



**THE TRIAL CHAMBER** ("Trial Chamber") of the Special Court for Sierra Leone ("Special Court") composed of Hon. Judge Benjamin Mutanga Itoe, Presiding Judge, Hon. Judge Bankole Thompson, and Hon. Judge Pierre Boutet;

**SEIZED** of the Prosecution's submission of the expert report of Dr. William Haglund, filed on 14 July 2004;

**NOTING** the Trial Chamber's Order to the Prosecution to File Disclosure Materials and Other Materials in Preparation for the Commencement of Trial, delivered on 1 April 2004, where the Trial Chamber ordered the Prosecution to file by 26 April 2004, a witness list for all the witnesses that the Prosecution intended to call at trial with the name or the pseudonym of each witness, and that should the Prosecution seek to add any witnesses to this list after 26 April 2004, it should be permitted to do so only upon good cause being shown;

**NOTING** that Rule 94 bis of the Rules of Procedure and Evidence of the Special Court ("Rules"), provides for the disclosure of the full statement of an expert witness and states:

(A) Notwithstanding the provisions of Rule 66(A), Rule 73 bis (B)(iv)(b) and Rule 73 ter (B)(iii)(b) of the present Rules, the full statement of any expert witness called by a party shall be disclosed to the opposing party as early as possible and shall be filed with the Trial Chamber not less than twenty-one days prior to the date on which the expert is expected to testify.

(B) Within fourteen days of filing of the statement of the expert witness, the opposing party shall file a notice to the Trial Chamber indicating whether:

- (i) It accepts the expert witness statement; or
- (ii) It wishes to cross-examine the expert witness.

(C) If the opposing party accepts the statement of the expert witness, the statement may be admitted into evidence by the Trial Chamber without calling the witness to testify in person.

**NOTING** that Rule 66(A)(i) & (ii) of the Rules, sets out the procedure and time limits for the Prosecution's disclosure of witness statements, providing, *inter alia*, that copies of the statements of all witnesses whom the Prosecutor intends to call to testify should be presented within 30 days of the initial appearance of the Accused, and that the statements of any further witnesses it intends to call to testify should be submitted no later than 60 days before the date for trial, or as otherwise ordered by the Judge or Trial Chamber upon good cause being shown by the Prosecution;

**NOTING** that Rule 67(A)(i) of the Rules requires the Prosecution "as early as reasonably practicable and in any event prior to the commencement of the trial", to notify the Defence of the names of the witnesses that it intends to call;

**NOTING** Rule 73 bis (E) of the Rules which provides:

(E) After the commencement of the Trial, the Prosecutor may, if he considers it to be in the interests of justice, move the Trial Chamber for leave to reinstate the list of witnesses or to vary his decision as to which witnesses are to be called;

NOTING the submissions made to the Trial Chamber by the Prosecution at the Status Conference held on 1 June 2004 that they anticipated to call three expert witnesses and that they would be in a position to disclose their identities by the end of the first CDF trial session;

CONSIDERING that Rule 67(A)(i) and Rule 94 bis of the Rules, when read together, and given a purposive interpretation, require the Prosecution to disclose to the Defence the complete list of witnesses that it intends to call, "as early as reasonably practicable and in any event prior to the commencement of trial";<sup>1</sup>

CONSIDERING that Rule 66(A)(ii) and Rule 94 bis of the Rules, when read together, and given a purposive interpretation, provide that the statements of the expert witnesses that the Prosecution intends to call should be disclosed to the Defence "as early as possible", and "no later than 60 days before the date set for trial";<sup>2</sup>

CONSIDERING that pursuant to Rules 73bis(E) and Rule 67(A)(i) of the Rules, the Prosecution, if it considers it to be in the interests of justice, should seek leave of the Trial Chamber to vary its initial witness list, and to call as an expert witness, Mr William Haglund, and to show good cause, pursuant to Rule 66(A)(ii), to disclose the full statement of the expert witness outside the time limits prescribed;

CONSIDERING FURTHER that the Prosecution should provide the Trial Chamber and the Defence with the curriculum vitae of the expert witness, that includes his credentials, that qualify him as an expert, his specific field of expertise, and the purpose of his report, for the Defence to make an informed response and for the Trial Chamber to consider the admissibility of the expert report;

FOR ALL THE ABOVE-STATED REASONS,

The Trial Chamber orders the Prosecution to seek leave of the Trial Chamber to approve the addition of the expert witness, William Haglund, to the initial witness list and to show good cause pursuant to Rule 66(A)(ii) for admitting the full statement of the expert witness.

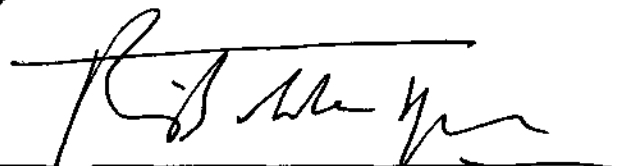
Done in Freetown, Sierra Leone, this 16<sup>th</sup> day of July 2004



Hon. Judge Pierre Boutet



Hon. Judge Benjamin Mutanga Itoe  
Presiding Judge,  
Trial Chamber



Hon. Judge Bankole Thompson

[Seal of the Special Court for Sierra Leone]

<sup>1</sup> See *The Prosecutor v. Nyiramasuhuko and Ntahabali*, Decision on Defence Motion for Disclosure of Evidence, 1 November 2000

<sup>2</sup> See *The Prosecutor v. Nyiramasuhuko and Ntahabali*, Decision on Defence Motion for Disclosure of Evidence, 1 November 2000

