Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

MONDAY, 7 JANUARY 2008
9.08 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges: Justice Julia Sebutinde, Presiding
Justice Teresa Doherty
Justice Richard Lussick
Justice al Hadji Malick Sow, Alternate

For Chambers: Mr William Romans
Ms Sidney Thompson

For the Registry: Mr Michael Adenuga
Ms Rosette Muzigo-Morrison
Ms Rachel Arura
Mr Vincent Tishekwa

For the Prosecution: Ms Brenda Hollis
Mr Nicholas Koumjian
Mr Mohamed A Bangura
Ms Maja Dimitrova

For the accused Charles Ghankay Taylor: Mr Courtenay Griffiths QC
Mr Terry Munyard
Mr Morris Anyah

For the Office of the Principal Defender: Mr Vincent Nmehielle
Monday, 7 January 2008

[Open session]

[The accused present]

[Upon commencing at 9:08 a.m.]

09:03:32 MS IRURA: All rise. The Special Court for Sierra Leone is sitting for the resumption of the trial in the case of the Prosecutor versus Charles Ghankay Taylor. Justice Julia Sebutinde presiding.

PRESIDING JUDGE: Good morning. Before we begin with the trial I'd like to apologise for the court starting 10 minutes late. This was due to security downstairs insisting on checking everything that came in and we had quite a lot to bring inside. We apologise and we hope that this will not happen again because we intend to start at 9 o'clock promptly every day.

09:07:08 Secondly, there was a request by a news reporter from Reuters and the request is for permission to take photographs at the beginning of this hearing. I thereby wish to issue this oral order granting the request.

Trial Chamber II of the Special Court for Sierra Leone considering the request of the Press and Public Affairs Office of the Special Court for Sierra Leone for a pool photographer to enter the courtroom in order to take photographs before the hearing today, Monday 7 January 2008, considering further that Mr Michael Koreen from Reuters news agency has been accredited to cover the court proceedings in this trial and that his agency fully accepts the conditions governing the taking of photographs of court sessions and undertakes to share all photographs so taken with the Special Court and the international press, pursuant to Rule 81(D) of the Rules of Procedure and Evidence we
order as follows:

That Mr Michael Koreen of Reuters is authorised to be present in the courtroom today, that he be allocated a position in the courtroom 15 minutes before the start of the court proceedings, and I hope that this is the case. He is granted permission to photograph from the inside of the courtroom immediately for a period of one minute immediately after I’ve delivered this order. He is to ensure that the dignity of the proceedings is preserved and that, as the only photographer that will access the courtroom, he makes available the photographs taken to the press in Sierra Leone and the international press and that he supplies the Press and Public Affairs Office of the Special Court with all the pictures taken for internal use.

I will pause for a minute to permit this gentleman ---

I will now call upon Court Management to present the interpreters that must be sworn before the evidence begins. I beg your pardon. Let’s have the appearances first. The Prosecution, please.

MS Hollis: Good morning Madam President, your Honours,

Brenda J Hollis, Nicholas Koumjian and Maja Dimitrova appear today for the Prosecution.

PRESIDING JUDGE: Thank you, Ms Hollis. Defence, please.


PRESIDING JUDGE: Thank you Mr Griffiths. Now the interpreters may be sworn. I beg your pardon. I just wanted to recognise Mr Vincent Nmehielle, the Principal Defender. Sorry, I couldn’t see you from where I’m sitting.
MR NMEHIELLE: Thank you, Your Honour. No fault of yours.

PRESIDING JUDGE: Is that all? Thank you very much.

Please take your seats. So this case comes up for a continuation
of the Prosecution case and we expect to hear evidence today.

MR KOUMJIAN: Yes, Your Honour, we're prepared with our
first witness who is Mr Ian Smillie.

Perhaps, Your Honour, just to take advantage of the time I
would ask for Your Honour's guidance on how we mark and move to
admit exhibits. The first exhibit which I intend to mark was -
l'd ask for Your Honour's guidance on how we mark and admit
exhibits in the trial in the procedure. The first exhibit that I
intend to mark would be the report that Mr Smillie prepared for
this court and if the procedure is satisfactory to your Honours I
propose to wait until the end of his examination to move to admit
that into evidence

PRESIDING JUDGE: First of all on procedure, definitely the
right procedure is that you first give the evidence - allow the
witness to give his evidence, at the end of which you then apply
to tender whatever exhibit you wish to and allow the other side
to comment on whether they agree or not. You don't tender it
upfront before the evidence.

But on the numbering of the exhibits, it was the
understanding of the judges that the parties had a meeting, a
trial management meeting, earlier, sometime late last year, I
think that meeting was chaired by the Court Management section,
in which we understand you agreed on the numbering of the
exhibits. Am I wrong? Unfortunately I think none of the court
managers are sitting in court currently.
MS HOLLIS: I'm sorry, your Honour. Yes, we did have such a meeting and it was agreed, to my recollection, that the Prosecution exhibits would be marked as a PE with a number for ID and then when they were admitted the for ID would be struck off. So as far as the Prosecution exhibits were concerned that's my understanding of how it would be marked and it was my understanding the Defence exhibits similarly would be DE and the number. So there was an agreement as to that.

PRESIDING JUDGE: But, Ms Hollis, it's not always to admit an exhibit in two phases, first for identification and then as an exhibit. It's not always necessary to do that.

MS HOLLIS: No, your Honour, the purpose of marking it for identification would be to use it as you have said, before it is formally moved for admission. It may be that an exhibit is moved for admission and is not admitted and then it would remain as for identification.

PRESIDING JUDGE: But the important thing is the parties did agree.--

MS HOLLIS: Yes, your Honour.

PRESIDING JUDGE: -- with the court manager as to how to number.

MS HOLLIS: Yes, your Honour.

PRESIDING JUDGE: So we will go with the numbers that the court manager advises the Bench. Thanks.

MS HOLLIS: Thank you, your Honour.

WITNESS: IAN SMILLIE [Sworn]

EXAMINATION-IN-CHIEF BY MR KOUMJIAN:

Q. Mr Smillie, did you prepare for this case at the request of the Prosecution a report entitled Diamonds, the RUF and the

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Liberian Connection?
A. Yes.

MR KOUMJIAN: Madam Court Officer, the Prosecution would like to mark that exhibit for identification. So that would be tab 1 --

PRESIDING JUDGE: Excuse me, counsel. We don't know anything about this witness. You don't just jump into his testimony. Who is he?

MR KOUMJIAN: Okay, your Honour.

PRESIDING JUDGE: I beg your pardon, sir. It's not your fault, but the Prosecutor needs to introduce you to the Court.

MR KOUMJIAN:
Q. Sir, in the report you discuss your finishing university and first job. Can you tell the Court what your first job was after university?

A. I joined a voluntary organisation called Canadian University Service Overseas, CUSO, and I went to Sierra Leone to teach secondary school in Koidu, a town upcountry in Sierra Leone.

MR KOUMJIAN: I would ask the usher then to take the document 11, tab 11, and mark that next for identification and show that to the witness, please. My case manager informs me we also have a larger size map for your Honours if you'd like to use that. This is in your binders under tab 11. Is that on the screen now?

MR GRIFFITHS: Your Honour, I apologise for interrupting, but I have a difficulty with my LiveNote screen and I wonder if one of the technical experts could assist me in putting it back up, please.
PRESIDING JUDGE: Court manager, what is happening? Nobody has LiveNote on their screen actually. Does anybody have LiveNote on their screen?

MR MUNYARD: Madam President, I have it on my screen.

PRESIDING JUDGE: We certainly don’t have it on the Bench.

MR KOUMJIAN: I do have it, your Honour, the LiveNote.

MS MUZIGO-MORRISON: Your Honour, the reason your Honours do not have LiveNote is because they haven’t been configured. We are hoping it can be done during the break.

PRESIDING JUDGE: What about counsel who is complaining that he doesn’t have it?

MS MUZIGO-MORRISON: The technician will come in and assist counsel. Thank you.

PRESIDING JUDGE: Does the Prosecution have LiveNote on their --

MR KOUMJIAN: I do, your Honour, yes.

PRESIDING JUDGE: So why does Mr Griffiths not have LiveNote?

MR TISHEKWA: Madam President, if I may assist the Chamber, the difficulty is that the LiveNote has to be individually configured and some members of the different parties could not attend the session last Friday when the configuration was done. It is expected that it will be done in the course of the day.

PRESIDING JUDGE: Mr Griffiths, I think there is nothing we can do at this stage, but what I would request as a way forward is that we take our notes for now, we take handwritten notes. I will ask the Prosecutor to go a little slowly to enable people to record until such a time as your computer and ours can be configured to accommodate us as far as LiveNote is concerned.
Please proceed.

MR KOUMJIAN: I would ask that the map in document number 11 be on the screens represented in front of your Honours. I was hoping that the witness could then indicate on that map where Koidu where he was teaching school in his first job after university, but I believe the witness would have to go to the ELMO to do that. I don't know if the usher could assist him. I'm not sure, for the record, if we have given this a number. I assume it is PE-2.

09:25:49

MS IRURA: It's exhibit P-5.

PRESIDING JUDGE: It cannot yet be an exhibit because it has not been admitted. I think counsel is tendering it for identification purposes only. So what is the number for identification purposes?

09:26:10

MS IRURA: Marked for identification P-1.

PRESIDING JUDGE: MFI P-1, that is the map of Sierra Leone. That can be found in our folders under flyer 11.

MR KOUMJIAN: Your Honour, I was informed by the case manager that this is one of the handful of documents that was admitted pursuant to the pre-trial motion on findings of 92 bis documents. So this was marked in the Court order, I believe, exhibit 5 and that's P-5.

09:26:34

PRESIDING JUDGE: Is that correct?

MS IRURA: That is correct, your Honour.

09:26:50

PRESIDING JUDGE: Then let the record show that what is before the witness is actually exhibit P-5. Is that correct? Is that the right exhibit number?

MS IRURA: Yes, your Honour.

PRESIDING JUDGE: Exhibit P-5 is now shown to the witness.
Please continue.

MR KOUMJIAN: Is it possible to put this on the screen so that everyone can view what the witness is pointing to? I'm not sure how I get that on my screen.

MS IRURA: Please press the button Document Cam Witness.

THE WITNESS: The name of the place as marked on this map is Koidu-Sefadu.

MR KOUMJIAN:

Q. Thank you. Just to avoid any confusion there is another town with a similar name called Koindu with an N; is that correct?

A. That's correct.

Q. But you were in Koidu. In which district is that in Sierra Leone?

A. Koidu is the district headquarters for Kono District.

Q. What was it that you were doing there?

A. I taught secondary school. I taught English, French and history.

PRESIDING JUDGE: Counsellor this is not satisfactory. In view of the fact that the map has not come up on the screen and you're asking the witness to actually point out, I would rather that he took a pen and marked the town and passed it over to counsel opposite and to the Bench so that we're on the same page about this.

MR KOUMJIAN: Thank you. Apparently it was on the screen. I had some difficulty getting it, but you need to push the Document Cam Witness button next to our screens.

PRESIDING JUDGE: It was not on the judges' screen and it ought to be and we're the ones taking the evidence.
MR KOUMJIAN: Sorry for the procedural questions, your Honour. Is it an issue if he marks this exhibit if it's already been admitted?

PRESIDING JUDGE: We need to know if we're talking about the same place. We need to agree on what place it is he was at.

MR KOUMJIAN: We can hand you another copy of the same map if you'd like and even mark that if you'd like.

PRESIDING JUDGE: Now we've got the copies of the map on all our screens on the Bench. Could the witness please point again.

MR KOUMJIAN: Your Honour, I'm sorry to interrupt. We don't have it on our screens and we don't appear to have the button.

THE WITNESS: The button is external to the machine. Nobody told us about that. Thank you.

PRESIDING JUDGE: Court manager, could you please ensure that you ask the witness to point again, to indicate.

THE WITNESS: The town that I lived in and taught school at was on this map marked Koidu-Sefadu [indicated]. Would you like me to mark it on this map or not?

PRESIDING JUDGE: As long as you've indicated I think all the parties involved have seen the indication. It's not necessary to mark it. Please proceed.

MR KOUMJIAN:

Q. Sir, how long did you teach there at Koidu?

A. I taught for one school year.

Q. While you were living in that area did you observe any economic activities going on, any mining?

A. Koidu was the centre of the diamond mining area in Sierra Leone. It was very volatile. It was almost like a Wild West
town. It was similar, I suppose, to a gold rush town. There were thousands of illicit diamond diggers. You had to have a pass to live in Kono District if you were not a Kono speaker, but there were thousands of people who had come into the area to dig diamonds. So it was a bustling town. The diamond pits were everywhere. It was all about diamonds.

Q. When you finished that year of teaching school there in Sierra Leone what did you do next?

A. I was asked if I would take up a field staff job for Canadian University Service Overseas, CUSO, in Nigeria and I went to work in Nigeria and I lived there for another three years.

Q. What years were those that you were in Nigeria?

A. From 1968 to 1971.

Q. Can you then tell us - go through the jobs that you've had in your professional career up to the present time?

A. After I returned to Canada from Nigeria I worked for a year in the CUSO headquarters in Ottawa. Then I took a job with CARE, the relief organisation, in Bangladesh. I worked for two years in the immediate post-war period in Bangladesh on a relief and development project for CARE.

Following that I worked for a year with the Office of International Education at the University of Western Ontario in London, Ontario and then I was involved in starting a Canadian non-governmental organisation called Inter Pares and I managed Inter Pares for four years and then I was asked if I would consider going back to CUSO as executive director. At that time CUSO was Canada's largest NGO. I did that and I held that job for four years.

My wife had taken a job at the Commonwealth Secretariat in
London and so I left CUSO in 1983 to go and live in London and I had always wanted to do some writing so I thought this would be an opportunity to begin to exercise that ambition, which I did, but I discovered that you don't actually earn a great deal of money from writing about development subjects and so I took consulting jobs, short-term consulting jobs.

Between 1983 and 1999 I worked as a self-employed consultant doing work on development issues in Canada, Europe and in developing countries. I worked for the Canadian government, UN agencies, NGOs, European NGOs, African and Asian NGOs and I continue to do that, I still work as an independent consultant, but starting in 1999 I began to work on a part-time basis with Partnership Africa Canada in connection with the war in Sierra Leone and the diamond issue.

Q. Sir, are you familiar with a video, a documentary, called Blood Diamonds?
A. Yes.
Q. And that has a slightly different title than the Hollywood movie; is that correct?
A. The Hollywood movie was called Blood Diamond singular. The History Channel film was called Blood Diamonds.
Q. Can you tell us, do you know who made that film Blood Diamonds?
A. It was made by a company called Bill Brummel Productions.
Q. And where was that presented and when, do you know?
A. It was first shown in the United States on the History Channel at the end of 2006. I think it was December 30. I'm not exactly sure of the date, but I think it was December 30, 2006.
It has since shown on television in Ireland, in London in Britain and in South Africa and elsewhere.

Q. Did you have any association with that film?
A. The producers called me I think some time in the spring of 2006 and started asking me questions about diamonds and Sierra Leone, Angola, the conflict and that kind of thing and then they asked me if I would be prepared to be interviewed on camera for the film and I agreed to do that. They flew me, they paid for my ticket to New York and I was interviewed in New York, I think it was the beginning of July 2006.

Q. Do you know what kind of reception the film got?
A. I think the film was very well received. I know it was nominated for an Emmy Award which is the equivalent in the United States of an Academy Award for television productions.

MR KOUMJIAN: Your Honours, at this time I would like to show one very short clip from the film and have the witness comment. That would be clip number 1 that we've identified previously to the audio visual booth. Can the usher please make sure the witness has that on his screen? There is an unofficial transcript also available on tab 12 for your Honours and for counsel.

PRESIDING JUDGE: Is there a narrative that goes with this and if so --

MR KOUMJIAN: As I mentioned, your Honour, there is an unofficial transcript under tab 12. If we could start it from the beginning for everyone's convenience, please. If the booth could start the film from the beginning. Thank you.

[Video played to the Courtroom]

MR KOUMJIAN: Thank you. Apparently the sound and video

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were not exactly coordinated.

Q. Sir, at the last part of that clip that was shown you commented on the quality and the price of Sierra Leone diamonds. Is this a subject you've studied --

09:39:49

PRESIDING JUDGE: Counsel, we don't have evidence that the voice belongs to Mr Ian Smillie yet.

MR KOUMJIAN: Okay.

Q. Sir, did you recognise yourself and your voice on that video?

09:39:59

A. Yes, I did.

Q. Thank you. In the film you commented in the clip that was shown on the quality of Sierra Leone diamonds. Can you tell us when you became interested in this subject and what you've done to --

09:40:13

JUDGE DOHERTY: Mr Koumjian, you've asked two questions in one and that's the third time this morning.

MR KOUMJIAN:

Q. Sir, when did you become interested in diamonds?

A. Well, I suppose I became interested when I first lived in Sierra Leone although I didn't think at that time it would lead to anything. I mean you couldn't live and work in Koidu and not take notice of diamonds.

Q. Can you tell us what efforts you've made to study diamonds?

A. At the end of 1998 and the beginning of 1999 there was a group of individuals living in Ottawa, people like myself who had worked in Sierra Leone or Sierra Leonean Canadians, people who had emigrated from Sierra Leone who were very concerned about the war and what was going on in Sierra Leone. We were concerned that
the relief effort was mixed and fairly pale in comparison to what was going on in other emergency situations. We raised some money for relief efforts. I think we raised money for a clinic in Bo and it was burned down not long after it was constructed and we began to see that some of what we were doing was fairly futile.

One of the Sierra Leoneans in the group said, "This is really all about diamonds and until somebody does something about the diamonds this war will never be over." I've done a lot of writing, I've done a lot of research, I've written seven books, I've co-authored other books, I've written many, many chapters for books. My time was my own. I thought why don't we start to look into this, why don't we try to understand whether or not this does have something to do with diamonds. And we did. We spent a year, most of 1999, working on this. There was a team of three of us, myself and two others, and we studied the issue in some depth. We not together but individually paid visits to Belgium, to London, to Sierra Leone. We talked to people in the industry and others to try and get an understanding of what this was all about. So that's where it began.

Q. Since your interest began can you tell us if you've written on the diamond industry?

A. Yes, I've written - well, as I told your Honours, I work on a part-time basis for Partnership Africa Canada. We produced a first report on this which I co-authored called Sierra Leone Diamonds and Human Security. The head title was The Heart of the Matter, the subtitle was Sierra Leone Diamonds and Human Security.

Since then Partnership Africa Canada has produced 17 different occasional papers on the subject of diamonds. These
papers have looked into the issue of diamonds in Canada, India, Guinea, Liberia, Sierra Leone, southern Africa, Brasil, Venezuela and a number of other countries, all of course tied to the issue of conflict diamonds or to the workings of the Kimberley Process which came later. I've been author of some of those papers. I'm the editor-in-chief at Partnership Africa Canada so I've edited those papers. We produced a number of other papers on the subject of diamonds at Partnership Africa Canada as well and I've written chapters for books on the subject of conflict diamonds.

I think I've written chapters for five different books, collections of articles about either how commodities are used to fuel war or about how NGOs work on campaigns of this sort and that kind of thing.

Q. Are you familiar with the Kimberley Process?

A. Yes.

Q. Can you tell us what your involvement has been with the Kimberley Process?

A. The Kimberley Process was an effort to try to come to grips with this issue of conflict diamonds. By the middle of 2000 there was a great deal of concern in the diamond industry and among the governments of countries that depend on diamonds that the issue of conflict diamonds was getting out of control. There was the war in Sierra Leone, there was major problems/war in Angola, in the Democratic Republic of Congo. It was clear that this was a very large issue and the future of the diamond industry was at stake.

In May of 2000 the Government of South Africa called a meeting to try to bring together some of the NGOs that had been working on this issue, ourselves at Partnership Africa Canada,
Global Witness from England and a number of others along with industry leaders and other governments that were concerned about this, Botswana, Namibia, Canada, Belgium. The first meeting was held in the town of Kimberley in South Africa where South African diamonds had been discovered in the 1860s. That first meeting led to a number of other meetings and that became known as the Kimberley Process. Partnership Africa Canada and I in particular were involved in all of those meetings, both formal meetings and informal meetings that led to the creation of the Kimberley Process Certification Scheme which came on stream in 2003.

Q. That is a scheme - can you explain what that scheme is, the Kimberley certification scheme?

A. The Kimberley Process basically requires that all rough diamonds being traded internationally must be accompanied by a government certificate. The government certificate has to say that the diamonds are clean. It has to say that - it indicates that the government issuing the certificate knows where the diamonds came from. That has to be backed by a system of internal controls in each country.

Now it's different for a producing country like Russia or South Africa. It's different there from what it is in a country like Belgium where diamonds are not produced, but Belgium imports a lot of diamonds and exports diamonds. So when it's exporting rough diamonds it has to issue a Kimberley certificate as well saying it knows where these diamonds have come from. They have to be able to trace the diamonds back to the point of import. Or in the case of a mining country you have to be able to trace the diamonds back to the mine that they originate from.

Q. I will just remind you to speak a bit slowly for the
interpretation. Sir, you used the term rough diamonds. Can you explain what that means?

A. Rough diamonds means uncut, untreated.

Q. That means the status of the diamonds when they would be found in the ground before being treated; is that correct?

A. Yes, yes.

MR KOUMJIAN: Your Honours, I would now request that document tab 2 be given a number by the Court officer. That is the curriculum vitae of Mr Ian Smillie.

PRESIDING JUDGE: Court manager, is this for identification purposes?

MR KOUMJIAN: I would move it into evidence at this time also, your Honour. Actually, I'm sorry, your Honour. If your Honour is satisfied with this procedure what I would prefer is I will move all the exhibits that I intend to move at the end of my examination.

PRESIDING JUDGE: Counselor, the procedure is in any court of law, this one included, before you tender any exhibit in for admission you must examine your witness so that he attests to the contents of the document. You don't first tender it in and then examine the witness upon the document. Now you're talking about a curriculum vitae of Mr Smillie. We have a tab, we have a text of it here and there's contents in it that he hasn't spoken to in his evidence.

MR KOUMJIAN: Right. And, your Honour, I wouldn't request him to read it or go over all of it, but I will ask him to recognise it. If your Honours like I can have him go over all of it. But the procedure I'm requesting is I will move all of the exhibits I intend to move in at the end of my examination.
will examine him about each document, but just to --

PRESIDING JUDGE: So are you asking the Court to mark this for identification?

MR KOUMJIAN: Yes, your Honour.

PRESIDING JUDGE: Madam Court Manager, what is the number?

MS IRURA: MFI-1, your Honour.

[ MFI-1 admitted]

MR KOUMJIAN:

Q. Sir, do you recognise this document MFI-1?

A. Yes.

Q. And did you prepare this document?

A. Yes, I did.

Q. Is it accurate in describing and summarising your professional background?

A. Yes. I see one small mistake in it, but it's generally - yes, it's correct.

Q. Okay, would you please point out the small mistake?

A. The small mistake is under Awards on the first page, Queen's Silver Jubilee Medal 2002, it should be Queen's Golden Jubilee Medal.

PRESIDING JUDGE: What paragraph is that again, please?

THE WITNESS: It's on the first page under Awards.

PRESIDING JUDGE: What should the correction read like?

THE WITNESS: Instead of Queen's Silver Jubilee Medal it should be Queen's Golden Jubilee Medal.

MR KOUMJIAN:

Q. Sir, can you explain these three awards, what they are?

A. The jubilee medal was awarded to - in Canada it was awarded to Canadians who had, I guess, exemplary community or national
service. The Canadian Policy Research Award had to do with the research that I'd conducted on the issue of conflict diamonds. The Order of Canada is Canada's highest civilian award. It's given to no more than 5,000 Canadians at a time and it's for a body of work.

Q. And is this document up to date?
A. Well, it's dated at the end. It's dated April 2007. There are obviously some other things that have happened since then, I have a few other publications, but generally speaking it's fairly up to date.

Q. And what is your present occupation?
A. I work about between 50 and 75 per cent of my time with Partnership Africa Canada as research coordinator which means mainly working on the diamonds and human security project that we have and the rest of my time I work as an independent consultant and writer. I'm currently writing a book about Bangladesh.

Q. Have you ever testified before?
A. I've never testified in a court of law. I've testified before Canadian parliamentary committees.

Q. The subject of your report for the Court deals with Sierra Leone. Since you left from teaching school, I think you mentioned in Koidu, can you tell us what connections, what contacts you have had with Sierra Leone and the people of Sierra Leone?
A. Well, I've kept in contact with several of my students over the years so there's been an ongoing connection with the school that I taught at and some of the students who were there and one or two of the teachers as well. I went back to Sierra Leone - when I lived in Nigeria I went back once for a personal visit, a
holiday. When I was executive director of CUSO I went on a formal visit to visit - to see our program in Sierra Leone in 1983. I met at that time with President Siaka Stevens and other senior government officials and travelled around the country. I didn’t visit Sierra Leone again until 1996. I was asked by CARE, the large development and relief organisation, to go to Sierra Leone and to do a study on basically the development and strength of civil society in Sierra Leone. A lot of the relief work that was going on at that time during the war was being handled by international agencies and CARE was interested in finding out what the capacities were of local civil society organisations.

I went back to Sierra Leone again I think once before I joined the United Nations Security Council expert panel. I don’t recall the date. Since then, since 2000 when I was a member of the panel, I’ve been back to Sierra Leone several times. I was part of a Canadian government mission in 2001, the Department of Foreign Affairs, the Canadian foreign minister sent a delegation to Sierra Leone and Guinea and Liberia to better inform Canada about what was happening, the war was still on. Then I was asked by the Government of Ireland to take part in a mission in 2003 to look into the possibility of creating an Irish aid program in Sierra Leone.

In 2005 I visited again in connection with Tufts University. Tufts University had a project for 10 years called the humanitarianism and war project and I was involved in that over a 10 year period and that took me to Sierra Leone in 2005 to look into security issues, human security issues and perceptions of security. In addition to those visits I’ve been to Sierra Leone three, four times, maybe five times, for Partnership Africa
MR KOUMJIAN: I'd now like to play clip number 4. Again the transcript is under your Honours' tab 12. It is clip number 4 we're now playing. Do we need to mark this as a separate exhibit? Can I get a number please for this then?

MR KOUMJIAN: Yes.

PRESIDING JUDGE: Madam Court Manager?

MS IRURA: Marked for identification 2.

[ MFI-2 admitted]

PRESIDING JUDGE: This is clip 4 on the video.

[Video played to the Courtroom]

MR KOUMJIAN:

Q. Mr Smillie, did you recognise yourself appearing on this clip?

A. Yes I did.

Q. In the history, the brief history of Sierra Leone that was given on the clip, from your knowledge of the country and its history is that accurate?

A. Yes.

MR MUNYARD: Madam President, I'm very concerned about this line of questioning and the way in which this evidence is being introduced. Mr Smillie can talk about Mr Smillie's own experience. I haven't objected hitherto, but we've now been treated to two clips containing anonymous individuals giving, I suppose it will be claimed by the Prosecution, evidence about the history of Sierra Leone, about what went on there at different times, about the role of President Siaka Stevens and all sorts of other matters and I am extremely concerned that the Prosecution
are introducing this material in this way.

Mr Smillie has not purported to be a historian, he cannot
give expert evidence about the history of the country unless the
foundation is properly laid and I would ask that no more clips of
this nature be played until a proper foundation for putting them
into evidence is established.

PRESIDING JUDGE: Mr Prosecutor, what is your response?

MR KOUMJIAN: Your Honour, the information that was given
was very general information about the history. It's certainly
something that anyone with the background of Mr Smillie who has
lived and studied Sierra Leone would know and so I think it's -
first I don't think any of this information is in dispute.
Counsel may correct me if I'm wrong. Secondly I think Mr Smillie
is certainly qualified to give this very general history. The
purpose of his testimony is not this general history, but it sets
a background.

MR MUNYARD: Madam President, I was asked if any of it is
in dispute. Some of it certainly is in dispute. Mr Smillie is
in no better position than a first year student at university to
give evidence of this sort, and that's no disrespect to him, but
it is not the proper way of introducing evidence of the history
of a nation into a court of law.

PRESIDING JUDGE: I uphold the Defence objection. The
right procedure should be that any evidence that is led in this
Court must have a firm foundation. You must show the foundation.

Mr Ian Smillie is not called here as a historian. He has not
come here to give his testimony as a historian. So you cannot
ask questions that allude to the history. And I do agree with
the Defence that you cannot play clips with anonymous speakers.
and hope to tender in that kind of evidence through Mr Smillie unless you lay a proper foundation for it.

MR KOUMJIAN: Your Honour, the speakers I believe are identified on the clips and on the transcripts and of course your Honours control the proceedings, but the rules --

PRESIDING JUDGE: Not when you asked Mr Smillie his opinion about these people and their comments.

MR KOUMJIAN:

Q. Sir, let me ask you about one of your comments on that clip. You said in the clip - and I'm referring to approximately between time 33:03 and 34:33, your Honours. You said, "When I lived there in the 1960s Sierra Leone Selection Trust had an army of 500 men. They had two helicopters, they had trucks and their whole business was to round up illicit diggers." Can you explain that comment, how you learned that information and what - well, first let me ask you that?

A. Well, because Kono District was regulated and because you had to have a pass to live there if you were not a native Kono speaker everybody was aware of the diamond business. Living in a town like Koidu, which I said earlier was a bit like living in the Wild West, it was an incredibly busy town. It was also a very dangerous town. There were fights, there were murders at night, there were large numbers of the Lebanese business people there who had shops where all of their wares were covered in dust, they actually weren't there for the retail trade that they purported to be there for, they were obviously there for something else, and the Sierra Leone Selection Trust, I mean their presence and their attempts to control the illicit diamond mining was evident. Practically every day you would hear the
helicopters going over, the police would arrive in trucks and
occasionally conduct raids in town. The diggers would run
whenever the helicopters came or when the trucks arrived and
occasionally they would swarm out over our school which was on
the edge of town. I remember one occasion where there was a big
raid in the town and hundreds of illicit diggers invaded the
school. Several actually came and sat in the classroom to
pretend to be students in case the police arrived on the school
compound. The police did arrive and they all ran away. We saw
this almost on a daily basis. It was a regular feature of life.

PRESIDING JUDGE: Mr Smillie, if you'll excuse me, did you
say this testimony that you're giving, you were aware of these
facts in the year 1960 something?

THE WITNESS: Yes, when I lived in Koidu. I'm describing
the --

PRESIDING JUDGE: What is the time frame you're describing?


PRESIDING JUDGE: Mr Prosecutor, then I may ask where is
this line of questioning leading? Is this in any way related to
the time frame in the indictment.

MR KOUMJIAN: Your Honour, it's very much related to
diamonds, the significance of how diamonds are mined. It's
significant to why you need to control an area and the population
in order to exploit the diamonds in an area and I believe my next
question will make that clearer.

PRESIDING JUDGE: Well, please be mindful of the time frame
in the indictment and of the evidence that you're leading in this
Court. Don't take us too far out of the line of the indictment,
please.
MR KOUMJIAN:

Q. Sir, you talked about the - in the quotation about the army of 500 men. What was the reason to round up illicit diggers? How does that help the company that was exporting the diamonds?

A. The company, the Sierra Leone Selection Trust had a lease area and it included kimberlite pipes, and I can explain something about how diamonds are mined if you'd like, but it included some deep shaft mines as well as alluvial diamond mining. Alluvial diamond mining is basically diamonds - you're mining diamonds that are very close to the surface of the earth. These alluvial diamonds can be mined in many cases - well, almost a hundred per cent of the time they can be mined by individuals with little more than a shovel and a sieve. The diamonds are very close to the surface. Obviously the Selection Trust didn't want to lose its diamonds to illicit diggers so the police - the purpose of having a large police force was to try and round up people who were in the district illegally and also people who were there legally but digging illegally.

Q. In your preparation for your writings and testimony before parliamentary committees on diamonds in Sierra Leone have you studied the history of the diamond industry in Sierra Leone?

A. Yes, I have.

Q. You mentioned when discussing your background in diamonds your appointment to a panel of experts for the United Nations.

A. Yes. At the Partnership Africa Canada we had issued a report on diamonds in Sierra Leone in January of 2000. There had been an earlier report on diamonds in Angola written by Global Witness and in March of 2000 the Angolan sanctions committee of
the Security Council had come out with a report talking about the problem of diamonds in fuelling the war in Angola. It corroborated a lot of what Global Witness had said, it corroborated a lot of what we had said generically about the diamond industry and I was approached by the Security Council office at the United Nations and asked if I would let my name stand for possible membership in this new panel that was going to be created to deal with Sierra Leone. The names on the panel would be submitted to the Secretary-General and he would make a decision. So I said, yes, I would let my name stand. Some weeks later I was called back and told that the Secretary-General had made the choice and I was to be on the panel.

MR KOUMJIAN: Your Honour, I'd like to ask to have marked for identification UN Security Council resolution 1306. It's document 3 on the tabs and I ask the Court Officer for an identification number.

MS IRURA: The number is marked for identification 3.

PRESIDING JUDGE: That will be MFI-3.

[MFI-3 admitted]

MR KOUMJIAN: May that please be shown to the witness.

Q. Sir, do you recognise this document MFI-3 as a resolution of the Security Council of the United Nations?

A. Yes, I do.

Q. Reading beginning at A is it correct that - does this paragraph indicate part of the concern for setting up this panel?

A. The first paragraph under A?

Q. Yes.

A. "Expressing its concern at the role played by the illicit
trade in diamonds in fuelling the conflict in Sierra Leone, and at reports that such diamonds transit neighbouring countries, including the territory of Liberia."

Q. Thank you. Going to paragraph 19 on the page that's marked with the evidence number 4316, does this paragraph refer to the request of the Security Council that the Secretary-General appoint a panel of experts?

A. Yes. Paragraphs A and B were the mandate that we were given.

Q. The paragraph 19 indicates that the Secretary-General in consultation with the committee should establish a panel of experts. What committee is being referred to?

A. This is the United Nations Security Council Sanctions Committee on Sierra Leone. There are sanctions committees on different countries at different times and there was a sanctions committee at that time on Sierra Leone.

Q. Paragraph 19(a) calls upon this panel to report to collect information on possible violations of the measures imposed by Security Council resolution 1171 paragraph 2 of 1998. What was that prohibition?

A. I'd have to look at the report that we wrote, but I believe that is the embargo on arms shipments to Sierra Leone.

Q. Perhaps just to make sure that you verify that I believe it's around paragraph 51 or 52 of the panel report. May the witness refer to his report, your Honour, to the panel report?

PRESIDING JUDGE: Which panel report are you referring to?

MR KOUMJIAN: No.

PRESIDING JUDGE: Then how can he refer to it?
MR KOUMJIAN: Well, may the panel report be marked next for identification. That is document number 4 in the tab. It's a report of the panel of experts appointed pursuant to Security Council resolution 1306.

MS IRURA: This document is marked for identification 4.

[MFI-4 admitted]

PRESIDING JUDGE: What tab is that on our files? Tab 4?

MR KOUMJIAN: Tab 4, your Honour.

PRESIDING JUDGE: There are a number of documents under tab 4. There is a note by the President of the Security Council, there's a letter dated 14 December and then there's a report attached.

MR KOUMJIAN: Yes, the report was attached to the letter and it's the report and I would specifically ask the witness if I may direct his attention to paragraph 52 on page 14 of that report.

Q. Sir, does that refresh your recollection as to the paragraph 2 of resolution 1171 of 1998?

A. Yes. We were asked to collect information on possible violations of the measures imposed by paragraph 2 of 1171 and that's in paragraph 2 of the other document and it's about the arms embargo on Sierra Leone.

Q. Sir, who actually named you then to the panel of experts?

A. The Secretary-General of the UN, Kofi Annan.

Q. Who were the other members of the panel?

A. The chairman of the panel was Martin Chungong Ayafor, a Cameroonian diplomat. We had a Senegalese air traffic control expert, Atabou Bodian. We had a senior Indian police officer from Interpol, Harjit Sandhu and we had an arms expert from
Belgium Johan Pelman.

Q. You have indicated that among these experts was someone from a civil aviation organisation, an expert in arms and a police officer. Did you have a particular expertise or area that you were mandated to concentrate on or to cover?

A. Yes, I was appointed for my knowledge of the diamond industry.

Q. What was the time period that the panel worked?

A. We were appointed in August - I mean the panel was mandated in July, but we were appointed in August of 2000 and we worked through until January of 2001.

Q. What was the method of work of the panel in collecting information and preparing the report?

A. We travelled extensively. We visited more than 20 countries, countries in West Africa, but other countries that were associated in some way or another with diamonds or weapons. Included South Africa, Israel, several European countries, North America, obviously, and others. More than 20, more than 20 countries. We spoke to government officials. In some cases it was ministries of foreign affairs, in other cases it was economic ministries, customs officials. We spoke to people in the industry. We spoke extensively to people in the diamond industry and we spoke to industry bodies such as the World Diamond Council or the International Diamond Manufacturers Association, but we spoke to individual companies as well, large ones like De Beers, and we spoke to individual diamond dealers and people who had been diggers on the ground in places like Sierra Leone and other West African countries. We spoke to traders, diamond exporters. So we spoke to the industry
at length and from top to bottom.

We spoke to a lot of military people. We spoke to people in the military in Sierra Leone. We spoke to the minister of defence in Liberia. We spoke to UNAMSIL officials in Sierra Leone. We spoke to intelligence agencies. We spoke to a number of intelligence agencies in the United States, in the United Kingdom, to the French in Sierra Leone and elsewhere.

We spoke to the media. We found that the media often had very good leads on stories. Sometimes it was large international - prominent international media outlets or individuals. In other cases it was people who were stringers or reporters in Sierra Leone or Liberia. In some cases people spoke to us - took very great risks in speaking to us.

We spoke to aid agencies, multilateral, bilateral aid agencies and diplomats in African countries. We spoke to civil society organisations in Sierra Leone, in Liberia. We looked at a lot of material, a lot of written material. We were shown material that had been found in Foday Sankoh's house in Sierra Leone after it was - after he was arrested. We were shown material from the Sierra Leone police. We were given material by journalists. We visited air traffic control operations in several countries and saw flight logs of aircraft movement.

I'm trying to think whether I've left something out. We spoke probably - we probably did three or four hundred individual interviews but many of those interviews contained - I mean they were with many people. For example, I spoke to a number of Lebanese diamond dealers in Kenema that would probably account in our logs for one meeting, but there was something like 35 or 40 diamond dealers there and I met with them for more than two
hours. So I certainly got more than one view. The same thing with church leaders. We met with church leaders in Liberia.

We met with a group of Kono chiefs. Because the war was - because the situation in Kono District was so terrible during the war and while we were there many of the leaders had fled and were in Freetown or in other parts of the country. We interviewed chiefs not one by one but as a group and they often had detailed information about what was going on in their areas. People would be arriving with information on a fairly regular basis. So we spoke to a very wide cross-section of people at very high levels.

We spoke to the President of Sierra Leone, we spoke to the President of Liberia, we spoke to ministers in several governments in several countries.

Q. Going back then to the panel of experts report MFI-4, first do you recognise this document as being the report that the panel presented to the Security Council?

A. Yes.

Q. You talked about your meetings. I'd like you perhaps to just direct your attention to annex 2 of that report. I believe it's on pages 51 to 59. Does this annex list some of the meetings that the panel held?

A. Yes. It doesn't list all of the meetings because there were some individuals who spoke to us on condition of anonymity. The war was still very, very hot at that time and some people were very, very nervous about speaking to us on the record or for attribution.

MR KOUMJIAN: Your Honours, I now request to play a clip we have labelled clip 3.

MR MUNYARD: Madam President, as far as I can see from the
unofficial transcript of this clip Mr Smillie doesn't appear to be on this, if we're talking about the television program that we've already seen two extracts from. On that basis I can't see how this can possibly be admitted - even purportedly admitted into evidence via this witness.

PRESIDING JUDGE: Could the Prosecutor please refer us to the tab in our folders where the unofficial transcript occurs?

MR KOUMJIAN: It's on tab 12, your Honour. If you'd like --

PRESIDING JUDGE: And what is your comment in response to defence counsel's objection?

MR KOUMJIAN: Your Honour, the rules of the Special Court allow the Court to consider any relevant documents. In fact this is very relevant. This witness will be able to comment - this is a very general clip about the diamond industry that illustrates some basic facts about the industry and this witness will be able to tell us if that is accurate. The weight of any exhibit, as your Honours know, is a matter for your Honours to decide or any opinion that's expressed, but this is not a court that has a hearsay rule. This is a court where your Honours decide what weight to give to evidence that's admitted and it can be in a form other than live testimony.

PRESIDING JUDGE: Yes, but if Mr Ian Smillie comes as an expert on diamond mining why can't he do exactly that and give his own testimony and opinions? Why does he have to comment on some anonymous speaker on a clip?

MR KOUMJIAN: Most of the speakers are not anonymous, but the clip simply illustrates in a visual fashion for your Honours, for everyone, the testimony. We think it would be helpful. We
hope your Honours think so, but if not we will do without it.

But the clip allows - has images of diamond digging, for example, that your Honours can see that this witness can comment upon whether that is the way diamonds are dug. Some of the clips have that. How diamonds are polished, what diamonds look like in the rough, how diamonds are formed. It's an illustration the same as if I came here with a drawing of kimberlite pipe that this witness is talking about, it's just in the form of a video as opposed to being a photograph or a diagram.

PRESIDING JUDGE: Would you like the Bench to mark it for identification, this clip?

MR KOUMJIAN: Please.

PRESIDING JUDGE: Because we haven't yet admitted it in evidence and when the application is made to admit this clip in evidence we will then give due consideration to the objections of counsel opposite as to whether or not it's admissible, relevant and admissible. So for now we will mark it for identification MFI-5. Is that correct?

MS IRURA: Yes, your Honour.

PRESIDING JUDGE: Right. The clip 3 is marked as MFI-5.

[ MFI-5 admitted]

MR MUNYARD: Madam President, if I can just pursue my objection. One only has to look at the unofficial transcript to see what is contained in this particular clip and I would submit that it is of such a general nature --

PRESIDING JUDGE: Counsel, I have ruled on the issue. I have said we will mark this clip for identification purposes only at this stage.

MR MUNYARD: Madam President, I accept that. I was
trying to --

PRESIDING JUDGE: The Prosecutor has not applied to tender it in evidence yet. When he does you can then stand up and make your objections after everybody has had a chance to see it.

MR MUNYARD: Well, I was simply trying to propose a more efficient way --

PRESIDING JUDGE: Not after the Bench has ruled, I'm afraid. You would be out of order.

MR MUNYARD: I was simply hoping to re-open the matter before your Honour, but I will --

PRESIDING JUDGE: You can't do that.

MR MUNYARD: I will leave my objection until the time you've indicated.

PRESIDING JUDGE: Exactly, thank you. Please play the clip.

[Video played to the Courtroom]

MR KOUMJIAN:

Q. Mr Smillie, first of all you've talked about your background in diamonds. Have you spoken to people in the diamond industry?

A. Yes, extensively.

Q. And what part of the industry are they in? Producers, retailers, resellers?

A. All levels from mining through to retail.

Q. What is the World Diamond Council?

A. The World Diamond Council was created by the diamond industry to be the interface between the diamond industry and the Kimberley Process. It is made up of a wide range of companies from the mining firms through to retail. So, for example,
De Beers is a member, BHP Billiton is a member, Rio Tinto, they're all members, but at the retail end you have Jewellers of America and a number of other bodies. So the World Diamond Council was created to deal with the issue of conflict diamonds by the industry at large and to be the representative of the industry in creating the Kimberley Process.

Q. Have you had contact with the World Diamond Council?
A. Yes, extensively.

Q. Can you explain those contacts?
A. Well, at the beginning of the Kimberley Process negotiations - I should say we met with them right through the Kimberley Process negotiations from the beginning through to today. The Kimberley Process came on stream in 2003, but the meetings still continue. There are two annual meetings of the Kimberley Process to make sure that its conditions are being met and to deal with problems. We meet with World Diamond Council - the head of the World Diamond Council and with members of the World Diamond Council regularly. In the Kimberley Process there are working groups. There's a working group on monitoring, there's one on statistics, there's one on membership, there are a variety of technical groups and I'm a member of three of those.

So again we meet regularly with representatives of the industry in those meetings.

Q. In the clip did you recognise any of the individuals that were depicted?
A. Matthew Hart, the fellow with white hair, is a writer who wrote a book about four or five years ago call Diamond, The Heart of an Obsession.

Q. There was an individual who was identified in the clip as
Sol Goldberg who was talking about a 250 carat piece of rough that turned into a 100 carat, $15 million diamond. Do you know him?

A. I don't know him, but the Goldberg Company is a very well respected and well known New York diamond company.

MR KOUMJIAN: If your Honour could just give me some guidance as to when you want to take the break.

PRESIDING JUDGE: Yes, indeed. We should be breaking just about now if this is a convenient time to break. We will make a 25 minute break. It's now 25 to 11, so we will reconvene at 11.00 exactly.

[Break taken at 10.35 a.m.]

[Upon resuming at 11.00 a.m.]

PRESIDING JUDGE: Mr Prosecutor, please continue.

MR KOUMJIAN: Thank you, your Honour.

Q. Mr Smillie, I have just been asked to ask you to please speak a little bit more slowly for the transcription and interpretation. Just going back and clarifying a few things we may have gone over quickly, you have mentioned several times CUSO which I believe was the organisation you first worked for in Koidu and then later were executive director of. Can you explain what that organisation is?

A. CUSO, the acronym was Canadian University Service Overseas. It was the equivalent of the British VSO, or the American Peace Corps. It was designed to send young people overseas to fill jobs in countries shortly after independence. In the early days of the post-independence movement, some of those organisations were very large. They have since grown smaller, but CUSO when I went was quite a large Canadian organisation. It was a
non-governmental organisation.

Q. Thank you. I have also been informed that - my fault - we failed to mark for identification the first clip and the Court Officer has informed me that that should be marked as MFI-6.

PRESIDING JUDGE: That was clip 1?

MR KOUMJIAN: Yes, your Honour.

PRESIDING JUDGE: Clip 1 is marked MFI-6.

[ MFI-6 admitted ]

MR KOUMJIAN:

Q. Sir, in the video that we played just before the break, clip 3, there was some very brief description of the diamond industry from production to retail. Based on the discussions you have told us and studies you have told us about with the diamond industry, was that information accurate?

A. Yes. It was very sketchy, but accurate.

Q. There was some discussion about the value of a diamond and I want to ask you about the relationship between the weight of a diamond, the number of carats, and the quantity - the number of diamonds. My question is is that relationship geometric, linear, or is it exponential. In other words does 200 two carat diamonds, will they have approximately the same value as one 400 carat diamond?

A. No, no, not at all. Smaller diamonds - I mean the value of diamonds increases exponentially with size. There are other factors as well: the clarity, the colour and obviously the weight.

Q. Is there anything else you want to add about how the value of a diamond is determined and please speak a little bit slower?

A. Well, an industrial diamond - industrial diamonds can be
worth as little as five or ten dollars a carat. A good one carat diamond could be worth several hundred dollars, but if you had a five carat diamond it would be worth considerably more than five times a one carat diamond. In other words, the value of a diamond depends to a large extent on the colour and the clarity; in other words, does it have inclusions. Not all diamonds are clear. What you see in the jewellery store looks like a clear diamond, but they can actually have small imperfections and that would affect the value. And then, of course, the size. In the diamond industry they call this the four Cs: clarity, colour, carats and --.

Q. Cut.
A. And cut. The cut is the shape of the diamond after it has been cut, so that would not have any effect on rough diamonds.

Q. It would have an effect if you could see that the diamond you are looking at would not yield a good cut.
A. Industrial diamonds are essentially - I mean if you see a pile of industrial diamonds it might look like melted glass, black or brown. It wouldn't have any use as a gem diamond, but industrial diamonds are widely used in cutting industries, in drill bits and in the diamond industry itself in polishing gem diamonds. They are as hard as gem diamonds and so they have an industrial use, but not as a gem diamond.

Q. So, just to be clear, you have used now the words now "gem diamonds" and "industrial diamonds". Are those the two categories?
A. Yes.
Q. Are there general categories of how diamonds are originally produced, or mined?

A. All diamonds are produced in the same way. I mean they are all produced by volcanic action - the right combination of heat and pressure and rock - and you get those pipes as we saw in the clip. It is a small volcano that pushes rock and gravel and what is known as kimberlite to the surface. These are small almost carrot-like volcanoes. They are not mountains. They can be very small. The surface could be - the surface of a kimberlite with diamonds could be half the size of this room. The biggest ones that have diamonds are probably no more than half a kilometre across. So, all diamonds are formed in that way.

When you are prospecting for diamonds, you may find a kimberlite pipe intact - this is what happened in Canada, it is what you find in Botswana and some of the Russian mines - and in that case you simply put a fence around the mine and you dig down into the pipe, you bring up the rock, the gravel, you sort out the diamonds and basically that is how the mining is done. But diamonds were all formed more than 50 million years ago, in some cases much, much farther back than that, and in some places the tops of these kimberlite pipes have been worn away. 50 million rainy seasons wearing away the top of a diamond pipe will scatter the diamonds that were included in it far and wide. The pipe itself may still be there, but the top ten, or 15, or 20 feet may be gone.

Those diamonds are called alluvial diamonds; meaning river. They come - they are washed away by rivers in some cases down towards the sea. In many cases, the rivers no longer exist. They are not easy to trace in some cases. In other cases, as in
Namibia, almost all of the alluvial diamonds have actually worn right out into the ocean and so all of the might is done offshore. They have ships that basically hoover up the diamonds from the ocean floor.

The issue with many alluvial diamonds - and this is what you have in Sierra Leone, in many places in the Congo and parts of Angola, in Liberia and Guinea - the kimberlite pipes remain in some cases, but there are diamonds scattered over hundreds of square miles. These are alluvial diamonds and they may be anywhere from within an inch below the surface. They sometimes are even spotted on the surface. They could be as much as ten or 15 feet below and you may need to dig down quite far to get them, but you don't need a lot of heavy equipment as in the case of a kimberlite mine.

Q. You mentioned in discussing kimberlites that they have a carrot form. Is that carat with two Rs, or one R?
A. Carrot with two Rs and shaped with the wide part at the surface.

Q. How long ago were those kimberlites formed and these diamonds originally come to the surface?
A. A lot of them are formed in the Jurassic period. I think the most recent are not more recent than 50 million years. They go back a long way.

PRESIDING JUDGE: Mr Prosecutor, I have listened with interest to your line of questioning, but with the greatest respect this sounds like a history lesson. We are now into the Jurassic period. Does any of this relate to the Indictment?
MR KOUMJIAN: Yes, your Honour. The way that the diamonds are --
PRESIDING JUDGE: Because thus far I do not see how it relates to the Indictment.

MR KOUMJIAN: Well, your Honour, there are kimberlites in Sierra Leone, and for your Honours - for the record and for your Honours to understand what those are and how the diamonds can be spread out from that kimberlite and how they can be mined, where they are, what kind of procedures and equipment are required, I believe it is relevant to know that these diamonds were formed many millions of years ago.

PRESIDING JUDGE: Yes, but how is all this related to the Indictment?

MR KOUMJIAN: It is related to the Indictment, your Honour, because the Prosecution will show that there was a campaign of terror carried out in these districts and, because these diamonds were on the surface, Mr Smillie testified earlier that when he was living just after university in Koidu there were over 50,000 illicit diggers picking up diamonds. It is very relevant to understand why people that wished to exploit the diamonds would then terrorise a population to understand where these diamonds can be found in Sierra Leone and how they are spread out from the kimberlite pipe.

PRESIDING JUDGE: Mr Prosecutor, do proceed, but be mindful not to wander off.

MR KOUMJIAN: Thank you.

Q. Okay. Very briefly, sir, can you explain how diamonds go from production to world markets and retail?

A. In a legal situation in most countries the miner has a licence, and this could be a very small miner digging alluvial diamonds like I have just described, or it could be a very big
company with a deep shaft mine. The mining company has a licence. They may export directly if it is a large company, but in Sierra Leone, in West Africa, in Congo and Angola, you have a lot of small miners - very small miners. They have a licence to mine, if they are doing it legally. They will sell probably to a dealer, who will consolidate the diamonds and sell those diamonds to an exporter. In Sierra Leone you have a distinction between a mining licence, a dealer's licence and an exporting licence. The exporter will consolidate what the dealers bring and will export them. They will then go to one of the major international trading centres. They might go to Antwerp. Most go to Antwerp. It is the biggest trading centre in the world. Some might go to Israel. Some might go to India. Some might go to the United States, or another centre where diamonds are traded, or cut and polished.

Q. What is the role of Belgium in the world diamond trade?
A. At one time Belgium was the premier cutting and polishing centre in the world, but that has changed. Belgium very polishes very few diamonds now, but it is still the major trading centre for diamonds in the world. Something between 75 and 90 per cent of all rough diamonds as well as a significant portion of polished diamonds are traded through Antwerp. The biggest cutting and polishing centre today is India. Although India is no longer mining diamonds, diamonds are India's - polished diamonds are their biggest export.

Q. You have studied and written about diamonds' role in conflict. Can you tell us is there anything about the characteristics of diamonds that gives them a role in conflicts?
A. Well, diamonds are the most concentrated form of wealth on
earth. You could put five million dollars' worth of diamonds in
your pocket and it wouldn't show. It wouldn't show up on a metal
detector going through airport security. It would show up on an
x-ray machine, but very few airports have x-ray machines. So
they are very small, they are high value, they are easy to move,
they hold their price, historically they have held their price
very well, and so they have become - not so much today, but in
the 1990s, the period that we were talking about, they were an
alternative to hard currency in countries where there was no hard
currency, or where people wanted to hide the movement of money.

Q. You have discussed kimberlite pipes. Can you tell us what
kimberlite dikes are?
A. In some cases when those volcanic eruptions happened, they
didn't actually get to the surface. They would get almost to the
surface and then they would be sidetracked and so you would get a
drainage off to the side. You would get a long line of
diamondiferous material; by diamondiferous I mean containing
diamonds. Many kimberlites and many kimberlite pipes don't have
diamonds.

Q. Are there any kimberlite pipes or kimberlite dikes in
Sierra Leone?
A. Yes, both.
Q. Where are they and how many, if you know? Excuse me, where
are they?
A. The kimberlite pipes, the ones that are economic and have
been mined and are being mined, are in Kono district, and the
dikes are in Tongo Field which is in the Kenema area.
Q. What is a kimberlite fissure?
A. It is like a dike. It is the same sort of thing. It is
something much less economically viable than a Kimberlite pipe, if it is diamondiferous.

Q. Can you tell us how diamond mining has taken place in Sierra Leone?

A. Diamonds were first discovered in Sierra Leone in the 1930s and the Sierra Leone Selection Trust, a company which was part of the Selection Trust - Selection Trust was a very large, one of the largest, international mining firms of the day. It was taken over eventually by BP, but Selection Trust owned the Sierra Leone Selection Trust. At the beginning, Sierra Leone Selection Trust had a lease on the entire territory of Sierra Leone. In other words, they had the sole right to do all mining in Sierra Leone. It became fairly clear by the 1950s that this was not viable. They could not manage the entire country and there was a lot of illicit behaviour as well, and so their lease was contracted to an area around - well, an area in Kono District and an area around Tongo Field. In the 1950s, the government allowed licensing of artisanal diamond miners and so there was small scale mining as well as large scale mining. And on top of that - that is all the legal side of things. On top of that there was a great deal of illicit digging as well.

Q. You have used the word "artisanal" diamond mining. Can you explain what that is?

A. Artisanal means that it is done by artisans. It is basically done by hand. There would be no serious equipment beyond a shovel and a sieve and gangs of men just basically shovelling the earth and sifting it.

Q. We saw some clips, some scenes in the videos that we have seen, of people standing in water with what looked like a sieve.
Is that, based on your experience, an accurate depiction of how that type of mining took place?

A. Yes, that is the way they did it and still do it.

Q. What other types of mining besides artisanal are there?

A. Well, as I said, there is industrial mining, where you have a large kimberlite pipe and you have to - I mean, the investment required to actually bring those diamonds up is quite serious. I think BHP Billiton invested I think 400 billion dollars in the infrastructure required to get diamonds out of the Ekati mine in Canada. So the industrial - the capital investment in some kinds of mining can be very serious, and then at the other end you have artisanal mining. In-between you can have semi-industrial mining. For example, you may know that the diamonds are down ten feet or twelve feet and you would use some heavy equipment to get that up, bulldozers and drag lines and pumps and that kind of thing, but it would not be - you know, the capital investment would not be tremendous. So you have got industrial, semi-industrial and artisanal.

Q. What are tailings?

A. Tailings are the gravel that is left over after mining has taken place, so you will have large gravel dumps and those are called tailings.

Q. Are there any tailings in Sierra Leone?

A. Yes, there are significant tailings. The Sierra Leone Selection Trust, SLST, produced diamonds for many years and these tailings were piled in various places in Kono District. They are now a significant source of diamonds because, when the Sierra Leone Selection Trust was working, they ignored diamonds below a certain size and their equipment for some reason did not pick out
diamonds above a certain size. So, these tailings are known to contain a good deal of diamonds and the government has leased these out for re-mining and so people will pay money to get access to these tailings.

Q. Thank you. I would like to now play Clip No. 2.

PRESIDING JUDGE: Do we mark this for identification as well?

MR KOUMJIAN: Please, your Honour.

PRESIDING JUDGE: That would be MFI-7. MFI-7?

MS IRURA: That is correct, your Honour.

[MFI-7 admitted.]

PRESIDING JUDGE: And what is the equivalent tab of the narrative?

MR KOUMJIAN: It will be tab 12. It will be the clip 2.

PRESIDING JUDGE: Thank you.

MS IRURA: Please switch to PC2.

[Video played to the Courtroom]

MR KOUMJIAN:

Q. Sir, first of all in your work for the United Nations panel of experts and in your other contacts with Sierra Leone, have you heard stories of atrocities committed in the conflict?

A. Yes, many.

Q. And what were the sources of these stories, or these accounts?

A. You know, I think there are very few Sierra Leoneans who don't have a direct experience of some of these atrocities. If it didn't happen to them directly, it happened to - it happened to members of their family.

I can give you the example of one of my students. She was
13 or 14, when I taught her at Koidu secondary school. When I was in Sierra Leone about four years ago I had lost touch with her, but she heard from a mutual acquaintance that I was coming and she wanted to see me and she came and she told me her story. Now she is, you know, in her late 40s. She was from Kono and her husband - she had married, she had two children. They were in the diamond business, her husband had land and mined diamonds, and they were I guess fairly well off. They had a house and a Land Rover. She said that if the rebels came - they were in Kono District and they knew that there was a chance that the rebels would come. She said if they came they had made a plan. They would go out the back way and they would run. They would run through the woods and across the border to --

MR GRIFFITHS: Your Honour, I hesitate to interrupt, because it was our intention that Mr Munyard would deal with this aspect of the evidence, but I am becoming increasingly concerned at the way in which this witness is being examined. The last clip that was shown showed images of mutilated individuals. There is nothing to suggest that this witness knew that individual personally such to be able to make comment on that clip. Now he is being asked to repeat evidence that he has heard, or comments he has heard, from other people. He should not be here being used as a conduit for gossip, rumour, accounts given by other individuals. He is here as an expert on diamonds.

Can we restrict his testimony, please, to that topic and stop using this witness as a conduit for this kind of prejudicial material about which he has no expertise whatsoever.

PRESIDING JUDGE: Mr Prosecutor, your comment?

MR KOUMJIAN: Your Honour, the witness is an expert on
diamonds and their role in this conflict, and key to this conflict and key to this case is the horrendous crimes that were committed; motivated as that double amputee in the video said by the desire for diamonds and fuelled by diamonds. This witness is now telling us about that this clip is typical of stories that he heard - accounts that he heard - from victims, from persons he personally knew, and is recounting one of those. In this case, the Defence made a point in the first appearance - I believe it was in August - “Please don't bring these amputees here. The issue of the victims is not at issue that crimes were committed”. But of course in this Court I think it is very relevant to this case that crimes were committed and the victims should have an opportunity - we should have an opportunity to hear their accounts. The clip was a matter --

PRESIDING JUDGE: Yes, but Mr Prosecutor, the point you are losing sight of is this. You have just played a clip before the Court depicting certain personalities and those personalities said certain things. Now logically we would expect this, your witness, to relate to this clip. He has not done that and I am just wondering what is the point of the clip in the first place, because Mr Smillie could go ahead to give the evidence he has just given a minute ago without the clip. Now, unless you can justify to me the point of showing us clip upon clip upon clip over which the witness has absolutely no comment, I will have to make a ruling in favour of the Defence.

MR KOUMJIAN: Your Honour, I plan to present a total of six clips. I believe this is the fourth. They total just under 19 minutes. Three of those totalling less than nine minutes, eight minutes and 53 seconds, include accounts of victims of this
conflict. I think this Court has an obligation even to hear
these victims and have their voices heard. We are making every
effort in our case to concentrate on - not on the crime base, but
on links, but we want and we ask for the opportunity to present
this evidence.

PRESIDING JUDGE: Mr Prosecutor, evidence is evidence. We
are not here to watch movies, or videos. You have to make a
foundation for the evidence that you lead before the Court. The
whole point of this objection was that the evidence, the clips
you are showing, there is no foundation laid for them as far as
this witness is concerned.

MR KOUMJIAN: Well, this witness has just raised --

PRESIDING JUDGE: So, I do uphold the objection of Defence
counsel. I think you must lay a foundation for the evidence that
you lead. If you are going to show the Bench and the public a
video clip, help us to see the relevance of it in light of the
witness that you have called and that is the way it will be. So,
I do uphold the objection. Don't pursue that line of questioning
again.

MR KOUMJIAN: Which line of questioning should I - I just
could use a little bit of guidance?

PRESIDING JUDGE: A line that is acceptable with the
procedures that we have agreed upon so far, whereby you lay a
foundation before you make statements to the witness.

MR KOUMJIAN:

Q. Sir, you were in the midst of telling us that you have
heard many accounts of atrocities committed in the war. Is that
correct?

A. Yes.
Q. And I believe you were talking about one particular student?
A. Yes, I was recounting what she told me that they had made a plan to escape if the rebels ever arrived in Kono where they lived. When the rebels did come --

PRESIDING JUDGE: Are we not back to - have I not just ruled that kind of question out of order?
MR KOUMJIAN: I am sorry, but then I didn't understand.
PRESIDING JUDGE: That was precisely what Defence counsel objected to; that kind of hearsay where we don't know the name of this student and we don't - you know, how are we going to confirm this?
MR KOUMJIAN: Well, your Honour, hearsay in my understanding is admissible. It goes to weight. We can bring thousands of victims to the Court. My understanding was from Defence Counsel that they didn't want us to do that.
PRESIDING JUDGE: Mr Prosecutor, this witness is essentially an expert in diamond mining. Restrict his evidence to that, please.
MR KOUMJIAN: He is an expert in diamonds and their role in conflict, just to correct what our position is.
Q. Sir, just one moment and I will gather my - I will move on to another area. Sir, did you receive some information from your work with the panel of experts and your other contacts with Sierra Leone about how mining took place during the war?
A. Yes.
Q. And what type of mining was that generally?
A. The industrial mining licences went into abeyance, there was a declaration of forced measure because of the war, and all
of the international diamond miners pulled out very early in the war. After that all of the mining was artisanal alluvial diamond mining.

MR KOUMJIAN: Your Honour, I would now like to play --

PRESIDING JUDGE: What war are we talking about?

MR KOUMJIAN:

Q. Sir, which war are you speaking of?

A. I am speaking about the conflict in Sierra Leone.

Q. Can you be more precise about the approximate years you are talking about?


MR KOUMJIAN: I would now request that Clip No. 5 be played. Again, that is in tab 12 is the transcript.

PRESIDING JUDGE: Clip No. 5 is marked for identification as MFI --

MS IRURA: MFI-8, your Honour.

[Video commenced]

MR MUNYARD: Madam President --

PRESIDING JUDGE: Could you please stop the clip. Pause the clip a bit.

[Video paused]

MR MUNYARD: Madam President, exactly the same objection applies here. I am going from the transcript that the Court has before it.

PRESIDING JUDGE: What is the nature of your objection?

MR MUNYARD: That this is - how is this witness able to say what these witnesses who are interviewed in this clip whether they are accurate, who they are? Again, it is pure hearsay.
PRESIDING JUDGE: Counsellor, first of all this clip has been marked for identification. Secondly we haven't even seen the clip, let alone the witness being asked any question, and so do you not think your objection is premature?

MR MUNYARD: Well, Madam President, the difficulty is going on the transcript it does not seem to us that the Court should see the clip at this stage. If the Court wishes to see it then it just spends more time looking at material which it may then well decide is not appropriate, as happened in the case of the last clip.

PRESIDING JUDGE: Counsellor, if anything goes on the transcript it is not what is important. What is important is what is admitted in evidence and the weight we ultimately give to it.

MR MUNYARD: Yes, I accept that.

PRESIDING JUDGE: So, I will overrule your objection. Please proceed. Please proceed with showing the clip.

[Video played to the Courtroom]

MR KOUMJIAN: Your Honour, I would like to mark for identification now the report of Mr Smillie that was submitted by the Prosecution in this case entitled "Diamonds, the RUF and the Liberian connection". For identification only, may that be marked the next in order for identification at this point?

PRESIDING JUDGE: We have just marked for identification clip 5 that we have just watched.

MR KOUMJIAN: Yes.

PRESIDING JUDGE: What was the purpose of that clip?

MR KOUMJIAN: Well, I am about to work on the foundation, your Honour, by referring to the report. I want to start working
on the foundation of that and I would ask the witness to refer to
his report for something on that.

PRESIDING JUDGE: So, the report is under tab 9?

MR KOUMJIAN: It is tab 1, your Honour.

11:38:51

PRESIDING JUDGE: Tab 1. Right, this report is marked as

MFI-9.

[ MFI-9 admitted]

MR KOUMJIAN: Thank you.

Q. Mr Smillie, I would like you to turn to annex 3 of that
report. It is on page 28 of the report. Can you explain this
annex?

A. Essentially, it describes the periods during which the RUF
controlled the two major diamond areas in Kono District and Tongo
Field during the war.

11:39:47

Q. Did you obtain any information in your work on Sierra Leone
about how the RUF took advantage of control of these areas?

A. Yes.

Q. Was mining going on during the times that RUF controlled
these areas?

A. Yes, very definitely.

Q. What type of mining?

A. As far as I know, it was all artisanal mining. I don't
believe they had any heavy equipment.

Q. Did you - you watched the video clip that we just played
which was marked TFI-8(sic). Did you receive information -
after watching that clip, is the account of the young man in that
clip consistent with other information you received about how
that mining took place?

A. I think that is fairly typical. We interviewed many people
who had been miners. As I said earlier, we interviewed people - Kono chiefs - who described what was going on in the diamond mining areas while the panel was operating. The panel was operating during the war and this - the diamond mining areas were certainly in Kono District held at that time by the RUF so we couldn't go there, but there were many, many descriptions that were very similar to what we saw in the film.

Q. Sir, you talked about the various qualities and prices per carat of diamonds. What is the condition of diamonds mined from Sierra Leone? The characteristics?

A. Sierra Leone diamonds are quite special in the diamond world. The diamond dealers will tell you that they are special. They have special characteristics of light and colour and so on. But I think the main characteristic of Leonean diamonds is the high run of mine value. Run of mine means average - the average value. The average value of diamonds mined in Canada, in a Canadian mine, might be 100 or 125 dollars a carat. In the Congo it is only 25 dollars/26 dollars a carat on average. In Sierra Leone it has been consistently over 200 dollars a carat. So, you have got consistently very high value diamonds coming from Sierra Leone.

Q. Thank you. I would now ask that the document in tab 18 be marked next for identification and for the record that appears to be a letter from Sam Bockarie - an appointments letter.

PRESIDING JUDGE: The document that appears under tab 18 is marked for identification as MFI-10.

MS IRURA: That is correct, your Honour.

[MFI-10 admitted]

MR KOUMJIAN: Thank you, your Honour. Now, I believe that
there is one copy that really is more legible - the original. Does the Usher have the original? Yes. I would actually ask that - okay, at a subsequent point I would ask that to be passed to your Honours because there are some things on that that you cannot see in the copy. Just the date.

PRESIDING JUDGE: Is the witness being shown the original, or what?

MS IRURA: Yes.

PRESIDING JUDGE: Is this a copy?

MR KOUMJIAN:

Q. Sir, do you recognise the document in front of you?

A. Yes, I do.

Q. And who - what is that document?

A. It is a fax and the address of the fax machine is from Fyad Hijazi Company. There is a phone number and a date. It is a letter, "To whom it may concern", allegedly I guess from Sam Bockarie, giving Mr Hijazi the rights to diamond mining and dealing in Sierra Leone over a certain period of time.

Q. And is that paper that it is on appear to be fax paper?

A. Yes.

Q. Did you bring this with you to The Hague?

A. I did.

Q. Where did you obtain it from?

A. The panel received documents from a wide variety of sources. In some cases we received copies of documents from the Police. We received documents from journalists. There were people who had access to Foday Sankoh's house after it was looted, either before or after the Police, and they picked up material as well and gave it to us. To be very honest I don't
remember where we got this paper, but we certainly didn't get it from the Police because they wouldn't have given us a direct - a direct fax. They would have given us a copy.

Q. Did Mr Bockarie indicate a title below his signature?
A. Yes, there is - as part of the letterhead it says "Major General Sam Bockarie, Chief of Defence Staff Revolutionary United Front Sierra Leone".

Q. Now, we only have copies. Is there a date on the fax at the top legible to you?
A. Yes, October 8 1999, 2.44 p.m.

MR KOUMJIAN: Your Honour, could the usher show that to the Defence counsel and then perhaps to your Honours?
PRESIDING JUDGE: Counsellor, we are trying with great difficulty to read this rather illegible document. We don't know what it is that you want the Bench to take note of; whether it is the phone number appearing thereon, or the date - a date appearing? As for the content of the document, half of it is totally illegible.

MR KOUMJIAN: Perhaps I could have the witness read the letter - read the document? I understand it is difficult to read, but I believe --
PRESIDING JUDGE: Yes, if we can't read it, how can he read it?
MR KOUMJIAN: Well, perhaps he can. Your Honours cannot read the document?
PRESIDING JUDGE: Even with my glasses on I cannot read this document. It is illegible.
MR KOUMJIAN: In some ways the --
MR MUNYARD: Your Honour, may I enquire if the Prosecution
are proposing to prove that that is actually Sam Bockarie's signature and came from him? Whether or not we can read it, it seems to us that that is the fundamental purpose of them producing this illegible document.

PRESIDING JUDGE: Mr Prosecutor?

MR KOUMJIAN: Well, your Honour, in International Courts we don't have to - well, my understanding is that we do not have to lay that type of foundation. In fact we have other documents which we will present subsequently that have the identical signature, but that will come at a subsequent time.

PRESIDING JUDGE: That is correct. [Microphone not activated], but of course you have every right --

MR MUNYARD: I don't think Madam President's microphone is on.

PRESIDING JUDGE: You have every right to cross-examine this witness in that direction. If he is making such certain statements pertaining to the contents of this document, you have every right to cross-examine him when the time comes.

MR MUNYARD: Of course, but you were asking questions about the document. I thought it appropriate to perhaps raise that issue, which seems fundamental at this stage.

PRESIDING JUDGE: I was alluding to the legibility of the document, not the authenticity. Just the legibility. As far as we on the Bench are concerned, half the document is illegible.

We could not read it. Whatever the value you want to attach, please go ahead and illustrate this value.

MR KOUMJIAN: Okay.

Q. Sir, does the document reference diamonds?

A. Yes.
Q. Just setting the scene for this a little bit, you said that the fax date at the top left was October 1999. Are you familiar with the July 1999 Lome Peace Accord?

A. Yes.

Q. Did the Lome Peace Accord discuss at all the RUF and the mineral resources of Sierra Leone?

A. I don't recall that it discussed the RUF and mineral resources. It appointed Foday Sankoh chairman of a commission that would manage mineral resources in Sierra Leone.

Q. And for the record, because you are the first witness, who is Foday Sankoh?

A. Foday Sankoh was the leader of the Revolutionary United Front.

MR KOUMJIAN: Your Honour, I would just suggest if your Honours - I have what looks to me to be a better copy. It is a photocopy of this. Apparently your Honours have it, but if your Honour want to indulge me I could read this and we could see whether we all agree that this is the text? It is rather short, but it is up to you.

PRESIDING JUDGE: You are not the witness, Counselor.

MR KOUMJIAN: No, the document speaks for itself. I am just saying what ---

PRESIDING JUDGE: You are not the witness. The witness that you wish to tender this document through is sitting right there.

MR KOUMJIAN: Okay.

Q. Sir, can you read the fax? Is it legible to you?

A. It is. It is in fact a scan that I made myself and sent and so it is - it shows up. When you photocopy this original it
shows up the stain. There is a stain on it. It shows that up
and it shows the wording out much more clearly.

Q. Well understanding that it is ultimately for your Honours
to decide, could you read what you understand from the letter?

A. It says:

"To whom it may concern,

Mr Mohammed Hijazi has been mining and dealing diamonds in
Sierra Leone for over 15 years. During this period he has been
found to be honest and trustworthy. The RUF has therefore
appointed him as their agent to negotiate with any person or
company within or outside Sierra Leone for the prospecting,
mining, buying and selling of diamonds. Anyone dealing or
contracting with the said Mr Mohammed Hijazi will have to comply
with the mining laws and all other laws in force in Sierra Leone.

This letter of introduction will expire on the fifth day of
January 2000. We wish him well", and then the signature.

Q. Okay, I would like to move now to a different topic - a
slightly different topic - and that is your knowledge of Liberian
diamond production. Can you tell us first of all are there any
diamonds present or mined from Liberia?

A. Yes.

Q. What is the quantity and quality of these diamonds?

A. This is a complicated question, because many diamonds have
been smuggled through Liberia for many years and so sorting out
which diamonds were Liberian and which diamonds might have been
from Sierra Leone or some other place has always been
historically difficult from the 1950s on, but mining companies
have worked in - international mining companies have worked in
Liberia and I think it worked on the assumption that the
prospects were better than they were and most have not stayed. De Beers for a time was there. There have been other companies. Generally speaking, Liberia has a reputation for low quality diamonds. They have all been - I should not say all, but mainly artisanally produced. The average run of mine value of Liberian diamonds is between 25 and 30 dollars a carat; historically significantly lower than Sierra Leone.

MS MUZI GO-MORRISON: Your Honour, could the witness please slow down for interpretation and transcribing? It is becoming difficult to do that. Thank you.

THE WITNESS: I am sorry.

MR KOUMJIAN: I might suggest also, Mr Smillie, you just give a little pause after a few sentences. You mentioned the price of Liberian diamonds being about 25 to 30 dollars per carat. What again is the price of Sierra Leone diamonds on average per carat?

A. During the 1990s they were around 200 dollars a carat.

Q. One question. When an expert looks at a diamond - a rough diamond, uncut, unpolished - can you determine, can the expert determine, the place of origin of that rough diamond?

A. Most diamond dealers, they refer to themselves as diamondaires. Most diamond dealers - international diamond dealers - will tell you that if they receive a parcel of diamonds from Sierra Leone, only Sierra Leonean diamonds, they would probably be able to identify it as such. If they received a parcel of diamonds from Namibia they would probably be able to - they would probably be able to identify it as such, but once the diamonds are mixed - once any mixing takes place - they lose
track of it. They can't pick a diamond out of a mixed parcel and say, "This one came from Sierra Leone", or that it came from Namibia, or South Africa. It might be similar to diamonds that came from one of those locations, but they can't really say with any assurance. There are a number of experiments and technologies that are being investigated that could better identify the origin of diamonds, but a professional diamond dealer in most cases cannot tell you where the diamonds in a mixed parcel came from.

Q. Sir, can you tell us - and if you need to refer to a document please let me know - what the production was, production totals, from Liberia from 1987? In 1987?

A. I am going to look at my report that I wrote for the Court.

MR KOUMJIAN: For your Honours, I direct your Honours to --

PRESIDING JUDGE: Is that MFI-9?

MR KOUMJIAN: Yes, your Honour, and particularly page 9, table 1.

A. The figures that I put in the report, there are three sets of figures. There were the figures from the US geological survey, which indicate that between 100 and 150,000 carats were being mined a year. The second set of columns were figures provided by the Liberian government, which are similar in nature, slightly higher in some cases, and only for the years that I have shown. There were no official exports during the war. And then the third set of columns is the figures from Belgian customs authorities showing what had been imported into Belgium. I think generally speaking geologists and diamond people knowledgeable about Liberia will tell you that the lower figures, 150/200,000 carats per annum, are fairly typical.
Q. What do these statistics from the Liberian government indicate as the year where the highest amount of diamonds in terms of total carats was produced?

A. 1987 was the highest year: 295,000 carats, with an average per carat value of 37 dollars and nine cents.

Q. And just to clarify perhaps my own mistake in that question, is that production or export?

A. Those would be export figures, because I think governments even today have a hard time figuring out how much is actually mined and so they base their statistics on what is exported.

Q. Looking at this table - excuse me. You have also mentioned the Belgian import figures. Can you explain how these figures are collected?

A. These figures are collected by Belgian authorities. These are the official import figures for Belgian rough diamonds during these years in question.

Q. When someone takes diamonds - a large quantity of diamonds - to Belgium, what kind of procedures are there in order to record that import?

A. If they are imported legally - and all of these would have been imported legally because they have been recorded by customs - they would have to present invoices showing the value of the diamonds and where they got them. All of the diamonds going into Belgium are checked. In other words, the parcels are opened and inspected to make sure that - I mean, you know, they don't go over each and every diamond, but they want to make sure that the diamonds in the parcel are roughly what is stated on the invoice and on the import documents.

Q. To summarise this table, does it show that Belgium was
recording much higher imports coming from Liberia than Liberia was recording exports?

A. Yes.

Q. Did you actually see any of these documents that were presented at the import into Belgium?

A. Yes. I went to the Ministry of Economic Affairs in Antwerp, that handles these figures for the Belgian government, and I asked to see a selection of invoices for different years so that I could understand where and how these diamonds were being traced back to Liberia. So, I saw eight sets of invoices.

Q. Did you record the names of the companies that were exporting these diamonds from Liberia to Belgium?

A. Yes.

Q. Did you check on those companies in any way?

A. What we did was we visited a couple of the companies in Antwerp to talk to them about this and we traced back each one of those eight invoices to the street addresses in Monrovia that purported to be the origin - the company in Liberia that was exporting these diamonds. So, we actually made a physical check on the address of the companies in question.

Q. So just to clarify and make sure I understand your answer, you visited importers in Belgium and they gave you documents showing which company in Liberia had exported the diamonds?

A. No, no. We visited companies in Liberia - I am sorry, in Antwerp, to discuss with them what these diamonds were; where they came from. The invoices were received from the Ministry of Economic Affairs in Belgium and those were the ones that we checked directly ourselves on the ground in Liberia.

Q. So, those invoices which you found in Belgium in government
offices contained the names and addresses of Liberian companies?

A. Yes.

Q. And did you make any attempt to verify those addresses, or those companies?

A. Yes, we did.

Q. What happened?

A. In all cases we found that the addresses simply didn't exist, or in a couple of cases there might have been a name plate on a door but there was nothing more than that. Courier companies had been instructed if there was any mail coming for these companies they were - the mail was to be redirected to the Liberian International Shipping and Corporate Registry, or its predecessors before it was formed.

Q. I would like to now turn to annex 4 of your report. Again, that is MFI-9 I believe. It shows a map.

PRESIDING JUDGE: Just quickly, what page of the report would that be please?

MR KOUMJIAN: Page 29 of MFI-9 of the report.

Q. Can you just explain - and we all have that map I believe in front of us, but perhaps if your Honour would like for the audience we could put it on the ELMO?

PRESIDING JUDGE: You want this page displayed on the --

MR KOUMJIAN: Perhaps, yes.

PRESIDING JUDGE: Can that be done, Madam Court Manager?

Page 29 is a map. Could that be put on the screen, please?

MS IRURA: It is possible, yes, if they can guide me as to which of the large maps it is.

MR KOUMJIAN: I don't believe it is. It is just page 29 of MFI-9, if we put that on the ELMO if it would show. It is tab 1,
Q. Mr Smillie, perhaps you can go to the ELMO and stand by that to answer these questions?

MS IRURA: Please switch to document cam witness.

MR KOUMJIAN: First, do you have a pen or something to point with there, please?

A. Yes.

Q. Can you first show us where the Liberian border is depicted in this map? The Liberian/Sierra Leone border?

A. This is the Liberian/Sierra Leone border along here.

Q. Can you show us where Buedu is?

A. Buedu is here.

Q. And you have identified this as the RUF headquarters, is that correct? Did you have information to that?

A. Yes. Not throughout the war, but in the latter years their headquarters was at Buedu.

Q. Can you then also just show us again where the diamond areas are in Sierra Leone?

A. The major area is around Koidu up here. This whole area, Kono district, is where the largest concentration of diamonds are. The second largest concentration is around Tongo Field, which is here. That airstrip was a Tongo Field airstrip that was built by Sierra Leone Selection Trust many years ago.

Q. Thank you. Can you give us an approximation of the distance, or travelling time, from Kono to Buedu?

A. Well, distance and travelling time are two completely different concepts in Sierra Leone. The mileage from Buedu to Tongo Field is in the neighbourhood of 80 kilometres. The distance from Buedu to Kono by road is about 125 kilometres, but
Q. Thank you. I am finished with that document, thank you, Madam Usher. Sir, since you submitted your report to the Court, have you subsequently obtained some figures of diamond production in Sierra Leone post-war in the last few years?

A. Yes, there are some figures in my report and I have some more up-to-date figures as well. I have figures in the report for 2004 and 2005 and I also have figures for 2006 and 2007.

Q. Is that for all of 2007?

A. No, as part of the Kimberley process all countries that are members have to submit semi-annual production statistics and quarterly trade statistics and they have to do it within two months of the end of the reference period. So the full figures for 2007 are not yet available, but I have figures for the first three quarters of 2007.

Q. What are the figures for 2006?

A. Your Honour, I have to refer to my notes.

MR KOUMJIAN: May the witness refer to some notes that he has?

PRESIDING JUDGE: What notes? Is that in the report?

MR KOUMJIAN: No, this is information he obtained subsequent to writing the report.

PRESIDING JUDGE: If the Defence have no objection, yes, he may.

MR MUNYARD: Well, he has done an update to the report at the end of the report which updated certain of the facts of the report, but if he has done an update in writing on the basis of some notes it is surprising that we haven’t been supplied with
them even in the last few days.

PRESIDING JUDGE: Mr Prosecutor, what is your comment on this?

MR KOUMJIAN: Your Honour, the witness has explained to me over the weekend that as part of his work in the Kimberley process he has obtained these figures for 2006 and 2007. I asked him if he had them and he said - and he was able to ---

PRESIDING JUDGE: The question is have these been disclosed to the Defence?

MR KOUMJIAN: No, because I obtained them this weekend.

MR MUNYARD: Well, we have all - several members of both teams have been in the office this weekend, as is obvious from the names on the register that you have to enter, and the office of the Prosecutor would know that several of us, including myself, were there both on Saturday and Sunday.

PRESIDING JUDGE: MrProsecutor, if there is an update I would imagine it is one of the tabs here. Is it necessary to refer to these side notes?

MR KOUMJIAN: Your Honour, it is not necessary because it is so recent, but it is not in the tabs either because it was only this weekend we prepared the tabs for your Honours two weeks ago.

PRESIDING JUDGE: So, it is not necessary to refer to these then.

MR KOUMJIAN: I can live without it, your Honour, thank you. I will move on.

PRESIDING JUDGE: Then please proceed and live without it.

MR KOUMJIAN: Thank you. Thank you.

Q. I want to switch then, sir, to a different subject, which
is armed shipments referred to in the panel of expert report that you and the rest of the panel presented to the Security Council.
First can you remind us how the panel, or explain to us how the panel, worked? Did you all work together on each subject and each visit, or how was that done?
A. We worked together as a team, all five of us, on some things, and on some visits in other cases we worked independently, although in most cases we tried to make sure that there were at least two panel members present for any particular interview.
Q. And how was the report written?
A. We kept notes as we went along. I was the only native English speaker on the team and so I did a lot of the drafting, but it was based - it was based on a team effort. So, you know, my particular expertise was in the diamond area. Others had expertise in air traffic control. So they would either present notes, or we would discuss it, I would write sections of the report and the team would vet it.
Q. Are you familiar with the situation at the time that the panel was named regarding United Nations arms embargoes affecting Sierra Leone and Liberia?
A. Yes.
Q. And what was that situation?
A. There was a complete arms embargo on Liberia. The arms embargo on Sierra Leone was an embargo on any arms to any party, or any - well, I guess any party except the government of Sierra Leone.
Q. Thank you. In the report you mention an individual by the name of Leonid Minin, is that correct?
A. Yes.

Q. Can you tell us what information you obtained about who this individual is?

A. Leonid Minin is an arms salesman and many other things combined. He imported weapons to Liberia. He had a plane - an aircraft - that he used and brought to Liberia and flew to various parts of the region. He has subsequently to all of this been arrested several times and been charged with various crimes, including passport fraud and a number of other things - drugs.

PRESIDING JUDGE: Could we have the spelling of this individual's name, please, or at least a reference in the report to this name?

MR KOUMJIAN: First would you spell the name, sir?

A. Leonid, L-e-o-n-i-d. Minin, M-i-n-i-n.

PRESIDING JUDGE: Could we have the spelling of this individual's name, please, or at least a reference in the report to this name?

MR KOUMJIAN: First would you spell the name, sir?

A. Leonid, L-e-o-n-i-d. Minin, M-i-n-i-n.

THE WITNESS: Should I have a copy of this?

MR KOUMJIAN: Yes, if the Usher could give the MFI-4 on tab 4 to the witness, please, page 36.

PRESIDING JUDGE: Yes, indeed, the witness should be able to refer to MFI-4. Do you have a copy, sir?

THE WITNESS: No. Well I have my own copy, but I don't have the --

PRESIDING JUDGE: Court management, please.

MS IRURA: Could Counsel guide as to which tab?

MR KOUMJIAN: Tab 4 and it is MFI-4.

PRESIDING JUDGE: That will be page 36 of tab 4.
MR KOUMJIAN: Yes, thank you, your Honour.

PRESIDING JUDGE: Page 36, please.

MR KOUMJIAN:

Q. Now do you have it in front of you, Mr Witness?

A. I do, yes.

Q. Thank you. Now in paragraph 209 you discuss - in some of the other paragraphs, but particularly 209 you discuss the various flights of this aircraft, a BAC111, owned by Minin. Can you tell us what the source of your information was to the extent that you can disclose it?

A. There were two sources. We were put on to this plane and this individual and this set of arms by the Angola expert panel, which had recorded the fact that a large shipment of arms had gone to Burkina Faso. That was already known when our panel began to investigate this, but we wanted to find out what actually happened to the weapons. It was not only that weapons had arrived in Burkina Faso. Until we got into it, it was only an allegation that they had moved further into Liberia. Basically our air traffic control expert went to Spain and reviewed flight logs. Where Spanish dates are mentioned he had been to Spain and viewed the flight logs for this particular aircraft. Where the flight logs - where the airport is Bobo Dioullasso, or Ouagadougou, again he saw the flight records in those places. There were no flight - there was no flight data, no flight logs whatsoever available to the panel in Liberia, but we saw the details on these flights from the other countries.

Q. Did you have any other source of information regarding these flights and what they were used for?

A. Yes, we spoke to one of the crew members.
Q. In the report and in paragraph 208 you talk about a 68 tonne shipment of weapons or ammunition that went to Ouagadougou with Burkina Faso end user certificate, is that correct?

A. Yes.

Q. Were you able to document flights that then carried those weapons, or parts of them - weapons and ammunition to Liberia?

A. Yes.

Q. How many flights did you document that plane making in March of 1999 from Burkina Faso to Liberia?

A. In paragraph 209 we say that on March 15th the plane flew from Monrovia to Ouagadougou:

"On 16 March the plane was loaded with weapons and flew back to Liberia. On the 17th, it returned to Ouagadougou. After a flight to Abidjan in the Ivory Coast, the plane flew again from Ouagadougou to Liberia with weapons on the 19th." That is two flights. "On the 25th the plane flew again from Liberia to Ouagadougou and returned on the same day with weapons." That is three. "On the 27th the plane flew again to Ouagadougou and - -"
A. Yes.

Q. Did you obtain any photographs of that plane and the cargo it was carrying during these flights?

A. Yes.

Q. Did you bring those photographs to The Hague with you?

A. I did.

MR KOUMJIAN: Court Officer, these are on tab - your Honours' copies are on tab 19, the last tab. Madam Court Officer, perhaps since these appear to be original photographs if they can be shown first to the Defence before being shown to the witness. Would your Honours like to see them before or after they are shown to the witness?

PRESIDING JUDGE: It is always after. Mr Prosecutor, would you like these photographs marked for identification?

MR KOUMJIAN: Yes, thank you.

PRESIDING JUDGE: Or are you going to tender them into evidence directly?

MR KOUMJIAN: Perhaps first we will mark them for identification and there are four of them, your Honour. I will describe each one so that they get a separate number and description. My suggestion is that we mark them next in order I believe that is 10, but 10A, B - 11, excuse me. 11A, B, C and D.

PRESIDING JUDGE: Are these the same photographs that appear under the tab 19?

MR KOUMJIAN: Yes, your Honour.

PRESIDING JUDGE: Because these are not all photographs of an aircraft. Some of them appear to be photographs of a building, or buildings.

MR KOUMJIAN: I think your Honour is correct. Just the
wing of the aircraft is visible in the last photograph at the top.

PRESIDING JUDGE: What about the third photograph? It is a photograph of a building.

MR KOUMJIAN: I have a photograph of an interior of an aircraft. The fourth photograph is a photograph of the air - of a building, where the wing of the aircraft is visible at the top. These are the photographs that were given to the witness.

PRESIDING JUDGE: So, the photographs under the tab 19 are marked for identification as MFI -.

MS IRURA: MFI-11, your Honour, A, B, C and D.

PRESIDING JUDGE: Yes, A, B, C and D respectively.

[ MFI-11A to D admitted]

MS IRURA: Could counsel please indicate which is A and the order?

MR KOUMJIAN: A is the photograph of what appears to be the back of an airplane where the entire aircraft is visible.

PRESIDING JUDGE: Could I suggest that the order in which they appear in our folders is the order in which we will number them.

MR KOUMJIAN: Yes, that is what I was doing. Thank you.

PRESIDING JUDGE: The first photograph I don't know what it is, it looks like a number of seats or the interior of something, will be A. It is followed by a photograph of the exterior of a plane - a reddish plane - and that will be B. Then the next photograph is predominantly a building, but with the underbelly of what appears to be an aircraft. That will be C. Then the last photograph, I am afraid I can't work out what it is, will be D.

MR MUNYARD: Your Honour, we have two interiors of the
plane and I wonder which one is your A and which one is your D?
I had already taken them out of my plastic folder when you started numbering them and so I don't know.

PRESIDING JUDGE: Let me refer to these pages by the official Court Management page numbers.

MR MUNYARD: Certainly, thank you.

PRESIDING JUDGE: Number A is page 0001171. That is number A. Then 1172 is number B, 1173 is number C and 1174 is number D. Please proceed, Mr Prosecutor.

MR KOUMJIAN: Thank you.

Q. Mr Smillie, can you please go through each of these photographs and - well, first can you tell me where the panel obtained these photographs to the extent you can disclose that information?

A. We obtained them from one of the crew members of the plane.

Q. By the way, this plane that we are talking about, did it have any association with the Accused in this case, Charles Taylor, from the information you received?

A. Yes. The aircraft you can see on the one showing the full aircraft, 1172, you can see the call letters of the plane on the side. It is more clear in the original photographs. "VPCLM", those are the call letters of the aircraft. The aircraft is registered in the Cayman Islands. Ironically, the symbol on the tail of the plane is from the Seattle Supersonics. It was used by the baseball team - by the basketball team for sometime before it found its way to West Africa. Mr Taylor told us when we interviewed him, when the panel interviewed him, that --

PRESIDING JUDGE: Could you please display one photograph at a time. The photograph the witness was referring to is 1172.
If you could enlarge it and make sure that we can see. Remove that bright light, whatever it is.

THE WITNESS: It is reflecting off the plastic. So this photograph shows the body of the aircraft, and here on the engine you will see the call letters of the aircraft: "VPCLM". As I said, that was a plane registered in the Cayman Islands and leased to Leonid Minin, or leased or owned by Leonid Minin. Mr Taylor told us that Leonid Minin had come to Liberia with this aircraft wanting to sell it as a Presidential jet, but that the cost was too high for Liberia. He had taken a few trips on it, but basically Minin had taken it back. Would you like me to move on to the --

MR KOUMJIAN: Let me just ask if your Honours would like to take go through these photographs, or take the break now, whichever is most convenient for your Honours?

PRESIDING JUDGE: There is no break until one o'clock.

MR KOUMJIAN: I am sorry, I thought it was 12.30. Thank you.

Q. Please continue, sir.

A. If there are more questions about this picture, I am happy to answer them.

Q. No, please go to the next photograph.

PRESIDING JUDGE: Is the witness going to take us through each picture?

MR KOUMJIAN: Yes.

PRESIDING JUDGE: Because then he might as well start with the first picture, number A. MFI-11A.

THE WITNESS: The BAC111, that is the type of aircraft this is, does not have a huge cargo capacity. It is essentially an
executive jet and we were told that it could not possibly carry any weapons. It could not be used for weapons transfers. In fact, the reason that the plane required so many trips was precisely that, it didn't have a heavy lifting capacity, but these pictures show that there are crates on the seats and under the seats and what I think are boxes of ammunition on the seats as well. This is essentially how the cargo was transferred from Burkina Faso to Liberia.

MR KOUMJIAN: As far as what is in the crates and the items with the plastic around them that are on the seats in this photograph, did you receive any information from the crew about what that contained?

Q. Can you go to the next photograph. Following the order that would be the photograph of the runway and - well, the building that is depicted.

A. As I said earlier, some of the flights were from Ouagadougou and some were from Bobo Dioulasso. Some of the weapons had been trucked to Bobo Dioulasso. We understood that they were all to have been shipped there so that it wouldn't be so easy to trace them, but only half of them had actually been moved there. So, all of these photographs that we are looking at now were actually taken at Bobo Dioulasso airport. That is a picture of the wing of the aircraft overhead of the name of the airport building there.

Q. And again the person that gave you - the crew member that gave you - these photographs, did he indicate that this is the same aircraft?

A. The same aircraft and these flights during March 1999.
Q. Going to the last photograph ...  

PRESIDING JUDGE: I am sorry, Mr Prosecutor. Did I hear the witness say that all four photographs were taken at Bobo Dioulasso airport?

A. That is what we were told.

Q. Told by who?

A. By the crew member of the aircraft who took the pictures.

Q. So, the panel didn't take the pictures?

A. No, Madam.

MR KOUMJIAN: And again these are - we are talking about March 1999, is that correct?

A. Yes.

Q. Approximately a year-and-a-half before your panel was working?

A. Yes.

Q. Going to the last photograph, can you just describe that? The one that ends in the ERN number "P0001174"

A. Well, again, these are wooden crates that are strapped down with seat belts onto the seats of this aircraft. There is Cyrillic lettering visible on some of the boxes and we were told that these were weapons.

Q. For the record, Bobo Dioulasso is in which country?

A. It is in Burkina Faso.

Q. Did you receive any information from individuals in Burkina Faso about these flights, or their cargo?

A. We received the flight details. All of the flight details that I referred to earlier and the ones that are in our report were - if they were flights from Burkina Faso, we received them from the air traffic authorities in Burkina Faso.
Q. Thank you. I am done with the photographs and perhaps these originally obtained photographs can be shown to your Honours now.

PRESIDING JUDGE: Thank you. Please proceed.

MR KOUMJIAN: Sir, did you receive any information about this shipment from the country of Ukraine?

A. As I said earlier, the shipment had been identified by the Angola panel of experts. Members of our panel did go to Ukraine to verify what had been - what had been reported by the Angola panel, so we did receive information from the government of Ukraine as well.

Q. Did the government of Ukraine indicate what the either weight or value of those weapons was?

A. I don't think they told us anything about the value, I don't recall that, but the weight was 68 tonnes and the end user certificate was for Burkina Faso.

MR KOUMJIAN: I would now like to refer and direct your Honours to paragraph 211 of tab 4, again page 36, and this is MFI-4.

Q. Sir, did the panel also document a shipment of weapons in December 1998?

A. Yes.

Q. What was the route of those weapons?

A. Those moved from Niamey to Liberia.

Q. And Niamey is in which country?

A. It is the capital of Niger.

Q. Did you determine when in 1998 these weapons came to Liberia?

A. In our report we said that there were two trips in December.
Q. And what date were those trips on?
A. Both flights took place on December 22nd 1998.
Q. Are you familiar with the invasion of Freetown in January 1999?
A. I know of it, yes.
Q. Do you know the date that rebel forces entered Freetown?
A. I think it was - was it January, 9th? 6th, or 9th.
Q. Okay, thank you. Your report also mentions - I will now direct everyone's attention to paragraph 233 of the same document, which is on page 39. Did the report discuss an individual by the name of Victor Bout?
A. Yes, it is usually pronounced Boot. Victor Boot.
Q. Thank you. Who is Victor Bout, or what information did you have about him?
A. Victor Bout is a fairly well-known arms dealer of Russian origin. According to our information he was born in Tajikistan, but certainly born in the former Soviet Union. He built up a very large air cargo capacity in the 1990s, had many companies registered in various places and was known to be moving weapons to a wide number of conflict areas. He was widely reported and documented in the Angola expert panel report.
Q. Did you document any connection between Mr Bout and this shipment in December 1998?
A. There is a lot of sort of interconnections between a number of airlines owned by him and their registry under the Liberian Air Registry Authority. In paragraph 233 we talk about arms deliveries from Europe to Liberia; four shipments on an Antonov aircraft that was either owned or leased to him.
Q. Did you document any connection between Mr Bout and an individual by the name of Mr Ruprah?
A. Yes, the connections between a lot of these people were I suppose in a sense anecdotal. You have to remember that we were working --

PRESIDING JUDGE: I would like to ask the Prosecutor to spell that name that you just said, please.
MR KOUMJIAN: R-u-p-r-a-h and the first name is Sanjivan: S-a-n-j-i-v-a-n.

PRESIDING JUDGE: Please proceed with your testimony, Mr Smillie.

THE WITNESS: Yes, the information we had came from a variety of sources. You will recall that the war was ongoing at this time and the situation was very dangerous for some of our informants. When we spoke to people in Liberia obviously there was some hostility towards us, or some great fear of speaking openly to us about things.

We have documented, I think, some connections between Victor Bout and Sanjivan Ruprah. Sanjivan Ruprah travelled on a Liberian passport under another name entirely, Samir Nasr. The information that we based our findings on came from a variety of sources for this. In some cases it came from intelligence sources. In other cases it came from people who were in the aircraft business.

MR KOUMJIAN: Did you find any connection -- you mentioned in paragraph 234 regarding these transactions an individual by the name of Gus Kouwenhoven and perhaps I will try to spell that using the spelling at least in the panel report, K-o-u-w-e-n-h-o-v-e-n. Who was Mr Kouwenhoven?
A. Mr Kouwenhoven was a hotelier. He had a hotel in Monrovia and other businesses. He was very involved in the timber export business and we understood that he was directly involved in arms shipments as well. Mr Kouwenhoven has since been tried for war crimes and is now --

Q. Well, sir, let us leave that - those other proceedings. Sir, going back to Mr Kouwenhoven, you mentioned Mr Minin. Did Mr Kouwenhoven own a hotel?

A. He operated a hotel. I don't know whether he owned it, or not, but he was the manager of it.

Q. Which hotel was that?

A. I am sorry, I don't recall the name. I think it was the Hotel Africa.

Q. Where is that?

A. In Monrovia.

Q. Do you know where Mr. Minin stayed when he was in Monrovia?

A. As far as I know, he stayed there.

Q. Sir, I would now like to move - I am finished with this document for the time being. I would now like to move to the panel's trip to Liberia. Did you go to Liberia?

A. Yes, we did.

Q. What was the dates of your trip to Liberia?


Q. And were you yourself part of the group that went to Monrovia?

A. Yes, I was.

Q. By the way, when you arrived in Monrovia who did you speak to?

A. Most of our visit was organised by the United Nations
representative in Monrovia based on our requests for meetings.

Q. Did --

A. And we were met at the aircraft, at the airport, by the United Nations.

Q. Who did you meet with in Liberia? What types of officials, or other persons?

A. We met with several cabinet ministers. We met with President Taylor at the end of our visit, but we met with several cabinet ministers. We met with the air traffic control authority. We met with church leaders. We met with Lebanese community leaders and diamond dealers. We met with diplomats based in Monrovia - there weren't very many, but we met a couple - NGOs and a couple of Liberian journalists. I think that is it.

Q. When the panel arrived, had there been any coverage in the media about your trip?

A. Yes, it was widely covered. It was covered by the Liberian press and it was also covered internationally. I recall being in a jeep hearing the BBC World Service telling us that we were on our way to a certain meeting.

Q. Where were you listening to that broadcast?

A. In a jeep, on the shortwave radio.

Q. You were in which country at that time?

A. In Liberia. In Monrovia.

Q. Do you recall any other media reports, or newspaper articles, that were memorable from when you arrived in Monrovia?

A. There were a couple. One was an article which accused - I think there might have been more than one, but there was at least one that accused the panel of being there to concoct facts, that we were there to impose sanctions on Liberia and that the whole
thing was a done deal. I recall another newspaper article that struck me as interesting at the time and that reported that Sam Bockarie, who was kind of I guess a celebrity in Monrovia, had been seen boarding a helicopter on its way to Foya. He was hitching a ride, I think they said, on a helicopter going to Foya in the northwest of Liberia.

Q. Now you mentioned that you had a meeting with the Accused, President Taylor, is that correct?
A. Yes.

Q. Where did that meeting take place?
A. In his office at the Presidential mansion.

Q. Who was present for the meeting?
A. There were the five panel members, the United Nations resident representative, Mr Taylor and I don't recall who else was there. There may have been two or three other people who were not introduced to us. When we went in there were some media there, but they left before the substantive discussions began.

Q. Did you take some notes of that meeting?
A. I did.

Q. Did you subsequently type those notes up?
A. I did.

Q. Did you include the typed-up notes in the annex to your report to the Court in this case?
A. Yes, I did.

MR KOUMJIAN: Your Honour, I was referring to MFI-9, which is tab 1. It is found - annex 2 is found on page 25.

PRESIDING JUDGE: I am sorry, what is the annex number?

MR KOUMJIAN: It is tab 1, but page 25 is called annex 2.

Page 25 of the report.
PRESIDING JUDGE: That would be Annex 2, is that the one you are referring to?

MR KOUMJIAN: Yes, your Honour.

PRESIDING JUDGE: Annex 2 to the report of Mr Smillie?

MR KOUMJIAN: That is correct.

PRESIDING JUDGE: Please proceed.

MR KOUMJIAN: Thank you.

Q. Can you tell us generally about the tone of the meeting that you had with the Accused?

A. It was formal, but it was not unfriendly.

Q. Were any of his aids or other persons besides the panel members present?

A. There were other people in the room, but we sat in a row of chairs facing the President and there were people behind us who were not introduced and so I don't know how many were there, or who they were.

Q. Was there any media at any point in the meeting?

A. The media were there when we entered the room and when we shook hands and were introduced, and then they left before we started any discussion.

Q. And just to be clear did you arrange for the media, the panel, or --

A. No.

Q. Now in your notes you discuss a question that was asked to President Taylor about a meeting he had with the US Under Secretary of State, Thomas Pickering, is that correct?

A. Yes.

Q. Had you received some information about that meeting?

A. We had been told in a previous visit with the United States...
ambassador to Liberia that the US Under Secretary of State for Africa, Thomas Pickering, had met with Taylor on July, 17th and told - and he had told Mr Taylor that he had seen evidence that Mr Taylor was trafficking in stolen diamonds. We raised this issue and Mr Taylor said that this was blatantly untrue. It was not clear to me whether it was blatantly untrue that he was trafficking in diamonds, or untrue that this is what had been raised by Mr Pickering.

Q. Did you ask, or one of the members of the panel ask, a question to the Accused about the Liberian import figures for imports of diamonds from Sierra Leone which exceeded Sierra Leone - excuse me, from Liberia which exceeded Liberia's production capacity?

A. Do you mean the Belgian figures?

Q. Yes, sorry.

A. Yes, I asked the question. I asked Mr Taylor what he made of these very large import figures of diamonds from Liberia into Belgium.

Q. And what was his response?

A. He said, "You tell me". He said that was our job. He said he didn't know what to make of it. Liberia's name was being misused. He said that it was possible - highly probable is what he said - that there were RUF diamonds coming through Liberia, but he did not know anything about it.

Q. Sir, could you please speak a little bit more slowly.

A. Sorry.

Q. You indicated that he referred to the RUF diamonds. Can you repeat what he said about that?

A. He said that it was possible, or highly probable is what he
said, that the RUF were dealing in diamonds and that some of them
might be coming through Liberia, but he said this was not
official and he didn’t know anything about it. He said the
borders were very porous and he had no control over this. He
suggested that some of the diamonds that might be coming through
Liberia could have been Russian diamonds.

Q. By the way, based on your expertise is that true; that some
of the diamonds going through Liberia could have been Russian
diamonds?

A. Yes, we discussed this at length in the panel report.

Q. Just to explain to your Honours, what motive would there be
to route these diamonds through other countries?

A. This is a fairly complicated - a fairly complicated -
business. De Beers had an arrangement, a contract, with Alrosa,
the Russian diamond - the big Russian diamond mining and
exporting company, at this time to buy all of their diamonds.
What the Russian government was doing was allocating a
significant portion of their production to Russian cutters and
polishers for use in Russia. Some of these diamonds were being
smuggled out of Russia and they were making their way into the
world market. The reason companies wanted to hide the fact that
these were Russian diamonds was that if De Beers - if they had a
contract with De Beers for their above board diamonds and De
Beers discovered that they were buying Russian diamonds under the
table, then they might lose their De Beers contract. So, this
was a way of obscuring the origin of Russian diamonds.

PRESIDING JUDGE: Excuse me, sir. Are you saying that
Russian diamonds were being passed off as Liberian originating?
Is that what you are saying?
A. I am saying that - I am saying that it was possible. There were other sources of these diamonds as well undoubtedly. They certainly did not all come from Sierra Leone.

MR KOUMJIAN: Did he indicate anything about Liberia's production capacity in answering this question about the high number of diamonds purportedly exported by Liberia through Belgium?

A. Well, he said that Liberia had more diamonds than Sierra Leone and he said that four kimberlites had been identified. I thought that was odd because, although there may well be several kimberlites in Liberia, they are not known to be diamondiferous and Liberia has no record of exporting high quality diamonds of its own.

Q. Again, based on your knowledge of the production capacities and geological characteristics of Liberia and Sierra Leone, what is the comparison in production capacity for diamonds of the two countries?

A. Well, I think the historical volume coming out of Liberia was 100/150 possibly 300,000 carats a year. 300,000 is probably stretching it. Sierra Leone in its best years was exporting two million carats a year.

Q. Would the figures regarding the value of those diamonds be consistent, or how would they be in relation to the volume comparing Sierra Leone and Liberia?

A. Well the Sierra Leone diamonds, as I said earlier, would be worth on average - run of mine average is about 200 dollars a carat. Liberia diamonds are worth about 25 to 35 dollars a carat. 25 to 30. If you look at the Belgian import figures, they bounce all over the place. There are high numbers, low
numbers. They could be anything.

Q. During the panel's visit to Liberia, was any evidence presented to you about Liberia's production capacity for diamonds?

A. No, we met at length with the Minister of Mineral Resources and he indicated that there was almost no production—no legal production—going on. He said that there was undoubtedly some mining going on and that the diamonds were probably being smuggled out.

Q. Did they take you to any area where production was supposed to be going on?

A. Yes, not very long before our visit there was reported to have been a discovery of diamonds at a place called Paynesville, not far from Monrovia, and the Minister of Mines was very keen to have us see this. In fact, he drove one of the vehicles. I sat in the front seat and he drove and we went to Paynesville from his office to have a look at the site.

Q. Could I remind you to speak slowly. What was the name of the individual who was the Minister of Mines?

A. His name was Jenkins Dunbar, D-u-n-b-a-r.

Q. When you went to the site, what did you see?

A. We saw a site of about 100 acres all dug up. Clearly about 100 acres had been mined by hand. There were pits and holes and so on and all the greenery had been taken away.

Q. What else did you notice about that site?

A. Well, what was noticeable was that there was nobody digging at all. When we arrived a few people came to see us and showed us some very small diamonds, you know, in the palms of their hands, to indicate that they had found these diamonds on this
site, but if there were diamonds on that site I can't imagine
that there would be no diggers. The only reason that there would
not have been any diggers present would be (1) there were no
diamonds or (2) there was a lot of security to keep the diggers
away. There was no evidence of any security.

PRESIDING JUDGE: Mr Prosecutor, in view of the time I
would urge you to somehow wrap up this area in the evidence and
we will then adjourn.

MR KOUMJIAN: I can break now. That is fine, your Honour.

Thank you.

PRESIDING JUDGE: So, Court will adjourn to 2.30 in the
afternoon for continuation of this witness.

[ Lunch break taken at 12.59 p.m. ]

[ Upon resuming at 2.30 p.m. ]

PRESIDING JUDGE: Good afternoon. We will continue with
the testimony of Mr Ian Smillie. Mr Smillie, if I may remind
you, you are still under oath and your testimony will be given in
that regard. Thank you.

MR KOUMJIAN: Thank you, your Honour. Before beginning may
I simply note for the record the presence, having joined the
Prosecution team, of Mr Mohamed A Bangura. He has been with us
for the second session this afternoon.

PRESIDING JUDGE: So noted.

MR KOUMJIAN: Thank you.

Q. Mr Smillie, you mentioned this trip to Paynesville when the
panel was in Liberia and what you saw regarding a field where
supposedly diamond mining was going on. Is alluvial diamond
mining labour intensive, or can you comment upon how labour or
capital intensive alluvial mining is?
A. Well, it is very labour intensive and I guess it would depend to a certain extent on how deep you are digging. If you are just clearing off the surface that would be one level of endeavour. If you have to go down five or 10 feet it would be significantly more, but certainly it is very labour intensive.

Q. Now you mentioned that you remarked that you were surprised at the low number of individuals that were present at this site. What is it, in your experience, that made you think that had significant diamonds been present at this site in Liberia more persons would have been present?

A. Well, what had been reported was a diamond rush and when you have a diamond rush, there have been diamond rushes since in Liberia and elsewhere, you get thousands of people swarming into the area. There was a big one in Zimbabwe recently where I think the government had to expel something like 20,000 diggers. I saw one something like that in Koidu when I was teaching there. On New Year's day 1968 somebody found a fairly large diamond at the lakeside. In the town there was a small lake. Somebody found a diamond and pretty soon there were thousands of people swarming all over the edges of the lake, taxis, buses, trucks pulling up, dirt being shoveled into them, being driven away to some place for sifting later. I remember one fellow told that me he'd had 20 taxi loads of dirt. He'd hired a taxi and they had filled the trunk and they had filled the back seat and carted all the gravel away to sort out later and he found nothing. In fact, often one diamond doesn't necessarily mean anything but it can attract a huge rush of people.

Q. Now in the present time in Sierra Leone where they are now at peace do you know if there are a significant number of
individuals engaged in mining in Sierra Leone now? Can you give us a idea what in peace time there would be?

A. The government of Sierra Leone estimates that there are about 120,000 artisanal diamond diggers at present.

Q. Thank you. We were discussing your meeting with the accused. During that meeting did the panel question the accused about his knowledge of Mr Ruprah?

A. Yes, we asked if he knew Sanjivan Ruprah and he said no, he didn't.

Q. Now, had the panel discovered any information about Mr Ruprah and any connections to Liberia?

A. Mr Ruprah was a senior official in the aircraft registry of Liberia and he was travelling using a Liberian passport under an assumed name.

Q. A different name; correct?

A. A different name, yes.

Q. Was the accused asked about Mr Minin?

A. Yes.

Q. I believe you told us earlier, when you discussed Mr Minin's weapons, the accused's response?

A. He said that Minin was trying to sell an aircraft as a presidential jet and that the accused had taken some flights on it in the region, but that it was too expensive and he couldn't afford it and basically it was dismissed. That's what he told us.

Q. Was the topic ever raised by anyone at this meeting about holding people to account - about justice to hold people to account for crimes committed in the conflicts in Sierra Leone and Liberia?
A. At the end of the discussion he said something about trials and how trials would scare away armed and dangerous men, that trials were not the way to go, there should be a large peacekeeping force more independent of Britain and the United States, that he was very concerned about them, but he did refer to trials, he brought it up, we didn't, and said that if there were trials it would only dissuade armed and dangerous men from laying down their arms.

Q. Thank you. Madam Court Officer, your Honours, I would like now for the witness to be shown a document, it's on tab 14. It is Security Council resolution 1343.

PRESIDING JUDGE: What you refer to us, is that a flag in the folders?

MR KOUMJIAN: Yes, it is tab 14.

PRESIDING JUDGE: Tab 14. Has the witness found this document?

MS IRURA: Your Honour, this would be marked for identification 12.

[ MFI-12 admitted ]

MR KOUMJIAN:

Q. Sir, do you recognise this as a resolution of the United Nations Security Council adopted on 7 March 2001 after they received your report?

A. Yes.

Q. When was your report submitted to the Security Council?

A. It was submitted in January of 2001.

Q. Did you ever appear in front of the Security Council, you or other members of the panel?

A. The entire panel was present in the Security Council when
the report, our report, was discussed, but we didn't make any
presentation. We made a presentation to the Sanctions Committee
earlier, but we didn't speak in the Security Council.

Q. Do you know when the debate of the Security Council or the
discussion regarding your report took place?

A. That was in January 2001.

Q. Referring now to this document, the first page of the
resolution, I want to direct your attention to the fourth
paragraph and perhaps it would be easiest if you first would read
that out loud and then I will ask you a question about it.

A. "Taking note of the findings of the panel of experts that
diamonds represent a major and primary source of income for the
Revolutionary United Front (RUF), that the bulk of RUF diamonds
leave Sierra Leone through Liberia and that such illicit trade
cannot be conducted without the permission and involvement of
Liberian government officials at the highest level and expressing
its deep concern at the unequivocal and overwhelming evidence
presented by the report of the panel of experts that the
Government of Liberia is actively supporting the RUF at all
levels."

Q. Mr Smillie, do you believe that this is a fair summary of
the conclusions of the United Nations panel of experts on which
you served?

A. Yes.

Q. Does this remain your opinion today?

A. Yes.

Q. Turning to paragraph 2 of this on the next page, under (b),
did the Security Council adopt various measures directed at the
Government of Liberia?
A. Yes.

Q. What were those measures?

A. It required the Government of Liberia to stop all of its military assistance to armed rebel groups. It replaced a previous embargo on weapons to Liberia with a new embargo. It banned the export of diamonds from Liberia with a two-month grace period. It sought to freeze funds that were in any way supporting the RUF. It grounded all Liberian registry aircraft. I think that's it. There was also a list of - a travel ban for several senior members of the Taylor government.

Q. I am directing your attention to paragraph 2(a) on this page, the second page of the resolution. Did the Security Council also direct the Government of Liberia to expel all RUF members from its territory and to cease - prohibit all RUF activities on its territory?

A. Yes.

Q. And did it also direct - going to paragraph (c), I don't believe you covered this, did it address Liberia importing diamonds from Sierra Leone?

A. Yes, I'm sorry. It said that no Sierra Leone diamonds should be imported into Liberia unless they were controlled through a certificate of origin regime from the Government of Sierra Leone.

Q. Then to clarify another matter, what did this Security Council do regarding the ongoing or prior ban on weapons to Liberia? I am directing your attention to paragraph 1 and paragraph 5. Paragraph 1 appears on the second page, it is very short, and then paragraph 5 on the third page.

A. Paragraph 1 terminated the earlier prohibitions on weapons
shipments to Liberia and replaced it with another one which is
described in paragraph 5:

"That all States shall take the necessary measures to
prevent the sale or supply to Liberia by their nationals, or from
their territories, or using their flag vessels, or aircraft of
arms and related materials of all types, including weapons and
ammunition, military vehicles and equipment, paramilitary
equipment and spare parts whether or not originating in their
territories."

MR KOUMJIAN: I have finished with this document. I would
ask then to have marked for identification the next document
which appears on tab 16. I would ask for that to be marked for
identification and provided to the witness.

PRESIDING JUDGE: Tab 16 would be marked for identification
as MFI-13?

MS IRURA: That is correct, your Honour.

MR KOUMJIAN: Perhaps just to make it easier for those
searching the record, maybe quite a while from now, this is
referring to a letter dated 24 January 2001 to the permanent
representative of Liberia to the UN and addressed to the
Secretary-General and it is signed by Dr Charles G Taylor. Does
the witness have that?

THE WITNESS: Yes.

MR KOUMJIAN:

Q. Sir, you have had a chance to read this over at another
time; is that correct?

A. Yes.

Q. I am directing your attention to page 3. I believe it's
the first full - excuse me, the second full sentence:
"Our contact with RUF is an expected response to successive Sierra Leone governments' active support and arming of Liberian dissident groups resident in Sierra Leone."

Is this consistent with the information, or the affirmations - what the government people in Liberia were telling you about their support for Sierra Leone, for the RUF?
A. We were told by all of the official government sources in Liberia that they were not supporting the RUF and that included President Taylor.

Q. So during your meetings in Liberia did you ever receive this kind of explanation that these contacts with the RUF were in response to what Liberia perceived as Sierra Leone support for Liberian dissidents?
A. No.

MR KOUMJIAN: I would now like marked for identification and shown to the witness a document that appears on tab 13 and for the record this is a letter dated 18 May 2001 from the Charge d'affaires at the permanent mission of Liberia to the United Nations, addressed to the President of the Security Council.

PRESIDING JUDGE: This document will be marked for identification as MFI-14.

[ MFI-14 admitted]

MR KOUMJIAN:

Q. Sir, the letter refers to a list of RUF members; is that correct?
A. Yes, and others.

Q. And these were - turning then to the page that is actually the third page of the document that's entitled Enclosure, is this
the list that we are talking about, "Enclosure, list of RUF members designated by the committee as being subject to paragraph 2(a) of Security Council resolution 1343"?

A. Yes.

Q. Again is paragraph 2(a) the one we looked at two documents ago from the Security Council resolution that directs the Government of Liberia to expel all RUF members and stop all RUF activities on its territory?

A. Yes.

Q. I am not going to ask you to read the letter, it speaks for itself, but in the letter certain individuals are acknowledged as being known to the Government of Liberia; is that correct?

A. Yes.

Q. I am just going to ask you about a few of the individuals on the enclosure list, those being the second name Eddie Kanneh, the fourth name Short Bai Bureh and then the third from last name Dennis Mingo, Brigadier Compass or Superman. Does the letter from the foreign minister of Liberia, Monie Captan, indicate that the Government of Liberia doesn't know who these people are?

A. I understand that to be the case. That seems to be what he's saying, yes.

MR KOUMJIAN: Your Honour, I am very close to the end of my examination. I was hoping, and I would hope, to be able to play clip number 6 at this time and I would like it marked for identification and if your Honour would like I could give you my reasons for believing it is relevant to this testimony and to this case.

PRESIDING JUDGE: Clip number 6?

MR KOUMJIAN: Yes, your Honour, tab 12.
PRESIDING JUDGE: Clip number 6 would be marked for identification as MFI-15.

MS IRURA: That's correct, your Honour.

[MF1-15 admitted]

MR KOUMJIAN: May that be played? There appears to be no sound. Can we try that again? There appears to be no sound.

Perhaps the video booth can try it again.

PRESIDING JUDGE: The people in the video booth, could you do something about the audio?

[Video played to court]

MR KOUMJIAN:

Q. Sir, there was - the first speaker other than the narrator in that clip gave an estimate of the amount of money that the RUF made from diamonds in Sierra Leone per year during the conflict years. First, did you recognise that individual?

A. Yes, I did.

Q. Who was that?

A. His name is Alex Yearsley. He works for the British NGO called Global Witness.

Q. Now do you have an opinion, based upon your work with the panel and your independent work on conflict diamonds and Sierra Leone, as to the amount of money that the RUF was making on diamonds in the period from November 30 1996 to the end of the conflict?

A. In our report we used the figure something between 25 million and $125 million. That was a guesstimate at the time, but I can explain the basis for it. First we spoke to diamond experts and someone in De Beers who knew Sierra Leone very well said that his estimation was probably around $70 million a year.
We were trying to base our numbers on what we thought it was possible to mine at that time. It was fairly difficult because there had been no reliable mining statistics for many years in Sierra Leone, a lot of the diamonds had simply been smuggled out so there were no reliable official figures, but since the war and since the advent of the Kimberley Process we now see what Sierra Leone is capable of mining and on average over the last three to four years they have been mining between 6 and 700,000 carats worth of diamonds per annum. So our estimate wasn't wrong. Even if you took half of that number, or a significant fraction of that number, as being what the RUF might have mined it would still come in the neighbourhood of 30, 40, 50, 60 million dollars worth of diamonds a year given the periods that they actually controlled the diamond fields. So our original numbers were certainly within the ballpark and the De Beers number was probably quite accurate.

Q. Perhaps, just to do a little math, you gave some various figures. I understand you say post-war production averaged approximately 600,000 carats in Sierra Leone and earlier you said the price per carat was $200 or more?

A. Yes.

Q. And 600,000 times 200 would be $120 million?

A. Yes, the precise numbers for 2004 and 2005 are in my report and I can give you the numbers for 2006 and for the first three quarters of 2007. They are all of an average. On average each year Sierra Leone has been producing 6 to 700,000 dollars - sorry, 6 to 700,000 carats per year at slightly over $200 a carat.

Q. Mr Smillie, in that video and several of the videos that we
have seen we have heard accounts of horrible atrocities; forced
labour, amputations, sexual assault and killings.
MR MUNYARD: Madam President, again we are straying into
the territory that you ruled against before in relation to this
witness.
MR KOUMJIAN: I haven't finished my question.
MR MUNYARD: The question is clearly going in one
particular direction. Before the witness is asked to answer it
I don't mind my learned friend spelling it out in full.
PRESIDING JUDGE: Thank you. We haven't heard the
question, but I think the point is, Mr Prosecutor, you have
alluded to forced labour, but I don't recall seeing that in the
clip that we just saw.
MR KOUMJIAN: No.
PRESIDING JUDGE: So please don't make suggestions.
MR KOUMJIAN: I have been referring, Your Honour, to clip
5. I mentioned all of the clips we saw today. I am sorry, but I
was --
PRESIDING JUDGE: Why do we keep jumping up and down? We
thought you were now leading evidence relating to clip 6.
MR KOUMJIAN: I'm sorry, this question is summarising all
of the clips, all of the evidence.
PRESIDING JUDGE: If you are going to refer to a clip which
has been marked for identification, refer to it by number, the
number we have given it. That is the way the evidence should go.
MR KOUMJIAN: Okay. I am referring in this question to
clip 2 which is MFI-7, clip 5, MFI-8, and the last clip, clip 6,
which is MFI-15. Would your Honour like to hear --
PRESIDING JUDGE: What is the question relating to these
clips?

MR KOUMJIAN:

Q. The question, Mr Smillie, is based upon your knowledge of Sierra Leone, of diamonds and the role of diamonds in a conflict, is there any logical explanation for efforts to inflict extreme fear through these types of crimes on a population in order to exploit diamonds?

MR MUNYARD: Again, Madam President, I object to that question. How can this diamond expert possibly give evidence which is about matters relating to the conduct of a war.

PRESIDING JUDGE: I am inclined to allow this question and to overrule the objection on the grounds that we are interested in hearing what Mr Smillie has to answer, but also with the possibility of the Defence being able to cross-examine him around this area. You can ask him any question you want in cross-examination relating to his answer. So the objection is overruled.

THE WITNESS: I think the - you know the diamond areas cover several hundred square miles so in order to control them you either need a very large police force, or you need to be able to frighten people away from them. I think part of the tactic in chopping hands and so on was to create such a fear of the RUF that the areas would be cleared for them to do whatever they wanted, including diamond mining and foraging for supplies.

MR KOUMJIAN:

Q. If you have a situation such as you have normally in peace time where there is not this fear in a population and diamonds are known, alluvial diamonds, to be present, what is the result?

A. As I told you, there are an estimated 120,000 diamond
diggers, by the government's estimate, digging diamonds in Sierra Leone and most of those people would be in Kono District, or in Tongo Field, in the areas that were of greatest interest to the RUF. So there would be huge numbers of people in peace time and there are right now.

Q. Did you receive any evidence that this number of civilians were not present during the war during the periods of time that RUF controlled the diamond mining areas?

A. Yes, I mean the RUF had people that it had captured and were forcing to mine diamonds. We understood that they were doing some direct mining themselves, some of their own troops were involved in mining, but generally speaking the populous had cleared out because it was so frightening to be near them.

MR KOUMJIAN: Thank you. Your Honours, I thank your Honours very much for your indulgence and I have completed my direct examination. I would at this time move the documents that have been marked for identification into evidence, all of them. That's MFI-1 through MFI-15.

PRESIDING JUDGE: Mr Griffiths, could I hear from you - there is an application to tender into evidence all the documents that have been marked for identification. What is the view of the Defence?

MR GRIFFITHS: Your Honour, you will have noted that in relation to several of the clips we objected to their admissibility. Your Honour, you will have noted that in relation to a number of the clips, and indeed in relation to all of them, we were concerned that they referred to material outside the expertise of this particular witness. Now insofar as those clips refer to diamonds, as for example you will have noted that in the...
last clip shown there was a single reference to diamond
production, whereas that was surrounded by lengthy references to
amputations and the like.

Now to the extent that those clips refer to materials
within the expertise of this witness we have no objection to that
material going before this Court, but all other material we would
submit should be ruled at this stage inadmissible until such time
as the Prosecution are able to produce the witnesses who are able
to speak to those matters directly.

PRESIDING JUDGE: Yes, Mr Prosecutor, what is your reply?

MR KOUMJIAN: Your Honour, the rules of the Special Court,
unlike many domestic jurisdictions, do not have a limitation on
hearsay and in fact, because of the magnitude of these crimes, of
course it is not possible and efficient for us to bring the tens
of thousands of victims of what happened in Sierra Leone here
today. The very short clips regarding the victims of crimes that
were shown, which total under nine minutes, illustrate a campaign
of terror that took place in Sierra Leone. It's relevant
certainly to this case. It's part of the crimes that are
charged. It's also very relevant to the testimony of this
witness because this witness has explained to us how that
campaign of terror makes sense with those trying to exploit
alluvial diamonds which are spread out in a large area.

Further, your Honour, in - I also appeal to the purpose of
this Court and this tribunal being set up. Although they are not
present here, the victims of course are part of our proceedings
and they have a right to be heard. These very, very short
references to the crimes that happened - I don't believe the
Defence are disputing these crimes happened and I think it is
good for all of us to be reminded that that's what this case is about.

MR GRIFFITHS: Your Honour --

PRESIDING JUDGE: Mr Griffiths, I don't think you have a right to address us after the reply, not automatically.

MR GRIFFITHS: Very well.

PRESIDING JUDGE: The practice of this Court has been that when we get a witness like Mr Smillie who comes in an expert capacity and he is testifying with regard to a number of documents, as he has done, the practice is that we will first go through the cross-examination of the witness and during re-exam, or maybe at the end of the re-exam, the Prosecutor then applies to tender in the exhibits. At that time we have had the benefit of hearing the testimony in cross-examination and thereby deciding - being able to decide better whether or not to admit the individual exhibits. If that's okay with the Prosecutor we will defer this application until we have exhausted the cross-examination of Mr Smillie upon his testimony. It seems that the Prosecutor agrees with me, so I will invite --

MR GRIFFITHS: I certainly agree.

PRESIDING JUDGE: I will invite Mr Griffiths, on behalf of the Defence, to commence your cross-examination.

MR MUNYARD: Madam President, it is me who is going to cross-examine this witness.

PRESIDING JUDGE: I do beg your pardon. Please proceed with the cross-examination.

CROSS-EXAMINATION BY MR MUNYARD:

MR MUNYARD:

Q. Mr Smillie, can I start, please, by asking you a little
more about your background, your qualifications and your
career. You were born in 1944 and you graduated in 1967.

Q. Thank you. And you graduated in economics?
A. That's right.

Q. Did you have any particular specialisation within economics
in the course of your bachelor degree?
A. No.

Q. Your first job after graduation, in fact, was to be
a teacher in Sierra Leone on a volunteer program, if I understood
you correctly.
A. That's right.

Q. So you went from the field of academic study of economics
into teaching across a range of subjects?
A. That's right.

Q. And you spent somewhat less than a year in Koidu in Sierra
Leone?
A. That's correct.

Q. And in the course of that time did you work for any other
organisation when you were in Sierra Leone apart from the
educational authority under whose auspices you acted as
a teacher?
A. No.

Q. Had you ever been to Sierra Leone before 1967?
A. No.

Q. You left in 1968, June of 1968, and you then went back to
Canada, is that correct, or did you go to Nigeria?
A. I went to Nigeria directly.

Q. Working for a Canadian organisation?
A. That's right.
Q. And you were in Nigeria for some three years?
A. Yes.
Q. And in the course of your time in Nigeria did you develop any expertise whatsoever in any other field?
A. Well, our postings were in health, in education at all levels, secondary education, tertiary education. We had agricultural postings. So I had to familiarise myself with the Nigerian requests that we were getting and the kinds of situations that Canadians would go into.
Q. Yes, you were essentially an administrator, weren't you?
A. Yes.
Q. You were responsible in that role for making sure that the Canadian volunteers were being directed to the areas that the organisation had selected as suitable for them to work in with a view to assisting the development of Nigeria and Nigerian society?
A. Well, the requests were made by the Nigerian government and we were vetting the requests. We didn't select the posts, the government did, but we acceded to their requests if we could.
Q. Right and then you went back to Canada for a year within the same organisation again as an administrator?
A. Yes.
Q. Then between 1972 and 1974 you worked for the organisation CARE, an Irish charitable organisation; is that correct?
A. No, CARE is an international NGO. At that time the headquarters was in New York. It is essentially an American organisation.
Q. Essentially American, but I think it has quite a strong
Irish contingent, is that correct?

A. No, I think you are thinking of Concern.

Q. Well, in any event, you were doing the same kind of work for them, were you not?

A. Yes.

Q. As an administrator?

A. It was a little different. I mean, CUSO was a personnel program. With CARE it was a housing construction development operation. We were building low cost housing, setting up cooperatives and revolving loan funds for villages who had either suffered in the liberation war or from the cyclone that had preceded my arrival there.

Q. Yes and you were administering that particular project?

A. Yes.

Q. Then you spent a year back in Canada at the University of Western Ontario in London, Ontario?

A. Yes.

Q. Again as an administrator?

A. The office of international education was to link the different departments of the university to government programs and other international work.

Q. Yes, but you were still acting as an administrator, weren’t you?

A. Yes.

Q. To be fair to you I think there was a limited amount of teaching involved in that also?

A. Yes.

Q. But essentially still an administrator?

A. Yes.
Q. Then between June of 1975 and October 1979 you were running the organisation that you founded, Inter Pares, which again was a charitable development organisation?
A. That's correct.

Q. Did you yourself have to travel to any of the countries that Inter Pares was working in?
A. Yes, I did.

Q. Were any of those countries - did that involve going to Sierra Leone at all?
A. No.

Q. Or Liberia?
A. No.

Q. And in your work for Inter Pares did you ever have any contact at all with the diamond industry?
A. No.

Q. That brings us almost to the end of the 1970s. You went back, I think, then to Canada, late 1979?
A. No.

Q. October 1979?
A. No, my work with Inter Pares and the University of Western Ontario were in Canada.

Q. Based in Canada, I beg your pardon, but you then became executive director of CUSO in 1979?
A. That's right, yes

Q. And that had a very large program of Canadian volunteers in various parts of the world?
A. Yes.

Q. And you were administering that program?
A. Yes.
Q. You were the chief executive officer in effect, weren't you?
A. I was.
Q. That took you to 1983 when you became more of a freelance?
A. Yes.
Q. A freelance writer and consultant?
A. That's correct.
Q. And as far as your consultancy work was concerned, have you been doing that for the past 24 years?
A. I was doing that full-time until Partnership Africa Canada began its work on the diamond issue.
Q. Which was in 19 --
A. We started at the end of 1998. We started working full-time on that in 1999, at the beginning of 1999.
Q. So from 1983 to the end of 1988, beginning of 1999, you were essentially a consultant?
A. And writer. I wrote a number of books at that time.
Q. Were you earning your living from writing, or from your consultancy work?
A. As I said earlier, you don't earn a great deal of money from development writing. You really have to supplement it from something, so most of my income was certainly from consulting work.
Q. And consulting work effectively in the development field; is that right?
A. Yes.
Q. Were you effectively evaluating projects for various organisations?
A. I was doing a variety of things, including feasibility
studies, the development of programs, project proposals and evaluations.

Q. Did any of that work take you to Sierra Leone?
A. Yes.

Q. For what sort of length of time, how long?
A. I was asked by CARE to go to Sierra Leone in 1996. I think I was there for about a month and it was to look at the capacity of local civil society organisations, local NGOs, to carry out more development work than had been the case up to then.

Q. Now that's in the middle of the civil war?
A. Yes.

Q. Whereabouts were you in Sierra Leone for that month?
A. I was in Freetown and I went to Kenema.

Q. And did you experience any difficulty in getting from Freetown to Kenema?
A. This was about a month after the Kabbah Government had been elected so it was during a lull in the storm. It was technically a peace time.

Q. March/April 1996?
A. Yes.

Q. During that time did you have any involvement with the diamond industry?
A. No.

Q. And that, I think, was the only time that you were in Sierra Leone in the mid-1990s?
A. That's correct.

Q. That brings us then to your work with Partnership Africa Canada, PAC. Who set up Partnership Africa Canada?
A. It was established by a number of Canadian NGOs and the
Canadian International Development Agency following the Ethiopian famine to better administer and channel funding to emergency areas in Africa.

Q. Had the Partnership Africa Canada had any involvement, prior to your work in the late 1990s, in the diamond industry?
A. No.

Q. You have no training in geology, do you?
A. No, I don't.

Q. Apart from your bachelor's degree that you completed in 1967, do you have any training in statistics?
A. No.

Q. Do you, in fact, have any additional training in economics since your degree?
A. Formal training, no.

Q. Right. Until your work for Partnership Africa Canada, beginning really in the beginning of 1999, you had been back to Sierra Leone for the month in 96 and I think you told us you had been there occasionally on holiday from Nigeria?
A. And when I was director of CUSO in 1983 I went back on an official visit.

Q. On an official visit in 1983 lasting how long?
A. I think probably two and a half weeks.

Q. Prior to your going to Liberia as part of the United Nations panel in October 2000, had you ever been to Liberia before?
A. Yes, very briefly I was in Liberia. When I left Sierra Leone to go to Nigeria I travelled by ship and in those days the Elder Dempster line put in at different ports along the coast and there was a half day stop in Monrovia.
Q. So apart from a half day stop in Monrovia all those years ago, you'd never been to Liberia prior to your trip there as a member of the United Nations panel?

A. That's correct.

Q. When you went for three days?

A. That's correct.

Q. And have you been to Liberia since October of 2000?

A. No.

Q. I want to ask you a little more then, please, about the PAC report that you wrote that was titled Heart of the Matter, a title that you took from Graham Greene's novel set in West Africa; is that right?

A. That's right.

Q. When you started work for PAC in the beginning of 1999 what was the focus of the work, what were you actually asked to do?

A. There were three of us who agreed to work on this project. Until the project actually began none of us worked for Partnership Africa Canada. We had been meeting on a voluntary basis with a number of Sierra Leonean Canadians and people like myself who had worked in Sierra Leone and who were concerned about the war and about how little was being done to stop it.

When the idea arose that some of the fuel for this war might be coming from diamonds we decided that we would try to put together a bit of money to do a research project. We asked 15 Canadian NGOs if they would contribute $2,000 each and then we went to the government for a matching grant. They all said yes and we went
to the government for a matching grant so we raised $60,000 and we used that money during 1999 to write and research the report. That paid for everything.

Q. And from who did the idea come that diamonds were playing a role in the war?

A. One of the Sierra Leoneans in the group said - none of us had actually thought of this. We were more concerned about the relief situation. One of the Sierra Leoneans in the group said after a particularly frustrating incident where a clinic that we had raised money for was burned down, he said, "This is about diamonds and until we do something about diamonds - or until something is done about diamonds this thing will never be over."

Q. So you are telling us the civil war had been running since 1991, yes?

A. Yes.

Q. And in late 1998 when you are having these discussions that lead to the setting up of this particular project, that until then nobody had come up with the idea that diamonds were playing such a significant role in the civil war?

A. Well, I wouldn't say nobody had come up with that idea. We were a voluntary group that was meeting on a voluntary basis in the evenings to raise money for victims of the war and we hadn't discussed causes or how we might actually influence them.

Q. Right, but since you came together as a group and in the light of all the work that you have done since and the research you have done and the papers and books that you have read, are you saying that it wasn't until one of your group came up with this idea in a evening discussion that the idea that diamonds were at the heart of this war had not come to light before?
A. We had not been studying diamonds or the war or the economies of it. We were a relief group, a group of volunteers trying to raise money for victims of the war.

Q. With respect I asked you since your work on this area and in the light of all that you have read, your research while you were doing the project and everything you have looked at since the late 1990s, are you saying that it was not until a member of your informal group came up with this idea that nobody had come up with the notion that diamonds were at the heart of this civil war?

A. Yes, that's true. It was something like for me it was like a light going on because I had lived in the diamond area, I had seen how chaotic it was even in peace time and I realised the minute he said it that it had a lot to do with diamonds.

Q. And who was this person?

A. You want his name?

Q. Yes.

A. His name was Adrian Labor.

Q. Has he written or done or published anything at all on this subject?

A. Not that I'm aware of.

Q. Was he part of the trio who wrote Heart of the Matter, your report?

A. No, he wasn't.

Q. Where were you based when you wrote the report?

A. Well, I was based in Ottawa, Ottawa is my home.

Q. And the other two people who wrote the report with you?

A. Ralph Hazleton, Dr Ralph Hazleton also lives in Ottawa. And Dr Lansana Gberie, a Sierra Leonean journalist. I mean he
has a journalism background in Sierra Leone. He was at the University of Toronto.

Q. So all three of you were based in Canada?
A. Yes.

Q. And you did the research and wrote the report over the period of something less than a year; is that right?
A. A little less than a year.

Q. How often did you go to Sierra Leone during the - all three of you, during the period of time that you were doing the research and coming up with the report?
A. I did not go to Sierra Leone at that time and I don't think Ralph Hazleton went. I think it was done by - I think the trip to Sierra Leone was done by Lansana Gberie.

Q. How long did he spend in Sierra Leone doing his research towards this report?
A. I think probably about six weeks.

Q. I just want to ask in global terms, I am going to come back to it in detail in due course, where is it that you got the statistics from that feature in your report about Sierra Leone diamond production, Liberian diamond production, the periods of time during which the RUF held the diamond fields or didn't hold the diamond fields, where did you get that information from?
A. All of the statistical data, the historical data was a matter of record. The statistical data was all open sources either it had been published in government documents, trade documents, trade statistics, that sort of thing. The Belgian statistics were all available online. They subsequently removed them because they were so damaging to Belgium, but at the time they were online.
Q. We will come back to the Belgian statistics, but that brings us really to the diamond industry in general. It's fair to say, isn't it, that in the 1990s and all the decades preceding that the diamond industry had been patently dishonest about the country of origin of a large number of the world's rough diamonds?

A. Well, I don't know about the industry as a whole. Certainly there was a lot of confusion and a great deal of illicit behaviour in the diamond industry.

Q. What do you mean by confusion, Mr Smillie?

A. Confusion over the origin of diamonds versus the provenance of diamonds. Provenance meaning where they came from last, original meaning where they were mined.

Q. All right. Can we just set the scene in a little more detail. As far as Sierra Leone is concerned the diamond industry there goes back decades?

A. Yes.

Q. What do you know about the Liberian diamond industry? When did that start up?

A. Diamonds were discovered in Liberia not long after they were discovered in Sierra Leone, but there was no exploitation of diamonds I think seriously until the 1950s.

Q. And that was done by who?

A. There were a number of companies went to Liberia and set up operations. There was an Anglo Dutch company. De Beers for a time had a operation there. There were several very small companies.

Q. De Beers in fact had buying offices in Liberia right up until the year 2000, didn't they?
A. In fact we put that in our report and I explained in my report for this Court why we had reported that although it was not actually correct. The Polestar company --

Q. Polestar being part of De Beers?

A. Polestar was listed in the De Beers annual report of 1998. I think that was the most recent one we had. Polestar was listed as a De Beers company in Monrovia. They subsequently told us that it had been closed for years.

Q. Right. Although they still had it in their annual report in the late 1990s they told you that that shouldn't have been in their annual report?

A. Yes.

Q. So that was just a oversight on the part of the world's largest diamond company? Is that what you are saying?

A. That's what they were saying.

Q. All right. So there is diamond mining going on in Sierra Leone, from the 30s onwards, certainly reaching a peak in the 60s and 70s; yes?

A. Yes.

Q. Diamond mining going on in neighbouring Liberia?

A. Yes.

Q. Also in Guinea?

A. Yes.

Q. Other countries in Africa, in particular in Angola?

A. Yes.

Q. And South Africa obviously?

A. Yes.

Q. Other countries in Africa actually exporting diamonds even though in the case of some of them no diamonds being mined there,
for example the Gambia?
A. That's correct.
Q. How would a country like the Gambia become a diamond exporter if they had no diamond production in their territory?

A. Well, if they were doing it legally they would import the diamonds from another producing country, from a producing country and they would then re-export them. If it was illegal the diamonds would be smuggled in and smuggled out.

Q. What would be the point of a diamond producing country sending its own diamonds legally to another country which didn't mine its own diamonds for them to sell on?
A. Well, it would be a variety of reasons. For example, a great many diamonds were shipped through Switzerland from Africa and once they left Switzerland they were labelled as Swiss diamonds, you couldn't tell where they were from. Part of a reason for that was it was a way to minimise VAT tax, value added tax, in some European jurisdictions.
There would be a lot of other reasons why individuals, not necessarily governments, but why individuals would want to obscure where diamonds came from. In some cases it would be for tax evasion, in some cases it might be because the diamonds were stolen or because they were used by rebel movements to buy weapons.

Q. One country that we haven't mentioned so far is Russia.
Initially the Soviet Union and then latterly the Russian Federation. That is a very big diamond producing country, isn't it?
A. It is. I did discuss that this morning.
Q. Yes, I am saying in our exchange now we haven't touched on

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Russia?

A. Yes.

Q. Which also is another very big diamond producer. Mauritius also sells diamonds, doesn’t it?

A. Mauritius doesn’t produce any diamonds. They only cut and polish diamonds.

Q. But Mauritius is a diamond selling country, isn’t it? It’s part of the diamond industry?

A. It is. They polish diamonds and re-export them.

Q. How does a country like Mauritius come to be part of the diamond industry when they have no diamond resources of their own?

A. The same way the United States would be part of the diamond industry and have no diamond resources of their own. They simply import the diamonds, process them and re-export them.

Q. Now the whole process of importing diamonds, it can be legal or it can be illegal?

A. Yes.

Q. Is it the case that it’s generally believed that about 20 per cent of the world’s diamond production is illegally exported?

A. This was a figure that we calculated for the period before the Kimberley Process came on stream. Particularly the period during the height of the wars in Sierra Leone, the Congo and Angola. We calculated that it was between 20 and 25 per cent illicit. That’s not the case today.

Q. Historically there’s always been a smuggling trade of diamonds between Sierra Leone and Liberia, hasn’t there?

A. I don’t know about always, but certainly since the 1950s.
Q. Well, that's really when the Liberian diamond industry got going and it's before the peak in the Sierra Leone diamond production, isn't it?
A. That's correct.

Q. So the practice of smuggling diamonds out of Sierra Leone into Liberia and onwards has been a practice that long pre-dated the appearance of Mr Taylor?
A. Yes.
Q. Equally diamonds in conflict zones. Probably the most well known one is Angola. Diamonds were a feature of the Angolan civil war a long time ago, weren't they, in the 80s?
A. They didn't really become a feature in the Angolan civil war until the cold war ended and the government and the rebels lost their cold war patrons. It was really after that that diamonds really started to come to the fore.

Q. UNITA who were the rebel movement in Angola were exporting vast amounts of Angolan diamonds, weren't they?
A. Yes they were.
Q. When I say vast amounts, we are talking of up to 80 million pounds worth a year and maybe a lot more?
A. Yes. I would have to consult the statistics, but they were very large numbers.
Q. It was well known that those diamonds were being exported illegally from Angola by UNITA, wasn't it?
A. Yes.
Q. Security for those smuggled diamonds was being provided by international firms such as Brinks Matt. I think you would be aware of that, wouldn't you?
A. I'm not an expert on Angola, I don't know the details of the
UNITA diamond movement, but if you're moving large amounts of
diamonds you would have to have some kind of security, but
I don't know how they did it.

Q. And diamonds - that sort of scale of wealth has to be
insured usually, doesn't it?

A. Not if you're a thief.

Q. Well, if you're illicit. You used the word illicit
earlier. Are you seeking to draw a distinction between people
who are openly thieves and people who are turning a blind eye?

15:39:06

Is that why you used the expression illicit?

A. No, I think as I understood what you were getting at,
illicit, the UNITA diamonds would have been illicit, I don't
think --

Q. In what sense?

A. That UNITA was not a legal government in Angola.

Q. It was a terrorist organisation?

A. Exactly and I'm not sure that UNITA would, as a terrorist
organisation, have had access to Brinks or to any kind of
insurance company.

Q. I see. I am suggesting Lloyds of London acting as insurers
for millions of pounds worth of diamonds smuggled out of Angola,
to give you one example of one country?

A. I'm sorry, I don't know about that.

Q. You know nothing about that. Is that not something that is
ever discussed at the Kimberley Process meetings?

A. The Kimberley Process - I think one of the reasons that it
was successful - decided to look forward and not to look
backwards, not to look back at what all had happened. What we
needed to do was to end these wars, not to get into a slanging
match over who was most guilty in the business. I think there
was a general recognition and acknowledgement that there were
a lot of things that needed to be fixed, but there was no going
back and pointing fingers.

Q. I see. Well, I'm going to ask you to go back, please,
based on your knowledge and expertise, if it stretches that far.
The diamond trade, as you have already told us, was conducted to
a very large extent through Belgium?

A. Yes.

Q. Antwerp being the centre of the diamond industry in Europe?

A. Yes.

Q. Switzerland obviously played some part and, if Israel is to be regarded as a European country, also Israel. But Antwerp was the centre of the European diamond trade; yes?

A. Yes.

Q. And Belgian law is very clear or was very clear in the 1990s, wasn't it, that in order to import diamonds into Belgium you had to certify the country of origin?

A. You didn't have to certify the country of origin. You had to show documentary evidence of where you had bought the diamonds. You had to show invoices.

Q. I'm suggesting to you that Belgian law said that you had to show the country of origin. Do you not agree with that?

A. Yes.

Q. You do agree?

A. I do agree with you.

Q. The fact is that what people were doing, they were showing invoices demonstrating the provenance of the diamonds, weren't they?
A. Yes, that's correct.
Q. Where they had last come from?
A. Yes.
Q. And those invoices, everybody in the diamond industry in Belgium knew in many cases were not worth the paper they were written on because they didn't actually show where the country of origin was?
A. They should have known that, but until we pointed it out it had never been acknowledged by anybody. In Our Partnership Africa Canada report, I think the most significant part of it was the exposure of those Belgian statistics.
Q. Can I just take you, please, to your report for this Court to the figures that you give for Liberian diamonds?
PRESIDING JUDGE: Counsel, it would be helpful if you can mention the document by the MFI number if you remember it.
MR MUNYARD: I think it's MFI-1 in fact. It's the first tab.
MS IRURA: MFI-1 is a video clip.
MR MUNYARD: Thank you. It's the first tab. It's Mr Smillie's report.
JUDGE DOHERTY: Is that the one named Diamonds, The RUF and the Liberian Connection?
PRESIDING JUDGE: That is MFI-9. Please continue.
MR MUNYARD: Thank you.
Q. Page 9 of your report.
A. Your Honour, could I have a copy of the report?
MR MUNYARD: Certainly. Your Honour do you wish me to refer to the page of the report or to the court pagination at the top? The court pagination at the top is rather unwieldily given
the size of the numbers. If you are content --

PRESIDING JUDGE: I think we are content with your reference to the actual page of the report rather than the Court Management number.

MR MUNYARD: Thank you.

Q. Mr Smillie, have you got page 9?
A. Yes.
Q. I am going to come back to look at the report in more detail in due course, but I just want to take an example from that page. You have got statistics there of Liberian diamond exports and Belgian imports?
A. Yes.
Q. I think you say in the paragraph immediately above that that there are - that these are based on estimates supplied by the US geological survey and the Liberian ministry of lands, mines and energy. That's the Liberian side, the left-hand side of the chart; is that right?
A. I think the Liberian government figures are their actual figures. The US geological figures are just estimates.
Q. The way you have written it, it says two estimates are available. The first by the US geological survey and the second, figures supplied by the Liberian ministry. Are you saying that your report is inaccurate, that the second is not an estimate?
MR KOUMJIAN: Objection, because that's his interpretation of the language. The report says figures supplied.

PRESIDING JUDGE: Counsel, the witness is quite capable of explaining his own report. Please let the witness answer the question.

THE WITNESS: As I said, the figures were supplied by the
Liberian ministry of lands mines and energy.

MR MUNYARD:

Q. We understand that, but the way you have described them are estimates, two estimates, your words, your report. The first by the US geological survey, the second are figures supplied by the Liberian ministry. Are they an estimate or aren't they?

A. The first ones are estimates. The second ones are the Liberian government figures so I assume they are not estimates.

Q. Have you any idea how accurate the Liberian ministry records are likely to be for the period 1985 to 1999?

A. No.

Q. I'd like you to look, please, at the right-hand side column, the Belgian diamond imports from Liberia, and take the - go up from the bottom and go up five columns. We have in - it says it's 1994, but I think you might find --

A. That's a typo.

Q. -- it's 95.

A. That's a typo.

Q. So if we all correct the second 1994 and turn that into 95.

10,678 carats worth --


Q. I'm so sorry. Yes, it's in thousands of carats. You tell us how much it's worth?

A. $358 million.

Q. That's an increase on the previous year of 3 million carats worth how many million?

A. 392 million.

Q. Then the following year, 1996, there is an increase to 12,692,000 carats worth, getting on for double the previous year,
$616 million?

A. Correct.

Q. That's what went into Belgium under the heading "Liberian diamonds" imported into Belgium?

A. Correct.

Q. Are you suggesting that it was only when Partnership Africa Canada, the three of you, came up with your report that people in Belgium realised that Liberia - these certificates saying that these diamonds came from Liberia, it only dawned on the Belgians then that there might be something illicit about all of these diamonds coming into their country?

A. Yes, I'm saying exactly that.

Q. You're not seriously suggesting that, are you, Mr Smillie, that the Belgians were not aware that this huge influx in 1995 and 1996 had to have something, to say the least, fishy about it?

A. Well, let me explain what I mean. First, there is nobody in the diamond industry who knows anything about West Africa, particularly Liberia or Sierra Leone, who would for a minute believe these statistics. These statistics, however, were recorded by the Belgian Ministry of Economic Affairs through their customs department. So these were the official figures. So you're right, there was a very serious problem going on, but it had never been exposed, it had never been addressed and it had certainly never been made public. When our Partnership Canada report came out it caused a great deal of stir in Belgium, a great deal of media attention.

Q. Yes. What you'd done is you'd lifted the lid publicly on what everyone in the diamond industry in Belgium and round the world already knew; that it was preposterous to suggest that
there was this amount of Liberian diamond production going into
Europe, into Antwerp.

A. If they didn't know it they should have.

Q. It is stretching credibility beyond breaking point, isn't it, to suggest they didn't know it but should have?

A. That was the point we made in our report.

Q. There was a huge amount of illicit practice going on in the diamond industry starting with illegal alluvial diggers in Sierra Leone selling to people who would then smuggle their diamonds into Liberia and diamonds going out of Liberia as Liberian.

That's one way in which illicit trade was going on; yes?

A. Yes.

Q. Secondly, a very large volume of diamonds going out of - sorry, going into world markets in places such as Tel Aviv and Antwerp, certificated as Liberian, diamonds that had never even entered the territory of Liberia. That's correct, isn't it?

A. We don't know how many diamonds went into Liberia. The same thing can be said for the Gambia. Huge volumes, as you mentioned, were coming out of the Gambia as well. We don't know how many diamonds actually moved under the umbrella of these huge numbers.

Q. Exactly. The importers in Israel, to take that country for example, didn't require details of country of origin either by law or by practice, did they?

A. In Israel you do have to supply, or you did have to supply invoices, but Israel did not publish its statistics so we didn't have access to - there was no open source for statistics the way there was in Belgium.

Q. But it is possible to talk to people in the industry
without having to go to statistics, isn't it, Mr Smillie?
A. Yes of course.
Q. And did you?
A. Yes.

Q. And did what I suggest turn out to be correct, that Israel had no law or practice that required you to state country of origin as opposed to provenance of the diamonds?
A. There was a great deal of confusion around this issue of country of provenance and country of origin. It was only when our report came out that countries began to require clarification on this. I can tell you about the case of Switzerland, for example, which caused enormous amounts of confusion in the industry until the industry started to settle on proper definitions for these two words.

Q. You don't need a proper definition of country of origin, do you? Country of origin means what it says: Where the thing originated from. That's simple English, isn't it?
A. Unfortunately it's not that simple where customs authorities are concerned and where the diamond industry is concerned. It had to be clarified during the course of the creation of the Kimberley Process.
Q. Can I ask you a little more about Russia, please. The Russian diamond corporation, the state diamond corporation, eventually its name was reduced to the acronym Alrosa?
A. That's correct.
Q. That's an abbreviation of three much longer Russian words that I don't pretend to be able to pronounce. Alrosa you told the Court earlier had a contract with De Beers?
A. Yes.
Q. De Beers has a body called the Central Selling Organisation, doesn't it, the CSO?

A. In those days it was called the CSO. It's not called that anymore.

Q. No, well, we are talking about those days. If you contracted with De Beers Central Selling Organisation normally that was an exclusive contract, wasn't it?

A. Yes.

Q. That you had to sell only to De Beers?

A. Yes.

Q. In some cases De Beers allowed you what's called a window?

A. Yes.

Q. And the window was - I think you described or you referred to it earlier. You didn't refer to it by that name, but you said that Alrosa was allowed to sell to a small number of other people?

A. It was allowed to sell domestically, for domestic use. That was the ostensible window.

Q. Yes. Thank you. And the word ostensible is very important here, isn't it?

A. Yes.

Q. And the window - no one actually knows how much the Russians sold to persons other than the Central Selling Organisation of De Beers, do they?

A. That's correct.

Q. And during the 1990s after the fall of communism in 1989 the Russian economy, as anybody knows, went into a complete nose dive, didn't it?

A. Yes.
Q. Apart from the handful of oligarchs who got their grips on
the state industries. But the economy collapsed, that's right,
isn't it?
A. Yes.

Q. And Alrosa as an arm of the State, or a State corporation
as it became under the new dispensation - Alrosa was well known
to be selling way beyond the margin it had been allowed by
De Beers Central Selling Organisation, wasn't it?
A. Yes and we made this report - we made this point in the PAC
report and in the Security Council report.

Q. The problem with all of these statistics and figures is
nobody actually knows how much or how many diamonds either in
carat weight or in value that were being described as Liberian
when they're imported into Belgium or any other country are
actually Liberian, or Sierra Leonan, or Russian or Angolan, or
Congolese or from anywhere else, do they?
A. No, but the connection in Belgium always went back, through
all those invoices, back to Liberia. And the ones we checked
were connected to the Liberian international and shipping and
corporate registry. So there was a direct Liberian connection
whether the diamonds were Liberian or from the Congo or anywhere
else.

Q. You checked, if I understood you correctly, only eight
invoices or sets of invoices. Was it eight invoices or eight
sets of invoices?
A. Eight invoices.

Q. Eight invoices out of how many?
A. Well, I suppose there would have been hundreds if not
thousands.
Q. Yes, I am going to come back to the eight invoices and what you call the direct connection to Liberia in a moment. Can we stick with the general point first, please. There is absolutely no way of determining how many - and I will take those two years 1995 and 1996 - so-called Liberian diamonds going into Belgium were actually Liberian or what their real country of origin was. There is no way of knowing, is there?

A. That's correct.

Q. The figures, in other words, are pretty well worthless?

A. The Belgian figures are worthless. Not our estimates. Our estimates I don't think are worthless. I think they are pretty accurate.

Q. We will come onto your estimates in due course, but the Belgian figures you agree are pretty well worthless?

A. As a indication of diamonds mined in Liberia or Sierra Leone, yes.

Q. Now back to De Beers, if I may. De Beers had something close to a monopoly certainly in Liberia for a while, didn't they?

A. Not in recent years.

Q. You tell us when?

A. By the late 1990s De Beers' control which had once been as high in the global diamond world as 90 per cent of the world market, by the late 1990s they were down around 65, maybe 70 per cent.

Q. But they had a large number of buying offices in Liberia, didn't they?

A. Not in recent years they didn't have buying offices in Liberia.
Q. Putting aside what they told you about their Polestar office when do you agree that they had a large number of buying offices in Liberia?

A. I don't think since the 1980s at least. That's when they closed their buying offices in Sierra Leone as well.

Q. Right. De Beers also had a policy of exclusive contracts with purchasers, didn't they, site holders?

A. Yes.

Q. Would you explain what site holders are?

A. De Beers sells only to companies that selected companies and these are called site holders. You can't buy a De Beers diamond on the open market. Today you can, they have a limited retail operation, but in the 1990s they only sold to special companies who pass some kind of a test as far as they were concerned. They were looking for companies that in their terms added value to diamonds. So companies that would advertise diamonds and add to the kind of advertising that De Beers was doing itself. So they had about 120 companies that they sold to in those days. Those were called site holders.

Q. But there was always a problem, wasn't there, that De Beers acknowledged, even if only informally, that other people were buying diamonds in the diamond producing countries, not just their site holders?

A. Well, their site holders were not prevented from buying from others. If you are coming around to the Russian question again, I mean the Russians were not supposed to be selling outside of their relationship with De Beers, but there was no reason that a site holder, a De Beers site holder, in New York couldn't buy diamonds on the open market.
Q. What does the word leakage mean to you in the context of the diamond industry?
A. Well, I think it means the same sort of thing as in the relief business when you are shipping food and some of it leaks out through corruption into the open market.

Q. Yes. It's accepted, isn't it, within the diamond industry that there was a very considerable degree of leakage, that legally produced diamonds that were being processed for export often fell into illegal hands and were spirited out of the country of origin in that way?
A. Yes. It depends on the nature of the mining and it depends on the nature of the control and of the government. Certainly diamonds have always been stolen. They have always been smuggled. They have always been used for other things besides jewellery.

Q. Now the Sierra Leone diamond industry you have told us about. I want to ask you, please, about the Liberian diamond industry. Where is the Liberian diamond industry based within that country?
A. You mean where does the mining take place?
Q. Yes, what are the diamond producing areas in Liberia?
A. Mainly along the Lofa River running parallel to the Sierra Leone border.
Q. Anywhere else?
A. There has been a recent discovery in the south eastern part of the country.
Q. What part is that?
A. I'm sorry, I can't tell you. I have forgotten the name of the area. It was about four years ago, there was a fairly large
discovery.

Q. Who discovered that?

A. I don't know. There is a lot of exploration going on in Liberia now. There are a number of companies exploring for diamonds.

Q. What about Nimba County? Are you familiar with any diamond production in Nimba County in Liberia?

A. I don't know a lot about diamond production in Liberia.

Q. Do you know anything about kimberlites being found in Liberia?

A. Yes, there are several kimberlites in Liberia but most of them are not diamondiferous, or if they are they are not economical for mining purposes.

Q. You told the Court earlier about a meeting that you'd had in October 2000 with President Taylor and he talked to you in that meeting about four new kimberlites having been discovered and you said I think in this Court that you thought that was rather odd?

A. Not odd that there were four kimberlites. There are four kimberlites. There could be 24 kimberlites. The point that he made that was odd was he said Liberia had more diamonds than Sierra Leone.

Q. I see. When he told you also that four new kimberlites had been discovered did you believe him?

A. We had no reason to believe or disbelieve him, except that in the state of war that was going on in Liberia and had gone on for the previous four years it was unlikely that there was a great deal of serious prospecting going on.

Q. Did you ask him where those kimberlites had been
discovered?

A. We didn't. We had an hour with him and we had to cover a lot of territory. We had a brief discussion about the diamonds and then we moved on to other things.

Q. How is it that diamond mining companies would be drawn to start to look for kimberlites in a territory in the first place? What would be the likely reason for them starting prospecting initially?

A. There are thousands of junior mining companies, junior exploration companies looking for diamonds. There are many operating in Sierra Leone today. Some people believe that the main kimberlite in Sierra Leone has not yet been found. Others say that's completely false, that the diamonds are the source of diamonds has been found and diamonds are actually being played out. But if you look at India there's a lot of exploration going on in India. In Biblical times the only source of diamonds in the world was India. They were all alluvial diamonds. No kimberlite has ever been found in India and so people are still searching. De Beers spent hundreds of millions of dollars a year looking for diamonds in Canada and never found any. It was a very small geology of firms that actually found them. So there's a great many people out there looking for diamonds and if there are already diamonds in the area more will come.

Q. Did you when you were preparing your report, either your PAC report or your report for this Court, did you investigate the current state at the time of writing the reports of the diamond industry in Liberia in any serious way?

A. What do you mean by any serious way?

Q. Did you make inquiries as to where diamond mining was
taking place either alluvial or in any sense industrial?
A. Yes. Yes, we did, both in Sierra Leone and in Liberia and, as I said earlier, the minister for mines in Liberia was very keen to show us a place where he thought there was a new diamond find.

Q. Yes, you talked about the Paynesville incident, but that was separate from the suggestion that was made to you by President Taylor that four new kimberlites had been found. Did you explore that at all?
A. No, we didn't.
Q. I don't mean with him, I mean at any later stage?
A. No, his meeting was the last one we had. We didn't meet with anyone else after we met with President Taylor.

Q. So would you agree that your knowledge of the Liberian diamond industry is nothing like as thorough as your knowledge of the Sierra Leone diamond industry?
A. Yes, that's correct. We did ask Mr Dunbar for reports on --

Q. The minister?
A. Yes, minister Jenkins Dunbar. We did ask him for reports on the geological surveys. We understood that there had been surveys done and he said that there were but he couldn't lay his hands on them so we never got any at that time.

Q. Are you aware of any continuing diamond prospecting being done by companies along the Mano River area?
A. Yes. In fact now I have remembered where the diamond rush was, it's in Greensborough, but there are a number of companies in Liberia currently undertaking exploration. There always have been.
Q. In your report, and I am looking at page 9 again, the top of page 9 of your report, MFI-9, you say that, "Liberian diamonds are generally known to be small, low quality goods" mostly "small industrials and poor quality gems" and you cite an authority for that?

A. Yes.

Q. And when was Greenhalgh writing?

A. I think his book was published in 1985, but that's only one source. I mean I could provide you with many others. I mean this is well known in the diamond industry that Liberia is not a significant producer of quality diamonds.

Q. Then you gave a historical average value during the 1960 and 70s of 25 to $30 per carat?

A. Yes.

Q. Where did you get that from?

A. I think we got that from industry sources.

Q. I see. The carat value was measured in pounds sterling until the 1980s, wasn't it, Mr Smillie?

A. All the statistics that I have used right from the beginning of our work are always in dollars per carat.

Q. US dollars?

A. US dollars.

Q. Are you aware that the practice until the 1980s was to give the carat value in pounds sterling?

A. I have never seen any figures given in pound sterling.

Q. I see. So are you saying that the value of 25 to $30 per carat was the price in the 60s and 70s?

A. Yes.

Q. And so translating that to current values that would work...
out at something, and I'm talking in very broad terms now, something closer to 190 to 200 US dollars at current value, wouldn't it?

A. Well, I am not sure you can say that because it really depends on the market for low quality goods. I think you'd have to consult a diamond dealer to get the exact value of those goods.

Q. We will come to that in due course. The carat value - you have given an average carat value for Sierra Leonean diamonds of something in the region of was it 230?

A. Last year the average per carat value of Sierra Leonean diamonds was in the neighbourhood of $230.

Q. Right. The average carat value though will vary from time to time depending on a whole host of factors, won't it?

A. That's correct.

Q. Including production levels at particular mines?

A. Yes.

Q. A mine might start to run out of its diamond source?

A. Yes.

Q. Including in particular where we're dealing with alluvial diamond mining, the nature of the rainy season?

A. Yes, there's a seasonal issue.

Q. Also another factor that would affect the carat value, the amount produced and the quality produced, would be who controls the alluvial miners because many of the people who are working as alluvial miners are actually supplied with their tools and their equipment and their location by those who run the area?

A. These figures are all - and traditionally the figures that are used for a country are the export figures, not the figures...
that a miner would actually get at the mine site.

Q. But those export figures are also affected by all the factors I've talked about and many more, aren't they?
A. Yes.

Q. And you admitted fairly that you couldn't say how accurate the Liberian ministry export figures were?
A. We can only take them at their word.

Q. Yes. You have also accepted that the Belgian figures that we have seen quoted there as far as Liberian diamonds are concerned are pretty well worthless?
A. But --

Q. In the attributing them to actual Liberian production?
A. Yes.

Q. And there's no real way of assessing the accuracy of figures until we come to the Kimberley Process, is there?
A. Well, it depends on the country involved. I think if you're --

Q. I am concerned with these countries in particular?
A. Yes, I think that's true.

Q. So can I ask you a little about the Kimberley Process. That was a process that was started by a number of organisations, NGOs, the industry and countries as well; is that right?
A. Yes.

Q. I think that one of the countries involved was the United Kingdom?
A. Yes.

Q. From which countries were the original group who set up the Kimberley Process drawn?
A. The invitation to the first Kimberley meeting came from the
Government of South Africa and it was supported by Botswana and Namibia. Botswana and Namibia and South Africa were the primary leaders at the beginning. As it came along Britain and Canada became quite prominent in it.

Q. And it would also be right to say, wouldn't it, that it wasn't only you in the Partnership Africa Canada, the PAC group, but other NGOs and other governments were raising the whole question of the origin of so-called Blood Diamonds in the 1990s and the early years of this century?

A. The first report on Blood Diamonds, and it didn't use that expression, but on what came to be known as conflict diamonds the first report that I'm aware of was the report done by Global Witness on Angola. That report came out in December 1998. I'm not aware of any other reports until ours came out 12, 13 months later.

Q. The following year?

A. The following year. The coalition of NGOs that gradually developed was led by Global Witness and Partnership Africa Canada. It included a number of - in fact we had over 200 NGOs involved in the campaign at one stage. The first Kimberley meeting was relatively small, but as the meetings progressed and as we started to negotiate what should be in this Kimberley agreement the number of governments increased, the number of NGOs increased, the diamond industry became more engaged on the subject.

Q. Yes. The United Kingdom foreign and Commonwealth office had several individuals dedicated to this issue, didn't it, who were working on this issue full-time?

A. Several? There could have been three or four if that's
several, yes. So did other governments. The bulk of the work on
the Kimberley Process in the first three years leading up to the
agreement was done by South Africa.

Q. And the Kimberley Process really came into effect in 2003?
A. It technically came online January 1, 2003 but there were
a lot of glitches in the system and I don't think it really
became - it didn't start to become effective until about mid-way
through 2003.

Q. In the meantime you have the United Nations resolutions
that you showed us today, the Security Council resolutions, that
imposed a ban on Liberian diamonds amongst other things?
A. Yes.

Q. And the panel that you were a member of and the Liberian
government under President Taylor was making efforts to ensure
that a scheme similar to the - or a scheme along the lines of the
Kimberley Process was put into effect in Liberia, were they not?
A. I'm not aware of that. There was - a representative of the
Liberian government came to one of the Kimberley meetings. He
was a minister. His name was Samuel - it will come to me in
a moment. Same name as the actor. Samuel - I'm sorry, but
Mr Taylor will know the name. He came to one of the Kimberley
meetings and minister Dunbar came to another meeting as well.
Both tried to persuade the Kimberley Process that Liberia should
be admitted. I think the general consensus was that under the
circumstances Liberia was seriously problematic and should not be
admitted. Samuel Jackson is the name.

Q. But they were nevertheless seeking admission to the
Kimberley Process and they also attended all the meetings at the
World Diamond Council, didn't they, the Government of Liberia?
A. I wouldn't say they attended all of the meetings of the World Diamond Council. In order to attend those meetings you have to be invited. They may have attended some.

Q. Right. Seeking to put a regime in force in their own country to guarantee the genuineness of the country of origin certificates for their diamonds?

A. I remember Samuel Jackson saying at the meeting that he attended, the Kimberley meeting that he attended in South Africa, he said, "What do we have to do to do to convince you that we're serious? We'll do whatever you say."

Q. Yes. Now can I go back to the eight invoices that you looked at and the whole question of Liberian - I will call them certificates of convenience. Liberia is known as a country that issues flags of convenience for shipping?

A. Yes.

Q. That was a process that began in the course of the Second World War, wasn't it?

A. As far as I know, yes.

Q. In order to ensure the safe passage of merchant shipping under allied flags, that's to say United Kingdom, United States and other countries that were fighting the war against Hitler, in order to ensure the safe passage of their shipping across the Atlantic?

A. I'm not aware of that.

Q. But you are aware that the process started in the Second World War?

A. As far as I know, yes.

Q. And are you saying you're not aware of the --

A. Purpose.
Q. -- obviously benign purpose behind it. The system is run by an organisation that appears to be a State organisation, the Liberian maritime organisation?
A. Yes.

Q. Are you aware that that organisation is completely contracted out, or certainly by the 1990s it was completely contracted out and in effect in practice it was run by an American company?
A. We were told that by the company itself, the LISCR, Liberian International Ship & Corporate Registry, but we were also told then and later that the Liberian government had strong influence over it.

Q. The Liberian government obviously received a share of the revenue. You presumably knew that?
A. Yes.

Q. But effectively the system was run by an American private enterprise?
A. I'm not entirely sure who was running it. I'm not entirely sure who was on the board of directors.

Q. As far as diamond certificates are concerned, a similar - in fact an even vaguer system operated, didn't it? You have already told us about the eight invoices. The eight invoices were registered - were they registered to an address in Broad Street, Monrovia?
A. Somewhere in Broad Street somewhere and other addresses.

Q. None of them were found to exist. At best there was a forwarding address facility at some of the addresses that you visited to find these companies who were trading in Liberian diamonds?
A. That's correct.

Q. And although you said to the Court this afternoon that that showed a direct link between those diamonds and Liberia, in practice it showed no such direct link at all, did it?

A. No, what I said was that the invoices that we checked and we couldn't - our purpose was not to check every Belgian statistic and every Liberian statistic. Our mandate was to try and find links between weapons, diamonds and the war in Sierra Leone. So when we pulled eight invoices for fairly large shipments of diamonds we then checked them back to Liberia and there definitely was a Liberian connection. We never said that those diamonds came - were mined in Liberia, we didn't say they were mined in Sierra Leone either. What we said was there was a broad umbrella of subterfuge and illicit behaviour in Liberia and in Belgium that covered what was actually going on where the diamonds were concerned.

Q. Mr Smillie, if the addresses in some cases didn't even exist then there was no direct Liberian connection, was there?

A. As I understand it, all of the addresses were known to courier companies. Mail was going to those addresses through courier companies. So they had some existence in fact whether there was actually an office or not.

Q. So that's the best you can do by way of saying there was a direct connection with Liberia; a forwarding post office address that didn't even indicate whether the company was based in Liberia?

A. Yes.

MR MUNYARD: Your Honour, I'm about to move to a different area now. It's going to take me more than seven minutes to
cover. I'm quite happy to start if you wish me to, but it may be
that it would be better to have the whole of it heard in one
session. I'm in the Court's hands.

PRESIDING JUDGE: Yes. I am not sure, counsel, how much
longer you would be, whether this cross-examination will take
hours or a day, just by way of projection?

MR MUNYARD: It will take certainly more than an hour.
I can't give anything other than a barristerial estimate which
are notoriously unreliable. They are as unreliable as Liberian
diamond certificates, I'm afraid.

PRESIDING JUDGE: Thank you, counsel. We are scheduled
to adjourn at 4.30. It is now nearly 25 past four and so I think
this is a good time to adjourn.

Mr Smillie, I want to thank you for your testimony so far
today. Your testimony continues tomorrow and I am obligated to
remind you not to discuss your testimony for as long as you are
in the witness stand until you have actually finished your
testimony whenever that will be.

THE WITNESS: I understand.

PRESIDING JUDGE: Thank you. Now court will adjourn to
tomorrow at exactly 9 o'clock in the morning for continuation of
this testimony.

[Whereupon the hearing adjourned at 4.25 p.m.
to be reconvened on Tuesday 8 January 2008 at
9.00 a.m.]
INDEX

WITNESSES FOR THE PROSECUTION:
IAN SMILLIE 484
EXAMINATION-IN-CHIEF BY MR KOUMJIAN 484
CROSS-EXAMINATION BY MR MUNYARD 584

MFIs:
MFI-1 admitted 498
MFI-2 admitted 501
MFI-3 admitted 506
MFI-4 admitted 508
MFI-5 admitted 513
MFI-6 admitted 517
MFI-7 admitted 526
MFI-8 admitted 531
MFI-9 admitted 533
MFI-10 admitted 534
MFI-11A to D admitted 553
MFI-12 admitted 572
MFI-13 admitted 575
MFI-14 admitted 576
MFI-15 admitted 578