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SPECIAL COURT FOR SIERRA LEONE

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TRIAL CHAMBER I

Before: Hon. Justice Benjamin Mutanga Itoe, Presiding Judge
Hon. Justice Bankole Thompson
Hon. Justice Pierre Boutet

Registrar: Herman von Hebel

Date: 6th March 2008

PROSECUTOR Against ISSA HASSAN SESAY
MORRIS KALLON
AUGUSTINE GBAO
(Case No. SCSL-04-15-T)

Public Document

**DECISION ON KALLON MOTION ON CHALLENGES TO THE FORM OF THE INDICTMENT
AND FOR RECONSIDERATION OF ORDER REJECTING FILING AND IMPOSING SANCTIONS**

Office of the Prosecutor:
Christopher Staker
Pete Harrison

Defence Counsel for Issa Hassan Sesay:
Wayne Jordash
Sareta Asaraph

Defence Counsel for Morris Kallon:
Charles Taku
Kennedy Ogeto
Lansana Dumbuya
Tanoo Mylvaganam

Court Appointed Counsel for Augustine Gbao:
John Caramegh
Scott Martin

SPECIAL COURT FOR SIERRA LEONE
RECEIVED
COURT MANAGEMENT
06 MAR 2008
NAME: M. J. JOHNSON
SIGN: [Signature]
TIME: 11:45

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

SEIZED of the Motion on Challenges to the Form of the Indictment and for Reconsideration of Order Rejecting Filing and Imposing Sanctions ("Motion") filed by Counsel for the Second Accused, Morris Kallon ("Defence") on the 7th of February 2008;

NOTING the Response to the Motion filed by the Office of the Prosecutor on the 15th of February 2008 and the Reply thereto filed by the Defence on the 20th of February 2008;

RECALLING the Order Relating to the Kallon Motion Challenging Defects in the Form of the Indictment and Annexes A, B and C ("Order") made by the Trial Chamber on the 31st of January 2008;

RECALLING that the Motion Challenging Defects in the Form of the Indictment and Annexes A, B and C, filed by the Defence Counsel on the 28th of January 2008 was self-evidently an attempt to evade compliance with both Article 6(C) of the Practice Direction on Filing Documents before the Special Court for Sierra Leone adopted on the 27th of February 2003 (as amended) and the Confidential and *ex parte* Decision on Kallon Application for Leave to Make a Motion in Excess of the Page Limit rendered by the Presiding Judge on the 14th of December 2007;

CONSIDERING that the Trial Chamber has the inherent power to govern its own process in the interests of fair and expeditious trial of the Accused;

RECALLING that in its Decision on Urgent Motion for Reconsideration of the Orders for Compliance with the Order Concerning the Preparation and Presentation of the Defence Case in the case of *Prosecutor v. Norman, Fofana and Kondewa*, the Trial Chamber held that it was possessed of an inherent power to reconsider its own Decisions only where (i) a clear error of reasoning in a previous Decision has been demonstrated and (ii) the Decision sought to be reconsidered has led to an injustice;¹

¹ *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-T, Decision on Urgent Motion for Reconsideration of the Orders for Compliance with the Order Concerning the Preparation and Presentation of the Defence Case, 5 December 2006, para 13, quoting from *Prosecutor v. Ntagenira, Bagambiki and Imanishimwe*, ICTR-99-46-A, Judgment, 7 July 2006, para 55.

RECALLING that in its Judgment in the case of *Prosecutor v. Brima, Kamara and Kanu* the Appeals Chamber of the Special Court endorsed this approach;²

SATISFIED that the Order does not contain such an error of reasoning and that no injustice has resulted;

CONSIDERING that the Motion also raises objections to perceived defects in the form of the Indictment;

RECALLING the previous Decisions of this Trial Chamber concerning the making of objections to the form of the Indictment, including the Decision on Gbao Request for Leave to Raise Objections to the Form of the Indictment rendered on the 17th of January 2008;

CONSIDERING that in these circumstances it may be appropriate for the Trial Chamber to address objections to the form of the Indictment at the end of the case rather than during the course of the trial, especially where such objections have not been raised preliminarily pursuant to Rule 72 of the Rules of Procedure and Evidence ("Rules");

CONSIDERING that the fact that the Defence has sought to raise objections at this stage will be taken into account by the Trial Chamber when it ultimately considers the issue;

PURSUANT to Article 17 of the Statute of the Special Court and Rules 26bis and 72 of the Rules;

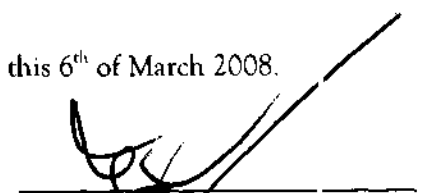
DECLINES to reconsider the Order; and

HEREBY DISMISSES the Motion.

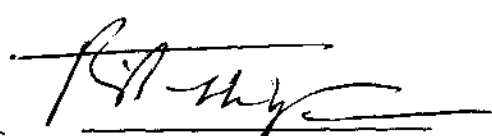
Done at Freetown, Sierra Leone, this 6th of March 2008.



Hon. Justice Pierre Boutet

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Hon. Justice Benjamin Mutanga Itoe
Presiding Judge
Trial Chamber I~~



Hon. Justice Bankole Thompson

[Seal of the Special Court]



² *Prosecutor v. Brima, Kamara and Kanu*, SCSL-04-16-A) Judgment of 3 March 2008, para. 63.