

Case No. SCSL-2004-16-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ALEX TAMBA BRIMA
BRIMA BAZZY KAMARA
SANTIGIE BORBOR KANU

MONDAY, 16 MAY 2005
9.20 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:	Teresa Doherty, Presiding Julia Sebutinde Richard Lussick
For Chambers:	Mr Simon Meisenberg
For the Registry:	Mr Geoff Walker
For the Prosecution:	Ms Lesley Taylor Ms Melissa Pack Ms Shyamala Alagendra Ms Maja Dimitrova (Case Manager)
For the Principal Defender:	Ms Claire Carlton-Hanciles Mr Kingsley Belle
For the accused Alex Tamba Brima:	Ms Glenna Thompson
For the accused Brima Bazy Kamara:	Mr Ibrahim Foday Mansaray Mr Mohamed Pa-Momo Fofanah
For the accused Santigie Borbor Kanuu:	Mr Geert-Jan Alexander Knoops Mr Ajibola E Manly-Spain

1 [TB160505A - SV]

2 Monday, 16 May 2005

3 [Open session]

4 [The accused not present]

09:17:32 5 [Upon commencing at 9.20 a.m.]

6 PRESIDING JUDGE: Good morning, counsel, and everyone else.

7 Mr Knoops, we note your presence in the Court precincts. We also

8 note there appears to be a continuing absence of the accused and

9 I presume that the continuing absences, they have waived their

09:22:49 10 rights as before.

11 As one preliminary matter, at the request of the Appeals

12 Chamber who require this Chamber to give decisions we will

13 adjourn early at 12.00 p.m. to allow the Appeals Chamber to hand

14 down their decisions. Ms Taylor, please proceed.

09:23:14 15 MS TAYLOR: Thank you, Your Honours. If I may just

16 indicate that there is a new member of the Prosecution team

17 seated behind me. Ms Alagendra appears in Court for the first

18 time. The Prosecution now calls witness TF1-334. That witness

19 will give evidence in Krio and the witness will be led by my

09:23:32 20 learned friend, Ms Pack.

21 MS PACK: Your Honour, before the witness comes in, I'd

22 like to make an application for a short portion, the early part

23 of the witness's testimony which I hope won't extend for more

24 than 15 or 20 minutes, in closed session.

09:23:59 25 PRESIDING JUDGE: Has notice of this been given to the

26 Defence counsel?

27 MS PACK: I've just given notice to my learned friends.

28 PRESIDING JUDGE: And what are the reasons for this?

29 MS PACK: The witness is a protected witness, with full

1 protections including image and voice distortion. In the first
2 15 to 20 minutes I will be asking him about his personal
3 background, personal information. And then I would hope that the
4 rest of his testimony will be heard entirely in open session once
09:24:26 5 I've gone through with him his personal information.

6 PRESIDING JUDGE: Thank you, Ms Pack. I've noted your
7 application. Who is replying first on behalf of the Defence to
8 the application before us? Mr Knoops, I presume you are the most
9 senior counsel.

09:24:42 10 MR KNOOPS: Thank you, Your Honour. We have no objection
11 to the proposal of the Prosecution, Your Honour.

12 PRESIDING JUDGE: Are you speaking for all three of your
13 colleagues?

14 MR KNOOPS: That's correct, Your Honour.

09:25:00 15 PRESIDING JUDGE: Thank you, Mr Knoops. In the light of
16 the consent of the Defence we will allow this closed session for
17 a limited period in order to protect the witness. So Mr Court
18 Attendant, please arrange the appropriate closed session.

19 [At this point in the proceedings, a portion of
09:26:45 20 the transcript, pages 4 to 25, was extracted
21 and sealed under separate cover, as the session
22 was heard in camera.]

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1 [Open session]

2 MR WALKER: Court is now in open session, Your Honour.

3 PRESIDING JUDGE: Ms Pack, please proceed.

4 MS PACK: Thank you, Your Honour.

10:22:08 5 Q. Witness, I'm jumping back in time to May 1997. What
6 happened in May 1997?

7 A. Well, on the 25th of May 1997 while I was -- Corporal
8 Gborie made an announcement over the radio that he declared -- he
9 declared that they have overthrown the SLPP government.

10:22:39 10 THE INTERPRETER: Please, My Lords, I ask that the witness
11 goes a little bit slow.

12 MS PACK:

13 Q. Witness, if you would take your answers a little more
14 slowly because there are interpreters trying to translate what
10:22:51 15 you're saying?

16 JUDGE LUSSICK: Sorry, I missed a lot of that answer too.
17 Who made the announcement over the radio? Perhaps you could get
18 him to say it again.

19 MS PACK:

10:23:01 20 Q. Witness, you've talked about an announcement over the
21 radio. Please indicate who made an announcement over the radio?

22 A. One -- it was one Tamba Corporal Gborie. He made the
23 announcement over the radio.

24 MS PACK: Just pause there, Mr Witness. The spelling of
10:23:23 25 Gborie G-B-O-R-I-E. That spelling has been provided by the
26 witness.

27 JUDGE SEBUTINDE: Did he say something about Tamba? Did I
28 hear a word Tamba?

29 MS PACK: The first word was Tamba, T-A-M-B-A. Yes, Your

1 Honour.

2 Q. And you gave a rank. Perhaps you could just repeat the
3 rank you gave, Witness?

4 A. He was Corporal Tamba Gborie.

10:23:59 5 Q. Witness, I'm going to break your answer down into sections.
6 The individual Corporal Gborie, what did he announce?

7 A. Well, he announced that they've overthrown the government
8 of Ahmad Tejan Kabbah from power.

9 Q. Did he say who had overthrown the government of Tejan
10:24:34 10 Kabbah from power?

11 A. Well, he said the other ranks of the Sierra Leone Army,
12 they overthrew the government of Ahmad Tejan Kabbah.

13 Q. Where did you hear this announcement?

14 A. Well, I was at home in xxxxxxxx when I heard this
10:24:59 15 announcement over the radio.

16 Q. Did Corporal Gborie say anything else when he made his
17 announcement?

18 A. Well, he said that all senior commanders in the army and
19 the police were to report at their various headquarters.

10:25:39 20 Q. Now, Witness, I'm going to ask you to look at a document.

21 MS PACK: Your Honours, if I may have a document passed up
22 to the witness.

23 PRESIDING JUDGE: Has this been shared with the Defence?

24 MS PACK: Yes, Your Honour.

10:25:51 25 PRESIDING JUDGE: Has the Defence seen this document?

26 MS THOMPSON: My Lord, we don't know which one she's
27 talking about. We were given a few documents this morning but we
28 don't know what she's talking about now.

29 PRESIDING JUDGE: Please be specific.

1 MS PACK: Your Honour, what was I proposing to do with the
2 witness was go through a series of documents with him and ask
3 Your Honours to admit those as exhibits. I have provided for the
4 Defence teams copies of those exhibits in a binder with tabs. I
10:26:13 5 have the originals obviously for admission in evidence, but also
6 binders for each of Your Honours if you would like me to arrange
7 to have those passed up. They're copies of the originals but at
8 least -- we're going through about 10, 15 exhibits. It may
9 assist Your Honours in reading them.

10:26:35 10 JUDGE SEBUTINDE: Ms Pack, before we get into
11 documentation, as you know very well the rules are quite
12 stringent regarding documentation. I personally feel you haven't
13 laid any foundation. Is this person the author of those
14 documents? We are absolutely in the dark. I'm alluding to
10:26:53 15 foundation. Is he the author of these documents or what's going
16 on?

17 MS PACK: No, he isn't, Your Honour, and he will be
18 speaking to the contents of those documents. But what I was
19 proposing to do was not to seek to admit the whole lot in one go,
10:27:07 20 but to deal with each one in turn, but, simply for Your Honours'
21 convenience, to provide you with copies in a binder so that Your
22 Honours had your own separate copies because there are quite a
23 few of them.

24 JUDGE SEBUTINDE: You still haven't answered my question.
10:27:20 25 What is the capacity of this witness vis-a-vis those documents?
26 Is he the author or what?

27 MS PACK: Your Honour, he isn't the author. He will be
28 dealing with them in various capacities. He'll be dealing with a
29 series of announcements that he heard, he will also be dealing

1 with a series of decrees and proclamations that he read and knew
2 about and he'll be dealing with other documents and identifying
3 the various capacities in which he is able to speak to them. But
4 he is not the author of any of these.

10:27:44 5 JUDGE SEBUTINDE: So why don't we handle them document by
6 document rather than en masse?

7 [TB150505B 10.25 a.m. - EKD]

8 MS PACK: Yes, I was proposing to do that, but simply for
9 your own convenience, to provide you with copies in a binder,
10:27:55 10 just so that Your Honours had them in copies.

11 JUDGE LUSSICK: Can you identify the document that you now
12 wish shown to the witness?

13 MS PACK: I would like to show the witness a document which
14 is headed "SLBS transcription". It's dated in the heading, "SLBS
10:28:10 15 radio 25th of May 1930 GMT". It also bears in the top right-hand
16 corner the Registry numbers 4666, meaning that it was filed on
17 the filing of exhibits and received that number at that time.
18 But that document -- it's a copy document, it is not an original.
19 I have a copy for admission in evidence and then also copies for
10:28:38 20 the various -- for the Defence -- my learned friends for the
21 Defence, the witness and Your Honours to read should you wish to
22 have your own copies.

23 PRESIDING JUDGE: Ms Pack, please proceed to show this to
24 the witness. We will deal with any matters as they arise.

10:29:00 25 MS PACK: I'm grateful, Your Honour.

26 MS THOMPSON: Your Honour, I don't know what the -- if my
27 learned friend has laid the foundation. I think what my learned
28 friend -- the question to the witness was what happened in May
29 1997 and his evidence is that he heard something, he heard an

1 announcement over the radio by a Corporal Gborie. What is about
2 to be shown to the witness is not by a Corporal Gborie and I
3 don't know how this witness is going to be able to say anything
4 about this statement. He's not the author of it, I don't know if
10:29:28 5 he has seen it before, I don't know how it came into being.
6 Clearly, your Honour, what I'm saying is that I don't know the
7 nexus between this witness and this statement that is about to be
8 shown.

9 PRESIDING JUDGE: There is an objection, Ms Pack, that the
10:29:48 10 previous evidence does not relate to this document.

11 MS PACK: I will ask the witness if he heard a further
12 broadcast and then seek to show him the document that I had
13 intended to show him.

14 Q. Witness, after the announcement by Corporal Gborie did you
10:30:04 15 hear any further announcements on the radio?

16 A. Yes, later in the evening we heard another announcement
17 that Paul Thomas who declared himself as a military spokesman.

18 Q. Pause a moment. Thomas, standard spelling, T-H-O-M-A-S.
19 Can you give a full name for Thomas, please?

10:30:35 20 A. Well, it was Paul Thomas, Major Paul Thomas.

21 Q. Did he have a position that you're aware of?

22 A. Well, over the air he declared himself -- he declared
23 himself as a military spokesman at the moment he was doing the
24 announcement.

10:31:03 25 Q. Over what did you hear the announcement, what station?

26 A. Well, it came over the SLBS.

27 Q. In what language was the announcement?

28 A. Well, it was done in English. He said it in English and
29 later the SLBS translated it into various local languages.

1 MS PACK: With Your Honours leave I will pass a document up
2 to the witness.

3 MS THOMPSON: Your Honour, I object. My objection is this:
4 That this was an announcement over the radio. The transcript
10:31:48 5 which -- I'm not even sure this is a transcript, but my guess is
6 there would have been a recording of it. I need to know whether
7 my learned friend has the tape recording from which this document
8 was obtained, and if she has, then we will need to compare what
9 was said on the tape and this transcript in order for this
10:32:10 10 witness to be able to identify whether what he is being shown is
11 what he heard over the radio.

12 MS PACK: Your Honours, the Prosecution doesn't have a tape
13 recording of this transcript. The Prosecution only has this
14 transcription.

10:32:29 15 MS THOMPSON: Then, Your Honour, what is the source of this
16 transcription?

17 MR KNOOPS: Your Honour, if I may support the objection
18 with reference --

19 PRESIDING JUDGE: Just allow Ms Pack to answer that last
10:32:44 20 question and then we will invite your reply, Mr Knoops.

21 MR KNOOPS: Sorry.

22 PRESIDING JUDGE: Ms Pack, there's been a -- [microphone
23 not activated]. Excuse me. There has been a question put to
24 you. In order to deal with that objection we seek the
10:33:17 25 clarification as asked.

26 MS PACK: Your Honour, there is no tape recording of this
27 transcript and, secondly, I am unable to say what the source of
28 this transcript is. But the witness -- I would ask Your Honours
29 to give the witness the opportunity to speak to the document and

1 identify whether it is something that he is familiar with.
2 Perhaps that is the alternative that I would propose to having an
3 actual recording of the transcript.

4 PRESIDING JUDGE: I would like to get a proper record of
10:33:48 5 your reply because I haven't been able to write it down. You say
6 there is no tape and no --

7 MS PACK: There is no tape, Your Honour, of this
8 transcript, and I am unable to say what the source of this
9 transcript is. Your Honours, what I would submit is that it is
10:34:07 10 relevant evidence that the witness may speak to. He may speak to
11 its contents.

12 PRESIDING JUDGE: Mr Knoops has also indicated an objection
13 in relation to this particular piece of evidence. I will ask him
14 what it is and then we will deal with both objections together,
10:34:24 15 on your reply of course. Mr Knoops, you indicated you had
16 another objection relating to this document.

17 MR KNOOPS: Yes, thank you, Your Honour. It is actually in
18 support of the objection of my learned colleague, Ms Thompson.

19 I believe there is precedent on this issue in the Kordic
10:34:41 20 and Cerkez case before the ICTY. A similar objection was raised
21 by the Defence in conjunction with a dossier which was filed by
22 the Prosecution, and the Trial Chamber there -- I think it is in
23 the transcripts of 1 December 2000. The Court actually, in
24 deciding on admitting these documents, attached weight to the
10:35:12 25 question whether or not the authenticity of the underlying
26 documents was to be verified or was able to be verified. I
27 believe that with these documents we have no option for any
28 verification as to the authenticity of the document itself. So I
29 believe that we should be very cautious in admitting these

1 transcripts right now.

2 I believe that, based on this legal precedent before the
3 ICTY, the objection of Ms Thompson could be reinforced. Thank
4 you.

10:35:52 5 MR FOFANAH: Further to that, Your Honours, I would like to
6 refer the Honourable Chamber to the decision of the Prosecutor v
7 Delalic on orders. It's a decision --

8 PRESIDING JUDGE: Could you spell, please, Delalic?

9 MR FOFANAH: Delalic is D-E-L-A-L-I-C, on orders. It is a
10:36:13 10 decision on motion for the admissibility of evidence dated
11 January 19th, 1998 at paragraph 22. In that case the
12 International Criminal Tribunal for Yugoslavia indicated that
13 documents can be introduced directly by the Prosecution or
14 Defence under Rule 89 providing they display sufficient
10:36:39 15 indication of reliability. In the circumstances indicated by the
16 Prosecutor, it is but clear that in the absence of a source or
17 tape recording -- I mean, no reliability can be alluded to the
18 document that she is about to tender.

19 It was also further indicated that it is the practice of
10:37:01 20 the ICTY and the ICTR Rules not to require documentary exhibits
21 to be produced by a witness to be admissible. It says: "It is
22 the practice of the ICTY and the ICTR Rules not to require
23 documentary exhibits to be produced by a witness to be
24 admissible." That is what it states.

10:37:29 25 In the given circumstances --

26 PRESIDING JUDGE: Where are you citing from, Mr Fofanah? I
27 am having a little difficulty coming to grips with that citation.

28 MR FOFANAH: My initial reference was to the Prosecutor
29 against Delalic.

1 PRESIDING JUDGE: You are reading from some book; I can see
2 it from here. What are you reading from?

3 MR FOFANAH: Yes, I'm quoting from Archbold International
4 Criminal Courts Practice, Procedure and Evidence. It was
10:37:57 5 published in 2003.

6 PRESIDING JUDGE: Could you give me a paragraph number,
7 please?

8 MR FOFANAH: Yes. It is found at page 257 at paragraph 19
9 subparagraph 18.

10:38:21 10 PRESIDING JUDGE: Thank you, Mr Fofanah. Ms Pack, there
11 are two further objections to the tendering of this document
12 through this witness on grounds of law that you have heard. Your
13 reply, please.

14 JUDGE LUSSICK: Before you reply, Ms Pack, I just wanted to
10:38:36 15 clarify what the issue is here. Do I understand that no matter
16 how many more questions you ask, you are not going to be able to
17 link up this document with the witness? In other words, you're
18 not going to establish how it came to be in creation. Is that
19 correct?

10:38:55 20 MS PACK: That's absolutely correct, Your Honour. I am
21 simply going to ask the witness to speak to the contents of the
22 document. Your Honour, what I would say is that the document is
23 relevant evidence which is admissible under Rule 89(C) of the
24 Rules of Procedure and Evidence of this Court insofar as it is
10:39:20 25 relevant.

26 JUDGE LUSSICK: You're saying it's relevant but you can't
27 tell us where it came from. It could have been composed by
28 somebody who does not know anything about the contents. That
29 wouldn't make it relevant evidence.

1 MS PACK: Your Honour, the question of who it was composed
2 by is more a question that relates to the issue of reliability of
3 the document or authenticity, whereas this witness is going to
4 speak to the contents of the document and will be asked by me
10:39:55 5 whether or not he is familiar with its contents, having answered
6 questions put by me about a further announcement from a Corporal
7 Thomas or Major Thomas. He will then speak to the contents of
8 this document which purports to be an announcement by that
9 individual. Now, the witness will be in a position to verify
10:40:14 10 whether or not that is the position and will be able to speak to
11 whether or not he in fact heard the contents of the transmission
12 that is recorded on that document.

13 Your Honours, you have a broad discretion under Rule 89(C)
14 to admit any evidence which is relevant, and my submission is
10:40:31 15 that this is relevant evidence because it affords Your Honours
16 the opportunity to read in full an announcement which the witness
17 may or may not say is an announcement which -- is a recording of
18 an announcement -- a transcript of an announcement that he heard.
19 It can only -- the question of relevance is --

10:40:51 20 JUDGE LUSSICK: It is not relevant now because we don't
21 know what is in the document. But you are saying that you are
22 going to get the witness to confirm that what that document
23 reflects is what he actually heard. Is that what you're saying?

24 MS PACK: Yes, Your Honour. And, Your Honour, it is what
10:41:09 25 it is. It is a matter for Your Honours, in my submission, having
26 admitted the document as relevant under 89(C), to put whatever
27 weight that Your Honours consider is appropriate upon it. The
28 fact of the matter is it is relevant to the extent this witness
29 is able to speak to its contents, or I will be asking if the

1 witness can speak to its contents.

2 MS THOMPSON: Your Honour, do I have a second point?

3 MS PACK: If I may just conclude. As a matter of law, just
4 on the two legal issues that were raised by my learned friend, so
10:41:44 5 far as the Kordic precedent is concerned I don't know from what
6 my learned friend has said to what that decision refers. It was
7 a dossier filed by the Prosecution. I am not sure whether it's a
8 dossier of interviews, of intercepts; I don't know what audio
9 transmissions or transcripts of audio transmissions my learned
10:42:07 10 friend is talking about and to what extent that precedent
11 therefore applies to this situation. I'm afraid I'm not familiar
12 with that decision.

13 So far as the Delalic decision is concerned, again, I am
14 not familiar with that.

10:42:17 15 However, the principles in the ICTR and the ICTY that have
16 been followed on the admission of evidence generally is, applying
17 the rule that applies there - which is Rule 89(F) which is
18 equivalent to this Rule 89(C), save that 89(F) in those two
19 tribunals has an additional component - it not only speaks to the
10:42:40 20 relevance of a document but also to its probative value. A
21 document may be admitted if it is relevant and probative. The
22 Rules in this Court don't contain that second phrase "and
23 probative value". To what extent that adds anything I don't
24 know.

10:42:58 25 But, in my submission, the issue is in this Court relevance
26 of the document and in my submission relevance will be clearly
27 made out once Your Honours have heard what the witness will say,
28 and it is a matter for Your Honours to consider what weight to
29 attach.

1 JUDGE SEBUTINDE: Ms Pack, I have a problem with this. You
2 keep talking of a document, the author of whom you don't know,
3 that is not backed up by an audio, and you want this Court to
4 treat it as relevant. And at the same time you are saying that
10:43:32 5 you want your witness merely to speak to the contents thereof.
6 And thereafter you're saying that you want to actually tender it
7 in its entirety as a document. Now, I have a problem with you
8 eating your cake and having it. Do you get what I mean?

9 Either you let this witness speak to the contents for
10:43:51 10 whatever reason you want, in which case his viva voce testimony
11 is what is relevant and you do not make any attempt to tender the
12 document, the entire document as evidence of I don't know what;
13 or you establish a foundation for this document. You can't eat
14 your cake and have it. That is how I see it and I think that is
10:44:18 15 how I understand the objection of the Defence.

16 You see, we can't at this stage -- we're not a dust bin.
17 The Court is not a dust bin that admits everything and then
18 rummages through it to see what to do with that document. We
19 must at this stage establish relevant evidence must also be
10:44:38 20 admissible evidence. That is my problem. If all you want is for
21 this witness to speak to the contents of the document, we
22 shouldn't even be talking about a document as an exhibit. His
23 viva voce testimony will be the evidence, the relevant evidence.

24 You see the distinction I'm trying to make? Because I will
10:45:00 25 not -- I don't know, maybe I am preempting something here. But
26 when you said you want to pass over a dossier to the Bench, I
27 don't think you should hurry up preparing a copy for me. I
28 prefer to go stage by stage. I think I'm prepared to hear you
29 out, to indulge you if counsel don't mind, but obviously they

1 have indicated that they do mind, they do object. If we can at
2 least agree on the ground rules, that your witness is going to
3 speak to the content to answer questions, and I for one don't see
4 why you can't ask him what it is he heard, period; why you need
10:45:45 5 to show him something written. I mean, how much can there be in
6 a radio announcement?

7 MS PACK: Your Honours, the radio announcement is part of
8 the account that the witness is giving. It is background and it
9 is part of the account which is the whole of the witness's
10:46:03 10 evidence leading from this time to the end of the conflict.

11 Now, Your Honours, what I thought I had done in asking the
12 witness about a further broadcast was to lay the foundation,
13 because the witness has given evidence as to a further
14 announcement by a certain individual who he names and the day of
10:46:25 15 that announcement. So then, Your Honours, it is my submission a
16 foundation has been laid for seeking to admit showing to the
17 witness what purports to be a transcript of that announcement, so
18 he can say whether it is a transcript of the announcement,
19 whether he has read it. It is additional material, additional to
10:46:42 20 what the witness will say orally, because it is a full transcript
21 or purports to be, and he won't be able to by memory go through
22 the whole transcript but it may assist Your Honours in knowing
23 what was said exactly.

24 Now, Your Honours, I see that Your Honours may take a view
10:46:56 25 that without an oral recording, then Your Honours may assess the
26 value to be of a lesser value compared to a document with an
27 audio recording. But my submission is that that is a matter for
28 Your Honours.

29 If I may make a final point on the question of law. 89(C)

1 and that broad discretion that Your Honours have has been the
2 subject of an appeals decision in this Court, in this Special
3 Court. Appeals Chamber decision in the Norman and Others case on
4 the 11th of March 2005. The decision is called Fofana, Appeal
10:47:36 5 Against Decision Refusing Bail. In that decision at paragraph 26
6 the Appeals Chamber underlined the importance of Rule 89(C) in
7 allowing the admission of evidence so that then Your Honours
8 would be in a position to consider its value, but allowing the
9 first hurdle to be crossed because a document is considered to be
10:47:57 10 relevant. And if I may just read from that paragraph:

11 "Rule 89(C) ensures that the administration of justice will
12 not be brought into disrepute by artificial or technical rules
13 often devised for jury trial, which prevent judges from having
14 access to information which is relevant. Judges sitting alone
10:48:16 15 can be trusted to give second-hand evidence appropriate weight in
16 the context of the evidence as a whole and according to well
17 understood forensic standards. The rule is designed to avoid
18 sterile legal debate over admissibility so the Court can
19 concentrate on the pragmatic issue," and so on.

10:48:34 20 In that decision it was actually the pragmatic issue of the
21 bail application, whether there is a real risk that the defendant
22 will not attend the trial or harm others. But the principle
23 still stands and applies generally, and I would urge Your Honours
24 to apply that ratio and admit the evidence for its relevance.

10:48:59 25 MS THOMPSON: Your Honour, might I say something, just one
26 additional thing.

27 PRESIDING JUDGE: [Microphone not activated]. You have a
28 right of reply, Ms Thompson, on points of law. Please make them
29 now.

1 MS THOMPSON: Your Honour, my learned friend keeps saying
2 it is a full transcript and is purported to be. It still is
3 important -- and my learned friend keeps talking about relevance.
4 If it is relevant then we need to know the source of it. There
10:49:28 5 is nothing wrong with my learned friend asking the witness to say
6 what he heard. He does not need something written by someone who
7 is unknown to this -- could have been written by me, for example
8 -- given to the witness for the witness to say yes, this is what
9 I heard. The witness can say what he heard; he heard it, nobody
10:49:50 10 else did. He heard it, he can give that evidence in court. He
11 does not need to be shown an unidentified, unsourced three
12 paragraphs. I wouldn't even dare to call it transcript at this
13 stage because I don't even know that it is. For him to agree yes
14 or no, this is what I heard. Because that is the effectively
10:50:06 15 what my learned friend would be doing if this is shown to the
16 witness: Yes, this is what I heard. Showing him the answer
17 already. Let him tell us what he heard and that will be the end
18 of the matter. I don't need to show her how to conduct her case,
19 but I am not sure this takes her case any further than his oral
10:50:28 20 testimony of what he heard.

21 PRESIDING JUDGE: Thank you, Ms Thompson.

22 MR FOFANAH: Just one more point, Your Honour, further to
23 that, on law. It is my further submission that the witness, not
24 being the author or the maker of that document, cannot go into
10:50:43 25 its content. Thank you.

26 PRESIDING JUDGE: It is actually just about time for the
27 mid-morning break, so this might be an appropriate time to take
28 that break and to -- you're on your feet too.

29 MR KNOOPS: Sorry, Your Honour, I just would like to assist

1 the honourable Trial Chamber with the precedent I referred to.
2 The Prosecution indicates - my learned colleague - that she was
3 not familiar with the precedent I referred to. If Your Honours
4 would prefer I can assist you a little bit further on this
10:51:19 5 precedent in the Kordic and Cerkez case. I have the name of the
6 decision and the transcripts where to find it. Because in that
7 case the Trial Chamber of the ICTY for the first time deals with
8 the fundamental issue whether dossiers which stem from the civil
9 law approach are to be admitted into the practice of
10:51:40 10 international criminal tribunals. So it could help the Trial
11 Chamber, perhaps, to have a look into that transcript. It is
12 specifically to be found in the decision under "Prosecution
13 Application to Admit the Tulica Report". Perhaps that recalls
14 something with my learned colleague. Tulica report, T-U-L-I-C-A,
10:52:11 15 and dossier into evidence. It was a decision of the ICTY of the
16 29th July 1999, specifically paragraphs 90 till 32. In that case
17 the Prosecution filed a dossier containing several documents
18 among which also transcripts from previous case, but also - and
19 perhaps there the analogy with this case may emerge - schematic
10:52:44 20 diagrams, photographs, transcripts, maps and other articles, et
21 cetera.

22 Now, the Trial Chamber was indeed confronted with the
23 question whether the admissibility of dossiers may be in
24 compliance with Rule 89(C). And if you look at that decision the
10:53:09 25 Trial Chamber deals with all the separate documents on each own
26 merit, but with respect to all these documents is one common
27 denominator. That is, if they are purely documentary evidence of
28 facts about what happens as part of the judicial investigative
29 process, then perhaps the criterion of article 89(C) is to be

1 met. But, remarkably and interestingly, the Defence in that case
2 did not oppose all the documents and the Trial Chamber admits
3 them partly and finds them inadmissible on the other part.

4 But two I think very important issues arise from this
10:54:02 5 decision. Namely, that in all instances the authenticity of
6 these documents should be without any question. I believe the
7 Prosecutor wants to examine this witness on, for instance, the
8 first document, radio transcript. Yet it's acknowledged that
9 this witness is not the author and therefore has probably no
10:54:33 10 direct knowledge on the composition of the document. If you are
11 going to question this witness on the contents of this
12 transcript, I think it is a contradiction in terms. Because how
13 can a witness be examined on the contents of a document which he
14 is not the author and, above all, which authenticity is not
10:54:58 15 beyond doubt.

16 And, therefore, I think with the Kordic decision in mind,
17 the Trial Chamber should be quite cautious in adopting the whole
18 dossier as it lies now before the Chamber.

19 PRESIDING JUDGE: A point of clarification, Mr Knoops. You
10:55:18 20 said the whole dossier. I understood we're only dealing with the
21 first document in the bundle.

22 MR KNOOPS: Yes, that's correct, Your Honour. But perhaps
23 you, during the recess, could consider to reflect on the other
24 documents as well, because I foresee that we have what may enter
10:55:33 25 the same discussion with other documents which could be presented
26 by the Prosecution in the course of this examination-in-chief.
27 Thank you.

28 PRESIDING JUDGE: Thank you, Mr Knoops, most helpful.

29 [Microphone not activated] reply, Ms Pack.

1 MS PACK: It is actually a point of clarification regarding
2 a motion that is currently pending in this Chamber, which is the
3 motion to judicially notice facts. I just wanted Your Honours to
4 know for your information that this document is one of those
10:56:04 5 documents that appears in Annex B of that motion seeking judicial
6 notice of the facts contained in it. What I simply say,
7 Your Honour, is that it may be Your Honours might prefer to deal
8 with this in another way. Which is to mark this document for
9 identification pending a decision on that motion. I simply
10:56:21 10 wanted to raise that as an alternative.

11 PRESIDING JUDGE: Thank you, that's very help. As I said,
12 it is time for a mid-morning break. We will take 15 minutes.
13 Please adjourn, Mr Attendant.

14 [Break taken at 10.54 a.m.]

11:15:29 15 [Upon resuming at 11.40 a.m.]

16 PRESIDING JUDGE: This is our ruling on what in fact were
17 three objections to certain evidence being put to a witness.
18 We have considered it and our opinion is that the
19 Prosecution are seeking to tender a document in evidence when
11:42:40 20 there has been no evidence before this Court as to how that
21 document came into existence, no evidence if it is really a
22 transcript since it has no author, and no tape from which it was
23 taken. We consider it is not appropriate to admit documents of
24 this nature under Rule 89(C) or to use 89(C) as a carte blanche
11:43:07 25 admission of any hearsay evidence regardless as to whether it has
26 probative value, and we do not admit or not - excuse me, I have
27 written down "or not" - and we are not permitting this document
28 to be put to the witness.

29 Please continue.

1 MS PACK:

2 Q. Witness, after the announcement that you spoke about made
3 by Major Paul Thomas did you hear any further announcements?

4 A. Well, the only announcement I heard was that when the
11:43:59 5 chairman, Johnny Paul Koroma, came over the air and declared
6 himself as the current chairman of the AFRC. That was the other
7 announcement which I heard over the radio.

8 Q. By AFRC what did he mean?

9 A. Well, he referred to it as Armed Forces Ruling Council.

11:44:19 10 Q. Are you able to say when the announcement by Johnny Paul
11 was?

12 A. Well, this was -- it was around the 28th -- I believe the
13 28th that he made the announcement over the air.

14 Q. On the same day were there any further announcements by
11:44:50 15 anyone else that you recall?

16 A. Yes, the other announcement that I heard was over the
17 international media, when Corporal Foday Sankoh -- from when he
18 was interviewed from Nigeria.

19 Q. Sorry, you said Corporal Foday Sankoh. I don't think I
11:45:18 20 need to spell that, Your Honours. You heard this over the
21 international media. Do you recall what station?

22 A. Well, it was the BBC. It was the BBC that interviewed him.

23 Q. Do you recall in broad terms what was said during that
24 announcement?

11:45:38 25 A. Well, yes, I could remember some of the things that
26 Corporal Foday Sankoh said. He was trying to tell the RUF
27 commanders that he was talking and he was talking directly from
28 Nigeria, and that he had ordered them to take the command from
29 Major Johnny Paul Koroma; and that in fact he had changed the

1 name from that moment and that he was not going to refer to them
2 as the RUF, but he was going to refer to them as the Peoples'
3 Army; and that they should work in line with Major Johnny Paul
4 Koroma and they were no longer enemies but that they were now
11:46:26 5 brothers. Both the RUF and the SLA should be together, so --

6 Q. Thank you, witness. Your Honours, I am going to ask that
7 an audio be played.

8 PRESIDING JUDGE: [Microphone not activated]

9 MS PACK: A recording of an announcement be played. I am
11:46:47 10 going to ask the audio visual unit to play a recording of an
11 announcement if I may.

12 JUDGE SEBUTINDE: Can you in some way tie that up to the
13 witness's testimony?

14 MS PACK: The witness will say it is a recording of the
11:47:02 15 announcement to which he has just referred.

16 JUDGE LUSSICK: I think you should say something to him: I
17 am going to play a recording and I want you to listen to it.

18 MS PACK: Yes. Witness, I'm going to ask for a recording
19 to be played and I'm going to ask you to listen to that and to
11:47:17 20 identify who the speaker is and if you recognise or if you have
21 heard before the broadcast that I am about to ask be played. So
22 if you would just pay attention and listen.

23 MS THOMPSON: Your Honour, are we going to be told where
24 this recording came from, who made the recording, how it came to
11:47:43 25 be in the Prosecution -- the usual questions that one asks when
26 one is about to play something which is not part of the normal
27 testimony?

28 MS PACK: Your Honour, it is not a recording made by the
29 witness. It is a recording made by someone else. It is a

1 recording that was handed over to the Office of the Prosecutor by
2 the Attorney Generals office Sierra Leone. It was a recording
3 that was used in the trial against Corporal Foday Sankoh. I have
4 the original tape in court, which could be admitted in evidence,
11:48:20 5 albeit that I will be playing from a recording from that, a CD
6 recording from that. So I have the original tape in court.

7 JUDGE SEBUTINDE: Ms Pack, could you shed some light as to
8 whether the Defence has had notice of this -- prior notice of
9 this tape.

11:48:36 10 MS PACK: Yes, Your Honour. All of the documents to which
11 I am intending to refer to, bar one which I will come to later,
12 were all documents that were filed when the Prosecution filed
13 their exhibits in April 2004.

14 JUDGE SEBUTINDE: I am not talking about documents; I am
11:48:54 15 talking about the audio, which is material. Is this particular
16 audio that you are about to play notified to the Defence?

17 MS PACK: That too was filed with all the other exhibits in
18 April 2004. It was the 26th of April.

19 MS THOMPSON: The audio was given to us I think from
11:49:12 20 Friday.

21 MS PACK: If I can correct my learned friend --

22 MS THOMPSON: You're talking about a CD?

23 MS PACK: What was filed on Friday were courtesy copies.
24 Re-service, not filings. Re-service of documents. All the
11:49:24 25 documents I am going to refer to were filed and served on the
26 Defence in April 2004 including the CD.

27 JUDGE SEBUTINDE: Ms Pack, we're talking about the audio
28 only. We want to establish whether you served it -- you notified
29 the Defence.

1 MS PACK: Yes.

2 JUDGE SEBUTINDE: That's all. And when that was?

3 MS PACK: 26th of April 2004. A courtesy copy was
4 re-served on Friday. It was filed and served on the 26th of
11:49:50 5 April 2004, and I mean the audio.

6 MR FOFANAHA: Your Honours, with respect, just one point.
7 With respect to Your Honours, yes, my team has no knowledge of
8 such audio. Probably the Office of the Principal Defender might
9 be able to throw light on that. I am imploring the Bench --

11:50:22 10 PRESIDING JUDGE: We are informed that it was served on you
11 on the 26th of April 2004.

12 MR FOFANAHA: I don't have any such copy; I'm just saying.

13 MS PACK: I can't add anything, Your Honour. It was
14 served.

11:50:54 15 PRESIDING JUDGE: I am just going to ask how long this tape
16 will take. We have to bear in mind we have to vacate this
17 Chamber for the Appeals Chamber to use in order to hand down
18 decisions. How long will it take?

19 MS PACK: Actually, Your Honour, it's 17 minutes.

11:51:14 20 PRESIDING JUDGE: In that case it would be appropriate
21 to -- if that is the next matter in your evidence, Ms Pack, it
22 would be more convenient then to adjourn and reconvene. It is
23 not entirely clear to us how long the Appeals Chamber will
24 require. We will reconvene the Court at the normal time of
11:51:52 25 2.15 p.m. just hold on. In the event of Appeals Chamber running
26 over we will obviously be advised by Court Management. Counsel,
27 you're on your feet.

28 MS CARLTON-HANCILES: Your Honours, two small matters. One
29 is that my learned colleague referred a question to the Office of

1 the Principal Defender. I cannot remember that that document --
2 there was a period in which I was personally receiving service on
3 behalf of counsel overseas and then we were actually in the
4 process of bringing local counsel on board, so I was receiving
11:52:32 5 service on their behalf. I cannot remember that I was served.
6 Maybe it was served on counsel overseas.

7 PRESIDING JUDGE: The statement put before this Court is
8 that the documents were served on the 26th of April 2004. We
9 accept that the Prosecution served the documents on the 26th of
11:52:46 10 April 2004.

11 MS CARLTON-HANCILES: Much obliged.

12 PRESIDING JUDGE: What has happened to them when they
13 reached your hands is something beyond the control of this Bench.

14 MS CARLTON-HANCILES: Much obliged. On the second issue,
11:53:00 15 Your Honour, the Defence office received a communication from two
16 of the detainees with regards to a decision which was rendered by
17 this honourable Court with instructions that a copy be served on
18 Chambers. Your Honours, I have the document with me here. I --

19 PRESIDING JUDGE: Ms Carlton-Hanciles, before you go any
11:53:22 20 further, this Court read an order on an application. The
21 application was an application to withdraw. That order was made
22 and any letters, correspondence or documents that seek to go
23 behind that decision cannot be countenanced in this Court. The
24 decision has been made. Mr Court Attendant, please adjourn the
11:53:49 25 Court to 2.15 p.m. I will advise if the Appeals Chamber is still
26 in session.

27 [Luncheon recess taken at 11.52 a.m.]

28 [TB160505C - EKD]

29 [Upon resuming at 2.20 p.m.]

1 MS THOMPSON: Before my learned friend goes ahead, Your
2 Honour, I recall that before we broke up for lunch I had
3 indicated that I had objections to the tape being played without
4 the proper foundation being laid.

14:22:52 5 My learned friend indicated to the Court that the tape was
6 obtained from the Attorney General's office and it was one that
7 was used in the treason trial of Foday Sankoh. In my humble
8 submission, in the jurisdictions which I know about, one of which
9 my learned friend knows very well and the other is the local one,
14:23:13 10 if a tape is going to be played then the proper foundation would
11 need to be laid. Even in the treason trial of Sankoh the tape
12 would not have been played if the proper foundation had not been
13 laid.

14 Is my learned friend saying that the Attorney General made
14:23:29 15 the tape? Is the Attorney General or a member of his staff
16 coming to produce that tape and the origins of that tape? None
17 of these questions we know. We are just told that a tape is
18 going to be played and the witness would be asked to identify a
19 voice but we don't know where that tape came from.

14:23:50 20 That is my objection, Your Honour.

21 PRESIDING JUDGE: Ms Pack, you've heard the objection.

22 MS PACK: Yes, Your Honour. As I said before the break,
23 the tape is part of a collection of items received from the
24 Attorney General's office and used during the treason trial of
14:24:14 25 Foday Sankoh. The Prosecution hadn't intended to call anyone or
26 take a statement from anyone from the Attorney General's office.
27 The tape standing as it is will be played, a transcript can be
28 admitted - it has been prepared by the Office of the Prosecutor,
29 and the witness will speak to its contents. However, should

1 Your Honours wish the Prosecution to do so, then we will
2 undertake to make every effort to obtain a statement from an
3 individual at the Attorney Generals office, whomever that might
4 be, who handed over this material to the Office of the
14:24:55 5 Prosecutor.

6 A copy of the actual address, as in a transcript of it, is
7 also available on a website that Your Honours may be familiar
8 with, called Sierra Leone Web. It's a website with the full name
9 sierra-leone.org. That was prepared and compiled by an
14:25:19 10 individual, Peter Anderson -- compiled that website and the
11 various documents, materials on that website. Another thing the
12 Prosecution could do, should Your Honours wish the Prosecution to
13 do that, is obtain a statement from that individual as to
14 materials put on his website.

14:25:39 15 JUDGE LUSSICK: It is not for the Court to advise the
16 Prosecution on what it should do to get matters such as a tape
17 into evidence. In the bars I used to practice at, we'd do all
18 this without intervention of the Court. The Prosecution would
19 approach the Defence and simply say we have got all of this
14:26:01 20 evidence, we can call the Attorney General, et cetera, et cetera;
21 we can give you transcripts of the tape, et cetera, if you want
22 us to go to that trouble, we'll do it. Usually some sort of
23 agreement can be reached. I know there has been some trouble
24 with communication in this particular case, between Defence and
14:26:21 25 Prosecution, even some antipathy. But a lot of short-cuts that
26 could have been taken haven't been taken. We certainly leave it
27 to you to do -- in the face of an objection it is up to you to
28 take the appropriate steps to get the tape into evidence. It is
29 not a matter for us to advise you what to do.

1 MS PACK: Your Honour, the Prosecution stance has been thus
2 far that in international jurisdictions such as this one,
3 certainly in ICTY and ICTR, the practice in those courts has been
4 to admit documents without strictly requiring authenticating
14:27:14 5 materials in relation to evidence admitted. Documents have been
6 admitted without then, a number of statements or any statements
7 from various individuals who might have received the documents,
8 submitted it into evidence, obtained documents and so forth.
9 There is not that strict chain of custody that is often required
14:27:32 10 in national jurisdictions given the nature of these trials and
11 the circumstances in which materials are obtained. The
12 international tribunals, the ad hoc tribunals, have tended to
13 take the stance that a lesser degree of authentication is
14 required of exhibits.

14:27:49 15 However, that being said, Your Honour, if the position is
16 that Your Honours would not allow the admission of this material
17 without further authenticating material, then what I would
18 propose --

19 JUDGE LUSSICK: We haven't had any authenticating material
14:28:04 20 yet.

21 MS PACK: Without authenticating material -- without any
22 authenticating material we wouldn't admit it today. Then what I
23 would propose would be that those documents be marked for
24 identification pending filing or admission of authenticating
14:28:19 25 material in relation to the documents which I would propose to
26 tender today. But simply just to mark for identification the
27 issue of authenticity might be dealt with on a later occasion.
28 Because this witness -- as I think I said earlier, this witness
29 himself isn't the author of any of these documents so, therefore,

1 won't be able to deal with those aspects of authentication.

2 PRESIDING JUDGE: You have referred to international
3 jurisprudence. Are you making a submission in law that in the
4 light of objection by Defence counsel, international
14:28:54 5 jurisprudence is such that court will admit it despite -- and
6 overrule objections? Is that one of your applications or are you
7 applying to have it marked for identification now and deal with
8 authorities and authorship later? Which are you asking us,
9 Ms Pack?

14:29:11 10 MS PACK: I would apply, Your Honour, to have these
11 documents now marked for identification and deal with the other
12 issues at a later time.

13 JUDGE LUSSICK: Just to make it clear, you want the tape
14 marked for identification but you'll move on to some other parts
14:29:31 15 of this witness's evidence today pending that authentication?

16 MS PACK: What I would invite Your Honours to do is to have
17 heard what the witness has to say on these exhibits -- on the
18 tape, hear the tape, read the exhibits. And then if the
19 Prosecution fails to -- pending the issue of identification being
14:29:54 20 concluded, there is no reason why these exhibits couldn't be
21 spoken to today by the witness and then the issue of
22 identification dealt with at a later time. Just so that the
23 witness can deal with this material during the course of his
24 testimony in the proper order, so that it is more comprehensible
14:30:14 25 to Your Honours, because he has a lot, in terms of a time frame,
26 to get through. If these exhibits can be dealt with by the
27 witness in his evidence, and if Your Honours subsequently find
28 that they can't be admitted in evidence, then those parts of the
29 -- so be it, the exhibits won't be admitted into evidence. But

1 the witness will still have given evidence around the contents of
2 those documents.

3 JUDGE LUSSICK: We earlier on rejected a statement that
4 could not be authenticated. It seems to me that this tape is in
14:30:55 5 exactly the same position as that earlier so-called transcript.

6 MS PACK: Well, Your Honour, it is a little different in
7 that --

8 PRESIDING JUDGE: Mr Knoops maybe has a --

9 MR KNOOPS: Yes, Your Honour, if I may assist the Trial
14:31:13 10 Chamber. I should reject the suggestion that the ICTY, to a
11 certain extent, has a lower threshold with respect to the
12 acceptance of video or audio or even other photographic
13 material as far as the authenticity concerns. The case-law I
14 refer to this morning, the Kordic and Cerkez case, is clear on
14:31:44 15 this, and there is also a second decision of the ICTY in the
16 Kovacevic - it's K-O-V-A-C-E-V-I-C, Kovacevic - case, where the
17 Trial Chamber indeed held that when the authenticity is in
18 dispute clear evidence should be required as to the authenticity
19 and that should be distinguished from the substance of the
14:32:16 20 material.

21 So I don't think that the ICTY, as far as the authenticity
22 concerns, requires a lesser threshold. It may be so that the
23 criterion of admissibility is different, but when there is a
24 clear objection as to the authenticity of the material, also
14:32:44 25 case-law of the ICTY considers the establishment of authenticity
26 of the material itself as a requirement for its admissibility.
27 So, I don't think that the ad hoc tribunals in that regard
28 consider themselves as more lenient with respect to video and
29 audio material.

1 So I --

2 PRESIDING JUDGE: Mr Knoops, it would appear the counsel
3 for the Prosecution has moved on from that particular legal
4 submission and is now applying to have the matter in question
14:33:22 5 marked for identification.

6 The ruling of the Bench is that our ruling this morning
7 concerning another document applies equally to this application
8 and the material in question. When the Prosecution is in a
9 position to authenticate and tender we will then permit questions
14:36:03 10 if it is admitted and questions arising from it. But at the
11 moment it is not admissible and questions cannot be asked.

12 MS PACK: Thank you, Your Honour.

13 Q. Witness, just to remind you where we were, I was asking you
14 questions before we broke for the break about a broadcast that
14:36:51 15 you heard by Foday Sankoh. I am now going to ask you did you
16 hear any other broadcasts after that by anyone else?

17 A. Well, the other broadcast that I heard was Eldred Collins,
18 who was a spokesman for the RUF. He came over the air and he
19 gave some reports about how the relationship between the RUF and
14:37:19 20 the AFRC and their aims and our objectives.

21 Q. Pause a moment. Eldred Collins, E-L-D-R-E-D, Collins
22 C-O-L-L-I-N-S. What did he say about the relationship between
23 the RUF and the AFRC, if you can recall?

24 A. As far as I know, he said for now they work together and
14:37:54 25 that they will work to defend the motherland of Sierra Leone.

26 Q. Witness, did you hear any broadcasts at the beginning of
27 June?

28 A. As far as I know I cannot remember this broadcast.

29 Q. Witness, you have told the Chamber that the AFRC stands for

1 the Armed Forces Ruling Council. Who was the president of the
2 AFRC?

3 A. It was Major Johnny Paul Koroma who was the chairman for
4 the AFRC. AFRC, Armed Forces Revolutionary Council.

14:39:10 5 Q. My apologies, Armed Forces Revolutionary Council.

6 JUDGE SEBUTINDE: I think we are having problems with the
7 interpretation and something speaking over it. Mr Interpreter,
8 could you sort yourselves out so that you don't give
9 interpretation while the witness is still talking and we're

14:39:27 10 getting the double voice.

11 THE INTERPRETER: I'll try to. The only thing, he does not
12 give complete sentences, so I try really to organise myself
13 before coming up.

14 JUDGE SEBUTINDE: Could you please repeat the question and
14:39:43 15 have the witness repeat the answer.

16 MS PACK: Yes, Your Honour. Was it the question about who
17 was the president that Your Honour wanted repeated?

18 Q. Witness, who was the president of the AFRC? I am repeating
19 the question.

14:39:59 20 A. Major Johnny Paul Koroma.

21 Q. Was he known as the president or was he known as something
22 else?

23 MR FOFANAH: Objection, Your Honour. The question has been
24 answered. On grounds of finality the question has been answered.
14:40:18 25 The question put to the witness was who was the president of the
26 AFRC and the witness answered. For counsel to go further and put
27 another question would be putting the alternative. She put
28 another question saying was he known as president or was he known
29 as something else when her initial question was who was the

1 president of the AFRC. My objection is that she is putting the
2 alternative to the witness.

3 PRESIDING JUDGE: [Microphone not activated]

4 MS PACK: I simply recall that the witness in the earlier
14:40:52 5 answer to the question said he was president and chairman, so I
6 was repeating --

7 PRESIDING JUDGE: I do not have that on record.

8 MS PACK: It wasn't in the last question.

9 JUDGE SEBUTINDE: The answer of the witness which we have
14:41:07 10 on record, because we hadn't heard the previous one properly.
11 Maybe we can also request the people at the transcript -- this
12 row just before us. There are some very disturbing voices coming
13 through, noises. The answer that this witness gave just now was
14 the president of the AFRC was Major Johnny Paul Koroma, period.

14:41:41 15 MS PACK:

16 Q. Who worked immediately under him?

17 A. You had the vice-chairman and then the PLOs and the Supreme
18 Council members.

19 Q. Pause a moment. The vice-chairman, who was he?

14:42:06 20 A. When Johnny Paul made his broadcast he appointed Foday
21 Saybana Sankoh to be his vice, but later SAJ Musa came up and he
22 was acting as vice-president.

23 Q. Your Honours already heard the spelling of SAJ Musa, S-A-J
24 Musa, M-U-S-A. Was there another appointment which SAJ Musa had?

14:42:45 25 A. Later he was the chief secretary of state?

26 Q. In answer to my question a couple of questions ago you
27 talked about PLOs. Would you please explain to their Honours
28 what PLO means?

29 MR FOFANA: Objection. I don't know -- I mean, probably I

1 stand guided by your record. The word PLO has not been mentioned
2 before.

3 PRESIDING JUDGE: I have it on my record, Mr Fofanah. I
4 definitely heard it.

14:43:09 5 MR FOFANAH: Thank you. Continue.

6 MS PACK:

7 Q. Witness, if you would answer my question. What do you mean
8 by PLO?

9 A. These, according to -- during the military government they
14:43:21 10 call them principal liaison officers. They were working directly
11 with the president.

12 Q. What did the principal liaison officers do working directly
13 for the president?

14 A. Well, these people supervise and monitored various
14:43:44 15 ministries of the government.

16 Q. You also mention in your reply to my question a couple of
17 questions ago a Supreme Council. What do you mean by the Supreme
18 Council?

19 A. This was the immediate members who were members of the coup
14:44:05 20 plot whom Johnny Paul appointed. They were responsible for
21 carrying out the day to day activities of the government.

22 Q. As far as you know did the members of the Supreme Council
23 meet?

24 A. Yes, indeed, they held several meetings.

14:44:33 25 Q. How often did they meet?

26 A. Mostly it was weekly, but if there is any emergency and the
27 chairman could invite them for an emergency meeting.

28 MS PACK: Witness, I am going to ask you to look at a
29 document.

1 Your Honours, before I pass up the document to the witness
2 perhaps I could identify what it is and where it's from. The
3 Defence have it in a binder in front of them. It is entitled
4 "Proclamation, Administration of Sierra Leone Armed Forces
14:45:23 5 Revolutionary Council Proclamation 1997." It is a public notice
6 number 3 of 1997 published on the 28th of May 1997. That is all
7 in its title.

8 Your Honours, perhaps if I might deal with the genesis of
9 this document. It is a public document that was passed to the
14:45:44 10 Chief of Prosecutions here by the Law Offices Department
11 Sierra Leone on the 16th of April 2003. It is also a document
12 that appears in the Annex B to the Prosecution's notice to admit
13 judicially noticed facts. I have an original of the document
14 that was signed on behalf of the Chief of Prosecutions here and
14:46:11 15 the Law Offices Department containing a list of those documents
16 being a number of decrees, orders and so forth of the AFRC
17 Government that were handed over by the Law Office to the Chief
18 of Prosecutions.

19 I would seek to admit that together with this document in
14:46:31 20 evidence.

21 PRESIDING JUDGE: Are you saying this is a public document
22 in the nature of some form of parliamentary or other
23 documentation?

24 MS PACK: Precisely so, Your Honour.

14:47:01 25 PRESIDING JUDGE: Please proceed, Ms Pack.

26 MS PACK: If I could pass the document up to the witness,
27 the actual proclamation. For the benefit of my learned friends
28 for the Defence, this document appears at tab 6 of the binders
29 they have in front of them with the copy documents in.

1 Q. Witness, read, please, the first four pages of the document
2 you have in front of you. The entirety. Witness, indicate when
3 you have had a chance to read the document.

4 JUDGE SEBUTINDE: Ms Pack, while the witness is reading,
14:49:41 5 could you kindly repeat the title of this document.

6 MS PACK: Yes, Your Honour. It is called "Proclamation",
7 and under that it reads, "Administration of Sierra Leone (Armed
8 Forces Revolutionary Council) Proclamation 1997". It is also
9 identified as, in its heading, "Public Notice Number 3 of 1997".
14:50:21 10 And under that it reads, "Published 28th of May 1997". I have
11 copies for each of Your Honours, in the event that you admit the
12 document, for Your Honours to read.

13 Q. Witness, are you familiar with the document in front of
14 you?

14:50:55 15 A. This is a document that I have seen before.

16 Q. Who would have received copies of this document?

17 A. Since I was assigned to one of the xxxx, so
18 xxxxxx xxxxx, xxx mostly after every meeting
19 he will give me these things to go over it.

14:51:28 20 Q. Witness, you see the document is identified as being
21 published on the 28th of May 1997, very top; and at the very end
22 on the last page at clause 10 it says, "This proclamation shall
23 be deemed to have come into operation on the 25th of May 1997."
24 And it has at the bottom, "Major Johnny Paul Koroma for and on
14:51:56 25 behalf of the Armed Forces of the Republic of Sierra Leone."

26 Your Honour, I would seek to have that document admitted as
27 an exhibit.

28 MR KNOOPS: Your Honour, sorry.

29 PRESIDING JUDGE: Yes, Mr Knoops.

1 MR KNOOPS: Thank you. We have just one remark with
2 respect to the admission of this document. As to its
3 originality, page two of the document under article 1 section 2
4 under C, it has apparently some subscriptions over the text. In
14:52:50 5 this regard I think some further clarification is perhaps
6 justified before admission can be granted.

7 MS PACK: Perhaps I could ask the witness about -- there is
8 some scribbled writing it looks like on the second page.

9 Q. If you look at the second page of that document, is there
14:53:04 10 any writing that appears on it which isn't just the type-face -
11 some other writing? And what colour is that writing in?

12 A. The second face, it is written in black ink.

13 MS PACK: Perhaps I could invite the Court attendant to
14 allow the Defence to look at the document and see the writing as
14:53:41 15 it appears on the typed original itself.

16 JUDGE SEBUTINDE: What is the writing?

17 MS PACK: It is illegible writing. There is a number,
18 number 4 of 1997 it says, something like that. It is just a
19 couple of scribbles.

14:53:56 20 JUDGE SEBUTINDE: Ms Pack is, was it not possible to get a
21 clean copy of this document?

22 MS PACK: Well, that is the original. I certainly did not
23 want to make any changes to the original as it stands, as
24 submitted to the Office of the Prosecutor's evidence unit. So
14:54:07 25 that is as received by this office or, at least, as submitted to
26 the evidence unit of this office, the Office of the Prosecutor.

27 JUDGE LUSSICK: Anyway, Ms Pack, you are not tendering the
28 scribble, are you?

29 MS PACK: No, the scribble is certainly not being tendered

1 for what it is. I can't really -- I mean, it's got a number,
2 number 4 of '97. It is not of any consequence.

3 JUDGE LUSSICK: So we can ignore the scribble? We take no
4 notice of it?

14:54:35 5 MS PACK: I would be grateful if you would take no notice
6 of it; yes, Your Honour.

7 MR FOFANAH: May it please Your Honours. I am going in
8 line with what Professor Knoops just noted in the form of an
9 objection on the grounds that the last page of this document
14:54:50 10 shows that it is a printing done by the Government Printing
11 Department Sierra Leone, which is an institution that is
12 available here, present. And that, if any, they are the proper
13 institution -- somebody from that institution would be the proper
14 person to tender this document in its original form without any
14:55:12 15 alteration, addition or any scribble as the case may be. It is
16 there right at the bottom:

17 "Printed and published" - at the last page of the document
18 - "by the Government Printing Department Sierra Leone by
19 authority of the Armed Forces Revolutionary Council Gazette
14:55:34 20 extraordinary number 34 of 28 May 1997."

21 PRESIDING JUDGE: What is the legal ground for the
22 objection you are raising, Mr Fofanah?

23 MR FOFANAH: On the grounds that it appears to me that, in
24 the given circumstance, the maker/author of this document appears
14:55:55 25 to be the Government Printing Department Sierra Leone, as shown
26 clearly on the last page of the said document. It is printed and
27 published by them.

28 PRESIDING JUDGE: We note your submission, Mr Fofanah, is
29 that this is a document produced by the Government of

1 Sierra Leone -- a government printer of Sierra Leone.

2 MR FOFANAH: Yes.

3 PRESIDING JUDGE: So how can you object to it?

4 MR FOFANAH: On the basis that this is not a clean copy of
14:56:35 5 that document. As Your Honours can rightly see, the very first
6 page has a scribble, "Exhibit A", and this document can
7 apparently not be Exhibit A before this Court. There is also a
8 scribble which vividly reads "Berthan Macaulay, Exhibit 1". So
9 we don't know whether this document is in fact Exhibit A or
14:56:59 10 Exhibit 1. And then there --

11 PRESIDING JUDGE: It has not been given an exhibit number
12 because it has not been tendered yet.

13 MR FOFANAH: I am just saying that as the document stands
14 it shows that it has been exhibited somewhere before which is not
14:57:13 15 before this Court. And since we do not have a clean copy,
16 original copy, we are objecting on the grounds that the
17 government printing department is here available. It is not like
18 they are somewhere in out of space. They can be reached and they
19 would be the proper authority to tender this document. They also
14:57:37 20 have custody of this document. They are the true custodians.
21 That is my objection, thank you.

22 [Trial Chamber confers]

23 [TB160505D 3.00 p.m. - SV]

24 PRESIDING JUDGE: The majority opinion of the Bench is that
15:03:39 25 the witness may be permitted to read this document without
26 reading the scribbles and the scribbles will be ignored by the
27 Bench. My learned sister is giving a --

28 JUDGE SEBUTINDE: I would give a dissenting view in these
29 parameters: I would not admit this document under the section,

1 the Rule 89(B), I think it is, on the grounds that, first of all,
2 I do not consider a document with scribbles an authentic of the
3 original as this is a proclamation issued by the government
4 printer. This is not a clean copy from the government printer,
15:04:20 5 it is an altered authentication. That is one ground.

6 Two, I would not allow this witness to refer to this
7 document because, first of all, he has indicated he is Krio
8 speaking. This is a document that has been shown to him in the
9 English version. I'm not satisfied that he has understood the
15:05:01 10 contents of it in order for him to convince the Bench that indeed
11 he has seen this document before. I'm not convinced on that
12 second ground.

13 Thirdly, I am not very sure of the origin of this
14 particular document with the scribbles on, or whose scribbles
15:05:01 15 they are. The Prosecution has indicated that this document was
16 given to them by the Office of the Attorney General. Again, as
17 we have ruled earlier, there is no foundation or ground laid to
18 prove to us how the Attorney General came by this document or
19 indeed maybe came to scribble. I don't know whose scribbles
15:05:41 20 these are. I would have been happy, instead, to see an
21 authentic, clean copy from the government printer of this
22 document before I would allow this witness to use it. I thank
23 you.

24 PRESIDING JUDGE: Ms Pack, you have heard my learned sister
15:05:41 25 and the majority view. Your words were "I seek to admit". Are
26 you seeking to tender that document?

27 MS PACK: Yes, I am, Your Honour.

28 PRESIDING JUDGE: It's admitted. Which number are we up
29 to, Mr Court Attendant?

1 MR WALKER: It's P4, Your Honour.

2 [Exhibit No. P4 was admitted]

3 MS PACK: Your Honour, may I arrange to have copies passed
4 up to Your Honours and a copy to the witness and I'll hand the
15:06:21 5 original up to the Bench? I'm grateful.

6 Q. Now, Witness, I'm not going to ask you to repeat an answer
7 you gave in closed session this morning about why you came to
8 read documents like this, but perhaps just tell the Chamber can
9 you read and write English?

15:07:41 10 A. Yes, I can read and write English.

11 Q. Now, Witness, I'd like you to turn please to the second
12 page of the document that's in front of you. I'll just read from
13 the first clause 1, paragraph 1. "There is hereby established a
14 council to be known as the Armed Forces Revolutionary Council
15:09:01 15 herein after referred to as the council. 2, the counsel shall
16 consist of a chairman, a deputy chairman and other members not
17 exceeding 27 in number".

18 And I'll jump to point 4: "There shall be a
19 secretary-general who shall be appointed by the council and shall
15:09:01 20 perform such functions as the council may determine". Now to
21 what council is paragraph 1 referring to?

22 MS THOMPSON: Your Honour, before the witness answers that
23 I just need to seek clarification. I hear what Your Honours'
24 ruling was, the majority ruling was, but in my version "27" is
15:09:01 25 crossed out. Are we to ignore the fact that there's a line going
26 through 27?

27 PRESIDING JUDGE: We are definitely to ignore that. It is
28 a scribble.

29 MR KNOOPS: If I may, Your Honour, I understand that the --

1 I have an objection to raise. The Prosecution is going to
2 examine this witness about the contents of a document apparently
3 from this council. I think what we should first establish is
4 whether the witness is competent to interpret these documents.
15:09:16 5 When we are dealing with interpretation of section 4, whether
6 council mentioned in section 4 refers to section 1. I think it's
7 proper to establish first is this witness a competent witness to
8 address us on these semi-legislative issues as this document.
9 And the witness is here not as an expert witness but as a lay
15:09:39 10 witness and is therefore indirectly asked to give opinions on a
11 legal document or semi-legal document. I think we should first
12 ask the witness whether he is competent to address these issues.
13 For instance, was he a member of the council himself or was he
14 involved in the drafting process of this document? I think these
15:10:01 15 are all material questions to be addressed before we can even ask
16 the witness to give us an interpretation on such a document as
17 lying before the Honourable Trial Chamber.

18 JUDGE LUSSICK: Mr Knoops, you only have to be able to read
19 to work out what council is referred to there. It's quite clear
15:10:20 20 from the beginning of the section what council they're referring
21 to.

22 MR KNOOPS: But, Your Honour, if I may, I think if this
23 witness is examined about the contents of this document starting
24 with what is meant by the word council, I think we should first
15:10:38 25 establish the foundation for any competence of this witness, with
26 all due respect.

27 PRESIDING JUDGE: Mr Knoops, my learned brother has given a
28 ruling. If we come up to a legal point we will deal with that
29 legal point as it arises.

1 MR KNOOPS: Much obliged, thank you.

2 MS PACK:

3 Q. Witness, I'll repeat my question. In paragraph 1
4 subparagraph 1 what do you understand to be the council that is
15:11:06 5 referred to in that paragraph?

6 A. Well, this council, it was a council that consisted the
7 chairman, deputy chairman and other members of the AFRC,
8 especially the honourables that were appointed. They were there
9 to take decision on behalf of the government.

10 Q. Did you know the council by another name?

11 A. Well, it was referred to as the Supreme Council.

12 Q. The chairman at paragraph 1.2(A), who is that referring to?
13 The name of the individual?

14 A. Well, this referred to Major Johnny Paul Koroma.

15:12:10 15 Q. What about the deputy chairman?

16 A. Well, when Foday Sankoh was not present SAJ Musa acted as
17 the deputy chairman.

18 Q. What about the secretary-general? Who do you know that to
19 be -- to have been?

15:12:36 20 MR FOFANA: Objection. Objection. Even as the document
21 stands, there is nothing like a definite article in clause 4. It
22 says "a secretary-general". So I don't know where my learned
23 colleague is getting "the" from taking it as it is. That's my
24 objection, Your Honours.

15:13:09 25 JUDGE LUSSICK: There's a way of getting this information
26 that it totally unobjectionable you know, Ms Pack.

27 MS PACK: Yes.

28 Q. Was a secretary-general appointed?

29 A. Well, after the council met it was later that a

1 secretary-general was appointed.

2 Q. Do you know his name?

3 A. Yes. Colonel AK Sesay.

4 MS PACK: That's AK initials, Sesay S-E-S-A-Y.

15:13:39 5 Q. What did Colonel AK Sesay do in his role as the
6 secretary-general?

7 A. Well, all that I know, most often he chaired the meeting
8 that were held. Whenever there was a meeting he chaired the
9 meeting.

15:14:09 10 MS PACK: Your Honours, that's all I had to ask on this
11 document. I'm going to ask the witness to look at another
12 document and perhaps again if I can identify what the title of
13 that document is and its source. The document is called "AFRC
14 decree number 4". Then its got a long heading which is
15:14:34 15 "Administration of Sierra Leone (Armed Forces Revolutionary
16 Council) Proclamation (Amendment) Decree, 1997".

17 Your Honour, the same applies to this document as to the
18 previous document in that this document too is one of these
19 documents that has been identified in the judicial notice motion
15:15:11 20 filed by the Prosecution.

21 The second point is that this document was also received by
22 the Chief of Prosecutions from the Law Officers Department Sierra
23 Leone on the 16th of April 2003.

24 Again, Your Honours, I have a list of those documents that
15:15:37 25 were so received, signed on behalf of the Chief of Prosecutions
26 and the officer in charge of the Law Officers Department. I, in
27 fact, only have a copy of that document but it's the one that is
28 held by the Office of the Prosecutor. Again, Your Honours, the
29 same applies. It's in the manner of a public document, a piece

1 of legislation, and for that reason I would ask Your Honours to
2 admit the document in evidence once I've shown it to the witness.
3 There are no scribbles on either of the pages of it.

4 Perhaps I can explain, the original which I'm going to pass
15:17:10 5 to the witness is actually a booklet, an original booklet which
6 contains a few decrees which I'll be asking the witness about.
7 The first 1 is AFRC decree number 2 and then there's obviously
8 the next one which is number 3 and then the final one is number
9 4.

15:17:29 10 JUDGE LUSSICK: Just bear in mind, Ms Pack, that a document
11 speaks for itself. If you're going to ask the witness questions
12 of fact I can't see that that would be objectionable. But, as
13 Mr Knoops said before, if you are actually asking him to
14 interpret something in the document then I think you would have
15:17:52 15 some difficulty there establishing that as a permissible
16 question.

17 MS PACK: I will actually in relation to this document be
18 asking the witness if he recalls a set of factual circumstances
19 which relate to what this document says. I won't be asking him
15:18:08 20 to be opine as to the meaning or to interpret this document.

21 JUDGE SEBUTINDE: Ms Pack, additionally to what my learned
22 brother has observed, I also feel quite disquieted by the way you
23 read out of these documents, having established that your witness
24 indeed can read and write English. I would rather you asked him
15:18:26 25 to read the portion that you want him to read, rather than you
26 reading it for him, before you go to ask questions.

27 MS PACK: Of course, Your Honour.

28 JUDGE SEBUTINDE: Just refer him to the patch that you want
29 him to read and let him read it out to us rather than you reading

1 it out to him.

2 MS PACK: Yes, Your Honour. Might I pass the document to
3 the witness.

4 Q. Now, Witness, I'd ask you to turn to the decree in that
15:19:19 5 bundle of decrees in that document numbered 4 which I think is on
6 the last two pages of the document. I would like to ask you to
7 take the time to read that decree number 4. No need to read it
8 out loud yet, just digest it yourself. Have you had a chance to
9 read --

15:20:12 10 A. Well, decree number 4, AFRC decree number 4.
11 "Administration of the Sierra Leone (Armed Forces Revolutionary
12 Council) Proclamation (Amendment) Decree, 1997. Being a decree
13 to increase the membership of the Armed Forces Revolutionary
14 Council" dated the 14th July 1997. Pursuant to paragraph 3 of
15:20:41 15 the proclamation entitled Administration of Sierra Leone (Armed
16 Forces Revolutionary Council) Proclamation, 1997. Published in
17 the Gazette on the 28th day of May, 1997, the Armed Forces
18 Revolutionary Council hereby makes and issues the following
19 Decree". Number 4, administration of --

15:21:20 20 Q. No need to read that. That looks like another heading. If
21 you would just go to clause 1, point 1, on the second page?

22 A. Point 1: "Subparagraph 2(c) of paragraph 1 of the
23 Proclamation entitled Administration of Sierra Leone (Armed
24 Forces Revolutionary Council) Proclamation, 1997 is amended by
15:21:48 25 deleting the figure '27' and inserting the figure '40' in its
26 stead".

27 Q. And just if you could read the bottom -- the next line?

28 A. "Made and issued this 12th day of July, 1997. Major Johnny
29 Paul Koroma, Chairman, Armed Forces Revolutionary Council".

1 MS PACK: Your Honours, I'd seek to tender that decree and
2 whole of the booklet in which it is contained. There are two
3 other decrees in that booklet, numbers 2 and 3, and it's the last
4 one, number 4.

15:22:54 5 PRESIDING JUDGE: Yes, Mr Knoops?

6 MR KNOOPS: Your Honour, we are not in possession of number
7 4. We do have number 3. Sorry, we have number 2, sorry.

8 MS PACK: Yes, I wish to correct my learned friend. It's
9 actually at tab 14. If you count the tabs it's at tab 14 of my
10 learned friends' binders and it is a document that was previously
11 served on the Defence in April of 2004.

12 JUDGE SEBUTINDE: Ms Pack, is it not possible to detach
13 decree number 4?

14 MS PACK: No, it's part of a booklet that's joined
15 together. I will ask the witness to deal with the other two
16 decrees, it's just that this one seemed to follow logically from
17 the previous exhibit. But the other two I'll ask him to deal
18 with immediately following, if I may.

19 MR KNOOPS: Could the originals be passed to the Defence,
15:24:31 20 please.

21 PRESIDING JUDGE: Are you looking to compare the original
22 document with the -- is that what you're asking, Mr Knoops?

23 MR KNOOPS: Yes, Your Honour.

24 PRESIDING JUDGE: Mr Court Attendant, please take the
15:24:31 25 original document and show it to each of the counsel for the
26 Defence, please.

27 MS PACK: If I can identify for my learned friends that
28 this was served as Exhibit 46 in a bundle of decrees in April
29 2004.

1 MR KNOOPS: Thank you very much.

2 PRESIDING JUDGE: [Microphone not activated] tender and
3 that will become, I think, Exhibit P5. Is that correct, Mr Court
4 Attendant?

15:26:08 5 MR WALKER: P5, Your Honour.

6 [Exhibit No. P5.1 was admitted]

7 PRESIDING JUDGE: If it is necessary to break down edicts
8 4, 2 and 3 we will deal with that when that arises.

9 MS PACK: I'm grateful, Your Honour. If I may just pass up
15:26:22 10 copies to Your Honour of edict number 4. Perhaps if I could ask
11 the witness just to hold on to the original until I deal with the
12 other two decrees with him. Would that be satisfactory for Your
13 Honour?

14 PRESIDING JUDGE: Yes.

15:27:10 15 MS PACK:

16 Q. Now, Witness, I just had a couple of quick questions on
17 this document that you've looked at. You've read out a passage
18 which says that the armed forces -- the proclamation entitled
19 Administration of Sierra Leone (Armed Forces Revolutionary
15:27:33 20 Council) Proclamation, 1997 is amended by deleting the figure 27
21 and inserting the figure 40 in its stead. Do you remember
22 anything happening around this time relating to this --

23 A. Well, yes. As far as I can remember, yes. There were
24 appointment after this decree had been passed.

15:28:01 25 Q. Appointments to what?

26 A. So that people would become members of the council.

27 Q. Which counsel?

28 A. The Armed Forces Revolutionary Council.

29 Q. Had you seen this document before?

1 A. Well, I had seen it before because the one that I was
2 working under -- before this time he ~~xxxxx~~. He passed
3 on the document to me ~~xxxxxxxxxx~~.

4 Q. Witness, I'm going to ask you to look at another of the
15:28:53 5 decrees which appear in that document. If you just go to the one
6 immediately before the one you've read, number 3, and take an
7 opportunity, please, to read through that to yourself and then
8 I'll ask you to read out certain passages.

9 A. Which of the decrees?

15:29:44 10 Q. Number 3 which has the number at the top 0007656. If you
11 look at the red number at the top. It's from that page and it
12 goes on until page 0007658. So if you just read those three
13 pages to yourself.

14 A. AFRC decree number 3.

15:30:09 15 Q. No need to read them out loud for the moment. Just read
16 them to yourself just so that you can absorb them yourself?

17 A. Okay, I'm sorry.

18 JUDGE SEBUTINDE: Ms Pack, in the meantime you could give
19 us the title.

15:30:27 20 MS PACK: Yes, Your Honour. The title is "AFRC Decree
21 Number 3, 1997" and the long title is "Armed Forces Revolutionary
22 Council (Establishment of Office of Principal Liaison Officer)
23 Decree, 1997". Perhaps, Your Honours, I could arrange to have
24 copies passed up to you now because of course you've admitted the
15:30:50 25 whole of the exhibit already.

26 PRESIDING JUDGE: Are you now tendering this particular
27 part of that bundle in which case we'll give it a P5 point
28 something number. Is that what you're doing?

29 MS PACK: Yes, Your Honour. There are three of them, 2, 3

1 and 4 so perhaps they could each be given a P.1, A, or whatever

2 --

3 PRESIDING JUDGE: As they come up, Ms Pack.

4 MS PACK: I'm grateful.

15:31:50 5 PRESIDING JUDGE: Since we've got number 4 first, it seems
6 we're getting them a bit in reverse order, but logically decree
7 number 4 should be P5.1 since it's the first one tendered. Are
8 you passing them up, Ms Pack, or what's happening?

9 MS PACK: If I may, Your Honours, I'd like to pass them up,
15:32:38 10 yes. Your Honour, I would ask that that exhibit be tendered as
11 Exhibit 5.2.

12 [Exhibit No. P5.2 was admitted]

13 PRESIDING JUDGE: It has now been admitted and marked
14 Exhibit 5.2 to show it's part of Exhibit 5.

15:33:21 15 MS PACK: I'm grateful.

16 Q. Witness, I'm going to ask you, please, to turn to the
17 second page of the AFRC decree number 3. I would like you to
18 read, please, the second paragraph, the one marked 2. Just read
19 it out loud for their Honours, please?

15:33:44 20 A. "There is hereby established the office of a Principal
21 Liaison Officer".

22 Q. And the next paragraph?

23 A. "The Armed Forces Revolutionary Council may appoint from
24 amongst its member such number of Principal Liaison Officers as
15:34:04 25 the council may think fit".

26 Q. And paragraph 3 finally?

27 A. "A Principal Liaison Officer shall be responsible for
28 supervising, monitoring and coordinating the operations of any
29 Department of State or such other business of Government as may

1 from time to time be assigned to him by the Armed Forces
2 Revolutionary Council".

3 Q. Now, the principal liaison officer to which this document
4 refers, is that the PLO to which you were referring earlier in
15:34:41 5 your evidence?

6 A. Yes. These were the PLOs that I have been talking about.

7 Q. Were in the event PLOs, principal liaison officers,
8 appointed?

9 A. It was in the council meeting whenever they had a meeting.
15:35:16 10 It was the council -- during the council meeting that this
11 appointments were made.

12 Q. I'm sorry, it wasn't where but was. Were principal liaison
13 officers appointed?

14 A. Yes, they were appointed.

15:35:36 15 Q. Please name the principal liaison officers who were
16 appointed?

17 A. We had a PLO 1, Abu Sankoh, alias Zagalo. PLO 2 --

18 Q. Take it slowly please. PLO 1 you've identified as Zagalo?

19 A. Zagalo, yes.

15:36:07 20 MS PACK: Your Honours, Z-A-G-A-L-O.

21 Q. Was there a first name?

22 A. Abu Sankoh.

23 MS PACK: A-B-U and then S-A-N-K-O-H.

24 Q. Did this individual have a rank at the time he was
15:36:25 25 appointed?

26 A. Well, they were other ranks in the army. They were staff
27 sergeant.

28 Q. Did he have --

29 MS PACK: Staff sergeant, was the answer, Your Honour.

1 JUDGE SEBUTINDE: Is this the answer to the question you
2 asked as to Zagalo's rank?

3 MS PACK: Yes.

4 Q. You've identified his rank in the army as staff sergeant.
15:37:11 5 Did he have another appointment or rank?

6 A. Well, the only appointment he had was the PLO 1 for the
7 Armed Forces Revolutionary Council.

8 Q. Who were the other PLOs?

9 A. PLO 2 was Sergeant Tamba Alex Brima alias Gullit.

15:37:50 10 Q. Was there a third PLO?

11 A. Yes. The number 3 was Ibrahim Bazzy Kamara. He was the
12 PLO 3 for the Supreme Council Armed Forces Revolutionary Council.

13 Q. Did he have an alias, another name he was known by?

14 A. Well, usually he was called IB or Makavelle.

15:38:31 15 Q. Now you've spelt Makavelle before. I'm going to just
16 reiterate the witness's spelling. It's M-A-K-A-V-E-L-L-E. Now,
17 before we move on from this document, just tell us, had you seen
18 this document before? No need to go into detail as to why you
19 had but had you?

15:38:58 20 A. Yes, I had seen this document before.

21 Q. Now, Witness, I'm going to ask you to look at the final
22 decree going back to the beginning of this bundle. So look at
23 the first one, number 2. For my learned friends' benefit it's at
24 the 14th tab, tab 14 of the binder they have in front of them.

15:39:46 25 Witness, take an opportunity to read the decree.

26 MS PACK: I'm going to read the heading for Your Honours.
27 It's "AFRC Decree Number 2, 1997". It says as its title "Armed
28 Forces Revolutionary Council Establishment of Council of
29 Secretaries Decree, 1997". Your Honours, I would tender that

1 decree as part of the bundle of three decrees.

2 MR FOFANAH: Excuse me, Your Honours, may we be guided? Is
3 council seeking to re-tender an already tendered document?

4 PRESIDING JUDGE: They would have to have separate tender
15:40:27 5 with separate numbers, Mr Fofanah. So we have exhibit 5.1 and
6 5.2 and we're now having another document in that bundle.

7 MR FOFANAH: Thank you.

8 MS PACK: Your Honours, I also have copies if I may pass
9 them up.

15:41:02 10 PRESIDING JUDGE: This will be exhibit 5.3.

11 [Exhibit No. P5.3 was admitted]

12 MS PACK:

13 Q. Witness, have you had a chance to read number 2, decree
14 number 2?

15:41:20 15 A. Yes, I have looked over it.

16 Q. I'm going to ask you to read out paragraphs 2, 3 and 4,
17 please.

18 A. Can I forge ahead?

19 Q. Yes, please.

15:41:42 20 A. "There is hereby established a council to be known as the
21 Council of Secretaries which shall be directly and collectively
22 responsible to the Armed Forces Revolutionary Council. Three,
23 the Council of Secretaries shall consist of the Chief Secretary
24 of State who shall be the head of the Council of Secretaries and
15:42:06 25 (b) other Secretaries of State that the Armed Forces

26 Revolutionary Council may from time to time appoint". To 4?

27 Q. Yes, please.

28 A. "The Council of Secretaries shall (a) be responsible for
29 the preparation and consideration of policy papers on matters and

1 shall advise the Armed Forces Revolutionary Council and make
2 recommendations on all matters of good governance, (b) execute
3 the policies and directives of the Armed Forces Revolutionary
4 Council".

15:42:49 5 Q. And if you could read paragraph 6 please as well?

6 A. "There is hereby established the Office of Chief Secretary
7 of State".

8 Q. And the second paragraph to that?

9 A. "The Chief Secretary of State shall be responsible for
10 communicating the policy decisions and directives of the Armed
11 Forces Revolutionary Council to the Council of Secretaries and
12 conveying the decision of the Council of Secretaries to the Armed
13 Forces Revolutionary Council".

14 Q. Thank you, Witness. Witness, did you know of a council of
15:43:39 15 secretaries?

16 A. Well, this -- later the chairman appointed this council of
17 secretaries. These were headed by the chief secretaries of
18 state.

19 Q. Who was that? Remind the Chamber?

15:43:57 20 A. Well, it was -- SAJ Musa was given the appointment.
21 Rather, was appointed as secretary of state. Chief secretary of
22 state, rather.

23 Q. Again, Witness, I'm going to ask you the same question I've
24 asked you before. Have you seen this document?

15:44:23 25 A. Yes, I have seen it before.

26 Q. Now, Witness, have you created a chart --

27 MS PACK: I'm sorry, Your Honours. Perhaps the original
28 could be passed up to Your Honours. It remains with the witness.

29 PRESIDING JUDGE: We'll have it available. I'll hear what

1 others have to say before it gets as far as --

2 MS PACK: Sorry, the original of the exhibit that has just
3 been filed. I note that it's on the witness's --

4 PRESIDING JUDGE: You're talking about number 5, are you?

15:45:12 5 MS PACK: Yes, it's my mistake. I notice it's on the
6 witness's table.

7 PRESIDING JUDGE: That should be taken in by the Court
8 Management.

9 MS PACK:

15:45:37 10 Q. Witness, I'll ask you again. Have you created a chart of
11 the command structure of the AFRC ruling council?

12 A. Yes. Indeed, I made a chart which I submitted to the
13 department so that they could put it -- put it on computer so
14 that it could be made clear.

15:46:07 15 Q. Which department are you talking about?

16 A. The witness department.

17 Q. Is that the Office of the Prosecutor?

18 A. Yes, indeed.

19 MS PACK: Your Honours, I'd ask that the witness be shown
15:46:24 20 that chart and I will be asking that it is tendered as an
21 exhibit. It has been served some time --

22 PRESIDING JUDGE: It's been served, you say.

23 MS PACK: Yes.

24 PRESIDING JUDGE: So Defence counsel are aware of this
15:46:36 25 document.

26 MS PACK: They were served it about on the 18th of April of
27 this year.

28 JUDGE SEBUTINDE: Sorry, Ms Pack, this is a chart prepared
29 by the witness depicting the command structure of the AFRC; is

1 that correct?

2 MS PACK: Yes, Your Honour. It actually was served on the
3 18th of April of this year. It's also initialed with the
4 witness's witness number, not his own initials, and it's also
15:47:17 5 dated.

6 MR KNOOPS: I think, Your Honour, it's the right moment to
7 repeat my objection that before this chart or any other chart of
8 the witness can be admitted there should be, I think, more proper
9 foundation as to the competence of this witness to, first of all,
15:47:45 10 have any saying on a command structure and, secondly, on the
11 knowledge and the whereabouts of this chart and the way the
12 witness came into drawing this chart. I recall this witness is
13 not testifying as an expert, as a military expert. He has the
14 rank of **xxxxx**.

15:47:35 15 [TB160505E 3.45 p.m. - EKD.]

16 MS PACK: If my learned friend could be careful with
17 identifying any personal information. I apologise for
18 interrupting him.

19 MR KNOOPS: I'm sorry, it's not my intention. But
15:48:20 20 Your Honours are aware about the credentials of this witness. He
21 is here as a lay witness, not as an expert. So I ask the
22 attention of the Trial Chamber with respect to my earlier
23 objection, reinforced by the fact that I believe the drawing of
24 charts, the ones that are just now presented to the Chamber,
15:48:43 25 relate to --

26 PRESIDING JUDGE: It has not yet been presented because it
27 has not yet been tendered. I noted your objection, Mr Knoops,
28 and I will now first invite reply before we rule on that matter.

29 MR KNOOPS: Much obliged, thank you.

1 MS PACK: Your Honour, this is a chart of facts and matters
2 which the witness can speak to orally in evidence, but what --

3 PRESIDING JUDGE: I know he can speak to it but the
4 objection was on proper foundation, how he came to draw it and he
15:49:15 5 is not a military expert. My first reaction is that there is
6 merit in that objection and I am inviting you to reply.

7 MS PACK: I will deal with the two points. The first how
8 it was made. He can identify how it was made. He said that he
9 drew charts and then they were put into electronic format by --

15:49:35 10 PRESIDING JUDGE: No, he hasn't said that. There is
11 foundation to be laid.

12 JUDGE LUSSICK: We are hearing you say that but we haven't
13 heard the witness say that yet. You must lay down some
14 foundation as to why he is able to give the evidence he is going
15:49:56 15 to give about drawing a chart.

16 MS PACK: I simply asked him if he had made charts and I
17 shall go into further detail so as to lay foundation. I can deal
18 with that then by asking the witness further questions as to how
19 the charts came to be.

15:50:11 20 The second objection was as to the issue of whether this
21 witness could opine as to anything as an expert. The chart does
22 not purport to be an expert analysis of anything and it isn't.
23 It is a record in an easily viewable format of what the witness
24 saw, heard at the time that he was there in Freetown during the
15:50:34 25 AFRC period, in the position he was in in that period. You have
26 heard about the position he was in in closed session. It is
27 simply a means, Your Honours, to assist both the Bench and the
28 Defence and indeed the witness in giving the evidence, and
29 Your Honours being able to see what it is that he could perfectly

1 easily talk about in evidence orally without the use of a chart.
2 But it is so much easier and more helpful, in my submission, if
3 there is a chart available which he prepared, which he can speak
4 to, naming all the individuals which he can name, which will take
15:51:17 5 quite some time. Therefore, in my submission, it is only there
6 to assist Your Honours and indeed the parties and the witness.

7 JUDGE LUSSICK: But you are summarising his evidence before
8 he has given any. That is the whole point of the objection. The
9 fact that you haven't laid any foundation to establish that this
15:51:35 10 witness is qualified to say what he is about to say. You are
11 telling us what the results of his evidence will be, but so far
12 we haven't heard any.

13 MS PACK: Your Honours know what position this witness was
14 in in this period and so Your Honours know what he --

15:51:53 15 JUDGE LUSSICK: Ms Pack, just ask him some questions, will
16 you, and lay the foundation instead of telling us what you're
17 going to ask.

18 PRESIDING JUDGE: We are not going to take evidence from
19 the bar table, Ms Pack. Put it to the witness.

15:52:03 20 MS PACK: I'm sorry, I hadn't understood that you had given
21 me permission to go on. I will ask the questions; I'm sorry.

22 PRESIDING JUDGE: We are upholding the objection and
23 directing you to lay foundation.

24 MS PACK:

15:52:13 25 Q. Witness, did you create charts of the command structure of
26 the AFRC ruling council?

27 A. Yes, this command structure was prepared by myself. After
28 I prepared it I handed it over. I handed it over to them to
29 computerise it.

1 Q. Explain what you did before you handed over the charts to
2 be computerised.

3 A. What I did was I put in the most -- from the top, from the
4 chairman, deputy chairman, the PLOs, and I put it in the form,
15:52:54 5 also the Supreme Council members. From there I brought into the
6 armed forces, the Sierra Leone Armed Forces, and the immediate
7 senior commanders who were there at that time. So that is how I
8 prepared that chart.

9 Q. And you have identified you have had in your chart the
15:53:13 10 chairman and so on and the Supreme Council. What other bodies
11 did you have in the chart apart from the Supreme Council?

12 A. Well, the deputy defence ministers were there, the
13 secretary general also, the chief security officers and the
14 military assistant and MAs, the ADC at that time who were with
15:53:40 15 the chairman. I name all of them on the chart.

16 Q. Do you identify members of the Supreme Council in your
17 chart?

18 A. Yes, indeed. Especially the 17 members who plotted the
19 coup. All of their names are on the chart.

15:53:57 20 Q. Do you identify ministers in your chart, those occupying
21 ministerial positions?

22 A. Well, the only secretaries of state that I mention were
23 those in the south, north and the east. Those were the ones I
24 put on the chart.

15:54:14 25 Q. And you identify military commanders, the SLA, in your
26 chart?

27 A. Yes, that I have said it before. I said the military
28 commanders at that time who were head of the army during the
29 AFRC.

1 Q. And in your chart do you identify who has to report to who
2 and who comes under who out of the various bodies and individuals
3 contained in the chart?

4 A. Well, that is why I asked -- I spelt it out clearly on the
15:54:49 5 chart, the way the command structure goes from the chairman to
6 the vice-chairman, the PLOs and also to the Supreme Council
7 members, right down to the ministers and to the members of the
8 armed forces.

9 Q. Now, witness, I am going to ask you not to mention any
15:55:10 10 names of anyone associated with you. Use a pseudonym if
11 necessary. How did you come to know this information that you
12 then put in the chart?

13 A. Well, since I was a member of the Sierra Leone Army and I
14 was a member of the Sierra Leone Army, I knew most of them by
15:55:35 15 name in the army.

16 Q. Where were you in the AFRC period? Don't give a specific
17 location, but broadly where were you based?

18 A. Well, I was assigned to one of the council -- Supreme
19 Council members.

15:56:03 20 Q. Going to refer to him as 'A', Your Honours will recall. Is
21 that 'A' --

22 A. Yes, to 'A'.

23 MS PACK: Your Honour, I would ask that the chart which the
24 witness has been referring be tendered, the witness having laid a
15:56:30 25 foundation for its admission.

26 PRESIDING JUDGE: Yes, Mr Knoops.

27 MR KNOOPS: Your Honour, I would like to add to my
28 objection that in my humble opinion the witness still has not
29 convinced us of being able and competent to draw this diagram;

1 that it is, based on the facts as they are now lying before the
2 Trial Chamber, highly speculative to admit this document, to
3 tender it, and it is also causing prejudice to the accused
4 persons which outweighs the potential relevance of this chart.

15:57:26 5 But, foremost, I think first argument of my objection relates to
6 the fact that based on the background of this witness as given
7 before the Chamber this morning, I think this witness is still
8 not competent to draw such a detailed document relating to
9 command structure, which is again based on current facts highly
15:57:54 10 speculative and prejudicial to the accused persons to admit it in
11 this stage. Thank you.

12 PRESIDING JUDGE: I am not clear exactly what you mean by
13 not competent to draw a command structure.

14 MR KNOOPS: I still feel that this witness is not in a
15:58:13 15 position -- he is not a military expert, he is here as a lay
16 witness. By admitting this chart we indirectly allow the witness
17 to draw opinions, conclusions, which actually go to the ultimate
18 issue of the case, namely command structure. That is something
19 for the Trial Chamber to decide. I think when we would admit
15:58:36 20 this document we indirectly admit this witness to testify on the
21 ultimate issue rule, and as this witness is not before the
22 Chamber as a military expert, again, I think this document should
23 not be tendered into the evidence.

24 Foremost, I think the witness clearly expressed this
15:59:02 25 morning that he, say, functioned in a certain capacity and never
26 attended the Supreme Council meetings himself. So that
27 reinforces the argument that his chart is highly speculative and,
28 above all, I think the witness will cause prejudice to the
29 accused persons when this chart is to be admitted. Thank you.

1 PRESIDING JUDGE: Ms Pack, you have heard the objection.

2 Your reply.

3 MS PACK: Yes. First objection I think was on the issue of
4 expertise. I think that was what my learned friend was saying,
15:59:49 5 that this witness was not competent because he does not have the
6 sufficient expertise to draw a command structure chart.

7 PRESIDING JUDGE: I have recorded he does not have the
8 military expertise.

9 MS PACK: Your Honour, I am not asking the witness for an
16:00:06 10 expert opinion, any opinion. The chart he has described in a
11 broad outline to Your Honours is a depiction of facts that he
12 states as to who was in what position, reporting to who, as he
13 observed in this period. It is from observations he made.
14 Your Honours have to reach a conclusion, when all the evidence
16:00:30 15 has been adduced in this case, from facts that are supplied in
16 evidence by witnesses. In the absence of facts as to what the
17 perception was or what was seen to be the command structure - who
18 was in command, who was reporting to who, who are the names, who
19 had the various ranks and so forth - from any witnesses,
16:00:48 20 Your Honours won't be able to reach any factual conclusions at
21 the end of the day.

22 It is my submission that this is nothing to do with the
23 ultimate issue, which is a matter of law and fact under Article
24 6(1) and 6(3) of the Statute. I am not asking the witness to
16:01:03 25 talk about the law, I am not asking him to provide an opinion as
26 to military expertise. Simply to look at a chart which he
27 prepared, which records the facts as observed by him as to who
28 held what position, who reported to who.

29 He did not attend Supreme Council meetings, my learned

1 friend has pointed out, but, of course, he went to the Supreme
2 Council meetings. The chart does not go into detail about what
3 was said during Supreme Council meetings. It might identify who
4 were members of the Supreme Council, but that is nothing to do
16:01:32 5 with the contents of those meetings. It is simply a means of
6 identifying who was who and it is an efficient, in my submission,
7 means of that evidence being presented to the Court.

8 PRESIDING JUDGE: Yes, Mr Knoops, a point of law, is it?
9 You're replying on a point of law, are you?

16:02:03 10 MR KNOOPS: Yes, Your Honour, and facts as well. If you
11 look at this map it relates to a lot of relationships.

12 PRESIDING JUDGE: The whole reason that we are having this
13 submission is so that we don't look at it. So don't invite me to
14 do it.

16:02:19 15 MR KNOOPS: Okay, sorry, that's correct. I think opinions
16 -- actually, what is I think crucial with respect to this chart
17 is that it amounts to -- well, allowing this map, it will amount
18 to allowing an opinion of a witness and opinions can only assist
19 [inaudible] effect when it concerns assistance in specialised
16:02:46 20 knowledge --

21 JUDGE LUSSICK: Mr Knoops, I am sorry to interrupt you.
22 Perhaps I have missed something in the evidence, but I had the
23 impression this witness is saying that what he has put on that
24 chart is from his personal knowledge. He said that he knew most
16:02:59 25 of the members whose positions he has indicated on the chart.
26 That is not an opinion.

27 MR KNOOPS: I agree, Your Honour. But until so far the
28 witness has not testified on any of the relationships which are
29 on the chart. So in my humble opinion, the admission of this

1 document comes far too early because if you look prima facie to
2 this chart, it relates to all kinds of potential relationships
3 and names which are not yet before the Chamber.

4 JUDGE LUSSICK: So that I understand the basis of your
16:03:32 5 objection, you are not saying that you're objecting because the
6 chart is tendered as expert evidence. You are saying simply that
7 if it is to be admitted it can't be admitted at this stage
8 because the foundation if any is insufficient?

9 MR KNOOPS: That's correct, Your Honour, that is my first
16:03:53 10 argument. But I still sustain my objection that it is indirectly
11 also relating to military expertise. That is what I would like
12 to bear in mind. But my primary objection now is that when we
13 look with a first glance at the chart you see all kinds of
14 relationships and names on which the witness has not yet
16:04:15 15 testified.

16 JUDGE LUSSICK: I see.

17 MR KNOOPS: Insufficient factual basis I think for
18 admission right now.

19 MS PACK: Your Honours, if I can just deal with that last
16:04:26 20 point that was made by my learned friend as to timing of
21 admission. Of course, I could go through every single name in
22 this chart and ask the witness of every single individual, what
23 position they held and so on, and the relationship between them
24 and other people on the chart, before admitting the chart in
16:04:42 25 evidence. But in my submission that might somewhat defeat the
26 object of asking to have the chart put in, because of course the
27 time taken to do that would be considerable.

28 JUDGE LUSSICK: You can ask general questions and if they
29 are challenged in cross-examination that is a matter for the

1 Defence.

2 MR FOFANAHA: May it please, Your Honours, sorry if I
3 interrupted your ruling. Your Honours, I am objecting at this
4 stage on basically what I consider factual inaccuracy. The
16:05:14 5 witness was asked by counsel as to whether he indicated on the
6 chart members of the Supreme Council, and I vividly recall the
7 witness stating that there were 17 members of the Supreme
8 Council. I stand to be corrected by the records. What we have
9 here does not reflect that. Apart from the core members of the
16:05:47 10 Supreme Council portrayed on the chart, there appears to be
11 another 21 or so other Supreme Council members, and he said in
12 his testimony in chief that there were 17. I stand to be
13 corrected. Probably I was getting the wrong information.

14 PRESIDING JUDGE: Wasn't there something about an amendment
16:06:05 15 to the original 17, to increase it, in one of the edicts?

16 MR FOFANAHA: His knowledge. His knowledge was 17. So I am
17 objecting on the basis of factual inaccuracy. That what is
18 presented before us, which is about to be tendered, is not what
19 is in the knowledge of the witness. That is my objection.

16:06:27 20 MS PACK: Just a factual clarification of what my learned
21 friend said about the 17. I think the witness said 17 coup
22 plotters. He didn't necessarily say there were only 17 people
23 identified in the chart, which is clearly wrong because there are
24 a lot more than that.

16:06:46 25 MR FOFANAHA: He said they were original co-plotters and --

26 PRESIDING JUDGE: I have recorded here "17 members who
27 plotted the coup".

28 MS PACK: Your Honours, I just want to inform you that the
29 witness has raised his hand. I wanted to inform you that the

1 witness has raised his hand. I don't know if he is in
2 discomfort.

3 PRESIDING JUDGE: Yes, Mr Witness, is there something you
4 need to -- what's the problem?

16:07:43 5 THE WITNESS: Yes, I want to use the gents. I want to use
6 the gents.

7 PRESIDING JUDGE: First we'll have a break as in fact we
8 appear to have run just over our break period. The usual ruling
9 about not speaking to any person about your evidence until it is
16:08:03 10 finished, Mr Witness. Fifteen minutes, Mr Court Attendant,
11 please.

12 [Break taken at 4.07 p.m.]

13 [Upon resuming at 4.22 p.m.]

14 PRESIDING JUDGE: This is a ruling on an objection by
16:25:12 15 Defence counsel. If the evidence to be tendered is on the basis
16 that that evidence is within the personal knowledge of this
17 witness, we are not satisfied that that has been established and
18 the objection is upheld. Yes, Ms Pack.

19 MS PACK:

16:26:04 20 Q. Witness, I'm going to ask you some questions about the
21 command structure of the AFRC. Who was at the head of the
22 command structure of the AFRC?

23 A. Johnny Paul Koroma, Major Johnny Paul Koroma.

24 Q. Could you identify all of his titles -- all the titles that
16:26:41 25 he had?

26 A. He was the head of the Supreme Council and also he was also
27 commander in chief of the Sierra Leone Armed Forces at that time.

28 Q. What was his rank?

29 A. Well, the time he took over he was a major, and later he

1 promoted himself to a lieutenant colonel.

2 Q. Who was the spokesman for the AFRC?

3 A. It was a civilian called Alieu Kamara.

4 Q. Who did he report to? I'm sorry, Your Honour, I should
16:27:39 5 spell that. Alieu is spelt A-L-I-E-U, Kamara is K-A-M-A-R-A. I
6 will ask the question again. Who did he report to?

7 A. He reported directly to the chairman.

8 Q. You've already told the Court but perhaps tell us again.
9 Who was the secretary general for the AFRC?

16:28:12 10 A. It was Colonel AK Sesay.

11 Q. Before was he a civilian or what?

12 A. Well, he was a member of the Sierra Leone Army.

13 Q. Who was the aide-de-camp of Johnny Paul Koroma?

14 MS THOMPSON: Objection, Your Honours. My learned friend
16:28:50 15 has not established whether he did have an aide-de-camp or not.

16 MS PACK: Just before I ask that question, in fact, I will
17 go back to Colonel AK Sesay.

18 Q. Who did he report to?

19 PRESIDING JUDGE: Who are we talking about now?

16:29:06 20 MS PACK: Back to -- I'm afraid I --

21 PRESIDING JUDGE: AK Sesay?

22 MS PACK: Yes.

23 PRESIDING JUDGE: Reword it so we're clear for the record.

24 MS PACK: Yes.

16:29:12 25 Q. Before I re-ask the question I want to go back to
26 Colonel AK Sesay. Who did he report to?

27 A. He used to report to the chairman.

28 Q. Did the chairman have an aide-de-camp?

29 A. Yes, he had an ADC.

- 1 Q. Who was the ADC?
- 2 A. It was Captain Gbondo.
- 3 Q. The spelling for that given by the witness was G-B-O-N-D-O.
- 4 What had he been previously, a civilian or what?
- 16:30:09 5 A. No, he was a member of the Sierra Leone Army.
- 6 Q. And again perhaps the answer is obvious, but who did
- 7 Captain Gbondo report to?
- 8 A. He reported to the chairman.
- 9 Q. Did the chairman have a chief security officer?
- 16:30:44 10 A. Yes, he did.
- 11 Q. Who was his chief security officer?
- 12 A. It was Sergeant Rambo.
- 13 Q. Was he a member -- Rambo's obviously R-A-M-B-O. Was he a
- 14 member of any body?
- 16:31:09 15 A. Yes.
- 16 Q. What was he a member of?
- 17 A. Yes, indeed. He was a member of the Supreme Council.
- 18 [TB160505F 4.30 p.m. - SV.]
- 19 Q. Had he been a civilian before or what?
- 16:31:35 20 A. He too was a member of the Sierra Leone Army.
- 21 Q. Did he have a title by which he was referred during the
- 22 AFRC period?
- 23 A. Well, yes. He was called honourable and CSO to the
- 24 chairman.
- 16:32:04 25 PRESIDING JUDGE: I didn't hear -- after honourable I
- 26 didn't hear it properly. Please repeat it.
- 27 MS PACK:
- 28 Q. Please repeat after honourable.
- 29 A. Also he was CSO to the chairman. CSO. Chief security

1 officer to the chairman. We referred to him as CSO.

2 Q. Who did he report to?

3 A. Well, directly to the chairman.

4 Q. And by honourable do you mean the honourables that you were

16:32:38 5 talking about earlier on in your evidence?

6 A. Yes. One of the 17 men -- coup plotters.

7 Q. Did the chairman have a military assistant?

8 A. Yes.

9 Q. Who was he?

16:33:05 10 A. Captain Simbo.

11 MS PACK: S-I-M-B-O.

12 Q. Who did he report to?

13 A. To the chairman.

14 Q. What had he been before the AFRC period?

16:33:29 15 A. A member of the Sierra Leone Army.

16 Q. Who was the vice-chairman of the AFRC? You've already told

17 us but for the sake of completeness if you'd repeat it.

18 A. Corporal Foday Sankoh was the chairman, vice-chairman. But

19 later SAJ Musa acted as acting vice-chairman.

16:34:07 20 Q. What other position did Foday Sankoh hold apart from

21 vice-chairman in any other organisation?

22 A. He was the RUF leader.

23 Q. Was Foday Sankoh a member of any other group apart from the

24 RUF in his position as vice-chairman?

16:34:50 25 A. He was also a member of the Supreme Council.

26 Q. Do you remember when Foday Sankoh ceased to act as

27 vice-chairman? Do you remember the rough time?

28 A. Well, when SAJ Musa arrived automatically he became the

29 vice-chairman.

1 Q. Why was Foday Sankoh in Nigeria?

2 MS THOMPSON: Your Honour, I'm not sure where my learned
3 friend got this one from because we have no evidence whatsoever
4 about Nigeria, Foday Sankoh being in Nigeria or what have you.

16:35:45 5 JUDGE SEBUTINDE: Allow me to check my notes but --

6 MS PACK: He said it earlier in the day. I'm afraid not
7 now, but --

8 JUDGE SEBUTINDE: I remember, Ms Pack, when this witness
9 was saying Foday Sankoh made a statement on the BBC while he was
16:36:07 10 in Nigeria.

11 MS PACK: Yes.

12 JUDGE SEBUTINDE: And there were certain contents of that
13 interview. But as to how you link it now to your evidence I
14 think is the question.

16:36:16 15 MS PACK: Well, perhaps I'd better clarify that,
16 Your Honour.

17 Q. Where was Foday Sankoh at this time?

18 A. Well, he was in detention in Nigeria.

19 Q. During the AFRC period did he ever come to Freetown?

16:36:49 20 A. Well, after he made that announcement he never -- he never
21 came to Freetown.

22 Q. Was there an alias by which Foday Sankoh was known?

23 A. The name I had known for him, they called him Lion.

24 Q. You've already talked about SAJ Musa. Perhaps if you would
16:37:39 25 give the Chamber his full name and his rank again?

26 A. SAJ was captain and later he was promoted to lieutenant
27 colonel. Solomon SAJ Musa. That's how I know him. Solomon AJ
28 Musa.

29 Q. As acting vice -chairman as you've described who did he

1 report to?

2 A. Directly to the chairman.

3 Q. Who was he subordinate to?

4 A. He had the PLOs and also he had the deputy defence
16:38:41 5 minister.

6 Q. I think you might have misunderstood the question. I
7 wasn't asking who was subordinate to him but who he was
8 subordinate to?

9 A. Johnny Paul Koroma.

16:38:59 10 MR KNOOPS: Your Honour, may I have the attention of the
11 Chamber? I have an objection, especially in view of the last
12 question. The witness clearly hesitating to answer this
13 question. I have the impression, Your Honour, that the
14 Prosecution, with all due respect, is trying to go through the
16:39:41 15 diagram command structure orally but again no foundation. The
16 witness has until so far not given any facts for answering
17 questions on who was subordinate to whom. So I object against
18 this line of questioning because it's indirectly a circumvention
19 of your ruling that this witness - unless of course it falls
16:40:21 20 within his personal knowledge - should not be examined on the
21 merits of the diagram.

22 PRESIDING JUDGE: Is there something else, Mr Knoops?

23 MR KNOOPS: No, thank you.

24 PRESIDING JUDGE: [Microphone not activated]

16:40:21 25 MS PACK: I'm not trying to circumvent your order,
26 Your Honours, I'm trying to lead evidence from the witness on
27 facts and matters of which he has knowledge. Your Honours having
28 indicated that the chart couldn't go in evidence for the time
29 being, that a sufficient foundation hadn't been laid.

1 Your Honours, never gave any indication that this witness
2 couldn't talk about matters about which he knows, about who was
3 in what position reporting to who during this period.

4 PRESIDING JUDGE: [Microphone not activated]

16:41:01 5 JUDGE SEBUTINDE: Miss Pack, I think the crux of this
6 objection is how he knew. We're not saying he knew or didn't
7 know but how he knew. Our ruling takes cognizance of the fact
8 that you have not established that he was in a position to know,
9 to come by this knowledge, how he knew. We have in evidence his
16:41:41 10 ranking and position at the time and we have found in our ruling
11 that we're not convinced that he would have come by this
12 knowledge purely or merely by that position and so the objection,
13 I think, goes to how did he know.

14 MS PACK:

16:42:21 15 Q. Witness, how did you know that Johnny Paul Koroma was
16 commander in chief of the Sierra Leone Armed Forces, head of the
17 Supreme Council, head of the AFRC and promoted from major to
18 lieutenant colonel by himself at the beginning of the AFRC
19 period?

16:42:21 20 A. Well, Johnny Paul Koroma was a commander I had known in the
21 army before. And even when he was removed from prison and the
22 announcement he made to the public and to the BBC when he
23 declared himself as chairman of the AFRC.

24 Q. Witness, how did you know that Allieu Kamara was AFRC
16:43:01 25 spokesman and reported to the chairman and was previously a
26 civilian?

27 A. Well, at the time he was the only person -- the only
28 competent person that the chairman appointed and he was so
29 competent that he went to media and even after the day's meeting

1 he will come and when the meeting was over he would -- all the
2 honourables came, who held strategic position came over to them
3 and I knew even those before in the army. And even to Allieu
4 Kamara, it was during the AFRC that I knew him, that after every
16:43:41 5 meeting, I was able to xxxx.

6 Q. Don't name any names but how come you were able to xxx
7 xxxx after every meeting?

8 A. Well, mostly after the meetings we greeted ourselves and we
9 talked to them and the xxxx with whom I was working was
16:43:42 10 xxxxxxxx in the xxxxxx.

11 Q. So were you with xxxxx then at this time?

12 A. Yes and sometimes he will pay a visit to our residence, he
13 will visit us in our residences.

14 Q. Who would pay visits to you in your residence?

16:44:21 15 A. Well, to the xxx with whom I was working
16 Allieu Kamara used to visit them -- xxxxx.

17 Q. How did you know that Captain Gbondo was an SLA previously,
18 Sierra Leone Army, and the aide-de-camp to the chairman who
19 reported to the chairman; how did you know this?

16:45:01 20 A. Well, this was open to every junta. There used to be an
21 ADC and you as a soldier should know the ADC as long as you are
22 working with the government.

23 Q. How did you know that Colonel AK Sesay was
24 secretary-general of the AFRC, formerly a member of the Sierra
16:45:18 25 Leone Army and reported to the chairman? How did you know that?

26 A. Well, in fact in most cases, whenever over the radio they
27 said it clearly, at that time I was meeting with xxxxx
28 after every meeting. xxx would talk to xx. So everybody knew
29 him. Everybody knew that he was appointed as secretary-general

1 of the AFRC.

2 Q. You said you **xxxxx** after every meeting. What
3 meetings are you talking about?

4 A. Well, mostly after council meetings. **xxx** will greet him, **xxx**
16:46:01 5 **xxx** salute him and he will smile and pass by **xxx**. Sometimes he
6 will ask **xxx** how are you and there are times he will share with
7 **xxxx**.

8 Q. How did you know that Sergeant Rambo was an honourable CSO,
9 chief security officer, to the chairman, a member of the Supreme
16:46:31 10 Council and one of the 17 coup plotters?

11 A. Well, just as I said, in the military administration the
12 chief security, the MA, the ADC, they are popular people in the
13 administration. And Rambo with whom we were all in the army when
14 they took over. And these were the people who made out the plot,
16:47:00 15 who plotted out the coup. He was a popular man. He moved about
16 and everybody knew him. As long as you were there in the AFRC
17 during the AFRC takeover, you should know Rambo.

18 Q. How did you know that Major Simbo was a former SLA,
19 reported to the chairman and was indeed his military assistant?

16:47:29 20 A. Well, Major Simbo in fact I don't know want to explain much
21 because I don't want to identify myself. He was -- when we were
22 in **xxxx** he was the officer with whom **xxxx**. We
23 were the other ranks under them. So I knew him personally and
24 even when he was appointed at that time, most times when we went
16:47:52 25 to **xxxx**, we met him there. He would talk to us. Those of
26 us working **xxxx**, we knew him.

27 Q. Yes, witness, I notice you've identified some concerns
28 about saying things that might lead to your identification so
29 please be cautious about that and, as you have done, let the

1 Chamber know and if necessary, I will ask the Chamber if we can
2 go into closed session at some point at the conclusion of this
3 exercise.

4 Now, Witness, how did you know that Foday Sankoh was
16:48:32 5 vice-chairman, RUF leader, member of the Supreme Council, in
6 detention in Nigeria and also that he was called Lion? How did
7 you know all that?

8 A. Well, about the detention of Foday Sankoh during the SLPP
9 regime, when President Kabbah was there that time, we all heard
16:48:58 10 it over the national radio and over the international radio that
11 he was held in Nigeria, that in fact he was arrested because he
12 had a pistol on him. And later when Johnny Paul took over he
13 boldly announced that the vice-chairmanship has gone to the RUF
14 and that he had invited Corporal Foday Sankoh to come and take
16:49:19 15 his place as vice-chairman.

16 Q. Witness, how did you know that SAJ Musa, called Solomon AJ
17 Musa, was promoted from captain to lieutenant colonel, was
18 subordinate to the chairman and also reported to the chairman?
19 How did you know that?

16:49:50 20 A. According to the command structure, the vic- chairman
21 reported directly to the chairman and SAJ Musa was invited. He
22 was in Britain. He was invited because there was nobody to take
23 the chairmanship -- the vice-chairmanship, and when he was
24 invited he was given this position when he arrived in Freetown.

16:50:18 25 Q. Do you know what he had done before?

26 A. Well, he was vice-chairman in the NPRC government. So they
27 called him. And by then he was captain. So when he came later
28 Johnny Paul promoted him to lieutenant colonel.

29 Q. Thank you, Witness. I'm going to ask you some more about

- 1 some further individuals. Was there a deputy defence minister in
2 the AFRC ruling council?
- 3 A. Yes, there was one.
- 4 Q. Who was the deputy defence minister?
- 16:51:11 5 A. It was Colonel Avivavo Kamara.
- 6 MS PACK: Avivavo is A-V-I-V-A-V-O. Kamara K-A-M-A-R-A.
- 7 Q. Did he hold a position or a title in the -- as apart from
8 as a deputy defence minister?
- 9 A. He was a colonel in the army.
- 16:52:01 10 Q. Who was he subordinate to?
- 11 A. He was reporting directly to the chairman.
- 12 Q. Was he above or below SAJ Musa in the command structure?
- 13 A. No. He was subordinate to the vice-chairman.
- 14 Q. You've identified previously the PLOs in your evidence.
16:53:06 15 Who was the first PLO, perhaps if you would repeat that?
- 16 A. Yes, he was staff sergeant Abu Sankoh alias Zagalo.
- 17 MS PACK: And the spelling, Your Honours will recall, was
18 Z-A-G-A-L-O, Abu A-B-U.
- 19 Q. Was he a member of any body?
- 16:53:41 20 A. He too was a member of the Sierra Leone Army and he was a
21 member of the Supreme Council.
- 22 Q. And what was he referred to as?
- 23 A. Well, he was a PLO and they called him Zagalo.
- 24 Q. Remind us how many PLOs there were?
- 16:54:07 25 A. During the AFRC there were three PLOs.
- 26 Q. And of the PLOs was he the first, second or third?
- 27 A. He was the first PLO because they refer -- they referred to
28 him as PLO 1.
- 29 Q. Who was he subordinate to?

1 A. He was under the vice-chairman.

2 Q. Who did he report to?

3 A. Mostly these were the many people who took position in the
4 council. He reported directly to the vice-chairman and to the
16:54:56 5 chairman.

6 Q. Who was the second PLO? You've told us before but if you'd
7 repeat that?

8 A. Well, it was sergeant Tamba Alex Brima alias Gullit. He
9 was a PLO 2 and he was a member of the Supreme Council.

16:55:37 10 Q. Was there another title by which he was known?

11 A. Well, he was a PLO 2 and he was also an honourable and a
12 member of the Supreme Council.

13 Q. Who did he report to?

14 A. He reported to the PLO 1.

16:55:59 15 Q. Who was he subordinate to?

16 A. The PLO 1.

17 Q. As the PLO 2 what in particular did he do?

18 A. Well, as PLO 2 he had his own ministry which he headed and
19 supervised.

16:56:36 20 Q. Do you remember which ministry that was?

21 A. I couldn't remember the ministry.

22 Q. Who was the third PLO?

23 A. Well, it was sergeant Ibrahim Bazzy Kamara.

24 Q. What body -- was he a member of any body?

16:57:03 25 A. Well, yes. He was a member of the Sierra Leone Army and he
26 was honourable and also a member of the Supreme Council.

27 Q. I'm not sure if I asked you this before, but the man you've
28 identified as Tamba Alex Brima alias Gullit, you said he was a
29 staff sergeant. In what body had he been a staff sergeant in?

1 JUDGE SEBUTINDE: He was not staff sergeant. I have on
2 record sergeant Alex Tamba Brima. A different person was
3 referred to as staff sergeant.

4 MS PACK: My mistake, Your Honour.

16:57:54 5 Q. In what body was he a sergeant?

6 A. A member of the Sierra Leone Army.

7 Q. Is there a difference between sergeant and staff sergeant?

8 A. Yes, there's a difference. The staff sergeant is senior to
9 the sergeant.

16:58:30 10 Q. Now, we were talking about Ibrahim Bazy Kamara. You
11 identify him as an honourable and a member of the Supreme Council
12 and the third PLO. Who did he report to?

13 A. Well, he reported to the PLO 2.

14 Q. And who was he subordinate to?

16:58:54 15 A. The PLO 2.

16 Q. What did he do as a PLO 3?

17 A. He too was supervised -- he too supervised some ministries.

18 Q. Do you remember which ministries?

19 A. As far as I recall he was in charge of the marine
16:59:28 20 resources. That is one of the ministries that he monitored.

21 Q. What did the PLOs do as members of the Supreme Council?

22 A. Well, they too were responsible. They made sure that they
23 supervised the day to day activities of the government. They
24 were there to take decisions on the activities of the day to day
17:00:11 25 government.

26 Q. How did you know that the men you described as the PLOs --
27 how did you know that they were in the positions you've talked
28 about, did the sort of things that you've talked about,
29 responsible for the sort of things that you've talked about? How

1 did you know all this?

2 A. This is something -- an appointment that was very clear.

3 It was totally made over the national radio and translated into

4 Mende, Temne and Limba and they showed clearly as members of the

17:01:05 5 Supreme Council.

6 Q. How did you know about their responsibilities, what they
7 did?

8 A. Well, because even the xxxxxx with whom I was working,

9 he was very close to them, so we used to visit them in their

17:01:21 10 ministries which they supervised and there were times when we met

11 in common places and they will stand and talk together and then

12 afterwards we'll move to go wherever we were going.

13 Q. Now you've spoken also about Colonel Avivavo Kamara. How

14 did you know that he held the position that you've described to

17:01:54 15 the Chamber?

16 A. Well, this position was not a hidden position. When he was

17 appointed by the chairman it was known well over the country, and

18 the people that were responsible were named and the Supreme

19 Council members were also named.

17:02:18 20 Q. Now you're speaking about Supreme Council members.

21 PRESIDING JUDGE: Ms Pack, I notice the time and it's

22 5.00 p.m. You have indicated to us there is more evidence to

23 come from this witness so this would be the appropriate time to

24 adjourn. I'll give the witness the usual warning concerning his

17:02:44 25 oath.

26 Mr Witness, it's now 5.00 p.m. and we're going to adjourn

27 the Court until tomorrow morning at a quarter past 9.00 a.m. You

28 have taken an oath -- you promised to tell the truth, so between

29 now and between the time when all your evidence is finished in

1 this Court and you have answered all the questions you should not
2 discuss your evidence with any other person. Do you understand
3 this?

4 THE WITNESS: Yes.

17:03:39 5 PRESIDING JUDGE: Mr Court Attendant, will you please
6 adjourn the Court.

7 [Whereupon the hearing adjourned at 5.02 p.m. to be
8 reconvened on Tuesday, the 17th day of May 2005, at 9.15 p.m.]

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EXHIBITS:

Exhibit No. P4	64
Exhibit No. P5.1	71
Exhibit No. P5.2	73
Exhibit No. P5.3	76

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-334	4
EXAMINED BY MS PACK	4