

LEGAL FINDINGS ON RESPONSIBILITY

the Statute for the Indictment crimes by virtue of having participated in a Joint Criminal Enterprise.

2. Aiding and Abetting

6901. The Indictment charges that the Accused, by his acts or omissions, is individually criminally responsible pursuant to Article 6.1 of the Statute for aiding and abetting the planning, preparation or execution of the crimes referred to in Articles 2, 3 and 4 of the Statute as alleged in the Indictment.¹⁵⁵⁰⁸

6902. In particular, the Prosecution submits that the Accused gave practical assistance, encouragement and moral support which had a significant and substantial effect on the commission of the Indictment crimes,¹⁵⁵⁰⁹ in particular by providing “strategic instruction, direction, guidance, maintaining an effective RUF, AFRC/RUF alliance, providing vital arms and ammunition, manpower, creating and maintaining a linked communications network, providing safe haven, other support, and exercise of strategic command over these forces, either individually or in concert with or through the on-the-ground leaders of his proxy forces in Sierra Leone”.¹⁵⁵¹⁰ The Prosecution further submits that the Accused had the requisite knowledge or awareness that his conduct would substantially assist the RUF and RUF/AFRC to commit the crimes charged in Counts I to II of the Indictment.¹⁵⁵¹¹

6903. The Defence denies that the Accused is responsible for aiding and abetting the commission of any of the crimes charged in the Indictment. The Defence denies that the Accused provided any form of assistance to the RUF and submits that the Prosecution presented “fabricated and generalized stories ... [which] offer nothing truly substantive upon which the Trial Chamber can rely beyond a reasonable doubt to support a conviction”.¹⁵⁵¹²

6904. In order to find the Accused criminally responsible pursuant to Article 6.1 of the Statute for aiding and abetting the planning, preparation or execution of the crimes charged in Counts I to II of the Indictment, the Trial Chamber must be satisfied beyond reasonable doubt that the Accused provided practical assistance, encouragement, or moral support

¹⁵⁵⁰⁸ Indictment, para. 33.

¹⁵⁵⁰⁹ Prosecution Final Trial Brief, paras 595-601

¹⁵⁵¹⁰ Prosecution Final Trial Brief, para. 49.

¹⁵⁵¹¹ Prosecution Final Trial Brief, paras 600-601.

¹⁵⁵¹² Defence Final Trial Brief, para. 1197.

LEGAL FINDINGS ON RESPONSIBILITY

which had a substantial effect upon the commission of the crimes (*actus reus*).¹⁵⁵¹³ Furthermore, the Trial Chamber must be satisfied beyond reasonable doubt that the Accused knew that his acts or omissions would assist the commission of the crime, or that he was aware of the substantial likelihood that his acts would assist the commission of the crime, and that the Accused was aware of the “essential elements” of the crime committed by the principal offender, including the state of mind of the principal offender (*mens rea*).¹⁵⁵¹⁴

6905. Before turning to the various forms of assistance provided by the Accused to the RUF/AFRC, the Trial Chamber recalls its findings regarding the RUF/AFRC’s war strategy. Throughout the Indictment period, the operational strategy of the RUF and AFRC was characterized by a campaign of crimes against the Sierra Leonean civilian population, including murders, rapes, sexual slavery, looting, abductions, forced labour, conscription of child soldiers, amputations and other forms of physical violence and acts of terror.¹⁵⁵¹⁵ These crimes were inextricably linked to the strategy and objectives of the military operations themselves.¹⁵⁵¹⁶ The RUF/AFRC pursued a policy and strategy of committing crimes against the civilian population in order to achieve military gains, and also politically in order to attract the attention of the international community and to heighten their negotiating stance with the Sierra Leonean Government. This strategy entailing a campaign of terror against the civilian population is explicitly demonstrated by the overt names of their military campaigns, such as “Operation Pay Yourself”, “Operation No Living Thing” and “Operation Spare No Soul”. The Trial Chamber therefore considers that any assistance towards these military operations of the RUF and RUF/AFRC constitutes direct assistance to the commission of crimes by these groups.

6906. The Trial Chamber will now consider the various forms of assistance provided by the Accused to the AFRC/RUF and whether his conduct satisfies the *actus reus* and *mens rea* of aiding and abetting the crimes charged in the Indictment.

(a) Findings on the Physical Elements of Aiding and Abetting

(i) Arms and Ammunition

¹⁵⁵¹³ Applicable Law: Law on Individual Criminal Responsibility.

¹⁵⁵¹⁴ Applicable Law: Law on Individual Criminal Responsibility.

¹⁵⁵¹⁵ The War Strategy of the RUF/AFRC.

¹⁵⁵¹⁶ The War Strategy of the RUF/AFRC.

LEGAL FINDINGS ON RESPONSIBILITY

6907. The Prosecution submits that the Accused, both personally and through his subordinates, directly supplied and facilitated the supply of essential “materiel” (arms and ammunition) which substantially contributed to the RUF’s attacks and control of territory throughout the Indictment Period.¹⁵⁵¹⁷ In particular, the Prosecution alleges that the Accused provided a “steady stream” of materiel critical to a successful initial invasion and the subsequent expansion into Sierra Leone. Throughout the remainder of the conflict the Accused provided the RUF and RUF/AFRC with a wide variety of arms and ammunition. After access to the border was severely restricted, this assistance was most directly provided during the period from 1997 through 2001.¹⁵⁵¹⁸ The Prosecution contends that “the materiel provided contributed significantly to the crimes committed in Sierra Leone by the RUF, AFRC/RUF and/or Taylor’s Liberian fighters, enabling these forces to carry out their campaign of terror as charged in Counts 1-11 of the Indictment, in order to pillage the Sierra Leone diamonds and to forcibly control the people and territory of Sierra Leone”.¹⁵⁵¹⁹

6908. The Prosecution submits that the materiel provided included AK-47 rifles, AK rounds, GPMG and rounds, grenades, anti-tank mines, anti-personnel mines, RPGs and RPG rockets, mortars, M203 guns, GMG, G3, LAR, LMG, Beretta rifles, SMGs and associated ammunition, BZTs, anti-aircraft guns, land mines and weapons used to shoot down ECOMOG Alpha jets a.k.a. “chasers”.¹⁵⁵²⁰

6909. The Defence denies that the Accused was in any way involved in the supply of military equipment to the RUF and AFRC during the Indictment Period. The Defence further submits that any assistance provided by sources in Liberia made no substantial contribution to the commission of the crimes pleaded in the Indictment because the RUF and RUF/AFRC’s primary sources of military equipment were in fact weapons captured from ECOMOG, from government stores when the groups acted as the Junta government and from arms trading with Guinea and former ULIMO combatants.¹⁵⁵²¹

6910. The Trial Chamber has found that during the Indictment period, the Accused directly or through intermediaries supplied or facilitated the supply of arms and ammunition to the

¹⁵⁵¹⁷ Prosecution Final Trial Brief, para. 2.

¹⁵⁵¹⁸ Prosecution Final Trial Brief, para. 206.

¹⁵⁵¹⁹ Prosecution Final Trial Brief, para. 206.

¹⁵⁵²⁰ Prosecution Final Trial Brief, para. 208.

¹⁵⁵²¹ Defence Final Trial Brief, paras 1033-1034, 1131.

LEGAL FINDINGS ON RESPONSIBILITY

RUF/AFRC. The Accused sent small but regular supplies of arms and ammunition and other supplies to the RUF from late 1997 to 1998 via his subordinates, and substantial amounts of arms and ammunition to the AFRC/RUF from 1998 to 2001.¹⁵⁵²² The Accused facilitated much larger shipments of arms and ammunition from third party states to the AFRC/RUF, including the Magburaka shipment of October 1997 and the Burkina Faso shipment of November/December 1998.¹⁵⁵²³

6911. The Trial Chamber has found that the arms and ammunition provided by the Accused were used by the RUF, AFRC, AFRC/RUF Junta or alliance, and Liberian fighters during various military offensives in which crimes were committed, including the Junta mining operations at Tongo Fields prior to the ECOMOG Intervention, "Operation Pay Yourself" and subsequent offensives in Kono District in 1998, and in the Freetown invasion in January 1999, and attacks on the outskirts of Freetown and the Western Area in late January to early February 1999.¹⁵⁵²⁴ The Trial Chamber has found that arms and ammunition provided by the Accused were used by SAJ Musa and Denis Mingo (a.k.a. Superman) in attacks on Mongor Bendugu and Kabala shortly after Operation Fitti-Fatta in mid-1998, as well as by the AFRC group led by Alex Tamba Brima (a.k.a. Gullit), Hassan Papa Bangura (a.k.a. Bomb Blast), and Ibrahim Kamara (a.k.a. Bazzy) in their activities in the Koinadugu and Bombali Districts from June to October 1998.¹⁵⁵²⁵ These operations involved widespread or systematic attacks on the civilian population and the commission of crimes, specifically acts of terrorism (Count 1); murder (Counts 2 and 3); rape (Count 4); sexual slavery (Count 5); outrages upon personal dignity (Count 6); cruel treatment (Count 7), other inhumane acts (Count 8); conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (Count 9); enslavement (Count 10); and pillage (Count 11).

6912. The Trial Chamber finds beyond reasonable doubt that the provision and facilitation of these arms and ammunition by the Accused constituted practical assistance to the commission of crimes by the RUF and RUF/AFRC during the Indictment period. The Trial

¹⁵⁵²² Arms and Ammunition: Allegations of Direct Supply by the Accused.

¹⁵⁵²³ Arms and Ammunition: Conclusion.

¹⁵⁵²⁴ Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

¹⁵⁵²⁵ Arms and Ammunition: Use of Materiel Supplied or Facilitated by the Accused.

LEGAL FINDINGS ON RESPONSIBILITY

Chamber will now consider whether this assistance had a substantial effect on the commission of the Indictment crimes.

6913. The Trial Chamber has considered the Defence submission that any assistance provided by sources in Liberia made no substantial contribution to the commission of the crimes pleaded in the Indictment because the RUF and RUF/AFRC's primary sources of military equipment were in fact weapons captured from ECOMOG, from government stores when the groups acted as the Junta government and from arms trading with Guinea and former ULIMO combatants. The Trial Chamber is also mindful that the applicable law for aiding and abetting does not require that the Accused be the only source of assistance in order for his contribution to be substantial.¹⁵⁵²⁶ The Chamber has found that in addition to receiving arms and ammunition from the Accused, the RUF, AFRC/RUF also obtained supplies from the existing stockpiles of the Kabbah Government when they took over power in May 1997, by capturing them from ECOMOG and UN peacekeepers, and through trade with ULIMO, AFL and ECOMOG commanders. However, these sources of materiel were of minor importance in comparison to that supplied or facilitated by the Accused.¹⁵⁵²⁷ The Trial Chamber has found that the additional sources of supply which the RUF/AFRC had could not provide sufficient quantities of materiel to sustain the existence and military operations of the rebels.¹⁵⁵²⁸

6914. The Trial Chamber has also found that the RUF/AFRC in fact heavily and frequently relied on the materiel supplied and facilitated by the Accused. The depletion of RUF arms and ammunition was a problem which often prompted Bockarie and Sesay to turn to the Accused, and the Magburaka shipment is but one example of this.¹⁵⁵²⁹ The Trial Chamber further recalls its finding that the materiel supplied by or facilitated by the Accused often contributed to and was causally linked to the capture of more supplies by the RUF and AFRC.¹⁵⁵³⁰ The Trial Chamber has found that although there were instances in which the materiel that the Accused gave to the RUF/AFRC was more limited in quantity,¹⁵⁵³¹ on a number of occasions the arms and ammunitions which he supplied or facilitated were in fact

¹⁵⁵²⁶ Applicable Law: Law on Individual Criminal Responsibility. See also *Perišić* Trial Judgement, para. 1601.

¹⁵⁵²⁷ Arms and Ammunition: Use of Materiel supplied or facilitated by the Accused.

¹⁵⁵²⁸ Arms and Ammunition: Other Sources of Materiel.

¹⁵⁵²⁹ Arms and Ammunition: Other Sources of Materiel.

¹⁵⁵³⁰ Arms and Ammunition: Other Sources of Materiel.

¹⁵⁵³¹ Arms and Ammunition: Allegations of Direct Supply by the Accused.

LEGAL FINDINGS ON RESPONSIBILITY

indispensable for the RUF/AFRC military offensives. The materiel provided or facilitated by the Accused was critical in enabling the operational strategy of the RUF and the AFRC during the Indictment period.¹⁵⁵³²

6915. Accordingly, the Trial Chamber finds that the provision and facilitation of the supply of arms and ammunition to the RUF/AFRC had a substantial effect on the commission of crimes charged in the Indictment.

(ii) Military Personnel

6916. The Prosecution alleges that the Accused provided military personnel or 'manpower' to the RUF in the early 1990s and to the AFRC/RUF during the Junta period and throughout the Indictment period, from the NPFL and other organized groups in Liberia; by forcibly repatriating Sierra Leonean refugees and civilians living in Liberia; and, after he became President, from the AFL, SSS, ATU and LNP.¹⁵⁵³³ The Prosecution submits that the provision of these personnel substantially contributed to the commission of the crimes charged in the Indictment.¹⁵⁵³⁴

6917. The Defence denies that the Accused sent manpower to the RUF or to the AFRC/RUF during the Indictment period which substantially contributed to the commission of crimes.¹⁵⁵³⁵

6918. The Trial Chamber has found that the Accused sent a group of approximately 20 ex-NPFL fighters who had been integrated into the Armed Forces of Liberia ("AFL") to Sierra Leone. These 20 fighters fought in Karina and Kamalo in Bombali District in August/September 1998 as part of a group of 200 AFRC/RUF fighters. The 20 fighters were later on incorporated into the Red Lion Battalion, which was comprised of 200 fighters. The Red Lion Battalion formed part of a group of 1,000 AFRC/RUF fighters who participated in the invasion of Freetown and committed crimes during the course of military operations in December 1998/January 1999.¹⁵⁵³⁶

¹⁵⁵³² Arms and Ammunition: Other Sources of Materiel.

¹⁵⁵³³ Prosecution Final Trial Brief, para. 282.

¹⁵⁵³⁴ Prosecution Final Trial Brief, para. 599.

¹⁵⁵³⁵ Defence Response to Prosecution Final Trial Brief, para. 48.

¹⁵⁵³⁶ Provision of Military Personnel: Allegations Related to the Red Lion Battalion.

LEGAL FINDINGS ON RESPONSIBILITY

6919. The Trial Chamber further found that the Accused sent Abu Keita and 150 fighters known as the Scorpion Unit, to serve as a standby force in Sierra Leone, ready to protect Liberia from attacks coming from Guinea. Bockarie integrated the Scorpion Unit into the RUF, a decision approved by Daniel Tamba (a.k.a. Jungle) on behalf of the Accused,¹⁵⁵³⁷ and the reinforcements subsequently participated in the attack on Kono and Freetown, including the attack on Kenema. During this attack, crimes charged in Count 1 to 11 of the Indictment took place.

6920. The Trial Chamber further found that the Accused reorganized, armed and sent former SLA fighters who had retreated to Liberia back to Sierra Leone to fight in the Kono and Freetown operations, and these men participated in the attack on Kono in December 1998.¹⁵⁵³⁸ The Trial Chamber has found that Liberian authorities and RUF/AFRC members recruited and forced Sierra Leonean refugees residing in Liberia to return to Sierra Leone to fight. However, the evidence did not establish that these civilians participated in attacks in Sierra Leone.

6921. The Trial Chamber finds that the provision of military personnel by the Accused constitutes practical assistance to the commission of crimes by the RUF/AFRC during the Indictment period. The Trial Chamber will now consider whether this assistance was substantial.

6922. The Trial Chamber notes that Abu Keita was a former ULIMO general and therefore a person with high-level military expertise. He was sent by the Accused with approximately 150 fighters, who were tasked with the important mission of defending Liberia in case of an incursion from Guinea.¹⁵⁵³⁹ The Trial Chamber therefore considers that this was a relatively experienced military force, and that its subsequent inclusion within the ranks of the RUF and its deployment in the December 1998 attack on Kenema substantially contributed to the commission of crimes during the Freetown invasion.

6923. The Trial Chamber notes, with regard to the 20 AFL fighters who fought in the Red Lion Battalion that evidence was given to the effect that the Red Lion Battalion was an extremely fierce unit, which boosted the morale of the other RUF soldiers who were glad to

¹⁵⁵³⁷ Provision of Military Personnel: Scorpion Unit.

¹⁵⁵³⁸ Provision of Military Personnel: Repatriation of Sierra Leoneans.



LEGAL FINDINGS ON RESPONSIBILITY

fight alongside these soldiers.¹⁵⁵⁴⁰ A witness explained that their fierceness was because most of the soldiers who were in the Red Lion Battalion “had no relations in Freetown, not like us who had family members in Freetown, so they didn't care”.¹⁵⁵⁴¹

6924. The Trial Chamber finds that taken cumulatively, and in addition to the arms and ammunition provided by the Accused, the military personnel provided by the Accused constituted practical assistance which had a substantial effect on the commission of crimes by the RUF and RUF/AFRC.

(iii) Operational Support

6925. The Prosecution alleges that the Accused provided different forms of operational support to the RUF and RUF/AFRC including: providing communications equipment and training,¹⁵⁵⁴² logistical support, safe haven,¹⁵⁵⁴³ financial assistance,¹⁵⁵⁴⁴ an RUF Guesthouse in Monrovia¹⁵⁵⁴⁵ and medical support.¹⁵⁵⁴⁶ The Accused also provided herbalists to bolster fighters' confidence before the ‘Fitti-Fatta’ Operation, and ‘facilitators’ who served as security escorts for arms, ammunition and diamonds, drivers, messengers and liaisons between the Accused and the AFRC/RUF.¹⁵⁵⁴⁷ The Prosecution submits that these forms of assistance ensured the “continued existence of these groups”¹⁵⁵⁴⁸ and thus substantially contributed to the commission of the crimes charged in the Indictment.¹⁵⁵⁴⁹

6926. The Defence acknowledges that there were certain instances in which the Accused provided operational support to the RUF and RUF/AFRC but submits that he did so in order to facilitate negotiations during the peace process and as such this assistance lacks any connection to the RUF/AFRC commission of crimes.¹⁵⁵⁵⁰ The Defence further submits that

¹⁵⁵³⁹ Provision of Military Personnel: Scorpion Unit.

¹⁵⁵⁴⁰ Alimamy Bobson Sesay, Transcript 23 April 2008, pp. 8319-8321.

¹⁵⁵⁴¹ Alimamy Bobson Sesay, Transcript 23 April 2008, p. 8321.

¹⁵⁵⁴² Prosecution Final Trial Brief, paras 7, 49, 93-94, 307.

¹⁵⁵⁴³ Prosecution Final Trial Brief, para. 329.

¹⁵⁵⁴⁴ Prosecution Final Trial Brief, para. 335.

¹⁵⁵⁴⁵ Prosecution Final Trial Brief, para. 333.

¹⁵⁵⁴⁶ Prosecution Final Trial Brief, para. 338.

¹⁵⁵⁴⁷ Prosecution Final Trial Brief, paras 283-306.

¹⁵⁵⁴⁸ Prosecution Final Trial Brief, para. 329.

¹⁵⁵⁴⁹ Prosecution Final Trial Brief, para. 599.

¹⁵⁵⁵⁰ The Defence concedes that the Accused provided both Bockarie and Sesay with satellite phones but only in order to facilitate communications for the purposes of the peace negotiations. *See* Defence Final Trial Brief,

LEGAL FINDINGS ON RESPONSIBILITY

this assistance could not have substantially contributed to the crimes charged in the Indictment.¹⁵⁵⁵¹

6927. The Trial Chamber has found that during the pre-Indictment period, NPFL radio operators and equipment were sent to Sierra Leone, and RUF fighters were trained by the NPFL radio operators in radio communications, with the knowledge of the Accused. The RUF continued to benefit into the Indictment period from the enhanced communications capacity that resulted from this assistance. However, as the acts of the Accused took place prior to the Indictment period, the Trial Chamber has not taken them into account in determining criminal responsibility.

6928. The Trial Chamber has found that the Accused also provided operational support to the RUF/AFRC during the Indictment period. The Accused provided satellite phones to Sam Bockarie and Issa Sesay and thus enhanced their capacity to plan, facilitate or order RUF military operations during which crimes were committed. The Trial Chamber notes that the Accused and Sam Bockarie communicated by a satellite phone in furtherance of the Freetown Invasion and other RUF/AFRC military activities during which crimes were committed.¹⁵⁵⁵²

6929. The Trial Chamber has found that on different occasions RUF members, including Foday Sankoh, Eddie Kanneh, Memunatu Deen and Dauda Aruna Fornie, used Liberian radio communication equipment in Monrovia to communicate with the RUF in Sierra Leone regarding arms shipments, diamond transactions and military operations.¹⁵⁵⁵³ In addition to the equipment at the RUF Guesthouse, there is evidence that Base I, the radio station at Benjamin Yeaten's home, was used for communications with Bockarie and later Sesay.¹⁵⁵⁵⁴

paras 73, 97, 531, 538, 574, 699, 702, 934, 961, 998-1006, 1520. The Defence also agrees that an RUF Guesthouse was set up in Monrovia in October 1998 to ensure that the Government of Liberia could contact the RUF through their personnel at the house, again for the purposes of facilitating the peace process. *See* Defence Final Trial Brief, paras 1011-1012. The Defence further concedes that that during a difficult period, the Accused would allow injured RUF members to receive treatment in Liberia but states that this is a humanitarian assistance and not a support of the military effort. *See* Defence Final Trial Brief, para. 1186.

¹⁵⁵⁵¹ Defence Final Trial Brief, paras 989, 998, 1027.

¹⁵⁵⁵² Operational Support: Communications, Satellite Phones.

¹⁵⁵⁵³ Operational Support: Communications, Use of Liberian Communications by the RUF.

¹⁵⁵⁵⁴ Operational Support: Communications, Use of Liberian Communications by the RUF.

LEGAL FINDINGS ON RESPONSIBILITY

The Trial Chamber notes its findings that these communications happened with the knowledge and approval of the Accused.¹⁵⁵⁵⁵

6930. The Trial Chamber has also found that “448 messages” were sent by subordinates of the Accused in Liberia, with his knowledge, to warn the RUF of impending ECOMOG jet attacks on AFRC/RUF forces in Sierra Leone.¹⁵⁵⁵⁶

6931. The Trial Chamber finds that the communications support provided by the Accused to the RUF/AFRC constitutes practical assistance to the RUF/AFRC for the crimes committed during the course of their military operations throughout the Indictment period.

6932. The Trial Chamber has found that the Accused provided financial support to the RUF/AFRC. In most instances, these funds were given to individual RUF members for unspecified or personal use. After February 1998, the Accused gave funds to Bockarie of \$10,000 to \$20,000 at a time, on multiple occasions for the purchase of arms from ULIMO.¹⁵⁵⁵⁷ The Accused also kept diamonds and money in “safekeeping” for the RUF/AFRC.¹⁵⁵⁵⁸

6933. The Trial Chamber found that the Accused also provided a Guesthouse to the RUF in Monrovia, which was used by the RUF to facilitate the transfer of arms and funds from the Accused to the RUF and the delivery of diamonds from the RUF to the Accused.¹⁵⁵⁵⁹

6934. The Trial Chamber also found that during the Indictment period, the Accused provided the RUF/AFRC with security escorts, facilitation of access through checkpoints, and much needed assistance with transport of arms and ammunition by road and by air. This facilitation of road and air transportation of materiel, as well as security escorts, played a vital role in the operations of the RUF/AFRC during a period when an international arms embargo was in force.¹⁵⁵⁶⁰

¹⁵⁵⁵⁵ Operational Support: Communications. Use of Liberian Communications by the RUF; Operational Support: Communications, RUF and NPFL Codes and Communications.

¹⁵⁵⁵⁶ Operational Support: Communications, “448” Warnings.

¹⁵⁵⁵⁷ Operational Support: Alleged Support and Training. Financial Support: Arms and Ammunition: Allegations that the Accused Facilitated Supplies. Supplies from ULIMO.

¹⁵⁵⁵⁸ Diamonds; Operational Support: Alleged Support and Training, Financial Support.

¹⁵⁵⁵⁹ Operational Support: Provision of RUF Guesthouse in Monrovia.

¹⁵⁵⁶⁰ Operational Support: Logistical Support.

LEGAL FINDINGS ON RESPONSIBILITY

6935. The Trial Chamber further found that throughout the Indictment period the Accused provided the RUF and RUF/AFRC with other forms of assistance which supported the well-functioning and continued existence of these groups. The Accused provided safe haven for RUF fighters during their retreat from Zogoda¹⁵⁵⁶¹ and medical support in Liberia for treatment of wounded RUF fighters,¹⁵⁵⁶² as well as provision of goods such as food, clothing, cigarettes, alcohol and other supplies to the RUF. The Accused also sent “herbalists” who marked fighters in Buedu and Kono to “protect” them against bullets and bolster their confidence.¹⁵⁵⁶³ Liberian forces also assisted the RUF/AFRC with the capture and return of deserters to Sierra Leone.¹⁵⁵⁶⁴

6936. The Trial Chamber notes that a common feature of all of the aforementioned forms of assistance is that they supported, sustained and enhanced the functioning of the RUF and its capacity to undertake military operations in the course of which crimes were committed. The Trial Chamber recalls its finding that the RUF and RUF/AFRC military campaign was inextricably linked to the commission of the crimes charged in the Indictment. Therefore, the Trial Chamber finds that these forms of operational support, including communications, logistics, and the RUF Guesthouse, which improved coordination and facilitated the trade for and vital flow of arms and ammunition to the RUF/AFRC, constitute practical assistance for the commission of crimes charged in Count 1 to 11 of the Indictment.

6937. Taken cumulatively, and having regard to the military support provided by the Accused to the AFRC/RUF, the Trial Chamber finds that the operational support provided by the Accused to the AFRC/RUF had a substantial effect on the commission of crimes charged in Count 1 to 11 of the Indictment.

(iv) Encouragement and Moral Support

6938. The Prosecution alleges that “throughout the conflict in Sierra Leone, Taylor continued to provide the leaders of the RUF, AFRC/RUF with strategic instruction, direction and guidance in relation to a range of political, military and other matters”.¹⁵⁵⁶⁵ The

¹⁵⁵⁶¹ Operational Support: Alleged Provision of Safe Havens.

¹⁵⁵⁶² Operational Support: Alleged Support and Training, Medical and Other Support.

¹⁵⁵⁶³ Operational Support: Alleged Support and Training, Provision of Herbalists.

¹⁵⁵⁶⁴ Provision of Military Personnel: Alleged Cooperation in Return of Deserters to Sierra Leone.

¹⁵⁵⁶⁵ Prosecution Final Trial Brief, para. 119.

LEGAL FINDINGS ON RESPONSIBILITY

Prosecution submits that through this action, the Accused substantially contributed to the commission of the crimes charged in the Indictment.¹⁵⁵⁶⁶

6939. The Defence argues that the Accused “neither gave the RUF nor the Junta any instructions to carry out atrocities”¹⁵⁵⁶⁷ and denies any such contact between the Accused and the RUF and RUF/AFRC.¹⁵⁵⁶⁸ The Defence further generally submits that the Prosecution’s evidence does not support a conviction for aiding and abetting.¹⁵⁵⁶⁹

6940. The Trial Chamber has considered the ongoing communication and consultation between the Accused and the RUF/AFRC leadership, and the ongoing advice and encouragement that the Accused provided to the RUF/AFRC.

6941. The Trial Chamber has found that the Accused advised Sankoh to participate in the Abidjan peace talks in 1996 in order to obtain arms and ammunition for the RUF, and that the RUF did obtain arms and ammunition in Abidjan. While pre-Indictment, the Trial Chamber considers this incident to show a pattern of conduct by the Accused that continued into and during the Indictment period.

6942. The Trial Chamber also found that in February 1998 the Accused told Johnny Paul Koroma to capture Kono and, after RUF/AFRC forces carried out two consecutive attacks on Koidu Town, subsequently told Bockarie that the RUF should keep control over this area for the purpose of maintaining the trade of diamonds for arms and ammunition.¹⁵⁵⁷⁰ The Trial Chamber further found that the Accused advised Bockarie to recapture Kono in mid-June 1998 in order to mine diamonds which would be used to purchase arms and ammunition, following which the RUF carried out Operation Fitti-Fatta.¹⁵⁵⁷¹

6943. The Trial Chamber also found that after the Intervention in 1998, the Accused told Bockarie that the RUF should construct or re-prepare the airfield in Buedu, so that arms and ammunitions can be shipped to RUF/AFRC controlled territory.¹⁵⁵⁷² The Trial Chamber has

¹⁵⁵⁶⁶ Prosecution Final Trial Brief, para. 599.

¹⁵⁵⁶⁷ Defence Final Trial Brief, para. 850.

¹⁵⁵⁶⁸ Defence Final Trial Brief, para. 851.

¹⁵⁵⁶⁹ Defence Final Trial Brief, para. 1197.

¹⁵⁵⁷⁰ Military Operations: Operations in Kono (Early 1998).

¹⁵⁵⁷¹ Military Operations: Operation Fitti-Fatta.

¹⁵⁵⁷² Operational Support: Alleged Support and Training, Order to Build an Airfield in Buedu.

LEGAL FINDINGS ON RESPONSIBILITY

also found that in 1998, the Accused advised Sam Bockarie to open an RUF training base in Bunumbu, Kailahun District, known as "Camp Lion".¹⁵⁵⁷³

6944. The Trial Chamber finds that by giving advice and direction to the RUF and RUF/AFRC on matters concerning or directly affecting their military strategy, the Accused encouraged and morally supported the commission of the crimes charged in the Indictment.

6945. The Trial Chamber notes that the Accused held a position of authority as an elder statesman and as President of Liberia. As such, he was accorded deference by the RUF and RUF/AFRC and, as demonstrated by the evidence, his advice was generally heeded by them. The Trial Chamber is therefore convinced that the approval, support and encouragement which the RUF and RUF/AFRC troops received from the Accused greatly boosted their confidence and morale when conducting military operations.

6946. Taken cumulatively, and considering the other forms of practical assistance which the Accused provided, the Trial Chamber finds beyond reasonable doubt that the Accused substantially contributed to the commission of the crimes charged in Counts I to II of the Indictment by rendering encouragement and moral support to the RUF and RUF/AFRC.

(b) Findings on the Mental Elements of Aiding and Abetting

6947. The Trial Chamber recalls that as early as August 1997, the Accused knew of the atrocities being committed against civilians in Sierra Leone by the RUF and RUF/AFRC forces and of their propensity to commit crimes. The Accused acknowledged that when he became the President of Liberia, he started receiving daily briefings from his national security advisor which would include press and intelligence reports regarding the situation in Sierra Leone.¹⁵⁵⁷⁴ In addition to this, as a member of ECOWAS, the Accused was also privy to numerous reports which described the "massive looting of property, murder and rapes"¹⁵⁵⁷⁵ that were being committed on the territory of Sierra Leone.¹⁵⁵⁷⁶

¹⁵⁵⁷³ Operational Support: Alleged Support and Training, Bunumbu Training Camp.

¹⁵⁵⁷⁴ Charles Ghankay Taylor, Transcript 14 July 2009, p. 24333; Transcript 8 September 2009, pp. 28265-28268; Transcript 16 November 2009, p. 31713; Transcript 14 January 2010, p. 33382; Transcript 18 January 2010, p. 33441; Transcript 26 January 2010, pp. 34130-34133.

¹⁵⁵⁷⁵ Exhibit D-135, "ECOWAS, Report of the Committee of Four on the Situation in Sierra Leone, 26 August 1997 – DCT 32".

¹⁵⁵⁷⁶ Knowledge of the Accused.

LEGAL FINDINGS ON RESPONSIBILITY

6948. The Trial Chamber further recalls that the Accused testified that at that time there were news reports of a “horrific campaign being waged against the civilian population in Sierra Leone”.¹⁵⁵⁷⁷ In a statement dated July 1998, Taylor “strongly condemned the continuing rebel activities in Sierra Leone, as well as the horrendous atrocities that had been committed there”.¹⁵⁵⁷⁸

6949. In light of the above, the Trial Chamber finds beyond reasonable doubt that the Accused knew that his support to the RUF/AFRC would provide practical assistance, encouragement or moral support to them in the commission of crimes during the course of their military operations in Sierra Leone. Nevertheless, he provided these groups with practical assistance, encouragement and moral support.

6950. The Trial Chamber also finds that the Accused was aware of the “essential elements” of the crimes he was contributing to, including the state of mind of the perpetrators. The Trial Chamber recalls the numerous contemporary public reports which described in detail and over a large period of time each of the crimes charged in Counts 1 to 11 of the Indictment.¹⁵⁵⁷⁹ The Trial Chamber also notes that after 1997 there was increased media coverage on the RUF/AFRC terror campaign in Sierra Leone.¹⁵⁵⁸⁰ Such reports on the

¹⁵⁵⁷⁷ Charles Ghankay Taylor, Transcript 8 September 2009, p. 28274; Transcript 18 January 2010, p. 33403.

¹⁵⁵⁷⁸ Charles Ghankay Taylor, Transcript 25 November 2009, p. 32439.

¹⁵⁵⁷⁹ Knowledge of the Accused.

¹⁵⁵⁸⁰ See for example Exhibit P-078, “Sierra Leone 1998 – A year of atrocities against civilians, Amnesty International Report”, p. 1 (“During 1998 the scale of atrocities against civilians in Sierra Leone has reached unprecedented levels. Several thousand unarmed civilians, including many women and children, have been deliberately and arbitrarily killed and mutilated by forces of the Armed Forces Revolutionary Council (AFRC) and the armed opposition Revolutionary Front (RUF) since February 1998”); Exhibit P-385, “Daily News, 20 February 1998” (reporting that “52 people burned alive as Junta goes on rampage”); Exhibit D-155, “UN Security Council, Fourth Report of the Secretary General on the Situation in Sierra Leone, 18 March 1998” (mentioning widespread looting and reprisal killings which accompanied the junta’s expulsion); Exhibit P-304, “Sierra Leone Humanitarian Situation Report, 16-30 April 1998” (mentioning widespread mutilations and looting); Exhibit P-332, “Médecins sans Frontières 1998 Report: Atrocities Against Civilians in Sierra Leone, 1 May 1998” (The report also documents instances of rapes and killings, including by being burned alive); Exhibit P-079, “Doctors without Borders/Médecins sans Frontières (MSF) Press Release - Mutilation of Civilians on the increase in Sierra Leone, 5 May 1998” (executions, rapes and kidnappings); Exhibit P-130, “United Nations Security Council, Fifth Report of the Secretary-General on the Situation in Sierra Leone, S/1998/486, 9 June 1998” (The report condemns the actions of the Junta in Sierra Leone and states that they have been attacking towns and villages, terrorising local populations and extorting food from them. There have also been incidents of looting, property destruction, mutilations, rape, extrajudicial killings, arbitrary detentions (including for purposes of sexual abuse), torture and forced labour); Exhibit P-081, “Amnesty International Report, 24 July 1998”, p. 1, ERN 91 (“A deliberate and systematic campaign of killing, rape and mutilation - called by the AFRC and RUF “Operation no living thing” - has emerged since April 1998”), p. 3 (“Children have been particular victims of the violence and brutality in Sierra Leone. As well as being deliberately and arbitrarily killed, mutilated and maimed, thousands of children have been and continue to be abducted by AFRC and RUF forces and forced to fight. Girls and women have been systematically raped and forced into sexual slavery); Exhibit P-080, “UN





LEGAL FINDINGS ON RESPONSIBILITY

crimes taking place in Sierra Leone were at the core of discussions during meetings of the ECOWAS Committee of Five (later Committee of Six), of which the Accused was a member.

6951. In light of the above, the Trial Chamber finds that the Accused was also aware of the “essential elements” of the crimes committed by RUF and RUF/AFRC troops, including the state of mind of the perpetrators.

6952. In conclusion, the Trial Chamber is satisfied beyond reasonable doubt that the Accused possessed the necessary *mens rea* for aiding and abetting in relation to the crimes charged in Counts 1 to 11 of the Indictment.

(c) Finding on the Accused’s Criminal Responsibility for Aiding and Abetting the Crimes Charged in the Indictment

6953. For the foregoing reasons, the Trial Chamber finds beyond reasonable doubt that the Accused is criminally responsible pursuant to Article 6(1) of the Statute for aiding and abetting the commission of crimes set forth in Counts 1 through 11 of the Indictment.

3. Planning

6954. The Accused is charged with individual criminal responsibility pursuant to Article 6(1) of the Statute for planning the crimes referred to in Articles 2, 3 and 4 of the Statutes, as alleged in the Indictment.¹⁵⁵⁸¹

6955. The Prosecution submits that the Accused, acting jointly with RUF, AFRC and Liberian subordinates, designed or organized the commission of crimes, at both the preparatory and execution phases, by designing a strategy for the AFRC Junta, the RUF and AFRC forces, including selecting strategic areas to attack and control, such as Kono and the capital Freetown, and organizing the delivery of arms and ammunition needed to carry out

Security Council – First Progress Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 12 August 1998” (The report condemns the actions of the rebels in Sierra Leone. Such actions have included the destruction of property, the use of human-shields, rapes, executions, mutilations and the taking of civilian captives); Exhibit D-169, “UN Security Council, Second Progress Report of the Secretary General on the United Nations Observer Mission in Sierra Leone, S/1998/960, 16 October 1998” (The report documents that following the arrest of Foday Sankoh, the RUF announced, on 17 August 1998, a terror campaign against the civilian population, CDF and ECOMOG if the Government failed to release Sankoh within seven days).

¹⁵⁵⁸¹ Second Amended Indictment, para. 33.

LEGAL FINDINGS ON RESPONSIBILITY

the attacks. The Prosecution submits that in all of his planning for war in Sierra Leone, the Accused was aware of the substantial likelihood that his planning would result in the commission of the crimes charged in the Indictment.¹⁵⁵⁸²

6956. The Defence submits that the evidence presented by the Prosecution is insufficient to establish that the Accused planned the commission of crimes alleged in the Indictment, or was aware of the substantial likelihood that such crimes would be committed, as part of the invasion of Freetown in January 1999. The Defence further submits that it was the AFRC, not the RUF, who planned and executed this attack.¹⁵⁵⁸³

6957. In order to find the Accused guilty of planning the crimes charged in Counts 1 to 11 of the Indictment, the Trial Chamber must be satisfied beyond reasonable doubt that the Accused, alone or with others, intentionally planned the criminal conduct constituting the crimes charged. While it is not a requirement that the crimes charged would not have been perpetrated but for the Accused's plan, it is necessary to demonstrate that the plan was a factor which substantially contributed to the commission of these crimes or underlying offences.¹⁵⁵⁸⁴ Furthermore, the Trial Chamber must be satisfied beyond reasonable doubt that the Accused intended that a crime or underlying offence be committed in the execution of that plan, or that he was aware of the substantial likelihood that a crime or underlying offence would be committed in the execution of that plan.¹⁵⁵⁸⁵

(a) Findings on the Physical Elements of Planning

6958. The Trial Chamber recalls its finding that in November 1998, Sam Bockarie met with the Accused in Monrovia, where the two of them designed a plan for the RUF/AFRC forces to carry out a two-pronged attack on Kono and Kenema with the ultimate objective of reaching Freetown, releasing Foday Sankoh from prison and regaining control.¹⁵⁵⁸⁶ The Accused emphasised to Bockarie that this military operation should be "fearful" in order to pressure the Government into negotiations for the release of Foday Sankoh.¹⁵⁵⁸⁷ Upon returning to Sierra Leone in December 1998, Bockarie convened a meeting at Waterworks,

¹⁵⁵⁸² Prosecution Final Trial Brief, para. 613.

¹⁵⁵⁸³ Defence Final Trial Brief, para. 1340.

¹⁵⁵⁸⁴ Applicable Law: Law on Individual Criminal Responsibility.

¹⁵⁵⁸⁵ Applicable Law: Law on Individual Criminal Responsibility.

¹⁵⁵⁸⁶ Military Operations: The Freetown Invasion, The Plan.

LEGAL FINDINGS ON RESPONSIBILITY

in Kailahun District, where he conveyed this plan to RUF and AFRC commanders. At the end of the meeting Bockarie contacted the Accused via satellite phone. During the conversation, the Accused told Bockarie to use “all means” to capture Freetown.¹⁵⁵⁸⁸

6959. The Trial Chamber recalls its finding that Bockarie had the idea to attack Freetown even before meeting with the Accused in Monrovia in November 1998. This is evident from Bockarie’s prior request to the Accused to assist him in obtaining a large amount of arms and ammunition from Burkina Faso.¹⁵⁵⁸⁹ However, the Trial Chamber notes that the actual plan which established the various military targets and the *modus operandi* of the attack was designed during the November 1998 meeting between Bockarie and the Accused.¹⁵⁵⁹⁰ The objective to capture Kono prior to moving to Freetown was integrated in the plan upon advice from the Accused and the aim to make the operation “fearful” was articulated.¹⁵⁵⁹¹ The Trial Chamber notes that the RUF and AFRC attacks which ensued on 17 December 1998 were directed towards the locations prescribed in the plan made by Bockarie and the Accused.¹⁵⁵⁹²

6960. The Trial Chamber further recalls that in December 1998 and January 1999, Bockarie was in frequent contact via radio or satellite phone with the Accused, either directly or through Yeaten, to update him on the execution of the plan and the progress of the Kono and Freetown operations.¹⁵⁵⁹³

6961. In light of the above, the Trial Chamber finds that in November 1998, the Accused, in concert with Bockarie, intentionally designed a plan for the RUF/AFRC Freetown Invasion. The Trial Chamber will now consider whether this plan substantially contributed to the crimes committed by RUF/AFRC fighters.

6962. The plan designed by Bockarie and the Accused led directly to the attacks on Kono and Makeni. In the course of the implementation of this plan, a small contingent of troops led by Idrissa Kamara (a.k.a. Rambo Red Goat) reached Freetown and Bockarie’s forces got

¹⁵⁵⁸⁷ Military Operations: The Freetown Invasion, The Plan.

¹⁵⁵⁸⁸ Military Operations: The Freetown Invasion, The Plan.

¹⁵⁵⁸⁹ Military Operations: The Freetown Invasion, The Plan.

¹⁵⁵⁹⁰ Military Operations: The Freetown Invasion, The Plan.

¹⁵⁵⁹¹ Military Operations: The Freetown Invasion, The Plan.

¹⁵⁵⁹² Military Operations: The Freetown Invasion, The Implementation of the Plan.

¹⁵⁵⁹³ Military Operations: The Freetown Invasion, Allegation that the Accused Directed the Freetown Invasion.

LEGAL FINDINGS ON RESPONSIBILITY

to the outskirts of Freetown, where they met up with the forces led by Gullit. During the course of the implementation of this plan, these forces committed crimes charged in the Indictment. These crimes resulted directly from the plan made by Bockarie and the Accused in Monrovia.

6963. The Defence submits that the actual attack on Freetown in January 1999 was planned and executed by a group of AFRC soldiers who acted on their own and had no contact with the RUF.¹⁵⁵⁹⁴ According to the Defence, this shows that the Accused was not involved in any way with the crimes that took place during this attack.

6964. The Trial Chamber recalls its finding that in June/July 1998, before the plan for the two-pronged attack leading to Freetown was made by Bockarie and the Accused, a group of disgruntled AFRC soldiers led by SAJ Musa, who refused to take orders from Bockarie, devised their own plan to attack Freetown in order to “restore the Sierra Leone Army”.¹⁵⁵⁹⁵ In mid-December 1998, these AFRC fighters started the execution of that plan and, independently of the RUF, moved towards Freetown.

6965. The Trial Chamber found that following the Waterworks meeting Bockarie told SAJ Musa to attack Freetown but SAJ Musa refused and continued on his own advance, pursuant to his separate plan. The Trial Chamber found that following the death of SAJ Musa on 23 December 1998, during an attack in Benguema, Alex Tamba Brima (a.k.a. Gullit) took over the leadership of the troops at Benguema.¹⁵⁵⁹⁶ Gullit then resumed contact with Bockarie and the two of them coordinated efforts to capture Freetown. The Trial Chamber recalls its finding that Bockarie then assumed effective control over Gullit’s actions and SAJ Musa’s plan was abandoned for the plan that had been made by Bockarie and the Accused in November 1998.¹⁵⁵⁹⁷ The troops commanded by Gullit in Freetown were subordinated to and used by Bockarie in furtherance of this plan, and further execution of the plan was carried out with close coordination between Bockarie and Gullit, with Gullit in frequent communication with Bockarie and with Gullit taking orders from Bockarie. In these circumstances the Trial Chamber finds that the plan made by Bockarie and the Accused

¹⁵⁵⁹⁴ Defence Final Trial Brief, para. 1340.

¹⁵⁵⁹⁵ Military Operations: The Freetown Invasion, The Plan.

¹⁵⁵⁹⁶ Military Operations: The Freetown Invasion, The Implementation of the Plan.

¹⁵⁵⁹⁷ Military Operations: The Freetown Invasion, The Implementation of the Plan.

LEGAL FINDINGS ON RESPONSIBILITY

substantially contributed to the commission of crimes committed by Gullit's forces while Gullit was operating under Bockarie's command.

6966. The Accused, having drawn up the plan with Bockarie, and having followed its implementation closely via daily communication with Bockarie, either directly or through Yeaten, was aware of its continuing evolution.

6967. The Trial Chamber notes that the RUF/AFRC military campaign to recapture Freetown was marked by extreme violence and involved the commission of crimes, specifically acts of terrorism (Count 1); murder (Counts 2 and 3); rape (Count 4); sexual slavery (Count 5); outrages upon personal dignity (Count 6); cruel treatment (Count 7); other inhumane acts (Count 8); conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (Count 9); enslavement (Count 10); and pillage (Count 11).¹⁵⁵⁹⁸

6968. In light of the above, the Trial Chamber is satisfied that the plan, devised by Bockarie and the Accused in Monrovia in November 1998, substantially contributed to the RUF/AFRC military attacks leading to and involving the Freetown Invasion, during which these groups committed the crimes charged in Counts 1 to 11 of the Indictment.

(b) Findings on the Mental Elements of Planning

6969. The Trial Chamber recalls its finding that as President of Liberia and a member of the ECOWAS Committee of Five, the Accused was continuously receiving detailed reports of the atrocities committed by RUF/AFRC troops in Sierra Leone. The Accused was well aware of the crimes committed by the AFRC/RUF forces in the course of their military operations, and that their war strategy was explicitly based on a widespread or systematic campaign of crimes against civilians.¹⁵⁵⁹⁹ The Accused admitted that by April 1998 he was aware that the RUF was "a group engaged in a campaign of atrocities against the civilian population of Sierra Leone".¹⁵⁶⁰⁰ The Accused also stated that there were news reports in May 1998 which made him aware that the RUF was engaged in a "horrific campaign [...]"

¹⁵⁵⁹⁸ The War Strategy of the RUF/AFRC.

¹⁵⁵⁹⁹ Knowledge of the Accused.

¹⁵⁶⁰⁰ Charles Ghankay Taylor, Transcript 25 November 2009, p. 32395.

LEGAL FINDINGS ON RESPONSIBILITY

against the civilian population in Sierra Leone".¹⁵⁶⁰¹ The Accused testified that he accepted the information in these reports and condemned the "gross atrocities".¹⁵⁶⁰² Moreover, by his instruction to make the operation "fearful", which was repeated many times by Bockarie during the course of the Freetown invasion, and by his instruction to use "all means", the Accused demonstrated his awareness of the substantial likelihood that crimes would be committed during the execution of the plan.

6970. In light of the foregoing, the Trial Chamber is satisfied beyond reasonable doubt that the Accused intended that the crimes charged in Counts 1 to 11 of the Indictment be committed or was aware of the substantial likelihood that RUF/AFRC forces would commit such crimes as a result of executing the plan which he and Bockarie designed.

(c) Finding on the Accused's Criminal Responsibility for Planning the Crimes Charged in the Indictment

6971. For the foregoing reasons, the Trial Chamber finds beyond reasonable doubt that the Accused is criminally responsible pursuant to Article 6(1) of the Statute for planning the crimes charged in Counts 1 to 11 of the Indictment, committed by members of the RUF/AFRC and Liberian fighters in the attacks on Kono and Makeni, in the invasion of Freetown and during the retreat from Freetown, between December 1998 and February 1999.

4. Instigating

6972. The Trial Chamber, having already found that the Accused is criminally responsible for aiding and abetting the commission of the crimes in Counts 1-11 of the Indictment, does not find that the Accused also instigated those crimes.

5. Ordering

6973. The Trial Chamber has found that while the Accused held a position of authority amongst the RUF and RUF/AFRC, the instructions and guidance which he gave to the RUF and RUF/AFRC were generally of an advisory nature and at times were in fact not followed

¹⁵⁶⁰¹ Charles Ghankay Taylor, Transcript 8 September 2009, p. 28274.

¹⁵⁶⁰² Charles Ghankay Taylor, Transcript 8 September 2009, p. 28276.



LEGAL FINDINGS ON RESPONSIBILITY

by the RUF/AFRC leadership. For these reasons, the Trial Chamber finds that the Accused cannot be held responsible for ordering the commission of crimes.

B. Article 6.3 of the Statute

1. Superior Responsibility

6974. The Indictment charges that the Accused is individually criminally responsible for the crimes referred to in Articles 2,3, and 4 of the Statute as alleged in the Indictment by virtue of holding positions of superior responsibility and exercising command and control over subordinate members of the RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters. It is alleged that the Accused is responsible for the criminal acts of his subordinates in that he knew or had reason to know that the subordinate was about to commit such acts or had done so and the Accused failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.

6975. The Prosecution submits that the evidence establishes beyond reasonable doubt that the Accused personalized his power over the RUF, and later the AFRC/RUF, exercising ultimate decision making authority over these forces, the *de facto* superior of the members of the RUF, AFRC/RUF who committed the charged crimes during the Indictment period.¹⁵⁶⁰³

6976. The Defence denies criminal responsibility based on a superior/subordinate relationship between the Accused and the perpetrators of the crimes. The Defence submits that the evidence does not establish beyond reasonable doubt that the Accused bears command responsibility for the crimes charged in the Indictment, as there is no evidence of an organized and disciplined structure with reporting and monitoring mechanisms which would have kept him informed of all the RUF's activities, having him possess the requisite knowledge of all the crimes charged in the Indictment in order to prevent their commission or punish the offenders, particularly given the Accused's position as a civilian leader of another country, geographically removed from the theatre of the crimes.¹⁵⁶⁰⁴

¹⁵⁶⁰³ Prosecution Final Trial Brief, para. 622.

¹⁵⁶⁰⁴ Defence Final Trial Brief, paras 1333-1334.



LEGAL FINDINGS ON RESPONSIBILITY

6977. Article 6(3) of the Statute provides for criminal responsibility if a superior knew or had reason to know that his or her subordinate was about to commit crimes prohibited by the Statute or had done so, and the superior failed to take the necessary and reasonable measures to prevent or punish the perpetrators of such crimes.¹⁵⁶⁰⁵

6978. The Trial Chamber notes that in order to establish criminal liability under Article 6(3) of the Statute the existence of a superior-subordinate relationship between the Accused as superior and the perpetrators of the crimes as his subordinates must be established. It must be demonstrated that the superior had “effective control” over his subordinates – i.e. the material ability to prevent or punish the commission of the offence.

6979. The Trial Chamber has considered whether the Accused had “effective control” over the RUF and the AFRC. The Accused had substantial influence over the leadership of the RUF, and to a lesser extent that of the AFRC. However, the Trial Chamber notes that substantial influence over the conduct of others falls short of effective control. In considering whether the Accused exercised effective control over the RUF and the AFRC, it has examined his interactions with the leaders of these groups closely.

6980. The Trial Chamber first considered the relationship of the Accused and Sankoh in the pre-Indictment period. The evidence on record establishes that from 1990 to March 1997 Sankoh was the sole leader of the RUF and that he did not take orders from the Accused. When Foday Sankoh was arrested in March 1997 he instructed Bockarie to take direction from the Accused, but the evidence showed that Sankoh was not handing over his command to the Accused. Instead, the evidence indicated that Sankoh maintained control of the RUF leadership. Moreover, had the Accused been effectively in control of the RUF, such an order would not have come from Sankoh. On the basis of the evidence, the Trial Chamber found that Sankoh was not a subordinate to the Accused.¹⁵⁶⁰⁶

6981. With regard to the relationship between the Accused and Sam Bockarie, the Trial Chamber found that, in accordance with Sankoh’s instruction of March 1997, the Accused gave guidance, advice, instruction and direction to Bockarie. While the evidence demonstrates that Bockarie was deferential to the Accused and generally followed his advice

¹⁵⁶⁰⁵ Applicable Law: Law on Individual Criminal Responsibility.

¹⁵⁶⁰⁶ Leadership and Command Structure: Conclusion.

LEGAL FINDINGS ON RESPONSIBILITY

and instruction, it did not establish that he was a subordinate of the Accused and that the Accused had effective control over the RUF during Bockarie's tenure of RUF leadership,¹⁵⁶⁰⁷ i.e. that the Accused was in a position to take the necessary and reasonable measures to prevent or punish Bockarie for the commission of crimes.

6982. With regard to Issa Sesay, who was appointed as Interim Leader of the RUF in 2000, the Trial Chamber notes that Sesay refused to accept the appointment from the Accused and others without the approval of the RUF and Sankoh,¹⁵⁶⁰⁸ indicating that Sesay was not initially a subordinate of the Accused and that the Accused did not have effective control over the RUF during Sesay's tenure as Interim Leader of the RUF.

6983. Similarly, the Trial Chamber notes that the Accused gave guidance, advice, instruction and direction to Johnny Paul Koroma when he was leader of the AFRC/RUF Junta, but the evidence does not establish that Koroma was a subordinate of the Accused, nor that the Accused had effective control over the AFRC/RUF Junta, i.e. that the Accused was in a position to take the necessary and reasonable measures to prevent or punish Koroma for the commission of crimes.

6984. With regard to Liberian fighters who were found to have participated in the commission of crimes in Sierra Leone, the Trial Chamber notes that even if they were sent to Sierra Leone by the Accused, there is insufficient evidence to find beyond a reasonable doubt that they remained under the authority or effective control of the Accused once in Sierra Leone. Similarly, the Trial Chamber notes that the evidence is insufficient to establish that repatriated Sierra Leoneans who were sent by the Accused to Sierra Leone were under the authority or effective control of the Accused upon their return to Sierra Leone

6985. As the RUF and AFRC leaders were not subordinates of the Accused, and the RUF and AFRC/RUF Junta were not under the effective control of the Accused, the Trial Chamber need not consider the other elements of superior responsibility.

6986. In light of the foregoing, the Trial Chamber finds that the Prosecution failed to prove beyond reasonable doubt that the Accused is individually criminally responsible for the crimes referred to in Articles 2, 3 and 4 of the Statute, as alleged in the Indictment by virtue of

¹⁵⁶⁰⁷ Leadership and Command Structure: Conclusion.

¹⁵⁶⁰⁸ Leadership and Command Structure: Accused's Relationship with the RUF/AFRC. Issa Sesay.



LEGAL FINDINGS ON RESPONSIBILITY

holding positions of superior responsibility and exercising command and control over subordinate members of the RUF, AFRC, AFRC/RUF Junta or alliance, and/or Liberian fighters.



CUMULATIVE AND CONCURRENT CONVICTIONS

CUMULATIVE AND CONCURRENT CONVICTIONS

A. Cumulative ConvictionsApplicable Law

6987. In certain circumstances, the Trial Chamber may find that essentially the same criminal conduct constitutes different crimes under the Statute.¹⁵⁶⁰⁹ Convictions which arise under different statutory provisions, but are based on the same criminal conduct, have been commonly referred to as “cumulative convictions” and are permissible “only if each statutory provision involved has a materially distinct element not contained in the other. An element is materially distinct from another if it requires proof of a fact not required by the other”.¹⁵⁶¹⁰ If an additional element is only required for one of the provisions and not for the other, then the Trial Chamber can only enter a conviction for the more specific offence, as it necessarily entails the commission of the less specific offence.¹⁵⁶¹¹

(a) Cumulative Convictions for Crimes against Humanity and War Crimes

6988. The general requirements for crimes against humanity and war crimes, as set out in the General Requirements section above, are clearly distinct and establish different contextual elements.¹⁵⁶¹² Crimes against humanity are predicated upon a widespread or systematic attack upon a civilian population.¹⁵⁶¹³ War crimes, on the other hand, require a nexus between the underlying act and an armed conflict.¹⁵⁶¹⁴ The Trial Chamber therefore

¹⁵⁶⁰⁹ CDF Appeal Judgement, para. 220; AFRC Trial Judgement, para. 2099; *Prosecutor v. Đorđević*, IT-05-87/1-T, Judgement (TC), 23 February 2011, para. 2196.

¹⁵⁶¹⁰ CDF Appeal Judgement, para. 220; AFRC Trial Judgement, para. 2099; *Čelibići* Appeal Judgement, para. 412; *Nahimana et al.* Appeal Judgement, para. 1019; *Prosecutor v. Musema*, ICTR-96-13-A, Judgement (AC), 16 November 2001 [*Musema* Appeal Judgement], paras 361-363; *Naletilić and Martinović* Appeal Judgement, paras 584-585.

¹⁵⁶¹¹ *Ntakirutimana* Appeal Judgement, para. 542, holding that convictions for the crimes against humanity of murder and extermination were impermissibly cumulative, as “each involves killing within the context of a widespread or systematic attack against the civilian population, and the only element that distinguishes these offences is the requirement of the offence of extermination that the killings occur on a mass scale”. See also *Kunarac et al.* Appeal Judgement, para. 170; *Galić* Appeal Judgement, para. 163; *Krstić* Appeal Judgement, para. 218; *Popović* Trial Judgement, para. 2111; *Semanza* Appeal Judgement, para. 315; *Kordić and Čerkez* Appeal Judgement, para. 1032.

¹⁵⁶¹² *Galić* Appeal Judgement, para. 165; *Kordić and Čerkez* Appeal Judgement, para. 1036; *Jelišić* Appeal Judgement, para. 82; *Kunarac et al.* Appeal Judgement, para. 176, citing *Kupreškić et al.* Appeal Judgement, para. 388 and *Jelišić* Appeal Judgement, para. 82.

¹⁵⁶¹³ Law and Findings on the General Requirements.

¹⁵⁶¹⁴ Law and Findings on the General Requirements.





CUMULATIVE AND CONCURRENT CONVICTIONS

holds that cumulative convictions may be entered for the same criminal conduct when it is defined as a crime against humanity and as a war crime. In light of the Indictment, convictions may therefore be entered for the same unlawful killings under Counts 2 and 3; sexual violence under Counts 4 and 6 and Counts 5 and 6; and physical violence under Counts 7 and 8.

(b) Cumulative Convictions for Crimes against Humanity

(i) Rape and Sexual Slavery

6989. The Trial Chamber considers that it is permissible to enter multiple convictions for the crime charged under Count 5 (sexual slavery) and the crime charged under Count 4 (rape). While both are forms of sexual violence, each offence contains a distinct element not required by the other. The offence of rape requires non-consensual sexual penetration.¹⁵⁶¹⁵ The definition of rape does not require that the perpetrator exercise ongoing control or ownership over the victim, as is required by the crime of sexual slavery.¹⁵⁶¹⁶ The Trial Chamber further notes that the requisite sexual act in the definition of sexual slavery can be committed by multiple means,¹⁵⁶¹⁷ and does not necessarily entail non-consensual sexual penetration. The Trial Chamber therefore finds that rape (Count 4) and sexual slavery (Count 5) contain materially distinct elements, and that it is legally permissible to enter convictions on both counts.¹⁵⁶¹⁸

(c) Cumulative Convictions for War Crimes

(i) Acts of Terror and other war crimes charged

6990. The Trial Chamber finds that the crime of acts of terrorism contains a materially distinct element from the war crimes of violence to life, health and physical or mental well-being of persons, in particular murder (Count 3), outrages upon personal dignity (Count 6), violence to life, health and physical or mental well-being of persons, in particular cruel treatment (Count 7), and pillage (Count 11). An essential element of acts of terror is the

¹⁵⁶¹⁵ Applicable Law, Specific Elements of the Crimes.

¹⁵⁶¹⁶ Applicable Law, Specific Elements of the Crimes.

¹⁵⁶¹⁷ i.e. *Kunarac et al.* Trial Judgement, paras 70, 86, 773.

¹⁵⁶¹⁸ The Trial Chamber notes that Trial Chamber I, in the RUF case, held that it was not legally permissible to enter cumulative convictions for rape and sexual slavery. See *RUF* Trial Judgement, para. 2305. However, the Trial Chamber is not bound to follow this finding.

CUMULATIVE AND CONCURRENT CONVICTIONS

intent to spread fear,¹⁵⁶¹⁹ which distinguishes the offence from the other charged war crimes, which do not have this requirement.¹⁵⁶²⁰ Moreover, all of the other crimes contain elements that are not required by the crime of acts of terrorism: murder requires the death of the victim, outrages upon personal dignity requires humiliating or degrading treatment, cruel treatment requires the infliction of severe mental or physical pain or suffering, and pillage requires the unlawful appropriation of property.¹⁵⁶²¹ The Trial Chamber therefore holds that it is permissible to enter cumulative convictions for acts of terrorism (Count 1) as well as murder (Count 3), outrages upon personal dignity (Count 6), cruel treatment (Count 7) and pillage (Count 11).

B. Concurrent Convictions

6991. The issue of “concurrent convictions” arises when simultaneous convictions are entered in relation to the same count, based on the same facts, under different modes of liability.¹⁵⁶²² It has been held as a general rule that an accused “can be convicted for a single crime on the basis of several modes of liability”.¹⁵⁶²³ However, where the Prosecution alleges that the Accused is responsible under both Article 6(1) and 6(3) of the Statute for the same crime, and where the legal requirements pertaining to both of these heads of responsibility are met, a conviction should be entered on the basis of Article 6(1) only. In such cases, the Accused’s status as a superior may be considered an aggravating factor in sentencing.¹⁵⁶²⁴

¹⁵⁶¹⁹ Applicable Law, Specific Elements of the Crimes.

¹⁵⁶²⁰ *RUF* Appeal Judgement, paras 1197-1198, where the Appeals Chamber held that “[i]n the *Fofana and Kondewa* Appeal Judgement the Appeals Chamber found that cumulative convictions ‘are permissible for collective punishment, in addition to murder, cruel treatment and pillage’. The same reasoning applies to acts of terrorism”. See *CDF* Appeal Judgement, para. 225.

¹⁵⁶²¹ Applicable Law, Specific Elements of the Crimes.

¹⁵⁶²² *Kordić and Čerkez* Appeal Judgement, paras 35, 1033; *Blaškić* Appeal Judgement, paras 89-93; *Prosecutor v. Milutinović et al.*, IT-05-87-T, Judgement (TC), 26 February 2009, para. 76.

¹⁵⁶²³ *Ndindabahizi v Prosecutor*, ICTR-01-71-A, Judgement (AC), 16 January 2007, para. 122. See also *Nahimana, Barayagwiza and Ngeze v Prosecutor*, ICTR-99-52-A, Judgement (AC), 28 November 2007, para. 483; *Kamahunda v Prosecutor*, ICTR-99-54A-A, Judgement (AC), 19 September 2005, Separate and Partially Dissenting Opinion of Judge Mohamed Shahabuddeen, paras 405 and 411, where it was maintained that “[T]here is no reason why a single crime cannot be perpetrated by multiple methods” and that “there is no illogicality arising from [...] holding that the accused can both aid and abet another to commit a crime and can order that other to commit that crime”.

¹⁵⁶²⁴ *AFRC* Appeal Judgement, paras 214-215; *RUF* Trial Judgement, para. 2311; *Blaškić* Appeal Judgement, para. 91; *Kordić and Čerkez* Appeal Judgement, paras 34-35; *Kajelijeli* Appeal Judgement, para. 81; *Prosecutor v. Miodrag Jokić*, IT-01-42/1-A, Judgement on Sentencing Appeal (AC), 30 August 2005 [*Jokić* Sentencing Appeal], para. 24.

CUMULATIVE AND CONCURRENT CONVICTIONS

6992. However, the Trial Chamber notes that concurrent convictions under Article 6(1) and Article 6(3) of the Statute in relation to the same count in the Indictment are not prohibited if they are based on a *different* set of facts.¹⁵⁶²⁵ This is possible when multiple instances of an offence are charged within a single Count. The Appeals Chamber has held that “when the accused is charged for multiple instances of an offence under a single Count pursuant to both Articles 6(1) and 6(3), and one or more is proved beyond a reasonable doubt for each mode of responsibility, then a compound conviction should be entered against the accused”.¹⁵⁶²⁶ Therefore, where a single set of facts within a single count substantiate an Accused’s individual responsibility and superior responsibility, a conviction may only be entered under Article 6(1); where multiple, independent sets of facts within a single count are used to prove an Accused’s individual and superior responsibility, concurrent convictions may be entered under both Article 6(1) and Article 6(3).

Conclusion

6993. Cumulative and concurrent convictions serve to describe the full culpability of a particular accused or provide a more complete picture of his criminal conduct.¹⁵⁶²⁷ However,

¹⁵⁶²⁵ *AFRC* Appeal Judgement, paras 214-215; *Jokić* Sentencing Appeal, para. 25. See also *RUF* Trial Judgement, para. 2312.

¹⁵⁶²⁶ *AFRC* Appeal Judgement, para. 215. The Appeals Chamber goes even further to hold that in such cases, it constitutes a legal error for the Trial Chamber not to enter a compound sentence. See also *RUF* Trial Judgement, para. 2312.

¹⁵⁶²⁷ *Kumarac et al.* Appeal Judgement, para. 169, citing the Partial Dissenting Opinion of Judge Shahabuddeen in *Prosecutor v. Jelisić*, IT-95-10-A, Judgement (AC), 5 July 2001 [*Jelisić* Appeal Judgement], para. 34; *Kordić and Čerkez* Appeal Judgement, para. 1033. See also *AFRC* Appeal Judgement, para. 215; *RUF* Trial Judgement, para. 2301.



43067

CUMULATIVE AND CONCURRENT CONVICTIONS

in determining whether to enter cumulative and concurrent convictions, the Trial Chamber must be guided by considerations of justice for the accused.¹⁵⁶²⁸

¹⁵⁶²⁸ *Čelebići* Appeal Judgement, para. 412; *Kunarac et al.* Appeal Judgement, para. 173. See also para. 174: “[T]he Chamber must take into account the entire situation so as to avoid a mechanical or blind application of its guiding principles”. See also *RUF* Trial Judgement, para. 2301.



DISPOSITION**X. DISPOSITION**

6994. The Trial Chamber convicted Charles Ghankay Taylor for:

(a) Aiding and abetting the commission of the following crimes pursuant to Article 6.1 of the Statute during the Indictment period:

i. **Count 1:** Acts of terrorism, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(d) of the Statute in Kenema, Kono, and Kailahun Districts and in Freetown and the Western Area.

ii. **Count 2:** Murder, a crime against humanity pursuant to Article 2(a) of the Statute in Kenema, Kono and Kailahun Districts, and in Freetown and the Western Area.

iii. **Count 3:** Violence to life, health and physical or mental well-being of persons, in particular murder, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(a) of the Statute in Kenema, Kono and Kailahun Districts, and in Freetown and the Western Area.

iv. **Count 4:** Rape, a crime against humanity, punishable under Article 2(g) of the Statute in Kono District and in Freetown and the Western Area.

v. **Count 5:** Sexual slavery, a crime against humanity, punishable under Article 2(g) of the Statute in Kono and Kailahun Districts, and in Freetown and the Western Area.

vi. **Count 6:** Outrages upon personal dignity, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(e) of the Statute in Kono District and in Freetown and the Western Area.

vii. **Count 7:** Violence to life, health and physical or mental well-being of persons, in particular cruel treatment, a violation of Article 3 common to the Geneva

DISPOSITION

Conventions and of Additional Protocol II pursuant to Article 3(a) of the Statute in Kono District and in Freetown and the Western Area.

viii. **Count 8:** Other inhumane acts, a crime against humanity pursuant to Article 2(i) of the Statute in Kono District and in Freetown and the Western Area.

ix. **Count 9:** Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities, another serious violation of international humanitarian law pursuant to Article 4(c) of the Statute in Tonkolili, Kailahun, Kono, Bombali, Port Loko, Kenema and Koinadugu Districts and in Freetown and the Western Area.

x. **Count 10:** Enslavement, a crime against humanity pursuant to Article 2 (c) of the Statute in Kenema, Kono and Kailahun Districts, and in Freetown and the Western Area.

xi. **Count 11:** Pillage, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(f) of the Statute in Kono, Bombali, and Port Loko Districts and in Freetown and the Western Area.

(b) **Planning** the commission of the following crimes pursuant to Article 6.1 of the Statute in the attacks on Kono and Makeni in December 1998, and in the invasion of and retreat from Freetown, between December 1998 and February 1999:

i. **Count 1:** Acts of terrorism, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(d) of the Statute in Kono District and in Freetown and the Western Area.

ii. **Count 2:** Murder, a crime against humanity pursuant to Article 2(a) of the Statute in Kono District and in Freetown and the Western Area.

iii. **Count 3:** Violence to life, health and physical or mental well-being of persons, in particular murder, a violation of Article 3 common to the Geneva Conventions and



DISPOSITION

of Additional Protocol II pursuant to Article 3(a) of the Statute in Kono District and in Freetown and the Western Area.

iv. **Count 4:** Rape, a crime against humanity, punishable under Article 2(g) of the Statute in Kono District and in Freetown and the Western Area.

v. **Count 5:** Sexual slavery, a crime against humanity, punishable under Article 2(g) of the Statute in Kono and Kailahun Districts, and in Freetown and the Western Area.

vi. **Count 6:** Outrages upon personal dignity, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(e) of the Statute in Kono District and in Freetown and the Western Area.

vii. **Count 7:** Violence to life, health and physical or mental well-being of persons, in particular cruel treatment, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(a) of the Statute in Kono District and in Freetown and the Western Area.

viii. **Count 8:** Other inhumane acts, a crime against humanity pursuant to Article 2(i) of the Statute in Kono District and in Freetown and the Western Area.

ix. **Count 9:** Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities, another serious violation of international humanitarian law pursuant to Article 4(c) of the Statute in Kailahun, Kono, Bombali and Port Loko Districts, and in Freetown and the Western Area.

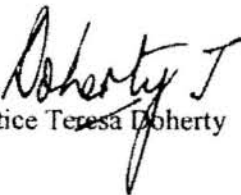
x. **Count 10:** Enslavement, a crime against humanity pursuant to Article 2 (c) of the Statute in Kono and Kailahun Districts, and in Freetown and the Western Area.




DISPOSITION

xi. **Count 11:** Pillage, a violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 3(f) of the Statute in Kono District and in Freetown and the Western Area.

Done this 18th Day of May 2012, in The Hague, The Netherlands.


Justice Teresa Doherty


Justice Richard Lussick
Presiding Judge


Justice Julia Sebutinde

[Seal of the Special Court for Sierra Leone]



ANNEX A: LIST OF ABBREVIATIONS

ANNEX A: LIST OF ABBREVIATIONS

2 I/C	second in command
AC	Appeals Chamber
Accused	Charles Ghankay Taylor
AFL	Armed Forces of Liberia
AFRC	Armed Forces Revolutionary Council
aka/a.k.a.	also known as
ATU	Anti Terrorist Unit
APC	All Peoples Congress
Art.	Article
BBC	British Broadcasting Corporation
BFC	Battle Field Commander
BFI	Battle Field Inspector
BGC	Battle Group Commander
CCP	Commission for the Consolidation of Peace
CDF	Civil Defence Forces
CDF case	Prosecutor v. Norman, Fofana and Kondewa (SCSL-04-14-T)
CDS	Chief Defence Staff
CIC	Commander in Chief
CID	Criminal Investigation Department
CO	Commanding Officer
Col	Colonel
Common Article 3	Article 3 common to the four Geneva Conventions of 1949
CS	Closed Session, reference to transcripts and testimony led in closed session for the purpose of witness protection.
DDR	Disarmament, Demobilisation and Reintegration
DCT	Defence Witness
Defence	Defence for the Accused
ECOMOG	ECOWAS Monitoring Group
ECOWAS	Economic Community of West African States
ERN	Evidence Record Numbers
Exhibit D	Defence Exhibit

ANNEX A: LIST OF ABBREVIATIONS

Exhibit P	Prosecution Exhibit
EU	European Union
Fn.	footnote
HRW	Human Rights Watch
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994
ICTY	International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991
IDU	Internal Defence Unit
IECOM	Independent Elections Commission
IGNU	Interim Government of National Unity
Indictment	Second Amended Indictment, dated 29 May 2007
Inter-Am. C.H.R.	Inter-American Commission of Human Rights
INPFL	Independent National Patriotic Front of Liberia
IO	Intelligence Office
JCE	Joint Criminal Enterprise
JPK	Johnny Paul Koroma (Senior AFRC commander)
JSB	Joint Security Board
JSBI	Joint Security Board of Investigations
KENBATT	Kenyan Battalion of UNAMSIL peacekeepers
LDF	Lofa Defence Force
Le	Leones (currency of Sierra Leone)
LNTG	Liberian National Transitional Government
LUDF	Liberian United Defence Force
LURD	Liberians United for Reconciliation and Democracy
MILOB	Military Observers attached to UNAMSIL
MOJA	Movement for Justice in Africa

ANNEX A: LIST OF ABBREVIATIONS

Mosquito	Nickname of Sam Bockarie
MP	Military Police
MRU	Movement for the Redemptions of Muslims
NCDDR	National Committee for Disarmament, Demobilisation and Reintegration
NGO	Non-governmental organisation
NPF	National Patriotic Front
NPFL	National Patriotic Front of Liberia
NPRAG	National Patriotic Reconstruction Assembly Government
NPRC	National Provisional Ruling Council
NPWJ	No Peace Without Justice, NGO
OAU	Organisation of African Unity
OTP	Office of the Prosecutor of the Special Court for Sierra Leone
p., pp.	Page, pages
para., paras	paragraph
PANAFU	Pan African Union
PPPL	Progressive Peoples Party of Liberia
PRC	People's Redemption Council
PTSD	Post-Traumatic Stress Disorder
RPG	Rocket-Propelled Grenade
ROE	Rules of Engagement
RUF	Revolutionary United Front
RUFP	Revolutionary United Front Party
Rules	Rules of Procedure and Evidence
SBU	Small Boys Unit
SGU	Small Girls Unit
SLA/ex-SLA	Sierra Leone Army
SLBS	Sierra Leone Broadcasting Station
SLPP	Sierra Leone Peoples Party
SOD	Special Operations Division
Special Court or SCSL	Special Court for Sierra Leone
ss.	Sections
SSS	Special Security Service

ANNEX A: LIST OF ABBREVIATIONS

SSU	Special Security Unit
STL	Special Tribunal for Lebanon
Statute	Statute of the Special Court for Sierra Leone
SLP	Sierra Leone Police
STD	Sexually transmitted disease
STF	Special Task Force
TC	Trial Chamber
TF1	Prosecution Witness
TRC	Truth and Reconciliation Commission
ULIMO	United Liberation Movement of Liberia for Democracy
ULIMO-K	United Liberation Movement of Liberia for Democracy - Kromah
ULIMO-J	United Liberation Movement of Liberia for Democracy – Johnson
ULAA	Union of Liberian Associates in America
ULC	United Logging Company
US/USA	United States of America
USD	United States Dollar
USG	United States Government
UN	United Nations
UNAMSIL	United Nations Mission in Sierra Leone
UNOMIL	United Nations Observer Mission in Liberia
UNOMSIL	United Nations Observer Mission in Sierra Leone
WAC	Women's Auxiliary Corps
WMU	Witness Management Unit (Prosecution)
WVS	Witness and Victims Section (Registry)





ANNEX A: LIST OF ABBREVIATIONS

I. ANNEX B: PROCEDURAL HISTORY	2484
1. INDICTMENT, ARREST, AND INITIAL APPEARANCE.....	2484
2. PRELIMINARY OBJECTION BASED ON LACK OF JURISDICTION.....	2485
3. PRE-TRIAL PROCEEDINGS	2486
3.1. ASSIGNMENT OF COUNSEL	2486
3.2. CHANGE OF VENUE OF PROCEEDINGS	2486
3.3. PRE-TRIAL CONFERENCES, TRIAL DATE, AND ADEQUATE TIME FOR PREPARATION....	2487
3.4. PROTECTIVE MEASURES	2488
3.5. CHARLES TAYLOR'S REQUEST TO GIVE AN UNSWORN STATEMENT FROM THE DOCK ..	2489
3.6. REQUEST TO SUSPEND UN SECURITY COUNCIL RESOLUTIONS 1521 AND 1532.....	2489
3.7. AGREED FACTS	2490
4. TRIAL PROCEEDINGS.....	2490
4.1. OVERVIEW	2490
4.2. WITHDRAWAL OF COUNSEL AND POSTPONEMENT OF THE TRIAL.....	2491
4.3. DEFECTS IN THE FORM OF THE INDICTMENT	2492
4.4. JUDICIAL NOTICE	2492
4.5. PROSECUTION CASE	2493
4.5.1. OVERVIEW.....	2493
4.5.2. WITNESS ISSUES	2494
4.5.2.1. Protective Measures	2494
4.5.2.2. Subpoena for Moses Blah (TF1-561).....	2495
4.5.2.3. Reclassification of Witness Corinne Dufka	2496
4.5.3. DISCLOSURE	2496
4.5.3.1. Disclosure of Confidential Information Obtained from a Witness	2496
4.5.3.2. Disclosure of Evidence Supporting Chief Prosecutor's Statements	2496
4.5.3.3. Confidential Source Issue Relating to Witness TF1-355	2496
4.5.3.4. Contradictory Testimony of TF1-371 and Disclosure Under Rule 68.....	2497
4.5.4. DOCUMENTS.....	2497
4.5.4.1. Personal Archives of the Accused.....	2497
4.5.4.2. Admission of Documents Under Rule 92 <i>bis</i> , 92 <i>ter</i> and 92 <i>quater</i>	2497
4.5.4.3. Access to Documents from the RUF Trial.....	2499
4.5.4.4. Reclassification of Documents as Confidential	2499
4.5.5. RE-OPENING OF PROSECUTION CASE.....	2500
4.6. DEFENCE CASE	2500
4.6.1. OVERVIEW.....	2500
4.6.2. WITNESS ISSUES	2501
4.6.2.1. Protective Measures	2501
4.6.2.2. Contact Between the Accused and Defence Counsel and Witnesses.....	2501
4.6.3. DISCLOSURE	2502
4.6.4. DOCUMENTS.....	2503
4.6.4.1. Use of Fresh Evidence in Cross-Examination.....	2503
4.6.4.2. Admission of Documents Under Rule 92 <i>bis</i> , 92 <i>ter</i> and 92 <i>quater</i>	2504
4.6.5. OTHER.....	2505
4.6.6. DEFENCE REQUESTS TO RECALL WITNESSES AND TO RE-OPEN THE DEFENCE CASE	2506
4.7. CONTEMPT MOTIONS	2506
4.8. FILING OF THE FINAL TRIAL BRIEFS AND ORAL ARGUMENTS	2508
4.9. FINAL JUDGEMENT.....	2511





ANNEX B: PROCEDURAL HISTORY

ANNEX B: PROCEDURAL HISTORY

(a) Indictment, Arrest, and Initial Appearance

1. On 7 March 2003, the Prosecutor requested the confirmation of a 17-count indictment alleging crimes against humanity, war crimes and other serious violations of international humanitarian law contrary to Articles 2, 3 and 4 of the Statute of the Special Court for Sierra Leone against the Accused, Charles Ghankay Taylor.¹⁵⁶²⁹ Justice Bankole Thompson approved the Indictment on the same day and ordered its non-disclosure to the public.¹⁵⁶³⁰ Also on the same day, Justice Thompson issued a Warrant of Arrest requesting all States to assist in the arrest and transfer of the Accused to the Special Court.¹⁵⁶³¹ On 4 June 2003, the then Chief Prosecutor, David Crane, disclosed the Indictment and Warrant of Arrest to the public at a press conference in Freetown.¹⁵⁶³² On 12 June 2003, the Indictment and Warrant of Arrest were formally unsealed at the request of the Prosecution by an order of Justice Boutet.¹⁵⁶³³

2. On 6 March 2006, the Prosecution requested an amendment to the Indictment,¹⁵⁶³⁴ which was granted by Justice Thompson on 16 March 2006.¹⁵⁶³⁵ The Prosecution subsequently filed the Amended Indictment and Case Summary on 17 March 2006.¹⁵⁶³⁶

3. The Accused was arrested in Nigeria on 29 March 2006. Shortly thereafter he was transferred into the custody of the Special Court in Freetown and was served with the

¹⁵⁶²⁹ *Prosecutor v. Taylor*, SCSL-03-01-I-001, Prosecutor Memorandum to Accompany Indictment, filed 7 March 2003. In order to facilitate the confirmation process the Prosecution included an investigator statement.

¹⁵⁶³⁰ *Prosecutor v. Taylor*, SCSL-03-01-I-003, Decision Approving the Indictment and Order for Non-Disclosure, 7 March 2003.

¹⁵⁶³¹ *Prosecutor v. Taylor*, SCSL-03-01-I-004, Warrant of Arrest and Order for Transfer and Detention, 7 March 2003.

¹⁵⁶³² Press Release, Statement of David M. Crane, Chief Prosecutor, Special Court for Sierra Leone, 5 June 2003.

¹⁵⁶³³ *Prosecutor v. Taylor*, SCSL-03-01-I-006, Order for the Disclosure of the Indictment, the Warrant of Arrest and Order for Transfer and Detention and the Decision Approving the Indictment and Order for Non-Disclosure, 12 June 2003. *Prosecutor v. Taylor*, SCSL-03-01-I-078, Decision and Order for Disclosure, 30 March 2006.

¹⁵⁶³⁴ *Prosecutor v. Taylor*, SCSL-03-01-I-072, Prosecution Motion for Leave to Amend the Indictment and for Approval and Non-Disclosure of the Amended Indictment, 6 March 2006.

¹⁵⁶³⁵ *Prosecutor v. Taylor*, SCSL-03-01-I-074, Decision on Prosecution's Application to Amend Indictment and on Approval of Amended Indictment, 16 March 2006.

¹⁵⁶³⁶ *Prosecutor v. Taylor*, SCSL-03-01-I-075, Amended Indictment and Case Summary accompanying the Amended Indictment, 17 March 2006.

ANNEX B: PROCEDURAL HISTORY

Amended Indictment in accordance with Rule 52. The Amended Indictment was disclosed to the public the following day.¹⁵⁶³⁷

4. The President assigned the proceedings to Trial Chamber II, composed of Justice Richard Lussick, Justice Teresa Doherty and Justice Julia Sebutinde.¹⁵⁶³⁸ Justice El Hadji Malick Sow was later appointed as an alternate Judge on 18 May 2007.¹⁵⁶³⁹

5. The Accused made his initial appearance and was formally arraigned before Presiding Judge Richard Lussick on 3 April 2006, pursuant to Rule 61. He was represented by the Principal Defender, Vincent Nmehielle, and pleaded not guilty to all counts of the Amended Indictment.¹⁵⁶⁴⁰

6. On 29 May 2007, the Prosecution filed a Second Amended Indictment with minor changes to three of the eleven counts.¹⁵⁶⁴¹ The Accused was re-arraigned on 3 July 2007 and again pleaded not guilty to the amended charges.¹⁵⁶⁴² On 3 August 2007, the Prosecution filed an Amended Case Summary.¹⁵⁶⁴³

(b) Preliminary Objection Based on Lack of Jurisdiction

7. Before the Accused's arrest and as an incumbent President of the Republic of Liberia, on 23 July 2003 the Accused pursuant to Rule 72 moved to quash his indictment and to set aside the outstanding arrest warrant on the grounds that, as incumbent Head of State of the sovereign Republic of Liberia, he was immune from any exercise of the Court's jurisdiction.¹⁵⁶⁴⁴ The Appeals Chamber, composed of three Appeals Chamber Judges, dismissed the motion on 31 May 2004, holding that the Special Court for Sierra Leone was an international – not a national – court, and that “the principle seems now established that the sovereign equality of states does not prevent a Head of State from being prosecuted

¹⁵⁶³⁷ *Prosecutor v. Taylor*, SCSL-03-01-I-078, Decision and Order for Disclosure, 30 March 2006.

¹⁵⁶³⁸ *Prosecutor v. Taylor*, SCSL-03-01-I-079, Order Assigning a Case to a Trial Chamber, 31 March 2006.

¹⁵⁶³⁹ *Prosecutor v. Taylor*, SCSL-03-01-PT-240, Order Designating Alternate Judge, 18 May 2007.

¹⁵⁶⁴⁰ *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 3 April 2006, p. 14.

¹⁵⁶⁴¹ *Prosecutor v. Taylor*, SCSL-03-01-PT-263, Prosecution's Second Amended Indictment, 29 May 2007.

¹⁵⁶⁴² *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 3 July 2007, pp. 401-402

¹⁵⁶⁴³ *Prosecutor v. Taylor*, SCSL-03-01-T-327, Prosecution Notification of Filing of Amended Case Summary, 3 August 2007.

¹⁵⁶⁴⁴ *Prosecutor v. Taylor*, SCSL-03-01-I-015, Applicant's Motion Made Under Protest and Without Waiving of Immunity Accorded to a Head of State President Charles Ghankay Taylor Requesting that the Trial Chamber Do Quash the Said Approved Indictment of 7th March 2003 of Judge Bankole Thompson, 23 July 2003.





ANNEX B: PROCEDURAL HISTORY

before an international tribunal or court".¹⁵⁶⁴⁵ The Appeals Chamber held that Article 6(2) of the Statute, which provides that the official position of any accused person, including as Head of State shall not relieve such a person of criminal responsibility, was not in conflict with any peremptory norm of international humanitarian law, and must be given effect by the court.¹⁵⁶⁴⁶ It therefore held that the official position of the Accused as incumbent Head of State at the time that the proceedings were initiated against him is not a bar to his prosecution by the Special Court.¹⁵⁶⁴⁷

(c) Pre-Trial Proceedings(i) Assignment of Counsel

8. On 5 April 2006, Mr Karim Asad Ahmed Khan was assigned as provisional Counsel for a 90-day period.¹⁵⁶⁴⁸ On 13 July 2006, he was reassigned as Assigned Counsel for a further 90-day period.¹⁵⁶⁴⁹ He was permanently assigned as legal counsel for the Accused on 21 September 2006.

(ii) Change of Venue of Proceedings

9. In light of security concerns, the President of the Special Court formally made a request under Rule 4 to the Government of The Netherlands and the President of the ICC to facilitate the conduct of the trial.¹⁵⁶⁵⁰ The Government of The Netherlands, however, requested an authorisation from the United Nations Security Council before agreeing to the request of the President of the Special Court.¹⁵⁶⁵¹ The Security Council determined that the continued presence of the Accused in the subregion was a threat to the peace of Sierra Leone and Liberia, and to international peace and security in the region, and, acting under Chapter VII of the United Nations Charter, adopted UN Security Council Resolution 1688 (2006),

¹⁵⁶⁴⁵ *Prosecutor v. Taylor*, SCSL-03-01-I-059, Decision on Immunity from Jurisdiction, 31 May 2004, para. 52.

¹⁵⁶⁴⁶ *Ibid.*, para. 53.

¹⁵⁶⁴⁷ *Ibid.*

¹⁵⁶⁴⁸ *Prosecutor v. Taylor*, SCSL-03-01-PT-088, Principal Defender's Decision to Provisionally Assign Counsel to Charles Ghankay Taylor, 5 April 2006.

¹⁵⁶⁴⁹ *Prosecutor v. Taylor*, SCSL-03-01-PT-111, Principal Defender's Decision to Reassign Counsel to Charles Ghankay Taylor, 13 July 2006.

¹⁵⁶⁵⁰ UN Doc. S/2006/207. Letter dated 31 March 2006 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council (Annex I).

¹⁵⁶⁵¹ UN Doc. S/2006/207. Letter dated 31 March 2006 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council (Annex II).

ANNEX B: PROCEDURAL HISTORY

which established the legal basis for the detention of the Accused on Dutch territory.¹⁵⁶⁵² Following the adoption of this resolution, the agreement of the ICC, an agreement with the Government of The Netherlands to host the Special Court proceedings in The Netherlands and the agreement of the United Kingdom to accept the Accused after the conclusion of the trial and appeal, on 19 June 2006, the President of the Special Court authorized that the pre-trial, trial and appeal proceedings be transferred to The Hague, and ordered that the Accused be transferred to The Netherlands.¹⁵⁶⁵³ The Accused was transferred to The Hague on 20 June 2006.

10. Prior to the transfer, the Defence challenged the change of venue before the Trial Chamber, which found the application to be one that raised objections based on lack of jurisdiction pursuant to Rule 72(B)(i) and an abuse of process pursuant to Rule 72(B)(v) and accordingly referred the matter to the Appeals Chamber pursuant to Rule 72(E).¹⁵⁶⁵⁴ The Appeals Chamber, composed of three Judges, found the motion premature, inadmissible and inappropriately directed to the Trial and Appeals Chambers, rather than the President.¹⁵⁶⁵⁵ On 12 March 2007, the President of the Special Court found that the Rules do not provide an avenue for reconsideration or review before the President.¹⁵⁶⁵⁶ The Defence finally challenged the change of venue before the Council of Judges, composed of the President and the presiding Judges of the respective Trial Chambers. The Council of Judges held on 7 June 2007 that it did not have the authority or jurisdiction to reconsider or review an administrative decision made by the President of the Special Court.¹⁵⁶⁵⁷

(iii) Pre-Trial Conferences, Trial Date, and Adequate Time for Preparation

11. The Trial Chamber convened three status conferences prior to the commencement of the trial in order to narrow the issues in dispute, ensure the parties complied with their

¹⁵⁶⁵² UN SC Res. 1688, 16 June 2006.

¹⁵⁶⁵³ *Prosecutor v. Taylor*, SCSL-03-01-PT-108, Order Changing Venue of Proceedings, 19 June 2006.

¹⁵⁶⁵⁴ *Prosecutor v. Taylor*, SCSL-03-01-PT-098, Order Pursuant to Rules 72(E) and 72(F), 3 May 2006.

¹⁵⁶⁵⁵ *Prosecutor v. Taylor*, SCSL-03-01-AR72-104, Decision on Urgent Defence Motion Against Change of Venue, 29 May 2006.

¹⁵⁶⁵⁶ *Prosecutor v. Taylor*, SCSL-03-01-PT-202, Decision of the President on Defence Motion for Reconsideration of Order Changing Venue of Proceedings, 12 March 2007.

¹⁵⁶⁵⁷ *Prosecutor v. Taylor*, SCSL-03-01-T-283, Declaration by the Council of Judges, 7 June 2007.

ANNEX B: PROCEDURAL HISTORY

disclosure obligations under Rules 66, 67, and 68, and set a trial date as early as practicable.¹⁵⁶⁵⁸

12. An initial trial date of 2 April 2007 was set by Justice Sebutinde at the second status conference held on 22 September 2006. The Trial Chamber dismissed a Defence motion requesting better facilities, more time and an office in Monrovia on 23 January 2007,¹⁵⁶⁵⁹ but granted its request to delay the start of the trial to 4 June 2007.¹⁵⁶⁶⁰ On 25 April 2007, the Trial Chamber further adjourned the proceedings after the Prosecutor's opening statement on 4 June 2007 for 18 days, in order to compensate the Accused for time lost as a result of a delay in removing a video surveillance camera installed in the Accused's conference room.¹⁵⁶⁶¹

13. In preparation for the commencement of the trial, a Pre-Trial Conference was held on 7 May 2007.¹⁵⁶⁶² Prior to the Pre-Trial Conference, both parties filed Pre-Trial Briefs.¹⁵⁶⁶³ The Prosecution also filed a list of expert witnesses and witnesses of fact. In the Defence's Pre-Trial Brief, filed on 26 April 2007, it claimed that three weeks was insufficient time to analyse and respond to the Prosecution's Pre-Trial Brief.¹⁵⁶⁶⁴

(iv) Protective Measures

14. On 5 May 2006, the Trial Chamber ordered protective measures for 46 Prosecution witnesses, allowing the Prosecution, *inter alia*, to withhold identifying information of

¹⁵⁶⁵⁸ Status conferences prior to the commencement of the trial were held on 21 July 2006; 22 September 2006; and 26 January 2007. See *Prosecutor v. Taylor*, SCSL-03-01-PT-113, Scheduling Order for Status Conference in The Hague, 17 July 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-118, Scheduling Order for a Second Status Conference in The Hague, 4 August 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-131, Scheduling Order for a Third Status Conference in The Hague, 20 November 2006.

¹⁵⁶⁵⁹ *Prosecutor v. Taylor*, SCSL-03-01-PT-164, Joint Decision on Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr Taylor's Defence, 23 January 2007.

¹⁵⁶⁶⁰ *Ibid.*

¹⁵⁶⁶¹ *Prosecutor v. Taylor*, SCSL-03-01-PT-226, Decision on Defence Motion Requesting Reconsideration of "Joint Decision on Defence Motions on Adequate Facilities and Adequate Time for the Preparation of Mr Taylor's Defence", Dated 23 January 2007, 25 April 2007.

¹⁵⁶⁶² *Prosecutor v. Taylor*, SCSL-03-01-PT-171, Scheduling Order for a Pre-Trial Conference Pursuant to Rule 73bis, 2 February 2007; *Prosecutor v. Taylor*, SCSL-03-01-PT-228, Agenda for Pre-Trial Conference, 26 April 2007.

¹⁵⁶⁶³ *Prosecutor v. Taylor*, SCSL-03-01-PT-218, Rule 73bis Pre-Trial Conference Materials Pre-Trial Brief, 4 April 2007; *Prosecutor v. Taylor*, SCSL-03-01-PT-229, Rule 73bis Taylor Defence Pre-Trial Brief, 26 April 2007.

¹⁵⁶⁶⁴ *Prosecutor v. Taylor*, SCSL-03-01-PT-229, Rule 73bis Taylor Defence Pre-Trial Brief, 26 April 2007, para. 3.





ANNEX B: PROCEDURAL HISTORY

witnesses until 42 days before the witness was scheduled to testify at trial.¹⁵⁶⁶⁵ These protective measures were later extended to 33 additional witnesses.¹⁵⁶⁶⁶

15. On 15 November 2006, the Trial Chamber altered the protective measures by allowing the Prosecution and the Witnesses and Victims Section to provide identifying information to organisations and individuals facilitating the travel arrangements of protected witnesses to The Hague.¹⁵⁶⁶⁷ On 21 March 2007, the Trial Chamber rescinded the protective measures in respect of witnesses TF1-387 and TF1-391.¹⁵⁶⁶⁸

(v) Charles Taylor's Request to Give an Unsworn Statement from the Dock

16. The Defence requested that the Accused be allowed to give an unsworn statement from the dock immediately following the Prosecution's opening statement. In its denial of the motion on 29 May 2007, the Trial Chamber held that Rule 84 confined the Defence opening statement to the opening of the Defence's case.¹⁵⁶⁶⁹ Leave to appeal the decision was later denied on 16 July 2007.¹⁵⁶⁷⁰

(vi) Request to Suspend UN Security Council Resolutions 1521 and 1532

¹⁵⁶⁶⁵ *Prosecutor v. Taylor*, SCSL-03-01-PT-099, Decision on Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures and on Confidential Prosecution Motion for Leave to Substitute a Corrected and Supplemented List as Annex A of the Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures, 5 May 2006.

¹⁵⁶⁶⁶ *Prosecutor v. Taylor*, SCSL-03-01-PT-120, Decision on Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure, 15 September 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-125, Decision on Defence Motion to Set Aside and/or Reconsider Trial Chamber's "Decision on Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure" dated 15 September 2006, 5 October 2006; *Prosecutor v. Taylor*, SCSL-03-01-PT-163, Decision on Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure with Four Annexes, One of which Filed Ex Parte, 22 January 2007; *Prosecutor v. Taylor*, SCSL-03-01-PT-215, Decision on Confidential Urgent Prosecution Motion for Immediate Protective Measures of Witnesses and for Non-Public Disclosure and on Public Urgent Prosecution Motion for Leave to Substitute a Supplemented Witness list as Annex A(4) of the Confidential Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure Filed on 8 March 2007 and on Public Urgent Prosecution Request for Interim Measures, 26 March 2007.

¹⁵⁶⁶⁷ *Prosecutor v. Taylor*, SCSL-03-01-PT-130, Decision on Confidential Prosecution Motion to Vary Protective Measures, 15 November 2006.

¹⁵⁶⁶⁸ *Prosecutor v. Taylor*, SCSL-03-01-PT-209, Decision on Defence Motion to Lift the Redactions of Identifying Information of Fifteen Core Witnesses, 21 March 2007.

¹⁵⁶⁶⁹ *Prosecutor v. Taylor*, SCSL-03-01-PT-264, Decision on Urgent and Public Defence Motion Requesting Leave for Charles Ghankay Taylor to Give an Unsworn Statement from the Dock, 29 May 2007.

¹⁵⁶⁷⁰ *Prosecutor v. Taylor*, SCSL-03-01-T-317, Decision on Defence Application for Leave to Appeal the 29 May 2007 "Decision on Urgent and Public Defence Motion Requesting Leave for Charles Ghankay Taylor to Give an Unsworn Statement from the Dock", 16 July 2007.

ANNEX B: PROCEDURAL HISTORY

17. Concerned that UN Security Council Resolutions 1521 and 1532, which relate to a travel ban and an assets freeze, would instil fear in potential witnesses and thus prevent them from testifying, the Defence moved the Trial Chamber to request the Security Council to suspend the resolutions for the duration of the trial. The Trial Chamber dismissed the motion on 31 October 2007 on a procedural technicality.¹⁵⁶⁷¹

(vii) Agreed Facts

18. On 26 April 2007, the Prosecution and the Defence filed a joint statement of admitted and undisputed facts and law.¹⁵⁶⁷²

(d) Trial Proceedings(i) Overview

19. From the commencement of the trial on 4 June 2007 until its closure on 11 March 2011, the Trial Chamber heard evidence on 420 trial days. In total, 115 witnesses testified *viva voce*, of whom two were subpoenaed.¹⁵⁶⁷³ In addition to the *viva voce* witnesses, the Trial Chamber admitted into evidence written statements and/or prior testimony of four witnesses.¹⁵⁶⁷⁴ 1521 exhibits were admitted into evidence.¹⁵⁶⁷⁵ The trial record includes 49622 pages of transcripts and 1279 filings and decisions, totalling 38069 pages.

¹⁵⁶⁷¹ *Prosecutor v. Taylor*, SCSL-03-01-T-351, Decision on Defence Motion Seeking Special Measures with Regard to Resolutions 1521 and 1532 of the United Nations Security Council, 31 October 2007.

¹⁵⁶⁷² *Prosecutor v. Taylor*, SCSL-03-01-PT-227, Joint Filing by the Prosecution & Defence Admitted Facts & Law, 26 April 2007.

¹⁵⁶⁷³ Moses Blah – see *Prosecutor v. Taylor*, SCSL-03-01-T-432, Decision on Prosecution Motion for a Subpoena ad Testificandum, 3 March 2008 and Naomi Campbell – see *Prosecutor v. Taylor*, SCSL-03-01-T-999, Subpoena ad Testificandum, 1 July 2010.

¹⁵⁶⁷⁴ The written statements and/or prior testimony of the following witnesses was admitted: Witnesses TF1-021, TF1-083 (both deceased), TF1-081 and Chief Jalloh Loon (DCT-118), see *Prosecutor v. Taylor*, SCSL-03-01-T-720, Decision on Public with Confidential Annexes C to E Prosecution Motion for Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92quater, 5 February 2009; *Prosecutor v. Taylor*, SCSL-03-01-T-642, Decision on Public with Confidential Annexes B to G Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Freetown and the Western Area - TF1-024, TF1-081 and TF1-084, 20 October 2008. The Defence withdrew its objection to the admission of the evidence of witness TF1-081 pursuant to Rule 92bis and therefore agreed that there was no need for the witness to be brought for cross-examination. See Transcript 17 October 2008, p. 18660. *Prosecutor v. Taylor*, SCSL-03-01-T-978, Decision on Defence Application for Admission of Affidavit by DCT-118 Pursuant to Rule 92bis, 11 June 2010. The Prosecution advised that “in light of the advanced age and alleged fragile health of the witness”, it did not object to the admission of the affidavit in lieu of oral testimony. See *Prosecutor v. Taylor*, SCSL-03-01-T-967, Prosecution Response to the Public, with Confidential Annex A Defence Application for Admission of Affidavit by DCT-118 Pursuant to Rule 92bis, 26 May 2010, para. 3.

¹⁵⁶⁷⁵ The Trial Chamber dismissed a motion on 30 March 2007 by the Prosecution requesting that witnesses





ANNEX B: PROCEDURAL HISTORY

20. The proceedings were held in the premises of the International Criminal Court, The Hague, from July 2006 until the proceedings were moved to the premises of the Special Tribunal for Lebanon, Leidschendam, on 17 May 2010.

(ii) Withdrawal of Counsel and Postponement of the Trial

21. At the commencement of the trial on 4 June 2007, Mr Khan informed the Trial Chamber that the Accused had terminated his services as Defence Counsel and that the Accused intended to represent himself.¹⁵⁶⁷⁶ The Accused himself refused to appear before the Court and therefore was not present. Duty Counsel Charles Jalloh was directed to replace Mr Khan as Defence counsel for the day's proceedings and until the assignment of new Defence Counsel. The Principal Defender formally accepted the withdrawal of Mr Khan as assigned counsel.¹⁵⁶⁷⁷

22. On 12 June 2007, the Registrar requested that the Trial Chamber deny the Accused's request to represent himself and instead assign him court appointed Counsel.¹⁵⁶⁷⁸ At a hearing on 25 June 2007, the Trial Chamber directed the Principal Defender to appoint new Defence counsel.¹⁵⁶⁷⁹ On 17 July 2007, Mr Courtenay Griffiths Q.C. was assigned as Lead Counsel, and Andrew Cayley and Terry Munyard as Co-Counsel to the Defence legal team.¹⁵⁶⁸⁰ The Defence was later joined by Morris Anyah, Silas Chekera and James Supuwood as co-counsel and Logan Hambrick as a legal assistant.

23. On 28 June 2007, the Trial Chamber granted a joint motion from the Prosecution and Defence to postpone the resumption of the Prosecution's case until 20 August 2007.¹⁵⁶⁸¹ During a status conference on 20 August 2007, the Trial Chamber granted a further

falling within certain categories be allowed to testify via video link on the grounds that it did not feel it was in the interests of justice. *Prosecutor v. Taylor*, SCSL-03-01-PT-217. Decision on Prosecution Motion to Allow Witnesses to Give Testimony by Video Link, 30 March 2007.

¹⁵⁶⁷⁶ *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 4 June 2007, pp. 250-251.

¹⁵⁶⁷⁷ *Prosecutor v. Taylor*, SCSL-03-01-T-293, Principal Defender's Decision Accepting the Withdrawal of Mr Karim Khan as Assigned Counsel to Mr Charles Ghankay Taylor, 14 June 2007.

¹⁵⁶⁷⁸ *Prosecutor v. Taylor*, SCSL-03-01-T-290, Registrar's Submission in Response to the Order of Expedited Filing, 12 June 2007.

¹⁵⁶⁷⁹ *Prosecutor v. Taylor*, SCSL-03-01-T, 25 June 2007, p. 384.

¹⁵⁶⁸⁰ *Prosecutor v. Taylor*, SCSL-03-01-T-320, Principal Defender's Decision Assigning New Counsel to Charles Ghankay Taylor, 17 July 2007.

¹⁵⁶⁸¹ *Prosecutor v. Taylor*, SCSL-03-01-T-310, Order on Urgent and Public Joint Submissions by the Office of the Principal Defender and the Prosecution in Relation to the Re-Commencement of the Trial on 3 July 2007, 28 June 2007.

ANNEX B: PROCEDURAL HISTORY

adjournment of the proceedings until 7 January 2008 in order to allow the new Defence counsel adequate time to prepare.¹⁵⁶⁸²

(iii) Defects in the Form of the Indictment

24. On 27 February 2009, by a majority, the Trial Chamber dismissed a Defence motion challenging the adequacy of the Prosecution's pleading of joint criminal enterprise (JCE) in the Second Amended Indictment. The Trial Chamber held that the Prosecution had provided sufficient details to put the Accused on notice of the case against him.¹⁵⁶⁸³ Justice Richard Lussick dissented.¹⁵⁶⁸⁴ On 1 May 2009, the Appeals Chamber upheld the Trial Chamber's decision, reaffirming, *inter alia*, that common purpose comprises both the objective of the JCE and the means contemplated to achieve that objective.¹⁵⁶⁸⁵

(iv) Judicial Notice

25. On 7 December 2007, the Trial Chamber took judicial notice of 33 facts agreed upon by the parties.¹⁵⁶⁸⁶ On 29 March 2009, the Trial Chamber took judicial notice of 13 further facts, as well as adjudicated facts from the *AFRC* Trial Judgement. Judge Doherty dissented as to the admission of Fact 15.¹⁵⁶⁸⁷ On 17 June 2010, however, the Trial Chamber declined to take judicial notice of facts adjudicated in the *Prosecutor v. Sesay, Kallon and Gbao* case ("RUF Judgement"). The Trial Chamber found that both the Defence's motion and the Prosecution's motion, if accepted, would disadvantage the other party and, moreover, that judicial economy would not be served by taking judicial notice at this late stage in the trial. Justice Sebutinde dissented in part with the decision.¹⁵⁶⁸⁸

¹⁵⁶⁸² *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 20 August 2007, pp. 435-436.

¹⁵⁶⁸³ *Prosecutor v. Taylor*, SCSL-03-01-T-752, Decision on Urgent Defence Motion Regarding a Fatal Defect in the Prosecution's Second Amended Indictment Relating to the Pleading of JCE, 27 February 2009.

¹⁵⁶⁸⁴ *Prosecutor v. Taylor*, SCSL-03-01-T-751, Decision on Urgent Defence Motion Regarding a Fatal Defect in the Prosecution's Second Amended Indictment Relating to the Pleading of JCE - Dissenting Opinion of Justice Richard Lussick, 27 February 2009.

¹⁵⁶⁸⁵ *Prosecutor v. Taylor*, SCSL-03-01-T-775, Decision on "Defence Notice of Appeal and Submissions Regarding the Majority Decision Concerning the Pleadings of JCE in the Second Amended Indictment", 1 May 2009.

¹⁵⁶⁸⁶ *Prosecutor v. Taylor*, SCSL-03-01-T-370, Decision on the Prosecution Motion for Judicial Notice, 7 December 2007.

¹⁵⁶⁸⁷ *Prosecutor v. Taylor*, SCSL-03-01-T-765, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the *AFRC* Trial Judgement Pursuant to Rule 94(B), 23 March 2009.

¹⁵⁶⁸⁸ *Prosecutor v. Taylor*, SCSL-03-01-T-987, Decision on Defence Application for Judicial Notice of Adjudicated Facts from the *RUF* Trial Judgement Pursuant to Rule 94(B) and Prosecution Motion for Judicial

ANNEX B: PROCEDURAL HISTORY

(e) Prosecution Case(i) Overview

26. After delivering an opening statement on 4 June 2007, the Prosecution called its first witness on 7 January 2008 and rested its case 13 months later on 27 February 2009. During the Defence case, the Prosecution was granted leave to re-open its case to call three additional witnesses,¹⁵⁶⁸⁹ who testified on 5, 9 and 10 August 2010. Overall, 94 witnesses testified *viva voce* for the Prosecution, including three expert witnesses.¹⁵⁶⁹⁰ The prior testimony of one witness, who had testified in other cases before the Special Court, was admitted pursuant to Rule 92*bis* without any cross-examination by the Defence¹⁵⁶⁹¹ and the prior evidence of two deceased witnesses was admitted into evidence pursuant to Rule 92*quater*.¹⁵⁶⁹² The Prosecution tendered five expert reports into evidence,¹⁵⁶⁹³ two of which were uncontested.¹⁵⁶⁹⁴ A total of 782 documents were admitted as Prosecution exhibits,¹⁵⁶⁹⁵ including the five expert reports.

27. Following the conclusion of the Prosecution's case, the Accused filed a motion for judgement of acquittal pursuant to Rule 98 of the Rules; the Trial Chamber dismissed the

Notice of Adjudicated Facts from the RUF Judgement, 17 June 2010.

¹⁵⁶⁸⁹ *Prosecutor v. Taylor*, SCSL-03-01-T-993, Decision on Public with Confidential Annexes A and B Prosecution Motion to Call Three Additional Witnesses, 29 June 2010.

¹⁵⁶⁹⁰ Exhibit P-019, "Diamonds, the RUF and the Liberian Connection", Report by Ian Smillie, 21 April 2007; Exhibit P-031, "Charles Taylor and the War in Sierra Leone", Report by Stephen Ellis and Corrigenda, 5 December 2006; Exhibit P-077 (confidential).

¹⁵⁶⁹¹ *Prosecutor v. Taylor*, SCSL-03-01-T-642, Decision on Public with Confidential Annexes B to G Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to *Inter Alia* Freetown and the Western Area- TF1-024, TF1-081 and TF1-084, 20 October 2008. The Defence withdrew its objection to the admission of the evidence of witness TF1-081 pursuant to Rule 92*bis* and therefore agreed that there was no need for the witness to be brought for cross-examination. See Transcript 17 October 2008, p. 18660.

¹⁵⁶⁹² *Prosecutor v. Taylor*, SCSL-03-01-T-720, Decision on Public with Confidential Annexes C to E Prosecution Motion for Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92*quater*, 5 February 2009.

¹⁵⁶⁹³ Exhibit P-019, "Diamonds, the RUF and the Liberian Connection", Report by Ian Smillie, 21 April 2007; Exhibit P-031, "Charles Taylor and the War in Sierra Leone", Report by Stephen Ellis and Corrigenda, 5 December 2006; Exhibit P-043, "Children Associated with Fighting Forces in the Conflict in Sierra Leone", Report by Jessica Alexander, 4 May 2007; Exhibit P-077 (confidential); Exhibit P-073, "Conflict-Related Sexual Violence in Sierra Leone", Report by Beth Vann, 14 May 2007.

¹⁵⁶⁹⁴ Exhibit P-043, "Children Associated with Fighting Forces in the Conflict in Sierra Leone", Report by Jessica Alexander, 4 May 2007; Exhibit P-073, "Conflict-Related Sexual Violence in Sierra Leone", Report by Beth Vann, p. 31550, 14 May 2007.

¹⁵⁶⁹⁵ When admitting documents, the Trial Chamber grouped similar documents together and admitted these documents with the same exhibit number, but with a distinct exhibit letter or sub-number. Therefore, while the Trial Chamber admitted a total of 615 Prosecution exhibits, the total number of Prosecution documents admitted was 782.





ANNEX B: PROCEDURAL HISTORY

motion on 4 May 2009, ruling that the Prosecution had adduced evidence that was capable of sustaining a conviction on all 11 counts of the Indictment.¹⁵⁶⁹⁶

(ii) Witness Issuesa. Protective Measures

28. During the trial, the Trial Chamber ordered additional protective measures for ten Prosecution witnesses.¹⁵⁶⁹⁷ These additional measures included image and/or voice distortion, screens, and holding partially private or closed sessions for portions of the testimony. The Prosecution was also granted leave to withhold the identity of nine further witnesses until 42 days before their scheduled testimony.¹⁵⁶⁹⁸ The Prosecution moved for permission to have eight witnesses testify in entirely closed sessions, but the Trial Chamber denied these motions, holding the Prosecution had failed to give full and exhaustive consideration to the use of less restrictive witness protection measures available under Rule 75(B)(i).¹⁵⁶⁹⁹ The Trial Chamber rescinded the protective measures, in whole or in part, of nine witnesses at their own request.¹⁵⁷⁰⁰

¹⁵⁶⁹⁶ *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 4 May 2009, pp. 24193-24211.

¹⁵⁶⁹⁷ These witnesses include TF1-515, TF1-385, TF1-539, TF1-516, TF1-388, TF1-567, TF1-390, TF1-338, TF1-579, and TF1-358. *Prosecutor v. Taylor*, SCSL-03-01-T-437, Decision on Confidential Prosecution Motion for Additional Protective Measures for the Trial Proceedings of Witnesses TF1-515, TF1-516, TF1-385, TF1-539, TF1-567, TF1-388 and TF1-390, 13 March 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-455, Corrigendum on Decision on Confidential Prosecution Motion for Additional Protective Measures for the Trial Proceedings of Witnesses TF1-515, TF1-516, TF1-385, TF1-539, TF1-567, TF1-388 and TF1-390, 4 April 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-515, Decision on Confidential Urgent Prosecution Motion for Additional Protective Measures for Witnesses TF1-338 and TF1-579, 22 May 2008; & *Prosecutor v. Taylor*, SCSL-03-01-T-654, Decision on Confidential Prosecution Motion for Protective Measures for Witness TF1-358, 3 November 2008.

¹⁵⁶⁹⁸ *Prosecutor v. Taylor*, SCSL-03-01-T-368, Decision on Confidential Urgent Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure, 7 December 2007 & *Prosecutor v. Taylor*, SCSL-03-01-T-383, Decision on Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure, 10 January 2008.

¹⁵⁶⁹⁹ These witnesses include TF1-338, TF1-339, TF1-532, TF1-542, TF1-548, TF1-555, TF1-561, and TF1-395. *Prosecutor v. Taylor*, SCSL-03-01-T-427, Decision on Confidential Prosecution Motion SCSL-03-01-T-372 and SCSL-03-01-T-385 for the Testimonies of Witnesses to Be Held in Closed Session, 26 February 2008; & *Prosecutor v. Taylor*, SCSL-03-01-T-615, Decision on Confidential Prosecution Motion for Additional Protective Measures for Witness TF1-395, 3 October 2008.

¹⁵⁷⁰⁰ These included witnesses TF1-015, TF1-276, TF1-326, TF1-092, TF1-406, TF1-275, TF1-334, TF1-366, TF1-577. *Prosecutor v. Taylor*, SCSL-03-01-T-313, Decision on Prosecution Motion to Rescind Protective Measures for Witnesses, 6 July 2007; *Prosecutor v. Taylor*, SCSL-03-01-T-348, Decision on Prosecution Motion to Rescind Protective Measures for Witnesses, 3 October 2007; *Prosecutor v. Taylor*, SCSL-03-01-T-405, Decision on Prosecution Motion to Rescind Protective Measures for Witness TF1-275, 31 January 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-472, Decision on Confidential and Urgent Defence Motion to Rescind or Vary Protective Measures for Prosecution Witness TF1-334, 14 April 2008; *Prosecutor v. Taylor*, SCSL-03-01-





ANNEX B: PROCEDURAL HISTORY

29. The Appeals Chamber overturned the Trial Chamber in two instances with respect to protective measures: Witness TF1-168 was permitted to testify in closed session¹⁵⁷⁰¹ and the Appeals Chamber found the Trial Chamber erred in law in adopting an incorrect construction of the “RUF Protective Measures Decision” when deciding on a protective measures motion relating to TF1-062,¹⁵⁷⁰² who had previously testified with protective measures in the RUF, CDF and AFRC trials.

30. The following witnesses testified entirely in closed session: TF1-371,¹⁵⁷⁰³ TF1-168¹⁵⁷⁰⁴, TF1-362¹⁵⁷⁰⁵ and expert witness TF1-150.¹⁵⁷⁰⁶

b. Subpoena for Moses Blah (TF1-561)

31. On 3 March 2008, the Trial Chamber issued a subpoena for witness TF1-561 and ordered the Registrar to transmit copies to the responsible authorities in Liberia so that it could be properly served.¹⁵⁷⁰⁷ On 14 May 2008, the former interim President of Liberia, Moses Blah (TF1-561), began his testimony in open session.

T-551, Decision on Defence Motion Pursuant to Rule 75(G) to Rescind Closed Session Protective Measures Granted Orally in Other Proceedings for Witness TF1-366, 2 July 2008; *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 3 June 2008, p. 10861 and *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript, 18 June 2008, p. 12144-12145.

¹⁵⁷⁰¹ *Prosecutor v. Taylor*, SCSL-03-01-T-636, Decision on Prosecution Appeal Regarding the Decision Concerning Protective Measures of Witness TF1-168, 17 October 2008.

¹⁵⁷⁰² *Prosecutor v. Taylor*, SCSL-03-01-T-666, Decision on Prosecution Appeal Regarding the Decision Concerning Protective Measures of Witness TF1-062, 13 November 2008.

¹⁵⁷⁰³ The provision that TF1-371's testimony be heard entirely in closed session was ordered by Trial Chamber I in *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T-577, Decision on Prosecution Motion for the Testimony of Witnesses TF1-367, TF1-369 and TF1-371 to be Held in Closed Session and for Other Relief for Witness TF1-369, 14 June 2006; see *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 24 January 2008, pp. 2170-2171, where the Trial Chamber found that it continued to be bound by this order.

¹⁵⁷⁰⁴ *Prosecutor v. Taylor*, SCSL-03-01-T-636, Decision on Prosecution Appeal Regarding the Decision Concerning Protective Measures of Witness TF1-168, 17 October 2008.

¹⁵⁷⁰⁵ The provision that TF1-362's testimony be heard entirely in closed session was ordered by Trial Chamber I in *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T-377, Ruling on the Prosecution's Application for the Entire Testimony of Witness TF1-362 to be Heard in Closed Session, 11 May 2005; see *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 27 February 2008, pp. 4792-4797, where the Trial Chamber found that it continued to be bound by this order.

¹⁵⁷⁰⁶ The provision that TF1-150's testimony be heard entirely in closed session was ordered by Trial Chamber I in *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-T-432, Decision on Prosecution Application for Closed Session for Witness TF2-218, 15 June 2005, see *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript 18 February 2008, pp. 4000-4002, where the Trial Chamber found that it continued to be bound by this order.

¹⁵⁷⁰⁷ *Prosecutor v. Taylor*, SCSL-03-01-T-432, Decision on Prosecution Motion for a Subpoena ad Testificandum, 3 March 2008.