

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

HAVING RECEIVED the *Prosecution Proposed Order of Appearance of Witnesses – Eighth Trial Session*, filed publicly by the Office of the Prosecutor (“Prosecution”) on the 1st of June, 2006 (“Proposed Order of Appearance”);

MINDFUL of the Decisions and Orders of this Trial Chamber concerning protective measures, including the *Decisions on the Prosecutor’s Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure* for each individual accused in the RUF trial^[1] and, in particular, the *Decision on Prosecution Motion for Modification of Protective Measures for Witnesses* filed on the 5th of July 2004;^[2]

CONSIDERING that, in particular, Witnesses TF1-042, TF1-044 and TF1-046 were granted protective measures pursuant to the said Decisions and Orders;^[3]

MINDFUL of the *Decision on Prosecution Motion to Vary Protective Measures for Group I Witnesses TF1-042 and TF1-044*, filed publicly on the 23rd of May, 2006, ordering that the protective measures^[4] contained in the *Decision on Prosecution Motion for Modification of Protective Measures for Witnesses* will no longer apply to Prosecution Witnesses TF1-042 and TF1-044;

MINDFUL of the provisions of Rule 75 of the Rules of Procedure and Evidence, and in particular of paragraphs (F) and (G) thereof, which read as follows:

(F) Once protective measures have been ordered in respect of a witness or victim in any proceedings before the Special Court (the "first proceedings"), such protective measures:

(i) shall continue to have effect *mutatis mutandis* in any other proceedings before the Special Court (the "second proceedings") unless and until they are rescinded, varied or augmented in accordance with the procedure set out in this Rule; but;

(ii) shall not prevent the Prosecutor from discharging any disclosure obligation under the Rules in the second proceedings, provided that the Prosecutor notifies the Defence to whom the disclosure is being made of the nature of the protective measures ordered in the first proceedings.

(G) A party to the second proceedings seeking to rescind, vary or augment protective measures ordered in the first proceedings shall apply to the Chamber seized of the second proceedings.

NOTING that, pursuant to an oral application by the Prosecution and by the Witness, Trial Chamber II lifted the protective measures granted to Witness TF1-046 and he accordingly testified publicly in the trial proceedings of *Prosecutor v. Brima, Kamara and Kanu*, Case No. SCSL-04-16-T;^[5]

NOTING that in the Proposed Order of Appearance Witnesses TF1-042, TF1-044 and TF1-046 are still referred to with their previously assigned witness protection pseudonyms;

CONSIDERING that in accordance with Article 17.2 of the Statute of the Special Court (“Statute”) any Accused person is entitled to “a fair and public hearing, subject to measures ordered by the Special Court for the protection of victims and witnesses”;[\[6\]](#)

PURSUANT TO Articles 17 of the Statute and Rules 26*bis*, 54, 69 and 75 of the Rules;

THE TRIAL CHAMBER HEREBY

ORDERS the Prosecution to re-file by Monday, the 5th of June, 2006, at 04:00pm its *Prosecution Proposed Order of Appearance of Witnesses – Eighth Trial Session* indicating the identity of Witnesses TF1-042, TF1-044 and TF1-046 for which protective measures are no longer in place.

Done at Freetown, Sierra Leone, this 2nd day of June 2006

Hon. Justice Benjamin Mutanga
Itoe

Hon. Justice Pierre Boutet
Presiding Judge
Trial Chamber I

Hon. Justice Bankole
Thompson

[Seal of the Special Court for Sierra Leone]

[\[1\]](#) *Prosecutor v. Sesay*, Case No. SCSL-03-05-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003, *Prosecutor v. Kallon*, Case No. SCSL-03-07-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003, and *Prosecutor v. Gbao*, Case No. SCSL-03-09-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 10 October 2003.

[\[2\]](#) *Prosecutor v. Sesay, Kallon and Gbao*, Case No. SCSL-04-15-T, Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004.

[\[3\]](#) See also *Prosecutor v. Brima, Kamara and Kanu*, Case No. SCSL-04-16-PT, Oral Decision on Prosecution Motions for Protective Measures pursuant to Order to the Prosecution for Renewed Motion for Protective Measures Date 2 April 2004, 4 February 2005.

[\[4\]](#) It is particularly those protective measures contained in clauses a to f of that are relevant to these witnesses as the remaining clauses apply to either specific categories of witnesses (clauses

g to i) or the regime of protective measures in general (clauses j to p).

[5] *Prosecutor v. Brima, Kamara and Kanu*, Case No. SCSL-04-16-T, Transcripts, 7 October 2005, p. 3-5.

[6] On the principle requiring that criminal trials be conducted in public see, for instance, *Prosecutor v. Sesay, Kallon and Gbao*, Case No. SCSL-04-15-PT, Decision on the Motion by Morris Kallon for Bail, 23 February 2004, paras 19-21. See also *Prosecution v. Brima, Kamara and Kanu*, Case No. SCSL-04-16-T, Decision on the Confidential Joint Defence Application for Withdrawal by Counsel for Brima and Kamara and on the Request for Further Representation by Counsel for Kanu, 23 May 2005, para. 22. See also *Prosecutor v. Muvunyi*, Case No. ICTR-00-55A-AR73, Decision on Prosecution Interlocutory Appeal Against Trial Chamber II Decision of 23 February 2005, 12 May 2005, paras 2-4.
