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SCSL-03-01-T  
(14490-14492)

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**SPECIAL COURT FOR SIERRA LEONE**

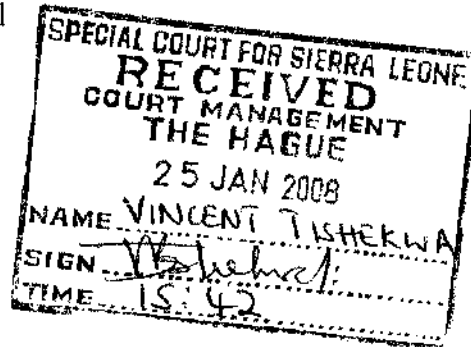
**TRIAL CHAMBER II**

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

**Registrar:** Mr. Herman von Hebel

**Case No.:** SCSL-03-1-T

**Date:** 25 January 2008



**PROSECUTOR**

v.

**Charles Ghanky TAYLOR**

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**DECISION ON PROSECUTION MOTION FOR ADMISSION OF PART OF THE PRIOR EVIDENCE  
OF TF1-362 & TF1-371 PURSUANT TO RULE 92ter**

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**Office of the Prosecutor:**

Brenda Hollis  
Nicolas Koumjian  
Leigh Lawrie

**Defence Counsel for Charles G. Taylor:**

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

**TRIAL CHAMBER II** ("Trial Chamber") of the Special Court for Sierra Leone ("Special Court");

**SEISED** of the "Prosecution Motion for Admission of Part of the Prior Evidence of TF1-362 & TF1-371 Pursuant to Rule 92ter," filed on 14 December 2007 ("Motion"),<sup>1</sup> wherein the Prosecution requests the Trial Chamber to admit into evidence portions of prior trial transcripts and related exhibits given by Witnesses TF1-362<sup>2</sup> and TF1-371<sup>3</sup> and to limit examination-in-chief and cross-examination of the two witnesses to "relevant questions not unduly cumulative to the testimony in the prior trial transcripts,"<sup>4</sup> and submits that the underlying purpose of Rule 92ter required that an objecting party show "good cause" for any objections raised to the admission of evidence raised under this Rule;<sup>5</sup>

**NOTING** the "Defence Response to Prosecution Motion for Admission of Part of the Prior Evidence of TF1-362 & TF1-271 Pursuant to Rule 92ter," filed on 14 January 2008 ("Response"),<sup>6</sup> wherein the Defence objects to the admission of prior trial transcripts and related exhibits of Witnesses TF1-362 and TF1-371 and requests that both TF1-362 and TF1-371 testify on all aspects of their statements *viva voce*<sup>7</sup> with no limits imposed on cross-examination;<sup>8</sup>

**NOTING** the "Reply to Defence Response to Prosecution Motion for Admission of Part of the Prior Evidence of TF1-362 & TF1-371 Pursuant to Rule 92ter," filed on 18 January 2008 ("Reply"),<sup>9</sup> wherein the Prosecution submits that requiring the Defence to show good cause for its objection under Rule 92ter would ensure that proceedings are not unilaterally obstructed<sup>10</sup> and that the judicious use of the Rules regarding the various methods of evidence presentation is a valid prosecutorial concern;<sup>11</sup>

**COGNISANT** of the provisions of Article 17 of the Statute of the Special Court for Sierra Leone ("Statute") and of Rules 89 and 92ter of the Rules of Procedure and Evidence ("Rules");

**NOTING** that Rule 92ter of the Rules relates to the admission of prior witness statements or trial transcripts into evidence and provides as follows:

With the agreement of the parties, a Trial Chamber may admit, in whole or in part, the evidence of a witness in the form of a written statement or transcript of evidence given by a witness in proceedings before the Tribunal, under the following conditions:

<sup>1</sup> SCSL03-01-T-375.

<sup>2</sup> Excerpts of testimony of Witness TF1-362 from transcripts of 20, 22, 25 and 26 April 2005, *Prosecutor v. Sesay, Kallon and Gbao*, Case No. SCSL-04-15-T, as contained in Annex A to the Motion; RUF Exhibit No.25, as contained in Annex B to the Motion.

<sup>3</sup> Excerpts of testimony of Witness TF1-371 from transcripts of 20, 21, 24, 28, 31 July 2006 and 1, 2 August 2006, *Prosecutor v. Sesay, Kallon and Gbao*, Case No. SCSL-04-15-T, as contained in Annex C to the Motion; RUF Exhibit Nos. 6, 9, 32 (in part), 33 (in part), 35 (in part), 36 (in part), 39, 40, 81, 82, 83, 84B, 137, 144, 185-189, as contained in Annex D to the Motion.

<sup>4</sup> Motion, para. 19.

<sup>5</sup> Motion, para. 14.

<sup>6</sup> SCSL03-01-T-391. By Decision SCSL03-01-392, the Chamber extended the time limits for filing of the Response.

<sup>7</sup> Response, para. 5.

<sup>8</sup> Response, para. 13-15.

<sup>9</sup> SCSL03-01-T-395. By Decision SCSL03-01-392, the Chamber extended the time limits for filing of the Reply.

<sup>10</sup> Reply, para. 5.

<sup>11</sup> Reply, para. 8.

- (i) the witness is present in court;
- (ii) the witness is available for cross-examination and any questioning by the Judges; and
- (iii) the witness attests that the written statement or transcript accurately reflects that witness' declaration and what the witness would say if examined.

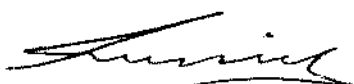
**RECALLING** the Order of the Trial Chamber, delivered orally by the Presiding Judge in open court on 24 January 2008, whereby the Motion was denied with written reasons to be published;


**CONSIDERING** that the agreement of the Parties is a condition precedent to admission of evidence under Rule 92ter of the Rules and, in this case, such agreement does not exist;

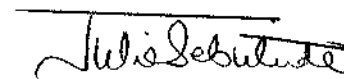
**HOLDING** that to grant the request of the Prosecution without the agreement of the Defence would be inconsistent with the rights of the Accused under Article 17 of the Statute;

**HEREBY DENIES THE MOTION.**

Done at The Hague, The Netherlands, this 25<sup>th</sup> day of January 2008.

  
Justice Richard Lussick

  
Justice Teresa Doherty  
Presiding Judge

  
Justice Julia Sebutinde

