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SCSL-2004-16-T
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SPECIAL COURT FOR SIERRA LEONE

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TRIAL CHAMBER I

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

Registrar: Robin Vincent

Date: 11th of May 2005

PROSECUTOR	Against	Issa Hassan Sesay Morris Kallon Augustine Gbao (Case No. SCSL-2004-15-T)
		Alex Tamba Brima Brima Bazy Kamara Santigie Borbor Kanu (Case No. SCSL-04-16-T)

DECISION ON THE URGENT AND CONFIDENTIAL PROSECUTION APPLICATION TO VARY PROTECTIVE MEASURES REGARDING WITNESSES TF1-104 AND TF1-081

Office of the Prosecutor:

Luc Côté
Lesley Taylor

In Case No. SCSL-2004-16-T

Defence Counsel for Alex Tamba Brima:

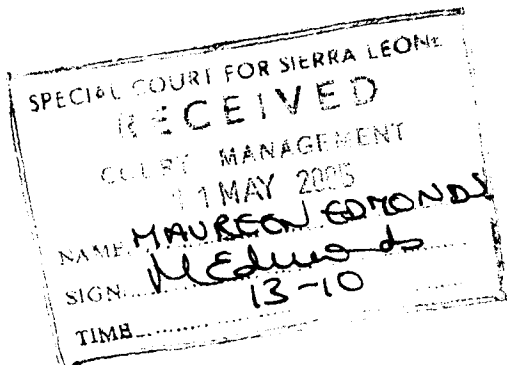
Kevin Metzger
Glenna Thompson
Kojo Graham

Defence Counsel for Brima Bazy Kamara:

Wilbert Harris
Momo Fofanah

Defence Counsel for Santigie Borbor Kanu:

Geert-Jan Knoops
Carry Knoops-Hamburger
Abibola E. Manly-Spain



In Case No. SCSL-2004-15-T

Defence Counsel for Issa Hassan Sesay

Wayne Jordash
Sareta Ashraph

Defence Counsel for Morris Kallon:

Shekou Touray
Melron Nicol-Wilson

Defence Counsel for Augustine Gbao

Andreas O'Shea
John Cammegh

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

SEIZED of the Urgent and Confidential Prosecution Application to Vary Protective Measures filed on the 10th of March 2005 ("Application") in which the Prosecution seeks permission for Prosecution Witnesses TF1-104 and TF1-081 who are scheduled to testify in the trial against the Accused Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu to testify in that trial in closed session;

NOTING the Defence Joint Response to "Urgent and Confidential Prosecution Application to Vary Protective Measures" of March 10, 2005 filed by the Defence Counsel for Brima, Kanu and Kamara in which Counsel stated that they did not oppose the relief sought by the Prosecution;

NOTING the Defence Response to "Urgent and Confidential Prosecution Application to Vary Protective Measures" filed by the Defence Counsel for the Accused Morris Kallon in the case against Issa Hassan Sesay, Morris Kallon and Augustine Gbao in which Counsel stated that they did not oppose the relief sought by the Prosecution with regard to Witnesses TF1-104 and TF1-081;

NOTING the Confidential Bao Response to Prosecution Urgent and Confidential Request to Vary Protective Measures of 10th March 2005 filed by the Defence Counsel for the Accused Augustine Gbao in the case against Sesay et al in which Counsel stated that they did not oppose the variation of protective measures for these witnesses providing it applies only in the case against Brima et al;

NOTING the Oral Decision on Prosecutions Motion for Protective Measures Pursuant to Order to the Prosecution for Renewed Motion for Protective Measures Dated 2 April 2004 of the Presiding Judge of Trial Chamber II of the 3rd of February 2005¹;

NOTING the Orders of this Trial Chamber concerning protective measures relating to these witness, including the Decisions on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure for each individual accused in the AFRC² and RUF³ trials

¹ Prosecutor v. Brima, Kamara and Kanu, SCSL-04-16-PT, Oral Decision on Prosecutions Motion for Protective Measures Pursuant to Order to the Prosecution for Renewed Motion for Protective Measures Dated 2 April 2004, 3 February 2005.

² Prosecutor v. Brima, SCSL-03-06-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure, 23 May 2003, Prosecutor v. Kamara, SCSL-03-10-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure, 23 October 2003, and Prosecutor v. Kanu, SCSL-04-13-PT, Decision on the Prosecution Motion for Immediate Protective Measures for Witnesses and Victims, 24 November 2003.

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and the Decision on Prosecution Motion for Modification of Protective Measures for Witnesses filed on the 5th of July 2004⁴;

NOTING that in these Orders this Chamber ordered that a series of measures be adopted in order to protect the identity of witnesses testifying before the Special Court;

NOTING Rules 69, 75(F) and 79 of the Rules of Procedure and Evidence of the Special Court;

CONSIDERING that all of the Parties in both the cases of the *Prosecutor v. Sesay et al* and the *Prosecutor v. Brima et al* have indicated that they do not oppose the Prosecution's Application;

SATISFIED that the Prosecution has established that in light of the particular circumstances of these witnesses, this Trial Chamber is of the view that it is in the interests of justice that Witnesses TF1-104 and TF1-081 be permitted to testify in closed session;

FINDS that it is unnecessary at this juncture to address the remaining issue of the Prosecution's Application in respect of witnesses generally;

ORDERS that Witnesses TF1-104 and TF1-081 be permitted to testify in closed session in the trial proceedings against *Brima et al* before Trial Chamber II.

Done at Freetown, Sierra Leone, this 11th day of May 2005

Pierre Boutet

Hon. Justice Pierre Boutet

Benjamin Mutanga Itoe

Hon. Justice Benjamin Mutanga Itoe

Bankole Thompson

Hon. Justice Bankole Thompson

Presiding Judge
Trial Chamber I

[Seal of the Special Court for Sierra Leone]



¹ *Prosecutor v. Sesay*, SCSL-03-05-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003, *Prosecutor v. Kallon*, SCSL-03-07-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003, and *Prosecutor v. Gbao*, SCSL-03-09-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 10 October 2003.

⁴ *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T, Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004.

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