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SCSL-04-14-T
(19232-19234)

691

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

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

Registrar: Mr. Lovemore G. Munlo SC

Date filed: 13 September 2006

THE PROSECUTOR

Against

Samuel Hinga Norman
Moinina Fofana
Allieu Kondewa

Case No. SCSL-04-14-T

PUBLIC

PROSECUTION RESPONSE TO FIRST ACCUSED REQUEST TO ADMIT DOCUMENTS PURSUANT TO RULES 89(C) AND 92BIS

Office of the Prosecutor:
Mr. James C. Johnson
Mr. Joseph F. Kamara

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Dr. Bu-Buakei Jabbi
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Court Appointed Defence Counsel for Fofana
Mr. Victor Koppe
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Mr. Michiel Pestman
Mr. Steven Powles

Court Appointed Defence Counsel for Kondewa
Mr. Charles Margai
Mr. Yada Williams
Mr. Ansu Lansana

SPECIAL COURT FOR SIERRA LEONE
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1. The Prosecution files this Response to the First Accused's request of 8 September 2006 ("**Motion**") to admit into evidence certain documents in lieu of the oral testimony of Major-General Abdul-One Mohammed pursuant to Rules 89(C) and 92*bis* of the Rules of Procedure and Evidence ("**Rules**").¹
2. The Prosecution notes that on 11 September 2006, the Defence for the Second Accused filed a response stating that it had no objection to the admission into evidence of the three documents annexed to the Motion.²
3. On 13 September 2006, the Defence for the Third Accused filed a response stating that it had no objection to the admission into evidence of the documents in Annex A of the Motion.³
4. The Prosecution similarly does not object to the admission of the two exhibits and the statement of Major-General Mohammed into evidence pursuant to Rule 92*bis*, subject to the following:
 - a. The Prosecution does not concede the authenticity of the documents;
 - b. The Prosecution does not concede the relevance of the documents. In particular, the Prosecution does not concede to the Defence's assertion as to the relevance of Major-General Mohammed's statement in Annex A of the Motion: '*this document is the Statement of Major-General Abdu One Mohammed and is relevant in the sense that it lays down how ECOMOG was in command and control of the CDF during the conflict*'. The Prosecution submits that the statement in its entirety does not mention, nor can it be inferred, that ECOMOG was in command and control of the CDF during the conflict. The operative word used by Major-General Mohammed is 'collaboration'.⁴
5. The Prosecution notes that Major-General Mohammed is also a witness for the Second Accused and may be called to testify during the case for the Second Accused. The

¹ *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-04-15-T-686, "First Accused Request to Admit Certain Documents in Lieu of the Oral Testimony of Major-General Abdul-One Mohammed Pursuant to Rules 89(C) and 92*bis* and Request for Clarification on Procedure for Closing", 8 September 2006.

² *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-04-15-T-687, "Fofana Response to Norman Request to Admit Documents Pursuant to Rule 92*bis*", 11 September 2006.

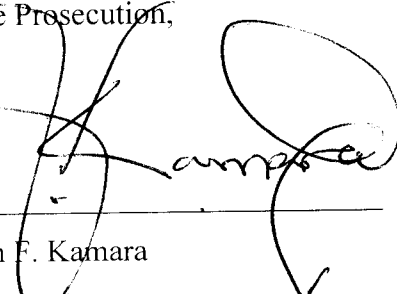
³ *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-04-15-T-690, "Kondewa Response to First Accused Request to Admit Certain Documents Pursuant to Rule 89(C)", 13 September 2006.

⁴ *The Sierra Leonian Crises: ECOMOG and the Civil Defence Forces (Kamanjos)*, 2 March 2006 at p. 1.

Prosecution seeks to reserve its right to cross-examine Major-General Mohammed in relation to the material submitted pursuant to Rule 92bis should it become necessary during the course of the evidence.

Filed in Freetown,
13 September 2006

For the Prosecution,



Joseph F. Kamara
Senior Trial Attorney