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SCSL-03-01-T  
(22463 - 22483)

22463



**THE SPECIAL COURT FOR SIERRA LEONE**

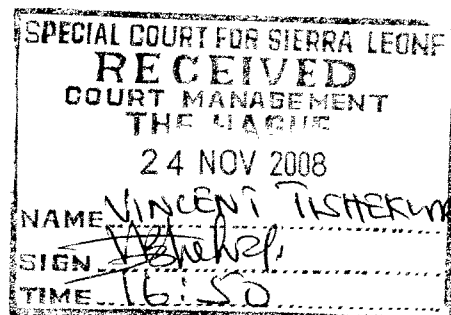
**In Trial Chamber II**

**Before:** Justice Teresa Doherty, Presiding  
Justice Richard Lussick  
Justice Julia Sebutinde  
Justice El Hadji Malick Sow, Alternate

**Registrar:** Mr. Herman von Hebel

**Date:** 24 November 2008

**Case No.:** SCSL-2003-01-T



**THE PROSECUTOR**

-v-

**CHARLES GHANKAY TAYLOR**

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PUBLIC

**DEFENCE RESPONSE TO PROSECUTION MOTION FOR ADMISSION  
OF DOCUMENTS SEIZED FROM RUF OFFICE, KONO DISTRICT**

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**Office of the Prosecutor**

Ms. Brenda J. Hollis  
Ms. Leigh Lawrie

**Counsel for Charles G. Taylor**

Mr. Courtenay Griffiths Q.C.  
Mr. Terry Munyard  
Mr. Andrew Cayley  
Mr. Morris Anyah

## I. Introduction

1. On 13 November 2008, the Prosecution filed a *Motion for Admission of Documents Seized from RUF Office, Kono District* (“Motion”) with related Annexes,<sup>1</sup> seeking the admission of Documents reportedly seized from the RUF Office in Kono District (“the Documents”). The application was made pursuant to Rule 89(C), or alternatively under Rules 89(C) and 92bis, of the Special Court Rules of Procedure and Evidence (“Rules”).
2. In summary, the Defence opposes the Motion and submit that:
  - a. Rule 89(C) cannot be used in isolation to admit the Documents included in the Motion.<sup>2</sup>
  - b. The Report can only be admitted under Rule 89(C) in conjunction with Rule 92bis provided that any evidence that goes to the acts and conduct of the accused shall be subject to cross-examination.

## II. Applicable Legal Principles

3. The Prosecution recently submitted three similar motions which rely on the same legal principles as in the present Motion.<sup>3</sup> The Defence has filed Responses<sup>4</sup> to those motions, wherein it articulates the correct legal principles to be applied when a party seeks admission of a document without a witness. So as to not repeat the same argument, the Defence respectfully refers the Chamber to paragraphs three through nineteen of the UN Documents Response, substituting any reference to UN Documents with a reference to Documents seized from the RUF Office in Kono District. A few additional observations and submissions are below.

<sup>1</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-667 Prosecution Motion for Admission of Documents Seized from RUF Office, Kono District, 13 November 2008 (“**Motion**”).

<sup>2</sup> Motion, Annexes A and B.

<sup>3</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-650, Prosecution Motion for Admission of Documents of the United Nations Bodies, 29 October 2008; *Prosecutor v. Taylor*, SCSL-03-01-T-652, Prosecution Motion for Admission of Extracts of the Report of the Truth and Reconciliation Commission of Sierra Leone, 31 October 2008; and *Prosecutor v. Taylor*, SCSL-03-01-T-659, Prosecution Motion for Admission of Documents Seized from Foday Sankoh’s House, 6 November 2008.

<sup>4</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-664, Defence Responses to Prosecution Motion for the Admission of Documents of the United Nations and United Nations Bodies, 10 November 2008 (“**UN Documents Response**”), and *Prosecutor v. Taylor*, SCSL-03-01-T-663, Defence Response to Prosecution Motion for Admission of Extracts of the Report of the Truth and Reconciliation Commission of Sierra Leone, 10 November 2008; and *Prosecutor v. Taylor*, SCSL-03-01-T-672, Defence Response to Prosecution Motion for Admission of Documents Seized from Foday Sankoh’s House, 17 November 2008.

### III. Submissions

#### A. *If both Rules 89(C) and 92bis are applied*

##### Acts and conduct of accused are not admissible

4. The Documents go directly to the acts and conduct of the Accused. Some of the Documents refer to President Charles Taylor<sup>5</sup> and His Excellency Dr. Charles G. Taylor, President, Republic of Liberia.<sup>6</sup> Under Rule 92bis jurisprudence, the acts or conduct of the accused includes any act or conduct which the Prosecution seeks to rely on to establish that the accused was a superior to those who actually may have committed the crimes, or that the accused knew or had reason to know of the crimes.<sup>7</sup> The Defence submits that the fact that the Documents were purportedly seized from the RUF Office in Kono District as well as the content of the Documents themselves go to the joint criminal enterprise and superior responsibility modes of liability charged in the Indictment. Thus, it would be highly prejudicial for the Documents to be admitted into evidence without a witness who could speak to their contents and authenticity.

##### Actions of subordinates and elements going to a critical element in the Prosecution's case are not admissible absent cross-examination

5. The Prosecution cannot use Rules 89(C) and 92bis to seek to admit evidence that is material to the command responsibility or joint criminal enterprise allegations in the Indictment, which go to a "critical element" of the Prosecution's case and is therefore "proximate" to the accused, without giving the Defence a genuine opportunity for cross-examination of the evidence.<sup>8</sup>
6. The Documents are purportedly from the RUF Office in Kono District. Many of the Documents refer to other alleged subordinates of the Accused such as Gibril Massaquoi,<sup>9</sup> Issa Sesay,<sup>10</sup> Morris Kallon,<sup>11</sup> Sam Bockarie,<sup>12</sup> and Foday Sankoh.<sup>13</sup> In the *Kenema Decision*, the

<sup>5</sup> Motion, Annex B, Tab 16, page 22317.

<sup>6</sup> Motion, Annex B, Tab 13, page 22287.

<sup>7</sup> *Prosecutor v. Oric*, No. IT-03-68-T, Decision on Defence Motion for the Admission of the Witness Statement of Avdo Husejnovic Pursuant to Rule 92bis, 15 September 2005.

<sup>8</sup> UN Documents Response, para. 19; *Prosecutor v. Sesay et al*, SCSL-04-15-T-1049, Decision on Defence Application for the Admission of the Witness Statement of DIS-129 Under Rule 92bis, or in the Alternative, Under Rule 92ter, 12 March 2008, pgs. 1 and 3.

<sup>9</sup> Motion, Annex B, Tab 13, page 22287.

<sup>10</sup> Motion, Annex B, Tab 5 page 22257; Tab 13, page 22287; Tab 15, page 22314; and Tab 16, page 22317.

<sup>11</sup> Motion, Annex B, Tab 12.

Court held that where documentary evidence is close to subordinates of the Accused, “it would not be fair to the accused to permit the evidence to be given in written form”.<sup>14</sup>

7. Additionally, the very nature of the Documents (Official Letters, Minutes of Meetings, Reports of Materials Issued), which refer to diamond mining, command structure, and internal operations of the RUF, in conjunction with the fact that they were allegedly seized from the RUF Office, relate to critical and proximate elements of the case against the accused. Thus, if admitted, a witness who is knowledgeable about the contents of the Documents should be provided for cross-examination.<sup>15</sup>

*A witness must be available to explain the contents and relevance of the Documents*

8. The Defence submits that if the Documents were admitted it would be essential to have available someone who could speak to the contents and relevance of the Documents. Many of the Documents, especially the Notebook at Tab 15 and the Black Guard Admin Book at Tab 17, are not decipherable. Their relevance to the proceedings therefore cannot be readily ascertained, if at all.
9. Unless the Documents are tendered through a witness, the Trial Chamber is unable to decipher their context and determine their usefulness to the proceedings. Consequently, they should be excluded.<sup>16</sup> The ICTY has held that a lack of context can render Documents inadmissible as lacking sufficient indicia of reliability.<sup>17</sup>
10. As a pre-condition to admission, the Prosecution should have produced a witness to decipher, explain and provide context to the Documents. Further, a witness should also be available to attest to the signatures on the Documents.

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<sup>12</sup> Motion, Annex B, Tab 1; Tab 10.

<sup>13</sup> Motion, Annex B, Tab 11; Tab 14.

<sup>14</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-556, Decision on Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Kenema District and on Prosecution Notice Under Rule 92bis for the Admission on the Prior Testimony of TF1-036 into Evidence, 15 July 2008, pg. 4. (“**Kenema Decision**”)

<sup>15</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-556, Decision on Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Kenema District and on Prosecution Notice Under Rule 92bis for the Admission on the Prior Testimony of TF1-036 into Evidence, 15 July 2008.

<sup>16</sup> *Prosecutor v. Milutinovic et al*, No. IT-05-87-T, Decision on Prosecution Motion to Admit Documentary evidence, 20 October 2006, paras 25 and. 27 (“**Milutinovic Decision**”).

<sup>17</sup> *Milutinovic Decision*, para. 41 (for instance, the ICTY has held as regards authenticity that a Rule 92bis/ter statement from a military analyst, the investigator who produced these Documents, or some other appropriate person may procedurally assist admission).

11. The fact that these Documents are produced at such a late stage in the proceedings means that witnesses whom have previously testified cannot be challenged on the content or accuracy of the Documents. To date, the Prosecution has called a number of RUF insider witnesses who might have been capable of commenting on the contents of the Documents. Only very few now remain, and of those remaining, there is no indication that they are in a position to comment on the Documents.

*The Prosecution have not shown a clear chain of custody*

12. The Prosecution contend that all of the Documents annexed to this Motion were taken from the RUF Office in Kono District. However, in its Motion the Prosecution offer no evidence as to where this Office is/was located in Kono District; during what time period the Office was operational; who may have been involved in the administration of the Office; at what point in 2001 and under what conditions the Sierra Leonean Police seized the Documents, etc.
13. Thus as a pre-condition to admission, the Prosecution should have provided a clear chain of custody record showing how these specific Documents were taken from the RUF Office and eventually came into its custody. A clear chain of custody is necessary in order for the Prosecution to show that the Documents are authentic and have a “sufficient indicia of reliability” warranting admission.<sup>18</sup> The party seeking admission has the burden to provide indications that a document is authentic – that is, that the document is actually what the party purports it to be [from the RUF Office in Kono District].<sup>19</sup> Absent such a clear showing, the Defence submits, the admission of these Documents would bring the administration of justice into disrepute contrary to Rule 95.
14. In its Motion, the Prosecution state that they can make available the Chief of the Evidence Unit who can testify as to how they obtained the Documents. However, the Defence queries why, at a minimum, the Chief of the Evidence Unit did not simply make an affidavit for the Prosecution to attach to the Motion. Alternatively, the Chief of Evidence should have been

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<sup>18</sup> See, for ex, *Prosecutor v. Bagosora et al*, ICTR-98-41-T, Decision on Ntabakuze Motion to Deposit Certain United Nations Documents, 19 March 2007, para. 3 (stating that factors considered when evaluating the authenticity of Documents include the extent to which the document’s content is corroborated by other evidence, the place where it was obtained, whether it is an original, etc).

<sup>19</sup> *Prosecutor v. Bagosora et al*, ICTR-98-41-T, Decision on the Prosecutor’s Motion for the Admission of Certain Materials Under Rule 89(C), 14 October 2004, para. 22.

called to testify prior to the filing of this Motion, so that the Defence and the Trial Chamber could have a full and complete understanding of the origin of the Documents. Notably, in *Prosecutor v. Bagosora et al* in the ICTR, Documents purportedly copied by the FBI in Rwanda in September 1994 were not admitted since the Prosecution did not provide any indication of where the Documents were found, by whom they were found, or the chain of custody between their discovery and production in court.<sup>20</sup>

15. Therefore the Defence submit that as a pre-condition to admission, the Prosecution must produce a witness to testify as to the chain of custody, which could show that the Documents are in fact from the RUF Office. Absent this, the admission of the Documents would undermine the integrity of the proceedings. The Prosecution's proposal to produce a witness after the admission of the Documents will not suffice.

*Illegible Documents are not admissible*

16. The Defence would like to draw the Chambers attention to the poor quality of the Documents in Annex B of the Motion. As argued in paragraphs 8-10, the Documents should not be admitted into evidence on the basis that they are of poor quality and in many parts unintelligible.<sup>21</sup> See specifically the Black Guard Admin Book at Tab 17.

*The probative value of the evidence is outweighed by its prejudicial effect*

17. Based on the above submissions, namely that there is no proper chain of custody such that it is unclear whether the Documents actually came from an RUF Office in Kono District; that the Prosecution is not calling a witness to explain or give relevance to the contents of the Documents; and that some of the Documents are illegible, the Chamber should exclude these Documents under its inherent jurisdiction because their probative value is outweighed by their prejudicial effect. The second ground for excluding these Documents for their prejudicial effect is that, as mentioned above, witnesses who could have testified and possibly brought some clarity to the contents of the document have already taken the stand in this trial. Therefore the Documents can longer be tested in cross-examination. Furthermore,

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<sup>20</sup> *Prosecutor v. Bagosora et al*, ICTR-98-41-T, Decision on Admission of Tab 19 of Binder Produced in Connection With Appearance of Witness Maxwell Nkole, 13 September 2004.

<sup>21</sup> The Chamber expressed its disapproval of submission of Documents that were partly or entirely illegible in *Prosecutor v. Taylor*, SCSL-03-01-T-369, Decision on Prosecution's Motion for Admission of Material Pursuant to Rules 89(C) and 92bis, 7 December 2007, p.3.

the Defence submits that it is itself prejudice to the Accused that the Prosecution has had these Documents in its possession for such a long time and had the chance to introduce them through various witnesses, but instead are only trying to admit them now at such a late stage in the trial and without an opportunity for the Defence to challenge the evidence through the Prosecution's witnesses in court.

18. For the above reasons the Documents should be excluded because their probative value is outweighed by their prejudicial effect.

**B. *If only Rule 89(C) is applied***

19. All Documents must be relevant, must not violate Rule 95, and their probative value must outweigh their potential prejudice.

20. At the outset, the Defence notes that it does not accept that the Document at Tab 4 is relevant to "planning of various operations at the end of 1998 including Kono – Freetown and Segbwema – Kenema".<sup>22</sup> There is no mention of this in the document and there are no submissions on which to base this prejudicial remark.

21. The rest of this section summarises the application of the relevant test for admitting new Documents under Rule 89(C) as approved by the ICTY Appeals Chamber in *Prosecutor v. Kordic and Cerkez*.<sup>23</sup> This summary is based on a full detailed analysis, which can be found in Annex A of this Response.

22. The Defence makes the following response to the Prosecution's assertion that the exclusionary conditions set out in the *Kordic and Cerkez* test are irrelevant to the considerations regarding the admission of Documents in the Special Court.<sup>24</sup> In fact, prongs of the exclusionary test have been applied in the subsequent ICTY case of *Prosecutor v. Milutinovic*,<sup>25</sup> thus demonstrating the case's impact on later jurisprudence. In that case, the Prosecution attempted to admit a wealth of Documents through Rule 89(C) well before the

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<sup>22</sup> Motion, Annex A, p.3.

<sup>23</sup> *Prosecutor v. Kordic and Cerkez*, Appeals Judgment, No. IT-95-14/2-A, 17 December 2004, para. 190.

<sup>24</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-670, Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies, 17 November 2008, para. 7; *Prosecutor v. Taylor*, SCSL-03-01-T-667, Prosecution Reply to Defence Response to Prosecution Motion for Admission of extracts of the Report of the Truth and Reconciliation Commission of Sierra Leone, 17 November 2008, para. 17.

<sup>25</sup> *Prosecutor v. Milutinovic et al*, No. IT-05-87-T.

close of the Prosecution case. In its deliberations, the Trial Chamber considered, among other things, the Documents' cumulative nature<sup>26</sup> and deemed them inadmissible.

23. The first limb of the *Kordic and Cerkez* test excludes Documents that have been admitted in these or other proceedings. However, none of these Documents have already been admitted into evidence or produced in other proceedings at the Special Court.
24. The next part of the test excludes material that is not sufficiently significant to warrant admission at so late a stage of the proceedings. This may include crime-based evidence, which does not go to the acts and conduct of the accused. Such evidence includes references such as that in Tab 11, which includes mention of alleged atrocities in Makeni.
25. The fourth limb of the test excludes material that is cumulative and does not add to the voluminous material already in evidence. All the Documents repeat evidence that has already been covered in detail by several witnesses and, in some instances, has also been covered extensively by written evidence. Generally speaking, this includes evidence regarding the RUF command structure (Tabs 1, 2 and 3), supply of arms and ammunition (Tabs 3, 4, 5, 8 and 14), integration of SLA and RUF (Tabs 6, 10 and 11), reporting system in the RUF, including disciplinary system (Tabs 7, 9 and 12), RUF delegation in Monrovia (Tab 13), RUF mining operations (Tabs 14, 15 and 16) and radio communications in RUF (Tab 17).
26. Finally, the fifth limb of the test excludes material based on anonymous sources or hearsay statements that are incapable of being tested by cross-examination. In this case, the document at Tab 7 is based on a report made by a Mr. Abu Koroma, which is not contained in the text of the submitted document.
27. In summary, for the above stated reasons, all of the Documents in Annex B of the Motion have been submitted to adduce information which is merely cumulative to voluminous amount of oral and written evidence already before the Chamber. Simply on this ground alone the Chamber should refuse the Prosecution's Motion. Further, Tab 11 contains information relating to crime base evidence and cannot be held as sufficiently significant at this stage of the trial. It is also unclear how the document at Tab 7 could be tested by cross-examination as the hearsay evidence on which it is based is not included. These provide additional grounds for excluding these two Documents.

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<sup>26</sup> Paras. 23 and 24 (refusing to admit maps that would only serve to flood the Chamber with repetitive information).



#### IV. Conclusion

28. In conclusion, the Defence submits as follows:

- a) The proper gateway for admitting the Documents is Rules 89(C) and 92*bis* conjunctively. Under these rules, the Documents should however be excluded because they go to the acts and conduct of the accused or his allegedly subordinates, and/or because their probative value is outweighed by their prejudicial effect;
- b) Should the Chamber be minded to admit the Documents, any evidence that goes to the acts and conduct of the accused must be subject to cross examination.
- c) If the Chamber is minded to consider the Documents solely under Rule 89(C), the Documents should still be excluded under the Chamber's inherent jurisdiction. Further, the Documents should be excluded because they fail the *Kordic and Cerkez* test.

Respectfully Submitted,



SILAS CERKEZ

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*fn* Courtenay Griffiths Q.C.

Lead Counsel for Charles G. Taylor

Dated this 24<sup>th</sup> Day of November 2008

The Hague, The Netherlands

**Table of Authorities**

**Prosecutor v. Taylor**

*Prosecutor v. Taylor*, SCSL-03-01-T-369, Decision on Prosecution's Motion for Admission of Material Pursuant to Rules 89(C) and 92bis, 7 December 2007

*Prosecutor v. Taylor*, SCSL-03-01-T-556, Decision on Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Kenema District and on Prosecution Notice Under Rule 92bis for the Admission on the Prior Testimony of TF1-036 into Evidence, 15 July 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-650, Prosecution Motion for Admission of Documents of the United Nations Bodies, 29 October 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-652, Prosecution Motion for Admission of Extracts of the Report of the Truth and Reconciliation Commission of Sierra Leone, 31 October 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-659, Prosecution Motion for Admission of Documents Seized from Foday Sankoh's House, 6 November 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-663, Defence Response to Prosecution Motion for Admission of Extracts of the Report of the Truth and Reconciliation Commission of Sierra Leone, 10 November 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-664, Defence Response to Prosecution Motion for the Admission of Documents of the United Nations and United Nations Bodies, 10 November 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-672, Defence Response to Prosecution Motion for Admission of Documents Seized from Foday Sankoh's House, 17 November 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-670, Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies, 17 November 2008

*Prosecutor v. Taylor*, SCSL-03-01-T-667, Prosecution Reply to Defence Response to Prosecution Motion for Admission of extracts of the Report of the Truth and Reconciliation Commission of Sierra Leone, 17 November 2008

**Prosecutor v. Sesay et al**

*Prosecutor v. Sesay et al*, SCSL-04-15-T-1049, Decision on Defence Application for the Admission of the Witness Statement of DIS-129 Under Rule 92bis, or in the Alternative, Under Rule 92ter, 12 March 2008

**ICTY**

*Prosecutor v. Kordic and Cerzek*, No. IT-95-14/2-A, Judgment, 17 December 2004

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<http://www.un.org/icty/kordic/appeal/judgement/cer-aj041217e.pdf>

*Prosecutor v. Milutinovic et al*, No. IT-05-87-T, Decision on Prosecution Motion to Admit Documentary evidence, 20 October 2006

*Prosecutor v. Oric*, No. No. IT-03-68-T, Decision on Defence Motion for the Admission of the Witness Statement of Avdo Husejnovic Pursuant to Rule 92bis, 15 September 2005

**ICTR**

*Prosecutor v. Bagosora et al*, ICTR-98-41-T, Decision on the Prosecutor's Motion for the Admission of Certain Materials Under Rule 89(C), 14 October 2004

*Prosecutor v. Bagosora et al*, ICTR-98-41-T, Decision on Admission of Tab 19 of Binder Produced in Connection With Appearance of Witness Maxwell Nkole, 13 September 2004

*Prosecutor v. Bagosora et al*, ICTR-98-41-T, Decision on Ntabakuze Motion to Deposit Certain United Nations Documents, 19 March 2007

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## **ANNEX A**

**Annex B: Objection to Admission of Documents Seized from RUF Office, Kono District under 89(C)**

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<b>Doc.</b>	<b>Title/Date</b>	<b>Objection</b>	<b>Explanation</b>
1	Letter from the War Office to the G5 Unit, North-East Branch Kono, Subject: Promotion/Officers	<input type="checkbox"/> Already Produced/admitted <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>• RUF command structure –                         <ul style="list-style-type: none"> <li>○ Exhibit P-56 RUF Command Structure Circa February - October 1996</li> <li>○ Exhibit P-59 AFRC/RUF Junta Command Structure Circa May 25 1997 – February 1998 as indicated by TF1-371;</li> <li>○ Exhibit P-60 AFRC/RUF Junta Military Command Structure Circa May 25 1997 – February 1998 as indicated by TF1-371;</li> <li>○ Exhibit P-62 AFRC/RUF Command Structure After the Fall of the Junta Circa March 1998 as indicated by TF1-371; and,</li> <li>○ Exhibit D-9 RUF Defence Headquarters Salute Report to the Leader of the Revolution from Major General Sam Bockarie p.2 (promotions within RUF p.12)</li> </ul> </li> </ul>
2	Minutes of Forum Held with RUF/SL Administrative Board at Water Works Compound	<input type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> <li>• RUF command structure –                         <ul style="list-style-type: none"> <li>• Exhibit P-56 <i>passim</i></li> <li>• Exhibit P-59 <i>passim</i></li> <li>• Exhibit P-60 <i>passim</i></li> <li>• Exhibit P-62 <i>passim</i></li> <li>• Exhibit D-9 p.12</li> </ul> </li> </ul>
3	Report of Materials Issued out from 2 <sup>nd</sup> Brigade G-4 Commander to the 2 <sup>nd</sup> Brigade Commander	<input type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> <li>• Supply of arms and ammunition                         <ul style="list-style-type: none"> <li>• Exhibit P-18, Report of the Panel of Experts Established by Resolution 1306 - S/2000/1195, Adopted on 20 December 2000 paras 167 – 176</li> <li>• Exhibit P-93 Restricted RUF/SL Comprehensive Report</li> </ul> </li> </ul>

Annex B: Objection to Admission of Documents Seized from RUF Office, Kono District under 89(C)

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Doc.	Title/Date	Objection	Explanation
			<p>From Major Sam Bockarie to Brigadier Issa Sesay on the Take Over of Koidu, 26 January 1999, p.1-2 (inventory of materials supplied – including arms, ammunition, food, cigarettes, stationery – and those captured)</p> <ul style="list-style-type: none"> <li>• Prosecutor v Taylor, Transcript, p.10479: 7-10481:1, 21 May 2008 (Samuel Kargbo) (inventory of arms supplied to RUF)</li> <li>• Prosecutor v Taylor, Transcript, p. 8016:1-8017:26, 18 April 2008 (TF1-334) (inventory of arms supplied to RUF)</li> <li>• Prosecutor v Taylor, Transcript, p.1284:17-1286:23, 15 January 2008 (TF1-114) (inventory of arms supplied to RUF)</li> </ul> <p>Command structure:</p> <ul style="list-style-type: none"> <li>• Exhibit P-56 <i>passim</i></li> <li>• Exhibit P-59 <i>passim</i></li> <li>• Exhibit P-60 <i>passim</i></li> <li>• Exhibit P-62 <i>passim</i></li> </ul>
4	Materials Issued to 2 <sup>nd</sup> Brigade Commander on 13 <sup>th</sup> December 1998	<input type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>• Supply of arms and ammunition:                         <ul style="list-style-type: none"> <li>• Exhibit P-18, paras 167 – 176</li> <li>• Exhibit P-93, p.1-2 (inventory of materials supplied – including arms, ammunition, food, cigarettes, stationery – and those captured)</li> </ul> </li> <li>• Prosecutor v Taylor, Transcript, p.10479: 7-10481:1, 21 May 2008 (Samuel Kargbo) (inventory of arms supplied to RUF)</li> <li>• Prosecutor v Taylor, Transcript, p. 8016:1-8017:26, 18 April 2008 (TF1-334) (inventory of arms supplied to RUF)</li> <li>• Prosecutor v Taylor, Transcript, p.1284:17-1286:23, 15 January 2008 (TF1-114) (inventory of arms supplied to RUF)</li> </ul>
		<input type="checkbox"/> Anonymous/hearsay OTHER:	The Prosecution contends the relevance of this document is to “planning of various operations at the end of 1998 including Kono – Freetown and

**Annex B: Objection to Admission of Documents Seized from RUF Office, Kono District under 89(C)**

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Doc.	Title/Date	Objection	Explanation
5	Report to 2 <sup>nd</sup> Brigade Adjutant from the 2 <sup>nd</sup> Brigade G-4 Commander	<input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	• Segbwema – Kenema <sup>1</sup> . There is no mention of this in the document and no submissions are made on which to base this contention. • Supply of arms and ammunition: • Exhibit P-18, paras 167 – 176 • Exhibit P-93, p.1-2 (inventory of materials supplied – including arms, ammunition, food, cigarettes, stationery – and those captured) • Prosecutor v Taylor, Transcript, p.10479: 7-10481:1, 21 May 2008 (Samuel Kargbo) (inventory of arms supplied to RUF) • Prosecutor v Taylor, Transcript, p. 8016:1-8017:26, 18 April 2008 (TF1-334) (inventory of arms supplied to RUF) • Prosecutor v Taylor, Transcript, p.1284:17-1286:23, 15 January 2008 (TF1-114) (inventory of arms supplied to RUF)
6	Revolutionary United Front of Sierra Leone RUFSL, The Office of the Headquarter Commander, 2 <sup>nd</sup> Int Brigade Headquarters – Bombali District, Makeni, Note on Forum of 12 February 1999	<input type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	• RUF and SLA should be known as People's Army: • Prosecutor v Taylor, Transcript, p.1972:6-10, 23 January 2008 (TF1-276) (explains that the People's Army was the SLA and RUF combined); • Prosecutor v Taylor, Transcript, p.5740:5 – 5741:27, 11 March 2008 (TF1-532) (explains how the People's Army was organised with RUF, AFRC and SLA taking different positions); and, • Prosecutor v Taylor, Transcript, p.1971:24 – 1972:17, 23 January 2008, (TF1-276) (SLA officer becomes part of People's Army after AFRC coup).

<sup>1</sup> P.4 of 16 Annex A, *Prosecutor v Taylor*, SCSL-03-01-667, 'Prosecution Motion for the Admission of Documents Seized from RUF Office, Kono District', 13 November 2008.

**Annex B: Objection to Admission of Documents Seized from RUF Office, Kono District under 89(C)**

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<b>Doc.</b>	<b>Title/Date</b>	<b>Objection</b>	<b>Explanation</b>
7	Report from the AG Paramount Chief – Pa Alimany N’ Soila Koroma, Bombali Seborra Chiefdom	<input type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>• Reporting system in the RUF:                         <ul style="list-style-type: none"> <li>• Prosecutor v Taylor, Transcript, p.5236:26-5237:10 p.5242:26-5242:29 p.5243:2-5243:17 (complaints by civilians to RUF), 4 March 2008; p.5305:26 – 5307:9 and p.5374:3 to p.5384:13, 5 March 2008; and, p.5393:13-19, 6 March 2008 (all TF1-337);</li> <li>• Prosecutor v Taylor, Transcript, p.4268:17 to p.4270:8 and p.4277:7 to p.4278:10, 19 February 2008 (TF1-330);</li> <li>• Prosecutor v Taylor, Transcript, p.12076:28-12081:18, 25 June 2008 (TF1-584);</li> <li>• Prosecutor v Taylor, Transcript, p.4365:17-21, 20 February 2008 (using radio communications) (TF1-275); and,</li> <li>• Exhibit P-96 Monitoring Book, Signal Unit, Out of Bounds to RUF, Codebook for the RUF Radio Network.</li> </ul> </li> </ul>
8	Report from the Office of the G-4 Unit at 2 <sup>nd</sup> Brigade Headquarters, Bombali District, to the Office of the 2 <sup>nd</sup> Brigade Adjutant	<input checked="" type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>• The entire document is based on a report made by a Mr Abu Koroma, which is not included in the text of the document.</li> <li>• Supply of arms and ammunition:                         <ul style="list-style-type: none"> <li>• Exhibit P-18, paras 167 – 176</li> <li>• Exhibit P-93, p.1-2 (inventory of materials supplied – including arms, ammunition, food, cigarettes, stationery – and those captured)</li> <li>• Prosecutor v Taylor, Transcript, p.10479: 7-10481:1, 21 May 2008 (Samuel Kargbo) (inventory of arms supplied to RUF)</li> <li>• Prosecutor v Taylor, Transcript, p. 8016:1-8017:26, 18 April 2008 (TF1-334) (inventory of arms supplied to RUF)</li> <li>• Prosecutor v Taylor, Transcript, p.1284:17-1286:23, 15 January 2008 (TF1-114) (inventory of arms supplied to RUF)</li> </ul> </li> </ul>



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Doc.	Title/Date	Objection	Explanation
9	Information and charges against Lt Col Gaylay Forwarded to the Joint Security for Investigation from Over/All Security Commander SLPAs, Lt Col Gbao to General Bropleh	<input type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>Investigation and punishment of offences in RUF:                         <ul style="list-style-type: none"> <li>Prosecutor v Taylor, Transcript, p.5240:21-5241:22, 4 March 2008; p.5370:5-19 and p.5375:14-29, 5 March 2008 (all TF1-337)</li> <li>Prosecutor v Taylor, Transcript, p.4268:17 to p.4270:8 and p.4277:7 to p.4278:10, 19 February 2008 (all TF1-330);</li> <li>Reporting system in the RUF:                                 <ul style="list-style-type: none"> <li>Prosecutor v Taylor, Transcript, p.5236:26-5237:10 p.5242:26-5242:29 p.5243:2-5243:17 (complaints by civilians to RUF), 4 March 2008; p.5305:26 – 5307:9 and p.5374:3 to p.5384:13, 5 March 2008; and, p.5393:13-19, 6 March 2008 (all TF1-337);</li> <li>Prosecutor v Taylor, Transcript, p.4268:17 to p.4270:8 and p.4277:7 to p.4278:10, 19 February 2008 (TF1-330);</li> <li>Prosecutor v Taylor, Transcript, p.12076:28-12081:18, 25 June 2008 (TF1-584);</li> <li>Prosecutor v Taylor, Transcript, p.4365:17-21, 20 February 2008 (using radio communications) (TF1-275); and,</li> <li>Exhibit P-96</li> </ul> </li> </ul> </li> </ul>
10	Information from the Public Relations Office to All Brigade, Battalion, Front Line Commanders and Combatants	<input type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>Bockarie to lead military operations of the People's Army:                         <ul style="list-style-type: none"> <li>Exhibit P-59 <i>passim</i></li> <li>Exhibit P-60 <i>passim</i></li> <li>Exhibit P-62 <i>passim</i></li> </ul> </li> <li>Orders of the centralised High Command must be obeyed:                         <ul style="list-style-type: none"> <li>Exhibit P-86 People's Army of Sierra Leone - Order, 17 May 1998 <i>passim</i></li> <li>Exhibit P-131 AFRC - Secret Minutes of the First Meeting of the AFRC Held at the Conference Hall, Defence Headquarters on Saturday 19<sup>th</sup> July 1997 <i>passim</i></li> </ul> </li> </ul>

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<b>Doc.</b>	<b>Title/Date</b>	<b>Objection</b>	<b>Explanation</b>
11	Visitation of the Leader Cpl. Foday Sankoh, Representatives of the International Communities and ECOMOG Securities	<input checked="" type="checkbox"/> Anonymous/hearsay  <input type="checkbox"/> Already Produced <input checked="" type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>• The document is based on the observation of the High Command. But it is unclear who these individuals are.</li> <li>• Crime-based – atrocities in Makeni</li> <li>• Integration of SLA into RUF:                         <ul style="list-style-type: none"> <li>• Prosecutor v Taylor, Transcript, p.1972:6-10, 23 January 2008 (TF1-276) (explains that the People’s Army was the SLA and RUF combined);</li> <li>• Prosecutor v Taylor, Transcript, p.5740:5 – 5741:27, 11 March 2008 (TF1-532) (explains how the People’s Army was organised with RUF, AFRC and SLA taking different positions); and,</li> <li>• Prosecutor v Taylor, Transcript, p.1971:24 – 1972:17, 23 January 2008, (TF1-276) (SLA officer becomes part of People’s Army after AFRC coup).</li> </ul> </li> </ul>
12	Statement of Col John Petters taken at the office of the Board of Investigation – 2 <sup>nd</sup> Brigade Headquarters	<input checked="" type="checkbox"/> Anonymous/hearsay  <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<p>The entire document is a report of what Foday Sankoh said, which is hearsay evidence incapable of being tested in cross-examination.</p> <ul style="list-style-type: none"> <li>• Disciplinary system within RUF:                         <ul style="list-style-type: none"> <li>• Prosecutor v Taylor, Transcript, p.5240:21-5241:22, 4 March 2008; p.5370:5-19 and p.5375:14-29, 5 March 2008 (all TF1-337) (especially including role of Board of Investigation); and,</li> <li>• Prosecutor v Taylor, Transcript, p.4268:17 to p.4270:8 and p.4277:7 to p.4278:10, 19 February 2008 (all TF1-330).</li> </ul> </li> </ul>
13	Letter to Charles G Taylor signed by Issa H Sesay	<input type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>• RUF Delegation in Monrovia or Liberia:                         <ul style="list-style-type: none"> <li>• Exhibit P18, para 192</li> <li>• Prosecutor v Taylor, Transcript, p.2298:1-2299:6, 25 January</li> </ul> </li> </ul>

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Doc.	Title/Date	Objection	Explanation
			2008 (TF1-371) <ul style="list-style-type: none"> <li>• Prosecutor v Taylor, Transcript, p.4078:1-4080:5, 18 February 2008 (TF1-150)</li> <li>• Prosecutor v Taylor, Transcript, p.6187:5-6188:3, 31 March 2008 (TF1-532)</li> <li>• Prosecutor v Taylor, Transcript, p. 8515:5-8515:17, 24 April 2008; and, p.8593:15-8593:26, 25 April 2008 (TF1-334)</li> <li>• Prosecutor v Taylor, Transcript, p. 10455:13-10459:24, 21 May 2008 (Samuel Kargbo)</li> <li>• Status of Gibril Massaquoi in RUF:                             <ul style="list-style-type: none"> <li>• Exhibit D-9 p.8-10, 13</li> </ul> </li> </ul>
14	Notebook	<input type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>• RUF activities December 1999-2000                             <ul style="list-style-type: none"> <li>• Prosecutor v Taylor, Transcript, p.2447:4 – 2448:22, 29 January 2008 (continuation of mining in Kono) (TF1-371).</li> </ul> </li> <li>• Mining operations in 2000-2001:                             <ul style="list-style-type: none"> <li>• Prosecutor v Taylor, Transcript, p.5348:5 – 5350:14, 5 March 2008 (monitoring the washing of gravel) (TF1-337).</li> </ul> </li> <li>• Supply of arms and ammunition:                             <ul style="list-style-type: none"> <li>• Exhibit P-18, paras 167 – 176</li> <li>• Exhibit P-93, p.1-2 (inventory of materials supplied – including arms, ammunition, food, cigarettes, stationery – and those captured)</li> </ul> </li> <li>• Prosecutor v Taylor, Transcript, p.10479: 7-10481:1, 21 May 2008 (Samuel Kargbo) (inventory of arms supplied to RUF)</li> <li>• Prosecutor v Taylor, Transcript, p. 8016:1-8017:26, 18 April 2008 (TF1-334) (inventory of arms supplied to RUF)</li> <li>• Prosecutor v Taylor, Transcript, p.1284:17-1286:23, 15 January 2008 (TF1-114) (inventory of arms supplied to RUF)</li> </ul>
		<input type="checkbox"/> Anonymous/hearsay	<ul style="list-style-type: none"> <li>•</li> </ul>

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Doc.	Title/Date	Objection	Explanation
		OTHER: <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	Parts of the document are illegible (ERN 00026063-00026065, 00026068) and the document has possible been written by different authors, noted for the changes in styles of handwriting e.g. first style (00026050), second (00026057-68), and third (00026059)
15	Clearance and official travelling pass	<input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>Manpower for mining (especially use of forced labour):                             <ul style="list-style-type: none"> <li>Exhibit P-18, para 69</li> <li>Exhibit P-19, Diamonds, The RUF and the Liberian Connection – A Report for the Office of the Prosecutor the Special Court for Sierra Leone, Ian Smillie, April 21 2007 00030854 – 00030860</li> <li>Prosecutor v Taylor, Transcript, p.6188:23-6189:14, p. 6191:1-6192:18, 31 March 2008 (TF1-532)</li> <li>Prosecutor v Taylor, Transcript, p.5342:1-5342:10, p.5343:1-5344:3, 5 March 2008 (TF1-336)</li> <li>Prosecutor v Taylor, Transcript, p.7913:21-7915:9, 17 April 2008 (TF1-334)</li> </ul> </li> </ul>
16	Int Report to Gen Issa H Sesay from RUF/SL Defence Headquarters in Makeni	<input type="checkbox"/> Anonymous/hearsay <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant <input checked="" type="checkbox"/> Cumulative	<ul style="list-style-type: none"> <li>RUF diamond operations in 2001 and its alleged link to the Accused:                             <ul style="list-style-type: none"> <li>Exhibit p-18, paras 212-214</li> <li>Exhibit P-19, p.18</li> <li>Prosecutor v Taylor, Transcript, p.1447:24-1447:27, 16 January 2008 (Stephen Ellis)</li> <li>Prosecutor v Taylor, Transcript, p.5348:5 – 5350:14, 5 March 2008 (monitoring the washing of gravel) (TF1-337)</li> </ul> </li> </ul>
17	Black Guard Admin Book	<input type="checkbox"/> Anonymous/hearsay OTHER <input type="checkbox"/> Already Produced <input type="checkbox"/> Not sufficiently significant	<ul style="list-style-type: none"> <li>The signature on the document is illegible.</li> </ul>

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Doc.	Title/Date	Objection	Explanation
		<input checked="" type="checkbox"/> Cumulative  <input type="checkbox"/> Anonymous/hearsay	<ul style="list-style-type: none"> <li>Radio codenames and organisation of communication network:                         <ul style="list-style-type: none"> <li>Prosecutor v Taylor, Transcript, p.4365:17-21, 20 February 2008 (radio communications)</li> <li>Exhibit P-96 Monitoring Book, Signal Unit, Out of Bounds to RUF, Codebook for the RUF Radio Network <i>passim</i></li> <li>Exhibit D-3 Radio Log Book Three <i>passim</i></li> <li>Prosecutor v Taylor, Transcript, p.3089:10-21, 5 February 2008 (existence of a national RUF radio network), p.3059:14-3064:17 (role of radio operators), p.3069:10-3070:17 (use of codes and log books) (all TFI-360)</li> </ul> </li> </ul>