁶ *Kordić and Cerkez* Appeal Judgement, para. 388. Please note: The *AFRC* Trial Judgement, para. 772 n.1491, cites to *Kordić* Appeal Judgement, para. 28, although this makes no mention of inference of the existence of authority or an order.

³¹⁷ *Brđanin* Trial Judgement, para. 270.

³¹⁸ *Kordić* Trial Judgement,, para. 388.

*Blaškić*³¹⁹ which also provides that “[t]he fact that an **order** was given can be proved through circumstantial evidence.”³²⁰ In turn, in finding that a position of authority can be established circumstantially, the case of *Limaj et al.*³²¹ bases itself solely on the reasoning in *Brđanin*.³²² Finally, the ICTR’s Trial Chamber in *Akayesu*, cited by Chambers in the *AFRC*,³²³ *Brđanin*.³²⁴ and *Blaškić*³²⁵ cases, states that “Regarding the position of authority, the Chamber considers that sometimes it can be just a question of fact.”³²⁶

128. The SCSL Appeals Chamber in the *RUF* case fails to make any distinction between an inference of authority and an inference of an order in its finding that “ordering can be established by direct or circumstantial evidence.”³²⁷ The Appeals Chamber bases itself on the statement of the ICTY’s Appeal Chamber in *Galić* that “the mode of liability of ordering can be proven, like any other mode of liability, by circumstantial or direct evidence.”³²⁸ While this statement, taken in isolation, fails to distinguish between evidence establishing the Accused’s position of authority and evidence establishing that an order to commit an illegal act was given, it is found in a section of the judgement upholding the Trial Chamber’s method of using both direct and circumstantial evidence to find that *Galić* ordered the commission of crimes (where the omissions, or failures to act, of the Accused were considered as circumstantial evidence supporting the assertion that he had ordered the crimes).³²⁹ Indeed, it may be useful to quote in full to show that the ICTY Appeals Chamber makes clear that it is examining only this narrow issue in surrounding statements:

177. ...The Trial Chamber inferred from the evidence adduced at trial, which included, inter alia, acts and omissions of the Accused, that *Galić* had **given the order** to commit the crimes.³³⁰

178. The Appeals Chamber thus concludes that the mode of liability of ordering can be proven, like any other mode of liability, by circumstantial or

³¹⁹ *Blaškić* Trial Judgement, paras 281–82.

³²⁰ *Blaškić* Trial Judgement, para. 281.

³²¹ *Limaj* Trial Judgement, para. 515.

³²² *Ibid.* n.1692.

³²³ *AFRC* Trial Judgement, para. 772 n.1491.

³²⁴ *Brđanin* Trial Judgement, para. 270 n.717.

³²⁵ *Blaškić* Trial Judgement, para. 281 n.507.

³²⁶ *Akayesu* Trial Judgement, para. 483. Please note: *AFRC* Trial Judgement, para. 772n.1491 cites *Akayesu* Trial Judgement, para. 480 – this paragraph deals with the distinct mode of liability of “planning” (and makes no mention of inferring the existence of a position of authority or an order).

³²⁷ *RUF* Appeals Judgment, para. 164.

³²⁸ *Prosecutor v. Galić*, Case No IT-98-29-A, Appeal Judgement, para. 178 (30 November 2006) [*Galić* Appeal Judgement].

³²⁹ *Ibid.* paragraphs 173–79.

³³⁰ *Ibid.* para. 177.

direct evidence, taking into account evidence of acts or omissions of the Accused. The Trial Chamber must be convinced beyond reasonable doubt from the evidence adduced at trial that the Accused **ordered** the crime.³³¹

In fact, while confounding the confusion between “ordering” as a mode of liability and the element of ordering requiring proof that the Accused issued an order, the Trial Chamber in *Galić* provides useful guidance on the type of circumstantial evidence that could be used to show that an Accused *issued an order*:

“ordering”... may be inferred from a variety of factors, such as the number of illegal acts, the number, identity and type of troops involved, the effective command and control exerted over these troops, the logistics involved, the widespread occurrence of the illegal acts, the tactical tempo of operations, the modus operandi of similar acts, the officers and staff involved, the location of the superior at the time and the knowledge of that officer of criminal acts committed under his command.³³² (citations omitted)

The phrasing of this passage (as well as the authorities it cites) makes clear that “ordering” is used to refer not to the mode of liability but to the giving of an order, where the superior position of the Accused has already been established and therefore not in dispute.

129. The Defence submits that, even if this Trial Chamber finds, as is accepted above, that circumstantial evidence can establish the Accused’s position of authority, it should in the interests of justice demand independent evidence proving the separate elements of the *actus reus* of “ordering,” being that (1) the Accused held a position of authority vis-à-vis the perpetrator of the offence, (2) the Accused issued an order to commit an illegal act, and (3) that there was a causal link between the act of ordering and the physical perpetration of the offence.
130. Regrettably, the recent jurisprudence has tended to compound the elements to the extent that the existence of an Accused’s position of authority has been derived from evidence that an Accused issued orders.³³³ The Defence submits that such an approach represents a dangerous tendency towards lowering the burden of proof to the extent that the requirement that the Accused hold a position of authority relative to the perpetrator of an offence is effectively dismissed and the “ordering” and “instigation” modes of liability confused.

³³¹ *Ibid.* para. 178.

³³² *Prosecutor v. Galić*, Case No IT-98-29-T, Trial Judgement, para. 171 (5 December 2003) [Galic Trial Judgement].

³³³ See, e.g., *Kamuhanda* Trial Judgement, paras 594, 612, 504, 641; *Oxford Companion to International Criminal Justice* 447 (Antonio Cassese ed., 2009).

131. It is not necessary for the order to be given by the superior directly to the person(s) who commit the illegal act(s)³³⁴ – an order can be passed down a (*de jure* or *de facto*) chain of command. The Defence submits that where evidence is led that an order was passed down a chain of command in this manner, the Prosecution must furnish evidence that proves beyond a reasonable doubt that the Accused, instead of another person, was the author of that order.
132. Regarding *mens rea*, it must be established that the Accused had the direct intent, when issuing the order, to commit the crime for which he is charged or, and exceptionally because this is a lower level of *mens rea*, that he was at least *aware* that there is a substantial likelihood that a criminal offence will be committed as a result of the execution or implementation of his orders.³³⁵

Committing

133. In the SCSL, *committing* has been defined as the participation, physical or otherwise directly, in the material elements of a crime by the offender, and as “physically perpetrating a crime or engendering a culpable omission in violation of criminal law.”³³⁶
134. It follows that the *actus reus* for *committing* involves, first and foremost, the direct and physical perpetration of the crime by the Accused. This form of participation, which can incur responsibility for several perpetrators in relation to the same offence where each of the perpetrators’ separate conduct fulfils the required elements of the substantive offence, may also cover circumstances constituting a culpable omission in violation of an established rule of criminal law.³³⁷
135. With regards to *mens rea*, the Accused must intend to commit the crime or engage in an act with an awareness of the substantial likelihood that the crime will result as a consequence of his act or omission, and yet accepts that risk.³³⁸

³³⁴ AFRC Trial Judgement, para. 772; Brdanin Trial Judgement, para. 270; Blaškić Trial Judgement, para. 282.

³³⁵ AFRC Trial Judgement, para. 773; CDF Trial Judgement, para. 274; Stakić, *supra* note 20.

³³⁶ CDF Trial Judgement, para. 205. The Chamber relied on the ICTY Appeal Chamber Judgement, in the Case of Tadić para. 88; Prosecutor v. Kunarac et al., Case No. IT-96-23-T & IT-96-23/1-T, para. 390 (22 February 2001) [Kunarac Trial Judgement] and the Prosecutor v. Rutaganda Case, ICTR-96-3-A, Trial Judgement, para. 41 (6 December 1999) [Rutaganda Trial Judgement]. Also see Prosecutor v. Galić, Case No IT-98-29-T, Appeal Judgement, para. 169 (30 November 2006) [Galić Appeal Judgement] and AFRC Trial Judgement, also para 762.

³³⁷ CDF Trial Judgement, para. 205. See also para. 762 of the AFRC Trial Judgement.

³³⁸ AFRC Trial Judgement, para. 763.

Aiding and abetting

136. It is established in case law that *assisting* and *encouraging* the commission of a crime are specific incidents of the mode of liability of *aiding and abetting*.³³⁹ *Aiding and abetting* has thus been defined as the act of rendering practical assistance, encouragement or moral support, which has a substantial effect on the perpetration of a certain crime.³⁴⁰
137. For the *actus reus* of *aiding and abetting*, it must be shown that the Accused “gave practical assistance, encouragement, or moral support which had a substantial effect on the perpetration of the crime.”³⁴¹ The Accused’s act or omission should be specifically directed to have such an effect and go to a “certain specific crime”³⁴² although no cause and effect relationship needs to be shown.³⁴³ The Accused’s contribution may relate to the planning, preparation or execution of “a finally completed crime.”³⁴⁴ The acts of aiding and abetting may occur before, during and after the commission of the crime, and the location at which the *actus reus* takes place may be removed from the locations of the crime.³⁴⁵
138. While “aiding” and “abetting” are not strictly synonymous, these two terms are used conjunctively in the jurisprudence though proof of either of the two is deemed

³³⁹ See *Prosecutor v. Fofana and Kondewa* [CDF], Case No. SCSL-04-14-A, Appeal Judgement, para. 71 (28 May 2008) [CDF Appeal Judgement]. Also see para. 72 where the Appeals Chamber held that “encouragement” and “moral support” may constitute the *actus reus* of aiding and abetting. See also *Prosecutor v. Tadić*, Case No. IT-94-1-I, Appeal Judgement, para. 229 (15 July 1999) [Tadić Appeal Judgement], and *Prosecutor v. Blaškić*, Case No. IT-95-14-A Appeal Judgement, para. 45 (29 July 2004) [Blaškić Appeal Judgement], citing *Prosecutor v. Vasiljević*, Case No. IT-98-32-A, Appeal Judgement, para. 102 (25 February 2004) [Vasilevic Appeal Judgement].

³⁴⁰ AFRC Trial Judgement, para. 775; *Limaj et al.* Trial Judgement, paras 516–17; *Tadić* Appeal Judgement, *supra* note 1.

³⁴¹ AFRC Trial Judgement, para. 775, citing *Blaškić* Appeal Judgement, para. 46. The CDF Trial Judgement, used the same words and included the words “being sympathetic to” (para. 228). This is supported by *Akayesu* Trial Judgement, para. 484, *Limaj* Trial Judgement, para. 516, *Semanza* Trial Judgement, para. 584.

³⁴² CDF Trial Judgement, para. 229, citing *Vasiljević* Appeal Judgement, para. 102 where the words “specifically directed” to a “certain specific crime” are used; further citing *Blaškić* Appeal Judgement, para. 46, which in turn cites the *Furundžija* Trial Judgement, para. 249.

³⁴³ CDF Trial Judgement, para. 229, quoting *Blaškić* Appeal Judgement, para. 48, and citing *Prosecutor v. Gacumbitsi*, Case No. ICTR-2001-64-A, Appeal Judgement, para. 140 (6 July 2006).

³⁴⁴ AFRC Trial Judgement, para. 775, citing *Blaškić* Appeal Judgement, paragraphs 45, 48; *Kamuhanda* Trial Judgement, para. 597; *Prosecutor v. Orić*, IT-03-68-T, Trial Judgement, para. 282 (30 June 2006) [Orić Trial Judgement]. Note this can be distinguished from Joint Criminal Enterprise in that the Principal may not even know about the Accused’s contribution. See *Tadić* Appeal Judgement, para. 229 for a comparison of the two modes of liability.

³⁴⁵ CDF Trial Judgement, para. 219, citing *Blaškić* Appeal Judgement, para. 48, cited with approval in the CDF Appeal Judgement, para. 70.

sufficient for criminal responsibility to attach.³⁴⁶ The *mens rea* for *aiding and abetting* requires knowledge on the part of the Accused that his acts would assist the commission of a crime by the perpetrator or, awareness of the substantial likelihood that his acts would assist the commission of a crime by a perpetrator.³⁴⁷ This knowledge can be inferred from all the circumstances.³⁴⁸

139. It is not necessary that the Accused knew the precise crime that was intended and, which was actually committed, provided he was aware that one of a number of crimes would probably be committed, including the one actually committed.³⁴⁹ It is also not necessary that the Accused shared the principal's *mens rea* but that *he was aware of it*.³⁵⁰ In the ICTY, it has also been held that the aider and abetter must also be aware of the essential elements of the crime which was ultimately committed by the

³⁴⁶ No distinctions can be found in the SCSL case law. Aiding involves provision of assistance whereas abetting can involve no more than encouragement or sympathy for an act. See *Limaj* Trial Judgement, at para. 516 which ultimately draws on *Akayesu* Trial Judgement, at para. 484. Aiding and abetting is also mentioned in the Rome Statute of the International Criminal Court: Art. 25(3)(c), Rome Statute.

³⁴⁷ *AFRC* Appeals Judgement, paragraphs 242–43 and *Prosecutor v. Brima et al.*, Case No. SCSL-2004-16-A469, Decision on Defence Motions for Acquittal Pursuant to Rule 98, para. 302 (31 March 2006) [*AFRC* Rule 98 Decision]. *CDF* Trial Judgement, para. 231, citing *Prosecutor v. Vasiljević*, Case No. IT-98-32-A, Appeal Judgement, para. 102 (25 February 2004) [*Vasiljević* Appeal Judgement], *Blaškić* Appeal Judgement, para. 49, *Tadić* Appeal Judgement, at para. 229. The same approach is taken in the ICTR Appeals Chamber: *Kayishema* Appeal Judgement, para. 186, which in turn follows *Prosecutor v. Tadić*, Case No. IT-94-1, Trial Judgement, paragraphs 674 & 689 (7 May 1997) [*Tadić* Trial Judgement]; *Prosecutor v. Delalić et al.*, Case No. IT-96-21-T, Trial Judgement, para. 326 (16 November 1998) [*Čelebić* Trial Judgement], and ICTR case law. See *Akayesu* Trial Judgement, para. 477.

³⁴⁸ *CDF* Trial Judgement, para. 231. It cites *Limaj* Trial Judgement, para. 518, which in turn cites *Čelebić* Trial Judgement, para. 328, and *Tadić* Trial Judgement, para. 676. See also *Semanza* Trial Judgement, para. 389: knowledge can be deduced from the circumstances through “prior like behaviour, failure to punish or verbal encouragement,” citing *Prosecutor v. Bagilishema*, Case No. ICTR-95-1A-T, Trial Judgement, para. 36 (7 June 2001) [*Bagilishema* Trial Judgement].

³⁴⁹ *AFRC* Rule 98 Decision at para. 302, *AFRC* Trial Judgement, para. 776, *AFRC* Appeal Judgement, paragraphs 242–43, citing *Prosecutor v. Simić*, IT-95-9-A, Appeal Judgement, para. 86 (28 November 2006) [*Simić* Appeal Judgement]; *Blaškić* Appeal Judgement, para. 50 (cited by *AFRC* Trial Judgement, as well – note 1506). Consistent with *CDF* Trial Judgement, para. 301.

³⁵⁰ *CDF* Trial Judgement, para. 231, citing *Aleksovski* Appeal Judgement, para. 162, which in turn cites *Prosecutor v. Furundžija*, Case No. IT-95-17/1-T, Trial Judgement, para. 245 (10 December 1998) [*Furundžija* Trial Judgement], *Limaj* Trial Judgement, para. 518; *Prosecutor v. Brđanin*, Case No. IT-99-36-T, Trial Judgement, para. 273 (1 September 2004) [*Brđanin* Trial Judgement]; *Prosecutor v. Kunarac et al.*, Case No. IT-96-23-T & IT-96-23/1-T, Trial Judgement, para. 392 (22 February 2001) [*Kunarac* Trial Judgement]. The ICTR Appeals Chamber follows the ICTY Appeals Chamber on this point. See *Prosecutor v. Ntakirutimana et al.*, Case No. ICTR-96-10-A and ICTR-96-17-A, Appeal Judgement, para. 500 (13 December 2004), citing *Krnjelac* Appeal Judgement, para. 52, *Vasiljević* Appeal Judgement, para. 142 and *Tadić* Appeal Judgement, para. 229.

principal.³⁵¹ However, the Accused cannot be held liable where he did not act knowingly, or even where he should have had such knowledge.³⁵²

140. In the *AFRC* case, Trial Chamber II, drawing on ICTY and ICTR case law held that:³⁵³ (i) The Accused's contribution to the planning, preparation or execution of a completed offence may be direct or indirect;³⁵⁴ (ii) Regardless of whether the Accused was "present or removed both in time and place from the actual commission of the crime";³⁵⁵ and (iii) That the mere presence of the Accused at the crime scene *without acting* to prevent the commission of the crime is insufficient unless the person was in a position of authority, as such presence "may be regarded as an important indication for encouragement and support."³⁵⁶
141. The SCSL Appeals Chamber has also held that "words of moral support and encouragement" to fighters about to go on military operations, or blessings, or providing medicine, which the soldiers believed would protect them does not constitute aiding and abetting.³⁵⁷

³⁵¹ *Prosecutor v. Aleksovski*, IT-95-14/1-A, Appeal Judgement, para. 162 (24 March 2000) [*Aleksovski* Appeal Judgement]; *Krnjelac* Appeal Judgement, para. 51; *Prosecutor v. Brđanin*, IT-99-36-A, Appeal Judgement, para. 484 (3 April 2007) [*Brđanin* Appeal Judgement].

³⁵² This distinguishes the *mens rea* for Article 6(1) from that for Article 6(3) – see *Akayesu* Trial Judgement, para. 479.

³⁵³ *AFRC* Trial Judgement, para. 775.

³⁵⁴ Citing *Limaj* Trial Judgement, para. 516 and *Orić* Trial Judgement, para. 282.

³⁵⁵ Citing *Orić* Trial Judgement, para. 282 and *Blaškić* Appeal Judgement, para. 48.

³⁵⁶ Citing *Orić* Trial Judgement, para. 283; *Kayishema* Appeal Judgement, para. 201; *Prosecutor v. Aleksovski*, IT-95-14/1-T, Trial Judgement, para. ____ (25 June 1999) [*Aleksovski* Trial Judgement]; *Prosecutor v. Karajelijeli*, ICTR-98-44A-T, Trial Judgement, para. 769 (1 December 2003) [*Karajelijeli* Trial Judgement], The *CDF* Trial Judgement, took a similar line stating that the presence of a person of "superior authority ... may be probative" at para. 230. Regarding persons of superior authority the Judgement, also held that a superior's failure to punish for past crimes might act as encouragement or instigation to commit future crimes (*ibid.*, citing *Blaškić* Trial Judgement, para. 337). For a discussion on presence and the status of the observer, including Nuremberg law, see *Furundžija* Trial Judgement, paragraphs 208–09.

³⁵⁷ *CDF Appeal Judgement*, para. 110 upholding *CDF* Trial Judgement, paras 799–800. Note that in the case of *CDF* the Appeals Chamber held that his speech at the passing out parade did not amount to aiding and abetting, neither did his presence at meetings of commanders without factual findings on his participation, and neither was his provision of logistics sufficient to show aiding and abetting (see paras 101–02).

Joint Criminal Enterprise

142. Although “joint criminal enterprise” (JCE) is not explicitly enumerated as a mode of liability in the Statute, it is well-established in the jurisprudence of the *ad hoc* international criminal tribunals that it falls within the ambit of Article 6(1) liability.³⁵⁸
143. Generally, an Accused is liable under JCE for all crimes committed pursuant to “a common plan, design or purpose which amounts to or involves the commission of a crime,” if he participates with others in that common design.³⁵⁹ Culpability also attaches where one of the perpetrators commits an act which, while falling outside the common purpose, was a “natural and foreseeable consequence of the effecting of the common purpose.”³⁶⁰
144. The seminal *Tadić* case delineates three categories of JCE.³⁶¹ They are the “basic form,” “systemic form” and “extended form.” The *actus reus* for all the three forms of JCE are however the same and consist of the following elements:
- a. a plurality of persons;
 - b. the existence of a common plan, design or purpose which amounts to or involves the commission of a crime provided for in the Statute;
 - c. participation of the Accused in the common design involving the perpetration of one of the crimes provided for in the Statute.
145. With respect to the plurality of persons requirement, it must be shown that the persons in the criminal enterprise acted together, or in concert with each other, in implementing their common objective.³⁶² This is precisely because a common objective alone will not always suffice to constitute a group as distinct and independent groups may happen to share identical objectives. It is thus the interaction or cooperation among persons – their joint action – that, in addition to the common objective, forges a group out of mere plurality.³⁶³
146. JCE can however still exist where none or only some of the principal perpetrators of the crimes are members of the JCE, for instance, where such persons are procured by one of more members of the JCE to commit crimes in furtherance of a criminal

³⁵⁸ *Tadić* Appeals Judgement, paras 189–93, cited with approval in the *AFRC* Appeals Judgement, para. 74; *AFRC* Trial Judgement, para. 61.

³⁵⁹ *Tadić* Appeal Judgement, paragraphs 190 and 227.

³⁶⁰ *Ibid.* para. 204.

³⁶¹ Also see *Prosecutor v. Vasiljević*, Case No. IT-98-31-A, Judgement, para. 94-101 (25 February 2004) [*Vasiljević* Appeal Judgement], where the Court summarises JCE jurisprudence.

³⁶² *Brđanin* Appeal Judgement, paras 410 and 430.

³⁶³ *Prosecutor v. Krajišnik*, Case No IT-00-39-T, Trial Judgement, para. 884 (27 September 2006) [*Krajišnik* Trial Judgement].

enterprise. In such instances, it must be established that the crimes committed by the non-members of the JCE can be imputed to (a) member[s] of the JCE and that such member[s], when using the principal, acted in accordance with the common plan.³⁶⁴

147. With respect to the Accused's participation, such participation need not involve the commission of a crime under the Statute but may take the form of assistance in, or contribution to, the execution of the common plan/purpose.³⁶⁵ Furthermore, the Accused's contribution to the alleged crimes must be significant³⁶⁶ in that it "substantially assisted or significantly affected" the enterprise's goals. The Accused's participation should be "indispensable for the achievement of the final result"³⁶⁷ although it need not be a *conditio sine qua non* to it.³⁶⁸
148. With respect to the criminal aspect of the JCE, the SCSL Appeals Chamber has controversially held that the criminal purpose underlying the JCE can derive not only from its ultimate objective but also from the means contemplated to achieve the objective. The objective and the means constitute the common design or plan.³⁶⁹
149. The *mens rea* for the three forms of JCE are however different. Under the *Basic Form* or JCE(1), all the perpetrators must share the same specific criminal intent.³⁷⁰ It must be established that the Accused participated in at least one aspect of the common design and that he intended the criminal act even if he did not perpetrate it himself. Mere knowledge of the criminal purpose of a joint criminal enterprise will not suffice.³⁷¹ All the participants to the JCE must share the criminal purpose – intent to commit the crime.³⁷²
150. Under this heading, members of the JCE act by directly perpetrating a crime or through acts or omissions that facilitated the crimes committed, in furtherance of the enterprise.³⁷³
151. The *Systemic Form* or JCE(2) which encompasses "systems of ill-treatment," such as concentration camps, requires personal knowledge by the Accused of the organized

³⁶⁴ *Brđanin* Appeals Judgement, para. 413.

³⁶⁵ *Prosecutor v. Stakić*, Case No IT-97-24-A, Appeal Judgement, para. 64 (22 march 2006)[*Stakić* Appeal Judgement].

³⁶⁶ *Brđanin* Appeals Judgement, para. 430.

³⁶⁷ Antonio Cassese, *International Criminal Law* 183 (Oxford University Press, 2003).

³⁶⁸ *Tadić* Appeals Judgement, para. 199.

³⁶⁹ *AFRC* Appeals Judgement, para 76. For full discussion see paras 76–86.

³⁷⁰ *Tadić* Appeals Judgement, para. 196.

³⁷¹ *CDF* Appeal Judgement, para. 208, citing *Ojdanc* Appeal Decision on Joint Criminal Enterprise para. 20. (but no citation to *Ojdanc* herein).

³⁷² *CDF* Trial Judgement, para. 218, citing *Tadić* Appeal Judgement, para. 28.

³⁷³ *Prosecutor v. Furundžija*, Case No. IT-95-17/1-A, Appeal Judgement, para. 249 (21 July 2000)[*Furundžija* Appeal Judgement]; *Tadić* Appeals Judgement, para. 229.

criminal system and his active participation with the intention of furthering the criminal purpose of that system.³⁷⁴

152. The *Extended Form* or JCE(3) involves instances where one of the perpetrators commits an act that falls outside the common design but which was a natural and foreseeable consequence of the effecting of the common plan. Under this heading, the Accused must: (i) have the intention to participate; (ii) contribute to the “common purpose”; (iii) have the awareness that crimes which are natural and foreseeable consequences of the JCE might be committed; and (iv) willingly take or is indifferent to the risk that such (a) crime[s] might occur by joining or continuing to participate in the JCE.³⁷⁵
153. The test under this heading is subjective. The crime must be shown to have been foreseeable to the Accused in particular.³⁷⁶ Furthermore, the court can only find that the Accused possessed the requisite intent if this is the only reasonable inference on the evidence.³⁷⁷

Indirect Responsibility Pursuant to Article 6(3) of the SCSL Statute

154. Article 6.3 reads:

“The fact that any of the acts in articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior had failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.”³⁷⁸

155. This provision was incorporated into paragraph 34 of the Indictment, which alleges that:

“In addition, or in the alternative, pursuant to Article 6.3 of the Statute, the **ACCUSED**, while holding positions of superior responsibility and exercising command and control over subordinate members of the RUF, AFRC,

³⁷⁴ *Ibid.* paras 203–04.

³⁷⁵ *Ibid.* para. 204.

³⁷⁶ *Brjdanini Appeals Judgement*, paras 265–366.

³⁷⁷ *Brjdanini Appeals Judgement*, para. 429.

³⁷⁸ Note Article 6.3 is almost identical to Article 6(3) of the ICTR Statute and 7(3) of ICTY Statute, for example, the latter: “The fact that any of the acts referred to in articles 2 to 5 of the present Statute was committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.” Superior responsibility in the Rome Statute of the ICC differs from the above in that a distinction is drawn between military and civilian superiors. Further, the Rome Statute may consider superior responsibility a form of vicarious liability. Article 28, Rome Statute of the International Criminal Court, 2187 U.N.T.S. 90, *entered into force* July 1, 2002.

AFRC/RUF Junta or alliance, and/or Liberian fighters, is individually criminally responsible for the crimes referred to in Articles 2, 3, and 4 of the Statute as alleged in this Amended Indictment. The **ACCUSED** is responsible for the criminal acts of his subordinates in that he knew or had reason to know that the subordinate was about to commit such acts or had done so and the **ACCUSED** failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.”

156. Based on its ordinary language, Article 6(3) of the SCSL Statute establishes a three-part test for the Accused to incur criminal responsibility. First, there must be a superior-subordinate relationship between the superior and the perpetrator. Second, the Accused must know or have reason to know that the offence was about to be or had already been committed. Finally, while as a superior possessing such actual or imputed knowledge, the Accused then fails to prevent the commission of the crime or to punish those who perpetrated it. Each of these elements will be discussed in turn.

Existence of a Superior–Subordinate relationship

157. A “superior” has been defined to include “political leaders and other civilian superiors in positions of authority” in addition to military commanders.³⁷⁹ A superior must possess “the power or authority to either prevent a subordinate’s crimes or punish the subordinate after the crime has been committed.”³⁸⁰ This power or authority can be part of either a *de jure* or a *de facto* relationship³⁸¹ and may be exercised concurrently by multiple superiors.³⁸²
158. Superior responsibility is “ultimately predicated upon the power of the superior to control the acts of his subordinates,”³⁸³ that is, the power or material ability to prevent

³⁷⁹ AFRC Appeals Judgement, para. 257. Citing *Čelebić* Appeal Judgement, para. 195.

³⁸⁰ *Ibid.* para. 257, citing *Aleksovski* Appeal Judgement, para. 76, *Bagilishema* Appeal Judgement, para. 50, citing *Čelebić* Appeal Judgement, para. 192.

³⁸¹ AFRC Appeals Judgement, para. 256 (citing *Čelebić* Appeal Judgement, para. 195). See also *CDF Appeal Judgement*, para. 28 (citing aforementioned authority); *Bagilishema* Appeal Judgement, paras 50–51 (citing *Čelebić* Appeal Judgement, para. 193). ICTY case law includes the idea that “a tacit or implicit understanding between [two people] as to their positioning vis-à-vis on another,” even if this is only temporary, is sufficient to establish a superior-subordinate relationship. *Kunarac* Trial Judgement, para. 397. It also includes a description of *de facto* subordination: “it is possible to imagine scenarios in which one of two persons of equal status or rank – such as two soldiers or two civilian prison guards – could in fact exercise “effective control” over the other at least in the sense of a purely practical ability to prevent the conduct of the other by, for example, force of personality or physical strength.” *Prosecutor v. Delalić et al.*, Case No. IT-96-21-A, Appeal Judgement, para. 303 (20 February 2001) [*Čelebić* Appeal Judgement].

³⁸² AFRC Trial Judgement, para. 786 (citing *Blaškić* Trial Judgement, paras 296, 302, 303; *Krnojelac* Trial Judgement, 93; *Naletilić* Trial Judgement, para. 69; *Halilović* Trial Judgement, para. 62).

³⁸³ *Čelebić* Appeals Judgement, para. 197 (quoting *Čelebić* Trial Judgement, paras 377–78, and approving the Trial Chamber’s interpretation).

or punish.³⁸⁴ This standard has been widely referred to as the exercise of “effective control.”³⁸⁵ The effective control requirement is more realistic in the military setting where there are commanders, but it is deemed to apply equally to civilians.³⁸⁶ Simply showing that the Accused exercised “substantial influence or persuasive ability” over the conduct of others is insufficient to establish superior responsibility.³⁸⁷

159. Where the superior is acting pursuant to *de jure* authority, it may be presumed that the effective control requirement is met, unless proof to the contrary is presented.³⁸⁸ Further indications of effective control include “the formality of the procedure used for the appointment of a superior, the power of the superior to issue orders or to take disciplinary action, the fact that subordinates show greater discipline in the superior’s presence, the level of profile, manifested through public appearances and statements, or the capacity to transmit reports to competent authorities for the taking of relevant measures.”³⁸⁹
160. In conflicts characterised by the use of irregular armies, traditional indicia of control may not be “appropriate or useful,”³⁹⁰ although the power to issue orders and to discipline subordinates, even if brutally or arbitrarily, remains crucial to the establishment of superior responsibility.³⁹¹ The less formal the relationship between superior and subordinate, the more important it is to focus on the nature of the superior’s authority rather than his or her formal designation.³⁹² Indications of effective control in informal command structures include “that the superior had first entitlement to the profits of war, such as looted property and natural resources; exercised control over the fate of vulnerable persons such as women and children; the superior had independent access to and/or control of the means to wage war, including

³⁸⁴ *AFRC Trial Judgement*, para. 797 (citing *Orić Trial Judgement*, para. 326, *Limaj Trial Judgement*, para. 527, and *Strugar Trial Judgement*, para. 373); *CDF Trial Judgement*, para. 247 (citing *Blaškić Appeal Judgement*, para. 83).

³⁸⁵ *Ibid.* para. 784 (citing *Čelebić Appeal Judgement*, para. 256). See also *AFRC Appeals Judgement*, para. 289 (describing the effective control requirement as “critical” to establishing superior responsibility).

³⁸⁶ *AFRC Appeals Judgement*, para. 257, cited with approval in *CDF Appeal Judgement*, para. 175.

³⁸⁷ *AFRC Appeals Judgement*, para. 289 (citing *Čelebić Appeal Judgement*, para. 266) See also *AFRC Trial Judgement*, para. 784 (citing *Čelebić Appeal Judgement*, para. 266; *Prosecutor v. Blagojević and Jokić*, Case No. IT-02-60-T, Judgement, para. 791 (17 January 2005); and *Prosecutor v. Ntagerura et al.*, Case No. ICTR-99-46, Judgement, para. 628 (1 September 2009)).

³⁸⁸ *AFRC Trial Judgement*, para. 784 (citing *Čelebić Appeal Judgement*, para. 197).

³⁸⁹ *AFRC Trial Judgement*, para. 785 (citing *Halilović Trial Judgement*, para. 58; *Aleksovski Trial Judgement*, paras 78, 101, 104; *Blaškić Trial Judgement*, para. 302; *Čelebić Appeal Judgement*, para. 206; *Kordić Trial Judgement*, para. 424).

³⁹⁰ *AFRC Trial Judgement*, paras 787–88.

³⁹¹ *Ibid.* at 789. Although this passage (paras 787–89) is not mentioned in the Appeals Judgement, it is cited with approval in Cassese op. cit., at 248 n.29.

³⁹² *Ibid.*

arms and ammunition and communications equipment; the superior rewarded himself or herself with positions of power and influence; the superior had the capacity to intimidate subordinates into compliance and was willing to do so; the superior was protected by personal security guards, loyal to him or her ... ; the superior fuels or represents the ideology of the movement to which the subordinates adhere; and the superior interacts with external bodies or individuals on behalf of the group.”³⁹³

161. Where the alleged superior is a civilian, command responsibility will only attach to the extent that the civilian concerned exercised control over the subordinate which is similar to that of a military commander.³⁹⁴ For a civilian superior’s degree of control to be “similar to” that of a military commander, the exercise of effective control pursuant to *de facto* authority must be accompanied by “the trappings of the exercise of *de jure* authority.”³⁹⁵ These include “awareness of a chain of command, the practice of issuing and obeying orders, and the expectation that insubordination may lead to disciplinary action. It is by these trappings that the law distinguishes civilian superiors from mere rabble-rousers or other persons of influence.”³⁹⁶ The Defence submits that great care must be taken in assessing a superior’s effective control, especially for civilian leaders like this Accused, lest an injustice is committed in the application of superior responsibility in situations where this absolutely crucial or essential link is absent or missing.³⁹⁷

Actual or Imputed Knowledge

162. Superior responsibility is applied only where the superior has actual or constructive (imputed) knowledge that his subordinate is planning to commit a crime or has, in fact, committed a crime.³⁹⁸
163. Actual knowledge refers to “the awareness that the relevant crimes were committed or were about to be committed.”³⁹⁹ Proof of such knowledge may be facilitated by the Accused’s membership in “an organised and disciplined structure with reporting and monitoring mechanisms.” A higher standard would be required in more informal

³⁹³ *Ibid.*

³⁹⁴ *Baglishema* Trial Judgement, para. 42 (citing *Čelebić* Trial Judgement, paras 357–63). *See also* Commentary on the 1996 Code of Crimes against the Peace and Security of Mankind: “Report of the International Law Commission on the Work of its Forty-Eighth Session, 6 May–26 June 1996” U.N. Doc. A/51/10 (1996), commentary para. 4 to Article 6.

³⁹⁵ *Ibid.* para. 43 (citing *Čelebić* Trial Judgement, at para. 646).

³⁹⁶ *Ibid.*

³⁹⁷ *Čelebić* Appeals Judgement, paras 196–98 (citing *Čelebić* Trial Judgement, para. 383).

³⁹⁸ *AFRC* Trial Judgement, paras 791–94.

³⁹⁹ *Ibid.* para. 792 (citing *Kordić* Trial Judgement, para. 427).

structures.⁴⁰⁰ Actual knowledge can be established by direct or circumstantial evidence,⁴⁰¹ including the superior's position, as well as geographic and temporal proximity to the crimes; the type and scope of the crimes; the time during which they occurred; the number and type of soldiers and logistics involved; the widespread occurrence of crimes; the tactical tempo of operations; the *modus operandi* of similar acts; and the officers and staff involved.⁴⁰²

164. Establishing that a superior had constructive or imputed knowledge, that is, that they had reason to know about the planning or commission of a crime, requires that specific information was available to the Accused that would have put him on notice of crimes committed or about to be committed.⁴⁰³ No liability attaches for failing to acquire such information⁴⁰⁴ although it is sufficient to show "the superior to [have been] in possession of sufficient information, even general in nature, written or oral, of the likelihood of illegal acts by subordinates."⁴⁰⁵ Such information should be of a nature that would have put the superior on notice of a "present and real risk" that crimes under the Statute were committed or about to be committed.⁴⁰⁶ Negligent ignorance does not suffice to show imputed knowledge⁴⁰⁷ although wilful blindness does.⁴⁰⁸

Failure to Prevent or Punish

165. There are two separate duties incumbent upon a superior in the exercise of effective control: to intervene as soon as he is aware that a crime is about to be committed, or

⁴⁰⁰ *Ibid.* para. 793 (citing *Kordić* Trial Judgement, para. 428, *Galic* Trial Judgement, para. 174, *Orić* Trial Judgement, 320).

⁴⁰¹ *Ibid.* para. 792 (citing *Kordić* Trial Judgement, para. 427, *Čelebić* Trial Judgement, para. 386 *Brđanin* Trial Judgement, para. 278. Consistent with *CDF* Trial Judgement, para. 243.

⁴⁰² *AFRC* Trial Judgement, para. 792 (citing *Aleksovski*, Trial Judgement, para. 80, *Čelebić* Trial Judgement, para. 386, *Galic* Trial Judgement, para. 174, *Limaj* Trial Judgement, para. 524, *Bagilishema* Trial Judgement, para. 968). See also *CDF* Trial Judgement, para. 243.

⁴⁰³ *AFRC* Trial Judgement, para. 794 required "specific" information (citing *Blaškić* Appeal Judgement, para. 62, *Čelebić* Appeal Judgement, para. 241) but the *CDF* Trial Judgement, disagreed at para. 244, citing *Galic* Appeal Judgement, para. 184 and *Čelebić* Appeal Judgement, para. 238.

⁴⁰⁴ *AFRC* Trial Judgement, para. 794 (citing *Blaškić* Appeal Judgement, paras 62–63, *Čelebić* Appeal Judgement, para. 226). Consistent with *CDF* Trial Judgement, para. 245.

⁴⁰⁵ *Ibid.* para. 794 (citing *Čelebić* Appeal Judgement, para. 238, *Čelebić* Trial Judgement, para. 393, *Kordić* Trial Judgement, para. 437 and *Strugar* Trial Judgement, para. 370, Imputed knowledge can arise from a failure to conclude or inquire on the basis of alarming information. It is also unnecessary for the information to compel the conclusion. *Ibid.*

⁴⁰⁶ *AFRC* Trial Judgement, para. 794 (citing *Brđanin* Trial Judgement, para. 278 (citing in turn *Čelebić* Appeal Judgement, paras 223 & 241)). See also *Strugar* Trial Judgement, paras 417–20 where the standard set was that information should indicate crimes would, not might, occur. The *CDF* Trial Judgement, used the words "sufficiently alarming" at para. 244, referring to *Krnjelac* Appeal Judgement, para. 155.

⁴⁰⁷ *AFRC* Trial Judgement, para. 796, referring in general to case law cited in preceding passage.

⁴⁰⁸ *Ibid.* para. 796 (citing *Čelebić* Trial Judgement, para. 387 and *Prosecutor v. Halilović*, Case No. IT-01-48, Trial Judgement, para. 69 (16 November 2005)).

to take steps to punish the offenders as soon as he becomes aware of the commission of a crime.⁴⁰⁹ Punishing those subordinates who commit crimes will be sufficient to avoid superior responsibility only if the superior did not become aware of the crimes until after they were committed.⁴¹⁰

166. The Accused has a duty to prevent not only the commission of crimes but also their planning and preparation, and must intervene as soon as possible and for as long as he retains the effective ability to do so.⁴¹¹ In discharging this duty, a superior is required to take only those measures within his material ability in the circumstances.⁴¹² This is contingent upon the extent of effective control at the relevant time, and the “severity and imminence of the crimes.”⁴¹³
167. Once a crime has been committed, the duty to punish requires the Accused “to conduct a meaningful investigation... to establish the facts, order and execute appropriate sanctions, or report the perpetrators to the competent authorities if the superior lacks sanctioning powers.”⁴¹⁴ This duty only applies only to crimes that took place after the superior’s assumption of command over the perpetrators.⁴¹⁵
168. A causal link between the superior’s failure to prevent a crime and the actual commission of that crime is not required; this is said to be a question of fact rather than of law.⁴¹⁶ Liability attaches to the failure to fulfil duties imposed on the superior by international law, and does not require his involvement in the crime.⁴¹⁷

⁴⁰⁹ *Ibid.* para. 797 (citing *Orić* Trial Judgement, para. 326, *Limaj* Trial Judgement, para. 527 and *Strugar* Trial Judgement, para. 373).

⁴¹⁰ *Ibid.*

⁴¹¹ *AFRC* Trial Judgement, para. 798 (citing *Orić* Trial Judgement, para. 329 and *Halilović* Trial Judgement, para. 79).

⁴¹² *AFRC* Trial Judgement, para. 798 (citing *Limaj* Trial Judgement, para. 528). These include measures that may lie beyond his formal powers. *Čelebić* Trial Judgement, para. 395. *See also* *CDF* Trial Judgement, para. 246.

⁴¹³ *AFRC* Trial Judgement, para. 798 (citing *Orić* Trial Judgement, para. 329).

⁴¹⁴ *AFRC* Trial Judgement, para. 799 (citing *Blaškić* Appeal Judgement, paras 83 and 85, *Limaj* Trial Judgement, para. 529, *Orić* Trial Judgement, para. 336 and *Strugar* Trial Judgement, para. 376). The *CDF* Trial Judgement, (para. 248) goes further in endorsing *Strugar* Trial Judgement, at para. 374, which introduces a list of considerations including a failure to secure reports, issue orders, protest against or criticise actions to ensure that international law is observed by their subordinates.

⁴¹⁵ *AFRC* Trial Judgement, para. 799 (citing *Prosecutor v. Hadzihasanovic*, Case No. IT-01-47-AR72, Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility paras 45–46 (16 July 2003); *Orić* Trial Judgement, para. 335).

⁴¹⁶ *CDF* Trial Judgement, para. 249 (citing *Blaškić* Appeal Judgement, para. 77, *Kordić* Appeal Judgement, para. 832 and *Prosecutor v. Halilović*, Case No. IT-01-48-T, Trial Judgement, para. 89 (16 November 2005)).

⁴¹⁷ *Ibid.* *See also* *Halilović* Trial Judgement, para. 78; *Orić* Trial Judgement, para. 293.

ELEMENTS OF CRIMES WITH RESPECT TO EACH COUNT

Count 1: Acts of Terrorism - A Violation of Article 3 common to the Geneva Conventions and of Additional Protocol II (Art 3(d) of the Statute)

169. In addition to the chapeau requirements of Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II⁴¹⁸ under Article 3 of the Statute, the Appeals Chamber has described the specific elements of the crime of acts of terrorism as follows: (i) Acts or threats of violence directed against persons or their property; (ii) The perpetrator wilfully made persons or their property the object of those acts and threats of violence; and (iii) The acts or threats of violence were committed with the primary purpose of spreading terror among those persons.⁴¹⁹

Acts or Threats of Violence Direct Against Persons or their Property

170. The *actus reus* for acts of terrorism may be comprised not only of attacks but also threats of attacks against the civilian population, including civilian property, as long as the attack on property is designed to spread terror.⁴²⁰ Acts or threats of violence are not limited to direct attacks against civilians or threats thereof but also include indiscriminate or disproportionate attacks or threats carried out without regard to the consequences to a civilian population.⁴²¹
171. Acts of terrorism may be established by acts or threats of violence independent of whether such acts or threats of violence satisfy the elements of any other criminal offence.⁴²² Not every act or threat of violence, however, will be sufficient to satisfy the *actus reus* of the crime of acts of terrorism. While the actual terrorisation of the civilian population is not an element of the crime, the acts or threats of violence alleged must, nonetheless, be such that they are at the very least capable of spreading terror.⁴²³ Whether any given act or threat of violence is capable of spreading terror is to be judged on a case-by-case basis within the particular context involved. For this

⁴¹⁸ See CDF Appeal Judgement, para. 344–49 (finding that Acts of Terrorism is interpreted as a charge under Article 13(2) of the Additional Protocol II to the Geneva Conventions, which is a narrower derivative of Article 4(2)(d) of the same).

⁴¹⁹ AFRC Trial Judgement, para. 667. See also CDF Appeal Judgement, para. 350 (citing *Galić* Trial Judgement, para. 133; *Galić* Appeals Judgement, paras 99–104; *Blagojevic* Trial Judgement, para. 589) (adopting a substantially similar definition). Note that the *Galić* Appeal Judgement, paras 100–01 and the CDF Trial Judgement, exchange “specific intent” with “primary purpose.”

⁴²⁰ AFRC Trial Judgement, para. 670.

⁴²¹ *Ibid.* para. 671. See also CDF Appeal Judgement, para. 351 (citing *Galić* Appeal Judgement, para. 102).

⁴²² CDF Appeal Judgement, para. 352 for example, acts of burning are capable of spreading terror even though they do not satisfy the elements of pillage. *Ibid.* para. 359.

⁴²³ CDF Appeal Judgement, para. 352 (citing *Galić* Appeal Judgement, para. 104).

purpose, “terror” should be understood as the causing of extreme fear,⁴²⁴ that is, a fear calculated to demoralise, to disrupt, to take away any sense of security from a body of people who have nothing to do with the combat.⁴²⁵

172. The level of fear must be beyond that which a legitimate act of warfare can create in a civilian population, as any war ordinarily occasions a measure of fear.⁴²⁶ Even legitimate attacks against combatants may result in intense fear and intimidation among the civilian population, but to constitute terror, the Prosecution must show that the Accused had intended to instil fear beyond this level.⁴²⁷
173. Recent jurisprudence, however, suggests a more restricted definition of terror. In the *Milosevic* trial judgement, the ICTY held that an act or threat could only be considered as “terrorism” where it results in “death or serious injury to body or health within the civilian population or to individual civilians.”⁴²⁸ Although Trial Chamber I explicitly rejected this requirement in the *RUF* case, it represents a split among the trial chambers which has not been resolved by appellate authority.⁴²⁹ In light of the presumption of innocence, this Chamber is invited to resolve this, and any jurisprudential points in doubt, in the manner that is most favourable in order to ensure the rights of the Accused to a fair trial.

The perpetrator wilfully made persons or their property the object of those acts and threats of violence

174. The *mens rea* of the crime of terror consists of a general intent and a specific intent. The general intent is that the offender must have wilfully made the civilian population or an individual civilian the object of acts or threats of violence.⁴³⁰ This requires the Prosecution to prove that the Accused acted consciously and with intent or recklessness in making the civilian population or individual civilians the object of an act or threat of violence. Negligence is not enough.⁴³¹

⁴²⁴ *CDF Appeal Judgement*, para. 352, referring to *Galic* Trial Judgement, note 320. This definition is also endorsed in *RUF* Trial Judgement, para. 117.

⁴²⁵ *Prosecutor v. Dragomir Milosevic*, Case No. IT-98-29/1-T, Trial Judgement, paras 885–86 (12 December 2007) [*Milosevic* Trial Judgement].

⁴²⁶ *Milosevic* Trial Judgement, para. 888 (citing *Galic* Trial Judgement, para. 101).

⁴²⁷ *Ibid.* See also *CDF* Trial Judgement, para. 175 (finding that “legitimate military actions may have a consequence of terrorising civilian populations. This offence is not concerned with these types of terror.”).

⁴²⁸ *Milosevic* Trial Judgement, paras 876 and 880 (finding that “the actual infliction of death or serious harm to body or health is a required element of the crime of terror.”).

⁴²⁹ *RUF* Trial Judgement, para. 117 n. 240 (finding that “the Prosecution is not required to prove that the act or threat caused death or serious injury to body or health within the civilian population.”).

⁴³⁰ *AFRC* Trial Judgement, para. 667. See also *Milosevic* Trial Judgement, para. 878.

⁴³¹ *CDF Appeal Judgement*, para. 355.

The acts or threats of violence were committed with the primary purpose of spreading terror among those persons

175. The specific intent is to spread terror among the civilian population.⁴³² The Prosecution must prove not only that the perpetrators of acts or threats of violence accepted the likelihood that terror would result from their illegal acts or threats, but must also prove that that was the result which was specifically intended.⁴³³ Thus the Accused must be shown to have had a specific intent to spread extreme fear, amounting to terror, in the victims.⁴³⁴
176. The specific intent or primary purpose to spread terror need not be the only purpose of the unlawful acts or threats of violence.⁴³⁵ Other purposes may have coexisted simultaneously with the purpose of spreading terror,⁴³⁶ as long as the intent to spread terror is principal among the aims of the acts of violence.⁴³⁷
177. Whether the specific intent to spread terror is satisfied is determined on a case-by-case basis and may be inferred from the circumstances, the nature and site of the acts or threats of violence, as well as the manner, timing or duration of acts or threats of violence.⁴³⁸ The Prosecution has to show that the terror goes above and beyond the type of fear that is only the accompanying effect of the activities of armed forces in armed conflict.⁴³⁹
178. As they share the same legal elements with the exception of this *specific intent*, the crime of terror is essentially an “aggravated” form of unlawful attacks on civilians.⁴⁴⁰

Count 2: Murder as a Crime Against Humanity under Art (2)(a) of the Statute

179. Save for the *chapeau* requirements of Crimes Against Humanity under Article 2 of the Statute, Trial Chamber II, in the *AFRC* case, found that murder is defined identically irrespective of which provision under which it is charged in the SCSL.

⁴³² *AFRC* Trial Judgement, para. 669. See also *CDF Appeal Judgement*, para. 357; *Milosevic* Trial Judgement, para. 878 (citing *Galić* Appeal Judgement, para. 104).

⁴³³ *CDF Appeal Judgement*, para. 356 (citing *Galić* Trial Judgement, para. 136).

⁴³⁴ *Ibid.*

⁴³⁵ *Ibid.* at para. 357.

⁴³⁶ *Ibid.* (citing *Galić* Appeal Judgement, para. 104).

⁴³⁷ *Milosevic* Trial Judgement, para. 879 (citing *Galić* Appeal Judgement, para. 104).

⁴³⁸ *AFRC* Trial Judgement, para. 669. See also *CDF Appeal Judgement*, para. 357 (citing *Galić* Appeal Judgement, 104).

⁴³⁹ *Milosevic* Trial Judgement, para. 888.

⁴⁴⁰ *Milosevic* Trial Judgement, para. 882.

Murder essentially means the intentional killing of a person.⁴⁴¹ The requisite elements are as follows: (i) The perpetrator by his acts or omission caused the death of a person or persons; (ii) The perpetrator had the intention to kill or cause serious bodily harm in the reasonable knowledge that it would likely result in death; (iii) The murder was committed as part of a widespread or systematic attack directed against a civilian population; and (iv) The perpetrator knew or had reason to know that his acts or omissions constituted part of a wide spread or systematic attack directed against a civilian population.⁴⁴²

180. For the *actus reus* of murder as a crime against humanity, the Prosecution must prove that the Accused substantially contributed to the death of the person whereas, in relation to *mens rea*, there must be proof of intent to kill or cause serious bodily harm while knowing that it would likely end in death. In the ICTY, the *Blaskić* Trial Chamber held⁴⁴³ that “it is murder and not premeditated murder which must be the underlying offence of a crime against humanity.”⁴⁴⁴ The Trial Chamber also held that the death of the victim could result from the acts or omission of the Accused or his subordinate(s).⁴⁴⁵
181. In the ICTR, the *Nchamihigo* Trial Chamber held that where murder is committed by a subordinate allegedly pursuant to an order of the Accused, there must be proof of a causal link between the order and the murder. The crime is not committed when the order is given unless it is shown that the order resulted in the killing of a person within the meaning of the relevant Statute.⁴⁴⁶

⁴⁴¹ AFRC Rule 98 Decision, para. 74 (citing *Akayesu* Trial Chamber Judgement, paras 589–90; *Kayishema & Ruzindana* Trial Judgement, para. 140; *Rutaganda* Trial Judgement, paras 79–81; *Krstić* Trial Judgement, paras 484–85).1

⁴⁴² See also *CDF* Trial Judgement, para. 143 (citing *CDF* Rule 98 Oral Decision para. 72; *Kordić* Trial Judgement, 236); *Kordić* Appeals Judgement, para. 113.

⁴⁴³ *Blaškić* Trial Judgement, para. 216.

⁴⁴⁴ *Ibid.* (citing *Akayesu* Trial Judgement, para. 589 and ILC Draft Code of Crimes Against the Peace and Security of Mankind, *supra* 394, art. 18). Cited approvingly in *Kordić and Cerkez* Trial Judgement, para. 235. *Prosecutor v. Musema*, Case No. ICTR-96-13, Trial Judgement para. 214 (27 January, 2000) (citing *Akayesu* Judgement, para. 588). See also *AFRC* Trial Judgement, para. 690 (citing *Kayishema* Appeals Judgement, para. 151 for the proposition that the French word *meurtre* should be interpreted as “killing” and not “murder,” which implies premeditation).

⁴⁴⁵ *Kordić and Cerkez* Trial Judgement, para. 236. See also *AFRC* Trial Judgement, para. 689 (finding that murder requires a showing that “the perpetrator’s conduct substantially contributed to the death of the person.”).

⁴⁴⁶ *Prosecutor v. Simeon Nchamihigo*, Case No. ICTR-2001-63-T, Judgement, para. 352 (12 November 2008) [*Nchamihigo* Trial Judgement].

Count 3: Violence to life, health and physical or mental well-being of persons, in particular murder: a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II (Art 3(a) of the Statute)

182. Trial Chamber II, in the *AFRC* case, adopted the following elements for this crime: (i) The perpetrator inflicted grievous bodily harm upon the victim in the reasonable knowledge that such bodily harm would likely result in death; (ii) The perpetrator's acts or omission resulted in the death of the victim; (iii) The victim was a person protected under one or more of the Geneva Conventions of 1949 or was not taking an active part in the hostilities at the time of the alleged violation; (iv) The violation took place in the context of and was associated with an armed conflict; and (v) The perpetrator was aware of the factual circumstances that established the protected status of the victim.⁴⁴⁷
183. In the *CDF* case, Trial Chamber I also adopted the same elements.⁴⁴⁸ The Chamber emphasized that the Prosecution must show that the Accused's *mens rea* encompassed the fact that the victim was a person not taking direct part in the hostilities.⁴⁴⁹

Count 4: Rape as a Crime Against Humanity (Art 2(g) of the Statute)

184. In the *AFRC* case, Trial Chamber II, in addition to the *chapeau* requirements, adopted the following elements to the crime of rape as a Crime against Humanity: (i) The non-consensual penetration, however slight, of the vagina or anus of the victim by the penis of the perpetrator or by any other object used by the perpetrator, or of the mouth of the victim by the penis of the perpetrator; and (ii) The intent to effect this sexual penetration, and the knowledge that it occurs without the consent of the victim.⁴⁵⁰
185. In determining whether rape has not occurred, the consent of the victim must be given voluntarily, as a result of the victim's free will, all of which is assessed in the context of the surrounding circumstances.⁴⁵¹ Force or threat of force provides clear evidence of non-consent, but force is not an element *per se* of rape. There are factors other than force which would render an act of sexual penetration non-consensual or non-voluntary on the part of the victim.⁴⁵² In situations of armed conflict or detention, for

⁴⁴⁷ *AFRC* Rule 98 Decision., para. 77, Contrast with *Kordić and Cerzek* Judgement, para. 230.

⁴⁴⁸ *CDF* Trial Judgement, paras 146–47.

⁴⁴⁹ *Ibid.* (citing *Halilović* Trial Judgement, para. 36).

⁴⁵⁰ *AFRC* Trial Judgement, paras 692–93 (citing *Kunarac* Appeal Judgement, para. 127). See also *Akayesu* Trial Judgement, paras 597–98, and *Kunarac* Trial Judgement, para. 460.

⁴⁵¹ *Ibid.* para. 694.

⁴⁵² *Ibid.* (citing *Kunarac* Appeal Judgement, paras 129–30).

instance, coercion is almost universal. “Continuous resistance” by the victim, and physical force, or even threat of force by the perpetrator is therefore not required to establish coercion.⁴⁵³ It has been found that children below 14 years cannot give valid consent.⁴⁵⁴

Count 5: Sexual slavery as a Crime Against Humanity (Art 2(g) of the Statute)

186. Trial Chamber II has ruled that sexual slavery is a specific form of slavery that enjoys a *jus cogens* prohibition, as does slavery for the purpose of physical labour.⁴⁵⁵
187. In addition to the *chapeau* requirements for Crimes Against Humanity, the Trial Chamber established the following elements: (i) The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty; (ii) The perpetrator caused such a person or persons to engage in one or more acts of a sexual nature; and (iii) The perpetrator committed such conduct intending to engage in the act of sexual slavery or in the reasonable knowledge that it was likely to occur.⁴⁵⁶
188. The deprivation of liberty may include extracting forced labour or otherwise reducing a person to servile status. Further, ownership, as indicated by possession, does not require confinement to a particular place but may include situations where those who are captured remain in the control of their captors because they have nowhere else to go and fear for their lives. The consent or free will of the victim is absent under conditions of enslavement.⁴⁵⁷
189. While forced marriage shares certain elements with sexual slavery such as non-consensual sex and deprivation of liberty, the Appeals Chamber has distinguished forced marriage from sexual slavery on various grounds, as follows:

firstly, forced marriage involves a perpetrator compelling a person by force or threat of force, through the words or conduct of the perpetrator or those associated with him, into a forced conjugal association with a another person resulting in great suffering, or serious physical or mental injury on the part of the victim. Second, unlike sexual slavery, forced marriage implies a relationship of exclusivity between the “husband” and

⁴⁵³ *Ibid.* (citing *Kunarac* Appeal Judgement, paras 128–30, 133).

⁴⁵⁴ *Ibid.* (citing SCSL Statute Article 5.a).

⁴⁵⁵ *AFRC* Trial Judgement, paras 705, 708–09 (citing Special Rapporteur on Contemporary Forms of Slavery, *Update to the final report on Systematic rape, sexual slavery and slavery-like practices during armed conflict* E/CN.4/Sub.2/2000/21, 6 June 2000 para. 51 [Special Rapporteur Report]).

⁴⁵⁶ *Ibid.* para. 708.

⁴⁵⁷ *Ibid.* para. 709.

“wife” which could lead to disciplinary consequences for breach of this exclusive arrangement. These distinctions imply that forced marriage is not predominantly a sexual crime.⁴⁵⁸

Count 6: Outrages upon personal dignity as a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II (Art (3)(e) of the Statute)

190. In addition to the *chapeau* requirements of common Article 3, Trial Chamber II has defined the elements for the offence of outrages upon personal dignity in the following terms: (i) The perpetrator committed an outrage upon the personal dignity of the victim; (ii) The humiliation and degradation was so serious as to be generally considered an outrage upon personal dignity; (iii) The perpetrator intentionally committed or participated in act or omission which would be generally considered to cause serious humiliation, degradation or otherwise be a serious attack on human dignity; and (iv) The perpetrator knew that the act or omission could have such an effect.⁴⁵⁹
191. An objective test is used to determine whether the Accused’s conduct constitutes an outrage. The test is whether a reasonable person would consider the acts by the Accused outrageous.⁴⁶⁰
192. In terms of the *mens rea*, it must be established that the Accused knew that his act or omission *could* cause serious humiliation, degradation or otherwise be a serious attack on human dignity. Knowledge of the “possible” consequences of the charged act or omission suffices.⁴⁶¹

Count 7: Violence to life, health and physical or mental well-being of persons in particular cruel treatment, a violation of Article 3 common to the Geneva Conventions and of Additional protocol II (Art 3(a) of the Statute)

193. Cruel treatment has been described as the “equivalent to the offence of inhuman treatment.”⁴⁶² In the *CDF* case, Trial Chamber I adopted the following ICTY constitutive elements, which are the same for Other Inhumane Acts: (i) The occurrence of an act or omission; (ii) The act or omission caused serious mental or

⁴⁵⁸ *AFRC Appeal Judgement*, para. 195.

⁴⁵⁹ *AFRC Trial Judgement*, para. 716 (citing *AFRC Rule 98 Decision* para. 115).

⁴⁶⁰ *Kunarac Trial Judgement*, paras 162–66. *Also see Aleksovski Trial Judgement*, paras 56–57.

⁴⁶¹ *Ibid.* paras 164 and 165 (approving the Trial Chamber’s determination that “this is not the same as requiring that the accused knew of the actual consequences of the act.”).

⁴⁶² *Kordić and Cerkez Trial Judgement*, para. 265 (citing *Čelebić Trial Judgement*, paras 550–51). *Also see Prosecutor v. Krnojelac* Case No. IT-97-25-T, Trial Judgement, para. 130 (15 March 2002) [*Krnojelac Trial Judgement*].

- physical suffering or injury, or constituted a serious attack on human dignity, to a person not taking direct part in the hostilities; and (iii) The Accused intended to cause serious mental or physical suffering or injury or a serious attack on human dignity or acted in the reasonable knowledge that this would likely occur.⁴⁶³
194. The requisite *mens rea* is that the perpetrator acted with direct intent to commit cruel treatment or with indirect intent, i.e. in the knowledge that cruel treatment was a probable consequence of his act or omission.⁴⁶⁴

Count 8: Other Inhumane Acts as a Crime Against Humanity (Art 2(i) of the Statute)

195. The crime of *other inhumane acts* as Crimes Against Humanity was deliberately designed as a residual category, as an exhaustive categorization all crimes against humanity would have merely created opportunities for evasion of the letter of the prohibition.⁴⁶⁵ The courts must however be wary as a potentially broad range of the crime of *other inhumane acts* may raise fairness concerns as to a possible violation of the *nullum crimen* principle which would amount to a trampling of the rights of the Accused. The “other inhumane acts” must therefore be charged explicitly in the indictment.⁴⁶⁶
196. In the *AFRC* case, Trial Chamber II found that for an act to constitute the offence of other inhumane acts, it must have caused great suffering or serious injury to the physical or mental health or human dignity of the victim and must have been committed as part of a widespread or systematic attack upon the civilian population.⁴⁶⁷
197. Therefore, the elements of the offence are that: (i) The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act; (ii) The act was of gravity similar to the acts referred to in Article 2 a. to h. of the Statute; (iii) The perpetrator was aware of the factual circumstances that established the character or gravity of the act; (iv) The act was part of a widespread or systematic attack directed at a civilian population; and (v) The perpetrator knew or

⁴⁶³ CDF Trial Judgement, paras 155 and 156 (citing *Limaj* Trial Judgement, para. 231).

⁴⁶⁴ *Limaj* Trial Judgement, para. 231 (citing *Strugar* Trial Judgement, para. 261).

⁴⁶⁵ *AFRC* Trial Judgement, para. 697 (endorsing the residual nature of the offence).

⁴⁶⁶ *Kordić and Cerkez* Appeals Judgement, para. 117. In that case the “other inhumane acts” were exclusively charged as injuries.

⁴⁶⁷ *AFRC* Rule 98 Decision para. 173 (citing *Kordić and Cerkez* Trial Judgement, para. 269–72).

had reason to know that his acts were part of a widespread or systematic attack directed against a civilian population.⁴⁶⁸

198. The seriousness of a particular act or omission and the sufficiency of its gravity must be examined on a case-by-case basis, taking into consideration the personal circumstances of the victim including age, sex and health as well as the physical and mental consequences of the conduct.⁴⁶⁹ The act or omission must have a direct and seriously damaging, though not necessarily long-term, effect on the victim.⁴⁷⁰
199. Some of the acts that fall under other inhumane acts include: mutilation and other types of severe bodily harm, beatings and other acts of violence, serious physical and mental injury, forcible transfer, inhumane and degrading treatment, forced prostitution, and forced disappearances.⁴⁷¹
200. An Accused may be held liable for serious mental harm suffered by third parties who witness acts committed against others only where the Accused intended to inflict such harm, or had reasonable knowledge that such harm would likely result from the act.⁴⁷²

Count 9: Child Soldiers as an Other Serious Violation of International Humanitarian Law (Art 4(c) of the Statute)

201. Article 4(c) of the Statute provides that “[c]onscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities” is a serious violation of international humanitarian law. The Appeals Chamber has, rather controversially, confirmed that the use of child soldiers was recognized as a crime under international law at the time of the charged acts.⁴⁷³
202. In the *AFRC* case, guided by the Rome Statute, Trial Chamber II adopted the following as elements of the crime of conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in

⁴⁶⁸ *AFRC* Rule 98 Decision para. 174. Also see *AFRC* Appeals Judgement, para. 198; *CDF* Trial Judgement, para. 150.

⁴⁶⁹ *AFRC* Trial Judgement, para. 699 (citing *Kayishema* Trial Judgement, paras 148–51; *Čelebić* Trial Judgement, para. 536; *Kunarac* Trial Judgement, para. 504).

⁴⁷⁰ *Ibid.* (citing *Kunarac* Trial Judgement, para. 501; *Krnjelac* Trial Judgement, para. 144).

⁴⁷¹ *Prosecutor v. Kvočka et al.*, Case No. IT-98-30/1-T, Trial Judgement, para. 208 (2 Nov. 2001) (summarizing prior findings of ICTY Trial Chambers).

⁴⁷² *CDF* Trial Judgement, para. 153 (endorsing ICTR Trial Chamber determination in *Kayishema* Trial Judgement, para. 153 that “if at the time of the act, the Accused was unaware of the third party bearing witness to his act, then he cannot be held responsible for the mental suffering of the third party.”).

⁴⁷³ *AFRC* Appeals Judgement, paras 295–96 (citing *Prosecutor v. Norman*, Case No. SCSL-04-14-AR72(E), Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment), paras 52–53 (31 May 2004) [*Norman* Child Recruitment Decision]. See also *CDF* Appeal Judgement, para. 139 (endorsing the *Norman* decision).

hostilities:⁴⁷⁴ (i) he perpetrator conscripted or enlisted one or more person into an armed force or group or used one or more persons to participate actively in hostilities; (ii) Such person or persons were under the age of 15 years; (iii) The perpetrators knew or should have known that such person or persons were under the age of 15 years; (iv) The conduct took place in the context of and was associated with an armed conflict; and (v) The perpetrator was aware of factual circumstances that established the existence of an armed conflict.⁴⁷⁵

203. In the *AFRC* case, Trial Chamber II defined a child as someone who is under the age of 15,⁴⁷⁶ although under Sierra Leonean law a child is generally someone under the age of 16.⁴⁷⁷ Trial Chamber II defined conscription as involving some coercive element.⁴⁷⁸ While conscription traditionally applied to governmental policies requiring citizens to serve in their armed forces, it also applies to irregular armed groups.⁴⁷⁹
204. The Appeals Chamber confirmed Trial Chamber II's definition of enlisting as the act of "accepting and enrolling individuals when they volunteer to join and armed force or group."⁴⁸⁰ Enlistment, however, does not have to be a formal process and can include any conduct of "accepting the child as part of the militia."⁴⁸¹ While *enlistment* implies consent, this is vitiated by the age of the person.⁴⁸²
205. A nexus must be established between the act of the Accused and the child joining the armed force or group, as well as knowledge on the part of the Accused that the child is under the age of 15 and may be trained for combat.⁴⁸³ This is a factual issue to be determined on a case-by-case basis.⁴⁸⁴
206. The Accused is under a duty to act with due diligence to ensure that children under the age of 15 are not recruited or used in combat. Failure to exercise such due

⁴⁷⁴ *AFRC* Trial Judgement, para. 729.

⁴⁷⁵ See Rome Statute Elements of Crimes, article 8(2)(b) (xxvi); see also *AFRC* Rule 98 Decision para. 194.

⁴⁷⁶ *AFRC* Trial Judgement, para. 731 (applying the Appeals Chamber finding in *Norman* Child Recruitment Decision).

⁴⁷⁷ Sierra Leone Prevention of Cruelty to Children Act (Cap. 31) 1926, Article 1.2 (stating that "For the purposes of this Ordinance, unless the context otherwise requires, 'child' means a person under the age of sixteen years.").

⁴⁷⁸ See *AFRC* Trial Judgement, para. 734, relying on the *Norman* Child Recruitment Decision, dissenting opinion of Judge Robertson para. 5 (31 May 2004).

⁴⁷⁹ *AFRC* Trial Judgement, para. 734.

⁴⁸⁰ *CDF Appeal Judgement*, para. 140 (citing *AFRC* Trial Judgement, para. 735).

⁴⁸¹ *Ibid.* para. 142–144.

⁴⁸² *AFRC* Trial Judgement, para. 735. See also *CDF Appeal Judgement*, para. 140.

⁴⁸³ *CDF Appeal Judgement*, para. 141.

⁴⁸⁴ *Ibid.*

diligence to ascertain the age of recruits does not relieve an Accused of his liability for their recruitment or use.⁴⁸⁵

207. Trial Chamber II has defined *armed forces or groups* as consisting of forces under a “responsible command, which entails a degree of organization which should be such as to enable the armed groups to plan and carry out concerted military operations and to impose discipline within the armed group.”⁴⁸⁶
208. In the *CDF* case, Trial Chamber I relied on the *Tadić* Appeal Judgement to draw a distinction between, “the situation of individuals acting on behalf of a state without specific instructions, from that of individuals making up *an organized and hierarchical structured group*, such as a military unit or, in the case of war or civil strife, armed bands or irregulars or rebels.”⁴⁸⁷ The Chamber established that “an organized group differs from an individual in that the former normally has a structure, a chain of command and a set of rules as well as the outward symbols of authority. Normally a member of the group does not act on his own but conforms to the standards prevailing in the group and is subject to the authority of the head of the group.”⁴⁸⁸ The group, the Trial Chamber noted, may be either state or non-state controlled.
209. Trial Chamber II has defined the use of children to participate actively in hostilities to include participation in combat, participation in activities linked to combat, and any labour or support that gives effect to, or helps maintain operations in a conflict.⁴⁸⁹ Activities such as scouting, spying, sabotage, and the use of children as decoys, couriers or at military checkpoints may be considered to be non-combat military actions.⁴⁹⁰ Logistical support functions including carrying loads for the fighters; finding food; finding equipment or ammunition; acting as decoys; message carriers; trail-makers; route finders; manning check points; and acting as human shields may be characterized as active participation in hostilities.⁴⁹¹ Support functions further

⁴⁸⁵ See, e.g., *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Case No. ICC-01/04-01/07 Decision on Confirmation of Charges paras 250–52 (26 September 2008) (finding the *mens rea* satisfied when (i) the accused did not know that the child was under the age of 15 at the time he was recruited or used in combat and (ii) the accused lacked such knowledge because he did not act with due diligence in the relevant circumstances).

⁴⁸⁶ *AFRC* Trial Judgement, para. 738. Also see Article 43 of First Additional Protocol to the Geneva Conventions of 12 August 1949.

⁴⁸⁷ *CDF* Trial Judgement, para. 194; *Tadić* Appeal Judgement, para. 120.

⁴⁸⁸ *Ibid.*

⁴⁸⁹ *AFRC* Trial Judgement, paras 736–37.

⁴⁹⁰ *Ibid.* para. 736.

⁴⁹¹ *AFRC* Trial Judgement, para. 737.

removed from combat may not be considered to be active participation, including delivering food to an airbase or serving as domestic staff in an officer's residence.⁴⁹²

210. Trial Chamber I found in the *CDF* case that mere presence of an Accused, in that case Fofana, was *insufficient* to establish his participation in the recruitment or use of child soldiers beyond a reasonable doubt.⁴⁹³ Further, the mere fact that the CDF recruited child soldiers did not show that Fofana was personally involved in this crime.⁴⁹⁴ The Appeals Chamber did not disturb this finding on appeal.⁴⁹⁵

Count 10: Enslavement as a Crime Against Humanity (Art 2(C) of the Statute)

211. In the *AFRC* case, Trial Chamber II adopted the ICC Elements of Crimes guidelines on the definition of enslavement:⁴⁹⁶ (i) The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty; (ii) The conduct was committed as part of a widespread or systematic attack directed against a civilian population; (iii) The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.
212. The Chamber further required that the exercise of the powers attaching to ownership be intentional.⁴⁹⁷
213. The ICC guidelines in turn derived from the ICTY *Kunarac* case. In *Kunarac*, the court held that the *actus reus* for the offence of enslavement involves “the exercise of any or all of the powers attaching to the right of ownership over a person,” while the *mens rea* entails the “intentional exercise of such powers.”⁴⁹⁸ Indications of enslavement include: (i) Elements of control and ownership; the restriction or control of an individual's autonomy, freedom of choice or freedom of movement; and often, the accruing of some gain to the perpetrator; (ii) The consent or free will of the victim is absent. It is often rendered impossible or irrelevant by for example the threat or use of force or other forms of coercion; the fear of violence, deception or false promises;

⁴⁹² *CDF* Trial Judgement, para. 193.

⁴⁹³ *CDF* Trial Judgement, paras 959–63.

⁴⁹⁴ *Ibid.* para. 962.

⁴⁹⁵ *CDF Appeal Judgement*, paras 151–53. *But see CDF Appeal Judgement*, Dissenting Opinion of Justice Winter para. 37 (finding such actions to show sufficient “tacit approval, encouragement and moral support” as to support liability).

⁴⁹⁶ *AFRC* Rule 98 Decision paras 209–15.

⁴⁹⁷ *AFRC* Judgement, para. 749.

⁴⁹⁸ *Kunarac* Trial Judgement, paras 539–43, cited approvingly in *AFRC* Rule 98 Decision para. 209.

- the abuse of power; the victim's position of vulnerability; detention or captivity; psychological oppression or socio-economic conditions; (iii) Exploitation; the exaction of forced or compulsory labour or service, often without remuneration and often, though not necessarily, involving physical hardship; sex; prostitution; and human trafficking.⁴⁹⁹
214. The duration of the exercise of the powers of ownership over the victim may be considered in determining whether the person was enslaved.⁵⁰⁰ Enslavement does not require an "acquisition" or "disposal" for monetary or other compensation.⁵⁰¹ Lack of consent is not an element of the crime of enslavement, although it may be a significant issue in terms of the evidence of the status of the alleged victim.⁵⁰²
215. As regards the *mens rea*, it applies not only when the Accused acted with the intention to enslave, but also when the Accused, "acted in the reasonable knowledge that enslavement was likely to occur."⁵⁰³
216. Trial Chamber II, in the *AFRC* case endorsed the ICTY definition of forced labour in relation to the offence of enslavement and observed that:
- Further indications of enslavement include exploitation; the exaction of forced or compulsory labour or service, often without remuneration and often, though not necessarily, involving physical hardship; sex; prostitution; and human trafficking.⁵⁰⁴
217. Further that:
- to establish forced labour constituting enslavement, the Prosecutor must demonstrate that the Accused (or persons for whose actions he is criminally responsible) forced the detainees to work, that he (or they) exercised any or all of the powers attaching to the right of ownership over them, and that he (or they) exercised those powers intentionally.⁵⁰⁵
218. As already considered above, consent or free will of victim must be absent. It is often rendered impossible or irrelevant by, for example, the threat or use of force or other forms of coercion; the fear of violence, deception or false promises; the abuse of power; the victim's position of vulnerability; detention or captivity, psychological

⁴⁹⁹ *Kunarac* Trial Judgement, para. 42.

⁵⁰⁰ *Ibid.*

⁵⁰¹ *Ibid.*

⁵⁰² *Prosecutor v. Kunarac et al.*, Case No. IT-96-23 & IT-96-23/1-A, Appeal Judgement, para. 120 (12 June 2002) [Kunarac Appeal Judgement].

⁵⁰³ RUF Trial Transcript of Oral Decision on rule 98 submission, at 30, ln. 26 *et seq.* (25 October 2006).

⁵⁰⁴ AFRC Rule 98 Decision, para. 210 (citing *Kunarac* Trial Judgement, para. 542).

⁵⁰⁵ *Ibid.* para. 213 (citing *Krnojelac* Trial Judgement, paras 357–58).

oppression or socio-economic conditions. It must be established that the relevant persons had no real choice as to whether they would work.⁵⁰⁶

219. No definition is readily available in international criminal jurisprudence. In ordinary legal usage, abduction means the act of leading someone away by force or fraudulent persuasion.⁵⁰⁷ In British common law, abduction is defined only as part of kidnapping or in relation to child abduction. In British law, kidnapping overlaps partly with false imprisonment and partly with child abduction. Kidnapping consists of the taking or carrying away of one person by another by force or fraud, without the consent of that person and without lawful excuse.⁵⁰⁸ Consent or compliance procured by force or fear is not true consent.⁵⁰⁹
220. Of course, definitions of legal concepts derived from national systems are not binding on the SCSL as such. However, regard must be had to the reality that Sierra Leonean law is based on British law. As such, it is submitted that drawing on the body of law applicable there would not be inconsistent with the relationship envisaged with this court whereby reference maybe had to national law where national law was used under Article 20(3) of the Statute. Whatever meaning of abduction is accepted, “abduction” should not be considered to be synonymous with “enslavement.” A finding that a person has been abducted does not, in and of itself, support a finding that the person was enslaved. Rather, the Prosecution must also prove that they were subsequently subjected to the forced deprivation of liberty described above.⁵¹⁰

Count 11: Pillage as a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II (Art 3(f) of the Statute)

221. In the *AFRC* case, Trial Chamber II found that pillage occurs when, in addition to the *chapeau* requirements of Common Article III: (i) The Accused unlawfully appropriated property; (ii) The appropriation was without the consent of the owner; and (iii) The Accused intended to unlawfully appropriate the property.⁵¹¹

⁵⁰⁶ *Krnjelac* Trial Judgement, paras 358–59 (citing *Kunarac* Trial Judgement, para. 542).

⁵⁰⁷ Black’s Law Dictionary 1 (9th ed. 2009) at 4.

⁵⁰⁸ *Blackstone’s Criminal Practice*, Oxford University Press, 2007, B2.80.

⁵⁰⁹ *Ibid.* at B2.84.

⁵¹⁰ *AFRC* Trial Judgement, para. 1285.

⁵¹¹ *AFRC* Trial Judgement, para. 755. See also *AFRC* Rule 98 Decision para. 243; *CDF* Trial Judgement, para. 165.

222. The Chamber observed that pillage extends to cases of organized and systematic property seizure from protected persons as well as “acts of looting committed by individual soldiers for private gain” or for “personal use.”⁵¹²
223. In the *CDF* case, Trial Chamber I further noted that while pillage does not require the appropriation to be “extensive or to involve a large economic value,” pillage committed on a small scale must still be “serious.”⁵¹³
224. The level of seriousness is dependent upon the circumstances of each case.⁵¹⁴ In this regard, Trial Chamber I concurred with the ICTY Trial Chamber in *Naletilic and Martinovic* that pillage:
- “may be a serious violation not only when one victim suffers severe economic consequences because of the appropriation, but also, for example, when property is appropriated from a large number of people. In the latter case, the gravity of the crime stems from the reiteration of the acts and from their overall impact.”⁵¹⁵
225. Furthermore, to be considered “serious,” a violation “must constitute a breach of a rule protecting important values, and the breach must involve grave consequences for the victim.”⁵¹⁶
226. The terms “plunder,” “looting” and “spoliation” are synonyms for pillage;⁵¹⁷ all of these terms refer to the illegal acquisition of all types of property.
227. As noted above, the first element of pillage is unlawful appropriation.⁵¹⁸ Regarding this element the Appeals Chamber stated “that a necessary element of the crime of pillage is the unlawful appropriation of property. Consequently, burning and other acts of destruction of property not amounting to appropriation as a matter of law, cannot constitute pillage under international criminal law.”⁵¹⁹
228. Trial Chamber I elaborated, stating that “[an] essential element of pillage is the unlawful appropriation of property. Black’s Law Dictionary defines appropriation as

⁵¹² AFRC Rule 98 Decision paras 241–42.

⁵¹³ *CDF* Trial Judgement, para. 161.

⁵¹⁴ *Ibid.* para. 162.

⁵¹⁵ *Ibid.*, (citing *Prosecutor v. Naletilic and Martinović*, Case No. IT-98-34, Trial Judgement, para. 612 (31 March 2003)).

⁵¹⁶ *CDF* Trial Judgement, para. 94 (citing *Tadić*, IT-94-1-A, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction para. 94 (2 October 1995)).

⁵¹⁷ AFRC Trial Judgement, para. 751; *RUF* Trial Judgement, para. 205. See also *Čelebić* Trial Judgement, para. 591; *Simić et al.* Trial Judgement, para. 98. There seems to be agreement that the crime of “plunder” from Article 3(e) of the ICTY Statute is similar in substance to the crime of “pillage” as understood in Article 4(f) of the ICTR Statute. See *Prosecutor v. Naletilic and Martinović*, Case No IT-98-34-T, Trial Judgement, paras 613 and 615 (31 March 2003) [Naletilic Trial Judgement].

⁵¹⁸ *Supra* note 1.

⁵¹⁹ *CDF Appeal Judgement*, para. 409.

- “exercise of control over property; a taking of possession.” In the act of looting, the offender unlawfully appropriates the property. Destruction of property by burning, however, does not, by itself, necessarily involve any unlawful appropriation. Thus, while both looting and burning deprive the owner of their property, the two actions are distinct since the latter crime may be committed without appropriation *per se*.⁵²⁰
229. There appears to be no readily available definition of “civilian property” in international criminal jurisprudence. The SCSL Statute⁵²¹ and the ICTY jurisprudence, however, refer to attacks against civilian objects.⁵²²
230. Article 52(1) of Additional Protocol I defines civilian objects as “all objects which are not military objectives.” Military objectives are defined in paragraph 2 as “those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.”⁵²³
231. The principles of the Geneva Conventions and Additional Protocols imply that dwellings, schools, hospitals and other buildings occupied by civilians constitute civilian objects.⁵²⁴ Attacks on these objects are prohibited unless the buildings have become legitimate military objectives. An attack must have caused extensive damage to civilian objects in order to constitute a war crime.⁵²⁵
232. Generally, pillage is distinguished from lawful conduct by the absence of consent. The ICC Elements of Crimes specifically require that the “the appropriation was without the consent of the owner.”⁵²⁶ As was recognized in World War II jurisprudence, consent is often vitiated through coercion in times of war “when action by the owner is not voluntary because his consent is obtained by threats, intimidation, pressure, or by exploiting the position and power of the military occupant under circumstances indicating that the owner is being induced to part with his property against his will.”⁵²⁷

⁵²⁰ CDF Trial Judgement, para. 166.

⁵²¹ SCSL Statute Art. 4.b.

⁵²² See, e.g., *Kordić and Čerkez* Trial Judgement, paras 326–28.

⁵²³ Second Additional Protocol to the Geneva Conventions of 12 August 1949, Art. 52(1).

⁵²⁴ See, e.g., *Kordić and Čerkez* Trial Judgement, para. 37(i).

⁵²⁵ *Ibid.* para. 328.

⁵²⁶ International Criminal Court, Elements of Crimes, Art. 8(2)(b)(xvi), element 3. U.N. Doc. PCNICC/2000/1/Add.2 (2000).

⁵²⁷ *United States v. Krauch et al.*, US Military Tribunal sitting at Nuremberg, Subsequent Nuremberg Trials, 29 July 1948, at 1135–36.

233. The requirement of consent can only be limited by certain aspects of international humanitarian law. Those limitations are, however, strictly limited and subject to certain protections.
234. Article 52 of the Hague Convention⁵²⁸ allows military forces to requisition certain property. Requisition of private property can only be made in accordance with the needs of the military forces, must be in proportion to the resources of the country and cannot have the effect of involving the inhabitants in military operations against their own country;⁵²⁹
235. Article 53 of the Hague Convention allows military forces to seize war booty. In order to constitute a war booty seized property must have a direct military use;⁵³⁰
236. Article 55 of the Hague Convention allows military forces to use a portion of resources in occupied territory in accordance with the doctrine of usufruct. The doctrine of usufruct permits an occupier to exploit a portion of natural resources provided that the exploitation does not undermine the capital value of the resource in question and that the proceeds are used “*for the benefit of the local population.*”⁵³¹
237. The defence of military necessity can lead to exclusion of responsibility for certain crimes under international law. This is the case for several war crimes.⁵³² Regarding the crime of pillage, the wording of Article 47 of The Hague Convention contains only a prohibition of pillage that would suggest it is an absolute prohibition not allowing exceptions. On the other hand, the ICC Elements of Crimes states in footnote 47 accompanying the elements that “appropriations justified by military necessity cannot constitute the crime of pillaging.”

⁵²⁸ Convention (II) with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 29 July 1899, art. 52. [The Hague Convention].

⁵²⁹ United States v. Krupp et al., US Military Tribunal sitting at Nuremberg, Subsequent Nuremberg Trials, 31 July 1948, at 1341.

⁵³⁰ A. Zimmermann, *Commentary on the Rome Statute of the International Criminal Court, Observers' Notes, Article by Article* (O. Triffterer ed.), C.H. Beck München, Hart Oxford, Nomos Baden-Baden (2008), at 399 side note 149 and at 409 side note 172.

⁵³¹ Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgement, 2005 I.C.J. 168 para. 249, (December 19).

⁵³² See, e.g., Art. 8(2)(a)(iv) Rome Statute.

Common elements/chapeau requirements for the Crimes Against Humanity

238. With respect to all the Crimes Against Humanity discussed above, and has already been noted in some of the relevant sections, the following additional requirements must be met for the crime to qualify as a crime against humanity.⁵³³
239. First, there must be an “attack,” which has been defined by Trial Chamber II as a “campaign, operation or course of conduct directed against a civilian population and encompasses any mistreatment of the civilian population.”⁵³⁴ Distinguishing an “attack” from “armed conflict,” the Chamber notes that an attack “can precede, outlast, or continue during an armed conflict, thus it may, but need not be, be part of an armed conflict as such.”⁵³⁵
240. Second, the perpetrator’s conduct must have been committed as part of widespread or systematic attack.⁵³⁶ The requirement that the attack be “widespread or systematic” is disjunctive.⁵³⁷ Though no longer necessarily required in the ad hoc tribunals, the existence of a policy or a plan, or that the crimes were supported by a policy or a plan to carry them out, may be evidentially relevant to establish the widespread or systematic nature of the attack.⁵³⁸
241. Third, the attack must be directed against a civilian population.⁵³⁹ The term “civilian population” has been widely defined to include not only civilians in the ordinary and strict sense of the term, but all persons who have taken no active part in the hostilities.⁵⁴⁰ The presence of a few non-civilians within a population does not destroy its civilian character.⁵⁴¹ In the context of an armed conflict, however, those who have been rendered *hors de combat* at the time of the attack are not considered to be civilians or part of the civilian population.⁵⁴²
242. Fourth, the charged acts of the Accused must be a part of the widespread or systematic attack directed against a civilian population.⁵⁴³ This nexus is assessed on a

⁵³³ AFRC Trial Judgement, paras 211–22 (citing AFRC Rule 98 Decision para. 42).

⁵³⁴ *Ibid.* para. 214.

⁵³⁵ *Ibid.* See also *Limaj* Trial Judgement, para. 182; *Kunarac* Appeal Judgement, para. 86; *Tadić* Appeal Judgement, para. 251.

⁵³⁶ AFRC Trial Judgement, para. 215.

⁵³⁷ *Ibid.* para. 215 (citing *Kunarac* Appeal Judgement, para. 93). See also *CDF* Trial Judgement, paras 112–13.

⁵³⁸ *CDF* Trial Judgement, para. 113. See also *AFRC* Trial Judgement, para. 215; *Akayesu* Trial Judgement, para. 580.

⁵³⁹ *AFRC* Trial Judgement, para. 216.

⁵⁴⁰ *Ibid.* (citing *Akayesu* Appeal Judgement, para. 582; *Tadić* Appeal Judgement, paras 637–38).

⁵⁴¹ *Ibid.* para. 216 (citing *Tadić* Appeal Judgement, para. 644).

⁵⁴² *Ibid.* paras 216–19 (distinguishing between previous combatants and fully civilian populations).

⁵⁴³ *Ibid.* para. 220 (citing *Akayesu* Trial Judgement, para. 579).

case-by-case basis, though reliable indicia include the similarity of the acts of the perpetrator and those of the attack, the geographic and temporal proximity of the charged acts and the attack, and the nature and extent of the perpetrator's knowledge of the attack when he committed the acts.⁵⁴⁴

243. Lastly, the perpetrator must be aware of the widespread or systematic attack, and that his acts constitute part of this larger attack.⁵⁴⁵ The motives of the perpetrator's participation in the attack are irrelevant.⁵⁴⁶

Knowledge on the part of the Accused

244. It must be established that the Accused knew or had reason to know that his act(s) or omissions or conduct constituted part of the widespread or systematic attack on a civilian.⁵⁴⁷ The Accused must "understand the overall context in which his acts took place"⁵⁴⁸ but "need not know the details of the attack or share the purpose or goal behind the attack."⁵⁴⁹ The "knowledge required in order to find that crimes against humanity had been committed is that of the actual perpetrator" on the ground.⁵⁵⁰
245. *Blaskic* states that the knowledge of the political context in which the offence fits may be surmised from the concurrence of a number of concrete facts, including:
- 1) The historical and political circumstances in which the acts of violence occurred;
 - 2) The functions of the Accused when the crimes were committed;
 - 3) His responsibilities within the political or military hierarchy;
 - 4) The direct and indirect relationship between the political and military hierarchy;
 - 5) The scope and gravity of the acts perpetrated;
 - 6) The nature of the crimes committed and the degree to which they are common knowledge.⁵⁵¹

⁵⁴⁴ *Ibid.* (citing *Tadić* Appeal Judgement, para. 632).

⁵⁴⁵ *Ibid.* para. 221.

⁵⁴⁶ *Ibid.* para. 222 (citing *Limaj* Trial Judgement, para. 190; *Tadić* Appeal Judgement, paras 248, 252; *Kunarac* Appeal Judgement, para. 103 ("[a]t most, evidence that [acts were committed] for purely personal reasons could be indicative of a rebuttable assumption that he was not aware that his acts were part of that attack.")).

⁵⁴⁷ AFRC Rule 98 Decision paras 42, 74, 112, 174, 214.

⁵⁴⁸ *CDF* Trial Judgement, para. 121 (citing *Limaj* Trial Judgement, para. 190).

⁵⁴⁹ *Ibid.* para. 121, (citing *Kunarac* Trial Judgement, para. 102–03).

⁵⁵⁰ *CDF Appeal Judgement*, para. 315.

⁵⁵¹ *Blaskić* Trial Judgement, para. 259 (citing *Akayesu* Trial Judgement, paras 523–24; *Tadić* Trial Judgement, para. 657).

Definitions

246. Large-scale action refers to action which is “carried out collectively with considerable seriousness and directed at multiple victims.”⁵⁵² This requirement excludes an isolated inhumane act committed by a perpetrator acting on his own initiative and directed against a single victim’.⁵⁵³ What amounts to large scale action must be determined on a case-by-case basis, using a common-sense approach (in relation to killings on a large scale).⁵⁵⁴
247. In *Sesay et al.*,⁵⁵⁵ as in the *AFRC*⁵⁵⁶ and *CDF*⁵⁵⁷ cases, the respective SCSL Trial Chambers adopted the ICTY definition of “widespread” in the ICTY *Kunarac* Appeals Chamber Judgement. In that case, the Appeals Chamber established that determining whether an attack is “widespread” or “systematic” is a relative exercise, dependent upon the civilian population allegedly being attacked. A Trial Chamber must “first identify the population which is the object of the attack and, in light of the means, methods, resources and result of the attack upon the population, ascertain whether the attack was indeed widespread or systematic. The consequences of the attack upon the targeted population, the number of victims, the nature of the acts, the possible participation of officials or authorities or any identifiable patterns of crimes, could be taken into account to determine whether the attack satisfies either or both requirements of ‘widespread’ or ‘systematic’ attack vis-à-vis this civilian population.”⁵⁵⁸
248. In the *CDF* case, the Trial Chamber thus held that “widespread” refers to large-scale nature of attack and number of victims.⁵⁵⁹ In the *AFRC* case, the Trial Chamber found that the term denoted “massive, frequent, large-scale action, carried out collectively with considerable seriousness and directed at multiple victims.”⁵⁶⁰

⁵⁵² AFRC Rule 98 Decision para. 42 (b).

⁵⁵³ *Kunarac* Trial Judgement, para. 428 (citing *Report of the International Law Commission on the Work of its Forty-Eighth Session* 1996 GAOR, 51st Sess., Supp. No. 10, UN Doc. A/51/10, at 94–95).

⁵⁵⁴ *Kajelijeli* Trial Judgement, para. 891 (citing *Bagilishema* Trial Judgement, para. 87; *Kayishema and Ruzindana* Trial Judgement, para. 142).

⁵⁵⁵ *RUF* Trial Transcript, at 14, ln 17–22 (25 October 2006).

⁵⁵⁶ *AFRC* Trial Judgement, para. 215.

⁵⁵⁷ *CDF* Trial Judgement, para. 112.

⁵⁵⁸ *Kunarac* Appeal Judgement, para. 95 (citing *Kunarac*, Trial Judgement,).

⁵⁵⁹ *CDF* Trial Judgement, para. 112.

⁵⁶⁰ AFRC Rule 98 Decision para. 42 (b) (citing *Akayesu* Trial Judgement, para. 580; *Kayishema & Ruzindana*, Trial Judgement, para. 123; *Kunarac* Appeal Judgement, para. 94; *Tadić* Trial Chamber Judgement, para. 648 [Affirmed by *AFRC* Judgement, para. 215 (20 June 2007)]). Also see *Akayesu* Trial Judgement, para. 580.

249. In the ICTY, in *Kordic et al.*, the Trial Chamber found that an attack may be considered widespread by the “cumulative effect of a series of inhumane acts or the singular effect of an inhumane act of extraordinary magnitude.”⁵⁶¹
250. The nexus between the acts of the Accused and the attack requires proof that the acts comprised part of a pattern of widespread or systematic crimes directed against a civilian population.⁵⁶²

Directed against a civilian population

251. The customary international law prohibition against the intentional targeting of civilian populations is absolute.⁵⁶³ Hence, the term “directed against” is meant to encompass attacks that have civilian populations as their primary object.⁵⁶⁴
252. In assessing whether an attack may properly be characterized as “directed at a civilian population, the Trial Chamber “should consider, inter alia, the means and methods used in the course of the attack, the status and number of the victims, the nature of the crimes committed in course of the attack, the resistance to the assailants at the time and the extent to which the attacking force may be said to have complied or attempted to comply with the precautionary requirements of the laws of war.”⁵⁶⁵
253. Though “population” does not mean the entire population of a geographical area, targeting only a limited number of individuals, even if randomly selected, does not constitute an attack directed at a population as such.⁵⁶⁶ Enough civilians must be targeted or the circumstances should such as to satisfy the Trial Chamber beyond a reasonable doubt that indeed that attack was against a civilian population rather than against a limited and random selected number of individuals.⁵⁶⁷

⁵⁶¹ *Kordić and Čerkez* Trial Judgement, para. 179 (citing *Blaškić* Trial Judgement, para. 206).

⁵⁶² *Kunarac* Trial Judgement, paras 93–97 (accepting Trial Chamber position restated at para. 80).

⁵⁶³ *AFRC* Trial Judgement, para. 216 (citing *Blaškić* Appeal Judgement, para. 109; *Limaj* Trial Judgement, para. 186).

⁵⁶⁴ *Ibid.*

⁵⁶⁵ *Ibid.* (citing *Kunarac* Appeal Judgement, para. 91).

⁵⁶⁶ *Ibid.* para. 217.

⁵⁶⁷ *Blaškić* Appeals Judgement, para. 105 (citing *Kunarac* Appeal Judgement, para. 90).

FACTUAL NARRATIVE

Chapter One: Parallel Lives

254. There are a number of striking parallels⁵⁶⁸ between the two neighbouring states, Liberia and Sierra Leone, which resulted in the two countries sharing a period of violent upheaval in the last decade of the Twentieth Century continuing into the Twenty First Century. The border dividing the two states is recognized as artificial.⁵⁶⁹ There are a number of tribes that straddle the Liberian-Sierra Leonean border; namely, the Golas, the Kissies, the Mendes, the Gbandies and the Temnes. The Liberian-Sierra Leonean border did not provide a demarcation of tribal affiliations or language.⁵⁷⁰ Rather their common heritage illustrates the synchronised pain both countries suffered historically which is one of the main identifiable causes of conflict. As a spectacle both the Liberian and Sierra Leonean revolutions were unpredictable, their form was incoherent, spontaneous and viscerally roused.
255. In 1787 British abolitionists and philanthropists established a settlement in Freetown for repatriated and rescued slaves. Two decades later, in 1808, the Freetown settlement became a crown colony. Similarly, the colony of Liberia was founded by the American Colonization Society, which arranged for the settlement of freed slaves in Africa. From around 1800, in the United States of America ideas and plans were conceived to set up a colony in Africa for freed African American slaves. Between 1821 and 1847, by a combination of purchase and conquest, American 'Societies' developed the colony 'Liberia'. In 1847 Liberia issued its Declaration of Independence, thus ending its relationship with the American Colonization Society and establishing an American-style form of Government. These freed slaves, known as Americo-Liberians formed the True Whig Party and dominated Liberian political life for the next 133 years. In effect Liberia was, for almost a century and a half, a one party state. In fact President Tubman alone ruled as President from 1944 to 1971, during which time government ministers, captains of industry, the judiciary and other important roles in the society were all appointed and dismissed at his whim. This pattern of one party rule was reflected in Sierra Leone following its independence from Britain in 1961. The prime example of this despotic rule was the utterly corrupt

⁵⁶⁸ TT, Stephen Ellis, 17 Jan 08, p. 1498.

⁵⁶⁹ TT, Prosecution Opening Statement, 4 Jun 2007, p. 274.

⁵⁷⁰ TT, Charles Taylor, 27 Jul 09, p. 25245-6; Exhibit D-132.

and destructive Siaka Stevens whose policies eroded the state's machinery. No attempt was made by either Britain or the United States of America to impose their own democratic values on either society. Rather the United States and Great Britain selectively employed the language of democratic principles when pursuing their national interests in Sierra Leone and Liberia; neither nation made a genuine effort to foster democratic practice in their satellite states. Thus from the symbiotic relationship of Liberia and Sierra Leone was born a child in need of nurturing but was abandoned at the roadside like an unwanted bastard.

256. Again in both societies the capital cities came to dominate the economic, political and social life of the nation. Furthermore, in both societies the people in the capital, the descendants of former slaves, Krio in Sierra Leone and Americo-Liberians in Liberia, formed an elite who controlled the economy, wealth and all aspects of the governance of the two countries.⁵⁷¹ This elite considered themselves superior to the indigenous natives of the hinterland and in many ways exhibited an obnoxious prejudice against the natives. It is a sad irony that in many ways these former slaves replicated the hated racism, class consciousness and exploitation of the slave societies from which they had come. They formed a privileged elite which resisted outsiders to form an unbreakable crust on the pinnacle of politics and society. In the case of Liberia, the differences between the people living in the area before the arrival of the Americo-Liberians, and Americo-Liberian mistreatment and exploitation of Liberian natives in the hinterland, was the primary catalyst for the bloody civil conflict which began in 1980 and raged on and off for more than twenty years. By way of example we were told by Stephen Ellis that in many parts of Sierra Leone and Liberia forced labour was a common practice and there were even Government regulations which regulated it. Stephen Ellis spoke of seeing a document in the Liberian archives called "Regulations Governing the Interior of the Country", originally drafted in the 1920s but updated in 1949, empowering Government officials to require people to carry things for them.⁵⁷² This is more commonly known as forced labour.
257. Hardly surprising then that in 1980 Liberian Army Master Sergeant Samuel Doe, a member of the Krahn ethnic group seized power in a bloody coup, ending the 133-year rule of the Americo-Liberian True Whig Party. In our submission, this event,

⁵⁷¹ TT, Stephen Ellis, 17 Jan 20, p. 1499.

⁵⁷² TT, Stephen Ellis, 17 Jan 08, p. 1500.

rather than the invasion of Liberia by the NPFL in December 1989 marks the true start of revolution in the linked societies.

258. The impression conveyed by the history of the two societies was one of enduring hopelessness, a world that needed to be reconstructed if it was ever to be substantially changed. These were societies so encrusted with privilege that only a shock of great violence could free the living organism within. Institutionally torpid, economically immobile, culturally atrophied and socially stratified, this “ancient regime” was incapable of self-modernization. It was the connection of anger at past abuses and atrocities that made the revolution possible, but it also programmed the revolution to explode from over-inflated expectations.
259. There is no issue that atrocities were committed during this lengthy period of regional conflict. It is equally accepted that the civilian populations of both countries bore the brunt of the atrocities committed as the revolution consumed its own children. Nonetheless, it is to be noted that violence in a revolutionary situation is not just an unfortunate side effect from which enlightened individuals could selectively avert their eyes; it is the revolution’s source of collective energy. The impression that violence in Africa is criminal rather than political which is now the conventional wisdom, that greed not grievance is the source of the civil wars which plague the continent is reflected in the prosecution’s attitude towards the conflict in the sub-region. Thus, in opening their case the prosecution asserted that:

...some say that the RUF was fighting in Sierra Leone for a kind of national liberation, for the betterment of the people of that country. But we submit that the evidence will show that there was really only a thin veneer of ideology that masked the real motives of destruction and exploitation.⁵⁷³

260. For the institutions that claim to represent “the international community”, the Western Press, international NGOs and UN agencies, the violence in Liberia and Sierra Leone is a paradigm of senseless violence. Such a view fails to recognise the history of the very states which now claim some moral superiority.

Every major social upheaval, historically, has been marked by violence, from the English Civil War of the Seventeenth Century, through the American, French and Russian Revolutions. All have been marked by the most serious violence and the commission of what many would rightly describe as atrocities. Furthermore, the prosecution’s depiction of the RUF’s motivation as being criminal *ab initio* is an

⁵⁷³ TT, Prosecution Opening Statement, 4 June 2007, p. 283.

insult to the hopes and aspirations of the people of Sierra Leone and also their own witnesses. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



262. An additional feature of the lives of Sierra Leone and Liberia respectively was the stifling effect of Cold War politics on their ability to peacefully transition to democratic life. Stephen Ellis remarked that under President Tubman, Liberia was in thrall to the United States, which maintained its largest CIA base in Africa along with the only Gemini tracking aerial in Africa in Liberia. President Tolbert who replaced President Tubman tried to distance himself from the United States, for example refusing the United States permission to use Roberts Airfield outside Monrovia as the headquarters of their regional rapid deployment force. He also invited the Soviet Union to open an Embassy in Monrovia. However, President Tolbert, lacking the prestige of his predecessor, was unable to maintain the Government's stifling grip on the society, and it soon became clear to observers, including the Government of the United States, that the Tolbert regime was in serious trouble and they began looking

⁵⁷⁴ Compare closed session testimony of protected witness TF1-371 to the statement he previously made, as recorded in Conf. Exhibit D-6.

for possible replacements.⁵⁷⁵ Thus it was that in 1980 Master Sergeant Doe led a successful military coup and overthrew President Tolbert. It must be recalled that this event occurred at a time when the “Reagan/Thatcher axis” was ratcheting up the pressure on the failing Soviet Block. This was not a time to have qualms about the credentials or atrocious behaviour of a Master Sergeant in West Africa, that was of little strategic concern when social pressures were being stifled worldwide by the icy grip of the Cold War. So in the United States, the Government feted Doe for his anti-Ghaddafi and anti-communist rhetoric. Thus despite his obnoxious behaviour and patently rigged election in 1985, the Doe regime was, per capita, the leading recipient of aid in sub Saharan Africa.⁵⁷⁶ During the Cold War much of the battle for world hegemony between the USA and the USSR was fought economically and on foreign soil; Africa saw many such battles. The choice of weapon was - aid. As such, the aid imperative took on an added dimension: not how deserving a country might be or the nature of its leadership but rather the willingness of a desperately impoverished country to ally itself with one camp or another – benevolent leader or vicious tyrant, as long as they were onside, what did it matter? This was a morally corrupt environment

263. However, by the end of the 1980s the United States had become completely embarrassed by the Doe regime,⁵⁷⁷ and these were the ripe circumstances exploited by the NPFL in their December 1989 invasion of Nimba County in Liberia. It is noteworthy that Stephen Ellis remarked that:

Part of the global significance of what was happening in Liberia from December 1989 onwards was that this was the first serious crisis in Africa after the fall of the Berlin Wall. If we say the Berlin Wall was November 1989, if we take that as being the end of the Cold War, symbolically at least, then this was the first major crisis in Africa. I was told by a senior American State Department official who was involved in events at that time in West Africa, he said the governments of West Africa were sure that the United States Government would intervene to prevent the Liberian situation from getting out of hand everybody knew that the de facto Liberia was an American protectorate, it was an American ally and the Americans would not allow it to get completely in a chaotic situation. However, looking back what we can now say is the end of the Cold War had changed all calculations, that while the Cold War was going on I think that was perhaps a correct calculation, that is to say the Americans would intervene in one way or another, but in the new circumstances of

⁵⁷⁵ TT, Stephen Ellis, 17 Jan 08, p. 1506.

⁵⁷⁶ TT, Stephen Ellis, 17 Jan 08, p. 1513.

⁵⁷⁷ TT, Stephen Ellis, 17 Jan 08, p. 1520.

1990, in effect the American Government said, 'No, we are not going to intervene because the rules have changed'...that is the conclusion I would draw."⁵⁷⁸

264. This failure to act allowed the contagious social forces to spread naturally in an organic way, beyond the control of any single individual, and in a sense inevitably across Liberia's fictional borders into neighbouring states. Recent events in North Africa demonstrates the infectious nature of such popular uprisings. Only a few hundred Special Forces were involved yet the behaviour and activities of the Armed Forces of Liberia, as they retreated, triggered rage. The NPFL, benefiting from that rage, quickly controlled all of Liberia except Monrovia. In effect the Liberian people rose up against the oppressive Doe regime; this alone can explain the speed of the NPFL advance. The reality was that the NPFL became a People's Army. For the first time in the modern political history of West Africa, ordinary citizens supported by a couple of hundred trained commandos took up arms against a military dictatorship and defeated it.⁵⁷⁹ That success led Guinean President Lansana Conte to say in 1991: "*Charles Taylor is a bad example. Civilians shouldn't be encouraged to overthrow military regimes.*"⁵⁸⁰ Professor A Bolaji Akinyemi, who was Nigerian Foreign Minister from 1985 to 1987, writing in New African magazine also said:

"When Taylor invaded Liberia in December 1989 with the purpose of overthrowing Doe, he made rapid advance towards Monrovia and would have overthrown Doe if General Ibrahim Babangid, then President of Nigeria, had not put Nigerian troops in Liberia, along with Ghanaian troops to stem the tempo of Taylor's advance. There has been much speculation about the *raison d'être* for this policy. Even though I was no longer Foreign Minister in Nigeria, I was briefed that the underlying rationale lay in the character of the regimes in Nigeria and Ghana. Both were military regimes and it was felt that it was a matter of national security and survival for both regimes that a civilian revolution should not topple a military regime in the sub-region."⁵⁸¹

By beginning the war in Liberia, Charles Taylor ensured that his revolution was abrasively juxtaposed with the military regimes in the sub region.

265. Thus it was that during the 1980's a pattern of interwoven conflicts developed across the whole of West Africa: on the political front this took the form, on the one hand, of a struggle between the civilian-military establishments that had come to power after independence and would go to almost any lengths to hold onto their power and,

⁵⁷⁸ TT, Stephen Ellis, 17 Jan 08, p. 1524.

⁵⁷⁹ This was comparable to what Castro had done in Cuba. And look what happened to him, still a pariah.

⁵⁸⁰ Exhibit D-118, p7 (New African Article).

⁵⁸¹ Exhibit D-408, p. 13 – 14.

on the other hand, the forces of grassroots democracy that, despite endless setbacks, fought to achieve a greater say for the people as a whole. It was always a Western myth, largely fostered by the departing colonial powers, that Africans preferred strong authoritarian rule to democracy. This was an insult to Africans because it was never the case, but the myth suited the interests of the Europeans, who wanted to perpetuate their influence, and the Cold War warriors, who needed to justify providing support to autocratic regimes, that would safeguard their strategic and financial investments on the continent. The prize for democrats was to prise control from these elites. Paradoxically, one of the enduring products of the revolution was a footloose, uneducated, unemployed and perhaps unemployable, militarized youth, and a region awash with small arms.

266. We will endeavour to continue the thread of the parallels between Liberia and Sierra Leone over the succeeding pages to establish the following:
- a. Charles Taylor: from birth to presidency
 - b. The origins of the RUF and its history up to the AFRC Coup in May 1997;
 - c. The Presidency of Charles Taylor from Inauguration to Lomé;
 - d. Sierra Leone: AFRC Coup to Lomé;
 - e. Charles Taylor's fall from grace and its reflection in Sierra Leone;

Chapter Two: Charles Taylor from Birth to Presidency

Birth and Education

267. Charles Taylor was born on 28 January 1948. His father was an Americo-Liberian considered to have married beneath himself when he took Charles Taylor's mother for his wife because of her indigenous origin. At the age of 18, he attended Kakata Rural Teachers Training Institute. Upon completion of the course, he was assigned to a junior high school in Bomi Hills in 1967 until he was transferred to Arthington Central School in 1968 where he taught maths and science courses.⁵⁸²
268. In 1969, Charles Taylor decided to move to Monrovia and was accepted as a teacher in the Monrovia Consolidated School System where he continued to work as a math and science teacher.⁵⁸³ He also enrolled in a college accounting programme at the La Salle Extension University. This course lasted for two years until 1970. At the

⁵⁸² TT, Charles Taylor, 14 Jul 09, p. 24364-70.

⁵⁸³ TT, Charles Taylor, 14 Jul 09, p. 24371.

same time he was employed by the Ministry of Finance in the bureau of general accounting under the Tubman government.⁵⁸⁴

269. After the death of President Tubman, the Ministry of Finance was restructured under the new President Tolbert, who was installed in 1971. Charles Taylor was hired as a full-time junior accountant in the ministry where he remained until 1972.⁵⁸⁵ He then decided to study accounting at Chamberlayne College in Boston, Massachusetts in the United States.⁵⁸⁶ After graduating with an associate degree in accounting in May 1974, he was accepted in an accounting programme at the business school of Bentley College in September 1974. However, he developed an interest in politics and wanted a qualification more relevant to the needs of the people of Liberia, so he transferred to economics with an emphasis on development economics and obtained a Bachelors of Science degree in economics with a specialization in development.⁵⁸⁷
270. In September 1977, Taylor entered a masters program: an MBA program with an emphasis on organizational development and behavior at New Hampshire College in Manchester, New Hampshire.⁵⁸⁸ He had previously worked as a janitor and dishwasher in order to finance his studies at Bentley College, but now financed his MBA by working as a re-assurance advisor with the Liberty Mutual Insurance Company in Boston. He did not complete the course.⁵⁸⁹

Taylor's Involvement with the ULAA

271. When President Tolbert replaced President Tubman in 1971 many Liberians in the United States saw the opportunity to achieve democratic political change in Liberia. Taylor seized the opportunity and was one of the founders, later he became the chairman of the Union of Liberian Associations in the Americas (ULAA) in 1972. The organization was founded to influence and change the political situation in Liberia. The ULAA specifically aimed at influencing Liberian politics in order to achieve true democracy. The ULAA did not establish contact with other African American pressure groups within the United States, even though the civil rights movement in that country was still a powerful force. This was to avoid any conflicts

⁵⁸⁴ TT, Charles Taylor, 14 Jul 09, p. 24370-3.

⁵⁸⁵ TT, Charles Taylor, 14 Jul 09, p. 24373-4

⁵⁸⁶ TT, Charles Taylor, 14 Jul 09, p. 24376.

⁵⁸⁷ TT, Charles Taylor, 14 Jul 09, p. 24378-9.

⁵⁸⁸ TT, Charles Taylor, 14 Jul 09, p. 24383-4.

⁵⁸⁹ TT, Charles Taylor, 14 Jul 09, p. 24384.

concerning the legitimacy of the ULAA. Thus, the ULAA was registered as a student organization.⁵⁹⁰

272. The organization had chapters in each State and every chapter had its own president. It was a democratic organization, each chapter choosing its own leader. The leadership would in turn represent the chapter before the national organization. Furthermore, the national organization would elect the president who would represent the ULAA as a whole. Besides being president of the Massachusetts chapter, Charles Taylor later served as the chairman of the ULAA for three years from 1979.⁵⁹¹
273. The umbrella organization of the ULAA received contributions from the chapters. Service as a ULAA official was unpaid. Throughout his chairmanship, Taylor travelled on a regular basis. This increased when President Tolbert visited the United States in 1979 and invited him to visit Liberia as a representative of the ULAA.⁵⁹²
274. During Charles Taylor's chairmanship, in April 1979, there was a rice riot in Liberia. Although immediately precipitated by a sudden rise in the price of rice and concerns that politicians were benefiting from the suffering of the people, this was also the first indication that popular resentment at the Americo-Liberian elite could have a destabilizing effect on the whole rotten governmental edifice in Liberia. The riot resulted in a number of casualties as the government responded violently to peaceful demonstrations. The ULAA decided that they should support the citizens of Liberia through the purchase of arms to be sent to Liberia. The FBI was informed of this intention to send arms to Liberia and arrested Taylor, being the chairman of the organization, and those individuals who had tried to purchase arms. Taylor was summoned to appear before a grand jury in Washington DC. This was the first indication of his conviction that armed struggle was the only option to bring about change in Liberia. In addition, the ULAA organized and led several demonstrations in the United States; one outside the White House in Washington D.C. and another outside the Liberian embassy. The students who attended the latter demonstration threatened to occupy the embassy and burn it down. These were nothing but empty threats born of frustration. However, during a demonstration at the Liberian Consulate in New York, the ULAA took over the consulate and refused to leave despite several requests from President Tolbert to Charles Taylor to do so. As a result, several

⁵⁹⁰ TT, Charles Taylor, 14 Jul 09, p. 24385-6; 24390-1.

⁵⁹¹ TT, Charles Taylor, 14 Jul 09, p. 24386-7.

⁵⁹² TT, Charles Taylor, 14 Jul 09, p. 24389-90.

members of the ULAA, including Charles Taylor, were arrested although the Liberian Government did not press charges.

275. In August/September 1979, the ULAA held a demonstration during a meeting of the General Assembly of the United Nations in New York addressed by President Tolbert. Several members of the ULAA seated in the public gallery disrupted President Tolbert's speech. Taylor was not present in the building, but he had organized the protest. Their objective was to force the resignation of President Tolbert and bring about free and fair elections in which opposition parties would be allowed to participate.⁵⁹³
276. Despite the demonstrations by the ULAA, President Tolbert continued his visit to the United States and agreed to meet with Taylor and a delegation at the Liberian embassy in Washington DC. During this meeting, President Tolbert invited Taylor and his delegation to visit Liberia. This was to consist of a tour through several regions, including Nimba County, where they would be shown various projects set up by the Liberian Government in cooperation with the United States Ambassador. However, upon their arrival in Liberia in January 1980, the ULAA delegation was not permitted to meet the members of the opposition who had been incarcerated after the rice riot; this was said to be for reasons of security.⁵⁹⁴ However, the delegation was allowed a certain leeway by the Tolbert Government and Charles Taylor held several press conferences in which he was critical of the True Whig Party.⁵⁹⁵ These press conferences brought him to the attention of the Liberian public.

The emergence of the Samuel Doe Government

277. During Charles Taylor's visit to Liberia, Samuel Doe organized a violent coup which commenced on 12 April 1980, during which President Tolbert was brutally killed. Thirteen cabinet members were executed and dozens of government officials were imprisoned. Thereafter a new government was formed, called the Peoples Redemption Council (PRC) led by Samuel Doe.⁵⁹⁶ As a result of this coup, the 133-year rule of the Americo-Liberian True Whig Party came to an end.
278. Although Charles Taylor did not agree with the killing of President Tolbert and the execution of the cabinet ministers, he accepted an offer from General Quiwonkpa, one

⁵⁹³ TT, Charles Taylor, 14 Jul 09, p. 24388; 24391; 234410-6. Charles Taylor discussed the situation leading up to the demonstrations concerning the increase of the price of rice in detail.

⁵⁹⁴ TT, Charles Taylor, 14 Jul 09, p. 24416-9.

⁵⁹⁵ TT, Charles Taylor, 14 Jul 09, p. 24420-3. Charles Taylor discussed the circumstances in which he was allowed to criticize the True Whig Party in particular.

⁵⁹⁶ TT, Charles Taylor, 14 Jul 09, p. 24445-9.

of the coup leaders, to join the coup makers in the hope of calming the situation in Liberia and putting an end to the violence.⁵⁹⁷ After the coup, Charles Taylor remained in the barracks to take complaints, meet diplomats and work on other issues that arose in the aftermath of the coup. Effectively, he joined the new regime.⁵⁹⁸ He was given the rank of major. This was a deliberate ploy by Master Sergeant Doe to ensure discipline in the PRC, for holders of military rank were subject to military discipline.

279. The main governing body after the coup was the above-mentioned PRC which consisted of 20 members and was headed by Samuel Doe. Aside from being the main governing body, the PRC was the sole decision-making body and it ruled by decree. Besides the council, a cabinet was established consisting of less than twenty ministers including Charles Taylor. Contrary to Charles Taylor's political beliefs, several members of the PRC were Marxist-Leninist. Charles Taylor has consistently maintained that he is a dyed-in-the wool capitalist. Within the PRC Charles Taylor was assigned to the position of director-general of the General Services Administration (GSA), he was made a minister so that he could attend PRC meetings without actually being a council member.⁵⁹⁹
280. After obtaining the approval of President Doe, Charles Taylor tried to tackle the endemic corruption which was ingrained in Liberian life. In pursuit of this, he tried to centralize and standardize the purchasing power of the Government seeking to obtain economies of scale and also greater control over Government spending. However, the effectiveness of the measures that were implemented on his orders made him many enemies among his colleagues on the PRC. As so often occurs in such situations, where an excluded group is suddenly presented with the levers of power, their practices came to mirror those of the hated regime they had replaced, and then demand the same perks and benefits enjoyed by their predecessors. Consequently, despite his best efforts to tackle corruption within the PRC Government, his opponents accused him of embezzling government funds and he was demoted to Deputy Minister of Commerce by Samuel Doe.⁶⁰⁰ It soon became clear that the promised end to corruption in government was a mere chimera. Samuel Doe had become intoxicated with power and its trappings and would hold onto it at all costs.

⁵⁹⁷ TT, Charles Taylor, 14 Jul 09, p. 24423-32; 24449-51.

⁵⁹⁸ TT, Charles Taylor, 14 Jul 09, p. 24451-2.

⁵⁹⁹ TT, Charles Taylor, 15 Jul 09, p. 24469-72.

⁶⁰⁰ TT, Charles Taylor, 15 July 09, p. 24473-8; 24489-90; 24500-3.

281. The overthrow of the Tolbert Government had been met with euphoria by the indigenous native population, because at long last they believed they could assume a role in government. After all one of their own, Samuel Doe, a Krahn by origin, was in power. They were soon to be disabused of that notion. During his presidency, Doe's popularity amongst the people decreased and he was increasingly criticized. He became unpopular especially with the Americo-Liberians and the academic community as they wanted the military to return to the barracks. This led to demonstrations on university campuses against the Doe Government. A number of students were arrested and charged with treason and Doe banned any further demonstrations by passing Decree 2A.⁶⁰¹
282. In addition, Samuel Doe turned the racism directed against the indigenous people of Liberia on its head by favouring his own ethnic group in positions of power, particularly in the security forces. As a result, during Doe's presidency, the relationship between him and Taylor deteriorated as Samuel Doe tried to strengthen his position and weaken that of General Thomas Quiwonkpa, Taylor's patron, who was Doe's main competitor as leader.

The attempted coup by General Thomas Quiwonkpa

283. After the PRC government was installed, General Quiwonkpa became a respected member of the Council and was appointed the commanding officer of the armed forces of Liberia. This fact, and developing differences of outlook between him and President Doe, in particular about the composition of the Government, was taken as a threat by President Doe. In addition, General Quiwonkpa wanted a return to democracy, whereas President Doe wanted to maintain his personal grip on power.⁶⁰²
284. As a result of this power struggle, Charles Taylor, General Quiwonkpa and others planned to stage a coup against President Doe while the latter was abroad. However, these plans failed. President Doe learned of the plot and placed Quiwonkpa under house arrest. General Quiwonkpa eventually escaped and fled from Liberia. He first hid in Monrovia, moved to Sierra Leone and from there to the United States. In the meantime Charles Taylor, with his main supporter now in custody fled Liberia in late

⁶⁰¹ TT, CT, Transcript 15 July 2009, pp. 24490:17-24494:20

⁶⁰² During this conflict President Doe had started to target the supporters of General Quiwonkpa and in particular people from the Gio or Mano ethnic group. *See*, TT, Moses Blah, TF1-561, 14 May 08, p. 9794-6. Edward Mineh also discussed the targeting of supporters of General Thomas Quiwonkpa, which were members of the Gio ethnic group, by Krahn soldiers of the AFL prior to the attempted coup by Quiwonkpa in November 1985; TT, Edward Mineh, DCT-131, 28 Apr 10, p. 40270-9; 40280-3.

1983 and went to the United States while Quiwonkpa was still under house arrest in Liberia.⁶⁰³

285. Upon fleeing to the United States, the Doe Government sought Taylor's extradition on charges of embezzlement. In June 1984 the United States authorities arrested him and he was held in custody at the Plymouth County House of Correction in Massachusetts for approximately 15 months until November 1985. The United States Government was made aware of Taylor's involvement with General Quiwonkpa and it was feared that he would be killed if he were extradited to Liberia. Charles Taylor hired lawyers and resisted his extradition back to Liberia.⁶⁰⁴
286. While General Quiwonkpa was in exile in the United States, he continued to plan to oust the Samuel Doe government with the support of the United States Government. In particular, Quiwonkpa received support from the CIA. Despite being in prison Taylor cooperated in the planning of the proposed coup. The objective was to overthrow the PRC and establish democratic rule in Liberia.
287. In furtherance of the plot, Thomas Quiwonkpa traveled to Sierra Leone with the assistance of Father Hayden and Dr. Henry B. Fahnbulleh. During his stay in Sierra Leone, General Quiwonkpa was backed by the CIA as well as the Sierra Leonean Government. He received substantial assistance in terms of training and organization of an armed force. This force was trained at a location near Freetown by a unit of the Sierra Leone police, the SSD, which was led by Mohamed Dumbuya.⁶⁰⁵
288. While all this was occurring, elections were held in Liberia in October 1985. Prior to the elections, the international community tried, unsuccessfully, to encourage Samuel Doe to hand over power to General Thomas Quiwonkpa. However, Samuel Doe rigged the election. Jackson F. Doe, Samuel Doe's opponent, was popularly believed to have won the election, however, Doe refused to accept defeat and proclaimed himself the winner.⁶⁰⁶ One month after the elections, in November 1985, Thomas Quiwonkpa entered Liberia from Sierra Leone with the intention of overthrowing the Doe regime. The coup failed as the government forces defeated those of General Quiwonkpa; he was captured and brutally executed.⁶⁰⁷

⁶⁰³ TT, Charles Taylor, 15 Jul 09, p. 24495-6; TT, Stephen Ellis, 14 May 08, p. 1511.

⁶⁰⁴ TT, Charles Taylor, 15 Jul 09, p. 24505-11.

⁶⁰⁵ TT, Charles Taylor, 15 Jul 09, p. 24496-8; TT, Isatu Kallon, DCT-299, 16 Jun 10, p. 42625-6.

⁶⁰⁶ TT, Charles Taylor, 15 Jul 09, p. 24515-6; Annie Yeney, DCT-224, 4 Jun 10, p. 42134-5.

⁶⁰⁷ TT, Charles Taylor, 15 Jul 09, p. 24515-6. Edward Zaymay provided an extensive description of the events surrounding the attempted coup by General Thomas Quiwonkpa. TT, Edward Zaymay, DCT-226, 6 May 10, p. 40564-77; Stephen Ellis, 17 Jan 08, p. 1514-5.

289. Two to three days prior to the invasion of Liberia by General Quiwonkpa, Charles Taylor escaped from the Plymouth County House of Corrections. The coincidence of the timing led the prosecution to suggest to Charles Taylor that he had betrayed General Quiwonkpa. Before his escape, Taylor was informed that Thomas Quiwonkpa had requested the United States Government to affect his release from custody. The circumstances of Charles Taylor's escape from custody still remain shrouded in mystery. Taylor was somewhat reticent about providing the full details during his testimony, although he was cross-examined in some detail about his contacts with the CIA and assistance provided to him by them. After his escape from prison, Charles Taylor stayed with his sister in New York, he then travelled via Mexico back to Africa where he finally settled in Ghana.⁶⁰⁸
290. After the failed coup attempt by General Thomas Quiwonkpa, President Doe unleashed a ferocious campaign of terror against the citizens of Nimba County, the home county of General Quiwonkpa. President Doe attempted to eliminate all resistance to his government by targeting those he saw as his political opponents living in Nimba County. General Charles Julu launched a massive scorched earth campaign in Nimba County. Julu, of Doe's Krahn ethnic group, was sent by Doe in 1985 to pacify Nimba, and he did so, killing and raping thousands of defenceless civilians.
291. The Doe regime had institutionalized Krahn ethnic dominance in an effort to replace Americo-Liberian influence. The impact of ethnicity worsened when Doe's forces, composed mainly of Krahns and Mandingos, targeted the mainly Gio and Mano ethnic groups within Nimba. This sparked ethnic violence from both sides with the Gio and Mano undertaking revenge attacks on the Mandingo and Krahn.⁶⁰⁹ The origins of ethnic conflict in Liberia cannot be laid at the door of Charles Taylor, as the prosecution has in vain sought to do. It was an army trained and equipped by the United States Government which spawned this blight which was to plague Liberia for many years.⁶¹⁰
292. Consequently, the campaign mainly targeted the citizens from the Mano and Gio ethnic group which were known to support General Quiwonkpa. During this brutal

⁶⁰⁸ TT, Charles Taylor, 15 Jul 09, p. 24516-22. Contrary to what the Prosecution alleged, Taylor maintained that he did not escape prison in September 1985 but in November 1985 as he was still in the United States when General Quiwonkpa was executed. Furthermore, Taylor did not want the coup to fail in order to further his own political career. Charles Taylor, 16 Nov 09, p. 31674-80.

⁶⁰⁹ TT, Moses Blah, TF1-561, 19 May 08, p. 10155.

⁶¹⁰ See testimony of Hassan Bility.

campaign the populace was subjected to killings, burning, lootings, cannibalism and rape.⁶¹¹ As a consequence, many were forced to flee Liberia and live in exile in the neighboring countries.⁶¹² In unleashing this brutal and murderous campaign President Doe laid the foundation for his own doom. Most of the Special Forces who were to return to Liberia in December 1989 and lead the campaign to overthrow him came from these persecuted ethnic groups. This, in turn, led to inevitable desires for revenge which would prove difficult for anyone to control once the balance of power had shifted to the persecuted group.

Taylor's presence in Ghana and incarceration

293. Taylor's first incarceration: After Charles Taylor's escape from prison in the United States, he traveled to Ghana in either late 1985 or at the beginning of 1986 after Dr. Henry B. Fahnbulleh encouraged him to join him there. Fahnbulleh was friendly with President Jerry Rawlings and some influential Liberians had fled to Ghana after the failed coup by General Quiwonkpa.⁶¹³ When he arrived in Ghana, Taylor was introduced by Dr. Fahnbulleh to the members of Movement of Justice in Africa (MOJA) to discuss ways of regrouping after the failed coup.⁶¹⁴ MOJA was primarily an organization still wedded to Marxist-Leninism and its fifteen members were not natural bedfellows for the capitalist Charles Taylor.
294. Approximately four weeks after his arrival in Ghana, the Ghanaian authorities accused Charles Taylor of being an agent for the CIA and arrested him. The basis of the Ghanaian authorities' suspicion was the manner in which he had escaped from a maximum security Federal prison in the United States. Further, Jerry Rawlings had recently come to power after a Marxist/Leninist inspired revolt by the armed forces in Ghana which had resulted in conflict with the United States Government. The relations between the countries worsened when the United States arrested Rawling's cousin and charged him with espionage. As a result, Rawlings arrested several American nationals and Charles Taylor claiming that they were spies for the CIA. Taylor was investigated for several months by the Ghanaian authorities whilst in custody. Despite the attempts by Dr. Fahnbulleh and others to convince the authorities

⁶¹¹ TT, Charles Taylor, 15 Jul 09, p. 24526-8; Stephen Ellis, 17 Jan 08, p. 1516-7. Moses Blah testified that approximately 1,500 people lost their lives as a result of this campaign. Moses Blah, TF1-561, 19 May 08, p. 10137; Annie Yeney, DCT-224, 3 Jun 10, p. 42068-9; Isatu Kallon, DCT-299, 16 Jun 10, p. 42620-2.

⁶¹² TT, Annie Yeney, DCT-224, 3 Jun 10, p. 42102.

⁶¹³ TT, Charles Taylor, 15 Jul 09, p. 24525-6; 18 Nov 09, p. 32058-9.

⁶¹⁴ TT, Charles Taylor, 15 Jul 09, p. 24529-30.

that Taylor was not a spy, he remained confined for approximately six to seven months. He was eventually released and granted asylum in Ghana.⁶¹⁵

295. Taylor's second incarceration: As soon as Charles Taylor was released, he met with the leaders of MOJA to plan an intervention in Liberia but they could not reconcile their ideological differences.⁶¹⁶ Instead, Taylor reached out to others who shared his beliefs, such as Harry Nyuan and Moses Duopu, who were based in the Ivory Coast after they too had fled Liberia. Subsequently, he traveled to the Ivory Coast on a regular basis.⁶¹⁷ While he was in the Ivory Coast, Taylor met with several senior people living in exile, such as Alfred Mehn and Tiagen Wantee. In those meetings the decision was made to create a fighting force to begin a revolution in Liberia. They also decided that if the revolution was successful, Taylor would become the president and that the vice-presidency would be given to someone within the fighting force.⁶¹⁸
296. In the meantime, the leaders of MOJA, including Dr. Fahnbulleh, were also actively recruiting fighters in order to continue the revolution started by Quiwonkpa. This quite separate movement had a clear Marxist/Leninist influence and also enjoyed the support of the Ghanaian government. According to Taylor, he was perceived as a threat to MOJA's plan to attack Liberia. Furthermore, the Ghanaian authorities were aware of Taylor's advanced efforts to organize his own force to attack Liberia and of his connections with the Governments of Burkina Faso and Libya.⁶¹⁹ Consequently, MOJA supporters within the Ghanaian government arranged for Taylor to be arrested for a second time.⁶²⁰
297. Prior to his second arrest, Taylor had indeed met Blaise Compaore while the latter was still the deputy to President Sankara of Burkina Faso. After President Sankara was assassinated by his own forces, Blaise Compaore succeeded him as president and he submitted a request to the Ghanaian authorities for Taylor's release. Consequently, after eight months of imprisonment, Charles Taylor was released and given forty-eight hours to leave the country.⁶²¹ Upon his release in late 1986,⁶²² he immediately travelled to the Ivory Coast and from there on to Ouagadougou in Burkina Faso.⁶²³

⁶¹⁵ TT, Charles Taylor, 15 Jul 09, p. 24530-2; 3 Nov 09, p. 30973; 18 Nov 09, p. 320601.

⁶¹⁶ TT, Charles Taylor, 18 Nov 09, p. 32063; DCT-125, 10 Mar 10, p. 36953-4.

⁶¹⁷ TT, Charles Taylor, 15 Jul 09, p. 24532.

⁶¹⁸ TT, Charles Taylor, 3 Nov 09, p. 30967.

⁶¹⁹ TT, Charles Taylor, 3 Nov 09, p. 30980-1; 18 Nov 09, p. 32063-5.

⁶²⁰ TT, Charles Taylor, 15 Jul 09, p. 24535-6.

⁶²¹ TT, Charles Taylor, 3 Nov 09, p. 30985.

⁶²² TT, Charles Taylor, 15 Jul 09, p. 24549.

⁶²³ TT, Charles Taylor, 15 Jul 09, p. 24533-4; 24535-6; 24536-8.

Formation of the second NPFL

298. Before his second arrest by the Ghanaian authorities, Charles Taylor had already started the creation of the second NPFL in cooperation with Ellen Johnson-Sirleaf, Toniya King and Tom Woweiyu.⁶²⁴ Ellen Johnson-Sirleaf had also been involved with the coup led by General Quiwonkpa and after its failure decided to cooperate with Charles Taylor in the creation of the second NPFL. She was tasked with collecting money for the training and the movement of the forces. Tom Woweiyu and Taylor had met in 1972 during their membership of the ULAA. Woweiyu assisted with the coordination of the NPFL and the movement of the recruits⁶²⁵ Moreover, Toniya King, who was related to former President Tolbert and consequently had many contacts within embassies and foreign intelligence agencies in the region, played a key role in getting the recruits to Libya.⁶²⁶ However, by the time Charles Taylor had established a solid relationship with Libya, King refused to visit the forces and, subsequently, left the NPFL leaving Charles Taylor, Ellen Johnson-Sirleaf and Tom Woweiyu as the controlling influences within the second NPFL.⁶²⁷ Although, the historic origins of the NPFL as an organization starts with General Quiwonkpa, there is no doubt that the decision to adopt the same name as the previously defeated revolutionary force had much to do with the fact that it would have a resonance with those who felt aggrieved about the behaviour of the Doe Government, particularly in Nimba County. Further, Doe's brutality had resulted in large numbers of people being displaced from Nimba County into the neighbouring Ivory Coast. Thus, the NPFL found a receptive audience on both sides of the border between Liberia and the Ivory Coast.⁶²⁸

Training in Libya

299. Preparations for training in Libya: After Taylor's release from prison in Ghana in late 1986 and his subsequent visit to Ouagadougou, he traveled to France in order to meet with Tom Woweiyu and Ellen Johnson-Sirleaf. It is of interest that this meeting took place in France. There has long been a suspicion that France provided tacit support for Charles Taylor in their efforts to preserve their own interests in Francophone West Africa. During that meeting he showed Ellen Johnson-Sirleaf pictures of the recruits

⁶²⁴ TT, Charles Taylor, 15 Jul 09, p. 24542.

⁶²⁵ TT, Charles Taylor, 3 Nov 09, p. 30980.

⁶²⁶ TT, Charles Taylor, 15 Jul 09, p. 24543-8.

⁶²⁷ TT, Charles Taylor, 15 Jul 09, p. 24542; 24550-1.

⁶²⁸ TT, Charles Taylor, 3 Nov 09, p. 30984.

who had been sent to Libya in order to convince her that her efforts to collect money for their common cause had achieved practical results.⁶²⁹

300. Despite Taylor's second incarceration in Ghana, several groups of fighters had already been sent to Libya for training. They were mostly recruited in the Ivory Coast, since many Liberians had sought refuge there in fear of President Doe's campaign against the Gios and the Manos from Nimba County.⁶³⁰ While Charles Taylor was imprisoned, men who were willing to undergo military training in Libya and fight against the Doe government were recruited by the NPFL.⁶³¹ The movement of these men from Ivory Coast to Libya occurred covertly in order not to alert the United States and Samuel Doe of their plans.⁶³² Thus, the forces traveled in groups of no more than fifteen to twenty people in order to avoid detection. These recruits traveled by bus or train to Ouagadougou from where they continued their journey to Libya by air. These men were provided with the necessary travel documents and the Libyans paid for the cost of transport.⁶³³
301. Tajura Camp: The decision to accept the assistance of the Libyans is understandable. Libya, was at the time, one of the few nations willing and able to pursue a firm anti-imperialist, anti-American line. This was a high risk activity by the Libyan Government because at the time Cold War relations, whilst softening, still governed global strategic interests, as Colonel Ghadaffi learnt to his cost when his capital was bombed by the United States. Charles Taylor has said that he is a committed Pan-Africanist. Libya actively supported pan-African activities, and opposed neo-colonialism by providing practical support and training to various liberation movements from around the globe. This made Libya deeply unpopular with the West, and Ghadaffi himself was accused of having imperialist ambitions in sub-saharan Africa.
302. The Mataba was the organization at the heart of this Libyan strategy. It consisted of the leaders and representatives of the various liberation movements. It was composed

⁶²⁹ TT, Charles Taylor, 15 Jul 09, p. 24542; 24543.

⁶³⁰ TT, Charles Taylor, 15 Jul 09, p. 24554.

⁶³¹ TT, Charles Taylor, 3 Nov 09, p. 30979. Edward Zaymay noted that amongst the recruiters were Alfred Mehn (also known as Godfather) and Yegbeh Degbon; Edward Zaymay, DCT-226, 6 May 10, p. 40596-600.

⁶³² TT, Charles Taylor, 3 Nov 09, p. 30979.

⁶³³ TT, Charles Taylor, 15 July 09, p. 24554 (Charles Taylor also provided an explanation on the exact manner in which ECOWAS provides travel documents). Edward Zaymay stated that he used a refugee carte d'identite which had been issued by the Ivorian government to travel from the Ivory Coast to Libya; Edward Zaymay, DCT-226, 12 May 10, p. 40907-8. *See also* Edward Mineh, DCT-131, 4 May 10, p. 40487-91; 40492-3.

of groups such as the African National Congress, the South West African People's Organization, and the IRA. President Musuveni of Uganda, in a different incarnation, was also a member. Liberation organizations from as far afield as Sumatra in Indonesia were also present. The Mataba oversaw the provision of funds and training to those revolutionary groups.⁶³⁴

303. When the NPFL recruits arrived at Tajura training camp, they found that amongst the groups already receiving training at the camp were groups from The Gambia, Sierra Leone and Liberia.⁶³⁵ The Gambian group was led by Dr Manneh and the Sierra Leonean group by Ali Kabbah.⁶³⁶ The Liberian group already there was led by Dr. Henry B. Fahnbulleh who had separated from MOJA and created his own group with the same aim of starting an armed struggle in Liberia. The Mataba, however, did question the ability of the second group to stage a successful revolution as it lacked sufficient manpower. Furthermore, the Mataba wanted to avoid conflict between two rival groups by merging the NPFL forces and the forces of Dr. Fahnbulleh. However, in time the other Liberian group dissolved and just two of fifteen members joined the NPFL ranks and continued their training at the Tajura Camp.⁶³⁷
304. Taylor was never a permanent resident in Libya; he spent the majority of his time in Burkina Faso and on his visits to Libya would stay at one of the guest-houses in Tripoli that were made available by the Mataba. These guest-houses were located not far from the training camp in order to allow the leaders of the groups to visit their forces during training.⁶³⁸
305. The military training consisted primarily of training in guerrilla warfare. Given the nature of the allegations contained in the indictment and the way in which the prosecution put their case, it is important to point out that in addition they were taught to treat the civilian population with respect because that was the *sine qua non* of every guerilla movement. Thus they were trained to abide by the laws of war. Hence, indiscriminate killings and other such atrocities were self-defeating. Such actions

⁶³⁴ TT, Charles Taylor, 15 Jul 09, p. 24558-6; Edward Zaymay, DCT-226, 6 May 10, p. 40600-2; DCT-125, 9 Mar 10, p. 36831-5.

⁶³⁵ TT, Charles Taylor, 15 Jul 09, p. 24565; 27 Oct 09, p. 30389-90.

⁶³⁶ TT, Charles Taylor, 15 Jul 09, p. 24567-8; Taylor reiterated that Ali Kabbah was the leader of the Sierra Leonean group that was training in Libya. See also, Charles Taylor, 3 Nov 09, p. 31002; DCT-125, 4 Mar 10, p. 36697-8.

⁶³⁷ TT, Charles Taylor, 16 Jul 09, p. 24598-9; Edward Zaymay, DCT-226, 6 May 10, p. 40619-24.

⁶³⁸ TT, Charles Taylor, 15 Jul 09, p. 24566-7; 3 Nov 09, p. 30997-8.

would cause the civilian population to become alienated from the cause.⁶³⁹ This is a part of the prosecution case which defies logic, reason and history. The idea that a plan was hatched in Libya to terrorize the civilian populations of West Africa, the suggestion being that Liberia was just the springboard to Sierra Leone and thence on to the Gambia, is so bereft of common sense and historical fact that it should be dismissed out of hand by this court. It is the most nonsensical of notions. The better argument would have been that idealistic motives became diverted and perverted once the spoils of war were recognized in both Sierra Leone and Liberia. It is now, however, too late for the prosecution to switch horses; they have tied the colours of their joint criminal enterprise firmly to the mast of this premature idea of a criminal design. The fact is that the label of “terrorist” or “terrorism”, particularly after the events of 9/11, have come to be used routinely to delegitimize, marginalize and criminalise what are often legitimate struggles. The terrorist has become the modern outlaw, that is outside the law, bereft of rights.

306. The Mataba did not allow contact between leaders and the members of other groups training in Tajura Camp. Moreover, only the leaders of the various groups and not the forces themselves were allowed to attend the Mataba.⁶⁴⁰ Hence, Taylor would only have contact with his own forces and with the leaders of other revolutionary groups training at the camp. The forces, on the other hand, whilst not having contact with the leaders of other groups were free to have contact with their fellow trainees irrespective of the group to which they belonged.⁶⁴¹ It was these circumstances which permitted the creation of Black Kaddaffa to which we will in due course turn. Consequently, because of these arrangements whose justification was no doubt rooted in the disparate nature of the groups training at the camp, having not merely different nationalities but equally diverse political philosophies, Taylor’s contact would have been with Ali Kabbah as the leader of the Sierra Leonean group and not with Foday Sankoh, who was simply a member of Ali Kabbah’s forces.⁶⁴² Taylor would have had

⁶³⁹ TT, Charles Taylor, 15 Jul 09, p. 24569; Moses Blah, TF1-561, 19 May 08, p. 10163; Edward Zaymay, DCT-226, 7 May 10, p. 40638-9.

⁶⁴⁰ TT, DCT-125, 9 Mar 10, p. 36771-2; Yanks Smythe, DCT-179, 22 Feb 10, p. 35601-3.

⁶⁴¹ TT, Charles Taylor, 15 Jul 09, p. 24567; 9 Sep 09, p. 28448-9; Taylor confirmed that friendships developed between the men of the different groups. Charles Taylor, 3 Nov 09, p. 31041; Edward Zaymay, DCT-226, 6 May 10, p. 40612; 40616-7; 7 May 10, p. 40638.

⁶⁴² Charles Taylor only knew Ali Kabbah as the leader of the Sierra Leonean group that was training in Libya. He was not aware of a disagreement within the group concerning the plans for a revolution nor was he aware that the group split up in two between Ali Kabbah, on the one hand, and Foday Sankoh, on the other hand. Furthermore, Taylor was not asked by the Libyans to join forces and to fight alongside with the

neither reason nor opportunity to forge the suggested bonds with Sankoh as alleged.⁶⁴³ Moses Blah confirms this.⁶⁴⁴ Hence, he did not come to an agreement with Dr. Manneh and Foday Sankoh in either Libya or Burkina Faso, to support each other in their respective revolutions and to terrorize the civilian populations of their respective countries as alleged.⁶⁴⁵ This alleged agreement is the purest fantasy concocted by the prosecution to provide the glue to hold together a theory which flies in the face of reality, but it has the adhesive quality of water.

307. Creation of the Black Kaddafa: This is a topic to which we will return for it would be misplaced to set out the full history of Black Kaddafa at this point in our narrative. While the NPFL fighters were training at Tajura Camp, some of them formed a group called Black Kaddafa, with the intention of killing Charles Taylor following a successful invasion of Liberia and seizing power themselves. These individuals included Cooper Miller, Augustine Wright, Yegbeh Degbon, Oliver Varney, Anthony Mekunagbe, Samuel Varney, Prince Yormie Johnson, Sam Larto and Timothy Mulbah. The opportunity to organize such a conspiracy behind Charles Taylor's back was facilitated by the fact that he was not a full-time resident at the camp. They were arrested on the base in Libya and admitted that they were conspiring against Charles Taylor. Taylor decided to send the leaders, Cooper Miller and Augustine Wright, to Burkina Faso and have them imprisoned there. The intention was to release them after a successful invasion of Liberia. The others confessed and apologized and were allowed back into the ranks of the NPFL and continued their training at Tajura Camp.⁶⁴⁶

Preparations for the Invasion of Liberia

308. When the training in Libya was completed in early 1989, Charles Taylor moved his men to Burkina Faso where they remained from the second to the fourth quarters of 1989. Moses Blah confirms this.⁶⁴⁷ As there was insufficient progress in the

Sierra Leonean group that was led by Foday Sankoh. TT, Charles Taylor, 11 Jan 10, p. 33157-61; 33169-71. *See also*, Charles Taylor, 25 Nov 09, p. 32359; Yanks Smythe, DCT-179 22 Feb 10, p. 35605; 35607.

⁶⁴³ TT, Charles Taylor, 15 Jul 09, p. 24568; 27 Jul 09, p. 25261; 25 Aug 09, p. 27602-3; 10 Sep 09, p. 28558-64; 23 Sep 09, p. 29441-2; 3 Nov 09, p. 30997; 11 Jan 10, p. 33157; Edward Zaymay, DCT-226, 6 May 10, p. 40615-6; DCT-125, 9 Mar 10, p. 36772; Edward Mineh, DCT-131, 3 May 10, p. 40468.

⁶⁴⁴ TT, Moses Blah, TF1-561, 14 May 08, p. 9814-9815.

⁶⁴⁵ TT, Charles Taylor, 15 Jul 09, p. 24572-3; 9 Sep 09, p. 28459-60; 28558-64; 10 Sep 09, p. 28561-4; 25 Nov 09, p. 32359; DCT-125, 9 Mar 10, p. 36853; 36863-4; 19 Mar 10, p. 37614-7; Yanks Smythe, DCT-179, 22 Feb 10, p. 35607-9; 23 Feb 10, p. 35750-6.

⁶⁴⁶ TT, Charles Taylor, 3 Dec 09, p. 33009-12; Edward Zaymay, DCT-226, 6 May 10, p. 40630-5.

⁶⁴⁷ TT, Moses Blah, TF1-561, 14 May 08, p. 9816 et seq.

preparations for the invasion, the forces became restless and threatened to leave.⁶⁴⁸

Taylor, therefore, decided to spread his forces between Guinea and Ivory Coast according to their ethnic origin, since they would thereby be better able to blend in with the local population. Thus, he decided to send those from the Mahn or Mano group to Guinea, and to send those from the Dan ethnic group to Ivory Coast.⁶⁴⁹

309. In staging the invasion, the NPFL recognized that they would need to rely heavily on the support of the civilian population of Nimba County. Taylor correctly reasoned that the excesses of Doe's forces in the wake of the failed Quiwonkpa coup had created fertile ground for the guerilla war he intended to wage against the Doe regime. Furthermore he could exploit the ethnic affinities between the majority of his recruits and the region. Taylor thus knew that the invasion by the NPFL would generate universal popular support within the population of Nimba County.⁶⁵⁰
310. In the meantime, Taylor tried to continue the preparations for the invasion by arranging for supplies of arms and ammunition. However, despite his efforts to obtain weapons from the Libyans, they did not provide the NPFL with arms. Indeed they had their own strategic reasons why they did not want to provide the NPFL with arms. Moses Blah was sent by Taylor to Libya and when Taylor launched the invasion in December 1989 the Libyans were angry with Taylor, because he had not informed them of the attack. The Libyans felt that the timing was bad for them because the US Government had just imposed sanctions on Libya.⁶⁵¹ He also attempted to obtain the agreement of President Joseph Momoh of Sierra Leone to use his country as a launchpad for the mission, a repeat of the assistance provided to General Quiwonkpa. Instead, he was imprisoned by Bamba Kamara but was later released on the orders of Momoh.⁶⁵² Taylor did not receive assistance from Libya, Burkina Faso or Sierra Leone and, consequently, the NPFL did not have the required materials to stage an invasion.⁶⁵³ This is what caused restlessness amongst the troops in Burkina Faso.
311. Although Taylor did not go into Guinea to meet with his Special Forces, he regularly travelled between Burkina Faso and Ivory Coast. In the Ivory Coast his men were based in Bin-Houye, located in the border area between the Ivory Coast and Liberia. During a meeting with the forces in the Ivory Coast, an alternative plan was hatched.

⁶⁴⁸ TT, Charles Taylor, 16 Jul 09, p. 24602.

⁶⁴⁹ TT, Charles Taylor, 16 Jul 09, p. 24602-3.

⁶⁵⁰ TT, Charles Taylor, 29 Sep 09, p. 29813.

⁶⁵¹ TT, Moses Blah, TF1-561, 14 May 09, p. 9819 et seq.

⁶⁵² Stephen Ellis Report, Exhibit P-31.

⁶⁵³ TT, Charles Taylor, 16 Jul 09, p. 24598; 3 Nov 09, p. 31006; 31010-2; 18 Nov 09, p. 32078-80.

The forces would enter at Gbutuo. The plan was that the Special Forces would have to depend on liberating arms and ammunition from the Doe forces.⁶⁵⁴ There were other aspects to the plan. When the Special Forces were still in training in Libya, Taylor maintained contact with individuals from Mahn and Dan ethnic group within the Armed Forces of Liberia. They were stationed in Monrovia, Camp Schefflein and Camp Naama. Taylor also had contact with Colonel Samuel Varney who used to be the commander of Camp Naama and had gained the respect of the soldiers there. Varney was sent with a Guinean group to Camp Naama in order to make contact with soldiers still loyal to him who would form a fifth column within the camp, thereby facilitating its capture.⁶⁵⁵

312. Also, Taylor sent Special Forces to the Barclay Training Centre and Camp Schefflein. The plan was to infiltrate those bases and remain as sleepers. When forces attacked Gbutuo and Camp Naama these sleepers would seize the opportunity and take over the Barclay Training Centre and Camp Schefflein.⁶⁵⁶ However, this plan was leaked to the Liberian authorities and several Special Forces were arrested. Some of these men were killed instantly whilst others confessed. Other Special Forces who had already reached their jump off points learnt of these arrests and tried to find their way back to the NPFL forces that were preparing to attack Gbutuo.⁶⁵⁷
313. The group that was ordered to attack Camp Naama had travelled from Ivory Coast to Nzerekore in Guinea where they would remain until the preparations for the invasion were complete. However, the Guinean authorities were informed that they were fighters and arrested most of them. They were taken to the Ivorian border and released. These fighters joined the Special Forces in the Ivory Coast and participated in the attack on Gbutuo when the NPFL commenced its invasion.⁶⁵⁸
314. Despite all these setbacks the attack on Gbutuo, on 24 December 1989, which was led by Prince Johnson, was successful and the NPFL managed to advance into Liberia. They were armed with a few hunting rifles, purchased in the Ivory Coast. Although Isaac Musa was initially put in charge of the group to capture Gbutuo, he failed under

⁶⁵⁴ TT, Charles Taylor, 16 Jul 09, p. 24603-4; 3 Nov 09, p. 31010-2.

⁶⁵⁵ TT, Charles Taylor, 16 Jul 09, p. 24604-5; Edward Zaymay, DCT-226, 7 May 10, pp. 40645-7.

⁶⁵⁶ TT, Charles Taylor, 16 Jul 09, p. 24605.

⁶⁵⁷ TT, Charles Taylor, 16 Jul 09, p. 24606. Edward Zaymay testified that Sam Tozey who was a member of the Special Forces, leaked the plans for the invasion. As a result, the government forces arrested a number of men while others fled and tried to find their way back to Gbutuo. Edward Zaymay, DCT-226, 7 May 10, p. 40661-5. *See also*, Edward Mineh, DCT-131, 29 Apr 10, p. 40323-4.

⁶⁵⁸ TT, Charles Taylor, 16 Jul 09, p. 24606-7; Edward Zaymay, DCT-226, 7 May 10, pp. 40647-52; Edward Mineh, DCT-131, 3 May 10, p. 40469-73.

fire, and he was withdrawn to the Ivory Coast and Prince Johnson assumed command. After taking Gbutuo, Taylor left Prince Johnson in charge of the men at the frontline. During the incursion, the Special Forces managed to capture weapons from the government forces in order to continue the revolution.⁶⁵⁹ Taylor meanwhile remained in Bin-Houye in the Ivory Coast.⁶⁶⁰

Recruitment and welcome by civilians

315. Shortly after the captured of Gbutuo, the Special Forces moved on to Tiaplay.⁶⁶¹ As soon as the NPFL forces secured the area around Gborplay, Taylor left the Ivory Coast and moved to a base at Gborplay in April 1990 where he stayed for approximately three to four months before he relocated to Tapita in the summer of 1990.⁶⁶²
316. An important reason for the sheer speed of the NPFL advance, was the unpopularity of the AFL forces who had, by their past and present behaviour in Nimba County, left a legacy of bitterness.⁶⁶³ After the NPFL struck, it was General Julu who was called upon again to deal with the situation in Nimba County. Julu's almost entirely Khran soldiers killed and raped; they also rounded up opposition figures and had them beheaded. Taylor could not have hoped for more as Gios and Manos by the thousand rushed to join the NPFL. Does's brutality had recoiled upon him with devastating effect. Rumors that the NPFL had entered Nimba County with thousands of men caused many of the AFL forces to flee the area. As a result, the NPFL was able to capture Nimba County within one month.⁶⁶⁴ By January 1990, thousands of civilians from Nimba County and Bong County had flocked to the training bases in Tiaplay and Gborplay to volunteer as fighters for the NPFL.⁶⁶⁵ The recruits were trained by the Special Forces for approximately six weeks. Part of the training involved the laws of war, and the treatment of civilians.⁶⁶⁶

⁶⁵⁹ When the NPFL entered Liberia, it was not supported with weapons by either the Ivorian government or by the government of Burkina Faso. TT, Charles Taylor, 3 Nov 09, p. 31015-7. Edward Zaymay also described how the NPFL special forces entered Liberia without the amount of weapons that was necessary. He also discussed the manner in which they captured Gbutuo and managed to take the weapons from the Doe forces. Edward Zaymay, DCT-226, 7 May 10, p. 40658-9.

⁶⁶⁰ TT, Charles Taylor, 16 Jul 09, p. 24607-9.

⁶⁶¹ TT, Charles Taylor, 16 Jul 09, p. 24610.

⁶⁶² TT, Charles Taylor, 20 Jul 09, p. 24721.

⁶⁶³ TT, TF1-168, 23 Jan 09, p. 23425.

⁶⁶⁴ TT, Charles Taylor, 16 Jul 09, p. 24610-1.

⁶⁶⁵ TT, Charles Taylor, 16 Jul 09, p. 24615-6.

⁶⁶⁶ TT, Charles Taylor, 16 Jul 09, p. 24617-8; Edward Zaymay, DCT-226, 7 May 10, p. 40691-2.

317. It is accepted that many of the volunteers were under age, they were individuals orphaned by the atrocities of the AFL, or siblings or relatives of those who had been indiscriminately killed by President Doe's rampaging uniformed killers. However they were not allowed to receive military training or to participate in the fighting. Instead, they were allowed to provide services to the adult trainees by fetching water for the forces and by doing other chores such as washing clothes.⁶⁶⁷
318. The volunteers often brought food with them, because the NPFL was widely supported by the civilian population in Nimba County in particular. Forced recruitment of civilians was unnecessary.⁶⁶⁸ In this regard there is a stark contrast to be drawn with such practices in Sierra Leone.

Dealing with atrocities

319. Prior to the invasion an operational order was issued within the NPFL which stated that the forces were not allowed to commit atrocities against the civilian population. This included murder, forced recruitment of civilians into the NPFL and the targeting of Krahn and Mandingo people. Any NPFL fighter who violated these orders would be tried and held accountable for their actions.⁶⁶⁹
320. Despite the operational order that was issued prior to the invasion, atrocities were committed. Many of the recruits were illiterate and came from backgrounds of rural poverty. There is no denying that whatever the good intentions during the training programme to instil certain standards of behaviour, emotions of revenge and personal enrichment could cause a breakdown in discipline. It is important for this Trial Chamber to appreciate that the vast majority of persons flocking to the banner of the NPFL after the invasion were little more than rural peasants who captured guns from the fleeing AFL. In this regard it is also important to remember that although international criminal law strives to borrow from and legitimate itself via a plurality of legal systems, the fact remains that its basic doctrines are Western in origin. This can cause problems when the jurisprudence has a poor sociological fit with the non-Western societies to which it is applied. Take for instance the doctrine of "superior responsibility", one of the modes of liability alleged against Charles Taylor. Although the case law on superior responsibility is increasingly sophisticated, and the

⁶⁶⁷ TT, Charles Taylor, 16 Jul 09, p. 24619; DCT-125, 10 Mar 10, p. 36940-1.

⁶⁶⁸ TT, Charles Taylor, 16 Jul 09, p. 24619; 4 Nov 09, p. 31124; Edward Zaymay, DCT-226, 12 May 10, p. 40872-5.

⁶⁶⁹ TT, Charles Taylor, 16 Jul 09, p. 24609; 4 Nov 09, p. 31123-4; Edward Zaymay, DCT-226, 7 May 10, p. 40657; DCT-125, 9 Mar 10, p. 36792-3. The NPFL did not establish checkpoints in order to target Krahn and Mandingo people. Edward Mineh, DCT-131, 3 May 10, p. 40414-6; 4 May 10, p. 40518-22.

doctrine has been applied with sensitivity and intelligence by some judges, it remains the case that it evolved in the context of well-trained Western-style bureaucratic and military organizations, in which it made sense to think that a superior could be held responsible for the actions of his subordinates, no matter how far physically removed. We are not here dealing with the professional army of a "First World" country, yet even there, as Abu Ghraib testifies, soldiers well schooled in the principles of civilized warfare, if there could ever be such a thing, are liable to go off the rails under conditions of war. Everybody knows that well-drilled hierarchies of the kind to be found in the West are a rarity in Africa. Everybody knows that lines of communication are often difficult during a jungle war. Where, for example, almost autonomous jungles are established which in due course fostered the internal tensions which eventually destroyed the RUF, there is no denying that some fighters tried to settle old ethnic tribal or family conflicts.⁶⁷⁰ What we emphatically refute is the suggestion that such behaviour was the official policy of the NPFL and endorsed by its leadership.

321. In order to deal with such crimes by the members of the NPFL, a board was established in Gborplay. This board set up a tribunal that would try NPFL individuals who were accused of committing crimes within NPFL controlled areas.⁶⁷¹ The tribunal was reorganized when it switched from Gborplay to Gbarnga in 1990, because several professionals, including lawyers for both the Prosecution and the Defence, had joined the tribunal and assisted in the cases that were brought before it. The tribunal strove to provide a fair trial to those brought before it.⁶⁷²
322. Thus, the NPFL as an organisation aimed, however patchily and unevenly, to establish the rule of law within the NPFL controlled areas. It tried to investigate matters as thoroughly as possible, considering the limited resources it had. The NPFL also punished those who committed crimes in accordance with the law and did not summarily execute individuals.⁶⁷³
323. Moreover, the NPFL did not dismantle civilian courts when they invaded Liberia. It made sure that besides military justice, there would also be civilian structures and administration in place to guarantee law and order in the NPFL controlled areas.

⁶⁷⁰ TT, Moses Blah, TF1-561, 19 May 08, p. 10161-3.

⁶⁷¹ TT, Moses Blah, TF1-561, 19 May 08, p. 10167-8.

⁶⁷² TT, Moses Blah, TF1-561, 19 May 08, p. 10169-70.

⁶⁷³ TT, Moses Blah, TF1-561, 19 May 08, p. 10171-2.

Thus, the jails remained intact and judges were reinstated to deal with civilian matters.⁶⁷⁴

324. Although the NPFL did not have the means to provide its forces with payment, it did not encourage them to commit crimes, such as looting and killing of civilians. This was never official NPFL policy. There is a fallacy in the way this whole prosecution has been structured which goes to the very heart of its case. It is the self-defeating idea that revolutionary forces would deliberately terrorize the very people upon whom their survival and success depended. If the forces commanded by Charles Taylor were so indiscriminately brutal to the populations living in NPFL controlled areas, how is it that over two decades after that invasion the US Ambassador to Monrovia can explain in a leaked Code Cable that

Taylor remains popular within many rural communities, especially in Bong, Lofa and Nimba Counties and is seen as someone who was able to unite Liberia's different ethnic groups. We also suspect there is some sympathy within the Americo-Liberian population...⁶⁷⁵

325. Once the NPFL entered Liberia through Nimba County, it received strong support from the civilian population who provided them with food, money and medicine.⁶⁷⁶ Also the NPFL had the good fortune to capture a ship off the coast of Buchanan, containing half a million bags of rice destined for the Liberian government. Thus, Charles Taylor maintains that it was not in any way necessary for the NPFL forces to "pay themselves" through looting. Moreover, he suggests, such acts were against operational orders and the individuals who violated these orders were court-martialed and punished for such acts when caught.⁶⁷⁷ Nonetheless the exigencies of the situation bred by an inadequate infrastructure, especially in communications, did not always make the policing of misbehaviour possible.

The breakaway of Prince Yormie Johnson

326. Not long after the invasion Prince Yormie Johnson killed several Special Forces as a part of a family dispute. However, the killing went against the operational orders that had been issued by the NPFL prior to the invasion. Consequently, Taylor ordered that

⁶⁷⁴ TT, Charles Taylor, 16 Jul 09, p. 24621-2.

⁶⁷⁵ Exhibit D-481, p.2.

⁶⁷⁶ TT, Edward Mineh, DCT-131, 3 May 10, p. 40416-7.

⁶⁷⁷ TT, Charles Taylor, 29 Sep 09, p. 29811-3; 4 Nov 09, p. 31124.

the situation should be investigated and that Prince Johnson be arrested.⁶⁷⁸ Thereafter, Prince Johnson fled and took with him several other Special Forces who continued to support him, including Samuel Varney. After his breakaway, Prince Johnson sought to convince the civilians that he remained part of the NPFL and continued to recruit men under the name of the NPFL in effect benefiting from NPFL's popularity amongst the populace. Even though the INPFL pretended to pursue the same revolution as the NPFL, we submit that they were in fact a mercenary group.⁶⁷⁹ Prince Johnson decided to move on towards Monrovia. The NPFL pursued him from Gborplay to Monrovia, but never succeeded in arresting him.⁶⁸⁰

327. While the INPFL was in Monrovia, Prince Johnson maintained regular contact with the United States Embassy. When President Doe's position became untenable and he decided to leave Monrovia under the protection of ECOMOG, the United States Embassy called Prince Johnson and advised him not to interfere. Prince Johnson nonetheless captured President Doe, tortured and killed him on 9 September 1990, with the whole sordid spectacle, filmed for posterity.⁶⁸¹ Thereafter, Prince Johnson was escorted out of Monrovia by the Nigerian peacekeepers and settled in Nigeria for a number of years.⁶⁸² It has been suggested that Doe's killing occurred with the complicity of ECOMOG.

The involvement of the Gambians

328. As a result of the breakaway of Prince Johnson from the NPFL, Taylor felt threatened and returned to Burkina Faso. An important aspect of this threat against him lay in the fact that Prince Johnson is a Gio from Nimba County and could count on their support within the NPFL so Taylor felt insecure. Furthermore, Prince Johnson had previously trained many NPFL fighters and many of their families were interrelated. Hence, Charles Taylor justifiably did not know who to trust and felt that his life was at risk. In Burkina Faso Taylor met with Dr Manneh who offered his assistance. His Gambian

⁶⁷⁸ Edward Zaymay provided a specific account relating to the failure of the NPFL forces to immediately arrest Prince Johnson after he broke away from the NPFL. TT, Edward Zaymay, DCT-226, 7 May 10, p. 40697-700.

⁶⁷⁹ TT, Charles Taylor, 16 Jul 09, p. 24609; 20 Jul 09, p. 24721-2; 24725-6; 29 Sep 09, p. 29811; 4 Nov 09, p. 31124; Moses Blah, TF1-561, 14 May 08, p. 9830. Moses Blah stated that Prince Johnson had killed several civilians in a family dispute after which Charles Taylor had ordered his arrest. Moses Blah, TF1-561, 19 May 08, p. 10158. Edward Zaymay stated that Prince Johnson had summarily executed several Special Forces. Edward Zaymay, DCT-226, 7 May 2010, p. 40693-9; Yanks Smythe, DCT-179, 22 Feb 10, p. 35628.

⁶⁸⁰ TT, Charles Taylor, 16 Jul 09, p. 24620-1; 24 Aug 09, p. 27509-10; 29 Sep 09, p. 29806; Moses Blah, TF1-561, 19 May 08, p. 10158-9; Edward Zaymay, DCT-226, 12 May 10, p. 40843-4; 40854-5.

⁶⁸¹ TT, Charles Taylor, 24 Aug 09, p. 27516-7; 27 Aug 09, p. 27873-4; Exhibit D-307, p. 2-3

⁶⁸² TT, Charles Taylor, 4 Nov 09, p. 31097.

group had sought refuge in Libya following an unsuccessful coup against President Dawda Jawara of The Gambia. It was Dr Manneh who insisted that he avail himself of Gambian assistance. Despite the claims within the international community that the invasion by the NPFL was meant to destabilize the West African region and the involvement of the Gambians would have strengthened their case, Taylor was persuaded by Dr Manneh that he needed the security of fellow revolutionaries that he could trust.⁶⁸³ He reasoned that the Gambians did not have an interest in the conflict in Liberia and, therefore, would not pose a threat to his security. Taylor therefore agreed to invite the Gambians into NPFL controlled areas to provide him with personal protection.⁶⁸⁴

ECOMOG Intervention in Liberia

329. By August of 1990, the NPFL had surrounded Monrovia. ECOWAS then made the fateful decision to deploy a military force in Liberia which consisted of Nigerian, Ghanaian, Sierra Leonean, Guinean and Gambian forces. All of these intervening countries, save The Gambia, were ruled by military dictators who saw the overthrow of a brother military dictator as setting a bad precedent.⁶⁸⁵ The ECOMOG intervention was seen as an attempt to frustrate a popular uprising against a soldier-turned-politician by regimes of which almost all, with the exception of tiny Gambia, were headed by soldier politicians. Additionally there is evidence that the then President of Nigeria, Babangida, had personal reasons, including friendship with President Doe and investments in Liberia for wanting to intervene. These forces were assigned to protect the enclave of Monrovia, whereas the NPFL had control over the rest of the country.⁶⁸⁶ In particular, the international community was convinced that Taylor was attempting to destabilize West Africa through the mobilization of the NPFL. The hands of Colonel Ghadaffi and President Compaore were said to be behind a wider joint criminal enterprise. It is important to recall how vilified Ghadaffi was at that particular historical juncture, so much so that any wild theory as to his ambitions would gain traction in the Western media. Since Nigeria was the main provider of arms and ammunition to the AFL and had been supporting Doe

⁶⁸³ TT, Charles Taylor, 20 Jul 09, p. 24722-3. Yanks Smythe confirmed that the sole purpose of the presence of the Gambians in Liberia, was to provide protection to Charles Taylor. Yanks Smythe, DCT-179, p. 35629-31; DCT-125, 9 Mar 10, p. 36776; 10 Mar 10, p. 36979-80; 19 Mar 10, p. 37618-20.

⁶⁸⁴ TT, DCT-125, 9 March 10, p. 36776; 10 Mar 10, p. 36997.

⁶⁸⁵ See comment by President Lansana Conte of Guinea, "Charles Taylor is a bad example. Civilians should not be encouraged to overthrow military regimes." See Exhibit D-118, see also Exhibit D-408.

⁶⁸⁶ TT, Charles Taylor, 30 Sep 09, p. 29958.

throughout the conflict, it had an interest in protecting the Doe Government when ECOMOG forces intervened. We say that ECOMOG forces were not deployed in Liberia with the purpose of protecting its citizens, but to keep Samuel Doe in power.⁶⁸⁷ They were there to protect the status quo and stem this idea of civilian-led revolt before it became infectious.

330. There were also strategic global aspects to this intervention. The United Kingdom was uneasy about the expeditionary force led by Nigeria, the most powerful African country in the sub-region. The United Kingdom felt that an increase in Nigerian influence in the sub-region could affect Britain's interests in the area. To the British Government the idea of Nigerian hegemony in the area was repugnant.⁶⁸⁸ This would prove to be a consistent theme which emerges particularly powerfully at the time of the Intervention in Freetown in 1998.
331. Prior to the intervention of ECOMOG, Taylor was informed that several states had taken sides in the conflict and were arming opposition to the NPFL. As a consequence of their partiality, the NPFL threatened to attack ECOMOG forces when they arrived in Liberia.⁶⁸⁹ However, Herman Cohen, a representative for the United States pleaded with Charles Taylor not to attack Monrovia because of the potential carnage it might precipitate. Despite Taylor's oft expressed opposition to the deployment of ECOMOG forces in Liberia as a ploy to rob him of a certain victory, he decided to refrain from attacking Monrovia.⁶⁹⁰ This was perhaps the biggest mistake Charles Taylor made in the Liberian civil war. That bloody conflict might have ended much sooner if Charles Taylor had not been illegitimately robbed of a deserved victory. The NPFL was also requested to keep the road between Monrovia and Freetown open to allow civilians to leave the area. However, in mid-July 1990 the INPFL arrived in Monrovia and sealed off the road to Freetown.⁶⁹¹
332. ECOMOG used its air superiority to carry out several precision bombing attacks on NPFL positions and thus succeeded in expelling NPFL forces from the outskirts of Monrovia. Prior to the bombings by the ECOMOG forces, the NPFL had succeeded

⁶⁸⁷ TT, Charles Taylor, 1 Dec 09, p. 32837; DCT-125, 10 Mar 10, p. 36916.

⁶⁸⁸ TT, Charles Taylor, 23 Jul 09, p. 25186-7; 27 Jul 09, p. 25263-6; Exhibit D-341.

⁶⁸⁹ TT, Charles Taylor, 20 Jul 09, p. 24729-30; 21 Jul 09, p. 24859-60; 24884-5.

⁶⁹⁰ In his cross-examination, Taylor specifically states that Herman Cohen provided an incorrect account of the events relating to the decision of Taylor not to enter Monrovia in 1990 when the ECOMOG forces arrived. TT, Charles Taylor, 23 Nov 09, p. 32311-2; 1 Dec 09, p. 32833-4.

⁶⁹¹ TT, Charles Taylor, 24 Aug 09, p. 27514.

in occupying the campus of the University of Liberia.⁶⁹² At this stage the NPFL were on the verge of total victory. In response to the ECOMOG attack, in October 1990 NPFL detained the nationals of the invading ECOMOG forces for investigation.⁶⁹³ Furthermore, as a result of the NPFL's loss of territory to the ECOMOG forces in late 1990, ULIMO was able to continue its operations into Cape Mount County at the beginning of 1991.⁶⁹⁴

The Continuation of Black Kaddafa

333. When Cooper Miller and Augustine Wright were released from custody in Burkina Faso, they joined the INPFL.⁶⁹⁵ Cooper Miller was subsequently killed during a conflict within the INPFL;⁶⁹⁶ Augustine Wright left the INPFL and rejoined the ranks of the NPFL. However, he was implicated in an assassination attempt on Taylor after which he was tried and executed.⁶⁹⁷ This event made it clear to Taylor that Black Kaddafa remained a real threat to the success of his leadership of the NPFL.⁶⁹⁸
334. Anthony Mekunagbe was a part of the Black Kaddafa in Libya and without Taylor's knowledge assisted Foday Sankoh in the establishment of the RUF as a fighting force. Through him the RUF were allowed to recruit and train at Camp Naama.⁶⁹⁹ Charles Taylor first became aware of the operations of Black Kaddafa, and the support it had provided to Foday Sankoh when the two met for the first time in June 1991, when the two agreed to co-operate to combat ULIMO.⁷⁰⁰ Investigations were then conducted into the alleged cooperation between the NPFL Special Forces and the RUF. Those who were named by Foday Sankoh were investigated but not arrested at the time. Those investigated were, Anthony Mekunagbe, Oliver Varney, Yegbeh Degbon, and Timothy Mulibah.⁷⁰¹ They denied the allegations and it was concluded that they were not involved with the RUF.⁷⁰²
335. Thereafter, Taylor received reports from Tom Woweiyu, the NPFL Defence Minister at the time, about the suspicious movement of arms and ammunition by Yegbeh Degbon. Charles Taylor also received intelligence that Degbon was either associating

⁶⁹² TT, Charles Taylor, 24 Aug 09, p. 27514; 2 Dec 09, p. 32847.

⁶⁹³ TT, Charles Taylor, 20 Jul 09, p. 24730-1; Stephen Ellis, 18 Jan 08, p. 1548.

⁶⁹⁴ TT, Charles Taylor, 30 Sep 09, p. 29958.

⁶⁹⁵ TT, Charles Taylor, 3 Nov 09, p. 30987-9; 4 Nov 09, p. 31092.

⁶⁹⁶ This occurred without any involvement of the NPFL.

⁶⁹⁷ TT, Charles Taylor, 4 Nov 09, p. 31092-3.

⁶⁹⁸ TT, Charles Taylor, 16 Jul 09, p. 24600-1.

⁶⁹⁹ TT, Charles Taylor, 23 Sep 09, p. 29453; 3 Nov 09, p. 30988.

⁷⁰⁰ TT, Charles Taylor, 25 Nov 09, p. 32369-70.

⁷⁰¹ TT, Charles Taylor, 25 Nov 09, p. 32370.

⁷⁰² TT, Charles Taylor, 25 Nov 09, p. 32371-2.

with or had set up the Black Kaddafa and that those arms and ammunition were being stored by him for a special operation. After conducting further investigation into the allegations, Taylor was informed that Black Kaddafa was comprised predominantly of Sierra Leoneans with some Liberians⁷⁰³ and that their objective was to overthrow and kill the leadership of the NPFL.⁷⁰⁴

336. Taylor then ordered the arrest of Oliver Varney, Yegbeh Degbon, Timothy Mulibah and Anthony Mekunagbe. Although Anthony Mekunagbe died in detention awaiting trial, the three other individuals were convicted by a court-martial and executed.⁷⁰⁵

NPFL cooperation with the RUF

337. After the invasion in 1989, the NPFL was able to advance into Liberia and capture approximately ninety percent of the country. Many members of the opposition were forced to seek refuge in neighbouring countries, but continued to oppose the NPFL, including former members of the AFL. Alhaji Kromah who was an ethnic Mandingo, cooperated with the Sierra Leonean Government and a group of former Liberian government officials and army officers, to form ULIMO.⁷⁰⁶ In May/June 1991, the NPFL received reports that supporters of the Doe Government had formed ULIMO and that they planned to attack NPFL positions. When ULIMO attacked the NPFL in Cape Mount County in June/July 1991, the NPFL received information from POW's, that ULIMO was backed by the Sierra Leonean and the Guinean governments.⁷⁰⁷
338. Indeed the United Liberation Movement of Liberia, ULIMO, was forged in Sierra Leone out of the remnants of Doe's disintegrated army, as well as Krahn and Mandingo refugees from Liberia. They were trained and armed in Kenema, in eastern Sierra Leone, under the command of General Karpeh, with political control exercised by Alhaji Kromah, a Mandingo and former Doe official, and Roosevelt Johnson. This force launched an offensive against the RUF in the Pujehun district and succeeded in pushing it back into Liberia within two months in 1991.

⁷⁰³ TT, Charles Taylor, 16 Sep 09, p. 29131; 4 Nov 09, p. 31095; Dauda Aruna Fornie, TF1-274 1 Dec 08, p. 21324.

⁷⁰⁴ TT, Charles Taylor, 15 Sep 09, p. 28966; 16 Sep 09, p. 29129-31; 2 Dec 09, p. 32961-8; 3 Dec 09, p. 33005-7; Edward Mineh, DCT-131, 29 Apr 10, p. 40348-53; 4 May 10, p. 40513-4; 40516; Moses Blah, TF1-561, 19 May 08, p. 10178.

⁷⁰⁵ TT, Charles Taylor, 4 Nov 09, p. 31103-5; 2 Dec 09, p. 32970-80; 3 Dec 09, p. 33002-5; Edward Mineh, DCT-131, 29 Apr 10, p. 40361-6; 3 May 10, p. 40417-9; 4 May 10, p. 40515-6. With regards to the involvement of Sam Larto with Black Kaddafa, see also: Charles Taylor, 2 Dec 09, p. 32980-6.

⁷⁰⁶ TT, Charles Taylor, 24 Aug 09, p. 27487; 2 Nov 09, p. 30797.

⁷⁰⁷ TT, Charles Taylor, 25 Nov 09, p. 32367; Moses Blah, TF1-561, 19 May 08, p. 10192; Yanks Smythe, DCT-179, 22 Feb 10, p. 35671-3.

339. Charles Taylor attempted to discuss the situation with President Momoh although the latter denied that the government supported ULIMO. Thereafter, around June 1991, Taylor and other top officials within the NPFL decided to contact the leadership of the RUF in order to cooperate in protecting the Liberian-Sierra Leonean border against ULIMO, a common enemy.⁷⁰⁸ Official support by the NPFL for the RUF, at this time was an act of self-defence.
340. Moses Blah attested to the fact that the first time he saw Foday Sankoh, after Libya, was in Gbarnga.⁷⁰⁹ During their first meeting in June 1991, Taylor and Sankoh came to an agreement that the RUF itself would not be used in the fighting, but that a special operations unit would be sent to the border area to fight ULIMO.⁷¹⁰ Furthermore, it was agreed that the special operations unit would not take orders from Foday Sankoh. Instead, they would remain under the orders of the NPFL.⁷¹¹
341. During the period of cooperation between August 1991 and May 1992, Sankoh would visit Gbarnga occasionally and received support in the form of small amounts of ammunition from the NPFL.⁷¹² He was also provided with a house. It must, however, be stressed that since the NPFL was still involved in fighting in Liberia at this time, it was not in a position to provide substantial support to the RUF.⁷¹³ The fact of the limited support provided to the RUF is reflected in a letter written by Foday Sankoh to Taylor.⁷¹⁴
342. In August 1991, ULIMO managed to gain full control of Cape Mount, Bomi and thus controlled the Liberian-Sierra Leonean border by the end of 1991. By about March 1992, ULIMO was in full control of Lofa County in Liberia,⁷¹⁵ thus closing the border. [REDACTED] by July 1992, ULIMO had completely sealed the RUF supply route to Liberia.⁷¹⁶ Although ULIMO's actions brought tension in the relationship between Taylor and Sankoh, it worsened when in April/May 1992 Sankoh complained about the behavior of the NPFL forces. These

⁷⁰⁸ TT, Charles Taylor, 25 Nov 09, p. 32367-8. Mohamed Kabba confirmed that the purpose of the cooperation between the NPFL and the RUF was to protect the Liberian-Sierra Leonean border against ULIMO. Mohamed Kabbah, TF1-568, 16 Sep 08, p.16324-5.

⁷⁰⁹ TT, Moses Blah, TF1 – 561, 14 May 2008, p. 9860.

⁷¹⁰ TT, Charles Taylor, 25 Nov 09, p. 32369; 32372.

⁷¹¹ TT, Fayia Musa, DCT-306, 21 Apr 10, p. 39491-2; Yanks Smythe, DCT-179, 22 Feb 10, p. 35677.

⁷¹² TT, Yanks Smythe, DCT-179, 22 Feb 10, p. 35674-7.

⁷¹³ TT, Charles Taylor, 20 Jul 09, p. 24811; 24826-7. *See also*, Exhibit P-65.

⁷¹⁴ The letter demonstrates that the RUF was not given sufficient ammunition to fight their common enemy, namely ULIMO. Exhibit P-65; for a comprehensive discussion of the letter see, TT, Charles Taylor, 20 Jul 09, p. 24827-35.

⁷¹⁵ TT, Charles Taylor, 20 Jul 09, p. 24817.

⁷¹⁶ Exhibit P-277.

forces had committed crimes against the Sierra Leonean population in the border area whilst holding back ULIMO. Sankoh complained that the NPFL forces did not respect him as a leader and indeed they did not fall under his command. Taylor, therefore, sent General Francis Menwon along with Sankoh to investigate the matter.⁷¹⁷

343. Taylor's efforts to investigate these crimes came to nought and despite the fact that both forces were fighting a common enemy, namely ULIMO, the RUF forces took matters into their own hands and launched an attack against the NPFL forces, which resulted in many deaths.⁷¹⁸ This conflict had three phases: Top Twenty, Top Forty and Top Final.⁷¹⁹ As a consequence of this conflict, Taylor ordered his forces to withdraw. A radio message was transmitted to this effect.⁷²⁰ Taylor sent in a force of 400 men led by General Dopoe Menkarzon and General Francis Menwon, to ensure an orderly withdrawal of NPFL forces.⁷²¹ In addition, Taylor decided to break all ties with Foday Sankoh.⁷²² It is clear from subsequent evidence that Foday Sankoh after this severance made no attempt thereafter to contact or visit Charles Taylor until he travelled to Liberia following the signing of the Lomé Agreement in 1999. This is despite the fact that he spent many months in The Ivory Coast which gave him direct and unimpeded access to NPFL controlled areas.⁷²³ This perhaps more than anything else confirms the breach between Charles Taylor and Foday Sankoh.

Creation of the NPRAG

344. When the interim government of Liberia was established in Monrovia with Amos Sawyer as the president at the end of 1990, the NPFL knew that the government was not capable of effectively ruling the country. It was decided to create a separate government for NPFL controlled areas and named it the National Patriotic Reconstruction Assembly Government (NPRAG).⁷²⁴ The headquarters were in Gbarnga. Elections were not held during the currency of the NPRAG, but there was a

⁷¹⁷ TT, Charles Taylor, 20 Jul 09, p. 24818-20; 26 Oct 09, p. 30243.

⁷¹⁸ TT, Charles Taylor, 20 Jul 09, p. 24820; 14 Sep 09, p. 28716; 26 Oct 09, p. 30243.

⁷¹⁹ TT Charles Taylor, 20 Jul 09, p. 24823. Charles Taylor described the sequence of events concerning Top 20, Top 40, and Top Final. Charles Taylor, 26 Oct 09, p. 30255:2-15. Exhibit D-336, ERN 0009707 in relation to Charles Taylor, 7 Sept 09, p. 28191-2. *See also*, Issa Sesay, DCT-172, 5 Jul 10, p. 43647-9; Lansana Foday, TF1-275, 20 Feb 08, p. 4373.

⁷²⁰ TT, Foday Lansana, TF1-275, 20 Feb 08, p. 4368-9.

⁷²¹ TT, Charles Taylor, 20 Jul 09, p. 24823-4; 16 Sep 09, p. 29116-8; 27 Oct 09, p. 30476-8.

⁷²² TT, Charles Taylor, 20 Jul 09, p. 24822; 24824-6; 26 Oct 09, p. 30243. Taylor described the relationship between Sankoh and him as 'cordial' and discussed the reasons why he broke all ties with the RUF. Charles Taylor, 10 Sep 09, p. 28669-70. Issa Sesay stated that Foday Sankoh was disgruntled over the withdrawal of the NPFL forces and the, subsequent, lack of ammunition. Issa Sesay, DCT-172, 29 Jul 10, p. 44962-3; Yanks Smythe, DCT-179, 22 Feb 10, p. 35677-9; 23 Feb 10, p. 35743-7.

⁷²³ Evidence of Fayia Musa and TF1-168.

⁷²⁴ TT, Charles Taylor, 16 Jul 09, p. 24690. *See also*, Stephen Ellis, 18 Jan 08, p. 1550.

selection procedure which allowed every region to select representatives to serve on the NPRAG.⁷²⁵ After the creation of the NPRAG and its ministries, Taylor as the leader of this government, moved to Gbarnga in mid-1991.⁷²⁶

Operation Octopus

345. In the October 1992 the NPFL initiated Operation Octopus which was an attack on Monrovia intended to end the conflict. Taylor decided that taking the city was the only way to put an end to the civil war. Taylor remained suspicious of ECOMOG's motives and with good cause: he was aware that despite their supposed role as peacekeepers, ECOMOG and the Sierra Leonean government had re-armed ULIMO. ECOMOG's actions, Taylor felt would prolong the war and the suffering of the Liberian people. Although he controlled more than 80 percent of Liberia he was keenly aware that without the capture of Monrovia the war could not be brought to an end. Only the capture of Monrovia could break the stalemate.⁷²⁷
346. When Operation Octopus commenced the NPFL did not use SBU's nor did it use abducted children as a shield to prevent the ECOMOG forces from attacking the NPFL soldiers as suggested to Taylor in cross-examination.⁷²⁸ It was the intention to keep civilian casualties to a minimum. The plan was to attack ECOMOG positions away from the heart of Monrovia. The plan involved the artillery bombardment of ECOMOG positions which would then pave the way for the capture of Monrovia.⁷²⁹
347. The attack lasted for one month until ECOMOG jet fighters flying from Lungi airport in Sierra Leone bombed NPFL positions. The NPFL did not have the means to counter these attacks and was, therefore, forced to retreat to Gbarnga in November 1992.⁷³⁰ Even though the NPFL did not capture Monrovia, Operation Octopus, with hindsight, did serve a purpose because it convinced all parties that the NPFL could not be defeated militarily and thus began the first serious attempts to negotiate with

⁷²⁵ The military was not involved in the selection procedure. Instead, the elders and chiefs from each region would assemble and make the selection. TT, Charles Taylor, 16 Jul 09, p. 24690-1.

⁷²⁶ Taylor also described the establishment of the Ministry of Defence with Tom Womeiyu as the minister of defence. TT, Charles Taylor, 16 Jul 09, p. 24691-2. Edward Zaymay stated that there were more ministers within the NPRAG, but he could only recall Tom Womeiyu and Yegbeh Degbon as ministers. TT, Edward Zaymay, DCT-226, 11 May 10, p. 40771-2; Yanks Smythe, DCT-179, 22 Feb 10, pp. 35657; 35663-4.

⁷²⁷ TT, Charles Taylor, 21 Jul 09, p. 24859-60; 25 Aug 9, p. 27544-5; 27 Aug 09, p. 27882. Edward Zaymay confirmed that Taylor intended to end the war by initiating Operation Octopus. TT, Edward Zaymay, DCT-226, 11 May 10, p. 40767-8. During this operation, several American nuns were killed in the crossfire. Charles Taylor, 17 Nov 09, p. 31805-6; 19 Nov 09, p. 32257-60.

⁷²⁸ TT, Charles Taylor, 26 Jan 10, p. 34106-10.

⁷²⁹ TT, Charles Taylor, 17 Feb 10, p. 35215-6.

⁷³⁰ TT, Edward Zaymay, DCT-226, 11 May 10, pp. 40769-70.

the NPFL to find a peaceful solution.⁷³¹ Again we see a parallel here with Sierra Leone as within months of the bloody Freetown Invasion at last peace could be secured.

The Difficult Road to Elections

348. Peace and a return to democracy came to Liberia by a circuitous route. The route was littered with bad intentions, factionalism, downright deceit, politics and strategic interest. Power was the prize: each faction and indeed ECOMOG wanted its share. Free and fair elections had been proposed as far back as the Banjul Summit Meeting on 30 May 1990.⁷³² At the First Session of the Community of Standing Mediation Committee that met in Banjul on 6 and 7 August 1990 also it was decided, *inter alia*, that there should be an independent Electoral Commission for general and presidential elections to be held within 12 months.⁷³³ Then an Elections Commission for the organisation and supervision of the elections was suggested at the ECOWAS Yamoussoukro meetings of 16 and 17 September 1991, plus an ad-hoc Supreme Court to adjudicate electoral disputes.⁷³⁴ The ECOMOG programme of implementation included the disarmament and decampment of combatants within 60 days and elections by 1 June 1992.⁷³⁵
349. UNOMIL was established by Security Council Resolution 866 on 22 September 1993 to assist in the implementation of the Cotonou Agreement of 1992, which endorsed the Yamousoukro Accord in disarming and demobilizing warring parties as well as establishing democratically elected governments through ECOMOG, including observing and verifying an election.⁷³⁶
350. Further occasions including ECOWAS meetings at which free and fair elections in Liberia were called for took place in Geneva on 6-7 April 1992;⁷³⁷ Dakar on 27-29 July 1992;⁷³⁸ Cotonou on 20 October 1992;⁷³⁹ Abuja on 7 November 1992;⁷⁴⁰ Geneva again on 10-17 July 1993;⁷⁴¹ a location arranged by President Soglo of Benin on 23

⁷³¹ TT, Charles Taylor, 21 Jul 09, p. 24860; 25 Aug 09, p. 27545; Stephen Ellis, 18 Jan 08, p. 1549; Joseph Dehmie, DCT-228, 31 May 10, p. 41564-5.

⁷³² Exhibit D-120, p. 6.

⁷³³ Exhibit D-120, p. 8.

⁷³⁴ Exhibit D-120, p. 12, para. 21.1

⁷³⁵ Exhibit D-120, p. 13, para. 21.4

⁷³⁶ Exhibit D-120, p. 36, para. 60

⁷³⁷ Exhibit D-120, p. 16, para. 23

⁷³⁸ Exhibit D-120, p. 18, para. 33.4, para. 33.5 and para. 34.3

⁷³⁹ Exhibit D-120, p. 21, para. 36

⁷⁴⁰ Exhibit D-120, p. 21, para. 36

⁷⁴¹ Exhibit D-120, p. 27, para. 51.12.2

February 1994,⁷⁴² when David Kpomakpor was made chairman of the Liberian National Transitional Government (“LNTG”) on 7 March 1994;⁷⁴³ when international experts arrived to consult with the LNTG on 22 May 1994;⁷⁴⁴ at Abuja on 5 and 6 August 1994,⁷⁴⁵ at Akosombo on 12 September 1994,⁷⁴⁶ at the Liberian National Conference.⁷⁴⁷

351. The eventual ECOWAS meeting which led to elections which actually occurred was known as the Abuja II Accords of August 1996. It was held as a result of fighting in Monrovia in April of the same year which erupted when attempts were made to arrest Roosevelt Johnson. Stephen Ellis stated that during the first part of Taylor’s campaign, in 1985 to 1993, Taylor was faced with “implacable hostility” from the Nigerian government under General Ibrahim Babangida. It was only after General Sani Abacha came to power in 1993 that Nigeria’s effective veto on Taylor’s ascension to power was removed.⁷⁴⁸
352. The Abuja II Accords set out, in its agreed timetables, holding elections in Liberia in 1997 to return the country to constitutional order.⁷⁴⁹ An ECOWAS meeting in February 1997 established the framework for the conduct of the July 1997 elections.⁷⁵⁰
353. An Independent Elections Commission was established in Liberia on 2 April 1997, with the support of ECOWAS. The reconstituted Supreme Court was installed on 7 April 1997 to adjudicate electoral disputes.⁷⁵¹ A Special Elections Law was drafted by IECOM and submitted to ECOWAS, which approved it on 21 May 1997 at Abuja.⁷⁵² ECOMOG had around 11,000 troops deployed at 48 different locations to ensure security during the elections.⁷⁵³ In April 1997, there was a build up of civilian and military observers to facilitate a free and fair election.⁷⁵⁴ There were 93 observers in the United Nations Observer Mission in Liberia as of 15 June 1997⁷⁵⁵ and hundreds of

⁷⁴² Exhibit D-120, p. 41, para. 69.1

⁷⁴³ Exhibit D-120 p. 44, paras. 72-73

⁷⁴⁴ Exhibit D-120, p. 47, para. 77

⁷⁴⁵ Exhibit D-120, p. 59, para. 85.4

⁷⁴⁶ Exhibit D-120, p. 68, para. 92

⁷⁴⁷ Exhibit D-120, p. 76, para. 95.5.4

⁷⁴⁸ Exhibit P-31, p. 12.

⁷⁴⁹ Exhibit D-126, p. 8. *See also*, the full text of the Abuja II Accord in evidence. Exhibit D-375, p. 100-20.

⁷⁵⁰ Exhibit D-338, p. 1.

⁷⁵¹ Exhibit P-475.

⁷⁵² Exhibit P-475. *See also*, the full text of this law in evidence. Exhibit D-385, p. 149-91.

⁷⁵³ Exhibit P-475; TT, Charles Taylor, 26 Jan 10, p. 33866.

⁷⁵⁴ TT, Charles Taylor, 17 Feb 10, p. 35234. *See also*, Exhibit P-475.

⁷⁵⁵ Exhibit P-475, p. 15. *See also*, TT, Charles Taylor, 21 Jan 10, p. 33867.

observers from various organizations, including ECOWAS, the OAU, the Carter Center and the International Foundation of Electoral Systems.⁷⁵⁶ The UN Secretary-General stated that there were over 500 international electoral observers.⁷⁵⁷ The Presidential Papers stated that the international community, led by the UN, “fielded more than 2,000 observers to monitor and report on the elections.”⁷⁵⁸

354. Major General Victor Malu was field commander for ECOMOG in Liberia during the elections.⁷⁵⁹ The mandate of ECOMOG forces prior to the elections was one of total control where they made all administrative and other decisions within Liberia.⁷⁶⁰
355. By the time of the elections, the NPFL were occupying primarily two counties: Nimba and Bong. The Liberian Peace Council (“LPC”) was occupying Grand Bassa, Maryland and the entire southeast of Liberia. ULIMO-K and ULIMO-J were occupying the northeast/northwest.⁷⁶¹ Thirteen parties participated in the elections, whose presidential candidates included Chea Cheapo, Ellen Johnson-Sirleaf, Alhaji Kromah, Henry Fahnbulleh and George Boley Senior.⁷⁶²

Charles Taylor’s Election Campaign

356. By January 1997, there had been ‘substantial to total disarmament’ of the warring factions.⁷⁶³ The NPFL had disbanded and had begun the process of forming a political party.⁷⁶⁴ In January 1997, Taylor resigned from the Council of State in order to be eligible to run in the elections.⁷⁶⁵
357. Taylor’s campaign was financed from personal income he had put together over two years. He also received one million USD and half a million USD from the Taiwanese and Libyans respectively. Taiwan had donated one million USD directly to ECOWAS to fund the elections as a whole.⁷⁶⁶
358. Three months of campaigning was permitted and started his electoral campaign around April 1997.⁷⁶⁷ However, the IECOM Chairman has been quoted as stating that the official campaign for political parties contesting the elections opened on 16 June

⁷⁵⁶ TT, Charles Taylor, 23 Jul 09, p. 25158-59.

⁷⁵⁷ Exhibit D-338, p. 2.

⁷⁵⁸ Exhibit D-141, p. 18.

⁷⁵⁹ TT, Charles Taylor, 17 Nov 09, p. 31903; 28 Jul 09, p. 25345-6; Exhibit D-136, p. 10.

⁷⁶⁰ TT, Charles Taylor, 18 Nov 09, p. 31952.

⁷⁶¹ TT, Charles Taylor, 23 Nov 09, p. 32272.

⁷⁶² Exhibit D-126, p. 1.

⁷⁶³ TT, Charles Taylor, 23 Jul 09, p. 25135.

⁷⁶⁴ TT, Charles Taylor, 23 Jul 09, p. 25150; 1 Dec 09, p. 32765; 17 Feb 10, p. 35178.

⁷⁶⁵ TT, Charles Taylor, 1 Dec 09, p. 32764.

⁷⁶⁶ TT, Charles Taylor, 1 Dec 09, p. 32764-69; 23 Jul 2009, p. 25152.

⁷⁶⁷ TT, Charles Taylor, 23 Jul 09, p. 25151-52; 25155; 1 Dec 09, p. 32764.

1997.⁷⁶⁸ Taylor did, however, campaign in Bomi, despite it being an area formerly controlled by ULIMO-J.⁷⁶⁹ It was possible to campaign in these places because disarmament and demobilisation had finished in December 1996.⁷⁷⁰

Criticism of Charles Taylor's Campaign

359. Abu Keita stated that Taylor's last rally was held "at the SKD Stadium where his supporters were using the slogan, 'You killed my mother, you killed my father, I will vote for you.'"⁷⁷¹ Stephen Smith⁷⁷², interpreted the infamous electoral slogan as, "we killed your ma, we killed your pa so if you want to stay free of trouble you should vote for us."⁷⁷³ Taylor said this slogan was not meant by his supporters to intimidate; otherwise the international observers would not have declared the elections free, fair and transparent. He stated that "individuals that claimed that they had nothing to do with the elections were telling people not to vote for any 'killers'". In response, Taylor's supporters said that whatever they wanted to say about or call Taylor, be it that he killed their mothers and killed their fathers, they would still vote for him because they believed in him.⁷⁷⁴
360. Taylor stated that his party followed the rules on secret ballots and that there were no instances of registered parties that were sanctioned for exerting undue influence on voters.⁷⁷⁵
361. According to the Carter Center report, Taylor enjoyed overwhelming advantage in terms of resources, access to media and organisation⁷⁷⁶ and that the abbreviated timetable arranged on 21 May 1997 favoured Taylor's NPP.⁷⁷⁷ The report also stated that they sent a delegation in April 1997 which raised issues of post-election governance with various leaders. The report further stated that the April delegation had reported that there were concerns about the lack a level playing field.⁷⁷⁸

Events in Sierra Leone during this Time Period

⁷⁶⁸ Exhibit D-385, p. 180.

⁷⁶⁹ TT, Charles Taylor, 23 Jul 09, p. 25158.

⁷⁷⁰ TT, Charles Taylor, 23 Jul 09, p. 25157.

⁷⁷¹ TT, Abu Keita, TF1-276, 23 Jan 08, p. 1960.

⁷⁷² TF1-588, Professor at Duke University, North Carolina. Formerly a journalist in West Africa during the Liberian Civil War.

⁷⁷³ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16847.

⁷⁷⁴ TT, Charles Taylor, 23 Jul 09, p. 25165.

⁷⁷⁵ Referring to the laws prohibiting such practices in the text of the Special Elections Law. Exhibit D-385, p. 179.

⁷⁷⁶ Exhibit D-126, p. 9.

⁷⁷⁷ Exhibit D-126, p. 10.

⁷⁷⁸ Exhibit D-126, p. 10.

362. Taylor became aware of Sankoh's arrest in Nigeria in March 1997 through the local news. He did not know what Sankoh was doing in Nigeria.⁷⁷⁹ He recalled that a group of senior RUF members tried to take control of the RUF in Sankoh's absence, but thought it unlikely that he heard about it at the time and stated that he heard of the details here.⁷⁸⁰
363. The Extraordinary Summit of ECOWAS leaders held at Abuja, 21 May 1997, which was a meeting organised by ECOWAS with Liberia's political parties.⁷⁸¹ There is no confirmation that Taylor attended, however. Taylor's main preoccupation up until elections was getting elected as president.⁷⁸² He stated that he was very busy putting together the organisation for the elections.⁷⁸³ During the time period when the elections were being arranged, the SLA coup occurred in Sierra Leone on 25 May 1997.
364. In June 1997 ECOWAS had decided to restore the government of Tejan Kabbah by April 1998 and not recognise the Junta. Taylor did not join the Committee of Five until September 1997.⁷⁸⁴
365. When Taylor was inaugurated on 2 August 1997, he was even more preoccupied with Liberia. He conceived a well-thought out programme to get Liberia started on reconciliation, stability, investment and to bring everyone on board. He said that every minute was spent on Liberia, bar the time spent at home with his children.⁷⁸⁵ And, in reference to the start of the indictment period, from November 1996 until his inauguration on 2 August 1997, the issues occupying him were disarmament, demobilisation, putting together a political party, putting together a political structure, running a campaign and being elected as President.⁷⁸⁶ During this time, he was not ordering or controlling the RUF, nor was he in any form of contact with them.⁷⁸⁷

**Alleged Contact between Charles Taylor and the Junta after the 25 May 1997
Coup in Sierra Leone**

366. It must be recalled that the NPFL had fought alongside the RUF in the early years of the war in Sierra Leone against the SLA. It was these same former SLA soldiers who

⁷⁷⁹ TT, Charles Taylor, 23 Jul 09, p. 25153.

⁷⁸⁰ TT, Charles Taylor, 23 July 09, p. 25153.

⁷⁸¹ Exhibit D-338, p. 1; Exhibit D-126, p. 10.

⁷⁸² TT, Charles Taylor, 23 July 2009, p. 25152.

⁷⁸³ TT, Charles Taylor, 23 Jul 09, p. 25155.

⁷⁸⁴ TT, Charles Taylor, 23 Jul 09, p. 25286-7.

⁷⁸⁵ TT, Charles Taylor, 23 Jul 09, p. 25201.

⁷⁸⁶ TT, Charles Taylor, 23 Jul 09, p. 25202.

⁷⁸⁷ TT, Charles Taylor, 23 Jul 09, p. 25201-2.

now formed the Junta. The idea that these former enemies immediately became clients of Charles Taylor is lacking in reason and common sense and should be rejected out of hand. This is the stuff of desperation yet was alleged by Samuel Kargbo that when the AFRC invited the RUF to join them in Freetown, Gibril Massaquoi brought with him Taylor's telephone number from Sankoh in Nigeria to give to Johnny Paul Koroma.⁷⁸⁸ It is somewhat curious that Sankoh would be seeking to put the leadership of the AFRC in touch with Taylor when he so studiously avoided Taylor for a considerable period of time. Why include Taylor now that Sankoh and his RUF had been invited into Government? What did Sankoh stand to gain? Yet according to Kargbo, JP Koroma subsequently called Taylor from Cockerill. Taylor allegedly told JP Koroma that the SLA and RUF should be together, that he would support the Junta in whatever situation and to call if there were any problems between the SLA and the RUF.⁷⁸⁹ Did Taylor recognise the Junta? Taylor has repeatedly stated that he did not recognise the Junta.⁷⁹⁰ Samuel Kargbo admitted that he did not hear the actual conversation where Taylor allegedly recognised JP Koroma's government. Kargbo stated that it was JP Koroma who told him that Taylor was ready to recognise the Junta government, after JP Koroma had a telephone conversation with Taylor. Kargbo stated that this occurred within three weeks of the SLA coup, i.e. some time in June 1997. Kargbo's claim is seriously undermined by the fact that he understood Taylor to be the president of Liberia at this time, when in fact Taylor was not president until 2 August 1997.⁷⁹¹ Taylor denies the said telephone conversation with JP Koroma and further says he did not have the authority to recognise the Junta at the time alleged.⁷⁹²

Results of the Liberian Election

367. Taylor won the elections by an overwhelming majority. Official figures stated that he obtained 75.33% of the votes, or 468,443 votes out of a total of 621,880 votes.⁷⁹³ Taylor stated that they stopped counting at 70%.⁷⁹⁴ The nearest rival, Ellen-Johnson Sirleaf, obtained 9.58% of the votes.⁷⁹⁵ Various reasons have been put forward for

⁷⁸⁸ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10516.

⁷⁸⁹ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10516-17.

⁷⁹⁰ TT, Charles Taylor, 27 Jul 09, p. 25301-2; 24 Sep 09, p. 29633.

⁷⁹¹ TT, Samuel Kargbo, TF1-597, 2 Jun 08, p. 10667-69.

⁷⁹² TT, Charles Taylor, 2 Nov 09, p. 30815-16.

⁷⁹³ Exhibit D-385, p. 190; Exhibit D-127, p. 11.

⁷⁹⁴ TT, Charles Taylor, 23 Jul 09, p. 25171.

⁷⁹⁵ Exhibit D-385, p. 190; Exhibit D-127, p. 11.

Taylor winning the elections. The main reason put forward by the Prosecution is that the electorate believed that Taylor would have thrown Liberia back into chaos had he lost the elections.⁷⁹⁶ The infamous slogan was said to mean that since Taylor had been part of the cause of the problem in Liberia, he was also the one who could put an end to it.⁷⁹⁷ It was put to Taylor in cross-examination that people voted for him because he would have returned Liberia to war had he not won. Taylor denied this and cited the participation of the international community in the elections as evidence that that notion is without foundation.⁷⁹⁸ Furthermore, Taylor stated in examination-in-chief that he would not have gone back to war if he had lost the election; everything he had done before this time was about achieving peace. The discussions with President Abacha had brought peace. All the factions had disarmed and Taylor had moved to Monrovia. Taylor pledged to support whoever won the elections. He pointed out the absurdity of trying to restart a war considering there were so many peacekeepers in Liberia at that time.⁷⁹⁹

368. It is also clear that Taylor's overwhelming advantage in terms of organisation, resources and timetabling referred to in the Carter Center report contributed to his electoral victory.⁸⁰⁰ Taylor has stated that a reason why he won the elections was because he did not encourage impunity amongst his forces and punished those who were guilty of impunity.⁸⁰¹
369. An article in the New African of December 1997 tried to explain why Liberians voted the way they did.⁸⁰² One of the IECOM election commissioners is quoted as saying that, "[t]he NPFL were not saints...[but] the NPFL left the infrastructure and homes intact. They ran the schools and hospitals and looked after the welfare of the people."⁸⁰³ This is in contrast to the other warring factions who "destroyed life, homes and the infrastructure." The people apparently never forgave the leaders of those warring factions when they asked the people to vote for them.⁸⁰⁴

⁷⁹⁶ Exhibit D-404, p.1.

⁷⁹⁷ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16847.

⁷⁹⁸ TT, Charles Taylor, 23 Nov 09, p. 32271-72.

⁷⁹⁹ TT, Charles Taylor, 23 Jul 09, p. 25179.

⁸⁰⁰ Exhibit D-126, pp. 9-10.

⁸⁰¹ TT, Charles Taylor, 19 Nov 09, p. 32242.

⁸⁰² Exhibit D-127, pp. 10-11.

⁸⁰³ Exhibit D-127, p. 10.

⁸⁰⁴ Exhibit D-127, pp. 10-11.

370. It is submitted that the elections were free and fair. It was an expression of democracy despite the prosecution's churlish efforts to paint it otherwise. Prosecution witness, Stephen Smith confirmed this:

Q: There was no suggestion that the 1997 election of Mr Taylor was fraudulent and rigged, is there?

A: There is none, no.⁸⁰⁵

371. During cross-examination of Moses Blah, he accepted: (1) that all the foreign observers declared the election to be free and fair with no significant irregularities.⁸⁰⁶

(2) That the NPP won a landslide victory which was fully democratically endorsed by the people of Liberia.⁸⁰⁷ And (3) that the results of the elections were accepted by all sides who were involved in the elections.⁸⁰⁸

372. President Carter and the Carter Center had been active in Liberia since 1991. They opened an office in Monrovia in 1992 (closed briefly following fighting in Monrovia in 1996). The 1997 Liberia Election Project, as part of the Center sent a 40-member international observer delegation co-led by President Carter in the run up to the July elections.⁸⁰⁹ Taylor said that the delegation were there, to make sure that those who wanted to vote had the chance to vote, to make sure the ballots were not tampered with once they were in the boxes and to observe whether the process was free, fair and transparent.⁸¹⁰ The Carter Center report described the election process as "fair but far from perfect".⁸¹¹

373. The UN Secretary-General stated in his report that UNOMIL civilian electoral observers were deployed to all 13 counties of Liberia (as of 15 June 1997),⁸¹² who were there to observe the conduct of the electoral process, which includes the monitoring of harassment.⁸¹³ Shortly after the election, the Secretary-General sent a letter addressed to the President of the Security Council⁸¹⁴ which stated there were over 500 international electoral observers deployed throughout all 13 counties and that the UNOMIL observers visited over 1,500 of the 1,864 polling stations. They

⁸⁰⁵ TF1-588, Professor at Duke University, North Carolina. Formerly a journalist in West Africa during the Liberian Civil War.

⁸⁰⁶ TT, Moses Blah, TF1-561, 20 May 08, p. 10239.

⁸⁰⁷ TT, Moses Blah, TF1-561, 20 May 08, p. 10239.

⁸⁰⁸ TT, Moses Blah, TF1-561, 20 May 08, p. 10240.

⁸⁰⁹ Exhibit D-126, p. 8.

⁸¹⁰ TT, Charles Taylor, 23 Jul 09, p. 25164.

⁸¹¹ Exhibit D-126, p. 8.

⁸¹² Exhibit P-475, para. 3

⁸¹³ TT, Charles Taylor, 17 Feb 10, p. 35229-30.

⁸¹⁴ Exhibit D-338.

reported that “polling was conducted in an organised and efficient manner without reports of violence or intimidation” (emphasis added). Although a number of “technical irregularities were noted, there were no reports of major irregularities or of any circumstance that could have affected the outcome or credibility of the polling process.”⁸¹⁵

374. The Secretary-General’s letter contained the following points:

“The large number of registration sites and their wide distribution throughout the country afforded Liberians a fair and adequate opportunity to register themselves for the elections.”⁸¹⁶

“The [political parties’] campaign extended across the country, and was conducted in a generally civil and peaceful atmosphere.”⁸¹⁷

“In assessing the overall conduct of the polling, it was apparent that all eligible Liberians had a fair opportunity to vote for a political party of their choice.”⁸¹⁸

“In all cases, party agents and national and international observers had an opportunity to be present at the unsealing of the transparent ballot boxes and the counting and tallying of votes at the polling sites by the presiding officers. ECOMOG was also present at every polling station, including during the counting and tallying of votes. Final results from each polling site were announced by the presiding officer in the presence of party agents, national and international observers, and ECOMOG.”⁸¹⁹

“Earlier today, I issued a joint statement...with the Chairman of ECOWAS, General Sani Abacha, Head of State of Nigeria, verifying that the elections had been held in a secure environment, that the process had been credible and transparent and that the announced results were in accordance with the votes case. On behalf of the United Nations and ECOWAS, the elections were certified as having been free and fair.”⁸²⁰

375. In the Final Report of the Sixteenth Meeting of ECOWAS Chiefs of Staff,⁸²¹ published the month after the elections, it stated that Liberia held “transparent, free and fair elections”.⁸²²

376. The New African magazine of December 1997⁸²³ published a breakdown of the results of the election as well as an insight into why Liberians voted the way they did. The Chairman of the Election Commission, Paul Guah, is quoted as saying, “[t]here

⁸¹⁵ Exhibit D-338, p. 2.

⁸¹⁶ Exhibit D-338, p. 1.

⁸¹⁷ Exhibit D-338, p. 1.

⁸¹⁸ Exhibit D-338, p. 2.

⁸¹⁹ Exhibit D-338, p. 2.

⁸²⁰ Exhibit D-338, p. 2.

⁸²¹ Held in Abuja, 26-27 August 1997, Exhibit D-136.

⁸²² Exhibit D-136, p. 10.

⁸²³ Exhibit D-127.

was no intimidation whatsoever, and we have received no complaints, not even one, from anyone yet [against the results and the conduct of the polls].”⁸²⁴

377. The attempt by the prosecution to suggest that this was an election won through fear is so far off the mark as to be beyond the horizon. It is an attempt to rewrite history and shoehorn a theory into a fixed factual event. But in any event, this information is irrelevant to the Indictment? It is merely an attempt to besmirch a defendant through the introduction of unfounded prejudice. It is the tactic of a prosecutor who seeks to win by any means fair or foul.

Inauguration

378. Taylor was inaugurated on 2 August 1997.⁸²⁵ The following foreign heads of state attended Taylor’s inauguration: The President of Nigeria, The President of Guinea, The President of Guinea Bissau, The President of Burkina Faso, The President of Chad, The President of Mali, The President of Niger, The President of Cote d’Ivoire, The President of the Gambia, The Prime Minister of Togo, The Prime Minister of Benin.⁸²⁶ Undoubtedly, the turnout of fellow presidents reflected the fact that the elections were seen as a great example of how Africans could resolve African problems without outside intervention. ECOWAS published a glowing report to celebrate the event. This was no doubt a great opportunity for these gathered Heads of State to pat each other on the back.
379. Inauguration also marked the end of factional control of areas of Liberia. At the time of the elections the NPFL still had control over its respective territory, as did other warring factions. Up until 2 August 1997, at which point the unified Government of Liberia took control, the leaders of the various factions could still give orders to men in the areas over which they had power.⁸²⁷
380. As Liberia operates a system of proportional representation, the NPP filled 75% of the seats in the legislature. The choices of who was to fill the seats was made by the executive committee of the party. The full text of the electoral law is in evidence.⁸²⁸

⁸²⁴ Exhibit D-127, p. 10.

⁸²⁵ Agreed Fact 1(d).

⁸²⁶ Exhibit D-141, p. 27.

⁸²⁷ TT, Charles Taylor, 23 Jul 09, p. 25088. Varmuyan Sharif and Karmoh Kanneh have stated that the end of factional control of Liberia was in 1996, whilst Moses Blah has stated that it was June 1997.

⁸²⁸ Exhibit D-385, p. 149-91.

Chapter Three: Origins of the RUF and the Sierra Leonean Conflict through the Coup

Origins of the RUF

381. It is to be noted at the outset that the Prosecution did not call a single Sierra Leonean witness to give a first hand account of how Sierra Leoneans came to be in Libya, who their leader was in Libya, what the group was called, what its guiding ideology was, how Sankoh came to be the leader of the organization and what contact, if any, he had with Taylor whilst in Libya. Instead, the Prosecution is forced to rely for the most part on hearsay evidence.
382. Thus we are told, by perhaps the most credible Prosecution witness, TFI-168, that the genesis of the RUF could be found in the failed student activism which attempted to unseat the discredited, corrupt and violent APC regime. Furthermore he refutes the suggestion that the RUF was a criminal organisation *ab initio*.⁸²⁹ Some Sierra Leonean students, like Alie Kabba, Abu Kanu, Rashid Mansaray, Mohammed Dabo and others were involved in activist movements which were sponsored by the Mathaba in Libya. Between 1986 and 1988, Alie Kabba, Rashid Mansaray, Abu Kanu, Cleo Hanciles and others went to Libya for training. It would appear that Sankoh arrived in Libya after these aforementioned individuals.⁸³⁰
383. How Sankoh came to be in Libya is somewhat unclear. It was suggested by Isaac Mongor that before Sankoh went to Libya to train, he had a problem and was in jail in Ghana. Taylor fought to have him released and they went to Libya to train.⁸³¹ This suggests a link between Taylor and Sankoh which pre-dates Libya. This account illustrates the danger of relying upon hearsay evidence. There is no suggestion that Mongor was ever in Libya and this is an account unsupported by other testimony.
384. This lack of direct testimony as to how Taylor and Sankoh met is further reflected in the testimony of the expert witness Stephen Ellis. The thrust of his account is that Taylor and Sankoh became acquainted some time between 1987 and 1989.⁸³² Again, with regard to an important part of the Prosecution case, with particular relevance to the creation of a Joint Criminal Enterprise, there is a critical lack of precision and proof.

⁸²⁹ TT, TFI-168, 26 Jan 09, p. 23499 -23500.

⁸³⁰ TT, TFI-168, 26 Jan 09, p. 23585; Exhibit P-277, p.10-11.

⁸³¹ TT, Isaac Mongor, TFI-532, 01 Apr 08, p. 6322-3.

⁸³² TT, Stephen Ellis, 16 Jan 08, p.1426-7, 18 Jan 09, p.1530 *et seq.* Exhibit P-31, p. 3.

385. There are other anomalous features of the Prosecution case which have not yet been adequately explained. As will be seen below, it would appear that Sankoh did not commence his recruitment drive until the autumn of 1990. If he was indeed involved in an overall design to terrorize the sub-region, how does one explain this delay? Equally, in relation to the Gambians there is ample proof that they did not accompany the NPFL during the initial invasion but joined at a later date after the departure of Prince Johnson. Furthermore, Sankoh's recruitment drive is also coterminous with the intervention of ECOMOG in Liberia. Why then would Taylor, at a point when his difficulties in seizing power are threatened by this change in dynamics, dilute his ability to fend off ECOMOG by embarking on another adventure? It is somewhat strange that at this crucial moment when his attention is distracted that he should spare time, energy and resources to support Sankoh. It is further to be noted that there is a paucity of evidence regarding Sankoh's movements and involvement prior to this juncture.
386. That lack of clarity on the face and in the substance of the Prosecution case extends to the nature of the support Taylor and Sankoh would give to each other. Thus in 1990, a Vanguard was told [REDACTED] that Sankoh and Taylor were friends. They were taking the war to Sierra Leone. Sankoh would help Taylor in his war and *vice versa*.⁸³³ Further, Sankoh told the Vanguard that after the NPFL war, Taylor would help him,⁸³⁴ he and Taylor were bound together to fight.⁸³⁵

Recruitment into the RUF

387. This area of the case has generated some conflict. For the Prosecution the evidence of TF1-168, TF1-362, TF1-367, TF1-371 and TF1-532 is relevant. The Defence in turn called six Vanguards: John Vincent, Martin George, DCT-292, Sam Kolleh, DCT-025 and Issa Sesay. The salient issues raised by this body of evidence can be summarized thus: first, the extent to which Taylor was complicit in the recruitment of Sierra Leoneans and others within NPFL territory; whether Taylor authorised Sankoh to recruit Sierra Leoneans detained by the NPFL; and the significance of the role played by Daniel and Isatu Kallon.

⁸³³ TT, TF1-362, 27 Feb 08, p. 4803-4.

⁸³⁴ TT, TF1-362, 27 Feb 08, p. 4804.

⁸³⁵ TT, TF1-362, 27 Feb 08, p. 4806.

388. It would appear from the evidence that recruitment into the RUF was accomplished in part by deceit and blackmail;⁸³⁶ and many were volunteers,⁸³⁷ including reluctant volunteers preferring the relative safety of joining the RUF to the prospect of indefinite detention in a NPFL detention camp.⁸³⁸ The Sierra Leoneans recruited by Sankoh were predominantly expatriate Sierra Leoneans from Liberia and the Ivory Coast.⁸³⁹ In addition, some former members of the NPFL and some ordinary citizens of Liberia chose to throw in their lot with the RUF. Sankoh received help in doing so from the Kallons.⁸⁴⁰

Charles Taylor's Involvement in Recruitment

389. Returning to the topic of Taylor's alleged direct involvement in recruiting individuals to undergo training at Camp Naama, Mongor said that Taylor had given an order for Sierra Leoneans and Nigerians to be arrested. When the Sierra Leoneans were arrested, Mongor and others would go and take them straight from jail to the base. Taylor had given them a Toyota truck to take recruits to the base.⁸⁴¹ Sankoh used to tell Mongor and the RUF men at Camp Naama that Taylor was behind their training and that they depended on Taylor to do everything.⁸⁴² Taylor recruited Mongor to train Sankoh's men in Camp Naama.⁸⁴³ This version of events is the opposite of what Mongor told the Prosecution when he was first interviewed.⁸⁴⁴ In our submission little

⁸³⁶ TT, Issa Sesay, DCT-172, 16 Aug 10, p. 46390-1. Sesay testified that in 1990 he was selling cigarettes with Kaifa Wai in the Ivory Coast when he was tricked by Sankoh who told them that he was recruiting workers for a restaurant in Burkina Faso and in fact they ended up in Camp Naama.

⁸³⁷ John Vincent was voluntarily recruited: John Vincent, DCT-215, 25 Mar 10, p. 37987; 30 Mar 10, p. 38277-8 (nine other volunteers were recruited with him). Martin George was also a volunteer, see: Martin George, DCT-062, 21 Apr 10, p. 39594-5; John Vincent, DCT-215, 30 Mar 10, p. 38298-300. See also Isatu Kallon's evidence about volunteers being recruited: Isatu Kallon, DCT-299, 16 Jun 10, p. 42668-76 (about 50 volunteers got into a truck provided by Anthony Mekunagbe and went to Sokoto).

⁸³⁸ TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43596-7. [REDACTED] was recruited from prison: TT, TF1-168, 21 Jan 09, p. 23133-41. In addition, Augustine Bao and Lawrence Womandia were recruited from prison: TT, John Vincent, DCT-215, 25 Mar 10, p. 38000-2. [REDACTED] was recruited from prison: TT, DCT-292, 01 Jun 10, p. 41703-4. Sankoh was able to get people out of NPFL prisons because he knew some of the NPFL Special Forces: TT, Issa Sesay, DCT-172, 16 Aug 10, p. 46399.

⁸³⁹ TT, TF1-168, 23 Jan 09, p. 23402; Exhibit P-277, p. 77.

⁸⁴⁰ Exhibit P-277, p. 82-3; TT, Isatu Kallon, DCT-299, 16 Jun 10, p. 42664-6; p. 42668-76; p. 42685-7; 17 Jun 10, p. 42751-2; p. 42758-9. Daniel Kallon helped with recruiting men from prison: TT, Isatu Kallon, DCT-299, 16 Jun 10, p. 42661-3. Sankoh used the Kallons' home for meetings: TT, Isatu Kallon, DCT-299, 22 Jun 10, p. 43145-7. The Kallons' home served as the transit point for the trafficking of recruits and NPFL fighters to the RUF training base: Exhibit P-277, p. 82. The Kallons' central role is reflected in a letter written by Sankoh to Mohammed Talibi dated 4 December 1996 in which Sankoh writes: "*I received the USD 29,000..... through Mr Daniel Kallon*". Such a large sum would not have been entrusted to someone who did not play a significant role within the RUF.

⁸⁴¹ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5663.

⁸⁴² TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5667-8.

⁸⁴³ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5661-2; 01 Apr 08, p. 6323-5; 01 Apr 08, p. 6341.

⁸⁴⁴ TT, Isaac Mongor, TF1-532, 01 Apr 08, p. 6337-40.

weight, if any, should be attached to the account given by this witness, given how discredited he was.

390.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Sesay never heard Taylor's name in relation to the RUF at Camp Naama. None of the RUF instructors ever told him that Taylor was the individual in charge of his presence in Camp Naama.⁸⁴⁶ Vincent never saw Taylor while he was at Camp Naama and never heard of Taylor visiting Camp Naama.⁸⁴⁷ George never heard of or saw Taylor at Camp Naama.⁸⁴⁸ Mongor never told Sesay that he was sent by Taylor to train the RUF.⁸⁴⁹ On the night that Vincent first arrived in Camp Naama, Pa Morlai was arrested by NPFL Special Forces, but was later released through the intervention of Anthony Mekunagbe, one of the 'top people' in the Special Forces for the NPFL.⁸⁵⁰

391. Whatever the method of recruitment and whatever the nationality of the recruits, it is clear that the RUF forged its own identity separate from the NPFL. Vincent denies that the RUF was working for Taylor at any time. The RUF was a self-reliant struggle.⁸⁵¹ Liberians who were trained at Sokoto considered themselves as RUF throughout the war.⁸⁵² It is our case that the evidence of Taylor's involvement in assisting Sankoh to recruit in Liberia, particularly persons who were in detention, is weak. In effect the Prosecution comes down to this rhetorical question: could these activities have been going on within NPFL territory without it coming to the attention of Taylor? Given the difficulty of communications faced by the NPFL, this is a clear possibility. Particularly when it is borne in mind that Sankoh would have known the rank and file of the NPFL during their time in Libya, and would thus be able to call on favours from senior NPFL commanders like Anthony Menkungebe.

Camp Naama

⁸⁴⁵ TT, [REDACTED].

⁸⁴⁶ TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43623.

⁸⁴⁷ TT, John Vincent, DCT-215, 25 Mar 10, p. 38005.

⁸⁴⁸ TT, Martin George, DCT-062, 22 Apr 10, p. 39644-5.

⁸⁴⁹ TT, Issa Sesay, DCT-172, 04 Aug 10, p. 45364-6.

⁸⁵⁰ TT, John Vincent, DCT-215, 25 Mar 10, p. 38003-4.

⁸⁵¹ TT, John Vincent, DCT-215, 30 Mar 10, p. 38294-5.

⁸⁵² TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43620.

392. Although the NPFL and the RUF trained at Camp Naama at the same time,⁸⁵³ there is clear and abundant evidence that within Camp Naama the RUF recruits were kept separate from the NPFL combatants:⁸⁵⁴ the NPFL in the main part of Camp Naama and the RUF in an area known as Crab Hole.⁸⁵⁵ The NPFL were not close to the RUF area.⁸⁵⁶ RUF recruits were not permitted to leave their area.⁸⁵⁷ The NPFL trainers knew that another group was training at Crab Hole, but they did not know then that it was the RUF.⁸⁵⁸
393. We remind ourselves that the Prosecution theory is that Taylor and Sankoh had agreed to a common design in Libya. If that is correct, why were the RUF not trained alongside the NPFL at Camp Naama? This would have eased lines of communication and laid a foundation for agreed strategies and tactics. Separate training does not make military sense in light of the Prosecution assertion of a JCE. On the contrary, stringent measures were put in place to ensure that the two groups could not mix. This fact strains the theory of a JCE to a breaking point.

Composition of Trainees at Camp Naama

394. There were about 300 plus Sierra Leonean and Liberian trainees at Sokoto base.⁸⁵⁹ This number included Liberians.⁸⁶⁰ Liberian recruits who trained at Crab Hole

⁸⁵³ TT, TF1-362, 27 Feb 08, p. 4806-7.

⁸⁵⁴ The RUF and NPFL training bases were separate: TT, TF1-168, 21 Jan 09, p. 23144.; John Vincent, DCT-215, 25 Mar 10, p. 37992-3. There were two separate training bases at Camp Naama, one for the RUF and one for the NPFL: TT, Isaac Mongor, TF1-532, 01 Apr 08, p. 6323; 10 Mar 08, p. 5663. There were no NPFL members in Crab Hole: TT, John Vincent, DCT-215, 25 Mar 10, p. 37992-3. The groups did not share training equipment, or food supplies: TT, John Vincent, DCT-215, 25 Mar 10, p. 38002-3; Martin George, DCT- 062, 22 Apr 10, p. 39641-4.

⁸⁵⁵ TT, Issa Sesay, DCT-172, 16 Aug 10, p. 46396. The Crab Hole part of Camp Naama was also known as Sokoto: TT, John Vincent, DCT-215, 30 Mar 10, p. 38279-81. Sankoh told the recruits to change the name of the base to Sokoto because he wanted people to believe the RUF were trained in Nigeria where a Sokoto military training camp was located: TT, John Vincent, DCT-215, 25 Mar 10, p. 37993-4. Sankoh told the recruits that when they went to war, if they were ever asked where they trained, they should say they were trained at Sokoto base, so that they would not be identified with Liberia: TT, TF1-168, 21 Jan 09, p. 23144.

⁸⁵⁶ Camp Naama was a big place, divided with a fence. The NPFL were at the top of the hill and the RUF training area was at the bottom of the hill, down a deep slope: TT, Isatu Kallon, DCT-299, 24 Jun 10, p. 43312-4.; John Vincent, DCT-215, 25 Mar 10, p. 37994-5; Issa Sesay, DCT-172, 16 Aug 10, p. 46402. Camp Naama was not visible from Crab Hole: TT, John Vincent, DCT-215, 25 Mar 10, p. 37994-5. From the top of the top of the hill you could look down into the RUF training area, but you could only recognise people who you already knew: TT, Isatu Kallon, DCT-299, 24 Jun 10, p. 43312-4.

⁸⁵⁷ TT, John Vincent, DCT-215, 31 Mar 10, p. 38229-32; Martin George, DCT- 062, 26 Apr 10, p. 39924-6; Issa Sesay, DCT-172, 30 Jul 10, p. 45152.

⁸⁵⁸ TT, John Vincent, DCT-215, 31 Mar 10, p. 38229-32.

⁸⁵⁹ TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43599-600; John Vincent, DCT-215, 25 Mar 10, p. 37910-1; TF1-371, 24 Jan 08, p.2202-4. See also list of Vanguarders in Exhibit P-277.

⁸⁶⁰ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5664-5. TF1-168 suggested that the Liberians recruited from the NPFL were to learn RUF ideology, learn about Sierra Leone and learn the Krio language, hinting that they were to be fully integrated: TT, TF1-168, 21 Jan 09, p. 23147-9. Vincent's account of his own recruitment illustrates this well. Vincent explained that he had been NPFL, but that he walked away from

included John Vincent, Joseph Brown⁸⁶¹ and Matthew Barbue.⁸⁶² Other trainees at Crab Hole included Philip Palmer, Issac Mongor, Morris Kallon, Sam Bockarie, Lawrence Womandia, Big Daddy, Melvin Kerkula, George, Sam Kolleh, Rebecca Smith, Memunatu Sesay, Agnes Mining,⁸⁶³ Musa Gbembo, Theophilus Pearson and DCT-292,⁸⁶⁴ as well as Kennedy,⁸⁶⁵ Ibrahim Dugba.⁸⁶⁶ Fatou Brown (Sankoh's wife) brought Monica Pearson to Camp Naama along with Fatou Gbembo, Theophilus Pearson (Monica Pearson's younger brother), Gabriel Decker and Anthony Decker.⁸⁶⁷ Other women present at Camp Naama included Becky and Krio Mammy (both Sierra Leonean),⁸⁶⁸ but there were more men than women at Crab Hole.⁸⁶⁹

Command Structure at Camp Naama

395. Both TF1-168 and Mongor testified that they never saw Taylor at Camp Naama.⁸⁷⁰ It is noteworthy that the RUF trained at Camp Naama from September 1990 to March 1991 and yet Taylor, their supposed commanding officer did not make an appearance. TF1-371 provided several diagrams purporting to show the command structure within the RUF at various stages of the conflict. Unfortunately for him, his testimony is flatly contradicted by a diagram produced by TF1-168.⁸⁷¹
396. Sankoh did not stay at Crab Hole; he left the camp regularly.⁸⁷² Occasionally, he would go to Firestone, Harbel, to visit an advisor (Daniel Kallon).⁸⁷³ Sankoh had to pass through the NPFL checkpoint when he was going to Harbel and often did so with an AK-47 in his vehicle.⁸⁷⁴ From 1991 until 1993, [REDACTED]
[REDACTED].⁸⁷⁵ Sankoh's security included one "boy", Roland Bockarie, who was around the age of 20.⁸⁷⁶

that organisation to join the RUF. He testified that it was not necessary to resign from one group to join another: TT, John Vincent, DCT-215, 30 Mar 10, p. 38270-5.

⁸⁶¹ TT, John Vincent, DCT-215, 26 Mar 10, p. 38087-8.

⁸⁶² TT, John Vincent, DCT-215, 30 Mar 10, p. 38315-24.

⁸⁶³ TT, John Vincent, DCT-215, 25 Mar 10, p. 37940-4.

⁸⁶⁴ TT, Martin George, DCT-062, 21 Apr 10, p. 39598-9.

⁸⁶⁵ TT, John Vincent, DCT-215, 30 Mar 10, p. 38315-24.

⁸⁶⁶ TT, John Vincent, DCT-215, 26 Mar 10, p. 38094.

⁸⁶⁷ TT, Issa Sesay, DCT-172, 28 Jul 10, p. 44909.

⁸⁶⁸ TT, Isatu Kallon, DCT-299, 16 Jun 10, p. 42697-8.

⁸⁶⁹ TT, Martin George, DCT-062, 21 Apr 10, p. 39607-14.

⁸⁷⁰ TT, TF1-168, 26 Jan 09, p.23564; Isaac Mongor, TF1-532, 10 Mar 08, p. 5666 ; 01 Apr 08, p. 6343.

⁸⁷¹ Exhibit P-277, p. 24.

⁸⁷² TT, John Vincent, DCT-215, 30 Mar 10, p. 38298-300.

⁸⁷³ TT, John Vincent, DCT-215, 25 Mar 10, p. 37900-2; Issa Sesay, DCT-172, 16 Aug 10, p. 46409-11.

⁸⁷⁴ TT, Issa Sesay, DCT-172, 16 Aug 10, p. 46409-11.

⁸⁷⁵ TT, Issa Sesay, DCT-172, 28 Jul 10, p. 44921-2.

⁸⁷⁶ TT, John Vincent, DCT-215, 30 Mar 10, p. 38277-8.

397. The obvious question is: how was Sankoh able to move so freely without his activities being brought to the attention of Taylor? This can be attributed to the chaotic state of Liberia at this time and the fact that Sankoh had powerful allies within the NPFL, such as Anthony Menkunagbe.
398. The command structure at Camp Naama was described as follows by TF1-168: commander-in-chief Sankoh, battlefront commander Rashid Mansaray, followed by battlefield commander Mohamed Tarawalli.⁸⁷⁷ Rashid Mansaray and Mohamed Tarawalli were Special Forces, meaning that they trained in Libya. Sankoh confirmed this.⁸⁷⁸ After the battlefield commander (Mohamed Tarawalli), the next in command were the battalion commanders.⁸⁷⁹ There is no evidence to suggest that at Crab Hole the RUF reported to NPFL commanders at Camp Naama.⁸⁸⁰ The RUF and NPFL members never had the same command. The RUF never followed or received commands from any NPFL commander, only from Pa Morlai; conversely Pa Morlai never gave commands to NPFL members.⁸⁸¹

The Training Regime at Camp Naama

399. The training at Camp Naama included all forms of training related to guerilla warfare, like arms training, escape for survival, ambushes, night combat techniques, physical training and important political ideology.⁸⁸² DCT-292 received military and commando training and [REDACTED]. He was taught how to use weapons, how to escape from enemies, how to conceal himself, how to ambush enemies and what to do with ambushed enemies.⁸⁸³ The arms training included how to dismantle, assemble and fire arms such as AK-47s, GPMGs, heavy duty weapons and RPG rockets. Live ammunition was not used on the base. Occasionally instructors would experiment with it when they went into the bush.⁸⁸⁴ Mike Lamin, Mohamed Tarawalli, and Rashid Mansaray were the main instructors who trained them. Mohamed Tarawalli (who according to Sankoh was Special Forces trained in Libya)

⁸⁷⁷ TT, TF1-168, 21 Jan 09, p. 23160; John Vincent, DCT-215, 25 Mar 10, p. 37906-8. At one point, while Vincent was at Crab Hole, Camp Naama, Pa Morlai had Rashid Mansaray arrested because he had a hidden agenda; 'an outside group' that planned to follow the RUF into Sierra Leone and overthrow the RUF. However, Rashid Mansaray was released the same day and maintained his position as second to Pa Morlai: TT, John Vincent, DCT-215, 25 Mar 10, p. 37906.

⁸⁷⁸ TT, TF1-168, 21 Jan 09, p. 23153-6.

⁸⁷⁹ TT, TF1-168, 21 Jan 09, p. 23160.

⁸⁸⁰ TT, Martin George, DCT- 062, 22 Apr 10, p. 39641-4.

⁸⁸¹ TT, John Vincent, DCT-215, 30 Mar 10, p. 38004.

⁸⁸² TT, TF1-168, 21 Jan 09, p. 23149-50; Martin George, DCT- 062, 21 Apr 10, p. 39607-14; DCT-292, 01 Jun 10, p. 41709.

⁸⁸³ TT, DCT-292, 01 Jun 10, p. 41707-10.

⁸⁸⁴ TT, TF1-168, 21 Jan 09, p. 23149-51.

was the instructor responsible for guerilla tactics,⁸⁸⁵ while Rashid Mansaray was responsible for halaka, barbed wire and jumping,⁸⁸⁶ and Mike Lamin taught ideology.⁸⁸⁷ Later, Mongor, Gonkanu and Samuel Draper came in. Mongor once lectured them on how to attack a town, how to capture a town (by killing civilians) and Sankoh was angry with Mongor when he found out about that training.⁸⁸⁸ For his part, Sankoh taught communication on a radio set which he learned to use in the SLA at the time of President Momoh.⁸⁸⁹

Ideology Training at Camp Naama

400. Ideology training taught that the RUF's objective in fighting a Revolution in Sierra Leone was to overthrow the government in power, the APC government. The method was that they were to use armed struggle and guerilla tactics to reach Freetown. To do this, the RUF was to give good treatment to the civilians because they needed their support;⁸⁹⁰ people's property was to be taken care of and maintained, fighters were to have access only to food.⁸⁹¹ Ideology training involved offering someone a chance to surrender; no raping; and allowing civilians to leave for safer locations.⁸⁹² Sankoh took time to teach the RUF fighters about how to deal with civilians, prisoners of war and humanitarian law.⁸⁹³ The RUF slogan was arms to the people, power to the people and wealth to the people. TF1-168 for one found that very attractive.⁸⁹⁴ There was no mention of diamonds or other minerals during training at Camp Naama.⁸⁹⁵

JCE and RUF Ideology

401. A protected Prosecution witness told the court during his examination-in-chief that:
- Foday Sankoh [gave an instruction that recruits should be taught] ideology. [Sankoh produced] a basic document ... which was more philosophical about the reason for the formation of this movement and the socio-economic situation in the country that he was intending to fight. And also he gave brochures which were basically Geneva Convention, how to treat prisoners and civilians in combat and to use these materials

⁸⁸⁵ TT, John Vincent, DCT-215, 25 Mar 10, p. 37995; Martin George, DCT- 062, 21 Apr 10, p. 39607-14.

⁸⁸⁶ TT, Martin George, DCT- 062, 21 Apr 10, p. 39607-14.

⁸⁸⁷ TT, [REDACTED]; TF1-168, 23 Jan 09, p. 23399; John Vincent, DCT-215, 25 Mar 10, p. 37995.

⁸⁸⁸ TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43601-2. Another report of this incident can be found in Exhibit P-277, p. 85 *et seq.*

⁸⁸⁹ TT, Martin George, DCT- 062, 21 Apr 10, p. 39607-14.

⁸⁹⁰ TT, TF1-168, 23 Jan 09, p. 23395-6.

⁸⁹¹ TT, John Vincent, DCT-215, 25 Mar 10, p. 37996-8.

⁸⁹² TT, DCT-292, 01 Jun 10, p. 41707-9.

⁸⁹³ TT, Issa Sesay, DCT-172, 28 Jul 10, p. 44820-1.

⁸⁹⁴ TT, TF1-168, 23 Jan 09, p. 23399.

⁸⁹⁵ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 43633-4; 28 Jul 10, p. 44810-1.

to teach the recruits so that they would be prepared as they go to fight how they are to react to civilians as well as respecting them during conflict.⁸⁹⁶

402. We have dwelt on this topic of ideology training firstly to demonstrate that the RUF's ideology was not merely a "*thin veneer*".
403. Furthermore, this issue raises another more fundamental matter. It will be recalled that although the Defence filed a motion on JCE before the first prosecution witness was called, a decision was not received on this issue until after the close of the prosecution case, when the accused and his legal advisors learnt for the first time that the objective of the alleged JCE was to terrorize the civilian population of Sierra Leone. The delay in receiving this decision caused massive and irreparable damage and prejudice to the defence. To illustrate the point: when Vanguards came to testify, had we known that terrorism was at the core of the allegation of JCE he would have asked them in cross-examination: "did any trainer at Camp Naama, save for Isaac Mongor, teach the recruits to terrorize the civilian population of Sierra Leone?" the answer would self-evidently have been in the negative. **Thus the defence could have placed on record, direct denials of the purpose of the JCE. Not knowing the purpose of the JCE in advance, thereby seriously prejudiced the defence and prevented them from placing on the record evidence which would have directly refuted what is now a central aspect of the prosecution case.**

Isaac Mongor

404. Isaac Mongor claimed that in March or April of 1990, while he was working as an Executive Mansion Guard, he was assigned to go and train people who were to fight in Sierra Leone. Charles Taylor called Isaac Mongor together with Foday Sankoh and told him that he was to go and help train his people.⁸⁹⁷ He trained Issa Sesay, Sam Bockarie, and Morris Kallon as well as others.⁸⁹⁸ He was at Camp Naama from the end of March 1990 until the invasion in March 1991.⁸⁹⁹
405. Mongor gained a certain notoriety at Camp Naama. This is the sole evidence available to the Prosecution that terrorizing the civilian population was the objective of the RUF. At the Sokoto base he is said to have lost credibility from the Sierra Leonean recruits because during his theoretical lecture classes he would never forget to remind his students that "as you get to Sierra Leone, whenever you fight and capture a village

⁸⁹⁶ TT, [REDACTED], p. 2203.

⁸⁹⁷ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5661-2.

⁸⁹⁸ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5666-7.

⁸⁹⁹ TT, Isaac Mongor, TF1-532, 01 Apr 08, p. 6349; 6352-3.

or town, make sure you assemble all the people, kill half of that number and tie-bay (meaning tying both hands on the back of the body) the rest before Papay Sankoh get to the location. By so doing you would have established your full authority over the people in that area.....This persistent ideology of Guerrilla Professor Isaac made most of the Sierra Leonean recruits uncomfortable, who brought the issue to Sankoh's attention.⁹⁰⁰ Indeed Issa Sesay said that Mongor was regarded as something of a laughing stock because of this. It is evident that Mongor's position was seen as incredible by the other recruits. Given the confusion regarding: how Mongor came to Camp Naama, who sent him or brought him, what was his true role at Camp Naama, we would submit that it would be dangerous for a fact finder to attach any weight to anything he says.⁹⁰¹ Most importantly it would be totally disingenuous for anyone to use his testimony as a foundation for the more recent judicial formulation as to the purpose of the JCE.

"Child Soldiers" at Camp Naama

406. Some Vanguards testified that children were trained as fighters at Camp Naama.⁹⁰² The Prosecution refers to such people as "child soldiers" or members of the Small Boys Unit or "SBUs".⁹⁰³ Yet a more nuanced and culturally sensitive view as to the presence of children at Naama must be considered on the evidence. Some children present on the base were the children or small brothers of trainees.⁹⁰⁴ They may have participated in physical activities and lectures,⁹⁰⁵ but the idea was not that they would train for active combat.⁹⁰⁶ For instance, Issa Sesay did not see children at Camp Naama carrying guns or go with the RUF to Sierra Leone in 1991.

Provision of Logistics at Camp Naama

⁹⁰⁰ Exhibit P-277, p. 85.

⁹⁰¹ There are numerous competing accounts of how Mongor ended up at Camp Naama. Isatu Kallon suggested he went of his own accord: TT, Isatu Kallon, DCT-299, 16 Jun 10, p. 42707. Issa Sesay stated that he was introduced to Sankoh by Daniel Kallon: TT, Issa Sesay, DCT-172, 04 Aug 10, p. 45364-6 (although Isatu Kallon denied Daniel Kallon sent Mongor to Naama, she did not deny Kallon had introduced Mongor to Sankoh). John Vincent claimed that Mongor was recruited by Sankoh: TT, John Vincent, DCT-215, 25 Mar 10, p. 38006-8.

⁹⁰² TT, TF1-168, 21 Jan 09, p. 23149; Isaac Mongor, TF1-532, 10 Mar 08, p. 5664, 31 Mar 08, p. 6204-6, 11 Mar 08, p. 5756; TF1-371, 25 Jan 08, p. 2220-1.

⁹⁰³ TT, Martin George, DCT-062, 22 Apr 10, p. 39639-41.

⁹⁰⁴ TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43625-6; John Vincent, DCT-215, 25 Mar 10, p. 37999-8000, 30 Mar 10, p. 38301-3; Isatu Kallon, DCT-299, 24 Jun 10, p. 43415-6.

⁹⁰⁵ TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43625-6.

⁹⁰⁶ TT, John Vincent, DCT-215, 30 Mar 10, p. 38301-3; Martin George, DCT-062, 22 Apr 10, p. 39639-41, 28 Apr 10, p. 40217-19; Issa Sesay, DCT-172, 05 Jul 10, p. 43625-6. But see [REDACTED]. TT, TF1-371, 30 Jan 08, p. 2632.

407. The main source of such supplies was Isatu Kallon. She and Daniel Kallon supplied food to Camp Naama.⁹⁰⁷ As well as food, they also provided soda, soaps, palm oil, and money regularly to support the training base in Sokoto.⁹⁰⁸ Sankoh also collected food.⁹⁰⁹ However, it does not seem to have been enough.⁹¹⁰
408. Sankoh would tell the recruits at Camp Naama that he was receiving support from Charles Taylor.⁹¹¹ He told the trainees that he was doing everything through the goodwill of his brother Charles Taylor.⁹¹² However, the Defence submits this is an example of Foday Sankoh's deceit.⁹¹³ By mentioning Taylor, Sankoh hoped to gain a certain kudos. This deceit would come back to haunt him when the RUF ran out of supplies and its members demanded: "what about your brother Charles?", and Sankoh was unable to respond.⁹¹⁴
409. So what was the reality of Charles Taylor's alleged support for the RUF whilst they were in Camp Naama? Isatu Kallon testifies that Foday Sankoh never told her that he was receiving support from Charles Taylor or that he depended on Charles Taylor.⁹¹⁵ Isatu Kallon never heard of Foday Sankoh receiving any financial assistance from Charles Taylor.⁹¹⁶ Isatu Kallon never saw or heard of the recruits at Camp Naama receiving bags of rice, medicine, weapons, or any other supplies from Gbarnga or from Charles Taylor.⁹¹⁷ Isatu Kallon testifies that while she was at Firestone, Harbel, Foday Sankoh never told her that he was going to Charles Taylor for money. She never heard from Sankoh or anyone else, of him going to Charles Taylor for money or anything else.⁹¹⁸ Indeed the evidence is that Sankoh did not share with other members of the RUF his true dealings with Charles Taylor. He kept that very much to himself.⁹¹⁹

The Causes of the Invasion of Sierra Leone

⁹⁰⁷ TT, DCT-292, 01 Jun 10, p. 41717-8; Isatu Kallon, DCT-299, 23 Jun 10, p. 43212-3; Exhibit P-277, p. 82, ending in ERN number 8180; TT, Isatu Kallon, DCT-299, 22 Jun 10, p. 43147-8.

⁹⁰⁸ TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43621-2.

⁹⁰⁹ TT, Martin George, DCT-062, 22 Apr 10, p.39638-9; Issa Sesay, DCT-172, 16 Aug 10, p. 46408-9.

⁹¹⁰ TT, John Vincent, DCT-215, 30 Mar 10, p. 38300-1.

⁹¹¹ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5667.

⁹¹² TT, TF1-168, 21 Jan 09, p. 23151.

⁹¹³ Note [REDACTED] damning recollection of Sankoh's mendacity in Exhibit P-277 [REDACTED].

⁹¹⁴ TT, Fayiah Musa, DCT-306, see below.

⁹¹⁵ TT, Isatu Kallon, DCT-299, 22 Jun 10, p. 43113-6.

⁹¹⁶ TT, Isatu Kallon, DCT-299, 22 Jun 10, p. 43134-8.

⁹¹⁷ TT, Isatu Kallon, DCT-299, 22 Jun 10, p. 43111-3.

⁹¹⁸ TT, Isatu Kallon, DCT-299, 22 Jun 10, p. 43139-40.

⁹¹⁹ TT, TF1-168, 23 Jan 09, p23438 and 23460

410. There is some confusion as to whether the invasion of Sierra Leone was a planned event, or whether Foday Sankoh cynically took advantage of a spontaneous incident in Bomaru to launch an attack. Whatever may be the case Charles Taylor was not party to the invasion. He neither planned nor had knowledge of it.
411. Fayia Musa told the court that before the RUF reached Kailahun he heard Sankoh making an announcement on the radio – the 90-day ultimatum for the government of General Joseph Saidu Momoh to step down.⁹²⁰ The ultimatum was broadcast on the BBC, Focus on Africa. Vanguard John Vincent explained that originally Sankoh wanted to wait until the dry season, i.e. later in the year, around August/September to launch his attack on Sierra Leone. Sankoh was however compelled to attack in March. He told the recruits on 22 March 1991 that there had already been an offensive on Sierra Leone and there was no more time to waste. The RUF had to launch its attack earlier than planned.⁹²¹
412. On 23 March 1991 an incident occurred at Bomaru in Sierra Leone which caused Foday Sankoh to cut short his ninety day ultimatum. During the Liberian civil war, NPFL Commanders and fighters, mainly based in Lofa County were using various border crossings to conduct a roaring trade in looted items, alongside other legitimate trade. We should bear in mind artificial borders. One such crossing point is Bomaru about seven miles from Vahun in Liberia. Sometime in January 1991, some NPFL fighters from Vahun crossed into Bomaru and conducted the trade of some stolen vehicles with certain members of the SLA. The deal soured when the NPFL fighters did not receive full payment. Unable to go to court to settle the dispute the NPFL fighters returned to Bomaru and opened fire leaving several casualties. This was well before the expiry of the ninety day ultimatum.⁹²²
413. We need to pause and consider the implications of this. Sankoh had dispatched a few recruits from Camp Naama to go on a reconnaissance mission inside Sierra Leone. Sesay testified that Philip Palmer, Mohamed Tarawalli, Mike Lamin and John Sei were the ones who were sent on the reconnaissance mission in March 1991. [REDACTED] support Sesay's testimony. Two days after the reconnaissance mission, the attack on Sierra Leone took place.⁹²³ There is no suggestion that Taylor was involved in the organization of this reconnaissance

⁹²⁰ TT, Fayia Musa, DCT-306, 13 Apr 2010, p. 38861.

⁹²¹ TT, John Vincent, DCT-215, 30 Mar 10, p. 38304.

⁹²² TT, Issa Sesay, DCT-172, 5 July 2010, p. 43611, 43627-8.

⁹²³ TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43623-4.

mission. It would appear that the Bomaru incident caused Sankoh to abort his original plan.⁹²⁴

414. This suggests a spontaneous reaction to events rather than someone with a thought out plan in accordance with a ninety day ultimatum. It would appear that this departure from the original plan caused some dissent amongst the RUF fighters at Sokoto.⁹²⁵

The Voinjama Meeting

415. Several witnesses testified about the meeting that took place in Voinjama in March 1991.⁹²⁶ One of the witnesses testified that with regard to the operational plan for the invasion of Sierra Leone on 23rd March 1991,⁹²⁷ Taylor suggested a simultaneous attack on Kailahun and Pujehun and that Taylor was the military strategist, a latter day General Carl von Clausewitz, who decided on the plan to invade Sierra Leone. Taylor says that this is a lie; he was never present at that meeting and did not hover over any map or discuss any strategies or plans with Sankoh.⁹²⁸
416. The idea that Taylor, a Liberian, would have to explain to Sankoh that Kailahun might provide a fruitful point of entry is preposterous. Yet a parallel is to be seen here between the choice of the point of entry by the NPFL, and the choice of Kailahun by the RUF. In Exhibit D-88 we find this assessment of the situation in Kailahun:

The administration of the entire district had broken down for nearly seven years now. The road condition is deplorable which is why the war started in that district. It was one of the most neglected districts from Independence to the present day. The Politicians sucked the district dry year in year out for the past thirty seven years, thus breeding a fertile ground for a Revolution. We were considered Sierra Leoneans when it was time to harvest our produce during the dry seasons. We are cut off from the rest of our country during the rainy seasons. At such times we looked to Liberia and sometimes guinea for our basic requirements. We could not even speak the Krio of Sierra Leone instead we speak the Liberian English. This is part of the reasons (sic) why we are mistaken sometimes for Liberians.

One of the Prosecution witnesses approved this description.⁹²⁹ It would not require that an economist turned rebel leader to advise Sankoh of such an obvious option.

⁹²⁴ TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43637-8.

⁹²⁵ Rashid Mansaray was arrested because he openly criticized Sankoh's decision to bring forward the date of the invasion of Sierra Leone: TT, Issa Sesay, DCT-172, 29 Jul 10, p. 44967, 05 Jul 2010, 43629.

⁹²⁶ Mongor testified that the meeting was held at the house of General Dopoe Menkarzon, also called General Pepe: TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5672. [REDACTED]

[REDACTED]. Equally, the two witnesses mentioned different people being present: contrast the list given at TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5672 with that given at TT, [REDACTED].

⁹²⁷ TT, [REDACTED].

⁹²⁸ TT, Charles Taylor, 23 Sep 2009, p. 29458.

⁹²⁹ TT, [REDACTED].

417. Charles Taylor states that it is a lie⁹³⁰ that he came up with a plan which involved three attacks on Sierra Leone, the first being through Voinjama, Foya, and which was to lead to an attack on Koindu; the second being from Vahun to Bomaru, and leading to an attack in Kailahun District; and then finally an attack in Pujehun district, aimed at Zimmi, that he was the architect of this plan and that he was at the meeting in Voinjama with a red T-shirt and camouflage trousers, sitting over a Shell map, surrounded by his senior officers, planning the route, and dominating the meeting.⁹³¹ A mirror of that Pathe image of Hitler surrounded by his generals, peering at a huge map while planning the invasion of the Soviet Union. This kind of comic book imagery has no place in a criminal trial. Charles Taylor did not engage or conspire with anyone. He was not present at the meeting and knew nothing about the situation that they had put together with Anthony Mekuagbe.⁹³²

The Invasion of Sierra Leone

418. One Prosecution witness alleged that around the 20 March 1991 (that is *before* the invasion), arms and ammunition were provided for the fighters by the NPFL. Charles Taylor travelled from Gbarnga to *Voinjama* with Sam Tuah and Sam Larto and the arms were in their truck. Fighters also received other supplies from the 2nd and 6th Battalion of the NPFL.⁹³³ Another Prosecution witness, Isaac Mongor, gave a different account. He said that while in Voinjama, his group had no arms and ammunition. Once they left Voinjama and moved to *Foya* they were provided with arms and ammunition that was brought in NPFL trucks from Gbarnga.⁹³⁴ So which of these two accounts is the court to accept, that the arms and ammunition were provided in Voinjama or in Foya?
419. On the day following the Voinjama meeting, Mongor moved with his troops to Foya where the men were armed. Then they moved towards Koindu and stayed at a place called Mendekoma along the border in order to organize themselves. Fighting started between Mongor and his people and the SLA soldiers at the Sierra Leone customs. Mongor's people entered Baidu and later captured Koindu as well.⁹³⁵ According to another witness, an attack was launched on Koindu from Foya in Liberia. Another attack was launched on Bomaru from Vahun in Liberia. Sam Tuah was in command

⁹³⁰ TT, Charles Taylor, 23 Sep 2009, p. 29458.

⁹³¹ As claimed by [REDACTED].

⁹³² TT, Charles Taylor, 23 Sep 2009, p. 29458-9.

⁹³³ TT, [REDACTED].

⁹³⁴ TT, TF1-532, 10 Mar 2008, p. 5671, 5673; [REDACTED].

⁹³⁵ TT, Isaac Mongor, TF1-532, 10 Mar 2008, p. 5673-74.

of these attacks. A third attack was launched on Pujehun District, Zimmi area from Bo Waterside in Liberia, Oliver Varney was in charge of that attack.⁹³⁶

420. During his testimony Mongor confirmed the Prosecution's allegation that they were fighting together with the NPFL. Mongor himself was an NPFL commander.⁹³⁷ He also explained that the NPFL commanders who took part in the March 1991 invasion were reporting to Taylor in order to keep him informed about what was going on.⁹³⁸ Once the troops of Mongor captured Pendembu they got a radio; a radio operator was sent by Taylor, called Foday Lansana or CO Nya. After that Sankoh and Taylor were able to communicate on the radio.⁹³⁹ The unwary might miss the significance of this. Taylor is the planner and controller of the invasion, yet he sends his task force off without the means to communicate with them. This defies common sense!
421. John Vincent explained the situation through the military viewpoint. Vincent received no assistance – military equipment, arms or ammunition – from the NPFL. There was no communication, through the radio or otherwise, between the RUF and the NPFL at that time.⁹⁴⁰ Furthermore, Vincent explained that before any of the RUF fighters had left Camp Naama the NPFL had already entered Sierra Leone and captured Koindu.⁹⁴¹
422. Fayia Musa described the advent of the invasion from a civilian viewpoint. He said that the RUF arrived in Kailahun on 13 April 2010.⁹⁴² A week later Sankoh returned and told them that he had a friend, Charles Taylor.⁹⁴³ Sankoh's capacity for deceit was legendary, a fact to which Issa Sesay and a Prosecution witness testified, and so it was to prove in this instance. This suggestion that Taylor was his friend was exposed as a lie when a delegation was sent to see Taylor and having spent several months in Gbanga were only able to see Taylor briefly and returned to Sierra Leone empty handed.⁹⁴⁴
423. The Defence does not deny that the invasion force did include members of the NPFL. Nor do we challenge the fact that the majority of the RUF recruits were Liberian (some of them having familial links with Sierra Leone). Despite these concessions it is submitted that these men were not sent to invade Sierra Leone by Charles Taylor.

⁹³⁶ TT, [REDACTED].

⁹³⁷ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5676, TF1-371, 24 Jan 2008, p. 2202.

⁹³⁸ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5675.

⁹³⁹ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5676.

⁹⁴⁰ TT, DCT-215, 25 Mar 2010, p. 38027-28.

⁹⁴¹ TT, DCT-215, 30 Mar 2010, p. 38306-07, 38311.

⁹⁴² TT, Fayia Musa, DCT-306, 13 April 10, p. 38839 *et seq.*

⁹⁴³ TT, Fayia Musa, DCT-306, 13 April 10, p. 38854 *et seq.*

⁹⁴⁴ TT, Musa Fayia, DCT-306, 13 April 10, p. 38855-60.

The War in Sierra Leone

424. The war in Sierra Leone directly triggered three military coups: one in 1992, which led to the National Provisional Ruling Council (NPRC) led by Captain Valentine Strasser, then another in 1996, a palace coup that led to Strasser's replacement by his deputy, Brigadier Maada Bio, and then the most destructive, in 1997, a bloody putsch which for a period of over a year temporarily terminated the elected government of Tejan Kabbah.
425. On 29 April 1992, at a time when the RUF was seeking peace talks with President Momoh's APC government, a group of young military officers headed by the twenty-six year old Captain Valentine Strasser took power in a coup and established themselves as the National Provisional Ruling Council (NPRC) military government.⁹⁴⁵ Many in the RUF saw this as the culmination of their struggle to rid the country of the One Party State, the APC government, which had done away with the democratic multi-party system in 1971.⁹⁴⁶
426. The coup-plotters, however, refused to pursue negotiations with the RUF. Rather, the Strasser regime sought to crush the RUF militarily and mounted an intensified offensive that drove the RUF toward and over the border into Liberia by the end of 1992 or beginning of 1993.
427. Even at this early stage of the civil war cracks in the unity of the RUF were apparent. In 1992, about 30 Vanguardians had been executed by Gibril Massaquoi, Titus Tarawalli and others.⁹⁴⁷ The execution of these vanguards caused an abiding resentment between Gibril Massaquoi and Sam Bockarie and Issa Sesay, because some of the vanguards that were killed in Pujehun jungle were brothers or friends of Issa Sesay from Ivory Coast, like Nabieu Bangura, Yusufu Sillah, David Sesay, Abdul-Rahman Bangura.⁹⁴⁸ When Foday Sankoh found out he did not say anything. He only said everybody should wait; Gibril Massaquoi and Isaac Mongor were to be tried at the conclusion of the war.⁹⁴⁹ The vanguards were not the only ones killed, there was also one special force among them called Patrick Lamin, and Gibril Massaquoi even killed his own brother.⁹⁵⁰

⁹⁴⁵ TT, Stephen Smith, TF1-588, 22 Sep 2008, 16906; Charles Ngebeh, DCT-146, 22 Mar 10, p. 37781.

⁹⁴⁶ TT, Fayia Musa, DCT-306, 14 Apr 10, p. 38928-38929.

⁹⁴⁷ TT, TF1-168, 23 Jan 09, p. 23431-2; Issa Sesay, DCT-172, 5 July 10, p. 43700.

⁹⁴⁸ TT, TF1-168, 23 Jan 09, p. 23431-2; TT, TF1-371, 01 Feb 08 p. 2868-9

⁹⁴⁹ TT, Issa Sesay, DCT-172, 05 Jul 10, p. 43669-70.

⁹⁵⁰ TT, Issa Sesay, DCT-172, 12 Jul 10, p. 44249.

428. The RUF obtained some ammunition from Taylor in this early part of the war. At this time Charles Taylor's accepted involvement in the initial stages of the Sierra Leonean conflict can be seen as a strategic expansion that would create a frontier buffer zone behind which the revolution in Liberia could be adequately protected. Even then he did not provide sufficient material to make a RUF military victory possible.⁹⁵¹ However, Exhibit P-65 makes clear Taylor's contribution was negligible. In Exhibit P-65, a letter dated 5 May 1992,⁹⁵² Sankoh requests more assistance from Taylor by way of *materiel* and laments that the received five boxes of AK-47 ammunition and ten boxes of RPG rockets are not enough for the vital assault on Daru Barracks in May 1992. It is noteworthy that Sankoh does not complain of being short-changed by Taylor in this supply of ammunition, suggesting that Sankoh had not given Taylor any consideration for it. This letter is by far the most objective evidence of how minimal Taylor's contribution to the RUF was at this stage and was introduced and relied upon by the OTP. Taylor's evidence is that he replied to this letter, informing Sankoh he was in possession of the ammunition requested.⁹⁵³ This is a begging letter; it does not hint of an aggrieved party who feels he has been robbed. There is plenty of evidence to show that Taylor withdrew his NPFL fighters from Sierra Leone shortly after the letter was written and there is no other credible evidence to suggest that he sent any more supplies to Sankoh thereafter.
429. In the meanwhile, deepening divisions between RUF and NPFL fighters led to deadly battles on Sierra Leonean territory, culminating in a series of military operations known as Top 20, Top 40 and Top Final. There are differing accounts of these conflicts, with some OTP witnesses claiming they were over control of supplies and others that they were the result of the very violent behaviour of Liberian fighters toward the civilian population of Sierra Leone.⁹⁵⁴ However, the existence of these operations is not in doubt (for example, Mongor testified to sustaining an injury in one of these Top operations⁹⁵⁵) and nor is the fact that Taylor issued an order to NPFL fighters to withdraw shortly after Exhibit P-65 was drafted. TF1-168 testified that Taylor withdrew NPFL fighters in May or June 1992 because of lootings and rapes

⁹⁵¹ TT, TF1-168, 26 Jan 09, p. 23492.

⁹⁵² TT, TF1-168, 23 Jan 09, p. 23439, 23441.

⁹⁵³ TT, Charles Taylor, 15 Sep 09, p. 28949.

⁹⁵⁴ TT, Foday Lansana, TF1-275, 20 Feb 08, p. 4371-3.

⁹⁵⁵ TT, Isaac Mongor, TF1-532, 1 Apr 08, p. 6391; 4 Apr 2008, p. 6675.

they had engaged in whilst in Sierra Leone leading up to the Top 20, Top 40 and Top Final operations.⁹⁵⁶

430. It is clear that by May/June 1992, about a year after the launch of the invasion into Sierra Leone, Charles Taylor was cutting back his support to Foday Sankoh.⁹⁵⁷ Indeed the fact is that Taylor was distracted by his own problems from what was going on in Sierra Leone.⁹⁵⁸ What is not in doubt is that Taylor issued an order in mid 1992 recalling all NPFL fighters in Sierra Leone back to Liberia (see above witnesses). Most withdrew back to Liberia but some stayed in Sierra Leone becoming full members of the RUF, such as Dennis Mingo, aka Superman,⁹⁵⁹ and Isaac Mongor.⁹⁶⁰ Thus the direct involvement of the NPFL in Sierra Leone lasted for just over one year.⁹⁶¹

431. Thereafter there was a rift between Taylor and Sankoh, who are not said by any witness in the trial to have met between 1993 and 1999. Although there are three Prosecution witnesses who claimed that the two men spoke by radio in 1994 and 1996 we suggest that this evidence is highly dubious for reasons we set out in the relevant paragraphs below. The rift between them is exemplified by the testimony of Fayia Musa.⁹⁶² It is clear that Sankoh felt betrayed by Taylor.⁹⁶³

432. Many RUF fighters spilled into Liberia as refugees. [REDACTED]

433. [REDACTED]

⁹⁵⁶ TT, TF1-168, 21 Jan 09, p. 23211; 23 Jan 09, p. 23438.

⁹⁵⁷ TT, TF1-168, 2 Jan 09, p23444

⁹⁵⁸ TT, TF1-168, 23 Jan 09 p23448

⁹⁵⁹ TT, TF1-168, 21 Jan 09, p. 23212.

⁹⁶⁰ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5649-53, 5676, 5677, 5682; 1 Apr 08, p. 6324.

⁹⁶¹ TT, TF1-168, 26 Jan 09, p23566

⁹⁶² TT, Charles Taylor, 10 Sep 09, p. 28669-70; 26 Oct 09, p. 30243; Fayia Musa, DCT-306, 14 Apr 20, p. 38929-30.

⁹⁶³ TT, TF1-168, 23 Jan 09, p23452

⁹⁶⁴ TT, TF1-371, 25 Jan 08, p. 2234-43.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Closure of the border by ULIMO

434. While the RUF had obtained some materiel from Liberia up to this point in the war the border between the two countries was effectively closed by the activities of ULIMO, the main armed opposition to the NPFL in Liberia at this time. The evidence of many witnesses attest to this fact, in particular Varmuyan Sherif who exhibited a line on a map showing the areas controlled by ULIMO (of which he was a member), indicating that the border was cut off for a long period of time from late 1992/early 1993 until 1996.⁹⁶⁸
435. Even if a few witnesses suggested as did Varmuyan Sherif, that small amounts could be transferred by using jungle paths, no-one has suggested that any significant movement of arms and ammunition occurred across the border between the two countries during the period above. There can be no doubt that the border was effectively closed from that time; no sensible evidence was called to suggest otherwise. Also Isaac Mongor who said it was closed from 1993 until ULIMO were disarmed.⁹⁶⁹ Indeed he added that the border was still blocked by ULIMO at the time of the Sierra Leone elections in March 1996.⁹⁷⁰
436. By 1993 the RUF had once again been pushed to the border with Liberia by the NPRC forces and had changed their tactics by setting up bases in various jungles around Sierra Leone, principally in the east and north of the country but also in the west. They termed this phase of the civil war the Self-Reliant Struggle.⁹⁷¹ They

⁹⁶⁵ TT, TF1-371, 25 Jan 08, p. 2234-43.

⁹⁶⁶ TT, TF1-371, 25 Jan 08, p. 2234-43.

⁹⁶⁷ TT, Issa Sesay, DCT-172, 5 Jul 10, p. 43656-63.

⁹⁶⁸ Exhibit D-1.

⁹⁶⁹ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5684, 5687.

⁹⁷⁰ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5695; Perry Kamara, TF1-360, 4 Feb 08, p. 3051 (dealing with 1994).

⁹⁷¹ TT, Charles Ngebeh, DCT-146, 22 Mar 2010, 37785; TF1-168, 23 Jan 2009, 23450-1.

obtained arms and ammunition during this period principally from ambushes and battles, together with some small trading across the border with Guinea, but none from Liberia or other external sources. There is no credible evidence to show that they received significant supplies from anywhere other than those referred to above.

Sierra Rutile

437. One of Sierra Leone's principal sources of mineral wealth apart from diamonds was the mining and export of minerals including bauxite and one named Rutile.⁹⁷² A corporation had been set up to exploit this mineral wealth named Sierra Rutile which operated a company town (Panguma) in the Bonthe District.⁹⁷³ In late 1994/early 1995 the company's operations were seized by the RUF and several hostages taken.⁹⁷⁴ The hostages included white employees of the company and of another nearby company, Sierrromco, who were later released by the RUF to the ICRC in mid-1995.⁹⁷⁵ The RUF attacked a number of other places during this same campaign, including Kabala and Kono.⁹⁷⁶
438. Sierra Rutile was retaken by the mercenary force Executive Outcomes, brought in by the NPRC government and was looted by a unit of the SLA led by one Johnny Paul Koroma in January 1996, which, together with a number of other defeats led to the RUF seeking a cease fire and negotiations with the government.⁹⁷⁷

Special Task Force

439. In 1995 a group of Liberians, mainly former ULIMO fighters, formed a fighting force within the Sierra Leone Army, known as the Special Task Force (STF), to fight alongside the regular SLA soldiers against the RUF. This group was formed at the behest of the NPRC government and the members of this force were almost entirely if not entirely former members of ULIMO. In other words, they were mainly Liberians. The STF was formally constituted in April 1995 and its members were required to renounce their membership of ULIMO as a condition of joining the STF.⁹⁷⁸ (See in particular Exhibit D-469 for the conditions of membership of the STF, written by

⁹⁷² TT, Augustine Mallah, TF1-045, 12 Nov 08, p. 20099.

⁹⁷³ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3053; Augustine Mallah, TF1-045, 14 Nov 08, p. 20301.

⁹⁷⁴ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3054; Issa Sesay, DCT-172, 12 Aug 10, p. 46129; Foday Lansana, TF1-275, 21 Feb 08, p. 4414.

⁹⁷⁵ TT, TF1-168, 22 Jan 09, p. 23264; Fayia Musa, DCT-306, 20 Apr 10, p. 39370-1.

⁹⁷⁶ TT, Issa Sesay, DCT-172, 12 Aug 10, p. 46130.

⁹⁷⁷ TT, Stephen Smith, TF1-588, 22 Sep 20, p. 16915-6.

⁹⁷⁸ Exhibit D-469.

General Bropleh, Commanding Officer, from the STF HQ in Cockerill Barracks, Freetown in 2000).

440. The fact that there was a unit of mainly Liberian fighters attached to the Sierra Leone Army is highly significant, given the number of references in both the Indictment and the evidence to “Liberian fighters” as if to suggest that all Liberian fighters on Sierra Leone soil had to be somehow associated with Taylor. They were part of the armed forces of Sierra Leone; it was Sierra Leone soldiers who were behind the AFRC coup in 1997 and played the principal part in the invasion of Freetown in January 1999. It is therefore perfectly possible that witnesses who refer to hearing Liberian accents or English being spoken at that time may have been referring to STF members. (See by way of example the cross-examination of Alimamy Bobson Sesay, where he was shown his earlier statement to OTP interviewers in which he described Liberian fighters in the 6 January 1999 invasion of Freetown as having been sent from Liberia between 1998-9 were the Liberians he had earlier referred to who became known as STF.)⁹⁷⁹
441. See also testimony describing the post-Intervention fallout among the various factions who fled Freetown in February 1998, including references to the STF.⁹⁸⁰ Added to this is the important evidence of OTP witness Corrine Dufka on the recording of human rights abuses by members of the STF who she said were involved in looting, killings and rape.⁹⁸¹
442. The existence of the STF is very well documented; their role in the SLA is well established as is the fact that they were paid by the government of Sierra Leone.⁹⁸²

Executive Outcomes and other mercenary organizations

443. In 1995 the NPRC government brought into Sierra Leone a mercenary organization named Executive Outcomes, principally run by South Africans but comprising other nationalities. Their primary deployment was to the diamond mining areas, especially in Kenema, where it is believed that Executive Outcomes took a stake in the diamond mines;⁹⁸³ Dufka refers to some human rights abuses by this mercenary organisation. Other mercenary groups including one made up of Nepalese Gurkhas,⁹⁸⁴ and the well-known British mercenary group, Sandline who has close ties to the British High

⁹⁷⁹ TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8780-1, 8785-9.

⁹⁸⁰ TT, TF1-371, 30 Jan 08, p. 2616.

⁹⁸¹ TT, TF1-371, 22 Jan 08, p. 1903.

⁹⁸² Exhibits D-454, D-455, D-465 and D-469.

⁹⁸³ Corinne Dufka, 22 Jan 08, p. 1899-901.

⁹⁸⁴ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16911.

Commissioner, were also operating in Sierra Leone during the civil war, on occasion in direct breach of the United Nations arms embargo.⁹⁸⁵

Operation Stop Election

444. Peace talks had been arranged to be held in Ivory Coast in early 1996 between the RUF and the NPRC government now led by Maada Bio.⁹⁸⁶ Despite calls from a number of quarters including the RUF for peace before elections, in 1996 elections were held in Sierra Leone before any peace agreement was signed. The elections took place in two stages culminating in a second round victory for Alhaji Tejan Kabbah as President in March.
445. The decision to proceed with the elections was unacceptable to the RUF who had been encouraged by President Maada Bio's highly ambivalent position which they were led to believe was that the elections should be disrupted.⁹⁸⁷ Sankoh ordered his fighters to disrupt the whole process and failing that, to amputate the hands of any who did actually vote.⁹⁸⁸ Prior to the elections in February 1996 Sankoh went to Ivory Coast for peace talks, first to Yamoussoukro and then to Abidjan.⁹⁸⁹

Fall of Zogoda

446. While peace negotiations were continuing in Ivory Coast which eventually led up to the signing of the Abidjan Peace Accord on 30 November 1996,⁹⁹⁰ the RUF's main jungle HQ at Camp Zogoda was attacked by government forces, principally Kamajors who were now under the overall command of Chief Hinga Norman, Deputy Defence Minister of the Sierra Leonean government, whose Defence Minister was President Tejan Kabbah himself. The camp was routed over a period of weeks from September 1996 and was abandoned completely by November.⁹⁹¹ But the loss of Zogoda was made up for by the signing of the Abidjan Peace Accord at the end of November, which brought a brief measure of peace to war torn Sierra Leone.

Abidjan Peace Accord

447. From early 1996 negotiations took place in Ivory Coast initially in Yamoussoukro but mainly in Abidjan resulting in the signing of a peace accord by the RUF and the

⁹⁸⁵ TT, TF1-516, 28 Apr 08, p. 8742-3.

⁹⁸⁶ TT, TF1-168, 22 Feb 09, p. 23276.

⁹⁸⁷ TT, Fayia Musa, DCT-306, 16 Apr 10, p. 39177-8, 39218-20, endorsing commentary in Exhibit P-277.

⁹⁸⁸ TT, [REDACTED] (Sankoh gave a general instruction to stop the election, but not necessarily to cut peoples's hands); [REDACTED].

⁹⁸⁹ TT, [REDACTED].

⁹⁹⁰ Agreed Fact 28.

⁹⁹¹ TT, Albert Hindowa Saidu, TF1-577, 4 Jun 08, 10985.

Sierra Leone government of Tejan Kabbah on 30 November 1996. The accord provided among other things for the removal of the mercenaries, Executive Outcomes, from Sierra Leone within five weeks of the new monitoring organization starting work. The failure of the Abidjan Peace Accord must be squarely laid at the door of Foday Sankoh. He bears a heavy responsibility for the continuation of the war thereafter.⁹⁹²

External Delegation

448. The RUF had little contact with the outside world for several years and so decided to set up an External Delegation in an attempt at international diplomacy to gain support for their objectives.⁹⁹³ The Delegation was sent in May 1995 to Danane in the Ivory Coast, where they met senior officials and also went to Abidjan and met the Foreign Minister and then President Bedie, plus others who were fully aware of who they were and what they were doing in Ivory Coast.⁹⁹⁴ They were provided with accommodation whose rent was paid by the Ivorian government and when Sankoh came for the peace talks he was given considerable material assistance by the Ivorian government.⁹⁹⁵ This is no different in principle from the support that Taylor provided in Monrovia by way of a guesthouse for the RUF members who came to Monrovia in connection with peace talks in the region to resolve the Sierra Leone conflict.
449. In fact, during the currency of these long drawn-out peace talks Sankoh went on several trips around both the sub-region and Africa in company of members of the External Delegation. When President-elect Kabbah went back to Sierra Leone for the handover of power Sankoh went on a tour to see the leaders of Burkina Faso, Libya, Ghana and Nigeria; then during a cessation of the peace talks he also went to see the President of Togo,⁹⁹⁶ in order to get advice about transforming the RUF into a political party. While in Nigeria he and his delegation received a gift of \$50,000 each together with traditional clothing from Sani Abacha.⁹⁹⁷ Finally he went back to Sierra Leone briefly to consult with his fighters as to whether to sign the peace accord.⁹⁹⁸

⁹⁹² TT, [REDACTED]

⁹⁹³ TT, [REDACTED]

⁹⁹⁴ TT, [REDACTED]

⁹⁹⁵ TT, [REDACTED]

⁹⁹⁶ TT, [REDACTED]; Fayia Musa, DCT-306, 14 Apr 10, p. 38955.

⁹⁹⁷ TT, [REDACTED]

⁹⁹⁸ TT, TF1-567, 2 Jul 08, 12878-9; TF1-168, 2 Jan 09, p. 23275, 23278-80.

450. It was the External Delegation who wrote and published the RUF text: *Footpaths to Democracy*.⁹⁹⁹ The text explains in simple terms the underlying inequities of all aspects of life in Sierra Leone, whose entire political, social and cultural life had become subordinate to the whims of its corrupt and rotten elite. No witness suggested that a revolution against this corrupt system was anything other than inevitable. After publishing the book steps were taken towards setting up peace talks in Ivory Coast and when in Abidjan some of the External Delegation met Taylor in a hotel in Abidjan who congratulated them on their moves towards a peace process and gave them 10 million CFA (Ivorian currency) towards their expenses in pursuing the peace process.¹⁰⁰⁰
451. Members of the External Delegation had been to other countries to obtain political and material support. Some members went to Gbarnga to meet Charles Taylor and then traveled on with him to Accra to enable them to meet the international community and see how peace talks were conducted (although they saw nothing of the latter), contrary to Sankoh's wishes, since Sankoh did not want to have anything to do with him at that time.¹⁰⁰¹ Sankoh made it very clear that he wanted nothing to do with Taylor and, pointedly, did not go to Liberia during his tour of neighboring African countries referred to in para 43 above.¹⁰⁰² He had vowed never to go to Liberia to meet Taylor again.¹⁰⁰³ Fayia Musa also went to France, Belgium, Holland and Germany to seek political support from Europe.¹⁰⁰⁴

Arrest of Sankoh in Nigeria / Handover of power within RUF

452. Following the signing of the Abidjan Peace Accord, in early 1997 Sankoh left Sierra Leone on a mission which took him first to Nigeria where he was arrested and held (initially at a hotel) by the authorities there on charges of criminal possession of arms.¹⁰⁰⁵ He remained in Nigerian custody until his transfer to the Sierra Leone authorities in July 1998.¹⁰⁰⁶ It is clear that Sankoh had some access to means of

⁹⁹⁹ Exhibit D-336.

¹⁰⁰⁰ TT, Fayia Musa, DCT-306, 14 Apr 10, p. 39000-1.

¹⁰⁰¹ TT, Fayia Musa, DCT-306, 14 Apr 10, p. 38959-64.

¹⁰⁰² TT, Fayia Musa, DCT-306, 14 Apr 10, p. 39050.

¹⁰⁰³ TT, Fayia Musa, DCT-306, 15 Apr 10, p. 39054.

¹⁰⁰⁴ TT, Fayia Musa, DCT-306, 14 Apr 10, p. 39045.

¹⁰⁰⁵ Exhibit P-531, paras dated 15th, 19th and 31st March.

¹⁰⁰⁶ Judicially Noted Fact U.

communication¹⁰⁰⁷ during the first few months of his detention in Nigeria, but he had already made arrangements for leadership of the RUF on the ground before he had left for the Ivory Coast, by appointing Sam Bockarie as Commander in the absence of Mohamed Tarawalie, aka Zeno, who had gone missing. That Sam Bockarie had been put in charge of the RUF on the ground in Sierra Leone by Sankoh before the latter left Abidjan for Nigeria where he was arrested was confirmed by Sam Kolleh DCT-102, in interview with the OTP in November 2003 at a time when this issue was not contentious.¹⁰⁰⁸

453. After Sankoh's arrest in Nigeria the External Delegation suspended Sankoh as leader and put in train efforts to choose an interim leader to continue to implement the Abidjan Peace accord but were denounced by Mike Lamin and others as trying to take over the leadership from Sankoh and tricked into returning to Sierra Leone soil where they were then arrested and tortured and held from 1997 to 1999 before being released.¹⁰⁰⁹
454. It was claimed by Augustine Mallah, TF1-045, that he had heard Sankoh on the radio to Sam Bockarie after Sankoh's arrest, telling him to take his instructions "from the other side" meaning from Taylor. Mallah claimed to have heard this conversation on a radio he was listening to in Danane, Ivory Coast and added that Sankoh said he had spoken to Taylor before his arrest.¹⁰¹⁰ This claim can be dismissed in much the same way that Mallah's other alleged overheard conversations between the two estranged leaders during the long period when everyone else says they had fallen out.

RUF's Arms and Ammunition Supplies 1993-97

455. There is a wealth of evidence to suggest that the RUF had few supplies of arms and ammunition other than what they captured during this period. There is also cast-iron evidence that Sam Bockarie obtained materiel from ULIMO from possibly late 1996/early 1997, and there is also documentary evidence that the RUF obtained (and was seeking) money from other countries, including substantial assistance from Libya. Material support was also provided by the government of Ivory Coast. The

¹⁰⁰⁷ Exhibit P-531; [REDACTED]; and see further letters given by Sankoh while in Nigerian custody to Gibril Massaquoi to deliver to Issa Sesay and Sam Bockarie to overthrow Johnny Paul Koroma: *ibid*, p 23521.

¹⁰⁰⁸ TT, Sam Kolleh, DCT-102, OTP interview November 2003, pp 83-4; Exhibit P-611; TT, TF1-371, 29 Jan 08, p. 2462; [REDACTED] referring to the time of Sankoh's visit to the combatants in November 1996.

¹⁰⁰⁹ TT, [REDACTED].

¹⁰¹⁰ TT, Augustine Mallah, TF1-045, 12 Nov 08, p. 20126-8.

evidence of the RUF or Bockarie trading with ULIMO in 1996-7 comes from a variety of sources¹⁰¹¹ and also when interviewed in November 2003 by the OTP under the name of Mustapha Koroma, long before the issue of the RUF's arms supplies was ever contentious in this trial.¹⁰¹²

456. A protected Prosecution witness testified that Sankoh had been given \$500,000 by the Libyan Ambassador to Ghana when in Ivory Coast during the Abidjan peace talks, and that he sent some of the money to Sam Bockarie to buy ammunition from ULIMO on the border with Sierra Leone.¹⁰¹³ There is evidence that in mid-1996 Sankoh sought further substantial sums of money from Libya whose government had already given him \$500,000. See Exhibit D-15,¹⁰¹⁴ which is a letter dated 26th June 1996 from Sankoh to one Mohammed Talibi, the Libyan Ambassador to Ghana, in which Sankoh asks for a further \$1,500,000 US, for the purchase of arms and ammunition and thanks the Libyans for the original \$500,000 they had already supplied.¹⁰¹⁵
457. Sankoh even went as far as asking the Libyans for more money later in 1996 – he sent another begging letter, dated 4th December 1996,¹⁰¹⁶ asking for more money for arms.¹⁰¹⁷ But what is striking about the trips Sankoh made during and after the Abidjan peace process is that although he travelled around the sub-region seeking assistance and money for materiels from various countries, he did not go to Liberia or send any letters to Taylor asking for assistance of any sort.
458. A figure who featured often in the evidence, General Ibrahim Bah, was described as an arms dealer and go-between who came to Zogoda in 1996 to help Sankoh get arms,¹⁰¹⁸ further underlining the point that the RUF were looking always for sources of arms supplies during this period.
459. Evidently, the RUF was not engaged in organized mining during the early years of the Sierra Leone conflict, neither in Kono District, nor at Tongo Fields. Although the Prosecution's diamond expert, Ian Smillie testified that the RUF was "very definitely"

¹⁰¹¹ TT, Varmuyan Sherif, TF1-406, 10 Jan 08, p. 1018; TF1-371, 31 Jan 08, p. 2696; TF1-367, 20 Aug 08, p. 14194-7; TF1-338, 3 Sep 08, p. 15276 in which he names Sam Kolleh as being one of those who went to collect the arms; Charles Ngebeh, DCT-146, 23 Mar 10, p. 37848-9; Sam Kolleh, DCT-102, 1 Nov 10, p. 48409-13.

¹⁰¹² Interview of Mustapha Koroma in November 2003, pp 95 onwards: Exhibit: P-611.

¹⁰¹³ TT, [REDACTED].

¹⁰¹⁴ Exhibit D-15.

¹⁰¹⁵ TT, [REDACTED].

¹⁰¹⁶ Exhibit P-272.

¹⁰¹⁷ TT, [REDACTED].

¹⁰¹⁸ TT, TF1-338, 3 Sep 08, p. 15297-9.

engaged in mining during the periods it controlled a diamond-rich area¹⁰¹⁹ his statement is inconsistent with what is stated in a Security Council document – partly written by Ian Smillie himself – namely that there was no organized mining done by the RUF before 1995.¹⁰²⁰

460. Despite the fact the RUF was not engaged in serious mining during these years it nevertheless had diamonds in its possession. Evidence shows that these diamonds came from ambushes and were captured from civilians.¹⁰²¹ All these diamonds were given to sustenance of the External Delegation in Ivory Coast.¹⁰²²

Chapter Four: The Taylor Inheritance and the History of His Presidency up to Lomé

461. It will be noted that in this section of our submissions we rely on a large number of contemporaneous documents. Many of these are Code Cables none of which are written by the accused but by independent individuals, none of whom could have had a criminal prosecution in mind. The defence case is unique in this sense. In all cases, letters or other documents written well before there is any breath of a prosecution against a defendant may throw a very clear light on his knowledge, intention and veracity at the time. To attach importance to matters such as these, which are independent of human recollection, is so obvious, and such a standard practice, and in some cases so inevitable, that no prolonged discussion is called for.
462. On taking power the new President was faced with a myriad of problems. After eight years of war Liberia was devastated. That simple fact holes the prosecution theory fatally below the waterline. We believe in proof and not theory. Why was the war fought in the first place? To gain power. What would any President be anxious to do? Hang on to power. Surely that is best done by attending to the affairs of the nation rather than gliding off on adventures abroad. The fact of the matter is that no theory can be a substitute for the plain truth and reality.

¹⁰¹⁹ TT, Ian Smillie, 07 Jan 08, p. 533.

¹⁰²⁰ Exhibit P-18, page 16, para 67. Moreover, in para 70 it is stated that the RUF had organized diamond mining once [REDACTED].

[REDACTED] TT, [REDACTED].

¹⁰²¹ TT, TF1-367, 01 Sep 08, p. 15042; TF1-567, 02 Jul 08, p. 12861-62; DCT-102, 01 Nov 10, p. 48434; DCT-306, 20 Apr 10.

¹⁰²² TT, DCT-306, 20 Apr 10, p. 39391.

463. Effectively, Liberia had no national army when Taylor became president.¹⁰²³ The AFL had participated in the civil war and had become factionalised. Parts had joined the LPC or ULIMO-J. Disarmament was completed prior to the electoral process, in December 1996. None of the collected ammunition was given to Taylor when he became president. They remained in the custody of the UN and the peacekeepers.¹⁰²⁴
464. Taylor took over Liberia in a desperate financial state.¹⁰²⁵ There was less than 20,000 USD in the Central Bank and there was in excess of 3 billion USD of external debt. Not much tax was being collected due to the war.¹⁰²⁶ The external debt was owed to nations, multinational banks, the World Bank and the IMF.¹⁰²⁷ Liberia was effectively bankrupt as a country and one of the immediate concerns at the start of Taylor's presidency was to get the economy back on its feet.¹⁰²⁸ The only possible source of income at the time was from the maritime arrangements which permitted countries to use the Liberian flag on their vessels.¹⁰²⁹ Liberia had, however, accumulated only a small amount of domestic debt. Liberia, even before Taylor's time, did not encourage deficit spending.¹⁰³⁰ Although, according to the Presidential Papers, domestic debt stood at 1.255 billion LD and 200 million USD.¹⁰³¹ The president's salary when Taylor took over was equivalent to around 2,000 USD a month.¹⁰³²
465. Taylor's first priority as president was to put together a mechanism to turn around the finances of the Government and the precondition for economic development in Liberia was security and peace.¹⁰³³ The civil service was very large by the time Taylor came into power. It had grown by 300 to 400 per cent when everyone joined the Council of State. Taylor was unable to pay them.¹⁰³⁴
466. Much of the country's infrastructure had been damaged. Buildings were looted. There was no electricity and no water. Taylor stated that the water system, and to an extent

¹⁰²³ TT, Charles Taylor, 23 Jul 09, p. 25196.

¹⁰²⁴ TT, Charles Taylor, 23 Jul 09, p. 25196.

¹⁰²⁵ TT, Charles Taylor, 23 Jul 09, p. 25197.

¹⁰²⁶ TT, Charles Taylor, 27 Jul 09, p. 25208-9; p. 25262; Exhibit D-141, p. 188; or 4 billion USD of external debt according to Taylor on 1 December 2009, p. 32788; there was less than 17,000 USD in the bank according to Presidential Papers, Exhibit D-141, p. 187.

¹⁰²⁷ TT, Charles Taylor, 1 Dec 09, p. 32788.

¹⁰²⁸ TT, Moses Blah, 20 May 08, p. 10240.

¹⁰²⁹ TT, Charles Taylor, 27 Jul 09, p. 25209.

¹⁰³⁰ TT, Charles Taylor, 27 Jul 09, p. 25211.

¹⁰³¹ Exhibit D-141, p. 187.

¹⁰³² TT, Charles Taylor, 1 Dec 09, p. 32789.

¹⁰³³ TT, Charles Taylor, 28 July 09, p. 25406; Taylor also mentions this in his first address to ECOWAS when he became a member of the Committee of Five in Exhibit D-141, starting at p. 194.

¹⁰³⁴ TT, Charles Taylor, 23 Jul 09, p. 25197.

the electricity grid, had already broken down during the last years of Samuel Doe's government.¹⁰³⁵ The road conditions were terrible because no one had been carrying out repairs on the roads and bridges.¹⁰³⁶ When Taylor became president, there was a paved road that ran from Monrovia, through Gbarnga which stopped at Ganta. Other roads, such as from Gbarnga to Lofa, had a laterite surface.¹⁰³⁷ There were, at this time, two roads from Monrovia into Sierra Leone: one via Klay into Bo; the other via Kakata, Gbarnga, Zorzor, Voinjama and then Kolahun.¹⁰³⁸ Roberts International Airport was, for the most part, closed to commercial air traffic and was being used as a Nigerian air force base. The runway and buildings were still intact although there was some damage to the buildings and some of the equipment had gone.¹⁰³⁹

467. Iron ore was Liberia's principal export earner. However, by the time Taylor became president, the mines had stopped working as a result of the war. Most of the expatriate employees had left and the movable had been assets removed.¹⁰⁴⁰ Taylor was unable to reconstitute the iron ore industry during his presidency.¹⁰⁴¹ Liberia had many diamondiferous areas, few of which had been exploited; namely, Grand Cape Mount, Bong Range and Nimba County.¹⁰⁴² Liberia was found to have vast reserves of oil offshore, found as a result of surveys conducted by a US firm contracted by the Taylor government.¹⁰⁴³
468. Therefore, there was no reason for Taylor to have gone into Sierra Leone to take its natural resources as alleged when he had vast amounts of untapped natural resources in Liberia.¹⁰⁴⁴ We provided maps which show the extent of these resources.¹⁰⁴⁵
469. ECOMOG was still deployed in Liberia for disarmament and demobilisation. They were effectively in charge.¹⁰⁴⁶ ECOMOG was in reality the only effective force in the country when Taylor became president and it numbered around 10,500 troops.¹⁰⁴⁷ ECOMOG also controlled the border between Sierra Leone and Liberia.¹⁰⁴⁸ The

¹⁰³⁵ TT, Charles Taylor, 23 Jul 09, p. 25197.

¹⁰³⁶ TT, Charles Taylor, 23 Jul 09, p. 25198.

¹⁰³⁷ TT, Charles Taylor, 27 Jul 09, p. 25224.

¹⁰³⁸ TT, Charles Taylor, 27 Jul 09, p. 25228; Exhibit D-130.

¹⁰³⁹ TT, Charles Taylor, 27 Jul 09, p. 25291.

¹⁰⁴⁰ TT, Charles Taylor, 27 Jul 09, p. 25214-5.

¹⁰⁴¹ TT, Charles Taylor, 27 Jul 09, p. 25215.

¹⁰⁴² TT, Charles Taylor, 27 Jul 09, p. 25237-8; Exhibit D-131.

¹⁰⁴³ TT, Charles Taylor, 27 Jul 09, p. 25239.

¹⁰⁴⁴ TT, Charles Taylor, 27 Jul 09, p. 25261.

¹⁰⁴⁵ Exhibit D-131; Exhibit D-128.

¹⁰⁴⁶ TT, Charles Taylor, 27 Jul 09, p. 25275.

¹⁰⁴⁷ TT, Moses Blah, 20 May 08, p. 10241.

¹⁰⁴⁸ TT, Charles Taylor, 27 Jul 09, p. 25275.

presence of ECOMOG forces in Liberia presented a challenge to the sovereignty of the Taylor administration. ECOMOG had acted in Liberia for a period without being answerable to anyone. They were an occupying force, but this had to come to an end with the accession of Taylor to the presidency.¹⁰⁴⁹ ECOMOG had already begun reducing their forces. The presence of UNOMIL in Liberia had ended as of 30 September 1997.¹⁰⁵⁰

470. Before the elections, ECOMOG had total control, making all administrative and other decisions within Liberia. The ECOMOG forces did not take instructions from the Council of State but had carried out their mandate well, according to Taylor¹⁰⁵¹. After the elections, the issue was who was in control of Liberia. This led to the (second-attempted) status of forces agreement to establish what was required of ECOMOG, post-elections.¹⁰⁵² The Liberian government's issues were not with the force commander, General Victor Malu, but with ECOWAS (the executive secretary).¹⁰⁵³ However, Taylor expected Malu to understand that Liberia was, post-election, a sovereign nation with an elected government.¹⁰⁵⁴ Malu was eventually replaced.¹⁰⁵⁵
471. The issue of ex-combatants posed a serious challenge as there was no real demobilisation after the war in Liberia.¹⁰⁵⁶ There were thousands of young people doing nothing.¹⁰⁵⁷ These men knew nothing apart from the waging of war. They were located in a geographical area with abundant opportunities for them to ply their trade. The whole area was by this time awash with small arms. This was the tinderbox upon which Taylor's regime stood.

Taylor's Government – August 1997

472. We have quite deliberately set out in chronological order the first six months of the Taylor Presidency in order to clearly establish the concerns, pressures and obligations which accompany high office. We ask the reader to ponder whether with such a weighty and difficult inheritance Charles Taylor would have had the time or the means to act as alleged by the prosecution.

¹⁰⁴⁹ TT, Charles Taylor, 27 Jul 09, p. 25274-5.

¹⁰⁵⁰ TT, Charles Taylor, 18 Nov 09, p. 31947.

¹⁰⁵¹ TT, Charles Taylor, 18 Nov 09, p. 31952.

¹⁰⁵² TT, Charles Taylor, 18 Nov 09, p. 31952.

¹⁰⁵³ TT, Charles Taylor, 18 Nov 09, p. 31950-1.

¹⁰⁵⁴ TT, Charles Taylor, 18 Nov 09, p. 31953-4.

¹⁰⁵⁵ TT, Charles Taylor, 18 Nov 09, p. 31954.

¹⁰⁵⁶ TT, Charles Taylor, 29 Jul 09, p. 25503-4.

¹⁰⁵⁷ TT, Charles Taylor, 29 Jul 09, p. 25504.

473. Reconciliation was one of the important issues Taylor had to address after the elections. Taylor invited Alhaji Kromah to be the head of the national reconciliation commission. He then began putting together a government of national unity.¹⁰⁵⁸
474. Taylor then appointed senior people from the various factions to various government positions. Roosevelt Johnson and Hezekiah Bowen were appointed ministers in government. Bowen was also appointed one of the first chiefs of staff of the armed forces. General Philip Karmah was made the second chief of staff of the armed forces and made the minister of national security. Taylor also brought in Dr Amos Sawyer and Dr David Kpomakpor. Varmuyan Sherif was made assistant director at the mansion. Tom Woveiyu became a member of the senate on the NPP side.¹⁰⁵⁹ Amos Lincoln, a former general in ULIMO-J was made deputy minister for rural development.¹⁰⁶⁰
475. Taylor, therefore, effectively had a government of national unity. He gave 40 per cent of the government posts to the NPP and 60 per cent to the people who had previously been his adversaries.¹⁰⁶¹
476. Baffour Ankomah asked Taylor during an interview for the New African magazine in December 1997 about what appeared to be the dismemberment of the opposition; Taylor would be left with no strong opposition if he absorbed them all into his government. He responded that it was not a case of winning them over to his party. The opposition leaders were not his enemies and that the efforts he made were for the purpose of reconciliation.¹⁰⁶²
477. Taylor stated in the same interview that as part of his economic policy to bring investors into Liberia, he legislated to make human rights the bedrock of his government's overall economic and political policy.¹⁰⁶³ Taylor explained that he had passed an Act establishing a national human rights commission in Liberia. Taylor respected all the human rights agencies operating in Liberia.¹⁰⁶⁴

¹⁰⁵⁸ TT, Charles Taylor, 23 Jul 09, p. 25173; Exhibit D-127, p. 6.

¹⁰⁵⁹ TT, Charles Taylor, 23 Jul 09, p. 25174-5.

¹⁰⁶⁰ TT, Charles Taylor, 3 Aug 09, p. 25787.

¹⁰⁶¹ TT, Stephen Ellis, 18 Jan 08, p. 1575.

¹⁰⁶² Exhibit D-127, p. 6.

¹⁰⁶³ Exhibit D-127, p. 7-8.

¹⁰⁶⁴ TT, Charles Taylor, 23 July 09, p. 25180.

478. Moses Blah accepted that Taylor was the type of president who was willing to accept criticism and was prepared to foster and develop free speech within Liberia.¹⁰⁶⁵ However Varmuyan Sherif and Hassan Bility take a different view. We do not propose to be distracted by this irritating “white noise” which has no relevance to the indictment. In the absence of proof this prosecution has sought on several occasions to mask their lack of evidence with distractions.¹⁰⁶⁶ We have no intention of being drawn into these discussions rather we prefer to concentrate on the sole issue, proof of the allegations contained in that important document the Indictment.
479. After Taylor became president, he changed the National Bank of Liberia into the Central Bank of Liberia. It became, for the first time, totally autonomous from the functions of the executive. This occurred in early 1998.¹⁰⁶⁷ All revenues coming into the Liberian government would be deposited in the Central Bank of Liberia.¹⁰⁶⁸
480. It requires an Act of the legislature to authorise the president to raise an army.¹⁰⁶⁹ One of the main areas of conflict between Taylor and General Victor Malu of ECOMOG was Malu’s insistence that ECOMOG should be the one to restructure and train the AFL.¹⁰⁷⁰ Taylor opposed this. As far as he was concerned this was an issue of sovereignty. ECOMOG should not dictate the future of the AFL.¹⁰⁷¹
481. In the area of foreign policy the new President had to contend with a number of strategic issues. Foremost amongst these being his relationship with Nigeria. Nigeria is the largest country in West Africa, indeed the most populous country on the African continent, and most of the burden of bringing about peace in Liberia and Sierra Leone fell on Nigeria.¹⁰⁷² Taylor told President Abacha of Nigeria that ECOMOG must be neutral if peace in Liberia was to be achieved, notwithstanding that both knew that ECOMOG had assisted other armed groups within Liberia in the past. Abacha assured Taylor ECOMOG was going to be neutral. However, this promise of neutrality was not kept.¹⁰⁷³ Taylor discovered months into his presidency that ECOMOG were

¹⁰⁶⁵ TT, Moses Blah, 20 May 08, p.10244; on the basis of Exhibit P-125, Daily Times dated 24 July 1998, under the heading “Speaker Laments Societal Ills”, which stated that Taylor chaired and moderated a national conference at which several speakers complained about the retrogression of the country.

¹⁰⁶⁶ See the Naomi Campbell saga below.

¹⁰⁶⁷ TT, Charles Taylor, 18 Nov 09, p. 31968-9.

¹⁰⁶⁸ TT, Charles Taylor, 18 Nov 09, p. 31969.

¹⁰⁶⁹ TT, Charles Taylor, 17 Nov 09, p. 31933.

¹⁰⁷⁰ TT, Charles Taylor, 18 Nov 09, p. 31948-9.

¹⁰⁷¹ TT, Charles Taylor, 18 Nov 09, p. 31948-9.

¹⁰⁷² TT, Charles Taylor, 27 Jul 09, p. 25263.

¹⁰⁷³ Despite Taylor stating in examination-in-chief that he felt that Abacha was a man of his word, and stating that Abacha kept his promise to remain neutral, 27 Jul 09, p. 25270-1.

training and arming Kamajor recruits from Liberia, just four or five miles outside of Monrovia at Ricks Institute¹⁰⁷⁴ in co-operation with Chief Sam Hinga Norman. The Kamajor issue could have sparked a new war in Liberia, which Taylor wanted to avoid.¹⁰⁷⁵ The RUF were fighting against the Kamajors at this time and Taylor stood to gain nothing and lose everything if he had supported the RUF or if he had tried to destabilize Sierra Leone.¹⁰⁷⁶

482. Following an ECOWAS meeting in late 1997, it was decided that force would be used to oust the Junta in Freetown. However, at that time, no authorisation had been obtained from the Security Council to use force. The UK government would not support Nigeria's efforts to get the use of force authorised¹⁰⁷⁷ and made veiled threats to Liberia about reducing their foreign aid.¹⁰⁷⁸
483. Nigeria used Roberts International Airport as an airbase to carry out air strikes against the AFRC government. Taylor acquiesced in the use of the airport for the air strikes,¹⁰⁷⁹ although he did not endorse it. He thought that supporting ECOWAS to remove the Junta was in the best interest of the organisation, the member countries and the people.¹⁰⁸⁰ The UK condemned the bombing and Taylor was concerned that Liberia appeared to be part of the war being waged against Sierra Leone. Taylor tried to convince Abacha to stop because Taylor wanted to foster good relations with Sierra Leone – a fact accepted by Moses Blah.¹⁰⁸¹
484. The situation was further complicated by the hiring of the mercenary organisation Sandline by the Sierra Leonean Government with the complicity of some in the British Government.¹⁰⁸² The UK needed to find an alibi as to how arms were getting into Sierra Leone despite the embargo, so developed the story that arms were coming in from Liberia to hide the fact that it was Sandline who were bringing them in with the knowledge of some in the UK government.¹⁰⁸³

¹⁰⁷⁴ TT, Charles Taylor, 23 Jul 09, p. 25285; 27 July 09, p. 25267.

¹⁰⁷⁵ TT, Charles Taylor, 27 Jul 09, p. 25269.

¹⁰⁷⁶ TT, Charles Taylor, 27 Jul 09, p. 25270.

¹⁰⁷⁷ TT, Charles Taylor, 27 Jul 09, p. 25263-6; 23 Jul 2009, p. 25186-7.

¹⁰⁷⁸ TT, Charles Taylor, 27 Jul 09, p. 25263-7.

¹⁰⁷⁹ TT, Charles Taylor, 23 Jul 09, p. 25190-1.

¹⁰⁸⁰ TT, Charles Taylor, 23 Jul 09, p. 25190-1.

¹⁰⁸¹ TT, Moses Blah, 20 May 08, p. 10244-5.

¹⁰⁸² See Exhibit D-386.

¹⁰⁸³ TT, Charles Taylor, 5 Nov 09, p. 31218-20.

485. Libya provided the aircraft for about two-thirds of the trips Taylor made as president.¹⁰⁸⁴ Taylor went to Abuja on August 1997 to attend his first ECOWAS meeting.¹⁰⁸⁵ Taylor addressed his colleagues for the first time as the newly joining head of state¹⁰⁸⁶ and condemned the AFRC in this address.¹⁰⁸⁷
486. Taylor was put on the Committee of Five on 28 August 1997, at the 20th ECOWAS Summit in Abuja.¹⁰⁸⁸ Taylor had been approached about this matter as a former guerilla leader.¹⁰⁸⁹ ECOWAS operated on the basis of consensus and there was, therefore, consensus in support of Liberia's membership of the committee, Kabbah's government included.¹⁰⁹⁰

South Africa, September 1997

487. On 20 September 1997 Taylor visited South Africa.¹⁰⁹¹ Taylor went to South Africa to pay a personal visit to Nelson Mandela. This was their first meeting.¹⁰⁹² He also intended to have a medical examination. Libya provided financial assistance of about half a million USD for this trip.¹⁰⁹³ This visit provides the backdrop to perhaps the biggest distraction to take place in the trial; the re-opening of the prosecution case to call Naomi Campbell and her agent and Mia Farrow. In making this application this court was told that the anticipated evidence concerns "*a central issue*"¹⁰⁹⁴ in the prosecution case. Further that it would show that the "*accused used rough diamonds for personal enrichment and arms purchases for Sierra Leone, particularly during the AFRC/RUF period.*"¹⁰⁹⁵ In deciding to grant the prosecution's application, the Trial Chamber noted that the evidence was: "*...highly probative and material to the indictment.*"¹⁰⁹⁶

¹⁰⁸⁴ TT, Charles Taylor, 1 Dec 09, p. 32792-3.

¹⁰⁸⁵ TT, Charles Taylor, 28 Jul 09, p. 25400; Exhibit D-136; Exhibit D-141, p. 193, shows Taylor inspecting the honour guard for his arrival in Abuja.

¹⁰⁸⁶ TT, Charles Taylor, 28 Jul 09, p. 25401; Exhibit D-141, p. 194.

¹⁰⁸⁷ Exhibit D-141, p. 194.

¹⁰⁸⁸ TT, Charles Taylor, 28 Jul 09, p. 25411; Taylor was nominated to become a member of the committee at the end of the programme of the ECOWAS Summit in Abuja on 28 August 1997.

¹⁰⁸⁹ TT, Charles Taylor, 28 Jul 09, p. 25411.

¹⁰⁹⁰ TT, Charles Taylor, 28 Jul 09, p. 25411-2.

¹⁰⁹¹ Exhibit D-141, p. 203.

¹⁰⁹² Exhibit D-141, p. 203.

¹⁰⁹³ TT, Charles Taylor, 1 Dec 09, p. 32794; Exhibit D-141, p. 204.

¹⁰⁹⁴ TT, Charles Taylor, 14 Jan 09, p. 33348; SCSL-03-01-T-961, "Public Prosecution Motion for the Issuance of a Subpoena to Naomi Campbell", 20 May 10, para. 2.

¹⁰⁹⁵ *Prosecutor v. Taylor*, SCSL-03-01-T-961, "Public Prosecution Motion for the Issuance of a Subpoena to Naomi Campbell", 20 May 10, para. 2.

¹⁰⁹⁶ *Prosecutor v. Taylor*, SCSL-03-01-T-996, "Decision on Prosecution Motion for the Issuance of a Subpoena to Naomi Campbell", 30 Jun 10, p. 2.

488. One could be forgiven then for thinking, finally the prosecution is going to produce the “smoking gun”. Not a bit of it: rather we had the unedifying spectacle of the Prosecutor attempting, first to impeach, and then to disown a witness they had spent great effort and expense to get to court. To repeat this evidence here would be to give it a credence it does not merit, save to mention that Campbell did not produce what was expected and the testimony of her agent and Mia Farrow was so riddled with inconsistencies, and implausibilities, both internal to their individual accounts and between each other, that this court ought to reject it. Bearing in mind that the only independent support for any account is in respect of the testimony of Naomi Campbell as to what she did with the “*dirty little stones*”,¹⁰⁹⁷ for lo and behold Jeremy Ractliffe emerged to corroborate Campbell’s account.
489. Many people in the Western hemisphere are only familiar with the conflicts in Sierra Leone and Liberia through popular Hollywood films such as “Blood Diamonds” and “Lords of War”. But when the prosecution called in the supermodel Naomi Campbell, and Hollywood actress Mia Farrow, there was suddenly a renewed focus on the conflicts in West Africa. In spite of the fact that this trial casts light on some of the most interesting and widely discussed events at the end of the Cold War and the advent of a new century, the proceedings were effectively ignored by the world media until Naomi Campbell showed up. The main objective of the prosecution was to find out if Campbell had received some diamonds from Charles Taylor after the dinner hosted by Nelson Mandela. This should somehow link Taylor with “Blood Diamonds”, his support of the RUF in Sierra Leone, and the commission of crimes. It defies reason and logic how a few diamonds given to the supermodel can link Taylor to the RUF, which is fundamental to this case. Much indicates that calling Campbell and Farrow as witnesses has more to do with propaganda than international justice. Taylor did not take diamonds on this trip. He did not sell diamonds in South Africa in exchange for arms and no gift of a few diamonds could possibly prove that, even if it were true.¹⁰⁹⁸
490. The prosecution story is that Taylor was given diamonds by the AFRC in August 1997, when JP Koroma sent a delegation to Monrovia. Taylor subsequently went to South Africa and Libya with these diamonds and exchanged them for the purchase of

¹⁰⁹⁷ TT, Naomi Campbell, 5 Aug 10, p. 45470.

¹⁰⁹⁸ TT, Charles Taylor, 14 Jan 09, p. 33337.

arms including that which was linked to the Magburaka shipment.¹⁰⁹⁹ The letter from JP Koroma to Taylor dated 3 October 1997¹¹⁰⁰ does not support the prosecution story. Taylor left for South Africa on 20 September, and had returned by 3 October. Why did JP Koroma send a letter to Taylor requesting arms after he returned if he had given Taylor diamonds before he left and already agreed an arms exchange? The whole tone of what JP Koroma wrote in the letter is entirely inconsistent with the prosecution proposition.

491. Whilst Taylor was in South Africa Sam Dokie was killed.¹¹⁰¹ Joseph Marzah said that he and Taylor ate Sam Dokie's liver together after he died.¹¹⁰² Needless to say, it was impossible for Taylor to have eaten Dokie's liver with Marzah when he was in South Africa.¹¹⁰³ The brazenness of this shocking lie has implications for the prosecution calling of their star witnesses Naomi Campbell, her agent and Mia Farrow. In effect they called that evidence fully knowing that it would flatly contradict the evidence of Marzah, another prosecution "star" witness. Samuel Dokie was someone Taylor knew very well.¹¹⁰⁴ Taylor stated that the facts behind the killing related to an old family tribal feud between Dokie and some citizens of Nimba County and that, as a result, Dokie and others were killed.¹¹⁰⁵ Taylor made a statement in Liberia about this on 4 December 1997.¹¹⁰⁶
492. Taylor did not respond to JP Koroma's letter of 3 October 1997.¹¹⁰⁷ In addition to the letter, the Junta in Sierra Leone attempted to contact Taylor by sending a delegation to Monrovia.¹¹⁰⁸ Taylor did not meet with the delegation¹¹⁰⁹ as he was not prepared to recognise the Junta regime.¹¹¹⁰ Around September there was a meeting of the General Assembly at the UN, at which a letter on behalf of Taylor was read out encouraging a peaceful resolution of the situation in Sierra Leone, pursuant to the agreement that had been reached. Taylor thought that the speech may have raised the Junta's hopes that

¹⁰⁹⁹ TT, Charles Taylor, 14 Jan 09, p. 33344.

¹¹⁰⁰ Exhibit D-4.

¹¹⁰¹ TT, Charles Taylor, 30 Sep 09, p. 29966.

¹¹⁰² TT, Joseph Marzah, 14 Mar 08, p. 6154.

¹¹⁰³ TT, Charles Taylor, 30 Sep 09, p. 29966.

¹¹⁰⁴ TT, Charles Taylor, 29 Jul 09, p. 25514-5.

¹¹⁰⁵ TT, Charles Taylor, 29 Jul 09, p. 25515.

¹¹⁰⁶ Exhibit D-141, p. 224, the statement is titled, "Nationwide Statement by His Excellency Dankpannah Dr Charles Ghankay Taylor President of the Republic of Liberia on the Mysterious Abduction and Death of Former First Deputy Speaker of the Transitional Legislative Assembly".

¹¹⁰⁷ TT, Charles Taylor, 29 Jul 09, p. 25531.

¹¹⁰⁸ TT, [REDACTED].

¹¹⁰⁹ TT, [REDACTED].

¹¹¹⁰ TT, Charles Taylor, 24 Sep 09, p. 29633; 29 Jul 09, p. 25531.

Liberia might be willing to assist them. Taylor's representations to the General Assembly were praised by JP Koroma.¹¹¹¹ This no doubt prompted JP Koroma to request assistance in the form of arms and ammunition.¹¹¹²

493. ECOWAS were at this time still very much occupied with resolving the situation in Sierra Leone and this was indeed the topic which dominated the ECOWAS meeting held on 22-23 October 1997 in Conakry.¹¹¹³ A decision was made at this meeting in Conakry that Kabbah had to be returned to power within 6 months – with April 1998 being the deadline.¹¹¹⁴ Liberia was a party to this decision.¹¹¹⁵ Much of the pressure for force to be used in Sierra Leone came from Nigeria. Taylor was still trying to push for obtaining authority from the Security Council. On the day of this meeting, Liberia closed its border with Sierra Leone, and it remained closed until July 1999 after the Lomé Peace Accord was signed. A combination of Liberian forces and peacekeepers enforced this border closure.¹¹¹⁶ UNOMIL was also present at the time, monitoring the border. The monitoring continued until after Lomé, although at that point the numbers were reduced.¹¹¹⁷
494. Taylor made a six-day state visit to Taiwan, from 6-12 November 1997,¹¹¹⁸ with whom Liberia had diplomatic relations.¹¹¹⁹ Taylor made this trip to encourage economic assistance in the form of the export of developmental technology to Liberia.¹¹²⁰
495. Soon after returning from Taiwan, Taylor made an address to the nation on 20 November 1997 in order to announce the changing role of ECOMOG, whose

¹¹¹¹ See Exhibit D-4, p. 1, "I wish on behalf of every living Sierra Leonean and the Government of Sierra Leone to express our sincere gratitude and appreciation for the staunch supportive position you took during your last intervention at the UN General Assembly on the pacific resolution of the crisis in our country."

¹¹¹² TT, Charles Taylor, 23 Jul 09, p. 25199.

¹¹¹³ Exhibit D-339, p. 1.

¹¹¹⁴ TT, Charles Taylor, 29 Jul 09, p. 25472; Exhibit D-339, para. 7; Exhibit D-342, para. 4.

¹¹¹⁵ TT, Charles Taylor, 29 Jul 09, p. 25472.

¹¹¹⁶ TT, Charles Taylor, 29 Jul 09, p. 25472-3.

¹¹¹⁷ TT, Charles Taylor, 29 Jul 09, p. 25473-4.

¹¹¹⁸ Exhibit D-141, p. 132; TT, Charles Taylor, 28 Jul 09, p. 25466 - this is a photograph of Taylor in the Republic of China on 7 November 1997; Taylor's trip to Taiwan involved connecting stops in Abidjan and Paris. Taylor addressed the Senate in Liberia following this trip on 13 November 1997 (TT, Charles Taylor, 28 Jul 09, p. 24567-8).

¹¹¹⁹ For example, Taiwan had previously donated one million USD for the benefit of the Liberian elections in 1997 (TT, Charles Taylor, 23 Jul 09, p. 25152).

¹¹²⁰ TT, Charles Taylor, 28 Jul 09, p. 24567; Taylor made a speech on exportable development, see Exhibit D-141, p. 137; Taylor was also awarded an honorary doctorate degree by the Chinese Culture University during his visit to Taiwan, see Exhibit D-141, p. 134 and TT, Charles Taylor, 28 Jul 09, p. 25467.

mandate, on 2 February 1998, was due to change.¹¹²¹ Liberia no longer needed a peacekeeping force. The role of ECOMOG had to be redefined to reflect the restoration of sovereignty following the elections.¹¹²² Taylor also stated in his public address that armed conflict was not the way to bring final resolution to the Sierra Leone crisis.¹¹²³

496. The issue of Sierra Leone was still occupying ECOWAS when it convened extraordinary meeting¹¹²⁴ in Lomé on 16-17 December 1997.¹¹²⁵ Some members were concerned that the Junta would not turn over power and called for the immediate use of force.¹¹²⁶ However, it was agreed that force would be used by April 1998 if the Junta had not turned over power. However, not all parties were pleased with this outcome.¹¹²⁷ In any event, in December 1997, ECOMOG was on a war footing.¹¹²⁸ Despite Taylor's best efforts at resolving the situation diplomatically, Liberia felt compelled to support Nigeria.¹¹²⁹
497. The Liberian Cabinet met on 14 January 1998.¹¹³⁰ The decisions made at this meeting revolved around ensuring transparency, accountability and good governance.¹¹³¹ The first post war budget was drawn up, which outlined expenditures estimated at 41.4 million USD,¹¹³² mostly raised through the maritime programme and through a sales and income tax.¹¹³³ On 26 January 1998, Taylor delivered his first annual address to the legislature, as required by the constitution.¹¹³⁴
498. On 5 February 1998, the foreign ministers of the Committee of Five went to New York to brief the Security Council on the situation in Sierra Leone.¹¹³⁵ They told the

¹¹²¹ TT, Charles Taylor, 29 Jul 09, p. 25482; Exhibit D-141, p. 219; also, the ECOMOG tour in Liberia was due to terminate on 2 February 1998. However, Liberia signed a new status of forces agreement, as a result of which ECOMOG stayed in Liberia with a renewed mandate of capacity building. Liberia had a choice as to whether or not ECOMOG stayed (TT, Charles Taylor, 29 Jul 09, p. 25487).

¹¹²² TT, Charles Taylor, 29 Jul 09, p. 25482-3.

¹¹²³ TT, Charles Taylor, 29 Jul 09, p. 25490; Exhibit D-141, p. 221.

¹¹²⁴ An extraordinary meeting meant that it was not part of the normal meeting schedule but was specially held to deal with certain issues, which in this case were the issues arising from the meetings in Abuja and Conakry in October 1997 (TT, Charles Taylor, 29 Jul 09, p. 25516).

¹¹²⁵ TT Charles Taylor, 29 Jul 09, p. 25516; Exhibit D-141, p. 226.

¹¹²⁶ TT, Charles Taylor, 29 Jul 09, p. 25518.

¹¹²⁷ TT, Charles Taylor, 29 Jul 09, p. 25518.

¹¹²⁸ TT, Charles Taylor, 29 Jul 09, p. 25519.

¹¹²⁹ TT, Charles Taylor, 29 Jul 09, p. 25530; it is also worth noting again Taylor's efforts in his letter to convince President Abacha to resolve the crisis in Sierra Leone using negotiation (Exhibit D-134).

¹¹³⁰ Exhibit D-143, p. 1.

¹¹³¹ TT, Charles Taylor, 29 Jul 09, p. 25540; Exhibit D-143, p. 1.

¹¹³² Exhibit D-143, para. 4.

¹¹³³ TT, Charles Taylor, 29 Jul 09, p. 25545-6.

¹¹³⁴ TT, Charles Taylor, 29 Jul 09, p. 25556.

¹¹³⁵ Exhibit D-155, para. 2.

Security Council that the Junta forces attacked the ECOMOG position in Lungi which prompted the move to remove the Junta earlier than intended.¹¹³⁶ Taylor felt he had no choice but to support the use of force.¹¹³⁷ The response from the Security Council, especially the UK, was that ECOWAS did not have authorisation to use force.¹¹³⁸ Such authorisation was never obtained for the February intervention.¹¹³⁹

499. Taylor met with an ECOWAS delegation to discuss the protocols for ECOMOG's extended stay the week before 14 February 1998.¹¹⁴⁰ The Taiwanese foreign minister visited Liberia and was honoured at the Executive Mansion on 18 and 19 February 1998.¹¹⁴¹ Indeed at this time Charles Taylor was involved in a great deal of well-documented diplomatic related activity.¹¹⁴²
500. On the ground in Sierra Leone, the Junta was still in power. There was still a counterinsurgency going on led by the Kamajors and assisted by ECOMOG.¹¹⁴³ By the end of January 1998, ECOMOG were also conducting increasing levels of air strikes from Roberts International, Spriggs Payne and Lungi airports against targets in Sierra Leone.¹¹⁴⁴
501. Taylor feared that any military intervention in Sierra Leone would have disastrous consequences for Liberia. The fighting would increase the problems of refugees and non-state combatants, all of which would be disastrous for his efforts towards rebuilding Liberia, which required peace and stability.¹¹⁴⁵ Taylor believed that about half of the countries on the Committee of Five felt uncomfortable with what Nigeria was doing in Sierra Leone.¹¹⁴⁶ The UK publicly condemned Nigeria's action, pointing out that the Security Council had not authorised the use of force.¹¹⁴⁷

¹¹³⁶ TT, Charles Taylor, 29 Jul 09, p. 25571-2; Exhibit D-155, para. 6.

¹¹³⁷ TT, Charles Taylor, 29 Jul 09, p. 25573-4.

¹¹³⁸ TT, Charles Taylor, 29 Jul 2009, p. 25574.

¹¹³⁹ TT, Charles Taylor, 29 Jul 2009, p. 25519.

¹¹⁴⁰ TT, Charles Taylor, 29 Jul 2009, p. 25587-8; . Exhibit D-141, p. 239.

¹¹⁴¹ TT, Charles Taylor, 29 Jul 2009, p. 25585; Exhibit D-141, p. 121.

¹¹⁴² The Egyptian ambassador was accredited on 22 January 1998, the Indian ambassador in February 1998, the German ambassador on 3 February 1998, the French ambassador on 3 February 1998, the Danish ambassador on 5 February 1998, the Greek ambassador on 5 February 1998, the Ghanaian ambassador on 16 February 1998, the Canadian ambassador on 17 February 1998, the Belgian ambassador on 19 February 1998, the Spanish ambassador on 19 February 1998, and the Taiwanese ambassador on 20 February 1998 (see TT, Charles Taylor, 29 Jul 09, p. 25555; 29 Jul 09, p. 25583-5; Exhibit D-141, p. 95-115; Exhibit D-144).

¹¹⁴³ TT, Charles Taylor, 29 Jul 09, p. 25559.

¹¹⁴⁴ TT, Charles Taylor, 29 Jul 09, p. 25559-60.

¹¹⁴⁵ TT, Charles Taylor, 29 Jul 09, p. 25532-3.

¹¹⁴⁶ TT, Charles Taylor, 29 Jul 09, p. 25533.

¹¹⁴⁷ TT, Charles Taylor, 29 Jul 09, p. 25520.

502. Shortly after the ECOMOG Intervention, two helicopters landed at Spriggs Payne airport on 13 February 1998 carrying some members of the Junta, including Victor King.¹¹⁴⁸ Liberian security personnel tried to intervene; however, ECOMOG arrived on the scene and took charge of the situation.¹¹⁴⁹ Taylor requested that the individuals and the aircraft be turned over to the Liberian government. He received a letter from the force commander of ECOMOG that they would be turned over, pending an investigation.¹¹⁵⁰ ECOMOG fighter jets proceeded to make low passes over the Executive Mansion and over Taylor's convoy on the same day, in what appeared to be acts of provocation.¹¹⁵¹ ECOMOG appeared to be running the country as they did before the elections.¹¹⁵² Taylor sought an assurance that the men in the helicopters would have a fair trial if they were returned to Sierra Leone. These persons had sought asylum in Liberia.¹¹⁵³ Taylor was concerned because on a previous occasion someone who was turned over to Sierra Leone by the Liberian authorities had been executed.¹¹⁵⁴ They were returned to Sierra Leone by ECOMOG. Victor King was tried and executed by the Kabbah government later in 1998, despite assurances by Kabbah to Taylor that no one would be executed.¹¹⁵⁵
503. Taylor accepts that a horrific campaign was waged against civilians in Sierra Leone after the Intervention.¹¹⁵⁶ He was aware of this through reports he received.¹¹⁵⁷
504. Taylor was in contact with Kabbah after the latter was reinstated.¹¹⁵⁸ At this time, Kabbah made no complaints to Taylor about Liberians fighting in Sierra Leone. Neither was there any suggestion by Kabbah that Taylor was sending soldiers to Sierra Leone to fight.¹¹⁵⁹
505. On 5 June 1998, the Special Representative of the UN Secretary-General in Sierra Leone, Mr Okelo, wrote to the Security Council indicating that there were reports that

¹¹⁴⁸ TT, Charles Taylor, 29 Jul 09, p. 25575; Exhibit D-141, p. 239.

¹¹⁴⁹ Exhibit D-141, p. 239.

¹¹⁵⁰ Exhibit D-141, p. 239.

¹¹⁵¹ Exhibit D-141, p. 239; TT, Charles Taylor, 29 Jul 09, p. 25590.

¹¹⁵² TT, Charles Taylor, 29 Jul 09, p. 25590.

¹¹⁵³ TT, Charles Taylor, 29 Jul 09, p. 25576.

¹¹⁵⁴ TT, Charles Taylor, 29 Jul 09, p. 25576-7.

¹¹⁵⁵ TT, Charles Taylor, 5 Aug 09, p. 26052.

¹¹⁵⁶ TT, Charles Taylor, 18 Jan 10, p. 33403.

¹¹⁵⁷ TT, Charles Taylor, 18 Jan 10, p. 33403.

¹¹⁵⁸ TT, Charles Taylor, 30 Jul 09, p. 25678.

¹¹⁵⁹ TT, Charles Taylor, 30 Jul 09, p. 25678; Kabbah gives an account of Liberians fighting in Sierra Leone in the form of the STF comprised of former members of Doe's AFL in his statement to the TRC on 5 August 2003, Exhibit D-26.

many of the fighters supporting the former Junta were in fact Liberian nationals.¹¹⁶⁰ The allegation was that ECOMOG had captured more than 100 Liberian fighters in the vicinity of Kailahun and Kono district and that there were 65 Liberians taken during combat who were in custody at Pademba Road Prison.¹¹⁶¹ The Liberian representative at the Security Council was called in to meet the President of the Security Council on 15 June. A report was made on a meeting which stated: "the general feeling, therefore, is that Liberia *continues* to be involved in the affairs of Sierra Leone in supporting the rebels in the east" (emphasis added).¹¹⁶² This was the first time that Taylor was made aware of these allegations.¹¹⁶³ With reference to the word 'continues', Taylor stated in evidence that it had *not* been raised before this date.¹¹⁶⁴ Taylor was a member of the Committee of Five at the time and ECOWAS had not raised such allegations with him, indeed, ECOWAS knew who these Liberians were and knew that they were not sent by Taylor.¹¹⁶⁵ The letter came at the time when the Security Council was reviewing whether to lift the arms embargo and sanctions against Liberia.¹¹⁶⁶ Consequently this suggestion could not have come at a more inopportune moment.

506. The matter was investigated by the Liberian government and it was established that the Liberians in Sierra Leone had nothing to do with Taylor's government. Taylor said in evidence that if the UN Security Council had made enquiries with ECOWAS, this could have been discovered. However, they did not and the issue escalated.¹¹⁶⁷ The Liberians in Sierra Leone were members of the Special Task Force recruited by the Sierra Leonean Government who had played a part in overthrowing the Kabbah Government. He was shocked by this allegation because the Sierra Leonean government knew this information.¹¹⁶⁸ This was confirmed when, on 5 August 2003, Kabbah told the Sierra Leonean Truth and Reconciliation Commission that he had known of the existence of STF in Sierra Leone ever since the AFRC coup.¹¹⁶⁹

¹¹⁶⁰ TT, Charles Taylor, 30 Jul 09, p. 25675-6; Exhibit D-158, p. 1.

¹¹⁶¹ Exhibit D-158, p. 1.

¹¹⁶² Exhibit D-158, p. 1.

¹¹⁶³ TT, Charles Taylor, 30 Jul 09, p. 25676.

¹¹⁶⁴ TT, Charles Taylor, 30 Jul 09, p. 25679.

¹¹⁶⁵ TT, Charles Taylor, 30 Jul 09, p. 25680.

¹¹⁶⁶ TT, Charles Taylor, 30 Jul 09, p. 25677.

¹¹⁶⁷ TT, Charles Taylor, 30 Jul 09, p. 25667.

¹¹⁶⁸ TT, Charles Taylor, 30 Jul 09, p. 25676-7.

¹¹⁶⁹ Exhibit D-26, para. 52.

507. The Liberian government's position was supported by Felix Downes-Thomas, who observed in a code cable in October 1998 that Taylor's preoccupations would not have permitted him to have engaged in the reckless adventurism which the Sierra Leonean allegations suggested. It would have been foolish on Taylor's part to send troops into Sierra Leone to fight against, effectively, ECOWAS, i.e. Nigeria, Guinea and Ghana, especially before the ECOWAS summit at which he was seeking support for the lifting of the Liberian arms embargo.¹¹⁷⁰
508. Also at the end of 1998, a delegation consisting of Colonel Dempsey of the US army, Felix Downes-Thomas, ECOMOG officers and Liberia's Defence Minister went to Camp Naama to investigate accusations that Camp Naama was being used to train combatants to be sent to Sierra Leone.¹¹⁷¹ A report was made, including comments by Colonel Dempsey to the effect that there was no evidence of training activities at Camp Naama for several years. However, Colonel Dempsey did conclude that there were indications of a small quantity of arms going across the border into Sierra Leone but this was not at an official level. The report found no *evidence* of the alleged Liberian government involvement in the Sierra Leonean conflict.¹¹⁷² This position was also endorsed by the US Deputy Assistant Secretary of State for Africa, Vicki Huddleston¹¹⁷³ and by the United Nations.¹¹⁷⁴
509. Liberia's representative at the Security Council meeting on 15 June when Liberia was formally notified of these allegations reiterated Liberia's policy that it would not allow its territory to be used to destabilise a neighbouring country and that Taylor deprecated the involvement of Liberian fighters in Sierra Leone.¹¹⁷⁵ It should be noted that, when Taylor came into power, it was ECOMOG and its support for the Kamajors that constituted a destabilising influence on the sub-region.¹¹⁷⁶ Taylor appealed to the Secretary-General to deploy UN observers to monitor the situation at the Liberian-Sierra Leonean border so that the UN could confirm itself that the allegations against

¹¹⁷⁰ Exhibit D-170, paras. 6 to 8.

¹¹⁷¹ The allegation was made by Colonel Bukari Musa of ECOMOG who stated that 3,000 members of the defunct NPFL were being trained at Camp Naama in Liberia to assist the remnants of the deposed AFRC junta fight ECOMOG (Exhibit D-141, p. 293).

¹¹⁷² Exhibit D-141, p. 293.

¹¹⁷³ Exhibit D-141, p. 293, "The Liberian Government wishes to draw attention to the statement of the United States for Africa, Amb. Vicki Huddleston, that there is no evidence that the Liberian Government is involved in aiding the war in Sierra Leone."

¹¹⁷⁴ Exhibit D-182, p. 2, "In the case of Liberia, the United Nations, though aware of allegations of GOL involvement with the rebels, has no direct evidence of such involvement."

¹¹⁷⁵ Exhibit D-158, p. 2.

¹¹⁷⁶ TT, Charles Taylor, 30 Jul 09, p. 25681.

Taylor were not credible.¹¹⁷⁷ Taylor stated that he began pressing the policing of the border and conveyed this to Security Council members.¹¹⁷⁸ Taylor repeatedly and routinely made this request in order to prove that arms were not crossing into Sierra Leone.¹¹⁷⁹ Taylor also suggested having joint border patrols between Liberia and Sierra Leone, which Kabbah finally agreed to in November 1998 following a Mano River Union summit in Conakry.¹¹⁸⁰

510. The prosecution made the point that the UN had asked Taylor, on 10 February 2000, to precisely set out in writing what it wanted the UN to do with regard to the deployment of UN observers at the border.¹¹⁸¹ They referred to what Downes-Thomas had stated in a code cable in reply dated 14 April 2010 that Taylor saw the matters raised by the UN requesting these details as “foot dragging on the part of the UN”.¹¹⁸²
511. The prosecution put it to Taylor that when the UN came back to him and asked him what he needed for the deployment, Taylor backed off from his request for the said deployment.¹¹⁸³ The prosecution described Taylor’s requests as a means to give himself the option of “plausible deniability”.¹¹⁸⁴ Of course the prosecution would have to adopt this position as it is the only way they can save their case on this issue. Unfortunately for the prosecution, the documentary proof we were able to present to contradict their evidence of hearsay and conjecture came as something of an awkward surprise for their case theory. Taylor denied the proposition and claimed that the Liberian government did provide the information that the UN requested.¹¹⁸⁵ Considering how frequently Taylor and the Liberian government reiterated the offer

¹¹⁷⁷ Exhibit D-158, p. 2.

¹¹⁷⁸ TT, Charles Taylor, 30 Jul 09, p. 25683.

¹¹⁷⁹ The references in exhibits of Taylor and the Liberian government requesting or suggesting that the UN putting monitors and/or observers on the Liberia-Sierra Leone border are extensive. They include: Exhibit P-130, paras. 30, 31, 78 and 79; Exhibit D-141, p. 298; Exhibit D-34; Exhibit D-158, p. 2; Exhibit D-175, para. 14; Exhibit D-178, para. 11; Exhibit D-179, p. 2; Exhibit D-182, p. 2; Exhibit D-185, p. 4; Exhibit D-188, p. 2; Exhibit D-232, para. 6; Exhibit D-235, para. 1; Exhibit D-239 A, p. 1; Exhibit D-239 C, para. 1; Exhibit D-263, p. 3; Exhibit D-264, p. 2; Exhibit D-268, p. 1-2; Exhibit D-309, p. 2; Exhibit D-35; Exhibit D-37.

¹¹⁸⁰ Exhibit D-175, paras. 12-14; TT, Charles Taylor, 5 August 2009, p. 26094-5; the call was reiterated by the Liberian government on 29 December 1998 (Exhibit D-141, p. 292); there were also proposals from Taylor for joint patrols between Liberia and ECOMOG (Exhibit D-178, para. 11).

¹¹⁸¹ TT, Charles Taylor, 1 Feb 10, p. 34513; Exhibit D-235, para. 2; reiterated in exhibit D-239 A, p. 1.

¹¹⁸² Exhibit D-239 C, para. 2; TT, Charles Taylor, 1 Feb 10, p. 34514.

¹¹⁸³ TT, Charles Taylor, 1 Feb 10, p. 34515.

¹¹⁸⁴ TT, Charles Taylor, 1 Feb 10, p. 34515.

¹¹⁸⁵ TT, Charles Taylor, 1 Feb 10, p. 34515; on.

- to accommodate UN monitors at the border, it would have been very difficult for the the Liberian government to backtrack and renege on it had the UN accepted.¹¹⁸⁶
512. Sani Abacha died on 5 June 1998¹¹⁸⁷ and was replaced as Nigerian president by Abdulsalami Abubakar, who then invited Taylor and Kabbah to Abuja for a meeting with Kofi Annan.¹¹⁸⁸ This meeting took place on 1 July 1998. Abubakar convened the meeting to address the issue of Sierra Leone and the recent developing accusations against Liberia that had been coming from the Security Council.¹¹⁸⁹ The meeting addressed regional and sub-regional issues, including ways in which security and cooperation between Liberia and Sierra Leone could be improved. Both Taylor and Kabbah strongly condemned the rebel activities in Sierra Leone as well as the horrendous atrocities that had been committed there.¹¹⁹⁰ Taylor raised the issue of the accusations and expressed his dismay that such allegations had been made in the Security Council when they had not been made by ECOWAS.¹¹⁹¹ Kabbah expressed surprise at the presence of Liberians in Sierra Leone but did not support the suggestion that Taylor was sending them.¹¹⁹²
513. Indeed, Kabbah visited Monrovia on 20 July 1998 to attend the Liberian National Reconciliation Conference. Kabbah also extended an invitation for Taylor to visit Sierra Leone.¹¹⁹³ Kabbah also visited Liberia for its independence day celebrations on 26 July 1998.¹¹⁹⁴ It is somewhat surprising that President Kabbah would attend events in the country of a man trying to destabilise his country.
514. An event occurred in August 1998 that led the Taylor administration to establish, *under the auspices of ECOWAS*, the first contact between it and the RUF. Tiagen Wantee, Liberian ambassador to Guinea, wrote a letter dated 12 August 1998 to Christopher Minikon, the acting minister of foreign affairs of Liberia,¹¹⁹⁵ which came into the possession of the National Security Council and then to Taylor.¹¹⁹⁶ Tiagen Wantee had been approached by Major Eddie Kanneh on 8 August 1998 who said that there was a plot to overthrow Taylor and that members of the RUF/AFRC wanted to

¹¹⁸⁶ TT, Charles Taylor, 1 Feb 10, p. 34515-6.

¹¹⁸⁷ Agreed Fact Number 11.

¹¹⁸⁸ Exhibit D-159; TT, Charles Taylor, 30 Jul 09, p. 25686.

¹¹⁸⁹ TT, Charles Taylor, 3 Aug 09, p. 25688.

¹¹⁹⁰ TT, Charles Taylor, 3 Aug 09, p. 25801; Exhibit D-141, p. 298.

¹¹⁹¹ TT, Charles Taylor, 30 Jul 09, p. 25690.

¹¹⁹² TT, Charles Taylor, 30 Jul 09, p. 25692.

¹¹⁹³ Exhibit P-80, para. 6.

¹¹⁹⁴ TT, Charles Taylor, 3 Aug 09, p. 25803.

¹¹⁹⁵ Exhibit D-7.

¹¹⁹⁶ TT, Charles Taylor, 30 Jul 09, p. 25707.

come to Monrovia to speak to him.¹¹⁹⁷ Taylor did not know Kanneh.¹¹⁹⁸ Kanneh named Siddique Janneh, Sam Bockarie and Varmuyan Sherif, assistant director of the SSS as contact persons in the country.¹¹⁹⁹ Wantee suggested that maximum security measures be mounted at all border posts to curb any subversive attempts, especially considering that Roosevelt Johnson had recently been smuggled into Liberia.¹²⁰⁰

515. Varmuyan Sherif was a former ULIMO general¹²⁰¹ and was then assistant director of the SSS.¹²⁰² There is prosecution evidence that ULIMO traded arms and ammunition with the RUF before the AFRC coup.¹²⁰³ Taylor had no idea that Sherif had these contacts with the RUF (except for in 1991-2)¹²⁰⁴ and this, Taylor believed, showed that Sherif was still trying to trade arms and ammunition when he was in government.¹²⁰⁵ The fact that Kanneh had to approach Wantee in order to gain official access in Monrovia further suggests that Sherif did not have the ear of Taylor as suggested by him.¹²⁰⁶ It begs the question why would Kanneh have to seek audience by such a circuitous route when all he had to do was use Sherif to pass a message. The terminology of the letter indicated a lack of acquaintance between the correspondents, indicating that there had been no previous contact.¹²⁰⁷ The fact that the telephone numbers of Kanneh and Janneh were included in the letter also suggested that they were not known to Taylor.¹²⁰⁸
516. The National Security Council debated the letter and Taylor informed the Committee of Five of it. Taylor had heard news reports that Bockarie was in charge of the RUF, following Sankoh's incarceration.¹²⁰⁹ Following the ousting of the Junta there was still a great deal of fighting and there had been no contact with those involved. ECOWAS saw this is an opportunity to discuss peace in context of the Abidjan agreement of November 1996 with the person in charge of the RUF.¹²¹⁰ Therefore,

¹¹⁹⁷ TT, Charles Taylor, 30 Jul 09, p. 25701-2; Exhibit D-7.

¹¹⁹⁸ TT, Charles Taylor, 30 Jul 09, p. 25702.

¹¹⁹⁹ Exhibit D-7, p. 1.

¹²⁰⁰ Exhibit D-7.

¹²⁰¹ TT, Charles Taylor, 30 Jul 09, p. 25706.

¹²⁰² TT, Charles Taylor, 30 Jul 09, p. 25707.

¹²⁰³ TT, TF1-367, 21 Aug 08, p. 14283-84; TT, TF1-367, 29 Aug 08, p. 14977-8; there are more examples of this elsewhere in the Factual Narrative.

¹²⁰⁴ TT, Charles Taylor, 30 Jul 09, p. 25705.

¹²⁰⁵ TT, Charles Taylor, 30 Jul 09, p. 25710.

¹²⁰⁶ TT, Charles Taylor, 30 Jul 09, p. 25710-1.

¹²⁰⁷ TT, Charles Taylor, 30 Jul 09, p. 25710, e.g. "I have the honour to present my compliments and to inform the Government that *one* Major Eddie P. Kanneh..." (emphasis added) (Exhibit D-7, p. 1).

¹²⁰⁸ TT, Charles Taylor, 30 Jul 09, p. 25713.

¹²⁰⁹ TT, Charles Taylor, 30 Jul 09, p. 25714-5.

¹²¹⁰ TT, Charles Taylor, 30 Jul 09, p. 25715.

after obtaining consent from ECOWAS, Taylor, as the President of Liberia and member of the Committee of Five, invited Bockarie to Monrovia in September 1998.¹²¹¹

517. Although Sierra Leone was not a member of the Committee of Five, Kabbah was aware of the invitation extended to Bockarie to go to Liberia as Taylor had informed him by telephone.¹²¹²
518. A security situation developed in September 1998 on Camp Johnson Road.¹²¹³ Former ULIMO-J and LPC fighters who regrouped under Roosevelt Johnson's leadership illegally occupied premises on Camp Johnson Road¹²¹⁴ and erected a virtual military citadel. Arms and ammunition were reaching the area by unknown means.¹²¹⁵ It was thought that there were ULIMO-J and LPC arms buried in a cemetery, and that ECOMOG had obtained the weapons and then passed them on to Johnson.¹²¹⁶ There was a fear that Liberia was going to plunge itself back into another internal conflict, which was shared by the diplomatic community.¹²¹⁷
519. Roosevelt Johnson was Minister for Rural Development in Taylor's Government, but refused to leave the enclave he created on Camp Johnson Road.¹²¹⁸ Taylor also did not make an early attempt to dislodge them from Camp Johnson Road because he was trying to do everything to avoid a crisis.¹²¹⁹ With reconciliation in mind, Taylor pursued a course of moral persuasion with Johnson and nominated him as ambassador-designate to India. However, Johnson fell ill and had to obtain medical treatment, for which Taylor paid.¹²²⁰
520. Johnson's medical treatment was supposed to be in Ghana, but instead, he went to the US.¹²²¹ The Liberian government obtained intelligence reports that Johnson, whilst in the US, was seeking funding to carry out subversive activities against the Liberian

¹²¹¹ TT, Charles Taylor, 30 Jul 09, p. 25715-6.

¹²¹² TT, Charles Taylor, 30 Jul 09, p. 25717.

¹²¹³ There are three defence exhibits which provide detailed accounts of the Camp Johnson Road incident: Presidential Papers (Exhibit D-141), the Official Report of the Government of the Republic of Liberia on the Camp Johnson Road Conspiracy, dated 24 September 1998 (Exhibit D-162) and the UN code cable from Felix Downes-Thomas to the UN HQ in New York, dated 20 September 1998 (Exhibit D-163).

¹²¹⁴ Exhibit D-141, p. 57.

¹²¹⁵ Exhibit D-141, p. 57.

¹²¹⁶ TT, Charles Taylor 3 Aug 09, p. 25784.

¹²¹⁷ TT, Charles Taylor, 3 Aug 09, p. 25776; Exhibit D-163, para. 2.

¹²¹⁸ Exhibit D-141, p. 57-8.

¹²¹⁹ TT, Charles Taylor, 3 Aug 09, p. 25737-8.

¹²²⁰ Exhibit D-141, p. 57-8; however, note also that Taylor has stated that the reason that he was made Ambassador-Designate was to get him out of the country because he was causing too much trouble, TT 30 Jul 09, p. 25728.

¹²²¹ TT, Charles Taylor, 30 Jul 09, p. 25727.

government.¹²²² On 10 August 1998, Johnson entered into Monrovia via an unknown aircraft and was escorted to Camp Johnson Road. Several prominent Krahns took up residence near him.¹²²³ Suddenly, hundreds of former ULIMO-J and LPC fighters in the city were armed.¹²²⁴ Taylor made further efforts with Johnson to resolve the situation but to no avail.¹²²⁵ The Liberian government suspected that Roosevelt Johnson and his armed group were given support by the US embassy and by certain sections of the ECOMOG hierarchy.¹²²⁶

521. There was an incident of gun fire between one of Johnson's lieutenants and an ECOMOG soldier, as a result of which Johnson's lieutenant was gunned down. This incident led to pandemonium in Monrovia.¹²²⁷ On 18 September 1997, the government security forces¹²²⁸ came under fire from Johnson's group.¹²²⁹ Later that evening, there were intelligence reports of a conspiracy to topple the government. There were major exchanges of gunfire between Johnson's forces and the government forces, which resulted in a number of government forces being wounded.¹²³⁰
522. On 19 September 1998, Johnson and his forces moved to the Barclay Training Centre, where they gunned down AFL soldiers who were based there. It appeared that they were executing their plan to overthrow the government and take the Executive Mansion. Government forces eventually dislodged them at which point Johnson's forces retreated to Mamba Point, where they went to the US embassy.¹²³¹ Thereafter, firing commenced involving government forces, Johnson's men and embassy guards¹²³² during the course of which Madison Wion was shot and killed.¹²³³
523. A diplomatic spat ensued, with the US accusing Liberia of failing to adhere to the Vienna Convention on Diplomatic Relations.¹²³⁴ The USA sent the USS Chinook

¹²²² Exhibit D-141, p. 58.

¹²²³ Exhibit D-141, p. 59-60.

¹²²⁴ TT, Charles Taylor, 30 Jul 09, p. 25723-4.

¹²²⁵ Exhibit D-141, p. 59-60.

¹²²⁶ TT, Charles Taylor, 30 Jul 09, p. 25724.

¹²²⁷ Exhibit D-141, p. 60.

¹²²⁸ Note that Taylor's government security forces had a small amount of arms with which to confront Johnson's forces; these were the arms given to Taylor's security unit when he became president by ECOMOG for internal security purposes (TT, Charles Taylor, 6 Aug 09, p. 26198).

¹²²⁹ TT, Charles Taylor, 30 Jul 09, p. 25728; Exhibit D-163, para. 1.

¹²³⁰ Exhibit D-141, p. 60.

¹²³¹ TT, Charles Taylor, 30 Jul 09, p. 25729.

¹²³² TT, Charles Taylor, 30 Jul 09, p. 25730.

¹²³³ Exhibit D-163, para. 24.

¹²³⁴ TT, Charles Taylor, 3 Aug 09, p. 25747; Exhibit D-162, p. 12.

- 1998 to Liberian territorial waters on 28 September 1997 to protect the American embassy which Taylor called 'gunboat diplomacy'.¹²³⁵
524. Johnson ended up in Freetown, in breach of Liberia's understanding that he would be taken to a country which was not contiguous with Liberia.¹²³⁶ Due to Taylor's good relationship with the Sierra Leonean president, Kabbah pressured the US to remove Johnson from Freetown and he was subsequently taken to Accra.¹²³⁷
525. We are assisted in terms of evidence by a few prosecution witnesses. Varmuyan Sherif's brief account supports Taylor's story in that he confirms that Roosevelt Johnson left the country for a medical check up and returned, but it was not known through which border he came back. Taylor requested that he came to the Executive Mansion but Johnson refused to leave his residence. When Taylor tried to have him arrested, Johnson's armed group resisted and firing broke out.¹²³⁸
526. Stephen Ellis stated that heavy fighting broke out in Monrovia in September 1998 along Camp Johnson Road and at the US embassy when opponents of Taylor whom he had, probably rightly, accused of planning a coup were shot. Ellis stated that this soured the atmosphere in Liberia.¹²³⁹
527. Abu Keita stated that he was told by Benjamin Yeaten, under Taylor's orders to go to Sierra Leone to head up a new unit called the Scorpion unit under Bockarie after September 1998.¹²⁴⁰ Taylor stated that it was implausible that he sent Keita, an enemy combatant whom he placed in custody after the Camp Johnson Road incident, to go and lead such a unit.¹²⁴¹ This incident lasted from August to October 1998 and, along with the incursion into Liberia from Guinea detailed below, occupied a lot of Taylor's time.¹²⁴²
528. In the face of the growing allegations against Taylor's government, a special representative of the UN Secretary-General was accredited.¹²⁴³ Liberia had requested it following the appointment of a special representative in Sierra Leone.¹²⁴⁴ As a result, the UN could be involved in much of what Liberia was doing to show that it

¹²³⁵ TT, Charles Taylor, 3 Aug 09, p. 25752-3.

¹²³⁶ TT, Charles Taylor, 3 Aug 09, p. 25767; contrary to what was stated by President Bill Clinton in Exhibit D-162, p. 22.

¹²³⁷ TT, Charles Taylor, 3 Aug 09, p. 25756.

¹²³⁸ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 858.

¹²³⁹ TT, Stephen Ellis, 18 Jan 08, p. 1567.

¹²⁴⁰ TT, Abu Keita, TF1-276, 23 Jan 08, p. 1968-72.

¹²⁴¹ TT, Charles Taylor, 6 Aug 09, p. 26215-18.

¹²⁴² TT, Charles Taylor, 3 Aug 09, p. 25794-5.

¹²⁴³ TT, Charles Taylor, 30 Jul 09, p. 25721.

¹²⁴⁴ TT, Charles Taylor, 3 Aug 09, p. 25771.

had nothing to hide.¹²⁴⁵ The agreement that Liberia had with the UN was that any diplomatic or UN messages to New York that pertained to the Liberian government or conferences in which the special representative was present would also be sent to the Liberian government. Taylor read and kept copies of all of them.

529. It was set against the background of the Camp Johnson Road incident that Bockarie arrived in Liberia in mid to late September 1998.¹²⁴⁶ ECOMOG was aware of Bockarie's visit.¹²⁴⁷ General Dopoe Menkarzon was sent to escort Bockarie to Monrovia; not Varmuyan Sherif as alleged by Sherif.¹²⁴⁸ Nor was Varmuyan Sherif ever involved in a meeting between Taylor and the leadership of the RUF.¹²⁴⁹ TF1-375 alleged that Jungle (Daniel Tamba) went together with Varmuyan Sherif to collect Bockarie at the border and bring him to Monrovia.¹²⁵⁰ Taylor denied this and pointed out that Sherif himself did not mention Jungle in his testimony.¹²⁵¹ TF1-371 testified that he saw Bockarie together with Sherif in 1998.¹²⁵² According to Taylor, this supports the evidence that the RUF was purchasing arms and/or ammunition from the ULIMO.¹²⁵³
530. During his first visit to Monrovia, Bockarie only stayed for two or three days. Eddie Kanneh came together with Bockarie. The possibility of providing a guest house for future meetings was discussed. The main topic of this first meeting however was the implementation of the 1996 peace agreement.¹²⁵⁴ Taylor and Bockarie did not plan any kind of operations, like Fitti-Fatta or the Freetown Invasion. The only thing that Taylor wanted from Bockarie was a cessation of hostilities in Sierra Leone.¹²⁵⁵ Kabbah was aware of this first meeting between Taylor and Bockarie and was enthusiastic since he had seen it as an opportunity to stop the violence – which did not stop after the 1996 peace agreement – and was hoping that Taylor could broker

¹²⁴⁵ TT, Charles Taylor, 30 Jul 09, p. 25721.

¹²⁴⁶ TT, Charles Taylor, 3 Aug 09, p. 25806.

¹²⁴⁷ TT, Charles Taylor, 30 Jul 09, 25716-17, 03 Aug 09, 25805.

¹²⁴⁸ TT, Varmuyan Sherif, 9 Jan 08, p. 826.

¹²⁴⁹ TT, Charles Taylor, 30 Jul 09, 25716-17, 03 Aug 09, 25805, 25813. See also TT, Charles Taylor, 26 Oct 09, 30269.

¹²⁵⁰ TT, TF1-375, 23 Jun 08, p. 12494.

¹²⁵¹ TT, Charles Taylor, 15 Sep 09, 28861.

¹²⁵² TT, TF1-371, 31 Jan 08, 2685-86.

¹²⁵³ TT, Charles Taylor, 29 Sep 09, 29774.

¹²⁵⁴ TT, Charles Taylor, 03 Aug 09, 25806-07.

¹²⁵⁵ TT, Charles Taylor, 03 Aug 09, 25819-22.

peace.¹²⁵⁶ Taylor had never met Bockarie before his visit to Monrovia in September 1998.¹²⁵⁷ Taylor did not receive diamonds from Bockarie.¹²⁵⁸

531. In September 1998, all the meetings were conducted at the Executive Mansion. On this trip Taylor did not give Bockarie a radio or a satellite phone, although he did give him money, about \$1,000.¹²⁵⁹ He did not send military trucks with ammunition to Sierra Leone.¹²⁶⁰ Taylor did not know whether Bockarie and Yeaten already knew each other by September 1998. It is possible that Bockarie did develop a relationship with Yeaten during his time in Monrovia.¹²⁶¹
532. Prosecution witness TF1-367 alleged that Bockarie travelled to Monrovia in order to obtain arms and ammunition from Taylor¹²⁶² and that those arms and ammunition were used by the RUF to attack Kono.¹²⁶³
533. Taylor guessed that the time this witness was referring to was late 1998.¹²⁶⁴ He pointed out that the members of the Committee of Five were aware of Bockarie travelling to Liberia. Furthermore, ECOMOG were deployed in Lofa.¹²⁶⁵ Taylor stated he never gave arms and/or ammunition to Bockarie, “not even one round of ammunition”.¹²⁶⁶ Since all weapons had been collected during the disarmament process, the Liberian government had no arms and/or ammunition itself.¹²⁶⁷
534. Taylor was not aware that the RUF was purchasing arms from ex-ULIMO fighters in late 1996 and 1997. In any event, Taylor had no effective control over Lofa and would have been unable to prevent such a trade.¹²⁶⁸ Abu Keita testified that Bockarie went to see Taylor in Monrovia around Christmas 1998 and returned in a Toyota Land Cruiser that was given to him by Taylor.¹²⁶⁹ He also alleged that Bockarie obtained ammunition from Liberia shortly before the RUF offensive in Kono District.¹²⁷⁰

¹²⁵⁶ TT, Charles Taylor, 03 Aug 09, 25810.

¹²⁵⁷ TT, Charles Taylor, 03 Aug 09, 25808.

¹²⁵⁸ TT, Charles Taylor, 03 Aug 09, 25811.

¹²⁵⁹ TT, Charles Taylor, 03 Aug 09, 25813-14.

¹²⁶⁰ TT, Charles Taylor, 03 Aug 09, 25823.

¹²⁶¹ TT, Charles Taylor, 03 Aug 09, 25817-18.

¹²⁶² TT, TF1-367, 20 Aug 08, 14155. The same allegation was made by other Prosecution witnesses as well: TF1-362, 27 Feb 08, p. 4909, denied by Taylor on 16 Sep 09, p. 29077; TF1-274, 02 Dec 08, p. 21451-52 and 21520-21, denied by Taylor on 17 Sep 09, p. 29195 and 29230-31.

¹²⁶³ TT, TF1-367, 20 Aug 08, 14181.

¹²⁶⁴ TT, Charles Taylor, 10 Sep 09, 28610-11.

¹²⁶⁵ TT, Charles Taylor, 10 Sep 09, 28612.

¹²⁶⁶ TT, Charles Taylor, 10 Sep 09, 28611.

¹²⁶⁷ TT, Charles Taylor, 10 Sep 09, 28612-13; 26 Oct 09, 30279-80.

¹²⁶⁸ TT, Charles Taylor, 10 Sep 09, 28614-15.

¹²⁶⁹ TT, TF1-276, 23 Jan 08, 2011-12.

¹²⁷⁰ TT, TF1-276, 23 Jan 08, 2008-09.

Taylor testified that Bockarie was in Liberia in early December 1998 when returning from a trip to Burkina Faso, but not around Christmas that year.¹²⁷¹ Nor did he give Bockarie ammunition or a Toyota Land Cruiser.¹²⁷²

535. TF1-367 also alleged that Bockarie took diamonds to Taylor because Foday Sankoh told Bockarie to give any diamonds to Taylor.¹²⁷³ Taylor denies these allegations by pointing out that it was in March 1997 that Sankoh was arrested in Nigeria, but it was only in September 1998 that Bockarie first came to Monrovia to see him and it was only in 2000 that Issa Sesay came to see him.¹²⁷⁴
536. According to TF1-367, Taylor invited Bockarie to Monrovia in about November/December 1998; Bockarie went and collected the ammunition in Voinjama.¹²⁷⁵ Taylor again stated that it was Bockarie who requested permission to transit Liberia when he was on his way to meet the chairman of the OAU. The Committee of Five was aware of this.¹²⁷⁶ Further, Taylor pointed out that Voinjama was an ULIMO territory; there might have been an ammunition trade going on between the RUF and the ULIMO.¹²⁷⁷
537. It was alleged by TF1-375 that Taylor met Bockarie as early as 1997; Jungle (Daniel Tamba) was the liaison between Taylor, since he was Taylor's bodyguard, and set up a relationship between them.¹²⁷⁸ Taylor pointed out there is no mention of Daniel Tamba or Jungle in the list of close protection officers presented to the Court.¹²⁷⁹ Moreover, there was no need for a liaison: when Taylor wanted to meet Bockarie, he simply called him on the radio.¹²⁸⁰
538. Another prosecution witness testified that, on orders of Taylor, Yeaten instructed Bockarie to travel to Monrovia in early 1998.¹²⁸¹ Taylor denied the allegation by pointing out that had Bockarie been in Liberia in early 1998, ECOWAS would have come to hear of it.¹²⁸² Although Taylor was authorised by the Committee of Five to

¹²⁷¹ TT, Charles Taylor, 22 Sep 09, 29389.

¹²⁷² TT, Charles Taylor, 22 Sep 09, 29390-91.

¹²⁷³ TT, TF1-367, 21 Aug 08, 14228-29.

¹²⁷⁴ TT, Charles Taylor, 10 Sep 09, 28626-27.

¹²⁷⁵ TT, TF1-367, 01 Sep 08, 15023-24.

¹²⁷⁶ TT, Charles Taylor, 10 Sep 09, 28664.

¹²⁷⁷ TT, Charles Taylor, 10 Sep 09, 28665-66.

¹²⁷⁸ TT, TF1-375, 23 Jun 08, p. 12492.

¹²⁷⁹ Exhibit D-316, p. 11. TT, Charles Taylor, 15 Sep 09, 28854.

¹²⁸⁰ TT, Charles Taylor, 15 Sep 09, 28858.

¹²⁸¹ TT, TF1-274, 02 Dec 08, 21442-43.

¹²⁸² TT, Charles Taylor, 17 Sep 09, 29185.

contact the RUF, he did not do so in early 1998.¹²⁸³ Neither did he speak to Bockarie on a satellite phone on 23 April 1998.¹²⁸⁴ The prosecution suggested that the facilities in the guest house were used to inform the RUF about ECOMOG jets taking off from Liberia, but Taylor pointed out that there was no fighting going on at the time.¹²⁸⁵ After Bockarie's visit to Liberia, Taylor went on an official trip to France.

539. Also in September 1998, General Fred Rindel, a retired South African General, was contracted to train the Liberian Anti Terrorist Unit (ATU).¹²⁸⁶ The ATU were trained to deal with, amongst others, anti-terrorist activities, to provide VIP protection, the protection of important installations, government buildings and the premises of embassies.¹²⁸⁷ It was mostly to guard against any lawlessness caused by the large number of ex-combatants that were in Liberia.¹²⁸⁸ The contract with Fred Rindel did not include supplying the ATU trainees with any weapons or other military equipment.¹²⁸⁹ The government was paying Rindel and his company about 100,000 to 150,000 USD per month as part of the contract, paid in cash, not diamonds.¹²⁹⁰
540. The Secretary-General noted in his progress report on the UN observer mission in Sierra Leone that Kabbah informed him of alleged preparations by Liberia for the dispatch of fighters for an incursion into Sierra Leone on 13 October 1998.¹²⁹¹ The progress report stated that "United Nations military observers also detected no evidence of an armed incursion from Liberia."¹²⁹² Taylor was still busy on 13 October 1998 dealing with the high security situation as a result of the gunboat diplomacy from the USA in the aftermath of the Camp Johnson Road incident.¹²⁹³ Taylor was also between trips having been to France at the end of September and was preparing to go to Nigeria for the end of the month for an ECOWAS summit. Furthermore, he was completing the legislation at the end of September 1998.¹²⁹⁴ The progress report stated that Taylor vigorously denied the allegations and that Taylor had telephone contact with Kabbah on the matter, resulting in the matter being described as "a

¹²⁸³ TT, Charles Taylor, 17 Sep 09, 29183.

¹²⁸⁴ TT, TF1-577, 04 Jun 08, 11008-09. TT, Charles Taylor, 26 Oct 09, 30229.

¹²⁸⁵ TT, Charles Taylor, 25 Nov 09, 32483-84.

¹²⁸⁶ Exhibit P-18, p. 33.

¹²⁸⁷ TT, Charles Taylor, 18 Nov 09, p. 31998-9; Exhibit P-18, para. 187.

¹²⁸⁸ TT, Charles Taylor, 18 Nov 09, p. 31998-9.

¹²⁸⁹ TT, Charles Taylor, 18 Nov 09, p. 31999.

¹²⁹⁰ TT, Charles Taylor, 18 Nov 09, p. 32002.

¹²⁹¹ Exhibit P-306, para. 7; Exhibit D-169, para. 7.

¹²⁹² Exhibit P-306, para. 7; Exhibit D-169, para. 7.

¹²⁹³ TT, Charles Taylor, 3 Aug 09, p. 25858-9; 5 Aug 09, p. 25987.

¹²⁹⁴ TT, Charles Taylor, 3 Aug 09, p. 25859.

- misunderstanding that had been clarified".¹²⁹⁵ It further stated that Taylor and Kabbah were in regular telephone contact in order to work towards strengthening relations.¹²⁹⁶
541. Kabbah told Taylor that the allegation was that Taylor had amassed 5,000 troops whom he had addressed to attack Sierra Leone. In actuality, Taylor had been in Cape Mount to visit the victims of a flood in the area.¹²⁹⁷ Taylor denied and ridiculed the allegation that he was supposed to have addressed these 5,000 soldiers to attack Sierra Leone in front of the national and international press corps.¹²⁹⁸ Furthermore, there was a forthcoming ECOWAS summit at which Taylor was trying to seek support for the lifting of the Liberian arms embargo.¹²⁹⁹ He would not have jeopardised that by invading Sierra Leone with 5,000 soldiers.¹³⁰⁰
542. In a code cable sent to the Secretary-General on 15 October 1998 Downes-Thomas noted that Monie Captan and Taylor confirmed that Taylor was in Cape Mount on 9 October 1998 to visit those who had been adversely affected by the floods in that area.¹³⁰¹ Taylor further stressed to Downes-Thomas that prominent Liberians and the members of the press who accompanied Taylor could attest to the fact that Taylor did not address fighters.¹³⁰² Downes-Thomas observed that, with regard to the allegation that Taylor addressed fighters, 5,000 fighters would be an 'obvious spectacle' and that there was no word or confirmation from anyone in the Cape Mount/Sinje area about this event; not even from any NGOs.¹³⁰³ Downes-Thomas noted that the absence of corroborating evidence was 'baffling', especially considering that 5,000 fighters would have necessitated a convoy of no fewer than 50 military lorries.¹³⁰⁴
543. Taylor's first meeting with Bockarie in September 1998 was a success. Taylor sent Bockarie back to Sierra Leone with the clear message that the first priority is to get the fighting stopped. Bockarie's approach was positive and Taylor explained to the Committee of Five that contact with Bockarie should be maintained in order to obtain peace. Bockarie's second visit to Monrovia took place in early October 1998.¹³⁰⁵ Following the example of the Ivory Coast – when President Bedie met Foday Sankoh

¹²⁹⁵ Exhibit P-306, para. 7; Exhibit D-169, para. 7.

¹²⁹⁶ Exhibit P-306, para. 7; Exhibit D-169, para. 7; TT, Charles Taylor, 3 August 09, p. 25860.

¹²⁹⁷ TT, Charles Taylor, 3 Aug 09, p. 25860.

¹²⁹⁸ TT, Charles Taylor, 3 Aug 09, p. 25875.

¹²⁹⁹ Exhibit D-170, para. 6.

¹³⁰⁰ TT, Charles Taylor, 5 Aug 09, p. 25990.

¹³⁰¹ Exhibit D-170, paras. 3 and 5.

¹³⁰² Exhibit D-170, para. 5.

¹³⁰³ Exhibit D-170, para. 7.

¹³⁰⁴ Exhibit D-170, para. 7.

¹³⁰⁵ TT, Charles Taylor, 05 Aug 09, 26005.

– accommodation was provided for the RUF delegation in Monrovia. The guest house was located on the Tubman Boulevard, Monrovia's main road, close to the ECOMOG base at the Spriggs Payne airfield and the Nigerian embassy. Consequently, there was absolutely nothing clandestine about the setting up of the guest house. Moreover, it was opened with the knowledge and consent of ECOWAS members, including the members of the Committee of Five¹³⁰⁶ - members of the ECOWAS diplomatic delegation visited Bockarie at the guest house.¹³⁰⁷ President Kabbah himself also knew about the guest house and the meeting between Taylor and Bockarie.¹³⁰⁸

544. In the guest house there was a landline telephone and a long range radio installed, provided by the Liberian government. These facilities were necessary to maintain contact with the RUF. The arrangement was a replica of what Cote d'Ivoire had provided for Foday Sankoh in 1996.¹³⁰⁹ It was alleged that in 1998 there were three radio stations in Liberia.¹³¹⁰ Taylor rejected this claim.¹³¹¹ The RUF delegates came unarmed to the guest house; all arms were left at the border. Bockarie's securities were allowed to carry a handgun, but no rifle. The RUF delegate was not allowed to keep arms and/or ammunition at the guest house.¹³¹² The guest house was protected from outside interference by the SSS, headed by Yeaten. Consequently, Yeaten had direct involvement in supervising the facility and most likely had visited the guest house. He may also have developed a close relationship with Bockarie.¹³¹³
545. Taylor himself never visited the guest house. When he wanted to talk to Bockarie he sent for him.¹³¹⁴ The guest house was never used by more than about five individuals. Due to certain security concerns they were advised when and where to move.¹³¹⁵ The purpose of the Liberian government in providing a guest house for the RUF delegation was to facilitate negotiation and to obtain peace as quickly as possible and not to make it possible for Bockarie to bring diamonds to Liberia. Taylor was not interested in diamonds – in case he would have been interested in diamonds he could mine them in Liberia and would not need Bockarie to bring them to him.

¹³⁰⁶ TT, Charles Taylor, 05 Aug 09, 26006-07.

¹³⁰⁷ TT, Charles Taylor, 05 Aug 09, 26036.

¹³⁰⁸ TT, Charles Taylor, 05 Aug 09, 26006-07.

¹³⁰⁹ TT, Charles Taylor, 05 Aug 09, 26009-10.

¹³¹⁰ TT, TF1-585, 05 Sep 08, 15599-600.

¹³¹¹ TT, Charles Taylor, 01 Oct 09, 30142.

¹³¹² TT, Charles Taylor, 05 Aug 09, 26011.

¹³¹³ TT, Charles Taylor, 05 Aug 09, 26011-12; 26 Oct 09, 30309.

¹³¹⁴ TT, Charles Taylor, 05 Aug 09, 26012.

¹³¹⁵ TT, Charles Taylor, 05 Aug 09, 26014.

Consequently, Taylor did not give any arms and/or ammunition to Bockarie in exchange for the diamonds.¹³¹⁶

546. Taylor went to Nigeria¹³¹⁷ to attend the 21st Ordinary Summit of ECOWAS on 29 October 1998 in Abuja.¹³¹⁸ The purpose of the meeting was to further discuss the Sierra Leonean problem, including accusations that had been made that Taylor had amassed 5,000 fighters on the borders to invade Sierra Leone,¹³¹⁹ which he had already cleared up with Kabbah over the telephone.¹³²⁰ Taylor also told his colleagues the meetings he had had with Bockarie, whom he had seen twice by this time.¹³²¹ Taylor also informed Kabbah that Bockarie raised the issue of the release of Sankoh.¹³²²
547. Taylor's ECOWAS colleagues felt that his contact with the RUF was a useful and that they should pursue talks with them.¹³²³ ECOWAS launched an appeal for funds on Liberia's behalf; the implication also being that the accusations that had been made against Liberia were not coming from ECOWAS.¹³²⁴ Taylor subsequently produced a report of the summit for the Liberian nation.¹³²⁵ The summit was attended by 15 heads of states and President Nelson Mandela.¹³²⁶
548. One might expect that the relationship between Kabbah and Taylor to have deteriorated at this point. Why would Kabbah continue a relationship with a foreign president alleged to be assisting rebels in Sierra Leone? In fact, Taylor had a cordial and frank relationship with Kabbah.¹³²⁷ They both frequently talked to one another about intelligence reports that they received, allowing one another to respond.¹³²⁸ Kabbah had asked Taylor about the arms coming from Liberia. Taylor had told Kabbah that arms may have come in from Liberia into Sierra Leone but that they were not sent by him and that he was making an effort to post people on the border to

¹³¹⁶ TT, Charles Taylor, 05 Aug 09, 26014-15.

¹³¹⁷ TT, Charles Taylor, 5 Aug 09, p. 26002.

¹³¹⁸ Exhibit D-141, p. 127 which shows a photograph of Taylor with Kabbah, Abubakar and Kofi Annan with a caption stating that these men held lengthy talks on the Sierra Leone question; there is a further photograph of Taylor sitting "one-on-one" with Kofi Annan on 29 October 1998, Exhibit D-141, p. 129.

¹³¹⁹ TT, Charles Taylor, 5 Aug 09, p. 26003.

¹³²⁰ TT, Charles Taylor, 5 Aug 09, p. 26003.

¹³²¹ TT, Charles Taylor, 5 Aug 09, p. 26004; p. 26029.

¹³²² TT, Charles Taylor, 5 Aug 09, p. 26029.

¹³²³ TT, Charles Taylor, 5 Aug 09, p. 26031.

¹³²⁴ TT, Charles Taylor, 5 Aug 09, p. 26025.

¹³²⁵ Exhibit D-141, p. 269.

¹³²⁶ Exhibit D-141, p. 270.

¹³²⁷ TT, Charles Taylor, 5 Aug 09, p. 26026; Exhibit D-255, para. 10, Downes-Thomas stated that Taylor established regular, if not weekly, direct communications with Kabbah (around late 1999).

¹³²⁸ TT, Charles Taylor, 5 Aug 09, p. 26026-7.

monitor the situation.¹³²⁹ The relationship between Taylor and Kabbah was still amicable at the end of October, despite the allegations.¹³³⁰ To Taylor, Kabbah always showed a desire to talk. However, Taylor felt that despite Kabbah's desire to achieve peace through dialogue, Kabbah was under pressure to achieve a military victory through combat. Taylor believed that Kabbah did not have the ultimate power to stop combat because he was being backed and influenced by outside forces at the time; notably, from Nigeria¹³³¹ and the UK.¹³³²

549. Taylor had indicated at the ECOWAS summit of October 1998 of the gradual ability of the Liberian government to assume responsibility for its own security, allowing ECOMOG to draw its attention to the crisis in Sierra Leone.¹³³³ Most ECOMOG forces were, therefore, by October 1998, operating in Sierra Leone.¹³³⁴ By the beginning of November 1998, there were only about 800 ECOMOG left in Liberia. Taylor had requested their continued military assistance for capacity building.¹³³⁵ Furthermore, in light of the accusations that had been made against the Liberian government, ECOMOG provided a neutral presence that would be able to verify such allegations.¹³³⁶ General Shelpidi had moved himself to Sierra Leone by the last quarter of 1998.¹³³⁷
550. Taylor attended a Mano River Summit in Conakry on 12 November 1998.¹³³⁸ It was also attended by Kabbah, Lansana Conte¹³³⁹ and Jesse Jackson.¹³⁴⁰ The purpose of the meeting was to get Liberia, Sierra Leone and Guinea to reconstitute the Mano River Union. It was also to see how, within ECOWAS and these three countries, they could also forge peace, security and a good working relationship.¹³⁴¹ The three countries also pledged to ensure the strict observance of the 1986 Non-aggression and Security

¹³²⁹ TT, Charles Taylor, 5 Aug 09, p. 26027-8.

¹³³⁰ TT, Charles Taylor, 5 Aug 09, p. 26028.

¹³³¹ TT, Charles Taylor, 6 Aug 09, p. 26249.

¹³³² Exhibit D-208, p. 2, "To his critics, Kabbah has increasingly become a rubber stamp of decisions taken by Foreign Office mandarins since his inauguration in March 1996."

¹³³³ TT, Charles Taylor, 18 Nov 09, p. 31960; Exhibit D-141, p. 272.

¹³³⁴ TT, Charles Taylor, 18 Nov 09, p. 31960.

¹³³⁵ TT, Charles Taylor, 18 Nov 09, p. 31960.

¹³³⁶ Exhibit D-141, p. 272; TT, Charles Taylor, 5 Aug 09, p. 26023.

¹³³⁷ TT, Charles Taylor, 18 Nov 2009, p. 31961; 6 Aug 09, p. 26191, confirms that Shelpidi was in Freetown in December 1998.

¹³³⁸ TT, Charles Taylor, 5 Aug 09, p. 26031; 12 November 1998 date in Exhibit D-175, para. 12; P-307, para. 74.

¹³³⁹ TT, Charles Taylor, 5 Aug 09, p. 26031.

¹³⁴⁰ Exhibit D-141, p. 123.

¹³⁴¹ TT, Charles Taylor, 5 Aug 09, p. 26032.

Cooperation Agreement,¹³⁴² which involved not permitting territories to be used as a launching ground for attacks against neighbouring countries. There was a law in Liberia against these types of actions; namely, against mercenaryism.¹³⁴³

551. The third meeting between Taylor and Bockarie took place in November 1998 when Bockarie was travelling to Burkina Faso and requested permission to transit Liberia. Bockarie and his delegation, which included Eddie Kanneh,¹³⁴⁴ passed through Liberia with the knowledge of UN Special Representatives. Taylor did not provide any kind of assistance for Bockarie for his trip to Burkina Faso.¹³⁴⁵ The members of the Committee of Five were aware of Bockarie's trip to Burkina Faso. Taylor did not know for sure whether Kabbah knew about it at the time, but he was informed later. Taylor assumed that the UN was aware of this trip as well, since Special Representatives were taking part in discussions about letting senior RUF and AFRC members to travel.¹³⁴⁶ It was alleged that Taylor told Bockarie that ammunition had come to Burkina Faso and that is why Bockarie headed there to collect it.¹³⁴⁷ Taylor responded to this by stating that Bockarie was going to see the OAU Chairman, President Compoare. The OAU, Kabbah and the UN knew about Bockarie's trip.¹³⁴⁸
552. It was alleged that Bockarie was seen with Taylor at White Flower in October 1998.¹³⁴⁹ Taylor did not bring Bockarie and his delegation to White Flower in November, nor during Bockarie's earlier visits – Taylor did not move to White Flower before January 1999.¹³⁵⁰ In November, Taylor and Bockarie met briefly at the Executive Mansion.¹³⁵¹ Taylor was not aware of the purpose of Bockarie's trip to Burkina Faso.¹³⁵² When Bockarie returned to Sierra Leone via Liberia Taylor was not in Monrovia at the time. Taylor had no idea whether Bockarie returned with arms and/or ammunition.¹³⁵³ Taylor did not allow Bockarie access to arms warehouses in Monrovia at any time, nor did he share radio operators with Bockarie.¹³⁵⁴

¹³⁴² Exhibit D-175, para. 13.

¹³⁴³ TT, Charles Taylor, 5 Aug 09, p. 26035.

¹³⁴⁴ TT, Charles Taylor, 05 Aug 09, 26038-39.

¹³⁴⁵ TT, Charles Taylor, 05 Aug 09, 26036-38, 26048.

¹³⁴⁶ TT, Charles Taylor, 05 Aug 09, 26040.

¹³⁴⁷ TT, TF1-274, 03 Dec 2008, 21543.

¹³⁴⁸ TT, Charles Taylor, 17 Sep 09, 29253-54. Exhibit D-175, page 4.

¹³⁴⁹ TT, TF1-276, 23 Jan 2008, 1976.

¹³⁵⁰ TT, Charles Taylor, 22 Sep 09, 29357.

¹³⁵¹ TT, Charles Taylor, 05 Aug 09, 26045.

¹³⁵² TT, Charles Taylor, 05 Aug 09, 26048.

¹³⁵³ *Idem.*

¹³⁵⁴ TT, Charles Taylor, 05 Aug 09, 26045.

553. Taylor did not plan the Freetown Invasion with Bockarie in November 1998, nor did he order Bockarie to capture Kono.¹³⁵⁵ Perry Kamara testified that Bockarie consulted Taylor about the need to hold on to Kono.¹³⁵⁶ Taylor denied and added that the RUF did not need any advice.¹³⁵⁷ Taylor did not plan any operation with Bockarie, nor did he give him instructions as to which towns to capture.¹³⁵⁸ Taylor denied that he was deceiving his West-African colleagues or that he was micromanaging the Sierra Leone conflict.¹³⁵⁹ Another Prosecution witness stated that Taylor told Bockarie to maintain the controlled areas of the RUF.¹³⁶⁰ Taylor stated he did not even know which areas the RUF controlled.¹³⁶¹
554. The Liberian government had launched a massive national polio vaccination campaign, which had started by the time that Bockarie passed through Monrovia on his return from Burkina Faso.¹³⁶² Taylor made a statement in anticipation of the national polio immunisation on 22 November 1998, in which it was stated that the vaccinations were to take place in January and February of 1999.¹³⁶³ Taylor was photographed immunising a baby.¹³⁶⁴ The inconsistency of this behaviour with the prosecution allegation that at this time Taylor was orchestrating the events leading up to the Freetown Invasion could not be more stark.
555. Taylor went to France again at the end of November 1998 to attend the France Afrique Summit.¹³⁶⁵ Taylor used his speech at the summit¹³⁶⁶ to make the statement that conflict resolution in Africa should not carry with it the imposition of values from Europe or the USA, emphasising the need to respect African traditional values.¹³⁶⁷
556. Taylor made speeches at the Unity Conference Centre on 10 December 1998 and on 12 December 1998 at Monrovia Central Prison in observance of the 50th anniversary of the Universal Declaration of Human Rights.¹³⁶⁸ The Chairman of the Security Council Sanctions Committee visited Monrovia in the early part of December 1998,

¹³⁵⁵ TT, Charles Taylor, 05 Aug 09, 26050-51.

¹³⁵⁶ TT, TF1-360, 05 Feb 08, 3102.

¹³⁵⁷ TT, Charles Taylor, 16 Sep 09, 29007-08.

¹³⁵⁸ TT, Charles Taylor, 16 Sep 09, 29026-27. TT, TF1-360, 05 Feb 2008, 3164.

¹³⁵⁹ TT, Charles Taylor, 16 Sep 09, 29021-22.

¹³⁶⁰ TT, TF1-276, 23 Jan 08, 23.

¹³⁶¹ TT, Charles Taylor, 22 Sep 09, 29402.

¹³⁶² TT, Charles Taylor, 5 Aug 09, p. 26048.

¹³⁶³ Exhibit D-141, p. 274-5; TT, Charles Taylor, 5 Aug 09, p. 26054-5.

¹³⁶⁴ Exhibit D-141, p. 178.

¹³⁶⁵ TT, Charles Taylor, 3 Aug 09, p. 25836; Exhibit D-141, p. 147.

¹³⁶⁶ Exhibit D-141, p. 142.

¹³⁶⁷ TT, Charles Taylor, 3 Aug 09, p. 25838; Exhibit D-141, p. 143.

¹³⁶⁸ Exhibit D-141, p. 280; TT, Charles Taylor, 5 Aug 09, p. 26067.

having earlier visited Freetown for a four-day assessment mission.¹³⁶⁹ Taylor spoke to him about the possibility of creating a buffer zone between Liberia and Sierra Leone. However, the Chairman did not promise that there would be one.¹³⁷⁰ Taylor made a two-day visit to Burkina Faso to attend the inauguration of Blaise Compaore on 21 December 1998.¹³⁷¹

557. The Liberian government closed the border with Sierra Leone on 22 December 1998¹³⁷² (or a few days before 22 December 1998¹³⁷³). This decision was taken as a result of the Sierra Leonean government, on 22 December 1998, calling for the arming of a citizens defence force and the Kamajor militia, fighting along with ECOMOG against the AFRC/RUF forces, following months of pointing accusing fingers at the Liberian government for supporting the AFRC/RUF.¹³⁷⁴ It was also as a result of intelligence that was received that the conflict in Sierra Leone was escalating and that it might spill over into Liberia. Furthermore, there were reports that elements loyal to the defunct ULIMO-J were planning to infiltrate hundreds of insurgents across the border following months of training in the town of Zimmi in Sierra Leone.¹³⁷⁵ The Liberian government convened a National Security Council, as a result of which it decided that, to safeguard the territorial integrity of Liberia, the border with Sierra Leone should be closed and that Liberia would collaborate with ECOMOG to enforce the closure.¹³⁷⁶
558. There was a Committee of Five meeting in the Ivory Coast on 28 December 1998 at which General Shelpidi of ECOMOG and the Foreign Minister of Sierra Leone made further allegations that Liberia was supporting the rebels in Sierra Leone.¹³⁷⁷ Liberia's foreign minister objected at the suggestion that the Liberian government sent them.¹³⁷⁸

¹³⁶⁹ Exhibit D-175, para. 6 – who was also the Permanent Representative of Sweden, Ambassador Hans Dahlgren; TT, Charles Taylor, 6 Aug 09, p. 26191.

¹³⁷⁰ TT, Charles Taylor, 5 Aug 09, p. 26090.

¹³⁷¹ Exhibit D-141, p. 289; there is also a photograph of Taylor on his arrival back from Burkina Faso taken on 22 December 1998, meeting with Cyril Allen, p. 155.

¹³⁷² TT, Charles Taylor, 5 Aug 09, p. 26114; Exhibit D-141, p. 56.

¹³⁷³ Exhibit D-141, p. 290; Exhibit D-178, para. 11 has Taylor announcing the border closure on 20 December 1998.

¹³⁷⁴ Exhibit D-141, p. 56.

¹³⁷⁵ Exhibit D-141, p. 290; Exhibit D-178, para. 11; ECOMOG knew about Liberian dissidents being trained at Zimmi, Exhibit D-238, para. 2 and further in Exhibit D-255, para. 12(a)(iii); Taylor stated in evidence that Roosevelt Johnson was in Sierra Leone at the time, where he went following the Camp Johnson road incident, TT, Charles Taylor, 5 Aug 09, p. 26118-9; Taylor began receiving intelligence about this new group forming to attack Liberia by around mid-1998, TT, Charles Taylor, 5 Aug 09, p. 25984.

¹³⁷⁶ Exhibit D-141, p. 290.

¹³⁷⁷ Exhibit D-179, p. 1; TT, Charles Taylor, 6 Aug 09, p. 26137.

¹³⁷⁸ TT, Charles Taylor, 6 Aug 09, p. 26137; p. 26175; D-178, para. 14 further stated that the Liberian minister for foreign affairs denied the allegations.

559. The Liberian Government issued a policy statement on 29 December 1998 which it stated, *inter alia*, that successive regimes in Sierra Leone, including that of Kabbah, have used Liberian mercenaries to augment their national security capacity. Furthermore, the Kamajors were, at that point, using Liberian mercenaries to assist in their fight against the Junta forces. The policy statement stated that Liberia viewed this as a threat to the sub-region.¹³⁷⁹
560. Taylor further explained in evidence that there were two groups of Liberians fighting in Sierra Leone; those that had been recruited by ECOMOG to fight alongside the Kamajors, as Taylor discovered during the beginning of his presidency, and those that had been in Sierra Leone for a long time, fought alongside the SLA and had become part of the Junta.¹³⁸⁰
561. As has been previously mentioned, Kabbah eventually confirmed before the Sierra Leonean Truth and Reconciliation Commission that he knew of the existence of Liberians belonging to the STF in Sierra Leone.¹³⁸¹
562. Taylor wrote a letter to President Bill Clinton dated 30 December 1998 raising concerns regarding Kabbah and Sierra Leone. Pursuant to the request that Taylor specifically contact the RUF and Junta by ECOWAS, he offered the use of his office for the holding of negotiations. He also suggested the postponement of the treason trials in Sierra Leone, as executions during this period would not have been the best way to bring those still engaged in combat to the negotiating table.¹³⁸² Taylor also sent a letter to the President of the Security Council dated 6 January 1999, calling for the UN to monitor the border between Liberia and Sierra Leone.¹³⁸³
563. Taylor did not plan with¹³⁸⁴ or order Bockarie¹³⁸⁵ to capture Freetown. The Liberian government provided Taylor with the first report of an invasion in Freetown.¹³⁸⁶ His national security adviser, Lewis Brown, had heard it on the radio on 6 January 1999.¹³⁸⁷

¹³⁷⁹ Exhibit D-141, p. 292; Exhibit D-178, para. 14; see also Exhibit D-28, p. 3.

¹³⁸⁰ TT, Charles Taylor, 6 Aug 09, p. 26139; Exhibit D-141, p. 292; see also Exhibit D-28, p. 3.

¹³⁸¹ Exhibit D-26, paras. 52-55.

¹³⁸² Exhibit D-176, p. 1-2; TT, Charles Taylor, 6 Aug 09, p. 26169-73.

¹³⁸³ Exhibit D-179, p. 1.

¹³⁸⁴ TT, Charles Taylor, 5 Aug 09, p. 26049-50.

¹³⁸⁵ TT, Charles Taylor, 6 Aug 09, p. 26225.

¹³⁸⁶ TT, Charles Taylor, 5 Aug 09, p. 26050.

¹³⁸⁷ TT, Charles Taylor, 6 Aug 09, p. 26225-6; specifically, Taylor was informed of this around 8 a.m. to 8.30 a.m. that morning (TT, Charles Taylor, 6 Aug 09, p. 26226).

564. Even by the time Taylor's government issued the policy statement on 29 December 1998 to address the allegations against Liberia, he was not aware of an impending attack on Freetown.¹³⁸⁸ When Taylor received the first report on the actual Freetown invasion, he had his minister of national security telephone Bockarie to find out what was going on.¹³⁸⁹ Bockarie informed Taylor's national security adviser that he did not know what was going on in Freetown.¹³⁹⁰
565. One of Taylor's security personnel informed Taylor that he had heard Bockarie on the radio stating that Freetown was under attack and that his men were in Freetown, in contradiction to what Bockarie told Taylor's national security adviser earlier on the day.¹³⁹¹ Taylor had Bockarie contacted a second time that same day to investigate the inconsistency.¹³⁹² Bockarie said in response that he was only stating it on the radio to boost morale as it looked like those attacking were doing well, for which Bockarie wished to claim some credit.¹³⁹³ Note that at no point did Taylor personally communicate with Bockarie on this day.¹³⁹⁴
566. The first person that Taylor called upon hearing the news of the Freetown invasion was the chairman of ECOWAS, President Gnassingbe Eyadema. Taylor believed that he spoke to several other presidents, too.¹³⁹⁵ Taylor had also heard of news wires implicating Liberia in the Freetown invasion. As a result, Taylor immediately convened a national security council meeting and subsequently sent a letter to the Security Council to explain that Liberia had no such involvement, which was dated 6 January 1999.¹³⁹⁶ A Special Report of the Secretary-General on the Freetown invasion, dated 7 January 1999, stated that Bockarie had threatened to launch an assault on Freetown around New Year if Sankoh were not released.¹³⁹⁷ Taylor did not know of this.¹³⁹⁸ Repeat efforts were made to renew the mandate to contact the rebels in order to obtain a ceasefire. Use was especially made of the Ivory Coast's contacts.

¹³⁸⁸ TT, Charles Taylor, 6 Aug 09, p. 26203.

¹³⁸⁹ TT, Charles Taylor, 5 Aug 09, p. 26050; 6 Aug 09, p. 26226.

¹³⁹⁰ TT, Charles Taylor, 6 Aug 09, p. 26226.

¹³⁹¹ TT, Charles Taylor, 6 Aug 09, p. 26227.

¹³⁹² TT, Charles Taylor, 6 Aug 09, p. 26227.

¹³⁹³ TT, Charles Taylor, 6 Aug 09, p. 26228.

¹³⁹⁴ TT, Charles Taylor, 6 Aug 09, p. 26228.

¹³⁹⁵ TT, Charles Taylor, 6 Aug 09, p. 26234.

¹³⁹⁶ Exhibit D-179.

¹³⁹⁷ Exhibit D-178, para. 6.

¹³⁹⁸ TT, Charles Taylor, 6 Aug 09, p. 26231.

- Contact was already being made with Bockarie in order to get a final ceasefire. A ceasefire proposal was not put into place until about March/April 1999, however.¹³⁹⁹
567. Taylor bought White Flower, his residence in Congo Town, before he was elected president. It took him a year and a half to complete the building. He moved into White Flower on his birthday, 28 January 1999.¹⁴⁰⁰
568. General Shelpidi of ECOMOG moved to Sierra Leone in early January 1999¹⁴⁰¹ because ECOMOG was stepping up its activities in Sierra Leone and because he had been criticised by the Liberian government. Taylor had described Shelpidi's conduct as "unbecoming of an officer of his stature", as he had not understood the sovereign rights of Liberia or his role as forces commander.¹⁴⁰² Shelpidi was subsequently fired from his position as forces commander of ECOMOG in March 1999¹⁴⁰³ and he was replaced by Major-General Felix Mujakperou.¹⁴⁰⁴ Taylor stated that Shelpidi was fired because of, amongst others, the success of the Freetown invasion, for which he was also criticised by the United Kingdom.¹⁴⁰⁵ A New African article published in May 1999¹⁴⁰⁶ reporting on Shelpidi's dismissal stated that the United Kingdom, Sierra Leone and Nigeria were unhappy with his record at the front, which included the poor management of human and material resources, failing to prevent the near capture of Freetown on 6 January 1999 and the embarrassment caused to the Nigerian army as a result.¹⁴⁰⁷ The decision to fire Shelpidi was quoted as being "a joint decision made by the governments in London, Freetown and Abuja."¹⁴⁰⁸
569. There was a LURD incursion into Lofa County from Guinea on 21 April 1999.¹⁴⁰⁹ Taylor described the incident as a 'minor altercation' as a result of a misunderstanding and misbehaviour at a checkpoint.¹⁴¹⁰ The danger of an incursion into Liberia originating from Guinea had been anticipated as far back as the letter from Tiagen Wantee, who had warned that there were security threats against the

¹³⁹⁹ TT, Charles Taylor, 6 Aug 09, p. 26242.

¹⁴⁰⁰ TT, Charles Taylor, 5 Aug 09, p. 26045; DCT-008 confirmed that Taylor moved into White Flower on his birthday, 28 January 1999, TT, DCT-008, 24 Aug 10, p. 47024.

¹⁴⁰¹ TT, Charles Taylor, 13 Aug 09, p. 26689.

¹⁴⁰² TT, Charles Taylor, 13 Aug 09, p. 26689.

¹⁴⁰³ TT, Charles Taylor, 13 Aug 09, p. 26689; Exhibit D-208, p. 1.

¹⁴⁰⁴ Exhibit D-208, p. 1.

¹⁴⁰⁵ TT, Charles Taylor, 13 Aug 09, p. 26689.

¹⁴⁰⁶ Exhibit D-208.

¹⁴⁰⁷ Exhibit D-208, p. 1-2.

¹⁴⁰⁸ Exhibit D-208, p. 1; the article also detailed the extent to which the United Kingdom exercised an influence over Sierra Leone due to the latter's economic reliance on the former (p. 2).

¹⁴⁰⁹ TT, Charles Taylor, 11 Aug 09, p. 26527.

¹⁴¹⁰ TT, Charles Taylor, 11 Aug 09, p. 26525.

Liberian government.¹⁴¹¹ The timing of the LURD incursion coincided with the planned movement of RUF members arranged by UNOMSIL for the Lomé peace process. The RUF members were in Foya and were to be airlifted from Voinjama. As a result of the security situation in Lofa County, UNOMSIL Brig. Gen. S. Joshi transported the RUF members from Vahun to Monrovia via helicopter, from which they were transported to Lomé.¹⁴¹² The incursion was preceded by a diplomatic spat between Liberia and Guinea over the past year, which included a scaled down diplomatic mission by Guinea in Monrovia and the Liberian government not being invited to President Lansana Conte's inauguration.¹⁴¹³ Furthermore, accusations of the Mano River Union states harbouring dissidents made by each one against each other.¹⁴¹⁴ The incursion occurred despite assurances from Conte that his territory wouldn't be used by unfriendly forces to enter into Liberia.¹⁴¹⁵ The Liberian government decided that the appropriate response to the incursion was to pursue confidence building as a counter-measure to conflict, especially owing to the geographical, social, political and ethnic nature of the region.¹⁴¹⁶

570. Stephen Ellis's evidence and report stated that LURD enjoyed the support of governments in the region and further afield.¹⁴¹⁷ Ellis confirmed in evidence that Guinea supported LURD, having met the Guinean officials involved. Furthermore, Ellis was in no doubt that LURD had support from the US government.¹⁴¹⁸
571. In April 1999, the Liberian government was assisting the UN, ECOWAS and the government of Sierra Leone by transporting representatives of the RUF to Lomé, including Foday Sankoh who was the first to go to Lomé in mid-April that year.¹⁴¹⁹ Two representatives of the RUF were transported as well: Omrie Golley and Ibrahim Bah, all going through Robertsfield International Airport.¹⁴²⁰ There seems to be no disagreement with the Prosecution as to Taylor's part in the process of moving the RUF to Lomé.¹⁴²¹ Taylor explained that it was one of his roles at Lomé to convince

¹⁴¹¹ Exhibit D-7, p. 1.

¹⁴¹² Exhibit D-193 G, paras. 2-4; TT, Charles Taylor, 11 Aug 09, p. 26527.

¹⁴¹³ Exhibit D-194, p. 2.

¹⁴¹⁴ Exhibit D-194, p. 2.

¹⁴¹⁵ Exhibit D-141, p. 291; TT, Charles Taylor, 5 Aug 09, p. 26123.

¹⁴¹⁶ Exhibit D-184, p. 2-3; TT, Charles Taylor, 11 Aug 09, p. 26541-2.

¹⁴¹⁷ Exhibit P-31, p. 13.

¹⁴¹⁸ TT, Stephen Ellis, 18 Jan 08, p. 1599-1600.

¹⁴¹⁹ TT, Charles Taylor, 11 Aug 09, 26500-01; Exhibits D-193A-K. TT, Charles Taylor, 11 Aug 09, 26524.

¹⁴²⁰ TT, Charles Taylor, 11 Aug 09, 26503-04.

¹⁴²¹ TT, Charles Taylor, 11 Nov 09, 31611-15.

Sankoh of the need for peace.¹⁴²² He said that Sankoh was not taken to Lomé as a free man – Sankoh’s case at the Sierra Leone Appeal Court was to be continued after the talks, unless peace was reached. The RUF was not aware of this.¹⁴²³ Taylor did not meet Golley or Bah personally, although he did see them before they left Liberia for Lomé.¹⁴²⁴

572. A security disturbance in Voinjama was caused by the first LURD incursions on 21 April 1999.¹⁴²⁵ As requested by the UN, the Liberian government provided a security assessment of Vahun. The representatives of the RUF were then airlifted from Vahun to Monrovia from where they proceeded to Lomé.¹⁴²⁶ UN Special Representative Downes-Thomas expressed his gratitude for the cooperation of the Liberian government.¹⁴²⁷
573. On 5 July 1999, Taylor went to Lomé to meet with Eyadema, Obasanjo, Compaore and Kabbah. It was an emergency summit, since they sensed a possible failure of the peace talks and felt the need for them to go to Togo to ensure an agreement. Taylor discussed his departure to Togo with the UN Special Representative, so the UN was fully aware of this meeting.¹⁴²⁸ The purpose of this emergency summit was to break the stalemate reached in Lomé.¹⁴²⁹ According to Taylor, ECOWAS should be responsible for peace-building in the sub-region of West-Africa.¹⁴³⁰
574. Taylor denied providing Sankoh with a satellite phone in July 1999.¹⁴³¹ Nor did he provide Sankoh with a satellite phone in October that year. Taylor did provide Bockarie with a satellite phone during his second trip to Monrovia in October 1998, so he would be able to stay in contact with him. Taylor also provided Issa Sesay with a satellite phone for the same reasons, when Sesay became the leader of the RUF in July/August 2000. No other RUF members received a satellite phone from Taylor.¹⁴³²

¹⁴²² TT, Charles Taylor, 11 Nov 09, 31615-16.

¹⁴²³ TT, Charles Taylor, 11 Aug 09, 26512-13. Exhibit D-19.

¹⁴²⁴ TT, Charles Taylor, 11 Aug 09, 26516.

¹⁴²⁵ TT, Charles Taylor, 11 Aug 2009, 26526. Exhibit D-193G.

¹⁴²⁶ TT, Charles Taylor, 11 Aug 2009, 26527. Exhibit D-193G. See also Exhibit D-193H and D-193G.

¹⁴²⁷ TT, Charles Taylor, 11 Aug 2009, 26529. Exhibit D-193I.

¹⁴²⁸ TT, Charles Taylor, 12 Aug 2009, 26570-71. Exhibit D-197.

¹⁴²⁹ Photographs of the meeting in Lomé: Exhibits D-198 A-AM.

¹⁴³⁰ TT, Charles Taylor, 12 Aug 2009, 26627. Exhibit D-199 page 37 *et seq.*

¹⁴³¹ TT, Charles Taylor, 12 Aug 2009, 26661.

¹⁴³² TT, Charles Taylor, 12 Aug 2009, 26663-64.

575. After the signing of the accord, Sankoh became a free man. As part of the agreement, he was appointed vice-president of Sierra Leone and was in charge of the natural resources of the country.¹⁴³³
576. The amnesty granted at Lomé covered all actions of the war and applied to all the parties.¹⁴³⁴ Taylor described it as a win-win situation: both sides obtained peace.¹⁴³⁵ The Prosecution suggested that Taylor sent a negotiation team to Lomé to ensure that the RUF and the AFRC received the maximum benefit of the negotiations, because then Taylor would also benefit. Taylor called this “totally nonsense”; there were only two parties to the negotiations: the government of Sierra Leone and the RUF. Liberia, Nigeria and Lomé had teams there in order to assist the parties in the negotiation.¹⁴³⁶
577. In December 1999, Sankoh wrote a letter to various Head of States listing his concerns with breaches of the Lomé Peace Agreement – he alleged, *inter alia*, that Sierra Leone was recruiting mercenaries.¹⁴³⁷ Taylor explained that if this were true it would have a serious effect on the peace process since it would give an excuse for Sankoh not to disarm.¹⁴³⁸ Taylor explained that the ECOWAS was concerned that the international community, certain western countries in particular, would not support the Lomé Peace Agreement.¹⁴³⁹
578. The weapons destruction programme in Liberia began on 25 July 1999 and was completed by 18 October 1999.¹⁴⁴⁰ The destruction was acknowledged by the UN in a statement by the Secretary-General, in which he appreciated Taylor’s leadership.¹⁴⁴¹ Ambassador Bariyu Adeyemi, the officer-in-charge of UNOL, also confirmed the destruction of weapons.¹⁴⁴²

¹⁴³³ TT, Charles Taylor, 12 Aug 2009, 26667. Exhibit P-422, Article V(2).

¹⁴³⁴ TT, Charles Taylor, 16 Nov 2009, 31648.

¹⁴³⁵ TT, Charles Taylor, 14 Jan 2010, 33253.

¹⁴³⁶ TT, Charles Taylor, 14 Jan 10, 33255.

¹⁴³⁷ Exhibit D-229, page 4 para 11.

¹⁴³⁸ TT, Charles Taylor, 17 Aug 09, 26889-90.

¹⁴³⁹ TT, Charles Taylor, 09 Sep 09, 28421.

¹⁴⁴⁰ Up to then the weapons, which were collected in 1996-7, had been kept under lock and key by ECOMOG and the UN in Liberia. The debate as to what to do with them had been going on for months and it was decided around late February 1999 that they would be destroyed (TT, Charles Taylor, 11 Aug 09, p. 26465-6). Taylor had been given an indication by a retired US general and friend of Liberia, General Yerks, that their total destruction could lead to an early lifting of the arms embargo (Exhibit D-190).

¹⁴⁴¹ Exhibit D-369.

¹⁴⁴² Exhibit D-230.

579. The last of the ECOMOG troops left Liberia following the final destruction of the weapons.¹⁴⁴³ When they left, no external force came into Liberia until ECOWAS sent a peacekeeping force in August 2003.¹⁴⁴⁴

Chapter Five: Sierra Leone from the Coup through Lomé

Junta Period: May 1997

580. The AFRC coup took place on 25 May 1997 as non-commissioned officers of the SLA seized State House, forcing President Kabbah and his government to leave the country.¹⁴⁴⁵ These soldiers were motivated by the lack of respect Kabbah's government showed towards the professional army, and the perceived bias in favour of the Kamajors.¹⁴⁴⁶ It began when 17 soldiers from Cockerill barracks seized the defence headquarters and broke into Pademba Road prison, freeing the prisoners held there, including soldiers detained following a previous failed coup.¹⁴⁴⁷ Then, detaining the senior officers, but now joined by many other soldiers, the men seized locations throughout Freetown.¹⁴⁴⁸ Later there were two announcements over the radio that the military had overthrown Kabbah's government and taken over: the first by Corporal Tamba Gborie; the second by Captain Paul Thomas.¹⁴⁴⁹ On 28 May 1997, the AFRC released an official proclamation, declaring AFRC governance over Sierra Leone as of 25 May 1997.¹⁴⁵⁰ The AFRC government was headed by JP Koroma.¹⁴⁵¹ There is no evidence that Taylor played any part in the coup.

Creation of the Junta

581. The Junta government was formed by the union of the AFRC and RUF. Prior to the coup, the AFRC had not cooperated with the RUF,¹⁴⁵² and so the union was not based on any longstanding common interest.¹⁴⁵³ However, following the coup, the AFRC wanted peace with the RUF, and needed its support against the Kamajors and

¹⁴⁴³ TT, Charles Taylor, 18 Nov 09, p. 31964.

¹⁴⁴⁴ TT, Charles Taylor, 18 Nov 09, p. 31964.

¹⁴⁴⁵ Agreed Fact 17; TT, Alimamy Bobson Sesay, TF1-334, 17 Apr 08, p. 7871-2; Samuel Kargbo, TF1-597, 21 May 08, p. 10437-8.

¹⁴⁴⁶ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10435; Exhibit P-134B, Resolution (iv).

¹⁴⁴⁷ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10435-6. Included in this number was JP Koroma.

¹⁴⁴⁸ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10435-6.

¹⁴⁴⁹ TT, Alimamy Bobson Sesay, TF1-334, 17 Apr 08, p. 7872.

¹⁴⁵⁰ Exhibit, P-100.

¹⁴⁵¹ Agreed Fact 18; TT, Alimamy Bobson Sesay, TF1-334, 17 Apr 08, p. 7874; Samuel Kargbo, TF1-597, 21 May 08, p. 10440.

¹⁴⁵² Exhibit D-50, in which JP Koroma states he did not collude with the RUF before May 1997.

¹⁴⁵³ Adjudicated Fact 1.

ECOMOG.¹⁴⁵⁴ Within a week or so of the coup, JP Koroma called Sankoh and invited the RUF to join the AFRC in government.¹⁴⁵⁵ Sankoh, who may have even anticipated some sort of coup,¹⁴⁵⁶ agreed, and sent Massaquoi to Freetown.¹⁴⁵⁷ Later, over the BBC, Sankoh told the RUF to join the AFRC.¹⁴⁵⁸ In joining the AFRC, the RUF acted under Sankoh's instruction.¹⁴⁵⁹

582. When Bockarie received the instruction from Sankoh to join the AFRC, he communicated this to other RUF commanders, such as Isaac Mongor.¹⁴⁶⁰ Mongor moved his troops from Makeni to Freetown, and operated in fighting alongside the AFRC against ECOMOG.¹⁴⁶¹ Other RUF leaders also moved to Freetown, including Bockarie and Sesay.¹⁴⁶² Superman was the first commander to arrive in Freetown, with Bockarie arriving on about 29 or 30 May 1997.¹⁴⁶³ There they took their place in government alongside the AFRC.¹⁴⁶⁴

The Junta government

583. The Junta government ruled through the Supreme Council, which was dominated by the AFRC. JP Koroma appointed himself as chairman, with SAJ Musa as chief secretary of state and acting vice-chairman. The following positions were also reserved for AFRC personnel: Abu Sankoh as PLO-1, Gullit as PLO-2, Bazzy as PLO-3 and AK Sesay as secretary general.¹⁴⁶⁵ The general membership of the Council was then composed of a variety of members, though no piece of evidence gives the complete list. Exhibit P-131, for instance, lists the members present from the AFRC as JB Katta-Tarawallie, Victor King, Franklyn Conteh, Samuel Kargbo, Brima Kamara, Santigie Borbor Kanu, George Adams, Sahr Gborie, Sulaiman Turay, Momoh Bangura, Ibrahim Sesay, Moses Kabia and Abdul Sesay. By contrast, it lists the RUF members of the council as Dennis Mingo, Isaac Mongor, Issa Sesay, Gibril

¹⁴⁵⁴ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10440-1.

¹⁴⁵⁵ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10440-1; Issa Sesay, DCT-172, 18 Aug 10, p. 46540-1.

¹⁴⁵⁶ This is suggested [REDACTED] as a reason why Sankoh failed to honour the 1996 Abidjan Peace Accord. There is no suggestion, however, that Sankoh had anything to do with the AFRC coup.

¹⁴⁵⁷ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10441-2; Exhibit P-277.

¹⁴⁵⁸ TT, Alimamy Bobson Sesay, TF1-334, 17 Apr 08, p. 7872-3.

¹⁴⁵⁹ TT, TF1-388, DAF, TF1-168, Perry Kamara, Foday Lansana, Alimamy Bobson Sesay, Isaac Mongor, Charles Taylor, Issa Sesay.

¹⁴⁶⁰ TT, Isaac Mongor, TF1-532, p. 5699-703.

¹⁴⁶¹ TT, Isaac Mongor, TF1-532, p. 5702-3.

¹⁴⁶² Exhibit D-9; Issa Sesay, DCT-172, 6 Jul 10, p. 43818-29.

¹⁴⁶³ TT, Issa Sesay, DCT-172, 18 Aug 10, p. 46541-2.

¹⁴⁶⁴ Agreed Fact 30; Exhibit D-9; Exhibit P-131.

¹⁴⁶⁵ Exhibit P-131.

Massaquoi, Morris Kallon, Lawrence Wohmandia and Eldred Collins.¹⁴⁶⁶ Exhibit P-104 lists Bockarie, David Kallon and Mike Lamin ([REDACTED]) in addition. Yet whatever the membership of the Council at any given moment, the point is the same: the AFRC outnumbered the RUF. Bockarie reported this as an unequal partnership.¹⁴⁶⁹

584. The military was also under AFRC command with JP Koroma's brother FSY Koroma as chief of the defence staff; SO Williams as chief of the army staff; and Commander Gilbert in command of the navy.¹⁴⁷⁰ Very minimal positions in the army were offered to the RUF.¹⁴⁷¹

Infighting during the Junta government

585. While, the AFRC and RUF may have been united in government, there were nevertheless serious tensions between individuals within the groups, and between the groups themselves. [REDACTED]

[REDACTED].¹⁴⁷² Massaquoi and Steve Bio were imprisoned for this.¹⁴⁷³ The AFRC also accused the RUF of attempting a coup following the support offered to Sesay by Bockarie after he was accused of looting the Iranian embassy.¹⁴⁷⁴

586. There were serious problems between Bockarie and the AFRC. JP Koroma rejected Bockarie's request for integration between the AFRC and RUF,¹⁴⁷⁵ and the groups remained separate.¹⁴⁷⁶ Bockarie wanted the RUF to move from being the "People's Army"¹⁴⁷⁷ to being part of the "National Army".¹⁴⁷⁸ However, no such development

¹⁴⁶⁶ Exhibit P-131; [REDACTED]

¹⁴⁶⁷ TT, [REDACTED]

¹⁴⁶⁸ TT, Issa Sesay, DCT-172, 18 Aug 10, p. 46545.

¹⁴⁶⁹ Exhibit D-9.

¹⁴⁷⁰ TT, Alimamy Bobson Sesay, TF1-334, 17 Apr 08, p. 7875-6; Adjudicated Fact 4.

¹⁴⁷¹ Exhibit D-85.

¹⁴⁷² TT, [REDACTED]; Exhibit [REDACTED].

¹⁴⁷³ Exhibit D-9; Exhibit D-84; TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43921-4.

¹⁴⁷⁴ TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43949-50; Exhibit D-9.

¹⁴⁷⁵ TT, Issa Sesay, DCT-172, 7 July 10, p. 43845-52, citing: Exhibit P-360. One can also compare Bockarie's request in P-360 with Adjudicated Fact 4.

¹⁴⁷⁶ Adjudicated Fact 4.

¹⁴⁷⁷ There is evidence that the term People's Army referred to RUF personnel rather than AFRC. In Exhibit P-360, Bockarie refers to himself as Field Commander of the People's Army, and that he wanted the People's Army to be represented by Mike Lamin in any AFRC delegation. This view is supported by the passage in P-131 in which Isaac Mongor is said to have raised the problem of recognition between the People's Army and "other service men" or "Armed Forces personnel". This once again suggests there was a lack of integration between RUF and AFRC.

¹⁴⁷⁸ Exhibit P-360.

took place; the RUF was marginalised in military matters.¹⁴⁷⁹ This led to the RUF complaining, as in Exhibit P-67, that the AFRC was “just doing things as they like”.¹⁴⁸⁰ Bockarie considered the AFRC did not respect the RUF.¹⁴⁸¹ Bockarie’s military advice to JP Koroma was ignored.¹⁴⁸²

587. JP Koroma did not trust Bockarie, and asked Bockarie to leave when he was negotiating with Nigerian generals for the release of hostages who had originally been captured by the RUF.¹⁴⁸³ This was one of the reasons why Bockarie decided to leave Freetown and relocate to Kenema.¹⁴⁸⁴ The other reasons included, one, that Bockarie suspected the AFRC was attempted to kill him: in one incident, he narrowly escaped being hit by a car driven by an AFRC officer;¹⁴⁸⁵ and second, he feared being arrested by the AFRC.¹⁴⁸⁶ As a consequence, Bockarie was only in Freetown for about a month;¹⁴⁸⁷ by the time of the meeting of 19 July 1997, Bockarie was already in Kenema.¹⁴⁸⁸
588. Bockarie was the source of numerous other tensions. There were problems between Bockarie and SAJ Musa, as Musa was chosen to be second to JP Koroma, a position supposed to be filled by Sankoh (and of course in his stead, by Bockarie himself).¹⁴⁸⁹ Bockarie had a serious falling-out with Eldred Collins, and the Council even discussed giving Collins an armed guard.¹⁴⁹⁰ Exhibit P-134A attributed much of the blame for the infighting between AFRC and RUF to Bockarie.¹⁴⁹¹

Magburaka Shipment

589. There is a great deal of inconsistency between the various propositions floated by the prosecution on this topic. The Trial Chamber has been presented with a jigsaw where the pieces just do not fit. In such a situation it is not the job of the fact-finder to force the pieces to fit. Rather in such instances contradictory and inconsistent evidence should be jettisoned as unacceptable garbage. We ask a number of questions

¹⁴⁷⁹ Exhibit D-84; Exhibit D-85.

¹⁴⁸⁰ Exhibit P-67: “the Honourables” were “just doing things as they like”.

¹⁴⁸¹ TT, Dauda Aruna Fornie, TF1-274, p. 21668-70.

¹⁴⁸² Exhibit D-9; Exhibit D-85; TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21737-42.

¹⁴⁸³ Exhibit D-9; TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43920-1.

¹⁴⁸⁴ TT, TF1-567, p. 13170-2; Issa Sesay, DCT-172, 7 Jul 10, p. 43920-1.

¹⁴⁸⁵ Exhibit D-9; TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43920-1.

¹⁴⁸⁶ Exhibit D-9.

¹⁴⁸⁷ TT, TF1-388, 9 Jul 08, p. 13337-40. Who also stated that Bockarie was not happy that the Kamajors were not included in the Junta: 9 Jul 08, p. 13341-2.

¹⁴⁸⁸ Exhibit P-131, para. 9.

¹⁴⁸⁹ TT, Samuel Kargbo, TF1-597, p. 10614-5.

¹⁴⁹⁰ Exhibit P-131.

¹⁴⁹¹ Exhibit P-134A (compare to [REDACTED]). Though he does not say when this begins, and he may well have in mind the seizure of JP Koroma’s diamonds by Bockarie.

regarding this evidence which throw up the contradictions inherent in the prosecution's case.

Where did it come from?

590. Samuel Kargbo concluded it was from Burkina Faso, because there was a Burkinabe soldier on the flight.¹⁴⁹² TF1-338 testified that the supplies came from the Ukrainians.¹⁴⁹³ In contrast Isaac Mongor testified that it came from Libya, and that Taylor sent it.¹⁴⁹⁴ We were further told by Issa Sesay that it came from Burkina Faso.¹⁴⁹⁵ It will also of course be recalled that it was suggested that when Taylor travelled to south Africa in September 1997 he was in possession of diamonds which were used for a shipment of arms which was brought into the Freeport in Monrovia by ship. How does a fact-finder proceed when faced with such a lucky dip?
591. Again we are confronted by conflicting accounts as regards how the shipment was paid for. Samuel Kargbo assumes it was paid for with diamonds.¹⁴⁹⁶ Another Prosecution witness testified that it was paid for with a 90 carat diamond and \$90,000 from the Bank of Sierra Leone.¹⁴⁹⁷ Issa Sesay testified that it was paid for with \$90,000 from the Bank of Sierra Leone.¹⁴⁹⁸
592. Again, there are conflicting accounts of who facilitated it. Samuel Kargbo testified that there was a conversation between JP Koroma and Taylor about arms, following which a delegation including Mike Lamin, Sam Bockarie, Ibrahim Bah and Fonti Kanu went to Liberia. Two weeks later a plane arrived at Magburaka.¹⁴⁹⁹ Another Prosecution witness testified that Ibrahim Bah had come from Taylor to help the Junta obtain arms, and that he requested the Junta raise a 90 carat diamond for the arms and \$90,000 for the flight.¹⁵⁰⁰ JP Koroma handed diamonds and money to Bockarie, who passed them onto Bah. Bah went to Monrovia, then came back on the shipment flight.¹⁵⁰¹ Alimany Bobson Sesay testified that Fonti Kanu had gone ahead to facilitate it.¹⁵⁰² Issa Sesay testified that JP Koroma gave \$90,000 to Ibrahim Bah, who

¹⁴⁹² TT, Samuel Kargbo, TF1-597, 2 Jun 08, p. 10714-5.

¹⁴⁹³ TT, TF1-338, 3 Sep 08, p. 15284-7.

¹⁴⁹⁴ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5724; 4 Apr 08, p. 6648-9.

¹⁴⁹⁵ TT, Issa Sesay, DCT-172, 7 July 10, p. 43875.

¹⁴⁹⁶ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10459.

¹⁴⁹⁷ TT, [REDACTED].

¹⁴⁹⁸ TT, Issa Sesay, DCT-172, 7 July 10, p. 43859-61.

¹⁴⁹⁹ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10455-9.

¹⁵⁰⁰ TT, [REDACTED].

¹⁵⁰¹ TT, [REDACTED].

¹⁵⁰² TT, Alimany Bobson Sesay, TF1-334, 28 Apr 08, p. 8686-91.

went with Fonti Kanu and Arnold Bangura.¹⁵⁰³ JP Koroma paid for the flight, and Sankoh paid for the shipment with the money he had received from Libya.¹⁵⁰⁴

593. Again, there are conflicting accounts about who picked up the shipment. Samuel Kargbo testified that he was present, and that Fonti Kanu, Mike Lamin and a Burkinabe soldier called Musa were onboard the flight.¹⁵⁰⁵ [REDACTED]
[REDACTED]¹⁵⁰⁶ TF1-371 testified that Issa Sesay, Morris Kallon and SO Williams went to Magburaka.¹⁵⁰⁷ Isaac Mongor testified that he, Mike Lamin and Fonti Kanu went to Magburaka.¹⁵⁰⁸ Alimamy Bobson Sesay testified that he, SO Williams and Akim Turay, as well as Fonti Kanu, were present.¹⁵⁰⁹ Issa Sesay testified that he went with SO Williams to Magburaka by helicopter, Fonti Kanu and Ibrahim Bah were onboard the plane.¹⁵¹⁰ SO Williams, Kailondo and Rambo RUF were also present.¹⁵¹¹
594. In terms of the date, most of the evidence settles toward the end of 1997. Alimamy Bobson Sesay testified that it was about two months after the AFRC coup, though he does not disagree with a date of October 1997.¹⁵¹² TF1-371 testified it was in October 1997.¹⁵¹³ Issa Sesay testified that it was in November or December 1997.¹⁵¹⁴
595. In terms of what the shipment comprised, there are numerous accounts. Samuel Kargbo testified that it was solely ammunition: RPG bombs, stinger missiles, AK rounds, G3 rounds and mortar bombs.¹⁵¹⁵ TF1-338 testified that the supplies were GMG rounds, G3 rounds, grenades and AK-47s.¹⁵¹⁶ TF1-371 testified the weapons consisted of 75 calibre machine guns, AK-47s with rocket propelled grenade launchers. There were about 80 boxes of Arms.¹⁵¹⁷ Isaac Mongor testified that the

¹⁵⁰³ TT, Issa Sesay, DCT-172, 7 July 10, p. 43859-61.

¹⁵⁰⁴ TT, Issa Sesay, DCT-172, 7 July 10, p. 43871-2.

¹⁵⁰⁵ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10455-9; 2 Jun 08, p. 10720-4.

¹⁵⁰⁶ TT, TF1-338, 3 Sep 08, p. 15284-7.

¹⁵⁰⁷ TT, TF1-371, 31 Jan 08, p. 2692. [REDACTED]

¹⁵⁰⁸ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5724.

¹⁵⁰⁹ TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8686-91.

¹⁵¹⁰ TT, Issa Sesay, DCT-172, 7 July 10, p. 43864-7.

¹⁵¹¹ TT, Issa Sesay, DCT-172, 4 Aug 10, p. 45363-4.

¹⁵¹² TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8686-91.

¹⁵¹³ TT, TF1-371, 28 Jan 08, p. 2314.

¹⁵¹⁴ TT, Issa Sesay, DCT-172, 7 July 10, p. 43863-4.

¹⁵¹⁵ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10479-81; 2 Jun 08, p. 10717-20.

¹⁵¹⁶ TT, TF1-338, 3 Sep 08, p. 15282-4.

¹⁵¹⁷ TT, TF1-371, 28 Jan 08, p. 2316-7.

supplies were AK rounds, GMG rounds and AA guns.¹⁵¹⁸ Issa Sesay testified that the supplies were BZT, SAM-7, AA rounds, GPMG rounds and G3 rounds.¹⁵¹⁹

596. As to where the shipment was delivered, Samuel Kargbo testified it was taken to JPK's house and then distributed from there.¹⁵²⁰ TF1-371 testified it was distributed between the arms storage at Murray Town barracks, Makeni and Magburaka.¹⁵²¹ TF1-371 testified that the supplies went to the RUF in the eastern provinces and to Cockerill.¹⁵²² Isaac Mongor testified that one of the AA guns was placed at JP Koroma's house, the other was given to Bockarie, and the GMG rounds were used during the fighting in Freetown in February 1998.¹⁵²³

ECOMOG Intervention: February 1998

597. ECOMOG intervened in Freetown and ousted the Junta government on about 14 February 1998.¹⁵²⁴ From there AFRC and RUF forces began a retreat from their positions in Freetown and other areas towards Kono and Kailahun Districts.
598. At the time of the Intervention, JP Koroma and most of the AFRC leadership were in Freetown (Gullit was in Kono District representing the AFRC mining interest there¹⁵²⁵); the RUF commanders that were in Freetown were Superman, Isaac Mongor, Eldred Collins and Gibril Massaquoi.¹⁵²⁶ When ECOMOG attacked the Junta in Freetown the Junta resisted and there was fighting in Freetown for days or weeks. The ECOMOG forces took over most of Freetown and the Junta had to pull out of the city. They retreated across the Tumbo River to Fogbo, and from there drove to Masiaka.¹⁵²⁷ At the same time, Issa Sesay had come to the area around Waterloo and Masiaka, where he was involved in fighting against ECOMOG.¹⁵²⁸
599. JP Koroma was in charge of the AFRC/RUF retreating from Freetown, but there was general chaos: JP Koroma had abandoned his vehicles and was running for his life along with everyone else.¹⁵²⁹ Both RUF and SLA combatants were in disarray; [REDACTED] shooting throughout the night

¹⁵¹⁸ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5724.

¹⁵¹⁹ TT, Issa Sesay, DCT-172, 7 July 10, p. 43863-4.

¹⁵²⁰ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10482.

¹⁵²¹ TT, TF1-338, 5 Sep 08, p. 15557-8.

¹⁵²² TT, TF1-371, 28 Jan 08, p. 2316-7; 31 Jan 08, p. 2692.

¹⁵²³ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5733-4.

¹⁵²⁴ Judicially Noted Fact AD.

¹⁵²⁵ TT, TF1-371, 28 Jan 08, p. 2348-9.

¹⁵²⁶ TT, TF1-371, 28 Jan 08, p. 2348.

¹⁵²⁷ TT, TF1-371, 28 Jan 08, p. 2349.

¹⁵²⁸ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10482-5; TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43952-6.

¹⁵²⁹ TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43958.

and [REDACTED] dead bodies of civilians outside.¹⁵³⁰ The situation was made worse because the civilians who sympathized with the AFRC retreated with them, concerned for their lives: as ECOMOG advanced, the CDF would burn alive anyone who they found on the way and whom they suspected of having contacted the AFRC.¹⁵³¹ The group, which included the civilians, numbered in the thousands.¹⁵³² In Masiaka, JP Koroma ordered Operation Pay Yourself over the radio. He ordered Operation Pay Yourself because he did not have the money to pay his troops, so the soldiers from the RUF and SLA could loot from the civilians.¹⁵³³ Both the RUF and AFRC were involved in it.¹⁵³⁴ The group was divided after they arrived at Makeni: SAJ Musa, Bropleh and Mani took their men and went to the Koinadugu axis. For its part, the RUF moved to Kono District with some of the AFRC members.¹⁵³⁵

600. When the RUF and AFRC withdrawal from Makeni to Kono District, an advance team under Superman captured Kono from the Kamajors. The Kamajors had previously attacked and dislodged the Junta from Kono District during the Intervention. Gullit and his bodyguards had travelled from Kono to Kailahun where they joined Bockarie; others had joined the main group in Makeni.¹⁵³⁶ There was a meeting held by JP Koroma in Koidu Town. It was attended by RUF commanders such as Sesay, Lamin, Vandi, Kallon, Boston Flomo (RUF Rambo), and Isaac Mongor; and by AFRC commanders such as Gullit, Bazzy, Bangura, Santigie Borbor Kanu, Moses Kabia (AFRC Rambo), and others. JP Koroma spoke about unity between the RUF and AFRC, that Kono District was the place to stop running away from ECOMOG, that he would arrange with Bockarie for arms and food to defend Kono District. He appointed Superman as commander and Bazzy as deputy. Following the meeting, Sesay, JP Koroma, Lamin went to Kailahun; Isaac Mongor and Boston Flomo led the troops ahead to fight the Kamajors in Gandorhun and open a way to Kailahun.¹⁵³⁷ JP Koroma was then brought to Kailahun on Bockarie's

¹⁵³⁰ TT, TF1-371, 28 Jan 08, p. 2355.

¹⁵³¹ TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43958.

¹⁵³² TT, TF1-371, 28 Jan 08, p. 2349; TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43960.

¹⁵³³ TT, Alimamy Bobson Sesay, TF1-334, 17 Apr 08, p. 7933-5.

¹⁵³⁴ TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43963-4.

¹⁵³⁵ TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43982-3.

¹⁵³⁶ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 43994-5.

¹⁵³⁷ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 43998-4001. For further evidence that Superman was appointed as commander in Kono, see: TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10500-1.

- instruction.¹⁵³⁸ The retreat from Freetown to Kailahun lasted some two to three weeks.¹⁵³⁹
601. At the time of the Intervention, Bockarie was in Kenema. He retreated from Kenema.¹⁵⁴⁰ While at Kailahun Town, Bockarie executed civilians held to be Kamajors or former Kamajors.¹⁵⁴¹ Bockarie set up his headquarters in Kailahun,¹⁵⁴² and was based in Buedu.¹⁵⁴³
602. When JP Koroma arrived in Buedu, he promoted Bockarie to Brigadier and Chief of the Defence Staff.¹⁵⁴⁴ Sesay was then promoted to Battlefield Commander and Superman to Battle Group Commander.¹⁵⁴⁵
603. Following JP Koroma's arrival in Buedu, at some point there was a meeting at which the AFRC and RUF command structure was restructured. It was at this point in which the command structure became unified. Each group led by a RUF commander was to have an AFRC deputy, and each group commanded by an AFRC commander was to have a RUF deputy,¹⁵⁴⁶ though in practice there was no RUF commander as deputy to an AFRC commander.¹⁵⁴⁷ The RUF took over the command role, with any AFRC commander as deputy.¹⁵⁴⁸
604. While in Buedu, JP Koroma came to Buedu and stayed at Bockarie's house.¹⁵⁴⁹ However, he was arrested by the RUF on Bockarie's order, as Bockarie suspected him of hiding diamonds.¹⁵⁵⁰ Other AFRC individuals, including Kargbo himself, were also arrested and flogged,¹⁵⁵¹ because Moses Kabia had informed on Koroma to the RUF.¹⁵⁵² One reason for Moses Kabia informing on JP Koroma was that he had been dismissed as Chief Security Officer because of the influence of JP Koroma's wife

¹⁵³⁸ Exhibit P-67.

¹⁵³⁹ TT, TF1-585, 8 Sep 08, p. 15664-5.

¹⁵⁴⁰ TT, Dauda Aruna Fornie, TF1-274, 2 Dec 08, p. 21436-41.

¹⁵⁴¹ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16113-26.

¹⁵⁴² Exhibit D-9.

¹⁵⁴³ TT, TF1-388, 9 Jul 08, p. 13329-33; John Vincent, DCT-215, 26 Mar 10, p. 38095-8.

¹⁵⁴⁴ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44015-7; Exhibit D-9; Exhibit D-84. Also see: TT, TF1-371, 28 Jan 08, p. 2364.

¹⁵⁴⁵ Exhibit D-9; Exhibit D-84.

¹⁵⁴⁶ TT, Charles Ngebeh, DCT-146, 23 Mar 10, p. 37890-1. Here, he testified the instruction was given by Bockarie. However, he testified in the RUF case that it was JP Koroma who gave this order: 13 Apr 10, p. 38815-6.

¹⁵⁴⁷ TT, Charles Ngebeh, DCT-146, 13 Apr 10, p. 38827.

¹⁵⁴⁸ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9394-5.

¹⁵⁴⁹ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10519-20.

¹⁵⁵⁰ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10526-8. Koroma came outside of the house when they came to arrest him, rather than being detained inside the house as other witnesses have testified (see below).

¹⁵⁵¹ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10526-8.

¹⁵⁵² TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10530; TF1-585, 10 Sep 08, p. 15917-8.

Makuta.¹⁵⁵³ Bockarie saw all diamonds as belonging to the movement and necessary to get arms and ammunition.¹⁵⁵⁴ Bockarie was present at the time the diamonds were seized.¹⁵⁵⁵ Following the seizure of his diamonds, JP Koroma was taken to Kangama.¹⁵⁵⁶ Samuel Kargbo believes Koroma was held there as a hostage.¹⁵⁵⁷ Bockarie no longer regarded Koroma as head of the AFRC and RUF forces.¹⁵⁵⁸

605. At about the same time, Gullit was detained in Kailahun by Bockarie.¹⁵⁵⁹ Then in about May/June 1998, Gullit was sent by Bockarie to settle a dispute which had arisen between the AFRC group in Kono District and Morris Kallon.¹⁵⁶⁰ However, Gullit took the AFRC group north to SAJ Musa and explained to Musa about the treatment he had received in Kailahun, and asked for Musa to advise him.¹⁵⁶¹ Gullit then operated under Musa's command. This AFRC group no longer took instructions from Bockarie.¹⁵⁶² Indeed, once he was in the Kurubonla area, Gullit verbally attacked Bockarie on the radio, claiming that Bockarie had disgraced JP Koroma.¹⁵⁶³

Operation Fitti Fatta

606. Superman travelled to Buedu in about May 1998.¹⁵⁶⁴ This was for a meeting called by Bockarie to discuss, among other things, the diamonds lost by Sesay.¹⁵⁶⁵ It was at this meeting that the plan to recapture Kono was discussed.¹⁵⁶⁶ The plan was made between Bockarie and Superman.¹⁵⁶⁷ The objective was to capture Kono.¹⁵⁶⁸

¹⁵⁵³ TT, TF1-371, 28 Jan 08, p. 2366-8.

¹⁵⁵⁴ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10540.

¹⁵⁵⁵ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10526-7; TF1-371, 28 Jan 08, p. 2366-8 ([REDACTED]); Issa Sesay, DCT-172, 8 Jul 10, p. 44018-23. However, uniquely, TF1-567 claimed that Bockarie was not present at the time, see: TT, TF1-567, 2 Jul 10, p. 12899-900.

¹⁵⁵⁶ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10543; Issa Sesay, DCT-172, 8 Jul 10, p. 44023-7; Adjudicated Fact 7.

¹⁵⁵⁷ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10543.

¹⁵⁵⁸ TT, Issa Sesay, DCT-172, 14 Jul 10, p. 44410-6.

¹⁵⁵⁹ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8023-5. [REDACTED]

[REDACTED]; TT, TF1-371, 28 Jan 08, p. 2364-6.

¹⁵⁶⁰ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8023-5. This was in about May/June 1998. Kallon had shot two AFRC soldiers for disobeying him.

¹⁵⁶¹ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8044. This was in about June/July 1998. Issa Sesay claimed Gullit joined Musa in about early May 1998: TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44050-4.

¹⁵⁶² TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44072-6.

¹⁵⁶³ TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21684-5.

¹⁵⁶⁴ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3160.

¹⁵⁶⁵ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3160-2; Alice Pyne, TF1-584, 18 Jun 08, p. 12209-13; 19 Jun 08, p. 12233-41.

¹⁵⁶⁶ See above.

¹⁵⁶⁷ Exhibit P-67; TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44068-70 ([REDACTED]).

¹⁵⁶⁸ Exhibit P-67; Exhibit D-9.

607. The operation, called Operation Fitti Fatta,¹⁵⁶⁹ took place in July 1998.¹⁵⁷⁰ The operation was led by Superman.¹⁵⁷¹ However, the RUF failed to capture Kono. The following reasons have been offered for this failure. The troops engaged in looting rather than holding ground.¹⁵⁷² Superman misused the materials given to him.¹⁵⁷³ Superman did not stick to the plan.¹⁵⁷⁴ The ammunition was poor, there was not much of it, and the fighters were badly organised.¹⁵⁷⁵ ECOMOG bombed the bridge over which the RUF were attacking.¹⁵⁷⁶ Or, if one is of a superstitious nature, the operation failed because the fighters were killed and wounded by bullets in spite of the medicine used by herbalist, which did not protect them!¹⁵⁷⁷
608. Following the operation, Superman went with a force to Koinadugu.¹⁵⁷⁸ This was in about August 1998.¹⁵⁷⁹ He may have gone on Bockarie's instruction, or of his own accord.¹⁵⁸⁰ Bockarie wanted Superman to attack SAJ Musa's AFRC force.¹⁵⁸¹ However, Superman disobeyed the order and joined Musa instead,¹⁵⁸² perhaps because he feared being arrested by Bockarie following the failure to capture Koidu Town.¹⁵⁸³
609. At some point after this, perhaps in September, Bockarie called a meeting in Buedu and ordered Superman to report.¹⁵⁸⁴ However, Superman refused.¹⁵⁸⁵ This led to

¹⁵⁶⁹ This name may have been given to the operation after the event, on account of the large number of RUF fighters killed, see: TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44067.

¹⁵⁷⁰ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44064.

¹⁵⁷¹ Exhibit P-67, Exhibit D-9, Exhibit D-84; TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12237-48 and numerous other witnesses.

¹⁵⁷² Exhibit D-9.

¹⁵⁷³ Exhibit D-84.

¹⁵⁷⁴ Exhibit P-67.

¹⁵⁷⁵ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44064-5.

¹⁵⁷⁶ TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12246-8.

¹⁵⁷⁷ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3171.

¹⁵⁷⁸ Exhibit P-67; Exhibit D-9; TT, TF1-567, 2 Jul 08, p. 12907-8; Issa Sesay, DCT-172, 8 Jul 10, p. 44054-5.

¹⁵⁷⁹ TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12259; Issa Sesay, DCT-172, 8 Jul 10, p. 44054-5. Though Perry Kamara claims it was May 1998: TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3172.

¹⁵⁸⁰ The following witnesses claim Bockarie instructed Superman to go to Koinadugu: TT, TF1-567, 2 Jul 08, p. 12907-8; Perry Kamara, TF1-360, 5 Feb 08, p. 3167-72 (as part of a general plan). He went of his own accord: TT, Issa Sesay, DCT-172, 18 Aug 10, p. 46629-31.

¹⁵⁸¹ TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12248-57; 23 Jun 08, p. 12433-4.

¹⁵⁸² TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12248-57; 23 Jun 08, p. 12433-4; Foday Lansana, TF1-275, 22 Feb 08, p. 4525; Charles Ngebeh, DCT-146, 24 Mar 10, p. 37909-10.

¹⁵⁸³ TT, Charles Ngebeh, DCT-146, 24 Mar 10, p. 37913. In addition, there was a history of tension between Superman and Bockarie. Bockarie had accused Superman of misappropriating diamonds: Exhibit P-84; TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21704. Superman held a grievance with Bockarie over Issa Sesay's loss of the diamonds he had taken to Monrovia: TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21689-94. There was also tension between the two over Superman's girlfriend: Exhibit P-67; Exhibit P-84; TT, Foday Lansana, TF1-275, 22 Feb 08, p. 4530.

¹⁵⁸⁴ Exhibit P-67; Exhibit D-9; TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21704.

Bockarie and Superman exchanging insults over the radio.¹⁵⁸⁶ This involved Bockarie insulting Superman's girlfriend.¹⁵⁸⁷ This tension over Superman's girlfriend was one of the reasons Superman fell out with Bockarie.¹⁵⁸⁸ Bockarie sought to kill Superman.¹⁵⁸⁹ The upshot was that Superman broke away from the RUF,¹⁵⁹⁰ and started operating on his own.¹⁵⁹¹ Bockarie passed an order that Superman was no longer part of the RUF.¹⁵⁹² Issa Sesay testified that Superman did not take instructions from Bockarie from early August 1998 to December 1998.¹⁵⁹³ Superman took with him ammunition seized in Kono, and refused to return it to Bockarie.¹⁵⁹⁴

Superman, SAJ Musa and events in Koinadugu

610. After parting ways from the RUF in Kono District, Gullit went to join SAJ Musa. When Gullit arrived in Mongo Bendugu (about June/July), he held a meeting with SAJ Musa in which he told Musa that Bockarie had taken his diamonds.¹⁵⁹⁵ Musa told Gullit that he had sent Brigadier Mani to the north to prepare the route to Freetown.¹⁵⁹⁶ The AFRC leaders held a closed door meeting at Mongo Bendugu, at which they discussed the invasion of Freetown.¹⁵⁹⁷ Musa then send Gullit to prepare the route to Freetown.¹⁵⁹⁸ So, Gullit left for Rosos. The group committed numerous atrocities on the way, including burnings, decapitations and the writing of a letter to the people of Makeni to warn that those who supported ECOMOG would be amputated.¹⁵⁹⁹ When Gullit arrived in Rosos, in July or August 1998,¹⁶⁰⁰ he was able to resume communications.¹⁶⁰¹ Musa informed Gullit that he had been joined by

¹⁵⁸⁵ Exhibit P-67; Exhibit D-9; TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21704; Issa Sesay, DCT-172, 8 Jul 10, p. 44054-5.

¹⁵⁸⁶ Exhibit P-67; Exhibit D-9; Exhibit P-84.

¹⁵⁸⁷ Exhibit P-67; Exhibit P-84.

¹⁵⁸⁸ Exhibit P-67; Exhibit P-84; TT, Foday Lansana, TF1-275, 22 Feb 08, p. 4530.

¹⁵⁸⁹ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5766-8.

¹⁵⁹⁰ TT, Charles Ngebeh, DCT-146, 13 Apr 10, p.38825-6.

¹⁵⁹¹ Exhibit P-67. As of September 1998.

¹⁵⁹² TT, Alice Pyne, TF1-584, 23 Jun 08, p. 12434-5.

¹⁵⁹³ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44076-81.

¹⁵⁹⁴ Exhibit D-9.

¹⁵⁹⁵ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8042-5.

¹⁵⁹⁶ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8042-5.

¹⁵⁹⁷ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8046.

¹⁵⁹⁸ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8042-5.

¹⁵⁹⁹ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8112-23.

¹⁶⁰⁰ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8142.

¹⁶⁰¹ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8138.

Superman, and that they had recaptured Mongo Bendugu.¹⁶⁰² Musa and Superman were preparing an attack on Kabala in preparation for the advance on Freetown.¹⁶⁰³

611. However, Gullit's group came under bombardment from ECOMOG and so left Rosos in about September or October 1998 for Major Eddie Town (later Colonel Eddie Town as Eddie was promoted).¹⁶⁰⁴ Upon arriving in Eddie Town, they received a communication from SAJ Musa, who told them he was sending a group led by O-Five to reinforce them in preparation for the advance on Freetown.¹⁶⁰⁵ The group led by O-Five was composed of AFRC, RUF and STF fighters, and had Liberians among its number.¹⁶⁰⁶
612. When Superman left Kono District, he joined SAJ Musa in Koinadugu. Here, the rebel forces were divided into three groups: SAJ Musa's AFRC, Superman's RUF and the STF.¹⁶⁰⁷ Superman and Musa fought together against the Guineans to capture Mongo Bendugu, and then headed for Kabala.¹⁶⁰⁸ They attacked Kabala and held it for three days.¹⁶⁰⁹ They captured ammunition from Kabala, and then retreated to Koinadugu Town.¹⁶¹⁰ There Superman communicated with Bockarie, but Musa and Superman refused to hand over the ammunition captured from Kabala to Bockarie.¹⁶¹¹ Bockarie sent Senegalese to recover it, but Superman refused to hand it over.¹⁶¹² SAJ Musa proposed sending a unit to locate Gullit (as his whereabouts was unknown), so a unit was put together, led by O-Five.¹⁶¹³ They located Gullit's group and Alfred Brown who was with them communicated this to SAJ Musa and Superman.¹⁶¹⁴ Senegalese killed a recruit, which led to Musa and Superman falling out:¹⁶¹⁵ leading to a gun-fight between Musa's group and Superman's group.¹⁶¹⁶ This was in about

¹⁶⁰² TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8151-2. Mongo Bendugu seems to have been captured by ECOMOG between the time SAJ Musa was there with Gullit and Gullit's communication with SAJ Musa from Rosos.

¹⁶⁰³ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8152-3.

¹⁶⁰⁴ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8162-3.

¹⁶⁰⁵ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8165-6.

¹⁶⁰⁶ TT, Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8193-5.

¹⁶⁰⁷ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3185; Alice Pyne, TF1-584, 19 Jun 08, p. 12256.

¹⁶⁰⁸ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8151-2.

¹⁶⁰⁹ TT, TF1-375, 24 Jun 08, p. 12560.

¹⁶¹⁰ TT, TF1-375, 24 Jun 08, p. 12561-3.

¹⁶¹¹ TT, TF1-375, 24 Jun 08, p. 12563-5.

¹⁶¹² TT, TF1-375, 24 Jun 08, p. 12567-9.

¹⁶¹³ TT, TF1-375, 24 Jun 08, p. 12569-73.

¹⁶¹⁴ TT, TF1-375, 24 Jun 08, p. 12574-5. Note how different this is to Perry Kamara's account.

¹⁶¹⁵ TT, TF1-375, 24 Jun 08, p. 12578-9. This may have taken place shortly after O-Five's group went to Rosos: TT, Foday Lansana, TF1-275, 22 Feb 08, p. 4530.

¹⁶¹⁶ TT, Komba Sumana, TF1-263, 6 Oct 08, p. 17966-8. By contrast, TF1-375 narrated a story about how SAJ Musa wanted to court-martial the fighter, but Superman wanted to refer the matter to Bockarie: TT,

October 1998.¹⁶¹⁷ Following this Musa left Koinadugu,¹⁶¹⁸ for Camp Rosos,¹⁶¹⁹ arriving either in Rosos in November 1998,¹⁶²⁰ or in Camp Eddie Town in November 1998,¹⁶²¹ or December 1998.¹⁶²² When SAJ Musa arrived, he ordered Gullit to arrest RUF personnel and remove them from the radio.¹⁶²³ Musa said their group was not longer AFRC or RUF, but a separate movement.¹⁶²⁴

613. Following SAJ Musa's departure, Superman's group fought ECOMOG, captured ammunition and then burnt Koinadugu Town, including killing people, and moved on to Makeni in about December 1998.¹⁶²⁵ There was no direct communication between Buedu and Superman at the time Superman fell out with SAJ Musa in Koinadugu District.¹⁶²⁶

The Road to Freetown, June to December 1998

614. The AFRC's journey from Eddie Town to Freetown: SAJ Musa imposed a ban on communications.¹⁶²⁷ However, when the AFRC captured the RDF junction, Alfred Brown communicated this to Bockarie, who announced it over the radio: this led to Musa censoring Brown and telling him not to give information to Bockarie.¹⁶²⁸ Bockarie announced over the BBC radio that RUF troops were advancing on Freetown; Musa contacted Bockarie, insulted him and stated he had no right to claim that the troops approaching Freetown were RUF troops.¹⁶²⁹
615. Musa died at Benguma in an explosion on 23 December 1998,¹⁶³⁰ and was buried on 24 December.¹⁶³¹ Gullit became the senior commander of the AFRC and resumed communications with Bockarie.¹⁶³² Bockarie told him that Sesay would reinforce

TF1-375, 24 Jun 08, p. 12578-9. However, note how confused his story is about the fighting between Musa and Superman: for example, Rambo Red Goat appears on both sides.

¹⁶¹⁷ Adjudicated Fact 10; TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3207; Foday Lansana, TF1-275, 22 Feb 08, p. 4530; Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8216.

¹⁶¹⁸ TT, Komba Sumana, TF1-263, 6 Oct 08, p. 17966-8.

¹⁶¹⁹ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3209.

¹⁶²⁰ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3187.

¹⁶²¹ Adjudicated Fact 11.

¹⁶²² TT, Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8216.

¹⁶²³ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3210; Issa Sesay, DCT-172, 8 Jul 10, p. 44085-91.

Adjudicated Fact 11 states that Musa emphasised his disillusionment with the RUF.

¹⁶²⁴ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3211.

¹⁶²⁵ TT, TF1-375, 24 Jun 08, p. 12582-3.

¹⁶²⁶ TT, Dauda Aruna Formie, TF1-274, 4 Dec 08, p. 21713.

¹⁶²⁷ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3210.

¹⁶²⁸ TT, Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8239-41.

¹⁶²⁹ Adjudicated Fact 12.

¹⁶³⁰ Adjudicated Fact 13.

¹⁶³¹ TT, Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8246-8.

¹⁶³² TT, Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8253-4.

him.¹⁶³³ However, the AFRC in a general vote decided not to wait, but entered Freetown.¹⁶³⁴ The RUF did not have control over the AFRC forces who attacked Freetown.¹⁶³⁵ It was not until the AFRC had captured State House that Perry Kamara was able to inform Bockarie of what had happened since SAJ Musa had imposed the radio silence.¹⁶³⁶

616. In this regard the importance of the testimony of Mohammed Kabbah should be noted. In evidence in chief he suggested that although Gullit was in charge of the men in Freetown, Sam Bockarie was in charge of the entire movement.¹⁶³⁷ Further that during the Freetown Invasion Bockarie was communicating with both Benjamin Yeaten and Charles Taylor. That communication with the latter was conducted via a satellite telephone. However, under cross-examination he said this:

Q: Sam Bockarie had been informed by Gullit that Gullit and his battle group intended to attack Freetown and Sam Bockarie told him not to do it, didn't he?

A: Yes, Sam Bockarie said he should wait until they put some manpower together...

Q: Sam Bockarie told Gullit not to enter Freetown, didn't he? A: Yes.

Q: But SAJ Musa and Gullit decided to disobey that order? A: Yes.

Q: And what SAJ Musa did, because he knew that he was acting contrary to Bockarie's orders, he prevented King Perry, the radio operator, from contacting Bockarie to tell Bockarie what they were doing? A: Yes.

Q: So Perry was prevented by SAJ Musa from maintaining radio contact with Bockarie? A: Yes.

Q: Now that group led, following the death of SAJ Musa, by Gullit, they were mainly made up of former SLA soldiers, weren't they? A: Yes.

Q: And there was also some STF members amongst them, weren't there? A: Yes. Q: And these STF members were former ULIMO fighters, weren't they?

A: Yes.

Q: It was only after that group had entered Freetown and reached State House that they contacted the radio station in Buedu, is that right?

A: It is correct.

Q: In fact you radio operators and RUF members in Buedu, the first time you knew that Gullit was in Freetown was when you heard it over the BBC. That's right, isn't it? A: Yes.

Q: And when you heard it over the BBC it came as a complete surprise to you didn't it? A: Yes

617. I have quoted the above passage *in extension* because in our submission it give the lie to the proposition that the Freetown invasion was a joint AFRC RUF operation. Mohammed Kabba went on to say that although he and others were monitoring the BBC and were aware that Gullit and his group were attacking Waterloo and therefore

¹⁶³³ TT, Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8253-4.

¹⁶³⁴ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3218-21.

¹⁶³⁵ TT, Issa Sesay- DCT-172, 9 Jul 10, p. 44168.

¹⁶³⁶ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3229-30.

¹⁶³⁷ TT. Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16173 *et seq.*

anticipated that they were heading for Freetown, this action was contrary to Bockarie's orders, in fact this was their own independent mission. Bockarie had played no part in the planning of it. Such was the unexpected nature of this news that the radio operators began to call other radio stations to find out precisely what was going on, until King Perry finally came on air to say that Gullit's group had run into trouble and required assistance. This was the first call directly from Gullit's group and importantly it was a request for reinforcements. Further when Gullit spoke to Bockarie on the radio there was an argument between the two men, the gist of which was that Bockarie was complaining that they had disobeyed his orders so, "why are you calling me only when you have run into trouble?" This testimony gives the lie to the prosecution suggestion that the RUF was involved in the Freetown Invasion. We make it clear the defence case is that the RUF was not involved in the Freetown Invasion. We submit that it was renegade elements of the Sierra Leone Army who, in their anger and frenzy after their expulsion from Freetown by Nigerian-led interventionist forces, turned their bitterness on the civilian population. It was clearly they who carried out most of the atrocities, including mass amputations, after 1998.

618. Indeed, the AFRC invaded Freetown: one, because SAJ Musa wanted to reinstate the army,¹⁶³⁸ and two, because the group heard about the execution of the former AFRC members.¹⁶³⁹ Also as Mohammed Kabbah told us the RUF fighters, for something like five years, between 1992 and 1997, had lived in the jungle. The SLA soldiers, kicked out of Freetown by ECOMOG, had by comparison lived a more cosseted life, and could not endure life in the jungle. They felt disgruntled at being in the jungle. This made them eager to return to Freetown.¹⁶⁴⁰

The RUF's Campaign: December 1998 to January 1999

619. Bockarie's trip to Burkina Faso and the RUF's campaign plan: In late November 1998, Bockarie left Buedu and passed through Monrovia on his way to Burkina Faso.¹⁶⁴¹ Sesay came from Pendembu to Buedu to take charge while Bockarie was away.¹⁶⁴² Bockarie traveled with Eddie Kanneh, Lawrence Womandia and SYB Rogers, among others.¹⁶⁴³ With permission of Taylor, Musa Cisse, Taylor's Chief of

¹⁶³⁸ Adjudicated Fact 8.

¹⁶³⁹ TT, Alimamy Bobson Sesay, TF1-334, 29 Apr 08, p. 8831-7; Perry Kamara, TF1-360, 6 Feb 08, p. 3207-8.

¹⁶⁴⁰ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16299 *et seq.*

¹⁶⁴¹ TT, Issa Sesay, 9 Jul 10, p. 44125-29; Taylor, 10 Aug 09, p. 26391-92.

¹⁶⁴² TT, TF1-371, 28 Jan 08, p. 2403.

¹⁶⁴³ TT, TF1-371, 31 Jan 08, p. 2750; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44125-29.

Protocol, accompanied Bockarie to Ouagadougou in order to assist with translation from French to English.¹⁶⁴⁴ As was the purpose of the mission, the delegation discussed the Abidjan Peace Accord and the peace process in Sierra Leone with President Blaise Compoaré, who was Chairman of the O.A.U at the time.¹⁶⁴⁵ While in Ouagadougou, Bockarie also met with Ibrahim Bah. Bockarie, Ibrahim Bah, SYB Rogers and Eddie Kanneh then travelled to Libya to meet with Gaddafi, who provided \$50,000 in assistance to the RUF.¹⁶⁴⁶ On returning from Libya, Bockarie passed through Burkina Faso and Monrovia.¹⁶⁴⁷ In early December, Bockarie arrived back in Buedu with arms and ammunition, and the materials were put into the store near his house.¹⁶⁴⁸

620. Upon returning to Buedu in the first week of December, Bockarie convened a meeting at Waterworks. In attendance were Bockarie, Sesay, SYB Rogers, Eddie Kanneh, Rashid Sandi, Mohamed S. Banya, Junior Vandj, Lawrence Womandia and Mike Lamin.¹⁶⁴⁹ During the meeting, Bockarie discussed his trip.¹⁶⁵⁰
621. Bockarie also gave instructions that Sesay should attack the ECOMOG positions in Kono.¹⁶⁵¹ Bockarie said that the RUF should attack Kono because he had been getting information that the ECOMOG troops were many in Kono and that the Government of Sierra Leone had brought the Sandline mercenaries, who were mining in Kono.¹⁶⁵² During Bockarie's discussions with RUF commanders to plan the offensive, an attack on Freetown was not planned.¹⁶⁵³ Sesay explained that there was no discussion of attacking Freetown, because the RUF was uncertain of succeeding in capturing Kono.¹⁶⁵⁴

¹⁶⁴⁴ TT, Taylor, 17 Sep 09, p. 29247-50.

¹⁶⁴⁵ Exhibit P-63; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44127; Taylor, 6 Aug 09, p. 26129; 10 Aug 09, p. 26391-92.

¹⁶⁴⁶ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44125-29; *See also* Taylor, 17 Sep 09, p. 29247-50; 22 Sep 09, p. 29389 where Taylor states that he heard from Musa Cisse that Bockarie travelled to Libya. Musa Cisse did not accompany Bockarie on this trip.

¹⁶⁴⁷ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44125-29. Bockarie leaves Libya, passes through Burkina Faso, to Monrovia, to Kakata, to Gbarnga, to Zorzor, to Voinjama, to Kolahun, to Foya.

¹⁶⁴⁸ TT, [REDACTED]; Issa Sesay, DCT-172, 9 Jul 10, p. 44129.

¹⁶⁴⁹ Exhibit P-63; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44129; [REDACTED]. Sesay denies the authenticity of Exhibit P-63. He testifies that Bockarie had not returned to Buedu by December 2, and that the meeting he attended at Waterworks took place in the evening on 12 or 13 December. Issa Sesay, DCT-172, 9 Jul 10, p. 44171-72; 44183.

¹⁶⁵⁰ Exhibit P-63; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44128-29; [REDACTED].

¹⁶⁵¹ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44129.

¹⁶⁵² TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44160.

¹⁶⁵³ TT, John Vincent, DCT-215, 26 Mar 10, p. 38100; Issa Sesay, DCT-172, 28 July 10, p. 44853; 4 Aug 10, p. 45406-09.

¹⁶⁵⁴ TT, Issa Sesay, DCT-172, 28 July 10, p. 44853; 4 Aug 10, p. 45406-09.

622. During the meeting, Bockarie made no mention of Charles Taylor. No one said that this plan had been designed by Taylor.¹⁶⁵⁵ Bockarie did not speak with Mr Taylor on the phone before, during or after the meeting at Waterworks.¹⁶⁵⁶
623. The RUF's December campaign: With the materials distributed to them, Sesay, Kallon, and other RUF fighters left Buedu on 6 December 1998. They arrived at Guinea Highway in Kono District on or around 9 December 1998.¹⁶⁵⁷ They were met by Rambo, the Brigade Commander. During a forum on 11 December 1998, senior commanders met to plan the attack on Koidu Town.¹⁶⁵⁸ On 12 and 13 December, ammunition, including AK rounds, G-3 rounds, TNT, GMC rounds, and RPG rockets, as well as other provisions, were distributed among commanders.¹⁶⁵⁹
624. Sesay led an attack on Koidu Town and succeeded in bringing it under RUF control on 17 December.¹⁶⁶⁰ ECOMOG forces and Kamajor militias were forced to retreat.¹⁶⁶¹ Arms and ammunition were captured at Koidu,¹⁶⁶² and at Kimberlite, where ECOMOG had a defensive post.¹⁶⁶³ Sesay's forces pursued ECOMOG and the Kamajors, attacked them in Bumpe, and forced them to further retreat.¹⁶⁶⁴
625. Sesay dispatched Kallon towards Gold Town to set an ambush to cut off the enemy retreat.¹⁶⁶⁵ His group of fighters captured Sewafe, where they acquired further materials.¹⁶⁶⁶ The retreating ECOMOG forces fell into Kallon's ambush on the road leading to Masingbi, losing a large amount of arms and ammunition to the RUF.¹⁶⁶⁷ ECOMOG was again forced to retreat.¹⁶⁶⁸ On 22 December, Rambo and Kallon advanced with troops to attack and capture Masingbi. They captured further ammunition.¹⁶⁶⁹

¹⁶⁵⁵ TT, John Vincent, DCT-215, 26 Mar 10, p. 38128; Issa Sesay, DCT-172, 9 Jul 10, p. 44160; 28 July 10, p. 44853; 4 Aug 10, p. 45406-09.

¹⁶⁵⁶ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44161.

¹⁶⁵⁷ Exhibit P-93; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44186.

¹⁶⁵⁸ Exhibit D-84, p. 8.

¹⁶⁵⁹ Exhibit P-370; Exhibit P-371.

¹⁶⁶⁰ Exhibit P-93; TT, TF1-371, 28 Jan 08, p. 2422; John Vincent, DCT-215, 26 Mar 10, p. 38125-25; Issa Sesay, DCT-172, 9 Jul 10, p. 44147.

¹⁶⁶¹ Exhibit P-338 B.

¹⁶⁶² TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44136; TF1-567, 2 Jul 08, p. 12913-17; TF1-367, 20 Aug 08, p. 14181-86.

¹⁶⁶³ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44149-50.

¹⁶⁶⁴ Exhibit D-84.

¹⁶⁶⁵ Exhibit D-84; TT, TF1-567, 2 Jul 08, p. 12914.

¹⁶⁶⁶ Exhibit P-93.

¹⁶⁶⁷ Exhibit D-84.

¹⁶⁶⁸ Exhibit D-84.

¹⁶⁶⁹ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44154.

626. RUF forces captured Magburaka on 23 December, and advanced towards Makeni. Sesay brought RPG rockets captured by the RUF on the road to Masingbi to use in the attack on Makeni.¹⁶⁷⁰ Bockarie coordinated for forces under Sesay, Rambo, Kallon and Superman to join together to fight in Makeni.¹⁶⁷¹ The RUF attacked and captured Makeni on or around 24 December 1998.¹⁶⁷² Some of the materials captured by the RUF as they advanced from Kono to Makeni were used for operations along the way.¹⁶⁷³ Additional materials were taken by the RUF from ECOMOG at Teko Barracks.¹⁶⁷⁴
627. There were no reports of amputations or mutilations in Makeni, and RUF fighters imposed strict discipline.¹⁶⁷⁵ There were no RUF amputations in Kono, Tonkolili, Bombali, Kambia and part of Port Loko Districts. There were also no civilian homes or government structures burned by the RUF in these areas.¹⁶⁷⁶
628. After taking Makeni, Sesay remained there. Superman left and went to Lunsar with his group.¹⁶⁷⁷ On instructions from Bockarie, Rambo advanced and attacked Port Loko. After a week of fighting, he was able to capture the town and a large quantity of materials.¹⁶⁷⁸
629. The RUF's move to reinforce the AFRC: After the AFRC captured Benguema, Gullit called Bockarie through Alfred Brown. He informed Bockarie that SAJ Musa was dead and told him that the plan was to move to Freetown. Bockarie told Gullit to wait at Waterloo and that he would begin to send reinforcements for the attack on Freetown.¹⁶⁷⁹
630. When Gullit was in Waterloo before entering Freetown, Bockarie sent him a message telling him to wait to receive reinforcements. Once the reinforcements arrived, they would join Gullit to attack Freetown. Gullit did not agree. Rather than waiting, he went ahead and attacked the Orugu Bridge and Allen Town, and entered Freetown.¹⁶⁸⁰

¹⁶⁷⁰ Exhibit D-84, p. 8; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44153-54.

¹⁶⁷¹ Exhibit D-84, p. 8; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44154-59.

¹⁶⁷² Exhibit P-93; Exhibit P-430C; Exhibit 430D; Exhibit P-77, para. 61; TT, TF1-367, 20 Aug 08, p. 14186-87; TF1-371, 28 Jan 08, p. 2418, 2422.

¹⁶⁷³ Exhibit P-93.

¹⁶⁷⁴ Exhibit D-84, p. 8.

¹⁶⁷⁵ Exhibit P-77, para. 61.

¹⁶⁷⁶ TT, Issa Sesay, DCT-172, 27 Aug 10, p. 47344.

¹⁶⁷⁷ TT, Issa Sesay, DCT-172, 9 Jul 10, 44159.

¹⁶⁷⁸ Exhibit D-9, p.7; Exhibit D-84, p. 9; Sesay testified that Rambo was not successful in capturing Port Loko. TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44161, 44168-69.

¹⁶⁷⁹ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44162-3; 44188.

¹⁶⁸⁰ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44162-3; 44188.

631. Isaac Mongor received an order from Bockarie to come to Kailahun, move to Kono to get some of the men who were in Makeni, and take them to Waterloo to join Gullit.¹⁶⁸¹ Mongor started moving towards Kailahun, but before reaching Kailahun, when he was at Jojoima, he heard that the AFRC had already entered Freetown.¹⁶⁸²
632. At the time of the Freetown invasion, Bockarie was in Buedu, Sesay was in Makeni, Superman was in Lunsar, and Rambo was in Port Loko.¹⁶⁸³ At about the same time, Superman and Rambo attacked and captured Masiaka.¹⁶⁸⁴ They advanced to RDF, and then on to Waterloo.¹⁶⁸⁵
633. The AFRC forces led by Gullit and Five-Five attacked the State House on 6 January 1999. When Gullit was at State House, he contacted Bockarie and told him they had captured the city.¹⁶⁸⁶ The forces were under intense counter-attack from the ECOMOG forces. Bockarie told Gullit that the RUF was sending reinforcements and that he had instructed Rambo, who was already at Waterloo, to link up with them.¹⁶⁸⁷
634. In Waterloo, the troops encountered and fought the Guinean troops until they withdrew to Port Loko on about 8 January 1999.¹⁶⁸⁸ Rambo and Superman then advanced to Waterloo. After fighting there, the Guineans withdrew from Waterloo to Port Loko.¹⁶⁸⁹ At this point when the Guineans withdrew from Waterloo, the AFRC was withdrawing from Freetown.¹⁶⁹⁰
635. While Gullit was in Freetown, fighting was taking place in the Hastings area against Rambo's group. They entered Hastings and fought against ECOMOG, the Kamajors and the Guinean troops.¹⁶⁹¹ On 9 January, the RUF troops deployed to Hastings and attacked Jui and Kosso town, but were driven back.¹⁶⁹² On 18 January 1999, the Guinean troops at Port Loko entered Waterloo with shelling and firing, and were able to re-occupy Waterloo.¹⁶⁹³

¹⁶⁸¹ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5820-2.

¹⁶⁸² TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5820-2.

¹⁶⁸³ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44161, 44168-69.

¹⁶⁸⁴ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44168-9.

¹⁶⁸⁵ Exhibit P-149; Exhibit D-84, p. 9.

¹⁶⁸⁶ TT, TF1-371, 28 Jan 08, p. 2426.

¹⁶⁸⁷ TT, TF1-371, 28 Jan 08, p. 2427.

¹⁶⁸⁸ Exhibit P-149.

¹⁶⁸⁹ Exhibit D-84, p. 9; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44168-9.

¹⁶⁹⁰ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44168-9.

¹⁶⁹¹ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5819, 5832.

¹⁶⁹² Exhibit P-149.

¹⁶⁹³ Exhibit P-149.

636. The RUF forces did not get any closer to Freetown than Waterloo.¹⁶⁹⁴ The RUF forces were unable to join with the AFRC in Freetown.¹⁶⁹⁵
637. The conflict between Superman and the RUF: Shortly after the Freetown Invasion,¹⁶⁹⁶ Superman took ammunition from the Teko Barracks for his own use after it had been captured by the RUF.¹⁶⁹⁷ Despite their efforts, Bockarie and Sesay failed to retrieve the ammunition after which Superman fled to Lunsar.¹⁶⁹⁸
638. Sesay sent an investigation team in order to get Superman's subordination under control. However, due to the hostility of Superman and his men, the investigation failed.¹⁶⁹⁹ Thereafter, instead of attacking Gberi Bridge as ordered, Superman attacked Makeni with the aim of killing Sesay and Rambo.¹⁷⁰⁰
639. Superman attacked Rambo's home and as a result of the infighting, Rambo was killed and Sesay managed to escape although he was injured.¹⁷⁰¹ Furthermore, during the attack, Superman, Gibril Massaquoi and their men killed and wounded many RUF and SLA men.¹⁷⁰²

Chapter Six: The Messy Affair of Implementing and Keeping Peace

640. In early August 1999, the West Side Boys had been asking for Johnny Paul Koroma in order to speak to him and ascertain why he was not involved in the peace negotiations at Lomé the previous month.¹⁷⁰³ Taylor and the other heads of state did not know JP Koroma's location.¹⁷⁰⁴ The West Side Boys arrested some ECOMOG soldiers and journalists and would not release them until they could speak to and account for their leader, JP Koroma.¹⁷⁰⁵

¹⁶⁹⁴ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44168-9.

¹⁶⁹⁵ Exhibit P-149.

¹⁶⁹⁶ TT, Issa Sesay, DCT-172, 12 Jul 10, 44222, 44224, 44226; TF1-371, 1 Feb 08, p. 2875-6; Alice Pyne, TF1-584, 23 Jun 08, 12430-1.

¹⁶⁹⁷ TT, Issa Sesay, DCT-172, 12 Jul 10, 44221-2.

¹⁶⁹⁸ TT, Issa Sesay, DCT-172, 12 Jul 10, 44223; Alice Pyne, 23 Jun 08, 12430-1; Exhibit D-84, p. 10.

¹⁶⁹⁹ TT, Issa Sesay, DCT-172, 12 Jul 10, 44223.

¹⁷⁰⁰ TT, Issa Sesay, DCT-172, 12 Jul 10, 44226-7; However, TF1- 263 testified that Rambo left Makeni, went to Superman's house and initiated the fighting. Kombo Sumana, TF1-263, 7 Oct 08, p. 18063-9.

¹⁷⁰¹ TT, TF1-371, 1 Feb 08, p. 2875-6; Issa Sesay, DCT-172, 12 Jul 10, 44226-8; Isatu Kallon, DCT-229, 21 Jun 10, p. 43007-8; TF1-338, 3 Sep 08, p. 15305: 7-15305:14; Kombo Sumana, TF1-263, 6 Oct 08, 17980-3; Exhibit D-84, p. 11-3.

¹⁷⁰² TT, TF1-371, 1 Feb 08, 2875-6; Issa Sesay, DCT-172, 12 Jul 10, 44228-9.

¹⁷⁰³ TT, Charles Taylor, 12 Aug 09, p. 26668.

¹⁷⁰⁴ TT, Charles Taylor, 12 Aug 09, p. 26668.

¹⁷⁰⁵ TT, Charles Taylor, 12 Aug 09, p. 26668.

641. The Committee of Six began the process of negotiation to get those arrested released.¹⁷⁰⁶ Taylor spoke directly with Sankoh, who was in Togo, and President Obasanjo and Kabbah on this matter.¹⁷⁰⁷ There was a contention that JP Koroma was being held against his will by the RUF in Sierra Leone at the time.¹⁷⁰⁸ Furthermore, JP Koroma was on a travel ban. Taylor requested to speak to the Secretary-General right away,¹⁷⁰⁹ in order to be able to discuss with him the crisis in Sierra Leone and the arrangements for JP Koroma's travel, in light of the stated ban.¹⁷¹⁰ Kofi Annan agreed and the process of moving JP Koroma was put into motion.¹⁷¹¹
642. There were negotiations with the RUF to get JP Koroma released. Taylor conducted these negotiations as the principal person on the Committee of Six responsible for dealing with the Sierra Leone crisis; he was not in charge of the RUF.¹⁷¹²
643. Johnny Paul Koroma arrived in Monrovia on 7 August 1999 for the negotiations. Taylor informed Downes-Thomas of this fact and requested for the information to be conveyed to the Secretary-General.¹⁷¹³ JP Koroma came with a delegation of security personnel numbering in excess of 15,¹⁷¹⁴ including radio operators.¹⁷¹⁵
644. The Liberian government assisted JP Koroma in terms of his accommodation and funding.¹⁷¹⁶ He was put in Hotel Africa in Monrovia, away from the RUF people in the guesthouse, as he was still upset by his incarceration by the RUF.¹⁷¹⁷ It was arranged for JP Koroma to talk to the BBC after he arrived, in order for him to call for the unconditional release of those detained at Okra Hills.¹⁷¹⁸ The Liberian government also provided JP Koroma with a long range radio in order to contact his group in Okra Hills to convey the same message and assure the West Side Boys that he was free.¹⁷¹⁹
645. JP Koroma had meetings with the Liberian government, and the Liberian government then dealt with the other governments.¹⁷²⁰ JP Koroma contended that the Lomé Peace

¹⁷⁰⁶ TT, Charles Taylor, 12 Aug 09, p. 26669.

¹⁷⁰⁷ Exhibit D-206, para. 2.

¹⁷⁰⁸ Exhibit D-206, para. 3; correction that Koroma was being held by the RUF, not the Sierra Leonean authorities (TT, Charles Taylor, 12 Aug 2009, p. 26672); Exhibit D-24, p. 2.

¹⁷⁰⁹ TT, Charles Taylor, 12 Aug 09, p. 26669.

¹⁷¹⁰ Exhibit D-206, para. 4.

¹⁷¹¹ TT, Charles Taylor, 12 Aug 09, p. 26669; p. 26673.

¹⁷¹² TT, Charles Taylor, 12 Aug 09, p. 26677.

¹⁷¹³ Exhibit D-207, p. 1; TT, Charles Taylor, 13 Aug 09, p. 26723.

¹⁷¹⁴ TT, Charles Taylor, 13 Aug 09, p. 26723.

¹⁷¹⁵ TT, Charles Taylor, 12 Aug 09, p. 26678.

¹⁷¹⁶ TT, Charles Taylor, 13 Aug 09, p. 26723.

¹⁷¹⁷ TT, Charles Taylor, 13 Aug 09, p. 26724.

¹⁷¹⁸ Exhibit D-207, p. 1.

¹⁷¹⁹ Exhibit D-207, p. 1; TT, Charles Taylor, 12 Aug 09, p. 26678.

¹⁷²⁰ TT, Charles Taylor, 13 Aug 09, p. 26724.

Agreement made a distinction between the RUF and the AFRC, seemingly excluding the AFRC. Taylor tried to reassure JP Koroma that the term 'RUF' was intended to include the AFRC.¹⁷²¹ Taylor also conveyed to Kabbah JP Koroma's desire to travel to Lomé to meet Sankoh so as to establish that there was unity within the ranks, to which Kabbah had no objection.¹⁷²²

646. The UN and Sierra Leonean officials transported a West Side Boys delegation to Liberia to meet JP Koroma.¹⁷²³ Taylor did not meet the delegation.¹⁷²⁴ Then arrangements were made to release the UNAMSIL and ECOMOG hostages held at Okra Hills.¹⁷²⁵ JP Koroma stayed in Monrovia up until 2 October 1999, at which point he left with Sankoh for Freetown.¹⁷²⁶
647. There was an armed incursion into Lofa County from Guinea on 10 August 1999.¹⁷²⁷ It was the second incursion into Liberia from Guinea¹⁷²⁸ and it was also more serious compared to the April 1999 attack.¹⁷²⁹ In a letter dated 11 August 1999 the Liberian Ministry of Foreign Affairs informed the UN Secretary-General of the attack and that the Liberian government had submitted a Note of Protest to the Guinean government demanding that the government took the necessary steps to bring the situation under control.¹⁷³⁰
648. A number of border villages in Lofa County came under the control of the attackers from Guinea.¹⁷³¹ Several NGO aid workers and Liberian personnel were taken hostage.¹⁷³² The Liberian Ministry of Information, Culture and Tourism issued a press release on 14 August 1999 calling the Guinean government to arrest and extradite those responsible.¹⁷³³ The attack from Guinea came shortly after the Liberian government had decided to burn all the arms that had been surrendered by ex-combatants.¹⁷³⁴

¹⁷²¹ Exhibit D-207, p. 1-2.

¹⁷²² Exhibit D-207, p. 2.

¹⁷²³ TT, Charles Taylor, 13 Aug 09, p. 26725-6.

¹⁷²⁴ TT, Charles Taylor, 13 Aug 09, p. 26726.

¹⁷²⁵ TT, Charles Taylor, 13 Aug 09, p. 26726.

¹⁷²⁶ TT, Charles Taylor, 12 Aug 09, p. 26685; See Exhibit D-220; Exhibit D-221; Exhibit D-222.

¹⁷²⁷ Exhibit D-212, p. 2.

¹⁷²⁸ Exhibit D-212, p. 2.

¹⁷²⁹ TT, Charles Taylor, 13 Aug 09, p. 26732.

¹⁷³⁰ Exhibit D-212, p. 2.

¹⁷³¹ Exhibit D-212, p. 2.

¹⁷³² TT, Charles Taylor, 13 Aug 09, p. 26729.

¹⁷³³ Exhibit D-211, p. 2.

¹⁷³⁴ TT, Charles Taylor, 13 Aug 09, p. 26736; p. 26669-700; Exhibit D-211, p. 2; Exhibit D-213, para. 1.

649. The Liberian government adopted a three-pronged approach in its efforts to address the situation in Lofa County and Guinea's suspected involvement. Namely, on a sub-regional level, which involved discussions with various delegations from ECOWAS; with a diplomatic offensive by raising it with the Security Council; and, lastly, with military activities which had been described by Downes-Thomas as 'relatively restrained'.¹⁷³⁵
650. According to Abu Keita, Benjamin Yeaten instructed Bockarie to fight against LURD in 1999.¹⁷³⁶ Taylor never ordered the RUF to come to Liberia to fight against the LURD incursion, since he did not need them.¹⁷³⁷
651. Taylor's positive engagement in the Sierra Leonean peace process was acknowledged by the US State Department in a letter from Susan Rice to General Yerks. Rice commended Taylor and hoped that he would encourage Sankoh to return to Freetown after Lomé,¹⁷³⁸ which Sankoh had not yet done.
652. Sankoh eventually made his way to Freetown in September 1999, stopping in Monrovia on the way.¹⁷³⁹ He arrived in Monrovia on 28 September 1999¹⁷⁴⁰ to conclude outstanding matters on what to do with the SLA under Johnny Paul Koroma and to solve internal matters before returning to Freetown.¹⁷⁴¹ The Liberian government prepared a programme of events for the visit of Sankoh and his delegation.¹⁷⁴² He was to stay at the RUF guesthouse. It was an official address to which everyone, diplomats, NGOs and all those interested in the peace process in Sierra Leone could go.¹⁷⁴³
653. Taylor saw JP Koroma and Sankoh individually first, before having a meeting together in order to understand what the views were of each side.¹⁷⁴⁴ The results of the discussions had already been transmitted to ECOWAS and they were, in effect, ECOWAS decisions and agreements.¹⁷⁴⁵ The diplomatic corps, press corps and other ECOWAS officials were present at the press conference.¹⁷⁴⁶

¹⁷³⁵ Exhibit D-213, para. 3.

¹⁷³⁶ TT, Abu Keita, TF1-276, 23 Jan2008, p. 2047.

¹⁷³⁷ TT, Charles Taylor, 13 Aug 09, p. 26744.

¹⁷³⁸ Exhibit D-215, p. 1.

¹⁷³⁹ TT, Charles Taylor, 13 Aug 09, p. 26795.

¹⁷⁴⁰ Exhibit D-217, p. 1.

¹⁷⁴¹ TT, Charles Taylor, 13 Aug 09, p. 26795.

¹⁷⁴² Exhibit D-217.

¹⁷⁴³ TT, Charles Taylor, 13 Aug 09, p. 26796.

¹⁷⁴⁴ TT, Charles Taylor, 13 Aug 09, p. 26798; Exhibit D-217, p. 1.

¹⁷⁴⁵ TT, Charles Taylor, 13 Aug 09, p. 26800-1.

¹⁷⁴⁶ TT, Charles Taylor, 13 Aug 09, p. 26805.

654. In his speech,¹⁷⁴⁷ Taylor considered re-opening the border between Liberia and Sierra Leone which, since December 1998 up to this point, had been closed. The speech is consistent with that of a president working towards peace and with ECOWAS.
655. JP Koroma made a statement at the same time.¹⁷⁴⁸ Sankoh read out a joint press release from Sankoh and JP Koroma on behalf of the RUF and AFRC alliance.¹⁷⁴⁹ That joint press release thanked Taylor and Liberia for the sacrifices that they continued to make to the consolidation of peace in Sierra Leone and referred to Taylor facilitating the return of the leadership of the RUF and AFRC alliance to Freetown on behalf of the ECOWAS authority.¹⁷⁵⁰ A BBC news report came out on 1 October 1999, which stated that Taylor was mediating the talks between JP Koroma and Sankoh.¹⁷⁵¹
656. President Obasanjo sent a presidential aircraft that was used to transport Sankoh, JP Koroma and the other diplomats to Freetown. The Liberian government chartered a second aircraft that took the rest of the delegation and family members of JP Koroma to Freetown.¹⁷⁵² The international press corps was present at the airport when they left.¹⁷⁵³ Obasanjo also sent 25,000 USD to be given to the two men “in a typical African vein as brothers returning home”.¹⁷⁵⁴ Exhibit D-222 is a code cable from Downes-Thomas to New York dated 3 October 1999 which corroborates Taylor’s account of Sankoh’s and JP Koroma’s departure from Monrovia.
657. Madeleine Albright thanked Taylor¹⁷⁵⁵ for his support in achieving regional peace. She recognised his work in promoting dialogue among key players and persuading the rebel leaders to return to Freetown as an important contribution towards the implementation of the Lomé Accord. She extended her appreciation and gratitude to Taylor for the ‘critical role’ he recently played in supporting the peace process in Sierra Leone. Albright encouraged Taylor to continue positive efforts in the process of national reconciliation and reconstruction in Sierra Leone.¹⁷⁵⁶

¹⁷⁴⁷ Exhibit D-218.

¹⁷⁴⁸ Exhibit D-78.

¹⁷⁴⁹ TT, Charles Taylor, 13 Aug 09, p. 26809; Exhibit D-220.

¹⁷⁵⁰ Exhibit D-220.

¹⁷⁵¹ Exhibit D-23, p. 1-2.

¹⁷⁵² TT, Charles Taylor, 13 Aug 09, p. 26814-5.

¹⁷⁵³ TT, Charles Taylor, 13 Aug 09, p. 26815.

¹⁷⁵⁴ TT, Charles Taylor, 13 Aug 09, p. 26815; Exhibit D-221.

¹⁷⁵⁵ In a letter dated 13 Oct 99 (Exhibit D-223).

¹⁷⁵⁶ Exhibit D-223.

658. Kabbah wrote to Taylor on 27 October 1999.¹⁷⁵⁷ He stated that disarmament was slow because Sankoh and JP Koroma did not trust each other. Kabbah asked that whatever Taylor could do from his end to build confidence between Sankoh and JP Koroma would be appreciated.¹⁷⁵⁸ Kabbah also asked Taylor to try to disarm former RUF and SLA combatants who wanted to return home to take part in the DDR programme and intended to go through Kailahun.¹⁷⁵⁹ Kabbah thanked Taylor for his usual cooperation¹⁷⁶⁰ and referred to attempting to call Taylor but being unable to.¹⁷⁶¹
659. There was an emerging problem between Foday Sankoh and Sam Bockarie which had the potential to jeopardise the new found peace in Sierra Leone.¹⁷⁶² There was a rift between Sankoh and Bockarie which manifested in armed clashes in Sierra Leone. The matter fell on Taylor's lap. He discussed it with Kabbah and the others on the Committee of Six. It was decided that Taylor should intervene. Therefore, Taylor invited Sankoh and Bockarie to come to Monrovia to see if they could get the matter resolved. Sankoh and Bockarie accepted the meeting and they went to Monrovia.¹⁷⁶³ Sankoh came to Liberia as vice-president of Sierra Leone. The Committee of Six, both the special representatives of the Secretary-General in Monrovia and Freetown and President Kabbah knew of this meeting.¹⁷⁶⁴
660. The meeting occurred around the third week of November 1999.¹⁷⁶⁵ Sankoh and Bockarie stayed in Monrovia for a few days. Sankoh stayed at the guesthouse and Bockarie stayed in a hotel.¹⁷⁶⁶ The attempt to broker peace between Sankoh and Bockarie did not work at the first meeting.¹⁷⁶⁷ There was a second one around the third week in December 1999.¹⁷⁶⁸ Sankoh and Bockarie stayed a little longer than the first meeting this time as they had to wait for President Obasanjo to come.¹⁷⁶⁹
661. Obasanjo came to Monrovia¹⁷⁷⁰ because the entire Committee of Six and the international community were determined that Lomé should not fail. There was a real

¹⁷⁵⁷ Exhibit D-77.

¹⁷⁵⁸ Exhibit D-77, p. 1.

¹⁷⁵⁹ Exhibit D-77, p. 1-2.

¹⁷⁶⁰ Exhibit D-77, p. 2.

¹⁷⁶¹ Exhibit D-77, p. 1.

¹⁷⁶² TT, Charles Taylor, 17 Aug 09, p. 26843.

¹⁷⁶³ TT, Charles Taylor, 17 Aug 09, p. 26843.

¹⁷⁶⁴ TT, Charles Taylor, 17 Aug 09, p. 26843.

¹⁷⁶⁵ TT, Charles Taylor, 17 Aug 09, p. 26844.

¹⁷⁶⁶ TT, Charles Taylor, 17 Aug 09, p. 26847.

¹⁷⁶⁷ TT, Charles Taylor, 17 Aug 09, p. 26843.

¹⁷⁶⁸ TT, Charles Taylor, 17 Aug 09, p. 26845.

¹⁷⁶⁹ TT, Charles Taylor, 17 Aug 09, p. 26847.

¹⁷⁷⁰ Exhibit D-226, para. 4.

stalemate in the second meeting. Obasanjo and Taylor thought that Sankoh was the recognised leader of the RUF who had signed the Lomé Agreement. Obasanjo decided that disarmament would happen at all costs and if Bockarie obstructed the process he would be made to stay in Liberia until after disarmament was over. Downes-Thomas was informed of these conclusions.¹⁷⁷¹

662. Obasanjo only stopped over in Liberia and held the talks with Taylor in Roberts International Airport.¹⁷⁷² Bockarie and Sankoh were taken to the airport to meet him.¹⁷⁷³ The atmosphere in the meeting between them was cordial.¹⁷⁷⁴
663. Bockarie had taken a belligerent stance in the second meeting.¹⁷⁷⁵ Taylor and Obasanjo told Bockarie that it had been decided that he (and his supporters, who end up numbering around three to four hundred, including family)¹⁷⁷⁶ would stay out of Sierra Leone until the end of the disarmament process, with the choice to stay in Liberia or any other third party country,¹⁷⁷⁷ which Taylor considered to be an ECOWAS decision because Obasanjo had discussed it with ‘virtually everybody’.¹⁷⁷⁸ Taylor stated that Bockarie was extracted from Sierra Leone in December 1999 – he did not leave Sierra Leone voluntarily.¹⁷⁷⁹ Disarmament was expected to take three to six months. However, the decision was that Bockarie and his supporters would remain in Liberia however long it took.¹⁷⁸⁰ Obasanjo agreed to provide some financial assistance in the region of 50,000 USD. The UN promised to provide assistance but did not. The US promised to assist by giving Bockarie a scholarship for extended military training at a US military base.¹⁷⁸¹ Security officials along the Sierra Leone-Liberia border had been instructed to ensure that Bockarie did not cross the border into Sierra Leone during the disarmament period.¹⁷⁸²

¹⁷⁷¹ TT, Charles Taylor, 17 Aug 09, p. 26853-4; Taylor had also spoken to Obasanjo on the telephone (TT, Charles Taylor, 17 Aug 09, p. 26857).

¹⁷⁷² Exhibit D-227, paras. 1 and 2.

¹⁷⁷³ TT, Charles Taylor, 17 Aug 09, p. 26856.

¹⁷⁷⁴ TT, Charles Taylor, 17 Aug 09, p. 26857.

¹⁷⁷⁵ TT, Charles Taylor, 17 Aug 09, p. 26859; “...Bockarie was defying the orders of the leader of his movement, at a critical moment in the implementation of the Accord.” (Exhibit D-228, p. 1).

¹⁷⁷⁶ TT, Charles Taylor, 17 Aug 09, p. 26861.

¹⁷⁷⁷ Exhibit D-227, para. 3.

¹⁷⁷⁸ TT, Charles Taylor, 17 Aug 09, p. 26859.

¹⁷⁷⁹ TT, Charles Taylor, 17 Aug 09, p. 26859.

¹⁷⁸⁰ TT, Charles Taylor, 17 Aug 09, p. 26860-1.

¹⁷⁸¹ TT, Charles Taylor, 17 Aug 09, p. 26862-3; “President Taylor, however, indicated that the arrangement would entail substantial expenditures which Liberia alone could not shoulder. He, therefore, appealed to President Obasanjo and other leaders in the region to assist his country in meeting this challenge.” (Exhibit D-228, p. 1).

¹⁷⁸² Exhibit D-227, para. 3.

664. Under the Liberian constitution, individuals of Negro descent are entitled to citizenship in Liberia. The Liberian government granted Bockarie and his group citizenship in Liberia immediately when they arrived.¹⁷⁸³ They were granted full citizenship so that the Liberian government could have full control over them.¹⁷⁸⁴
665. Benjamin Yeaten and the SSS were responsible for the security of the RUF personnel from the initial time Bockarie came into the country and for all the other individuals that came. The Defence Ministry was also involved.¹⁷⁸⁵ Monie Captan informed Downes-Thomas of the risks that Liberia was taking by according Bockarie and his followers a sort of temporary asylum. By keeping Bockarie in Monrovia, the Liberian government could keep an eye on his movements.¹⁷⁸⁶
666. Taylor recognised that the risks were that Liberia could be accused by Sierra Leone of assisting the rebels. Liberia also had internal problems with ex-combatants that had not been demobilised and they were about to bring in Bockarie and a new set of combatants, who could potentially disappear and/or return to Sierra Leone. Taylor was prepared to take risks in the interests of peace, as it was not possible to have peace in Liberia without peace in Sierra Leone.¹⁷⁸⁷
667. Bockarie, his immediately family and some of the principal combatants were accommodated in a fenced-in compound consisting of three buildings in Paynesville.¹⁷⁸⁸ None of Bockarie's men stayed in the RUF guesthouse (Bockarie was no longer considered RUF), to the best of Taylor's recollection.¹⁷⁸⁹ Bockarie and some of his family members were provided stipends.¹⁷⁹⁰
668. Kabbah, Jesse Jackson and the US ambassador spoke to Bockarie whilst he was in Monrovia.¹⁷⁹¹ Kabbah spoke to Bockarie via telephone at a later point. Jesse Jackson came as part of a US delegation with Howard Jetter and Bismarck Myrick, which met Bockarie whilst he was in exile in Liberia.¹⁷⁹²
669. As a result of Bockarie's group being granted citizenship, the able-bodied combatants were inducted into a training programme of the ATU. Bockarie was *not* put into the

¹⁷⁸³ TT, Charles Taylor, 17 Aug 09, p. 26863.

¹⁷⁸⁴ TT, Charles Taylor, 17 Aug 09, p. 26863-4.

¹⁷⁸⁵ TT, Charles Taylor, 17 Aug 09, p. 26876.

¹⁷⁸⁶ Exhibit D-228, p. 2.

¹⁷⁸⁷ TT, Charles Taylor, 17 Aug 09, p. 26871.

¹⁷⁸⁸ TT, Charles Taylor, 17 Aug 09, p. 26873.

¹⁷⁸⁹ TT, Charles Taylor, 17 Aug 09, p. 26876.

¹⁷⁹⁰ TT, Charles Taylor, 16 Nov 09, p. 31655; 17 Aug 09, p. 26877.

¹⁷⁹¹ TT, Charles Taylor, 17 Aug 09, p. 26872.

¹⁷⁹² TT, Charles Taylor, 17 Aug 09, p. 26874.

ATU. The purpose of putting Bockarie's combatants in the ATU was to place them out of Bockarie's command. The ATU took orders from their commander, which was initially Chucky Taylor and subsequently General Dgiba.¹⁷⁹³ This use of foreigners in a security capacity can be traced back to the Gambians at the start of the invasion.

670. [REDACTED]
[REDACTED] Foya from Sierra Leone, Colonel Jungle came with the message from Taylor through Bockarie that the Bockarie supporters could either be trained as ATU and be put on a salary or they could stay on their own in Liberia where they would not be protected by anyone.¹⁷⁹⁵ The majority of those that went from Sierra Leone into Liberia went on the ATU training as there was really no other option available to them.¹⁷⁹⁶ TF1-388 confirmed that Bockarie was not in the ATU.¹⁷⁹⁷ TF1-388 thought that around 200 of Bockarie's RUF fighters received ATU training at Gbatala.¹⁷⁹⁸ [REDACTED]
[REDACTED].¹⁷⁹⁹

With regard to Liberian citizenship, TF1-388 stated that "as long as [they] were soldiers of Liberia, [they] were considered as first class citizens."¹⁸⁰⁰ Before Bockarie's men joined the ATU, there were already Sierra Leoneans in the ATU, some from refugee camps.¹⁸⁰¹

671. In 2000, events in Sierra Leone necessitated Taylor to continue his efforts to mediate and resolve the growing crisis in Sierra Leone. The RUF arrested around 400 UNAMSIL personnel in Sierra Leone around 2-3 May 2000.¹⁸⁰² Shortly thereafter, Foday Sankoh was arrested following a demonstration outside his house on Spur Road on 8 May 2000.¹⁸⁰³ There was a power vacuum at the top of the RUF, which was problematic in light of the hostage situation in Sierra Leone. The power vacuum had to be resolved in order to get the release of the hostages.¹⁸⁰⁴ Taylor confirmed that he had a mandate from ECOWAS, oft repeated, to get personally involved in the

¹⁷⁹³ TT, Charles Taylor, 17 Aug 09, p. 26873-4.

¹⁷⁹⁴ TT, TF1-388, 16 Jul 08, p. 13852.

¹⁷⁹⁵ TT, TF1-388, 16 Jul 08, p. 13851.

¹⁷⁹⁶ TT, TF1-388, 16 Jul 08, p. 13850-1.

¹⁷⁹⁷ TT, TF1-388, 16 Jul 08, p. 13852.

¹⁷⁹⁸ TT, TF1-388, 16 Jul 08, p. 13850.

¹⁷⁹⁹ TT, TF1-388, 16 Jul 08, p. 13861.

¹⁸⁰⁰ TT, TF1-388, 16 Jul 08, p. 13853.

¹⁸⁰¹ TT, TF1-388, 16 Jul 08, p. 13862.

¹⁸⁰² TT, Issa Sesay, 14 Jul 10, p. 44505-7.

¹⁸⁰³ TT, Issa Sesay, 14 Jul 10, p. 44503-4.

¹⁸⁰⁴ TT, Charles Taylor, 18 Aug 09, p. 27044.

- Sierra Leone peace process and that Western countries had also asked him to get involved in the matter.¹⁸⁰⁵ The heads of state requested Taylor to get personally involved in solving the issues which hamper the peace process in Sierra Leone and to seek adequate solutions in consultation with the other heads of state.¹⁸⁰⁶
672. Following consultations between Taylor, his Committee of Six colleagues and Kofi Annan,¹⁸⁰⁷ Taylor invited Sesay to come to Monrovia for consultations concerning the release of the hostages and for pursuing the Lomé agreement.¹⁸⁰⁸ Other ECOWAS leaders, UN personnel and the US embassy were all informed of Sesay's anticipated travel to Monrovia.¹⁸⁰⁹
673. Prior to Sesay going to Monrovia, Taylor had been in telephone contact with Sesay. Taylor made it clear to Sesay that the hostages had to be released unconditionally and voiced the outrage of the international community.¹⁸¹⁰ When Sesay came to Monrovia, he stayed at the RUF guesthouse. Sesay came with several individuals.¹⁸¹¹
674. When Taylor met to discuss the release of the peacekeepers with Sesay for the first time, Taylor was very firm in conveying the message that the hostages had to be released unconditionally.¹⁸¹² Sesay complained that Sankoh was being held by the UN. Taylor was resolute in the unconditional release of the hostages first, but requested a meeting to discuss Sesay's issues for the last week in May 2000, which was held. Sesay stated that he was not the leader of the RUF but would discuss it with their council and release the UN personnel.¹⁸¹³
675. The US and Jesse Jackson applauded Taylor's efforts to secure the release of the UN personnel held by the RUF and hoped that he would succeed in securing the release of all those that were detained.¹⁸¹⁴ Taylor was able to secure the release of the hostages

¹⁸⁰⁵ TT, Charles Taylor, 18 Aug 09, p. 27040; a statement from ECOWAS on the renewal of Taylor's mandate (in May 2000) to obtain the release of the hostages and arms seized is in Exhibit D-252, para. 21; an example of the USA encouraging Taylor to continue his positive efforts (in October 1999) to the reconciliation and reconstruction in Sierra Leone is in Exhibit D-223.

¹⁸⁰⁶ D-237, para. 11.

¹⁸⁰⁷ TT, Charles Taylor, 18 Aug 09, p. 27048; On 15 May 2000, Kofi Annan acknowledged Taylor's role in the release of 139 of the peacekeepers (Exhibit D-245).

¹⁸⁰⁸ TT, Charles Taylor, 18 Aug 09, p. 27043.

¹⁸⁰⁹ TT, Charles Taylor, 18 Aug 09, p. 27048.

¹⁸¹⁰ TT, Charles Taylor, 18 Aug 09, p. 27047; it was this telephone contact with the RUF to which the Liberian Ministry of Presidential Affairs was referring to in its press release on 13 May 2000 when it stated "...following a round of intensive negotiations with the RUF representatives in Sierra Leone" (Exhibit D-244, p. 1 and TT, Charles Taylor, 18 Aug 09, p. 27047).

¹⁸¹¹ TT, Charles Taylor, 18 Aug 09, p. 27043.

¹⁸¹² TT, Charles Taylor, 18 Aug 09, p. 27051.

¹⁸¹³ TT, Charles Taylor, 18 Aug 09, p. 27052.

¹⁸¹⁴ Exhibit D-251, p. 1.

as a result of Liberia's long term association with the peace process and having built up that confidence over the months and years.¹⁸¹⁵

676. Issa Sesay provided the following account of his first meeting with Taylor. Sesay was in Makeni in late May 2000, following the arrests of the UNAMSIL peacekeepers in early May. Whilst there, Sesay received a radio message that Taylor wanted to see him. Sesay subsequently travelled to the border from Makeni.¹⁸¹⁶ In Foya, Joe Tuah came on a helicopter which transported Sesay to Monrovia.¹⁸¹⁷ Sesay went on this trip with his adjutant, Samuel Jabba.¹⁸¹⁸ Sesay arrived in Monrovia and met Taylor at the Executive Mansion for about 45 minutes.¹⁸¹⁹ Taylor asked Sesay, "are you the Issa?" when Sesay met him.¹⁸²⁰ Taylor told Sesay that Sankoh was making a big mistake as he was about to destroy the Lomé Accord.¹⁸²¹ Taylor told Sesay to travel to Kono and transport the peacekeepers to Foya, at which point Taylor would collect them with a helicopter.
677. TF1-338 confirmed that Sesay made a second trip to Monrovia at the end of May 2000¹⁸²² on the invitation of Taylor to negotiate the release of the UN peacekeepers.¹⁸²³ TF1-338 also confirmed that Sesay arranged for the peacekeepers to be sent to Foya and that Sesay did not travel with anything to Foya or Sierra Leone.¹⁸²⁴
678. Bearing in mind the situation with the UN hostages, there was a great deal of attention being paid by the international press to Liberia and the meeting at the time and there were UN personnel on the ground at Spriggs Payne airport from which Sesay departed.¹⁸²⁵ Yet with the eyes of the world upon him, it is alleged that Taylor was still arming and supplying the RUF.¹⁸²⁶ This is a mere flight of fancy.
679. There was a third incursion in Lofa County¹⁸²⁷ originating from Guinea on 8 July 2000.¹⁸²⁸ The dissidents had infiltrated into Voinjama and had taken control of the

¹⁸¹⁵ TT, Charles Taylor, 20 Aug 09, p. 27326.

¹⁸¹⁶ TT, Issa Sesay, 14 Jul 10, p. 44486.

¹⁸¹⁷ TT, Issa Sesay, 14 Jul 10, p. 44492.

¹⁸¹⁸ TT, Issa Sesay, 14 Jul 10, p. 44517.

¹⁸¹⁹ TT, Issa Sesay, 14 Jul 10, p. 44517.

¹⁸²⁰ TT, Issa Sesay, 14 Jul 10, p. 44517.

¹⁸²¹ TT, Issa Sesay, 14 Jul 10, p. 44517-8.

¹⁸²² TT, TF1-338, 2 Sep 08, p. 15141-2.

¹⁸²³ TT, TF1-338, 2 Sep 08, p. 15142-3.

¹⁸²⁴ TT, TF1-338, 2 Sep 08, p. 15144-5.

¹⁸²⁵ TT, Charles Taylor, 19 Aug 09, p. 27121-2.

¹⁸²⁶ TT, TF1-567, 7 Jul 08, p. 13040.

¹⁸²⁷ TT, Charles Taylor, 20 Aug 09, p. 27291.

¹⁸²⁸ Exhibit D-270, para. 3.

surrounding small towns.¹⁸²⁹ Taylor sent troops to oppose them and there was a ‘push-post’ situation as Taylor’s forces and the dissidents would capture an area and be pushed back by the other.¹⁸³⁰ There were many displaced people in northern Lofa County as a result of the fighting.¹⁸³¹ Downes-Thomas expressed his concern to New York on 12 September 2000, as the fighting had been going on for over two months and there were no signs of a quick resolution.¹⁸³² President Conte had ordered the round up of Liberians and Sierra Leoneans residing in Conakry, the xenophobic nature of which caused Downes-Thomas further concern.¹⁸³³ The Liberian government went so far as stating on 22 September 2000 that Conte had directed that Liberians and Sierra Leoneans be attacked. Furthermore, the Guinean authorities had refused to allow Liberian citizens to leave Guinea and had by then not given permission for Liberian aircraft to land in Conakry to evacuate Liberians.¹⁸³⁴

680. The Liberian town of Zorzor was shelled on 22 September 2000.¹⁸³⁵ The shelling came from around Koryamah, which is approximately 15 miles away. Such an attack had to have been carried out using long-range artillery, leading the Liberian government to conclude that the source of the attack was the Guinean government.¹⁸³⁶ The attack caused destruction of towns and villages along the Liberia/Guinea border as well as severe casualties.¹⁸³⁷
681. The posture that the Liberian government had taken was to appeal to Liberian citizens for calm and not to engage in revenge attacks on Guinean residents in Liberia, which, according to Downes-Thomas on 12 September 2000, had been successful.¹⁸³⁸ Taylor and others tried to open lines of communication with Conte and managed to sit with him together with President Obasanjo and, on another occasion, with the King of Morocco.¹⁸³⁹
682. At the time of this third attack, Liberia still did not have an army or arms with which to fight.¹⁸⁴⁰ However, the men and women who came forward in the first and second

¹⁸²⁹ TT, Charles Taylor, 20 Aug 09, p. 27292.

¹⁸³⁰ TT, Charles Taylor, 20 Aug 09, p. 27292.

¹⁸³¹ TT, Charles Taylor, 20 Aug 09, p. 27293.

¹⁸³² Exhibit D-270, para. 3.

¹⁸³³ Exhibit D-270, para. 6.

¹⁸³⁴ Exhibit D-272, p. 2.

¹⁸³⁵ Exhibit D-272, p. 2.

¹⁸³⁶ TT, Charles Taylor, 20 Aug 09, p. 27300-1.

¹⁸³⁷ Exhibit D-272, p. 2.

¹⁸³⁸ Exhibit D-270, para. 6.

¹⁸³⁹ TT, Charles Taylor, 20 Aug 09, p. 27303-4.

¹⁸⁴⁰ TT, Charles Taylor, 20 Aug 09, p. 27304.

- attacks¹⁸⁴¹ brought with them rifles and small amounts of ammunition that they had hidden or dug up. The Liberians who fought against the dissidents were able to push them back using these weapons that had been collected.¹⁸⁴²
683. Taylor sent a letter to the Secretary-General on 14 July 2000 to assert the importance of lifting Liberia's arms embargo so that Liberia is able to rightfully defend itself.¹⁸⁴³ The US had not condemned these attacks.¹⁸⁴⁴ Taylor wondered why the international community was indifferent to the situation and approached Downes-Thomas to alert the UN to get the matter resolved.¹⁸⁴⁵ Downes-Thomas sent a memo to New York and Freetown on 12 September 2000 detailing the attacks and Liberia's concerns.¹⁸⁴⁶
684. A US delegation led by Under-Secretary of State Thomas Pickering visited Liberia for discussions at the Executive Mansion on 17 July 2000.¹⁸⁴⁷ The purpose of the meeting was to discuss the situation in Sierra Leone¹⁸⁴⁸ as well as the recent dissident attacks against Liberia.¹⁸⁴⁹ The US stated that there were strong indications that the Liberian government was the primary patron and benefactor to the RUF.¹⁸⁵⁰ However, Pickering was not able to produce any physical evidence of Liberia's involvement in arms smuggling, gun-running and diamond smuggling, and referred to merely 'reports'.¹⁸⁵¹ Taylor raised the issue of the US involvement in collaborating with groups posing a direct threat to Liberia near its borders.¹⁸⁵² The delegation responded that the US had marines training Guinean regulars in Nzerekore, but denied that they were supporting LURD.¹⁸⁵³
685. Monie Captan sent a follow-up letter to Pickering on 17 August 2000 detailing Liberia's efforts in what they had discussed since the visit by the delegation. This included the progress with obtaining a cease-fire through the meeting with Sesay on 26 July 2000 and the enactment of a law in Liberia making it a criminal offence to

¹⁸⁴¹ TT, Charles Taylor, 13 Aug 09, p. 26738; p. 26743; Exhibit D-213, para. 2.

¹⁸⁴² TT, Charles Taylor, 20 Aug 09, p. 27361.

¹⁸⁴³ Exhibit D-257, p. 2-3.

¹⁸⁴⁴ Exhibit D-263, p. 1.

¹⁸⁴⁵ TT, Charles Taylor, 20 Aug 09, p. 27285.

¹⁸⁴⁶ Exhibit D-270.

¹⁸⁴⁷ Exhibit D-260, p. 1.

¹⁸⁴⁸ TT, Charles Taylor, 19 Aug 09, p. 27214; Exhibit D-261, p. 1.

¹⁸⁴⁹ Exhibit D-260, p. 1.

¹⁸⁵⁰ Exhibit D-261, p. 1.

¹⁸⁵¹ TT, Charles Taylor, 19 Aug 09, p. 27221.

¹⁸⁵² Exhibit D-260, p. 3.

¹⁸⁵³ TT, Charles Taylor, 19 Aug 09, p. 27220; TT, Stephen Ellis, 18 Jan 08, p. 1599-1600, Stephen Ellis was in no doubt that LURD was being supported by the US government.

trade in or export undocumented or uncertified diamonds from Sierra Leone.¹⁸⁵⁴

Taylor sent a letter to President Bill Clinton on 23 August 2000 to inform him of status of Liberia's engagement with the Sierra Leonean peace process and to reiterate the attacks from dissidents in Guinea.¹⁸⁵⁵

686. ECOWAS was faced with the issue of leadership in the RUF, who were then still in Sierra Leone, but Sankoh was in prison. They did not know who was in charge or to whom they should talk. Taylor and his colleagues on the Committee of Six decided that Taylor should hold a mini-summit in Monrovia to deal with the issue of Issa Sesay and the RUF so that the Lomé agreement would not be torn up and so that disarmament and demobilisation could continue.¹⁸⁵⁶
687. Presidents Yahya Jammeh, Alpha Konare, Olesgun Obasanjo, Gnassingbe Eyadema, Blaise Compoare and Robert Guie attended the meeting Taylor arranged,¹⁸⁵⁷ which was in the Executive Mansion in Monrovia¹⁸⁵⁸ on 26 July 2000. Issa Sesay also attended¹⁸⁵⁹ and came with a delegation.¹⁸⁶⁰ Kabbah did not attend because he was not in the Committee of Six and was a party to the conflict.¹⁸⁶¹ However, Kabbah knew of the meeting and of the purpose of the meeting.¹⁸⁶²
688. At the meeting, the heads of state told Sesay that they needed to know who was in charge in light of Sankoh's incarceration by the Sierra Leonean government. Sesay informed them that he was the most senior officer. On the suggestion by the heads of state that Sesay would be the new leader of the RUF, Sesay explained that he would need the approval of the War Council and Sankoh for that to occur.¹⁸⁶³ The heads of state facilitated in the sending of a letter to Sankoh¹⁸⁶⁴ and gave Sesay time to consult the War Council.¹⁸⁶⁵ It was Obasanjo and Taylor who agreed that Sesay would be the appropriate person to appoint as interim leader, considering the manner in which he swiftly surrendered the peacekeepers to Taylor in May.¹⁸⁶⁶

¹⁸⁵⁴ Exhibit D-263, p. 1-3.

¹⁸⁵⁵ Exhibit D-264.

¹⁸⁵⁶ TT, Charles Taylor, 19 Aug 09, p. 27159-60.

¹⁸⁵⁷ TT, Charles Taylor, 19 Aug 09, p. 27160-1.

¹⁸⁵⁸ TT, Charles Taylor, 19 Aug 09, p. 27162-3.

¹⁸⁵⁹ TT, Charles Taylor, 19 Aug 09, p. 27160-1.

¹⁸⁶⁰ TT, Charles Taylor, 19 Aug 09, p. 27162.

¹⁸⁶¹ TT, Charles Taylor, 19 Aug 09, p. 27162.

¹⁸⁶² TT, Charles Taylor, 19 Aug 09, p. 27162.

¹⁸⁶³ TT, Charles Taylor, 19 Aug 09, p. 27162-3; TT, Issa Sesay, DCT-172, 26 Jul 09, p. 44552.

¹⁸⁶⁴ Exhibit D-258.

¹⁸⁶⁵ TT, Charles Taylor, 19 Aug 09, p. 27162; TT, Issa Sesay, DCT-172, 26 Jul 09, p. 44552.

¹⁸⁶⁶ TT, Issa Sesay, DCT-172, 26 Jul 09, p. 44552.

689. Presidents Konare, chairman of ECOWAS at the time, and Obasanjo took the letter for Sankoh to Sierra Leone about a week after the meeting. They met with Kabbah and Sankoh. Sankoh approved Sesay's interim leadership and Sesay subsequently returned to Liberia for the confirmation of his interim leadership of the RUF.¹⁸⁶⁷ Kabbah was kept fully abreast of the developments concerning Sesay's appointment as interim leader of the RUF; he met Obasanjo and Konare and brought Sankoh to that meeting.¹⁸⁶⁸
690. Taylor attended an OAU meeting in Abidjan, Ivory Coast, on 11-13 August 2000 to address the situation in the Ivory Coast.¹⁸⁶⁹ Laurent Gbagbo had recently been elected president in a disputed election in the Ivory Coast, as a result of which there was a major war raging in the country.¹⁸⁷⁰ Taylor was asked by his ECOWAS colleagues to be involved in resolving the situation because of his former experience being a rebel leader.¹⁸⁷¹
691. Following the approval of Sesay to be the interim leader of the RUF, a meeting was arranged for 21 August 2000 in Roberts International Airport in Liberia for the formal confirmation of Sesay's interim leadership.¹⁸⁷² Presidents Konare, Obasanjo and Taylor attended the meeting.¹⁸⁷³ Sesay and the RUF spokesman at the time, Gibril Massaquoi, also attended.¹⁸⁷⁴
692. Issa Sesay confirmed that he and his delegation were invited to Roberts International Airport for a meeting¹⁸⁷⁵ with Presidents Taylor, Konare and Obasanjo.¹⁸⁷⁶ Sesay went with others including Augustine Gbao, Jonathan Kposowa, Samuel Jabba, Patrick Binda and Colonel Lion.¹⁸⁷⁷ The meeting was attended by the aforementioned heads of state, other ECOWAS representatives, the RUF delegation and the press. Obasanjo and Taylor reiterated their preference of Sesay to become the interim leader.

¹⁸⁶⁷ TT, Charles Taylor, 19 Aug 09, p. 27163.

¹⁸⁶⁸ TT, Charles Taylor, 19 Aug 09, p. 27172.

¹⁸⁶⁹ Exhibit D-267, p. 3; TT, Charles Taylor, 20 Aug 09, p. 27271.

¹⁸⁷⁰ TT, Charles Taylor, 20 Aug 09, p. 27269.

¹⁸⁷¹ TT, Charles Taylor, 20 Aug 09, p. 27271.

¹⁸⁷² TT, Charles Taylor, 19 Aug 09, p. 27167-8.

¹⁸⁷³ Exhibit D-259, p. 1.

¹⁸⁷⁴ TT, Charles Taylor, 19 Aug 09, p. 27169.

¹⁸⁷⁵ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44556.

¹⁸⁷⁶ Exhibits D-284 A to E are photographs of Presidents Taylor, Konare and Obasanjo at Roberts International Airport arriving for the meeting in July 2000.

¹⁸⁷⁷ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44555-6.

Konare complained about Sankoh and stated that they were not going to work with him anymore.¹⁸⁷⁸

693. After the main meeting, Sesay attended a closed-door meeting with Taylor, Obasanjo and Konare, at which the heads of state asked Sesay to return the seized UNAMSIL equipment, that Sesay should work with UNAMSIL when requested and prepare to work with the Sierra Leonean government in respect of the implementation of the Lomé Accord.¹⁸⁷⁹ The heads of state told Sesay that they would tell UNAMSIL and Sierra Leone to arrange a redeployment of UNAMSIL in RUF-controlled areas. The heads of state also told Sesay to have a delegation of four or five persons based in Monrovia in case ECOWAS wanted to contact them.¹⁸⁸⁰ On no occasion returning from Monrovia did Taylor give Sesay a consignment of arms or ammunition to take back with him nor did he bring with him a consignment of arms and/or ammunition into Sierra Leone.¹⁸⁸¹
694. In Taylor's opinion, Sesay was very understanding and wanted to move forward. Sesay announced that they were prepared to return the equipment that had been seized from the UN forces and he also agreed to immediately start the disarmament and demobilisation process.¹⁸⁸² Sesay had asked for the UN to be immediately deployed in RUF areas. However, the US was opposed to the deployment of troops until they could be reinforced through the additional training of troops from the subregion, which would take six months.¹⁸⁸³ Taylor and his ECOWAS colleagues were frustrated by this position, as there was still bloodshed in Sierra Leone.¹⁸⁸⁴ Taylor believed that UNAMSIL deployment in the RUF areas could be accomplished with the existing troop levels.¹⁸⁸⁵
695. On 25 September 2000, Taylor wrote a letter to Kofi Annan to the effect that he was taken aback by the slow response of the international community to the offers of the RUF leadership to enhance the peace process, who had offered a de facto ceasefire and return the military equipment seized when the UN personnel were abducted.¹⁸⁸⁶ Taylor urged the international community to take advantage of this window of

¹⁸⁷⁸ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44558-60.

¹⁸⁷⁹ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44560-1.

¹⁸⁸⁰ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44561-2.

¹⁸⁸¹ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44563.

¹⁸⁸² TT, Charles Taylor, 20 Aug 09, p. 27272.

¹⁸⁸³ TT, Charles Taylor, 20 Aug 09, p. 27273; p. 27311; Exhibit D-273, p. 2.

¹⁸⁸⁴ TT, Charles Taylor, 20 Aug 09, p. 27273; p. 27311.

¹⁸⁸⁵ Exhibit D-273, p. 2; Exhibit D-277, p. 2-3.

¹⁸⁸⁶ Exhibit D-273, p. 1; the Liberian government expressed these views also in Exhibit D-277, p. 2-3.

opportunity to effect deployment of UNAMSIL forces in the RUF areas of control.¹⁸⁸⁷

These sentiments were echoed in a letter from Taylor to Alpha Konare, ECOWAS chairman.¹⁸⁸⁸

696. Taylor sent letters out in the custody of Moses Blah to Alpha Konare, Abdoulaye Wade, Blaise Compoare and Yayhya Jammeh on 5 October in order to gain support to call an emergency session of ECOWAS with a view to finding workable solutions to the problems of the sub-region.¹⁸⁸⁹
697. Taylor, Ahmed Kabbah, Olesgun Obasanjo and Alpha Konare all were in direct telephone contact with Sesay at this time. The RUF guesthouse was also operating with Gibril Massaquoi as the spokesman, who was there as of July 2000 for approximately six months.¹⁸⁹⁰ Taylor did not have more influence over the RUF than any other of the ECOWAS heads of state.¹⁸⁹¹
698. In October 2000, Sesay received a message from his delegation that Taylor said there would be a meeting for the RUF and the Sierra Leonean government in Abuja.¹⁸⁹² Abuja I was a discussion between the Sierra Leonean government and the RUF in respect to the implementation of the Lomé Accord.¹⁸⁹³ Sesay went to Monrovia before he went to Abuja I.¹⁸⁹⁴ President Obasanjo had told Sesay that if they wanted Sesay for a further meeting, they will contact him in Monrovia. Sesay understood that ECOWAS had had given Taylor the responsibility to coordinate it.¹⁸⁹⁵ The purpose of going to Monrovia first, before Abuja I, was not so that Taylor could instruct the RUF on what position to take. Taylor did not tell the RUF anything that they were to say at Abuja I.¹⁸⁹⁶ Sesay did not attend Abuja I but sent a delegation. The head of the delegation was Jonathan Kposowa, and it included Patrick Binda, Madam Jamba Gona, Eddie Kanneh, Gibril Massaquoi and Ken Macauley.¹⁸⁹⁷
699. Sesay stayed in Monrovia when his delegation went to Abuja I until they returned.¹⁸⁹⁸ Sesay had, at the meeting with the ECOWAS leaders, requested for a phone, which

¹⁸⁸⁷ Exhibit D-273, p. 2.

¹⁸⁸⁸ Exhibit D-274.

¹⁸⁸⁹ Exhibit D-275 A; D-275 B; D-275 C; D-275 D.

¹⁸⁹⁰ TT, Charles Taylor, 20 Aug 09, p. 27307-8.

¹⁸⁹¹ TT, Charles Taylor, 20 Aug 09, p. 27326.

¹⁸⁹² TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44563-4.

¹⁸⁹³ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44571.

¹⁸⁹⁴ TT, Issa Sesay, DCT-172, 26 Jul 09, p. 44599-600.

¹⁸⁹⁵ TT, Issa Sesay, DCT-172, 23 Aug 10, p. 46920.

¹⁸⁹⁶ TT, Issa Sesay, DCT-172, 23 Aug 10, p. 46921.

¹⁸⁹⁷ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44571; [REDACTED], TT, DCT-292, 1 Jun 10, p. 41802.

¹⁸⁹⁸ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44599-600.

President Obasanjo had promised.¹⁸⁹⁹ Taylor gave Sesay a satellite phone.¹⁹⁰⁰ The phone was not used to talk to Taylor. Sesay was not calling Benjamin Yeaten. Sesay used the satellite phone to call the guesthouse at Monrovia to leave messages. Sesay also bought other phones to give to Gibril Massaquoi and Sesay used to then call Massaquoi and leave messages.¹⁹⁰¹ Sesay also used the satellite phone to call Ibrahim Bah.¹⁹⁰²

700. Abuja I was followed by Abuja II in May 2001, to which Sesay also sent a delegation. At Abuja II the Sierra Leonean government and the RUF agreed, on the request from ECOWAS, to have a tripartite meeting to decide the fate of disarmament and the actual start of disarmament.¹⁹⁰³
701. Again, Issa Sesay told us that around November to early December 2000, Taylor sent a message through Memunatu Deen for Sesay to come¹⁹⁰⁴ to discuss the return of Sam Bockarie.¹⁹⁰⁵ Sesay told Taylor that the problem was between Bockarie and Sankoh, not Bockarie and Sesay. Bockarie had been threatening to kill some RUF members. Sesay had to inform the other commanders before answering Taylor's proposal.¹⁹⁰⁶
702. This was the last time Sesay met Taylor.¹⁹⁰⁷ There was no form of communication between Sesay and Taylor after this. Sesay and Taylor never directly communicated on a radio or satellite phone at any time.¹⁹⁰⁸ On no occasion during any of Sesay's meetings with Taylor did Taylor give Sesay arms and ammunition to take back to Sierra Leone.¹⁹⁰⁹
703. The civil war in the Ivory Coast that had erupted as a result of the disputed elections had, by October 2000, resulted in further suggestions that Liberian combatants were involved.¹⁹¹⁰ The Liberian Ministry of Foreign Affairs issued a press release denying the presence of any Liberian military personnel in the Ivory Coast.¹⁹¹¹

¹⁸⁹⁹ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44599-600.

¹⁹⁰⁰ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44599-600; 23 Aug 10, p. 46909.

¹⁹⁰¹ TT, Issa Sesay, DCT-172, 25 Aug 10, p. 47170-1.

¹⁹⁰² TT, Issa Sesay, DCT-172, 25 Aug 10, p. 47173.

¹⁹⁰³ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44572.

¹⁹⁰⁴ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44600.

¹⁹⁰⁵ TT, Issa Sesay, DCT-172, 4 Aug 10, p. 45446.

¹⁹⁰⁶ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44604-5.

¹⁹⁰⁷ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44601.

¹⁹⁰⁸ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44605.

¹⁹⁰⁹ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44603.

¹⁹¹⁰ TT, Charles Taylor, 24 Aug 09, p. 27455.

¹⁹¹¹ Exhibit D-299.

704. After requests from Liberia and others for an investigation, the Security Council appointed a panel of experts who published a report on 20 December 2000.¹⁹¹² One of the panel members was prosecution witness, Ian Smillie, who had previously already published a report¹⁹¹³ that clearly demonstrated a bias against Liberia. The findings of the panel of experts were a near verbatim transposition of Smillie's previous study.¹⁹¹⁴ The panel never showed Taylor the evidence that they had against him and Taylor was never afforded the opportunity to challenge the evidence that they published.¹⁹¹⁵ It need not be repeated here, but the inconsistencies and inaccuracies of this report have been highlighted by Taylor in his evidence¹⁹¹⁶ and by the Liberian government at the time.¹⁹¹⁷
705. A policy of disengagement was adopted by the Liberian government on 12 January 2001 because there was a great deal of misunderstanding about the Liberian government's contact with both the RUF and other parties to the Sierra Leonean conflict, which contacts were open and publicly maintained under the mandate of ECOWAS and for the sole objective of promoting regional peace and stability.¹⁹¹⁸ In compliance with Liberia's policy of disengagement, Sam Bockarie, and indeed all RUF individuals, had departed Liberia by February 2001. There was no reason to expel those that had been inducted into the ATU who remained Liberian citizens. Sam Bockarie left to go to the Ivory Coast and Taylor had no further contact with him.¹⁹¹⁹
706. Despite Taylor's further efforts to calm the situation resulting from the findings by the panel of experts,¹⁹²⁰ the Security Council declared its intention to impose sanctions against Liberia.¹⁹²¹ ECOWAS had sought a delay to the imposition of sanctions so that Liberia could put in place measures to publicly show its lack of involvement with

¹⁹¹² TT, Charles Taylor, 24 Aug 09, p. 27464; Exhibit P-18.

¹⁹¹³ A study titled "The Heart of the Matter; Sierra Leone, Diamonds and Human Security" (Exhibit P-19, p. 3; TT, Charles Taylor, 24 Aug 09, p. 27466).

¹⁹¹⁴ TT, Charles Taylor, 26 Aug 09, p. 27697; Exhibit D-302, para. ii.

¹⁹¹⁵ TT, Charles Taylor, 25 Aug 09, p. 27599.

¹⁹¹⁶ See TT, Charles Taylor, 25 Aug 09 and 26 Aug 09.

¹⁹¹⁷ See Exhibit D-302 and Exhibit D-307.

¹⁹¹⁸ Exhibit D-37, p. 2.

¹⁹¹⁹ TT, Charles Taylor, 27 Aug 09, p. 27916.

¹⁹²⁰ For example, Liberia grounded all Liberian-registered aircraft (TT, Charles Taylor, 27 Aug 09, p. 27851; Exhibit D-304).

¹⁹²¹ TT, Charles Taylor, 27 Aug 09, p. 27859.

the RUF.¹⁹²² However, the UN duly imposed sanctions on Liberia in March¹⁹²³ and the USA declared Liberia a threat to national security in May.¹⁹²⁴

707. Domestically, a persistent and harsh reality of Taylor's presidency was that there was a severe lack of arms for use by his domestic security forces, let alone the RUF. When Taylor was elected president in 1997, ECOWAS lifted the arms embargo against Liberia and requested the Security Council to do the same. However, the Security Council did not.¹⁹²⁵ The refusal of the Security Council to lift the embargo led to Liberia being unable to defend itself when confronted with repeated armed incursions, in the face of international indifference to violations of Liberia's territorial integrity.¹⁹²⁶ In the mean time, the US was openly providing military assistance to Liberia's neighbour, Guinea, which was comprehensively detailed in Exhibit D-45, a Human Rights Watch Report from 3 November 2003, despite the clear evidence that Guinea was supporting the same LURD insurgents that was attacking Liberia.¹⁹²⁷
708. In January/February 2001,¹⁹²⁸ Liberia decided to acquire war material needed for its defence in contravention of the arms embargo. Liberia felt that the UN had no right, under the charter, to deny Liberia the ability to legitimately defend itself.¹⁹²⁹ Liberia wrote to ECOWAS and told them what weapons it was going to purchase.¹⁹³⁰
709. Liberia managed to import its first arms from Serbia in early 2002.¹⁹³¹ On about the 18 January 2002, President Kabbah announced an end to hostilities.¹⁹³² By the time Liberia had imported actual arms, peace had either been announced or was on the verge of being announced in Sierra Leone.¹⁹³³
710. Despite the importation of arms, the Liberian forces were still poorly equipped, and were unable to withstand the LURD rebels who were receiving considerable external support.¹⁹³⁴ By the end of January 2002, the LURD rebels had captured a village approximately 80km away from Monrovia, as a result of which thousands of refugees were forced to flee. On 7 February, only 35 km from Monrovia, rebels attacked the

¹⁹²² Exhibit D-305, p. 1.

¹⁹²³ TT, Charles Taylor, 27 Aug 09, p. 27934.

¹⁹²⁴ Exhibit D-310, p. 1.

¹⁹²⁵ TT, Charles Taylor, 27 Aug 09, p. 27838.

¹⁹²⁶ TT, Charles Taylor, 27 Aug 09, p. 27837-8; Exhibit D-257, p. 2-3.

¹⁹²⁷ See, for example, Exhibit D-45, p. 27; TT, Stephen Ellis, 18 Jan 08, p. 1600.

¹⁹²⁸ TT, Charles Taylor, 27 Aug 09, p.

¹⁹²⁹ TT, Charles Taylor, 27 Aug 09, p. 27838-9.

¹⁹³⁰ TT, Charles Taylor, 27 Aug 09, p. 27838-9.

¹⁹³¹ TT, Charles Taylor, 31 Aug 09, p. 28074.

¹⁹³² Agreed Fact 35.

¹⁹³³ TT, Charles Taylor, 31 Aug 09, p. 28075.

¹⁹³⁴ Exhibit D-394, p. 1.

town of Klay and were advancing towards capital. Taylor declared a state of emergency.¹⁹³⁵

711. By capturing Klay, the rebels captured the important junction that led directly to the Bo Waterside bridge, providing them with a short supply route for arms and ammunition from Sierra Leone.¹⁹³⁶ The rebels threatened to attack Monrovia if Taylor did not step down as president.¹⁹³⁷
712. LURD attacked the city of Monrovia at least twice. They were on the outskirts around the town of Virginia, only 3 or 4km outside of the city. There was chaos in Monrovia, to the extent that ministries and agencies had closed and hundreds of thousands of people had fled the capital. Monrovia was also subjected to long-range mortar shelling.¹⁹³⁸
713. The Liberian government faced increased military pressure when a force called Movement for Democracy in Liberia (MODEL)¹⁹³⁹ attacked Liberia from the Ivory Coast in mid-2002.¹⁹⁴⁰ MODEL was created in the Ivory Coast and consisted of Liberian exiles representing large ethnic constituencies within Liberia. It was essentially a derivative of LURD and, as LURD had done, it enjoyed support from neighbouring countries who did so for their own interests.¹⁹⁴¹
714. In May 2003, Taylor received reports that Sam Bockarie was advancing towards the Liberian border from the Ivory Coast. He tried to return to Liberia through Nimba County with a group of armed men. Taylor instructed that Bockarie was not to enter Liberia and sent Moses Blah to apprehend him.¹⁹⁴² Sam Bockarie resisted arrest and, on 6 May 2003,¹⁹⁴³ was killed as a result of an exchange of fire with Liberian government forces.¹⁹⁴⁴ Blah subsequently transported Bockarie's body to Stryker funeral home.¹⁹⁴⁵ The autopsy report conducted on Bockarie's body confirmed that Bockarie was shot,¹⁹⁴⁶ not strangled as was suggested by Blah,¹⁹⁴⁷ whose account of the event cannot be believed. The Liberian Defence Minister announced on the day of

¹⁹³⁵ Exhibit D-395, p. 1.

¹⁹³⁶ TT, Charles Taylor, 9 Nov 09, p. 31341-2.

¹⁹³⁷ Exhibit D-395, p. 2; Exhibit D-396, p. 1.

¹⁹³⁸ TT, Charles Taylor, 9 Nov 09, p. 31330.

¹⁹³⁹ Exhibit P-31, p. 13.

¹⁹⁴⁰ TT, Charles Taylor, 9 Nov 09, p. 31347.

¹⁹⁴¹ TT, Stephen Ellis, 18 Jan 08, p. 1567-8; Exhibit P-31, p. 13.

¹⁹⁴² TT, Charles Taylor, 4 Nov 09, p. 31142-3.

¹⁹⁴³ Exhibit D-46, p. 2. Note that this was before the Special Court unsealed its indictment against Bockarie.

¹⁹⁴⁴ TT, DCT-008, 30 Aug 09, p. 47504-6.

¹⁹⁴⁵ Exhibit D-47.

¹⁹⁴⁶ Exhibit D-46.

¹⁹⁴⁷ TT, Moses Blah, TF1-561, 15 May 08, p. 9994.

Bockarie's death that he died entering Liberia from the Ivory Coast as a result of resisting arrest.¹⁹⁴⁸

715. Liberia faced threats not only domestically or from its neighbours, but additionally US foreign policy had turned strongly anti-Taylor over the course of several years,¹⁹⁴⁹ reaching its climax in 2003 amidst mounting pressure for Taylor to step down. In August 2003, a flotilla of American warships was visible from the Executive Mansion,¹⁹⁵⁰ with thousands of US marines onboard.¹⁹⁵¹ As previously stated, there was no doubt that the US was supporting LURD, according to Stephen Ellis.¹⁹⁵² The new US ambassador in Liberia, John Blaney, was stirring an anti-Taylor movement in Liberia in anticipation of elections in 2003.¹⁹⁵³
716. The situation in Monrovia continued to deteriorate in 2003 with the presence of LURD in Monrovia. It was clear to Taylor that the insurgency would consume the entire city.¹⁹⁵⁴ In May 2003, there was a meeting in Senegal at which the rotating ECOWAS chairmanship fell to Taylor. However, due to the growing crisis in Liberia, Taylor decided to turn over the chairmanship to John Kufour of Ghana,¹⁹⁵⁵ foreshadowing the decision he would later take to resign as president.
717. The peace conference in Accra on 4 June 2003¹⁹⁵⁶ was convened by ECOWAS¹⁹⁵⁷ so that the reconciliation between the Liberian government and LURD could be discussed.¹⁹⁵⁸ The first option that Taylor presented to his colleagues in a closed door meeting¹⁹⁵⁹ was to negotiate and provide an avenue for LURD and all the other groups to participate in the elections.¹⁹⁶⁰ Taylor needed the help of the other heads of state to deal with the advancing crisis in Liberia as a result of LURD and MODEL. President Obasanjo made it clear in the meeting that there were powers larger than

¹⁹⁴⁸ TT, Moses Blah, TF1-561, 15 May 08, p. 9992.

¹⁹⁴⁹ The belligerent tone adopted by the US against Liberia had been described as 'unfair' by a US officer: see Exhibit D-314.

¹⁹⁵⁰ TT, Charles Taylor, 14 Jul 09, p. 24343.

¹⁹⁵¹ Exhibit P-118, p. 2.

¹⁹⁵² TT, Stephen Ellis, 18 Jan 08, p. 1599-1600; also see Exhibit D-45, p. 25-26.

¹⁹⁵³ See Exhibit D-396, p. 2-3.

¹⁹⁵⁴ TT, Charles Taylor, 9 Nov 09, p. 31472-4.

¹⁹⁵⁵ TT, Charles Taylor, 9 Nov 09, p. 31473.

¹⁹⁵⁶ Exhibit D-408, p. 13 of the document.

¹⁹⁵⁷ TT, Charles Taylor, 15 Feb 10, p. 35012.

¹⁹⁵⁸ TT, Charles Taylor, 9 Nov 09, p. 31472-3; John Kufuor said that the five African presidents were "meeting in Accra to find ways of kick-starting the Liberian peace process" (Exhibit D-408, p. 13 of the document).

¹⁹⁵⁹ TT, Charles Taylor, 9 Nov 09, p. 31474.

¹⁹⁶⁰ TT, Charles Taylor, 15 Feb 10, p. 35013-4.

them at work and that they would do whatever they could to get Taylor.¹⁹⁶¹ It became apparent to Taylor that efforts to get him out of power would destroy Liberia.¹⁹⁶² It was at this point that Taylor suggested that, to save Liberia from a catastrophic situation, he would step down.¹⁹⁶³

718. President Obasanjo thought that this would bring peace and offered Taylor exile in Nigeria;¹⁹⁶⁴ an offer was also made by President Thabo Mbeki of exile in South Africa.¹⁹⁶⁵ President Obasanjo confirmed this when he stated in a press conference, on 6 July 2003, that,

[W]hen we met in Ghana last month, President Charles Taylor, on his own free volition, said to us that he believes that he is not the problem of Liberia. But if people believe that he is, he was ready to make the sacrifice of stepping aside, so that those who believe that they have solution to the problem of Liberia can bring that solution about...I have extended invitation [sic] on behalf of the government and the people of Nigeria that President Taylor has a safe haven in Nigeria any time he chooses to take advantage of it.¹⁹⁶⁶

719. It was when Taylor and the other heads of state left that meeting to go to the conference centre¹⁹⁶⁷ that the news of the indictment came through.¹⁹⁶⁸ There was a clear political motive, not legal, in unsealing the indictment on 4 June 2003.¹⁹⁶⁹ It was part of a concerted plan to effect the real desired objective of the USA; regime change.
720. President John Kufour felt betrayed by the international community when the news of the indictment reached him.¹⁹⁷⁰ Kufour told the *New African* publication that he was not aware that there was a warrant for Taylor's arrest until the presidents left his office for the Conference Centre. The African presidents were angered because they

¹⁹⁶¹ TT, Charles Taylor, 15 Feb 10, p. 35015.

¹⁹⁶² TT, Charles Taylor, 9 Nov 09, p. 31474.

¹⁹⁶³ TT, Charles Taylor, 15 Feb 10, p. 35014 and 35016.

¹⁹⁶⁴ TT, Charles Taylor, 9 Nov 09, p. 31474; 15 Feb 2010, p. 35016.

¹⁹⁶⁵ TT, Charles Taylor, 9 Nov 09, p. 31474.

¹⁹⁶⁶ Exhibit D-48, p. 1-2; also, President John Kufuor stated to the *New African* publication that at that closed door meeting, the African leadership had "convince[d] Mr Taylor to resign to allow all the factions in Liberia to negotiate." (Exhibit D-408, p. 13); further, Obasanjo later stated that Taylor had made a sacrifice to bring peace to Liberia (see Exhibit D-43, p. 2).

¹⁹⁶⁷ So that Taylor could make a statement to announce that he had taken the decision to step down from the presidency (TT, Charles Taylor, 15 Feb 10, p. 35023).

¹⁹⁶⁸ TT, Charles Taylor, 9 Nov 09, p. 31475; Exhibit D-408.

¹⁹⁶⁹ See exhibit D-408, p. 14-15 of the electronic copy, the former Nigerian foreign minister, Prof. A. Bolaji Akinyemi, alluded to it by stating, "quite a lot of people, puzzled at the timing of the arrest warrant, wondered at the motive of the chief prosecutor of the [Special] court *who also happened to be an American.*" [emphasis added]

¹⁹⁷⁰ Exhibit D-408, p. 13.

saw the announcement of the indictment as an attempt to scupper the Liberian peace talks.¹⁹⁷¹

721. On the news of the indictment, the heads of state in Accra were enraged¹⁹⁷² and returned to a closed-doors meeting to hold discussions.¹⁹⁷³ Taylor promised that he would still step down.¹⁹⁷⁴ Kufuor and Mbeki invited the American and British ambassadors later that evening and stressed to them that the indictment would not stand and that the Security Council should make sure that it was quashed, in return for which Taylor would step down. Taylor was informed that the indictment would not be proceeded with, on the basis of which he returned to Monrovia¹⁹⁷⁵ on Kufuor's presidential plane.¹⁹⁷⁶
722. Upon arriving in Liberia, Taylor discovered that the US embassy had been inciting Moses Blah to attempt a coup against Taylor. Blah had been told that Taylor would not be returning to Liberia so in his capacity as Vice-President, he should take over. Yeaten had been asked by the US embassy to co-operate with Blah.¹⁹⁷⁷ For this, Blah was placed under house arrest for about two weeks relating to this incident,¹⁹⁷⁸ after admitting that he had been in contact with the US embassy.¹⁹⁷⁹
723. To address his promise to step down, Taylor immediately called in the leadership of the House and the Senate of Liberia and constitutional lawyers to discuss the procedural aspect of a peaceful turnover.¹⁹⁸⁰ Taylor wrote a letter to President George Bush on 16 June 2003 indicating that he would step down at the end of his presidential first term if it would "contribute positively to the achievement of a comprehensive and lasting peace."¹⁹⁸¹
724. Taylor also had discussions with Presidents Kufuor, Obasanjo, Mbeki, Compoare and Eyadema as to what his status would be if he departed. Obasanjo and Mbeki were empowered to take care of the matter. Taylor was assured that the African Union and

¹⁹⁷¹ Exhibit D-408, p. 13.

¹⁹⁷² Exhibit D-408, p. 13; also see Exhibit D-48, p. 1, President Obasanjo stated, on 6 July 2003: "...we thought that we worked out a program that will lead to gradual disengagement and change of government in [Liberia], not knowing that an indictment was being slapped on him by this court in Sierra Leone. That disturbed us a little a bit."

¹⁹⁷³ TT, Charles Taylor, 9 Nov 09, p. 31475.

¹⁹⁷⁴ TT, Charles Taylor, 9 Nov 09, p. 31475-6.

¹⁹⁷⁵ TT, Charles Taylor, 9 Nov 09, p. 31476.

¹⁹⁷⁶ TT, Charles Taylor, 9 Nov 09, p. 31476; 10 Nov 09, p. 31505.

¹⁹⁷⁷ TT, Charles Taylor, 10 Nov 09, p. 31506-7.

¹⁹⁷⁸ TT, Charles Taylor, 10 Nov 09, p. 31506.

¹⁹⁷⁹ TT, Moses Blah, TF1-561, 15 May 08, p. 10009-10; TT, Charles Taylor, 10 Nov 09, p. 31506.

¹⁹⁸⁰ TT, Charles Taylor, 10 Nov 09, p. 31507.

¹⁹⁸¹ Exhibit D-405, p. 1.

ECOWAS had agreed that the indictment would not be proceeded with and was in any event unacceptable.¹⁹⁸² A press conference was held on 6 July 2003, by Obasanjo and Taylor, at which Obasanjo confirmed that Taylor proposed to step aside on his own free volition and discussed the exit strategy which had been agreed. Namely, that Taylor would accept an invitation to reside in Nigeria in order to effect an orderly and peaceful transition in Liberia.¹⁹⁸³

725. An understanding had been reached between the African Union, ECOWAS,¹⁹⁸⁴ the UN, and the US and UK governments which involved an immunity-from-prosecution deal in return for Taylor stepping down. The Nigerian government was to provide protection to Taylor and ensure that he would not be handed over to the Special Court.¹⁹⁸⁵ Taylor also agreed to leave on the condition that sufficient peacekeepers were deployed in the city to prevent turmoil in Monrovia on his departure.¹⁹⁸⁶
726. Taylor further confirmed in a letter dated 6 August 2003 to the Liberian national legislature that his declaration at Accra, two months earlier, to step down would be honoured.¹⁹⁸⁷ He further stated in the letter that he had decided to turn over his presidency to the vice-president at 11:59 a.m. on 11 August 2003, precisely.¹⁹⁸⁸
727. The inauguration of Moses Blah was arranged for 11 August 2003, accordingly. There is no question that Moses Blah blatantly lied before this court by claiming that he did not know that Taylor was going into exile that day¹⁹⁸⁹ or that he would take over as president.¹⁹⁹⁰ There is wealth of evidence indicating the contrary.
728. The inauguration was a pre-planned event, which Blah had helped to organize.¹⁹⁹¹ A twelve page programme for Blah's induction into office had been printed in advance, which included scheduled events such as the firing of cannons at 6:00 in the

¹⁹⁸² TT, Charles Taylor, 10 Nov 09, p. 31508-9.

¹⁹⁸³ Exhibit D-48, p. 1-2.

¹⁹⁸⁴ Presidents Mbeki, Kufuor, Chissano, Obasanjo and Tejan Kabbah had travelled to Liberia to see the deal ironed out (Exhibit D-408, p. 13).

¹⁹⁸⁵ Exhibit D-408, p. 13 – furthermore, Presidents Kufuor, Mbeki, Chissano and Obasanjo accompanied Taylor on his trip to exile in Nigeria to provide additional assurance; further, see Exhibit D-45, p. 33, in which Moses Blah himself briefed the press that the conditions for Taylor's departure were the deployment of sufficient peacekeepers and the lifting of the indictment; US Secretary of State, Colin Powell, stated on Taylor's departure to Nigeria that the US was pleased at the peaceful and constitutional transfer of power from Taylor to Blah and of Taylor's departure (see Exhibit D-43, p. 4).

¹⁹⁸⁶ TT, Charles Taylor, 10 Nov 09, p. 31511; Exhibit D-405, p. 1.

¹⁹⁸⁷ Exhibit D-381, p. 1.

¹⁹⁸⁸ Exhibit D-381, p. 2.

¹⁹⁸⁹ TT, Moses Blah, TF1-561, 20 May 08, p. 10340.

¹⁹⁹⁰ TT, Moses Blah, TF1-561, 20 May 08, p. 10340.

¹⁹⁹¹ TT, Charles Taylor, 4 Nov 09, p. 31165-6.

morning.¹⁹⁹² The foreign heads of state who had been invited, Thabo Mbeki,¹⁹⁹³ John Kufuor, Joachim Chinssano, and Taylor and even Blah made prepared statements during the course of proceedings.¹⁹⁹⁴ The inauguration ceremony was recorded on video.¹⁹⁹⁵ Indeed, Blah had shared with the Associated Press his plans for when he assumed the presidency, a week before the inauguration.¹⁹⁹⁶

729. It is evident from the lead up to the inauguration that Taylor was planning to go to Nigeria upon stepping down. For Blah, a man who purported to know intimate details of what was occurring inside White Flower¹⁹⁹⁷ to have been oblivious to Taylor's plans, when it was reported by global news organisations,¹⁹⁹⁸ is preposterous.
730. Taylor duly left Liberia for Calabar, Nigeria after the handover, aboard a plane with four other African leaders.¹⁹⁹⁹ However, having been 'invited' by Obasanjo to go to Nigeria,²⁰⁰⁰ Taylor was surprised to receive a letter after he arrived describing his stay as political asylum, attached to which were conditions. Asylum had not been discussed with Obasanjo.²⁰⁰¹ In any event, Taylor abided by those conditions during his stay in Nigeria from 11 August 2003 until 29 March 2006. Obasanjo had given Taylor his assurances that he would not be handed over for prosecution.²⁰⁰²
731. In Calabar, the Nigerian government provided Taylor financial support and houses for Taylor, his family and delegation.²⁰⁰³ Taylor also met with Obasanjo frequently.²⁰⁰⁴ However, there was mounting international and domestic pressure for Obasanjo to hand Taylor over to the Special Court.²⁰⁰⁵ Taylor was arrested in March 2006 by Nigerian officers on the border with Chad near Maiduguri²⁰⁰⁶ when he was on a trip to

¹⁹⁹² Exhibit D-380.

¹⁹⁹³ President Thabo Mbeki had already confirmed to the press as early as 7 Aug 2003 that he would attend Taylor's handover of power (Exhibit P-118, p. 3).

¹⁹⁹⁴ Exhibit D-380, p. 7.

¹⁹⁹⁵ Exhibit D-382 A; the transcript of which is Exhibit D-382 B.

¹⁹⁹⁶ Exhibit D-42, p. 3; further, see Exhibit D-45, p. 33, a UN humanitarian situation update had stated a week before the inauguration that Blah was the expected successor.

¹⁹⁹⁷ TT, Moses Blah, TF1-561, 15 May 08, p. 10020.

¹⁹⁹⁸ Exhibit D-48, p. 1-2, at which it was confirmed that Taylor accepted Nigeria's offer of safe haven back in July 2003; for example, CNN knew of Taylor's plans to leave within 24 hours of the inauguration as early as 7 August 2003 via confirmation by President Thabo Mbeki (Exhibit P-118, p. 3); Kofi Annan knew that Taylor had promised to leave Liberia immediately after resigning (see Exhibit D-43, p. 2).

¹⁹⁹⁹ TT, Moses Blah, TF1-561, 15 May 08, p. 10033.

²⁰⁰⁰ Exhibit D-48, p. 1-2.

²⁰⁰¹ TT, Charles Taylor, 10 Nov 09, p. 31515; Obasanjo had promised that Nigeria would be good hosts to Taylor whilst he was there (see Exhibit D-43, p. 2).

²⁰⁰² TT, Charles Taylor, 10 Nov 09, p. 31517.

²⁰⁰³ TT, Charles Taylor, 28 Jan 10, p. 34391-2.

²⁰⁰⁴ TT, Charles Taylor, 10 Nov 09, p. 31518.

²⁰⁰⁵ Exhibit D-408, p. 13.

²⁰⁰⁶ Exhibit D-408, p. 15.

see his friend, Idriss Deby.²⁰⁰⁷ The suggestion that Taylor was attempting an escape is completely non-sensical. The neighbouring country of Cameroon, and the obvious route for escape, is a 30 minute drive from Calabar. Taylor had driven over 1,250 km to reach the border with Chad when he was arrested.²⁰⁰⁸

732. Bowing to pressure, Obasanjo had promised that he would only hand over Taylor if this was requested by the Liberian president, Ellen Johnson-Sirleaf, who had stated that the Taylor issue was not a priority.²⁰⁰⁹ Johnson-Sirleaf came under intense pressure to address the matter on a visit to the USA. President George Bush had publicly stated: “*We would like Taylor out.*”²⁰¹⁰ Political recognition and financial aid was dependent on Johnson-Sirleaf’s backing for Taylor’s arrest, which led to her proclaiming that “*the fate of one Liberian should not hold a nation of three million hostage*”.²⁰¹¹ She then reluctantly made the request for Taylor’s hand over to Obasanjo.²⁰¹² It was whilst Obasanjo was on a trip to Washington that Nigerian officers arrested Taylor and, on 29 March 2006, Taylor was handed over to the Special Court.²⁰¹³

²⁰⁰⁷ TT, Charles Taylor, 10 Nov 09, p. 31520.

²⁰⁰⁸ Exhibit D-408, p. 15.

²⁰⁰⁹ Exhibit D-408, p. 14.

²⁰¹⁰ Exhibit P-118, p. 2.

²⁰¹¹ Exhibit D-408, p. 14.

²⁰¹² Exhibit D-407, p. 1.

²⁰¹³ Exhibit D-410, p. 3.

MODES OF LIABILITY: EVIDENTIARY ANALYSIS

JCE: Evidentiary Analysis

733. In spite of the constant shift, the poor and imprecise pleading of JCE in the Indictment, whether the Accused is responsible for the alleged crimes under this mode of liability will ultimately turn on the facts of this case. The evidence, carefully considered as a whole, must be capable of establishing beyond all reasonable doubt; first, the conception of a JCE that had as its common purpose, “a campaign to terrorise the civilian population of the Republic of Sierra Leone.” Secondly, as terrorism is a ‘specific intent’ crime, the evidence must establish specific intent, on the part of the Accused, to engage in a campaign of terror against the people of Sierra Leone. In this regards, it will not suffice that terror was a reasonable foreseeable consequence of any alleged campaign. Thirdly, and following from the foregoing, to the extent that the underlying alleged acts of terror also constitute other crimes charged in the Indictment, the evidence must also establish that terror was indeed the primary purpose behind those acts. Fourth, the evidence must establish *a campaign* of terror. In this regard, to the extent that the Prosecution alleges *a continuous JCE*, the evidence must establish a sustained campaign of terror throughout the Indictment period. It will not suffice to refer to isolated acts of terror. At the same time, the evidence must also establish, *inter alios*, the Accused’s participation in the JCE throughout the Indictment period.
734. The Defence submits that the evidence before the Trial Chamber, considered closely and as whole, including all the surrounding circumstances, fails to establish a JCE, as charged, or at all. The Defence submits that through the legally-created and easily malleable device of JCE, the Prosecution conveniently seeks to make Charles Taylor criminally responsible for acts that he had nothing to do with and was not even aware of. The Prosecution’s evidence fails on its own merit, and when considered against the Defence case. Alternatively, the Defence submits that if there was any common plan between Taylor and Sankoh, the plan was certainly not criminal and did not involve a campaign of terror against the people of Sierra Leone. Between 1991 and 1992, Charles Taylor and Foday Sankoh only entered into some loose military alliance to ward off military threats posed by ULIMO against both parties. This alliance was however purely military and was not underlined by any criminal intent.

This was an act of mutual self defence. Particularly, the alliance did not design any campaign of terror against the people of Sierra Leone or the pillaging of country's diamond resources.

735. Alternatively, should the Trial Chamber find that a JCE existed between Taylor and Sankoh as alleged, it is submitted that that JCE would have ended in 1992 after the so-called Top Final. If not at that point, the JCE would in any event have ended when the AFRC Junta came to power in May 1997.

Allegation of the formation of JCE in Libya

736. Regarding the conception of the alleged JCE, the Prosecution alleges a common plan being made in Libya by Charles Taylor and Foday Sankoh. According to the Prosecution's Case Summary, "[w]hile in Libya the Accused met Foday Saybana Sankoh [and] [t]he two made common cause to assist each other in taking power in their respective countries".²⁰¹⁴ Similarly, in the Opening Statement, the Prosecutor alleged that:

[the common plan] really [began]... in 1988 or 1989, with the military training in North Africa of Charles Taylor and Foday Sankoh and other people who later became leaders of the RUF and NPFL. A plan was there formulated by the accused and others to take over political and physical control of Sierra Leone in order to exploit its abundant natural resources and to establish a friendly or subordinate government there to permit – to facilitate this exploitation.²⁰¹⁵

737. This is a strange accusation for an international criminal prosecutor to make since the taking of political power is not a crime under international law, still less a war crime. The allegation of unscrupulous power-seeking may have some rhetorical value, but is obviously not a crime. This accusation, the Defence submits, lifts the veil and reveals that this trial is inherently political; hence the form of the Indictment and the wider import of the accusation, and this fact makes the whole idea of a fair trial impossible *ab initio*. For while the Prosecution was making these allegations in judicial proceedings; outside court, consistent with its policy of shifting the goal posts, the Prosecution peddled yet another theory regarding the conception of a JCE involving the Accused. In an address to Congress, the then Prosecutor David Crane, ostensibly on the information of "close sources who acted as lead witnesses," alleged a wider

²⁰¹⁴ Case Summary, para. 1.

²⁰¹⁵ Prosecution Opening Statement, p. 282.

JCE involving Taylor and Sankoh alongside Gaddafi and Compaore.²⁰¹⁶ According to this theory, the “secret plan” was to “undermine the current governments within West Africa and then replace them with surrogates, such as Taylor, who were beholden to [Gaddafi].”²⁰¹⁷ This theory presented yet another dimension to the alleged JCE conceived in Libya.

738. With the Prosecution constantly shifting its theories on JCE, it thus took the Trial Chamber and on appeal, the Appeals Chamber to define what the common purpose of the alleged JCE really was. As argued above, this clarification came too late as it was made after the close of the Prosecution’s case; thus denying the Accused his statutory right to know beforehand the case he had to answer. What is however quite clear from the Prosecution’s fumbling back and forth on the question of a joint criminal enterprise is that, right from the beginning, the Prosecution was never sure of its case against the Accused. The entire notion of a JCE involving Taylor was and has always been a fishing expedition. Small wonder when it came to the presentation of evidence, the Prosecution could not adduce any credible evidence on the formulation of the JCE it alleges between Taylor and Foday Sankoh. Particularly, the Prosecution failed to lead any direct evidence to prove its own allegation of the formation of a JCE between Charles Taylor and Foday Sankoh in Libya, whose common purpose was a “campaign to terrorise the civilian population of the Republic of Sierra Leone.” The Prosecution could not even overcome the first hurdle of simply establishing the conception of just a plan, any plan between Taylor and Sankoh in Libya. Nor could it produce any evidence upon which the conception of such a plan could be inferred.
739. Of 94 witnesses the Prosecution called in this case, only the evidence of 4 or so witnesses remotely related to Libya and the formulation of the alleged JCE. This in itself is surprising given the prominence and centrality of the allegation of a JCE to the Prosecution’s case. As if that were not enough, what the Prosecution’s evidence lacks in quantity, it does not make up for it in quality. Of the four Prosecution witnesses of fact, the only evidence the Prosecution could scrape together on the alleged JCE was from TF1-548, some underling in the Gambian group. TF1-548 testified that while he was in the company of his leader, Dr. Manneh, he saw Taylor at the Mahtaba on two separate occasions, and Foday Sankoh (whom he was told was

²⁰¹⁶ Exhibit D-404, p. 79, fn. 11. Here, there is no mention of Dr Manneh.

²⁰¹⁷ Exhibit D-404, p. 79, fn. 11.

the acting leader of the Sierra Leonean group) once.²⁰¹⁸ This evidence however does not suggest any sort of engagement between Taylor and Sankoh on those occasions, nor does it suggest, if only hearsay, a common plan between Taylor and Sankoh. The only information, the witness says he got from his leader, Dr. Manneh (whom the witness led the court to believe had him (the witness), in his confidence), was that Foday Sankoh was only the acting leader of the Sierra Leoneans, and the actual leader was Ali Kabbah.²⁰¹⁹ Furthermore, that Taylor was the leader of the Liberians, and was looking for support for weapons.²⁰²⁰

740. Likewise TF1-371's hearsay evidence went no further than [REDACTED]

[REDACTED], although Taylor was not in Libya most of the time.²⁰²¹ TF1-532's on the other hand would allege that he also heard from Foday Sankoh that Taylor and Sankoh met in Ghana where Sankoh was in detention. Taylor, the witness alleges he heard, had fought hard for Sankoh's release and from Ghana they had all gone to Libya for training.²⁰²² TF1-561- Moses Blah, the only Prosecution witness of fact, who by virtue of his position within Taylor's group in Libya and subsequently, would have been expected to shed more light on the alleged JCE could not assist the Prosecution's hopeless case either. Moses Blah, by his own account, it will be recalled, was the Adjutant General and deputy commander of the Liberian group in Libya. In that capacity, he was in charge of training and would report directly to Taylor.²⁰²³ He had Taylor's confidence and enjoyed a good working relationship with him.²⁰²⁴ Taylor at that time was married to Moses Blah's first cousin Tupee.²⁰²⁵ Later in Liberia, Blah was appointed Inspector General,²⁰²⁶ which placed him in charge of monitoring discipline within the entire NFPL.²⁰²⁷ During Taylor's government, he was appointed the Liberian Ambassador to Libya and Tunisia,²⁰²⁸ and later become the Vice President.²⁰²⁹ Yet, despite his position, Moses Blah could not speak to any

²⁰¹⁸ TT, Suwandi Camara, TF1-548, 7 Feb 08, p. 3428-32; 8 Feb 08, p. 3437-8.

²⁰¹⁹ TT, Suwandi Camara, TF1-548, 7 Feb 08, p. 3431.

²⁰²⁰ TT, Suwandi Camara, TF1-548, 8 Feb 08, p. 3439.

²⁰²¹ TT, TF1-371, 25 Jan 08, p. 2212.

²⁰²² TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5668.

²⁰²³ TT, Moses Blah, TF1-561, 14 May 08, p. 9806-7; also see p. 9897 and p. 9808.

²⁰²⁴ TT, Moses Blah, TF1-561, 14 May 08, p. 9808-9.

²⁰²⁵ TT, Moses Blah, TF1-561, 14 May 08, p. 9809; Charles Taylor, 3 Nov 09, p. 30992.

²⁰²⁶ TT, Moses Blah, TF1-561, 14 May 08, p. 9820.

²⁰²⁷ TT, Moses Blah, TF1-561, 14 May 08, p. 9834 and p. 9849.

²⁰²⁸ TT, Moses Blah, TF1-561, 14 May 08, p. 9878.

²⁰²⁹ TT, Moses Blah, TF1-561, 14 May 08, p. 9883.

JCE being formulated between Taylor and Sankoh in Libya or anywhere else. Blah would not allege any mutual arrangement between the Sierra Leoneans and the Liberians in Libya; even when the then Prosecutor, Stephen Rapp, pressed him. So desperate was the Prosecutor that – verging on crossing examining his own witness – he pressed Blah in his evidence in chief: “*Did you individuals talk about doing anything together in the future?*”; Blah emphatically responded: “*No, we didn’t discuss that. We didn’t discuss that.*”²⁰³⁰

741. Quite to the contrary, Moses Blah’s overall evidence debunks all suggestions of a JCE involving Taylor and Sankoh being formulated in Libya. According to Blah, while in Libya, Foday Sankoh commanded a very small group of men numbering between 10 and 15, and as a result was not taken seriously among the trainees.²⁰³¹ Even Blah himself did not take Sankoh seriously. Sankoh, he said, would even make tea for him (Blah) on account of his (Blah’s) senior position as Adjutant,²⁰³² even if in a different group. With respect to Taylor’s interaction with Sankoh, according to Blah, *heads* of the Sierra Leonean group only used to pay *courtesy calls* on Taylor when he visited the training camp. They, including Sankoh, would address Taylor as “chief”. This, Blah testified, was however not peculiar to the Sierra Leonean group. Other nationalities also called Taylor “chief”. Everyone called Taylor chief because he commanded the largest group and was considered a serious revolutionary leader.²⁰³³
742. On Blah’s evidence alone, simply taken at face value, the suggestion that Taylor would have made a grand scheme involving the invasion of Liberia and Sierra Leone with Foday Sankoh, a non-entity who commanded a mere 10 to 15 men and was considered a joke even by Taylor’s own subordinates, would only make sense to this Prosecution. The suggestion is otherwise preposterous by any other measure. As the witness categorically stated in response to the Prosecutor’s calculated and specific question; the Liberians and the Sierra Leoneans never talked “about doing anything together in the future” while they were in Libya.

²⁰³⁰ TT, Moses Blah, TF1-561, 14 May 08, p. 9813.

²⁰³¹ TT, Moses Blah, TF1-561, 14 May 08, p.9812.

²⁰³² TT, Moses Blah, TF1-561, 14 May 08, p. 9808-9; also see evidence of TF1-168 at p. 23587 where he confirms that [REDACTED]

²⁰³³ TT, Moses Blah, TF1-561, 14 May 08, p. 9814-5.

743. The only other evidence the Prosecution could scrape from the bottom of the barrel – all be it worthless – was that of Stephen Ellis, who could only opine that Taylor and Foday Sankoh must have known /knew each other from Libya.²⁰³⁴ This opinion, even taken at face value, however does not establish the conception of a JCE between Taylor and Sankoh in Libya as alleged, or at all. Secondly, Stephen Ellis was called by the Prosecution as an expert witness. His evidence is therefore an opinion of fact, *a fortiori*, one that is critical to establishing an integral component (JCE) of the Prosecution's case in this matter. Findings of fact are the sole prerogative of the Trial Chamber. Stephen Ellis' expert opinion on this issue is therefore inadmissible as it usurps the judicial functions of the court.
744. The Prosecution's evidence therefore fails to establish the formation of a JCE by Taylor and Sankoh in Libya as alleged, or at all. From the Prosecution's evidence on Libya, there is neither direct nor circumstantial evidence that could establish the conception of a JCE as alleged or at all. The Defence submits that this lack of evidence is quite telling. It underlines the Defence's contention that the allegation of a JCE was indeed a fishing expedition. How convenient that the fluid notion of JCE would provide wide enough a net!
745. The paucity of the Prosecution's thesis of the conception of a JCE in Libya becomes even more apparent when considered against Defence evidence, in particular the collective evidence of Charles Taylor, DCT-125, DCT-179, DCT-226, and DCT-131 on what transpired in Libya, which was largely unchallenged in cross-examination. The Defence submits that contrary to the allegations by the Prosecution, a number of factors make the alleged relationship between Taylor and Sankoh in Libya fanciful. Firstly, there was the geographical distance between them. Taylor was based in Burkina Faso and visited Libya only on a few occasions²⁰³⁵ and when he did, he did not stay in the training camp. He stayed at the Mataba.²⁰³⁶ There was a rule that those staying at the Mataba were not usually permitted access to the training camp.²⁰³⁷ Indeed, even according to TF1-548, who claimed that he used to visit the Mataba, access by non-members was restricted to the reception area, which is where he alleges

²⁰³⁴ TT, Stephen Ellis, p. 1430. Though he gave no evidence in support of this supposition.

²⁰³⁵ TT, Moses Blah, TF1-561, 14 May 08, p. 9805; Taylor, 15 July, p. 24588; DCT-125, 4 Mar 10, p. 36691-2.

²⁰³⁶ TT, Charles Taylor, 15 July 09, p. 24565-8.

²⁰³⁷ TT, DCT-125, 4 Mar 10, p. 36679-84.

he saw Sankoh.²⁰³⁸ One had to be signed in by a member to have access to the private residence area.²⁰³⁹ Sankoh, on the other hand, stayed at the training camp.²⁰⁴⁰

746. Secondly, on account of the hierarchical distance between them. While Taylor was the leader of his group, Sankoh was not. The leader of the Sierra Leonean groups was Ali Kabbah.²⁰⁴¹ As leader, Taylor had the opportunity to interact with the other leaders at the Mataba,²⁰⁴² including Ali Kabbah.²⁰⁴³ Sankoh on the other hand had no access to the Mataba.²⁰⁴⁴ Furthermore, Taylor did not and could not interact with trainees of the other groups, such as Sankoh.²⁰⁴⁵ Taylor did not even know Sankoh while in Libya.²⁰⁴⁶ Again, save for the latter point, all this evidence was also largely uncontested and again there is no reason for the Trial Chamber not to accept it.
747. The contacts Taylor made in Libya outside his Liberian group were with the other leaders at the Mataba, especially Ali Kabbah and Dr Manneh,²⁰⁴⁷ with whom he became good friends.²⁰⁴⁸ Even then, Taylor did not come to any agreement with Dr. Manneh and Ali Kabbah to help each other in their respective revolutions.²⁰⁴⁹ As argued above, the evidence of Moses Blah lends support to this contention. Even, *arguendo*, replacing Ali Kabbah with Foday Sankoh, Blah's evidence clearly illustrates the unfounded suggestion that Taylor and Sankoh could have made common cause to assist each other while in Libya. Most importantly, Blah's evidence repudiates any plan to assist each other in the future.
748. The notion that Taylor and Sankoh while in Libya would have entered into a JCE whose common purpose was a campaign of terror against the people of Sierra Leone or for any other reason for that matter, becomes even more ludicrous when considered against historical events that separately brought both men to Libya. As the Prosecution rightly acknowledges, any JCE could not be understood without an examination of the history of the region, which lies behind the outbreak of the wars in

²⁰³⁸ TT, Suwandi Camara, TF1-548, 12 Feb 08, p. 3629-32.

²⁰³⁹ TT, Suwandi Camara, TF1-548, 12 Feb 08, p. 3629-32.

²⁰⁴⁰ TT, Moses Blah, TF1-561, 14 May 08, p. 9812 – and defence witnesses

²⁰⁴¹ TT, Charles Taylor, 15 July 09, p. 24568. Among others DCT-125, 4 Mar 10, p. 36697-8. Also see Exhibit D-411 A, p. 41

²⁰⁴² TT, DCT-125, 9 Mar 10, p. 36770-1.

²⁰⁴³ TT, Charles Taylor, 15 July 09, p. 24564, p. 24568.

²⁰⁴⁴ TT, DCT-125, 4 Mar 10, p. 36771-2.

²⁰⁴⁵ TT, DCT-125, 4 Mar 10, p. 36679-84.

²⁰⁴⁶ TT, Charles Taylor, 15 July 09, p. 24568.

²⁰⁴⁷ TT, Charles Taylor 15 July, p. 24564.

²⁰⁴⁸ TT, Charles Taylor, 20 July 09, p. 24725.

²⁰⁴⁹ TT, Charles Taylor, 15 July 09, p. 24572-3; DCT-125, 4 Mar 10, p. 36696-7.

Liberia and Sierra Leone.²⁰⁵⁰ That analysis only further illustrates the folly of the Prosecution's JCE terror thesis.

749. As set out in the Factual Narrative section of this Final Brief, the history of the respective conflicts in Liberia and Sierra Leone is not so much in dispute. With respect to Liberia, the revolution that was spearheaded by Charles Taylor had its origins in the authoritarian rule of Samuel Doe and his persecution of predominantly the Gio and Mano ethnic groups.²⁰⁵¹ There is sufficient evidence, which was largely uncontested, of: the Samuel Doe government's persecution of the Gio and Mano people following the failed coup;²⁰⁵² how the Gios and Manos fled in droves into exile in Ivory Coast;²⁰⁵³ how the exiled Gios agitated for war to unseat Doe;²⁰⁵⁴ how some of them were subsequently recruited and taken to Libya for training, later to come back and start the revolution in Liberia in 1989.²⁰⁵⁵
750. The war in Sierra Leone similarly had its roots in popular discontent.²⁰⁵⁶ There is also enough uncontested evidence on how the people of Sierra Leone were disenchanted by the political and economic decadence of the Joseph Momoh regime and especially its gravitation towards a one party state, and how this resulted in some Sierra Leoneans leaving the country for military training with a view to toppling the government.²⁰⁵⁷ Thus, just as with the Liberia situation, Sierra Leone needed no external intervention to ignite a revolution. The question was how soon rather than whether a revolution would occur.
751. At the time these anti government sentiments were simmering both in Liberia and Sierra Leone respectively, Libya was the cradle of revolutionary ideology.²⁰⁵⁸ Among others, Libya championed pan-African activities²⁰⁵⁹ and sponsored the Mataba (or Mataba Alimi) as an agent against neo-colonialism.²⁰⁶⁰ The Mataba was a platform for the interaction of various revolutionary groups from around the world, each with

²⁰⁵⁰ Prosecution Opening Statement, p. 282.

²⁰⁵¹ TT, Moses Blah, TF1-561, 14 May 08, p. 9795-6.

²⁰⁵² TT, Moses Blah, TF1-561, 14 May 08, p. 9795-6; Exhibit D-301, p. 131; Exhibit D-118, p. 11.

²⁰⁵³ TT, Moses Blah, TF1-561, 14 May 08, p. 9797; Exhibit D-49, para. 9.

²⁰⁵⁴ TT, Moses Blah, TF1-561, 14 May 08, p. 9798.

²⁰⁵⁵ TT, Moses Blah, TF1-561, 14 May 08, p. 9798-802; Exhibit D-49, para. 9.

²⁰⁵⁶ TT, TF1-168, p. 23388; TF1-371, p. 2545 et seq; see exhibit D-336, specifically the section titled "What Are We Fighting For?"

²⁰⁵⁷ TT, Isaac Mongor, TF1-532, p. 5667 and p. 6324-5; see exhibit D-336, specifically the section titled "Why the Armed Struggle?"

²⁰⁵⁸ TT, TF1-168, p. 23393-4.

²⁰⁵⁹ TT, Charles Taylor, 15 July 09, p. 24539-40.

²⁰⁶⁰ TT, Charles Taylor, 15 July 09, p. 24558-63; DCT-125, 4 Mar 10, p. 36669-73.

its own independent ideology and background.²⁰⁶¹ These included, for instance, a delegation of Kurds,²⁰⁶² the Namibian SWAPO,²⁰⁶³ the Irish Republican Army,²⁰⁶⁴ the African American Society,²⁰⁶⁵ as well as other members such as Zindzi Mandela, Nelson Mandela's daughter and representative, Abdoulaye Wade, later president of Senegal and Yoweri Museveni, later president of Uganda.²⁰⁶⁶ Libya therefore provided ready haven for the Liberian and Sierra Leonean dissidents.

752. Thus, when the Liberian group and the Sierra Leonean group met in Libya at Tajura, each was pursuing its own cause, even if similar. In fact, by the time both Taylor and Sankoh separately went to Libya, the seeds of revolution in their respective countries had already been sown. There had already been coup attempts in both countries. In Liberia there was an attempted coup in 1985,²⁰⁶⁷ while in Sierra Leone there was general unrest in the 1970s, which resulted in several treason trials and the 1977 student demonstrations.²⁰⁶⁸ Against this background, the allegations that Taylor and Sankoh were blood thirsty war-mongers who – depending on which of the many Prosecution theories one takes – were either driven by greed,²⁰⁶⁹ or malice,²⁰⁷⁰ has no basis on the evidence or in history. Quite to the contrary, the success of the war in Sierra Leone or in Liberia largely depended on the support of the people. Nothing could be gained by out rightly setting out on a campaign of terror. In fact, according to Moses Blah, the ideological training at Mataba exhorted revolutionaries to win over the masses if they were to be successful.²⁰⁷¹ Indeed, when the war started in Liberia, the NPFL enjoyed popular support in Nimba.²⁰⁷²
753. Similarly, with respect to the Sierra Leonean war, according to the evidence of TF1-168, it was the RUF ideology that the success of the revolution depended on the

²⁰⁶¹ TT, DCT-125, 4 Mar 10, p. 36689-92.

²⁰⁶² TT, DCT-125, 4 Mar 10, p. 36726-7.

²⁰⁶³ TT, Jose Caballero, TF1-326, 18 Jan 08, p. 1533; TT, DCT-125, 4 Mar 10, p. 36679-80. In his testimony Charles Taylor referred to the presence of the SWAPO TT, Charles Taylor, 15 Jul 2009, pp. 24539-40, 24560; TT, Charles Taylor, 27 Oct 2009, p. 30390; TT, Charles Taylor, 18 Nov 2009, p. 32073, 32077.

²⁰⁶⁴ TT, Jose Caballero, TF1-326, 18 Jan 08, p. 1533; DCT-125, 4 Mar 10, p. 36679-80; Charles Taylor, 15 Jul 2009, p. 24562.

²⁰⁶⁵ TT, DCT-125, 4 Mar 10, p. 36750-2.

²⁰⁶⁶ TT, DCT-125, 9 Mar 10, p. 36833-35.

²⁰⁶⁷ TT, Edward Mineh, DCT-131, 28 Apr 2010, p.40272; Edward Zaymay, DCT-226, 26 May 2010, p.40550 *et seq.*

²⁰⁶⁸ TT, DCT-068, 11 Mar 2010, 37028 *et seq.*

²⁰⁶⁹ THE ALLEGATION OF PILLAGE/MINERAL RESOURCES

²⁰⁷⁰ THE ALLEGATION OF TERROR AS THE COMMON PURPOSE

²⁰⁷¹ TT, Moses Blah, TF1-561, 21 May 08, p.10163.

²⁰⁷² TT, Moses Blah, TF1-561, 21 May 08, p. 10154.

support and good will of the civilian population. Therefore that the RUF had to win the support of the people. Furthermore, [REDACTED], part of the ideological training at Camp Naama involved training on the Geneva Conventions.²⁰⁷³

754. Against this historical background, the Defence submits that the Prosecution's allegations that while in Libya, Taylor and Sankoh entered into a JCE that involved a campaign of terror against the civilian population of the Republic of Sierra Leone, is merely a fanciful distortion of history. Such fancy has no place in a court of law. The Prosecution should be able to back up its allegations with evidence beyond all reasonable doubt. The Prosecution fails dismally to establish the conception of the alleged JCE, or at all.
755. The evidence, it is further submitted, also fails to establish a joint criminal enterprise involving the taking over of political and physical control of Sierra Leone in order to exploit its abundant natural resources and to establish a friendly or subordinate government there to permit or facilitate this exploitation. Specifically, the Defence submits that diamonds did not cause the war in Sierra Leone. What diamonds did was to underwrite that war almost midway into the conflict. So contrary to this suggestion, as indicated above, the war in Sierra Leone had its direct roots in the genuine socio-economic and political grievances of an oppressed and impoverished people. To reduce those hopes and aspiration to simple greed is insulting.
756. For all the foregoing reasons, the Defence submits that Prosecution evidence going to a JCE has failed at the first hurdle. The evidence fails to establish the conception of any plan, let alone, a plan involving the commission of a crime charged in the Indictment. Specifically, the evidence fails to support the Prosecution's allegation of the conception in Libya of a JCE between Taylor and Sankoh that had as its common plan a campaign of terror against the people of Sierra Leone. This thus renders the mode of liability of JCE in this case *void ab initio*. The Defence submits that while the conception of a JCE could be inferred, there is nothing in the evidence presented by the Prosecution on the events in Libya from which such an inference. Furthermore, the Defence submits that the Trial Chamber cannot draw inferences of the alleged JCE solely from subsequent events unconnected to evidence on the record of the events in Libya. That would be revisionist and dishonest. Furthermore and in the alternative, the Defence submits that there is nothing in the evidence led by the

²⁰⁷³ TT, [REDACTED].

Prosecution of subsequent events upon which it could be inferred, beyond all reasonable doubt, that the Charles Taylor and Foday Sankoh, at any point, entered into a mutual plan that involved the commission of any crime charged in the Indictment, and in particular a campaign to terrorise the people of Sierra Leone.

JCE – Burkina Faso and Ivory Coast

757. If the Prosecution's evidence of the events in Libya did not establish the conception of any plan, let alone a JCE involving terror, the Prosecution's evidence in Burkina Faso, Guinea or Ivory Coast, where the Liberians went to after Libya, does not either. The Prosecution's evidence on events in Burkina Faso, while coming close to showing the conception of a plan involving the Accused however falls short in that it does not establish that the plan involved the commission of any crime charged in the Indictment, let alone, a campaign of terror. This Prosecution case in this regard was largely through the hearsay and accomplice evidence of TF1-548 who testified that he heard from his leader Dr. Manneh that when Taylor, Sankoh and Dr. Manneh left Libya with their respective groups, they went to Burkina Faso.²⁰⁷⁴ In Ouagadougou, Burkina Faso, Taylor, Dr. Manneh and Sankoh held a meeting at which Dr. Manneh and Sankoh pledged to help Taylor in his war in Liberia on the understanding that if he succeeded, he would also help them in their respective wars;²⁰⁷⁵ and that as a result Dr. Manneh gave Taylor some of his men and the rest joined him later.²⁰⁷⁶ TF1-371 also led hearsay evidence to the effect that from Libya, Foday Sankoh and some of his men came along with the Liberians to Burkina Faso where there was also some training.²⁰⁷⁷
758. This evidence even taken at face value however still does not establish a joint *criminal* enterprise. Most importantly, it does not establish a JCE involving terror. Nor does it establish a JCE to pillage the mineral resources of Sierra Leone. Indeed the idea that of the three alleged principals, Sankoh would have been the only one who would have agreed to let his country be the theatre of terror or pillage beggars belief. If anything, the evidence only acknowledges the quest by the three individuals to wage war in their respective countries in order to take over political control and their commitment to revolutionary solidarity in that quest. Internal revolutions or

²⁰⁷⁴ TT, Suwandi Camara, TF1-548, 7 Feb 08, p. 3432.

²⁰⁷⁵ TT, Suwandi Camara, TF1-548, 8 Feb 08, p. 3446-7.

²⁰⁷⁶ TT, Suwandi Camara, TF1-548, 8 Feb 08, p. 3451-3.

²⁰⁷⁷ TT, TF1-371, 24 Jan 08, p. 2212.

insurgencies *per se* are not criminal in international law. Similarly, mutual solidarity, or even military assistance, by revolutionary groups in their respective wars, is *per se* not criminal in international law. The Prosecution's evidence therefore, even on its own merits, again fails to establish the conception of a JCE in Burkina Faso. Nor could a JCE be reasonable inferred from the little and poor evidence led by the Prosecution on this issue.

759. Likewise, there is no evidence of the conception or subsistence of a JCE in Ivory Coast. At the beginning of 1989, the NPFL moved from Burkina Faso to Ivory Coast and remained there until the invasion of Liberia in December 1989.²⁰⁷⁸ Taylor was based in Ivory Coast during the initial stages of the Liberian war.²⁰⁷⁹ There is no evidence of Sankoh's presence in Ivory Coast at this time. Neither is there any evidence of Foday Sankoh during the initial invasion of Liberia. Sankoh only emerges later in the evidence when it is alleged that he was a member of the NPFL and was involved in combat. According to Moses Blah, when the Liberians left Libya, they left the Sierra Leoneans at Tajura.²⁰⁸⁰ At the time of departure, Taylor cautioned Blah not to discuss their departure or their destination with any other groups as this was supposed to be a secret between the two of them.²⁰⁸¹ By his own evidence, the first time Blah met up with Sankoh after Libya was sometime in 1991 in Gbarnga. By that time Sankoh had already started his war in Sierra Leone. On that occasion, he had come from Sierra Leone to see Taylor. Sankoh, Blah says, reminded him that he was now a rebel commander and no longer a small boy.²⁰⁸²
760. It is quite remarkable that despite the Prosecution's allegation that Sankoh agreed to assist Taylor in his revolution so that Taylor would in turn assist him in his, the Prosecution still could not lead any credible evidence of any substantial contribution by Sankoh to the Liberian revolution. The most the Prosecution could do was in the nature of bald and unsubstantiated allegations such as Sankoh acting as a military adviser to Taylor and fought with Taylor in Liberia;²⁰⁸³ or that Sankoh, Rashid Mansaray and Mohamed Tarawalley were part of the NPFL,²⁰⁸⁴ even though there is no evidence that they played any role in the invasion of Liberia in 1989.

²⁰⁷⁸ TT, Moses Blah, TF1-561, 19 May 08, p. 10150-3.

²⁰⁷⁹ TT, Moses Blah, TF1-561, 20 May 08, p. 10360-1.

²⁰⁸⁰ TT, Moses Blah, TF1-561, 19 May 08, p. 10146.

²⁰⁸¹ TT, Moses Blah, TF1-561, 14 May 08, p. 9815.

²⁰⁸² TT, Moses Blah, TF1-561, 14 May 08, p. 9861.

²⁰⁸³ TT, TF1-371, 24 Jan 08, p. 2200. See also P-54 and P-55.

²⁰⁸⁴ TT, TF1-168, 21 Jan 09, p. 23135-8.

761. Besides the obvious weaknesses in the Prosecution's evidence, the allegation of a JCE subsisting from Libya as alleged, or at all, would also crumble in the face of the Defence evidence on this issue. It is the Defence's case that the Liberians left Libya in the second quarter²⁰⁸⁵ and in the middle of 1989²⁰⁸⁶ moved from Libya to Burkina Faso.²⁰⁸⁷ At this time, there was no contact with the Sierra Leonean group or Sankoh; only with Dr Manneh.²⁰⁸⁸ When the Liberians left Burkina Faso in about October 1989,²⁰⁸⁹ they left without the support of any other group.²⁰⁹⁰ In preparation for the invasion into Liberia, the group in Burkina Faso divided into three main groups. Some moved to Ivory Coast, others to Guinea, and some infiltrated Liberia.²⁰⁹¹ The invasion itself took place on 24 December 1989.²⁰⁹²
762. At the time of the invasion, the Gambians remained in Burkina Faso.²⁰⁹³ The location of the Sierra Leoneans was unknown both to the NPFL²⁰⁹⁴ and to the Gambians.²⁰⁹⁵ The Gambians under Dr. Manneh, known as SOFA, arrived in Libya following their failed popular uprising in The Gambia. Dr. Manneh arrived in Libya in 1983, though he would travel back and forth over the years.²⁰⁹⁶ The Gambians began training at Camp second March in 1986²⁰⁹⁷ and at Camp Tajura in 1987.²⁰⁹⁸ Dr. Manneh left Libya for Burkina Faso in 1987.²⁰⁹⁹ The Gambians left Camp Tajura in 1989,²¹⁰⁰ before the Liberians.²¹⁰¹ This evidence was not challenged and there is no reason why the Trial Chamber should not accept it.
763. Although Taylor and Dr. Manneh knew each other from the Mataba,²¹⁰² and also met in Burkina Faso,²¹⁰³ the Gambians did not take part in the invasion of Liberia.²¹⁰⁴ Dr.

²⁰⁸⁵ TT, Charles Taylor, 16 Jul 09, pp. 24593-94, 24602.

²⁰⁸⁶ TT, Charles Taylor, 15 July 09, p. 24569-71; Yanks Smythe, DCT-179, 22 Feb 10, p. 35596-8 (1989).

²⁰⁸⁷ TT, Charles Taylor, 16 July 09, p. 24593. TF1-561 states the NPFL stayed in Burkina Faso for nearly a year: Moses Blah, TF1-561, 14 May 08, p. 9817.

²⁰⁸⁸ TT, Charles Taylor, 16 Jul 09, p. 24595-6; DCT-125, 9 Mar 10, p. 36812.

²⁰⁸⁹ TT, Charles Taylor, 16 Jul 09, p. 24602.

²⁰⁹⁰ TT, Charles Taylor, 16 Jul 09, p. 24631.

²⁰⁹¹ TT, Charles Taylor, 16 Jul 09, p. 24602-7.

²⁰⁹² TT, Moses Blah, TF1-561, 19 May 08, p. 10153; Edward Zaymay, DCT-226, 7 May 10, p. 40674; Taylor confirmed that the revolution commenced on Christmas Eve in 1989. Charles Taylor, 15 Jul 09, p. 24528.

²⁰⁹³ TT, Charles Taylor, 16 Jul 09, p. 24631; Yanks Smythe, DCT-179, 22 Feb 10, p. 35622-3; DCT-125, 9 Mar 10, p. 36774-5.

²⁰⁹⁴ TT, Charles Taylor, 16 Jul 09, p. 24631.

²⁰⁹⁵ TT, Yanks Smythe, DCT-179, 22 Feb 10, p. 25620-4.

²⁰⁹⁶ TT, DCT-125, 9 Mar 10, p. 36769-73.

²⁰⁹⁷ TT, Yanks Smythe, DCT-179, 22 Feb 10, p. 35565-70.

²⁰⁹⁸ TT, Yanks Smythe, DCT-179, 22 Feb 10, p. 35570-7.

²⁰⁹⁹ TT, DCT-125, 4 Mar 10, p. 36693-4.

²¹⁰⁰ TT, Yanks Smythe, DCT-179, 22 Feb 10, p. 35596-8.

²¹⁰¹ TT, Yanks Smythe, DCT-179, 22 Feb 10, p. 35610.

²¹⁰² TT, Charles Taylor 15 Jul 09, p. 24564.

Manneh and his group were in Burkina Faso at the outbreak of the Liberian war.²¹⁰⁵ Manneh did not even know that the invasion was about to happen.²¹⁰⁶ It was only after the invasion that he offered Taylor support in the form of Gambian bodyguards.²¹⁰⁷ Taylor was initially hesitant but eventually accepted and about 20 men joined him.²¹⁰⁸ Dr. Manneh only moved to Liberia later, in 1991.²¹⁰⁹ His first visit to Liberia was however about two or three weeks after the start of the revolution.²¹¹⁰ In Liberia, Manneh was not involved in the military activities.²¹¹¹ His expertise was in mass mobilisation and he worked with displaced people, NGOs and foreign governments.²¹¹² Dr. Manneh first met Sankoh in Liberia at Gbarnga.²¹¹³ Even then, he never had any serious discussions with Sankoh.²¹¹⁴

764. With respect to the Sierra Leoneans, their group was not called the RUF in Libya. The group was known as the Sierra Leonean Pan-African Revolutionary Movement.²¹¹⁵ The Sierra Leoneans were at Camp Tajura from about 1987-1989,²¹¹⁶ and left Libya some time before the Liberians.²¹¹⁷ This may have been in late 1988.²¹¹⁸ It is not too clear why the group left early. One possible reason is that Libyans might have forced them to leave after Ali Kabbah's disappearance with recruitment donations.²¹¹⁹ Not much is known of the Sierra Leoneans until the uncontested presence of Foday Sankoh, Rashid Mansaray and Mohammed Tarawalley at Camp Naama after the NPFL invasion of Liberia. Neither Defence witnesses nor Prosecution witness TF1-561 could say what happened of the Sierra Leonean group from the time it left Libya until only a few of them surfaced in Liberia, albeit, unbeknown to the Accused.

²¹⁰³ TT, Charles Taylor, 16 Jul 09, p. 24595-6; DCT-125, 9 Mar 10, p. 36812.

²¹⁰⁴ TT, Yanks Smythe, DCT-179, 22 Feb 10, p. 35623-4.

²¹⁰⁵ TT, DCT-125, 9 Mar 10, p. 36774-5.

²¹⁰⁶ TT, DCT-125, 9 Mar 10, p. 36774-5.

²¹⁰⁷ TT, DCT-125, 9 Mar 10, p. 36775-7.

²¹⁰⁸ TT, DCT-125, 9 Mar 10, p. 36779-80.

²¹⁰⁹ TT, DCT-125, 9 Mar 10, p. 36780-2.

²¹¹⁰ TT, DCT-125, 10 Mar 10, p. 36969.

²¹¹¹ TT, DCT-125, 9 Mar 10, p. 36793-4.

²¹¹² TT, DCT-125, 9 Mar 10, p. 36784-9.

²¹¹³ TT, DCT-125, 9 Mar 10, p. 36795.

²¹¹⁴ TT, DCT-125, 9 Mar 10, p. 36797-8.

²¹¹⁵ TT, Charles Taylor, 16 Jul 09, p. 24645; 20 Jul 2009, p. 24748; Yanks Smythe, DCT-179, 22 Feb 10, p. 35605-9.

²¹¹⁶ TT, Yanks Smythe, DCT-179, 22 Feb 10, p. 35577-81.

²¹¹⁷ TT, Charles Taylor, 15 Jul, p. 24569-71. Though TF1-561 says the opposite: Moses Blah, TF1-561, 19 May 08, p. 10146.

²¹¹⁸ TT, Yanks Smythe, DCT-179, 22 Feb 10, p. 35596-8.

²¹¹⁹ TT, Yanks Smythe, DCT-179, 22 Feb 10, p. 35609-10.

765. Prosecution Exhibit [REDACTED] offers a highly speculative and unsubstantiated account of Foday Sankoh's movement from Libya. It alleges that Sankoh arrived in Libya and found that Ali Kabbah was the head of an organized group of Sierra Leoneans. Sankoh was isolated by most of his Sierra Leonean brothers and turned to Taylor. Sankoh trained with the Liberians and thus became revolutionary brothers with Taylor. When Taylor left, Sankoh was advised by the Libyans to assist Taylor, with the assurances that "they" would give him assistance for his own campaign. Sankoh, Rashid Mansaray and Abu Kanu then left Libya under Taylor.²¹²⁰
766. The Defence submits that even if Exhibit [REDACTED] were to be taken at face value, like the rest of the Prosecution's case, it fails to establish the conception of a JCE as alleged by the Prosecution or at all. As with the evidence of Moses Blah, it actually debunks the theory of a JCE between Sankoh and Taylor. The exhibit, it might be noted, suggests that the idea for Sankoh to help Taylor came from the Libyans as a condition Libya's future support for Sankoh in his own war. This, it should not also escape the Trial Chamber, is a different allegation which directly contradicts the evidence of the like of TF1-548, TF1-371 and TF1-532 on the allegation of the conception of a JCE in Libya. This should undermine the credibility of the Prosecution's entire evidence on the issue.
767. Moses Blah, the Prosecution's only witness who had personal knowledge of the events on this matter, on the other hand, supports the Defence's evidence on the general movements of the Liberians, the Sierra Leoneans and the Gambians from Libya. Contrary to the suggestion that the Sierra Leoneans came along with the Liberians to Burkina Faso as part of the plan conceived in Libya; according to Blah, when the Liberians left Libya, they left the Sierra Leoneans at Tajura. Blah made no mention of the presence of the Sierra Leoneans in Burkina Faso in 1989. He only mentioned seeing the Gambians, in particular, Dr. Manneh and Jackson. From Burkina Faso, he says, the Gambians and the Liberians went separate ways towards Liberia. After that Blah did not see Dr. Manneh until the capture of Buchannan.²¹²¹
768. The only evidence on Sankoh's whereabouts between Libya and Liberia is therefore that of Suwandi Camara. The witness' credibility aside, his evidence on this matter is primarily hearsay. His evidence on the alleged movement of Sankoh and the Sierra Leoneans to Burkina Faso and the subsequent meeting involving Taylor, Sankoh and

²¹²⁰ Exhibit [REDACTED]

²¹²¹ TT, Moses Blah, TF1-561, 15 May 08, p. 9947-8.

Dr. Manneh in Burkina Faso was all hearsay, allegedly, from Dr. Manneh. This evidence however suffers a serious credibility crisis in that it was substantially contradicted by more direct evidence during the Defence case.²¹²²

769. To the extent that the whole question of a JCE might turn on the credibility of TF1-548's sole evidence, the Defence submits that the witness's evidence on this matter, and generally, must be rejected as it is unreliable. TF1-548 did not present the image of a truthful witness under cross-examination. His evidence was generally inconsistent in and of itself, and especially against the previous statements that he gave to the Prosecution. The witness when pressed was generally evasive if not deliberately obtuse. It would not be exaggerating to say that not once did witness answer any substantive question the first time it was asked. The witness, the Trial Chamber might recall, is the one who made the laughable claim that he used to train on the use of weapons in Dr Manneh's bedroom.²¹²³
770. The Defence therefore submits that the Prosecution fails to establish any JCE up to the time the war in Liberia started in December 1989. That the Prosecution should fail to substantiate its own allegations, the Defence reiterates, is quite telling. It underscores the Defence's contention that the allegation of a joint criminal enterprise was a fishing expedition. Furthermore, that the Prosecution was simply trying to take advantage of the wide net that JCE as a mode of liability offers. However, it is increasingly clear that even the JCE dragnet could not help the Prosecution. There is just no evidence to establish a JCE.

JCE – Liberia/ training at Naama

771. As indicated above, the only time there was uncontested contact (but not a JCE) between Charles Taylor and Foday Sankoh was in Liberia after 1991 when Taylor and Sankoh entered into a mutual defence alliance against ULIMO. The Prosecution's case however is that Sankoh's presence in Liberia at this time corresponds to the JCE allegedly hatched with Taylor, Sankoh and Dr Manneh.²¹²⁴ During this time, the Prosecution alleges that Sankoh both helped Taylor and was in turn helped by him to prepare for the invasion of Sierra Leone. A number of Prosecution witnesses gave evidence purportedly supporting these allegations.

²¹²² TT, DCT-125, 9 Mar 10, p. 36853-8.

²¹²³ TT, Suwandi Camara, TF1-548, 12 Feb 08, p. 3641.

²¹²⁴ Case Summary, para. 3; Pre-trial Brief, paras. 8 and 23.

772. According to Stephen Ellis, Sankoh spent a substantial amount of time in Liberia prior to the invasion of Sierra Leone.²¹²⁵ According to both TF1-371 and TF1-168, Sankoh was a military adviser to Taylor, and fought with Taylor in Liberia.²¹²⁶ Sankoh, Rashid Mansaray and Mohamed Tarawalley, it is alleged, were part of the NPFL.²¹²⁷ According to TF1-274, Sankoh was with Taylor in Kakata during Operation Octopus, and that the two were working together to send troops into Sierra Leone.²¹²⁸ As part of the alleged JCE, and ostensibly in return for Foday Sankoh's assistance, however minimal, Taylor allegedly provided safe haven and training to Foday Sankoh's RUF. A number of Prosecution witnesses led evidence which purportedly supports this allegation.
773. Sankoh allegedly also had safe passage in NPFL territory,²¹²⁹ including Taylor's authorisation to recruit Sierra Leoneans under NPFL detention.²¹³⁰ [REDACTED]
- [REDACTED]
- [REDACTED]²¹³¹ During this time, Sankoh, it is alleged, enjoyed Taylor's full support.²¹³² According to TF1-532, Sankoh told him that Taylor was his brother and that Taylor was responsible for training the RUF recruits (at Camp Naama's Crab Hole) and that he (Sankoh) depended on Taylor for everything.²¹³³ Similarly, Sankoh allegedly told [REDACTED] that everything at Camp Naama was supplied by Taylor.²¹³⁴ It is also alleged that NPFL trainers, including TF1-532, were seconded to the RUF at Naama.²¹³⁵
774. All this help by Taylor to Sankoh, the Prosecution contends, was in furtherance of the JCE planned in Libya. According to TF1-532, Taylor told him that he (Taylor) and Sankoh had a mission to go to Sierra Leone to fight.²¹³⁶ TF1-362 also testified that Sankoh and Taylor were bound together to fight in Liberia and Sierra Leone;²¹³⁷ Sankoh was to help Taylor fight his war and Taylor would in turn help Sankoh fight his war. After the war, Fatou Brown (Sankoh's wife) would become the first lady.²¹³⁸

²¹²⁵ TT, Stephen Ellis, 16 Jan 08, p. 1430.

²¹²⁶ TT, TF1-371, 24 Jan 08, p. 2200.

²¹²⁷ TT, TF1-168, 21 Jan 09, p. 23135-8.

²¹²⁸ TT, Dauda Aruna Fornie, TF1-274, 1 Dec 08, p. 21359-66.

²¹²⁹ TT, TF1-168, 21 Jan 09, p. 23140-1.

²¹³⁰ TT, TF1-371, 24 Jan 08, p. 2205.

²¹³¹ TT, TF1-168, 21 Jan 09, p. 23133-41.

²¹³² TT, TF1-367, 20 Aug 08, p. 14090-1.

²¹³³ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5667-8.

²¹³⁴ TT, [REDACTED].

²¹³⁵ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5662; TF1-371, 24 Jan 08, p. 2201-3.

²¹³⁶ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5669-70.

²¹³⁷ TT, TF1-362, 27 Feb 08, p. 4806.

²¹³⁸ TT, TF1-362, 27 Feb 08, p. 4803-4.

The actual plan to attack Sierra Leone was allegedly drawn by Taylor and Sankoh at a meeting at Anthony Mekunagbe's house in Voinjama.²¹³⁹ Taylor, one witness alleges, made the decision and there was no disagreement.²¹⁴⁰ TF1-532 also testified to a meeting in Voinjama involving Taylor and Sankoh at which the invasion of Sierra Leone was planned;²¹⁴¹ although his account differs materially, as considered below.

Invasion of Sierra Leone

775. The Prosecution alleges that the invasion of Sierra Leone marked the fruition of the JCE conceived in Libya. Taylor, Prosecution evidence alleges, forewarned of the invasion in a BBC radio broadcast, where he announced that Sierra Leone would one day taste the bitterness of war.²¹⁴² The evidence thus alleges that during the invasion of Sierra Leone, RUF and NPFL forces fought together and the NPFL was part of the RUF hierarchy.²¹⁴³ That most of the fighters who went to Sierra Leone were Liberians,²¹⁴⁴ and that all the supplies for the attack came from Taylor.²¹⁴⁵
776. Prosecution evidence is however divergent on the purpose behind the invasion. Most witnesses suggest a purely political motive while others also suggest an underlying intention to cause terror. According to TF1-532, Taylor sent him to take over power in Sierra Leone.²¹⁴⁶ Likewise, according to TF1-399, Taylor's Special Forces agreed that Sankoh would take over the government in Freetown.²¹⁴⁷ However according to TF1-561, after the start of the war, Sankoh complained to Taylor at Gbarnga about atrocities being committed in Sierra Leone and Taylor told him that atrocities were to be expected.²¹⁴⁸ Also according to TF1-399, when Sankoh reportedly cried upon seeing casualties following the capture of Koindu and Buedu in 1991, Taylor allegedly said that Sankoh would get used to the atrocities.²¹⁴⁹ Furthermore, according to TF1-045, in 1994, Taylor prompted Sankoh to attack and terrorize the civilians during the Sierra Rutile and this was carried out.²¹⁵⁰ Furthermore, during the

²¹³⁹ TT, [REDACTED].

²¹⁴⁰ TT, [REDACTED].

²¹⁴¹ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5671-3.

²¹⁴² E.g. TT, Foday Lansana, TF1-275, 20 Feb 08, p. 4334; Isaac Mongor, TF1-532, 10 Mar 08, p. 5661; Alimamy Bobson Sesay, TF1-334, 16 Apr 08, p. 7851.

²¹⁴³ Exhibit P-54.

²¹⁴⁴ Exhibit P-277.

²¹⁴⁵ TT, TF1-367, 20 Aug 08, p. 14098-9.

²¹⁴⁶ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5670.

²¹⁴⁷ TT, Joseph Diah Marzah, TF1-399, 12 Mar 08, p. 5865-6.

²¹⁴⁸ TT, Moses Blah, TF1-561, 14 May 08, p. 9861-6.

²¹⁴⁹ TT, Joseph Diah Marzah, TF1-399, 12 Mar 08, p. 5868-9.

²¹⁵⁰ TT, Augustine Mallah, TF1-045, 12 Nov 08, p. 20097-8.

1996 elections, Taylor allegedly agreed that the plan for the RUF to amputate civilians during the Sierra Leonean elections was not a bad one.²¹⁵¹

777. Other witnesses also suggested that the acquisition of diamonds might also have underlined the JCE. This evidence however does not allege an outright plan to invade Sierra Leone for the sole purpose of pillaging the country's diamonds. According to [REDACTED], in 1991, RUF and NPFL forces in Pujehun brought diamonds to Taylor.²¹⁵² This was however only information that [REDACTED] got from Sankoh, whose truthfulness the witness could not vouch for.²¹⁵³ TF1-567 also testified that in late 1992, Sankoh allegedly said that Taylor had arranged for the capture of Kono because it was a diamond-mining area.²¹⁵⁴ Besides being hearsay evidence of single witnesses to be approached with extra caution, this evidence, as considered herein below, directly contradicts other Prosecution evidence that Foday Sankoh in fact discouraged diamond mining, especially in the early years of the war.
778. As part of the ongoing JCE, Prosecution evidence also alleges that during the war in Sierra Leone, Taylor maintained regular contact with Sankoh and the RUF through radio communications.²¹⁵⁵ These communications, it is alleged, were widespread²¹⁵⁶ and daily²¹⁵⁷ and related to combat issues,²¹⁵⁸ as well as the supply of ammunition.²¹⁵⁹ Taylor, it is alleged, assisted to set up communications by providing both radios and operators.²¹⁶⁰ That to December 1992, RUF and NPFL radio stations used the same radio net to communicate.²¹⁶¹ a radio to Sankoh in Pendembu so that Sankoh could communicate with Taylor.²¹⁶² Prosecution evidence however differs on the duration of this line of communication. As considered in detail later in this section, while most Prosecution evidence suggests a general breakdown in communication between Taylor and Sankoh after Top Final, some witnesses allege that communication between the two continued even after Top Final. According to TF1-275, Taylor and Sankoh maintained radio contact even after the NPFL withdrew from Sierra

²¹⁵¹ TT, Isaac Mongor, TF1-532, 30 Mar 08, p. 5689-90.

²¹⁵² TT, [REDACTED].

²¹⁵³ TT, [REDACTED].

²¹⁵⁴ TT, TF1-567, 2 Jul 08, p. 12853-6.

²¹⁵⁵ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5675-6. Foday Lansana was the first "communications man".

²¹⁵⁶ TT, Dauda Aruna Fornie, TF1-274, 1 Dec 08, p. 21373-6.

²¹⁵⁷ TT, Dauda Aruna Fornie, TF1-274, 1 Dec 08, p. 21381-6.

²¹⁵⁸ TT, Foday Lansana, TF1-275, 20 Feb 08, p. 4388.

²¹⁵⁹ TT, Dauda Aruna Fornie, TF1-274, 1 Dec 08, p. 21390-8.

²¹⁶⁰ TT, Foday Lansana, TF1-275, p. 4364. Also see TT, TF1-275, p. 4378-9.

²¹⁶¹ TT, Dauda Aruna Fornie, TF1-274, 1 Dec 08, p. 21373-6.

²¹⁶² TT, Foday Lansana, TF1-275, 20 Feb 08, p. 4378-9.

Leone,²¹⁶³ and even after ULIMO had cut off more direct contact between the NPFL and RUF.²¹⁶⁴ TF1-516 alleges that Taylor was in radio communication with Sankoh even during the Abidjan Peace talks and told Sankoh to take advantage of the peace talks in Cote D'Ivoire to obtain ammunition.²¹⁶⁵ TF1-532 on the other hand alleges that Taylor and Sankoh remained in communication until Taylor became President of Liberia.²¹⁶⁶

779. As part of the ongoing JCE, Prosecution evidence further alleges mutual cooperation between the RUF and NPFL against common enemies such as ULIMO. A number of witnesses spoke of the involvement of the RUF in Liberia to combat ULIMO, including Taylor's direct involvement in such military activities. TF1-532, for instance spoke about Morris Kallon and Issa Sesay's involvement with the NPFL against ULIMO in Voinjama in 1992/1993.²¹⁶⁷ He himself, he alleges, also led RUF troops that fought against ULIMO at Taylor's request.²¹⁶⁸ According to TF1-360, the RUF fighting ULIMO under Morris Kallon were organised to open the supply routes to Gbarnga.²¹⁶⁹ TF1-548 on the other hand alleges that the RUF forces under Morris Kallon, were organised by Taylor along with NPFL forces under Mustapha Jalloh as part of the Lofa Defence Force against ULIMO-K.²¹⁷⁰ TF1-360 also alleges that Taylor provided logistical and moral support to the fighters. According to the witness, Taylor once visited the RUF soldiers at Senge in 1991, bringing them ammunition, and incited them to push ULIMO out of Liberia.²¹⁷¹ While the Defence concedes to a mutual pact between Taylor and Sankoh to neutralise ULIMO, as considered further in this section of the Final Brief, it denies that this was pursuant to any JCE.
780. On the basis of the overall foregoing evidence, starting with the RUF's training at Naama up to the initial years of the Sierra Leonean invasion; the Defence submits that this is the closest the Prosecution's evidence, taken at face value, gets to alleging a JCE between Taylor and Sankoh, the common purpose of which however still

²¹⁶³ TT, Foday Lansana, TF1-275, 20 Feb 08, p. 4381-6.

²¹⁶⁴ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5687-8.

²¹⁶⁵ TT, TF1-516, 8 Apr 08, p. 6868-9.

²¹⁶⁶ TT, Isaac Mongor, TF1-532, 4 Apr 08, pp. 6690-91.

²¹⁶⁷ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5682. Also see TT, TF1-516, p. 7044.

²¹⁶⁸ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5677-78.

²¹⁶⁹ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3272. Also see evidence of TF1-567 that in 1993, ULIMO was blocking the road, and when Sankoh told Taylor, Taylor told Sankoh to provide the military personnel and he would supply arms and ammunition. The soldiers however never arrived. TT, TF1-567, 2 Jul 08, p. 12867-8.

²¹⁷⁰ TT, Suwandi Camara, TF1-548, p. 3518-21.

²¹⁷¹ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3032-3.

remains unclear. This façade however disappears on a closer scrutiny of the Prosecution's evidence on its own merit, and against the Defence's evidence.

781. Before analysing this evidence, the Defence however makes two preliminary points. Firstly, that, going by the Prosecution's allegations in the Indictment; the foregoing evidence on Taylor's dealing with Sankoh leading up to and during the initial years of the Sierra Leonean invasion, does not go towards establishing the conception of a JCE. Rather, that the evidence purports to prove the subsistence of a JCE that already existed from Libya. As the Prosecution's evidence however fails to establish the conception of a JCE involving terror, or for any other purpose, in Libya, the foregoing evidence has no foundation on which to stand. It cannot prove the continuation of a JCE that never existed. The Defence also hastens to submit that there is nothing in this evidence upon which the Trial Chamber could make a retrospective finding of a JCE dating back to Libya as alleged by the Prosecution. This evidence, its veracity aside, could not cure the original dearth in the Prosecution's evidence of the conception of a JCE in Libya.
782. Secondly, and in the alternative, should the Trial Chamber be inclined to draw inferences of a JCE involving terror dating back to Libya from the evidence considered above of the events in Liberia leading to the start of the war in Sierra Leone; as argued in the introduction to this section, such evidence must be capable of establishing beyond a reasonable doubt: i) a continuous campaign of terror; ii) specific intent on the part of both Sankoh and Taylor and other alleged members of the JCE to engage in a campaign of terror; iii) that terror was the primary purpose of the campaign; and iv) the Accused's substantial participation in the campaign.
783. Furthermore, in seeking to draw such inference, the Trial Chamber must be wary of adopting a revisionist approach. It is not for the Chamber to try to substantiate the Prosecution's allegations of a JCE. Rather, the Prosecution's evidence of the alleged events should, as at the time of the occurrence of those events, be capable of establishing beyond any reasonable doubt all of the requirements highlighted above. The Prosecution's evidence on its own merits, and when considered against the Defence case, fails in all respects.
784. The Defence submits that the Prosecution's evidence highlighted above, considered closely, fails to establish either the formulation or subsistence of a JCE in Liberia, spilling into Sierra Leone as alleged or at all. As regards the allegation of a JCE *per se*, never mind its alleged common purpose; the Prosecution's evidence as always is

the case, oscillates between two mutually inconsistent theories. Firstly, the ‘*Libyan theory*’, which postulates the formulation of a JCE in Libya, which then continued to subsist in Liberia and Sierra Leone respectively. According to this theory, the Trial Chamber will recall, Taylor, Sankoh and Manneh, as leaders of their respective groups, allegedly entered into an agreement to militarily assist each other in their respective revolutions.

785. The second theory, propagated through the evidence of the likes of TF1-371 and TF1-532 on the other hand, alleges a superior/subordinate relationship between Taylor and Sankoh. According to this theory, the hereinafter called the ‘*surrogate theory*’, Sankoh’s RUF was a surrogate of Taylor’s NPFL. According to TF1-532, for instance, during the time that Taylor was fighting in Liberia before he became President, they would refer to him as CIC, which meant that he had command over the RUF. Indeed, according to the witness’s obviously exaggerated account, the RUF belonged to Taylor. Although Taylor sent Foday Sankoh to help, TF1-532 alleges, the RUF was his. The RUF was in his hands.²¹⁷² See also Exhibit P-55, which subsumed the RUF and RUF elements under the NPFL command structure in March/June 1991.²¹⁷³
786. Besides the obvious contradiction in the two evidentiary theories, which also goes to the legal principle of Notice; both theories individually suffer serious deficiencies. The Libyan theory, as already argued above, is fatally defective in that the Prosecution failed in the first instance to establish the conception of a JCE in Libya as alleged or at all. As a result nothing could follow from the alleged JCE. Furthermore/alternatively, even assuming *arguendo* that a JCE existed from Libya as alleged, the Prosecution still failed to establish the fruition/implementation of that JCE; the equivalence of the legal principle of *perfecta* under the law of contract. Specifically, the Prosecution failed to establish any substantial assistance that Foday Sankoh rendered to Taylor as part of the alleged JCE.
787. The best case the Prosecution could come up with was in the nature of some terse allegation that Foday Sankoh was Taylor’s military advisor;²¹⁷⁴ that he took part in combat with the NPFL;²¹⁷⁵ and that Sankoh, Mohammed Tarawalley and Rashid

²¹⁷² TT, Isaac Mongor, TF1-532, 31 Mar 08, p. 6229.

²¹⁷³ Exhibit P-55.

²¹⁷⁴ TT, TF1-371, 24 Jan 08, p. 2200; TF1-168, 21 Jan 08, p. 23138.

²¹⁷⁵ TT, TF1-371, 24 Jan 08, p. 2200.

Mansaray were members of the NPFL.²¹⁷⁶ While there is no *quid pro quo* requirement under JCE; in this matter, as it was the Prosecution's case that Taylor and Sankoh agreed to help each other in their respective revolutions,²¹⁷⁷ it was therefore necessary for the Prosecution, in order to prove that allegation, to lead evidence of Foday Sankoh's contribution to the alleged JCE. Compared to the amount of support Taylor allegedly gave Foday Sankoh, a contribution by Sankoh of 3 or so people²¹⁷⁸ to Taylor's aid, is just not enough to prove the Prosecution's case of a mutual military pact. As the old legal adage goes; he who alleges must prove. The Prosecution fails this time tested principle.

788. Indeed, the Prosecution's surrogate theory appears to be a calculated attempt to abandon the original Libyan theory in recognition of the latter's obvious weaknesses. This however yet again illustrates the Defence's contention that the pleading of JCE was a mere fishing expedition. In this instance, despite its Notice obligation, the Prosecution attempts to hedge its bet by throwing inconsistent alternative theories at the Accused, while maintaining the fallacy that each of these mutually exclusive allegations is part of a consistent single JCE theory.
789. Be that as it may, the alternative surrogate theory (the one alleging a superior/subordinate relationship as part of the JCE), on the Prosecution's own evidence taken at face value, also suffers a number of serious defects. Firstly, if indeed the RUF were a mere arm of the NFPL directly controlled by Taylor; if indeed the war in Sierra Leone was Taylor's war, then it would not make sense, that Taylor should not have adequately resourced the RUF before, during and after the invasion of Sierra Leone. On the Prosecution's own evidence, the RUF suffered from a lack of arms and ammunition, especially the latter, during its entire life and especially during the period under review.²¹⁷⁹

²¹⁷⁶ TT, TF1-168, 21 Jan 09, p. 23135-8.

²¹⁷⁷ Case Summary, para. 1.

²¹⁷⁸ See for instance the evidence of TT, [REDACTED]

[REDACTED], or the evidence of DCT-306 confirmed that Foday Sankoh, Mohamed Tarawally and Rashid Mansaray trained in Libya. Although the witness did not say that they fought for the NPFL, he did say that they were Special Force vanguards. TT, DCT-306, 13 Apr 10, pp. 38882-83.

²¹⁷⁹ For examples of the lack of arms and ammunition see: TT, TF1-168, 26 Jan 09, p. 23558 TT, TF1-577, 9 Jun 08, p. 11255; TT, TF1-388, 10 Jul 08, p. 13391. See also P-65 and P-66

790. Furthermore, the Prosecution's evidence of the Top 20, Top 40, and Top Final, and the NPFL's ultimate withdrawal from Sierra Leone at Taylor's orders,²¹⁸⁰ falsifies any allegation of a unitary military group between the RUF and the NPFL. Viewed against the Defence case on this issue, the Defence submits that the Prosecution's alternative surrogate theory suggesting a superior subordinate relationship as part of an alleged JCE was a deliberate distortion of the relationship that existed between Taylor and the RUF between 1991 and 1992 whereby Taylor gave the RUF some military support in order to ward off a ULIMO incursion into NPFL territory from Sierra Leone as explained in more detail below.
791. The Prosecution's own evidence therefore fails to establish, beyond all reasonable doubt, a joint *criminal* enterprise in Liberia and spilling into Sierra Leone. Rather, the Prosecution evidence paddles mutually inconsistent theories. As if that were not enough, the Prosecution's evidence, even taken at face value, fails to establish beyond all reasonable doubt, the common purpose of any perceivable JCE. With regards the allegation of a common plan to pillage Sierra Leone's mineral resources, in particular diamonds, to the extent that this allegation is still material in light of the Trial Chamber's decision considered above; despite the few instances of alleged transactions of diamonds between Taylor and Sankoh,²¹⁸¹ it is quite clear from the Prosecution's overall evidence, as well as from the evidence of most of its witness that the RUF was not interested in diamond mining up until the time it joined the Junta in 1997. Foday Sankoh, it is well-established, discouraged diamond mining for fear that it would detract from the war efforts.²¹⁸²
792. According to TF1-168, between 1991 and 1996, diamonds did not play a major role in the Sierra Leonean war. There was no organised mining;²¹⁸³ only the diamonds that were captured from the mining areas.²¹⁸⁴ During this time, the few diamonds the RUF came to possess were either confiscated from the enemy or obtained from abandoned

²¹⁸⁰ Concerning the withdrawal of the NPFL forces on Taylor's orders: TT, TF1-371, 25 Jan 08, p. 2257; Foday Lansana, TF1-275, 20 Feb 08, p. 4373; 4377; Isaac Mongor, TF1-532, 04 Apr 08, p. 6678; TT, Charles Taylor, 20 July 2009, pp. 24823:14-24824:3; TT, Charles Taylor, 16 Sep 09, pp. 29116:18-29118:9; TT, Charles Taylor, 27 Oct 09, pp. 30476:13-30478; TT, DCT-172, 29 July 2010, pp. 44962-63; TT, DCT-179, 22 Feb 10, p. 35677-79.

²¹⁸¹ TT, TF1-168, 21 Jan 09, p. 23180-1; Perry Kamara, TF1-360, 04 Feb 08, p. 3045, where he says that captured items from Kono, including diamonds, were used by Sankoh to buy ammunition from Taylor.

²¹⁸² TT, TF1-168, 21 Jan 09, p. 23180-2; Exhibit P-277, p. 54; Fayia Musa, DCT-306, 388926; 14 Apr 10; Fayia Musa, DCT-306, 16 Apr 10, 39223.

²¹⁸³ See for instance Exhibit P-18, para. 67

²¹⁸⁴ TT, TF1-168, 26 Jan 09, p. 23485-6 and 23480-1.

unwashed gravel.²¹⁸⁵ Similarly, according to TF1-371 under cross examination, the RUF was not created to exploit Sierra Leonean diamonds. Diamonds only financed the procurement of arms and ammunition between 1998 and 2001.²¹⁸⁶

793. Furthermore, it is quite clear from the evidence that all the RUF's activities relating to diamonds arose post the invasion. There is no evidence whatsoever of any discussions relating to diamonds pre the Sierra Leonean invasion to suggest that the invasion might have been motivated by a desire to pillage Sierra Leone's diamonds. This, it is submitted, flies in the face of any suggestion of a JCE whose common plan involved pillaging the mineral wealth of Sierra Leone, in particular diamonds.
794. With regards the allegation of a campaign of terror as the common purpose of alleged JCE; even at face value, the Prosecution's evidence fails to establish a joint criminal enterprise that involved a common purpose to terrorise the civilian population of Sierra Leone. Indeed, according to the Prosecution's own evidence, the common plan between Taylor and Sankoh was to wrest political power in Sierra Leone. According to TF1-548, the very witness the Prosecution relied on to establish a JCE going back to Libya, the common plan dated back to Burkina Faso where Taylor, Dr Manneh and Sankoh agreed to assist each other in their respective wars in their respective countries starting with Liberia.²¹⁸⁷ Likewise, according to TF1-399, Taylor's Special Forces agreed that Sankoh would take over the government in Freetown.²¹⁸⁸ In TF1-532's evidence, he was sent by Taylor to take over power in Sierra Leone.²¹⁸⁹
795. Most importantly, one of the Prosecution's insider witnesses denied that terror was the primary purpose behind the Sierra Leone war. According to his evidence, from the beginning in 1991, it was never the RUF policy to go and terrorise civilians.²¹⁹⁰ Quite to the contrary, the RUF lectured trainees at Naama on the Geneva Conventions,²¹⁹¹ and the RUF endeavoured to establish discipline.²¹⁹² The RUF was quite aware that atrocities would antagonise the people they sought to convert.²¹⁹³ With specific reference to Taylor, one insider witness conceded that Taylor never

²¹⁸⁵ TT, TF1-371, 31 January 2008, 2769 *ln.10 et seq.* TT, TF1-367, 01 Sep 08, p. 15042; TF1-567, 02 Jul 08, p. 12861-2.

²¹⁸⁶ TT, TF1-371, 31 January 2008, p. 2765-6.

²¹⁸⁷ TT, TF1-548, 8 Feb 08, p. 3446-7.

²¹⁸⁸ TT, TF1-399, p. 5865-6.

²¹⁸⁹ TT, TF1-532, 10 Mar 08, p. 5670.

²¹⁹⁰ TT, TF1-371, 30 Jan 08, p. 2633-4.

²¹⁹¹ TT, TF1-371, 24 Jan 08, p. 2203.

²¹⁹² TT, TF1-371, 30 Jan 08, p. 2635-9.

²¹⁹³ TT, TF1-371, 30 Jan 08, p. 2654-5.

gave the RUF or the Junta instructions to carry out atrocities.²¹⁹⁴ General indiscipline and private enterprise however pervaded much of the behaviour of many of the people in the conflict.²¹⁹⁵ Indeed it was difficult to maintain discipline, even for Foday Sankoh.²¹⁹⁶

796. Similarly, another insider witness testified that the RUF was not a criminal organization, set out to terrorise civilians for personal gain. Quite to the contrary, the RUF ideology was that the revolution depended on popular support,²¹⁹⁷ as evinced in the RUF slogan: arms to the people, power to the people and wealth to the people;²¹⁹⁸ although, later after the start of the war, the witness would observe some dissonance between ideology and practice.²¹⁹⁹
797. If the common plan between Taylor and Sankoh was a campaign of terror against the people of Sierra Leone, then Sankoh would not have had reason to complain of the conduct of the Liberians/NPFL.²²⁰⁰ Indeed the evidence that Sankoh and other members of the RUF complained of atrocities that were allegedly being committed by the NPFL fighters, does not show that Sankoh and Taylor, the alleged founders of the alleged JCE involving terror, shared the same criminal intent. In fact, there is ample evidence that Taylor, Sankoh and other senior members of the RUF found the conduct of some of the Liberian fighters against the civilians in Sierra Leone reprehensible and took appropriate action. Following Foday Sankoh's complaints to Taylor concerning the ill-treatment of civilians by NPFL elements in Sierra Leone, Taylor was not happy with the conduct of his men and withdrew them.²²⁰¹ The evidence that at a high ranking RUF member executed an NPFL fighter for raping a civilian,²²⁰² or that the RUF was ordered to stop the trafficking of looted goods from Sierra Leone to Liberia,²²⁰³ for instance, is also not consistent with a JCE between Sankoh and Taylor to engage in a campaign of terror against the Sierra Leonean people. Equally so, the evidence that Taylor pulled out all Liberians answerable to

²¹⁹⁴ TT, TF1-371, 30 Jan 08, p. 2655.

²¹⁹⁵ TT, TF1-371, 30 Jan 08, p. 2662.

²¹⁹⁶ TT, TF1-371, 30 Jan 08, p. 2612-7.

²¹⁹⁷ TT, TF1-168, 23 Jan 09, p. 23395-6.

²¹⁹⁸ TT, TF1-168, 22 Jan 09, p. 23309.

²¹⁹⁹ TT, TF1-168, 23 Jan 09, p. 23400.

²²⁰⁰ TT, TF1-561, 14 May 08, p. 9861-6; TT, TF1-399, 12 Mar 08, p. 5868-9;

²²⁰¹ TT, TF1-168, 21 Jan 09, pp. 23211-13; p.23111 ln.14-23

²²⁰² TT,

²²⁰³ TT,

him from Sierra Leone following reports of ill-treatment of civilians does not support the allegation of a JCE involving a campaign of terror.²²⁰⁴

798. The allegation that Taylor warned Sankoh that atrocities would occur in Sierra Leone,²²⁰⁵ or that Sankoh would get used to the atrocities,²²⁰⁶ which on the face of it would suggest an element of terror, assuming they were true, would therefore have to be construed carefully against this background. Viewed against this background, those allegations could have only meant that incidents involving atrocities against civilians were incidental to war – the very same notion Prosecution witness TF1-168 conceded when he said that “[i]n war we expect atrocities to take place”.²²⁰⁷ The statements attributed to Taylor in this context, it is submitted, do not establish specific intent on his part to engage in a campaign of terror. Moreover, the statements do not establish that terrorism was the primary purpose behind the campaign.
799. With respect to the alleged BBC radio broadcast, where Taylor allegedly promised the people of Sierra Leone; the Defence avers that the mere fact that the Prosecution could not provide a transcript of the said broadcast, as it did with the others it relied on,²²⁰⁸ only goes to prove that the statement was never made. Should the Trial Chamber however be inclined to accept that oft repeated hearsay of the alleged broadcast, the Defence submits that the statement still does not disclose a specific intention to terrorise the civilian population of Sierra Leone. The statement simply means what it says; that Sierra Leone would one day suffer the vagaries of war. War by its very nature is bitter. There is nothing in the statement to suggest that Taylor promised to deliver war to Sierra Leone or that he would terrorise the civilian population.
800. The Defence however contests most of the material elements of the Prosecution’s evidence considered above and urges the Trial Chamber to disregard it. The Defence submits that the evidence is inaccurate when considered closely on its own merits and in the light of Defence evidence on the same issues. With respect to the presence of Foday Sankoh in Liberia and the training of the RUF at Naama, the Defence maintains that this was without Taylor’s knowledge. The entire training operation was

²²⁰⁴ TT, TF1-168, 21 Jan 09, p. 23211-13. TT, TF1-275, 20 Feb 08, p. 4373. TT, TF1-371, 25 Jan 08, p. 2257; Foday Lansana, TF1-275, 20 Feb 08, p. 4373; 4377; Isaac Mongor, TF1-532, 04 Apr 08, p. 6678.

²²⁰⁵ TT, TF1-561, 14 May 08, p. 9861-6

²²⁰⁶ TF1-399, 12 Mar 08, p. 5868-9.

²²⁰⁷ TF1-168, 26 Jan 09, p. 23496.

²²⁰⁸ P-338 to P-359 inclusive.

covert. It was however not only Taylor who was unaware of Foday Sankoh's covert operation. Even Moses Blah who at the time was the NFPL's Inspector General in charge of discipline, was also unaware. Blah was not even aware of Sankoh's presence in Liberia until he met him sometime in 1991 in Gbarnga. During that encounter, Sankoh told Blah that he was no longer a "small boy". He was now a rebel leader and Blah should salute him.²²⁰⁹

801. The RUF recruits trained in an isolated section of Camp Naama known as Crab Hole or Sokoto.²²¹⁰ The name Sokoto was adopted to mislead people into thinking that the RUF had trained in Nigeria.²²¹¹ Taylor however did not know of the name Sokoto.²²¹² Although NPFL fighters were also present at Camp Naama, the RUF and the NPFL did not train together.²²¹³
802. The Defence submits that there are a number of obvious factors that make the alleged complicity of Taylor in the training of the RUF at Naama implausible. If indeed Taylor was behind the RUF training at Naama, either as part of the alleged JCE or as an extension of the NPFL, as Prosecution evidence suggests, then it would not have made sense that: 1) he should try to keep the training secret; 2) he should not provide adequately for the RUF; and 3) he would not pay attention to the training programme; 4) he would not visit the training camp for the entire duration of the training; 5) he would not second better trained personnel like the Special Forces to assist in training.
803. The Defence further submits that if Foday Sankoh roamed and recruited freely in Liberia with Taylor's authorisation as alleged, then there was no reason for him to try to keep the RUF training in Liberia secretive. If indeed Taylor had publicly promised to deliver war to the people of Sierra Leone over international radio; there was even less reason for him to keep the RUF training in Liberia secret. That the RUF training at Naama was meant to be a secret is not in dispute.
804. It is also not in dispute that the RUF was poorly provided for at Naama. While Prosecution witnesses allege that Taylor provided for the RUF at Naama, it is the Defence's case that Foday Sankoh and his sympathisers, mainly Mammie Iye and Pa

²²⁰⁹ TT, TF1-561, 14 May 08, p. 9861; also see 19 May 08, p. 10145, where he appears to suggest that after Libya, he first saw Sankoh during the Lomé peace talks in Togo.

²²¹⁰ TT, DCT-025, 12 Mar 10, p. 32734-7; DCT-215, 30 Mar 10, p. 38279-81; DCT-062, 21 Apr 10, p. 39601-3; DCT-292, 31 May 10, p. 41671-3; DCT-299, 16 June 10, p. 29690; DCT-172, 5 July 10, p. 43598-99.

²²¹¹ TT, TF1-168, 21 Jan 09, p. 23144; DCT-062, 21 Apr 10, p. 39603.

²²¹² TT, Taylor, 16 Sep 09, p. 29058.

²²¹³ TT, DCT-172, 30 July 10, p. 45152-3; DCT-062, 22 April 2010, p. 39642.

Kallon, provided for the RUF. Either way, the provisions were scanty.²²¹⁴ Furthermore, with respect to training material; the general evidence is also that the RUF was also poorly resourced. The trainees, for instance, brandished sticks for guns, as the RUF had very few arms.²²¹⁵ Save for the allegation, which is contested, that Taylor sent some NPFL instructors to assist the RUF training at Naama, there is no evidence at all that Taylor took any personal interest in the training programme. There is no evidence that he either visited the camp or that he sent any representatives to monitor the programme.

805. On the evidence that Taylor seconded instructors such as TF1-532; it would not make sense that he should send such a lowly placed fighter as an instructor. In any event, it is disputed that TF1-532 was an instructor. He was simply active in physical education training and would lead the trainees in physical drills.²²¹⁶ Indeed TF1-532's evidence that he was seconded to Foday Sankoh by Charles Taylor raises a number of curious questions. It is for instance quite curious that the entire time TF1-532 stayed at Naama, allegedly as Taylor's agent, he never for once reported back to his principal, Charles Taylor, on the progress of the training programme. More so in light of TF1-532's evidence considered earlier that the RUF was just an extension of the NPFL and Sankoh was a mere front.²²¹⁷ Furthermore, it is equally curious that when all NPFL fighters loyal to Taylor were later to withdraw from Sierra Leone after the Top Final, TF1-532, Taylor's supposed trusted agent would stay in Sierra Leone and submit himself to the authority of Foday Sankoh who at the time was estranged from Taylor, as discussed in more detail later in this brief. The Defence reiterates that it is dishonest for this Prosecution, as ambassadors of justice in international law, to bring different conflicting accounts to suits a particular case. In this regard the Defence reminds the Trial Chamber of the remarks by Taylor in his evidence that, while in the RUF case, it was John Tarnue that Taylor allegedly sent to train the RUF at Naama, in this case, the person is now TF1-532.²²¹⁸ The Defence contends that the only senior NPFL fighter(s) who were placed at Camp Naama in the evidence were Anthony Mekunagbe and Oliver Varneh whom, it is the defence case, were the ones who were

²²¹⁴ TT, Isatu Kallon, DCT-299, 22 Jun 10, p. 43111-3.

²²¹⁵ TT, John Vincent, DCT-215, 25 Mar 10, p. 37996-8; DCT-292, 1 Jun 10, p. 41721; Isatu Kallon, DCT-299, 16 Jun 10, p. 42708; Issa Sesay, DCT-172, 5 Jul 10, p. 43602-3; Martin George, DCT-062, 22 April 2010, p. 39635.

²²¹⁶ TT, DCT-292, 01 Jun 10, p. 41710; Martin George, DCT-062, 22 April 2010, p. 39629.

²²¹⁷ TT, TF1-532, 31 Mar 08, p. 6229.

²²¹⁸ TT, Charles Taylor, 20 July 09, p.24784 *et seq*; 24800 *et seq*.

complicit in the covert training of the RUF at Naama.²²¹⁹ All these foregoing factors, the Defence submits, lend credence to the suggestion that the secret training programme was coordinated by Foday Sankoh and some of the NPFL senior commanders like Anthony Mekunagbe, whom he knew from Libya. Anthony Mekunagbe, it will be recalled, was the one who would lead the Sierra Leonean invasion through the Kailahun district.²²²⁰

806. While there is some evidence to suggest that Taylor was directly involved in the planning of the invasion of Sierra Leone, the Prosecution's case on this issue is as always riddled with inconsistencies which render it incredible. Taylor allegedly designed the whole Sierra Leonean invasion at a meeting in Voinjama in 1991.²²²¹

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Voinjama where a meeting was held at Anthony Mekunagbe's house. Among those at the meeting were Sam Larto from the NPFL Special Forces, Michael Peager serving at the Executive Mansion, Anthony Mekunagbe, Sam Tuah, Charles Timber and Dr. Manneh, a Gambian special forces.²²²² During the meeting, Taylor allegedly dominated the meeting and planned a two-pronged attack on Sierra Leone through Kailahun and Pujehun,²²²³ which was accepted.²²²⁴ The plan allegedly involved an attack on The Gambia after Sierra Leone.²²²⁵

807. Mongor's account of the Taylor/Sankoh planning meeting at Voinjama, on the other hand, differs dramatically. According to Mongor, in March 1991,²²²⁶ while *en route* to invade Sierra Leone,²²²⁷ and after a group of fighters towards Bomaru had already left,²²²⁸ he travelled with Sankoh from Camp Naama to Voinjama, where they met Mr Taylor.²²²⁹ They then went to the house of the 2nd Battalion Commander in Voinjama

²²¹⁹ TT, Issa Sesay, DCT-172, 29 Jul 10, p. 43633-4.

²²²⁰ TT, Issa Sesay, DCT-172, 16 Aug 10, p. 46417-8.

²²²¹ TT, [REDACTED].

²²²² TT, [REDACTED]. According to Mongor however, the following persons were present at the meeting: Taylor, Sankoh, Menkarzon, who was the 2nd Battalion commander in that area, Francis Mewon, one of the Special Forces, and other generals, like Ibrahim Bah and Mike Lamin; TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5672.

²²²³ TT, [REDACTED].

²²²⁴ TT, [REDACTED].

²²²⁵ TT, [REDACTED].

²²²⁶ TT, TF1-532, 10 Mar 08, p. 5670-1.

²²²⁷ Mongor states that he invaded Sierra Leone at Koindu. TT, TF1-532, 10 Mar 08, p. 5674.

²²²⁸ TT, TF1-532, 10 Mar 08, p. 5671.

²²²⁹ TT, TF1-532, 10 Mar 08, p. 5669-73.

for a meeting in which Sankoh, Taylor, Mongor, Dopoe Menkarzon, “General Pepe”, Francis Meawon, Ibrahim Bah and another Gambian named Lamin were present.²²³⁰

In the meeting, Mr Taylor congratulated TF1-532 for his work in training the RUF fighters (who had earlier been paraded before Taylor)²²³¹ and told him that the next mission was to go to fight in Sierra Leone to “take over power.”²²³²

808. Another Prosecution witness gives yet another dimension to this account. [REDACTED]

[REDACTED], a group was dispatched on a reconnaissance mission to Sierra Leone.

[REDACTED].²²³⁴ The Bomaru attack, which triggered the invasion of Sierra Leone, happened the same day the reconnaissance group entered Sierra Leone. [REDACTED]

[REDACTED] Foday Sankoh, according to this account, apologised for having endangered the lives of those sent on the reconnaissance mission at the time of the attack.²²³⁵

809. From the three narratives, it is quite remarkable that all these witnesses should give such varied and irreconcilable accounts of what appears to be the same event. The Defence submits that these inconsistencies, viewed against its case, not only go to the question of credibility; they undermine the Prosecution’s case on this issue and generally. It is the Defence’s case that Taylor was never involved in planning the invasion of Sierra Leone.²²³⁶ Neither he, nor Dr. Manneh, were at Voinjama prior to the invasion. Dr. Manneh never went to Voinjama.²²³⁷ Likewise, Taylor did not go to Voinjama in February 1991;²²³⁸ indeed, he could not have gone to Voinjama in February 1991 as it was too dangerous.²²³⁹ Taylor first went to Voinjama in October 1991.²²⁴⁰ Neither Taylor, nor Dr. Manneh, met Sankoh during this time period. Dr. Manneh first met Sankoh at Gbarnga in 1991.²²⁴¹

²²³⁰ TT, TF1-532, 10 Mar 08, p. 5672. The Defence notes that Mongor says Menkarzon’s alias was General Pepe, while every other witness who mentions “General Pepe” or “General Dry Pepper” is the alias used for General Anthony Mekunagbe.

²²³¹ TT, TF1, 532, 10 Mar 08, p. 5671.

²²³² TT, TF1-532, 10 Mar 08, p. 5672-73. Note that the veracity of this personal conversation is called into question during cross-examination: TT, TF1-532, 4 Apr 08, p. 6669-74.

²²³³ [REDACTED]

²²³⁴ [REDACTED]

²²³⁵ [REDACTED]

²²³⁶ TT, Taylor, 20 July 09, p. 24747-54; 22 July 09, p. 25075-6.

²²³⁷ TT, DCT-125, 9 Mar 10, p. 36789-90, p. 36815-16 and p. 36818-20.

²²³⁸ TT, Taylor, 23 Sep 09, p. 29455, p. 24597; 27 Oct 09, p. 30390-4.

²²³⁹ TT, Taylor, 23 Sep 09, p. 29444-5.

²²⁴⁰ TT, DCT-179, 22 Feb 10, p. 35674.

²²⁴¹ TT, Taylor, 23 Sep 09, p. 29480-1.

810. Indeed, according to some of the Prosecution's own evidence, the invasion of Sierra Leone was not planned; rather it came about as a result of some spontaneous fighting that broke out on the Sierra Leonean border following a trade disputes between some Sierra Leonean soldiers and some NPFL fighters.²²⁴²
811. Furthermore, there is yet other evidence, including that of Prosecution witnesses, that Sankoh had a plan to attack Sierra Leone way before the alleged meeting at Voinjama. According to this evidence, before the RUF invasion, Sankoh had already given a 90 day ultimatum to the Sierra Leonean government to step down.²²⁴³ According to TF1-367, Sankoh had already announced the plan to attack Sierra Leone from two fronts, Kailahun and Pujahun, when they were "automatically" taken from Naama as "reinforcement for the NPFL fighters who had attacked Koindu."²²⁴⁴ Simply looking at the Prosecution's own allegations at face value; if one were to look at Sankoh's alleged ultimatum to the Sierra Leonean government in relation to Taylor's alleged ultimatum to the same government,²²⁴⁵ that would still not assist the Prosecution's case of a JCE as it would become apparent that the two were not working in tandem, but rather were pursuing separate interests. Taylor's alleged threat, from the Prosecution's own evidence, was based on the Sierra Leonean government's continued support for ECOMOG,²²⁴⁶ while Sankoh's, on the other hand, was designed to wrest political power. On the Prosecution's own evidence, there was therefore no *consensus ad idem* between the two to found a JCE.
812. To the extent that the evidence on the Voinjama meeting, where Taylor and Sankoh allegedly planned the Sierra Leonean invasion, might turn on the credibility of the witnesses concerned, the Defence draws the Trial Chamber's attention to the material differences in the evidence of [REDACTED] and TF1-532 on the alleged meeting *inter se*, as well as the material differences between the two witnesses' evidence and that of the rest of the Prosecution witnesses on the planning of the attack on Sierra Leone. With respect to the evidence of [REDACTED] and TF1-532 *inter se*; the Defence observes

²²⁴² TT, TF1-168, 23 Jan 09, p. 23422-3; TF1-367, 20 Aug 08, p. 14097-14102

²²⁴³ TT, TF1-168, 21 Jan 09, p. 23161-2; DCT-125, 19 Mar 10, p. 37596-7; DCT-068, 11 Mar 10, p. 37067 (though at p. 37066, DCT-068 contradicts himself and states it was 30 days); DCT-215, 30 Mar 10, p. 38281-2; DCT-306, 13 Apr 10, p. 38861-2; DCT-062, 21 Apr 10, p. 39614; DCT-299, 16 June 10, p. 42714, p. 43139; DCT-172, 29 July 10, p. 44968.

²²⁴⁴ TT, TF1-367, 20 Aug 08, p. 14097-14102.

²²⁴⁵ Bitterness of war references, see above.

²²⁴⁶ TT, Issa Sesay, DCT-172, 17 Aug 10, p. 46453.

that neither account tallies with the other on any material issue: be it the timing of the meeting, the parties present, or what was discussed.

813. Indeed when both parties were pressed for details of the meeting in cross-examination, they both floundered. As the saying goes, the devil is always in the detail. Mongor for instance could not quite explain the contradictions in his evidence of the conversation he allegedly had with Taylor at the alleged meeting.²²⁴⁷ [REDACTED] on the other hand could not give a straight [REDACTED]

[REDACTED]²²⁴⁸ [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]. Thus when DCT-025 was called to testify for the Defence, he was able to expose [REDACTED]'s lie about the Voinjama meeting, and especially the allegation that [REDACTED]

[REDACTED].²²⁵¹ According to DCT-025, [REDACTED]
[REDACTED]

[REDACTED], and this was unchallenged in cross-examination.²²⁵² All these factors, coupled with the Prosecution's other evidence considered above that the Sierra Leonean invasion was a spontaneous reaction to the Bomaru incident, it is submitted, makes the evidence of the [REDACTED] and TF1-532 on the alleged involvement of Taylor in the planning of the Sierra Leonean attack incredible. For credibility analysis of both witnesses, see the Credibility Section.

814. However, while the Defence disputes that Taylor was involved in the planning of the invasion of Sierra Leone, it does not dispute that there was a time when Taylor cooperated with the RUF months after the invasion. That cooperation however did not constitute any joint criminal enterprise. Rather, it was simply a strategic defence pact whereby Taylor agreed to assist the RUF with material in order to ward off ULIMO insurgency from Sierra Leone into Liberia. ULIMO, it will be recalled, was a Liberian insurgency group that was formed in Sierra Leone, with the support of the Sierra Leonean government²²⁵³ and mainly comprised of former soldiers of the

²²⁴⁷ TT, Isaac Mongor, TF1-532, 4 Apr. 08, p. 6670

²²⁴⁸ TT, [REDACTED]

²²⁴⁹ TT, [REDACTED]

²²⁵⁰ TT, [REDACTED]

²²⁵¹ TT, [REDACTED]

²²⁵² TT, DCT-025, 17 Mar 10, p. 37388-90; p. 37443-5.

²²⁵³ TT, Taylor, p. 32367-71.

Liberian armed forces who had fled into Sierra Leone following the NPFL invasion of Liberia.²²⁵⁴ The military agreement therefore also entailed access by the NPFL into RUF territory in counter pursuit of ULIMO insurgents.²²⁵⁵

815. By the summer of 1991, ULIMO was advancing against the NPFL in Liberia.²²⁵⁶ To counter this threat, around August 1991,²²⁵⁷ Taylor and Sankoh agreed to cooperate against ULIMO.²²⁵⁸ Thus it was that Taylor developed a relationship with the RUF, not because he wanted to aid Sankoh's revolution, but for purposes of self-defence against ULIMO.²²⁵⁹ To this end, Sankoh was given a house in Gbarnga and basic facilities,²²⁶⁰ and was permitted to come to Gbarnga to buy supplies.²²⁶¹ Taylor gave him ammunition, though this did not amount to much, as the NPFL had too little to spare.²²⁶² The cooperation between Taylor and Sankoh around this time was however merely strategic. Even some of the Prosecution's witnesses conceded as much. [REDACTED], Taylor and Sankoh cooperated for about a year. By [REDACTED]'s reckoning, Taylor had no territorial ambitions in Sierra Leone.²²⁶³ Rather, Taylor's involvement came about the time of ULIMO when he was using the RUF as a buffer from ULIMO.²²⁶⁴ This account it can be observed, corroborates that of Defence witnesses who also testified that the agreement between Taylor and Sankoh was for the specific purpose of fighting against ULIMO.²²⁶⁵

816. For any one or more of the foregoing reasons, the Defence submits that the Prosecution's evidence looked at closely on its own merits and in conjunction with the Defence evidence, fails to establish a joint *criminal* enterprise that resulted in the Sierra Leonean invasion. The evidence fails to establish a joint criminal enterprise involving any crime charged in the Indictment, and in particular a campaign of terror against the people of Sierra Leone. Indeed the evidence, either directly or circumstantially, fails to establish the critical element of the meeting of the minds

²²⁵⁴ TT, Abu Keita, TF1-276, 22 Jan 08, p. 1950-51; Moses Blah, TF1-561, 16 May 08, p. 10038; DCT-190, 07 Jun 10, p. 42186; 42199-200.

²²⁵⁵ TT, Taylor, 20 Jul 09, p. 24796-97; TT, Taylor, 25 Nov 09, pp. 32369.

²²⁵⁶ TT, Taylor, 20 July 09, p. 24789-92.

²²⁵⁷ TT, Taylor, 20 July 09, p. 24794-5.

²²⁵⁸ TT, Taylor, 20 July 09, p. 24795-6.

²²⁵⁹ TT, Taylor, p. 29740.

²²⁶⁰ TT, Taylor, 20 July 09, p. 24806-8.

²²⁶¹ TT, Taylor, 20 July 09, p. 24796-8.

²²⁶² TT, Taylor, 20 July 09, p. 24811.

²²⁶³ TT, [REDACTED].

²²⁶⁴ TT, [REDACTED].

²²⁶⁵ TT, DCT-179, p. 35675-7; DCT-215, p. 38036-9 (Vincent claims it started in April 1992).

between Taylor and Sankoh with respect to any crime charged in the Indictment, and in particular the specific intent to engage in a campaign of terror.

817. As the evidence, fails to establish a JCE in the first place, no liability could therefore be imputed under the extended JCE, also referred to as JCE III.

818. Alternatively, even if it were held that the Prosecution evidence considered above establishes a JCE as alleged, that JCE would have ended in 1992, when Taylor ceased all military support to the RUF. This contention would again find ample support from some of the Prosecution's own witnesses. According to [REDACTED], after the NPFL left Sierra Leone in June 1992, Foday Sankoh had firm, if not authoritarian control, of the RUF till his arrest in 1997.²²⁶⁶ Indeed, according to [REDACTED], during this time, all Liberians save the Vanguardians trained at Naama, were recalled and after that Taylor cut supplies to Foday Sankoh.²²⁶⁷ Thereafter, the RUF was on its own.²²⁶⁸ Also during this time, according to the [REDACTED], ECOMOG deployed at the Liberian border and cut off the supply route.²²⁶⁹ Thereafter, Foday Sankoh declared the war a self-reliant struggle,²²⁷⁰ where the RUF largely relied on captured material.²²⁷¹

819. Another Prosecution witness also confirmed this position under cross-examination. In his evidence, from what he heard, NFPL/RUF relations broke down between 1992/93 and 1996.²²⁷² This breakdown was multi-layered: firstly on account of the closure of the border by ULIMO, and secondly due to a personal fall out between Charles Taylor and Foday Sankoh.²²⁷³ According to [REDACTED], this situation remained the same such that when Sam Bockarie assumed leadership of the RUF in mid 1997, he complained a bit about the lack of support from Taylor.²²⁷⁴ Indeed according to [REDACTED], [REDACTED], Sam Bockarie was trying to get back in touch with Taylor through Bah.²²⁷⁵ As [REDACTED] testified, in 1996, Taylor did not feature in RUF affairs at all.²²⁷⁶

²²⁶⁶ TT, [REDACTED]

²²⁶⁷ TT, [REDACTED]

[REDACTED] confirms the severance of relations between the NPFL and RUF after Top Final and the cutting off of the supply route.

²²⁶⁸ TT, [REDACTED]

²²⁶⁹ TT, [REDACTED]

²²⁷⁰ TT, [REDACTED]

²²⁷¹ TT, [REDACTED]

²²⁷² TT, [REDACTED]

²²⁷³ TT, [REDACTED]

²²⁷⁴ TT, [REDACTED]

²²⁷⁵ TT, [REDACTED]

²²⁷⁶ TT, [REDACTED]

820. On the basis of the foregoing evidence, the Defence therefore disputes the allegations that Taylor remained in radio contact with Foday Sankoh and the RUF after 1992 to the time of the Junta in 1997. Particularly, the Defence disputes the allegation that: 1) Taylor was in touch with Foday Sankoh in 1994 and advised Sankoh to attack Sierra Rutile and terrorise civilians;²²⁷⁷ and 2) that Taylor was in touch with Sankoh in 1996 and approved of his plan to stop the elections scheduled for that year, which plan involved amputating civilians.²²⁷⁸ As indicated above, from the evidence of some Prosecution witnesses, as well as Defence witnesses such as DCT-172 and DCT-179, there was no communication between Taylor and Sankoh during this time, following their fall out in 1992.²²⁷⁹ Both the Sierra Rutile attack and the Operation Stop Election are considered in detail below to illustrate the point.

Sierra Rutile attack

821. Evidence of TF1-360, Perry Kamara: At a time when there is a general consensus across the Defence/Prosecution divide as to the general communication breakdown between Taylor and Sankoh, TF1-360 alleges that there was constant communication between Taylor and Sankoh, which he monitored.²²⁸⁰ The RUF, he alleges, had a Liberian man who used to communicate with the Liberian station; the NPFL.²²⁸¹ Sankoh, he alleges, would constantly receive advice from Taylor, and each time he received a message from Mr. Taylor, the RUF would undertake a serious attack. TF1-360 gives the example of the attack on Sierra Rutile, which he alleges was attacked because Sankoh had told them that he (Sankoh) was looking for a major place to attack in accordance with Mr. Taylor's advice.²²⁸² The witness however goes on to allege that he actually witnessed this conversation, which he purported to recall verbatim. Taylor allegedly said, "You should either attack the major places like Kono or Sierra Rutile," as a result of which Sankoh chose to attack Sierra Rutile.²²⁸³ The attack he alleges occurred in late 94/95.²²⁸⁴

²²⁷⁷ TT, TF1-045, 12 Nov 09, p. 20097-8.

²²⁷⁸ TT, TF1-532, 30 Mar 08, p. 5689-90.

²²⁷⁹ TT, Taylor, 20 Jul 09, p. 24822; 24826; TT, Taylor, 26 Oct 09, p. 30243; TT, Taylor, 10 Sep 09, pp. 28669-70; TT, DCT-172, 29 Jul 10, pp. 44962-63; TT, DCT-179, 22 Feb 10, p. 35677-79; TT, DCT-179, 23 Feb 10, p. 35743-47.

²²⁸⁰ Witness alleges he knew because, as a radio man of the RUF, he received, monitored and read from the log books

²²⁸¹ TT, TF1-360, 04 Feb 08, p. 3053.

²²⁸² TT, TF1-360, 04 Feb 08, p. 3053.

²²⁸³ TT, TF1-360, 04 Feb 08, p. 3053.

²²⁸⁴ TT, TF1-360, 04 Feb 08, p. 3054.

822. During that attack, the RUF captured the manager of the company and other people, as well as rice-bags of money. When the money was brought to Sankoh, he allegedly called Taylor and Taylor advised him to save the money and use it for such things as ammunition, food and drugs for the fighters, as well as to establish diplomatic relations with the outside world. Taylor, he further alleges, told Sankoh to send some of the educated RUF members to Ivory Coast through Guinea and buy a house (including radio communication) there and establish a base. As a result, TF1-360 alleges, Sankoh appointed Fayiah Musa, Deen Jalloh, Mr. Palmer and their families (the external delegation) to go to Ivory Coast.²²⁸⁵
823. The departure of this external delegation, TF1-360 also alleges, was timed to coincide with the release of the hostages captured during the attack on Sierra Rutile in order to facilitate the delegation's easy passage through Guinea. The external delegation therefore went along with the captives who were handed over to the Red Cross.²²⁸⁶ When the external delegation got to Ivory Coast, they allegedly bought a house and a radio set.²²⁸⁷
824. Kamara's detailed account on the Sierra Rutile raises a number of questions that go to his credibility. The account raises a number of issues that not only find no support from other Prosecution witnesses, but in some instances, are even contradicted by other Prosecution witnesses. With respect to the issue of communication; Kamara's suggestion that Taylor and Sankoh spoke frequently was not borne out by any other radio operator who gave evidence in this trial and yet at one point the witness claimed that up to 20 radio stations in the RUF would have been able to hear these conversations.²²⁸⁸
825. With respect to Taylor's alleged involvement, it is important to note that the hallmark of Kamara's evidence, generally and on this particular episode, is that Taylor was the real brains behind the RUF. Kamara conveniently attributes almost every military exploit by the RUF around the time of the Sierra Rutile attack in 1994/5 to Taylor. He, for instance, suggests that the tactical move by the RUF to take to the jungle and adopt guerrilla tactics following increasing attacks from the government forces was at Taylor's direct advice.²²⁸⁹ Even before then, he alleges, Taylor had told "Mosquito"

²²⁸⁵ TT, TF1-360, 04 Feb 08, p. 3054-5.

²²⁸⁶ TT, TF1-360, 04 Feb 08, p. 3055-6.

²²⁸⁷ TT, TF1-360, 04 Feb 08, p. 3055.

²²⁸⁸ TT, TF1-360, 7 Feb 08, p. 3314-5.

²²⁸⁹ TT, TF1-360, 4 Feb 08, p. 3050.

that Sankoh should flee to Liberia, but Sankoh refused for fear of inter-fighting within the RUF.²²⁹⁰ That was when, Kamara alleges, Taylor advised Sankoh to use the little ammunition he had to open jungles, in consequence of which Sankoh opened Zogoda, and from there the other jungles. TF1-360 also alleges that during this time, he also saw a message from Taylor advising Sankoh to find a suitable place to build an airstrip, as a result of which Sankoh appointed Peter Vandi to mobilize civilians to build an airstrip in Buedu, Kailahun.²²⁹¹

826. TF1-360's seemingly informed and convincing story however falters on a closer analysis of his evidence against that of other Prosecution witnesses who were better positioned in relation to the events he testified to. On the establishment of Zogoda, for instance, contrary to TF1-360's evidence that, that was Taylor's idea; [REDACTED], the establishment of Zogoda was a military necessity that did not require Taylor's alleged military genius. Zogoda was established as "a matter of survival",²²⁹² following incessant attacks from the government forces on one hand and ULIMO on the other.²²⁹³ Likewise, the decision to take to the jungle was a "reality that we [the RUF] had to be self-reliant" in order to "make sure that we survived."²²⁹⁴
827. Another area that makes interesting comparison between Kamara and [REDACTED]'s evidence is the issue of the External Delegation. Again contrary to TF1-360's made-up story that Taylor came up with the idea; the idea to establish an external delegation originated within the RUF itself. According to [REDACTED], it was the RUF who mooted the idea of establishing an external delegation to Foday Sankoh.²²⁹⁵ Furthermore, contrary to Kamara's evidence that the external delegation was dispatched under the cover of the Sierra Rutile captives, for easy passage through Guinea; according to [REDACTED]'s evidence, when the captives were released, the external delegation was already established in Ivory Coast.²²⁹⁶ And, in fact, when the external delegation went to Guinea *en route* to Ivory Coast, they did fall into trouble with the authorities after some Sierra Leonean refugees in Guinea pointed them out as RUF associates.²²⁹⁷

²²⁹⁰ TT, TF1-360, 4 Feb 08, p. 3051.

²²⁹¹ TT, TF1-360, 4 Feb 08, p. 3058; the Defence notes that Bockarie told Mohammed Kabbah that the airfield in Buedu was constructed so that the RUF could import arms directly from Libya, TT, Mohammed Kabbah, TF1-568, 16 Sep 08, p. 16294.

²²⁹² TT, [REDACTED]

²²⁹³ TT, [REDACTED]

²²⁹⁴ TT, [REDACTED]

²²⁹⁵ TT, [REDACTED]

²²⁹⁶ TT, [REDACTED]

²²⁹⁷ TT, [REDACTED]

828. The Defence submits that TF1-360's evidence on this matter was not just a case of the witness genuinely getting mixed up on the timing of certain events. Quite to the contrary the witness led the court to believe that he was quite sure of the dates and the events around those dates.²²⁹⁸ This is a clear case where the witness pieced together a story that on the face of it is quite convincing; only to fall apart on closer scrutiny. It is an example, not isolated, of blatant mendacity the Trial Chamber must therefore see the evidence for what it is: an elaborately made-up story deliberately designed to directly implicate Taylor. Indeed this would not be the last time TF1-360 would try to implicate Taylor directly in the planning of RUF combat activities in Sierra Leone. TF1-360, in another discredited account considered below, also attempted to implicate Taylor in the Freetown invasion.
829. This instance however also raises a much wider issue. It highlights a critical element endemic in the Prosecution's evidence of how Prosecution witnesses, including lowly placed witnesses, professed knowledge of facts way over their heads and ended making up all sorts of stories that deliberately fed into the Prosecution's theories on the Accused's alleged guilt. This element was clearly illustrated by TF1-360's failure to give a straight answer when he was cross-examined on the record of the alleged radio conversations between Taylor and Sankoh. Kamara ended up giving conflicting answers as to what was recorded in log books and what happened to those log books.²²⁹⁹
830. Evidence of TF1-045 Augustine Mallah: TF1-045's evidence on the Sierra Rutile attack weighs in with a terror dimension to complete the perfect picture of Charles Taylor's direct involvement in a JCE involving terror. TF1-045 also alleges that the Sierra Rutile attack was at the end of 1994. At that time the witness alleges that he was based at Zogoda when Sankoh told him that he would soon be sent on a mission to Sierra Rutile.²³⁰⁰ Sankoh, he alleges, said he had received instructions from the other side – Charles Taylor – “to attack Sierra Rutile and terrorise the area, starting with the civilians, the towns and to capture if possible the white employees who were there.” The idea was to do “something which would be of concern to the Sierra Leonean government and international community”.²³⁰¹ Sierra Rutile, he alleges, was

²²⁹⁸ TT, TF1-360, 4 Feb 08, p. 3054 et seq.

²²⁹⁹ TT, TF1-360, 7 Feb 08, p. 3309-13.

²³⁰⁰ TT, TF1-045, 12 Nov 08, p. 20096.

²³⁰¹ TT, TF1-045, 12 Nov 08, p. 20097.

- specifically targeted because “it was the company that the people relied on” and the RUF should “stop the work”.
831. Foday Sankoh however also allegedly ordered that on the way to the town, the RUF should take no prisoners; they should kill as they went along. Sankoh, the witness alleges, ordered that all the towns around Sierra Rutile “should not be normal”; that they should burn the places to force the civilians to flee so that the soldiers (presumably SLA) would also be afraid to stay there. Sankoh also ordered the destruction of the company machines and property so that the “company would cease to exist”. Furthermore, Sankoh also ordered that if possible, they should capture the white people working for the company and send them to him. The capture of the white people, Sankoh allegedly said, was to draw the attention of the international community to concentrate on peace in Sierra Leone. The attack was carried out and 7 white people were captured. Along the way, TF1-045 alleges, towns were burnt and civilians killed. Sierra Rutile was also burnt and destroyed.²³⁰²
832. Before going into the credibility of TF1-045’s evidence on this issue and generally, it is important to note that TF1-045 does not directly attribute the order for atrocities during the Sierra Rutile attack to Taylor. The attacks were at Foday Sankoh’s direct orders.²³⁰³
833. TF1-045 however takes TF1-360, Perry Kamara’s discredited evidence a notch higher and uniquely alleges that the alleged radio contact between Taylor and Sankoh during the period 1994-1996, was not just on a daily basis, but would sometimes be more than once a day. Even more curiously, despite his position at that time as Strike Force Commander,²³⁰⁴ Mallah also professed knowledge of the subject matter of those alleged numerous conversations, allegedly from information fed him by Sankoh’s radio operators.²³⁰⁵ Not surprisingly, under cross-examination, this would prove to be a recently concocted story that was deliberately designed to feed into the Prosecution’s case. The account proved to be in stark contradiction to what the witness had repeatedly told Prosecution interviewers over several years up to and including 2007.

²³⁰² TT, TF1-045, 12 Nov 08, p. 20098-101.

²³⁰³ TT, TF1-045, 13 Nov 08, p. 20301.

²³⁰⁴ By his own account Mallah was a regular fighter from 1991-1994, when he was appointed commander of the Strike Force Unit, Foday Sankoh’s security. At the end of 1994, he was sent to Sierra Rutile and for 8 months before he was back at Zogoda. TT, TF1-045, 12 Nov 2008, 20074-20101.

²³⁰⁵ TT, TF1-045, 12 Nov 08, p. 20109-10.

834. In a previous interview in 2003, as well as in 2006, TF1-045 had told the Prosecution that in 1994 he had only seen one Action Man bring Sankoh a "letter and saying that Taylor wants to talk to him" (presumably, radio message), only twice.²³⁰⁶ Indeed in 2007, the witness, correcting his previous accounts to the Prosecution had gone on to clarify that, "the radio operator never told him what Charles Taylor wanted Foday Sankoh on the radio and he [was] not aware of the nature of their conversation."²³⁰⁷ While previous inconstant statements on matters of detail or finer points may be understandable, diametrically opposite accounts to those in previous statements raise suspicion. This suspicion is heightened when the witness concerned fails to explain the inconsistencies.
835. In that context, TF1-045's attempt to disown his previous statements on this matter is quite telling. While TF1-045 tried to suggest that in 2003, he had deliberately told the Prosecution lies, for 'his own reasons';²³⁰⁸ that does not explain why he did not correct those so-called lies in subsequent interviews in 2006 and 2007, when one Phillip Rose, formerly of the Prosecution, had taken care to verify the contents of the interview notes with him and had gone on to attach an Affirmation Form to the effect that "*Augustine Mallah advised me that he agreed with the contents of the statement and signed a witness acknowledgment and affirmation form.*", before taking the further trouble of having it sworn before Joseph Kamara. TF1-045 would only be evasive when he was questioned further on this issue.²³⁰⁹ The Trial Chamber must therefore reject TF1-045's evidence as a revised lie. Furthermore, this must serve as a constant reminder on TF1-045's general credibility as a witness.

Operation Stop Election

836. With respect to Operation Stop Elections, the dispute is not whether there was any such event but whether Taylor played any part in it, and whether the operation involved planned atrocities. From some of the Prosecution's own evidence, which again collaborates Defence witnesses, such as DCT-172 Issa Sesay, who were closer to the events at the time; the RUF plan to stop the 1996 elections, the so-called Operation Stop Election, did not specifically design the amputation of civilians, as some Prosecution witnesses allege. According to [REDACTED], in one of the few instances he was forthright and truthful; there was no instruction to cut people's hands during

²³⁰⁶ TT, TF1-045, 14 Nov 08, p. 20295-6.

²³⁰⁷ TT, TF1-045, 14 Nov 08, p. 20297.

²³⁰⁸ TT, TF1-045, 14 Nov 08, p. 20296-7 et seq.

²³⁰⁹ TT, TF1-045, 14 Nov 08, p. 20298 et seq.

the operation, although some fighters ended up cutting people's hands.²³¹⁰ [REDACTED] also re-emphasised this point under re-direct where elaborated that Foday Sankoh's plan was to disrupt the elections and some fighters took it upon themselves to cut off people's hands.²³¹¹

837. The allegation by TF1-532 that Operation Stop Election envisaged amputations and that Sankoh ran the idea by Taylor and he approved it; considered on its merits, as well as against other Prosecution evidence, and Defence evidence, is nothing but a lie. [REDACTED], the allegation is contradicted by the evidence of [REDACTED], as well as Issa Sesay and Martin George.²³¹² On its own merits; a closer look at TF1-532's evidence easily reveals that the witness was lying. According to TF1-532, while at Zogoda, Foday Sankoh called a meeting of commanders to make a general plan to scuttle the elections that were scheduled to take place. During the meeting Foday Sankoh received a radio call from Taylor, which he took in the presence of the witness. During the radio conversation he briefed Taylor on the RUF's general state of affairs *since the closure of the border*, as well as the plan to stop the elections. The plan he allegedly said would be fearful and would involve cutting off people's hands. Taylor then allegedly responded that the plan was not a bad one.
838. First, it is quite striking that Taylor should have per chance called Foday Sankoh right during the meeting at which the operation was being discussed. Secondly, it is quite remarkable that Foday Sankoh, after obviously having been out of touch with Taylor for such a long time should have readily sought Taylor's *approval* of his plan. In this regard, it is important to note from TF1-532's own evidence that the alleged call during the meeting was the first in a long time since the closure of the border. By TF1-532's own account, Foday Sankoh took the opportunity to brief Taylor on the state of affairs in the RUF since the closure of the border.²³¹³ This obviously implies that Taylor and Sankoh had not been in touch since the closure of the border. In those circumstances, it is quite incredible that the first time their relationship was rekindled after such a long time, allegedly through a chance call from Taylor, Sankoh then readily jumped at the opportunity to seek Taylor's *approval* of his plan to stop the elections.

²³¹⁰ TT, [REDACTED]

²³¹¹ TT, [REDACTED]

²³¹² TT, Martin George, DCT-062, 27 Apr 10, p. 40067-8; Issa Sesay, DCT-172, 06 Jul 10, p. 43746-7; 04 Aug 10, 45377.

²³¹³ TT, TF1-532, 10 Mar 08, p. 5693-5.

839. In any event, TF1-532's account on this issue – as with the rest of his evidence on all material issues implicating the Accused – was seriously challenged in cross-examination and was exposed for what it was; a lie. Indeed TF1-532's account of the operation is one of the many instances where the witness's account grew by the day as he continued to talk to the Prosecution. Despite the centrality of the allegation of terror to the Prosecution's case, it is quite remarkable that in all TF1-532's previous statements to the Prosecution, he did not mention the alleged radio communication between Taylor and Sankoh until proofing sessions before testifying.²³¹⁴ Even then, during the proofing sessions, he only mentioned that the plan was to make the operation fearful. There was no specific mention of amputations being part of the plan.²³¹⁵ Indeed, as Defence counsel put it to the witness, this was one of those instances where the witness's evidence grew by the day.²³¹⁶
840. This, it is submitted, is hardly surprising given the benefits that the witness was getting from the Prosecution. The witness, for instance, got indemnity from Prosecution, despite him, by his own reckoning, being one of the top dozen members of the RUF.²³¹⁷ Furthermore, the witness also got substantial monetary disbursements, some which could not be justified as legitimate expenses.²³¹⁸
841. For all the foregoing issues going to the witness's credibility, the Defence submits that the evidence of TF1-532 is suspect and must be disregarded.

JCE – Taylor and the Junta

842. Consistent with its allegation of a continuous JCE, it is the Prosecution's case that when the AFRC Junta took over power from the Sierra Leonean government in May 1997 and invited the RUF into government, it automatically joined the RUF in the JCE that allegedly subsisted between Taylor and Sankoh, and the JCE continued uninterrupted.²³¹⁹ The Defence does not contest that when the Junta came to power, Sankoh instructed the RUF to join and work with the AFRC;²³²⁰ or that the RUF were part of the "Supreme Council;"²³²¹ or that there was military collaboration against common enemies such as ECOMOG.²³²² This alliance however did not have the unity

²³¹⁴ TT, TF1-532, 02 Apr 08, p. 6468-9 et seq.

²³¹⁵ TT, TF1-532, 02 Apr 08, p. 6491.

²³¹⁶ TT, TF1-532, 02 Apr 08, p. 6502.

²³¹⁷ TT, Isaac Mongor, TF1-532, 31 Mar 08, p. 6240-1; 6252.

²³¹⁸ TT, TF1-532, 7 April 2008, p. 6702-20.

²³¹⁹ Prosecution Amended Case Summary, para. 11-13

²³²⁰ TT, TF1-567, p. 12880; also see TT, TF1-371, 01 Feb 08, p.2857-8.

²³²¹ P-59; P-60; TT, TF1-532, p. 5704-5; 11 Mar 08, p. 5716-7. Also see Exhibit P-61.

²³²² TT, TF1-532, p. 5702-3 and 5722-3.

- of purpose of a classical coalition government. As Bockarie described it, it was a marriage of uneven and unequal partners.²³²³ The two groups while working together largely remained separate.²³²⁴ The AFRC dominated the government and the RUF was largely marginalised.²³²⁵ Johnny Paul Koroma, the Junta Chairman sidelined and ignored Bockarie, his designated deputy in the absence of Foday Sankoh, on military issues.²³²⁶ The RUF's proposal to the AFRC for its integration into the Sierra Leone Army, Exhibit P-360, was never implemented. So despondent was Bockarie that he eventually left Freetown and based in Kenema.²³²⁷ Indeed there were even allegations of a coup attempt against JP Koroma by Massaquoi and Bio.²³²⁸
843. The Prosecution would however try to involve Taylor in the RUF/AFRC affairs to justify its hopeless allegation of a continuous JCE. The evidence, as always, is however replete with internal contradiction that undermine its credibility. According to TF1-532, for instance, Taylor encouraged the union and wanted the RUF and AFRC to work together.²³²⁹ However contrast that with the evidence of TF1-567 that Taylor sent Daniel Tamba to tell Bockarie not to be too involved with the AFRC.²³³⁰ There are also some allegations suggesting that Taylor also tried to assist the AFRC in its relationship with the RUF. TF1-597, for instance, alleges that JP Koroma contacted Taylor when he was trying to deal with the Iranian embassy incident in January 1998 involving Sesay.²³³¹ According to the witness, they contacted Taylor to inform him as the RUF's Godfather. That Taylor would have been involved in such a small matter and not the larger issues relating to the sidelining of the RUF trifles this allegation.
844. Besides encouraging the AFRC/RUF union, Prosecution evidence also suggests that Taylor also tried to prop up the Junta regime. Taylor allegedly assisted the Junta government in its attempts to establish external relations. According to TF1-597, Taylor and JP Koroma discussed the Junta sending a delegation to Liberia.²³³² [REDACTED], alleges that [REDACTED], and that

²³²³ Exh. D-9 p.2

²³²⁴ Adjudicated Fact 4.

²³²⁵ Exhibit D-84; Exhibit D-85; Exhibit P-67.

²³²⁶ Exhibit D-9; Exhibit D-85; TT, DAF, TF1-274, 4 Dec 08, p. 21737-42.

²³²⁷ TF1-567, 13170-2; DCT-7 Jul. 10, p.43920-1.

²³²⁸ TT, DAF, TF1-274, 4 Dec. 08 p.21748-9

²³²⁹ TT, TF1-532, p. 5712.

²³³⁰ TT, TF1-567, p. 12889-90.

²³³¹ TT, TF1-597, 21 May 08, p. 10448-52.

²³³² TT, TF1-597, 21 May 08, p. 10453-5.

- Taylor was working towards gaining ECOWAS's recognition of the Junta.²³³³ Taylor allegedly told JP Koroma that he was working to gain recognition of the Junta.²³³⁴
845. Taylor also allegedly conducted business with the Junta. He allegedly continued to receive diamonds from Sierra Leone. Diamond mining continued under the Junta government.²³³⁵ Gullit who was in charge of Kono,²³³⁶ would bring diamonds to JP Koroma,²³³⁷ and JP Koroma would send the diamonds to Taylor.²³³⁸ Furthermore, Taylor also allegedly received diamonds from Bockarie through Daniel Tamba.²³³⁹ In exchange for diamonds, Taylor allegedly supplied the Junta with arms and ammunition.²³⁴⁰ TF1-597 testified that Taylor spoke to JP Koroma about an arms shipment.²³⁴¹ According to [REDACTED], Taylor sent Ibrahim Bah to help the Junta acquire arms and ammunition.²³⁴² Indeed, according to both [REDACTED] and TF1-532, the Magburaka shipment was arranged by Taylor.²³⁴³ TF1-532, in fact, suggests that the "small amount of ammunition" received at Magburaka actually came from Liberia.²³⁴⁴ The materiel was distributed to Bockarie and JP Koroma.²³⁴⁵
846. When one closely considers all the Prosecution's evidence on the alleged diamonds for arms and ammunition transactions between Taylor and the Junta, it is quite clear that the evidence relates to one alleged transaction, the so-called Magburaka shipment. Indeed, although there was a tendency for over generalisation on the part of the Prosecution witnesses in their narrative on diamonds being sent to Taylor in return for arms and ammunition, Prosecution witnesses who were close to the Junta only alleged one such transaction, the Magburaka shipment. Taylor's alleged role in this shipment is considered in detail below.
847. Consistent with its allegations that Taylor formed a close relationship with the Junta and perpetuated the JCE that existed before with the RUF, the Prosecution also alleges regular communication between Taylor and the Junta through intermediaries

²³³³ TT, [REDACTED].

²³³⁴ TT, [REDACTED].

²³³⁵ TT, TF1-532, p. 6191-2.

²³³⁶ TT, TF1-532, 11 Mar 08, p. 5719-21.

²³³⁷ TT, [REDACTED].

²³³⁸ TT, TF1-532, 11 Mar 08, p. 5719-21.

²³³⁹ TT, TF1-045, p. 20146-9; TF1-571, p. 9380-4; TF1-567, p. 12884-9.

²³⁴⁰ TT, TF1-532, 11 Mar 08, p. 5713-5.

²³⁴¹ TT, TF1-597, 21 May 08, p. 10455.

²³⁴² TT, [REDACTED].

²³⁴³ TT, [REDACTED]; TF1-532, 11 Mar 08, p. 5724-8 and p. 5733-4.

²³⁴⁴ TT, TF1-532, 11 Mar 08, p. 5724.

²³⁴⁵ TT, [REDACTED].

such as Ibrahim Bah, by satellite phone,²³⁴⁶ and radio communication.²³⁴⁷ This cooperation it is alleged continued even as the Junta fell from power in February 1998. According to TF1-597, Taylor discussed with JP Koroma about collecting him by helicopter.²³⁴⁸ Taylor then encouraged JP Koroma to capture Kono.²³⁴⁹

848. If the Trial Chamber were persuaded to believe that a JCE, let alone, one involving terror or even the pillage, existed between Taylor and the RUF at any point before the Junta, the Defence submits that any such JCE would have stopped when the RUF joined the Junta to form a government. To start with, the union between the RUF and the AFRC, which as discussed above was dominated by the former, created an entirely new entity possessed of the *de facto* executive authority of a government. On that basis alone, the suggestion by the Prosecution that the AFRC (or members thereof) simply walked into a JCE that subsisted between Taylor and members of the RUF is overly simplistic, if not ludicrous. There is no evidence of a meeting of the minds between members of the AFRC (Johnny Paul Koroma and company) and the RUF on the one hand and Taylor on the other, to either (as the Prosecution JCE theory suggests) jointly continue with the alleged campaign of terror, or to jointly continue pillaging the country's mineral resources, in particular diamonds.
849. Furthermore, on a simple analysis of the facts alone; the suggestion that the Junta, which fortuitously seized power as a result of its disenchantment with the Kabbah's government lack of attention to the national army's welfare and its perceived bias towards the Kamajors,²³⁵⁰ and only then invited the RUF to join the government in order to foster peace in the country;²³⁵¹ by so doing, merely walked into a JCE that was subsisting between Taylor and members of the RUF, makes little sense. It has no basis on the facts, in common sense or in law. These suggestions, it is submitted, are reminiscent of the discredited notion of criminal organisations or the notion of guilt by association in that, in the Prosecution's book, anyone who associated with the RUF *ipso facto* became part of the alleged subsisting JCE. This is clearly illustrated by the Prosecution's failure to lead any evidence of the meeting of the minds between Taylor and the RUF, and any member of the AFRC, on the alleged common purpose

²³⁴⁶ TT, TF1-371, 28 Jan 08, p. 2318; TT, TF1-597, 21 May 08, p. 10444-6.

²³⁴⁷ TT, TF1-274, 2 Dec 08, p. 21432-6.

²³⁴⁸ TT, TF1-597, 21 May 08, p. 10487-91.

²³⁴⁹ TT, TF1-597, 21 May 08, p. 10492-6.

²³⁵⁰ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10435; Exhibit P-134B, Resolution (iv).

²³⁵¹ AFRC Adjudicated fact 1.

of a campaign to terrorise the civilian population of Sierra Leone or to pillage the country's resources.

850. Secondly, when the RUF joined the AFRC to form a government, they had achieved their goal to gain political and territorial control of Sierra Leone. To suggest that they would then have continued in a JCE enterprise involving terror in those circumstances is again ludicrous. During this time, according to the evidence of TF1-371, the RUF, through a press release by Eldred Collins, in fact, took the opportunity to apologise to the people of Sierra Leone for its past atrocities. Furthermore, while there is evidence of some atrocities during Junta relating to forced labour with respect to mining; the killing of student demonstrators and the ill-treatment of civic leaders;²³⁵² and looting,²³⁵³ and burnings,²³⁵⁴ during the retreat from Freetown following the so-called intervention (attributed to a breakdown in law and order due to loss of command and control),²³⁵⁵ there is no evidence that Taylor was complicit in these crimes. Indeed, according to the evidence of TF1-371 under cross-examination, Taylor had no control over the Junta. Most importantly, he neither gave the RUF nor the Junta any instructions to carry out atrocities.²³⁵⁶
851. In this regard, nothing turns on the allegations that Taylor encouraged the RUF and the AFRC to work together, or that he was working to get the Junta recognised by other countries. Strictly as a legal point, there is nothing in international law that prevented Taylor as a head of state from recognising and indeed working with the *de facto* Junta government. Likewise, nothing turns on the allegations that Taylor traded diamonds for arms and ammunition with the Junta. Again, strictly as a legal point, these would be acts of state between two sovereigns. The Defence however denies that Taylor had dealings with Junta as alleged, as discussed in detail below.
852. It is quite clear on a closer reading of the Prosecution's own evidence, absolutely taken at face value, that at the time the Junta came to power, it had no relationship whatsoever with Taylor; whether directly, or indirectly through its partner in government, the RUF. Indeed, the Junta, as members of the Sierra Leone Army would have been hitherto opposed to Taylor. When Taylor became President, two months or so after the Junta coup, the Junta thus attempted to extend diplomatic

²³⁵² TT, TF1-371, 28 Jan 08, p. 2346-7.

²³⁵³ TT, TF1-371, 28 Jan 08, p. 2352-3.

²³⁵⁴ TT, TF1-371, 28 Jan 08, p. 2359.

²³⁵⁵ TT, TF1-371, 04 Feb 08, p. 3000-8; p. 3011-3.

²³⁵⁶ TT, TF1-371, 30 Jan 08, p. 2655.

overtures to Taylor. [REDACTED]

[REDACTED].²³⁵⁷ Even then, the route this delegation took to get an audience with Taylor does not suggest any prior contact, let alone amity, between Taylor and the Junta, or any member(s) thereof.

853. According to [REDACTED], Karifa Smart, the head of the Junta delegation, had to call on a personal acquaintance within Taylor's government, John T Richardson, to try to put them in touch with Taylor. Richardson then introduced them to Monie Captan, the Minister of Foreign Affairs, to whom the letter to Taylor from Johnny Paul Koroma was delivered.²³⁵⁸ It was only after this visit that, according to the Prosecution's evidence, Taylor sent Ibrahim Bah to Sierra Leone.²³⁵⁹ Against this background, it is ludicrous to suggest that the Junta simply walked into a JCE that allegedly existed between the Taylor and the RUF. Indeed if there was such close liaison between the RUF and Taylor at this time, as the Prosecution suggests, it should not have taken the Junta such a circuitous route to simply deliver a letter to Taylor.
854. The Defence however contests some of the material allegations by the Prosecution's witnesses on this issue. On the allegation of Recognition; the Defence case is that Taylor never recognised the Junta, either officially or covertly.²³⁶⁰ For starters, Taylor had nothing to do with the AFRC coup,²³⁶¹ nor did he have anything to do with the RUF joining with the AFRC.²³⁶² At the time of the coup Taylor was not even President yet. The RUF joined the AFRC solely because Sankoh commanded it.²³⁶³ Secondly, Taylor had no contact with the Junta during its time in power.²³⁶⁴ This was despite the fact that he had authority to contact the Junta if he so wished; for in August 1997, he had been incorporated onto the Committee of Five,²³⁶⁵ with Kabbah's knowledge. Taylor then became the mediator and point person for peace in

²³⁵⁷ TT, [REDACTED].

²³⁵⁸ TT, [REDACTED].

²³⁵⁹ TT, [REDACTED].

²³⁶⁰ TT, Taylor, 6 Aug 09, p. 26136; 29 July 09, p. 25531. TF1-597 has Massaquoi bringing Taylor's number to JP Koroma, but Taylor states that had Massaquoi been working with him, he would have travelled through Liberia to Sierra Leone, not through Guinea: Taylor, 2 Nov 09, p. 30815-6. Sankoh sent Massaquoi and Steve Bio to the Junta: DCT-306, 15 Apr, p. 39100. DCT-172 testified that Massaquoi brought letters, not telephone numbers: DCT-172, 30 July 10, p. 45116-8.

²³⁶¹ TT, Taylor, 23 July 09, p. 25153-4.

²³⁶² TT, TF1-371, p. 2857-8; Taylor, 23 July 09, p. 25200-2.

²³⁶³ TT, TF1-371, p. 2289-90; TF1-388, p. 13337-40; Taylor, ???; DCT-172, 6 July 10, p. 43818-29.

²³⁶⁴ TT, Taylor, 29 July 09, p. 25597-8; 6 Aug 09, p. 26205; 11 Aug 09, p. 26464-5; DCT-172, 7 July 10, p. 43936-7.

²³⁶⁵ TT, Taylor, 23 July 09, p. 25198-9. Taylor initially dates this to about September 1997, but later confirms it was August 1997: TT, Taylor, 27 July 09, p. 25300; 28 July 09, p. 25411.

Sierra Leone,²³⁶⁶ taking over the role formerly played by the Ivory Coast,²³⁶⁷ all with the mandate and consent of ECOWAS.²³⁶⁸ Ivory Coast it might be recalled had been hosting and providing other support to the RUF external delegation.²³⁶⁹ Taylor thus simply walked into a system that was already established.

855. The Junta did approach Taylor on two occasions and both times he rebuffed its overtures. The first was when Taylor received a letter²³⁷⁰ from JP Koroma in October 1997.²³⁷¹ [REDACTED]. Taylor however had had no prior contact with the Junta to prompt the letter²³⁷² and did not respond to it.²³⁷³ The second time, also in October 1997, was when the Junta sent a delegation to Monrovia, but Taylor did not see them. Rather, they were met by a minister.²³⁷⁴ On the other hand, in contrast to Taylor's attitude towards the Junta, ECOWAS states did negotiate with the Junta and with Sankoh,²³⁷⁵ such as in October 1997. These negotiations however did not include Taylor.²³⁷⁶
856. For his part, rather than take an independent position, Taylor acted in keeping with his role as an ECOWAS leader. As ECOWAS supported Kabbah as the rightful president of Sierra Leone, no member state, including Liberia, could recognise the Junta.²³⁷⁷ Taylor toed this line. It made no sense to go against the ECOWAS position and Taylor could not have done so even if he wanted to.²³⁷⁸
857. Indeed, during this time, rather than being an instigator, Taylor was the one who was victim of the geo-political power play between Nigeria and Britain for influence in Sierra Leone.²³⁷⁹ Nigeria, in particular, had significant power and influence over the region, even within Liberia. Nigeria at this time was training and arming the

²³⁶⁶ TT, Taylor, 27 July 09, p. 25308-9.

²³⁶⁷ TT, Taylor, 28 July 09, p. 25416-7.

²³⁶⁸ TT, Taylor, 29 July 09, p. 25489-90.

²³⁶⁹ TT, Fayia Musa, DCT-306, 14 Apr 10, p. 38942-3.

²³⁷⁰ Exhibit D-4.

²³⁷¹ TT, Taylor, 28 July 09, p. 25431-3. The letter thanks Taylor for playing a helping role in the General Assembly, which Taylor denies (he spoke about peace in Sierra Leone, but could hardly have spoken about anything else: Taylor, 23 Sep 09, p. 29546-9.), and asks him for arms.

²³⁷² TT, Taylor, 28 July 09, p. 25433-4.

²³⁷³ TT, Taylor, 28 July 09, p. 25436-7.

²³⁷⁴ TT, Taylor, 28 July 09, p. 25439-40. This was the only delegation to Liberia: Taylor, 2 Nov 09, p. 30824-5. Though on 21 Jan 10, p. 33926-30 Taylor states a delegation came in about August 1997.

²³⁷⁵ TT, TF1-371, p. 2292-3 ([REDACTED]); see Exhibit D-466.

²³⁷⁶ TT, Taylor, 28 July 09, p. 25451-60; DCT-172, 7 July 10, p. 43933-6. The Liberian Foreign Minister attended instead.

²³⁷⁷ TT, Taylor, 27 July 09, p. 25286-7. By contrast, TF1-597 has Liberia recognising the Junta before Taylor was even president: TF1-597, p. 10684-5; Taylor, 2 Nov 09, p. 30814-6.

²³⁷⁸ TT, Taylor, 28 July 09, p. 25437-9.

²³⁷⁹ TT, Taylor, 27 July 09, p. 25267-9; 29 July 09, p. 25477-8; 29 July 09, p. 25519-20; 29 July 09, p. 25573-4.

- Kamajors within Liberia.²³⁸⁰ Hinga Norman was the Kamajor leader stationed at Ricks Institute.²³⁸¹ This was all being done outside the auspices of ECOWAS,²³⁸² and had a destabilising effect on Liberia.²³⁸³ At the same time, Nigeria was also carrying out sorties into Sierra Leone from Liberia.²³⁸⁴
858. Britain on the other hand was supporting Kabbah's government-in-exile,²³⁸⁵ while opposing Nigeria's strategy of use of force.²³⁸⁶ During this time, Liberia's ability to act independently was very weak. It relied on ECOMOG as its armed forces.²³⁸⁷ ECOMOG at this time was deployed on the Liberian border and at both airports in Monrovia.²³⁸⁸ When two helicopters transporting Junta personnel landed at Spriggs Payne airport in February 1998, for instance, they were seized by ECOMOG.²³⁸⁹
859. Indeed after the Conakry accord, Taylor committed to the accord and agreed with the decision to return President Kabbah to power,²³⁹⁰ although there were disagreements on the use of force, or how soon force should be used.²³⁹¹ For his part, Taylor held a justifiable apprehension²³⁹² that a major war in Sierra Leone would lead to regional instability.²³⁹³ By February it was however apparent force would be used and so he supported it.²³⁹⁴ Liberia was in fact part of the delegation that briefed the Security Council on the use of force.²³⁹⁵
860. Against this background, the Defence submits that it is incredulous that Taylor would have been in cahoots with the Junta. If Taylor had been in communication with the Junta as some of the Prosecution's evidence alleges, as highlighted above, it should for instance have been easy for the Junta to communicate with him. Furthermore, he for instance, should have been able to warn members of the Junta against landing at Spriggs Payne airport where they were captured by ECOMOG.²³⁹⁶ The reality is that

²³⁸⁰ TT, Taylor, 27 July 09, p. 25275-7; DCT-172, 7 July 10, p. 43936-8.

²³⁸¹ TT, Taylor, 27 July 09, p. 25333.

²³⁸² TT, Taylor, 29 July 09, p. 25491.

²³⁸³ TT, Taylor, 29 July 09, p. 25488-9.

²³⁸⁴ TT, Taylor, 27 July 09, p. 25290.

²³⁸⁵ TT, Taylor, 13 Aug 09, p. 26693.

²³⁸⁶ See above.

²³⁸⁷ TT, Charles Taylor, 27 Jul 09, p. 25275.

²³⁸⁸ TT, Taylor, 27 July 09, p. 25351-2; 28 July 09, p. 25443-4.

²³⁸⁹ TT, Taylor, 29 July 09, p. 25574-7; Exhibit D-141, p. 239.

²³⁹⁰ TT, Taylor, 28 July 09, p. 25471-3; 29 July 09, p. 25558-63.

²³⁹¹ TT, Taylor, 29 July 09, p. 25517-8; 29 July 09, p. 25533.

²³⁹² TT, Taylor, 30 July 09, p. 25636-7.

²³⁹³ TT, Taylor, 29 July 09, p. 25527.

²³⁹⁴ TT, Taylor, 29 July 09, p. 25564-74.

²³⁹⁵ TT, Taylor, 29 July 09, p. 25570-2.

²³⁹⁶ TT, Taylor, 29 July 09, p. 25574-7.

Taylor did not communicate with the Junta despite having the authorisation to do so. He did not speak to JP Koroma via satellite phone until 1999.²³⁹⁷ Nor did he communicate with Bockarie.²³⁹⁸ As the Defence will also argue in this Brief, Exhibit D-7 clearly shows that Bockarie was desperately trying to get in touch with Taylor after the fall of the Junta.

861. Similarly, contrary to the allegations by some of the Prosecution witnesses, Taylor did not communicate with the Junta through any subordinates or intermediaries such as Ibrahim Bah. Contrary to the suggestions that Ibrahim Bah was Taylor's emissary, from the Prosecution's own evidence, Bah had an independent relationship with the RUF, which even pre-dated the Sierra Leonean war. Bah met Sankoh in Libya and became a runner and arms-dealer for the RUF.²³⁹⁹ According to [REDACTED], Ibrahim Bah and Foday Sankoh became friends in Liberia. Both were Special Forces.²⁴⁰⁰ Ibrahim Bah told RUF members that he was Foday Sankoh's advisor.²⁴⁰¹ Further to being Sankoh's advisor, according to TF1 [REDACTED], Bah also doubled as a member of the external delegation.²⁴⁰² Indeed according to Mongor, "...Ibrahim Bah had been with us before and we knew him to be a liaison officer who had been with the RUF."²⁴⁰³

Magburaka arms shipment

862. In view of the foregoing relationship between Ibrahim Bah and Foday Sankoh/the RUF, it is thus incredulous to suggest, as some of the Prosecution witnesses allege, that Magburaka arms shipment for the Junta was facilitated by Ibrahim Bah on Taylor's instructions. Rather, it is the Defence case, which is also supported by some of the Prosecution's own evidence, that it was Sankoh who encouraged the Junta to work with Bah, and to purchase arms from Burkina Faso.²⁴⁰⁴ According to the evidence of Issa Sesay, the Magburaka arms shipment had already been negotiated by Foday Sankoh and Ibrahim Bah before the Junta came to power.²⁴⁰⁵ Sankoh paid for the shipment with money received from Libya.²⁴⁰⁶ This, it is submitted, is

²³⁹⁷ TT, Taylor, 23 Sep 09, p. 29546.

²³⁹⁸ TT, DCT-172, 7 July 10, p. 43938-9 (May 1997 to December 1997).

²³⁹⁹ TT, TF1-338, p. 15294-5; DCT-172, 6 July 10, p. 23810-8.

²⁴⁰⁰ TT, [REDACTED].

²⁴⁰¹ TT, [REDACTED].

²⁴⁰² TT, [REDACTED].

²⁴⁰³ TT, TF1-532, 11 Mar 08, p. 5713.

²⁴⁰⁴ TT, DCT-172, 7 July 10, p. 43857-8.

²⁴⁰⁵ TT, DCT-172, 7 July 10, p. 43859.

²⁴⁰⁶ TT, DCT-172, 7 July 10, p. 43871-2, p. 43874, p. 43900-16 alongside D-15 and P-272.

corroborated by the independent evidence in the form of Exhibits D-15²⁴⁰⁷, P-272²⁴⁰⁸ and P-277²⁴⁰⁹. When the Junta came to power, Foday Sankoh who was in detention in Nigeria sent some letters to the RUF, including a letter to Sam Bockarie in which he instructed Bockarie to arrange with Johnny Paul Koroma for the shipment of the arms and ammunition he had already arranged in Burkina Faso. JP Koroma then paid for the transportation with money from the Bank of Sierra Leone.²⁴¹⁰ This was the shipment which eventually landed at Magburaka.²⁴¹¹ Charles Taylor had nothing to do with this shipment.²⁴¹²

863. It would be germane to pause here and consider the totality of the Prosecution's evidence against that of the Defence simply applying pure common sense to the facts. Firstly, it is not in dispute that one planeload of arms and ammunition landed at Magburaka.²⁴¹³ It is also not in dispute that another was expected to follow but for ECOMOG sorties at the Magburaka airstrip immediately after the first shipment.²⁴¹⁴ Now, this Prosecution, principally through the evidence of TF1-371, would like this court to believe that those two planeloads of arms and ammunition would have cost a mere 90 carat worth of diamonds, while chartering the flight would have cost USD 90,000.²⁴¹⁵ Contrast that with the Defence case that the arms and ammunition had already been purchased with part of the sum total of five hundred and twenty nine thousand dollars (USD 529,000) that Foday Sankoh got from the Libyans,²⁴¹⁶ and the ninety thousand dollars from the Central Bank was merely for transportation costs.²⁴¹⁷ Indeed, the Trial Chamber will read from Exhibit P-272, Foday Sankoh telling the Libyans that he had already paid three hundred thousand dollars (USD 300,000) for the procurement of the 'materials' that he had arranged with 'his business partners' but that he still needed more money. Respectfully, the Trial Chamber need no experience in illegal arms trafficking or illicit diamond trading to see how implausible it is to suggest that two planeloads of arms and ammunition, even in 1997, would

²⁴⁰⁷ Exhibit D-15, p. 1.

²⁴⁰⁸ Exhibit P-272, p. 1.

²⁴⁰⁹ Exhibit P-277, p. 9.

²⁴¹⁰ TT, DCT-172, 7 July 10, p. 43859-62.

²⁴¹¹ TT, DCT-172, 7 July 10, p. 43859-61.

²⁴¹² TT, DCT-172, 7 July 10, p. 43871-2.

²⁴¹³ TT, TF1-371, 28 Jan 08, p. 2316-7; Samuel Kargbo, TF1-597, 02 Jun 08, p. 10717-21; TF1-338, 05 Sep 08, p. 15557-8.

²⁴¹⁴ TT, Issa Sesay, DCT-172, 07 Jul 10, p. 43866-7.

²⁴¹⁵ TT, TF1-371, 31 Jan 08, p. 2726.

²⁴¹⁶ See Exhibits D-15 and P-272.

²⁴¹⁷ TT, Issa Sesay, DCT-172, 07 Jul 10, p. 43862.

have cost a mere 90 carat worth of diamonds while the freight charges cost some sixty five thousand dollars.

864. The Defence's account it is submitted also finds direct and indirect support on a closer reading of the Prosecution's evidence. According to [REDACTED], Ibrahim Bah, who had contacts in Burkina Faso,²⁴¹⁸ became Foday Sankoh's instrument to get help from Burkina Faso.²⁴¹⁹ In 1996, Foday Sankoh went to see Ibrahim Bah,²⁴²⁰ and the two went together to Libya.²⁴²¹ Consider this in conjunction with the evidence of Isaac Mongor, in a prior statement, which he then conveniently tried to disown in court that: his impression was that the Magburaka arms shipment was arranged by Ibrahim Bah.²⁴²² Ibrahim Bah made the arrangement with Johnny Paul Koroma.²⁴²³ Further, that the Magburaka shipment had been arranged from Burkina Faso by the RUF before joining the Junta and was renewed by Johnny Paul Koroma.²⁴²⁴ This evidence indeed makes more sense when Foday Sankoh's trips to Burkina Faso and Libya in 1996 per [REDACTED]'s evidence are considered in conjunction with the contents in Exhibits D-15 and P-277, where Sankoh was asking for more money for the procurement of arms and ammunition. Lest it be suggested that the business partner would have been Charles Taylor, the Trial Chamber will recall that this was the time when there was no communication between Taylor and Sankoh and Sankoh was actually looking elsewhere for support.²⁴²⁵
865. The Defence submits that although TF1-532 tried to disown his previous statement on the Magburaka shipment in court, under cross-examination; the Trial Chamber should be able to see through his belated about turn. When Mongor was quizzed about his previous statement, which was different from the account he gave in court implicating Taylor in the Magburaka arms shipment, he attempted to dodge the obvious inconsistency by alleging that the arms and ammunition that he referred to in his previous statement, which were arranged by the RUF before the Junta, were a different shipment from the Magburaka shipment. This shipment, Mongor alleged,

²⁴¹⁸ TT, [REDACTED].

²⁴¹⁹ TT, [REDACTED].

²⁴²⁰ TT, [REDACTED].

²⁴²¹ TT, [REDACTED].

²⁴²² TT, TF1-532, 04 Apr 08, p. 6656-7.

²⁴²³ TT, TF1-532, 04 Apr 08, p. 6658.

²⁴²⁴ TT, TF1-532, 03 Apr 08, p. 6599.

²⁴²⁵ TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43859-61; p. 43871-2. TF1-338 testified the Magburaka shipment came from the Ukrainians; TF1-338, 03 Sep 08, p. 15284-7.

came later after the intervention.²⁴²⁶ However when he was pushed further on the issue, Mongor said he could not remember any arms and ammunition coming from Burkina Faso after the intervention.²⁴²⁷ From the cross-examination of Mongor on this issue, it was quite clear that he was simply trying to disown his previous statement merely because it exonerated the Accused. Indeed this was the hallmark of his evidence whenever he was confronted with a previous statement.

866. In any event, assuming *arguendo* that Taylor played a part in the procurement of the Magburaka shipment, and further assuming that diamonds were used for the procurement; there was nothing criminal in international law about the transaction. The Junta being the de facto authority at the time enjoyed all the trapping of a government, including the authority to expropriate its mineral resources, and the right to acquire arms. Indeed according to [REDACTED], [REDACTED], diamond mining was the only way through which the Junta could raise money to perform the functions of government.²⁴²⁸ On Taylor's part, save for sanctions busting, there was nothing criminal in him assisting the Junta in procuring arms.
867. The Magburaka shipment therefore does suffice as an *indicium* of an arrangement for diamonds for arms and ammunition between Taylor and the Junta as part of an ongoing JCE, as the Prosecution alleges.
868. On the basis of all the foregoing, it is therefore contested that a joint criminal enterprise subsisted between Taylor and any member(s) of the Junta. Taylor had nothing to gain by supporting the Junta.²⁴²⁹ If anything, Taylor, alongside the other members of the Committee of Five, welcomed the demise of the Junta.²⁴³⁰ The Prosecution, the Defence reiterates, fails to establish *consensus ad idem* between Taylor and members of the AFRC on the one hand, and AFRC and the RUF on the other to either constitute or perpetuate a JCE that was underlined by a common purpose to engage in a campaign of terror against the people of Sierra Leone. Neither is there any proof of a meeting of the minds to engage in a JCE to pillage the country's mineral resources.

JCE – Taylor and Sam Bockarie

²⁴²⁶ TT, TF1-532, 04 Apr 08, p. 6660.

²⁴²⁷ TT, TF1-532, 04 Apr 08, p. 6661.

²⁴²⁸ TT, [REDACTED].

²⁴²⁹ TT, Taylor, 29 July 09, p. 25598-9; 30 July 09, p. 25601-4.

²⁴³⁰ Exhibit D-145, p. 7-8.

869. Before looking at the evidence, the Defence raises two preliminary points with respect to other alleged participants to the JCE, like Sam Bockarie and Issa Sesay who later became respective leaders of the RUF. With respect to these other commanders, it is interesting to note that the Prosecution alleges their participation in the alleged JCE from 1990,²⁴³¹ which coincides with their training at Naama. The Prosecution therefore effectively suggests that any member of the RUF who trained at Naama *ipso facto* joined the alleged JCE. In other words, that by virtue of training at Naama, all the trainees possessed the requisite *mens rea* to join into the JCE by Sankoh and Taylor to terrorise the people of Sierra Leone. The suggestion, with all due respect, is ludicrous. The argument again imports the discredited notion of criminal organisations where the requisite *mens rea* for a crime is implied by virtue of one's membership to an organisation that is deemed criminal. The Prosecution cannot seek to avoid establishing the required *mens rea* with respect to each of the other so-called other commanders in the RUF by importing overtones of such a discredited legal principle. The Prosecution's proposition fails on the evidence in that, as argued above, when the RUF was training at Naama, its objective was to wrest political power. Even if this were contested; at least, from the evidence, that is what the trainees were told. In those circumstances, it therefore could not be said that the trainees at Naama joined into a JCE that involved a campaign of terror with intention to take part in its furtherance. This proposition is further vitiated by the evidence of some of the witnesses in this case who trained at Naama that they were recruited into the RUF either by deceit (e.g. Issa Sesay²⁴³²) or undue influence (e.g. [REDACTED]²⁴³³). The allegations of a JCE between other alleged members of the JCE like Sam Bockarie and Issa Sesay should therefore fail on this basis.
870. In the alternative, the Defence again reiterates that, as the Prosecution's evidence fails to establish the conception of a JCE in Libya, continuing into Burkina Faso, Liberia and Sierra Leone, and subsisting throughout the Junta era; the Trial Chamber could not establish the existence of a *continuous* JCE in the period after the Junta. However should the Trial Chamber find otherwise, the Defence still denies that there was any JCE between Charles Taylor and Sam Bockarie or any other member of the RUF under him, after the fall of the Junta. More particularly, the Defence denies that there

²⁴³¹ Prosecution Case Summary

²⁴³² TT, DCT-172, 16 Aug 10 p.46390-46391.

²⁴³³ TT, [REDACTED].

was a JCE between Charles Taylor and Sam Bockarie any other member of the RUF under him, which involved a campaign of terror. While the Defence concedes that a number of serious crimes were committed in Sierra Leone during this time, it submits that Charles Taylor had nothing to do with those atrocities, and the atrocities were not pursuant any JCE involving Taylor. Likewise, the Defence does not deny that the RUF was engaged in diamond mining during this time, or that some of the diamonds were sold in Liberia. The Defence however also denies any JCE, which involved the pillaging of the Sierra Leone diamonds.

871. In line with its ill-conceived notion of a continuous JCE, the Prosecution's case is that the period after the intervention saw the rekindling of relations between Taylor and the RUF, this time under the leadership of Sam Bockarie, in the absence of Foday Sankoh. This rekindling of relations, in the Prosecution's book, was however merely a perpetuation of the JCE that had originated in Libya and subsisted throughout the Junta. The Prosecution's evidence alleges that from about February 1998 to December 1999, Charles Taylor and Sam Bockarie established a very close relationship of a superior/subordinate nature in which Taylor wielded tremendous powers over the RUF and was literally running its affairs from Liberia.
872. Taylor's relations with the RUF under Sam Bockarie, it is alleged, was marked by the voluntary subjugation of Sam Bockarie to Taylor, and Taylor's increased direct involvement in the internal affairs of the RUF.²⁴³⁴ Notably are the allegations of Taylor's direct involvement in RUF military affairs,²⁴³⁵ including orders relating to RUF external military engagements in Liberia.²⁴³⁶ Also notable and germane for purposes of the allegation of a JCE involving terror, are the allegations that Taylor, in exercising command authority over the RUF, also issued instruction that involved the commission of civilian atrocities.²⁴³⁷ It is alleged in this context that Taylor ordered operations such as the Fitti Fatta mission and the Freetown invasion. These allegations, to the extent that they go directly to the allegation of a JCE involving terror, are considered in detail below. The allegations of Taylor's increased authority

²⁴³⁴ See TT, Isaac Mongor, TF1-532, 31 Mar 08, p. 6226; Varmuyan Sherif, TF1-406, 09 Jan 08, p. 866; Mohamed Kabbah, TF1-568, 17 Sep 08, p. 16455; Alex Tamba Teh, TF1-015, 08 Jan 08, p. 729; Stephen Ellis, 16 Jan 08, p. 1458.

²⁴³⁵ TT, TF1-516, 9 April 08, p. 6979; 8 Apr 08, p. 6923-4.

²⁴³⁶ TT, TF1-516, p. 8 Apr 08, 6872-3.

²⁴³⁷ See for instance: TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5796-7; 31 Mar 08, p. 6223-4; TF1-371, 28 Jan 08, p. 2412-4; p. 2428-31; TF1-367, 20 Aug 08, p. 14165.

over the RUF are otherwise discussed in full in this Final Brief under the heading of Superior Responsibility.

873. Taylor's close relationship with the RUF, it is also alleged, saw an increase in the flow of diamonds to Taylor,²⁴³⁸ and a corresponding increased flow of arms and ammunition to the RUF.²⁴³⁹ The allegations relating to Taylor's alleged support to the RUF, including the provision of arms and ammunition are considered in detail in this Final Brief under the section on Aiding and Abetting.
874. The close relationship between Taylor and Bockarie, the Prosecution alleges, was maintained through regular communication and updates to Taylor.²⁴⁴⁰ Bockarie thus allegedly started visiting Taylor from about February/March, 1998 just after the fall of the Junta²⁴⁴¹ and continued thereafter.²⁴⁴² This issue is adequately addressed in this Final Brief in the Factual Narrative and Command Responsibility sections hereto. Besides personal visits, Bockarie and Taylor allegedly also maintained regular contact by satellite phone or through radio communication.²⁴⁴³ This line of communication, it is alleged, existed even during the Junta era, and by some Prosecution witnesses' account, was as regular as daily.²⁴⁴⁴ Taylor and Bockarie also allegedly maintained contact through intermediaries such as Ibrahim Bah,²⁴⁴⁵ Marzah, Jungle,²⁴⁴⁶ Sampson and others, who also served as traffickers of the arms and ammunition from Taylor.²⁴⁴⁷ Further and independent contact through the same medium was also allegedly maintained with Taylor's immediate subordinates like

²⁴³⁸ See for instance: TT, TF1-567, 02 Jul 08, p. 12902-3; 4 Jul 08, p. 13000-7, p. 13201-2; TF1-338, 2 Sep 08, p. 15156-63; Perry Kamara, TF1-360, 4 Feb 08, p. 3045-7; TF1-516, p. 7164-72.

²⁴³⁹ TT, TF1-567, 4 Jul 08, p. 13000-7, p. 12902-3, p. 13201-2; TF1-338, 2 Sep 08, p. 15156-63; Perry Kamara, TF1-360, 4 Feb 08, p. 3045-7; TF1-516, 10 Apr 08, p. 7164-72.

²⁴⁴⁰ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9434-5, an alleged update in relation to Kono attack meeting in 1998; Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16173 and TF1-585, 8 Sep 08, p. 15723, an alleged update in relation to the Freetown invasion; and TF1-388, 10 July 08, p. 13423, an alleged update in relation to Guinea attack.

²⁴⁴¹ TT, Dauda Aruna Fornie, TF1-274, 2 Dec 08, p. 21442-55. There is no mention of Varmuyan Sherif in this account.

²⁴⁴² TT, TF1-371, 28 Jan 08, p. 2374-5; Dauda Aruna Fornie, TF1-274, 2 Dec 08, p. 21514-5.

²⁴⁴³ TT, Isaac Mongor, TF1-532, 31 Mar 08, p. 6228.

²⁴⁴⁴ TT, Isaac Mongor, TF1-532, 31 Mar 08, p. 6226-28.

²⁴⁴⁵ TT, TF1-371, 28 Jan 08, p. 2374-5.

²⁴⁴⁶ TT, Mohamed Kabbah, TF1-568, 17 Sep 08, p. 16430-1, p. 16452.

²⁴⁴⁷ TT, TF1-567, 02 July 08, p. 12903-6; TF1-516, 09 Apr 08, p. 6999-7001 and p. 7012.

Musa Cisse²⁴⁴⁸ and Benjamin Yeaten.²⁴⁴⁹ Yeaten, it is alleged, acted as the coordinator between Taylor and Bockarie.²⁴⁵⁰

875. Taylor's direct involvement in the affairs of the RUF during the Sam Bockarie era, Prosecution evidence suggests, culminated in the grand scheme involving a campaign to take over Freetown, the seat of power, which started from Buedu in 1998 and ended with the attack on Freetown in early 1999. The hallmark of this campaign was the unprecedented brutality against the people of Sierra Leone, especially those in Freetown. Prosecution's evidence attempts to implicate Taylor in this heinous episode in a number of ways. The evidence alleges that Taylor planned and ordered the attack,²⁴⁵¹ including the order to commit atrocities.²⁴⁵² The evidence also alleges that Taylor also supplied ammunition for the attack²⁴⁵³ and mobilised forces to assist in the attack.²⁴⁵⁴ Taylor also allegedly provided encouragement and moral support through regular contact during the campaign, as a well by promoting Sam Bockarie in recognition of his military prowess after the attack.²⁴⁵⁵
876. The attack itself, the so-called January 6 attack, it is alleged was a joint campaign between the AFRC and the RUF, as part of a JCE involving Taylor. The RUF's participation in the Freetown invasion, it is suggested, was two-fold. Firstly, that it was indirect in that, by engaging ECOMOG on other targets, the RUF enabled the AFRC to successfully attack Freetown.²⁴⁵⁶ According to this theory, the presence of Rambo's forces at Hastings also allowed the men retreating from Freetown to reach Waterloo.²⁴⁵⁷ Secondly, that the RUF's contribution was directly through contributions to the forces that entered Freetown.²⁴⁵⁸ Taylor's alleged involvement in the Freetown invasion, as well as in other attacks involving terror where he is directly implicated, such as the Fitti Fatta mission, is considered in detail below.

²⁴⁴⁸ TT, Dauda Aruna Fornie, TF1-274, 2 Dec 08, p. 21440-2.

²⁴⁴⁹ TT, TF1-516, 9 Apr 08, p. 6979; p. 6923-4; Dauda Aruna Fornie, TF1-274, 3 Dec 08, p. 21549, p. 21555, p. 21614-5; Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16143-5; 15 Sep 08, p. 16173.

²⁴⁵⁰ TT, Foday Lansana, TF1-275, 21 Feb 08, p. 4476 and p. 4484.

²⁴⁵¹ TT, [REDACTED].

²⁴⁵² TT, Isaac Mongor, TF1-532, 11 Mar 08, 5795-97; TF1-371, 28 Jan 08, p. 2412-4.

²⁴⁵³ See Aiding and Abetting section.

²⁴⁵⁴ TT, Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8288, p. 8298; also see p. 8503-16, where the witness says that Taylor said that he had mobilised an SLA unit to assist the RUF.

²⁴⁵⁵ TT, TF1-371, 28 Jan 08, p. 2430-31.

²⁴⁵⁶ TT, Issa Sesay, TF1-172, 23 Aug 08, p. 46834-6.

²⁴⁵⁷ TT, Isaac Mongor, TF1-532, 31 Mar 08, p. 6162-3.

²⁴⁵⁸ TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12277-8; TF1-375, 24 Jun 08, p. 12608-11; TF1-567, 02 Jul 08, p. 12910-11, p. 12918; P-93 and P-149.

Freetown invasion

877. It is quite easy to see why the Prosecution should try to implicate Taylor directly in the atrocities committed in Sierra Leone and especially the Freetown invasion as part of the alleged JCE. The Freetown invasion marked the high point of the atrocities that characterized the Sierra Leonean war. The Freetown invasion was one of the worst single incidents of atrocities in the decade long war. The Prosecution would thus have seen the invasion as the perfect feather in its cap with regards the allegation of a JCE involving terror. Indeed the Prosecution's evidence on the Freetown invasion and other events involving atrocities such as the Fitti Fatta mission was designed to establish the requisite shared criminal intent between Taylor and Sam Bockarie and members of the RUF below him, to carry out a campaign of terror against the people of Sierra Leone. As illustrated below, this evidence fails this respect. The evidence fails to show that Taylor participated in any way in the Freetown invasion or the Fitti Fatta mission as alleged or at all.
878. The Plan according to Mongor: The plan to attack Freetown according to TF1-532, started with Sam Bockarie's trip to Monrovia and Burkina Faso where he allegedly went to arrange for some arms and ammunition.²⁴⁵⁹ According to TF1-532, when Bockarie returned to Buedu, he had a private discussion with Bockarie. Bockarie told TF1-532 that he had met with Mr. Taylor and they had developed a plan to launch an operation to capture Kono and Makeni and advance to Freetown. The ammunition which Sam Bockarie had brought from Taylor was to be used for this plan.²⁴⁶⁰ The purpose of the plan was to free Sankoh and to seize power. Bockarie allegedly said that he had discussed with Mr. Taylor that the operation should be more fearful than all past operations.²⁴⁶¹ The plan also involved Superman or TF1-532 attacking Jorui and then advancing to Zimmi where they would receive reinforcement from some NPFL fighters.²⁴⁶² This can be contrasted with the evidence of TF1-571, Karmoh Kanneh, who said that Sam Bockarie rejected the proposal by Jungle and Morris Kallon for reinforcement from Liberia on account of the past problems the RUF had had with the NPFL, and preferred ULIMO-K.²⁴⁶³ Indeed, according to TF1-532 under

²⁴⁵⁹ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5794.

²⁴⁶⁰ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5794-5.

²⁴⁶¹ TT, Isaac Mongor, TF1-532, 11 Mar 08, 5795-97.

²⁴⁶² TT, Isaac Mongor, TF1-532, 11 Mar 08, 5795-96.

²⁴⁶³ TT, Karmoh Kanneh, TF1-571, 13 May 2008, p. 9726/7.

cross-examination, this plan to attack Freetown was Taylor's idea which Sam Bockarie brought from Monrovia.²⁴⁶⁴

879. According to TF1-532, the day following this private discussion, Bockarie held a meeting of commanders in Buedu. Bockarie explained the mission for which the ammunition he had brought was to be used for. Those present at this meeting included TF1-532, Mike Lamin, Leather Boot, Eddie Kanneh, Monkey Brown, Morris Kallon, Augustine Gbao, and Issa Sesay.²⁴⁶⁵ At the meeting, there was discussion about SAJ Musa's forces taking part in the plan. It was agreed that Johnny Paul Koroma should send a message to SAJ Musa requesting him to join in the operation. The message, TF1-532 alleges, was sent and SAJ Musa agreed.²⁴⁶⁶ Contrast with the Karmoh Kanneh's evidence of bad blood between SAJ Musa and Bockarie, including the discussion at the same meeting in Buedu of a plan to assassinate Musa.²⁴⁶⁷ After the meeting, Bockarie then distributed the ammunition he had brought from Monrovia to the various target commanders except those in the North.²⁴⁶⁸
880. According to TF1-532's account, the RUF and the AFRC however never got to combine forces. The RUF's group at Lunsar never got to join forces with SAJ Musa who, from Masiaka moved to Waterloo to Benguema where SAJ Musa died.²⁴⁶⁹ After Musa's death Gullit took over and his forces advanced to Freetown despite instructions from Sam Bockarie to wait for reinforcement. Meanwhile Rambo and Superman advanced to Waterloo and met and fought ECOMOG along the way.²⁴⁷⁰ By the time they fought their way to the Jui/Hastings area, Gullit was already in Freetown.²⁴⁷¹ Gullit then called Sam Bockarie for reinforcement while in Freetown. As the RUF men – Rambo's group – at Hastings could not offer reinforcement because of ECOMOG pressure, Sam Bockarie then ordered that they should start some destruction and burn the Nigerian Embassy, and the order was carried out.²⁴⁷² At this time, TF1-532 alleges, Gullit called Sam Bockarie "Sir" because Sam

²⁴⁶⁴ TT, Isaac Mongor, TF1-532, 7 Apr 08, p. 6720.

²⁴⁶⁵ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5797-98.

²⁴⁶⁶ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5799-5800.

²⁴⁶⁷ TT, Karmoh Kanneh, TF1-571, 9 May 08, p. 9427-29.

²⁴⁶⁸ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5801.

²⁴⁶⁹ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5815.

²⁴⁷⁰ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5819.

²⁴⁷¹ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5824.

²⁴⁷² TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5825.

Bockarie was the Chief of Defence Staff.²⁴⁷³ Contrast with the evidence in Exhibit P-67 that Gullit was not following orders from Bockarie during the Freetown Invasion.²⁴⁷⁴

881. Realizing that his attempt to link Taylor directly to the Freetown invasion was very weak, TF1-532 also ventured into the realm of opinion evidence and tried to suggest that the military successes of the AFRC resulting in its takeover of Freetown were due to the RUF's indirect involvement. The AFRC succeeded, he opined, because the RUF was also engaging ECOMOG, their common enemy, in other places.²⁴⁷⁵ Indeed the Prosecution also tried, without success, to run the same theory with Issa Sesay in his cross-examination.²⁴⁷⁶
882. TF1-532's account, however, differs from that of the other Prosecution witnesses on a number of material issues that seek to implicate Taylor, as will be considered below. The account also suffers serious credibility crisis when considered in the light of the witness' prior statements on the same issue. With regards Taylor's alleged role in the whole plan, in spite of TF1-532's vivid account in court, and despite the importance of the issue to the case against the Accused, it is quite remarkable that the witness did not volunteer this information to the Prosecution when they first interviewed him.²⁴⁷⁷ Indeed, while under the orality principle, the courts are wary of putting too much stock into prior inconsistent statements; in this instance, it is very difficult to accept TF1-532's account in court given his lame explanation for the initial omission of such an important allegation in his prior statements to the Prosecution. Quizzed under cross-examination why he had not implicated Taylor in the Freetown invasion in his initial accounts to the Prosecution, TF1-532 lamely alleged that he did not tell the Prosecution the truth about this issue because he thought they (the Prosecution) were tricking him and would arrest him later.²⁴⁷⁸ This was despite the fact that: i) TF1-532 had given the Prosecution some damning evidence on Taylor in the same interview anyway; ii) the Prosecution had already given the witness an indemnity letter against prosecution; and iii) the witness could not explain how omitting the evidence about Taylor's complicity in the Freetown invasion would have assisted his cause.

²⁴⁷³ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5826.

²⁴⁷⁴ Exhibit P-67.

²⁴⁷⁵ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5830-1.

²⁴⁷⁶ TT, Issa Sesay, DCT-172, 12 August 2010, p. 46165-70.

²⁴⁷⁷ TT, Isaac Mongor, TF1-532, 7 Apr 08, p. 6735 et seq.

²⁴⁷⁸ TT, Isaac Mongor, TF1-532, 7 Apr 08, p. 6738-40.

883. Indeed when he was quizzed further about one of his previous statements where he had exonerated Taylor from the Freetown invasion, which he then sought to denounce, the witness was so evasive that the court had to intervene.²⁴⁷⁹ Only then did TF1-532 concede that he had had no reason for telling the Prosecution that Taylor was not involved in the Freetown invasion unless that was the truth. In that previous statement TF1-532 had told the Prosecution that Taylor had nothing to do with the Freetown invasion. In yet another previous statement, TF1-532, clarifying Taylor's involvement in the Freetown invasion, had gone so far as to say that the Freetown invasion was largely an AFRC affair.²⁴⁸⁰ Against this background, the defence submits that TF1-532's attempt to implicate Taylor in the Freetown invasion was a deliberate afterthought.
884. As with many other instances in TF1-532's evidence, this illustrates the witness' readiness to distort the truth in order to feed into the Prosecution's theory. As will be seen herein, this is a common folly with all Prosecution witnesses who implicate Taylor directly in any of the atrocities that were committed in Sierra Leone. The evidence of TF1-532, who as an accomplice witness also had the benefit of financial largess from the Prosecution, must therefore be rejected on this matter. Indeed, TF1-532's obvious about face should serve as a constant reminder of the unreliability of the evidence of Prosecution witnesses who derived all sorts of benefits and incentives from the Prosecution. TF1-532's account above clearly shows the corrupting influence of such benefits; otherwise, how else could such an obvious about turn be explained?
885. The Plan according to [REDACTED]: By comparison – which comparison also exposes the inconsistency in the Prosecution's evidence as a whole – according to [REDACTED], the attack on Freetown was entirely Sam Bockarie's idea.²⁴⁸¹ According to the [REDACTED], before his November 1998 trip to Liberia to Burkina Faso, Bockarie had a meeting with Issa Sesay and Morris Kallon, where they discussed expanding into Kono after the failure of the Fitti Fatta mission. In the meeting, it was decided that Ibrahim Bah should escort them to Burkina Faso to acquire ammunition for a major offensive, but they should first pass through Monrovia to see Musa Cisse and Charles Taylor.²⁴⁸² Bockarie then went to Liberia and then to Burkina Faso, and came back with a huge

²⁴⁷⁹ TT, Isaac Mongor, TF1-532, 7 Apr 08, p. 6765.

²⁴⁸⁰ TT, Isaac Mongor, TF1-532, 7 Apr 08, p. 6756-8.

²⁴⁸¹ TT, [REDACTED].

²⁴⁸² TT, [REDACTED]; Karmoh Kanneh, TF1-571, 13 May 08, p. 9691-2.

consignment of arms and ammunition, escorted by SSS personnel, including Zigzag Marzah and Liberian Mosquito. Bockarie allegedly also came back with a new pick up truck given him by Charles Taylor.²⁴⁸³ Upon his return, Bockarie then went on to conduct a forum of commanders to de-brief them on his trip.²⁴⁸⁴

886. After the forum, a senior officer's meeting was held outside Bockarie's house. Those present included Bockarie, Sesay, Morris Kallon, Peter Vandi and Isaac Mongor.²⁴⁸⁵ AFRC members, including Akim Turay, Gullit, Leather Boot, and Adams were also present. At this meeting, Bockarie briefed them that there was sufficient ammunition for the attack on Kenema and on Koidu and Freetown. He brought out a map and discussed with the commanders a two-pronged approach on Freetown. Issa Sesay and Kallon were given the mission to attack Koidu and move to Makeni. From Makeni, they were to head for Lunsar and then Masiaka. The other flank would move from Kenema to Bo, and then Masiaka. They would meet at Masiaka, and move on to Waterloo and then to Freetown. Bockarie appointed Akim Turay and Momoh Rogers (who was based in Segbwema) to be in charge of the attack on Kenema.²⁴⁸⁶ Abu Keita was sent to Segbwema.²⁴⁸⁷ Bockarie, according to [REDACTED], was in charge of planning the attack.²⁴⁸⁸
887. Half-way through this meeting, Bockarie, Eddie Kanneh, Issa Sesay, Morris Kallon and Jungle went to have lunch in Bockarie's bedroom. During lunch, Bockarie allegedly spoke with Taylor on his satellite phone. Contrast with Karmoh Kanneh's evidence that the meeting was at night from about 11pm to 2am.²⁴⁸⁹ Bockarie said that Mr. Taylor had given him instructions that this was Operation No Living Thing, and that they should capture Freetown by all means and nothing should stand in the way.²⁴⁹⁰ After the lunch meeting, Bockarie went outside and spoke with the other junior commanders. He announced Operation No Living Thing and dispatched them.²⁴⁹¹

²⁴⁸³ TT, [REDACTED]

²⁴⁸⁴ TT, [REDACTED]

²⁴⁸⁵ TT, [REDACTED]

²⁴⁸⁶ TT, [REDACTED]

²⁴⁸⁷ TT, [REDACTED]

²⁴⁸⁸ TT, [REDACTED]

²⁴⁸⁹ TT, Karmoh Kanneh, TF1-571, 13 May 2008, p.9695 ln.2-4. Originally the witness had said the meeting was from 9 pm to midnight but when under cross-examination he was confronted with a previous statement which said the meeting was from 11pm to 2am he reverted to that position.

²⁴⁹⁰ TT, [REDACTED]

²⁴⁹¹ TT, [REDACTED]

888. According to [REDACTED], [REDACTED], [REDACTED]
[REDACTED]
[REDACTED].²⁴⁹² Furthermore, during the advance on Freetown, around Koidu/Makeni, the RUF also allegedly received numerous visits from Zigzag, Sampson and Jungle.²⁴⁹³ These persons, it is alleged, were present for the most part and Sam Bockarie gave them regular briefings.²⁴⁹⁴ At one time, Liberian Mosquito allegedly brought Dopoe along for them to take Sam Bockarie to Taylor, but Bockarie was waiting for the successful invasion of Freetown before he could go.²⁴⁹⁵ At the same time [REDACTED] however also suggests that Dopoe and Liberian Mosquito's trip to Sierra Leone at this time was to get looted property that was being sent to Sam Bockarie by Issa Sesay.²⁴⁹⁶ He also suggests that the two had come to organize a fighting force to help the ATU in Liberia.²⁴⁹⁷ Contrast with TF1-532's evidence that in fact, the plan at this time was for Taylor to provide the RUF with some reinforcement for the Freetown attack and Mongor was supposed to meet them at Zimmi.²⁴⁹⁸ With respect to the Freetown attack itself, [REDACTED] concedes that the attack was by the AFRC led by Gullit and 55. Gullit only contacted Sam Bockarie from State House.²⁴⁹⁹ When the AFRC was under pressure from ECOMOG and had been pushed as far as Kissy, Gullit asked for reinforcement and Sam Bockarie promised to oblige. Boston Flomo then linked up with the AFRC in the Eastern part of Freetown.²⁵⁰⁰
889. Interestingly, and consistent with the Prosecution witnesses' readiness to implicate Taylor; despite conceding that Sam Bockarie played no role in the Freetown invasion, [REDACTED], however, went on to allege that after the Freetown invasion, Sam Bockarie went to see Taylor in Monrovia and Taylor promoted him to Lt. General for successfully capturing Koidu and Freetown. In cross-examination, [REDACTED] would however concede to the RUF non-involvement in the invasion. One of the reasons the AFRC and the RUF fell out at Waterloo after the invasion, he conceded, was because

²⁴⁹² TT, [REDACTED].

²⁴⁹³ TT, [REDACTED].

²⁴⁹⁴ TT, [REDACTED].

²⁴⁹⁵ TT, [REDACTED].

²⁴⁹⁶ TT, [REDACTED].

²⁴⁹⁷ TT, [REDACTED].

²⁴⁹⁸ TT, Isaac Mongor, TF1-532, 11 March 2008, p. 5795-6.

²⁴⁹⁹ TT, [REDACTED].

²⁵⁰⁰ TT, [REDACTED].

the AFRC was bitter that the RUF had not come to its rescue while it was under siege in Freetown.

890. On the totality of [REDACTED]'s evidence, it is quite easy to see how the Prosecution attempted to script his evidence to implicate Taylor in the Freetown Invasion. In another example which illustrates the witness's tendency of making bald allegations: despite acknowledging that the RUF did not play any part in the Freetown Invasion as illustrated above, and despite the fact that the witness led no evidence that the AFRC was receiving instructions from Taylor; the witness still went on to categorically state in his evidence in chief that the "carnage" that characterized the Freetown invasion was consistent with instructions from Taylor for Operation No Living Thing.²⁵⁰¹ Yet again it took cross-examination for the witness to concede that Taylor never gave the RUF or the Junta instructions to carry out atrocities.²⁵⁰²
891. The Plan according to King Perry: The revisionist and confused, evidence of TF1-360 on what appears to be the Freetown invasion gives yet another version of events and serves to illustrate the depth of desperation of the Prosecution's case. According to TF1-360, in 1998, there was something of a grand plan on the part of the rebel forces to take over Sierra Leone, which was to culminate in an attack on Freetown.²⁵⁰³ This plan, which would involve all the rebel forces, the RUF under Bockarie, the RUF under Superman, and the AFRC under SAJ Musa and Gullit, it is alleged, came from Taylor.²⁵⁰⁴ The plan was set out by Bockarie during a meeting of the RUF in about April or May 1998.²⁵⁰⁵
892. Interesting, in TF1-360's mapping out of the towns which were to be targeted, they read a list of towns which were actually overrun by rebel forces during the advance to Freetown. Indeed, the plan as laid out by TF1-360, reads so uncannily like the sequence of actual events that it raises suspicions of revisionist evidence. The amount of detail is especially striking. The plan's conclusion for instance was that: "After we get to Waterloo then we make a fresh plan, a new one. That is what he [Bockarie] said Taylor told him."²⁵⁰⁶ The alleged plan thus has Taylor mapping out the exact details of the attack, which ironically mirrored the real life sequence of events on the advance to Freetown. The alleged precision of Taylor's planning prowess, as with

²⁵⁰¹ TT, [REDACTED].

²⁵⁰² TT, [REDACTED].

²⁵⁰³ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3159-65.

²⁵⁰⁴ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3159-65.

²⁵⁰⁵ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3160.

²⁵⁰⁶ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3164.

TF1-360's entire testimony on this issue, it is submitted, is mere fantasy. Kamara's evidence is clearly revisionist.

893. In an attempt to implicate Taylor, TF1-360 also tried to link the AFRC invasion directly to Taylor. He alleges that the group that would take part in the Freetown invasion, the one led by SAJ Musa and later Gullit, was part of the general plan.²⁵⁰⁷ This it might be recalled was the plan he alleges was set out by Bockarie during a meeting of the RUF in about April or May 1998.²⁵⁰⁸ TF1-360 even alleges that he was also part of this plan. Bockarie, he alleges, sent him along with Alfred Brown to join Gullit at Rosos so that there could be communication between Bockarie and the group at Rosos.²⁵⁰⁹ This, he further alleges, was "because of that plan which we went for a meeting in Buedu";²⁵¹⁰ indeed, "the reason is the plan that we had discussed about in the meeting at Buedu concerned a very serious operation and Rosos hadn't enough operators".²⁵¹¹ TF1-360 thus also linked his relocation to Rosos with the overarching plan that he said was conceived in Buedu in April/May 1998. This it must be emphasized must not be confused with the Buedu meeting in December 1998, by which time TF1-360 was already at Rosos.
894. TF1-360's evidence in this respect is problematic in many respects. The plan according to TF1-360 was in April/May 1998; yet Gullit and his group only went to Rosos in about July/August 1998.²⁵¹² This again clearly shows the revisionist dishonesty of TF1-360's evidence. Secondly, even from the Prosecution's own evidence; up to the time of the meeting in Buedu in December 1998, there was no harmony between Musa in the North and the RUF.²⁵¹³ Thirdly, TF1-360's explanation for transferring to Rosos (that radio operators were needed to establish contact) finds no support from other Prosecution evidence. According to TF1-334 Alimany Bobson Sesay, one of the Prosecution's witnesses who was with the AFRC, Gullit had radio operators, and was able to communicate with Bockarie before Perry Kamara arrived.²⁵¹⁴ In any event, even by his own evidence, Gullit's group was unhappy with Bockarie as commander.²⁵¹⁵ Against that background, the suggestion

²⁵⁰⁷ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3173-4.

²⁵⁰⁸ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3160.

²⁵⁰⁹ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3184-7.

²⁵¹⁰ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3184.

²⁵¹¹ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3184.

²⁵¹² TT, Alimany Bobson Sesay, TF1-334, 21 Apr 08, p. 8142.

²⁵¹³ TT, Karmoh Kanneh, TF1-571, 9 May 08, p. 9430; 13 May 08, p. 9684-5.

²⁵¹⁴ TT, Alimany Bobson Sesay, TF1-334, 21 Apr 08, p. 8139-40.

²⁵¹⁵ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3173.

that he would have been sent to join the AFRC group as part of grand plan by Taylor and Bockarie does not make sense.

895. Besides alleging collaboration between the AFRC and the RUF in a plan conceived by Taylor to attack Freetown, TF1-360 also alleges that Taylor was also involved in arming both groups. According to TF1-360, when Bockarie returned from Liberia, he came back with arms and ammunition which were distributed to the groups in Koinadugu and Rosos.²⁵¹⁶ Once again, this is complete fantasy. It is well-established that the groups in Koinadugu and Rosos relied on captured ammunition.²⁵¹⁷ Indeed according to TF1-532, after the meeting in Buedu at which the attack on Freetown was discussed (following Sam Bockarie's trip to Liberia and Burkina Faso where he returned with arms and ammunition) Sam Bockarie issued arms and ammunition to the various target commanders, except those in the North.²⁵¹⁸ Also see, Exhibit D-9, where Bockarie complained that Superman, then based in the north, had refused to dispatch materials to him.²⁵¹⁹ Be that as it may, TF1-360 was still not sure that the material he says came from Liberia and was distributed to the groups in Koinadugu and Rosos²⁵²⁰ was actually used by Musa.²⁵²¹ Most importantly, however was his evidence that the AFRC captured so much ammunition *en route* to Freetown, they even destroyed some of it at Benguema (which resulted in SAJ Musa's death).²⁵²² Furthermore, that when they finally established communication with Bockarie after Musa's death, they told him they did not need ammunition.²⁵²³
896. There are also many other reasons to discount TF1-360's evidence on credibility. Firstly, there is no other evidence supporting his allegation of a grand master plan culminating in the takeover of Freetown being conceived or announced at a meeting in April or May 1998. By all other witnesses account across the Prosecution/Defence divide, only one such meeting was held in Buedu in late 1998.²⁵²⁴ TF1-360 was however not at that meeting as he was already in the North with the AFRC. Otherwise the only other evidence of a meeting around the time alleged by TF1-360 –

²⁵¹⁶ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3206.

²⁵¹⁷ See for example: Adjudicated Fact 9; TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8733-4: the AFRC did not receive ammunition from Bockarie from April 1998 to after the Freetown Invasion.

²⁵¹⁸ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5801.

²⁵¹⁹ Exhibit D-9.

²⁵²⁰ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3206-7.

²⁵²¹ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3206-7.

²⁵²² TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3214-5.

²⁵²³ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3219.

²⁵²⁴ TT, Karmoh Kanneh, TF1-571, p. 9689-93; Isaac Mongor, TF1-532, 11 Mar 08, p. 5799-801; Martin George, DCT-062, 27 Apr 10, p. 40125-6; Issa Sesay, DCT-172, 4 August 2010, p. 45409.

April/May 1998 – related to the what became known as Operation Fitti Fatta, the attack on Kono.²⁵²⁵ That was however not an overarching plan received from Taylor. Other witnesses' accounts of this meeting are more prosaic. The meeting to plan the attack on Kono was exactly that, a meeting to plan the attack on Kono. There is no mention of other targets.²⁵²⁶

897. Secondly, TF1-360 was deliberately selective in his evidence. TF1-360, for instance, testified that Superman's movement to Koinadugu to link up with SAJ Musa was part of the pre-planned strategy,²⁵²⁷ and yet deliberately omitted the details of the subsequent infightings between Superman and SAJ Musa, and between Superman and Sam Bockarie, which other witnesses spoke to. TF1-360 deliberately makes no mention of the insults hurled between Superman and Bockarie as noted in other evidence,²⁵²⁸ or that Bockarie sent men to kill Superman.²⁵²⁹ Bockarie even passed an order that Superman was no longer part of the RUF.²⁵³⁰ Similarly, TF1-360's evidence overlooks the fallout between SAJ Musa and Superman, which was well-known within the RUF, and especially among those who were with Musa's group like himself. These were matters of public knowledge. According to the somewhat confused evidence of TF1-375, for instance, while in Koinadugu, Senegalese killed a recruit, which led to Musa and Superman falling out. Musa wanted to court-martial Senegalese but Superman wanted the matter referred to Bockarie. Musa however refused to take orders from Bockarie.²⁵³¹
898. TF1-360's determination to implicate Taylor was so palpable it resulted in him making some of the most outrageous allegations. For someone who claimed to be in the know, TF1-360 also professed ignorance over some of the most blatant facts in this case simply because they were inculpatory. TF1-360, for instance, categorically denied that the weapons for the attack on Kono were obtained from ULIMO,²⁵³²

²⁵²⁵ For example: TT, Albert Hindowa Saidu, TF1-577, 5 Jun 08, p. 11054-61; Karmoh Kanneh, TF1-571, 8 May 08, p. 9392-7; Alice Pyne, TF1-584, 19 Jun 08, p. 12233-41.

²⁵²⁶ TT Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16153-5; Albert Hindowa Saidu, TF1-577, 5 Jun 08, p. 11081-6.

²⁵²⁷ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3159-65; 6 Feb 08, p. 3183-91. The plan was itself from Taylor: 5 Feb 08, p. 3163-4.

²⁵²⁸ Exhibit P-67, Exhibit D-9; Exhibit P-84.

²⁵²⁹ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5766-8.

²⁵³⁰ TT, Alice Pyne, TF1-584, 23 Jun 08, p. 12434-5.

²⁵³¹ TT, TF1-375, 24 Jun 08, p. 12578-9. Note how confused his story is about the fighting between Musa and Superman: for example, Rambo Red Goat appears on both sides. Also see evidence of Komba Sumana, TF1-263, TT, 6 Oct 08, p. 17966-8; the evidence of DAF, TF1-274, TT, 4 Dec 08, p. 21713; the evidence of Foday Lansana, TF1-275, TT, 22 Feb 08, p. 4530.

²⁵³² TT, Perry Kamara, TF1-360, 7 Feb 08, p. 3345.

despite his concession that he did not know who supplied them.²⁵³³ Perhaps more absurdly, he denied it was a United Nations helicopter which picked up the peacekeepers in 2000, maintaining it was Taylor's.²⁵³⁴ Indeed, as he would be forced to concede, his evidence was deliberately tailored to fit the circumstances of the Taylor trial.²⁵³⁵

899. The Plan according to DAF: TF1-274 gives his own second hand account on the Freetown invasion, whose level of desperation in trying to implicate Taylor only rivals that of TF1-360, considered above. TF1-274's hearsay evidence deliberately tries to: i) implicate Taylor in the Freetown invasion, and ii) directly involve the RUF in the Freetown invasion. In his evidence, the campaign by the RUF in December 1998, leading to the Freetown invasion was prefixed by Five Zero's (Benjamin Yeaten) visit to Buedu. Yeaten, he alleges, visited sometime in the night between 10 and 11 and spent about an hour in discussions with Bockarie.²⁵³⁶ Despite TF1-274's insistence that there were other people around, no other witness however supports this. TF1-516, [REDACTED], only mentioned a trip by Bockarie to Liberia to see Yeaten, not the other way around.²⁵³⁷ TF1-585, on the other hand, claimed that Yeaten's first trip to Buedu was after the troops had entered Freetown.²⁵³⁸
900. With respect to the invasion, TF1-274 claims that he was monitoring Sam Bockarie's transmitting station concerning the developments in Freetown. Further, that he saw a radio log book message from Gullit that "our men" the RUF/AFRC combatants had captured the State House and certain parts of Freetown.²⁵³⁹ Gullit, he suggested, was in radio constant radio contact with Bockarie and was in fact taking instructions from Bockarie. Bockarie, he alleges, is the one who ordered Gullit to cause mayhem, like the destruction of buildings and property, and the amputation of civilians in order to cause international alarm and force the release of Sankoh.²⁵⁴⁰ Remarkably, TF1-274 however failed to mention Sam Bockarie's order concerning amputations in all his previous statements to the Prosecution.²⁵⁴¹

²⁵³³ TT, Perry Kamara, TF1-360, 7 Feb 08, p. 3348-50.

²⁵³⁴ TT, Perry Kamara, TF1-360, 7 Feb 08, p. 3395-6.

²⁵³⁵ TT, Perry Kamara, TF1-360, 7 Feb 08, p. 3389.

²⁵³⁶ TT, Dauda Aruna Fornie, TF1-274, 3 Dec 08, p. 21557-61.

²⁵³⁷ TT, TF1-516, 8 Apr 08, p. 6941-2.

²⁵³⁸ TT, TF1-585, 8 Sep 08, p. 15724.

²⁵³⁹ TT, Dauda Aruna Fornie, TF1-274, 3 Dec 08, p. 21563 et seq.

²⁵⁴⁰ TT, Dauda Aruna Fornie, TF1-274, 3 Dec 08, p. 21590.

²⁵⁴¹ TT, Dauda Aruna Fornie, TF1-274, 10 Dec 08, p. 22113-5.

901. So eager was the witness to attribute the Freetown attack to the RUF that at one point he even claimed that the RUF was the one who did it,²⁵⁴² and at another, claiming that Gullit was a member of the RUF.²⁵⁴³ TF1-274 even suggested the ammunition Bockarie allegedly got Liberia was distributed to fighters (Rambo) as far as Waterloo.²⁵⁴⁴ Contrast with TF1-516's evidence for instance, when asked what form of support was given to the fighters in Freetown from Buedu, that it was only in the form of advice;²⁵⁴⁵ and that while Bockarie obtained ammunition from Liberia, it was distributed to the commanders in Kono.²⁵⁴⁶ TF1-274 even made such outrageous allegations as to suggest that Superman and SAJ Musa worked together to capture Eddie Town,²⁵⁴⁷ oblivious of the well-known fallout between Musa and Superman at that time.²⁵⁴⁸ Indeed TF1-274 had to be forced under cross-examination to admit to the most obvious facts, such as Bockarie having little communication with SAJ Musa or Superman in the latter stages of 1999.²⁵⁴⁹
902. The Plan according to Karmoh Kanneh: TF1-571's evidence on the Freetown invasion also has its own nuances. According to the witness, around mid December 1998, Bockarie held a 3 hour meeting from 11 pm to 2 am²⁵⁵⁰ at his house on Foya road, Buedu. There were 12 people present, including, Issa Sesay, Morris Kallon, Jungle, Eddie Kanneh, Major Francis, Matthew Barbor, Junior Vandj, Gbessay Gbobah (*alias* Chucky).²⁵⁵¹ At the meeting, Bockarie explained the plan to take Kono and go to Freetown to free Foday Sankoh and take over power. This plan, Bockarie allegedly told the meeting, was designed by Taylor in Monrovia.²⁵⁵² Daniel Tamba, it is alleged, also spoke at the meeting and confirmed this.²⁵⁵³ Bockarie also explained that he had brought ammunition and enough logistics. The first target was to be Kono, then Makeni and then Freetown. The next target was to be Segbwema and then

²⁵⁴² TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21663.

²⁵⁴³ TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21667.

²⁵⁴⁴ TT, Dauda Aruna Fornie, TF1-274, 3 Dec 08, p. 21593-6.

²⁵⁴⁵ TT, TF1-516, 8 Apr 08, p. 6943.

²⁵⁴⁶ TT, TF1-516, 8 Apr 08, p. 6945-8.

²⁵⁴⁷ TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21718-22.

²⁵⁴⁸ AFRC Adjudicated Fact 6. also see Factual Narrative.

²⁵⁴⁹ TT, DAF, TF1-274, 4 Dec 08, p. 21718-22.

²⁵⁵⁰ TT, Karmoh Kanneh, TF1-571, 13 May 2008, p.9695 ln.2-4. Originally the witness had said the meeting was from 9 pm to midnight but when under cross-examination he was confronted with a previous statement which said the meeting was from 11pm to 2am he reverted to that position.

²⁵⁵¹ TT, Karmoh Kanneh, TF1-571, 9 May 08, p. 9419.

²⁵⁵² TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9387-98; 9 May 08, p. 9423-24 and p. 9430.

²⁵⁵³ TT, Karmoh Kanneh, TF1-571, 9 May 08, p. 9432.

- Daru.²⁵⁵⁴ On his part, TF1-571 was given the responsibility of attacking Segbwema and then Daru.²⁵⁵⁵
903. This plan – codenamed Operation Free the Leader – according to TF1-571, was in fact conceived before Sam Bockarie’s trip to Burkina Faso. In “April, May, around June, before the death of Abacha”, Sam Bockarie, TF1-571 alleges, called a meeting in a thick forest between Waterworks and Buedu. Bockarie had just been to Monrovia where Taylor had promoted both him and Issa Sesay to General.²⁵⁵⁶ At the Waterworks meeting, the issue of Sam Bockarie’s travel to Burkina Faso along with General Ibrahim was also discussed. Sam Bockarie, it is alleged, said that Taylor had told him that he (Taylor) was going to link Sam Bockarie up with Burkina Faso President, Blaise Compaore. Mr Ibrahim Bah would travel with Bockarie to Burkina Faso,²⁵⁵⁷ and the two were to travel in the same month as the meeting.
904. The witness also suggests that Isaac Mongor was also going to travel with Ibrahim Bah to Burkina Faso, although he could not say for what purpose.²⁵⁵⁸ Note however that Isaac Mongor makes no mention of this. Bockarie, TF1-571 further alleges, said that Taylor had said the mission to Burkina Faso was “to free the leader and it was a mission that involved heavy materials because we were supposed to clear the ECOMOG force before we get to Freetown, so he said he was going to link us up where we would be able to get direct material so that we would bring them over and be able to run the mission.”²⁵⁵⁹ This was Operation Free the Leader “and that was the material he went for, for us to come and run the mission to capture Freetown and free the leader.”²⁵⁶⁰ Operation Free the Leader, TF1-571 goes on to say, was the 6 January 1999 entry into Freetown; albeit, conceding that, it was, “mainly AFRC and just some RUF.”²⁵⁶¹
905. The meeting, TF1-571 alleges, also discussed SAJ Musa. Bockarie, he alleges, said that he had lodged a complaint with Taylor about SAJ Musa’s attitude and his disloyalty to the RUF command. Bockarie made it understood that SAJ Musa should not live to tell the story, meaning that he should be killed. He said that he had

²⁵⁵⁴ TT, Karmoh Kanneh, TF1-571, 9 May 08, p. 9424.

²⁵⁵⁵ TT, Karmoh Kanneh, TF1-571, 9 May 08, p. 9427.

²⁵⁵⁶ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9395.

²⁵⁵⁷ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9396.

²⁵⁵⁸ TT, Karmoh Kanneh, TF1-571, 13 May 08, p. 9690.

²⁵⁵⁹ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9397.

²⁵⁶⁰ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9398.

²⁵⁶¹ TT, Karmoh Kanneh, TF1-571, 13 May 08, p. 9734.

discussed with Gullit that SAJ Musa should be killed during military operations.²⁵⁶²

After the meeting, Bockarie sent a message to SAJ Musa asking him to join and invade Freetown, but SAJ Musa refused. In fact the two had a heated argument over the matter,²⁵⁶³ contradicting TF1-532's evidence that he agreed.²⁵⁶⁴ After the meeting, the witness alleges that Bockarie and Daniel Tamba spoke to Taylor over the satellite phone and briefed him on the outcome of the meeting. They assured him that the plan would be followed.²⁵⁶⁵

906. TF1-571's attempt to implicate Taylor in the Freetown invasion, as with the other witnesses, is once again quite obvious. It is quite remarkable that although several witnesses talked about a phone call between Taylor and Sam Bockarie during the Buedu meeting, they could never agree on such a basic fact as what time the call was actually made; it raises serious doubts as to the veracity of the allegation. Indeed the allegation by TF1-571 that the call was made at 2 in the morning is just incredulous.²⁵⁶⁶ The picture of the President of a whole country being woken up in the middle of the night to take a call merely updating him on the outcome of some meeting on some future planned attack by rebel forces in another country just does not make sense. Indeed, when the witness was confronted on this, and realizing the folly of his account, he tried to renege on his earlier evidence and suggested that the call had been made much earlier during the course of the alleged meeting.²⁵⁶⁷ This allegation is even more ludicrous when it is considered against the evidence of other witnesses like TF1-532 that the plan to invade Freetown came from Taylor after Bockarie visited him. Why would Taylor be briefed of a plan that he had already conceived; worse still, by TF1-571's account, in the still of the night?
907. Another interesting aspect of the witness' evidence that casts serious doubt on his account on the Freetown invasion was that despite his evidence: i) that there was conflict between SAJ Musa and Sam Bockarie, and ii) that on the march to Freetown, Musa declared on the communications radio set that he would takeover Freetown and become President,²⁵⁶⁸ and iii) that those who entered Freetown were mainly AFRC

²⁵⁶² TT, Karmoh Kanneh, TF1-571, 9 May 08, p. 9427-29.

²⁵⁶³ TT, Karmoh Kanneh, TF1-571, 9 May 08, p. 9426.

²⁵⁶⁴ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5799-5800.

²⁵⁶⁵ TT, Karmoh Kanneh, TF1-571, 9 May 08, p. 9431.

²⁵⁶⁶ TT, Karmoh Kanneh TF1-571, 13 May 2008, 9697

²⁵⁶⁷ TT, Karmoh Kanneh, TF1-571, 13 May 08, p. 9696.

²⁵⁶⁸ TT, Karmoh Kanneh, TF1-571, 13 May 08, p. 9730-1.

and just some RUF,²⁵⁶⁹ TF1-571, still went on to allege that Freetown invasion was part of the Operation Free the Leader,²⁵⁷⁰ the alleged RUF plan to attack Freetown discussed at Sam Bockarie's house in Buedu in December 1998.²⁵⁷¹

908. Most importantly, as with most of the Prosecution's witnesses on this issue, in previous statements to the Prosecution, TF1-571 had never mentioned Taylor's direct involvement in this intricate plan to takeover Freetown.²⁵⁷² At the most, the witness had only suggested in a previous statement that Jungle said that Taylor had advised them to target mineral areas first, as there would be no success without money.²⁵⁷³ Even if this allegation were true, this is a far cry from the allegation that Taylor planned the intricate details of the attacks leading up to the Freetown invasion.
909. TF1-571's attempt to implicate Taylor in the Freetown invasion, as with the evidence of most of the witnesses who testified on the issue, it is submitted, was a deliberate afterthought. That is why all those witnesses did not raise the issue in their previous statements to the Prosecution, despite the importance of the allegation to the Prosecution's case. Given the Prosecution's underhand tactics, including financial inducements, as the Defence has constantly argued in this case, it is not so difficult to imagine how the witnesses' accounts on Taylor's alleged involvement in atrocities in Sierra Leone would have grown by the day. In this case, it is important to note that TF1-571 also benefited from Prosecution largesse. The Prosecution at some point, TF1-571 conceded, paid his rent.²⁵⁷⁴
910. Furthermore, some other ancillary factors such as TF1-571's professed lack of knowledge that Bah was an arms dealer,²⁵⁷⁵ undermines his credibility, especially considering the prominence of Ibrahim Bah's role in the RUF and TF1-571's professed knowledge of the RUF's internal affairs.
911. The Plan according to Alimamy Bobson Sesay: The Prosecution's theory alleging collaboration between the RUF and the AFRC, and implicating Taylor in the Freetown invasion suffers a serious setback on the evidence of one of its own witnesses, TF1-334. This evidence, taken absolutely at face value, clearly shows that the invasion of Freetown in January 1999, was purely an AFRC affair in which

²⁵⁶⁹ TT, Karmoh Kanneh, TF1-571, 13 May 08, p. 9733-4.

²⁵⁷⁰ TT, Karmoh Kanneh, TF1-571, 13 May 08, p. 9734.

²⁵⁷¹ TT, Karmoh Kanneh, TF1-571, 14 May 08, p. 9754.

²⁵⁷² TT, Karmoh Kanneh, TF1-571, 14 May 08, p. 9755-6.

²⁵⁷³ TT, Karmoh Kanneh, TF1-571, 14 May 08, p. 9754.

²⁵⁷⁴ TT, Karmoh Kanneh, TF1-571, 14 May 08, p. 9770.

²⁵⁷⁵ TT, Karmoh Kanneh, TF1-571, 13 May 08, p. 9690.

Taylor played no part. Contrary to the allegations that the plan to attack Freetown originated in Liberia or Buedu; according to TF1-334, the plan was conceived in Koinadugu. In TF1-334's evidence, while in Koinadugu, prior to Superman arriving there, the AFRC leaders held a closed door meeting at Mongo Bendugu, at which they discussed the invasion of Freetown.²⁵⁷⁶ Following the meeting, Musa dispatched Gullit to prepare the route to Freetown,²⁵⁷⁷ and Gullit left for Rosos. Musa had already sent Brigadier Mani to the north to prepare the route to Freetown²⁵⁷⁸ and sent Gullit after him.²⁵⁷⁹ This account, it might be noted, is consistent with Adjudicated Fact 8 that at a meeting in Koinadugu District, various AFRC commanders met with SAJ Musa to discuss the future and develop a new military strategy. The commanders agreed that the troops who had arrived from Kono District should act as an advance troop which would establish a base in North Western area of Sierra Leone in preparation for an attack on Freetown.

912. While the evidence of another Prosecution witness, TF1-375, suggests that when Superman joined Musa in Koinadugu, he told Musa that Bockarie wanted them to work together to capture Freetown,²⁵⁸⁰ it is important to note that that witness (TF1-375), went on to confirm the subsequent fall out between Bockarie and SAJ Musa.²⁵⁸¹ Furthermore, as TF1-334 recounts, it is also important to note that, by the time Superman arrived in Koinadugu, Musa's plan to advance towards Freetown was already in motion. Musa had already dispatched Gullit to Rosos. Moreover, the meeting in Buedu at which Bockarie allegedly planned the Freetown attack was around December 1998, by which time the AFRC plan was already underway. Indeed, according to TF1-334, by July/August 1998 Gullit was already in Rosos,²⁵⁸² and was at Eddie Town from September 1998 to December 1998.²⁵⁸³ In the meantime, Superman had arrived in Koinadugu. When Gullit arrived at Rosos, he communicated with Bockarie, Sesay, SAJ Musa and Brigadier Mani.²⁵⁸⁴ Musa then informed him that he had been joined by Superman, and that they had recaptured

²⁵⁷⁶ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8046.

²⁵⁷⁷ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8042-5.

²⁵⁷⁸ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8042-5.

²⁵⁷⁹ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8042-5.

²⁵⁸⁰ TT, TF1-375, 24 Jun 08, p. 12556-7. Though note he later states it was SAJ Musa who proposed the attack on Freetown, and that Superman proposed to attack Makeni: p. 12259. This seems to be a case of reading back into the past what later took place.

²⁵⁸¹ TT, TF1-375, 24 Jun 08, p. 12578-9.

²⁵⁸² TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8111.

²⁵⁸³ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8142.

²⁵⁸⁴ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8139-40.

Mongo Bendugu²⁵⁸⁵ and were preparing an attack on Kabala in preparation for an advance on Freetown.²⁵⁸⁶

913. Furthermore, any further allegations of collaboration between the AFRC and the RUF during this time are quashed by the uncontested evidence of the radio communication gag SAJ Musa imposed between his group and the RUF. According to TF1-334, for instance, when the AFRC captured the RDF junction, on the way to Freetown, Alfred Brown communicated this to Bockarie, who announced it over the radio. This led Musa to censure Brown and order him to stop giving information to Bockarie.²⁵⁸⁷ Musa also contacted Bockarie and insulted him for claiming glory that was not his.²⁵⁸⁸ Even TF1-360 testified to this communications ban.²⁵⁸⁹ Communication however resumed after Musa's death at Benguema when Gullit took over leadership of the AFRC group that was advancing on Freetown.²⁵⁹⁰ Musa died on 23 December 1998,²⁵⁹¹ and was buried on 24 December.²⁵⁹² Bockarie told Gullit that he would send Sesay to reinforce him for the invasion.²⁵⁹³ The AFRC in a general vote however decided not to wait and proceeded to enter into Freetown.²⁵⁹⁴ By the 24th December 1998, when the AFRC was already at Benguema advancing towards Freetown, all the RUF groups were still at Makeni. Bockarie coordinated for forces under Sesay, Rambo, Kallon and Superman to join together to fight in Makeni.²⁵⁹⁵ The RUF attacked and captured Makeni on or around 24 December 1998.²⁵⁹⁶ Indeed, as TF1-571 said he heard, there was something of a race between Rambo and SAJ Musa to get to Freetown.²⁵⁹⁷ It was not until the AFRC had captured State House that TF1-360 was able to inform Bockarie of what had happened since SAJ Musa had imposed the

²⁵⁸⁵ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8151-2. Mongo Bendugu seems to have been captured by ECOMOG between the time SAJ Musa was there with Gullit and Gullit's communication with SAJ Musa from Rosos.

²⁵⁸⁶ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8152-3.

²⁵⁸⁷ TT, Alimamy Bobson Sesay, TF1-334, p. 8239-41; AFRC Adjudicated Fact 12.

²⁵⁸⁸ Adjudicated Fact 12.

²⁵⁸⁹ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3210.

²⁵⁹⁰ TT, Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8253-4.

²⁵⁹¹ Adjudicated Fact 13.

²⁵⁹² TT, Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8246-8.

²⁵⁹³ TT, Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8253-4.

²⁵⁹⁴ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3218-21.

²⁵⁹⁵ Exhibit D-84, p. 8; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44154-59.

²⁵⁹⁶ Exhibit P-93; Exhibit P-430C; Exhibit 430D; Exhibit P-77, para. 61; TT, TF1-367, 20 Aug 08, p. 14186-87; TT, TF1-371, 28 Jan 08, p. 2418, 2422.

²⁵⁹⁷ TT, Karmoh Kanneh, TF1-571, 13 May 08, p. 9712.

radio silence.²⁵⁹⁸ Also see the evidence of TF1-568 that the first time the RUF in Buedu knew Gullit was in Freetown was when they heard it over the BBC.²⁵⁹⁹

914. Furthermore, on the evidence of TF1-334, it is quite clear that the AFRC and the RUF had different motivations for attacking Freetown and could therefore not have been acting in the furtherance of any common purpose. While most Prosecution evidence suggested that the RUF planned the final offensive on Freetown to force the release of their leader Foday Sankoh²⁶⁰⁰ or to take over power,²⁶⁰¹ according to TF1-334, the AFRC invaded Freetown for two reasons: First, because SAJ Musa wanted to reinstate the army;²⁶⁰² and second, because the group had heard about the execution of the former AFRC members.²⁶⁰³
915. From the foregoing evidence of TF1-334, who as earlier mentioned, was with the AFRC group that invaded Freetown and thus renders a firsthand account, the alleged collaboration between the AFRC and the RUF is evidently mere fantasy. His evidence belies allegations that a group of mainly RUF fighters numbering up to 65 under Rambo Red Goat managed to fight its way into Freetown to join the AFRC.²⁶⁰⁴ The evidence also belies the suggestion that the RUF at Waterloo coordinated and provided cover for the AFRC retreating from Freetown.²⁶⁰⁵ From TF1-334's evidence, it is quite clear that the two factions were no more than fighting a common enemy. As TF1-571's evidence suggests, there was even something of a race between the two factions to capture Freetown.²⁶⁰⁶ Indeed, as TF1-371 was forced to concede; after the Freetown attack, the AFRC begrudged the RUF for letting them down by not providing the much needed reinforcement during the invasion.²⁶⁰⁷ The Prosecution's other argument, that the RUF's engagement of ECOMOG elsewhere in the country guaranteed the successes of the AFRC, far-fetched as it is, also falls on the same basis.

²⁵⁹⁸ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3229-30.

²⁵⁹⁹ TT, Mohamed Kabbah, TF1-568, 17 Sep 08, p. 16447.

²⁶⁰⁰ For example: TT, TF1-371, 28 Jan 08, p. 2401.

²⁶⁰¹ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5670.

²⁶⁰² AFRC Adjudicated Fact 8; also see TT.9274 ln.12-15

²⁶⁰³ TT, Alimamy Bobson Sesay, TF1-334, 29 Apr 08, p. 8831-7; Perry Kamara, TF1-360, 6 Feb 08, p. 3207-8.

²⁶⁰⁴ TT, TF1-360, 6 Feb 08, p. 3237; TT, Alimamy Bobson Sesay, TF1-334, 23 April 08, p. 8326-7; TT, TF1-375, 24 Jun 08, p. 12609-10.

²⁶⁰⁵ TT, Isaac Mongor, 31 Mar 08, p. 6162.

²⁶⁰⁶ TT, TF1-571, 13 May 08, p. 9712; AFRC Adjudicated Fact 11.

²⁶⁰⁷ TT, TF1-371, 30 Jan 08, p. 2615; Issa Sesay, DCT-172, 12 Jul 10, p. 44200-5; Also see AFRC Adjudicated Fact 15.

916. That is however not to say that TF1-334's evidence is above reproach. Indeed, the witness was also prone to falsehood and exaggerations that were also deliberately designed to feed into the Prosecution's case. His attempt to involve NPFL members in the AFRC's invasion of Freetown was quite obvious and would be exposed in cross-examination. In his statement to the Prosecution, TF1-334 for instance, alleged that all the members of the Red Lion Battalion, which he alleges was part of the invasion, were Liberians. In court he would say there were only 50 of them.²⁶⁰⁸ However, when he was pressed to name some of those Liberians he pleaded loss of memory.²⁶⁰⁹ Furthermore, TF1-334 initially suggested in his evidence that the Red Lion Battalion came into existence at Colonel Eddie Town, only to concede later under cross-examination that the Red Lion Battalion was a bodyguard unit of Superman; meaning that it was in existence before Colonel Eddie Town.²⁶¹⁰ Most curious were his allegations in a previous statement that the STF were initially members of the NPFL who broke away from the NPFL. In court he would however state that the Special Task Force originated from ULIMO.²⁶¹¹
917. With respect to the supply of ammunition, TF1-334 attempted to suggest that some of the ammunition that was used for the Freetown invasion came from Liberia. "Rambo and others brought ammunition and when we were at the Tombo axis Issa brought ammunition for us to go and recapture Freetown" he alleges.²⁶¹² This ammunition, he further alleges, was rumored to have come from Liberia. This additional dimension clearly appears to be an afterthought as twice in direct examination TF1-334 was asked the source of the ammunition and in neither instance did he tell the Court that it was rumored to come from Liberia.²⁶¹³
918. Indeed, the rumour that the ammunition came from Liberia is controverted by more direct evidence on the issue. On the part of the RUF, as Issa Sesay testified, the ammunition that he brought was captured from places such as Kono and Makeni.²⁶¹⁴ The capture of ammunition in these places was not disputed. With respect to the AFRC; they also had no shortage of ammunition after the capture of Benguma. TF1-334 also alleges that at a subsequent meeting between the AFRC and the RUF, Taylor

²⁶⁰⁸ TT, Alimamy Sesay, TF1-334, 28 Apr 08, p. 8779.

²⁶⁰⁹ TT, Alimamy Sesay, TF1-334, 29 Apr 08, p. 8801.

²⁶¹⁰ TT, Alimamy Sesay, TF1-334, 28 Apr 08, p. 8771.

²⁶¹¹ TT, Alimamy Sesay, TF1-334, 28 Apr 08, p. 8777.

²⁶¹² TT, Alimamy Sesay, TF1-334, 28 Apr 08, p. 8733.

²⁶¹³ TT, Alimamy Sesay, TF1-334, 28 Apr 08, p. 8737.

²⁶¹⁴ See Exhibit P-93, p. 3-4.

conceded that he had provided “arms, ammunition, food etc to the troops,” although the witness made no such allegations in previous accounts.²⁶¹⁵ In any event, these hearsay allegations, on the basis of the evidence already discussed above, are patently false.

919. With respect to the commission of atrocities during the Freetown invasion; while several Prosecution witnesses attempted to implicate Taylor in the direct ordering of atrocities,²⁶¹⁶ according to TF1-334, which evidence the Defence accepts, SAJ Musa ordered his forces to proceed to Freetown without killing, looting or burning.²⁶¹⁷ However, certain commanders like Santigie Borbor Kanu and Kabila disobeyed the order; some of the groups proceeded with Operation No Living Thing, and killed, looted and burnt on the way.²⁶¹⁸ The Operation No Living Thing referred here, it might be noted, appears to be different from the Operation Spare No Soul that TF1-371 and others spoke about as part of the Freetown Invasion; although TF1-371 suggests the operation was variously named.²⁶¹⁹ Operation No Living Thing, it would appear from the Prosecution’s other evidence had been declared earlier in 1998, perhaps about May or June, during an attack on Kenema District.²⁶²⁰
920. On the Prosecution’s own evidence, which confirms the Defence’s position on the issue, it is therefore quite clear from the foregoing evidence that the Freetown invasion by the AFRC in January 1999, in all material respects, had nothing to do with the RUF.²⁶²¹ Most importantly, Taylor had no hand at all in the whole affair.²⁶²² As Prosecution witness, TF1-568, honestly testified, he did not recall hearing from Bockarie or anyone else that there were orders from Liberia relating to planned attacks in late 1998.²⁶²³ Particularly, he did not recall any orders from Taylor or his people concerning the Freetown Invasion.²⁶²⁴

²⁶¹⁵ TT, TF1-334, 25 Apr 08, p. 8601 et seq.

²⁶¹⁶ TT, TF1-371, p. 2410-6; TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3164-5, p. 3174; 7 Feb 08, p. 3347-8.

²⁶¹⁷ TT, TF1-143, 5 May 08, p. 9015-8; Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8222-3.

²⁶¹⁸ TT, TF1-143, 5 May 08, p. 9015-8; Alimamy Bobson Sesay, TF1-334, 22 Apr 08, p. 8226.

²⁶¹⁹ TT, TF1-371, 28 Jan 08, p. 2413-4; 2428-9. The witness described the order by Bockarie to capture Freetown as Operation No Living Thing. The witness also called the invasion of Freetown: Spare No Soul and No Bush Shake.

²⁶²⁰ TT, Samuel Bull, TF1-065, 24 Sep 08, p. 17121-2: he heard a rebel claiming it was Operation Living Thing during an attack in 12 June 1998; Emmanuel Bull, 25 Sep 08, TF1-459, p. 17332-3: the operation seems to be in May 1998.

²⁶²¹ TT, Issa Sesay, DCT-172, 5 Jul 10, p. 43594; 9 Jul 10, p. 44168-9.

²⁶²² TT, Charles Taylor, 5 Aug 09, p. 26049-50; 6 Aug 09, p. 26225; Issa Sesay, DCT-172, 12 Aug 10, p. 46103; 46110-1; 23 Aug 10, p. 46842-4;

²⁶²³ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16338-40.

²⁶²⁴ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16352; p. 16338-40.

921. With respect to the orgy of violence that followed the retreat from Freetown after the January 6 invasion; as TF1-371 rightly conceded, there was a general breakdown of command and control and most of the violence was attributable to the rogue elements within the retreating forces.²⁶²⁵ The allegation that there was a JCE between Taylor and the RUF under Sam Bockarie ultimately leading to the invasion of Freetown in January 1999 fails simply on an analysis of the Prosecution's own evidence, which is internally inconsistent and unreliable.
922. The analysis of the Prosecution's evidence undertaken above, the Defence submits, is also important in a more fundamental and wider respect. It exposes the susceptibility and readiness of the Prosecution's witnesses to distort the truth in order to implicate Taylor. This is particularly illustrated by the revisionist evidence of most of the witnesses who testified to Taylor's direct involvement in the Freetown invasion. Most of those witnesses, it is interesting to note, gave quite detailed accounts of Taylor's involvement in the Freetown invasion, but for some inexplicable reasons, failed to mention such crucial information to the Prosecution in previous interviews. Given the importance of the allegations to the Prosecution's case, it couldn't be that they simply forgot or were never asked about it before. If that were the case, it is equally remarkable that they would all have remembered at trial. The Defence submits that this not only casts serious doubt on the veracity of the allegation; it should also affect their overall credibility. These witnesses can simply not be trusted to tell the truth where Taylor is concerned.
923. Indeed, the allegations by TF1-532 or TF1-371 that Taylor said that the advance to Freetown should be more brutal than any other and that nothing should stand in the way are not borne by any facts on the ground of the RUF's conduct during the advance to Freetown. While TF1-532 evidence suggests some atrocities at Njaima Nimikoro²⁶²⁶ and TF1-371 alleges some incidents of looting,²⁶²⁷ there is no overwhelming evidence of wide scale atrocities in the places the RUF attacked on the way towards Freetown, such as Kono, Makeni, Lunsar, Port Loko etc. Indeed, there is no other evidence corroborating these two witnesses, whom it might also be observed, were not present when the alleged acts were committed.

The Fitti Fatta attack

²⁶²⁵ TT, TF1-371, 1 Feb 08, p. 2807-8.

²⁶²⁶ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5752; 31 Mar 08, p. 6223.

²⁶²⁷ TT, TF1-371, 25 Jan. 2425 ln.12 -21.

924. Consistent with the Prosecution's theory of a JCE involving terror, TF1-360 also tries to implicate Taylor directly in the Fitti Fatta mission. Prosecution evidence however varies on when the Fitti Fatta mission was exactly planned. Several witnesses testified that there was a meeting held in Buedu in about April or May 1998. Most witnesses agree that the meeting dealt with the issue of the diamonds that Sesay lost in Monrovia.²⁶²⁸ There are suggestions that this was also forum in which Operation Fitti Fatta was planned.²⁶²⁹ Exhibit P-67 however suggests they were different meetings.²⁶³⁰ While most evidence suggests that the mission was a plan between Bockarie and Superman,²⁶³¹ or Sam Bockarie, Superman and Lamin,²⁶³² TF1-360, true to form, suggests that Taylor was involved in the planning. Bockarie, he alleges, called Superman to Buedu to receive a plan from Taylor.²⁶³³ In TF1-360's evidence, this was all part of a grand plan to take over Freetown.²⁶³⁴ However, in terms of Exhibits P-67 and D-9, the objective of the mission was to capture Kono.²⁶³⁵ In TF1-360's evidence, the idea was to create panic among the ECOMOG in Koidu Town.²⁶³⁶ Contrast with Martin George who says the aim was to test ECOMOG's strength, rather than capture the town.²⁶³⁷ While there is evidence that some herbalists came from Liberia to prepare those who were to take part in the battle,²⁶³⁸ according to TF1-360, these were sent by Taylor.²⁶³⁹ Furthermore, according to TF1-360 – Perry Kamara's wounded fighters during Fitti Fatta were sent to Liberia for treatment.²⁶⁴⁰ Some of these issues are also discussed in more detail in this Final Brief under Aiding and Abetting.

²⁶²⁸ TT, Alice Pyne, TF1-584, 18 Jun 08, p. 12209-13; Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16147-9; Karmoh Kanneh, TF1-571, 8 May 08, p. 9392-7; Exhibit P-67.

²⁶²⁹ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3160-2; Albert Hindowa Saidu, TF1-577, 5 Jun 08, p. 11054-61; Karmoh Kanneh, TF1-571, 8 May 08, p. 9392-7; Alice Pyne, TF1-584, 19 Jun 08, p. 12233-41.

²⁶³⁰ Exhibit P-67. After discussing the forum called to deal with Sesay's losing of the diamonds, it continues: "The High Command later called Brigadier Denis Mingo (Superman) on a forum for a mission to be carried out to capture the whole of Kono".

²⁶³¹ Exhibit P-67.

²⁶³² TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44068-70.

²⁶³³ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3159-60. This account though is heavily suspect.

²⁶³⁴ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3164-5.

²⁶³⁵ Exhibit P-67; Exhibit D-9.

²⁶³⁶ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3170-1.

²⁶³⁷ TT, Martin George, DCT-062, 27 Apr 10, p. 40127-30.

²⁶³⁸ TT, Komba Sumana, TF1-263, 6 Oct 08, p. 17982. Also see evidence of Issa Sesay who confirms that herbalists came from Liberia at the request of Bockarie but denies they were sent by Taylor. TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44054-5; TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44065-7.

²⁶³⁹ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3164; See also: TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12237-40.

²⁶⁴⁰ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3171.

925. Prosecution evidence also attempts to implicate Taylor in the provision of the materials used in the operation. While Exhibit P-67 does not explicitly state the provenance of the arms and ammunition, the implication is that the material came from Taylor.²⁶⁴¹ According to TF1-375, the arms came from Gbarnga,²⁶⁴² while according to TF1-584 -Alice Pyne the ammunition came from Foya, though she does not say from Taylor, nor did she see ammunition being given to Superman by Bockarie as such.²⁶⁴³ According to TF1-532, the ammunition came from Taylor via Daniel Tamba.²⁶⁴⁴ In TF1-360's evidence, the ammunition was in abundance,²⁶⁴⁵ and came from Taylor.²⁶⁴⁶ Contrast with TF1-568's evidence that Jungle never brought enough ammunition.²⁶⁴⁷ The RUF, TF1-568 further alleges, did not receive enough ammunition until Bockarie brought some for the attack on Kono up to Freetown.²⁶⁴⁸
926. Despite the common linkage of the ammunition to Taylor, none of the witnesses, save TF1-360, however, directly linked the alleged provision of ammunition to the Fitti Fatta mission. As already highlighted above, TF1-360's evidence in this respect must be disregarded. With respect to the general question of the provision of ammunition by Taylor, the Defence contests the allegation and submits that there is generally credible evidence of potential alternative sources. In terms of the evidence of Issa Sesay, which is corroborated in part by Exhibit D-9, the arms were obtained from Guinea and from former ULIMO fighters.²⁶⁴⁹ The RUF, it is important to note, was at this time trading ammunition with ULIMO in Foya.²⁶⁵⁰
927. Consistent with the Prosecution's attempts to link Taylor directly to atrocities in Sierra Leone, according to TF1-532, the Fitti Fatta mission was also characterized by atrocities.²⁶⁵¹ However, other Prosecution evidence seems to suggest that acts of civilian atrocities followed the failure of the Fitti Fatta mission. TF1-585 testified that Bockarie instructed Superman to amputate civilians in Kono as a punishment for leaking information to ECOMOG which resulted in the failure of Operation Fitti

²⁶⁴¹ Exhibit P-67.

²⁶⁴² TT, TF1-375, p. 14824-5.

²⁶⁴³ TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12233-41.

²⁶⁴⁴ TT, Isaac Mongor, TF1-532, p. 5747-50.

²⁶⁴⁵ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3172.

²⁶⁴⁶ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3169-70.

²⁶⁴⁷ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16140-1.

²⁶⁴⁸ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16140.

²⁶⁴⁹ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44058-64.

²⁶⁵⁰ TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16278.

²⁶⁵¹ TT, Isaac Mongor, TF1-532, p. 5749-52.

Fatta.²⁶⁵² Bockarie however later told Superman to stop as the world had heard about it.²⁶⁵³ Note however that there is almost a 4 month gap between the Fitti Fatta mission and the alleged atrocities.²⁶⁵⁴ According to TF1-571 on the other hand, while the Fitti Fatta mission was discussed at the Waterworks mission, there were no discussions of amputations.²⁶⁵⁵

928. Again in an attempt to implicate Taylor directly in atrocities in Sierra Leone as part of an alleged JCE involving terror, the Prosecution presented an incoherent and internally inconsistent account which cannot be trusted. These inconsistencies in the Prosecution's evidence on this issue, it is submitted, also go to the credibility of the witnesses concerned on this matter and generally.
929. The Prosecution also attempted to heighten the element of terror by making a bald allegation through the evidence of the likes of TF1-532 on allegation such as human markings and placing human heads/skulls on sticks.²⁶⁵⁶ The latter, especially coming from TF1-532, who claimed to be a former member of the NPFL, was deliberately designed to mirror the alleged parallel practice in the NPFL. Be that as it may, the evidence still fails to establish a JCE involving Taylor.
930. Indeed, while the Prosecution's general allegations of Taylor's relationship with Sam Bockarie try to implicate Taylor in every aspect of the RUF's operations, and while that might go to establishing liability (not guilt) with respect to other Article 6(1) and Article 6(3) modes of liability, those general allegations in and of itself will not suffice to prove a JCE. The evidence must be capable of establishing the conception of a plan to engage in some criminal enterprise. Indeed, there must be a meeting of the minds among the principal planners of the JCE with respect to a clear defined pre-determined criminal purpose. Indeed, while this could be inferred, merely alluding to evidence that otherwise falls under other modes of liability charged in the Indictment, does not *ipso facto* establish a JCE. If that were the case, where an Accused is charged under more than one mode of liability in the Statute, the Trial Chamber could always infer a JCE from any of the allegations charged under any one or more of the other modes of liability. This is and has always been the Achilles heel in the Prosecution's allegation of a JCE.

²⁶⁵² TT, TF1-585, p. 15670-1.

²⁶⁵³ TT, TF1-585, p. 15673-7.

²⁶⁵⁴ TT, TF1-585, p. 15674-5.

²⁶⁵⁵ TT, Karmoh Kanneh, TF1-571, p. 9692.

²⁶⁵⁶ TT, Isaac Mognor, TF1-532, 31 Mar 10, p. 6224; 4 Apr 08, p. 6689. Also see Exhibit P-78, p. 211-12.

931. The Defence reiterates the argument made earlier that as the Prosecution failed to establish a joint criminal enterprise involving terror as alleged, or at all, in the first instance, none could have subsisted between Taylor and members of the RUF under Sam Bockarie. However, should the Trial Chamber find otherwise, the Defence submits that evidence considered above does not establish the conception or subsistence of a JCE involving terror between Charles Taylor and Sam Bockarie. Indeed, while there is evidence of atrocities during the time Sam Bockarie presided over the RUF, and while the Defence does not deny that the people of Sierra Leone, regrettably, suffered tremendously during this time; it is submitted that this had nothing to do with Charles Taylor. As considered in detail above, the Prosecution's evidence falls short in its attempt to implicate Taylor directly in these atrocities.
932. As the Prosecution's evidence fails to establish a JCE at all, the extended JCE – JCE III. is therefore not engaged.
933. It is the Defence's case that Taylor worked with Bockarie only as part of the peace process under ECOWAS's mandate. As part of this process, Taylor held personal meetings with Bockarie. There is independent evidence that after the fall of the Junta, later that year, the RUF started to make overtures for an audience with Taylor. Eddie Kanneh approached the Liberian Ambassador, Taigen Wantee, which resulted in the latter writing to the Ministry of Foreign Affairs in Liberia for the request to be passed on to the President. See D-7 dated 12 August 1998. It was as result of this request that Bockarie had his first meeting with President Taylor.²⁶⁵⁷ Taylor met with Bockarie on three occasions in 1998;²⁶⁵⁸ in September,²⁶⁵⁹ October,²⁶⁶⁰ and about November or December, in Monrovia.²⁶⁶¹ The latter trip was made on Bockarie's way to Burkina Faso, where he visited Compaore, who was chairman of the OAU at the time.²⁶⁶² At all times, the Committee of Five and President Kabbah were aware of these visits.²⁶⁶³

²⁶⁵⁷ TT, Charles Taylor, 30 July 09, p. 25715; 3 Aug 09, p. 25805.

²⁶⁵⁸ TT, Charles, Taylor, 16 Sep 09, p. 29093-4; 22 Sep 09, p. 29351-2; DCT-008, 24 Aug 10, p. 47048-55; 27 Aug 10, p. 47070-82; 29 Oct 09, p. 30771-2.

²⁶⁵⁹ TT, Charles Taylor, 30 July 09, p. 25715-6; Issa Sesay, DCT-172, 28 July 10, p. 44846-8; DCT-008, 24 Aug 10, p. 47049-52. Taylor testified on 6 Aug 09, p. 26208 that he met Bockarie twice in September (and that was the extent of his visits for 1998), though at p. 26223 he states it was September and October. TT, Charles Taylor, 11 Aug 09, p. 26429-30: Bockarie came once in September.

²⁶⁶⁰ TT, Charles Taylor, 11 Aug 09, p. 26429-30; 22 Sep 09, p. 29351-2; Issa Sesay, DCT-172, 28 July 10, p. 44846-8.

²⁶⁶¹ December: TT, Charles Taylor, 6 Aug 09, p. 26266; 22 Sep 09, p. 29351-2; DCT-008, 27 Aug 09, p. 47381-2. November: TT, Charles Taylor, 11 Aug 09, p. 26429-30; 13 Aug 09, p. 26782; Issa Sesay, DCT-172, 28 July 10, p. 44846-8.

²⁶⁶² TT, Charles Taylor, 6 Aug 09, p. 26129; 22 Sep 09, p. 29351-2.

²⁶⁶³ TT, Charles Taylor, 30 July 09, p. 25714-7.

In 1999, Bockarie came to Monrovia during the Lomé peace process: at some point before and another point after.²⁶⁶⁴ Later in November and December 1999, Taylor met Bockarie and Sankoh in Monrovia to discuss the problems between them. During the December meeting, they were joined by Obasanjo, and the matter was communicated to the United Nations.²⁶⁶⁵ This was when Bockarie was given the option of moving to Liberia and subsequently did so. President Kabbah knew about this relocation.²⁶⁶⁶

934. As part of the peace process, Taylor also maintained contact with Bockarie via satellite phone. Before his trips to Liberia, Bockarie already had a satellite phone which he had received from Sankoh.²⁶⁶⁷ Taylor also provided Bockarie with a satellite phone on his second visit to Liberia,²⁶⁶⁸ and he (Taylor) as well as the other ECOWAS leaders had the number for Bockarie's phone.²⁶⁶⁹
935. As part of the peace process, Taylor also communicated with Bockarie by radio. Taylor, however, did not communicate over the radio himself.²⁶⁷⁰ From October 1998, there was a radio at the guesthouse to communicate with Bockarie.²⁶⁷¹ The RUF could use this radio to communicate with stations in Sierra Leone.²⁶⁷² However, the Liberian government would only communicate with Bockarie's radio station.²⁶⁷³ Taylor also communicated with Bockarie through intermediaries such as Benjamin Yeaten. Yeaten however went on to establish his own personal relationship with Bockarie.²⁶⁷⁴ It was in this latter capacity that Yeaten would coordinate with other intermediaries like Daniel Tamba and Ibrahim Bah. Taylor however did not know Tamba and had no contact with him.²⁶⁷⁵ Tamba also formed his own relationship with

²⁶⁶⁴ TT, Charles Taylor, 16 Sep 09, p. 29093-4. Though Taylor also claims Bockarie only came to Liberia in September 1999 and not August: 22 Sep 09, p. 29425-6.

²⁶⁶⁵ TT, Charles Taylor, 17 Aug 09, p. 26843-64.

²⁶⁶⁶ TT, Charles Taylor, 17 Aug 09, p. 26908; Also see, Exhibit D-228, D-227 and D-226

²⁶⁶⁷ TT, Charles Taylor, 6 Aug 09, p. 26208.

²⁶⁶⁸ TT, Charles Taylor, 12 Aug 09, p. 26663-4.

²⁶⁶⁹ TT, Charles Taylor, 6 Aug 09, p. 26225.

²⁶⁷⁰ TT, Charles Taylor, 23 July 09, p. 25543-4; 16 Sep 09, p. 28994-5; DCT-179, 22 Feb 10, p. 35652-3; DCT-172, 8 July 10, p. 44033-4.

²⁶⁷¹ TT, Charles Taylor, 15 Sep 09, p. 28857-8; 24 Sep 09, p. 29633-4; 29 Sep 09, p. 29757-8.

²⁶⁷² TT, Charles Taylor, 30 Sep 09, p. 29974-6.

²⁶⁷³ TT, Charles Taylor, 30 Sep 09, p. 29976.

²⁶⁷⁴ TT, DCT-008, 24 Aug 10, p. 47045-7; 27 Aug 10, p. 47387-96.

²⁶⁷⁵ TT, Charles Taylor, 31 Aug 09, p. 28011; 10 Sep 09, p. 28630-3; 14 Sep 09, p. 28716-8; 1 Oct 09, p. 30100-4; Issa Sesay, DCT-172, 6 July 10, p. 43803-10.

Bockarie, based on his time with the RUF and his tribal links to Bockarie.²⁶⁷⁶ Tamba acted independently, outside of Taylor's knowledge or effective control.²⁶⁷⁷

936. With respect to Ibrahim Bah; Bah was not one of Taylor's agents.²⁶⁷⁸ Bah developed a relationship with the RUF which was independent from Taylor. Bah knew Sankoh from Libya, and later in Abidjan,²⁶⁷⁹ and became an agent for the RUF.²⁶⁸⁰ Sankoh is the one who encouraged the Junta to work with Bah,²⁶⁸¹ and this relationship continued after the Junta was deposed.²⁶⁸² The Prosecution's evidence however presents a somewhat confused account concerning Bah's role. For example, while several prosecution witnesses alleged that Bah was involved in dealing diamonds,²⁶⁸³ others like [REDACTED] testified that Bah was not a diamond dealer.²⁶⁸⁴ Indeed, much of the testimony concerning Bah is unclear, with many witnesses unable to correctly state simple facts such as his nationality.²⁶⁸⁵
937. With respect to the allegations of diamonds: that Taylor encouraged the RUF to seize the diamond mining area and that he was trading diamonds with the RUF, it is important to look into the history of diamond mining by the RUF. As argued earlier in this case, during the initial phases of the war, Foday Sankoh discouraged diamond mining out of fear that it would distract the fighters from the war.²⁶⁸⁶ Diamond mining only started in earnest when the RUF joined the Junta. Indeed, as TF1-371, conceded, this was the only way through which the Junta could finance its government.²⁶⁸⁷ When the Junta fell, it did not require any outside influence from Taylor or anyone else to tell the RUF to continue mining. Many of the mining areas, it might be recalled, remained under either RUF or AFRC control. The idea that RUF or AFRC commanders had to be influenced by Taylor to seize or hold onto diamond

²⁶⁷⁶ TT, Charles Taylor, 14 Sep 09, p. 28719-20; 30 Sep 09, p. 29917-9.

²⁶⁷⁷ TT, Charles Taylor, 26 Oct 09, p. 30267-8; DCT-008, 24 Aug 10, p. 47040-1.

²⁶⁷⁸ TT, Charles Taylor, 25 Aug 09, p. 27563-4; 9 Sep 09, p. 28524-5; 15 Sep 09, p. 28910-1; DCT-125, 9 Mar 10, p. 36804-5.

²⁶⁷⁹ TT, TF1-371, 25 Jan 08, p. 2291; Charles Taylor, 29 Sep 09, p. 29767-8; 26 Oct 09, p. 30233-5.

²⁶⁸⁰ TT, TF1-338, 3 Sep 08, p. 15294-5; Dauda Aruna Fornie, TF1-274, 3 Dec 08, p. 21547-8; Issa Sesay, DCT-172, 6 July 10, p. 23810-8; 8 Jul 10, p. 44092-6; Fayia Musa, DCT-306, 21 Apr 10, p. 39519-22.

²⁶⁸¹ TT, Issa Sesay, DCT-172, 7 July 10, p. 43857-8.

²⁶⁸² TT, Issa Sesay, DCT-172, 8 July 10, p. 44092-6.

²⁶⁸³ For example: TT, Abu Keita, TF1-276, 23 Jan 08, p. 1970; TF1-371, p. 2370-1; TF1-567, p. 13119-22.

²⁶⁸⁴ TT, [REDACTED]: "General Ibrahim was not a diamond dealer. He was an arms dealer."; p. 15294.

²⁶⁸⁵ TT, DCT-125, 9 Mar 10, p. 36876-7 (citing TF1-548).

²⁶⁸⁶ TT, TF1-168, 21 Jan 09, p. 23180-2; Exhibit P-277, p. 54

²⁶⁸⁷ TT, TF1-371, p. 2722.

mining areas in these circumstances is ludicrous.²⁶⁸⁸ Indeed, RUF and AFRC groups were capable of mining independently and did so.

938. Furthermore, there is also independent evidence which suggests that Foday Sankoh turned around on his instruction against mining and encouraged mining when he re-established contact with the RUF in 1996. In a letter to his Libyan financiers in December 1996, shortly after the Abidjan Peace Accord, and following his trip to Sierra Leone, Foday Sankoh wrote that he had just been to Sierra Leone and had been able to organize some “serious mining operations” which he hoped would generate “the needed foreign exchange” for the RUF’s mission.²⁶⁸⁹ This position was also confirmed by Prosecution witness TF1- 168.²⁶⁹⁰
939. Diamond trade also continued with the usual business contacts, many of them Lebanese businessmen.²⁶⁹¹ Ibrahim Bah, the RUF’s long standing associate with wide contract, as discussed above, would come in handy in this respect. As DCT-172 explained, in RUF-controlled Kono District, Bockarie sold the diamonds to people brought to him by Bah, such as Louis, Michel and Carlos, and two Lebanese men in Monrovia called Fayard and Ahmed.²⁶⁹² Exhibit P-20, for instance, is a letter granting Bockarie’s Lebanese business associates freedom of movement in RUF mining territory. Eddie Kanneh, Sam Bockarie’s friend²⁶⁹³ who was former Secretary for the diamondiferous Eastern Region of Sierra Leone²⁶⁹⁴ would also play an important part during this time. Indeed, during this time Monrovia was the bastion for trafficked diamonds from other parts of West Africa owing to the country’s lax control regulations.²⁶⁹⁵
940. The Defence submits that the Prosecution’s evidence considered above, while generally impinging on other modes of liability charged in the Indictment fails to prove any JCE between Taylor and Sam Bockarie, and any RUF member operating under Bockarie. The Prosecution’s case fails on a number of grounds. First, as discussed earlier in this Section, on the basis that the Prosecution failed to establish the conception of a JCE in the first place. This defect could not be cured by any

²⁶⁸⁸ As for instance in the testimony of TF1-597: see above, prosecution evidence.

²⁶⁸⁹ Exhibit P-272, p.2 last paragraph.

²⁶⁹⁰ TT, TF1-168, 23 Jan. 09, p. 23452 to 23501.

²⁶⁹¹ TT, TF1-539, p. 11409-11; TF1-567, p. 13116-9; TF1-338, p. 15319-20; TF1-274, 10 Dec 08, p. 22014-5; Issa Sesay, DCT-172, 26 July 10, p. 44663-6; 10 Aug 10, p. 45913-16.

²⁶⁹² TT, Issa Sesay, DCT-172, 26 July 10, p. 44640-1.

²⁶⁹³ TT, TF1-338, 2 Sep 09, p. 15194; Issa Sesay, DCT-172, 4 Aug 10, p. 45348-50.

²⁶⁹⁴ TT, TF1-338, 2 Sep 09, p. 15194; Issa Sesay, DCT-172, 4 Aug 10, p. 45348-50.

²⁶⁹⁵ Exhibit P-18 and D-393.

amount of evidence of subsequent events which have no direct relation to the events in Libya. Secondly, also as argued earlier in this Section, on the basis that if there was any JCE between Taylor and Sankoh, it would have ended at the time of the Top Final in May 1992, or when the Junta came to power in May 1997. Thirdly, and in the alternative, on the basis that the Prosecution's evidence fails to establish that Taylor, Bockarie and other RUF members under Bockarie, in committing the crimes alleged in the Indictment, shared the same criminal intent to carry out a campaign of terror against the people of Sierra Leone. The Defence submits that, while crimes were regrettably committed in Sierra Leone, Taylor was not involved in their commission in any way.

JCE – Taylor and Issa Sesay

941. Before considering the Prosecution's evidence going towards a JCE during this period, the Defence makes the same preliminary legal qualifications made at start of the proceeding section, subject to the necessary changes.
942. The Prosecution alleges that the JCE that subsisted between Charles Taylor and the members of the RUF under Sam Bockarie continued into the period when Sesay became interim leader of the RUF. Indeed, that Issa Sesay merely stepped into Sam Bockarie's shoes. It is even suggested that as part of this ongoing JCE, Taylor had a hand in Issa Sesay's takeover of the RUF leadership. According to TF1-338, Taylor told the RUF to change its leader and Issa Sesay said he would discuss it with the RUF family.²⁶⁹⁶ The witness further alleges that Obasanjo then brought a letter from Sankoh saying that Issa Sesay should take instructions from Taylor.²⁶⁹⁷ TF1-274 also testified that Issa Sesay told him that he was told by Taylor to temporarily replace Sankoh.²⁶⁹⁸
943. Thus, as part of the JCE, Sesay allegedly also operated as Taylor's subordinate, taking instructions²⁶⁹⁹ and advice²⁷⁰⁰ from Taylor, just as Bockarie had done before him. Indeed that Sesay did Taylor's bidding²⁷⁰¹ and held him with the same reverence as Bockarie. Sesay, it is alleged, considered Taylor the RUF's big revolutionary father²⁷⁰² and addressed him 'Sir'.²⁷⁰³ Sesay allegedly took instructions from Taylor,

²⁶⁹⁶ TT, TF1-338, p. 15150-1.

²⁶⁹⁷ TT, TF1-338, p. 15156.

²⁶⁹⁸ TT, TF1-274, p. 21989-91.

²⁶⁹⁹ TT, TF1-338, p. 15147-8.

²⁷⁰⁰ TT, TF1-274, p. 22167-8.

²⁷⁰¹ TT, TF1-338, p. 15132-4; TT, TF1-338, p. 15128-9.

²⁷⁰² TT, TF1-567, p. 13037-40.

including on military matters. Taylor, for instance, allegedly told Issa Sesay to attack Guinea,²⁷⁰⁴ and also discouraged him from disarming during the disarmament process.²⁷⁰⁵ Taylor, as is alleged, also promoted Issa Sesay,²⁷⁰⁶ and this evidence relating to promotion falls into the time of Sam Bockarie's reign. The evidence of Taylor's alleged relationship with Issa Sesay is considered in more detail in this Final Brief under the section on Superior Responsibility.

944. During this time, it is also alleged that Taylor continued to monitor the RUF mining activities²⁷⁰⁷ and received diamonds from the RUF.²⁷⁰⁸ According to TF1-338, there were diamond deals in Monrovia during the period Issa Sesay was in charge. Furthermore, Taylor in return also continued to supply ammunition to the RUF.²⁷⁰⁹ The evidence relating to Taylor's alleged support to the RUF during this time is considered in more detail in this Trial Brief under the section on Aiding and Abetting.
945. As a result, Taylor and Sesay were allegedly in regular contact through the same medium as with Bockarie. Taylor, it is alleged, maintained regular contact by radio²⁷¹⁰ or satellite phone, through intermediaries and through regular visits by Sesay. As discussed in detail below, all this evidence is however based on a misunderstanding and misrepresentation of Taylor's dealings with Issa Sesay.
946. There is no better illustration of the dangers of relying on the evidence of RUF functionaries on matters of high politics than the issue surrounding Sesay's takeover of the RUF leadership and his subsequent dealings with Taylor. Indeed, consistent with the Prosecution's theory, which no doubt coloured the evidence of its witnesses; the appointment of Sesay to the RUF leadership, on the advice of the ECOWAS committee of Five, and facilitated by Taylor; and Taylor's subsequent dealings with Issa Sesay in pursuit of peace in Sierra Leone, were mistakenly, if not deliberately, distorted to implicate Taylor in the Prosecution's alleged JCE. Indeed, the Prosecution's entire evidence on the relationship between Taylor and Issa Sesay is coloured by misinformation, conjecture, half-truths and outright lies.

²⁷⁰³ TT, TF1-597, p. 10568-9.

²⁷⁰⁴ TT, TF1-338, p. 15217-8.

²⁷⁰⁵ TT, TF1-338, p. 15174-6.

²⁷⁰⁶ TT, TF1-516, p. 6883.

²⁷⁰⁷ TT, TF1-516, p. 7180.

²⁷⁰⁸ TT, TF1-338, 2 Sep 08, p. 15167-72, 15193-8, 15234-6.

²⁷⁰⁹ TT, TF1-338, 2 Sep 08, p. 15156-61; 15186-90.

²⁷¹⁰ TT, TF1-567, p. 13000-2.

947. In order to understand Taylor's relationship with Issa Sesay, and, consequently, be in a position to measure it against the allegations of a continuing JCE involving terror, it is always important to bear in mind Issa Sesay's singular act in disarming the RUF, which ushered lasting peace in Sierra Leone. That singular act, it is submitted, in and of itself, trumps any suggestion of the exist or continuation of a JCE involving a campaign of terror against the people of Sierra Leone, as alleged, or at all. It is also important to measure the allegation of a continuous JCE between Taylor and RUF members under Issa Sesay's leadership against the uncontested evidence of the peace negotiations that were going on during Sesay's reign, in which Taylor played a significant role. That analysis it is submitted would also falsify any suggestion of a JCE involving terror at that time.²⁷¹¹
948. The Defence does not dispute that during Issa Sesay's reign over the RUF, Taylor had substantial interactions with Issa Sesay and used to summon him to Liberia. This was however all done under the auspices of ECOWAS. The first time Taylor established contact with Issa Sesay was during the UNAMSIL hostage incident around May 2000.²⁷¹² On 9 and 10 May 2000, Taylor attended a meeting of the Committee of Six in Abuja, where he was requested to be personally involved in securing the release of the UNAMSIL hostages and the resumption of the implementation of the Lomé Peace Accord.²⁷¹³ As a result, Taylor sent Benjamin Yeaten to Pendembu (Kailahun District) with the message that he wanted to see Issa Sesay.²⁷¹⁴ Issa Sesay then made his way to Monrovia, via Foya, along with his adjutant, Samuel Jabba, and met with Taylor at the Executive Mansion.
949. At the meeting, Taylor told Issa Sesay that he had been mandated by ECOWAS and the United Nations Security Council to negotiate with the RUF for the release of the UN hostages.²⁷¹⁵ Taylor further reminded Sesay that the capture of UNAMSIL

²⁷¹¹ See Exhibits D-441 A to E, in which Alpha Konare, Oluyemi Adeniji, Daniel Opande, Ali Hasan and Ahmed Tejan Kabbah all speak positively on Sesay's influence and contribution to the disarmament of the RUF and to bringing peace to Sierra Leone as a whole.

²⁷¹² TT, Issa Sesay, DCT-172, 14 Jul 2010, 44503:21-44522:7; Charles Taylor, 2 Nov 2009, 30865:15-30866:23.

²⁷¹³ TT, Charles Taylor, 18 Aug 2009, 27032:1-5; 15 Sep 2009, 28851:2-28.

²⁷¹⁴ TT, Issa Sesay, DCT-172, 8 Jul 2010, 44041:24-44042:4.

²⁷¹⁵ TT, Issa Sesay, DCT-172, 14 Jul 2010, 44503:21-44522:7. *See*, Moses Blah, TF1-561, 15 May 08, p. 9969. *Also see*, Exhibit D-251, p. 1, where the US and Jesse Jackson applauded Taylor's efforts to secure the release of the UN personnel held by the RUF and hoped that he would succeed in securing the release of all those that were detained; Exhibit D-252, para. 21, where ECOWAS renewed Taylor's mandate to secure the release of the remaining hostages and the recovery of the arms seized; and Exhibit D-250, p. 3 of the fax, where the Sierra Leonean government wished to cooperate with Taylor to ensure that he carries out fully the mandate entrusted to him by ECOWAS.

personnel was a violation of the Lomé Peace Accord, which bound the RUF.²⁷¹⁶ At this time, as Issa Sesay could not consult with Foday Sankoh who was under arrest,²⁷¹⁷ and realising that he could not fight the United Nations,²⁷¹⁸ nor could he feed and provide for the hostages,²⁷¹⁹ he agreed to release the peacekeepers. Taylor then provided him with five thousand dollars (USD 5,000) for fuel to transport the hostages to Foya,²⁷²⁰ and he returned to arrange the release. Issa Sesay returned to Kono and transported the UNAMSIL hostages to Foya, from where they were transported to Monrovia by helicopter belonging to the Liberian government and sent by Taylor.²⁷²¹

950. Prosecution witnesses, far removed from the corridors of power, and largely relying on recycled hearsay would however spin this innocuous evidence differently in order to feed into the Prosecution's allegations of a JCE involving Taylor. If only their accounts would tally. According to TF1-567, after the capture of the peacekeepers, Issa Sesay sent Junior Vandi and Dauda Aruna Fornie (in UN vehicles) to Benjamin Yeaten for Taylor to be informed about what had happened and asking for advice.²⁷²² Issa Sesay allegedly sought Taylor's advice because Taylor was "our big revolutionary father."²⁷²³ Contrast this with the allegation that Issa masterminded the abductions.²⁷²⁴ Taylor, it is alleged, then urgently summoned Sesay to Monrovia through Benjamin Yeaten [REDACTED].²⁷²⁵ As a result, Issa Sesay travelled to Monrovia and met with Taylor.²⁷²⁶ Taylor advised Issa Sesay to release the captured peacekeepers to show the world that whatever he says happens.²⁷²⁷ Issa Sesay, it is alleged, then released the peacekeepers on Taylor's command and they were transported to Foya and airlifted to Spriggs airfield.²⁷²⁸ And of course to complete the picture; Issa Sesay then took back with him to Sierra Leone some ammunition

²⁷¹⁶ TT, Issa Sesay, DCT-172, 26 Jul 2010, 44539:04 – 44540:15.

²⁷¹⁷ TT, Issa Sesay, DCT-172, 26 Jul 2010, 44540:17-44541:12.

²⁷¹⁸ TT, Issa Sesay, DCT-172, 14 Jul 2010, 44503:21-44522:7.

²⁷¹⁹ TT, Issa Sesay, DCT-172, 26 Jul 2010, 44541:13-44543:16.

²⁷²⁰ TT, Issa Sesay, DCT-172, 14 Jul 2010, 44503:21-44522:7.

²⁷²¹ TT, Issa Sesay, DCT-172, 26 Jul 2010, 44537:21-44538:22.

²⁷²² TT, TF1-567, 7 Jul 2008, 13038:6-14.

²⁷²³ TT, TF1-567, 7 Jul 2008, 13039:27-13040:1.

²⁷²⁴ TT, TF1-360, 6 Feb 2008, 3269.

²⁷²⁵ TT, TF1-567, 7 Jul 2008, 13038:24-27.

²⁷²⁶ TT, TF1-567, 7 Jul 2008, 13038:28-29.

²⁷²⁷ TT, TF1-567, 7 Jul 2008, 13040:4-8.

²⁷²⁸ TT, TF1-567, 7 Jul 2008, 13040:9-11.

provided by Taylor.²⁷²⁹ Under cross-examination, the witness would however agree that the release of the peacekeepers was *negotiated* by Taylor.²⁷³⁰

951. TF1-338, gives his own account of the same events, albeit, more determined to implicate Taylor. According to him, Issa Sesay met with Taylor twice between the arrest of Foday Sankoh and the release of the hostages. The first time, he alleges, was when Taylor called Issa Sesay to be informed about the circumstances of Sankoh's arrest. Taylor, he alleges, expressed disapproval of the RUF releasing the British MILOBs, as they could have been used to bargain for Sankoh's release. Taylor, the witness further alleges, also told Issa Sesay to keep control on the ground and provided him with arms and ammunition for that purpose.²⁷³¹
952. According to TF1-338, Issa Sesay returned to Monrovia at the end of May, at the invitation of Taylor, to discuss the release of the UN hostages. Taylor allegedly told Sesay that he was under pressure from the UN for the RUF to release the peacekeepers. Taylor further allegedly told Sesay that should he secure the release of the peacekeepers, he would be appointed ECOWAS chairman, and would support Issa Sesay in return.²⁷³² Issa Sesay then sent instructions over the radio that the peacekeepers be prepared for release the following day – via Pendembu, Manowa crossing point, to Foya.²⁷³³
953. TF1-276 alleged two separate incidents involving the capture of peacekeepers. The first related to the abduction of 11 Nigerian ECOMOG peacekeepers and the second related to 500 Zambian peacekeepers. With respect to the former, he alleges that they were arrested by the RUF (by Issa Sesay) as prisoners of war sometime in 2000 in Kono.²⁷³⁴ Benjamin Yeaten and Sam Bockarie then met at Dawa and Yeaten told Sam Bockarie that Taylor had asked for them to be released and taken to Liberia. Sam Bockarie, he alleges, unusually of him, hesitated in releasing the peacekeepers. Several days later, Benjamin Yeaten allegedly called Sam Bockarie and told him that the request for the release of the peacekeepers was “an order from the President, Charles Taylor”. The peacekeepers were then driven to Foya and handed over to Benjamin Yeaten and Joe Tuah.²⁷³⁵

²⁷²⁹ TT, TF1-567, 7 Jul 2008, 13040:19-29.

²⁷³⁰ TT, TF1-567, 8 Jul 08, p. 13173.

²⁷³¹ TF1-338, 1 Sep 08, p. 15128-37.

²⁷³² TF1-338, 2 Sep 08, p. 15141-4.

²⁷³³ TF1-338, 2 Sep 08, p. 15144-5.

²⁷³⁴ TF1-276, 23 Jan 08, p. 2027-9.

²⁷³⁵ TF1-276, 23 Jan 2008, 2029.

954. With respect to the 500 Zambian peacekeepers, TF1-276, Abu Keita says that they were arrested in May 2000.²⁷³⁶ After the arrest, Zigzag Marzah and Jungle came to collect Issa Sesay in Makeni and took him to Liberia. Issa Sesay later returned with a satellite phone issued to him by Charles Taylor. The witness also says Sesay came back with ammunition, although he does not explicitly allege from Taylor.²⁷³⁷ When Sesay came back, he told a meeting of the RUF that Charles Taylor had said that they should release the peacekeepers over to him in Liberia and that they therefore had no alternative but to comply. The Peacekeepers were then taken to Foya and handed over to Benjamin Yeaten and Joe Tuah.²⁷³⁸
955. TF1-360, Perry Kamara, gives his own account, which also tries to implicate Taylor. According to his evidence, Issa Sesay ordered the arrest of peacekeepers in Makeni and informed Taylor by satellite phone. Taylor then immediately “ordered” Sesay to bring the peacekeepers to him in Liberia.²⁷³⁹ Issa informed everyone on the ground and took the peacekeepers to Foya, via Yengema. Taylor then sent a helicopter full of ammunition to Foya in return for peacekeepers.²⁷⁴⁰ This is in contrast with the allegation that Sesay got the ammunition on his trip back from Liberia to discuss the release of the peacekeepers. Taylor, the witness alleges, said that he was sending ammunition because RUF should expect to be attacked for arresting and molesting UN peacekeepers and ammunition should be used to defend RUF positions.²⁷⁴¹
956. The obvious inconstancies on all the material details notwithstanding, it is quite easy to see how the evidence of all the witnesses considered above, deliberately tries to implicate Taylor, even in the most innocuous event as the release of the peacekeepers. The deliberate attempt to aggravate Taylor’s influence over the RUF is quite palpable. It however does not assist the Prosecution’s case that the witnesses largely rely on hearsay evidence, especially on the conversation that allegedly took place between Taylor and Issa Sesay, to which none of them were present. That hearsay evidence is directly controverted by both Charles Taylor and Issa Sesay, and consequently must be disregarded. This episode however serves a bigger purpose. It serves as a reminder of the dangers of relying on the evidence, particularly hearsay evidence, of Prosecution witnesses who so readily spoke to events that were distant

²⁷³⁶ TF1-276, 23 Jan 08, p. 2031.

²⁷³⁷ TF1-276, 23 Jan 2008, 2031-2032.

²⁷³⁸ TF1-276, 23 Jan 2008, 2031.

²⁷³⁹ TF1-360, 6 Feb 2008, 3269.

²⁷⁴⁰ TF1-360, 6 Feb 2008, 3270.

²⁷⁴¹ TF1-360, 6 Feb 2008, 3271.

from them in scope, status or geography. As already argued above, there was a tendency on the part of Prosecution witnesses to manipulate their evidence to directly feed into the Prosecution's theories on the liability of the Accused.

957. If the evidence on the release of the peacekeepers were not enough to illustrate this duplicity, Prosecution evidence on the appointment of Issa Sesay as leader of the RUF and his subsequent dealings with Taylor provides further illustration. Following the meeting concerning the release of the UN peacekeepers, around July 2000, Taylor, yet again on behalf of ECOWAS, called Issa Sesay to Monrovia. He sent Joe Tuah to Memunatu Deen at the RUF guesthouse to send a radio message that Issa Sesay should travel to Monrovia for a meeting with ECOWAS leaders.²⁷⁴² Following this communication, Issa Sesay travelled to Monrovia with Patrick PS Binda, Jabba (Issa's adjutant), Francis Oscar Charles (one of Sankoh's bodyguards), Colonel Lion and Augustine Gbao.²⁷⁴³ [REDACTED]
[REDACTED].²⁷⁴⁴ Around 20-25 July 2000, Issa Sesay and his delegation²⁷⁴⁵ attended a meeting with Presidents Taylor and five other Heads of State at the Executive Mansion in Monrovia. ECOWAS Heads of State present were: Taylor, Obasanjo, Alpha Konare, Yahya Jammeh and Eyadema.²⁷⁴⁶ At this meeting, it was suggested that Issa Sesay should takeover as the RUF interim leader,²⁷⁴⁷ as Foday Sankoh was being intransigent.²⁷⁴⁸ In view of Sesay's handling of the UNAMSIL hostage crisis, Olusegun Obasanjo however suggested that Issa Sesay be appointed leader, and Gnassingbe Eyadema and Alpha Konare agreed.²⁷⁴⁹
958. Issa Sesay agreed to cooperate but highlighted some logistical constraints, including difficulties in communication with his old satellite phone. Obasanjo then suggested that he should be provided with the necessary assistance.²⁷⁵⁰ Sesay also insisted on consulting the RUF²⁷⁵¹ and informing Foday Sankoh, by then in custody in Sierra Leone.²⁷⁵² A letter was then drafted and delivered to Sankoh by Presidents Obasanjo

²⁷⁴² DCT-172, 26 Jul 2010, 44548:28-44549:18.

²⁷⁴³ DCT-172, 26 Jul 2010, 44549:28-44550:10.

²⁷⁴⁴ TT, Issa Sesay, DCT-172, 11 Aug 10, p. 45949.

²⁷⁴⁵ DCT-172, 26 Jul 2010, 44550:28-29.

²⁷⁴⁶ DCT-172, 8 Jul 2010, 44043:1-5.

²⁷⁴⁷ DCT-172, 8 Jul 2010, 44043:5-6.

²⁷⁴⁸ DCT-172, 26 Jul 2010, 44551:02-44553:07;

²⁷⁴⁹ DCT-172, 26 Jul 2010, 44551:02-44553:07.

²⁷⁵⁰ DCT-172, 8 Jul 2010, 44043:6-12; see also, Exhibit D-467.

²⁷⁵¹ DCT-172, 26 Jul 2010, 44552:2-12.

²⁷⁵² DCT-172, 26 Jul 2010, 44552:13-16.

and Konare at Lungi airport.²⁷⁵³ Sankoh however rejected the proposal for Issa Sesay's appointment and suggested Mike Lamin,²⁷⁵⁴ but Obasanjo and Konare were adamant.²⁷⁵⁵ Obasanjo and Konare then returned back to Monrovia with a letter from Sankoh agreeing to Issa Sesay's appointment.²⁷⁵⁶

959. In the meantime, Issa Sesay went back to Sierra Leone and consulted the RUF leadership at a meeting in Kono.²⁷⁵⁷ After some intense debate, it was agreed that they should go along with the ECOWAS proposal.²⁷⁵⁸ Sesay then travelled back to Monrovia with a delegation that included Augustine Gbao, Jonathan Kposowa, Samuel Jabba, Patrick PS Binda and Colonel Lion.²⁷⁵⁹ Back in Monrovia, Sesay and his delegation²⁷⁶⁰ met with Presidents Taylor, Konare and Obasanjo,²⁷⁶¹ and representatives of the other Heads of State²⁷⁶² at Roberts International Airport. The meeting was covered in the international media and was broadcast on the BBC.²⁷⁶³ At the meeting, Issa was then appointed interim leader of the RUF.²⁷⁶⁴ Also see Agreed Fact 32.
960. Following a press conference, Issa Sesay attended a private meeting with the Heads of State and was instructed to arrange for the return of seized UNAMSIL equipment and to work with UNAMSIL and the Government of Sierra Leone on the implementation of the Lomé Accord.²⁷⁶⁵ He was also advised to post a permanent delegation in Monrovia for ease of communication.²⁷⁶⁶ Issa Sesay then appointed Jonathan Kposowa,²⁷⁶⁷ Gibril Massaquoi, Ken Macauley and Abdul Razak.²⁷⁶⁸ (See also evidence of DCT-292 [REDACTED] Issa Sesay around June-July 2000,²⁷⁶⁹ and the delegation remained there until Abuja I in Nov 2000.²⁷⁷⁰ DCT-292 also confirms Sesay's appointment as head of the RUF delegation in Liberia in

²⁷⁵³ DCT-172, 26 Jul 2010, 44552:24-28.

²⁷⁵⁴ DCT-172, 26 Jul 2010, 44553:13-17.

²⁷⁵⁵ DCT-172, 26 Jul, 2010, 44553:17-18.

²⁷⁵⁶ Exhibit D-259 p.1.

²⁷⁵⁷ DCT-172, 26 Jul 2010, 44553:26

²⁷⁵⁸ DCT-172, 26 Jul 2010, 44554:1-44555:27.

²⁷⁵⁹ DCT-172, 26 Jul 2010, 44556:1-3; DCT-292 also confirms trip. See, TT, 1 Jun 2010, 41807:21-24.

²⁷⁶⁰ DCT-172, 26 Jul 2010, 44559:15-17.

²⁷⁶¹ DCT-172, 26 Jul 2010, 44558:16-23.

²⁷⁶² DCT-172, 26 Jul 2010, 44559:2-9.

²⁷⁶³ DCT-172, 26 Jul 2010, 44559:10-13.

²⁷⁶⁴ DCT-172, 8 Jul 2010, 44043:15-16; 26 Jul 2010, 44559:20-44560:14.

²⁷⁶⁵ DCT-172, 26 Jul 2010, 44560:15-44561:5.

²⁷⁶⁶ DCT-172, 26 Jul 2010, 44561:24-44562:1.

²⁷⁶⁷ DCT-172, 26 Jul 2010, 44562:2.

²⁷⁶⁸ DCT-172, 26 Jul 2010, 44562:2-4.

²⁷⁶⁹ DCT-292, 1 Jun 2010, 41807:21-24.

²⁷⁷⁰ DCT-292, 1 Jun 2010, 41813:14-16.

November 2000,²⁷⁷¹ and agrees that Gibril Massaquoi was also one of the delegates.²⁷⁷²) After the meeting, Issa Sesay returned to Sierra Leone the following day.²⁷⁷³

961. After this trip, about October 2000, Issa Sesay received a message from the RUF delegation in Monrovia that Taylor had advised them of a meeting in Abuja, and that he should bring more delegates to join those in Monrovia and travel onto Abuja.²⁷⁷⁴ At the Roberts International Airport meeting, Sesay had been informed by Presidents Obasanjo, Konare and Taylor that he should expect regular contact from Taylor for further meetings.²⁷⁷⁵ President Obasanjo had told him that if they wanted him for a further meeting, they would contact him in Monrovia. Sesay thus understood that ECOWAS had given Taylor the responsibility to coordinate the meetings.²⁷⁷⁶ Around November 2000, Issa Sesay thus escorted the RUF's Sierra Leonean delegation to Abuja I, via Monrovia, but he did not continue with the rest of the group to Abuja.²⁷⁷⁷ Sesay stayed to transact some diamonds in Monrovia²⁷⁷⁸. When his delegation returned, on the way back to Sierra Leone, Sesay called briefly on Taylor²⁷⁷⁹ at White Flower.²⁷⁸⁰ It was on this occasion that Taylor gave Issa Sesay a satellite phone²⁷⁸¹ as promised by Obasanjo.²⁷⁸²
962. Sesay returned to Liberia to see Taylor for what would be the last time around November going into December, 2000. On this occasion, Taylor again sent a message through Memunatu Deen for Sesay to come to Monrovia. The meeting was to discuss the return of Sam Bockarie.²⁷⁸³ Sesay, along with Colonel Lion, Pa Binda,²⁷⁸⁴ Gibril Massaquoi, Eddie Kanneh,²⁷⁸⁵ Samuel Jabba and Jonathan Kposowa,²⁷⁸⁶ met Taylor

²⁷⁷¹ DCT-292, 1 Jun 2010, 41807:26.

²⁷⁷² DCT-292, 1 Jun 2010, 41809:20-21.

²⁷⁷³ DCT-172, 26 Jul 2010, 44561:16-17.

²⁷⁷⁴ DCT-172, 26 Jul 2010, 44565:28-44566:4.

²⁷⁷⁵ DCT-172, 23 Aug 2010, 46921

²⁷⁷⁶ DCT-172, 23 Aug 2010, 46920

²⁷⁷⁷ TT, DCT-172, 8 Jul 2010, 44042:21-28.

²⁷⁷⁸ TT, Issa Sesay, DCT-172, 29 July 2010, p. 45085-6.

²⁷⁷⁹ TT, Issa Sesay, DCT-172, 26 July 2010, p. 44599-600

²⁷⁸⁰ TT, Issa Sesay, DCT-172, 26 July 2010, p. 44603

²⁷⁸¹ DCT-172, 8 Jul 2010, 44042:18-21.

²⁷⁸² TT, Issa Sesay, DCT-172, 26 July 2010, p. 44599-600; See also Exhibit D-467, which is a letter sent by Gibril Massaquoi to President Obasanjo reminding him (Obasanjo) of his promise to provide Massaquoi and Issa Sesay satellite phones so that they could be in touch with Obasanjo and other ECOWAS leaders. The phones were to be sent through Taylor.

²⁷⁸³ TT, Issa Sesay, DCT-172, 4 August 2010, p. 45446

²⁷⁸⁴ TT, Issa Sesay, DCT-172, 26 July 2010, p. 44600

²⁷⁸⁵ TT, Issa Sesay, DCT-172, 4 August 2010, p. 45447

²⁷⁸⁶ TT, Issa Sesay, DCT-172, 12 August 2010, p. 46144

at White Flower.²⁷⁸⁷ Bockarie was also present.²⁷⁸⁸ Taylor apprised them on the Abuja I peace process, which was back on track and told them about the follow-up meeting. Taylor also advised them that as the RUF was going to be transferred into a political party in line with the terms of the peace negotiations, it would be important for the RUF to come together as one body. At that time, Bockarie had indicated to Taylor that he wanted to go back to the RUF and Taylor was trying to mediate. However, contrary to the allegations that Taylor was trying to impose Bockarie on the RUF, Taylor in fact left the decision to Sesay.²⁷⁸⁹ Sesay however told Taylor that the problem was not between him and Bockarie but between Bockarie and Sankoh. He (Sesay) therefore had to refer the matter to other RUF commanders.²⁷⁹⁰ This was to be last time Sesay met Taylor.²⁷⁹¹ Again contrary to the Prosecution allegations, on no occasion during any of Sesay's meetings with Taylor did Taylor give Sesay arms and ammunition to take back to Sierra Leone.²⁷⁹²

963. This evidence of Taylor's dealings on the peace process would however also be distorted by the Prosecution's ill-informed and dishonest evidence factory machine to feed into the Prosecution's theory of a continuous JCE between Taylor and the RUF membership. Issa Sesay's appointment under the auspices of ECOWAS thus became an appointment by Taylor, suggesting Taylor's command responsibility over the RUF.²⁷⁹³ Even witnesses like TF1-338, who acknowledged that Sesay was appointed with the approval of, if not by Foday Sankoh, would still go on to allege, that Sankoh then instructed Sesay to take instructions from Charles Taylor, just like Bockarie had done before him.²⁷⁹⁴ Likewise, Taylor's summonses for Issa to come to Monrovia on ECOWAS business, as indicated above, were spun to suggest Taylor's authority over Sesay,²⁷⁹⁵ that Issa Sesay was taking instructions from Taylor and considered Taylor his boss;²⁷⁹⁶ that there was constant communication between Monrovia and the RUF,²⁷⁹⁷ or that Issa Sesay called Taylor "Sir" on the satellite phone.²⁷⁹⁸ Likewise,

²⁷⁸⁷ TT, Issa Sesay, DCT-172, 26 July 2010, p. 44603

²⁷⁸⁸ TT, Issa Sesay, DCT-172, 12 August 2010, p. 46144

²⁷⁸⁹ TT, Issa Sesay, DCT-172, 26 July 2010, p. 44600

²⁷⁹⁰ TT, Issa Sesay, DCT-172, 26 July 2010, p. 44604-5

²⁷⁹¹ TT, Issa Sesay, DCT-172, 26 July 2010, p. 44601

²⁷⁹² TT, Issa Sesay, DCT-172, 26 July 2010, p. 44603

²⁷⁹³ TT, TF1-274, p. 21989-91; TT, TF1-516, p. 6883.

²⁷⁹⁴ TT, TF1-338, 2 Sept. 2008, 15153/4

²⁷⁹⁵ TT, TF1-338, p. 15128-9.

²⁷⁹⁶ TT, TF1-338, p. 15147-8; TT, TF1-567, p. 13037-40.

²⁷⁹⁷ TT, TF1-567, p. 13000-2.

²⁷⁹⁸ TT, TF1-597, p. 10568-9.

the satellite phone that Obasanjo promised the RUF and was provided by Taylor, or the guesthouse that was made available to the RUF, all became part of Taylor's largesse to the RUF.²⁷⁹⁹

964. The Prosecution's evidence in this instance however suffer the same critical deficiency that it is largely hearsay directly controverted by the evidence of the parties involved in the alleged transactions, namely Charles Taylor and Issa Sesay. It must therefore be discounted on that score.
965. In relation to Taylor's role in the peace process, the Defence is aware of the Prosecution's allegations that while Taylor was running with the hares, he also hunting with the hounds; that while he purported to pursue peace, he was on the other hand discouraging the RUF from disarming²⁸⁰⁰ and was in fact arming the RUF and using them in external military escapades in Guinea.²⁸⁰¹ The Accused denies these allegations, which are covered in more detail under Command Responsibility.
966. One of the Prosecution's main protagonists on this issue was TF1-338 who professed intimate knowledge of Taylor's dealings with Issa Sesay despite his absence from such meetings. TF1-338's account starts with Issa Sesay's invitation to Monrovia to "celebrate" the changing of the RUF leadership that had not yet occurred. According to TF1-338, [REDACTED], when Taylor invited Sesay to go to Liberia for a celebration. Sesay travelled from Koidu town to Foya by vehicle and was then airlifted to Monrovia by Weasua.²⁸⁰² Sesay and his delegation, he alleges, arrived in Monrovia around 4 p.m. on 26 July 2000, and were taken to the Executive Mansion, where they met with Taylor and four other heads of state, Presidents Obasanjo, Eyadema, Jammeh and Konare²⁸⁰³. At the meeting, Obasanjo thanked them and told them to continue the good relationship they had with Taylor.²⁸⁰⁴ Taylor, he alleges, then spoke to them and complained that Sankoh was too old, stubborn and lazy to lead the RUF and that a change was necessary. Taylor, at first, suggested that he wanted to send Bockarie back to Sierra Leone as the RUF leader before suggesting Issa Sesay.²⁸⁰⁵

²⁷⁹⁹ TT, TF1-567, 4 Jul 08, p. 12979. *See*, Exhibit D-278, Obasanjo provided further monetary assistance to Sankoh and Koroma.

²⁸⁰⁰ TT, TF1-338, 2 September 2008, p. 15149-50; also see p. 15174-6.

²⁸⁰¹ TT, TF1-360, 6 February 08, p. 3273-75; TT, TF1-276, 23 January 08, p. 2048-50; TT, TF1-337, 4 March 08, p. 5336.

²⁸⁰² TT, TF1-338, 2 September 2008, p. 15145

²⁸⁰³ TT, TF1-338, 2 September 2008, p. 15146

²⁸⁰⁴ TT, TF1-338, 2 September 2008, p. 15147

²⁸⁰⁵ TT, TF1-338, 2 September 2008, p. 15148

967. After the meeting, [REDACTED]. At around 11 p.m. to midnight, Benjamin Yeaten came and picked up Sesay and Augustine Gbao and took them to meet Taylor. Taylor, he alleges, told Sesay that the Sierra Leonean government and the four heads of state he had spoken to earlier were British controlled and that he should not listen to them. Taylor told Sesay that if he were asked to disarm, he should say yes, but to not do so in reality. Taylor, he alleges, promised that he would continue to assist the RUF as he had done before. Taylor then gave Sesay 15,000 USD and Sesay [REDACTED] and then to Sierra Leone the following day.²⁸⁰⁶
968. In 2001, it also alleged, Issa Sesay returned to Monrovia to consult Charles Taylor on the disarmament of child combatants and Taylor discouraged him. Issa Sesay, the witness alleges, was however not pleased with the advice, he told those who were with him that he would not take any more instructions from Charles Taylor.²⁸⁰⁷ Taylor, as a result, allegedly recalled some of the disarmed weapons.²⁸⁰⁸
969. There is allegations are however not true for reasons that were adequately addressed in this brief in relation to both Taylor and Issa's respective roles in the Sierra Leonean peace process and the disarmament process.
970. From the foregoing analysis, it is submitted that the Prosecution's evidence fails to establish a joint criminal enterprise between Taylor and Issa Sesay and any other member of the RUF membership under him, which involved a campaign or terror against the people of Sierra Leone as alleged. The evidence fails to show that Issa Sesay and any other person working under him, in committing the crimes charged in the Indictment intended to or were acting pursuant to any JCE that involved acts of terrorism against the people of Sierra Leone. In this respect, the Defence submits that a wholesale admission of evidence going to other Article 6(1) and Article 6(3) modes of liability in conjunction with another wholesale admission of unreliable evidence of alleged interactions between Taylor and Sesay does not help the Prosecution's case. A JCE must be founded on the establishment of a pre-determined common plan that involves the commission of a crime charged in the Indictment in this case, terrorism. Of all the allegations possible, it is submitted, Issa Sesay's reign could not be characterised as one that was underlined by a reign of terror given the significant

²⁸⁰⁶ TT, TF1-338, 2 September 2008, p. 15149-50

²⁸⁰⁷ TT, TF1-338, 2 Sep 08, p. 15173-6.

²⁸⁰⁸ TT, TF1-338, 2 Sep 08, p. 15189-90. *See*, Exhibit D-232, Taylor criticizing Sankoh's position on the peace process.

efforts Sesay made towards the peace process, and the progress he made resulting in the eventual disarmament of the RUF.²⁸⁰⁹ All this it might, be observed, in the face of active resistance from some of the very witnesses who appeared before this court [REDACTED].²⁸¹⁰ These efforts, the Trial Chamber might also recall, were to be applauded by a number of prominent and neutral parties to this case who were directly involved in the Sierra Leone peace process.²⁸¹¹

971. For all the reasons considered in this Section, the Defence submits that the Accused cannot be held liable under the mode of liability of *JCE as pleaded* in this case. Firstly, on the basis that the Prosecution has failed to prove beyond all reasonable doubt that, Charles Taylor and Foday Sankoh, while in Libya entered into a plan to engage in a campaign of terror against the people of Sierra Leone. In fact the evidence fails to establish any plan at all that contemplated the commission of any of the crimes charged in the Indictment. On that basis the Defence submits that the entire allegation of a JCE in this matter is void *ab initio*. Liability cannot be founded on a JCE that never came into being.
972. Secondly, assuming *arguendo* that a JCE existed between Taylor and Sankoh as alleged, the Defence submits that, that JCE did not continue interrupted from the time of its conception. Any JCE between Sankoh and Taylor would have been come to an end after the Top Final, and if not at that stage, when the Junta came to power in May 1997.
973. Thirdly, further assuming that the alleged JCE continued uninterrupted, there is no evidence that other significant members of the JCE, including Sam Bockarie and Issa Sesay (respective RUF leaders after Sankoh), joined in, with the intention to, and acted, in furtherance of the alleged JCE. The Defence submits that the evidence does not establish beyond all reasonable doubt that the crimes charged in Count 1 to 11 of the Indictment were committed, with the specific intention of terrorizing the civilian population of Sierra Leone, as part of any JCE.
974. As the Prosecution evidence fails to establish a JCE in the first place, no liability would therefore attach under the extended JCE – JCE III.

²⁸⁰⁹ See Exhibit P-590.

²⁸¹⁰ See evidence from TT, TF1-168, 26 Jan 09, p. 23501 *ln 20 et seq.* that [REDACTED] was one of the RUF commanders who were resisting peace and favoured a military option.

²⁸¹¹ See Exhibit D441A – E.

Aiding and Abetting: Evidentiary Analysis

975. Pursuant to Article 6.1 of the Statute, the Prosecution alleges that the Accused, by his acts or omissions, aided and abetted the planning, preparation or execution of the crimes alleged in the Indictment.²⁸¹² The Prosecution alleges that between 30 November 1996 and about 18 January 2002, the Accused provided various forms of support including: military training (in Liberia and Sierra Leone); safe havens in Liberia; personnel drawn from the NPFL, other organized armed groups within Liberia and from the Liberian population as a whole; arms and associated material such as ammunition; communications equipment including satellite phones; and other supplies such as food, uniforms, and petrol. The Prosecution alleges that the Accused ensured timely and safe delivery of this support to the RUF, AFRC, AFRC/RUF Junta or alliance and to the Liberian fighters in Sierra Leone by providing escorts and vehicles.²⁸¹³
976. This support, the Prosecution alleges further, provided practical assistance, encouragement, and/or moral support to those fighters who carried out the crimes alleged, and had a substantial effect on the commission of those crimes; and/or furthered the common plan, design or purpose in which the participants included the leadership and members of the RUF, AFRC, AFRC/RUF Junta or alliance and Liberian fighters.²⁸¹⁴ Ever since 2000 when he was discussing the Sierra Leonean situation with the UN Panel of Experts, Taylor has denied “unequivocally” that he or his government have provided any training to the RUF, any weapons or related material or Liberian facilities or territory for staging attacks, or a safe haven.²⁸¹⁵ The Defence will address each of these allegations under aiding and abetting but appreciating that the arguments made herein with regard to the sufficiency of the evidence may be equally applicable under the joint criminal enterprise mode of liability or command responsibility and vice-versa.

Communications Material: Radios, Training of Operators, Satellite Phones

977. The gist of the Prosecution’s arguments pertaining to Mr. Taylor’s liability under aiding and abetting in terms of the provision of communication equipment, operators and training, is evident from the Prosecution’s response to the Defence’s Rule 98 application. Therein, the Prosecution argued that Mr. Taylor’s alleged assistance was

²⁸¹² Indictment, para. 33.

²⁸¹³ Case Summary, para. 40.

²⁸¹⁴ Case Summary, para. 41.

²⁸¹⁵ Exhibit P-18, para. 180.

important for beginning and sustaining the conflict, in that many of his contributions were of a “lasting” or “continuous” nature which allowed the commanders to communicate reports to each other, keep the leadership informed, and move resources where they were most needed.²⁸¹⁶ Essentially, that effective communications systems were vital to a cohesive military structure and enabled these groups to launch co-ordinated attacks against the civilian population.²⁸¹⁷

978. The Defence challenges not only the factual basis of the Prosecution’s allegations, but also the notion that legally-speaking, the alleged provision of communications equipment to a fighting force and the training of radio operators of a fighting force, absent the intention to assist the commission of specific crimes, would amount to liability under aiding and abetting. The Prosecution appears to have taken a wholesale approach to its evidence under aiding and abetting with respect to communications, in that they suggest the mere provision of equipment and training and the consequent commission of crimes is sufficient to infer Mr. Taylor had the required *mens rea* for those crimes.

Provision of Radios and Training of Radio Operators

979. The Prosecution has alleged that Taylor’s support included providing communications equipment and personnel to the Sierra Leonean rebel forces. Foday Lansana (aka CO Nya Nissan) testified that in July or August 1991 he was an NPFL radio operator sent by Victor Gensei, the overall NPFL signal commander, to take a radio and go from Foya to “Kuwait” along with Anthony Mekunagbe and two other radio operators (Roosevelt Nyameleyan and Moses Gargue), in order to ensure a “smooth operation” in Sierra Leone.²⁸¹⁸ Lansana states he is sent, despite the fact that he, by his own account, was only qualified as an “assistant operator” who did not have the skills to operate the radio system,²⁸¹⁹ in fact, Lansana was on probation during this period for having absconded from the NPFL.²⁸²⁰ It is therefore highly unlikely that the NPFL signal commander would have chosen him for a mission in Sierra Leone.
980. Lansana testified that he and the other operators traveled to Koindu, Sierra Leone and were greeted by Foday Sankoh; Sankoh showed them where to install the radio in

²⁸¹⁶ TT, Rule 98, 9 Apr 09, p. 24163-6.

²⁸¹⁷ Prosecution Pre-Trial Brief, para. 68.

²⁸¹⁸ TT, Foday K Lansana, TF1-275, 20 Feb 08, p. 4356-63.

²⁸¹⁹ TT, Foday K Lansana, TF1-275, 25 Feb 08, p. 4658-9.

²⁸²⁰ TT, Foday K Lansana, TF1-275, 25 Feb 08, p. 4661.

Koindu/Baidu.²⁸²¹ Lansana stated that the operators tested the radio and confirmed that the signal was loud and clear reaching as far as Gbarnga, which was where the overall radio station code named "Treetop" was based.²⁸²²

981. Lansana testified that this radio was the first radio station that Sankoh operated and that he (Lansana) was present when Roosevelt, Anthony Mekunagbe and Francis Mewon used this radio to send reports back to Mr. Taylor (code named "Ebony") in Gbarnga about what was happening on the front lines in Sierra Leone.²⁸²³ Interestingly, Vanguard [REDACTED] [REDACTED], testified that Sankoh could use the radio at Taylor's Executive Mansion Ground in Gbarnga during this time to communicate with the troops in Sierra Leone, yet he made no mention of Lansana as an operator.²⁸²⁴
982. The Defence notes that, in any event, this NPFL radio and the NPFL radio operators were sent to Sierra Leone during the established period of cooperation between the NPFL and RUF, in their common fight against ULIMO. Thus it is only to be expected that Taylor would send his personnel and equipment to Sierra Leone in order for the NPFL fighters to be able to report back to him about the progress of the operations, as Lansana testified.
983. It is also logical that the NPFL radio operators would have used the NPFL radio to inform Taylor about two additional things: 1) the frequent misunderstanding between the NPFL fighting troops in Sierra Leone and the RUF Vanguards and 2) the relationship between the NPFL fighting forces in Sierra Leone and the civilian population in Sierra Leone.²⁸²⁵ These messages culminated in Taylor giving an order in May 1992 to Mekunagbe to "evacuate all the NPFL fighting forces from Sierra Leone back to the Liberian soil", given that Taylor had received complaints of infighting and maltreatment of civilians in Sierra Leone.²⁸²⁶ Lansana's in-court testimony on this point was strikingly different from his previous statements. During testimony, Lansana stated that he was present in Baidu when Taylor spoke to

²⁸²¹ TT, Foday K Lansana, TF1-275, 20 Feb 08, p. 4363.

²⁸²² TT, Foday K Lansana, TF1-275, 20 Feb 08, p. 4363-4.

²⁸²³ TT, Foday K Lansana, TF1-275, 20 Feb 08, p.4364-7.

²⁸²⁴ TT, TF1-367, 20 Aug 08, p. 14105-6. In fact, he did not recall the name Foday Lansana at all. 20 Aug 08, p. 14176.

²⁸²⁵ TT, Foday K Lansana, TF1-275, 20 Feb 08, p. 4368.

²⁸²⁶ TT, Foday K Lansana, TF1-275, 20 Feb 08, p. 4368-9; 4377; Mohamed Kabbah, TF1-568, 15 Sept 08, p. 16264.

Mekunagbe on the radio, but in his previous statements he gave two other accounts: that he heard Varney announce the message at a parade in Kailahun and/or that he learned about the order through NPFL fighters in Vahun and that the order came from Liberia to Dopoe Menkarzon.²⁸²⁷ In court, Lansana clearly inflated his self-importance and centrality to the event, likely a result of the fact that the Prosecution had secured his release from Pademba Road Prison since he had given them his previous statements.²⁸²⁸

984. Lansana further testified that he left Sierra Leone in 1992 in compliance with the order from Taylor and returned to Vahun, Liberia, along with the NPFL radio.²⁸²⁹ Consequently, even if this account is accepted as true, no NPFL radio sets or NPFL radio operators were left inside Sierra Leone after the Top Operations; furthermore, by this time, no RUF radio operators had been trained by the NPFL. Therefore, any alleged assistance to the RUF based on the provision of this radio and/or radio operators by the NPFL had terminated. The evidence does not prove that the use of the radio had a substantial effect on the commission of crimes as alleged. In fact, the evidence shows that when Taylor received notice of crimes committed in Sierra Leone by his NPFL forces, Taylor sent an order for them to withdraw and return to Liberia.
985. Lansana then states that in June 1992, after Top Final, he was ordered by the deputy NPFL signals commander to return to Pendembu, Sierra Leone, with another radio set (to be installed for Sankoh's use) to serve the RUF as the "number one radio officer in Sierra Leone".²⁸³⁰ Despite the horrific fighting that had occurred between the NPFL and RUF, Lansana was apparently unafraid to go back to Sierra Leone, stating that Sankoh had deemed him a "peaceful person" and requested his return.²⁸³¹ This account is not only unbelievable on its face,²⁸³² but it is belied by the evidence of other Prosecution witnesses. Mohamed Kabbah, a fellow RUF radio operator, contradicts Lansana's account. Kabbah, who was present in Pendembu at the time,

²⁸²⁷ TT, Foday K Lansana, TF1-275, 25 Feb 08, p. 4675-9.

²⁸²⁸ TT, Foday K Lansana, TF1-275, 25 Feb 08, p. 4612-6; 4616-20.

²⁸²⁹ TT, Foday K Lansana, TF1-275, 20 Feb 08, p. 4378-9.

²⁸³⁰ TT, Foday K Lansana, TF1-275, 20 Feb 08, p. 4378-9; 4381. Isaac Mongor, TF1-532 at 10 Mar 08, p. 5676 also testified that after the capture of Pendembu, Sankoh brought Lansana (or that Taylor had given Lansana to Sankoh) to set up radios.

²⁸³¹ TT, Foday K Lansana, TF1-275, 20 Feb 08, p. 4380.

²⁸³² TT, Foday K Lansana, TF1-275, 25 Feb 08, p. 4689-90 (Cross-examination is to the effect that it is implausible that Lansana would have been the only person sent back to assist Foday Sankoh if Taylor had in fact intended such assistance. Also note that the first time Lansana mentioned to the Prosecution that he was an NPFL member prior to his "return" to Pendembu was when he arrived for proofing in The Hague).

testified that it is a lie to say that Lansana left Pendembu when Taylor sent the order for NPFL men to withdraw.²⁸³³ Thus it is not plausible for Lansana to have returned post-Top Final with an NPFL radio and instructions to assist Sankoh. Certainly Taylor denies having sent such.²⁸³⁴

986. Liberian Vanguard, John Vincent, gives a more likely account of how Lansana (and his radio) came to be with the RUF. He explained that Lansana had been trained as an NPFL radio operator in Liberia. When ULIMO attacked Lofa County, Lansana escaped with his radio and went into Sierra Leone. When he arrived, some of the Liberian Vanguards accepted him, learned that he was a radio operator, and took him to Sankoh. Lansana then decided to stay with the RUF (he was no longer NPFL and as far as Vincent knows, no longer in contact with them).²⁸³⁵
987. DAF, an RUF radio operator testified regarding a separate allegation of NPFL personnel training RUF radio operators. DAF suggested that he and two others trained to be a radio operator by the NPFL in Bomi Hills in late 1991 until mid-1992.²⁸³⁶ While DAF claims to have been trained as an RUF fighter in Pujehun prior to this, he is ill-informed about RUF/NPFL activity in both Pujehun and Bomi Hills and gives an inconsistent account of Black Ghadafa.²⁸³⁷ He then testified that he practiced how to prepare and receive messages on the radio under the supervision of “Demmy”, who was in charge of the NPFL signal unit in that area.²⁸³⁸ Joseph Dehmie, however, refuted the notion that DAF entered Liberia as an RUF fighter and that Dehmie had trained DAF on the radio.²⁸³⁹ Thus, DAF’s further evidence in relation to communications from the NPFL in Bomi Hills and the RUF in Kailahun District, allegedly operating on the same frequency,²⁸⁴⁰ cannot be believed. Even if it is believed, this was during the period of cooperation during the RUF and NPFL in combating ULIMO and therefore is not evidence that points to substantial assistance in the commission of crimes. Either way, there is no evidence to suggest that Taylor

²⁸³³ TT, Mohamed Kabbah, TF1-568, 15 Sept 08, p. 16264-5 (Lansana is referred to CO Nya).

²⁸³⁴ TT, Charles Taylor, 27 Oct 09, p. 30395-6.

²⁸³⁵ TT, John Vincent, DCT-215, 25 Mar 10, p. 38043-7.

²⁸³⁶ TT, DAF, TF1-274, 1 Dec 08, p. 21337-46.

²⁸³⁷ TT, DAF, TF1-274, 1 Dec 08, p. 21306; 21313-5; and 21359 and 8 Dec 08, p. 21990-2 (claiming Black Ghadafa was a unit composed of “Sankoh recruits” led by a Liberian known as Kpelle Boy. In a previous interview with the Prosecution DAF had said that the leaders of Black Ghadafa – including Kpelle Boy, Dixon Wolo and Yeanay Degbon – were rumored to have connived against Taylor; he denies this during his testimony, possibly because he realized this actually fit with the Defence theory).

²⁸³⁸ TT, DAF, TF1-274, 1 Dec 08, p. 21337.

²⁸³⁹ TT, Joseph Dehmie, DCT-228.

²⁸⁴⁰ TT, DAF, TF1-274, 1 Dec 08, p. 21339-40.

knew RUF fighters were being trained on the radio in Liberia. DAF testified that when Sankoh took him back to Pendembu toward the end of 1992, Sankoh ensured that the RUF could establish its own communication network “independent of the NPFL”. It seems Sankoh even taught Lansana how to use a different kind of code, “British voice procedure”, on the radio.²⁸⁴¹

988. Clearly, the RUF was perfectly capable of training radio operators of its own accord, without assistance from Taylor. Foday Sankoh was an “expert on the radio”,²⁸⁴² having been trained as a radio operator when he was a Lance Corporal in the Sierra Leone Army under Momoh.²⁸⁴³ As a “professional communications man” he was later responsible for training all of the RUF radio operators.²⁸⁴⁴ Furthermore, in the early stages of the war, multiple radio sets were captured by the RUF from the SLA.²⁸⁴⁵ DCT-025 testified that in fact four radios were captured in the initial attack on Koindu, Sierra Leone and distributed by Sankoh to front line commanders.²⁸⁴⁶ Sankoh trained Alfred Brown how to operate his radio; CO Mohamed and CO Kargbo were trained on how to use theirs.²⁸⁴⁷
989. There is no evidence adduced that from the invasion of Sierra Leone through to the end of the period of NPFL/RUF cooperation, Taylor used any NPFL/RUF radio in such a way that had any effect (substantial or otherwise) on the commission of crimes. In light of the foregoing, any assistance arguably provided by Taylor in terms of radio equipment and training during this period was negligible and did not amount to having a substantial effect on the commission of crimes.
990. Lansana testified that after the Top Operations (from mid-1992 through 1993), when he ostensibly returned to Pendembu, he taught RUF commandos how to use the

²⁸⁴¹ TT, DAF, TF1-274, 1 Dec 08, p. 21372-5.

²⁸⁴² TT, Sam Kolleh, DCT-102, 4 Nov 10, p. 48391.

²⁸⁴³ TT, John Vincent, DCT-215, 21 Apr 10, p. 39613-4; DCT-068, 11 Mar 10, p. 37047 (that Sankoh had served as a radio communication officer in the army). See also Exhibit P-277, p. 11 (that Sankoh was previously a Corporal in the SLA).

²⁸⁴⁴ TT, Issa Sesay, DCT-172, 8 July 10, p. 44035.

²⁸⁴⁵ TT, DCT-025, 12 Mar 10, p. 37278-9 (RUF captured radios in locations including Koindu, Dia Junction, Buedu, Kailahun and Pendembu); Charles Ngebeh, DCT-146, 22 Mar 10, p. 37797-9 (RUF captured a radio in Kefy); John Vincent, DCT-215, 25 Mar 10, p. 38043-7 (he captured a long-range SSB radio in Lalehun on Christmas Day 1991); Martin George, DCT-062, 22 Apr 10, p. 39658-9 (RUF captured a radio set in Zimmi in March 1991; RUF installed a radio base in Potoru and communicated with Sankoh and others in Kailahun; the RUF left that radio in Potoru, but captured another radio set as they advanced and set it up in Pujehun Town); Issa Sesay, DCT-172, 5 Jul 10, p. 43686 (from March 1991 to the end of 1993, the RUF used field communication radios, both Thompson and Yeasu brands, which were captured from the SLA).

²⁸⁴⁶ TT, DCT-025, 12 Mar 10, p. 37277-8 (only three of the four were in working condition).

²⁸⁴⁷ TT, DCT-025, 12 Mar 10, p. 37279.

radios, how to “encode” messages and how to erect radios at the front lines. He claims that the commandos he taught included Alfred Brown,²⁸⁴⁸ King Perry Kamara,²⁸⁴⁹ Samuel Lamboi, Osman Tollo, Sahr James, and Alfred Malloh; further that radio stations were set up at Pendembu, Kailahun, Koindu, Kuiva, Gandorhun and as far as Kono with radios captured by the RUF when Bayama village was attacked by Guinean and Nigerian contingents.²⁸⁵⁰ The Defence does not necessarily challenge the fact that Lansana taught other RUF members how to operate the radio, but that he did it on Taylor’s instruction and/or that Taylor would have been aware of a substantial likelihood that his acts would assist the commission of a certain crime.

991. The next allegation from the Prosecution in terms of Taylor’s assistance to the RUF through radio communications and equipment is linked through the person of Musa Cisse, who was based in Danane, Ivory Coast. By way of background: Musa Cisse was chief of protocol for Charles Taylor.²⁸⁵¹ Cisse was Mandingo by ethnicity,²⁸⁵² while he was a Liberian,²⁸⁵³ he also had familial ties to Guinea.²⁸⁵⁴ In roughly 1983, Cisse went into exile in Ivory Coast²⁸⁵⁵ because his family, which was involved in commerce, ran afoul of the Doe regime in Liberia.²⁸⁵⁶ Cisse met Charles Taylor in 1985.²⁸⁵⁷ Then Cisse began recruiting people to train with the NPFL in Libya,²⁸⁵⁸ and travelled to Burkina Faso and Libya.²⁸⁵⁹ For his support building the organization during its early days, Cisse became a senior member of the NPFL and was listed as a Special Forces member, despite being an older man and not himself receiving military training.²⁸⁶⁰ By April 1990, Cisse was fostering relations between the NPFL and Ivorian government, and managing the NPFL’s communications with external entities

²⁸⁴⁸ Contrary to this, Liberian Vanguard Martin George testified that Alfred Brown was the senior RUF radio operator and was trained by Sankoh at Camp Naama. TT, DCT-062, 22 Apr 10, p. 39667-9.

²⁸⁴⁹ Perry Kamara testified that around November 1992, Sankoh brought him from Liberia to Pendembu where Lansana trained him in radio communications. Inexplicably, Kamara’s testimony about Lansana goes beyond Lansana’s own account, even stating that Taylor sent him “personally” to work with Sankoh and that Lansana sent messages to and from Taylor and Sankoh over the radio. TT, TF1-360, 4 Feb 08, p. 3037-8. If such had been the case, one would expect Lansana to have said so.

²⁸⁵⁰ TT, Foday K Lansana, TF1-275, 20 Feb 08, p. 4386-9.

²⁸⁵¹ TT, TF1-539, 10 June 2008, p. 11461-2; TF1-371, 25 Jan 2008, p. 2249-50; Moses Blah, TF1-561, 15 May 2008, p. 9903.

²⁸⁵² TT, Abu Keita, TF1-276, 23 Jan 2008, p. 1966; Charles Taylor, 6 Aug 2009, p. 26215-6; Moses Blah, TF1-561, 15 May 2008, p. 9903.

²⁸⁵³ TT, Charles Taylor, 17 Sept 09, p. 29175-9.

²⁸⁵⁴ TT, Charles Taylor, 23 Sept 09, p. 29529-30.

²⁸⁵⁵ TT, Charles Taylor, 18 Nov 09, p. 32005-9.

²⁸⁵⁶ TT, Charles Taylor, 23 Sept 09, p. 29529-30.

²⁸⁵⁷ TT, Charles Taylor, 18 Nov 09, p. 32005-9.

²⁸⁵⁸ TT, Charles Taylor, 23 Sept 09, p. 29529-30.

²⁸⁵⁹ TT, Charles Taylor, 23 Sept 09, p. 29529-30.

²⁸⁶⁰ TT, Charles Taylor, 23 Sept 09, p. 29529.

such as journalists.²⁸⁶¹ Due to his external communications role, Cisse had a radio in his home in Danane.²⁸⁶²

992. Dr. Sebo of International Alert introduced the members of the RUF External Delegation to Musa Cisse in Danane.²⁸⁶³ The External Delegation used the radio at Cisse's house, called Belle Ville 1,²⁸⁶⁴ that use ceased in February 1996 when Sankoh moved to the Ivory Coast and brought his own field radio and RUF radio operators with him.²⁸⁶⁵ [REDACTED]

[REDACTED].²⁸⁶⁶ During the Abidjan Peace Process and before Sankoh's arrival, Musa Cisse allowed the External Delegation to use the radio to contact Sankoh twice a week.²⁸⁶⁷ This "practical assistance" provided by Musa Cisse to the RUF in Danane prior to the Abidjan Accord has no criminal purpose associated with it. Furthermore, there is no direct evidence that Taylor knew the RUF was using the radio at Cisse's house. Taylor testified that he did not know Cisse provided a radio for the RUF.²⁸⁶⁸

993. The Defence notes the allegation by Augustine Mallah, that Musa Cisse's radio was used to convey a message between Sankoh after his arrest in Nigeria and Sam Bockarie, to the effect that Bockarie should take advice and orders from Taylor during the period of his incarceration.²⁸⁶⁹ This allegation is not believable as there would have been no need for Sankoh to relay a message through Cisse's radio at this time; the RUF still had its own established radio base and operators in the Ivory Coast in 1997 after Sankoh's arrest. In fact, Issa Sesay testified that RUF radio operator, Memunata Deen,²⁸⁷⁰ remained in the Ivory Coast after Sankoh's arrest and was

²⁸⁶¹ TT, Charles Taylor, 23 Sept 09, p. 29529-30.

²⁸⁶² TT, Charles Taylor, 23 Sept 09, p. 29527-8.

²⁸⁶³ TT, Fayia Musa, DCT-306, 14 Apr 2010, p. 38950, 20 Apr 2010, p. 39405, 39415. [REDACTED]

[REDACTED] all initial contacts between the International Community and Sierra Leoneans in the Diaspora and the RUF were made through International Alert. See also TT, TF1-168, 21 Jan 09, p. 23256-7.

²⁸⁶⁴ TT, [REDACTED].

²⁸⁶⁵ TT, Fayia Musa, DCT-306, 14 April 01, p. 39009-11; Issa Sesay, DCT-172, 17 Aug 10, p. 46481-2; [REDACTED]

²⁸⁶⁶ TT, [REDACTED].

²⁸⁶⁷ TT, Fayia Musa, DCT-306, 14 Apr 10, p. 38949-53.

²⁸⁶⁸ TT, Charles Taylor, 23 Sept 09, p. 29531-2. While Fayia Musa, DCT-306 testified that he assumed Taylor knew about the RUF's use of Cisse's radio, this is really just speculation. 20 Apr 10, p. 39419-22.

²⁸⁶⁹ TT, Augustine Mallah, TF1-045, 12 Nov 08, p. 20125.

²⁸⁷⁰ Memunata Deen was a former student, captured by the RUF and trained as a radio operator. TT, TF1-371, p. 2282-3.

responsible for relaying messages between Sankoh in Nigeria and Bockarie in Sierra Leone. Sesay further testified that it was Memunata Deen who relayed a message from Sankoh in Nigeria to Bockarie in Sierra Leone, to the effect that Bockarie should join the AFRC and take instructions from Johnny Paul Koroma; there was no mention of taking instructions from Taylor.²⁸⁷¹

994. There is also Prosecution evidence to the effect that the RUF used Musa Cisse's radio at his house in Monrovia, once Cisse left the Ivory Coast. Cisse moved to Monrovia and became the protocol officer when Taylor ascended to the presidency in 1997.²⁸⁷² In that position, he orchestrated all guests meeting with President Taylor,²⁸⁷³ was responsible for Taylor's schedule, and sometimes served as an interpreter for Francophone visitors.²⁸⁷⁴ While serving in this capacity, he made his home next to White Flower,²⁸⁷⁵ in Congo Town, Monrovia, Liberia.²⁸⁷⁶
995. DAF, for instance, testified that Memunata Deen moved to Monrovia in late 1997;²⁸⁷⁷ DAF, TF1-539 and Mohamed Kabbah testified that she stayed with Musa Cisse and worked in the radio room in his house there²⁸⁷⁸ serving either as a liaison between Taylor's government and the RUF²⁸⁷⁹ or to update the RUF with events more generally in Monrovia.²⁸⁸⁰ However based on [REDACTED], her contact with the RUF seemed more of a personal and/or covert nature rather than official.²⁸⁸¹ Likewise, given that Deen and Cisse knew each other from the Ivory Coast, it is possible that she was offered accommodation and use of his radio as a friendly gesture following Sankoh's arrest in Nigeria. While DAF speaks in certain terms about Memunata's movements and her relationship with Cisse, he mistakes Cisse for a Gambian and refers to him as one of Taylor's securities.²⁸⁸² Furthermore, neither of the witnesses clarify toward what end Taylor was liaising with the RUF through

²⁸⁷¹ TT, Issa Sesay, DCT-172, 6 Jul 10, p. 43798-801; 12 Jul 10, p. 44239

²⁸⁷² TT, Charles Taylor, 23 Sept 2009, p. 29530-1.

²⁸⁷³ TT, Moses Blah, TF1-561, 15 May 2008, p. 9903.

²⁸⁷⁴ TT, Charles Taylor, 18 Nov 09, p. 32005-9.

²⁸⁷⁵ TT, Charles Taylor, 23 Sept 2009, p. 29533.

²⁸⁷⁶ TT, Abu Keita, TF1-276, 23 Jan 2008, p. 1964-5.

²⁸⁷⁷ It should be noted that Issa Sesay testified that in fact Deen did not leave the Ivory Coast for Monrovia until late 1998 or 1999. TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44096-9; 12 Jul 10, p. 44239, p. 44241.

²⁸⁷⁸ TT, DAF, TF1-274, 2 Dec 08, p. 21434-6.

²⁸⁷⁹ TT, TF1-539, 10 Jun 08, p. 11463-4.

²⁸⁸⁰ TT, Mohamed Kabbah, TF1-568, 12 Sept 08, p. 16135.

²⁸⁸¹ TT, TF1-539, 10 Jun 08, p. 11463-4 (note the witness refers to her as Memuna Jalloh and does not give a time frame for the use of Cisse's radio).

²⁸⁸² TT, DAF, TF1-274, 2 Dec 08, p. 21435.

Cisse; it cannot be proven beyond a reasonable doubt that it was criminal. In any event, by the Prosecution's own account, such a role for Cisse ended in February 1998.²⁸⁸³

996. Before the Guesthouse radio was operational, Deen allegedly also used the radio at Base 1 (at Yeaten's house).²⁸⁸⁴ This is consistent with testimony from DCT-008, who agreed that Deen stayed for a time in Cisse's house in late 1998,²⁸⁸⁵ and used the telephone there.²⁸⁸⁶ DCT-008 says that most of the messages relayed by Deen at Base 1 were to and from General Ibrahim Bah.²⁸⁸⁷ Further, that her presence in Liberia was undercover; Taylor and the Liberian government did not know about her using the radio at Base 1.²⁸⁸⁸

997. From these accounts it is clear that Memunatu Deen used the radio at Musa Cisse's and Base 1 house for personal use and/or RUF business, prior to moving to the Guesthouse and operating the radio there. As usual, there is nothing but hearsay and speculation that points to Taylor having any knowledge of her presence and/or use of the equipment. Rather it is at most evidence that Musa Cisse, Benjamin Yeaten and Ibrahim Bah in their personal capacities cooperated with the RUF in terms of providing access to radio equipment.

Provision of Satellite Phones

998. Much ado has been made by the Prosecution regarding the provision of satellite phones by Taylor to the RUF. However, the evidentiary record relating to the provision of phones by Taylor is unclear and also shows that the RUF received satellite phones from sources other than Taylor. Thus, any provision of a satellite phone from Taylor to the RUF could not have had a substantial effect on the preparation of a crime. Furthermore, Taylor's purpose in donating the satellite phones was to assist the RUF's internal or external communications in relation to the peace process.

999. The chronology of satellite phones in the possession of the RUF is as follows. According to Issa Sesay, in March/April 1995, Dr. Sebo and Philip Palmer brought a

²⁸⁸³ TT, DAF, TF1-274, 2 Dec 08, p. 21435.

²⁸⁸⁴ TT, TF1-585, 9 Sep 08, p. 15832-3.

²⁸⁸⁵ TT, DCT-008, 27 Aug 10, p. 47400-1.

²⁸⁸⁶ TT, DCT-008, 30 Aug 10, p. 47405.

²⁸⁸⁷ TT, DCT-008, 30 Aug 10, p. 47403-8.

²⁸⁸⁸ TT, DCT-008, 30 Aug 10, p. 47411-2, p. 47416-7. Furthermore, Deen did not have access to the Liberian radio code. TT, DCT-008, 30 Aug 10, p. 47411-8.

satellite phone from Abidjan to Sankoh in Zogoda.²⁸⁸⁹ As usual, King Perry has some knowledge of the event, but stretches the details such that he can implicate Taylor. King Perry testified that Dr. Sebo brought this satellite phone to the RUF External Delegation in the Ivory Coast, after passing through Liberia.²⁸⁹⁰ However, [REDACTED]

[REDACTED], testified that the Ivorian Government gave Sankoh a satellite phone.²⁸⁹¹ Regardless of whether it was Dr. Sebo or the Ivorian Government that gave Sankoh this first satellite phone, King Perry alone testified about any connection to Liberia or Taylor and thus his uncorroborated insider account should be disbelieved.

1000. When Sankoh left for Abidjan in February 1996, Sankoh left the phone with Zino (or alternatively spelled Zeno), so they could communicate with in Sankoh's absence; it was lost during the fall of Zogoda.²⁸⁹² Thus it seems that the RUF was without a satellite phone for the period from 1996 until at least early 1998. DAF testified that in early 1998, JP Koroma went to Buedu with his satellite phone, and Bockarie obtained it from him.²⁸⁹³ Unfortunately for Bockarie, the phone was out of credit and thus could not be used to make calls.²⁸⁹⁴

1001. Taylor gave Bockarie a satellite phone on Bockarie's second trip to Monrovia in October 1998; on this point, DAF, Issa Sesay and Charles Taylor are in rare agreement.²⁸⁹⁵ Both Taylor and the ECOWAS leaders and/or members of the Committee of Five had the number for Bockarie's satellite phone.²⁸⁹⁶ This may be the same phone referred to by King Perry when he said that Bockarie had a satellite phone from Liberia.²⁸⁹⁷ It might also be the same one that Abu Keita said Yeaten gave to Bockarie.²⁸⁹⁸

²⁸⁸⁹ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 43715-7.

²⁸⁹⁰ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3056.

²⁸⁹¹ TT, TF1-168, 22 Jan 09, p. 23272.

²⁸⁹² TT, TF1-516, 8 Apr 08, p. 6843 (though TF1-516 testifies that the phone had been bought by Sankoh in the Ivory Coast).

²⁸⁹³ TT, DAF, TF1-274, 2 Dec 08, p. 21497; 21512.

²⁸⁹⁴ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10520. This may be the phone that Taylor referred to when testifying that Bockarie had a satellite phone before his trips to Liberia (mistakenly thinking it was from Sankoh). TT, Charles Taylor, 6 Aug 09, p. 26225.

²⁸⁹⁵ TT, DAF, TF1-274, 2 Dec 08, p. 21512; Issa Sesay, DCT-172, 6 Jul 10, p. 44038-44; Charles Taylor, 12 Aug 09, p. 26663-4. However, note that during cross-examination, DAF for the first time mentioned that Taylor actually gave Bockarie more than one satellite phone. TT, 2 Dec 08, p. 21519.

²⁸⁹⁶ TT, Charles Taylor, 6 Aug 09, p. 26225; 25 Nov 09, p. 32465-7.

²⁸⁹⁷ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3082.

²⁸⁹⁸ TT, Abu Keita, TF1-276, 23 Jan 08, p. 1973-4.

1002. It then seems that Bockarie acquired a number of other satellite phones in 1998-99. Bockarie was given a satellite phone by Amara Essay in November 1998.²⁸⁹⁹ Exhibit P-67 states that Bockarie received a satellite phone from Ibrahim Bah, which he then used for important contacts. This could be the same satellite phone referred to by Issa Sesay, who testified that Bockarie acquired a phone in 1999 which was brought to him by his business partner, Carlos from Canada (who had been introduced to Bockarie by Ibrahim Bah). After the Lomé Peace Accord, Bockarie was given another satellite phone, this time from his business partners Michel and Louis from Belgium (who had been introduced to him by Ibrahim Bah). TF1-388 acknowledges that Bockarie had two satellite phones: one from Taylor and one from elsewhere.²⁹⁰⁰ Despite all of this, RUF radio operator Mohamed Kabbah testified that he only ever saw Bockarie with one satellite phone during this time.²⁹⁰¹ Such ignorance goes to show how uninformed Prosecution witnesses can be, even when they claim to have held senior and important positions.
1003. Issa Sesay did not possess a satellite phone until January 2000, after Bockarie had left the RUF. Sankoh sent Sesay a satellite phone from Freetown,²⁹⁰² but the phone did not have any credit on it, so Sesay could not call out. Sesay thinks this was deliberate; Sankoh wanted to control him in this manner.²⁹⁰³
1004. In November 2000, Taylor gave Sesay a satellite phone, courtesy of President Obasanjo of Nigeria. The phone was thus given to Sesay, not in Taylor's individual capacity, but as Chairman of the Committee.²⁹⁰⁴ In fact, Sesay never spoke to Taylor on this phone; Sesay used the phone when he went to escort the delegation attending Abuja I (regarding implementation of the Lomé Peace Accord).²⁹⁰⁵
1005. Thus, Taylor provided one satellite phone to Sam Bockarie, which was arguably in use between October 1998 and December 1999. Subsequently, Taylor, on behalf of ECOWAS provided Issa Sesay a phone in late 2000 to assist the implementation of the Lomé Accord.

²⁸⁹⁹ TT, TF1-168, 26 Jan 09, p. 23528-31.

²⁹⁰⁰ TT, TF1-388, 10 Jul 08, p. 13422-3.

²⁹⁰¹ TT, Mohamed Kabbah, TF1-568, 16 Sept 08, p. 16360.

²⁹⁰² Exhibit D-205 (an invoice for a satellite phone for Sankoh dated 10 July 1999); Charles Taylor, 12 Aug 09, p. 26660.

²⁹⁰³ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44038-44.

²⁹⁰⁴ Exhibit D-467 (Letter from Gibril Massaquoi to President Obasanjo, dated October 2000, requesting that Obasanjo give two satellite phones to President Taylor, as promised, so that Taylor could deliver them to Issa Sesay and himself. Massaquoi requested the satellite phones so that the RUF could be in daily communication with the ECOWAS leaders in readiness for the upcoming Sierra Leonean election).

²⁹⁰⁵ TT, Charles Taylor, 22 Sept 09, p. 29391-2.

1006. The Prosecution case regarding the provision of radios, training of radio operators, and satellite phones, even if the evidence is believed, is too remote for Taylor to be held liable. It is difficult to directly tie the provision of this equipment to the RUF and to the commission of any crime which was committed with Taylor's knowledge or awareness of the substantial likelihood of their commission.

Safe Havens & RUF Guesthouse

Safe Havens

1007. The Prosecution alleges that as part of Taylor's material support to the RUF, he provided safe passage, safe havens or bases in Liberia for RUF fighters and personnel. Allegations of such assistance included safe passage for fighters pushed across national boundaries by enemy threat. Most of the examples of safe passage, as alluded to by TF1-367, Karmoh Kanneh and Augustine Mallah, relate to bases and safe havens provided by Taylor for the RUF in Liberia between 1990 and 1992, and thus has little bearing on aiding and abetting as alleged during the Indictment period.²⁹⁰⁶
1008. According to Prosecution witnesses, shortly after the invasion, Taylor provided bases and safe havens to RUF fighters who were able to move back to Liberia where they had bases to stay.²⁹⁰⁷ For instance, during the period of cooperation between the RUF and the NPFL against ULIMO, Sankoh had a base in Gbarnga.²⁹⁰⁸ [REDACTED] for six months. He and Mongor testified that Sankoh would come and go from Gbarnga to Sierra Leone during this time.²⁹⁰⁹ Isatu Kallon testified that while Sankoh had a house there, it was not Taylor who gave it to him; he paid rent.²⁹¹⁰
1009. Other accounts dealing with RUF forces being pushed into Liberia²⁹¹¹ while under pressure from ULIMO are also pre-indictment and/or during the period of cooperation and thus should not be considered in relation to allegations of aiding and abetting in the indictment period.

²⁹⁰⁶ TT, TF1-367, 20 Aug 08, p. 14103-4; TF1-571, 8 May 08, p. 9332-5; TF1-045, 12 Nov 08, p. 20078-82.

²⁹⁰⁷ TT, Prosecution response to the Defence Rule 98 motion, 9 Apr 09, p. 24165.

²⁹⁰⁸ TT, TF1-371, 25 Jan 2008, p. 2225-26.

²⁹⁰⁹ TT, TF1-367, 20 Aug 2008, p. 14102-4; Isaac Mongor, TF1-532, 10 Mar 2008, p. 5675, 5677 (Sankoh visited the troops occasionally after the Invasion, but stayed in Gbarnga).

²⁹¹⁰ TT, Isatu Kallon, DCT-299, 23 Jun 2010, p. 43263.

²⁹¹¹ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9313, 9342. Karmoh Kanneh, TF1-571, 8 May 08, p. 9332-33. See also Augustine Mallah, TF1-045, 12 Nov 08, p. 20079-81 (the RUF and the NPFL were pushed into Liberia near Tiene. After that they were taken to Bomi Hills for advanced training by Oliver Varney, aka One Man One, one of Taylor's generals).

RUF Guesthouse

1010. The Prosecution attempts to spin provision of facilities by the Liberian government, such as the RUF Guesthouse, as assistance provided by Taylor which allowed the RUF/AFRC to rest, re-organize, re-provision, before returning to Sierra Leone to continue their criminal campaign.²⁹¹² The Prosecution further suggests that the facilities provided a secure environment in which to conduct transactions involving diamonds, which were either provided to Taylor, his subordinates or associates to finance the purchase of arms, ammunition and other assistance that he himself provided in turn.²⁹¹³ The Prosecution thus paints Taylor as a hypocrite: proclaiming peace for the RUF by day and assisting a continued armed struggle and the commission of atrocities by night. As Stephen Smith wrote in *Le Monde* in November 2000, “the more helpful [Taylor] is the more reproof he gets”.²⁹¹⁴
1011. The Defence submits that Taylor’s intentions as regards the RUF presence in Liberia and the provision of related facilities, were at all times genuine and aboveboard.²⁹¹⁵ The RUF personnel’s movements were known to UN officials,²⁹¹⁶ ECOWAS leaders and President Kabbah, and their presence was for the sole purpose of securing and implementing the Lomé Peace Accord. In April 1999, a Minister in President Taylor’s Government even “took pains” to explain to the UN Representative of the Secretary General, Downes-Thomas, that it did not want to be seen to be aiding and abetting the RUF to break sanctions (ie, travel ban) by flying them from Liberia to Lomé.²⁹¹⁷ If RUF/AFRC personnel in fact used the facilities or the flight to Lomé for criminal purposes, this was unknown to President Taylor and without his backing.
1012. A Guesthouse was set up in Monrovia for the RUF in October 1998, on Bockarie’s second visit to President Taylor.²⁹¹⁸ As Taylor began facilitating negotiations with the RUF (leading to the Lomé Peace Accord), the Liberian government provided these

²⁹¹² Prosecution Pre Trial Brief, para. 66.

²⁹¹³ Prosecution Pre Trial Brief, para. 66.

²⁹¹⁴ Exhibit P-177B.

²⁹¹⁵ Exhibit D-200, Kofi Annan recognized Taylor’s involvement in the peace process.

²⁹¹⁶ Exhibit D-193J (Downes-Thomas Code Cable acknowledging the Government of Liberia-provided Guesthouse for RUF delegates traveling to Lomé, dated 24 April 1999); Exhibit D-193K (Downes-Thomas Code Cable to the effect that the RUF delegation had been airlifted from Monrovia to Lomé, including DAF, [REDACTED], dated 25 April 1999).

²⁹¹⁷ Exhibit D-193D (dated 20 April 1999). See also Exhibit D-193A, dated 16 April 1999, wherein Downes-Thomas requested the assistance of the Government of Liberia in allowing the RUF to transit through Monrovia to Lomé.

²⁹¹⁸ TT, Charles Taylor, 11 Sept 09, p. 31606.

basic facilities. The idea was that RUF personnel could have somewhere to base when delegations came to visit Taylor in relation to the peace talks. The existence of the Guesthouse also ensured that the Government of Liberia could contact the RUF in through their personnel at the house when necessary.²⁹¹⁹ While Taylor never visited the Guesthouse himself, he could ask for Bockarie or other guests be brought to him.²⁹²⁰

1013. As part of the total facilities, a landline telephone, a long-range radio (manned by an RUF radio operator), a kitchen and cooks, a guest car, and security were provided by the Liberian government.²⁹²¹ These facilities were necessary to maintain contact with the RUF.²⁹²² As Director of the SSS, Yeaten was in charge of providing security and escorts for the RUF guests. However, despite Prosecution allegations to the contrary, Taylor did not appoint Yeaten as the immediate “boss” of those who stayed at the Guesthouse.²⁹²³ Instead, while supervising the facilities for the RUF at the Guesthouse, it is likely that Yeaten developed a close friendship with Bockarie and others,²⁹²⁴ but there was no hierarchy involved.

1014. Taylor testified that the Guesthouse was set up in accordance with the precedent established by President Bedie of the Ivory Coast when he was facilitating the peace process with Sankoh prior to the Abidjan Peace Accord.²⁹²⁵ The facilities provided were similar to those provided to the RUF’s External Delegation in Danane and to Sankoh in Abidjan by the Ivorian Government.²⁹²⁶

1015. It will be recalled that the Ivorian Government was heavily involved in the peace process on behalf of the RUF, especially in 1995 and 1996 prior to the Abidjan Accord.²⁹²⁷ Exhibit P-277 states that the Ivoirians, dating to the time of the late

²⁹¹⁹ TT, Charles Taylor, 5 Aug 09, p. 26014-15.

²⁹²⁰ TT, Charles Taylor, 5 Aug 09, p. 26012.

²⁹²¹ TT, Charles Taylor, 5 Aug 09, p. 26012-3. Taylor even ensured that the generator at the Guesthouse was functional. TT, TF1-567, 4 Jul 08, p. 12979.

²⁹²² TT, Charles Taylor, 5 Aug 09, p. 26009-10.

²⁹²³ TT, Charles Taylor, p. 28775.

²⁹²⁴ TT, Charles Taylor, 5 Aug 09, p. 26011-12; 26 Oct 09, p. 30309.

²⁹²⁵ TT, Charles Taylor, 5 Aug 09, p. 26009-10.

²⁹²⁶ TT, TF1-168, 26 Jan 09, p. 23473-4 (the Ivorian Government provided the money for the housing and accommodation for the RUF during the peace process in Abidjan); TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43910, 12 Jul 10, p. 44236-7 (the Ivorian Government provided the RUF a house in Cocody, Abidjan from 1996 to 2000); TT, Fayia Musa, DCT-306, 16 Apr 10, p. 39181 (the Ivorian Government provided security to Sankoh at the house in Cocody); TT, Fayia Musa, DCT-306, 14 Apr 10, p. 38999 (the Ivorian Government promised to sponsor everything from going to collect Sankoh and ensuring his security in the Ivory Coast up until the Abidjan peace accord was signed); TT, Fayia Musa, DCT-306, p. 39202-3 (the Ivorian Government tried to gain Sankoh’s cooperation in the peace process by providing him with a mansion, six cars, food and free utility services).

²⁹²⁷ Exhibit P-18, para. 195 (the relationship between the Ivoirians and the RUF dates back to the 1990s)

President Huophouet Boigny, had always played an active role in bringing peace to countries in the sub-region.²⁹²⁸ This emphasizes the history within the sub-region of Presidents of neighboring countries playing an active role in facilitating their peace processes.

1016. The Guesthouse in Monrovia was leased by Monie Captan, the Liberian Foreign Minister. Taylor did not know how much he paid for it; it was leased by the General Services Administration.²⁹²⁹ The Guesthouse was located on the Tubman Boulevard, Monrovia's main road, close to the ECOMOG base at the Spriggs-Payne airfield and next to the Nigerian embassy.²⁹³⁰ Consequently, there was absolutely nothing clandestine about the setting up of the Guesthouse. Moreover, it was opened with the knowledge and consent of ECOWAS members, including the members of the Committee of Five;²⁹³¹ members of the ECOWAS diplomatic delegation visited Bockarie at the Guesthouse.²⁹³² President Kabbah also knew about the Guesthouse and the meeting(s) between Taylor and Bockarie.²⁹³³

1017. There is little evidence about how the Guesthouse was used by the RUF prior to the signing of the Lomé Peace Accord. Issa Sesay testified that prior to the Lomé Peace Accord in fact there were no permanent RUF personnel in the Guesthouse.²⁹³⁴ When RUF delegates came to the Guesthouse, all arms were left at the border. Bockarie's securities were allowed to carry a handgun, but no rifles. The RUF delegates were not allowed to keep arms and/or ammunition at the Guesthouse.²⁹³⁵ During cross-examination of Taylor the Prosecution stated that the facilities in the Guesthouse were for the benefit of Bockarie and the RUF – Taylor disagreed and reaffirmed that it was for the benefit of the peace process.²⁹³⁶ If Taylor had been using the Guesthouse as a place for the RUF to re-group and re-arm as the Prosecution alleges, this prohibition of weapons would not have been necessary.

²⁹²⁸ Exhibit P-277 (ERN p. 00018141). I.e., The Ivorian Government provided these facilities out of its own initiative, and not due to any prompting or otherwise relating to Charles Taylor. In fact, the Ivorian Government hosted the first exploratory contacts between the NPRC and the RUF in February 1996, followed by a meeting between Brigadier Maada Bio and Sankoh and finally the first meeting between President Kabbah and Sankoh in Yamoussoukro in April 1996. Exhibit P-277 (ERN p. 00018141).

²⁹²⁹ TT, Charles Taylor, 28 Jan 2010, p. 34361 (the rent came from the budget of the Liberian government).

²⁹³⁰ TT, TF1-567, 08 Jul 2008, p. 13031-32 (the Guesthouse was located close to the Methodist Church and the Nigerian house; it was also close to Taylor's FM radio station); DCT-008, 30 Aug 2010, p. 47478.

²⁹³¹ TT, Charles Taylor, 5 Aug 09, p. 26006-07.

²⁹³² TT, Charles Taylor, 5 Aug 09, p. 26036.

²⁹³³ TT, Charles Taylor, 5 Aug 09, p. 26006-07.

²⁹³⁴ TT, Issa Sesay, DCT-172, 11 Aug 10, p. 46032.

²⁹³⁵ TT, Charles Taylor, 05 Aug 09, p. 26011.

²⁹³⁶ TT, Charles Taylor, 11 Nov 09, p. 31610.

1018. RUF leaders and delegates returning from signing the Lomé Accord, stopped in Monrovia before returning to Sierra Leone in order to discuss its implementation. At this time, there were still disagreements between the RUF and AFRC as regards implementation. JP Koroma was unhappy about the fact that the AFRC had been essentially left out of the Lomé Accord and came to Monrovia from Freetown to negotiate with Sankoh and the ECOWAS leaders.²⁹³⁷ For Taylor to provide a safe and secure environment in which all the aggrieved parties could come to the negotiating table can hardly be associated with any criminal purpose.

1019. DAF also testified that Sankoh, Ibrahim Bah and himself stayed at the Guesthouse in Monrovia for a couple of days during summer 1999 en route from Lomé back to Sierra Leone.²⁹³⁸ While Sankoh was at the Guesthouse, he was visited by some of his old friends from the training base in Libya – Francis Mewon, Joe Tuah and Yeaten.²⁹³⁹ Again, there is no criminal purpose associated with this meeting. In fact, all the men were alleged to have done is sing songs associated with training in Libya, reminisce, and drink.²⁹⁴⁰ It cannot be imputed that Taylor was aware that there was a substantial likelihood that his acts would assist the commission of a crime by allowing Sankoh to transit through Monrovia upon concluding a peace accord.

1020. Following Sankoh's departure back to Sierra Leone, [REDACTED]
[REDACTED]
[REDACTED]²⁹⁴¹ [REDACTED] that the RUF in Monrovia were not to have any direct contact with Taylor whatsoever; anything that had to be communicated between the RUF and Taylor had to be relayed through Yeaten. [REDACTED]
[REDACTED]²⁹⁴² [REDACTED]

²⁹³⁷ TT, Samuel Kargbo, TF1-597, 3 Jun 08, p. 10823-4.

²⁹³⁸ TT, DAF, TF1-274, 3 Dec 08, p. 21624. Taylor confirmed that Sankoh stayed at the Guesthouse. TT, Charles Taylor, 14 Sep 2009, p. 28759.

²⁹³⁹ TT, TF1-567, 4 Jul 08, p. 12981.

²⁹⁴⁰ TT, TF1-567, 4 Jul 08, p. 12981. Taylor appreciates that it is possible that these old friends could have gathered at the Guesthouse. TT, Charles Taylor, 14 Sep 2009, p. 28763.

²⁹⁴¹ TT, [REDACTED] Bockarie, who refused to travel to Lomé. TT, TF1-567, 4 Jul 08, p. 12975.

²⁹⁴² TT, [REDACTED]. Compare such instructions regarding the RUF's ability to have audience with Taylor, to allegations made by witnesses such as DAF, who testified that in early 1998 after the ECOMOG Intervention, Bockarie travelled to Monrovia and stayed in Benjamin Yeaten's house behind White Flower (note that this allegedly occurs at a time before Defence witnesses place Taylor or Yeaten as living in the proximity of White Flower). Further that Bockarie then told DAF that he, [REDACTED] TT, DAF, TF1-274, p. 21442.

[REDACTED]
[REDACTED]²⁹⁴⁴

1021. While this is evidence that Yeaten, "as security commander, as mediator" and those RUF at the Guesthouse were to be in close contact, it is equally clear that low-level RUF were not to have any direct contact with Taylor, as he was busy running a government. Yeaten is established as an intermediary, but it is not clear how much was actually relayed back to Taylor about Yeaten's dealings with the RUF at the Guesthouse. Even evidence to the effect that Yeaten gave Bockarie ammunition while on board a helicopter going back to Sierra Leone and stating that it was from Charles Taylor for Sankoh²⁹⁴⁵ says nothing about Taylor's actual role or knowledge. Thus, based on this circumstantial and incredible evidence, Taylor cannot be held responsible for any *ultra vires* dealings between the RUF and Yeaten.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

1023. Issa Sesay disputes this account of the Guesthouse. According to Sesay, [REDACTED]
[REDACTED]
[REDACTED] Sankoh from Freetown, along with Osman Tolo, to join Memunatu Deen

[REDACTED] Issa Sesay disputes that the trip in 1998 ever even took place. TT, Issa Sesay, DCT-172, 11 Aug 10, p. 46069-70.

²⁹⁴³ The only exception being once when he was [REDACTED]. TT, [REDACTED]. It is highly unlikely that even [REDACTED] occurred. In this regard, [REDACTED] testified that he was allegedly [REDACTED]. TT, [REDACTED]

²⁹⁴⁴ TT, [REDACTED]

²⁹⁴⁵ TT, [REDACTED]

²⁹⁴⁶ TT, [REDACTED]

who had been alone in the Guesthouse since Lomé.²⁹⁴⁷ [REDACTED] was not given any assignment to relay messages between the RUF and Taylor via Yeaten or through the radio. Likewise, he had nothing to do with the procurement or custody of ammunition.²⁹⁴⁸

1024. Even if [REDACTED]'s account is found credible, it does not support the Prosecution's allegation that Taylor himself was involved in trafficking weapons with the RUF at the Guesthouse or that he was aware that his subordinates were involved in the same. Rather, the evidence suggests that his subordinate Yeaten was involved in private transactions which he was desperate should remain unrecorded and thus unknown to Taylor.

1025. There were a few RUF radio operators based at the Guesthouse permanently, along with [REDACTED]. Memunatu Deen worked at the RUF Guesthouse as a radio operator, along with her husband Osman Tolo.²⁹⁴⁹ While the date of her move from the Ivory Coast to Monrovia is contested, it is clear that by either late 1998²⁹⁵⁰ or during Lomé in 1999²⁹⁵¹ she was based at the Guesthouse. Issa Sesay explained that there was no hierarchy among Guesthouse personnel and thus, for instance, Memunatu Deen did not report to [REDACTED].²⁹⁵² Such a suggestion by [REDACTED] is obviously an attempt to increase his self-importance in the witness box.

1026. When Issa Sesay took over as Interim Leader of the RUF in mid 2000, the Guesthouse was used more frequently, including by himself when he came to town.²⁹⁵³ Deen used the Guesthouse radio to send messages to the RUF in Sierra Leone. The message for Sesay to travel to Monrovia for a meeting with ECOWAS in late July 2000 was one such message relayed by Deen.²⁹⁵⁴ Such messages, relayed by Deen from the Guesthouse, clearly do not prove Taylor's assistance in connection with any criminal activity.

²⁹⁴⁷ TT, Issa Sesay, DCT-172, 11 Aug 08, p. 46032; 26 Jul 10, p. 44556.

²⁹⁴⁸ TT, Issa Sesay, DCT-172, 11 Aug 08, p. 46033.

²⁹⁴⁹ TT, TF1-567, 4 Jul 08, p. 13001; TF1-338, 1 Sep 08, p. 15129-30; TF1-579, 5 Nov 08, p. 19853; TF1-371, 28 Jan 08, p. 2435. But see testimony of TF1-516, which suggests that only Memunata Deen operated the radio until Issa Sesay took over the RUF leadership. TT, TF1-516, 09 Apr 2008, p. 7108.

²⁹⁵⁰ TT, Issa Sesay, DCT-172, 12 Jul 10, p. 44239, p. 44241.

²⁹⁵¹ TT, [REDACTED]; TF1-338, p. 15129-30.

²⁹⁵² TT, Issa Sesay, DCT-172, 11 Aug 2010, p. 46038.

²⁹⁵³ TT, [REDACTED]; TF1-516, 9 Apr 08, p. 7107.

²⁹⁵⁴ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44548-9; Charles Taylor, 20 Aug 09, p. 27307-08.

1027. Sesay stated that he was instructed by ECOWAS to have a delegation in Monrovia.²⁹⁵⁵ Thus, Issa Sesay sent Gibril Massaquoi to stay at the Guesthouse to handle diplomatic issues for the RUF.²⁹⁵⁶ [REDACTED] during this time, Issa Sesay, Massaquoi, and Eddie Kanneh all brought diamonds to the Guesthouse.²⁹⁵⁷ In testifying regarding the diamond transactions which allegedly took place out of the Guesthouse, [REDACTED] had a habit of stating fact, tinged with a bit of fiction, to try and implicate Taylor. He testified that Ibrahim Bah, who was working as an agent for the RUF, would meet the RUF at the Guesthouse and that they would sit down and discuss which diamonds would go to Taylor and which ones would be given to Bah. Bah would then buy the RUF other items such as satellite phones and computers and cash; [REDACTED]

[REDACTED]²⁹⁵⁸ Yet [REDACTED] never gave the diamonds to Taylor himself, nor did he ever see anyone give diamonds to Taylor; all evidence to that effect is hearsay.²⁹⁵⁹ Furthermore, [REDACTED] admitted that everything he testified about regarding Taylor's providing and sending arms to Sierra Leone (allegedly coordinated and facilitated by those RUF at the Guesthouse) was based on information told to him by others.²⁹⁶⁰ Thus it is not proven that through the provision of the Guesthouse to the RUF, Taylor knowingly rendered practical assistance having a substantial effect on the preparation of certain crimes.

1028. It should be noted that once Bockarie left the RUF in December 1999, he did not stay at the RUF Guesthouse in Monrovia again. A separate house was provided to Bockarie in the Paynesville area.²⁹⁶¹

1029. The Guesthouse was closed down in early 2001,²⁹⁶² following which Issa Sesay rented accommodation for a few RUF personnel to stay in Monrovia. Thus, evidence of any transactions taking place between the RUF and businessmen in Monrovia

²⁹⁵⁵ TT, Issa Sesay, DCT-172, 23 Aug 10, p. 46907.

²⁹⁵⁶ TT, [REDACTED]; Charles Taylor, 14 Sep 09, p. 28773-74, 28805 (Taylor does not dispute the fact that Sesay sent Gibril).

²⁹⁵⁷ TT, [REDACTED]. Taylor denied any knowledge of such. TT, Charles Taylor, 14 Sep 09, p. 28807

²⁹⁵⁸ TT, [REDACTED]

²⁹⁵⁹ TT, [REDACTED]

²⁹⁶⁰ TT, [REDACTED]

²⁹⁶¹ TT, [REDACTED]; Charles Taylor, 24 Aug 2009, p. 27418.

²⁹⁶² TT, TF1-567, 04 Jul 2008, p. 13003; Issa Sesay, DCT-172, 28 Jul 2010, p. 44919, 11 Aug 2010, p. 46032.

beyond early 2001 cannot be associated with Taylor's provision of the Guesthouse in any way.

Supplies: Arms, Ammunition, War Materials

1030. The following section will focus on the arms and ammunition allegedly supplied to the RUF and AFRC during the Indictment period. It is the Prosecution case that prior to the commencement of the armed conflict in Sierra Leone, and during the conflict, Taylor provided the RUF, Junta and AFRC/RUF with arms, ammunition and associated material. The Prosecution concedes that there was not much assistance between 1994 up to early 1998,²⁹⁶³ focusing instead on the period of the initial invasion up to 1994, and from early 1998 leading up to the attack on Freetown in January 1999. The Prosecution asserts that the arms and ammunition obtained by the RUF and AFRC during this period was obtained from Liberia, having been stored in various locations including Taylor's residences in Monrovia and Gbargna and at the Executive Mansion. Further, that subordinates of Taylor working at these storage facilities would provide the material on the instructions of Taylor, which were usually communicated through a senior level intermediary such as Benjamin Yeaten.²⁹⁶⁴
1031. Such a conclusion *may* be reached only if one accepts Prosecution evidence at face value. If one critically examines the accounts provided by the Prosecution, however, one must reach a different conclusion. Certainly, Isaac Mongor testified that the main source of the RUF's ammunition was Liberia.²⁹⁶⁵ However, to prove its case for aiding and abetting, the Prosecution must show that there was practical assistance from Taylor to the rebel groups which carried out crimes in Sierra Leone (mainly the RUF), and that such assistance had a "substantial effect" on the commission of the crime.²⁹⁶⁶ Further, that Taylor was "aware" of the "substantial likelihood" that crimes would occur as a result of his provision of material. Under this mode of liability, it will not be enough for the Prosecution to show that Yeaten was aiding and abetting the RUF/AFRC through some private enterprise, but that Taylor himself possessed the requisite *mens rea*.

²⁹⁶³ Prosecution Pre-Trial Brief, para. 54.

²⁹⁶⁴ Prosecution Pre-Trial Brief, para. 55.

²⁹⁶⁵ TT, Isaac Mongor, TF1-532, p. 5748-9.

²⁹⁶⁶ *Prosecutor v Blagojevic & Jokic*, No. IT-02-60-T, *Judgement* (17 January 2005) at para. 726; *Prosecutor v Limaj et al*, No. IT-03-66-T, *Judgement* (30 November 2005) at para. 517.

1032. For his part, Taylor denied aiding and abetting the rebel forces in Sierra Leone. He testified that he did not send military trucks with ammunition to Sierra Leone.²⁹⁶⁷ One of the reasons he did not do this is because he was unable to do it. As all weapons had been collected during the disarmament process, the Liberian government had no arms and/or ammunition itself.²⁹⁶⁸ Moses Blah, Taylor's Vice-President agreed with this proposition and testified that Liberia did not have any arms to send to Sierra Leone.²⁹⁶⁹

1033. The Defence submits that the evidence in this case demonstrates that the RUF obtained its arms and ammunition from a variety of sources including: capturing weapons from ECOMOG; obtaining weapons from government stores when it acted as the Junta government; trading for arms and ammunition with Guinea and former ULIMO combatants; from Burkina Faso; and from Liberia.

1034. In addition, the evidence allows us to draw a number of conclusions: i) the RUF struggled to obtain arms and ammunition; ii) the RUF's main source of arms and ammunition was from capturing weapons from ECOMOG; iii) the RUF obtained fewer arms and ammunition from Liberia than from other sources; iv) the arms and ammunition it did obtain from Liberia was never enough to enable it to launch major operations; and v) the arms and ammunition the RUF obtained from Liberia was not through official channels, but through unofficial ones. Ultimately, the Defence submits that Taylor was not involved or informed and cannot be criminally responsible for having given practical assistance in the form of arms and ammunition to rebel groups which carried out crimes in Sierra Leone, and that such assistance had a substantial effect on the commission of the crime.

November 1996 Abidjan Accord to May 1997 Coup

1035. Between the start of the Indictment period in November 1996 and the time of the AFRC coup in May 1997, the evidence suggests the RUF obtained its arms and ammunition by the following methods: i) by capturing them from the SLA; ii) by trading for them with former ULIMO combatants; and iii) by trading for them with people in Guinea.

²⁹⁶⁷ TT, Taylor, 03 Aug 09, p. 25823.

²⁹⁶⁸ TT, Taylor, 10 Sep 09, p. 28612-3; 26 Oct 09, p. 30279-80. There are several key exhibits, including photos of the symbolic burning of arms on 26 July 1999, which illustrate that post-election, Taylor no longer had arms in Liberia. Exhibits D-230, D-361, D-362, D-364, D-297A, B, and C, and D-201.

²⁹⁶⁹ TT, Moses Blah, TF1-561, 20 May 08, p. 10319.

1036. There is sufficient evidence to conclude that the RUF obtained arms and ammunition by capturing it, and that this was the major source of arms and ammunition for the RUF during this period.²⁹⁷⁰
1037. There is sufficient evidence to conclude that the RUF obtained arms and ammunition by trading with Guinea, and that this was a major source of arms and ammunition for the RUF during this period. TF1-371 testified that from 1993 to 1996 the RUF obtained arms and ammunition from trading with Guinean troops at the border.²⁹⁷¹ Mohamed Kabbah testified that from about 1991 to 1997 the RUF obtained ammunition (but not arms) from Guinea.²⁹⁷² There is an abundance of testimony that such a trade was taking place starting as early as from 1993 to 1995: for example, DCT-025 testified that Guinea was a source of arms and ammunition between 1993 and 1994.²⁹⁷³ Isatu Kallon was prominently involved in this trade,²⁹⁷⁴ until her arrest in 1995.²⁹⁷⁵ The evidence suggests this trade continued in 1997.²⁹⁷⁶
1038. Furthermore, the RUF purchased ammunition from ULIMO. During this period, ULIMO was supposed to be disarming in Liberia, but many fighters were burying the ammunition instead.²⁹⁷⁷ Bockarie made contact with ex-ULIMO combatants following the Abidjan Peace Accord in order for the RUF to defend itself against Kamajor attacks in late 1996 or early 1997.²⁹⁷⁸ As a result he was able to obtain “materials” from them. Testimony regarding Bockarie’s purchase of weapons from ULIMO comes from a variety of sources.²⁹⁷⁹

²⁹⁷⁰ TT, Mohamed Kabbah, TF1-568, 15 Sept 08, p. 16278 (from about 1991 to 1997 the RUF obtained arms and ammunition by capturing them); Isaac Mongor, TF1-532, 3 Apr 08, p. 6620 (from 1993 to 1998 the RUF obtained supplies captured from enemy SLA soldiers); Issa Sesay, DCT-172, 26 Jul 10, p. 44623-4 (from 1992 to 1997 the RUF obtained arms and ammunition from ambushes).

²⁹⁷¹ TT, TF1-371, p. 2692.

²⁹⁷² TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16278.

²⁹⁷³ TT, DCT-025, 16 Mar 10, p. 37300-6.

²⁹⁷⁴ TT, Isatu Kallon, DCT-299, 18 Jun 10, p. 42878.

²⁹⁷⁵ TT, Isatu Kallon, DCT-299, 21 Jun 10, 42921-37.

²⁹⁷⁶ TT, Charles Ngebeh, DCT-146, 23 Mar 10, p. 37853.

²⁹⁷⁷ TT, TF1-367, 20 Aug 08, p. 14149-51.

²⁹⁷⁸ Exhibit D-9 (Although Exhibit D-9 does not specific ammunition, it is clear this is what is meant when Exhibit D-9 is compared with the testimony of TF1-338 and TF1-367).

²⁹⁷⁹ Varmuyan Sherif, TF1-406, 10 Jan 2008, p. 1018 (RUF bought arms from ULIMO from the end of 1997 to 2003); TF1-371, 31 Jan 2008, p. 2696-7 (RUF bought arms from ULIMO in 1997; Varmuyan Sherif and Abu Keita were both involved on the part of ULIMO); TF1-367, 20 Aug 2008, p. 14149-14157; TF1-338, 3 Sep 2008, p. 15276 (naming Sam Kolleh as one of those who went to collect the arms); Charles Ngebeh, DCT-146, 23 Mar 2010, p. 37848-9; and Sam Kolleh, DCT-102, 1 Nov 2010, p. 48409-13; 48426-7. See also, Exhibit P-611, p. 95 *et seq* (OTP interview of Mustapha Koroma aka Sam Kolleh in November 2003, long before the issue of the RUF’s arms supplies was ever contentious in this trial) and Exhibit D-470 (depicting a group of RUF fighters with Sam Bockarie who went to collect ammunition from ULIMO-K on this occasion).

1039. The money Bockarie used to buy these weapons had been given to Sankoh in the Ivory Coast by the Libyan Ambassador to Ghana (Mohamed Talibi); Sankoh then sent \$7000 to Bockarie through Daniel Tamba.²⁹⁸⁰ Others confirm that the money used for this purchase was that given to the RUF in the Ivory Coast and/or given directly by Sankoh to Bockarie for this purpose.²⁹⁸¹ This version of the event is not linked to Taylor in any way other than by the suggestion that it was Jungle who carried the money from Sankoh to Bockarie; the Defence has adequately explained above that Jungle was not with the RUF on Taylor's behalf.

1040. However, in a slightly divergent account, [REDACTED] [REDACTED]. He said that the RUF bought the materials from ULIMO with 56 million leones that had either been stolen from the bank in Kono and exchanged for Guinean francs²⁹⁸² or with \$7000 USD acquired otherwise.²⁹⁸³ Despite giving internally contradictory accounts of what money was used to pay for the materials, and errantly placing the purchases from ULIMO after the AFRC coup,²⁹⁸⁴ [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]²⁹⁸⁵ His account cannot be believed and seems designed to implicate Taylor. In any event, there is no indication that Taylor knew the RUF was buying arms from ULIMO-K in Lofa County at this time.

1041. Additionally, there is no evidence suggesting arms and ammunition were supplied to the RUF by Taylor during this period. Indeed, TF1-371 testified that from 1993 to 1999 there was a falling-out between Taylor and Sankoh, which resulted in a break in communications and support, until 1997.²⁹⁸⁶

May 1997 Coup to February 1998 Intervention

²⁹⁸⁰ TT, [REDACTED] (the Libyan Ambassador had given Sankoh \$500,000 in order to transform his movement into a political party; Sankoh sent \$7000 back to Bockarie in Sierra Leone. Bockarie had said he had made contact with ULIMO fighters, but needed money. Bockarie used \$5000 to buy ammunition from ULIMO and \$2000 to buy food).

²⁹⁸¹ TT, TF1-367, 20 Aug 08, p. 14157; TF1-371, 31 Jan 08, p. 2696 (Sankoh sent \$7000 to Bockarie).

²⁹⁸² TT, TF1-367, 20 Aug 08, p. 14141-56.

²⁹⁸³ TT, TF1-367, 29 Aug 08, p. 14980-5. On cross-examination, TF1-367 stated that of the \$7000, \$3000 went to a ULIMO commander in Foya, but he could not tell what transaction this was for. He attempted to explain away his lack of detail by stating "my head is not a computer". TF1-367, 1 September 2008, p. 15016.

²⁹⁸⁴ TT, TF1-367, 20 Aug 08, p. 14146; 14151.

²⁹⁸⁵ TT, TF1-367, 20 Aug 08, p. 14153-4.

²⁹⁸⁶ TT, TF1-371, p. 2693-4.

1042. Between the union of the AFRC and RUF in late May or June 1997 and the ECOMOG Intervention in February 1998, the evidence suggests the RUF and AFRC obtained their arms and ammunition by the following methods:

- a. By inheriting them from the former government;
- b. Through the so-called Magburaka Shipment;
- c. By trading for them with former ULIMO combatants;
- d. By trading for them with Guinea;
- e. From Taylor or his intermediaries.

1043. Because the AFRC was principally comprised of SLA soldiers, and because it took over the government of Sierra Leone, the AFRC and RUF obtained access to the stockpiles of arms and ammunition left over from the previous government. Such stockpiles may not have been too significant, as there is evidence that the Junta government complained about a lack of arms and ammunition.²⁹⁸⁷ However, there is no evidence the Junta forces ever ran out of ammunition. Taylor was not involved in this process and cannot credibly be linked to the RUF's decision to join the AFRC government, as addressed elsewhere.

1044. One of the key players in terms of arranging weapons and munitions transactions on behalf of the RUF and/or Junta was Ibrahim Bah. Thus, his background and role should be sufficiently introduced at this juncture. Ibrahim Bah (also known as "General Ibrahim"²⁹⁸⁸) was a liaison who coordinated the RUF's affairs outside of Sierra Leone.²⁹⁸⁹ Most importantly, Bah leveraged a global network of contacts to arrange arms and ammunition purchases for the Revolutionary United Front,²⁹⁹⁰ particularly from Burkina Faso²⁹⁹¹ and Libya.²⁹⁹² He was born in Senegal²⁹⁹³ but much of his family came from just across the border in Gambia.²⁹⁹⁴ In the mid-1980s, while studying Islam in Libya,²⁹⁹⁵ Bah met Kukoi Samba Sanyang (a.k.a. Dr. Manneh). Bah then joined Sanyang's Special Operational Force for Africa (SOFA), a

²⁹⁸⁷ TT, TF1-371, p. 2310.

²⁹⁸⁸ TT, TF1-388, 11 Jul 08, p. 13568-9.

²⁹⁸⁹ TT, Dauda Aruna Fornie, TF1-274, 3 Dec 08, p. 21547-8.

²⁹⁹⁰ TT, Dauda Aruna Fornie, TF1-274, 3 Dec 08, p. 21791-2; TF1-567, 07 July 08, p. 13119-22, 13130-1; TF1-338, 03 Sep 08, p. 15296-9; Issa Sesay, DCT-172, 8 Jul 10, p. 44092-6.

²⁹⁹¹ TT, [REDACTED] (Bah was instrumental for Sankoh to get help from Burkina Faso).

²⁹⁹² TT, [REDACTED].

²⁹⁹³ TT, DCT-125, 9 Mar 10, p. 36875-6.

²⁹⁹⁴ TT, Suwandi Camara, TF1-548, 11 Feb 08, p. 3463-5, 3475.

²⁹⁹⁵ TT, DCT-125, 9 Mar 10, p. 36804-5.

revolutionary group from the Gambia,²⁹⁹⁶ and trained in Tajura.²⁹⁹⁷ Bah trained at Tajura at the same time as the Sierra Leoneans and the Liberians were on the base.²⁹⁹⁸ Bah met Charles Taylor in 1990, when Bah was part of the Gambian force that entered Liberia during the NPFL invasion, but the two had limited contact thereafter.²⁹⁹⁹ Though Bah never fought for the RUF, he became close friends with Foday Sankoh³⁰⁰⁰ and the RUF brought him to Pendembu later that year.³⁰⁰¹ When RUF-NPFL cooperation disintegrated, and with Taylor not in a position to issue orders to the Gambian soldier Bah,³⁰⁰² it seems that Bah left the NPFL in 1993,³⁰⁰³ remained in Sierra Leone, and began dealing directly with the RUF.³⁰⁰⁴

1045. Throughout the 1990s, Bah arranged the RUF's arms deals with Burkina Faso and Libya from his base in Ouagadougou.³⁰⁰⁵ In April 1996, Sankoh and Bah met in Burkina Faso and travelled to Libya together.³⁰⁰⁶ In December 1996, Bah served as a delegate to the Abidjan talks and hosted the RUF delegation in Ouagadougou while they prepared for that meeting;³⁰⁰⁷ after the talks, Sankoh secretly returned to Ouagadougou to meet Bah again.³⁰⁰⁸

1046. Bah continued arranging arms deal for the AFRC/RUF junta.³⁰⁰⁹ Specifically, he received \$90,000 from JP Koroma to coordinate the Magburaka Shipment of arms to the Junta from Burkina Faso in August or September 1997.³⁰¹⁰

1047. Regarding the Magburaka Shipment, there is no consensus as to precisely what was delivered to the RUF and AFRC. Samuel Kargbo and TF1-338 specified that the shipment comprised only ammunition.³⁰¹¹ However, [REDACTED] testified that there were

²⁹⁹⁶ TT, DCT-125, 3 Mar 10, p. 36648; 4 Mar 10, p. 36677. DCT-125 denied that SOFA was an acronym, but was a Madingo word for "breaker of barriers and restrictions". DCT-125 accepted, however, that [REDACTED]. TT, DCT-125, 9 Mar 10, p. 36829-31.

²⁹⁹⁷ TT, Suwandi Camara, TF1-548, 08 Feb 08, p. 3463-5.

²⁹⁹⁸ TT, DCT-125, 4 Mar 10, p. 36678.

²⁹⁹⁹ TT, Charles Taylor, 25 Aug 09, p. 27563.

³⁰⁰⁰ TT, TF1-168, 26 Jan 09, p. 23465; TF1-567, 08 Jul 08, p. 13130-1; Issa Sesay, DCT-172, 8 Jul 10, p. 44092-6.

³⁰⁰¹ TT, Issa Sesay, DCT-172, 18 Aug 10, p. 46556-7.

³⁰⁰² TT, DCT-125, 9 Mar 10, p. 36876-7.

³⁰⁰³ TT, Charles Taylor, 14 Sep 09, p. 28743-5.

³⁰⁰⁴ TT, DCT-125, 9 Mar 10, p. 36804-5.

³⁰⁰⁵ TT, TF1-168, 26 Jan 09, p. 23467; Dauda Aruna Fornie, TF1-274, 3 Dec 08, p. 21791-2; TF1-539, 12 June 08, p. 11691; Issa Sesay, DCT-172, 8 Jul 10, p. 44092-6.

³⁰⁰⁶ TT, [REDACTED].

³⁰⁰⁷ TT, [REDACTED].

³⁰⁰⁸ TT, [REDACTED].

³⁰⁰⁹ TT, TF1-338, 03 Sep 08, p. 15293-4.

³⁰¹⁰ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10455-9; Issa Sesay, DCT-172, 4 Aug 10, p. 43862, 43871-2, 45386-90.

³⁰¹¹ TT, Samuel Kargbo, TF1-597, 2 Jun 08, p. 10717-21; TF1-338, 5 Sep 08, p. 15557-8.

two heavy machine guns;³⁰¹² Mongor testified that there were two anti-aircraft guns.³⁰¹³ Issa Sesay testified that there were one-barreled BZT guns.³⁰¹⁴

1048. Nevertheless, it seems to be the case that, even if there were some arms, it was mostly ammunition that was obtained by the RUF and AFRC from the Magburaka Shipment. Samuel Kargbo testified that the shipment was RPG bombs, stinger missiles, AK rounds, G3 rounds and mortar bombs.³⁰¹⁵ TF1-338 testified that the shipment was GMG rounds, G3 rounds, grenades and AK-47s.³⁰¹⁶ Mongor testified that the shipment was AK rounds, GMG rounds and AA guns.³⁰¹⁷ Issa Sesay testified that the shipment was BZTs, SAM-7s, AA rounds, GPMG rounds and G3 rounds.³⁰¹⁸ Only [REDACTED] testified that there were substantial boxes of arms, claiming that the shipment consisted of 75 calibre machine guns, AK-47s and rocket propelled grenade launchers; there were about 80 boxes of arms.³⁰¹⁹ However, [REDACTED]
[REDACTED]
[REDACTED], it is perhaps not surprising that he proves unreliable on this point.

1049. Several witnesses have testified that Taylor was involved in the deal to facilitate the Magburaka Shipment, though no witness claimed that the materiel was from Taylor. For instance, [REDACTED] testified that Taylor sent Ibrahim Bah to help the Junta government organise the shipment.³⁰²⁰ Isaac Mongor testified that Taylor sent the shipment, though the materiel came from Libya.³⁰²¹

1050. However, much of the evidence implicating Taylor is circumstantial. For instance, [REDACTED]'s testimony is that Bah went to Monrovia, then came back on the shipment flight.³⁰²² As such, Bah's organising of the shipment, and where the shipment came from, may have had nothing to do with Taylor. Indeed, the evidence of Issa Sesay is that Bah organised the shipment without reference to Taylor.³⁰²³ In a similar way, Kargbo testified that he overheard a conversation between JP Koroma and Taylor

³⁰¹² TT, [REDACTED].

³⁰¹³ TT, Isaac Mongor, TF1-532, p. 5724.

³⁰¹⁴ TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43863-4.

³⁰¹⁵ TT, Samuel Kargbo, TF1-597, p. 10479-81 and p. 10717-20.

³⁰¹⁶ TT, TF1-338, p. 15282-4.

³⁰¹⁷ TT, Isaac Mongor, TF1-532, p. 5724.

³⁰¹⁸ TT, Issa Sesay, DCT-172, 7 July 10, p. 43863-4.

³⁰¹⁹ TT, [REDACTED].

³⁰²⁰ TT, [REDACTED].

³⁰²¹ TT, Isaac Mongor, TF1-532, p. 5724 and p. 6648-9.

³⁰²² TT, [REDACTED].

³⁰²³ TT, Issa Sesay, DCT-172, 7 July 10, p. 43859-61; p. 43871-2.

about arms, following which a delegation including Mike Lamin, Sam Bockarie, Ibrahim Bah and Fonti Kanu went to Liberia; two weeks later a plane arrived at Magburaka.³⁰²⁴ Once again, there is nothing that actually links the conversation with Taylor, or the alleged journey to Liberia, with the plane arriving at Magburaka except implication.

1051. Several witnesses did not even mention Taylor when testifying about the provenance of the shipment. For instance, TF1-338 testified it came from the Ukrainians.³⁰²⁵ Denis Koker also testified to the effect that during the Junta, the Ukrainians were bringing arms into Sierra Leone (by ship).³⁰²⁶ Moses Blah, vice-president under Taylor, did not know about the Magburaka shipment; indeed, he did not know about shipments to Sierra Leone in general.³⁰²⁷

1052. It seems to be the case that witnesses have been encouraged to testify to a link with Liberia, even when they themselves were unsure of the precise provenance of the shipment. For instance, Alimamy Bobson Sesay testified that the shipment came from Liberia, even though in all previous statements to the Prosecution he had mentioned it came from Ukraine.³⁰²⁸ He claimed that the lack of reference to Liberia before testimony was a mistake on the part of the Prosecution.³⁰²⁹ Denis Koker, when testifying in the AFRC Trial recalled that the Junta imported weapons from China through a contact named Joseph Wong; in the Taylor Trial, Koker apparently forgot about the Chinese given his new focus on the Liberians.³⁰³⁰ Likewise, Mongor's initial account to prosecution investigators was that the shipment had nothing to do with Taylor. Rather, he stated the shipment was arranged by Ibrahim Bah³⁰³¹ and that Bah made the arrangement with JP Koroma.³⁰³² The Magburaka Shipment had been arranged from Burkina Faso by the RUF before joining the Junta and was renewed by JP Koroma.³⁰³³ This position supports the defence case that the shipment was based on a pre-arranged deal, funded by Sankoh, arranged by Bah and renewed by JP

³⁰²⁴ TT, Samuel Kargbo, TF1-597, p. 10455-9.

³⁰²⁵ TT, TF1-338, p. 15284-7.

³⁰²⁶ TT, Denis Koker, TF1-114, 16 Jan 08, p. 1364-5; 1379 (he saw new guns being off-loaded from the Ukrainian ship that arrived during the AFRC period).

³⁰²⁷ TT, Moses Blah, TF1-561, 19 May 08, p. 10225-6.

³⁰²⁸ TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8700-3.

³⁰²⁹ TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8702-3.

³⁰³⁰ TT, Denis Koker, TF1-114, 16 Jan 08, p. 1377-8 (the weapons originated in China, then were transported through Nigeria, Ghana, and Liberia before arriving in Buedu).

³⁰³¹ TT, Isaac Mongor, TF1-532, 4 Apr 08, p. 6656-7.

³⁰³² TT, Isaac Mongor, TF1-532, 4 Apr 08, p. 6658.

³⁰³³ TT, Isaac Mongor, TF1-532, 3 Apr 08, p. 6659 (either through Burkina Faso or through Libya, depending on which account he gives).

Koroma.³⁰³⁴ And yet, despite his previous statement, Mongor went on to testify that Taylor was involved in the shipment. Once again, this is clear evidence that prosecution witnesses were keen to link Taylor with arms and ammunitions dealings even when they knew full well he was not involved. It is also evidence that prosecution witnesses cannot be relied upon as evidence of Taylor's involvement.

1053. In conclusion, given the inconsistency of the evidence surrounding the organisation of the shipment, there is not sufficient evidence to impute to Taylor any involvement in the Magburaka Shipment.

1054. The materiel delivered at Magburaka was taken to JP Koroma's house in Freetown and then distributed from there.³⁰³⁵ Some of the material was given to the RUF.³⁰³⁶ One of the heavy weapons, whether it was a heavy machine gun or an anti-aircraft gun (the evidence seems to suggest there was at least a gun), was given to Bockarie.³⁰³⁷

1055. The evidence suggests material obtained from the Magburaka Shipment was used in fighting ECOMOG in Freetown in February 1998.³⁰³⁸ However, it is not clear how much then was left over or used in subsequent operations or used in the commission of crimes. The fact that both the RUF and AFRC often struggled with ammunition supplies throughout 1998 may suggest the ammunition obtained from the Magburaka Shipment did not last long, but this is of course conjecture, as no conclusions can properly be drawn as to what ammunition actually arrived or to what use the ammunition obtained from the Magburaka Shipment was put after February 1998.³⁰³⁹

1056. There is some evidence that the trade with former ULIMO combatants continued throughout 1997, though it is not at all clear as to how significant trade was during this period. For instance, TF1-371, Varmuyan Sherif, Mohamed Kabbah and Issa Sesay suggest the trade continued into 1997.³⁰⁴⁰

1057. There is a small amount of evidence that the trade with Guinea continued, though it is not at all clear as to how significant trade was during this period. Several witnesses have

³⁰³⁴ TT, Issa Sesay, DCT-172, 7 July 10, p. 43859-61; p. 43871-2.

³⁰³⁵ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10482; TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43867-8.

³⁰³⁶ TT, TF1-371, 28 Jan 08, p. 2316-7; Samuel Kargbo, TF1-597, 21 May 08, p. 10482.

³⁰³⁷ TT, TF1-371, 28 Jan 08, p. 2316; Isaac Mongor, TF1-532, 11 Mar 08, p. 5733-4; Issa Sesay, DCT-172, 7 Jul 10, p. 43915-6.

³⁰³⁸ TT, TF1-338, 5 Sep 08, p. 15557-8; Isaac Mongor, TF1-532, 11 Mar 08, p. 5733-4.

³⁰³⁹ For the lack of ammunition throughout 1998, see below.

³⁰⁴⁰ TT, Mohamed Kabbah, TF1-568, p. 16423; Issa Sesay, DCT-172, 26 Jul 10, p. 44626-7; Varmuyan Sherif, TF1-406, 10 Jan 2008, p. 1018 (RUF bought arms from ULIMO from the end of 1997 to 2003); TF1-371, 31 Jan 2008, p. 2696-7 (RUF bought arms from ULIMO in 1997; Varmuyan Sherif and Abu Keita were both involved on the part of ULIMO).

testified that the RUF obtained ammunition from Guinea,³⁰⁴¹ and continued to do so until July 1998.³⁰⁴²

1058. There is evidence that Bockarie obtained arms and ammunition on behalf of the RUF from intermediaries acting on behalf of Taylor, notably Daniel Tamba aka Jungle, Joseph Marzah aka Zigzag, and Senegalese.

1059. Firstly, there is evidence that Tamba was in Kenema with Bockarie during this period. For example, [REDACTED] testified that it was in 1997 that Bockarie contacted Taylor from Kenema requesting material support.³⁰⁴³ Mustapha Mansaray testified that Jungle was in Kenema with Bockarie in August 1997.³⁰⁴⁴ Equally, there is testimony that Tamba brought Bockarie ammunition in this period. For example, TF1-375 testified that Jungle brought ammunition to Bockarie in Kenema in 1997.³⁰⁴⁵

1060. However, in addition to the disputed link between Daniel Tamba and Taylor, this evidence is not believable beyond a reasonable doubt. [REDACTED]

[REDACTED] never saw Tamba bring arms and ammunition to Kenema.³⁰⁴⁶ Likewise, Issa Sesay testified that Tamba did not deliver ammunition to the RUF in this period; the RUF only received ammunition from the AFRC.³⁰⁴⁷ One should note there is no reference to Tamba's presence in Kenema in Bockarie's salute report, Exhibit D-9, or in Exhibit P-67, which otherwise lists ammunition being delivered from Taylor to Bockarie during various periods; it is therefore surprising it mentions nothing on this point.

1061. While there is the claim that Tamba came from Taylor, there is equally another possibility: Tamba was a trusted member of the RUF and received money from Sankoh to buy arms and ammunition from former ULIMO combatants.³⁰⁴⁸ Mansaray testified that Jungle had been with Sankoh in Zogoda in 1995 and was sent by Sankoh to obtain arms and ammunition from Liberia; though the witness did not know the source of this.³⁰⁴⁹ His journeys in this regard would have seen him pass from Sierra Leone to Liberia and back to Sierra Leone, without any connection with Taylor.

³⁰⁴¹ TT, Mohamed Kabbah, TF1-568, p. 16423; John Vincent, DCT-215, 26 Mar 10, p. 38099-100; Issa Sesay, DCT-172, 8 Jul 10, p. 44058-64.

³⁰⁴² TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44628-9.

³⁰⁴³ TT, [REDACTED]

³⁰⁴⁴ TT, Mustapha Mansaray, TF1-337, 5 Mar 08, p. 5296.

³⁰⁴⁵ TT, TF1-375, 23 Jun 08, p. 12488-91.

³⁰⁴⁶ TT, [REDACTED]

³⁰⁴⁷ TT, Issa Sesay, DCT-172, 11 Aug 10, p. 45955-8.

³⁰⁴⁸ TT, [REDACTED]

³⁰⁴⁹ TT, Mustapha Mansaray, TF1-337, 5 Mar 08, p. 5296-8.

1062. There is no evidence as to what use the material delivered by Tamba in 1997 was put to, or indeed how long such material lasted. It cannot therefore be said that it had a substantial effect on the commission of crimes during this period.

February 1998-January 1999

1063. From the time the Junta government collapsed following the ECOMOG Intervention, the RUF struggled to obtain sufficient arms and ammunition. This situation only changed in late 1998 when it received arms and ammunition from Burkina Faso. However, even after receiving this shipment, it remained reliant on arms and ammunition captured from ECOMOG. For example, many of the RUF's operations in December 1998 and January 1999 used the arms and ammunition captured from ECOMOG in that period.
1064. Overall, the evidence suggests that, from February 1998, the RUF obtained arms and ammunition on an ad hoc basis via several sources:
- (1) The stockpiles of arms and ammunition held by the Junta government;
By capturing them from ECOMOG soldiers;
 - (2) From other countries in the region;
 - (3) From Liberia through the already-established trade with former ULIMO combatants;
 - (4) From Liberia directly from Taylor via his alleged intermediaries.
1065. The evidence is unclear, but it seems to be the case that the RUF and AFRC was able to retain some arms and ammunition held by them during the period of the Junta government following the ECOMOG Intervention in February 1998. For example, Mansaray testified that when the Junta retreated, the rebels took their arms and ammunition with them.³⁰⁵⁰
1066. However, the RUF and AFRC seem to have lost at least some materiel. For instance, Samuel Kargbo testified that, during the ECOMOG Intervention, the AFRC had to leave weapons behind in Tombo because there was no way to get the heavy artillery through Waterloo as it was blocked.³⁰⁵¹ Issa Sesay testified that when ECOMOG attacked in February 1998 the remaining material in JP Koroma's lodge was captured.³⁰⁵²

³⁰⁵⁰ TT, Mustapha Mansaray, TF1-337, 6 Mar 08, p. 5443.

³⁰⁵¹ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10514; TF1-539, p. 11396.

³⁰⁵² TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43915-6.

1067. As for how much ammunition the RUF and AFRC preserved, the evidence is equally unclear. TF1-338 and Mongor both testified that ammunition obtained from the Magburaka Shipment was used in fighting ECOMOG in Freetown.³⁰⁵³ However, they do not state whether such ammunition was completely expended. Given that both RUF and AFRC groups needed additional supplies of ammunition,³⁰⁵⁴ one assumes such ammunition did not last long.
1068. On the few occasions where there is cogent evidence as to the quantity of arms and ammunition, it seems to be the case that the RUF's main source of arms and ammunition was from capturing weapons from ECOMOG.³⁰⁵⁵ For example, in about December 1998, the RUF captured over 100 boxes of ammunition, about 100 boxes of mortar bombs, over 370 RPGs and even 3 tanks. This is far in excess of the quantity of arms and ammunition which witnesses have alleged the 1998 shipment from Burkina Faso comprised, and is even in excess of the arms and ammunition brought in the 1997 Magburaka Shipment. There are no reliable statistics for other shipments. Certainly it cannot be proved that the RUF's main source of arms and ammunition lay outside of Sierra Leone. It therefore follows that the RUF's main source of arms and ammunition came from sources within Sierra Leone, in particular the capture of materiel from ECOMOG forces.
1069. Superman captured ammunition at Koidu Town which he was able to use later in Koinadugu.³⁰⁵⁶ TF1-375 testified that the RUF under Superman and the AFRC under SAJ Musa captured ammunition from Kabala.³⁰⁵⁷
1070. In particular, the RUF offensive to take Koidu Town in December 1998 yielded a significant amount of arms and ammunition. For example, the arms and ammunition were captured at Koidu Town included the following materials:³⁰⁵⁸ 5 fifty calibre guns, 3 full sets of 81mm guns, 39 120mm mortar bombs in boxes, 73 boxes of American AA rounds, 16 boxes of 81mm mortar bombs and 3 armoured tanks.³⁰⁵⁹ In addition, materials captured in Kimberlite, located outside of Koidu Town on the road to Gandorhun, where ECOMOG had a defensive post, included 31 boxes of 82mm

³⁰⁵³ TT, TF1-338, 5 Sep 08, p. 15557-8; Isaac Mongor, TF1-532, 11 Mar 08, p. 5733-4.

³⁰⁵⁴ As addressed throughout this section.

³⁰⁵⁵ TT, Mustapha Mansaray, TF1-337, 6 Mar 08, p. 5416-8 (during 1998 and 1999, the RUF obtained arms and ammunition by capturing them from ECOMOG).

³⁰⁵⁶ Exhibit D-9.

³⁰⁵⁷ TT, TF1-375, p. 12563-5.

³⁰⁵⁸ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44136; TF1-567, p. 12913-17; TF1-367, p. 14181-86.

³⁰⁵⁹ Exhibit P-93. Sesay confirms that arms and ammunition were captured, but denies the complete accuracy of this list. TT, Issa Sesay, DCT-172, p. 44149.

mortar bombs.³⁰⁶⁰ Further materials captured at Sewafe included: 120 RPG bombs, 10 boxes of AA rounds and 25 boxes of 81mm mortar bombs.³⁰⁶¹ On the road to Masingbi, ECOMOG lost war-tanks, armored cars, and a multitude of heavy artillery pieces, personal rifles, and huge amounts of ammunition to the RUF.³⁰⁶² This included a pickup truck carrying 250 RPG bombs that contained TNT.³⁰⁶³ Then at Masingbi, the RUF captured more ammunition,³⁰⁶⁴ and other items including mortar bombs and rockets.³⁰⁶⁵ Additional materials were taken by the RUF from ECOMOG at Teko Barracks.³⁰⁶⁶ In total, the arms and ammunition seized during this period was significant; indeed, it was in excess of any of the arms shipments obtained by the RUF. This leads to one important conclusion: the most significant source of arms and ammunition for the RUF in this period was from the materials it captured.

1071. The materiel captured by the RUF in its December offensive was put to use to secure further targets during that period, not to aid and abet the commission of crimes. For example, the materials seized on the road to Masingbi were used in the attack on Makeni.³⁰⁶⁷ The materials captured by the RUF as they advanced from Kono to Makeni were used for operations along the way.³⁰⁶⁸

1072. There is a small amount of evidence that the trade with Guinea continued, though it is not at all clear as to how significant trade was during this period. Several witnesses have testified that the RUF obtained ammunition from Guinea.³⁰⁶⁹ This continued until July 1998.³⁰⁷⁰

1073. There has been an abundance of evidence that Bockarie and other key figures in the RUF travelled to Burkina Faso in about November 1998, and that following the trip, the RUF obtained a significant quantity of arms and ammunition. To that effect, in April 1998, Ibrahim Bah collaborated with Burkinabe General Diendere to orchestrate an arms shipment for the RUF from Ouagadougou but the plan collapsed when Issa Sesay lost the diamonds that were to be used to pay for the shipment during his

³⁰⁶⁰ TT, Issa Sesay, DCT-172, p. 44149-50.

³⁰⁶¹ Exhibit P-93.

³⁰⁶² Exhibit D-84.

³⁰⁶³ TT, Issa Sesay, DCT-172, p. 44153.

³⁰⁶⁴ TT, Issa Sesay, DCT-172, p. 44154.

³⁰⁶⁵ Exhibit P-93.

³⁰⁶⁶ Exhibit D-84, p. 8.

³⁰⁶⁷ Exhibit D-84, p. 8; TT, Issa Sesay, DCT-172, p. 44153-54.

³⁰⁶⁸ Exhibit P-93.

³⁰⁶⁹ TT, Mohamed Kabbah, TF1-568, p. 16423; John Vincent, DCT-215, 26 Mar 10, p. 38099-100; Issa Sesay, DCT-172, 8 Jul 10, p. 44058-64.

³⁰⁷⁰ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44628-9.

layover in Monrovia.³⁰⁷¹ In November or December 1998, Bah hosted Sam Bockarie when he traveled to Ouagadougou to meet with OAU Chairman Campaore. Bockarie may also have arranged an arms deal there.³⁰⁷² From Burkina Faso, Bockarie, Bah and other RUF delegates traveled on to Libya to request military assistance from Col. Gaddafi.³⁰⁷³ The Defence submits that the primary and official purpose of the mission was to discuss the peace process in Sierra Leone with President Blaise Compaore, who was the chairman of the OAU at the time.³⁰⁷⁴

1074. However, it is alleged there was a secondary, more covert, purpose, which was to gain material and support for the RUF. Some prosecution witnesses have even stated that this was the only purpose of the mission, not mentioning (or conveniently forgetting) anything about the peace process. TF1-371, Isaac Mongor, Albert Hindowa Saidu and Karmoh Kanneh dealt with Bockarie traveling to Burkina Faso during this time period solely in the context of the RUF requiring, and obtaining, arms and/or ammunition.³⁰⁷⁵ Their accounts, though, do not complement each other. Mongor's account is particularly unique. He claimed that he and Bockarie met with Tamba to discuss getting arms, after which Tamba took a letter of request to Taylor.³⁰⁷⁶ Following that, Bockarie, Eddie Kanneh, Lawrence Wohmandia and Rashid Sandy went to Monrovia. There Taylor made the contact for them to go onto Burkina Faso.³⁰⁷⁷ Mongor is the only one to mention, not only that he was involved in this mission to obtain arms, but also that Tamba played a role. In Saidu's account, it is Bockarie who met with Taylor to inform him that the RUF required ammunition;³⁰⁷⁸ the part which in Mongor's account is played by Tamba. In TF1-371's and Kanneh's accounts, there is no meeting with Tamba or Taylor to discuss the RUF's shortage of arms and ammunition; instead Bockarie travels to Burkina Faso alongside Ibrahim Bah.³⁰⁷⁹ TF1-371 then has the materiel being stored in White Flower, before being transported to Sierra Leone; but this is not supported by the other witnesses.³⁰⁸⁰ What

³⁰⁷¹ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44046-8, 44055-6.

³⁰⁷² TT, Karmoh Kanneh, TF1-571, 13 May 08, p. 9709-10.

³⁰⁷³ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44125-9.

³⁰⁷⁴ Exhibit P-63; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44127; Taylor, 6 Aug 09, p. 26129, 10 Aug 09, p. 26391-92; Sam Kolleh, DCT-102, 1 Nov 10, p. 48506, 4 Nov 10, p. 48779 (though he confuses the year).

³⁰⁷⁵ TT, TF1-371, 28 Jan 08, p. 2405-17; Isaac Mongor, TF1-532, 5780-804; Albert Hindowa Saidu, TF1-577, 5 Jun 08, p. 11066-8; 11081-91; Karmoh Kanneh, TF1-571, 9 May 08, p. 9416-8.

³⁰⁷⁶ TT, Isaac Mongor, TF1-532, 5780-804.

³⁰⁷⁷ TT, Isaac Mongor, TF1-532, 5780-804.

³⁰⁷⁸ TT, Albert Hindowa Saidu, TF1-577, 5 Jun 08, p. 11066-8; 11081-91.

³⁰⁷⁹ TT, TF1-371, 28 Jan 08, p. 2405-17; Karmoh Kanneh, TF1-571, 9 May 08, p. 9416-8.

³⁰⁸⁰ TT, TF1-371, 31 Jan 08, p. 2726-28; 2750.

one has, therefore, are four competing accounts of the trip; what one can take from them is that Bockarie did travel to Burkina Faso and did obtain some materiel, but there is not enough corroborative or credible evidence here to conclude that Taylor facilitated or assisted its acquisition.

1075. In addition to this trip to Burkina Faso, Bockarie travelled to Libya and met with Gaddafi, who provided \$50,000 in assistance to the RUF.³⁰⁸¹ On returning from Libya, Bockarie passed through Burkina Faso and Monrovia.³⁰⁸² In early December, Bockarie arrived back in Buedu with arms and ammunition, and the materials were put into the store near his house.³⁰⁸³
1076. While Bockarie's trip may have taken him through Liberia, Burkina Faso and Libya, and on that trip he obtained arms and/or ammunition, the evidence is not at all clear as to where exactly, and from which source, he obtained those arms and/or ammunition. In some accounts, the arms and ammunition were given to Bockarie by Taylor.³⁰⁸⁴ DAF testified that he was told the ammunition came "from Monrovia."³⁰⁸⁵ In other accounts, the arms and ammunition came from either Burkina Faso³⁰⁸⁶ or Libya.³⁰⁸⁷ Equally, the arms and ammunition may not have come from just a single source. Issa Sesay testified that Bockarie used some of the money given to him by Gaddafi to purchase the ammunition from an AFL battalion commander in Voinjama and from Benjamin Yeaten in Kolahun.³⁰⁸⁸
1077. Evidence as to the quantity of arms and ammunition obtained by Bockarie varies wildly. DAF testified that Bockarie obtained about 300 boxes of ammunition,³⁰⁸⁹ which comes across in the context of the other evidence as speculative and inaccurate. Mongor testified that Bockarie brought approximately 100 boxes.³⁰⁹⁰ Issa Sesay testified that Bockarie obtained 40 boxes of AK rounds, 15 boxes of G3 rounds, and

³⁰⁸¹ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44125-29; *See also* TT, Taylor, 17 Sep 09, p. 29247-50; 22 Sep 09, p. 29389 where Taylor states that he heard from Musa Cisse that Bockarie traveled to Libya. Musa Cisse did not accompany Bockarie on this trip.

³⁰⁸² TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44125-29. Bockarie leaves Libya, passes through Burkina Faso, to Monrovia, to Kakata, to Gbarnga, to Zorzor, to Voinjama, to Kolahun, to Foya.

³⁰⁸³ TT, TF1-371, 28 Jan 08, p. 2404; TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44129.

³⁰⁸⁴ TT, TF1-567, 2 Jul 08, p. 12912-13. TF1-567 testified that he heard this from Issa Sesay; TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5795.

³⁰⁸⁵ TT, Abu Keita, TF1-276, 23 Jan 08, p. 1996.

³⁰⁸⁶ Exhibit P-67: "On their return [from Burkina Faso], they were given huge quantity of materials for a serious offensive...". TT, TF1-371, 31 Jan 08, p. 2726-28; p. 2750; p. 2761.

³⁰⁸⁷ TT, Dauda Fornie, TF1-274, 10 Dec 08, p. 22083-84.

³⁰⁸⁸ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44125-29 (Bockarie did not tell Sesay whether the purchases were made with the permission or knowledge of Charles Taylor).

³⁰⁸⁹ TT, Abu Keita, TF1-276, 23 Jan 08, p. 1993-95.

³⁰⁹⁰ TT, Isaac Mongor, TF1-532, 11 Mar 08, 4790-92.

10 boxes of HMG rounds.³⁰⁹¹ The consignment may have also included RPG rockets, bazooka rockets, GMG rounds and machine guns.³⁰⁹² TF1-371 testified that Bockarie returned with 44 boxes of ammunition from Blaise Compaore.³⁰⁹³

1078. The material obtained from Bockarie's trip to Burkina Faso was used during the RUF attack on Koidu Town in December 1998.³⁰⁹⁴ It was also used during the attack on Kenema.³⁰⁹⁵ However, none of the material was distributed to the AFRC or RUF forces in Koinadugu District.³⁰⁹⁶

1079. It appears that Ibrahim Bah continued to play an important role in supplying the RUF during this period, completely independent of Taylor. Bah's network extended beyond West Africa. At a December 1998 meeting at Waterworks in Buedu, Bah informed Bockarie and the RUF leadership that he could enlist Ukrainian mercenaries to provide arms and even fight on behalf of the RUF, helping them to capture Kono District, in exchange for access to the diamond mines.³⁰⁹⁷ Once the RUF captured Kono in late 1998 and until disarmament in 2001, Bah would connect Bockarie and, later, Sankoh to an assortment of diamond purchasers, including Lebanese-Liberians, Belgians and Canadians.³⁰⁹⁸ These purchasers provided the RUF with vehicles, food, mining equipment, computers, telephones, and other items.³⁰⁹⁹ One of Bah's business associates, a Canadian named Carlos, provided Bockarie with the satellite phone that he used until the Lomé Accord.³¹⁰⁰

1080. Bah cultivated numerous business contacts in Monrovia, often meeting them at the Boulevard Hotel.³¹⁰¹ Such business transactions taking place within Monrovia between Bah and the RUF could have given many witnesses (who provide only vague

³⁰⁹¹ TT, Issa Sesay, DCT-172, 9 Jul 10, p. 44128-29.

³⁰⁹² TT, TF1-388, 10 Jul 08, p. 13424-25; Karmoh Kanneh, TF1-571, 9 May 08, p. 9417; TF1-371, 28 Jan 08, p. 2404; Isaac Mongor, TF1-532, 11 Mar 08, p. 4790-92.

³⁰⁹³ TT, TF1-371, 31 Jan 08, p. 2761.

³⁰⁹⁴ Exhibit D-84, p. 7; TT, TF1-388, 10 Jul 08, p. 13424-25; TT, TF1-567, 2 Jul 08, 12912-14; TT, Isaac Mongor, TF1-532, 11 Mar 08, 5804; TT, TF1-371, 28 Jan 08, p. 2416; TT, Issa Sesay, DCT-172, p. 44136. Exhibit P-93. Sesay disputes the authenticity of Exhibit P-93. He denies receiving this quantity of material and testified that he received 20 boxes of AK rounds, 8 boxes of G3 rounds and 5 or 6 boxes of HMG rounds. TT, Issa Sesay, DCT-172, p. 44136-40.

³⁰⁹⁵ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5804; TF1-371, 28 Jan 08, p. 2414.

³⁰⁹⁶ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5801.

³⁰⁹⁷ TT, TF1-338, 03 Sept 2008, 15295-6.

³⁰⁹⁸ TT, Abu Keita, TF1-276, 23 Jan 2008, p. 2025-6; Issa Sesay, DCT-172, 26 Jul 10, p. 44321-3, 44475-84, 44640-1, 44654-5.

³⁰⁹⁹ TT, TF1-567, 08 July 2008, p. 13137, 13172-5; Issa Sesay, DCT-172, 26 Jul 10, p. 44475-84, 44640-1, 44654-5.

³¹⁰⁰ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44038-9.

³¹⁰¹ TT, Abu Keita, TF1-276, 23 Jan 08, p. 1974-6. The Belgian Diamond Report, Exhibit D-393, speaks at great length about Bah using the Boulevard/Royale Hotel as a base in Monrovia.

hearsay accounts) that any support coming out of Liberia was from Taylor, not realizing in fact that the RUF had independent connections there. Likewise, witnesses are keen to conflate the fact that any materials coming across the border from Liberia were necessarily provided by and with the knowledge of Taylor. For instance, Denis Koker testified that he knew arms entering Buedu were “from Liberia because those who brought them were Liberian because they spoke the Liberian English” and that “it was Charles Taylor’s country”, *ergo* Taylor must be responsible for and have knowledge of the materials.³¹⁰²

1081. Allegations as to Taylor’s precise role in the episode depend on whether he is alleged to have given the arms and/or ammunition, or whether he facilitated their acquisition (of course the mere fact witnesses could not agree on his role is itself suggestive that what they were testifying to at trial was speculation rather than reliable evidence). For witnesses who alleged Taylor provided the arms, his role is straightforward. Other witnesses claimed Taylor’s role was as a facilitator, rather than the supplier of the arms and ammunition.
1082. The Defence submits that the RUF was able to arrange the supply of arms and ammunition from Burkina Faso completely independently of Taylor. However, DAF testified that Taylor played a role in coordinating the acquisition.³¹⁰³ Mongor and Karmoh Kanneh testified that it was Campaore who supplied the arms, but that it was Taylor who put Bockarie in contact with him.³¹⁰⁴ In any event, Mongor and Kanneh’s evidence is odd in that at this point, the RUF had its own well-established contacts in Burkina Faso and would not have needed Taylor to put them in touch with Compaore for this purpose.
1083. Albert Saidu testified that Bockarie went to meet Taylor to explain that the RUF had run out of ammunition; later, Bockarie returned from Burkina Faso with arms and ammunition.³¹⁰⁵ This requires a fact finder to fill in the blanks, linking the actual acquisition of weapons to Bockarie’s complaint to Taylor. An equally plausible reading of these facts is that Bockarie complained about the RUF’s lack of ammunition to Taylor, and that Taylor said he was sorry but he would not give him

³¹⁰² TT, Denis Koker, TF1-114, 16 Jan 08, p. 1368. A similarly conclusory determination can be found in the UN Panel of Experts Established through Resolution 1306 (December 2000), Exhibit P-18, para. 211 (stating that weapons from Niger with end-user certificates for Burkina Faso were off-loaded into Liberian military vehicles; the following month the “RUF rebels” invaded Freetown).

³¹⁰³ TT, DAF, TF1-274, 3 Dec 08, p. 21542-47.

³¹⁰⁴ TT, Isaac Mongor, TF1-532, 5780-804; Karmoh Kanneh, TF1-571, 8 May 08, p. 9395-8

³¹⁰⁵ TT, Albert Hindowa Saidu, TF1-577, 5 Jun 08, p. 11066-8; 11081-91.

anything; consequently, Bockarie had to go to Burkina Faso for the support denied to him by Taylor.

1084. TF1-371 testified that Bockarie returned from Burkina Faso with the arms, deposited them at White Flower, and then brought them to Buedu.³¹⁰⁶ Yet by late 1998, Taylor had still not moved into White Flower (this did not happen until January 1999); in any event, it would not make sense for Bockarie to deposit arms at White Flower, only to immediately remove and transport them to Sierra Leone.

1085. Other witnesses did not testify as to Taylor's role in the Burkina Faso shipment, either because he had no role, or because they did not know of it. If anything, then, Liberia was simply a transit point for arms and ammunition supplies originating elsewhere.

1086. In this light, it is important to note the evidence indicating that the RUF's contact in Burkina Faso was General Diendere. Prosecution Exhibit P-272 suggests that Sankoh had been negotiating with Diendere for arms and ammunition during the time of the Abidjan peace process.³¹⁰⁷ TF1-168, in cross-examination, explained that Sankoh had been negotiating with contacts in Burkina Faso for the provision of money or arms at that time.³¹⁰⁸ Fayia Musa's testimony supports this proposition.³¹⁰⁹

1087. Indeed, there is evidence that Diendere had been behind the Magburaka Shipment in 1997; this was the shipment he had previously planned with Sankoh,³¹¹⁰ the funds for which came from Col. Gaddafi.³¹¹¹ Diendere was also the source the RUF was attempting to deal with earlier in 1998; Sesay was supposed to bring the diamonds he was transporting through Monrovia to Diendere.³¹¹²

1088. A United Nations panel found that a Lieutenant Colonel Diendere had signed an end-user certificate for the importation of arms in February 1999,³¹¹³ evidence that he was importing arms, and had the ability to import arms and ammunition for Bah or the RUF independently of Taylor. This theory is supported by a prosecution witness, by prosecution exhibits and by Issa Sesay, a man who has nothing to gain by assisting

³¹⁰⁶ TT, TF1-371, 31 Jan 08, p. 2726-28; 2750.

³¹⁰⁷ Exhibit P-272.

³¹⁰⁸ TT, TF1-168, 26 Jan 09, p. 23479-80.

³¹⁰⁹ TT, Fayia Musa, DCT-306, 14 Apr 10, p. 39035, p. 39043 (Compaore provided 40,000 USD to the External Delegation); 15 Apr 10, p. 39082; 16 Apr 10, p. 39183 (Fayia Musa said that it was normal to receive gifts such as 40,000 USD from West African leaders); 20 Apr 10, p. 39462 (though the spelling of Diendere's name here is Dinejeri, it seems to refer to the same man).

³¹¹⁰ TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43855-9, p. 43872-6, p. 43900-1, p. 43903, 43909-11. This is supported by Sesay's testimony in the RUF trial, showing he is not merely trying to implicate Diendere: TT, Issa Sesay, DCT-172, 12 Aug 10, p. 46156-7.

³¹¹¹ TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43874.

³¹¹² TT, Issa Sesay, DCT-172, 12 Jul 10, p. 44305; 30 Jul 10, p. 45096-7.

³¹¹³ Exhibit P-18; TT, Taylor, 25 Aug 09, p. 27668-9.

Taylor. This is in contrast to the testimony of prosecution witnesses implicating Taylor, which is highly inconsistent and tainted by dubious motives. It is therefore difficult to reach any firm conclusions about whether Taylor aided or abetted the RUF to obtain arms and ammunition from Burkina Faso in relation to this particular shipment. Certainly, if the standard is one of reasonable doubt, then the conclusion must be that Taylor was not responsible.

1089. There is evidence that the trade with former ULIMO combatants continued after the Intervention. Both Mohamed Kabbah and Issa Sesay testified that the RUF obtained ammunition from former ULIMO combatants during this period.³¹¹⁴ Bockarie also seems to have obtained ammunition from ULIMO in 1998.³¹¹⁵ Varmuyan Sherif implicates Taylor in this trade. Sherif testified that Taylor instructed him to encourage former ULIMO fighters to trade their arms with Bockarie; this was in 1998.³¹¹⁶ However, the evidence suggests that the trade had been going on for many years before this; thus any alleged instruction from Taylor had little impact on the trade.³¹¹⁷ It is unclear why Taylor would need to communicate with Sherif to kick-start an already-established trade. Sherif's account becomes even more unlikely when we discover that Sherif himself had been a part of this trade between ULIMO and the RUF, at a time when it was independent of Taylor. For instance, TF1-338 testified that he knew Sherif as an RUF contact for arms and ammunition; the ULIMO-K fighters along the border were making exchanges with the RUF at that time.³¹¹⁸ So if we are to believe Sherif's account, we must believe Taylor sent him to engage in a trade which he had already spent some years doing anyway quite independently. On top of all that, Sherif is the only witness who testified that Taylor was directly or knowingly behind the trade of former ULIMO combatants to the RUF. For all those reasons, his evidence should be treated with the utmost caution.

1090. There is evidence that arms and ammunition were supplied to the RUF by intermediaries acting on behalf of Taylor. For example, Sherif testified that he brought arms and ammunition to Bockarie in early 1998 on Taylor's instruction.³¹¹⁹ However, Sherif's evidence has been tailored to support the prosecution case. For example, in his first interview given to the Prosecution, Sherif stated that he learned

³¹¹⁴ TT, Mohamed Kabbah, TF1-568, p. 16423; Issa Sesay, DCT-172, 26 Jul 10, p. 44626-7.

³¹¹⁵ Exhibit D-9.

³¹¹⁶ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 851-3.

³¹¹⁷ See above for evidence of trade between the RUF and ULIMO for the years prior to 1998.

³¹¹⁸ TT, TF1-388, 15 July 08, p. 13764.

³¹¹⁹ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 851-3.

from others that Bockarie had diamonds.³¹²⁰ However, by the time he testified, he alleged that he saw Bockarie handle a jar of diamonds.³¹²¹ With inconsistencies like this, one cannot really accept his testimony on another important detail such as arms and ammunition shipments; especially when his evidence is uncorroborated.

1091. There is also a significant body of evidence that intermediaries such as Daniel Tamba (Jungle), Joseph Marzah (aka Zigzag), Sampson Wehyee and others delivered arms and ammunition to the RUF throughout 1998 and perhaps into 1999. Much of this was allegedly done under the directive of Benjamin Yeaten. The Defence submits that essentially, these individuals in conjunction with others, operated a private enterprise that was mutually beneficial to themselves, but unknown to President Taylor. TF1-371 accepted that “a general sense of indiscipline and private enterprise” pervaded much of the behavior of Yeaten and others during the conflict; in short that commanders in the RUF were looking to line their own pockets through the diamond trade.³¹²²

1092. To fully understand the context of these allegations under this heading, a brief biography of some key individuals is instructive. Thus, by way of background: Daniel Tamba was from the Foya area of Lofa County, Liberia.³¹²³ Part Liberian and part Sierra Leonean, he had dual citizenship.³¹²⁴ He was Kissi by ethnicity.³¹²⁵ Daniel Tamba joined the NPFL and was a junior NPFL commander in Foya by the first half of 1992.³¹²⁶ In mid-1992, when ULIMO’s capture of Lofa County stranded him and other NPFL fighters in Sierra Leone, Tamba joined the RUF.³¹²⁷ Foday Sankoh trained the Liberians, including Tamba.³¹²⁸ Tamba would remain with the RUF thereafter.³¹²⁹ Tamba was based in Buedu,³¹³⁰ where he became close friends with

³¹²⁰ TT, Varmuyan Sherif, TF1-406, 11 Jan 08, p. 1100.

³¹²¹ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 845.

³¹²² TT, TF1-371, 30 Jan 08, p. 2660-2. *See also*, Sam Kolleh, DCT-102, 3 Nov 10, p. 48653 (acknowledging that corruption can occur in an army where people are selling small amounts of arms and ammunition for their own profit).

³¹²³ TT, John Vincent, DCT-215, 26 Mar 2010, p. 38109-12.

³¹²⁴ TT, John Vincent, DCT-215, 26 Mar 2010, p. 38109-12.

³¹²⁵ TT, Abu Keita, TF1-276, 23 Jan 2008, p. 1990-1.

³¹²⁶ TT, Suwandi Camara, TF1-548, 11 Feb 2008, p. 3509; TT, TF1-367, 20 Aug 2008, p. 14126-33.

³¹²⁷ TT, TF1-367, 29 Aug 2008, p. 14987; TT, Mohamed Kabba, TF1-568, 16 Sept 2008, p. 16381-3; TT, TF1-516, 8 Apr 2008, p. 6952-3; TT, TF1-168, 26 Jan 2009, p. 23534-7; TT, Isaac Mongor, TF1-532, 10 Mar 2008, p. 5682-3.

³¹²⁸ TT, Sam Kolleh, DCT-102, 11 Jan 2010, p. 48380-6.

³¹²⁹ TT, TF1-168, 26 Jan 09, p. 23534-7; Isaac Mongor, TF1-532, 10 Mar 08, p. 5682-3.

³¹³⁰ TT, TF1-516, 8 Apr 08, p. 6952-3.

Sam Bockarie, who was also Kissi³¹³¹ and who came from the same town as the Sierra Leonean side of Tamba's family.³¹³²

1093. Tamba spent parts of 1994 and 1995 fighting in Giema, Sierra Leone.³¹³³ Bockarie then sent Tamba to Ivory Coast in May 1996,³¹³⁴ primarily because he trusted him to help negotiate an arms trade with ULIMO.³¹³⁵ Tamba remained there with Foday Sankoh until after the ECOMOG intervention in February 1998,³¹³⁶ though he was sent to Freetown by Dennis Kallon to request more financial support for the delegation in Ivory Coast in July 1997.³¹³⁷ In mid-1998, Tamba returned to Sierra Leone, first briefly operating as a station commander in Kono³¹³⁸ then returning to Bockarie at Buedu in July.³¹³⁹ Henceforth, Tamba reported to Bockarie.³¹⁴⁰

1094. Starting in 1998,³¹⁴¹ Sam Bockarie used to give Tamba lists of supplies, such as rice, and medicine; Tamba would then go to Monrovia to purchase those goods from Lebanese traders, bringing it back to Buedu.³¹⁴² These trips would happen frequently, roughly every 2 or 3 weeks, from mid-1998 until mid- or late-1999.³¹⁴³

1095. Also by way of background: Sampson Wehyee (or spelled Weah), was a Liberian soldier, then member of the Special Security Services (SSS). Seemingly, he was inseparable from two other Liberians: Daniel Tamba and Junior.³¹⁴⁴ According to Taylor, Wehyee was one of the bodyguards who were assigned to Benjamin Yeaten's house.³¹⁴⁵ A witness close to Benjamin Yeaten stressed that neither Wehyee nor Jungle were ever senior security to Taylor; Wehyee worked for Yeaten.³¹⁴⁶ Sampson and Yeaten were cousins, either related by blood,³¹⁴⁷ or considered family in the

³¹³¹ TT, TF1-367, 20 Aug 08, p. 14126-33.

³¹³² TT, John Vincent, DCT-215, 26 Mar 10, p. 38109-12.

³¹³³ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 45962-5.

³¹³⁴ TT, TF1-168, 26 Jan 09, p. 23534-7; Issa Sesay, DCT-172, 8 Jul 10, p. 44099-101.

³¹³⁵ TT, TF1-168, 26 Jan 09, p. 23534-7.

³¹³⁶ TT, Issa Sesay, DCT-172, 26 July 2010, p. 45182-6, 45962-5;

³¹³⁷ TT, Issa Sesay, DCT-172, 18 Aug 10, p. 46555-6.

³¹³⁸ TT, Issa Sesay, DCT-172, 28 July 10, p. 44907-8.

³¹³⁹ TT, Issa Sesay, DCT-172, 8 July 10, p. 44099-101.

³¹⁴⁰ TT, Issa Sesay, DCT-172, 26 July 2010, p. 45962-5.

³¹⁴¹ TT, TF1-516, 8 April 2008, p. 6952-3.

³¹⁴² TT, Issa Sesay, DCT-172, 26 July 2010, p. 45962-5; TT, John Vincent, DCT-215, 26 Mar 2010, p. 38109-12.

³¹⁴³ TT, TF1-585, 8 Sept 2008, p. 15653-4.

³¹⁴⁴ TT, TF1-585, 08 Sep 2008, p. 15638-39.

³¹⁴⁵ TT, Charles Taylor, 31 Aug 2009, p. 27984.

³¹⁴⁶ TT, DCT-008, 02 Sep 2009, p. 47818. See also TF1-579, 05 Nov 2008, p. 19856.

³¹⁴⁷ TT, Charles Taylor, 15 Sep 2009, p. 28865 26 Oct 2009, p. 30197.

Liberian sense, as they both hailed from Tiapley in Nimba County.³¹⁴⁸ It appears that Yeaten often assigned Sampson as a bodyguard to Bockarie.

1096. By further way of background: Benjamin Yeaten directed the Special Security Service (SSS) of the Government of Liberia.³¹⁴⁹ In this capacity, he was responsible for the personal protection of Charles Taylor,³¹⁵⁰ oversaw the Executive Mansion Guard Unit,³¹⁵¹ and controlled a supply warehouse at Taylor's residence, White Flower.³¹⁵² As director he reported to the Minister of State and met with President Charles Taylor roughly once or twice a week.³¹⁵³ While serving as the director of the SSS, Yeaten had his residence nearby White Flower, in the Congo Town part of Monrovia.³¹⁵⁴ Yeaten was also known by his codename "Fifty" or "Unit 50,"³¹⁵⁵ "Victor Oscar" or "Subject,"³¹⁵⁶ as well as the "Chief" or "Director."³¹⁵⁷ "Base 1" was the call sign used for Yeaten's home in Monrovia,³¹⁵⁸ though "Lima Bravo" might also have been used.³¹⁵⁹
1097. Yeaten is from Tiaplay, in Nimba County, Liberia,³¹⁶⁰ and was Gio.³¹⁶¹ He met Charles Taylor in 1987, while both were training with the NPFL in Libya.³¹⁶² Yeaten quickly became a core member of the NPFL and a trusted confidante of Taylor.³¹⁶³ In Burkina Faso, Benjamin Yeaten was promoted to platoon commander.³¹⁶⁴ Yeaten was a commander at an NPFL training facility in Gborplay during 1990.³¹⁶⁵ By 1994, Yeaten had become a lieutenant general.³¹⁶⁶ During the Council of State years, from

³¹⁴⁸ TT, DCT-008, 30 Aug 2010, p. 47508-09.

³¹⁴⁹ TT, Charles Taylor, 11 Nov 2009, p. 31607.

³¹⁵⁰ TT, Moses Blah, TF1-561, 14 May 2008, p. 9848.

³¹⁵¹ TT, Moses Blah, TF1-561, 15 May 2008, p. 9955.

³¹⁵² TT, Charles Taylor, 28 Oct 2009, p. 30625.

³¹⁵³ TT, Charles Taylor, 19 Nov 2009, p. 32118-31.

³¹⁵⁴ TT, Abu Keita, TF1-276, 23 Jan 2008, p. 1977; TT, Dauda Aruna Fornie, TF1-274, 02 Dec 2008, p. 21450-4.

³¹⁵⁵ TT, Issa Sesay, DCT-172, 27 July 2010, p. 44680.

³¹⁵⁶ TT, DCT-008, 1 Sept 2010, p. 473969.

³¹⁵⁷ TT, Abu Keita, TF1-276, 24 Jan 2008, p. 2135.

³¹⁵⁸ TT, TF1-516, 08 Apr 2008, p. 6853.

³¹⁵⁹ TT, TF1-585, 05 Sept 2008, p. 15600-1. *But see* TT, DCT-008, 1 Sept 2010, p. 47689-93.

³¹⁶⁰ TT, Moses Blah, TF1-561, 14 May 2008, p. 9983.

³¹⁶¹ TT, Moses Blah, TF1-561, 14 May 2008, p. 9848; TT, Charles Taylor, 28 Oct Nov 2009, p. 30538-52.

³¹⁶² TT, Charles Taylor, 19 Nov 09, p. 32118-31; Stephen Ellis, 18 Jan 08, p. 1634; Moses Blah, TF1-561, 14 May 08, p. 9848.

³¹⁶³ TT, Stephen Ellis, 18 Jan 08, p. 1634.

³¹⁶⁴ TT, Charles Taylor, 19 Nov 09, p. 32118-31.

³¹⁶⁵ TT, TF1-579, 24 Nov 2008, p. 21017.

³¹⁶⁶ TT, Charles Taylor, 19 Nov 09, p. 32118-31.

1995 until 1997, he served as the deputy director of the SSS.³¹⁶⁷ After Taylor's election to the presidency, Yeaten became SSS director.³¹⁶⁸

1098. Due to his access to President Taylor, Yeaten may have become more powerful than the vice-president and other ministers.³¹⁶⁹ Significantly, he became powerful enough that he could act without first receiving orders from Charles Taylor, and without Taylor learning of his actions.³¹⁷⁰ While supervising the RUF Guest House in Monrovia during the second half of 1998, Yeaten served as an intermediary between the RUF and Charles Taylor,³¹⁷¹ and may have developed a close personal relationship with Sam Bockarie during that period.³¹⁷²

1099. Zigzag Marzah, being one of the most notorious witnesses in the trial, needs no introduction. He testified that he made up to 40 trips from Liberia to Sierra Leone to carry arms and ammunition, including artillery pieces and chasers. He stated that weapons were picked up at White Flower and only dispensed when holding a paper signed by Taylor.³¹⁷³ However, he failed to explain how the fact that Taylor signed a paper for distribution of weapons or ammunition meant that Taylor had knowledge of the material's ultimate destination.

1100. The Prosecution suggests that Taylor knew arms and ammunition were going to Sierra Leone in 1998. In fact, that Taylor ordered [REDACTED] [REDACTED], in order for them to go and "open the border" between Sierra Leone and Liberia (Gbarnga). [REDACTED] at that time the road was closed and they were relying primarily on a helicopter.³¹⁷⁴ [REDACTED], Issa Sesay came with ATU personnel to collect the SLAs; [REDACTED] [REDACTED] subsequently thanked by Bockarie on behalf of Taylor for a job well done.³¹⁷⁵ Much of the critical analysis of the incredibility and contradictory nature of this evidence is addressed in the section on Command

³¹⁶⁷ TT, Charles Taylor, 19 Nov 09, p. 32118-31.

³¹⁶⁸ TT, Charles Taylor, 19 Nov 09, p. 32118-31.

³¹⁶⁹ TT, Moses Blah, TF1-561, 16 May 2008, p. 10046.

³¹⁷⁰ TT, Moses Blah, TF1-561, 14 May 2008, p. 9985, 20 May 2008, p. 10284; TT, Charles Taylor, 4 Nov 2009, p. 31109-10.

³¹⁷¹ TT, [REDACTED]. *But see* TT, Charles Taylor, 14 Sept 2009, p. 28773-4.

³¹⁷² TT, Charles Taylor, 5 Aug 09, p. 26011-12; 26 Oct 2009, p. 30309; TT, DCT-008, 1 Sept 10, p. 47739-42.

³¹⁷³ TT, Joseph Marzah, TF1-339, 12 Mar 08, p. 5875-83.

³¹⁷⁴ TT, TF1-362, 27 Feb 08, p. 4895-6.

³¹⁷⁵ TT, TF1-362, 27 Feb 08, p. 4898-9.

Responsibility and is incorporated by reference herein.³¹⁷⁶ Additionally, it defies logic that if the road between Gbarnga and Sierra Leone was not “open” already that Issa Sesay would have been able to pass through that territory with ATU personnel to get the 62 men. In any event, there is no credible evidence to show that Taylor provided any practical assistance, encouragement or support through this supposed order which had any effect on the preparation of a crime, or even circumstantially, the subsequent transport of arms and/or ammunition.

1101. There is a question as to whether Tamba, Marzah and Sampson transported arms and ammunition or merely ammunition. Several prosecution witnesses testified that they only transported ammunition. For example, TF1-579 testified that Tamba, Marzah and Sampson carried ammunition and never arms. Likewise, TF1-568 testified that there were no arms, only ammunition, delivered from Liberia between 1998 and 1999.³¹⁷⁷ Secondly, there is a question as to the quantity of ammunition brought by Tamba, Marzah and Sampson. TF1-579 testified that Tamba, Marzah and Sampson used to travel in a maximum of two vehicles and so were only able to carry enough ammunition to fit into those vehicles.³¹⁷⁸ TF1-568 testified that Jungle never used to bring enough ammunition.³¹⁷⁹
1102. Indeed, while the trips of Tamba, Marzah and Sampson (and others) may have been frequent, the evidence seems to support Mohamed Kabbah’s testimony that the RUF did not receive enough ammunition until Bockarie brought ammunition for the attack on Kono leading up to the attack on Freetown (i.e. the RUF’s December-January offensive in 1998-9).³¹⁸⁰ This is demonstrated by the fact the RUF was desperate to acquire ammunition via other sources, such as capturing it from ECOMOG forces. In his salute report, Exhibit D-9, Bockarie requested Superman hand over the ammunition he had captured from ECOMOG in Kono; and Bockarie continued to pursue Superman to hand over captured ammunition. TF1-375 testified that Superman refused to hand over the ammunition captured from Kabala to Bockarie, even when Bockarie sent Senegalese to recover it.³¹⁸¹ If the supply of ammunition from Liberia

³¹⁷⁶ See generally, Issa Sesay’s commentary on this allegation. TT, DCT-172, 28 Jul 10, p. 44911; 30 Jul 10, p. 45164-73 (stating that there had been 15-20 SLA/AFRC members who had been pushed into Liberia as a result of ECOMOG/Kamajor attacks and that Foday Kallon was sent to Liberia to invite them for training at Bunumbu; there was no plan to send them back to Liberia to open the border).

³¹⁷⁷ TT, Mohamed Kabbah, TF1-568, 17 Sep 08, p. 16417-8.

³¹⁷⁸ TT, TF1-579, 25 Nov 08, p. 21138-42.

³¹⁷⁹ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16140-1.

³¹⁸⁰ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16140.

³¹⁸¹ TT, TF1-375, 24 Jun 08, p. 12567-9.

had been significant, Bockarie would not have had to act in this way. It is also supported by a previous statement made by TF1-371, grudgingly acceded to in his cross-examination, that Bockarie complained that Taylor's assistance had been less than substantial until June 1998.³¹⁸² Since the evidence is fully in favour of this interpretation, rather than any other, there is no reason for the Trial Chamber not to accept, as a primary finding, that Taylor was not providing any substantial assistance to the RUF until at least mid-1998. This of course rules out any substantial assistance by Taylor towards the crimes committed during the first half of 1998.

1103. The evidence favours the conclusion that while Tamba and others did make trips from Liberia to Sierra Leone, that they transported ammunition rather than arms, and that in any event the quantities of ammunition they transported were relatively small; certainly not enough to satisfy the RUF's needs or substantially support any offensives.
1104. There is also evidence that during Bockarie's trips to Liberia, he obtained arms and ammunition from Taylor himself or his intermediaries. For example, TF1-367 alleged that Bockarie travelled to Monrovia in order to obtain arms and ammunition from Taylor; TF1-362 and DAF also make the same allegation.³¹⁸³ TF1-597 testified that he encountered Bockarie and Jungle bringing ammunition from Liberia to Buedu in March/April 1998.³¹⁸⁴ Bockarie had told him that Taylor was going to send for them, and that's how he claims to have known the ammunition came from Taylor.³¹⁸⁵
1105. Strikingly, none of the witnesses actually saw Taylor give or promise to give arms or ammunition to Bockarie. In effect, it is all hearsay evidence. Of the prosecution witnesses who had access to Taylor, Moses Blah and Varmuyan Sherif, neither mentioned personally observing Bockarie receiving arms or ammunition from Taylor. In addition, many of the witnesses who provide the hearsay evidence that Taylor gave arms or ammunition to Bockarie while Bockarie visited Liberia, are completely unreliable witnesses. For example, TF1-597's account of the trips in which he witnessed arms and ammunition being transported by Bockarie is flawed. On his first trip to Dawa, in March or April 1998, he claimed that more than ten people went in a

³¹⁸² TT, TF1-371, 30 Jan 08, p. 2668-71.

³¹⁸³ TT, TF1-367, 20 Aug 08, p. 14155. The same allegation was made by other prosecution witnesses as well: TF1-362, 27 Feb 08, p. 4909, denied by Taylor on 16 Sep 09, p. 29077; TF1-274, 2 Dec 08, p. 21451-2 and p. 21520-1, denied by Taylor on 17 Sep 09, p. 29195 and p. 29230-1.

³¹⁸⁴ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10544-50.

³¹⁸⁵ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10545.

landcruiser.³¹⁸⁶ Initially, he testified that the group went to a restaurant;³¹⁸⁷ but later claimed that this was an error.³¹⁸⁸ As for the actual ammunition shipment, he saw a landcruiser with eight men in it plus ammunition which filled a storeroom 18 feet by 15 feet.³¹⁸⁹ This comes across as pure hyperbole. On his second trip, in which he claimed to have seen a shipment of ammunition, he testified that Jungle's vehicle was in Sierra Leone, but stated he saw Jungle first in Liberia; then he changed the sighting of Jungle back to Sierra Leone.³¹⁹⁰ He is full of further inconsistencies about the trips.³¹⁹¹ One might, of course, be tempted to put such inconsistencies down to memory problems if the rest of his testimony was reliable, but even then one must doubt the accuracy of his claim that Taylor was behind the shipments. As the remainder of his testimony is far from reliable, this allegation should be dismissed entirely. Equally, this allegation is representative of, rather than an exception to, the prosecution evidence as a whole, as will be seen.

1106. The retreat from Koidu Town, April/May 1998: There is evidence that ammunition obtained from Taylor was used in Kono District in the first half of 1998. Alimamy Bobson Sesay, who was with the AFRC group under Bazzy in Kono District, testified that Bockarie distributed ammunition to the troops in Koidu Geiya to defend Koidu Town against ECOMOG. This ammunition was from Taylor, and had "Armed Forces of Liberia" written on the boxes. It was given to Superman, and Superman distributed to the various groups.³¹⁹² The troops under Superman then went to fight at Sewafe Bridge.³¹⁹³ It is not clear how long the ammunition lasted for the troops under Superman, but as it was distributed to the various groups in Kono District, it could ostensibly be linked with the whole spectrum of crimes which occurred there, including amputations,³¹⁹⁴ forced mining,³¹⁹⁵ and burning houses.³¹⁹⁶ Equally, in relation to the AFRC group, Alimamy Bobson Sesay testified that the ammunition lasted until the group came to Rosos, and so was used during the operations Gullit's

³¹⁸⁶ TT, Samuel Kargbo, TF1-597, 3 Jun 08, p. 10793-4.

³¹⁸⁷ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10544.

³¹⁸⁸ TT, Samuel Kargbo, TF1-597, 3 Jun 08, p. 10797.

³¹⁸⁹ TT, Samuel Kargbo, TF1-597, 3 Jun 08, p. 10797-803.

³¹⁹⁰ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10548-9; 3 Jun 08, p. 10808-10.

³¹⁹¹ TT, Samuel Kargbo, TF1-597, 3 Jun 08, p. 10813-7.

³¹⁹² TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8007-17.

³¹⁹³ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8017-23.

³¹⁹⁴ TT, TF1-375, 23 Jun 08, p. 12518.

³¹⁹⁵ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8028-35.

³¹⁹⁶ TT, Alimamy Bobson Sesay, TF1-334, 18 Apr 08, p. 8032-3.

group undertook from April/May 1998 until September/October 1998, including the crimes committed at Mansofinia and Karina.³¹⁹⁷

1107. However, there are serious issues with Bobson Sesay's account. In no previous interview did he state that the ammunition shipment to Koidu Geiya have "Armed Forces of Liberia" marked on it; in fact he stated in his interview in 2003 that he never actually saw arms and ammunition from Liberia.³¹⁹⁸ In addition, the witness testified that the ammunition was brought in one vehicle, yet it lasted some four to six months; his reasoning being that for most operations, only machine guns would be used, whereas rifles would not.³¹⁹⁹ This appears to stretch credulity.

1108. Operation Fitti Fatta, August 1998: There is evidence that the material used in Operation Fitti Fatta in August 1998 came from Taylor. Exhibit P-67 does not explicitly state the provenance of the arms and ammunition, but the implication is the material came from Taylor.³²⁰⁰ TF1-375 testified that the ammunition came from Gbarnga; on Bockarie's instruction, he collected ammunition from Yeaten and returned to Buedu with Daniel Tamba, Sampson and Marzah; the ammunition was then taken to Superman.³²⁰¹ Mongor testified that "a small quantity of ammunition" came from Taylor via Daniel Tamba and was distributed to Superman by Bockarie.³²⁰² King Perry, in his usual grandiose style, testified that there was an abundance of ammunition,³²⁰³ and that the arms and ammunition for the operation came from Taylor.³²⁰⁴ Alice Pyne's testimony suggests that the ammunition came from Foya, though she does not state this is from Taylor, and she did not see ammunition being given by Bockarie to Superman per se.³²⁰⁵ TF1-567 testified that Superman obtained the arms from Bockarie.³²⁰⁶ In turn, Bockarie received arms and ammunition from Taylor via Jungle, Marzah and others.³²⁰⁷

1109. However, this is at variance with other evidence, which indicates the material came from alternative sources. Exhibit D-9 states that the arms for this Operation were

³¹⁹⁷ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8136-7.

³¹⁹⁸ TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8719-23.

³¹⁹⁹ TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8723-7.
³²⁰⁰ Exhibit P-67.

³²⁰¹ TT, TF1-375, 23 Jun 08, p. 12532-41; 28 Aug 08, p. 14824-5.

³²⁰² TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5747-50.

³²⁰³ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3172.

³²⁰⁴ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3169-70.

³²⁰⁵ TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12233-41.

³²⁰⁶ TT, TF1-567, 2 Jul 08, p. 12907-8.

³²⁰⁷ TT, TF1-567, 2 Jul 08, p. 12903-7.

obtained from ULIMO by Bockarie.³²⁰⁸ Issa Sesay testified that the arms were obtained from Guinea and from former ULIMO fighters.³²⁰⁹ Charles Ngebeh testified that the arms came from the store in Buedu, which were kept there after the retreat from Freetown following the ECOMOG Intervention.³²¹⁰

1110. The material was used during the RUF attack on Koidu Town, though the operation was a failure.³²¹¹ In fact, Sesay testified that part of the reason for the failure is that the buried ammo obtained from ULIMO was dirty. Once again, it is unclear when the ammunition delivered to Superman for the Fitti Fatta operation was expended, and therefore it is unclear as to what crimes were carried out using that ammunition. One such array of crimes may be those alleged by TF1-585, who testified that Bockarie instructed Superman to amputate civilians in Kono as a punishment for leaking information to ECOMOG which resulted in the failure of Operation Fitti Fatta.³²¹² Bockarie later told Superman to stop as the world had heard about it.³²¹³ There are a number of problems with this account, not least the fact the witness alleges the atrocities took place three to four months after the operation,³²¹⁴ by which time Superman had fallen out with Bockarie and was no longer in the area. However, no such crimes can be linked with the ammunition used for Operation Fitti Fatta per se.

January 1999 Freetown Invasion and the Retreat

1111. Aside from issues of alleged cooperation between the AFRC and the RUF in the execution of the Freetown invasion as addressed in the JCE Section, there is little support for the suggestion that arms or ammunition from Taylor were used to commit any of the associated atrocities. For the Prosecution to posit that alleged material support for operations leading up to the attack on Freetown had a substantial effect on crimes committed in Freetown is simply too remote in time and place.

1112. In any event, the evidence suggests that the arms and ammunition used by the AFRC in the Freetown Invasion of January 1999 came exclusively from those captured along the way. The group that entered Freetown was low on ammunition not long before entering and did not receive any ammunition other than what it captured before it

³²⁰⁸ Exhibit D-9.

³²⁰⁹ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44058-64.

³²¹⁰ TT, Charles Ngebeh, DCT-146, 24 Mar 10, p. 37907-8.

³²¹¹ Exhibit D-9 for Superman looting. Bockarie claimed Superman concentrated on looting rather than fighting.

³²¹² TT, TF1-585, p. 15670-1.

³²¹³ TT, TF1-585, p. 15673-7.

³²¹⁴ TT, TF1-585, p. 15674-5.

entered. The AFRC group under Gullit was low on ammunition when they set up base at Eddie Town, and had to stage attacks on ECOMOG to supplement their dwindling supply.³²¹⁵ Bobson Sesay testified that the AFRC did not receive any shipments of ammunition between April 1998 and the time it entered Freetown.³²¹⁶ Issa Sesay testified that the ammunition used by the AFRC in the Freetown Invasion was from captured supplies.³²¹⁷ Mohamed Kabbah testified that it was after the group had captured a large quantity of arms and ammunition in Kambia and again captured a further quantity in Benguema that they launched the attack on Freetown.³²¹⁸

1113. King Perry testified that some of the arms and ammunition used to attack Freetown may have come from the materiel transported from Liberia by Bockarie and which was distributed to the groups in Koinadugu and Rosos.³²¹⁹ However, he did not know whether SAJ Musa brought this ammunition with him when he made his way from Koinadugu to meet Gullit,³²²⁰ and no witness testified that Musa did in fact bring any ammunition with him. Significantly, King Perry testified that the AFRC captured so much ammunition en route to Freetown, they destroyed some of it at Benguema.³²²¹ Further that when they did communicate with Bockarie, they told him they did not need ammunition.³²²² Therefore, the strong likelihood is that all ammunition used in the Freetown Invasion came from the ammunition captured en route to Freetown, particularly at Benguema.
1114. There is evidence that Rambo Red Goat, when he and his group joined the AFRC under Gullit during the latter's retreat from Freetown, brought with him ammunition. TF1-334 testified that there was a rumour that the ammunition came from Liberia. However, TF1-334 made no mention of this in his examination-in-chief, only mentioning it in cross-examination; this is despite being asked in examination-in-chief as to the source of the ammunition.³²²³
1115. There are also accounts that following the invasion, following communication with Yeaten, Bockarie was supplied with ammunition from Liberia in January 1999, which was distributed to the front lines. DAF testified that he went to White Flower to

³²¹⁵ Adjudicated Fact 9.

³²¹⁶ TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8733-4.

³²¹⁷ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44632.

³²¹⁸ TT, Mohamed Kabbah, TF1-568, 17 Sep 08, p. 16418-22.

³²¹⁹ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3206-7.

³²²⁰ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3206-7.

³²²¹ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3214-5.

³²²² TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3219.

³²²³ TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8735-40.

collect 25 boxes of ammunition, which was distributed to the front, with some being given to Rambo at Waterloo.³²²⁴ This followed a communication between Bockarie and Gullit, in which Gullit told Bockarie he was short of ammunition; thus DAF suggested that the ammunition was supplied to help Gullit's operation. However, at the time of this conversation, the RUF had already obtained a significant amount of ammunition during its December offensive against ECOMOG. The figures for this have been given above, and dwarf the supposed 25 boxes received from White Flower. So the question needs to be asked: why would Bockarie need 25 boxes from Liberia to send to Gullit, if he already had possession of over 100 boxes of ammunition, and many other supplies of arms, grenades and mortar bombs? Why did Bockarie not dispatch resources from his own supply? The answer is surely that, if he did indeed send ammunition, he did just that, and this supposed shipment of ammunition from Liberia is yet another one about which the witness is lying. In short, there is insufficient evidence to conclude that ammunition supplied by Taylor was used in the events surrounding the Freetown Invasion.

February to December 1999

1116. The evidence suggests that, from about February 1999 to December 1999, the RUF obtained arms and ammunition via several sources:

- a. From Liberia directly from Taylor via intermediaries;
- b. By capturing them from ECOMOG soldiers.

1117. In 1999, the trips made by Tamba, Marzah and others, with the assistance of Yeaten, continued. An update on the whereabouts and positions of those involved is thus instructive. By this time, Daniel Tamba had gone to Lomé as part of the RUF delegation³²²⁵ and further that by December 1999, he left Sierra Leone and the RUF, along with Sam Bockarie.³²²⁶ Once back in Liberia and out of the RUF, Tamba went on to fight under Benjamin Yeaten against the LURD insurgency.³²²⁷ He died during a firefight near Ganta in 2003, possibly from friendly fire.³²²⁸

1118. In 1999, Yeaten created the Jungle Fire Unit, which helped quell threats posed by LURD in Liberia's border areas; he subsequently served as a battlegroup commander

³²²⁴ TT, DAF, TF1-274, 3 Dec 08, p. 21593-6.

³²²⁵ TT, TF1-567, 04 July 2008, p. 12970-1.

³²²⁶ TT, Issa Sesay, DCT-172, 26 Aug 2010, p. 45077-84, 01 Sept 2010 47229-30.

³²²⁷ TT, TF1-388, 14 July 2008, p. 13643-4.

³²²⁸ TT, TF1-388, 14 July 2008, p. 13581; TT, John Vincent, DCT-215, 31 Mar 2010, p. 38227-8.

for the Jungle Fire Unit.³²²⁹ Around 2000, Yeaten was promoted to Deputy Chairman of the Joint Chiefs of Staff, putting him in charge of the generals of the Liberian armed forces for combat taking place within the country.³²³⁰ Yeaten thus had wide ranging military powers and control over operations along the Sierra Leonean border.

1119. Within this context then, testimony from [REDACTED]
[REDACTED]
[REDACTED],³²³¹ and his allegations that Taylor claimed that “when it is time for peace he should prepare for war” are circumspect.³²³² Indeed, his assertion that Taylor claimed that “when it is time for peace he should prepare for war” is suspicious, given they were apparently Sankoh’s words of advice to the RUF at the time of the Abidjan peace talks.³²³³ Has the witness merely placed words gained from another source into Taylor’s mouth?

1120. These are simply continuations of allegations addressed above, and the same is relevant here. In particular, it is worth noting the dichotomy between Taylor wanting the RUF to achieve peace and supposedly still arming them, especially at a time when his own government and hold on power was severely threatened; making it yet another in a long list of prosecution allegations that are contrary to common sense.

1121. Throughout 1999, the RUF continued to obtain arms and ammunition by capturing them from ECOMOG.³²³⁴ Bobson Sesay testified that the AFRC obtained ammunition in Makolo in 1999 by capturing it from ECOMOG.³²³⁵ Additionally, there is a message dated 14 October 1999 from Sesay to Bockarie and Sankoh in an RUF radio log, relating to materials stating that 50 boxes of AK rounds, more than 35 boxes of RPG bombs, more than 35 boxes of grenades, and many weapons had been captured from the Guineans. The witness did not know what happened to the ammunition.³²³⁶ Again, not only is this evidence that the RUF was not being wholesale supplied by Taylor, but that materials obtained from other sources far outweighed the supplies supposedly coming from Taylor.

³²²⁹ TT, Moses Blah, TF1-561, 14 May 2008, p. 9984; TT, DCT-008, 24 Aug 2010, p. 47006-9; TT, DCT-008, 30 Aug 2010, p. 47432-48. *But see* TT, Charles Taylor, 24 Sept 2009, p. 29601.

³²³⁰ TT, Charles Taylor, 4 Nov 2009, p. 31108. *But see* TT, TF1-567, 08 July 2008, p. 13199 (stating that Yeaten became Chairman); TT, John Vincent, DCT-215, 31 Mar 2010, p. 38210-1 (same).

³²³¹ TT, TF1-567, 4 Jul 08, p. 12966.

³²³² TT, TF1-567, 4 Jul 08, p. 12966.

³²³³ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9354-5.

³²³⁴ TT, Mustapha Mansaray, TF1-337, 6 Mar 08, p. 5416-8.

³²³⁵ TT, Alimamy Bobson Sesay, TF1-334, 8461-2.

³²³⁶ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16373-4.

1122. Bobson Sesay testified that ammunition supplied by Sesay to the AFRC around the Macdonald area was used in operations in early 1999. TF1-334 stated that there was a rumour that this ammunition came from Liberia. However, he made no mention of this rumour in his examination-in-chief, only mentioning it in cross-examination; this is despite being asked in examination-in-chief as to the source of the ammunition.³²³⁷ Such vague and contrived allegations should not be merited.

January 2000 Issa's Era to February 2002 End of Hostilities

1123. The evidence suggests that in 2000 and 2001 the RUF obtained arms and ammunition via several sources: (i) From Liberia directly from Taylor via intermediaries; (ii) By capturing them from ECOMOG soldiers.

1124. [REDACTED] transported arms from Monrovia to the RUF from 2000 to 2001.³²³⁸ [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]³²³⁹ [REDACTED]

[REDACTED]³²⁴⁰ Sometimes the ammunition was transported in an ATU helicopter which carried Yeaten and Sesay to Foya.³²⁴¹ Sesay denied having any dealings with Taylor concerning the supply of ammunition. While Sesay stated that he made 5 to 6 trips to Liberia when he was interim leader of the RUF, he testified that on none of these occasions did he bring ammunition back to the RUF. Nor did he have anybody who was bringing him ammunition from Yeaten.³²⁴² In the end, [REDACTED] admitted that everything that he testified about Taylor and diamonds or Taylor directing and sending arms to Sierra Leone is information told to him by others; he did not witness any of that himself.³²⁴³

1125. [REDACTED]
[REDACTED]
[REDACTED]

³²³⁷ TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8735-40.

³²³⁸ TT, [REDACTED]

³²³⁹ TT, [REDACTED]

³²⁴⁰ TT, [REDACTED]

³²⁴¹ TT, [REDACTED]

³²⁴² TT, Issa Sesay, DCT-172, 11 Aug 10, p. 46001-02.

³²⁴³ TT, [REDACTED]

[REDACTED] ³²⁴⁴ [REDACTED]

[REDACTED] ³²⁴⁵ [REDACTED]

[REDACTED] ³²⁴⁶ Sesay testified that he did not [REDACTED]

[REDACTED] and that nobody came to him with ammunition during January-May 2000. According to Sesay, the only person who crossed the border in 2000 was Ibrahim Bah. There was no ammunition coming from Taylor's house in Congo Town.³²⁴⁷ Further, nobody delivered ammunition to Sesay on the instructions of Yeaten in early 2001, nor did anyone deliver ammunition in Mende Buima coming from White Flower.³²⁴⁸

1126. In addition to this complete denial by Issa Sesay, TF1-375's evidence is suspect for many reasons. He pretended to have intimate knowledge of things of which it was shown he did not. For instance, he told the Court he had Charles Taylor's phone number,³²⁴⁹ then the lady who actually uses that phone number came to testify.³²⁵⁰ It is submitted that his incentive in providing the Prosecution information was to make money; the Prosecution obliged. For example, during his first interview with the Prosecution, he stated that he was not satisfied with being given only 50 USD for a five minute motor bike ride. He was then given 100 USD for his second visit, notwithstanding the fact that during both visits he gave them false information and was generally uncooperative.³²⁵¹

1127. King Perry testified that Taylor sent a helicopter full of ammunition to Foya in return for peacekeepers.³²⁵² He testified that Taylor said he was sending ammunition because the RUF should expect to be attacked for arresting and molesting UN peacekeepers and that ammunition should be used to defend RUF positions.³²⁵³ However, King Perry has been discredited on so many of his allegations, it is hard to take this one seriously; especially because he claimed the helicopter sent to pick up the peacekeepers was Taylor's rather than a United Nations helicopter.³²⁵⁴

³²⁴⁴ TT, TF1-375, p. 12659-60; p. 12661-2.

³²⁴⁵ TT, TF1-375, p. 12662-3.

³²⁴⁶ TT, TF1-375, p. 12663-4.

³²⁴⁷ TT, Issa Sesay, DCT-172, 11 Aug 10, p. 46002-03.

³²⁴⁸ TT, Issa Sesay, DCT-172, 11 Aug 10, p. 46004-05.

³²⁴⁹ TT, TF1-375, 27 Aug 08, p. 14802.

³²⁵⁰ TT, DCT-213, 8 Jun 10, p. 42373, 42394.

³²⁵¹ TT, TF1-375, 26 Aug 08, p. 14649.

³²⁵² TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3270.

³²⁵³ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3271.

³²⁵⁴ TT, Perry Kamara, TF1-360, 7 Feb 08, p. 3395-6.

1128. There is a small amount of evidence that the RUF obtained arms and ammunition by capturing it from ECOMOG in this period. For example, Issa Sesay testified that the RUF captured arms from government troops and from ECOMOG.³²⁵⁵ This seems to have been in significant quantities since, Issa Sesay testified that, in 2001, the RUF had so many arms and ammunition, which it had captured from ECOMOG, that it did not need to trade for further supplies.³²⁵⁶
1129. In addition, equipment was taken from the UN peacekeepers in May 2000 and used by the RUF. Sesay testified that the peacekeepers' ammunition and vehicles were captured and RUF officers were using those vehicles in ambushes.³²⁵⁷
1130. In any event, given the lack of RUF operations in 2000 and 2001, and evidence of few atrocities against civilians, there would not have been the need for the RUF to obtain large quantities of arms and ammunition.

General Conclusions

1131. The RUF did obtain arms and ammunition from Liberia. However, it obtained fewer arms and ammunition from Liberia than from other sources. Indeed, as far as the statistics show, the three main sources of arms and ammunition were the Magburaka Shipment of 1997, the Burkina Faso shipment of December 1998 and the materiel captured from ECOMOG in December 1998. None of these shipments amount to assistance from Taylor. This makes complete sense within the context that the arms and ammunition the RUF did obtain from Liberia was never enough to enable it to launch major operations. This is supported by logic, namely, the fact that the RUF, despite receiving materiel from Liberia throughout 1998, was only able to launch its major operation in December 1998 once it had obtained materiel from Burkina Faso; it is further supported by witness testimony.³²⁵⁸
1132. This in turn suggests another conclusion, that the arms and ammunition the RUF obtained from Liberia was not through official channels, but through unofficial ones. It is also a conclusion supported by the evidence. Moses Blah testified that, despite being vice-president, he did not know about arms shipments to Sierra Leone.³²⁵⁹ The report of Colonel Dempsey, investigating arms into Sierra Leone, concluded that the small quantity of arms which had been going across the border into Sierra Leone was

³²⁵⁵ TT, Issa Sesay, DCT-172, 26 Aug 10, p. 47194-5.

³²⁵⁶ TT, Issa Sesay, DCT-172, 28 Jul 10, p. 44809-10.

³²⁵⁷ TT, Issa Sesay, DCT-172, 11 Aug 10, p. 45998-6001.

³²⁵⁸ See above.

³²⁵⁹ TT, Moses Blah, TF1-561, 19 May 08, p. 10225-6.

not being organised at an official level.³²⁶⁰ Similarly, the US Deputy Assistant Secretary of State for Africa, Vicki Huddleston stated that there was no evidence that the Liberian government was involved in aiding the war in Sierra Leone.³²⁶¹

1133. The question is, of these shipments to the RUF, what was Taylor's role and knowledge? A significant number of prosecution witnesses have alleged that Taylor was behind the supply of arms and ammunition to the RUF (although, as laid out above, many testified the supply was of ammunition more than, or rather than, arms). For example, Sherif testified that Taylor instructed him to take arms and ammunition to Bockarie in early 1998; indeed, that Taylor ordered some free-for-all exchange of weapons and fighters between Lofa County and Kailahun District.³²⁶² Likewise, TF1-399, TF1-375 and TF1-567 have also testified [REDACTED]

[REDACTED].³²⁶³ There is evidence that in Liberia, Taylor had control of arms and ammunition,³²⁶⁴ and that arms and ammunition were kept at Taylor's house known as White Flower.³²⁶⁵ Sherif implausibly alleges that President Taylor had "total control" over the storage of arms and ammunition at White Flower.³²⁶⁶ As it was this store that was accessed by Tamba and others who took materiel to Sierra Leone,³²⁶⁷ the implication is that Taylor knew about the trade in this materiel.

1134. Equally, there are reasons to believe that Taylor did not know about the transportation of arms and ammunition to the RUF. Firstly, Taylor himself denied giving arms or ammunition to the RUF during the Indictment period.³²⁶⁸ In addition, DCT-008 testified that material was sent to Sierra Leone without Taylor's knowledge.³²⁶⁹ Yeaten sent ammunition to Bockarie,³²⁷⁰ as part of a relationship which seems to have begun in September 1998 and lasted until Bockarie left the RUF in late 1999.³²⁷¹ During the evidence, the question was raised as to how Taylor could not have known about the trade. Justice Lussick asked:

³²⁶⁰ TT, Taylor, 6 Aug 09, p. 26158-9; Exhibit D-141, p. 293.

³²⁶¹ Exhibit D-141, p. 293.

³²⁶² TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 851-3.

³²⁶³ TT, Joseph Marzah, TF1-339, 12 Mar 08, p. 5875-83; TF1-375, p. 12659-64; TF1-567, p. 13111-2.

³²⁶⁴ TT, Varmuyan Sherif, TF1-406, p. 904.

³²⁶⁵ TT, Varmuyan Sherif, TF1-406, p. 868; Karmoh Kanneh, TF1-571, p. 9499-501.

³²⁶⁶ TT, Varmuyan Sherif, TF1-406, p. 869 (while Sherif speaks with authority in that Taylor had complete control over the warehouse, he cannot recall the names of any of the attendants who actually worked there).

³²⁶⁷ TT, TF1-579, 5 Nov 08, p. 19837-42.

³²⁶⁸ TT, Charles Taylor, 10 Sep 09, p. 28611 (in particular, to Bockarie).

³²⁶⁹ TT, DCT-008, 24 Aug 10, p. 47045-7; 27 Aug 10, p. 47387-96.

³²⁷⁰ TT, DCT-008, 27 Aug 10, p. 47387-96.

³²⁷¹ TT, DCT-008, 27 Aug 10, p. 47391-6.

My simple question was how could the transaction of selling ammunition and its transported out of Liberia not be known to the President when a lot of people would have been involved.³²⁷²

1135. First and foremost it should be recalled that from 1998 to 2003, Liberia was still under threat from invading forces. LURD was attacking from Guinea³²⁷³ (with support from Sierra Leone) and MODEL was attacking from the Ivory Coast. The country of Liberia was largely in chaos and under threat; there were inadequate security personnel to patrol the border. Taylor had reason to send arms and ammunition with his own fighters to the border areas, especially with Generals such as Yeaten and his SSS bodyguards. In a poverty-stricken, war-torn society it is quite understandable that these same people would look for any possible way to supplement their meager income. Nonetheless, it is not self-evident that Taylor should have known that some of it was given instead to the RUF by Yeaten.
1136. Furthermore, it is noteworthy that no witness has a good general picture of arms and ammunition shipments that were going from or through Liberia to Sierra Leone at the time; yet this is what is being imputed to Taylor as President. Rather each witness's account comes across as a piece of a much larger jigsaw, which suggests that what was being transported from Liberia to Sierra Leone was being transported in a rather haphazard manner, rather than on an official basis. Even the United Nations Panel of Experts Report peddled the hearsay evidence gleaned from unidentified sources, in one short paragraph, and concluded that the material must be coming from Taylor, without any evidence to suggest as much.³²⁷⁴
1137. For instance, one of those supposedly involved in the transportation of arms and ammunition was Sherif. As noted above, Sherif testified that he transported arms and ammunition to the RUF himself.³²⁷⁵ Likewise, Marzah testified that he transported arms and ammunition to the RUF himself.³²⁷⁶ However, Sherif's only knowledge of Marzah transporting arms and ammunition comes from a chance encounter with him when they were both in Foya.³²⁷⁷ Marzah, although he knew Sherif,³²⁷⁸ did not mention him being involved in the transportation of arms and ammunition. This is

³²⁷² TT, DCT-008, 27 Aug 10, p. 47390.

³²⁷³ See, ex., TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 870.

³²⁷⁴ Exhibit P-18, para. 193.

³²⁷⁵ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 851-3.

³²⁷⁶ TT, Joseph Marzah, TF1-339, 12 Mar 08, p. 5875-83.

³²⁷⁷ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 864-5.

³²⁷⁸ TT, Joseph Marzah, TF1-339, 13 Mar 08, p. 6053-4.

despite the fact both witnesses were senior figures in the SSS and both supposedly working for Taylor in delivering arms and ammunition to the RUF.³²⁷⁹ It is this lack of co-operation in activity and corroboration in evidence that fuels the idea that the transactions of arms and ammunition from Liberia to Sierra Leone were more of an “every man for himself” affair, a private enterprise, rather than an organised, presidentially-directed one. If Sherif’s transactions escaped the attention of Marzah, then it is hardly a surprise that such arms and ammunition transactions escaped the attention of the president and vice-president of Liberia. An appropriate analogy to this is easily found, for the trade in illegal drugs is similarly covert, and hard to pin down by anyone in authority. It should caution us that the assumption that those in high positions of authority know all is a mistaken one.

1138. The alternative explanation is that arms and ammunition were traded for personal gain. Witnesses from both Prosecution and Defence have acknowledged that there was a trade for personal enterprise, and that Yeaten was involved. TF1-371 agreed that Yeaten would take diamonds without them going to Taylor.³²⁸⁰ DCT-008 testified that Yeaten was trading with Bockarie for his own personal benefit.³²⁸¹ Indeed, Exhibit P-18, the United Nations Panel of Experts Report fully supports the view that there was a significant amount of materiel being traded informally in a corrupt and uncontrolled environment.³²⁸² This interpretation of the evidence helps explain why the RUF was supplied with such a small quantity of arms and ammunition until it was able to organize more substantial shipments. Contrast this situation with that of the CDF, supplied by ECOMOG; there is no evidence that the CDF Special Forces, for instance, suffered from a lack of ammunition.³²⁸³

1139. In this way, given the logic of the evidence supporting the interpretation that the RUF received its arms and ammunition from a variety of sources, rather than one, large, official source, one might wonder why there is so much evidence linking Taylor with supplying the RUF’s arms and ammunition. One reason may be that it was easy to attach Taylor’s name to such a trade in hindsight. One of the best examples of this is Sherif’s evidence that Taylor was behind the selling of arms and ammunition by former

³²⁷⁹ TF1-399 testified that he was only outranked by Taylor and Yeaten: TT, Joseph Marzah, TF1-339, 13 Mar 08, p. 6054. Yet Sherif, TF1-406 was deputy director of operations.

³²⁸⁰ TT, TF1-371, 30 Jan 08, p. 2668-70.

³²⁸¹ TT, DCT-008, 24 Aug 10, p. 47045-7; 27 Aug 10, p. 47387-96.

³²⁸² Exhibit P-18, paras. 167-179.

³²⁸³ TT, DCT-190, 7 Jun 10, p. 42231-6, p. 42254-8.

ULIMO combatants to the RUF.³²⁸⁴ As we have seen, the evidence suggests that the trade had been going on for many years before this,³²⁸⁵ and was independent of Taylor. Yet, through Sherif's concocted evidence, an independent trade comes to be connected to Taylor. It is only through the chance availability of evidence to the contrary that we can disprove his account. However, the poverty of the evidence in general means we cannot do this for every single allegation in which Taylor's name has been linked with the arms and ammunition.

1140. Another example of evidence that on first glimpse seems so potent is the case of arms and ammunition which was taken to the RUF being retrieved from White Flower and then taken to the RUF. However, all Taylor would have seen of this, if he saw it at all, is men coming to the warehouse and retrieving arms and ammunition, as men there no doubt did every day. There was nothing to mark out some of those men who came as RUF: they did not wear T-shirts marked "RUF" and speak Krio to be overheard by everyone. Rather, the evidence is that such shipments were conducted at night and in secret, by individuals such as Yeaten, whose authority was not questioned.³²⁸⁶

1141. The vast majority of the evidence is hearsay evidence: that is rumour, supposition, often based on very shaky ground, assumptions masquerading as evidence, the only value of which is the idea that there is no smoke without fire. That is to say the quantity of the hearsay evidence somehow makes up for its lack of probative force. This is dangerous. The repetition of unreliable evidence does not make it more reliable, simply because it is repeated. This is equally applicable to the United Nations Panel of Experts Report, which merely peddled unidentified evidence, and yet which had no actual evidence of arms and ammunition being sent by Taylor, or with Taylor's knowledge, to the RUF.³²⁸⁷

1142. Further, it is particularly unwise to rely on such unreliable evidence when there is evidence that witnesses have been induced into linking Taylor with arms shipments. TF1-585 testified that [REDACTED] about testifying and mentioned the court wanted witnesses to testify about arms and ammunition, and Taylor's involvement in the war in Sierra Leone.³²⁸⁸ With such information propagated before witnesses were even interviewed by the Prosecution, it is no

³²⁸⁴ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 851-3.

³²⁸⁵ See above for evidence of trade between the RUF and ULIMO for the years prior to 1998.

³²⁸⁶ At night: TT, TF1-567, 4 Jul 08, p. 12993-8.

³²⁸⁷ Exhibit P-18, para. 193.

³²⁸⁸ TT, TF1-585, 10 Sep 08, p. 15940-1.

- surprise that such witnesses have been encouraged, perhaps not by prosecution investigators, but by those sources working on behalf of them, to spin stories of RUF arms and ammunition originating from Taylor. As such there seems to have been a number of witnesses who have lied. Edna Bangura even admitted lying when she stated that arms and ammunition came from Liberia.³²⁸⁹
1143. Other witnesses have proved wildly inconsistent, suggesting they are providing inaccurate information. DAF is extremely inconsistent about the number of trucks and the quantity of ammunition he meets coming back from Monrovia following his journey there in early 1998.³²⁹⁰ TF1-597 is similarly inconsistent about supposed ammunition shipments from Liberia.³²⁹¹ His evidence is suspect anyway, given that he benefited from the process by having his family relocated.³²⁹²
1144. Equally, it is common for prosecution witnesses to introduce links with Liberia or Taylor late in their interviews or even during testimony, sometimes not arising until proofing sessions in The Hague. Bobson Sesay testified that there was a rumour that ammunition eventually supplied to the AFRC in early 1999 came from Liberia; however, he made no mention of this in his examination-in-chief, only mentioning it in cross-examination; this is despite being asked in examination-in-chief as to the source of the ammunition.³²⁹³ Likewise, Mongor's initial account of the Magburaka Shipment demonstrates he too lied in court to link Taylor with providing arms and ammunition to the groups in Sierra Leone.³²⁹⁴
1145. All of these problems paint a picture of unreliable witnesses and incredible evidence. They attempt to impute to Taylor knowledge and responsibility for transactions that were going on independently. It cannot stand up to proof.
1146. Further, prosecution witnesses have alleged Taylor not only knew about such materiel shipments, but intended that they be sent. Taylor instructed TF1-406 to deliver arms and ammunition to Bockarie.³²⁹⁵ Taylor sent ammunition to the RUF for the Fitti Fatta mission.³²⁹⁶

³²⁸⁹ TT, Edna Bangura, TF1-314, 20 Oct 08, p. 18757-66.

³²⁹⁰ TT, DAF, TF1-274, 10 Dec 08, p. 22031-47.

³²⁹¹ *See generally*, testimony from 3 Jun 08, p. 10793-826;

³²⁹² TT, Samuel Kargbo, TF1-597, 3 June 2008, 10844.

³²⁹³ TT, Alimamy Bobson Sesay, TF1-334, 28 Apr 08, p. 8735-40.

³²⁹⁴ TT, Isaac Mongor, TF1-532, p. 6656-8; 6599. And see analysis of this above.

³²⁹⁵ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 851-3.

³²⁹⁶ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3169-70.

1147. There is only one witness, Sherif, who testified that he personally was instructed to deliver arms and ammunition by Taylor. The vast majority of witnesses testified that Taylor was behind such shipments only through hearsay: from what they heard from RUF commanders who had seen Taylor in person, or from what they heard from intermediaries such as Daniel Tamba. For example, TF1-567 testified that Tamba and others used to go to Buedu with arms, ammunition and food. Tamba said that the arms and ammunition came from Taylor.³²⁹⁷ TF1-567 only heard about arms and ammunition coming from Taylor through what he heard from others.³²⁹⁸ Accomplice hearsay evidence shall not be used to corroborate itself.
1148. Against that, there is Taylor's own testimony that he took steps to prevent arms and ammunition being taken to Sierra Leone. For example, Taylor told Kabbah that he was making an effort to post people on the border to monitor the situation with regards to arms crossing into Sierra Leone.³²⁹⁹ As part of this effort, though also for other reasons, the Liberian government closed the border with Sierra Leone on 22 December 1998,³³⁰⁰ or a few days before 22 December 1998.³³⁰¹ The Liberian government collaborated with ECOMOG to enforce the closure.³³⁰² Equally, Taylor and the Liberian government sought for the UN or ECOMOG to deploy observers to monitor the border. For example, on 15 June 1998, the Liberian representative appealed to the UN for the deployment of UN observers to monitor the border so the UN could confirm itself that the allegations against Taylor were not credible.³³⁰³ Taylor repeatedly and routinely made this request from 1998 to show that arms were not crossing into Sierra Leone.³³⁰⁴ He even brought up the idea to have joint border patrols between Liberia and Sierra Leone, which Kabbah agreed to in November 1998 following a Mano River Union summit in Conakry.³³⁰⁵ These are recorded in official

³²⁹⁷ TT, TF1-567, p. 12905-7.

³²⁹⁸ TT, TF1-567, p. 13097-8.

³²⁹⁹ TT, Taylor, 5 Aug 09, p. 26027-8.

³³⁰⁰ TT, Taylor, 5 Aug 09, p. 26114; Exhibit D-141, p. 56.

³³⁰¹ Exhibit D-141, p. 290; Exhibit D-178, para. 11 has Taylor announcing the border closure on 20 December 1998.

³³⁰² Exhibit D-141, p. 290.

³³⁰³ Exhibit D-158, p. 2.

³³⁰⁴ Exhibit P-130; Exhibit D-141, p. 298; TT, Taylor, 3 Aug 09, p. 25803; Exhibit D-34; Exhibit D-158, p. 2; TT, Taylor, 3 Aug 09, p. 25803; Exhibit D-141, p. 298; Exhibit D-175, para. 14; Exhibit D-178, para. 11; Exhibit D-179, p. 2; Exhibit D-182, p. 2; Exhibit D-185, p. 4; Exhibit D-188, p. 2; Exhibit D-232, para. 6; Exhibit D-235, para. 1; Exhibit D-239A, p. 1; Exhibit D-239C, para. 1; Exhibit D-263, p. 3; Exhibit D-264, p. 2; Exhibit D-268, p. 1-2.

³³⁰⁵ Exhibit D-175, paras. 12-14; TT, Taylor, 5 Aug 09, p. 26094-5; the call was reiterated by the Liberian government on 29 December 1998 (Exhibit D-141, p. 292); there were also proposals from Taylor for joint patrols between Liberia and ECOMOG (Exhibit D-178, para. 11).

written documents, not peddled at the *n*th attempt by witnesses from what they supposedly 'heard' or what someone else 'saw'.

1149. Another pointer that Taylor was not behind shipments to the RUF comes from simple logic. For example, the major shipment to the RUF which occurred in late 1998 from Burkina Faso has been linked by witnesses to Taylor. However, it makes no sense for Taylor, if he had been supporting the RUF from its inception, to arrange such a shipment at such a time. The Intervention had occurred in February 1998, and by late 1998, the RUF had struggled for almost a year with low supplies of arms and ammunition. So what logic is there behind Taylor being the source of this shipment in late 1998? Why would someone who was supposedly backing the RUF all year wait for so long to supply the group, allowing them to struggle for a good eight to ten months? Surely the evidence of this shipment supports the theory that the RUF had to obtain its arms and ammunition independently of Taylor, and that it too was struggling to find such supplies? That explains the delay.

1150. The evidence therefore suggests that Taylor did not and had no intention to aid and abet criminal activities of the RUF and/or AFRC through the provision of arms and ammunition.

Provision of Military Training

1151. Under this heading, the Prosecution contends that military training provided by Taylor to the RUF/AFRC provided the skills used by the RUF, Junta and RUF/AFRC to attack cities, towns and villages in Sierra Leone and secure control over those engaged in the crimes alleged in the Indictment. Specifically, the Prosecution refers to military training of RUF, Junta and AFRC/RUF conscripts and recruits, both in Liberia and in Sierra Leone.³³⁰⁶

1152. The alleged provision of military training to the RUF recruits at Camp Naama has been adequately addressed in the JCE Section and does not need rehashing here. Suffice to say that Taylor had no knowledge of the training and thus cannot be liable under aiding and abetting for any training assistance rendered by his subordinates at Camp Naama and/or to the RUF in the early stages of the war. Likewise, as also addressed in the JCE Section, even if Taylor was aware of Sankoh's training on the base, it is not proven that Taylor had the required *mens rea* for criminal aiding and abetting. The Prosecution has not shown that Taylor knew his acts would assist the

³³⁰⁶ Prosecution Pre-Trial Brief, para. 58.

commission of a crime by the RUF, or his awareness of a substantial likelihood that his acts would assist the commission of a crime. In any event, the training of a rebel force is not criminal. Furthermore, any training assistance given to the RUF in 1990 through 1992, prior to the Indictment period, and when Taylor himself was a rebel leader should not be considered as evidence of a continuous pattern of conduct in relation to allegations of training which fall within the Indictment period, when Taylor was, for the most part, President of Liberia. As Taylor is in two different positions, the acts he may have taken in one role he may not have taken in another role; it is an unfair and unhelpful comparison.

1153. One of the Prosecution's primary training-related allegations which fall during the Indictment period focus on alleged training of "RUF" personnel at Gbatala or Cobra Base,³³⁰⁷ near Gbarnga, between 2000 and 2002. Exhibit P-18, a Report of the Panel of Experts Established by Resolution 1306 (20 December 2000), at paragraphs 183-185 describes reports from "hundreds" of ex-combatants and former RUF leaders stating that the RUF has received regular training at Gbatala near Gbarnga. Exhibit P-18 suggests that training is being given to non-Liberian nationals for deployment in RUF-territory in Sierra Leone, and for action in clashes along the Guinean border. Further, that these RUF soldiers have been trained alongside Liberia's Anti-Terrorist Unit (ATU), and that RUF combatants are frequently used by President Taylor for his own personal security details. Based on these allegations, the American Ambassador to Liberia, Bismark Myrick accused Taylor of providing sanctuary to members of the RUF.³³⁰⁸ Taylor denied such allegations.³³⁰⁹

1154. The evidence of Prosecution and Defence witnesses is strikingly uniform in debunking this finding by the UN Panel of Experts and the accusation by the American Ambassador. Taylor opened the Gbatala training base in 1999 and hired a South African general to train the ATU.³³¹⁰ The Sierra Leoneans who trained at Gbatala Base between 2000 and 2002 were those RUF members who left Sierra Leone (and gave up their membership in the RUF) along with Sam Bockarie in late

³³⁰⁷ Cobra Base is located just outside of Gbatala village, on the road from Gbarnga to Monrovia. TT, Suwandi Camara, TF1-548, 8 Feb 08, p. 3476; 11 Feb 08, p. 3539. Pictures of the now rundown facilities at Cobra Base, Gbatala can be found in Exhibits D-376A-E; discussion in TT, Charles Taylor, 29 Oct 09.

³³⁰⁸ Exhibit D-330, p. 1.

³³⁰⁹ TT, Charles Taylor, 31 Aug 09, p. 28050-1.

³³¹⁰ TT, Charles Taylor, 16 Sept 09, p. 29064; Exhibit P-18, paras. 186-191.

1999.³³¹¹ They were subsequently granted Liberian citizenship and incorporated into the ATU.³³¹² The former RUF combatants were not trained for the purpose of returning to Sierra Leone but to work within the ATU.³³¹³ Specifically, the ATU was responsible for guarding Taylor and fighting against insurgents invading Liberia.³³¹⁴ These ATU trainees and recruits were paid.³³¹⁵ Bockarie himself did not train and did not join the ATU;³³¹⁶ nor did Bockarie have any command over any members of the ATU.³³¹⁷ Allegations from Prosecution witnesses, such as TF1-388,³³¹⁸ that Taylor was training the RUF at Gbatala covertly do not withstand scrutiny. Taylor testified that Tejan Kabbah knew he was training former RUF combatants, and that the matter had been discussed with the United Nations.³³¹⁹ Furthermore, ATU personnel were indiscriminately deployed at the United States Embassy; a US Embassy official even attended an ATU graduation ceremony at Gbatala.³³²⁰

1155. The reasons that Taylor extracted Bockarie from the conflict in Sierra Leone are well-documented and were in furtherance of the peace process in that country.³³²¹ The fact that Taylor then had to find a way to employ those combatants who crossed over with Bockarie, in order to keep them out of trouble, should and cannot be held against him. Taylor made every effort to separate Bockarie from his followers. The Defence notes that Tejan Kabbah was not indicted or tried for similarly training, arming and providing safe haven to ULIMO/LURD combatants inside Sierra Leone during the conflict. Perhaps more on point, Tejan Kabbah was not indicted or tried for having incorporated former AFL soldiers into the Sierra Leone Army, paying them as members of the Special Task Force.³³²² It is submitted that is because it is not a crime

³³¹¹ In fact, the RUF who went to Liberia with Bockarie were afraid to return to Sierra Leone for fear of retaliation from Issa Sesay. TT, TF1-388, 16 July 2008, p. 13852.

³³¹² TT, Charles Taylor, 31 Aug 09, p. 28050-1.

³³¹³ TT, Charles Taylor, 25 Aug. 2009, p. 27639-40; TF1-388, 10 Jul 08, p. 13448-9; 13451-13452; 13473; and 11 Jul 2008, p. 13526-8; TF1-567, 7 Jul 08, p. 13035.

³³¹⁴ TT, TF1-579, 5 Nov 08, p. 19851; TF1-516, 9 Apr 08, p. 7038-41; TF1-388, 10 Jul 2008, p. 13452 (confirms that they were not being trained to return and fight in Sierra Leone, at 10 Jul 08, p. 13458-13461).

³³¹⁵ TT, TF1-567, 7 Jul 08, p. 13035-6.

³³¹⁶ TT, TF1-567, 7 Jul 08, p. 13036-7.

³³¹⁷ TT, TF1-388, 18 Jul 08, p. 13986; Charles Taylor, 26 Oct 09, p. 30298-9.

³³¹⁸ TT, TF1-388, 16 Jul 08, p. 13878.

³³¹⁹ TT, Charles Taylor, 26 Oct 09, p. 30320, p. 30324-6.

³³²⁰ TT, Charles Taylor, 26 Oct 09, p. 30321-2.

³³²¹ *See, eg.*, Exhibit D-255, para. 9 (stating that Bockarie's return to Sierra Leone from Liberia would have "unwanted consequences") and pg. 8 (Taylor expressed his frustration at the international community's ingratitude to him for removing an acknowledged impediment to the peace process).

³³²² Exhibit D-255, para. 6 (Downes-Thomas Code Cable acknowledging Taylor's concern that elements of ULIMO-J and K had been co-opted into the Sierra Leonean security apparatus); *see also* reference to the Special Task Force in the Factual Narrative.

to hire and train foreign nationals as part of a national army or militia (and because there are political motivations behind Taylor's indictment).

Provision of Other Assistance and Morale Boosters

1156. The Prosecution alleges that Charles Taylor contributed to the RUF and the war in Sierra Leone through "other forms of assistance". This assistance included money, food, technical support, morale boosters and other considerations. The Prosecution contends that such evidence was critical to RUF's war in Sierra Leone. Some of the evidence deals with the pre-indictment period and will be briefly addressed. The majority of the evidence can be broken into three categories. The first, and broadest category, is evidence composed of testimony by individuals in Sierra Leone who claimed the alleged assistance came from Taylor but had no personal knowledge of the transaction and only cited hearsay as to the origin of the goods being Charles Taylor. The second category includes more specific allegations that Charles Taylor provided money or other goods to individuals in Monrovia. Finally, the Prosecution alleged specific forms of cooperation, which will be addressed one by one.

1157. To begin, the Prosecution adduced evidence that prior to the indictment period Foday Sankoh occasionally brought arms which were either purchased, or provided, by Charles Taylor. This will be addressed briefly. For example, Mallah recounts Sankoh visiting soldieris in Zimmi in 1991 claiming the supplies came from Taylor.³³²³ He also testified that Sankoh had brought arms from Gbargna provided by Taylor in 1991.³³²⁴ Other witnesses testified that this continued into 1992. For instance, TF1-338 "knew" that Sankoh was provided with vehicles by Taylor to transport supplies, in addition to arms and ammunition, to Sierra Leone in 1992;³³²⁵ Sankoh had told TF1-567 that Taylor had promised food for the soldiers³³²⁶; King Perry said Taylor also provided Sankoh with trucks to move the ammunition³³²⁷ and recalled biweekly trips where Sankoh and the RUF would load trucks filled with bags of rice and take them from Gbarnga or Harbel.³³²⁸ All of these allegations of assistance are pre-Indictment and were during the period of mutual cooperation between the RUF and NPFL against ULIMO. It is not even instructive as Rule 93 material because these are examples of assistance between two rebel organizations, not examples of support

³³²³ TT, Augustine Mallah, TF1-045, 12 Nov 08, p. 20075-6.

³³²⁴ TT, Augustine Mallah, TF1-045, 13 Nov 08, p. 20158; TF1-567, 2 Jul 08, p. 12828-9.

³³²⁵ TT, TF1-338, 1 Sep 08, p. 15107-9.

³³²⁶ TT, TF1-567, 2 Jul 08, p. 12843-5, 12848.

³³²⁷ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3035.

³³²⁸ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3044-5.

from the leader of a proper government to a rebel group to which indictment period allegations relate.

1158. King Perry alone states that throughout 1992 and 1994 (even after the accepted closure of the border by ULIMO), the RUF received its supplies from Taylor through Foya; aside from arms and ammunition, the purported supplies included food and drugs.³³²⁹ All of this is pre-indictment evidence. Moreover, it is hearsay with witnesses describing things they heard while in Sierra Leone about events supposedly transpiring in Liberia.
1159. The first category of evidence encompasses the group of Prosecution witnesses who testified at length of indirectly witnessing assistance provided by Charles Taylor to Sierra Leone. The evidence will be laid out extensively to show the common thread in this group of evidence – that it is pure hearsay allegations that some undefined and vague material assistance somehow arrived from Monrovia, and therefore, also from Charles Taylor. The Defence asserts that the majority of these cases are simple instances of individuals either assuming that assistance came from Taylor because it came from abroad or, in the alternative, retroactively deciding that it was from Taylor during their testimony. For example, TF1-388 “learned” from Bockarie’s bodyguard commander that whenever Bockarie went to Monrovia, they could expect supplies from Taylor.³³³⁰ He also claimed that in 1998 a large shipment of supplies arrived for the Kono Operation that included ammunition, drums of petrol, diesel, and engine oil, bags of rice, salt, Maggi, and batteries; the shipment also came with an escort, including Joseph Marzah, Abu Keita, Daniel Tamba, and Pa Sheku.³³³¹ The fact that escorts included Liberians says nothing about the origin of the support or Taylor’s knowledge of it passing through Liberian territory.
1160. TF1-585 was “aware” that in early 1998, Daniel Tamba brought food, clothing and other items, in addition to arms and ammunition, to Buedu.³³³² The witness also stated that in late 1999 there were five trucks loaded with various supplies, including food, clothing, shoes, arms and ammunition, taken from Monrovia to Buedu; this occurrence coincided with Taylor’s order that Bockarie come to Monrovia.³³³³ However, it is quite plausible that Taylor could have “ordered” Bockarie to Monrovia

³³²⁹ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3045.

³³³⁰ TT, TF1-388, 10 Jul 08, p. 13412-7.

³³³¹ TT, TF1-388, 10 Jul 08, p. 13424-5.

³³³² TT, TF1-585, 8 Sep 08, p. 15652-3.

³³³³ TT, TF1-585, 8 Sep 08, p. 15663.

for one purpose and while Bockarie was in town, he purchased supplies independently. These latter examples show that the provision of goods was merely associated with Taylor.

1161. Some evidence does not mention Taylor specifically and asks the court to simply draw an inference that Taylor himself was necessarily linked to the RUF's ability to obtain all supplies in Liberia. According to TF1-338, in February 2000, Issa Sesay flew from Monrovia to Foya with diesel for the vehicles and equipment used for diamond mining, in addition to arms and ammunition, and then proceeded to load the supplies on to his jeep and drive it to Sierra Leone.³³³⁴ Later on, in April 2000, after meeting with some Belgians, Issa Sesay flew from Monrovia to Foya with rice, diesel (for vehicles and equipment used for diamond mining), medicine and some drugs, in addition to arms and ammunition; he then proceeded to load the supplies on to his jeep and drove it to Sierra Leone.³³³⁵ On its face, this evidence suggests that the support was received from the Belgians in Monrovia, not Taylor.
1162. Prosecution evidence also commonly includes evidence of hearsay, whereby individuals claim to have "heard" other forms of assistance came from Taylor. In November 1999, Mongor saw Bockarie return from Liberia with ammunition, food and medicine, reportedly from Taylor.³³³⁶ In December 1999, [REDACTED] Akim Turay and General Ibrahim in Voinjama when they were transporting mining equipment for the mines in Tongo, the latter said the equipment was from Taylor.³³³⁷ Such an inference would disregard the evidence that Ibrahim Bah is a businessman who operated throughout the sub-region and could have obtained mining equipment from any source in the diamond trade industry, other than Taylor.
1163. TF1-571 was informed by Sesay that \$50,000, in addition to arms and ammunition, had been given to Sesay for the purpose of attacking Guinea,³³³⁸ even if this allegation were true, it is unclear what substantial effect this money would have on the commission of crimes in Sierra Leone, when its purpose was for attacking Guinea.
1164. Delegates were given \$300 USD by Benjamin Yeaten; allegedly the said money was from Taylor.³³³⁹ Mallah claimed that Sam Bockarie would often travel from Buedu to Monrovia to meet Taylor and return with supplies of medicine and food, as well as

³³³⁴ TT, TF1-338, 1 Sep 08, p. 15166-7.

³³³⁵ TT, TF1-338, 1 Sep 08, p. 15164-72.

³³³⁶ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5789-94.

³³³⁷ TT, TF1-388, 14 Jul 08, p. 13566-8.

³³³⁸ TT, Karmoh Sheku Kanneh, TF1-571, 12 May 08, p. 9506-7.

³³³⁹ TT, TF1-371, 28 Jan 08, p. 2435-6.

ammunition; the supplies were paid for in US dollars or diamonds.³³⁴⁰ Daniel Tamba brought five trucks from Monrovia with him into Sierra Leone with arms, ammunition, clothing, shoes, and rice; the trucks passed through to Buedu from Foya, and were also sent to Voinjama and Gbarnga.³³⁴¹ DAF claimed that whenever Sam Bockarie made trips to Monrovia, he would receive money from Taylor in the amount of \$10- to 20,000 USD.³³⁴²

1165. According to King Perry, a message was sent by Sam Bockarie that told the RUF to keep hold of Kono District and Koidu Town for diamonds to exchange for arms and ammunition, as well as food and drugs from Taylor.³³⁴³ King Perry saw Issa Sesay make biweekly trips to trade with Taylor, exchanging diamonds for vehicles, food, petrol and oil.³³⁴⁴ Abu Keita claimed that he heard Sam Bockarie claim to have received a Toyota Land Cruiser from Taylor for the purpose of faster movement.³³⁴⁵ TF1-516 testified that Taylor provided supplies and support for the RUF from the NPFL;³³⁴⁶ Sam Bockarie was seen in Buedu with a jeep, reportedly given to Bockarie after being promoted to a general by Taylor.³³⁴⁷ According to TF1-567, Sampson Weah, Daniel Tamba and others used to bring arms, ammunition and food coming from Taylor.³³⁴⁸

1166. [REDACTED]
[REDACTED] when Dr. Williams received a parcel from Yeaten which he said was from Taylor. Later, Dr. Williams gave an RUF member \$200.³³⁴⁹ This was done just before RUF delegates were escorted to a UN helicopter and flown back to Sierra Leone. There is no evidence of what else was in the "parcel" from Taylor, and it can hardly be said that a paltry \$200 which may have come from the parcel amounts to material assistance provided with the awareness of a substantial likelihood that it would assist the commission of a crime.

1167. Father Cabellero testified that the children saw a white helicopter come on a regular basis to supply weapons and drugs in exchange for looted property and diamonds;

³³⁴⁰ TT, Augustine Mallah, TF1-045, 13 Nov 08, p. 20210-1.

³³⁴¹ TT, TF1-585, 9 Sep 08, p. 15779-82.

³³⁴² TT, Dauda Aruna Fornie, TF1-274, 2 Dec 08, p. 21525-7.

³³⁴³ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3135.

³³⁴⁴ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3267-8.

³³⁴⁵ TT, Abu Keita, TF1-276, 23 Jan 08, p. 2012-3.

³³⁴⁶ TT, TF1-516, 8 Apr 08, p. 6827.

³³⁴⁷ TT, TF1-516, 8 Apr 08, p. 6854-5.

³³⁴⁸ TT, TF1-567, 4 Jul 08, p. 12905-7.

³³⁴⁹ TT, [REDACTED].

sometimes the children would simply walk to the Liberian border to get weapons and drugs.³³⁵⁰

1168. There is no doubt that there is a considerable amount of evidence citing Taylor as the provider of a variety of goods and money for the RUF effort. Yet, this evidence involves subordinates, often very low ranking, who witness the events not in Liberia, or anywhere in the proximity of Charles Taylor -- in Sierra Leone. They make vague and repetitive claims that their peers would arrive from a foreign location and that the goods they arrived with had originated from Charles Taylor. This is not evidence of support by Taylor, this is merely RUF fighters, far down the chain, making the inference that materials received came from Charles Taylor. The Defence contends that the majority of transactions were legal, and occurred in the open market of Monrovia, the largest trading capital the RUF had access to given their inability to travel to Freetown. These issues will be further addressed following the next section.

Personal Receipt of Goods

1169. The second category of evidence presented by the Prosecution regarding "other forms of assistance" involves those who testified to goods or arms being provided directly from Charles Taylor. These incidents do not involve direct arms exchanges which are covered elsewhere in the brief. Rather, as the evidence will show, these were specific amounts of money provided in discrete payments on a sporadic basis. Many of these transactions simply asserted that money was provided with no explanation as to how it was relevant to war or the purpose of the gift or exchange. In instances where arms transactions are alleged, the Final Brief deals with such exchanges in the relevant sections.

1170. Many of the exchanges were trivial and no context was provided for purpose of the exchange. For example, Taylor provided an unknown amount of money to Musa Cisse and his colleagues when the latter were in Gbarnga in 1997.³³⁵¹ TF1-406 also met Taylor at White Flower and received money from him before being instructed by Taylor to see Sam Bockarie, Benjamin Yeaten and Musa Sesay in Woisue.³³⁵² After a meeting with Taylor, Sam Bockarie showed TF1-406 the money and satellite phone he received from Taylor during the meeting and thanked TF1-406 for arranging the

³³⁵⁰ TT, Jose Maria Caballero, TF1-326, 18 Jan 08, p. 1679-80; 21 Jan 08, p. 1716-7.

³³⁵¹ TT, Augustine Mallah, TF1-045, 12 Nov 08, p. 20128.

³³⁵² TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 848-9.

meeting.³³⁵³ Sherif stated he was at a meeting in White Flower where Taylor promised to assist the RUF.³³⁵⁴

1171. [REDACTED] meeting at the Executive Mansion with Taylor, Zigzag Marzah, Benjamin Yeaten, Musa Cisse, Jungle Jim and other persons; [REDACTED]
[REDACTED]
[REDACTED].³³⁵⁵ Taylor denied any of this event occurred and cited to the fact that Zigzag Marzah would not have been present at such a meeting because of his status as Benjamin Yeaten's orderly.³³⁵⁶

1172. Some Prosecution witnesses also claimed that they were provided money from Charles Taylor for the purchase of arms or provisions. However, the evidence relates only to the monetary transaction and does not continue to discuss the actual provision of arms. For instance, TF1-371 claimed [REDACTED]
[REDACTED]
[REDACTED].³³⁵⁸ One queries why if Taylor was

³³⁵³ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 849-50.

³³⁵⁴ TT, Abu Keita, TF1-276, 23 Jan 08, p. 2112.

³³⁵⁵ TT, [REDACTED].

³³⁵⁶ TT, Charles Taylor, 15 Sep 09, 28953-5.

³³⁵⁷ Indeed, the giving of money to the RUF by West African leaders was normal, TT, Fayia Musa, 16 Apr 10, p. 39183. Examples include: TF1-168, 22 Jan 09, p. 23277; 23 Jan 09, p. 23454; 26 Jan 09, p. 23473; Fayia Musa, DCT-306, 16 Apr 10, p. 39182-3; DCT-292, 2 Jun 10, p. 41925 (Sani Abacha gave Sankoh 50,000 USD in traveller's cheques in 1996); TT, Fayia Musa, DCT-306, 20 Apr 10, p. 39467 (Sani Abacha gave 2,000 USD to the External Delegation); TT, Charles Taylor, 12 Aug 09, p. 26685; 13 Aug 09, p. 26815; 2 Nov 09, p. 30887 (Obasanjo provided 25,000 USD to Sankoh and JPK); TT, [REDACTED] (Compaore provided 17,000 USD to Bockarie in 1998); TT, Issa Sesay, DCT-172, 27 Jul 10, p. 44749 (Head of ECOWAS, President Wade of Senegal offered 150,000 of an unspecified denomination to the RUF, in order to transform the RUF into a political party); TT, TF1-371, 25 Jan 08, p. 2282; TF1-168, 26 Jan 09, p. 23474; 22 Jan 09, p. 23283-4; Fayia Musa, DCT-306, 14 Apr 10, p. 39020; Issa Sesay, DCT-172, 7 Jul 10, p. 43880-1 (Sankoh received half a million USD from the Libyan Ambassador to Ghana, Mohamed Talibi, for humanitarian support); Issa Sesay, DCT-172, 7 Jul 10, p. 43858, p. 43902; 18 Aug 10, p. 46564 (Sankoh received 2 million USD from Col. Gaddafi on his first visit to Libya and then an additional 1.5 million USD); DAF, TF1-274, 8 Dec 08, p. 21971-2 (Sankoh received half a million USD from Col. Gaddafi after Lome during a trip to Tripoli to transform the RUF into a political movement); Issa Sesay, DCT-172, 4 Aug 10, p. 45408 (Bockarie received money from Libya); Issa Sesay, DCT-172, 17 Aug 08, p. 46488-9, p. 46493 (Sankoh sent individuals to the Libyan Ambassador in Ghana, in order to collect money); Suwandi Camara, TF1-548, 7 Feb 08, p. 3432; Issa Sesay, DCT-172, 17 Aug 10, p. 46426-7 (Col. Gaddafi gave money to Ali Kabbah when the RUF were training in Libya); TF1-371, 25 Jan 08, p. 2282; Fayia Musa, DCT-306, 14 Apr 10, p. 39035 (Sankoh travelled to Burkina Faso to get money to support his fighters and also to prepare the transformation of the RUF into a political party); Charles Taylor, 24 Sep 09, p. 29639 (In 2001, ECOWAS had requested Heads of State to assist the RUF and Nigeria, Togo, Senegal assisted by providing money).

³³⁵⁸ TT, TF1-371, 29 Jan 08, p. 2458. The transportation of members of the RUF and their safe passage was also a form of assistance often provided by other West African leaders. For example, TT, Charles Taylor, 12 Aug 09, p. 26685; 13 Aug 09, p. 26815 (Obasanjo sent a presidential plane for Sankoh); DCT-292, 2 Jun 10, p. 41925 (After the Abidjan Accord, Sani Abacha paid for DCT-292's entire trip to see him); Fayia Musa, DCT-306, 21 Apr 10, p. 39540 (President Conte helped organise Fayia Musa's trip to meet combatants); Fayia Musa, DCT-306, 15 Apr 10, p. 39103 (In order to get Bockarie and others in the bush to talk to them, Conte was contacted to organise the journey); Mohamed Kabbah, TF1-568, 15 Sep 08, p.

providing the RUF with arms and ammunition, he would then provide the RUF with money to buy arms and ammunition from his own personnel along the border.

1173. TF1-571 was told by Bockarie that \$10,000 was given, at Benjamin Yeaten's residence, to the RUF as a morale booster, in addition to ammunition, and was given under Taylor's orders.³³⁵⁹ [REDACTED] a meeting in White Flower with Taylor, Benjamin Yeaten, Issa Sesay and Morris Kallon in 2001 where Sesay requested and received \$100,000 from Taylor (instructing Yeaten to give the amount) as well as food for the RUF men.³³⁶⁰ TF1-338 was [REDACTED]
[REDACTED]
[REDACTED].³³⁶¹ TF1-334 said Taylor gave assistance to the RUF by providing supplies, arms and ammunition, and even food; he also overheard Taylor promise to continue to assist the RUF until the cease-fire when Taylor arranged to take Johnny Paul Koroma out of Kailahun.³³⁶² TF1-274 made several trips with Sam Bockarie to Monrovia prior to 6 January 1999 to receive food and other supplies from Taylor in addition to ammunition.³³⁶³

1174. Finally, Marzah made a number of statements in relation to his own horrific acts and Taylor's payments to him. A cannibal and unreliable witness, it is important reiterate that Marzah's statements are self-serving and claim convenient gifts from Taylor in an implausible manner.³³⁶⁴

Alternative Explanation to Testimony of Goods from Liberia

1175. The following section addresses these first two categories and argues that the vague and isolated instances do not show that Taylor provided the level of material support alleged by the Prosecution, but rather that a large and often informal trading network existed between Sierra Leone and Liberia. While Mongor made the incredible claim that the only country the RUF had direct relations with, to receive supplies and ammunition, was Liberia and through the work of Taylor,³³⁶⁵ this is clearly refuted by Prosecution and Defence evidence. In fact, this section wholly disproves that claim.

16269; Issa Sesay, DCT-172, 17 Aug 10, p. 46522-3 (The Guinean Government provided safe passafe to the RUF).

³³⁵⁹ TT, Karmoh Sheku Kanneh, TF1-571, 9 May 08, p. 9464-6.

³³⁶⁰ TT, TF1-371, 29 Jan 08, p. 2453-5.

³³⁶¹ TT, TF1-338, 1 Sep 08, p. 15117-8.

³³⁶² TT, Alimamy Bobson Sesay, TF1-334, 24 Apr 08, p. 8504-5.

³³⁶³ TT, Dauda Aruna Fornie, TF1-274, 2 Dec 08, 21514-5.

³³⁶⁴ TT, Joseph Diah Marzah, TF1-399, 12 Mar 08, p. 5925-6.

³³⁶⁵ TT, Isaac Mongor, TF1-532, 4 Apr 08, p. 6624-5.

Moreover, as noted by Issa Sesay, during the time the RUF was in Kailahun, they were able to buy or barter for food across the Guinean border.³³⁶⁶ Mongor appears to suggest that relations with Liberians necessarily implies the involvement of the Government of Charles Taylor.

1176. In reality, both the Prosecution and Defence evidence suggests a number of alternative explanations as to the supposed supply of goods provided by Charles Taylor. The Defence contends that the majority of the evidence presented merely shows that there was an active and diverse trade network between the RUF and Monrovia. The myriad examples of supplies coming from Taylor, and being associated with Taylor, only shows that supplies came from Monrovia, at the same time that money, or diamonds, were crossing the border from Sierra Leone to Liberia. The same factual scenarios could be explained by the fact that the money and diamonds were being taken to Monrovia and traded legitimately in the open market.

1177. Moreover, the supposed exchanges, at times, suggest that supplies, money and ammunition were not the primary forms of trade, nor was it as simple as a support network emanating directly from Taylor to the RUF. Sometimes, it was a simple matter of gifts not related to the war effort. Taylor was known to give things to associates that had nothing to do with the war effort and at times occurred after those individuals were even involved in Sierra Leone. For example, when Bockarie came to Liberia, he was given a house by Taylor in Monrovia; this has been shown above to relate directly to the peace process.³³⁶⁷ Moreover, as alleged by Bobson Sesay, Taylor gave \$15,000 to JP Koroma for the purchase of clothes.³³⁶⁸ It could hardly be said that through the provision of money to buy clothes for the delegates Taylor intended to assist the commission of crimes, rather intending to provide a humanitarian gesture or basic military assistance from one government to another. In fact, Taylor did not deny this assertion by the witness, but could not recall the specific occurrence or the sum of money given; Taylor explained that it was not uncommon for African leaders hosting peace talks to provide visiting delegates with clothes and shoes for the proper attire at the forum.³³⁶⁹

³³⁶⁶ TT, Issa Sesay, DCT-172, 5 Jul 10, p. 43700-3.

³³⁶⁷ TT, TF1-567, 7 Jul 08, p. 13036.

³³⁶⁸ TT, Alimamy Bobson Sesay, TF1-334, 24 Apr 08, p. 8506, 8509-10, 8515; TF1-567, 4 Jul 08, p. 12978. (In Monrovia, Joe Tuah gave Johnny Paul Koroma \$15,000, saying it came from Taylor).

³³⁶⁹ TT, Charles Taylor, 30 Sep 09, p. 30025; TT, Fayia Musa, DCT-306, 14 Apr 10, p. 39033 (the Ivorian Government provided Sankoh's clothes in Abidjan in 1996) and p. 39042 (Sani Abacha gave Sankoh and his delegation Nigerian gowns).

1178. Other evidence supports the contention that trade, the purchase of arms, and other exchanges were simply transactions not material assistance. They were also the principal manner in which goods entered into rebel controlled portions of Sierra Leone. [REDACTED]

[REDACTED]³³⁷⁰ Sesay knew that Daniel Tamba did not work for Taylor's government and that from 1998 onwards, Tamba was sometimes in Buedu, Liberia, and would travel to Monrovia to purchase supplies of rice or medicine for Sam Bockarie from some Lebanese people.³³⁷¹

1179. Other transactions were perfectly legal transactions. For example, Taylor accepted that he sometimes sent diesel, only a single or two drums of 55 gallons, to Sierra Leone for use in the hospitals.³³⁷² Taylor explained the provision of diesel was kept to a strict minimum to prevent military use. He also explained that the practice began as early as Sam Bockarie's time in February 1999 and that the fuel was not donated but was purchased.³³⁷³ Often these were for humanitarian reasons. In 1999, after Sam Bockarie received diamonds from various diamond sites in Sierra Leone, he would send back food, clothing, medicine, provisions, sandals and other supplies for the miners through the mining commanders.³³⁷⁴

1180. Issa Sesay had a meeting with Taylor in Monrovia at the end of May 2000 about the abduction of the UNAMSIL peacekeepers; afterwards he received \$5,000 from Taylor. The purpose of this money was to buy diesel for the transfer the peacekeepers from Kono District to Foya, before they could be brought on to Monrovia.³³⁷⁵ Taylor's role in the resolution of the hostage crisis is well documented and was done at the behest of the international community. In fact, such monetary gifts strained the limited resources of the Liberian Government, but Taylor contributed nonetheless. Consequently, the Prosecution has not shown how this money could possibly have been given by Taylor with the awareness of a substantial likelihood that it would result in the commission of crimes.

1181. When Sesay sold diamonds in Monrovia in October 2000 and March 2001 to purchase food and medication for the RUF, he did so without the knowledge of

³³⁷⁰ TT, TF1-567, 7 Jul 08, p. 13175-6.

³³⁷¹ TT, Issa Sesay, DCT-172, 11 Aug 10, p. 45962-5.

³³⁷² TT, Charles Taylor, 16 Sep 09, p. 29042-3.

³³⁷³ TT, Charles Taylor, 16 Sep 09, p. 29042-3.

³³⁷⁴ TT, Issa Sesay, DCT-172, 2 Aug 10, 45198-200.

³³⁷⁵ TT, Issa Sesay, DCT-172, 2 Aug 10, p. 45218.

Taylor or Benjamin Yeaten.³³⁷⁶ DCT-306 knew that Taylor provided financial assistance for the External Delegation after the peace process began in Ivory Coast but disputed claims that Taylor provided men, food, arms and ammunition.³³⁷⁷ Taylor denied providing the RUF with any food but believed it would have been appropriate to provide Same Bockarie with rice for humanitarian reasons and would not hide such an act from the court.³³⁷⁸ Taylor recalled sending food, clothing, medicine and even a nurse to Voinjama to help with Sierra Leonean refugees rather than have the people travel all the way to Monrovia.³³⁷⁹ Taylor also denied there was any shipment of arms and ammunition meant for Buedu.

1182. Other evidence implicates illicit purposes but appears, on face, as legal trading. In these instances, the evidence is indirect and vague. It simply presents a trade occurring and, through hearsay, purports that were arms or other provisions involved in the exchange. For example, TF1-568 claims that the RUF would make requests to Taylor for food, clothing and other supplies, in addition to ammunition.³³⁸⁰ Specifically, TF1-568 claims that after a planning meeting on the Kono attack, Sam Bockarie returned from Monrovia (using diamonds, mined in Kono, as payment) with a truck filled with arms and ammunition, as well as other supplies, including wine, rice, Maggi, salt and other condiments.³³⁸¹ TF1-577 was told by Bockarie that Jungle also brought other supplies from Taylor, aside from arms and ammunition, like food, medicine and drugs.³³⁸²

1183. TF1-338 alleged that Issa Sesay had given Taylor \$150,000 USD for safekeeping and [REDACTED] discussed Taylor's assistance to the upcoming elections in Sierra Leone.³³⁸³ Taylor denied claims that he received any money (or diamonds) from Issa Sesay for safekeeping or otherwise.³³⁸⁴ The money Taylor did give to Issa Sesay was not unusual or in secret; Taylor explained that the money was for the purchase of non-military items in Monrovia, such as clothes, and that he also gave some money to Sam

³³⁷⁶ TT, Issa Sesay, DCT-172, 2 Aug 10, p. 45298-9.

³³⁷⁷ TT, Fayiah Musa, DCT-306, 21 Apr 20, p. 39570.

³³⁷⁸ TT, Charles Taylor, 16 Sep 09, p. 29011-4. After the signing of the Lome Accord, President Obasanjo sent thousands of bags of rice for Sankoh to feed RUF combatants, TT, Issa Sesay, DCT-172, 2 Aug 10, p. 45297.

³³⁷⁹ TT, Charles Taylor, 26 Oct 09, p. 30293-4.

³³⁸⁰ TT, Mohamed Kabba, TF1-568, 12 Sep 08, p. 16138-40.

³³⁸¹ TT, Mohamed Kabba, TF1-568, 12 Sep 08, p. 16138-40.

³³⁸² TT, Albert Hindowa Saidu, TF1-577, 5 Jun 08, p. 11050-2.

³³⁸³ TT, TF1-338, 2 Sep 08, p. 15226-35.

³³⁸⁴ TT, Charles Taylor 2 Nov 09, 30885-6.

Bockarie and JP Koroma.³³⁸⁵ In any event, money given by Taylor to Sesay with respect to the RUF's participation in elections is in no way criminal.

1184. The final group of "other forms of assistance" alleged by the Prosecution is a collection of specific incidents. These will be dealt with instance by instance in the following section.

Lomé Peace Agreement

1185. The Prosecution also presented evidence in regards to assistance given during the Lomé Agreement. This group of transactions clearly falls outside the scope of other forms of assistance to facilitate a war. [REDACTED]

[REDACTED] was instructed by Issa Sesay to meet with Taylor and collect the remaining \$50,000 promised by Taylor; [REDACTED]

[REDACTED].³³⁸⁶ TF1-371 alleged that Taylor sent \$20,000 to a consolidated fund for the peace process as agreed on at Lomé before negotiations began.³³⁸⁷ For example, TF1-597 attended a meeting with Johnny Paul Koroma with Taylor and the West Side Boys in the Executive Mansion; Taylor informed those present that they should work together and handed an envelope containing money Koroma and Bazzy, the latter received \$5,000 to share of which the witness received \$700.³³⁸⁸ Taylor denied giving words of encouragement in the course of the meeting but pressed those present to accept the Lomé Accord.³³⁸⁹

Medical Assistance

1186. The Prosecution argues that medical assistance also qualifies as a form of assistance to the war effort. Specifically, TF1-360 claimed Taylor had made arrangements with Bockarie to have injured fighters from the Fitta Fatta mission treated in Monrovia, even going so far as to have seriously injured RUF fighters flown by helicopter to Monrovia.³³⁹⁰ While this is an indirect claim and difficult to evaluate, it is also explained quite succinctly by Charles Taylor as he agrees that during a difficult period, he allowed injured RUF members to receive treatment in Liberia.³³⁹¹ This should be considered humanitarian assistance, not material support to a war effort.

³³⁸⁵ TT, Charles Taylor, 19 Aug 09, 27196-7.

³³⁸⁶ TT, TF1-371, 29 Jan 08, p. 2458-9.

³³⁸⁷ TT, TF1-371, 1 Feb 08, p. 2814.

³³⁸⁸ TT, Samuel Kargbo, TF1-597, 22 May 08, 10577-81.

³³⁸⁹ TT, Charles Taylor, 2 Nov 09, p. 30843-53.

³³⁹⁰ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3181-2.

³³⁹¹ TT, Charles Taylor, 16 Sep 09, p. 29011-4. Furthermore, such "support" is comparable to that provided to the RUF by the Ivorian Government, which allowed wounded RUF soldiers to receive medical care in the Ivory Coast. TT, Issa Sesay, DCT-172, 12 Jul 10, p. 44239.

Logistical Support

1187. The Prosecution also presented evidence of Taylor providing technical support and general encouragement. For example, King Perry reported that Taylor told Bockarie that he was sending contractors to mine in Kono and evaluate sending mining equipment.³³⁹² It is unclear why Taylor would be micro-managing the business deals of the RUF to this degree, especially when the RUF had their own contacts in the diamond industry.

1188. Albert Saidu recalled Taylor sending engineers to repair a 40-barrel gun, captured in February 1998 from Guinean troops by the RUF; the witness also recalled that the Liberian engineers knew the weapon would be used by the RUF against the Sierra Leonean Government.³³⁹³ He explained that attempts to repair the weapon occurred in late 1999 and went on through 2000 but ultimately the attempt was unsuccessful.³³⁹⁴ In any event, surely the Prosecution is not suggesting through this allegation that it would be a crime for the RUF to be given a weapon to be used in attacks against a lawful army? Additionally, with no direct evidence of written or oral orders by Charles Taylor, it does not suffice to have a single witness claim that engineers came and unsuccessfully worked on a 40-caliber gun.

1189. These issues are dealt with in the section on Superior Responsibility, but it is worth briefly addressing these claims. They are indirect claims made by figures removed from the action. They also assume actions by individuals to be the intent of Charles Taylor.

Camp Naama & Invasion

1190. Camp Naama and the Invasion of Sierra Leone are thoroughly addressed in other sections of this brief. Taylor allegedly provided material support for these military activities. [REDACTED] alleged that he was told by Foday Sankoh and others that they were acting on the will of Taylor and that Taylor was providing the training base, food for recruits, and other forms of materials and assistance to reinforce the Sierra Leone recruits at Camp Naama.³³⁹⁵ However, Isatu Kallon, denied this and other testimony³³⁹⁶ regarding Taylor's provision of supplies to the recruits at Camp Naama from the Executive Ground at Gbarnga; she testified to bringing food and money to

³³⁹² TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3263-4.

³³⁹³ TT, Albert Hindowa Saidu, TF1-577, 4 Jun 08, p. 10990-4.

³³⁹⁴ TT, Albert Hindowa Saidu, TF1-577, 9 Jun 08, p. 11309.

³³⁹⁵ TT, [REDACTED].

³³⁹⁶ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5665.

Camp Naama but never heard of Taylor sending any such supplies.³³⁹⁷ In relation to the Voinjama planning meeting, Taylor is alleged to have thanked Isaac Mongor on a job well done at Naama and told him to “keep the ball rolling”.³³⁹⁸ The circumstances surrounding the Voinjama meeting has been heavily discredited, as has Mongor’s role at Naama generally.

1191. In any event, Taylor could not have acted with awareness that this pre-Indictment assistance made it substantially likely that crimes would be committed during the Indictment period, thanks in part to his “material assistance” at this stage.

Herbalists or Juju/Medicine Men

1192. The Prosecution also alleged that Liberian medicine men, herbalists and magic rituals were a form of support provided to the RUF by Taylor which had a substantial effect on the commission of crimes. This evidence is weak, and not supported by Special Court jurisprudence. The Prosecution alleged that fighters, including children, were, throughout the course of their training or preparation for battle, brought to a Juju man or Moriman. They subsequently went through a magic ritual where they were given medicine or were anointed with a liquid to make them invisible or invincible to bullets.³³⁹⁹ This was to assist the fighter’s efficacy in battle. Despite the fact that the native populations of Liberia and Sierra Leone believe very strongly in the usefulness such protections, there is no evidence that such protections actually worked, or that the provision of the protections had a substantial effect on the preparation of a crime.

1193. Against this cultural background regarding the use of morimen or herbalists, the Prosecution specifically alleges that Taylor sent herbalists from Liberia to grant protection to the RUF fighters prior to the Fitti-Fatta mission to attack Kono in 1998 (and leading up to the attack on Freetown).³⁴⁰⁰ The herbalist was to inspire the fighters so they would not have fear when attacking Kono and other targets. Bockarie allegedly introduced the herbalist to a group of fighters in Buedu at the same time as he explained that Taylor had given him the “plan” for how the Fitti-Fatta mission and the attack on Freetown should go.³⁴⁰¹ Bockarie threatened to kill anyone who refused to participate, and thus the herbalist carve little marks into the fighters arms and backs

³³⁹⁷ TT, Isatu Kallon, DCT-299, 22 Jun 10, 43111-3.

³³⁹⁸ TT, Isaac Mongor, TF1-532, 4 Apr 08, p. 6669-71.

³³⁹⁹ TT, Jose Maria Caballero, TF1-326, 18 Jan 08, p. 1675-6.

³⁴⁰⁰ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3164-6.

³⁴⁰¹ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3164-6. Note that an analysis of King Perry’s evidence with regard to the existence of a “plan” by Taylor to attack Kono has been addressed in JCE.

and rubbed a concoction on their bodies.³⁴⁰² King Perry subsequently testified that Fitti-Fatta was a failure despite these “protections”.³⁴⁰³ Alice Pyne belatedly supported the evidence that the herbalists were sent by Taylor in regard to this operation; however, she admitted that she only linked Taylor to this account regarding the herbalists about 10 days prior to testimony (previously she had told the Prosecution that Bockarie hired the herbalists).³⁴⁰⁴ The Defence submits this is an inconsistency solely designed to implicate Taylor. Pyne’s testimony was directly refuted by John Vincent³⁴⁰⁵ and Issa Sesay,³⁴⁰⁶ though Sesay does agree that herbalists came from Liberia and were sent by a man named Titus, who was known to Bockarie.³⁴⁰⁷

1194. This inculpatory evidence also is composed entirely of hearsay accounts of herbalists being sent by Charles Taylor to support troops, and as such it is no stronger than that relating to other forms of assistance allegedly sent by Taylor. Additionally, there is evidence that the RUF used herbalists and juju well before Taylor allegedly sent these herbalists from Liberia,³⁴⁰⁸ thus there would have been no need for Taylor to send such (and he did not believe in juju anyway).³⁴⁰⁹

Conclusion on Aiding and Abetting

1195. The complete paucity of anything but circumstantial and hearsay evidence of Taylor’s aiding and abetting the RUF or AFRC/RUF during the Indictment period is striking and troubling. The majority of the evidence upon which the Prosecution relies for a conviction is based on second-hand stories told and retold by combatants and insider witnesses who have embellished their accounts to implicate Taylor. The resulting conclusion, that there is indeed smoke but no fire, is confirmed by a code cable, dated 19 June 2000, from Downes-Thomas of the UNOL in Monrovia to Prendergrast of the UN in New York.³⁴¹⁰ Therein, Downes-Thomas states that the crucial aspects of the “omnibus allegation” against Taylor are: that he provides arms, ammunition and

³⁴⁰² TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3164-6.

³⁴⁰³ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3171.

³⁴⁰⁴ TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12235-44; 12313-7.

³⁴⁰⁵ TT, John Vincent, DCT-215, 30 Mar 10, p. 38231.

³⁴⁰⁶ TT, Issa Sesay, DCT-172, 11 Aug 10, p. 46059.

³⁴⁰⁷ TT, Issa Sesay, DCT-172, 12 Aug 10, p. 46118-20.

³⁴⁰⁸ TT, Alimamy Bobson Sesay, TF1-334, 21 Apr 08, p. 8075-6; Samuel Kargbo, TF1-597, 3 Jun 08, p. 10819-20; Komba Sumana, TF1-263, 6 Oct 08, 17982-3; Charles Ngebeh, DCT-146, 22 Mar 10, p. 37767-8; John Vincent, DCT-215, 30 Mar 10, p. 38230-1.

³⁴⁰⁹ TT, Charles Taylor, 16 Sep 09, p. 29027-8; 30 Sep 09, p. 29982-4 (doubting Alice Pyne’s account, especially since women were not typically allowed in the zoebush).

³⁴¹⁰ Exhibit D-255.

training and personnel to the RUF; that he is able to assist the RUF because the RUF supplies him with illicitly mined diamonds for personal profit; and that he has a vested interest in the continuation of the crises in Sierra Leone as the maintenance of the status quo promises the continuation of the lucrative arrangement.³⁴¹¹

1196. However, Downes-Thomas goes on to acknowledge that while Western newspapers have carried stories on this matter they have only provided “generalized snippets of related information which only whets the appetite but offers nothing truly substantive”. He goes on to note that the evidence underlying these crucial allegations is unknown and unavailable to the United Nations Office in Liberia, which he suggests means that the evidence does not in fact exist.

1197. Likewise, the Defence submits that the fabricated and generalized stories of Taylor’s alleged aiding and abetting of the RUF and/or AFRC/RUF as presented by the Prosecution may whet the Trial Chamber’s appetite for a conviction, but offer nothing truly substantive to upon which the Trial Chamber can rely beyond a reasonable doubt to support a conviction.

Diamonds in Exchange for Assistance

1198. The Prosecution contends that the RUF, Junta and AFRC/RUF gave Taylor diamonds obtained from Sierra Leone in exchange for arms, ammunition and other supplies.³⁴¹² Taylor denies all such allegations.³⁴¹³ The Prosecution called “diamond expert” Stephen Ellis as its first witness. Following that act, the Hollywood phenomenon of “blood diamonds” and the late infusion of a Supermodel helped to raise the profile of the Prosecution case against Taylor, but in the end, all that glitters is not gold. The hype did little to substantiate the underlying allegations. Of more than twenty linkage witnesses that testified to the effect that the RUF and/or AFRC/RUF gave diamonds to Taylor, only two of them give a first-hand account of the alleged transactions. One of those two witnesses is ZigZag Marzah, who drew the Trial Chamber a picture³⁴¹⁴ of a passport sized diamond in the shape of a skull, which was allegedly taken to

³⁴¹¹ Exhibit D-255, para. 15.

³⁴¹² Prosecution Pre-Trial Brief, para. 53.

³⁴¹³ Exhibit D-400.

³⁴¹⁴ Exhibit P-92.

Taylor by himself, Yeaten, Bockarie and Joe Tuah.³⁴¹⁵ This is a glaring example of the outlandish and unbelievable allegations made by Prosecution witnesses.

1199. Perhaps it is understandable that impoverished ex-combatants would want to embellish their knowledge of and role in the RUF's alleged diamond trade with Taylor when talking to the Prosecution. After all, it was stressed by the Prosecution investigators to potential witnesses that what it wanted to hear about was "diamonds to Taylor and arms to the RUF", and that provision of such evidence would be lucrative.³⁴¹⁶ Likewise, perhaps it is understandable that the general RUF membership would believe that if its representatives went to Liberia with diamonds and came back with provisions or arms and ammunition then these materials must have come from President Taylor. The common, simplistic perception is apparently that "if you are heading a country... [you] control the resources".³⁴¹⁷ A reasonable fact finder, however, could not conflate the evidence in the same way and must guard against drawing unfounded inferences based on circumstantial evidence. Consequently, the Prosecution has not proven beyond a reasonable doubt that Taylor obtained diamonds from Sierra Leone in exchange for arms, ammunition and other supplies amounting to practical assistance for the preparation or commission of crimes.

1200. The temptation to point the finger at Taylor, without proper foundation, is seemingly irresistible. For instance, a document found at Sankoh's house in Freetown following the May 8th incident, with an oblique reference to "Charles", was taken by the Washington Post to be a reference to Charles Taylor,³⁴¹⁸ despite the fact that it was obviously a letter between Sankoh, then the Chairman of the Commission for the Management of Strategic Resources and Development, and one Michel, referring to a Charles that was an heretofore unknown business partner of Michel.³⁴¹⁹ This letter was later referred to in the UN Panel of Experts Report Established by Resolution 1306 (2000).³⁴²⁰

³⁴¹⁵ TT, TF1-399, Joseph Diah Marzah, 12 Mar 08, pp. 5878-82, *but see* 14 Mar 08, p. 6109 (Marzah variously described the diamond as: "passport sized"; "in the shape of a human being"; "dressed up in a human being form"; "like a shoulder part that you can cut from here"; "looked like it had a hair plate"; and "big, a passport sized diamond". In exchange, Taylor is said to have given Bockarie ammunition and \$2000 cash for each of the escorts).

³⁴¹⁶ TT, Sam Kolleh, DCT-102, 3 Nov 10, p. 48584-7; 48608.

³⁴¹⁷ TT, Martin George, DCT-068, 12 Mar 10, p. 37204.

³⁴¹⁸ TT, Charles Taylor, 25 Aug 09, p. 27591; 4 Dec 2009, p. 31178-9; 5 Dec 2009, p. 31239-54.

³⁴¹⁹ Exhibit D-388 ("Charles" was said to have the financial ability to "do anything" including hiring a private jet from Belgium to Kono or Monrovia or Freetown).

³⁴²⁰ Exhibit P-18.

1201. The Prosecution suggests that Taylor received diamonds from the RUF and/or AFRC/RUF for three purposes: as a donation, for safe-keeping and in exchange for arms, ammunition and other material assistance. Further, that Taylor received diamonds from the RUF under Sankoh, JP Koroma, Sam Bockarie and Issa Sesay. Yet little evidence connects Taylor himself to the diamond trade; most of the evidence involved diamond transactions between the RUF and middle men such as Ibrahim Bah, Daniel Tamba, Yeaten and Eddie Kanneh. To draw a conclusion linking Taylor directly to the long-standing,³⁴²¹ independent and thriving diamond trade in Monrovia would be more than the Belgian Diamond Report,³⁴²² commissioned by David Crane in 2003 as an intelligence-gathering exercise in relation to diamond trading in Europe, Sierra Leone and Liberia, was able to do.

1202. Interestingly the Belgian Diamond Report contains a short summary which states: “Further to the investigation into Nassour Aziz, Ossailly Samih, Asa Diam and others, it has been demonstrated clearly that this organisation had direct contacts with the RUF rebels in Sierra Leone, for the transport of rough diamonds through Monrovia (Liberia) to Antwerp (Belgium). This was done under the *supervision and with the support of the regime* of the former President Charles Taylor”.³⁴²³ It is striking that there is no evidence of a direct link made between Taylor himself, the RUF, and the diamond trade anywhere in the report; only to his subordinates. Taylor dismantled several aspects of this Report at length in his evidence-in-chief.³⁴²⁴ It is not sufficient for the Prosecution to show that diamonds were traded by the RUF and/or AFRC for arms and ammunition in Monrovia; rather the Prosecution must prove some link between Taylor, practical assistance provided by him to the RUF and/or AFRC and, at a minimum, his awareness of a substantial likelihood that his actions would assist the commission of a crime.

1203. The Defence submits that allegations pertaining to Taylor’s role in the diamond trade must meet the same fate as those regarding his supply of arms and ammunition to the rebels in Sierra Leone. Namely, that the trade was a private enterprise conducted

³⁴²¹ TT, Ian Smillie, 7 Jan 08, p. 600 (The history of Sierra Leonean diamonds being exported through Liberia long pre-dates Charles Taylor).

³⁴²² Exhibit D-393. The Report, published in November 2008, is in relation to investigations of alleged criminal activity occurring between January 2000 and December 2001, primarily concerning Nassour Aziz (Lebanese) and Ossailly Samih (Belgian).

³⁴²³ Exhibit D-393 (ERN 00102149; ERN 00102160 stating that Ossailly negotiates with senior members of the RUF, with the general approval of the regime associated with President Taylor).

³⁴²⁴ TT, Charles Taylor, 5 Nov 09 p. 31287 et seq.

between his alleged subordinates and the RUF, without Taylor's knowledge and approval. Thus the charges under aiding and abetting must fail.

Diamonds in the Foday Sankoh Era: 1991-1996

1204. Diamonds did not play a major role in the war from 1991 to 1996 because no organized mining was taking place.³⁴²⁵ During the early stages of the conflict in Sierra Leone, the RUF did not have control over diamond-rich areas for any length of time.³⁴²⁶ Nor was Sankoh interested in diamond mining.³⁴²⁷ Sankoh acknowledged the temptation that his fighters might face if the RUF was to engage in diamond mining; he feared that the possibility of personal profit might make them forget about fighting the war.³⁴²⁸ Thus he emphasized that diamonds should be considered "government property".³⁴²⁹ As the RUF was not actively involved in diamond mining,³⁴³⁰ the only diamonds in the possession of the RUF came from those captured during attacks and ambushes.³⁴³¹ Indeed, the formal diamond mining sector during this area was monopolized primarily by the mercenary group Executive Outcomes, which had received concessions from the NPRC for its assistance in fighting the RUF.³⁴³² By late 1996 the Executive Outcomes and the Kamajors had driven out the RUF of most of the jungle bases.³⁴³³

³⁴²⁵ TT, TF1-168, 26 Jan 09, p. 23484.

³⁴²⁶ The RUF had control of Koidu Town, Kono District from October 1992 until January or February 1993. Exhibit P-497, para 130; Exhibit P-277 (ERN 00018152); TT, Ian Smillie, 8 Jan 08, p. 633; Exhibit P-19, p. 23, Annex 3. The RUF briefly occupied Kono District and Tongo Field in Kenema District in 1995. Exhibit P-277 (ERN 00018152); P-498, para. 49; TT, TF1-367, 1 Sep 08, p. 15042; Fayia Musa, DCT-306, 16 Apr 10, p. 39224. The Defence notes that the evidence of expert Ian Smillie suggests that in fact the RUF occupied Kono from late 1994 until the end of 1995, however this is contradictory to all other evidence. Exhibit P-19, p. 28, Annex 3. Throughout this period, Tongo Field was primarily occupied by the NPRC Strasser Government from 1992 to 1996. TT, TF1-060, 30 Sep 08, p. 17597-600. The RUF did not effectively begin mining in Tongo until May 1997.

³⁴²⁷ While Ian Smillie testified that the RUF was "very definitely" engaged in mining during the periods it controlled a diamond-rich area (TT, 7 Jan 08, p. 533), his testimony is inconsistent with the UN Panel of Experts Report, partially written by him, which concluded that there was no organized mining done by the RUF prior to 1995. Exhibit P-18, para. 67 (moreover, in para. 70, it is stated that the RUF had organized diamond mining only once they created a mining unit under Lt. Col Kennedy; [REDACTED]).

³⁴²⁸ TT, TF1-168, 21 Jan 09, p. 23180-1. *See also* Fayia Musa, DCT-306, 14 Apr 10, p. 38926; 16 Apr 2010, p. 39223 (in fact, Sankoh sanctioned fighters who engaged in mining).

³⁴²⁹ TT, TF1-168, 21 Jan 08, p. 23152, 23198-9; Samuel Kargbo, TF1-597, 3 Jun 08, 10783-6; Alimamy Bobson Sesay, TF1-334, 18 Apr 08, 8033-4; TF1-367, 20 Aug 08, p. 14111-2 and 21 Aug 08, p. 14229; TF1-375, 23 Jun 08, p. 12479-80; TF1-388, 9 Jul 08, p. 13271; TF1-516, 9 Apr 08, p. 7118; Fayia Musa, DCT-306, 20 Apr 10, p. 39382; Charles Ngebeh, DCT-146, 12 Apr 10, p. 38630-2; and Exhibit D-85.

³⁴³⁰ TT, TF1-168, 21 Jan 09, p. 23180-81; TF1-367, 1 Sep 08, p. 15042; Issa Sesay, DCT-172, 26 Jul 10, p. 44634; Fayia Musa, DCT-306, 16 Apr 10, p. 39223. *But see*, TT, TF1-388, 9 Jul 08, p. 13270-1.

³⁴³¹ TT, TF1-367, 1 Sep 08, p. 15042; TF1-567, 2 Jul 08, p. 12861-62; Sam Kolley, DCT-102, 01 Nov 10, p. 48434; Fayia Musa, DCT-306, 20 Apr 2010, ##.

³⁴³² TT, DCT-306, 14 Apr 2010, 38986.

³⁴³³ TT, TF1-168, 23 Jan 2009, 23408-09.

1205. The few diamonds the RUF managed to capture were used to support the RUF's efforts to establish international relations. Fayia Musa testified that these diamonds were given to the RUF's External Delegation for their sustenance in the Ivory Coast;³⁴³⁴ Sam Kolleh testified that on three occasions in 1994-1995 he carried diamonds from Sankoh to members of the External Delegation (and never carried diamonds to Liberia).³⁴³⁵
1206. Consequently, the quantity of captured diamonds "left-over", taking into account those sent by the RUF to the Ivory Coast, was not that significant. Additionally, there is sparse evidence of Sankoh sending diamonds to Taylor during this period.
1207. An account given by TF1-168 describes a diamond transaction from Taylor from Sankoh as occurring squarely during the period of cooperation between the RUF and NFPL.³⁴³⁶ King Perry puts a second transaction in late 1992, prior to the closure of the border with ULIMO, in which captured items from Kono (including diamonds and cash) were taken to Gbarnga in exchange for arms and ammunition.³⁴³⁷ Assuming *arguendo* these are credible hearsay accounts, the Defence notes that they are both pre-Indictment period examples of diamond transactions. Thus they cannot be relied upon for proving guilt under an aiding and abetting theory of liability.
1208. Furthermore, this evidentiary reality belies the notion that the purpose of any alleged JCE from its inception was to control the mineral resources of Sierra Leone. Sankoh and Taylor are said to be the principle founders of a joint criminal enterprise, yet during the first five or six years of that enterprise, the evidence to bolster this theory is most minimal.

Diamonds during the Junta Period: 1997-1998

1209. The lack of support from Taylor following Top Final and the closure of the border by ULIMO had forced Sankoh into the jungle. After the fall of Zogoda and as a result of signing the Abidjan Peace Accord, Sankoh and his self-reliant struggle were almost completely broken. Sankoh began exploring other ways to finance his revolution; thus the Talibi letters suggesting that Sankoh intended to start mining diamonds to create revenue. However, it is the 1997 AFRC coup that saved the RUF from extinction.

³⁴³⁴ TT, Fayia Musa, DCT-306, 20 Apr 10, p. 39391.

³⁴³⁵ TT, Sam Kolleh, DCT-102, 1 Nov 10, p. 48394-98.

³⁴³⁶ TT, TF1-168, 21 Jan 09, p. 23180-1 (diamonds captured from a diamond mining company in Pujehun District were taken to Taylor in Gbarnga in late 1991).

³⁴³⁷ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3045-6.

During the Junta period, the AFRC/RUF began active mining. In fact, TF1-371 testified that 1997 was the start of the “blood diamonds” phenomenon.³⁴³⁸

1210. During the Junta period, the RUF/AFRC controlled both Kono and Tongo for some time, but serious mining did not begin until mid to late 1998.³⁴³⁹ The competition for the diamond mining areas was fierce. ECOMOG, the CDF and international actors mined the areas when the AFRC/RUF was not in control. For instance, DCT-190 explained to the Court about Operation Black December. It was a CDF operation in which ECOMOG, the CDF and Special Forces fought together in order to cut off all major roads leading to Freetown and the mines in Kono and Tongo.³⁴⁴⁰ After Tongo was successfully captured from the rebels, ECOMOG Commander Maxwell Khobe ordered the CDF and Special Forces to leave the area – so that ECOMOG could start mining the riches for itself.³⁴⁴¹

1211. There was also evidence that ECOMOG was engaged in mining in Kono from May to December 1998; moreover, the RUF attacked Kono in December 1998 in order to reclaim the area from ECOMOG and Sandline (a British company), both whom were engaged in mining.³⁴⁴² The Defence notes that it was in this vein that Taylor stated in a 2002 interview that the war in Sierra Leone was “a war for diamonds”; not because Liberia wanted the diamonds but because the British wanted the diamonds.³⁴⁴³

1212. The only allegation of diamond transactions between the Junta and Taylor during this period is in relation to the Magburaka shipment.³⁴⁴⁴ The factual circumstances invalidating the notion that Taylor was involved in any way with the Magburaka shipment have been adequately analyzed in the JCE Section as well as the Aiding and Abetting Section on arms and ammunition. Therefore, Taylor cannot be found to have been involved in diamond transactions in exchange for weapons with the Junta.

Diamonds in the Sam Bockarie and Issa Sesay Eras: 1998-2002

1213. As the RUF went back to the bush following the ECOMOG intervention, it increased its capacity for diamond mining. Eddie Kanneh began to play a key role during this

³⁴³⁸ TT, TF1-371, Jan 08, p. 2723.

³⁴³⁹ TT, TF1-367, 1 Sept 08, p. 15042-3; TF1-585, 8 Sep 08, p. 15632-4; TF1-338, 3 Sept 08, p. 15317; TF1-567, 7 Jul 08, p. 13116; Charles Ngebeh, DCT-146, 23 Mar 10, p. 37863-4; Issa Sesay, DCT-172, 26 Jul 10, p. 44635; Ian Smillie, 8 Jan 08, p. 633-4; Exhibit P-18, p. 28, Annex 3.

³⁴⁴⁰ TT, DCT-190, 7 Jun 10, p. 42254.

³⁴⁴¹ TT, DCT-190, 7 Jun 10, p. 42260-61; TF1-367, 1 Sep 08, p. 15044; Exhibit P-433 suggests that Nigerian officers of ECOMOG were more interested in diamond mining than peace-keeping.

³⁴⁴² TT, DCT-172, 28 Jul 2010, 44853; 5 Aug 10, p. 45555; 19 Aug 10, p. 46702.

³⁴⁴³ Exhibit P-33B; TT, Stephen Smith, 22 Sept 08, p. 16824-7.

³⁴⁴⁴ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10457-9, 10477-81.

period. Eddie Kanneh was a Sierra Leonean,³⁴⁴⁵ who worked with the Military Intelligence Branch of the SLA.³⁴⁴⁶ Kanneh became a useful liaison and businessman for the RUF throughout the sub-region, as he spoke good French.³⁴⁴⁷ After the AFRC overthrow in May 1997, he joined the Peoples Army.³⁴⁴⁸ The AFRC appointed him as Secretary of State for the AFRC in the East and he was stationed in Kenema,³⁴⁴⁹ where he oversaw the diamond mining in Tongo Field during the Junta Period.³⁴⁵⁰ During this time, Eddie Kanneh became close to Sam Bockarie.³⁴⁵¹ He eventually became the liaison officer between the RUF in Sierra Leone and businessmen in Liberia in order to conduct diamond transactions on behalf of the RUF.³⁴⁵²

1214.Strikingly, however, only one witness (other than ZigZag Marzah) testified that he actually saw an RUF member give diamonds to Taylor. All of the rest of the diamonds related evidence is hearsay and circumstantial and does not amount to proof beyond a reasonable doubt.

1215.TF1-338's credibility is weak on a number of bases, and thus his testimony in this regard is not to be trusted. TF1-338's evidence on how [REDACTED] [REDACTED] constantly contradicted his earlier accounts to OTP investigators and lawyers. He told Ms Hollis and others he had said that [REDACTED]. He maintained repeatedly that he had corrected the errors made by these investigators and lawyers, including Ms Hollis herself, yet no material correction ever found its way on to the printed page and the witness was given several opportunities to read over and correct any errors in some cases some years later.³⁴⁵³ Interestingly he was not re-examined to the effect that he had ever mentioned [REDACTED] in any of the multitude of interviews he had given over six years. What is particularly striking is his claim that two totally separate sets of lawyers and investigators had

³⁴⁴⁵ TT, Abu Keita, TF1-276, 23 Jan 2008, p.1971-2; Varmuyan Sheriff, TF1-406, 10 Jan 2008, p. 918.

³⁴⁴⁶ TT, TF1-371, 25 Jan 2008, p. 2289-2290.

³⁴⁴⁷ TT, Issa Sesay, TF1-172, 9 Jul 09, p. 44122.

³⁴⁴⁸ TT, Abu Keita, TF1-276, 23 Jan 2008, p.1971-2; Varmuyan Sheriff, TF1-406, 10 Jan 2008, p. 918.

³⁴⁴⁹ TT, TF1-371, 25 Jan 2008, p. 2289-2290; Alimamy Bobson Sesay, TF1-334, 17 April 2008, p. 7902-5; Issa Sesay, DCT-172, 26 July 2010, p. 44637-8; Dauda Aruna Fornie, TF1-274, 02 Dec 2008, p. 21437-31; TF1-539, 10 Jun 2008, p.11478-9.

³⁴⁵⁰ TT, Abu Keita, TF1-276, 23 Jan 2008, p.2003-4.

³⁴⁵¹ TT, Mohamed Bereteh Kabbah, TF1-568, 16 Sep 2008, p. 16387-8; TT, Issa Sesay, DCT-172, 11 Aug 2010 p. 45967-9.

³⁴⁵² TT, Abu Keita, TF1-276, 23 Jan 2008, p.1971-2; Varmuyan Sheriff, TF1-406, 10 Jan 2008, p. 918.

³⁴⁵³ TT, TF1-338, 3 Sep 08, p. 15340.

³⁴⁵⁴ TT, TF1-338, 3 Sep 08, p. 15350.

³⁴⁵⁵ TT, TF1-338, 3 Sep 08, p. 15339-43.

made the same error one and a half years apart in writing down the numbers he had given them in interview, and yet on none of the many occasions when he had the chance to review the relevant paragraphs had he corrected the error.³⁴⁵⁶ He even made corrections to the offending paragraphs but did not correct the numbers which he claimed in his testimony were wrong by tenfold.³⁴⁵⁷

1216. TF1-338 also told several contradictory stories about meeting diamond dealers in [REDACTED]. TF1-338 originally testified that [REDACTED] the international community were watching to see if Taylor was getting diamonds from Sierra Leone.³⁴⁵⁸ However, in previous interviews, he stated that [REDACTED]
[REDACTED].³⁴⁵⁹

1217. TF1-338 claimed that Taylor [REDACTED] the RUF a dealer named [REDACTED], who was a white man.³⁴⁶⁰ However, in his earlier interviews TF1-338 said that Taylor [REDACTED] two diamond dealers: [REDACTED],³⁴⁶¹ whose name he repeatedly spelled and pronounced differently in testimony and in interviews.³⁴⁶² In evidence he constantly denied having told the OTP investigators and lawyers this, but in fact it was not until proofing four days before he gave evidence that he made any such corrections. Hitherto he had repeatedly said that Taylor [REDACTED] [REDACTED] because he would not always be around to deal with them himself. He repeatedly said in interviews that [REDACTED] were together and [REDACTED] together but in evidence claimed that the interviewers, including the lawyers, had got this wrong, even though he failed to correct the error until four days prior to testifying.³⁴⁶³

Other inconsistencies

³⁴⁵⁶ TT, TF1-338, 4 Sep 08, p. 15418-21.

³⁴⁵⁷ TT, TF1-338, 4 Sep 08, p. 15497-98 (demonstrating that TF1-338 had been taken paragraph by paragraph through his earlier interviews but had not corrected any of the figures he had given in those earlier interviews).

³⁴⁵⁸ TT, TF1-338, 2 Sep 08, p. 15168-69.

³⁴⁵⁹ TT, TF1-338, 3 Sep 08, p. 15360 (quoting verbatim from his OTP interview of September 2007 conducted by Ms Hollis.)

³⁴⁶⁰ TT, TF1-338, 2 Sep 08, p. 15225.

³⁴⁶¹ TT, TF1-338, 3 Sep 08, p. 15364 (quoting what OTP lawyers had recorded him telling them in September 2007).

³⁴⁶² See for example: TT, TF1-338, 2 Sep 08, p. 15194; TT, TF1-338, 3 Sep 08, 15326-29, 15332-33 (where the name reverts to [REDACTED]); TT, TF1-338, 4 Sep 08, p. 15410-11 (referring to his first OTP interview which was tape recorded and records him spelling [REDACTED]); See also TT, TF1-338, 4 Sep 08, p. 15481.

³⁴⁶³ See, eg, TT, TF1-338, 3 Sep 08, pp. 15350-51.

1218. [REDACTED]: TF1-338 said in interview that he had heard of a meeting [REDACTED]
[REDACTED], but in evidence denied ever telling the OTP investigators and lawyers about such a meeting.³⁴⁶⁴

1219. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].³⁴⁶⁶ How OTP interviewers could have got this so incredibly wrong he does not adequately explain – the only rational explanation is that he told them this elaborate story and later changed it.

1220. [REDACTED] TF1-338 gave utterly contradictory accounts of a [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].³⁴⁶⁸ In his testimony he said he did not know if [REDACTED]
[REDACTED]³⁴⁶⁹ but in his various earlier accounts to OTP interviewers he explicitly stated that [REDACTED]
[REDACTED] He even denied that he had earlier said [REDACTED]
[REDACTED] that earlier interview being recorded as he spoke.³⁴⁷¹ He made no corrections to the date of November 2000, nor to the fact that he knew [REDACTED] when he was taken through this interview later.³⁴⁷² But he did subsequently make corrections to this account in proofing with OTP lawyers four days before his testimony – only to deny during his testimony part of what he was recorded as having corrected – demonstrating his profound lack of credibility.³⁴⁷³

³⁴⁶⁴ TT, TF1-338, 3 Sep 08, pp. 15356-59.

³⁴⁶⁵ TT, TF1-338, 3 Sep 08, p. 15330.

³⁴⁶⁶ TT, TF1-338, 3 Sep 08, p. 15325.

³⁴⁶⁷ TT, TF1-338, 4 Sep 08, p. 15414.

³⁴⁶⁸ TT, TF1-338, 4 Sep 08, pp. 15411-14.

³⁴⁶⁹ See eg, TT, TF1-338, 4 Sep 08, p. 15413.

³⁴⁷⁰ TT, TF1-338, 4 Sep 08, pp. 15411-14.

³⁴⁷¹ TT, TF1-338, 4 Sep 08, pp. 15411, 15476.

³⁴⁷² TT, TF1-338, 4 Sep 08, pp. 15481-82.

³⁴⁷³ TT, TF1-338, 4 Sep 08, pp. 15501-02.

1221. But, to compound his utter lack of credibility, he actually went through that tape transcript later and made handwritten corrections on it yet did not correct what he said in evidence to be obvious and profoundly erroneous mistakes in what was transcribed.³⁴⁷⁴

1222. Taylor and a Satellite telephone: At one point in his evidence [REDACTED] that Taylor was not in the habit of talking to Sesay on the satellite telephone in 2002.³⁴⁷⁵ At a later stage in his evidence he contradicted that and asserted wholly erroneously that he had been speaking earlier of a HF radio, not a satellite phone.³⁴⁷⁶ Either the witness does not listen to questions at all and completely mixes up what he is being asked about, or he was just changing his story later, but whatever the reason, this yet again demonstrates the wholesale unreliability of this witness.

1223. [REDACTED]: In one version of events [REDACTED]
[REDACTED]³⁴⁷⁷ in another contradictory version of events
[REDACTED]
[REDACTED]
[REDACTED]³⁴⁷⁸.
Again, he had opportunities to correct what was in his interviews but chose not to.

1224. [REDACTED]
[REDACTED]
[REDACTED] – but his account of these events changed very considerably by the time he came to give evidence in court.³⁴⁷⁹

1225. Return of UN weapons: Another telling example of this witness's capacity to lie and make up evidence as he went along, came in relation to his testimony that he had never told OTP interviewers that Taylor had told the RUF to return the weapons seized from UN soldiers to the UN, despite a very clear statement to that effect in his interview in 2006,³⁴⁸⁰ and several opportunities to correct it in the years following.³⁴⁸¹

³⁴⁷⁴ TT, TF1-338, 4 Sep 08, p. 15429.

³⁴⁷⁵ TT, TF1-338, 2 Sep 08, p. 15248-49.

³⁴⁷⁶ TT, TF1-338, 4 Sep 08, p. 15430-31.

³⁴⁷⁷ TT, TF1-338, 4 Sep 08, p. 15476.

³⁴⁷⁸ TT, TF1-338, 3 Sep 08, p. 15389-90.

³⁴⁷⁹ TT, TF1-338, 4 Sep 08, pp. 15503-12 (demonstrating the contradictory accounts he gave either to the court or to the OTP interviewers earlier).

³⁴⁸⁰ TT, TF1-338, 4 Sep 08, p. 15449-52.

³⁴⁸¹ TT, TF1-338, 4 Sep 08, p. 15454-61.

1226. Issa Sesay soundly refuted the notion that during his tenure as interim leader of the RUF, he took RUF diamonds to Taylor. Sesay explained that the diamonds given to him by the RUF were sold in order to transform the RUF into a political party (ie, buying furniture and paying rent for the party office in Makeni), and to buy logistics such as medicine.³⁴⁸²

1227. During testimony, Sesay scoffed at the idea that Sierra Leone exported approximately \$120 million worth of diamonds in a year when asked why he could not account for such revenue when he was interim leader. He denied that the RUF or himself ever had access to that amount of money. He queried whether if such an amount were true, would he have left his own father living in complete poverty? He testified, “Even now, I am in prison, only friends are helping me to pay my children’s school fees. I have nothing”.³⁴⁸³

Diamonds Conclusion

1228. Taylor repeatedly called on the international community to investigate allegations of diamond trafficking in the context of assistance to the RUF.³⁴⁸⁴ In 2002, Taylor granted an interview to Stephen Smith, in which he stated unequivocally that Liberia had never been involved in any organized diamond trafficking. He further stated that Liberia was willing to co-operate fully with any investigation whatsoever of the UN Security Council and in fact requested an investigation in order for the country to be cleared of those accusations.³⁴⁸⁵

1229. Taylor drew an apt comparison during his testimony; he likened his inability as President of Liberia to control the diamond trade along its border with Sierra Leone, to that of the inability of the President of the US to control the illegal drugs trade along its border with Mexico.³⁴⁸⁶ The diamond trade in Monrovia was not micro-managed by Charles Taylor as President of Liberia; thus private actors, including the RUF and its associates could have engaged in diamond trading in the capital. This, nor any of the allegations addressed above, does not amount to liability under aiding and abetting and does not show that diamonds were the primary currency for weapons during the conflict.

³⁴⁸² TT, Issa Sesay, DCT-172, 13 Aug 10, p. 46259-60.

³⁴⁸³ TT, Issa Sesay, DCT-172, 13 Aug 10, p. 46259-60.

³⁴⁸⁴ Exhibit DCT-236B, Taylor complains allegations of diamond trafficking damaged Liberia’s economy.

³⁴⁸⁵ Exhibit P-33B (*Le Monde*, “Charles Taylor, former warlord and President of Liberia, “British officials are after Sierra Leone’s diamonds,” 15 November 2000).

³⁴⁸⁶ TT, Charles Taylor, 25 Aug 09, p. 27583 – 4.

Command Responsibility: Evidentiary Analysis

1230. As part of the overarching JCE, which allegedly subsisted between Charles Taylor and members of the RUF over the decade long civil war in Sierra Leone, the Prosecution alleges that Charles Taylor exercised powers of command authority over the RUF's successive leadership, and therefore, the RUF itself as an entity. The Prosecution contends that these allegations support the conclusion that Charles Taylor bears superior responsibility for all crimes charged in the Indictment.

Charles Taylor/ Foday Sankoh

1231. Prosecution evidence suggests that Taylor's dominance over the RUF, in which he allegedly exercised powers of superior command over the RUF, predates the temporal scope of the Indictment and includes time when Sankoh was in Liberia in 1990. This dominance, it is suggested, would continue throughout the life of the RUF and its successive leadership. While this evidence would otherwise have been irrelevant to the present discourse, as it largely falls outside the indictment period, the Prosecution argues that, in line with its theory of a continuous JCE, it lays the context and basis for Taylor's subsequent dominance over the RUF.

1232. The question of when Foday Sankoh himself became leader of the RUF is in dispute in this case. While prosecution witnesses suggest that Sankoh became leader of the RUF in Libya,³⁴⁸⁷ the Defence contends that he became leader of the RUF sometime later, around 1990, in Liberia. Be that as it may, it is not in dispute that by the time the RUF was undertaking secret military training at Camp Naama in Liberia, Foday Sankoh was the leader of the RUF. During this time, the Prosecution evidence alleges, Foday Sankoh was subservient to Taylor despite the evidence varying on Sankoh's precise relationship to Taylor at this time. While some of the evidence suggests that he was at some point a fighter in the NPFL,³⁴⁸⁸ most of the evidence suggests that he occupied a much more prestigious role as Taylor's advisor;³⁴⁸⁹ a position that allowed him a number of privileges, including the ability to recruit and train the RUF in

³⁴⁸⁷ TT, Suwandi Camara, TF1-548, 7 Feb 08, p. 3428-32. Camara stated that Sankoh was already the acting leader in 1990.

³⁴⁸⁸ TT, TF1-168, 21 Jan 09, p. 23135-8.

³⁴⁸⁹ TT, TF1-371, 24 Jan 08, p. 2200; TF1-168, 21 Jan 09, p. 23137-8; Exhibit P-54; Exhibit P-277, p. 12.

Liberia.³⁴⁹⁰ Either way, the evidence allegedly suggests that Foday Sankoh held a subordinate role to Charles Taylor.

1233. There is, however, a glaring gap between the Prosecution's evidence in relation to Foday Sankoh's transition from Taylor's alleged equal in Libya to being Taylor's subordinate in West Africa. The Trial Chamber will recall that the Prosecution's central allegation throughout the indictment is the alleged JCE between Taylor and Sankoh, allegedly conceived in Libya. In this respect, the Trial Chamber will also recall the evidence of the proponents of that theory such as TF1-548, which clearly alleged a mutual military assistance arrangement among three equal principals, namely Taylor, Sankoh and Dr. Manneh.³⁴⁹¹ This alliance entailed the three parties assisting each other in their respective revolutions in Liberia, Sierra Leone and The Gambia, which commenced first in Liberia.³⁴⁹² This gap in evidence, suggesting an unequal relationship shortly after proving an equal and mutually beneficial relationship underscores the point made earlier in this Final Brief under JCE that the Prosecution has always been confused as to the Accused's alleged culpa in relation to the RUF. To put it simply, the entire case is and has always been a fishing expedition characterised by inconsistent allegations and shifting goal posts.
1234. Despite being Taylor's alleged equal in Libya and Burkina Faso, the Prosecution's evidence simply transplants Sankoh into a subservient role. Even then, the Prosecution's evidence is not quite clear on Sankoh's actual status in relation to Taylor. While some of the evidence suggests that he might have been merely subservient, but not necessarily subordinate, to Taylor,³⁴⁹³ most of the evidence suggests that he was actually a subordinate of Taylor. Indeed, some of the evidence even goes so far as to suggest that he was merely Taylor's stooge and that the RUF was something of an extension of the NPFL.³⁴⁹⁴ According to this school of thought, Taylor therefore allowed Sankoh to recruit and train the RUF freely in Liberia while he provided all the necessary logistical and military support for the RUF training.³⁴⁹⁵
1235. It is further alleged that after the training Taylor planned the Sierra Leonean invasion,³⁴⁹⁶ and seconded some NPFL fighters and commanders to assist in the

³⁴⁹⁰ TT, TF1-371, 24 Jan 08, p. 2205; Isaac Mongor, TF1-532, 10 Mar 08, p. 5667-8.

³⁴⁹¹ TT, Suwandi Camara, TF1-548, 8 Feb 08, p. 3446-7.

³⁴⁹² TT, Suwandi Camara, TF1-548, 8 Feb 08, p. 3446-7.

³⁴⁹³ See for instance, TT, Augustine Mallah, TF1-045, 20 Aug 08, p. 14097-14102.

³⁴⁹⁴ Exhibit P-55.

³⁴⁹⁵ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5667-8; TF1-168, 21 Jan 08, p. 23150-1.

³⁴⁹⁶ TT, [REDACTED]; p. 2218; Isaac Mongor, TF1-532, 10 Mar 08, p. 5671-3.

invasion.³⁴⁹⁷ These NPFL commanders, it is alleged, assumed direct command of the RUF and reported directly to Taylor.³⁴⁹⁸ All the other RUF commanders, it is also alleged, were during this time subservient and answerable to the NPFL commanders,³⁴⁹⁹ and therefore to Taylor. Even Sankoh, it is alleged, had no independent control over the NPFL commanders.³⁵⁰⁰ Sankoh, it is also alleged, would also take instructions from Taylor directly.³⁵⁰¹

1236. As noted under the discussion on JCE in this Final Brief, the Defence does not deny the presence of some Liberian fighters during the early stages of the Sierra Leonean war. What is in dispute is the basis of their participation, the timing, and to some extent, the duration thereof. While the Prosecution alleges that they were sent by Taylor during the initial invasion in March 1991, the Defence contends that they were sent by Taylor after the invasion pursuant to a mutual defence pact between Taylor and Sankoh.³⁵⁰² During this time, as also argued in this Trial Brief under JCE, there was some degree of military cooperation between Taylor and Sankoh. Indeed, some of the allegations in the Prosecution's case of military cooperation between Taylor and Sankoh could have fallen in this period, although the Defence does not accept their credibility. During this time the Defence contends that Sankoh and Taylor related as equals. To illustrate this, the Trial Chamber might recall that this was the time Sankoh met with Moses Blah in Gbarnga and made it a point to remind Blah that he was no longer as a "small boy", referring to his Libyan days, but was now a revolutionary leader, and on that account asked Blah to salute him.³⁵⁰³

1237. Most importantly, whatever the case, there is sufficient evidence across the Prosecution/Defence divide that, whatever cooperation existed between Sankoh and Taylor, ceased after Top Final in 1992, when the Liberians withdrew from Sierra Leone.³⁵⁰⁴ At the very least, there is generally consensus that the cooperation significantly abated following the NPFL withdrawal. This exodus also coincided with the general breakdown in communication between Taylor and Sankoh. Shortly after

³⁴⁹⁷ TT, TF1-567, 2 Jul 08, p. 12829-30; Exhibit P-27.

³⁴⁹⁸ NPFL commanders commanding the RUF: Exhibit P-55; Exhibit P-277, p. 21; TT, TF1-371, 25 Jan 08, p. 2237; TF1-567, 2 Jul 08, p. 12829-30. NPFL commanders reporting to Taylor: TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5675.

³⁴⁹⁹ Exhibit P-55; TT, TF1-371, 25 Jan 08, p. 2229-31.

³⁵⁰⁰ Exhibit P-55; Exhibit P-277; TT, TF1-371, 25 Jan 08, p. 2237.

³⁵⁰¹ TT, Foday Lansana, TF1-275, 20 Feb 08, p. 4385-6.

³⁵⁰² TT, Charles Taylor, 20 Jul 08, p. 24790-824.

³⁵⁰³ See JCE Section; TT, Moses Blah, TF1-561, 14 May 08, p. 9861.

³⁵⁰⁴ Exhibit P-277, p. 23; TT, TF1-367, 29 Aug 08, p. 14963-4; TF1-168, 23 Jan 09, p. 23444-5; Charles Taylor, 20 Jul 09, p. 24822-4.

the NPFL departure, the RUF lost substantial ground to the government forces, at the same time being attacked from ULIMO from the rear. While the government forces attacked from one end, ULIMO attacked from the other – the Liberian side – thus effectively cutting the RUF off from any possible help from Liberia.³⁵⁰⁵ However, most importantly, Taylor and Sankoh fell out during this time and Sankoh was forced to stand on his own. Foday Sankoh then declared his battle a self-reliant struggle and adopted guerrilla warfare tactics in order to keep the struggle going.³⁵⁰⁶

1238. Some Prosecution evidence, albeit discredited, however suggests that even after the Top Final, Taylor retained control over Foday Sankoh.³⁵⁰⁷ It is alleged the two remained in constant radio contact and Taylor even advised Sankoh on what military course of action to take.³⁵⁰⁸ Whenever Sankoh spoke to Taylor, TF1-360 for instance alleged, the RUF would undertake a military attack.³⁵⁰⁹ One such attack, it is alleged, was the attack on Sierra Rutile in 1994.³⁵¹⁰ Another was the Operation Stop Election, which Taylor allegedly approved.³⁵¹¹ Both operations it will be recalled involved atrocities against civilians.

1239. These allegations are sufficiently dealt with in the JCE section, where the credibility of the witnesses concerned is also assessed. The Defence would however only add here that even if those allegations were to be taken at face value, they do not establish a superior/subordinate relationship in that there is no indication of effective control on Taylor's part. For that reason and for the reasons adequately covered in the JCE Section on the issue, the Defence submits that there is sufficient evidence that Sankoh was operating independent of Taylor during this time. Sankoh, it is submitted, enjoyed all the traditional trappings of de facto authority, such as the power to issue orders,³⁵¹² the power to make military appointments,³⁵¹³ and the power to discipline,³⁵¹⁴ the authority to represent the RUF in its external relations,³⁵¹⁵ control over the means of war³⁵¹⁶ and the power to determine the RUF's ideology.³⁵¹⁷

³⁵⁰⁵ TT, TF1-371, 30 Jan 08, p. 2664-8.

³⁵⁰⁶ TT, TF1-371, 30 Jan 08, p. 2667-8; 31 Jan 08, p. 2694-5; TF1-168, 23 Jan 09, p. 23451; Exhibit P-56.

³⁵⁰⁷ See JCE Section.

³⁵⁰⁸ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3053.

³⁵⁰⁹ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3053.

³⁵¹⁰ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3053; Augustine Mallah, TF1-045, 12 Nov 08, p. 20097-101; 14 Nov 08, p. 20305.

³⁵¹¹ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5689-90.

³⁵¹² Exhibit P-277, p. 24 (general hierarchy and powers), p. 41 (Sankoh ordered Operation Stop Election).

³⁵¹³ Exhibit P-277, p. 24 (general hierarchy and powers).

³⁵¹⁴ Exhibit P-277, p. 24 (general hierarchy and powers), p. 36-8 (Sankoh ordered the execution of Rashid Mansaray).

1240. Sankoh remained in effective control until 1996, when it could be said that he surrendered some of his powers to Sam Bockarie. In March 1996, when Foday Sankoh left Zogoda for the peace talks in Ivory Coast, he left Mohammed Tarawalley in charge of the RUF. However when Mohammed Tarawalley went missing in action, Foday Sankoh then passed an instruction for Sam Bockarie to take over leadership of the RUF until his return.³⁵¹⁸ This status quo subsisted until the Junta came to power in 1997, and the RUF joined them to form a government.³⁵¹⁹

Charles Taylor/ Sam Bockarie - Pre Junta

1241. The Prosecution's evidence is neither clear nor consistent on the formation of the alleged superior/subordinate relationship between Charles Taylor and Sam Bockarie. There are suggestions that Bockarie started to receive instructions from Taylor from the time that Foday Sankoh was arrested in Nigeria in 1996. Allegedly, at that time Foday Sankoh sent instructions through Taylor for Sam Bockarie to take instructions from Charles Taylor in his absence.³⁵²⁰ Other than the allegation itself, there is however nothing in the evidence to suggest that Taylor in fact had effective control over Bockarie and other members of the RUF. Indeed, there is nothing to suggest that his word had independent authority from that of Foday Sankoh at that time. Also contrast the Prosecution's account with the evidence of [REDACTED] [REDACTED] [REDACTED] that Bah had been sent by Taylor and that Bockarie was trying to get back in touch with Taylor through Bah.³⁵²¹

1242. Secondly, it would appear that Sankoh's alleged instructions for Bockarie to take instructions from Taylor were to be shortly countermanded, for when the Junta took over power in May 1997, Foday Sankoh instructed the RUF to join and work with the Junta.³⁵²² During the Junta, as covered in the Factual Narrative section, it is not in dispute that Johnny Paul Koroma, who was the chairman, was the ultimate authority;

³⁵¹⁵ Exhibit P-277, p. 44-53 (Sankoh's role in the Abidjan peace talks as leader of the RUF with ultimate authority for the peace talks); TT, TF1-168, 22 Jan 09, p. 23274-7 (Sankoh's tour of the region following the Abidjan peace talks vis-à-vis his capacity to negotiate with foreign leaders on behalf of the RUF).

³⁵¹⁶ TT, Fayiah Musa, DCT-306, 16 Apr 10, p. 39200 (Sankoh was responsible for the management of the war).

³⁵¹⁷ Exhibit P-277, p. 5-6 (the RUF ideology was loyalty to Sankoh).

³⁵¹⁸ TT, Issa Sesay, DCT-172, 6 Jul 10, p. 43773-9. Sankoh appointed Bockarie as Battle Group Commander in November 1996 and Battlefield Commander in March 1997; Exhibit P-277, p. 76 (the rein of power was transferred to Bockarie).

³⁵¹⁹ See Factual Narrative.

³⁵²⁰ See TT, TF1-338, 1 Sep 08, p. 15115 (A message passed by Daniel Tamba to Bockarie); TT, Foday Lansana, TF1-275, 21 Feb 08, p. 4490-1 (alleging that while in Nigeria, Sankoh relayed messages through Taylor to Bockarie); TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9353-9.

³⁵²¹ TT, [REDACTED].

³⁵²² See Factual Narrative.

that Sam Bockarie, even if marginalised, deputised him; and that the Junta's Supreme Council was the central governing body and comprised of both RUF and AFRC members. Indeed, while there are allegations of communication between the Junta and Charles Taylor, there is nothing upon which one could remotely found any exercise of authority by Taylor over the Junta. Indeed as [REDACTED], [REDACTED] [REDACTED]³⁵²³ would be forced to concede, Taylor was not part of the Junta hierarchy and did not control the Junta.³⁵²⁴ More importantly, there are absolutely no indications of effective control.

Charles Taylor/ Sam Bockarie – Junta

1243. The Prosecution's evidence, however, suggests that during the Junta, Sam Bockarie continued to take instructions from Charles Taylor. Some of the witnesses even alleged regular satellite phone communication between the two.³⁵²⁵ TF1-567, for instance, alleges that during this time (the latter part of 1997) Taylor sent Jungle to meet with Bockarie, and Jungle told him that Taylor had said that Bockarie should not involve himself too much in the AFRC government.³⁵²⁶ TF1-577, on the other hand alleges that a few months later, in April/May 1998, he observed a message in Selasie's logbook, supposedly from Charles Taylor to Bockarie, of a dialogue relating to the fissures forming within the AFRC/RUF coalition, and Taylor advising that to avoid losing ground the RUF should work "hand in glove" with the AFRC.³⁵²⁷ The obviously conflicting account notwithstanding, even if that evidence were to be taken at face value, there is nothing in it to establish command authority, let alone effective control. Furthermore, there is nothing in the evidence to suggest how the alleged communications impacted on the affairs of the Junta.

1244. The Defence asserts three separate facts show there was not a close relationship between Taylor and Sam Bockarie during the Junta. Firstly, the Prosecution's own evidence considered under the section on JCE concerning the Junta's attempts to establish contact with Taylor clearly shows that there was no prior contact between Taylor and Bockarie. As argued in the JCE section, if Sam Bockarie had been in regular contact with Taylor following Sankoh's instructions in 1996, as alleged, it should then have been easy for the Junta to readily establish contact with Taylor in

³⁵²³ Exhibit P-104.

³⁵²⁴ TT, [REDACTED].

³⁵²⁵ TT, TF1-516, 8 Apr 08, p. 6912, 6942.

³⁵²⁶ TT, TF1-567, 8 Jul 08, p. 13151.

³⁵²⁷ TT, Albert Hindowa Saidu, TF1-577, 4 Jun 08, p. 11005-9.

1997 when it came to power. Rather, as [REDACTED] testified, the first Junta delegation that was sent to Liberia took some circuitous route via a friend of a member of the delegation, who then introduced the delegation to the Liberian Foreign Affairs Minister.³⁵²⁸ All this trouble just to deliver a letter, while all the while, Sam Bockarie was allegedly in regular communication with Taylor? At some point the Prosecution's evidence must be coherent. This is particularly so bearing in mind that Sam Bockarie was supposed to be the Junta's second in command, after Johnny Paul Koroma, in Foday Sankoh's absence.³⁵²⁹ Secondly, there is also evidence from the Prosecution of Bockarie allegedly complaining of lack of support from Taylor in the period immediately after the fall of the Junta.³⁵³⁰ Thirdly, Defence Exhibit D-7 clearly shows the RUF tried desperately to establish contact with the Liberian government through the Liberian Embassy in Guinea in August 1998.

1245. All this, it is submitted, does not comport with the allegation of a superior/subordinate relationship between Taylor and Sam Bockarie during the Junta period. Far from it, it is quite clear that when the RUF joined the Junta, they were following Sankoh's instructions. Bockarie continued to follow these instructions and stayed on in the Junta government even when he was being marginalised.³⁵³¹ This reflects how effective Sankoh's control over the RUF was even if in absentia.

Charles Taylor/ Sam Bockarie – Post Junta

1246. The majority of the Prosecution's evidence alleges that a renewed superior/subordinate relationship between Taylor and Bockarie came into being after the fall of the Junta. During this time, Prosecution evidence alleges a whole host of instances of Taylor's alleged exercise of the powers of superior command over the RUF. These allegations, it might be observed, are overly broad, non-specific and often confused; and while they might, at face value, suffice to establishing (but not necessarily proving) the exercise of some authority by Charles Taylor over Sam Bockarie, they do not establish any command authority. Most importantly they do not provide sufficient indicia of effective control. In many instances these allegations were coloured by what the witnesses perceived was the relationship between Taylor and Bockarie. Words like "instructed", "ordered", "told" and "advised" were therefore used indiscriminately depending on the narrator, even when the witnesses

³⁵²⁸ TT, [REDACTED].

³⁵²⁹ See Factual Narrative.

³⁵³⁰ TT, TF1-371, 30 Jan 08, p. 2668-71.

³⁵³¹ See Factual Narrative.

were talking about the same event. In other instances, like the evidence on the Freetown invasion, as clearly shown in the JCE sections, some of the witnesses simply lied or exaggerated their accounts in order to implicate the Accused.

1247. These wholesale allegations, some of which go to the question of superior responsibility, as well as the question of actual or constructive notice, are detailed below. Strictly for analysis purposes, they are categorised into two tiers, which are not necessarily exclusive. The first tier relates to allegations of a general nature on the alleged exercise of authority by Charles Taylor over the RUF, which the Defence however submits, fails to show effective control. The second tier relates to specific allegations of Taylor's alleged exercise of superior authority over Bockarie and the RUF. An evaluation of these specific allegations is also important because some of general comments by the Prosecution's witnesses derived from those specific incidents.

General allegations of superior responsibility

1248. The first tier, the general allegations, includes the Prosecution's evidence on the various salutations by which Bockarie allegedly addressed Taylor, which ostensibly go towards establishing Taylor's command authority over Sam Bockarie. Falling in this tier is the evidence of the radio operators and other witnesses of the alleged frequent communication between Taylor and Bockarie. The following evidence outlines the general allegations put forward by the Prosecution.

1249. TF1-516, for instance, gives one of the most sweeping and patently exaggerated accounts of Taylor's alleged relationship with Bockarie during this time. The evidence unrealistically suggests that Taylor was effectively running the RUF on a day to day basis. The witness alleges that sometime about mid-1997, which is when the Junta came to power, until the ECOMOG Intervention,³⁵³² Bockarie had regular satellite telephone conversations with Charles Taylor and Yeaten.³⁵³³ These calls, which would continue even after the Junta, the witness alleges, originated from either side and were arranged through radio operators. After such conversations, the witness alleges, Bockarie would draft messages for the frontlines, including manoeuvres to capture specific areas during the Freetown invasion. The witness believed that

³⁵³² TT, TF1-516, 8 Apr 08, p. 6912; 6942.

³⁵³³ TT, TF1-516, 8 Apr 08, p. 6917-24; 6942.

Bockarie had spoken to Taylor or Yeaten because, during the radio conversations, he would say “‘yes, Sir”.³⁵³⁴

1250. TF1-532 also alleges that during that time he was in Buedu, he also witnessed a daily flow of communication between Taylor and Bockarie, who, in his opinion, were like father and son.³⁵³⁵ TF1-371 also characterised Taylor and Bockarie’s relationship in similar terms and alleged that Bockarie was very loyal and trusting, and thus entrusted Taylor with the RUF’s resources, including diamonds.³⁵³⁶ Various other witnesses also made other general allegations suggesting a superior/subordinate relationship between Taylor and Bockarie. TF1-568, who says he was based in Buedu in late 1998, alleges that he and Jungle would go to Buedu to give oral salute reports to Sam Bockarie and these reports conveyed “what the Pa said.” They included information about the materials Charles Taylor had sent to Bockarie. This happened “a lot up to the time when the attack on Kono took place.”³⁵³⁷ TF1-406 also alleged that during the January 6th 1999 invasion of Freetown, he heard Sam Bockarie tell the BBC that he would not retreat from Freetown until his “father” “Pa” Charles Taylor told him to do so.³⁵³⁸ Also see the evidence of TF1-015 that, Bockarie, during this time, called Taylor “boss”. The witness alleges that when Bockarie tried to forcibly recruit him into the RUF, “as a man of God”, he insisted on being made field marshal at which Bockarie scoffed saying that even he was only a one-star general and even his “boss” Ghankay Taylor was not a five-star general.³⁵³⁹
1251. TF1-274 also testified that Bockarie used to consult Taylor regarding strategy. TF1-274 knows this allegedly because he was the contact person who liaised between Bockarie and Taylor.³⁵⁴⁰ When asked about the role of Benjamin Yeaten, (early 1998 until April 1999), TF1-274 testified that Yeaten was the SSS director for Taylor and the one who coordinated between Mosquito and Taylor.³⁵⁴¹ TF1-274 heard Mosquito answering, “Yes, Sir”, when he was communicating with Benjamin Yeaten (in early 1998 until April 1999). Yeaten, the witness alleges, was Bockarie’s superior, and was commanded by Taylor.³⁵⁴² TF1-539 on the other hand apparently has Taylor to thank

³⁵³⁴ TT, TF1-516, 8 Apr 08, p. 6923-24; 6942-3.

³⁵³⁵ TT, Isaac Mongor, TF1-532, 31 Mar 08, p. 6226-8.

³⁵³⁶ TT, TF1-371, 29 Jan 08, p. 2457.

³⁵³⁷ TT, Mohamed Kabbah, TF1-568, 17 Sep 08, p. 16430-1; 16452.

³⁵³⁸ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 866.

³⁵³⁹ TT, Alex Teh, TF1-015, 8 Jan 08, p. 729.

³⁵⁴⁰ TT, Dauda Aruna Fornie, TF1-274, 8 Dec 08, p. 21485.

³⁵⁴¹ TT, Dauda Aruna Fornie, TF1-274, 8 Dec 08, p. 21484-5.

³⁵⁴² TT, Dauda Aruna Fornie, TF1-274, 8 Dec 08, p. 21484-5.

for his life. According to the witness, [REDACTED]

[REDACTED] 3543

1252. As always is the case with Prosecution's evidence, nothing quite makes sense. At a time when it is alleged that Taylor was effectively directing the affairs of the RUF since the fall of the Junta in February 1998, there is also other Prosecution evidence to the contrary. TF1-585, in a quest to implicate Taylor, for instance, alleges that after the fall of the Junta, Taylor imposed Johnny Paul Koroma as the RUF leader. According to TF1-585, in early 1998, as the RUF retreated from Freetown, in the wake of the February Intervention, many groups of the AFRC/RUF converged at Buedu where Bockarie was in charge. Yeaten allegedly said to Bockarie that Charles Taylor and Foday Sankoh had spoken and decided that Bockarie should try by all possible means to help JPK get to Buedu.³⁵⁴⁴ Upon JPK's arrival, Bockarie, allegedly reconfirmed that he had been instructed that, in Sankoh's absence, JPK was to be treated as the leader of the RUF.³⁵⁴⁵

1253. According to TF1-571, on the other hand, Sam Bockarie would have started taking instructions from Taylor after the Lomé Peace Accords in August 1999. According to this witness, after Lomé, Sankoh told his senior officers that he was going on a political tour to Libya and that they should take instructions from Sam Bockarie in his absence, and that Bockarie in turn would be taking instructions from Charles Taylor. Further, Taylor had given the RUF a satellite phone to preserve this chain of command.³⁵⁴⁶ Why Sankoh would be directing the RUF to take instructions from Taylor in 1999, when he had already given the instruction before; as far back as 1996 is never explained in Prosecution evidence. Also contrast these allegations that Sankoh told Bockarie to take instructions from Taylor above with DAF who said that around the time of the Lomé Accord, when Sankoh was away, Mosquito sought advice from Charles Taylor.³⁵⁴⁷ Indeed that Bockarie consulted Taylor before accepting what Foday Sankoh said when it came to going to Togo (for the Lomé Peace Talks) and maintaining the temporary ceasefire.³⁵⁴⁸ As argued, above, one could never make sense of the ever shifting Prosecution case.

³⁵⁴³ TT, TF1-539, 11 Jun 08, p. 11518-20.

³⁵⁴⁴ TT, TF1-585, 5 Sep 08, p. 15609-10.

³⁵⁴⁵ TT, TF1-585, 5 Sep 08, p. 15617-8.

³⁵⁴⁶ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9358.

³⁵⁴⁷ TT, Dauda Aruna Fornie, TF1-274, 11 Dec 08, p. 22167-8; 21485.

³⁵⁴⁸ TT, Dauda Aruna Fornie, TF1-274, 11 Dec 08, p. 22167-8; p. 21485.

1254. In considering the allegations that Taylor exercised command authority over the RUF after the fall of the Junta, it is also important to bear in mind that during this time, Foday Sankoh continued to exercise effective authority over the RUF, even if in absentia.³⁵⁴⁹ There is evidence, including evidence from the Prosecution itself, suggesting that Sankoh continued to possess trappings of command authority such as: that he was the ultimate authority on matters of discipline;³⁵⁵⁰ that he controlled the RUF finances;³⁵⁵¹ that he continued to support and source means of war for the RUF;³⁵⁵² that he interacted with external government and other bodies on behalf of the RUF³⁵⁵³ and was in fact signing treaties on its behalf, including the one at Lomé in 1999.³⁵⁵⁴
1255. The first tier of allegations – the general allegation – it is submitted, has a common thread and can be summarily dismissed because it fails to prove effective control. While, the evidence taken at face value would, on the face of it, suggest a superior/subordinate relationship, it falls far short of the critical effective control threshold. The line between Taylor ordering Sam Bockarie and advising him is not clearly defined. Furthermore, the various titles by which Bockarie allegedly addressed Taylor, if anything, when placed in their appropriate cultural context, show reverence and not command authority. Indeed a father/son relationship is not based on command authority but respect. As TF1-371 observed, the relationship was characterised by Bockarie's loyalty and trust, even if blind.
1256. At best, the evidence, in some instances, bears some semblance of this Court's Article 6.1 mode of liability of ordering. The evidence however falls short of establishing that Taylor indeed had the material ability to prevent the crimes that were being committed by the entire RUF during the period under review or that he had the means to punish the offenders. Indeed, it is quite remarkable that the Prosecution led no evidence at all of any mechanisms that would have possessed Taylor of the means to exercise effective control over the RUF from where he sat in Monrovia.
1257. Likewise, while some of the evidence generally goes to establishing actual or constructive notice on Taylor's part, of the RUF's crimes, it falls far short of

³⁵⁴⁹ TT, Dauda Aruna Fornie, TF1-274, 11 Dec 08, p. 22168.

³⁵⁵⁰ Sankoh ordered the release of the External Delegation in 1999, Exhibit P-277, p. 63.

³⁵⁵¹ Exhibit P-272; Exhibit D-15.

³⁵⁵² Exhibit P-272; Exhibit D-15.

³⁵⁵³ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9358; Exhibit D-15 and Exhibit P-272 (Sankoh was writing on behalf of the RUF to the Libyan representative in Ghana).

³⁵⁵⁴ See Factual Narrative.

establishing that Charles Taylor was therefore aware of each and every crime charged in the Indictment. There is no evidence of a clear mechanism through which he would have come to the knowledge of all the crimes charged in the Indictment committed during the period under review. The Defence submits that the Trial Chamber could not find beyond all reasonable doubt that Charles Taylor bears superior responsibility for the crimes of every member of the RUF during Sam Bockarie's era on the basis of the bald and sweeping allegations that characterised most of the Prosecution's evidence going towards superior responsibility. This is particularly so given that Taylor was a civilian leader in another country allegedly exercising authority over a rebel group in another country where he never set foot. In those circumstances the Defence submits that the burden of proving effective control is much higher and the traditional indicia of effective control are insufficient.

1258. In order to fully discover the nature and extent of Taylor's alleged influence over Bockarie and whether that influence would have extended to a superior/subordinate relationship in which Taylor had effective control over the RUF, it is therefore important and instructive to go beyond the Prosecution's bald and general allegations and look at some of the specific instances in the Prosecution's case going towards Taylor's alleged superior command. As indicated above, some of the general allegations derive from some of these specific instances. This analysis, it is however submitted, will not only show the inherent inconsistencies in the Prosecution's case, it will also establish the unreliability of the Prosecution's evidence generally. Most importantly, the analysis will show that Taylor does not bear superior responsibility for the sins of the RUF, as there was no superior/subordinate relationship between him and Sam Bockarie, let alone, effective control over the RUF.

Specific allegations of Superior Responsibility

Alleged promotion of Sam Bockarie

1259. The Prosecution would point to Taylor's alleged promotion of Sam Bockarie as vital indicia, not only of a superior-subordinate relationship, but also of effective control. The Prosecution's evidence on Taylor's alleged promotion is however riddled with material discrepancies, which render the account incredible and impinges on the credibility of the witnesses concerned. In contrast, the Defence submits that there is credible evidence that Sam Bockarie was, in fact, promoted by Johnny Paul Koroma at the alleged time.

- 1260.TF1-516, the same witness who alleged daily communication between Taylor and Bockarie, vividly recounted Bockarie's enthusiasm following his alleged promotion by Taylor to the rank of General. The witness alleges that shortly after the ECOMOG Intervention in February 1998, he saw Bockarie in Buedu riding in a jeep with Gullit. Bockarie allegedly called a muster parade, [REDACTED].³⁵⁵⁵ Bockarie allegedly told those at the parade that he had just returned from "the other side" – Liberia, where "the chief, Charles Taylor" had promoted him to the rank of General, and thus everyone should now take orders from him. Bockarie allegedly wore a new combat fatigue with the insignia of a General, and had a new military jeep that he said Taylor had given him. [REDACTED]
[REDACTED].³⁵⁵⁶
- 1261.Also according to TF1-585 Bockarie travelled to Monrovia not long after [REDACTED]
[REDACTED] (i.e. at the time of the ECOMOG Intervention) and returned with a tactical jeep and a uniform and said he had been made General by Taylor.³⁵⁵⁷ The witness's account, however, also appears to be the same time that Taylor and Sankoh allegedly agreed that Johnny Paul Koroma should take over leadership of the RUF.³⁵⁵⁸ This aspect is important because, as the Defence contends below, Bockarie was in fact promoted by Johnny Paul Koroma.
- 1262.TF1-571 also speaks of Bockarie's alleged promotion but differs with TF1-516 and TF1-585 with respect to the timing and the number of persons promoted. The witness alleges that in late May/early June 1998, shortly after returning from a visit to Monrovia, Bockarie called a meeting of commanders and soldiers at a place on the Foya Road, between Buedu and Waterworks. At the meeting, Bockarie said that Charles Taylor had promoted him and Issa Sesay to General. Bockarie, the witness alleges, also added that the RUF would now be in command, deputised by the AFRC. JPK who was present at the meeting, the witness alleges, concurred with Bockarie's statements.³⁵⁵⁹
- 1263.TF1-367's evidence increasingly shows the inconsistencies in the Prosecution's account of the alleged promotion. This is because TF1-367 claims that [REDACTED]
[REDACTED]

³⁵⁵⁵ TT, TF1-516, 8 Apr 08, p. 6854.

³⁵⁵⁶ TT, TF1-516, 8 Apr 08, p. 6852-5.

³⁵⁵⁷ TT, TF1-585, 5 Sep 08, p. 15618-22.

³⁵⁵⁸ TT, TF1-585, 5 Sep 08, p. 15617-8.

³⁵⁵⁹ TT, Karmoh Kanneh, TF1-571, 8 May 08, p. 9393-5.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
³⁵⁶⁰ Also contrast with Sherif's evidence that Bockarie's first meeting with Taylor was in 1998 and the he was the one who was sent by Charles Taylor to go and fetch Sam Bockarie and bring him to Liberia.³⁵⁶¹

1264. During the trip, TF1-367 alleges, Bockarie allegedly met with Taylor and later told the witness that he had met with "the Pa"; whom he understood to be Charles Taylor. Although Bockarie did not give the witness all the details of the meeting, he gave the witness a brief explanation, including that Taylor had told Bockarie about how to strengthen security in Lofa County and that Bockarie should not forget about Lofa County, since it was the RUF's main supply route.³⁵⁶² The witness made no mention of Bockarie's alleged promotion at all.

1265. The absence of the evidence on Sam Bocakarie's alleged promotion from TF1-367's evidence is quite curious [REDACTED]
[REDACTED]. While the witness qualified his evidence by saying that Sam Bockarie did not give him the details of everything that transpired at the alleged meeting with Taylor,³⁵⁶³ it is still curious that TF1-367 did not know about the promotion. Could Bockarie have [REDACTED] that Taylor had promoted him to General [REDACTED]? Alternatively, could it be that TF1-367 simply forgot to mention Bockarie's promotion when he was giving evidence on what Bockarie [REDACTED] meeting with Taylor? Or that the Prosecution was so sloppy as to forget to elicit such an important allegation through [REDACTED]? The two latter questions are almost rhetorical as the Defence in fact gave both the Prosecution and the witness a chance to comment on this issue and they did not, as discussed below.

1266. To confuse the issue further, TF1-371 also makes the same allegation relating to Sam Bockarie's promotion by Taylor, but places the issue in a completely different

³⁵⁶⁰ TT, TF1-585, 5 Sep 08, p. 15617-9.

³⁵⁶¹ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 826-50.

³⁵⁶² TT, TF1-367, 21 Aug 08, p. 14234.

³⁵⁶³ TT, TF1-367, 21 Aug 08, p. 14234.

timeframe. The witness places the alleged promotion in the period immediately after the AFRC's failed January 1999 invasion of Freetown when he alleges that Sam Bockarie went to Monrovia to see Taylor and was promoted to the rank of Two Star General.³⁵⁶⁴ The witness recounted seeing Bockarie in an American camouflage uniform, which was "green and deep green" in colour. This, of course, contrasts with the uniform that Bockarie wore which the Prosecution suggested to Issa Sesay, in cross examination, was the uniform Bockarie got from Taylor.³⁵⁶⁵ This uniform was in fact captured from ECOMOG.³⁵⁶⁶ The Defence submits the evidence of TF1-371 on the alleged promotion of Sam Bockarie is a deliberate lie from an accomplice witness who showed a propensity to change his evidence whenever he was cornered on any issue. This is also covered in the assessment of the witness's credibility in the Credibility section.

1267. The truth of the matter is that JP Koroma - not Taylor - promoted Bockarie to Brigadier and chief of defence staff, since Foday Sankoh had put Koroma in charge of the RUF in his absence. Koroma also promoted Sesay from battle group commander and Lieutenant Colonel to full Colonel and brigade commander for the RUF and AFRC in Kailahun District. These promotions were made in front of a group of people, [REDACTED].³⁵⁶⁷ Exhibit D-9, a salute report from Sam Bockarie to Foday Sankoh, corroborates this position.³⁵⁶⁸ This Exhibit, the Trial Chamber will recall, was first referred to in evidence through [REDACTED]. At page 5 of the report, Bockarie wrote: "After our Freetown invasion in January 1999 I was again promoted by JP Koroma to rank of major general, Issa was promoted to brigadier and Mike to the rank of brigadier and other SLA officers were also promoted." This report, including the above excerpt, was read to TF1-367 during his cross-examination,³⁵⁶⁹ and neither witness nor counsel for the Prosecution disputed it.

1268. The Defence submits that the Prosecution's evidence on the alleged promotion of Bockarie highlights the inherent danger in this case of relying on hearsay evidence even if recounted by more than one witness. Here is an example of a lie or fabrication that was repeated enough times such that within the RUF circles it almost became fact; until one looks at it closely.

³⁵⁶⁴ TT, TF1-371, 28 Jan 08, p. 2430-1.

³⁵⁶⁵ Exhibit D-57C.

³⁵⁶⁶ TT, Issa Sesay, DCT-172, 18 Aug 10, p. 46663-7.

³⁵⁶⁷ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44015-7.

³⁵⁶⁸ Exhibit D-9.

³⁵⁶⁹ TT, TF1-367, 29 Aug 08, p. 14983.

Alleged promotion of Abu Keita

1269. Other witnesses also allege other appointments that were purportedly made by Taylor during this time. Abu Keita alleges that when he joined the RUF, sometime following the 1997 Presidential elections in Liberia, he met with Yeaten in Monrovia and told him that he wanted his appointment as leader of the Scorpion Unit to be in writing.³⁵⁷⁰ Sometime in 1998, Sam Bockarie allegedly then gave Abu Keita a letter of appointment at Buedu after he had joined the RUF, which Benjamin Yeaten allegedly told him over the radio, had been signed by President Taylor. Yeaten, the witness alleged, told him to protect “his assignment paper” carefully because the President had signed it.³⁵⁷¹ The paper, the witness alleged, was signed in blue pen. This very important paper that the witness demanded and which Benjamin Yeaten exhorted the witness to take good care of the letter would however conveniently get lost in a fire during the war in Liberia and could therefore not be exhibited in court.³⁵⁷²
1270. Indeed these are the sort of fables you will get when witnesses are promised relocation as an incentive for testifying. Abu Keita it might be recalled was the Prosecution witness who testified openly and denied all suggestions that he had been promised incentives, including relocation,³⁵⁷³ only to appear in the newspaper in Sierra Leone later threatening to sue the Prosecution for failing to meet its end of the bargain after he had testified for them.³⁵⁷⁴ The Defence again reiterates that this sort of evidence underlines the dangers of the evidence of single, accomplice witnesses who also obtained or anticipated material benefits from testifying for the Prosecution.

Fitti Fatta mission and the lead up to Freetown

1271. The Prosecution alleges a number of orders by Taylor related to the capture of Kono in 1998 and Freetown in 1999. The Prosecution’s evidence on the Fitti Fatta mission has already been discussed at length in the section on JCE. According to TF1-360, in February/March 1998, around the first time the RUF captured Kono, he received and decoded a radio message from Sam Bockarie in Buedu to Superman who was based outside Koidu Town. The message said that Bockarie had travelled to Monrovia and met with Charles Taylor, and Taylor had told Bockarie to capture and hold onto

³⁵⁷⁰ TT, Abu Keita, TF1-276, 23 Jan 08, p. 1970.

³⁵⁷¹ TT, Abu Keita, TF1-276, 23 Jan 08, p. 2001.

³⁵⁷² TT, Abu Keita, TF1-276, 23 Jan 08, p. 2000.

³⁵⁷³ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2153.

³⁵⁷⁴ Exhibit D-468.

Kono, saying that the RUF could use the diamonds from Kono to purchase ammunition from him.³⁵⁷⁵

1272. The allegation that Taylor told Bockarie to capture and hold on to Kono, even taken at face value, it is submitted, does not in and of itself establish any indication of superior responsibility, let alone, effective control. Indeed, the suggestion that Taylor had superior command over the RUF does not comport with the very same allegation by TF1-360 that he would propose to sell ammunition for diamonds to the RUF. If Taylor had the material ability to control the RUF's entire activities, he could surely commandeer all the diamonds, which in RUF parlance were "government property" any way; just as he could simply supply the RUF with arms and ammunition for no consideration, as he would have, his own regular army in Liberia.
1273. Moreover, Exhibit P-67, which is generally not shy to impute liability to Taylor, clearly states that the plan to capture Kono was made between Bockarie and Superman.³⁵⁷⁶ The Defence also points out that TF1-360 had a habit of changing his testimony to fit circumstances, and that in the face of strong evidence to the contrary; his own account can hardly stand up.³⁵⁷⁷ Furthermore, there is other Prosecution evidence, which contradicts TF1-360's evidence on the matter. TF1-568, for instance, testified that he did not know of any messages implying that Taylor ordered the RUF to hold Kono after the AFRC/RUF retreat from Freetown in early 1998, or of any orders from Taylor about operations in Kono or any other aspect of the retreat from Freetown.³⁵⁷⁸
1274. TF1-360 also makes other allegations going to command responsibility which have been adequately addressed in this brief under JCE and Planning. The Trial Chamber will recall that TF1-360 is the same witness who made the confused and revisionist allegations of the conception of some grand scheme in Buedu in April/May 1998, which basically planned all the attacks that the RUF ever undertook in Sierra Leone during Bockarie's leadership, including the Fitti Fatta mission, as well as the attack on Freetown. Taylor, the witness alleged, was involved in the planning of this grand scheme.³⁵⁷⁹ With respect to the credibility of these allegations, the Defence refers to the same section of its brief on JCE where this matter is adequately addressed.

³⁵⁷⁵ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3140-4.

³⁵⁷⁶ Exhibit P-67.

³⁵⁷⁷ TT, Perry Kamara, TF1-360, 7 Feb 08, p. 3389.

³⁵⁷⁸ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16338-40.

³⁵⁷⁹ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3159-65.

Freetown Invasion

1275. Besides planning the Freetown invasion, the Prosecution also alleges that Charles Taylor oversaw the events leading up to the January 1999 Freetown invasion, as well as the invasion itself. This is dealt with in numerous sections of this brief, but the connection between Bockarie and Taylor will be addressed in detail here.
1276. Most of the evidence of Taylor's alleged involvement during the Freetown invasion came from RUF radio operators who allegedly monitored radio communication between Sam Bockarie and Benjamin Yeaten, ostensibly acting for Charles Taylor. TF1-568, for instance, testified that Bockarie spoke to Yeaten at the time of the 6th January 1999 Freetown invasion. Bockarie allegedly told Yeaten that the situation at the front line was becoming bad at that time and the enemies were pushing his men out of town and Yeaten advised him to reinforce his men. TF1-568, apparently knew all of this because [REDACTED] the dialogue from Liberia.³⁵⁸⁰ TF1-274 also testified that around the January 1999 invasion, Bockarie was in "constant contact" with Benjamin Yeaten and were talking two to three times per day – All these conversations were allegedly conducted in the witness's presence.³⁵⁸¹ TF1-516 also alleged that Bockarie reported frontline conditions to Benjamin Yeaten via radio and phone, and to Charles Taylor by phone, during the assault and retreat from Freetown in early 1999.³⁵⁸² According to TF1-371, some of Taylor's intermediaries like Jungle, Marzah and Sampson and other were also in Sierra Leone and were also sending regular reports to Taylor.³⁵⁸³
1277. According to TF1-406, during the January 6th 1999 invasion of Freetown, Sam Bockarie told the BBC that he would not retreat from Freetown until his "Pa" Charles Taylor told him to do so. TF1-406 and other of Taylor's bodyguards were allegedly upset that Bockarie directly implicated Taylor in such a public way.³⁵⁸⁴ According to TF1-516, the order from Bockarie to Gullit to kill civilians and burn actually came shortly after Bockarie had spoken to Taylor.³⁵⁸⁵
1278. The Defence observes that these allegations on the face of it, to the extent that they allege that Bockarie was making routine reports back to Yeaten and Taylor, and on occasion also getting advice from Yeaten, attempt to address the issue of a

³⁵⁸⁰ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16143-6.

³⁵⁸¹ TT, Dauda Aruna Fornie, TF1-274, 03 Dec 08, p. 21609, 21614-5.

³⁵⁸² TT, TF1-516, 9 Apr 08, p. 6979.

³⁵⁸³ TT, TF1-371, 28 Jan 08, p. 2424.

³⁵⁸⁴ TT, Varmuyan Sherif, TF1-406, 9 Jan 08, p. 866.

³⁵⁸⁵ TT, TF1-516, 9 Apr 08, p. 6976-7.

superior/subordinate relationship between Taylor and Bockarie. At the same time they also try to address the question of notice with respect to the atrocities that were committed during the Freetown invasion. Question of veracity and credibility aside, this evidence fails in two critical respects. It having been sufficiently argued elsewhere in the Final Brief³⁵⁸⁶ that the RUF played no part in the Freetown invasion and that the AFRC was solely responsible for the invasion, even assuming *arguendo* that Taylor had effective control over Sam Bockarie, the Prosecution's evidence fails to show a clear chain of command between Taylor and members of the AFRC who carried out the Freetown invasion. Furthermore, the evidence fails to establish effective control on Taylor's part over the members who carried out the atrocities. The evidence even fails to establish effective control by Bockarie over the group that attacked Freetown.

1279. With respect to the alleged interactions between Bockarie and Yeaten during this time, even taken at face value, the evidence fails to prove beyond all reasonable doubt that Yeaten's alleged communication with Bockarie carried the force of superior command let alone effective control. This is particularly so considering the argument made in this Final Brief that Bockarie and Yeaten also developed a close personal relationship.³⁵⁸⁷ Indeed, there is no evidence except mere conjecture that the alleged communication with Yeaten was at Taylor's behest. Another Prosecution witness also provides some fundamental insight into the supposed command exerted by Yeaten as Taylor's agent over Bockarie. According to TF1-568, who alleged to have been a central figure in the RUF radio communications apparatus, Yeaten would not give Bockarie any advice on military strategy³⁵⁸⁸ nor did Bockarie consider him as his superior.³⁵⁸⁹ This is especially damaging given that most witnesses testified to the relationship between Yeaten and Bockarie at the time, not between Yeaten and Taylor.

1280. With respect to the credibility of some of the witnesses, TF1-274's evidence, for instance, has a number of serious inconsistencies. The witness's deliberate attempt to inflate the RUF's role in the invasion was quite obvious. This is the witness who at one time would have had the Trial Chamber believe that it was the RUF who carried

³⁵⁸⁶ See JCE Section.

³⁵⁸⁷ See JCE Section.

³⁵⁸⁸ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16350-2.

³⁵⁸⁹ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16380.

out the entire invasion.³⁵⁹⁰ However, when various incidents were put to him, TF1-274 was forced to admit that Bockarie had little communication with SAJ Musa, or Superman, in the latter stages of 1999; indeed, it was quite clear that TF1-274 had a tendency to give accounts on issues that were beyond his knowledge; for instance, suggesting that Superman and SAJ Musa worked together to capture Eddie Town,³⁵⁹¹ oblivious of their well known fall out well before, and that Superman in fact never went to Eddie Town.³⁵⁹² TF1-274, it might also be recalled even suggested that Bockarie had obtained ammunition from Liberia and distributed it to the front line, even to Rambo in Waterloo,³⁵⁹³ in the face of general evidence that the RUF captured a lot of ammunition in Kono and Makeni on the advance towards Freetown.³⁵⁹⁴ TF1-274's account, it might be noted, was also contradicted by TF1-516 who suggested that the only form of support the fighters in Freetown got from Buedu was in the form of advice,³⁵⁹⁵ and that while Bockarie obtained ammunition from Liberia, it was distributed to the commanders in Kono.³⁵⁹⁶

1281. Just by way of an example to illustrate the deceit and blatant lies by the Persecution's witnesses on the Freetown invasion and generally; according to TF1-568 (Mohamed Kabbah) he got the information concerning the alleged radio communications between Bockarie and Yeaten during the Freetown invasion through [REDACTED], whom he alleged was Yeaten's radio operator at the time. However, [REDACTED]
[REDACTED]
[REDACTED]³⁵⁹⁷ [REDACTED] Bockarie reported to Yeaten by radio, as argued in the credibility section analysing his evidence, it follows from his own testimony that the Liberian government did not have the codes for the RUF radio net in January 1999. Indeed, it took learned Justice Lussick's for TF1-516 to grudgingly confirm that he never heard any directive from Taylor or Yeaten concerning the Freetown Invasion.³⁵⁹⁸

1282. The Defence contest that there was regular contact between Taylor and Bockarie during this period as alleged by the Prosecution's witnesses whose evidence is

³⁵⁹⁰ TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21663.

³⁵⁹¹ TT, Dauda Aruna Fornie, TF1-274, 4 Dec 08, p. 21718-22.

³⁵⁹² See Factual Narrative.

³⁵⁹³ TT, Dauda Aruna Fornie, TF1-274, 3 Dec 08, p. 21593-6.

³⁵⁹⁴ See Aiding and Abetting Section.

³⁵⁹⁵ TT, TF1-516, 8 Apr 08, p. 6943.

³⁵⁹⁶ TT, TF1-516, 8 Apr 08, p. 6945-8.

³⁵⁹⁷ TT, TF1-516, 8 Apr 08, p. 6858 *et seq.*

³⁵⁹⁸ TT, TF1-516, 16 Apr 08, p. 7777-9.

considered above and reiterates that if that were the case, then in August 1998, Sam Bockarie would not have gone to the trouble of sending Eddie Kanneh to the Liberian Embassy to try to establish contact with the Liberian government as Exhibit D-7 clearly shows.³⁵⁹⁹ Save for some of the inconsistencies highlighted in the evidence of some of the Prosecution witnesses, the Defence is however unable to comment on the alleged radio communication between Sam Bockarie and Benjamin Yeaten, suffice it to submit that Taylor never communicated with Bockarie through Yeaten about the progress of the Freetown invasion.

1283. Finally, with respect to the general allegations that Taylor ordered the Fitti Fatta mission, the Freetown invasion and any other attacks, to the extent that it is considered as indicia of effective control, the Defence submits that the evidence does not suffice. The Defence submits that Charles Taylor, being a civilian leader charged in relation to crimes of a rebel group in another country; the presentation of evidence simply suggesting a practice of orders being issued and obeyed is not enough to establish effective control. While such evidence may relate to the Article 6.1 mode of “ordering”, the evidence does not prove command responsibility in relation to a civilian leader.³⁶⁰⁰
1284. Critically lacking in this case is clear evidence of a defined chain of command and proper disciplinary institutions that would have resulted in the expectation that insubordination would lead to disciplinary action. Rather, the Prosecution’s own evidence, simply taken at face value, suggests a close relationship between Taylor and Sam Bockarie that was largely based on the latter’s reverence, if not blind loyalty, to the former. This kind of evidence, it is established in international criminal law jurisprudence, cannot found superior responsibility with respect to a civilian leader, a fortiori, in a different country as the Accused.
1285. Effective control, it must be emphasised, is founded on the presentation of objective evidence proving beyond all reasonable doubt that the Accused had the material ability to prevent his subordinates from committing the crimes alleged or to punish them. That a ‘son’, to borrow from the Prosecution’s evidence, might have ‘loyalty’ and ‘trustingly’ followed his ‘father’s’ orders does not establish command authority.

³⁵⁹⁹ Exhibit D-7.

³⁶⁰⁰ The allegations relating to the RUF fighting in Liberia in this case however fall outside the territorial jurisdiction of the court.

This argument, the Defence submits, also applies to all the other instances herein where Taylor allegedly issued orders or instructions to the RUF.

1286. There is also evidence of other orders of a military nature purportedly issued by Charles Taylor to the RUF. These allegations are however as suspect as the rest of the Prosecution's case on Taylor's alleged command responsibility over the RUF.

[REDACTED] Bockarie to Buedu, through Issa Sesay who was based in Kailahun. [REDACTED]

[REDACTED] 3601 [REDACTED]

[REDACTED] 3603 [REDACTED]

1287. The idea that Charles Taylor who, less than a year into his presidency in Liberia, and grappling with matters of state after years of civil conflict, should micro manage the RUF to the level of making a specific order that some specific junior commander in the RUF [REDACTED] should open a training base at a specific location

[REDACTED] beggars belief. No wonder the witness would not maintain a straight story when cross-examined on the issue.³⁶⁰⁴ Such evidence underlines the dangers of relying on hearsay and accomplice evidence of single witnesses who also derived pecuniary benefits from the Prosecution before, during and after their evidence.³⁶⁰⁵ [REDACTED]

[REDACTED] 3608 [REDACTED]

³⁶⁰¹ TT, TF1-362, 27 Feb 08, p. 4867.

³⁶⁰² TT, TF1-362, 27 Feb 08, p. 4868.

³⁶⁰³ TT, TF1-362, 27 Feb 08, p. 4898.

³⁶⁰⁴ TT, TF1-362, 27 Feb 08, p. 4895; TT, TF1-362, 3 Mar 08, p. 5093-4.

³⁶⁰⁵ See for example TT, TF1-362, 4 Mar 08, p. 5160-84.

³⁶⁰⁶ TT, TF1-362, 27 Feb 08, p. 2915. [REDACTED] mistreated children: TT, TF1-362, 28 Feb 08, p. 5007.

³⁶⁰⁷ TT, Charles Taylor, 16 Sep 09, p. 29066-77; Exhibit D-399C.

³⁶⁰⁸ TT, Charles Taylor, 16 Sep 09, p. 29066-77.

1288. The evidence of TF1-362 on the [REDACTED], is directly contradicted by that of another Prosecution witness, TF1-516. According to TF1-516, sometime as the RUF/SLAs retreated from Freetown following the January 1999 attack, Bockarie travelled to Liberia for a meeting with Benjamin Yeaten. At the meeting they discussed the need to increase security across the Liberian border to stop RUF/SLA elements from escaping into Liberia. Benjamin Yeaten, the witness alleges, then commanded Sam Bockarie to open a training base and recruit civilians, and this was done. [REDACTED].³⁶⁰⁹

1289. The Defence denies that the Accused had anything to do with the establishment of the training base as alleged or at all. See evidence of Issa Sesay disputing that of [REDACTED] on the matter, which was largely unchallenged.³⁶¹⁰

Alleged order to release of ECOMOG Peacekeepers

1290. TF1-276 alleges that shortly after the capture of Kono in December 1998, the RUF captured eleven Nigerian ECOMOG peacekeepers. The peacekeepers were then taken to Buedu to Bockarie. During a meeting in Dawa, Benjamin Yeaten allegedly told Sam Bockarie that Charles Taylor had ordered that the prisoners be released to him in Liberia. A few days later, after Bockarie failed to comply, Benjamin Yeaten allegedly reiterated this message by phone as a result of which Bockarie took the prisoners to Yeaten in Foya and released them.³⁶¹¹

1291. The Defence contests the allegation that the peacekeepers were released per the Accused's 'orders'. Mr. Taylor did not even recall such an incident.³⁶¹² According to Issa Sesay, 12 ECOMOG prisoners were captured in the December 1998 offensive and held at Buedu.³⁶¹³ A delegation of ambassadors, which included Musa Cisse, then came from Lomé through Liberia to meet them. At the same time Sankoh called Bockarie during the Lomé peace talks to instruct him to release them, and that is how they came to be released. Sesay never heard of any message from Taylor to Bockarie to release them, but as Musa Cisse was part of the delegation, opined that Taylor must have known about the plans to release them.³⁶¹⁴

Allegation of Ordering Fighting in Liberia

³⁶⁰⁹ TT, TF1-516, 8 Apr 08, p. 6941-2.

³⁶¹⁰ TT, Issa Sesay, DCT-172, 30 Jul 10, p. 45157-70.

³⁶¹¹ TT, Abu Keita, TF1-276, 23 Jan 08, p. 2028-9.

³⁶¹² TT, Charles Taylor, 22 Sep 09, p. 29409-11.

³⁶¹³ TT, Issa Sesay, DCT-172, 6 Aug 10, p. 45587-9.

³⁶¹⁴ TT, Issa Sesay, DCT-172, 6 Aug 10, p. 45587-93.

1292. Although outside the court's territorial jurisdiction, the Prosecution would also probably refer to evidence that Taylor ordered the RUF to take part in military activities in Liberia as proof of superior command. According to TF1-571, in April 1998 Benjamin Yeaten ordered his RUF platoon to chase the LURD attacking forces "right to where they came from." TF1-571's troops then captured Voinjama and pushed the LURD forces to Guinea. Afterward, Charles Taylor invited Sam Bockarie to Monrovia to receive a "morale booster" of cash and ammunition for having cleared LURD from that part of Lofa County.³⁶¹⁵ Also according to TF1-539, after the Lomé Peace Accord in July 1999, when Mosquito Spray cut off the RUF/SLA supply route by capturing Lofa County, Bockarie ordered Issa Sesay to organize all the RUF around Kono and send reinforcements to clear LURD from Foya. Sesay's operation into Foya lasted two weeks and was successful. The order for RUF to take part in the attack inside Liberia, the witness alleges, was sent to Bockarie by Taylor.³⁶¹⁶ Likewise, TF1-532 also stated that in 1999, between January's Freetown invasion and the Lomé agreement in July, there was an RUF operation in Liberia to fight against Mosquito Spray. Sam Bockarie told Mongor that Charles Taylor had ordered Bockarie to send some of his men to fight Mosquito Spray.³⁶¹⁷
1293. The Prosecution's evidence on the issues is however highly suspect and contested. TF1-539's testimony, for instance, is riddled with inconsistencies. The witness's personal story, for example, is a fairy tale of an absolute unknown being, who after only a few days in Monrovia, found himself being introduced to the President of Liberia and being promoted to General and becoming part of the Liberian Special Security Service.³⁶¹⁸ See Credibility Section on the general evaluation of the evidence of some of the witnesses.
1294. Most importantly, however, even assuming *arguendo* that these allegations were true, as argued above, the Defence submits that, that orders were allegedly issued and followed does not, *ipso facto*, establish effective control in this case where the Accused was a civilian leader in a different country altogether. In those instances, as established in international jurisprudence, traditional indicia of effective control are not enough. There is need for objective evidence that the Accused had the material ability to exercise effective control.

³⁶¹⁵ TT, Karmoh Kanneh, TF1-571, 9 May 08, p. 9460-5.

³⁶¹⁶ TT, TF1-539, 11 June 08, p. 11539-43.

³⁶¹⁷ TT, Isaac Mongor, TF1-532, 31 Mar 08, p. 6163-4.

³⁶¹⁸ TT, TF1-539, 12 June 08, p. 11663.

Order for Sam Bockarie to leave Sierra Leone

1295. The Prosecution evidence also suggests that Sam Bockarie's departure from the RUF and Sierra Leone in 1999 was at Taylor's orders, and manifests a superior/subordinate relationship. According to TF1-406, in December 1999, a dispute arose between Issa Sesay and Sam Bockarie. Because of the confusion this caused within the RUF, Charles Taylor called Sesay and Bockarie to Monrovia in order to resolve the disagreement. Sankoh also came. According to TF1-406, Taylor then instructed Bockarie to leave Sierra Leone and go to Liberia and Bockarie subsequently left for Monrovia with some 350 soldiers.³⁶¹⁹
1296. TF1-275 however gives a different account but to the same effect. According to the witness, in December 1999, when Bockarie stopped taking orders from Sankoh, Sankoh asked Charles Taylor for assistance in the matter. Taylor then allegedly ordered Bockarie to leave Sierra Leone and go to Liberia.³⁶²⁰ TF1-579, who alleges that he formed a close relationship with Bockarie, also alleges that he heard from Bockarie that Charles Taylor called him (Bockarie) and told him to leave Sierra Leone, "because Foday Sankoh wanted Issa Sesay to take over as commander." Sankoh's fear was allegedly that Bockarie might have wanted to takeover leadership of the RUF. Further, Bockarie told the witness that Taylor had not told him to leave Sierra Leone, he would have continued fighting for the area around Buedu.³⁶²¹
1297. This evidence, even taken at face value, fails to show effective control. At best it suggests that Taylor was playing a mediating role at Sankoh's request as a result of which he gave Sam Bockarie the option to leave Sierra Leone and stay in Liberia. This evidence however is quite important in another respect. It illustrates the point strongly made below concerning Taylor's relationship with Issa Sesay – it is very dangerous to rely on the hearsay evidence of low-level RUF witnesses who testified to matters relating to high politics way over their heads. With respect to Sam Bockarie's departure from Sierra Leone, as discussed in the Factual Narrative section, there is enough evidence that this was all done under the auspices of ECOWAS, and that Taylor was merely facilitating the process.³⁶²² In RUF circles, this would however be peddled as Taylor's decision. This is the nature of all the evidence in this

³⁶¹⁹ TT, Varmuyan Sherif, TF1-406, 09 Jan 08, p. 882-3; 10 Jan 08, p. 886-7.

³⁶²⁰ TT, Foday Lansana, TF1-275, 22 Feb 08, p. 4571, 4573-4.

³⁶²¹ TT, TF1-579, 5 Nov 08, p. 19856-60.

³⁶²² Exhibit D-231.

case; misinformation, half-truth and outright lies repeated long enough to become the 'truth'.

Alleged Orders to Bockarie after he left Sierra Leone

1298. The Prosecution would probably also posit Taylor's alleged continued authority over Bockarie after he had left Sierra Leone as proof of a superior/subordinate relationship. Although also falling outside the scope of the Indictment, the Prosecution would probably try to use this evidence to illustrate the extent of Taylor's alleged hold over RUF personnel. It is the Prosecution's case that Sam Bockarie continued to receive instructions from Taylor after he left Sierra Leone;³⁶²³ that he became part of Taylor's ATU,³⁶²⁴ and took part in combat for Taylor.

1299. According to TF1-388, [REDACTED]
[REDACTED]
[REDACTED]. Bockarie allegedly told [REDACTED] (and others) that he had been "instructed" by President Charles Taylor to join the rebels in the Ivory Coast to fight against the Gbagbo government. Bockarie allegedly further told [REDACTED] that his group had actually been sent to reinforce him.³⁶²⁵ In early 2003, the witness also alleges, Bockarie told [REDACTED] that Charles Taylor had called him [Bockarie] to return to Liberia to help defend the government against the MODEL and LURD rebel groups. The next day, Bockarie and his fighters left Danane for the Loguato border crossing, between Ivory Coast and Liberia.³⁶²⁶

1300. Contrast this account with the equally suspect account of TF1-579 [REDACTED]
[REDACTED], after receiving reports about an internal dispute between Bockarie and the Ivorian rebel leader Andre [Phillip Doh], Charles Taylor had Benjamin Yeaten send Joe Tuah as an emissary to investigate and try to smooth things over.³⁶²⁷ Doh, Bockarie and Tuah met at an Ivorian border town called Bin-Houyé. Incensed at the allegation that his men were looting, Bockarie said he did not take orders from Tuah, or from Yeaten, but only from his coequal Taylor.³⁶²⁸

³⁶²³ See Factual Narrative. TT, TF1-388, 11 Jul 08, p.13507-11 (Bockarie instructed to join rebels in Ivory Coast); 11 Jul 08, p. 13534 (Bockarie ordered to return to Liberia).

³⁶²⁴ See Factual Narrative.

³⁶²⁵ TT, TF1-388, 11 Jul 08, p.13507-11.

³⁶²⁶ TT, TF1-388, 11 Jul 08, p.13518-24; 13532-35.

³⁶²⁷ TT, TF1-579, 6 Nov 08, 19974-6.

³⁶²⁸ TT, TF1-579, 6 Nov 08, 19974-6.

1301. Indeed, TF1-388's [REDACTED] is belied by the multiplicity and severity of the inconsistencies in his evidence. In one instance, TF1-388 even slipped up as to [REDACTED]. [REDACTED]³⁶²⁹ Furthermore, despite TF1-388's claim that Taylor called Bockarie back to Liberia, he went on to state that Bockarie and his troops weren't allowed to cross the border for three days.³⁶³⁰ This, the witness alleged, was due to a secret mission against Bockarie, yet he couldn't explain how the presence of Bockarie's troops at the border remained secret for three days.³⁶³¹
1302. Besides the questions of credibility, which, from the Defences submissions above, should render the foregoing evidence incredible; even assuming arguendo that the allegations were valid, it is submitted that they still do not constitute sufficient indicia of effective control. Far from it, the evidence even taken at its face value, would simply underscore the point that the Defence has consistently made that, on the basis of the Prosecution's own evidence, the alleged relationship between Taylor and Bockarie, could only be seen as one based on reverence and blind loyalty, and not command authority. The evidence of Taylor's supposed continued control over Bockarie after he had left the RUF simply shows that any alleged authority by Taylor over Bockarie would only have been personal. It would not have been institutionalised as to import command authority.
1303. Indeed, if Taylor's alleged authority were institutional to the RUF, his hold over Bockarie should only have lasted as long as Bockarie was a member of the RUF. The Defence submits that command authority over entities, such as Taylor's alleged command authority over the RUF, can not be based on personal relationships. Rather, such authority can only be based on the existence of established institutional structures such as would possess the alleged superior with the material means to exercise the powers of superior command. This is the element critically lacking in the Prosecution's case.
1304. For all the foregoing reasons, the Defence submits that the Trial Chamber could not possibly find beyond all reasonable doubt that the Accused bears superior responsibility for all the crimes charged in the Indictment during the time that

³⁶²⁹ TT, TF1-388, 16 Jul 08, p. 13893.

³⁶³⁰ TT, TF1-388, 16 Jul 08, p. 13907.

³⁶³¹ TT, TF1-388, 16 Jul 08, p. 13908.

Bockarie was leader of the RUF. Indeed, it is far-fetched to try to impute command responsibility on Taylor over the RUF on account of his alleged relationship with Bockarie and any other persons who took command from Bockarie, in light of other factors such as the apparent fluidity of the RUF's leadership structure during the period under review. From the evidence of the Prosecution's witnesses considered above, as well as the Prosecution's evidence generally (absolutely taken at face value), and the Defence evidence, it is quite clear that different parties, namely Sam Bockarie, Johnny Paul Koroma and Foday Sankoh, all exercised corresponding powers of command authority over the RUF during the same period under review. For instance, at a time when Bockarie was supposed to be in charge of the RUF, there is also evidence that Johnny Paul Koroma had some executive authority over him, and in fact promoted him. At the same time, Foday Sankoh was also apparently issuing executive instructions in absentia. As TF1-274 observed, while Foday Sankoh was not present or was in prison, he still "had direct access in talking to the combatants... and he had access to take free will or take decisions of his own".³⁶³² Wanting in this maze is of course evidence of a clear chain of command, which perfectly aligned all these characters cascading downwards to the foot soldiers who committed most the crimes, vis-à-vis Taylor, allegedly at the helm.

1305. Furthermore, it is also convenient for the Prosecution to try to impute command responsibility on Taylor for all the crimes the RUF committed during the period under review simply on the basis of his alleged relationship with Bockarie and any other person(s) who took command from Bockarie, given the overwhelming evidence of the recurring infighting and acts of insubordination within the RUF, which resulted in different parties at different times declaring themselves independent of Bockarie's authority or simply operating autonomously. Superman is one case in point.³⁶³³ Savage, who massacred people at Tombodu is another.³⁶³⁴ Likewise, there were also other incidents, which were spontaneous and could not be controlled. According to TF1-371, for instance, the mayhem that characterised the retreat from Freetown after the Freetown invasion was caused by rogue elements that ran amok, resulting in a general loss of command and control.³⁶³⁵ Thereafter, the RUF split into localised factions characterised by indiscipline, which even Sankoh, the revered RUF leader,

³⁶³² TT, Dauda Aruna Fornie, TF1-274, 11 Dec 08, p. 22168.

³⁶³³ See Factual Narrative.

³⁶³⁴ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3157; TF1-371, 29 Jan 08, p. 2503.

³⁶³⁵ TT, TF1-371, 1 Feb 08, p. 2807-8.

could not contain.³⁶³⁶ The Defence raises these issues to illustrate that not even Sam Bockarie, let alone Charles Taylor, had effective control over the entire RUF as to bear command responsibility for all the crimes that were committed during the period under review.

1306. For all the foregoing reasons, the Defence submits that the Prosecution has failed to prove, beyond all reasonable doubt, that Charles Taylor had effective control over the RUF as would entail superior responsibility for every crime ever committed by every member of the RUF during the time that Sam Bockarie was the leader of the RUF. The evidence fails to show that Charles Taylor had the material ability to stop the crimes alleged in the Indictment falling under this period, or to punish the offenders.

Charles Taylor/ Issa Sesay

1307. Consistent with its allegation of a continuous JCE, the Prosecution's evidence also suggests that Issa Sesay, and all the members of the RUF taking instruction from him, continued to receive instructions from Charles Taylor after he took over as leader of the RUF in August 2000. The Prosecution would most likely point to the same allegations considered in the JCE section on Taylor's alleged relationship with Issa Sesay to try and establish a superior/subordinate relationship. These allegation, as with those made in relation to Sam Bockarie considered above, fall into two tiers: those of a general nature going towards establishing (not proving) a superior/subordinate relationship, as well as the question of notice, and those of a specific nature, which largely seek to establish Taylor's alleged exercise of command authority over the RUF.

1308. The credibility of the Prosecution's evidence on these issues is generally covered in the JCE section on Taylor's alleged relationship with Issa Sesay. However to the extent that the Trial Chamber finds some of the allegations credible, the Defence submits that, for present purposes, the evidence does not suffice to found a superior/subordinate relationship, let alone, effective control. The evidence falls on the first hurdle in that it fails to establish a superior/subordinate relationship between Charles Taylor and Issa Sesay. The nature of Taylor's interactions with Sesay is sufficiently addressed in the JCE Section. Furthermore, the Defence submits that even on the Prosecution's own evidence, some of which is considered below, far from establishing superior responsibility, the evidence shows that, though not equals, Sesay

³⁶³⁶ TT, TF1-371, 30 Jan 08, p. 2615-7.

largely related with Charles Taylor as two principals independent of each but in regular consultation in relation to the peace process in Sierra Leone.

1309. Issa Sesay's ascendance to RUF leadership is clearly set out in the evidence. As laid out in the Factual Narrative section of this brief, following Bockarie's departure from Sierra Leone in December 1999,³⁶³⁷ Foday Sankoh appointed Sesay as RUF field commander and interim leader.³⁶³⁸ In his capacity as interim leader of the RUF, Sesay first met Charles Taylor in 2000.³⁶³⁹ On 21 August 2000, following meetings with ECOWAS leaders the previous month,³⁶⁴⁰ Sesay was officially confirmed as the leader of the RUF.³⁶⁴¹ Taylor then provided Sesay with a satellite phone to assist his participation in the peace negotiations.³⁶⁴²
1310. In October that year, Sesay led an RUF delegation to Monrovia, en route to Abuja for talks with the Sierra Leonean government on the Lomé Accord.³⁶⁴³ Sesay met with Taylor both before the delegation went and after it returned.³⁶⁴⁴ Around November to early December 2000,³⁶⁴⁵ Sesay again travelled to Monrovia to meet with Taylor and discuss the return of Sam Bockarie,³⁶⁴⁶ and the transformation of the RUF into a political party.³⁶⁴⁷ For reasons adequately addressed in the JCE section, these events do not suggest in any way that Taylor had command responsibility over Issa Sesay. Rather, they show an organized chain of command within the RUF acting independently of any other individual.
1311. Apart from the evidence presented by the Defence, the Prosecution's evidence alone, taken at face value, does not prove any superior/subordinate relationship between Taylor and Sesay. Rather, what can be inferred from the evidence is a series of opinions and advice provided by Charles Taylor to Sesay, and a completely independent RUF making its own decision on a number of material issues. Specifically, the evidence presented by Prosecution witnesses, in particular TF1-338 and TF1-274, shows that important decisions were being handled internally within the

³⁶³⁷ TT, TF1-585, 8 Sep 08, p. 15734.

³⁶³⁸ TT, Abu Keita, TF1-276, 23 Jan 08, p. 2031; TT, Issa Sesay, DCT-172, 14 Jul 10, p. 44492-503; 26 Jul 10, 44591-2.

³⁶³⁹ TT, Charles Taylor, 10 Sep 09, p. 28626-7.

³⁶⁴⁰ TT, Charles Taylor, 19 Aug 09, p. 27160-1; TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44043.

³⁶⁴¹ Agreed Fact 34; TT, Charles Taylor, 19 Aug 09, p. 27167-8; TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44043; 26 Jul 2010, p. 44559-60.

³⁶⁴² TT, Charles Taylor, 12 Aug 09, p. 26663-4.

³⁶⁴³ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44571.

³⁶⁴⁴ TT, Issa Sesay, DCT-172, 25 Aug 10, p. 47160-1.

³⁶⁴⁵ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44600.

³⁶⁴⁶ TT, Issa Sesay, DCT-172, 4 Aug 10, p. 45446.

³⁶⁴⁷ TT, Issa Sesay, DCT-172, 26 Jul 10, p. 44600.

RUF and that Taylor's influence, at most, was that of an informal advisor, devoid of any command authority.

1312. Certain allegations relating to specific acts, such as the allegations that Taylor commanded the RUF to fight his war against LURD in Guinea, veracity and credibility questions aside, but for lack of territorial jurisdiction would at best go towards the mode of liability of ordering under Article 6.1 of the Statute. These allegations do not ipso facto establish sufficient indicia of effective control.

Allegations that Charles Taylor appointed Issa Sesay as head of the RUF

1313. One of the instances that the Prosecution would probably point out as establishing a superior/subordinate relationship is Taylor's alleged role in the RUF leadership change after Bockarie left the organisation. As indicated in the JCE section, the Prosecution alleges that Taylor influenced or ordered Issa Sesay's takeover, in consequence of which he continued to exercise command authority over the RUF. TF1-338 for instance gave evidence of a meeting in July 2000, at which Charles Taylor, Issa Sesay and his RUF delegation met with other West African heads of state to discuss a number of issues including the conflict in Sierra Leone.³⁶⁴⁸ At the meeting, Taylor allegedly welcomed the change in RUF leadership; criticized Foday Sankoh; asked Issa to take Sam Bockarie back; and asked Issa Sesay to take over leadership of the RUF. In the witness's words, Taylor allegedly said: "but Issa if you would take care as a commander or as a leader".³⁶⁴⁹ Issa's response, according to TF1-338 was that he must go back to Sierra Leone and inform the RUF of these developments and "then he will respond whether he would take the position".³⁶⁵⁰
1314. This, it is submitted, can hardly be seen as evidence of Charles Taylor exerting any commanding role over Sesay or the RUF. Indeed, this sort of consultation between, inter alios, Sesay and Taylor does not comport with a superior/subordinate relationship. Even if Taylor's proposal were to be remotely stretched to an order stricto sensu; Issa Sesay's response that he needed to consult internally within the RUF still does not show that he was merely a subordinate taking orders from Taylor. If anything, the response underlines the RUF's autonomy and its capacity to make its

³⁶⁴⁸ TT, TF1-338, 2 Sep 08, p. 15146.

³⁶⁴⁹ TT, TF1-338, 2 Sep 08, p. 15146-8.

³⁶⁵⁰ TT, TF1-338, 2 Sep 08, p. 15148.

own decisions. By TF1-338's evidence, this is also underlined by Issa Sesay's alleged further insistence that he also had to confirm the proposal with "Pa Sankoh."³⁶⁵¹

1315. As argued in the JCE section on the same issue, the Defence submits that the Prosecution's evidence fails to establish beyond all reasonable doubt that Taylor in any way influenced Issa's takeover of the RUF leadership. If anything, the Prosecution's allegations on this issue, as with the rest of its case, are riddled with inconsistencies. At a time when some of the Prosecution witnesses allege that Taylor appointed Issa Sesay as leader of the RUF, others like Abu Keita, categorically argued that Sesay was in fact appointed by Foday Sankoh.³⁶⁵² The Defence reiterates that these are the dangers of relying on the hearsay evidence of the RUF insiders who testified to events, in many respects, remote from them. Each account comes in different conflicting versions.

1316. The Defence submits that other factors about the July 2000 meeting would also belie any suggestions of a superior/subordinate relationship between Taylor and Sesay. [REDACTED]

[REDACTED]

[REDACTED].³⁶⁵³ This contrasts with the allegation of a subordinate attending a meeting to simply take orders, as the Prosecution implies. Furthermore, with reference to [REDACTED]

[REDACTED], suggesting anything but a superior-subordinate relationship the Prosecution hopes to establish.³⁶⁵⁴

1317. The witness would also use the word advice in relation to an alleged subsequent private meeting between Taylor and Sesay. After the meeting with other Heads of State, Taylor and Sesay allegedly met privately, and Taylor gave Sesay personal advice on to how handle talks with the United Nations and other "British elected" heads of State. Taylor allegedly told Sesay not to trust the other leaders, who he allegedly claimed would one day embrace him and later deny him, as well as that he should also accept any offers to disarm but not actually disarm.³⁶⁵⁵

1318. Other Prosecution witnesses also gave evidence of Taylor advising Sesay on a number of issues during this time. [REDACTED]

³⁶⁵¹ TT, TF1-338, 2 Sep 08, p. 15154.

³⁶⁵² TT, Abu Kieta, TF1-276, 23 Jan 08, p. 2031.

³⁶⁵³ TT, TF1-338, 2 Sep 08, p. 15129.

³⁶⁵⁴ TT, TF1-338, 1 Sep 08, p. 15132.

³⁶⁵⁵ TT, TF1-338, 2 Sep 08, p. 15150.

[REDACTED]. Issa Sesay allegedly told the witness that he had gone to seek advice from Taylor concerning the hostage crisis because Charles Taylor was their “big revolutionary father”.³⁶⁵⁶ TF1-274 and TF1-567 also made general allegations that Sesay was only getting advice from Taylor. TF1-274 also spoke of Sesay and Bockarie seeking advice from Taylor when important decisions were to be made, in addition to consulting with Foday Sankoh, while he was absent.³⁶⁵⁷ TF1-567 also stated that Sesay would go to Taylor merely for advice, not orders, and gave no indication whether such advice was necessarily followed.³⁶⁵⁸ According to TF1-274, when Foday Sankoh was away, Sesay, Bockarie and others would seek advice from Charles Taylor.³⁶⁵⁹

1319. On the basis of the foregoing, the Defence submits that the Prosecution, on its own evidence, taken at face value, fails to establish a superior/subordinate relationship between Charles Taylor and Issa Sesay. The evidence clearly shows that Taylor did not have command authority over Issa Sesay. At the most, Taylor played the role of an advisor. Alternatively, even if it were held that Taylor exercised some command authority over Sesay, there are no sufficient indicia of effective control. Allegations that Taylor would summon Issa Sesay to Monrovia each time he wanted to see him, for instance, would not suffice to show effective control.³⁶⁶⁰ Likewise, the mere use of such titles as “Sir”, “Lord”,³⁶⁶¹ “Chief”,³⁶⁶² or other respectful names in reference to Taylor, falls short of establishing a superior/subordinate relationship. TF1-597 Samuel Kargbo’s reference to Sesay’s addressing Taylor as “Sir” over the satellite phone, it is submitted, implied no greater authority³⁶⁶³ than his own reference to counsel for the Prosecution, Mr. Koumjian, as “Sir”, just a short while after giving the foregoing evidence.³⁶⁶⁴ No more than President Jammeh’s reference to President Taylor as “Charles Lord” implied any superior/subordinate relationship between the

³⁶⁵⁶ TT, TF1-567, 7 Jul 08, p. 13038–40.

³⁶⁵⁷ TT, Dauda Aruna Fornie, TF1-274, 11 Dec 08, p. 22167.

³⁶⁵⁸ TT, TF1-567, 7 Jul 08, p. 13038–40.

³⁶⁵⁹ TT, Dauda Aruna Fornie, TF1-274, 11 Dec 08, p. 22168.

³⁶⁶⁰ TT, TF1-338, 1 Sep 08, p. 15128–9.

³⁶⁶¹ TT, TF1-338, 2 Sep 08, p. 15147.

³⁶⁶² TT, TF1-516, 8 Apr 08, p. 6883.

³⁶⁶³ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10568.

³⁶⁶⁴ TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10579 (“Q. Is that accurate, Mr Witness? A. Exactly, sir.”).

two sovereigns.³⁶⁶⁵ As adequately addressed in the JCE Section, it should be recalled at all times that Taylor's dealings with Issa Sesay were all done under the auspices of ECOWAS. Taylor's voice thus only carried the mandate and authority of ECOWAS.

1320. Furthermore, the Defence submits that, again on the basis of the Prosecution's own evidence, if anyone had any vestiges of superior command over Issa Sesay, that would have been Foday Sankoh and not Taylor. According to TF1-274, while Foday Sankoh was not present or was in prison, he still "had direct access in talking to the combatants... and he had access to take free will or take decisions of his own".³⁶⁶⁶

Allegation that Taylor ordered release of UN hostages

1321. The Prosecution's evidence also suggests that Taylor's handling of the captured UN peacekeepers implied that he had command responsibility over Sesay. Some of the witnesses suggest that Taylor ordered the release. Following the capture of the peacekeepers, TF1-276 Abu Keita alleged, Issa Sesay, who had just been put in charge by Foday Sankoh, told a meeting of commanders that: "Taylor said we should release the peacekeepers over to him", via satellite phone.³⁶⁶⁷ Sesay, the witness further alleged then said, "he never had any alternative but for us to release the peacekeepers", and drove to the border and handed the peacekeepers over to Benjamin Yeaten under the instruction of Charles Taylor.³⁶⁶⁸

1322. The Defence contests this evidence at several levels. Firstly, the evidence contradicts that of other Prosecution witnesses such as TF1-516, that Issa simply went to Charles Taylor to seek advice on how to proceed after the peacekeepers were taken hostage.³⁶⁶⁹ Secondly, the Defence's evidence considered under the JCE Section that Charles Taylor's dealings with Sesay over the hostage situation was under the auspices of ECOWAS. Thirdly, on the basis that the evidence is hearsay evidence that was disowned by its alleged author Issa Sesay.³⁶⁷⁰ Fourth, on its own merits, the evidence still does not establish command authority by Charles Taylor. The mere fact that Issa Sesay found himself in a predicament and chose to comply with Taylor's alleged instruction does not in and of itself establish a superior/subordinate relationship. This is particularly the case during this time, when there is overwhelming evidence from the Prosecution's own witnesses that Sesay was largely

³⁶⁶⁵ TT, TF1-338, 2 Sep 08, p. 15147.

³⁶⁶⁶ TT, Dauda Aruna Fornie, TF1-274, 11 Dec 08, p. 22168.

³⁶⁶⁷ TT, Abu Keita, TF1-276, 23 Jan 08, p. 2031.

³⁶⁶⁸ TT, Abu Keita, TF1-276, 23 Jan 08, p. 2031.

³⁶⁶⁹ TT, TF1-516, 8 Apr 08, p. 6883.

³⁶⁷⁰ TT, Issa Sesay, DCT-172, 6 Aug 10, p. 45597-601.

getting advice from Taylor, as well as other evidence considered above vitiating a superior/subordinate relationship, let alone, effective control.

Allegation that the RUF took part in the Guinea attacks

1323. Although falling outside the territorial jurisdiction of the court, one of the main allegations that the Prosecution would probably be pointing at to establish Taylor's alleged command authority over the RUF is the evidence on the RUF's alleged participation in the attacks in Guinea in 2001. According to TF1-338, sometime in 2001, Issa Sesay went to Monrovia to meet with Benjamin Yeaten. Yeaten, allegedly told Sesay that Taylor had said that the ammunition he had given to him (Issa Sesay) should be used to attack Guinea to pre-empt LURD attacks because the Guineans had been allowing the LURD rebels to use their ground to penetrate Liberia. Issa then allegedly went back to Sierra Leone and prepared for the Guinea attack. He allegedly recalled Superman who was fighting alongside Benjamin Yeaten in Liberia and replaced him with Matthew Barbue who was then promoted Major General.³⁶⁷¹ Superman was deployed to attack Kissidougou and Morris Kallon was dispatched to Pamelap. Another force was to attack Gueckedou. The attack on Gueckedou was organised by Benjamin Yeaten and included some RUF under Matthew Barbue. The attacks on Kissidou and Pamalap, the witness says, were successful, while the Gueckedou attack was repelled.³⁶⁷²
1324. Other witnesses also talked of other earlier attacks on Guinea by the RUF under Sesay. According to TF1-360, in 2000, Mr Taylor requested Issa Sesay to contribute manpower to fight along the Guinean-Liberian border against LURD.³⁶⁷³ TF1-276 suggests that this was the attack against the Guinean army in Madina Wola. Taylor's objective, in this attack, the witness alleges, was to gain ground in Guinea so that when it was time for disarmament in Sierra Leone, some of the arms could be taken to Guinea for safekeeping.³⁶⁷⁴ TF1-337 Mustapha Mansaray also talks of an attack in July 2000 by Komba Gbundema. Sesay, the witness alleges, ordered the RUF to attack Guinean territory to oust Lansana Conte, and said that this mission had been given to him by Charles Taylor.³⁶⁷⁵

³⁶⁷¹ TT, TF1-338, 2 Sep 08, p. 15176-8.

³⁶⁷² Also see evidence of TF1-276, which also alleges the RUF participation in the Gueckedou led by Benjamin Yeaten. The witness also presented a document identified as a joint operation plan, allegedly signed by Benjamin Yeaten and Issa Sesay, TT, Abu Keita, TF1-276, 23 Jan 08, p. 2050-3.

³⁶⁷³ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3273-5.

³⁶⁷⁴ TT, Abu Keita, TF1-276, 23 Jan 08, p. 2048-50.

³⁶⁷⁵ TT, Mustapha Mansaray, TF1-337, 4 Mar 08, p. 5336.

1325. The running theme in all the evidence predictably is the implication that the attacks were ordered by Taylor and that he provided the ammunition for the attacks. None of the witnesses were however present when the orders or the ammunition were given and all rely on what they allegedly heard. Most of the witnesses relied on hearsay of what Issa Sesay allegedly said. The problems with this evidence, as with other pieces of evidence considered herein, is that the evidence is disowned by the persons to whom it is attributed. Issa Sesay testified for the defence and denied the allegations that he engaged the RUF in Guinea at Taylor's orders and with Taylor's logistical support. He also disowned the alleged operational plan for the Guinea attacks (Exhibit P-28) and insisted it was a forgery.³⁶⁷⁶ It was not the practice of the RUF to write and sign operational plans and Issa Sesay never signed any operation plans while he was interim leader.³⁶⁷⁷ Indeed, in assessing the credibility of this evidence, the Defence reminds the Trial Chamber that no other operational plan was exhibited in this case in spite of the many RUF operations that were alleged.

1326. Issa Sesay also denied any discussions with Mr Taylor about attacks on Guinea, or that he was provided with arms by Mr Taylor. He denied directly participating in the attacks,³⁶⁷⁸ or sending forces to join the Liberians in the attack.³⁶⁷⁹ Some vanguards who did not accept the disarmament process however crossed the border into Liberia but were not sent by Sesay.³⁶⁸⁰ Superman for instance went to Liberia of his own accord.³⁶⁸¹ Sesay also specifically denied the allegations by TF1-338 concerning the alleged meeting with Benjamin Yeaten, or that he received instructions or materials to enter into Guinea. By mid-2001, he testified, the RUF was disarming.³⁶⁸² Also see P-590 on the progress of the disarmament and Exhibits D-441A, B, C, D and E commending Issa Sesay's role in that process.³⁶⁸³ Indeed, as DCT-190, who fought with LURD in Gueckedou (against people from the direction of Liberia) confirmed, by this time, the RUF was disarming in Sierra Leone at this time.³⁶⁸⁴

³⁶⁷⁶ TT, Issa Sesay, DCT-172, 6 Aug 10, p. 45620-3.

³⁶⁷⁷ TT, Issa Sesay, DCT-172, 6 Aug 10, p. 45627-9.

³⁶⁷⁸ TT, Issa Sesay, DCT-172, 6 Aug 10, p. 45617.

³⁶⁷⁹ TT, Issa Sesay, DCT-172, 6 Aug 10, p. 45618; 45630.

³⁶⁸⁰ TT, Issa Sesay, DCT-172, 6 Aug 10, p. 45618.

³⁶⁸¹ TT, Issa Sesay, DCT-172, 6 Aug 10, p. 45620-2.

³⁶⁸² Exhibit P-590; Exhibit D-441A; Exhibit D-441B; Exhibit D-441C; Exhibit D-441D; Exhibit 441E.

³⁶⁸³ Exhibit P-590; Exhibit D-441A; Exhibit D-441B; Exhibit D-441C; Exhibit D-441D; Exhibit 441E.

³⁶⁸⁴ TT, DCT-190, 25 Jun 10, p. 43453-60.

1327. Issa Sesay however did not deny skirmishes between the RUF and the Guinean forces at the border line.³⁶⁸⁵ These skirmishes, he testified, had been going on for some time even before he was leader of the RUF.³⁶⁸⁶ Indeed that the RUF excursion around the Guinean border were designed to stop the cross-border attack by the Kamajors who were harbouring in Guinea.³⁶⁸⁷
1328. John Vincent, a Liberian who was a member of the RUF before going back to Liberia, confirms the participation of the RUF in Guinea. According to John Vincent, the Kamajors and LURD were working as one. While the Kamajors would launch their offensive into RUF occupied territories in Sierra Leone, LURD would launch their offensive into Liberia.³⁶⁸⁸ The RUF and the Armed Forces of Liberia thus ended up working together on the Guinea operation.³⁶⁸⁹ In his evidence, the RUF encountered the AFL while occupying positions at the border in Koindu³⁶⁹⁰ and joined them in order to prevent the Kamajors and LURD from crossing over the boarder into Sierra Leone and Liberia. The RUF and AFL then divided their forces, mixed soldiers and crossed into Guinea, Nongowa, and Gueckedou and attacked the Guineans together.³⁶⁹¹
1329. Charles Taylor also denied providing arms or ammunition to Issa Sesay for the RUF to launch an attack on Guinea in 2000.³⁶⁹² He confirmed that he invited Issa Sesay to Liberia in July 2000, but asserts that this contact was about peace and not about war or the provision of arms and ammunition.³⁶⁹³ Indeed, this time, as illustrated above, Taylor was at the centre of the peace negotiations on Sierra Leone and consequently under the spotlight such that it would have been foolhardy, if not impossible, for him to be involved with the RUF without being found out. Quite to the contrary there is evidence to the effect that during this time Taylor was constantly agitating for the direct involvement of the UN in securing peace in West Africa. At this time Taylor

³⁶⁸⁵ TT, Issa Sesay, DCT-172, 27 Jul 10, p. 44742 (CDF crossing from Guinea to attack Kono in April 2001); 2 Aug 10, p. 45283-4 (cross-border attacks by Guineans in August 2000); 6 Aug 10, p. 45615-17.

³⁶⁸⁶ TT, Issa Sesay, DCT-172, 2 Aug 10, p. 45283-4 (cross-border attacks by Guineans in August 2000).

³⁶⁸⁷ TT, Issa Sesay, DCT-172, 6 Aug 10, p. 45641-2.

³⁶⁸⁸ TT, John Vincent, DCT-215, 26 Mar 10, p. 38153-4.

³⁶⁸⁹ TT, John Vincent, DCT-215, 26 Mar 10, p. 38157-8.

³⁶⁹⁰ TT, John Vincent, DCT-215, 26 Mar 10, p. 38155.

³⁶⁹¹ TT, John Vincent, DCT-215, 26 Mar 2010, p. 38161; 30 Mar 10, p. 38260; 31 Mar 10, p. 38437.

³⁶⁹² TT, Charles Taylor, 22 Sep 09, p. 29303-6; 29430.

³⁶⁹³ TT, Charles Taylor, 22 Sep 09, p. 29307-8.

persistently called for UN or other international (the US) force deployment at the Liberian border;³⁶⁹⁴ and later UNAMSIL deployment in RUF territory.³⁶⁹⁵

1330. The Defence therefore submits that the Prosecution's evidence fails to establish beyond all reasonable doubt that Issa Sesay ordered the RUF to attack Guinea at Charles Taylor's behest. Even if the Trial Chamber were to find that the RUF took part in combat in Guinea, the Defence submits that the Prosecution's evidence still fails to prove beyond all reasonable doubt that it did so in compliance with an order from Charles Taylor. Furthermore, even if the Trial Chamber were to find that Charles Taylor requested for the RUF to come to his aid in Guinea, there is no evidence that his request carried any force of authority. As discussed above, from the Prosecution's own evidence, he was largely taking advice from Taylor. Indeed the incidents considered above, as well as the analysis of Taylor's relationship with Sesay under the JCE sections, falsify any claims that Taylor had command authority over Sesay. More importantly, there are no sufficient indicia of a superior subordinate relationship, with all the trappings of effective control, from all the evidence produced by the Prosecution.

1331. In this regard, the Defence takes note of [REDACTED] [REDACTED]
[REDACTED]
[REDACTED];³⁶⁹⁶ which it might be suggested, shows that, even if arbitrary, Taylor had the material ability to exercise control over Sesay. The Defence however challenges this allegation on a number of grounds. Firstly, on the basis that it is denied that Sesay [REDACTED]
[REDACTED] as alleged.³⁶⁹⁷ [REDACTED]'s single witness evidence on this issue must therefore be rejected. Secondly, accepting *arguendo* that Taylor made the alleged threat, there is no other objective evidence to prove that he had the material ability to follow through with his threat, considering among other things that he was located in a different country and did not have any independent machinery in Sierra Leone other than that under Sesay, whom he allegedly threatened.

1332. On the basis of the foregoing analysis of the Prosecution's evidence ostensibly going towards establishing superior responsibility, the Defence submits that the Prosecution

³⁶⁹⁴ See Exhibits D-232 para 6; D-235, para.1; D-239 A p. 1; D-239 C para.1; D-263 p.3; D-264, p.2 and D-268, p1-2.

³⁶⁹⁵ D-264 p.2 ; D-268 p. 2; D-277 p. 2; D-280 p. 2; D- 279 para.10; D-278 p.6; D-273 p 1-2.

³⁶⁹⁶ TT, [REDACTED]

³⁶⁹⁷ TT, Issa Sesay, DCT-172, [REDACTED]

has failed to establish that Taylor exercised powers of superior command over Issa Sesay, let alone, effective control. Rather, the Prosecution's own evidence suggests that Sesay was, at the most, getting advice from Taylor. The evidence on Issa Sesay consulting the RUF family on such issues as his own appointment, or the UN hostage situation, clearly shows that the RUF was managing its own internal affairs without any undue external pressure. Where there was any external influence, there are no indications that such influence possessed the trapping of effective control. Apart from his alleged control of Issa Sesay, there is nothing in the Prosecution's case that Taylor had the material ability to stop all the crimes that were committed by the RUF's various members during Sesay's time, or that he had the material ability to punish the offenders.

Command responsibility – Notice requirement

1333. With respect to principle of notice, whether actual or imputed, in relation to all the crimes charged in the Indictment; the Defence submits that the Prosecution led no objective evidence from which it could be said beyond all reasonable doubt that Taylor possessed the requisite knowledge of all the crimes charged in the Indictment as would have legally enjoined him to act in respect of each, by either preventing their commission or punishing the offenders. This is particularly pertinent given Taylor's position as a civilian leader of another country, also geographically removed from the theatre of the crimes. There is no evidence of an organised and disciplined structure with reporting and monitoring mechanisms which would have kept him informed of all the RUF's activities. The Defence submits that it would be convenient and a travesty of justice to make a finding of notice going to all the crimes charged in the Indictment on the basis of the Prosecution's contested evidence of the sporadic reports that Taylor allegedly got over the phone, via radio communication or through personal visits by his alleged intermediaries or RUF personnel as alleged in the Prosecution's evidence above. Most of these reports from the Prosecution's own evidence tended to focus on military matters. Other reports as news reports,³⁶⁹⁸ human rights reports and other media³⁶⁹⁹ would only have put him on general notice with respect to crimes already committed. The Prosecution has however led no evidence that Taylor had the capacity to punish the innumerable offenders such general notice

³⁶⁹⁸ Exh. P-79; P-111, p. 123; 384; 385.

³⁶⁹⁹ Exh. P-77; P-78; P-303; P-304; P-309; P-312; P-314; P-315 P-329; P-330.

would have implicated. Rather, by the Prosecution's own evidence, there were instances when there was a general loss of command and control, such as the time during the 1999 retreat from Freetown, which was characterised by acts of atrocities by rogue elements. The Defence submits that the Trial Chamber cannot make a finding of collective notice in this case. In view of the Accused's institutional and geographic dissonance from the RUF, it must be established that the Accused had actual or constructive notice of each of the crimes charged in the Indictment.

1334. For all the foregoing reasons, the Defence submits that the Trial Chamber cannot find that Taylor bears command responsibility for all the crimes charged in the Indictment.

Planning: Evidentiary Analysis

1335. Pursuant to Article 6.1 of the Statute, the Prosecution alleges that the Accused, by his acts or omissions, planned the crimes alleged in the Indictment.³⁷⁰⁰ In the Case Summary, the Prosecution alleges that the Accused individually, or participating with his direct subordinates and/or high level leaders of the RUF, AFRC, AFRC/RUF Junta or alliance, planned armed operations in Sierra Leone which were themselves crimes or involved the commission of crimes alleged in the Indictment.³⁷⁰¹ The Case Summary does not implicate Liberian fighters in the planning of crimes.

1336. Two points must be noted. First, with respect to the acts of planning by leaders of the RUF, AFRC, AFRC/RUF Junta or alliance, for their acts to be imputed to Taylor, it must be established that those persons were acting as his direct agents. Indeed, the Prosecution must establish a superior/subordinate relationship for the acts of planning by leaders of the RUF, AFRC, AFRC/RUF Junta or alliance to be imputed to Taylor. Secondly, where the planning relates to armed operations which are not crimes in international law, the Prosecution must establish that the accused was aware of the substantial likelihood that a crime would be committed in the execution of the otherwise lawful armed operations.

1337. The Prosecution has led evidence in relation to five main operations or events in which they allege that Taylor played a role in designing the commission of crimes at the preparatory and execution phases, viz: the invasion of Sierra Leone; the Sierra Rutile Attack; the Operation Stop Election; the so called January 6 Invasion; and attacks on LURD positions in Liberia. Only one of these operations or events – the

³⁷⁰⁰ Indictment, para. 33.

³⁷⁰¹ Case Summary, para. 34.

January 6 falls within the temporal or territorial jurisdiction of the court. Only evidence relating to this operation is therefore relevant and open for consideration by the Trial Chamber. This section focuses primarily on the January 6 invasion, with reference to the exhaustive analysis in that regard from the JCE Section of the Brief.

1338. The Prosecution has an obligation to provide affirmative evidence linking individual and discrete operations to suggest Charles Taylor's culpability for planning the January 6 Freetown invasion. The Prosecution can not simply attempt to incorporate yet another version of JCE liability into a separate mode of liability.

Planning and Execution of January 6 Freetown Invasion (Including Operation Spare No Soul; Operation Free the Leader; Operation No Living Thing³⁷⁰²) (December 1998-January 1999)

1339. The Prosecution alleges that the January 6 invasion of Freetown was coordinated jointly by the AFRC and the RUF and was supported by Charles Taylor in two ways: first, that Charles Taylor planned the invasion during meetings with Sam Bockarie and, second, that he provided arms and ammunition for the attack. Specifically, the Prosecution alleges that Taylor played a role in planning RUF attacks in Kono District, which culminated in an attack on Freetown in January 1999. Prosecution witnesses claim that Taylor's role in planning was revealed by Bockarie during meetings in Buedu at the end of 1998. The alleged complicity of Charles Taylor in the invasion is set out in great detail in the context of the alleged JCE and, therefore, this section will focus specifically on the alleged act of planning.

1340. Simply put, the evidence put forward by the Prosecution does not show that Charles Taylor planned the commission of crimes or was aware of the substantial likelihood of crimes as charged in the Indictment as part of the January 6 invasion. While the full allegations as put forth by the Prosecution are outlined in the JCE Section, the following is a brief synopsis of the Prosecution evidence relating to planning. The Prosecution argument fails for two primary reasons. First, it was the AFRC who executed and planned the attack – the same AFRC who, as explicitly stated by Prosecution witnesses, had little to no high-level military contact with the RUF at the time. Second, the Prosecution evidence stating that Charles Taylor planned the military operation with Sam Bockarie is contradictory, vague and fails to reach the threshold required under the relevant legal standards.

³⁷⁰² Augustine Mallah testified that Operation Spare No Soul was the same as Operation No Living Thing and Operation Free the Leader. TT, TF1-045, 18 Nov 08, p. 20514; also 13 Nov 08, p. 20220-2.

1341. The Prosecution's case revolves around the assertion that Charles Taylor ordered Sam Bockarie to plan and carry out the invasion of Freetown. Isaac Mongor testified that when Bockarie returned to Buedu following a trip to Liberia and Burkina Faso, Bockarie told Mongor that he had met with Taylor, and that they had developed a plan to launch an operation to capture Kono and Makeni; furthermore, that the operation should be more fearful than all past operations.³⁷⁰³ Karmoh Kanneh testified that Bockarie held a meeting at night in December 1998 during which he explained the plan for Operation Free the Leader and told those present that it was designed by Taylor in Monrovia.³⁷⁰⁴ Daniel Tamba also spoke, saying that the plan was the product of discussion with Taylor.³⁷⁰⁵ The plan was to retake Kono, go to Freetown, free Foday Sankoh, and take over power. After the meeting, Bockarie and Daniel Tamba allegedly spoke to Taylor over the satellite phone, briefed him on the outcome of the meeting and assured him the plan would be followed.³⁷⁰⁶ [REDACTED] testified that Bockarie had a phone conversation with Taylor about Operation No Living Thing after which he came back to a meeting with a small group of commanders who were gathered at Bockarie's house and announced the Operation. [REDACTED] further testified that during a meeting at Waterworks, Bockarie announced that Mr Taylor had given instructions to attack Freetown and force the government to the negotiation table.³⁷⁰⁷ King Perry testified that he traveled to Buedu with Dennis Mingo at the request of Bockarie, who said he had brought a plan back from Taylor in Liberia.³⁷⁰⁸ King Perry attended a meeting at Bockarie's house during which Bockarie explained the attack he had planned with Taylor to take over Sierra Leone, beginning with Operation Fitti Fatta in Kono District and moving to Makeni, Masiaka and Waterloo, with the goal of capturing Freetown.³⁷⁰⁹ According to the Prosecution, Mr Taylor's planning contributed substantially to the commission of the offences because Mr Taylor had "tremendous influence and authority" over the RUF and the AFRC. His contributions ensured the efficient use of resources, a coordinated effort, and set the framework for the crimes that would be committed.³⁷¹⁰ The Prosecution suggests that with regard to

³⁷⁰³ TT, TF1-532, 11 Mar 08, 5795-97.

³⁷⁰⁴ TT, TF1-571, 8 May 08, p. 9387-98; 9 May 08, p. 9423-24 and p. 9430.

³⁷⁰⁵ TT, TF1-571, 9 May 08, p. 9432.

³⁷⁰⁶ TT, TF1-571, 9 May 08, p. 9431.

³⁷⁰⁷ TT, [REDACTED].

³⁷⁰⁸ TT, TF1-360, 5 Feb 08, p. 1359-60.

³⁷⁰⁹ TT, TF1-360, 5 Feb 08, p. 3163-4; 6 Feb 08, p. 3180.

³⁷¹⁰ TT, 9 Apr 09, p. 24176.

his *mens rea* in taking Kono and moving toward Freetown, Mr Taylor had a direct and intentional plan to commit atrocities because the fighters were told to make it fearful.³⁷¹¹ He had also had an awareness of the very substantial likelihood that crimes would be committed in carrying out this plan.³⁷¹²

1342. However, the Prosecution ultimately relies on a number of internally and mutually inconsistent testimonies by witnesses to advance its case that Charles Taylor planned the invasion of Freetown in January 1999. There are two basic problems with this assessment. First, it was the AFRC, not the RUF, which conducted, planned and organized the invasion. Second, Charles Taylor was not involved in planning any RUF actions in regards to the invasion and the evidence adduced at trial is insufficient and incoherent to suggest otherwise.

1343. The Prosecution argument that the Fitti Fatta mission was ordered by Charles Taylor and was the precursor to the invasion of Freetown is incoherent. The Prosecution attempted to prove through King Perry that Taylor had a hand in the Fitti Fatta mission in the first half of 1998. As noted in the JCE Section, however, the timing of the Fitti Fatta mission varies, the meetings supposedly orchestrating it were held at different periods,³⁷¹³ in that the mission was planned either by Bockarie and Superman,³⁷¹⁴ or by Bockarie, Superman and Lamin.³⁷¹⁵ Other testimony asserted the mission was to test the strength of ECOMOG,³⁷¹⁶ or to create panic among ECOMOG forces,³⁷¹⁷ or in yet another alternative to capture Kono.³⁷¹⁸ The lack of coherent evidence suggests that any grand plan was highly unlikely. The complete absence of any specific details concerning the means by which Charles Taylor ordered the mission, or his motivation to do so, shows the lack of evidence supporting such a claim.

1344. The “strongest” testimony by the Prosecution directly contradicts what is clear from the facts on the ground – that it was the AFRC who came first and that there was a falling out between the AFRC and the RUF prior to the invasion. While it would have

³⁷¹¹ TT, 9 Apr 09, p. 24176.

³⁷¹² TT, 9 Apr 09, p. 24176.

³⁷¹³ Exhibit P-67. After discussing the forum called to deal with Sesay’s losing of the diamonds, it continues: “The High Command later called Brigadier Denis Mingo (Superman) on a forum for a mission to be carried out to capture the whole of Kono”.

³⁷¹⁴ Exhibit P-67.

³⁷¹⁵ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44068-70.

³⁷¹⁶ TT, Martin George, DCT-062, 27 Apr 10, p. 40127-30.

³⁷¹⁷ TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3170-1.

³⁷¹⁸ Exhibit P-67; Exhibit D-9.

been possible for a nuanced discussion to have occurred about Taylor's alleged complicity, the Prosecution adduced no reasonable evidence to suggest that Taylor in any way planned the invasion. Rather, all specific details suggest that it was the AFRC who in fact took control, that they were a distinct and at the time hostile force to the RUF, and that in any event it was Bockarie's and not Taylor's determination to invade Freetown.

1345. In conjunction with the invasion of Freetown, the Prosecution witnesses provide vastly different stories which can not be viewed in coordination. It is the obligation of the Prosecution to provide evidence supporting a coherent theory supporting the planning and initiation of the attack on Freetown by Charles Taylor. The Prosecution not only fails to present a coherent story, but the evidence as presented by the Prosecution presents multiple, entirely inconsistent accounts of how Taylor could have planned the invasion. The Prosecution relies heavily on the testimony of Isaac Mongor, forwarding the assertion that Taylor ordered the invasion of Freetown.³⁷¹⁹ The Prosecution theory relies on the implicit assumption that Taylor controlled and ordered Sam Bockarie, as no other evidence was put forward to how Taylor could have otherwise planned the invasion. The theory emanates from Mongor's claim that Bockarie told him that Bockarie had met with Taylor and they developed a plan to launch an operation to capture Kono, Makeni and then advance to Freetown. Yet, Mongor's own account acknowledges that it was the AFRC and not the RUF that first arrived and took control of Freetown and that during this period the AFRC did not take orders from Bockarie. As detailed in JCE Section, Mongor's statements contain significant and inexplicable inconsistencies, the effectively negating any responsibility on the part of Charles Taylor.

1346. The Prosecution also presented evidence which directly contradicts the claim that Charles Taylor planned the attack on Freetown. TF1-371 testified that it was entirely Sam Bockarie's idea, giving particular details about the strategic plan. In yet another account, King Perry suggested that the entire plan was pre-scripted by Charles Taylor, after a suggestion from Sam Bockarie, and was coincidentally executed in the exact manner it was discussed at meetings. However, Perry's evidence was not corroborated by any other testimony and can not be seen as credible given his explanation of the planning matched, in every respect, the exact occurrence of events in what must be

³⁷¹⁹ See JCE Paragraph containing "The purpose of the plan was to free Sankoh and to seize power"; TT, Isaac Mongor, TF1-532, 11 Mar 08, 5795-97.

viewed as a revisionist theory. It also directly contradicts a number of Prosecution witnesses, including the repeated claims that the RUF and Musa had a falling out by December 1998. TF1-360 refused to accept any inculpatory fact even when widely acknowledged by all witnesses present during the events. Even if not directly contradicted, it is impossible to accept TF1-360's holistic account without directly refuting the testimony of the majority of witnesses by both the Prosecution and the Defence. TF1-274's account falls victim to the same pattern as TF1-360 and can not be viewed as credible. TF1-274 went so far as to suggest that it was the RUF who invaded Freetown and not the AFRC, and that Gullit was a member of the RUF.

1347. Karmoh Kanneh's claim that Taylor orchestrated the plan also falls short. TF1-571 never mentioned in a previous statement that it was in fact Taylor and TF1-571 also acknowledged the rift between Bockarie and SAJ Musa and Johnny Paul Koroma and SAJ Musa and acknowledged it was primarily AFRC who entered Freetown and that it was Musa who made declarations of his intent to takeover Freetown. Ultimately, TF1-334's testimony very clearly shows that despite multiple, vastly different accounts of how Charles Taylor planned the January 6 invasion, it was the AFRC that organized and implemented the invasion. TF1-334 stated that the AFRC planned, prior to Superman's arrival in Koinadugu, the plan and that the AFRC's fallout included a radio blackout with the RUF, multiple skirmishes with RUF forces and no further contact until it was the AFRC, independently of the RUF, who controlled the Statehouse.

1348. Even more damaging, TF1-532 states that SAJ Musa agreed to join the RUF in the operation to invade Freetown.³⁷²⁰ However, as noted in testimony by Karmoh Kanneh and TF1-334 there was a serious fallout between SAJ Musa and the RUF including Sam Bockarie prior to and following the invasion, including the discussion at the same meeting in Buedu of a plan to assassinate Musa. DCT-146 corroborates TF1-375's testimony concerning a fallout between SAJ Musa and Bockarie, as well as supporting the argument that it was the AFRC and not the RUF that planned and carried out the invasion of Freetown. DCT-146 claims that he was outside Freetown during the invasion and that he only heard of it through BBC radio and that it was clearly stated that the AFRC had overrun Freetown.³⁷²¹ DCT-146 confirmed that the

³⁷²⁰ TT, Isaac Mongor, TF1-532, 11 Mar 08, p. 5799-5800.

³⁷²¹ TT, DCT-146, 24 March 2010, p. 37923.

infighting between SAJ Musa and Superman created a split and he was not involved in the invasion.³⁷²²

1349. Issa Sesay provided further evidence of the split between the RUF and SAJ MUSA and the AFRC. Sesay testified that Johnny Paul Koroma (representing the SLA) and Superman (representing the RUF) attended a meeting in Kabala where the capture of Kono District was planned. Johnny Paul Koroma had spoken to Bockarie and obtained his agreement that the RUF would go to Kono District.³⁷²³ Meanwhile, Koroma himself would withdraw to Kailahun (where he would be safe around his officers who were leaking information to ECOMOG and the SLPP government).³⁷²⁴ The RUF group which had gone to Makeni divided, with SAJ Musa's group going off to Koinadugu. Prior to this, there had been no discussion or arrangement for the group to be divided; Johnny Paul Koroma had wanted everybody to go to Kono District and defend it. Koroma never regained control of Musa's group after they split.³⁷²⁵ Finally, the Defence presented a significant amount of evidence concerning Charles Taylor's lack of involvement in the invasion of Freetown. During testimony, Charles Taylor denied planning or having any knowledge of the Freetown invasion or of the attacks leading up to it.³⁷²⁶ This is supported by the Prosecution's evidence stating that the attack was not coordinated, that the primary bodies were in heated disagreement at the time, that the AFRC and RUF cut off communication during the lead up to the invasion, and finally that it was the AFRC, a group Charles Taylor had no proven ties to, that carried out the invasion. Charles Taylor also denied that Benjamin Yeaten or any of his staff played a role in the January 6th invasion.³⁷²⁷ Moreover, although Mr Taylor invited Bockarie to Monrovia in middle to late September or October 2008, the purpose was not to discuss attacks. He invited Bockarie with the approval of the Committee of Five in order to discuss the 1996 Abidjan Peace Accord.³⁷²⁸ Mr Taylor testified that at that time, the Liberian Government did not have sufficient arms to supply the RUF or the AFRC for the January 6th invasion.³⁷²⁹

³⁷²² TT, DCT-146, 24 March 2010, p. 37923.

³⁷²³ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 43991-4.

³⁷²⁴ TT, Issa Sesay, DCT-172, 8 Jul 10, p. 43991-4.

³⁷²⁵ TT, Issa Sesay, DCT-172, 7 Jul 10, p. 43983-4.

³⁷²⁶ TT, Taylor, 14 July 2009, p. 24332-33; 11 Aug 26471; 16 Sept 09, p. 29025-27.

³⁷²⁷ TT, Taylor, 17 Sept 09, p. 29275-80.

³⁷²⁸ TT, Taylor, 30 July 09, p. 25714-16.

³⁷²⁹ TT, Taylor, 14 Sept 08, p. 2873-75; 17 Sept 09, p. 29275-80.

1350. Other witnesses and evidence also suggest that there was no planning or knowledge prior to the attack on the part of Charles Taylor. TF1-571 was not present when Bockarie addressed RUF commanders at Waterworks, and therefore could not have known the details of what was said.³⁷³⁰ It is uncontested that Issa Sesay was present for the meeting at Waterworks. He denies that Bockarie said that the attack was designed by Mr Taylor or that they had planned it together in Monrovia.³⁷³¹ Sesay asserted that there was no communication between Bockarie and Taylor before he (Sesay) led the attack on Koidu Town. Sesay denies that the plan to take Kono originated with Taylor or that he gave the order for Operation No Living Thing³⁷³² and that during Bockarie's discussions with RUF commanders to plan the offensive, an attack on Freetown was not planned.³⁷³³ DCT-215 explained that the hope was that by attacking Makeni and Kono District, the international community would intervene and free Sankoh.³⁷³⁴ Sesay explained that there was no discussion of attacking Freetown, because the RUF was uncertain of succeeding in capturing Kono.³⁷³⁵

Planning of the Invasion of Sierra Leone (March 1991)

1351. The Prosecution alleges that Charles Taylor was involved in the planning of the invasion of Sierra Leone in 1991. As told by the Prosecution, Taylor and Sankoh, having formed a close relationship, worked together to plan the invasion. However, as detailed in the Section on JCE, the Prosecution theory is riddled with inconsistencies. The Defence contends that Taylor was never involved in planning the invasion of Sierra Leone, nor that he or Dr Manneh were at Voinjama prior to the invasion. Having occurred in 1991, it also clearly is not remotely within the period of the indictment, and the Prosecution offered no evidence besides the claim of a consistent pattern of conduct was relevant as to how any actions by Charles Taylor in 1991 had any relation to the periods relevant to the indictment, with respect to planning. Finally, with only tangential and contradictory evidence regarding supposed meetings between Charles Taylor and Foday Sankoh, the Prosecution has failed to show that Charles Taylor planned armed operations in Sierra Leone which were themselves crimes or involved the commission of crimes alleged in the Indictment

³⁷³⁰ TT, DCT-172, 28 July 10, p. 44866-72.

³⁷³¹ TT, DCT-172, 28 July 10, p. 44853; 4 Aug 10, p. 45406-09.

³⁷³² TT, DCT-172, 29 July 10, p. 45056-59.

³⁷³³ TT, DCT-215, 26 Mar 10, p. 38128; DCT-172, 28 July 10, p. 44853; 4 Aug 10, p. 45406-09.

³⁷³⁴ TT, DCT-215, 26 Mar 10, p. 38128.

³⁷³⁵ TT, DCT-172, 28 July 10, p. 44853; 4 Aug 10, p. 45406-09.

1352. Finally, Defence evidence disproves that Charles Taylor was involved in the planning of the 1991 invasion of Sierra Leone. Mr Taylor denies taking part in a meeting in Voinjama at any time with Foday Sankoh to plan the invasion of Sierra Leone.³⁷³⁶ He also denies ever being in Voinjama prior to the last quarter of 1991.³⁷³⁷ Mr Taylor's testimony is corroborated by that of DCT-179, who accompanied Mr Taylor to Voinjama in October 1991 and confirms that this was Mr Taylor's first trip to Voinjama.³⁷³⁸ DCT-179 states that Mr Taylor did not meet with Sankoh to plan the March 1991 invasion.³⁷³⁹

1353. Although [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]³⁷⁴¹

Additionally, DCT-179 testified that Dr Manneh was in Buchanan Port in March 1991, and did not play a role in the invasion of Sierra Leone.³⁷⁴² [REDACTED]
[REDACTED]

[REDACTED] and further undermines the credibility of [REDACTED] by refuting other elements of his testimony.³⁷⁴⁴

Planning of Sierra Rutile (1994)

1354. As apparently Rule 93 evidence of planning, the Prosecution alleges that during the 1994-5 period, there was regular communication between Mr Taylor and Sankoh, and Mr Taylor would advise Sankoh on where to attack.³⁷⁴⁵ For instance, Sankoh reportedly said that he received "advice" from Taylor to attack Sierra Rutile.³⁷⁴⁶ As detailed in the JCE Section, the evidence does not support the Prosecution claim that Taylor planned such an attack. Perry Kamara provided the only meaningful testimony that there were radio communications between the Sankoh and Taylor during 1994-1995. As stated in the JCE Section, this testimony is highly unreliable and contradicts testimony from other Prosecution insider witnesses who state that

³⁷³⁶ TT, Taylor, 22 July 09, p. 25076; 23 Sept 09, p. 29455-56, p. 29457-59; p. 30392-4.

³⁷³⁷ TT, Taylor, 22 July 09, p. 24998 and p. 25076; 27 Oct 09, p. 30392-4.

³⁷³⁸ TT, DCT-179, 22 Feb 10, p. 35674.

³⁷³⁹ TT, DCT-179, 22 Feb 10, p. 35979.

³⁷⁴⁰ TT, [REDACTED].

³⁷⁴¹ TT, DCT-125, 9 Mar 10, p. 36815-6.

³⁷⁴² TT, DCT-179, 22 Feb 10, p. 35980.

³⁷⁴³ TT, [REDACTED].

³⁷⁴⁴ TT, DCT-025, 17 Mar 08, p. 37389-90.

³⁷⁴⁵ TT, TF1-360, 4 Feb 08, p. 3053.

³⁷⁴⁶ TT, TF1-360, 4 Feb 08, p. 3053; TF1-045, 12 Nov 08, p. 20097-98 (the purpose of the Sierra Rutile attacks was to stop the work of the company).

Sankoh and Taylor had fallen out in 1992 and were not on good terms throughout this period. The statements made by Augustine Mallah also, as shown in the JCE Section, lack credibility, as well as confirm that it was Sankoh and not Taylor that ordered the attack on Sierra Rutile.

1355. In addition to the discussion of credibility outlined in the JCE Section concerning the attack on Sierra Rutile, a number of additional facts show that Charles Taylor was not involved in the planning of the commission of any crimes in conjunction with the RUF actions. Mr Taylor denies speaking with Sankoh in 1994 or giving him any advice on the use of guerilla tactics or the attack on Sierra Rutile.³⁷⁴⁷ In fact, Taylor states that he did not have any contact with Sankoh since 1992.³⁷⁴⁸ This is corroborated by Issa Sesay, who said Sankoh was not willing to talk to Sankoh during this period, due to a disagreement between the two.³⁷⁴⁹ The Trial Chamber should remember that during the time of the Sierra Rutile attack, Taylor himself was having command and control problems within the NPFL³⁷⁵⁰ and was under attack in Gbarnga³⁷⁵¹ and thus was hardly in a position to defend himself, much less choreograph attacks to be undertaken by the RUF in Sierra Leone.

1356. Thus at the time of the attack on Sierra Rutile (late 1994 seems to be the earliest date given in evidence) Taylor's NPFL/NPRAG Government was thrown out of Gbarnga, its capital, by ULIMO forces and did not recapture it until December 1994. It is implausible to the point of absurdity that Taylor was busy directing Sankoh in what must have been an obvious target for the RUF in any event, when Taylor's entire gains of the past five years were at risk and his forces defeated.

1357. Furthermore, Martin George testified that he was present at a meeting of RUF jungle commanders in Zogoda in mid-1994 when Sankoh told them that the RUF needed to capture Sierra Rutile and Matru Jong. Sankoh said that these areas were critical because they were major government bases; he assigned Zino to take Rutile and Bockarie to take Matru.³⁷⁵² In the meeting, Sankoh did not say anything about being instructed or advised by Taylor to capture Rutile; nor did Sankoh instruct the fighters

³⁷⁴⁷ TT, Taylor, 16 Sep 09, p. 28997-99.

³⁷⁴⁸ TT, Taylor, 23 July 09, p. 25131-2; 16 Sept 09, p. 28991-2; 1 Oct 09, p. 30049.

³⁷⁴⁹ TT, DCT-172, 6 July 10, p. 43749; 11 Aug 10, p. 46052; 12 Aug 10, p. 46130.

³⁷⁵⁰ Exhibit P-467, paras. 10, 11 and 29.

³⁷⁵¹ TT, Taylor, 1 Oct 09, p. 30056. See generally Taylor's response to TF1-360's allegation regarding Sierra Rutile: TT, 1 Oct 09, p. 30046-56.

³⁷⁵² TT, DCT-062, 22 Apr 10, p. 39711-2.

to terrorize civilians³⁷⁵³ or burn Sierra Rutile.³⁷⁵⁴ Martin George further stated that he was stationed at a strategic junction between Zogoda and Sierra Rutile/Matru Jong during the attack and that his radio operator, DAF (TF1-274), did not monitor any communication between the RUF and anyone in Liberia prior to or during the operation.³⁷⁵⁵

1358. Charles Ngebeh testified that the purpose of the attack on Rutile was not to capture hostages or draw international attention, but was to stop the ammunition supply coming from the sea near Sierra Rutile to the SLAs. Hostages were indeed taken, but were protected³⁷⁵⁶ and later released to the ICRC.³⁷⁵⁷ Fayia Musa as involved in the negotiations for the release of the foreign hostages but stated that the Sierra Leonean hostages had been previously released by Sankoh in Sierra Leone.³⁷⁵⁸ Fayia Musa denied the suggestions that anyone other than the RUF and ICRC were involved in negotiating the release of the foreign hostages³⁷⁵⁹ and/or that the hostages were used by the RUF as “bargaining chips” and/or that their release had any positive impact on the profile of the RUF such that the RUF could start negotiations with the government in Ivory Coast.³⁷⁶⁰ Fayia Musa identified some of the hostages taken from Rutile in a picture in “Footpaths to Democracy”.³⁷⁶¹ Taylor has stated that he was not aware of the hostage crisis at the time.³⁷⁶²

Planning of Operation Stop Election (1996)

1359. As noted in the JCE Section, the allegation that Charles Taylor planned Operation Stop Election is based on highly suspect evidence. In fact, only one Prosecution witness, TF1-532, testified about any direct knowledge concerning the operation. This evidence was strongly discredited by other witnesses, was highly inconsistent and contradicted a number of basic factual assertions.³⁷⁶³ Other witnesses, including Issa Sesay, also directly contradicted the assertion that Taylor was involved in the operation. Issa Sesay testified that Operation Stop Election was based on an agreement Sankoh had made with Maada Bio. The amputations that took place were

³⁷⁵³ TT, DCT-062, 22 Apr. 10, p. 39724.

³⁷⁵⁴ TT, DCT-062, 22 Apr. 10, p. 39726.

³⁷⁵⁵ TT, DCT-062, 22 Apr 10, p. 29716-7.

³⁷⁵⁶ TT, DCT-146, 12 Apr 10, p. 38652-4.

³⁷⁵⁷ TT, DCT-172, 6 Jul 10, p. 43750.

³⁷⁵⁸ TT, DCT-306, 20 Apr 10, p. 39371-2.

³⁷⁵⁹ TT, DCT-306, 14 Apr 10, p. 39837-9.

³⁷⁶⁰ TT, DCT-306, 20 Apr 10, p. 39372-3.

³⁷⁶¹ TT, DCT-306, 20 Apr 10, p. 39371; Exhibit D-336 (ERN p. 00009717)

³⁷⁶² TT, Taylor, 1 Oct. 09, p. 30052-30053.

³⁷⁶³ See JCE SECTION ON OPERATION STOP ELECTION

not part of the original plan.³⁷⁶⁴ Exhibit P-277 also clearly stated that it was Sankoh who initiated Operation Stop Election and makes no mention of Charles Taylor's involvement in the plan.³⁷⁶⁵

Planning Fighting Against LURD

1360. The attacks on Guinea are outside the territorial jurisdiction of the Court. However, the Prosecution has presented evidence indicating that Mr Taylor contributed to planning attacks against LURD by the RUF, which should be dismissed for the following reasons, and for those addressed fully in the JCE and Command Responsibility Sections. TF1-338 claimed that in 2001, Issa Sesay had a meeting in Monrovia with Benjamin Yeaten during which Yeaten gave instructions from Mr Taylor that Issa Sesay should attack Guinea because the Guineans had been allowing the LURD rebels to use their ground to penetrate Liberia.³⁷⁶⁶ TF1-360 testified that around 1999, Mr Taylor requested Bockarie assist Taylor to fight against rebels in Liberia.³⁷⁶⁷ In 2000, Mr Taylor requested Issa Sesay to contribute manpower to fight along the Guinean-Liberian border against LURD.³⁷⁶⁸
1361. TF1-276 gave testimony about a 1999 operation supervised by Benjamin Yeaten where Bockarie sent RUF into Liberia to fight against Mosquito Spray.³⁷⁶⁹ By request from Mr Taylor, Issa Sesay supported an operation against the Guinean army in Madina Wola in 2000. Mr Taylor's objective was to gain ground in Guinea so that when it was time for disarmament in Sierra Leone, some of the arms could be taken to Guinea for safekeeping.³⁷⁷⁰ In 2001, the RUF also supported an attack on Guekedou led by Benjamin Yeaten. The Prosecution presented a document identified as a joint operation plan, signed by Benjamin Yeaten and Issa Sesay.³⁷⁷¹
1362. According to TF1-337 (Mustapha Mansaray), in July 2000, Issa Sesay brought arms to Komba Gbundema. Sesay ordered the RUF to attack Guinean territory to oust Lansana Conte, and said that this mission had been given to him by Charles Taylor.³⁷⁷²

³⁷⁶⁴ TT, DCT-172, 6 July 10, p. 43738-47.

³⁷⁶⁵ Exhibit P-277 (ERN p. 00018139 – 00018140).

³⁷⁶⁶ TT, TF1-338, 2 September 08, p. 15177-79.

³⁷⁶⁷ TT, TF1-360, 6 February 08, p. 3273-75.

³⁷⁶⁸ TT, TF1-360, 6 February 08, p. 3273-75.

³⁷⁶⁹ TT, TF1-276, 23 January 08, p. 2045-47.

³⁷⁷⁰ TT, TF1-276, 23 January 08, p. 2048-50.

³⁷⁷¹ TT, TF1-276, 23 January 08, p. 2050-53.

³⁷⁷² TT, TF1-337, 4 March 08, p. 5336.

1363. Mr Taylor denies providing arms or ammunition to Issa Sesay for the RUF to launch an attack on Guinea in 2000.³⁷⁷³ Mr Taylor confirms that he invited Issa Sesay to Liberia in July 2000, but asserts that this contact was about peace and not about war or the provision of arms and ammunition.³⁷⁷⁴ Issa Sesay also denies having any discussions with Mr Taylor about attacks on Guinea, nor was he provided with arms by Mr Taylor.
1364. Issa Sesay denies sending any forces to cross into Liberia to fight with Benjamin Yeaten. He also denies signing a joint operation plan with Benjamin Yeaten to attack Guinea from Liberia (Exhibit P-28), which he insists is a fabricated document that he has never seen before.³⁷⁷⁵ It was not the practice of the RUF to write and sign operational plans and Issa Sesay never signed any operation plans while he was interim leader.³⁷⁷⁶
1365. Sesay contradicts the testimony of [REDACTED]. He denies that he had any such meeting with Yeaten or that he received instructions or materials to enter Guinea. He said that by mid 2001, the RUF was disarming.³⁷⁷⁷ DCT-190 testifies that he fought with LURD in Gueckedou against people from the direction of Liberia. He indicates that they were perhaps from the ATU or the AFL. He expresses doubts that the RUF was involved because they had been disarmed in Sierra Leone.³⁷⁷⁸ Evidence that fighting in fact occurred and perhaps involved both Sierra Leoneans and Liberians should not be construed circumstantially to prove that Taylor was involved in planning some joint attack.

Ordering: Evidentiary Analysis

1366. With respect to the mode of liability of ordering charged in the Indictment,³⁷⁷⁹ the Prosecution implicates Taylor in the ordering of two main attacks which require closer consideration viz: the unsuccessful attack on Kono in 1998, also referred to as the Fitti Fatta mission, and the Freetown invasion in early 1999, including the attacks leading thereto. The Prosecution's evidence on these attacks has been sufficiently analyzed elsewhere in this Brief, and especially in the JCE and Planning Sections, and

³⁷⁷³ TT, Charles Taylor, 22 September 09, p. 29303-06, 29430.

³⁷⁷⁴ TT, Charles Taylor, 22 September 09, p. 29307-08.

³⁷⁷⁵ TT, DCT-172, 6 August 10, p. 45620-23.

³⁷⁷⁶ TT, DCT-172, 6 August 10, p. 45627-29.

³⁷⁷⁷ TT, DCT-172, 4 August 10, p. 45337-41.

³⁷⁷⁸ TT, DCT-190, 25 June 10, p. 43453-60.

³⁷⁷⁹ Prosecution's Second Amended Indictment, para. 33

does not require repetition here. For reasons stated in those sections, the Defence submits that the evidence must be dismissed for want of credibility. In this section the Defence will only concentrate on the additional peculiar legal issues that arise with respect to the mode of liability of ordering.

1367. The Defence notes that, with respect to both the Fitti Fatta mission and the Freetown invasion, the Prosecution alleges that Taylor passed the respective orders for the attacks through Sam Bockarie who in turn passed on the orders to his subordinate perpetrators within the RUF. The first preliminary point which the Defence would therefore hasten to make, and which the Trial Chamber must always bear in mind is that this evidence is pure hearsay, even if repeated by more than one person. This, it is submitted, presents a serious legal problem in this case where the Accused denies giving any such orders. The Defence submits that the Prosecution's evidence must therefore establish beyond all reasonable doubt that the orders concerned, in fact, came from Taylor and not Bockarie. In other words, that Bockarie, for whatever reasons, did not merely pass off his own orders as Taylor's. The Prosecution's highly suspect and conflicting evidence, as considered elsewhere in this Brief, does not suffice in this regard.
1368. Second, the Defence submits that the Prosecution's quest to hold the Accused liable for ordering the Fitti Fatta mission and the Freetown invasion also fails on the legal hurdle that the evidence fails to establish a superior/subordinate relationship as such that Taylor would have possessed the *de jure* or *de facto* authority to *stricto sensu* issue orders to Sam Bockarie; or any other position of authority such as would have compelled Bockarie and the RUF members under him to commit the alleged crimes in compliance with the orders.³⁷⁸⁰ This evidence is particularly critical in this case given Taylor's geographical and institutional dissonance from the RUF, as argued in the Superior Responsibility section of this Brief.
1369. As argued in that Section, the Trial Chamber will recall that, save for the evidence on the initial stages of the war, where it was alleged that Taylor presided over the RUF,³⁷⁸¹ the Prosecution led no evidence of exactly where Taylor sat within the RUF's institutional structure. Rather, as from 1996, we have Foday Sankoh sitting at

³⁷⁸⁰ CDF Trial Judgement, para. 225; RUF Trial Judgement, para. 273; *Gacumbitsi* Appeal Judgement, paras. 181-182; *Semanza* Appeal Judgement, para. 361; *Kordić and Čerkez* Trial Judgement, para. 388.

³⁷⁸¹ Exh. P-55

the helm.³⁷⁸² The only evidence thereafter were the multiple general allegations that at various times, Taylor allegedly told Bockarie to take instructions from Taylor, as well as the general allegations which largely suggested Bockarie's voluntary subservience to Taylor, effectively described by TF1-371 as blind loyalty.³⁷⁸³

1370. Indeed, even the specific instances where Taylor allegedly issued orders to Bockarie, again as discussed in the Section on Command Responsibility, the evidence does not show that Taylor occupied any position in the RUF as would have given him the power or authority such as would have compelled Bockarie and the RUF members under him to commit the alleged crimes in compliance with his alleged orders. At the most, the evidence, taken at face value, suggests that Taylor might have had substantial influence over Bockarie. Such influence however falls short of superior authority as required by law. Not to put too fine a point to it, the Defence reminds the Trial Chamber of the definition of "Ordering", which involves a person in a position of authority using that position to *compel* another to commit an offence.³⁷⁸⁴

1371. The Prosecution's attempt to implicate Taylor under the mode of liability of ordering, especially in relation to the Freetown invasion also fails on the basis that, even assuming *arguendo* that Taylor issued the alleged order to attack Freetown, from the extensive discussions on this issue under the JCE and Planning Sections of this Brief, there is no credible evidence establishing any causal link between Taylor's alleged order for the attack on Freetown, which it is alleged also contemplated atrocities, and the atrocities that were actually perpetrated by the AFRC during the invasion, as well as the general mayhem thereafter. As argued extensively herein, this is because the RUF did not take part in the Freetown invasion. Furthermore, the mayhem that followed the Freetown invasion was generally attributable to rogue elements who capitalized on the general loss of command and control.³⁷⁸⁵

1372. In making these submissions the Defence is aware of prosecution evidence suggesting that Taylor, directly or indirectly, was generally in communication with Bockarie during the invasion,³⁷⁸⁶ and that Sam Bockarie's order for Gullit to commence

³⁷⁸² Exh. P-56

³⁷⁸³ TT, TF1-371, 29 January 2008, p. 2457;

³⁷⁸⁴ RUF Trial Judgement, para. 273; AFRC Trial Judgement, para. 772; AFRC Rule 98 Decision, para. 295; *Brđanin* Trial Judgement, para. 270; *Krstić* Trial Judgement, para. 601; *Blaškić* Trial Judgement, para. 281; *Akayesu* Trial Judgement, para. 483.

³⁷⁸⁵ TT, TF1-371, 25 Jan. 2008, p. 2807-8.

³⁷⁸⁶ TT, TF1-516, 9 Apr. 08, p. 6979.

atrocities followed his conversation with Taylor.³⁷⁸⁷ The credibility of this witness's testimony aside, the Defence submits that the evidence still does not suffice to establish the requisite nexus. The allegation on its own merits does not prove that the order which was then passed on to Gullit in fact came from Taylor. Nor could it be inferred from the aforementioned allegation. Such inference would in fact be nonsensical in the face of the Prosecution's own other evidence (again taken at face value) that the plan to attack Freetown involved the commission of atrocities *ab initio*. Why would Taylor call Bockarie to give him instructions to commit atrocities when that was already the plan? The Defence submits that these are some of the inconsistencies in the Prosecution's case that must not be lost on the Trial Chamber in assessing the credibility of the Prosecution's constantly shifting case.

1373. Third, the attempt to establish a nexus between the Freetown atrocities and Taylor on the basis of the phone call alleged by TF1-516 above should also fail on the basis that there is no credible evidence that either Taylor or Bockarie occupied any superior position over Gullit (the AFRC leader during the invasion); or possessed any other authority such as would have compelled Gullit and the AFRC members under him to commit the alleged crimes in compliance with Bockarie's alleged order. Rather, the evidence on the Freetown invasion, as discussed elsewhere in this Brief, clearly shows that the AFRC was at all times acting independently of the RUF during the invasion.

1374. For any one or more of the foregoing reasons, the Defence submits that the Trial Chamber cannot find that Taylor ordered the attack leading up to/and the Freetown invasion and the Fitti Fatta mission. For the same reasons, subject to the necessary changes depending on the case, the Defence submits that the Trial Chamber could not find Taylor responsible giving 'orders' to the RUF as would entail criminal responsibility under the mode of liability of Ordering, as might be alleged in any other instances in this case.

Instigating: Evidentiary Analysis

1375. With respect to the mode of liability of "instigating" also charged in the Indictment,³⁷⁸⁸ the Prosecution's evidence also appears to largely rely on the two events highlighted above, namely, the Fitti Fatta mission in 1998 and the attack on Kono in late 1998 *en route* to Freetown. With respect to the attack on Kono on the

³⁷⁸⁷ TT, TF1-516, 9 Apr. 08, p. 6976-77

³⁷⁸⁸ Prosecution's Second Amended Indictment, para. 33

way to Freetown, the thrust of the Prosecution's case appears to be that Taylor instigated the attack in the knowledge of the real likelihood that such attack would result in the commission of atrocities. In this regard the Prosecution relies on the general allegations made by witnesses such as Abu Keita that Taylor stated that the RUF should make sure it takes over Kono and Makeni and maintain its ground,³⁷⁸⁹ or the TF1-571's evidence that Taylor told Bockarie that he would not get him any arms and ammunition unless the RUF captured the mining areas.³⁷⁹⁰ This evidence, it must however be underlined, must be viewed in the context of the general allegation that Taylor planned the attack on Freetown, of which the attack on Kono was but a part. This evidence therefore stands or falls with the general allegation that Taylor planned the Freetown invasion. The credibility of that evidence is covered extensively in this Brief and need no repetition in this instance, suffice it to say that same arguments apply with equal force here.

1376. With respect to the Freetown invasion and the events during and after the invasion, on the basis of the Prosecution's own evidence, taken at face value, the Defence submits that the mode of liability of instigating should also fail on the same basis considered above under Ordering, in that there is no nexus between Taylor and the alleged crimes.³⁷⁹¹ As argued above, the Prosecution has failed to establish a causal link between any alleged acts of instigating by Mr. Taylor and the commission of the crimes in Freetown by the AFRC or thereafter. Furthermore, for reasons stated elsewhere in this Final Brief, the Defence challenges the allegations that Taylor was in anyway involved in the plan to attack Freetown in late 1998/early 1999, and any suggestion that he instigated any events related thereto.

CREDIBILITY ANALYSIS OF PROSECUTION WITNESSES

Introduction

1377. The following section will analyse the evidence given by certain prosecution witnesses during the trial. Many witnesses have already been analysed in terms of their credibility in other sections of the final brief, and such analysis is not repeated here. Equally, the analysis presented below is not a complete analysis of each

³⁷⁸⁹ TT, TF1-276, 23 Jan 2008, p. 2007-08.

³⁷⁹⁰ TT, TF1-567, 02 Jul 2008, p. 12913-17.

³⁷⁹¹ CDF Appeal Judgement ¶ 54. The Chamber noted this as a key difference with aiding and abetting. This upheld the CDF Trial Judgement at ¶ 223 citing *Kordic* Appeal Judgement ¶ 27, *Limaj* Trial Judgement ¶ 515, *Brdjanin* Trial Judgement ¶ 269 and *Bagilishema* Trial Judgement ¶ 30.

witness's testimony; rather, it is intended to highlight specific portions of the witness's evidence, and where possible, how it contradicts the evidence of other witnesses. A complete analysis would take far greater space than allowed for here.

1378. We have sought to expose the weaknesses inherent in the prosecution case by highlighting the prior inconsistent statements, bias, lack of personal knowledge, and incentives to lie of some prosecution witnesses. The Prosecution has recently asserted that matters of credibility are a secondary concern.³⁷⁹² To the contrary, the Defence submits that the credibility of the witnesses who testified before this Chamber is a primary concern to the fact-finder. Credibility must be evaluated carefully in order to ensure the truthfulness and trustworthiness (or otherwise) of the information witnesses put before the Chamber.

1379. The Defence invites the Trial Chamber, at this juncture, to undertake the same careful and skeptical analysis it took in relation to assessing the credibility of the witnesses who provided affidavits and statements to the Defence, which statements formed the basis of the Defence's Contempt Motion.³⁷⁹³ Therein the Chamber scrutinized the witnesses' evidence, their motives for lying, and their financial relationship with interested parties. Furthermore, the Trial Chamber made comparisons to prior statements given by those witnesses in relation to the same events. If this was the level of scrutiny given to credibility issues by the Trial Chamber when the evidentiary threshold was the low "reason to believe" standard, then how much more critical is it now to do the same, when the evidentiary threshold is that which is "beyond a reasonable doubt". Whatever the standard be, it should be applied equally to the evidence of the Prosecution and Defence witnesses.

1380. With regard to prior inconsistent statements of witnesses, the Defence notes that the SCSL Appeal and Trial Chambers have tended to play down inconsistencies in testimony or between testimony and previous statements and have held that such inconsistencies do not necessarily discredit a witness.³⁷⁹⁴ The Appeals Chamber has emphasized that the Trial Chamber has broad discretion to determine the credibility of witness testimony and to evaluate alleged discrepancies. In its *AFRC* judgement, the Appeals Chamber observed that it is the responsibility of the Trial Chamber to

³⁷⁹² *Prosecutor v. Taylor*, SCSL-03-01-T-1172, Prosecution Response to Public with Annex A Defence Motion Seeking Leave to Appeal the Decision on Defence Request for a Status Conference pursuant to Rule 65bis and Defence Motion for Stay of Proceedings Pending Resolution of Outstanding Issues, 27 January 2011, para. 12.

³⁷⁹³ Contempt Decision.

³⁷⁹⁴ See, e.g., *AFRC* Appeal Judgement, para. 120; *CDF* Trial Judgement, para. 262.

“resolve any inconsistencies that may arise within and/or amongst witnesses’ testimonies. In doing so, the Trial Chamber has discretion to evaluate any inconsistencies, to consider whether the evidence taken as a whole is reliable and credible and to accept or reject the ‘fundamental features’ of the evidence.”³⁷⁹⁵

1381. Some inconsistencies may arise due to the passage of time.³⁷⁹⁶ However, significant or material inconsistencies require careful scrutiny, and possibly, a convincing explanation or corroboration. In its *RUF* judgement, the SCSL Trial Chamber appears to distinguish between material and non-material, or minor, inconsistencies. Of the former, the Chamber observed: “Where there are material inconsistencies in the evidence of a witness, the Chamber has taken great care to address those issues and to assess, in light of all of the evidence, whether or not to rely on competing accounts of pertinent events.”³⁷⁹⁷ Where inconsistencies are significant or material, the Chamber will likely seek corroboration before accepting the witness’s testimony as reliable. The *RUF* Trial Chamber held that where a witness’ explanation for inconsistencies is insufficient to place reliance, “[d]oubts about a testimony can be removed with the corroboration of other testimonies.”³⁷⁹⁸
1382. It is in respect to the need for corroboration that the Defence again cautions the Chamber about the related dangers of hearsay and accomplice evidence, and submits that accomplice evidence cannot corroborate each other. In its *AFRC* judgement, the SCSL Appeal Chamber clarified that “insider” witnesses, namely those who themselves were coperpetrators, may be treated by the Trial Chamber as accomplices even if not charged with any criminal offence.³⁷⁹⁹ The motives of insider witnesses in this case must be carefully considered.
1383. Much of the linkage evidence has come from so-called “insider witnesses”, that is persons who were former members of the RUF or the AFRC, and former employees of the Liberian Government or persons who claim to have been associated with that Government. Given the content of much of the testimony emanating from these sources, these witnesses could themselves have been indicted for the same offences

³⁷⁹⁵ *AFRC* Trial Judgement, para. 110.

³⁷⁹⁶ *RUF* Trial Judgement, para. 491 (quoting *CDF* Decision on Disclosure of Witness Statements and Cross-Examinations, para. 25).

³⁷⁹⁷ *RUF* Trial Judgement, para. 489.

³⁷⁹⁸ *RUF* Trial Judgement, para. 490 (quoting *Prosecutor v. Clément Kayishema & Obed Ruzindana*, Case No. ICTR-95-1-T, Trial Judgement, 21 May 1999, para. 80 [Hereinafter *Kayishema* Trial Judgement]).

³⁷⁹⁹ *AFRC* Appeal Judgement, para. 127.

faced by the accused. They are in fact *participes criminis*. In consequence this body of evidence comes from tainted sources.

1384. The dangers of placing reliance on the evidence of such witnesses have long been understood. Firstly, there is the danger that when a man is fixed, and knows that his own guilt is detected, he may seek to purchase impunity by falsely accusing others. Such, and other inducements, have, on the evidence, been used by the prosecution as a *quid pro quo* for giving evidence against the accused. We submit that such insiders in this case include TF1-371, Isaac Mongor, DAF, and Moses Blah.³⁸⁰⁰ The second danger is the most obvious and common: where a man wishes to suggest his innocence or minor participation and transfers the blame to others. Thirdly, it often happens that an accomplice is a friend of those who committed the crime with him, and he would much rather get them out of the scrape and fix an innocent man than his real associates. This we submit is the case with Sherif and Abu Keita, who have sought to mask their longstanding relationship in selling munitions to the RUF as members of ULIMO by attributing their activities to the accused.
1385. The dangers inherent in all these cases will be increased by the fact that though the accomplice's evidence may be false in implicating the accused, it will usually have a seeming plausibility because the accomplice will have familiarity with at least some details of the crime, because an accomplice is not merely a witness with a possible motive to tell lies about an innocent accused but is such a witness peculiarly equipped, by reason of his inside knowledge of the crime, to convince the unwary that his lies are the truth.
1386. Historically, recognition of the force of these point has resulted, in most civilized legal systems, to the adoption of a rule that it is dangerous to convict on the evidence of an accomplice unless such evidence is corroborated. We submit that this principle should be applied in the present case. Indeed it is principle recognised by this court.³⁸⁰¹
1387. In the search for corroborative evidence we submit that such evidence must come from an untainted source. Consequently, it is submitted that accomplices cannot corroborate each other, for suspect evidence cannot corroborate suspect evidence.

³⁸⁰⁰ Exhibit P-119 (letter from Acting Prosecutor James Johnson to Prosecution Witness Moses Blah, dated 30 October 2006); TF1-371 (TT (Closed), 1 Feb 08, p. 2918-22), TF1-532 (TT, 7 Apr 08, p. 6718-20), and TF1-274 (TT, 8 Dec 08, p. 21893-7). See also *Prosecutor v. Taylor*, SCSL-03-01-T-516, Decision on Confidential Defence Motion for the Disclosure of Exculpatory Material Pursuant to Rule 68 of the Rules of Procedure and Evidence, 22 May 2008, p. 5.

³⁸⁰¹ AFRC Appeal Judgement, paras 128-129.

1388. The existence of an inconsistency between oral testimony and previous statements, even where raising doubt about a witness' credibility, does not alone mean that a Trial Chamber will conclude that *all* of the witness' testimony is unreliable.³⁸⁰²
1389. As regards hearsay evidence, the Defence notes that despite spending four and a half years in preparation, a further thirteen months in presenting their case, and calling thirty-one linkage witnesses, it is somewhat surprising that there is very little direct substantive evidence to link the accused to the crimes alleged. For the most part the Prosecution's attempt to link the accused to the alleged crimes has largely focused on hearsay, circumstantial evidence and broad assumptions. There were few examples of direct personal knowledge of the accused commanding or assisting the RUF or AFRC.³⁸⁰³ The consequence is that Taylor is at risk of conviction solely or to a decisive extent on hearsay evidence.
1390. It is accepted that as a general rule, hearsay evidence is not *per se* excluded. Nonetheless it is acknowledged that hearsay evidence has "inherent deficiencies"³⁸⁰⁴. It cannot be tested by cross-examination and its reliability may also be affected by a number of factors. Furthermore such evidence, in the context of this case, must be looked at in its social and cultural context. Many of the key linkage witnesses come from or were operating in predominantly rural communities where access to modern means of communication was in the main limited to the BBC Focus on Africa. Otherwise communication was more likely to be by word of mouth, in the tradition of passing down an oral history. Further, given the traumatic nature of the conflict the fact-finder should enquire whether the witnesses' recollection has been subsequently altered by unconscious bias or wishful thinking or by overmuch discussion of it with others. Equally, it would be reasonable and just to consider the possibility that later exposure to misinformation may give rise to an inaccurate recollection as a result of supplementation or alteration.
1391. In *Akayesu*, the ICTR Appeals Chamber stated as follows at para. 292: "That a Trial Chamber admits a hearsay statement, does not necessarily imply that it accepts it is reliable and probative. Those are qualities which a Trial Chamber will freely consider at the end of the trial when weighing and evaluating the evidence as a whole, in light

³⁸⁰² *Čelebići* Appeal Judgement, paras 496-498; para. 490.

³⁸⁰³ One rare example of such direct linkage testimony, Alimamy Bobson Sesay, a former AFRC officer, claimed he had been at a meeting chaired by the accused while he was President in which the accused acknowledged he had been supporting the AFRC and RUF with food and munitions. TT, 24 April 08 p. 8504 *et seq.*

³⁸⁰⁴ RUF Trial Judgement, para. 495.

of the context and of the nature of the evidence itself, including the credibility and reliability of the relevant evidence.”

1392. There are therefore two stages at which the relevance and the admissibility of the evidence must be considered. There is the admission stage, secondly there is the deliberation stage. At the latter stage it is accepted that a trial chamber enjoys discretion to use uncorroborated evidence, to decide whether corroboration is necessary in the circumstances, and to rely on uncorroborated, but otherwise credible, witness testimony. Nonetheless, should a Chamber consider that a witness’s evidence is to be approached with caution and/or require corroboration by other reliable evidence, it is bound to abide itself by the required caution or corroboration.³⁸⁰⁵ In the premises it is submitted, that whereas the Trial Chamber is not compelled to look for supporting or corroborative evidence before it may act upon a hearsay statement, it may be wise and fair to the accused to do so in appropriate circumstances.
1393. We therefore submit that given the abundance of hearsay evidence upon which the prosecution rely, the court should exercise caution and exercise its discretion to ensure that before it accepts a hearsay statement there is some other evidence which assists the court in deciding that the evidence is sufficiently reliable and accurate to warrant the conclusion that it can provide proof beyond a reasonable doubt.
1394. In this regard it is important to bear the following factors in mind. Hearsay evidence comes in various forms and guises. There is a specie of hearsay which brooks only technical complaint, such as telephone records and other computer-generated material. There can be little reason to fail to accept such evidence. The prosecution has produced no such evidence in this case. There is then hearsay which comes from a witness so proximate to the source of the statement that there may be an initial temptation to accept it. Unfortunately such evidence in this case tends to emanate from individuals who are themselves accomplices and thus independent of the care which must be exercised in treating hearsay evidence there is the added urgency to corroborate the tainted source. There is then the hearsay which is little more than tittle tattle or general gossip. Such evidence, in our submission can never carry sufficient weight to be regarded as proof.
1395. Returning to the point about the impact of prior inconsistent statements, and keeping in mind the above arguments with relation to hearsay and accomplice evidence, the

³⁸⁰⁵ RUF Appeals Judgement, para 221.

Defence submits that a “material discrepancy” would certainly arise where the witness has given multiple previous statements to the Prosecution, and yet, it is not until that witness has been in the “care” of the Prosecution and its Witness Management Unit that the witness makes any mention or link to the Accused. The Trial Chamber should be vigilant in ascertaining when and if this has happened.

1396. Furthermore, with regard to payments of witnesses, the Defence appreciates that all witnesses appearing before the Special Court are entitled to receive compensation from the Witness and Victims Section of the Registry for legitimate travel expenses, lodging, meals and other expenses incurred as a result of his/her cooperation with the Special Court. *The Practice Direction on Allowance for Witnesses and Victims* is meant to balance the Special Court’s interest in encouraging cooperation by minimizing pecuniary harm to witnesses with the need to prevent the parties from providing financial benefit to their witnesses in exchange for favourable testimony. Where payments made to witnesses by the Prosecution are challenged here, it is the Defence’s assertion that such payments exceeded the level of financial support authorized by the Practice Direction, or came from a different source entirely: the Prosecution. The Appeals Chamber has recently noted that the issue of improper payments and inducements to witnesses or potential witnesses and sources is a live issue in this trial.³⁸⁰⁶ Payments received by prospective witnesses and witnesses have tarnished the quest for truth. While in some instances, the sums involved have on occasion been small, when viewed through Western eyes, but must be viewed in the context of the developing nations of Liberia and Sierra Leone.

TF1-276 Abu Keita

Excessive financial compensation

1397. Abu Keita was paid a substantial sum of money to testify in the trial of the Accused and appears to have been influenced by the debt he feels that he owes to his benefactors to alter his testimony to support hyper-specific Prosecution charges. Abu Keita was primarily provided funds for excessive travel expenses. While some payments were directed toward legitimate travel costs, the large amount of “other expenses” covered by the Prosecution damage Keita’s credibility. Between 20 June

³⁸⁰⁶ *Prosecutor v. Taylor*, SCSL-03-01-T-1168, Decision on Defence Appeal Regarding the Decision on the Defence Motion for Admission of Documents and Drawing of an Adverse Inference Relating to the Alleged Death of Johnny Paul Koroma, 25 Jan 2011 (“JPK Appeal Decision”).

2003 and 23 June 2003, the Witness Management Unit provided \$2,180 US for travel and hotel expenses, and an additional \$322 US for unspecified “other expenses.”³⁸⁰⁷

In this case, while only \$57 US were required for hotel expenses, it is difficult to understand the necessity of \$322 US for “other expenses.” Similarly, a \$793 US plane ticket was accompanied by over \$1,000 US for “transportation expenses.”

1398. In a vacuum, such large payments may not suggest an issue with a witness’s credibility. However, when coupled with a number of very specific propositions and considerable inconsistencies in his testimony, Keita cannot be considered to be a reliable witness.

Inconsistent and self-aggrandising statements

1399. With this financial history in mind, consider Abu Keita’s claims that on the *very* first introduction to Ibrahim Bah, Samuel Bockarie and Charles Taylor the following events occurred: Bah spoke with him about diamond transactions, Bockarie showed him a jar full of diamonds and Taylor spoke directly to him about supporting the RUF.³⁸⁰⁸ Given the magnitude of those assertions, it is difficult to understand why such issues would be brought up without a prior relationship. The suggestion that all three individuals chose the same day to express such specific opinions, about issues so pointedly related to the Prosecution’s case against Taylor, to a perfect stranger strains credulity. Moreover, Keita’s meeting with the Accused was omitted from his early interviews and Keita can only explain their absence as a mistake made by the Prosecution.³⁸⁰⁹

1400. Keita may have continued to plot against the Accused while he was still in power, and has a political motivation to tailor his testimony. As a member of LURD and ULIMO who fought against Taylor and the NPFL, Keita’s inconsistent and contradictory testimony suggests that he is using his appearance at the Special Court to accomplish what war could not.³⁸¹⁰ Keita also had some form of relationship with Roosevelt Johnson, leader of ULIMO-J and may have been present at meetings in which coup attempts were discussed.³⁸¹¹ Abu Keita stated he was a member of Alhaji Koroma’s

³⁸⁰⁷ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2154-5.

³⁸⁰⁸ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2113.

³⁸⁰⁹ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2116-7.

³⁸¹⁰ TT, Abu Keita, TF1-276, 23 Jan 08, p. 2082

³⁸¹¹ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2096-100.

party during a June 2003 interview but denied being a member or supporting the party during testimony.³⁸¹²

1401. Further, Abu Keita denied in court that he was arrested because he had been seen around Roosevelt Johnson and further denied that his interactions with Johnson were as part of a coup attempt.³⁸¹³ This is in contradiction to Keita's June 2003 interview with the Prosecution in which Keita claimed that he was arrested for being a former ULIMO-K man and being seen around Roosevelt Johnson.³⁸¹⁴ Abu Keita also stated in his interview and admitted in court that one of the reasons he was arrested was for not fighting against Roosevelt Johnson's forces and Keita's former allies.³⁸¹⁵

1402. Keita also denied his connections to his former fighters, such as when he denied that Benjamin Yeaten told him he would be transferred from the Ministry of Defence to the SSS. However, during a 2003 interview, Keita explicitly states that Yeaten had him transferred because Yeaten wanted him to work with his "brothers from the RUF".³⁸¹⁶

1403. There are a number of other serious inconsistencies in Keita's testimony, including: that Keita had left for Beidu with Sam Bockarie but during testimony he denied this and claimed that he met up with Sam Bockarie in Voinjama,³⁸¹⁷ Keita denying from his 2003 Prosecution interview that he went with Sam Bockarie on three separate occasions to bring diamonds to Charles Taylor;³⁸¹⁸ Keita further denying from his 2003 interview that he sat near Issa Sesay and Charles Taylor as they spoke in 2000 about diamonds.³⁸¹⁹

Keita's credibility in light of other evidence

1404. Keita's credibility is seriously undermined when viewed in the light of other Prosecution witness testimony. Keita himself claimed that he was sent to Sierra Leone following his imprisonment and subsequent release after his role in the Camp Johnson Road Incident of September 1998. However, he omitted to mention that he had previously been in contact with and known to the RUF as one of the ULIMO Generals from whom the RUF had purchased arms.³⁸²⁰ He omitted to mention that he was

³⁸¹² TT, Abu Keita, TF1-276, 23 Jan 08, p. 2086.

³⁸¹³ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2099-100.

³⁸¹⁴ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2101.

³⁸¹⁵ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2104-5.

³⁸¹⁶ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2110.

³⁸¹⁷ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2126.

³⁸¹⁸ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2119.

³⁸¹⁹ TT, Abu Keita, TF1-276, 24 Jan 08, p. 2120.

³⁸²⁰ TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16278.

independently close to the RUF as his girlfriend's father was a senior advisor for Sankoh.³⁸²¹ Indeed, TF1-516 testified that Abu Keita came to join the RUF after the disarmament in Liberia in 1996 or 1997.³⁸²² TF1-516 stated that Abu Keita was in Kenema in 1997 (the suggestion he was with Bockarie) at about the time Taylor was inaugurated as president.³⁸²³ Samuel Kargbo, TF1-597, claimed that Keita was present in Buedu in March 1998.³⁸²⁴ This evidence, when taken together, presents the picture that Keita was involved with the RUF long before he claimed he was sent to join the RUF by Taylor. It completely undermines his allegation that he was sent to join the RUF by Taylor and his general credibility as a witness.

TF1-375

1405. The testimony of TF1-375 must be seen in light of two crucial issues. First, that he received exorbitant amounts of money from the Prosecution and the WVS and, second, that his statements to the Prosecution and a substantial portion of his evidence changed to fit the narratives of other witnesses immediately after they testified against the Accused. While TF1-375 denied having ever heard other testimony, his inclusion of specific facts at an extremely late date in his interviews, coupled with his inability to explain why such issues were not discussed sooner, suggests that his longstanding and beneficial relationship with the Prosecution influenced his testimony.

Excessive payments

1406. Before setting out the multiple inconsistencies in his testimony, it is necessary to look at the excessive payments made to TF1-375 by the Prosecution and WVS, in his capacity as both a witness and a source of information.³⁸²⁵ The Defence submits that these payments, as well as payments made by the Prosecution and an indemnity letter written to DCT-032,³⁸²⁶ led to TF1-375 and Moses Blah giving a fabricated account of the alleged death of Johnny Paul Koroma. That part of TF1-375's testimony should be disregarded entirely. Indeed, the bulk of his evidence should be viewed with great caution in light of this fabrication and his willingness to lie to the Court. From

³⁸²¹ TT, TF1-371, 1 Feb 08, p. 2805-7.

³⁸²² TT, TF1-516, 9 Apr 08, p. 7101-2.

³⁸²³ TT, TF1-516, 9 Apr 08, p. 7102.

³⁸²⁴ TT, Samuel Kargbo, TF1-597, p. 10525.

³⁸²⁵ See *Prosecutor v. Taylor*, Notice of Appeal and Submissions Regarding the Decision on the Defence Motion for Admission of Documents and Drawing of an Adverse Inference Relating to the Alleged Death of Johnny Paul Koroma, 10 December 2010, especially paras. 40-57.

³⁸²⁶ Exhibits D-483 and D-484.

September 2005 to May 2008 the Prosecution paid the witness 4,325 USD and 825,000 Leones.³⁸²⁷ In addition, TF1-375 was provided 13,122,800 Leones for general living fees by the WVS.³⁸²⁸ TF1-375's medical expenses totaled 775,000 Leones.³⁸²⁹ Rent, maintenance and utility bills were covered for 19,750,000 Leones.³⁸³⁰ Not surprisingly given the massive expenditure of funds, TF1-375 was unable to provide justification for over 3,000,000 Leones labeled as "miscellaneous," except to explain that the Special Court also paid for him to go to an expensive [REDACTED] school.³⁸³¹ All told, in addition to money received from the Prosecution, TF1-375 was given or had paid on his behalf 38,359,200 Leones by WVS.³⁸³²

1407. These payments to TF1-375 are problematic given his understanding of the purpose of the payments, and his explanation for their use. It is important to note that TF1-375 was given money on a consistent basis by the Prosecution which he viewed not as payment for expenses incurred as a result of conducting interviews, but as a means to support his [REDACTED] city.³⁸³³ While arguing these were not payments for information, TF1-375 provided inconsistent answers and occasionally admitted they were done solely as a favour to him. Specifically, he stated that he was not satisfied with being given only 50 USD for a five minute motor bike ride during his first visit, and was then given 100 USD for a second visit, when during both visits he gave them false information and was generally uncooperative.³⁸³⁴ TF1-375 admitted that he had no transportation costs related to that day's meeting. Later, in June 2006, TF1-375 stated that the Prosecution "gave me money and I accepted the money. I didn't know what it was for. They gave it me and I accepted it. I knew it was for the same transport purpose, but for the meantime take this amount of money. I can't remember what the money was for".³⁸³⁵

1408. TF1-375 was also used at times purely as a source, such as on [REDACTED] when he was given 25 USD to collect someone else and bring them to the Prosecutors.³⁸³⁶ During the course of 2005 and 2006 the witness continued to receive payments of 100

³⁸²⁷ TT, TF1-375, 27 Aug 08, p. 14719.

³⁸²⁸ TT, TF1-375, 27 Aug 08, p. 14720.

³⁸²⁹ TT, TF1-375, 27 Aug 08, p. 14722.

³⁸³⁰ TT, TF1-375, 27 Aug 08, p. 14725.

³⁸³¹ TT, TF1-375, 27 Aug 08, p. 14724-7.

³⁸³² TT, TF1-375, 27 Aug 08, p. 14728.

³⁸³³ TT, TF1-375, 22 Aug 08, p. 14345.

³⁸³⁴ TT, TF1-375, 26 Aug 08, p. 14649.

³⁸³⁵ TT, TF1-375, 26 Aug 08, p. 14653.

³⁸³⁶ TT, TF1-375, 26 Aug 08, p. 14657.

USD for interviews that contained little information.³⁸³⁷ Upon returning from a trip from [REDACTED] to [REDACTED], for which he was paid 200 USD, TF1-375 was given an additional 100 USD which he stated was an “appreciation” from the Prosecution, for him to use for his family.³⁸³⁸ It is difficult to understand how a payment of 50 USD for “crossing the street” and taking up some of the witness’s time is to be viewed other than as inducement for the witness to testify or provide information.³⁸³⁹

1409. TF1-375 attempted to justify his earnings by claiming that money received from the Prosecution was a paltry sum. He stated that he earned money from [REDACTED] [REDACTED] as well as money from a [REDACTED] rental and [REDACTED] rentals, and from the [REDACTED].³⁸⁴⁰ TF1-375 claimed that the money from the Prosecution was pocket money compared to his own earnings.³⁸⁴¹ Additionally, TF1-375 made the dubious claim that he earned 175 USD a month from the [REDACTED] for a two year period for making a total of three trips [REDACTED] [REDACTED].³⁸⁴² Despite these objections, it is clear that TF1-375 received a far greater living allowance from his work with the Special Court.

Specific Choice to Include Testimony after [REDACTED] Hearing

1410. Particularly troubling in light of the payments made is TF1-375’s inclusion at trial of several claims corroborating the testimony of [REDACTED], despite failing to make any mention of them over the course of nearly 20 prior statements.³⁸⁴³ While TF1-375 firmly denied that he knew anything of [REDACTED] testimony before the Special Court,³⁸⁴⁴ it is difficult to understand how he could suddenly include in his statements a number of facts that were eerily similar to recent testimony by Prosecution witnesses, including: that [REDACTED],³⁸⁴⁵ the mention of a 40 barrel weapon being used in a particular manner by the RUF;³⁸⁴⁶ [REDACTED] [REDACTED];³⁸⁴⁷ and a jar of mayonnaise being used to transport diamonds.³⁸⁴⁸

³⁸³⁷ TT, TF1-375, 26 Aug 08, p. 14663-5.

³⁸³⁸ TT, TF1-375, 27 Aug 08, p. 14701-2.

³⁸³⁹ TT, TF1-375, 22 Aug 08, p. 14334.

³⁸⁴⁰ TT, TF1-375, 22 Aug 08, p. 14329; 27 Aug 08, p. 14676.

³⁸⁴¹ TT, TF1-375, 22 Aug 08, p. 1433.

³⁸⁴² TT, TF1-375, 27 Aug 08, p. 14689.

³⁸⁴³ TT, TF1-375, 26 Aug 08, p. 14554-5.

³⁸⁴⁴ TT, TF1-375, 26 Aug 08, p. 14554.

³⁸⁴⁵ TT, TF1-375, 26 Aug 08, p. 14557.

³⁸⁴⁶ TT, TF1-375, 27 Aug 08, p. 14801.

³⁸⁴⁷ TT, TF1-375, 26 Aug 08, p. 14554-5.

³⁸⁴⁸ TT, TF1-375, 27 Aug 08, p. 14809.

Death of Johnny Paul Koroma

[illegible]

Jars of diamonds

1412. TF1-375 also did not mention that he had seen diamonds in jars until immediately prior to testimony.³⁸⁵² TF1-375's explanation was that he was never asked specifically about mayonnaise jars and diamonds, a common refrain.³⁸⁵³ This is an incoherent and illogical response – a witness is asked about a subject generally and replies with specific answers, as was the case with TF1-375 over the course of nearly two dozen interviews. However, when he discusses a topic which he included at an incredibly late stage, he attempts to justify it by stating he was not asked the one specific question that would yield that response. For example, a certain question might only elicit a proper response if it were phrased “were there diamonds in a mayonnaise jar” despite the fact that he was asked questions that would clearly justify mention of such an instance in the past.

1413.Despite this it is not clear that those specific questions were in fact asked even during the final prepping sessions. This further suggests he has modified his testimony after listening to other testimony and as a result of the massive amount of compensation he was provided by the Prosecution and WVS.

1414. The various accounts of [REDACTED] are conflicting and at variance in many important respects, such that this court should not rely on any of them. We bear in

³⁸⁴⁹ TT, TF1-375, 25 Aug 08, p. 14491.

3850 TT, TF1-375, 25 Aug 08, p. 14502-3.

3851 TT, TF1-375, 25 Aug 08, p. 14526; 26 Aug 08, p. 15333.

³⁸⁵² TT, TF1-375, 28 Aug 08, p. 14809.

³⁸⁵³ TT, TF1-375, 28 Aug 08, p. 14809.

mind in this regard the evidence of Moses Blah. This witness never mentioned until very late in his interview process that [REDACTED]

[REDACTED].³⁸⁵⁴

The autopsy photos presented to the witness [REDACTED]

[REDACTED].³⁸⁵⁵ [REDACTED]

[REDACTED].³⁸⁵⁶ The witness simply did not provide an explanation [REDACTED]

[REDACTED].³⁸⁵⁷ Despite being able to recall at trial the specific questions the Prosecution asked him concerning [REDACTED]

[REDACTED].³⁸⁵⁸

1415. TF1-375 never made any mention in prior interviews of [REDACTED]

[REDACTED].³⁸⁵⁹ Counsel suggests that this

assertion was made only after learning of other's testimony. The evidence first came out in the witness's "proofing" or "prepping" session, during an interview with four different people, where he stated that the [REDACTED]

[REDACTED].³⁸⁶⁰

Active fighting 1991-1997

1416. TF1-375 denied that he said very clearly in prior statements that he was not an active fighter from 1991-1997.³⁸⁶¹ TF1-375 also disputed that he stated that he was

[REDACTED] even though it appears the notes were read back to him during his witness interview.³⁸⁶²

1417. [REDACTED]
[REDACTED]. This

contradicts a prior statement that he had been told that the order was directly from Charles Taylor.³⁸⁶³

³⁸⁵⁴ TT, TF1-375, 25 Aug 08, p. 14450-1.

³⁸⁵⁵ TT, TF1-375, 28 Aug 08, p. 14821.

³⁸⁵⁶ TT, TF1-375, 25 Aug 08, p. 14450-1.

³⁸⁵⁷ TT, TF1-375, 28 Aug 08, p. 14821.

³⁸⁵⁸ TT, TF1-375, 25 Aug 08, p. 14482-3.

³⁸⁵⁹ TT, TF1-375, 26 Aug 08, p. 14588-90.

³⁸⁶⁰ TT, TF1-375, 26 Aug 08, p. 14595-8.

³⁸⁶¹ TT, TF1-375, 27 Aug 08, p. 14733.

³⁸⁶² TT, TF1-375, 27 Aug 08, p. 14764.

³⁸⁶³ TT, TF1-375, 27 Aug 08, p. 14817.

Other issues relating to the witness' credibility

1418. The witness displayed throughout proceedings an inclination to laugh loudly at questions, including when describing the murder of Sam Bockarie [REDACTED] [REDACTED].³⁸⁶⁴ The Defence submits he did not take the proceedings seriously.

TF1-355 Hassan Bility

1419. We submit that the evidence of Hassan Bility falls outside the temporal and geographical scope of the indictment and therefore should not be considered at all by this court. However, if this court is minded to consider his testimony then we would ask the court to proceed with caution for the following reasons.

1420. Hassan Bility testified in the RUF case in October 2004, in the Dutch case of Guus van Kouwenhoven in 1996 and in the United States in the Chuckie Taylor case in 2008. The Special Court notes and transcript of the testimony and the Dutch proceedings are routinely referred to in this section.

Connections with the United States, ECOMOG and his role as a spy

1421. Hassan Bility has long had extensive connections to United States and ECOMOG officials which are at least partially predicated on intelligence sharing. While Bility denied in court that he had any connection to the CIA,³⁸⁶⁵ he acknowledged that he had previous contact with the FBI and a range of United States Embassy officials. Bility admitted to cooperating with the FBI on questions related to an alleged connection between Charles Taylor and Al Qaida³⁸⁶⁶ and in relation to the case against Chuckie Taylor in the United States.³⁸⁶⁷ Bility also had contact with the United States Embassy in Monrovia. In 1996 during fighting in Monrovia, Bility stated that he went to the Embassy as an employee of the Liberian Refugee Repatriation and Resettlement Commission to ask for permission to use of some Embassy land for refugees.³⁸⁶⁸ Bility also acknowledged that he had friends in the Embassy, with whom he would speak occasionally, including political counsellors, human rights officers, the deputy chief of mission John Bowman, and the American

³⁸⁶⁴ TT, TF1-375, 25 Aug 08, p. 14424.

³⁸⁶⁵ TT, Hassan Bility, TF1-355, 13 Jan 09, p. 22413-4.

³⁸⁶⁶ TT, Hassan Bility, TF1-355, 13 Jan 09, p. 22414.

³⁸⁶⁷ TT, Hassan Bility, TF1-355, 13 Jan 09, p. 22415.

³⁸⁶⁸ TT, Hassan Bility, TF1-355, 13 Jan 09, p. 22418.

Ambassador John Blaney.³⁸⁶⁹ However, in documents prepared for the Prosecution, Bility stated that he was in constant contact with the United States Embassy.³⁸⁷⁰

1422. During a discussion of his arrest record, Bility showed an unwillingness to discuss his contacts with United States officials, purposefully omitting a meeting with United States Embassy officials.³⁸⁷¹ When ordered to do so by the bench, Bility acknowledged that his contact was the former Deputy Chief of Mission John Bowman, the highest ranking official in the Embassy.³⁸⁷² Additionally, when released after his June 2002 arrest, Bility acknowledged that he was escorted from the prison to a waiting plane with the Deputy United States Ambassador, but only after the Judge directed Bility “to stop prevaricating.”³⁸⁷³ Bility continued to deny that he had been passing information to the US government.³⁸⁷⁴ The evidence, however, displays a constant pattern of interaction with United States officials through a five year period, as well as their deep concern over the well being of Hassan Bility. The caretaking arrangement with the Government of the United States suggests far more interest and investment than Hassan Bility is willing to admit.

1423. In addition to his contacts with the US Government, Hassan Bility had a shadowy relationship with ECOMOG in both Liberia and Sierra Leone. Ending in a blatant lie to the Chamber, Bility refused to answer questions about assistance from ECOMOG in entering Sierra Leone. Specifically, ECOMOG assisted Bility in gaining access to Sierra Leone around August 1997.³⁸⁷⁵ While admitting that he utilized ECOMOG helicopters to get to Lungi in Sierra Leone, Bility denied that ECOMOG soldiers snuck him across the border on a helicopter, claiming instead that journalists always travelled for free, and that he entered Sierra Leone as a journalist for the National newspaper based in Monrovia.³⁸⁷⁶ Upon returning in August, Bility waited until November to publish a report about Liberian soldiers in Freetown.³⁸⁷⁷ Bility’s testimony suggests that some level of assistance was provided to him by ECOMOG but he refused during testimony to state what specific relationship existed.

³⁸⁶⁹ TT, Hassan Bility, TF1-355, 13 Jan 09, p. 22419-25.

³⁸⁷⁰ TT, Hassan Bility, TF1-355, 13 Jan 09, p. 22460.

³⁸⁷¹ TT, Hassan Bility, TF1-355, 15 Jan 09, p. 22707.

³⁸⁷² TT, Hassan Bility, TF1-355, 15 Jan 09, p. 22713.

³⁸⁷³ TT, Hassan Bility, TF1-355, 16 Jan 09, p. 22838.

³⁸⁷⁴ TT, Hassan Bility, TF1-355, 13 Jan 09, p. 22425-27.

³⁸⁷⁵ TT, Hassan Bility, TF1-355, 14 Jan 09, p. 22523.

³⁸⁷⁶ TT, Hassan Bility, TF1-355, 14 Jan 09, p. 22525-27.

³⁸⁷⁷ TT, Hassan Bility, TF1-355, 14 Jan 09, p. 22534-6.

1424. Hassan Bility's relationship with ECOMOG and his inaccurate portrayal of it was better expressed when he openly lied about the number of times he was assisted by ECOMOG in entering Sierra Leone. Bility did not honestly answer questions related to how many trips were facilitated for him by ECOMOG, suggesting a number of issues relating to his integrity as a witness as well as his reliability and interest in covering up essential facts. Bility incoherently stated that he was assisted by ECOMOG only once, but then answered that he was assisted both in 1997 and 1998 on two different occasions to witness events in Sierra Leone.³⁸⁷⁸ Bility's absolutely blunt refusal to answer the question or to acknowledge that two visits were facilitated firmly suggest the extent to which his testimony is tailored to fit his goal.³⁸⁷⁹

Bility's book on Charles Taylor

1425. A simple assessment of Bility's inconsistent and contradictory testimonial record suggests that he has chosen to serve as a professional witness. This argument is bolstered by Bility's own admission that he has written a book about the war in Liberia and, primarily, Mr. Taylor. He stated in court that his testimony is only now more accurate because he has been doing research for this very book.³⁸⁸⁰ This presents a number of alarming propositions: that he did not accurately testify and has serially been speaking untruths in court; that he has now embellished his account with the idea of a book being released; and that he feels the need to keep his private interests in relation to this book from the court. During a 2007 interview, investigators from the Special Court asked about his upcoming book and found that it was to be entitled "Journalists Quest Against a Dictator," that ninety-five percent of the book is not in statements or testimony, that he withheld information in order to enhance the relevance of his book, and that he may write about his experience at the Special Court as the last chapter.³⁸⁸¹

Summary of arrest record inconsistencies

1426. A number of recurring themes summarize Bility's testimony. First, he was blatantly unable to provide a consistent timeline during his many testimonies against different individuals. When coupled with his own personal connections to anti-government individuals as well as his personal interest as represented by his book, Bility's

³⁸⁷⁸ TT, Hassan Bility, TF1-355, 19 Jan 09, p. 22883-6.

³⁸⁷⁹ TT, Hassan Bility, TF1-355, 19 Jan 09, p. 22886-7.

³⁸⁸⁰ TT, Hassan Bility, TF1-355, 15 Jan 09, p. 22772-3.

³⁸⁸¹ TT, Hassan Bility, TF1-355, 15 Jan 09, p. 22773-4.

testimony cannot be taken as anything more than a personally tailored and fictitious account meant to damage Mr. Taylor's reputation.

1427. Second, and intimately related, is the disarming revelation that Bility actually tailored his evidence for its present purpose, which was most dramatically seen in his admission that what he "sought to do in that was to highlight specific issues, specific arrest issues."³⁸⁸² Bility's claim that he might have made prior mistakes but that his most recent series of dates is the most accurate and that in the past he may have "unconsciously misspoke" cannot be taken as the truth.³⁸⁸³

1428. Finally, and perhaps most damning, is Bility's constant reiteration of Mr. Taylor's relationship to Sierra Leone and the RUF during each of his arrests, even when the arrests are of a completely different nature. This suggests that of the many potentially fabricated issues that the professional witness Hassan Bility testified to, it is the connection between Mr. Taylor and the RUF that has been most introduced to the record.³⁸⁸⁴

1429. For reference, the following is an encapsulation of Bility's account during the Dutch trial, and then during his testimony against Mr. Taylor. After being arrested in August 1997, Bility then stated in 2006: The second time I was arrested was on 22 January 1998, the third time was also in 1998, the fourth time I was arrested was 1 May 2001. the fifth time I was arrested was in September 2001, the sixth time I was arrested was in February 2002 and then the final arrest of 24 June 2002.³⁸⁸⁵ In contrast, during his direct testimony in the present case, Bility claimed that his first arrest was in August 1997, the second sometime after 14 October 1997, the third being late in 1997, the fourth on 22 January 1998; the fifth in September 2000, the sixth on 1 May 2001; and the final arrest being 24 June 2002.³⁸⁸⁶ One wonders how he could have forgotten given his description of the horrors he allegedly suffered during his incarceration.

TF1-399 Joseph "Zigzag" Marzah

Joseph Marzah possesses a complete disregard for human life

³⁸⁸² TT, Hassan Bility, TF1-355, 15 Jan 09, p. 22666-7. *Also See for example* TT, Hassan Bility, TF1-355, 15 Jan 09, p. 22669 ("And the focus, the focus as well – it's important that I mention that the focus of the Dutch investigators, based on my understanding, was on Mr Gus Kouwenhoven's connection to President Charles Taylor").

³⁸⁸³ TT, Hassan Bility, TF1-355, 15 Jan 09, p. 22772.

³⁸⁸⁴ TT, Hassan Bility, TF1-355, 16 Jan 09, p. 22832.

³⁸⁸⁵ TT, Hassan Bility, TF1-355, 15 Jan 09, p. 22668.

³⁸⁸⁶ TT, Hassan Bility, TF1-355, 15 Jan 09, p. 22770-1.

1430. Joseph Marzah has admitted to horrific crimes. He is a sadist who took advantage of an anarchic war and showed his complete disregard for human life. While the list is extensive, some of the worst of these atrocities include: killing possibly thousands of people;³⁸⁸⁷ killing babies partly because “it is not that difficult to kill a baby. Sometimes you just take them, you throw them on a wall”,³⁸⁸⁸ cutting open pregnant women with a pen knife,³⁸⁸⁹ and, eating his enemies and performing cannibalism.³⁸⁹⁰ When further asked about his cannibalism, Marzah knew in great detail how to prepare an individual to be eaten, having no trouble recounting his participation in preparing and eating Nigerian ECOMOG soldiers.³⁸⁹¹ He described that he has a personal preference for the taste of certain flesh, and that he had eaten Superman’s heart.³⁸⁹² Marzah alleged that he ate others with Charles Taylor because they were both of the same poro society.³⁸⁹³ However, based on previous statements, it is clear that Marzah ate individuals prior to being under the orders of Charles Taylor, and that he did so as part of his own belief system.³⁸⁹⁴
1431. Perhaps most telling, when asked if he had any emotional difficulties performing these tasks Marzah replied that “No way, no way, no way. I stayed in my normal position as Zigzag Marzah”³⁸⁹⁵ and when asked if he regretted any of his actions his only response was “nothing. I don’t regret nothing. I don’t regret an inch”.³⁸⁹⁶ Towards the end of his testimony, Marzah proceeded to enter into a long diatribe about eating many livers with Charles Taylor, rather than answering counsel’s question with a response as to when and where he took orders from Charles Taylor.³⁸⁹⁷ It is highly likely that whatever consent Marzah believed he had was inferred on his part, and his constant references to everything being under Charles Taylor’s orders do not, in fact, reflect what would constitute legal orders or command authority, but a perception on the part of Marzah.

Lied about eating a liver with the Accused

³⁸⁸⁷ TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5944.
³⁸⁸⁸ TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5945.
³⁸⁸⁹ TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5944-5.
³⁸⁹⁰ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5995.
³⁸⁹¹ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5999-6000.
³⁸⁹² TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 6000-1.
³⁸⁹³ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5995.
³⁸⁹⁴ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5997-8.
³⁸⁹⁵ TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5947.
³⁸⁹⁶ TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5949.
³⁸⁹⁷ TT, Joseph Marzah, TF1-399, 14 Mar 08, p. 6152-5.

1432. Annie Yeney directly refuted the accusation by Zigzag Marzah that she had cooked a liver for Marzah and the Accused to eat,³⁸⁹⁸ further eroding Marzah's credibility.

Repetition of the phrase "because I was ordered by Charles Taylor"

1433. Joseph Marzah repeats the constant refrain that he only committed horrible acts under the orders of Charles Taylor. As a result, it is impossible to delineate what was ordered by Charles Taylor and what Marzah chose to do of his own accord, owing to of the absurd lengths to which Marzah has gone to finish nearly every sentence with the phrase "at the orders of Charles Taylor." This occurred even during discussion of topics entirely unrelated to Charles Taylor, suggesting an impulse to qualify any action committed by Marzah as being ordered by Taylor.³⁸⁹⁹ This repetition suggests that he is using one vague response to answer any crimes attributed to him, refusing to think about the individual crime and resorting to the easier solution of blaming Charles Taylor.

1434. While a comprehensive list would be nearly endless, the phrase occurred in relation to the killing of babies, the killing of women, the killing of civilians, and any other evil act Marzah committed.³⁹⁰⁰ In addition, Marzah's description of killing babies and women are extremely vague and follow a repetitive formula, whereby he explains the crime, claims that he then contacted Mr. Taylor and was then told to proceed.³⁹⁰¹ This does not seem to fall in line with the willingness Marzah displayed in committing such acts, and should be seen as custom-tailored to his theme of blaming every single crime he committed on the alleged orders of Charles Taylor. Rather than providing specific examples of killing, Marzah stays true to his formula of blaming Taylor for every single crime, stating when asked about the timing of his conversations with Mr.

³⁸⁹⁸ TT, Annie Yeney, DCT-224, 3 Jun 10, p. 42097.

³⁸⁹⁹ See for example: TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 6015 (Referencing Charles Taylor despite questioning clearly being directed to his activities during the 1980s).

³⁹⁰⁰ See as a non-exhaustive list: TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5943-4 ("after he released the orders, the execution was on, even the fight over Monrovia, the executions were ordered. And even when he ordered me to go to Macenta executions took place there. And even when he ordered me to go to Gueckedou the executions were too much. So I cannot name all of them."); TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5945 (Describing killing babies and then "you give the report to Charles Taylor"); TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5945 (In response to cutting pregnant women open with pen names that "our chief, chief Charles Taylor, who was giving the orders. It was not my will"); TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5947-9 (generally stating that "I told you it was an order from my chief Charles Taylor and I would not deny his orders, refuse his orders, so whatever he told me to do I will do it" in response to having any misgivings about committing such horrible crimes); TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5956 (In response to being directly ordered by phone to chop off limbs "so many times, you know").

³⁹⁰¹ TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5947-9.

Taylor: "I had communications from him directly and everything I did I will report to him."³⁹⁰²

1435. Even when asked questions not directed towards who ordered the crimes, Marzah would robotically repeat that it was at the direction of Mr. Taylor and not of his own accord. When asked why he did not make certain statements to the Office of the Prosecutor during investigatory interviews, Marzah chose to respond "When I slit the pregnant woman's stomach open I said it was an instruction from my leader Charles Taylor and I go according to instructions. I am a military man."³⁹⁰³

Marzah was a junior member in the SSS, yet claims to have held high positions and to have had unique access to Charles Taylor

1436. Marzah is able to name a number of individuals who were higher than him in rank, despite arguing that he answered directly to Charles Taylor.³⁹⁰⁴ Specifically, he stated that individuals who were Special Forces were superior to him, disputing his later testimony that he was an equal to others including Benjamin Yeaten.³⁹⁰⁵ While Marzah denied being one of Benjamin Yeaten's orderlies or bodyguards, he acknowledged taking instructions from Yeaten.³⁹⁰⁶ Marzah was also unable to describe individuals within the government which is inconsistent with the high position he claims to have held.³⁹⁰⁷

Inconsistent statements regarding past commission of crimes

1437. Joseph Marzah's testimony concerning the murder of hundreds of individuals, the killing of babies and the removal of fetuses from their mother is unreliable and likely fabricated. None of these acts are mentioned in any previous statements to the Prosecution. Rather, the only references to any specific crimes involve a reference to a stick in a women's vagina, a woman buried in sand and individual cases of rape.³⁹⁰⁸ The Prosecution subsequently confirmed that at no point did Marzah make any statements regarding babies being killed, pregnant women being mutilated or hundreds of individuals being murdered under the orders of Mr. Taylor.³⁹⁰⁹ Based on this evidence, either Marzah has lied on the stand repeatedly in claiming he made

³⁹⁰² TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 5956.

³⁹⁰³ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5964.

³⁹⁰⁴ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 6052.

³⁹⁰⁵ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 6052-6.

³⁹⁰⁶ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 6057.

³⁹⁰⁷ TT, Joseph Marzah, TF1-399, 14 Mar 08, p. 6095-6.

³⁹⁰⁸ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5965.

³⁹⁰⁹ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5966-7.

such statement, or the Prosecution has failed to disclose all of its recorded transcripts. In either instance, the testimony of the witness regarding these events, at a minimum, should not be considered as reliable.

Invasion of Freetown

1438. Marzah very clearly stated in a 2006 interview that he did not take part in the invasion in Freetown because he was injured.³⁹¹⁰ Marzah stated in court, however, that he was in Freetown, but was unable to provide a clear sense of the date or time that he was there, and appears instead to pursue his strategy of placing himself at the center of important moments in the war and declaring himself to have been ordered by Charles Taylor.³⁹¹¹

Burying of pregnant woman

1439. Marzah was adamant that Taylor was present during the burial of a woman in Monrovia. He depicted the event in court for maximum effect, describing in detail an animal sacrifice above the buried woman and a group of men scrambling to eat the raw meat.³⁹¹² While the act is typical of Marzah's involvement in the fighting, it lacks credibility as one singular event that involved Charles Taylor. Rather, it appears to be an exaggeration of the typical type of activity Marzah engaged in of his own accord.

Prior training and meeting Taylor

1440. Marzah claimed he was only trained in Liberia and denied his previous statement that he had been introduced to Foday Sankoh by Charles Taylor while training in Burkina Faso.³⁹¹³ The witness also stated previously that he had met Taylor in Ivory Coast with Prince Johnson.³⁹¹⁴ During testimony he was unable to answer questions and was easily confused when asked to explain his reference to Ivory Coast twice during previous interviews.³⁹¹⁵

Failure to report physical or sexual violence

1441. Marzah stated in a previous statement that he did not report any physical or sexual violence to Mr. Taylor because he did not witness any.³⁹¹⁶ Marzah also denied that any soldiers were ever punished for sexual violence under the RUF or NPFL, but in a

³⁹¹⁰ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5989-90.

³⁹¹¹ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5993.

³⁹¹² TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 6006-12.

³⁹¹³ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 6015-8; TT, Joseph Marzah, TF1-399, 12 Mar 08, p. 6035.

³⁹¹⁴ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 6028.

³⁹¹⁵ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 6030-4.

³⁹¹⁶ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5974.

prior statement Marzah noted that Sam Bockarie had disciplined five soldiers for the rape of a group of women.³⁹¹⁷

Miscellaneous inconsistencies

1442. Marzah had previously stated in an interview that he was not aware of any orders by Charles Taylor regarding forced labor, which clearly contradicts his claim that Mosquito was ordered to impose forced labor.³⁹¹⁸

1443. Marzah said in a statement that he reached the Liberian embassy in Conakry, Guinea, with guns but denied this during his testimony, saying he only made it to Kissidugu.³⁹¹⁹

1444. Marzah clearly contradicted himself regarding bringing diamonds to Taylor, stating that he never knew of Bockarie bringing Taylor diamonds and then shortly thereafter stating that he did, on occasion, escort Bockarie to Taylor with diamonds.³⁹²⁰ It is suggested that Marzah embellished his involvement with both men.

Other credibility issues

1445. Marzah came to the Prosecution originally when a fellow fighter named [REDACTED] told him he should do so in order to avoid being prosecuted for the crimes he committed.³⁹²¹

1446. Marzah appeared to use his phone during breaks in testimony while going to the bathroom.³⁹²²

1447. Marzah crossed himself at the end of his testimony, claiming that he had given away all of his poro secrets, in opposition to counsel's suggestion that he had admitted to lying under oath during his testimony.³⁹²³

1448. TF1-539 states that he saw Zigzag Marzah read his military documents, contradicting Zigzag's assertion that he is illiterate.³⁹²⁴

TF1-539

³⁹¹⁷ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5982 (Marzah attempted to explain it was only because the soldiers had raped Sam Bockarie's girlfriend but a number of inconsistencies suggest that Marzah changed the details to fit his story, including that it was not one woman but a number of women who had been raped).

³⁹¹⁸ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5983.

³⁹¹⁹ TT, Joseph Marzah, TF1-399, 14 Mar 08, p. 6122.

³⁹²⁰ TT, Joseph Marzah, TF1-399, 14 Mar 08, p. 6137.

³⁹²¹ TT, Joseph Marzah, TF1-399, 13 Mar 08, p. 5970.

³⁹²² TT, Joseph Marzah, TF1-399, 14 Mar 08, p. 6121.

³⁹²³ TT, Joseph Marzah, TF1-399, 14 Mar 08, p. 6157.

³⁹²⁴ TT, TF1-539, 11 June 08, p. 11663.

Lack of credibility in relation to events surrounding TF1-539's time in Liberia and relationship to Zigzag, Charles Taylor and others

1449. TF1-539's testimony concerning events in Liberia with Zigzag Marzah, Benjamin Yeaten and the Accused are not credible and suggest he has manufactured a great deal of testimony. [REDACTED]

[REDACTED]. As TF1-539 agreed when summarized by counsel, he was: "an unknown quantity who turns up in Liberia with [REDACTED]

[REDACTED].³⁹²⁵ In addition to the story itself lacking credibility, his testimony is riddled with inconsistencies and includes testimony similar to other Prosecution witnesses which did not turn up in TF1-539's statements until after these witnesses had testified.

1450. To begin with, TF1-539 admitted that he spent five to six months wandering around Liberia, on his own, until being [REDACTED]
[REDACTED].³⁹²⁶ For someone who had no contact with any figures, this is a very sudden turn of events that involves an extremely relevant prosecution witness.

1451. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

³⁹²⁵ TT, TF1-539, 12 June 08, p. 11663.

³⁹²⁶ TT, TF1-539, 11 June 08, p. 11555-9.

³⁹²⁷ TT, TF1-539, 11 June 08, p. 11600.

³⁹²⁸ TT, TF1-539, 11 June 08, p. 11600-1.

1452.

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1453. In yet another addition to his story following a total absence in his original statements, TF1-539 claimed in his final interview to have seen severed limbs at checkpoints while with Marzah.³⁹³⁷ His explanation was that while he was not specifically asked about it, he chose to volunteer it, which makes his decision to not include it in previous testimony suspect. Moreover, a lengthy period of time spent [REDACTED]

³⁹²⁹ TT, TF1-539, 11 June 08, p. 11607.

³⁹³⁰ TT, TF1-539, 12 June 08, p. 11715.

³⁹³¹ TT, TF1-539, 12 June 08, p. 11619-20.

³⁹³² TT, TF1-539, 12 June 08, p. 11622.

³⁹³³ TT, TF1-539, 12 June 08, p. 11639.

³⁹³⁴ TT, TF1-539, 11 June 08, p. 11609.

³⁹³⁵ TT, TF1-539, 12 June 08, p. 11648.

³⁹³⁶ TT, TF1-539, 12 June 08, p. 11659.

³⁹³⁷ TT, TF1-539, 11 June 08, p. 11564.

[REDACTED], was omitted from his statement until his final interview in the Hague.³⁹³⁸

Meeting with Bockarie

1454.TF1-539 also provided an inconsistent account of his meeting with Bockarie, and again included specific testimony about diamonds in a “mayonnaise” jar. TF1-539 originally asserted in his statement to the Prosecution that the diamonds Bockarie possessed were in large cardboard taped boxes, in stark contrast to his testimony at trial that they were in mayonnaise jars in brown suitcases.³⁹³⁹ During corrections, the witness “clarified” that it was not in fact the very specific three cardboard boxes which contained Bockarie’s diamonds, but the mayonnaise jars to which many other witnesses had testified since he had given his original statement. TF1-539 explained in court that, actually, it was a flat brown suitcase, which then contained cardboard boxes, which then further contained mayonnaise bottles.³⁹⁴⁰ Further damaging the credibility of this response is that the correction occurred a day after Moses Blah mentioned diamonds in mayonnaise jars.³⁹⁴¹ This is in addition to the testimony of Varmuyan Sherif and Zigzag Marzah, who also made similar statements during this very short timeframe.³⁹⁴²

1455.TF1-539 admitted that he [REDACTED], [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED], and suggests that TF1-539 was not acting consistent with his official duties.

1456.TF1-539 gave inconsistent answers as to when he left [REDACTED] and returned to Sierra Leone, stating it was 8 months after February 1995 and then also after the elections in Sierra Leone in 1996.³⁹⁴⁴ He also made previous statements claiming that

³⁹³⁸ TT, TF1-539, 11 June 08, p. 11588.

³⁹³⁹ TT, TF1-539, 12 June 08, p. 11675.

³⁹⁴⁰ TT, TF1-539, 12 June 08, p. 11685.

³⁹⁴¹ TT, TF1-539, 12 June 08, p. 11688.

³⁹⁴² TT, TF1-539, 12 June 08, p. 11689.

³⁹⁴³ TT, TF1-539, 12 June 08, p. 11663.

³⁹⁴⁴ TT, TF1-539, 11 June 08, p. 11628.

he was in Freetown during the AFRC takeover, while stating at trial that he was in Kenema.³⁹⁴⁵

[REDACTED]

1457.TF1-539 only first mentioned the presence of General [REDACTED] during his testimony, but claimed it was always mentioned in his previous statements.³⁹⁴⁶ He also had no good answer as to why he would be brought along to [REDACTED] [REDACTED] was an expert at such identification and went on the trip.³⁹⁴⁷

1458.TF1-539's testimony concerning the consignment papers for the ammunition is also inconsistent, stating three different propositions at three different times. First, he claimed to have seen the Accused's signature, which later denied in court. Then, he denied seeing any consignment papers at all during a later interview. Finally, in court, he claimed that he saw [REDACTED] [REDACTED] as well, although his testimony was inconsistent even on this point.³⁹⁴⁸

TF1-579

1459.TF1-579 lacks credibility and routinely exaggerated his own position within the command structure in order to bolster his claims. TF1-579's payment history and contradictory testimony in light of prior statements, coupled with his connection to other witnesses and the similarity of his testimony to theirs, suggests that his own account has been modified to fit into a larger picture.

³⁹⁴⁵ TT, TF1-539, 12 June 08, p. 11633-4.

³⁹⁴⁶ TT, TF1-539, 12 June 08, p. 11694.

³⁹⁴⁷ TT, TF1-539, 12 June 08, p. 11692-3.

³⁹⁴⁸ TT, TF1-539, 12 June 08, p. 11707-9.

³⁹⁴⁹ TT, TF1-579, 6 Nov 08, p. 19914-5.

1461.

TF1-579 falsely portrayed his role to Taylor and other senior leaders

1462. The witness served over the course of 13 years exclusively as a bodyguard and in no other official position.³⁹⁵⁴ When describing his apparent first “meeting” with the Accused, TF1-579 stated that he simply saw him from afar.³⁹⁵⁵ The witness stated when answering whether he knew if there were newspapers available in the first half of the 1990s within NPFL controlled territory that he “was not that kind of senior officer that could have had access to all of those things.”³⁹⁵⁶

1463. As a guard at the executive mansion, TF1-579 would stand outside at the gate, and occasionally let people in to the residence.³⁹⁵⁷ TF1-579 was a self-proclaimed member of the “outer circle” of security for the Accused and would often only play a role as a secondary member of a motorcade.³⁹⁵⁸ Additionally, from 1997 to 1999, TF1-579

³⁹⁵⁰ TT, TF1-579, 6 Nov 08, p. 19914-23.

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³⁹⁵³ TT, TF1-579, 6 Nov 08, p. 20029.

³⁹⁵⁴ TT, TF1-579, 24 Nov 08, p. 21024.

³⁹⁵⁵ TT, TF1-579, 25 Nov 08, p. 21033.

³⁹⁵⁶ TT, TF1-579, 25 Nov 08, p. 21038.

³⁹⁵⁷ TT, TF1-579, 25 Nov 08, p. 21058.

³⁹⁵⁸ TT, TF1-579, 25 Nov 08, p. 21049-50.

only served as a bodyguard in the motorcade.³⁹⁵⁹ In over 50 photos shown to the witness with the Accused and his bodyguards, TF1-579 never saw himself in any of those because he was “not around there.” Despite this, he justified his “close” relationship with the Accused on the basis that he had earned a diploma.³⁹⁶⁰ TF1-579 further proved his distance when stating that the most he earned was 250 USD while close protection guards earned 400 USD.³⁹⁶¹ TF1-579 also admitted to never being alone in a room with the Accused and appeared to state that the closest he got to personally speaking with the Accused was from behind a gate while the Accused was in a swimming pool.³⁹⁶² TF1-579 believed that the Accused is “supposed to remember” him because he was close to him at times but ultimately portrays a very minor role that kept him distant from the Accused at most times.³⁹⁶³

Inconsistencies in his account of ammunition smuggling trips to Sierra Leone

1464. TF1-579’s testimony concerning taking ammunition to Sierra Leone from Liberia under the direction of the Accused is riddled with inconsistencies and suggests that personal profit is likely involved. TF1-579 has vastly different accounts of the trips within his testimony and based on previous statements which he was given the opportunity to correct.
1465. First, his initial statements show a discrepancy between the shipments of ammunition to Sierra Leone and Sam Bockarie’s departure from Sierra Leone in late 1999. In his May 2007 statement, TF1-579 asserted that he took ammunition to deliver to Mosquito at the end of 1999, but acknowledged that by the end of 1999 Mosquito had left Sierra Leone for Liberia.³⁹⁶⁴ In his May 2007 interview TF1-579 stated that he had conducted three trips in 1999, but then denied this in court, arguing that in fact he had conducted his first two trips in 1998.³⁹⁶⁵ TF1-579’s inconsistency should be seen as an attempt to explain a different story after realizing that his initial account had him performing 3 trips beginning in late 1999 even though Mosquito in fact left in late 1999, which would have made these trips meaningless.³⁹⁶⁶

³⁹⁵⁹ TT, TF1-579, 25 Nov 08, p. 21050.

³⁹⁶⁰ TT, TF1-579, 25 Nov 08, p. 21060.

³⁹⁶¹ TT, TF1-579, 25 Nov 08, p. 21061.

³⁹⁶² TT, TF1-579, 25 Nov 08, p. 21062.

³⁹⁶³ TT, TF1-579, 25 Nov 08, p. 21064.

³⁹⁶⁴ TT, TF1-579, 25 Nov 08, p. 21077-8.

³⁹⁶⁵ TT, TF1-579, 25 Nov 08, p. 21079-83.

³⁹⁶⁶ TT, TF1-579, 25 Nov 08, p. 21080-2.

1466. While attempting to clarify these mistakes, TF1-579's account became even more inconsistent. The witness, without properly explaining how such a large error could have gone uncorrected, stated that he took two trips in 1998 and only one in 1999.³⁹⁶⁷ A handwritten note from a 2008 interview states that he claimed that all the trips took place in 1998.³⁹⁶⁸ TF1-579 also firmly stated while testifying that he travelled in only one pick-up during all three trips, but in April 2007 clearly stated that the trip took two trucks.³⁹⁶⁹ While attempting to explain the discrepancy, TF1-579 launched on a long, rambling answer, starkly unlike his testimony in other instances, which led to him being requested by the bench to simply answer the question.³⁹⁷⁰ TF1-579 also claimed in previous statements, and during testimony, that his third trip was a few weeks after the first two trips, which is impossible given that he officially claimed that the first two trips were in 1998 and the third was in late 1999.³⁹⁷¹
1467. In any event, the fact remains that in a period of a month, from April to May 2007, TF1-579's story changed from going on only one trip, and not accompanying the other, to a total of three trips.³⁹⁷² TF1-579 claims that a mistake was made despite clearly having had a later chance to make corrections, as he did to separate parts of the paragraph.³⁹⁷³ Other mistakes are present during the course of the interviews, which TF1-579 disputed during his testimony, including his first meeting with Sam Bockarie, which seems to be a fact that should be easily remember given his supposedly close relationship with Bockarie.³⁹⁷⁴ TF1-579 also contradicted himself in court, stating within a few minutes of testimony that he left in the evening for his first trip, and then later changing it to the morning.³⁹⁷⁵
1468. What is most troublesome for TF1-579 in his account of ammunition smuggling is the stark contrast between its inconsistencies and his very clear discussion of his role as a bodyguard. No party disputes that TF1-579 served as a second level guard and during his testimony he very directly stated a number of nuanced descriptions concerning security formations and places served. When discussing his ammunition trips, however, TF1-579's story changed multiple times and he was unable to retell basic

³⁹⁶⁷ TT, TF1-579, 25 Nov 08, p. 21083.

³⁹⁶⁸ TT, TF1-579, 25 Nov 08, p. 21086.

³⁹⁶⁹ TT, TF1-579, 25 Nov 08, p. 21089.

³⁹⁷⁰ TT, TF1-579, 25 Nov 08, p. 21090-1.

³⁹⁷¹ TT, TF1-579, 25 Nov 08, p. 21123.

³⁹⁷² TT, TF1-579, 25 Nov 08, p. 21095.

³⁹⁷³ TT, TF1-579, 25 Nov 08, p. 21091-3.

³⁹⁷⁴ TT, TF1-579, 25 Nov 08, p. 21094.

³⁹⁷⁵ TT, TF1-579, 25 Nov 08, p. 21115.

facts. This is problematic and, when coupled with TF1-579's other motivations for his testimony, including suspicious payments and a close relationship with other Prosecution witnesses, suggests that his account of ammunition smuggling lacks credibility.

1471.

Payment schedule

1472.Finally, TF1-579's payments, and the lack of identification of their purpose in the Prosecution records, provide another basis to assume his testimony may have become

³⁹⁷⁶ TT, TF1-579, 26 Nov 2008, p. 21205 (Private Session).

TT, TF1-579, 26 Nov 2008, p. 21205 (Private Session).

TT, TF1-579, 26 Nov 2008, p. 21206 (Private Session).

3979 TT, TF1-579, 26 Nov 2008, p. 21209 (Private Session).

TT, TF1-579, 26 Nov 2008, p. 21213 (Private Session).

3981 TT, TF1-579, 26 Nov 2008, p. 21237 (Private Session).

more favourable to the Prosecution. In total, he was provided over 2,345 USD.³⁹⁸² TF1-579 was paid 150 USD on three occasions for transport and lost wages at the end of March and again in the beginning of April 2008, following Zigzah Marzah's testimony, despite no interview being scheduled.³⁹⁸³ While there is no associated payment schedule, TF1-579 is insistent that an interview occurred and notes were recorded.³⁹⁸⁴ Claims that the Prosecution would take notes on a subject, so close to the testimony of Marzah and [REDACTED], should raise suspicion of the highest concern of, at a minimum, the witness's credibility and interests in testifying in this trial.

1473. TF1-579 further claims that his meetings during this period were for "security" concerns, which also lacks credibility, as he had been giving 500 USD the previous year to [REDACTED]. He also states that the payments in March and April of 2008 were for this purpose, despite not having any apparent connection to security issues.³⁹⁸⁵ Another 500 USD was paid in June to [REDACTED].³⁹⁸⁶ Again in August, TF1-579 was paid 250 USD for family assistance.³⁹⁸⁷ TF1-579 can provide no explanation, whatsoever, for this 250 USD, although he tried to explain that it was for lost wages or transportation despite having already been reimbursed separately for those items.³⁹⁸⁸ Yet again, one week later, TF1-579 was paid 100 more USD.³⁹⁸⁹

1474. TF1-579 obsessively provides the same explanation over and over, that the payments were "for business," without providing any explanation and despite the fact that lost wages were included.³⁹⁹⁰ Even more problematic, he claims that a group of many meetings during August and September were all for the sole purpose of discussing travel, and no other discussion ensued, despite the apparently large losses in "business" he was suffering.³⁹⁹¹

³⁹⁸² TT, TF1-579, 26 Nov 2008, p. 21267 (Private Session).

³⁹⁸³ TT, TF1-579, 26 Nov 08, p. 21239; 26 Nov 08, p. 21246.

³⁹⁸⁴ TT, TF1-579, 26 Nov 08, p. 21242.

³⁹⁸⁵ TT, TF1-579, 26 Nov 08, p. 21246.

³⁹⁸⁶ TT, TF1-579, 26 Nov 08, p. 21252.

³⁹⁸⁷ TT, TF1-579, 26 Nov 08, p. 21258.

³⁹⁸⁸ TT, TF1-579, 26 Nov 08, p. 21261.

³⁹⁸⁹ TT, TF1-579, 26 Nov 08, p. 21261.

³⁹⁹⁰ TT, TF1-579, 26 Nov 08, p. 21260-2.

³⁹⁹¹ TT, TF1-579, 26 Nov 08, p. 21262-3.

1475.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3993

TF1-337 Mustapha Mansaray

Payment of unauthorized allowances

1476. Contrary to the intention of the Practice Direction, the Prosecution covered significant medical costs for both Mansaray and his wife in such a manner as to cast doubt on his credibility as a witness. Mansaray was made aware during the course of his interviews that he would be provided funds for medical expenses.³⁹⁹⁴ Mansaray described the arrangement as one where he would be provided funds for family medical expenses upon request, saying “sometimes in 2006 my family members could get sick and even my wife at a point underwent an operation. I had a cellular phone, I called them, told them my problems, and at that time I was unemployed, I hadn't any money and so they assisted me to pay the medical bill.”³⁹⁹⁵ At times, Mansaray viewed these medical issues as being life-threatening.

1477. In July 2006, Mansaray was given a total of 330,000 Leones for his wife's surgery, paid by the Special Court to the government hospital at Pujehun.³⁹⁹⁶ Mansaray was given a separate total of 260,000 Leones in early December 2006 for emergency surgeries on his eye and teeth.³⁹⁹⁷ Mansaray was paid an additional 450,000 Leones in February 2007 for medical assistance for himself and his wife³⁹⁹⁸ and 150,000 more in further medical expenses in July 2007³⁹⁹⁹. Through all of this, Mansaray acknowledged that “I wouldn't have been able to pay because I hadn't the opportunity to get set [sic] money”.⁴⁰⁰⁰ This payment history, when coupled with Mansaray's

³⁹⁹² TT, TF1-579, 26 Nov 08, p. 21184-5.

³⁹⁹³ TT, TF1-579, 26 Nov 08, p. 21197.

³⁹⁹⁴ TT, Mustapha Mansaray, TF1-337, 10 Mar 08, p. 5623.

³⁹⁹⁵ TT, Mustapha Mansaray, TF1-337, 07 Mar 08, p. 5541.

³⁹⁹⁶ TT, Mustapha Mansaray, TF1-337, 07 Mar 08, p. 5568-9.

³⁹⁹⁷ TT, Mustapha Mansaray, TF1-337, 10 Mar 08, p. 5597-8.

³⁹⁹⁸ TT, Mustapha Mansaray, TF1-337, 10 Mar 08, p. 5600.

³⁹⁹⁹ TT, Mustapha Mansaray, TF1-337, 10 Mar 08, p. 5602-3.

⁴⁰⁰⁰ TT, Mustapha Mansaray, TF1-337, 10 Mar 08, p. 5619.

testimony that he felt comfortable calling the Prosecution and informing them that he needed money for his family's medical care, casts significant doubt on the witness's ability to testify independent of the Prosecution's influence.

Favourable testimony given at trial which is at odds with prior statements

1478. It with this series of extraordinarily generous acts by the Prosecution that Mansaray's testimony, often inconsistent and heavily favourable to the Prosecution, should be viewed. His inconsistencies are specific to portions of his testimony which pertain to the indictment and the allegations against the Accused.
1479. Notably, Mansaray claimed at trial to have seen the Accused and Foday Sankoh speak at a rally in the Bomi Hills in November 1991.⁴⁰⁰¹ He failed to mention this event until his seventh interview with the Prosecution in October 2007, after having received significant medical assistance, when he was asked repeatedly and specifically about Charles Taylor.⁴⁰⁰² Mansaray did not mention the rally when asked directly about Charles Taylor during his fourth interview, conducted prior to the Prosecution's medical assistance. When asked to explain the disparity, Mansaray suggested only that troubles at home might have led him to mistakes.⁴⁰⁰³ Mansaray's choice to finally include direct evidence favourable to the Prosecution after three years of being questioned may be attributed to a feeling of indebtedness following the extraordinarily generous medical allowances paid to Mansaray and his family.
1480. Mansaray's testimony concerning the execution of miners who attempted to escape the diamond fields also changed as he continued to receive payments from the Prosecution. In his May 2006 statement, Mansaray reported that he did not witness any executions personally, but only heard of them indirectly.⁴⁰⁰⁴ When given an opportunity to correct this statement in 2008, Mansaray specifically stated that he had been told by others that killings had occurred at the Kaisambo and No. 11 mining sites, but did not provide any direct evidence that he had witnessed executions.⁴⁰⁰⁵ At trial, however, Mansaray claimed that he had personally witnessed individuals being executed, and that his earlier statements were simply a mistake on his part.⁴⁰⁰⁶

⁴⁰⁰¹ TT, Mustapha Mansaray, TF1-337, 06 Mar 08, p. 5447.

⁴⁰⁰² TT, Mustapha Mansaray, TF1-337, 06 Mar 08, p. 5506-7.

⁴⁰⁰³ TT, Mustapha Mansaray, TF1-337, 10 Mar 08, p. 5610.

⁴⁰⁰⁴ TT, Mustapha Mansaray, TF1-337, 06 Mar 08, p. 5451.

⁴⁰⁰⁵ TT, Mustapha Mansaray, TF1-337, 06 Mar 08, p. 5468-70.

⁴⁰⁰⁶ TT, Mustapha Mansaray, TF1-337, 06 Mar 08, p. 5461.

Mansaray seems to be unable to distinguish between directly witnessing the killings and hearing about them from others.⁴⁰⁰⁷

TF1-588 Stephen Smith

1481. Stephen Smith, while being an expert at journalistic reporting and French-speaking Africa, is not an expert on Sierra Leone or Liberia and has spent little time in those countries during the period relevant to the indictment. Smith has written thirteen books and presented at nearly twenty conferences and never has Sierra Leone or Liberia been the primary subject.⁴⁰⁰⁸ Smith claims that his books generally focus on issues in Africa, pointing out that few of his books focus on only one country, but this is a misleading assertion. As noted by counsel during cross-examination, many of his books are only said to deal with a single, French-speaking country because Smith invokes the concept of “Franco-African” relations.⁴⁰⁰⁹ It should be clear that even large scale studies of “Franco-African” relations have absolutely no bearing on Smith’s understanding or experience with issues related to Sierra Leone or Liberia, and yet, when evaluating Smith’s CV, his various lectures, and his many books, they predominately focus on French Africa.⁴⁰¹⁰ Smith’s closest direct work, besides a few scattered and short articles on Liberia and Sierra Leone, is that he wrote the forward for a book on the Liberian civil war.⁴⁰¹¹

1482. In addition to Smith’s academic and professional focus on French-speaking Africa, his actual time spent in Africa has also been primarily in French-speaking countries. It is without doubt that Stephen Smith spent a considerable period of time in Liberia in 1990 while covering the war.⁴⁰¹² Smith himself noted in his testimony that by 2000 Liberia was no longer a “hot news” story and he had covered it considerably less, as opposed to 1990 when in his view it was very relevant on the world stage.⁴⁰¹³ Smith left Liberia in 1992, and did return until 1996 when he again met the Accused.⁴⁰¹⁴ During the second half of the 1990s Smith was the Africa editor of his newspaper, and therefore in charge of reporting on all of Sub-Saharan Africa. During this time, he

⁴⁰⁰⁷ TT, Mustapha Mansaray, TF1-337, 06 Mar 08, p. 5470-2.

⁴⁰⁰⁸ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16840 (Rather see various references to issues “touching” on Sierra Leone or Liberia at p. 16833-9).

⁴⁰⁰⁹ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16842.

⁴⁰¹⁰ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16842.

⁴⁰¹¹ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16843.

⁴⁰¹² TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16845.

⁴⁰¹³ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16782.

⁴⁰¹⁴ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16846.

would go to Sierra Leone at most twice per year because of his many commitments and to Liberia on an even more infrequent basis.⁴⁰¹⁵

1483. Smith's reporting also lacks personal experience and is occasionally inconsistent or factually incorrect. Smith stated in response to questions about his knowledge of the conflict that he would at times base his testimony on reliable news sources, which in general should bring into question the veracity of the witness, as well as the relevance and the credibility of his testimony.⁴⁰¹⁶ Smith also acknowledged that he may have not been factually correct when he clearly stated that the Accused was born in the United States, or when he noted the full amount of time spent in the United States by the Accused.⁴⁰¹⁷ These are not particularly egregious errors, but a reminder that a reporter's standards are vastly different than the strict standard of a court of law. As Smith agreed, when a story becomes repeated over and over mistakes can be taken as hard truths.⁴⁰¹⁸

TF1-275 Foday Lansana

Problems with specific allegations

1484. Foday Lansana testified that, while Sankoh was in Nigeria (so from March 1997 to mid-1998), Taylor relayed messages from Sankoh in Nigeria to the RUF in Sierra Leone; Sankoh's command for the RUF to join the AFRC was one such message.⁴⁰¹⁹ The messages were relayed via phone from Nigeria to Liberia, and via radio from Liberia to Sierra Leone.⁴⁰²⁰ There are numerous problems with this account. Firstly, there is no explanation as to why such a relay might have been necessary, especially when a radio stationed in Nigeria was capable of reaching Sierra Leone, without any need to go through Liberia. Secondly, it makes no sense for Taylor to involve himself personally in the relaying of messages, as seems to be alleged; there is no mention of him delegating such operations, or even of familiar characters such as Yeaten or Sunlight, who might have acted as intermediaries, being involved. The allegation comes across as an attempt to plant Taylor within the communications network of the RUF, and a poor one at that. Thirdly, and perhaps most significantly, the only specific instance of such a relayed message, the message for the RUF to join with the AFRC,

⁴⁰¹⁵ TT, Stephen Smith, TF1-588, 23 Sep 08, p. 16931.

⁴⁰¹⁶ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16878.

⁴⁰¹⁷ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16887-8.

⁴⁰¹⁸ TT, Stephen Smith, TF1-588, 22 Sep 08, p. 16888-9.

⁴⁰¹⁹ TT, Foday Lansana, TF1-275, 21 Feb 08, p. 4490-1.

⁴⁰²⁰ TT, Foday Lansana, TF1-275, 21 Feb 08, p. 4490-1.

was, according to all other witnesses, delivered by alternative means, such as via satellite phone between JP Koroma and Sankoh themselves (without any need for an intermediary),⁴⁰²¹ and the message for the RUF to join the AFRC was ultimately played over the BBC.⁴⁰²² Seen against that background, the need for Taylor to relay the message, or even for the message to be relayed through Liberia, is nonsense, and a clear indication of the lengths the witness would go to to implicate Taylor in the affairs of the RUF.

1485. Foday Lansana testified that he was arrested on 7 May 2000 as he was suspected of being a mercenary in Taylor's service; he denied that he was arrested on account of being involved in the incident at Spur Road on 8 May 2000.⁴⁰²³ Lansana maintained this story in cross-examination, despite the fact that during his trial all his co-defendants were on trial for the Spur Road incident, that the indictment he was charged with only mentioned crimes relating to the Spur Road incident, and the fact that he was convicted only of crimes relating to the Spur Road incident.⁴⁰²⁴ Once again, the witness's account is, if not totally ridiculous, then at least illogical and highly suspect. Once again, the witness's account comes across as an attempt to implicate Taylor in the affairs of Sierra Leone regardless of whether it makes sense or not.

Inconsistencies in the witness's evidence

1486. Lansana testified that the name "Butterfly" was the code name for Taylor's radio.⁴⁰²⁵

He denied the operator of that radio was named Butterfly, despite a previous statement given to the Prosecution in which he stated that the radio operator for Taylor was named Butterfly.⁴⁰²⁶

1487. Lansana was gravely inconsistent in his account of Taylor speaking to the BBC,⁴⁰²⁷ an important episode as it goes to Taylor's intent to invade Sierra Leone. He did not mention he was present at the Coca-Cola factory until his interview in November 2007, and indeed, he had told prosecution investigators in November 2003 that he

⁴⁰²¹ TT, Samuel Kargbo, TF1-597, 21 May 08, p. 10440-1; Issa Sesay, DCT-172, 18 Aug 10, p. 46540-1.

⁴⁰²² A great number of witnesses mention this, but see for example: TT, Alimamy Bobson Sesay, TF1-334, 17 Apr 08, p. 7872-3.

⁴⁰²³ TT, Foday Lansana, TF1-275, 22 Feb 08, p. 4574-81, p. 4584-90.

⁴⁰²⁴ TT, Foday Lansana, TF1-275, 22 Feb 08, p. 4574-81, p. 4584-90.

⁴⁰²⁵ TT, Foday Lansana, TF1-275, 20 Feb 08, p. 4384.

⁴⁰²⁶ TT, Foday Lansana, TF1-275, 25 Feb 08, p. 4682-3.

⁴⁰²⁷ TT, Foday Lansana, TF1-275, 25 Feb 08, p. 4631-4.

came to Sierra Leone in July 1990,⁴⁰²⁸ and therefore would not have been in Liberia for the entire episode.

1488. Lansana was inconsistent about the order for the NPFL to leave Sierra Leone. In testimony, he stated that he was present in Baidu when Taylor spoke to Mekunagbe on the radio. However, in a previous interview of July 2007, he stated that he heard Varney announce it at a parade in Kailahun.⁴⁰²⁹ And in a previous interview in January 2007, he stated that the order came from Liberia to Dopoe Menkarzon, and he learnt this through NPFL fighters in Vahun. The changing of his account suggests he was trying to implicate Taylor in the affairs of Sierra Leone.

1489. Lansana was inconsistent about communications between the RUF and Liberia. In a previous statement of February 2007, he stated that from 1998 to 2000 he did not monitor communications between Liberia and Sierra Leone and was not aware of any communications between RUF commanders and NPFL commanders, such as Sankoh, Bockarie, Taylor and Yeaten. However in court he claims this is an error.⁴⁰³⁰

Further reasons to be cautious

1490. The witness was imprisoned for seven years alongside other former RUF and AFRC fighters, and admitted that he spoke to other RUF prisoners about events during the war.⁴⁰³¹ Consciously or subconsciously, there is the danger that he has moulded his own account to include what he was told by those other prisoners. Perhaps one instance is the fate of Martin Moinama: in November 2003, he told the Prosecution he did not know Moinama's whereabouts; yet in January 2007, he was able to inform the Prosecution that Moinama had been killed in 1999.⁴⁰³² Though he denied he heard this story while at Pademba,⁴⁰³³ it is suspicious that his recollection of this occurred while he was imprisoned with the very man who had killed Moinama.⁴⁰³⁴ Equally, in an interview in November 2003, the witness stated that he obtained the information about the group that entered Freetown in January 1999 from the other inmates at Pademba; though, he denied this in court.⁴⁰³⁵

⁴⁰²⁸ TT, Foday Lansana, TF1-275, 25 Feb 08, p. 4636-8.

⁴⁰²⁹ TT, Foday Lansana, TF1-275, 25 Feb 08, p. 4675-9.

⁴⁰³⁰ TT, Foday Lansana, TF1-275, 25 Feb 08, p. 4732-3.

⁴⁰³¹ TT, Foday Lansana, TF1-275, 25 Feb 08, p. 4622.

⁴⁰³² TT, Foday Lansana, TF1-275, 26 Feb 08, p. 4747-51.

⁴⁰³³ TT, Foday Lansana, TF1-275, 26 Feb 08, p. 4753-4.

⁴⁰³⁴ TT, Foday Lansana, TF1-275, 26 Feb 08, p. 4765 (with p. 4749-50 explaining that Alhaji Conteh had been the one to kill Moinama).

⁴⁰³⁵ TT, Foday Lansana, TF1-275, 26 Feb 08, p. 4746-7.

1491. The witness had a clear motive to help the Prosecution's case, since he owes his early release from Pademba Road Prison to the Prosecution (he even [REDACTED] [REDACTED]).⁴⁰³⁶ Indeed, this debt continues as the Prosecution promised the witness that it would take care of him and his family,⁴⁰³⁷ including supporting them when sick, paying his children's school fees, and providing school uniform for them.⁴⁰³⁸ There is therefore the danger that the witness may have been motivated to tailor his testimony to aid the Prosecution.

TF1-584 Alice Pyne

Inconsistencies

1492. Alice Pyne like many prosecution witnesses, has a tendency to link Taylor with the events in Sierra Leone despite saying otherwise in previous statements. Her testimony regarding the herbalists supposedly sent by Taylor provides a case-in-point. In her statement of October 2007, Pyne stated it was Bockarie who hired the herbalists; in her statement of March 2008, it was Taylor.⁴⁰³⁹

1493. Though there are numerous examples of inconsistencies in her testimony, the Defence draws the Trial Chamber's attention to the following two, as representative of first her credibility, and second her reliability. Firstly, in her statement of October 2007, Pyne stated she believed Martin Moinama was killed before the Intervention. However, by her time in court, she knew Moinama was killed during the Freetown Invasion. She denied she heard this from Foday Lansana,⁴⁰⁴⁰ despite the fact that Lansana testified to the same point. This is suspicious as she met with Foday Lansana in June 2008, the same week as her departure for The Hague.⁴⁰⁴¹ These sorts of inconsistencies raise doubts about her credibility.

1494. Secondly, Pyne's reliability as a witness must be called into question, given inaccurate details about well-known events. In particular, she testified that Sankoh was in Ivory Coast when the 1996 elections were held; this was because she received the order for Operation Stop Election from CO Mohamed at Zogoda.⁴⁰⁴² However, the

⁴⁰³⁶ TT, [REDACTED].

⁴⁰³⁷ TT, Foday Lansana, TF1-275, 25 Feb 08, p. 4612-4.

⁴⁰³⁸ TT, Foday Lansana, TF1-275, 25 Feb 08, p. 4616.

⁴⁰³⁹ TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12314-7.

⁴⁰⁴⁰ TT, Alice Pyne, TF1-584, 20 Jun 08, p. 12342-4.

⁴⁰⁴¹ TT, Alice Pyne, TF1-584, 23 Jun 08, p. 12438-9.

⁴⁰⁴² TT, Alice Pyne, TF1-584, 20 Jun 08, p. 12349-50.

elections were held before Sankoh left for Abidjan. Sankoh left on 24 March 1996.⁴⁰⁴³ The elections were held on 26 and 27 February 1996 and 15 March 1996. Therefore, Sankoh was not in Ivory Coast.

Further reasons to be cautious

1495. Pyne testified that Senegalese told her that he had been sent by Taylor to Bockarie.⁴⁰⁴⁴ However, Senegalese was with the STF,⁴⁰⁴⁵ and was ex-ULIMO.⁴⁰⁴⁶ Indeed, TF1-516 testified that Senegalese was a former ULIMO fighter, who fought alongside the SLA and then joined the RUF.⁴⁰⁴⁷ His presence with Superman's group seems to have come about because he was sent by Bockarie to recover ammunition from Superman, but Superman refused to hand it over.⁴⁰⁴⁸ As a member of the STF, he would have been in Sierra Leone for a long time, and there is no logic as to how or when Taylor would have sent him, yet alone why he would have sent him. This seems to be an invented detail: it suggests either Senegalese was lying to Pyne, or Pyne was lying in court.

TF1-516

Problems with specific allegations

1496. TF1-516 testified that, during the time Sankoh was preparing to move to Yamoussoukro, which he did in March 1996, the station at Zogoda received a call from a station in Gbarnga, stating that Taylor wanted to speak to Sankoh over the radio.⁴⁰⁴⁹ Over the radio, it seems, Taylor advised Sankoh to use the opportunity provided by the talks in Yamoussoukro to obtain ammunition.⁴⁰⁵⁰ The witness testified that he overheard the conversation.⁴⁰⁵¹ However, there are notable reasons to exercise caution in believing this story. Firstly, it is unsupported by other witnesses; notably, other witnesses such as DAF, whom the witness testified was authorised to make and receive such calls to Liberia, mention nothing about this account. Indeed,

⁴⁰⁴³ Exhibit D-85.

⁴⁰⁴⁴ TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12258-9.

⁴⁰⁴⁵ TT, Alice Pyne, TF1-584, 19 Jun 08, p. 12250.

⁴⁰⁴⁶ TT, Alice Pyne, TF1-584, 20 Jun 08, p. 12382-4.

⁴⁰⁴⁷ TT, TF1-516, 10 Apr 08, p. 7185. There is no mention of Taylor sending Senegalese to Bockarie, and given that TF1-516 was [REDACTED], and Pyne was not, TF1-516 is more likely to be accurate on this point.

⁴⁰⁴⁸ TT, TF1-375, 24 Jun 08, p. 12567-9.

⁴⁰⁴⁹ TT, TF1-516, 8 Apr 08, p. 6868.

⁴⁰⁵⁰ TT, TF1-516, 8 Apr 08, p. 6868-9.

⁴⁰⁵¹ TT, TF1-516, 8 Apr 08, p. 6869.

DAF testified that at this time there was no direct link with Taylor's station.⁴⁰⁵² Secondly, the communication is said to be between Gbarnga and Zogoda; yet at the time, Taylor was not in Gbarnga, but was in Monrovia on the Council of State.⁴⁰⁵³ So it seems, Taylor could not have made such a call from Gbarnga! In addition, one might ask why the conversation took place over the radio at all, as Sankoh seems to have possessed a satellite phone at the time.⁴⁰⁵⁴ The suspicion must be that this account owes more to the witness's imagination than to its veracity.

1497. Another event which seems suspicious is the witness's account that during the ECOMOG Intervention, the Liberian radio station known as Base 1 called the RUF radio station to ask why Gullit was withdrawing from Kono.⁴⁰⁵⁵ Base 1 had apparently received this information as it was monitoring the RUF radio net.⁴⁰⁵⁶ However, there are once again several reasons to be cautious. Once again, this account is unsupported. Secondly, in the witness's evidence, this account forms the first communication from Base 1 to the RUF, yet the witness seems to treat such communication as standard. One wonders why the reaction of the RUF to a station eavesdropping on them was not one of outrage or surprise. Thirdly, there is evidence that the station known as Base 1 was not established at the time this communication was said to have been made.⁴⁰⁵⁷ Fourthly, even on other prosecution evidence, Base 1 did not have the RUF radio codes,⁴⁰⁵⁸ so how was Base 1 communicating with the RUF? Equally on this witness's evidence, the codes in Liberia were different from the RUF ones,⁴⁰⁵⁹ and there is no evidence that Base 1 had the RUF codes at this time,⁴⁰⁶⁰ or that the RUF had the Liberian ones. Sixthly, this account seems to be contradicted by Mohamed Kabbah, who did not hear or see any message from Taylor ordering the RUF to hold Kono.⁴⁰⁶¹

1498. Indeed, the above allegation suggests the serious problem with working out when radio codes were changed and exchanged between the RUF and their supposed

⁴⁰⁵² TT, DAF, TF1-274, 5 Dec 08, p. 21786.

⁴⁰⁵³ TT, Taylor, 22 Jul 09, p. 25015-6.

⁴⁰⁵⁴ TT, Perry Kamara, TF1-360, 4 Feb 08, p. 3056-8.

⁴⁰⁵⁵ TT, TF1-516, 8 Apr 08, p. 6852-3, p. 6940.

⁴⁰⁵⁶ TT, TF1-516, 8 Apr 08, p. 6852-3.

⁴⁰⁵⁷ See evidence of DCT-008 that Base 1 was established in September 1998: DCT-008, 24 Aug 10, p. 47026-30.

⁴⁰⁵⁸ TT, DAF, TF1-274, 2 Dec 08, p. 21516. DAF testified the Liberians were only given the RUF radio code when he took the code to them on Bockarie's second visit, later in 1998.

⁴⁰⁵⁹ TT, TF1-516, 8 Apr 08, p. 6919-20.

⁴⁰⁶⁰ The RUF code seems to have only been taken to the Liberian stations in 1999, according to this witness's evidence, see below.

⁴⁰⁶¹ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16338-9. Although Kabbah referred to Taylor in this context, Kabbah's treatment of Sunlight is as an extension of Taylor, so if he knew of Sunlight sending such a message, he would have likely mentioned this.

Liberian allies in the NPFL or Taylor's government. For his part, TF1-516 testified that during his time as an operator, the RUF received the Liberian code chart from Foday Lansana and that this code chart did not change until 1998.⁴⁰⁶² When the RUF code then changed, it changed completely, and no codes remained the same.⁴⁰⁶³ The witness testified that this was done by Alfred Brown in 1998.⁴⁰⁶⁴ This code chart was then taken to all the stations in Liberia.⁴⁰⁶⁵ It seems that the only way to exchange the code with other station was by hand delivery, since radio codes were copied and sent by delegation.⁴⁰⁶⁶ However, when asked to explain how the codes were taken to the Liberian stations, the witness testified that a copy of the code used between Buedu and the Liberian stations was taken by a radio operator to Liberia in 1999.⁴⁰⁶⁷ The one before that was taken by Tiger during Operation Vulture,⁴⁰⁶⁸ which was in 1999. Thus there seems to have been no delivery of codes in 1998, which would suggest that in 1998, the RUF and Liberia radio stations had no method of communicating with each other (indeed, he admitted that there were times when Liberia did not have the RUF code,⁴⁰⁶⁹ and that, for instance, Sunlight could not contact operator Elevation directly as he did not have the code⁴⁰⁷⁰). Even if this is not the case, it still shows a mammoth gap in the prosecution evidence, and seriously affects the credibility of allegations of radio communications between the RUF and their supposed Liberian allies.

Evidence contradicted by other prosecution witnesses

1499. TF1-516 testified that at Zogoda, the radio operators DAF, Perry Kamara and Mohamed Kabbah were authorised to communicate with Liberia.⁴⁰⁷¹ He testified that DAF used to communicate with Liberia using the Liberian code which was different.⁴⁰⁷² However, DAF testified that during this time there was no direct link with Taylor's station,⁴⁰⁷³ and mentioned nothing about secret codes in Zogoda.
1500. TF1-516's testimony about the radio stations in Buedu contrasts with other prosecution evidence. TF1-516 testified that there was one radio in Buedu, known as

⁴⁰⁶² TT, TF1-516, 9 Apr 08, p. 6985-6.

⁴⁰⁶³ TT, TF1-516, 10 Apr 08, p. 7140-2.

⁴⁰⁶⁴ TT, TF1-516, 9 Apr 08, p. 6986.

⁴⁰⁶⁵ TT, TF1-516, 9 Apr 08, p. 6986.

⁴⁰⁶⁶ TT, TF1-516, 9 Apr 08, p. 6982.

⁴⁰⁶⁷ TT, TF1-516, 9 Apr 08, p. 6986.

⁴⁰⁶⁸ TT, TF1-516, 9 Apr 08, p. 6987.

⁴⁰⁶⁹ TT, TF1-516, 11 Apr 08, p. 7324.

⁴⁰⁷⁰ TT, TF1-516, 11 Apr 08, p. 7324.

⁴⁰⁷¹ TT, TF1-516, 8 Apr 08, p. 6867-8.

⁴⁰⁷² TT, TF1-516, 8 Apr 08, p. 6919-20.

⁴⁰⁷³ TT, DAF, TF1-274, 5 Dec 08, p. 21786.

Bravo Zulu 4, which was then supplemented with two additional radios following an operation undertaken by the RUF in 1999: one known as Planet 1, the other as Marvel.⁴⁰⁷⁴ DAF likewise testified that there were three radio stations in Buedu, but stated they were: one, a monitoring station; two, a station with the call sign Lemon, later Mike November 5; three, Bockarie's radio station known as Bravo Zulu 4; there was also a mobile radio known as Planet 1.⁴⁰⁷⁵ In addition, in DAF's testimony, the radios Planet 1 and Marvel operated during his time in Buedu from 1998 to about April 1999.⁴⁰⁷⁶ In short, DAF left Buedu at the time TF1-516 testified those radios arrived! Thus at least one of these witnesses has made a serious mistake.

1501. TF1-516 testified that the radio name changed from Bravo Zulu 4 to Planet 1 in 1999 after the operation in Voinjama.⁴⁰⁷⁷ However, this is contradicted by TF1-585, who testified that Bockarie's radio changed from Bravo Zulu 4 to Planet 1 when Bockarie moved from Kenema to Buedu in early 1998.⁴⁰⁷⁸ It then remained Planet 1 until the time Bockarie left for Monrovia.⁴⁰⁷⁹

Other matters going to credibility

1502. TF1-516 displayed a great reluctance to agree with previous statements made to the Prosecution that were exculpatory in nature. The most telling example is when he was asked whether he agreed with his previous statement that he never heard a directive from Taylor or Yeaten concerning the Freetown Invasion.⁴⁰⁸⁰ He tried to dodge the question, and only after an intervention from Justice Lussick did he confirm the statement. This example is representative of his testimony as a whole. He was not interested in telling the truth, but in providing a inculpatory testimony.

TF1-274 Dauda Aruna Fornie

His evidence for the period 1991 to 1992

1503. There is evidence to believe that while DAF may have been in Liberia for a time in about 1991 to 1992, he understood little of the events going on about him. In that respect his hearsay evidence from this period should be treated with caution.

⁴⁰⁷⁴ TT, TF1-516, 8 Apr 08, p. 6872-5.

⁴⁰⁷⁵ TT, DAF, TF1-274, 2 Dec 08, p. 21457-68. The names, or call-signs, of the radio stations changed from time to time.

⁴⁰⁷⁶ TT, DAF, TF1-274, 2 Dec 08, p. 21457-8.

⁴⁰⁷⁷ TT, TF1-516, 8 Apr 08, p. 6872-5, p. 6923.

⁴⁰⁷⁸ TT, TF1-585, 5 Sep 08, p. 15598-9.

⁴⁰⁷⁹ TT, TF1-585, 5 Sep 08, p. 15599.

⁴⁰⁸⁰ TT, TF1-516, 16 Apr 08, 7777-9.

1504. For instance, his treatment of Black Gadaffa is brief and unsupported by corroborative evidence. He claimed Black Gadaffa was a unit composed of “Sankoh recruits”, i.e. Sierra Leoneans, with a Liberian known as Kpelle Boy for its leader,⁴⁰⁸¹ dating the creation of this unit to the time he was in Liberia, which was about mid-1991 (the rainy season) to late 1992.⁴⁰⁸² This forms a rather cursory description of the Black Gadaffa situation, given all the detail supplied by other witnesses, suggesting that DAF did not know much about it, which in turn would suggest he is not the most reliable informant on the matter. That is not quite the end of the story, however, since it emerges in cross-examination that, in a previous interview with prosecution investigators, DAF had stated that the leaders of Black Gadaffa were rumoured to have connived against Taylor, including Kpelle Boy, Dixon Wolo and Yegbeh Degbon.⁴⁰⁸³ This, of course, would support Taylor’s own position regarding Black Gadaffa, and suggests that DAF knew a good deal more than he was willing to admit; but knew also that such an account would undermine his own credibility and his own account of how Black Gadaffa came into being. Perhaps that is why he seemed to recant what he said in that interview, and deny the leaders of Black Gadaffa connived against Taylor.⁴⁰⁸⁴ Either way, his evidence about the episode comes across as unreliable: at best he is poorly informed; at worst he is disingenuous.

1505. Another reason one may wish to treat his account of this period with caution is his lack of knowledge of the command structure of the NPFL. Despite the fact that it was well-known that Oliver Varney commanded the sixth battalion of the NPFL, DAF failed to mention him, testifying instead that it was a man known as One Man One.⁴⁰⁸⁵ Given that Oliver Varney had his base in Tubmanburg, also known as Bomi or Bomi Hills, and that DAF claimed to be in that same location at the precise time Varney was also there, one again comes to the conclusion that DAF is poorly informed.

1506. DAF is certainly poorly informed about other events, such as Top 20, Top 40 or Top Final; this time by his own admission.⁴⁰⁸⁶

1507. Now while it might seem insignificant as to whether the witness recalled specific details from a long time ago, such as the above, it is important when taken into

⁴⁰⁸¹ TT, DAF, TF1-274, 1 Dec 08, p. 21313-5.

⁴⁰⁸² TT, DAF, TF1-274, 1 Dec 08, p. 21306 and p. 21359.

⁴⁰⁸³ TT, DAF, TF1-274, 8 Dec 08, p. 21990-2.

⁴⁰⁸⁴ TT, DAF, TF1-274, 8 Dec 08, p. 21990-2. He insisted Kpelle Boy was the leader of Black Gadaffa, denying Degbon was a leader, despite what he said in the previous interview.

⁴⁰⁸⁵ TT, DAF, TF1-274, 1 Dec 08, p. 21310 and p. 21317.

⁴⁰⁸⁶ TT, DAF, TF1-274, 4 Dec 08, p. 21752-5.

context with DAF's main allegation from the period in question, namely his account that Taylor came to Kakata together with Sankoh just before Operation Octopus in 1992; and that Sankoh spoke to the Sierra Leonean fighters present.⁴⁰⁸⁷ That the witness should remember so little of certain key events from this period and yet recall such a fleeting episode should perhaps provide our first note of caution; if so, it is the first note of many. For DAF never saw Taylor present, despite the fact he claimed he "saw" Taylor in his evidence;⁴⁰⁸⁸ he was told Taylor was in the vehicle,⁴⁰⁸⁹ which is not the same thing. Now one might be prepared to be generous and put the confusion down to semantics, but the witness continued to try to buttress his evidence by speculation: at first he supposed the windows of the vehicle were down,⁴⁰⁹⁰ though then he claimed not to recall,⁴⁰⁹¹ before claiming to "recall well" that the windows were closed, but only after his previous evidence that they were closed had been put to him.⁴⁰⁹² At best, this is forgetful, at worst it is dishonest; either way it renders his testimony in this area unreliable. It also adds a more sinister note: that is a conviction to cement a link with Taylor, and shape the evidence around that conviction. That is another reason to distrust the witness, not just for the period 1991 to 1992, but for the entirety of his evidence.

Radio operations

1508. The witness testified about radio communication between Taylor and the RUF. However, there are major holes in his evidence which make it unreliable. For instance, DAF testifies about the need to exchange codes between the NPFL and RUF, and later between the Liberian government and the RUF, by hand delivery.⁴⁰⁹³ However, he does not explain how such codes were exchanged during the periods in which the borders were sealed and the supply line was cut.⁴⁰⁹⁴
1509. So he testified that the first RUF code was prepared in late 1992, and that this was sent to Gbarnga,⁴⁰⁹⁵ and seems to have been hand-delivered by Sankoh.⁴⁰⁹⁶ However, while there was no standard time for the RUF code being changed, it seems to have

⁴⁰⁸⁷ TT, DAF, TF1-274, 1 Dec 08, p. 21362-6.

⁴⁰⁸⁸ TT, DAF, TF1-274, 1 Dec 08, p. 21365.

⁴⁰⁸⁹ TT, DAF, TF1-274, 1 Dec 08, p. 21365; 8 Dec 08, p. 21993-5.

⁴⁰⁹⁰ TT, DAF, TF1-274, 8 Dec 08, p. 21993.

⁴⁰⁹¹ TT, DAF, TF1-274, 8 Dec 08, p. 21993.

⁴⁰⁹² TT, DAF, TF1-274, 8 Dec 08, p. 21995.

⁴⁰⁹³ TT, DAF, TF1-274, 2 Dec 08, p. 21416-7.

⁴⁰⁹⁴ TT, DAF, TF1-274, 1 Dec 08, p. 21384.

⁴⁰⁹⁵ TT, DAF, TF1-274, 2 Dec 08, p. 21416.

⁴⁰⁹⁶ TT, DAF, TF1-274, 2 Dec 08, p. 21417.

usually been changed every few months.⁴⁰⁹⁷ This means that for the RUF to have been in effective radio contact with the NPFL, the new codes would have had to have been delivered by the RUF to the NPFL every few months. However, as even DAF has testified, there were periods in which the border was cut off, and there was no way for either the NPFL to supply the RUF, or the RUF to supply the NPFL.⁴⁰⁹⁸ Thus, there seems to have been no way for the RUF to deliver new codes to the NPFL,⁴⁰⁹⁹ and thus it would have been impossible for the RUF and NPFL to communicate effectively during such periods.

1510. This should be seen alongside the lack of evidence for contact between Top Final and the AFRC coup, and that all allegations of radio or satellite phone communication in that period are unsupported by corroborating testimony.

Period at Tongo

1511. DAF testified he spent about 3 months in Tongo, as a radio operator, arriving in 1997.⁴¹⁰⁰ He remained there until late 1997.⁴¹⁰¹ However, there are serious question marks over his claim to be a radio operator at this time. Firstly, during evidence-in-chief, his testimony focuses on mining, and not radio communications.⁴¹⁰² Secondly, in a previous interview, he does not say anything about radio communications.⁴¹⁰³ Thirdly, because he did not tell his interviewers in the interview he was a radio operator, but told them it was following his time in Tongo that he was assigned by Bockarie to be a radio operator at Buedu.⁴¹⁰⁴ The witness tries to get around this by claiming that it was out of fear of being prosecuted that he did not tell them he was a radio operator in Tongo, only to undermine his own argument by being preparing to tell the same interviewers in the same interview that he was a radio operator in Buedu.⁴¹⁰⁵ So his argument changes: he claimed he only told them he was a radio operator in Buedu, but not Tongo, because his interviewers only asked him about

⁴⁰⁹⁷ TT, DAF, TF1-274, 2 Dec 08, p. 21416.

⁴⁰⁹⁸ See e.g. TT, DAF, TF1-274, 5 Dec 08, p. 21785-6 in which he testified that between 1993 and 1996 there was no supply to the RUF from Taylor, and that there was little direct contact either.

⁴⁰⁹⁹ Of course they could have come up with a new method of delivery, but there is no evidence of this, and so it cannot simply be assumed.

⁴¹⁰⁰ TT, DAF, TF1-274, 2 Dec 08, p. 21419-20.

⁴¹⁰¹ TT, DAF, TF1-274, 2 Dec 08, p. 21431.

⁴¹⁰² TT, DAF, TF1-274, 2 Dec 08, p. 21419-28.

⁴¹⁰³ TT, DAF, TF1-274, 8 Dec 08, p. 21938-41.

⁴¹⁰⁴ TT, DAF, TF1-274, 8 Dec 08, p. 21940-4; 10 Dec 08, p. 22026-7.

⁴¹⁰⁵ TT, DAF, TF1-274, 8 Dec 08, p. 21944-5.

that,⁴¹⁰⁶ which is hardly credible in itself, but made even weaker by his marked volte-face

1512. The suggestion put to him is that he was only in Tongo for personal mining,⁴¹⁰⁷ which is why he is knowledgeable about mining at the place rather than radio operations, and that it was only in Buedu, as he initially told his interviewers, that he became a radio operator.

Bockarie's trip to Liberia

1513. DAF claimed Bockarie was called by Sunlight and that through him and Yeaten, it was Taylor's instruction for Bockarie to travel to Monrovia.⁴¹⁰⁸ This was in early 1998, at the time of the ECOMOG Intervention, while Bockarie was retreating from Kenema to Buedu.⁴¹⁰⁹

1514. However, there are serious problems with this account. Firstly, and most fundamentally, it is in complete contrast to the Prosecution's other account of Bockarie's first trip to Monrovia following the ECOMOG Intervention, as presented in the testimony of Varmuyan Sherif. There Varmuyan Sherif testified that he was sent by Taylor to pick up Bockarie and take him to Monrovia. In DAF's account, there is no Varmuyan Sherif, and there is no need for anyone to fetch Bockarie, since Bockarie is in communication with Yeaten and Taylor via Sunlight and Base 1. Neither are these separate accounts of different trips undertaken by Bockarie, since both make clear the trip was made during the ECOMOG Intervention while Bockarie was retreating from Kenema. They are thus describing the same trip in completely different terms, in such a way that one, if not both, of them must be mistaken; indeed, one, if not both, must be lying.

1515. Secondly, DAF claims to have met Jungle in Voinjama along the way, but makes no mention of this in a previous interview in May 2006.⁴¹¹⁰

1516. Thirdly, DAF claims to have stayed at Base 1 during the trip. DCT-008 testified that Base 1 was not set up at this time, but even if one ignores that DAF describes Base 1 as the radio room outside Yeaten's house, despite the fact that Base 1 was originally set up inside Yeaten's house and it was only later that it was moved into the outhouse.

⁴¹⁰⁶ TT, DAF, TF1-274, 8 Dec 08, p. 21944-5.

⁴¹⁰⁷ TT, DAF, TF1-274, 8 Dec 08, p. 21941.

⁴¹⁰⁸ TT, DAF, TF1-274, 2 Dec 08, p. 21441-4.

⁴¹⁰⁹ TT, DAF, TF1-274, 2 Dec 08, p. 21438-44.

⁴¹¹⁰ TT, DAF, TF1-274, 10 Dec 08, p. 22025-9.

1517.Fourthly, DAF is extremely inconsistent about the number of trucks and ammunition he meets coming back from Monrovia following the journey.⁴¹¹¹

1518.Fifthly, the radio message came from Sunlight for Bockarie to travel to Monrovia, but DAF himself testified the Liberians were only given the RUF radio code when he took the code to them on Bockarie's second visit.⁴¹¹² So how was Sunlight, or any Liberian operator, able to communicate with the RUF?

Radios in Buedu

1519.DAF testified that there were three radio stations in Buedu: one, a monitoring station; two, a station with the call sign Lemon, later Mike November 5; three, Bockarie's radio station known as Bravo Zulu 4; there was also a mobile radio known as Planet 1.⁴¹¹³ These radios operated during DAF's time in Buedu from 1998 to about April 1999.⁴¹¹⁴ This testimony is in contrast to that of TF1-516, who testified that there was one radio in Buedu, known as Bravo Zulu 4, which was then supplemented with two additional radios following an operation undertaken by the RUF in 1999: one known as Planet 1, the other as Marvel.⁴¹¹⁵ One again this is a major inconsistency between witnesses that goes to the reliability of the evidence; given that Taylor's intermediaries were supposed to be exchanging messages on these radio stations, it does matter which radios were in operation at any given time, since if a particular radio only came into being at a specific time, then Taylor cannot be responsible for any crimes linked to him through that radio for earlier periods.

Satellite phones

1520.Bockarie obtained a satellite phone from JPK, and later from Taylor.⁴¹¹⁶ Bockarie obtained JPK's phone when JPK came to Buedu in early 1998.⁴¹¹⁷ Taylor gave Bockarie the satellite phone on his second trip to Monrovia,⁴¹¹⁸ this was in mid-1998.⁴¹¹⁹ However, in cross DAF stated for the first time that Taylor gave Bockarie more than one satellite phone.⁴¹²⁰ Once again this seems to be an attempt to discredit Taylor. Other witnesses have testified that Bockarie only had one satellite phone. For

⁴¹¹¹ TT, DAF, TF1-274, 10 Dec 08, p. 22031-47.

⁴¹¹² TT, DAF, TF1-274, 2 Dec 08, p. 21516.

⁴¹¹³ TT, DAF, TF1-274, 2 Dec 08, p. 21457-68. The names, or call-signs, of the radio stations changed from time to time.

⁴¹¹⁴ TT, DAF, TF1-274, 2 Dec 08, p. 21457-8.

⁴¹¹⁵ TT, TF1-516, 8 Apr 08, p. 6872-5.

⁴¹¹⁶ TT, DAF, TF1-274, 2 Dec 08, p. 21479.

⁴¹¹⁷ TT, DAF, TF1-274, 2 Dec 08, p. 21512.

⁴¹¹⁸ TT, DAF, TF1-274, 2 Dec 08, p. 21512.

⁴¹¹⁹ TT, DAF, TF1-274, 2 Dec 08, p. 21519.

⁴¹²⁰ TT, DAF, TF1-274, 10 Dec 08, p. 22048.

instance, Mohamed Kabbah testified that he only ever saw Bockarie with one satellite phone.⁴¹²¹ Perry Kamara testified that Bockarie had a satellite phone from Liberia.⁴¹²²

Additional inconsistencies in his evidence

- 1521.DAF testified that the RUF's supply lines were cut when they came to Kailahun, which was in early 1993 to mid-1993.⁴¹²³ However, later he stated that the first attempt to cut off the supply route came while he was at Sandeyalu, which was from mid-1993 to late 1993.⁴¹²⁴
- 1522.DAF's account of being freed by Kamajors is highly suspect.⁴¹²⁵ In examination-in-chief, he testified that he was released in mid-1997 following hearing Sankoh's broadcast on the radio telling the RUF to join with the AFRC. In cross-examination, he was unable to explain how he escaped, and his account does not co-incide with the RUF and AFRC union.⁴¹²⁶
- 1523.DAF testified that Jungle was one of Sankoh's men in about 1993.⁴¹²⁷ However, no other witness placed Jungle with RUF so early on in the war. Indeed, TF1-516 testified that Jungle was trapped by ULIMO in a separate jungle.⁴¹²⁸

TF1-585

- 1524.The testimony of TF1-585 is problematic and unreliable. This may have a great deal to do with that fact that the witness's position in the RUF was that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].⁴¹³⁰ As such TF1-585 is unaware of facts common to the other radio operators, and has a poor grasp on chronology.
- 1525.Examples include the following: TF1-585 was unaware that Matthew Sesay aka Kennedy was the mining commander in Kono District in 1998 to 1999. TF1-585 claims that from 1998 to late 1999 the mining commander in Kono was Moriba;

⁴¹²¹ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16360.

⁴¹²² TT, Perry Kamara, TF1-360, 5 Feb 08, p. 3082. In the context of this statement, it is clear "a satellite phone" means one satellite phone.

⁴¹²³ TT, DAF, TF1-274, 1 Dec 08, p. 21383-4.

⁴¹²⁴ TT, DAF, TF1-274, 1 Dec 08, p. 21390-2.

⁴¹²⁵ TT, DAF, TF1-274, 1 Dec 08, p. 21400-6.

⁴¹²⁶ TT, DAF, TF1-274, 8 Dec 08, p. 21924-38.

⁴¹²⁷ TT, DAF, TF1-274, 1 Dec 08, p. 21388.

⁴¹²⁸ TT, TF1-516, 8 Apr 08, p. 6914.

⁴¹²⁹ TT, TF1-585, 9 Sep 08, p. 15823-4.

⁴¹³⁰ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16128.

Kennedy brought the diamonds from Kono to Bockarie, but the witness did not know his title.⁴¹³¹ TF1-585 had never heard of radio station Lemon.⁴¹³² This is despite claiming to have been based in [REDACTED] in [REDACTED]. For the same period, other operators present [REDACTED] have testified that Lemon was the alternative call sign for Mike November 5, the so-called welfare station.⁴¹³³ Given that TF1-585 was a radio operator at the same place and time, TF1-585's ignorance on this point is surprising. TF1-585 only remembered that the name "Base 1" was the name of Yeaten's radio station a week before testifying.⁴¹³⁴ TF1-585 only remembered that the radio "Planet 1" was a mobile station a week before testifying.⁴¹³⁵

Chronological problems

1526. TF1-585's testimony is littered with errors in dating events. Some of the most notable are as follows: TF1-585 testified that Sankoh returned from Togo to Freetown in early 1997,⁴¹³⁶ when the only time Sankoh did so was after signing the Lomé Peace Accord in about October 1999. TF1-585 testified that Issa Sesay was in charge of Kono District during the Junta period,⁴¹³⁷ when the only time he was in charge of the district was after the Junta period. TF1-585 testified that there was a meeting in June 1999 at which Bockarie told those present that he had an instruction from Sankoh that they should take orders from JP Koroma.⁴¹³⁸ It was only during cross-examination that the witness changed this date to 1998.⁴¹³⁹ TF1-585 testified that the meeting convened to deal with Issa Sesay losing the diamonds was in September 1999,⁴¹⁴⁰ when other witnesses have testified this occurred in about May 1998. TF1-585 testified that Bockarie instructed Superman to amputate civilians in Kono as a punishment for the failure of Operation Fitti Fatta.⁴¹⁴¹ There are a number of problems with this account, not least the fact the witness alleged that the atrocities took place three to four months after the operation,⁴¹⁴² by which time Superman had fallen out with Bockarie and was no longer in the area. TF1-585 claimed that Bockarie travelled to Liberia with

⁴¹³¹ TT, TF1-585, 8 Sep 08, p. 15686-90.

⁴¹³² TT, TF1-585, 9 Sep 08, p. 15856.

⁴¹³³ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16128; DAF, TF1-274, 2 Dec 08, p. 21457-68.

⁴¹³⁴ TT, TF1-585, 9 Sep 08, p. 15859-61.

⁴¹³⁵ TT, TF1-585, 9 Sep 08, p. 15859-61.

⁴¹³⁶ TT, TF1-585, 8 Sep 08, p. 15640.

⁴¹³⁷ TT, TF1-585, 8 Sep 08, p. 15632.

⁴¹³⁸ TT, TF1-585, 8 Sep 08, p. 15664-7.

⁴¹³⁹ TT, TF1-585, 11 Sep 08, p. 15972-3.

⁴¹⁴⁰ TT, TF1-585, 8 Sep 08, p. 15666-9.

⁴¹⁴¹ TT, TF1-585, 8 Sep 08, p. 15670-1.

⁴¹⁴² TT, TF1-585, 8 Sep 08, p. 15674-5.

Sampson, Jungle and Junior, and through that visit received a jeep and the rank of general.⁴¹⁴³ However, TF1-585 seems to date this not just to before JP Koroma's arrival in Buedu,⁴¹⁴⁴ but also to before JP Koroma was removed from power.⁴¹⁴⁵ This would place Bockarie's visit during the time of the Junta government; no other witness attested to such a visit.

1527. Now, it is of course understandable that the witness struggled to remember precise dates many years after they have passed, but of course, precise dating is important for the case when one is trying to determine responsibility of an individual for particular events.

Evidence contradicted by other prosecution witnesses

1528. TF1-585 testified that the operator known as "Sky 1" was based at Roberts International Airport in Monrovia and used to inform the RUF that the "448" (meaning the ECOMOG jet) had just left the airport. TF1-585 testified that the radio Planet 1 would instruct the radio Mike November 5 for the MP commander to ring the bell;⁴¹⁴⁶ and that the radio Mike November 5 was used particularly for 448 alarms.⁴¹⁴⁷ In addition to the use of Mike November 5, TF1-585 testified that Sky 1 also came on the national frequency to tell the RUF about the 448 alarm;⁴¹⁴⁸ and, similarly, 448 messages came from the radio known as "FY" and Base 1.⁴¹⁴⁹ However, there are problems with the witness's account of the RUF being informed of ECOMOG jets in this way. Firstly, TF1-585 seems to have been unaware where the jets actually took off from;⁴¹⁵⁰ the witness did not know that jets took off from Lungi Airport in Sierra Leone.⁴¹⁵¹ This would of course negate the need for any alarms from Liberia. Secondly, as a point of logic, it is highly doubtful whether anyone stationed in Monrovia, even upon observing a jet taking off, would be able to tell where that jet was headed. Thirdly, the operator known as Sky 1 does not seem to have been based at Roberts International Airport, but at the Executive Mansion Ground.⁴¹⁵² Fourthly,

⁴¹⁴³ TT, TF1-585, 5 Sep 08, p. 15617-9.

⁴¹⁴⁴ TT, TF1-585, 5 Sep 08, p. 15619.

⁴¹⁴⁵ TT, TF1-585, 8 Sep 08, p. 15649.

⁴¹⁴⁶ TT, TF1-585, 5 Sep 08, p. 15599-600.

⁴¹⁴⁷ TT, TF1-585, 5 Sep 08, p. 15599.

⁴¹⁴⁸ TT, TF1-585, 8 Sep 08, p. 15628-9.

⁴¹⁴⁹ TT, TF1-585, 8 Sep 08, p. 15630-2.

⁴¹⁵⁰ TT, TF1-585, 10 Sep 08, p. 15886.

⁴¹⁵¹ TT, TF1-585, 10 Sep 08, p. 15886.

⁴¹⁵² According to TF1-516, Sky 1 worked on the fourth floor of the Executive Mansion building: TT, TF1-516, 9 Apr 08, p. 7032-5 (Sky 1 operated the radio 020 which was on the fourth floor). If true, then how was Sky 1 even supposed to see jets taking off, if he was inside the building?

and perhaps most significantly, there was no need for the RUF to receive any reports from outside the country as it had its own set of operators who intercepted ECOMOG communications and warned of the coming of ECOMOG jets. For instance, Perry Kamara testified that the 448 warnings came from Buedu, where a group of AFRC operators monitored ECOMOG communications.⁴¹⁵³ Likewise, TF1-516 testified that the RUF in Buedu had a monitoring team of former SLA soldiers, tasked with decoding ECOMOG messages, and who gave the 448 warning; there is nothing about such messages emanating from Liberia.⁴¹⁵⁴ By contrast, TF1-585 did not know that the RUF had such operators who monitored ECOMOG jets.⁴¹⁵⁵ Once again, ignorance of such a common detail suggests the witness is either remarkably ill-informed, or deliberately lying. Either way, seen in this light, the testimony is unreliable.

1529. TF1-585 testified that one of the outcomes of the the meeting convened to deal with Issa Sesay losing the diamonds in Monrovia was to send Sesay to lead the Fitti Fatta mission to recover Kono as his punishment.⁴¹⁵⁶ TF1-585 testified that Sesay tried to capture Koidu Town but failed; the witness had apparently read it in the radio logbook.⁴¹⁵⁷ According to TF1-585, Sesay was afraid to send the message so Superman had to do instead.⁴¹⁵⁸ This tale is complete fantasy. TF1-585's reference to a meeting convened to discuss Sesay's losing of the diamonds suggests the meeting TF1-585 was referring to is the one held in about April or May 1998.⁴¹⁵⁹ However, there was no such decision to send Sesay to lead the Fitti Fatta mission; rather, Superman was sent in command of this mission.⁴¹⁶⁰ Sesay was in command of the December 1998 mission to take Koidu Town, and far from failing, Sesay was successful.⁴¹⁶¹ So TF1-585 has managed to confuse two missions to capture Koidu Town, yet rather than admitting ignorance, the witness attempts to ground it in fact by reference to reading the message in the log book. This should caution us not just to TF1-585's own attempts to play fast and loose with history, but also to all witnesses who make reference to "having read it in the log book": unless they have the log book extract to hand, it must remain highly doubtful that what they describe is accurate.

⁴¹⁵³ TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3223-4.

⁴¹⁵⁴ TT, TF1-516, 8 Apr 08, p. 6943.

⁴¹⁵⁵ TT, TF1-585, 10 Sep 08, p. 15894-5.

⁴¹⁵⁶ TT, TF1-585, 8 Sep 08, p. 15666-9.

⁴¹⁵⁷ TT, TF1-585, 8 Sep 08, p. 15668-9.

⁴¹⁵⁸ TT, TF1-585, 8 Sep 08, p. 15669.

⁴¹⁵⁹ See Factual Narrative.

⁴¹⁶⁰ See Factual Narrative.

⁴¹⁶¹ See Factual Narrative.

1530. TF1-585 testified that Yeaten came to Buedu two days after speaking to Bockarie on the occasion of the rebel troops entering Freetown.⁴¹⁶² According to TF1-585, this was Yeaten's first visit to Buedu.⁴¹⁶³ However, if it was his first visit, this would conflict with DAF's testimony that Yeaten came to Buedu before the troops entered Freetown;⁴¹⁶⁴ and it certainly conflicts with Mohamed Kabbah's account that Yeaten never came to Sierra Leone.⁴¹⁶⁵ TF1-585 also claimed that Yeaten came a second time to Buedu in mid-1999.⁴¹⁶⁶ This is completely unsupported by any other witness, which suggests TF1-585 is once again ignorant, misguided or delved into fantasy.
1531. TF1-585 testified that the RUF code books changed once or twice while the witness was in Buedu, and one of these changes was in 1998.⁴¹⁶⁷ This would appear to conflict with DAF's account that the codes changed every few months.⁴¹⁶⁸
1532. TF1-585 testified that Bockarie's radio changed from Bravo Zulu 4 to Planet 1 when Bockarie moved from Kenema to Buedu in early 1998.⁴¹⁶⁹ It then remained Planet 1 until the time Bockarie left for Monrovia.⁴¹⁷⁰ This conflicts with TF1-516's account that the radio name changed in 1999 after the operation in Voinjama.⁴¹⁷¹
1533. TF1-585 testified that Marvel was the mobile station, but it was used from early 1998 until the time Bockarie went to Monrovia;⁴¹⁷² whenever Marvel had a problem, they used Planet 1.⁴¹⁷³ However, DAF's testimony suggests that Planet 1 was the main mobile radio station.⁴¹⁷⁴

Other evidence that undermines the witness's credibility

1534. TF1-585 testified that, during Junta period, Sellay had a satellite phone and spoke with Yeaten.⁴¹⁷⁵ TF1-585 testified that Sellay was in Kenema to coordinate between Bockarie and Yeaten.⁴¹⁷⁶ The procedure for this communication seems to have been that Base 1 contacted Kenema and asked Sellay to turn the phone on, as Base 1 would

⁴¹⁶² TT, TF1-585, 8 Sep 08, p. 15721-4.

⁴¹⁶³ TT, TF1-585, 8 Sep 08, p. 15724.

⁴¹⁶⁴ TT, DAF, TF1-274, 3 Dec 08, p. 21557-61.

⁴¹⁶⁵ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16326-7.

⁴¹⁶⁶ TT, TF1-585, 8 Sep 08, p. 15733-4.

⁴¹⁶⁷ TT, TF1-585, 9 Sep 08, p. 15877.

⁴¹⁶⁸ TT, DAF, TF1-274, 2 Dec 08, p. 21416.

⁴¹⁶⁹ TT, TF1-585, 5 Sep 08, p. 15598-9.

⁴¹⁷⁰ TT, TF1-585, 5 Sep 08, p. 15599.

⁴¹⁷¹ TT, TF1-516, 8 Apr 08, p. 6872-5, p. 6923.

⁴¹⁷² TT, TF1-585, 5 Sep 08, p. 15599.

⁴¹⁷³ TT, TF1-585, 5 Sep 08, p. 15600.

⁴¹⁷⁴ TT, DAF, TF1-274, 2 Dec 08, p. 21460-1.

⁴¹⁷⁵ TT, TF1-585, 5 Sep 08, p. 15603.

⁴¹⁷⁶ TT, TF1-585, 5 Sep 08, p. 15604.

only talk to Sellay.⁴¹⁷⁷ However, TF1-585 claimed to be unable to understand anything of those conversations, yet still testified that during those conversations Sellay spoke with Yeaten.⁴¹⁷⁸ By contrast, TF1-585 never saw Bockarie speak over the phone to Yeaten in Kenema.⁴¹⁷⁹ It makes no sense that Yeaten would only contact Sellay, yet would not speak to Bockarie directly in Kenema, but in other locations, such as Buedu, would do so.

1535. TF1-585 testified that, in early 1998, Bockarie spoke with Yeaten; in this conversation Yeaten told Bockarie that Taylor and Sankoh had held a discussion, and that out of that discussion, Yeaten should tell Bockarie to bring JP Koroma to Buedu.⁴¹⁸⁰ Yet, in early 1998, how is Taylor communicating with Sankoh? It is put to TF1-585 in cross-examination that Sankoh was in detention.⁴¹⁸¹ TF1-585 seems to have no answer to this. Indeed, the witness even admitted that to not knowing what Bockarie said over the satellite phone.⁴¹⁸²

1536. TF1-585 testified on events during the Freetown Invasion, yet seems to have been banned from using the radio during this time.⁴¹⁸³ Much of what TF1-585 testified about comes from what was heard from either Alice Pyne, or from overhearing Bockarie.⁴¹⁸⁴ This is yet another example of the poverty of TF1-585's information and helps explain why the evidence is so confused and unreliable.

1537. TF1-585's evidence that Bockarie was liberal with his information, and that radio operators were able to overhear about the RUF's operations from him, seems to conflict with the secrecy Bockarie seems to have employed, given that TF1-585 did not know what Bockarie said over the satellite phone,⁴¹⁸⁵ and that, during RUF operations, Bockarie acted as his own radio operator.⁴¹⁸⁶

Further reasons to be cautious

1538. TF1-585 may have been influenced on how to structure evidence based on [REDACTED]
[REDACTED]
[REDACTED] about testifying and mentioned the court wanted witnesses to

⁴¹⁷⁷ TT, TF1-585, 5 Sep 08, p. 15604-5.

⁴¹⁷⁸ TT, TF1-585, 5 Sep 08, p. 15605-6.

⁴¹⁷⁹ TT, TF1-585, 9 Sep 08, p. 15848.

⁴¹⁸⁰ TT, TF1-585, 5 Sep 08, p. 15610-1.

⁴¹⁸¹ TT, TF1-585, 10 Sep 08, p. 15911-2.

⁴¹⁸² TT, TF1-585, 9 Sep 08, p. 15853.

⁴¹⁸³ TT, TF1-585, 8 Sep 08, p. 15714.

⁴¹⁸⁴ TT, TF1-585, 8 Sep 08, p. 15714-5.

⁴¹⁸⁵ TT, TF1-585, 9 Sep 08, p. 15853.

⁴¹⁸⁶ TT, TF1-585, 9 Sep 08, p. 15855.

testify about arms and ammunition, Taylor's involvement in the war in Sierra Leone, and Bockarie's death.⁴¹⁸⁷ As such, the witness testified on each of those topics.

1539. TF1-585 may have been motivated to help the Prosecution by what the Court could do for her, having learnt [REDACTED]

[REDACTED].⁴¹⁸⁸

1540. TF1-585 may well have overheard other prosecution witnesses in the case given that the witnesses repeated the phrase "my head is not a computer", used by other prosecution witnesses, and admitted to never having used it before.⁴¹⁸⁹

TF1-568 Mohamed Kabbah

1541. Mohamed Kabbah is unreliable in much of his testimony, and has a poor grasp on certain crucial details.

Evidence contradicted by other prosecution witnesses

1542. Kabbah testified that Sunlight gave 448 warnings to the RUF, concerning ECOMOG alpha jets.⁴¹⁹⁰ This seems to contradict the testimony of TF1-516 that warnings regarding the movement of ECOMOG alpha jets were given by the former SLA members based with the RUF who intercepted the ECOMOG morse code.⁴¹⁹¹ Likewise, Perry Kamara testified that the 448 warnings came from Buedu, where a group of AFRC operators monitored ECOMOG communications.⁴¹⁹² One wonders whether Kabbah, coming directly after TF1-585, has copied that witness's evidence on the provenance of 448 messages, as these two witnesses both state 448 messages were given from Liberia (albeit by different Liberian operators), whereas previous prosecution radio operators stated that the messages came from inside Sierra Leone. If it is true that Kabbah copied TF1-585, then it must throw into doubt both of their testimonies.

Evidence contradicted by other prosecution witnesses

1543. Kabbah testified that Sunlight was based at the Executive Mansion,⁴¹⁹³ and not at Base 1 (he stated that Base 1 was where Tolo was and that was at Pa Musa's

⁴¹⁸⁷ TT, TF1-585, 10 Sep 08, p. 15940-1.

⁴¹⁸⁸ TT, TF1-585, 10 Sep 08, p. 15947.

⁴¹⁸⁹ TT, TF1-585, 9 Sep 08, p. 15818-9.

⁴¹⁹⁰ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16130.

⁴¹⁹¹ According to TF1-516, Sky 1 worked on the fourth floor of the Executive Mansion building: TT, TF1-516, 9 Apr 08, p. 7032-5 (Sky 1 operated the radio 020 which was on the fourth floor).

⁴¹⁹² TT, Perry Kamara, TF1-360, 6 Feb 08, p. 3223-4.

⁴¹⁹³ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16127.

house).⁴¹⁹⁴ Kabbah testified that Sunlight was at the Mansion Ground with Taylor.⁴¹⁹⁵ This is clearly inaccurate: no other witness has testified that Sunlight was based at the Executive Mansion.⁴¹⁹⁶ Other witnesses have testified that Sunlight was based with Yeaten; TF1-516 testified that another radio operator known as Sky 1 was based at the Executive Mansion.⁴¹⁹⁷

1544. Kabbah seems to have assumed that because Sunlight worked at the Executive Mansion, he was close to Taylor; for instance he testified that Sunlight informed Taylor when the RUF needed ammunition.⁴¹⁹⁸ Such a closeness between radio operator and president is ridiculous, especially when other prosecution witnesses have testified that Sunlight worked with Yeaten, and not Taylor.

Evidence suggesting he is unreliable

1545. Kabbah testified that he knew Bockarie spoke with Yeaten, because [REDACTED]
[REDACTED].⁴¹⁹⁹ However, [REDACTED]
[REDACTED].⁴²⁰⁰ So there is no basis for Kabbah's knowledge that Bockarie spoke with Yeaten before that date: the veracity of any allegations of Bockarie speaking with Yeaten before then must be thrown in grave doubt. Kabbah is ignorant about well-known events. For example, he did not recall Bockarie making a trip to Burkina Faso in November 1998.⁴²⁰¹ Kabbah frequently gets details confused, or gives inaccurate information: He testified that Pascal was the RUF operator at Foya, before changing mind and stating the operator in Foya was Mortiga.⁴²⁰² He testified that, in his communications with prosecution investigators, he did not have a phone; however, he then testified that he did.⁴²⁰³ He testified that he was interviewed in 2006, then testified that he was not.⁴²⁰⁴ Likewise, he testified that he met the prosecution source Eddie Murphy in 2006, but then testified this was in 2007.⁴²⁰⁵ This latter change does not make any sense, given the context of the series of interviews he undertook. Kabbah confused ULIMO and

⁴¹⁹⁴ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16131-2.

⁴¹⁹⁵ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16133-4.

⁴¹⁹⁶ Sunlight was based at the Executive Mansion between about August 1997 and September 1998.

⁴¹⁹⁷ According to TF1-516, Sky 1 worked on the fourth floor of the Executive Mansion building: TT, TF1-516, 9 Apr 08, p. 7032-5 Sky 1 operated the radio 020 which was on the fourth floor).

⁴¹⁹⁸ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16138. There is no mention of Yeaten.

⁴¹⁹⁹ TT, Mohamed Kabbah, TF1-568, 12 Sep 08, p. 16145.

⁴²⁰⁰ TT, TF1-516, 8 Apr 08, p. 6858 *et seq.*

⁴²⁰¹ TT, Mohamed Kabbah, TF1-568, 17 Sep 08, p. 16432.

⁴²⁰² TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16170.

⁴²⁰³ TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16212-6.

⁴²⁰⁴ TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16217-9.

⁴²⁰⁵ TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16222.

LURD.⁴²⁰⁶ Kabbah testified that he went to Liberia once to fight, but in a previous statement he stated that he went there twice to fight.⁴²⁰⁷ Kabbah agreed that he never saw or heard a conversation between Taylor and Bockarie, then when the logic of what he had said was pointed out to him, he changed his mind.⁴²⁰⁸ In a previous statement, Kabbah stated that he never saw Ibrahim Bah; however, in court, he testified that he saw Bah once.⁴²⁰⁹ Kabbah accused the Prosecution of lying and misrepresenting him: He rejected the prosecution statement that he was prepping in February 2007.⁴²¹⁰ He testified that the prosecution investigator lied by stating that he (Kabbah) received 30,000 leones.⁴²¹¹ He denied the Prosecution showed him a document concerning the meeting at the Waterworks, despite the Prosecution giving a solemn declaration that the document was shown to him.⁴²¹² In addition, Kabbah testified that at times he gave the Prosecution incorrect information,⁴²¹³ and that he lied in interview with prosecution investigators.⁴²¹⁴

TF1-567

1546. TF1-567 testified about events that he had no knowledge of. The most telling example is when he was asked about the diamonds taken from JP Koroma upon Koroma's arrival in Buedu in about March 1998. TF1-567's testimony revolved around the fact that Bockarie was not in Buedu, but in Liberia visiting Taylor when Sesay seized the diamonds from JP Koroma.⁴²¹⁵ Upon his return from Liberia to Buedu, Bockarie was angry at Sesay for having taken such action in his absence.⁴²¹⁶ It was only at this point that Sesay gave Bockarie the diamonds taken from JP Koroma.⁴²¹⁷ TF1-567 seemingly had a good knowledge of this [REDACTED]. However, when compared with other witness testimony, TF1-567's telling of the event is undermined. In fact, all other witnesses to the event confirmed that Bockarie was

⁴²⁰⁶ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16303.

⁴²⁰⁷ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16307-8.

⁴²⁰⁸ TT, Mohamed Kabbah, TF1-568, 16 Sep 08, p. 16334.

⁴²⁰⁹ TT, Mohamed Kabbah, TF1-568, 17 Sep 08, p. 16433.

⁴²¹⁰ TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16228.

⁴²¹¹ TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16262-3.

⁴²¹² TT, Mohamed Kabbah, TF1-568, 17 Sep 08, p. 16435-8.

⁴²¹³ TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16244.

⁴²¹⁴ TT, Mohamed Kabbah, TF1-568, 15 Sep 08, p. 16245.

⁴²¹⁵ TT, TF1-567, 2 Jul 08, p. 12899-900.

⁴²¹⁶ TT, TF1-567, 2 Jul 08, p. 12899-900.

⁴²¹⁷ TT, TF1-567, 2 Jul 08, p. 12900-3.

present in Buedu at the time the diamonds were taken from JP Koroma.⁴²¹⁸ Yet this is not some unfortunate lapse of memory, which would be understandable. TF1-567 specifically made reference to what Bockarie said upon his return and quoted him. At best, TF1-567 suffered a flight of fancy; at worst, TF1-567 has deliberately constructed this episode to place himself at the heart of events to suggest he was a more important witness than he was. Either way, TF1-567 comes across as unreliable; he is not a credible witness.

1547. Another telling illustration of the way TF1-567 tried to place himself at the heart of events while inculping Taylor is shown by his testimony surrounding [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED],⁴²¹⁹ which itself is absurd. However, what really undermines the evidence is that, in Taylor's own evidence, it was clear that Taylor had left for an ECOWAS summit in Abuja on the same night,⁴²²⁰ so would not have been in [REDACTED]
[REDACTED]. The witness is therefore mistaken or lying about the event.

TF1-371

1548.TF1-371 is a fairly educated and intelligent witness whose opportunism knows no bounds. The witness is a calculating and manipulating individual who will not stop at anything to have his way. His life in the RUF and his evidence in this court bears this seemly harsh verdict out. [REDACTED]

⁴²¹⁸ TT, TF1-371, 28 Jan 08, p. 2366-8; TT, Samuel Kargbo, TF1-597, 22 May 08, p. 10526-7; TT, TF1-585, 8 Sep 08, p. 15646-7; TT, Augustine Mallah, TF1-045, 13 Nov 08, p. 20195; TT, Issa Sesay, DCT-172, 8 Jul 10, p. 44018-23. See also: Adjudicated Fact 7.

⁴²¹⁹ TT, TF1-567, 8 Jul 08, p. 13182-83.

⁴²²⁰ TT, Taylor, 14 Sep 09, p. 28822-4; Exhibit D-242.

⁴²²¹ TT, TF1-371, 24 Jan 08, p. 2200-3.

4222 [REDACTED] : Exhibit P-277, p. 4.

4223 TT, Issa Sesay, DCT-192, [REDACTED]

⁴²²⁴ TT, TF1-168, 26 Jan 09, p. 23503 *et seq*; Fayiah Musa, DCT-306, [REDACTED].

he would however have the court believe that he left Liberia because he feared for his life from the NPFL.⁴²²⁵ This notwithstanding that he had stayed in Liberia for several years without any harm. He would also double-bag his evidence by suggesting that he had left Liberia to go and see if he could further his education in [REDACTED],⁴²²⁶ although there is no evidence whatsoever that he even attempted to pursue this course when he got there. When the Junta came to power, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]⁴²²⁷ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁴²³⁰

1549. After the Special Court was set up to try those who bear the greatest responsibility for the crimes committed during the war, [REDACTED]

[REDACTED]
[REDACTED], TF1-371 somehow traded his rightful place in the dock for the witness stand. Other benefits that have accrued to this witness remain shrouded in the secrecy of this court's protective measures regime. What is however very clear from the witness's evidence is that he also traded the truth; for his entire testimony was nothing but a series of calculated lies and half truth. This court should however not let TF1-371 manipulate it. A closer look at his evidence clearly shows that the witness was not being truthful in his evidence. Indeed his evidence was clearly designed to fit the purposes of this case, as has been all his other accounts which have always varied depending on his audience. In this regard the Trial Chamber might recall the so called 'draft' statement that the witness prepared [REDACTED] and how in that account the witness deliberately tried to dissociate himself from the RUF. The witness even tried to disown the RUF atrocities that were otherwise a matter of public record. When he was asked about this, the witness's lame excuse was that this was

⁴²²⁵ TT, TF1-371, 25 Jan 08, p. 2234-43.

⁴²²⁶ TT, TF1-371, 25 Jan 08, p. 2246-7.

⁴²²⁷ TT, Issa Sesay, DCT-172, [REDACTED].

⁴²²⁸ TT, Issa Sesay, DCT-172, [REDACTED].

⁴²²⁹ TT, TF1-371, 29 Jan 08, p. 2444.

⁴²³⁰ See evidence from TT, TF1-168, 26 Jan 09, p. 23501 *et seq.* that [REDACTED]
[REDACTED]

just but a unedited draft, [REDACTED]
 [REDACTED].⁴²³¹ That he would have gone on to revise it in due course and had just not gotten around to doing so. In [REDACTED], when the witness was yet again called upon to account for his life in the RUF [REDACTED], in a signed statement to [REDACTED],⁴²³² TF1-371, would once again try to emasculate his involvement in the RUF. When he was asked in cross examination why he had attempted to conceal his involvement in the RUF [REDACTED], TF1-371's explanation this time was that because he had been manhandled [REDACTED], he just wrote whatever came to his mind and did not even know what he had written down. He had just said anything. Indeed so moving was the witness account of his ordeal [REDACTED]
 [REDACTED]

[REDACTED].⁴²³³ Probably the most illustrative example of TF1-371's duplicity is his cross-examination concerning his fiery interview [REDACTED]
 [REDACTED].⁴²³⁴ In the interview, the witness defended the RUF's conduct and all the atrocities that were committed in the most feisty manner. In court he would however paint the image of a contrite witness and suggested that he had since learnt the errors of his ways [REDACTED]
 [REDACTED]

[REDACTED].⁴²³⁵ That is how unreliable TF1-371's word is.

1550. The beauty of the justice system is however that it cannot be fooled; or at least tries not to be. This court, it is submitted, should not be taken in by TF1-371's calculated lies. Below are just but some of the examples of TF1-371's many lies, which it is submitted should render his entire testimony before this court suspect.

1551. One of TF1-371's blatant lies was that when he [REDACTED]
 [REDACTED]
 [REDACTED];⁴²³⁶ an allegation that was denied by the person concerned.⁴²³⁷

⁴²³¹ Exhibit D-6.

⁴²³² Exhibit D-10.

⁴²³³ TT, TF1-371, 1 Feb. 08. p. 2898 *et seq.*

⁴²³⁴ Video: Exhibit D-5A. Transcript: D-5B.

⁴²³⁵ TT, TF1-371, 30 Jan 08, 2572 *et seq.*

⁴²³⁶ TT, TF1-371, 15 Jan. 08 p. 2214.

⁴²³⁷ TT, TF1-371, 25 Jan 2008, p. 2213.

1552. TF1-371's meaning of Operation No Living Thing in this case, which he alleged was the plan involving none other Taylor,⁴²³⁸ to capture Freetown at all cost is diametrically opposite to the meaning he gave to the same operation [REDACTED]. The witness had previously said that the term was just a morale booster for the fighters, urging them to keep on fighting even if it meant death. During testimony, he said the same Operation meant that Bockarie said that the attacking forces should broker no nonsense from anyone, civilian or military.⁴²³⁹

1553. Other accounts show that the witness's evidence was constantly shifting and unreliable viz:

- (a) the witness's general evidence on the Magburaka shipment was inconsistent with respect to payment and number of shipments;⁴²⁴⁰
- (b) the witness's evidence on the purpose of [REDACTED]
[REDACTED],⁴²⁴¹
- (c) evidence on the [REDACTED],⁴²⁴²
- (d) the witness's evidence on which person he alleges [REDACTED]
[REDACTED].⁴²⁴³

1554. For the reasons above, the Trial Chamber must therefore refuse TF1-371 the opportunity to manipulate the truth on account of any incentives the witness might have gotten, not least the mere fact that he comes before the court as a witness and not as an Accused, by rejecting his evidence *in toto*. TF1-371, it is submitted, is an accomplice witness of the highest order and whose evidence cannot be trusted. At the very least, his evidence must be treated with utmost caution.

TF1-532 Isaac Mongor

1555. TF1-532's entire evidence starts and ends with Taylor. In the witness's account everything started and ended with Taylor. Indeed that the RUF belonged to Taylor and Sankoh was just a front.⁴²⁴⁴ The witness does not leave himself out of this equation. His joining the RUF, he would have the court believe, was at Taylor's

⁴²³⁸ TT, TF1-371, 28 Jan 08, p. 2413-14; TT, TF1-371, 30 Jan. 08, p. 2640 *et seq.*

⁴²³⁹ TT, TF1-371, 30 Jan. 08, p. 2650.

⁴²⁴⁰ TT, TF1-371, 31 Jan 08, p. 2704 *et seq.*; also see p. 2705-6; 2726-7; 2728-31.

⁴²⁴¹ TT, TF1-371, 31 Jan 08, p. 2775-80.

⁴²⁴² TT, TF1-371, 31 Jan 08, p. 2782-8.

⁴²⁴³ TT, TF1-371, 31 Jan 08, p. 2683 *et seq.*

⁴²⁴⁴ TT, Isaac Mongor, TF1-532, 31 Mar 08, p. 6229.

instance. The witness alleges he was sent by Taylor to help train the RUF.⁴²⁴⁵ This despite the fact that he was probably one of the least qualified persons to be assigned to go and train the RUF as he alleges.⁴²⁴⁶ The question would always be, if the RUF was an extension of the NPFL as the witness alleges, why would Taylor have sent some low key junior officer on such an important mission as training commandos to lead a whole revolution? Why not send the well-trained and seasoned members of the NPFL Special Forces. In evaluating this crucial question, the Trial Chamber will also recall the point by Taylor in his evidence that while in the RUF trial, the person that was sent to train the RUF at Naama was supposed to be John Tarnue; now in this case it is Isaac Mongor.⁴²⁴⁷ Other questions also arise from this allegation by the witness. If he had been sent by Taylor, why was there no evidence of him reporting regularly to Taylor of his progress? His evidence that he then met Taylor en route to Sierra Leone during the invasion, it submitted, just will not suffice.⁴²⁴⁸ The evidence in any event, for reasons already covered in the body of this brief has been exposed for what it is, a lie.⁴²⁴⁹ Indeed the evidence by TF1-532 that at the Voinjama meeting where Taylor sent off the RUF insurgents, Taylor commended the witness and asked him to carry on with the struggle in Sierra Leone does not add up. Again save for what he later corrected to be a couple of radio conversations with Taylor, there is no evidence of TF1-532 making regular reports to Taylor as would any loyal field commander. In fact, subsequent events, namely Top Final, serve to expose TF1-532's lie. If he had been sent by Taylor as he alleged, why did he stay with the RUF for the rest of its warring life; why did he take part in the fights against his NPFL brethren in the Top 20, Top 40 and Top Final infighting between the RUF and the NPFL?⁴²⁵⁰ This evidence, it is submitted, clearly illustrates what TF1-532's entire evidence in this case was all about. His evidence was a deliberate campaign to implicate the Accused in this case in line with the Prosecution's case. No wonder his evidence is riddled with a number of serious discrepancies including the following:

- 1) While at all times boasting that he was one of the top dozen members of the RUF,⁴²⁵¹ the witness would not own up that he is therefore one of those who bear

⁴²⁴⁵ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5661-2.

⁴²⁴⁶ Mongor ran away from the AFL after 2 or 3 months: TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5647.

⁴²⁴⁷ TT, Charles Taylor, 20 July 09, p.24784 *et seq*; 24800 *et seq*.

⁴²⁴⁸ TT, Isaac Mongor, TF1-532, 10 Mar 08, p. 5670-1.

⁴²⁴⁹ See JCE Section.

⁴²⁵⁰ TT, Isaac Mongor, TF1-532, 4 Apr 08, p. 6678.

⁴²⁵¹ TT, Isaac Mongor, TF1-532, 1 Apr 08, p. 6273-4.

the greatest responsibility for the crimes charged in the Indictment.⁴²⁵² Rather, the witness imputed liability on others.

- 2) TF1-532's story of his capture by the NPFL was riddled with inconstancies.⁴²⁵³ Indeed his claim that he was captured by the NPFL before Christmas in 1989 is almost laughable.⁴²⁵⁴ The Liberian war had not even started.
- 3) Notably, TF1-532 could not physically describe Cascuis Jacob his alleged boss in the NPFL.⁴²⁵⁵
- 4) TF1-532's evidence about Taylor and Sankoh's alleged close relationship at Gbarnga and, how he was recruited contradicted his testimony to the Prosecution in previous statements, which he did not correct. In a previous statement to the Prosecution TF1-532 told the Prosecution that when he had first met Sankoh in Gbarnga in 1990, he had no special impression Taylor or Sankoh.⁴²⁵⁶ TF1-532 had further stated that he had been recruited by Sankoh,⁴²⁵⁷ as opposed to being seconded by Taylor as he would allege in court. See further cross-examination on the issue.
- 5) TF1-532's allegation that in early days at Naama, he used to go back and forth to the NPFL but later stopped is contrary to what he said in a previous statement.⁴²⁵⁸
- 6) TF1-532 also lamely denied in court that the Prosecution in one of his interviews had read him the statement of another witness, when this was clearly recorded in one his previous statements.⁴²⁵⁹
- 7) In his evidence TF1-532 would have the court believe that after the Top 20/ Top 40 he was in regular contact with Taylor on the field radio to give him updates, yet in a previous he had started by saying that he never spoke to Taylor, which he later corrected to state that he only contacted Taylor a couple of times when he was the RUF's frontline commander.⁴²⁶⁰
- 8) As argued in the JCE Section it is remarkable that TF1-532 should have forgotten to mention the alleged phone call between Taylor and Sankoh on the alleged Operation Stop Election until his proofing and that even then he not specifically

⁴²⁵² TT, Isaac Mongor, TF1-532, 31 Mar 08, p. 6230-1; p. 6238-9.

⁴²⁵³ TT, Isaac Mongor, TF1-532, 1 Apr 08, p. 6279 ln. 8-16 with p. 6278 ln. 4-8.

⁴²⁵⁴ TT, Isaac Mongor, TF1-532, 1 Apr 08, p. 6274-83.

⁴²⁵⁵ TT, Isaac Mongor, TF1-532, 1 Apr 08, p. 6303-4.

⁴²⁵⁶ TT, Isaac Mongor, TF1-532, 1 Apr 08, p. 6336.

⁴²⁵⁷ TT, Isaac Mongor, TF1-532, 1 Apr 08, p. 6337.

⁴²⁵⁸ TT, Isaac Mongor, TF1-532, 1 Apr 08, p. 6355-7.

⁴²⁵⁹ TT, Isaac Mongor, TF1-532, 1 Apr 08, p. 6384 *et seq.*

⁴²⁶⁰ TT, Isaac Mongor, TF1-532, 2 Apr 08, p. 6393-411.

mention amputations until he testified in court.⁴²⁶¹ As the Defence counsel put it, the witness's account on the Operation Stop Election grew by the day.⁴²⁶²

- 9) Asked about burnings and killings, it was also quite remarkable that TF1-532 would only remember what others did but not his own actions; although he did not deny participating in killings and burnings.
- 10) With respect to the Magburaka arms shipment, TF1-532 in a previous statement never mentioned Taylor's involvement in the shipment, and even suggested that Ibrahim Bah might have been the one who arranged it,⁴²⁶³ contrary to his allegation in court that Taylor assisted in the process.⁴²⁶⁴ In his previous statement, TF1-532 had even given further details that the arms were arranged from Burkina Faso before the RUF joined the Junta, which as argued in the JCE section, is also the Defence's position. TF1-532 would however try to disown this evidence only to discredit himself further.⁴²⁶⁵
- 11) Despite alleging radio contact between Taylor and Bockarie, which he allegedly witnessed, TF1-532 could not even give an estimation of how many such conversations he was aware of. The witness would not even commit to say whether it was more than once.⁴²⁶⁶
- 12) TF1-532's allegation that the plan for the Freetown invasion was Taylor's idea contradicts the witness's other evidence that during the meeting at Buedu in late 1998, Bockarie called Taylor from his bedroom and told him about the plan. The question is, why Bockarie should Bockarie have called Taylor (by other witnesses' accounts, in the middle of the night), to simply tell him of a plan that he (Taylor) had already planned.
- 13) Concerning the invasion itself, it is interesting to note that TF1-532 did not implicate Taylor in any way in the Invasion in his initial interviews with the Prosecution. As argued in the JCE section, TF1-532 suggested that he had not mentioned the issue to the Prosecution because he did not trust them and feared that they might later turn against him. The witness however could not explain how withholding evidence on this issue would have assisted his cause. Further, the

⁴²⁶¹ TT, Isaac Mongor, TF1-532, 2 Apr 08, p. 6468 *et seq*; p. 6491 *et seq*.

⁴²⁶² TT, Isaac Mongor, TF1-532, 2 Apr 08, p. 6502.

⁴²⁶³ TT, Isaac Mongor, TF1-532, 4 Apr 08, p. 6652; p. 6656-7.

⁴²⁶⁴ TT, Isaac Mongor, TF1-532, 4 Apr 08, p. 6649.

⁴²⁶⁵ TT, Isaac Mongor, TF1-532, 4 Apr 08, p. 6660 *et seq*.

⁴²⁶⁶ TT, Isaac Mongor, TF1-532, 4 Apr 08, p. 6666-7.

witness at that time had been given an indemnity letter anyway.⁴²⁶⁷ In fact in another statement clarifying the first, the witness had gone on to state categorically that the Freetown invasion was largely an AFRC affair.⁴²⁶⁸ So hopeless was the witness on this issue that the court even observed that he was being evasive.⁴²⁶⁹

- 14) In assessing the witness's credibility, further to the fact that witness is an accomplice at the highest level; by his evidence, one of the top dozen, the Trial Chamber must also bear in mind other incentives that were given to the witness by the Prosecution, including indemnity from prosecution as well as other financial benefit such rent, subsistence and medical allowances.
1556. For all the foregoing reasons, the Trial Chamber must therefore reject the witness's evidence *in toto*. At the very least the evidence must be approached with utmost caution.

⁴²⁶⁷ TT, Isaac Mongor, TF1-532, 7 Apr 08, p. 6735 *et seq.*

⁴²⁶⁸ TT, Isaac Mongor, TF1-532, 7 Apr 08, p. 6765-6.

⁴²⁶⁹ TT, Isaac Mongor, TF1-532, 7 Apr 08, p. 6756-7.

OBSERVATIONS ON CRIME BASE WITNESS EVIDENCE

1557. The Defence has not, in this Final Brief, substantively addressed any crime-based evidence. It has been the Defence position from the outset that it accepts that crimes were indeed committed in Sierra Leone. The issue, then, is simple: who was responsible for the commission of those crimes. Our fundamental position is, it was not Charles Taylor. There are, irrespective, some observations which the Defence needs to make in regard to evidence led by so-called crime-based witnesses.

1558. Some of the crime-based evidence falls outside the scope of the Prosecution case as pleaded in the Indictment and therefore should not be considered by this Court.

1559. Bombali District: The only crimes alleged in the Prosecution Indictment as occurring in Bombali District are in relation to Count 9 (between 31 November 1996 and 17 January 2002) and Count 11 (between 1 February 1998 and 30 April 1998).⁴²⁷⁰ Yet the majority of the crime-based evidence adduced as regards Bombali District was not related to either count and thus should be disregarded. For example, none of the evidence of TF1-271 pertained to Counts 9 and/or 11; he instead recounted crimes of amputation of the limbs of civilians,⁴²⁷¹ killing⁴²⁷² and abduction⁴²⁷³ of civilians, destruction of civilian property by burning⁴²⁷⁴ and sexual violence⁴²⁷⁵ against civilians which allegedly occurred in Bombali. Similarly, the vast majority of TF1-028's evidence does not relate to Counts 9 and 11; TF1-028 testified extensively about destruction of civilian property,⁴²⁷⁶ killing of civilians,⁴²⁷⁷ physical⁴²⁷⁸ and sexual⁴²⁷⁹ violence against civilians, abductions and forced labour⁴²⁸⁰ taking place in Bombali District, none of which was pleaded in the Indictment. These are only some examples of the crimes alleged in Bombali District, but falling outside the scope of the Indictment.⁴²⁸¹ Similarly, evidence relating to the Counts 9 and/or 11 outside the period pleaded in the Indictment should not be evaluated.⁴²⁸²

⁴²⁷⁰ Indictment, paras. 22 and 30.

⁴²⁷¹ TT, Gibril Sesay, TF1-217, 28 Oct 08, p. 19403-4, 19412-4.

⁴²⁷² TT, Gibril Sesay, TF1-217, 28 Oct 08, p. 19405, 19408-9, 19411.

⁴²⁷³ TT, Gibril Sesay, TF1-217, 28 Oct 08, p. 19405.

⁴²⁷⁴ TT, Gibril Sesay, TF1-217, 28 Oct 08, p. 19408.

⁴²⁷⁵ TT, Gibril Sesay, TF1-217, 28 Oct 08, p. 19410-1.

⁴²⁷⁶ TT, TF1-028, 07 May 08, p. 9159.

⁴²⁷⁷ TT, TF1-028, 07 May 08, p. 9154-6, 9158-9, 9161, 9164, 9186-8, 9191-2, 9195-203.

⁴²⁷⁸ TT, TF1-028, 06 May 08, p. 9130; 07 May 08, p. 9136-7, 9148, 9150, 9154, 9185-8, 9191-3, 9204-5, 9232, 9252; 08 May 08, p. 9304-5.

⁴²⁷⁹ TT, TF1-028, 07 May 08, p. 9137-9, 9145-6, 9195-203, 9216, 9219-20, 9244.

⁴²⁸⁰ TT, TF1-028, 07 May 08, p. 9166, 9190-1, 9193, 9200-1, 9216, 9219-20, 9244.

⁴²⁸¹ See also the evidence of TF1-114, alleging acts of terrorism, TT, Dennis Koker, TF1-114, 15 Jan 08, p. 1233-4; sexual violence, p. 1235, 1245; abduction and forced labour, p. 1231-2, 1234-5, 1245. The

1560. Kailahun District: The Prosecution did not plead Counts 1 (burning) and 11 (looting) in the Indictment in relation to Kailahun District; therefore any evidence pertaining to those crimes in this location should not be considered in relation to the guilt of the accused.⁴²⁸³ Counts 2 and 3 (physical violence) were only pleaded in relation to Kailahun District from 1 February 1998 to 30 June 1998; thus any incidents on the record falling outside this period should not be considered.⁴²⁸⁴
1561. Kenema District: The Prosecution did not plead Counts 1, 4, 5, 6, 7, or 8 in the Indictment in relation to Kenema District; therefore the evidence pertaining to the majority of the alleged crimes in Kenema District should not be considered in relation to the guilt of the accused.⁴²⁸⁵
1562. Koinadugu District: The Prosecution only pleaded Count 9 in relation to Koinadugu District; therefore the evidence of other atrocities committed in Koinadugu District should not be considered in relation to the guilt of the accused.⁴²⁸⁶

evidence of TF1-174, who testified about acts of terrorism, TT, TF1-174, 27 Jan 09, p. 23681-2, 23686-7; killing of civilians, 27 Jan 09, p. 23678-9, 23684, 28 Jan 09, p. 23715; sexual violence, 27 Jan 09, p. 23673-4, 23677, 23689-90, 28 Jan 09, p. 23807, 23778-80, 23783-4; physical violence, 27 Jan 09, p. 23682-4, 28 Jan 09, p. 23787-8; and abduction and forced labour, 28 Jan 09, p. 23715-6. The evidence of TF1-158, alleging acts of terrorism, TT, TF1-158, 21 Oct 08, p. 18821; unlawful killings, p. 18817-20, 18893, physical violence against civilians, p. 18816-9, 18891; abduction and forced labour, p. 18820-1, 18875. The evidence of TF1-263, testifying about acts of terrorism, TT, Sumana Komba, TF1-263, 06 Oct 08, p. 17970-1; physical and sexual violence against civilians, p. 17974. The evidence of TF1-026, who alleged sexual violence against civilians, TT, TF1-026, 14 Feb 08, p. 3875-6; and abduction and force labour, p. 3874.

⁴²⁸² The crime of pillage was alleged by TF1-174 taking place in Bombali District in May 2000, TT, TF1-174, 28 Jan 09, p. 23746; and in September-November 2001, 28 Jan 09, p. 23761-2.

⁴²⁸³ The following witnesses gave evidence of Counts 1 and 11 in Kailahun District: TT, Dennis Koker, TF1-114, 15 Jan 08, p. 1266; Emmanuel Bull, TF1-459, 25 Sep 08, p. 17265-7, 17282-3; TF1-077, 14 Oct 08, p. 18237; Exhibit P-196, 20 Jul 04, p. 77; Exhibit P-197, 21 Jul 04, p. 21.

⁴²⁸³ Indictment, para. 12.

⁴²⁸⁴ The following evidence in relation to Counts 2 and 3 in Kailahun District falls outside the scope of the Indictment: TT, TF1-026, 14 Feb 08, p. 3870-1; Aruna Gbonda, TF1-330, 20 Feb 08, p. 4297-300; TF1-077, 14 Oct 08, p. 18236, Exhibit P-196, 20 Jul 04, p. 77, Exhibit P-197, 21 Jul 04, p. 15.

⁴²⁸⁵ The following evidence of crimes in relation to Kenema District should be disregarded: TF1-062, who testified about acts of terrorism, TT, TF1-062, 27 Jan 09, p. 23618-26, 23634-7; and sexual violence against civilians, p. 23634-7. The evidence of TF1-060, who alleged acts of terrorism, TT, Abdul Otonjo Conteh, TF1-060, 29 Sep 08, p. 17511-6, 17525; sexual and physical violence against civilians, p. 17504-7, 17532-5. The evidence of TF1-122, who testified about acts of terrorism, TT, Sheku Alex Bao, TF1-122, Exhibit P-173 Part 1, 24 Jun 05, p. 32-5, Exhibit P-173 Part 2, 24 Jun 05, p. 63-4, 71-2, Exhibit P-174 Part 1, 07 Jul 05, p. 81-4, 93-6, Exhibit P-174 Part 3, 08 Jul 05, p. 27-8; physical violence against civilians, Exhibit P-173 Part 1, 24 Jun 05, p. 11-6, Exhibit P-174 Part 1, 07 Jul 05, p. 60-1, 63-7, 84-93. The evidence of TF1-125, who alleged acts of terrorism, TT, Adesanya Sandy Hyde, TF1-125, Exhibit P-178A, 12 May 05, p. 109; and physical violence, p. 108-9, 138-40.

⁴²⁸⁶ See, *supra*, paras. 42-44. The evidence of TF1-074, who alleged physical violence, TT, Sorie Kondeh, TF1-074, Exhibit P-190, 12 Jul 04, p. 41; abduction and forced labor, Exhibit P-190, 12 Jul 04, p. 22, 64, Exhibit P-191, 05 Jul 05, p. 28-9, and looting, Exhibit P-190, 12 Jul 04, p. 22. The evidence of TF1-215, who testified about acts of terrorism, TT, Sieh Mansaray, TF1-215, 14 Oct 08, p. 18273-80, 18289-90, 18293-4, 18302-3, 18323-4; unlawful killings, p. 18273-5, 18282-5, 18287, 18290-3, 18304-6, 18309, 18322-4; physical violence against civilians, p. 18273-82, 18282-5, 18287-8, 18290-3, 18294, 18296, 18301, 18305-6, 18316-18, 18320; abduction and forced labour, p. 18268-72, 18282-5, 12287, 18294-5;

- 1563.Kono District: The Prosecution only pleaded Counts 1, 4, 5, 6, 7 and 8 between 1 February 1998 and 31 December 1998; therefore a number of alleged crimes falling outside this time period should not be taken into consideration in relation to the guilt of the accused.⁴²⁸⁷
- 1564.Tonkolili District: The Prosecution only pleaded Count 9 in relation to Tonkolili District; therefore the evidence of other crimes allegedly committed in Tonkolili should be disregarded in their entirety.⁴²⁸⁸
- 1565.Port Loko District: The Prosecution only pleaded Counts 9 and 11 in relation to Port Loko; additionally, the Prosecution limited the time-period with respect to looting as between 1 February 1998 and 30 April 1998. Consequently, evidence of other alleged crimes in Port Loko should be disregarded in relation to the guilt of the accused.⁴²⁸⁹
- 1566.Pujehun District: The Prosecution only pleaded Count 9 in relation to Pujehun District. Consequently, Mustapha Mansaray's testimony concerning other alleged crimes occurring in Pujehun should be disregarded in relation to the guilt of the accused.⁴²⁹⁰
1567. Some of the crimes committed against civilians were perpetrated by groups other than the RUF and/or AFRC and could not be linked back to Taylor in any event. For

and the crime of pillage, p. 18265, 18267, 18271. The evidence of TF1-143, who testified about unlawful killings, TT, TF1-143, 05 May 08, p. 8980; and physical violence against civilians, p. 8973-80. The evidence of TF1-263 who alleged killing of civilians, TT, Sumana Komba, TF1-263, 06 Oct 08, p. 17915-6, 17918-9, 17966-7; physical violence against civilians, p. 17915-6; and abduction and forced labour, p. 17924-6, 17959, 17962-3, 17966. The evidence of TF1-085, who testified about unlawful killings and abduction & forced labour, TT, Akiatu Tholley, TF1-085, 27 Oct 08, p. 19217-8.

⁴²⁸⁷ Indictment, 29 May 07, paras. 7, 15 and 19. The following witnesses gave ex-temporal evidence of Counts 1, 4, 5, 6, 7, 8 in relation to Kono District which should be disregarded: the evidence of TF1-189, who testified about acts of terrorism and physical violence against civilians taking place in 1992 in Kono District, TT, TF1-189, 17 Sep 08, p. 16491. The evidence of TF1-217, who alleged sexual violence against civilians taking place in 1997 in Kono District, TT, Gibril Sesay, TF1-217, 28 Oct 08, p. 19373, 19376, 19383. The evidence of TF1-173, who testified about physical violence against civilians in 1997 in Kono District, TT, Tamba Mondeh, TF1-173, 29 Sep 08, p. 17442-3; and unlawful killings in 1997, p. 17438-9. The evidence of TF1-459, who alleged unlawful killings taking place in 1997 in Kono District, TT, Emmanuel Bull, TF1-459, 26 Sep 08, p. 17400-1. The evidence of TF1-304, who testified about acts of terrorism taking place in 1999, after the Indictment period, TT, Charles Sahr, TF1-304, Exhibit P-199A, 12 Jan 05, p. 35-7, 41.

⁴²⁸⁸ The evidence of TF1-314, who testified about unlawful killings, TT, Edna Mummy Bangura, TF1-314, 20 Oct 08, p. 18670; sexual violence against civilians, p. 18665-7, 18700; abduction and forced labour, p. 18667-70. The evidence of TF1-174, who alleged acts of terrorism and physical violence against civilians, TT, TF1-174, 27 Jan 09, p. 23664-5.

⁴²⁸⁹ The evidence of TF1-028, who testified about acts of terrorism, TT, TF1-028, 07 May 08, p. 9169; unlawful killings, p. 9166-7, 9171-2, 9179-81; sexual violence against civilians, p. 9182-4, 9231; physical violence against civilians, p. 9168-9. The evidence of TF1-174, who alleged acts of terrorism and unlawful killings, TT, TF1-174, 27 Jan 09, p. 23664. The evidence of TF1-085, who alleged physical violence against civilians, TT, Akiatu Tholley, TF1-085, 27 Oct 08, p. 19219.

⁴²⁹⁰ TF1-210 alleged: acts of terrorism, TT, Mustapha Mansaray, TF1-210, 30 Oct 08, p. 19586; unlawful killings, p. 19575-6, 19580-1, 19586-7; physical violence against civilians, p. 19575-6; and the crime of pillage, p. 19577-8.

instance, TF1-227 testified that ECOMOG forces⁴²⁹¹ committed physical⁴²⁹² and sexual⁴²⁹³ violence against civilians in Freetown and the Western Area in early 1998. TF1-029 testified that unlawful killings were committed in this area by the Kamajors and ECOMOG forces.⁴²⁹⁴ The Kamajors and ECOMOG were also responsible for atrocities committed in Kono District. For instance, TF1-064 testified that in Kono District, ECOMOG committed all of the atrocities charged in the Indictment, save for using children actively the conflict.⁴²⁹⁵ Similarly, the Kamajors committed atrocities in Kono: TF1-549 testified about unlawful killings and the extortion of money and civilian property at checkpoints in Koidu Town;⁴²⁹⁶ TF1-192 alleged various crimes committed by a group of rebels wearing Kamajor uniforms.⁴²⁹⁷

⁴²⁹¹ TT, Paul Nabieu Conteh, TF1-227, 27 Oct 08, p. 19295.

⁴²⁹² TT, Paul Nabieu Conteh, TF1-227, 27 Oct 08, p. 19295.

⁴²⁹³ TT, Paul Nabieu Conteh, TF1-227, 27 Oct 08, p. 19299.

⁴²⁹⁴ TT, TF1-029, 22 Oct 08, p. 18979-80.

⁴²⁹⁵ Regarding Count 1, TT, TF1-064, 30 Sep 08, p. 17644-5, 17655-7; Count 2 & 3, p. 17641-2, 17648-9, 17653-5, 17658; Count 4, 5, & 6, p. 17644-5; Count 7 & 8, p. 17648-9, 17653, 17655, 17657-8; Count 10, p. 17641-2, 17643-4, 17647, 17656; Count 11, p. 17647.

⁴²⁹⁶ TT, Emmanuel Bull, TF1-459, 26 Sep 08, p. 17400-1.

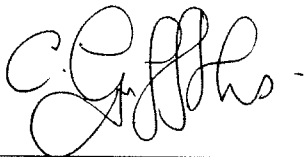
⁴²⁹⁷ Regarding unlawful killings, TT, TF1-192, 15 Feb 08, p. 3963-9; sexual and physical violence against civilians, p. 3969-78, 3981-92.

CONCLUSION

1568. At the core of the Prosecution case is the alleged joint criminal enterprise between Taylor and Sankoh, in which others subsequently joined. The other modes of liability pleaded arise from that central proposition, in that it is suggested that they flow from the intention to achieve that plan. We submit that there is no proof of such a plan; nor that there was any continuous plan throughout the Indictment period. The Prosecution have failed to prove the existence of any such design, either at conception or subsequently. Those other modes of liability also fall on their own merit, as argued above.

1569. This trial has nothing to do with personality. We are unconcerned whether the court approves of Charles Taylor as an individual. What concerns us is the need to address the evidence coldly and clinically, devoid of emotion, for emotion is no useful guide to a fact-finder in his or her task. We submit that such an objective, independent, impartial approach to the evidence will lead to but one conclusion: verdicts of not guilty on all counts.

Respectfully Submitted,



Courtenay Griffiths, Q.C.

Lead Counsel for Charles G. Taylor

Dated this 23rd Day of May 2011,
The Hague, The Netherlands

TABLE OF AUTHORITIES

1. SCSL - Documents

Statute	<i>Statute of the Special Court for Sierra Leone, annexed to the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, 16 January 2002</i>
Rules	<i>Rules of Procedure and Evidence of the Special Court for Sierra Leone, as amended on 28 May 2010</i>

2. SCSL – Taylor Case

Original Indictment	<i>Prosecutor v. Taylor</i> , SCSL-03-01-I-001, Indictment, signed 3 March 2003, filed 7 March 2003
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-I-006, Order for the Disclosure of the Indictment, the Warrant of Arrest and Order for Transfer and Detention and the Decision Approving the Indictment and Order for Non-Disclosure, 12 June 2003
Amended Indictment	<i>Prosecutor v. Taylor</i> , SCSL-03-01-I-75, Amended Indictment, signed 16 March 2006, filed 17 March 2006
Prosecution Pre-Trial Brief	<i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-218, Rule 73bis Pre-Trial Conference Materials Pre-Trial Brief, 4 April 2007
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-219, Prosecution Corrigendum & Motion for Leave to Substitute Pages of the Prosecution Rule 73bis Pre-Trial Conference Materials, 17 April 2007
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-224, Decision on Prosecution Motion for Leave to Substitute Pages of the Prosecution Rule 73bis Pre-Trial Conference Materials, 23 April 2007.
Defence Pre-trial Brief	<i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-229, “Rule 73bis Taylor Defence Pre-trial Brief,” 26 April 2007
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-243, Corrigendum to Rule 73bis Taylor Defence Pre-Trial Brief, 18 May 2007
Indictment	<i>Prosecutor v. Taylor</i> , SCSL-03-01-PT-263, “Prosecution’s Second Amended Indictment,” 29 May 2007.
Amended Case Summary	Case Summary Accompanying the Second Amended Indictment” as Annex, 3 August 2007
Notification	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-327, Prosecution Notification of Filing of Amended Case Summary, 3 August 2007
JCE Motion	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-378, Public Urgent Defence Motion regarding a Fatal Defect in the Prosecution’s Second Amended Indictment relating to the Pleading of JCE, 14 December 2007

	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-388, Public Defence Reply to Prosecution Response to Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 14 January 2008
Consequential JCE Motion	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-446, Consequential Submission in Support of Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 31 March 2008
JCE Trial Decision	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-752, Decision on Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 27 February 2009.
Dissenting Opinion of J. Lussick	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-751, Decision on Public Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE – Dissenting Opinion of Justice Richard Lussick, 27 February 2009
JCE Leave Application	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-754, Defence Application for Leave to Appeals the Decision on Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, 2 March 2009
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-761, Corrigendum: Decision on Public Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE – Dissenting Opinion of Justice Richard Lussick, 12 March 2009.
Decision Granting Leave	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-764, Decision on Defence Application for Leave to Appeals The Decision on Urgent Defence Motion regarding a Fatal Defect in the Prosecution's Second Amended Indictment relating to the Pleading of JCE, dated 18 March 2009, filed 19 March 2009
Defence JCE Appeals	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-767, Defence Notice of Appeals and Submissions regarding the Majority Decision concerning the Pleading of JCE in the Second Amended Indictment, 26 March 2009
JCE Appeals Decision	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-775, Decision on Defence Notice of Appeals and Submissions regarding the Majority Decision concerning the Pleading of JCE in the Second Amended Indictment, 1 May 2009
Rule 98 Decision	TT, p.24203: ("In order to secure a conviction, the Prosecution must prove the underlying offences, the general requirements of crimes against humanity or war crimes - sometimes referred to as the chapeau requirements - and the accused's individual responsibility") 4 May 2009
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-993, Decision on Public with Confidential Annexes A and B Prosecution Motion to Call Three Additional Witnesses, 29 June 2010.

	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1039, Public, with Public Annex F and Confidential Annexes A, B, C, D, E, G, H, I, Defence Motion for Disclosure of Statement and Prosecution Payments Made to DCT-097, 4 August 2010
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1039, Public, with Public Annex F and Confidential Annexes A, B, C, D, E, G, H, I, Defence Motion for Disclosure of Statement and Prosecution Payments Made to DCT-097, 4 August 2010
DCT-097 Payments Decision	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1084, Decision on Defence Motion for Disclosure of Statement and Prosecution Payments Made to DCT-097, 23 September 2010
Rule 93 Motion	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1086, "Defence Motion to Exclude Evidence Falling Outside the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone", 24 September 2010.
	<i>Prosecutor v. Taylor</i> SCSL-03-01-T-1089, Public, with Confidential Annexes A-J and Public Annexes K-O Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecution and its Investigators, 24 September 2010
Contempt Motion	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1090, Public, with Confidential Annexes A-J and Public Annexes K-O Corrigendum to Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecution and its Investigators, 27 September 2010
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1100, Defence Reply to Prosecution Response to Defence Motion to Exclude Evidence Falling Outside the Scope of the Indictment and/ or the Jurisdiction of the Special Court for Sierra Leone, 5 October 2010
Rule 93 Decision	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1101, "Decision on Defence Motion to Exclude Evidence Falling Outside the Scope of the Indictment and/or the Jurisdiction of the Special Court for Sierra Leone", 6 October 2010
Scheduling Order	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1105, Order setting a date for the closure of the Defence case and dates for filing of final trial briefs and the presentation of closing arguments, 22 October 2010
Contempt Decision	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1118, Decision on Public with Confidential Annexes A-J and Public Annexes K-O Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, dated 11 November 2010, filed 12 November 2010
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1132, Decision on Public with Annex A Defence Motion for Reconsideration of Decision on the Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 3 December 2010
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1134, Notice of Appeals and Submissions regarding the Decision on the Defence Motion Requesting an Investigation into Contempt of Court by the Office of the Prosecutor and its Investigators, 10 December 2010

Motion to Recall	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1142, Public with Annexes A-H and Confidential Annexes I-J Defence Motion to Recall Four Prosecution Witnesses and to Hear Evidence from the Chief of WVS regarding Relocation of Prosecution Witnesses, 17 December 2010
Cables Motion	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1143, Urgent and Public with Annexes A-N Defence Motion for Disclosure and/or Investigation of United States Government Sources within the Trial Chamber, the Prosecution and the Registry based on Leaked USG Cables, 10 January 2011
Motion for Stay	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1144, Urgent and public Defence motion for stay of proceedings pending resolution of outstanding issues, 10 January 2011
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1154, Decision on Defence request for a status conference pursuant to Rule 65bis and Defence motion for stay of proceedings pending resolution of outstanding issues, 12 January 2011
	<i>Prosecutor v. Taylor</i> , SCSL-03-01-T-1155, Defence motion seeking leave to appeal the decision on Defence request for a status conference pursuant to Rule 65bis and Defence motion for stay of proceedings pending resolution of outstanding issues, 14 January 2011

3. SCSL – Other Cases

<i>AFRC</i> Trial Judgement	<i>Prosecutor v. Brima et al.</i> , Case No. SCSL-04-16-T, Trial Judgment, 20 June 2007 [<i>AFRC</i>]
<i>AFRC</i> Appeal Judgement	<i>Prosecutor v. Brima et al.</i> , Case No. SCSL-04-16-A, Appeals Judgment, 22 February 2008, [<i>AFRC</i> Appeals]
	<i>Prosecutor v. Brima, et al.</i> , SCSL-04-16-A-676, Corrigendum to Judgment Dated 22 February 2008, 17 October 2008
<i>CDF</i> Trial Judgement	<i>Prosecutor v. Fofana and Kondewa</i> , Case No. SCSL-04-14-T, Trial Judgment, 2 August 2007 [<i>CDF</i>]
<i>CDF</i> Appeal Judgement	See <i>Prosecutor v. Fofana and Kondewa</i> , Case No. SCSL-04-14-A, Appeals Judgment, (28 May 2008) [<i>CDF</i> Appeals Judgment].
<i>RUF</i> Trial Judgement	<i>Prosecutor v. Sesay et al.</i> , Case No. SCSL-04-15-T, Trial Judgment, 2 March 2009 [<i>RUF</i>]
<i>RUF</i> Trial Transcript	<i>RUF</i> Trial Transcript of Oral Decision on rule 98 submission, at 30, ln. 26 <i>et seq.</i> , 25 October 2006
	<i>Prosecutor v. Sesay et al.</i> , SCSL-04-15-T, Decision on Sesay – Motion Seeking Disclosure of the Relationship Between Governmental Agencies of the United States of America and the Office of the Prosecutor, 2 May 2005
	<i>Prosecutor v. Sesay et al.</i> , SCSL-04-15-T, “Ruling on Gbao Application to Exclude Evidence of Prosecution Witness Mr. Koker,” 23 May 2005

	<i>Prosecutor v. Sesay et al.</i> , SCSL-04-15-T, Decision on Kallon Motion to Exclude Evidence Outside the Scope of the Indictment, 26 June 2008
	<i>Prosecutor v. Sesay, Kallon, Gbao</i> , SCSL-04-15-PT, Transcript 25 October 2006, p. 8 (Oral Decision on Motion for Judgement of Acquittal).
	<i>Prosecutor v. Sesay et al.</i> , SCSL-04-15-T, Decision on Kallon Motion to Exclude Evidence Outside the Scope of the Indictment, 26 June 2008, para. 16

4. ICTR Cases

<i>Akayesu</i> Trial Judgement	<i>Prosecutor v. Akayesu</i> , Case No. ICTR-96-4-T, Trial Judgement, 2 September 1998 http://www.unictr.org/Portals/0/Case/English/Akayesu/judgement/akay001.pdf
<i>Akayesu</i> Appeal Judgement	<i>Prosecutor v. Akayesu</i> , Case No. ICTR-96-4, Trial Judgement, 1 June 2001 http://www.unictr.org/Portals/0/Case/English/Akayesu/decisions/index.pdf
<i>Bagilishema</i> Trial Judgement	<i>Prosecutor v. Bagilishema</i> , Case No. ICTR-95-1A-T, Trial Judgement, 7 June 2001 http://www.unictr.org/Portals/0/Case/English/Bagilishema/judgement/judgement/index.pdf
<i>Cyangugu</i> Trial Judgement	<i>Prosecutor v. André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe</i> , Case No. ICTR-99-46-T, Judgement, 25 February 2004 http://www.unictr.org/Portals/0/Case/English/Imanishimwe/judgement/judgment-en.pdf
<i>Cyangugu</i> Appeal Judgement	<i>Prosecutor v. André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe</i> , Case No. ICTR-99-46-A, Judgement, 7 July 2006 http://www.unictr.org/Portals/0/Case/English/Ntagerura/judgement/060707.pdf
<i>Gacumbitsi</i> Appeal Judgement	<i>Prosecutor v. Gacumbitsi</i> , Case No. ICTR-2001-64-A, Appeal Judgement, 7 July 2006 http://www.unictr.org/Portals/0/Case/English/Gacumbitsi/judgement/judgement_appeals_070706.pdf
<i>Kajelijeli</i> Trial Judgement	<i>Prosecutor v. Kajelijeli</i> , Case No. ICTR-98-44A-T, Trial Judgement, 1 December 2003 http://www.unictr.org/Portals/0/Case/English/Kajelijeli/judgement/031201-TC2-J-ICTR-98-44A-T-

	JUDGEMENT%20AND%20SENTENCE-EN_.pdf
<i>Kajelijeli</i> Appeal Judgement	<p><i>Kajelijeli v. The Prosecutor</i>, Case No. ICTR-98-44A-A, Judgement, 23 May 2005</p> <p>http://www.unictr.org/Portals/0/Case/English/Kajelijeli/judgement/appealsjudgement/index.pdf</p>
<i>Kamuhanda</i> Trial Judgement	<p><i>Prosecutor v. Kamuhanda</i>, Case No. ICTR-95-54A-T, Trial Judgement, 22 January 2004</p> <p>http://www.unictr.org/Portals/0/Case/English/Kamuhanda/decisions/220104.pdf</p>
<i>Rutaganda</i> Trial Judgement	<p><i>Prosecutor v. Rutaganda</i> Case, ICTR-96-3-A, Trial Judgment 6 December 1999</p> <p>http://www.unictr.org/Portals/0/Case/English/Rutaganda/judgement/991206.pdf</p>
<i>Kayishema and Ruzindana</i> Appeal Judgement	<p><i>Prosecutor v. Kayishema and Ruzindana</i>, Case No. ICTR-95-1-A, Appeal Judgement, 1 June 2001</p> <p>http://www.unictr.org/Portals/0/Case/English/Kayishema_F/decisions/index.pdf</p>
<i>Nahimana et al.</i> Trial Judgement	<p><i>Prosecutor v. Nahimana et al.</i>, ICTR-99-52-T, Trial Judgement, 3 December 2003</p> <p>http://www.unictr.org/Portals/0/Case/English/Nahimana/judgement/Judg&sent.pdf</p>
<i>Nchamihigo</i> Trial Judgement	<p><i>Prosecutor v. Simeon Nchamihigo</i>, Case No. ICTR-2001-63-A, Appeal Judgement, 12 November 2008</p> <p>http://www.unictr.org/Portals/0/Case/English/Nchamihigo/081112_judgement&sentence.pdf</p>
<i>Niyitegeka</i> Appeal Judgement	<p><i>Niyitegeka v. The Prosecutor</i>, Case No. ICTR-96-14-A, Judgement, 9 July 2004</p> <p>http://www1.umn.edu/humanrts/instree/ICTR/NIYITEGEKA_ICTR-96-14/NIYITEGEKA_ICTR-96-14-A.html</p>
<i>Ndindabahizi</i> Trial Judgement	<p><i>Prosecutor v. Emmanuel Ndindabahizi</i>, Case No. ICTR-2001-71-T, Judgement, 15 July 2004</p> <p>http://www.unictr.org/Portals/0/Case/English/Ndindabahizi/judgement/150704_Judgment.pdf</p>
<i>Ntakirutimana</i> Trial Judgement	<p><i>Prosecutor v. Ntakirutimana and Ntakirutimana</i>, Case No. ICTR-96-10 and ICTR-96-17-T, Judgement, 21 February 2003</p> <p>http://www.unictr.org/Portals/0/Case/English/Elizaphan/index.pdf</p>

<i>Ntakirutimana</i> Appeal Judgement	<p><i>Prosecutor v. Ntakirutimana and Ntakirutimana</i> Case No. ICTR-96-10-A and ICTR-96-17-A, Appeal Judgement, 13 December 2004</p> <p>http://www.unictr.org/Portals/0/Case/English/NtakirutimanaE/decisions/index.pdf</p>
<i>Mpambara</i> Trial Judgement	<p><i>Prosecutor v. Jean Mpambara</i>, Case No. ICTR-01-65-T, Judgement, 11 September 2006</p> <p>http://www.unictr.org/Portals/0/Case/English/Mpambara/judgement/120906.pdf</p>
Muvunyi Appeals Judgement	<p><i>Prosecutor v. Muvunyi</i>, ICTR-2000-55A-A, Appeal Judgement, 29 August 2008</p> <p>http://www.unictr.org/Portals/0/Case/English/Muvunyi/decisions/080829-apl-judgement.pdf</p>
<i>Semanza</i> Trial Judgement	<p><i>Prosecutor v. Laurent Semanza</i>, Case No. ICTR-97-20-T, Trial Judgement, 15 May 2003</p> <p>http://www.unictr.org/Portals/0/Case/English/Semanza/decisions/index.pdf</p>
	<p><i>Prosecutor v. Ngeze and Nahimana</i>, ICTR-96-11-AR72, “Decision on the Interlocutory Appeals – Separate Opinion of Judge Shahabuddeen,” 5 September 2000</p> <p>http://www.ictrcaselaw.org/docs/doc59310.pdf</p>
	<p><i>Prosecutor v. Bagosora et al.</i>, ICTR-98-41-T, “Decision on Admissibility of Proposed Testimony of Witness DBY,” 18 September 2003</p> <p>http://www.unictr.org/Portals/0/Case/English/Bagosora/Trial%20and%20Appeal/180903.pdf</p>
	<p><i>Prosecutor v. Bagosora et al.</i>, ICTR-98-41-AR93.2, “Decision on Prosecutor’s Interlocutory Appeals Regarding Exclusion of Evidence”, 19 December 2003</p> <p>http://www.unictr.org/Portals/0/Case/English/Bagosora/Trial%20and%20Appeal/191203.pdf</p>
	<p><i>Prosecutor v. Bizimungu et al.</i>, ICTR-99-50-AR73.2, Decision on Prosecution’s Interlocutory Appeals against Decision of the Trial Chamber on Exclusion of Evidence, 25 June 2004</p> <p>http://www.unictr.org/Portals/0/Case/English/Bizimungu/decision/040625.pdf</p>

5. ICTY Cases

<i>Aleksovski</i> Trial Judgement	<i>Prosecutor v. Aleksovski</i> , IT-95-14/1-T, Trial Judgement, 25 June 1999 //www.icty.org/x/cases/aleksovski/tjug/en/ale-tj990625e.pdf
<i>Aleksovski</i> Appeal Judgement	<i>Prosecutor v. Aleksovski</i> , IT-95-14/1-A, Appeal Judgement, 24 March 2000 http://www.icty.org/x/cases/aleksovski/acjug/en/ale-asj000324e.pdf
<i>Blaškić</i> Trial Judgement	<i>Prosecutor v. Blaškić</i> , Case No. IT-95-14-T, Trial Judgement, 3 March 2000 http://www.icty.org/x/cases/Blaškić/tjug/en/bla-tj000303e.pdf
<i>Blaškić</i> Appeal Judgement	<i>Prosecutor v. Blaškić</i> , Case No. IT-95-14-A, Appeal Judgement, 29 July 2004 http://www.icty.org/x/cases/Blaškić/acjug/en/bla-aj040729e.pdf
<i>Brđanin</i> Trial Judgement	<i>Prosecutor v. Brđanin</i> , Case No. IT-99-36-T, Trial Judgement, 1 September 2004 http://www.icty.org/x/cases/brdanin/tjug/en/brd-tj040901e.pdf
<i>Brđanin</i> Appeal Judgement	<i>Prosecutor v. Brđanin</i> , IT-99-36-A, Appeal Judgement, 3 April 2007 http://www.icty.org/x/cases/brdanin/acjug/en/brd-aj070403-e.pdf
<i>Čelebići</i> Trial Judgement	<i>Prosecutor v. Delalić et al.</i> , Case No IT-96-21-T, Trial Judgement, 16 November 1998 http://www.icty.org/x/cases/mucic/tjug/en/981116_judg_en.pdf
<i>Čelebići</i> Appeals Judgement	<i>Prosecutor v. Delalić c et al.</i> , Case No IT-96-21-A, Appeal Judgement, 20 February 2001 http://www.icty.org/x/cases/mucic/acjug/en/cel-aj010220.pdf
<i>Furundžija</i> Trial Judgement	<i>Prosecutor v. Furundžija</i> , Case No. IT-95-17/1-T, Trial Judgement, 10 December 1998 http://www.icty.org/x/cases/furundzija/tjug/en/fur-tj981210e.pdf
<i>Furundžija</i> Appeal Judgement	<i>Prosecutor v. Furundžija</i> Case No. IT-95-17/1-A, Appeal Judgement, 21 July 2000 http://www.icty.org/x/cases/furundzija/acjug/en/fur-aj000721e.pdf
<i>Galić</i> Trial Judgement	<i>Prosecutor v. Galić</i> , CaseNo IT-98-29-T, Trial Judgement, 5 December 2003 http://www.icty.org/x/cases/Galić/tjug/en/gal-tj031205e.pdf

<i>Galić</i> Appeal Judgement	<i>Prosecutor v. Galić</i> , Case No IT-98-29-T, Appeal Judgement, 30 November 2006 http://www.icty.org/x/cases/Galić/acjug/en/gal-acjud061130.pdf
<i>Halilović</i> Trial Judgement	<i>Prosecutor v. Halilović</i> , Case No. IT-01-48, Trial Judgement, 16 November 2005 http://www.icty.org/x/cases/halilovic/tjug/en/tcj051116e.pdf
<i>Kordić and Čerkez</i> Appeal Judgement	<i>Prosecutor v. Kordić and Čerkez</i> , Case No. IT-95-14/2-A Appeal Judgement, 17 December 2004 http://www.icty.org/x/cases/kordic_Čerkez/acjug/en/cer-aj041217e.pdf
<i>Krajišnik</i> Trial Judgement	<i>Prosecutor v. Krajišnik</i> , Case No IT-00-39-T, Trial Judgement, 27 September 2006 http://www.icty.org/x/cases/krajsnik/tjug/en/kra-jud060927e.pdf
<i>Kristić</i> Trial Judgement	<i>Prosecutor v. Kristić</i> , Case No. IT-98-33-T, Trial Judgement, 2 August 2001 http://www.icty.org/x/cases/krstic/tjug/en/krs-tj010802e.pdf
<i>Krnojelac</i> Trial Judgement	<i>Prosecutor v. Krnojelac</i> Case No. IT-97-25-T, Trial Judgement, 15 March 2002 http://www.icty.org/x/cases/krnojelac/tjug/en/krn-tj020315e.pdf
<i>Krnojelac</i> Appeal Judgement	<i>Prosecutor v. Krnojelac</i> IT-97-25-A, Appeal Judgement, 17 September 2003 http://www.icty.org/x/cases/krnojelac/acjug/en/krn-aj030917e.pdf
<i>Kupreškić</i> Appeal Judgement	<i>Prosecutor v. Kupreškić, et al.</i> , Case No. IT-95-16-A, Appeal Judgement, 23 October 2001 http://www.icty.org/x/cases/kupreskic/acjug/en/kup-aj011023e.pdf
<i>Kvočka et al.</i> Trial Judgement	<i>Prosecutor v. Kvočka et al.</i> , Case No. IT-98-30/1-T, Trial Judgement, 2 Nov. 2001 (summarizing prior findings of ICTY Trial Chambers). http://www.icty.org/x/cases/Kvočka/tjug/en/kvo-tj011002e.pdf
<i>Kvočka</i> Appeal Judgement	<i>Prosecutor v. Kvočka, et al.</i> , Case No. IT-98-30/1-A, Judgement, 28 February 2005 http://www.icty.org/x/cases/Kvočka/acjug/en/kvo-aj050228e.pdf
<i>Kunarac</i> Trial Judgement	<i>Prosecutor v. Kunarac et al.</i> , Case No. IT-96-23-T & IT-96-23/1-T, Trial Judgement, 22 February 2001 http://www.icty.org/x/cases/kunarac/tjug/en/kun-tj010222e.pdf

<i>Kunarac</i> Appeal Judgement	<i>Prosecutor v. Kunarac et al.</i> , Case No. IT-96-23 & IT-96-23/1-A, Appeal Judgement, 12 June 2002 http://www.icty.org/x/cases/kunarac/acjug/en/kun-aj020612e.pdf
<i>Limaj et al.</i> Trial Judgement	<i>Prosecutor v. Limaj et al.</i> , Case No. IT-03-66, Trial Judgement, 30 November 2005 http://www.icty.org/x/cases/limaj/tjug/en/lim-tj051130-e.pdf
<i>Dragomir Milošević</i> Trial Judgement	<i>Prosecutor v. Dragomir Milošević Trial</i> , Case No. IT-98-29/1-T, Trial Judgement, 12 December 2007 http://www.icty.org/x/cases/dragomir_Milošević/tjug/en/071212.pdf
<i>Naletilić</i> Trial Judgement	<i>Prosecutor v. Naletilić and Martinović</i> , Case No IT-98-34-T, Trial Judgement, 31 March 2003 http://www.icty.org/x/cases/Naletilić_martinovic/tjug/en/nal-tj030331-e.pdf
<i>Orić</i> Trial Judgement	<i>Prosecutor v. Orić</i> , IT-03-68-T, Trial Judgement, 30 June 2006 http://www.icty.org/x/cases/oric/tjug/en/ori-jud060630e.pdf
<i>Simić et al.</i> Trial Judgement	<i>Prosecutor v. Simic et al.</i> , Case No. IT-95-9-T, Trial Judgement, 17 October 2003 http://www.icty.org/x/cases/simic/tjug/en/sim-tj031017e.pdf
<i>Strugar</i> Trial Judgement	<i>Prosecutor v. Strugar</i> , Case No. IT-01-42-T, Trial Judgement, 31 January 2005 http://www.icty.org/x/cases/strugar/tjug/en/str-tj050131e.pdf
<i>Stakić</i> Trial Judgement	<i>Prosecutor v. Stakić</i> , Case No. IT-97-24-T, Trial Judgement, 31 July 2003 http://www.icty.org/x/cases/stakic/tjug/en/stak-tj030731e.pdf
<i>Stakić</i> Appeal Judgement	<i>Prosecutor v. Stakić</i> , Case No IT-97-24-A, Appeal Judgement, 22 Mar 2006 http://www.icty.org/x/cases/stakic/acjug/en/sta-aj060322e.pdf
<i>Tadić</i> Trial Judgement	<i>Prosecutor v. Tadić</i> , Case No. IT-94-1-T, Trial Judgement, 7 May 1997 http://www.icty.org/x/cases/tadic/tjug/en/tad-ts70507JT2-e.pdf
<i>Tadić</i> Appeal Judgement	<i>Prosecutor v. Tadić</i> , Case No. IT-94-1-I, Appeal Judgement, 15 July 1999 http://www.icty.org/x/cases/tadic/acjug/en/tad-aj990715e.pdf
<i>Vasiljević</i> Appeal Judgement	<i>Prosecutor v. Vasiljević</i> , Case No. IT-98-31-A, Appeal Judgement, 25 February 2004 http://www.icty.org/x/cases/vasiljevic/acjug/en/val-aj040225e.pdf

6. Other Documents

	<p>Rome Statute of the International Criminal Court</p> <p>http://www.icc-cpi.int/NR/rdonlyres/EA9AEFF7-5752-4F84-BE94-0A655EB30E16/0/Rome_Statute_English.pdf</p>
	<p>See Rome Statute Elements of Crimes</p> <p>http://www.icc-cpi.int/NR/rdonlyres/9CAEE830-38CF-41D6-AB0B-68E5F9082543/0/Element_of_Crimes_English.pdf</p>
	<p>Commentary on the 1996 Code of Crimes against the Peace and Security of Mankind: “Report of the International Law Commission on the Work of its Forty-Eighth Session, 6 May–26 June 1996” U.N. Doc. A/51/10 (1996)</p> <p>http://untreaty.un.org/ilc/publications/yearbooks/Ybkvolumes%28e%29/ILC_1996_v2_p2_e.pdf</p>
	<p>Sierra Leone Prevention of Cruelty to Children Act (Cap. 31) 1926, Article 1.2 (stating that “For the purposes of this Ordinance, unless the context otherwise requires, ‘child’ means a person under the age of sixteen years.”).</p> <p>http://www.sierra-leone.org/laws.html</p>
	<p>Article 43 of First Additional Protocol to the Geneva Conventions of 12 August 1949.</p> <p>http://www.icrc.org/ihl.nsf/FULL/470?OpenDocument</p>
	<p>Of French origin, from route “route.” In The Compact Edition of the Oxford English Dictionary, Robert Burchfield, ed., at 2588.</p>
	<p>Black’s Law Dictionary 1 (9th ed. 2009) at 4.</p>
	<p>Blackstone’s Criminal Practice, Oxford University Press, 2007, B2.80.</p>
	<p>Second Additional Protocol to the Geneva Conventions of 12 August 1949, Art. 52(1).</p> <p>http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/d67c3971bcff1c10c125641e0052b545</p>
	<p>International Criminal Court, Elements of Crimes, Art. 8(2)(b)(xvi), element 3. U.N. Doc. PCNICC/2000/1/Add.2 (2000).</p>

	<p>United States v. Krauch et al., US Military Tribunal sitting at Nuremberg, Subsequent Nuremberg Trials, 29 July 1948, at 1135–36.</p> <p>http://www.mazal.org/archive/nmt/08/NMT08-T1135.htm http://www.mazal.org/archive/nmt/08/NMT08-T1136.htm</p>
	<p>Convention (II) with Respect to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 29 July 1899, art. 52. [The Hague Convention]</p> <p>http://www.icrc.org/ihl.nsf/FULL/150?OpenDocument</p>
	<p>United States v. Krupp et al., US Military Tribunal sitting at Nuremberg, Subsequent Nuremberg Trials, 31 July 1948, at 1341.</p> <p>http://www.mazal.org/archive/nmt/09/NMT09-T1341.htm</p>
	<p>A. Zimmermann, Commentary on the Rome Statute of the International Criminal Court, Observers' Notes, Article by Article (O. Triffterer ed.), C.H. Beck München, Hart Oxford, Nomos Baden-Baden (2008), at 399 side note 149 and at 409 side note 172</p>
	<p>Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgement, 2005 I.C.J. p. 168, para 249.</p> <p>http://www.icj-cij.org/docket/files/116/10455.pdf</p>