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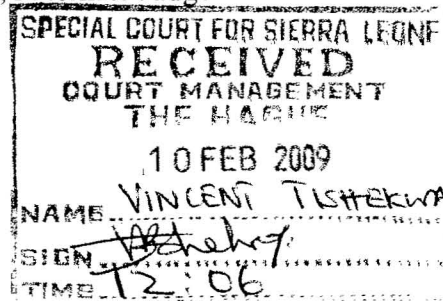
SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
Freetown – Sierra Leone

TRIAL CHAMBER II

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

Registrar: Mr. Herman von Hebel

Date filed: 10 February 2009



THE PROSECUTOR

Against

Charles Ghankay Taylor

Case No. SCSL-03-01-T

PUBLIC WITH ANNEX A

**PROSECUTION REQUEST FOR LEAVE TO FILE SUPPLEMENTAL ARGUMENT IN LIGHT OF THE
APPEALS CHAMBER DECISION ON "PROSECUTION NOTICE OF APPEAL AND SUBMISSIONS
CONCERNING THE DECISION REGARDING THE TENDER OF DOCUMENTS"**

Office of the Prosecutor:

Ms. Brenda J. Hollis
Ms. Ula Nathai-Lutchman

Counsel for the Accused:

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

I. INTRODUCTION

1. Pursuant to Rule 73 of the Rules of Procedure and Evidence (“**Rules**”), the Prosecution hereby applies for leave to file supplemental argument in light of the Appeals Chamber decision on the tender of documents under Rule 89(C) or Rule 89(C) and Rule 92bis.¹

II. APPLICATION

2. In light of the Appeals Chamber Decision, this short supplemental argument will assist the Trial Chamber to decide the admissibility of four categories of documents:
 - i) “Sankoh” Documents also called “Sankoh House” Documents² ;
 - ii) “RUF” Documents also called “RUF Office” Documents³;
 - iii) “Liberia Search” Documents⁴; and
 - iv) “JPC” Documents also called “Justice and Peace Commission” Documents⁵.
3. The supplemental argument focuses on the significance of the testimony of Mr. Tariq Malik in relation to the admissibility of these four categories of evidence under Rule 89(C).
4. The Prosecution’s request does not unduly delay the Trial Chamber’s decisions on the pending motions as the Trial Chamber may order expedited Response from the Defence.

III. SUBMISSION

5. The supplemental argument which is the subject of this filing regarding admissibility of the four categories of documents under Rule 89(C) is provided in Annex A to this request.⁶

¹ *Prosecutor v. Taylor*, SCSL-03-01-AR73-721, Decision on “Prosecution Notice of Appeal and Submissions Concerning the Decision Regarding the Tender of Documents”, 6 February 2009 (“**Appeals Chamber Decision**”).

² *Prosecutor v. Taylor*, SCSL-03-01-T-659, “Prosecution Motion For Admission of Documents Seized From Foday Sankoh’s House”, 6 November 2008 (“**Sankoh**” Documents); Trial Transcript, 19 January 2009, (“T”), 22935:4 -12.

³ *Prosecutor v. Taylor*, SCSL-03-01-T-667, “Prosecution Motion For Admission of Documents Seized From RUF Office, Kono District”, 13 November 2008 (“**RUF**” Documents); T22935:4 -12.

⁴ *Prosecutor v. Taylor*, SCSL-03-01-T-681, “Prosecution Motion For Admission of Liberia Search Documents”, 1 December 2008. (“**Liberia Search**” Documents); T22935:4 -12.

⁵ *Prosecutor v. Taylor*, SCSL-03-01-T-678, “Prosecution Motion For Admission of Newspaper Articles Obtained from the Catholic Justice and Peace Commission Archive in Monrovia, Liberia”, 28 November 2008; T22935:4 -12.

⁶ Annex A contains the Prosecution’s “Supplemental Argument Regarding Admissibility of Documents under Rule 89(C)”.

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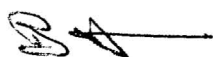
V. CONCLUSION

6. The Prosecution respectfully requests the Trial Chamber to grant the request for leave to file the supplemental argument contained in Annex A.

Filed in The Hague,

10 February 2009,

For the Prosecution,



Brenda J. Hollis
Principal Trial Attorney

LIST OF AUTHORITIES**SCSL****Prosecutor v. Taylor – Case No. SCSL-03-01**

1. *Prosecutor v. Taylor, SCSL-03-01-T-659*, “Prosecution Motion For Admission of Documents Seized From Foday Sankoh’s House”, 6 November 2008.
2. *Prosecutor v. Taylor, SCSL-03-01-T-667*, “Prosecution Motion For Admission of Documents Seized From RUF Office, Kono District”, 13 November 2008.
3. *Prosecutor v. Taylor, SCSL-03-01-T-678*, “Prosecution Motion For Admission of Newspaper Articles Obtained from the Catholic Justice and Peace Commission Archive in Monrovia, Liberia”, 28 November 2008.
4. *Prosecutor v. Taylor, SCSL-03-01-T-681*, “Prosecution Motion For Admission of Liberia Search Documents”, 1 December 2008.
5. *Prosecutor v. Taylor, SCSL-03-01-AR73-721*, Decision on “Prosecution Notice of Appeal and Submissions Concerning the Decision Regarding the Tender of Documents”, 6 February 2009.
6. *Prosecutor v. Taylor, SCSL-03-01-T*, Trial Transcript, 19 January 2009.

24112

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ANNEX A

**SUPPLEMENTAL ARGUMENT IN LIGHT OF THE APPEALS CHAMBER DECISION ON
“PROSECUTION NOTICE OF APPEAL AND SUBMISSIONS CONCERNING THE DECISION
REGARDING THE TENDER OF DOCUMENTS”**

Office of the Prosecutor:
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ANNEX A

SUPPLEMENTAL ARGUMENT

Supplemental Argument Regarding Admissibility of Documents under Rule 89(C)

1. The Prosecution respectfully requests that the Trial Chamber take into consideration the testimony of Tariq Malik in considering whether to admit the “Sankoh” Documents⁷, “RUF” Documents⁸, “Liberia Search” Documents⁹ and “JPC” Documents¹⁰. Tariq Malik testified as a *viva voce* witness on 19 and 20 January 2009, and as such his testimony is not limited by the provision of Rule 92bis that prevents statements offered “*in lieu of oral testimony*” from going to “proof of the acts and conduct of the accused.” At the conclusion of Mr. Malik’s testimony, the Trial Chamber deferred the Prosecution’s application for admission of these four categories of documents pending its rulings on the motions before it.¹¹
2. The Prosecution notes that Mr. Malik did not testify to the contents of the documents; however, testimony about a document’s contents is not a requirement for admission. Evidence found during investigative searches is routinely admitted based only upon testimony regarding their seizure or receipt. In addition to the relevance that is shown on the face of these documents, such testimony can also further establish that the items are “relevant” because they were found at a scene or obtained from a source related to the case.
3. The Appeals Chamber decision held that relevance is the only foundation required for admissibility of documents.¹² The Appeals Chamber further held that, in determining if a document could be admitted through a witness, it is appropriate to inquire into the

⁷ Sankoh House Documents assigned MFIs- 1 to 4 inclusive during Mr. Malik’s testimony, 19 January 2009, T22952:17 – 18, T22954:20, T22955:29 – 22956:2 , T22956:18; Sankoh Documents.

⁸ RUF Office Documents assigned MFIs- 5 to 21 inclusive during Mr. Malik’s testimony, 19 January 2009, T22972:10 - 11, T22973:17, T22974:23, T22975:26 – 28, T22976:28, T22979:23, T22982:11, T22983:21, T22984:19, T22985:15, T22988:27 - 28, T22989:16, T22990:26, T22991:13, T22992:16, T22994:8, T22995:4; RUF Documents.

⁹ Liberia Search Documents assigned MFIs- 22 to 31, inclusive during Mr. Malik’s testimony, 19 January 2009, T23004:8 – 9, 20 January 2009, T23007:28 – 29, T23009:9, T23013:1 - 4, T23014:11 - 13, T23015:6, T23018:8 – 9, T23020:14 – 15, T23022:28 – 23023:1, 7, 12-13, T23024:11 - 12, T23025: 9.

¹⁰ JPC Documents assigned MFIs- 32 to 38 inclusive during Mr. Malik’s testimony; Justice and Peace Commission Documents, 20 January 2009, T23032:11-12, T23033:27, T23035:1, 23036:24-26, T23039:5, T23040:15 - 16, T23041:12.

¹¹ 20 January 2009, T23118 – 23119.

¹² Appeals Chamber Decision, para. 37.

document's relation to the witness at hand, where applicable.¹³ In this regard, the Appeals Chamber held that when determining the relevance of a document, the Trial Chamber must require the tendering party to lay a foundation of the witness' competence to give evidence in relation to that document.¹⁴

4. The four categories of documents listed above should be admitted under Rule 89(C) through the testimony of Tariq Malik. The witness's testimony regarding the circumstances surrounding the receipt or seizure of these documents and the locations from which the documents were obtained established the relation of these documents to Mr. Malik, the OTP Evidence Custodian responsible for receiving documents into the Evidence Unit, for organizing and maintaining the documents, and for collecting information regarding the seizure or possession of the documents before their arrival at the OTP Evidence Unit. These circumstances and locations, e.g. seizure at Sankoh's house on 9 May 2000, have been shown to relate to this case in prior pleadings and testimony. The requirements for admission of these documents under Rule 89(C) as set out by the Appeals Chamber decision have been met and these four categories of documents should be admitted under Rule 89(C).

Filed in The Hague,
10 February 2009,
For the Prosecution,



Brenda J. Hollis
Principal Trial Attorney

¹³ Appeals Chamber Decision, para. 38.

¹⁴ Appeals Chamber Decision, para. 40.

24115

LIST OF AUTHORITIES

SCSL

Prosecutor v. Taylor – Case No. SCSL-03-01

1. *Prosecutor v. Taylor, SCSL-03-01-T*, Trial Transcript, 19 January 2009.
2. *Prosecutor v. Taylor, SCSL-03-01-T*, Trial Transcript, 20 January 2009.
3. *Prosecutor v. Taylor, SCSL-03-01-AR73-721*, Decision on “Prosecution Notice of Appeal and Submissions Concerning the Decision Regarding the Tender of Documents”, 6 February 2009.