

**INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA  
TRIBUNAL INTERNATIONAL DU DROIT DE LA MER**



1999

Public hearing

held on Saturday, 13 March 1999, at 10.00 a.m.  
at the International Tribunal for the Law of the Sea, Hamburg,

President Thomas A. Mensah presiding

in the M/V “SAIGA” (No.2)

*(Saint Vincent and the Grenadines v. Guinea)*

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**Verbatim Record**

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Uncorrected  
Non-corrigé

*Present:*

President	Thomas A. Mensah
Vice-President	Rüdiger Wolfrum
Judges	Lihai Zhao
	Hugo Caminos
	Vicente Marotta Rangel
	Alexander Yankov
	Soji Yamamoto
	Anatoli Lazarevich Kolodkin
	Choon-Ho Park
	Paul Bamela Engo
	L. Dolliver M. Nelson
	P. Chandrasekhara Rao
	Joseph Akl
	David Anderson
	Budislav Vukas
	Joseph Sinde Warioba
	Edward Arthur Laing
	Tullio Treves
	Mohamed Mouldi Marsit
	Gudmundur Eiriksson
	Tafsir Malick Ndiaye
Registrar	Gritakumar E. Chitty

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*Saint Vincent and the Grenadines*  
*represented by*

Mr. Carlyle D. Dougan Q.C., High Commissioner to London for Saint Vincent and the Grenadines,

*as Agent;*

Mr. Richard Plender Q.C., Barrister, London, United Kingdom,

*as Deputy Agent and Counsel;*

Mr. Carl Joseph, Attorney General and Minister of Justice of Saint Vincent and the Grenadines,

*and*

Mr. Yérim Thiam, Barrister, President of the Senegalese Bar, Dakar, Senegal,  
Mr. Nicholas Howe, Solicitor, Howe & Co., London, United Kingdom,

*as Counsel and Advocates.*

*Guinea*  
*represented by*

Mr. Hartmut von Brevern, Barrister, Röhreke, Boye, Remé, von Werder, Hamburg, Germany,

*as Agent and Counsel;*

Mr. Maurice Zogbélemou Togba, Minister of Justice and Attorney General of Guinea,

*and*

Mr. Namankoumba Kouyate, Chargé d'Affaires, Embassy of Guinea, Bonn, Germany,  
Mr. Rainer Lagoni, Professor at the University of Hamburg and Director of the Institute for Maritime Law and Law of the Sea, Hamburg, Germany,  
Mr. Mamadi Askia Camara, Director of the Division of Customs Legislation and Regulation, Conakry, Guinea,  
Mr. André Saféla Leno, Judge of the Court of Appeal, Conakry, Guinea,

*as Counsel.*

1 **THE PRESIDENT:** The witness Mr Bangoura will please be called to the witness stand. Mr  
2 von Brevern, I take it that you wish to re-examine the witness.

3  
4 **MR VON BREVERN:** Yes Mr President, my colleague Professor Lagoni will do it.

5  
6 **THE PRESIDENT:** Thank you.

7  
8 **LEONARD BANGOURA, recalled**

9 **Re-examined by PROFESSOR LAGONI**

10

11 Q Mr President, Members of the Tribunal, I will proceed by asking questions of the  
12 witness Mr Bangoura. Mr Bangoura, if foreign tankers come into the Guinean  
13 customs radius, who is surveilling these tankers?

14 A (Interpretation from French) The Customs.

15

16 Q And how do you survey them, how do you know they are there; which means?

17 A When these are vessels heading for the port of Conakry and they enter into the  
18 customs radius area, they are then guided to the office, the bureau.

19

20 Q My question went slightly in another direction. You mentioned yesterday that there  
21 was radio surveillance, and I would like to know how you know where the tankers are  
22 in the zone and how can you know it, and what does radio surveillance mean? Could  
23 you explain this to the Tribunal please?

24 A We mean by radio monitoring that we do have our terrestrial base which follows radio  
25 communications within the maritime area.

26

27 Q How do you know then where a tanker is at a certain time?

28 A The vessel advances itself and gives its own position. This is part of the conversation  
29 between the tanker and its customers if it is a tanker or another commercial vessel.

30

31 Q So I understand that you listen to the conversation between the tanker and the  
32 customers, which are the fishing vessels, and the tanker gives its position at a certain  
33 time for a meeting with the fishing vessels, and then you know exactly where the  
34 tanker is.

35 A Yes.

36

37 Q On which frequency do you do this surveillance on the radio; are there special  
38 frequencies on which the tanker and the fishing vessels communicate?

39 A Yes, this is done by automatic searching.

40

41 Q So you search the area until you get the communication between the tanker and the  
42 fishing vessel?

43 A Yes.

44

45 Q This was also the way you spotted *The Saiga* in the contiguous zone of Guinea,  
46 I understand?

47 A Yes.

48

1 Q Did you already know that *The Saiga* was coming into the exclusive economic zone of  
2 Guinea before she arrived there; did you already hear her when she was still in the  
3 waters of Guinea Bissau?  
4 A Yes.  
5  
6 Q And this is all done the same way?  
7 A Yes, exactly.  
8  
9 Q So when the tanker is silent, you cannot spot it by this means, is that correct?  
10 A No.  
11  
12 Q What does "no" mean, you cannot spot it then?  
13 A We cannot spot it.  
14  
15 Q I understand that there are also radar stations on the coast of Guinea, but the Customs  
16 do not use them, is that correct?  
17 A Exactly.  
18  
19 Q I also understood from the examination yesterday that you are not a sailor, so on board  
20 the big patrol boat P328 you got your information about the nautical matters, about  
21 the radio, the position of *The Saiga*, the distance of *The Saiga* from the commander of  
22 the patrol boat, is that correct?  
23 A Yes.  
24  
25 Q The commander of both patrol boats, I understand, on that mission was Lt. Sow?  
26 A Yes.  
27  
28 Q Did he tell you that *The Saiga*, on the morning of 28 October 1997 was laying in the  
29 exclusive economic zone of Sierra Leone waiting for fishing vessels?  
30 A Repeat your question.  
31  
32 Q Did Lt. Sow tell you that *The Saiga*, on the morning of 28 October 1997, was laying in  
33 the exclusive economic zone of Sierra Leone waiting for fishing vessels at the meeting  
34 point? I refer to a question Dr Plender asked you yesterday where he said that you did  
35 not know apparently, or did not mention in the *procès-verbal*, that *The Saiga* was  
36 drifting for a few hours?  
37 A No.  
38  
39 Q Mr Bangoura, to turn to another point, did you expect when you wrote the  
40 *procès-verbal* on 13 November 1997 that you would be questioned and  
41 cross-examined on the details of the *procès-verbal* before this International Tribunal?  
42 A No.  
43  
44 Q Can I assume that, if you had known this at those times you would have been more  
45 precise on some details, especially nautical details as concerning times for example,  
46 written in the *procès-verbal*?  
47 A Yes.  
48

- 1 Q You mentioned also in the cross-examination by Dr Plender the people who gave the  
2 report of the events on board the small patrol boat. Were these people Customs  
3 Officers or sailors who gave the report on events to you to write the *procès-verbal*?  
4 A Customs officials.  
5  
6 Q Therefore, an estimation that the tanker, *The Saiga*, tried to sink the small patrol boat  
7 was their point of view, their impression?  
8 A Yes.  
9  
10 Q I have very few more questions, on the customs radius. You said yesterday, according  
11 to the English version of the verbatim record, which was the only one I saw, that the  
12 Guinean Customs radius is 150 km. I assume that is obviously a lapse and that it is  
13 250 km. You can confirm that?  
14 A The maritime zone is 250 km.  
15  
16 Q Can you say a word on the legal character of the Customs radius, the maritime zone as  
17 you call it? Is it a zone of surveillance, or what kind of zone is it?  
18 A First of all you have the Customs radius which is included in the Customs territory. It  
19 is a part which is reserved for the Customs to carry out their surveillance in the  
20 territory.  
21  
22 Q But you do not carry out surveillance with respect to ships which go in transit through  
23 the Customs radius - for example, only in transit from Guinea-Bissau to Sierra Leone?  
24 A No, there is no inspection.  
25  
26 Q But you use the Customs radius for surveillance with respect to offshore bunkering by  
27 foreign tankers?  
28 A Exactly.  
29  
30 Q You may use the Customs radius for surveillance of ships who are going into the port  
31 of Conakry?  
32 A Exactly.  
33  
34 Q This is my last question, Mr Bangoura. Were the Customs officers who entered  
35 *The Saiga* on the morning of 28 October trained to stop the engine of a tanker  
36 A They do have specific training.  
37  
38  
39 Q But do they have specific training, for example, on how to stop the engine? *The Saiga*  
40 was going, on automatic steering. Did they know how to simply go on the bridge and  
41 switch off the engine?  
42 A No.  
43  
44 Q So I understand they were not sailors, they were Customs people?  
45 A Yes.  
46  
47 **PROFESSOR LAGONI:** Thank you very much, Mr Bangoura. Mr President, that ends my  
48 questioning.  
49

1 **THE PRESIDENT:** That appears to be the end of Mr Bangoura's evidence. Mr Bangoura,  
2 you are released. Thank you very much for assisting the Tribunal. Mr von Brevern, you may  
3 call your next witness.  
4

5 **THE WITNESS:** Mr President, thank you. With your permission, may I remain in the  
6 room?  
7

8 **THE PRESIDENT:** You are released from your duties as a witness. You may remain in the  
9 room, but if you wish, you may also leave. Mr von Brevern, your next witness?  
10

11 **MR VON BREVERN** My next witness is Mr Mangué Camara.  
12

13 **DR PLENDER:** Mr President, we have not yet received any statement for Mr Camara. It is  
14 important that we should have one and have an opportunity of reading it before he is  
15 presented.  
16

17 **THE PRESIDENT:** The Tribunal does not have the statement either.  
18

19 **DR PLENDER:** May I suggest, in the circumstances, that there be a short adjournment to  
20 enable us to read and prepare, otherwise we shall be totally taken by surprise.  
21

22 **THE PRESIDENT:** Mr von Brevern?  
23

24 **MR VON BREVERN** I am sorry that we are only now in a position to provide it. However,  
25 I do not think that Dr Plender will be surprised by what he reads. At least, with this witness  
26 we outlined very clearly and specifically, days ago, the subjects on which the witness would be  
27 called.  
28

29 **THE PRESIDENT:** Dr Plender, I see the point you are making. I was in the same situation  
30 as you. I have just received the statement, which consists of one page. I wondered whether,  
31 in the circumstances, you might not be able to acquaint yourself with the evidence, both as it is  
32 written and as the witness will be led to produce in examination-in-chief.  
33

34 **DR PLENDER:** Mr President, this does present quite a difficulty for us. We have to  
35 compare this with other statements. Maître Thiam, who will be responsible for cross-  
36 examination, is placed in the position of having to do it impromptu.  
37

38 **MR VON BREVERN** Perhaps I may make one additional remark. We are more in the habit  
39 of asking the witnesses here before you, and do not think that what the witness has written in  
40 his statement is as important for us. What is more important is what we hear from him. We  
41 will lead him through the subject we have already mentioned. But, of course, we would not  
42 object if you will deduct this from our time. I fully would agree to that, if Maître Thiam needs  
43 five minutes to read through.  
44

45 **THE PRESIDENT:** I think there is another way of dealing with this. Dr Plender, the  
46 witness statement, as we have now, is not, strictly speaking, a requirement of the rules. It is  
47 an arrangement which we all felt would be convenient to the Tribunal and to the parties.  
48

1 As you recall, on one occasion there was some disagreement as to whether the  
2 statements are to be read out in court or were to form the basis of cross-examination. I think  
3 in the circumstances, and in view of the brevity of the statement, perhaps the solution in this  
4 case would be for the witness to read the whole of the statement, which is what would have  
5 happened if this statement had not been available. Since this statement is not, technically  
6 speaking, required, we could operate on the basis that this is the first time that the statement is  
7 being made available to the other party.  
8

9 I suggest that the witness reads the statement, and on the basis of that we have the  
10 examination-in-chief and subsequently the cross-examination. Would that be a compromise to  
11 get us out of this difficulty?  
12

13 **DR PLENDER:** Mr President, we are in your hands and we will follow your suggestion.  
14

15 **THE PRESIDENT:** Thank you very much. In that case, Mr von Brevern, after the witness  
16 has made a declaration, we will request that he reads this statement, which is only one page. It  
17 will, perhaps, not require the suspension of fifteen minutes. It may add five minutes to the  
18 time, but I think we can live with that.  
19

20 **MR VON BREVERN** Mr President, may I then ask my delegation whether the statement of  
21 the witness, Mr Sow, has already been distributed. If not, I should like to ask that it be  
22 distributed now.  
23

24 **THE PRESIDENT:** It has been distributed. Could the witness be asked to make the  
25 required declaration please.  
26

27 **MR MANGUE CAMARA, affirmed**  
28 **Examined by MR VON BREVERN**  
29

30 Q Mr Camara, before I put questions to you relating to the arrest of the M/V Saiga, is it  
31 correct that you have made a statement for the Tribunal?

32 A (Interpretation from French) Yes.  
33

34 Q If this is your statement, could you please follow the wish of the International Tribunal  
35 and read it out?

36 A Yes.  
37

38 "Mangué Camara, Sub-Lieutenant, in the service of the National Mobile  
39 Brigade for the Customs of Conakry. I arrived at a certain distance in the  
40 P328..."  
41

42 I am sorry – it is P35. There is an error here. It is the P35.  
43

44 "... from *M/V SAIGA*, manned with a crew of six persons on board. Since the  
45 point of departure, it puts its radio on, calling, 'Saiga, Saiga, stop stop. This is  
46 the Guinean Navy'. Arriving in the proximity of *The Saiga* we saw a large  
47 amount of smoke. It was moving. The Master of the launch sounded the siren  
48 and the blue rotating light was turning. *The Saiga* was moving. The launch  
49 circled the vessel twice. No one was there. At that time we issued a warning

1 shot into the air with our individual weapons, a PMAK, but this changed  
2 nothing. *The Saiga* continued progressing. Then the Master of the launch  
3 tried to come alongside and three members of the crew of the launch boarded  
4 *The Saiga*.

5 Immediately we tried to enter *The Saiga* but all of the doors were closed. We  
6 saw no one. When we came down on to the deck, one of us found a door in  
7 the aft section of the vessel which was not closed. We opened it but we were  
8 unable to gain access through this door into the vessel. It was simply a  
9 viewport for the engine heat. We could see the engine through this door, and  
10 thus, one of us fired at a pipe to stop the vessel.

11 At a certain moment we ascertained that the ship started to shut down its  
12 engine. At that time one of us took a hammer on the bridge which was beside  
13 a box of paints. With this hammer we broke one door of the bridge leading to  
14 the wheelhouse. We went in. There was no one. The second was also broken,  
15 which enabled us to enter the corridor to check all the other doors which were  
16 closed, and thus we broke one door in the corridor and found a member of the  
17 crew in his cabin and we asked him to indicate to us the Captain. He did not  
18 want to reply to us. He directed us towards a door, speaking his language.  
19 This door was opened. There were two sailors. At that time the P328 came  
20 alongside and we made a report to the head of the mission who had rejoined us  
21 on board."

22  
23 Q Thank you, Mr Camara. This indeed helps me a lot because most of my questions  
24 have now been answered. What you have just read out, is correct?

25 A Yes, that is correct.

26  
27 Q When you read out the first line you said there was an error. What did you mean by  
28 that? Two launches are mentioned and the question was: on which launch were you?

29 A I was on board P328 and I went on board from P35.

30  
31 Q I did not understand that. There were two launches. You can only have been on  
32 board one launch. Were you on board the larger one or the smaller one?

33 A The small one.

34  
35 Q The small one was the P35; is that correct?

36 A It is correct.

37  
38 Q You were not on the P328?

39 A No.

40  
41 Q Mr Camara, was this mission the first mission of that kind in which you took part?

42 A Yes.

43  
44 Q When you approached with your small launch to *The Saiga* how did you feel? Did you  
45 feel safe or did you feel perhaps that one of the crew members of *The Saiga* might  
46 have arms? Did you feel safe or more uncertain and unsafe?

47 A I was afraid in case there were arms.

48  
49 Q Is it that you yourself had arms; is that correct?

1 A I had a PMAK.  
2  
3 Q And on board if the small launch were you the only one who had arms?  
4 A No.  
5  
6 Q Who else had arms?  
7 A Two others also were armed, plus myself.  
8  
9 Q When you referred to the two others and yourself, was there anyone else on board of  
10 the small launch?  
11 A Yes.  
12  
13 Q Who was that?  
14 A They were the three other members of the crew.  
15  
16 Q Were they also from the Customs or from the Navy?  
17 A They were from the Navy.  
18  
19 Q Is my understanding correct that on board of the small launch there were three  
20 representatives of the Customs and each of you had arms and there were also three  
21 representatives of the Navy who did not have arms?  
22 A Yes.  
23  
24 Q You have read out from your declaration that you fired in the air after you had circled  
25 *The Saiga* twice. Is that correct?  
26 A Yes, we fired into the air.  
27  
28 Q What was the purpose of this firing?  
29 A The purpose was to stop the vessel.  
30  
31 Q When you went around *The Saiga* twice, what was the effect of the sea and the waves,  
32 perhaps caused by *The Saiga* for your launch?  
33 A *The Saiga* was causing waves which almost upset the launch the second time we  
34 circled *The Saiga*. It was at this moment that we tried to stop *The Saiga*, that we  
35 warned *The Saiga* by firing shots into the air. We were trying to stop the vessel and,  
36 once we had done this, we went on board. We were trying to arrest it and go  
37 alongside.  
38  
39 Q We will come to that later, Mr Camara. Is it correct that when you circled *The Saiga*,  
40 you came into problems with your small vessels because of the waves caused by the  
41 moving of *The Saiga*? Obviously, and is this correct, there were rather strong  
42 movements of your launch.  
43 A Yes, it was thrown around by the waves.  
44  
45 Q When you decided to fire into the air to give a signal to *The Saiga* to stop, were these  
46 movements still going on?  
47 A Yes.  
48

1 Q Would you think that it might have been possible that these shots -- by the way, was it  
2 one shot or more shots -- that this one or more shots perhaps may have hit one part of  
3 the vessel by chance, which perhaps you did not want but it happened because of the  
4 movement of the vessel? Is that possible?

5 A It is possible.

6

7 Q Do you remember how many shots you shot in the air?

8 A We fired once.

9

10 Q Did each of you three fire once?

11 A Only one fired a shot.

12

13 Q With respect to firing, do you know any rule under Guinean law or in your Customs  
14 service which regulates when you are entitled to make use of your arms?

15 A We are entitled to use our arms when there is refusal to comply and when we feel  
16 threatened.

17

18 Q Do you know an additional rule in particular, with respect, to vessels you are looking  
19 at?

20 A Would you repeat your question, please?

21

22 Q Do you know of a rule in your law according to which a firing might also be possible  
23 for the purpose of immobilising a vessel that has violated Guinean laws?

24 A Article 45 of the Customs Code.

25

26 Q You know that such a rule exists in your Customs Code?

27 A Yes.

28

29 Q When you then decided to go on board of the *M/V SAIGA* did you go alone or did  
30 your two colleagues from Customs accompany you?

31 A Yes.

32

33 Q Did you see anyone on board of the *M/V SAIGA*?

34 A No-one; when we boarded there was no-one.

35

36 Q Can you explain what you did then?

37 A Yes, I can explain. When we boarded the vessel, we tried to gain access, entry, to it.  
38 We found that all the doors were closed. We went all around. We did not see  
39 anything. We went down on to the deck. When we arrived on the deck we saw  
40 somebody coming out of the bridge, but we did not see his whole body, the whole  
41 person; we saw his arm. One of us saw the arm of this person at a window and, when  
42 he saw this person, he said, "Beware, there is somebody". As he said this, he fired  
43 a shot into the air. We saw him running into the pilothouse. We started to pursue, to  
44 run behind, this person. We found that the door had been closed. At this point in time  
45 the vessel was still proceeding. We said, "Let's try and enter into the vessel. We have  
46 to stop it". We then started again to hunt for a means to enter the vessel.

47

48 One of us went to the stern and this member of our crew, this person, found a door  
49 which he opened. When he opened this door, we took a look inside but there were no

1 stairs or anything. It was merely a door which could be opened in order to release the  
2 heat from the engine room. It was thus that one of us fired a shot at a pipe, at a lead.  
3 When this person fired a shot at the tube, the vessel slowed down.  
4

5 When it slowed down, the engine then shut down. We once again went down to the  
6 deck and one of us found a hammer next to a box of paint. This person took the  
7 hammer and went towards the wheelhouse; we went to the wheelhouse. We broke the  
8 door of the wheelhouse and we entered the wheelhouse. It was locked. There was  
9 nobody there. There was a second door inside the wheelhouse. We broke this door to  
10 gain access to the corridor. When we arrived in the passageway, we checked all the  
11 doors which had been closed from the inside, and this is how we came to break a third  
12 door. We found a member of the crew. We took him out and we asked him for the  
13 master. He took us in front of a cabin and they spoke in their language. The door was  
14 then opened by the person who was inside this cabin, and there were two others who  
15 came out. This coincided with the coming alongside of P328. We then reported to the  
16 head of the mission. This is how it happened until then.  
17

18 Q Mr Camara, I am very grateful to you for your explanation and testimony of the whole  
19 situation, and it leaves only a very few questions for me. Coming back to the point  
20 when you proceeded to *The Saiga*, was *The Saiga* proceeding or was she at anchor or  
21 drifting?

22 A When we were close to *The Saiga*, we saw black smoke rising and *The Saiga* was  
23 moving before we arrived at *The Saiga*.  
24

25 Q Coming back to the firing, as I understood you, there were three firings, the first one  
26 when you were still outside *The Saiga*, the second one when you saw someone. Is it  
27 correct that you felt attacked by that person on the porthole, as you explained?

28 A We felt threatened because we had walked all the way around the vessel and we had  
29 not seen anyone. We had fired a warning shot into the air. We had not seen anyone.  
30 When we were on the deck, we had not seen anything and we saw an arm or a hand at  
31 the window. We thought that there was somebody who was about to fire a shot. The  
32 first one of us who saw this person said "Watch it! there's somebody", and he fired a  
33 shot in the air. This was when this shot was fired.  
34

35 Q I understand that the third firing was when you saw through a window into the engine.  
36 Is it correct that you fired at an object or a part of the engine in order to immobilise the  
37 vessel? Is that correct?

38 A That is correct.  
39

40 Q Did you see any other alternative to stopping or immobilizing the vessel, *The Saiga*?

41 A It was the last possibility, the last resort.  
42

43 Q You then told us that the big launch came after you had found other crew members of  
44 the *M/V Saiga*. Do you remember whether there was some damage done to the vessel  
45 besides the obvious damage in the engine that you mentioned?

46 A There might have been, because when we fired the shots we were firing warning shots  
47 and we were in the small launch. *The Saiga*, however, was making waves. I cannot  
48 say here that when we fire a shot in the air we are definitely very precise in doing this.  
49 It could happen.

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Q But did you see something damaged on the vessel and, if so, what?  
A The door through which we entered, we saw this, because we broke it with a hammer.

Q Do you remember whether there had been shots to the fender or the radio installation? Have you seen any shots to the satellite antenna or any other devices for communication, or any other damage to the vessel?  
A No, I do not know. I did not see anything.

Q Did you realize that at least one or more of *The Saiga's* crew members were injured?  
A Yes, I saw two.

Q Can you briefly explain what you saw and what sort of injuries they had?  
A There was one who had an injury to his arm. The second had his hand to his eye. These were the two.

Q Do you have any idea where these injuries might have come from?  
A Maybe it could have been caused when we fired the warning shot. Maybe one of the shots or the bullet was not aimed correctly and could have caused injury.

Q Do you know where the person with the injured arm was? Was he one of the crew members who was in the engine? Do you remember that?  
A The person with the wounded arm came out of the machine room, the engine room.

Q With regard to the other one who had an injury to his eye, do you remember very well that he had only an injury to his eye, or did he show other signs of injury perhaps to another part of his body?  
A I only saw that he was holding a hand up to his eye.

**MR VON BREVERN:** Mr President, we have heard from the witness that he did not see any further damage other than that he has mentioned to us. I had intended originally, as you know, to show him the pictures and ask him to confirm that the vessel had such damage. I think it is not necessary to do this because I assume that you would agree that his answer will be "No, I cannot confirm this damage". If you so agree, we do not have to go through that exercise, otherwise I would indeed just put the photographs on the screen and ask him whether he can confirm that the vessel had such damage. Can you enlighten me?

**THE PRESIDENT:** Mr von Brevern, it is up to you. If you wish to take his general answer that he did not see any damage to the vessel, that would be adequate and you would not need to go to the specific damage. However, if you wish to reinforce the fact, it is up to you. As far as the Tribunal is concerned, any evidence that you feel is important to your case will be admitted.

**MR VON BREVERN:** I think it would be better if we did it rather quickly. Do we have the pictures still available to be put on the screen? (*photographs displayed on screen*)

1 Q Mr Camara, you will be shown some pictures and I would like to ask you whether you  
2 have seen these parts of the vessel. Can we have photograph 1? Do you remember  
3 that vessel?  
4 A Yes.  
5  
6 Q It is a picture of *The Saiga*?  
7 A Yes.  
8  
9 Q Can we have photographs 2 and 3? You must have seen this? Do you remember  
10 which porthole of which vessel that is?  
11 A No.  
12  
13 Q Do you remember, is that *The Saiga*?  
14 A Yes, that is *The Saiga*.  
15  
16 Q First of all, can you see, and secondly can you remember if there was any damage to  
17 this part of the vessel?  
18 A No, there is nothing.  
19  
20 Q We can go rather quickly through photograph 4. Do you remember any damage here?  
21 A No.  
22  
23 Q Do you remember that the fenders were damaged?  
24 A The fenders, no.  
25  
26 Q Photograph 7. You have been on the porthole. Have you seen that?  
27 A I did not go there.  
28  
29 Q Do you remember that this is part of *The Saiga*? You have not been there?  
30 A No, I never came to this part of the vessel.  
31  
32 Q Photograph 8 shows the fenders. Did you see any damage here?  
33 A No.  
34  
35 Q Picture 9 please. Have you seen that?  
36 A Yes, I saw that.  
37  
38 Q What do you see there?  
39 A I see a big hole.  
40  
41 Q No, the question is whether you have seen this part of the vessel on board of *The*  
42 *Saiga*?  
43 A No.  
44  
45 Q So your explanation was "I saw the hole in this picture".  
46 A I saw it on the photograph.  
47  
48 Q "But I do not remember that this was on board of *The Saiga*".  
49 A No.

1  
2 Q Have you seen such a thing on board *The Saiga*, undamaged?  
3 A No.  
4  
5 Q Picture 10 please. Do you see any damage?  
6 A No.  
7  
8 Q Do you remember having seen this when you were on board of *The Saiga*, have you  
9 seen that?  
10 A No.  
11  
12 Q 11 please. Would it be possible that you shot at this here, or one of your colleagues;  
13 do you remember that?  
14 A No, I do not remember.  
15  
16 Q And have you seen this; what is it, a satellite? When you were on board did you see  
17 that, do you remember that?  
18 A I am not aware of this, I do not know it.  
19  
20 Q 12 please. Have you seen such a hole on board of the vessel?  
21 A No.  
22  
23 Q 13 please. The same question here.  
24 A No.  
25  
26 Q 15 please. Do you remember that; was that on board of *The Saiga*?  
27 A I did not see this, I do not remember.  
28  
29 Q We show you pictures 16, 17, 18, 19 and 20 please. Do you remember these were  
30 parts of *The Saiga*?  
31 A No.  
32  
33 Q The last one, 29 please. What do you see here, do you remember that?  
34 A It is a door.  
35 Q Was that or could that have been on board of *The Saiga*?  
36 A I see a door here, but nothing proves it is on board *The Saiga*. It is a door.  
37  
38 Q Do you remember how you opened the door; some of these doors were closed, you  
39 told us. How did you open these doors?  
40 A With the aid of a hammer.  
41  
42 Q Could that be a door of *The Saiga* that was opened or a little bit destroyed by a  
43 hammer?  
44 A Yes.  
45  
46 Q Thank you Mr Camara. This ends my questions to you. Thank you very much.  
47  
48 **THE PRESIDENT:** Thank you. Mr Plender?  
49

1 **MR PLENDER:** Maître Thiam will pose questions to the witness.

2

3 **Cross-examined by MAITRE THIAM**

4

5 Q (Interpretation from French) Good morning Mr Camara.

6 A (Interpretation from French) Good morning.

7

8 Q Perhaps you can explain to the Tribunal how long you have been working for the  
9 Customs?

10 A I have been working for the Customs for 10 years.

11

12 Q Did you have specific training?

13 A Yes.

14

15 Q And in the Mobile Brigade of the port, how long had you been with this Brigade?

16 A Two years at the Mobile Brigade.

17

18 Q Two years before the arrest of *The Saiga* or two years after?

19 A Before.

20

21 Q And during the years at the Mobile Brigade at the port did you arrest any other vessel  
22 other than *The Saiga*?

23 A I participated in *The Saiga* mission.

24

25 Q I think indeed that you did take part in the mission with *The Saiga*, but my question  
26 was whether beyond the arrest and the detention of *The Saiga* you participated in other  
27 missions during these two years?

28 A No.

29

30 Q What was your rank in the Mobile Brigade?

31 A I was *Agent de Brigade*.

32

33 Q So as *Agent de Brigade*, each time there were arresting operations you were not in  
34 service?

35 A No I was not allocated or assigned.

36

37 Q I am sorry, I do not hear the answers of the witness. You were not designated. But  
38 you were aware nevertheless that other arrests took place?

39 A I do not recall that.

40

41 Q You do not remember. With regard to the order of mission that you received, could  
42 you tell the Tribunal what time you received this on 26 October, unless you received it  
43 on another day?

44 A The order of mission was issued to the head of the mission. It was he who should  
45 know the time he received it.

46

47 Q You do not know the time when the head of the mission received the order?

48 A No.

1  
2 Q Do you know the content of the mission?  
3 A When the mission is posted it is only told to the officials that they are going to take  
4 part in the mission and to be at a certain place at a certain time.  
5  
6 Q Do you know that the mission was to arrest precisely *The Saiga*, or did they say  
7 nothing about this point?  
8 A No, nothing was said to me.  
9  
10 Q When you embarked on the 26<sup>th</sup> or 27<sup>th</sup>  
11 A The 27<sup>th</sup>.  
12  
13 Q Would you have noticed that people had been drinking alcohol, or could have been  
14 drinking alcohol?  
15 A Where?  
16  
17 Q On board the launches of the Navy?  
18 A I did not notice that.  
19  
20 Q And you yourself did not?  
21 A No.  
22  
23 Q Did you affirm in the *procès-verbal* of the Custom, that was signed, that you received  
24 information on the so-called illicit or clandestine presence of the vessel in the exclusive  
25 economic zone of Guinea?  
26 A The *procès-verbal* is something at the level of the head of the mission.  
27  
28 Q You signed a Customs *procès-verbal*?  
29 A Yes.  
30  
31 Q Is this *procès-verbal* dated 13 November 1997?  
32 A I only signed it, I did not read it.  
33  
34 Q You have signed a *procès-verbal* that you did not read?  
35 A Yes.  
36  
37 Q Thank you. Do you at what time *The Saiga* was targeted?  
38 A I do not know.  
39  
40 Q What time did you go from the large launch to the small launch?  
41 A It was 28<sup>th</sup> at 8 o'clock, a few minutes past 8.  
42  
43 Q 8 o'clock in the morning?  
44 A Yes.  
45  
46 Q So you would say it was 8 o'clock in the morning; is that the small hours of the  
47 morning in your opinion?  
48 A It was 8 o'clock and a few minutes.  
49

1 Q It was not at 3.30?  
2 A No.  
3  
4 Q It was not at 4 o'clock either?  
5 A No.  
6  
7 Q When you arrived alongside *The Saiga*, she was stopped?  
8 A *The Saiga* started its engines, when we approached, *The Saiga* was proceeding.  
9  
10 Q But I suppose that a vessel when it starts up its engine, before it starts up the engine,  
11 the engine is stopped?  
12 A Well I only saw that the vessel was moving.  
13  
14 Q Thank you, but try to understand the question Mr Camara. Am I right in supposing  
15 that a ship which starts up its engine is stopped at the time when it does so?  
16 A Yes.  
17  
18 Q So when you arrived and it started up its engine, until this point *The Saiga* was  
19 stopped?  
20 A It was moving.  
21  
22 Q Why is there an exception to the rule that you have just defined concerning *The Saiga*?  
23 A What rule?  
24  
25 Q You have just said that *The Saiga* when it had its engine stopped was moving?  
26 A No, when the engine was stopped it was not moving.  
27  
28 Q So *The Saiga* was stopped at the time you saw that there was smoke coming out of the  
29 funnel?  
30 A When there was smoking coming out of the funnel, this --- it was moving.  
31  
32 Q I just want to say that if the vessel was moving, then it could not have stopped?  
33 A When we arrived near *The Saiga*, it was already moving.  
34  
35 Q Was it going quickly or not?  
36 A I do not think it was moving at high speed.  
37  
38 Q Did you notice any manoeuvres, such that you could think that the Master or any one  
39 of the crew had the desire to capsize your vessel?  
40 A It was the wave produced by *The Saiga* which tried to capsize our vessel.  
41  
42 Q Your reply is that the waves caused by *The Saiga* wanted to capsize your vessel?  
43 A Yes.  
44  
45 Q In the word "wanted" do you see intention on the part of the waves, on the part of  
46 *The Saiga* or members of its crew?  
47 A Because it was a small launch, the wave put the vessel in danger.  
48

1 Q Perhaps. It would be interesting to know if your training is such that waves, which are  
2 natural phenomena in the sea, could be considered as a danger. But for the moment  
3 the question is the following. You said that the waves wanted to capsize one of your  
4 vessels, your launch. I want to know if you think that there was a deliberate intention  
5 on the part of the waves or a deliberate intention on the part of one of the members of  
6 the crew of *The Saiga*.

7 A I cannot explain that to you because I am not a sailor; I am a Customs Officer.

8

9 Q M. Camara, the waves are something natural in the sea.

10 A In your opinion, yes.

11

12 Q Particularly when they are in the wake of a vessel.

13 A Could you repeat your question?

14

15 Q Is it natural for a ship to produce in its wake a wave or several waves?

16 A It can produce waves.

17

18 Q Your launch itself was producing waves?

19 A Yes.

20

21 Q Someone following you could then accuse you of trying to manoeuvre the launch to  
22 capsize it.

23 A If there is refusal to obey, then I would agree.

24

25 Q I am not talking about someone you are following, but someone following you. Only  
26 the factor that there is a wave behind your vessel is enough to accuse you of trying to  
27 capsize another vessel?

28 A Yes.

29

30 Q So the *procès-verbal*, that you did not read, said - and I should like to inform you of  
31 this - that on two occasions *The Saiga* tried to manoeuvre to capsize the two launches.  
32 Is all of this correct?

33 A It was the small launch which arrived first. The second arrived when I was on board  
34 *The Saiga*, so I cannot say anything about the small launch.

35

36 Q The small launch: is it correct that on two occasions *The Saiga* tried to sink it by  
37 producing waves?

38 A Yes, because we encircled the vessel twice.

39

40 Q But *The Saiga* did not change course?

41 A *The Saiga* changed course, because it was in the process of turning slightly.

42

43 Q No, I am saying that it did not try any brusque manoeuvre to sink your vessel.

44 A No, it was only when we were encircling this and the waves were in danger of  
45 capsizing our vessel.

46

47 Q Tell me, M. Camara, when your superiors were reporting to their superior, were you  
48 with them?

49 A There was a report on the mission. I was not there.

1  
2 Q Was *The Saiga* proceeding fast after having set in motion its engine?  
3 A No, at the beginning it was not moving fast but it did increase its speed gradually.  
4  
5 Q But it could have reached, at any point, a speed so that you could imagine that it was  
6 moving faster than you?  
7 A No, I cannot define that.  
8  
9 Q Did you see it at any time moving faster than your launch?  
10 A There was speed, certainly.  
11  
12 Q Do you have binoculars?  
13 A If there are binoculars, it is only the sailors who use them.  
14  
15 Q Did you see sailors on board your launch using binoculars?  
16 A No, I did not see binoculars.  
17  
18 Q When you came alongside *The Saiga*, you said that there was no one on the deck.  
19 A There was no one.  
20  
21 Q You said just now that you felt threatened because you did not see anyone.  
22 A We felt threatened when we did not see anyone.  
23  
24 Q Mr von Brevern asked you the question, "Why did you feel threatened?" You said,  
25 "We went round the ship twice. It is because we went round the vessel twice and we  
26 did not see anyone."  
27 A Yes, that is the case, yes.  
28  
29 Q Could you explain to the Tribunal and to myself, of course, how the fact of not seeing  
30 anyone can create a feeling of threat in you?  
31 A The fact that there was no one, and that the boat was still moving. Our launch does  
32 not have the same size as this vessel and it was heading for the high seas. Our fuel is  
33 limited. We are on board and I felt threatened.  
34  
35 Q M. Camara, you said that for two years you did not participate in a mission of this  
36 type. Do you think that your superior at that time, M. Bangoura, had made the best  
37 choice in assigning you to come alongside *The Saiga* because you do not have any  
38 experience?  
39 A It is up to the superior to decide that.  
40  
41 Q But in the same circumstances, if you had been the superior, would you have assigned  
42 a mission of this type to someone who had never participated in an arrest?  
43 A I have not understood your question.  
44  
45 Q I am not going to persist. But you did not see anyone aboard the vessel and you felt  
46 threatened? This is something which I still cannot understand. I am sorry to come  
47 back to this point, but I think it is important to have a response to this from the  
48 witness. M. Camara, do you have a serious reason for thinking that hidden people are  
49 armed?

1 A We saw someone at the window, we saw his hand, and I personally thought that he  
2 was in a position either to shoot or injure us.  
3  
4 Q I am going to show you photograph number 3. (*Photograph projected on screen*)  
5 Would you be so kind, M. Camara, to show your position at the time when you  
6 noticed, through a window or a porthole, the arm you are talking about? At the same  
7 time, would you be so kind as to show the porthole from which you were able to see  
8 the arm in question?  
9 A Yes, I can.  
10  
11 Q Please do that. (*The witness indicated on the screen*) What position is that,  
12 M. Camara?  
13 A This position?  
14  
15 Q The one that you have shown.  
16 A This is the window to the bridge.  
17  
18 Q Is that where you saw the arm?  
19 A (No English translation)  
20  
21 Q Where were you?  
22 A We were here. We were on the deck here.  
23  
24 Q M. Camara, you were searching for something.  
25 A (No English translation)  
26  
27 Q You were not sheltered or hidden. Someone from the bridge that you pointed out  
28 would have been able to see you and not surprise you if you were out in the open.  
29 A No, we saw his arm, we saw his arm. When we saw his arm we felt threatened  
30 because if he had had a weapon, he could have shot at us.  
31  
32 Q So do you think that an arm is sufficient to establish a threat?  
33 A It looked as if he was in a position to fire.  
34  
35 Q Did you see a weapon?  
36 A We saw the position, just the position, the firing position.  
37  
38 Q Tell me, M. Camara, did you think, at any time, that if a vessel is going to defend itself,  
39 it is not going to wait for someone to board it? If there are weapons on board, perhaps  
40 they would have been able to use them at the time when you were using your arms,  
41 according to you, to fire warning shots?  
42 A No, I do not have any information on that.  
43  
44 Q But did you not think that when you were issuing the warning and there were criminals  
45 on board the vessel, that they, at that time, perhaps, would have tried to prevent you  
46 from boarding the vessel with their weapons?  
47 A That is why we entered the vessel with arms.  
48  
49 Q But you were not afraid?

1 A The vessel was moving. We thought that they were fleeing and we went on board.  
2  
3 Q My question is that you were without fear when you boarded?  
4 A We boarded the vessel according to our instructions.  
5  
6 Q But were you afraid?  
7 A Yes, when you board something that you do not know, I think that you have to be  
8 careful and pay attention.  
9  
10 Q So you are saying that you had training which enables you, after ten years' service, to  
11 be afraid of someone who is fleeing?  
12 A (No reply)  
13  
14 Q You are afraid of someone who is fleeing?  
15 A Someone who is fleeing?  
16  
17 Q He is also capable of defending himself, but as far as I know they were fleeing and you  
18 were feeling threatened by someone who is fleeing. If that is the case, tell the Tribunal.  
19 A (No English translation)  
20  
21 Q You said that you listened to *The Saiga* on Channel 16. Is that correct?  
22 A I said that the Master of the launch switched on the radio and I heard, "Saiga, Saiga,  
23 Saiga, stop, stop".  
24  
25 Q Did you hear a reply?  
26 A I did not hear that because when he called twice, he started his siren.  
27  
28 Q Do you think that the siren from where you were located was audible to people aboard  
29 *The Saiga*?  
30 A I cannot tell you that.  
31  
32 Q Do you have a reason to think that someone on board *The Saiga* saw the blue warning  
33 lights that you mentioned?  
34 A I cannot tell you that.  
35  
36 Q Thank you. Let us get back to the injuries. What did you see exactly for the  
37 Senegalese sailor?  
38 A Well, I saw that he had an injured arm and that he had his arm to his eye.  
39  
40 Q Do you think he was blind?  
41 A The arm was covering his eye. I do not know whether he was only wounded or  
42 whether he was blind.  
43  
44 Q Was the arm covering one eye or two eyes?  
45 A When I said "eye" I meant one eye, yes, and consequently he was not blind.  
46  
47 Q He did have his other eye?  
48 A Yes.  
49

1 Q His vision was limited?  
2 A I cannot say that because his hand was covering it, whether he was still seeing out of  
3 one eye.  
4  
5 Q Did you see anyone from your crew treating this injury?  
6 A Yes.  
7  
8 Q What happened? What did you do for him?  
9 A He was taken to hospital.  
10  
11 Q No, on board, first of all?  
12 A On board we took him first of all to the P328. The Senegalese was taken on to this  
13 launch.  
14  
15 Q But if you simply took him from one vessel to another this is not treatment. My  
16 question is: was he treated at sea?  
17 A No, I do not know.  
18  
19 Q Did you concern yourself with this?  
20 A The two wounded persons were taken to one place.  
21  
22 Q But were you concerned to know whether any attempt was made to treat them at sea?  
23 A Me?  
24  
25 Q Yes, you?  
26 A No, it is not part; I was not with them but I saw that they were taken to the P328.  
27  
28 Q At a certain time you saw the two injured people because you saw them.  
29 A Yes, on *The Saiga*  
30  
31 Q At that time did you try to treat them or did you see anyone else trying to treat them?  
32 A The other injured person already had his arm bandaged.  
33  
34 Q The Senegalese, did you try to treat him and did you see anyone trying to treat him?  
35 A I do not know. We took them to the P328.  
36  
37 Q Tell me, Mr Camara, why did it take 30 minutes to assemble the crew?  
38 A They were in the engine room and the Captain had to go and look for them.  
39  
40 Q You were on board *The Saiga* at about 9 o'clock: am I mistaken?  
41 A Yes.  
42  
43 Q It was around 9 o'clock?  
44 A It was before 9.  
45  
46 Q If I said "around 9", would that be OK? What time did you finish your operations?  
47 A I do not know. It is when the Head of the mission came.  
48

1 Q Let us suppose that it took you 30 minutes to assemble the crew and the operations  
2 finished at 12.30. Let us suppose. If I told you now that you boarded the vessel at  
3 9 o'clock and it took you 30 minutes to assemble the crew, that makes it 9.30, that you  
4 had certain things to do, you had to find certain documents and these were given to  
5 your superior as we heard yesterday: what did you do between 9.30 and 12.30 on  
6 board the vessel?

7 A Once we had collected the crew, the Head of the mission headed for Conakry and  
8 Captain Orlov, the Master, said, "Give me a little bit of time. I need some time  
9 because I need to fix the oil lead".

10

11 Q How much time was needed to repair this?

12 A I do not know.

13

14 Q What did you do on board the vessel, once your operation had finished, until 12.30?  
15 You did not participate in the repair of the lead?

16 A No, I was not there.

17

18 Q This is exactly what I thought. So what were you doing on board the vessel from  
19 9.30 until 12.30?

20 A From 9.30 until 12.30 I think the time to get the crew together; this took so much  
21 time.

22

23 Q It took you a half an hour to assemble the crew. This is 9.30. You and none of your  
24 men -- and if I am wrong please interrupt me -- participated in the repair job to the  
25 engine. What did you and your men do from 9.30 to 12.30 on board the vessel?

26 A From 9.30 to 12.30 on the vessel we were on board. We were waiting for the repair,  
27 after having assembled everyone.

28

29 Q Did you ransack the vessel?

30 A No.

31

32 Q Did you pillage the vessel?

33 A No.

34

35 Q How do you explain the photographs that we showed you earlier on which were taken  
36 after the arrest of *The Saiga*?

37 A The photos that were shown here, I had no knowledge of them. I do not know  
38 anything about this.

39

40 Q Who cooked on board *The Saiga*?

41 A We had a cold meal on board P328.

42

43 Q You returned *The Saiga* to Conakry and there were people on board and who cooked  
44 for them?

45 A The food on board came from town. They had their food in the launch and this food  
46 was distributed every day.

47

48 Q How much time did you need to return to Conakry?

49 A Well, I am unable to say, sir, because I have no watch.

1  
2 Q During this time, your men who were on board *The Saiga*, who cooked their food?  
3 A During which period?  
4  
5 Q During the entire period from the time when you and your men boarded *The Saiga*  
6 until *The Saiga* arrived at the port of Conakry?  
7 A We had our food on board P328, which we ate on board *The Saiga*.  
8  
9 Q So you stayed for several hours on board *The Saiga* without eating?  
10 A In the morning, for example, after writing the report, I left to have a cup of coffee on  
11 P328.  
12  
13 Q I think this brings me to the end. Perhaps one more question: did you notify the  
14 owner of the arrest of the vessel?  
15 A It is the Head of the mission who does this. I do not do this. I am under orders.  
16  
17 Q To your knowledge did the Head of the mission make an offer for a transaction?  
18 A I do not know. I cannot answer this question.  
19  
20 Q Was he supposed to do this?  
21 A I do not know.  
22  
23 Q Do you know the provisions of article 226 of the Customs Code, paragraph 1?  
24 A No.  
25  
26 Q You are not familiar with this provision? You have forgotten it or you are not aware  
27 of it? Do you want me to show it to you? I am not going to ask you to read it.  
28 I would like you just to refresh your memory from looking at this text.  
29 A Can I read it?

30  
31 **THE PRESIDENT:** Mr von Brevern?

32  
33 **MR VON BREVERN:** Mr President, perhaps we could all know the contents of that article.  
34 Perhaps Maître Thiam could explain it to us before he puts his question.  
35

36 **THE PRESIDENT:** Maître Thiam, once he has acquainted himself with it, could also let the  
37 Tribunal know what it says exactly.  
38

39 **MAITRE THIAM:** I will read the provisions of this article. It reads:

40  
41 "When the seized goods are not prohibited, means of transport may be released on  
42 creditworthy guarantee or payment of its value.  
43

44 (2) This offer and the response to it shall be recorded in the report."  
45

46 In your opinion, should the chef have followed this provision?

47 A I am a receiver of orders. It is up to the Head to assess this, to judge this. I cannot  
48 judge this.  
49

1 Q I will finish with the *procès-verbal*. You affirmed to the Tribunal that you signed it  
2 without reading it. Your answer, Mr Camara, is that you signed it without reading it?

3 A No.

4

5

6 Q "No" means that you read it or you did not read it?

7 A No, I did not read it.

8

9 Q Therefore you cannot here give any testimony of the content of the *procès-verbal*?

10 A No, I cannot.

11

12 **MAITRE THIAM:** This brings me to the end. Thank you, Mr President.

13

14 **THE PRESIDENT:** Dr Plender, do you have any questions?

15

16 **DR PLENDER:** I have no questions to put, either under my own name or that of  
17 Mr Bangoura.

18

19 **THE PRESIDENT:** Thank you. We are very relieved to hear that!

20

21 Mr von Brevern, would you like to re-examine?

22

23 **MR VON BREVERN:** After we have heard the questions of Maître Thiam, we have some  
24 additional questions. My colleague Mr Camara will start with his questions, if you will allow  
25 it.

26

27 **THE PRESIDENT:** This is another Mr Camara who will re-examine Mr Camara!

28

29 **Re-examined by MR CAMARA**

30

31 **MAITRE THIAM:** I am very sorry to interrupt the hearing. I would like Mr Camara to give  
32 us his precise identity, please.

33

34 **THE PRESIDENT:** Yes, that is an initial piece of information that we would all like to have.  
35 Mr von Brevern, could you give us some information about Mr Camara or would you like him  
36 to do that himself?

37

38 **MR VON BREVERN:** I would like Mr Camara to introduce himself.

39

40 **THE PRESIDENT:** Mr Camara, will you do that, please?

41

42 **MR CAMARA:** (Interpretation from French) I am Mamadi Askia Camara, Director of the  
43 Division for Regulation and Legislation at the National Department of Customs, Conakry.

44

45 **THE PRESIDENT:** Mr Camara, does the witness Mr Camara work under you, or do you  
46 work with him?

47

1 **MR CAMARA:** I do not work with Mr Camara Manguè but I am in charge in central  
2 administration of questions of regulation and legislation. I work with everyone to the extent  
3 that I draft the texts which govern Customs activities in Guinea.

4  
5 **THE PRESIDENT:** Mr Thiam, is that adequate for you?

6  
7 **MAITRE THIAM:** Can Mr Camara Mamadi Askia, if I am using his name correctly -- and  
8 I am sorry if I am not -- tell us if he is the superior of the witness Mr Camara Manguè in the  
9 administration?

10  
11 **THE PRESIDENT:** That is precisely the question that I asked. Could you please answer it?  
12 I asked whether you worked with him or whether he worked under you, and Mr Thiam is  
13 asking if you are his superior.

14  
15 **MR CAMARA:** In the construction of the Customs administration there are central services  
16 and exterior services. There is the central administration and the execution services, so to  
17 speak, the implementation services. I do not work directly with Mr Camara Manguè, but I am  
18 in the central administration and in charge of the drafting of texts. From the point of view of  
19 the hierarchy, I am of a higher rank than he.

20  
21 **THE PRESIDENT:** Mr Thiam, is there any objection, and, if so, what is the precise  
22 objection, to Mr Camara re-examining the witness Camara on behalf of Guinea?

23  
24 **MAITRE THIAM:** Mr President, Mr Camara is of a higher rank. He is the superior of the  
25 witness. In this capacity, I think he cannot question him, but I place myself in the hands of the  
26 Tribunal.

27  
28 **THE PRESIDENT:** Mr Camara?

29  
30 **MR CAMARA:** I do not know what he means when he says "hierarchical superior". I am  
31 sorry about this. I could be the National Director of Customs of my country but this does not  
32 mean that I am in the hierarchy the superior of my officer Mr Camara Manguè. I am in the  
33 administration and therefore, of course, I am a little higher than Mr Camara Manguè, but I am  
34 not his direct superior. Between him and me, of course, there are many other stages. He is an  
35 officer of one enforcement agency and there is a different structure between him and myself,  
36 so I am not his superior directly in the hierarchy, so to speak.

37  
38 **THE PRESIDENT:** Mr Thiam?

39  
40 **MAITRE THIAM:** The question is not whether he is his direct superior. The question is  
41 whether he is superior in the hierarchy, as he said himself, and he said that he was. I find it  
42 hard to see how in this capacity he can put questions to the witness.

43  
44 **THE PRESIDENT:** At all events, the issue is fairly simple. The Government of Guinea has  
45 the right to choose its representation. It has chosen Mr Camara, who happens to work for the  
46 Customs service, as one of the advocates in this case. The Tribunal cannot interfere with this  
47 choice, which is a matter for the sovereign State. However, if in putting questions there  
48 appears to be either a conflict of interest or an improper use of authority or position, the other  
49 party at that time will have a right to object and the Tribunal will decide whether to sustain or

1 overrule the objection. At this point in time I do not think the Tribunal can prevent  
2 Mr Camara from acting as one of the counsel of Guinea. I will permit Mr Camara to perform  
3 the function for which he has been designated by the agent.

4  
5 **MR CAMARA:** Thank you, Mr President.

6  
7 Q Mr Camara Manguè, is there in your administration a port mobile brigade or a national  
8 mobile brigade?

9 A *(no reply)*

10  
11 Q Does the brigade that you belong to only do monitoring of the sea?

12 A No, not only.

13  
14 Q Does it not do the search and suppression of fraud on the land borders?

15 A Yes, it does.

16  
17 Q Since you have been with Customs, have you ever heard that smugglers are hard and  
18 aggressive?

19 A Yes, I have heard this.

20  
21 Q Have you ever learned that customs officers have been killed by smugglers? I would  
22 like to remind you of the case of the customs officer who was killed in the region of  
23 Beyla in the port of Sirana on the border between Guinea and the Côte d'Ivoire, and  
24 the case of M. Joseph Bonbeau of the maritime brigade who was drowned by  
25 smugglers in the Atlantic Ocean coming from Sierra Leone?

26 A Yes.

27  
28 **THE PRESIDENT:** Dr Plender?

29  
30 **DR PLENDER:** Mr President, I am afraid that I have a separate objection. Not being a  
31 lawyer, Mr Camara may not appreciate that re-examination is not the stage for the re-examiner  
32 to give evidence.

33  
34 **THE PRESIDENT:** You have a point there. Mr Camara, if you are going to introduce new  
35 evidence, new information, this should be done at the stage of examination-in-chief. What you  
36 are required to do at this point is to clarify any issues that you consider need to be clarified in  
37 the light of the cross-examination of the other party. You may do so, but you are not  
38 permitted to introduce new information. Mr von Brevern, please.

39  
40 **MR VON BREVERN:** Mr President, in my understanding, these questions relate to the  
41 question of whether the witness was in fear when he boarded *The Saiga*. This was a subject as  
42 to which Maître Thiam put a lot of questions. Therefore, I think that this side has the right to  
43 re-examine on those questions.

44  
45 **THE PRESIDENT:** It is not so much a question of the re-examination but the nature of the  
46 evidence. If the question is whether he had heard of customs officers being in jeopardy or  
47 danger, that relates to the point, but if he is going to introduce examples of which the Tribunal  
48 and the other party have had no prior information, that is a completely different situation. I  
49 hope you understand the point. You may proceed.

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**MR CAMARA:** Thank you, Mr President.

Q Mr Camara, I would like to ask you whether, in view of all these considerations, this is why the law has granted customs officers the right to carry weapons?

A Yes.

Q I heard earlier on concerning the *procès-verbal* that there are certain elements which are missing. According to article 225 of the Customs Code, is there an obligation to indicate the actual time when a *procès-verbal* was written? According to article 225, is the time at the beginning of the drafting of the *procès-verbal* included, or is it the hour and the time which is laid down in this article when the *procès-verbal* is finished that must be marked?

A Yes.

Q You were questioned a moment ago and asked for the reason why you had signed a *procès-verbal* which you had not read. Did you not sign this because you had participated in the arrest?

A Yes.

**MR CAMARA:** Thank you, Mr President. Those are the clarifications that I wanted to put to Mr Camara.

**THE PRESIDENT:** Thank you very much indeed, Mr Camara. Mr von Brevern, we have only three minutes left before the adjournment. Do you think that you can manage in that time?

**MR VON BREVERN:** That will be sufficient, Mr President. I have only a few questions to ask.

**Re-examined by MR VON BREVERN**

Q First, Mr Camara, you were asked whether, when you received your orders and left the port of Conakry, you knew which vessel you were searching for. What was the answer?

A Could you repeat your question, please?

Q When you left the port of Conakry, for which vessel were you looking?

A I was told that it was a vessel which was operating in the sea.

Q Is it correct that before you proceeded together with the big patrol boat, you first went out to sea alone from the port of Conakry?

A If I left Conakry how?

Q Where did you meet the big patrol boat after you left Conakry? Did you leave the port of Conakry together with the big patrol boat?

A Yes, we left the port together with the big patrol boat.

1 Q So you do not remember that before you met the big patrol boat near the Isle of Sorro  
2 you alone, the small patrol boat alone, tried to go in a westerly direction to find the  
3 vessel you should find?

4 A I did not understand the question. We left in the small launch and we went to  
5 Cap Condindé. The Master of the vessel told us then to come back to Sorro.  
6

7 **THE PRESIDENT:** I am afraid without waiting for an objection, this witness started telling  
8 us in his evidence about when they left in P35, which we have corrected, to go along with the  
9 P328. In your examination in chief no mention at all was made about the period before. I  
10 think it is a little too late now to come back to the period before.  
11

12 **MR VON BREVERN:** OK. Next question. You have been asked about a time from Maître  
13 Thiam, and you said it was about 8 o'clock and not 3.30. Do you remember which  
14 time you meant? What happened at 8 o'clock and not at 3.30?

15 A 3.30. I cannot say anything about this, because I was not in the cabin. It was the head  
16 of the mission who can divulge information on this. I cannot say anything about this.  
17

18 Q No, but you answered a question of Maître Thiam that it was at 8 o'clock. What was  
19 at 8 o'clock? Was that the time when you left the big patrol boat in order to proceed  
20 to *The Saiga* alone?

21 A Yes, this was the time.  
22

23 Q Then Maître Thiam asked you whether you would think that the sirens could have been  
24 heard by *The Saiga* and the blue light would have been seen by *The Saiga*. Is it correct  
25 that you answered "I do not know"? My question is do you think that, at the distance  
26 from your small patrol boat to *The Saiga*, had there been someone at the porthole of  
27 *The Saiga* on deck, would this person then have been able to hear the siren and see the  
28 blue light?

29 A It could be, because we where we were we could see the vessel and we could hear it.  
30

31 Q And at the moment you were close to *The Saiga*, did you still have the sirens on and  
32 the signal, the blue light?

33 A There was not only the siren, there was the blue flashing light, and then we did the  
34 warning shots. We encircled *The Saiga* twice. There was all of this.  
35

36 Q Thank you. The last question is, is it correct that before *The Saiga* proceeded to the  
37 port of Conakry after it had been immobilised, the engine was repaired and was in  
38 order and *The Saiga* could move to Conakry with her own engine?

39 A Yes, it was using its own engine. *The Saiga* used its own engine to arrive at the port  
40 of Conakry. There was no problem.  
41

42 Q Thank you Mr Camara, thank you Mr President, we are now at the end of our re-  
43 examination.  
44

45 **THE PRESIDENT:** Thank you very much. We are a little past our normal closing time, but  
46 not too much. So we will break for two hours and resume at 2 o'clock, at which time I expect  
47 you will be calling your third witness.  
48

49 **MR VON BREVERN:** That is correct, Mr Sow, yes.

1

2 **THE PRESIDENT:** Thank you very much. The sitting will be suspended.

3

4 **(Adjournment 12.05 hours)**

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