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SCSL-03-01-1
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THE SPECIAL COURT FOR SIERRA LEONE

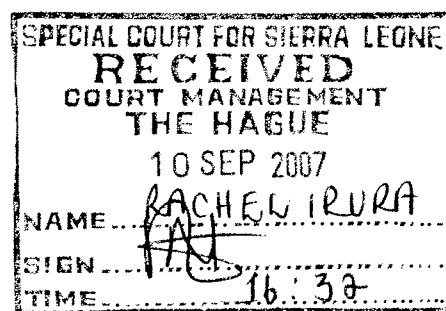
In Trial Chamber II

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

Registrar: Mr. Herman von Hebel

Date: 10 September 2007

Case No.: SCSL-2003-01-T



THE PROSECUTOR

-v-

CHARLES GHANKAY TAYLOR

PUBLIC

DEFENCE RESPONSE TO "PROSECUTION'S MOTION FOR JUDICIAL NOTICE"

Office of the Prosecutor

Ms. Brenda Hollis
Ms. Ann Sutherland
Ms. Anne Althaus

Counsel for Charles G. Taylor

Mr. Courtenay Griffiths Q.C.
Mr. Andrew Cayley
Mr. Terry Munyard

I. Introduction and Procedural Background

1. On 14 May 2007, the Prosecution filed a *Public Prosecution's Motion for Judicial Notice* ("Prosecution Motion").¹ In the Prosecution Motion, the Prosecution requests the Trial Chamber to take judicial notice of 107 alleged facts (set out in Annex A), pursuant to Rules 73, 89 and 94(A) of the Special Court's Rules of Procedure and Evidence ("Rules"). The Prosecution further requests that if the Trial Chamber declines to take judicial notice of some or all of the alleged facts set out in Annex A, the Trial Chamber should instead admit into evidence the documentary extracts (set out in Annex B) that correspond to the alleged facts, pursuant to Rules 89(C) and 92*bis* of the Rules.²
2. Former Counsel for Mr. Taylor requested an extension of time to respond to the Prosecution Motion³ and the Trial Chamber found that the "inordinate size" of the Prosecution Motion justified an extension of time for the Defence to file a response and set the deadline as 25 June 2007.⁴
3. Following the termination of the former counsel for Mr. Taylor on 4 June 2007, Duty Counsel for Mr. Taylor requested that the Trial Chamber suspend all time limits for

¹ *Prosecutor v. Taylor*, SCSL-03-01-PT-236, Public Prosecution's Motion for Judicial Notice, 14 May 2007.

² It is unclear in the Prosecution Motion whether the Prosecution is seeking the admission of facts vis-à-vis documents into evidence pursuant to Rules 89 (C) and 92*bis*. In paragraph 13 of the Prosecution Motion, it is argued that the *facts* (emphasis added) that are set forth in Annex A should (if not deemed to be facts of common knowledge under Rule 94(A)) alternatively be admitted into evidence, pursuant to Rules 89(C) and 92*bis*. However, in its ultimate "prayer for relief" in paragraph 14, the Prosecution requests that it is the documentary extracts which are set forth in Annex B and which correspond to the facts in Annex A that it seeks to have admitted into evidence, pursuant to Rules 89 (C) and 92*bis*. A third distinction could be made between page extracts from whole documents from which the facts that appear in Annex A have been extracted, but which page extracts are nonetheless to be found in Annex B vis-à-vis the complete or entire copy of the documents (from which both the facts and page extracts derive) which also are to be found in Annex B. These distinctions are important, as will be seen below, in connection with the applicable legal principles. While not being uniquely placed to discern exactly what the Prosecution seeks to have admitted in relation to Annex B, the Defence has proceeded with the most logical conclusion that can be drawn from the inclusion of whole and extracted documents (Annex B) in conjunction with each fact in Annex A, and an unclear request for admission under Rules 89(C) and 92*bis* – namely, that the Prosecution is seeking to have all of the documents contained in Annex B (whether a page extract and/ or the entire document that corresponds to a fact in Annex A) admitted into evidence pursuant to Rules 89(C) and 92*bis*.

³ *Prosecutor v. Taylor*, SCSL-03-01-PT-247, Defence Motion Pursuant to Rule 7*bis* Seeking Extension of Time to Respond to Prosecution's Motion for Judicial Notice, 21 May 2007.

⁴ *Prosecutor v. Taylor*, SCSL-03-01-PT-254, Decision on Defence Motion Pursuant to Rule 7*bis* Seeking Extension of Time to Respond to Prosecution's Motion for Judicial Notice, 25 May 2007, pg. 2.

responses related to pending motions, in order to preserve Mr. Taylor's rights.⁵ The Trial Chamber subsequently ordered that Duty Counsel or assigned Defence Counsel file a response to the Prosecution Motion by 4:00pm on 20 August 2007.⁶

4. On 17 July 2007, the Principal Defender assigned new counsel to Mr. Taylor.⁷ On 31 July 2007, newly assigned counsel filed an application requesting, among other things, an order allowing additional time for response to various outstanding Prosecution applications, including this one.⁸
5. On 13 August 2007, the Trial Chamber issued a Scheduling Order for a Status Conference to be held on 20 August 2007 and included on the preliminary agenda the opportunity for parties to make submissions regarding extensions of time for the Defence to respond to outstanding Prosecution motions.⁹ The Defence now files this response in conformity with the Trial Chamber's oral directive of 20 August 2007.¹⁰

II. Applicable Rules and Legal Principles

6. The Defence *generally* accepts the statement of law as outlined in the Prosecution Motion, in respect of both judicial notice under Rule 94(A) and admissions of facts pursuant to Rules 89 (C) and 92*bis* (emphasis added). Where necessary, however, nuanced distinctions in the Defence's understanding of the applicable legal principles are highlighted.

⁵ *Prosecutor v. Taylor*, SCSL-03-01-T-289, Defence Office Application to Suspend All Time Limits Pending the Resolution of Issues Surrounding the Termination of Mr. Karim Khan by Mr. Charles Ghankay Taylor Before the Prosecution Opening Statement of 4 June 2007, 12 June 2007, para. 25.

⁶ *Prosecutor v. Taylor*, SCSL-03-01-T-311, Decision on Defence Office Application to Suspend All Time Limits Pending the Resolution of Issues Surrounding the Termination of Mr. Karim Khan by Mr. Charles Ghankay Taylor Before the Prosecution Opening Statement of 4 June 2007, 3 July 2007, pg. 3.

⁷ *Prosecutor v. Taylor*, SCSL-03-01-T-320, Principal Defender's Decision Assigning New Counsel to Charles Ghankay Taylor, 17 July 2007.

⁸ *Prosecutor v. Taylor*, SCSL-03-01-T-323, Defence Motion for Adjournment to Allow the Defence Adequate Time and Facilities to Prepare and Other Ancillary Matters, 31 July 2007.

⁹ *Prosecutor v. Taylor*, SCSL-03-01-T-328, Scheduling Order for Status Conference 20 August 2007, 13 August 2007, pg. 2.

¹⁰ *Prosecutor v. Taylor*, SCSL-03-01-T, Transcript, 20 August 2007, pg. 31, lns. 13-22 (granting an extension of 21 days from 20 August 2007). Online: <http://www.sc-sl.org/Transcripts/Taylor/20August2007.pdf>.

7. The Defence agrees that facts of common knowledge that are judicially noted under 94(A) serve as “conclusive proof of those facts” and that judicial notice “ends the evidentiary inquiry”.¹¹ Thus, because of the permanency of the decision to judicially note a fact, and considering that the doctrine of judicial notice is circumscribed by the accused’s right to a fair trial,¹² the Defence has carefully evaluated whether each fact really qualifies as one of common knowledge, consistent with the four-part standard which is laid out in paragraph four of the Prosecution Motion. Furthermore, the Defence has given due consideration to the multiplicity of sources (or the lack thereof) in support of each fact, considering that indisputability is “usually deduced from the multiplicity of reliable sources in which [a] proposition is asserted.”¹³
8. The Defence notes that on the day of the filing of the Prosecution Motion (14 May 2007), the text of Rule 92bis, *Alternative Proof of Facts*, was amended during the Plenary to read:
- (A) In addition to the provisions of Rule 92ter, 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 as evidence shall give 10 days notice to the opposing party. Objections, if any must be submitted within 5 days.

In considering whether to admit the corresponding documents that are set out in Annex B, the Defence respectfully submits that the Trial Chamber should rely on this amended version of Rule 92bis, as well as the jurisprudence of the Special Court and the

¹¹ Prosecution Motion, para. 8.

¹² *Prosecutor v. Norman et al.*, SCSL-04-14-AR73 -398, Fofana – Decision on Appeal Against Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence, 16 May 2005 (*Fofana Appeal Decision*), para. 23, quoting *Prosecutor v. Simic et al.*, Case No. IT-95-9-PT, Decision on the Pre-Trial Motion by the Prosecution Requesting the Trial Chamber to take Judicial Notice of the international character of the conflict in Bosnia-Herzegovina, 25 March 1999, pg. 3.

¹³ *Fofana Appeal Decision*, Separate Opinion of Justice Robertson, para. 8 and *Prosecutor v. Brima et al.*, SCSL-04-16-T-423, Decision on the Prosecution Motion for Judicial Notice and Admission of Evidence, 25 October 2005 (“*Brima Decision*”), para. 22.

authoritative guidance that it provides to parties regarding the practical implementation of Rules 89(C) and 92bis.

8. In order to be admissible pursuant to Rules 89 (C) and 92bis, information offered by a party as evidence to a Trial Chamber must:¹⁴

- a) Be relevant and susceptible to confirmation;
- b) Be assertions of fact and *not opinion*;
- c) *Not* go to proof of the acts and conduct of the accused; and
- d) Not be *legal* findings, including those purporting to speak to the ultimate issue of guilt or innocence of the accused.

9. In *Brima*, where the Prosecutor likewise sought admission of information as evidence under Rules 89(b) and (C) and 92bis, this Trial Chamber stated that:

“We do not think we are required by Rule 92bis to wade through this mountain of material trying to separate relevant facts from what are irrelevancies, opinions, and legal findings, in order to admit into evidence only information that satisfies the Rule. *Instead, the Prosecution should have clearly indicated on each document the passages that we are being asked to consider on the question of relevance.*” (Emphasis added)¹⁵

The Trial Chamber in adopting this very sensible approach was following authoritative guidance on this point by Robertson J., in the *Fofana* Appeal Decision.¹⁶

10. Thus any party seeking to admit information as evidence under Rule 92bis is required, as a matter of practice, to indicate to the opposing party and the Trial Chamber the part or parts of documents that they claim to be relevant and for which they seek admission. Indeed, this procedure applies with equal force to facts in documents, whether sought to be admitted under Rule 92bis or judicially noted under Rule 94(A).¹⁷

¹⁴ *Prosecutor v. Fofana*, SCSL-2004-14-AR 73, *Decision on Appeal Against “Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence”*, 16 May 2005, paras. 25 to 28; see also the Separate Opinion of Justice Robertson at paras. 12 - 14.

¹⁵ *Brima* Decision, para. 71.

¹⁶ *Fofana* Appeal Decision, Separate Opinion of Justice Robertson, para.27.

¹⁷ *Brima* Decision, para. 72.

III. Submissions

11. Attached as Annex A hereto is a chart, detailing the Defence's position as to each of the alleged facts and the corresponding documentary material. Below are Defence submissions on certain categories of facts that the Prosecution Motion seeks to have judicially noted.
12. The Defence is of the view that, in many instances, the Prosecution Motion requests this Trial Chamber to judicially note facts that: (a) go beyond the narrow definition of what may be considered "facts of common knowledge" or (b) are too specific to be considered "general facts of history, generally known geographical facts and the law of nature".¹⁸ The Defence makes note of this objection in Annex A wherever necessary, as it does the lack of multiplicity of sources in support of certain alleged facts.
13. Where the Defence agrees that a certain fact could be judicially noted, this does not mean that the Defence agrees with the entire content of the corresponding documentary material – only the fact itself as written. The Defence respectfully submits that this position is supported by the *Fofana Appeal Decision* which states that judicial notice "cannot be achieved by noticing the contents of the whole [UN Security Council] resolution or [Secretary General] report, which may contain hundreds of factual assertions, mostly irrelevant".¹⁹
14. This Trial Chamber has previously ruled that it is improper to take judicial notice of alliances between groups that allegedly include the accused, as that would attest to the criminal responsibility of the accused.²⁰ The facts underlying such an alliance are also subject to reasonable dispute. Additionally, the Appeals Chamber has held that evidence "regarding the specific position held by an accused during the relevant period is likely to be relevant to each of these elements [whether an accused is in a position of superiority

¹⁸ *Fofana Appeal Decision*, para. 21, quoting *Prosecutor v. Semanza*, Case No. ICTR-97-20-T, Decision on Prosecutor's Motion for Judicial Notice and Presumption of Facts Pursuant to Rules 94 and 54, 3 November 2000, para. 4.

¹⁹ *Fofana Appeal Decision*, para. 49.

²⁰ *Brima Decision*, para. 50.

with effective command and control over subordinates, and knew or had reason to know of their acts, thus establishing a chain of command] and the Prosecution should be expected to prove this at trial”.²¹ The charges against the Accused at bar rely on the existence of a purported alliance, between him and the RUF and/or the AFRC, within an undefined command structure.²² As such, the Defence has properly rejected any application for judicial notice of facts pertaining to an alliance between Mr. Taylor, the AFRC and/or the RUF, as well as any position of authority Mr. Taylor may have had over Liberian government forces or others.

15. The Defence does not agree to judicially note facts that are disputable, such as the launching of military operations²³ or the specific nature of atrocities committed against civilians.
16. In respect of documentary materials that are sought to be admitted under Rules 98(C) and 92bis, the Defence hereby makes an objection against the admission of each and every document contained in Annex B, inasmuch as the Prosecution has failed to clearly indicate on each document the passages that it is asking the Trial Chamber to consider on the question of relevance.²⁴

IV. Conclusion

17. The Defence recognise that one of the purposes of Rule 92 bis is to expedite the trial.²⁵ The Defence has previously expressed its desire to expedite and shorten this trial. However, there are limitations to the information which can be admitted under Rule 92bis in order to ensure that the Accused’s rights to a fair trial are respected. Similarly, and in the context of judicial notice, the Defence respectfully requests that only those facts agreed to by the Defence in Annex A should be judicially noted by the Trial Chamber. This protects Mr. Taylor’s right to a fair trial. It is the Prosecution who has brought the charges in this case

²¹ *Fofana* Appeal Decision, para. 43.

²² *Prosecutor v. Taylor*, SCSL-03-01-PT-263, Prosecution’s Second Amended Indictment, 29 May 2007, paras. 5 and 33; see, also, *Prosecutor v. Taylor*, SCSL-03-01-T-327, Public Prosecution Notification of Filing of Amended Case Summary, 3 August 2007, Paras. 42 – 44, especially para. 44.1.

²³ *Fofana* Appeal Decision, para. 45.

²⁴ *Brima* Decision, para. 71.

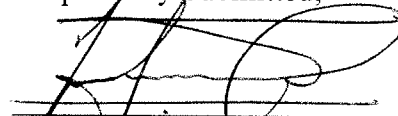
²⁵ *Fofana* Appeal Decision, paras. 22-23.

and, leaving aside facts beyond reasonable dispute, that must bring forth the necessary quantum of proof to sustain the allegations contained in the Indictment.

18. Accordingly, the Defence respectfully requests the Trial Chamber to issue a decision as follows:

- a) Any fact regarding which the Defence has agreed to be judicially noted in Annex A hereto shall be so noted by the Trial Chamber;
- b) The Prosecution, having failed to indicate on any document contained in Annex B to the Prosecution Motion, the passages or parts that the Defence and the Trial Chamber are being asked to consider on the question of relevance, IT IS HEREBY ORDERED that all documents in Annex B to the Prosecution Motion (except those which the Defence has expressly not objected to in Annex A hereto) are rejected from consideration and excluded from admission into evidence under Rule 92*bis*; and
- c) Notwithstanding the order in paragraph 18 (b) immediately above, the Prosecution is hereby ordered to indicate on any document contained in Annex B to the Prosecution Motion, those passages or parts which they wish the Defence and the Trial Chamber to consider on the question of relevance vis-à-vis admission pursuant to Rule 92*bis*. The Defence's right to object to the admission under Rule 92*bis* of any documents which are subsequently identified as relevant by the Prosecution, consistent with this Order, is hereby preserved.

Respectfully Submitted,


for **Courtenay Griffiths Q.C.**
Lead Counsel for Charles G. Taylor

Dated this 10th Day of September 2007
The Hague, The Netherlands

Table of Authorities

A. SCSL

Instruments

Rules of Procedure and Evidence of the Special Court for Sierra Leone, as amended 14 May 2007.

Jurisprudence

Prosecutor v. Taylor, SCSL-03-01-PT-236, Public Prosecution's Motion for Judicial Notice, 14 May 2007.

Prosecutor v. Taylor, SCSL-03-01-PT-247, Defence Motion Pursuant to Rule 7bis Seeking Extension of Time to Respond to Prosecution's Motion for Judicial Notice, 21 May 2007.

Prosecutor v. Taylor, SCSL-03-01-PT-254, Decision on Defence Motion Pursuant to Rule 7bis Seeking Extension of Time to Respond to Prosecution's Motion for Judicial Notice, 25 May 2007.

Prosecutor v. Taylor, SCSL-03-01-PT-263, Prosecution's Second Amended Indictment, 29 May 2007.

Prosecutor v. Taylor, SCSL-03-01-T-289, Defence Office Application to Suspend All Time Limits Pending the Resolution of Issues Surrounding the Termination of Mr. Karim Khan by Mr. Charles Ghankay Taylor Before the Prosecution Opening Statement of 4 June 2007, 12 June 2007.

Prosecutor v. Taylor, SCSL-03-01-T-311, Decision on Defence Office Application to Suspend All Time Limits Pending the Resolution of Issues Surrounding the Termination of Mr. Karim Khan by Mr. Charles Ghankay Taylor Before the Prosecution Opening Statement of 4 June 2007, 3 July 2007.

Prosecutor v. Taylor, SCSL-03-01-T-320, Principal Defender's Decision Assigning New Counsel to Charles Ghankay Taylor, 17 July 2007.

Prosecutor v. Taylor, SCSL-03-01-T-323, Defence Motion for Adjournment to Allow the Defence Adequate Time and Facilities to Prepare and Other Ancillary Matters, 31 July 2007.

Prosecutor v. Taylor, SCSL-03-01-T-327, Public Prosecution Notification of Filing of Amended Case Summary, 3 August 2007.

Prosecutor v. Taylor, SCSL-03-01-T-328, Scheduling Order for Status Conference 20 August 2007, 13 August 2007.

Prosecutor v. Taylor, SCSL-03-01-T, Transcript, 20 August 2007.

Prosecutor v. Norman et al., SCSL-04-14-AR73 -398, Fofana – Decision on Appeal Against Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence, 16 May 2005.

C. ICTY

Prosecutor v. Simic et al, Case No. IT-95-9-PT, Decision on the Pre-Trial Motion by the Prosecution Requesting the Trial Chamber to take Judicial Notice of the international character of the conflict in Bosnia-Herzegovina, 25 March 1999.

D. ICTR

Prosecutor v. Semanza, Case No. ICTR-97-20-T, Decision on Prosecutor’s Motion for Judicial Notice and Presumption of Facts Pursuant to Rules 94 and 54, 3 November 2000.

ANNEX A

Attached Table

ANNEX B

Attached Documents

Official Journal of the ECOWAS, Volume 3, June 1981, pp. 9-10, 12

Official Journal of the ECOWAS, Volume 36, August 1999, pp. 2-3

Official Journal of the ECOWAS, Volume 33, August 1997, P. 14-16, 47, 52

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Annex A

Prosecutor v. Taylor, SCSL-2003-01-T
Defence Response to "Prosecution's Motion for Judicial Notice"
10 September 2007

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
1	Yes	Yes	
2	Yes	Yes	
3	Yes	"No" as to all -- (3b), (3c), (3d) (3e) & (3f)	<p><u>Source materials & Rule 92 bis:</u></p> <p>(3b) & (3c) Their contents are predominantly not relevant to the purpose for which they have been submitted under 92 bis and each document is replete with opinions vis-à-vis assertions of facts;</p> <p>(3d) Implicates proof of acts and conduct of the accused (e.g., p. 5749 "RUF was originally made up of... and Liberian fighters from Charles Taylor's National Patriotic Front of Liberia (NPFL); and p. 5757 "The assistance of Charles Taylor's NPFL and later Liberian government to the RUF is well documented...") and contains a significant amount of opinion evidence & was written by Corinne Dufka who is now being proffered as an expert to give opinion evidence;</p> <p>(3e) Implicates proof of acts and conduct of the accused (e.g., p. 5821 "Given the links between the conflicts in Liberia and Sierra Leone, certain regional and other countries have taken the decision to provide military assistance to Sierra Leone") and contains a fair amount of opinion evidence;</p> <p>(3f) Implicates proof of acts and conduct of the accused (e.g., pp. 5832 & 5838: SL</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
4	Yes, but only if modified to (i) "armed groups," and not "organised armed groups" and (ii) as to the AFRC (its name should be "The Armed Forces Revolutionary Council" and not "The Armed Forces Revolution")	No	<p>(Note that exhibit (3d) is the same document as exhibit (5c) and exhibit (3e) is the same document as exhibit (5b) and exhibit (3f) is the same document exhibit (5d).</p> <p>Rule 94 (A): As stated, the "fact" is not one of common knowledge, in the sense that the source materials collectively do not demonstrate the fact of the three groups being "organised" beyond reasonable dispute and the source materials raise a reasonable dispute regarding use of word "Revolution" instead of "Revolutionary" in respect of the AFRC's name;</p> <p>Source materials & Rule 92 bis:</p> <p>(4b) This source material should not be received pursuant to Rule 92bis because (i) it goes to proof of acts and conduct of the Accused, (ii) contains opinion evidence in several instances, and (iii) also contains several conclusory statements that can seriously be called into question. More specifically, the documents speak to many actions of the</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
	Council")		<p>ECOWAS Committee of Five on Sierra Leone of which Liberia was a member at the relevant time -- meaning that knowledge of the Committee's actions (including its statements, meetings, and Communiqués) in respect of Sierra Leone, and as are referred to in the document, could be attributed and/ or imputed to the Accused who was then the President of Liberia. Furthermore, the document us replete with conclusory statements and opinions, such as "... the ECOWAS team, which was enthusiastically greeted by crowds, found that in many respects life had returned to normal in the capital" (see page 5871, para 7);</p> <p>(4c) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis, and the document is replete with opinions vis-à-vis assertions of facts, and the document implicates proof of acts and conduct of the accused (e.g., p. 5884 "... Group of Sierra Leonean dissidents..., Liberian fighters loyal to Charles Taylor... invaded eastern Sierra Leone at Bonarru...; and p. 5885 "the RUF were helped with military aid and logistics by faction leader Charles Taylor in Liberia"; pp. 5885-86 "Taylor... had interfered in Sierra Leone since 1990 in order to shore up his own position and counter the influence of the regional power – Nigeria"; p. 5890 "President Charles Taylor and most of his cabinet had remained highly sympathetic to the Koroma junta"; p. 5898 "President Taylor should also be called upon to prevent the use of Liberian territory for any support to the AFRC/RUF"; see, also, p. 5900 involving "Recommendations" "To the Liberian Government"; and p. 5903, footnote 1 "Originally, the RUF was a mix</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>of members of Charles Taylor's National Patriotic Front of Liberia (NPFL), NPFL-trained Sierra Leoneans and others");</p> <p>(4d) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis;</p> <p>(4e) The document implicates proof of acts and conduct of the accused (e.g., p. 5954 "Abdul, now aged 17, was... taught to use a variety of weapons... which he said came from Liberia"; and p. 5967 "The government of Liberia has been consistently cited as violating the embargo on military assistance to rebel forces in Sierra Leone"; and p. 5969 quoting U.K. Ambassador Jeremy Greenstock "a variety of reliable sources show that President [Charles] Taylor [of Liberia] is orchestrating the activities of the RUF"; and p. 5969 quoting U.S. Ambassador Richard Holbrooke "there was reason to believe that RUF leaders and the President of Liberia have taken increasingly large commissions for each of themselves, and particularly for Liberian President Taylor for his services as a facilitator of diamond sales and related arms transfers"; and</p> <p>(4f) The document implicates proof of acts and conduct of the accused (e.g., p. 5991 & 5994 "Liberia is also involved in the conflict in Sierra Leone, having actively supported the RUF since its inception through arms and diamond trafficking. Liberia announced its intention to sever ties with the RUF following UN Security Council action in March</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
5	<p>“No,” not as stated. “Yes,” but only if modified by deleting the phrase “under the leadership of Foday Saybana Sankoh” and deleting word “organized” before “armed operations”</p>	<p>“Yes” as to (5b), but the Defence intends to present evidence in its own case that will raise some doubt about certain facts contained in source material (5b);</p> <p>“No” as to (5c) & (5d)</p>	<p>2001”) and the document is replete with opinions vis-à-vis assertions of facts.</p> <p>Rule 94 (A): The phrase “under the leadership of Foday Saybana Sankoh” and the word “organized” before “armed operations” are both open to reasonable dispute and the Defence intends to present evidence in its case which, in its view, will raise a reasonable dispute as to both; If modified as suggested, the Defence would have no objection to Fact #5 being judicially noted, as such;</p> <p>Source materials & Rule 92 bis:</p> <p>(5c) – implicates proof of acts and conduct of the accused (e.g., pp. 6010 & 5749 “RUF was originally made up of... and Liberian fighters from Charles Taylor’s National Patriotic Front of Liberia (NPFL); and p. 5757 “The assistance of Charles Taylor’s NPFL and later Liberian government to the RUF is well documented...”) and contains a significant amount of opinion evidence & was written by Corinne Dufka who is now being proffered as an expert to give opinion evidence;</p> <p>(5d) – implicates proof of acts and conduct of the accused (e.g., pp. 6011, 5832 & 5838: SL conflict started as a “spill over” of the Liberian civil war organised by Charles Taylor...” and also on pp. 6011, 5832 & 5838, “...Sierra Leonean opposition groups... ostensibly united and armed by Charles Taylor...” “The closeness and association</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>between the Sierra Leonean and Liberian rebels has been traced back to the ... joint military training they received in Benghazi, Libya.”</p> <p>(Note that exhibit (5b) is the same document as exhibit (3e) and exhibit (5c) is the same document as exhibit (3d) and exhibit (5d) is the same document exhibit (3f).</p> <p>Rule 94 (A): This fact is open to reasonable dispute and is therefore not a fact of common knowledge. Moreover, the Defence intends to present evidence in its case which, in its view, will raise a reasonable dispute as to it;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(6b) A handwritten note which, in the defence’s view, is not susceptible of confirmation and can seriously be called into question;</p> <p>(6c) the document is replete with opinions vis-à-vis assertions of facts and implicates proof of acts and conduct of the accused (e.g, p. 6031 “... Gadhafi and Liberian warlord Charles Taylor launched the RUF in the autumn of 1991, hoping to rattle their enemies in Freetown’s government... ” and p. 6035 “Mosquito surfaced in Monrovia, where Charles Taylor, now president of Liberia said he hoped to broker a reconciliation between Mosquito and Sankoh”;</p>
6	No	No	

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>(6d) – implicates proof of acts and conduct of the accused (e.g., p. 5749 ‘RUF was originally made up of... and Liberian fighters from Charles Taylor’s National Patriotic Front of Liberia (NPFL); and p. 5757 ‘The assistance of Charles Taylor’s NPFL and later Liberian government to the RUF is well documented...’) and contains a significant amount of opinion evidence & was written by Corinne Dufka who is now being proffered as an expert to give opinion evidence;</p> <p>(6e) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis;</p> <p>(6f) Implicates proof of acts and conduct of the accused (e.g., ‘The RUF rebels, an offshoot of Taylor’s NPFL, and the coup plotters are presently controlling part of the Sierra Leonean capital, Freetown...’); also (Note that exhibit 6f is virtually illegible as served);</p> <p>(6g) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis;</p> <p>(6h) Its contents are not susceptible of confirmation/ susceptible of being disproved.</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
7	No	No	<p>Rule 94 (A): This fact is open to reasonable dispute and is therefore not a fact of common knowledge. Moreover, the Defence intends to present evidence in its case which, in its view, will raise a reasonable dispute as to it;</p> <p>Source materials & Rule 92 bis:</p> <p>(7b) -- Not susceptible of confirmation/ Susceptible of being disproved; (7c) -- Not susceptible of confirmation/ Susceptible of being disproved; (7d) -- Not susceptible of confirmation/ Susceptible of being disproved; (7e) -- Goes to proof of acts and conduct of the accused (See, pp. 6064-8) and Not susceptible of confirmation/ Susceptible of being disproved; (7f) -- Not susceptible of confirmation/ Susceptible of being disproved; and implicates a fair amount of opinion evidence (7g) -- Susceptible of being disproved; and implicates a fair amount of opinion evidence.</p> <p>Source materials & Rule 92 bis:</p> <p>(8b) -- Not susceptible of confirmation/ Susceptible of being disproved; (8c) -- Not susceptible of confirmation/ Susceptible of being disproved; The defence might be in a position to agree to this source material at a later stage, but we need to carry</p>
8	Yes	No	

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>out our own investigations first;</p> <p>(8d) -- Not susceptible of confirmation/ Susceptible of being disproved; The defence might be in a position to agree to this source material at a later stage, but we need to carry out our own investigations first;</p> <p>(8e) -- Not susceptible of confirmation/ Susceptible of being disproved;</p> <p>(8f) -- Not susceptible of confirmation/ Susceptible of being disproved; and in relation to Fact 8 and the statement "Soldiers of the Sierra Leone Army (SLA) comprised the majority of the AFRC," this source material is not relevant to the purpose for which it has been submitted under 92 bis (B);</p> <p>(8g) -- Not susceptible of confirmation/ Susceptible of being disproved; and in relation to Fact 8 and the statement "Soldiers of the Sierra Leone Army (SLA) comprised the majority of the AFRC," this source material is not relevant to the purpose for which it has been submitted under 92 bis (B).</p>
9	No	<p>"Yes" as to (9f), but the Defence intends to present evidence in its own case that will raise some doubt about certain</p>	<p>Rule 94 (A): This fact is open to reasonable dispute and is therefore not a fact of common knowledge. Moreover, the Defence intends to present evidence in its case which, in its view, will raise a reasonable dispute as to it;</p> <p>Source materials & Rule 92 bis:</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
10	"No," not as stated	"Yes" as to(10b), but the Defence intends to present evidence in its own case that will raise some doubt about	<p>(9a) -- Not susceptible of confirmation/ Susceptible of being disproved; and this source material is not relevant to the purpose for which it has been submitted under 92 bis (B);</p> <p>(9b) -- Not susceptible of confirmation/ Susceptible of being disproved;</p> <p>(9c) -- Not susceptible of confirmation/ Susceptible of being disproved; and this source material is not relevant to the purpose for which it has been submitted under 92 bis (B);</p> <p>(9d) -- Not susceptible of confirmation/ Susceptible of being disproved; and this source material is not relevant to the purpose for which it has been submitted under 92 bis (B);</p> <p>(9e) -- Not susceptible of confirmation/ Susceptible of being disproved; and this source material is not relevant to the purpose for which it has been submitted under 92 bis (B);</p> <p>(9g) -- Not susceptible of confirmation/ Susceptible of being disproved; and this source material is not relevant to the purpose for which it has been submitted under 92 bis (B);</p> <p>(9h) -- Not susceptible of confirmation/ Susceptible of being disproved; and this source material is not relevant to the purpose for which it has been submitted under 92 bis (B).</p> <p>Rule 94 (A): As stated, this fact is open to reasonable dispute and is therefore not a fact of common knowledge. Who exactly knew the AFRC/RUF as the "Junta" is not stated and the parties have previously agreed in a joint filing on 26 April 2007 that the AFRC (not "AFRC/RUF") was also referred to as "Junta" by the Sierra Leonean population. Moreover, it is open to reasonable dispute to suggest that such was the known name of the AFRC/RUF for the entire period that is given in Fact #10;</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
		<p>certain facts contained in source material (10b);</p> <p>“No” as to all other source materials</p>	<p>Source materials & Rule 92 bis:</p> <p>(10a) – The source material goes to proof of acts and the conduct of the Accused and should therefore be ruled inadmissible under Rule 92bis. For example, on page 6161, para. 30, it is there stated that “On 5 May 1998, President Taylor wrote me deprecating the ‘disturbing allegation’ allegation that the Government of Liberia was involved in the conflict in Sierra Leone...” And on page 6170 the Secretary General writes “I commend the Government of Liberia for its policy statement reaffirming that it will not permit its territory to be used to destabilize any neighbouring country.” While such statements may be said to portray the Accused in a positive light, other references to the actions and/or inactions of the Liberian Government directly and/ or indirectly could be attributed or imputed to the Accused and what he knew or had reason to know in respect of occurrences in Sierra Leone. For example, on pages 6155 & 6158, it is stated that the Vice-President of Liberia, Mr. Enoch Dogolea, attended a summit of leaders of the three Mano River countries (Liberia Guinea and Sierra Leone) in Conakry to discuss, <i>inter alia</i>, relations between the three countries. This summit took place while the Accused was President of Liberia and discussions which were held during the meeting could be attributed or imputed to the Accused in his capacity as President of Liberia;</p> <p>(10c) -- Not legible as served; Not susceptible of confirmation/ Susceptible of being</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
11	No	No	<p>disproved; also, (Note that exhibit 10c is totally illegible as served); (10d) -- Not susceptible of confirmation/ Susceptible of being disproved; (10e) -- Not susceptible of confirmation/ Susceptible of being disproved; and implicates a fair amount of opinion evidence.</p> <p>Rule 94 (A): This fact is open to reasonable dispute and is therefore not a fact of common knowledge;</p> <p>Source materials & Rule 92 bis:</p> <p>(11a) -- Not susceptible of confirmation/ Susceptible of being disproved; Not relevant to purpose for which submitted under 92 bis (B), in that it merely speaks of a "Council" and not a "Supreme Council"; (11b) -- Not susceptible of confirmation/ Susceptible of being disproved; Not relevant to purpose for which submitted under 92 bis (B), in that it merely speaks of a "Council" and not a "Supreme Council"; (11c) -- Not susceptible of confirmation/ Susceptible of being disproved; (11d) -- Susceptible of being disproved; and implicates a fair amount of opinion evidence.</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
12	"No," not as stated	No	<p>Rule 94 (A): This fact is open to reasonable dispute and is therefore not a fact of common knowledge;</p> <p>Source materials & Rule 92 bis:</p> <p>(12a) -- Not susceptible of confirmation/ Susceptible of being disproved; (12b) -- Not susceptible of confirmation/ Susceptible of being disproved; (12c) -- Not susceptible of confirmation/ Susceptible of being disproved.</p>
13	Yes, but only if modified to exactly the same phrase as judicially noted in the <i>Brima</i> 25 October 2005 Decision	"Yes," but only the version of the document which bears the signatures of all signatories; the Defence still reserves its right to present evidence in its case which might raise doubt about the	<p>Rule 94 (A): The Defence would have no objection if Fact #13 were exactly phrased as that which was judicially noted in paragraph 40 of the <i>Brima</i> Decision – i.e., "On 30 November 1996, Foday Saybana Sankoh and Ahmed Tejan Kabbah, President of the Republic of Sierra Leone, signed a Peace Agreement in Abidjan, Ivory Coast." If not so modified, the Defence objects to the phrases, "as Leader of the RUF" and "Abidjan Accord;" both of which the Defence submits are open to reasonable dispute and therefore not facts of common knowledge;</p> <p>Source materials & Rule 92 bis:</p> <p>The Defence has no objection to the source material being admitted under Rule 92bis, if</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
14	Yes, but only if modified by deleting the phrase "The Abidjan Accord" and replacing it with "The 30 November 1996 Peace Agreement" and, similarly, modifying the last phrase of the Fact to read, "ensure [that] a total cessation of hostilities is observed forthwith"	"Yes," but only the version of the document which bears the signatures of all signatories; the Defence still reserves its right to present evidence in its case which might raise doubt about the authenticity of any such document/ source material	<p>the version of the document that bears the signatures of all signatories is provided for reception into evidence. Failing that, the Defence would object on the grounds that the source material is not susceptible of confirmation/ susceptible of being disproved.</p> <p>Rule 94 (A): The Defence would have no objection if Fact #14 was modified by deleting the phrase "The Abidjan Accord" and replacing it with "The 30 November 1996 Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL)" and, similarly, modifying the last phrase of the Fact to read, "ensure [that] a total cessation of hostilities is observed forthwith" as appears in the source material. If not so modified, the Defence objects to current version of Fact #14 as being open to reasonable dispute and therefore not a fact of common knowledge;</p> <p>Source materials & Rule 92 bis:</p> <p>The Defence has no objection to the source material being admitted under Rule 92bis, if the version of the document that bears the signatures of all signatories is provided for reception into evidence. Failing that, the Defence would object on the grounds that the source material is not susceptible of confirmation/ susceptible of being disproved.</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
15	<p>Yes, but only if modified to read: "The 30 November 1996 Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL) stated that The Executive Outcomes shall be withdrawn five weeks after the deployment of the</p>	<p>"Yes," but only the version of the document which bears the signatures of all signatories; the Defence still reserves its right to present evidence in its case which might raise doubt about the authenticity of any such document/ source material</p>	<p>Rule 94 (A): The Defence would have no objection if Fact #15 was modified to read: "The 30 November 1996 Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL) stated that The Executive Outcomes shall be withdrawn five weeks after the deployment of the Neutral Monitoring Group (NMG)." This is precisely the language that appears in the source material. If not so modified, the Defence objects to current version of Fact #15 as being open to reasonable dispute and therefore not a fact of common knowledge; Source materials & Rule 92 bis: The Defence has no objection to the source material being admitted under Rule 92bis, if the version of the document that bears the signatures of all signatories is provided for reception into evidence. Failing that, the Defence would object on the grounds that the source material is not susceptible of confirmation/ susceptible of being disproved.</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
	Neutral Monitoring Group (NMG)"		
16	Yes, but only if modified by deleting the phrase "The Abidjan Accord" and replacing it with "The 30 November 1996 Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL)"	"Yes," but only the version of the document which bears the signatures of all signatories; the Defence still reserves its right to present evidence in its case which might raise doubt about the authenticity of any such document/ source material	<p>Rule 94 (A): The Defence would have no objection if Fact #16 was modified by deleting the phrase "The Abidjan Accord" and replacing it with "The 30 November 1996 Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL)." If not so modified, the Defence objects to the phrase "Abidjan Accord" as being vague and open to reasonable dispute, therefore rendering it not a fact of common knowledge;</p> <p>Source materials & Rule 92 bis:</p> <p>The Defence has no objection to the source material being admitted under Rule 92bis, if the version of the document that bears the signatures of all signatories is provided for reception into evidence. Failing that, the Defence would object on the grounds that the source material is not susceptible of confirmation/ susceptible of being disproved.</p>
17	Yes, but only if modified by	"Yes," but only the version of the	<p>Rule 94 (A): The Defence would have no objection if Fact #17 was modified by deleting the phrase "The Abidjan Accord" and replacing it with "The 30 November 1996 Peace</p>

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	<p>deleting the phrase “The Abidjan Accord” and replacing it with “The 30 November 1996 Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL)”</p>	<p>document which bears the signatures of all signatories; the Defence still reserves its right to present evidence in its case which might raise doubt about the authenticity of any such document/ source material</p>	<p>Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL).” If not so modified, the Defence objects to the phrase “Abidjan Accord” as being vague and open to reasonable dispute, therefore rendering it not a fact of common knowledge;</p> <p>Source materials & Rule 92 bis:</p> <p>The Defence has no objection to the source material being admitted under Rule 92bis, if the version of the document that bears the signatures of all signatories is provided for reception into evidence. Failing that, the Defence would object on the grounds that the source material is not susceptible of confirmation/ susceptible of being disproved.</p>
18	<p>Yes, but only if modified by deleting the phrase “The Abidjan Accord” and replacing it with</p>	<p>“Yes” as to (18d), but the Defence intends to present evidence in its own case which might cast doubt on some</p>	<p>Rule 94 (A): The Defence would have no objection if Fact #18 was modified by deleting the phrase “The Abidjan Accord” and replacing it with “The 30 November 1996 Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL).” If not so modified, the Defence objects to the phrase “Abidjan Accord” as being vague and open to reasonable dispute, therefore rendering it not a fact of common knowledge;</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
	<p>“The 30 November 1996 Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL)”</p>	<p>facts contained in source material (18d), and in (10a) upon which it draws; “No” as to (18b), (18c), (18d) & (18e)</p>	<p><u>Source materials & Rule 92 bis:</u></p> <p>(18b) – Implicates proof of acts and conduct of the accused (e.g., pp. 5832 & 5838: SL conflict started as a “spill over” of the Liberian civil war organised by Charles Taylor...” and also on pp. 5832 & 5838, “...Sierra Leonean opposition groups... ostensibly united and armed by Charles Taylor...” “The closeness and association between the Sierra Leonean and Liberian rebels has been traced back to the ... joint military training they received in Benghazi, Libya”;</p> <p>(18c) -- The Defence objects to the source material because it goes to proof of the acts and conduct of the Accused. The Resolution in question makes several requests of UN member-states (including the Republic of Liberia) at a time when the Accused was President of Liberia and, therefore, any acts of commission or omission in respect of any of the several directives in the Resolution could be imputed or attributed to the Accused in his capacity as President of Liberia. For example, the Resolution requires in paragraph 5 on p. 6217 that all States “prevent the entry into or transit through their territories of members of the military junta and adult members of their families...” A failing in this regard by the Republic of Liberia in respect of even a single junta member could, in theory, be imputed to the Accused in his capacity as President of Liberia. Additionally, Annexes I and II to the Resolution have not been provided to the Defence and, as such,</p>

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19	Yes	No	<p>the Defence also objects on the grounds that the source material is not susceptible of confirmation/ susceptible of being disproved and might implicate opinion evidence and/or proof of acts and conduct of the accused;</p> <p>(18d) – The document refers to a Report by the UN Secretary-General (see pp. 6220 & 6222) and draws from Exhibit (10a) above and that exhibit implicates proof of acts and conduct of the accused. The Defence therefore objects to this document being admitted under Rule 92bis;</p> <p>(18e) -- Implicates proof of acts and conduct of the accused (e.g., p. 5749 “RUF was originally made up of... and Liberian fighters from Charles Taylor’s National Patriotic Front of Liberia (NPFL); and p. 5757 “The assistance of Charles Taylor’s NPFL and later Liberian government to the RUF is well documented...”) and contains a significant amount of opinion evidence & was written by Corinne Dufka who is now being proffered as an expert to give opinion evidence.</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(19b) This source material should not received pursuant to Rule 92bis because (i) it goes to proof of acts and conduct of the Accused, (ii) contains opinion evidence in several instances, and (iii) also contains several conclusory statements that can seriously be</p>

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			<p>called into question. More specifically, the documents speaks to many actions of the ECOWAS Committee of Five on Sierra Leone of which Liberia was a member at the relevant time -- meaning that knowledge of the Committee's actions (including its statements, meetings, and Communiqués) in respect of Sierra Leone, and as are referred to in the document, could be attributed and/ or imputed to the Accused who was then the President of Liberia. Furthermore, the document us replete with conclusory statements and opinions, such as "... the ECOWAS team, which was enthusiastically greeted by crowds, found that in many respects life had returned to normal in the capital" (see page 5871, para 7);</p> <p>(19c) Implicates proof of acts and conduct of the accused (e.g., pp. 5832 & 5838: SL conflict started as a "spill over" of the Liberian civil war organised by Charles Taylor... and also on pp. 5832 & 5838, "...Sierra Leonean opposition groups... ostensibly united and armed by Charles Taylor...". "The closeness and association between the Sierra Leonean and Liberian rebels has been traced back to the ... joint military training they received in Benghazi, Libya"; and</p> <p>(19d) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis, and the document is replete with opinions vis-à-vis assertions of facts, and the document implicates proof of acts and conduct of the accused (e.g., p. 5884 "... Group of Sierra Leonean dissidents... Liberian fighters loyal to Charles</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
20	No	No	<p>Taylor...invaded eastern Sierra Leone at Bomaru...; and p. 5885 “the RUF were helped with military aid and logistics by faction leader Charles Taylor in Liberia”; pp. 5885-86 “Taylor... had interfered in Sierra Leone since 1990 in order to shore up his own position and counter the influence of the regional power – Nigeria”; p. 5890 “President Charles Taylor and most of his cabinet had remained highly sympathetic to the Koroma junta”; p. 5898 “President Taylor should also be called upon to prevent the use of Liberian territory for any support to the AFRC/RUF”; see, also, p. 5900 involving “Recommendations” “To the Liberian Government”; and p. 5903, footnote 1 “Originally, the RUF was a mix of members of Charles Taylor’s National Patriotic Front of Liberia (NPFL), NPFL-trained Sierra Leoneans and others”).</p> <p>Rule 94 (A): This fact should not be judicially-noted under Rule 94(A) because it attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court’s Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone, the time period during which such alleges occurrences were taking place, and when the Accused knew or had reason to know of them. These are fact that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted, especially considering the absence of a multiplicity of sources, and reference in the relevant paragraph of the source material (see, p. 6231, para. 5) to a joint communiqué that was issued by President Taylor and President Kabbah that presumably sets out more in full, the exact contours of</p>

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21	No	No	<p>what was discussed and agreed to by the two leaders, during their meeting on 1 July 1998. Furthermore, the fact (as stated) increases the possibility of confusion regarding the date of the meeting (e.g., the two presidents met on both 1 July 1998 and 20 July 1998 as per the same source material at p. 6231, paras. 5- 6);</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(20a) Its contents are predominantly not relevant to the purpose for which it has been submitted under <i>92 bis</i> and certain portions of the document are not susceptible of confirmation and/ or are susceptible of being disproved and implicate opinion evidence (see, e.g., p. 6238, para. 31, “RSLMF has effectively been disbanded and is in a state of disgrace...”; p. 6239, para. 33. “The human rights adviser... has continued to compile accounts of atrocities committed both during and after the period of junta rule”; p. 6243, para. 59 “I welcome the commitment of the Government and the Civil Defence Force not to recruit children under the age of 18 as soldiers or to send them into combat...”).</p> <p><u>Rule 94 (A):</u> This fact should not be judicially-noted under Rule 94(A) because it attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court’s Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone, the time</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
22	Yes, but only if modified to read:	No	<p>period during which such alleges occurrences were taking place, and when the Accused knew or had reason to know of them. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted, especially considering the absence of a multiplicity of sources, reference in the relevant paragraph of the source material (see, p. 6248, para. 6) to a joint communiqué that was issued by President Taylor and President Kabbah that presumably sets out more in full, the exact contours of what was discussed and agreed to by the two leaders, during their meeting on 20 July 1998;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(21a) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 <i>bis</i> and certain portions of the document are not susceptible of confirmation and/ or are susceptible of being disproved and implicate opinion evidence (see, e.g., p. 6238, para. 31, “RSLMF has effectively been disbanded and is in a state of disgrace...”; p. 6239, para. 33. “The human rights adviser... has continued to compile accounts of atrocities committed both during and after the period of junta rule”; p. 6243, para. 59 “I welcome the commitment of the Government and the Civil Defence Force not to recruit children under the age of 18 as soldiers or to send them into combat...”).</p> <p><u>Rule 94 (A):</u> The Defence would have no objection if Fact #22 was modified to read: “In July 1998, Foday Sankoh was transferred from the custody of the Nigerian Government</p>

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	<p>"In July 1998, Foday Sankoh was transferred from the custody of the Nigerian Government to the custody of the Sierra Leonean Government."</p>		<p>to the custody of the Sierra Leonean Government." Such a modification is necessary because both source materials do not suggest that Nigeria transferred Foday Sankoh to Sierra Leone "to face trial for treason," as the current version of Fact #22 improperly suggests. Furthermore, the requested modification is consistent with relevant language in Prosecution exhibits (20a) (see, p. 6231, para. 8) and (21a) (see, p. 6248, para. 8) which reads "'On 25 July 1998, the Nigerian Government released the leader of the RUF, Corporal Foday Sankoh, to Sierra Leonean custody in Freetown.'" If not so modified, the Defence objects to the Fact as being open to reasonable dispute, therefore rendering it not a fact of common knowledge;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(22a) Implicates information that is not susceptible of confirmation or that is susceptible of being disproved, as well as opinion evidence (e.g., pp. 6250 "[Presidential Spokesman Septimus] Kaikai said that the trial of Foday Sankoh should bring the Sierra Leone conflict to an end");</p> <p>(22b) Implicates proof of acts and conduct of the accused (e.g., p. 6253 "The government of Liberia was widely reported to be providing combatants, arms and ammunition to rebel forces"); also implicates additional information that is not susceptible of confirmation or that is susceptible of being disproved, as well as opinion evidence (e.g., pp. 6252 & 6256</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIAALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
23	Yes, but only if modified to read: "in the High Court of Sierra Leone" instead of "by the Sierra Leone High Court"	"Yes" as to (23b), but the Defence intends to present evidence in its own case that will raise some doubt about certain facts contained in source material (23b)	<p>"Reports also suggested that [ECOMOG] forces handed over some captured rebels to the [CDF] who then summarily executed them").</p> <p>Rule 94 (A): The Defence would have no objection if Fact #23 was modified to read: "In October 1998, Foday Sankoh was found guilty of treason and sentenced to death in the High Court of Sierra Leone," instead of "by the Sierra Leone High Court." The formal name for the court in which the trial took place before a jury and which pronounced sentence is the "High Court of Sierra Leone" and not the "Sierra Leone High Court";</p> <p>Source materials & Rule 92 bis:</p> <p>(23a) Implicates proof of acts and conduct of the accused (e.g., p. 6253 "The government of Liberia was widely reported to be providing combatants, arms and ammunition to rebel forces"); also implicates additional information that is not susceptible of confirmation or that is susceptible of being disproved, as well as opinion evidence (e.g., p. 6259 "Reports also suggested that [ECOMOG] forces handed over some captured rebels to the [CDF] who then summarily executed them").</p> <p>Rule 94 (A): The Defence would have no objection if Fact #24 is modified to read: "On 7 July 1999, the Government of Sierra Leone signed a peace agreement with the RUF in Lomé, Togo (<i>Lomé Peace Agreement</i>)." This language is identical to that which was agreed to by the parties regarding the signing of the same Lomé, Togo, peace agreement</p>
24	Yes, but only if modified to read: "On 7 July 1999, the Government of	No	

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
	Sierra Leone signed a peace agreement with the RUF in Lomé, Togo (<i>Lomé Peace Agreement</i>)”		<p>in paragraph 32 of their 26 April 2007 Joint Filing by the Prosecution and Defence: Admitted Facts and Law, SCSL-03-01-PT-22726 April 2007. If not so modified, the Defence objects to proposed version of Fact #24 as not being a fact of common knowledge because the agreement was between parties – i.e., the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone – and not merely between two individuals, Foday Saybana Sankoh and Ahmad Tejan Kabbah, even though each signed on the behalf of their respective sides to the agreement;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(24a) The Defence objects to the source materials being admitted pursuant to Rule 92bis because it implicates proof of acts and conduct of the accused, given that the Accused is listed as a signatory to the document at page 6464 (ERN 00004364). Furthermore, the document is unsigned and appears to have been obtained from an Internet website, thus rendering it susceptible of being disproved or being seriously called into question. Additionally, the document contains some opinion evidence.</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(25a) The Defence objects to the source materials being admitted pursuant to Rule 92bis</p>
25	Yes	No	

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
26	Yes, but only if modified to read as follows: "The parties to the Lomé Peace Agreement recognised the imperative that the children of Sierra Leone were entitled to special care and protection of their inherent right to life, survival and development, in	No	<p>because it implicates proof of acts and conduct of the accused, given that the Accused is listed as a signatory to the document at page 6464 (ERN 00004364). Furthermore, the document is unsigned and appears to have been obtained from an Internet website, thus rendering it susceptible of being disproved or being seriously called into question. Additionally, the document contains some opinion evidence.</p> <p>Rule 94 (A): The Defence would have no objection if Fact #26 was modified to read: "The parties to the Lomé Peace Agreement recognised the imperative that the children of Sierra Leone were entitled to special care and protection of their inherent right to life, survival and development, in accordance with the provisions of the International Convention on the Rights of the Child." This more accurately reflects the language within the source material (see, p. 6473) and eliminates possible confusion regarding the context in which the parties recognised the special protection that ought to be accorded to the children of Sierra Leone. If not so modified, the Defence objects to current version of Fact #26 as being open to reasonable dispute and therefore not a fact of common knowledge, especially in the absence of a multiplicity of sources;</p> <p>Source materials & Rule 92 bis:</p> <p>(26a) The Defence objects to the source materials being admitted pursuant to Rule 92bis</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
	accordance with the provisions of the International Convention on the Rights of the Child"		because it implicates proof of acts and conduct of the accused, given that the Accused is listed as a signatory to the document at page 6464 (ERN 00004364). Furthermore, the document is unsigned and appears to have been obtained from an Internet website, thus rendering it susceptible of being disproved or being seriously called into question. Additionally, the document contains some opinion evidence.
27	Yes	No	<p><u>Source materials & Rule 92 bis:</u></p> <p>(27a) The Defence objects to the source materials being admitted pursuant to Rule 92bis because it implicates proof of acts and conduct of the accused, given that the Accused is listed as a signatory to the document at page 6464 (ERN 00004364). Furthermore, the document is unsigned and appears to have been obtained from an Internet website, thus rendering it susceptible of being disproved or being seriously called into question. Additionally, the document contains some opinion evidence.</p>
28	No	No	<p><u>Rule 94 (A):</u> The Defence objects to this fact as proposed because it over-simplifies the import of Article XXIV of the Lomé Peace Agreement and could give the erroneous impression that the Agreement is a source of law. The Defence accordingly objects to Fact #28 because, as stated, it implicates a proposition of law and is not a mere fact that has legal consequences;</p>

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			<p>Source materials & Rule 92 bis:</p> <p>(28a) The Defence objects to the source materials being admitted pursuant to Rule 92bis because it implicates proof of acts and conduct of the accused, given that the Accused is listed as a signatory to the document at page 6464 (ERN 00004364). Furthermore, the document is unsigned and appears to have been obtained from an Internet website, thus rendering it susceptible of being disproved or being seriously called into question. Additionally, the document contains some opinion evidence.</p>
29	Yes	<p>“Yes,” but only the version of the document which bears the signatures of all signatories; the Defence still reserves its right to present evidence in its case which might raise doubt about the</p>	<p>Source materials & Rule 92 bis:</p> <p>(29a) The Defence has no objection to the source material being admitted under Rule 92bis, if the version of the document that bears the signatures of all signatories is provided for reception into evidence. Failing that, the Defence would object on the grounds that the source material is not susceptible of confirmation/ susceptible of being disproved.</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
30	Yes	No authenticity of any such document/ source material	<p>Source materials & Rule 92 bis:</p> <p>(30a) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis, and the document implicates proof of acts and conduct of the accused (e.g., p. 6489 "... The National Patriotic Front of Liberia (NPFL) led by Charles Taylor..."). "The barbarity and cruelty seen in the NPFL operations in Liberia were mirrored in those of the Revolutionary United Front (RUF) under Foday Sankoh in neighbouring Sierra Leone..."). The source material is also not susceptible of confirmation/ is susceptible of being disproved in that it lists Mauritania as a member-state of ECOWAS (see page 6481 and the map on page 6493) when Mauritania withdrew its membership from ECOWAS in 2002. For all of these reasons, the Defence objects to the source material being admitted pursuant to Rule 92 bis.</p>
31	Yes, but only if the phrase "This Protocol became effective five years later" is deleted	No	<p>Rule 94 (A): The Defence would have no objection if Fact #31 was modified by deleting the phrase "This Protocol became effective five years later." Averring that the Protocol "became effective five years later" is not a fact that is beyond reasonable dispute or not open to any reasonable dispute, and hence it is not a fact of common knowledge. Indeed, the relevant language of the 29 May 1981 protocol reads in Chapter VII, Article 24 (1):</p>

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			<p>“This Protocol shall enter into force provisionally at the signing by the Heads of State and Government, and definitively after ratification by not less than seven (7) signatories in accordance with the Constitutional Laws of each Member State” (ECOWAS Journal Volume 3, June 1981, pp. 12);</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(31 a) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 <i>bis</i>, and the document implicates proof of acts and conduct of the accused (e.g., p. 6489 “... The National Patriotic Front of Liberia (NPFL) led by Charles Taylor...” “The barbarity and cruelty seen in the NPFL operations in Liberia were mirrored in those of the Revolutionary United Front (RUF) under Foday Sankoh in neighbouring Sierra Leone...”). The source material is also not susceptible of confirmation/ is susceptible of being disproved in that it lists Mauritania as a member-state of ECOWAS (see page 6481 and the map on page 6493) when Mauritania withdrew its membership from ECOWAS in 2002. For all of these reasons, the Defence objects to the source material being admitted pursuant to Rule 92 <i>bis</i>.</p> <p><u>Rule 94 (A):</u> As stated, Fact #31 is not a fact that is beyond reasonable dispute or not open to any reasonable dispute, and hence it is not a fact of common knowledge. The Defence objects to this fact, as presently stated, because it over-simplifies the language of</p>
32	No	No	

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>the Protocol and suggests that the Protocol's scope is limited to only internal armed conflicts. Chapter II, Article 4(b) of the Protocol states as <i>one</i> [emphasis added] of its objectives: "In case of internal armed conflict within any Member State engineered and supported actively from outside likely to endanger the security and peace in the Community, in this case the Authority shall appreciate and decide on this situation in full collaboration with the Authority of the Member State or States concerned" (ECOWAS Journal Volume 3, June 1981, pp. 9-10);</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(32a) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis, and the document implicates proof of acts and conduct of the accused (e.g., p. 6489 "... The National Patriotic Front of Liberia (NPFL) led by Charles Taylor..." "The barbarity and cruelty seen in the NPFL operations in Liberia were mirrored in those of the Revolutionary United Front (RUF) under Foday Sankoh in neighbouring Sierra Leone..."). The source material is also not susceptible of confirmation/ is susceptible of being disproved in that it lists Mauritania as a member-state of ECOWAS (see page 6481 and the map on page 6493) when Mauritania withdrew its membership from ECOWAS in 2002. For all of these reasons, the Defence objects to the source material being admitted pursuant to Rule 92 bis.</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
33	Yes	No	<p>Source materials & Rule 92 bis:</p> <p>(33a) Its contents are not relevant to the purpose for which it has been submitted under Rule 92 <i>bis</i>. For example, the exhibit does not give the specific date of 10 December 1999 as the date on which ECOWAS member-states signed the "Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security"; instead, and in addition to mentioning the month of December 1999 on page 6486, the exhibit could also be read as suggesting that the Protocol was signed in August of 1999 (see pp. 6490-91). Furthermore, the source material implicates proof of acts and conduct of the accused (e.g., p. 6489 "... The National Patriotic Front of Liberia (NPFL) led by Charles Taylor..." "The barbarity and cruelty seen in the NPFL operations in Liberia were mirrored in those of the Revolutionary United Front (RUF) under Foday Sankoh in neighbouring Sierra Leone..."). The source material is also not susceptible of confirmation/ is susceptible of being disproved in that it lists Mauritania as a member-state of ECOWAS (see page 6481 and the map on page 6493) when Mauritania withdrew its membership from ECOWAS in 2002. For all of these reasons, the Defence objects to the source material being admitted pursuant to Rule 92 <i>bis</i>.</p> <p>Rule 94 (A): The Defence objects to Fact #34 because it is not a fact that is beyond reasonable dispute or not open to any reasonable dispute, and hence it is not a fact of common knowledge. This objection is taken, in large measure, due to the questionable</p>
34	No	No	

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIAALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>accuracy of the source material, the absence of a multiplicity of sources, and associated difficulties in finding other sources that independently verify this alleged "fact." Indeed, the source material suggests that ECOWAS extended the mandate of ECOMOG in Liberia to include Sierra Leone "soon" after the alleged signing of the defence pact between Nigeria and Sierra Leone in 1994; however, official ECOWAS documents demonstrate that the extension of ECOMOG's mandate to include Sierra Leone was done on 29 August 1997. This sequence and timing of events is also confirmed by proposed Fact #35;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(34a) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis, and the document implicates proof of acts and conduct of the accused (e.g., p. 6489 "... The National Patriotic Front of Liberia (NPFL) led by Charles Taylor..." "The barbarity and cruelty seen in the NPFL operations in Liberia were mirrored in those of the Revolutionary United Front (RUF) under Foday Sankoh in neighbouring Sierra Leone..."). The source material is also not susceptible of confirmation/ is susceptible of being disproved in that it lists Mauritania as a member-state of ECOWAS (see page 6481 and the map on page 6493) when Mauritania withdrew its membership from ECOWAS in 2002. For all of these reasons, the Defence objects to the source material being admitted pursuant to Rule 92 bis.</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
35	Yes, but only if modified to read: "On 29 August 1997, ECOWAS extended the mandate of ECOMOG troops in Liberia to include Sierra Leone."	No	<p>Rule 94 (A): The Defence would have no objection if Fact #35 was modified by deleting the phrase "After the signing of the Status of Forces Agreement (SOFA) between Sierra Leone and Nigeria on 7 March 1997." This objection is taken, in large measure, due to the questionable accuracy of the source material, the absence of the Fact (as stated) in the source material, and given the absence of a multiplicity of sources. As such, and if left as proposed, the Defence objects to Fact #35 because it is not a fact that is beyond reasonable dispute or not open to any reasonable dispute, and hence it is not a fact of common knowledge;</p> <p>Source materials & Rule 92 bis:</p> <p>(35a) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis, and the document implicates proof of acts and conduct of the accused (e.g., p. 6489 "... The National Patriotic Front of Liberia (NPFL) led by Charles Taylor... " "The barbarity and cruelty seen in the NPFL operations in Liberia were mirrored in those of the Revolutionary United Front (RUF) under Foday Sankoh in neighbouring Sierra Leone..."). The source material is also not susceptible of confirmation/ is susceptible of being disproved in that it lists Mauritania as a member-state of ECOWAS (see page 6481 and the map on page 6493) when Mauritania withdrew its membership from ECOWAS in 2002. For all of these reasons, the Defence objects to the source material being admitted pursuant to Rule 92 bis.</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
36	Yes, but only if modified to read: "The ECOWAS Cease-fire Monitoring Group is also known as ECOMOG"	No	<p>Rule 94 (A): As stated, Fact #36 is not a fact that is beyond reasonable dispute or not open to any reasonable dispute, and hence it is not a fact of common knowledge. The source material refers to ECOMOG as "The intervention force" in the specific context of Liberia, but not as "the regional [emphasis added] intervention force." Also, to suggest that ECOMOG's legal personality is limited to being "the Regional intervention force" is not sustainable by refers to only the cited material. Objection is, as such, taken due to the questionable accuracy of the source material and the absence of a multiplicity of sources;</p> <p>Source materials & Rule 92 bis:</p> <p>(36a) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis, and the document implicates proof of acts and conduct of the accused (e.g., p. 6489 "... The National Patriotic Front of Liberia (NPFL) led by Charles Taylor... " "The barbarity and cruelty seen in the NPFL operations in Liberia were mirrored in those of the Revolutionary United Front (RUF) under Foday Sankoh in neighbouring Sierra Leone..."). The source material is also not susceptible of confirmation/ is susceptible of being disproved in that it lists Mauritania as a member-state of ECOWAS (see page 6481 and the map on page 6493) when Mauritania withdrew its membership from ECOWAS in 2002. For all of these reasons, the Defence objects to</p>

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37	No	No	<p>the source material being admitted pursuant to Rule 92 bis.</p> <p>Rule 94 (A): The source material does not confirm the Fact as stated. Objection is taken, in large measure, due to the questionable accuracy of the source material, the absence of the Fact (as stated) in the source material, and given the absence of a multiplicity of sources. Indeed, other sources confirm (See ECOWAS Journal, Volume 36, August 1999, pp. 2-3) that the mandate of ECOMOG in Sierra Leone was “redefined” on 25 August 1999 in Lomé, Togo, but the source material does not explicate what the scope of its prior mandate was, much less what the redefined mandate became. As such, Fact #37 cannot be said to be beyond reasonable dispute or not open to any reasonable dispute, and hence it is not a fact of common knowledge;</p> <p>Source materials & Rule 92 bis:</p> <p>(37a) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis, and the document implicates proof of acts and conduct of the accused (e.g., p. 6489 “... The National Patriotic Front of Liberia (NPFL) led by Charles Taylor...” “The barbarity and cruelty seen in the NPFL operations in Liberia were mirrored in those of the Revolutionary United Front (RUF) under Foday Sankoh in neighbouring Sierra Leone...”). The source material is also not susceptible of confirmation/ is susceptible of being disproved in that it lists Mauritania as a member-</p>

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38	Yes, but only if modified to read: "ECOWAS issued a Final Communiqué at the conclusion of its 28 – 29 August 1997 summit in Abuja, Nigeria" (See ECOWAS Journal, Volume 33, August 1997, P. 52)	No	<p>state of ECOWAS (see page 6481 and the map on page 6493) when Mauritania withdrew its membership from ECOWAS in 2002. For all of these reasons, the Defence objects to the source material being admitted pursuant to Rule 92 bis.</p> <p>Rule 94 (A): The source material does not confirm the Fact as stated; for example, no dates are given for the summit in the source material. Objection is thus taken, in large measure, due to the questionable accuracy of the source material (a mere excerpt from an Internet website), the absence of the Fact (as stated) in the source material, and given the absence of a multiplicity of sources. The Defence would have no objection if Fact #38 were modified as suggested herein;</p> <p>Source materials & Rule 92 bis:</p> <p>The source material is merely an excerpt that has been taken from a website on the Internet and it leaves the erroneous impression that the Final Communiqué was directed at the conflict in Sierra Leone in its entirety. It is thus susceptible of being disproved or seriously called into question. Furthermore, the source material goes to proof of acts and conduct of the accused in that the complete version indicates that the Accused was present and a representative of his government during the discussions and issuance of the Final Communiqué. (See ECOWAS Journal, Volume 33, August 1997, P. 47). Also, and in addition to the foregoing, the source material contains opinion evidence and</p>

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39	Yes, but only if modified to read: "ECOWAS issued a Final Communiqué at the conclusion of its 28 – 29 August 1997 summit in which it mandated ECOMOG to specifically monitor the ceasefire, enforce sanctions and embargo and secure the peace in Sierra Leone" (See ECOWAS Journal, Volume 33, August 1997, P. 52)	No	<p>should therefore not be admitted under Rule 92 bis.</p> <p>Rule 94 (A): The source material does not confirm the Fact as stated; for example, no dates are given for the summit in the source material. Objection is thus taken, in large measure, due to the questionable accuracy of the source material (a mere excerpt from an Internet website), the absence of the Fact (as stated) in the source material, and given the absence of a multiplicity of sources. The Defence would have no objection if Fact #38 were modified as suggested herein;</p> <p>Source materials & Rule 92 bis:</p> <p>The source material is merely an excerpt that has been taken from a website on the Internet and it leaves the erroneous impression that the Final Communiqué was directed at the conflict in Sierra Leone in its entirety. It is thus susceptible of being disproved or seriously called into question. Furthermore, the source material goes to proof of acts and conduct of the accused in that the complete version indicates that the Accused was present and a representative of his government during the discussions and issuance of the Final Communiqué. (See ECOWAS Journal, Volume 33, August 1997, P. 47). Also, and in addition to the foregoing, the source material contains opinion evidence and should therefore not be admitted under Rule 92 bis.</p> <p>Rule 94 (A): The source material behind this proposed "fact" lists "The Republic of</p>
40	No	No	

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>Liberia” as having been one of the Member States that attended the meeting and issued the Final Communiqué, meaning that the Accused would become bound to the document upon being sworn in as President of Liberia in August 1997. As such, this fact should not be judicially-noted under Rule 94(A) because it indirectly attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court’s Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone, the time period during which such alleged occurrences were taking place, and when the Accused knew or had reason to know of them. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted, especially considering the absence of a multiplicity of sources;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source material is unsigned and appears to have been obtained from an Internet website: it is thus susceptible of being disproved or seriously called into question. Furthermore, the source material goes to proof of acts and conduct of the accused in that it lists “The Republic of Liberia” as having been one of the Member States that attended the meeting and issued the Final Communiqué, meaning that the document could be imputed to the Accused upon him being sworn in as President of Liberia in August 1997. Also, and in addition to the foregoing, the source material contains opinion evidence and</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
41	No	No	<p>should therefore not be admitted under Rule 92 bis.</p> <p>Rule 94 (A): This proposed fact indicates that representatives of the Liberian Government attended the 26 June 1997 ECOWAS Special Meeting of Foreign Ministers, meaning that knowledge of the meeting and the subsequently issued Final Communiqué could be attributed and/ or imputed to the Accused upon him being sworn in as President of Liberia in August 1997. As such, this fact should not be judicially-noted under Rule 94(A) because it indirectly attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court’s Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone, the time period during which such alleged occurrences were taking place, and when the Accused knew or had reason to know of them. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted, especially considering the absence of a multiplicity of sources;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source material is unsigned and appears to have been obtained from an Internet website: it is thus susceptible of being disproved or seriously called into question. Furthermore, the source material goes to proof of acts and conduct of the accused in that it lists “The Republic of Liberia” as having been one of the Member States that attended</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
42	No	No	<p>the meeting and issued the Final Communiqué, meaning that the document could be imputed to the Accused upon him being sworn in as President of Liberia in August 1997. Also, and in addition to the foregoing, the source material contains opinion evidence and should therefore not be admitted under Rule 92 bis.</p> <p>Rule 94 (A): The proposed fact should not be judicially noted because its language differs in several respects from the version of the ECOWAS Decision of the same date that appears in the <i>Official Journal of ECOWAS</i>, Volume 33, August 1997, pages 14-16, English version. For example, the title of the Decision in the <i>Official Journal of ECOWAS</i> is “Decision on Sanctions Against the Illegal Regime in Sierra Leone,” and it does not contain the word “Junta” as appears in the proposed fact. Also, what is denominated as Article 6 in the proposed fact is actually Article 5 in the version of the Decision that appears in the <i>Official Journal of ECOWAS</i> and what has been denominated Article 7 in the proposed fact is actually Article 6 in the version of the Decision that appears in the <i>Official Journal of ECOWAS</i>. Furthermore, the contents of each version differ in significant respects: for example, there is no reference in the version that is in the <i>Official Journal of ECOWAS</i> to the 26 June 1997 Final Communiqué as appears in “Article 6” of the proposed fact. For all of these reasons, the proposed fact is not a fact that is beyond reasonable dispute or not open to any reasonable dispute, especially given the absence of a multiplicity of sources;</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
43	No	No	<p>Source materials & Rule 92 bis:</p> <p>The source material is unsigned and appears to have been obtained from an Internet website: it is thus susceptible of being disproved or seriously called into question, particularly because it differs in several respects from the version of the ECOWAS Decision of the same date that appears in the <i>Official Journal of ECOWAS</i>, Volume 33, August 1997, pages 14-16, English version. For example, the title of the Decision in the <i>Official Journal of ECOWAS</i> is "Decision on Sanctions Against the Illegal Regime in Sierra Leone," and it does not contain the word "Junta" as appears in the proposed fact. Also, what is denominated as Article 6 in the proposed fact is actually Article 5 in the version of the Decision that appears in the <i>Official Journal of ECOWAS</i> and what has been denominated Article 7 in the proposed fact is actually Article 6 in the version of the Decision that appears in the <i>Official Journal of ECOWAS</i>.</p> <p>Rule 94 (A): This proposed fact is alleged to be an excerpt of a Communiqué that was issued by the ECOWAS Committee of Five on Sierra Leone of which Liberia was a member at the relevant time, meaning that knowledge of the meeting and the contents of the Communiqué could be attributed and/ or imputed to the Accused who was then the President of Liberia. As such, this fact should not be judicially-noted under Rule 94(A) because it indirectly attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court's Statute, generally, and especially in respect of</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
44	No	No	<p>Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone, the time period during which such alleged occurrences were taking place, and when the Accused knew or had reason to know of them. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted, especially considering the absence of a multiplicity of sources;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source material is unsigned and appears to have been obtained from an Internet website: it is thus susceptible of being disproved or seriously called into question. Furthermore, the source material goes to proof of acts and conduct of the accused since “The Republic of Liberia” was at the relevant time part of the Committee of Five on Sierra Leone and is said to have had its representative at the meeting and jointly issued the Communiqué, all of which means that the document could be imputed or attributed to the Accused who was then the President of Liberia. Also, and in addition to the foregoing, the source material contains opinion evidence and should therefore not be admitted under Rule 92 bis.</p> <p><u>Rule 94 (A):</u> This proposed fact expressly indicates that representatives of the Republic of Liberia attended the 19 December 1997 ECOWAS Committee of Five on Sierra Leone meeting, meaning that knowledge of the meeting and the contents of its Final</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>Communicu�� could be attributed and/ or imputed to the Accused who was then the President of Liberia. As such, this fact should not be judicially-noted under Rule 94(A) because it indirectly attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court's Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone; the time period during which such alleged occurrences were taking place, and when the Accused knew or had reason to know of them. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted, especially considering the absence of a multiplicity of sources;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source material is unsigned and appears to have been obtained from an Internet website: it is thus susceptible of being disproved or seriously called into question. Furthermore, the source material goes to proof of acts and conduct of the accused since "The Republic of Liberia" was at the relevant time part of the Committee of Five on Sierra Leone and is said to have had its representative at the meeting and jointly issued the Communiqu��, all of which means that the document could be imputed or attributed to the Accused who was then the President of Liberia. Also, and in addition to the foregoing, the source material contains opinion evidence and should therefore not be admitted under Rule 92 bis.</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
45	No	No	<p>Rule 94 (A): This proposed fact pertains to a Final Communiqué that was issued by the ECOWAS Committee of Five on Sierra Leone of which Liberia was a member at the relevant time, meaning that knowledge of the meeting and the contents of the Communiqué could be attributed and/ or imputed to the Accused who was then the President of Liberia. As such, this fact should not be judicially-noted under Rule 94(A) because it indirectly attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court’s Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone, the time period during which such alleged occurrences were taking place, and when the Accused knew or had reason to know of them. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted, especially considering the absence of a multiplicity of sources;</p> <p>Source materials & Rule 92 bis:</p> <p>The source material is unsigned and appears to have been obtained from an Internet website: it is thus susceptible of being disproved or seriously called into question. Furthermore, the source material goes to proof of acts and conduct of the accused since “The Republic of Liberia” was at the relevant time part of the Committee of Five on Sierra Leone and is said to have had its representative at the meeting and jointly issued the Communiqué, all of which means that the document could be imputed or attributed to</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
46	No	No	<p>the Accused who was then the President of Liberia. Also, and in addition to the foregoing, the source material contains opinion evidence and should therefore not be admitted under Rule 92 bis.</p> <p>Rule 94 (A): This proposed fact expressly indicates that representatives of the Republic of Liberia attended the 5 – 6 February 1998 ECOWAS Committee of Five on Sierra Leone meeting, meaning that knowledge of the meeting and the contents of its Final Communiqué could be attributed and/ or imputed to the Accused who was then the President of Liberia. As such, this fact should not be judicially-noted under Rule 94(A) because it indirectly attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court’s Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone, the time period during which such alleged occurrences were taking place, and when the Accused knew or had reason to know of them. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted, especially considering the absence of a multiplicity of sources;</p> <p>Source materials & Rule 92 bis:</p> <p>The source material is unsigned and appears to have been obtained from an Internet website: it is thus susceptible of being disproved or seriously called into question.</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
47	No	No	<p>Furthermore, the source material goes to proof of acts and conduct of the accused since "The Republic of Liberia" was at the relevant time part of the Committee of Five on Sierra Leone and is said to have had its representative(s) at the meeting and jointly issued the Communiqué, all of which means that the document could be imputed or attributed to the Accused who was then the President of Liberia. Also, and in addition to the foregoing, the source material contains opinion evidence and should therefore not be admitted under Rule 92 bis.</p> <p>Rule 94 (A): This proposed fact pertains to a Final Communiqué that was issued by the ECOWAS Committee of Five on Sierra Leone of which Liberia was a member at the relevant time, meaning that knowledge of the meeting and the contents of the Communiqué could be attributed and/ or imputed to the Accused who was then the President of Liberia. As such, this fact should not be judicially-noted under Rule 94(A) because it indirectly attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court's Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone, the time period during which such alleged occurrences were taking place, and when the Accused knew or had reason to know of them. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted, especially considering the absence of a multiplicity of sources;</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
48	No	No	<p>Source materials & Rule 92 bis:</p> <p>The source material is unsigned and appears to have been obtained from an Internet website: it is thus susceptible of being disproved or seriously called into question. Furthermore, the source material goes to proof of acts and conduct of the accused since the “Republic of Liberia” was at the relevant time part of the Committee of Five on Sierra Leone and is said to have had its representative at the meeting and jointly issued the Communiqué, all of which means that the document could be imputed or attributed to the Accused who was then the President of Liberia. Also, and in addition to the foregoing, the source material contains opinion evidence and should therefore not be admitted under Rule 92 bis.</p> <p>Rule 94 (A): This proposed fact expressly indicates that representatives of the Republic of Liberia attended the 28 December 1998 Extraordinary Meeting of the ECOWAS Committee of Five on Sierra Leone, meaning that knowledge of the meeting and the contents of its Final Communiqué could be attributed and/ or imputed to the Accused who was then the President of Liberia. As such, this fact should not be judicially-noted under Rule 94(A) because it indirectly attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court’s Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone, the time period during which such alleged</p>

50 521

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
49	Yes, but only if modified to read: "ECOMOG ousted the AFRC/ RUF	No	<p>occurrences were taking place, and when the Accused knew or had reason to know of them. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted, especially considering the absence of a multiplicity of sources;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source material is unsigned and appears to have been obtained from an Internet website: it is thus susceptible of being disproved or seriously called into question. Furthermore, the source material goes to proof of acts and conduct of the accused since the "Republic of Liberia" was at the relevant time part of the Committee of Five on Sierra Leone and is said to have had its representative(s) at the Extraordinary Meeting and jointly issued the Communiqué, all of which means that the document could be imputed or attributed to the Accused who was then the President of Liberia. Also, and in addition to the foregoing, the source material contains opinion evidence and should therefore not be admitted under Rule 92 bis.</p> <p><u>Rule 94 (A):</u> The Defence would have no objection if Fact #49 was modified to read "ECOMOG ousted the AFRC/ RUF Junta from power on or about 14 February 1998." Such a modification is necessary because, as presently proposed, the Fact gives the erroneous impression that ECOMOG was acting <i>exclusively</i> [emphasis added] on the</p>

12405

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
	<p>Junta from power on or about 14 February 1998”</p>		<p>behalf of President Kabbah when it ousted the AFRC/ RUF from power. Also, the date of 14 February 1998 is an approximate date only, in the sense that even the first source material (exhibit 49B) indicates that the “collapse of the junta” occurred approximately one week after 5 February 1998 and that “fall of the city” was on 13 February 1988 (see pp. 5870-71). As such, and if left as proposed, the Defence objects to Fact #49 as not being a fact that is beyond reasonable dispute or not open to any reasonable dispute, and hence it is not a fact of common knowledge;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>(49b) This source material should not received pursuant to Rule 92bis because (i) it goes to proof of acts and conduct of the Accused, (ii) contains opinion evidence in several instances, and (iii) also contains several conclusory statements that can seriously be called into question. More specifically, the documents speaks to many actions of the ECOWAS Committee of Five on Sierra Leone of which Liberia was a member at the relevant time -- meaning that knowledge of the Committee’s actions (including its statements, meetings, and Communiqués) in respect of Sierra Leone, and as are referred to in the document, could be attributed and/ or imputed to the Accused who was then the President of Liberia. Furthermore, the document us replete with conclusory statements and opinions, such as “... the ECOWAS team, which was enthusiastically greeted by crowds, found that in many respects life had returned to normal in the capital” (see page</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>5871, para 7);</p> <p>(49c) Implicates proof of acts and conduct of the accused (e.g., pp. 5832 & 5838: SL conflict started as a “spill over” of the Liberian civil war organised by Charles Taylor...” and also on pp. 5832 & 5838, “...Sierra Leonean opposition groups... ostensibly united and armed by Charles Taylor...” “The closeness and association between the Sierra Leonean and Liberian rebels has been traced back to the ... joint military training they received in Benghazi, Libya”;</p> <p>(49d) Its contents are predominantly not relevant to the purpose for which it has been submitted under 92 bis, and the document is replete with opinions vis-à-vis assertions of facts, and the document implicates proof of acts and conduct of the accused (e.g., p. 5884 “...Group of Sierra Leonean dissidents... Liberian fighters loyal to Charles Taylor...invaded eastern Sierra Leone at Bomaru...; and p. 5885 “the RUF were helped with military aid and logistics by faction leader Charles Taylor in Liberia”; pp. 5885-86 “Taylor... had interfered in Sierra Leone since 1990 in order to shore up his own position and counter the influence of the regional power – Nigeria”; p. 5890 “President Charles Taylor and most of his cabinet had remained highly sympathetic to the Koroma junta”; p. 5898 “President Taylor should also be called upon to prevent the use of Liberian territory for any support to the AFR/CRUF”; see, also, p. 5900 involving “Recommendations” “To the Liberian Government”; and p. 5903, footnote 1 “Originally, the RUF was a mix of members of Charles Taylor’s National Patriotic Front of Liberia (NPFL), NPFL-</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
50	No	No	<p>trained Sierra Leoneans and others”).</p> <p>Rule 94 (A): This fact should not be judicially-noted because it implicates the criminal responsibility of the Accused. The Prosecution has alleged either directly or indirectly that there was a linkage between the conflicts in Liberia and in Sierra Leone and that proposition is a disputed fact that must be proven beyond a reasonable doubt by the Prosecution. It is therefore, also a fact that is open to reasonable dispute and, as such, is not a fact of common knowledge within the meaning of Rule 94(A);</p> <p>Source materials & Rule 92 bis:</p> <p>Implicates proof of acts and conduct of the accused (e.g., pp. 6549 & 5821 “Given the links between the conflicts in Liberia and Sierra Leone, certain regional and other countries have taken the decision to provide military assistance to Sierra Leone”) and contains a fair amount of opinion evidence.</p> <p>Rule 94 (A): The Defence objects to this Fact being judicially-noted because its various constituent parts are open to reasonable dispute and are not therefore, facts of common knowledge, especially in the absence of a multiplicity of sources. In the Defence’s view, this “Fact” is made up entirely of un-sourced and un-verifiable allegations and assertions;</p> <p>Source materials & Rule 92 bis:</p> <p>The source material implicates opinion evidence and is susceptible of being disproved</p>
51	No	No	

80421

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
52	No	No	<p>and should, therefore, not be admitted pursuant to Rule 92bis.</p> <p>Rule 94 (A): This proposed Fact is made up of excerpts from a United Nations Security Council Resolution which mandates certain directives to all UN member states in respect of, <i>inter alia</i>, the sale or supply of arms and related materials to Sierra Leone at a time when the Accused was President of the Republic of Liberia. This means that knowledge of the contents of the Resolution and, more significantly, responsibility for effectuating the Resolution could be attributed and/ or imputed to the Accused in his capacity as President of Liberia. As such, this fact should not be judicially-noted under Rule 94(A) because it indirectly attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court's Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone, the time period during which such alleged occurrences were taking place, and when the Accused knew or had reason to know of them. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted by the Trial Chamber;</p> <p>Source materials & Rule 92 bis:</p> <p>The Defence objects to the source material because it goes to proof of the acts and conduct of the Accused. The Resolution in question makes several requests of UN</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>member-states (including the Republic of Liberia) at a time when the Accused was President of Liberia and, therefore, any acts of commission or omission in respect of any of the several directives in the Resolution could be imputed or attributed to the Accused in his capacity as President of Liberia. For example, the Resolution requires in paragraph 5 on p. 6217 that all States “prevent the entry into or transit through their territories of members of the military junta and adult members of their families...” A failing in this regard by the Republic of Liberia in respect of even a single junta member could, in theory, be imputed to the Accused in his capacity as President of Liberia. Additionally, Annexes I and II to the Resolution have not been provided to the Defence and, as such, the Defence also objects on the grounds that the source material is not susceptible of confirmation/ susceptible of being disproved and might implicate opinion evidence and/or proof of acts and conduct of the accused.</p> <p>Rule 94 (A). The Defence objects to this “Fact” being judicially because there are aspects to this fact that are not beyond reasonable dispute and should not, in the absence of a multiplicity of sources, be judicially noticed. For example, even the term “Junta forces” is an amorphous term that, in the Defence’s view, is open to reasonable dispute. Not to mention the allegation concerning “reprisal killings” and other conclusory statements that are not beyond reasonable dispute;</p> <p>Source materials & Rule 92 bis: This source material should not received pursuant to</p>
53	No	No	

01410

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 B/S	REASONING
			<p>Rule 92bis because (i) it goes to proof of acts and conduct of the Accused, (ii) contains opinion evidence in several instances, and (iii) also contains several conclusory statements that can seriously be called into question. More specifically, the documents speaks to many actions of the ECOWAS Committee of Five on Sierra Leone of which Liberia was a member at the relevant time -- meaning that knowledge of the Committee's actions (including its statements, meetings, and Communiqués) in respect of Sierra Leone, and as are referred to in the document, could be attributed and/ or imputed to the Accused who was then the President of Liberia. Furthermore, the document us replete with conclusory statements and opinions, such as "... the ECOWAS team, which was enthusiastically greeted by crowds, found that in many respects life had returned to normal in the capital" (see page 5871, para 7).</p>
54	No	No	<p>Rule 94 (A): This proposed fact expressly implicates denials by the Liberian government against specific allegations of training of RUF fighters and contains other allegations against former NPFL fighters and assistance to the RUF. Such a Fact should not be judicially-noted under Rule 94(A) because, <i>inter alia</i>, it concerns matters that have and could be attributed or imputed to the Accused by virtue of him having been President of Liberia at the relevant time. For example, allegations concerning the involvement of "Liberian fighters" in the conflicts in Sierra Leone have already been made and attributed to the Accused by the Prosecution. Furthermore, the document takes the form of an e-mail that was apparently downloaded from an Internet website and, as such, cannot be</p>

11411

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 B/S	REASONING
			<p>said to be beyond reasonable dispute;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source material is unsigned and is in the form of an e-mail that was apparently downloaded from an Internet website: it is thus susceptible of being disproved or seriously called into question. Furthermore, it implicates proof of acts and the conduct of the accused since it contains allegations against the Liberian Government vis-à-vis the training of RUF fighters at a time when the Accused was President of Liberia, as well as allegations regarding the involvement of "Liberian fighters" in the Sierra Leonean conflict at a time when the Accused was President of Liberia and in a manner that mirrors allegations against the Accused in this case.</p>
55	No	No	<p>Rule 94 (A): This Fact should not be judicially-noted for a variety of reasons, inasmuch as most of its constituent parts are open to reasonable dispute and implicate the criminal responsibility of the Accused. For example, the reference to the Accused's then vice-president's attendance at a 4 June 1998 summit meeting of the leaders of the three Mano River countries could result in the imputation of knowledge about the meeting and what was discussed to the Accused. Furthermore, the import of phrases such as "junta," "fighters supporting the former junta," and "uniformed groups consistently reported to be members of rebel forces" are all open to reasonable dispute;</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIAALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
56	No	No	<p>Source materials & Rule 92 bis: The source material goes to proof of acts and the conduct of the Accused and should therefore be ruled inadmissible under Rule 92bis. For example, on page 6161, para. 30, it is there stated that "On 5 May 1998, President Taylor wrote me deprecating the 'disturbing allegation' allegation that the Government of Liberia was involved in the conflict in Sierra Leone..." And on page 6170 the Secretary General writes "I commend the Government of Liberia for its policy statement reaffirming that it will not permit its territory to be used to destabilize any neighbouring country." While such statements may be said to portray the Accused in a positive light, other references to the actions and/ or inactions of the Liberian Government directly and/ or indirectly could be attributed or imputed to the Accused and what he knew or had reason to know in respect of occurrences in Sierra Leone. For example, on pages 6155 & 6158, it is stated that the Vice-President of Liberia, Mr. Enoch Dogolea, attended a summit of leaders of the three Mano River countries (Liberia Guinea and Sierra Leone) in Conakry to discuss, <i>inter alia</i>, relations between the three countries. This summit took place while the Accused was President of Liberia and discussions which were held during the meeting could be attributed or imputed to the Accused in his capacity as President of Liberia.</p> <p>Rule 94 (A): The Defence objects to this "Fact" being judicially because there are aspects to this fact that are not beyond reasonable dispute and should not, in the absence of a</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
57	No	No	<p>multiplicity of sources, be judicially noticed. For example, the assertion about concerns regarding “cross-border arms flows and support to the rebels in Sierra Leone” is tantamount to nothing more than an allegation that is not beyond reasonable dispute, as is the assertion that “remnants of the ousted junta and members of the RUF were perpetrating;</p> <p>Source materials & Rule 92 bis:</p> <p>The source material should not be received pursuant to Rule 92bis because, inter alia, it relies significantly on a report by the Secretary-General (dated 9 June 1998) regarding alleged cross-border arms flows and support to rebels in Sierra Leone from neighbouring countries and Liberia is allegedly implicated in that category at a time when the Accused was President of Liberia. The material thus impermissibly implicates proof of acts and conduct of the Accused.</p> <p>Rule 94 (A): The Defence objects to this “Fact” being judicially because there are aspects to this fact that are not beyond reasonable dispute and should not, in the absence of a multiplicity of sources, be judicially noticed. For example, the assertion that “[p]hotographic evidence suggested” certain criminal acts that immediately preceded the death of certain victims is tantamount to nothing more than an allegation that is not</p>

41521

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
58	No	No	<p>beyond reasonable dispute. Additionally, the Fact touches upon the criminal responsibility of the Accused, inasmuch as it refers “deep concerns” about “developments in the situation between Sierra Leone and Liberia” at a time when the Accused was President of Liberia. The Fact should, therefore, not be judicially-noted;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>Implicates proof of acts and conduct of the accused (e.g., pp. 6483 & 6497 “The latest developments in the situation between Sierra Leone and Liberia are a cause for deep concern”) at a time when the Accused was President of Liberia and contains a fair amount of opinion evidence not susceptible of confirmation, such as “There is also very little reliable information concerning the plight of the captives... However, interviews with former captives and escapees from those regions report such abuses as multiple rape of women, summary executions and slave labour” (see, pages 6482 & 6490).</p> <p><u>Rule 94 (A):</u> The Fact touches upon the criminal responsibility of the Accused, inasmuch as it refers “the close association between Sierra Leonean and Liberian rebels, tracing it back to military training in Libya in the 1980s,” something which mirrors very much allegations that have been made in connection with the Accused in the Indictment and/ or Case Summary. Moreover, other aspect to the Fact are open to reasonable dispute, such</p>

12415

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>as the number of members the RUF had at its inception vis-à-vis following its alleged expansion. The Fact should thus not be judicially-noted;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>Implicates proof of acts and conduct of the accused (e.g., pp. 6501, 5832 & 5838: SL conflict started as a “spill over” of the Liberian civil war organised by Charles Taylor... ” and also on pp. 5832 & 5838, “...Sierra Leonean opposition groups... ostensibly united and armed by Charles Taylor...” “The closeness and association between the Sierra Leonean and Liberian rebels has been traced back to the ... joint military training they received in Benghazi, Libya.”</p>
59	No	No	<p>Rule 94 (A): This fact directly concerns the criminal responsibility of the Accused and should not be judicially-noted. By referring to the Accused’s presence at an extraordinary summit of the leaders of the three Mano River countries (Liberia Guinea and Sierra Leone) in Conakry, discussions which were held during the meeting and/ or subsequent actions or omissions of the Accused following the meeting could be attributed or imputed to the Accused. Moreover, the Fact is in many respects open to reasonable dispute, given the many qualifications that predicate many assertions – for example, in sub-paragraph (c) “there appeared to be,” and “two based in the north were <i>reportedly primarily AFRC.</i>” Moreover, the scope and parameters of the recurrently appearing term</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
60	No	No	<p>“rebel” remains undefined throughout the Fact and to whom that term refers is thus a matter that is open to reasonable dispute;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source material goes to proof of acts and the conduct of the Accused and should therefore be ruled inadmissible under Rule 92bis. For example, paragraphs 12 through 14 on pages 6506 and 6513 relate directly to the Accused’s participation in an extraordinary summit of the leaders of the three Mano River countries (Liberia Guinea and Sierra Leone) in Conakry, Guinea, and speaks directly to issues concerning non-aggression, security and joint border patrols between Sierra Leone and Liberia at a time when the Accused was President of Liberia. The Accused is said to have “agreed” to certain matters concerning the restoration of peace in Sierra Leone and the maintenance of stability in the sub-region. These are matters which the Prosecution is required to prove beyond a reasonable doubt. The document also contains a fair amount of opinion evidence, such as where it is stated that “...rebel elements have indicated that attacks were motivated by a desire for revenge against the sentencing to death of Corporal Foday Sankoh” (see para. 37, page 6510). Such speculative sentiments are clearly matters that are not susceptible of confirmation.</p> <p>Rule 94 (A): The statistics which make up this Fact are not beyond reasonable dispute</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
61	No	No	<p>and the Fact should, as such, not be judicially-noted. Indeed, the source material does speak of "rough" estimates and there is an absence of a multiplicity of sources for the statistics that are sought to be judicially-noted;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The contents of the source material are susceptible of being disproved and should therefore not be received pursuant to Rule 92bis</p> <p><u>Rule 94 (A):</u> The Defence objects to this "Fact" being judicially because there are aspects to this fact that are not beyond reasonable dispute and should not, in the absence of a multiplicity of sources, be judicially noticed. For example, suggesting that only two purposes ("intimidation and humiliation") were behind the crimes to which the Fact supposedly relates is something that is clearly open to reasonable dispute. Indeed, even the term "junta forces" as presented by this fact is an amorphous term that, in the Defence's view, is open to reasonable dispute;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source materials should not be received pursuant to Rule 92bis for several reasons: (i) the materials contain significant amounts of opinion evidence vis-à-vis assertions of</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 B/S	REASONING
			<p>facts (e.g., "in blind rage, they hack off peoples ears," page 6532; "the crimes perpetrated served only two purposes: intimidation and humiliation," page 6532; "When asked why he in particular was captured, he suggested that it was because he is Guinean and Guinean soldiers play a prominent role in ECOMOG," page 6565); (ii) some of the materials are in the nature of medical declarations/ certifications that are written in French and not accompanied by an English translation, and undoubtedly implicating medical opinions; (iii) the contents of the materials (purported accounts of alleged victims of "junta forces" who crossed the border from Sierra Leone into Guinea where they were interviewed by UNHCR staff) are susceptible of being called into question in many instances (for example, "He described his attackers simply as 'the rebels employed by Johnny Paul Koroma'", page 6577); and (iv) in some cases, the reference in the materials to the alleged participation of Liberians in the "junta forces" goes to proof of the conduct of the Accused, given the allegations in the Indictment regarding the participation of "Liberian fighters" in the alleged crimes (e.g., "there were around 10 rebels, and he heard them speaking Krio and some Liberian English," page 6580; "It was a mixture of Sierra Leoneans and Liberians. They spoke Krio and Liberian languages," page 6619).</p>
62	No	No	<p>Rule 94 (A): This Fact should not be judicially-noted because its constituent facts are not facts of common knowledge, in the sense of all being beyond reasonable dispute. Indeed, the recurring reference to "rebel forces" and "rebels" in the constituent facts are without a</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 B/S	REASONING
63	No	No	<p>contextual reference from which the precise import of such terms can be discerned from the Fact as it has been stated, leaving their meaning open to reasonable dispute;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source materials should not be admitted pursuant to Rule 92 bis because they contain a significant amount of opinion evidence and in many instances are not susceptible of confirmation. For example, on pages 6643 and 6650 “It is reported, but unconfirmed, that rebels in search of a medical doctor who is a well-known advocate of democracy, having failed to locate her at the small hospital which she runs..., killed most of the patients and nurses” and on page 6654 “An unverifiable number of people were killed due to their failure to satisfy the looters.” These sorts of assertions are speculative and implicate opinion evidence and are ultimately not susceptible of confirmation.</p> <p>Rule 94 (A): This Fact should not be judicially-noted because its constituent facts are not facts of common knowledge, in the sense of all being beyond reasonable dispute. For example, statements such as “rebel forces reportedly rely on some foreign mercenaries, including Europeans and Liberians” in paragraph (c) are open to reasonable dispute and arguably implicate the criminal responsibility of the Accused. As such, this Fact should</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>not be judicially-noted as presented;</p> <p>Source materials & Rule 92 bis: The source material contains proof of the acts and conduct of the Accused and should, therefore, not be admitted into evidence pursuant to Rule 92 bis. More specifically, on pages 6663 and 6670, relations between Liberia and Sierra Leone are discussed in the context of allegations against Liberia for supporting Sierra Leonean rebels, all at a time when the Accused was President of Liberia. Indeed, the Government of Liberia is said to have issued a statement in respect of, inter alia, Liberians fighting in Sierra Leone and a denial of having supported an attempts to destabilize Sierra Leone. Knowledge of these actions by the Government of Liberia, and indeed the actions in their own right, could impermissible be imputed or attributed to the Accused in his capacity as President of Liberia, if admitted pursuant to Rule 92 bis.</p>
64	No	No	<p>Rule 94 (A): This Fact impermissibly attests to the criminal responsibility of the Accused by referring to allegations that rebels in Sierra Leone were being afforded support (including through the supply of arms and mercenaries) from the territory of Liberia at a time when the Accused was President of Liberia. Furthermore, the term to “rebels,” as used and presented in the constituent is without definition (i.e., without reference to the source material) and its import is thus open to reasonable dispute;</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
65	No	No	<p><u>Source materials & Rule 92 bis:</u></p> <p>Implicates proof of acts and the conduct of the Accused, insofar as the material contains reference in paragraph 6, page 6682 to a letter written by the Accused in his capacity as President of Liberia to the Secretary-General of the United Nations, as well as to a Statement that was issued by the Government of Liberia during the Accused's presidency, both in connection with efforts that the Liberian Government was taking in redressing alleged participation in the Sierra Leonean conflicts by Liberian nationals. This Fact should, therefore, not be admitted pursuant to Rule 92bis.</p> <p><u>Rule 94 (A):</u> This Fact should not be judicially-noted because its constituent facts are not facts of common knowledge, in the sense of all being beyond reasonable dispute. For example, to state that over 90% of buildings in Masaka were damaged or destroyed due to "recent fighting" is something that is open to reasonable dispute, as is the assertion that "captives of the RUF" dug trenches in several locations in the road to "impede the ECOMOG advance";</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source material is, in large measure, not relevant to the purpose for which admission is apparently being sought (i.e., as may be discerned from the extracted facts in Fact #65) under Rule 92 bis. For example, significant portions of the materials deal with "Health</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>Interventions, "Nutrition," "Water and Sanitation," "Food Aid," and "Agriculture." Furthermore, the prevalence of opinion evidence in the materials also counsel against admission under Rule 92 bis. Examples include statements such as these: "As leaders of the parties to the conflict meet in Lome, their sincerity will be tested on their ability to hear the silent voices of these victims" (page 6689), and "This latest initiative will play a significant role in restoring the public's confidence in the security forces" (page 6691).</p>
66	No	No	<p>Rule 94 (A): This Fact is a collection of excerpts from a Press Release by the then Under-Secretary-General of the United Nations for Humanitarian Affairs. Statements by the Under-Secretary-General, such as "the brutal treatment of civilians by rebels in Sierra Leone was unlike anything he had seen in 29 years of humanitarian work" are matters of personal opinion that are not beyond reasonable and, therefore, cannot reasonably be said to be facts of common knowledge. This fact should, therefore, not be admitted pursuant to Rule 94(A);</p> <p>Source materials & Rule 92 bis: The source material is replete with opinion evidence vis-à-vis assertions of fact (e.g., "There are no words to condemn this sort of practice and bestiality") and should, as such, not be admitted pursuant to Rule 92 bis.</p>
67	No	No	<p>Rule 94 (A): This Fact impermissibly attests to the criminal responsibility of the Accused by referring to allegations of arms shipments through Liberia to rebels in Sierra Leone</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>during the presidency of the Accused and also to an address by the Accused, in his capacity as President of Liberia, to delegates at the Mano River Parliamentary Union regarding, inter alia, peace and security in Sierra Leone;</p> <p>Source materials & Rule 92 bis: The source material is replete with proof of acts and conduct of the Accused and should, therefore, not be admitted into evidence under Rule 92bis. For example, there is an entire section that discusses specific allegations against the Liberian Government by the ECOMOG Force Commander regarding the shipment and delivery of arms to rebels in Sierra Leone at a time when the Accused was President of Liberia (see, page 6716). There is also reference on page 6717 to a speech by the Accused on 27 May 1999 to delegates in Monrovia regarding peace and security in Sierra Leone. Furthermore, the source material contains a fair amount of opinion evidence, such as on page 6718 “The existence of pockets of forces behind other party’s lines... is expected to complicate the monitoring of the ceasefire,” and on page 6722 “Since my previous report, an already desperate humanitarian situation has worsened.”</p> <p>Rule 94 (A): This Fact should not be admitted under Rule 94 (A) because, as stated, it is open to reasonable dispute and is therefore not a fact of common knowledge. All three sub-parts (68a), (68b), and (68c) implicate the specific nature of atrocities committed against civilians and such facts are always open to dispute. For example, and on its face, the assertion that “the entire village of Makama... was allegedly massacred by rebel</p>
68	No	No	

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 B/S	REASONING
			<p>forces,” is something that is open to reasonable dispute. Additionally, and in the absence of a multiplicity of sources, the source material does not suffice to place these facts beyond reasonable dispute, given its nature and overall appearance: it is unsigned and is in some parts written in the narrative form, and yet in other parts it is written in the first person singular (see, e.g., page 6738 “What I [emphasis added] consider to be the most important development on the humanitarian front was the signing of the RUF and the GOSL...” joint statement) ;</p> <p>Source materials & Rule 92 bis:</p> <p>This material should not be admitted under Rule 92bis because (i) it is for the most part irrelevant to the purpose for which admission is sought (i.e., as may be discerned from the extracted facts in Fact #68) -- for example, significant portions of the materials deal with “Health,” “Nutrition,” “Water and Sanitation,” “Food Aid,” and “Agriculture” and (ii) Furthermore, the prevalence of opinion evidence in the materials also counsel against admission under Rule 92bis. Examples include statements such as these: “What I [emphasis added] consider to be the most important development on the humanitarian front was the signing of the RUF and the GOSL...” joint statement (page 6738) and “Obviously, it is still debatable if the progress achieved so far in the essentially non-political sections of the Draft Agreement will lead to the signing of a comprehensive agreement as early as foreseen” (also on page 6738).</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
69	No	No	<p>Rule 94 (A): Admission of facts (69a), (69b), and (69c) are impermissible under Rule 94(A) because they implicate the criminal responsibility of the Accused in a case charging a joint criminal enterprise by virtue of reference to the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – in this case the RUF/AFRC. See, Second Amended Indictment, 29 May 2007, paras. 5 and 33; See, also, Amended Case Summary, 3 August 2007, Paras. 42 – 44, esp., para. 44.1. Furthermore, and in the absence of a multiplicity of sources, the source material does not suffice to place these facts beyond reasonable dispute, given its nature and overall appearance: it is unsigned and contains numerous statistics which are clearly not indisputable;</p> <p>Source materials & Rule 92 bis:</p> <p>This material should not be admitted pursuant to Rule 92bis for a number of reasons. First, the material contains impermissible evidence going to the proof of acts and conduct of the Accused, insofar as in a case charging a joint criminal enterprise between the Accused and others including the RUF/AFRC, it is details the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – e.g., the RUF/AFRC, Johnny Paul Koroma, and Sam Bockarie. See, for example, p. 6766, "... RUF commander Sam Bockarie... threatened a resumption of hostilities..." and pages 6765 & 6759 "The rebels admitted that their action was in violation of the Ceasefire Agreement..." The document also contains reference to Liberian rebels fighting against</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>the Accused (who was then President of Liberia) and how the “unfolding crisis in Liberia is being closely watched in Sierra Leone... as bearing ominous concerns for the Sierra Leone peace endeavors” (see pages 6765-66). Secondly, the source material is, in large measure, not relevant to the purpose for which admission is apparently being sought (i.e., as may be discerned from the extracted facts in Fact #69) under Rule 92bis. For example, significant portions of the materials deal with “Health and Nutrition,” “Combating Measles Outbreaks,” “Water and Sanitation,” “Food Aid,” and “Agriculture”.</p>
70	No	No	<p>Rule 94 (A): The fact is open to reasonable dispute and should, therefore, not be judicially-noted pursuant to Rule 94(A). Statistical estimates, such as putting the number of child amputees in Sierra Leone at 900, are matters which are open to reasonable dispute. Moreover, the source material in support of the fact states on its face that it is “For information purposes only” and “not an official record”;</p> <p>Source materials & Rule 92 bis:</p> <p>The source material should not be admitted under Rule 92bis because it is not susceptible of confirmation. The document appears to have been taken from an Internet website, is unsigned, and clearly states on its face that it is “For information purposes only” and “not an official record.”</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
71	No	No	<p>Rule 94 (A): None of the constituent parts of this Fact should be judicially noted pursuant to Rule 94(A), insofar as they implicate the criminal responsibility of the Accused in a case charging a joint criminal enterprise by virtue of reference to the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – in this instance the RUF/AFRC. See, Second Amended Indictment, 29 May 2007, paras. 5 and 33; see, also, Amended Case Summary, 3 August 2007, Paras. 42 – 44, esp., para. 44.1. While the fact in (71c) might arguably not fall into the same category as the others, it relates to the specific nature of atrocities committed against civilians, is open to reasonable dispute, and is therefore not a fact of common knowledge. Furthermore, and in the absence of a multiplicity of sources, the source material does not suffice to place these facts beyond reasonable dispute, given its nature and overall appearance: it is unsigned and appears to have been taken from an Internet website, besides which it does contain some statistics which are clearly not indisputable;</p> <p><u>Source materials & Rule 92 bis:</u></p> <p>The source material is, in large measure, not relevant to the purpose for which admission is apparently being sought (i.e., as may be discerned from the extracted facts in Fact #71) under Rule 92 bis. For example, significant portions of the materials deal with “Health,” “Water and Sanitation,” “Food Aid,” and “Agriculture.” Furthermore, the material contains impermissible evidence going to the proof of acts and conduct of the Accused,</p>

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72	No	No	<p>insofar as in a case charging a joint criminal enterprise between the Accused and others including the RUF/AFRC, it is details the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – e.g., the RUF/AFRC, Johnny Paul Koroma and Foday Sankoh. See, e.g., page 6791 “Addressing about 800 people including some ex-combatants at Lungi on October 8, Chairman Sankoh said he had moved from guerrilla warfare to political warfare.”</p> <p>Rule 94 (A): Neither of the constituent parts of this Fact should be judicially noted pursuant to Rule 94(A) because they implicate the criminal responsibility of the Accused in a case charging a joint criminal enterprise by virtue of reference to the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – in this instance the RUF/AFRC. See; Second Amended Indictment, 29 May 2007, paras. 5 and 33; see, also, Amended Case Summary, 3 August 2007, Paras. 42 – 44, esp., para. 44.1.</p> <p><u>Source materials & Rule 92bis:</u></p> <p>This material should not be admitted pursuant to Rule 92bis because it contains impermissible evidence going to the proof of acts and conduct of the Accused, insofar as in a case charging a joint criminal enterprise between the Accused and others including the RUF/AFRC, it is details the criminal acts and/ or other actions of other alleged participants in the criminal enterprise. For example, on page 6802, “the return to</p>

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73	No	No	<p>Freetown of the leaders of the RUF and AFRC" is welcomed, while "the recent taking of hostages, including UNOMSIL and ECOMOG personnel, by rebel groups" is deplored.</p> <p>Rule 94 (A): None of the constituent parts of this Fact should be judicially noted pursuant to Rule 94(A) because they relate to the criminal responsibility of the Accused in a case charging a joint criminal enterprise by virtue of reference to the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – in this instance the RUF and AFRC. See, Second Amended Indictment, 29 May 2007, paras. 5 and 33; see, also, Amended Case Summary, 3 August 2007, Paras. 42 – 44, esp., para. 44.1. Additionally, several of these facts are open to reasonable dispute, such as (73a) which refers to statistics and (73b) and (73c) and their respective focus on the specific nature of atrocities committed against civilians;</p> <p>Source materials & Rule 92bis:</p> <p>This material should not be admitted pursuant to Rule 92bis for a number of reasons. First, the material contains impermissible evidence going to the proof of acts and conduct of the Accused, insofar as in a case charging a joint criminal enterprise between the Accused and others including the RUF/AFRC, it is details the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – e.g., the RUF and AFRC, Foday Sankoh, Johnny Paul Koroma, and Sam Bockarie. See, for example, p. 6813, "...</p>

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74	No	No	<p>Sam Bockarie, a key RUF commander... has publicly stated that the troops under his command will not disarm unless Nigerian ECOMOG troops withdraw from the country"; and pages 6814 - 15 "One organization was obliged to cease operating in Makeni following threats against its personnel delivered by Mr. Sankoh and senior RUF personnel on 15 November." Secondly, the prevalence of opinion evidence in the materials also counsel against admission under Rule 92 bis. Examples include statements such as these: "The initial response to the start of the DDR programme has been very poor" at para. 13, page 6812 and "in spite of Mr. Sankoh's public appeals, doubts remain with regard to the RUF commitment to the DDR programme" at page 6813, para. 15.</p> <p>Rule 94 (A): To the extent that the Prosecution seeks the underlying facts in Fact 74 judicially noted, the Defence objects. Objection is here taken to the indisputability of the events/ occurrences that are the subject of Fact (74a) and the proposition that the Government of Sierra Leone was not in full control over the exploitation of gold, diamonds, etc., which is the subject of Fact (74b). These are matters that are open to reasonable dispute, especially in the absence of a multiplicity of sources. Furthermore, Fact (74a) refers to the nature of specific atrocities allegedly committed against civilians and humanitarian personnel – matters which are always open to reasonable dispute;</p> <p>Source materials & Rule 92bis: The source material contains impermissible evidence going to the proof of acts and</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 B/S	REASONING
75	No	No	<p>conduct of the Accused, insofar as in a case charging a joint criminal enterprise between the Accused and others including the RUF and AFRC, it is details the criminal acts and/or other actions of other alleged participants in the criminal enterprise – the RUF and AFRC, in this instance. See, for example, page 6824 wherein the RUF and AFRC are urged to participate fully in the disarmament, demobilization and reintegration programme.</p> <p>Rule 94 (A): Admission of facts (75 a, b, and c) would be impermissible under Rule 94(A) because they implicate the criminal responsibility of the Accused in a case charging a joint criminal enterprise by virtue of reference to the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – in this instance the RUF and Sam Bockarie. See, <i>Second Amended Indictment</i>, 29 May 2007, paras. 5 and 33; see, also, <i>Amended Case Summary</i>, 3 August 2007, Paras. 42 – 44, esp., para. 44.1. Fact (75c) also directly relates to the criminal responsibility of the Accused, separate and apart from its implications for joint criminal enterprise, inasmuch as it speaks to denials that were issued by the Government of Liberia at a time when the Accused was President of Liberia. Additionally, all three constituent facts in this Fact are not beyond reasonable dispute and are therefore not facts of common knowledge;</p> <p><u>Source materials & Rule 92bis:</u></p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 B/S	REASONING
			<p>The source material contains impermissible evidence going to the proof of acts and conduct of the Accused in many respects. First, it details the Accused's participation with other Heads of State of the Mano River Union meeting on 2 March 2000 and the fact that the Accused was requested to become personally involved in resolving obstacles confronting the Sierra Leone peace process (see, page 6829 & 6832, para. 12). Indeed, there is reference to a second Mano River Union meeting on 8 May 2000 in Conakry, Guinea, and an ECOWAS summit meeting on 9 May, both of which the Accused attended and during which the Accused was apparently mandated other heads of state to become personally involved in the Sierra Leonean peace efforts. See pages 6840 -41, para. 76 - 77. Second, the facts detail allegations concerning the recruitment and training of rebels in Liberia by RUF commander, Sam Bockarie, and the denial of the same by the Liberian Government (see, page 6829 & 6832, para. 11). These allegations and the actions of the Government of Liberia could invariably be attributed or imputed to the Accused (at a minimum to his knowledge base) at a time when the Accused was President of Liberia. Third, and in a case charging a joint criminal enterprise between the Accused and others including the RUF and AFRC, the source material is replete with the criminal acts and/ or other actions of other alleged participants in the criminal enterprise, including those of the RUF, Foday Sankoh, Johnny Paul Koroma, and Sam Bockarie, and the AFRC. Additionally, a fair portion of the material contains opinion evidence and many factual assertions are not susceptible of confirmation, both of which are further reasons why it should not be admitted under Rule 92 bis. As an example, "The majority</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
76	No	No	<p>of “wives” of the combatants are in fact abductees and, if not interviewed separately from their “husbands”, would most likely not feel free to express their wish to return to their original families” at page 6836, para. 45.</p> <p>Rule 94 (A): None of the constituent parts of this Fact should be judicially noted pursuant to Rule 94(A), insofar as they implicate the criminal responsibility of the Accused in a case charging a joint criminal enterprise by virtue of reference to the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – in this instance the RUF. See, Second Amended Indictment, 29 May 2007, paras. 5 and 33; see, also, Amended Case Summary, 3 August 2007, Paras. 42 – 44, esp., para. 44.1. The facts also relate to the specific nature of atrocities committed against civilians and are, accordingly, open to reasonable dispute and therefore not facts of common knowledge. Furthermore, and in the absence of a multiplicity of sources, the source material does not suffice to place these facts beyond reasonable dispute, given its nature and overall appearance: it is unsigned and appears to have been taken from an Internet website, besides which it does contain some statistics which are clearly not indisputable;</p> <p>Source materials & Rule 92bis:</p> <p>The material contains impermissible evidence going to the proof of acts and conduct of the Accused on page 6854 where there is reference to a visit to Monrovia by Ambassador</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>Olywemi Adeniji, a Special Representative of the UN Secretary-General, and possible consultations with the Accused (then President of Liberia) on matters concerning the RUF and the Sierra Leonean conflict. Additionally, an in a case charging a joint criminal enterprise between the Accused and others including the RUF, details of the criminal acts and/ or other actions of the RUF which appear in the material involve proof of acts and conduct of the Accused and counsel against admission under Rule 92bis.</p>
77	No	No	<p>Rule 94 (A): These facts should not be admitted Pursuant to Rule 94(A) because they are not beyond reasonable dispute and are therefore not facts of common knowledge. To judicially note these facts would be tantamount to accepting that the scientific and investigative methods that were employed by the UN Panel of Experts in respect of Sierra Leone diamonds and arms met all relevant and applicable standards in the various fields of scientific study and expertise. Furthermore, the source material makes it clear that one of the Prosecution's expert witnesses to whom an objection has already been taken by the Defence, Mr. Ian Smillie, was one of the authors of the report from which these facts were extracted. The prosecution should thus not be allowed to present evidence that is required of it at trial through the back-door by way of judicial notice, especially when the evidence is already in dispute by virtue of pending defence objections. Essentially, these facts directly implicate expert testimony and evidence and these are matters that are always open to reasonable dispute:</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIAALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p><u>Source materials & Rule 92bis:</u></p> <p>The source material is replete with alleged proof of acts and conduct of the Accused and is therefore inadmissible under Rule 92bis. These allegations pertain to the Accused's acts and/ or conduct directly (e.g., "President Charles Taylor is actively involved in fuelling the violence in Sierra Leone" page 6901, para. 212) and indirectly in the mode of alleged criminal liability that derives from an alleged joint criminal enterprise with others, including Foday Sankoh (e.g., "The personal connections between President Charles Taylor and Foday Sankoh go back ten years to their training in Libya..." page 6897, para. 180). The source material also makes it clear that the Accused was interviewed by the Panel of Experts and his comments in response to certain inquiries were incorporated into the report. Additionally, and as is often the case with expert reports, the material is also replete with opinion evidence vis-à-vis assertions of fact (e.g., "Effective monitoring of airspace and a proper control system at airports is vital for the detection of illicit [arns] trafficking" at page 6902, para. 218). This is yet another factor that counsels against admissibility under Rule 92bis, not to mention the fact that one of its authors is a Prosecution expert witness (Mr. Ian Smillie) in respect of whom a Defence objection has been taken and is currently pending. Additionally, the material contains statistics in some instances (see, e.g., Table 1 on page 6892) and these are matters the accuracy of which are susceptible of being disproved.</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 B/S	REASONING
78	No	No	<p>Rule 94 (A): Admission of facts (69a) and (69b) are impermissible under Rule 94(A) because they implicate the criminal responsibility of the Accused in a case charging a joint criminal enterprise by virtue of reference to the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – in this instance the RUF. See, Second Amended Indictment, 29 May 2007, paras. 5 and 33; see, also, Amended Case Summary, 3 August 2007, Paras. 42 – 44, esp., para. 44.1. Furthermore, the facts relate to the specific nature of atrocities committed against civilians and are, accordingly, open to reasonable dispute and therefore not facts of common knowledge;</p> <p><u>Source materials & Rule 92bis:</u></p> <p>Portions of the source material relates to proof of acts and conduct of the Accused and the material should, therefore, be ruled inadmissible under Rule 92bis. In this regard, and in a case charging a joint criminal enterprise between the Accused and others including the RUF, there is reference to human rights abuses committed by the RUF against the civilian population in paragraph 6, page 6931. There is also reference in paragraph 11 of page 6934 to the “crisis in the Mano River Union region caused by the continued fighting in the border areas of Sierra Leone, Guinea and Liberia...” at a time when the Accused was President of Liberia. Facts of this nature can invariably be attributed and or imputed to the Accused and should, therefore, disqualify the source material from admission under Rule 92bis.</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
79	No	No	<p>Rule 94 (A): This proposed Fact is made up of excerpts from a United Nations Security Council Resolution which mandates certain directives to all UN member states in respect of, <i>inter alia</i>, the sale or supply of arms and related materials to Sierra Leone at a time when the Accused was President of the Republic of Liberia. This means that knowledge of the contents of the Resolution and, more significantly, responsibility for effectuating the Resolution could be attributed and/ or imputed to the Accused in his capacity as President of Liberia. Bearing in mind that this is a case charging joint criminal enterprise between the Accused and others, this fact should not be judicially-noted under Rule 94(A) because it indirectly attests to the individual criminal responsibility of the Accused pursuant to Article 6 of the Special Court's Statute, generally, and especially in respect of Article 6 (3) and what the Accused knew or had reason to know about alleged occurrences in Sierra Leone and the alleged criminal acts and/ or other actions of "the junta," as well as the time period during which such alleged occurrences were taking place. These are facts that the prosecution must prove beyond a reasonable doubt and they should not be judicially-noted by the Trial Chamber. Lastly, some of the constituent facts also relate to the nature of atrocities committed against civilians and accordingly, are open to reasonable dispute and therefore not facts of common knowledge;</p> <p>Source materials & Rule 92bis:</p> <p>The Defence objects to the source material because it goes to proof of the acts and</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>conduct of the Accused. The Resolution in question makes several requests of UN member-states (including the Republic of Liberia) at a time when the Accused was President of Liberia and, therefore, any acts of commission or omission in respect of any of the several directives in the Resolution could be imputed or attributed to the Accused in his capacity as President of Liberia. For example, the Resolution requires in paragraph 5 on p. 6217 that all States “prevent the entry into or transit through their territories of members of the military junta and adult members of their families...” A failing in this regard by the Republic of Liberia in respect of even a single junta member could, in theory, be imputed to the Accused in his capacity as President of Liberia. Additionally, Annexes I and II to the Resolution have not been provided to the Defence and, as such, the Defence also objects on the grounds that the source material is not susceptible of confirmation/ susceptible of being disproved and might implicate opinion evidence and/ or proof of acts and conduct of the accused.</p>
80	No	No	<p>Rule 94 (A): To the extent that the Prosecution seeks these facts judicially noted, in the sense that the persons that were listed by the Security Council Committee were indisputably “junta members,” then the Defence objects to the admission of this Fact because those are matters that are open to reasonable dispute and the Fact cannot, therefore, be deemed a fact of common knowledge. The facts also implicate the criminal responsibility of the Accused in a case charging a joint criminal enterprise with the</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 B/S	REASONING
81	No	No	<p>AFRC and others by including persons such as Foday Sankoh, Sam Bockarie, and Johnny Paul Koroma in the category of "junta members" against whom the Security Council saw fit to place on a travel ban list by virtue of allegedly criminal acts and/ or actions in connection with Sierra Leone. This is nothing short of guilt by association;</p> <p><u>Source materials & Rule 92bis:</u></p> <p>Part of the title to the Press Release which makes up the source material is "List of Junta Members Affected by Sanctions." In a case charging joint criminal enterprise between the Accused and some of the listed persons in the category of "junta members," this material should not be admitted pursuant to Rule 92bis because it contains impermissible evidence going to the proof of acts and conduct of the Accused by listing alleged participants in the alleged enterprise (such as Foday Sankoh and Johnny Paul Koroma) as "junta members" whose criminal actions and/ to other conduct necessitated the placement of their name on a travel ban list by the United Nations Security Council.</p> <p><u>Rule 94 (A):</u></p> <p>This Fact should not be judicially-noted under Rule 94(A) because its subject-matter is open to reasonable dispute. Whether there was an illicit trade in "rough" or conflict diamonds and whether such a trade fuelled the conflict in Sierra Leone are matters which</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>are open to reasonable dispute. Furthermore, the allegation that the illegal diamonds were transiting neighbouring countries, including the territory of Liberia, at a time when the Accused was President of Liberia impermissibly implicates the criminal responsibility of the Accused;</p> <p><u>Source materials & Rule 92bis:</u></p> <p>The source material is U.N. Security Council Resolution which is directed at, <i>inter alia</i>, states through which alleged rough diamonds from Sierra Leone are allegedly known to transit, including Liberia (see page 6946, para. 9 and page 6944 “such diamonds transit neighbouring countries, including the territory of Liberia”), at a time when the Accused was President of Liberia. This sort of allegations directly relate to proof of acts and conduct of the Accused and, as such, render the document inadmissible pursuant to Rule 92bis.</p>
82	No	No	<p><u>Rule 94 (A):</u> Whether there was a link between an alleged trade in arms and other materials, on the one hand, and an illicit trade in Sierra Leonean diamonds, on the other hand, are matters that are open to reasonable dispute. The constituent parts of this Fact should, therefore, not be judicially-noted, pursuant to Rule 94(A). Additionally, the Fact makes the explicit allegation that a Liberian military helicopter transported ammunition to locations in Sierra Leone and that persons, such as, Sam Bockarie, Gibril Massaquoi,</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>and Morris Kallon had transited through or were in Liberia. These events are said to have taken place at a time when the Accused was President of Liberia and could therefore be attributed or imputed to the Accused, even if not directly, then by virtue of the joint criminal enterprise mode of criminal liability in this case. See, Second Amended Indictment, 29 May 2007, paras. 5 and 33; see, also, Amended Case Summary, 3 August 2007, Paras. 42 – 44, esp., para. 44.1. As such, the Fact impermissibly atests to the criminal responsibility of the Accused and is therefore not a fact of common knowledge;</p> <p><u>Source materials & Rule 92bis:</u></p> <p>The source material is letter from the Chairman of a U.N. Security Council Committee in respect of Sierra Leone diamonds and arms. It indicates in paragraph 15 on page 6956-57 that Mr. Ian Smillie, a Prosecution diamonds expert witness in this case to which the Defence has taken an objection, was a member of the said Committee. The Defence, therefore, to the extent that it represents or contains the views of Committee members, including Mr. Smillie, against whom an objection to his expertise is currently pending before the Trial Chamber. Additionally, the document is replete with allegations concerning the acts and/or conduct of several individuals, such as Foday Sankoh (page 6958, para. 20), Sam Bockarie, Gibril Massagouei, and Morris Kallon (page 6958, para. 22) -- the latter three in connection with transit through the territory of Liberia at a time when the Accused was President of Liberia. In this regard, and considering that this case</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
83	No	No	<p>charges the Accused in connection with a joint criminal enterprise that included, <i>inter alia</i>, Foday Sankoh, the Defence submits that this is document contains impermissible evidence going to the proof of acts and conduct of the Accused.</p> <p>Rule 94 (A): Admission of the constituent facts in Fact 83 would be impermissible under Rule 94(A) because they implicate the criminal responsibility of the Accused in a case charging a joint criminal enterprise by virtue of reference to the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – in this instance the RUF, AFRC, and AFRC/RUF junta. See, Second Amended Indictment, 29 May 2007, paras. 5 and 33; see, also, Amended Case Summary, 3 August 2007, Paras. 42 – 44, esp., para. 44.1. Furthermore, the facts are open to reasonable dispute because the invariably relate to the specific nature of atrocities committed against civilians and/ or the launching of military operations (e.g., “Operation No Living Thing”). These are reasons which additionally counsel against judicial notice pursuant to Rule 94(A);</p> <p>Source materials & Rule 92bis: The source material is replete with opinion evidence which counsel against admission under Rule 92 bis. Examples include statements such as these: “The brutality authored by the RUF is political terror at its worst,” page 6963 and “This gang-like outfit has no clear leadership structure and even murkier political aims...”, page 6963. Furthermore, the material goes to proof of acts and conduct of the accused, in that in a case charging a</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
84	No	No	<p>joint criminal enterprise between the Accused and others including the RUF and AFRC, it is replete with details concerning the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – e.g., the RUF. This also counsels against admission pursuant to Rule 92bis.</p> <p>Rule 94 (A): This fact is open to reasonable dispute and should, therefore, not be judicially-noted. More specifically, all of its constituent parts relate to the specific nature of atrocities committed against civilians and accordingly, are open to reasonable dispute. And even if Fact (84k) is arguably different in that regard, it does speak to the crisis in Sierra Leone and alleges human rights violations against the AFRC – one of the alleged participants in the joint criminal enterprise that has been alleged against the Accused at bar. Under these circumstances, the fact should not be judicially-noted because like other constituent facts that speak of atrocities allegedly committed by the RUF (Facts 84a, 84b, 84c, 84e, 84f, 84g, 84h, 84i, and 84j), Fact (84k) implicates the criminal responsibility of the Accused in a case charging a joint criminal enterprise;</p> <p><u>Source materials & Rule 92bis:</u></p> <p>The source material is a report by <i>Amnesty International</i> that contains a significant amount of opinion evidence, such as “Soldiers and RUF members have operated with impunity and have created a climate of fear and intimidation in Freetown” (page 7001)</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
85	No	No	<p>and "Amnesty International does not favour or oppose military intervention" (page 6989). It should, therefore, not be admitted pursuant to Rule 92bis. Additionally, the material details innumerable criminal acts of the AFRC and the RUF, including allegations of the targeting of journalists, students, human rights activists, and associates of President Ahmad Tejan Kabbah, for arbitrary arrests and detentions, and torture and ill-treatment. Such allegations are in many instances not susceptible to confirmation and, in a case, charging a joint criminal enterprise between the Accused and others including the RUF and the AFRC, they directly implicate proof of acts and conduct of the Accused. This material should not, as such, be admitted under Rule 92bis.</p> <p>Rule 94 (A): This fact is open to reasonable dispute and should, therefore, not be judicially-noted. More specifically, all of its constituent parts relate to the specific nature of atrocities committed against civilians and accordingly, are open to reasonable dispute. Furthermore, the facts additionally refer to criminal acts against the civilian population that were allegedly committed by the AFRC and RUF, both of whom are alleged participants in the joint criminal enterprise that has been alleged against the Accused at bar. Under these circumstances, where the constituent facts speak of atrocities allegedly committed by the AFRC and the RUF, they should not be judicially-noted because they attest to the criminal responsibility of the Accused in a case charging a joint criminal enterprise. Moreover, many of the facts in question are open to reasonable dispute, such</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>as whether "several thousand unarmed civilians... were killed and mutilated by forces of the AFRC and the RUF" (Fact 85a), whether babies were thrown into rivers (Fact 85d) and whether almost 3,000 children that were allegedly associated with the RUF fled Freetown in a matter of days, fearing reprisals from civilians (Fact 85e);</p> <p><u>Source materials & Rule 92bis:</u></p> <p>The source material is a report by <i>Amnesty International</i> that contains a significant amount of opinion evidence, such as "Soldiers and RUF members have operated with impunity and have created a climate of fear both in Freetown and throughout the country" (page 7022) and "There should be no impunity for the grave human rights violations committed throughout the period of AFRC rule" (page 7021). It should, therefore, not be admitted pursuant to Rule 92bis. Additionally, the material details innumerable criminal acts during the AFRC rule, including allegations of the targeting of journalists, human rights activists, and associates of President Ahmad Tejan Kabbah, for arbitrary arrests and detentions, and torture and ill-treatment. Such allegations are in many instances not susceptible to confirmation and, in a case charging a joint criminal enterprise between the Accused and others including the AFRC and the RUF, they directly implicate proof of acts and conduct of the Accused and should not be admitted under Rule 92bis. Significantly, the material also pronounces more directly on the actions of the Government of Liberia and on those of the Accused. For example, on Page 7016, it</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
86	No	No	<p>details a number of meetings between the Accused and President Kabbah on 1 July 1998 and 20 July 1998, respectively, resulting in, inter alia, their arrival at an agreement on a number of “confidence-building measures” and a joint communiqué. There is also reference in the material to allegations against the Government of Liberia for providing arms and ammunition to AFRC and RUF forces in Sierra Leone (Page 7016). These facts – both in respect of the Accused’s personal conduct/ actions and those alleged against the Liberian Government at a time when the Accused was President of Liberia – all implicate proof of acts and conduct of the Accused and strongly counsel against the admission of the source material under Rule 92bis.</p> <p>Rule 94 (A): In the absence of a multiplicity of sources, the source material does not suffice to place these facts beyond reasonable dispute. To suggest that there had been a noticeable increase in the number of patients suffering from severe mutilations “over the past few weeks,” the base statistical figures for the preceding weeks ought to be presented and compared to more recent figures. These statistics are absent from the source material and thus leave such issues open to reasonable dispute. The Defence objects to judicially-noting these facts;</p> <p>Source materials & Rule 92bis:</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
87	No	No	<p>Considering that the source material is a one-page press release, it does contain a fair amount of opinion evidence which counsels against admission under Rule 92 bis. Examples include statements such as these: "...there could be many more victims in the countryside, unable to reach the hospital. 'We fear that this may be just the tip of the iceberg'" (page 7046). Many allegations in the document are also not susceptible of confirmation, such as whether or not seriously-wounded civilians who were allegedly seen fleeing into bushes "remain unaccounted for." For these reasons, the document should not be admitted pursuant to Rule 92bis.</p> <p>Rule 94 (A): The constituent facts in this Fact all relate to the specific nature of atrocities committed against civilians and accordingly, are open to reasonable dispute and therefore not facts of common knowledge;</p> <p>Source materials & Rule 92bis: The source material contains accounts by victims of severe mutilations about the circumstances surrounding which they sustained their respective injuries. Many of these accounts are not susceptible of confirmation, including for example, one that alleges that "the attackers took the amputated arms with them" (page 7054) and "Each patient had a similar gruesome story to tell." These reasons counsel against admission under Rule 92bis.</p> <p>Rule 94 (A): The constituent parts of these facts relate to the specific nature of atrocities</p>
88	No	No	

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
89	No	No	<p>committed against civilians and accordingly, are open to reasonable dispute and therefore not facts of common knowledge. Additionally, the facts implicate the criminal responsibility of the Accused in a case charging a joint criminal enterprise by virtue of reference to the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – in this instance the AFRC and RUF. See, Second Amended Indictment, 29 May 2007, paras. 5 and 33; see, also, Amended Case Summary, 3 August 2007, Paras. 42 – 44, esp., para. 44.1;</p> <p><u>Source materials & Rule 92bis:</u></p> <p>The source material is a report by <i>Amnesty International</i> that contains a significant amount of opinion evidence, such as “Peace and security in Sierra Leone will not be achieved until there is an end to impunity” (page 7063) and “The needs of children in Sierra Leone are critical” (page 7062). It should, therefore, not be admitted pursuant to Rule 92bis. The material also contains impermissible evidence going to the proof of acts and conduct of the Accused, insofar as in a case charging a joint criminal enterprise between the Accused and others including the AFRC and RUF, it details the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – e.g., the AFRC and RUF.</p> <p><u>Rule 94 (A):</u> This Fact should not be judicially-noted because whether “every item” of</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
90	No	No	<p>civilian property was “considered to belong to members of the forces” and whether “everything belonged to [the joint forces]” are all matters that are open to reasonable dispute. The facts also relate to the specific nature of atrocities committed against civilians and accordingly, are open to reasonable dispute and therefore not facts of common knowledge.</p> <p><u>Source materials & Rule 92bis:</u></p> <p>The source material should not be admitted under Rule 92bis because many of the accounts by alleged victims which it relates are not susceptible of confirmation. The material also goes to proof of acts and conduct of the Accused, insofar as in a case charging a joint criminal enterprise between the Accused and others including the AFRC, RUF, and alliances between the two, it details several criminal acts and/ or other actions of other alleged participants in the criminal enterprise – e.g., the AFRC/RUF. These acts against the civilian population include abductions, extortions, assaults and insults. Furthermore, the material contains a significant amount of statistics that, in the Defence’s view, are arguably not susceptible of confirmation. The Defence therefore objects to the admission of the source material pursuant to Rule 92bis.</p> <p><u>Rule 94 (A):</u> The constituent parts of these facts relate to the specific nature of atrocities committed against civilians and accordingly, are open to reasonable dispute and therefore</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
91	No	No	<p>not facts of common knowledge. Additionally, the facts implicate the criminal responsibility of the Accused in a case charging a joint criminal enterprise by virtue of reference to the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – in this instance the AFRC, the RUF and the AFRC/RUF alliance. See, Second Amended Indictment, 29 May 2007, paras. 5 and 33; see, also, Amended Case Summary, 3 August 2007, Paras. 42 – 44, esp., para. 44.1;</p> <p><u>Source materials & Rule 92bis:</u></p> <p>The source material goes to proof of acts and conduct of the Accused, insofar as in a case charging a joint criminal enterprise between the Accused and others including the AFRC, RUF, and alliances between the two, it details several criminal acts and/ or other actions of other alleged participants in the criminal enterprise – e.g., the AFRC, the RUF, and the AFRC/RUF alliance. Many of the contents of the source material are also not susceptible of confirmation, such as the allegation on page 7097 that “The AFRC/RUF abducted an unknown number of children – probably in the thousands – for use as labourers, fighters, and in the case of girls, sexual prisoners.” For these reasons, the Defence therefore objects to the admission of the source material pursuant to Rule 92bis.</p> <p><u>Rule 94 (A):</u> This Fact should not be judicially-noted because its constituent facts are not facts of common knowledge, in the sense of all being beyond reasonable dispute. More</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
92	No	No: Exh 1.367	<p>specifically, the facts relate to the specific nature of atrocities committed against civilians and are therefore not facts of common knowledge which may be judicially-noted;</p> <p><u>Source materials & Rule 92bis:</u></p> <p>The source material is a report by Amnesty International that contains impermissible evidence going to the proof of acts and conduct of the Accused, insofar as in a case charging a joint criminal enterprise between the Accused and others including the AFRC and RUF, it details the criminal acts and/ or other actions of other alleged participants in the criminal enterprise – e.g, Foday Sankoh, the AFRC, and the RUF. These acts against the civilian population include torture, mutilations, rape, abductions and amputations</p> <p>The Defence therefore objects to the admission of the source material pursuant to Rule 92bis.</p> <p>Rule 94 (A): This fact is open to reasonable dispute and is therefore not a fact of common knowledge. Furthermore, the idea of Sierra Leonean diamonds being “stolen” or the idea of Liberia’s production having a “contradiction between known reserves and actual exports” implicate the criminal responsibility of the accused and must be proved at trial;</p> <p><u>Source materials & Rule 92 bis:</u></p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
93	No: 93(a), (b), (c), (e), (f), (g) Yes: 93(d)	No: Exh 1.069	<p>The OTP has only indicated pgs. 17 and 18 as relevant. Additionally, the report contains extensive opinion evidence, such as pg. 9, which states, "Mineral resources which should have been available for development were used to finance the war, robbing the potential beneficiaries and an entire generation of children..." and pg. 48, which states, "What is different and more sinister today is the active involvement of official Liberian interests in Sierra Leone's brutal war – for the purpose of pillage rather than politics." The report also contains facts pertaining to the acts and conduct of the accused such as at pg. 48, which states, "Diamonds have played an active role in financing Taylor's own expansionist enterprise, and in bringing Sierra Leone to its knees."</p> <p>Rule 94 (A): 93(a), (b), (c), (e), (f), (g) The issue of whether or not the RUF used and had a history of using child soldiers, whether or not the RUF routinely raped captured women and girls, and whether or not Mr. Taylor knew about this via a Human Rights Watch Report, goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(93d) The Defence does not dispute that the executive director of the Africa Division of Human Rights Watch called upon parties to stop using child soldiers, but the Defence does not accept that Mr. Taylor had knowledge of this proclamation via the Human Rights Watch Report;</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>Source materials & Rule 92 bis: The OTP has not indicated which part(s) of the document are relevant. Additionally, because the allegations against the Accused are based on a theory of superior responsibility, the actions of the RUF, as described in the document may be imputed to the Accused.</p>
94	No: 94(a), (b) Yes: 94(c)	No: Exh 1.068	<p>Rule 94 (A): The issue of whether or not the RUF looted, raped, abducted, killed or mutilated civilians in RUF-controlled areas, and whether or not Mr. Taylor knew of this via the Human Rights Watch Report, is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial.</p> <p>Source materials & Rule 92 bis: The OTP has not indicated which part(s) of the document are relevant. Additionally, because the allegations against the Accused are based on a theory of superior responsibility, the actions of the RUF, as described in the document may be imputed to the Accused.</p>
95	No	No: Exh 1.169	<p>Rule 94 (A): Whether Mr. Taylor knew of the occurrence of rape and sexual violence against girls and women, via an Amnesty International Report is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial.</p> <p>Additionally:</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>(95a) Whether rape, sexual slavery and other forms of sexual violence against girls and women by rebel forces was “systematic and widespread” is a legal conclusion;</p> <p>(95b) Whether thousands of girls were abducted and raped by rebel forces goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(95c, 95e) Whether women were forced to become “wives” of single combatants or abused by several combatants is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(95d) Whether “rebel” forces attacked Freetown on 6 January 1999 and who is responsible for the atrocities that occurred is subject to reasonable dispute and must be proved at trial;</p> <p>(95f) The number of children missing after the incursion into Freetown in January 1999 is subject to reasonable dispute and must be proved at trial;</p> <p>(95g) The number of children still missing at the beginning of 2000 is subject to reasonable dispute and must be proved at trial;</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>(95h) Whether rebel forces “continued” to abduct, rape, and sexually abuse girls and women post-Lome is subject to reasonable dispute and must be proved at trial. It also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(95i) Whether rebel forces in the area of Masiaka raped and abducted girls and women is subject to reasonable dispute and must be proved at trial. It also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(95j) Whether combatants must be explicitly instructed regarding int^l humanitarian law by those who exercise chain-of-command control is a legal conclusion;</p> <p>(95k) Whether leaders of the RUF must instruct combatants to respect international humanitarian law is a legal conclusion;</p> <p>(95l) Whether leaders of the RUF must order the release of women and girls is a legal conclusion. It also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p><u>Source materials & Rule 92 bis:</u> The OTP has not indicated which part(s) of the document are relevant. Additionally, because the allegations against the Accused are based on a theory of superior</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
96	No	No: Exh 1.177	<p>responsibility, the actions of the RUF, as described in the document may be imputed to the Accused.</p> <p>Rule 94 (A): Whether Mr. Taylor knew of sexual violence via a Human Rights Watch Report is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial. Additionally:</p> <p>(96a) Whether sexual violence against women and girls was “widespread and systematic” and was used to “terrorize” the civilian population are legal conclusions;</p> <p>(96b) Determining which factions in the conflict were the most common perpetrators is subject to reasonable dispute;</p> <p>(96c) Whether sexual violence in the Sierra Leonean conflict was “systematic and widespread” or a crime against humanity is a legal conclusion;</p> <p>(96d) Whether “rebels” perpetrated systematic, organized, and widespread” sexual violence since 1991 is a legal conclusion;</p> <p>(96e) Whether and how the RUF punished rape in areas under their control is subject to reasonable dispute and must be proved at trial;</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
97	No	No: Exh 1.155	<p><u>Source materials & Rule 92 bis:</u> The OTP has not indicated which part(s) of the document are relevant. Additionally, because the allegations against the Accused are based on a theory of superior responsibility, the actions of the RUF and/or AFRC, as described in the document may be imputed to the Accused.</p> <p><u>Rule 94 (A):</u> Whether Mr. Taylor knew of atrocities against refugees returning to SL from Guinea via a Human Rights Watch Report is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial. The Defence accepts that the Human Rights Watch report is an authentic document, but the Defence does not accept the veracity of the stories of various atrocities as related therein. Because the facts contained in stories are subject to reasonable dispute, the Defence does not agree to judicially note the contents of the report;</p>
98	No: 98(b), (c), (d),	No: Exh 1.402	<p><u>Source materials & Rule 92bis:</u> The OTP has not indicated which part(s) of the document are relevant. Additionally, because the allegations against the Accused are based on a theory of superior responsibility, the actions of the RUF and/or AFRC, as described in the document may be imputed to the Accused.</p> <p><u>Rule 94 (A):</u> Whether Mr. Taylor knew of allegations contained in a Global Witness</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
	<p>(e), (f), (g), (h), (i), (j), (k), (l) Yes: 98(a)</p>		<p>Report is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial. Additionally:</p> <p>(98b) Whether Liberia provided “refuge” to Mosquito is subject to reasonable dispute and must be proved at trial;</p> <p>(98c, d) The Defence accepts that the Liberian maritime program and the logging industry were cited by the UN Panel of Experts on Sierra Leone and were involved in “conflict diamonds” and supporting the RUF, but these facts themselves are subject to reasonable dispute and must be proved at trial. Furthermore, they go to the criminal responsibility of the accused;</p> <p>(98e) Whether certain people on the List acquired Sierra Leonean passports and their purpose for doing so are subject to reasonable dispute and must be proved at trial;</p> <p>(98f) Who and where the RUF Vanguarders were is subject to reasonable dispute. The issue also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(98g) Whether civilians were forcibly removed from SL and/or recruited into the ATU and AFL is subject to reasonable dispute. The issue also goes to the criminal responsibility of the accused and must be proved at trial;</p>

12459

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>(98h) Whether RUF rebels were sent to Lofa County and for what purpose is subject to reasonable dispute. The issue also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(98i) Whether Liberia began illicit logging operations in SL and whether the RUF were fighting in Lofa County were subject to reasonable dispute. The issue also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(98j) Whether the Liberian government and the RUF cooperated to forcibly enlist SL refugees in Liberia to become combatants is subject to reasonable dispute. The issue also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(98k) The evidence obtained by Global Witness is subject to reasonable dispute. Even the fact itself says the RUF were "reportedly" given military training, which shows that the fact is not fully substantiated. The issue also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(98l) Whether the RUF was able to "continue its activities" because of alleged support from the Liberian is at the crux of the Prosecution case. Such a fact is obviously subject to reasonable dispute. The issue also goes to the criminal responsibility of the accused</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
99	No: 99(b) Yes: 99(a), (c)	No: Exh 1.179	<p>and must be proved at trial;</p> <p>Source materials & Rule 92 bis: The document contains opinion evidence, such as on pg. 12, which states, "Although there are several changes taking place in respect to President Charles Taylor's connection with the RUF since the 7th May 2001 sanctions, significant links remain." Furthermore, the document contains facts pertaining to the acts and conduct of the accused, such as on pg. 14, which states, "In May 2001, according to eye-witnesses, Sierra Leonean refugees were being forcibly recruited by President Charles Taylor's Anti-Terrorist Unit (ATU) and the Armed Forces of Liberia at the Bridge between Lofa and Bona counties (St. Paulsville)".</p> <p>Rule 94 (A): Whether Mr. Taylor knew of the removal of war scars in SL via an International Media Corps Report is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial. Additionally:</p> <p>(99b) Whether children were kidnapped, drugged, abused or forced to harm their fellow countrymen, by the RUF, is subject to reasonable dispute. The issue also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>Source materials & Rule 92 bis:</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
100	No: 100(b), (c) Yes: 100(a)	No: Exh 1.215	<p>The only page indicated as relevant is page 1 (note that page 1 is served twice). The article is full of opinion evidence. See, ex., the statement of the International Medical Corps President that “without plastic surgery, these child victims might never be able to return to their communities and reintegrate into society.” The article also contains facts pertaining to the acts and conduct of the Accused, via the alleged actions of the “rebels”.</p> <p>Rule 94 (A): Whether Mr. Taylor knew of atrocities in SL via a Physicians for Human Rights Report is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial. Additionally:</p> <p>(100b) When the majority of abuses in the Sierra Leonean conflict occurred and who the abuses could be primarily attributed to is subject to reasonable dispute. The issue also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(100c) The number of women who suffered war-related sexual assaults is subject to reasonable dispute. The issue also goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>Source materials & Rule 92 bis: The OTP has not indicated which part(s) of the Physicians for Human Rights report is relevant. The report is full of opinion evidence. See, ex., the Executive Summary, which</p>

FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
101	Yes	Yes: Exh 1.282	states, "The findings of this study...indicate that combatants have committed widespread human rights abuses and international crimes against IDPs in Sierra Leone..." Additionally, the report contains facts pertaining to the acts and conduct of the Accused, as well as opinion evidence, such as on pg. 17, "The NPFL's support for the RUF may have been in response to Sierra Leone's participation in ECOMOG... which was using Freetown as a staging ground for operations against Taylor in Liberia."
102	Yes	No: Exh 1.232 Exh 1.019 Exh 1.389	<u>Source materials & Rule 92 bis:</u> The Defence accepts the admission of this exhibit. <u>Source materials & Rule 92 bis:</u> Exh 1.232 – The OTP has not indicated which portions are relevant. Facts regarding the Liberian Civil War between 1989 and 1996 are outside both the temporal and geographical scope of the jurisdiction of the Special Court. Furthermore, the contents implicate the acts and conduct of the Accused; Exh 1.019 - The OTP has not indicated which portions are relevant. The paragraph referred to (para. 37) is only relevant to show that the Liberian Civil War was from 1989-1996, but not otherwise. The rest of the Letter/Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001), paragraph 19, concerning Liberia, is replete

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
103	No	No	<p>with opinion evidence, as well as facts pertaining to the acts and conduct of the Accused; Exh 1.389 – Local newspaper reports are not the best source of information and may not be susceptible of confirmation.</p> <p>Rule 94 (A): This fact, as stated, is not substantiated by the underlying material. There is no reference to 1990 in the transcript. At any event, the location of ECOMOG forces at any given time is subject to reasonable dispute and must be proved at trial;</p> <p>Source materials & Rule 92 bis: The BBC Radio Broadcast transcript referred to, pgs. 12-13, are not directly relevant to the purpose for which they were submitted under Rule 94(A). Certainly the contents of all 11 tracks are not relevant for that purpose. Furthermore, the transcripts contain facts pertaining to the acts and conduct of the Accused and his alleged subordinate, Sam Bockarie, and therefore must not be admitted through this Rule.</p>
104	No	No	<p>Rule 94 (A): This fact, as stated, is not substantiated by the underlying material. The underlying material only states, "The intervention force that landed in Liberia on 24 August 1990 consisted of troops contributed by Nigeria, Ghana, Guinea, Sierra Leone and The Gambia" and "The Group [ECOMOG] departed in 1998...";</p> <p>Source materials & Rule 92 bis:</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
105	No	Yes: Exh 1.276, Exh 1.243	<p>The ECOWAS profile contains facts pertaining to the acts and conduct of the Accused and his alleged subordinate, Foday Sankoh, and therefore must not be admitted through this Rule.</p> <p>Rule 94 (A): Because the indictment against Mr. Taylor is based on theories of superior responsibility chain-of-command control, the type and degree of executive power exercised by Mr. Taylor goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>Source materials & Rule 92 bis: The Defence accepts the admission of the Liberian Constitution and Liberian Codes Revised.</p>
106	No	No: Exh 1.352 Yes: Exh 1.276, Exh 1.243, Exh 1.274	<p>Rule 94 (A): Because the indictment against Mr. Taylor is based on theories of superior responsibility chain-of-command control, the type and degree of executive power exercised by Mr. Taylor goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>Source materials & Rule 92 bis: Exh 1.352 contains facts pertaining to the acts and conduct of the Accused. See ex. "Liberia said it deployed its elite Anti-Terrorist Unit troops near the US Embassy..."</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
107	No: 107(a), (b), (c), (e), (g) Yes: 107(d), (f)	No: Exh 1.217	<p>(Note that the excerpts of the Constitution and Liberian Codes are almost completely illegible as served.) <u>Rule 94 (A):</u></p> <p>(107a) Whether refugees and child soldiers were recruited by armed opposition and whether this was supported by the Liberian government goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(107b) Whether the Liberian government was providing arms, ammunition and fighters to armed opposition groups in SL, and whether Mr. Taylor knew about this via an Amnesty International Report, is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(107c) Whether Liberia had a role in illicit diamond and arms trade from SL, and whether Mr. Taylor knew about this via an Amnesty International Report, is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial;</p> <p>(107e) Whether the Liberian Government supported rebel forces in SL, and whether Mr. Taylor knew about this via an Amnesty International Report, is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial;</p>

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FACT	DEFENCE ACCEPTS THAT FACT (NOT SOURCE MATERIAL) CAN BE JUDICIALLY NOTED UNDER RULE 94(A)	DEFENCE ACCEPTS THAT SOURCE MATERIAL MAY BE ADMITTED PURSUANT TO RULE 92 BIS	REASONING
			<p>(107g) Whether or not diamonds from rebel-held areas financed the purchase of arms for the purpose of mutilating and killing civilians in SL, and whether Mr. Taylor knew about this via an Amnesty International Report, is subject to reasonable dispute and goes to the criminal responsibility of the accused and must be proved at trial;</p> <p><u>Source materials & Rule 92 bis:</u> Material implicates conduct of the accused. See ex., "...concern about Liberia's role in the illicit diamond trade from Sierra Leone and its failure to stop arms reaching rebel forces in Sierra Leone through Liberian territory..."</p>

Annex B

Prosecutor v. Taylor, SCSL-2003-01-T
Defence Response to "Prosecution's Motion for Judicial Notice"
10 September 2007

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June 1981

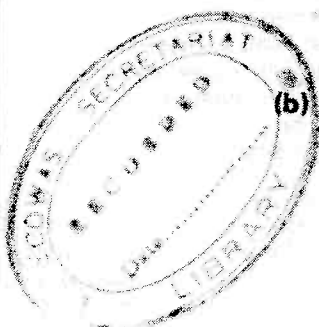
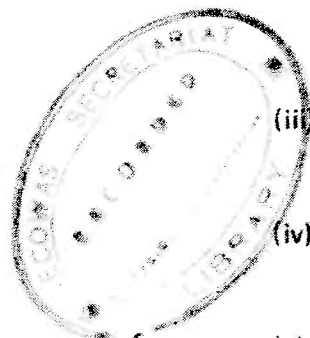
English edition

PROTOCOLS, DECISIONS & DIRECTIVES

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NOT TO BE TAKEN AWAY



A/SP3/5/81 PROTOCOL RELATING TO MUTUAL ASSISTANCE ON DEFENCE

PREAMBLE

THE GOVERNMENTS OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES;

RECALLING Article 2 of the United Nations Charter which calls upon all Member States to refrain in their international relations from resorting to the use of threats or force either against the territorial integrity or the independence of all States in any manner that is incompatible with the aims of the United Nations or from interfering in the internal affairs of other States;

RECALLING Article 3 of the Charter of the Organisation of African Unity which calls upon Member States to respect the sovereignty and territorial integrity of each State and its inalienable right to an independent existence;

MINDFUL of the Treaty setting up the Economic Community of West African States;

RECALLING the Protocol on Non-Aggression signed in Lagos on 22nd April 1978 in accordance with which Member States resolved not to use force as a means of settling their disputes;

CONVINCED that economic progress cannot be achieved unless the conditions for the necessary security are ensured in all Member States of the Community;

CONSIDERING that Member States belong to the same geographical area;

CONSCIOUS of the serious continuous threats of aggression on the African continent in general and their own countries in particular;

CONSCIOUS of the serious risks that the presence of foreign military bases on the African continent may constitute as support forces to external aggression;

FIRMLY RESOLVE to safeguard and consolidate the independence and the sovereignty of Member States against foreign intervention.

CONSCIOUS of the fact that external defence of their states depends entirely on each sovereign state, and that such a defence will be more effective with the coordination and pooling together of the means of mutual assistance provided by respective Member States within the framework of this Protocol;

DESIROUS of maintaining the ties of friendship existing amongst Member States and of strengthening their cooperation in all fields on the basis of equality, mutual interests and respects;

HAVE AGREED as follows:

CHAPTER I

DEFINITIONS

Article 1

Within the context of this Protocol, "Treaty" means the Treaty of the Economic Community of West African States;

"Community" means the Economic Community of West African States;

"Authority" means the Authority of Heads of State and Government as defined in Article 5 of the Treaty;

"Member State" or "Member States" means a Member State or Member States of the Community;

"Executive Secretary" means Executive Secretary of the Community as defined in Article 8 of the Treaty;

"Aggression" means the use of armed force by any State against the sovereignty and territorial integrity or political independence of another State or by any other manner incompatible with the Charter of the United Nations and OAU;

"Assistance on Defence" means all military aid (material, technical and personnel).

CHAPTER II

OBJECTIVES

Article 2

Member States declare and accept that any armed threat or aggression directed against any Member State shall constitute a threat or aggression against the entire Community

Article 3

Member States resolve to give mutual aid and assistance for defence against any armed threat or aggression.

Article 4

Member States shall also take appropriate measures such as specified in Articles 17 and 18 of the present Protocol in the following circumstances:

- (a) In case of armed conflict between two or several Member States if the settlement procedure by peaceful means as indicated in Article 5 of the Non-Aggression Protocol mentioned in the Preamble proves ineffective;
- (b) In case of internal armed conflict within any Member State engineered and supported actively from outside likely to endanger the security and peace in the entire Community. In this case the Authority shall appreciate and decide on this situation in full collaboration with the Authority of the Member State or States concerned.

CHAPTER III INSTITUTIONS

Article 5

The institutions for the implementation of this Protocol shall be:

The Authority
The Defence Council
The Defence Commission

SECTION I – THE AUTHORITY

Article 6

1. The Authority on the occasion of the annual ordinary meeting of ECOWAS shall examine general problems concerning peace and security of the Community;
2. The Authority may also hold extraordinary sessions on defence matters where circumstances so require;
3. The Authority shall decide on the expediency of military action and entrust its execution to the Force Commander of the Allied Forces of the Community (AAFC);
4. Decisions taken by the Authority shall be immediately enforceable on Member States.

SECTION II – THE DEFENCE COUNCIL

Article 7

1. A Defence Council of the Community shall be established by the Authority.
2. It shall consist of Ministers of Defence and Foreign Affairs of Member States. However, in cases of crisis, the Defence Council shall be chaired by the current Chairman of the Authority and it shall be enlarged to include any other Minister from Member States according to the circumstances. The Executive Secre-

tary and the Deputy Executive Secretary in charge of military matters shall be in attendance at meetings of the Council.

Article 8

1. The Defence Council shall meet on the convocation by its Chairman to prepare the items of the Agenda of Sessions of the Authority dealing with defence matters.
2. In an emergency, the Defence Council shall examine the situation, the strategy to be adopted and the means of intervention to be used.

Article 9

In case of armed intervention, the Defence Council assisted by the Defence Commission shall supervise with the authority of the State or States Concerned, all measures to be taken by the Force Commander and ensure that all necessary means for the intervention are made available to him. The actions of the Force Commander shall be subject to competent political authority of the Member State or States concerned.

Article 10

At the end of the operation, the Defence Council shall write a factual report to be addressed to the Authority.

SECTION III – THE DEFENCE COMMISSION

Article 11

1. A Defence Commission shall be established by the Authority and shall consist of a Chief of Staff from each Member State.
2. The Defence Commission shall be responsible for examining the technical aspect of defence matters.
3. The Defence Commission shall establish its Rules of Procedure especially in respect of the convening of its meetings, the conduct of the business and the implementation of duties as assigned to it by the Defence Council.

CHAPTER IV

ADMINISTRATION

Article 12

1. The Defence Council shall appoint a Deputy Executive Secretary (Military) at the Executive Secretariat for a period of four years renewable only once.

2. The Deputy Executive Secretary (Military) shall be a senior serving military officer.
3. He shall be in charge of the administration and follow-up of the decisions taken by the Authority and in accordance with the present Protocol and under the authority of the Executive Secretary.
4. He shall update plans for the movement of troops and logistics and initiate joint exercises as provided for in paragraph 3 of Article 13 below.
5. He shall be assisted in the discharge of his functions by the necessary staff members and personnel as determined by the Defence Council.
6. He shall prepare and manage the military budget of the Secretariat.
7. He shall study and make proposals to the Executive Secretariat in respect of all matters relating to personnel and equipment within his jurisdiction.

CHAPTER V

MODALITIES OF INTERVENTION AND ASSISTANCE

Article 13

1. All Member States agreed to place at the disposal of the Community, earmarked units from the existing National Armed Forces in case of any armed intervention.
2. These Units shall be referred to as the Allied Armed Forces of the Community (AAFC).
3. In order to better realise the objectives set forth in this Protocol, the Member States may organise, from time to time, as may be approved by the Authority, joint military exercises among two or more earmarked Units of the AAFC.

Article 14

The Allied Armed Forces of the Community shall be under the command of the Forces Commander appointed by the Authority on the proposal of the defence Council. He shall be entrusted with powers that are conferred upon him by the Authority.

He together with the Chief of Defence staff of the assisted country, shall be the joint Chief of Defence Staff of the Allied Armed Forces and shall be responsible for the implementation of armed intervention and assistance as decided by the Authority. He shall have at his disposal all necessary means of defence.

Article 15

1. Intervention by A.A.F.C. shall in all cases be justified by the legitimate defence of the territories of the Community.
2. It shall therefore be carried out in accordance with the mechanism described in Articles 16, 17 and 18 below.

Article 16

When an external armed threat or aggression is directed against a Member State of the Community, the Head of State of that country shall send a written request for assistance to the current Chairman of the Authority of ECOWAS, with copies to other Members. This request shall mean that the Authority is duly notified and that the A.A.F.C. are placed under a state of emergency. The Authority shall decide in accordance with the emergency procedure as stipulated in Article 6 above.

Article 17

1. When there is a conflict between two Member States of the Community, the Authority shall meet urgently and take appropriate action for mediation. If need be, the Authority shall decide only to interpose the A.A.F.C. between the troops engaged in the conflict.

Article 18

1. In the case where an internal conflict in a Member State of the Community is actively maintained and sustained from outside, the provisions of Articles 6, 9 and 16 of this Protocol shall apply.
2. Community forces shall not intervene if the conflict remains purely internal.

CHAPTER VI**SPECIAL PROVISIONS****Article 19**

The implementation of this Protocol shall be supplemented by additional Protocols.

Article 20

1. Undertakings devolving from the provisions of this Protocol shall not be interpreted as being against the spirit of Conventions or Agreements binding one Member State to another third State or States; provided such Conventions and Agreements are not in conflict with the spirit of this Defence Assistance.
2. Nonetheless, a Defence Agreement concluded with some other State shall be denounced by the Member State concerned as soon as such other State shall have been identified by the Authority as an aggressor against a Member State.
3. Member States shall undertake to end the presence of foreign military bases within their national territories as soon as the Community is in the position to meet their requirements in matters relating to defence.

CHAPTER VII**GENERAL AND FINAL PROVISIONS****Article 21**

1. Any Member State which accedes to the Treaty automatically accedes to this Protocol and to the Protocol of Non-Aggression signed in Lagos on the 22nd April, 1978.
2. On the other hand, any Member State signatory to this present Protocol and having ratified it, or having acceded to it, becomes party to the above-mentioned Non-Aggression Pact.

Article 22

Any Member State may submit proposals for the amendment or revision of this Protocol.

2. Any such proposals shall be submitted to the Executive Secretary who shall communicate them to other Member States not later than thirty days after the receipt of such proposals. Amendments or revisions shall be considered by the Authority after Member States have been given one month's notice thereof.

Article 23

1. Any Member State wishing to withdraw from the Protocol shall give to the Executive Secretary one year's written notice. At the end of this period of one year, if such notice is not withdrawn, such a State shall cease to be a party to the Protocol.
2. During the period of one year referred to in the preceding paragraph, such a Member State shall nevertheless observe the provisions of this Protocol and shall remain liable for the discharge of its obligations under this Protocol.

Article 24

1. This Protocol shall enter into force provisionally at the signing by the Heads of State and Government, and definitively after ratification by not less than seven (7) signatories, in accordance with the Constitutional Laws of each Member State.
2. This Protocol, as well as all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies to all Member States and notify them of the dates of deposits of the instruments of ratification and shall register it with the Organisation of African Unity (OAU), as well as the United Nations (UN) and any other Organisation as the Authority shall decide.
3. The Present Protocol shall be annexed to and shall form an integral part of the Treaty.

IN FAITH WHEREOF, WE THE HEADS OF
STATE AND GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES
HAVE SIGNED THE PRESENT PROTOCOL.

DONE AT FREETOWN THIS 29TH DAY OF MAY 1981 IN SINGLE ORIGINAL IN THE ENGLISH
AND FRENCH LANGUAGES BOTH TEXTS BEING EQUALLY AUTHENTIC.



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DECISION C/AHSG/DEC.1/8/99 REDEFINING THE MANDATE OF ECOMOG IN SIERRA LEONE

THE CHAIRMAN OF THE AUTHORITY OF HEADS OF STATES AND GOVERNMENT,

MINDFUL Articles 7, 8 and 9 of the Revised Treaty establishing the Authority of Heads of State and Government and defining its composition and function;

MINDFUL of Article 8(2) of the Revised Treaty relating to the chairman of the Authority of Heads of State and Government of ECOWAS;

MINDFUL of the Final Communique emanating from the twenty-first Authority of Heads of State and Government meeting, notably paragraph 32 which states that Heads of State and Government have unanimously elected the Republic of Togo as the Chair of ECOWAS for 1998 - 1999;

MINDFUL of Decision A/DEC. 7/8/97 extending the scope of ECOMOG activity and mandate to cover Sierra Leone;

MINDFUL of the ECOWAS Peace Plan for Sierra Leone Signed in Conakry on 23rd October, 1997;

MINDFUL of the Cease-fire Agreement signed in Lome on 18th May, 1999;

MINDFUL of the Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front signed in Lome on 7th July, 1989;

CONSIDERING that the twenty-first session of the Authority of Heads of State and Government had recommended that Sierra Leonean crisis should be resolved through a combination of dialogue to foster national reconciliation, and the strengthening of ECOMOG;

CONSIDERING that, pursuant to consultations held with his peers, the ECOWAS Chairman initiated and organized internal dialogue between the leader of the Revolutionary United Front and his lieutenants;

CONSIDERING that negotiations organized between the Sierra Leonean parties by the ECOWAS Chairman led to the signing, in Lome, on 7th July, 1999, of a Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone;

CONVINCED that in order to ensure effective and efficient Implementation of the above-mentioned Peace Agreement, it will be necessary to immediately adapt the mandate of ECOMOG to reflect the new exigencies of peace and national reconciliation in Sierra Leone;

DESIRING to redefine the mandate of ECOMOG in Sierra Leone;

ON THE RECOMMENDATION of the signatories to the Peace Agreement of 7th July, 1999 between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone;

ACTING on behalf of the Authority of Heads of State and Government;

DECIDES

Article 1

1. The new ECOMOG mandate in Sierra Leone shall hereafter be defined as follows:
 - a) ECOMOG shall maintain peace and security of the Sierra Leonean State;
 - b) ECOMOG shall provide protection for UNOMSIL and the personnel working in the Disarmament, Demobilization and Reintegration Programme.
2. In this connection, ECOMOG shall:
 - a) monitor, verify and collate within the Joint Cease-fire Monitoring Commission to be created throughout the country, and of which it shall be a member, all reports of cease-fire violations received from the Commission and, together with the other members, carry out the necessary investigations and take appropriate measures;
 - b) provide security throughout the country for the authorities and persons resident in Sierra Leone, and for military observers of UNOMSIL, human rights monitors, humanitarian aid workers and staff of the Disarmament, Demobilization and Reintegration Programme;
 - c) in conjunction with UNOMSIL, disarm all

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- fighters of the Revolutionary United Front (RUF/SL), the civil defence forces (CDF), the ex-Sierra Leone Armed Forces (ex-SLA) and paramilitary groups;
- d) establish road blocks and check points to check movement of arms and ammunition and assist in directing refugees and displaced persons;
 - e) man entry points (land, sea and air) in order to prevent illegal movement of arms and ammunition into or out of the country;
 - f) conduct confidence patrols to provide free movement of people and easy distribution of relief materials;
 - g) conduct, cordon and search operations to recover hidden arms;
 - h) provide protection and escort duties to VIPs including Government officials, UN officials and NGO personnel involved in humanitarian relief activities
 - i) clearing of land mines and opening of all major roads to commercial activities and normal civilian traffic;
 - j) deployment of troops in all Disarmament Centres and arms collection sites to enhance disarmament and provide security to encamped ex-combatants;
 - k) restrict the ex-SLA to the barracks and supervise the return of arms and ammunition to armouries and magazines;
 - l) establish safe corridors and location for the settlement of refugees and the distribution of humanitarian relief materials;
 - m) provide assistance in the screening of combatants;
 - n) provide security for the weapons and ammunitions retrieved during disarmament and demobilization, as well as the arms depot;
 - o) assist in the destruction of recovered arms and ammunition;
 - p) conduct security patrols, guarding of Key-Points (KPs) and Vital-Point (VPs);
 - q) supervise the withdrawal of mercenaries from Sierra Leone, in collaboration with the Joint Cease-fire Monitoring Commission;
 - r) supervise technical assistance with regard to the de-mining, dismantling or destruction of all devices and similar weapons.

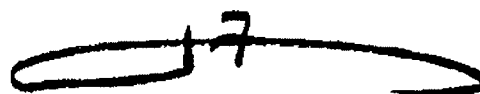
Article 2

The Force Commander shall report to the Chairman of Authority, through the Executive Secretary on the implementation of the ECOMOG mandate.

Article 3

This Decision shall be published by the Executive Secretariat in the Official Journal of the Community. It shall also be published by each Member State in its National Gazette.

**DONE AT LOME,
THIS 25th DAY OF AUGUST, 1999**



**H.E. GNASSINGBE EYADEMA,
CHAIRMAN,
FOR THE AUTHORITY.**



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TWENTIETH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT

ABUJA, FEDERAL REPUBLIC OF NIGERIA

28TH - 29TH AUGUST, 1997

FINAL COMMUNIQUE

1. The Authority of Heads of State and Government of the Economic Community of West African States (ECOWAS) held its Twentieth Ordinary Session in Abuja, Federal Republic of Nigeria, on 28th and 29th August, 1997 under the Chairmanship of His Excellency, General Sani Abacha, Head of State, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria.
2. Present at the session were the following Heads of State and Government or their duly accredited representatives:
 - His Excellency, Mathieu KEREKOU, President of the Republic of BENIN;
 - His Excellency, Blaise COMPAORE, President of FASO, Chairman of the Council of Ministers BURKINA FASO;
 - His Excellency, Colonel Yahya A.J.J. JAMMEH, President of the Republic of The GAMBIA;
 - His Excellency, Flt-Lt Jerry John RAWLINGS (Rtd), President of the Republic of GHANA;
 - His Excellency, General Lansana CONTE, President of the Republic of GUINEA;
 - His Excellency, General Joao Bernardo VIEIRA, President of the Republic of GUINEABISSAU;
 - His Excellency, Charles Ghankay TAYLOR, President of the Republic of LIBERIA;
 - His Excellency, Alpha Oumar KONARE, President of the Republic of MALI;
 - His Excellency, General Ibrahim Mainassara BARE, President of the Republic of NIGER;
 - His Excellency, General Sani ABACHA, Head of State and Commander-in-Chief of the Armed Forces of the Federal Republic of NIGERIA;
 - His Excellency, Ahmad Tejan KABBAH, President of the Republic of SIERRA LEONE;
 - His Excellency, General Gnassingbe EYADEMA, President of the TOGOLESE Republic;
 - His Excellency, Habib THIAM, Prime Minister of the Republic of SENEGAL;
 - The Honourable, Dr. Alexandre MONTEIRO, Secretary of State, Minister of Commerce, Industry & Tourism, representing the Prime Minister and Head of Government of CABO VERDE;
 - The Honourable, Amara ESSY, Minister of Foreign Affairs, representing the President of COTE D'IVOIRE;
 - The Honourable Abdellahi Ould NEM, Minister of Commerce, Handicraft and Tourism, representing the President of the Islamic Republic of MAURITANIA.
3. Attending the twentieth session as observers were:
 - The Secretary-General of the Organisation of African Unity (OAU);
 - The Assistant Secretary-General of the United Nations, representing the Secretary-General of the United Nations;
 - The Chairman of the Committee of Governors of Central Banks of West Africa;
 - The Director General of the West African Monetary Agency (WAMA);

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- i) the early re-instatement of the legitimate Government of President Ahmad Tejan KABBAH
 - ii) the return of peace and security; and
 - iii) the resolution of the issues of refugees and displaced persons.
25. The Authority expressed its determination to deploy all efforts towards the peaceful resolution of the Sierra Leone crisis, and called for the cooperation and understanding of all the parties concerned. The Authority, deeply concerned about the breakdown of negotiations in Abidjan on 30th July, 1997 between the Committee of Four and the illegal regime in Sierra Leone, and in view of the intransigence of the illegal regime, approved a package of sanctions and blockade as a further measure to ensure the restoration of the legitimate Government of President Ahmad Tejan Kabbah. Heads of State and Government mandated ECOMOG to specifically monitor the ceasefire, enforce sanctions and embargo and secure peace in Sierra Leone.
26. The Authority decided to enlarge the membership of the Committee responsible for monitoring the situation in Sierra Leone to five countries, by including the Republic of Liberia. It also decided to raise the status of the Committee to the level of Heads of State and Government.

CRISIS IN THE CONGO

27. Heads of State and Government received with appreciation, a special message from His Excellency El-Hadj Omar BONGO, President of Gabon and Chairman of the International Mediation Committee on the Congo crisis. The Authority deeply regretted the deteriorating situation in the Congo. It made a strong appeal to all the parties concerned to observe the ceasefire and be fully committed to peace and political dialogue.
28. The Authority expressed its support for the untiring efforts of President El Hadj Omar

Bongo to resolve the Congo crisis and has decided to send a delegation.

TRANSFER OF ECOWAS SECRETARIAT TO ABUJA

29. Heads of State and Government regretted the delayed movement of the Secretariat staff to Abuja because of the lack of staff accommodation. The Authority expressed warm gratitude to the Federal Government of Nigeria for the provision of a loan to enable the Community construct staff residential quarters in Abuja. Heads of State and Government directed the Executive Secretary to give priority attention to the matter so that the transfer of the ECOWAS Secretariat to Abuja could be completed during the course of 1998.

AWARD OF ECOWAS PRIZE OF EXCELLENCE

30. Heads of State and Government re-affirmed their commitment to the encouragement of research and the development of indigenous technology. The Authority felt convinced of the existence of a substantial regional potential in this field and expressed its satisfaction with progress already being made. The Authority further directed that future exercises should be more widely publicised throughout Member States so as to tap the abundant talent in the region. In recognition of their outstanding achievements in original research work the First ECOWAS Prize for Excellence in African pharmacopoeia was awarded to:

- **Dr. Modou LO** of Senegal for his contribution to botanical and physico-chemical research on the sterculia gum; and
- **Prof. Augustine O. OKHAMAFE** of Nigeria for his success in the extraction, development and utilisation of cellulose from selected agricultural waste.

EXPRESSION OF GRATITUDE TO MR. EDOUARD BENJAMIN

31. Heads of State and Government, noting the ill health of Mr. Edouard BENJAMIN, the ECOWAS Executive Secretary, wished him speedy recovery. They also expressed their gratitude to him for his service to the Community during his tenure.

APPOINTMENT OF STATUTORY OFFICERS

32. Heads of State and Government stressed the importance of strong leadership in the two institutions of the Community and proceeded to make the following Decisions:

a) Executive Secretary

33. The Authority re-allocated the post of Executive Secretary to the Republic of Guinea and appointed Mr. Lansana KOUYATE as the new ECOWAS Executive Secretary as from 1st September, 1997 for a four-year term.

b) Other Statutory Officers

34. The Authority noted that the tenure of office of the other statutory appointees will end between now and 3rd January, 1998 and stressed the need to properly evaluate them. This evaluation will be done under the supervision of the Executive Secretary and in collaboration with the ad hoc Ministerial committee on the Selection and Evaluation of Statutory Appointees. The services of an expert bureau should be employed to facilitate this task.

35. The statutory appointees adjudged competent may be retained.

36. The posts of statutory officers whose terms are not renewed would be declared vacant and advertised in all Member States of the Community. The Authority decided that in order to recruit the best candidates, steps must be taken to ensure that all Member States have equal opportunity to serve the Community.

37. The Authority also decided that the new Executive Secretary should take steps to review the structure of the Institutions of the Community. In this process he should employ the services of competent consultants.

c) External Auditors

38. Heads of State and Government expressed their satisfaction with the performance of the firm of auditors Akintola Williams & Company as the External Auditors of the Community and renewed its mandate for a third and final two-year term, with retroactive effect from August, 1996.

FREQUENCY OF SUMMIT MEETINGS

39. In order to enhance regional integration efforts and ensure a better monitoring of the Community's activities, the Authority decided that henceforth its meetings should be held twice yearly. One of the meetings will be held at the Headquarters of the Community and the second by turns in the other Member States.

ELECTION OF CHAIRMAN

40. Heads of State and Government unanimously elected the Federal Republic of Nigeria as Chairman of the Community for the 1997-1998 period.

DATE AND VENUE OF NEXT SUMMIT

41. At the invitation of the Head of State of the Federal Republic of NIGERIA, the Authority decided to hold its twenty-first session at Abuja in July, 1998.

VOTE OF THANKS

42. Heads of State and Government expressed sincere appreciation and gratitude to the Chairman of the Authority, His Excellency General Sani Abacha, Head of State, and Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria for the exemplary leadership he has consistently

into the territory of Sierra Leone to assist in creating the conducive atmosphere that would ensure the early re-instatement of the legitimate government of Sierra Leone. To this end, it shall carry out the following tasks:

- (i) monitor and supervise all cease-fire violations;
- (ii) enforce the sanctions regime and the embargo instituted by the Authority of Heads of State and Government against the illegal regime; and
- (iii) undertake any other assignment in Sierra Leone as may be given to it by the Authority.

Article 2

Reports on Implementation

The Force Commander shall make fortnightly reports on the status of implementation of the mandate to the current Chairman of Authority.

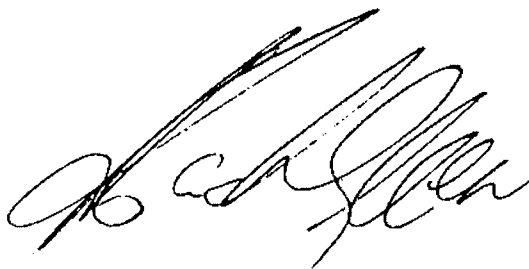
Article 3

Publication

This Decision shall enter into force upon signature and shall be published in the Official Journal of the Community by the Executive Secretariat.

It shall also be published within the same time-frame by each Member State in its National Gazette.

**DONE AT ABUJA,
THIS 29TH DAY OF AUGUST, 1997**



**H.E. GENERAL SANI ABACHA
CHAIRMAN,
FOR THE AUTHORITY.**

DECISION A/DEC.8/8/97 ON SANCTIONS AGAINST THE ILLEGAL REGIME IN SIERRA LEONE

THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT,

MINDFUL of Articles 7, 8 and 9 of the Revised Treaty of the Economic Community of West African States (ECOWAS) establishing the Authority of Heads of State and Government and defining its composition and functions;

RECALLING the decision taken on the situation in Sierra Leone by the Heads of State and Government of the OAU at their thirty-third ordinary session held in Harare, Zimbabwe;

RECALLING also Statement S/PRST/1997/29 of 27th May, 1997, Statement S/PRST/1997/36 of 11th July, 1997 and Statement S/PRST/1997/42 of 5th August, 1997 in which the President of the United Nations Security Council described as unacceptable the overthrow of the democratically-elected Government of President Ahmad Tejan Kabbah; called for the immediate and unconditional return to the constitutional order in Sierra Leone and expressed the support of the Security Council for the objectives of ECOWAS in Sierra Leone;

CONSIDERING the fact that the worsening crisis in Sierra Leone has led to the increase in the number of Sierra Leonean refugees in neighbouring Member States; thus threatening peace and security in the sub-region;

BEARING IN MIND the ECOWAS objectives contained in the Final Communique of the Meeting of Ministers of Foreign Affairs held in Conakry on 26th June, 1997;

DEEPLY concerned at the breakdown of negotiations in Abidjan on 30th July, 1997 between the ECOWAS Ministerial Committee of Four on Sierra Leone and the representatives of the illegal regime in Sierra Leone;

ON THE RECOMMENDATION of the second meeting of ECOWAS Ministers of Foreign Affairs on Sierra Leone held in Abuja on 27th and 28th August, 1997;

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DECIDES

Article 1

The Community and its Member States re-affirm their decisions to spare no effort to restore the democratically elected government of President Ahmad Tejan Kabbah to power as soon as possible.

Article 2

Member States hereby place a general and total embargo on all supplies of petroleum products, arms and military equipment to Sierra Leone. They shall also abstain from transacting any business of a commercial nature with that country. To this end, Member States shall:

- (a) prevent the sale or supply by their nationals or from their territories or the use of their flag vessels or aircraft, of petroleum or petroleum products or arms and related material of all types, including weapons and ammunition, military vehicles and equipment, police equipment and spare parts for the aforementioned, whether or not originating in their territories, to any person or legal entity, for the purpose of any business carried out in or operated from the Republic of Sierra Leone, and any activities by their nationals or in their territories which promote or are calculated to promote such sale or supply;
- (b) prohibit any and all traffic from entering the territory or territorial waters of the Republic of Sierra Leone, carrying petroleum or petroleum products; or arms and related material of all types, including weapons and ammunition, military vehicles and equipment, police equipment and spare parts for the aforementioned;
- (c) prevent from entering their respective territories, all members of the illegal regime, as well as military officers, members of their families, and other persons directly or indirectly connected

with the regime and deny the use of their airspace to aircraft belonging to or carrying any member of the regime;

- (d) prevent any activities by their nationals or on their territories which would promote the export or transshipment of commodities or products originating in Sierra Leone and transactions by their nationals or flag vessels or aircraft or in their territory any commodities or products originating in the Republic of Sierra Leone or exported therefrom.

Article 3

Member States shall prohibit the importation of commodities and products originating in Sierra Leone and the exportation of goods to that country except goods meant for humanitarian purposes.

Article 4

Member States shall freeze funds held in their territories by members of the illegal regime, military officers and civilians directly or indirectly connected with the regime as well as their families.

Article 5

The embargo imposed by this decision shall not apply to arms, military equipment, military assistance, police equipment and spare parts meant for the exclusive use of the sub-regional forces which shall be responsible for applying the measures contained in this Decision.

Article 6

The sub-regional forces shall employ all necessary means to implement this decision. They shall monitor closely the coastal areas, land borders and airspace of the Republic of Sierra Leone, and shall inspect, detain and seize any ship, vehicle or aircraft violating the embargo stipulated in this decision.

Article 7

The Ministerial Committee of Four on Sierra Leone shall:

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- (i) request all Member States to communicate to it, any new developments regarding measures taken to ensure effective implementation of this decision;
- (ii) analyse any information brought to its notice by Member States concerning violations of the sanctions contained in this decision and recommend appropriate measures;
- (iii) consider requests for permission to import into Sierra Leone, goods for humanitarian uses;
- (iv) report to the Authority regularly, information it may have obtained concerning alleged violations of this decision, and where possible, identify the persons or entities, including the vessels, vehicles or aircraft involved in such violations.

Article 8

The Ministerial Committee of Four shall make appropriate recommendations to the Authority on the implementation of this Decision.

Article 9

All Member States shall take necessary measures to ensure full implementation of this decision.

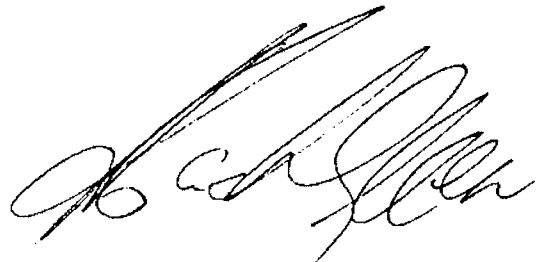
Article 10

ECOWAS shall seek the assistance of the United Nations Security Council to make these sanctions effective and binding on all members of the international community in accordance with the provisions of the United Nations Charter.

Article 11

This Decision shall be published by the Executive Secretariat in the Official Journal of the Community and by each Member State in its National Gazette.

**DONE IN ABUJA,
THIS 29TH DAY OF AUGUST, 1997**



**H.E. GENERAL SANI ABACHA
CHAIRMAN
FOR THE AUTHORITY.**

DECISION A/DEC. 9/8/97 EXTENDING THE TENURE OF THE ECOWAS CEASEFIRE MONITORING GROUP IN LIBERIA

THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT,

MINDFUL of Articles 7, 8 and 9 of the Revised Treaty of the Economic Community of West African States (ECOWAS) establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of Decision A/DEC.1/8/90 of the Heads of State and Government of the Community Standing Mediation Committee establishing the ECOWAS Cease-fire Monitoring Group in Liberia (ECOMOG) and Decision A/DEC.1/11/90 of the Authority of Heads of State and Government approving the said establishment;

MINDFUL of paragraph 4, Article 2 of the said Decision A/DEC. 1/8/90 which stipulates that "ECOMOG shall