

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

SEIZED OF the “First Accused Urgent Motion for Extension of Time to Comply with Order Contained in ‘Decision on Norman Motion to Defer Further Evidence and Closing of His Case to September-December Trial Session’”, filed by Court Appointed Counsel for the First Accused (“Counsel for Norman”) on the 16th of June 2006 (“Motion”);

NOTING the “Order for Expedited Filing”, issued by The Chamber on the 16th of June 2006;

NOTING the “Prosecution Response to First Accused Urgent Motion for Extension of Time Dated 15 June 2006”, filed by the Office of the Prosecutor (“Prosecution”) on the 19th of June 2006 (“Response”), opposing the Motion;

NOTING the “First Accused Reply to ‘Prosecution Response to First Accused Urgent Motion for Extension of Time Dated 15 June 2006’”, filed by Counsel for Norman on the 20th of June 2006 (“Reply”);

MINDFUL OF The Chamber’s “Decision on Norman Motion to Defer Further Evidence and Closing of His Case to September-December Trial Session”, delivered on the 14th of June 2006 (“Decision of the 14th of June 2006”), whereby Counsel for Norman was ordered, *inter alia*, to submit documents, including those initially intended to be tendered through witness J.A. Carpenter, pursuant to Rule 92*bis* of the Rules, whilst ensuring compliance with the time limits prescribed in this Rule and not later than Friday, the 16th of June 2006 at 4:00 p.m.;[\[1\]](#)

CONSIDERING that by their Motion Counsel for Norman request The Chamber to grant them the extension of time until the 14th of July 2006 to submit documents pursuant to Rule 92*bis* of the Rules on the basis that “there are a number of key documents that [they] have been attempting to obtain but have yet not been able to do so”,[\[2\]](#) that Rule 92*bis* does not contain a specific timeframe, and that the Prosecution will not be prejudiced if the documents are submitted at a later stage;[\[3\]](#)

NOTING Counsel for Norman’s submission in court on the 16th of June 2006, that Counsel for Norman had made a decision not to call witness J.A. Carpenter to give *viva voce* evidence but instead to tender documents in lieu of his oral testimony pursuant to Rule 92*bis* but that those documents were still not available for tendering;[\[4\]](#)

RECALLING that during the presentation of the Prosecution case, the Prosecution submitted documents under Rule 92*bis*, which were previously disclosed to the Defence either as part of the prosecutorial disclosure obligations or as part of their motion for judicial notice[\[5\]](#) and which they have served on the Defence while the Prosecution witnesses were still being heard by The Chamber;[\[6\]](#)

CONSIDERING therefore, that Counsel for Norman’s submission that the same approach was taken by the Prosecution is incorrect,[\[7\]](#) since Counsel for Norman did not have these documents

ready for submission then nor have them even now and are asking for extension of time to submit documents which they have yet not been able to obtain;

NOTING that, although Rule 92*bis* of the Rules does not explicitly provide for a time limit to file the documents intended to be admitted through this rule, [8] The Chamber has power to impose such time restrictions bearing in mind the provision of Rule 26*bis* that a trial must be fair and expeditious and the overall interests of justice;

CONSIDERING that in imposing the deadline of the 16th of June 2006 for Counsel for Norman to submit the documents pursuant to Rule 92*bis*, The Chamber took into consideration various factors, namely that Counsel for Norman have had sufficient time to properly conduct their investigations and collect evidence,[9] that The Chamber has, as early as on the 21st of October 2005, ordered Counsel for Norman to give “an indication of whether the witness will testify in person or pursuant to Rule 92*bis*, [10] and thereafter had encouraged Counsel for Norman to use the procedure of Rule 92*bis*,[11] that on the 25th of May 2006, for the first time, as a response to The Chamber’s inquiry, Counsel for Norman informed the Court that they intended to file the documents pursuant to Rule 92*bis*,[12] that The Chamber thereafter had instructed Counsel for Norman to do so by the 30th of May 2006 or as soon as possible,[13] which Counsel for Norman failed to do,[14] and finally that The Chamber had already granted Counsel for Norman multiple adjournments and extension of time, especially in respect of witness J.A. Carpenter;[15]

CONSIDERING that The Chamber had indicated to Counsel for Norman on numerous occasions that they were expected to finalize the presentation of the Defence case for the First Accused during the seventh trial session in this case, which ended on the 16th of June 2006;[16]

MINDFUL OF the rights of the Accused, and in particular of the provisions of Article 17(4)(b) of the Statute of the Special Court for Sierra Leone (“Statute”) on the right “to have adequate time and facilities for the preparation of his or her defence” and of Article 17(4)(c) of the Statute on the right “to be tried without undue delay”;

MINDFUL OF the provision of Rule 90(F) of the Rules which states that “The Trial Chamber shall exercise control over the mode and order of interrogating witnesses and presenting evidence so as to: (i) make the interrogation and presentation effective for the ascertainment of the truth; and (ii) avoid the wasting of time.”;

FINDING that in the present circumstances there do not exist good and sufficient cause or exceptional circumstances to grant an extension of time[17] to submit documents pursuant to Rule 92*bis* of the Rules;

PURSUANT to Rules 26*bis*, 54, 73 and 90(F) of the Rules;

HEREBY DISMISSES THE MOTION.

Done in Freetown, Sierra Leone, this 28th day of June 2006.

Hon. Justice Benjamin Mutanga
Itoe

Hon. Justice Bankole
Thompson
Presiding Judge
Trial Chamber I

Hon. Justice Pierre Boutet

[Seal of the Special Court for Sierra Leone]

[1] Disposition, para. 17(a)(v) and (c).

[2] Motion, para. 4.

[3] *Ibid.*, para. 7.

[4] Transcript of the 16th of June 2006, pp. 15-16.

[5] SCSL-04-14-447, “Decision on Prosecution’s Request to Admit into Evidence Certain Documents Pursuant to Rules 92bis and 89(C)”, the 14th of July 2005, p. 5. The Chamber found that the documents were disclosed by the Prosecution on the 2nd of April 2004 and on the 26th of April 2004.

[6] On the 20th of June 2005 The Chamber heard the evidence of the last Prosecution expert witness. The same day the Prosecution notified The Chamber of their intention to tender documents through Rule 92bis [Transcript of the 20th of June 2005, p. 4], which they have served on the Defence on the 14th of June 2005 [Transcript of the 22nd of June 2005, p. 4]. Since the Defence had objections relating both to the time limit for submitting these documents and to their admissibility [*Ibid.*, pp. 4, 10-11], The Chamber ruled that both Parties should file their written submissions, in compliance with the time limit prescribed by Rule 92bis. [*Ibid.*, pp. 12-13, 18] On the 24th of June 2005 the Prosecution filed their “Prosecution’s Consequential Request to Admit into Evidence Certain Documents Pursuant to Rule 92bis and 89(C)”. On the 29th of June 2005 the Defence filed “Joint Defence Objections to Prosecution’s Consequential Request to Admit into Evidence Certain Documents Pursuant to Rules 92bis and 89(C)” and on the 4th of July 2005 the Prosecution filed “Prosecution Reply to Joint Defence Objections to Consequential Request to Admit into Evidence Certain Documents Pursuant to Rule 92bis and 89(C)”. The Chamber issued its Decision on the 14th of July 2005 and the same day the Prosecution closed their case. [Transcript of the 14th of July 2005].

[7] Reply, paras 5-6.

[8] Rule 92bis(C) of the Rules states: “A party wishing to submit information as evidence shall give 10 days notice to the opposing party. Objections, if any, must be submitted within 5 days.”

[9] Decision of the 14th of June 2006, para. 8.

[10] SCSL-04-14-474, “Order Concerning the Preparation and Presentation of the Defence Case”, the 21st of October 2005, para. (2)(a)(v). *See also*, SCSL-04-14-489, “Consequential Order for Compliance With the Order Concerning the Preparation and Presentation of the Defence Case”, the 28th of November 2005, p. 3, (a)(v).

[11] *See, inter alia*, Transcript of the 11th of January 2006, p. 33.

[12] Transcript of the 25th of May 2006, pp. 60-61.

[13] *Ibid.*, pp. 60-61, 64.

[14] Decision of the 14th of June 2006, paras 12, 15.

[15] *Ibid.*, para. 7.

[16] *See, inter alia*, Transcript of the 29th of May 2006, pp. 19-21.

[17] *See, inter alia*, SCSL-04-14-638, “Decision on Fofana Motion for Extension of Time Pursuant to Rule 7bis”, the 27th of June 2006, p. 2.
