

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

1999

Public hearing

held on Tuesday, 9 March 1999, at 14.00 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**

<i>present:</i>	President	Thomas A. Mensah
	Vice-President	Rüdiger Wolfrum
	Judges	Lihai Zhao
		Hugo Caminos
		Vicente Marotta Rangel
		Alexander Yankov
		Soji Yamamoto
		Choon-Ho Park
		Paul Babela 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 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 Zogbélérou 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,

*as Counsel.*

1 **THE PRESIDENT:** Mr von Brevern, I understand that you wish to continue the  
2 cross-examination of Captain Orlov. May Captain Orlov please be asked to come to the  
3 witness stand?  
4

5 **CAPTAIN MIKHAYLO ALEXANDROVICH ORLOV, recalled**

6 **Further Cross-Examined by MR VON BREVERN**  
7

8 Q Captain Orlov, I have some final questions with respect to the photos that we have  
9 seen yesterday and which you have commented on. I wonder whether we have these  
10 photographs still available to be put on the screen. Perhaps we can go along without  
11 it. My first question is, do you know who made the photos, when they were made and  
12 where, and have you been present?

13 A These photographs were taken upon the arrival of our ship to the car, when the  
14 representative of the shipowning company, to be exact, the chief manager of Seascot,  
15 and these photographs were taken in my presence.  
16

17 Q I would like to refer you to pictures 3 and 4. I would be grateful, Captain Orlov, if  
18 you could just repeat where you see damage to the vessel on pictures 3 and 4, where  
19 we can see the vessel is rather big? Can you perhaps demonstrate this to the court?

20 A Probably these white spots mean the place where the bullet came at the upper part of  
21 the... On the fourth photograph, one can see the bumper and here to the left another  
22 bumper.  
23

24 Q I would like to refer to pictures 12 and 13 and I would like you to show us on  
25 photograph number 3 where you think these damages have been located?

26 A These damages were on the port side, in the upper part on the level of the bulkhead.  
27

28 Q In any particular room?

29 A These bullet holes were made and they penetrated to the left side of the bridge, so to  
30 say free space.  
31

32 Q Could you also please demonstrate on photo number 13, on picture number 3, where  
33 it was located?

34 A On this photograph you cannot see because it is the port side, and the radio room is on  
35 the same level with the bridge, that is the left side of the bridge.  
36

37 Q Finally, on picture number 29 you can see the door. You will remember that. I would  
38 like to ask you again, do you think that this was damage by a gun, a bullet, or would  
39 you not agree that this seems to be damaged by a hammer or something like that?

40 A This crack around the handle, we think that something heavy was used to strike it,  
41 with a sub-machine gun perhaps. This is not bullet damage.  
42

43 Q It is not bullet damage, not machine gun damage? Is that what you said?

44 A Speaking in contrary terms, on the picture and in general, it is obvious that something  
45 heavy was used to strike the doors.  
46

47 Q Captain Orlov, under number 14 of your statement, the last sentence, where you say  
48 "It was clear that they had used their guns to open the doors on the *M/V SAIGA*  
49 breaking 15 of them", you would agree that this could also be a hammer, for example?

- 1 A When I was speaking, I meant it was only one door, which is a waterproof door and  
2 which is used to close the navigation room. There, on the left side, they used a bullet,  
3 but the other doors were opened with the help of some heavy instruments or things.  
4
- 5 Q Is it correct that in this bundle of photos there is not a photo with a door damaged by  
6 a gun?
- 7 A The door which was opened or pierced with a bullet is not present on these  
8 photographs.  
9
- 10 Q Captain Orlov, could we ask the lady to show us picture 3, for 12 and 13, and I would  
11 like you to tell us the diameter of the holes that you may see on these pictures?
- 12 A In relation to the diameter of the holes, I can tell you nothing. I see only the traces of  
13 the paint which was off. What is the diameter of the holes is hard to say, judging on  
14 the basis of this photograph.  
15
- 16 Q Can we have 4? They are the same?
- 17 A This is the same, which we saw before. Therefore, I cannot tell you about the  
18 diameter in these two places. This is a big hole, I think 4-6mm in diameter. The  
19 smaller holes are perhaps 2-3mm in diameter. This is also a big hole, average 4-6mm  
20 in diameter.  
21
- 22 Q My question Captain Orlov, just for clarification, your estimation of 4-6 mm refers to  
23 the reality on board of the vessel, or to the diameter to be seen on the picture?
- 24 A I think this is an actual diameter which I saw directly on the ship, because on the  
25 photograph it is impossible to determine the diameter.  
26
- 27 Q Thank you. Now I have still one other question. Do you remember that during your  
28 time in Conakry rather soon after you had arrived there that you were together, that  
29 you had a meeting with an official person from the Guinean government, speaking  
30 Russian, and do you remember whether in this meeting, in this discussion, you  
31 complained about any damages to the vessel?
- 32 A Do you mean the first visit when we were moored, or do you mean the visits which  
33 followed afterwards?
- 34 Q I mean both, if you had meetings with Guinean officials.
- 35 A During the first meeting I naturally said that the ship was damaged, and I said it  
36 orally, in oral form, but in concrete terms I worked out a list of damages and set it out  
37 later on.  
38
- 39 Q To whom, to the government of Guinea?
- 40 A No, this list was sent over to the ship owner and a copy was sent over to the charterer  
41 through the Ukrainian Consulate.
- 42 Q Do you remember the name of the persons you met from the Guinean government, in  
43 which you, as you now say, mentioned and referred to the damages to the vessel?
- 44 A I do not remember names but the faces, the persons, one of the persons was  
45 representing the Customs. I do not know his rank or position. When he came on  
46 board on 29 October accompanied by officers I told him of the damages and also  
47 about the fact that the personal belongings of the crew members were missing.  
48
- 49 Q Do you remember the reaction of this Guinean official?

1 A They paid no attention to my statement.  
2  
3 Q And did you insist?  
4 A In that particular case I could not insist in front of the armed people, on some rights,  
5 I could not insist on these.  
6  
7 Q Then I have a question in respect to no. 24 of your statement. You said it was not  
8 until 17 November that further crew members were allowed to leave the vessel. Did  
9 any of the crew members ask you or ask someone else to leave the vessel, and if so  
10 where did they want to go?  
11 A Do you mean I personally, or members of the crew?  
12  
13 Q Of the crew.  
14 A Some members of the crew immediately after the fire wanted to leave for home, and  
15 I told this already in the presence of the officials that the people were scared and some  
16 of them wanted to go home, and I also asked that the representative of the ship owner  
17 or ambassador, the representative of the embassy, that they would be allowed to visit  
18 the ship, and I was denied in my request.  
19  
20 Q Do you remember whether the passports or any other documents of the crew members  
21 were taken away by the government of Guinea?  
22 A Yes, the customs representative immediately before the arrival to the port of Conakry,  
23 they took all the passports and counted them and logbook and other documents, they  
24 were immediately expropriated as soon as they boarded the ship, and the passports  
25 were taken away immediately before we came to the port of Conakry.  
26  
27 Q And when have they given back the passports to you and the crew?  
28 A The passports practically were returned, they were returned not to me, the first part of  
29 the crew left on 17 November and they got their passports ashore. Nobody gave me  
30 their passports.  
31  
32 Q Now Captain Orlov finally the last question, under no. 30 of your statement, you refer  
33 to the agreement to release the vessel. Do you remember when you have been  
34 presented such agreement the first time? It has been signed to you as you write end of  
35 February, but when has it been presented the first time?  
36 A The first time we discussed the contents of such a document in the presence of the  
37 superintendent of the company who came in November, and who secondly visited in  
38 December, and in December this document was discussed, but it was not signed, it  
39 was not to be signed at that time, and I signed it only at the end of February.  
40  
41 Q But could you confirm that on 13 February you have been asked to sign the agreement  
42 in the presence of your lawyers, but that it was your decision not to sign it because  
43 you wanted to ask the authority of your employer or anybody else; could you confirm  
44 that?  
45 A I do not remember when it was, but there was such a moment when first of all I was  
46 offered to sign this document which was written in French and I asked to work it out  
47 it in the English language, and there was such a time when I said before I put my  
48 signature to it I should consult with my employer, or send him a copy - either send  
49 him a copy or another way to get his approval and confirmation.

1  
2 Q And you understand that finally you got the approval of - was it your employer?  
3 A The superintendent, and he was the second person to come, and when he left he told  
4 me that I could sign this document if no alterations were made to it.  
5  
6 Q The very last question. Why did you not insist your superintendent a reservation with  
7 respect to the damages to the vessel?  
8 A This was so because at the initial moment it was not the main thing. The main thing  
9 was the morale of the crew, and it was necessary to calm them down, and those who  
10 wanted to go home should be sent home. Therefore at the beginning the matter was  
11 not so important concerning the damages.  
12  
13 Q Did you try to bring any reservation into the deed of release, or your lawyers?  
14 A I cannot say for the lawyers, and I made only oral statements, and as I already  
15 mentioned, I sent a written suggestion through the embassy to the charterer of the  
16 ship.  
17  
18 Q Captain Orlov, thank you very much. This was the end of our cross-examination.  
19 Thank you Mr. President.  
20  
21 **THE PRESIDENT:** Thank you very much. Dr. Plender, do you wish to re-examine?  
22  
23 **Re-examined by DR. PLENDER:**  
24  
25 Q Captain Orlov, will you kindly take your head set off. Do you speak any English?  
26 Please answer my questions in English, do you understand?  
27 A Yes, I understand.  
28  
29 Q Is your English fluent?  
30 A Well my English is not fluent, but it is enough to my work as a captain to the vessel.  
31  
32 Q Do you find that when you had to deal with lawyers in the English language it is more  
33 difficult than speaking through an interpreter?  
34 A Well sometimes I have to be sure about the question, I mean exactly the question that  
35 a lawyer asked me.  
36  
37 Q Can you tell me what is the difference between a "petrol" boat and a "patrol" boat?  
38 A The difference between a "petrol" boat and a "patrol" boat?  
39  
40 Q Just one more question of that kind Captain Orlov. At annex 1 tab 16 the following  
41 words were made by somebody talking about you. Do you understand what I have  
42 just said?  
43 A Yes.  
44  
45 Q He said - I hope you will forgive me - "This guy is out of his mind Daniella, he's  
46 really lost his marbles". Do you understand what that means?  
47 A Can you repeat?  
48

1 Q I have made my point Captain Orlov. Please put your head set back on. Was your  
2 statement prepared in English?  
3 A Yes, I have prepared my statement in English.  
4  
5 Q Before you arrived, did you have a draft ready?  
6 A Yes, I got my draft at home and arrived with my draft here.  
7  
8 Q When preparing your draft did you rely upon recollection alone or also on records?  
9 A Well, while preparing my statement, my draft statement, I used the paper, the  
10 memorandum, and some correspondence which I took from the vessel before signing  
11 off.  
12  
13 Q Captain Orlov, you now have the benefit of an interpreter again. If you would prefer  
14 to speak in Russian, you may. Did you arrive in Hamburg on Monday?  
15 A (Interpreted) Yes, I came to Hamburg on Monday evening.  
16  
17 Q When you arrived, did you bring your draft with you?  
18 A Yes, it was about me. I took it with me.  
19  
20 Q Were you then asked questions about your draft?  
21 A Yes. I met with the lawyers and they asked me questions concerning my statement.  
22  
23 Q In the light of those questions, was your draft expanded?  
24 A Some paragraphs were given in greater detail.  
25  
26 Q Was all this done in English?  
27 A Yes.  
28  
29 Q Did it take a long while?  
30 A I was preparing the final version somewhat by 4 o'clock in the morning.  
31  
32 Q By the time you had finished at 4 o'clock in the morning -- by the time we had  
33 finished -- did you understand the statement?  
34 A Yes, I was completely understanding the document and I wrote it in my own words.  
35  
36 Q Now, Captain Orlov, to use a nautical expression, I am about to change tack. I have  
37 to ask you questions about the provisional certificate. Have you any k knowledge of  
38 the law of Saint Vincent and the Grenadines?  
39 A Concerning the law of that country, practically I knew nothing.  
40  
41 Q Have you any reason to believe that a vessel ceases to be registered under the law of  
42 Saint Vincent when a provisional certificate expires?  
43 A Of course the shipowner shall get a permanent certificate and I think they were  
44 elaborating in that direction and were sending some documents to Saint Vincent and  
45 the Grenadines.  
46  
47 Q Now, I am going to ask you about flying the flag on the high seas. In your  
48 experience, is it normal to fly one's flag on the high seas?



1 A On the high seas I have already said it was not necessary and we lowered our flag just  
2 to avoid its getting shabby.  
3

4 Q Do other vessels in your experience do the same?  
5 A Practically all, yes.  
6

7 Q Now, I have to ask you about the logbook entries. Is it the case that some entries are  
8 made at the end of the watch?  
9 A It is not just right to say at the end of the watch. The entries can be done during the  
10 watch but immediately after an event happened, for example, you first stopped the  
11 ship and then made a relevant entry.  
12

13 Q When we read in an entry that says "04.24 engine stopped", would you ordinarily  
14 expect such an entry to be made in the logbook?  
15 A I think that such an entry was done by the person on watch immediately after the  
16 completion of the order.  
17

18 Q My next question is about the telexes. When you received the telex of 22 October  
19 warning of gasoil supplies hunters, who did you imagine might be the hunters?  
20 A This telex was received on 22 October a bit earlier and at that moment I believed,  
21 I thought, that it could be pirates and, assuming from the information received from  
22 Mr Lee, I also thought that it could be the officials of Guinea.  
23

24 Q When you received the telex of 27 October warning of a risk from normally fast navy  
25 boats, did you understand this to be warning you of ordinary police action?  
26 A I was tending to think that these were the pirates.  
27

28 Q When the patrol boats first came into sight, did you understand them to be exercising  
29 normal police action?  
30 A At the beginning it was difficult to see what they were doing because in the same  
31 region there were a few fishing boats and I just saw two targets on a radar screen  
32 which were moving toward us.  
33

34 Q I now have to ask you about the instructions sent to you to change course. When you  
35 received instructions to go to a point 9.50N 16.15W did anything in your charts  
36 indicate whether that was within or outside a zone claimed by any state as an  
37 exclusive economic zone?  
38 A I have already said that on my maps and on the navigation charts the exclusive  
39 economic zone is not indicated. I was moving towards this point to be outside the  
40 100 mile distance from the shore.  
41

42 Q When you were then told to go to 9 degree N, 15 degrees West did you understand  
43 that it was the effects of the instructions to take you outside the area that Guinea  
44 claims as its exclusive economic zone?  
45 A At that moment I did not think. It was just that the telex said that as a rule Greek  
46 tankers worked in that area and that meant that the operator knew that this was a safe  
47 area.  
48

1 Q On 27 October were you paying attention to the question whether you were in or out  
2 of any area claimed as an exclusive economic zone?

3 A Concerning this and other questions I know that there is an economic zone for each  
4 coastal country or state, and that it reaches out to 200 miles and at that moment I just  
5 did not think whether we were in or not in the zone. Anyway, being 100 miles away  
6 from the shore, we should have been in this zone, and prior to that our ship had  
7 already worked in that zone for four months from Morocco to Mauritania and  
8 practically the ship was always working within the so-called exclusive economic  
9 zone.

10

11 Q What do you understand to be the significance of an exclusive economic zone?

12 A The basic difference between the economic zone and territorial waters is that the  
13 economic zone is not covered by the customs, senatory and other rules. The exclusive  
14 economic zone exists to enable the coastal States, or a coastal State, to extract  
15 minerals from the shelf or fish or collect seaweeds. It is along these lines.

16

17 Q Do you know of other vessels than *The Saiga* engaging in bunkering of vessels within  
18 economic zones of States?

19 A Quite a few. Quite a few such ships work within the zone and, if you need, I can  
20 name these ships.

21

22 Q Have you ever heard of any State prohibiting bunkering in its exclusive economic  
23 zone?

24 A I never came across any documents that somebody was prohibited to supply fuel to  
25 the fishing boats in any economic zone of any particular State.

26

27 Q Captain Orlov, while at sea have you ever, in the course of your career, received a  
28 communication from a coastguard or armed force of a State?

29 A Not always. I cannot say that always, but I can say that there were cases when a ship  
30 was asked, either from an airforce craft or from a ship, and being in the Carribbean, for  
31 example, a naval vessel of the United States asked us. The same happened in the  
32 Adriatic Sea when we were questioned by an aircraft. It was many a time.

33

34 Q How did they communicate with you?

35 A They called. If an aircraft was circling around us, and he saw, the pilot saw, the name  
36 and they called us by our name, or they used the 16<sup>th</sup> channel, or they said the ship  
37 and named the co-ordinates and asked us to establish a radio communication.

38

39 Q Did you establish radio communication?

40 A Of course, in every concrete case the crew member who was on watch called me to  
41 the bridge and I just negotiated with a ship or an aircraft.

42

43 Q If the Guinean authorities had communicated with you by radio, how would you have  
44 behaved?

45 A I think that if they called me by radio, and told me who they are and told me about  
46 their intentions, most probably I would have stayed, and the engine would be off.

47

48 Q If they had sent a visual signal to you, would you have behaved in the same way?

1 A Visual signals, one has to know the visual signals. They exist, for example, just to  
2 attract attention. It is one thing, but in any case they should have come into contact  
3 with me by radio.  
4

5 Q When dealing with Guinean government officials on your arrival in Conakry, did you  
6 complain about the treatment of the vessel, its contents and its crew?  
7 A At the first meeting I started talking. I talked about the crew, and at that moment it  
8 was the most important thing, the morale of the crew. Quite naturally I talked about  
9 the damages done to the ship and also about the personal belongings which were  
10 missing from the crew members.  
11

12 Q At the time when you spoke about these matters, were there armed personnel present?  
13 A On the first stage, before the ship was unloaded, there were always about 15 armed  
14 people on board. They were permanently there.  
15

16 Q Was any threat at any time made to you?  
17 A I was told that if I won't do unloading of the cargo, then I will have problems and  
18 I will be imprisoned.  
19

20 Q When did the Guinean authorities first ask you to sign a document?  
21 A I do not remember the exact date but it was in December when the representative of  
22 Seascot, Captain Laszlo Merenyi, arrived. At that time negotiations were carried out  
23 concerning this document, but it was not a question of signing this document; it was  
24 just a question of formulating it.  
25

26 Q Why did you not sign it at once?  
27 A I cannot sign a document being blind. I represent the shipowner. I should have his  
28 agreement and, moreover, because it was written in a language which I did not  
29 understand.  
30

31 Q Did you eventually sign a document?  
32 A Yes, in February I signed this document.  
33

34 Q Is the document that you signed in February identical to the document supplied to you  
35 earlier or is it different?  
36 A The initial variant had differences because it was in French, but the last – the one  
37 before the last - was practically the same as the final document.  
38

39 Q When you were bunkering vessels on 27 October, did you believe that you were  
40 acting in breach of any law?  
41 A No.  
42

43 Q To the best of your knowledge, did you at any time throughout the voyage act in  
44 breach of any law?  
45 A I think that the ship worked legally and did not make any breach of any legislation of  
46 any country.  
47

48 **DR PLENDER:** Thank you. I have no further questions.  
49

1 **THE PRESIDENT:** Dr Plender, I refer to the telex of 22 October 1997. Could you kindly  
2 make it available to the Registrar so that it can be marked for the record?

3

4 **DR PLENDER:** Certainly, Mr President. That was done this morning, but we shall ensure  
5 that it is communicated to you.

6

7 **THE PRESIDENT:** Thank you very much.

8

9 **DR PLENDER:** Captain Orlov, subject to the President's leave, your evidence is completed.

10

11 **THE PRESIDENT:** Mr von Brevern, would you like, at this stage, to put any further  
12 questions to the witness? In the absence of that, I propose to release him.

13

14 **MR VON BREVERN:** No, we have not the intention to put any further questions.

15

16 **THE PRESIDENT:** Captain Orlov, we thank you very much indeed. You are released.  
17 You may stay if you wish, but you may leave.

18

19 **(Witness withdrew)**

20

21 **DR PLENDER:** With the Court's leave, my next witness is Captain Laszlo Merenyi.

22

23 **THE REGISTRAR:** Mr President, I shall ask that the oath be administered to  
24 Captain Merenyi

25

26

27 **CAPTAIN LASZLO MERENYI, sworn**

28 **Examined by DR PLENDER**

29

30 Q Captain Merenyi, have you prepared a written statement of evidence?

31 A Yes.

32

33 Q Do you have a copy with you?

34 A No.

35

36 Q May a copy be presented to the witness?

37 A If I do not have one, there is no problem. (Same handed)

38

39 Q Is this your statement?

40 A Yes, it is my statement.

41

42 Q Do you fully understand the whole of it?

43 A Yes, sir.

44

45 Q Is it all true?

46 A That is true.

47

1 Q Captain Merenyi, I shall take you through only the principal parts of your statement.  
2 What is your current occupation?

3 A I am the superintendent of Seascot, and I am working with several other vessels, and  
4 somewhere in this case I have a connection with *The Saiga* as well.  
5

6 Q Have you experience of commanding vessels?

7 A Yes, I started in navigation in 1963. Later I became an officer and from 1982 I hold  
8 a first class master's. Just five years ago I stopped navigation, and during this period  
9 I commanded several other vessels with different companies.  
10

11 Q Does it ever happen in the course of a vessel's voyage that instructions are given to a  
12 captain other than by a charterer?

13 A Yes, it can happen several times, because actually the charterparty several times is  
14 made between the charterers and between the owners, and later somebody can act on  
15 behalf of the charterers and on behalf of the owners as well. Like in our case, we are  
16 dealing with several vessels, the Seascot, and several times we are acting on behalf of  
17 the owner as well.  
18

19 Q Do you know the company ABS?

20 A Yes.  
21

22 Q Is there anything unusual about instructions being sent by ABS?

23 A No, because in this case ABS could act or in this time had been acting on behalf of the  
24 charterers, Lemania, and like we on the other side at Seascot, we have been acting on  
25 behalf of Tabona Shipping, the owner.  
26

27 Q Are Lemania and ABS associated companies?

28 A No, they are not associated companies, because ABS was acting on behalf of  
29 Lemania.  
30

31 Q When did you first become involved with *The Saiga*?

32 A I had two vessels in North Europe when my boss, Mr. Allan Stewart, was calling me  
33 by phone that what happened and what was the last news relating to *The Saiga*. I was  
34 just in Belgium and in that time I was informed, and at the same time I was instructed  
35 to go down to Conakry, but before I have not had any deal, what I mean, in the  
36 management of this vessel.  
37

38 Q What was the purpose of going down to Conakry?

39 A First of all, the information was almost nothing, because the last information was  
40 from the vessel which arrived, a short telex, that the vessel was attacked by gunfire  
41 down in Conakry and escorted into the port. That was the first request to go down to  
42 find out what ---  
43

44 Q Would you please take pauses between sentences for the interpreter?

45 A That's okay.  
46

47 Q What did you hope to do in Conakry?

48 A That was a request from the company to go down and to find out actually what had  
49 happened with the vessel, later, what was the reason why the vessel was detained, and

1 what was the accusation against the vessel; then later to give all possible assistance to  
2 the owner, to the crew, to the charterers, and also to try to find out what was the  
3 damage on the vessel.

4

5 Q Why was this information not simply conveyed by telex or radio?

6 A It was impossible because whenever they took the vessel and escorted the vessel into  
7 the port, part of the radio station was destroyed, and on the other hand they load the  
8 radio station and they made all communication between any parties involved  
9 prohibited. They locked the doors and they confiscated keys.

10

11 Q When you got to Conakry, were you able to communicate with the vessel?

12 A I arrived to Conakry on 1 November, late evening, and in the time that was met  
13 Mark Vervaet in the hotel and calling me immediately. By the time when I went to  
14 the room, I found the P&I representative, Mr Gerald Collins, then the agent,  
15 Mr Ketmar, and I wanted to find out what it could be the way to communicate with  
16 the vessel. In the time, Mr Mark Vervaet told me that he was allowed to  
17 communicate with the vessel with hand sign and shouting from the shore, but it is  
18 ended a couple of minutes later because the armed guards push the master into the  
19 accommodation. So that was all the information what I had in the time, and the  
20 information that the vessel was accused smuggling, or territorial water – no, the  
21 economic zone of Guinea – which the Guinean authorities considered as 200 miles  
22 from the coast.

23

24 Q Until you arrived, had anybody been allowed to board *The Saiga* to obtain  
25 information?

26 A No, that was definitely prohibited. Before my arrival, the Ukrainian Ambassador  
27 wanted to board, attend the vessel, and he had permission from the Customs, written  
28 permission, but because on the shore the coastguard person that guard the vessel, they  
29 did not recognise this permission and his attempt failed.

30

31 Q Had anybody been allowed to leave the vessel?

32 A No, definitely not. They told me at the very beginning that the vessel was under  
33 arrest.

34

35 Q Did there come a time when two people were removed from the vessel?

36 A Yes, I was informed, because by the time I arrived over there, there are two people  
37 they already left. I was informed during the attack that two seamen had been injured,  
38 were taken to the military hospital, having been attended medical attention, then later  
39 because of both resistance they were really requesting to go in another place because  
40 they were not satisfied with the condition of the military hospital; finally they were  
41 allowed to get repatriated and to have medical attendance in Dakar.

42

43 Q Did there come a time when you were able to get aboard the vessel?

44 A Knowing the fact what happened with the Ukrainian Ambassador, the next day I tried  
45 to get permission to get on board.

46

47 Q Did you get that permission?

48 A The first day not, because the first day when we went to the Head of the Customs,  
49 who was actually let's say declared to be responsible for that, he directed me down to

1 Mr Bangoura, the Commander of the Mobile Brigade. By the time, knowing the fact  
2 what happened with the Ukrainian Ambassador, I tried to get a helping hand from  
3 another side, and finally the second day I got the permission to come on board,  
4 escorted by Customs armed guard, which escort I was requested personally.  
5

6 Q How long were you allowed to be on the vessel?

7 A It was really restricted for about 30 minutes and, of course, my movement on the  
8 vessel was fully restricted, but the main reason or the main aim of my visit was just  
9 really to talk to the captain and to assure him that we try our best, we are here, and we  
10 try to give all assistance to the vessel and to release as soon as possible. So actually  
11 I was able to talk freely, honestly speaking, freely, because everybody was speaking  
12 French and we were able to talk with the master for 50 minutes in English.  
13

14 Q Did you see any damage on the vessel?

15 A As I was able to see when I was escorted and directed to the master cabin, the front  
16 wall of the accommodation several trace of bullets, then the bulwark of the monkey  
17 island, then the navigation bridge with broken windows, and the port side of the  
18 navigation lamp, the radio station with broken windows. I was not allowed to move  
19 all over that, but what I was able to see in the time from about 15 metres, the  
20 deflected (Yokohama?) fenders, which that got bullet as well.  
21

22 Q What was the morale like among the crew at the time?

23 A Unfortunately, the morale among the crew members, it was really very, very low, and  
24 the crew wanted to leave the vessel and they emphasised and they underlined me that  
25 they signed a contract not for get a war zone and just not to get fired, so most of the  
26 crew they wanted to leave the vessel.  
27

28 Q Were the crew free to leave?

29 A No, the crew was absolutely restricted to stay on board, and the crew movement was  
30 also some way restricted because the armed guards had quarter was their mess room,  
31 which is actually the biggest place of the vessel, and that was a place when it was a  
32 television. In the time the air-conditioning broke down, so I do not need to explain  
33 the condition of the crew when they were really requested to stay in their own cabin  
34 without air-conditioning system, and they could not gather and let's say to relax in the  
35 mess room or even to watch TV or just to have a chat together.  
36

37 Q Is it the case that you were able to visit again?

38 A Yes, it became I would say the custom, authorities they became so flexible with me  
39 and Ukrainian Ambassador actually later I have an access every time whenever  
40 I wanted, but unfortunately nobody else. I felt that the crew is counting on the  
41 Ukrainian Ambassador and counting on me as well, and when I wanted let's say the  
42 third party to come on board as the P&I, you know with cargo dimension, with crew  
43 member, when P&I is on board, there is always the feeling there is something special,  
44 but to obtain permission for the P&I it was impossible and the gentlemen could not  
45 have any chance until the last moment, so the vessel left so many months later  
46 without any P&I attendance.  
47

48 Q Did there come a time when two others left the vessel?

1 A Yes, on my second visit, if I am not mistaken, on 4 November the master reported me  
2 that he had two crew member injured and they need medical attendance. One was  
3 said hit by the rifle with the armed guard, and the other had hit on his knee, said also  
4 by the armed guard.

5  
6 Q Did you see those two members of the crew?

7 A Yes.  
8

9 Q What was their condition when you saw them?

10 A One of the crew member who had a knock on his head, he was really serious,  
11 psychologically serious condition depressed, and almost very difficult to conduct to  
12 him, and the other that was with a smaller knee, coloured blue and grey. I had  
13 permission from both of the customs, Commander Bangoura, and personally I took  
14 these two gentlemen to the Russian hospital. They had medical treatment and that  
15 was also a good sign for the morale when they felt that OK somehow they are under  
16 care and under some kind of management.

17  
18 Q Were there further contacts between your team and the Guinean authorities early in  
19 November?

20 A During this period we were running or moving on a different way. On one side  
21 Maître Thiam, dealing with the high level authorities, and on the other side on the  
22 spot and on the ground I was dealing with the different authorities, mostly with the  
23 customs, because it became clear that everything was belonging to the customs.  
24

25 Q Your statement at paragraph 12 says that you were able to gain access because you  
26 would pay the appropriate people.

27 A Yes, definitely, because that was the only way to make everything easier, you have to  
28 find a way to get a helping hand, and it was the way, and for this movement I would  
29 say that most of the doors, they became open.  
30

31 Q Were you asked to make payment, or invited to make payment?

32 A Very shortly at the beginning, I had a feeling that would be the easiest way, and I did  
33 not need to tempt so somehow I understood, and nobody refused that.  
34

35 Q And did the payment of money bring about a change in the reactions of the persons  
36 involved?

37 A Definitely it made a lot of things easier, and made so many things quite a matter.  
38 First of all we were able to arrange immediately the free ship's chandler and  
39 movement, whatever the Master asked, because at the beginning, by the time I arrived  
40 I changed 10,000 times the paper giving to the agent and somehow the agent could  
41 not find a ship's chandler, somehow the ship's chandler could not supply, somehow it  
42 was a misunderstanding in the least, but later everything was so smooth, ship's was  
43 prompt, fresh water supply was prompt, so later the service was much, much better.  
44

45 Q Did there come a time when the cargo was discharged from the vessel?

46 A Yes, a couple of days since my arrival, that was a different negotiation, and we  
47 arrived on 10 November, then I had the usual permission morning and evening  
48 escorting by helping hand, and being on board when Mr. Bangoura arrived, if I  
49 remember there were four or five armed customs officials, Then they gave orders



1 straight to the Master to start to discharge the cargo, and the poor Master was  
2 absolutely shocked, and he did not understand what is happening, and he asked some  
3 written order that Mr. Bangoura emphasised that you have about ten minutes to start  
4 the cargo, the vessel is under arrest and you have to comply with the order, and the  
5 Master was looking at me really with begging eyes, and I asked Mr, Bangoura, and  
6 I explained to Mr. Bangoura that according to any kind of law it should be local or  
7 international, there must be somehow responsible for the cargo and for the safety of  
8 the cargo, and therefore when he asks some kind of written order, he is absolutely  
9 right. The answer was that Captain Laszlo it is not your affair, you should be really  
10 happy that you have contact with the crew, and the Master has five minutes to start to  
11 discharge the cargo, otherwise as I understood we could find ourselves in prison very  
12 soon . That was when I told the Captain do not take any risk, I am the representative  
13 of the owner, so start discharge the cargo and do not put into danger the vessel, crew  
14 or what.  
15

16 Q Was a decision then taken to bring legal proceedings?

17 A The legal proceedings, it was – I will tell you it was a threat every day. What I mean,  
18 the local legal procedure. They emphasised to the Master every day that you should  
19 be in front of the local court and you can have in five years prison, and somehow this  
20 feeling was always on the shoulder of the crew as well.  
21

22 Q On the other side was any consideration given to bringing matters to this court?

23 A When we started to discharge the cargo and the cargo was under discharging, Maître  
24 Thiam and Mark Vervaeet left Conakry, and they went back to Dakar, and it was  
25 already decided in the time to put the case in front of the International Tribunal. Then  
26 first of all it was the first question mark for the local authorities, what happened with  
27 Maître Thiam and Mr. Vervaeet and when we started, because they disappeared  
28 without any negotiation, then they became aware that they left the country, because  
29 they could not see any progress, and the cargo was confiscated, and they had no other  
30 choice just to ask the International Tribunal. They became a little bit more and more  
31 aggressive or repressive against the vessel, and they wanted to make us understand  
32 that everything was legal, confiscation of the cargo and arrest of the vessel, and they  
33 already lined up about 15 milliard Guinean franc should be the fine to release the  
34 vessel.  
35

36 Q What do you mean by saying that they became more aggressive?

37 A Actually when it was the discharging, the authorities, what I mean the Customs, they  
38 promised the Captain that after discharging everything will be better and the crew will  
39 be free, because they have local legal right to take their cargo, and everything will be  
40 sorted out by local court, there is no harm against the crew, and the crew can move  
41 freely. Nothing happened, even the first a little bit the armed guards on board, and the  
42 crew was absolutely restricted, they could not go ashore, they could not call their  
43 families, they could not send information. As a further negotiation again really on  
44 spot with the local customs officials, of course the extension a couple of days later it  
45 became smoother, and sometimes we were dreaming about release of the vessel. My  
46 feeling was that some kind of amicable agreement should have solved the problem.  
47

48 Q What was the reaction of the Guinean authorities to the prospects of proceedings in  
49 this Tribunal?

1 A Several times I visited the Director of Customs, who was – I would not say that is  
2 really frankly against the vessel, and he declared that they are not afraid of anybody,  
3 this is the local law, and they are going to give good evidence and a good example to  
4 the world that nobody can break the Guinean law, so that was some kind of wall in  
5 the negotiation. On one side that was the higher level.  
6

7 Q Did this decision have any effect upon the treatment of the crew?

8 A Actually this is a really good question because one side when we were able to manage  
9 everything in a certain way, I already managed in this way. Everything was smooth  
10 and let us say manageable, but on the other hand then the question came in front of  
11 the higher level officials that became hard again. The Director of the Customs  
12 decided that because the owner and the charterers, they went to the International  
13 Tribunal, that should be the solution to remove the crew from the vessel to put in a  
14 hotel under armed guard and put a padlock on board, and we shall see what will be  
15 the decision of the International Tribunal. Of course knowing the fact, let us say as a  
16 seaman minded calculation, what does it mean to put padlock on board and remove  
17 the crew? I do not talk about the condition of the crew under armed guard in a hotel,  
18 just talking about the vessel, the property of the vessel. The deterioration or  
19 abandoned, so actually that would have been the last hour of the vessel. But for the  
20 fact that Mr. Bangoura, or Commander Bangoura had order from the boss, the  
21 Director of Customs to do that, later with several negotiations we were able to  
22 achieve to keep the crew on board and the vessel remained for another couple of days  
23 in the port, and later disembarking a few crew members then moved the vessel  
24 anchorage.  
25

26 Q How many members of the crew were you able to release?

27 A Eight crew members had been repatriated in that time. For the rest of the crew of  
28 course we had to offer a special bonus because quite understandably most of the crew  
29 wanted to leave the vessel.  
30

31 Q Why was it necessary for the remainder to stay with the vessel?

32 A OK. You cannot leave the vessel without crew because of deterioration, because of  
33 pilferage, because abandoned, and we decided that the minimum crew should be  
34 around, 14 person, and really I was down to decide who would be the 14 persons, and  
35 I tried to make them understand, so more or less is 14 crew members that were  
36 volunteered to stay on board, except for the Master, who was officially detained.  
37

38 Q Is it right that you left Guinea at the end of November?

39 A At end of November I had to leave because in that time that was the process of the  
40 International Tribunal and we decided to wait for the decision for the International  
41 Tribunal and I went back to Glasgow to report everything what happened during this  
42 period.  
43

44 Q Following the decision of this Tribunal, did you return to Conakry?

45 A Yes, just a couple of days before Christmas on 20 December I took a plane again and  
46 I went to Conakry with a brilliant dream that we should be able to relieve the vessel  
47 from Guinea in a couple of days, maybe in the New Year or something for the crew  
48 and everybody will be OK. But at the same time, on one side there was also the

1 feeling that we were not sure what would be the reaction. So on 20<sup>th</sup> I went down to  
2 Guinea again.

3  
4 Q Did you have discussions with the Guinean authorities?

5 A Yes. After my arrival I felt immediately a certain animosity against the vessel, not  
6 exactly against the vessel because the poor vessel was riding at anchorage, against  
7 Seascot and against Addax. At the same time, having a certain connection with the  
8 Customs, my feeling was that the authorities OK, they took a long time, it was about  
9 almost two weeks; they were absolutely split in this matter. The Customs, led by  
10 Mr Bangoura, were working in every respect really to release the vessel -- I do not  
11 know exactly -- just to comply with the International Tribunal decision or just their  
12 own decision. But, on the other hand, the higher authorities, the Justice and the  
13 Finance Ministers, and especially the boss or the head of Customs stopped any  
14 movement when we reached some kind of level. At that time really the head of  
15 Customs could not stop emphasising that they would make a good example to all  
16 countries if necessary to the International Tribunal. This is their own role and they  
17 are not going to release the vessel. On the other hand, the Customs really started to  
18 make several documents to release the vessel in their own way. That was a big  
19 dispute with all parties involved in this matter. They considered the \$400,000 as not  
20 a bond but a cash payment or some kind of agreement fee when they take that one.  
21 Later the confiscated cargo was legal and we have to sign such a kind of agreement  
22 but to pay \$400,000 and sign that we will not take any action against the Guinean  
23 Government and that this is an amicable agreement and the vessel gets sailing  
24 permission immediately.

25  
26 Q Up until the time when you left Guinea, was the vessel free to leave?

27 A No, because it took me about 10 days dealing with even local lawyers, with different  
28 authorities, and later my feeling was that my staying there would not be helpful any  
29 more because it should be the case for the lawyers to really find out the way that  
30 complies with the decision of the International Tribunal.

31  
32 **DR PLENDER:** Thank you, Captain Merenyi. I have no further questions. You may face  
33 cross-examination.

34  
35 **THE PRESIDENT:** Thank you very much. Mr von Brevern, would you like to  
36 cross-examine the witness? We have 22 minutes before the end of the sitting.

37  
38 **Cross-examined by MR VON BREVERN**

39  
40 Q Captain Merenyi, I have some questions. In one of your first statements today you  
41 were asked about the relationship between a charterer and someone else acting for the  
42 charterer. Would you not agree that normally a time charterer directs the command of  
43 the vessel in relation to port and to crew changes and gives him perhaps navigational  
44 instructions? Would you agree that these are the normal instructions of a charterer to  
45 a vessel?

46 A It can be.

47  
48 Q You said you would have experienced sometimes at least when someone else is acting  
49 for the charterer. Do you mean that this is the case where expressly in the

1 charterparty it is named "charterer X" and the instructions to be received by the ship's  
2 command come from "company Y"?

3 A But this company should be well know by the master. I can give you some examples.  
4 For example, being an owner of a vessel under the charter, for example a  
5 multinational oil company, actually the agreement is between a multinational oil  
6 company and the owner and later this multinational oil company will give an order  
7 and let the owner know: OK, from now on Shell is my partner who is acting on  
8 behalf of me and Shell is going to send the order to the vessel. That is well-known by  
9 the master because the master is informed as well and the owner agrees.

10  
11 Q Do you refer to particularities in the tanker business or did you also mean that this  
12 happens in the normal charter business?

13 A It can happen in a normal charter business. I know honestly because I spent half of  
14 my life at sea. When the charterers and the owners write a charterparty, as a poor  
15 master at the end of the story you receive an extract from the charterparty, even if you  
16 do not know who he is, with whom you have the order, the condition of the  
17 charterparty, and they let you know from the owners side, "OK, your commander or  
18 managing organisation, for example, is now Addax".

19  
20 Q We do not want to exchange theoretical ideas. My question is: do you know -- of  
21 course you know -- what the position of ABS Geneva was in connection with this  
22 vessel? Can you explain that?

23 A Yes. Addax gave the order to the vessel, where they go, where they discharge, where  
24 they load. Actually, that was in the management of Addax.

25  
26 Q Was there not a little bit more connection between the vessel and Addax? I refer to  
27 ABS: is it the same company? Is ABS Geneva the same company as Addax?

28 A It is a different company.

29  
30 Q You referred to Addax -- Addax would have given the instructions to the captain, or  
31 to the ABS.

32 A I do not like to mix up this question of who gave the straight order, whether it was  
33 Addax or ABS, that these orders were fully approved by the owner and the original  
34 charterers.

35  
36 Q Now, we have some companies involved. I would imagine that if I am a captain I do  
37 not agree that I just get an extract of the charterparty off a captain, but that may be  
38 your experience. The captain gets the charterparty and he sees the charterer is, in our  
39 case -- well, you know who the charterer is. It was not ABS and it was not Addax,  
40 according to the charterparty. Now, the instructions to the captain come from quite a  
41 different company. What would you think that you as Captain and in the case of *The*  
42 *Saiga* the Captain has to do. Does he have to follow these instructions?

43 A Whenever the charterers made agreement with an owner and they chartered a vessel -  
44 actually they sent the contact persons to the master - if they do not drop down the  
45 complete charter party, they send a message to the captain, "Ok, these gentlemen or  
46 ladies, they are dealing with the vessel and you are on that charter."

47  
48 Q So I understand you, there were oral instructions from a representative of the charterer  
49 to the captain to follow the instructions of Addax or ABS?

1 A I think we have the two mixed here.  
2  
3 Q Do you know whether there is, or there has been, an agreement between the charterer  
4 and either Addax or ABS Geneva?  
5 A They have to have an agreement but this is out of my hands because I was not dealing  
6 with this matter, actually. That was not my mission.  
7  
8 Q Yes, I agree. I think this subject, indeed, was not put down in writing by you.  
9 A Definitely not.  
10  
11 Q Thank you very much for these answers. I understand that you were not aware of all  
12 these relationships because you were the representative of the owner and employer, or  
13 one of the company?  
14 A Yes, I am an instrument and an agent of the owner.  
15  
16 Q So my understanding is that Seascot is the representative of the owner ?  
17 A And an agent of the owner, and at the same time, I am an instrument, fully responsible  
18 for the crew matters and all technicalities.  
19  
20 Q You referred to your experience in Conakry. I am not quite aware, I think your paper  
21 said you arrived in Conakry on 3 November. Is that correct?  
22 A 1 November.  
23  
24 Q The first?  
25 A The first.  
26  
27 Q Then you said that you have not been allowed to board the vessel. My question is, to  
28 whom did you direct yourself and ask for permission?  
29 A At first we wanted to follow the officialry. We asked the agent to obtain some  
30 permission. At the end of a complete day, the agent, Mr Ketmar, came back. Then  
31 the next morning we had to go to ask permission from the head of the customs. In  
32 that time the head of customs, it was just, for certain reason, replaced. The old  
33 director was still acting but the new director was either coming, or nobody knew, and  
34 the director asked the so-called lady Olga, who was the second person of the customs.  
35 I say "Olga" because I do not remember her name. She gave an answer to go to  
36 Mr Bangoura. In the same time, in Africa, if you are moving and you have an  
37 appointment at four o'clock, you are still waiting until the next morning at six o'clock  
38 and there is nobody else there. It was absolutely clear, OK, find a way to get the door  
39 open to Mr Bangoura. And when the door was open, I had the permission needed.  
40  
41 Q I understand that this was a normal procedure in Africa?  
42 A Yes. I am not against that. It is well known.  
43  
44 Q You said, "I did not get permission", but you got permission?  
45 A I got permission.  
46  
47 Q And it was not a long time that you got permission?  
48 A It was one second, Sergei(?) was aboard.  
49

1 Q You then found, or at least you told us, that nobody could leave the vessel?  
2 A Yes.  
3  
4 Q That was at least only from the time, is that correct, until 17 November because on  
5 17 November the first eight crew members could leave?  
6 A On a special variant because they refused to give their passport to the customs, to the  
7 agent, who arranged all the travelling, and I had to step in. Somehow I got the  
8 passport, so that is a certain variant.  
9  
10 Q If you had perhaps given a little more, perhaps they could have gone earlier? Is that  
11 possible?  
12 A But earlier we did not like to remove the crew from the vessel.  
13  
14 Q So eight crew members could leave on 17 November?  
15 A Yes.  
16  
17 Q And the other 14? Is my understanding of what you have said correct, that they  
18 stayed on board voluntarily because you offered them a certain bonus as an  
19 employer?  
20 A Correct.  
21  
22 Q Then you explained that the ship, later on, at the end of February, left without prior  
23 P&I assistance? Is my understanding correct?  
24 A No. What happened at 28 February, that I could not tell you, but when I left on  
25 4 January, until that time, P&I could not have any access to attend. But, as I was  
26 informed, he did not visit the vessel until the last moment.  
27  
28 Q Because he did not want to?  
29 A No, he requested several times permission and, as I told you, that is a circle.  
30  
31 Q But the P&I representative, is he from Conakry? Is he situated there?  
32 A Yes.  
33  
34 Q Is it Mr Ketmar?  
35 A No, no. It is Mr Collins, actually.  
36  
37 Q Is he Guinean?  
38 A No, he is a Frenchman. He is living with his family down in Conakry. It is a certain  
39 time. It is a contract, let us say. Gerald Collins.  
40  
41 Q He lives there but he did not know the ways, as you knew?  
42 A Yes.  
43  
44 Q Did you talk to him?  
45 A You force me to tell something which I do not like to mention.  
46  
47 Q If you do not want to mention it –  
48 A I can tell it to make it clear. This gentleman obeying, or let us say complying, a  
49 couple of years ago, with a local court decision, which was for another vessel to

1 release a vessel - he was really acting to comply with the local court decision. Later  
2 he had a lot of enemies down from a high level. Of course, when he found the door  
3 shut, he did not force it open.  
4

5 Q Another subject you mentioned was where you said it was then decided not to go to  
6 court in Conakry. I do not quite remember the question put to you, but your answer  
7 was that. Who do you mean by, "It was decided"? Did you decide? Who decided?  
8 Did you contact Seascot or the owner on whether any court measures should be taken  
9 in Conakry?

10 A The court measures taken in Conakry are always out of our hands because local  
11 customs, they put the case on at Conakry Tribunal and they make a usual decision,  
12 which is, according to the local regulation, five times the value of the cargo, which is  
13 confiscated, and the value of the vessel. But this is requested always by the customs  
14 and, at the same time, if it is the question of criminal life that they were threatening  
15 the master for five years, that is so. For that, we have no choice, just to defend.  
16

17 Q I understand that, but what you just referred to is the criminal proceedings.

18 A Yes.  
19

20 Q That is my understanding. I thought the question was put, but may I put the question  
21 to you: Have you ever thought about or discussed with whom to go to court against,  
22 for example, the discharge of the cargo?

23 A Locally?  
24

25 Q Yes.

26 A No.  
27

28 Q You did not speak about it with anyone?

29 A No.  
30

31 Q Did you ever think to go to a local court with respect to the poor people on board the  
32 vessel?

33 A Honestly speaking, no.  
34

35 Q Perhaps there was a misunderstanding about the question. You gave your impression  
36 that you knew the ways and at your level they worked quite good, but on the higher  
37 level, that did not work. From whom did you get that impression? Did you talk to the  
38 higher level?

39 A Yes.  
40

41 Q To the Minister of Finance?

42 A Yes, to the Minister of Finance, to the Minister of Justice and I even reached the  
43 adviser of the President, together with a lawyer of Addax, a local lawyer. We were  
44 talking, and that was an honest discussion. When I told them ok, even in my  
45 impression and my opinion that Guinea do not need this reputation, that they do not  
46 follow orders, they do not comply with the decision of the International Tribunal, the  
47 adviser of the President told me that if it is necessary – and you can get the local  
48 lawyer any time as a witness – "Captain Laszlo, the President has already given order  
49 to release the vessel" and nothing happened. That was the President.

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Q If it would have come to the solution you would have thought of, would you have to pay? Would you have been prepared to? What would you have been prepared to give to the other side? Did you think about that?

A Honestly speaking, we are deviating a little bit, but I will tell you. It is the local practice there, when they arrest a vessel, later they do not proceed. They sit down, they start to negotiate. They have a fixed amount given to them. Later the vessel is released. This amount taken by certain authorities follows the procès verbal which is declared: "We found the vessel guilty." Therefore, the fine is a certain amount and now there is an amicable agreement, there is nothing to do on their side, and they set us free. In my opinion, a door was absolutely open for this kind of negotiation, but I do not think it would have been in the interests of either the owner or the charterers.

Q So I understand you, if it would only be the ship and crew, and you on the other side, the Guineans on the one side, you would have come to an agreement rather sooner?

A I would not be the first person.

**MR VON BREVERN:** Thank you very much. Mr President, I have to say that I did not have enough time to go through the whole statement, but I just concentrated on the points that Dr Plender has brought up. That is all I want to say, so I cannot go on. My colleague, Professor Lagoni, still has some questions, if you would allow.

**THE PRESIDENT:** If you want to continue the cross-examination, it will have to be tomorrow because it just so happens that we are one minute from the time of closing the session. (To the witness) The understanding is, Captain Laszlo, that you will be available tomorrow for the continuation of the cross-examination and, if Dr Plender so chooses, for re-examination. You are now released but please be available tomorrow morning at 10 o'clock.

**THE WITNESS:** Yes, sir.

**THE PRESIDENT:** The sitting will now be closed.

**(Adjourned at 1600 hrs until 1000 hrs on Wednesday, 10 March 1999)**