

**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 2.00 p.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)

Verbatim Record

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

Saint Vincent and the Grenadines is represented by:

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

as Agent;

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

as Counsel;

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

as Advocates.

Guinea is represented by:

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

as Agent;

Mr. Maurice Zogbélé mou Togba, Minister of Justice,
of Guinea,
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. Nemankoumba Kouyate, Chargé d'Affaires, Embassy of Guinea, Bonn,
Germany,
Mr. Mamadou Saliou Diallo, Naval Staff Officer, Conakry, Guinea,
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:** Mr Von Brevern would you please call your witness?
2
3 **MR VON BREVERN:** The examination will be conducted by my colleague
4 Professor Lagoni.
5
6
7 **LIEUTENANT AHMADOU SOW, affirmed**
8 **Examined by PROFESSOR LAGONI:**
9
10 Q Mr President, Members of the Tribunal, I will start with the questions put to our last
11 witness here. Your name is Lieutenant Sow. Do I pronounce your name correctly?
12 A (Interpretation) Yes.
13
14 Q What is your name?
15 A Ahmadou Sow. Commandant adjoint, navigator of patrol boat P328 of the Brigade
16 des unités flottantes de la Marine nationale from the Republic of Guinea.
17
18 Q Mr Sow your military rank is Lieutenant, is that right?
19 A Correct.
20
21 Q Lt Sow, have you written this declaration which bears your name?
22 A Yes, I did.
23
24 Q Did you know that you would be supposed to write such a declaration for the
25 International Tribunal before you came here to Hamburg?
26 A In principle no because this is the first time I have appeared before the International
27 Tribunal. I know that I would have to make a declaration, but I did not expect it to be
28 in writing.
29
30 Q Thank you. Did you write this declaration alone?
31 A Yes.
32
33 Q On the basis of which facts and dates did you write this declaration?
34 A I wrote this declaration based on my notes. Each time I go out on a mission I make
35 a report, and this report today is linked to my presence here and so I drew this
36 information from my notes.
37
38 Q So you are talking about notes. Usually on ships you have a logbook. Do you have
39 a logbook on your patrol boat?
40 A No, because of the size of the vessel I do not have a logbook, I simply take notes
41 which I then submit at the base to make my report, because after each mission I have
42 to make a report.
43
44 Q I can understand that you do not have a logbook on the small patrol boat, which is a
45 launch as I understand it, but you have not got a logbook on the bigger one, the P328,
46 have I understood you right on this?

1 A The small launch where we do not have a logbook, on the large launch, each time we
2 go out we take notes to help our memories when making the report on the events
3 which took place.
4

5 Q Are you in a position to show such a report, did you write such a report after the
6 mission on 27/28 October 1997?
7 A Correct.
8

9 Q Could you show the Tribunal for example such a report here; do you have it with
10 you?
11 A Yes I do.
12

13 Q Could you show it (handed). Thank you very much. I think we gave that with the
14 documents of the case here.
15

16 **MR PLENDER:** May we be supplied with a copy Mr President?
17

18 **PROFESSOR LAGONI:** We have to make a copy. I do not even have a copy. We can
19 make a copy very quickly. You also supplied me with a chart, a nautical chart, this is
20 this chart which you have seen before.
21 A Yes, it is.
22

23 Q This is supplied to the parties and to the Tribunal of course. Did you have the
24 logbook of *The Saiga* when you prepared this chart?
25 A Yes, we situated the various points of the progress of *The Saiga*.
26

27 Q Otherwise you could not have the course of *The Saiga* on the chart, I would guess.
28 A Yes.
29

30 Q Did you have the *procès-verbal* of 13 November 1997 for preparing your declaration.
31 When you prepared your declaration for today did you have a copy of the
32 *procès-verbal*, if I may show it to you?
33 A Yes, I looked at this *procès-verbal* only once in Conakry. I did not use it to draw up
34 my declaration.
35

36 Q Thank you. Is this *procès-verbal* a document of the Customs administration, could
37 you tell me? Did you sign it?
38 A No, I did not sign it.
39

40 Q So it is of the Customs Administration?
41 A Yes it is.
42

43 Q So is it correct when I state that the basis for your declaration is your personal
44 memory, the facts and your report?
45 A Yes.
46

47 Q The chart with the dates of the logbook of *The Saiga*, which is essentially this
48 A Yes.
49

1 Q Lt Sow, when did you meet me for the first time?
2 A It was when I arrived here in Hamburg.
3
4 Q That was on 7 March.
5 A Yes. Not the 7th, it was after the 7th we arrived here.
6
7 Q After 7 March. It was here in Hamburg.
8 Can you please tell the Tribunal whether we had any direct contact before we met
9 here in Hamburg?
10 A No, we had never had direct contact.
11
12 Q Is the situation with the Agent of Guinea in this case, in *The Saiga* case, the same; did
13 you know him before?
14 A Yes, I knew him before coming here.
15
16 Q From where did you know him?
17 A From my command.
18
19 Q Did you meet him personally?
20 A I said that I knew I was having to come here from my authorities, my command.
21 They told me I had to come here to reply.
22
23 Q So I understand that you did not know him personally before, but you knew about him
24 when you came here?
25 A I am sorry, but I did not quite understand your question.
26
27 Q You did not meet Agent Von Breven personally before you came here to Hamburg?
28 A No, I never met him.
29
30 **THE PRESIDENT:** Could I please ask, what is the purpose of the question about the
31 knowledge of the witness vis a vis the Agent and you? Is that leading up to something; is it
32 part of the evidence?
33
34 **PROFESSOR LAGONI:** Yes, it is the introduction to lots of data and facts which will
35 come now, Mr President, and it should just underline the weight of this evidence, and I would
36 also say the neutrality.
37
38 According to your declaration, you are – and I apologise for my poor French – *Navigateur du*
39 *Patrouilleur P328 de la Brigade des unités Flottantes* of the National Navy.
40 A I did not understand the question.
41
42 Q You can confirm that that is your position?
43 A Yes, I belong to the *Brigade des unités flottantes* of the National Navy.
44
45 Q Can you please tell the Tribunal briefly the function of the *Brigade des unités flottante*
46 *Marines nationale*; what are they doing, what is their purpose and function, in your
47 words?

1 A Yes. The Brigade des unités flottante of the National Navy is a part of the Guinean
2 National Navy, which is in charge of various units, various ships and launches we
3 have in the Navy.
4

5 Q What are you doing with these ships and launches within the Navy? For which
6 purpose are they used?

7 A In the Navy – or in the brigade – we have two categories of vessel. We have the large
8 vessels for military interventions and we have the small launches for the sector in
9 which I am working, and we are only involved in the surveillance and assistance to
10 maintain order in our waters.
11

12 Q Am I correct when I understand that you are having a kind of coastguard function, as
13 one would say in other countries?

14 A Yes. Yes, of course.
15

16 Q So you are surveying fishing matters, Customs matters and other matters on the sea?
17 A Yes. These launches are based with the brigade and when one of the sectors you have
18 mentioned , the Customs for example -- surveillance of fishing; the environment; very
19 often we are fighting pollution at sea -- if they need us they come to us and we take
20 them to their place of mission.
21

22 Q So if you say "they" you refer to Customs administration, for example, fisheries
23 administration, environmental administration? Do I understand correctly?

24 A Yes.
25

26 Q You yourself do not execute any of the functions then? This is done by those who
27 come aboard your ships?

28 A No, we are entrusted to bring one of these sectors to the target of its mission. We are
29 not competent in terms of the environment, Customs or fishing. This particular sector
30 would send its officers and we take them to the place they want to go to do their work.
31 We do not do anything within the sector; we are simply a means of transport.
32

33 Q This was exactly the way I understood your function, and this relates also to my
34 question. Turning to the patrol boats, P328 and P35, you are commander of one or
35 both of these patrol boats?

36 A I can be more precise on this. The launch P328 is slightly larger and the launch P35
37 is smaller. They usually embark on the same mission. They go out on missions
38 together. We have four of these launches: two small ones and two large ones, the P35
39 and the P30. They go to the missions based on certain needs and the reasons that we
40 receive.
41

42 Q So if you are in charge of one of those missions and go to sea with the P328 and the
43 P35, you are the only commander over both. Is that correct?

44 A Yes, I am the commander of these two launches under such circumstances, yes.
45

46 Q I have a photograph here showing these boats. Could you indicate whether they are
47 on here? Do you know this? This is from Annex 25 of the Memorial. (*Same handed*)

48 A I see this *here*. That is the P328 in the middle, and the P300, and the P30, which is
49 the same type as the P35.

1
2 Q Is the P35 on there?
3 A No, but it is the same type.
4
5 Q This is not the P35 but exactly the same type?
6 A The P30 I have just been talking about, which does the missions together with the
7 P300.
8
9 Q Can you give some explanations on the boats, please? What is the maximum speed of
10 the big one?
11 A The maximum speed of the P328 is 24 knots when it arrives in a new condition. The
12 launch P35, when it was certified, that was in 1990. It had to have a new engine after
13 three years, so the speed was 45 knots, but under normal sea conditions.
14
15 Q What are the maximum speeds now or what were they in 1997? Have you any idea?
16 Are they the same?
17 A Until today the P35 can go up to 45 knots but the P328 can no longer have this speed
18 of 24 knots. The speed varies from 11 to 12 knots depending on the swell, the
19 engines, and so on.
20
21 Q When I refer to "the small one" I refer to the P35. When I refer to "the big one"
22 I refer to the P328. How many hours can the small one go on maximum speed?
23 A In normal weather conditions at sea, the P35 can have this major speed for a
24 maximum of two hours, no longer.
25
26 Q So the range on one way is about 90 miles from the port? You can go away but then
27 you cannot return to the port?
28 A I said that the launch cannot travel for more than two hours at such a high speed of
29 45 knots or you would have technical problems.
30
31 Q Let us come to the armament of the patrol boats. It says here that there are, on each
32 one of both, 2 12.7 mm mounted machine guns. Is that correct?
33 A That is correct. The two launches have the same guns on board.
34
35 Q Was that also the situation in October 1997?
36 A Yes, in 1997, October, we had the same arms on board.
37
38 Q Who was in control of these machineguns: the Navy who was commanding the boats
39 or those officials who are on board for the Customs, for example?
40 A No, the officials we take on board have nothing to do with our equipment. In each
41 sector we have people specially assigned to these sectors so on each launch we have
42 people who deal with these arms.
43
44 Q So the mounted machineguns are under your command and under your control. Is
45 that right?
46 A Exactly.
47
48 Q Is there permanent – at all times – ammunition on board for these mounted
49 machineguns, on both these patrol boats?

1 A Often we do not have ammunition for these arms for both the launches. In the cases
2 where the launches travel out in pairs, we have ammunition for only one of them so
3 we would have one launch which is armed which is sufficient to accomplish a
4 mission.
5
6 Q Was there ammunition on board on 27 October 1997?
7 A On board the P328 there was no ammunition. On board the P35 there was
8 ammunition.
9
10 Q Now we come to the nautical chart number 31056G. The chart is also on folio.
11 (*Chart projected on screen*) You recognise this chart?
12 A Yes, I do recognise it.
13
14 Q Were you using these charts in the Guinean Navy?
15 A This is the chart we use for surveillance.
16
17 Q There are different navigational lines on this chart. Who drew these lines?
18 A I drew these lines on this chart.
19
20 Q Did you do it before you came to Hamburg?
21 A Yes, I did it in Guinea at the time of the mission for the route and this was for the
22 benefit of the administration for the route of *The Saiga*.
23
24 Q Do I understand correctly that the geographical positions on the chart with the times
25 noted beside the positions are positions of vessels at certain dates?
26 A Yes.
27
28 Q How do you take geographical positions on patrol boats?
29 A I could tell you that when we are at sea, we are on the larger launch, the P328, and we
30 have two GPS assistants. On the small launch we have one GPS. On the large launch
31 we have two types of GPS, one fixed and one portable, and on the smaller launch we
32 have a portable GPS.
33
34 Q Could you explain to the Tribunal the acronym GPS? What does it mean?
35 A As equipment to help the navigator at any time to locate his position.
36
37 Q Is his position very precise?
38 A Yes, it is very precise.
39
40 Q Who is in charge of the navigation on the patrol boat?
41 A On board the P328 I am in charge of navigation.
42
43 Q Are you the only one or is somebody else doing the navigation there?
44 A When we are at sea I have an officer who is subordinate to me and he helps me with
45 the navigation and I change with him, but the control of the entire route is mine, even
46 when I am being replaced.
47
48 Q Was this also the situation on 27 and 28 October 1997?

1 A On 27th to 28th when we left, in accordance with the length of the route, I take a rest
2 and I hand over to the other officer. As long as we do not have to change course, then
3 I can hand over to someone else to monitor the route of the patrol.
4

5 Q Could you also, please, explain to the Tribunal when you take positions at sea, on
6 what occasions are you taking a position in the chart?

7 A Well, very often you note on the chart when we change course, change direction,
8 when an important event takes place, and we make a note of this.
9

10 Q Do you know possibly about merchant vessels: when do they take positions on the
11 chart?

12 A I am afraid that I do not know anything about commercial vessels or merchant vessels
13 because I have never worked on them. I only know how warships function and how
14 navigation is done on board such ships.
15

16 Q So you saw on the map which you drew yourself, you put in the positions of
17 *The Saiga* and the positions of *The Saiga* were every 4 hours on the hour. Why do
18 they do this? Have you any idea?

19 A On a general level it must be a coincidence but in navigation, generally speaking
20 whether there is an event or not, every four hours you take a note, you write down the
21 barometric pressure, the state of the sea and the heading.
22

23 Q And you write down when you change the watch? Is that correct?

24 A Yes.
25

26 Q How many watches did you have in your small patrol boats? Did you have one watch
27 going through all the hours during the missions or did you change at certain hours?

28 A As I mentioned earlier, in the patrol boats, since usually we do not move very far
29 from the coast, we only change watch if somebody is tired and needs a rest and the
30 person to replace can take over for a short period of time while the other is resting.
31 There is no real system of watches like there are on board big vessels because these
32 are small launches, small patrol boats, and it does not run like that.
33

34 Q So I understand that you have been practically on watch at least with responsibility all
35 the time during the mission of 27th and 28th?

36 A I can say yes because I did not sleep more than three hours during the entire period
37 out.
38

39 Q Yes, but you just took a nap, slept and came back and the watch was going on in this
40 way?

41 A That is correct, because I did not want my First Mate to make any errors. It was my
42 responsibility, which extended over both vessels, both patrol boats, so I had to keep
43 a very close eye on what was happening.
44

45 Q This is exactly what I wanted to know. All the time it was your responsibility during
46 this mission for both boats?

47 A Not the entire mission. I was responsible for both vessels and their safety and the
48 passengers on board all the way through until the end of the mission.
49

1 Q When you say "not the entire mission", was there any other part of the mission, the
2 preparation of the mission, or what are you referring to?

3 A I thought that you said of the mission as a whole in general, that is the investigation
4 that took place in the tanker after it was stopped, et cetera; no, not that. I am
5 responsible for the two patrol boats to take those concerned to the point of destination
6 and to bring them back.

7

8 Q There are other notes and other courses drawn on the map. In a moment we will come
9 to that. The other courses indicate the course of the patrol boat or both boats. From
10 where did you get these notes here? What is the basis for the courses of the patrol
11 boats which you drew into the map?

12 A As I said earlier on, I take notes when we go out and we also often have a chart on
13 board. We mark our position on it as well as our headings.

14

15 Q I expected that you would say that, and I think that is correct. You are an experienced
16 navigator. If I give you the course of a ship and the times when the ship was
17 beginning at one place and the time when it is at another place, can you calculate the
18 speed which the ship makes over ground during this time?

19 A Yes, in order to know the speed of a vessel, it is sufficient to merely have the distance
20 that it covered in a certain period of time and you can easily then calculate the speed
21 at which it was travelling.

22

23 Q This speed is the real speed at which it goes over ground? Is that correct?

24 A I did not understand the question.

25

26 Q And this speed is not the speed which the ship indicates on its own instruments but
27 the real speed, as written in its papers it can go, a certain number of miles; this is the
28 real speed which the ship went over this distance?

29 A It is the speed that the vessel travelled at. When you refer to the instruments, there
30 might be circumstances that mean that the vessel has gone faster than the instrument
31 or slower than the instrument and you look at the chart and it is on the basis of the
32 chart that you can calculate the speed if you know the distance travelled and the time.

33

34 Q Can you mention, for example, one circumstances which can either make the ship
35 faster than shown on the instrument or slower?

36 A For example, if a ship is heading into the wind it is covering less distance or it is
37 going slower than one would believe because it is the wind which slows it down, but
38 if it is heading with the wind, or going ahead of the wind, going downwind, it might
39 be faster than the instruments read.

40

41 Q And you agree that it is the same, for example, with currents?

42 A Yes.

43

44 Q I come now to the preparation for the mission of 25 October which you described in
45 your declaration. You mention in your declaration that you prepared the patrol boat
46 already on 25 October 1997 for the possible event of a mission. What, according to
47 your memory, was this possible event? Why did you start preparing already on
48 25 October?

1 A As I indicated in my declaration, it was actually a Saturday, 25 October that we
2 received the instructions to ready the patrol boat for a possible mission.
3

4 Q Did you get a reason why you should prepare for a mission? Did they tell you?
5 A We were not given details about the mission. We were told to prepare the launches
6 for a possible mission.
7

8 Q So your superiors did not mention *The Saiga* as the possible target of the mission at
9 that early date?
10 A No.
11

12 Q Could you explain: do you have any idea what the telecommunications surveillance
13 of tankers in Guinean waters means. Could you explain that, please, to the Tribunal?
14 A As far as the radio monitoring of tankers in Guinean waters is concerned, I am unable
15 to give you any details because we have a station at our base which is in charge of this
16 function.
17

18 Q But, as you say, you have a station on your base and this means the monitoring or
19 surveillance is taking place from the base, not from the ships.
20 A On board the ships we have radios but, as far as monitoring and listening to
21 exchanges on the radio of vessels at sea is concerned, we have a specific office which
22 does this, a station.
23

24 Q Can you indicate on that map where these stations are for communication on the
25 shore? Is it one or are there more and what are they doing? You can go to the map.
26 (The witness approached the screen) You can show it on the folio, if you like, and
27 then it will be even easier.
28 A The stations that we have on the shore: we have the Station Mer, here at Conakry;
29 we have a relay station at Koundindé at Cap Verga, and there is another station in
30 Camp Sara.
31

32 Q They are monitoring the whole exclusive economic zone of Guinea, is that correct?
33 A I did not understand the question.
34

35 Q Which area are they monitoring? In which area are they listening?
36 A These bases listen to the entire zone of Guinea.
37

38 Q Even listen beyond Guinean waters, for example in Guinea Bissau waters?
39 A I am sorry but I have technical problems with my headset, with my receiver.
40 (*Following technical adjustment of the headset*): The last question was, can the radio
41 survey stations on your coast monitor areas outside the Guinean waters?
42 A Yes, they can hear.
43

44 Q If, for example, *The Saiga* comes from Dakar, the survey stations know that they are,
45 for example, in the waters of Guinea Bissau?
46 A That is correct.
47

48 Q Can you explain how they find out by radio survey where these ships are?

1 A Mostly, they determine the position of these vessels on the basis of broadcasts and
2 messages by these vessels which give their own positions. Our radio stations are
3 here, they are informed about the position in a certain sector, they monitor the sector
4 and they monitor the movement of vessels in this sector.
5

6 Q Why should a merchant vessel give its position when it is, for example, in transit
7 through a foreign exclusive economic zone? Why should it do this?

8 A I cannot speak for ships in general. In the specific case of tankers, they agree on
9 meeting points with their clients, and this is how we receive these positions, not from
10 general commercial vessels but in these special cases the vessels give their positions.
11

12 Q You say that in general merchant ships do not do that but that the offshore bunkering
13 takers give these positions. To whom are they giving the positions? You said "their
14 clients". Who are their clients?

15 A Fishing vessels which are in our zone and which receive cargoes of fuel from these
16 tankers.
17

18 Q Is this the way that you also monitored the bunkering of the *GUILLEMO PRIMO*,
19 *KRITTI* and *ELENI G* by *The Saiga*?

20 A That is correct.
21

22 Q When did you first hear about *The Saiga*?

23 A Personally, I heard *The Saiga* mentioned when I was already at sea. All the other
24 monitoring events were done by our stations, as I said earlier on.
25

26 Q Do I understand that your stations knew in advance that *The Saiga* would come into
27 the Guinean exclusive economic zone?

28 A Yes, the stations knew.
29

30 Q Can you tell me anything about the frequency of this radio telecommunication
31 between *The Saiga* and fishing vessels? On which frequency do they usually do that?

32 A When we are about to leave, we are told about a frequency which we then tune into
33 our radio on the launch P328, and we are told that this is frequency that is used by the
34 ships that we are looking for. It is the frequency 8320.
35

36 Q Are the frequencies changed between the offshore bunkering vessel and the fishing
37 boats, or is it always the same?

38 A I do not know whether they use other frequencies. We monitor them on the frequency
39 which I have just mentioned.
40

41 Q But they may use other frequencies which are surveyed by your coastal surveying
42 stations, is that correct?

43 A It is possible, but I cannot say with any precision whether they do this. I can only
44 give you the frequency which I can use on board in order to monitor these
45 conversations.
46

47 Q You just mentioned that you learned about *The Saiga* after leaving the port of
48 Conakry. Do you have any idea where *The Saiga* was then? Could you indicate that
49 on the map?

1 A The first time that I heard about *The Saiga* and heard it answer a call from Conakry, at
2 this time I cannot give you the exact position of *The Saiga* but I can tell you what its
3 heading was, because we used our radio direction finding equipment to see where *The*
4 *Saiga* was and in which direction it was heading.
5
6 Q Was this before the bunkering operation of *GUILLERMO PRIMO*, *KRITTI* and
7 *ELENI G* or after, and can you please indicate on the map in which area you expected
8 *The Saiga* to be?
9 A We thought that *The Saiga* was somewhere near this area *here*. (pointing to map)
10
11 Q You did not have the exact position of *The Saiga* at that date?
12 A Outside of the scope of our radar, we cannot have a direct position. We can know
13 more or less where it is but we cannot pinpoint it directly, so we did not know the
14 exact position of *The Saiga*.
15
16 Q Could you tell me about the scope of your radar on board?
17 A The maximum of our radar on board is 75 nautical miles.
18
19 Q Do you always have it on 75 nautical miles?
20 A No, this is the maximum range. The practical or usual range is 45-50 nautical miles.
21
22 Q Can you measure the distance of an object from a distance of about 45-50 miles very
23 precisely with the radar or not?
24 A At 45 up to 50 miles, at this scale we can use our radar to give us an approximate
25 position of a target, because there we have a very clear image.
26
27 Q I have an *ordre de mission* number 770, MBRSPSGD and E before me. Have you
28 seen this *ordre de mission* before?
29 A I was made aware of this *ordre de mission* when we were spoken to by the Customs
30 services about it.
31
32 Q So this was not your *ordre de mission*? This was the *ordre de mission* of the
33 Customs?
34 A Yes.
35
36 Q Can you help me with this *ordre de mission*? It says "Objet de la mission...
37 Recherche et répression de la fraude en mer et à terre." Do you have any idea what
38 that means?
39 A As I said earlier on, our patrol boats are there to assist the three sectors that I
40 mentioned earlier on to assume their functions, so if there is a need to go out and do
41 work at sea by, say, the fisheries authorities, they come to the Navy and we make a
42 launch available for them, and it was the same for the Customs. They had
43 information about a tanker coming into Guinean waters and they had to go out, but
44 here assisted by the Navy, which has the means to take them out to sea.
45
46 Q Is there any explanation why they did not say the *répression de la tanker Saiga*? Why
47 did they not mention *The Saiga* in this *ordre de mission*?

1 A The Customs often go out on search missions not for a specific case. If there is a
2 presence of something that they would like to go into or search for at sea, they do it.
3 They did not mention *The Saiga* in this case.
4

5 Q You do not know the reasons why they did not mention *The Saiga* in this case,
6 although they already knew that *The Saiga* would come into the exclusive economic
7 zone?
8 A I can say that only my authorities can answer this question. I was informed on 27th
9 that I should leave with the Customs Department, and that they had a search that they
10 wanted to do.
11

12 Q So they had at least an idea, they did not send you just on any general search. They
13 had a very specific target which they were looking for.
14 A Certainly, yes.
15

16 Q I come now to 27 October which is referred to in your declaration as well. At 12
17 o'clock you mention in your declaration that you received your orders for the mission
18 from the Naval Chief of Staff, I understand, of the Brigade des unités flottante de la
19 Marine nationale, is that correct?
20 A On 27th I was called to the Navy, to my authorities, who told me that there was a
21 mission to be done with the Customs authority, and that was at 12 o'clock. I was
22 informed of this mission, and I was informed of the mission with the Customs at sea,
23 and it was at 12 o'clock that I was informed.
24

25 Q Did the Chief of Staff tell you any more than just "you go out on a mission with the
26 Customs"? Did he also tell you which kind of mission; that you were to look for *The*
27 *Saiga*?
28 A I was told I had a mission with the Customs to conduct a search at sea.
29

30 Q Did you get oral or written orders on this mission on this occasion?
31 A Often we received a written order of mission from the Navy, but when we do these
32 small missions we do not, but when it is one of the three sectors I mentioned before,
33 customs, fishing or the environment, then we have an order of mission from them, but
34 we only receive verbal orders.
35

36 Q When it was a verbal order, you expected that they had a very specific, very particular
37 task?
38 A Yes.
39

40 Q Could you please go again to the chart Lieutenant. (*The witness went to the chart*)
41 You mention that on 27 October the small patrol boat, P35, had to go to the north
42 first. Can you demonstrate this on the chart, and can you explain what they did, and
43 why they returned?
44 A Well in fact on 27th at 1300 hours more or less the small launch received information
45 about the presence of the tanker *Saiga* in this area, and it was monitored by our radar
46 station from Cap Koundindé so we sent the faster vessel to go to this area, but our
47 radar ascertained that there was a group of vessels located in this area, so the vessels
48 were dispersing. They were moving and we recalled the vessel to come back to the

1 larger launch to it because the small launch could no longer go alone into these deep
2 waters, they had to come back to the P328 to continue the mission .
3

4 Q Why did you send only the small patrol boat on that date to the north; why did the big
5 one not go immediately with the small one?

6 A That is a question of time. Because of the speed of the small vessel it can cover this
7 distance very quickly, because if you left with the larger launch which is slower you
8 would lose a lot of time in arriving at the place.
9

10 Q Could you tell me roughly the distance from Conakry to this area where the assembly
11 of boats was discovered?

12 A The distance between Conakry and the place where these vessels were was about a
13 hundred nautical miles.
14

15 Q Would the small vessel reach up there with its fuel; was it close enough to go alone?

16 A The small launch can have 120 nautical miles with the amount of fuel.
17

18 Q Under normal speed, I guess?

19 A Yes, that is at an economic speed.
20

21 Q Tell me about the communication between the small vessel and the P328. How do
22 they communicate between each other?

23 A Between the 328 launch and the P35 very often we use VHF as a means of
24 communication.
25

26 Q How far can you communicate, the distance between the boats, the maximum distance
27 when the communication ends, under normal conditions?

28 A Well looking at the height of the antennae of the small vessel the distance will vary
29 between 15 to 20 miles maximum.
30

31 Q So if you have to call the small launch back, you do it via the land station. Do I
32 understand you right? When you had to call it back from the north?

33 A For this specific case from here, in view of the distance, we contacted our base where
34 the vessel was close to it to give it instructions to return to Conakry.
35

36 Q Thank you. You were referring to the time 1455 hours in your report. What did you
37 know about *The Saiga* at that time, 1455 hours on 27 October 1997?

38 A At that time we had received information that the ships were dispersing, but we had
39 no precise information on the position of *The Saiga*.
40

41 Q But you knew that *The Saiga* was in your exclusive economic zone?

42 A Yes, we supposed so.
43

44 Q Did you know that she was also in your Customs radius? Do you know what the
45 Customs radius is?

46 A I cannot reply precisely to this question about the Customs radius. I am not informed
47 about what a Customs radius is, but when we go on a mission with the Customs we
48 know the distance we have to cover, and we know what distance we must not exceed
49 from the coast, and this has to do with the mission.

1
2 Q Which distance must you not exceed when you go on a mission with the Customs?
3 A Often we are given a distance 170, 175 nautical miles.
4
5 Q At 1705 your report says that the small patrol boat is pulled into position, if I
6 understand it right. Which position is it? Were you tugging, drawing the small patrol
7 boat, or what did you do after you met her?
8 A At this level, the small launch had instructions to return to join us at the Isle de Los,
9 and at that time we towed it, because we cannot cover a larger distance. For reasons
10 of saving fuel, we towed the little launch. We did not release it until we were about to
11 board a vessel.
12
13 Q Did you tow it behind you?
14 A At this time we towed it alongside.
15
16 Q Why did you tow it alongside, is that not unusual?
17 A This type of towing was not usual.
18
19 Q Why was it not usual; why did you do it if it is not usual?
20 A For tactical reasons; for justified reasons we towed it in this way, because our towing
21 system was such that we would have been able to have been targeted on the radar.
22
23 Q Could you explain this a little more to the Tribunal? You towed the small *vedette*
24 alongside in order not to be discovered on radar. Discovered by whom?
25 A Often, even if we go out with the fishing authorities, they give us information from
26 fishing vessels. Often, when we leave Conakry, when they see two small points on
27 the radar, then they know that it is the Navy that is coming out. This is why we
28 changed our towing system, so that there would be only single target on the radar.
29
30 Q So you did that in order not to be discovered by fishing vessels, other vessels,
31 possibly *The Saiga*?
32 A In fact, this is why.
33
34 Q You mentioned that you went on a comparatively low speed of 6.5 knots. Is that not
35 a very low speed for the big patrol boat?
36 A It is a low speed but this is another point of strategy.
37
38 Q Why do you take this strategy?
39 A So as not to confuse any other vessels which were in this maritime area.
40
41 Q So you were at this time looking for *The Saiga*; you did not know where *The Saiga*
42 was in the area but you knew that she was in the exclusive economic zone?
43 A Yes.
44
45 Q In which direction did you expect *The Saiga* to sail: to the north, the south or the
46 west?
47 A When the tanker leaves from the north, very often their route goes as far as Liberia so
48 for us *The Saiga* had to continue south because if they had just left Dakar, that meant
49 that its cargo was not completely delivered.

1
2 Q You are talking here about offshore bunkering tankers and you will tell the Tribunal
3 that offshore bunkering tankers go on a kind of regular journey from Dakar to the
4 south and then back to Dakar in order to bunker. Is that correct?
5 A Precisely.
6
7 Q So you knew that *The Saiga* was in the area; you had lost her out of sight at this time,
8 at least, but you knew that she would come south?
9 A We had great hopes that *The Saiga* would go towards the south.
10
11 Q So what were your tactics then to get into contact with *The Saiga* and to control her?
12 A Our tactics first of all were not to be identified among all the other vessels in the
13 maritime area, to continue our search up to the point of contact with the element we
14 were searching for.
15
16 Q So you took these precautionary measures, towing alongside, going slowly like a
17 fishing vessel, I would guess?
18 A Precisely.
19
20 Q You refer to 19.20 hrs in your report. We are still on 27 October in the evening.
21 Could you show the geographical position of 19.20 hrs on the chart? I think you have
22 marked it on the chart. Is that possible?
23 A At 19.20 we were at this position.
24
25 Q And then you went in which direction thereafter?
26 A This position. We then headed towards the north-west.
27
28 Q Because you expected *The Saiga* to come from there and you wanted to approach her
29 in this way? Is that correct?
30 A Yes. We thought of the probability of meeting her, yes.
31
32 Q You refer to a conversation between *The Saiga* and other vessels at this time, or any
33 conversation. Can you explain what this conversation was? What did you hear in this
34 conversation?
35 A In this position, some time after 20.00 hrs, as I already mentioned, we listened to a
36 conversation between a gentleman - transmitted from Conakry because our equipment
37 informed us that the transmission was coming from there - and *The Saiga*. We also
38 received the information from our equipment that the response was coming from there
39 so we had the hope that *The Saiga* was in this sector. We did not know exactly at what
40 position or what distance, but we know that the direction was on this side.
41
42 Q You knew that she was still, or must be, in the exclusive economic zone at this time?
43 A Yes.
44
45 Q Who was this gentleman? Can you give any explanation of the conversation between
46 the gentleman in Conakry and *The Saiga* in your exclusive economic zone?
47 A I do not know precisely who this man was but the information was to the effect that
48 he was issuing a warning to *The Saiga*.
49

1 Q What kind of warning was this?
2 A After the conversation there was absolute radio silence.
3
4 Q But did you hear the warning, the exact words that he was saying?
5 A The gentleman was speaking Greek and I do not understand Greek, but I had the
6 impression of what he was saying because after that moment there was radio silence.
7
8 Q Were there gentlemen in your ports warning offshore bunkering and warning fishing
9 boats from police or patrols on the sea?
10 A Often, yes.
11
12 Q So this could explain why *The Saiga* got a telex warning that patrol boats left
13 Conakry after you had left Conakry?
14 A It is possible.
15
16 Q Who are the persons who do that? For what purpose are they doing it?
17 A I do not know who these people are but certainly there is a relationship between these
18 people and *The Saiga* because if *The Saiga*, after leaving Dakar and talking on the
19 same frequency -- Of course there is a link.
20
21 Q You also mention at 8.19 pm 20.19 hrs, that you listened to a conversation between
22 *SALVATOR PRIMO* and *The Saiga*. Is that right?
23 A Yes, that is right.
24
25 Q Can you show me the position on the chart at 20.19 hrs, your position?
26 A The first conversation took place when we were here at 19.20. The second, at 20.19,
27 we were in this position. When the conversation took place between
28 *SALVATOR PRIMO* and *The Saiga* the equipment told us that the response was
29 coming from here and at that time we changed the direction to increase our chances of
30 meeting them.
31
32 Q Could you explain how you increased your chances of meeting *The Saiga*?
33 A Our chances of meeting *The Saiga* were three: (1) to become mixed up with all the
34 other vessels in the zone; (2) because of towing the small vessel alongside and (3) to
35 permanently hear this radio frequency.
36
37 Q Can you explain what you did thereafter until 24 hours, until midnight? Explain that,
38 please, to the Tribunal.
39 A Until midnight or after midnight?
40
41 Q Until midnight. Between 20 minutes past 8 pm until midnight on the 27th.
42 A From *here* we maintained our speed. We did not change the type of towing and we
43 maintained permanent radio monitoring. Then we also looked at the radar sweep and
44 we continued our direction.
45
46 Q Where had you been at midnight, at zero hours?
47 A At zero hours we were in this sector.
48
49 Q Where had *The Saiga* been at midnight?

1 A *The Saiga* was *here* at midnight.
2
3 Q The course of *The Saiga* is indicated with a red line. Is that correct?
4 A Yes, the red line represents the course of *The Saiga*. That is the route followed by
5 *The Saiga*.
6
7 Q Please explain to the Tribunal the events and the geographical positions after that,
8 after midnight?
9 A We were *here* at midnight, at zero hours. This was the 27th. At 3.44, after having
10 ascertained that the targets we saw were fishing trawlers, we changed our heading for
11 a new heading, but at 3.50 – 47 first of all – *The Saiga* was called by trawlers.
12
13 Q We will come to that in a moment. Just before that, at midnight, you indicated the
14 positions. How far away was *The Saiga*? Could you please show it again on the
15 chart? You were there. *The Saiga's* position?
16 A We were *here*. *Here*.
17
18 Q Roughly how far is the distance? How many miles?
19 A About 70 nautical miles.
20
21 Q So you has her on the radar?
22 A We saw targets on the radar but no so precisely. We were looking to change our
23 heading to approach this sector to have a closer view of the targets that we saw on the
24 radar.
25
26 Q I remember looking into a radar screen and I saw only little white dots. How can you
27 distinguish that this white dot is these and these are fishing boats and this is, for
28 example, another merchant vessel?
29 A Usually the various targets are classified by us on our radar screen on the basis of two
30 basic principles: one, the speed of movement of the target; and, two, the dimensions
31 on the radar screen. So large merchant vessels and tankers are bigger on the radar
32 screen than fishing trawlers are.
33
34 Q But how can you distinguish between *The Saiga* and other merchant vessels, both
35 going south?
36 A Maybe the speed, but it is the radar signal. If the radar signal is such on the screen
37 that two vessels have the same size, you cannot distinguish one from the other.
38
39 Q So then you depend on the course and the speed, I guess.
40 A I am sorry, I did not understand.
41
42 Q This situation where you have two radar dots of the same size, then you need the
43 speed and the course to distinguish between them.
44 A Yes.
45
46 Q To see that one might be *The Saiga* and the other is, for example, a merchant vessel
47 going in another direction?
48 A That is correct.
49

1 Q But at midnight it is still certain that you had the radar dots, but you did not exactly
2 know which one of these is *The Saiga* but you knew quite certainly that one of those
3 must be *The Saiga*?

4 A We had the hope but we did not know which distance *The Saiga* was on its route
5 towards the south. We had the hope that this reflection was *The Saiga*. The only
6 point that could help us to be sure would be our second means, and that was
7 monitoring the radio.

8
9 Q But *The Saiga* was silent at that time?

10 A Since the conversation at 7.20 p.m., as I said earlier on, there was total silence on the
11 radio.

12
13 Q Please go on to explain to the Tribunal what happened at 3.50 in the morning or, let us
14 say, after 3 o'clock. Explain that at the chart, please.

15 A At 3.50 in the morning, at 3.47, the silence on the radio that had lasted since
16 20 something was broken because, until then, there had been absolute silence on the
17 radio. At 3.47 this silence was broken. We started to call *The Saiga* on 8320. There
18 were calls for *The Saiga* and it was fishing trawlers calling *The Saiga*. *POSEIDEN*,
19 *PANORMITIS AND COMBAT* who simultaneously were calling, "*Saiga, Saiga,*
20 *Saiga*" on the radio. So we then stopped. We reduced speed but we kept the heading
21 because we knew that those who were calling, according to our radio direction-finder,
22 were in this area. At 3.50 *The Saiga* answered and, with the aid of the radar, we noted
23 that *The Saiga* was here, 44.5 miles away from us, 1.5 miles from the southern
24 frontier. We immediately changed our heading towards this target. In view of the
25 state of the sea, we were unable to increase our speed, so we changed our system of
26 towing because, with the vessel alongside, we were unable to go any faster, so we
27 towed the smaller launch behind us and we came to our heading.

28
29 Q Excuse me. Explain to me first: you say 1.5 miles away from the boundary. Which
30 boundary is that?

31 A It is the southern boundary between the Republic of Guinea and the Republic of
32 Sierra Leone. It is represented by this red line, this dotted line. This is the border
33 between the Republic of Guinea and Sierra Leone.

34
35 Q It is the boundary line between their exclusive economic zones, I guess.

36 A Correct.

37
38 Q Not between the territories?

39
40 **DR PLENDER:** Mr President, I have refrained from intervening on this most important
41 point I think about a dozen times this afternoon. Professor Lagoni has repeatedly invited the
42 witness to refer to distinctions between exclusive economic zones, territorial sea, contiguous
43 zones and Customs zones. It is rather important that the Tribunal should know or should
44 have known from the witness what these are. There is nothing, I think, that can be done
45 about it at this stage, save that the Tribunal should have its attention drawn to the fact that
46 Professor Lagoni has given that evidence and not the witness.

47
48 **PROFESSOR LAGONI:** Mr President, I have within my questions a number of questions
49 concerning the training of Lieutenant Sow. Lieutenant Sow is a member of the Guinean

1 Navy and I think everybody can be quite sure that, as a member of the Guinean Navy, he
2 knows the Law of the Sea. I am not sure whether he knows the Customs law of Guinea.
3 Perhaps I should have started with these questions at the beginning but I was asked at the
4 beginning, when I was referring to his knowledge about me, what the purpose of this was and
5 so I stopped for this and immediately went into the matter. I am prepared to ask Mr Sow
6 now, of course, about his training with respect to the Law of the Sea.

7
8 **THE PRESIDENT:** Could you please do so.

9
10 **PROFESSOR LAGONI:** Mr Sow, do you know what territorial sea is?

11 A Yes, I know what the territorial sea is.

12
13 Q Can you please explain to me where the territorial sea of Guinea is and how broad it
14 is?

15 A The width of the territorial sea of Guinea extends 12 nautical miles and it is the base
16 line which counts; 12 miles from there this constitutes the territorial waters of the
17 Republic of Guinea.

18
19 Q Is it a part of your territory?

20 A Correct.

21
22 Q Do you have a straight base line or a so-called natural base line? Is the base line
23 drawn between islands and the coast or is it on the water line.

24 A The base line is drawn on the low water line and also the parts of the land which jut
25 out most into the sea.

26
27 Q That is correct. Do you know what a contiguous zone is?

28 A The contiguous zone extends 24 nautical miles.

29
30 Q Did Guinea establish a contiguous zone?

31 A Yes. Guinea established a contiguous zone.

32
33 Q If you leave Conakry port and go seawards through the territorial sea, through the
34 contiguous zone, in which zone do you then come?

35 A After the contiguous zone, I arrive in the exclusive economic zone which extends
36 200 nautical miles out.

37
38 Q Measured from where?

39 A It is measured from the base line.

40
41 Q Did you get any legal training in your education?

42 A I did not understand the question.

43
44 Q Have you studied law before you became a lieutenant of the Navy?

45 A No, I did not do any law studies.

46
47 Q Have you learnt these things -- the territorial sea, the contiguous zone, the exclusive
48 economic zone -- during these days from me?

1 A No, I learnt this in my country from the Chief of Staff and, if you work in the area that
2 I do, you have to have a notion about these elementary matters.

3

4 Q Have we both talked about these matters at all during the few days while we have
5 known each other?

6 A No.

7

8 Q I confirm that. Who drew the southern boundary line on your chart?

9 A The boundary lines on the south and in the north were put into the chart by our
10 Operations Bureau at the Chief of Staff.

11

12 Q Are they usually in charts of this kind?

13 A Yes.

14

15 Q In naval charts?

16 A These are charts which we use especially for the Navy, so all vessels that are out use
17 charts that have these borders drawn into them.

18

19 Q For what purpose are these boundary lines drawn in these charts?

20 A So that we know that this is the border line between Guinea and Sierra Leone and to
21 know how to act in the case of a mission at sea.

22

23 Q Do you have to know that? Are you not allowed to operate outside your exclusive
24 economic zone?

25 A Excuse me, please? Could you repeat your question?

26

27 Q Why do you need to know where the boundary lines are? Can you not operate, for
28 example, in the exclusive economic zone of a neighbouring state in general?

29 A There are points which might allow us to operate in the exclusive economic zones of
30 other countries. We have an agreement, for example, with Guinea Bissau concerning
31 this. If we came to this point, it is because we had already detected a vessel while it
32 was still in our zone, so we continued our hot pursuit.

33

34 Q I was going to ask you about that. Do you know about the right of hot pursuit?

35 A I think that I do have some knowledge about the right of hot pursuit.

36

37 Q Why was it important for you to discover *The Saiga* before she left the exclusive
38 economic zone of Guinea?

39 A It was important for us to discover *The Saiga* before it left our exclusive economic
40 zone because we already had information about the fact that *The Saiga* had
41 undertaken illegal operations in our contiguous zone. Therefore, we have the right of
42 hot pursuit.

43

44 **MAITRE THIAM:** Mr President, once again we are obliged to ascertain that the questions
45 being put by Professor Lagoni suggest and imply the answers. The professor is asking
46 Lieutenant Sow why it was important for them and for him to discover *The Saiga* before it
47 crossed the southernmost border of the exclusive economic zone of Guinea. At no time did
48 Lieutenant Sow say that it was important for him. As Dr Plender said earlier on, it is too late
49 now, but we would request the Tribunal to account of this fact.

1
2 **THE PRESIDENT:** Thank you very much. Both points are going to be in the *procès-*
3 *verbal* and the Tribunal will, as you have suggested, take account of these facts and draw its
4 own conclusion.
5
6 **PROFESSOR LAGONI:** Mr President, allow me to make one remark in reply to the
7 intervention of Maître Thiam. Lieutenant Sow himself started talking about hot pursuit
8 before I did, as far as I remember, and this was the reason why I asked him for further details.
9 I understand how important it is for every naval officer to know exactly whether or not the
10 ship is within his competence, and there was no intention to suggest answers to him.
11
12 **THE PRESIDENT:** Very well. I think the matter is concluded now, so you may proceed.
13
14 **PROFESSOR LAGONI:** (To the witness) Can we be very precise? We heard the other
15 day about Sir Arthur Conan Doyle and the importance of precision. Can we be very
16 precise about the details from 3.50 in the morning? Could you please start again
17 there?
18 A As I have already said, at 3.50 when *The Saiga* answered the calls and gave its new
19 meeting point, that is to say, when *The Saiga* answered *The Saiga* said to those who
20 were calling it that the new meeting point for bunkering was the position 09°00 and
21 15°00.
22
23 Q Can you please show on the chart this new meeting point?
24 A *This* is the new rendezvous point, 09°00 north and 15°00 west.
25
26 Q What did you do then?
27 A Having changed heading and having ascertained on our radar screen that we had a net
28 target or net image, we realized that we were increasing the distance between us and
29 the other targets and we did not think, in view of their positions, that they were the
30 ones, so we thought that this must be the rendezvous position for *The Saiga*, so we
31 started the hot pursuit by changing our heading, going south, and we were travelling
32 at a speed of 7.5 knots because we were unable to go faster than this in view of the
33 sea state.
34
35 Q Lieutenant Sow, a very important point is whether you were sure or whether you just
36 roughly estimated that this was *The Saiga*. Maybe it is because of the translation but
37 I did not get it very clear. Could you repeat that?
38 A We were sure that it was *The Saiga* because it was the only reflection of greater
39 dimensions that was moving towards this meeting point and this gave us the precise
40 indication that it was *The Saiga*.
41
42 Q Why did you not immediately send the small patrol boat?
43 A The small patrol boat is usually only released when we are close to the target, in view
44 of the weak receiving characteristics of its radio on board, because we did not want to
45 lose contact with the small launch.
46
47 Q How far away were you from *The Saiga* at that time?
48 A At this time we were 44.5 nautical miles from *The Saiga*.
49

1 Q What did you do then, and what did *The Saiga* do then?
2 A We decided that it would be preferable to keep the launch towed behind us, to pick up
3 speed to 7.5 knots and to start hailing on channel 16 from the big launch, because we
4 were sure that it was *The Saiga*, so we started to call *The Saiga* on channel 16. We
5 progressed ---
6
7 Q Excuse me, just to make it clear, do I understand correctly that channel 16 is on the
8 radio? What were you hailing?
9 A Yes, channel 16 is the channel that we were using and we started to call *The Saiga*,
10 feeling that we should inform *The Saiga* of our presence. This is what we wanted to
11 do; we wanted to stop *The Saiga*. There was, however, no result and we moved
12 forward, we travelled, and when the distance allowed us to be in contact with the
13 smaller launch without any radio problems, we separated, it left us, and this was at
14 8.30. The small patrol boat left us. The sea state was slightly rough, and the small
15 launch continued towards *The Saiga*.
16
17 Q I have two more questions. Is channel 16 a channel which is usually used in
18 navigation or is it a channel which you used specifically for the Navy?
19 A When we are at sea, in order to enter into contact with any other vessel we use
20 channel 16, which is the international communications channel. Between ourselves,
21 that is the two launches, we have another special working channel.
22
23 Q Could you discover *The Saiga* on your radar screen?
24 A Yes, we saw it very clearly on the radar screen, and it was the clearness of this
25 reflection which told us that this was clearly *The Saiga*.
26
27 Q Was *The Saiga* moving? Was she going on sailing?
28 A *The Saiga* was moving. When we saw it, it was moving towards the meeting point.
29 At a certain point in time, we ascertained a considerable reduction in the speed of *The*
30 *Saiga* just after having crossed the border.
31
32 Q What did *The Saiga* do thereafter, and could you see that on the radar screen?
33 A Often when we release the small launch we use the radar not only to monitor the
34 object that we are pursuing but also the small launch, which sets forth on its own, so
35 we ascertained a considerable decrease in the speed. We could not affirm that *The*
36 *Saiga* had stopped, but the speed had considerably diminished after crossing the
37 frontier line. When the launch arrived, *The Saiga* had stopped but it had not set its
38 anchor, and when the launch approached they started their engine and started moving
39 towards the high seas.
40
41 **THE PRESIDENT:** May I please have your attention? It is now exactly 4 o'clock. If you
42 are likely to complete your examination in two minutes, I would ask you to continue but if, as
43 I suspect, it is going to be a little longer, I would suggest that we should close the sitting now
44 and resume on Monday morning.
45
46 **PROFESSOR LAGONI:** Thank you, Mr President. I apologise that I did not keep the time
47 in view. At the moment I suggest that we continue on Monday. I will need more time than
48 two minutes.
49

1 **THE PRESIDENT:** Thank you very much. Before we adjourn, I want to draw attention to
2 the problem about time. We had originally scheduled everything for the first stage
3 presentations to be completed today. It is quite clear that we will need the whole of Monday.
4 If we do not complete by Monday, we will have a little difficulty. May I therefore urge all
5 sides to exercise a little restraint. I do so reluctantly because I do not want in any way to put
6 you under any constraint in the presentation of your case. As we have previously agreed, if
7 we are not able to complete in the time that we have set aside, it will have an effect on the
8 time available to you for your final submissions, and we would like to give you as much
9 opportunity for those as possible. I hope that it will be possible for us to organise matters so
10 that we can at least complete the first round by the end of the day on Monday. If not, we will
11 have a little problem, but we will deal with it if and when we have to address it.
12 Mr von Brevern, please.

13
14 **MR VON BREVERN:** Mr President, it is of course also dependent on the length of the
15 cross-examination of Captain Sow on Monday whether we can come to an end with our
16 statements on Monday. In this connection I would be very grateful if the Tribunal could
17 indicate to us how much time would be left for us compared with the originally offered
18 12 hours.

19
20 **THE PRESIDENT:** Thank you very much. The Registry is keeping an accurate tab of the
21 timing. We will of course inform you about that. I address this appeal to both sides, because
22 as I am sure you understand, the re-examination depends on the cross-examination, and the
23 cross-examination depends on the examination in chief. So I think everything is related to
24 every other thing, and if there is to be restraint it has to be all round. But certainly we will
25 inform you about how much time you have remaining out of the originally allocated time,
26 taking into account the time that you took for cross-examination, which as we have agreed
27 will be taken out of the time originally allocated to you. We also agree that we will be a little
28 flexible about that, but at the end of the day the flexibility that we exercise for the first round
29 will be a restriction on our part *vis-à-vis* the time allocated to parties the second time round.
30 But we will give you the information, and as I said, if there is mutual restraint on the part of
31 you both we may not need to go into the exact allocation of minutes. On the other hand, if
32 we have to do that, then we have got information on the basis of which we shall do that.

33
34 May I then declare the sitting closed. We meet at 10 o'clock on Monday.

35
36 **(Adjourned at 1600 hrs until 1000 hrs on Monday 15 March 1999)**

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