

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;

NOTING the “Order Detailing Judicial Calendar”, issued by The Chamber on the 11th of May 2006, where The Chamber ordered that the eighth trial session of this case would run from the 13th of September 2006 to the 7th of December 2006, inclusive;[\[1\]](#)

NOTING that Rule 86 “Closing Arguments” of the Rules of Procedure and Evidence of the Special Court (“Rules”) provides that:

- (A) After the presentation of all the evidence, the Prosecutor shall and the defence may present a closing argument.
- (B) A party shall file a final trial brief with the Trial Chamber not later than five days prior to the day set for the presentation of that party’s closing argument.
- (C) The parties shall inform the Trial Chamber of the anticipated length of closing arguments; the Trial Chamber may limit the length of those arguments in the interests of justice.

NOTING the “Practice Direction on Filing Documents Before the Special Court for Sierra Leone”, adopted on the 27th of February 2003, amended on the 1st of June 2004 and the 10th of June 2005 (“Practice Direction”);

NOTING that in accordance with the Practice Direction the length of the “final trial submissions shall not exceed 200 pages or 60,000 words, whichever is greater”,[\[2\]](#) “[t]he typeface shall be 12 point, “Times New Roman” font, with 1.5 line spacing. An average page shall contain a maximum of 300 words.”[\[3\]](#) and “[h]eadings, footnotes and quotations count towards the word and page limits set out in the present article. Any appendices or authorities do not count towards the page limit.”[\[4\]](#);

NOTING that the Defence case for the Second Accused is likely to be closed on or about the 9th or the 10th of October 2006, after the conclusion of the testimony of the expert witness Daniel J. Hoffman PhD called by the Second Accused;[\[5\]](#)

NOTING that the Defence case for the Third Accused is now scheduled to start on the 5th of October 2006[\[6\]](#) and will reportedly take between three to four weeks[\[7\]](#) or even shorter, as further reduction in the number of witnesses to be called on behalf of the Third Accused is reported to be undertaken by Court Appointed Counsel for the Third Accused (“Counsel for Kondewa”)[\[8\]](#);

NOTING the submissions made by the Parties at the Status Conference held on the 12th of September 2006 (“Status Conference”) on the issue of the filing of the final trial briefs and the presentation of the closing arguments;

NOTING that at the Status Conference Court Appointed Counsel for the First Accused (“Counsel for Norman”) did not specify a concrete period of time but stated that they would prefer to have a couple of weeks and not days, that Counsel for Fofana stated that a period between three to four weeks, after all the evidence is heard, including in rebuttal, if any, would be sufficient to file their final trial brief, that Counsel for Kondewa stated that a period of up to four weeks, after all the evidence is heard, would be sufficient to file their final trial brief and that the Office of the Prosecutor (“Prosecution”) agreed as well that a four-week period would be reasonable to file their final trial brief;[\[9\]](#)

RECALLING that at the Status Conference The Chamber proposed the following approach for the filing of the final briefs and the presentation of the closing arguments: to set one deadline for the filing of the final trial briefs by all the Parties and then set a date for the closing arguments, five days after the filing of the final trial briefs, where Parties can then respond orally to each other’s written submission, as well as answer any other question(s) from the Bench;[\[10\]](#)

RECALLING that thereafter the Parties were invited to make written submissions with their proposals on this procedure within two weeks in order for The Chamber to issue further directions in this respect, which was undertaken to be done by each Party;[\[11\]](#)

RECALLING that at the Status Conference Counsel for Fofana stated that they did not think that it was necessary to submit a written submission on this proposal, as they entirely agreed with the proposition of having a written final trial brief and then having oral closing arguments in which they would orally respond to other Parties’ submissions;[\[12\]](#)

NOTING the “Counsel for First Accused’s Proposed Time-Table for Rule 86 Closing Arguments and Final Trial Briefs”, filed by Counsel for Norman on the 26th of September 2006;[\[13\]](#)

NOTING the “Prosecution’s Proposal for Rule 86 Closing Arguments and Final Trial Briefs”, filed by the Prosecution on the 26th of September 2006;[\[14\]](#)

NOTING that no such submission was filed by Counsel for Kondewa within the timeframe specified by The Chamber;

RECALLING that at the Status Conference the Prosecution stated their preference to submit a joint final trial brief in relation to all three Accused persons, where they would submit a statement of the law as it applies to all three Accused persons and a statement of the facts in relation to each Accused separately in that same brief;[\[15\]](#)

CONSIDERING all relevant factors which may be taken into account when determining the procedure for the filing of the final trial briefs and the presentation of the closing arguments and having reviewed the jurisprudence of other international tribunals on this issue;

CONSIDERING that it is in the interests of justice and in keeping with the conduct of a fair and expeditious trial, for the Trial Chamber to issue guidelines for the filing of the final trial briefs by the Parties and for the presentation of their closing arguments at this point in time;

PURSUANT TO Rules 26*bis*, 54 and 86 of the Rules;

HEREBY ORDERS AS FOLLOWS:

1. Court Appointed Counsel for each Accused and the Prosecution shall file their respective final trial briefs on the same date as set by The Chamber in due course, and in any event within three weeks from the date that the Defence case for the Third Accused closes;
2. The length of the final trial brief filed by Court Appointed Counsel for each Accused shall not exceed two hundred (200) pages, including any headings, footnotes and quotations and shall be presented with 1.5 line spacing;
3. The final trial brief by the Prosecution shall be filed as one document, which may include a joint statement of the law in relation to all three Accused persons and a statement of the facts in relation to each Accused separately;

4. The length of the final trial brief filed by the Prosecution shall not exceed four hundred (400) pages, including any headings, footnotes and quotations and shall be presented with 1.5 line spacing;
5. The final trial brief by each Party shall be presented as a brief set of arguments or propositions as to why a particular count should be upheld or rejected, addressing specific allegations in each count and the responsibility of the Accused, and it shall include references to the names of the witnesses and Exhibits with transcript page references made either in footnotes or in brackets;
6. The final trial briefs by the Parties shall comply with all the requirements of the Practice Direction;
7. The Prosecution shall and Court Appointed Counsel for each Accused may present their respective closing arguments on the date as set by The Chamber in due course, and in any event no later than five days after the filing of their respective final trial briefs;
8. The Parties during the presentation of their closing arguments may respond orally to the other Party's written submissions and may bring any other final matters before The Chamber, as they consider to be essential for their respective cases;
9. The Parties shall inform The Chamber of the anticipated length of their closing arguments, which, thereafter, may be limited by The Chamber in the interests of justice;

Done in Freetown, Sierra Leone, this 29th day of September 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] SCSL-04-14-T-595.

[2] Article 6(B).

[3] Article 4(G).

[4] Article 6(F).

[5] It was reported by Court Appointed Counsel for the Second Accused ("Counsel for Fofana") that Daniel J. Hoffman PhD was only available to commence his testimony on the 9th of October 2006; Transcript of the 12th of September 2006, p. 15.

[6] Oral Ruling of The Chamber delivered during the court proceeding of the 28th of September 2006, Transcript, p. 6.

[7] Transcript of the 12th of September 2006, p. 20.

[8] Transcript of the 28th of September 2006, p. 3.

- [\[9\]](#) Transcript of the 12th of September 2006, pp. 25-26.
 - [\[10\]](#) Transcript of the 12th of September 2006, pp. 30-32.
 - [\[11\]](#) Transcript of the 12th of September 2006, pp. 30-33.
 - [\[12\]](#) Transcript of the 12th of September 2006, p. 31.
 - [\[13\]](#) SCSL-04-14-T-699.
 - [\[14\]](#) SCSL-04-14-T-700.
 - [\[15\]](#) Transcript of the 12th of September 2006, pp. 35-36.
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