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SCSL-03-01-T
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SPECIAL COURT FOR SIERRA LEONE

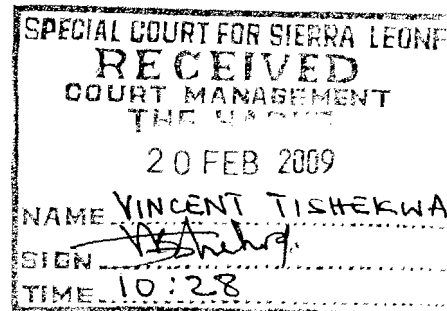
TRIAL CHAMBER II

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

Registrar: Herman von Hebel

Case No.: SCSL-03-1-T

Date: 20 February 2009



PROSECUTOR

v.

Charles Ghankay TAYLOR

DECISION ON PROSECUTION MOTION FOR ADMISSION OF DOCUMENTS OF THE UNITED NATIONS
AND UNITED NATIONS BODIES

Office of the Prosecutor:

Brenda J. Hollis
Nicholas Koumjian

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 Documents of the United Nations and United Nations Bodies”, filed on 29 October 2008 (“Motion”);¹

NOTING the “Defence Response to Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies”, filed on 10 November 2008 (“Response”);²

NOTING ALSO, the “Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies”, filed on 17 November 2008 (“Reply”);³

COGNISANT of the provisions of Article 17 of the Statute of the Special Court for Sierra Leone (“Statute”) and Rule 26*bis*, 73, 89(C), 92*bis* of the Rules of Procedure and Evidence (“Rules”);

HEREBY DECIDES AS FOLLOWS, based solely on the written submissions of the parties, pursuant to Rule 73 A of the Rules;

I. SUBMISSIONS

Motion

1. The Prosecution requests that the Trial Chamber admit into evidence the identified portions of the documents listed in Annex A and provided in Annex B of the Motion (“Documents”) pursuant to Rule 89 (C) or, in the alternative, Rules 89(C) and 92*bis*.⁴

2. The Prosecution maintains that the documents are admissible under Rule 89 (C) alone because

¹ SCSL-03-01-T-650.

² SCSL-03-01-T-664.

³ SCSL-03-01-T-670.

(1) Rule 89(C) is the general rule governing admission of evidence that has been used to tender documents absent a witness in other proceedings: (2) Rule 92bis has been amended such that it is now limited to witness statements and transcripts; and (3) Rule 92bis as amended and limited does not apply to documents not prepared for legal proceedings.⁵

3. The Prosecution further submits that Rule 89(C) allows experienced professional judges to receive into evidence relevant written material “without compulsory resort to a witness serving only to present documents”⁶, subject to the necessary safeguards to prevent prejudice to the Defence. The Prosecution asserts that the jurisprudence of the Special Court “favour(s) a flexible approach to the issue of admissibility of evidence”⁷ Further, admissibility under Rule 89(C) is subject to Rule 95 and to the Trial Chamber’s inherent jurisdiction to exclude evidence where its probative value is manifestly outweighed by its prejudicial effect, so that a “very high standard must be met before relevant evidence is excluded.”⁸ The Prosecution further submits that another reason for admission of the Documents under Rule 89(C) alone is that the amendments to Rule 92bis narrow its focus, making it now more suited to the admission of witness statements and trial transcripts rather than the reception of information, while Rule 89(C) is more suited to the admission of documents⁹

4. In the alternative, the Prosecution requests that the Trial Chamber admit the Documents into evidence pursuant to Rules 89 (C) and 92bis, submitting that “for evidence comprising public documents to be admitted pursuant to both Rules, the evidence must be relevant, its reliability must be susceptible of confirmation and its admission must not unfairly prejudice the Accused.”¹⁰ The

⁴ Motion para 1

⁵ Motion, paras 1, 3, 16.

⁶ Motion, para 5.

⁷ Motion paras 4-6

⁸ Motion para 8

⁹ Motion paras 9-13

¹⁰ Motion para 14,17

Prosecution states that “susceptible of confirmation” mentioned in Rule 92bis means that “proof of reliability is not a condition of admission: all that is required is that the information be capable of corroboration in due course”.¹¹

5. The Prosecution further submits that the qualification in Rule 92bis that the evidence must “not go to proof of the acts and conduct of the Accused” applies only to evidence contained in “witness statements and transcripts” and not to the Documents. However if the “acts and conduct qualification” also applies to non-testimonial documents then the term must be given its ordinary meaning and a distinction must be made between the acts and conduct of those who commit the crimes for which the Indictment alleges that the Accused is individually responsible and those of the Accused which establish his responsibility for the acts and conduct of others.¹²

6. The Prosecution submits that the documents are relevant to the Second Amended Indictment (“Indictment”) as they relate to the chapeau requirements of the crimes charged, crime base evidence, issues of command structure, evidence relating to the joint criminal enterprise and, as all the Documents are open source, provide evidence of the public notice of the atrocities being committed in Sierra Leone.¹³ Further the Documents are public, originating from the United Nations and do not impact adversely and unfairly upon the integrity of the proceedings; the inability of the Defence to cross examine a witness on the Documents is a matter that goes to the weight not its admissibility.¹⁴

7. In the alternative, the Prosecution seeks to admit the Documents under Rules 89(C) and 92bis and refers to its previous submissions regarding relevancy, susceptibility of confirmation and undue

¹¹ Motiion para 17, citing Prosecutor v. Norman et al., SCSL-04-14-T, “Fofana- Appeal Against Decision Refusing Bail” 11 March 2005 para 26

¹² Motion paras 15-16

prejudice to the Accused. The Prosecution further submits that as the Documents are public source documents not being presented to a lay jury they will not "impact adversely and unfairly upon the integrity of the proceedings"¹⁵

Response

8. The Defence opposes the Motion on the grounds that: (i) Rule 89(C) cannot be used in isolation to admit the Documents included in the Motion; and (ii) the Documents can only be admissible under Rule 89(C) in conjunction with Rule 92bis provided that any evidence that goes to the acts and conduct of the Accused is inadmissible. The Defence disputes the Prosecution submission that there is no specific rule for admission of documentary evidence and submits that the practice of the Special Court has been to admit documentary evidence under Rules 89(C) and 92bis.¹⁶ The Defence submits that Rule 89 (C) is not absolute, but is subject to the provisions of Rule 95 and the Court's inherent jurisdiction to exclude evidence where the probative value is outweighed by its prejudicial effect¹⁷

9. The Defence further submits that the correct procedure for the proper admission of the evidence is under Rules 89(C) and 92bis and that the Prosecution is trying to circumvent the provisions of Rule 92bis, particularly with regard to evidence going to the acts and conduct of the Accused, by trying to admit documents containing such evidence through Rule 89(C) alone. The Defence contends that the Prosecution is mistaken in stating that Rule 92bis is exclusively limited to witness statements and transcripts as the Rule "encompasses information".¹⁸

¹⁵ Motion para 19

¹⁴ Motion paras 20-22

¹⁵ Motion paras 23-24

¹⁶ Response paras 3-6

¹⁷ Response para 7-8

¹⁸ Response paras 10-13

10. The Defence further contends that, contrary to the Prosecution submissions, Rule 92bis was “deliberately amended to exclude information that goes to the acts and conduct of the Accused in order to protect the Accused’s fair trial rights.”¹⁹ The Defence points out that there remains a distinction between acts and conduct of those who commit the crimes for which the Indictment alleges the Accused is individually responsible and the acts and conduct of the Accused which establish his responsibility for the acts and conduct of those others. The first, the Defence submits, is admissible under Rule 92bis but the latter is not. The proximity of the acts and conduct of the alleged subordinate to the Accused is relevant to this determination. Further, documents pertaining to acts and conduct of co-perpetrators and subordinates should not be admitted unless there is a witness who can be brought for cross-examination.²⁰

11. The Defence further submits that, given their view that the proper procedure to adopt is Rules 89(C) and 92bis conjunctively, the Prosecution must establish (1) the relevance of each piece of information, (2) that the documents are susceptible of confirmation (and, in the submission of the Defence, the Documents cannot be corroborated by past witnesses because the Defence is denied an opportunity to cross examine so they fail this test) (3) the contents of the documents cannot go to the acts and conduct of the Accused, or of “subordinates proximate to the Accused whose acts and conduct should be deemed acts and conduct of the Accused”²¹ (4) any information that goes to a critical element of the Prosecution case should be subject to cross-examination.²²

12. The Defence submits that if the Documents are to be admitted under Rule 89(C) they should not only be subject to the tests of relevancy stated in its foregoing submissions but be excluded if they

¹⁹ Response para 16

²⁰ Response para 14-19

would cause potential prejudice to the Accused by the belated tendering of material already available to the Prosecution, or belated tendering of material that is not sufficiently significant to warrant admission late in the proceedings.²³ Further material that is cumulative and does not add substance to the material already in evidence and material that is based on anonymous, hearsay or anonymous sources cannot be admitted.²⁴

Reply

13. The Prosecution disputes the Defence interpretation of the jurisprudence relating to Rule 89(C) and Rule 92bis, and recounts the background to the amendment to the latter rule and the jurisprudence of the ad hoc tribunals to support their previous submissions²⁵

14. In reply to the Defence objections regarding the relevancy of the Documents the Prosecution submits that (1) none of the evidence falls outside the Indictment period and that it is relevant to contextual elements such as intent, awareness, knowledge or reasonable foreseeability (2) the Accused's alleged liability is not contingent on his position as President²⁶

15. The Prosecution submits the Defence arguments regarding susceptibility of confirmation are without legal merit as the information may be corroborated by evidence at trial viz. during the Prosecution and Defence phases of the trial and there is no exclusion of hearsay evidence under the Rules of the Special Court. In relation to specific objections on the grounds of legibility etc the

²¹ Response para 23. The Defence submits that all references to Charles Taylor, President Taylor, Government of Liberia, Liberia whilst Charles Taylor was the President, Liberians, neighbouring countries to Liberia and the Sierra Leone Region should be taken to refer to the Accused.

²² Response paras 20-25

²³ Response para 28, the Defence refers to documents including crime based and linkage based evidence

²⁴ Response para 26-31

²⁵ Reply paras 2-12

²⁶ Reply paras 14-15

Prosecution points out that it did not seek admission of the documents objected to.²⁷

16. In reply to the Defence objections based on the interpretation of the phrase “acts and conduct of the Accused” the Prosecution submits that the Defence interpretation is overly broad and unsupported by jurisprudence, and that certain references the Defence objects to cannot be equated with acts and conduct of the Accused.²⁸ However the Prosecution acknowledges that should the Trial Chamber decide that evidence going to acts and conduct of the Accused, or to proof of the acts and conduct of immediately proximate subordinates, is inadmissible, then such evidence can be redacted from the Documents²⁹

17. The Prosecution notes that “all elements are critical to the Prosecution’s case” and since it must prove all elements beyond a reasonable doubt the critical nature of the evidence cannot be a bar to admissibility under Rules 89(C) and 92bis. The Prosecution requests the Trial Chamber to admit into evidence the identified portions of the United Nations Documents listed in Annex A and provided in Annex B of the Motion.³⁰

II. APPLICABLE LAW

18. The general rules of evidence are contained in Rule 89, which provides:

Rule 89: General Provisions

(A) The rules of evidence set forth in this Section shall govern the proceedings

²⁷ Reply paras 18-20

²⁸ Reply para 22 the Prosecution gives as examples of matters that cannot be equated as being acts and conduct of the Accused: the acts of nameless RUF, former NPFL and ULIMO-K fighters, allegations of others concerning the acts and conduct of Liberis, the Accused and/or the Government of Liberia as these are the acts and conduct of those making the allegations

²⁹ Reply paras 21-25

³⁰ Reply paras 26-28

before the Chambers. The Chambers shall not be bound by national rules of evidence.

- (B) In cases not otherwise provided for in this Section, a Chamber shall apply rules of evidence which will best favour a fair determination of the matter before it and are consonant with the spirit of the Statute and the general principles of law.
- (C) A Chamber may admit any relevant evidence.

19. Rule 92*bis* is the specific rule relating to alternative proof of facts, that is, proof of facts other than by oral evidence. Rule 92*bis* provides:

Rule 92*bis*: Alternative Proof of Facts (*amended 14 March 2004 and amended 14 May 2007*)

- (A) In addition to the provisions of Rule 92*ter*, a Chamber may, in lieu of oral testimony, admit as evidence in whole or in part, information including written statements and transcripts, that do not go to proof of the acts and conduct of the Accused.
- (B) The information submitted may be received in evidence if, in the view of the Trial Chamber, it is relevant to the purpose for which it is submitted and if its reliability is susceptible of confirmation.
- (C) A party wishing to submit information shall give 10 days notice to the opposing party. Objections, if any, must be submitted within 5 days.

20. The recent ruling of the Appeals Chamber, “Decision on ‘Prosecution Notice of Appeal and Submissions Concerning the Decision Regarding the Tender of Documents’” dated 6 February 2009³¹ (“Appeals Chamber Decision”), wherein the Appeals Chamber upheld a decision of the Trial Chamber, confirms that:

By its express terms, Rule 92*bis* applies to information tendered “*in lieu of oral testimony*”. These words must be given their ordinary meaning. Documentary evidence, by its very nature, is tendered *in lieu of oral testimony*.³² [...]

[...]

The procedural scheme established by Rules 89(C) and 92*bis* does not allow a party to circumvent the stringency of the latter rule by simply tendering a document under the

³¹ SCSL03-01-AR73-721, Decision on ‘Prosecution Notice of Appeal and Submissions Concerning the Decision Regarding the Tender of Documents’, 6 February 2009 (“Appeals Chamber Decision”).

³² Appeals Chamber Decision, para. 30 (original footnotes omitted).

former.³³ [...]

[...]

The consequence of this is that any information that does not go to proof of the acts and conduct of the Accused not tendered through a witness, should be submitted under Rule 92bis if it is sought to be admitted *in lieu* of oral testimony. For these reasons, we find that the Trial Chamber did not err in law in holding that Rule 92bis exclusively controls the admission of a document submitted *in lieu* of oral testimony and that such document must be channelled through a witness in order to be admissible under Rule 89(C).³⁴ [...]

21. The effect of Rule 92bis is to permit the reception of information – assertions of fact (but not opinion) including, but not limited to, written statements and transcripts that do not go to proof of the acts and conduct of the Accused – if such facts are relevant and their reliability is “susceptible of confirmation”; proof of reliability is not a condition of admission: all that is required is that the information should be capable of corroboration in due course.³⁵ This leaves open the possibility for the Trial Chamber to determine the reliability issue at the end of the trial in light of the totality of the evidence by deciding whether the information is indeed corroborated by other evidence presented at trial³⁶, and what weight, if any, should be attached to it.³⁷ Simply admitting a document into evidence does not amount to a finding that the evidence is credible.³⁸

22. A distinction must be drawn between “the acts and conduct of those others who commit the crimes for which the Indictment alleges that the Accused is individually responsible” and “the acts

³³ Appeals Chamber Decision, para. 33(original footnotes omitted).

³⁴ Appeals Chamber Decision, para. 34.

³⁵ *Prosecutor v. Norman, Fofana, Kondewa*, Case No. SCSL-2004-14-AR73, Fofana – Decision on Appeal Against “Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence”, 16 May 2005, para 26.

³⁶ *Prosecutor v. Sesay, Kallon & Gbao*, SCSL-04-15-T, Decision on Sesay Defence Motion and Three Sesay Defence Applications to Admit 23 Witness Statements Under Rule 92bis, 15 May 2008, para30.

³⁷ *Prosecutor v. Norman, Fofana & Kondewa*, SCSL-04-14-T, Decision on Prosecution’s Request to Admit Into Evidence Certain Documents Pursuant to Rules 92bis and 89(C), 15 July 2005, p.4; see also *Prosecutor v. Sesay, Kallon & Gbao*, SCSL-04-15-T, Decision on Sesay Defence Motion and Three Sesay Defence Applications to Admit 23 Witness Statements Under Rule 92bis, 15 May 2008, para30.

³⁸ *Prosecutor v. Norman, Fofana & Kondewa*, SCSL-04-14-T, Decision on Fofana Request to Admit Evidence Pursuant to Rule 92bis, 9 October 2006, note 32, para 18; see also *Prosecutor v. Sesay, Kallon & Gbao*, SCSL-04-15-T, Decision on Sesay Defence Motion and Three Sesay Defence Applications to Admit 23 Witness Statements Under Rule 92bis, 15 May 2008, para31.

and conduct of the Accused as charged in the Indictment, which establish his responsibility for the acts and conduct of others.” Only written statements which go to proof of the latter acts and conduct are excluded by Rule 92bis.³⁹

23. Thus, Rule 92bis excludes any written statement which goes to proof of any act or conduct of the Accused upon which the Prosecution relies to establish that the Accused planned, instigated, ordered, or committed any of the crimes charged, or aided and abetted in the planning, preparation or execution of such crimes, or that the Accused was a superior who actually committed the crimes, or knew or had reason to know that those crimes were about to be or had been committed by his subordinates, or failed to take the necessary and reasonable measures to prevent such crimes or to punish the perpetrators thereof.⁴⁰ Where the Prosecution alleges that the Accused participated in a joint criminal enterprise, Rule 92bis excludes any written statement which goes to proof of any act or conduct of the Accused upon which the Prosecution relies to establish that he had participated in that joint criminal enterprise.⁴¹

24. The “conduct” of an Accused person necessarily includes his relevant state of mind, so that a written statement which goes to proof of any act or conduct of the Accused upon which the Prosecution relies to establish that state of mind, is not admissible under Rule 92bis⁴².

25. Where the evidence is “so pivotal to the Prosecution case, and where the person whose acts and conduct the written statement describes is so proximate to the Accused, the Trial Chamber may

³⁹ *Prosecutor v. Galic*, IT-98-29-AR73.2, “Decision on Interlocutory Appeal Concerning Rule 92bis(C)”, 7 June 2002, para 9; see also *Prosecutor v. Sesay et al.*, SCSL-04-15-T-1049, “Decision on Defence Application for the Admission of the Witness Statement of DIS-129 Under Rule 92bis or, in the Alternative, Under Rule 92ter”, 12 March 2008, pp 2,3; see also *Prosecutor v. Taylor*, SCSL-03-1-T, “Decision on Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to Inter Alia Kenema District and on Prosecution Notice Under Rule 92bis for the Admission of the Prior Testimony of TF1-036 Into Evidence”, 15 July 2008, p 4.

⁴⁰ *Galic*, *ibid.*, para 10; see also Prosecution’s Second Amended Indictment (“Indictment”), paras 33, 34.

⁴¹ *Galic*, *ibid.*, para 10, see also Indictment, para 33.

decide that it would not be fair to the Accused to permit the evidence to be given in written form.”⁴³

III. DELIBERATIONS

26. Dealing first with the Prosecution application for the documents to be admitted under Rule 89(C), the Trial Chamber finds that the documents must be channelled through a witness competent to give evidence in relation to the documents in order to be admissible under Rule 89(C)⁴⁴. The said documents were tendered in lieu oral testimony and therefore should have been tendered under Rule 92bis⁴⁵. Accordingly, the Prosecution application pursuant to Rule 89(C) must fail.

27. Turning now to the Prosecution’s alternative application, the Trial Chamber will consider the admissibility of each of the documents under Rule 92bis.

Document 1, Sierra Leone Humanitarian Situation Report 04-05 June 1997 (paras. 1-2, 5):

28. The Prosecution seeks to tender Paragraphs 1, 2 and 5 of Document 1. The Trial Chamber disagrees with the Defence submission that these Paragraphs should not be tendered as there is no author stated. Lack of named authorship of a document is an issue of weight and is not a condition for admission under Rule 92bis. The Trial Chamber finds that the type of information contained in the Document may be generally corroborated by other evidence led at trial and that the “nature and source” of the document cited is satisfied as it has been published and indexed by a reliable UN source.

⁴² *Galic*, *ibid.*, para 11.

⁴³ *Galic*, *ibid.*, para 13. See also *Prosecutor v. Brdanin & Talic*, IT-99-36-T, “Confidential Decision on the Admission of Rule 92bis Statements”, 1 May 2002, at para 14.

⁴⁴ Appeals Chamber Decision, para 34.

29. The Trial Chamber also disagrees with the Defence argument that the Paragraphs should not be admitted as they name Sam Bockarie, who is allegedly a subordinate to the Accused. Trial Chamber finds, in keeping with our previous ruling cited by the Prosecution,⁴⁵ that only evidence which may go to proof of an Accused's *liability* for the acts and conduct of others is barred under Rule 92bis. Evidence of the acts and conduct of his alleged subordinates which does not go to proof of the Accused's alleged liability may be admitted. The Trial Chamber is further satisfied that none of the evidence is so proximate to the Accused that it would be unfair to the Accused to permit this evidence to be given in written form.

30. The Trial Chamber finds Paragraphs 1, 2 and 5 of Document 1 as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 2: Letter from Permanent Representative of Nigeria to the UN President of Security Council, 27 June 1997 S/1997/499 (whole):

31. The Prosecution seeks to admit the whole of Document 2. The Trial Chamber disagrees with the Defence argument that Document 2 is irrelevant as the evidence contained therein falls outside of the Indictment period. The evidence in Document 2 relates to the 25 May 1997 coup and the Trial Chamber finds that it is within the Indictment period and is relevant.

32. The Trial Chamber finds the information in Document 2 is also susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence

⁴⁵ Appeals Chamber Decision, para 34; see also *Prosecutor v. Taylor*, SCSL-03-1-T, Decision on Prosecution Motion for Admission of Document Pursuant to Rule 89(C), 9 Feb. 2009, p3.

⁴⁶ Reply para. 21 referring to arguments made in the Prosecution Motion, para 16 citing *Prosecutor v. Taylor*, SCSL-03-1-T-556, "Decision on Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Kenema

Document 3: Statement by the President of the Security Council (S/PRST/1997/36), 11 July 1997 (whole):

33. The Prosecution seeks to admit the whole of Document 3. The Trial Chamber disagrees with the Defence argument that Document 3 is irrelevant as the evidence contained therein falls outside of the Indictment period and/or relates to a situation prior to Mr. Taylor being elected President of Liberia. The Trial Chamber finds the information in Document 3 relates to atrocities committed against civilians in Sierra Leone up to July 1997 and is therefore within the Indictment period and is relevant.

34. The Trial Chamber also disagrees with the Defence argument that as Document 3 contains a reference to "Liberia" it should not be admitted as it goes to the acts and conduct of the Accused. Document 3 describes the possible negative impact of atrocities committed against civilians in Sierra Leone on the ongoing peace process in Liberia. The Trial Chamber finds the references to "Liberia" in this document is purely geographical and cannot be interpreted as going to the acts and conduct of the Accused.

35. The Trial Chamber finds the information in Document 3 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Document 4: Sierra Leone Humanitarian Situation Report 08-14 July 1997 (paras 1-5):

36. The Prosecution seeks to admit Paragraphs 1-5 of Document 4. The Trial Chamber refers to its findings with reference to Document 1 and dismisses for the same reasons the Defence argument that Document 4 is not susceptible to confirmation because there is no author stated.

District and On Prosecution Notice Under Rule 92bis for the Admission of the Prior Testimony of TF1-036 into Evidence", 15 July 2008, at p. 4

37. The Trial Chamber also disagrees with the Defence argument that Document 4 is not susceptible to confirmation as it relies upon or draws conclusions from unnamed eyewitnesses or sources. While Document 4 does refer to evidence provided by unnamed sources or to hearsay evidence, such evidence is not barred from admission pursuant to Rule 92bis. The Trial Chamber finds that the “capable of corroboration” test does not require every point of evidence tendered under Rule 92bis to be corroborated by other evidence adduced at trial. Indeed, the test is *susceptibility of or capability of* corroboration and not actual corroboration. It is sufficient, therefore, for major events detailed in the documents to be generally corroborated by other evidence adduced at trial. The Rules favour the liberal admission of evidence. Any questions as to the reliability of specific points of evidence will go to the weight to be accorded to that evidence.

38. The Defence argues Document 4 should not be admitted as it names Sam Bockarie, allegedly a subordinate of the Accused. The Trial Chamber refers to its findings with reference to Document 1 and rejects this argument for the same reasons.

39. The Trial Chamber finds Paragraphs 1-5 of Document 4 are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 5: Statement by the President of the Security Council (S/PRST/1997/42) 6 Aug 1997 (p.1 paras 1-4 & p.2 part of para 1):

40. The Prosecution seeks to admit unnumbered Paragraphs 1-4 on Page 1 and part of unnumbered Paragraph 1 on Page 2 of Document 5. The Trial Chamber disagrees with the Defence submission that Document 5 is irrelevant as the evidence contained therein falls outside of the Indictment period and/or relates to a situation prior to Mr. Taylor being elected President of Liberia. The Trial Chamber finds the information in Document 5 relates to crimes against the civilians in Sierra Leone up to August 1997 and is therefore within the Indictment period and is relevant.

41. The Trial Chamber the information in 5 is also susceptible of confirmation and does not go to



the acts and conduct of the Accused and admits the Paragraphs as indicated in Annex B of the Motion into evidence.

Document 6: Security Council Press Release (SC/6472), 28 January 1998 – List of Junta Members affected by Sanctions (whole):

42. The Prosecution seeks to admit the whole of Document 6 into evidence. The Defence argues that Document 6 goes to the acts and conduct of the Accused because it lists Sam Bockarie, Samuel Kargbo, Johnny Paul Koroma, Mike Lamin and other alleged subordinates. The Trial Chamber refers to its findings on this point with reference to Document 1 and rejects this argument for the same reasons.

43. The Trial Chamber finds the information in Document 6 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Document 7: Sierra Leone: Humanitarian Situation Report, 21 January – 12 February 1998 (Paras 1 (partial), 3, 9, 16(a)):

44. The Defence argues Document 7 is not susceptible to confirmation because there is no author stated. The Trial Chamber refers to its findings on this point with reference to Document 1 and rejects this argument for the same reasons.

45. The Trial Chamber finds Paragraphs 1(part), 3, 9 and 16 (a) of Document 7 are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 8: Sierra Leone Humanitarian Situation Report, 16-30 April 1998 (paras 1-2, 5 (part), 6)

46. The Prosecution seeks to tender into evidence Paragraphs 1-2, 5 (part) and 6 of Document 8.

Paragraph 2:

47. The Trial Chamber finds that the underlined section of Paragraph 2 may not be admitted as it goes to the acts and conduct of the Accused.

48. The Defence argues that the part of Paragraph two not underlined by the Prosecution (“remaining portion”) should not be admitted as it contains allegations which go to the acts and conduct of the Accused. The Trial Chamber disagrees with the Prosecution’s argument that the allegations of others concerning the actions of the “Government of Liberia” are the acts and conducts of the person making the allegation and cannot be equated with the acts and conduct of the Accused. The requirement under Rule 92bis is that evidence *which goes to proof* of the acts and conduct of the Accused must be excluded.

49. The Trial Chamber notes that the remaining portions of Paragraph 2 describe allegations by ECOMOG spokesmen regarding RUF fighters being trained in Liberia and the incursion of NPFL and ULIMO-K fighters from Liberia into Sierra Leone. The Trial Chamber finds the information in the remaining portions of this Paragraph does go to proof of the acts and conduct of the Accused and is not admitted.

Paragraph 6:

50. The Defence argues that Paragraph six makes mention of a specific number of persons (101) who were amputees and that references to specific numbers of persons or items are not susceptible to confirmation. The Trial Chamber refers to its findings in relation to Document 4 that the susceptibility of confirmation test does not require every point of evidence tendered under Rule 92bis to be corroborated by other evidence adduced at trial and dismisses the arguments of the Defence for the same reasons.

Critical element:

51. The Defence argues that Document 8 goes to a “critical element” or core of the Prosecution’s case and should not be admitted as it is prejudicial to the Accused. The Trial Chamber agrees with

the Prosecution that “critical element” is not a test under either Rule 89(C) or Rule 92bis; nevertheless, the Trial Chamber retains discretionary power to reject evidence which is prejudicial. According to the *Galić* Appeals Chamber Decision, where evidence is so pivotal to the Prosecution’s case a Trial Chamber may decide it would not be fair to the Accused to permit evidence to be given in written form.⁴⁷ The Trial Chamber finds the evidence contained in Document 8 is general in nature and is not so prejudicial as to require the Chamber to evoke its discretionary power to prevent its admission.

52. The Trial Chamber finds that the information in Document 8 is relevant, is susceptible to confirmation and, with the exception of Paragraph two, does not go to the acts and conduct of the Accused. The Trial Chamber therefore admits Paragraphs 1, 5(part) and 6 as indicated by the Prosecution in Annex B to the Motion.

Document 9: Security Council Resolution 1181 (1998), 13 July 1998 (whole):

53. The Prosecution seeks to admit the whole of Document 9. The Defence argues that Paragraph 13 of Document 9 goes to the acts and conduct of the Accused as it discusses the cross-border flow of arms. The Trial Chamber agrees with the Prosecution that as the document makes no mention of any particular group or country’s involvement, it cannot be equated with the acts and conduct of the Accused.⁴⁸

54. The Trial Chamber finds that the information in Document 9 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

⁴⁷ “Where the evidence is so pivotal to the Prosecution case, and where the person whose acts and conduct the written statement describes is so proximate to the Accused, the Trial Chamber may decide that it would not be fair to the Accused to permit the evidence to be given in written form.” *Prosecutor v. Galić*, IT-98-29-AR73.2 (Appeals Chamber), Decision on Interlocutory Appeal Concerning Rule 92bis(C), 7 June 2002, para. 13.

⁴⁸ Prosecution’s arguments are found both in para. 22 of the Reply and in the Annex to the Reply with reference to Document 9.

Document 10: Second Progress Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/960, 16 October 1998 (paras 4, 6-7, 9-10, 21-22, 49, 54, 55 (part), 61):

55. The Prosecution seeks to admit Paragraphs 4, 6-7, 9-10, 21-22, 49, 54, 55(part), and 61 of Document 10. The Trial Chamber finds that the underlined sections of Paragraphs 6 and 7 may not be admitted as they go to the acts and conduct of the Accused. The Trial Chamber refers to its findings with reference to Document 1 and for the same reasons dismisses the Defence argument that Document 10 is not susceptible to confirmation because there is no author stated.

Paragraph 4:

56. The Defence argues Paragraph 4 should not be admitted as it names Foday Sankoh, allegedly subordinate to the Accused. The Trial Chamber refers to its findings reference to Document 1 and rejects this argument for the same reasons.

Paragraphs 6-7, 61:

57. The Defence argues that references to "Liberia" in Paragraphs 6, 7 and 61 go to the acts and conduct of the Accused and may not be admitted. These Paragraphs describe the relationship between Sierra Leone and Liberia and alleged incursions by Liberia into Sierra Leone. The Trial Chamber finds that the references to "Liberia" in these documents are political in nature and thereby may implicate the Accused in his position at the material time, as President of that State. Such evidence may go proof of the acts and conduct of the Accused and therefore, Paragraphs 6, 7 and 61 cannot be admitted.

Critical element:

58. The Trial Chamber refers to its findings with reference to Document 8 and disagrees with the Defence argument that Document 10 goes to a "critical element" or core of the Prosecution's case

and should not be admitted as is prejudicial to the Accused. The Paragraphs of Document 10 not already excluded by the Trial Chamber describe RUF and rebel atrocities against civilians. This evidence is general in nature and does not contain any direct link to the alleged responsibility of the Accused.

59. The Trial Chamber finds that Paragraphs 4, 9-10, 21-22, 49, 54, and 55(part) of Document 10 as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 11: Third Progress of the Secretary-General on the United Nations Observer Mission in Sierra Leone, S/1998/1176, 16 December 1998 (paras. 12-14, 18-19, 21-22, 32, 34, 36-37, 71, 74 (first and last three sentences)):

60. The Prosecution seeks to admit Paragraphs 12-14, 18-19, 21-22, 32, 34, 36-37, 71, 74 (first and last three sentences) of Document 11. The Trial Chamber finds that all of underlined Paragraphs 12-14 and the underlined part of Paragraph 74 may not be admitted as they go to the acts and conduct of the Accused. The Trial Chamber refers to its findings with reference to Document 1 and for the same reasons dismisses the Defence argument that Document 11 is not susceptible to confirmation because there is no author stated. The Trial Chamber also refers to its findings with reference to Document 8 and dismisses the Defence argument that Document 11 is not susceptible to confirmation because it refers to a specific number of child combatants.

Paragraphs 36-37:

61. The Defence argues that Paragraphs 36 and 37 of Document 4 should not be admitted as they name Foday Sankoh, allegedly subordinate to the Accused. The Trial Chamber refers to its findings reference to Document 1 and rejects this argument for the same reasons. The evidence in these Paragraphs deals with the general policy of the RUF vis-à-vis Foday Sankoh and does not go to the acts and conduct of the Accused.

Paragraph 74(first sentence):

62. The Defence objects that the mention of Liberia in Paragraph 74 goes to the acts and conduct of the Accused. The Trial Chamber finds that the remainder of Paragraph 74 describes the illegal transit of weapons and ammunition from countries including Liberia and that the reference to "Liberia" in this document is political in nature and therefore may implicate the Accused in his position as President of that State. Such evidence may go proof of the acts and conduct of the Accused and therefore, cannot be admitted.

Critical element:

63. The Defence argues that Document 11 establishes a clear link between Sierra Leone and Liberia and therefore goes to a critical element of the Prosecution case and should be rejected. The Trial Chamber finds that the remaining Paragraphs of Document 11 not already excluded by the Trial Chamber describe RUF, AFRC and rebel atrocities in Sierra Leone. This evidence is general in nature, does not contain any direct link to the Accused and therefore is not so prejudicial as to require the Chamber to evoke its discretionary power to prevent its admission

64. The Trial Chamber finds that Paragraphs 18-19, 21-22, 32, 34, 36-37 and 71 of Document 11 are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused. We therefore admit them into evidence.

Document 12: Special Report of the Secretary-General on the UN Observer Mission in Sierra Leone, 7 January 1999, S/1999/20 (paras. 3-4, 6(part), 7(part), 8, 10, 13, 14, 15-20, 25(part)):

65. The Prosecution seeks to admit Paragraphs 3-4, 6(part), 7(part), 8, 10, 13, 14, 15-20, and 25(part) of Document 12 into evidence. The Trial Chamber finds that the underlined sections of Paragraphs 14 and all of underlined Paragraph 15 may not be admitted as they go to the acts and conduct of the Accused.

Paragraphs 6-8:

66. The Defence argues Paragraphs 6-8 should not be admitted as they mention Foday Sankoh, allegedly a subordinate to the Accused. The Trial Chamber refers to its findings concerning the acts and conduct of alleged subordinate in Document 1 and rejects this argument for the same reasons.

Paragraph 13:

67. The Defence argues that the mention of Liberia in Paragraph 13 goes to the acts and conduct of the Accused. The Trial Chamber finds Paragraph 13 describes the participation of Liberia in a meeting of the ECOWAS Group of Five. The Trial Chamber finds the reference to "Liberia" in this document is political in nature and therefore may implicate the Accused in his position as President of that State. Such evidence may go proof of the acts and conduct of the Accused and therefore can not be admitted.

First sentence of para. 14:

68. In addition to the sections underlined by the Prosecution, the Defence argues that the first sentence of Paragraph 14 includes a reference to "Liberia" which goes to the acts and conduct of the Accused. This extract describes an ECOMOG allegation of support by Liberia to rebels. The Trial Chamber finds the reference to "Liberia" in this document is political in nature and therefore may implicate the Accused in his position as President of that State. Such evidence may go proof of the acts and conduct of the Accused and therefore cannot be admitted.

Paragraphs 16 and 17:

69. The Defence argues Paragraph 17 contains a reference to "Liberia" which goes to the acts and conduct of the Accused. This Paragraph describes a call for rapprochement between the heads of State of Sierra Leone and Liberia. The Trial Chamber finds the reference to "Liberia" in this Paragraph is political in nature and therefore may implicate the Accused in his position as President

of that State. Such evidence may go proof of the acts and conduct of the Accused and therefore, cannot be admitted.

70. The Trial Chamber also finds that Paragraph 16 contains a condemnation by the Committee of “the countries providing support to the rebels” which in the context of the document may go proof of the acts and conduct of the Accused and therefore, cannot be admitted.

Critical element:

71. The Defence argues the Document 12 addresses the Freetown invasion in January 1999 and therefore goes to a critical element of the Prosecution case and should be rejected. The remaining Paragraphs of Document 12 not already excluded by the Trial Chamber describe RUF attacks and motivations during the invasion of Freetown in January, 1999. The Trial Chamber refers to its findings with reference to Document 8 and disagrees with the Defence argument that this evidence goes to a “critical element” or core of the Prosecution’s case and should not be admitted as is prejudicial to the Accused.

72. The Trial Chamber finds that Paragraphs 3-4, 6(part), 7(part), 8, 10, 14 (except the first sentence and underlined portions), 18-20, and 25(part) as indicated by the Prosecution in Annex B of the Motion are relevant, susceptible to confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 13: Report on Atrocities Committed Against the Sierra Leone Population, UNHCR Branch Office Conakry, 28 Jan 1999, (Rev. 2) (ERN 00004550 unnumbered paras 1-3; Cases # 1, 2, 4, 5, 6, 7, 9, 10, 14, 15, 16, 18, 19, 20, 22, 24 and 33):

73. The Prosecution seeks to admit unnumbered Paragraphs 1-3 on Page ERN 00004550 as well as Cases # 1, 2, 4, 5, 6, 7, 9, 10, 14, 15, 16, 18, 19, 20, 22, 24 and 33 of Document 13 into evidence. The Defence argues that certain parts of Document 13 are illegible or in French. The Prosecution concedes this, and does not seek to tender those parts of the document into evidence.

Unnumbered paras 1-3 on Page ERN 00004550:

74. No specific arguments were made by the Parties in relation to unnumbered Paragraphs 1-3 on Page ERN 00004550. The Trial Chamber finds these Paragraphs are relevant, susceptible to confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Case #1:

75. The Trial Chamber disagrees with the Defence position that Case #1 may not be admitted into evidence because the name of the alleged victim is redacted from the statement and therefore the document is not susceptible to confirmation. The Defence argues that it is impossible to know whether the victim has testified as a witness in this case.⁴⁹ The Trial Chamber refers to its findings with reference to Document 1 and dismisses for the same reasons the Defence argument that Case #1 is not susceptible to confirmation.

76. The Defence argues Case #1 should not be admitted as it includes a reference to an order given by Superman, allegedly subordinate to the Accused. The Trial Chamber refers to its findings with reference to Document 1 and rejects this argument for the same reasons.

77. The Trial Chamber disagrees with the Defence argument that Case #1 is irrelevant. Case #1 relates to alleged attacks against civilians by rebels associated with Superman between Makeni and Kabala in February 1998 and is therefore relevant.

78. The Trial Chamber finds Case #1 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Case #2:

79. The Trial Chamber refers to its reasons set out with reference to Case #1 and similarly rejects the Defence argument that Case #2 is not susceptible to confirmation as the name of the alleged victim is redacted from the statement.

80. The Trial Chamber disagrees with the Defence argument that Case #2 is irrelevant. Case #2 describes alleged attacks against civilians by junta soldiers near Bakedou, Kono District in March 1998 and is therefore relevant.

81. The Trial Chamber finds Case #2 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Case #4:

82. The Trial Chamber disagrees with the Defence argument that Case #4 is irrelevant. Case #4 describes alleged attacks against civilians in Kono District in February 1998 by rebels who may have been associated with Foday Sankoh and is therefore relevant.

83. The Defence argues Case #4 should not be admitted as it includes a reference to Foday Sankoh, allegedly subordinate to the Accused. The Trial Chamber refers to its findings reference to Document 1 and rejects this argument for the same reasons.

84. The Trial Chamber finds Case #4 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Case #5:

85. The Trial Chamber notes that no objection was made by the Defence to Case #5.

⁴⁹ Annex A to the Response with reference to Document 13, Response para. 22.

86. The Trial Chamber finds that the alleged events described in Case #5, although within the Indictment period, occurred in a District outside of the Indictment and contain no clear reference to the alleged perpetrators. It is therefore not relevant as argued by the Prosecution, and we refuse to admit it.

Case #6:

87. The Trial Chamber refers to its reasons set out with reference to Case #1 and similarly reject the Defence argument that Case #6 is not susceptible to confirmation as the name of the alleged victim is redacted from the statement.

88. The Trial Chamber also disagrees with the Defence argument that Case #6 is irrelevant. Case #6 describes alleged attacks against civilians in Waimayma Town in Kono District by members of the People's Army in March 1998 and is therefore relevant.

89. The Trial Chamber finds Case #6 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Case #7:

90. The Trial Chamber refers to its reasons set out with reference to Case #1 and similarly reject the Defence argument that Case #7 is not susceptible to confirmation as the name of the alleged victim is redacted from the statement.

91. The Trial Chamber disagrees with the Defence argument that Case #7 is irrelevant. Case #7 describes alleged attacks against civilians by Junta/RUF in Kono District in April 1998 and is therefore relevant.

92. The Defence argues Case #7 should not be admitted as it includes a reference to Foday Sankoh, allegedly subordinate to the Accused. The Trial Chamber refers to its findings reference to Document

1 and rejects this argument for the same reasons.

93. The Trial Chamber finds Case #7 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Case #9:

94. The Trial Chamber refers to its reasons set out with reference to Case #1 and similarly reject the Defence argument that Case #9 is not susceptible to confirmation as the name of the alleged victim is redacted from the statement.

95. The Trial Chamber also disagrees with the Defence argument that Case #9 is irrelevant. Case #9 describes alleged attacks against civilians by "rebels" in Kono District in May 1998 and is therefore relevant.

96. The Trial Chamber finds Case #9 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Case #10:

97. The Trial Chamber refers to its reasons set out with reference to Case #1 and similarly reject the Defence argument that Case #10 is not susceptible to confirmation as the name of the alleged victim is redacted from the statement.

98. The Trial Chamber also disagrees with the Defence argument that Case #10 is irrelevant. Case #10 describes alleged attacks against civilians by Junta soldiers in Kono District in April 1998 and is therefore relevant.

99. The Trial Chamber finds Case #10 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Case #14:

100. The Trial Chamber agrees with the Defence argument that Case #14 is irrelevant. Case #14 describes alleged attacks against civilians by assailants speaking Krio and Liberian English in Koinadugu District in May 1998. While this evidence falls within the Indictment period as the attack is alleged to have occurred in a District outside of the Indictment the Trial Chamber finds it is not relevant as argued by the Prosecution, and refuses to admit it.

Case #15:

101. The Trial Chamber refers to its reasons set out with reference to Case #1 and similarly rejects the Defence argument that Case #15 is not susceptible to confirmation as the name of the alleged victim is redacted from the statement.

102. The Trial Chamber disagrees with the Defence argument that Case #15 is irrelevant. Case #15 describes alleged attacks by rebels possibly associated with Mosquito in Koinadugu District in May 1998 and is therefore relevant.

103. The Defence argues Case #15 should not be admitted as it includes a reference to Sam Bockarie, allegedly subordinate to the Accused. The Trial Chamber refers to its findings reference to Document 1 and rejects this argument for the same reasons.

104. The Trial Chamber finds Case #15 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Case #16:

105. We note that the Defence does not object to Case #16.

106. Case #16 describes alleged attacks against civilians by Junta forces in Kono District in 1998 and is therefore relevant. We also find that Case #16 is susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Case #18, 19, 20, 22 and 24:

107. The Trial Chamber agrees with the Defence argument that Cases #18, 19, 20, 22 and 24 are irrelevant. The evidence contained therein describes attacks on civilians in Koinadugu District in May 1998. While this evidence falls within the Indictment period the attacks are alleged to have occurred in a District outside of the Indictment. The Trial Chamber finds these Cases are not relevant as argued by the Prosecution, and refuses to admit them.

Case #33:

108. The Trial Chamber agrees with the Defence that Case #33 is irrelevant. Case #33 describes an alleged amputation of a victim by the RUF in Jaia Suafe, Kono District in January 1996. The Trial Chamber finds this evidence falls outside the temporal scope of the Indictment period and is not otherwise relevant as argued by the Prosecution. We refuse to admit it into evidence.

Document 14: Letter dated 22 February 1999 from Chargé d'Affaires AI of the Permanent Mission of Liberia to the UN Secretary General, S/1999/193, 23 February 1999 (p. 2 paras 2, 4, 5):

109. The Prosecution seeks to admit Paragraphs 2, 4 and 5 on Page 2 (CMS 21590) of Document 14. The Trial Chamber finds that these Paragraphs, underlined by the Prosecution in their entirety, may not be admitted as they go to the acts and conduct of the Accused.

Document 15: Fifth Report of the SG on the UN Observer Mission in Sierra Leone, 4 March 1999, S/1999/237 (paras 2, 4, 9-12, 14, 17-27, 31, 44, 45(part), 46, 52):

110. The Prosecution seeks to admit Paragraphs 2, 4, 9-12, 14, 17-27, 31, 44, 45(part), 46, 52 of Document 15. The Trial Chamber finds that Paragraphs 18 and 19, underlined by the Prosecution in their entirety, may not be admitted as they go to the acts and conduct of the Accused.

111. The Trial Chamber refers to its findings with reference to Document 1 and dismisses for the same reasons the Defence argument that Document 15 is not susceptible to confirmation because

there is no author stated or because the UNAMSIL human rights officers who went to Freetown and assessed the situation are not named.

Para. 4:

112. The Defence argues that references to "Liberia" in Paragraph 4 go to the acts and conduct of the Accused and may not be admitted. Paragraph 4 describes rebel reliance on foreign mercenaries, including Liberians. The Trial Chamber finds that the references to Liberian mercenaries in this Paragraph is sufficiently vague and cannot be interpreted as going to the acts and conduct of the Accused.

Para. 9:

113. The Trial Chamber refers to its findings with reference to Document 8 and for the same reasons dismisses the Defence argument that the killing of Policemen during the Freetown invasion referred to in Paragraph 9 is not susceptible to confirmation.

Paras 10-12, 14:

114. The Defence argues that Paragraphs 10-12 and 14 should not be admitted as they contain references to Foday Sankoh, who is allegedly subordinate to the Accused. The Trial Chamber refers to its findings reference to Document 1 and rejects this argument for the same reasons.

Para 45:

115. The Defence complains that the parts of Paragraph 45 deleted by the Prosecution are essential to understanding its context and relevance. The Prosecution argues that the sentence for which admission is sought (the first sentence of the Paragraph) is clear and the rest of the Paragraph is not necessary. The Trial Chamber finds the impugned sentence relates to a Security Council condemnation of human rights violations committed by rebels against civilians in Freetown. The

Trial Chamber is satisfied that the context of the Paragraph is clear from the remaining extracts in the document and is relevant.

Critical element:

116. The Trial Chamber refers to its findings with reference to Document 8 and disagrees with the Defence argument that Document 15 goes to a “critical element” or core of the Prosecution’s case and should not be admitted as it is prejudicial to the Accused. The Paragraphs of Document 15 not already excluded by the Trial Chamber describe the atrocities committed by the RUF/AFRC during the attack on Freetown in January 1999 and a call by the UN Observer Mission in Sierra Leone to the Security Council to put pressure on states supplying weapons. This evidence is general in nature and does not contain any direct link to the alleged responsibility of the Accused.

117. The Trial Chamber finds that Paragraphs 2, 4, 9-12, 14, 17, 20-27, 31, 44, 45(part), 46, and 52 of Document 15 as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 16: Security Council Resolution 1231, 1999, adopted 11 March 1999, S/RES/1231 (1999) (whole):

118. The Prosecution seeks to admit the whole of Document 16 into evidence. The Trial Chamber finds that Paragraph 6, underlined by the Prosecution in its entirety, may not be admitted as it goes to the acts and conduct of the Accused.

Para. 5:

119. The Defence argues that Paragraph 5 should not be admitted as it contains an allegation by the Security Council which goes to the acts and conduct of the Accused. The Trial Chamber refers to its findings in relation to Document 8 and rejects for the same reasons the Prosecution’s position that

an allegation of the Security Council cannot be equated with evidence which goes to the acts and conduct of the Accused.

120. Paragraph 5 describes concern on the part of the Security Council that support is being afforded to rebels in Sierra Leone through the supply of arms and mercenaries, in particular from the territory of Liberia. The Trial Chamber finds this evidence may go to proof of the acts and conduct of the Accused and therefore refuses to admit it.

121. The Trial Chamber finds that Paragraphs 1-4, 7-12 of Document 16 are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 17: Sierra Leone Humanitarian Situation Report 1-17 May 1999, UN Office for the Coordination of Humanitarian Affairs, 17 May 1999 (p. 1 paras 2-3; p. 2 para. 3; p. 4 para. 3; p. 5 para. 3 and 4; p. 6 para. 1; p. 11, para. 7-8):

122. The Prosecution seeks to admit unnumbered Paragraphs 2 and 3 on Page 1 (ERN 00004103); unnumbered Paragraph 3 on Page 2 (ERN 00004104); unnumbered Paragraph 3 on Page 4 (ERN 00004106); unnumbered Paragraphs 3 and 4 on Page 5 (ERN 00004107); unnumbered Paragraph 1 on Page 6 (ERN 00004108); and unnumbered Paragraphs 7 and 8 on Page 11 (ERN 00004113) of Document 17.

123. The Trial Chamber refers to its findings with reference to Document 1 and dismisses for the same reasons the Defence argument that Document 17 is not susceptible to confirmation because there is no author stated. The Trial Chamber also refers to our findings with reference to Document 8 and dismisses the Defence argument that Paragraph 4 on Page 5 (ERN 0004107) is not susceptible to confirmation because it refers to a specific number of houses burned in Freetown.

124. The Trial Chamber finds that all of the Paragraphs cited of Document 17 as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 18: Sixth Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone, 4 June 1999, S/1999/654 (paras 5-7, 9, 13, 19-20, 28-33, 40(part), 48b(part), 63, 64(part), 69):

125. The Prosecution seeks to admit Paragraphs 5-7, 9, 13, 19-20, 28-33, 40(part), 48b(part), 63, 64(part) and 69 of Document 18 into evidence. The Trial Chamber finds that the portion of Paragraph 13 underlined by the Prosecution may not be admitted as it goes to the acts and conduct of the Accused. The Trial Chamber refers to its findings with reference to Document 1 and for the same reasons dismisses the Defence argument that Document 18 is not susceptible to confirmation because there is no author stated.

Paras 5, 6 and 33:

126. The Defence argues that Document 18 should not be admitted as Paragraphs 5, 6 and 33 make reference to Foday Sankoh, who is allegedly subordinate to the Accused. The Trial Chamber refers to its findings reference to Document 1 and rejects this argument for the same reasons.

Para 13:

127. The Defence argues that the remaining portion of Paragraph 13 should not be admitted as it contains an allegation by an ECOMOG force commander which goes to the acts and conduct of the Accused. The Trial Chamber refers to its findings in relation to Document 8 and rejects for the same reasons the Prosecution's position that an allegation of an ECOMOG force commander cannot be equated with evidence which goes to the acts and conduct of the Accused.

128. Paragraph 13 describes the confirmation by an ECOMOG force commander of the involvement of the Government of Liberia in arms shipments to rebels on 14-15 March 1999. The Trial Chamber finds this evidence may go to proof of the acts and conduct of the Accused and refuses to admit it.

Critical element:

129. The Trial Chamber refers to its findings with reference to Document 8 and disagrees with the Defence argument that Document 18 goes to a “critical element” or core of the Prosecution’s case and should not be admitted as is prejudicial to the Accused. The Paragraphs of Document 18 not already excluded by the Trial Chamber describe talks between the Foday Sankoh/the RUF, the Sierra Leonean Government, and the UN in early 1999, as well as RUF/AFRC control of diamond mining areas, reports of arms supplies to the AFRC/RUF and the use of “foreign” expertise, and rebel atrocities against civilians. This evidence is general in nature and does not contain any direct link to the alleged responsibility of the Accused.

130. The Trial Chamber finds that Paragraphs 5-7, 9, 19-20, 28-33, 40(part), 48b(part), 63, 64(part), and 69 of Document 18 as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 19: Sierra Leone Humanitarian Situation Report, 18 May – 11 Jun 1999, UN Office for the Coordination of Humanitarian Affairs (p.2 para 4, 1st bullet point; p. 3 paras 1(3rd bullet point), 4, 5; p. 5, 3rd bullet point; p.12 para 2; p.14 paras 1&2(part)):

131. The Prosecution seeks to admit into evidence the first bullet point in unnumbered Paragraph 4 on Page 2 (ERN 0004117); the third bullet point in unnumbered Paragraph 1 and unnumbered Paragraphs 4 and 5 on Page 3 (ERN 0004118); the third bullet point on Page 5 (ERN 0004120); unnumbered Paragraph 2 on Page 12 (ERN 0004127); and unnumbered Paragraphs 1 and 2(part) on Page 14 (ERN 0004129) of Document 19. The Trial Chamber refers to its findings with reference to Document 1 and dismisses for the same reasons the Defence argument that Document 19 is not susceptible to confirmation because there is no author stated. The Trial Chamber also refers to its findings with reference to Document 8 and dismisses the Defence argument that Document 19 should not be admitted as details of a an alleged massacre at Makama are not susceptible to confirmation.

132. The Trial Chamber finds that Paragraphs of Document 19 cited and as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 20: Sierra Leone Humanitarian Situation Report: 17 Jul-10 August 1999 (p. 1 paras 1-2(part); p. 2 para 2 through p. 4 para. 3; p. 10 para. 1 through p. 11, para. 1; p. 16 para 1):

133. The Prosecution seeks to admit unnumbered Paragraphs 1-2(part) on Page 1; unnumbered Paragraphs 2 on Page 2 through unnumbered Paragraphs 3 on Page four; unnumbered Paragraphs 1 on Page 10 through unnumbered Paragraphs 1 on Page 11; and unnumbered Paragraph 1 on Page 16 of Document 20 into evidence. The Trial Chamber finds that unlike similar “Sierra Leone Humanitarian Situation Reports” submitted by the Prosecution in this Motion, Document 20 lacks any indication of which UN Office produced or published it and therefore its “nature and source” is not adequately satisfied. As Document 20 is therefore not susceptible of confirmation and refuses to admit it.

Document 21: Sierra Leone Humanitarian Situation Report, 3-9 Oct 99, UN Office for the Coordination of Humanitarian Affairs, 9 Oct 99 (p.1 paras 1, 5-6; p. 2 para 1(part); p. 4 “child protection”):

134. The Prosecution seeks to admit unnumbered Paragraphs 1, 5 and 6 on Page 1 (ERN 00004165); part of unnumbered Paragraph 1 on Page 2 (ERN 00004166); and the Paragraph under the heading “Child Protection” on Page 4 (ERN 00004168) of Document 21. The Trial Chamber refers to its findings with reference to Document 1 and dismisses for the same reasons the Defence argument that Document 21 is not susceptible to confirmation because there is no author stated. The Trial Chamber also refers to its findings with reference to Document 8 and dismisses the Defence argument that Document 21 should not be admitted because details of an alleged attack on a bus in Mile 91 are not susceptible to confirmation.

135. The Defence argues Document 21 should not be admitted as it names Foday Sankoh and “JP Koroma” who are allegedly subordinate to the Accused. The Trial Chamber refers to its findings in reference to Document 1 and rejects this argument for the same reasons.

136. The Trial Chamber finds that Paragraphs of Document 21 cited and as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 22: Security Council Resolution 1270, 22 October 1999, S/RES/1270 (1999) (paras 5, 8-10, 14):

137. The Prosecution seeks to enter Paragraphs 5, 8-10 and 14 of Document 22 into evidence. The Defence does not object.

138. Document 22 details calls by the Security Council to AFRC/RUF leaders to implement the peace agreement and establishes UNAMSIL. The Trial Chamber finds the cited paragraphs of Document 22 relevant to the Indictment, susceptible of confirmation and that the information contained therein does not go to the acts and conduct of the Accused and admits them into evidence.

Document 23: Security Council Resolution 1289, 7 February 2000, S/RES/1289 (2000) (p. 1 para 7 (unnumbered); paras 4-6, 9-11, 18):

139. The Prosecution seeks to enter unnumbered Paragraph 7 on Page 1 (ERN 00004319) and Paragraphs 4-6, 9-11 and 18 of Document 23 into evidence. The Trial Chamber refers to its findings with reference to Document 8 and disagrees with the Defence argument that Document 23 goes to a “critical element” or core of the Prosecution’s case and should not be admitted as is prejudicial to the Accused. Document 23 describes the situation in Sierra Leone as a threat to international peace and security in the region, notes continuing human rights violations, urges groups to participate fully in

disarmament, demobilization and reintegration, expands the mandate of UNAMSIL and emphasizes the importance of the exercise of the Government of Sierra Leone over natural resources. This evidence is general in nature and does not contain any direct link to the alleged responsibility of the Accused.

140. The Trial Chamber finds that Paragraphs of Document 23 cited and as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 24: Sierra Leone Humanitarian Situation Report 10-24 July 2000, United Nations Office for the Coordination of Humanitarian Affairs (paras 1-2):

141. The Prosecution seeks to enter Paragraphs 1 and 2 of Document 24 into evidence. The Trial Chamber refers to its findings with reference to Document 1 and dismisses for the same reasons the Defence argument that Document 24 is not susceptible to confirmation because there is no author stated. The Trial Chamber also refers to its findings with reference to Document 4 and dismisses for the same reasons the Defence argument that Document 24 is not susceptible to confirmation because victims named therein cannot be identified.

142. The Trial Chamber finds Paragraphs 1 and 2 of Document 24 are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 25: Security Council Resolution, 1313, 3 August 2000, S/Res/1313 (2000) (whole):

143. The Prosecution seeks to enter the whole of Document 25 into evidence. The Defence does not object.

144. Document 25 condemns the detention of UNAMSIL personnel by the RUF, extends UNAMSIL's mandate, and deplores violations of the Lomé Peace Agreement. The Trial Chamber finds that Document 25 is relevant to the Indictment, susceptible of confirmation and that the information contained therein does not go to the acts and conduct of the Accused and admits it into

evidence.

Document 26: Sierra Leone Humanitarian Situation Report 25 July – 7 August, 2000, UN Office for the Coordination of Humanitarian Affairs (p. 1 para 3; p. 2 “Eastern Province”; p.3 “The quest...”; p. 5 para 2; p. 8 para 2; p 11, para 5(part); p.11 (“forced recruitment”) through p. 12 “Food raids”):

145. The Prosecution seeks to enter unnumbered Paragraph 3 on Page 1 (ERN 00004178); the Paragraph under the heading “Eastern Province” on Page 2 (ERN 00004179); the Paragraph under the heading “The quest....” on Page 3 (ERN 00004180); unnumbered Paragraph 2 on Page 5 (ERN 00004182); unnumbered Paragraph 2 on Page 8 (ERN 00004185); part of unnumbered Paragraph 5 on Page 11(ERN 00004188); and the Paragraph beginning with “Forced recruitment” on Page 11 (ERN 00004188) through to and including the Paragraph beginning with “Food Raids” on Page 12 (ERN 00004189) of Document 26 into evidence. The Trial Chamber refers to its findings with reference to Document 1 and dismisses for the same reasons the Defence argument that Document 26 is not susceptible to confirmation because there is no author stated. The Trial Chamber also refers to its findings with reference to Document 4 and dismisses for the same reasons the Defence argument that Document 26 is not susceptible to confirmation because examples contained therein are unnamed.

Paragraph following the heading “The quest....” on Page 3 (ERN 00004180)

146. The Defence argues that the Paragraph indicated on Page 3 (ERN 00004180) should not be admitted as it contains a report by UNAMSIL which goes to the acts and conduct of the Accused. The Trial Chamber refers to its findings in relation to Document 8 and rejects for the same reasons the Prosecution’s position that this is evidence of the acts and conduct of persons named in the report which cannot be equated with evidence which goes to the acts and conduct of the Accused.

147. This Paragraph describes a report from UNAMSIL that UN Special Representative for the

Secretary-General Ambassador Oluyemi Adeniji consulted with President Taylor in Monrovia on 2 August regarding the RUF leadership dialogue with the Sierra Leone Government and the Sierra Leone conflict. The Trial Chamber finds this evidence may go to proof of the acts and conduct of the Accused and we therefore refuse to admit it.

148. With the exception of the Paragraph indicated on Page 3 (ERN 00004180), the Trial Chamber finds that the Paragraphs of Document 26 cited and as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 27: Report of the Security Council Mission to Sierra Leone, 16 October 2000, S/2000/992 (paras 4-6, 7(part), 22, 23, 25-26, 30, 33, 42(part), 43, 54(d)):

149. The Prosecution seeks to enter Paragraphs 4-6, 7(part), 22, 23, 25-26, 30, 33, 42(part), 43, and 54(d) of Document 27 into evidence. The Trial Chamber finds that the portions of Paragraphs 6, 30 and 43 underlined by the Prosecution may not be admitted as they go to the acts and conduct of the Accused. The Trial Chamber refers to its findings with reference to Document 1 and dismisses for the same reasons the Defence argument that Document 27 is not susceptible to confirmation because there is no author stated and the identity of the investigators or mission interlocutors is unknown.

Para. 4:

150. The Trial Chamber disagrees with the Defence argument that as Paragraph 4 contains a reference to "Liberia" it should not be admitted as it goes to the acts and conduct of the Accused. Paragraph 4 describes meetings of the Security Council Mission to Sierra Leone in various countries, including Liberia, in October 2000. The Trial Chamber finds the references to "Liberia" in this document is purely geographical and cannot be interpreted as going to the acts and conduct of the Accused.

Para. 22:

151. The Defence argues Paragraph 22 should not be admitted as it states Issa Sesay was an interim leader of the RUF. The Trial Chamber refers to its findings reference to Document 1 and rejects this argument for the same reasons.

Paragraphs 23, 25, 26, 30, 33, 43, and 54(d):

152. The Defence argues that Paragraphs 23, 25, 26, 30, 33, 43, and 54(d) should not be admitted as they contains allegations by the Security Council Mission which go to the acts and conduct of the Accused. The Trial Chamber refers to its findings in relation to Document 8 and rejects for the same reasons the Prosecution's position that such allegations are the acts and conduct of those making the allegations which cannot be equated with evidence which goes to the acts and conduct of the Accused.

153. Paragraph 23 describes the opinion of members of the Security Council Mission to Sierra Leone on 16 October 2000 that President Taylor exercised a strong influence or direct control over the RUF and that the main objective of the RUF was to control the diamond producing areas; Paragraph 25 describes the view of President Obasanjo that President Taylor exercised control over the RUF and President Obasanjo's recommendation for dialogue with the RUF; the remaining portion of Paragraph 30 details the "view ...firmly and frequently expressed within Sierra Leone" that President Taylor provided support to the RUF motivated by political and security concerns as well as by his interest to profit from Sierra Leonean diamonds; the remaining portions of Paragraph 43 describes an ECOWAS moratorium on arms and the opinion, expressed by Members of the mission to Mr. Taylor that the instability and isolation of Liberia could increase if its activities went beyond legitimate security concerns; and Paragraph 54(d) describes the opinion of regional leaders that President Taylor's relationship with the RUF was key to the situation in Sierra Leone. The Trial Chamber finds the information in these Paragraphs implicates the Accused and may go to proof of his acts and conduct and refuses to admit them.

Critical Element:

154. The Trial Chamber refers to its findings with reference to Document 8 and disagrees with the Defence argument that Document 27 goes to a “critical element” or core of the Prosecution’s case and should not be admitted as it is prejudicial to the Accused. The Paragraphs of Document 27 not already excluded by the Trial Chamber describe meetings of the Security Council Mission to Sierra Leone in Liberia and Sierra Leone as well as other countries in the region, RUF attacks against peacekeepers, the appointment of Issa Sesay as the new interim leader of RUF, communication between Obasanjo, Issa Sesay and Gibril Massaquoi, and concern about links between armed groups, illegal diamonds and the influx of weapons. This information is general in nature and does not contain any direct link to the alleged responsibility of the Accused. As such the information is not so prejudicial as to require the Chamber to evoke its discretionary power to prevent its admission.

155. The Trial Chamber finds that Paragraphs 4, 5, 6(except underlined portion), 7(part), 22, 26, 42(part), and 43(except underlined portion) of Document 27 as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 28: Letter dated 26 December 2000 from Chairman of the Security Council Committee established pursuant to resolution 1132 (1997) concerning Sierra Leone addressed to the President of the Security Council, S/2000/1238 (paras 9, 13, 20,22,26-27):

156. The Prosecution seeks to admit Paragraphs 9, 13, 20,22,26-27 of Document 28. The Defence argues Document 28 should not be admitted as it names Foday Sankoh, Mike Lamin, JP Koroma and Morris Kallon who are alleged subordinate to the Accused. The Trial Chamber refers to its findings reference to Document 1 and rejects this argument for the same reasons.

157. The Trial Chamber notes that Paragraph 22 states that Liberian military helicopters were observed delivering supplies of ammunition to locations in Sierra Leone. No objection has been

taken by the Defence to this statement but the Trial Chamber is of the view that this may go to the acts and conduct of the Accused and rejects Paragraph 22 of this reason.

158. The Trial Chamber refers to its findings with reference to Document 8 and disagrees with the Defence argument that Document 27 goes to a “critical element” or core of the Prosecution’s case and should not be admitted as is prejudicial to the Accused. The Paragraphs of Document 28 cited by the Prosecution describe the travel of various persons pursuant to Security Council Resolution 1132 including the unauthorised travel of Gibril Massaquoi and Sam Bockarie to Burkina Faso and Morris Kallon to Liberia and a request by the Security Council Committee for states to comply with sanctions. This evidence is general in nature and does not contain any direct link to the alleged responsibility of the Accused. As such the evidence is not so prejudicial as to require the Chamber to evoke its discretionary power to prevent its admission.

159. The Trial Chamber finds that Paragraphs 9, 13, 20, and 26-27 of Document 28 as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 29: Security Council Resolution 1346, 30 March 2001, S/RES/1346, (p. 1 3rd and 4th unnumbered paras; paras 1,2,6,7,11,14):

160. The Prosecution seeks to admit unnumbered Paragraphs 3 and 4 on Page 1 (ERN 00004308) and Paragraphs 1, 2, 6, 7, 11, and 14 of Document 29 into evidence. The Trial Chamber refers to its findings with reference to Document 8 and disagrees with the Defence argument that Document 29 goes to a “critical element” or core of the Prosecution’s case and should not be admitted as it is prejudicial to the Accused. In the Paragraphs of Document 29 cited by the Prosecution the Security Council expresses concern at the security situation and human rights violations in Sierra Leone, decides to extend the mandate of UNAMSIL, expresses concern that the ceasefire has not been implemented, calls upon the RUF to fulfil its commitments and calls upon other regional and

international actors to promote the ceasefire. This information is general in nature and does not contain any direct link to the alleged responsibility of the Accused. As such the evidence is not so prejudicial as to require the Chamber to evoke its discretionary power to prevent its admission.

161. The Trial Chamber finds that unnumbered Paragraphs 3 and 4 on Page 1 (ERN 00004308) and Paragraphs 1, 2, 6, 7, 11, and 14 of Document 29 as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 30: Press Release: Security Council Committee Names RUF Members Subject to Expulsion from Liberia, 12 Apr 2001, SC/7047 (whole):

162. The Prosecution seeks to admit the whole of Document 30 into evidence. The Trial Chamber refers to its findings with reference to Document 1 and dismisses for the same reasons the Defence argument that Document 30 is not susceptible to confirmation because there is no author stated.

163. The Defence argues that Document 30 goes to the acts and conduct of the Accused as it repeats the findings of Security Council Resolution 1343 that the Government of Liberia harboured RUF members whilst Mr. Taylor was in power and then lists the 26 RUF members requested to be expelled from Liberia pursuant to Resolution 1343. The Trial Chamber notes that Resolution 1343 itself has already been tendered as Exhibit P-22. The Trial Chamber finds that Document 30 established a link between the Accused and alleged RUF subordinates. This goes to proof of the acts and conduct of the Accused and therefore, cannot be admitted.

Document 31: First Report of the Secretary-General pursuant to Security Council Resolution 1343 (2001) regarding Liberia, 30 April 2001, S/2001/424 (paras 5, 7(part), 8-11, 15, 16(part), 17, 20, 27, 28, 30-31, 38 (3rd bullet point), 39 (1st bullet point), 41:

164. The Prosecution seeks to admit Paragraphs 5, 7(part), 8-11, 15, 16(part), 17, 20, 27, 28, 30-31,

38 (3rd bullet point), 39 (1st bullet point) and 41 of Document 31. The Trial Chamber finds that Paragraphs 5 and 8-11 and 16⁵⁰ underlined in their entirety by the Prosecution and the portions of Paragraphs 15, 16 and 28 underlined by the Prosecution may not be admitted as they go to the acts and conduct of the Accused. The Trial Chamber refers to its findings with reference to Document 1 and for the same reasons dismisses the Defence argument that Document 31 is not susceptible to confirmation because there is no author stated.

Paragraphs 15, 17, 30, 39(1st bullet point), and 41:

165. The Defence argues that Paragraphs 15, 17, 30, 39, and 41 should not be admitted as they contain allegations by others which go to the acts and conduct of the Accused. The Trial Chamber refers to its findings in relation to Document 8 and rejects for the same reasons the Prosecution's position that an allegation of another person cannot be equated with evidence which goes to the acts and conduct of the Accused.

166. The remaining portion of Paragraph 15 describes the inability of UNAMSIL to confirm Liberia's compliance with Security Council Resolution 1343 as well as communications by the Government of Sierra Leone and ECOWAS to President Taylor regarding the extradition of Sam Bockarie; Paragraph 17 describes UNAMSIL's information that the Government of Liberia continues to maintain relations with the RUF; Paragraph 30 states, with reference to the cessation of financial and military support to the RUF, that sources say there is no way to determine whether the Government of Liberia had met demands and were suspicious of training camps at Gbatala and Nama; Paragraph 39 (1st bullet point) states that the Mission recommends that the Government of Liberia should account for the whereabouts of Sam Bockarie; and in Paragraph 41 the Secretary General expresses dismay at the "untidy manner" in which the Government handled the expulsion

⁵⁰ While the Prosecution sought only to admit part of Paragraph 16, the whole of that part is underlined.

of RUF members in particular Sam Bockarie and speculates that Bockarie is still living in Liberia and that the Government of Liberia has not severed its relations with the RUF in Sierra Leone. The Trial Chamber finds this evidence may go to proof of the acts and conduct of the Accused and we therefore refuse to admit it.

Paragraph 27:

167. The Defence argues Paragraph 4 should not be admitted as it names Sam Bockarie, allegedly subordinate to the Accused. The Trial Chamber refers to its findings reference to Document 1 and rejects this argument for the same reasons.

Paragraph 38(3rd bullet point):

168. The Trial Chamber notes that the Defence does not object to the admission of Paragraph 38(3rd bullet point). The Trial Chamber finds this Paragraph describes dismay by the Security Council Mission over the “untidy” expulsion of the RUF and Sam Bockarie in particular. The Trial Chamber finds this evidence may go to the acts and conduct of the accused and refuses to admit it.

169. The Trial Chamber finds that Paragraphs 7(part), 20, 27, 28(except underlined portions), and 31 of Document 31 as indicated by the Prosecution in Annex B to the Motion are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

Document 32: Security Council Resolution 1385, S/RES/1385 (2001), 19 December 2001 (whole):

170. The Prosecution seeks to admit the whole of Document 32. The Trial Chamber refers to its findings with reference to Document 8 and disagrees with the Defence argument that Document 32 goes to a “critical element” or core of the Prosecution’s case and should not be admitted as is prejudicial to the Accused. In Document 32 the Security Council expresses concern at the role played by the illicit trade in diamonds in the conflict in Sierra Leone. This evidence is general in nature and

does not contain any direct link to the alleged responsibility of the Accused.

171. The Trial Chamber finds the information in Document 32 is relevant, susceptible of confirmation and does not go to the acts and conduct of the Accused and admits it into evidence.

Document 33: Letter dated 16 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1343(2001) concerning Liberia addressed to the President of the Security Council, S/2002/83, 18 January 2002 (paras 5-6, 15-17):

172. The Prosecution seeks to admit Paragraphs 5-6 and 15-17 of Document 33.

173. The Defence argues that the Paragraphs cited make reference to “Liberia”/“Liberian leadership” and establish a link between Liberia and the RUF and therefore, should not admitted as they go to proof of the acts and conduct of the Accused. Paragraph 5 describes the establishment of a list of RUF members subject to expulsion from Liberia pursuant to Security Council Resolution 1343; Paragraph 6 details the establishment of a diamond and travel ban; Paragraph 15 describes fact-finding missions by the Chairman of the Security Council Committee established pursuant to Resolution 1343 and his mission to present the Government of Liberia with a list of RUF Members it was required to expel; Paragraph 16 describes the Security Council’s first review of the arms embargo pursuant to Resolution 1343, Liberia’s compliance therewith, the imposition of a travel ban on senior members of the Liberian Government and individuals providing support to armed rebel groups in countries neighbouring Liberia; Paragraph 17 describes a statement by the President of the Security Council Committee noting *inter alia* that the steps taken by the Government of Liberia leadership had not been sufficient and considering sanctions targeted at the Liberian leadership. Such information may go proof of the acts and conduct of the Accused. The Trial Chamber therefore refuses to admit Paragraphs 5-6 and 15-17 of Document 33.

Document 34: Resolution 1408, S/RES/1408, 6 May 2002 (p. 1 unnumbered para. 4; p. 2 unnumbered para. 4; numbered paras 1, 3-5, 7-10, 18-19):

174. The Prosecution seeks to admit unnumbered Paragraph 4 on Page 1 (Court Management p. 21793)⁵¹; unnumbered Paragraph 4 on Page 2 (Court Management p. 21794) and numbered Paragraphs 1, 3-5, 7-10, 18-19 of Document 34.

Unnumbered Paragraph 4 on Page 1 (Court Management p. 21793), unnumbered Paragraph 4 on Page 2 (Court Management p. 21794), numbered Paragraphs 1, 3:

175. The Defence argues that these Paragraphs should not be admitted as they are findings of the Panel of Experts and the Security Council which go to the acts and conduct of the Accused. The Trial Chamber refers to its findings in relation to Document 8 and rejects for the same reasons the Prosecution's position that allegations by others cannot be equated with evidence which goes to the acts and conduct of the Accused.

176. In unnumbered Paragraph 4 on Page 1 the Security Council expresses serious concern at the findings of the Panel of Experts regarding the actions of the Government of Liberia including evidence that the Government of Liberia continues to breach measures imposed by Resolution 1343; in unnumbered Paragraph 4 on Page 2 the Security Council determines that active support provided by the Government of Liberia to armed rebel groups, especially RUF combatants, constitutes a threat to peace and security; and in numbered Paragraphs 1 and 3 the Security Council decides that the Government of Liberia has not complied fully with Resolution 1343 and calls upon the President of Liberia to continue to participate in the meetings of the Mano River Union and to implement his commitments under the Mano River Union summit communiqué. The Trial Chamber finds this information may go to proof of the acts and conduct of the Accused and therefore refuses to admit it.

⁵¹ No ERN numbers are stamped on this document. The Trial Chamber therefore relies on the Page numbering provided by Court Management.

Numbered Paragraphs 4, 5, 7, 8, 9, 10:

177. The Defence argues that references to the “Government of Liberia” in these Paragraphs go to the acts and conduct of the Accused and may not be admitted.

178. Paragraph 4 describes a demand on the part of the Security Council to all States in the region to cease military and territorial or support for armed groups and to refrain from actions which might contribute to further destabilization on the border of Sierra Leone, Liberia and Guinea;⁵² Paragraph 5 describes a decision of the Security Council to evaluate within 12 months time the compliance of the Government of Liberia with Resolution 1343; Paragraph 7 describes a call by the Security Council for the Government of Liberia to comply with a certificate of origin scheme for Liberian rough diamonds; Paragraphs 8-9 describe a decision by the Security Council to exempt Liberian rough diamonds under the Certificate of Origin regime from Resolution 1343 and a call for interested parties to assist the Government of Liberia with the scheme; and Paragraph 10 describes a call by the Security Council to the Government of Liberia to ensure that revenue from the Liberia Shipping Registry and timber industry is used for legitimate purposes. The Trial Chamber finds the references to “Liberia” or the “Liberian Government” in these documents or extracts of documents are political in nature and thereby implicate the Accused in his position as President of that State. Such information may go proof of the acts and conduct of the Accused and therefore, can not be admitted.

179. The Trial Chamber finds Paragraphs 18-19 are relevant, susceptible of confirmation and do not go to the acts and conduct of the Accused and admits them into evidence.

⁵² Note, the Security Council does not specifically call upon Liberia to comply with this request.

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FOR THE ABOVE REASONS

GRANTS the Motion IN PART and;

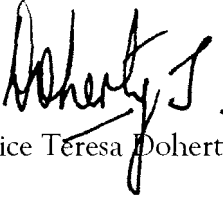
ORDERS the following documents or extracts of documents be admitted into evidence:


Document 1	Paragraphs 1, 2, 5	Admitted as Prosecution Exhibit P-297
Document 2	Entire	Admitted as Prosecution Exhibit P-298
Document 3	Entire	Admitted as Prosecution Exhibit P-299
Document 4	Paragraphs 1-5	Admitted as Prosecution Exhibit P-300
Document 5	Unnumbered Paragraphs 1-4 on Page 1(CMS Page 21415); part of unnumbered paragraph 1 on Page 2 (CMS Page 21416)	Admitted as Prosecution Exhibit P-301
Document 6	Entire	Admitted as Prosecution Exhibit P-302
Document 7	Paragraphs 1(part), 3, 9, 16 (a)	Admitted as Prosecution Exhibit P-303
Document 8	Paragraphs 1, 5(part), 6	Admitted as Prosecution Exhibit P-304
Document 9	Entire	Admitted as Prosecution Exhibit P-305
Document 10	Paragraphs 4, 9-10, 21-22, 49, 54, 55(part)	Admitted as Prosecution Exhibit P-306
Document 11	Paragraphs 18-19,21-22, 32, 34, 36-37, 71	Admitted as Prosecution Exhibit P-307
Document 12	Paragraphs 3-4, 6(part), 7(part), 8, 10, 14 (except the first sentence and underlined portions), 18-20, and 25(part)	Admitted as Prosecution Exhibit P-308
Document 13	Unnumbered Paragraphs 1-3 on Page ERN 00004550; Cases # 1, 2, 4, 6, 7, 9, 10, 15, 16	Admitted as Prosecution Exhibit P-309
Document 15	Paragraphs 2, 4, 9-12, 14, 17, 20-27, 31, 44, 45(part), 46, 52	Admitted as Prosecution Exhibit P-310
Document 16	Paragraphs 1-4, 7-12	Admitted as Prosecution Exhibit P-311
Document 17	unnumbered Paragraphs 2 and 3 on Page 1 (ERN 00004103); unnumbered Paragraph 3 on Page 2 (ERN 00004104); unnumbered Paragraph 3 on Page 4 (ERN 00004106); unnumbered Paragraphs 3 and 4 on Page 5 (ERN 00004107); unnumbered Paragraph 1 on Page 6 (ERN 00004108); and unnumbered Paragraphs 7 and 8 on Page 11 (ERN 00004113)	Admitted as Prosecution Exhibit P-312
Document 18	Paragraphs 5-7, 9, 19-20, 28-33, 40(part), 48b(part), 63, 64(part), and 69	Admitted as Prosecution Exhibit P-313

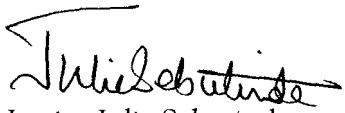
Document 19	first bullet point in unnumbered Paragraph 4 on Page 2 (ERN 0004117); third bullet point in unnumbered Paragraph 1 and unnumbered Paragraphs 4 and 5 on Page 3 (ERN 0004118); third bullet point on Page 5 (ERN 0004120); unnumbered Paragraph 2 on Page 12 (ERN 0004127); and unnumbered Paragraphs 1 and 2(part) on Page 14 (ERN 0004129)	Admitted as Prosecution Exhibit P-314
Document 21	Paragraphs 1, 5 and 6 on Page 1 (ERN 00004165); part of unnumbered Paragraph 1 on Page 2 (ERN 00004166); and the Paragraph under the heading "Child Protection" on Page 4 (ERN 00004168)	Admitted as Prosecution Exhibit P-315
Document 22	Paragraphs 5, 8-10 and 14	Admitted as Prosecution Exhibit P-316
Document 23	unnumbered Paragraph 7 on Page 1 (ERN 00004319) and Paragraphs 4-6, 9-11 and 18	Admitted as Prosecution Exhibit P-317
Document 24	Paragraphs 1 and 2	Admitted as Prosecution Exhibit P-318
Document 25	Entire	Admitted as Prosecution Exhibit P-319
Document 26	unnumbered Paragraph 3 on Page 1 (ERN 00004178); Paragraph under the heading "Eastern Province" on Page 2 (ERN 00004179); unnumbered Paragraph 2 on Page 5 (ERN 00004182); unnumbered Paragraph 2 on Page 8 (ERN 00004185); part of unnumbered Paragraph 5 on Page 11(ERN 00004188); and the Paragraph beginning with "Forced recruitment" on Page 11 (ERN 00004188) through to and including the Paragraph beginning with "Food Raids" on Page 12 (ERN 00004189)	Admitted as Prosecution Exhibit P-320
Document 27	Paragraphs 4, 5, 6(except underlined portion), 7(part), 22, 26, 42(part), and 43(except underlined portion)	Admitted as Prosecution Exhibit P-322
Document 28	Paragraphs 9, 13, 20, and 26-27	Admitted as Prosecution Exhibit P-323
Document 29	unnumbered Paragraphs 3 and 4 on Page 1 (ERN 00004308) and Paragraphs 1, 2, 6, 7, 11, and 14	Admitted as Prosecution Exhibit P-324
Document 31	Paragraphs 7(part), 20, 27, 28(except underlined portions), and 31	Admitted as Prosecution Exhibit P-325
Document 32	Entire	Admitted as Prosecution Exhibit P-326
Document 34	Paragraphs 18-19	Admitted as Prosecution Exhibit P-327

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Done at The Hague, The Netherlands, this 20th day of February 2009.


Justice Teresa Doherty


Justice Richard Lussick
Presiding Judge


Justice Julia Sebutinde

[Seal of the Special Court for Sierra Leone]

